



Board of Zoning Appeals Division I (March 5, 2024) Meeting Agenda

Meeting Details

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

Date: Tuesday, March 05, 2024

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

1. 2024-DV1-006 | 5565 Bertha Street

Wayne Township, Council District #17, Zoned D-4

Juan Carlos Lopez Cortes and Silvia Canchola Medina

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a detached garage with a 4.5-foot rear yard setback and a two-foot east side yard setback (five-foot side and rear yard setbacks required).

**** Staff requesting continuance to April 2, 2024 hearing of Division I to allow for amended notice**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

2. 2024-DV1-003 | 7219 92nd Street

Pike Township, Council District #1, Zoned D-1

Daniel & Sarah Richardt, by Jay Christman

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 26.5-foot tall pole barn taller than the primary building, with a four-foot front yard setback from and within the front yard of Moore Road (maximum height of 24 feet permitted, height of accessory buildings must be less than height of primary building, 30-foot front yard setback required, accessory structures not permitted in front yards).

3. 2024-DV3-002 | 6161 East 82nd Street

Lawrence Township, Council District #4, Zoned C-3 (FF)

Gilligan Company, by Mike Friend

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).

4. 2024-UV3-001 | 1615 West Edgewood Avenue

Perry Township, Council District #22, Zoned C-4
GND Property Inc., by Epifanio Carbajal

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for primary and accessory residential uses (not permitted).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

5. 2023-UV3-022 | 8345 Bash Street

Lawrence Township, Council District #3, Zoned C-4
CF Laughner Associates, by David Gilman

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a building to be used for automobile sales (not permitted).

6. 2023-UV3-026 | 4328 East Michigan Street

Center Township, Council District #13, Zoned MU-1
Robert McInteer

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an existing building to a duplex (not permitted) with one-foot front yard setbacks from Michigan Street and Euclid Avenue and a six-foot west side yard setback (12-foot front yard, 10-foot side yard setbacks required).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

7. 2023-UV1-021 | 7040 Rockville Road

Wayne Township, Council District #15, Zoned D-3
Donald P. Quass, by David Gilman

Variance of use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a secondary dwelling unit, without an owner living on site (not permitted), with a zero-foot west side yard setback (six-foot side yard setback required).

8. 2023-UV1-027 | 7425 Westfield Boulevard

Washington Township, Council District #2, Zoned D-4 (TOD) (FF)
7425 Westfield Boulevard LLC, by Michael Lang

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a mental health treatment facility (not permitted) with 20 off-street parking spaces (31 parking spaces required).

**** Petitioner requests withdrawal of request**

PETITIONS FOR PUBLIC HEARING (New Petitions):

9. 2024-MO1-001 / 2024-DV1-007 | 7530 Allisonville Road

Washington Township, Council District #3, Zoned D-A (FW) (FF)
Phillip D. Rushton & Joanne Rushton Rev. Trust – Rebecca Patton Successor TTE, by Gregory J. Cagnassola

Modification of Commitments related to 2009-UV2-036, to terminate Commitment Number Eight and Four, which requires compliance with required setbacks of the D-A District, and the use of slick mounted antenna and associated attachments, respectively.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of structures related to the cell phone tower resulting in a seven-foot south side and 0.5-foot north side yard setback and a 2.5-foot rear yard setback, resulting in a 7.5-foot aggregate side yard setback (30-foot side yard, 75-foot aggregate side yard, 75-foot rear yard setbacks required) and a lot line adjustment resulting in a 0.606-acre lot and a 40-foot frontage (minimum three acres and frontage of 125 feet required).

**** Staff requesting a continuance and transfer to the March 19, 2024 hearing of Division III**

10. 2024-MO1-002 | 3527 North College Avenue
Center Township, Council District #8, Zoned D-5
Walvan Investments LLC, by John Cross

Modification of Commitments related to 2018-UV1-006, to terminate Commitment Numbers One and Two, requiring sale of units to owner-occupants and prohibiting subsequent owners from renting individual units.

11. 2024-DV1-005 | 1639 Lafayette Road
Wayne Township, Council District #12, Zoned I-3 (FW)
Gardner Glass Products, by Nick Lee

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of gravel parking and storage areas, within 23 feet of a protected district and partially encroaching into right-of-way (hard surfaced parking area, 40-foot transitional yards required, encroachment into right-of-way disallowed).

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.



BOARD OF ZONING APPEALS DIVISION I

March 5, 2024

Case Number: 2024-DV-1006

Property Address: 5565 Bertha Street (approximate address)

Location: Wayne Township, Council District #17

Petitioner: Juan Carlos Lopez Cortes and Silvia Canchola Medina

Current Zoning: D-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a detached garage with a 4.5-foot rear yard setback and a two-foot east side yard setback (five-foot side and rear yard setbacks required).

Current Land Use: Residential

Staff Recommendations: Staff has no recommendation for the petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- Staff is requesting a continuance to the April 2, 2024 BZA Division I hearing to amend the request, which will require new mailed notice.

STAFF RECOMMENDATION

- Staff has no recommendation for the petition.

PETITION OVERVIEW

- This petition is to be continued to allow for the request to be amended.



BOARD OF ZONING APPEALS DIVISION I **February 06, 2024**

Case Number: 2024DV1003
Property Address: 7219 92nd Street (approximate address)
Location: Pike Township, Council District #1
Petitioner: Daniel & Sarah Richardt, by Jay Christman
Current Zoning: D-1

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 26.5-foot tall pole barn taller than the primary building, with a four-foot front yard setback from and within the front yard of Moore Road (maximum height of 24 feet permitted, height of accessory buildings must be less than height of primary building, 30-foot front yard setback required, accessory structures not permitted in front yards).

Current Land Use: Residential

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

A timely automatic continuance request was filed by the Pike Township Residents Association in advance of the February 6, 2024 hearing. The case was then continued to the March 5, 2024 hearing.

STAFF RECOMMENDATION

Staff recommends **approval** of this request.

PETITION OVERVIEW

- The subject site is currently improved with a single-family residence as well as a small accessory building to the east of the SFR. The 4.11-acre site also contains an existing tennis court on the eastern portion of the parcel near Moore Road. This petition would legalize placement of a 26.5-foot tall pole barn near the tennis court with a deficient setback in the front yard of Moore Road.
- This property is currently zoned D-1 (Dwelling District One) to allow for low residential density and estate-style development characterized by generous front yards for trees and a bucolic atmosphere within suburban areas. The existing property is an allowable use type per ordinance



Department of Metropolitan Development
Division of Planning
Current Planning

and is also a listed use for the Rural or Estate Neighborhood typology within the Marion County Land Use Pattern Book.

- Most of this property is located within the Environmental Overlay of the Marion County Land Use Pattern Book, which indicates that development should “minimize impact on the natural environment, including trees” and that “development should preserve or add at least 30% of the entire parcel as tree canopy or naturalized area”. Even with the placement of this new shed, the property will easily exceed the 30% requirement for tree cover.
- The zoning ordinance contains building height regulations in the interest of public safety and visibility as well as for preservation of residential character. Additionally, accessory structures are required to be below the height of primary structures to increase their visibility and fulfill the Infill Housing Guidelines stipulation that accessory structures not overshadow primaries.
- Uniform and generous front setbacks within less dense residential zonings helps to establish the perceived size of streets and are important in establishing the estate-style development desired by the D-1 zoning designation. Additionally, requirements for placement of accessory structures within side or rear yards increases the visibility of primary structures and fulfill the Infill Housing Guidelines stipulation that accessory structures not overshadow primaries.
- This request would establish an accessory structure with a height of 26.5 feet, which exceeds the ordinance requirement of 24 feet for accessory structures. The proposed pole barn is also taller than the primary structure that is approximately 20 feet tall, but the difference in grade of 16 feet between the structures would place the pole barn at a lower elevation than the primary structure (see diagram within the Exhibits).
- The applicant has indicated this increased height is needed for storage of small equipment and materials including a Jeep vehicle, utility trailer, and small tools for personal use and property upkeep. Given the existing screening around the property within a comparatively rural setting and the fact that the secondary structure would still be “subordinate” to the height of the primary when measured from sea level, staff would be supportive of this variance.
- This request would also establish the accessory structure within a front yard with a deficient setback of approximately 4 feet from the property line to the east. Since approximately 72.3% of the subject site is comprised of front yard where the structure could not be placed, staff feels that legitimate practical difficulty exists. Placement of the pole barn in a different location would also likely require regrading and removal of trees which would run counter to comprehensive plan guidance. For these reasons, staff supports approval of the variance to allow for placement of the barn in the proposed location with deficient setback in the front yard.



GENERAL INFORMATION

Existing Zoning	D-1	
Existing Land Use	Residential	
Comprehensive Plan	Rural or Estate Neighborhood	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Rural or Estate Neighborhood
	South:	South: Rural or Estate Neighborhood
	East:	East: Rural or Estate Neighborhood
	West:	West: Rural or Estate Neighborhood
Thoroughfare Plan		
Moore Road	Primary Collector	Existing ROW: 74' Prop ROW: 80'
92 nd Street	Local Street	Existing ROW: 60' Prop ROW: 50'
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	12/05/2023	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	12/05/2023	
Findings of Fact (Amended)	01/12/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Pattern Book recommend the Rural or Estate Neighborhood living typology for this site.
- This site falls within the environmental overlay, which indicates that impact should be minimized on the natural environment and that development should preserve or add at least 30% of the parcel as tree canopy or naturalized area.



Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Not Applicable to the Site

Infill Housing Guidelines

- The Infill Housing Guidelines (IHG) are used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects.
- The IHG recommends that front setbacks should match the context of the existing block and be built within existing setback ranges of adjacent properties.
- The IHG also recommends that accessory building should be located behind the existing building unless there is a precedent otherwise, and that the scale, height, size, and mass of accessory structures should not overshadow primary buildings.

Indy Moves

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2011DV3001; 7341 92nd Street (west of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 3.08-acre single-family dwelling lot with 25 feet of lot width and lot frontage (minimum 90-foot lot width required at the required setback line, minimum 45 feet of street frontage required), **approved**.

2010DV1001; 7575 92nd Street (west of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 192-square foot storage shed in front of the established primary front building line (accessory buildings not permitted in front of the established primary front building line), **approved**.

2009UV2016; 9211 Moore Road (northeast of site), VARIANCE OF USE of the Dwelling Districts Zoning Ordinance to provide for two single-family dwellings on one parcel (not permitted), **approved**.

2006UV2005A; 9211 Moore Road (east of site), VARIANCE OF DEVELOPMENT STANDARDS of the Sign Regulations to legally establish a five-foot tall, 40 square-foot pylon sign (not permitted), and a fence over 42 inches tall in the required front yard along Moore Road, **approved**.

2006UV2005B; 9211 Moore Road (east of site), VARIANCE OF DEVELOPMENT STANDARDS to legally establish four three-square foot pylon signs in the right-of-way of Moore Road, **denied**.

2006UV2005C; 9211 Moore Road (east of site), VARIANCE OF USE of the Dwelling Districts Zoning Ordinance to provide for a restaurant use (not permitted) within an existing 2,700 square-foot barn, processing and production of dairy products on site, a farmers market, a children's summer camp, and agri-tourism, **approved**.

2006UV2005D; 9211 Moore Road (east of site), VARIANCE OF USE of the Dwelling Districts Zoning Ordinance to provide for live entertainment, and catering for up to 250 persons, **denied**.

2006UV2005E; 9211 Moore Road (east of site), VARIANCE OF USE of the Dwelling Districts Zoning Ordinance to provide for live entertainment and catering for up to 600 persons, **denied**.

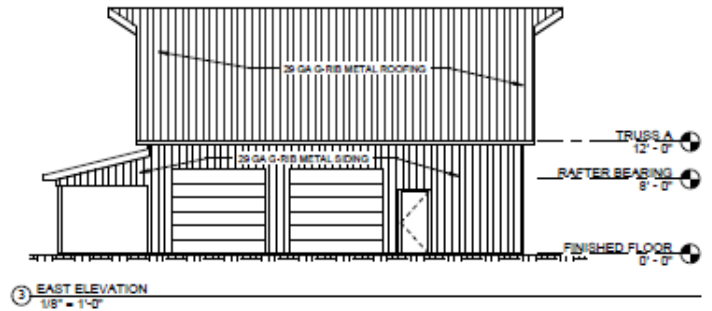
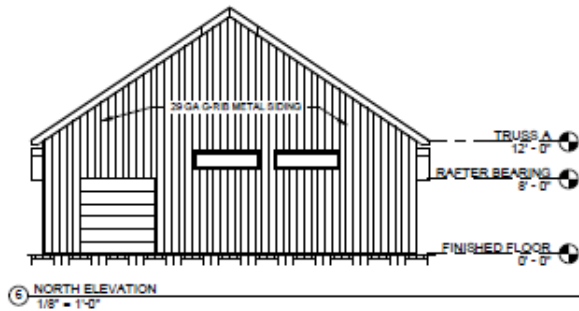
92-Z-109A; Various properties located on Cooper Road, Lafayette Road, 87th Street, 88th Street, 96th Street, Kissel Road, and Moore Road (south of site), requested a rezoning to the D-S Classification, approved.

EXHIBITS

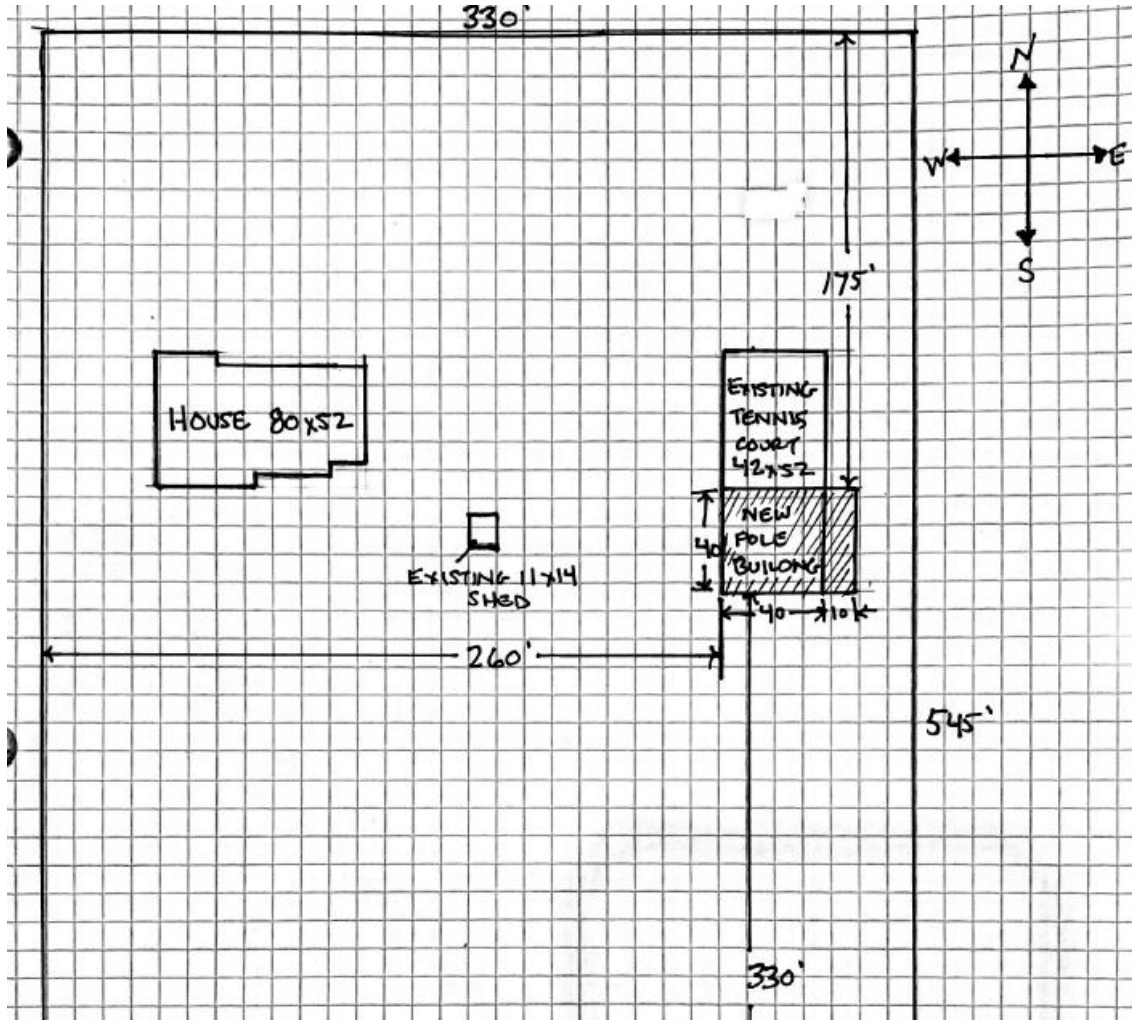
2024DV1003 ; Aerial Map



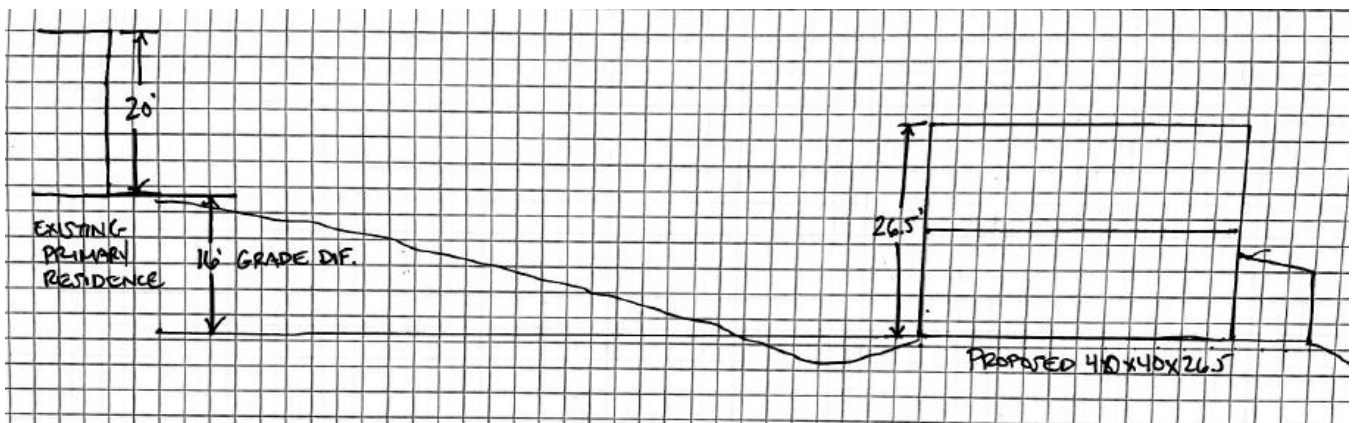
2024DV1003 ; Partial Elevations



2024DV1003 ; Site Plan



2024DV1003 ; Structure Heights





2024DV1003 ; Findings of Fact

FINDINGS OF FACT

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

The variance is for an additional 2' 5" height of the new building. This will still be lower than the existing house on the property as the foundation sits at a much lower elevation than the existing house (16' lower). Also, there are two large barns across the street which will also be taller than the new building.

In terms of overstepping minimum setback from Moore Rd, the building will be disguised by an area of thick trees and bushes.

The new building will sit 63' from the center of Moore Rd.

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

This will be a high-end pole building which will be aesthetically pleasing to the eye. It will fit in with the architecture to any adjacent buildings in the neighborhood. Also, the proposed building is seperated from the frontage road by a strip of heavy brush and trees which will subtly disguise the proposed building from the road.

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

In order to keep with the same style of architecture as adjacent buildings, it requires that we have an 8/12 pitch roof structure which in turn makes the building taller. Also, we will need no less than 12' high walls to accomodate the practical use of the petioner and any future owners of the property and building. Lastly, although the lot is large, this area is the only flat area on the lot that this, or similar, structure will work.

2024DV1003 ; Pictures



Photo 1: Primary Residence Viewed from 92nd Street (North)



Photo 2: View of Proposed Site from the West

2024DV1003 ; Pictures (continued)



Photo 3: View of Proposed Site from 92nd Street (North)



Photo 4: View of Proposed Site from Moore Road (East)

2024DV1003 ; Pictures (continued)



Photo 5: Looking East from Proposed Location



Photo 6: Looking South from Proposed Location



BOARD OF ZONING APPEALS DIVISION III **March 05, 2024**

Case Number: 2024DV3002

Property Address: 6161 East 82nd Street (approximate address)

Location: Lawrence Township, Council District #4

Petitioner: Gilligan Company, by Mike Friend

Current Zoning: C-3 (FF)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).

Current Land Use: Commercial

Staff Recommendations: Staff recommends **approval** of the request with a commitment that frontage landscaping in compliance with Table 744-505-1 and with the Selected and Prohibited Plantings List be added along Knue Road within 6 months of approval of the variance.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

Due to a lack of quorum at the February 20, 2024 hearing, this petition was continued and transferred by the petitioner to the March 5, 2024 hearing of Division I.

STAFF RECOMMENDATION

Staff recommends **approval** of the request with a commitment that frontage landscaping in compliance with Table 744-505-1 and with the Selected and Prohibited Plantings List be added along Knue Road within 6 months of approval of the variance.

PETITION OVERVIEW

- The site currently contains a commercial eating establishment with an existing drive-thru lane. The menu board and beginning of the service unit is located with the side yard to the south, while the rest of the drive-thru lane and pick-up windows constituting the end of the service unit are along the eastern side of the building in the front yard. The current building was constructed in 2015 under a previous version of the ordinance.



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- In 2023, permit applications were made to allow for an interior and exterior remodeling of the property. These plans included a new menu board and partial addition to the drive-thru lane (see site plan below). This reconfiguration of the site would require the full drive-thru lane to comply with current ordinance standards for stacking spaces within front yards.
- Current ordinance standards disallow stacking spaces within front yards along rights-of-way greater than 30 feet wide, require exclusive bypass aisles, and provide screening requirements per 743-306.I.3. Grant of this variance request would legalize the existing layout at the site and allow for the proposed stacking additions within the southern yard. Staff has determined that the proposed layout contains a sufficient exclusive bypass aisle, and that the only variances needed would be for expansion of the use partially within the front yard and the deficient screening.
- This property is zoned C-3 (FF) to allow for retail sales and personal, professional and business services to meet the demands of full developed residential neighborhoods with a basic level of accessibility for all modes of travel. The Land Use Plan Pattern Book recommends the Community Commercial working typology for this site to allow for low-intensity commercial and office uses that serve nearby neighborhoods.
- The property is also within a floodplain and the Environmentally Sensitive overlay of the Land Use Plan Pattern Book. Development associated with this remodel would not result in a decrease of the tree canopy or natural area recommended by the Comp Plan, and the current use of an eating establishment with drive-thru is not disallowed or restricted within the 100-year floodplain per the Flood Control Secondary Districts Ordinance.
- The Comprehensive Plan and the recent Castleton Plan (not formally certified) indicate that the area to the north of this parcel should be reserved for a 'linear park' (i.e. multi-use path, greenway, bicycle path, etc.). This is reflective of community desire for the 82nd Street corridor and Castleton area to be reimagined as a series of walkable villages in the future.
- Limitations on the placement of stacking spaces within front yards exist to reduce congestion and vehicular conflict with pedestrian as well as to allow for attractive, pedestrian-oriented storefronts facing rights-of-way (screening requirements also contribute to these goals). Although staff doesn't wish to expand a non-compliant automotive use in an area attempting to establish greater walkability, this scope of work would not result in the placement of any new stacking spaces within the front yard and may improve pedestrian safety for those attempting to enter the building from the west. Staff is supportive of the variance request on the condition that additional landscaping is added along the Knue Road frontage to provide partial screening of existing stacking spaces.



GENERAL INFORMATION

Existing Zoning	C-3 (FF)	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	C-4
	South:	C-S
	East:	C-3
	West:	C-S
Thoroughfare Plan		
82 nd Street	Primary Arterial	Existing ROW: 145' Prop ROW: 134'
Knue Road	Local Street	Existing ROW: 100' Prop ROW: 50'
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	12/20/2023	
Site Plan (Amended)	N/A	
Elevations	12/20/2023	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	12/20/2023	
Findings of Fact (Amended)	01/23/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Land Use Plan Pattern Book recommends the Community Commercial working typology for this site to allow for low-intensity commercial and office uses that serve nearby neighborhoods.
- The site also falls within the Environmentally Sensitive overlay which is designed to prevent or mitigate potential damage to high quality woodlands, wetlands, or other natural resources.

Red Line / Blue Line / Purple Line TOD Strategic Plan



- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2014DV2046, Variance of development standards of the Sign Regulations to provide for a 25-foot tall, approximately 150-square foot freestanding sign, exceeding the maximum integrated center sign area, being the ninth sign along this approximately 2300-foot frontage, within 105 feet of an existing freestanding sign (maximum 900 square feet of sign area permitted, maximum seven signs permitted, minimum 300 feet of separation), **approved**.

2014DV1003, Variance of development standards of the Sign Regulations to provide for a six-foot tall (ground signs cannot exceed four feet in height, minimum clearance of nine feet required), off-site business park advertising sign located in the right-of-way of 86th Street (signs not permitted within the right-of-way, 10-foot setback from proposed right-of-way required), approximately 215 feet from an existing advertising sign to the west (1,000 feet radial separation required), **approved**.

2001DV1040, Variance of development standards of Sign Regulations to provide for a 58.5 square foot advertising sign, being six feet tall (minimum of nine feet required), located within the right-of-way, 67 feet from the centerline of 82nd Street (minimum front setback of 90 feet required), and having 250 feet of linear separation oriented to the same street and radial separation from an advertising sign (minimum 1,000 feet of linear separation oriented to the same street and 500 feet of radial separation between advertising signs required), **denied**.

ZONING HISTORY – VICINITY

2023DV3046, 6415 E 82nd Street (east of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through that faces a public right-of-way greater than 30-foot wide (not permitted) with five parking spaces provided (six required), **withdrawn**.

2022DV3048, 6303 E 82nd Street (east of site), (Amended) Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster within the front yard of Knue Road (not permitted), **approved**.

2014DV1037, 6130 E 82nd Street (northwest of site), Variance of development standards of the Sign Regulations to provide for a 40-foot tall, 150-square foot pylon sign within approximately 195 feet of an existing freestanding sign to the west (minimum 300 feet of separation required), with an 11.25-foot front setback (minimum 15-foot setback required), **approved**.

2014DV3027, 6801 E 82nd Street, (west of site), Variance of development standards of the Sign Regulations to provide for two signs within two feet of each other (300 feet of separation required), **approved**.



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2011DV1028, 6055 E 82nd Street (west of site), Variance of development standards of the Sign Regulations to provide for a freestanding sign 133 feet from a freestanding sign (600 feet of separation required), **approved**.

2011ZON011, 6055 E 82nd Street (west of site), Rezoning of 1.52 acres, from the C-3 District, to the C-4 classification to provide for commercial uses, **approved**.

2005DV2053, 6110 E 82nd Street (northwest of site), Variance of the Sign Regulations to provide for a forty-foot tall, 153.75-square foot pole sign located 196.1 feet from an existing freestanding sign within an integrated center (minimum 300-foot separation required between freestanding signs in an integrated center) in C-4, **approved**.

2001ZON817, 6081 E 82nd Street (south of site), Rezone 122.13 acres from C-3, C-4, C-7 and I-2-S to C-S to provide for the development and redevelopment of an office-commercial-industrial business park, **approved**.

2000UV3057, 6070 E 82nd Street (northwest of site), Variance of use of the Commercial Zoning Ordinance to provide for an automobile glass replacement shop (not permitted), **approved**.

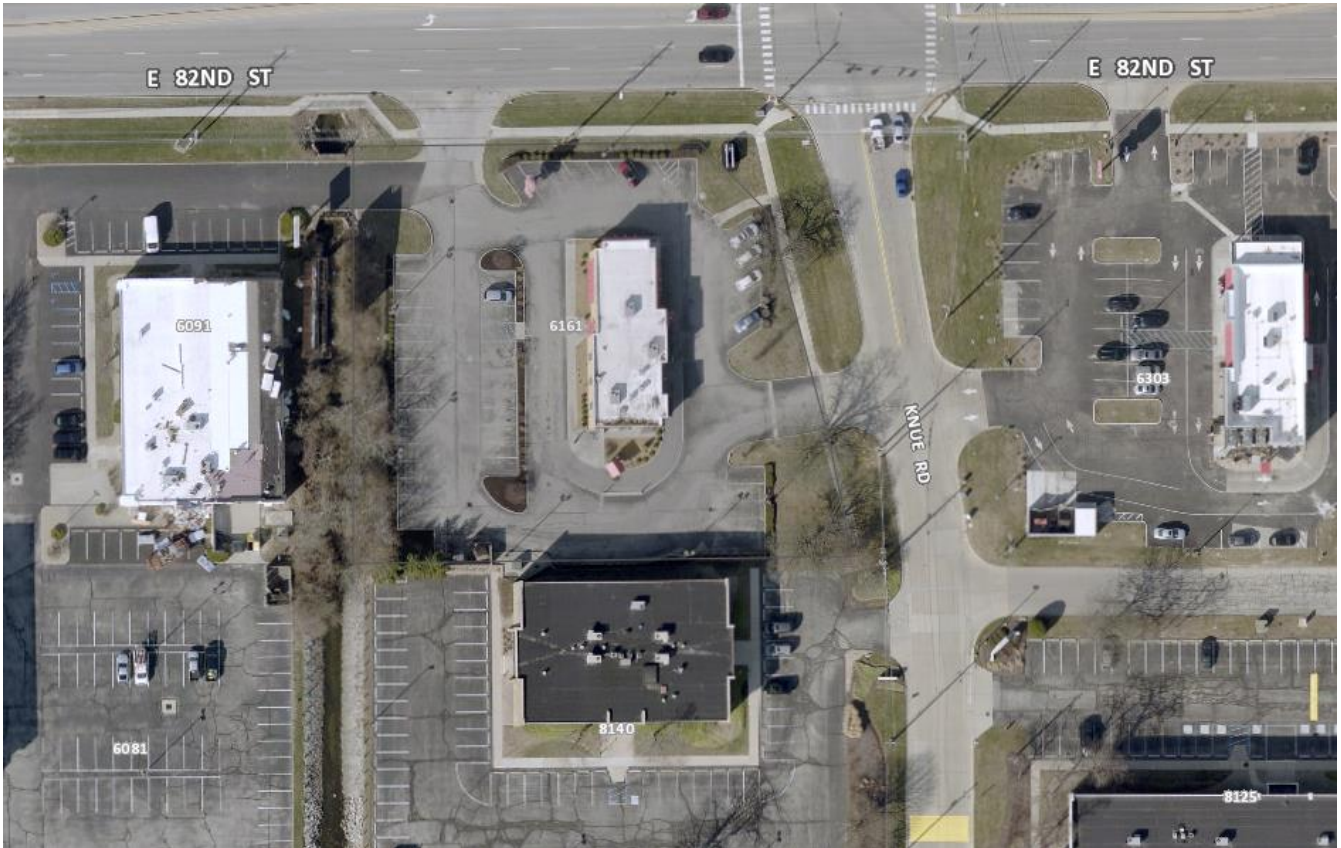
99-V1-153, 6071 E 82nd Street (west of site), Variance of development standards of the Sign Regulations to provide for a 50 square foot, illuminated pylon sign being 10 feet in height, located 96 feet from an existing pylon sign and 219 feet from an additional pylon sign, within an integrated commercial center (minimum 300-foot separation required), **denied**.

91-V2-52, 6081 E 82nd Street (west of site), Variance of development standards of the Commercial and Industrial Zoning Ordinances to permit the development of a commercial business park without the required public street frontage, **approved**.

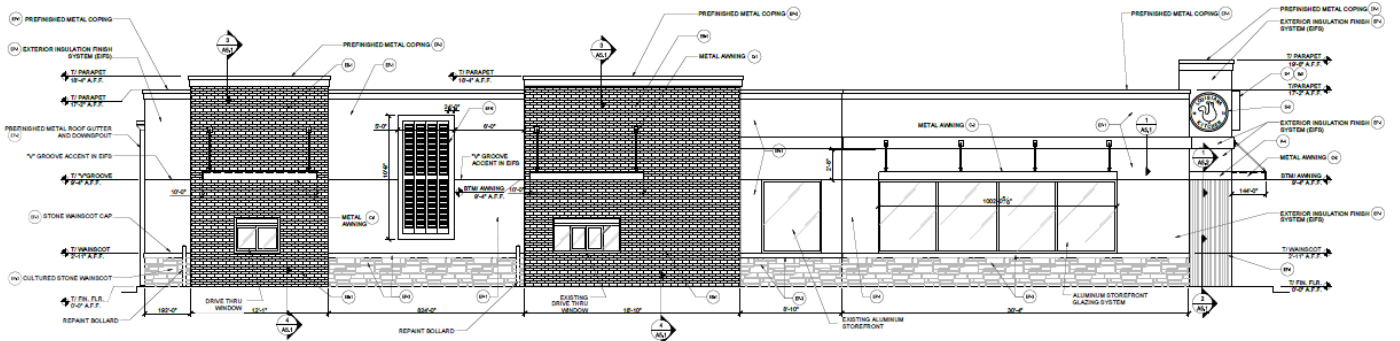
85-SE3-7, 6302 E 82nd Street (northeast of site), Commercial special exception to provide for an amusement arcade with 50 game machines, **approved**.

EXHIBITS

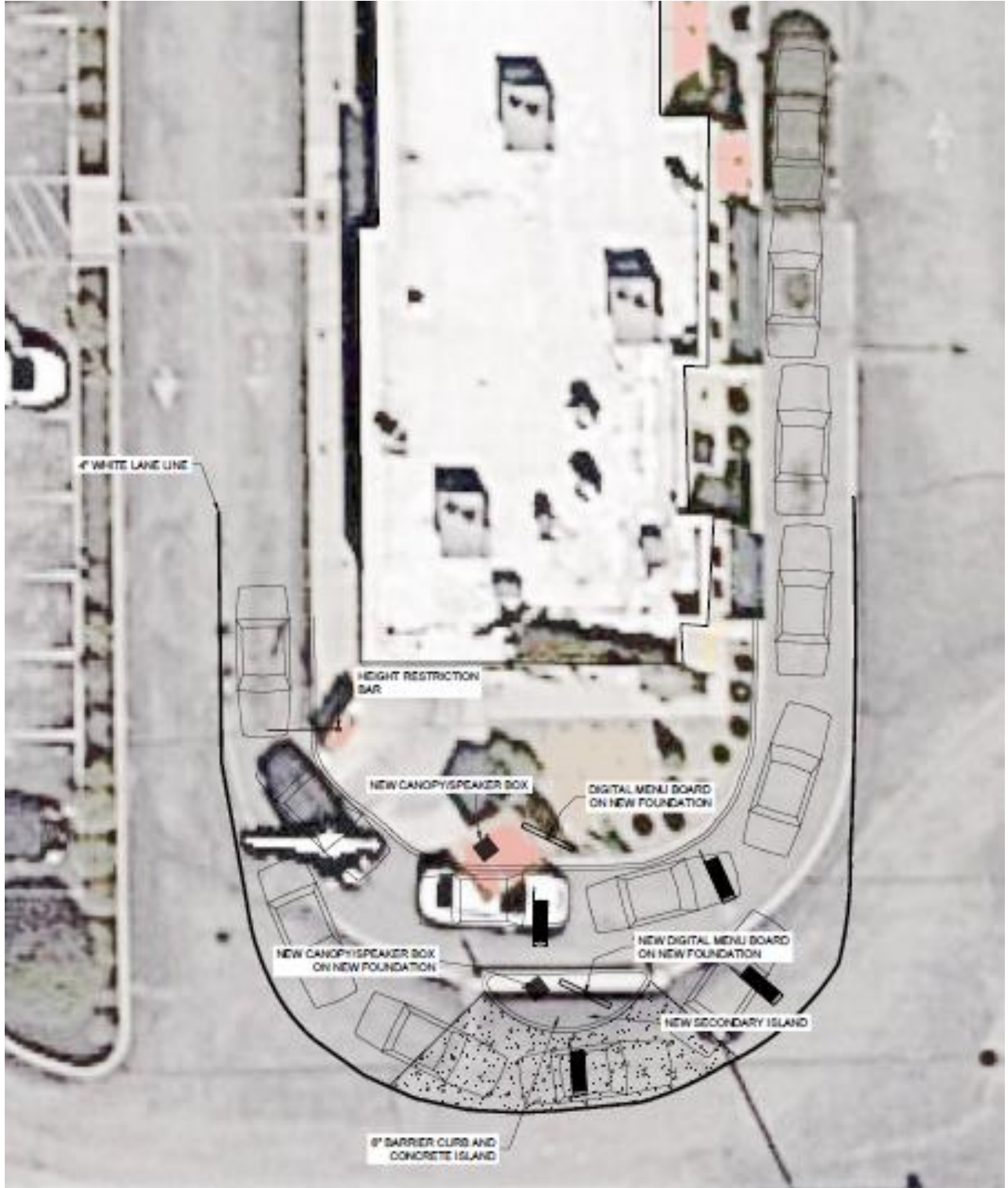
2024DV3002 ; Aerial Map



2024DV3002 ; Proposed Eastern Elevation



2024DV3002 ; Layout Plan





2024DV3002 ; Findings of Fact

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

This project is an interior and exterior remodel of the existing Popeye's Restaurant and so has no adverse effect on the surrounding parcels or general welfare of the community. Converting the drive-thru from a single lane to a double lane drive-thru will not increase the car stacking on the east side of the property where the front yard that is exceeding 30 feet along the public right of way is located, and hence not have an adverse effect on the community.

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

The parcels adjacent to the existing Popeye's Restaurant are in the C-3, Neighborhood Commercial District, and are compatible with the existing Popeye's Restaurant. The proposed remodel of the existing Popeye's Restaurant by the addition of a secondary island for the proposed double lane drive-thru, will not affect the accessibility of the stores adjacent to the project.

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

Without the car stacking being allowed on the east side of the building at the pick up windows, there will be more vehicle stacking on the west side of the property. This could create dangerous conditions for vehicles trying to drive around the site and for patrons trying to enter the building. By the addition of a double lane drive-thru vehicles will be able to move through the drive-thru quicker and there will be more vehicles able to be stacked at the back of the building where there are no parking spaces versus the west side of the building where patrons will be entering the building.



Department of Metropolitan Development
 Division of Planning
 Current Planning

2024DV3002 ; Support Letter 1



Metropolitan Development Commission
 Division of Planning - Board of Zoning Appeals
 200 East Washington Street
 Indianapolis, IN 46204

RE: 2024-DV3-002
6161 East 82nd Street
Popeye's Chicken
Indianapolis, In

February 19, 2024

To Whom It May Concern,

The Greater Allisonville Community Council voted to support the petition after being provided additional information about the proposed commitment. Landscaping to be installed within 6 months of the variance approval along the eastern property line.

Sincerely,

A handwritten signature in black ink that reads 'Sue Pfohl'. The signature is written in a cursive style.

Sue Pfohl,
 President GACC



Department of Metropolitan Development
Division of Planning
Current Planning

2024DV3002 ; Support Letter 2



Date: February 12, 2024

Metropolitan Board of Zoning Appeals
200 East Washington Street, Suite 1842
Indianapolis, IN 46204

RE: 2024-DV3-002 (Popeyes)
6161 East 82nd Street
Indianapolis, Indiana 46250

To Whom It May Concern,

Binford Redevelopment and Growth (BRAG) is a neighborhood organization comprised of local citizens whose mission is the commercial and residential enhancement of the Binford Boulevard corridor and adjacent neighborhoods. BRAG continues to work and partner with the City of Indianapolis to implement the Castleton Strategic Revitalization Plan.

The Castleton area and Binford Boulevard are gateways to the City of Indianapolis, and as such, the areas deserve particular attention for economic improvement and beautification. As part of the community, we strive to bring various professional services, convenient, high-quality shopping, business growth, development opportunities, employment, recreation, culture, and beautiful green spaces.

BRAG supports the requested variance. Providing that an approved landscape screen is provided as requested by the City of Indianapolis, Department of Metropolitan Planning. BRAG is pleased with the completed exterior building upgrades that were unrelated to this specific petition.

Thank you,

Troy Barker

Troy Barker,
Binford Redevelopment and Growth,
Zoning Committee
317-459-9986

Binford Redevelopment & Growth | 5868 East 71st Street Suite E-104, Indianapolis, IN 46220

2024DV3002 ; Pictures



Photo 1: Eastern Elevation (Front Yard)



Photo 2: Drive-Thru in Front Yard Viewed from North

2024DV3002 ; Pictures (continued)



Photo 3: Building and Drive-Thru From Southeast



Photo 4: Adjacent Property to East

2024DV3002 ; Pictures (continued)



Photo 5: Existing Drive-Thru Menu Board from East



Photo 6: Southern Elevation and Existing Drive-Thru Menu Board

2024DV3002 ; Pictures (continued)



Photo 7: Existing Drive-Thru Menu Board from West



Photo 8: Western Elevation



BOARD OF ZONING APPEALS DIVISION I

March 5, 2024

Case Number: 2024-UV3-001

Property Address: 1615 West Edgewood Avenue (approximate address)

Location: Perry Township, Council District #22

Petitioner: GND Property Inc., by Epifanio Carbajal

Current Zoning: C-4

Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for primary and accessory residential uses (not permitted).

Current Land Use: Residential

Staff Recommendations: Staff **recommends approval** of this petition, conditional to substantial compliance with the site plan, file-dated 1/2/2024

Staff Reviewer: Noah, Stern Associate Planner

PETITION HISTORY

ADDENDUM FOR MARCH 5, 2023

- This petition was transferred from BZA Division III on February 20, 2024 to BZA Division I due to lack of a quorum.

STAFF RECOMMENDATION

Staff **recommends approval** of this petition, conditional to substantial compliance with the site plan, file-dated 1/2/2024.

PETITION OVERVIEW

- This petition would provide for primary residential uses on site (not permitted).
- The site was a part of the plat petition 2023-PLT-063, which created two separate parcels, 1615 and 1635 West Edgewood Avenue. The accessory structure is located on 1635 W Edgewood Avenue. The parcel pertaining to this petition is 1615 W Edgewood Avenue, meaning that no accessory structures exist on the subject site. Likewise, the petitioner confirmed with Staff that no future accessory structures are to be built on site. Therefore, that portion of the request can be removed from the petition.
- With the primary structure being built in 1900, and, thus, containing legal non-conforming status, Staff is not opposed to the request, but would ask for substantial compliance with the submitted site plan.



GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Residential	
Comprehensive Plan	Office Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	I-2 North: Industrial
	South:	C-4 South: Commercial
	East:	D-A East: Single-family residential
	West:	C-4 West: Commercial
Thoroughfare Plan		
West Edgewood Avenue	Primary Arterial	40-foot right-of-way existing and 80-foot proposed
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	1/2/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/2/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.



Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2023PLT063, Approval of a Subdivision Plat, to be known as Edgewood Properties, dividing 1.45 acres into two lots, **approved**.

2015ZON074, Rezoning of 1.45 acres from the D-A (W-1) district to the C-4 (W-1) classification to provide for a 10,000-square foot building for a haunted house, **approved**.

ZONING HISTORY – VICINITY

2023DV3006; 6039 S Harding Street (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for: a) A carport and mini barn located within the front yard of Harding Street (accessory structures not permitted in front of the primary building); b) A mini barn with a six-foot north side yard setback, and another with an eight-foot north side yard setback, resulting in a 50-foot aggregate side yard setback (minimum 30-foot side yard setback, 75-foot aggregate side yard setback required); and c) Resulting in an open space of 82% (85% open space required), **approved**.

2021ZON114; 1525 W Edgewood Avenue (east of site), Rezoning of 0.417 acre from the D-A district to C-1 district, **approved**.

2021ZON086; 1735 W Edgewood Ave (west of site), Rezoning of 2.29 acres from the I-2 (FF) district to the I-3 (FF) district, **approved**.

2020ZON058; 6111 Lakehaven Lane (south of site), Rezoning of 8.2 acres from the I-2 district to the C-7 district, **approved**.

2017DV2013; 6020 Lakehaven Lane (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an industrial building, with a 49-foot north front setback and 32-foot east front setback (60-foot front setback from the proposed right-of-way required), **approved**.

2013ZON055; 1739 W Edgewood Avenue (west of site), Rezoning of four acres from the D-A (FF) (W-1) district to the C-S (FF) (W-1) classification to provide for office use, warehouse use, a distribution facility, with a retail component, and all I-3-S uses, **approved**.

2009ZON067; 6020 W Edgewood Ave (west of site), Rezoning of 3.06 acres, from the I-2-S (W-1)(FF) and C-S (W-1)(FF) Districts, to the I-3-S (W-1)(FF) classification to provide for medium-intensity industrial uses, **approved**.

2006ZON042; 6111 Lakehaven Lane (south of site), REZONING of 8.19 acres, from the C-S (FF) (W-1) and I-2-S (FF)(W-1) Districts, to the I-2-S (FF)(W-1) classification to provide for light industrial suburban uses. recorded commitment instrument number 2006-0146077, **approved**.

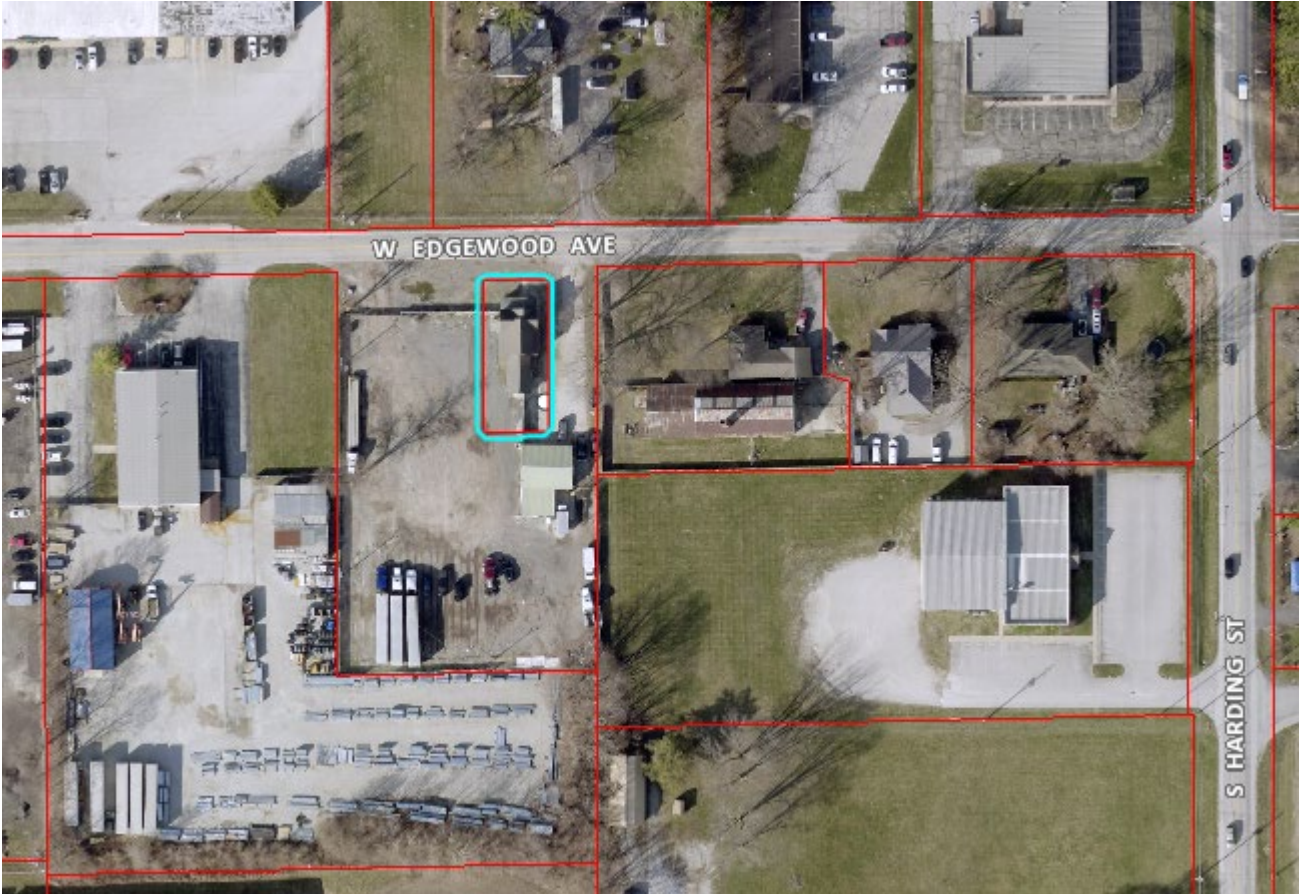


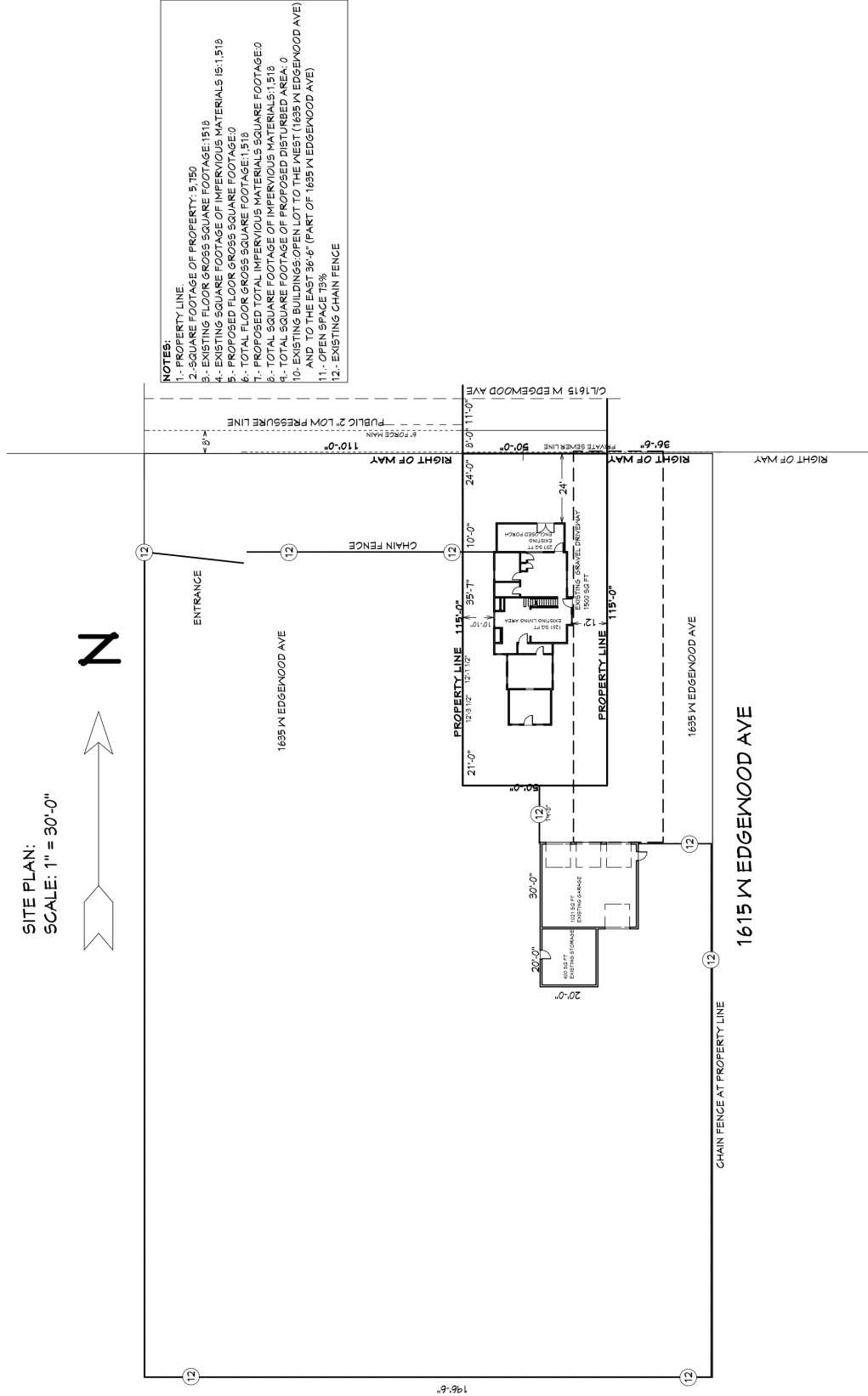
Department of Metropolitan Development
Division of Planning
Current Planning

99-Z-29; 6030 South Harding Street (east of site), Rezoning of 2 acres from the D-A district to the I-2 district, **approved**.

94-UV1-120; 1614 W Edgewood Ave (north of site), variance of use of the Industrial Zoning Ordinance to provide for a licensed animal kennel and residence (not permitted), **approved**.

EXHIBITS









STAFF REPORT

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

Case Number: 2023-UV3-022
Address: 8345 Bash Street (approximate address)
Location: Lawrence Township, Council District #3
Zoning: C-4
Petitioner: CF Laughner Associates, by David Gilman
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a building to be used for automobile sales (not permitted).

ADDENDUM FOR MARCH 5, 2024

Due to a lack of quorum, this petition was continued from the February 20, 2024, Board III hearing, and transferred to the March 5, 2024, Board I hearing.

February 20, 2024

This petition was automatically continued from the December 19, 2023, hearing, to the January 16, 2024, hearing, and continued for cause from the January 16, 2024, hearing, to the February 20, 2024, hearing, both at the request of the petitioner’s representative.

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4 Undeveloped

SURROUNDING ZONING AND LAND USE

North - C-4 Commercial Restaurant
South - C-4 Commercial Hotel
East - C-4 Commercial Hotel
West - C-S Commercial office park

COMPREHENSIVE PLAN The Comprehensive Plan community commercial uses for the site.

VARIANCE OF USE

- ◇ This request would provide for automobile sales, a C-5 use, within an area associated with community commercial development, with C-4 and C-S zoning. A use compatible with a C-5 zoning at this location would represent a deviation from the Comprehensive Plan recommendation of community commercial uses.

(Continued)

STAFF REPORT 2023-UV3-022 (Continued)

- ◇ Retail automobile, motorcycle and light vehicle sales and rentals are generally considered a high-intensity commercial use, along with go-cart raceways, tractor sales, outdoor flea markets, and newspaper printing and publishing. The C-5 zoning classification where automobile sales are permitted, is intended for uses that often tend to have extensive outdoor display and activity, bright lighting, and noise; characteristics that negatively affect lesser zoned districts.
- ◇ The proposed use would require extensive outdoor storage of product, materials, and equipment, compared to uses that are permitted in the C-4 district. Staff believes that this request, if approved, would run counter to the intent of the C-4 District, and would detract from a streetscape that has no uses that require outdoor storage.
- ◇ Staff has concerns that recommending approval of the variance request would encourage the encroachment of other heavy commercial and C-5 uses in the corridor.
- ◇ There is no hardship associated with this property that necessitates a grant of this variance. It is currently zoned C-4 and can be utilized for C-4 uses without the benefit of a use variance.
- ◇ The petitioner has submitted a proposed site plan to the file. If the Board should approve the petition, Staff recommends that approval be subject to the submitted amended site plan file-dated February 8, 2024.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Bash Street is indicated in the Official Thoroughfare Plan as a primary collector, with a 103-foot existing and proposed right-of-way.
SITE PLAN (AMENDED)	File-dated February 8, 2024.
FINDINGS OF FACT	File-dated November 2, 2023.

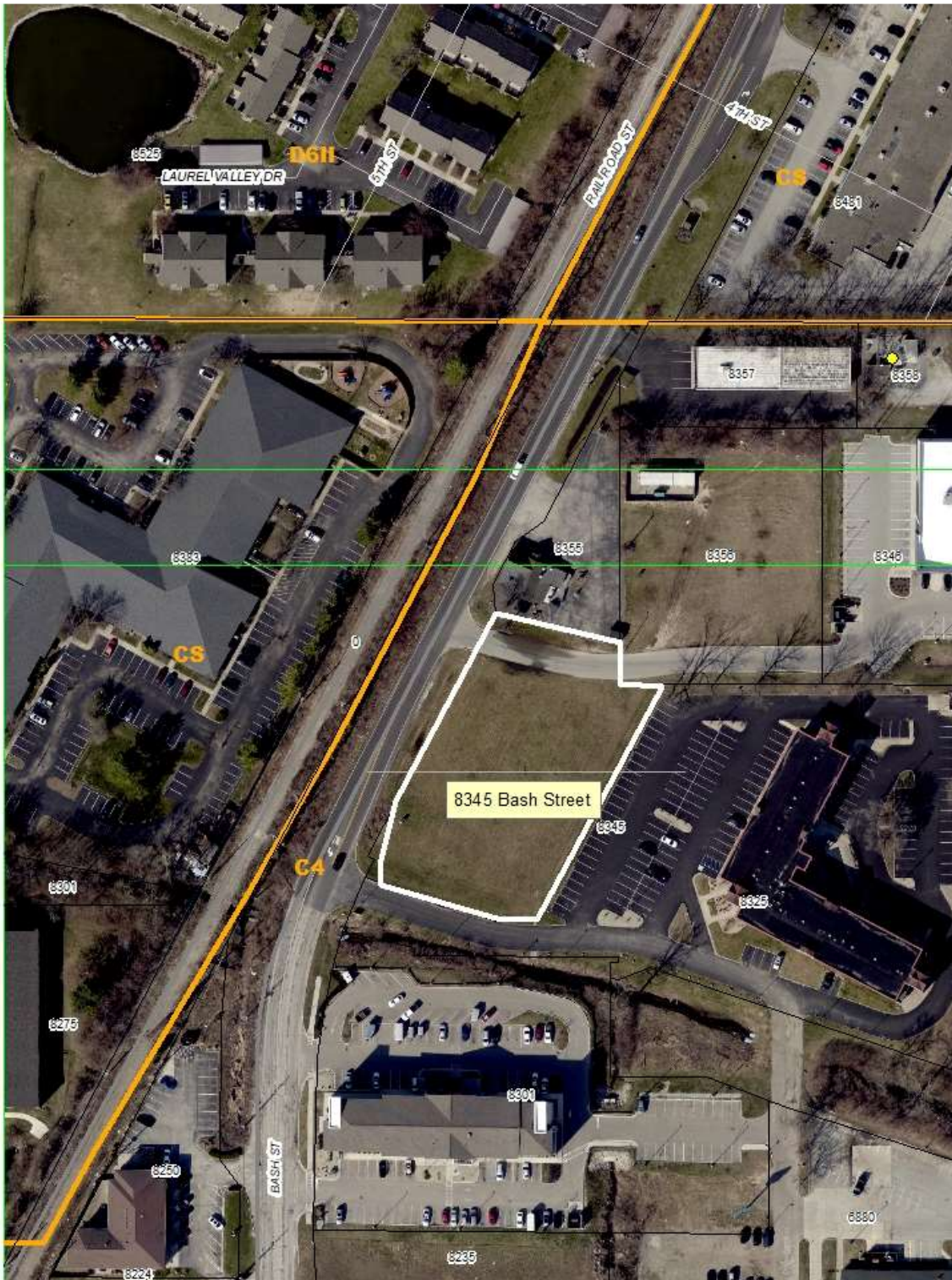
ZONING HISTORY

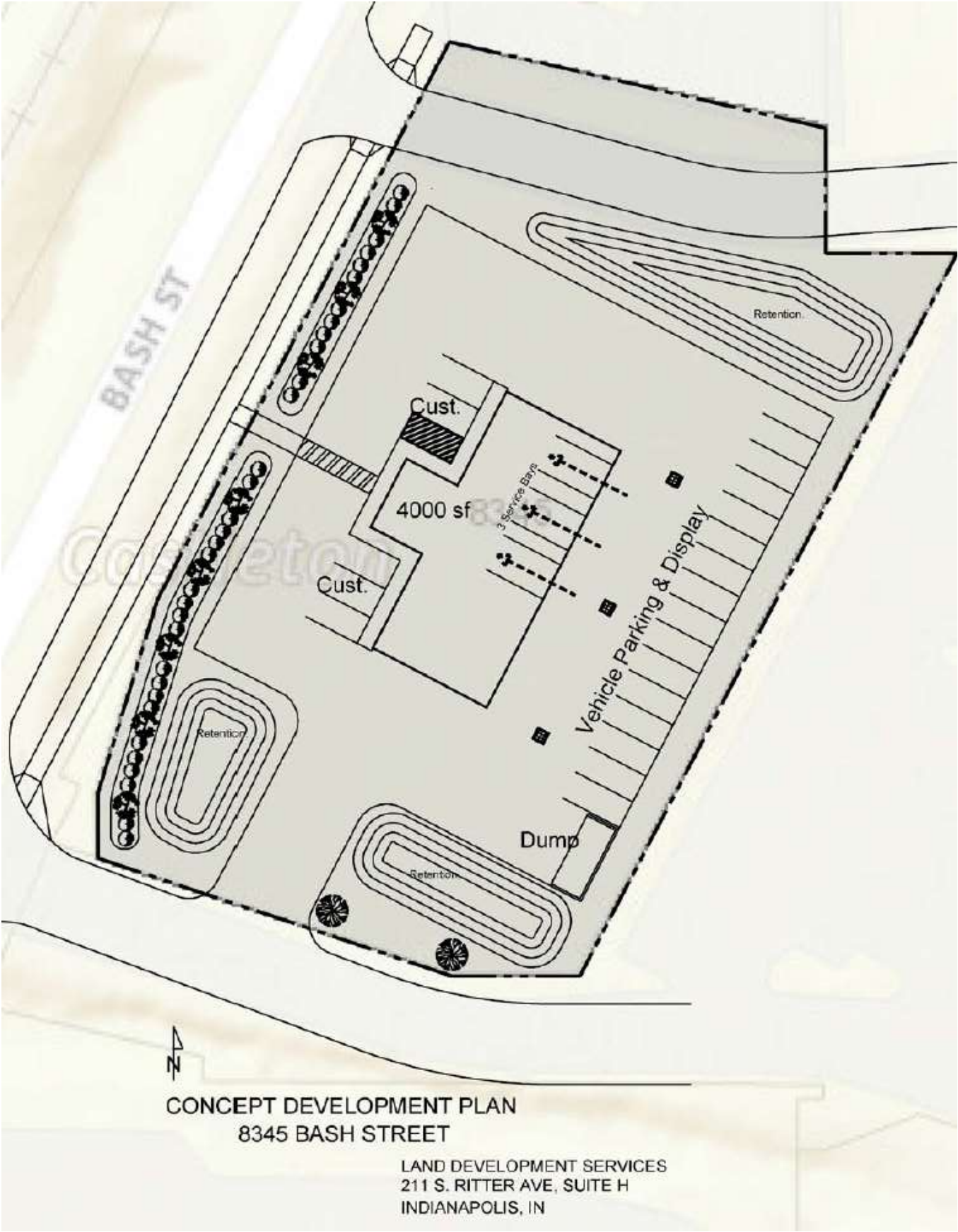
2017-DV3-036; 8301 Bash Street (south of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for transparency only adjacent to public areas at public entrances, **granted**.

85-Z-170; 6902 East 82nd Street (includes subject site), requested a rezoning of 4.7 acres, being in the C-4, SU-2, and I-1-S Districts, to the C-6 classification, to provide for highway-oriented commercial uses, **approved**.

RU * * * * *

2023-UV3-022: Location Map





CONCEPT DEVELOPMENT PLAN
8345 BASH STREET

LAND DEVELOPMENT SERVICES
211 S. RITTER AVE, SUITE H
INDIANAPOLIS, IN



subject site looking east



subject site looking east



Adjacent community commercial restaurant use to the north of site.



Adjacent community commercial hotel use to the east of site.



Adjacent community commercial hotel use to the south of site, looking southeast.



Adjacent office commercial use to the west of site

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-026
Address: 4328 East Michigan Street (approximate address)
Location: Center Township, Council District #12 (#13 Beginning 2024)
Zoning: MU-1
Petitioner: Robert McInteer
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an existing building to a duplex (not permitted) with one-foot front yard setbacks from Michigan Street and Euclid Avenue and a six-foot west side yard setback (12-foot front yard, 10-foot side yard setbacks required).

ADDENDUM FOR MARCH 5, 2024

Petitioner requested continuance and transfer of this petition from the February 20, 2024 hearing of Division III, to the March 5, 2024 hearing of Division I, due to the lack of a quorum.

ADDENDUM FOR FEBRUARY 20, 2024

This petition was continued, for cause, at the request of a registered neighborhood organization, to the February 20, 2024 hearing of Division III. The petitioner has since withdrawn the portion of the request related to prohibited vehicular access from Euclid Avenue. Subsequently, **Staff recommends approval** of the request.

January 16, 2024

RECOMMENDATIONS

Staff **recommends denial** of the request to allow for vehicular access from Euclid Avenue, however, **recommends approval** of the remainder of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

MU-1 Compact Vacant

(Continued)

STAFF REPORT 2023-UV3-026 (Continued)**SURROUNDING ZONING AND LAND USE**

North	D-5	Single-family Dwellings
South	MU-1	Single-family Dwellings and General Commercial
East	D-5	Multi-family Dwellings
West	D-5	Single-family Dwellings & Two-Family Dwellings

COMPREHENSIVE PLAN The Comprehensive Plan recommends Village Mixed-Use development.

- ◇ This 0.11-acre lot, zoned MU-1, is currently improved with a vacant, previously commercial office building, with a residential appearance.
- ◇ North of the subject site are single-family dwellings, within the D-5 District. West of the site are single and two-family dwellings within the MU-1 District. To the east is a multi-family structure within the MU-1 District. To the south, across Michigan Street, are single-family dwellings and a general commercial building.
- ◇ The MU-1 District is intended to promote the development of high-rise office uses with apartments intermixed within the same building. The district is intended to be applied in areas with access to primary arterials, within proximity to high frequency mass transit, in order to promote increased presence of regional commercial complexes. Prior to the adoption of Indy Rezone, the subject site was zoned C-2, which served a similar purpose to the MU-1 District.

VARIANCE OF USE

- ◇ The request, as proposed, would allow for the conversion of the existing structure into a two-family dwelling.
- ◇ According to Assessor Property Cards, the structure was built in 1922, and has an area of 756 square feet. While a floor plan has not been provided, this would allow for the development of two efficiency style dwelling units. Staff would note that this would support the Ordinances Livability Principles, specifically to promote equitable, affordable housing options.
- ◇ Ideally, this Livability Principle would be applied in instances where the goal of lowering the combined cost of housing and transportation can be achieved. At the time of publication, the subject site is located along Indy Go's Route 3, which provides service every 30 minutes. Therefore, Staff believes the request to represent a reasonable deviation from the Ordinance.
- ◇ In Staff's opinion, the subject site is mis-zoned, given that the lot is substandard to reasonably provide for the building typology and intensity of uses associated with the intent of the district. Given that the request intends to repurpose the existing building, Staff believes there to be sufficient hardship warranting a favorable recommendation.
- ◇ Staff would note, however, that if approved, the variance grant would only apply to the existing building. Its grant would not apply to any subsequent building additions or site redevelopment.

(Continued)

STAFF REPORT 2023-UV3-026 (Continued)

- ◇ The use, as proposed, is more in line with the Artisan Food and Beverage land use. While this use is permitted within most Commercial and Mixed-Use Districts, and therefore would continue to require a variance of use within the D-5 District, Staff would note that this type of use is contemplated by the Land Use Pattern Book.
- ◇ According to the Land Use Pattern Book, such operations, classified as Community Farms/Gardens, are promoted to be located on sites recommended for Traditional Neighborhood Development, so long as they are limited to no more than two acres per site. This recommendation contemplates the sales of products grown on site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The portions of the request related to setbacks effectively legally establish deficiencies associated with the footprint of the existing building. Given the adaptive reuse of the structure, and facts indicated above, Staff believes this to be a reasonable request.
- ◇ The request also intends to provide vehicular access from Euclid Avenue along its eastern lot line. All lots within Marion County, with less than 200 linear feet of street frontage, that abut improved alleys, are required to maintain exclusive vehicular access from said alley. This alley is improved and appears to be well used given the presence of parking pads along the alley.
- ◇ This standard is intended to reduce the potential for conflict between vehicles and pedestrians and preserve the sidewalk network throughout the County by reducing the number of unnecessary curb cuts. Staff believes that this would unduly introduce a pedestrian hazard, and that no practical difficulty exists warranting approval of this portion of the request.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of Michigan Street is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing 59-foot right of way and proposed 78-foot right-of-way.

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

SITE PLAN

File-dated December 11, 2023.

FINDINGS OF FACT

File-dated December 11, 2023.

ZONING HISTORY – SITE

None.

(Continued)

STAFF REPORT 2023-UV3-026 (Continued)**ZONING HISTORY – VICINITY**

2021-UV1-005; 437 North Euclid Avenue; requests variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a transitional living quarters; *granted*.

2006; UV3-011; 4401 East Michigan Street; requests variance to provide for repair of used automobiles, with one parking space in the required ten-foot east transitional yard, with one parking space with insufficient maneuvering area in the alley; **granted**.

2005-HOV-035; 4319 East Michigan Street; requests variance to legally establish an existing two-story single-family dwelling with a detached garage; **granted**.

99-UV2-27; 4406 East Michigan Street; requests variance of use of the Commercial Zoning Ordinance to legally establish a 20 by 20 foot addition to an existing garage, associated with an existing single-family dwelling; **granted**.

98-Z-84; 4410-4424 East Michigan Street; requests rezoning of 0.5 acre from C-2 and D-5 Districts to the SU-1 classification; **approved**.

98-UV2-1; 4406 East Michigan Street; requests variance of use of the Commercial Zoning Ordinance to legally establish a 20 by 20 foot addition to an existing detached garage associated with a single-family residence; **denied**.

95-UV1-72; 4324 East Michigan Street; requests variance to provide for an ice producing operation; **granted**.

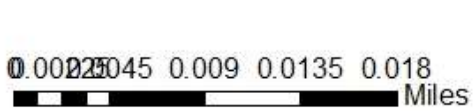
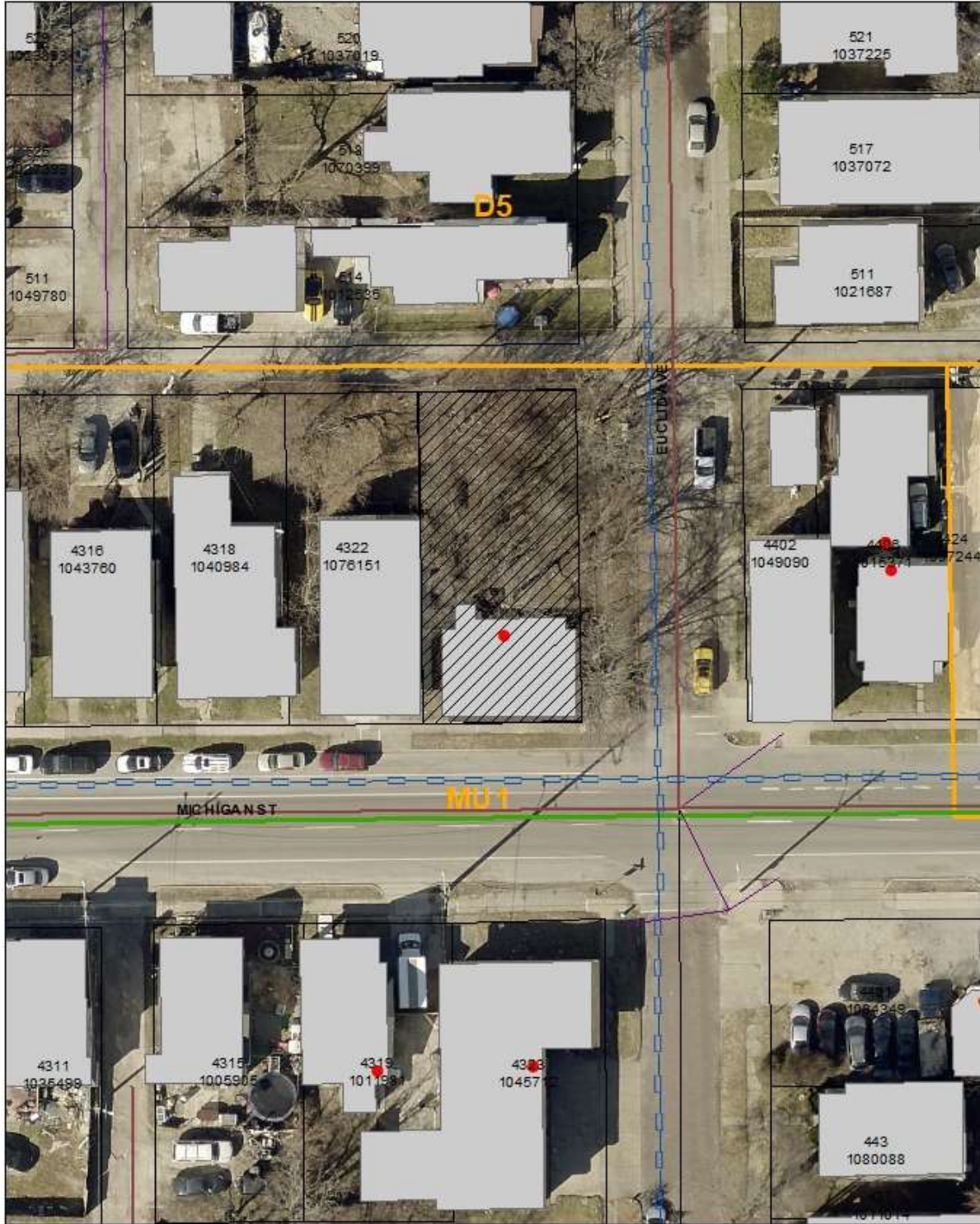
95-UV1-44; 4401 East Michigan Street; requests variance to legally establish a building contractor's facility in two one-story structures; **granted**.

94-V1-86; 422 North Linwood Avenue; requests variance to legally establish a 336-square foot carport with a zero-foot side yard setback, resulting in 62% open space; **granted**.

88-Z-75; 4428 East Michigan Street; requests rezoning of 0.12 acre from D-5 to C-3; **approved**.

81-V3-16; 4501 East Michigan Street; requests variance of use and development standards to permit open air auto sales with office and signs; **granted**.

EDH



Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The nature of this petition is to allow for safe, healthy and affordable housing for residents of Indianapolis. This petition also mirrors the city's comprehensive plan of being a residential area.

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

A majority of the properties in close proximity are used as residential dwellings, which will allow for this variance of use to seamlessly interlock with the current zoning of adjacent properties. Speaking to the value of adjacent properties, the previous condition of the property is light, as a result would help better the community image and value, in the immediate area as well as this overall section of the michigan st corridor.

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

It is the petitioner's understanding that a zoning ordinance was adopted in 1968 to promote the development of commercial buildings to support the needs of the local community. This ordinance included converting 4328 E. Michigan st to a MU1 designation which does not fit well within the city's or community's needs the the present day. Since 1968 other areas have had more success garnering development for the community.

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

The current property use drastically limits the property's ability to have a positive contribution to the community. The majority of uses for MU1 generally require a much larger lot size for development.

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

The current comprehensive plan designates this area as heavily traditional neighborhood. Two family dwellings are and will continue to be depended upon to provide safe, healthy and affordable housing for the constituents of Indianapolis.

DECISION

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

Adopted this _____ day of _____, 20 ____

2023-UV3-026; Findings of Fact – Development Standards

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The property is to remain within the comprehensive plan set forth by the city as a residential area and add affordable safe and healthy housing units, for residents of Indianapolis.

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

The value and overall use will increase by adding affordable living conditions for at least two residents to become part of the community.

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

The property will not conform to the zoning ordinance development standards designated for MU1 for many factors including, minimum street frontage, minimum front yard setback, side transitional yard/abutting alley, minimum primary building height (all included in table (744-201-4). The development standards will prevent the practical use of the property in a reasonable manner due to the MU1 zoning designation being primarily for use in high rise and large unit mixed use buildings.

DECISION

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

Adopted this _____ day of _____, 20 ____

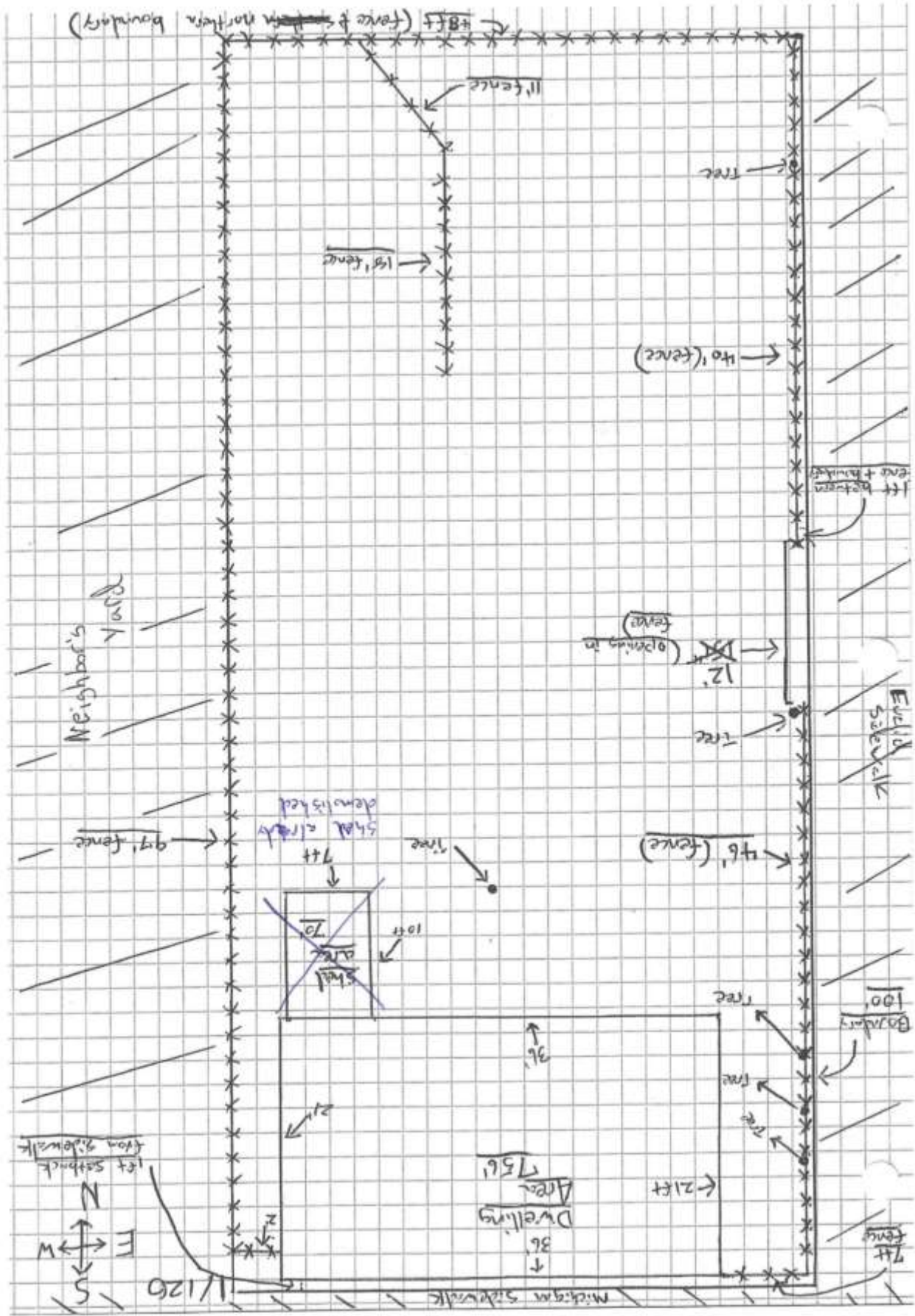




Photo One: Looking East Along Michigan Street



Photo Two: Looking West Along Michigan Street – Subject Site On Right



Photo Three: Facing South Along Euclid Avenue, Across Michigan Street



Photo Four: Looking North Along Euclid Avenue, Subject Site On Left



Photo Five: Existing Gap In Fence, Facing West



Photo Six: Looking West Along Improved Alley, Subject Site On Left



BOARD OF ZONING APPEALS DIVISION I | **March 5, 2024**

Case Number: 2023-UV1-021

Property Address: 7040 Rockville Road (approximate address)

Location: Wayne Township, Council District #15

Petitioner: Donald P. Quass, by David Gilman

Current Zoning: D-3

Request: Variance of use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a secondary dwelling unit, without an owner living on site (not permitted), with a zero-foot west side yard setback (six-foot side yard setback required).

Current Land Use: Residential

Staff Recommendations: Staff **recommends approval** of the zero-foot west side yard setback; however, Staff **recommends denial** of the remainder of the petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR MARCH 5, 2024 BZA DIVISION I HEARING

- This petition was continued from the November 14, 2023 hearing to the December 5, 2023 hearing for additional variance requests. The petitioner did not meet the publishing deadline for the December 5, 2023 hearing and requested a 2-month continuance to the February 6, 2024 hearing.
- The petitioner requested a continuance to the March 5, 2024 BZA I hearing which was granted.

STAFF RECOMMENDATION

Staff **recommends approval** of the zero-foot west side yard setback; however, Staff **recommends denial** of the remainder of the petition.

PETITION OVERVIEW

- This petition would provide for a secondary dwelling unit, without an owner living on the site (not permitted), with a zero-foot west side yard setback (six-foot side yard setback required).
- The petitioner filed for a Certificate of Legal Non-Conforming Use (2024-LNU-001) which would legally establish the accessory structure and its west side yard setback location of zero feet. This structure has been in existence since approximately 1946 and predates the setback standards currently in place for this site, qualifying it for LNU status. The LNU Certificate, which remains in review, would effectively render the portion of the request pertaining to the west side yard setback



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

unnecessary and, therefore, would not need to be included in this petition. Staff has no preference as to which method (either through this variance request or the LNU) of legally establishing the accessory structure and its location is chosen and would leave that decision up to the petitioner.

- Given the legally non-conforming nature of the secondary dwelling unit, Staff is not opposed to the variance of development standards to allow for the zero-foot side yard setback and would recommend approval if the petitioner elects to keep it as a portion of this petition.
- The petition also requests a use variance to allow for the secondary dwelling unit to be used as such without the property owner living on site. This portion of the request does not comply with the use standards set out by 743-301.GG of the Consolidated Zoning and Subdivision Ordinance. While secondary dwelling units are legal in all dwelling districts, operating a secondary unit without the owner living on site is not a permitted use per 743-301.GG. Further, Staff does not see any practical difficulty or justifiable reason in which the owner is not able to comply with the regulations set forth by the Ordinance, which explicitly prohibits the requested use. Therefore, Staff is opposed to and recommends denial of the use variance to allow for the secondary dwelling unit to be in operation without the property owner living on the site.

GENERAL INFORMATION

Existing Zoning	D-3	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-4	North: Single-Family Residential
South:	D-5	South: Single-Family Residential
East:	D-3	East: Single-Family Residential
West:	D-3	West: Single-Family Residential
Thoroughfare Plan		
Rockville Road	Primary Arterial	140-foot right-of-way existing and 112-foot proposed
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	9/8/23	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	9/8/23	
Findings of Fact (Amended)	N/A	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Not Applicable to the Site

Infill Housing Guidelines

- Infill Housing Guidelines (IHG) document is used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects of all scales and types.
- With regards to secondary dwelling units, the Infill Housing Guidelines document recommends:
 - Locate accessory structures behind primary building
 - Access accessory buildings from alleys, when possible
 - With the site not containing alley access, the secondary dwelling unit is accessible via the driveway on the east side of the primary structure
 - Don't overshadow primary building
- The proposal is in accordance with these recommendations.

Indy Moves

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY - SITE

99-V2-83, Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a six-foot tall fence in the front yard along Rockville Road (maximum 42 inches permitted), **denied**.

ZONING HISTORY – VICINITY

77-Z-123; 55 N Girls School Road (west of site), request rezoning of 3.28 acres, being in the C-3 & D-3 district, to C-4 classification to permit commercial development, **approved**.

89-Z-114; 7040 Rockville Road (north of site), request rezoning of 5.7 acres, being in the D-3 district, to the D-4 classification to provide for residential development by platting, **approved**.

91-V3-18; 35 Ponsonby Court (north of site), requests a Variance of Development Standards of the Dwelling District Zoning Ordinance to permit the construction of a single-family residence with a rear yard setback of 15 feet (20 feet required), **approved**

91-Z-102; 7201 Rockville Road (west of site), Variance of Development Standards to permit a reduction of the number of off-street parking spaces required to one for each 284 square feet of gross floor space in the structures on the site (one space for each 200 square feet required) and to permit parking and driveways in the front transitional yards, **approved**.

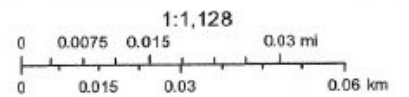
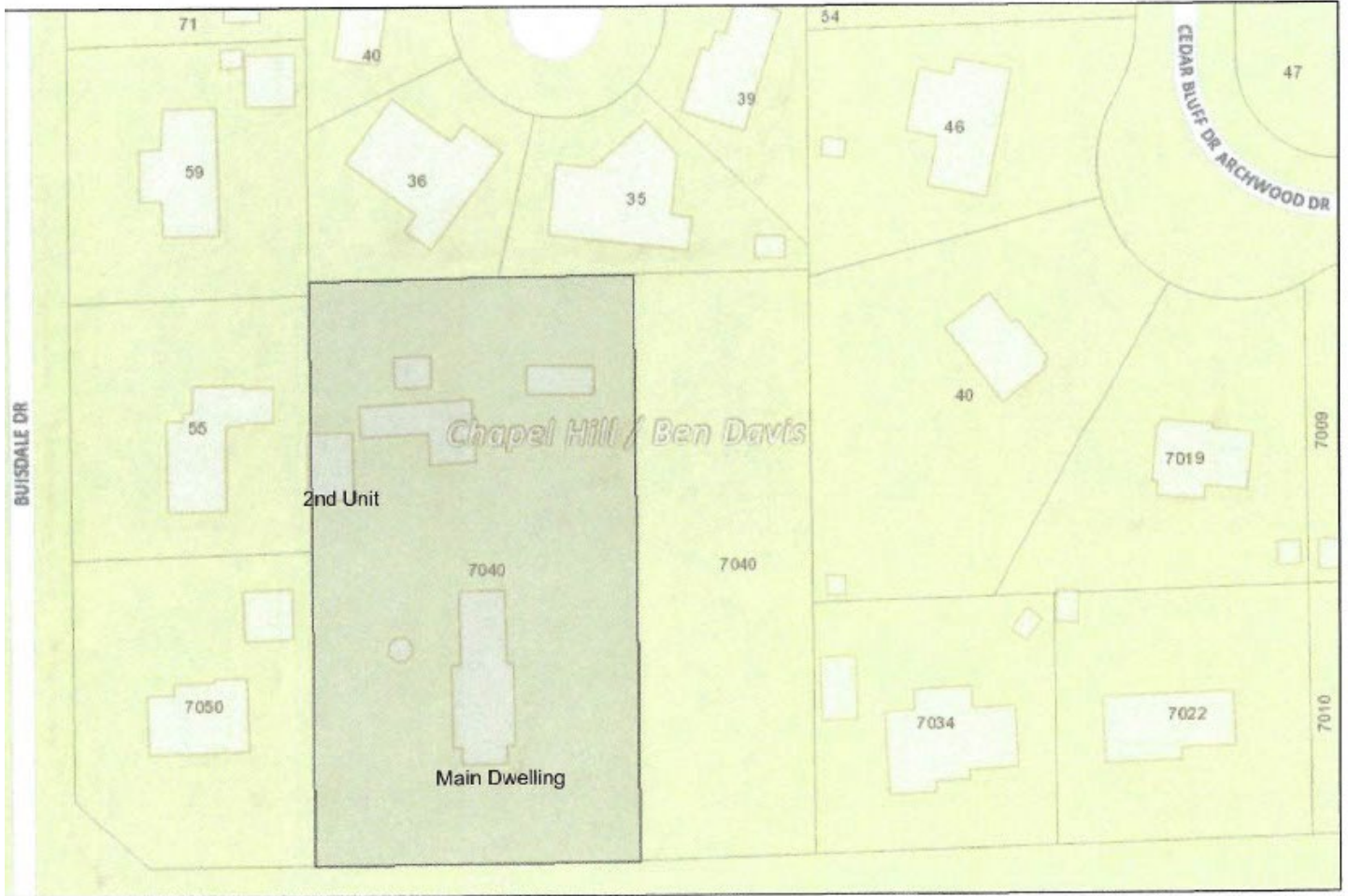
2002SE1001; 7035-7045 Rockville Road (south of site), Special exception of the Dwelling Districts Zoning Ordinance to provide for the construction of a church, **approved**.

2010DV1037; 7222 Rockville Road (west of site), Variance of development standards of the Commercial Zoning Ordinance to provide for 3360-square feet of outdoor play area (200 square feet or one percent (1%) of the floor area, whichever is greater, permitted) for a doggie-daycare/boarding facility, **approved**.

2014DV3019; 36 Ponsonby Court (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 12 by 16-foot sunroom, with a 15-foot rear setback (20-foot rear setback required), **approved**.

EXHIBITS

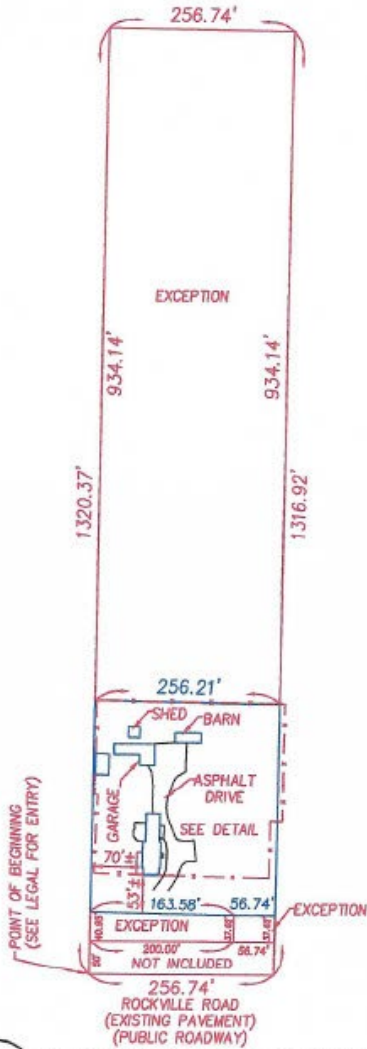
7040 Location Map



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

SURVEYOR LOCATION REPORT

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



SCALE: 1"=200'

LEGEND

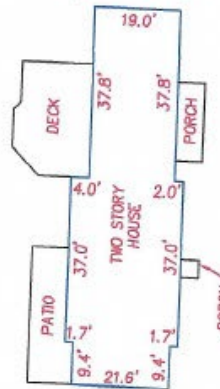
— — — — — FENCE ±

NOTE: OBTAINING ACCURATE AND COMPLETE DATA ON OR NEAR THE PERIMETER OF LARGER TRACTS IS BEYOND THE SCOPE OF THE REPORT. THE LOCATION OF ANY IMPROVEMENTS AND FENCES SHOWN HAVE BEEN ESTIMATED. DUE TO THE SIZE OF THE TRACT AND INADEQUATE REFERENCE MONUMENTATION, THE ACCURACY OF THIS REPORT IS LIMITED TO ±5 FEET. A STAKED BOUNDARY RETRACEMENT SURVEY IS RECOMMENDED IF PRECISE LOCATIONS ARE DESIRED.

NOTE: EASEMENTS CONTAINED WITHIN SCHEDULE B, SECTION II WERE NOT PROVIDED FOR THIS REPORT.

HOUSE DETAIL

(NOT TO SCALE)



HAHN SURVEYING GROUP, INC.
Land Surveyors
8925 N. Meridian Street, Suite 120
Indianapolis, IN 46260
PHONE: (317) 846-0840 / (317) 846-4119
EMAIL: orders@hahnsurveying.com
www.hahnsurveying.com



CERTIFIED: 08/15/2023

Chad L. Brown
Chad L. Brown
Registered Land Surveyor,
Indiana #21100002
Drawn By: JEC
Job No.: S23-19232
Sheet 2 of 3



Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The 2nd dwelling unit was established in 1946 and has been consistently used for human occupancy. The site has direct access to a public street with adequate open space for proper drainage. The dwellings have all utilities available to them.

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

The second dwelling has been established per the Assessor's records since 1946. The subject dwelling was established before the adjacent residence.

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

The second dwelling was established per the Assessor's Property Report approximately 1946, prior to the adoption of the Dwelling District Zoning Ordinance.

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

To legally establish the use for the 2nd dwelling for the past 77 years without interruption would be difficult due to the limited availability of historic public records and aerial photography.

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

The site is zoned D-3 which allows 2.6 units per acre and falls within the topology of the land use recommendation of Suburban Residential.

DECISION

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

Adopted this _____ day of _____, 20 ____



Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
The subject site has direct access to a public street, adequate open space for proper drainage and all utilities to the subject dwellings.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:
The subject dwelling was established in 1946 according to the Assessor's Property Report. The rear yard setback and square footage of the dwelling were established prior to the development of the adjacent residences.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:
To move the residence or to add to its footprint would be difficult and create an unnecessary hardship for the owners.

DECISION

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

Adopted this _____ day of _____, 20 ____











STAFF REPORT

Item 8.

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

Case Number: 2023-UV1-027
Address: 7425 Westfield Boulevard (approximate address)
Location: Washington Township, Council District #2
Zoning: D-4 (TOD) (FF)
Petitioner: 7425 Westfield Boulevard LLC, by Michael Lang
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a mental health treatment facility (not permitted) with 20 off-street parking spaces (31 parking spaces required).

This petition was automatically continued by a registered neighborhood organization from the January 2, 2024, hearing, to the February 6, 2024, hearing, and continued for cause by Staff from the February 6, 2024, hearing to the March 5, 2024, hearing.

The petitioner has filed a rezoning petition to take the place of this variance petition and is now **requesting that this petition be withdrawn.**

RU

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2024-MO1-001 / 2024-DV1-007
Address: 7530 Allisonville Road (approximate address)
Location: Washington Township, Council District #3
Zoning: D-A (FW) (FF)
Petitioner: Phillip D. Rushton & Joanne Rushton Rev. Trust – Rebecca Patton
Successor TTE, by Gregory J. Cagnassola
Request: Modification of Commitments related to 2009-UV2-036, to terminate
Commitment Number Eight and Four, which requires compliance with
required setbacks of the D-A District, and the use of slick mounted
antenna and associated attachments, respectively.

**Variance of Development Standards of the Consolidated Zoning and
Subdivision Ordinance to provide for the location of structures related
to the cell phone tower resulting in a seven-foot south side and 0.5-
foot north side yard setback and a 2.5-foot rear yard setback, resulting
in a 7.5-foot aggregate side yard setback (30-foot side yard, 75-foot
aggregate side yard, 75-foot rear yard setbacks required) and a lot line
adjustment resulting in a 0.606-acre lot and a 40-foot frontage
(minimum three acres and frontage of 125 feet required).**

This petition was assigned to the March 5, 2024, Board I hearing in order to comply with the township representation statute as it has a Washington Township representative. However, the commitments that are being requested to be modified were previously imposed by Board III.

Therefore, Staff is requesting that this petition **be continued from the March 5, 2024, Board I hearing, and transferred to the March 19, 2024 Board III hearing**, so that any modification of the commitments can be done by Board III as statutorily required.

RU



BOARD OF ZONING APPEALS DIVISION I

March 5, 2024

Case Number: 2024-MO1-002

Property Address: 3527 North College Avenue (approximate address)

Location: Center Township, Council District #8

Petitioner: Walvan Investments LLC, by John Cross

Current Zoning: D-5

Request: Modification of Commitments related to 2018-UV1-006, to terminate Commitment Numbers One and Two, requiring sale of units to owner-occupants and prohibiting subsequent owners from renting individual units.

Current Land Use: Residential

Staff Recommendations: Staff has no recommendation for this petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- This is the first public hearing for this petition.

STAFF RECOMMENDATION

- Staff has no recommendation for this petition.

PETITION OVERVIEW

- This petition would terminate Commitments #1 and #2 from 2018-UV1-006, which read as:
 - 1) Owner will only sell units and will only sell them to owner-occupants
 - 2) Subsequent owners may not rent their units
- These commitments were originally agreed upon by the petitioner of 2018UV1006 and interested neighborhood groups, with Staff not playing a part in the crafting of that language.
- The petitioner of this petition is now seeking to terminate those commitments and has been in deliberation with registered neighborhood organizations on reaching new commitments for the property, with Staff not playing a part in these discussions either. While Staff is broadly supportive of the use of multi-family residential units on the subject site, Staff does not seek to require residential units be limited to either renter-occupied only or owner-occupied only, nor does Staff seek to set restrictions on the duration that residential units can be occupied by any one person or family. Therefore, Staff does not have a recommendation for this request.



GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Residential	
Comprehensive Plan	8-15 Residential Units per Acre	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Vacant
	South:	South: Single-Family Residential
	East:	East: Vacant
	West:	West: Two-Family Residential
Thoroughfare Plan		
North College Avenue	Primary Arterial	80-foot right-of-way existing and 78-foot proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	1/26/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/26/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Mapleton Fall Creek Neighborhood Land Use Plan

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan



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

- The Mapleton Fall Creek Land Use Plan recommends 8-15 residential units per acre for this site.

Infill Housing Guidelines

- Not Applicable to the Site.

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2018UV1006, requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a multi-family building with 8 units, with the following commitments:

- 1) Owner will only sell units and will only sell them to owner-occupants
- 2) Subsequent owners may not rent their units, **approved**.

ZONING HISTORY – VICINITY

2021ZON115; 722 Fairfield Avenue (east of site), Rezoning of 0.2 acre from the D-5 district to the D-8 district, **approved**.

2020UV1003; 3544 Carrollton Avenue (east of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish a multi-family building (not permitted), **denied**.

2013UV1037; 3503 N College Avenue (south of site), requested a variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinances to provide for a parking lot, for a restaurant at 3469 N College Avenue, with zero-foot front and side yards, **approved**.

2010UV1018; 3503 N College Avenue (south of site), Variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinance to provide for automobile sales (not permitted), with display spaces having zero-foot front and side setbacks (10-foot setback from existing right-of-way required, 40-foot setback from proposed right-of-way required, four-foot side and 10-foot aggregate setbacks required), **denied**.

91-Z-74; 3520 N College Avenue (west of site), requests rezoning from residential district to the commercial C-3 district to allow retail sales in conformity to the comprehensive land use plan, **approved**.

88-UV3-102; 3549 N College Avenue (north of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of community service offices, education center and educational research offices, and three ground signs, **approved**.

EXHIBITS





**COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS
CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN
CONNECTION WITH VARIANCE OR SPECIAL EXCEPTION GRANT.**

In accordance with 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 commitment(s) concerning the use and development of the parcel of real estate:

Legal Description: Condominium Units 1, 2, 3, 4, 5 and 6 of the 3527 College Avenue Condominiums as recorded as Instrument Number A202100032301 under the date of March 11, 2021, in the records of the Recorder of Marion County, Indiana.

Statement of Modification or Termination of COMMITMENTS:

1. The commitment that owner will only sell units and will only sell them to owner-occupants is terminated.
2. The commitment that subsequent owners may not rent their units is terminated.
- 3.
- 4.
- 5.

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

BZA's Exhibit B - - page 1 of 3



Department of Metropolitan Development
Division of Planning
Current Planning

Modified COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Board of Zoning Appeals in petition # _____.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and
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. 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 at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the commitment was made); and
3. _____
4. _____
5. _____

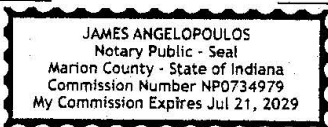
The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of modification and/or termination of commitment(s) of petition # _____ by the Metropolitan Board of Zoning Appeals.

IN WITNESS WHEREOF, owner(s) has executed this instrument this 11TH day of JANUARY, 2024.

Signature: [Handwritten Signature]
 Printed: MANINDER WALIA
 Title: MANAGER
 Organization Name: Walvan Investments LLC

Signature: _____
 Printed: _____
 Title: _____
 Organization Name: _____

STATE OF INDIANA)
) SS:
 COUNTY OF MARION)



Before me, a Notary Public in and for said County and State, personally appeared MANINDER WALIA, MANAGER OF WALVAN INVESTMENTS, LLC owner(s) (title / organization name) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.



Department of Metropolitan Development
Division of Planning
Current Planning

Witness my hand and Notarial Seal this
11th day of JANUARY, 20 24

James Angelopoulos
Notary Public

JAMES ANGELOPOULOS
Printed Name of Notary Public

My Commission expires: JULY 21, 2029

My County of residence: MARION

I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law. /s/ John D. Cross

This instrument was prepared by John Cross, Wooton Hoy, LLC.

This Modification and/or Termination Agreement was approved by the Metropolitan Board of Zoning Appeals on the _____ day of _____, 20_____.

Secretary, Metropolitan Board of Zoning Appeals, Division _____



STATEMENT OF INTENT

3527 N. COLLEGE AVE., INDIANAPOLIS, IN 46205

The Petitioner, Walvan Investments, LLC, owns the subject property. Petitioner rezoned the property under Case No. 2018-UV1-006. In doing so Petitioner agreed to certain commitments recorded on January 14, 2019 as Instrument No. A201900004360. Petitioner now requests to terminate the following commitments:

1. Owner will only sell units and will only sell them to owner-occupants.
2. Subsequent owners may not rent their unit.

Request:

Since rezoning the property Petitioner has attempted to sell the units at the property. Petitioner has not been able to sell any as the commitments have negatively impacted any potential buyer from purchasing the property. The property is currently vacant. The property and area will benefit if the property can be utilized by occupants, whether owners or potential renters, instead of staying vacant.

Staff recommended approval of the rezoning petition originally and did not require the commitments. Staff noted the multi-family use would be consistent with other similarly developed properties in the area. Petitioner does not believe these other comparable properties are restrained by the commitments that retrain the use and ownership of the subject property. The commitments were requested on behalf of a registered neighborhood organization. At the time Petitioner hoped they could sell the units with the commitments but that has not happened. Petitioner does not believe the units can be sold with the commitments as they have diligently attempted to and request the commitments be terminated to permit free use of the property.







BOARD OF ZONING APPEALS DIVISION II **March 05, 2024**

Case Number: 2024DV1005
Property Address: 1639 Lafayette Road (approximate address)
Location: Wayne Township, Council District #12
Petitioner: Gardner Glass Products, by Nick Lee
Current Zoning: I-3 (FW)

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of gravel parking and storage areas, within 23 feet of a protected district and partially encroaching into right-of-way (hard surfaced parking area, 40-foot transitional yards required, encroachment into right-of-way disallowed).

Current Land Use: Industrial

Staff

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- This site currently contains an industrial warehousing and distribution center occupied by the business Gardner Glass Products. The building has existed at the site with its current footprint since the late 1970s. In 1991, variance petition 91-HOV-42 was approved to allow for a reduced transitional yard setback to the north conditioned on substantial compliance with a site plan file-dated June 17, 1991. The property is bordered by a single-family residence to the north, heavy commercial uses to the west, an apartment complex to the south across 16th Street, and the White River to the east.
- Around 2020, the occupant began utilizing a gravel area in the southeast portion of the existing parking lot for parking maneuverability and vehicle storage. Additionally, a gravel area that partially encroaches into city right-of-way was added on the northwest of the property for overnight storage of a tractor trailer.



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

- Additionally, around 2021, the occupant also added a gravel horseshoe area on the southern edge of the existing parking lot. These expansions of vehicle and storage area were not included on the site plan approved in 1991, and this non-conformity was mentioned within the violation case VIO23-006519 opened in September 2023.
- VIO23-006519 also indicated that durable hard surfaces are required for parking areas and that outdoor storage and operations cannot be in transitional yards. Although not explicitly mentioned by the inspector, encroachment of the gravel parking area into ROW is also a zoning violation.
- This variance would seek to legalize the placement of the three gravel areas used for vehicle parking and maneuverability and would also update the site plan approved under 91-HOV-42 to reflect the current layout of the vehicle area. Grant of the variance would allow for the parking areas within ROW as well as within 23' of protected districts to the northwest and east.
- This property is currently zoned I-3 (Medium Industrial district) to allow for industrial uses that present moderate risks to the public. The current use of warehousing and distribution is allowed by-right since the use is fully enclosed by the structure. I-3 zoning districts require separation from protected districts and are generally buffered by lighter industrial districts.
- The Comprehensive Plan indicates three separate typologies for this property: Heavy Industrial to the south containing the gravel horseshoe area, Community Commercial to the north containing the gravel area partially within right-of-way, and Floodway to the east containing the third gravel area for truck maneuvering and storage. More detailed information on applicable guidance for this property can be found below within the Comprehensive Plan Analysis section of this staff report.
- This property is also located within a floodway and a wellhead protection area. The proposed scope of work would not involve construction of a new building and would be reviewed for compliance with 742-203 of the Ordinance during the flood permitting process. Additionally, ordinance guidance for wellfields would not disallow this scope of work on the property although it would be reviewed by a technically qualified person prior to permitting.
- Limitations on the placement of vehicle areas (industrial or otherwise) near protected districts are crucial for ensuring that residential areas are minimally impacted by negative externalities such as sound, light, and damage to local roads. Although some of the D-5 areas surrounding this property are either commercial uses or rivers, the area to the north contains a single-family home.
- Additionally, encroachment of parking areas for private vehicles into public right-of-way can result in visual obstructions or difficulty in navigation of pedestrian walkways. Recent photography indicates that a truck trailer parked in the northeast gravel area encroaches approximately 25 feet into right-of-way and would be parked as close as 4 feet from the existing sidewalk.
- Supporting documentation provided by the applicant claim that legalization of these gravel areas is needed for optimal maneuverability of the truck fleet, and that the existing southern parking area approximately 65 feet by 180 feet is insufficient for truck trailers with a maximum length of



Department of Metropolitan Development
Division of Planning
Current Planning

56 feet. The findings of fact indicate that the horseshoe configuration and additional vehicle areas to the southeast and northwest would allow for full turns on their property while maintaining existing levels of parking and reducing congestion along Lafayette Road and 16th Street.

- Loading and unloading is conducted either (a) outdoors within the southern yard of the property where the gravel horseshow was installed or (b) indoors with trucks entering through the large bay door on the southwestern side of the property. The northern section is used for temporary storage of used wooden pallets. It is unclear from the provided findings of fact why the trailer parked overnight partially within right-of-way could not be parked fully within the paved portion of their property that is fully outside of public ROW. Staff opposes the request to legalize a gravel parking pad that partially encroaches into right-of-way so near the existing sidewalk when ample on-site space to accommodate the truck already exists.
- The desired level of truck parking and storage at this site is not appropriate for the surrounding context and does not comport with comprehensive plan guidance. Given the proximity to residential uses and busy arterials, commercial uses would be more appropriate for the site. Staff is opposed to an increase in the intensification of truck usage and parking at this site and feels that partial utilization of internal loading space accessible from the western side of the property (shown within Photo 6 of the Exhibits) could allow the applicant to maintain existing parking along the southern elevation without additional overdevelopment or congestion along Lafayette Road.
- The zoning ordinance requires the use of durable and dust-free paved surfaces for parking lots to ensure strong, flat surfaces that are simpler to maintain in the long-term and reduce ambient dust particulates within surrounding breathable air. Additionally, gravel vehicle areas in locations prone to rainfall or flooding can easily wash away or create sinkholes or ruts. Staff would recommend denial of the request to utilize gravel parking given the likelihood of erosion during rainfall events and the lack of practical difficulty at the site preventing usage of hardscaping.



GENERAL INFORMATION

Existing Zoning	I-3 (FW)	
Existing Land Use	Industrial	
Comprehensive Plan	Heavy Industrial / Community Commercial / Floodway	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Community Comm / Floodway
	South:	South: Heavy Industrial / Floodway
	East:	East: Floodway
	West:	West: Community / Heavy Comm
Thoroughfare Plan		
Lafayette Road	Primary Arterial	Existing ROW: 96' Prop ROW: 88'
West 16 th Street	Primary Arterial	Existing ROW: 250' Prop ROW: 88'
Context Area	Compact	
Floodway / Floodway Fringe	Yes	
Overlay	No	
Wellfield Protection Area	Yes	
Site Plan	01/09/2024	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	01/09/2024	
Findings of Fact (Amended)	02/20/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The northern portion of this property is within the Community Commercial working typology which is designated for low-intensity commercial and office uses that serve nearby neighborhoods. Light Industrial land uses are not recommended within this typology.
- The southern portion of this property is within the Heavy Industrial working typology which is designated for industrial, production, distribution and repair uses that are intense and may create emission of light, odor, noise, or vibrations. Industrial and truck traffic should be separated from local/residential traffic.



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- The eastern portion of this property is within the Floodway category which exhibits a great potential for property loss and damage from severe flooding or for water quality degradation. Nonconforming uses currently within a floodway should not be expanded or altered.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

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

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

91-HOV-42, variance of development standards of the Industrial Zoning Ordinance to permit a 77.3 foot transitional yard setback from the north property line (100 feet required, 85 feet permitted per 77-UV1-97), **approved**.

83-Z-42, rezoning of 3.6 acres to the I-3-S zoning district, **approved**.

77-UV1-97, variance of use and development standards to permit erection of an addition to existing building for Wallace Expanding Machines, Inc., as per plans filed, off-street parking provided, **approved**.

ZONING HISTORY – VICINITY

2023DV1024A; 1718 Lafayette Road (northwest of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a 12.5-foot tall, 11.25-square foot pylon sign (not permitted), **approved**.

2023DV1024B; 1718 Lafayette Road (northwest of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 40-square foot wall sign (maximum six-square foot wall sign permitted), **approved**.

2022UV1034; 1718 Lafayette Road (northwest of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a community center and event center (not permitted) with proposed 65-foot wide parking area in the front yard (parking area greater than 30 feet wide not permitted), **approved**.

2020UV3003; 1718 Lafayette Road (west of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a police station (not permitted), **withdrawn**.

2015UV2021; 1451 N Pershing Avenue (south of site), Variance of use of the Dwelling Districts Zoning Ordinance to legally establish an appliance and light household goods sales, service and repair business (not permitted), **withdrawn**.

2010CZN824; 2215 W 16th Street (south of site), Rezoning of six acres from the D-5 (FW) (W-1) and C-5 (FW) (W-1) Districts to the D-10 classification to provide for multifamily uses, **approved**.

2009LNU021; 2416 W 16th Street (southwest of site), Seeking approval for lack of required 10-foot front landscaping strip, **approved**.

2006ZON139; 1439, 1441, 1500 N Pershing Avenue & 2215 W 16th Street (south of site), rezoning of 6 acres from D-5 to the C-2 zoning designation, **withdrawn**.

2005ZON131; 2319 W 17th Street (southwest of site), 1.784 acres from D-5, C-3, and C-5 to C-5 to provide for the expansion of an existing automobile dealership, **approved**.

EXHIBITS

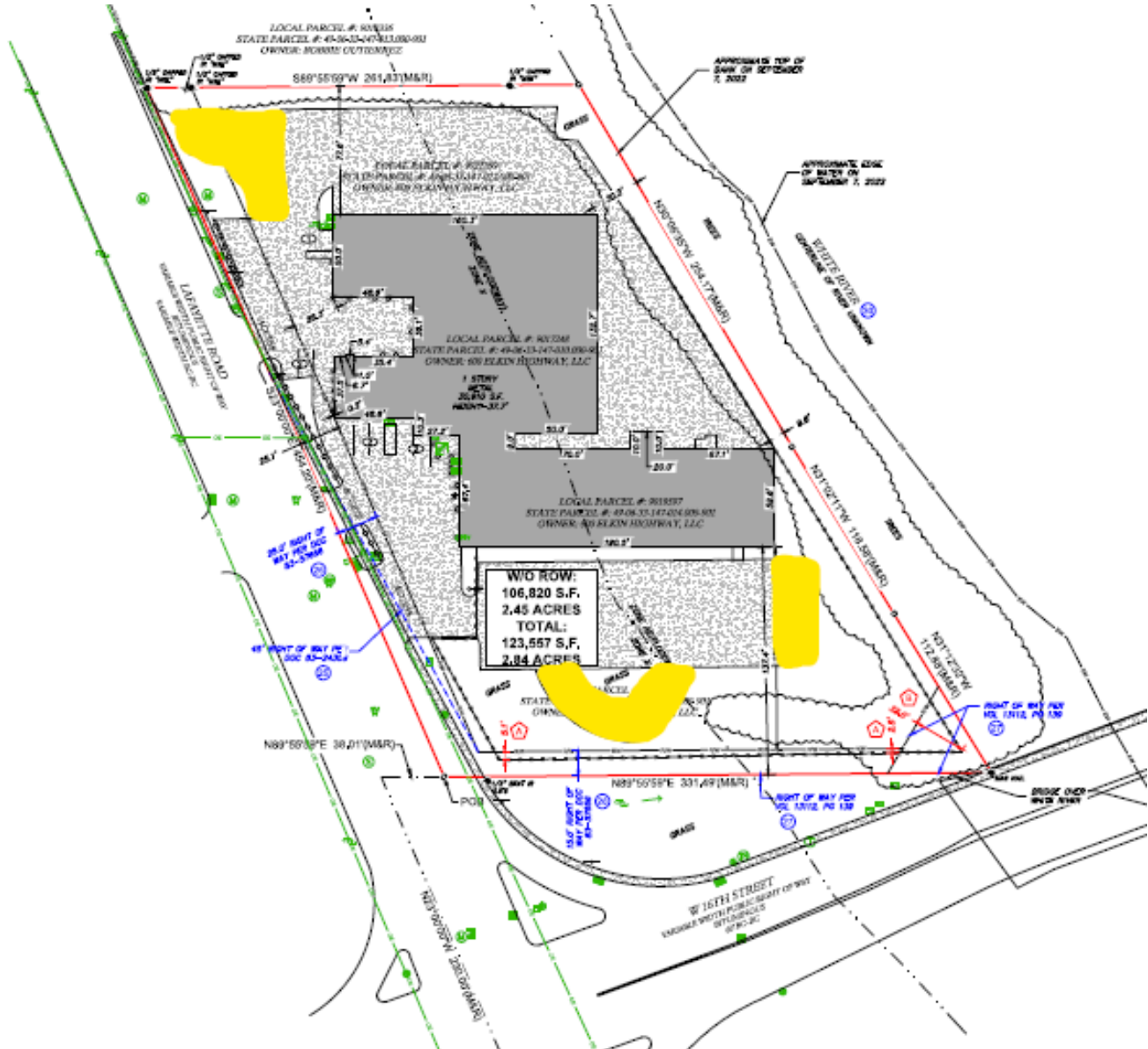
2024DV1005 ; Aerial Map





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2024DV1005 ; Site Plan





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2024DV1005 ; Project Description

Variance Petition – Detailed Description

Gardner Glass is seeking to add three areas to an original site plan, that we have designated parking areas for our fleet vehicles used in day-to-day operations of our business. These areas are instrumental in the flow of our operations, but were not included in the original site plan created in 1991. Not only are they key in our business operations, but they alleviate safety concerns to the citizens of Indianapolis and our employees by not having our fleet trucks utilize heavily trafficked roads to maneuver into and out of our warehouse.

All three areas are highlighted and circled on an attached map provided by a recent survey of our property. The survey map provided already has the designated areas drawn on the map by the surveyor, for your reference.

Designated area #1 includes a gravel horseshoe area on the south-end of our lot, utilized by our vehicles to turn around in the paved parking lot. Due to the length of our trucks and their trailers, our current parking lot is not large enough for our vehicles to maneuver a complete a full turnaround. Without this gravel horseshoe area, our trucks would be required to pull out frequently onto Lafayette Road, holding up traffic at an already busy intersection.

Designated area #2 is a gravel area in the southeast portion of our parking lot, located south of our warehouse along the White River perimeter area. This is being utilized to back in our truck and trailers for parking. This area is required because of the length of our trucks and trailers. It allows us to maximize the space in parking lot to accommodate the trucks/trailers that maneuver in and out of the parking lot.

Designated area #3 is a gravel paved area located on the northwest portion of our property for parking of our truck, unit 320 and the 53' trailer assigned to it. We park this truck on the north end of our property daily after making its scheduled route. Due to limited space in the parking lot area, this designated area is crucial in giving the driver maneuverability to exit the property without having to utilize Lafayette Road and becoming a safety hazard to motorist traveling on the road.

We are asking for these three areas to be approved and added to the site plan. We would like to make some necessary structural improvements to these requested areas, but can't take the steps until we know they have been approved/added by the City of Indianapolis to the original site plan.



2024DV1005 ; Findings of Fact

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

It increases the fleet maneuverability in the petitioner's parking lot. Utilizing the proposed variances will improve welfare and safety to the public by allowing the petitioner to avoid using frequently traveled Lafayette Road to position the fleet trucks in the building for loading and unloading activities.

In addition, the gravel area has environmental benefiting factors to the community versus having it paved. Gravel allows for natural infiltration and reduces the risk of flooding in an area adjacent to the White River.

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

if authorized, will not alter the views, privacy, or access to resources of adjacent properties. The areas the petitioner is requesting to add to the site plan, has no adverse effect to the adjacent properties with the sole purpose being to improve the petitioners maneuverability of its fleet.

Also, having the designated areas graveled maintains flexibility and adaptability for the petitioner. The gravel surface creates greater flexibility for adjustments and modifications, making it easier for future expansions.

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

The petitioner will lose the capabilities of maneuvering fleet vehicles effectively within the zoned boundaries. If not authorized, The petitioner will be required to turn around fleet vehicles at a busy intersection of 16th and Lafayette Road, further congesting traffic, also putting the public and the petitioner's employees at risk while stopping the flow of traffic to move the fleet vehicles. The current parking lot on the southern end of the property is 65' in width by 180' in length. The petitioner's current fleet of vehicles consists of seven (7) trucks with seven (7) trailers. A truck and trailers equal 56' in length. With no other vehicles in our parking lot, petitioner could make the turn without proposed areas, but with the quantity of fleet vehicles, the petitioner cannot turn the vehicles without these areas.

2024DV1005 ; Plan of Operation

PLAN OF OPERATION

Workforce

- Staff
 - Gardner Glass Products employs fifteen (15) full-time employees and one (1) part-time employee at their Indianapolis location.
 - Six (6) full-time employees are categorized as drivers.
 - Six (6) full-time employees are categorized as warehouse employees and one (1) employee is part-time.
 - Two (2) full-time employees work in the office as Inside Sales and one (1) full-time employee is the General Manager.
- Parking
 - Drivers and warehouse staff park in the parking lot located on the south-end of the property.
 - Office employees park in the location nearest to the front office.
 - ADA parking is located at the front office location.
- Security
 - Fence with lock gate located south on the property protects fleet vehicles.
 - Security cameras located inside the building monitors operational activities.
- Hours of Operation
 - Office Staff – Monday through Friday (8:00am – 4:30pm)
 - Warehouse Staff – Monday through Friday, hours vary between (7:00am – 7:00pm)
 - Drivers – Monday through Friday, on the road, ten (10) hour shifts.

Clients and Customers

- A bulk of Gardner Glass Products customers are off-site, located in multiple states.
- Territory includes thirteen (13) states:
 - Indiana, Ohio, Michigan, Kentucky, Tennessee, Alabama, Illinois, Wisconsin, Minnesota, Nebraska, Iowa, Missouri, and Kansas
- There are a few local customers that pick-up product from Gardner Glass Products.
 - These customers utilize our parking lots to turnaround and back their trucks into the building for loading.

2024DV1005 ; Plan of Operation (continued)

Processes Conducted on Site

- Gardner Glass Products is located at 1705 Lafayette Road Indianapolis, IN 46222, operates locally as a distributor of glass and mirror products.
 - Services commercial glazers and glass shops
 - Product is delivered in heavy wooden cases to customers on trucks with an attached crane and trailer. Product is also delivered uncrated, as individual pieces on a smaller scale.
- Outside Activities
 - Trucks are parked and stored outside, waiting to be loaded
- Inside Activities
 - Product is loaded and unloaded inside, utilizing a large overhead crane.
- Safety
 - Gardner Glass takes necessary steps to ensure safety of workforce, as well as, public
 - Utilizes a gravel horseshoe to maneuver trucks without the need of pulling trucks out onto Lafayette Road, blocking traffic.
 - Employees utilize safety vest when working outside
 - Training is provided to employees on how to operate overhead crane(s), as well as, forklifts.

Materials Used

- Wood
- Glass
- Propane for the forklift, stored outside in a metal cage.
- Hydraulic oil in a 55-gallon drum, properly stored in a leak-proof container.

Shipping and Receiving

- Product is loaded and unloaded on a 53' truck and trailer.
 - Anywhere from one (1) to five (5) trucks are loaded each day
 - One (1) to two (2) trucks are received and unloaded daily.
 - Loading and unloading activities are conducted Monday through Friday between the hours of 7:00am and 7:00pm.

Waste

- The only waste generated is from empty wood crates from stock material. Wood is broken down and discard in dumpster located back of the building.

2024DV1005 ; Pictures



Photo 1: Southern Lot Used for Truck Loading, Storage & Maneuvering



Photo 2: Horseshoe Gravel Area For Truck Maneuvering (Installed 2021)

2024DV1005 ; Pictures (continued)



Photo 3: Partial Southern Elevation & Loading/Storage Area



Photo 4: Adjacent River to East & Loading/Storage Area Added 2020

2024DV1005 ; Pictures (continued)



Photo 5: Truck Entrance Area & Partial Western Elevation



Photo 6: Interior Loading Area (Accessed Through Garage Door in Photo #5)

2024DV1005 ; Pictures (continued)



Photo 7: Gravel Parking Area Partially Within ROW on Northwest of Subject Site Added 2020



Photo 8: Proximity of Truck Parked in Northwest Area From Sidewalk

2024DV1005 ; Pictures (continued)



Photo 9: Storage Area on Northern Portion of Subject Site



Photo 10: Neighboring Single-Family Residence to North of Subject Site