



Board of Zoning Appeals Division II (November 21, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, November 21, 2023 **Time:** 1:00 PM

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

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

- 1. 2023-SE2-001 | 2400 Roosevelt Avenue**
Center Township, Council District #17, Zoned I-3
Reagan Outdoor Advertising, by Michelle Noppenberger

Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 and SR-37 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no taller than 70-foot tall (maximum height of 40 feet permitted), within 220 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), with a six-foot front setback from I-70 (60-foot front setback required), and being located within 130 feet from protected districts (300-foot separation from protected districts required).

****Automatic continuance to be acknowledged.**

- 2. 2023-DV2-031 | 8419 North Pennsylvania Street**
Washington Township, Council District #2, Zoned D-S
Terence and Joyce Wogan, by Matthew Peyton

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached pool house with a five-foot north side yard setback (15-foot side yard setback required) and legally establish an existing concrete terrace, pool and pool equipment with a north side yard setback ranging from zero-feet to six-feet, resulting in an aggregate side yard setback of 15.5 feet (aggregate side setback of 35 feet required).

****Withdrawal by petitioner to be acknowledged.**

- 3. 2023-UV2-012 | 6328 Sharrob Road**
Decatur Township, Council District #22, Zoned I-2
Francisco Javier Vazquez Rocha, by David Stevens

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition to a single-family dwelling (not permitted) with a three-foot east side yard setback (30-foot side yard setbacks required).

****Automatic Continuance to be acknowledged.**

- 4. 2023-UV2-013 | 6008 North Keystone Avenue**
Washington Township, Council District #2, Zoned D-3
Rose Property Partners LLC, by Rebekah Phillips

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a seven-foot tall, 32-square-foot monument sign (not permitted).

**** Withdrawal by petitioner to be acknowledged.**

- 5. 2023-UV2-014 | 35 East Morris Street**
Center Township, Council District #16, Zoned D-5
Living Log Aquatic Services LLC, by Matthew Kerkhof

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with outdoor seating, storage and unscreened operations (not permitted, any outdoor operations must be screened), a 100-foot wide parking area within the front yard of Morris Street (parking within front yard limited to 30-foot in width) and a barbecue pit with a five-foot front yard setback from Charles Street, located in front of the primary building (minimum 20-foot front yard setback required, accessory structures not permitted within the front yard).

****Continuance requested by staff.**

- 6. 2023-UV2-015 | 7069 Riverfront Avenue**
Washington Township, Council District #2, Zoned D-4 (FW)
Linda Kelly, by Andrew Wert

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage within the floodway (prohibited), with a 12.5-foot front yard setback from Riverfront Avenue (20-foot front yard setback required).

****Continuance requested by petitioner.**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

- 7. 2023-DV2-021 | 5000 Nowland Avenue**
Center Township, Council District #12, Zoned SU-2 / D-5
Roman Catholic Archdiocese of Indpls. Properties Inc., by Chris Hyink

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an 8.08-foot tall monument sign with digital display (maximum five-foot monument sign permitted, digital display not permitted).

PETITIONS FOR PUBLIC HEARING (New Petitions):

- 8. 2023-DV2-027 | 4110 North Illinois Street**
Washington Township, Council District #7, Zoned D-5 (MSPC)
Rebecca Trenner, by Michael Brannan

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an eight-foot wooden privacy fence within the side and rear yards (maximum six-foot tall fence permitted).

9. 2023-DV2-029 | 6151 North Keystone Avenue

Washington Township, Council District #2, Zoned C-4
Kite Realty Group, by Gene A. Beiermann

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with an 88.16-foot front yard setback from Keystone Avenue (maximum front setback of 65 feet permitted) and one stacking space within the front yard (not permitted).

10. 2023-DV2-030 | 3833 East 56th Street

Washington Township, Council District #3, Zoned D-3
Race Dorsey and Lauren Hall

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot fence within the front yard of 56th Street.

11. 2023-DV2-032 | 911 Sanders Street

Center Township, Council District #21, Zoned D-5 (TOD)
E&D Hopkins LLC, by Mark and Kim Crouch

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

A single-family dwelling:

- a) On a medium lot typology with an area of 2,817 square feet (minimum lot area of 7,200 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required);
- f) An open space of 40 percent (60 percent required); and
- g) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

Or a two-unit multi-unit home:

- a) On a small lot with an area of 2,817 square feet (minimum lot area of 5,000 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required); and
- f) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

Additional Business:

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

STAFF REPORT

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

Case Number: 2023-SE2-001
Address: 2400 Roosevelt Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Michelle Noppenberger
Request: Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 and SR-37 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no taller than 70-foot tall (maximum height of 40 feet permitted), within 220 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), with a six-foot front setback from I-70 (60-foot front setback required), and being located within 130 feet from protected districts (300-foot separation from protected districts required).

A registered neighborhood organization has filed an automatic continuance, continuing this petition from the November 21, 2023, hearing, to the December 12, 2023, hearing.

RU

STAFF REPORT

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

Case Number: 2023-DV2-031
Address: 8419 North Pennsylvania Street (approximate address)
Location: Washington Township, Council District #2
Zoning: D-S
Petitioner: Terence and Joyce Wogan, by Matthew Peyton
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached pool house with a five-foot north side yard setback (15-foot side yard setback required) and legally establish an existing concrete terrace, pool and pool equipment with a north side yard setback ranging from zero-feet to six-feet, resulting in an aggregate side yard setback of 15.5 feet (aggregate side setback of 35 feet required).

The Petitioner, on November 9, 2023, submitted their written request to **withdraw this petition.**

BB



BOARD OF ZONING APPEALS DIVISION II

November 21, 2023

Case Number: 2023-UV2-012

Property Address: 6328 Sharrob Road (approximate address)

Location: Decatur Township, Council District #22

Petitioner: Francisco Javier Vazquez Rocha, by David Stevens

Current Zoning: I-2

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition to a single-family dwelling (not permitted) with a three-foot east side yard setback (30-foot side yard setbacks required).

Current Land Use: Residential

Staff Recommendations: Staff recommends approval of this request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

A timely automatic continuance was filed by a registered neighborhood organization, continuing this petition to the December 12, 2023 BZA II hearing. This continuance would need to be acknowledged by the Board.

STAFF RECOMMENDATION

Staff recommends approval of this request.

PETITION OVERVIEW

- This request would provide for an addition to a single-family dwelling (not permitted) with a three-foot east side yard setback (30-foot side yard setbacks required).

STAFF REPORT

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

Case Number: 2023-UV2-013
Address: 6008 North Keystone Avenue (approximate address)
Location: Washington Township, Council District #2
Zoning: D-3
Petitioner: Rose Property Partners LLC, by Rebekah Phillips
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a seven-foot tall, 32-square-foot monument sign (not permitted).

The petitioner has requested to withdraw the petition and has requested a transfer of fees for a rezoning petition. The withdrawal can be acknowledged by the Board. Staff is supporting the fee transfer, which would require a vote by the Board.

AR

STAFF REPORT

Item 5.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-UV2-014
Address: 35 East Morris Street (approximate address)
Location: Center Township, Council District #16
Zoning: D-5
Petitioner: Living Log Aquatic Services, LLC, by Matthew Kerkhof
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with outdoor seating, storage and unscreened operations (not permitted, any outdoor operations must be screened), a 100-foot wide parking area within the front yard of Morris Street (parking within front yard limited to 30-foot in width) and a barbecue pit with a five-foot front yard setback from Charles Street, located in front of the primary building (minimum 20-foot front yard setback required, accessory structures not permitted within the front yard).

Staff requests a **continuance of this matter from the November 21, 2023 hearing to the January 9, 2024 hearing** to allow time to revise the site plan and petition. This requires approval by the Board.

BB

STAFF REPORT

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

Case Number: 2023-UV2-015
Address: 7069 Riverfront Avenue (approximate address)
Location: Washington Township, Council District #2
Zoning: D-4 (FW)
Petitioner: Linda Kelly, by Andrew Wert
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage within the floodway (prohibited), with a 12.5-foot front yard setback from Riverfront Avenue (20-foot front yard setback required).

The petitioner has requested a continuance from the November 21, 2023 hearing to the December 12, 2023 hearing to provide for an amendment, with new legal notice.

AR

STAFF REPORT

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

Case Number: 2023-DV2-021
Address: 5000 Nowland Avenue (approximate address)
Location: Center Township, Council District #12
Zoning: SU-2 / D-5
Petitioner: Roman Catholic Archdiocese of Indpl Properties Inc., by Chris Hyink
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an 8.08-foot tall monument sign with digital display (maximum five-foot monument sign permitted, digital display not permitted).

November 21, 2023

On October 12, 2023, this petition was continued for-cause, at the request of the petitioner, to the November 21, 2023 hearing of Division II in order to conduct additional neighborhood outreach. No new information has been provided, therefore, Staff continues to **recommend denial**.

OCTOBER 10, 2023

On September 12, 2023, this petition was continued for-cause, at the request of the petitioner, to the October 10, 2023, hearing of Division II in order to address Staff concerns. No new information was provided; therefore, Staff continues to **recommend denial**.

SEPTEMBER 12, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

| | |
|-----------------|--|
| SU-2 and D-5 | High School educational facility and associated recreational and competitive athletic fields |
|-----------------|--|

SURROUNDING ZONING AND LAND USE

| | |
|-------------|-------------------------|
| North - D-5 | Single-Family Dwellings |
| South - D-5 | Single-Family Dwellings |
| East - D-5 | Single-Family Dwellings |
| West - D-5 | Single-Family Dwellings |

(Continued)

COMPREHENSIVE PLAN The Comprehensive Plan recommends regional special uses for the site.

- ◇ The site is primarily zoned SU-2 which permits educational uses, and recreational and competitive fields as accessory uses. A small portion in the southwest corner of the site is zoned D-5.
- ◇ The proposal would allow for a taller than permitted monument sign that incorporates a prohibited digital display panel.

VARIANCE OF USE & DEVELOPMENT STANDARDS

- ◇ This proposal would allow for the erection of an 8.08-foot tall, monument sign, with digital display within 80 feet of a protected district. The digital display (EVMS) is not permitted in an SU district, and when allowed, it is not permitted within 400 feet of a protected district. The Ordinance has been constructed to limit these signs near protected districts, because of their scrolling displays, brightness and aesthetic impact on protected districts. The proposed sign would be within about 75 of a protected district located unobstructed to the south.
- ◇ The Sign Regulations “facilitate an easy and agreeable communication between people...and serve an important function.” The purpose of the Sign Regulations is to “eliminate potential hazards to motorists, and pedestrians; to encourage signs which, by their good design, are integrated with and harmonious to the buildings and site which they occupy; and which eliminate excessive and confusing sign displays.” Proliferation of signs causes those signs that are permitted and legal to become less effective and reduces their value. Additionally, the Sign Regulations preserve and improve the appearance of the City as a place in which to live and work.
- ◇ There are no buildings or landscaping that would obscure the proposed EVMS from the impacted dwelling districts. This sign, therefore, would clearly impact the dwellings to the south because of its brightness and aesthetic impact.
- ◇ The Ordinance was developed to limit the incidence of these signs near protected districts because of their scrolling displays, brightness, and negative aesthetic impact for 24 hours a day, 365 days a year.
- ◇ No practical difficulty in the use of this property would result from denial of this variance request., as the currently permitted sign could continue to be used. The petitioner’s proposed findings indicate that the sign is intended to promote enhanced aesthetics. However, in developing the Sign Regulations, it was determined that the impact of EVMS signs on protected districts outweighed the positive aspects of such signs. The proposed sign has no physical barriers that prevent the community from visually seeing the sign. There is no reason that a manual reader board, although not typically essential to the operation of a high school, could be used, along with social media and other alternative communication methods.
- ◇ Any practical difficulty is self-imposed by the petitioner’s desire to choose to not follow the ordinance for their purposes of providing consistent, aesthetically pleasing signage, by proposing a sign taller than the Ordinance allows and within the protected district separation which is not allowed.

GENERAL INFORMATION

THOROUGHFARE PLAN This portion of Nowland Avenue is indicated as a local street on the Official Thoroughfare Plan, with a 48-foot existing and proposed right-of-way.

This portion of Dequincy Street is indicated as a local street on the Official Thoroughfare Plan, with a 48-foot existing and proposed right-of-way.

This portion of Elliott Avenue is indicated as a local street on the Official Thoroughfare Plan, with a 45-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN File-dated July 21, 2023

ELEVATIONS File-dated July 21, 2023

FINDINGS OF FACT File-dated July 21, 2023

ZONING HISTORY

Subject Site:

2022-DV2-038; 5000 Nowland Avenue; requests variances of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for six-foot chain link and decorative fencing within the front yards and clear sight triangles of the intersections of Elliot Avenue, Dequincy Street and Nowland Avenue and the clear sight triangle of the driveway off of Nowland Avenue (chain link fencing not permitted in front yards, maximum height of 3.5 feet permitted, encroachment of the clear sight triangles not permitted); **granted.**

Vicinity:

2015-UV1-015; 5015 East 16th Street; requests requested a variance of use of the Wireless Communications Zoning Ordinance to provide for a wireless communications facility, with a 150-foot tall monopole tower, with a 10-foot antenna, and accessory equipment cabinets; **denied.**

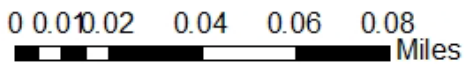
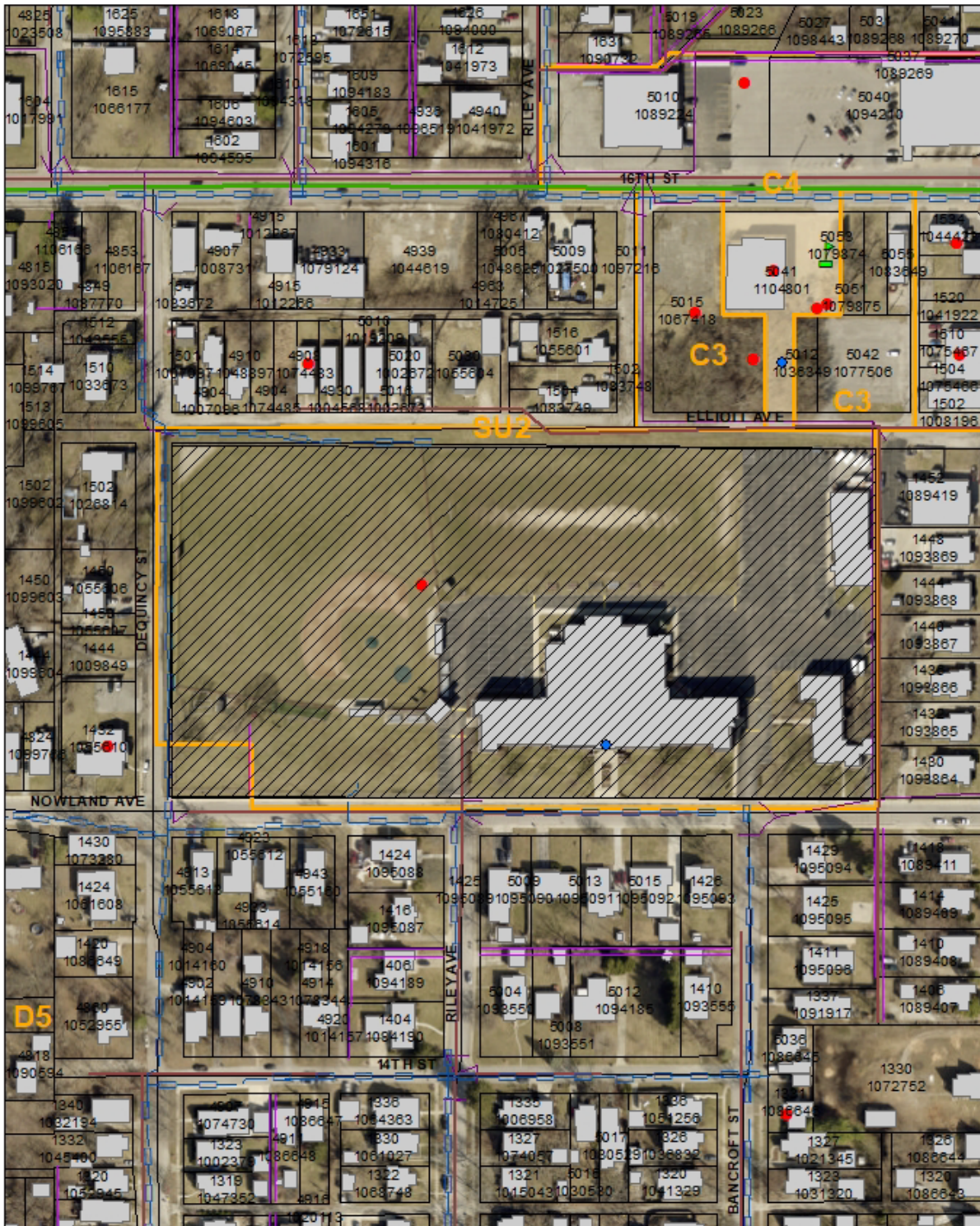
2012-UV1-026; 1432 Dequincy Street; requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a transitional living program for up to eight people; **granted.**

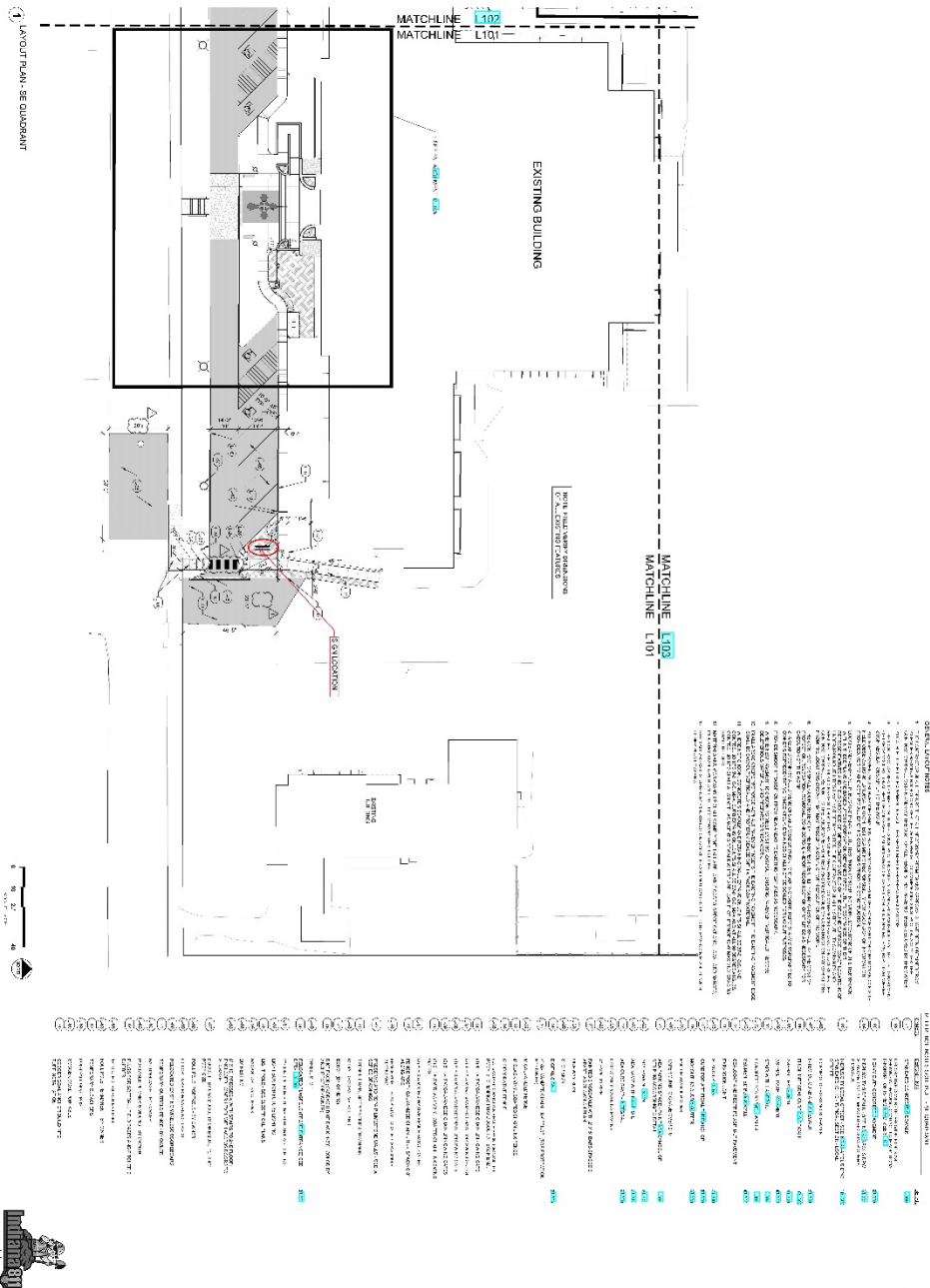
2003-UV3-010; 5041 East 16th Street; requested a variance of use of the Commercial Zoning Ordinance to provide for religious uses; **granted.**

99-UV2-122; 5041 East 16th Street; requests a variance of use of the Commercial Zoning Ordinance to provide for a rental, leasing and repair facility, for automobiles and light trucks; **granted.**

EDH

2023-DV2-021: Location Map





2022.002

Sccecina Memorial High School
Athletic Fields

5000 Nowland Ave
Indianapolis, IN 46201

entheos ARCHITECTS
LEND CREATIVE INSPIRE

601 E. 5th St., Suite 200
Indianapolis, IN 46202
317.442.1111
entheosarchitects.com

mader design
ARCHITECTS

1000 N. Capitol Ave., Suite 100
Indianapolis, IN 46202
317.442.1111
maderdesign.com

Site Layout Plan - SE Quadrant
L101

2023-DV2-021: Sign Elevation

UL0BSSSCECINA HIGH SCHOOL/ENTRY MONUMENT

1 - 20AMP CIRCUIT FOR TOP CABINET
2 - 20AMP CIRCUITS FOR MESSAGE CENTERS

SPECIFICATIONS QTY: 1 DF
 24" DEEP EXTRUDED ALUMINUM CABINET W/ ROUTED PUSH THRU FACE PTD. PMS 201 SCECINA CARDINAL RED.
 1/2" THK. CLEAR ACRYLIC COPY W/ TRANS WHITE VINYL FACES AND 2ND SURFACE DIFFUSER.
 1/2" THK. CLEAR ACRYLIC LOGO W/ DIGITAL PRINT TRANS VINYL FACES.
 INTERNAL ILLUMINATION W/ WHITE LEDS.
 120X300 6MM MESSAGE CENTERS
 2" X 2" SQ. ALUMINUM TUBE FABRICATED CROSS PTD. METALLIC SILVER.
 3" X 5" INTERNAL STEEL SUPPORT DIRECT BURIED IN 8" PVC SLEEVE.
 CONCRETE BASE W/ 2" CHAMFER EDGES AND 8" PVC SLEEVE BY OTHERS.

Legend:
 BLACK
 WHITE
 METALLIC SILVER
 PMS 123 SCECINA GOLD
 PMS 201 SCECINA CARDINAL RED

SF = 38.1
 BUILDING SIDE = 342" W X 357" H

Project: _____
 Location: _____
 Date: 4.18.23 J
 Revision: A.4.21.23 J
 B.5.18.23 E
 C.5.30.23 J
 D _____
 E _____
 F _____
 G _____
 H _____

Sales Approval:
 Sign On: _____
 State: NZ
 USLI Logo: YES NO
 Mounting To: BRICK/CONCRETE WOOD/METAL
 Primary Wind: _____
 Secondary Wind: _____

Client Approval:
 APPROVED DRAWING
 APPROVED WITH CORRECTIONS NOTED
 REVERSE & RESUBMIT
 Authorized Signature: _____
 Date: _____

This drawing represents USL's design and shall not be used as a construction document. USL is not responsible for the accuracy of the information provided in this drawing. Details and scope of work shall be determined by the contract documents and drawings. USL is not responsible for the accuracy of the information provided in this drawing. USL is not responsible for the accuracy of the information provided in this drawing. USL is not responsible for the accuracy of the information provided in this drawing.

UNIVERSAL SIGN SYSTEMS
 3001 Technology Center
 10000 University Blvd
 Ft. Worth, TX 76154
 Ph: 817.524.9999 Fx: 817.524.9922



Photo One: Looking West Along Nowland Avenue.



Photo Two: Facing East Along Nowland Avenue.



Photo Three: Front Façade of Subject Site.



Photo Four: Location of Proposed Sign.



Photo Five: Residential Neighborhood to the South, Across Nowland Avenue.

STAFF REPORT

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

Case Number: 2023-DV2-027
Address: 4110 North Illinois Street (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (MSPC)
Petitioner: Rebecca Trenner, by Michael Brannan
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an eight-foot wooden privacy fence within the side and rear yards (maximum six-foot tall fence permitted).

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-5 Single-family dwelling

SURROUNDING ZONING AND LAND USE

North - D-5 Single-family dwelling
South - D5 Single-family dwelling
East - D-5 Single-family dwelling
West - D-5 Single-family dwelling

COMPREHENSIVE PLAN The Comprehensive Plan recommends traditional neighborhood uses for the site.

- ◇ The Meridian Street Preservation Commission (MSPC) has jurisdiction over the subject site to grant prior approval of a variance before such a variance petition may be filed with the Department of Metropolitan Development. At their August 15, 2023, hearing, the MSPC granted prior approval of a variance for petition #V-MSPC 23-09 regarding the subject site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The Consolidated Zoning and Subdivision Ordinance requires that fences not exceed six feet in height to the rear of the primary dwelling and intentionally limits the heights of fences across a given zoning classification to ensure that lots maintain residential qualities and characteristics by promoting orderly development, reducing crime opportunities, and enhancing public safety

STAFF REPORT 2023-DV2-027 (Continued)

- ◇ Staff finds that the requested variance, if granted, would establish a pattern running counter to orderly development. A six-foot tall fence is common as a privacy fence for residential properties. Fences taller than six feet are associated with commercial or industrial uses and create a compound aesthetic within residential neighborhoods.
- ◇ The rear yard of the subject site abuts the end of a dead-end alley. Installing a taller fence around all or part of this alley could make it more difficult to see, hear, or access the alley—potentially creating a more attractive area for people who don’t want to be seen. Generally, Staff is also concerned that taller rear yard fences on residential property may decrease safety by slowing public safety response times for identifying and accessing emergency situations.
- ◇ The petitioner has indicated in the findings of fact that the proximity of adjacent properties would diminish privacy and perception of security without the additional requested fence height.
- ◇ The requested privacy and perception of security can be achieved with appropriate plantings and taller landscaping without the need for a variance.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this request, as a swimming pool is not a requirement, and the requested privacy is self-imposed by the desire to have a swimming pool.
- ◇ Staff finds that the proposed findings do not successfully establish a practical difficulty in the use of the property caused by the terms of the Ordinance. Staff recognizes that privacy and safety concerns for property and personal health have profound effects on quality of life. The proposed variance would exceed the measures found on other properties facing similar concerns.
- ◇ The subject site has no natural or manmade physical obstacles that would prohibit compliance with the fence height requirements of the Ordinance, as the existing fence is compliant. Similar adjoining properties are able to comply with the Ordinance requirements on fence height.
- ◇ Therefore, Staff does not believe a practical difficulty has been demonstrated that necessitates an eight-foot tall fence located in the rear and side yard.

GENERAL INFORMATION

| | |
|-------------------|---|
| THOROUGHFARE PLAN | This portion of North Illinois Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 60-foot existing and proposed right-of-way. |
| SITE PLAN | File-dated September 8, 2023 |
| FINDINGS OF FACT | File-dated September 8, 2023 |

(Continued)

STAFF REPORT 2023-DV2-027 (Continued)

ZONING HISTORY

2018-DV1-021; 4030 North Illinois Street (south of site), requested a variance of development standards to provide for a seven-foot tall fence in the side and rear yards, **granted**.

97-UV3-66: 40 West 40th Street (east of subject site), requests a variance of use of the Dwelling Districts Zoning Ordinance and a variance of Development Standards of the Sign Regulations to provide for a community center in an existing building with a ground sign being located with a setback of 9 feet from Illinois and 40th Streets, **granted**.

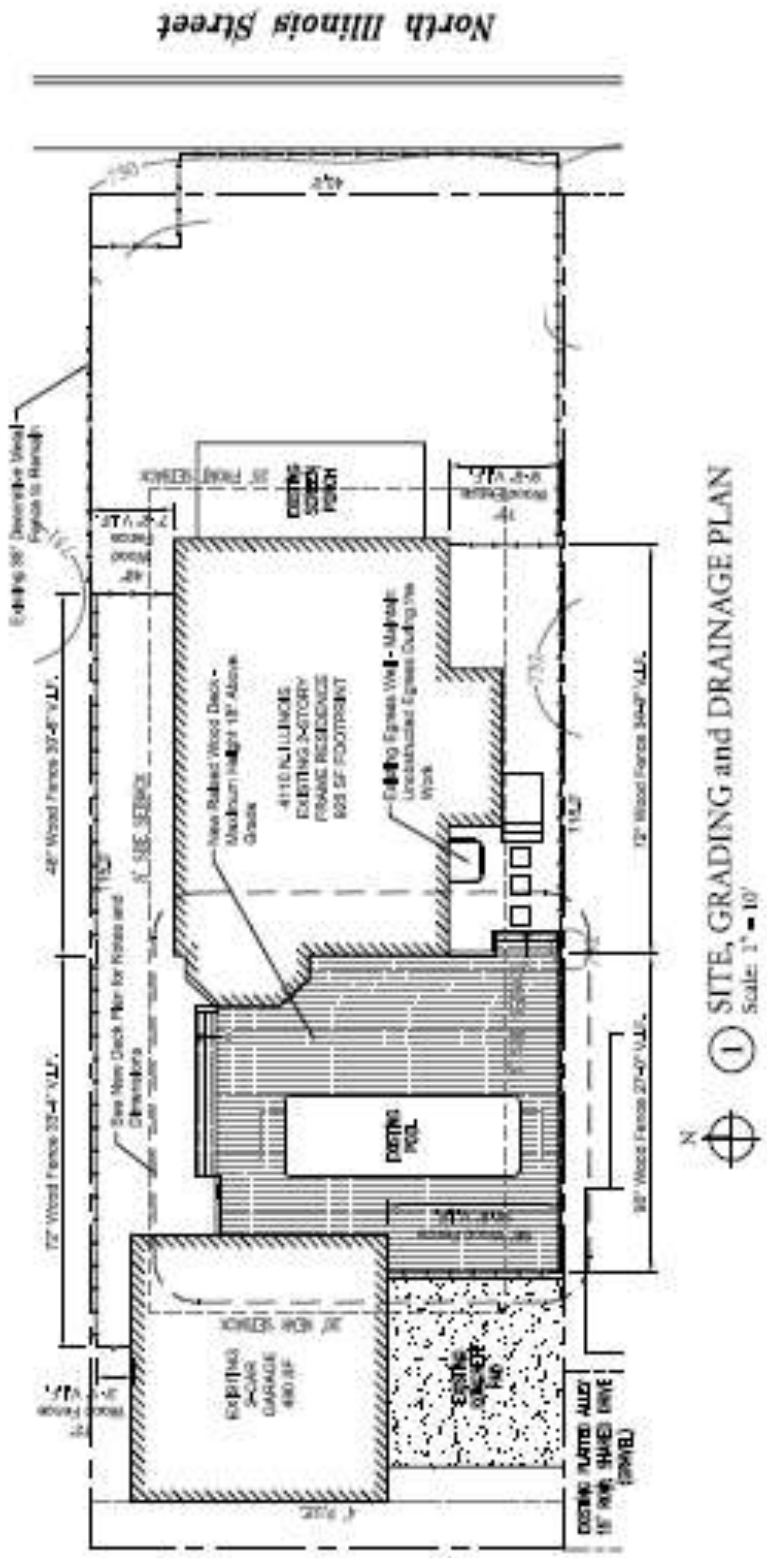
88-V3-80; 4115 North Illinois Street (north of site), requested a variance of development standards to provide for the construction of an enclosed swimming lane at two feet from the side property line, **granted**.

88-V3-112; 4117 North Capitol Avenue (west of site), requested a variance of development standards to provide for a detached garage with a rear setback of 3.5 feet, **granted**.

RU

2023-DV2-027; Location Map







Subject sit, looking west



Subject site rear yard swimming pool/swim spa, looking northeast



Subject site existing six-foot rear fence, eight-foot fence proposed, looking east.



Subject site existing six-foot rear and south side fence, eight-foot fence proposed, looking southeast.



Adjacent property to the south, looking west.



Adjacent property to the north, looking west.

STAFF REPORT

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

Case Number: 2023-DV2-029
Address: 6151 North Keystone Avenue (approximate address)
Location: Washington Township, Council District #2
Zoning: C-4
Petitioner: Kite Realty Group, by Gene A. Beiermann
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with an 88.16-foot front yard setback from Keystone Avenue (maximum front setback of 65 feet permitted) and one stacking space within the front yard (not permitted).

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4 Compact Surface Parking Area

SURROUNDING ZONING AND LAND USE

North C-4 Various Commercial Uses
South C-4 Eating Establishments
East C-4 Surface Parking Area, Glendale Shopping Mall
West C-4 Various Commercial Uses

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Village Mixed-Use development.

- ◇ This 9.44-acre lot, zoned C-4, is currently improved with a surface parking area and various commercial uses. It is integrated with the overall Glendale Mall site.
- ◇ North of the subject site are various commercial uses, including retail, automobile services and professional services, all within the C-4 District. To the West and South are retail uses and eating establishments within the C-4 District. To the East is a surface parking area and various commercial uses, within the C-4 District.
- ◇ The Comprehensive Plan recommends Village Mixed-Use development for the site.

(Continued)

STAFF REPORT 2023-DV2-029 (Continued)**VARIANCE**

- ◇ As proposed, the request would allow for the construction of a freestanding eating establishment with an 88.16-foot setback from Keystone Avenue and a stacking space associated with a drive-through within the front yard of Keystone Avenue.
- ◇ Within the Compact Context Area, buildings within the C-1, C-3, C-4 and C-S Districts have a minimum front yard setback of 10-feet and a maximum setback of 65-feet. The Compact Context Area tends to comprise the older, well-developed urbanized parts of Marion County. These Districts tend to permit general office, personal and professional services, and retail uses.
- ◇ Subsequently, this setback range is intended to promote a pedestrian friendly streetscape by limiting hardscapes within the front yard and encourage vehicular areas to be located to the side and rear of commercial buildings.
- ◇ Stacking spaces associated with drive-throughs are prohibited within the front yards of commercially zoned properties. This is an additional development standard intended to reduce the potential for conflict between automobiles and pedestrians, as well as enhance the streetscape and minimize the impact of the Urban Heat Island Effect.
- ◇ In Staff's opinion, the site and or building layout could be reconfigured to meet the front yard setback range, which would eliminate the necessity for a stacking space within the front yard and preserve the intent of the Ordinance. Therefore, Staff believes that this practical difficulty is self-imposed and recommends denial of the request.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of Keystone Avenue is classified as a Primary Collector in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 119 feet.

SITE PLAN

File-dated September 12, 2023.

FINDINGS OF FACT

File-dated September 12, 2023.

ZONING HISTORY – SITE

2023-DV2-009; 6151 North Keystone Avenue; requests Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a restaurant with a drive through with service units and stacking spaces within the front yard, and without the required screening (service units and stacking spaces not permitted within the front yard, screening from public rights-of-way required), with 24 parking spaces (maximum of 23 parking spaces permitted) and zero percent transparency along the northern façade and beside public pedestrian entries (40% transparency required along facades within 50 feet of a public street and on facades with a public entry); **granted.**

(Continued)

STAFF REPORT 2023-DV2-029 (Continued)

2007-DV1-023; 6055, 6101 and 6111 North Keystone Avenue; requests variance of development standards of the Sign Regulations to provide for the construction of a twelve-foot tall, 48.5-square foot pylon sign along North Keystone Avenue, resulting in a total sign area of 1,155.5 square feet of freestanding signs along North Keystone Avenue, and located within 265 feet of another freestanding sign along North Keystone Avenue; **granted.**

EDH

2023-DV2-029; Location Map



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 proposed setback of 88' will present no hazard to the community. The setback will be beneficial as it will allow further separation for traffic turning from Keystone to the proposed site. This will reduce the chance of dangerous stacking at the entry off of Keystone Avenue.

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 current access and circulation to the center will be preserved. The proposed building will blend the setbacks of the conforming building to the south (±65') and the non-conforming building to the north (±88'). A patio and knee wall will be placed to give architectural elements which will help transition visually between the setback of the adjacent buildings. Allowing a well-functioning vibrant use to exist will enhance the surrounding commercial center.

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

The site is designed in conformance with the intent of the C-4 zoning, however because the site falls barely within the Compact context there is a 65' maximum setback which is in conflict with this site plan. In order to provide the desired vehicular circulation and "step down" the setback between the buildings to the north and to the south, petitioner is proposing to increase the setback to a 90' maximum for this lot.

DECISION

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

Adopted this _____ day of _____, 20 ____



Photo One: Looking South Along Keystone Avenue



Photo Two: Looking North Along Keystone Avenue.



Photo Three: Looking West Across Keystone Avenue.



Photo Four: Looking East Across Subject Site.



BOARD OF ZONING APPEALS DIVISION II

November 21, 2023

Case Number: 2023-DV2-030

Property Address: 3833 E 56th Street (approximate address)

Location: Washington Township, Council District #3

Petitioner: Race Dorsey, and Lauren Hall

Current Zoning: D-3

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot fence within the front yard of 56th Street.

Current Land Use: Residential

Staff Recommendations: Staff recommends denial of the request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends denial of the request.

PETITION OVERVIEW

- This petition would provide for the location of a 6-foot fence within the front yard of 56th Street (3.5 feet in the front yard permitted). The fence in question is a 6-foot privacy fence made of wood panels painted white. The fence lies approximately 40 feet from the right-of-way line along 56th Street. The fence was cited for a violation on August 29th, 2023 for exceeding 42 inches in height in the front yard.
- Fence height standards are in place to allow for a reasonable amount of privacy/security and moderate barriers in between properties while maintaining visibility and open space by limiting unreasonable and overly intense fences. Fences located in the front yards of residentially zoned properties are limited to 3.5 feet in height to allow for visibility from the right-of-way and from adjacent properties. Restricting this visibility has the potential to present safety hazards by creating large blind spots on the site. Likewise, the Infill Housing Guidelines document recommends that privacy fences should not be placed in the front yards and that fences should not obstruct views of the front of the house. The fence pertaining this petition is a privacy fence and significantly restricts the visibility of both the front yard and the primary structure from all points of view.



Department of Metropolitan Development
 Division of Planning
 Current Planning

- The Infill Housing Guidelines also recommends building fences that are in character with the surrounding context/neighborhood. This fence substantially deviates from the aesthetic and built character of adjacent properties, as no other nearby properties contain a 6-foot fence in the front yard, nor are there any privacy fences. Additionally, fences 6 feet in height tend to represent a departure from residential character and instead begin to resemble commercial or industrial properties in character. Finally, Staff sees no practical difficulty for the owner to be unable to comply with the required height standard and does not wish to set any precedent for fences that are well beyond that standard. For these reasons, Staff is opposed to and recommends denial of the request for a 6-foot fence in the front yard of the subject site.

GENERAL INFORMATION

| | | | | | | | | | | | |
|-----------------------------------|---|---------------|----------------------------|------------|---------------------------------|------------|---------------------------------|-----------|---------------------------------|-----------|---------------------------------|
| Existing Zoning | D-3 | | | | | | | | | | |
| Existing Land Use | Residential | | | | | | | | | | |
| Comprehensive Plan | Residential use at 0-1.75 units per acre | | | | | | | | | | |
| Surrounding Context | <table border="0"> <tr> <td>Zoning</td> <td>Surrounding Context</td> </tr> <tr> <td>North: D-6</td> <td>North: Multi-Family Residential</td> </tr> <tr> <td>South: D-6</td> <td>South: Multi-Family Residential</td> </tr> <tr> <td>East: D-3</td> <td>East: Single-Family Residential</td> </tr> <tr> <td>West: D-3</td> <td>West: Single-Family Residential</td> </tr> </table> | Zoning | Surrounding Context | North: D-6 | North: Multi-Family Residential | South: D-6 | South: Multi-Family Residential | East: D-3 | East: Single-Family Residential | West: D-3 | West: Single-Family Residential |
| Zoning | Surrounding Context | | | | | | | | | | |
| North: D-6 | North: Multi-Family Residential | | | | | | | | | | |
| South: D-6 | South: Multi-Family Residential | | | | | | | | | | |
| East: D-3 | East: Single-Family Residential | | | | | | | | | | |
| West: D-3 | West: Single-Family Residential | | | | | | | | | | |
| Thoroughfare Plan | | | | | | | | | | | |
| East 56 th Street | Primary Collector Existing ROW: 55 feet Proposed ROW: 80 feet | | | | | | | | | | |
| Context Area | Metro | | | | | | | | | | |
| Floodway / Floodway Fringe | No | | | | | | | | | | |
| Overlay | No | | | | | | | | | | |
| Wellfield Protection Area | No | | | | | | | | | | |
| Site Plan | 9/26/23 | | | | | | | | | | |
| Site Plan (Amended) | N/A | | | | | | | | | | |
| Elevations | N/A | | | | | | | | | | |
| Elevations (Amended) | N/A | | | | | | | | | | |
| Landscape Plan | N/A | | | | | | | | | | |
| Findings of Fact | 9/26/23 | | | | | | | | | | |
| Findings of Fact (Amended) | N/A | | | | | | | | | | |

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Infill Housing Guidelines

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends residential use at a density of 0-1.75 housing units per acre.

Infill Housing Guidelines

- The Infill Housing Guidelines (IHG) document is used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects for all scales and types.
- With regards to fencing, the Infill Housing Guidelines document recommends:
 - Design ornamental elements, such as fences, to fit the context of the block and neighborhood
 - Do not obstruct views of the front of the house
 - See-through fences are the safest
 - Do not install privacy fence in the front yard
- The fence that pertains to this petition is a 6-foot privacy fence that obstructs the view of the front of the house from 56th Street. Likewise, it does not fit the context of the surrounding block, as none of the nearby properties have a privacy fence in the front yard along 56th Street. The request is not in accordance with the recommendations of the Infill Housing Guidelines document.

Indy Moves

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY - SITE

N/A

ZONING HISTORY – VICINITY

81-Z-63; 4045 E 56th Street (east of site), requests the rezoning of 0.81 acres, being in the D-3 District to the SU-9 classification to provide for a Fire Department use, **approved**.

88-Z-126; 5601 Allisonville Road (north of site), requests the rezoning of 20.8 acres from the D-6 district, to the D6II classification to provide for the development of multi-family housing, **withdrawn**.

92-Z-127A; (west of site), requests the rezoning of 40.657 acres from the D-A to the D-4 zoning classification to allow for the development of single-family residences, **approved**.

98-Z-19; 4010 E 56th Street (east of site), requests the rezoning of 0.83 acres from the D-P district to the D-P classification to provide for two, two-family dwellings, **approved**.

2005ZON090; 4025, 4047 & 4049 E 56th Street (east of site), rezone of 5.5 acres, being in the D-3 District, to the C-S classification to provide for the construction of a self-storage facility, **approved**.

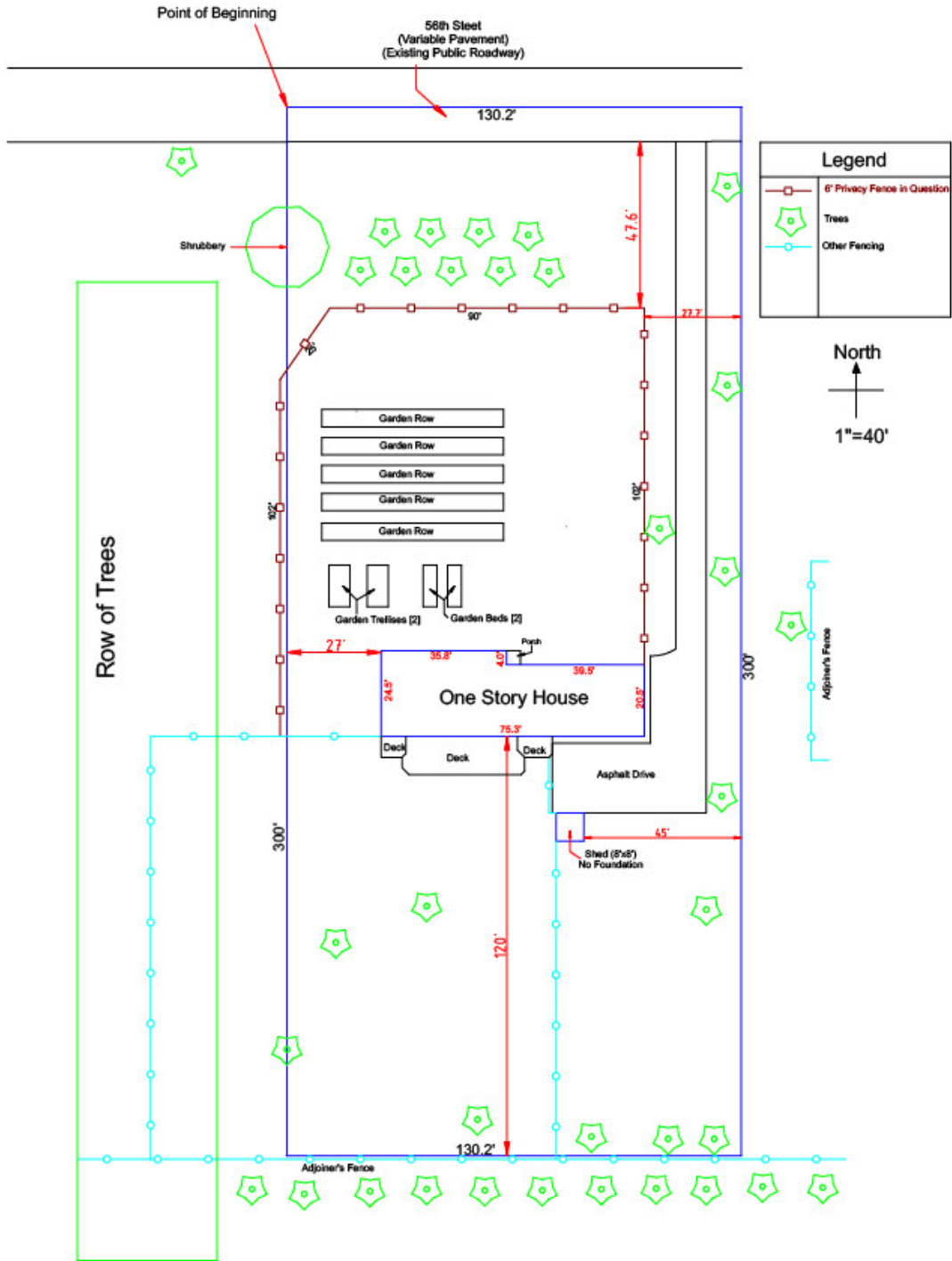
2010ZON052; 3940 E 56th Street (north of site), Rezoning of 7.236 acres, from the D-P District, to the C-2 classification to provide for office and multifamily uses, **approved**.

2016CVR817; 5525 Allisonville Road (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a lot without direct access to a public street and without frontage on a public street (not permitted), **approved**.

EXHIBITS



3833 E 56th Street, Site Plan for Privacy Fence





Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division II
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 variance for fence height is for a fence that is situated 47.6 feet from the public roadway which exceeds the setback requirement of 30 feet as specified in Table 744-201-1[1] [4]. The fence does not obstruct visibility or create safety hazards for drivers or pedestrians along the roadway. Additionally, the fence is designed to enhance privacy, safety, and security on the property, which is in alignment with the general welfare of the community by providing a secure and peaceful residential environment. The fence is also designed to improve property aesthetics and reduce noise pollution. These benefits contribute to a safer, more harmonious, and visually appealing community.

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

The fence complies with, and exceeds, the setback requirements to ensure it does not obstruct views from adjacent lots into the public roadway or vice versa. Additionally, the variance request seeks to improve privacy, safety, and security of the petitioners' property without imposing negative consequences on the usability or the property values of the adjacent area. The fence will be properly maintained and will contribute to the enhancement of the overall neighborhood.

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

The petitioners' property encompasses a total of .896 acres with .47 acres constituting the front yard. The strict enforcement of the zoning ordinance would limit the petitioners' ability to utilize a portion of the property's front yard. Given the unique characteristics of the property (including its size, long rectangular shape, proximity to primary collector and arterial roadways, and the presence of two apartment complexes that overlook the property), the grant for a variance of fence height serves as a necessary enhancement to ensure the privacy, safety, security, and use of the property's front yard. The grant of this variance would resolve these practical difficulties related to the utilization of the property without compromising the overall zoning regulations.

DECISION

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

Adopted this _____ day of _____, 20 ____











STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV2-032
Address: 911 Sanders Street (approximate address)
Location: Center Township, Council District #21
Zoning: D-5 (TOD)
Petitioner: E&D Hopkins LLC, by Mark and Kim Crouch
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of either:

A single-family dwelling:

- a) On a medium lot typology with an area of 2,817 square feet (minimum lot area of 7,200 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required);
- f) An open space of 40 percent (60 percent required); and
- g) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

Or a two-unit multi-unit home:

- a) On a small lot with an area of 2,817 square feet (minimum lot area of 5,000 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required); and
- f) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

RECOMMENDATIONS

Staff recommends denial of the request as proposed.

Otherwise, this petition should be continued so that the petitioner can amend the petition to a specific request.

(Continued)

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact D-5 Undeveloped

SURROUNDING ZONING AND LAND USE

North - D-5 Single-family dwellings

South - D-5 Undeveloped

East - D-5 Single-family dwellings

West - D-5 I-65 Interstate exit ramp / Single-family dwellings

COMPREHENSIVE PLAN

The Comprehensive Plan recommends traditional neighborhood uses for the site, with an overlay for the Red Line Transit Oriented Development.

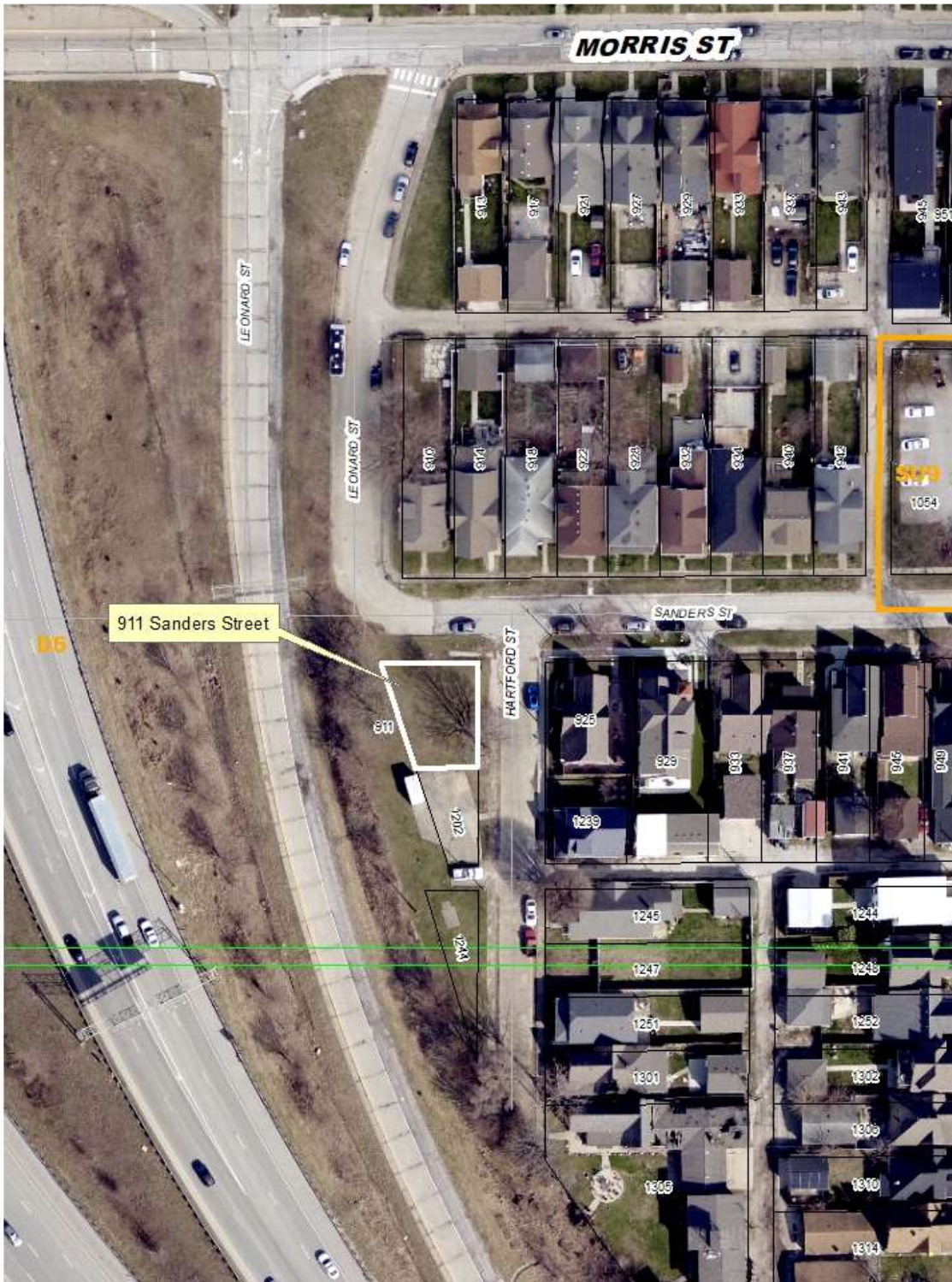
- ◇ After filing the petition, the petitioner indicated that a revised site plan and findings of fact would be submitted to amend the petition to a specific request. No additional information has been submitted to date.

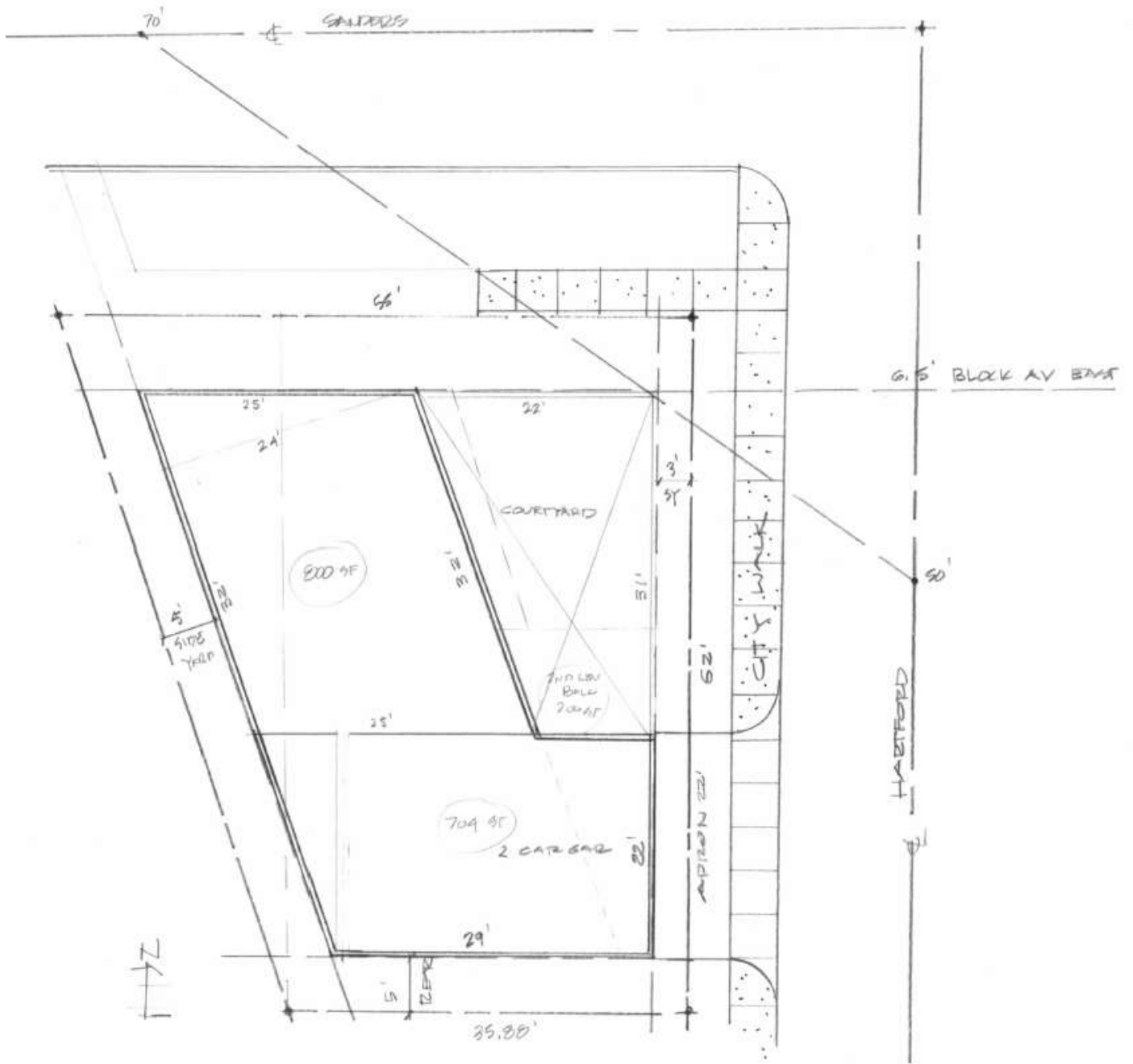
VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Staff believes that any proposed new construction should adequately align with modern development standards in order to better preserve the intent of each development standard. Given the size of the proposed structure and attached garage, along with the number of requested variances, in Staff’s opinion, this site would be overdeveloped.
- ◇ Staff feels the requested two-unit multi-unit home would be out of character for the area, as no other multi-unit dwellings are located nearby. In addition, with the number of variances requested for an undeveloped site, the proposed two-unit multi-unit home would be an overdevelopment of the small site.
- ◇ The proposed single-family dwelling with seven variances requested for an undeveloped site, presumably using the same submitted site plan, as no updated site plan has been submitted, would also be an overdevelopment of the site.
- ◇ Staff has recommended to the petitioner that the request be amended to provide for a single-family dwelling only, and to eliminate at least four or five of the original requested variances. No additional information has been submitted in a timely manner to amend the petition or update the site plan.
- ◇ Therefore, Staff recommends this petition be continued so that the petitioner can submit an amended petition and related elevations, and to allow time to review the amended information. New notice may also be required.

(Continued)

2023-DV2-032; Location Map







Undeveloped subject site, looking south.



Undeveloped subject site, looking west.



Adjacent single-family dwelling to the east of subject site.



Adjacent single-family dwellings to the north of subject site, looking northeast.



Adjacent undeveloped lot to the south of subject site, looking west.



Interstate I-65 northbound exit ramp to the west of subject site.