



Metropolitan Development Commission Hearing Examiner (June 29, 2023) Meeting Agenda

Meeting Details

Notice is hereby given that the Hearing Examiner of the Metropolitan Development Commission will hold public hearings on:

Date: Thursday, June 29, 2023

Time: 1:00 PM

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

Business:

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

1. 2023-MOD-009 | 4375 Kentucky Avenue

Decatur Township, Council District #22

C-S

Five Star Oil, Inc., by Garrett E. Lawton

Modification of the Commitments related to 2019-ZON-053 to extend the deadline for the completion of all commitments to September 30, 2023 (previous commitments required completion by several dates in 2020).

****Staff request for a continuance to July 13, 2023**

2. 2023-ZON-004 | 5680 Eden Village Drive

Pike Township, Council District #8

Olanrewaju Ahmeed Azeez

Rezoning of 1.55 acres from the C-S district to the D-6 district to allow for a single-family attached residential development.

****Petitioner request for a continuance (with Notice) to July 27, 2023**

3. 2023-ZON-024 / 2023-VAR-001 | 2802 South Holt Road

Wayne Township, Council District #16

Maninder Singh

Rezoning of 0.36 acre from the D-5 (FF) district to the C-4 (FF) district to provide for an automobile body repair shop.

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for:

- A six-foot tall perimeter chain link fence with barbed wire (fence height limited to 3.5 feet in front yards, chain link not permitted within front yards in Commercial Districts, chain link within side yards must be coated in vinyl within Commercial Districts, barbed wire prohibited);
- Outdoor Storage and Operations associated with automobile repair (not permitted);
- The permanent location of a portable storage structure (limited to 30 consecutive days);
- Two sliding gates within the clear sight triangles of the vehicular access drives along Farnsworth Street and Holt Road (encroachment of clear sight triangles not permitted); and
- Lack of hard surfaced parking area (hard surfaced parking areas required).

**** Petitioner request for a continuance to July 27, 2023**

4. 2023-ZON-052 | 5745 Kentucky Avenue

Decatur Township, Council District #20

Unicorp National Developments, Inc., by Joseph D. Calderon

Rezoning of 2.575 acres from the D-A district to the C-4 district to provide for a gas station/convenience store.

****Automatic Continuance filed by a Registered Neighborhood Organization to July 27, 2023**

5. 2023-CZN-814 / 2023-CVR-814 | 6419 West 86th Street, 6302, 6360 and 6424 West 79th Street

Pike Township, Council District #1

Cornerstone Companies, Inc. and GCG Investments, LLC, by J. Murray Clark

Rezoning of 200 acres from the D-A, D-1 and D-2 districts to the C-S classification to provide for a mixed-use development consisting of C-3 permitted uses, limited C-4 permitted uses, Artisan Manufacturing, Light Manufacturing, Research and Development uses, Live-Work units, multi-family dwellings and single-family attached dwellings, two-family dwellings and Triplex or Fourplex uses.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 90-foot tall buildings on the eastern portion of the development (maximum 45-foot tall buildings permitted).

****Automatic Continuance filed by a Registered Neighborhood Organization to July 27, 2023**

6. 2023-CAP-822 / 2023-CVR-822 | 1625, 1631 and 1637 Nowland Avenue and 1258 Windsor Street

Center Township, Council District #17

1625 Nowland, LLC, 1631 Nowland, LLC, Raymond Street Partners, LLC and Indianapolis Film Project, by David Kingen
MU-2

Modification of the Site Plan and Commitments for 2017-CZN-816 / 2017-CVR-816 as modified by 2018-MOD-006 to:

A. Modify Commitment #1 requiring adherence to the Site plan file-dated June 21, 2018 and the Plan of Operation file-dated July 18, 2018 to provide for an amended site plan and to provide for an outdoor seating area for the serving and sales of alcohol.

B. Terminate Commitment #18 which required certain building materials and colors for the building façade and former window openings.

C. Modify Commitment #22 to allow the selling and serving of alcohol (previous commitment prohibited alcohol sales).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 6.75-foot tall fence with eleven-foot tall support posts surrounding an outdoor dining area (maximum 3.5-foot tall fence permitted).

****Staff and Petitioner request for a continuance to July 13, 2023**

7. 2023-CZN-828 / 2023-CVR-828 (Amended) | 3416, 3420 and 3520 South Post Road

Franklin Township, Council District #18

Quicktrip Corporation, by J. Murray Clark

Rezoning of 12.269 acres from the C-S and C-7 districts to the C-7 district to provide for a truck stop.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for no street trees along the northern portion of the Post Road frontage (street trees required), no planting beds/shrubs along the entire Post Road frontage (landscaping required), three parking lot trees (17 required), to provide for a 50-foot tall, 391-square-foot pole sign (maximum 20-foot tall, 300 square foot pole sign permitted), to provide for a 23-foot tall, 109-square-foot freestanding incidental sign (maximum eight-foot tall, 32 square feet permitted) and to provide for a truck stop located within 425 feet of a protected district (500-foot separation required).

****Automatic Continuance filed by a Registered Neighborhood Organization to July 27, 2023**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

8. 2023-MOD-012 | 6107 Timberland Way

Decatur Township, Council District #20

D-3

Simone D. Ridgeway

Modification of the Commitments related to petition 97-Z-30 to modify Commitment #20 to allow for a privacy fence along the property boundary (current commitment limits privacy fencing to being used in conjunction with a porch, patio, deck, terrace or pool, it must be located within fifteen feet of said structure and shall not encroach into the required building setbacks).

9. 2023-ZON-031 | 3807 Graceland Avenue

Washington Township, Council District #7

Larry K. Covington, by Jamilah Mintze

Rezoning of 0.35 acre from the D-5 district to the D-8 district to provide for a seven-unit townhome development.

10. 2023-ZON-038 | 6041 and 6125 East Thompson Road

Franklin Township, Council District #18

Albert Fullenkamp, by David Gilman

Rezoning of 3.40 acres from the C-S and D-P districts to the C-3 district to provide for a neighborhood commercial development.

11. 2023-ZON-051 | 1354 Shelby Street

Center Township, Council District #21

Churchyard, LLC, by David Gilman

Rezoning of 0.30 acre from the MU-1 (TOD) district to the MU-2 (TOD) district to provide for retail commercial uses.

12. 2023-CAP-819 / 2023-CVR-819 | 2801 South Pennsylvania Street

Center Township, Council District #16

2801 S Pennsylvania LLC, by Jason E. Burk

D-8

Modification of Commitments related to 2019-ZON-086, modifying Commitment Four to reduce the amount of required parking to 1.75 spaces per residential unit, from two spaces per unit, and Commitment Ten to allow for additional lighting elements and height placement.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for parking areas up to 583 feet wide within the front yards of the subject site, depending on final site plan (parking areas within front yard limited to 30-foot widths).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

13. 2022-CVC-848 | 419 & 441 East Ohio Street, 424 East Wabash Street and 124 & 132 North East Street

Center Township, Council District #17

Moes, LLC / Feroze and Sons, LLC, by David Kingen and Emily Duncan

Vacation of the first north-south alley west of East Street, being twelve feet in width, from the south right-of-way line of Ohio Street, south 195 feet to the north right-of-way line of Wabash Street, with a waiver of the assessment of benefits.

14. 2022-CZN-876 / 2022-CVR-876 / 2022-CVC-876 (Second Amended) | 1507 & 1517 West Vermont Street and 333 Koehne Street

Rezoning of 0.721-acre from the D-8 (RC) district to the CBD-2 (RC) district.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for side and rear yard setbacks of zero feet when abutting an alley (minimum ten-foot required), to legally establish a zero-foot front setback for vehicle areas (minimum eight-foot required), and for 31 off-street parking spaces (maximum of 23 off-street parking spaces permitted).

Vacation of the first alley east of Koehne Street, being 12 feet in width, from the south right-of-way line of Vermont Street, being the northeast corner of Lot 47 in Lentz Heirs Addition, Recorded in Plat Book 11, Page 69 in the Office of the Recorder of Marion County, Indiana, south a distance of 136 feet to the southeast corner of Lot 45 in said subdivision, with a waiver of the assessment of benefits.

Vacation of an irregular portion of White River Parkway West Drive located at the southwest intersection of Vermont Street and White River Parkway West Drive totaling 0.05-acre, with a waiver of the assessment of benefits.

15. 2023-MOD-008 | 10832 Portside Court

Lawrence Township, Council District #5

D-P (FF)

Raymond and Kimberly Peck, by Russell L. Brown

Modification of the development statement for 79-Z-107 (79-DP-3) for Lot 160 of Feather Cove, Section Five, to legally establish a paver patio (with table, stairs, railing and fire pit), with zero-foot side setbacks (eight-foot side and 22-foot aggregate side setback required).

16. 2023-ZON-025 / 2023-VAR-002 | 1002 West Hanna Avenue and 3500 Division Street

Perry Township, Council District #20

Lauth Group, Inc., by Brian J. Tuohy

Rezoning of 24 acres from the I-2 (FF) and D-3 (FF) districts to the I-3 (FF) district to provide for a plastic recycling facility.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for development within the north and east transitional yards (100-foot transitional yard required).

17. 2023-ZON-046 | 7250 North Keystone Avenue

Washington Township, Council District #2

Hansen Collision, Inc., by J. Murray Clark

Rezoning of 4.199 acres from the D-4 and C-4 (FF) district to the C-4 (FF) district to provide for automobile, motorcycle, and light vehicle service or repair.

PETITIONS FOR PUBLIC HEARING (New Petitions):

18. 2023-CZN-830 / 2023-CVR-830 | 201 West 38th Street and 3750 North Capitol Avenue

Center Township, Council District #7

C-4 / D-5

Martin Petroleum Inc., by Pat Rooney

Rezoning of 0.44 acre from the D-5 and C-4 districts to the C-4 district.

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard 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 dmdpubliccomments@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) 327-5654, at least 48 hours prior to the meeting. Department of Metropolitan Development - Current Planning Division.

STAFF REPORT

Item 1.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-MOD-009
Address: 4375 Kentucky Avenue (approximate address)
Location: Decatur Township, Council District #22
Zoning: C-S
Petitioner: Five Star Oil, Inc., by Garrett E. Lawton
Request: Modification of the Commitments related to 2019-ZON-053 to extend the deadline for the completion of all commitments to September 30, 2023 (previous commitments required completion by several dates in 2020).

The Hearing Examiner continued this petition from the June 15, 2023 hearing, to the June 29, 2023 hearing, at the request of the petitioner's representative.

Staff is requesting a **continuance from the June 29, 2023 hearing to the July 13, 2023 hearing**, to provide additional time for discussions with the Prosecutor's Office related to on-going violations.

kb

STAFF REPORT

Item 2.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-004
Address: 5680 Eden Village Drive (*Approximate Addresses*)
Location: Pike Township, Council District #8
Petitioner: Olanrewaju Ahmeed Azeez
Request: Rezoning of 1.55 acres from the C-S district to the D-6 district to allow for a single-family attached residential development.

The Hearing Examiner continued this petition from the February 23, 2023 hearing, to the March 23, 2023 hearing, at the request of the petitioner's representative to explore other rezoning options, which may require new notice.

The Hearing Examiner continued this petition from the March 23, 2023 hearing, to the April 27, 2023 hearing, and to the May 25, 2023 hearing, at the request of staff to provide time to review and discuss revisions to the request.

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued this petition from the May 25, 2023 hearing, to the, June 29, 2023 hearing.

This petitioner has filed an approval petition to modify commitments associated with petition 89-Z-189, which will require this petition to be **continued from the June 29, 2023 hearing, to the July 27, 2023 hearing, with notice.**

kb

STAFF REPORT

Item 3.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-024 / 2023-VAR-001
Address: 2802 South Holt Road (*Approximate Address*)
Location: Wayne Township, Council District #16
Petitioner: Maninder Singh
Request: Rezoning of 0.36 acre from the D-5 (FF) district to the C-4 (FF) district to provide for an automobile body repair shop.

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for:

- a. A six-foot tall perimeter chain link fence with barbed wire (fence height limited to 3.5 feet in front yards, chain link not permitted within front yards in Commercial Districts, chain link within side yards must be coated in vinyl within Commercial Districts, barbed wire prohibited);
- b. Outdoor Storage and Operations associated with automobile repair (not permitted);
- c. The permanent location of a portable storage structure (limited to 30 consecutive days);
- d. Two sliding gates within the clear sight triangles of the vehicular access drives along Farnsworth Street and Holt Road (encroachment of clear sight triangles not permitted); and
- e. Lack of hard surfaced parking area (hard surfaced parking areas required).

JUNE 29, 2023

At the May 25, 2023, hearing, the petitioner requested a for cause continuance to the June 29, 2023, hearing, in order to provide a more descriptive site plan for review. At the time of publication, an amended site plan has not been provided. The petitioner has indicated they intended to request an additional continuance in order to produce one. Subsequently, Staff continues to **recommend approval** of the rezoning and **denial** of the filed variances.

May 25, 2023

RECOMMENDATIONS

Staff **recommends approval** of the rezoning but **recommends denial** of the variances.

(Continued)

LAND USE ISSUES

- ◇ This 0.36-acre site is split zoned C-4 (FF) and D-5 (FF). The site is improved with a gravel parking area, a portable storage structure and six-foot tall chain-link perimeter fence topped with barbed wire. North of the subject site is a commercial structure housing a tobacco shop and a barber shop, within the C-4 District. West of the subject site are single-family dwellings within both the C-4 and D-5 Districts. To the south is a recreational playground and religious use facility within the D-5 District. East of the site is an automobile fueling station within the I-3 District.
- ◇ This site is recommended for Community Commercial development by the Comprehensive Plan and is located within its Environmentally Sensitive overlay.
- ◇ According to aerial images and Google Maps Street View, the site was previously improved with a small commercial walk-up eating establishment, including a carport structure for the associated parking. This structure was demolished around 2017.

REZONING

- ◇ The request would uniformly zone the property C-4. Currently, only a portion of the northernmost tract is zoned C-4, with the remainder of the property zoned D-5.
- ◇ The C-4 District is the Community-Regional Commercial District under the Ordinance and provides for medium-intense commercial uses intended to serve the broader community rather than a specific neighborhood. Uses permitted within this district typically generate substantial traffic and rely on access to major thoroughfares and are typically characterized by indoor operations with limited outdoor activities.
- ◇ The comprehensive plan's Community Commercial recommendation is generally reflective of the C-4 District. Specifically, it is intended to provide for low-intensity commercial and office uses that serve nearby neighborhoods through freestanding buildings or small integrated centers.
- ◇ This site is also within the Environmentally Sensitive overlay of the comprehensive plan. This overlay is intended to preserve high quality woodlands, wetlands or other natural resources and mitigate damage to such resources by development. This overlay specifically indicates which land uses may not be appropriate within it. The proposed use, on a site of this size, is not excluded from the recommendation. Therefore, the rezoning request would align with the Comprehensive Plan recommendation.
- ◇ As filed, the request would provide for the operation of an automobile body repair shop, which is permitted within the C-4 District. This use requires that all servicing, motor repair, or body repair be conducted within an enclosed building. Within the C-4 District, vehicles awaiting repair may not be stored outdoors for longer than 24 hours, as outdoor storage and operations begin to be permitted within the C-5 District.

(Continued)

VARIANCES

- ◇ As proposed, the site would utilize the existing portable storage structure for the storage of tools associated with automobile repair, and the construction of a shed for the storage of automobile parts and other accessories related to the business. Such structures are not permitted in order to promote an orderly aesthetic. Repairs would be conducted outdoors until a permanent structure can be constructed.
- ◇ There is currently a six-foot tall chain link perimeter fence, including gated access to Farnsworth Street and Holt Road, with barbed wire on the site. Given the lack of a building on the site, a six-foot tall fence would not be permitted on the site. Barbed wire fences are prohibited by the zoning ordinance except for facilities associated with public safety or prisons and jails. The vehicle gates are also within the access drive clear sight triangles.
- ◇ Fence height limitations are intended to promote an orderly aesthetic and uniform streetscape as fences of such height can appear industrial in nature. The clear sight triangle is intended to preserve visibility and promote safety by reducing the risk for vehicular-pedestrian collisions.
- ◇ The request also would allow for the use of a gravel parking area. All commercial districts require hardscaped surfaces for parking areas, in order to avoid the circulation of dust particulate and ensure predictable drainage.
- ◇ Staff believes that the proper, orderly development of the site, including construction of a freestanding building is not only appropriate in the context of the district, but would eliminate any practical difficulty. In Staff's opinion, any practical difficulty associated with the site is self-imposed due to the reluctance to develop this vacant site in compliance with minimum expectations associated with the C-4 District.

(Continued)

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-4, D-5

Commercial structure, vacant

SURROUNDING ZONING AND LAND USE

North - C-4

Tobacco Shop and Barber Shop

South - D-5

Playground

East - I-3

Automobile Fueling Station

West - C-4, D-5

Single-family dwellings

COMPREHENSIVE LAND USE
PLAN

The Land Use Pattern Book (2019) recommends
Community Commercial development.

THOROUGHFARE PLAN

This portion of Farnsworth Street is classified as a Local
Street with an existing and proposed 58-foot right-of-way.
This portion of Holt Road is classified as a Primary Arterial
with an existing and proposed 95-foot right-of-way.

CONTEXT AREA

This site is located within the Compact Context Area.

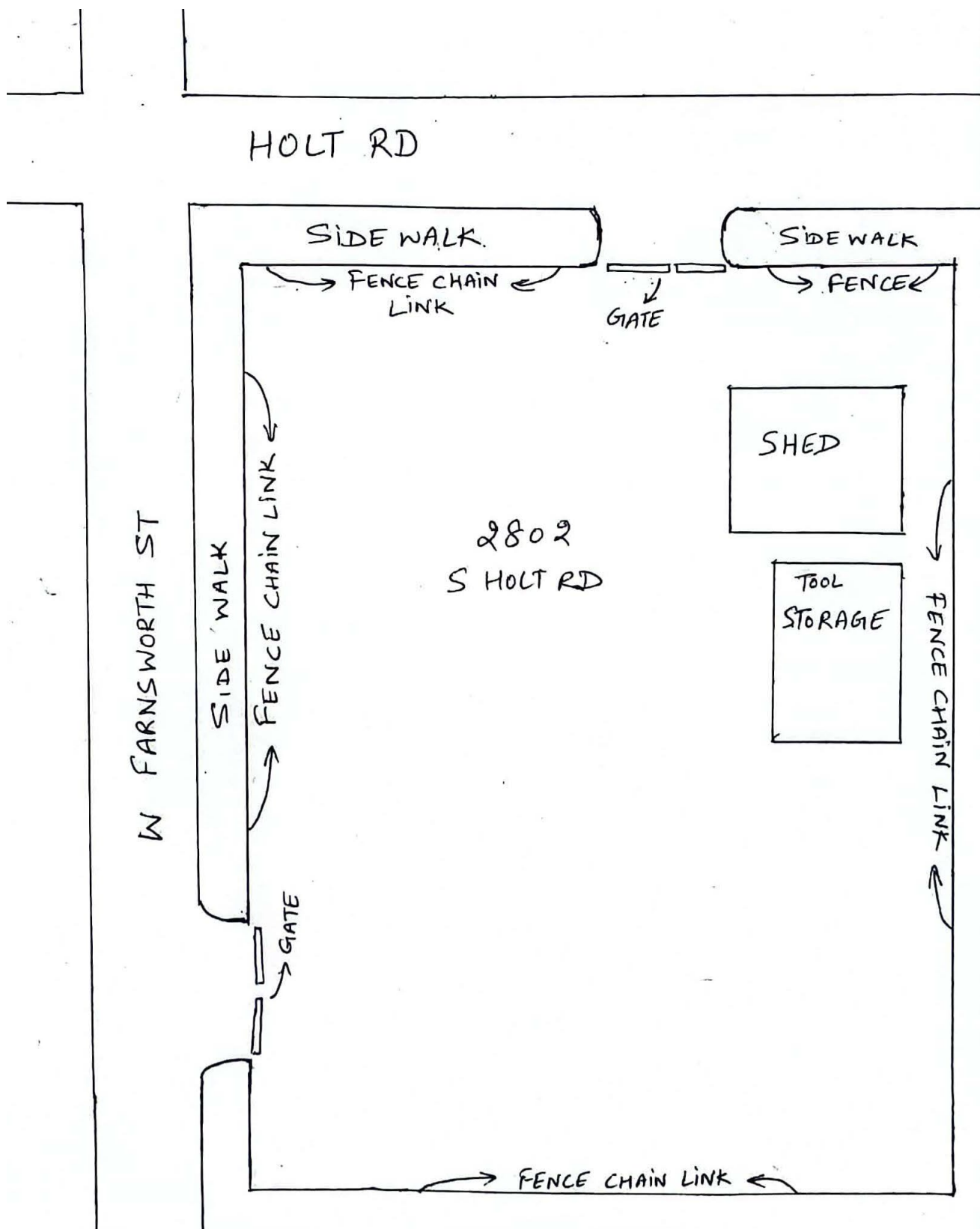
SITE PLAN

File-dated April 28, 2023.

ZONING HISTORY

None.

EDH



Item 3.

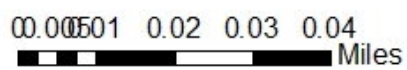




Photo One: Facing North along Holt Road.



Photo Two: Facing West South along Holt Road. Automobile fueling station on left.



Photo Three: Facing West along Farnsworth Street, subject site on left.



Photo Four: Facing West across Holt Road towards subject site.



Photo Five: Facing South along Holt Road. Subject site on right.



Photo Six: Vehicle Gate along Farnsworth Street, with barbed wire.



Photo Seven: Southern lot along abutting playground.



Photo Eight: Western lot line, adjacent to single-family dwellings.

STAFF REPORT

Item 4.

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

Case Number: 2023-ZON-052
Address: 5745 Kentucky Avenue (*Approximate Address*)
Location: Decatur Township, Council District #20
Petitioner: Unicorp National Developments, Inc., by Joseph D. Calderon
Request: Rezoning of 2.575 acres from the D-A district to the C-4 district to provide for a gas station/convenience store.

A timely automatic continuance was filed by a registered neighborhood **organization continuing this petition from the June 29, 2023 hearing, to the July 27, 2023 hearing.** This would require acknowledgement from the Hearing Examiner.

kb

STAFF REPORT

Item 5.

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

Case Number: 2023-CZN-814 / 2023-CVR-814
Address: 6419 West 86th Street, 6302, 6360 and 6424 West 79th Street
(Approximate Address)
Location: Pike Township, Council District #1
Petitioner: Cornerstone Companies, Inc. and GCG Investments, LLC, by J. Murray Clark
Requests: Rezoning of 200 acres from the D-A, D-1 and D-2 districts to the C-S classification to provide for a mixed-use development consisting of C-3 permitted uses, limited C-4 permitted uses, Artisan Manufacturing, Light Manufacturing, Research and Development uses, Live-Work units, multi-family dwellings and single-family attached dwellings, two-family dwellings and Triplex or Fourplex uses.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 90-foot tall buildings on the eastern portion of the development (maximum 45-foot tall buildings permitted).

The Hearing Examiner continued these petitions from the April 13, 2023 hearing, to the May 11, 2023 hearing, and to the May 25, 2023 hearing, at the request of staff to provide additional time for the requested Traffic Impact Study (TIS) to be conducted and submitted for review and comments.

The Hearing Examiner continued these petitions from the May 11, 2023 hearing, to the June 29, 2023 hearing, at the request of staff to provide time for the TIS to be amended and finalized.

A timely automatic continuance was filed by a registered neighborhood organization **continuing these petitions from the June 29, 2023 hearing, to the July 27, 2023 hearing.**

kb

STAFF REPORT

Item 6.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-CAP-822 / 2023-CVR-822
Address: 1625, 1631 and 1637 Nowland Avenue and 1258 Windsor Street
(Approximate Address)
Location: Center Township, Council District #17
Petitioner: 1625 Nowland, LLC, 1631 Nowland, LLC, Raymond Street Partners, LLC
and Indianapolis Film Project, by David Kingen
Zoning: MU-2
Requests: Modification of the Site Plan and Commitments for 2017-CZN-816 / 2017-CVR-816 as modified by 2018-MOD-006 to:

- A. Modify Commitment #1 requiring adherence to the Site plan file-dated June 21, 2018 and the Plan of Operation file-dated July 18, 2018 to provide for an amended site plan and to provide for an outdoor seating area for the serving and sales of alcohol.
- B. Terminate Commitment #18 which required certain building materials and colors for the building façade and former window openings.
- C. Modify Commitment #22 to allow the selling and serving of alcohol (previous commitment prohibited alcohol sales).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 6.75-foot tall fence with eleven-foot tall support posts surrounding an outdoor dining area (maximum 3.5-foot tall fence permitted).

The Hearing Examiner continued these petitions from June 15, 2023 hearing, to the July 13, 2023 hearing, at the request of staff and the petitioner's representative, to provide additional time to clarify the request.

kb

STAFF REPORT

Item 7.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-CZN-828 / 2023-CVR-828 (Amended)
Address: 3416, 3420 and 3520 South Post Road (approximate address)
Location: Franklin Township, Council District #18
Petitioner: Quicktrip Corporation, by J. Murray Clark
Request: Rezoning of 12.269 acres from the C-S and C-7 districts to the C-7 district to provide for a truck stop.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for no street trees along the northern portion of the Post Road frontage (street trees required), no planting beds/shrubs along the entire Post Road frontage (landscaping required), three parking lot trees (17 required), to provide for a 50-foot tall, 391-square-foot pole sign (maximum 20-foot tall, 300 square foot pole sign permitted), to provide for a 23-foot tall, 109-square-foot freestanding incidental sign (maximum eight-foot tall, 32 square feet permitted) and to provide for a truck stop located within 425 feet of a protected district (500-foot separation required).

The Hearing Examiner continued these petitions from the from the June 15, 2023 hearing, to the June 29, 2023 hearing to provide additional time to amend the variance request and provide required notice.

A timely automatic continuance was filed by a registered neighborhood organization **continuing these petitions from the June 29, 2023 hearing, to the July 27, 2023 hearing.** This would require acknowledgement by the Hearing Examiner.

kb

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-012
Address: 6107 Timberland Way (*Approximate Address*)
Location: Decatur Township, Council District #20
Zoning: D-3
Petitioner: Simone D. Ridgeway
Request: Modification of the Commitments related to petition 97-Z-30 to modify Commitment #20 to allow for a privacy fence along the property boundary (current commitment limits privacy fencing to being used in conjunction with a porch, patio, deck, terrace or pool, it must be located within fifteen feet of said structure and shall not encroach into the required building setbacks).

RECOMMENDATION

Staff has **no recommendation** for this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This subject site is part of the Copeland Mills Estates neighborhood that was developed in the late 1990s/early 2000s.
- ◇ The 2018 Comprehensive Land Use Plan recommends Suburban Neighborhood for the site. This typology is primarily intended for single-family dwellings.

MODIFICATION OF COMMITMENTS

- ◇ This site was part of a petition that was approved in 1997 (97-Z-30) that rezoned 69 acres from the D-A district to the D-3 district for provide for single-family residential development.
- ◇ The 1997 petition was approved with an extensive list of commitments. Some of the commitments were requested by Staff, but the majority were negotiated between the petitioner and the community. Among these community-requested commitments were

(Continued)

STAFF REPORT 2023-MOD-012 (Continued)

restrictions on fencing greater than what was required by the Ordinance. Fences were not permitted unless used in conjunction with a porch, patio, deck, terrace or in-ground swimming pool, and then only within 15 feet of that feature and not within any required building setback.

- ◇ This petition would modify the restrictions fencing to state that privacy fencing shall be permitted in conjunction with a porch, patio, deck, terrace or in-ground swimming pool, or property boundary demarcation; and located within property boundaries. The fifteen-foot requirement and the prohibition of fencing within the building setbacks would be removed.
- ◇ This modification would only apply to 6107 Timberland Way. The commitments for the remainder of the subdivision are not affected by this petition.
- ◇ There is no indication in the record that the 1997 commitment being modified was the result of a negotiation between the petitioner and staff. Instead, it was a product of negotiations between the petitioner and the neighborhood organization without staff's involvement. As such, staff has no recommendation on the commitment's modification. However, staff would note that the neighborhood's recommendation in the original petition was based on all the commitments that were submitted and on the reasonable assumption that the site would be developed and operated in accordance with those commitments.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-3	Metro	Single-family dwelling
-----	-------	------------------------

SURROUNDING ZONING AND LAND USE

North	D-3	Single-family dwelling
South	D-3	Single-family dwelling
East	D-3	Single-family dwelling
West	D-3	Single-family dwelling

COMPREHENSIVE LAND USE PLAN	The Decatur Township Comprehensive Land Use Plan (2018) recommends Suburban Neighborhood for the site.
-----------------------------	--

THOROUGHFARE PLAN	Timberland Way is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.
-------------------	--

(Continued)

STAFF REPORT 2023-MOD-012 (Continued)

FLOODWAY / FLOODWAY FRINGE	This site is not located within a floodway or floodway fringe.
WELLFIELD PROTECTION DISTRICT	This site is not located within a wellfield protection district.
STREAM PROTECTION CORRIDOR	This site is not located within a stream protection corridor.

ZONING HISTORY – SITE

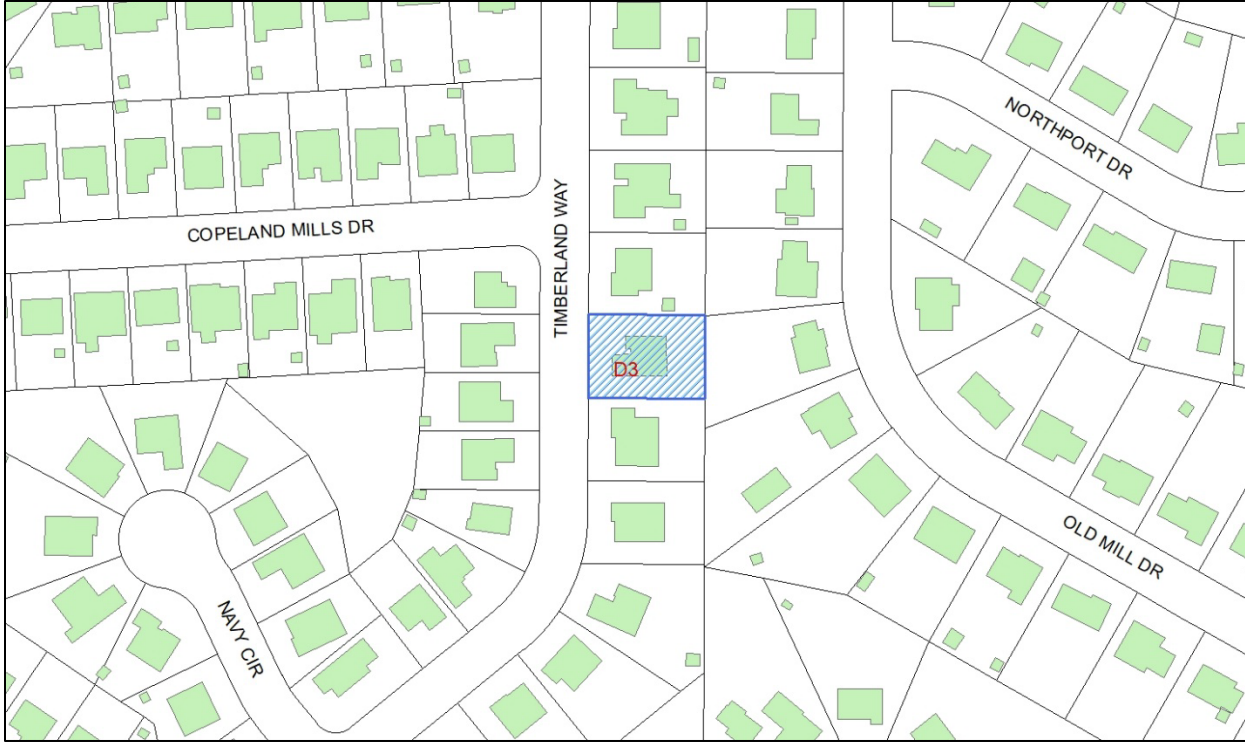
97-Z-30; 600-6251 South High School Road, requested the rezoning of 69 acres from the D-A district to the D-3 district, **approved**.

ZONING HISTORY – VICINITY

None

klh

STAFF REPORT 2023-MOD-012, Location



STAFF REPORT 2023-MOD-012, Aerial photograph (2022)



STAFF REPORT 2023-MOD-012, Proposed commitment

STATEMENT OF MODIFICATION OR TERMINATION OF COVENANTS OR COMMITMENTS

COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION OR SPECIAL EXCEPTION PETITION

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

Legal Description:

Lot 124 in Copeland Mills, Section Three, as per plat thereof recorded in instrument #2001-196087 in the Office of the Recorder of Marion County, Indiana.

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. The following Statement of Commitments are requested for modification for said legal description above to ensure safe use of property:

20. Privacy fencing (stockade, shadow-box or other fencing with a sight barrier in excess of fifty [50] percent) shall not be permitted unless:
 - (a) used in conjunction with (i) a porch, (ii) a patio, deck or terrace having a horizontal area within eighteen (18) inches of grade level, or (iii) an in-ground swimming pool;
 - (b) located within fifteen (15) feet from said porch, patio, deck, terrace or swimming pool; and,
 - (c) does not encroach into any required building setback.

To

20. Privacy fencing (e.g., stockade, shadow-box or other fencing with a sight barrier in excess of fifty [50] percent) shall be permitted under the following conditions:

MDC's Exhibit C - - page 1 of 4

- (a) used in conjunction with (i) a porch, (ii) a patio, deck or terrace having a horizontal area within eighteen (18) inches of grade level, (iii) an in-ground swimming pool, or (iv) property boundary demarcation;
- (b) and located within property boundaries.

2. N/A

3. N/A

4. N/A

5. N/A

These COVENANTS or COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COVENANTS or COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COVENANTS or COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);

STAFF REPORT 2023-MOD-012, Photographs



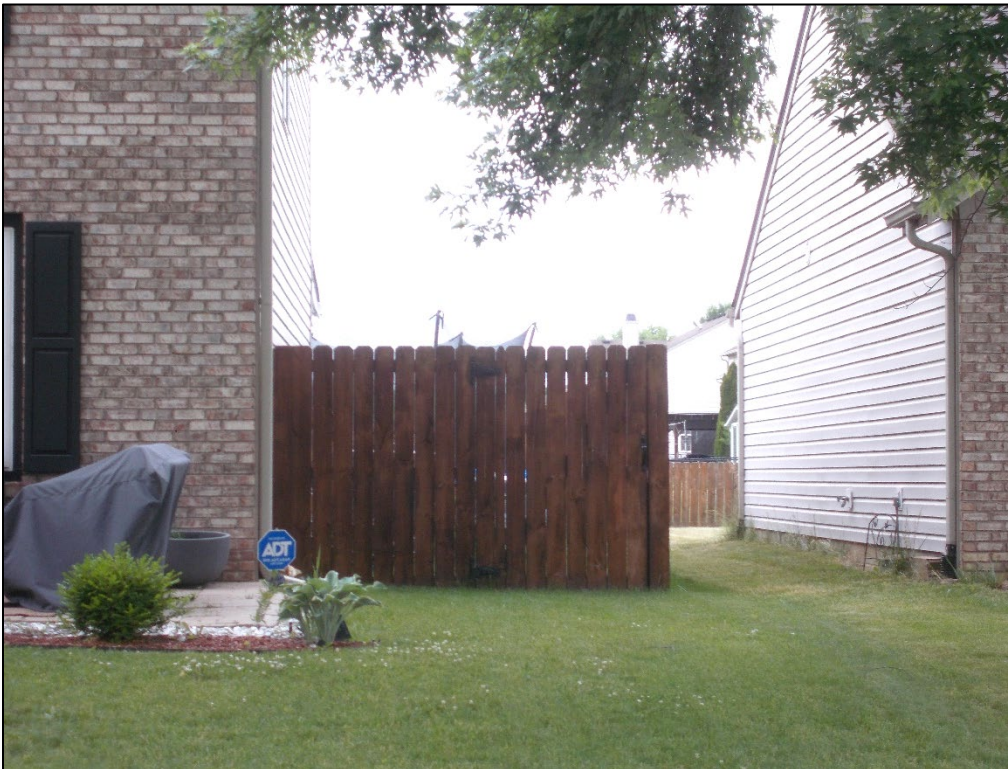
Looking east at subject site.



Looking east at the north side of the subject site (subject site is to the right).



Looking east at the south side of the subject site.



Nearby fences.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-031
Address: 3807 Graceland Avenue (*Approximate Address*)
Location: Washington Township, Council District #7
Petitioner: Larry K. Covington, by Jamilah Mintze
Request: Rezoning of 0.35 acre from the D-5 district to the D-8 district to provide for a seven-unit townhome development.

A valid Automatic Continuance was received from a registered neighborhood organization, the Butler-Tarkington Neighborhood Association, that continued this petition from the May 25, 2023 hearing to the June 29, 2023 hearing.

RECOMMENDATION

Staff **recommends approval** of this request, with the provision that the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

The decorative street nameplates embedded in the sidewalks of 38th Street and Graceland Avenue shall be replaced by the property owner if the nameplates become damaged during the construction process. They shall be replaced in a manner identical to the original installation.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ The subject site is three lots platted as part of C.E. Shover's Addition in 1905. Historic mapping and aerial photography indicate that a dwelling was built on each lot. By 1986, the dwellings on the northern two lots had been demolished. The dwelling on the south lot remains.
- ◇ The area to the north and west is a residential neighborhood of mostly single-family dwellings. The 38th Street corridor heading east is mostly commercial uses. The subject site, being at the boundary between single-family residential and commercial land uses, has potential as a transitional or buffer area.

(Continued)

STAFF REPORT 2023-ZON-031 (Continued)

- ◇ The 2018 Comprehensive Land Use Plan recommends Village Mixed-Use for the subject site. This typology envisions a mixed-use village core of small neighborhood office/retail nodes, public and semi-public uses, open space and light industrial development surrounded by varying densities of residential development.
- ◇ The site fronts on 38th Street, a six-lane divided street that was formerly a state highway. When the state highway was transferred to the responsibility of the City, decorative streetscape elements were added. These features include medians with raised planters and street names emblazoned on the sidewalk pavement.
- ◇ The site is located about four and a half blocks from the Red Line Bus Rapid Transit Line.

ZONING

- ◇ This petition requests a rezoning from the D-5 district to the D-8 district. Both are dwelling districts. The D-5 districts provides for single-family dwellings, duplexes, and multi-unit houses. The D-8 district also provides for those uses, but additionally permits rowhouses and small apartment buildings.
- ◇ The site plan submitted with this petition proposes seven multi-family units, five facing 38th Street and two facing Graceland Avenue. They will have the appearance of three-story townhouses. However, because the units will all be on one lot rather than individual lots, the Ordinance treats them as apartments. Eight parking spaces are proposed along the alley to the east.
- ◇ The petitioner has not submitted commitments requiring compliance with the proposed site plan, so the plan should be considered illustrative of what could be built at the site under the D-8 district.
- ◇ The D-8 district is appropriate as it is responsive to the Village Mixed-Use recommendation of the Comprehensive Land Use Plan.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-5	Compact	Single-family dwelling, vacant lots
-----	---------	-------------------------------------

(Continued)

STAFF REPORT 2023-ZON-031 (Continued)

SURROUNDING ZONING AND LAND USE

North	D-5	Single-family dwelling
South	D-5	Auto repair shop
East	C-3	Tire repair shop
West	D-5	Single-family dwellings

COMPREHENSIVE LAND USE PLAN The Washington Township Comprehensive Plan (2018) recommends Village Mixed-Use.

THOROUGHFARE PLAN Graceland Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

38th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 101-foot existing right-of-way and a 114-foot proposed right-of-way

FLOODWAY / FLOODWAY FRINGE This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT This site is not located within a wellfield protection district.

ZONING HISTORY – SITE

95-V1-128; 3807 Graceland Avenue, requested a variance of development standards to legally establish excess accessory structure area, deficient side setback and open space, **approved**.

ZONING HISTORY – VICINITY

2023-UV1-006, 201 West 38th Street & 3750 North Capitol Avenue (southeast of site), requested a variance of use to provide for a convenience store in a dwelling district and variances of development standards to provide for a trash enclosure in the front yard, deficient transitional yard, bicycle parking and street trees, **pending**.

2018-UV3-026; 227 West 38th Street (south of site), requested a variance of use to provide for an automobile repair facility, **approved**.

(Continued)

STAFF REPORT 2023-ZON-031 (Continued)

2013-ZON-038; 3820 North Capitol Avenue (northeast of site), requested a rezoning of 0.12 acre from the D-5 district to the C-3 district, **withdrawn**.

2013-UV1-038; 202 West 38th Street (east of site), requested a variance of use to legally establish an addition to a tire repair shop and a variance of development standards to provide for a deficient transitional yard, **withdrawn**.

2007-ZON-804 / 2007-VAR-804; 202 West 38th Street (east of site), requested the rezoning of 0.35 acre from the D-5 district to the C-3 district, a variance of use to provide for tire sales and repair in a C-3 district and variance of development standards to provide for deficient setbacks and transitional yard, **approved**.

93-UV2-23; 227 West 38th Street (south of site), requested a variance of use to provide for an automobile repair shop, **approved**.

87-UV2-26; 3820 North Capitol Avenue (northeast of site), requested a variance of use to provide for an office and accessory parking in a dwelling district, **approved**.

88-UV2-9; 227 West 38th Street (south of site), requested a variance of use to provide for an automobile repair business, **approved for a period of five years**.

83-UV1-34; 201 West 38th Street (southeast of site), requested a variance of use to provide for a convenience store with gasoline sales in a dwelling district, and variances of development standards to provide for a deficient transitional yard and sign setback, **approved**.

84-UV2-21; 227 West 38th Street (south of site), requested a variance of use to provide for automobile repair shop, **approved for three years**.

klh

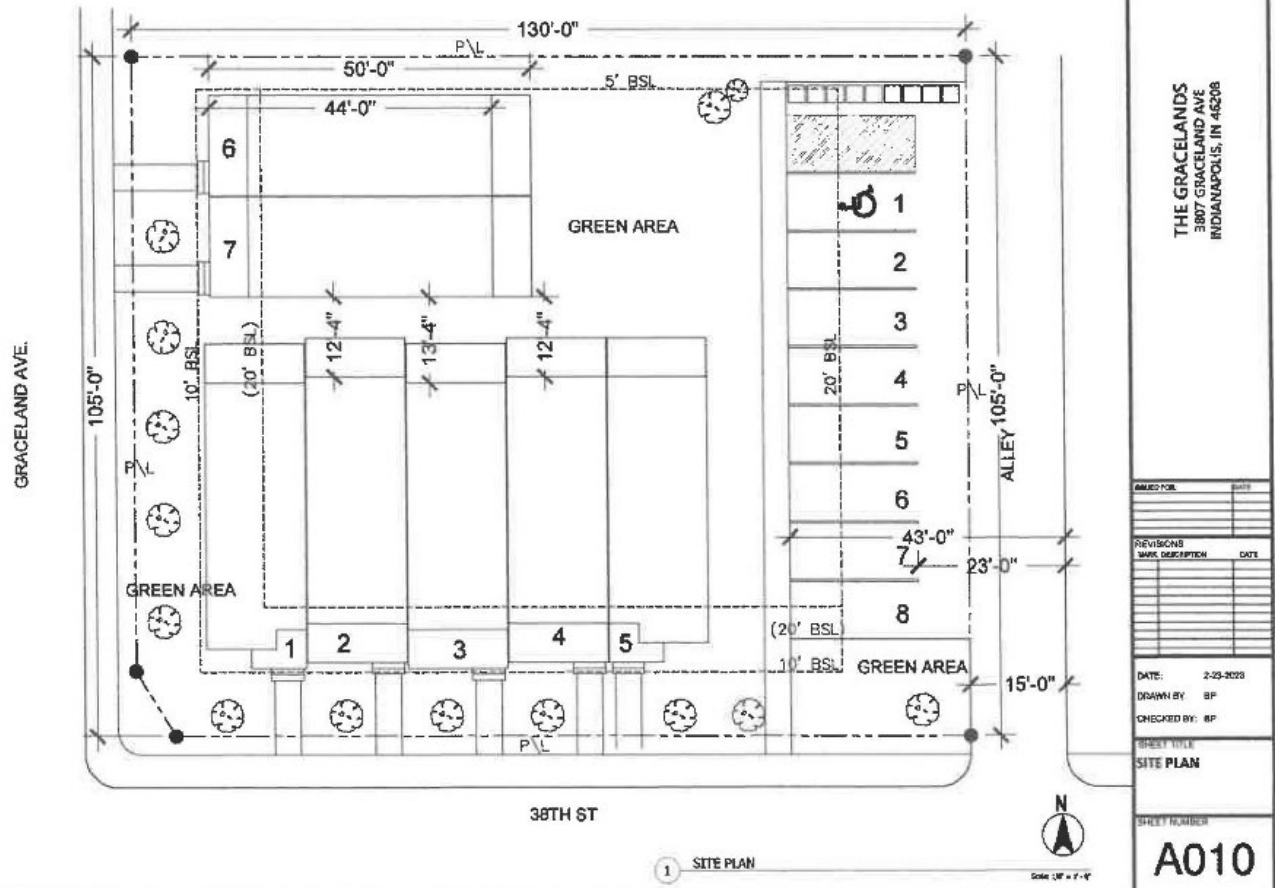
STAFF REPORT 2023-ZON-031, Location



STAFF REPORT 2023-ZON-031, Aerial photograph (2022)



STAFF REPORT 2023-ZON-031, Site Plan



STAFF REPORT 2023-ZON-031, Rendering



STAFF REPORT 2023-ZON-031, Elevations



STAFF REPORT 2023-ZON-031, Photographs



Looking east at southern portion of the subject site.



Looking east at the northern portion of the site.



Looking north along Graceland Avenue. The subject site is to the right.



Looking south across 38th Street to the neighbors to the south.



Looking northeast at the neighbor to the east.



Looking southwest across 38th Street from the site.



Looking north on alley. Subject site is to the left.



Street nameplates in the sidewalks at the intersection.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-038
Address: 6041 and 6125 East Thompson Road (*Approximate Address*)
Location: Franklin Township, Council District #18
Petitioner: Albert Fullenkamp, by David Gilman
Request: Rezoning of 3.40 acres from the C-S and D-P districts to the C-3 district to provide for a neighborhood commercial development.

At the request of the petitioner, this petition was continued from the June 15, 2023 hearing to the June 29, 2023 hearing to allow time to meet with a neighborhood organization.

RECOMMENDATION

Staff **recommends approval** of this request, with the provision that the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 59.5-foot half right-of-way shall be dedicated along the frontage of Thompson Road, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ The subject site is two abutting parcels on the south side of Thompson Road just east of its intersection with Arlington Avenue. Historic aerial photography indicates that the dwelling on the site was in existence by 1937. The area was solidly agricultural until the 1980s when residential development began to occur. Commercial development, centered on the intersection of Thompson Road and Arlington Avenue, also began to occur in the early 1980s. Single-family dwellings are currently under construction to the south of the subject site.

(Continued)

STAFF REPORT 2023-ZON-038 (Continued)

- ◇ The 2018 Comprehensive Land Use Plan recommends Community Commercial for the subject site. This typology envisions low-intensity commercial and office uses that serve nearby neighborhoods.

ZONING

- ◇ This petition requests a rezoning from the C-S and D-P districts to the C-3 district. The whole site was a part of petition 97-Z-132, which rezoned 73 acres to the D-P district to provide for 137 single-family dwellings, plus C-1 and C-3 uses. The approved site plan and development statement for the 1997 petition committed to retaining the dwellings on the two parcels that make up the current subject site.
- ◇ About ten years later, the western portion of the subject site was rezoned from D-P to C-S to provide for C-3 uses, plus temporary seasonal sales and the sale and display of lawnmowers, and small sheds. The approval was tied to a site plan.
- ◇ The C-3 district provides for a range of retailing, personal services and offices. It is intended for neighborhood-serving business rather than businesses that draw from a wide area or generate significant traffic.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

C-S, D-P	Metro	Single-family dwellings, seasonal sales
----------	-------	---

SURROUNDING ZONING AND LAND USE

North	D-P	Retail center, undeveloped land
South	D-P	Single-family neighborhood under construction
East	D-P	Single-family neighborhood under construction
West	D-P	Retail center

COMPREHENSIVE LAND USE PLAN	The Franklin Township Comprehensive Plan (2018) recommends Community Commercial.
-----------------------------	--

THOROUGHFARE PLAN	Thompson Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 92-foot existing right-of-way and a 119-foot proposed right-of-way.
-------------------	--

(Continued)

STAFF REPORT 2023-ZON-038 (Continued)

FLOODWAY / FLOODWAY FRINGE This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT This site is not located within a wellfield protection district.

ZONING HISTORY – SITE

2007-ZON-848 / 2007-VAR-848; 6041 East Thompson Road, requested the rezoning of 1.5 acre from the D-P district to the C-S district to provide for single-family dwellings, C-3 uses, temporary seasonal sales and the sales and display of lawnmowers and detached accessory structures, and a variance of development standards to provide for unpaved parking and a deficient side setback, **approved**.

97-Z-132; 6125 East Thompson Road, requested the rezoning of 73 acres from the D-A district to the D-P district to provide for 137 single-family dwellings, C-1 and C-3 uses, **approved**.

94-UV3-123; 6041 East Thompson Road, requested a variance of use to provide for seasonal sales in a dwelling district, **approved**.

ZONING HISTORY – VICINITY

2009-DV2-013; 5935 East Thompson Road (west of site), requested a variance of development standards to provide for an over-sized sign, **approved**.

2001-ZON-823; 6040 East Thompson Road (north of site), requested the rezoning of 17.3 acres from the D-P district to the D-P district to provide for 41 two-family residential lots, **approved**.

2000-ZON-032; 6040 East Thompson Road (north of site), requested the rezoning of 32.3 acres from the D-A district to the D-P district to provide for two-family dwellings, multi-family dwellings, offices and neighborhood services and retail, **approved**.

97-UV3-10; 5910 East Thompson Road (west of site), requested a variance of use to provide for a convenience store and gas station with a carwash in a C-3 district, **approved**.

95-Z-110; 5901 East Thompson Road (west of site), requested the rezoning of 3.8 acres from the C-1 district to the C-3 district, **approved**.

86-Z-236; 5951 East Thompson Road (west of site), requested the rezoning of 1.4 acre from the D-6II district to the C-3 district, **approved**.

(Continued)

STAFF REPORT 2023-ZON-038 (Continued)

80-UV1-22; 5002 South Arlington Avenue (west of site), requested a variance of use to provide for a temporary sign, **approved**.

73-Z-281; 4902 South Arlington Avenue (west of site), requested the rezoning of 8.7 acres from the D-3 district to the C-3 district, **approved**.

klh

STAFF REPORT 2023-ZON-038, Location



STAFF REPORT 2023-ZON-038, Aerial photograph (2022)



STAFF REPORT 2023-ZON-038, Photographs



Looking south across Thompson Road at the eastern portion of the subject site.



Looking south across Thompson Road at the western portion of the site.



Looking northwest from Modernist Boulevard at the eastern portion of the site.



Looking south at the neighbor to the east.



Looking north across Thompson Road from the site to the neighbor to the north.



Looking east along Thompson Road, showing a sidewalk under construction along the site's frontage.



Looking south along the east property line of the site. To the left is a common area for the abutting residential neighborhood.



Looking north along the east property line of the site, showing a common area for the abutting residential neighborhood, currently under construction.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-051
Address: 1354 Shelby Street (*Approximate Address*)
Location: Center Township, Council District #21
Petitioner: Churchyard, LLC, by David Gilman
Request: Rezoning of 0.30 acre from the MU-1 (TOD) district to the MU-2 (TOD) district to provide for retail commercial uses

RECOMMENDATION

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ The subject site was originally developed with single-family dwellings. By the mid-1960s the site had been redeveloped with the two-story commercial structure that stands on it today.
- ◇ The 2018 Comprehensive Land Use Plan recommends Village Mixed-Use for the subject site. This typology envisions a pedestrian-friendly, mixed-use village core of small neighborhood office/retail nodes, public and semi-public uses, open space and light industrial development surrounded by varying densities of residential development. The site's location, Fountain Square, typifies a Village Mixed Use neighborhood.
- ◇ The subject site is located on the Red Line Bus Rapid Transit route and a traffic-separated bike lane.

ZONING

- ◇ This petition requests a rezoning from the MU-1 district to the MU-2 district. Both districts provide for a mix of uses, however they permit different arrays of uses and have different development standards. The MU-2 district generally provides for multi-family residential development mixed with small-scale retailing.

(Continued)

STAFF REPORT 2023-ZON-051 (Continued)

- ◇ The MU-2 district is appropriate as it is responsive to the Village Mixed-Use recommendation of the Comprehensive Land Use Plan and is a district commonly found in the vicinity.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

MU-1	Compact	Commercial building
------	---------	---------------------

SURROUNDING ZONING AND LAND USE

North	C-3	Gas station
South	MU-1	Commercial building
East	MU-1	Salvation Army
West	D-5	Single-family dwellings

COMPREHENSIVE LAND USE PLAN	The Center Township Comprehensive Plan (2018) recommends Village Mixed-Use.
-----------------------------	---

THOROUGHFARE PLAN	Shelby Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 61-foot existing right-of-way and a 56-foot proposed right-of-way.
-------------------	---

FLOODWAY / FLOODWAY FRINGE	This site is not located within a floodway or floodway fringe.
----------------------------	--

WELLFIELD PROTECTION DISTRICT	This site is not located within a wellfield protection district.
-------------------------------	--

ZONING HISTORY – SITE

2022-UV1-028; 1354 Shelby Street, requested a variance of use for a restaurant, hookah bar and lounge in a MU-1 district and variances of development standards for deficient separation from a protected district and number of parking spaces, **withdrawn**.

(Continued)

STAFF REPORT 2023-ZON-051 (Continued)**ZONING HISTORY – VICINITY**

2014-UV1-017; 1402 Shelby Street (south of site), requests a variance of use and development standards of the Commercial Zoning Ordinance to provide for the storage and distribution of frozen raw pet food, and to legally establish the following approximate setbacks: 43 feet from the centerline of Shelby Street, two feet from the west (rear) property line, three feet from the north property line and zero feet from the south property line, **granted**.

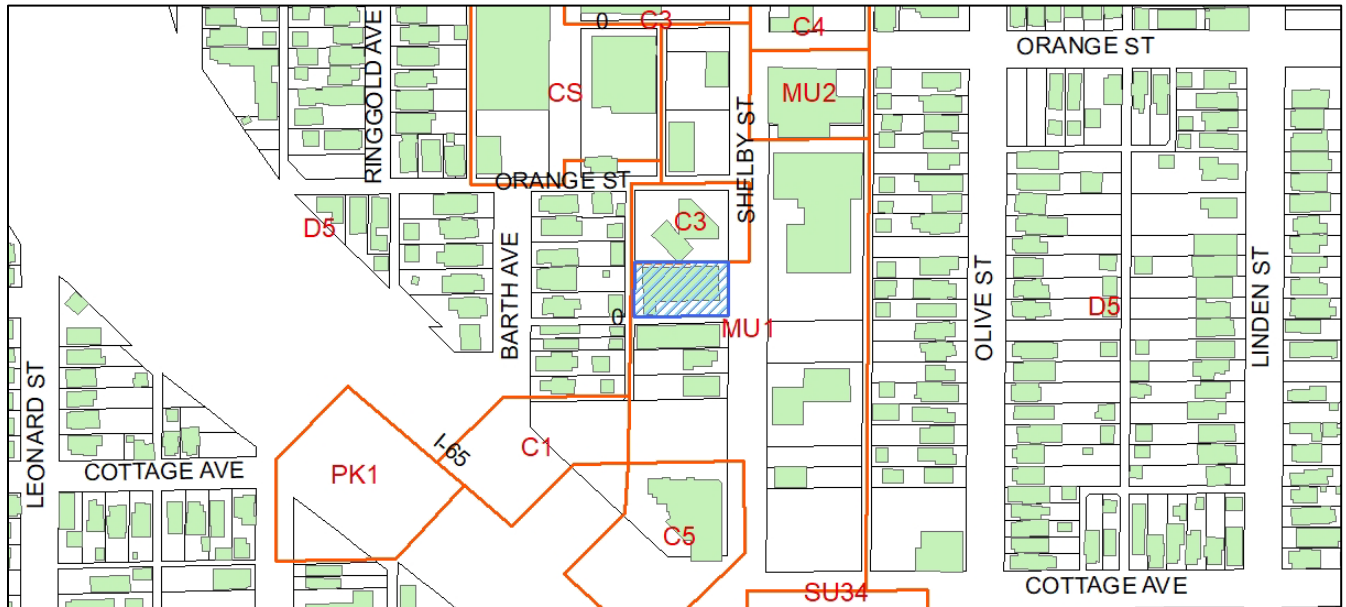
2012-CZN-825 / 2012-CVR-825; 1354 Shelby Street (north of site), requested the rezoning of 0.4 acre from the C-5 district to the C-3 district and variances of development standards to provide for deficient setbacks, outdoor seating, and carry-out with deficient separation from a protected district, **approved**.

84-Z-184; 1340 Shelby Street, (north of site), requests a rezoning of 0.41 acre from the C-2 district to the C-5 district (reduced to C-3 during petition process), **granted**.

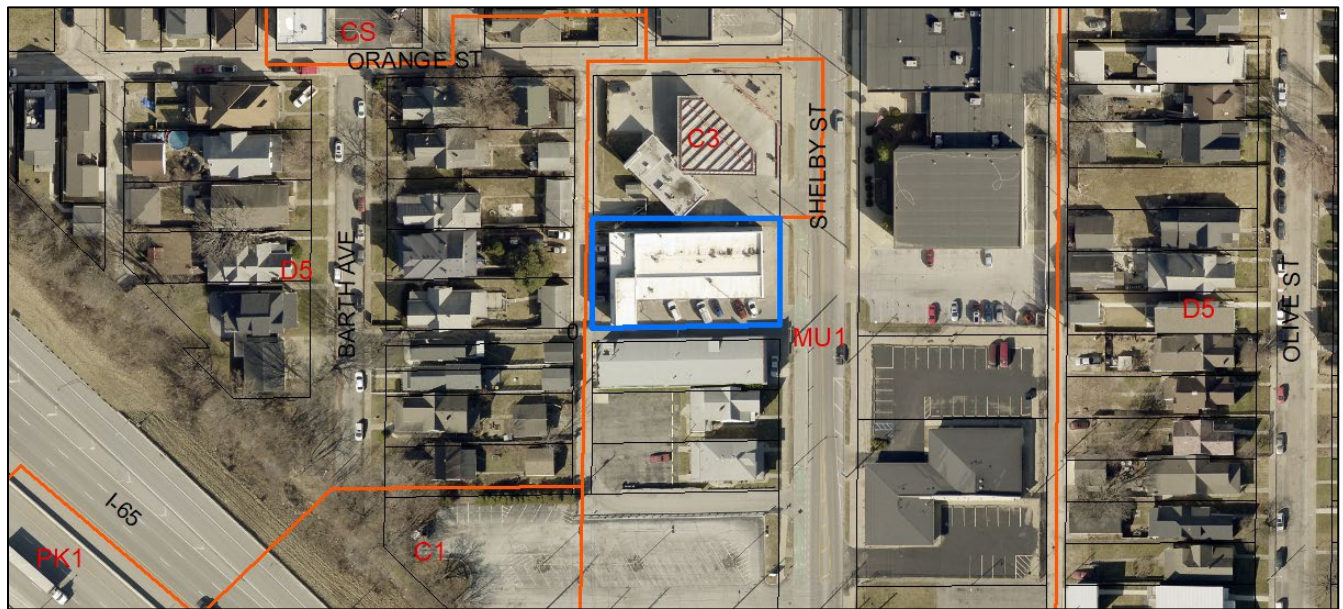
84-UV2-5; 1340 Shelby Street (north of site), requested a variance of use to provide for automobile repair in a C-2 district and variances of development standards to provide for deficient yards and parking standards, **approved, but overturned in municipal court**.

klh

STAFF REPORT 2023-ZON-051, Location



STAFF REPORT 2023-ZON-051, Aerial photograph (2022)



STAFF REPORT 2023-ZON-051, Photographs



Looking west across Shelby Street at the subject site.



Looking southeast at the site from the alley.



Looking southwest across Shelby Street at the neighbors to the south.



Looking northwest across Shelby Street at the neighbors to the north.



Looking east across Shelby Street from the site.



Looking west across the alley at the neighbors to the west.

STAFF REPORT

Item 12.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CAP-819 / 2023-CVR-819
Address: 2801 South Pennsylvania Street (*Approximate Address*)
Location: Center Township, Council District #16
Petitioner: 2801 S Pennsylvania LLC, by Jason E. Burk
Zoning: D-8
Requests: Modification of Commitments related to 2019-ZON-086, modifying Commitment Four to reduce the amount of required parking to 1.75 spaces per residential unit, from two spaces per unit, and Commitment Ten to allow for additional lighting elements and height placement.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for parking areas up to 583 feet wide within the front yards of the subject site, depending on final site plan (parking areas within front yard limited to 30-foot widths).

ADDENDUM FOR JUNE 29, 2023, HEARING EXAMINER

The Hearing Examiner continued these petitions from the June 15, 2023 hearing, to the June 29, 2023 hearing, because no one appeared on behalf of the petition.

ADDENDUM FOR JUNE 15, 2023, HEARING EXAMINER

The Hearing Examiner continued these petitions from the May 25, 2023 hearing to the June 15, 2023 hearing, to provide additional time for the petitioner's representative to clarify the location and number of parking spaces.

May 25, 2023

The Hearing Examiner continued these petitions from the May 11, 2023 hearing, to the May 25, 2023 hearing, at the request of staff to provide additional time to clarify rights-of-way.

RECOMMENDATIONS

Staff has **no recommendation** for the modification of commitments.

Staff would, however, request the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing

1. A 25-foot half right-of-way shall be dedicated along the frontages of Yoke Street and Delaware Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The rights-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

(Continued)

2. The site plan and final elevations shall be submitted for Administrator's Approval prior to the issuance of an Improvement Location Permit (ILP).

Staff **recommends approval** of the variance of the development standard, subject to the commitments above being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 3.91-acre site, zoned D-8, is developed with a three-story brick structure. It was originally constructed as a school and was later converted to office use (Petition 81-Z-88). It is surrounded by single-family dwellings to the north, across Yoke Street; single-family dwellings to the south; single-family dwellings to the east, across Delaware Street; and single-family dwellings to the west, across Pennsylvania Street, all zoned D-5.

MODIFICATION

- ◇ This request would modify commitments related to 2019-ZON-086, modifying Commitment Four to reduce the amount of required parking to 1.75 spaces per residential unit, from two spaces per unit, and Commitment Ten to allow for additional lighting elements and height placement.
- ◇ This request would modify commitments for the Rezoning Petition 2019-ZON-086 (See Exhibit "A"). The commitments relating to the number of parking spaces and lighting elements were originally the result of negotiation between the petitioner and remonstrators during the 2019 rezoning process. Because staff played no role in the negotiation of these subject commitments, staff would ordinarily provide no recommendation under such circumstances. Staff would note, however, that the neighborhood organization negotiated in good faith with the petitioner during the petition process, and their agreement was contingent upon all commitments being included with the rezoning petition.
- ◇ Staff would note that the modifications requested relates to the site plan submitted with the 2019 rezoning (See Exhibit B). The site plan submitted with this modification petition is substantially changed. Consequently, staff would request Administrator Approval of the site plan prior to the issuance of an Improvement Location Permit (ILP).

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of 25-foot half rights-of-way along Yoke Street and South Delaware Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for parking areas up to 583 feet wide within the front yards of the subject site, depending on final site plan when the Ordinance limits parking areas in the front yard to 30-foot widths.
- ◇ The grant of a variance of development standards requires a finding that the strict application of the terms of the Ordinance will result in a practical difficulty in the use of the property.
- ◇ Staff believes a practical difficulty exists on this site because of the three public street frontages. Development of the site for multi-family dwellings would be impossible without the grant of this variance.
- ◇ Additionally, this site was rezoned to the D-8 district prior to the current Ordinance update that included the provision related parking in the front yard.
- ◇ Consequently, staff supports the request to provide for parking areas within the front yard that exceeds the 30-foot width.
- ◇ Because of the impact of this development, staff would request Administrator Approval of the elevations prior to the issuance of an Improvement Location Permit to assure that the elevations would be compatible with the existing building and surrounding neighborhood.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-8 Office building (vacant)

SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwelling
South -	D-5	Single-family dwelling
East -	D-5	Single-family dwelling
West -	D-5	Single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends office commercial typology.
--------------------	--

THOROUGHFARE PLAN	<p>This portion of Pennsylvania Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 40-foot right-of-way and a proposed 48-foot right-of-way.</p> <p>This portion of Yoke Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 36-foot right-of-way and a proposed 48-foot right-of-way.</p> <p>This portion of Delaware Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 24-foot right-of-way and a proposed 48-foot right-of-way.</p> <p>(Continued)</p>
-------------------	--

CONTEXT AREA	This site is located within the compact context area.
OVERLAY	There is no overlay for this site.
SITE PLAN	File-dated March 14, 2023
ELEVATIONS	File-dated March 14, 2023
FINDINGS OF FACT	File-dated March 14, 2023

ZONING HISTORY

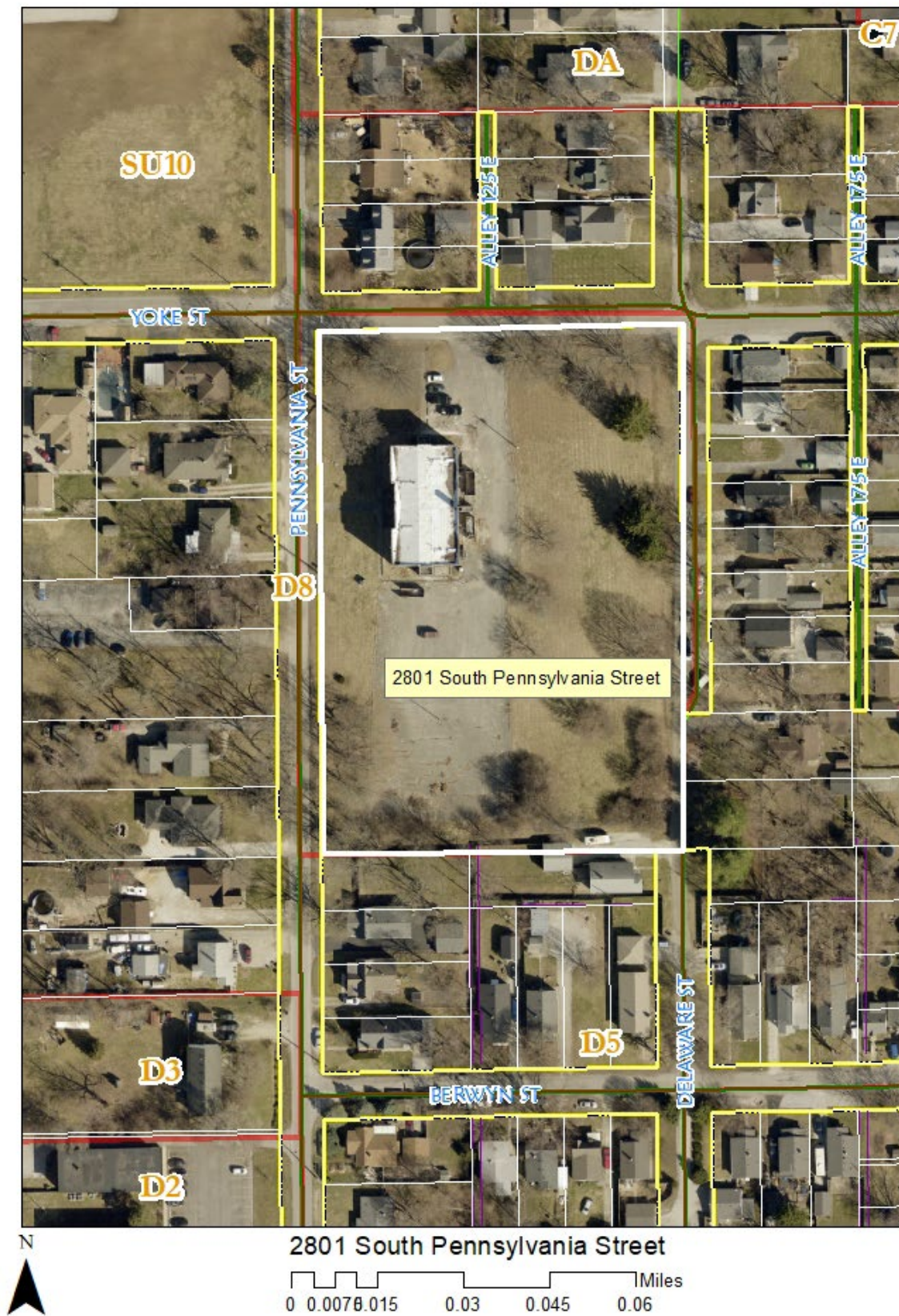
2019-ZON-086, 2801 South Pennsylvania Street, requested rezoning of 3.91 acres from the C-1 district to the D-8 district, **approved**.

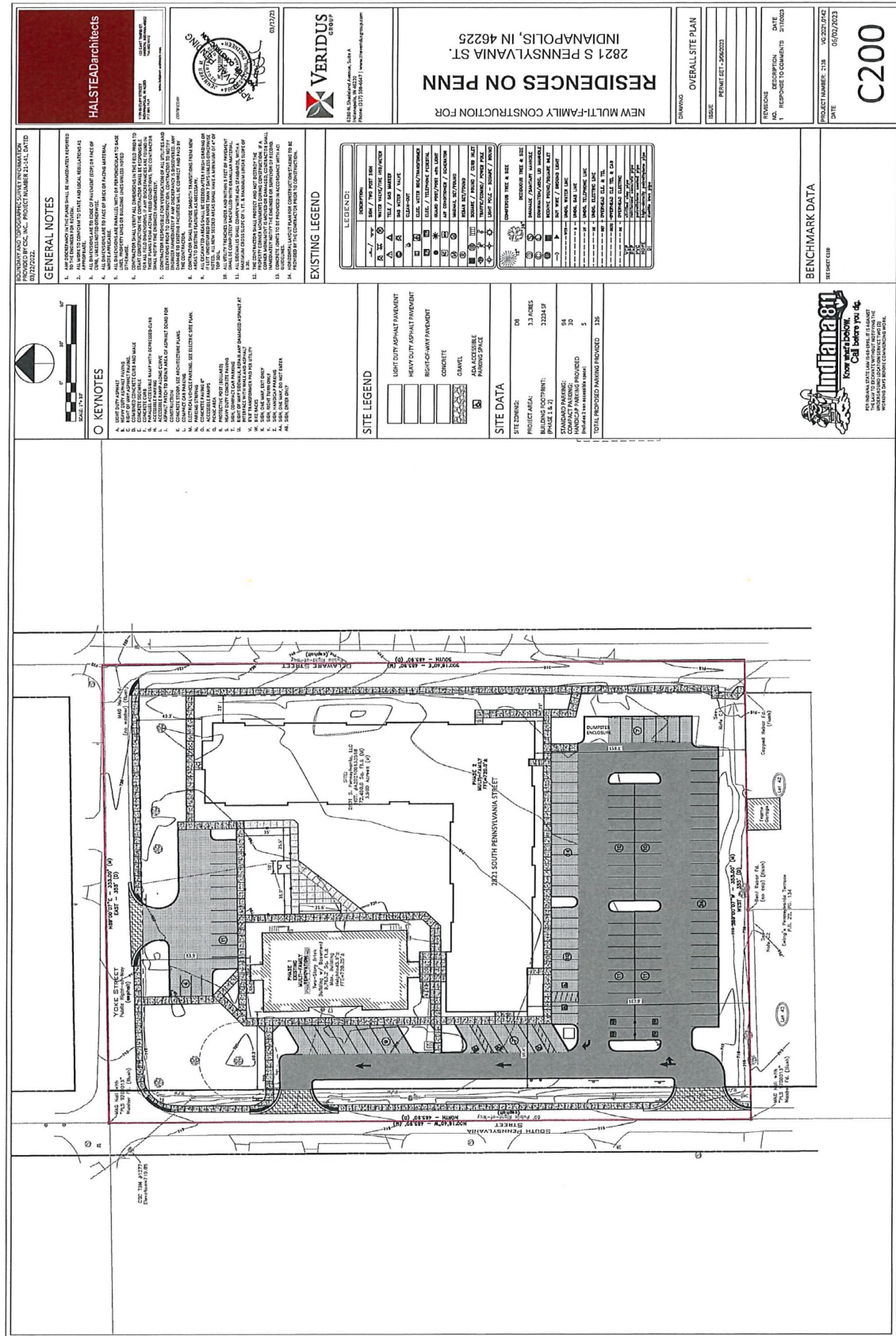
2005-ZON-036; 2801 South Pennsylvania Street, requested rezoning of 4.0 acres from the C-1 District to the SU-7 classification to provide for the development of a women's center housing up to 120 women and children, **withdrawn**.

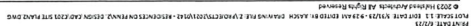
2004-UV3-006; 2801 South Pennsylvania Street, requested a variance of use of the Commercial Zoning Ordinance to provide for a two-story multi-family dwelling in an existing 13,630 square foot building and to provide for a 27,924-square foot, two-story addition resulting in a total of 35 units, **withdrawn**.

81-Z-889, 2815 South Pennsylvania Street, requested rezoning of 3.91 acres from the SU-2 District to the C-1 classification to provide for office use, **approved**.

kb









A201900125560

12/13/2019 11:36 AM

KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER

FEE: \$ 35.00

PAGES: 7

By: KS

STATEMENT OF COMMITMENTS

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below ("Owner"), makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description: See Exhibit A attached hereto (the "Real Estate").

STATEMENT OF COMMITMENTS:

1. Owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto as Exhibit B and incorporated herein by reference.
2. A 25-foot half right-of way shall be dedicated along the frontage of South Pennsylvania Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
3. The maximum number of residential units on the Real Estate shall be seventy (70) units.
4. There shall be a minimum of two (2) interior (garage) or exterior parking spaces per residential unit.
5. Each residential unit shall be limited to a studio, one (1) bedroom, two (2) bedrooms, or three (3) bedrooms. A maximum of ten (10) units may contain three (3) bedrooms.
6. The occupancy ratio of any residential unit shall not exceed 3:1 (i.e. three (3) adults (persons over the age of eighteen (18) years old) to one (1) residential unit).
7. All leases for residential units must be for a term of at least six (6) months unless preceded by a term of at least six (6) months for the same resident (i.e. a lease renewal term may be for a duration less than six (6) months, so long as the original lease term was for at least six (6) months). None of the apartment units on the Real Estate shall be used for short term lodging (e.g. Airbnb).
8. All leases for residential units shall be developed, marketed, leased and maintained as full "market rate" units.

Metropolitan Development

NOV 14 2019

Division of Planning

20540913.4

1



KS (7)

9. A six-foot (6') high black, decorative wrought iron-type ornamental fence or a six-foot (6') high cedar wood plank fence shall be constructed, maintained and repaired around the pool and playground areas.
10. There shall be no overhead pole lighting along the property lines of the Real Estate, except for street lighting provided by or required by the City of Indianapolis. There shall be no floodlights or other exterior lighting other than ground level landscape lighting or foot lighting near ground level along the property lines of the Real Estate; provided that each unit along such area may have up to two (2) coach lights on the front elevation of these units. Except for wall-mounted "down" lights located on balconies, any overhead pole lighting or coach lights within the development shall not be more than eight feet (8') tall or attached to any structure more than eight feet (8') off the ground. In order to reduce light spillage, all lighting in the development shall include shields, deflectors, or other reasonably sufficient measures to ensure that light generated by the development is directed downward.
11. Owner shall maintain all improvements on the Real Estate in a manner that complies with the following requirements:
 - A. The roof of all buildings shall be (i) inspected not less than once every five (5) years by a qualified roofing contractor, and (ii) replaced when determined necessary by such roofing contractor; provided, however, any twenty-five (25) year roofs installed on any townhomes on the Real Estate need only be inspected once every ten (10) years by a qualified roofing contractor. Any damage to a roof shall be repaired as soon as reasonably possible. If metal roofing materials are used and discoloration of portions of any roof occurs that are visible from the boundary of the Real Estate, actions will be taken in a timely manner to ensure the discoloration is corrected.
 - B. All painted surfaces on all buildings shall be repainted not less than once every ten (10) years. Areas of peeling paint that exceed ten (10) square feet shall be repainted as soon as reasonably possible.
 - C. All grass areas shall be mowed such that the height of the grass does not exceed two and a half inches (2 ½").
 - D. Sidewalks shall be kept reasonably clean of snow and ice, and interior streets shall be plowed after any snow event that exceeds two inches (2") in depth.
 - E. The Real Estate shall be kept reasonably free of trash and rubbish, and Owner shall cause the entirety of the Real Estate to be inspected for trash and rubbish not less than once per week.
 - F. All trash, garbage and refuse stored outside any building shall be stored in covered receptacles and screened from view.

In the event any of the above maintenance requirements are not met or adhered to in a timely manner, any party listed below with the authority to enforce these Commitments may notify Owner, in writing, of such failure. Owner shall then have ten (10) days to correct such failure, subject to delays caused by adverse weather or the availability of necessary equipment, materials, supplies or labor. A cure or correction may take longer than ten (10) days, provided such cure or correction is timely commenced and completed with reasonable diligence. If Owner disagrees that a failure has occurred or that a maintenance requirement has not been met, it shall notify the party attempting to enforce

this Commitment along with the Department of Code Enforcement or its successor department or agency ("DCE"). Thereafter, the decision of the DCE shall be binding upon both Owner and the party attempting to enforce. If the DCE determines that a failure has occurred or a maintenance requirement not met, Owner shall correct within ten (10) days of such decision as provided herein. If Owner fails to timely correct any maintenance requirement failure, after proper notice and applicable cure period, the enforcing party may, but is not required to, enter onto the Real Estate and perform such maintenance work. Owner shall reimburse the enforcing party for the actual cost of such work within thirty (30) days after receipt of an invoice for such work. Owner shall designate a point of contact to assure timely communications and notices relative to these Commitments.

12. During any construction activities on the Real Estate, vehicular ingress and egress to and from the Real Estate for construction purposes shall be limited to Yoke Street and Pennsylvania Street. No equipment, vehicles, or materials related to the construction on the Real Estate will be permitted on Delaware Street.
13. Upon completion of the construction activity on the Real Estate, vehicular ingress and egress to and from the Real Estate shall be limited to Yoke Street and Pennsylvania Street. Accordingly, no vehicular curb cuts shall be permitted on Delaware Street.
14. In the event of any litigation arising out of these COMMITMENTS, the prevailing party shall be entitled to receive from the other party an amount equal to the prevailing party's costs incurred in such litigation, including, without limitation, the prevailing party's attorneys' fees, costs and disbursements.

These COMMITMENTS shall be binding on Owner, subsequent owners of the Real Estate, and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on Owner, subsequent owners, or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Exhibit B. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

The COMMITMENTS contained in this instrument shall be effective upon the adoption of rezoning petition 2019-ZON-086 by the City-County Council changing the zoning classification of the real estate from the C-1 zoning classification to the D-8 zoning classification; and shall continue in effect for as long as the Real Estate remains zoned to a residential zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. DCE;
3. Owners of all parcels of ground adjoining the Real Estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty feet (660') from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive

Metropolitan Development

NOV 14 2019

Division of Planning

personal notice of the rezoning or approval under the rules in force at the time the commitment was made); and

4. Any person who is aggrieved by a violation of either of the Commitments contained in Commitment #1 (Open Occupancy and Equal Employment Opportunity Commitments).

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition **2019-ZON-086**.

[Remainder of Page Intentionally Left Blank; Signature to Follow.]

Metropolitan Development
NOV 14 2019
Division of Planning

20540913.4

IN WITNESS WHEREOF, Owner has executed this instrument this 14th day of November, 2019.

TESO DEVELOPMENT GROUP, LLC

By: Harpreet Shauki

Printed: Harpreet Shauki

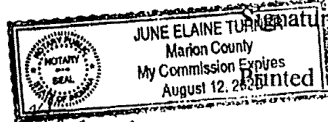
Position: Authorized Signer

STATE OF INDIANA)

COUNTY OF Marion) SS:)

Before me, a Notary Public in and for said County and State, personally appeared Harpreet Shauki, the Authorized Signer of Teso Development Group LLC, a(n) LLC, who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 14th day of November, 2019.



County of Residence Marion

My Commission Expires: 8/12/2023

My Commission No.: 676582

This instrument was prepared by Kyle T. Resetarits, Esq., BINGHAM GREENEBAUM DOLL LLP, 10 West Market Street, 2700 Market Tower, Indianapolis, Indiana 46204.

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. ~ Kyle T. Resetarits, Esq.

Metropolitan Development
NOV 14 2019
Division of Planning

Signature Page to Statement of Commitments

Exhibit A**Legal Description**

Part of Lot 10 in Eliza A. Hoefgen, Etal, Partition, 1st Addition to the City of Indianapolis, as recorded in Land Record UU, Page 613 in the Office of the Recorder of Marion County, Indiana, described as follows:

Beginning at a point 326 feet West of the East line and 188.10 feet South of the North line of said Lot 10; running thence South and parallel to the East line of said Lot 10, 485.90 feet to the South line of said Lot 10; thence West upon and along the South line of said Lot 10, 355 feet to the Southwest corner of said Lot 10; thence North upon and along the West line of said Lot 10, 485.90 feet to a point, said point being 188.10 feet South of the Northwest corner of said Lot 10; thence East and parallel to the North line of said Lot 10, 355 feet to the place of beginning.

Property Address: 2801 South Pennsylvania Street, Indianapolis, Indiana
Tax Id. No.: 1002779 / 49-11-24-119-019.000-101

Metropolitan Development
NOV 14 2019
Division of Planning

Exhibit A to Statement of Commitments

Exhibit B**OPEN OCCUPANCY AND EQUAL EMPLOYMENT OPPORTUNITY COMMITMENT**

- (a.) Owner commits that he shall not discriminate against any person on the basis of race, religion, color, disability, sex, sexual orientation, gender identity, familial status, national origin, ancestry, age United States military service veteran status in the sale, rental, lease or sublease, including negotiations for the sale, rental, lease or sublease, of the real estate or any portion thereof, including, but not limited to:
- (1) any building, structure, apartment, single room or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters by one or more families or a single individual;
 - (2) any building, structure or portion thereof, or any improved or unimproved land utilized or designed or intended for utilization, for business, commercial, industrial or agricultural purposes;
 - (3) any vacant or unimproved land offered for sale or lease for any purpose whatsoever.
- (b.) Owner commits that in the development, sale, rental or other disposition of the real estate or any portion thereof, neither he nor any person engaged by him to develop, sell, rent or otherwise dispose of the real estate, or portion thereof shall discriminate against any employee or applicant for employment, employed or to be employed in the development, sale, rental or other disposition of the real estate, or portion thereof with respect to hire, tenure, conditions or privileges of employment because of race, religion, color, disability, sex, sexual orientation, gender identity, familial status, national origin, ancestry, age United States military service veteran status.

EXEMPT PERSONS AND EXEMPT ACTIVITIES

An exempt person shall mean the following:

1. With respect to commitments (a) and (b) above:
 - (a) any not-for-profit corporation or association organized exclusively for fraternal or religious purposes;
 - (b) any school, educational, charitable or religious institution owned or conducted by, or affiliated with, a church or religious institution;
 - (c) any exclusively social club, corporation or association that is not organized for profit and is not in fact open to the general public;

provided that no such entity shall be exempt with respect to a housing facility owned and operated by it if such a housing facility is open to the general public;
2. With respect to commitment b, a person who employs fewer than six (6) employees within Marion County.

An exempt activity with respect only to commitment (a) shall mean the renting of rooms in a boarding house or rooming house or single-family residential unit; provided, however, the owner of the building unit actually maintains and occupies a unit or room in the building as his residence, and, at the time of the rental the owner intends to continue to so occupy the unit or room therein for an indefinite period subsequent to the rental.

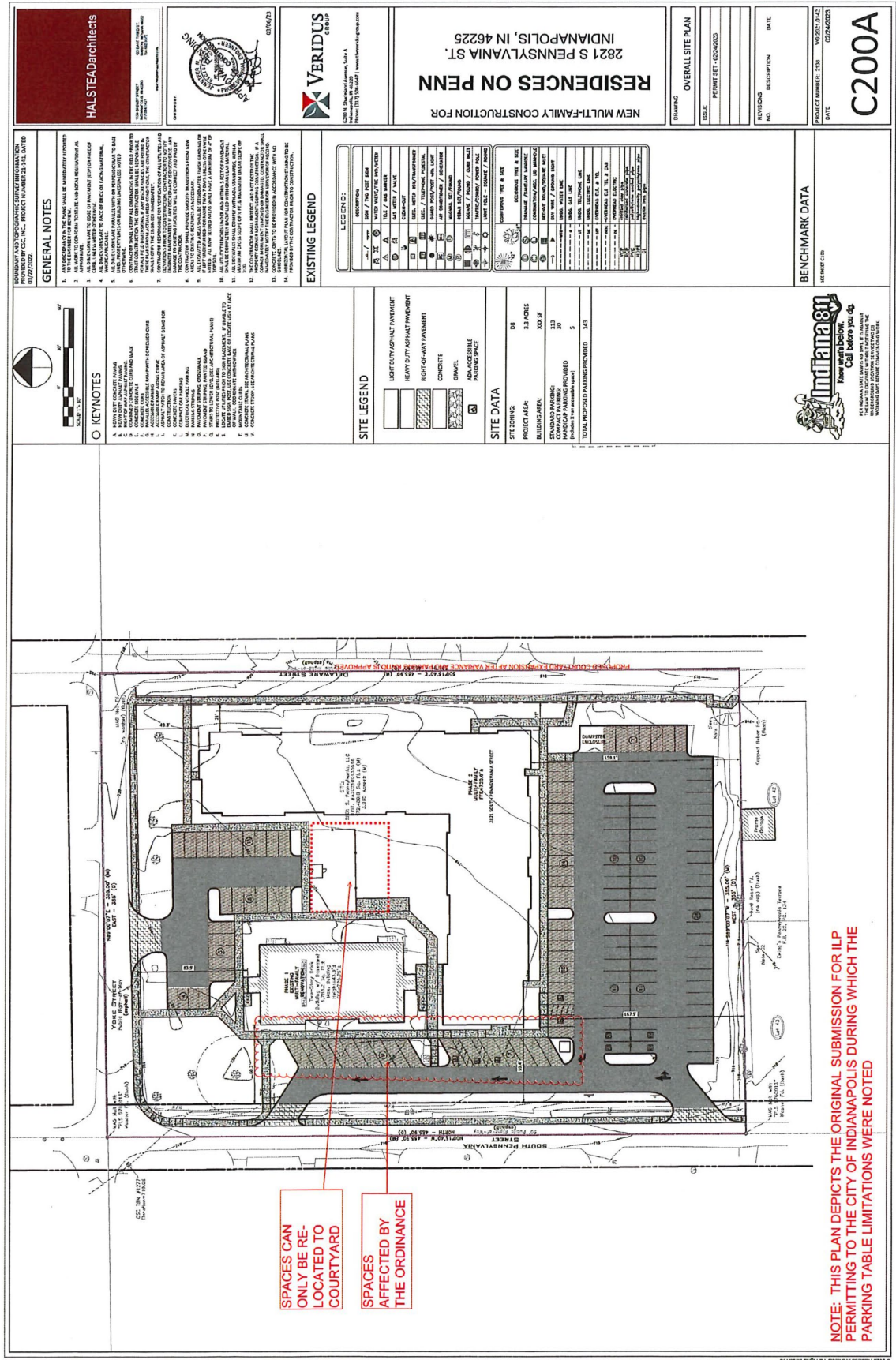
Metropolitan Development

NOV 14 2019

Division of Planning

Exhibit B to Statement of Commitments





HALSTEADArchitects
1000 N. ALLESTREE AVENUE
INDIANAPOLIS, IN 46202
TEL: 317.633.1100
WWW.HALSTEADARCHITECTS.COM

VERIDUS GROUP
1000 N. ALLESTREE AVENUE
INDIANAPOLIS, IN 46202
TEL: 317.633.1100
WWW.VERIDUSGROUP.COM

NEW MULTIFAMILY CONSTRUCTION FOR
RESIDENCES ON PENN
2821 S PENNSYLVANIA ST.
INDIANAPOLIS, IN 46225

C200A
PROJECT NUMBER: 210
DATE: 02/24/2023

OVERALL SITE PLAN
SCALE: PERMIT SET - RESIDENCES
NO. DESCRIPTION DATE

BENCHMARK DATA
441 0000 0000
441 0000 0000
441 0000 0000

GENERAL NOTES	
1.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
2.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
3.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
4.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
5.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
6.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
7.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
8.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
9.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
10.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
11.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
12.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
13.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
14.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.

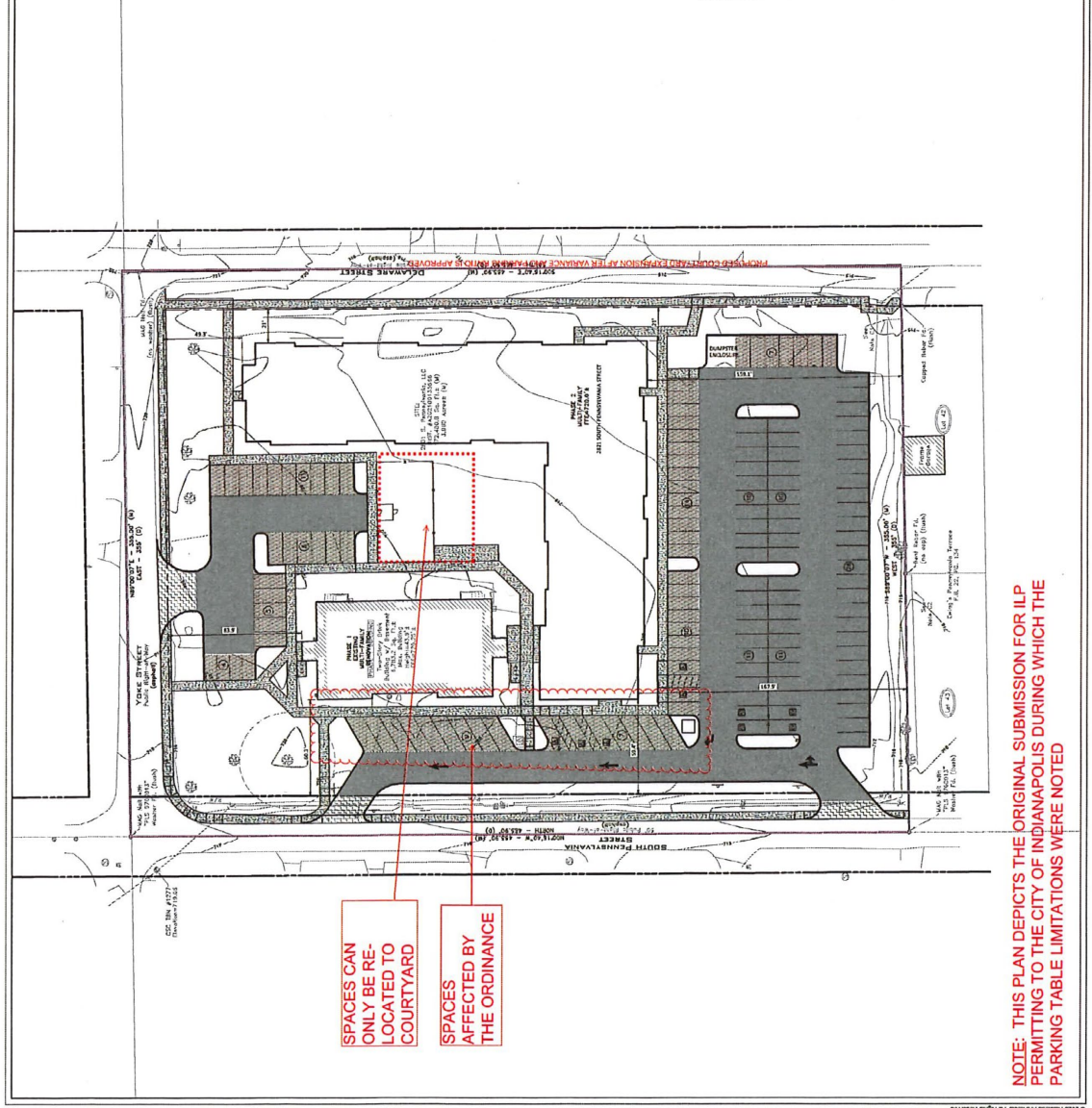
EXISTING LEGEND	
1.	EXISTING LOT
2.	EXISTING LOT
3.	EXISTING LOT
4.	EXISTING LOT
5.	EXISTING LOT
6.	EXISTING LOT
7.	EXISTING LOT
8.	EXISTING LOT
9.	EXISTING LOT
10.	EXISTING LOT
11.	EXISTING LOT
12.	EXISTING LOT
13.	EXISTING LOT
14.	EXISTING LOT

BENCHMARK DATA	
1.	BENCHMARK DATA
2.	BENCHMARK DATA
3.	BENCHMARK DATA
4.	BENCHMARK DATA
5.	BENCHMARK DATA
6.	BENCHMARK DATA
7.	BENCHMARK DATA
8.	BENCHMARK DATA
9.	BENCHMARK DATA
10.	BENCHMARK DATA
11.	BENCHMARK DATA
12.	BENCHMARK DATA
13.	BENCHMARK DATA
14.	BENCHMARK DATA

O KEYNOTES	
1.	KEYNOTE 1
2.	KEYNOTE 2
3.	KEYNOTE 3
4.	KEYNOTE 4
5.	KEYNOTE 5
6.	KEYNOTE 6
7.	KEYNOTE 7
8.	KEYNOTE 8
9.	KEYNOTE 9
10.	KEYNOTE 10
11.	KEYNOTE 11
12.	KEYNOTE 12
13.	KEYNOTE 13
14.	KEYNOTE 14

SITE LEGEND	
1.	LEGEND 1
2.	LEGEND 2
3.	LEGEND 3
4.	LEGEND 4
5.	LEGEND 5
6.	LEGEND 6
7.	LEGEND 7
8.	LEGEND 8
9.	LEGEND 9
10.	LEGEND 10
11.	LEGEND 11
12.	LEGEND 12
13.	LEGEND 13
14.	LEGEND 14

SITE DATA	
1.	SITE DATA 1
2.	SITE DATA 2
3.	SITE DATA 3
4.	SITE DATA 4
5.	SITE DATA 5
6.	SITE DATA 6
7.	SITE DATA 7
8.	SITE DATA 8
9.	SITE DATA 9
10.	SITE DATA 10
11.	SITE DATA 11
12.	SITE DATA 12
13.	SITE DATA 13
14.	SITE DATA 14



HALSTEADArchitects
1000 N. ALLESTREE AVENUE
INDIANAPOLIS, IN 46202
TEL: 317.633.1100
WWW.HALSTEADARCHITECTS.COM

VERIDUS GROUP
1000 N. ALLESTREE AVENUE
INDIANAPOLIS, IN 46202
TEL: 317.633.1100
WWW.VERIDUSGROUP.COM

NEW MULTIFAMILY CONSTRUCTION FOR
RESIDENCES ON PENN
2821 S PENNSYLVANIA ST.
INDIANAPOLIS, IN 46225

C200A
PROJECT NUMBER: 210
DATE: 02/24/2023

OVERALL SITE PLAN
SCALE: PERMIT SET - RESIDENCES
NO. DESCRIPTION DATE

BENCHMARK DATA
441 0000 0000
441 0000 0000
441 0000 0000

GENERAL NOTES	
1.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
2.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
3.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
4.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
5.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
6.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
7.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
8.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
9.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
10.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
11.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
12.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
13.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.
14.	THE INFORMATION ON THIS PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE INFORMATION.

EXISTING LEGEND	
1.	EXISTING LOT
2.	EXISTING LOT
3.	EXISTING LOT
4.	EXISTING LOT
5.	EXISTING LOT
6.	EXISTING LOT
7.	EXISTING LOT
8.	EXISTING LOT
9.	EXISTING LOT
10.	EXISTING LOT
11.	EXISTING LOT
12.	EXISTING LOT
13.	EXISTING LOT
14.	EXISTING LOT

BENCHMARK DATA	
1.	BENCHMARK DATA
2.	BENCHMARK DATA
3.	BENCHMARK DATA
4.	BENCHMARK DATA
5.	BENCHMARK DATA
6.	BENCHMARK DATA
7.	BENCHMARK DATA
8.	BENCHMARK DATA
9.	BENCHMARK DATA
10.	BENCHMARK DATA
11.	BENCHMARK DATA
12.	BENCHMARK DATA
13.	BENCHMARK DATA
14.	BENCHMARK DATA

O KEYNOTES	
1.	KEYNOTE 1
2.	KEYNOTE 2
3.	KEYNOTE 3
4.	KEYNOTE 4
5.	KEYNOTE 5
6.	KEYNOTE 6
7.	KEYNOTE 7
8.	KEYNOTE 8
9.	KEYNOTE 9
10.	KEYNOTE 10
11.	KEYNOTE 11
12.	KEYNOTE 12
13.	KEYNOTE 13
14.	KEYNOTE 14

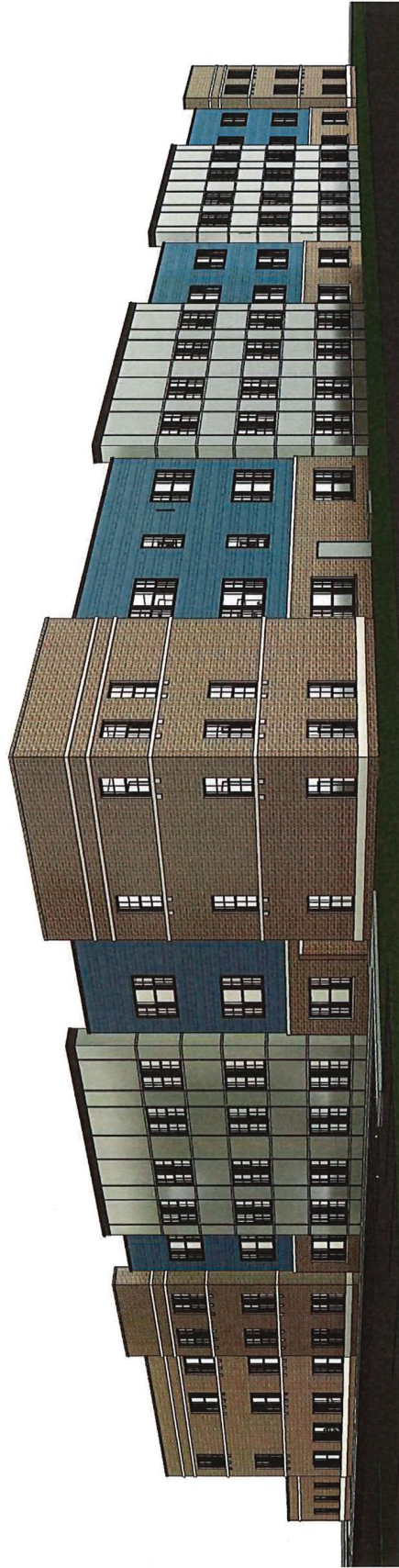
SITE LEGEND	
1.	LEGEND 1
2.	LEGEND 2
3.	LEGEND 3
4.	LEGEND 4
5.	LEGEND 5
6.	LEGEND 6
7.	LEGEND 7
8.	LEGEND 8
9.	LEGEND 9
10.	LEGEND 10
11.	LEGEND 11
12.	LEGEND 12
13.	LEGEND 13
14.	LEGEND 14

SITE DATA	
1.	SITE DATA 1
2.	SITE DATA 2
3.	SITE DATA 3
4.	SITE DATA 4
5.	SITE DATA 5
6.	SITE DATA 6
7.	SITE DATA 7
8.	SITE DATA 8
9.	SITE DATA 9
10.	SITE DATA 10
11.	SITE DATA 11
12.	SITE DATA 12
13.	SITE DATA 13
14.	SITE DATA 14

VIEW FROM SOUTHWEST



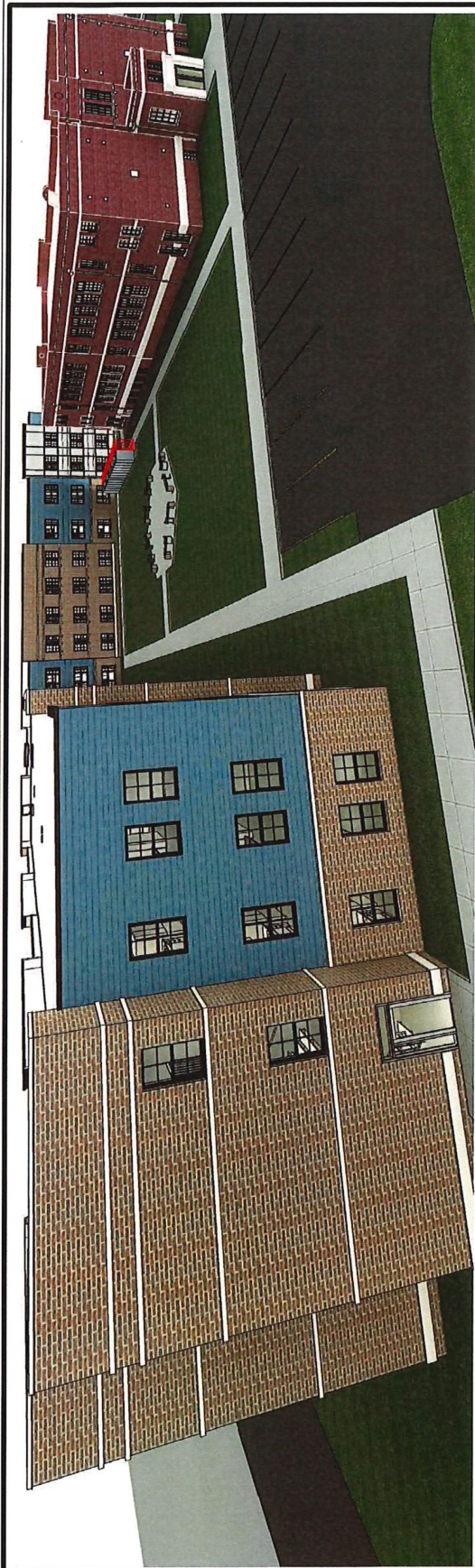
VIEW FROM SOUTHEAST



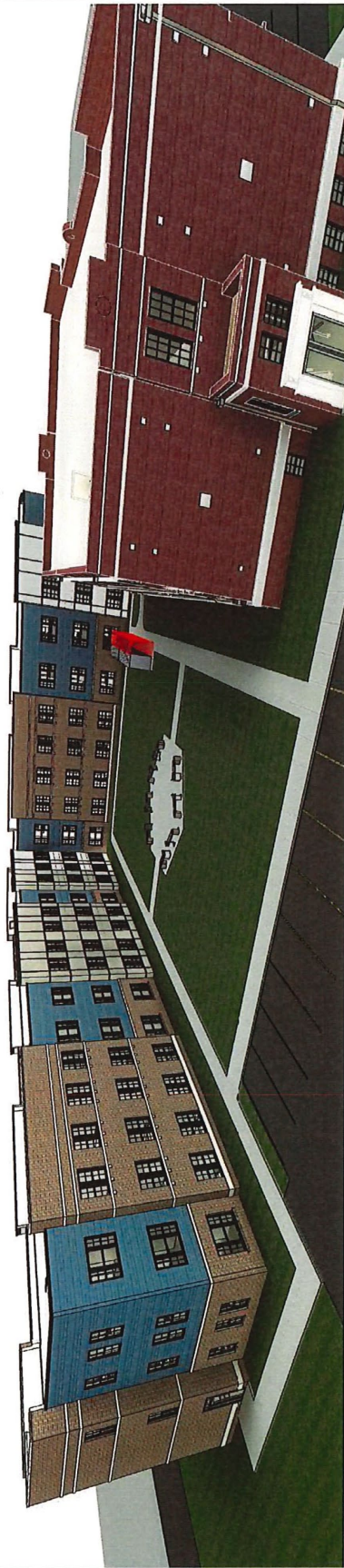
RESIDENCES ON PENN

2801 S PENNSYLVANIA ST.
INDIANAPOLIS, IN 46225
03/08/2023 | PROJ #2138

HALSTEADARCHITECTS



AERIAL VIEW FROM NORTHEAST (PROPOSED OPTION)



AERIAL VIEW FROM NORTHWEST (PROPOSED OPTION)

RESIDENCES ON PENN

2801 S PENNSYLVANIA ST.
INDIANAPOLIS, IN 46225
03/06/2023 | PROJ #2138

HALSTEAD architects

PROPOSED COURTYARD EXPANSION AFTER VARIANCE AND PARKING RATIO IS APPROVED



View looking east along Yoke Street



View looking west along Yoke Street



View looking east along Berwyn Street



View looking west along Berwyn Street



View of site looking east along Yoke Street



View of site looking south along South Delaware Street



View of site looking south across Yoke Street



View of site looking south from intersection of Yoke Street and South Pennsylvania Street



View of site looking east across South Pennsylvania Street



View of site looking east across South Pennsylvania Street



View of site looking east across South Pennsylvania Street



View of site looking east across South Pennsylvania Street



View of site looking west across South Delaware Street



View of site looking west across South Delaware Street



View of site looking west across South Delaware Street

STAFF REPORT

Item 13.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-CZN-848 / 2022-CVC-848 / 2022-CVR-848 (Amended)
Address: 419 and 441 East Ohio Street, 424 East Wabash Street, and 124 and 132 North East Street (*Approximate Addresses*)
Location: Center Township, Council District #17
Petitioner: Moe's, LLC / Feroze and Sons, LLC, by Michael Rabinowitch
Request: Rezoning of 0.35 acre from the I-3 (RC) district to the CBD-2 (RC) district.

Vacation of the first north-south alley west of East Street, being twelve feet in width, from the south right-of-way line of Ohio Street, south 195 feet to the north right-of-way line of Wabash Street, with a waiver of the assessment of benefits.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for encroachments into the clear-sight triangles of the abutting streets and alleys.

ADDENDUM FOR JUNE 29, 2023, HEARING EXAMINER, ASSESSMENT OF BENEFITS HEARING

An appraisal has been submitted for the Hearing Examiner's consideration. Staff has reviewed the findings of the appraisal and agrees with its findings.

ASSESSMENT OF BENEFITS

Appraiser Used: Paul K. Schuster
Appraiser's Benefits: \$800.00
Appraiser's Fee: \$800.00

RECOMMENDED MOTION (approval): That the Hearing Examiner sustain, confirm, approve and adopt the Final Assessment Roll in 2022-CVC-848, assessing benefits in accordance therewith, in the amount of \$800.00 and that the petitioner pay the Appraiser's Fee of \$800.00.

ADDENDUM FOR MAY 25, 2023, HEARING EXAMINER

This companion petition was continued, by request of the petitioner, from the April 27, 2023, hearing to the May 25, 2023, hearing. Revised site plans and a set of conceptual plans were submitted to the file on April 18, 2023 and are inserted below. The conceptual plans indicate that there would be a proposed five-story multi-family development west of the existing gasoline station. The site plans indicate that the development would encroach upon the subject alley. Staff believes that this development is a missed opportunity to develop the corner of the site, at East Street and Ohio Street that could result in the removal of the gasoline station, a suburban-type development within the Mile Square. On May 17, 2023, revised Findings of Fact and a list of Commitments were submitted to the file. Staff continues to **recommend denial** of the variance and vacation petitions. Staff, continues to **recommend approval** of the rezoning petition.

(Continued)

Vacation pavers – staff has been made aware that the existing pavers within the subject alley right-of-way are likely historic and could be salvageable. Staff would suggest that if the vacation would be approved a commitment should be made part of that approval. Staff, therefore, provides the following amended vacation recommendation:

Staff **recommends denial** of the vacation request and provides the following motion:

RECOMMENDED MOTION (Denial): That the Hearing Examiner find that the proposed vacation is not the public interest; that the Hearing Examiner deny Declaratory Resolution 2022-CVC-848.

Should the vacation request be approved against staff's recommendation, staff provides the following motion:

RECOMMENDED MOTION (Approval): That the Hearing Examiner find that proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2022-CVC-848; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16, and the following commitment:

All pavers within the proposed alley vacation right-of-way shall be removed with utmost care and donated to the Department of Public Works.

ADDENDUM FOR APRIL 27, 2023, HEARING EXAMINER

This companion petition was continued, by request of the petitioner, from the January 26, 2023, hearing to the April 27, 2023, hearing. The owner of the site has retained new representation, who has submitted a written request to continue this companion petition. A hearing date was not identified in the request.

ADDENDUM FOR JANUARY 26, 2023, HEARING EXAMINER

This companion petition was amended in early January to include a variance petition. New Legal Notice is required in order for this companion petition to be heard; therefore, a continuance is warranted to the February 23, 2023, hearing.

ADDENDUM FOR DECEMBER 1, 2022, HEARING EXAMINER

This companion petition was continued from the October 13, 2022, hearing, to the December 1, 2022, hearing. As of this writing, no new information has been submitted to the file.

OCTOBER 13, 2022, HEARING EXAMINER

RECOMMENDATIONS

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

Staff **recommends denial** of the vacation request and provides the following motion:
(Continued)

RECOMMENDED MOTION (Denial): That the Hearing Examiner find that the proposed vacation is not the public interest; that the Hearing Examiner deny Declaratory Resolution 2022-CVC-848.

Should the vacation request be approved against staff's recommendation, staff provides the following motion:

RECOMMENDED MOTION (Approval): That the Hearing Examiner find that proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2022-CVC-848; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

REZONING PETITION / COMPREHENSIVE PLAN

- ◇ After Legal Notice was provided, the rezoning request was amended to include only the land area that is currently zoned I-3 (RC). Originally, the request included land that was already zoned CBD-2 (RC). The resulting amendment would rezone 0.35-acre to CBD-2 (RC).
- ◇ The subject site contains two lots, with one lot being 12,334 square feet in size , with the other lot, being 3,040 square feet in size. Both lots are improved with a surface parking lot.
- ◇ The Comprehensive Plan recommends City Neighborhood development. City Neighborhood largely consists of multifamily dwellings. However, City Neighborhood areas are dense and walkable with a full range of city services and public amenities. Access to individual parcels is generally by an alley or internal parking structures. City Neighborhood development would also support small- and large-scale commercial uses on the first floor of mixed-use structures.
- ◇ To the north of the site, across Ohio Street, are attached single-family dwellings. Adjacent to the east is a gasoline station, with restaurant space, and an office building. To the south is a parking structure and to the west is a surface parking lot, an event venue, and offices. The site is near very densely developed land and is notably within the Mile Square. The request to rezone to CBD-2 (RC) would be consistent with existing zoning surrounding the site. Since mixed-use development would be an acceptable use within the City Neighborhood recommendation and permitted in CBD-2 (RC), this request would be compatible with the Plan.

TRANSIT-ORIENTED DEVELOPMENT

- ◇ The site is within the transit-oriented development (TOD) overlay zone. The Ordinance specifies that sites zoned CBD would not be required to comply with the TOD development standards. However, much of the intent of the TOD, which includes reduced parking and increased pedestrian use, is noted in the Regional Center Design Guidelines, and would apply to any new development.

(Continued)

REGIONAL CENTER OVERLAY DISTRICT

- ◇ The site is located within the Regional Center overlay district. Design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning. A Regional Center Approval petition has been filed for demolition of an existing commercial structure at 419 East Ohio Street.

VACATION SUMMARY

- ◇ This request would vacate an improved alley with direct access of several lots to Ohio Street and an east-west alley to the south. The subject alley is the first north-south alley west of the Ohio Street and East Street intersection. It is located between an office building at 424 East Wabash Street and the gasoline station at 132 North East Street. The alley also provides access to existing surface parking lots at 419 East Ohio Street.
- ◇ The submitted Findings of Fact state that the vacation would 'consolidate five pieces of property and allow for the development of a Regional Center / Cole Noble Historic neighborhood mixed-use project'. 'Furthermore, it will eventually rid the Regional Center and Cole Noble neighborhood of three surface parking lots.'
- ◇ As of this writing, no plans have been submitted for development of this site, other than a proposed demolition of the existing office building, located at 419 East Ohio Street.
- ◇ Alleys provide an important means of access to interior portions of property. The Comprehensive Plan, as noted above, recommends City Neighborhood development. This typology indicates that 'typical access to individual parcels is generally by an alley or internal parking structures'.
- ◇ This alley is improved with brick pavers, which is an indication of its long-standing use. Any proposed development should be designed to use this alley to provide access to the alley to the south and to Ohio Street to the north. Approval of vacation of rights-of-way are required to be 'in the public interest'. There has not been any established reasoning to indicate that this vacation request would be in the public interest.
- ◇ Therefore, staff **recommends denial** of the proposed vacation.

Procedure

- ◇ Neither the Division of Planning nor the Hearing Examiner or Metropolitan Development Commission determine how vacated right-of-way is divided. The approval of a vacation petition only eliminates the public right-of-way. The vacation approval does nothing more. A petitioner will not receive a deed or other document of conveyance after the approval of a vacation.

(Continued)

- ◇ The general rule under Indiana case law is that when a street or highway is vacated or abandoned the title to the land reverts to the abutting property owners. This rule exists by virtue of the fact that the abutting landowner owns to the center of the street or highway subject only to an easement for the public to the use of the street or highway. *Gorby v. McEndarfer* 135 Ind.App. 74, *82, 191 N.E.2d 786, **791 (Ind.App.1963). However, there are possible exceptions to this general rule.
- ◇ After a vacation of a public right-of-way the county assessor determines how the vacated right-of-way will be assessed for tax purposes.
- ◇ Petitioners and abutters of the vacated right-of-way should consult their own attorneys for advice regarding the ownership of the vacated right-of way.

ASSESSMENT OF BENEFITS

- ◇ The petitioner has requested a waiver of the Assessment of Benefits. The subject right-of-way is improved, with brick. The City clearly invested in the establishment, use and maintenance of this alley in the past. Therefore, staff would not support a waiver of the assessment of benefits.

GENERAL DESCRIPTION:

Vacation of the first north-south alley west of East Street, being twelve feet in width, from the south right-of-way line of Ohio Street, south 195 feet to the north right-of-way line of Wabash Street, with a waiver of the assessment of benefits.

UTILITIES AND AGENCY REPORT

Telephone:	No answer, retain easement
CEG, Gas:	No answer, retain easement
CEG, Water:	No answer, retain easement
CEG, Wastewater	No answer, retain easement
Power:	No answer, retain easement
Cable:	No answer, retain easement
DPR:	No answer, retain easement
DPW, TS:	No answer, retain easement

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AND LAND USE

I-3 (RC) and CBD-2 (RC) Compact	One commercial structure and surface parking
---------------------------------	--

SURROUNDING ZONING AND LAND USE

North -	CBD-2 (RC)	Attached single-family dwellings
South -	CBD-2 (RC)	Parking structure
East -	CBD-2 (RC)	Bank
West -	I-3 (RC) and CBD-2 (RC)	Office / event venue

(Continued)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends the site for City Neighborhood development.
THOROUGHFARE PLAN	The Official Thoroughfare Plan for Marion County indicates that Ohio Street is a primary street, with a 78-foot right-of-way existing and proposed. East Street is a primary street, with a 78-foot right-of-way existing and proposed.
URBAN DESIGN GUIDELINES DISTRICT TYPOLOGY	The site is located within the Urban mixed-use typology.
TRANSIT-ORIENTED DEVELOPMENT VACATION EXHIBIT	The site is located within a transit-oriented development area. File-dated August 1, 2022
SITE PLAN / CONCEPT PLANS	File-dated April 18, 2023
FINDINGS OF FACT Revised	File-dated August 1, 2022 File-dated May 17, 2023

ZONING HISTORY - SITE

2022-REG-055; 419 East Ohio Street, requested Regional Center Approval for demolition of an existing commercial building, **pending**.

2019-MOD-003; 124 and 132 North East Street and 441 East Ohio Street; requested a modification of commitments, related to 2003-MOD-152 to modify commitment one to provide for the sale of alcohol beverages for on-premises consumption in a family restaurant, without carry-out sales, **approved**.

2010-REG-064; 441 East Ohio Street, requests Regional Center Approval for wall signs, **approved**.

2004-DV1-002; 441 East Ohio Street, requests a variance of development standards of the Sign Regulations, to provide for an 11.9-foot tall, 9.17-foot wide, 107.75-square foot pylon sign, with a three-foot setback from the Ohio Street right-of-way and 4.17-foot setback from the East Street right-of-way, **granted**.

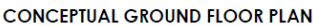
2003-APP-067; 441 East Ohio Street, requests Regional Center Approval for a remodeling of a gasoline station and to provide for an 11.9-foot tall, 9.17-foot wide, 107.75-square foot pylon sign, with a three-foot setback from the Ohio Street right-of-way and 4.17-foot setback from the East Street right-of-way, **approved**.

2003-ZON-152; 441 East Ohio Street and 132 North East Street, requests a rezoning of 0.32-acre, from the I-3-U (RC) district to the CBD-2 (RC) classification, **approved**.

ZONING HISTORY - VICINITY

None.
JY





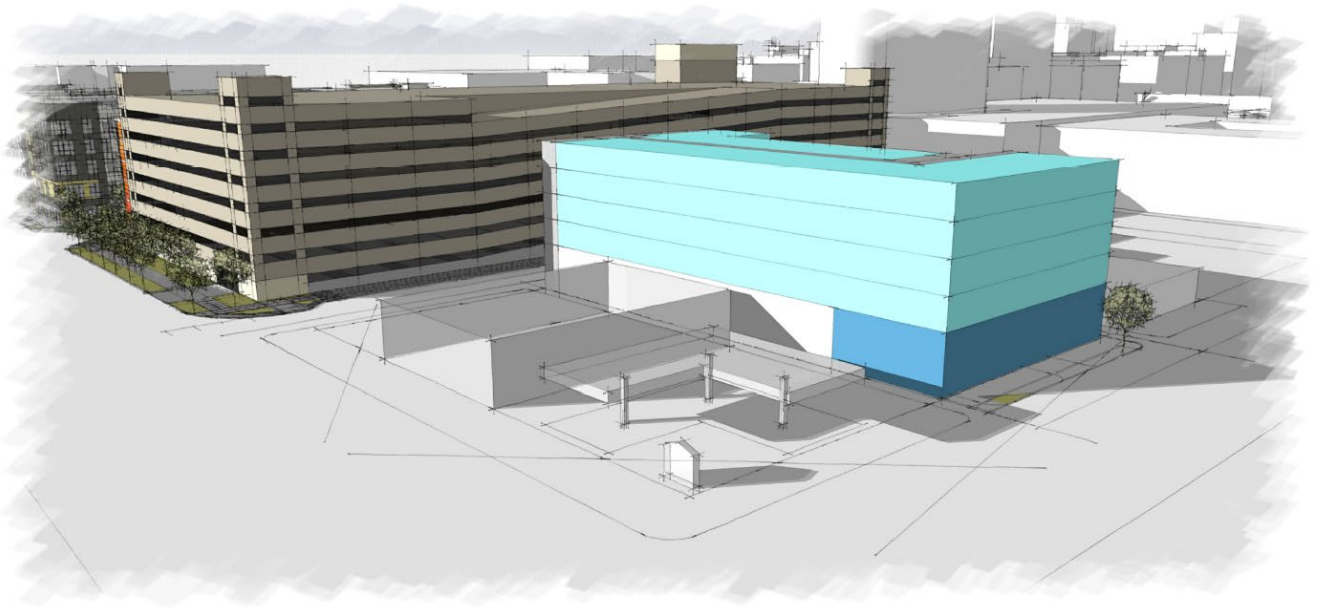
STUDIO AXIS

04/14/2023



STUDIO AXIS

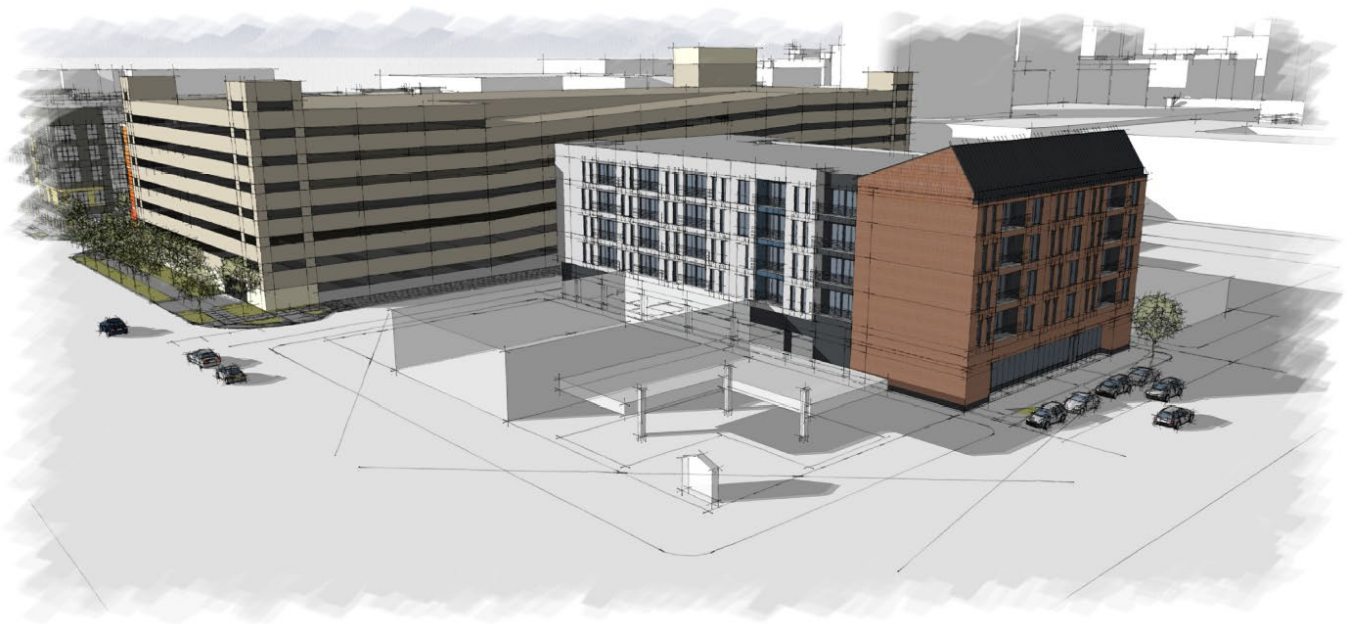
04/14/2023



CONCEPTUAL BLOCKING DIAGRAM

 STUDIO **AXIS**

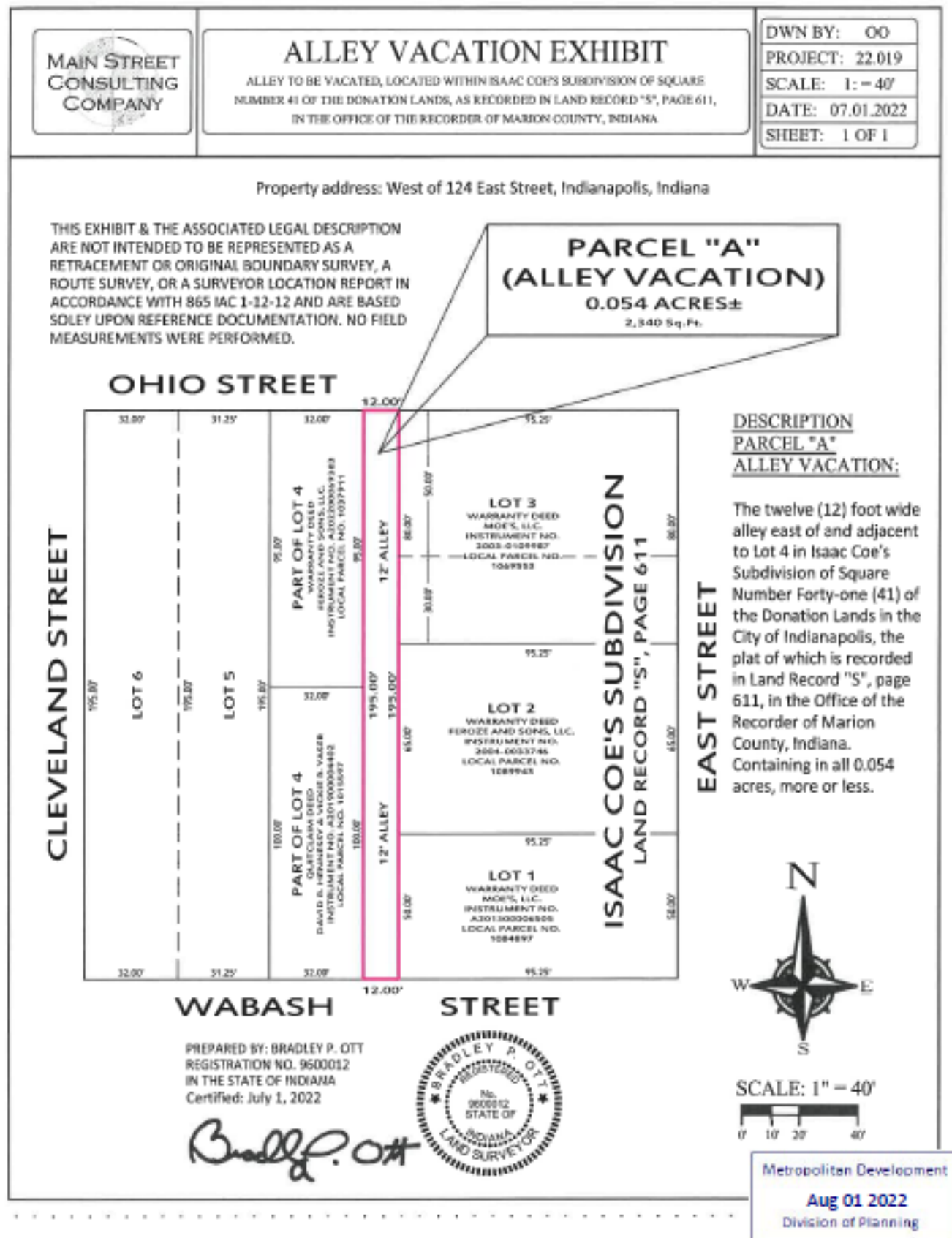
04/14/2023



EARLY DESIGN CONCEPT

 STUDIO **AXIS**

04/14/2023



Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
PLAT COMMITTEE
HEARING EXAMINER
OF MARION COUNTY, INDIANA**

**PETITION FOR VACATION OF A PUBLIC WAY, EASEMENT OR PUBLIC PLACE
FINDINGS OF FACT**

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because: it will permit the vacated area, which is seldom used by through traffic and does not serve any significant transportation purpose, to be incorporated into a comprehensive development of the adjacent property and thus eliminating from the Regional Center and the Cole Noble neighborhood three surface parking lots. The alley serves no public use at the present time, as no motor vehicles, bicycles, scooters use the alley to travel between East Ohio Street and East Wabash Street. Moreover, the alley has become a safe haven for crime and inappropriate and lewd behavior.

DECISION

IT IS THEREFORE the decision of this body that this VACATION petition is APPROVED, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____



View of existing structure at 419 East Ohio Street and the proposed subject alley



View of existing building at 419 East Ohio Street and surface parking lots, from the west looking east



View of existing building at 419 East Ohio Street and subject alley



View of south end of site, looking west



View of the subject alley looking north toward Ohio Street



Close-up view of existing condition of the subject alley

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876 (Amended)
Address: 1507 & 1517 West Vermont Street and 333 Koehne Street
(Approximate Addresses)
Location: Center Township, Council District #16
Petitioner: Own It Enterprise, LLC, by David Kingen and Emily Duncan
Request: Rezoning of 0.62 acre from the D-8 (RC) district to the CBD-2 (RC) district.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a side and rear yard setback of zero feet when abutting an alley (minimum ten-foot required), to legally establish a zero-foot front setback for vehicle areas (minimum eight-foot required), and for 31 off-street parking spaces (maximum of 23 off-street parking spaces permitted).

Vacation of the first alley east of Koehne Street, being 12 feet in width, from the south right-of-way line of Vermont Street, being the northeast corner of Lot 47 in Lentz Heirs Addition, Recorded in Plat Book 11, Page 69 in the Office of the Recorder of Marion County, Indiana, south a distance of 136 feet to the southeast corner of Lot 45 in said subdivision, with a waiver of the assessment of benefits.

Vacation of an irregular portion of White River Parkway West Drive located at the southwest intersection of Vermont Street and White River Parkway West Drive totaling 0.05-acre, with a waiver of the assessment of benefits.

RECOMMENDATIONS

Staff **recommends denial** of the rezoning request.

Staff **recommends denial** of the variance request, however, staff would support the variance petition, if subject to the submittal of a revised site plan, subject to Administrator's Approval. Said site plan shall indicate that the proposed alley right-of-way north of 329 Koehne Street be public, that fencing be removed from any existing or proposed right-of-way and that only one vehicle access to the site be provided, which shall be from Koehne Street.

Staff **recommends approval** of the vacation request and provides the following motion:

RECOMMENDED MOTION (Approval): That the Hearing Examiner find that proposed vacation is in the public interest; that a hearing upon the assessment of benefits be waived; that the Hearing Examiner confirm and ratify the adoption of Declaratory Resolution 2022-CVC-876; and that the vacation be subject to the rights of public utilities under IC 36-7-3-16.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

(Continued)

STAFF REPORT 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876**REZONING PETITION / COMPREHENSIVE PLAN**

- ◇ The subject site contains five lots, with 1507 West Vermont comprising of three lots, parcel numbers 1078767, which is undeveloped, 1022502, which is developed as a surface parking lot and 1089808, which is developed with a vacant commercial structure. The fourth lot is 1517 West Vermont Street, and the parcel number is 1081730 and developed with a vacant commercial structure and the fifth lot is 333 Koehne Street and the parcel number is 1088992 and is developed with a vacant residential structure. The overall site is 0.62-acre in size and is zoned D-8 (RC).
- ◇ The rezoning request would rezone the site to CBD-2 (RC). The site is surrounding by low-density residential lots to the south and west, zoned D-8 (RC). Higher density residential is to the north, zoned CBD-S (RC). To the east is White River Parkway, West Drive and White River.
- ◇ The Comprehensive Plan recommends Community Commercial uses for three of the lots (parcels 1022502, 1089808 and 1081730). As noted above, these lots contain a surface parking lot and two, vacant commercial structures. The Comprehensive Plan recommends residential uses of 8 to 15 units per acre for parcel 1078767 and residential uses of 5 to eight units per acre for parcel 1088992. The request to CBD-2 (RC) would not be responsive to the Plan recommendations of community commercial, and low- to medium-density residential uses.
- ◇ The petitioner has submitted restrictions of uses on the site, including only permitting MU-2 district uses, with several exclusions, such as emergency shelter, greenway, garden as a primary use, check cashing or validation service, outdoor advertising signs, tattoo parlors, night clubs, and firearm sales. The petitioner's Attachment "E", which states the restrictions in full, is below. In addition to the stated use restrictions, the petitioner has submitted three commitments that indicate that the site would also permit a mixed-use retail/office/residential development, with the maximum height of structures limited to 50 feet and that bike and scooter parking would be provided. The petitioner's Attachment "D", which states this in full, is below.
- ◇ The petitioner's restrictions provide limits to the permitted uses of CBD-2 (RC). However, the Plan recognizes that dense development should not occur south of Vermont Street, due to the existing and intact low- to medium-density residential neighborhood. The Plan recognizes the existing surface parking lot and commercial structures for community commercial uses, which provides a buffer of dense development to the neighborhood to the south and west.
- ◇ Staff believes that the Plan should be adhered to and would support a rezoning to C-3 (RC) for the lots that the Plan recommends community commercial uses. The two lots that the Plan recognizes for low- to medium-density residential, should not be rezoned as the existing zoning, D-8 (RC) is appropriate. As filed, staff recommends denial of the rezoning request.

REGIONAL CENTER OVERLAY DISTRICT

- ◇ The site is located within the Regional Center overlay district. Design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning. A Regional Center Approval petition has not been filed.

(Continued)

STAFF REPORT 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The variance request seeks to eliminate the required side and rear yard setbacks, to legally establish a zero-foot front setback for vehicle areas and to provide for 31 off-street parking spaces. Side and rear yard setbacks are required to be ten feet, vehicle areas along the front yard is required to be eight feet, with landscaping, and the maximum number of off-street parking spaces is 23 for this development.
- ◇ A site plan was submitted with the filing. The site plan indicates a proposal to expand the existing parking area to the south, which would abut existing dwellings along White River Parkway, West Drive. The site plan also indicates an access drive from Vermont Street, between the existing commercial buildings. The east building would have a planned two-story addition. Outdoor dining would be proposed at the northeast corner of the site, fronting White River Parkway, West Drive. It is important to note that much of this area east of the existing buildings is a surface parking area and is within the right-of-way of White River Parkway, West Drive.
- ◇ The revised site plan indicates that the parking provided on the site would be 23, as opposed to the originally requested 31 spaces. Therefore, this particular variance request can be withdrawn. Additionally, the site plan indicates that the new alley north of 329 Koehne Street would be 10 feet in width, as opposed to the proposed dedication of 12 feet in width for this alley, and that a fence would be within alley right-of-way.
- ◇ Staff recognizes the existing surface parking lot. However, the site plan also indicates that vehicle access to the site would be from Vermont Street and Koehne Street, which raises the potential of pedestrian/traffic conflicts. A singular vehicle entrance and exit would be more appropriate, and that access should be from Koehne Street, not from Vermont Street. Therefore, staff recommends denial of the variance request, however, if the site plan would be revised to eliminate the vehicle access from Vermont Street, and address the proposed fence and alley, as noted above, staff would support the variance request.

VACATION SUMMARY

- ◇ This request would vacate an unimproved alley with direct access to Vermont Street and vacate a portion of the western-most right-of-way of White River Parkway, West Drive, that abuts the site. The petitioner has submitted a vacation exhibit noting the proposed vacation areas, plus two areas of right-of-way dedication, one of which would be along Koehne Street and the other along White River Parkway, West Drive. An amended legal description of the proposed rights-of-way was submitted to the file on June 5, 2023, which indicates that the portion of right-of-way along White River Parkway, West Drive, would align with the existing right-of-way north and south of the subject site. The Department of Public Works has requested that a revised plan be submitted that indicates dimensions for the elements within the proposed right-of-way, that large rocks be removed from the right-of-way and that any fencing be removed from the existing or proposed right-of-way.
- ◇ The dedication of the right-of-way along Koehne Street would be on parcel 1088992, or 333 Koehne Street, where the existing vacant dwelling is located. This dedication would be 12 feet in width, with a flaring portion at the east end to provide for maneuvering of vehicles making a 90-

(Continued)

STAFF REPORT 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876

degree turn from the existing alley to the south. The other dedication of right-of-way, which is a remnant from a lot, appears to already be right-of-way along White Parkway, West Drive.

- ◇ The submitted Findings of Fact state that “much of the existing street and alley ways were used for private purposes for the bait shop that existed for many years at 1507 West Vermont Street”. Staff would concur with this statement.
- ◇ Therefore, staff **recommends approval** of the proposed vacation, with the submittal of a revised plan indicating that large rocks be removed from the right-of-way and that any fencing be removed from the existing or proposed right-of-way.

Procedure

- ◇ Neither the Division of Planning nor the Hearing Examiner or Metropolitan Development Commission determine how vacated right-of-way is divided. The approval of a vacation petition only eliminates the public right-of-way. The vacation approval does nothing more. A petitioner will not receive a deed or other document of conveyance after the approval of a vacation.
- ◇ The general rule under Indiana case law is that when a street or highway is vacated or abandoned the title to the land reverts to the abutting property owners. This rule exists by virtue of the fact that the abutting landowner owns to the center of the street or highway subject only to an easement for the public to the use of the street or highway. *Gorby v. McEndarfer* 135 Ind.App. 74, *82, 191 N.E.2d 786, **791 (Ind.App.1963). However, there are possible exceptions to this general rule.
- ◇ After a vacation of a public right-of-way the county assessor determines how the vacated right-of-way will be assessed for tax purposes.
- ◇ Petitioners and abutters of the vacated right-of-way should consult their own attorneys for advice regarding the ownership of the vacated right-of way.

ASSESSMENT OF BENEFITS

- ◇ The petitioner has requested a waiver of the Assessment of Benefits. The subject rights-of-way are unimproved. The staff typically supports waiver requests when the proposed vacation areas are unimproved. Therefore, staff would support a waiver of the assessment of benefits.

GENERAL DESCRIPTION:

Vacation of the first alley east of Koehne Street, being 12 feet in width, from the south right-of-way line of Vermont Street, being the northeast corner of Lot 47 in Lentz Heirs Addition, Recorded in Plat Book 11, Page 69 in the Office of the Recorder of Marion County, Indiana, south a distance of 136 feet to the southeast corner of Lot 45 in said subdivision, with a waiver of the assessment of benefits.

Vacation of an irregular portion of White River Parkway West Drive located at the southwest intersection of Vermont Street and White River Parkway West Drive totaling 0.05-acre, with a waiver of the assessment of benefits.

(Continued)

STAFF REPORT 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876**UTILITIES AND AGENCY REPORT**

Telephone:	No answer, retain easement
CEG, Gas:	No answer, retain easement
CEG, Water:	No answer, retain easement
CEG, Wastewater	No answer, retain easement
Power:	No objection, retain easement
Cable:	No answer, retain easement
DPR:	No answer, retain easement
DPW, TS:	No answer, retain easement

GENERAL INFORMATION**EXISTING ZONING, CONTEXT AND LAND USE**

D-8 (RC)	Compact	Two, vacant commercial buildings and a vacant dwelling
----------	---------	--

SURROUNDING ZONING AND LAND USE

North -	CBD-S (RC)	Multi-family dwellings
South -	D-8 (RC)	Single-family dwellings
East -	D-5 (RC)	White River
West -	D-8 (RC)	Single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Plan recommends for community commercial uses for parcels 1022502 (1057 West Vermont Street), 1089808 (1507 West Vermont Street), and 1081730 (1517 West Vermont Street), and recommends residential development of five to eight units per acre for parcel 1088992 (333 Koehne Street) and recommends residential development of eight to fifteen units per acre for parcel 1078767 (1507 West Vermont Street)
--------------------	---

THOROUGHFARE PLAN	The Official Thoroughfare Plan for Marion County indicates that White River Parkway, West Drive is a primary street, with a 78-foot right-of-way existing and proposed. Vermont Street is a local street, with a 48-foot right- of-way existing and proposed.
-------------------	---

URBAN DESIGN GUIDELINES DISTRICT TYPOLOGY	The site is located within the Urban mixed-use typology.
--	--

TRANSIT-ORIENTED DEVELOPMENT	The site is not located within a transit-oriented development area.
---------------------------------	---

SITE PLAN	File-dated, December 9, 2022
Revised	File-dated, June 14, 2023

FINDINGS OF FACT	File-dated, December 9, 2022 (Continued)
------------------	---

STAFF REPORT 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876**VACATION EXHIBIT**

Revised
Revised
Revised
Revised
Revised

File-dated, December 9, 2022
File-dated, December 16, 2022
File-dated, February 21, 2023
File-dated, March 1, 2023
File-dated, May 16, 2023
File-dated, June 5, 2023

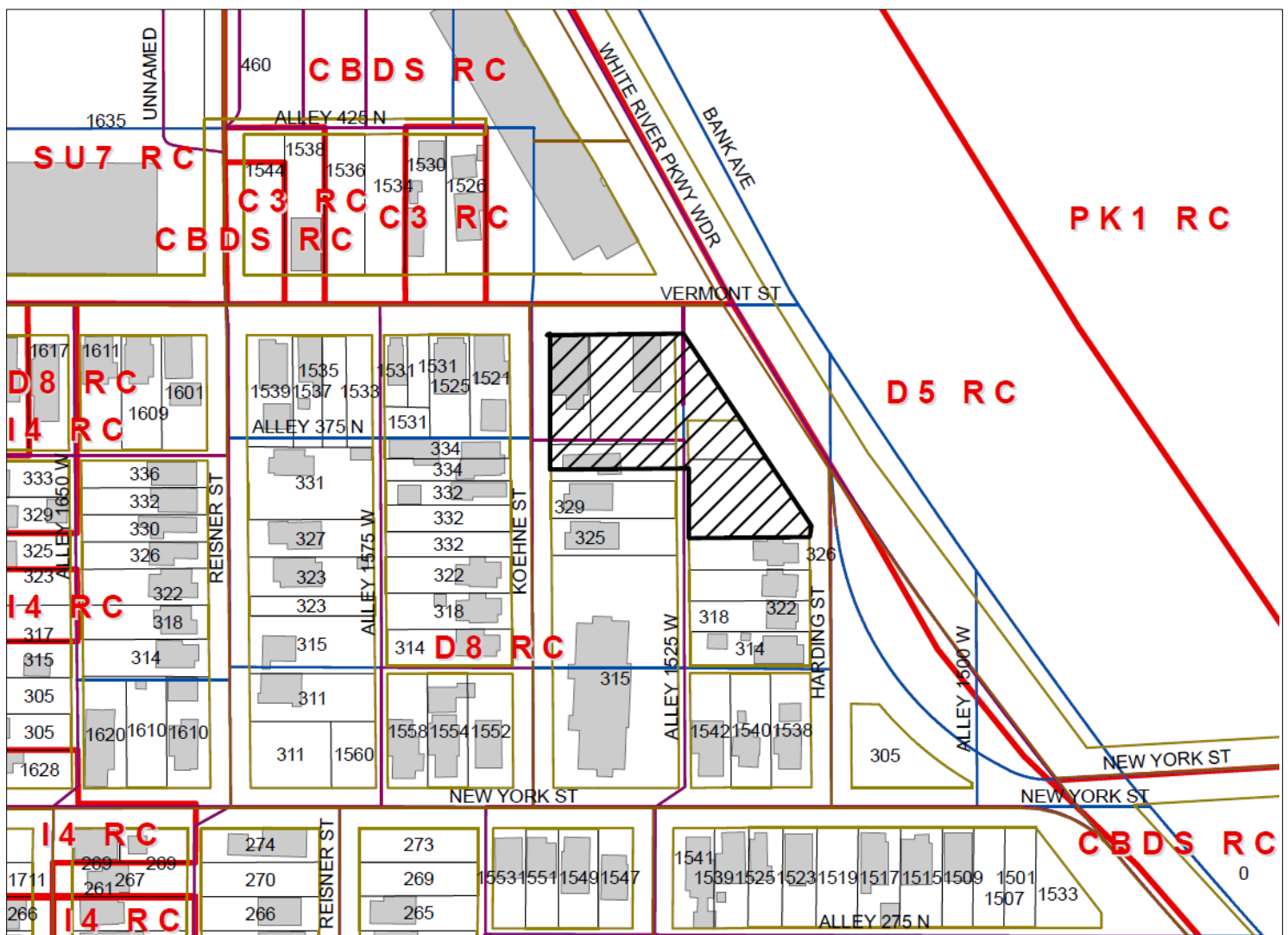
ZONING HISTORY – SITE

2017-REG-038; 333 Koehne Street, requested Regional Center Approval to provide for exterior renovation of a single-family dwelling, **approved**.

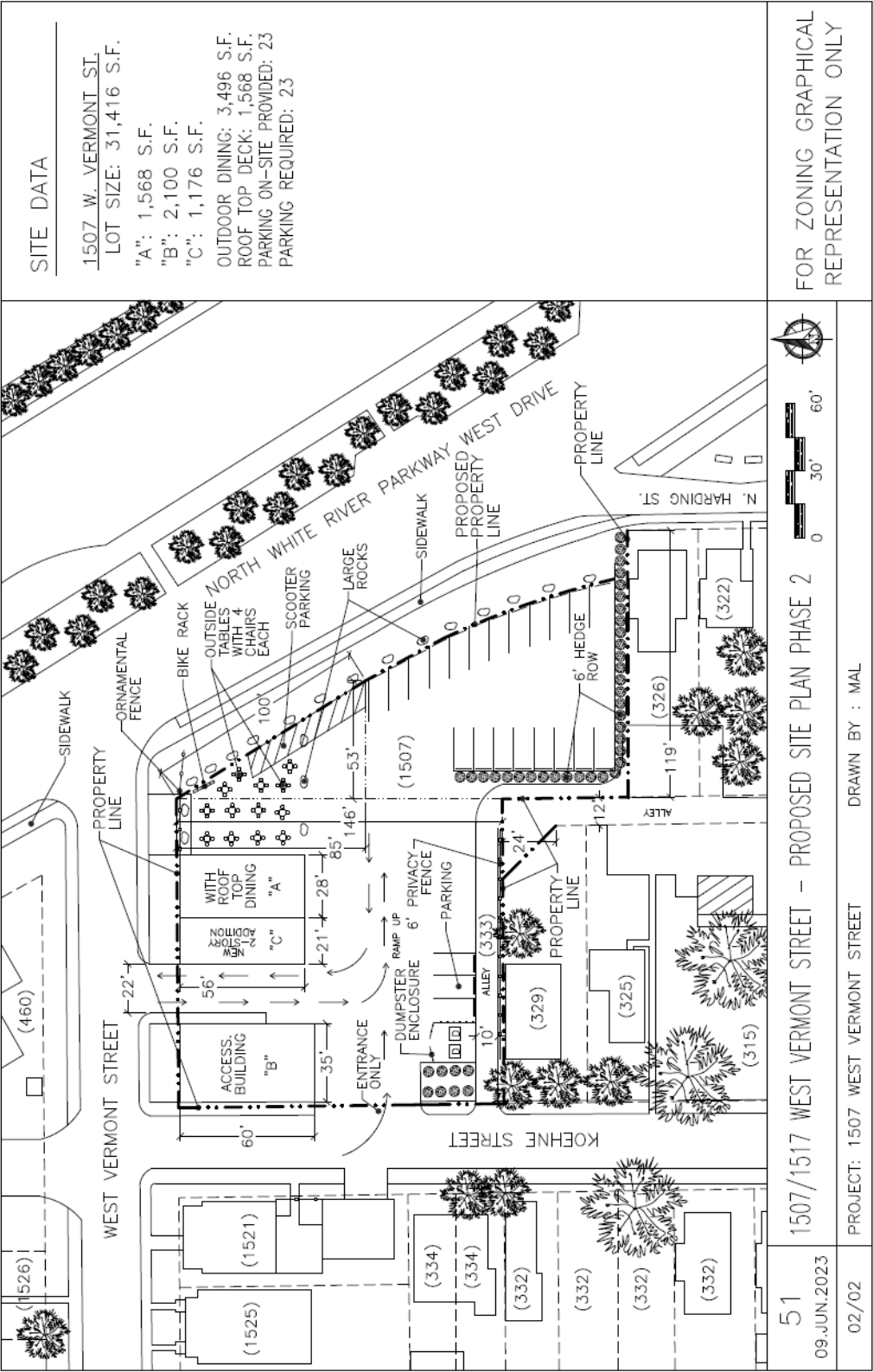
ZONING HISTORY - VICINITY

None.

JY



STAFF REPORT 2022-CZN-876 / 2022-CVC-876 / 2022-CVR-876
Proposed Site Plan - revised



Proposed Commitments

ATTACHMENT “E”:

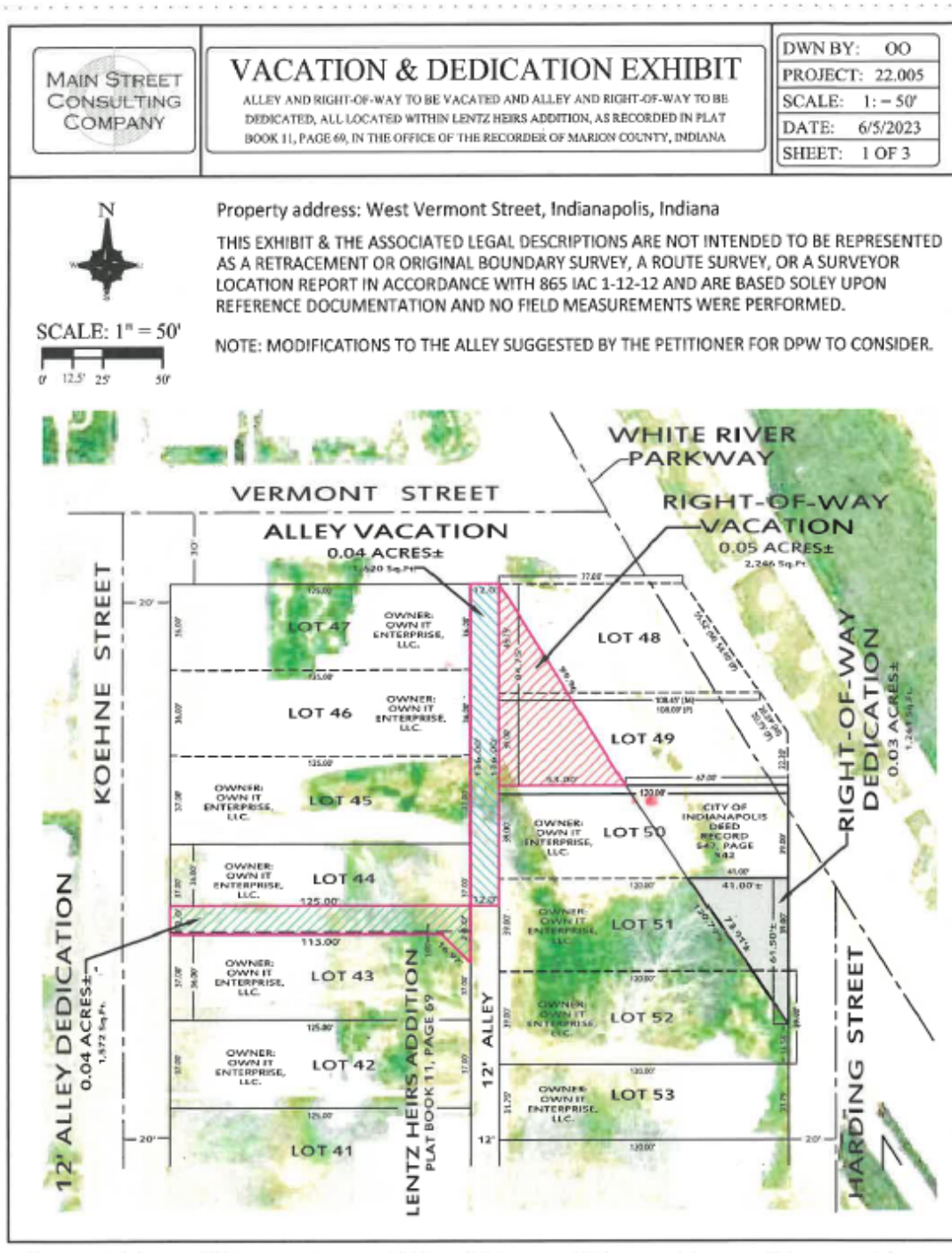
Petitioner commits to exclude the following MU2 uses from the subject site:

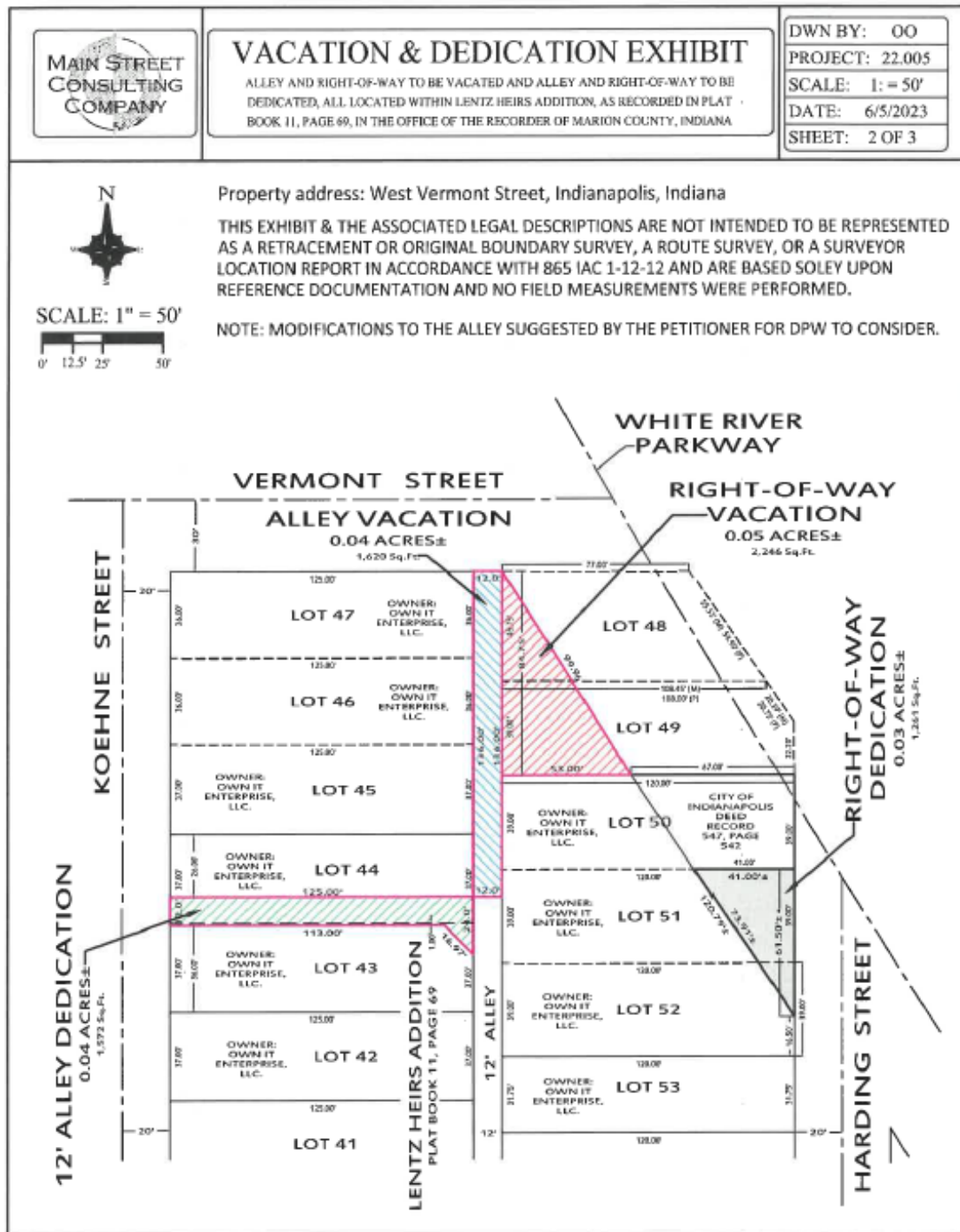
1. Emergency shelter
2. Greenway
3. Garden as primary use
4. Check cashing or validation service
5. Outdoor advertising off premise sign
6. Tattoo parlor
7. Adult entertainment use sales and services
8. Night club or cabaret
9. Firearm sales
10. Fireworks sales on-going
11. Pawn shop
12. Power generating facility
13. Automobile, motorcycle and light vehicle service or repair

ATTACHMENT “D”:

Petitioner commits to the following:

1. The only uses permitted on the site shall be mixed uses retail/ office and multifamily residential. All MU2 uses except those excluded in Attachment “E”
2. No New construction on the site shall exceed fifty (50) feet in height.
3. Bike and scooter parking shall always be provided on the site.

Proposed Vacation Exhibit – revised



Photographs



Photographs of site from Vermont Street looking south



Photograph of large rocks within right-of-way, abutting subject site



Subject site (top); Vermont Street and White River Parkway, West Drive, looking west



Photograph along the west boundary of the site looking south (Koehne Street is to the right)



Photographs of neighborhood (top); and existing conditions



Existing alley conditions

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-008
Address: 10832 Portside Court (*Approximate Address*)
Location: Lawrence Township, Council District #5
Zoning: D-P (FF)
Petitioner: Raymond and Kimberly Peck, by Russell L. Brown
Request: Modification of the development statement for 79-Z-107 (79-DP-3) for Lot 160 of Feather Cove, Section Five, to legally establish a paver patio (with table, stairs, railing and fire pit), with zero-foot side setbacks (eight-foot side and 22-foot aggregate side setback required).

A valid Automatic Continuance was received from a remonstrator that continued this petition from the May 25, 2023 hearing to the June 29, 2023 hearing.

RECOMMENDATIONS

Staff **recommends denial** of this request. If the request was modified to provide for three-foot side setbacks, staff would recommend approval of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 0.50-acre site is developed with a single-family dwelling. It is located on the corner of Portside Court and Skipjack Drive with a 25-foot wide, approximately 126-foot long “panhandle” extending to the shore of Geist Reservoir. The parcel is surrounded by single-family dwellings.
- ◇ Fall Creek was dammed in 1941 to create Geist Reservoir. Residential development around the lake began in early 1980s. The dwelling on the subject site was built in the late 1980s.
- ◇ The 2018 Comprehensive Land Use Plan recommends Suburban Neighborhood for the site. This typology is primarily intended for single-family dwellings.

(Continued)

STAFF REPORT 2023-MOD-008 (Continued)

MODIFICATION

- ◇ This site was part of a petition that was approved in 1979 (79-ZON-107, DP-3) that rezoned 516 acres from a Special Use district to the D-P district. The D-P zoning district was established to encourage a more creative approach in land and building site planning and to accommodate site treatments not contemplated in other kinds of districts. Petition 79-Z-107 (79-DP-3) provided for approximately 500 acres of residential development and approximately 15 acres of retail development.
- ◇ Petitions for the D-P district must include a development statement and a preliminary site plan that identifies the locations and types of land uses and proposed layout of streets, open space, parking and other basic elements of the plan.
- ◇ The development statement for 79-Z-107 (79-DP-3) provides for minimum side setbacks to ensure that there are ample yards. The development statement requires side yard setback lines to be no less than an aggregate of 22 feet, provided, however, no side yard may be less than eight feet. Put another way, the widths of the two side yards must total at least 22 feet, but no individual side yard may be less than eight feet in width. If one side yard is eight feet, the other must be at least 14 feet in order to total 22 feet.
- ◇ This request would modify the development statement for 79-Z-107 (79-DP-3) for Lot 160 of Feather Cove, Section Five, to eliminate the requirement for side setbacks and thus legally establish an existing paver deck with zero-foot side setbacks. This petition would modify the development statement for just this one lot in the development. The standards of the 1979 petition would remain in effect for the rest of the lots.
- ◇ A similar request was made for this site in September 2017 in petition 2017-MOD-015. The petition was filed following enforcement action by the Department of Business & Neighborhood Services for construction of the existing paver patio with table, stairs, railing and fire pit without a drainage permit, Improvement Location Permit, electrical permit or structural permit, for placing the structure in the required side yards, and for continuing work after the issuance of a Stop Work order.
- ◇ Staff recommended denial of 2017-MOD-015. On March 7, 2018 the petition was withdrawn.
- ◇ Structural, drainage and the Improvement Location permits were eventually applied for and issued.
- ◇ Materials submitted with this petition indicate that the “panhandle” of the subject property is 25 in width and that the patio area is 25 feet wide.

(Continued)

STAFF REPORT 2023-MOD-008 (Continued)

- ◇ Staff understands the desire to provide an area near the water for outdoor entertaining and enjoyment.
- ◇ The 25-foot width of the panhandle coupled with the required 22-foot aggregate side yards leave a three-foot wide buildable area. This makes utilization of the panhandle area difficult. Staff believes it would be reasonable to support a reduction in the setbacks that would provide an area near the water for leisure activities.
- ◇ However, a structure with zero setbacks is not appropriate. Setbacks provide the vital space that is necessary to construct and maintain any structure. Eliminating that space creates the need to inappropriately trespass onto abutting properties and increases the probability of damaging neighbors' structures and landscaping.
- ◇ Decreasing the size of the patio would allow adequate space for outdoor entertaining and enjoyment without trespassing onto the abutting properties and creating a burden for neighboring property owners.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-P	Metro	Single-family dwelling
-----	-------	------------------------

SURROUNDING ZONING AND LAND USE

North	D-P	Single-family dwelling
South	D-P	Single-family dwelling
East	D-P	Single-family dwelling
West	D-P	Single-family dwelling

COMPREHENSIVE LAND USE PLAN

The Lawrence Township Comprehensive Land Use Plan (2018) recommends Suburban Neighborhood.

THOROUGHFARE PLAN

This portion of Portside Court is private street, with a 36-foot wide right-of-way.

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

(Continued)

STAFF REPORT 2023-MOD-008 (Continued)

FLOODWAY / FLOODWAY FRINGE A portion of the site is located in the floodway fringe of Geist Reservoir.

WELLFIELD PROTECTION DISTRICT This site is not located within a wellfield protection district.

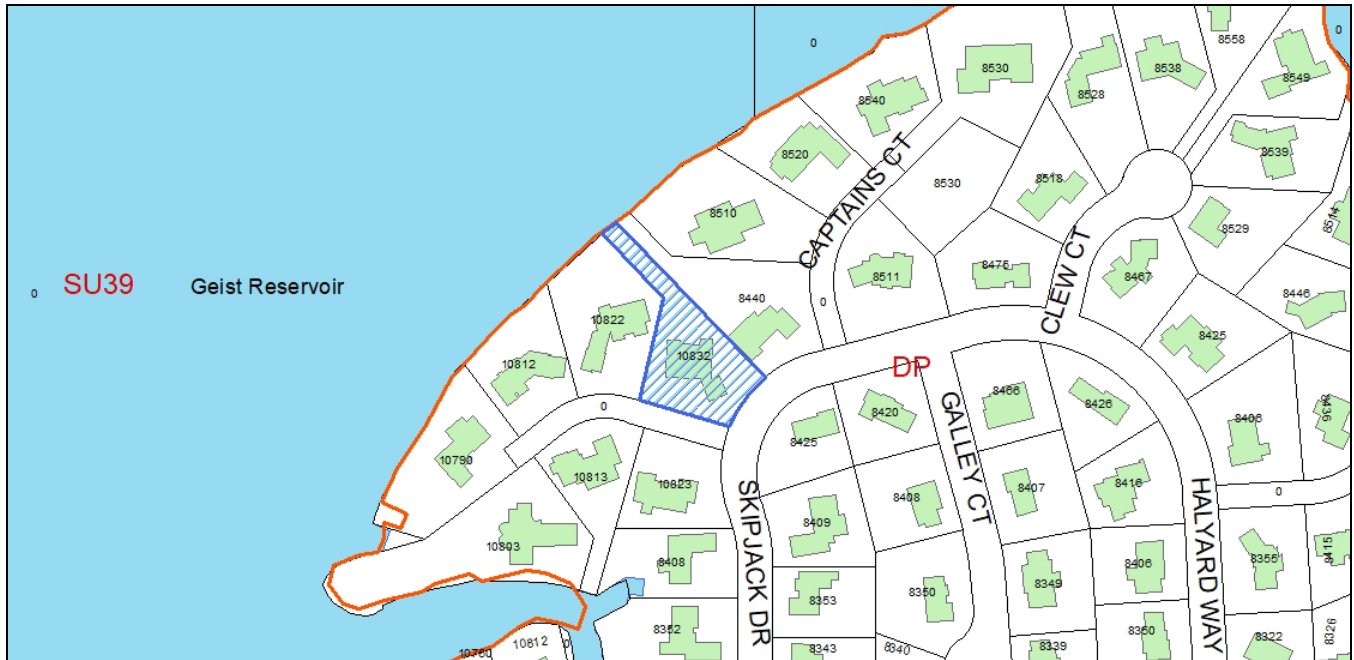
ZONING HISTORY - Site

2017-MOD-015; 10832 Portside Court, requested a Modification of the development statement for 79-Z-107 (79-DP-3) for Lot 160 of Feather Cove, Section Five, to legally establish a paver deck, with zero-foot side setbacks, **withdrawn**.

79-Z-107 (79-DP-3) 8302 Oaklandon Road, requested rezoning of 515.9 acres from the S-U Districts to the D-P classification to provide for residential development, **approved**.

klh

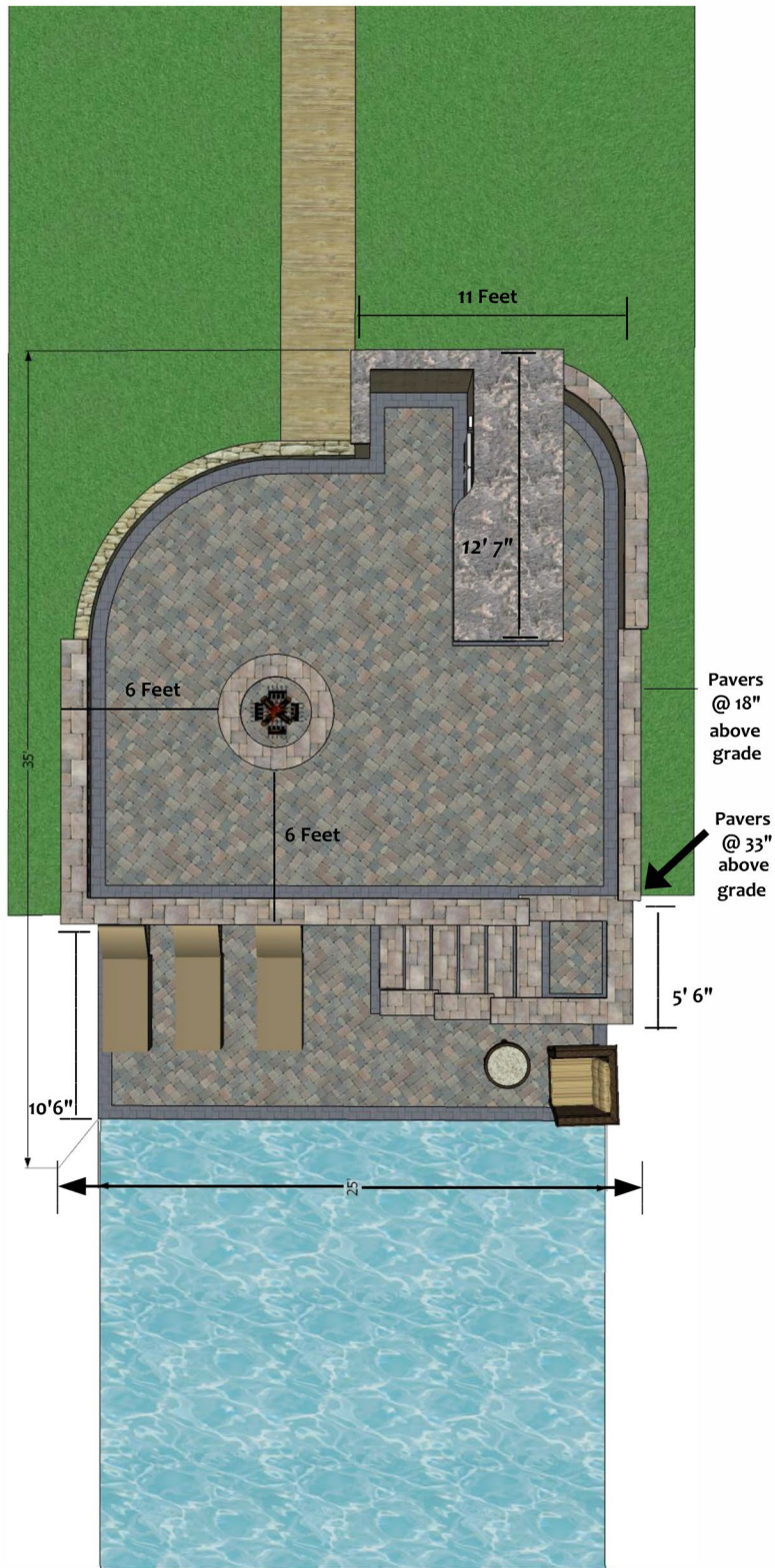
STAFF REPORT 2023-MOD-008, Location



STAFF REPORT 2023-MOD-008, Aerial photograph (2022)



STAFF REPORT 2023-MOD-008, Patio Site Plan



STAFF REPORT 2023-MOD-008, Proposed Commitments

STATEMENT OF MODIFICATION OR TERMINATION OF COVENANTS OR COMMITMENTS

COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION OR SPECIAL EXCEPTION PETITION

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

Legal Description: LOT 160 IN SECTION 5 OF FEATHER COVE, A SUBDIVISION RECORDED AS INSTRUMENT 8493368 IN THE MARION COUNTY RECORDER'S OFFICE.

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Modification of Section 5(D) of Covenants and Restrictions included in 79Z017 to legally establish an above ground structure with side yard setback of variable width (from 1' to 0') on 25' of waterfront lot frontage where 22' total setback with minimum 8' minimum is require for side yard.

2. _____
3. _____
4. _____
5. _____

STAFF REPORT 2023-MOD-008, Photos



View of site looking north.



View looking northwest from rear porch.



View of patio looking northwest.



View of patio looking northwest.



View of patio fixtures looking southwest.



View from patio looking southeast.



View of patio looking northeast.



View of patio looking southwest.



View of patio from boat dock



View of patio from boat dock



View of abutting property to the northeast



View of abutting property from on-site patio

STAFF REPORT

Item 16.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-025 / 2023-VAR-002
Address: 1002 West Hanna Avenue and 3500 Division Street (*Approximate Address*)
Location: Perry Township, Council District #20
Petitioner: Lauth Group, Inc., by Brian J. Tuohy
Request: Rezoning of 24 acres from the I-2 (FF) and D-3 (FF) districts to the I-3 (FF) district to provide for a plastic recycling facility.

A variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for development within the north and east transitional yards (100-foot transitional yard required).

The Hearing Examiner continued these petitions, with notice from the April 27, 2023 hearing, to the May 11, 2023 hearing, to provide time to amend the request to add a variance of development standards.

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued these petitions from the May 11, 2023 hearing, to the June 15, 2023.

The Hearing Examiner continued these petitions from the June 15, 2023 hearing, to the June 29, 2023 hearing, at the request of the petitioner's representative.

RECOMMENDATIONS

Staff **recommends approval** of the rezoning request and the variance request, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.
2. A 59.5-foot half right-of-way shall be dedicated along the frontage of West Hanna Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 24-acre site, zoned I-2 (FF) and D-3 (FF), is undeveloped and surrounded by undeveloped land to the north, zoned D-3 (FF); industrial uses to the south, across West Hanna Avenue, zoned I-3 (FF); a railroad right-of-way to the east, zoned I-2 (FF); and industrial uses to the west, zoned I-2 (FF).

REZONING

- ◇ This request would rezone the site from the I-2 (FF) and the D-3 (FF) Districts to the I-3 (FF) classification. “The I-3 district is an intermediate district for industries that present moderate risks to the general public. Wherever practical, this district should be away from protected districts and buffered by intervening lighter industrial districts. Where this district abuts protected districts, setbacks are large and enclosure of activities and storage is required.”
- ◇ The Comprehensive Plan recommends suburban neighborhood typology. “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.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- Hydrological patterns should be preserved wherever possible.
- Curvilinear streets should be used with discretion and should maintain the same general direction.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.

(Continued)

Overlays

- ◇ This site is located within an overlay, specifically the Environmentally Sensitive overlay (ES). “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ The entire site is located within the 100-year floodplain of White River

Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (I-3 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ Staff would note the following uses are prohibited in the floodplain:
 - a. Jails;
 - b. Hospitals;
 - c. Assisted living facilities;
 - d. Nursing homes;
 - e. Laboratories;
 - f. Elementary, Middle or High Schools;
 - g. Daycare facilities;
 - h. Fire stations;
 - i. Emergency operation centers;
 - j. Police facilities;
 - k. Truck, train, or bus terminal, storage or maintenance facility;
 - l. Wrecking or salvage facility;
 - m. Gas, oil or propane storage facility;
 - n. Industrial laundry;
 - o. Hazardous waste handling or storage facility; and
 - p. Other public equipment storage facilities.

(Continued)

Environmental Public Nuisances

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
 1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
 2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
 3. A drainage or stormwater management facility as defined in [Chapter 561](#) of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
 4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5 -foot half right-of-way along West Hanna Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Site Plan

- ◇ The amended conceptual site plan, file-dated April 14, 2023, provides for two structures. Building One would be 127,000 square feet. Building Two would be 159-500 square feet.

(Continued)

- ◇ Employee parking would be located adjacent to the proposed buildings, with truck / trailer parking located interior to the site and at the northwest portion of the site.
- ◇ Access would be gained from West Hanna Avenue at the southwest corner of the site. Staff would note that the proposed dedication of the right-of-way along the West Hanna Avenue frontage is depicted on the plan.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for development within the north and east transitional yards when a 100-foot transitional yard would be required.
- ◇ Staff believes that a reduced transitional yard along the northern site boundary would have minimal impact on the abutting undeveloped land that would unlikely be residentially developed in the future.
- ◇ The Ordinance provides that no setback is required from a railroad or rail spur when industrial facilities are located along a railroad or rail spur. Staff understands, however, that the petitioner and their representative wanted to assure development could occur within the transitional setback along the eastern boundary of the site.

Planning Analysis

- ◇ The request would not be consistent with the Comprehensive Plan recommendation of suburban neighborhood typology. However, given the surround industrial development to the west and south of this site, staff believes it would be unlikely that residential development would occur on this site.
- ◇ Staff would note that the railroad right-of-way provides an appropriate boundary and buffer between the existing and proposed industrial uses and the residential uses to the east, which would minimize the impact of the proposed industrial uses on surrounding land uses.
- ◇ Staff supports the requests primarily because of the industrial uses to the west and south, which continue west along South Harding Street. Furthermore, staff believes the railroad along the eastern site boundary provides an appropriate buffer from the existing residential and forms a strong delineation between the uses.
- ◇ As development on this site occurs, consideration and incorporation of floodplain regulations would be required. Drainage features are shown on the plan but the location and configuration of those features may change as final plans are prepared.

(Continued)

GENERAL INFORMATION**EXISTING ZONING AND LAND USE**

I-2 (FF) – Undeveloped
D-3 (FF)

SURROUNDING ZONING AND LAND USE

North - D-3 Undeveloped
South - I-3 (FF) Industrial uses
East - I-2 (FF) Railroad right-of-way
West - I-2 (FF) Industrial uses

COMPREHENSIVE PLAN The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood typology.
Marion County Land Use Pattern Book (2019).

THOROUGHFARE PLAN This portion of West Hanna Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing

CONTEXT AREA This site is located within the compact context area.

OVERLAY There is no overlay for this site.

SITE PLAN File-dated March 30, 2023

ZONING HISTORY

2015-ZON-028; 1112 West Hanna Avenue (west of site), requested rezoning of 10 acres, from the D-3 (FF) District, to the I-2-S (FF) classification to provide for an industrial rail park, **approved**.

2014-ZON-046; 3550 Division Street (west of site), requested rezoning of 3.731 acres from the D-4 (FF) District to the I-3-S (FF) classification to provide for tractor trailer storage and truck repair and service, **withdrawn**.

2013-ZON-033; 1405, 1423 and 1425 West Hanna Avenue (west of site), requested rezoning of 4.79 acres, from I-2-S (FF) and D-3 (FW) (FF) Districts, to the I-3-S (FW) (FF) classification to provide for medium industrial uses, **approved**.

2013-UV2-020; 3800 South Harding Street & 3800 Division Street (west of site), requested variance of use and development standards of the Industrial Zoning Ordinance to provide for a shingle recycling facility (not permitted), with 7,500 square feet of outdoor storage and to provide for operations within two, 7,500-square foot, three-sided buildings for shingle grinding within 90 feet of a D-3 protected district, **granted**.

(Continued)

2011-ZON-085; 1015, 1315 and 1335 West Hanna Avenue (west of site), requested a rezoning of 47.28 acres from the I-2-S and I-3-S Districts to the I-3-S Classification to provide for industrial uses, **approved**.

2010-ZON-038; 1405 West Hanna Avenue (west of site), requested rezoning of 1.6 acres from the D-3 (FF) District, to the I-2-S (FF) classification to provide for industrial uses, **approved**.

2009-UV2-029; 1315 West Hanna Avenue (west of site), requested a variance of use and development standards of the IZO to provide for a truck washing and decal removal business, with outdoor storage 6,574 percent of the total building area, **granted**.

2008-UV1-026; 1315 West Hanna Avenue (west of site), requested variance of use and development standards of the IZO to provide for the expansion of a truck washing and decal removal operation, with outdoor storage 3,135 percent of building area, **granted**.

2006-ZON-827/2006-VAR-827; 3730 Division Street (west of site), requested rezoning of 13.27 acres from the I-3-S (FF) District to the I-4-S (FF) classification to provide for heavy industrial suburban uses, requests a special exception of the Industrial Zoning Ordinance to provide for the construction of a chemical manufacturing plant, **dismissed**.

2006-UV2-045; 1008 and 1112 West Hanna Avenue (west of site), requested a variance of use and development standards of the Industrial Zoning Ordinance and the Dwelling Districts Zoning Ordinance to provide for a motor truck terminal, with temporary use of gravel in lieu of hard surfacing, **granted**.

2000-ZON-056; 4101 South Harding Street (west of site), requested rezoning of 6.1 acres from the D-3 District to the I-3-S Classification to provide for industrial uses, **approved**.

98-Z-187; 3801 South Harding Street, requested rezoning of 27.3 acres from the D-3 (FF) to I-3-S (FF) to provide for medium industrial suburban development, **granted**.

96-Z-75; 1002-1012 West Hanna Avenue (west of site), requested rezoning of 28.38 acres from D-3 (FF) to I-2-S (FF), **approved**.

96-CP-17Z/96-CP-17V; 3950 Division Street and 1402 West Hanna Avenue (west of site), requested rezoning 1.01 acres from D-3 (FW) to I-2-S (FW) and a variance of use and development Standards of the Industrial Zoning Ordinance and Sign Regulations to provide for the operation of a fleet maintenance facility with a gravel parking area within the required front yard along Hanna Avenue and pole sign being 60-75 from a protected district, **approved**.

92-Z-51; 4309 South Harding Street (west of site), requested rezoning of 12.05 acres from I-3-S(FW)(FF) to C-7(FW)(FF) to provide for the sales and service of semi-tractors and trailers, **approved**.

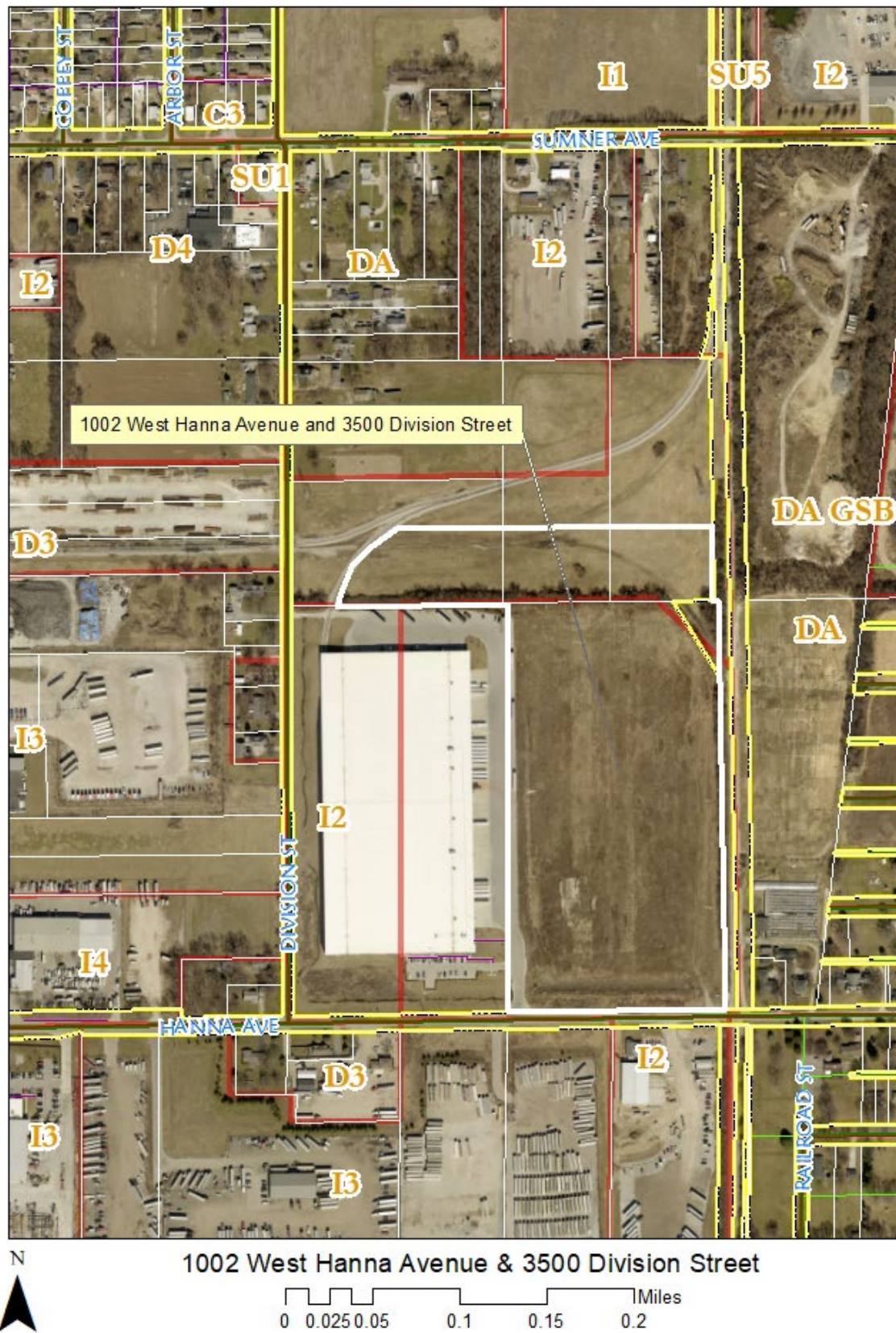
93-V3-11; 3926 Division Street (west of site), requested a variance of development standards of the Flood Control Districts Zoning Ordinance to provide for the construction of a 936-square foot detached garage approximately five feet below the Base Flood Elevation, **denied**.

(Continued)

91-UV3-34; 3850 South Harding Street (west of site), requested a variance of use and development standards of the Industrial Zoning Ordinance to provide for a dry ash disposal facility without the required street frontage in I-4-S (FF), **granted**.

89-Z-90 / 89-CV-17; 1020 West Hanna Avenue (west of site), requested rezoning of 10-24 acres, being in the D-3 district, to the I-3-S classification to provide for a cement storage and distribution facility with no outdoor storage of materials of products and a variance of development standards of the Industrial Zoning Ordinance to permit the construction of 80-foot-tall storage bins, **denied**.

kb





View looking west along West Hanna Avenue



View looking east along West Hanna Avenue



View of site looking northwest across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View looking east along East 19th Street



View of site and adjacent property looking north across West Hanna Avenue



View of site looking south across Wets Hanna Avenue

STAFF REPORT

Item 17.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-046
Address: 7250 North Keystone Avenue (*Approximate Addresses*)
Location: Washington Township, Council District #2
Petitioner: Hansen Collision, Inc., by J. Murray Clark
Request: Rezoning of 4.199 acres from the D-4 and C-4 (FF) district to the C-4 (FF) district to provide for automobile, motorcycle, and light vehicle service or repair.

ADDENDUM FOR JUNE 29, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the June 15, 2023 hearing, to the June 29, 2023 hearing at the request of a neighborhood organization.

Staff would note that the variance petition, 89-UV1-44, that granted a variance of use and development standards of the Commercial Zoning Ordinance to provide for the outdoor display and sales of vehicles, with a 10-foot front setback will continue to be effective if this rezoning is approved.

June 15, 2023

RECOMMENDATIONS

Staff **recommends approval** of the request, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 4.119-acre site, zoned D-4 and C-4 (FF) is developed with an automobile service and repair business. It is surrounded by single-family dwellings and commercial uses to the north, zoned D-3 and C-3, respectively; undeveloped land and commercial uses to the south, zoned D-A and C-5, respectively; commercial uses to the east, across North Keystone Avenue, zoned C-4; and single-family dwellings and park to the west, zoned D-4 and PK-1, respectively.

(Continued)

- ◇ Petition 2022-ZON-027 requested rezoning of 7.20 acres from the D-4 and C-4 (FW)(FF) district to the C-4 district to provide for automobile service and repair but was withdrawn by the petitioner on December 1, 2022.
- ◇ Petition 89-UV1-44 provided for outdoor display and sale of vehicles with a 10-foot front setback.

REZONING

- ◇ This request would rezone the site from the D-4 and C-4 (FF) districts to the C-4 (FF) classification to provide for automobile, motorcycle and light vehicle service or repair. “The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.”
- ◇ The Comprehensive Plan recommends community commercial typology. “The Community Commercial typology 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.”
- ◇ The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.

Large-Scale Offices, Retailing, and Personal or Professional Services (defined as commercial uses with minimal outdoor operations, storage, or display on lots of more than 1.5 acres and a height of more than 35 feet.)

- Should be located along an arterial street.
- Outdoor display of merchandise should be limited.
- If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
- If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
- Should be no larger than 25 acres with 125,000 square feet of floor space and no more than three out lots.

(Continued)

Overlays

- ◇ This site is located within an overlay, specifically the Environmentally Sensitive overlay (ES). “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ Except for the access drive along Ruth Drive, the entire site is located within the 100-year floodplain of Highland Creek.

Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (C-4 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ Staff would note, except for a small portion of the access drive along Ruth Drive, the entire site lies within the 100-year floodplain.
- ◇ Staff would also note the following uses are prohibited in the floodplain:
 - a. Jails;
 - b. Hospitals;
 - c. Assisted living facilities;
 - d. Nursing homes;
 - e. Laboratories;
 - f. Elementary, Middle or High Schools;
 - g. Daycare facilities;
 - h. Fire stations;
 - i. Emergency operation centers;
 - j. Police facilities;
 - k. Truck, train, or bus terminal, storage or maintenance facility;
 - l. Wrecking or salvage facility;
 - m. Gas, oil or propane storage facility;
 - n. Industrial laundry;
 - o. Hazardous waste handling or storage facility; and
 - p. Other public equipment storage facilities.

(Continued)

Environmental Public Nuisances

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
 1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
 2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
 3. A drainage or stormwater management facility as defined in [Chapter 561](#) of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
 4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

Planning Analysis

- ◇ The 1989 variance of use permitted outdoor display and sale of vehicles. The current use as an automobile vehicle service and repair operation has been operating illegally since the conversion occurred. Admittedly, the zoning boundary bisects the building with the C-4 district located along North Keystone Avenue frontage. Staff believes that zoning classification is appropriate along this commercial corridor but expanding that C-4 district boundary to the west that abuts a park would not be appropriate.
- ◇ Petition 2023-ZON-027 requested a similar rezoning that included a larger area adjacent to residential uses and a park. As proposed staff did not support the request because of the potential impact of commercial uses on those land uses but indicated the recommendation would be reconsidered if the amount of area to be rezoned would be reduced.

(Continued)

- ◇ Staff suggested that the southern zoning boundary be reconfigured to remove the open undeveloped space from the request. The proposed southern boundary and legal description submitted with this current petition is approximately the same area that was previously proposed by staff.
- ◇ Generally, the C-3 or C-4 districts are contemplated to be consistent with the Comprehensive Plan recommendation of community commercial, depending upon the location and surrounding land uses. In staff’s opinion, the request would be consistent with the Plan recommendation because of the adjacent land uses and the site location along a highly commercial corridor. Staff would note, however, that development of the site would need to comply the all the C-4 district development standards, including buffering along the western boundary abutting protected districts.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-2 / C-4 (FF) Commercial uses

SURROUNDING ZONING AND LAND USE

North -	D-4 / C-3	Single-family dwellings / commercial uses
South -	D-A (FF) / C-5 (FF)	Undeveloped land / commercial uses
East -	C-4	Commercial uses
West -	D-4 (FF) / PK-1(FF)	Single-family dwellings / park

COMPREHENSIVE LAND USE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends community commercial typology.

THOROUGHFARE PLAN

This portion of North Keystone Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial with an existing 145-foot right-of-way and a proposed 124-foot right-of-way.

This portion of Ruth Drive is designated in the Marion County Thoroughfare Plan as a local street with an existing and proposed 50-foot right-of-way.

CONTEXT AREA

This site is located within the metro context area.

OVERLAY

This site is located within the environmentally sensitive overlay.

(Continued)

ZONING HISTORY

2022-ZON-027; 7250 North Keystone Avenue, requested rezoning of 7.20 acres from the D-4 and C-4 (FW) (FF) districts to the C-4 (FW) (FF) district to provide for Automobile Service and Repair, **withdrawn**.

89-UV1-44; 7250 North Keystone Avenue, requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the outdoor display and sales of vehicles, with a 10-foot front setback, **granted**.

88-Z-136; 7250 North Keystone Avenue, requested the rezoning of 3.268 acres, being in the C-3 (FF) District to the C-5 (FF) classification, **approved**.

VICINITY

2005-ZON-179; 7216 North Keystone Avenue (south of site), requested rezoning of 3.6 acres, being in the SU-34 (FW)(FF) and D-A (FW) Districts, to the C-4 (FW)(FF) classification to provide for community-regional commercial uses, **approved**.

2004-UV3-046; 7215 North Keystone Avenue (south of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a 1,440-square foot greenhouse and a 400-square foot temporary sales tent (not permitted) related to an existing landscaping lawn and garden center, **granted**.

2001-ZON-036; 2100 East 71st Street (south of site), requested the rezoning of 10.696 acres from the D-A District to the SU-16 classification to provide for athletic fields and related accessory uses, **withdrawn**.

98-HOV-50G; 7101 North Keystone Avenue (south of site), requested a variance of development standards of the Commercial Zoning Ordinance to provide for the placement of beverage vending machines on gasoline pump islands (required placement against the wall of the primary building), **granted**.

98-V3-89; 7246 North Keystone Avenue (south of site), requested a variance of development standards of the Wireless Communications Zoning Ordinance, to provide for a 20-foot height increase to an existing 100-foot monopole tower, located within 500 feet of a protected district (maximum 70 feet in height permitted), **granted**.

98-UV2-35; 2102 East 71st Street (south of site), requested a variance of use of the Special Districts Zoning Ordinance to provide for a telecommunications facility (not permitted) consisting of a monopole tower being 180 feet in height and a 12 by 20-foot equipment building, **granted**.

98-UV1-29; 7246 North Keystone Avenue (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the construction of a telecommunications facility (not permitted, with a cellular communications tower, being 100 feet in height (maximum 22 feet in height permitted at the proposed tower location), **granted**.

(Continued)

93-Z-128; 2507 East 72nd Street (south of site), requested rezoning of 0.29 acre from the D-5 District to the SU-9 classification to provide for construction of a fire station, **approved**.

91-UV3-51; 7215 North Keystone Avenue (south of site), requested a variance of use of the Dwelling District Zoning Ordinance to permit the placement of a cellular commercial facility and a 185-foot monopole tower, **granted**.

91-UV2-2; 2301 East 71st Street (south of site), requested a variance of use and development standards to provide for the reconstruction of a restaurant, which would serve alcohol within 100 feet of a dwelling district, **granted**.

89-UV1-33; 7215 North Keystone Avenue (east of site); requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of a landscaping lawn and garden center with lawnmower sales and service, and seasonal plant and firewood sale, **granted**.

87-Z135; 7102 North Keystone Avenue (south of site), requested rezoning of 1 acre being in the SU-34 District, to the C-3 classification to provide for a restaurant, **approved**.

86-HOV-111; 7220 North Keystone Avenue (south of site), requested a variance of development standards of the Sign Regulations to provide for an eight-foot increase in the height of an existing advertising sign, **granted**.

86-HOV-23; 7215 North Keystone Avenue (south of site), requested a variance of development standards of the Sign Regulations to provide for the use of 2.917 by 38.917-foot electronic message panel attached to an existing advertising pole sign, **granted**.

85-UV2-20; 7209 North Keystone Avenue (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the retail sales of swimming pool equipment and accessories, **granted**.

85-UV2-5; 7216 North Keystone Avenue (south of site), requested a variance of use of the Special Use Districts Zoning Ordinance to provide for an addition to an existing health spa, **granted**.

84-UV1-18; 7215 North Keystone Avenue (south of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the sale and outdoor display of lawn and garden products, including supplies, equipment, flowers, shrubs, small trees, firewood, and Christmas trees, **granted**.

84-Z-135; 7209 North Keystone Avenue (south of site), requested rezoning of 0.96 acre, being in the D-5 District to the C-3 classification to provide for commercial development, **approved**.

(Continued)

83-UV2-109; 7201 North Keystone Avenue (south of site), requested a variance of use and development standards of the Sign Regulations to allow the erection of a pole sign in the required 5-foot setback at zero feet from a diagonal right-of-way line, seven feet from the Keystone Avenue right-of-way extended and 11.5 feet from the 72nd Street right-of-way, **granted**.

74-UV3-27; 7201 North Keystone Avenue (south of site), requested a variance of use and development standards to allow for the construction of a pizza restaurant with carry-out and beer sale, **granted**.

69-V4-104; 7216 North Keystone Avenue (south of site), requested a variance of use to provide for a pole sign for an existing health spa, **granted**.

kb







View looking south along North Keystone Avenue



View looking north along North Keystone Avenue



View of site looking south



View of site looking south



View of site looking southeast



View of site looking north



View from site looking south

STAFF REPORT

Item 18.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-830 / 2023-CVR-830
Address: 201 West 38th Street and 3750 North Capitol Avenue (approximate address)
Location: Center Township, Council District #7
Petitioner: Martin Petroleum Inc., by Pat Rooney
Request: Rezoning of 0.44 acre from the D-5 and C-4 districts to the C-4 district.

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required).

RECOMMENDATIONS

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

Staff **recommends denial** of the variance of use and development standards request.

SUMMARY OF ISSUES

LAND USE

- ◇ The subject site consists of a gas station and convenience store on the north parcel with an undeveloped residential lot at the southern parcel.
- ◇ The site is surrounded with an auto repair shop and single-family dwellings to the west, zoned D-5, tire shop to the north, zoned C-3, liquor store to the east, zoned C-4, and single and two-family dwellings to the east and south, zoned D-5.

REZONING

- ◇ The grant of the rezoning request would correct the split zoned northern parcel from the D-5 and C-4 districts to the C-4 classification for the entire parcel where the current gas station and convenience store are located.
- ◇ The property at 201 West 38th Street is recommended for village mixed-use development by the Comprehensive Plan. Staff recommended the petitioner rezone the northern parcel to prevent future issues with the continued use and development of the northern parcel since the existing uses are not permitted in the D-5 district.

(Continued)

- ◇ The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.
- ◇ Therefore, staff would recommend approval of the rezoning request.

VARIANCE OF USE

- ◇ This request would allow the redevelopment of a convenience store within the D-5 district. The site consists of two parcels with the north parcel split zoned between D-5 and C-4 and the southern parcel zoned D-5.
- ◇ The purpose of the D-5 (Dwelling District Five) district is intended for medium intensity residential development and is not intended for suburban use. The application of this district will be found within urban, build-up areas of the community and where all urban public and community facilities and services are available. The D-5 district typically has a density of 4.5 units per gross acre. This district fulfills the low and medium density residential classification of the Comprehensive General Land Use Plan.
- ◇ The purpose of the C-4, Community-Regional District is to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. The uses permitted in this district may feature several large traffic generators and require excellent access from major thoroughfares.
- ◇ The Pattern Book recommends the property at 3750 North Capitol Avenue for traditional neighborhood development.
- ◇ The Traditional Neighborhood typology 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, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

(Continued)

- ◇ The Comprehensive Plan recommends village mixed-use development for the northern parcel (201), which the C-4 (community-regional commercial) District would be consistent with the recommendation, depending upon the context of the site. In this case, surrounding land uses are commercial along the north, west and east, but low-density residential is located south and would not be adequately buffered from this more intense 24-hour / seven-day use. The proposed use would not be appropriate for the southern parcel because the Comprehensive Plan recommends traditional neighborhood development, which would align more with small-scale offices, retailing, and personal or professional services rather than a regional use.
- ◇ The site is located within the Red Line TOD Strategic Plan, but it is not located within the Transit Oriented Development Secondary Zoning District. It falls within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove the use included in this request.
- ◇ The closest station to the site is located within a ½ a mile to the east at the intersection of 38th Street and Meridian Street. This station is categorized as a District Center with the potential for a dense mixed-use hub for multiple neighborhoods with tall buildings, minimum of 3 stories with no front or side setbacks, multi-family housing with a minimum of 5 units and structured parking only with active first floor.
- ◇ TOD investments here should leverage significantly higher residential and employment densities, demonstrations projects, urban living amenities and workforce housing.
- ◇ The commercial intensity and the impact upon the surrounding residences would include, but not be limited to, light, noise, and trash. Furthermore, the proposed use would be more of a regional draw, rather than serving just the surrounding residential neighborhood and would be a wholly and inappropriate commercial encroachment into a D-5 protected district. For these reasons, staff is recommending denial of the variance of use.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a zero-foot south side transitional yard where the Ordinance requires a 10-foot south side transitional yard. The purpose of the 10-foot transitional yard is to provide separation and a buffer between residential uses and more intense uses, such as a fueling station and convenience store. The impact of this 24-hour, seven-day operation upon residential uses would be magnified with the proposed transitional yard reductions. Staff determined the reduced setbacks are a result of the proposed expansion of the use, which would be detrimental to the surrounding neighborhood.
- ◇ The lack of a south transitional yard shows clear evidence that this site is not suitable for a convenience store and fueling station expansion which would have a negative impact on the surrounding residential neighborhood. The proposed use would be better suited on a site that would accommodate the proposed use, while complying with required development standards.
- ◇ If approved against staff's recommendation, the Department of Public Works would request that the eastern most driveway along 38th Street be closed to reduce vehicular conflicts with the heavy pedestrian traffic along this corridor.

(Continued)

GENERAL INFORMATION**EXISTING ZONING AND LAND USE**

C-4 / D-5 Compact Commercial / Undeveloped Lot

SURROUNDING ZONING AND LAND USE

North	C-3	Commercial
South	D-5	Residential (Single-family dwelling)
East	C-4 / D-5	Commercial / Residential (Two-family dwelling)
West	D-5	Commercial and Residential (Single-family dwellings)

COMPREHENSIVE PLAN

The Marion County Land Use Plan Pattern Book (2019) recommends village mixed-use on the north parcel and traditional neighborhood development on the south parcel.

THOROUGHFARE PLAN

38th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 101-foot existing right-of-way and a 114-foot proposed right-of-way.

Capitol Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 60-foot existing right-of-way and a 56-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

CONTEXT AREA

This site is located within the compact context area.

SITE PLAN

File-dated June 12, 2023.

ELEVATIONS

File-dated June 12, 2023.

RENDERINGS

File-dated June 12, 2023.

FLOOR PLAN

File-dated June 12, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

(Continued)

PREVIOUS CASES

85-UV1-34; 201 West 38th Street (subject site), Variance of development standards of the Commercial Zoning Ordinance to provide for the construction and use of a convenience store with gasoline sales. Development will include an 8.6-foot rear transitional yard (20 feet required) and a pole sign located at six and eight feet from 38th Street and Capitol Avenue respectively (15 feet required), **granted**.

ZONING HISTORY – VICINITY

2018-UV3-026; 227 West 38th Street (west of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an automobile repair facility (not permitted), **granted**.

2013-CVR-814; 148 West 28th Street (northeast of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a gasoline station and a 484-square foot addition to an existing building, with a canopy with a 64.42-foot setback from the centerline of Capitol Avenue (70-foot setback from centerline required), with a parking area with a zero-foot setback from Capitol Avenue (10-foot front setback required), with access drives with a 1.5-foot front setback along Capitol Avenue and a 2.5-foot front setback along 38th Street (10-foot front setback required), with carryout food service within 10 feet of a D-5 zoned protected district (100-foot separation required), **withdrawn**.

2013-UV1-038; 202 West 38th Street (north of site), Variance of use and development standards of the Commercial Zoning Ordinance to legally establish a 1,380-square foot storage addition (not permitted) for a tire sales and repair shop, with a one-foot north side transitional yard (20-foot transitional yard required), **withdrawn**.

95-V1-128; 3807 Graceland Avenue (northwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally-establish a detached garage measuring 27 x 33 feet: a) resulting in the square footage devoted to accessory buildings being 80% of the square footage devoted to the primary building (maximum 75% permitted); b) with a side yard setback from the north property line being 2.4 feet (minimum 4 feet required); c) resulting in 46% of the lot being open space (minimum 65% required), **granted**.

93-UV2-23; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of an automobile repair shop with the variance being valid only for Albert Sutton, **granted**.

89-AP2-4; 227 West 38th Street (west of site), Approval of extension of time to obtain an Improvement Location Permit to modify condition #2 concerning the site plan approved pursuant to petition 88-UV2-9, **granted**.

89-UV3-96; 148 West 28th Street (northeast of site), Variance of use of the Commercial Zoning Ordinance to provide for a restaurant with carry-out service, **denied**.

88-UV2-9; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an automobile repair business with signs. The grant shall be for a temporary period of five years, expiring January 12, 1993, **granted**.

85-UV1-34; 201 West 38th Street (subject site), Variance of use of the Dwelling Districts Zoning Ordinance and development standards of the Commercial Zoning Ordinance to provide for the construction and use of a convenience store with gasoline sales. Development will include a 6.6-foot rear transitional yard (20 feet required) and a pole sign located at 6 and 8 feet from 38th Street and Capitol Avenue respectively (15 feet required). The sign will also include separate panels for the food mart, gas prices and food mart items, **granted**.

84-UV2-21; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the use of a former service station for automobile repair to be a temporary variance for three years, expiring on March 20, 1987, **granted**.

83-UV2-78; 3801 North Capitol Avenue (northeast of site), Variance of use and development standards to provide for a carry-out restaurant within one-hundred feet of a residential zoning district, a reduction in required transitional yards, a drive-up window canopy in required front yard setback and a pole sign within the clear-sight area, **granted**.

MI

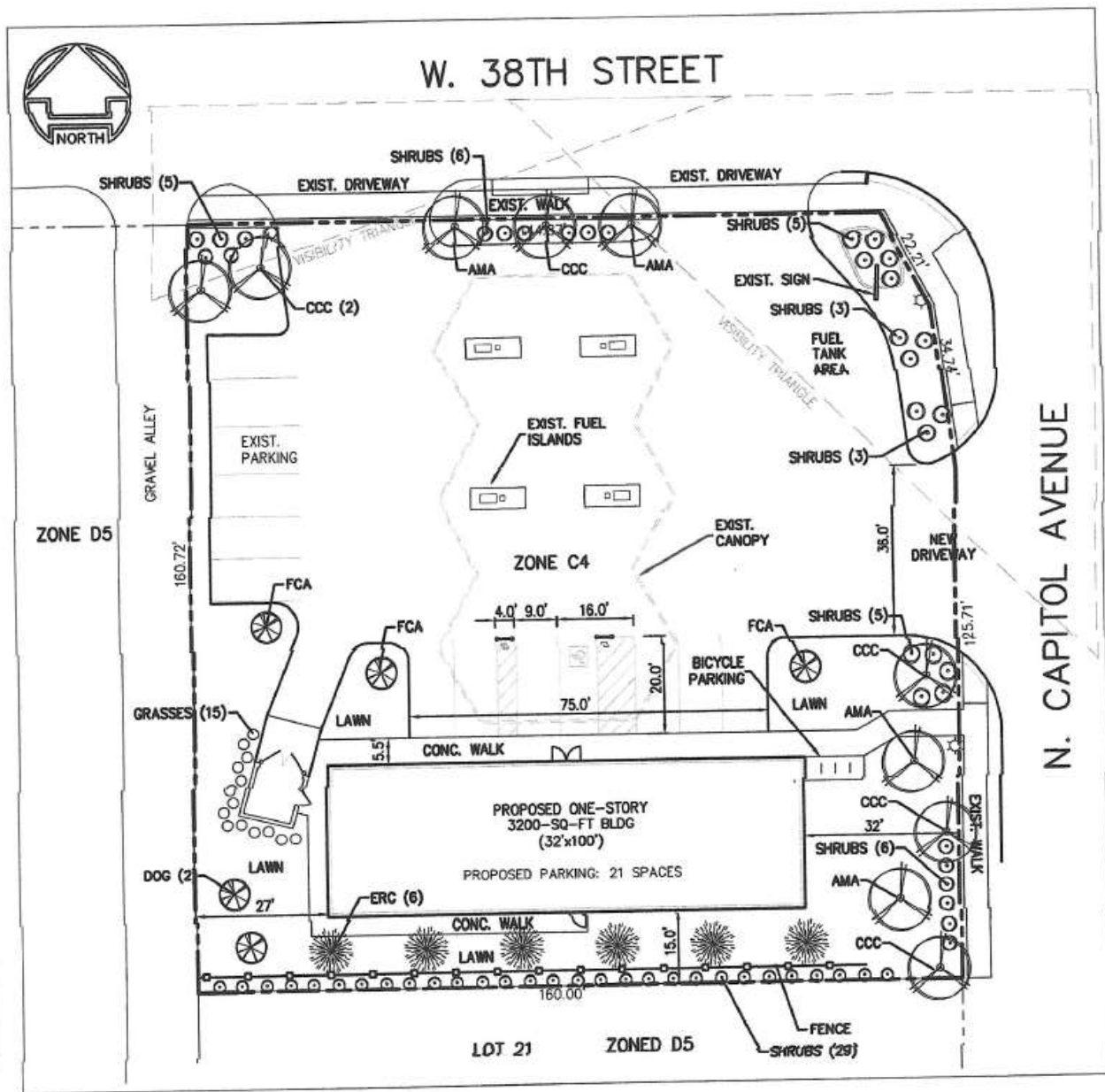
2023-CZN-830 / 2023-CVR-830; Location Map

Item 18.



2023-CZN-830 / 2023-CVR-830; Aerial Map





PROPOSED SITE PLAN CONVENIENCE STORE IMPROVEMENTS 201 W. 38th Street Indianapolis, IN

SPIARS ENGINEERING LLC

April 21, 2023

PROPOSED TREES

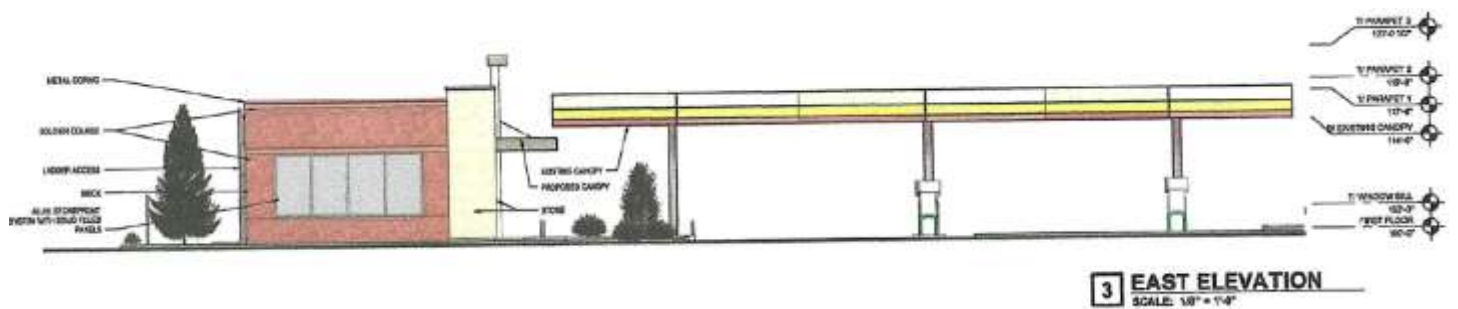
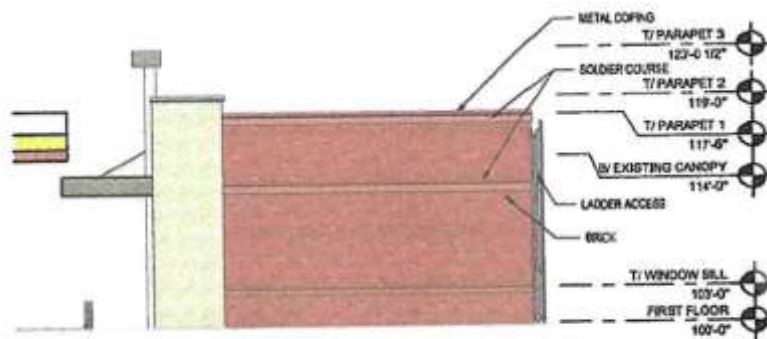
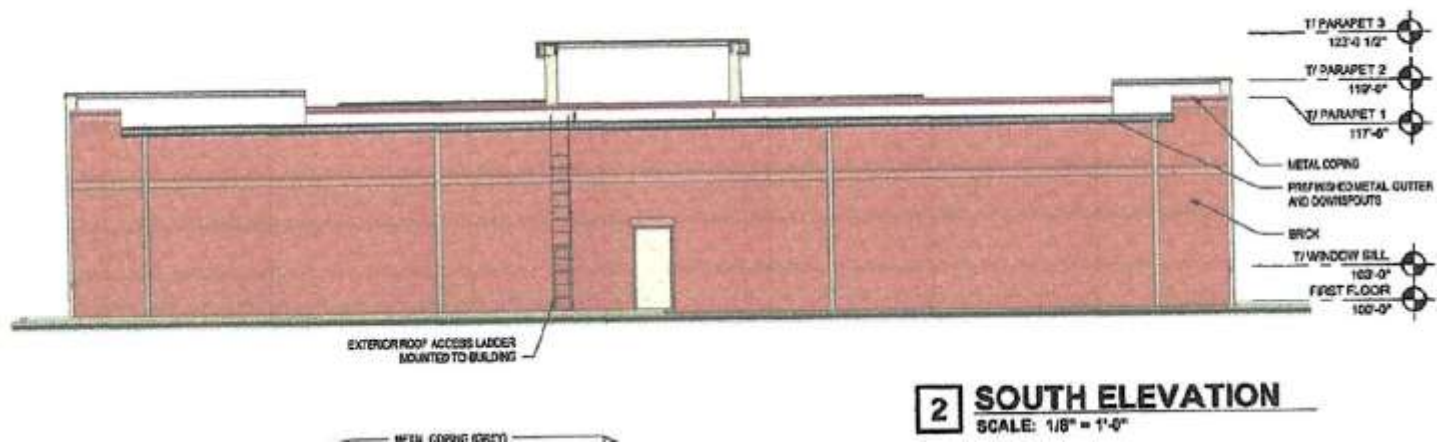
STREET TREES: (10 REQUIRED, 1 PER 35' OF STREET FRONTAGE)

- AMA=AMERICAN MOUNTAIN ASH
- CCC=COMMON CHOKE CHERRY
- ERC=EASTERN RED CEDAR

ORNAMENTAL TREES:

- DOG=PAGODA DOGWOOD
- FCA=FLOWERING CRABAPPLE

SHRUBS AND GRASSES = 72





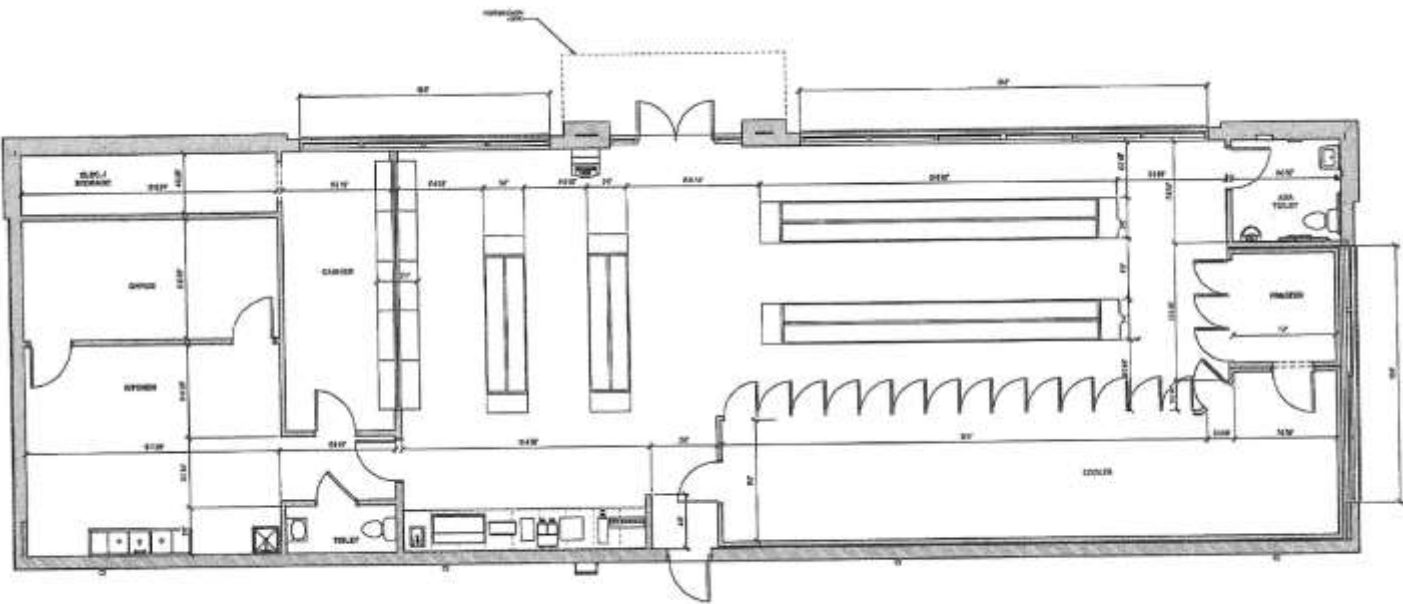
SOUTHEAST PERSPECTIVE



NORTH PERSPECTIVE



NORTHEAST PERSPECTIVE



1 FLOOR PLAN
SCALE: 1/4" = 1'-0"



Subject site and street frontage along 38th Street looking east.



Western property boundary abutting an alley.



Existing southern property boundary and undeveloped residential lot to be included in the site.



Proposed location of the new convenience store abutting single-family dwellings to the south.



Street frontage along Capitol Avenue looking south.



Undeveloped residential lot to be included in the project development.



Commercial and residential uses east of the site.



Commercial use north of the site.



Commercial use west of the site.