



Board of Zoning Appeals Division II (March 12, 2024) Meeting Agenda

Meeting Details

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

Date: Tuesday, March 12, 2024

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

- 1. 2024-DV2-002 (Amended) | 4645 Tempe Court**
Decatur Township, Council District #21, Zoned D-5
Michael & Mary Morris, by Cindy Thrasher

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 360-square-foot shed with a one-foot rear yard setback (20-foot rear yard setback required).

**** Petitioner requesting continuance to April 9, 2024**

- 2. 2024-UV2-002 | 5102, 5111, 5117, 5122, 5127, 5139, 5143 5210 and 5282 East 65th Street**
Washington Township, Council District #3, Zoned I-2
Schmoll Development Company L.P. and Greg Schmoll, by S. Gregory Zubek

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the following as primary uses: sports performance training uses; physical fitness and athletics instruction and training; and dance and gymnastics instruction (not permitted).

**** A City-County Councilor has filed an automatic continuance, continuing this petition to the April 9, 2024 hearing of Division II**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

- 3. 2024-DV2-007 | 529 East 57th Street**
Washington Township, Council District #7, Zoned D-3 (TOD)
Craig & Donna Mallinckrodt, by John Cross

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with an open space of 66.9 percent (70 percent open space required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

- 4. 2023-UV1-023 | 7217 Woodland Drive**
Pike Township, Council District #1, Zoned C-4
Enterprise Leasing Company of Indianapolis, LLC, by Joseph D. Calderon

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a car and truck rental facility with associated outdoor storage (not permitted).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

- 5. 2023-SE2-002 (Amended) | 3210 Chief Lane**
Decatur Township, Council District #22, Zoned I-3
Reagan Outdoor Advertising, by Jon Campbell

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 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 greater than 65-feet tall (maximum height of 40 feet permitted), a setback of five feet from Rand Road (20-foot setback required), being located within 400 feet of the centerline of an Interstate Ramp (500-foot separation from interstate ramp entries required) and being located within no less than 148 feet from protected districts (300-foot separation from protected districts required).

- 6. 2023-DV2-038 | 8245 Allisonville Road**
Washington Township, Council District #3, Zoned C-4
Raising Cane’s Restaurants, LLC, by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment, with a drive through, including stacking and service units, within the front yard of East 82nd Street, with a 9.2 front yard setback (service units and stacking spaces not permitted along facades adjacent to public rights-of-way with a width greater than 30-feet or related front yards, minimum 10-foot setback required) and without the required screening and exclusive bypass aisle.

PETITIONS FOR PUBLIC HEARING (New Petitions):

- 7. 2024-DV2-006 | 1212 East 25th Street**
Center Township, Council District #8, Zoned I-2
Omnisource Corporation, by Kerry Johnson

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 20-foot-tall internally illuminated pole sign (not permitted).

- 8. 2024-DV2-008 | 5669, 5673 and 5677 Broadway Street**
Washington Township, Council District #7, Zoned D-3 (TOD)
Matt & Lauren Gillot, Maureen Borto and Timothy Smith, by Maureen Borto

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

Additional Business:

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

Disability Affairs at (317) 327-5654, at least 48 hours prior to the meeting. - Department of Metropolitan Development - Current Planning Division.



BOARD OF ZONING APPEALS DIVISION II

March 12, 2024

Case Number: 2024-DV2-002

Property Address: 4645 Tempe Court (approximate address)

Location: Decatur Township, Council District #21

Petitioner: Michael and Mary Morris, by Cindy Thrasher

Current Zoning: D-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 360-square-foot shed with a one-foot south side yard setback (10-foot corner side yard setback required).

Current Land Use: Residential

Staff Recommendations: Staff has no recommendation for this request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR THE MARCH 12, 2024 BZA DIVISION I HEARING

- Staff requested a continuance from the February 13, 2024 hearing to the March 12, 2024 hearing.
- The petitioner is requesting a second continuance at this time to the April 9, 2024 BZA Division II hearing to allow for further review of the proposal. If the language of the request is ultimately amended, this petition would require new notice.

STAFF RECOMMENDATION

- Staff has no recommendation for this request.

PETITION OVERVIEW

- This petition is to be continued to the April 9, 2024 BZA II hearing.

STAFF REPORT

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

Case Number: 2024-UV2-002
Address: 5102, 5111, 5117, 5122, 5127, 5139, 5143 5210 and 5282 East 65th Street (approximate address)
Location: Washington Township, Council District #3
Zoning: I-2
Petitioner: Schmoll Development Company L.P. and Greg Schmoll, by S. Gregory Zubek
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the following as primary uses: sports performance training uses; physical fitness and athletics instruction and training; and dance and gymnastics instruction (not permitted).

A City-County Councilor has filed a timely automatic continuance, continuing this petition to the April 9, 2024 hearing of Division II.

EDH



BOARD OF ZONING APPEALS DIVISION II

March 12, 2024

Case Number: 2024-DV2-007

Property Address: 529 E 57th Street (approximate address)

Location: Washington Township, Council District #7

Petitioner: Craig & Donna Mallinckrodt, by John Cross

Current Zoning: D-3 (TOD)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with an open space of 66.9 percent (70 percent open space required).

Current Land Use: Vacant

Staff Recommendations: Staff recommends approval of this petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- This is the first public hearing for this petition.

STAFF RECOMMENDATION

- Staff recommends approval of this petition

PETITION OVERVIEW

- This petition would provide for the construction of a single-family dwelling with an open space of 66.9 percent (70 percent required).
- The open space requirement of 70 percent in D-3 districts is designed for lots that are at or above 10,000 square feet in area. The subject site contains a lot size of approximately 6,475 square feet, representing a reasonable practical difficulty for the petitioner. The site plan proposal will be meeting all other development standards, including building setbacks and building height. Given the practical difficulty of the deficient lot size, and that all other standards will be met, Staff is not opposed to the request for reduced open space on the site.



GENERAL INFORMATION

Existing Zoning	D-3 (TOD)	
Existing Land Use	Vacant	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Single-family residential
	South:	South: Single-family residential
	East:	East: Single-family residential
	West:	West: Single-family residential
Thoroughfare Plan		
East 57 th Street	Local Street	50-foot right-of-way existing and 48-foot proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	1/26/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/26/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines
- 2020 Red Line TOD Strategic Plan

Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Traditional Neighborhood typology for this site.



Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site lies within ½ mile from the College Avenue and Kessler Boulevard transit station.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- The Infill Housing Guidelines recommends using the surrounding context for appropriate housing sizes for undersized lots.

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

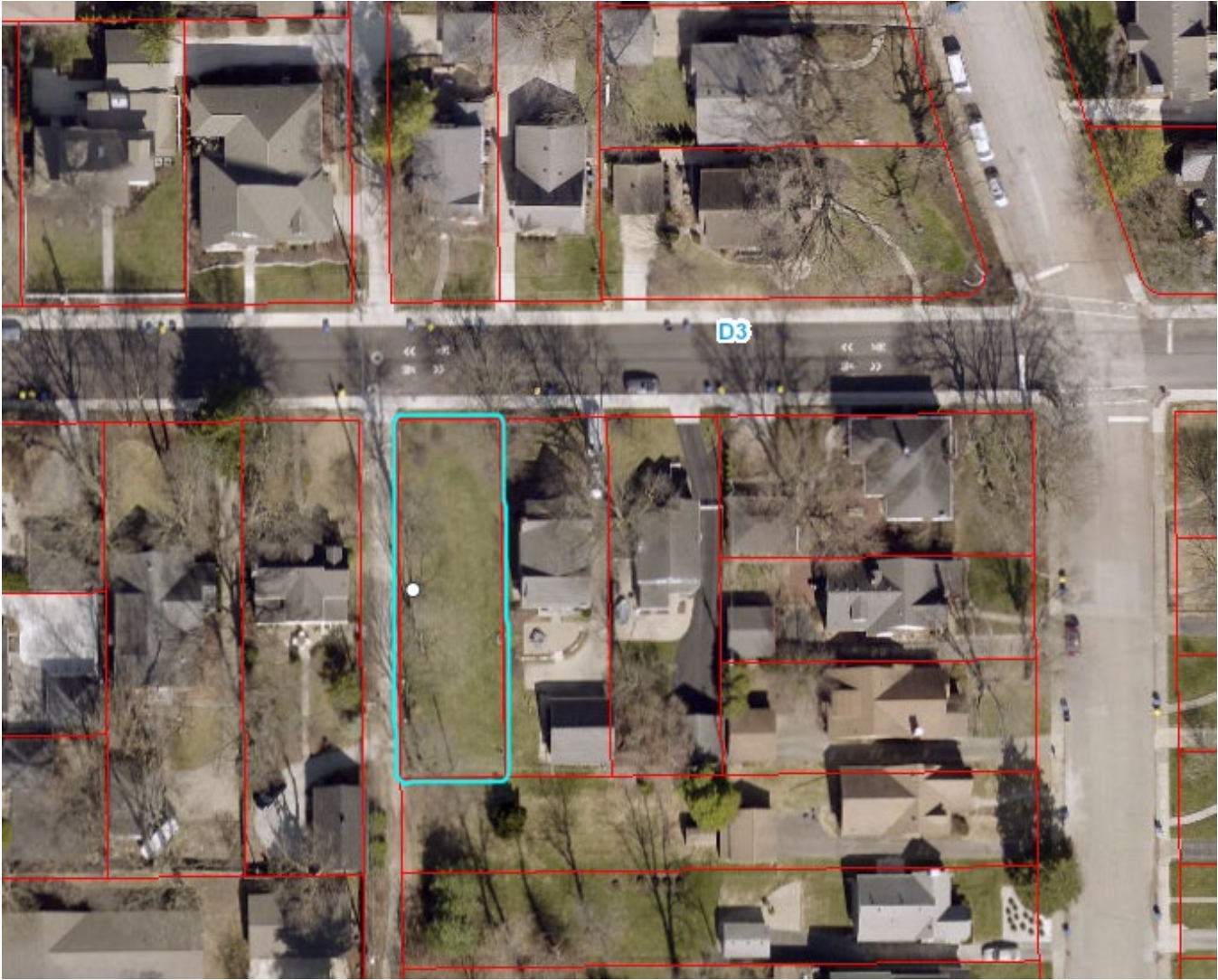
2020DV3036; 5695 N Meridian Street (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 43.5-foot to 53-foot tall wood and metal poles for small cell wireless communications facilities, with associated equipment and antennas within the right-of-way (underground utilities only permitted after January 1, 1973.), **denied**.

2015DV3059; 512 E 57th Street (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the reconfiguration of three lots, with one lot having access via an access easement from the north-south alley to the east (direct access to a public street required), with two lots having 8,400 square feet of lot area (10,000 square feet required), with two lots having a minimum open space of 45 percent (70 percent required), with two lots having aggregate side yards of 12 feet (16-foot aggregate required), and with three lots having minimum front setbacks of twenty feet (25 feet required). **approved**.

2014DV3045; 512 E 57th Street (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family dwelling and a detached garage on Lot 56, with three-foot south side setbacks and an eight-foot aggregate side setback and a single-family dwelling and a detached garage on Lot 57, with a three-foot north side setback and eight-foot aggregate side setback (minimum six-foot side setback and 16-foot aggregate side setback required). **approved**.

2006ZON016; 440 E 57th Street (west of site), rezoning of 0.823 acre from the D-2 district to the SU-2 classification to provide for the expansion of a school. Recorded instrument number 2006-0082666. Special use not envisioned by neighborhood plan, **approved**.

EXHIBITS





Department of Metropolitan Development
Division of Planning
Current Planning



STOEPPELWERTH

ALWAYS ON

7965 East 106th Street, Fishers, IN 46038-2505
phone: 317.849.5935 fax: 317.849.5942

JOB ID OYL CM6018

CONTROL# 109557 DAV

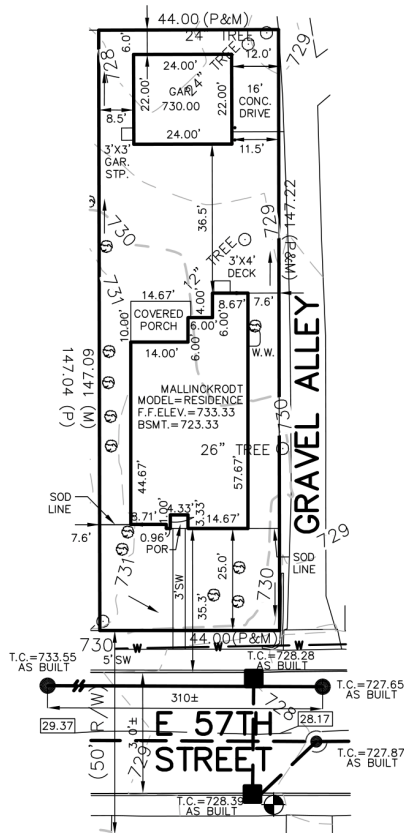
529 E 57TH STREET
INDIANAPOLIS, IN 46220



1" = 30'

LOT AREA: 6,475 Sq. Ft.

OPEN SPACE=67.2%



- LEGEND:
- XX.X PROPOSED GRADE PER PLAN
 - XX.XAB AS BUILT GRADE
 - S.S.D. SUB-SURFACE DRAIN
 - ASL SANITARY SEWER
 - PSL 6" AS BUILT SANITARY LATERAL
 - 6" PROPOSED SANITARY LATERAL
 - W STORM SEWER
 - 3/4" WATER CONNECTION
 - W WATER MAIN
 - SWALE
 - SANITARY MANHOLE
 - STORM MANHOLE
 - CURB INLET
 - FIRE HYDRANT
 - W.W. WINDOW WELL
 - (M) MEASURED
 - (P) PLATTED

SOD: 1,230 ± Sq. Ft.
SEEDING: 3,044 ± Sq. Ft.
CONC. DRIVEWAY: 198 ± Sq. Ft.
PRIVATE WALK: 89 ± Sq. Ft.
PUBLIC WALK: N/A ± Sq. Ft.



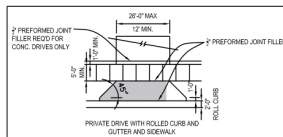
David J. Stoepfelwerth

NOTE: THIS DRAWING IS FOR PERMITTING PURPOSES ONLY AND NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT SURVEY, ORIGINAL SURVEY, ROUTE SURVEY, LOT SURVEY OR A SURVEYOR LOCATION REPORT OR ANY OTHER TYPE OF PROPERTY BOUNDARY ASSESSMENT. NO BOUNDARY CORNERS HAVE BEEN SET AND THEREFORE NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THIS DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS INCLUDING FENCES.

NOTE: UTILITY LATERALS TO BE VERIFIED IN THE FIELD.

BENCHMARK
TOP OF CASTING=728.39

ALL UNDERGROUND SEWERS AND UTILITIES SHOWN WERE FIELD COLLECTED AT TIME OF TOPOGRAPHIC AND BOUNDARY SURVEY.



RESIDENTIAL DRIVEWAY DETAIL
RESIDENTIAL DRIVEWAYS SHALL BE CONSTRUCTED IN ACCORDANCE WITH STANDARD PLAN 16-01 OF THE DEPARTMENT OF PUBLIC WORKS FOR STREET AND BRIDGE DESIGN & CONSTRUCTION

LOT 4
STEINMETZ AND
FLEMING JR.
RE-SUB AMENDED
P.B. #24, Page #367
ZONING: D-3
4' MINIMUM SIDE YARD
8' MINIMUM AGGREGATE
20' MINIMUM FRONT YARD
20' MINIMUM REAR YARD
70% MINIMUM OPEN SPACE

THIS PLOT PLAN WAS PREPARED FROM A BOUNDARY RETRACEMENT SURVEY DONE BY STOEPPELWERTH & ASSOCIATES ON DECEMBER 14TH, 2023.





Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
the lot size is 6,534 sq. ft. which is less than 10,000 sq. ft. minimum for single-family. The proposed development is similar to development in the area and would not impose a negative impact upon the community. The variance is a minimal deviation and given the substandard lot size there will be no negative impact to the area.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:
the lot size is 6,534 sq. ft. which is less than 10,000 sq. ft. minimum for single-family. The proposed development is similar to development in the area and would not impose a negative impact upon the community. The variance is a minimal deviation and given the substandard lot size there will be no negative impact to the area. The improvements will not cause a nuisance to the area. Allowing a slightly larger development will increase the property value of the subject site and nearby properties.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:
The lot size is substandard for the D3 zoning district. In order to develop similarly to nearby properties a variance for minimum open space is required.

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-UV1-023
Address: 7217 Woodland Drive (approximate address)
Location: Pike Township, Council District #1
Zoning: C-4
Petitioner: Enterprise Leasing Company of Indianapolis, LLC, by Joseph D. Calderon
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a car and truck rental facility with associated outdoor storage (not permitted).

ADDENDUM

At the February 20, 2024 hearing, the Board, having insufficient members present for a quorum, granted a request from the petitioner to continue and transfer this petition to the next regular hearing of Division 2 on March 12, 2024.

At the January 9, 2024 hearing, the Board, having insufficient members present for a quorum, continued this petition to the next regular meeting on February 20, 2024.

Due to an indecisive vote at the December 12, 2023 hearing, this petition was continued to the January 9, 2024 hearing.

At the November 14, 2023 hearing, the Petitioner requested a continuance to the next regular hearing and a transfer of the case to Division 2 of the Board of Zoning Appeals. The Board granted the transfer and continued to the December 12, 2023 hearing.

RECOMMENDATIONS

Staff **recommends denial** of the request for the variance of use to provide for the operation of a car and truck rental facility with associated outdoor storage. The proposed use is more intense than those contemplated in the Marion County Land Use Plan for Community Commercial or Regional Commercial typologies but is reserved for either Heavy Commercial or Heavy Industrial districts.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4 Metro Community-Regional Commercial (vacant restaurant)

SURROUNDING ZONING AND LAND USE

North	C-S	Child Daycare Center
South	C-4	Automobile Fueling Station
East	C-3 / I-2	Neighborhood commercial mix / light industrial
West	C-4	Restaurant / vacant lot

COMPREHENSIVE PLAN The Comprehensive Plan recommends Community Commercial development.

- ◇ The 1.22-acre subject site consists of a single parcel developed approximately 1989 with a single commercial structure. The site has been used as a restaurant with an accessory drive-thru until recently vacated.

VARIANCE OF USE

- ◇ The grant of the request would provide for the operation of an auto and truck rental facility with associated outdoor storage. Light vehicle (passenger vehicles) rental is permitted in the C-5, C-7, and CBD-2 districts while heavy vehicle (greater than 14,000 GVWR) rental is permitted by right in C-7, I-3, and I-4 districts. The proposed use includes outdoor storage of heavy trucks and has been determined to be of the most intense commercial/industrial uses and is therefore reserved to the most intense commercial/industrial districts. Such uses are not suitable for the regional commercial district.
- ◇ The purpose of the C-4 district is to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, *certain permitted uses may have limited outdoor activities* [emphasis added], as specified.
- ◇ Guidance for the C-4 district is found in the Marion County Land Use Plan Pattern Book under the Regional Commercial typology. The Regional Commercial typology provides for general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers.
- ◇ Guidance for the C-5 and C-7 districts can be found in the Marion County Land Use Plan Pattern Book under the Heavy Commercial typology. This typology provides for consumer-oriented general commercial and office uses that tend to exhibit characteristics that are not compatible with less intensive land uses. They are often *dominated by exterior operations, sales, and display of goods* [emphasis added]. Examples include vehicle sales and commercial lumber yards.
- ◇ Approval of the proposed use would be incongruent with the Comprehensive Plan.

(Continued)

VARIANCE OF USE FINDINGS OF FACT

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

the proposed use is less intense than many permitted uses and will not generate significant traffic.

- ◇ Staff has determined that the grant would be injurious to the general welfare of the community as this use has already been determined to be more intense than those permitted uses within the current zoning district. Traffic generation is not the sole determining factor for intensity of a use. Outdoor storage of vehicles is a related use which makes the proposal too intense for the C-4 district.

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

the proposed use will serve other non-retail uses in Park 100, and will not impede access to any adjoining property.

- ◇ The use and value of the area adjacent to the property included in the variance would be adversely affected by the use as it is bordered to the north by a child day care facility. A child day care facility as a primary use, as seen in this scenario, is reserved to less intense commercial and industrial districts creating a conflict of adjacent uses.

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

the property has been developed and used for a particular use and it would be difficult to reuse the existing improvements for a permitted use. Furthermore, Park 100 has a wide variety of uses in the commercial and industrial realm.

- ◇ The property was developed and used as a restaurant for approximately 30 years. The existing zoning allows many uses for which this property could reasonably be adapted.

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

the ordinance allows for more intense motor vehicle related uses in C-4 than the proposed use as an auto/truck rental facility.

- ◇ The ordinance does not allow for more intense automotive uses in the C-4 district. Those vehicle uses with such intense outdoor storage are reserved for heavy commercial and heavy industrial districts.

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

the proposed use will be comparable in intensity to many commercial uses contemplated in the community commercial classification.

- ◇ The Comprehensive Plan has reserved uses with such outdoor storage of heavy vehicles to the heavy commercial typology.

GENERAL INFORMATION

THOROUGHFARE PLAN	Woodland Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 90-foot existing right-of-way and a 50-foot proposed right-of-way.
SITE PLAN	File-dated October 9, 2023.
PLAN OF OPERATION	File-dated October 9, 2023.
FINDINGS OF FACT	File-dated October 9, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None

PREVIOUS CASES

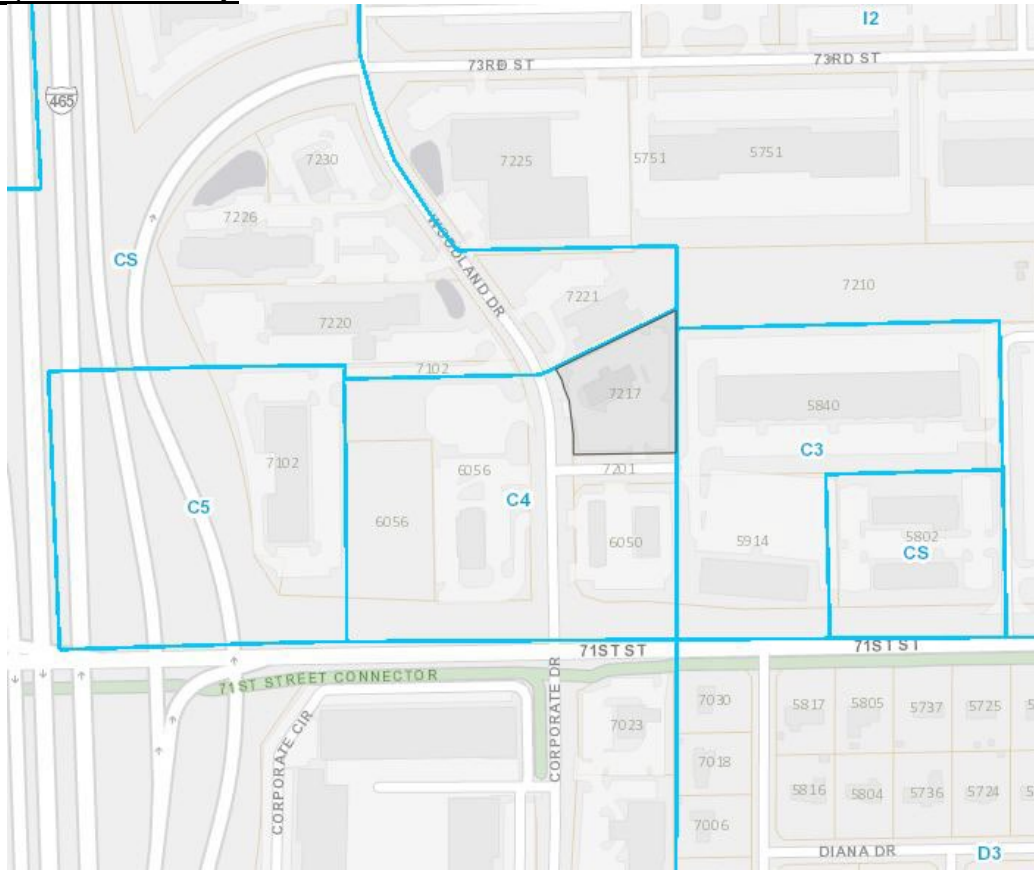
69-Z-317; West 71st (including subject site), Rezoning of 28.28 acres from the A-2 district to the C-4 district, **granted**.

ZONING HISTORY – VICINITY

2000-DV1-065; 6050 West 71st Street (south of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for the construction of a 4,220 square foot convenience store, with an interior access drive located within the required front yard of Woodland Drive (interior access drives not permitted with the required front yard), **granted**.

BB

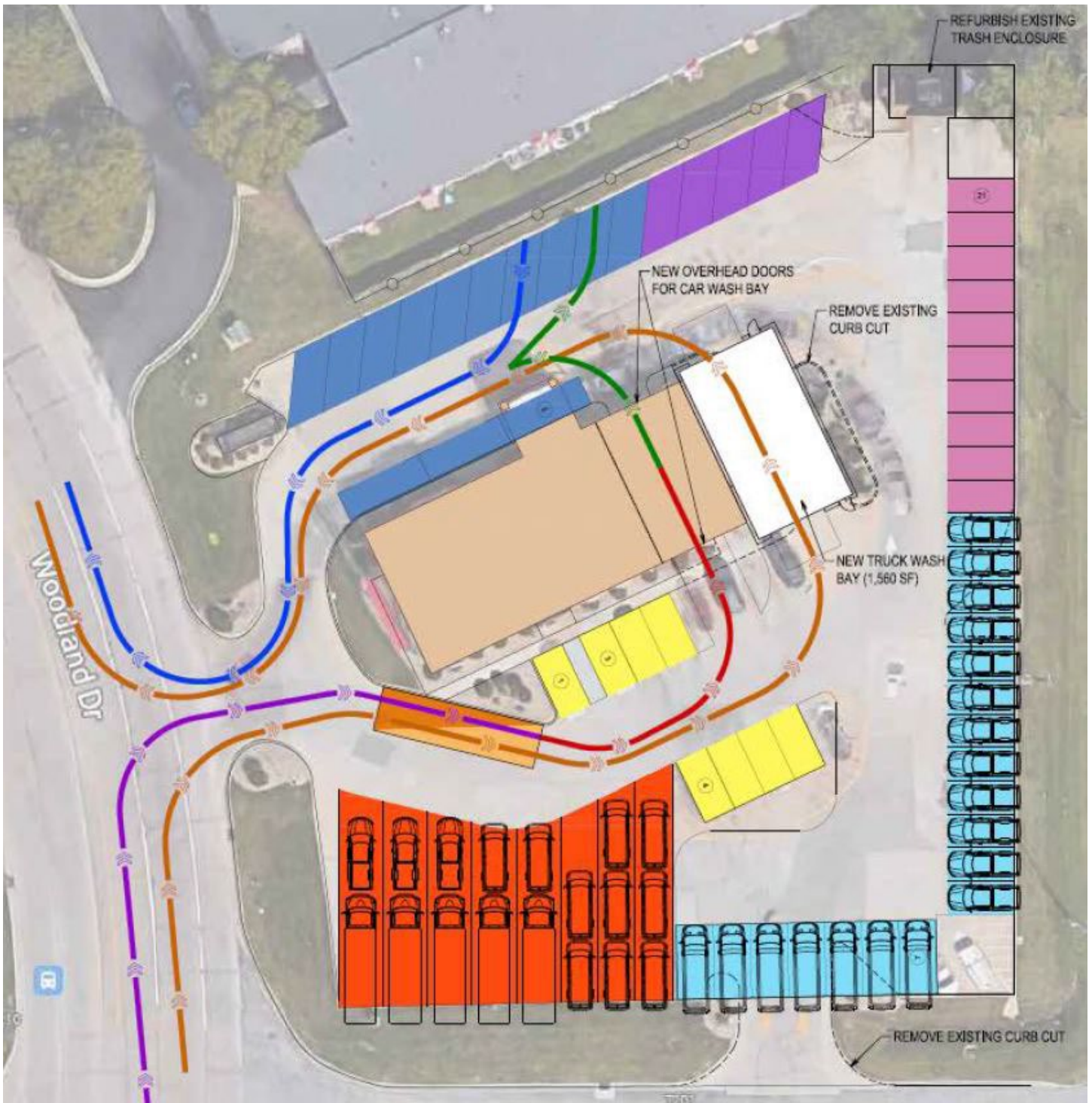
2023-UV1-023; Location Map



2023-UV1-023; Aerial Map



(Continued)



(Continued)



Photo of the Subject Property, view from north



Photo of the Subject Property, view from south

(Continued)



View of north neighbor site (child day care)



View south (Woodland Dr/71st St)

(Continued)



View west from site



Industrial site north of subject site

STAFF REPORT

Department of Metropolitan Development Division of Planning - Current Planning Section

Case Number: 2023-SE2-002 (Amended)
Address: 3210 Chief Lane (approximate address)
Location: Decatur Township, Council District #22
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Jon Campbell
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 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 greater than 65-feet tall (maximum height of 40 feet permitted), a setback of five feet from Rand Road (20-foot setback required), being located within 400 feet of the centerline of an Interstate Ramp (500-foot separation from interstate ramp entries required) and being located within no less than 148 feet from protected districts (300-foot separation from protected districts required).

ADDENDUM MARCH 12, 2024

This petition was continued from the February 13, 2024, hearing, to the March 12, 2024 hearing, at the request of the Board President.

February 13, 2024

This petition was automatically continued from the December 12, 2023, hearing, to the January 9, 2024, hearing, at the request of a registered neighborhood organization.

This petition was automatically continued from the January 9, 2024, hearing, to the February 13, 2024, hearing, at the request of the petitioner.

RECOMMENDATIONS

Staff **recommends approval** of the Special Exception request.

Staff makes **no recommendation** for the Variance of Development Standards requests.

Amended Petition: This petition was amended to remove the request for the Variance of development standards to provide for an outdoor advertising sign to be within 50 from another outdoor advertising sign, where a 1,000-feet of radial spacing is required between signs. However, it was determined after the petition was docketed, that the adjacent sign is an on-premise sign, and the separation variance was not needed. Additional notice would not be needed, as the request would now deviate less from the Ordinance than the original notice.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)**SUMMARY OF ISSUES****LAND USE****EXISTING ZONING AND LAND USE**

Metro	I-3	Trade Association office building
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SURROUNDING ZONING AND LAND USE

North	I-3	Manufacturing facility
South	I-3	Interstate I-70 / Undeveloped
East	D-A	Interstate I-70 / Undeveloped
West	I-3	Single-family dwelling / Manufacturing facility

COMPREHENSIVE PLAN The Comprehensive Plan recommends office / industrial mixed-uses for the site.

SPECIAL EXCEPTION

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as “A sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages.”
- ◇ The need for the special exception arises from a condition peculiar to the property involved because a road expansion project included South State Road 37, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location at 8900 South SR 37 on private property causing the relocation of the sign.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

(a) As used in this section, “market area” means a point within the same county as the prior location of an outdoor advertising sign.

(b) This section applies only to an outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(c) If an outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

- (1) elevate a conforming outdoor advertising sign; or*
- (2) relocate a conforming or nonconforming outdoor advertising sign to a point within the market area, if the new location of the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.*

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

(d) If within one (1) year of an action being filed under IC 32-34, an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and IC 8-23-20.5, if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter. Notwithstanding subsections (d) and (g), if a conforming outdoor advertising sign cannot be elevated or relocated within the market area, the removal or relocation of the conforming outdoor advertising sign constitutes a total taking of a real property interest, including the sign structure, and the owner must be compensated under section 27 of this chapter.

(e) The county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

(f) The elevated outdoor advertising sign or outdoor advertising sign to be relocated, to the extent allowed by federal or state law, may be modified:

(1) to elevate the sign to make the entire advertising content of the sign visible; and

(2) to an angle to make the entire advertising content of the sign visible; and

(3) in size or material type, at the expense of:

(A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or

(B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.

(g) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under IC 32-34, the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana Department of Transportation that a project has been planned that may impact the outdoor advertising sign.

(i) If the agency fails to provide notice required by subsection (h) within (12) twelve months of an action being filed against an owner under IC 32-24, the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under IC 32-23-1-8.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

- ◇ The current Zoning and Subdivision Ordinance does align with state code, which provides for a special exception to the zoning ordinance to allow for either an elevation increase or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.
- ◇ The owner has a government imposed practical difficulty due to a road expansion project that includes the sign's current location at 8900 South SR 37, and the expansion of I-69 by INDOT, which would eliminate the sign's existing location on private property causing the relocation of the sign.
- ◇ State code notes that there should be the option to elevate the sign or relocate the sign but does not specify that both options must be granted. Since the widening of SR-37/I-69 is out of the petitioner's control, staff is supportive of the special exception request as proposed to relocate the sign.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The subject site parcel is addressed as 3210 Chief Lane, but also has frontage on the 3200 block of Rand Road, which the proposed outdoor advertising sign would be located and oriented.
- ◇ The petitioner has requested variances of development standards to allow for the relocated sign to have an increase in permitted sign height from 40 feet to 65 feet in height, to have a five-foot setback from Rand Road where a 20-foot front setback is required, to be within 400 feet of the centerline of an Interstate Ramp where a 500-foot separation is required and being located within 148 feet from protected districts where a 300-foot separation is required.
- ◇ The site is relatively level with the Interstate I-70 road deck and has no visible structural obstructions. With the sign being permitted at 40 feet tall, the request would provide for an additional 25 feet, resulting in a request to provide for a sign 65 feet above the road surface of Interstate I-70. No practical difficulty has been presented as to why the additional 30 feet in sign height is needed. Therefore, Staff recommends denial of the request as proposed to increase the sign height from 40 feet to 70 feet, as any increase in height, would decrease road safety by negatively impacting motorists that would be distracted.
- ◇ The petitioner has requested a variance to allow for a five-foot setback from the subject site frontage along Rand Road, where a 20-foot setback is required. Providing for a reduced setback from Rand Road would increase the intensity of the off-premise advertising sign by locating it closer to motorists on nearby Interstate I-70 that maybe distracted. Additionally, it would bring the activities on the site closer to adjacent properties, without adequate buffering.
- ◇ The site, at approximately 290 feet at its widest from Rand Road, is wide enough to accommodate the required 20-foot setback. Therefore, no peculiar condition exists on site for staff to be supportive of these requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, this is a self-imposed difficulty since the newly constructed/installed signs could be developed to meet the Ordinance standards by right without the need for variances.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

- ◇ The petitioner has requested a variance to allow for the outdoor advertising sign location to be reduced from the required 500-foot separation to a 400-foot separation from the centerline of an interstate exit roadway for eastbound I-70 to northbound I-465. Outdoor advertising signs are not permitted within 500 feet from entrance or exit roadways, as they would cause those signs that are permitted and legal to become less effective and reduces their value.
- ◇ The Ordinance has been constructed to limit these signs near protected districts, because of their brightness and aesthetic impact. In this case, a D-A District is located approximately 148 feet to the southeast, with no visible obstructions or change in elevations. Due to the width and size of the lot, the sign could be located approximately 120 feet to the northwest to meet the required 300-foot separation from the adjacent protected districts.
- ◇ The requested decreased separation from the protected districts would degrade the quality of life in the area. The proposed sign has no physical barriers that limit the view of the sign from the nearby protected districts. There is no reason that a sign that meets the Sign Ordinance could not be used, along with alternative communication methods.
- ◇ No peculiar condition exists on site for staff to be supportive of these variance of development standards requests. The strict application of the Ordinance would not constitute an unnecessary hardship, as the site is already zoning compliant for I-3 uses by right without the need for the requested variance of development standards. Instead, the requested variances of development standards are a self-imposed difficulty needed for the specific proposed use of an off-premise advertising sign, that would intensify the use on the subject site that would increase the amount of driver distractions and negative impacts on adjacent properties. Therefore, Staff makes no recommendation for the variance of development standards request.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of Chief Lane is a private drive and is not classified in the Official Thoroughfare Plan for Marion County, Indiana.

This portion of Rand Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with an approximate 56-foot existing right-of-way.

SITE PLAN

File-dated October 25, 2023.

FINDINGS OF FACT

File-dated October 25, 2023.

(Continued)

ZONING HISTORY

2014-UV2-006; 5925 Stockberger Place (north of site), requested a variance of use of the Industrial Zoning Ordinance to provide for a Compressed Natural Gas (CNG) Fueling Station as a primary public use, **granted**.

99-V1-84, 5925 Stockberger Place (east of site); Requesting a variance of use and development standards of the Industrial Zoning Ordinance to provide for an equipment rental facility with outdoor storage, **granted**.

88-HOV-43; 3150 Rand Road (north of site), requested a variance of development standards to provide for the development of a warehouse without frontage on a public street, **granted**.

RU







Photo of subject site, proposed sign location, looking northwest.



Adjacent manufacturing facility to the north of the site.



Adjacent manufacturing facility to the west of the site.



Adjacent I-70 interstate and undeveloped protected district to the east.



BOARD OF ZONING APPEALS DIVISION 2 **March 12, 2024**

Case Number: 2023-DV2-038
Property Address: 8245 Allisonville Road
Location: Washington Township, Council District #3
Petitioner: Raising Cane’s Restaurants, LLC, by Joseph D. Calderon
Current Zoning: C-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment, with a drive through, including stacking and service units, within the front yard of East 82nd Street, with a 9.2 front yard setback (service units and stacking spaces not permitted along facades adjacent to public rights-of-way with a width greater than 30-feet or related front yards, minimum 10-foot setback required) and without the required screening and exclusive bypass aisle.

Current Land Use: Vacant commercial building

Staff

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

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was automatically continued, from the January 9, 2024, hearing, to the February 13, 2024, hearing, at the request of City County Councilor Daniel Boots, and was continued for cause from the February 13, 2024, hearing, to the March 12, 2024, hearing, at the request of the petitioner.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition

PETITION OVERVIEW

- ◇ The petitioner proposes to demolish and replace the existing structure, with an eating establishment, having a drive through, including stacking and service units, within the front yard of East 82nd Street, with a 9.2 front yard setback
- ◇ Staff believes that the proposed drive-through facility in the front yard of East 82nd Street, with all of its associated elements, with a reduced front setback, would be injurious to the public health and safety with the headlights from the drive through customers facing east, distracting the oncoming west bound traffic on East 82nd Street.



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- ◇ The petitioner has proposed additional landscaping, which would be minimal in helping to prevent this distraction to the westbound motorists, as the proposed trees are all deciduous and not evergreen, which would not provide year-round screening of customer headlights, especially for west-bound vehicles at an elevated height descending from the I-465 overpass.
- ◇ The petitioner has requested a setback reduction to 9.2-feet, while still providing the full amount of required landscaping. However, Staff feels the proposed reduced 9.2-foot setback would be insufficient in buffering the service side of the restaurant from the East 82nd Street frontage and passing traffic. Customers in the drive-through facility, and their headlights would face westbound traffic on East 82nd Street descending from the elevated I-465 overpass. Any reduction in setback would provide less of the required and needed separation from the westbound traffic from the headlights of the vehicles in the drive through lane.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site to keep it from being developed with C-4 uses, as it was previously. This site would consist of new construction that could be designed to meet the terms of the Ordinance. The proposed structure could be modified to meet the required 10-foot setback, as required by the Ordinance. The choice to place the drive through in the front yard is a result of over development of the site, as the Ordinance does not require a drive through for this site.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Regional Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-4	North: Regional Commercial Shopping Center
South:	C-3	South: Community Commercial
East:	C-4	East: Regional Commercial Shopping Center
West:	C-4	West: Regional Commercial Shopping Center
Thoroughfare Plan		
East 82 nd Street	Primary Arterial	224-foot right-of-way existing and proposed
Context Area	Metro	
Floodway / Floodway Fringe	No	



Overlay	No
Wellfield Protection Area	No
Site Plan	12/11/2023
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	1/25/2024 (Amended)
Findings of Fact	12/11/2023
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Castleton Strategic Plan

Pattern Book / Land Use Plan

The Marion County Land Use Plan Pattern Book recommends the Regional Commercial working typology for this site. This typology provides for general commercial, and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The Castleton Strategic Plan seeks to integrate pedestrians, cyclists, landscape, drainage, signage, and improved edges to give new identity. make a complete street. The street should be activated with buildings rather than parking, and to the same degree, auto-related uses such as drive through's.

Infill Housing Guidelines

- Not Applicable to the Site.

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



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- Not Applicable to the Site.



ZONING HISTORY

2022-UV1-012; 5531 East 82nd Street (south of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 42-foot tall, 672-square foot digital off-premise advertising sign, within 415 feet of a protected district, and to allow for digital messages to display for minimum of eight seconds, **denied**.

2017-DV2-010; 5440 East 82nd Street (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for deficient transparency on the east elevation, **withdrawn**.

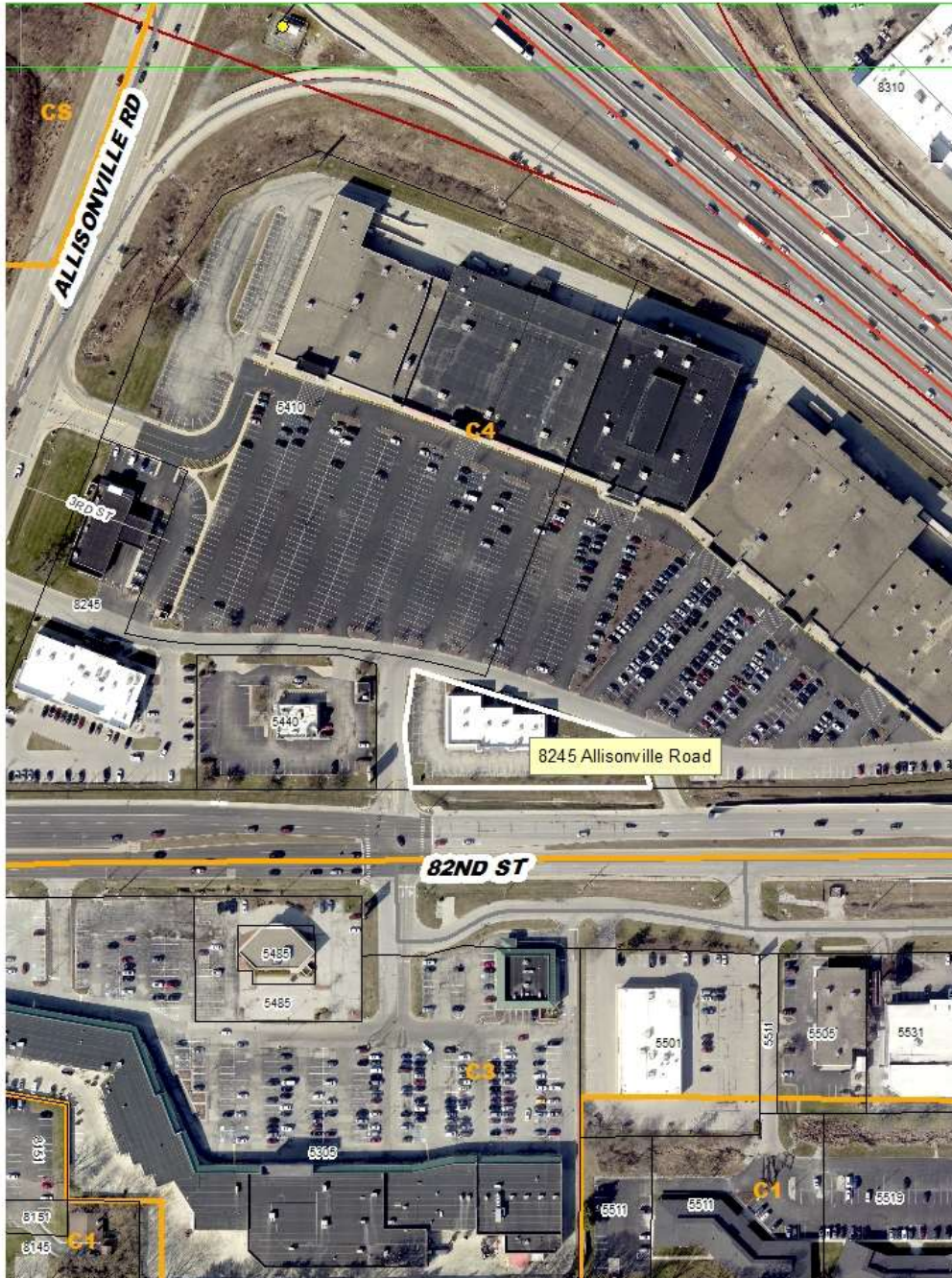
2016-AP1-001; 5505 East 82nd Street (south of site), requested an appeal of the Administrator's Decision of the Department of Business and Neighborhood Services, determining that the proposed use is an adult services establishment, requiring the grant of a variance of use, **denied**.

2009-UV2-019; 5601 East 82nd Street (southeast of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for a tavern with live entertainment (not permitted), with 39 off-street parking spaces (minimum 190 off-street parking spaces required), **dismissed**.

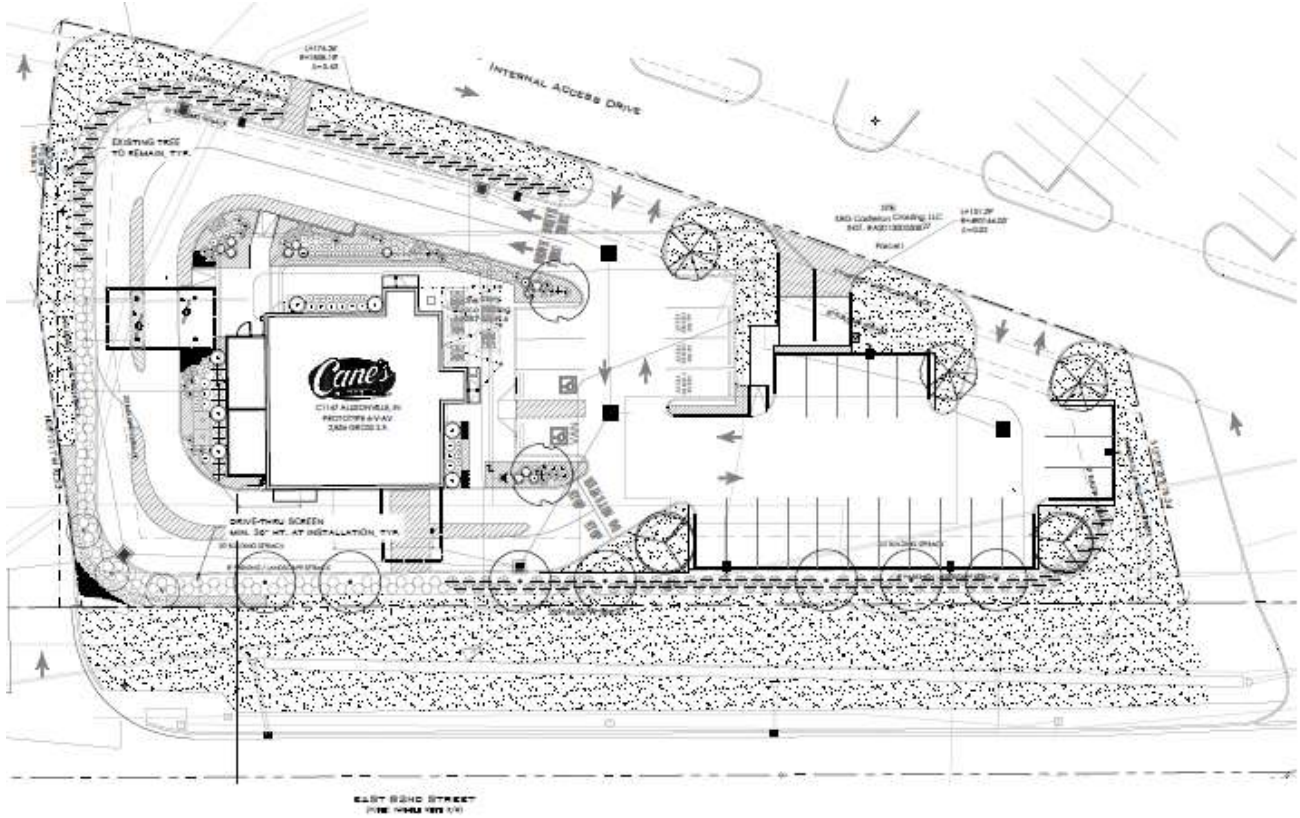
2007-UV1-018; 5501 East 82nd Street (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for a restaurant with 80 amusement machines (maximum four amusement machines permitted) with 11 parking spaces (minimum 127 parking spaces required), **granted**.

2005-DV2-057; 5601 East 82nd Street (southeast of site), requested a variance of development standards of the Commercial Zoning Ordinance to legally establish a tavern located ten feet from a protected district (taverns not permitted within 100 feet of a protected district), **granted**.

EXHIBITS



Proposed Landscaping Plan





Findings of Fact

**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 Petitioner will provide screening such that there will be no significant light spill affecting vehicular traffic on East 82nd Street, and there will be adequate opportunities for customers to make an informed decision to enter or exit the drive through stacking lanes. The second (outside) stacking lane will be predominately available for use as a by-pass lane.

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 proposed use will be self contained within the bounds of existing access drives, and is part of an integrated retail center, where there is an established network of access drives and parking areas, so there will be no disruption to activities taking place within the integrated center or other properties adjoining same.

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

the shape of the parcel being developed is triangular, with inconsistent north to south depth, making it difficult to comply with the two (2) standards sought to be verified, especially since the longest base of the triangle fronts on 82nd Street.



Subject site existing building to be demolished, looking north



Subject site proposed drive through location looking north



Subject site proposed drive through location in front yard of East 82nd Street looking west



Subject site proposed drive through location in front yard of East 82nd Street looking east



Adjacent regional commercial uses to the north



Adjacent regional commercial use to the west, looking south



BOARD OF ZONING APPEALS DIVISION II

March 12, 2024

Case Number:	2024-DV2-006
Property Address:	1212 East 25 th Street (approximate address)
Location:	Center Township, Council District #8
Petitioner:	Omnisource Corporation, by Kerry Johnson
Current Zoning:	I-2
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 20-foot-tall internally illuminated pole sign (not permitted).
Current Land Use:	Industrial
Staff Recommendations:	Staff recommends denial of this petition.
Staff Reviewer:	Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- This site currently houses a scrap metal operation that includes outdoor storage of metal materials screened by a 10-foot-tall metal fence and with a single building for warehousing and office functions. The property is bordered by residential properties on the east and other industrial uses on other sides.
- The business is advertised by a non-illuminated pole sign that was permitted in 2011. In 2023, the current occupants applied for a sign permit that would install a new cabinet onto the existing pole. Per 744-903.B of the Indianapolis Zoning Ordinance, this work would be considered as the placement of a new sign and would require compliance with current dimensional standards.
- Grant of this variance would legalize placement of a pole sign onto the existing pole within I-2 zoning and with internal illumination. Pole signs and internal illumination of primary freestanding signage are both disallowed within this zoning district.



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- The I-2 zoning district (Light Industrial) is designed for industrial uses that present minimal risk and typically don't create objectionable characteristics such as dirt, noise, glare, hear, or odor. The use of scrap metal operation would typically be disallowed within this zoning district but is legally established per the grant of an LNU certificate under case number 2005LNU015.
- The Comprehensive Plan recommends this area for the Village Mixed-Use typology for walkable neighborhood gathering places with a range of small business, housing types and public facilities servicing smaller existing town center and promote new ones. This typology encourages pedestrian-scale amenities and does not list industrial uses as a recommend land use.
- Dimensional regulations for signage exist to reduce visual clutter and distraction for motorists and pedestrians as well as to promote orderly and attractive development practices. Regulations on types of primary freestanding signage and allowable illumination types serve these goals.
- The research done by staff and findings of fact provided by the applicant do not indicate any site-specific difficulties. The use of a scrap metal operation would be unlikely to be utilized during nighttime hours, and installation of an ordinance-compliant pylon sign would allow for similar or greater visibility. Staff recommends denial of both variance requests associated with this petition.

GENERAL INFORMATION

Existing Zoning	I-3	
Existing Land Use	Industrial	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	Zoning	Surrounding Context
	North:	I-2
	South:	I-2
	East:	D-5
	West:	I-2
Thoroughfare Plan		
	25 th Street	Secondary Arterial
		Existing ROW: 58' Prop ROW: 56'
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	01/24/24	
Site Plan (Amended)	N/A	
Elevations	01/24/24	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	01/24/24	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Comprehensive Plan assigns this property the Village Mixed-Use typology to allow neighborhood gathering places with a wide range of business, housing types, and public facilities servicing the immediate walkable area. Industrial uses are not recommended for this typology.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2005LNU015, allowed for the legal non-conforming use of scrap metal operation, including outdoor storage, warehouse, and office space in an I-2-U zoning district, **approved**.

96-UV1-57, allowed for a 40 by 90 foot building addition with outside operations within 5 feet of a dwelling district (minimum 300 foot separation required); outside operations enclosed by a 10 foot tall metal fence (maximum 8 feet permitted) without a landscaping screen (landscaping required); outside operations of 918.865 feet or 2.11 acres comprising 114 times the square footage of the buildings (maximum 25% permitted or 2,011 square feet permitted); zero foot side yard setback along the east property line (minimum 30 feet required); without landscaping in the side transitional yard along the east property line (landscaping required); 25 foot front yard setbacks from 25th Street centerline (minimum 95 foot setbacks required); and, loading areas consisting of gravel (hardsurfacing required), **approved**.

90-UV1-7, Variance of use and development standards of the Industrial Zoning Ordinance to permit an addition to an existing building for storage materials for a metal processing business, **approved**.

86-UV1-97, Variance of use of the Industrial Zoning Ordinance to provide for the use of an existing building as accessory office for a metals processing business without the required landscaping and setbacks, **approved**.

86-Z-14, rezoning from I-2-U to I-5-U to allow the continued use of a scrap salvage yard and to relocate the office use to an existing building at north end of property, **withdrawn**.

74-VAC-47, vacation located at Yandes Street between 25th and 27th Streets, **approved**.

ZONING HISTORY – VICINITY

2006ZON010; 1311 E 25th St (southeast of site), rezoning 0.28 acres from C-3 to SU-1, **approved**.

2004DV2010; 1131 E 25th St (southwest 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 setback front yard setback from the existing right-of-way of Yandes Street (minimum 20-foot front yard setback from the existing right-of-way required) and a ten-foot front yard setback from the existing right-of-way of East 25th Street (minimum 20-foot front setback from the existing right-of-way required), **approved**.

2001DV1052, 1322 E 25th St (east of site), variance of development standards of the Commercial Zoning Ordinance to provide for the outdoor storage and sales (not permitted) of clothing in an 80 square foot tent located to the west of an existing commercial building, with the tent having a four-foot rear yard setback (minimum ten-foot rear yard setback required), **approved**.

EXHIBITS

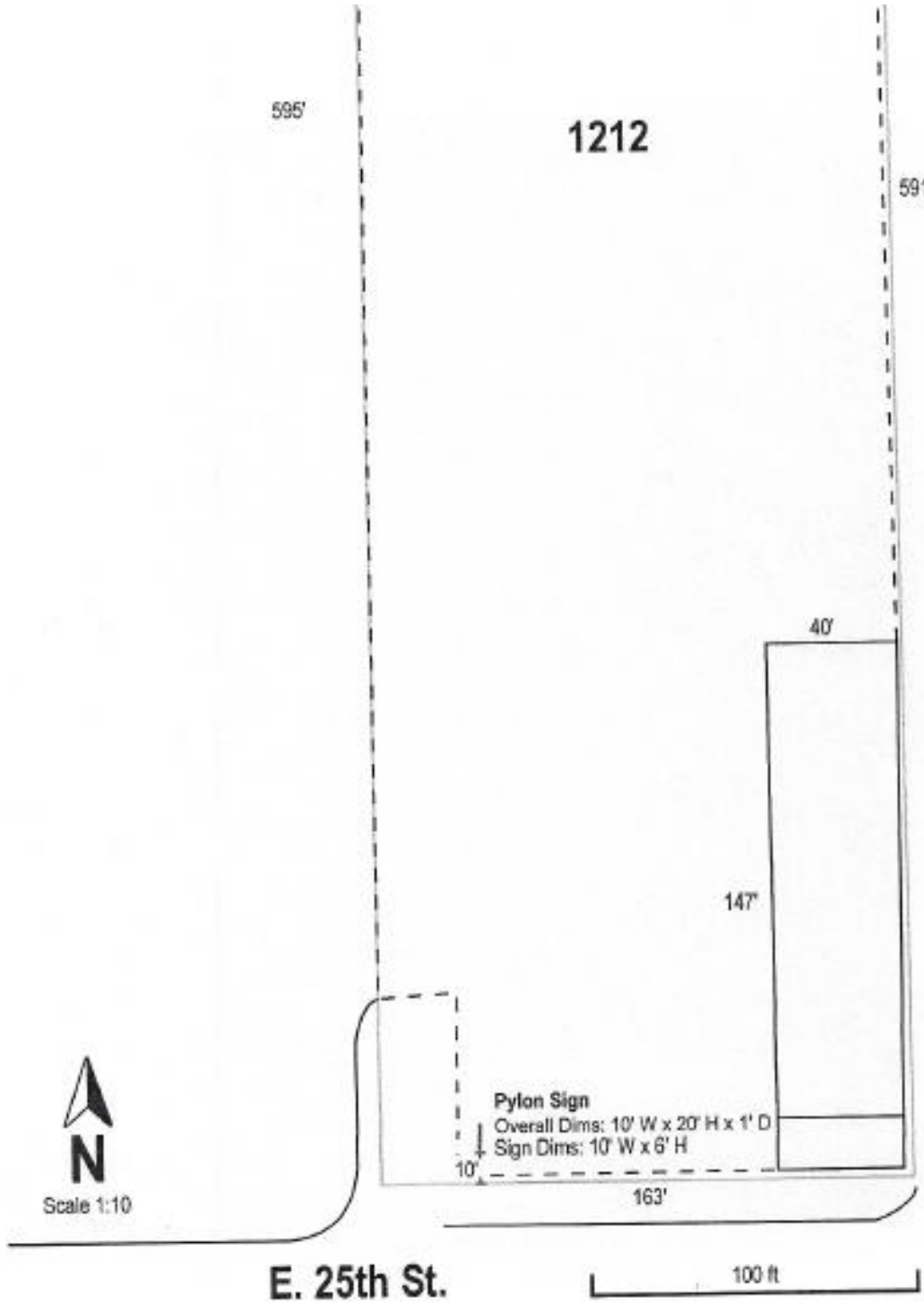
2024DV1005 ; Aerial Map





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2024DV1005 ; Site Plan



2024DV1005 ; Proposed Sign Elevation





2024DV1005 ; Findings of Fact

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

The current Omnisource pylon sign is situated behind the fence on the company property. It is set back from the road and poses no threat to public safety.

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

The property has commercial and residential properties in the adjacent area. This company has been operating this facility for the same purpose for many years with no issues. The new sign cabinet will not make a change to the area and will only improve the appearance of the property.

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

The identification of the property will not match the company standards and may confuse individuals visiting the property and utilizing their valuable services to the community

2024DV1005 ; Pictures



Photo 1: Existing Sign Viewed from West



Photo 2: Existing Sign Viewed from South

2024DV1005 ; Pictures (continued)



Photo 3: Property Viewed from South



Photo 4: Property Viewed from East



BOARD OF ZONING APPEALS DIVISION II

March 12, 2024

Case Number: 2024-DV2-008

Property Address: 5669, 5673 and 5677 Broadway Street (approximate address)

Location: Washington Township, Council District #17

Petitioner: Matt & Lauren Gillot, Maureen Borto and Timothy Smith, by Maureen Borto

Current Zoning: D-3 (TOD)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an eight-foot tall fence within the side and rear yards (maximum height of six-feet permitted).

Current Land Use: Residential

Staff Recommendations: Staff recommends denial of this petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- This is the first public hearing for this petition.

STAFF RECOMMENDATION

- Staff recommends denial of this petition

PETITION OVERVIEW

- This petition would provide for the location of an eight-foot tall fence within the side and rear yards (maximum height of six-feet permitted) on the properties of 5669, 5673, and 5677 Broadway Street.
- Fence height standards are in place to allow for a reasonable amount of privacy while maintaining visibility and open space. Additionally, they help preserve and uphold aesthetics of the neighborhood and surrounding context. The subject sites related to this petition contain eight-foot tall privacy fences in the side and rear yards, representing a significant deviation from what is permitted. With fences 8 feet in height being more characteristic of commercial or industrial properties, Staff sees this as over-development, and a considerable departure from typical aesthetics of the neighborhood and residential uses in general.
- Further, Staff believes the development to be unnecessary being that a six-foot wooden fence, as permitted by the Ordinance, is sufficient in creating the privacy and buffer desired. Lastly, Staff does not find there to be any practical difficulty associated with the subject sites themselves that justifies



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the requested variance from the permitted standard. For these reasons, Staff is opposed to and does recommend denial of the request.

GENERAL INFORMATION

Existing Zoning	D-3 (TOD)	
Existing Land Use	Residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-3	North: Single-family residential
South:	D-3	South: single-family residential
East:	D-3	East: Two-family residential
West:	D-3	West: Single-family residential
Thoroughfare Plan		
Broadway Street	Local Street	60 feet existing right-of-way and 48 feet proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	1/30/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	2/22/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Traditional Neighborhood typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan



- The subject site lies within ½ mile from the College Avenue and Kessler Boulevard transit station.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

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

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

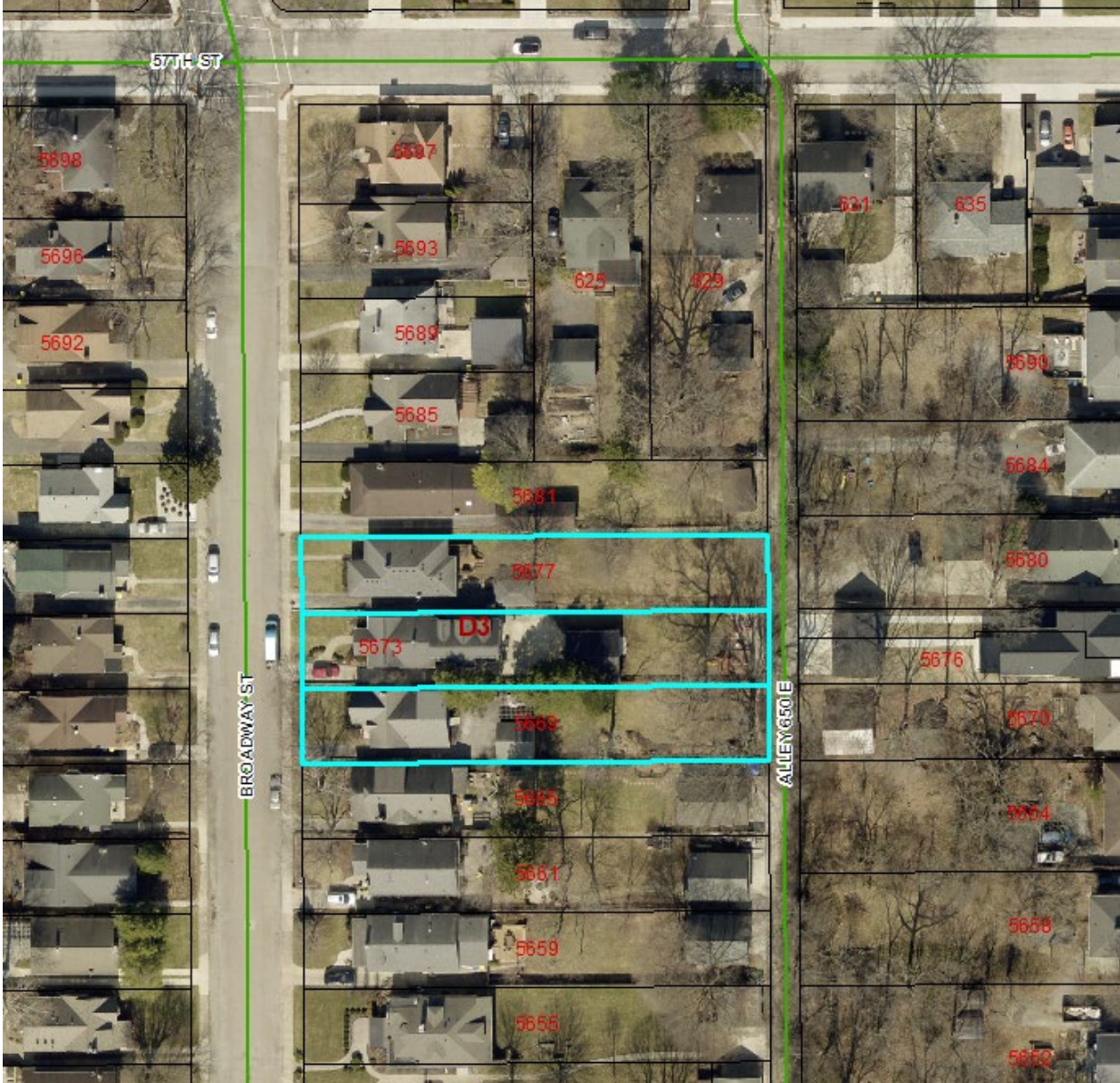
N/A

ZONING HISTORY – VICINITY

2022UV1044; 5702 N College Avenue (north of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an accounting firm (not permitted), **withdrawn**.

90-V2-129; 5681 N Broadway Street (north of site), variance of development standards of the Dwelling District Zoning Ordinance to permit the construction of an addition to the existing house with a 2 foot side yard setback (6 feet setback required) and detached garage with a 2.5 foot setback (6 feet setback required), and with an aggregate setback of 4.5 feet (16 feet aggregate setback required), **approved**.

EXHIBITS



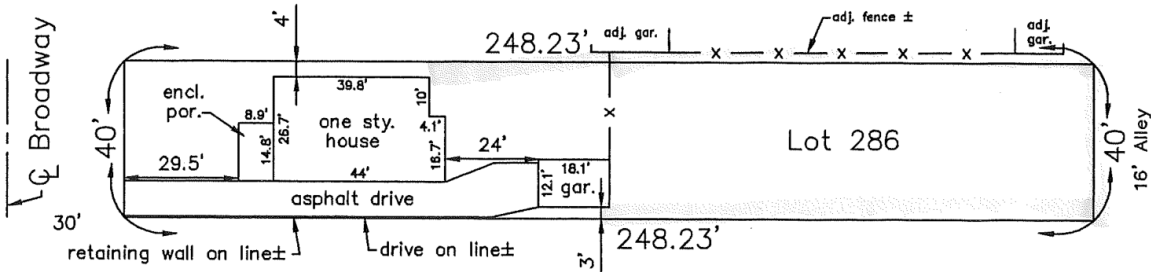
SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT.

Note: Fence extends to adj. garage, 3'± past lot line.



Scale: 1" = 40'



8 ft. fence



HAHN & ASSOCIATES, INC.
Engineers & Surveyors
2850 E. 96th St., Indianapolis, IN 46240
(317) 846-4119 FAX: (317) 582-0662



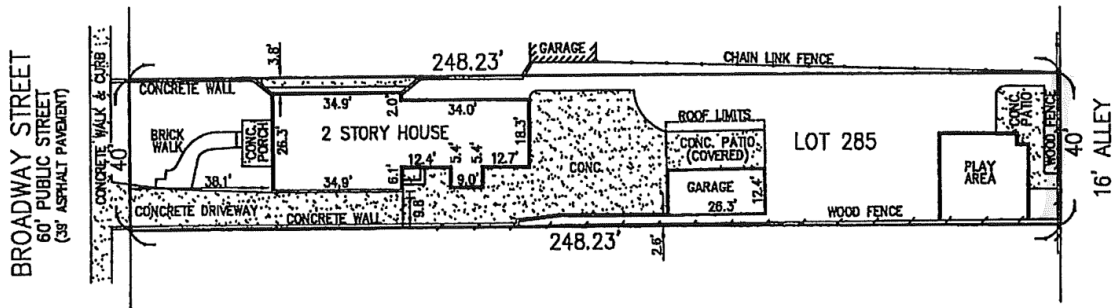
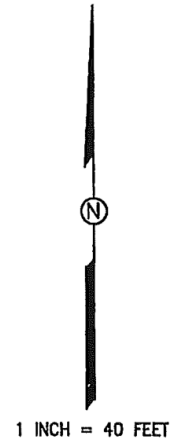
CERTIFIED: 04/30/2004

Chad D. Hahn

Chad D. Hahn
Registered Land Surveyor,
Indiana #20300031
Job No.: 2004041584
Sheet 2 of 2

SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that, to the best of my knowledge and belief, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-12 for a SURVEYOR LOCATION REPORT.



8 ft wood fence

P&H
ENGINEERING/SURVEYING LLC

5251 S. East St., Suite 1
INDIANAPOLIS, IN 46227
PHONE: 317-974-5555
dbholley@phengsur.com

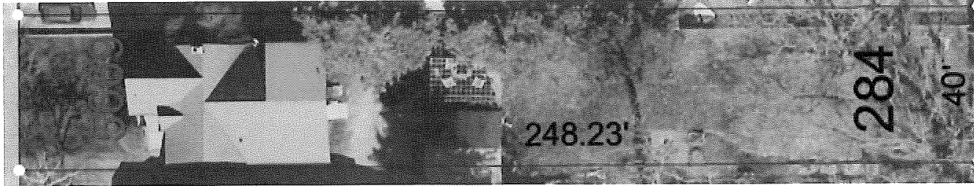


CERTIFIED: 5/24/2021

David B. Holley

David B. Holley
Professional Surveyor,
Indiana #890026
Job No.: 21041012
Sheet 2 of 2

5669 Site Plan



8 ft. wood privacy fence



Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The extra two feet of fence is made of wood and would not be injurious to any person, nor does it involve morals, nor impact general welfare.
Anyone living in and around the properties are not impacted.

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 extra two feet of fence follows the property lines, site plans and plats of the petitioners. It does not infringe on any other properties, site plans or plats or the alley used for transportation.
The adjacent areas are able to function as they are zoned to function.

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

The back lot lines of the properties face an alley that is used for transportation. On the other side of the alley are rental homes that face College Avenue, a major car and bus thoroughfare in the city of Indianapolis.
With rental homes, there are constantly changing residents of the properties, which can potentially be a safety concern. One home was being used as an air b and b, which provided noise and light pollution to the petitioners.
Being so close to College Avenue allows for a larger amount of noise and light pollution. In the evenings in the summer, College Avenue is used like a race track for motorcycles and other loud engine machines.
This noise is heard clearly from petitioners' homes.
The petitioners would be subject to light and noise pollution on a daily basis from the rental homes as well as College Avenue.
The safety of the petitioners would be at risk because the alley is used for transportation and there is easy access to College Avenue.

DECISION

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

Adopted this _____ day of _____, 20 ____







