



Metropolitan Development Commission Hearing Examiner (November 9, 2023) Meeting Agenda

Meeting Details

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

Date: Thursday, November 09, 2023 **Time:** 1:00 PM

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

Business:

Special Requests

PETITIONS TO BE EXPEDITED:

1. 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 | 3838 East 46th Street

Washington Township, Council District #9
Habitat for Humanity of Greater Indianapolis, Inc., by Chris Barnett

Rezoning of 4.22 acres from the SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.

Variance of Development Standards to provide for an access drive extending 34-feet into the Stream Protection Corridor of Devon Creek for a maximum length of 107 feet (100-foot Stream Protection Corridor Required).

Approval of a Subdivision Plat, to be known as Devon Creek, dividing 4.22-acres into ten single-family detached lots and one common area, with a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.

Petitions for Public Hearing

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

2. 2023-CVR-855 / 2023-CPL-855 | 3702 East 32nd Street

Center Township, Council District #17
D-5
ABA N Play, LLC, by Jynell D. Berkshire

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a lot with a 20.45-foot lot width (minimum 60-foot lot width required).

Approval of a Subdivision Plat to be known as Replat Lot L McGillard Carpenter & Field's Brightwood Addition, subdividing 5.07 acres into seven lots to be developed with six duplexes.

3. 2023-CAP-856 / 2023-CVR-856 | 6333 and 6345 West Thompson Road

Decatur Township, Council District #20
C-1
Derrick S. Emmons & Sue Ann Emmons and Kentucky Avenue Holdings, LLC, by William T. Niemier

Modification of Commitments, related to 2003-ZON-119, to modify Commitments #1, #2 and #6 to allow for a painting business and truck rental business (previous commitments prohibited trucks heavier than a one-ton truck, limited the number of trucks parking overnight to one, and limited the permitted uses to C-1 uses).

Variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish a painting business and a truck rental business (not permitted).

Additional Business:

**The addresses of the proposals listed above are approximate and should be confirmed with the Division of Planning. Copies of the proposals are available for examination prior to the hearing by emailing planneroncall@indy.gov. Written objections to a proposal are encouraged to be filed via email at dmdpubliccomments@indy.gov before the hearing and such objections will be considered. At the hearing, all interested persons will be given an opportunity to be heard in reference to the matters contained in said proposals. The hearing may be continued from time to time as may be found necessary. For accommodations needed by persons with disabilities planning to attend this public hearing, please call the Office of Disability Affairs at (317) 327-5654, at least 48 hours prior to the meeting. Department of Metropolitan Development - Current Planning Division.

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859
Address: 3838 East 46th Street (approximate address)
Location: Washington Township, Council District #9
Petitioner: Habitat for Humanity of Greater Indianapolis, Inc., by Chris Barnett
Requests: Rezoning of 4.22 acres from the SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.

Variance of Development Standards to provide for an access drive extending 34-feet into the Stream Protection Corridor of Devon Creek for a maximum length of 107 feet (100-foot Stream Protection Corridor Required) and a 68-foot front setback along 46th Street for property address 3860 East 46th Street (front building line range of 20 to 50 feet required).

Approval of a Subdivision Plat, to be known as Devon Creek, dividing 4.22-acres into ten single-family detached lots and one common area, with a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.

RECOMMENDATIONS

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

Staff recommends **approval of the variance of development standards** petition.

Staff recommends that the Hearing Examiner **approve** and find that the plat, file-dated October 3, 2023, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. That the applicant provides a bond, as required by Section 741-210, of the Consolidated Zoning and Subdivision Ordinance.
2. Subject to the Standards and Specifications of the Department of Public Works, Sanitation Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
4. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
5. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat, prior to recording.

(Continued)

STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)

6. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
7. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
8. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
9. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
10. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted, prior to recording the final plat.
11. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance are met, prior to the recording of the final plat.
12. That the final plat or covenants shall include who will be responsible for maintenance and upkeep of the common area.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ The subject site is comprised of an undeveloped parcel that is zoned SU-1. It is bordered to the north, west, and east by a sports club and associated wooded land, zoned SU-34, and across 46th street to the south by single-family dwellings, zoned D-2.
- ◇ This petition would subdivide the property into ten single-family detached lots and one common area with a partial waiver of sidewalks and associated variance of development standards.

REZONING

- ◇ This petition would rezone this site from SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.
- ◇ The SU-1 district only permits religious uses to be developed on site.
- ◇ The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.

(Continued)

STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)

- ◇ The Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends 3.5 to 5 residential units per acre development, which would be permitted in the proposed D-5 district.

FLOODWAY / FLOODWAY FRINGE

- ◇ The subject site lies within the floodway and floodway fringe of Devon Creek and is subject to the Flood Control Secondary Zoning Districts regulations.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This petition would provide for an access drive extending 34 feet into the 100-foot Stream Protection Corridor of Devon Creek for a maximum length of 107 feet. Early in the planning phase of the development Planning Staff and the Department of Public Works recommended that rear access be provided for the proposed lots since it was determined that the encroachment into the stream protection corridor would be minimal and would prevent the alternative of unnecessary curb cuts along 46th Street.
- ◇ This petition would also provide for a 68-foot front setback along 46th Street for property address 3860 East 46th Street where a front building line range of 20 to 50 feet is required. Due to the anticipated access easement along the eastern property boundary, the proposed location of the single-family dwelling was pushed back to meet the front setback along Millersville Road.

PLAT

- ◇ The plat would subdivide the subject site into ten single-family detached lots and one common area. The proposed plat meets the standards of the D-5 (FW) (FF) zoning classification as proposed in the companion rezoning except for the 68-foot front setback along 46th Street for property address 3860 East 46th Street as proposed in the companion variance petition.
- ◇ The request includes a partial waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.
- ◇ Staff is requesting a commitment to ensure that the final plat or covenants note who will be responsible for maintenance and upkeep of the common area.

TRAFFIC / STREETS

- ◇ The proposed lots would front on 46th Street with a 34-foot-wide access easement along the northern property boundaries of the ten lots that wraps around to Millersville Road. No new streets are proposed as part of this petition.

(Continued)

STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)**SIDEWALKS**

- ◇ Sidewalks are required on 46th Street and Millersville Road.
- ◇ This petition includes a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road. The Department of Public Works determined that the waiver is necessary due to the limited space between the guard rail and pavement to install a proper sidewalk. Additionally, the location of the creek and its topography creates a practical difficulty for the development of a sidewalk along the 65-foot stretch that the waiver is being requested for.

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

| | | |
|------|-------|-------------|
| SU-1 | Metro | Undeveloped |
|------|-------|-------------|

SURROUNDING ZONING AND LAND USE

| | | |
|-------|-------|---------------------------------------|
| North | SU-34 | Sports Club |
| South | D-2 | Residential (Single-family dwellings) |
| East | SU-34 | Undeveloped |
| West | SU-34 | Undeveloped |

NEIGHBORHOOD PLAN

The Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends 3.5 to 5 residential units per acre development.

THOROUGHFARE PLAN

Millersville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 107-foot existing and a 102-foot proposed right-of-way.

THOROUGHFARE PLAN

46th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

SITE PLAN

File-dated October 3, 2023.

PRELIMINARY PLAT

File-dated October 3, 2023.

FINDINGS OF FACT

File-dated October 3, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

(Continued)

STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)**PREVIOUS CASES**

98-Z-200; 4602 Millersville Road (subject site), Rezoning of 4.223 acres, being in the SU-34 District, to the SU-1 classification to provide for a religious use, **approved**.

92-Z-86; 4650 Millersville Road (subject site), Rezoning of 70 acres, being in the SU-34 District, to the D-P classification to provide for two-family development, **denied**.

83-Z-188; 4650 Millersville Road (subject site), Rezoning of 70 acres, being in the SU-34 District, to the D-6 classification to provide for multi-family development, **withdrawn**.

ZONING HISTORY – VICINITY

94-Z-57; 4650 Millersville Road (north of site), Rezoning of 49.897 acres, being in the SU-34 District, to the D-P classification to provide for residential development in the floodway fringe, **approved**.

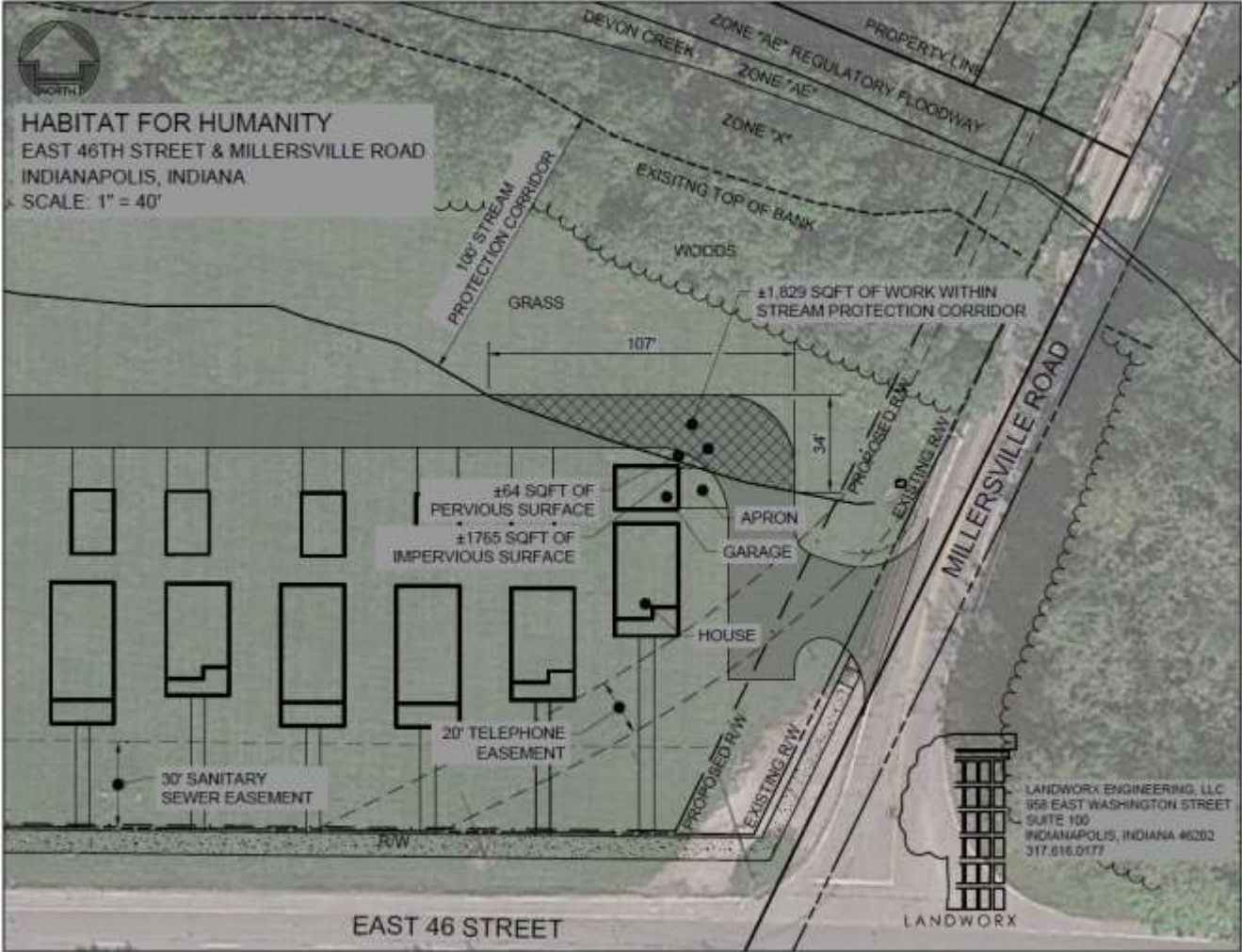
90-Z-199; 4221-4231 East 46th Street (southeast of site), Rezoning of 2.01 acres from the SU-34/FP/FF District to the D-2/FP/FW classification to provide for a single-family dwelling, **approved**.

MI

2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Aerial Map



2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Stream Protection Encroachment



2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Preliminary Plat

DEVON CREEK SUBDIVISION

PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 16 NORTH,
RANGE 4 EAST, WASHINGTON TOWNSHIP, MARION COUNTY, INDIANA

PUBLIC NOTICE: THIS PLAT IS BEING FILED IN THE PUBLIC RECORDS OF MARION COUNTY, INDIANA, IN ACCORDANCE WITH THE REQUIREMENTS OF THE RECORDS ACT, CHAPTER 36-3-1, I.C. 36-3-1-1, I.C. 36-3-1-2, I.C. 36-3-1-3, I.C. 36-3-1-4, I.C. 36-3-1-5, I.C. 36-3-1-6, I.C. 36-3-1-7, I.C. 36-3-1-8, I.C. 36-3-1-9, AND I.C. 36-3-1-10. THIS PLAT IS BEING FILED FOR THE PURPOSES OF RECORDING AND IS NOT BEING FILED AS A CONDITION OF ANY OTHER MATTER.

ADDITIONAL INFORMATION: THIS PLAT IS BEING FILED IN ACCORDANCE WITH THE REQUIREMENTS OF THE RECORDS ACT, CHAPTER 36-3-1, I.C. 36-3-1-1, I.C. 36-3-1-2, I.C. 36-3-1-3, I.C. 36-3-1-4, I.C. 36-3-1-5, I.C. 36-3-1-6, I.C. 36-3-1-7, I.C. 36-3-1-8, I.C. 36-3-1-9, AND I.C. 36-3-1-10. THIS PLAT IS BEING FILED FOR THE PURPOSES OF RECORDING AND IS NOT BEING FILED AS A CONDITION OF ANY OTHER MATTER.

LEGAL DESCRIPTION: THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 16 NORTH, RANGE 4 EAST, WASHINGTON TOWNSHIP, MARION COUNTY, INDIANA.

PREPARED BY: ANNA BLACKMON, Notary Public - Seal, Marion County - State of Indiana, My Commission Expires Feb 20, 2025

APPROVED BY: [Signature] TITLE: [Title]

WITNESSES: [Signatures] TITLE: [Titles]

FILED: [Date] [Time] [Notary Name]

2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Findings of Fact

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division [redacted]
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 intrusion into the Stream Protection Corridor is minimal and necessary to support development of this otherwise difficult-to-develop parcel as per the Area Plan recommendation (3.5-5 dwelling units per acre).

[Redacted area]

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 minimal intrusion into the Stream Protection Corridor will not remove tree cover along the stream, nor will it exacerbate runoff or flooding downstream of the subject property.

[Redacted area]

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

such terms would prevent the required rear access to the property when development is configured to meet other terms of the zoning ordinance that are required to implement the residential use and density recommended by the Area Plan. An additional complicating factor is a pre-existing easement in favor of AT&T which takes so much space at the corner of E. 46th and Millersville that it pushes building sites at the east end of the property so far back that the access drive must of necessity intrude into the Stream Protection Corridor.

[Redacted area]

2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Findings of Fact

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

**WAIVER OF THE SUBDIVISION REGULATIONS
FINDINGS OF FACT**

1. The granting of the waiver or modification will not be detrimental to the public health, safety, or welfare or injurious to other property because:

There is currently no sidewalk along Millersville Road in its entire length between 46th Street and Emerson Way. The subdivision plan proposes to provide such a sidewalk along most of the development's Millersville Road frontage.

2. The conditions upon which the request is based are individual to the property for which the relief is sought and are not applicable generally to other property because:

There is not sufficient width between guard rail and pavement at this specific location, nor is there a sidewalk on the Millersville Road bridge over Devon Creek (adjacent to the subject development to the north) to which a public sidewalk on the subdivision site could be connected.

3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out:

There is not sufficient width between guard rail and pavement at this specific location to install a regulation sidewalk, and the topography of the site would not allow the guardrail to be moved far enough away from the pavement edge to accommodate a sidewalk.

4. The resulting subdivision fulfills the purpose and intent of these regulations at an equal or higher standard than what would have been possible without the deviation because:

The subdivision plan provides public sidewalk along the rest of its frontage, which could be connected to a new sidewalk on the Millersville Road bridge over Devon Creek should Indianapolis DPW ever redesign and rebuild the bridge to accommodate a pedestrian way.

5. The relief sought shall not in any manner vary from the provisions of the Zoning Ordinance, or official zoning base maps, except as those documents may be amended in the manner prescribed by law because:

there exists local and practical difficulty in compliance with the regulation.

2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Site Photos



Photo of the street frontage looking west along 46th Street.



Photo of the subject site looking northwest from 46th Street.



Photo of the subject site looking north from 46th Street.



Photo of the subject site looking northeast from 46th Street.



Photo of the street frontage looking east along 46th Street.



Photo of the entire southern street frontage.



Photo of the eastern street frontage looking north on Millersville Road.



Photo of the eastern street frontage looking south on Millersville Road.



Photo looking west towards where the access easement would be proposed.



Photo looking south at Devon Creek located along the northern property boundary.



Photo of the driveway north of the site that leads toward the sports club.



Photo of single-family dwellings north of the sports club driveway.

STAFF REPORT

Item 2.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CVR-855 / 2023-CPL-855
Address: 3702 East 32nd Street (*Approximate Address*)
Location: Center Township, Council District #17
Petitioner: ABA N Play, LLC, by Jynell D. Berkshire
Zoning: D-5
Requests: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a lot with a 20.45-foot lot width (minimum 60-foot lot width required).

Approval of a Subdivision Plat to be known as Replat Lot L McGillard Carpenter & Field's Brightwood Addition, subdividing 5.07 acres into seven lots to be developed with six duplexes.

ADDENDUM FOR NOVEMBER 9, 2023, HEARING EXAMINER

The Hearing Examiner continued these petitions from the October 12, 2023 hearing, to the November 9, 2023 hearing, at the request of the petitioner's representative.

October 12, 2023

RECOMMENDATIONS

Staff **recommends denial** of these requests.

Staff recommends that the Hearing Examiner **deny** and find that the plat, file-dated September 7, 2023, does not comply with the standards of the Subdivision regulations because Lot Seven does not provide the required lot width.

If approved, staff would request that approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to final plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

(Continued)

And the following conditions related to the plat:

1. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
2. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
4. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
5. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
6. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
7. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
9. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
10. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 5.07-acre site, zoned D-5, is undeveloped and surrounded by undeveloped land to the north; single-family dwellings to the south, across East 32nd Street; undeveloped land to the east; and unimproved public right-of-way to the west, all zoned D-5.
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site as development occurs on the lots:

Conditions for All Land Use Types

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

(Continued)

Conditions for All Housing

- A mix of housing types is encouraged.
- Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly-accessible recreational or cultural amenity that is available at no cost to the user.
- Primary structures should be no more than one and a half times the height of other adjacent primary structures.
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.

Attached Housing

- Duplexes should be located on corner lots, with entrances located on different sides of the lot.
- It is preferred that townhomes should be organized around intersections of neighborhood collector streets, greenways, parks or public squares, or neighborhood-serving retail.
- If the above conditions are not met, individual buildings of attached housing (not part of a complex) may be interspersed with single-family homes, but should not make up more than 25% of the primary residential structures on a block

Infill Housing Guidelines

- ◇ The Infill Housing Guidelines were updated and approved in May 2021, with a stated goal “to help preserve neighborhood pattern and character by providing guiding principles for new construction to coexist within the context of adjacent homes, blocks, and existing neighborhoods. These guidelines provide insight into basic design concepts that shape neighborhoods, including reasons why design elements are important, recommendations for best practices, and references to plans and ordinance regulations that reinforce the importance of these concepts.”
- ◇ These guidelines apply to infill development in residential areas within the Compact Context Area and include the following features:

Site Configuration

- Front Setbacks
- Building Orientation
- Building Spacing
- Open Space
- Trees, Landscaping, and the Outdoors

Aesthetic Considerations

- Building Massing
- Building Height
- Building Elevations and Architectural Elements

(Continued)

Additional Topics

- Secondary Dwelling Units, Garages, and Accessory Structures
- Adapting to the Future

Tree Preservation / Heritage Tree Conservation

- ◇ There are significant amounts of natural vegetation and trees located on the northern portion of the site. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.
- ◇ All development shall be in a manner that causes the least amount of disruption to the trees.
- ◇ A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.
- ◇ If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.
- ◇ The Ordinance defines “heritage tree” as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentukea*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)
- ◇ The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location issuance date. See Exhibit A, Table 744-503-3: Replacement Trees.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a lot with a 20.45-foot lot width when the Ordinance requires a 60-foot lot width.
- ◇ As proposed, this request would be infill development and one of the purposes of the Ordinance is to protect the character of the existing neighborhood, which is primarily single-family dwellings. Staff believes the development of duplexes on six of the lots along East 32nd Street would be acceptable because the six lots would have a similar configuration and frontage of adjacent lots in the area.

(Continued)

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to street frontage, are intended to ensure that a property has adequate, unobstructed, and direct access from a public right-of-way.
- ◇ However, Lot 7 is contrary to orderly future development and would be inconsistent with the neighborhood character and would, in fact, result in safety issues related to access should the remaining property be further subdivided.
- ◇ Staff does not support this type of development, resulting in a “flag lot” and believes that it would be inappropriate to increase the number of these exceptions in Marion County, when there is no practical difficulty present. This property could be developed to prevent this type of long and narrow “flag lot”. Staff does not wish to encourage the creation of these lots, and, therefore, recommends denial of this request, based upon the information above and the lack of practical difficulty for dividing this property, as proposed.
- ◇ Staff would support a plat for seven lots that would continue the current proposed parcel lines to the northern site boundary, thereby eliminating the flag lot. See Exhibit B.

PLAT

- ◇ This proposed plat would divide the existing parcel into seven lots. Lots One through Five would be 0.21 acre each, with a 60-foot frontage. Lot Six would be 0.27 acre with a 79.32-foot frontage and Lot Seven would be 3.39 acres, with a 20.45-foot frontage. The proposed plat does not meet the standards of the D-5 zoning classification.

Traffic / Streets

- ◇ The proposed lots would front on East 32nd Street. No new streets are proposed as part of this petition.

Procedure

- ◇ This plat petition, if approved, only legally establishes the division of land. Any new construction would be required to meet all development standards of the D-5 Dwelling District, including, but not limited to setbacks, minimum lot width and frontage, and minimum open space.
- ◇ As development on these sites occurs, recommendations of the Pattern Book should be considered, as well as compliance with the Ordinance to mitigate negative impacts on surrounding residential development. In other words, development standards variances should be minimal and based on practical difficulty in the use of the property, rather than desires of the developer.

(Continued)

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-5 Undeveloped land

SURROUNDING ZONING AND LAND USE

North - D-5 Undeveloped land
South - D-5 Single-family dwelling
East - D-5 Undeveloped land
West - D-5 Undeveloped land

COMPREHENSIVE PLAN The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends traditional neighborhood typology. Marion County Land Use Pattern Book (2019). Infill Housing Guidelines (2021)

THOROUGHFARE PLAN This portion of East 32nd Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 30-foot right-of-way and a proposed 48-foot right-of-way.

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

OVERLAY There is no overlay for this site.

SITE PLAN / PRELIMINARY PLAT File-dated September 7, 2023

FINDINGS OF FACT File-dated September 7, 2023

ZONING HISTORY

2022-ZON-002; 3208 North Sherman Drive (east of site), requested rezoning of 1.26 acres from the SU-7 district to the C-S district to provide for a detoxification and residential inpatient behavioral health treatment facility, **approved**.

2020-ZON 091; 3208 North Sherman Drive (east of site), requested rezoning of 1.26 acres from the SU-6 district to the SU-7 district to provide for transitional housing for males recovering from drug and alcohol addiction. **approved**.

kb

Heritage Tree Conservation

Removal of any Heritage Tree is prohibited unless any of the following determinations are made before removal:

1. The Administrator or the city’s Urban Forester determines that the tree is dead, significantly and terminally diseased, a threat to public health or safety, or is of an undesirable or nuisance species.
2. The Director of the Department of Public Works determines that the tree interferes with the provision of public services or is a hazard to traffic.
3. The Administrator determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree.
4. The site from which the tree is removed is zoned D-A and the tree is harvested as timber or similar forestry product.

| Size of tree removed or dead (inches) | Number of Trees to be planted to replace a Heritage Tree | Number of Trees to be planted to replace an existing tree |
|--|---|--|
| Over 36 DBH | 15 | 10 |
| 25.5 to 36 DBH | 11 | 8 |
| 13 to 25 DBH | 8 | 6 |
| 10.5 to 12.5 DBH | 6 | 4 |
| 8.5 to 10 DBH | 5 | 4 |
| 6.5 to 8 | 3 | 2 |
| 4 to 6 | 2 | 2 |
| 2.5 to 3.5 | 1 | 1 |

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:

will not result in an increase in public expenditure nor unduly increase traffic congestion in the public streets and highways. The variance will not substantially increase the hazard from fire or other dangers to the subject property.

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 reduced lot width is a minimum variation that will make possible the reasonable use of land. The variance will not diminish or impair property values within the neighborhood nor create a nuisance, but is needed for preservation of property rights which are substantially the same as owners of other property in the same or vicinity possessed.

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

without the variance, the permitted use of the property will result in practical difficulties in the use and proposed use of the property in compliance with the zoning ordinance.

DECISION

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

Adopted this _____ day of _____, 20 ____

SECONDARY PLAT

REPLAT LOT L MCGILLIARD CARPENTER &
FIELD'S BRIGHTWOOD ADDITION
SE QUATER SECTION 20-T16N-R4E
3702 EAST 32ND STREET INDIANAPOLIS, INDIANA

LAND DESCRIPTION

PART OF LOT L IN MCGILLIARD, CARPENTER, AND FIELDS' ADDITION TO BRIGHTWOOD, NOW IN THE CITY OF INDIANAPOLIS, THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 7, PAGE 88, IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT L IN MCGILLIARD, CARPENTER, AND FIELDS' ADDITION TO BRIGHTWOOD, NOW IN THE CITY OF INDIANAPOLIS, INDIANA; THENCE ON THE SOUTH LINE OF SAID LOT L SOUTH 89 DEGREES 40 MINUTES 00 SECONDS EAST 20.45 FEET TO THE WEST LINE OF THE TRACT OF REAL ESTATE DESCRIBED IN INSTRUMENT No. 890067581; THENCE ON SAID WEST LINE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 150.00 FEET TO THE NORTH LINE OF SAID TRACT; THENCE ON SAID NORTH LINE SOUTH 89 DEGREES 40 MINUTES 00 SECONDS EAST 80.00 FEET TO THE EAST LINE OF SAID TRACT; THENCE ON SAID EAST LINE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 150.00 FEET TO THE SOUTH LINE OF SAID LOT L; THENCE ON SAID SOUTH LINE SOUTH 89 DEGREES 40 MINUTES 00 SECONDS EAST 379.32 FEET TO THE WEST LINE OF THE TRACT OF REAL ESTATE DESCRIBED IN INSTRUMENT No. 2006-0163309; THENCE ON SAID WEST LINE NORTH 00 DEGREES 46 MINUTES 06 SECONDS WEST 425.21 FEET TO THE NORTH LINE OF SAID LOT L; THENCE NORTH 72 DEGREES 54 MINUTES 00 SECONDS WEST 100.40 FEET; THENCE CONTINUING ON SAID NORTH LINE NORTH 88 DEGREES 40 MINUTES 00 SECONDS WEST 378.20 FEET TO THE WEST LINE OF SAID LOT L; THENCE ON SAID WEST LINE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 460.70 FEET TO THE POINT OF BEGINNING, CONTAINING 4.70 ACRES, MORE OR LESS.

CERTIFICATE OF SURVEY

THIS SUBDIVISION CONSISTS OF 6 LOTS NUMBERED 1, 2, 3, 4, 5, AND 6.

THE SIZE OF LOTS AND WIDTH OF STREET ARE SHOWN IN FEET AND DECIMAL PARTS THEREOF.

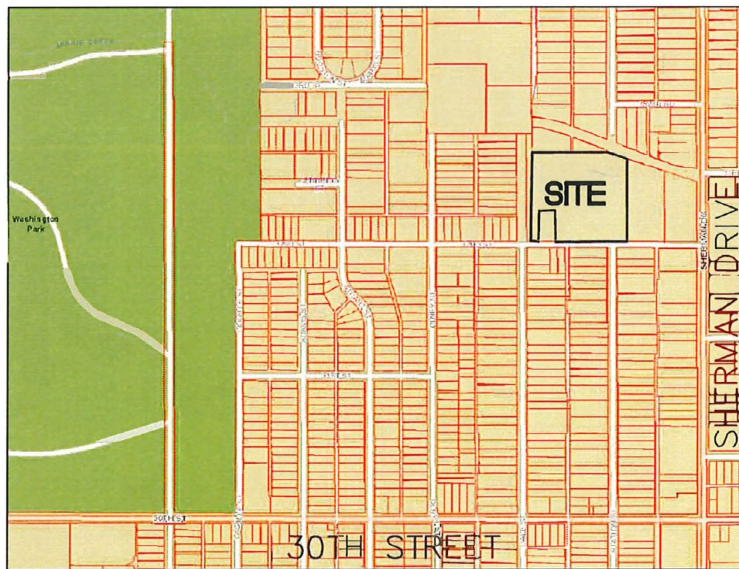
I, K. NATHAN ALTHOUSE, THE UNDERSIGNED CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA AND THAT THE WITHIN PLAT REPRESENTS A SUBDIVISION OF THE LANDS SURVEYED WITHIN THE CROSS REFERENCED SURVEY PLAT, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THERE HAS BEEN NO CHANGE FROM THE MATTERS OF THE SURVEY REVEALED BY THE CROSS-REFERENCE SURVEY AND ANY LINES THAT ARE COMMON WITH THE NEW SUBDIVISION.

CERTIFIED THIS 18TH DAY OF JUNE, 2023

MILLER SURVEYING, INC.

K. NATHAN ALTHOUSE, PLS
PROFESSIONAL LAND SURVEYOR No. LS 20400007
STATE OF INDIANA

VACATION SURVEY



OWNER/ SUBDIVIDER SOURCE OF TITLE

ABA N PLAY LLC.
3815 RIVER CROSSING PKWY.
INDIANAPOLIS, IN 46240
INSTRUMENT #A202300072454

SURVEYOR

THIS INSTRUMENT PREPARED BY:
K. NATHAN ALTHOUSE
MILLER SURVEYING, INC.
948 CONNER STREET
NOBLESVILLE, IND. 46060
Ph 773-2644 Fx 773-2694
DATE: JUNE 28-2023
Job No. B41126

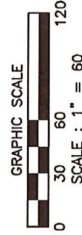
SECONDARY PLAT

REPLAT LOT 1, MCGILLIARD CARPENTER & FIELD'S BRIGHTWOOD ADDITION
3702 EAST 32ND STREET INDIANAPOLIS, INDIANA



LEGEND

- BL BUILDING LINE
- R/W RIGHT-OF-WAY
- ⊙ 5/8" IRON ROD WITH YELLOW CAP STAMPED "MILLER S0083" SET
- [T035] PROPERTY ADDRESS



OWNER / SUBDIVIDER SOURCE OF TITLE

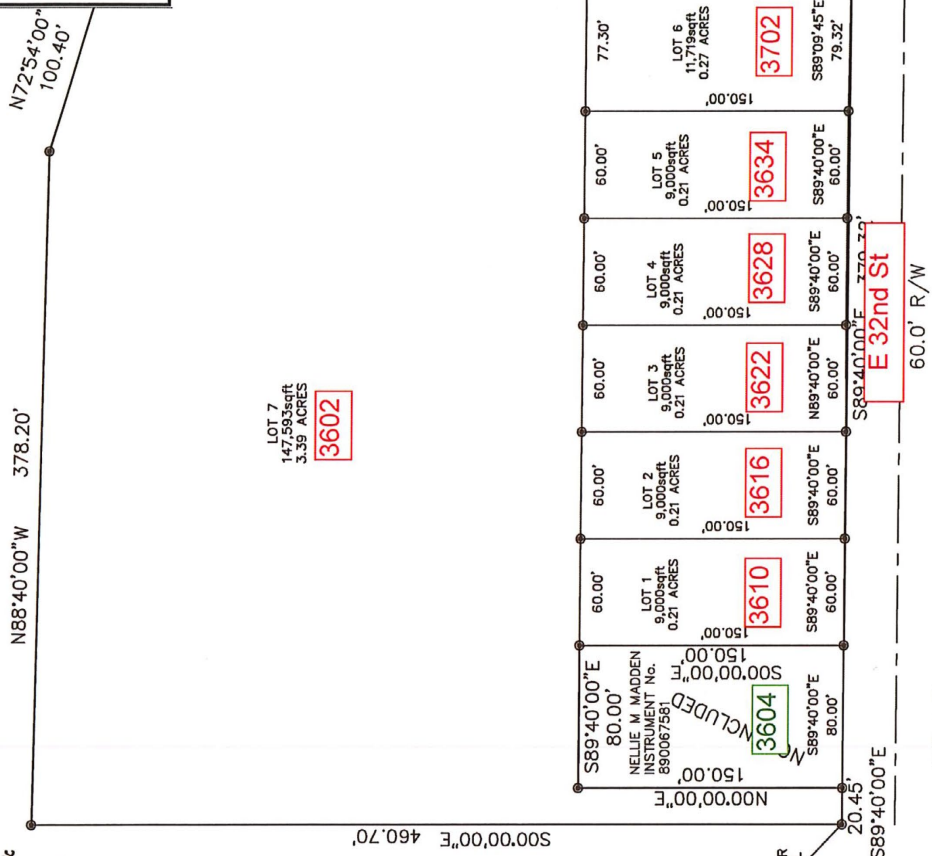
GAIL L. BURRIS
4240 LINCOLN RD
INDIANAPOLIS, IN 46228--272
INSTRUMENT #4202200008248

SURVEYOR

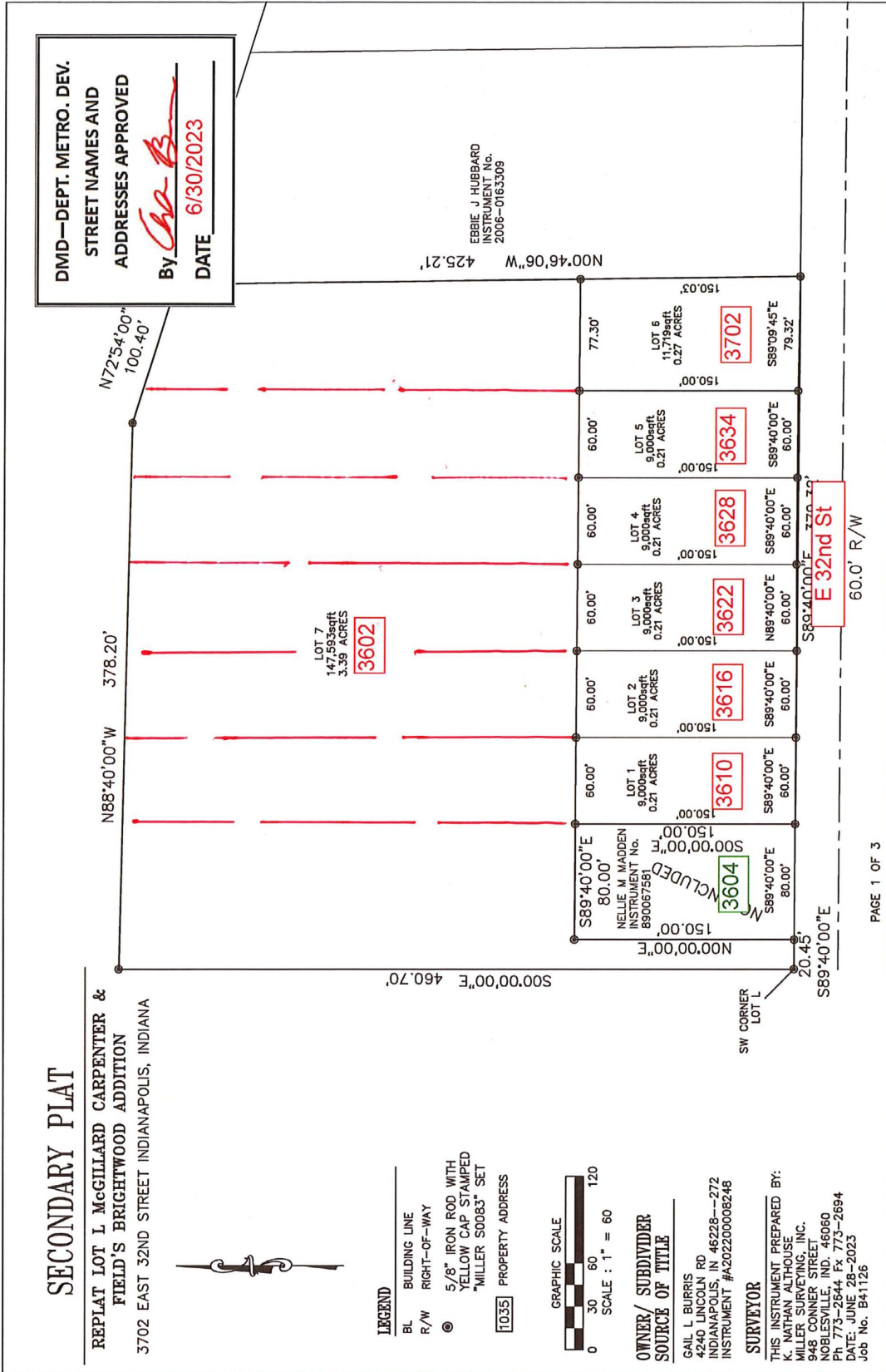
THIS INSTRUMENT PREPARED BY:
K. NATHAN ALTHOUSE
MILLER SURVEYING, INC.
948 CONNER STREET
NOBLESVILLE, IN. 46060
DATE: JUNE 28--2023
Job No. B4-1126

DMD—DEPT. METRO. DEV.
STREET NAMES AND
ADDRESSES APPROVED
By CB-B
DATE 6/30/2023

EBBIE, J. HUBBARD
INSTRUMENT No.
2006--0163309



PAGE 1 OF 3





View looking east along East 32nd Street



View looking west along East 32nd Street



View of western portion of the site looking north across East 32nd Street



View of the western portion of the site looking northeast across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of Gale Street looking south across East 32nd Street



View of alley looking south across East 32nd Street

STAFF REPORT

Item 3.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CAP-856 / 2023-CVR-856
Address: 6333 and 6345 West Thompson Road (approximate address)
Location: Decatur Township, Council District #20
Zoning: C-1
Petitioner: Derrick S. Emmons & Sue Ann Emmons and Kentucky Avenue Holdings, LLC, by William T. Niemie
Request: Modification of Commitments, related to 2003-ZON-119, to modify Commitments #1, #2 and #6 to allow for a painting business and truck rental business (previous commitments prohibited trucks heavier than a one-ton truck, limited the number of trucks parking overnight to one, and limited the permitted uses to C-1 uses).

Variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish a painting business and a truck rental business (not permitted).

This petition was automatically continued from the October 12, 2023 hearing, to the November 9, 2023 hearing at the request of a registered neighborhood organization.

RECOMMENDATIONS

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

Staff **recommends denial** of the variance of use request.

SUMMARY OF ISSUES

LAND USE

- ◇ The subject site consists of two parcels, zoned C-1, that are developed with single-family dwellings and detached accessory structures. The single-family dwelling at 6345 West Thompson Road was converted into an office. The single-family dwelling at 6333 West Thompson Road appeared to be vacant when staff visited the site, but numerous vehicles were present.
- ◇ The property is bordered to the west by an automobile machine shop to the west, zoned C-1, a single-family dwelling to the east, zoned D-3, a fast-food restaurant to the north, zoned C-4, and single-family dwelling and a vacant parcel, zoned D-3 and D-A, to the south.
- ◇ The property at 6333 West Thompson Road was rezoned from the D-3 district to the C-1 district in 1980. The property at 6345 West Thompson Road was granted a variance of use for a floral shop in 1995. The property was then rezoned from the D-3 District to the C-1 District in 2003. Variance of use requests for a heating and cooling contractors office and construction of a 2,800-square foot pole barn were denied in 2003 and 2006. A variance of use to legally establish a truck rental business was withdrawn due to the commitments that were in place, which needed to be modified based on the request.

(Continued)

MODIFICATION

- ◇ The request would modify Commitments #1, #2 and #6 to allow for a painting business and truck rental business related to rezone petition 2003-ZON-119 at 6345 Thompson Road. The previous commitments prohibited trucks heavier than a one-ton truck, limited the number of trucks parking overnight to one, and limited the permitted uses to C-1 uses.
- ◇ Instead, the plan of operation notes that 6345 and 6333 West Thompson Road would operate a commercial and residential painting business in addition to a truck rental business which were not permitted by the commitment limitation for C-1 uses.
- ◇ The maximum number of trucks to be on site would be eight where only one truck was allowed to be parked overnight.
- ◇ Lastly, the trucks on site would likely weigh more than the one-ton truck weight limitation.

VARIANCE OF USE

- ◇ The grant of the request would allow for the operation of a painting business and a truck rental business in the C-1 district.
- ◇ The C-1 District is designed to perform two functions: act as a buffer between uses, and provide for a freestanding area that office uses, compatible office-type uses, such as medical and dental facilities, education services, and certain public and semipublic uses may be developed with the assurance that retail and other heavier commercial uses with incompatible characteristics will not impede or disrupt. Since the buildings for office, office-type and public and semipublic uses are typically much less commercial in appearance, landscaped more fully and architecturally more harmonious with residential structures, this district can serve as a buffer between protected districts and more intense commercial or industrial areas/districts - if designed accordingly. This district, with its offices and other buffer type uses, may also be used along certain thoroughfares where a gradual and reasonable transition from existing residential use should occur.
- ◇ The operation of a painting business is categorized as a Commercial and Building Contractors use which is only permitted by right in the C-5 and C-7 district and by Special Exception in the C-4 district. The truck rental business is categorized as a Truck or Heavy Vehicle Sales, Rental, or Repair use, which is only permitted in the C-7 district. Neither use is permitted in the existing C-1 district because they are more intense, and typically require outside display of vehicles or materials.
- ◇ The Comprehensive Plan recommends community commercial development along the northern half of the property and recommends suburban neighborhood development along the southern half.
- ◇ The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

(Continued)

◇ The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

Staff Analysis

- ◇ Based on the split Comprehensive Plan recommendations and the existing residential uses east and south of the site, staff determined that the use limitations of the C-1 district are in line with the Comprehensive Plan.
- ◇ More intense commercial uses would be inappropriate and should not be proposed where the addition of said uses could cause the use or value of the area adjacent to the property to be affected in a substantially adverse manner because the proposed use could decrease the desirability of the area for potential residents, largely due to the location of a heavy commercial use next door.
- ◇ The variance request does not arise from a condition peculiar to the property involved because the parcels could be used for any of the permitted C-1 uses without the need for a variance or modification of commitments.
- ◇ The strict application of the terms of the zoning ordinance would not constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought because the site is appropriately zoned to be in line with the Comprehensive Plan and could be used as such.
- ◇ Staff would not support the request for the modification of the commitments or variance of use.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

| | | |
|-----|-------|---|
| C-1 | Metro | Truck Rental Business / Painting Business |
|-----|-------|---|

SURROUNDING ZONING AND LAND USE

| | | |
|-------|-----------|---|
| North | C-4 | Commercial (Fast Food Restaurant) |
| South | D-3 / D-A | Residential (Single-Family Dwelling) / Undeveloped. |
| East | D-3 | Residential (Single-Family Dwelling) |
| West | C-1 | Commercial (Automobile Machine Shop) |

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development for the northern portion and suburban neighborhood development for the southern portion.

(Continued)

| | |
|-------------------------------|--|
| THOROUGHFARE PLAN | Thompson Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 33-foot existing right-of-way and an 80-foot proposed right-of-way. |
| FLOODWAY / FLOODWAY FRINGE | This site is not located within a floodway or floodway fringe. |
| WELLFIELD PROTECTION DISTRICT | This site is not located within a wellfield protection district. |
| SITE PLAN | File-dated September 5, 2023. |

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. **VIO22-000949; 6345 West Thompson Road**
 - a. *The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Vehicle rental is not a permitted accessory use for a C-1 zoning district).*
 - b. The location, erection, or maintenance of any sign not specifically permitted by the Zoning Ordinance; (744-903. G.1. - Signs in the public Right-of-Way are prohibited).
 - c. Failure to comply with use-specific standards and zoning district development standards for the C-1 district; (744-404. D.7.a. - The parking spaces lack 4-inch durable painted lines, curbs or signage).
 - d. *Failure to comply with use-specific standards and zoning district development standards for the C-1 district; (Table 744-402-1: - Failure to provide the required off-street parking spaces for a painting contractor...5 off-street parking spaces are required).*
 - e. *Failure to comply with use-specific standards and zoning district development standards for the C-1 district; (Table 744-402-2: - Failure to provide the required ADA parking...1 handicap parking space required).*
 - f. The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Recreational vehicle storage is not a permitted primary use in a C-1 zoning district).

PREVIOUS CASES

2022-UV2-014; 6333 and 6345 West Thompson Road (subject site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish a truck rental business (not permitted), **withdrawn**.

2006-UV1-008; 6345 West Thompson Road (subject site), Variance of Use of the Commercial Zoning Ordinance to legally establish a heating and cooling contractor business in an existing building and to provide for the construction of a one-story, 2,800 square-foot storage building (not permitted), **denied**.

2003-AP1-002, 6345 West Thompson Road (subject site), Waiver of the refiling rule to allow filing of a rezoning request within twelve months of a variance denial, **granted**.

2003-UV1-025, 6345 West Thompson Road (subject site), Variance of use and variance of development standards of the Dwelling Districts Zoning Ordinance and the Sign Regulations to provide for a heating and cooling contractors office (not permitted) with a 24 square foot illuminated wall sign and a 2,800 square foot pole barn with a five-foot side yard setback (commercial uses not permitted in a dwelling district, minimum 6-foot, 16-foot aggregate side yard setback required), and legally establish a 511.56 square foot garage with a 3.5 foot side yard setback (minimum 6-foot, 16-foot aggregate side yard setback required) resulting in 3312.30 square feet of accessory structure area or 243.98% of the main floor area of the primary building (accessory structure area may not exceed 75 percent of the total main floor area of the primary dwelling) and 3669.62 square feet of accessory use area or 270.30% of the total floor area of the primary building (accessory use area may not exceed 99.99 percent of the total floor area of the primary dwelling); **denied**.

2003-ZON-119; 6345 West Thompson Road (subject site), Rezoning of 0.50 acre, being in the D-3 District, to the C-1 classification, **approved**.

2002-HOV-022; (subject site), Variance of development standards of the sign regulations to provide for the placement of a five-foot tall sign; **approved**.

95-UV1-52; 6345 West Thompson Road (subject site), variance of use of the Dwelling Districts Zoning Ordinance to provide for a floral shop in an existing structure and one free standing sign, **granted**.

80-Z-195; 6333 West Thompson Road (subject site), Rezoning of 0.85 acre, being in the D-3 district, to the C-1 classification, to provide for a dental office, **approved**.

ZONING HISTORY – VICINITY

2019-UV1-008; 4905 Kentucky Avenue (north of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an outdoor freezer (outdoor storage not permitted), and to legally establish a trash container in the front yard of Mooresville Road (not permitted), **granted**.

2014-ZON-083; 6322 West Thompson Road (northeast of site), Rezoning of 0.517 acre from the D-3 and C-4 classifications to the C-4 classification to provide for commercial development, **approved**.

2008-ZON-047; 4919 Kentucky Avenue (west of site), Rezoning of 0.65 acre, being in the D-3 District, to the C-3 classification to provide for neighborhood commercial development, **approved**.

2002-UV1-014; 6403 West Thompson Road (west of site), Variance of use to provide for a welding facility in a 6,000-square foot commercial building, **granted**.

96-UV2-85; 4902 High School Road (east of site), Variance of use to legalize an asbestos business with the construction of a 24 by 24-foot detached storage building, **denied**.

88-Z-273; 5021 Kentucky Avenue (southwest of site), Rezoning of 1.22 acres from SU-18 to C-3, **approved**.

87-Z-51, 87-Z-50, 87-Z-44; 6316, 6310, 6312 West Thompson Road 87-Z-50, 87-Z-44; 6316, 6310, 6312 West Thompson Road (northeast of site), Rezoning from the D-3 district to the C-1 district to provide for office uses, **approved**.

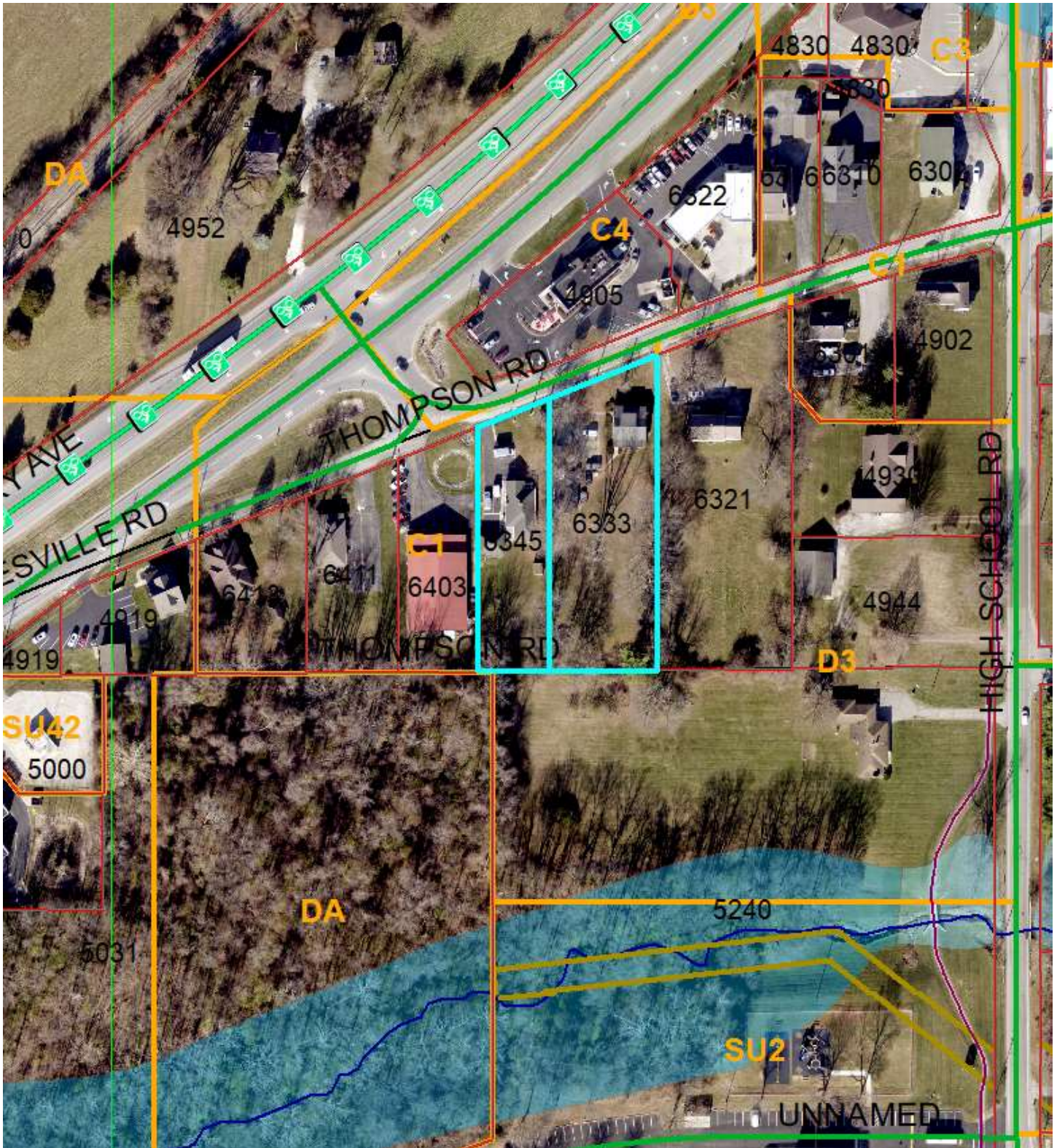
79-Z-100; 5011 Kentucky Avenue (southwest of site), Rezoning of 0.38 acre from SU-18 to SU-42 to provide for a natural gas regulating station, **approved**.

79-Z-105; 4904 South High School Road and 6301 West Thompson Road (east of site), Rezoning of 1.30 acres, being in the D-3 district, to C-4 classification, to permit office use, **approved**.

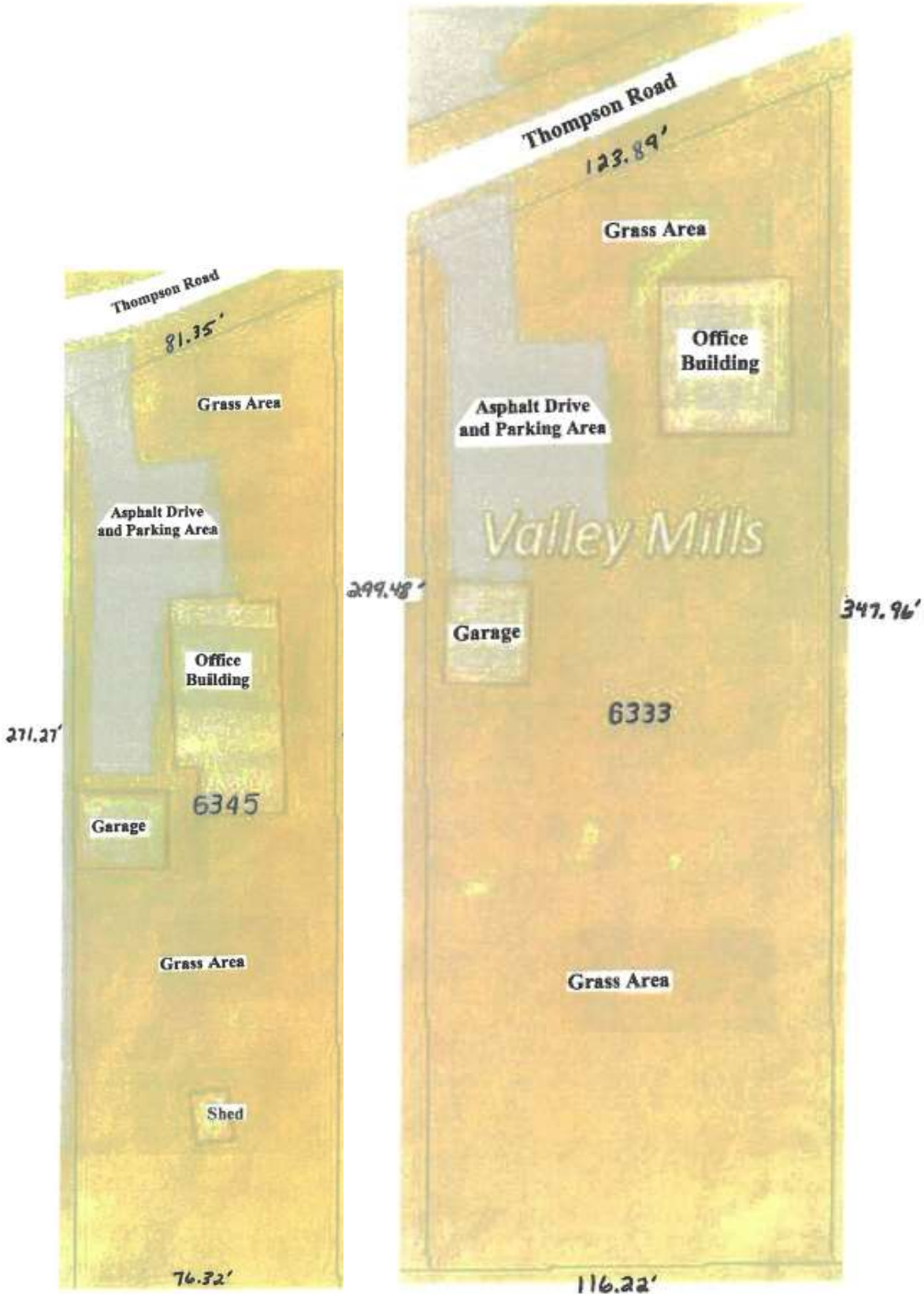
79-Z-114; 6405, 6411, and 6415 West Thompson Road (west of site), Rezoning of 1.5 acres, being in the D-3 district, to C-1 classification, to provide for buffer between residential and commercial areas, **approved**.

77-UV1-42; 6322 West Thompson Road (northeast of site), requests a variance of use to provide for a medical office, **granted**.

MI



SITE PLAN



Scale
1 = 30

PLAN OF OPERATION

6345 West Thompson Road and 6333 West Thompson Road

The primary use of the property at 6345 West Thompson Road is, and will continue to be, the operation of a commercial and residential painting business. We currently have ten (10) employees. In order to allow for additional office space and area for both painting related vehicles and equipment and U-Haul trucks and trailers, we have leased the adjoining property at 6333 W. Thompson Road. We offer and provide painting services throughout the greater Indianapolis area. We are seeking approval to offer U-Haul trucks and trailers in order to generate additional business income to supplement our painting business. Our target customer base for U-Haul trucks and trailers is the immediate surrounding neighborhood. We are requesting approval to offer U-Haul trucks and trailers at both of these properties (6345 West Thompson Road and 6333 West Thompson Road). We will have no more than a total of eight (8) trucks and/or trailers at both of these properties.

We anticipate that no additional employees will be needed due to also being able to offer U-Haul trucks and trailers for rent at these two properties because the U-Haul truck and trailer business is only being offered on a low level that is an auxiliary use of these properties to the main use, which is our painting business. Our normal business hours are from 10:00 AM to 4:00 PM, Monday through Friday. We are closed on Saturdays and Sundays.

This is primarily a service type operation and is not a product driven business, therefore no regular shipping and receiving occurs at these properties. We obtain materials from off-site vendors on an as needed basis. Waste produced by our business is no greater than that generated by typical office operations and standard weekly trash removal is adequate to avoid the accumulation of any trash or debris at these properties. We maintain general business liability insurance on our equipment and real estate.

ATTACHMENT "C"

Petitioner commits to the following:

1. No trucks heavier than a one ton truck will be parked on the premises
2. No more than one truck will be parked overnight on the premises
3. The proposed wall sign will be constructed of wood or wood appearing material and of a size of four (4) feet by six (6) feet mounted on the gable of the structure and will not be internally lighted; yet a timer will permit the sign to be lighted from lights shining onto the sign except between the hours of 11pm and 6 am daily. When Temperature Control Specialists vacates the premises, all future signs will be ground signs similar to others found further east on West Thompson Road
4. The area between the existing parking area and the edge of pavement of West Thompson Road will not be expanded from the existing paved area and will be landscaped with suitable shrubbery.
5. The exterior of the existing building will not be altered and will be maintained to give a more residential appearance.
6. The one man barber shop will cease operation when the present operator (Fred Schmidt) vacates the building, and the owner (Jeff Malone) commits to only have C-1 Uses on the property thereafter

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

commercial uses are already in the area and the requested uses, an office space for a painting business and the auxiliary use of having no more than 8 U-Haul trucks and trailers on this and the adjoining property at 6333 W. Thompson Road are consistent with surrounding commercial uses.

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

any action that increases the business activity in this area will increase, not impair, the value of adjacent properties.

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

the requested uses as a office space for a painting business and the incidental use of renting U-Haul trucks and trailers are not allowed in a C-1 zoning classification without Use Variances.

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

various commercial uses are allowed at this property and this neighborhood is transitioning from residential to commercial and retail uses. The requested two uses are only allowed with Use Variances.

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

the requested uses of office space related to a painting business and rental of U-Haul trucks and trailers is allowed in a C-1 zoning classification upon the granting of Use Variances for these two specific uses.



Photo looking south across Thompson Road at 6345 West Thompson Road.



Photo looking south across Thompson Road at 6333 West Thompson Road.



Photo looking south across Thompson Road to subject site and adjacent single-family dwelling east



Photo of the western office façade.



Photo of the existing garage on site.



Photo of the outdoor storage of commercial vehicles on site.



Photo looking west towards the adjacent property.



Photo of the property at 6345 West Thompson Road looking north.



Photo of the property at 6333 West Thompson Road looking north.



Photo of the commercial property west of the site.



Photo looking north across Thompson Road at the commercial property.