



Board of Zoning Appeals
Board of Zoning Appeals Division III
(January 21, 2025)
Meeting Agenda

Meeting Details

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

Date: Tuesday, January 21, 2025

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes:

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

- 1. 2025-DV3-002 | 6116 Breamore Road**
Lawrence Township, Council District #3, zoned D-2
Matthew Schneider, by Drew Farrington

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

****Petitioner to request a continuance to the February 18, 2025 hearing of Division III in order to submit additional information**

- 2. 2025-UV3-001 | 385 South Franklin Road**
Franklin Township, Council District #20, zoned D-2
We Care Tree Service LLC, by Tim J. Brown

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

****Automatic continuance filed by a registered neighborhood organization, continuing this petition to the February 18, 2025 hearing of Division III**

- 3. 2025-UV3-002 | 10453 East 10th Street**
Warren Township, Council District #20, zoned D-1 / D-7 (FF)
Ghassan Rajabi

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

****Automatic continuance filed by a registered neighborhood organization, continuing this petition to the February 18, 2025 hearing of Division III**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

4. 2024-MO3-001 | 8645 East 25th Street
Warren Township, Council District #14, zoned I-2
Penske Truck Leasing Co. L.P., by Mike Barnes

Modification of Condition One of 97-UV3-105 to update the site plan regulating compliance.

5. 2024-SE3-003 | 9910 East Washington Street
Warren Township, Council District #14, zoned C-3 (TOD)
AGW Corners LLC, by Joseph D. Calderon

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor.

Variance of use to allow for the operation of a tattoo parlor within 230 feet of a protected district (500-foot separation required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

6. 2024-DV3-037 | 1625 Shelby Street (Amended)
Center Township, Council District #18, zoned C-3 (TOD)
Jugaad LLC, by David Retherford

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

7. 2024-UV3-017 (Amended) | 8949 East Washington Street
Warren Township, Council District #20, zoned C-5 / C-2 (TOD)
Integrity Electric & Machine LLC, by David E. Dearing

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

8. 2024-UV3-019 | 4033 East Southport Road (AMENDED)
Perry Township, Council District #24, zoned C-4
Akshar Krupa Indiana LLC, by Ron Gandhi

Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two storage containers (outdoor storage not permitted).

9. 2024-UV3-016 | 425 & 435 South Gibson Avenue
Warren Township, Council District #20, zoned D-2
Oscar Garcia Cruz, by Steven A. Brown

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

PETITIONS FOR PUBLIC HEARING (New Petitions):

10. 2025-DV3-001 | 8420 US 31
Perry Township, Council District #23, zoned C-5 (FW)
SKillman Realty LLC, by Joseph D. Calderon

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

Additional Business:

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



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

Case Number: 2025-DV3-002

Property Address: 6116 Breamore Road (approximate address)

Location: Lawrence Township, Council District #3

Petitioner: Matthew Schneider, by Drew Farrington

Current Zoning: D-2

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

Current Land Use: Residential

Staff Recommendations: Staff has no recommendation for this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- The petitioner is requesting a continuance to the February 18, 2025 hearing to allow for changes to be made to the submitted site plan, without additional notice.



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

Case Number: 2025-UV3-001

Property Address: 385 South Franklin Road (Approximate Address)

Location: Warren Township, Council District #20

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

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

Staff Reviewer: Kiya Mullins, Associate Planner

CONTINUANCE

The Warren Township Development Association, a registered neighborhood organization, has filed an Automatic Continuance, continuing this petition from the January 21st, 2025, hearing, to the February 18th, 2025, Division III, hearing. This will require the Board’s acknowledgement.



BOARD OF ZONING APPEALS DIVISION III

January 21, 2025

Case Number: 2025-UV3-002

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

Location: Warren Township, Council District #20

Petitioner: Ghassan Rajabi

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

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

Current Land Use: Commercial

Staff Recommendations: Staff has no recommendation for this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- A timely automatic continuance has been filed by a registered neighborhood organization, continuing this petition to the February 18, 2025 hearing, without additional notice.



BOARD OF ZONING APPEALS DIVISION III **January 21, 2024**

Case Number: 2024-MO3-001

Property Address: 8645 East 25th Street (*approximate address*)

Location: Warren Township, Council District #14

Petitioner: Penske Truck Leasing Co. L.P., by Mike Barnes

Current Zoning: I-2

Request: Modification of Condition One of 97-UV3-105 to update the site plan regulating compliance.

Current Land Use: Industrial

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

A timely automatic continuance request was filed by a registered neighborhood organization at the December 17, 2024 hearing of Division III of the BZA.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- 8645 East 25th Street is currently improved with a truck terminal and leasing facility legalized by variance in 1997. The property is to the north of I-70, and surrounding land uses are predominantly industrial and heavy commercial in nature. In addition to existing truck parking, the property contains a primary office/maintenance building and a recently demolished fuel pump canopy.
- 97-UV3-105 allowed for the use of a truck leasing facility and truck parking terminal at this property with outdoor storage over 25% of the gross floor area of the building and with 33% of the front yard devoted to parking. This approval was conditioned on compliance with the approved site plan file-dated November 26, 1997, as well as a plan of operation and additional requirements for landscaping and parking fully outside of the 25th Street right-of-way.
- The applicant now desires to reconstruct the demolished fuel pump canopy and related underground storage tanks in a new location around 32.5 feet to the south and 18.25 feet to the west of the original canopy. Modification of the commitments of 97-UV3-105 would be required for this (or any other) change to the approved site plan to be allowed.



Department of Metropolitan Development
 Division of Planning
 Current Planning

- It does not appear that any changes to the 1997 site plan are proposed other than the relocation of the fueling tanks and canopy, and the additional commitments and plan of operation (see Exhibits) would still be in effect for the property regardless of the final status of this petition.
- The subject site is zoned I-2 to allow for light industrial uses that present minimal risk and typically do not create objectionable characteristics such as dirt, noise, glare, heat, odor, etc. The Comprehensive Plan also places it within the Heavy Commercial typology to allow for consumer-oriented general commercial and office uses that tend to exhibit characteristics that are not compatible with less intensive land uses (i.e. exterior operations, sales, and display of goods), and industrial reserve overlays are located just to the west and north of the property.
- Although the modification process is useful to limit the scope and placement of potentially offensive uses by requiring additional approvals for large expansions, it appears that this proposed change is minor in nature and would neither create compliance issues with required setbacks nor intensity any negative externalities for adjacent properties. Staff recommends approval of the modification to allow for the updated site plan with new fuel canopy location.

GENERAL INFORMATION

Existing Zoning	I-2	
Existing Land Use	Industrial	
Comprehensive Plan	Heavy Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	I-2 North: Industrial
	South:	C-4 South: Commercial
	East:	C-4 East: Commercial
	West:	I-3 / I-2 West: Industrial
Thoroughfare Plan		
25 th Street	Local Street	55-foot existing right-of-way and 50-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	10/25/2024	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	N/A	
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 this site to the Heavy Commercial working typology to allow for consumer-oriented general commercial and office uses that tend to exhibit characteristics that are not compatible with less intensive land uses (i.e. exterior operations, sales, and display of goods). Examples include vehicle sales and commercial lumber yards.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

97-UV3-105, variance of use and development standards of the Industrial Zoning Ordinance to provide for the operation of a truck leasing facility (not permitted) and a truck terminal operation with: (a) outside storage area exceeding 25% of the total gross floor area (maximum 25% of the total gross floor area of all enclosed building or structures or 2,480 square feet devoted to outside storage area, permitted); and, (b) 33% of the required front yard devoted to parking (maximum 10% of the required front yard devoted to parking permitted), **approved**.

87-Z-25, rezoning of 98.35 acres from the I-3-S, I-2-S, C-4, C-1 and D-7 zoning districts to the C-S zoning district to allow for a combination of land uses including a water park, **withdrawn**.

ZONING HISTORY – VICINITY

2023ZON114 ; 2307 Post Drive (south of site), Rezoning of 1.714 acres from the C-4 district to the I-3 district to provide for truck parking, **withdrawn**.

2022DV3037 ; 2521 Planes Drive (north of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition resulting in parking area with a zero-foot north side yard setback (30-foot side yard setback required), **approved**.

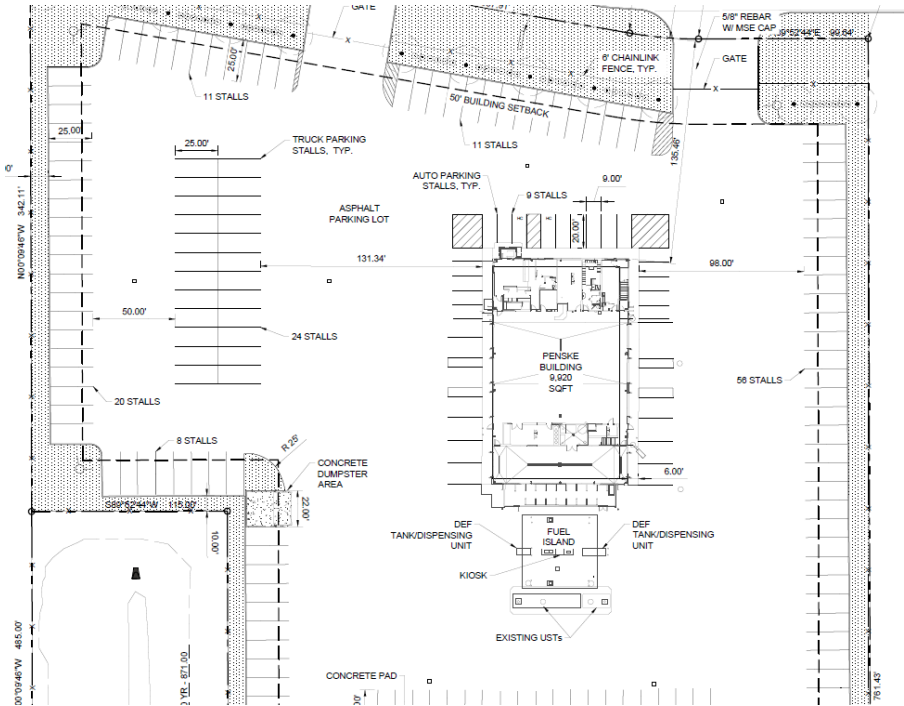
2001UV2007 ; 8801 East 25th Street (east of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for the construction of a 1,248.8 square foot addition to an existing commercial building for a tool and light equipment rental company (not permitted), with 2,000 square feet of outdoor storage (not permitted), **approved**.

EXHIBITS

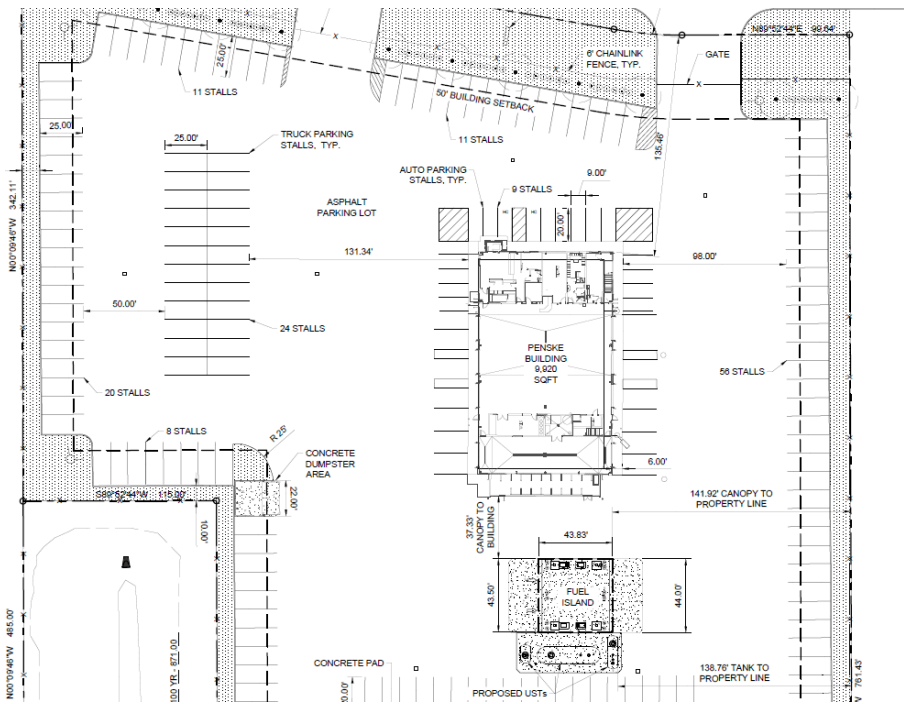
2024MO3001 ; Aerial Map



2024MO3001 ; Site Plan (Previous Layout)



2024MO3001 ; Aerial Map (Proposed Layout)





Department of Metropolitan Development
Division of Planning
Current Planning

2024MO3001 ; Operation Plan (97-UV3-105; Partial)

II. Operation of Facilities

Types of Operations: Penske will use the facilities on the Real Estate to provide out source trucking services to its customers. Those services include full-service truck leasing, dedicated logistics support, contract maintenance programs and consumer/commercial truck rental. The first three services are industrial in nature. In providing those services, Penske acts as a truck terminal for its customers. When providing full-service truck leasing, Penske leases semi-tractors and trailers to its customers who operate them in their over-the-road motor carrier or private carrier fleets. A picture of these types of equipment are contained in Exhibit B. These customers are solicited by Penske's sales force throughout the country and generally lease the semi-tractors and trailers for long periods of time, such as six months or one year. Often, these customers lease many pieces of equipment at once. This service is not provided to the general public on a walk-in basis unlike many retail truck leasing operations. Penske not only provides the semi-tractors and trailers, it often provides parking at its facility when the equipment is not in use and provides maintenance on the equipment. This service is Penske's primary source of revenue at this facility, comprising in excess of 85% of its revenues.

When providing dedicated logistics, Penske provides total shipping and inventory control to its customers. Penske will operate the semi-tractors and trailers itself while providing the logistics services much like a motor carrier, instead of leasing the equipment to its customer for it to operate. Penske solicits its dedicated logistics customers through its nationwide sales force. This service is also provided to businesses and is not available to the public on a walk-in basis.

When providing contract maintenance services, Penske enters into long-term maintenance contracts with motor carriers or companies operating private fleets who operate either a few semi-tractors or trailers or large nationwide fleets. This service also is not available to the general public on a walk-in basis; instead, customers are solicited through Penske's nationwide sales force.

It is only when Penske provides consumer/commercial rental services that it acts as a traditional retail, truck leasing company. Here, Penske leases straight trucks, vans and other trucks to the general public for short periods of time, usually a few days. These are the types of vehicles people rent to move their home belongings. Customers usually are served on a walk-in basis. This service is a small part of Penske's operations, constituting less than 15% of its revenues.

Description of Use: Because Penske's primarily acts as a truck terminal for its customers, Penske's use of the Real Estate will be very similar to that of a truck terminal. Semi-tractors and trailers will be parked in the parking areas of the Real Estate when not in service. Penske will maintain, wash and fuel semi-tractors and trailers on the Real Estate. Penske will dispatch vehicles from the Real Estate. At any given time, there will be approximately 325 semi-tractors and trailers assigned to the Real Estate and 70 semi-tractors and trailers parked there at any given time.

Penske will also rent, maintain, wash and fuel straight trucks, vans and other trucks for use in its consumer/commercial rental services. At any given time, there will be approximately 10 such vehicles on the Real Estate available for rental.

Hours of Operation: The normal hours of operation on the Real Estate will be twenty-four hours a day. All maintenance is conducted inside in the maintenance bays.

Personnel: Penske will employ approximately 19 employees at the site. During normal operating hours, seven employees will be working, with one employee being supervisory, one being an office employee and four being maintenance employees.

2024MO3001 ; Photographs



Photo 1: Previous Canopy Location viewed from Southeast



Photo 2: Previous Canopy Location viewed from East

2024MO3001 ; Photographs (continued)



Photo 3: Proposed Canopy Location Viewed from Northwest



Photo 4: Adjacent Property to East

2024MO3001 ; Photographs (continued)



Photo 5: Primary Building Viewed from Northeast



Photo 6: Temporary Fueling Station at Northeast of Property



BOARD OF ZONING APPEALS DIVISION III

January 21, 2025

Case Number: 2024-SE3-003
Property Address: 9910 East Washington Street (approximate address)
Location: Warren Township, Council District #14
Petitioner: AGW Corners LLC, by Joseph D. Calderon

Current Zoning: C-3 (TOD)

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor.

Request: Variance of Use to allow for the operation of a tattoo parlor within 230 feet of a Protected District (500-foot separation required).

Current Land Use: Integrated Commercial Center

Staff Recommendations: Staff recommends Approval of this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- This petition was automatically continued by a registered neighborhood organization from the December 17, 2024 hearing to the January 21, 2025 hearing.

STAFF RECOMMENDATION

- Staff recommends approval of this petition.

PETITION OVERVIEW

- This petition would allow for the operation of a tattoo parlor within 230 feet of a Protected District (500-foot separation required).
- The subject site is a retail space located within an integrated commercial center and is currently vacant. The proposed use of a tattoo parlor would be located 230 feet from the D-2 Protected District to the north, with 500 feet separation being required. The separation requirement is in place to allow for sufficient buffer and reprieve for sensitive/vulnerable land uses from uses that are a potential nuisance or intrusive to its surroundings.



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- Additionally, the D-2 district to the north at 310 North Mitthoefer Road received a Use variance (2006UV3003) for the operation of beauty salon with off-street parking. The variance was approved and the beauty salon is still in operation. Given the way that this site has developed into a small commercial operation with a moderately sized off-street parking lot, Staff finds it unlikely that the D-2 district will be used for residential purposes for some time. Further, Staff would note that the proposed tattoo parlor would not be visible from the D-2 district, as the integrated center structure blocks the view of the tattoo parlor’s retail space from 310 N Mitthoefer Road entirely.
- Considering these factors, Staff does not find the request to be unreasonable, and finds that there would be negligible negative impacts on the D-2 district to the north caused by the proposed tattoo parlor. For these reasons, Staff is unopposed to the request.

GENERAL INFORMATION

Existing Zoning	C-3 (TOD)	
Existing Land Use	Integrated Commercial Center	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
	North: D-2 /C-1	North: Commercial
	South: C-4	South: Commercial
	East: C-4	East: Commercial
	West: C-3	West: Commercial
Thoroughfare Plan		
East Washington Street	Primary Arterial	132 feet of right-of-way existing and 124 feet proposed
North Mitthoefer Road	Secondary Arterial	100 feet of right-of-way existing and 102 feet proposed
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes, Blue Line TOD Overlay	
Wellfield Protection Area	No	
Site Plan	11/21/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	11/21/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS



Comprehensive Plan

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

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site is within ¼ mile of the proposed Washington Square Mall Blue Line station
- The Blue Line TOD Plan calls for the District Center typology for this station. The District Center typology is characterized as:
 - Dense, mixed-use hub for multiple neighborhoods with tall buildings
 - Minimum of 3 stories at core with no front or side setbacks
 - Multi-family housing with a minimum of 5 units
 - Structured parking only with active first floor

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)

- The subject site is approximately ¼ mile away from the Pennsy Trail



ZONING HISTORY

ZONING HISTORY – SITE

2022UV3016; Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a banquet facility (not permitted), **approved, subject to commitments.**

2014UV2020; Variance of use and development standards of the Commercial Zoning Ordinance to provide for live entertainment (not permitted) for a tavern, within approximately 60 feet of a D-2 zoned protected district (100-foot separation required), and outdoor seating and dining (not permitted), **approved.**

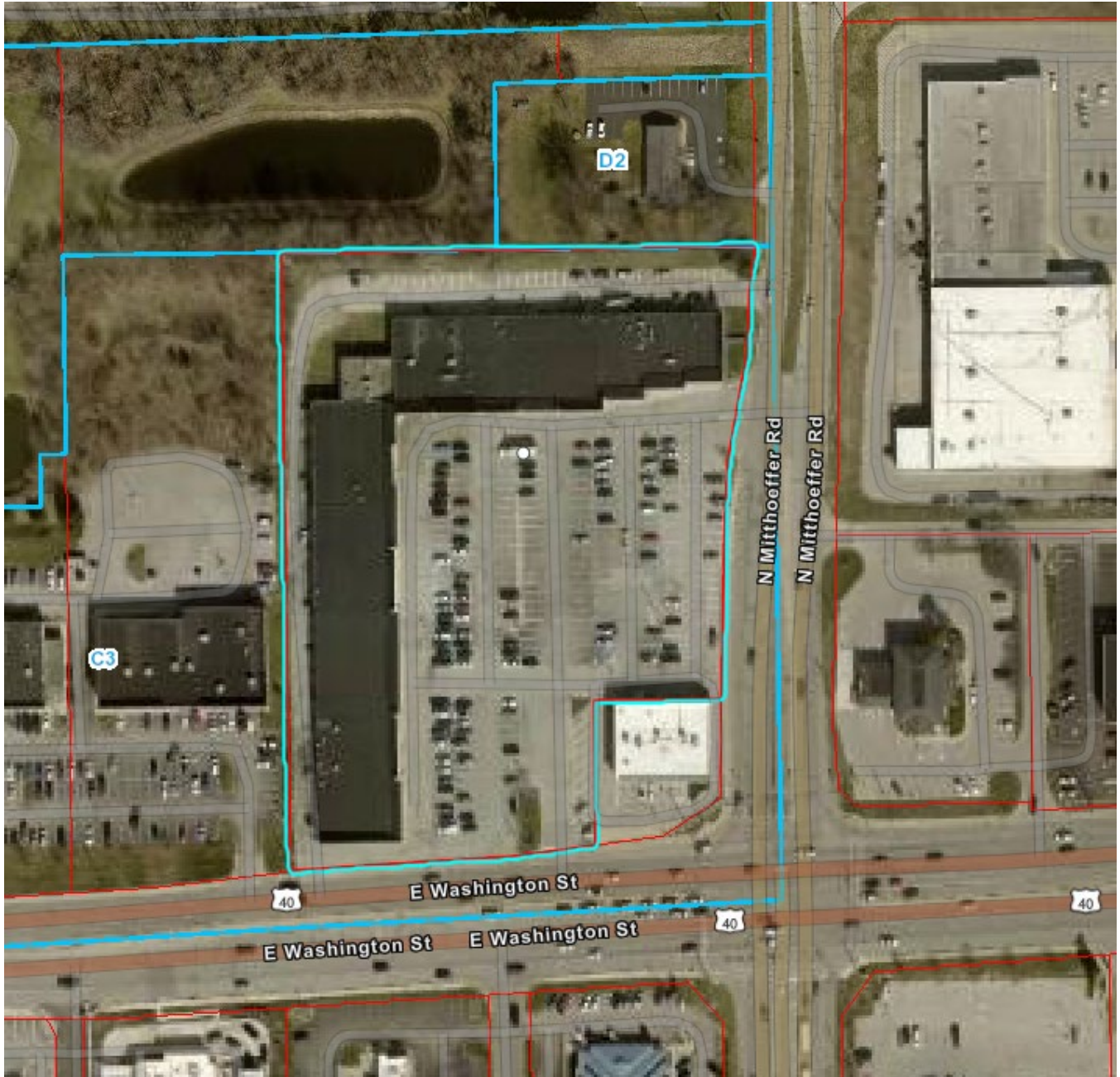
78-Z-137; requests a rezoning of the C-4 classification, to the C-3 district, **approved.**

ZONING HISTORY – VICINITY

2006UV3003, 310 N Mitthoefer Road (north of site), variance of use of the Dwelling Districts Zoning Ordinance to provide for a beauty salon use (not permitted, within an existing single-family dwelling, with proposed off-street parking, **approved.**

2010DV2005, 10002 E Washington Street (east of site), Variance of development standards of the Sign Regulations to provide for an 18-foot tall, 42.5-square foot freestanding sign, within the sight-triangle of Mithoeffer Road and Washington Street, with a five-foot front setback from Washington Street (15-foot setback from the existing right-of-way required, structures can not be within the sight-distance triangle), **denied.**

EXHIBITS







501 INK TATTOO

PLAN OF OPERATION
9910 East Washington Street

THE BUSINESS

501 Ink Tattoo (“Tenant”) is under contract to lease a tenant space in a shopping center located on property commonly known as 9910 East Washington Street (the “Subject Property”).

ZONING

The Subject property is zoned C-3, which permits certain commercial uses. A tattoo parlor is permitted upon the granting of a special exception.

HOURS OF OPERATION

Tenant will have normal operating hours not exceeding 9:00 a.m. to 11:00 p.m., Monday through Friday, and 8:00 a.m. to 11:00 p.m. on Saturday, and 11:00 a.m. to 8:00 p.m. on Sunday. The existing tenants also keep similar hours.

NUMBER OF EMPLOYEES

There are 2 employees working at the Tattoo Parlor.









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

Case Number: 2024DV3037 (Amended)

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

Location: Center Township, Council District #18

Petitioner: Jugaad LLC, by David Retherford

Current Zoning: C-3 (TOD)

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

Current Land Use: Vacant Commercial

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

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

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

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



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

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



GENERAL INFORMATION

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

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

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

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

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

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

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

EXHIBITS

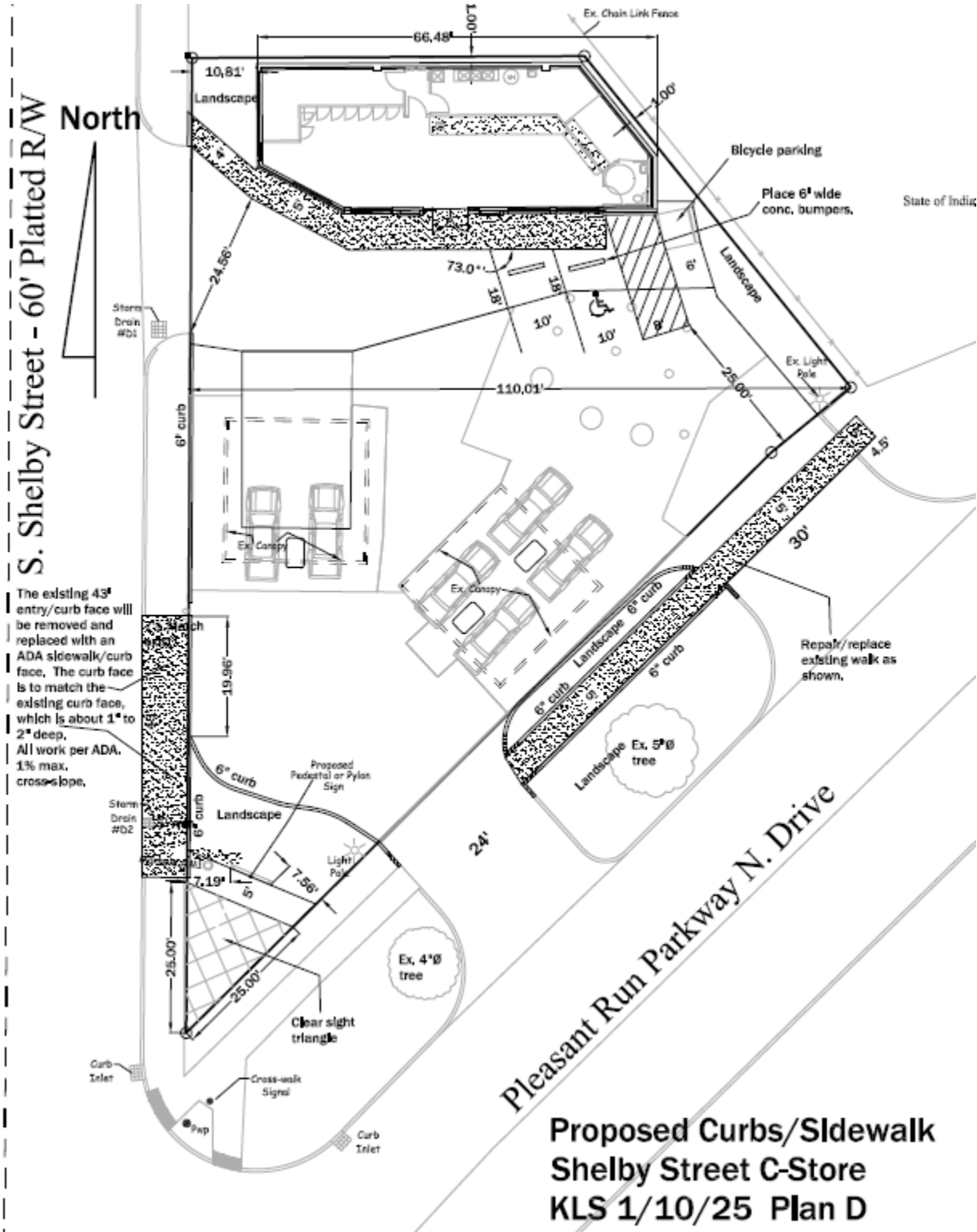
2024DV3037 ; Aerial Map





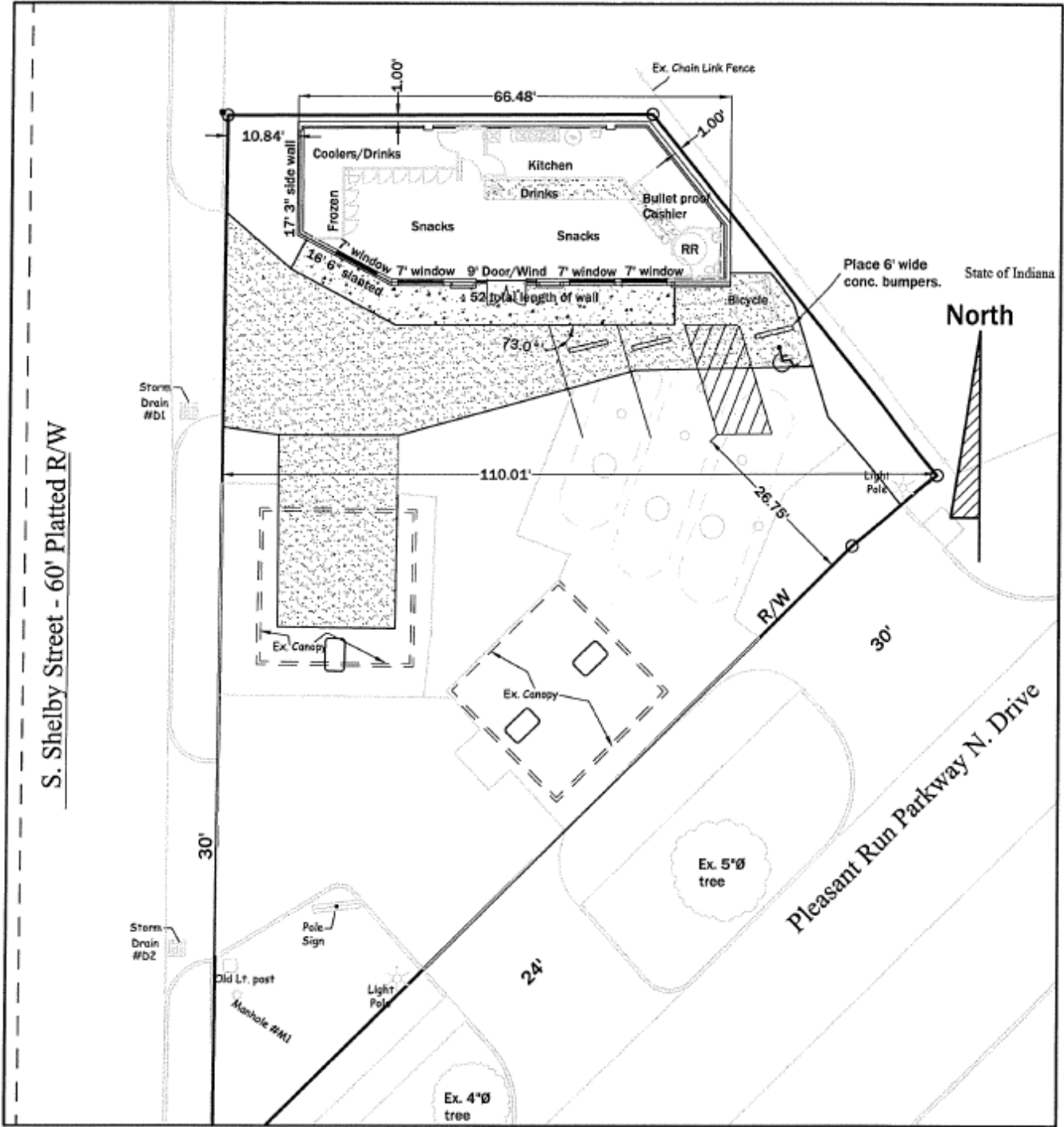
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2024DV3037 ; Site Plan (amended 01/10/25 submittal)

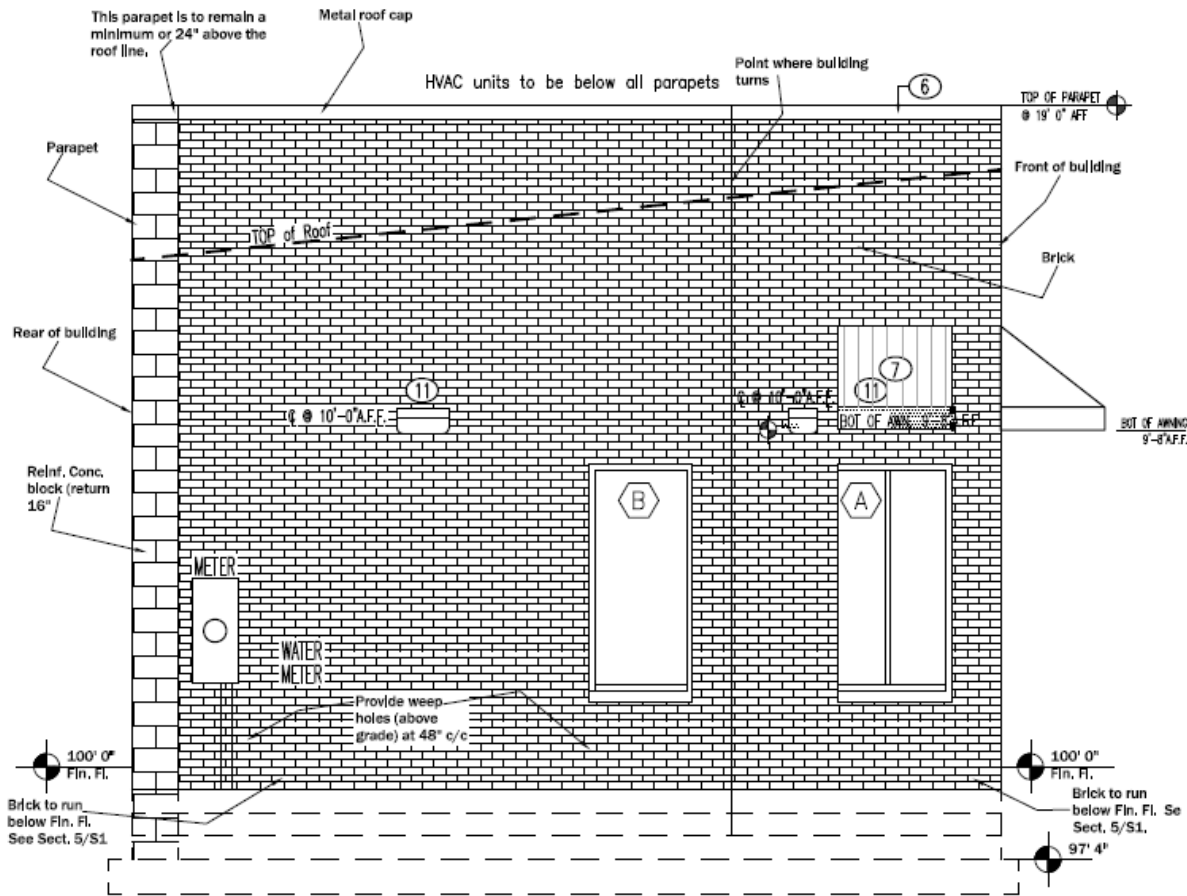
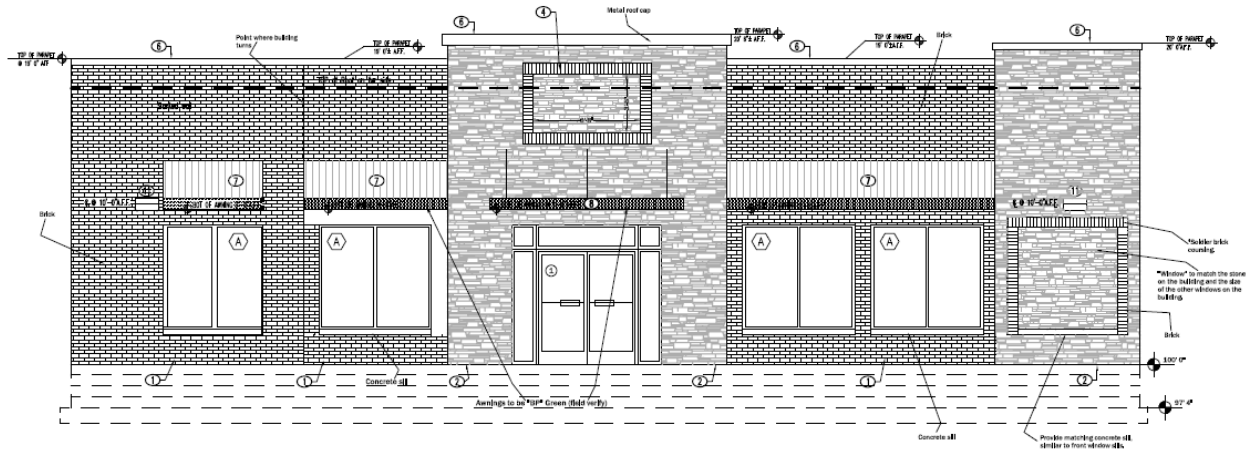


**Proposed Curbs/Sidewalk
 Shelby Street C-Store
 KLS 1/10/25 Plan D**

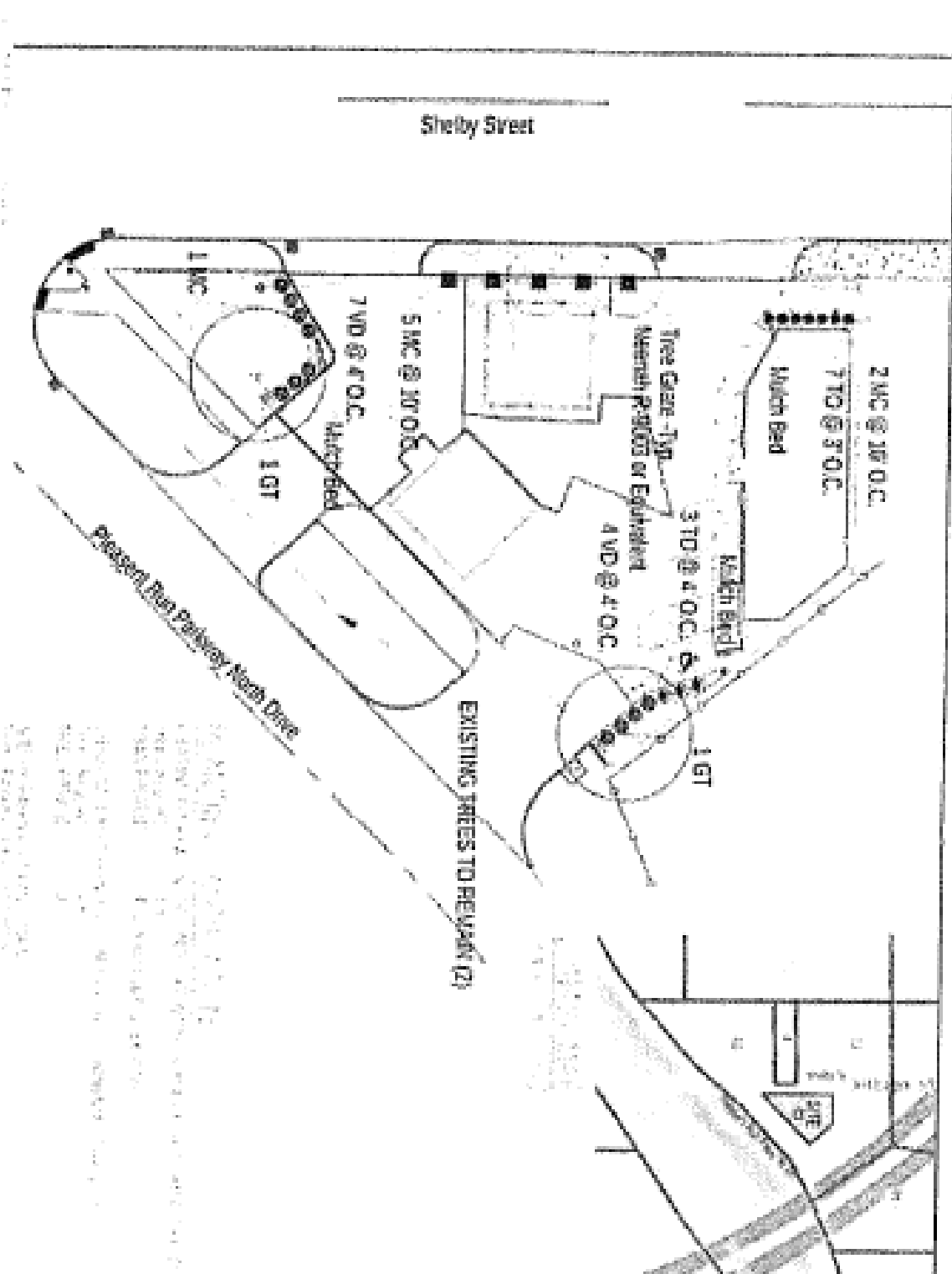
2024DV3037 ; Site Plan (initial 11/21/24 submittal)



2024DV3037 ; Elevations (South and West/Southwest)



2024DV3037 ; Landscape Plan (preliminary)





2024DV3037 ; Findings of Fact (Transparency)

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

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

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



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2024DV3037 ; Findings of Fact (Landscaping)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Permitting the landscaping required along the approximately 20' of the frontage along Shelby Street which abuts the short term parking space used when refueling at the single pump station along that frontage, does not present any risk of such injury in this case where the Petitioner is adding significant landscaping to the site at each end of the Shelby Street frontage per the Site Plan; and it also willing to close the existing southernmost entrance onto Shelby Street, and to solve a long-time existing risk by installing a new curb separating the pedestrian traffic on the existing sidewalk along Shelby Street from the internal vehicular traffic on the site.
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: The site sits at the intersection of Shelby Street and the sharply angled Pleasant Run North Drive, so it is a very small triangular parcel. The two rear yards of the site abut I-65 to the North and northeast. Across Pleasant Run to the East and Southeast is the heavily wooded Greenways corridor and then South drive, before any residential lots exist. Across Shelby Street to the West are three properties. Two are zoned C-3. The north parcel contains a commercial building owned by the Archdioces, and the south parcel contains Nelson's Marathon gas station. The middle parcel appears to contain a residential rental. The subject property has been utilized in the past as a gasoline service station with a very small associated C-store and also public restrooms, for at least four decades. If the variance is approved, the legally permitted gas station use would be refreshed and modernized, a new and attractive C-store built, and the entire site landscaped along with several significant improvements to the safety and appearance of the site. Permitting these upgrades to be made by approving this variance is preferable to denying it based on the minor variance being requested which abuts only the side of one parking space, as opposed to the front or back of said space.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: This is a very small site, triangular in shape. In addition to parking space adjacent to the pump for a vehicle that is being refueled, a traffic lane to pass the parked vehicle is required for public safety and emergency access. This access is especially important on the Shelby Street side due to the impact of the agreement by the Petitioner to close the southernmost entrance onto Shelby Street. The proposed new curb will be installed on the existing right of way line, which is also the east edge of the existing sidewalk. This presents a practical difficulty in that there is no room between the right of way line/existing sidewalk and the access around this fuel island for the typical landscape island along this short length of frontage. The legally existing pump and fuel island cannot practically be relocated due to the other improvements on the site, and it is not required to be removed. A site specific practical difficulty exists here; and the solution proposed by the Petitioner to landscape at the intersection and west of the building as shown on Site Plan, and also to add additional landscaping within the new island/areas along Pleasant is a satisfactory solution in this unique situation.



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2024DV3037 ; Findings of Fact (Building Width)

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

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: The site sits at the intersection of Shelby Street and the sharply angled Pleasant Run North Drive, so it is a very small triangular parcel. The two rear yards of the site about I-65 to the North and northeast. Across Pleasant Run to the East and Southeast is the heavily wooded Greenways corridor and then South drive, before any residential lots exist. Across Shelby Street to the West are three properties. Two are zoned C-3. The north parcel contains a commercial building owned by the Archdioces, and the south parcel contains Nelson's Marathon gas station. The middle parcel appears to contain a residential rental. The subject property has been utilized in the past as a gasoline service station with a very small associated C-store and also public restrooms, for at least four decades. If the variance is approved, the legally permitted gas station use would be refreshed and modernized, a new and attractive C-store built, and the entire site landscaped along with several significant improvements to the safety and appearance of the site. Denying this request based on the proposed orientation of the building likely just results in it staying vacant and an eyesore for the foreseeable future, and the current opportunity to actually have a positive impact on the adjacent properties and this area would be lost.

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

2024DV3037 ; Photographs



Photo 1: Subject Site from Southwest



Photo 2: Subject Site from Pleasant Run Pkwy NDR

2024DV3037 ; Photographs (continued)



Photo 3: Subject Site from Shelby Street



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

2024DV3037 ; Photographs (continued)



Photo 5: Adjacent Property to the Southwest



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

2024DV3037 ; Photographs (continued)



Photo 7: Existing Curb Cuts along Shelby Street



Photo 8: Existing Curb Cuts along Pleasant Run Pkwy NDR



BOARD OF ZONING APPEALS DIVISION III

January 21, 2025

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

PETITION HISTORY

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

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

STAFF RECOMMENDATION

Staff recommends **denial** of the variances.

PETITION OVERVIEW

- 8949 East Washington Street is currently improved with a multitenant commercial building and sits to the southwest of the intersection of Washington Street and Post Road. In addition to the electrical supply store that is requesting this variance, other tenant uses appear to include retail sales and hair and body care salons. Adjacent land uses include a gas station and automotive parts store to the north, a smaller multitenant commercial center to the northeast, seasonal fireworks sales to the west, residences to the east, an industrial equipment supplier to the southwest, and an automotive repair use to the south. The property is predominantly zoned C-5



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(a small sliver of the western portion of the site that doesn't contain the existing or proposed uses is zoned D-2), and the site's proximity to a proposed Blue Line BRT stop at the Washington and Post intersection means that this property is also located within the Transit Oriented Development secondary zoning layer.

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

freestanding overhead garage door placed between two of the shipping containers that would constitute placement of a fence over 10 feet in height (see Exhibits and Photograph 5). The rendering did not provide a scale but appears to show the overhead door would have a height of around 20 feet; this height would require grant of a variance to be legalized as well.

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



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

GENERAL INFORMATION

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



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

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

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

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

ZONING HISTORY – VICINITY

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

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

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

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

EXHIBITS

2024UV3017 ; Aerial Map

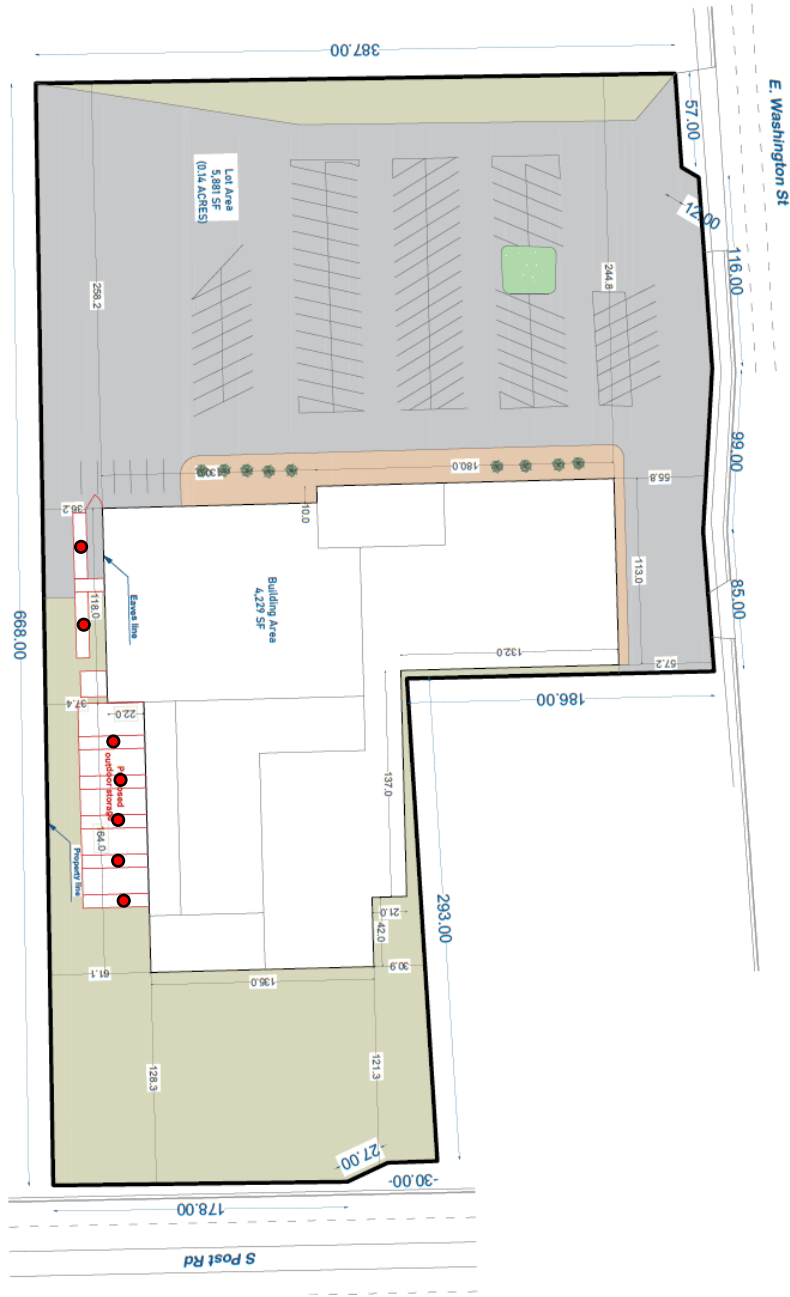




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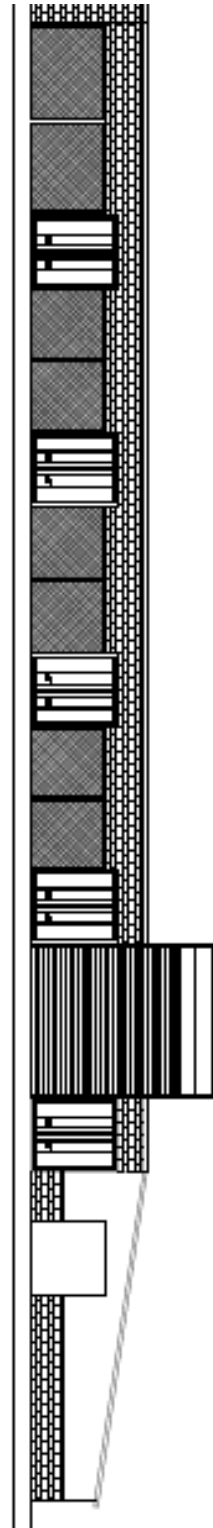
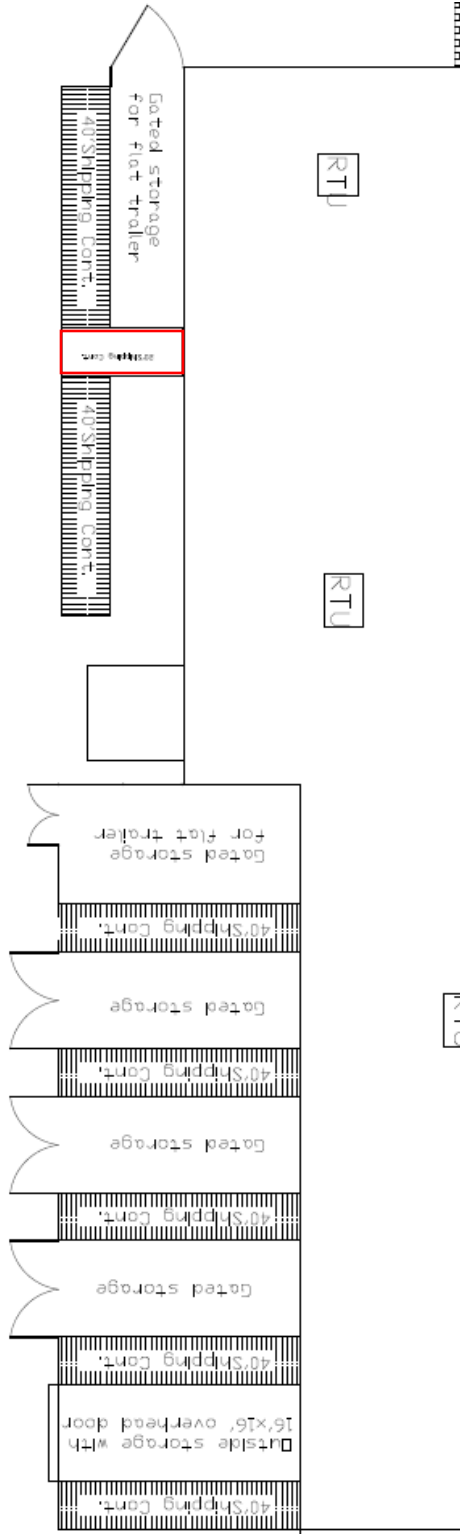
2024UV3017 ; Site Plan

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



2024UV3017 ; Site Detail + Southern Elevation (Partial)

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





Department of Metropolitan Development
Division of Planning
Current Planning

2024UV3017 ; Operation Plan

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

Integrity keeps six shipping containers outside, behind the building.

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

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

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

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



2024UV3017 ; Findings of Fact (Use)

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

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

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

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

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

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

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

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

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

2024UV3017 ; Findings of Fact (Development Standards)

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

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

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

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

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

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



2024UV3017 ; Notice of Violation (VIO24-001297)

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

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

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

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

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

Specific Violation: The parking or storage of a commercial vehicle in any zoning district, when the provisions of which do not specifically permit such a use; (Trailer, open or enclosed, with a cargo holder exceeding 12ft. in length...multiple trailers).

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

Specific Violation: The parking or storage of a commercial vehicle in any zoning district, when the provisions of which do not specifically permit such a use; (Vehicle, regardless of weight, used or designed to be used as a semi-trailer, flatbed truck, step van, box truck).

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

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

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

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

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

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

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

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

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

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

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

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

2024UV3017 ; Photographs



Photo 1: Subject Site from West (northern portion)



Photo 2: Subject Site from West (southern portion)

2024UV3017 ; Photographs (continued)



Photo 3: Storage Containers from West



Photo 4: Storage Containers from East (Post Road)

2024UV3017 ; Photographs (continued)



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



Photo 6: Subject Site from East

2024UV3017 ; Photographs (continued)



Photo 7: Adjacent Property to South (eastern portion)



Photo 8: Adjacent Property to South (western portion)

2024UV3017 ; Photographs (continued)



Photo 9: Adjacent Property to West



Photo 10: Adjacent Property to East

2024UV3017 ; Photographs (continued)



Photo 11: Adjacent Property to North



Photo 12: Adjacent Property to Northeast



BOARD OF ZONING APPEALS DIVISION III

January 21, 2025

Case Number: 2024-UV3-019 (Amended)
Address: 4033 East Southport Road (approximate address)
Location: Perry Township, Council District #24
Zoning: C-4
Petitioner: Akshar Krupa Indiana LLC, by Ron Gandhi
Request: Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two storage containers (outdoor storage not permitted).

Current Land Use: Commercial Motel

Staff Recommendation: Staff recommends Denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was continued for cause at the request of the petitioner, from the December 17, 2024, hearing, to the January 21, 2025, hearing.

The petitioner has submitted a revised site plan, relocating the two storage containers to another area of the parking lot, and providing them with the required ten-foot transitional side setback. Therefore, the petition was amended to withdraw the Variance of Development Standards request for a two-foot transitional side setback.

STAFF RECOMMENDATION

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

PETITION OVERVIEW

- ◇ The two storage containers are portable shipping container boxes and are not intended to be used as permanent storage buildings. Shipping containers, by definition, are commercial vehicles. Permanent accessory structures which are built and have a commercial building form, are regulated by the Commercial Building Code.
- ◇ Although the proposed portable storage containers meet the needs of the existing commercial motel, staff has concerns if this petition were to be approved, that the use of portable shipping containers for accessory storage could potentially expand on other surrounding lots based on the availability of land.
- ◇ Additional storage could be provided through an expansion of the motel building to provide for the needed storage, without the need for a use variance.



- ◇ A stick built or manufactured building that conforms to the Commercial Building Code, would be more appropriate for accessory storage on this site, than the proposed shipping containers, although a use variance would still be required as the C-4 zoning category does not permit any outdoor accessory storage facilities.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned C-4 and could be used by any number of uses permitted, by right, in the C-4 zoning classification without any variances. The need for the additional storage is self-imposed and could be addressed without a variance, by constructing an addition to the existing motel for appropriate storage or using off-site storage facilities for seasonal and infrequently used items. Any practical difficulty is self-imposed by the petitioner’s desire to choose to not follow the ordinance and use the site with two portable shipping containers as storage buildings.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial Motel	
Comprehensive Plan	Community Commercial uses	
Surrounding Context	Zoning	Surrounding Context
	North: C-4	Commercial Restaurant
	South: PK-1 / D-P	Passive Park Trail / Multi-Family
	East: C-3 / C-5	Commercial Restaurant / Gas Station
	West: D-P	Integrated Commercial Shopping Area
Thoroughfare Plan		
East Southport Road	Primary Arterial	92-foot existing right-of-way and 102-foot proposed right-of-way
Context Area	Metro area	
Floodway / Floodway Fringe	N/A	
Overlay	N/A	
Wellfield Protection Area	N/A	
Site Plan (Amended)	January 13, 2024	
Landscape Plan	N/A	
Findings of Fact	November 25, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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



Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- 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

2015-DV2-034; 7040 McFarland Boulevard (east of site), requested a variance of development standards to provide for 2,100 square feet of outdoor seating area associated with a restaurant, **granted.**

98-Z-129 / 98-DP-18; 3901 East Southport Road (west of site), requested the rezoning of 16.39 acres from D6ll, C-2, and C-6 (FF)(FW) to DP (FF)(FW) to provide for commercial and park uses, **approved.**

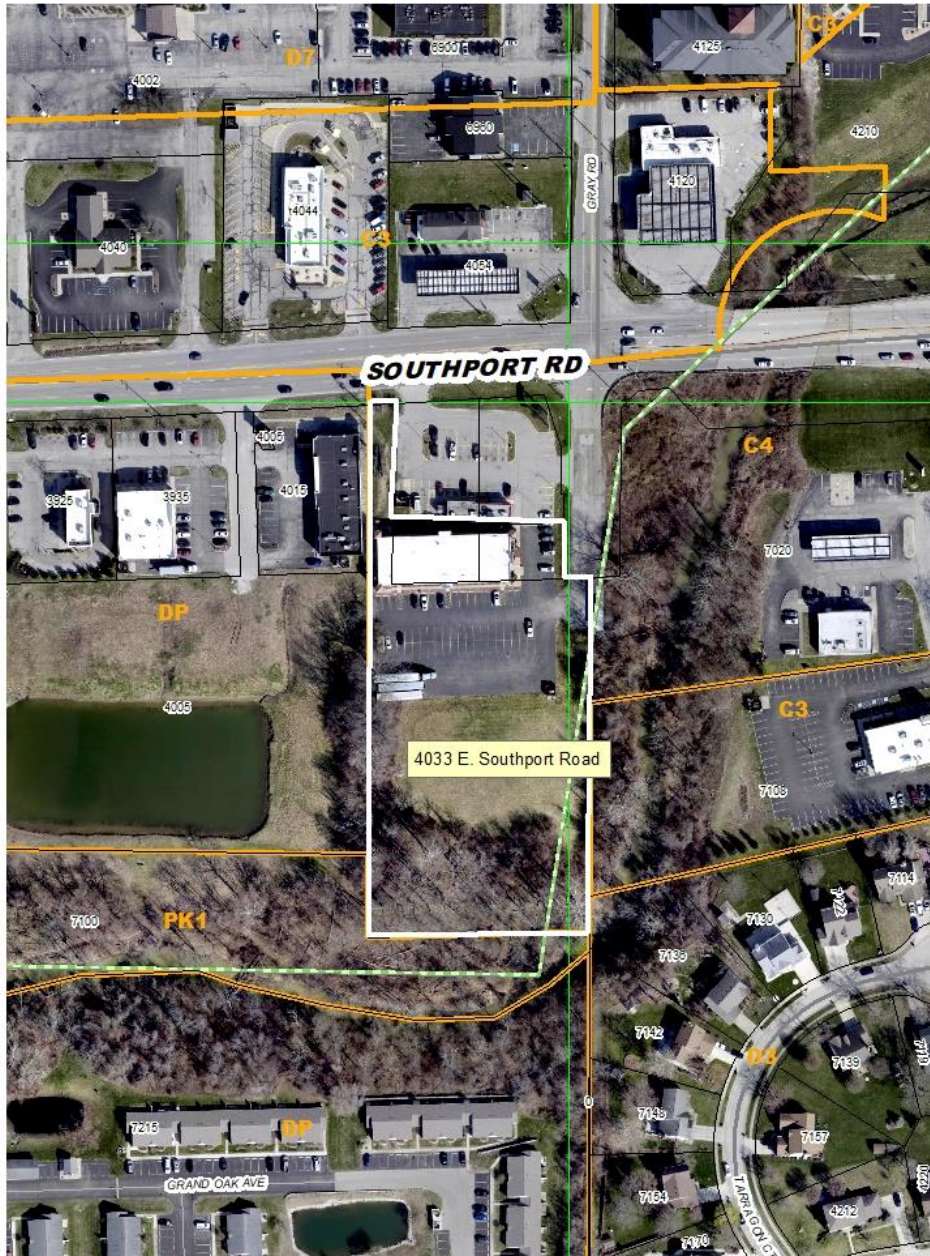
98-Z-65;7148 South Sherman Drive (south of site), requested the rezoning of 28.41 acres from D-A to D-P to provide for a multi-family residential community consisting of 174 units of doubles and/or quads, **approved.**

87-Z-92; 4001 East Southport Road (subject site), requested the rezoning of 2.97 acres from the C-2 and C-4 districts to the C-6 classification, **approved.**

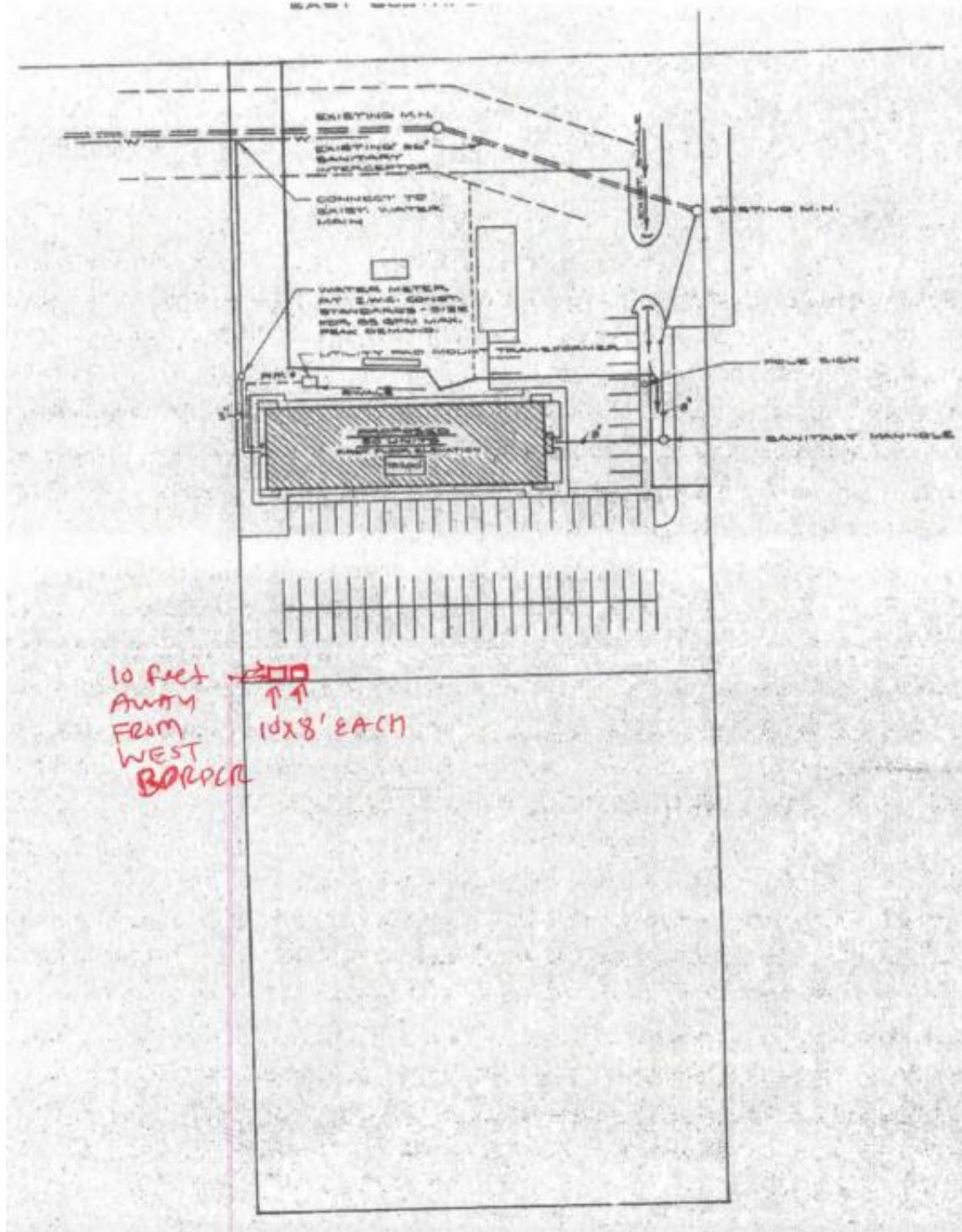
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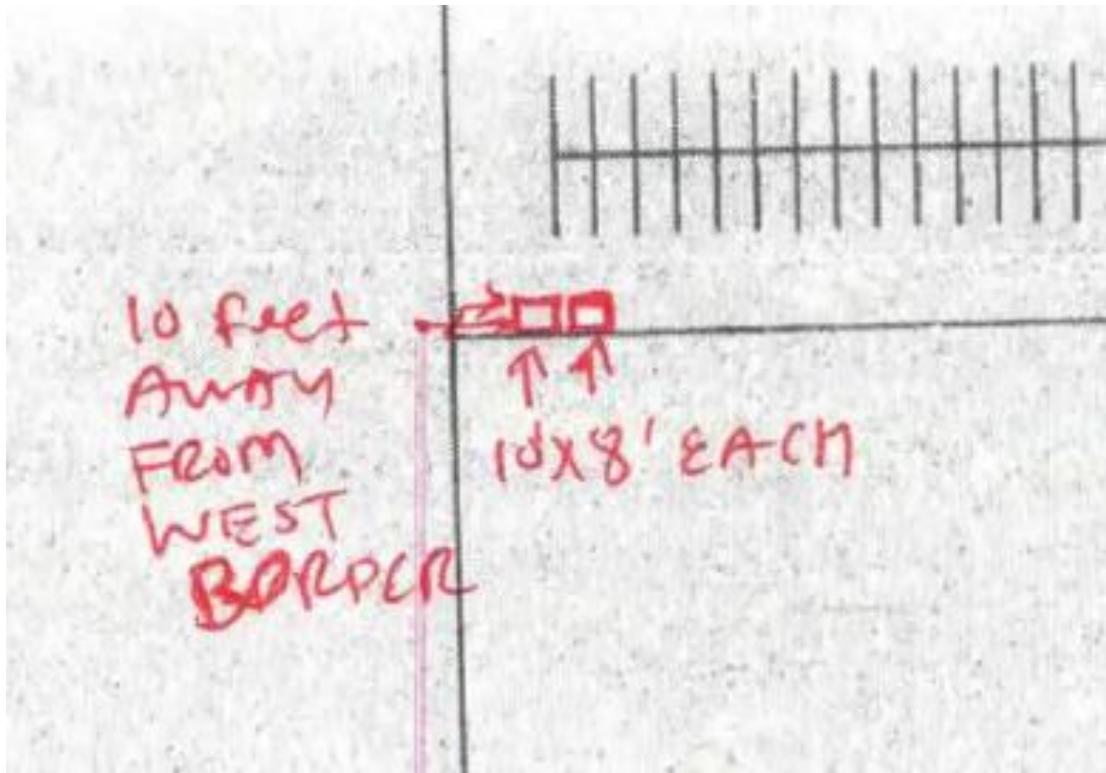
Location Map Subject Site



Site Plan - Overall



Site Plan – Close up





Findings of Fact

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division [redacted]
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 project is designed with careful consideration for community standards and regulations, ensuring no disruption to public health or safety protocols.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE the proposed changes are designed to align with the surrounding land uses and community standards. The project will not impose any restrictions or burdens on neighboring properties, nor will it obstruct views, access, or light.

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

These particular conditions make it challenging to achieve the intended use or development without a variance. The variance will allow for a reasonable and practical solution that addresses the property's unique characteristics while remaining compatible with surrounding land uses.

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

Granting the variance allows the property to be utilized in a way that respects both the owner's needs and the character of the surrounding area, without causing any harm to the public interest.

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

the proposed use aligns with the goals and intent of the plan, supporting community growth, land use harmony, and economic vitality. The variance will enable development that complements the surrounding area without disrupting planned land use or community resources.

Photographs



Subject site, east façade, looking west.



Subject site, south façade, looking north.



Existing storage container location on site, with two-foot west side setback, looking south.



Proposed relocation site for storage containers with 10-foot west side setback (trucks will be relocated), looking south.



Subject site, rear yard beyond parking lot, looking south.



Adjacent Commercial restaurant to the north, looking west.



Adjacent multi tenant commercial to the west, looking southeast.



Adjacent commercial uses to the east.



Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION III

January 21, 2025

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

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

Current Land Use: Residential / Undeveloped

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

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

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



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

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

Current Land Use: Automotive Dealership Integrated Center

Staff Recommendation: Staff recommends Denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first hearing for this petition.
A **six-day waiver of notice will be required** due to Staff providing the legal notice late to the petitioner.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ This 7.14-acre site is part of a larger 14.84-acre integrated center improved with two automobile dealerships under the same ownership, with frontage along US 31 and Stop 12 Road, and vehicular access from both streets.
- ◇ The purpose of the Sign Regulations is to eliminate potential hazards to motorists and pedestrians and encourage well-designed signs that are compatible with the surroundings, while eliminating excessive and confusing sign displays. Proliferation of signs causes those signs that are permitted and legal to become less effective and reduces their value. Additionally, the Sign Regulations preserve and improve the appearance of the City as a place in which to live and work.
- ◇ The Sign Regulations allow one sign for any commercial development with less than 300 feet of public street frontage. For sites with at least 600 feet of frontage, two freestanding signs are permitted. Sites with at least 900 feet of frontage may utilize three freestanding signs.

- ◇ This site has a 796-foot frontage and is developed with two automobile sales dealerships. Therefore, one or two signs along the US 31 frontage would adequately identify the site and comply with the provisions of the Sign Regulations. The denial of this request would not create a practical difficulty in the use of the property, as two signs would be allowed to be placed on the site by Ordinance.
- ◇ This request would provide for the relocation of an existing third sign along this site's 796 feet of frontage along US 31. The US 31 corridor is heavily developed with retail commercial uses. As the area developed more recently than other commercial corridors in the county, the majority of these commercial developments have been in the form of integrated retail centers, rather than single site uses. This development pattern has limited the proliferation of free-standing signage in the corridor.
- ◇ The Sign Regulations also allow two freestanding signs for an integrated center. This requirement is designed to mitigate the proliferation of freestanding signs and the visual conflicts and negative aesthetics associated with multiple signs in close proximity to one another.
- ◇ Sign permits have been issued to provide for many different iterations of free-standing signage at this site. While the accompanying documents in the permit files are difficult to read, it is staff's opinion that several of these permits should not have been issued without statements or conditions requiring the removal of previously permitted signage.
- ◇ In 2010, a variance to allow for an existing sign at this location was denied, yet the sign remained. Aerial photos indicate the sign arrived on site sometime between 1990 and 1995, which would not allow for it to be considered legally non-conforming as the Ordinance requires for it to have been on site since 1969. The sign ordinance at that time would also have required the 300-foot separation from the existing sign approximately 80 feet to the south, although there is no variance on record for that lack of separation. Therefore, the basis for approving the sign cannot be because it is a legal non-conforming use. Staff has based its recommendation on the current Ordinance requirements.
- ◇ Staff also determined that the existing signage on the site does not conform with the drawings and applications filed with prior permits. For example, the southernmost sign on the site is located near the intersection and contains an electric variable message component (EVMS) less than 125 feet from a signalized intersection and less than 600 feet from a protected district. The sign permit for that sign indicated it would be placed at the US 31 entrance to the site, approximately 400 feet to the north of the actual sign location, with another sign to be located at this site. No granted variance could be found for the EVMS sign's proximity to the signalized intersection or the protected district to the south. The approval of this variance would not address these non-conformities.

- ◇ The practical difficulty noted in the findings of fact for the requested third freestanding sign is that the dealership would be out of compliance with the franchise requirement for signs. Therefore, the variance request if granted, is to allow for the dealership to be out of compliance with the Zoning Ordinance, instead of out of compliance with the franchise requirement, which is a private contractual agreement, and could also be easily remedied by the relocation of the southernmost sign to the Stop 12 Road frontage.

GENERAL INFORMATION

Existing Zoning	C-5	
Existing Land Use	Automobile Dealership	
Comprehensive Plan	Heavy Commercial uses	
Surrounding Context	Zoning	Surrounding Context
	North: C-5	Car Wash / Automobile Dealerships
	South: D-P/SU-1	Multi-Family dwellings / Religious Use
	East: C-5	Automobile Dealerships
	West: C-5	Automobile repair / bodywork

Thoroughfare Plan			
US 31 South	Primary Arterial	153-foot existing and proposed right-of-way.	
East Stop 12 Road	Local Street	55-foot existing and proposed right-of-way	
Context Area	Metro area		
Floodway / Floodway Fringe	Yes		
Overlay	N/A		
Wellfield Protection Area	No		
Site Plan	November 4, 2024		
Sign Elevations	November 4, 2024		
Landscape Plan	N/A		
Findings of Fact	November 4, 2024		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

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

- Not Applicable to the Site.

ZONING HISTORY

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

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

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

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



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

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

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

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

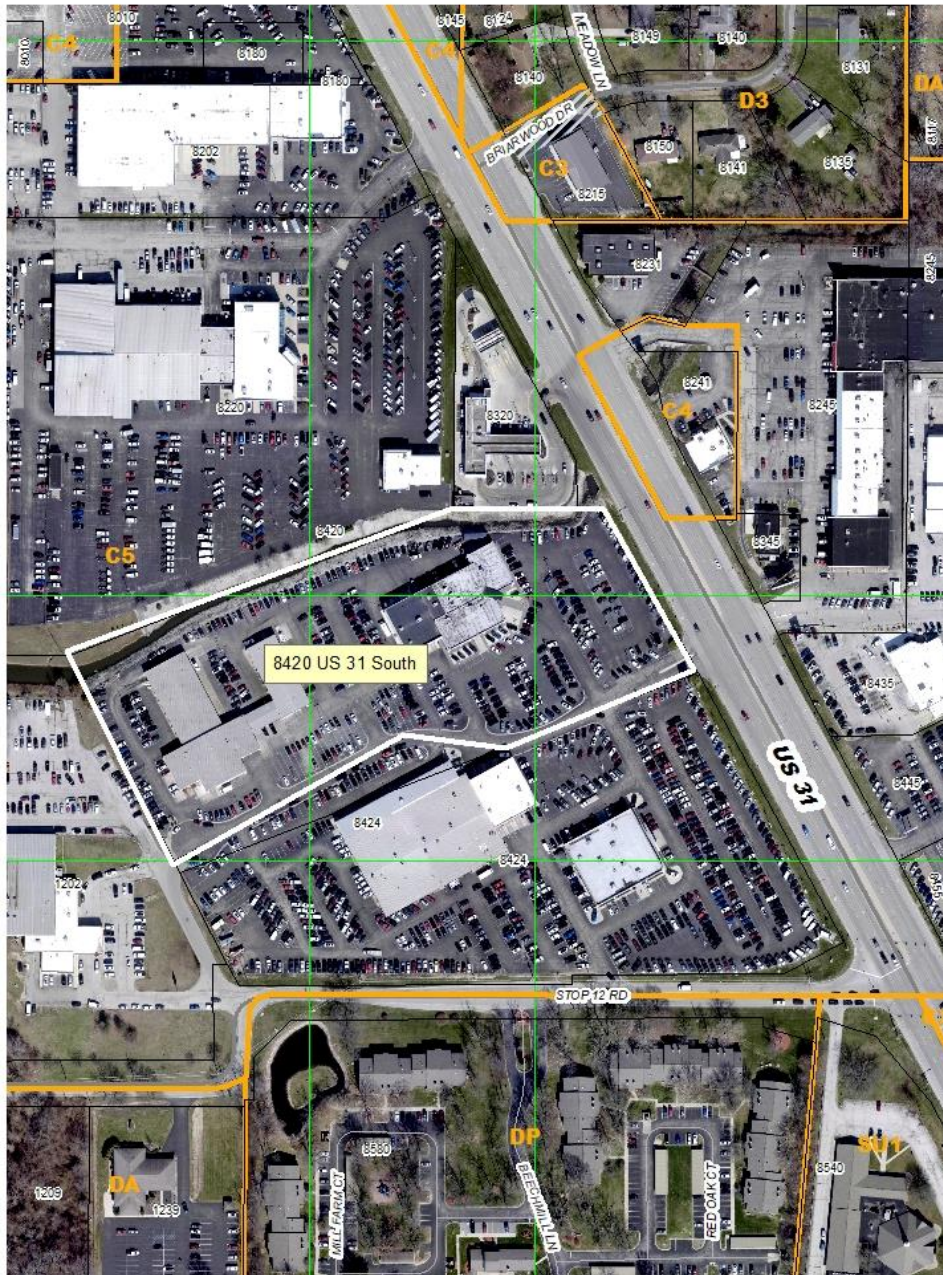
2010-DV1-017; 8420 US 31 South (subject site), requested a variance of development standards of the Sign Regulations to provide for a 25-foot tall, 93-square foot freestanding sign within 76 feet of an existing sign, being the third sign along an approximately 705-foot frontage, **denied**.

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

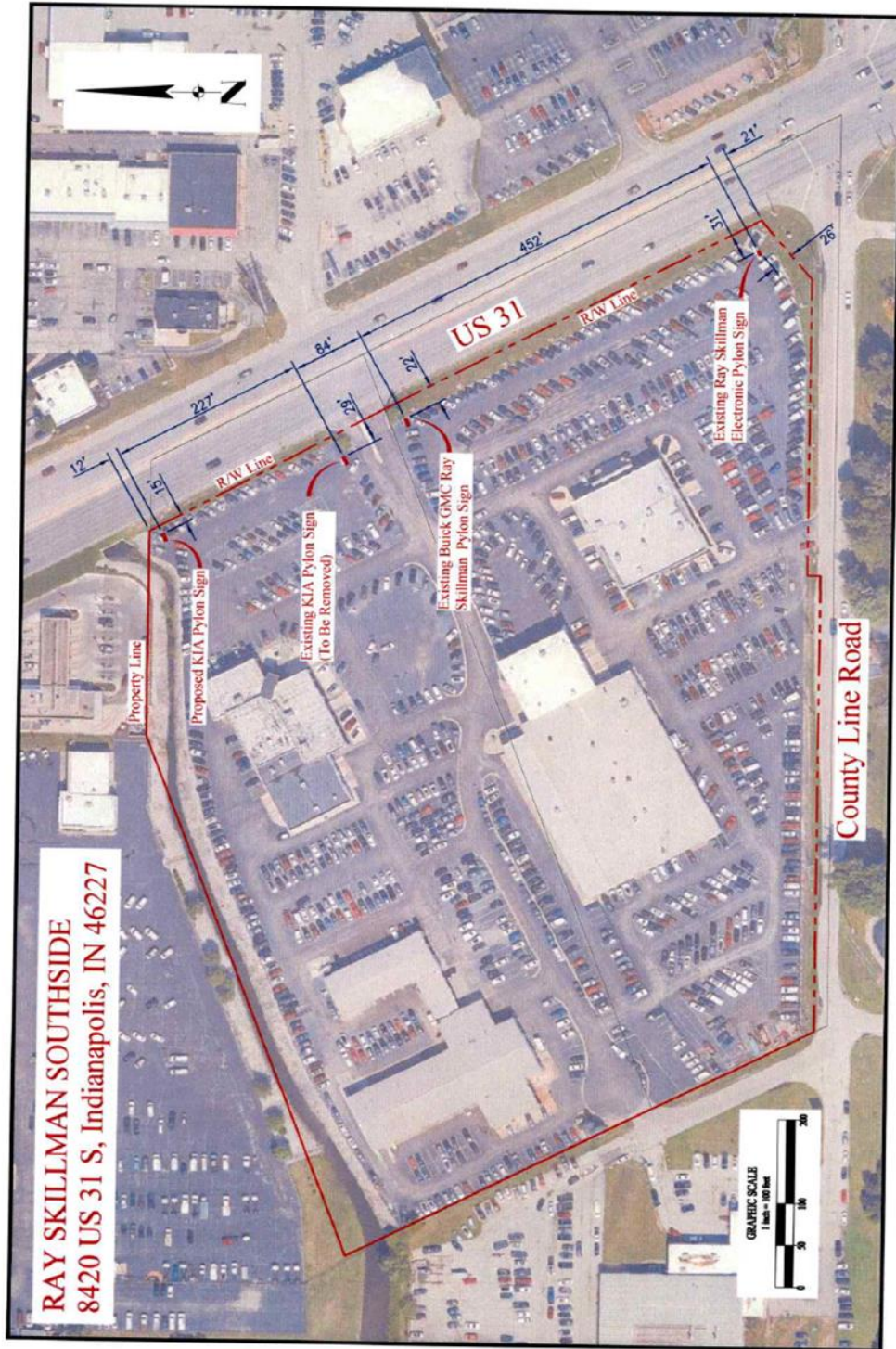
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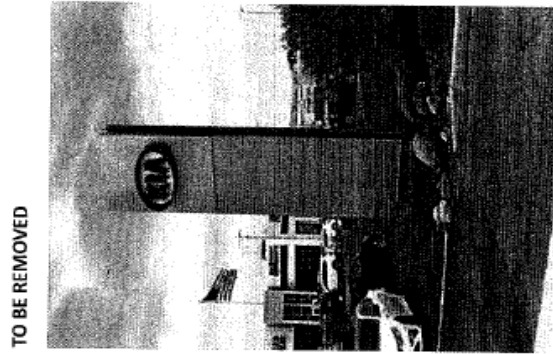
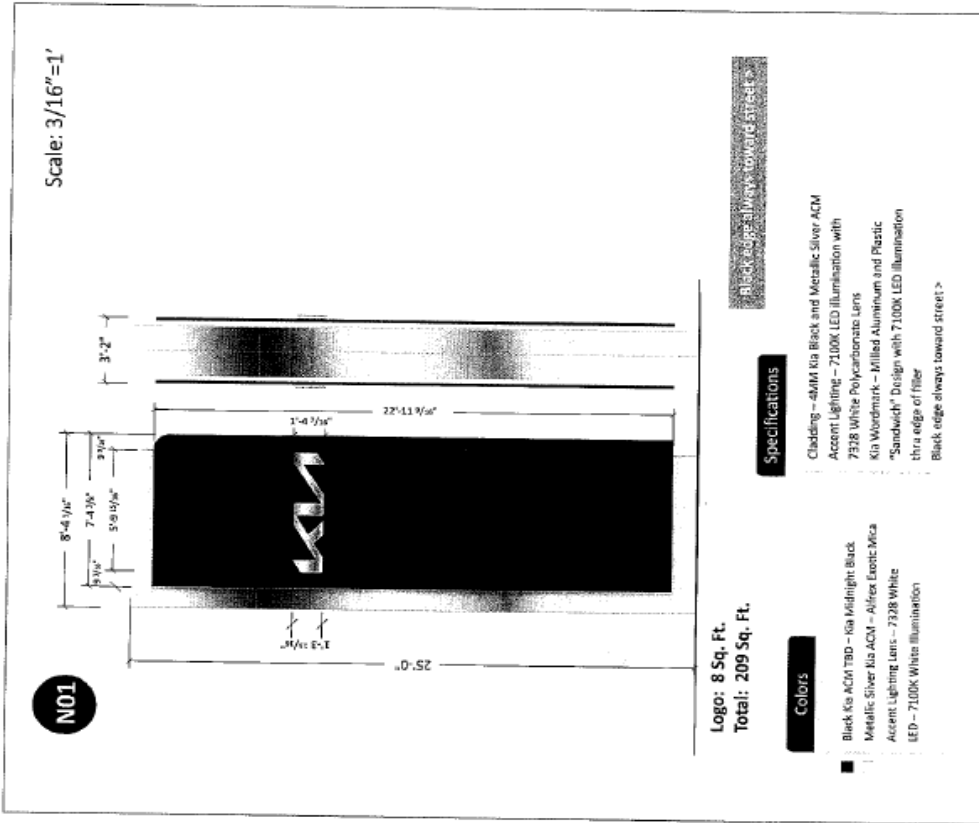
Location Map Subject Site



Site Plan



Sign Elevation



TO BE REMOVED

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

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

KIA NEW LOGO MONOLITH KUSPS25



Findings of Fact

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

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

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

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

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

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

Photographs



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



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



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



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



Adjacent commercial use signage to the north.



Adjacent commercial use signage to the east, looking north.