



Metropolitan Development Commission Hearing Examiner (May 25, 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, May 25, 2023

Time: 1:00 PM

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

Business:

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

1. 2023-MOD-008 | 10832 Portside Court

Lawrence Township, Council District #5

D-P (FF)

Raymond and Kimberly Peck, by Russell L. Brown

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

****Automatic Continuance to June 29, 2023 filed by a Remonstrator**

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

Pike Township, Council District #8

Olanrewaju Ahmeed Azeez

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

****Automatic continuance to June 29, 2023 filed by a Registered Neighborhood Organization**

3. 2023-ZON-031 | 3807 Graceland Avenue

Washington Township, Council District #7

Larry K. Covington, by Jamilah Mintze

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

****Automatic continuance to June 29, 2023 filed by a Registered Neighborhood Organization**

4. 2023-CZN-814 / 2023-CVR-814 | 6419 West 86th Street, 6302, 6360 and 6424 West 79th Street

Pike Township, Council District #1

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

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

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

****Staff request for a continuance to June 29, 2023 to allow finalization of the TIS**

5. 2022-CZN-876 / 2022-CVR-876 / 2022-CVC-876 (Amended) | 1507 & 1517 West Vermont Street and 333 Koehne Street

Center Township, Council District #16

Own It Enterprise, LLC, by David Kingen and Emily Duncan

Rezoning of 0.62-acre from the D-8 (RC) district to the CBD-2 (RC) district.

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

Vacation of the first alley east of Koehne Street, being 12 feet in width, from the south right-of-way line of Vermont Street, being the northeast corner of Lot 47 in Lentz Heirs Addition, Recorded in Plat Book 11, Page 69 in the Office of the Recorder of Marion County, Indiana, south a distance of 109 feet to the southeast corner of Lot 45 in said subdivision, with a waiver of the assessment of benefits.

Vacation of an irregular portion of White River Parkway West Drive located at the southwest intersection of Vermont Street and White River Parkway West Drive totaling 0.12 acres, with a waiver of the assessment of benefits.

****Staff request for a continuance to June 29, 2023 to amend vacation petition and provide new legal notice**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

6. 23-APP-014 | 2142 North Park Avenue

Center Township, Council District #11

PK-2

Matthew Peyton

Park District Two Approval to provide for a two-family dwelling and a four-car detached garage.

7. 2023-ZON-015 | 2434 and 2444 Winthrop Avenue

Center Township, Council District #17

Indianapolis Neighborhood Housing Partnership, by Jeff Hasser

Rezoning of 1.35 acres from the I-2 district to the D-8 district.

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

8. 2022-CZN-848 / 2022-CVC-848 / 2022-CVR-848 (Amended) | 419 & 441 East Ohio Street, 424 East Wabash Street and 124 & 132 North East Street

Center Township, Council District #17

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

Rezoning of 0.85 acre from the CBD-2 (RC) and I-3 (RC) Districts to the CBD-2 (RC) district.

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

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

9. 2022-CZN-862 / 2022-CVR-862 (Amended) | 5204, 5206 and 5216 South Harding Street

Perry Township, Council District #20
Quiktrip Corporation, by J. Murray Clark

Rezoning of 5.327 acres from the C-S district to C-7 classification to provide for a truck stop.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster enclosure in the front yard of SR 37 (not permitted in front yard), with a 50-foot tall, 568.5-square-foot pole sign (maximum 20-foot tall, 300 square feet permitted), with fifteen street trees along Harding Street (29 required) and sixteen trees along SR 37 (23 required) and to provide for a 23-foot tall, 109-square-foot free-standing incidental sign (maximum eight-foot tall, 32 square feet permitted).

10. 2023-ZON-024 / 2023-VAR-001 | 2802 South Holt Road

Wayne Township, Council District #16
Maninder Singh

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

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

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

11. 2023-CZN-817 / 2023-CVR-817 | 5959 East 38th Street and 3700, 3742 and 3790 North Alington Avenue

Warren Township, Council District #13
Horizon Bank, by Joseph D. Calderon

Rezoning of 5.8 acres from the MU-2 (FW) (FF) (TOD) and C-4 (FW) (FF) (TOD) district to the MU-2 (FW) (FF) (TOD) district to provide for a mixed-use development.

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

- a) Building heights of 50 feet for multi-family structures (maximum 35 feet permitted),
- b) A drive-through service unit located on the side of a proposed bank and not accessed by an alley (required to be located behind building and be accessed by an alley),
- c) Improvements located within the 60-foot Stream Protection Corridor of Pogues Run (not permitted),
- d) With deficient interior parking lot landscaping (not permitted),
- e) With parking located in front of proposed buildings with a zero-foot setback (parking prohibited in front of buildings, 50-foot setback required),
- f) With portions of proposed buildings located behind the required Front Building Line (0'-10' building line required).

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

Center Township, Council District #16
2801 S Pennsylvania LLC, by Jason E. Burk
D-8

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

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

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

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

klh

STAFF REPORT

Item 2.

Department of Metropolitan Development
Division of Planning
Current Planning Section

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

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

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

A timely automatic continuance was filed by a registered neighborhood organization **continuing this petition from the May 25, 2023 hearing, to the, June 29, 2023 hearing.** This would require acknowledgement from the Hearing Examiner

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STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

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

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

klh

STAFF REPORT

Item 4.

Department of Metropolitan Development
Division of Planning
Current Planning Section

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

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

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

The TIS has been received, reviewed, and discussed among interested parties. The TIS is in the process of being amended and finalized. The final report will be available around June 9, 2023. Consequently, staff is requesting a **continuance to the June 29, 2023 hearing**, which will provide time for the information to be included in the staff report

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STAFF REPORT

Item 5.

Department of Metropolitan Development
Division of Planning
Current Planning Section

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

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a side and rear yard setback of zero feet when abutting an alley (ten-foot required).

Vacation of the first alley east of Koehne Street, being 12 feet in width, from the south right-of-way line of Vermont Street, being the northeast corner of Lot 47 in Lentz Heirs Addition, Recorded in Plat Book 11, Page 69 in the Office of the Recorder of Marion County, Indiana, south a distance of 109 feet to the southeast corner of Lot 45 in said subdivision, with a waiver of the assessment of benefits.

Vacation of an irregular portion of White River Parkway West Drive located at the southwest intersection of Vermont Street and White River Parkway West Drive totaling 0.12 acres, with a waiver of the assessment of benefits.

This companion petition requires an amended Vacation Petition to be submitted and new Legal Notice to reflect an amended exhibit that indicates additional linear feet of one of the vacation requests. Therefore, this companion petition should be **continued** to the **June 15, 2023**, hearing, with notice. A staff report will be available prior to that hearing.

JY

STAFF REPORT

Item 6.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-APP-014
Address: 2142 North Park Avenue (approximate addresses)
Location: Center Township, Council District #11
Zoning: PK-2
Petitioner: Matthew Peyton
Request: Park District Two Approval to provide for a two-family dwelling and a four-car detached garage.

RECOMMENDATIONS

Staff **recommends approval** of this request, subject to substantial compliance with the site plan and elevations, file-dated April 27, 2023.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 0.18-acre site, zoned PK-2, is undeveloped. It is surrounded by undeveloped land to the north; a single-family dwelling to the south; a single-family dwelling to the east, across North Park Avenue, all zoned PK-2; and commercial uses to the west, zoned MU-2.

PARK DISTRICT-TWO APPROVAL

- ◇ This request would provide for PK-2 approval to provide for a two-family dwelling with a detached four-car garage. No use, building or structure is permitted for any purpose until a site and development plan for such land, including the proposed use or uses, has been filed with and approved by the Commission in accordance with the Zoning Ordinance.
- ◇ Land in the development plan districts is subject to the following site and development requirements. In review of the proposed Site and Development Plan, the Commission must assess whether the Site and Development Plan, proposed use, buildings and structures must:
 - a. Be so designed as to create a superior land development plan, in conformity with the Comprehensive Plan;
 - b. Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the development plan district and with adjacent uses;

(Continued)

- c. Provide sufficient and adequate multi-modal access, such as parking and loading areas, transit provisions, and bicycle facilities;
 - d. Integrate a multi-modal transportation network using active and passive traffic control with the existing and planned public streets and interior roads;
 - e. Provide adequately for sanitation, drainage and public utilities in a sustainable, low-impact manner;
 - f. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan; and
 - g. Provide pedestrian accessibility and connectivity, which may be paths, trails, sidewalks, or combination thereof. Pedestrian accessibility to available public transit must be provided. Sidewalks along eligible public streets consisting of the walkway and any curb ramps or blended transitions must be provided. If sidewalks are required to be installed, the Administrator or the Commission must be guided by the provisions of Section 744-304 for the installation of sidewalks.
- ◇ The Comprehensive Plan recommends traditional neighborhood. “The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.”
- ◇ This request would provide for primary and accessory residential uses, including a two-family dwelling, each with a potential of four bedrooms, and a detached four-car garage. As proposed, each of the three-story dwellings would have a first-story front porch, one bedroom in the basement, two bedrooms on the second floor and a potential third bedroom on the third floor, with a balcony and covered patio.

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.”

(Continued)

- ◇ 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

Additional Topics

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

- ◇ “As established neighborhoods experience new development, infill residential construction will provide housing options for new and existing residents. Increased population contributes positively to the local tax base, economic development, lively neighborhoods, and an interesting city. As infill construction occurs, it is important to guide development in a way that complements current neighborhoods. Each home in a neighborhood not only contributes to the existing context of adjoining houses and the block, but to the sense of place of the entire neighborhood.”

Planning Analysis

- ◇ As proposed, the approval request would be consistent with the Comprehensive Plan recommendation of the traditional neighborhood typology and the historical residential use of the site.
- ◇ Additionally, the architectural character of the proposed two-family dwelling would be compatible with the surrounding neighborhood. The site plan provides for appropriate side setbacks, with a front setback that would be similar to setbacks of surrounding dwellings.
- ◇ Staff would also note that the proposed development on the site would generally be supportive of the infill housing guidelines.

(Continued)

GENERAL INFORMATION**EXISTING ZONING AND LAND USE**

PK-2

Undeveloped

SURROUNDING ZONING AND LAND USE

North - PK-2

Undeveloped land

South - PK-2

Single-family dwellings

East - PK-2

Single-family dwelling

West - MU-2

Commercial uses

**COMPREHENSIVE LAND USE
PLAN**

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

THOROUGHFARE PLAN

This portion of North Park Avenue is designated in the Marion County Thoroughfare Plan as a local street, with an existing 70-foot right-of-way and proposed 48-foot right-of-way.

CONTEXT AREA

This site is located within the compact context area.

OVERLAY

There are no overlays for this site.

FINDINGS OF FACT

File-dated April 27, 2023

SITE PLAN

File-dated April 27, 2023

ELEVATIONS

File-dated April 27, 2023

ZONING HISTORY

2021-APP-019; 2134 North Park Avenue (south of site), requested Park District Two Approval to provide for a two-family dwelling with a detached garage, **approved**.

2021 APP-015; 2120 Broadway Street (west of site), requested Park District Two Approval to provide for a detached garage and secondary dwelling accessory to an existing single-family dwelling, **approved**.

2021-APP-011; 2001 Broadway Street, requested Park District Two approval to provide for a two-family dwelling with a four-car garage and a single-family dwelling with a three-car garage and secondary dwelling, **approved**.

(Continued)

2020-APP-005; 2056 Park Avenue, requested Park District Two approval to provide for a two-story, two-family dwelling with a four-car detached garage, **approved**.

2019-APP-009; 2104 North College Avenue and 660 East 21st Street (southeast of site), requested Park District Two Approval to provide for three lots with single-family dwellings and attached garages, with access to the west-abutting north-south alley via an access easement with one 4,680-square foot lot at the corner of College and 21st Street and two 3,575-square foot lots fronting 21st Street, per plans filed, **approved**.

2018-APP-023; 2134 North Park Avenue, requested Park District Two approval to provide for a two-family dwelling and a four-car garage, **withdrawn**.

2017-APP-015; 2114 Broadway Street (west of site), requested Park District-Two Approval to provide for a single-family dwelling and detached garage, **approved**.

2014-APP-001; 614 East 21st Street (west of site), requested Park District Two approval and modification of the Development Statement for 2007-APP-106 to provide for a dwelling unit on the second floor of the detached garage, **approved**.

2007-APP-821; 2054 North Park Avenue (north of site), requested Park District-Two Approval to provide for a two-family dwelling and a detached garage, **approved**.

2007-APP-018; 2125 and 2129 North Park Avenue (west of site), requested Park District-Two Approval to provide for three, two-story single-family dwellings, either each having a detached garage or a common garage building for the three dwellings, **approved**.

2007-APP-106; 2016, 2026, 2030, 2038, and 2042 North College Avenue, 2038 Ruckle Street, and 601 and 614 East 21st Street (east and south of site); requested Park District-Two approval to provide for eight, two-story single-family dwellings and two-story detached garages, with a dwelling unit on the second floor of no more than four of the detached garages, **approved**.

2007-APP-031; 2116 North College Avenue (east of site), requested Park District Two approval to provide for the conversion of a single-family dwelling into a two-unit dwelling, **approved**.

2007-APP-004; 1957, 2014, 2022, 2049, and 2059 Ruckle Street, 2120, 2126, 2130, and 2153 North Park Avenue, and 2035 Broadway Street (west and south of site), requested Park District-Two Approval to provide for ten single-family dwellings, with detached garages, fifty percent of which could contain a dwelling unit on the upper floor, **approved**.

2006-APP-849; 1938, 1942, and 1946 North Park Avenue (south of site), requested Park District-Two Approval to provide for three, two-story single-family dwellings, each with a one-story detached garage, **approved**.

2006-APP-813 / 2006-PLT-813; 602-614 East 21st Street (formerly 2101 and 2111 North Park Avenue) (west of site), requested Park District-Two Approval and a subdivision plat to provide for the creation of three lots and the construction of a single-family dwelling and attached garage on each lot, **approved**.

(Continued)

2006-APP-061; 1726, 1828, and 1954 Ruckle Street, 2004 North College Avenue, and 2015, 2019, and 2027 Broadway Street (south and east of site), requested Park District-Two Approval to provide for eight single-family dwellings, with detached garages, fifty percent of which could contain a dwelling unit on the upper floor, **approved.**

2006-APP-004; 2016-2026 North Park Avenue (south of site), requested Park District-Two Approval to provide for a single-family dwelling and detached garage on each of four lots, **approved.**

2005-APP-164; 2042 North College Avenue (east of site), requested Park District-Two Approval to provide for a single-family dwelling and a detached garage, **approved.**

2005-APP-163; 2038 North College Avenue (east of site), requested Park District-Two Approval to provide for a single-family dwelling and a detached garage, **approved.**

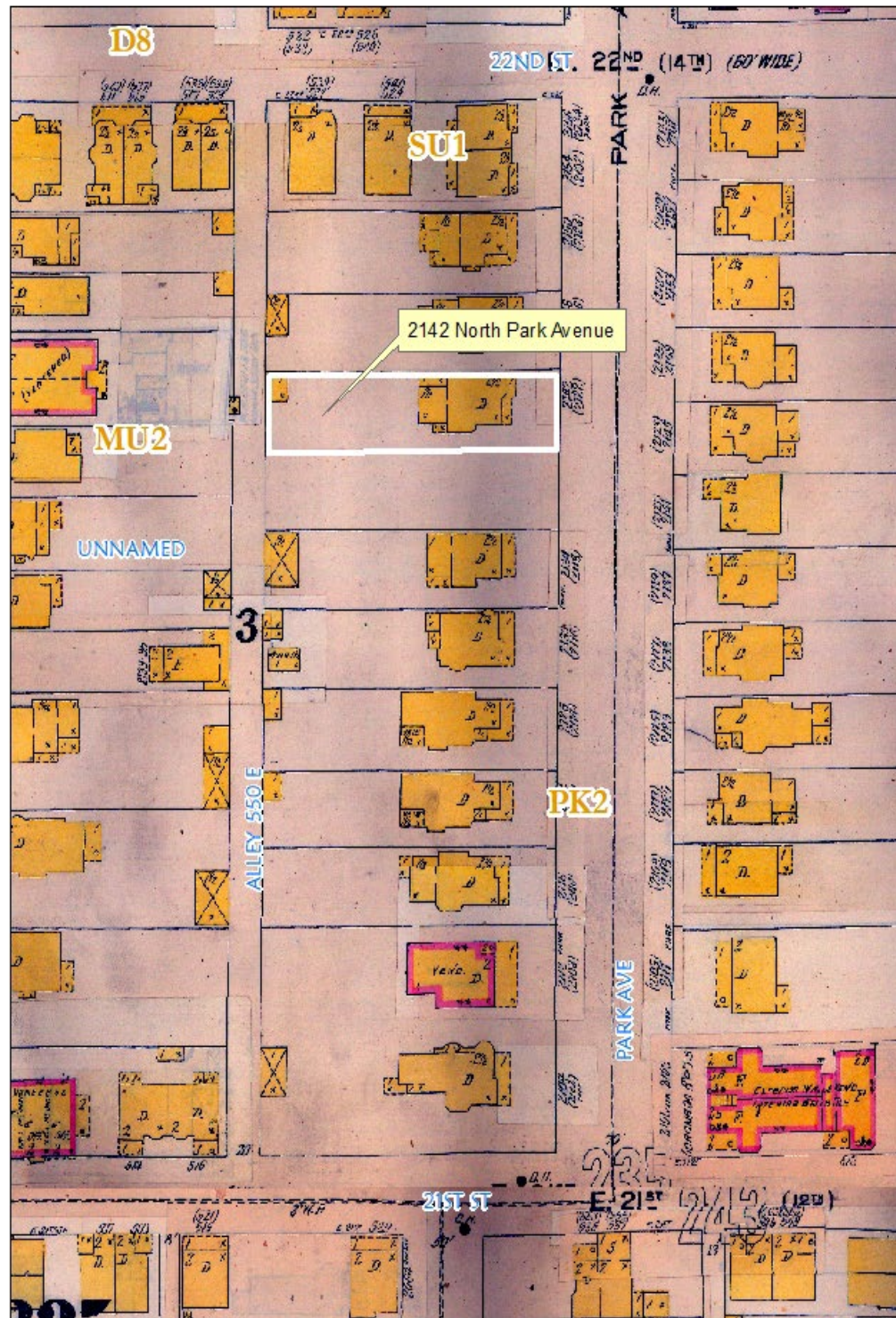
2004-APP-159; various addresses bound by 19th Street, 22nd Street, Central Avenue and College Avenue (east of site), requested Park District-Two Approval to provide for 36 single-family dwellings, with detached garages, fifty percent of which could contain a dwelling unit on the upper floor, **approved.**

99-AP-169; 2016-2026 North College Avenue (east of site), requested Park District-Two Approval to provide for a two-family dwelling with off-street parking, **approved.**

94-AP-118; 2056-2058 North College Avenue (east of site), requested Park District-Two Approval to provide for the remodeling of a dwelling into transitional housing, **approved.**

kb





Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA
PETITION FOR UNIVERSITY QUARTER ONE/TWO APPROVAL
PETITION FOR PARK DISTRICT ONE/TWO APPROVAL
PETITION FOR HOSPITAL DISTRICT ONE/TWO APPROVAL**

FINDINGS OF FACT

The Metropolitan Development Commission finds that the site and development plan file-dated _____, 20____

A. Has been designed to create a superior land development plan, in conformity with the Comprehensive Plan because:

The proposed development is a duplex multifamily residence with a detached 4-car garage. The proposed residential units follow the description of a traditional neighborhood.

B. Creates and maintains a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the development plan district and with adjacent uses because:

The proposed development is a duplex multifamily residence with a detached 4-car garage. The proposed duplex and garage share many characteristics of the surrounding residential neighborhood with a compatible and conforming value, design, and overall scale.

C. Provides sufficient and adequate multi-modal access, such as parking and loading areas, transit provisions, and bicycle facilities because:

The proposed duplex multifamily residence and detached 4-car garage provides 2 covered parking spaces per unit with 2 additional spaces off the alley for guest parking.

D. Integrates a multi-modal transportation network using active and passive traffic control with the existing and planned public streets and interior roads because:

The proposed duplex multifamily residence and detached 4-car garage provides the residents with access to the surrounding public streets and interior alleyway.

E. Provides adequately for sanitation, drainage, and public utilities in a sustainable, low-impact manner because:

The low impact nature of the duplex multifamily residence provides open lawn area for proper drainage, without large non-permeable parking areas that would create drainage issues on the site. The proposed duplex is a typical residence with the low impacted use of existing public sanitary and utilities that serves the existing neighborhood.

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F. Allocates adequate sites for all uses proposed, - the design, character, grade, location, and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan, because:

The proposed duplex multifamily residence and detached 4-car garage complies with the Comprehensive Plan of Marion County for a traditional neighborhood with residential dwelling units within this PK-2 zoning area.

G. Provides pedestrian accessibility and connectivity, which may be paths, trails, sidewalks (If sidewalks are required to be installed, the Administrator or the Commission must be guided by provisions of Section 744-304 for the installation of sidewalks), or combination thereof; provides pedestrian accessibility to available public transit; and provides sidewalks along eligible public streets consisting of the walkway and any curb ramps or blended transitions because:

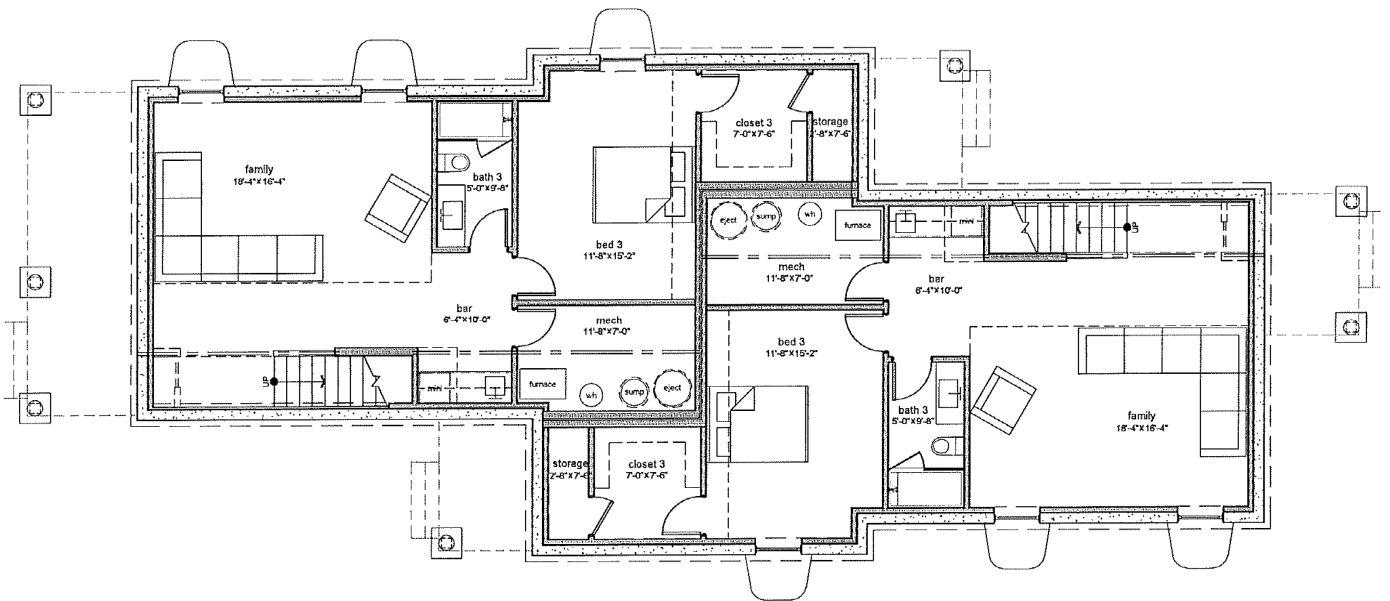
The proposed duplex multifamily residence provides direct access to the existing public sidewalk network found along the neighborhood streets.

DECISION

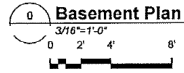
IT IS THEREFORE the decision of this body that this APPROVAL petition is APPROVED.

Adopted this _____ day of _____, 20 ____

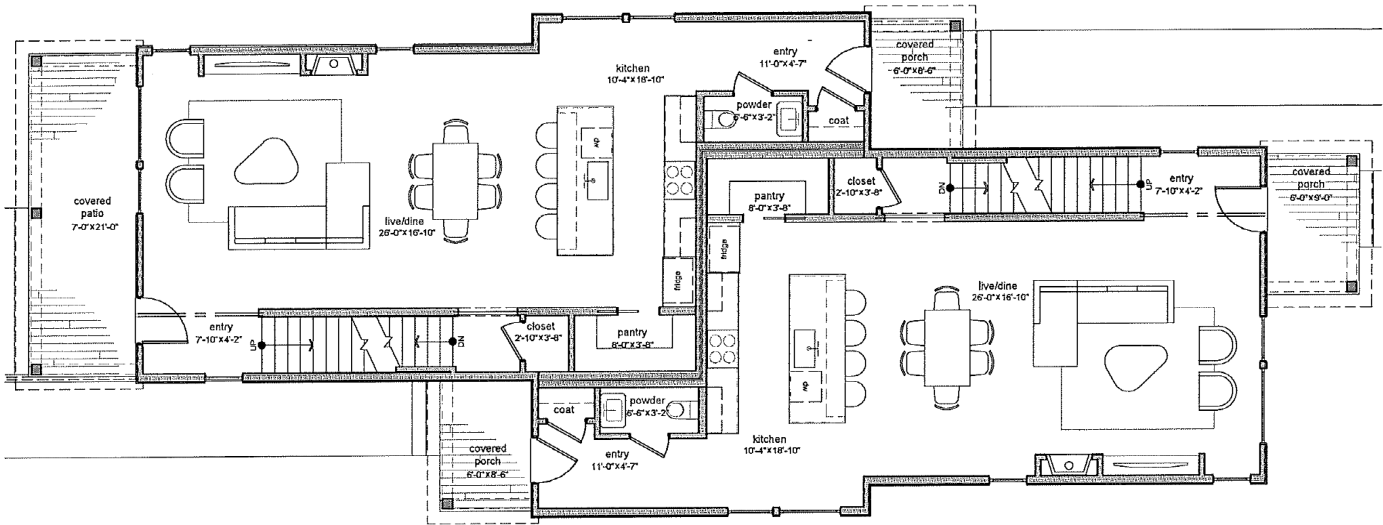
Commission President/ Secretary



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PAD ARCHITECTURE



2142 Park 100
2142 N Park Avenue, Indianapolis, IN
03/31/2023
SD

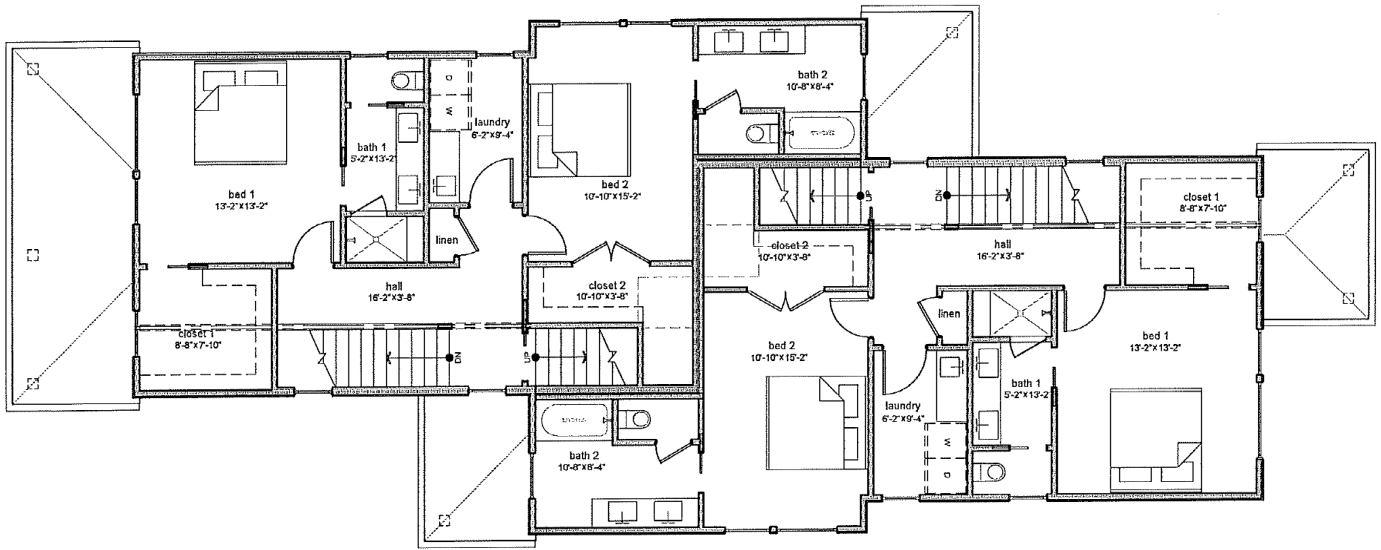


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PAD ARCHITECTURE



1 First Floor Plan
3/16" = 1'-0"
0 2' 4' 8'

2142 Park 101
2142 N Park Avenue, Indianapolis, IN
03/31/2023
SD

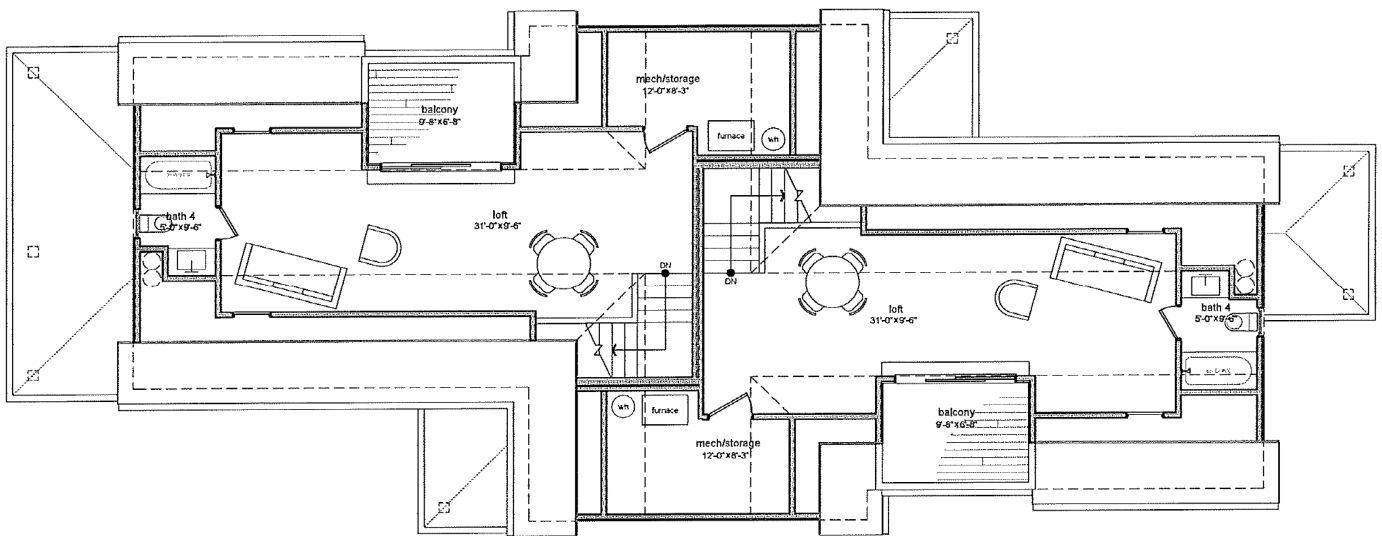


pad
PAD ARCHITECTURE



2 Second Floor Plan
3/16" = 1'-0"
0 2' 4' 8'

2142 Park 102
2142 N Park Avenue, Indianapolis, IN
03/31/2023
SD

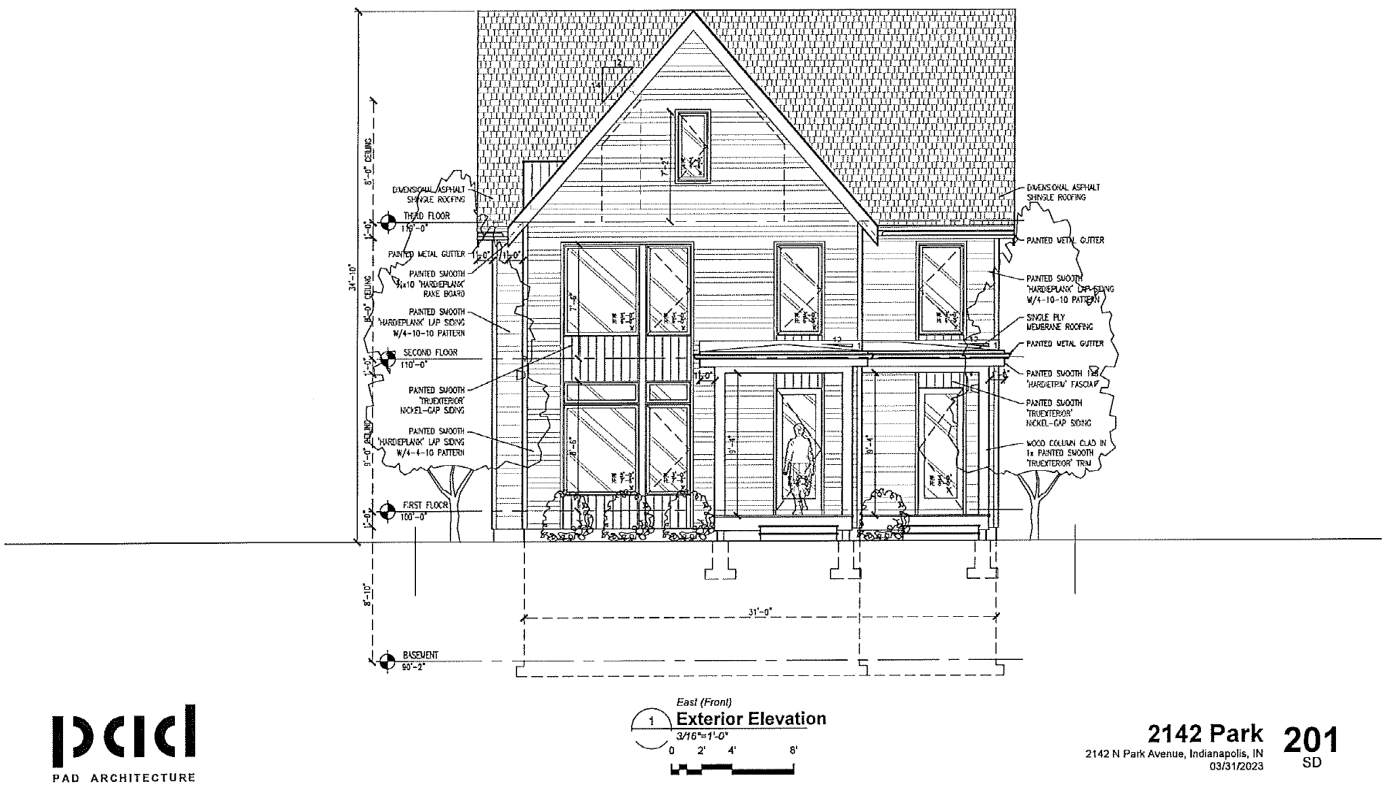


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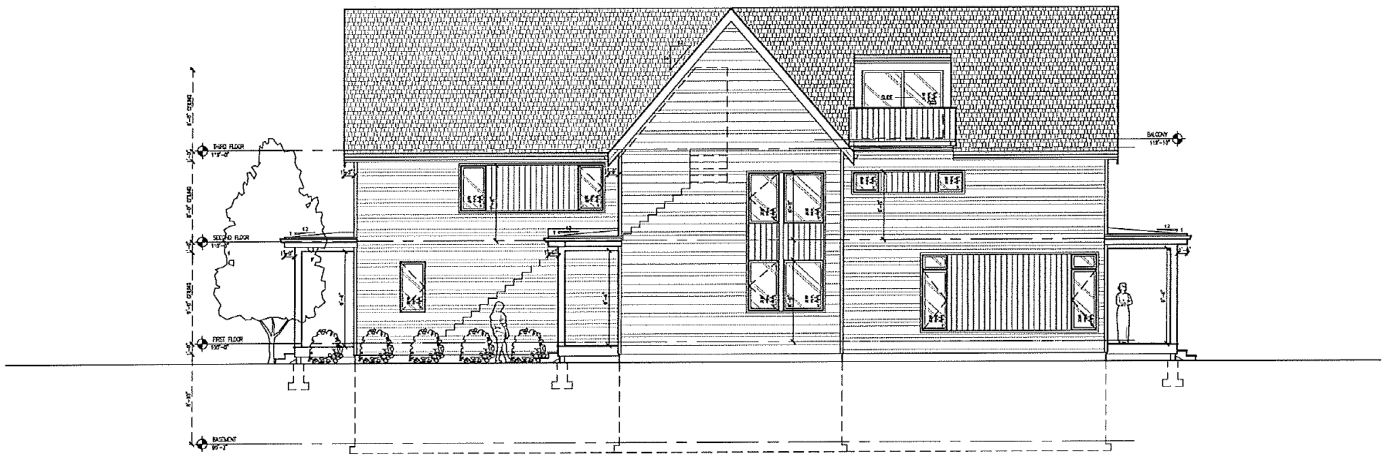
3 Third Floor Plan
3/16" = 1'-0"
0 2' 4' 6'

2142 Park 103
2142 N Park Avenue, Indianapolis, IN
03/31/2023
SD



pcid
PAD ARCHITECTURE

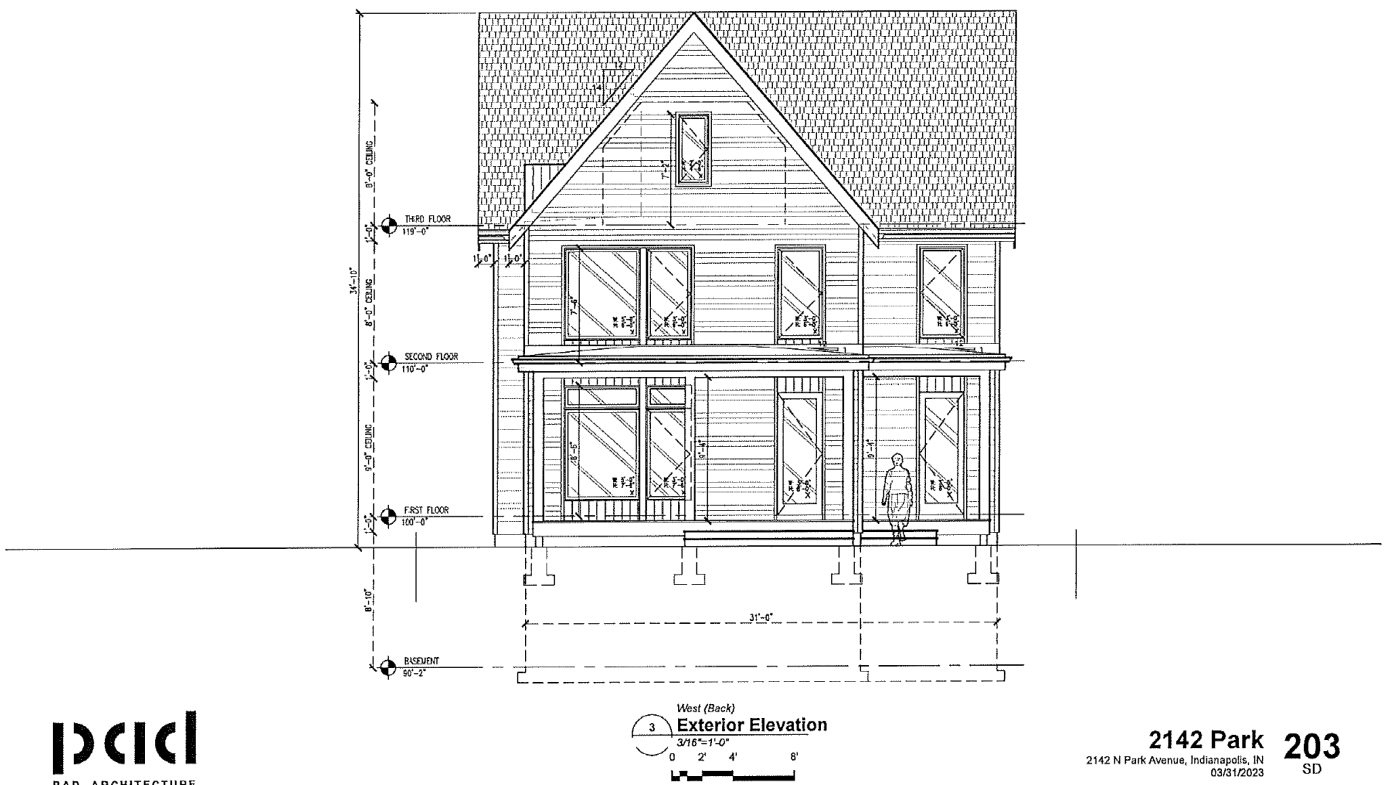
2142 Park 201
2142 N Park Avenue, Indianapolis, IN
03/31/2023
SD



pad
PAD ARCHITECTURE

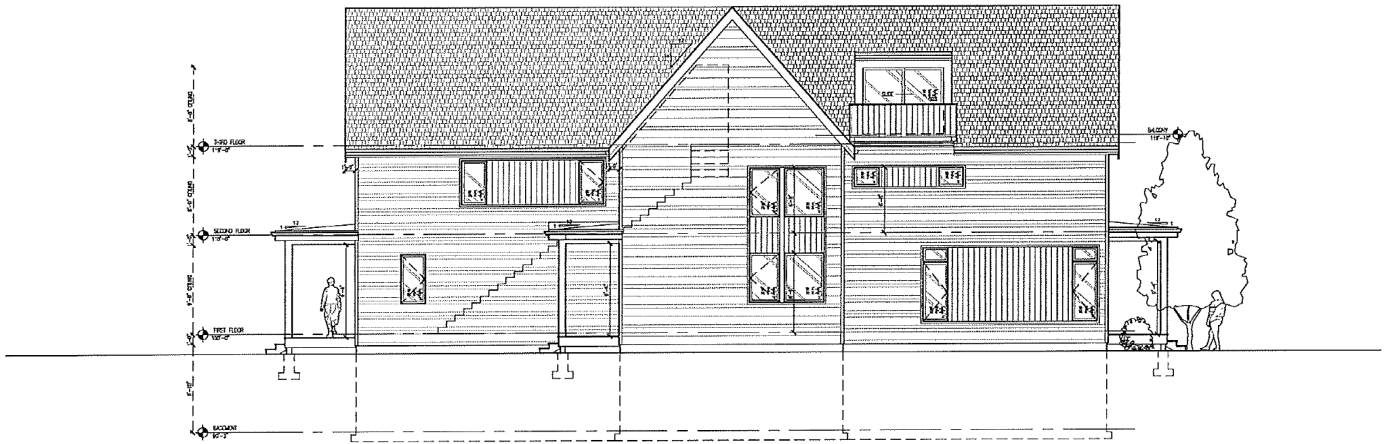
North (Side)
2 Exterior Elevation
1/8"=1'-0"
0 4' 8' 16'

2142 Park 202
2142 N Park Avenue, Indianapolis, IN
03/31/2023 SD



pad
PAD ARCHITECTURE

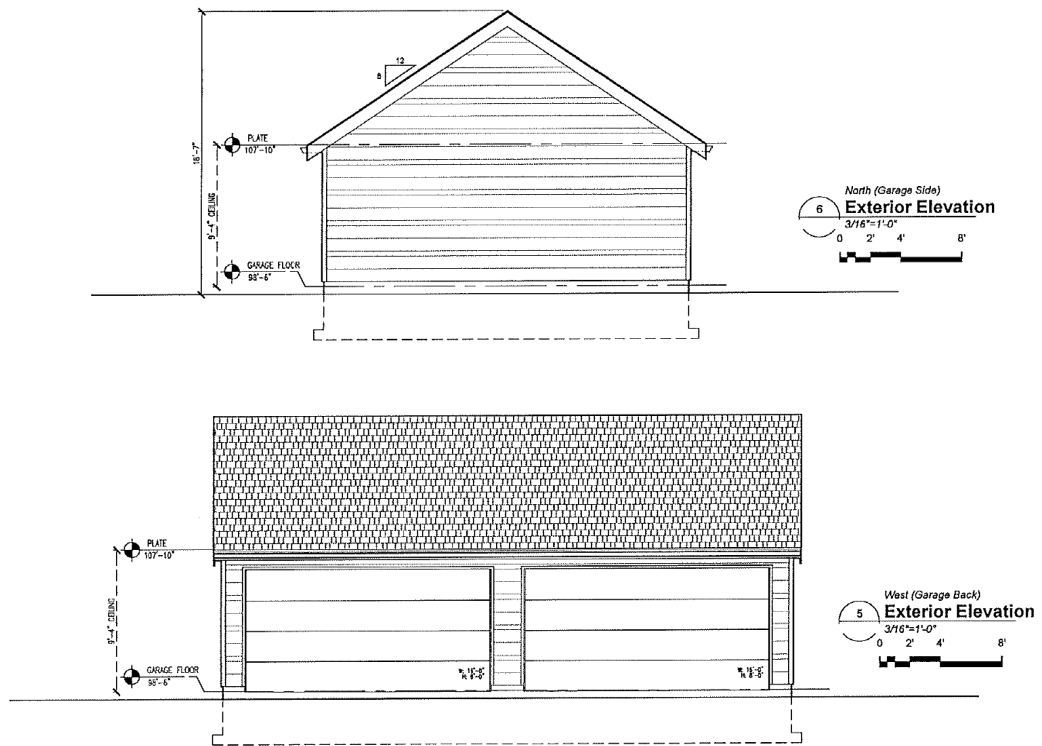
2142 Park 203
2142 N Park Avenue, Indianapolis, IN
03/31/2023 SD



pad
PAD ARCHITECTURE

South (Side)
2 Exterior Elevation
1/8" = 1'-0"
0 4' 8' 16'

2142 Park 204
2142 N Park Avenue, Indianapolis, IN
03/31/2023 SD



pad
PAD ARCHITECTURE

2142 Park 205
2142 N Park Avenue, Indianapolis, IN
03/31/2023
SD



View looking north along North Park Avenue



View looking south along North Park Avenue



View of site looking southwest across North Park Avenue



View of site looking west



View of site and adjacent property to the north looking west



View looking southeast across North Park Avenue from site



View from site looking east across North Park Avenue



View of site and adjacent dwelling to the



View of site looking east from the north / south alley to the west of site



View of site looking northeast from the north / south alley to the west of site

STAFF REPORT

Item 7.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-015
Address: 2434 and 2444 Winthrop Avenue (*Approximate Address*)
Location: Center Township, Council District #17
Petitioner: Indianapolis Neighborhood Housing Partnership, by Jeff Hasser
Request: Rezoning of 1.35 acres from the I-2 district to the D-8 district.

ADDENDUM FOR MAY 25, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the May 11, 2023 hearing, to the May 25, 2023 hearing, due to the absence of the petitioner's representative.

May 11, 2023

The Hearing Examiner acknowledged a timely automatic continuance filed by a registered neighborhood organization that continued this petition from the April 23, 2023 hearing, to the May 11, 2023 hearing.

RECOMMENDATIONS

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

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.
2. Elevations shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 1.35-acre site, zoned I-2, is undeveloped and surrounded by religious uses to the north, zoned I-2; undeveloped land and a single-family dwelling, to the south across East 24th Street, zoned I-2 and D-8; undeveloped land to the east, across Winthrop Avenue, zoned D-8; and undeveloped land and single- and two-family dwellings to the west, zoned D-8.

(Continued)

REZONING

- ◇ This request would rezone the site from I-2 District to the D-8 classification to provide for 22 townhomes. “The D-8 district is intended for a variety of housing formats, with a mix of small-scale multi-unit building types. This district can be used as a part of new mixed-use areas, or for infill situations in established urban areas, including medium and high-density residential recommendations of the Comprehensive Plan, and the Traditional Neighborhood, City Neighborhood, and Village or Urban Mixed-Use Typologies of the Land Use Pattern Book.”
- ◇ The Comprehensive Plan recommends Traditional Neighborhood typology. “The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.”
- ◇ The Comprehensive Plan consists of two components that include the Pattern Book and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.
- ◇ The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.

(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.
- Developments with densities higher than 15 dwelling units per acre should have design character compatible with adjacent properties. Density intensification should be incremental with higher density housing types located closer to frequent transit lines, greenways or parks.

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.

Environmental Public Nuisances

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
 1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
 2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
 3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or

(Continued)

4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

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

Additional Topics

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

- ◇ “As established neighborhoods experience new development, infill residential construction will provide housing options for new and existing residents. Increased population contributes positively to the local tax base, economic development, lively neighborhoods, and an interesting city. As infill construction occurs, it is important to guide development in a way that complements current neighborhoods. Each home in a neighborhood not only contributes to the existing context of adjoining houses and the block, but to the sense of place of the entire neighborhood.”
- ◇ Because new construction in an urban neighborhood should be integrated and harmonious with the existing neighborhood character, staff would request a commitment that elevations be subject to Administrator Approval prior to the issuance of an Improvement Location Permit.

(Continued)

2005-DV1-032; 1100 East 24th Street (east of site), requested a variance of Development Standards of the Industrial Zoning Ordinance to provide for the construction of a 42,379-square foot addition to an existing 108,294-square foot industrial building, with a zero-foot front setback from Yandes Street (minimum twenty-foot front yard setback required), with a zero-foot north side setback (minimum twenty-foot side yard setback required), and with maneuvering space for an off-street loading area within the rights-of-way of Yandes Street and East 24th Street, **granted**.

2004-SE2-001; 1131 East 25th Street (east of site), Special Exception of the Industrial Zoning Ordinance to provide for a 10,000-square foot office and warehouse with a ten-foot front yard setback from the existing right-of-way line of Yandes Street and East 25th Street, **granted**.

2004-DV2-010; 1131 East 25th Street (east of site), Variance of Development Standards of the Industrial Zoning Ordinance to provide for a 10,000-square foot office and warehouse with a ten-foot front yard setback from the existing right-of-way line of Yandes Street and East 25th Street, **granted**.

2002-UV3-006; 925 East 25th Street, and 2454, 2458, 2462 2468, 2470, and 2476 Winthrop Avenue (west of site), requested a variance of use of the Industrial Zoning Ordinance to provide for religious uses (not permitted), within an existing 4,334.32 square foot building, **granted**

2001-UV3-008; 2462 Winthrop Avenue (west of site), requested a variance of use of the Industrial Zoning Ordinance to provide for a social club, **granted**.

2001-UV3-023; 2450 Winthrop Avenue (west of site), requested a variance of use of the Industrial Zoning Ordinance to legally establish the outside storage of licensed and unlicensed vehicles and truck parts, and the mechanical and body repair of vehicles, in an existing building, with outside storage exceeding 17,350 square feet or 173.32 percent of the total floor area of enclosed structures and buildings, **granted**.

2000-UV1-008; 2401-2479 Winthrop Avenue (east of site) requested a variance of use of the Industrial Zoning Ordinance to provide for 64 multi-family dwelling units, a clubhouse, and playground area, **granted**.

95-SE3-4; 1204 East 24th Street (east of site), Special Exception of the Dwelling Districts Zoning Ordinance to provide for an addition to an existing church with additional parking, **approved**.

63-V-524; 1204 East 24th Street (east of site), Variance of Use of the Industrial Zoning Ordinance to permit the construction of a church, **granted**.

kb







View looking north along Winthrop Avenue



View looking south along Winthrop Avenue



View looking west along East 24th Street



View looking east along East 24th Street



View of site looking northwest across intersection Winthrop Avenue and East 24th Street



View of site looking west across Winthrop Avenue



View of site looking west across Winthrop Avenue



View of site looking east from abutting north / south alley to the west



View of site looking east from abutting north / south alley to the west

STAFF REPORT

Item 8.

Department of Metropolitan Development Division of Planning Current Planning Section

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

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

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

ADDENDUM FOR MAY 25, 2023, HEARING EXAMINER

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

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

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

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

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

(Continued)

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

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

ADDENDUM FOR APRIL 27, 2023, HEARING EXAMINER

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

ADDENDUM FOR JANUARY 26, 2023, HEARING EXAMINER

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

ADDENDUM FOR DECEMBER 1, 2022, HEARING EXAMINER

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

OCTOBER 13, 2022, HEARING EXAMINER

RECOMMENDATIONS

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

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

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

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

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

(Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

REZONING PETITION / COMPREHENSIVE PLAN

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

TRANSIT-ORIENTED DEVELOPMENT

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

REGIONAL CENTER OVERLAY DISTRICT

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

(Continued)

VACATION SUMMARY

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

Procedure

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

(Continued)

- ◇ Petitioners and abutters of the vacated right-of-way should consult their own attorneys for advice regarding the ownership of the vacated right-of way.

ASSESSMENT OF BENEFITS

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

GENERAL DESCRIPTION:

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

UTILITIES AND AGENCY REPORT

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

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AND LAND USE

I-3 (RC) and CBD-2 (RC) Compact	One commercial structure and surface parking
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SURROUNDING ZONING AND LAND USE

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

COMPREHENSIVE PLAN	The Comprehensive Plan recommends the site for City Neighborhood development.
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THOROUGHFARE PLAN	The Official Thoroughfare Plan for Marion County indicates that Ohio Street is a primary street, with a 78-foot right-of-way existing and proposed. East Street is a primary street, with a 78-foot right-of-way existing and proposed.
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(Continued)

URBAN DESIGN GUIDELINES
DISTRICT TYPOLOGY

The site is located within the Urban mixed-use typology.

TRANSIT-ORIENTED
DEVELOPMENT

The site is located within a transit-oriented development area.

VACATION EXHIBIT

File-dated August 1, 2022

SITE PLAN / CONCEPT PLANS

File-dated April 18, 2023

FINDINGS OF FACT
Revised

File-dated August 1, 2022

File-dated May 17, 2023

ZONING HISTORY - SITE

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

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

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

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

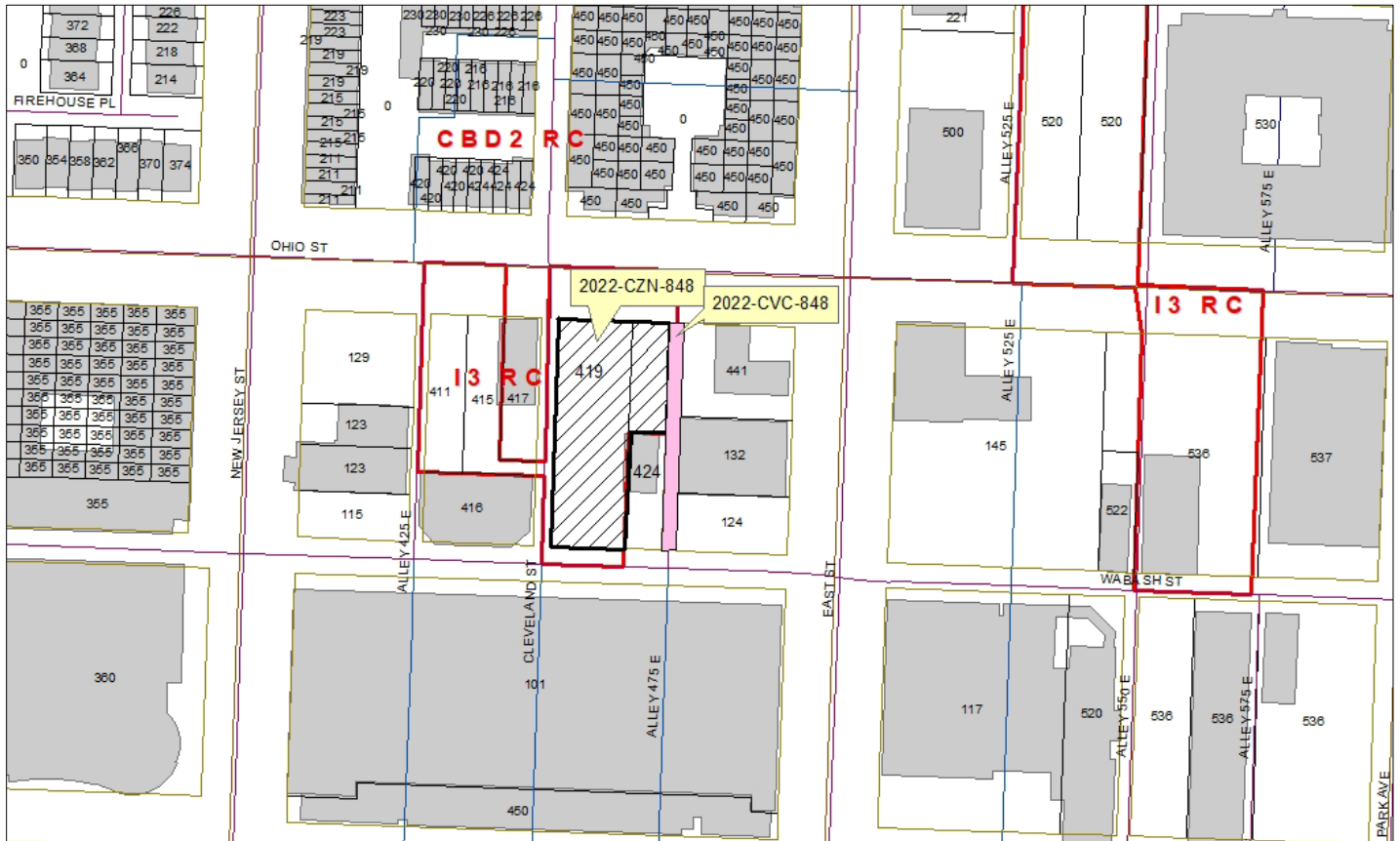
2003-APP-067; 441 East Ohio Street, requests Regional Center Approval for a remodeling of a gasoline station and to provide for an 11.9-foot tall, 9.17-foot wide, 107.75-square foot pylon sign, with a three-foot setback from the Ohio Street right-of-way and 4.17-foot setback from the East Street right-of-way,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

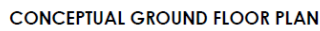
2003-ZON-152; 441 East Ohio Street and 132 North East Street, requests a rezoning of 0.32-acre, from the I-3-U (RC) district to the CBD-2 (RC) classification, **approved**.

ZONING HISTORY - VICINITY

None.

JY

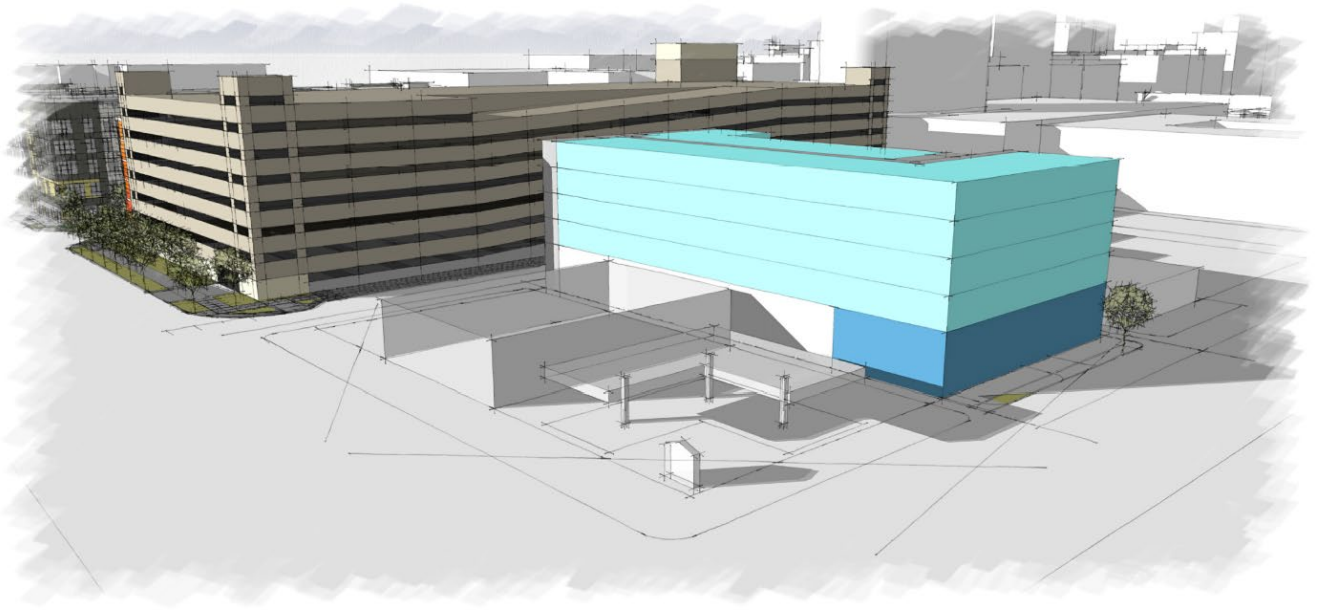




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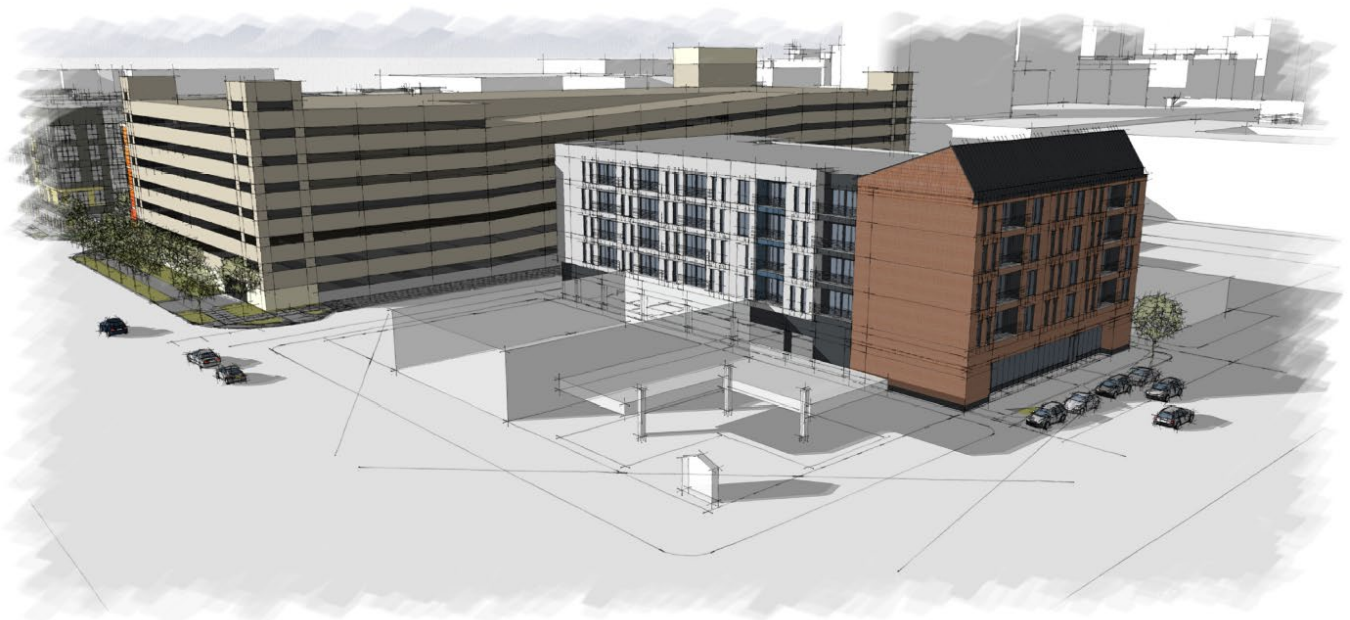
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CONCEPTUAL BLOCKING DIAGRAM

 STUDIO **AXIS**

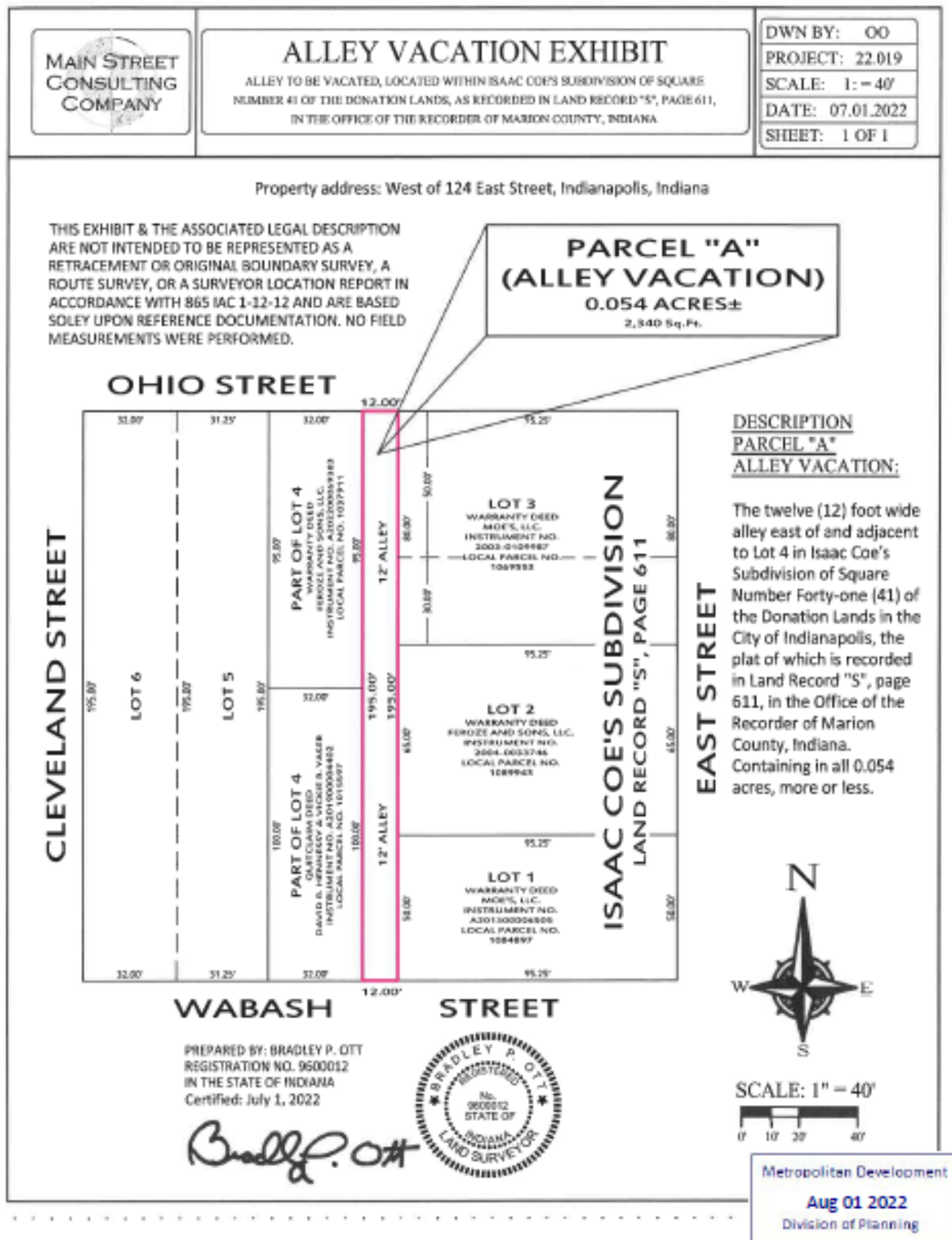
04/14/2023



EARLY DESIGN CONCEPT

 STUDIO **AXIS**

04/14/2023



Petition Number _____

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

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

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

DECISION

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

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____



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



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



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



View of south end of site, looking west



View of the subject alley looking north toward Ohio Street



Close-up view of existing condition of the subject alley

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-CZN-862 / 2022-CVR-862 (Amended)
Address: 5204, 5206 and 5216 South Harding Street (*Approximate Address*)
Location: Perry Township, Council District #20
Petitioner: Quiktrip Corporation, by J. Murray Clark
Request: Rezoning of 5.327 acres from the C-S district to C-7 classification to provide for a truck stop.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster enclosure in the front yard of SR 37 (not permitted in front yard), with a 50-foot tall, 568.5-square-foot pole sign (maximum 20-foot tall, 300 square feet permitted), with fifteen street trees along Harding Street (29 required) and sixteen trees along SR 37 (23 required) and to provide for a 23-foot tall, 109-square-foot free-standing incidental sign (maximum eight-foot tall, 32 square feet permitted).

ADDENDUM FOR MAY 25, 2023, HEARING EXAMINER

This petition was continued from the April 13, 2023 hearing to the May 25, 2023 hearing at the request of a remonstrator.

ADDENDUM FOR APRIL 13, 2023, HEARING EXAMINER

This petition was continued from the March 9, 2023 hearing to the April 13, 2023 hearing at the request of the petitioner. New site and landscape plans, and a new sign elevation were submitted that resulted in an amendment to the request.

Staff **continues to recommend denial of these requests.** However, should the Hearing Examiner decide to approve the request staff asks that the following commitment be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 40-foot half right-of-way shall be dedicated along the frontage of Harding Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)

The rezoning request was not amended. Staff recommends denial of the rezoning for the reasons found below in the November 10, 2022 Staff Report.

Changes were made in the variance requests. This petition now requests seven variances of development standards to provide for

- a dumpster enclosure in the front yard of SR 37. A trash enclosure is not permitted in a front yard,
- sixteen street trees along SR 37 where 23 trees are required,
- fifteen street trees along Harding Street where 29 are required,
- a 50-foot tall, 568.5-square-foot pole sign. Maximum pole sign height is 20 feet tall and maximum pole sign area is 300 square feet, and
- a 23-foot tall, 109-square-foot free-standing incidental sign. Maximum incidental sign height is eight feet tall and maximum incidental sign area is 32 square feet.

Trash enclosures are not permitted in front yards. Trash enclosures in a front yard are frequently unsightly and disrespect passers-by and neighbors by forcing them to look at the site's trash. Because the subject site is roughly triangular with streets on two sides, the number of potential locations for a trash enclosure is limited. However, the site plan makes little attempt to locate the enclosures in an inconspicuous spot. Instead, they are placed along State Road 37.

The landscape strip along Harding Street is large enough to provide space for a compliant number of trees to be planted. There is no apparent reason the required number of trees cannot be planted. This use will generate a significant amount of vehicle fumes compared to most uses that would be typically found in the Community Commercial typology. The site should be providing more trees rather than a deficient number of trees to mitigate the site's impact on air quality and urban heat.

The landscape strip along Harding Street is large enough to provide space for a compliant number of trees to be planted. No reason for the lack of trees is given in the Findings of Fact.

A pole sign over double the permitted height and nearly double the permitted area has been requested. Freestanding signs in limited numbers can significantly help the motoring public identify destinations. However, unnecessarily large or tall signs tend to distract, confuse and disorient motorists while losing the effectiveness of commercial messages in a harsh sea of poles, colors, logos and words. This would be especially true in the subject area with its heavy, fast traffic and preponderance of large trucks.

Incidental signs are those whose purpose is secondary and incidental to the use of the site and carries no commercial message that is legible beyond the site. They are limited in size to 32 square feet and in height to eight feet. One of the incidental signs

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)

on this site provides directions to the users of the site, specifically truck drivers seeking to weigh their vehicle. It's proposed to be 109 square feet and 23 feet tall. The function of this sign is atypical of incidental signs and as such, must be taller and larger than typical incidental signs to be useful.

ADDENDUM FOR MARCH 9, 2023, HEARING EXAMINER

This petition was continued from the December 15, 2022 hearing to the March 9, 2023 hearing at the request of the petitioner. No additional information has been supplied.

ADDENDUM FOR DECEMBER 15, 2022, HEARING EXAMINER

This petition was continued from the November 10, 2022 hearing to the December 15, 2022 hearing.

November 10, 2022 Staff Report

RECOMMENDATION

Staff **recommends denial of these requests.** However, should the Hearing Examiner decide to approve the request staff asks that the following commitment be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 40-foot half right-of-way shall be dedicated along the frontage of Harding Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ Historic aerial photography from 1937 indicates a farmstead on 5204 South Harding Street and a single-family dwelling at 5216 South Harding Street. By 1956 a dwelling on 5206 South Harding had been constructed as had a row of dwellings south along the east side of Harding Street. Those dwellings still stand today. In the mid-1960s State Road 37 was under construction along the west edge of the subject site and

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)

headed southwest across open farmland. By 1972 industrial uses were developed along the west side of Harding Street.

- ◇ The Comprehensive Land Use Plan (2018) recommends Community Commercial for the site. This land use category is intended for low intensity commercial uses that serve nearby neighborhoods.

ZONING

- ◇ This petition requests a rezoning from the C-S district to the C-7 district. The C-S district allows for a customized list of permitted land uses, but also requires adherence to an approved site plan and development statement. For this site, Petition 2009-ZON-057 provided for wholesale and retail landscape supply operations, two single-family dwellings, C-3 uses and a hotel. The C-3 uses are responsive to the Land Use Plan recommendation. Depending on its size and amenities the hotel might also be responsive to the Land Use Plan. The landscape supply operations might also fit into the Community Commercial typology depending on its operations and arrangement.
- ◇ The C-7 district is designed to provide for commercial uses that have qualities that are incompatible with less intense land uses. Examples of these qualities are outdoor storage and display of merchandise, and the outdoor parking and storage of trucks. Because of the character and intensity of these uses, this district should be located on major commercial arterial thoroughfares and near interstate interchanges, but not in close association with consumer commercial activities such as retailing, professional services, or restaurants. Due to the intensity of its uses, location of this district should never be adjacent to protected districts, such as dwellings, churches and schools.
- ◇ This request would locate the C-7 district across the street from single-family dwellings in the D-A zoning district. The Comprehensive Land Use Plan recommendation for the adjacent dwellings is Office Commercial. The petitioner has supplied a list of uses that they are willing to commit to excluding from the site (See below.). However, the remaining C-7 uses are not appropriate adjacent to either single-family dwellings or office development.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)

VARIANCES

- ◇ This petition requests eight variances of development standards to provide for
 - a dumpster enclosure in the front yard with a five-foot setback along SR 37. A trash enclosure is not permitted in front yard and a ten-foot setback is required,
 - parking and drive aisles with a five-foot setback from SR 37. A ten-foot wide landscape area required,
 - thirteen street trees along SR 37 where 23 trees are required,
 - fifteen street trees along Harding Street where 29 are required,
 - a 90-foot tall, 391-square-foot pole sign. Maximum pole sign height is 20 feet tall and maximum pole sign area is 300 square feet, and
 - a 23-foot tall, 109-square-foot free-standing incidental sign. Maximum incidental sign height is eight feet tall and maximum incidental sign area is 32 square feet.

- ◇ Trash enclosures are not permitted in front yards. Trash enclosures in a front yard are frequently unsightly and disrespect passers-by and neighbors by forcing them to look at the site's trash. Because the subject site is roughly triangular with streets on two sides, the number of potential locations for a trash enclosure is limited. However, the site plan makes no attempt to locate the enclosures in an inconspicuous spot. Instead, they are placed along State Road 37 and five feet closer to the right-of-way than a structure of any sort is permitted.

- ◇ The site plan depicts parking spaces and drive aisles within the required ten-foot landscape space along State Route 37. This site is an intense use that will generate a significant amount of traffic. The reduced landscape space detracts from the site's ability to adequately screen the site or provide the other aesthetic and environmental benefits conferred by landscaping. The lack of landscaping space along SR 37 is also an indication that the site would be overdeveloped.

- ◇ The lack of an adequately sized landscape strip plays into the further request to reduce the required number of street trees along SR 37 from 23 to 13. If an adequately sized landscape strip was provided, a compliant number of trees could be planted. This use will generate a significant amount of vehicle fumes compared to most uses that would be typically found in the Community Commercial typology. The site should be providing more trees rather than a deficient number of trees to mitigate the site's impact on air quality and urban heat.

- ◇ The landscape strip along Harding Street is large enough to provide space for a compliant number of trees to be planted. No reason for the lack of trees is given in the Findings of Fact.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)

- ◇ A pole sign over four times the permitted height has been requested, presumably to allow it to be seen from I-465. Tall signs in close proximity to interstate interchanges were once permitted by the Ordinance. The tall interchange sign provision of the Ordinance was removed in 2019.
- ◇ The tall interchange sign provisions that were in place prior to 2019 allowed for signs up to 80 feet in height if they were within 1,320 feet of the intersection of the centerlines of the interstate and local street. The sign had to be at least 600 feet from a protected district and could be no greater in area than that permitted for other freestanding signs on the site. The tall interchange sign could be the only pole or pylon sign on the site.
- ◇ An eighty-foot-tall sign was permitted nearby at 1551 West Thompson Road in the late 1990s. This sign required a variance because it was approximately 1440 feet from the interchange.
- ◇ The proposed sign would not meet any of the 2019 provisions above. The proposed sign is 90 feet tall, roughly 2,600 feet from the interchange, roughly 550 feet from a protected district, is 91 square feet larger than the largest freestanding sign permitted on the site, and is one of two freestanding signs on the site. It would be more distant from the new I-69 interchange than from the remaining I-465 interchange.
- ◇ Freestanding signs in limited numbers can significantly help the motoring public identify destinations; however, unnecessarily large or tall signs tend to distract confuse and disorient motorists while losing the effectiveness of commercial messages in a harsh sea of poles, colors, logos and words. This would be especially true in the subject area with its heavy, fast traffic and preponderance of large trucks.
- ◇ Incidental signs are those whose purpose is secondary and incidental to the use of the site and carries no commercial message that is legible beyond the site. They are limited in size to 32 square feet and in height to eight feet. One of the incidental signs on this site provides directions to the users of the site, specifically truck drivers seeking to weigh their vehicle. It's proposed to be 109 square feet and 23 feet tall. The function of this sign is atypical of incidental signs and as such, must be taller and larger than typical incidental signs to be useful.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)**Traffic Impact Study**

- ◇ A traffic impact study was submitted with this petition. The study investigates how the traffic generated by this project would affect seven nearby intersections and the proposed access points to the site.
- ◇ This request comes at a unique time for this area with the coming of I-69 in the next two years. The opening of the new interstate will cause major shifts in the traffic flows in the vicinity. Among the changes will be a drop in traffic volumes on State Route 37 and its transfer in responsibility to the City of Indianapolis.
- ◇ According to the study, the proposed development would generate 120 new trips during the peak morning hour and 100 new trips during the peak afternoon hour.
- ◇ The study determined that the proposed development would not generate enough traffic to reduce the operations of nearby intersections to unacceptable levels. The study also looked at the access and egress on the two proposed driveways on Harding Street. The study found that dedicated left turns lanes into the site are not warranted. It also found that a dedicated right turn lane from southbound Harding Street into the north driveway is warranted. A dedicated right turn lane from southbound Harding Street into the south driveway was not warranted. The driveways should each have three lanes: an inbound lane, a right-turn only outbound lane and a left-turn only outbound lane.
- ◇ The study made recommendations for the improvement of traffic flow in the vicinity upon the opening of I-69. These improvements include establishing a left-bound turn lane from northbound Harding Street to southbound S.R. 37 and retiming the stoplights in the area.
- ◇ A Department of Public Works traffic engineer was of the opinion that even after the opening of I-69 and S. R. 37 reverts to the City's responsibility, a driveway from this site directly onto S.R. 37 is unlikely to be permitted. However, the traffic engineer stated that a study would need to be done before a definite decision on this matter was made.
- ◇ The site plan does not show sidewalks along Harding Street or from Harding Street to the front of the proposed building. Staff notes that sidewalks in these locations will be required to be provided by the Ordinance.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

C-S	Metro	Landscape materials supplier
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SURROUNDING ZONING AND LAND USE

Northwest	I-3, I-4	Electrical contractor, truck sales
South	I-3	Construction contractor
East	C-7, D-A, I-2	Truck repair, single-family dwellings

COMPREHENSIVE LAND USE PLAN The Perry Township Comprehensive Land Use Plan (2018) recommends Community Commercial.

THOROUGHFARE PLAN Harding Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with an existing right-of-way ranging from 65 feet to 107 feet and an 80-foot proposed right-of-way.

State Route 37 is classified in the Official Thoroughfare Plan for Marion County, Indiana as an Expressway. The plan does not propose a future right-of-way width.

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

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

STREAM PROTECTION CORRIDOR This site is not located within a Stream Protection Corridor.

ZONING HISTORY – SITE

2009-ZON-057; 5204, 5206 & 5216 South Harding Street, requested the rezoning of 5.3 acres from the C-S district to the C-S district to provide for wholesale and retail landscape supply operations, two single-family dwellings, C-3 uses and a hotel, **approved.**

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended)(Continued)

2007-ZON-851 / 2007-CAP-851; 5202, 5206 & 5216 South Harding Street, requested the rezoning of 5.3 acres from the C-S district to the C-S district to provide for C-3 uses and an extended stay hotel, **approved**.

90-Z-12; 5202 South Harding Street, requested the rezoning of 5.3 acres from the I-2-U district to the C-S district to provide a construction company, display of model homes, outdoor storage, retail sales associated with a construction company and manufacturing of homes, **approved**.

89-Z-132; 5202 South Harding Street, requested a variance to provide for a second business sign structure, **approved**.

89-UV1-30; 5202 South Harding Street, requested a variance of use to provide for five model homes and sales office, **approved**.

ZONING HISTORY – VICINITY

2022-ZON-045; 1600 West Thompson Road (northwest of site), requested the rezoning of 3.2 acres from the C-4 district to the I-3 district, **approved**.

2018-UV3-024; 5201 South Harding Street (east of site), requested a variance of use to provide for a transport company and a variance of development standards to provide for deficient maneuvering space, the storage of tractor trailers and deficient setbacks and transitional yard, **denied**.

2014-ZON-074; 1600 West Thompson Road (northwest of site), requested the rezoning of 3.2 acres from the I-3-S district to the C-4 district, **approved**.

2007-ZON-051; 5191 Harding Lane (east of site), requested the rezoning of 0.9 acre from the I-2-S district to the C-7 district, **approved**.

98-Z-225; 4950 Harding Lane (east of site), requested the rezoning of 2.5 acres from the C-4 district to the C-7 district, **approved**.

94-UV1-68; 1631 West Thompson Road (west of site), requested a variance of use to provide for commercial truck and trailer servicing, repair, sales and leasing and the sale of truck parts, **approved**.

94-Z-45; 1631 West Thompson Road (northwest of site), requested the rezoning of 22.9 acres from the I-4-S district to the C-7 district, **withdrawn**.

(Continued)

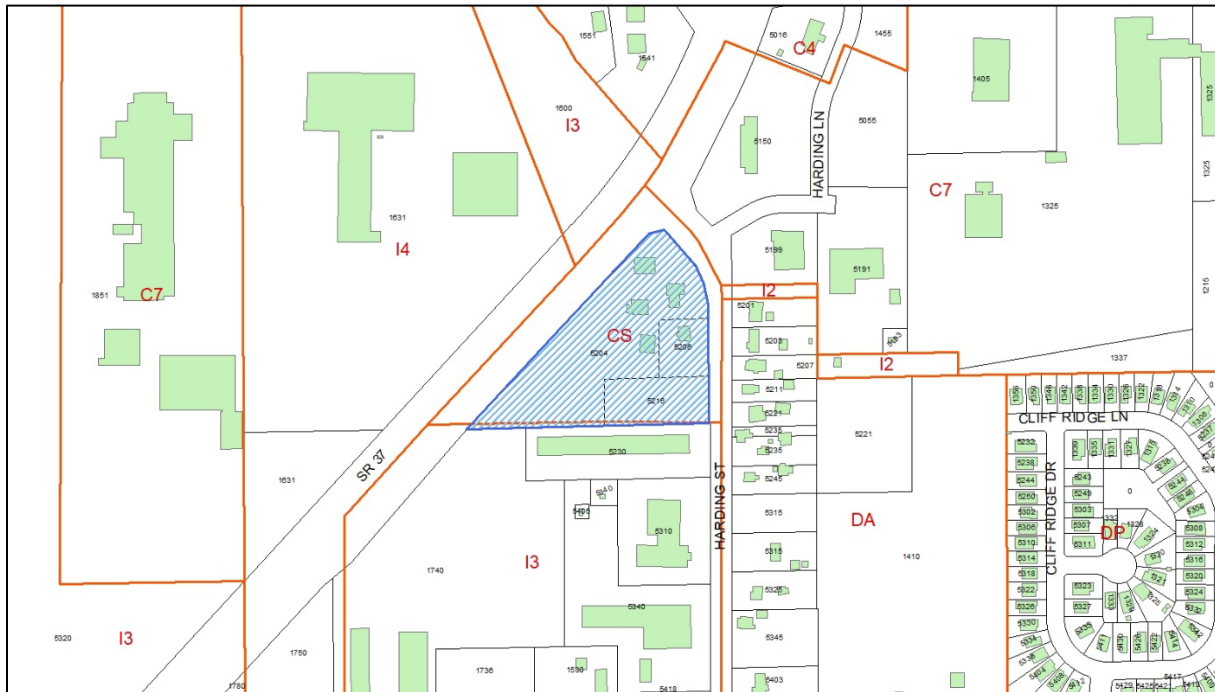
STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Amended) (Continued)

87-UV3-82; 1631 West Thompson Road (west of site), requested a variance of use to provide for a mobile structure as a temporary facility, **approved**.

83-Z-241; 1751 West Thompson Road (northwest of site), requested the rezoning of twenty acres from the I-3-S district to the I-4-S district, **approved**.

klh

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Location

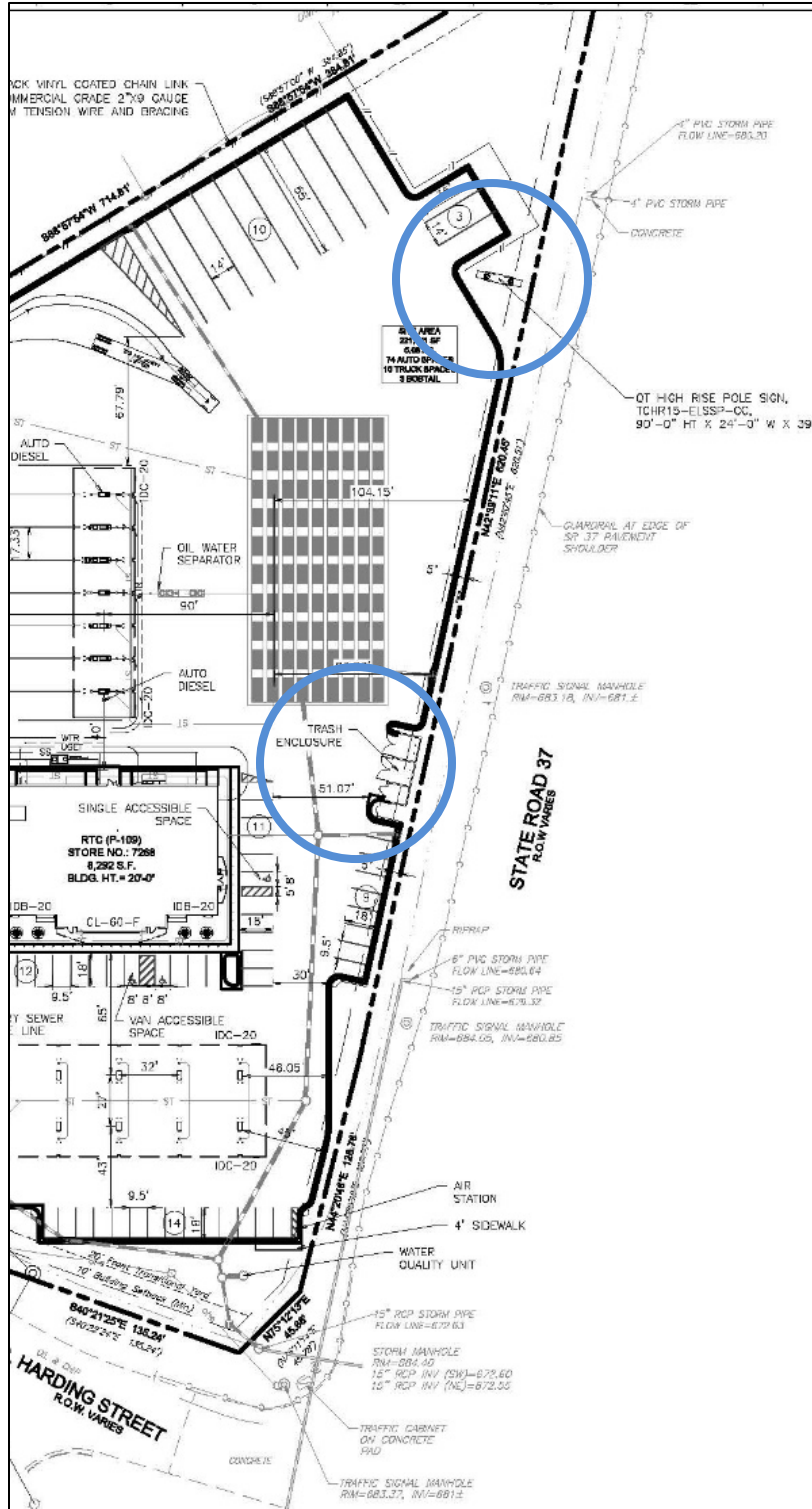


STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Aerial photograph (2021)



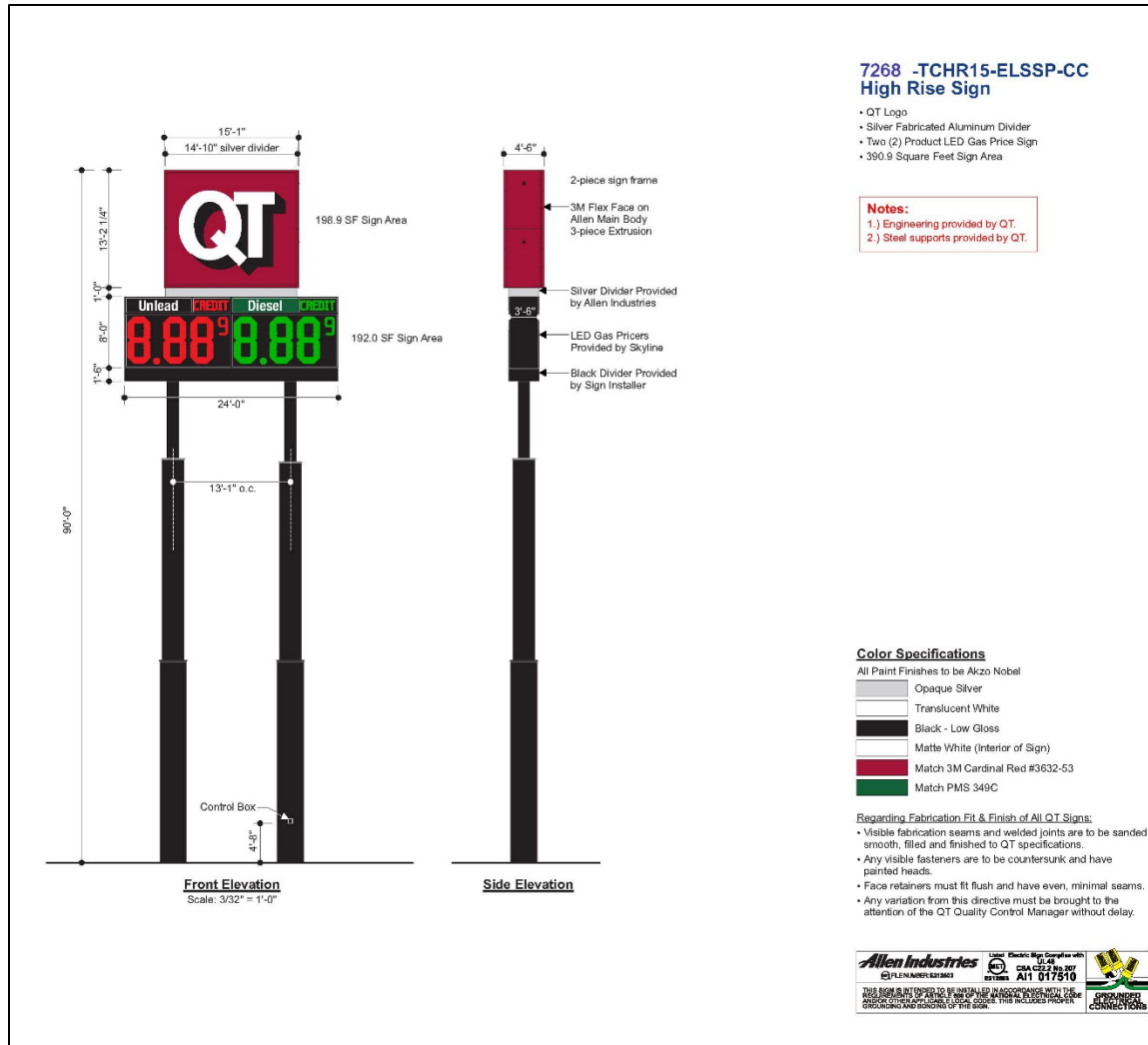


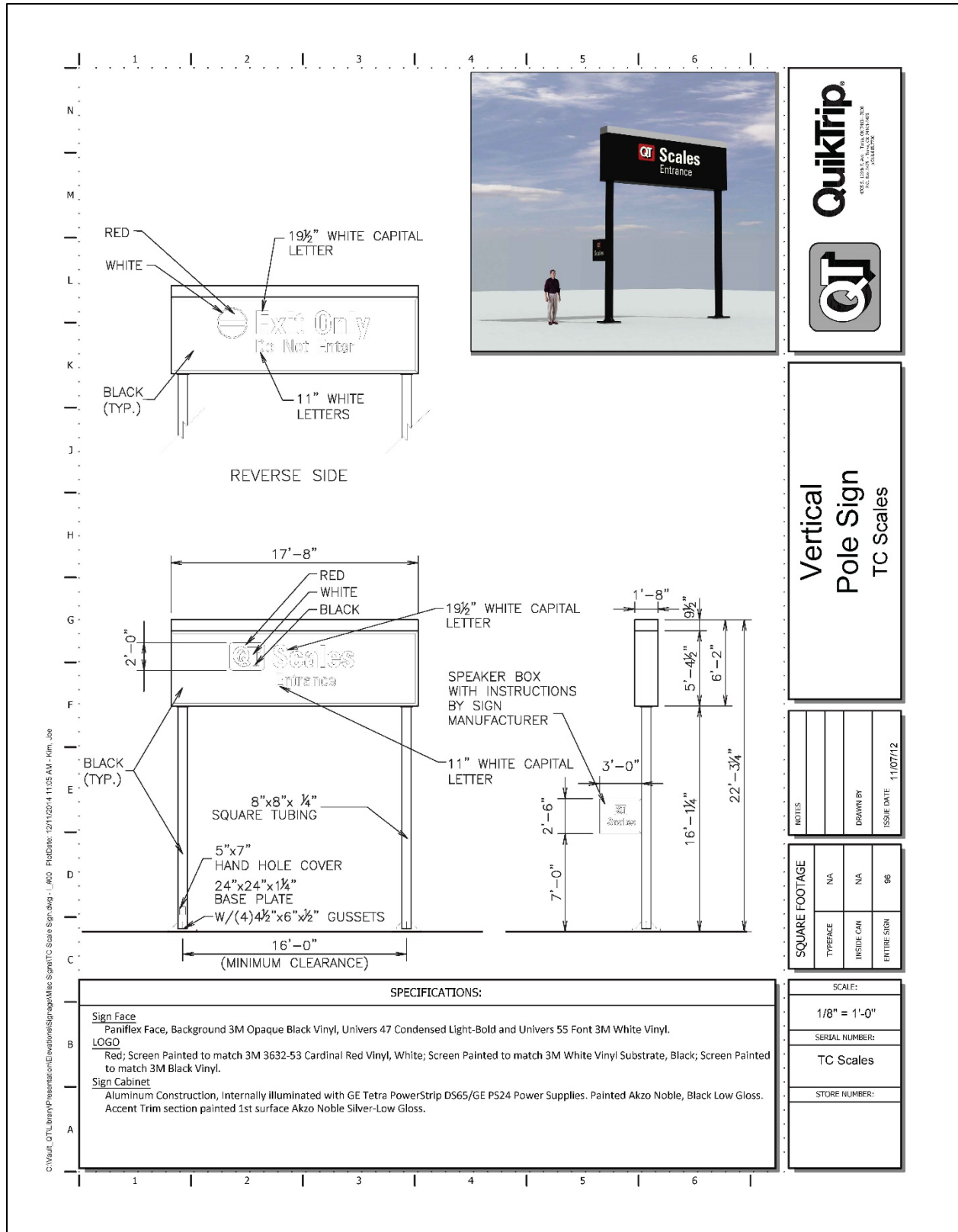
STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Site Plan Insert



This inset shows the proposed location of the trash enclosures and 80-foot tall freestanding sign. North is to the bottom of the page.

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Sign elevations





STAFF REPORT 2022-CZN-862 / 2022-CVR-862, 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 grant will not be injurious to the community because the property is ideally situated for use as a truck stop, as it is located at the corner of an expressway and a primary collector, and is nearby to other heavy commercial and industrial type uses. The requested development standards variances will allow for the best possible layout of the property and will allow for adequate signage for community members who wish to utilize the truck stop.

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 grant will not substantially adversely effect the area adjacent to the property because the real estate is already operating with a heavy commercial / industrial type use, and is nearby to other heavy commercial and industrial type uses. The requested development standards variances will allow for the best possible layout of the property and will allow for adequate signage for community members who wish to utilize the truck stop.

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 has two frontages, and in order for the truck stop to function with the greatest efficiency and provide the best utilized signage, the property needs the grant of the development standards variances. The requested development standards variances will allow for the best possible layout of the property and will allow for adequate signage for community members who wish to utilize the truck stop.

DECISION

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

Adopted this _____ day of _____, 20 ____

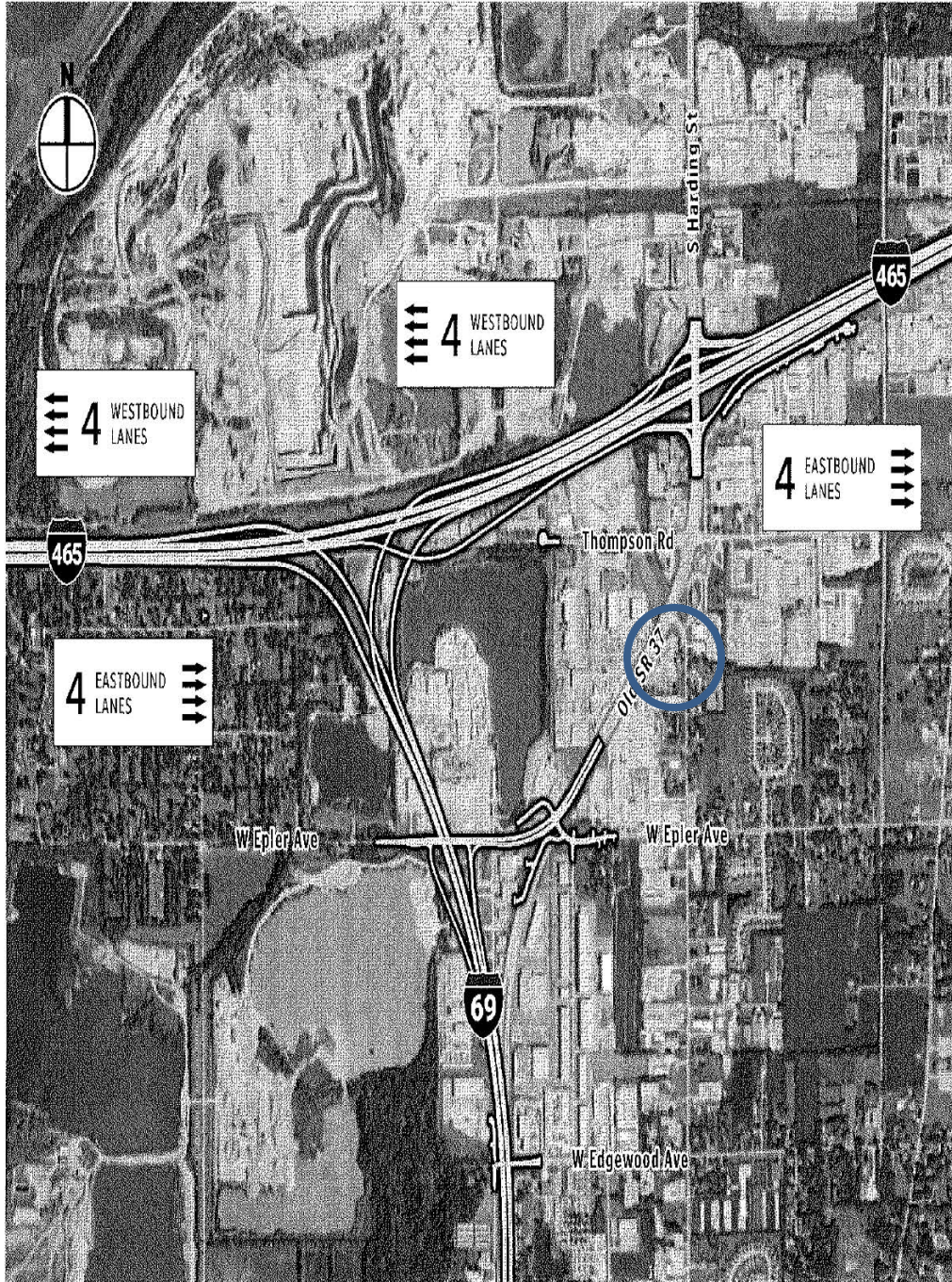
STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Proposed list of excluded uses.

**QuikTrip Store #7268
5204, 5206, 5216 S. Harding St.**

Rezoning of real estate from C-S district to C-7 district for use as a Truck Stop.

List of prohibited uses:

- Agricultural Machinery and Equipment Sales, Rental, or Repair
- Auctioneering and Liquidating Services
- Dry Cleaning Plant or Industrial Laundry
- Adult Entertainment Business
- Bar or Tavern
- Night Club or Cabaret
- Commercial and Building Contractors
- Heavy Equipment Sales, Service or Repair
- Adult Entertainment Business: Retail
- Firearm Sales
- Fireworks Sales, On-going
- Liquor Store
- Pawn Shop
- Automobile and Light Vehicle Wash
- Automobile and Vehicle Storage or Auction
- Automobile, Motorcycle, and Light Vehicle Sales or Rental
- Automobile, Motorcycle, and Light Vehicle Service or Repair
- Heavy Vehicle Wash
- Motorsports Industry
- Other Vehicle Sales, Rental or Repair
- Truck or Heavy Vehicle Sales, Rental, or Repair
- Recycling Station
- Mini-Warehouses (Self-Storage Facility)
- Warehousing, Wholesaling and Distribution

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Proposed Route of I-69.**STOP 11 RD to I-465**

Subject site is in the blue circle.

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Photographs



Looking south across the southwest portion of the subject site.



Looking southeast from SR 37 across the central section of the site.



Looking southwest along the site's frontage on SR 37.



Looking south at the northern point of the site from Harding Street.



Looking west at the site from Harding Street.



Looking west at the site from Harding Street.



Looking southwest across the southern portion of the site. The industrial building in the background is the neighbor to the south.



Looking southeast along Harding Street at the neighboring dwellings to the east.



Looking east from the site across Harding Street.



Looking north from the site across Harding Street.



Looking north at the intersection of Harding Street and SR 37 toward the I-465 interchange.



Looking southwest along SR 37 to the neighbor to the west.

STAFF REPORT

Item 10.

Department of Metropolitan Development
Division of Planning
Current Planning Section

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

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

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

RECOMMENDATIONS

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

LAND USE ISSUES

- ◇ This 0.36-acre site is split zoned C-4 (FF) and D-5 (FF). The site is improved with a gravel parking area, a portable storage structure and six-foot tall chain-link perimeter fence topped with barbed wire. North of the subject site is a commercial structure housing a tobacco shop and a barber shop, within the C-4 District. West of the subject site are single-family dwellings within both the C-4 and D-5 Districts. To the south is a recreational playground and religious use facility within the D-5 District. East of the site is an automobile fueling station within the I-3 District.

(Continued)

- ◇ This site is recommended for Community Commercial development by the Comprehensive Plan and is located within its Environmentally Sensitive overlay.
- ◇ According to aerial images and Google Maps Street View, the site was previously improved with a small commercial walk-up eating establishment, including a carport structure for the associated parking. This structure was demolished around 2017.

REZONING

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

VARIANCES

- ◇ As proposed, the site would utilize the existing portable storage structure for the storage of tools associated with automobile repair, and the construction of a shed for the storage of automobile parts and other accessories related to the business. Such structures are not permitted in order to promote an orderly aesthetic. Repairs would be conducted outdoors until a permanent structure can be constructed.

(Continued)

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

(Continued)

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-4, D-5

Commercial structure, vacant

SURROUNDING ZONING AND LAND USE

North - C-4

Tobacco Shop and Barber Shop

South - D-5

Playground

East - I-3

Automobile Fueling Station

West - C-4, D-5

Single-family dwellings

COMPREHENSIVE LAND USE
PLAN

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

THOROUGHFARE PLAN

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

CONTEXT AREA

This site is located within the Compact Context Area.

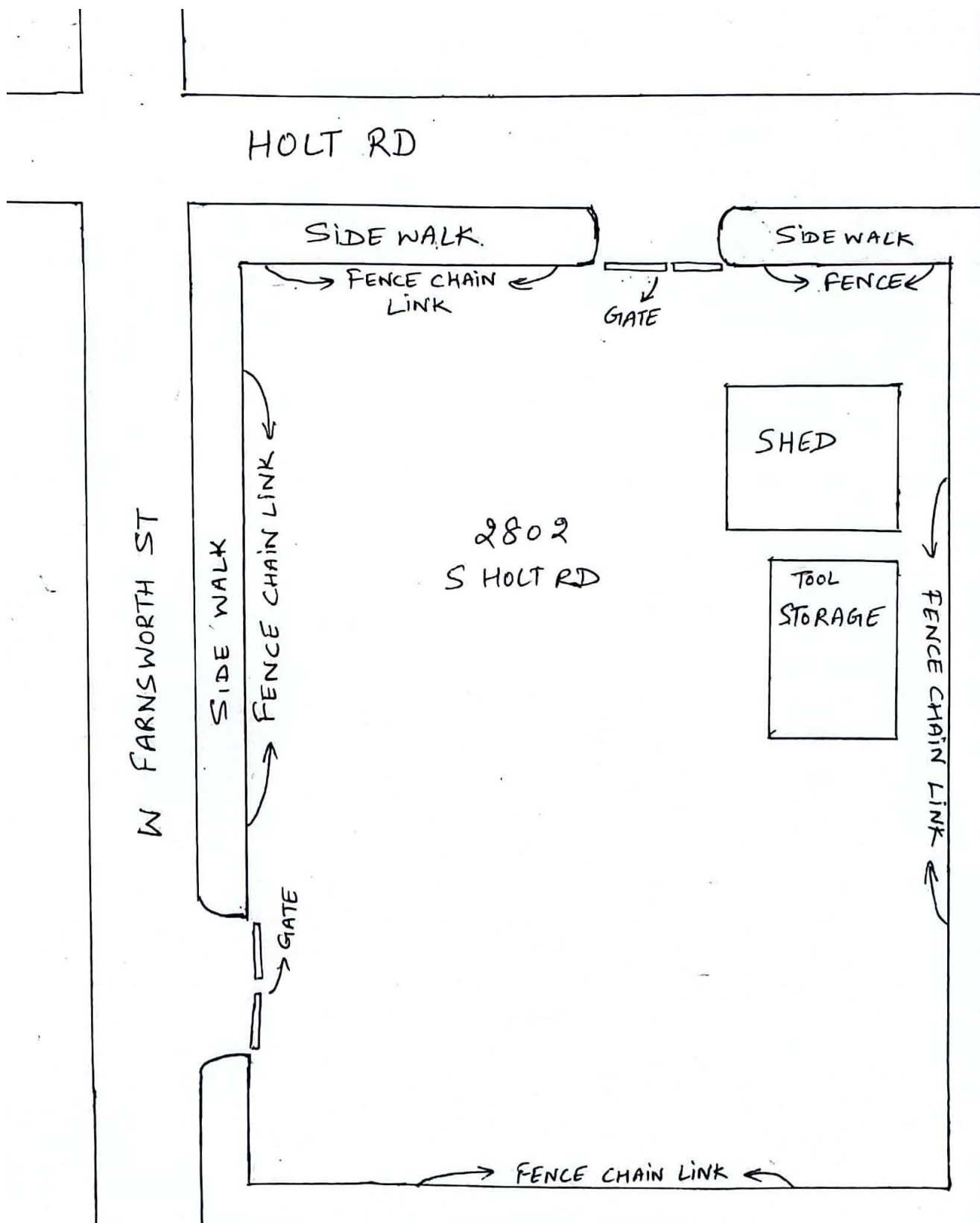
SITE PLAN

File-dated April 28, 2023.

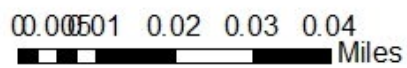
ZONING HISTORY

None.

EDH



Item 10.



Photographs:

Item 10.



Photo One: Facing North along Holt Road.



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



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



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



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



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



Photo Seven: Southern lot along abutting playground.



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

STAFF REPORT

Item 11.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-CZN-817 / 2023-CVR-817
Address: 5959 East 38th Street and 3700, 3742 and 3790 North Arlington Avenue
(Approximate Address)
Location: Warren Township, Council District #13
Petitioner: Horizon Bank, by Joseph D. Calderon
Requests: Rezoning of 5.8 acres from the MU-2 (FW) (FF) (TOD) and C-4 (FW) (FF) (TOD) district to the MU-2 (FW) (FF) (TOD) district to provide for a mixed-use development.

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

- a) Building heights of 50 feet for multi-family structures (maximum 35 feet permitted),
- b) A drive-through service unit located on the side of a proposed bank and not accessed by an alley (required to be located behind building and be accessed by an alley),
- c) Improvements located within the 60-foot Stream Protection Corridor of Pogues Run (not permitted),
- d) With deficient interior parking lot landscaping (not permitted),
- e) With parking located in front of proposed buildings with a zero-foot setback (parking prohibited in front of buildings, 50-foot setback required),
- f) With portions of proposed buildings located behind the required Front Building Line (0'-10' building line required).

The Hearing Examiner acknowledged a timely automatic continuance filed by a registered neighborhood organization that continued these petitions from the April 27, 2023 hearing, to the May 25, 2023 hearing.

RECOMMENDATIONS

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

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

(Continued)

2. 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 / or 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.
3. The final site plan, landscaping plan and elevations shall be submitted to Administrator Approval prior to the issuance of an Improvement Location Permit (ILP). Such plans shall provide for mitigation features of encroachment into the stream protection corridor that would include, but not be limited to, permeable pavers, rain gardens, curbs and gutters, bio-swales, and etc.; year around perimeter and interior landscaping; landscaping within the parking areas in accordance with the Ordinance requirements; and exterior building materials should include a variety of materials, including masonry.

Staff **recommends approval** of variance requests a), b), e) and f); staff **recommends denial** of variance requests c) and d).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 5.8-acre site, zoned MU-2 (FW) (FF) (TOD) and C-4 (FW) (FF) (TOD), is comprised of four parcels at the southwest corner of the intersection of East 38th Street and North Arlington Avenue. Three of the parcels are undeveloped and one parcel is developed with commercial uses. The site is surrounded by commercial uses to the north, zoned C-3 (FW) (FF) (TOD); industrial uses to the south, zoned I-3 (FW) (FF) (TOD); commercial and industrial uses to the east; across North Arlington Avenue, zoned D-3 (FW) (FF) (TOD) and I-2 (FW) (FF) (TOD), respectively; and commercial uses and undeveloped land (Pogues Run) to the west, zoned C-4 (FW) (FF) (TOD) and D-4 (FW) (FF) (TOD).
- ◇ Petition 2009-ZON-051 rezoned the northern portion of the site from the C-4 District to the C-3C (now known as MU-2) to provide for corridor commercial uses.

(Continued)

REZONING

- ◇ This request would rezone the site from the MU-2 (FW) (FF) (TOD) and C-4 (FW) (FF) (TOD) district to the MU-2 (FW) (FF) (TOD) district to provide for a mixed-use development. “The MU-2 District is intended to meet the daily needs for surrounding neighborhoods and include small social spaces that serve as neighborhood gathering places. The district includes primarily neighborhood-serving businesses and institutions, including a wide range of small-scale retail and service uses that typically do not draw customers from beyond the adjacent neighborhoods, and employment, institutional and residential uses that complement the compact, walkable development pattern. The MU-2 District is implemented as a small node or on busy corridors in the Traditional Neighborhood or City Neighborhood Typologies of the Land Use Pattern Book, or as a Village Mixed Use Typology. The typical size of a district is from 2 to 20 acres (1 to 4 blocks) but depends on the context and what integrates best into surrounding neighborhoods and complimentary zoning districts.”
- ◇ The Comprehensive Plan recommends community commercial typology. “The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Conditions for All Land Use Types

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

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

- Outdoor display of merchandise should be limited.
- If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
- Should be located along an arterial or collector street.
- If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided

(Continued)

Modified Uses (Environmental Sensitive Area Overlay)

- Small-Scale Offices, Retailing, and Personal or Professional Services - Any development impacting wetlands or high-quality woodlands should include a one-for-one replacement of such features. Additionally, development should preserve or add at least 20% of the entire parcel as tree canopy or naturalized area

Modified Uses (Transit-Oriented Overlay)

- Small-Scale Offices, Retailing, and Personal or Professional Services - 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.)

Overlays

- ◇ This site is located within an overlay, specifically the Environmentally Sensitive overlay (ES). "Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology."
- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ The northern portion of this site is located within the 100-year floodplain and the unregulated 500-year floodplain, along with woodlands that cover much of the site.
- ◇ This site is also located within an overlay, specifically the Transit Oriented Development (TOD). "Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology."
- ◇ The Transit-Oriented Development (TOD) overlay is intended for areas within walking distance of a transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area.
- ◇ This site is located adjacent to a proposed transit stop located at the intersection of East 38th Street and North Arlington Avenue, with a Community Center typology.

(Continued)

- ◇ This typology is described as walkable commercial centers with a range of commercial types (aging to new strip commercial, office, shopping malls, big box). It is a mixed of retail, entertainment, office and residential as desired. Surface parking should be consolidated and placed behind buildings, allowing a pedestrian orientation at the street, while still supporting drive-to business.
- ◇ Characteristics of the Community Center typology are:
 - A dense mixed-use neighborhood center
 - Minimum of two stories at core
 - No front or side setbacks at core; zero to 10-foot front setbacks and zero-to 10-foot side setbacks at the periphery.
 - Multi-family with a minimum of three units
 - Structured parking at the core and attractive surface parking at the periphery

Floodway / Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway (FW) and Floodway Fringe (FF). The Floodway (FW) is the channel of a river or stream, and those portions of the floodplains adjoin the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream. The Floodway Fringe (FF) is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The purpose of the floodway district is to guide development in areas identified as a floodway. The Indiana Department of Natural Resources (IDNR) exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (MU-2 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

Tree Preservation / Heritage Tree Conservation

- ◇ There are significant amounts of natural vegetation and trees located much 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.

(Continued)

- ◇ 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.

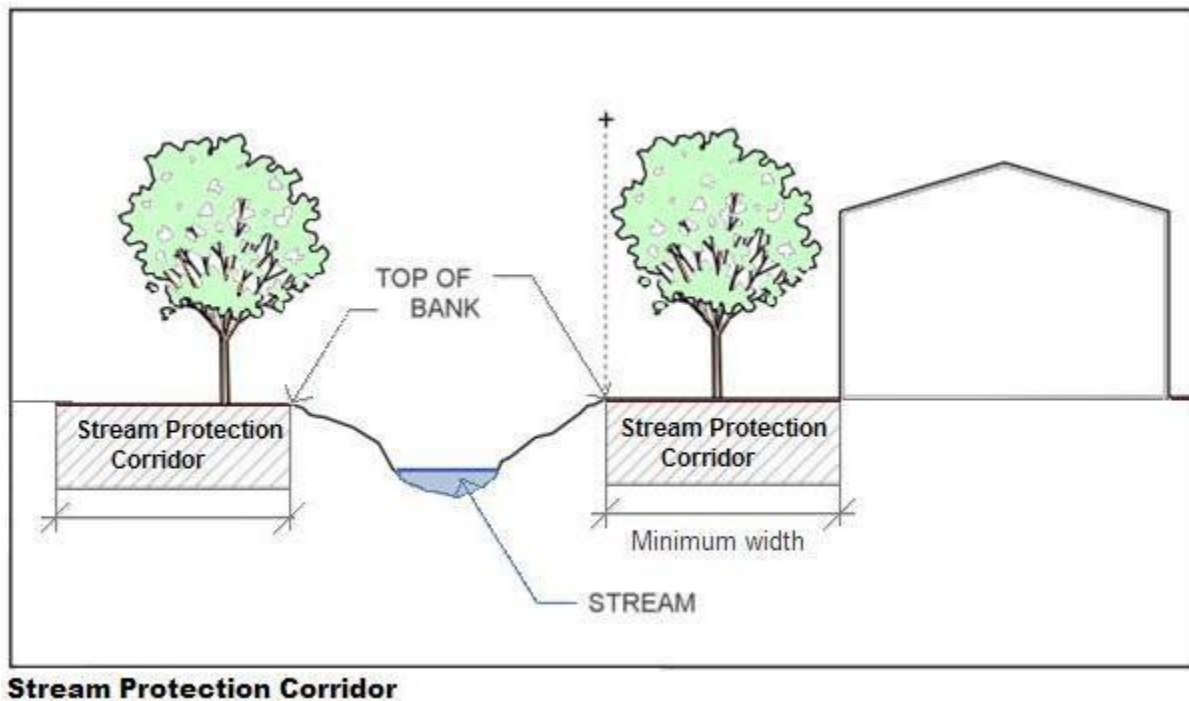
Stream Protection Corridor

- ◇ A stream protection corridor consists of a strip of land, extending along both sides of all streams, with measurements taken from the top of the bank on either side. The width of the corridor is based upon whether the stream is designated as a Category One or Category Two. Category One streams have a corridor width of 60 feet in the compact context area and 100 feet in the metro context area. Category Two streams have a corridor width of 25 feet in the compact context area and 50 feet in the metro context area.
- ◇ The vegetative target for the Stream Protection Corridor is a variety of mature, native riparian tree and shrub species that can provide shade, leaf litter, woody debris, and erosion protection to the stream, along with appropriate plantings necessary for effective stream bank stabilization.
- ◇ The Stream Protection Corridor is defined as:

“A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir, and where alteration is strictly limited. Functionally, stream protection corridors provide erosion control, improve water quality (lower sedimentation and contaminant removal) offer flood water storage, provide habitat, and improve aesthetic value.”
- ◇ Stream is defined as “a surface watercourse with a well-defined bed and bank, either natural or artificial that confines and conducts continuous or periodic flowing water.”
- ◇ Stream Bank is defined as “the sloping land that contains the stream channel and the normal flows of the stream.”
- ◇ Stream Channel is defined as “part of a watercourse that contains an intermittent or perennial base flow of groundwater origin.”

(Continued)

- ◇ There are two types of categories of Streams: Category One Streams and Category Two Streams. Pleasant Run is listed as a Category One Stream, which is defined as: “A perennial stream that flows in a well-defined channel throughout most of the year under normal climatic conditions. Some may dry up during drought periods or due to excessive upstream uses. Aquatic organism such as some fish are normally present and easily found in these streams. The Category One Streams are listed in Table 744-205-2: Category One Streams.”
- ◇ Category Two Stream is defined as: “An intermittent stream that flows in a well-defined channel during wet seasons of the year but not necessarily for the entire year. These streams generally exhibit signs of water velocity sufficient to move soil, material, litter, and fine debris. Aquatic organisms, such as fish, are often difficult to find or not present at all in these streams. These streams are identified on the United States Geological Survey (USGS) topographic maps and on the Department of Natural Resources Conservation Service (NRCS) soils maps.”
- ◇ There are 32 Category One streams listed in the Ordinance. The stream protection corridor is a strip of land on both sides of the stream whose width varies according to whether it is within the Compact or Metro Context Area and whether it is a Category One or Category Two Stream.
- ◇ Pogues Run is located along the wester portion of the site and is designated as a Category One.
- ◇ As a Category One Stream within the Compact Context Area, Pogues Run is required to have a 60-foot stream protection corridor on both sides of the stream, as measured parallel from the top of the bank. Top of the bank is not defined by the Ordinance, other than by Diagram UU, Stream Protection Corridor Cross-section, as shown below.



(Continued)

Environmental Public Nuisances

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

Site Plan

- ◇ The amended site plan, file-dated May 4, 2023, provides for two access drives to the development, including one along East 38th Street (within the stream protection corridor) and one along North Arlington Avenue.
- ◇ Commercial uses would be located at the northwest corner of the site fronting on East 38th Street and North Arlington Avenue.
- ◇ Four multi-family buildings would be located on the southern portion of the site with parking interspersed throughout the site. No count on the number of apartments has been provided so it is not possible to determine the number of required parking spaces for the multi-family dwellings. Furthermore, no square footage has been provided for the commercial uses. Consequently, staff would request Administrator Approval for the site plan, landscaping plan and elevations prior to the issuance of an Improvement Location Permit (ILP).

(Continued)

Planning Analysis

- ◇ The request would generally not be consistent with the Comprehensive Plan recommendation of community commercial typology. There are components of the commercial community typology (proposed bank, leasing and retail) that would be accessory to four multi-family buildings.
- ◇ The Purple Line Transit-Oriented Strategic Plan, however, recommends a dense mixed-use neighborhood center for this site that includes multi-family development at a minimum of two stories at the core. As proposed, this development would be consistent with this plan recommendation.
- ◇ For these reasons, staff is recommending approval of the rezoning request.
- ◇ Because of the conceptual submittal, staff is requesting a submittal of a site plan, landscape plan and elevations for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).

VARIANCES OF DEVELOPMENT STANDARDS

- ◇ There are six variances of development standards related to building heights, drive throughs, encroachment into the stream protection corridor, lack of landscaping in the parking areas, and setbacks.
- ◇ The first requested variance would provide for a 50-foot building height of the multi-family structures when the Ordinance limits building heights to 35 feet.
- ◇ Because this proposed development is located along two primary arterials, with industrial uses to the east and south and the buffer provided by Pogues Run to the west, staff believes the impact of these taller buildings would have minimal impact on surrounding land uses.
- ◇ The second requested variance would provide for a drive-through service unit located on the side of a proposed bank without the required alley access.
- ◇ Due to the site configuration and the absence of an alley, there is a practical difficulty related to the proposed drive-through service unit. Consequently, staff supports this requested variance.
- ◇ The third requested variance would allow for improvements to encroach into the stream protection corridor.
- ◇ The conceptual site plan indicates that an existing small commercial development would be demolished, resulting in an approximately six-acre site that is undeveloped. The proposed access drive along East 38th Street and a portion of a parking lot would encroach into that corridor.
- ◇ Consequently, staff believes encroachment into the stream protection corridor could be avoided. Staff would also note that no information has been submitted that could potentially mitigate the impact upon the stream protections corridor.

(Continued)

- ◇ The fourth requested variance would allow for deficient interior parking lot landscaping. The required number of parking spaces is based upon the number of dwelling units and square footage of uses.
- ◇ Staff believes this request is premature because the documents that have been submitted do not have details necessary to determine the number of required parking spaces that relate specifically to the design of the parking lots. Consequently, staff believes a practical difficulty has not been sufficiently documented.
- ◇ The fifth requested variance would provide for parking in front of the buildings with zero-foot setback when the Ordinance prohibits parking in front of the buildings, along with a 50-foot setback.
- ◇ Staff believes that the location and configuration of the site presents development challenges that merit some relief from the Ordinance. The small number of parking spaces proposed in front of the two buildings fronting on North Arlington Avenue would have minimal impact on the proposed development and adjacent land uses.
- ◇ The sixth and final variance request would allow proposed buildings to be located behind the required zero- to 10-foot front building line.
- ◇ The proposed bank at the northeast corner of the site and the southernmost proposed building along the North Arlington Avenue have been pulled back from the maximum 10-foot setback resulting for the need for the variance.
- ◇ Staff believes providing visibility at the intersection of East 38th Street and North Arlington Street (both primary arterials) would be appropriate given the proposed transit station at this intersection and the potential for increased pedestrian activity.
- ◇ Staff believes providing additional space along the frontage of North Arlington Avenue would be acceptable if enhanced landscaping would be installed, thereby improving the pedestrian experience along a highly traveled street. Staff, therefore, supports this variance request, subject to appropriate landscaping in this area.

GENERAL INFORMATION**EXISTING ZONING AND LAND USE**

C-4 (FW) Undeveloped / commercial uses
(FF) (TOD)
/ MU-2
(FW) (FF)
(TOD)

SURROUNDING ZONING AND LAND USE

(Continued)

North -	C-3 (FW) (FF) (TOD)	Commercial uses
South -	I-3 (FW) (FF) (TOD)	Industrial uses
East -	D-3 (FW) (FF) (TOD) and I-2 (FW) (FF) (TOD)	Industrial uses
West -	C-4 (FW) (FF) (TOD) and D-4 (FW) (FF) (TOD).	Commercial uses / Undeveloped land

COMPREHENSIVE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends community commercial typology. Marion County Land Use Pattern Book (2019). The Purple Line Transit-Oriented Development Strategic Plan (2021).
THOROUGHFARE PLAN	This portion of East 38 th Street is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 128-foot right-of-way and a proposed 88-foot right-of-way. This portion of North Arlington Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 90-foot right-of-way and a proposed 78-foot right-of-way.
CONTEXT AREA	This site is located within the compact context area.
OVERLAY	This site is located within an environmentally sensitive and transit-oriented development overlays.
SITE PLAN	File-dated March 30, 2023
SITE PLAN (AMENDED)	Filed dated May 4, 2023
FINDINGS OF FACT	Filed-dated March 30, 2023

ZONING HISTORY

2009-ZON-051; 5959 East 38th Street and 3790 North Arlington Avenue (abutting site to south), requested rezoning of 2.75 acres, from the C-4 (FF)(FW) District, to the C-3C (FF)(FW) classification to provide for corridor commercial uses, **approved**.

62-V-31; 5959 East 38th Street, requested variance to enclose carport associated with previously approved drive-in restaurant, and utilize full structure as a restaurant with alcohol sales, **granted**.

(Continued)

VICINITY

2012-CZN-828 / 2012-CVR-828; 5950 East 38th Street (north of site), requested rezoning of 0.54 acre from the C-4 District to the C-3 classification to provide for a convenience store / gasoline station and variances of development standards of the Dwelling Districts Zoning Ordinance to provide for a trash container with a zero-foot front yard setback and in front of the established building line; carryout food service within zero feet of a D-5 zoned protected district; and legally establish a zero-foot front yard along 38th Street, a zero-foot north side yard, a zero-foot north front yard, and zero-foot west front yard, **approved and granted**.

93-Z-74; 3745 Arlington Avenue (east of site), requested rezoning of 7.29 acres from C-5, D-4 and D-A to I-2-S, **approved**.

90-AP-117; 5950 East 38th Street (north of site), requested modification of commitments related to 84-Z-106 to provide for an alternate site plan, to provide landscaping along the site's frontages of East 38th Street and Arlington Avenue rather than a brick-capped wall, **approved**.

84-Z-106, 84-CV-13; 3802 North Arlington Avenue (north of site), requested rezoning of 0.54 acre from D-5 to C-4, **approved**; and a variance of the front setback and rear transitional yard requirements to provide for automotive sales, service and repair, **approved**.

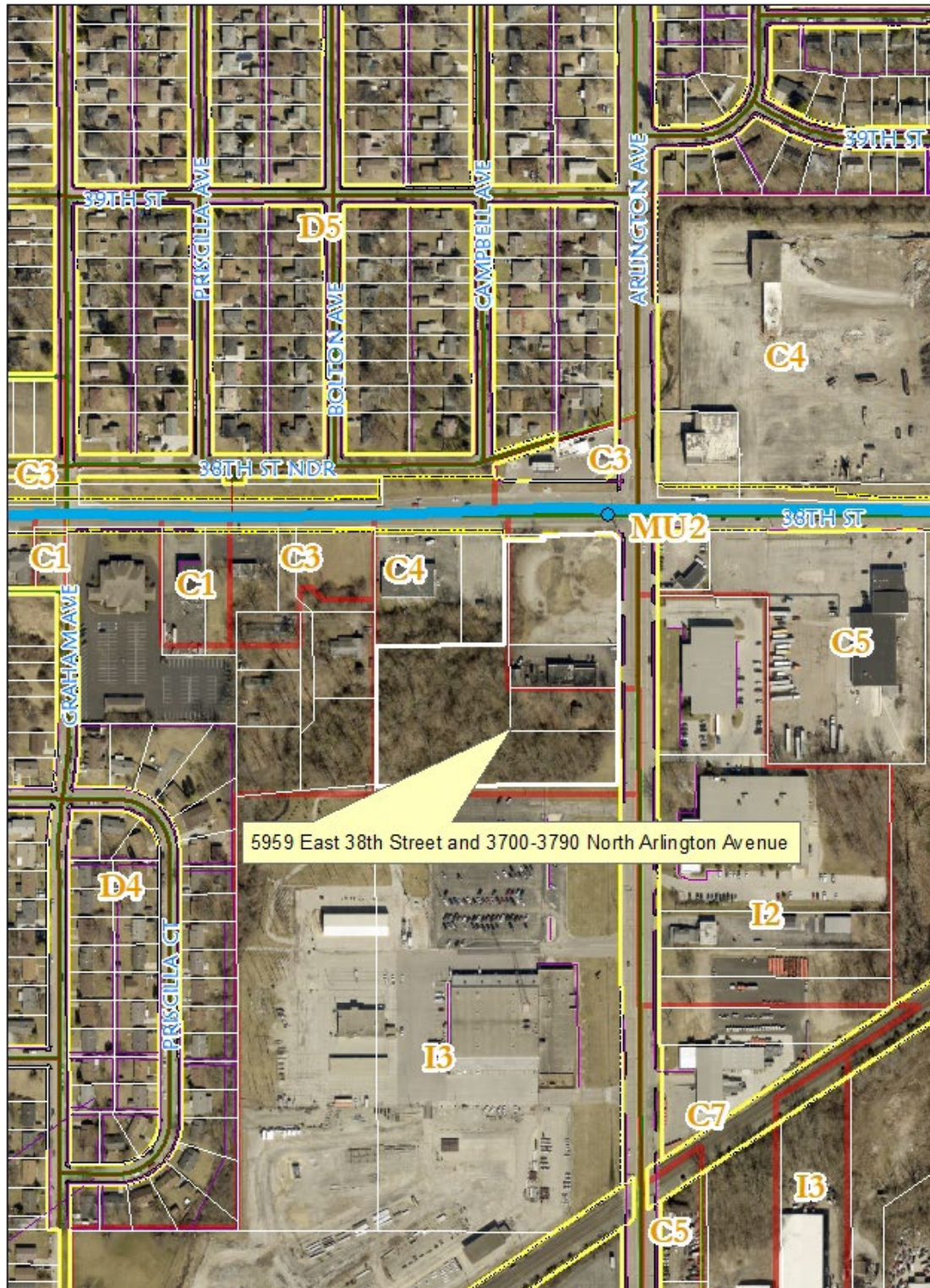
80-UV3-1; 3802 North Arlington Avenue (north of site), requested variance of use and development standards to provide for sales and service of tires, batteries and accessories in an existing building, **granted**.

69-V1-183; 3802 North Arlington Avenue (north of site), requested variance of use, setback and rear yard requirements to provide for a gasoline service station, **granted**.

62-V-512; 3790 North Arlington Avenue (south of site), requested permission to allow for retail sale of packaged liquor within existing business building, **granted**.

62-V-185; 3790 North Arlington Avenue (south of site), requested variance of use to allow for an open-air auto sales lot, **granted**.

kb



5959 East 38th Street and 3700-3790 North Arlington Avenue

0 0.02 0.04 0.08 0.12 0.16 Miles

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.

Table 744-503-3: Replacement Trees		
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:

the variances are all necessary to facilitate a project which is bringing needed services (a bank branch and new housing) and none of
the variances sought will create a traffic or access issue with respect to 38th Street or Arlington Ave.

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:

there will be adequate separation from the proposed improvements to improvements/uses on adjacent property. There is an intervening
floodway which provides natural separation from the west as well.

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

the subject property has a stream and associated flood hazard access running through a significant portion of it which compresses
the potential buildable area, thus triggering several development standard variances.

DECISION

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

Adopted this _____ day of _____, 20 ____



View looking west along East 38th Street



View looking east along East 38th Street



View of site looking southeast across East 38th Street



View looking of adjacent land uses looking northeast across East 38th Street



View

View from site looking northwest across East 38th Street



View looking south along North Arlington Avenue



View looking north along North Arlington Avenue



View of site looking north from adjacent property to the south



View of site looking north from adjacent property to the south



View of site looking west across North Arlington Avenue



View of site looking west across North Arlington Avenue



View of site looking northwest across North Arlington Avenue



View from site looking east across North Arlington Avenue



View from site looking southeast across North Arlington Avenue

STAFF REPORT

Item 12.

Department of Metropolitan Development Division of Planning Current Planning Section

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

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

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

RECOMMENDATIONS

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

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

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

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

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

(Continued)

LAND USE

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

MODIFICATION

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

Department of Public Works

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

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for parking areas up to 583 feet wide within the front yards of the subject site, depending on final site plan when the Ordinance limits parking areas in the front yard to 30-foot widths.
- ◇ The grant of a variance of development standards requires a finding that the strict application of the terms of the Ordinance will result in a practical difficulty in the use of the property.
- ◇ Staff believes a practical difficulty exists on this site because of the three public street frontages. Development of the site for multi-family dwellings would be impossible without the grant of this variance.

(Continued)

- ◇ Additionally, this site was rezoned to the D-8 district prior to the current Ordinance update that included the provision related parking in the front yard.
- ◇ Consequently, staff supports the request to provide for parking areas within the front yard that exceeds the 30-foot width.
- ◇ Because of the impact of this development, staff would request Administrator Approval of the elevations prior to the issuance of an Improvement Location Permit to assure that the elevations would be compatible with the existing building and surrounding neighborhood.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-8 Office building (vacant)

SURROUNDING ZONING AND LAND USE

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

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

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

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

OVERLAY There is no overlay for this site.

SITE PLAN File-dated March 14, 2023

ELEVATIONS File-dated March 14, 2023

FINDINGS OF FACT File-dated March 14, 2023

(Continued)

ZONING HISTORY

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

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

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

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

kb



A201900125560

12/13/2019 11:36 AM

KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER

FEE: \$ 35.00

PAGES: 7

By: KS

STATEMENT OF COMMITMENTS

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

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

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

STATEMENT OF COMMITMENTS:

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

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KS (7)

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

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

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

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

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

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

These COMMITMENTS may be enforced jointly or severally by:

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

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

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

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

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

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Division of Planning

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

TESO DEVELOPMENT GROUP, LLC

By: Harpreet Shauki

Printed: Harpreet Shauki

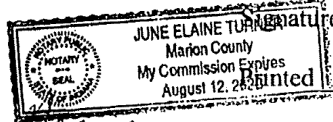
Position: Authorized Signer

STATE OF INDIANA)

COUNTY OF Marion) SS:

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

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



County of Residence Marion

My Commission Expires: 8/12/2023

My Commission No.: 676552

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

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

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Signature Page to Statement of Commitments

Exhibit A**Legal Description**

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

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

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

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Exhibit A to Statement of Commitments

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

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

EXEMPT PERSONS AND EXEMPT ACTIVITIES

An exempt person shall mean the following:

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

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

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

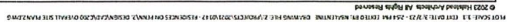
Metropolitan Development

NOV 14 2019

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Exhibit B to Statement of Commitments

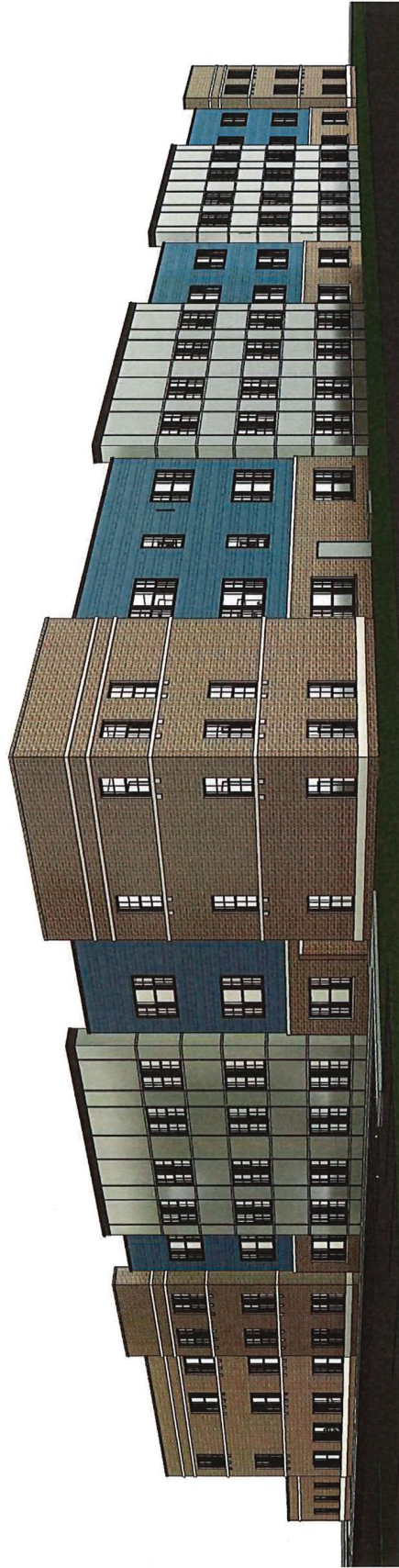




VIEW FROM SOUTHWEST



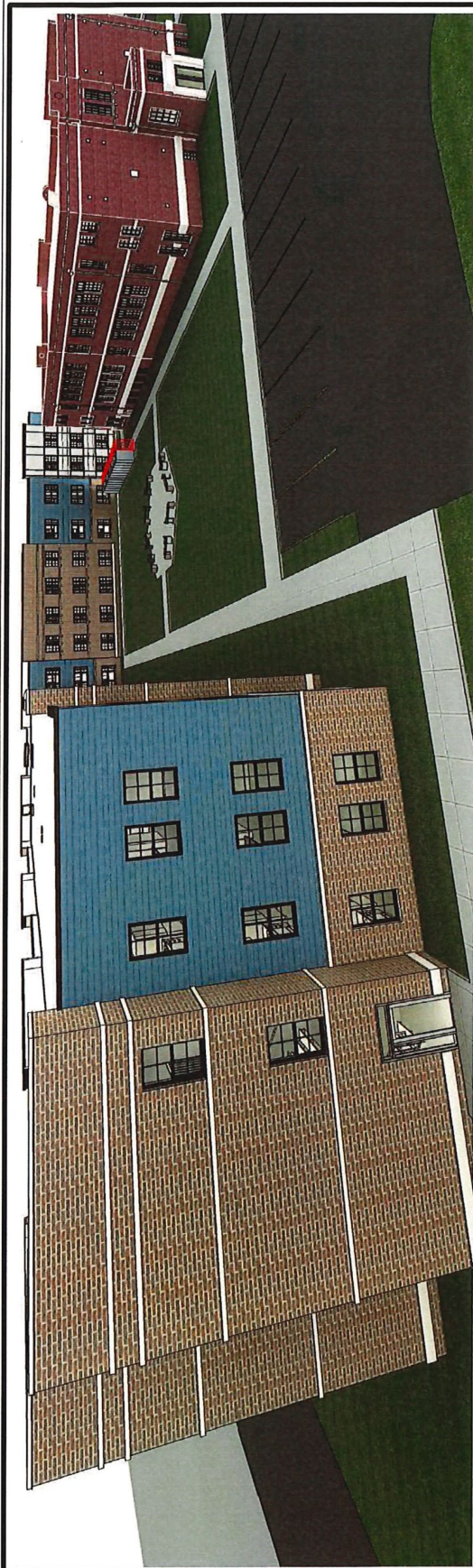
VIEW FROM SOUTHEAST



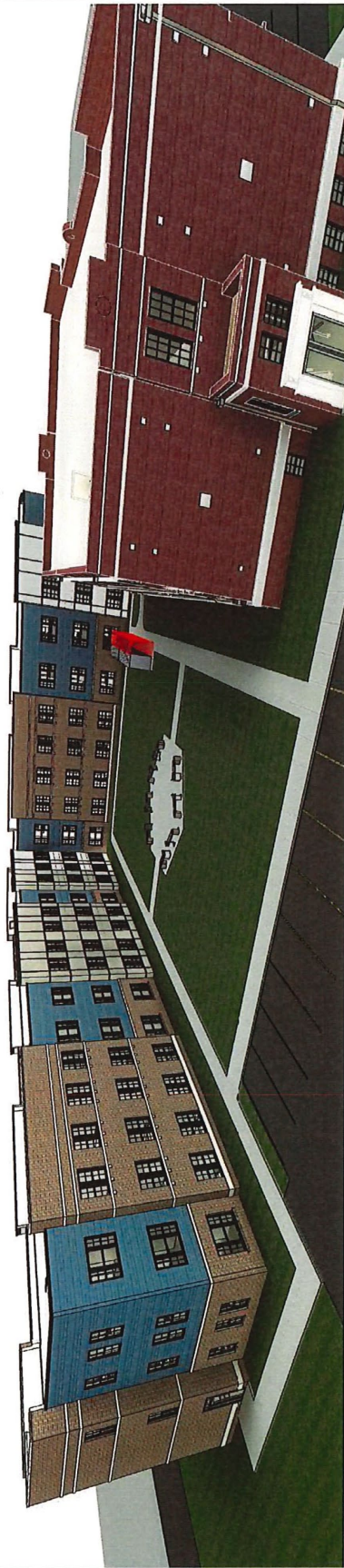
RESIDENCES ON PENN

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

HALSTEADARCHITECTS



AERIAL VIEW FROM NORTHEAST (PROPOSED OPTION)



AERIAL VIEW FROM NORTHWEST (PROPOSED OPTION)

RESIDENCES ON PENN

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

HALSTEAD architects

PROPOSED COURTYARD EXPANSION AFTER VARIANCE AND PARKING RATIO IS APPROVED



View looking east along Yoke Street



View looking west along Yoke Street



View looking east along Berwyn Street



View looking west along Berwyn Street



View of site looking east along Yoke Street



View of site looking south along South Delaware Street



View of site looking south across Yoke Street



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



View of site looking east across South Pennsylvania Street



View of site looking east across South Pennsylvania Street



View of site looking east across South Pennsylvania Street



View of site looking east across South Pennsylvania Street



View of site looking west across South Delaware Street



View of site looking west across South Delaware Street



View of site looking west across South Delaware Street