



Metropolitan Development Commission Hearing Examiner (December 28, 2023) Meeting Agenda

Meeting Details

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

Date: Thursday, December 28, 2023 **Time:** 1:00 PM

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

Business:

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

- 1. 2023-ZON-114 | 2307 Post Drive**
Warren Township, Council District #19
Indy 70, LLC, by Bill Niemier

Rezoning of 1.714 acres from the C-4 district to the I-3 district to provide for truck parking.

****Automatic Continuance to January 25, 2024, filed by a registered neighborhood organization.**

- 2. 2023-CZN-858 / 2023-CVR-858 | 7338 Five Points Road**
Franklin Township, Council District #25
Narinder Sodhi, by Joseph D. Calderon

Rezoning of 5.45 acres from the D-A district to the D-2 district to provide for six single-family detached dwellings.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 30-foot setback from Shelbyville Road and a 25-foot setback from Five Points Road (40-foot setback from proposed right-of-way required along Shelbyville Road and 30-foot setback from Five Points Road required) and to provide for two lots with frontage on a private street (public street frontage required).

****Staff request for a continuance to January 25, 2024, with new Notice.**

- 3. 2023-CZN-865 / 2023-CPL-865 | 9665 Southeastern Avenue**
Franklin Township, Council District #25
D-A (D-S pending) and C-5
Star Group Investments, LLC, by Raymond Basile

Rezoning of 1.809 acres from the D-A to the D-S district to provide for a single-family dwelling lot.

Approval of a Subdivision Plat, to be known as Star-Southeastern Development, dividing 3.225 acres into two lots.

****Automatic Continuance to January 25, 2024, filed by a registered neighborhood organization.**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

4. 2023-ZON-113 | 6008 North Keystone Avenue
Washington Township, Council District #2
Rose Property Partners LLC, by Rebekah Phillips

Rezoning of 0.33 acre from the D-3 district to the C-1 district to provide for office uses.

5. 2023-CZN-863 / 2023-CAP-863 / 2023-CVR-863 (Amended) / 2023-CPL-863 | 1228, 1232, 1302 and 1306 East 10th Street
Center Township, Council District #17
Structure Midwest, LLC, by Russell L. Brown and Elizabeth Bentz Williams

Rezoning of 0.41 acres from the MU-1 and D-8 districts to the D-8 district.

Termination of Commitments related to 2019-CZN/CVR-821 to provide for a new two-family dwelling development (previous commitments required four-foot side setbacks for single-family detached dwellings).

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for front yard setbacks of nine feet (setback range of 10-19.9 feet required); side yard setbacks of 2.2 feet for a six-unit, two-family dwelling development (five-foot side yard required); minimum lot width of 48.34 feet (60 feet required); lot area of 5,558 square feet (minimum 7,200 square feet required); and 44% open space (60% open space required).

Approval of a Subdivision Plat to be known as Windsor on 10th, dividing 0.41 acres into three duplex lots (six units).

PETITIONS FOR PUBLIC HEARING (New Petitions):

6. 2023-ZON-111 | 9950 East 42nd Street
Lawrence Township, Council District #14
Jugaad, LLC, by David Retherford

Rezoning of 0.92 acre from the C-3 district to the C-4 district to provide for the renovation/replacement of a gas station and convenience store.

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

Item 1.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-ZON-114
Address: 2307 Post Drive (*Approximate Addresses*)
Location: Warren Township, Council District #19
Petitioner: Indy 70, LLC, by Bill Niemier
Request: Rezoning of 1.714 acres from the C-4 district to the I-3 district to provide for truck parking.

A registered neighborhood organization filed an automatic continuance that would **continue this petition from the December 28, 2023 hearing, to the January 25, 2024 hearing**. This would require acknowledgement from the Hearing Examiner.

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STAFF REPORT

Item 2.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-858 / 2023-CVR-858
Address: 7338 Five Points Road (Approximate Address)
Location: Franklin Township, Council District #25
Petitioner: Narinder Sodhi, by Joseph D. Calderon
Request: Rezoning of 5.45 acres from the D-A district to the D-2 district to provide for six single-family detached dwellings.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 30-foot setback from Shelbyville Road and a 25-foot setback from Five Points Road (40-foot setback from proposed right-of-way required along Shelbyville Road and 30-foot setback from Five Points Road required) and to provide for two lots with frontage on a private street (public street frontage required).

ADDENDUM FOR THE DECEMBER 28, 2023, HEARING EXAMINER

This petition was continued from the November 16, 2023 hearing, to the December 28, 2023 hearing at the request of the petitioner's representative. A revised site plan was submitted, which requires the petition to be amended and new notices to be mailed.

This petition will need to be **continued from the December 28, 2023 hearing to the January 25, 2023 hearing** with new notice. This will be the last continuance request that staff will support.

November 16, 2023

ADDENDUM FOR THE NOVEMBER 16, 2023, HEARING EXAMINER

This petition was continued **from the October 26, 2023 hearing, to the November 16, 2023 hearing** at the request of the petitioner's representative. No additional information has been provided to the case file.

October 26, 2023

RECOMMENDATIONS

Staff **recommends denial** of the variance of development standards request.

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

(Continued)

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

A 40-foot half right-of-way along Five Points Road and a 45-foot half right-of-way along Shelbyville Road, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

LAND USE

- ◇ The 5.45 -acre subject site is currently developed with a single-family dwelling and accessory structures along the southern portion of the site and the northern portion is undeveloped. The site is surrounded by single-family dwellings.
- ◇ In 2021, the site received a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two lots measuring 114,686 square feet and 95,669 square feet with one lot having 215 feet of lot width, with minimum side setbacks of 25 feet, aggregate side setbacks of 40 feet and rear setbacks of 40 feet and 80% open space. The site was subsequently granted a subdivision plat approval for two lots.

REZONING

- ◇ The grant of the request would rezone the property from the D-A district to the D-2 district to allow for six single-family detached dwellings.
- ◇ The D-A district holds the agricultural lands of Marion County and provides for a variety of agricultural uses. It is intended to provide for animal and poultry husbandry, farming, cultivation of crops, dairying, pasturage, floriculture, horticulture, viticulture, apiaries, aquaculture, hydroponics, together with necessary, accompanying accessory uses, buildings, or structures for housing, packing, treating, or storing said products; or lands devoted to a soil conservation or forestry management program. A single-family dwelling is intended to be permitted as a part of such agricultural uses. A secondary provision of this district is large estate development of single-family dwellings. This district fulfills the very low-density residential classification of the Comprehensive General Land Use Plan.
- ◇ The D-2 district is intended for use in suburban areas. Ample yards, trees and passive open spaces easily serving each individual lot are envisioned for this district. The D-2 district has a typical density of 1.9 units per gross acre. Two- family dwellings are permitted on corner lots in this district. This district fulfills the lowest density recommendation of the Comprehensive General Land Use Plan. Public water and sewer facilities must be present. Development plans, which may include the use of clustering, should incorporate, and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site conditions, including vegetation, topography, drainage, and wildlife.

(Continued)

- ◇ The Comprehensive Plan recommends rural or estate development. The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. This typology typically has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for the development of six lots with deficient front setbacks and two lots without street frontage on a public street. Instead, frontage on a private street would be proposed.
- ◇ Per Table 744-201-1: Dimensional Standards for Districts D-A through D-5II, the proposed D-2 district requires a 40-foot front setback from the proposed right-of-way of Shelbyville Road where a 30-foot setback would be proposed and a 30-foot front setback from Five Points Road would be required and a 25-foot setback would be proposed.
- ◇ The public street frontage requirement is in place to provide direct access from a public road to a dwelling in case of an emergency, thus making it easier and quicker for emergency services to find the address in question.

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, typically requests the dedication and conveyance of the proposed right-of-way consistent with the Marion County Thoroughfare Plan. The dedication would include a 40-foot half right-of-way along Five Points Road and a 45-foot half right-of-way along Shelbyville Road.
- ◇ The Department of Public Works (DPW) stated that there are plans to build a roundabout at this intersection to enhance traffic flow and reduce accidents at this location.
- ◇ Per the requested variance of development standards for reduced setbacks, it is understood that the petitioner would not have this right-of-way dedication proposed.

Staff Analysis

- ◇ Staff determined that the strict application of the terms of the Zoning Ordinance would not result in practical difficulties in the use of the property because the site could continue to be used for one single-family dwelling. Furthermore, the site could be developed as previously approved with variance petition 2021-DV1-028 and plat petition 2022-PLT-043, which subdivided the property into two lots with associated development standard variances.

- ◇ Staff has concerns with the proximity of the driveway to the Five Points Road and Shelbyville Road intersection which generates a high volume of vehicular traffic. The additional traffic from the proposed dwellings could be injurious to the public safety of the community since cars would have to make a quick left turn to avoid oncoming traffic from either direction during peak commute hours. Staff would recommend the driveway be located at the furthest southern point along Five Points Road.
- ◇ Staff would not support the variance for private street frontage for two of the proposed lots. It is often difficult for private infrastructure to be maintained by the surrounding property owners, which is why staff would recommend the street be built to the standards of the Department of Public Works and having it be dedicated as a public street.
- ◇ Furthermore, if the site were platted as proposed, the corner lot (Lot #1) would not be allowed to have triple street frontages and sidewalks would need to be installed along Five Points Road and Shelbyville Road. This would include the installation of a pedestrian bridge to cross over the drainage ditch located on the northern section of the site.
- ◇ Due to the desire to not meet the required front setback standards, thus preventing the right-of-way dedication as typically requested by DPW, staff is not supportive of the reduced front setback variances.
- ◇ If the necessary right-of-way were dedicated ensuring future infrastructure improvements would be possible and if the required D-2 setbacks were proposed, then staff could discuss the possibility to potentially support the number of lots that would meet the D-2 development standards.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-A	Metro	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-A	Residential (Single-family dwelling)
South	D-3	Residential (Single-family dwellings)
East	D-P / D-A	Residential (Single-family dwellings)
West	D-A	Residential (Single-family dwelling)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends rural or estate neighborhood development.

THOROUGHFARE PLAN

Five Points Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 40-foot existing right-of-way and an 80-foot proposed right-of-way.

(Continued)

THOROUGHFARE PLAN	Shelbyville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 60-foot existing right-of-way and a 90-foot proposed right-of-way.
FLOODWAY / FLOODWAY FRINGE	This site is not located within a floodway or floodway fringe.
WELLFIELD PROTECTION DISTRICT	This site is not located within a wellfield protection district.
SITE PLAN	File-dated September 21, 2023.
FINDINGS OF FACT	File-dated September 21, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

2021-DV1-028 (Amended); 7338 Five Points Road (subject site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two lots measuring 114,686 square feet and 95,669 square feet with one lot having 215 feet of lot width, with minimum side setbacks of 25 feet, aggregate side setbacks of 40 feet and rear setbacks of 40 feet and 80% open space (three acre lots, 125-foot frontage on public street, 250-foot lot width, 30-foot side setback, 75-foot aggregate side setback, 75-foot rear setback and 85% open space required), **granted**.

2022-PLT-043; 7338 Five Points Road (subject site), Approval of a Subdivision Plat, to be known as Clover Subdivision, dividing 5.187 acres into two lots, **granted**.

ZONING HISTORY – VICINITY

2018-MOD-015; 7120-7338 Wooden Grange Drive (east of site), Modification of the Development Statement of 2016-ZON-068 to permit a 12-foot aggregate setback in the Villas section (13 feet required) and to replace approved Exhibit “D” under Miscellaneous, Character Exhibits with the Elevation Exhibits filed with this petition, **approved**.

2017-PLT-033; 7008 Shelbyville Road (east of site), Approval of a Subdivision Plat, to be known as Birchwood Park, Section One, dividing 32.3 acres, into 49 lots, **approved**.

2016-ZON-068; 7008 Shelbyville Road (east of site), Rezoning of 64.25 acres from the D-A district to the D-P classification to provide for a variety of single-family and two-family dwellings, **approved**.

2004-PLT-011; 6519 Wolverine Way (west of site), Approval of a Subdivision Plat to be known as A REPLAT OF WESTBROOK SUBDIVISION, SECTION TWO, dividing 28.39 acres into 65 lots, **approved**.

99-CP-32P; 7201 Combs Road (west of site), Approval of a Cluster Subdivision Plat to be known as Westbrook Subdivision, dividing 50.646 acres into 115 lots, **approved**.

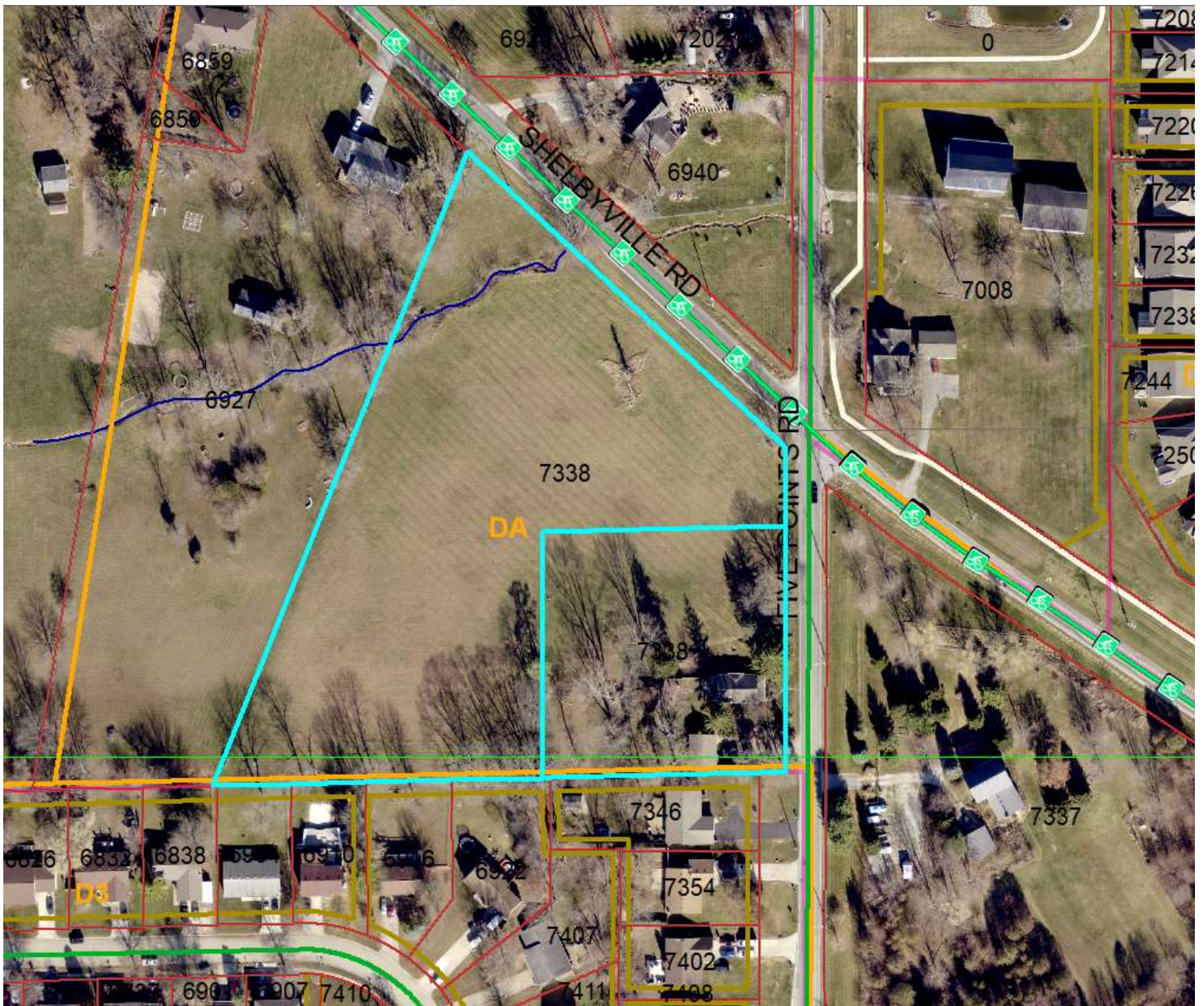
97-V3-99; 6835 Shelbyville Road (northwest of site), Variance of development standards of the Sign Regulations to provide for the placement of an illuminated five by 10-foot pole sign being 14 feet in height, located 50 feet from a dwelling district, **granted**.

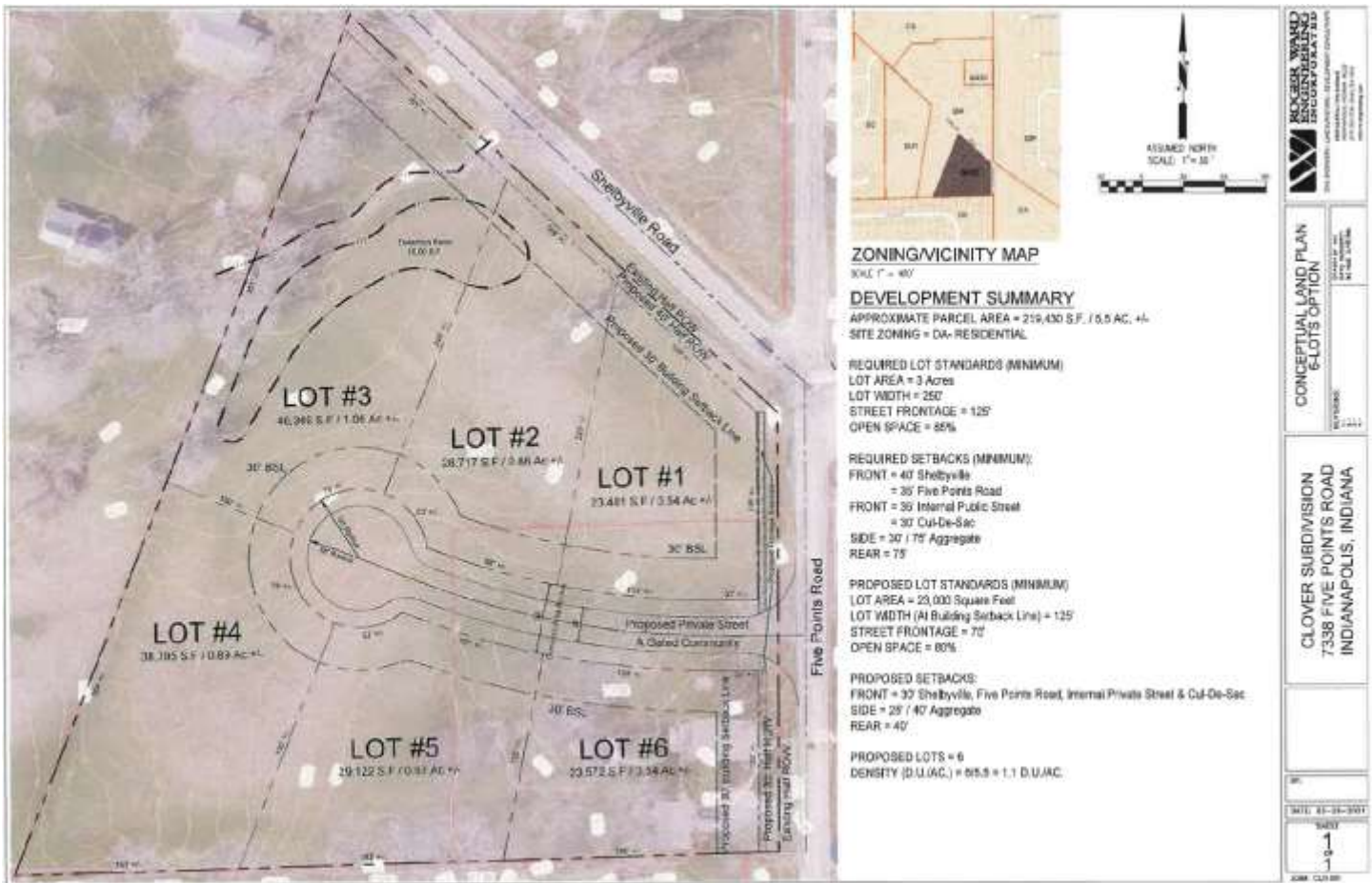
76-P-06; 6814 Troon Way (southwest of site), Approval of a preliminary plan of a subdivision plat to be known as MUIR FIELD SUBDIVISION, SECTION I, dividing 43.00 acres into 127 lots, being in the D-3 district, **approved**.

76-P-26; 7346 Five Points Road (south of site), **Approval of a preliminary plan of a subdivision plat to be known as MUIR FIELD SUBDIVISION (Section 4)**, dividing 38.73 acres into 121 lots, being in the D-3 district, **approved**.

72-Z-269; 6835 Shelbyville Road (northwest of site), Rezoning of 10.04 acres from A-2 to SU-1, **approved**.

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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 development will be extremely low density and the rear of the homes will face Shelbyville Road with a high likelihood that setback requirements will be met along Shelbyville Road. None of the improvements encroaching into the required front setback will interfere with visibility from the adjoining public streets.

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 variances sought will still result in a very low density development and will not impact access of visibility to or from any adjacent 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 ordinance applies front yard standards to "double front yards", leading to excessive setbacks for what otherwise is a secondary front, which would otherwise be a side or rear yard.

DECISION

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

Adopted this _____ day of _____, 20 ____



Photo of the existing single-family dwelling and detached garage on site.



Photo of the eastern street frontage along Five Points Road looking north.



Photo of the eastern street frontage along Five Points Road looking south.



Photo of the subject site at the intersection.



Photo of the subject site northern street frontage along Shelbyville Road looking west.



Photo of the subject site northern street frontage along Shelbyville Road looking east.



Photo of the Shelbyville Road and Five Points Road intersection.



Photo of the single-family dwelling west of the site.

STAFF REPORT

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

Case Number: 2023-CZN-865 / 2023-CPL-865
Address: 9665 Southeastern Avenue (approximate address)
Location: Franklin Township, Council District #25
Zoning: D-A (D-S pending) and C-5
Petitioner: Star Group Investments, LLC, by Raymond Basile
Requests: Rezoning of 1.809 acres from the D-A to the D-S district to provide for a single-family dwelling lot.
Approval of a Subdivision Plat, to be known as Star-Southeastern Development, dividing 3.225 acres into two lots.

A timely automatic continuance has been submitted by a registered neighborhood organization continuing this matter from the December 28, 2023 hearing to the January 25, 2024 hearing. This would require the Hearing Examiner’s acknowledgement.

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STAFF REPORT

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

Case Number: 2023-ZON-113
Address: 6008 North Keystone Avenue (*Approximate Address*)
Location: Washington Township, Council District #2
Petitioner: Rose Property Partners LLC, by Rebekah Phillips
Request: Rezoning of 0.33 acre from the D-3 district to the C-1 district to provide for office uses.

RECOMMENDATIONS

Staff **recommends approval** of the rezoning.

SUMMARY OF ISSUES

LAND USE

- ◇ The 0.33-acre site is developed with a dwelling and garage that has been converted to an office use through a prior zoning variance.
- ◇ This site is in the block southwest of the Glendale Mall in the Broad Ripple Neighborhood.

REZONING

- ◇ The request would rezone the property from the D-3 district to the C-1 district to provide for office uses.
- ◇ The subject site has been used for offices since it was granted a use variance in 1987. Rezoning to the C-1 district would align the zoning to the existing use, and allow for site development without additional variances, as long as any new development complies with C-1 standards.
- ◇ The comprehensive plan recommendation for this site is office commercial uses. The C-1 district is the office buffer district, which is appropriate for transitions between residential and commercial districts. Therefore, staff is supportive of the rezoning to C-1.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-3	Compact	Commercial
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SURROUNDING ZONING AND LAND USE

North	D-3	Commercial
South	C-1	Commercial
East	SU-2	School
West	D-3	Residential (Single-Family)

(Continued)

2023-ZON-113 STAFF REPORT (Continued)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Office Commercial uses
THOROUGHFARE PLAN	Keystone Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 110-foot existing and proposed right-of-way.
LEGAL DESCRIPTION	File-dated November 28, 2023
ORDINANCE	File-dated November 28, 2023

ZONING HISTORY – SITE

2023-UV2-013, variance to permit a seven-foot-tall, 32-square foot monument sign, **withdrawn**.

2022-CVR-851, variance to provide for two 64-foot-wide lots, **approved**.

2022-CPL-851, approval of a plat to be known as Replat of a Part of Lot 25 and Lot 26 in Kesslerwood, dividing 0.56-acre into two lots.

2022-PLT-050, Approval of a Subdivision Plat to be known as Replat of a Part of Lot 25 and of Lot 26 in Kesslerwood, dividing 0.56-acre into two lots, **withdrawn**.

2009-SE1-002, Special exception to provide for religious uses with a ground sign in the D-3 district, **approved**.

87-UV2-46, variance to provide for office uses with parking and signs, **approved**.

87-Z-16, 5930 – 6048 North Keystone Avenue, rezoning of 3.7 acres from the D-3 and C-1 district to the C-3 district, **denied**.

ZONING HISTORY – VICINITY

2018-ZON-011, 6038 North Keystone Avenue, rezoning of 0.24 acre from the D-3 and C-1 districts to the C-1 district, **approved**.

2011-UV1-026, 5944 North Keystone Avenue, variance to provide for a salon and beauty spa, with massage and with accessory retail sales of beauty and hair care products, **approved**.

2010-ZON-070, 2424 Kessler Boulevard East Drive, rezoning of 9.62 acres from the D-3 district to the SU-2 district, **approved**.

2010-ZON-037, 5944 North Keystone Avenue, rezoning of 0.29 acre from the D-3 district to the C-1 district, **approved**.

2006-ZON-094, 5950 North Keystone Avenue, rezoning of 0.2858 acre, from the D-3 District, to the C-1 district, **approved**.

(Continued)

2023-ZON-113 STAFF REPORT (Continued)

2004-DV3-027, 5950 North Keystone Avenue, variance to legally establish the storage of a commercial box truck, **approved**.

2003-UV1-024, 6028 North Keystone Avenue, variance to legally establish a real estate and insurance office, a parking lot with a zero-foot south side yard setback and a 9.7-foot north side yard setback, and a three-foot by twelve-foot ground sign, **approved**.

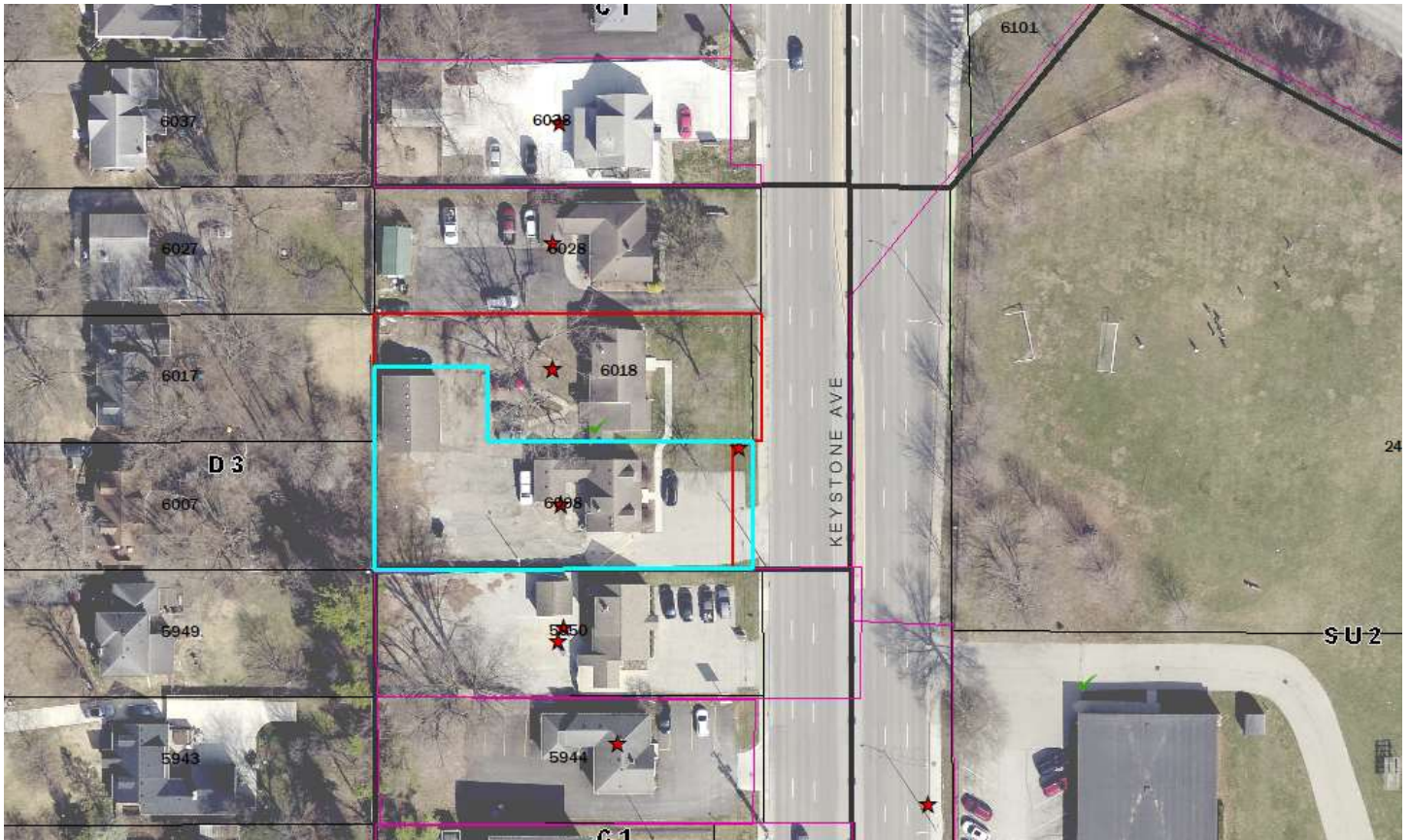
88-V2-118, 5950 North Keystone Avenue, variance to provide for four-foot-tall shingle sign for a home occupation, **approved**.

88-UV1-153, 6038 North Keystone Avenue, variance to provide for an existing building to be used for a security office and travel agency office and one pole sign, **approved**.

84-Z-74, 6048 North Keystone Avenue, rezoning of 0.26 acre from the D-3 district to the C-1 district, **approved**.

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2023-ZON-113; Location Map





Subject site viewed from Keystone Avenue, looking west.



Looking north on Keystone Avenue, site shown left.

STAFF REPORT

Item 5.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-863 / 2023-CAP-863 / 2023-CVR-863 (Amended) / 2023-CPL-863
Address: 1228, 1232, 1302 and 1306 East 10th Street (Approximate Addresses)
Location: Center Township, Council District #17
Petitioner: Structure Midwest, LLC, by Russell L. Brown and Elizabeth Bentz Williams
Requests: Rezoning of 0.41 acres from the MU-1 and D-8 districts to the D-8 district.
Termination of Commitments related to 2019-CZN/CVR-821 to provide for a new two-family dwelling development (previous commitments required four-foot side setbacks for single-family detached dwellings).

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for front yard setbacks of nine feet (setback range of 10-19.9 feet required); side yard setbacks of 2.2 feet for a six-unit, two-family dwelling development (five-foot side yard required); minimum lot width of 48.34 feet (60 feet required); lot area of 5,558 square feet (minimum 7,200 square feet required); and 44% open space (60% open space required).

Approval of a Subdivision Plat to be known as Windsor on 10th, dividing 0.41 acres into three duplex lots (six units).

The Hearing Examiner continued these petitions from the December 14, 2023 hearing, to the December 28, 2023 hearing, to amend the petition and provide new notice.

RECOMMENDATIONS

Staff **recommends approval** of the rezoning, termination of the 2019 commitments and variances of development standards.

Staff recommends that the Hearing Examiner **approve** and find that the plat, file-dated November 14, 2023, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
2. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
4. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
5. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
6. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.

(Continued)

7. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
9. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
10. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 0.41-acre site, zoned MU-1 and D-8 is vacant land and surrounded by vacant land and single-family dwellings to the north, zoned MU-1 and D-8, respectively; vacant commercial uses and single-family dwellings to the south across East 10th Street, zoned MU-1 and D-8, respectively; single-family dwellings to the east and west, zoned MU-1.
- ◇ Petitions 2021-CZN 821 / 2021-CVR-821 rezoned the three eastern parcels from the MU-1 District to the D-8 classification with a variance of development standards to provide for three single-family dwellings and detached garages with reduced setbacks and open space. The western parcel, addressed at 1228 East 10th Street was not included in the petition.

REZONING

- ◇ This request would rezone the site from the MU-1 District to the D-8 classification. “The D-8 district is intended for a variety of housing formats, with a mix of small-scale multi-unit building types. This district can be used as a part of new mixed- use areas, or for infill situations in established urban areas, including medium and high-density residential recommendations of the Comprehensive Plan, and the Traditional Neighborhood, City Neighborhood, and Village or Urban Mixed-Use Typologies of the Land Use Pattern Book.”
- ◇ The Comprehensive Plan recommends traditional neighborhood. “The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.”

(Continued)

- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods, and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Conditions for All Land Use Types

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

Conditions for All Housing

- A mix of housing types is encouraged.
- Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user.
- Primary structures should be no more than one and a half times the height of other adjacent primary structures.
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.
- Developments with densities higher than 15 dwelling units per acre should have design character compatible with adjacent properties. Density intensification should be incremental with higher density housing types located closer to frequent transit lines, greenways, or parks.

Attached Housing

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

Infill Housing Guidelines

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

(Continued)

◇ These guidelines apply to infill development in residential areas within the Compact Context Area and include the following features:

Site Configuration

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

Aesthetic Considerations

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

Additional Topics

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

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

MODIFICATION

- ◇ This request would terminate commitments related to 2019-CZN-821 / 2019-CVR-821 that provided for single-family dwellings with reduced setbacks.
- ◇ Because the proposed request would be consistent with the Comprehensive Plan recommendation of traditional neighborhood, staff believes support of the request would be appropriate. Furthermore, the density of 14.6 would be within the recommended density range for this typology.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for provide for front yard setbacks of nine feet when the Ordinance requires a setback range of 10-19.9 feet required.
- ◇ Staff believes that 1.0-foot reduction would be a minor deviation that would be supportable given the permitted range in front setbacks and the existing setbacks along this residential corridor.
- ◇ The amended site plan provides for side yard setbacks of four feet. The Ordinance requires a five-foot side yard setback.

(Continued)

- ◇ The reduced side yard setbacks would be compatible with the character and development of the area in a historic sense as well as current and ongoing renewal efforts in this area. Staff, therefore, supports this variance.
- ◇ The request would also provide for a minimum lot width of 48.34 feet and lot area of 5,558 square feet. The Ordinance requires a 60-foot width and a minimum 7,200 square-foot lot area.
- ◇ The proposed reduction in the lot width and lot area would not negatively impact the surrounding residential development because many of the lots in the area were platted in the late 1800's and are deficient based upon the current development standards. Consequently, this request would be supportable and compatible with the neighborhood.
- ◇ Finally, the request would allow for a reduction of open space from the required 60% to 44% open space. When lot width and lot area are reduced, open space reduction typically follows to meet the needs of current residential development environment. Additionally, the reduction of open space would not negatively impact the surrounding land uses.

PLAT (Windsor on 10th)

- ◇ As proposed, the plat would reconfigure the existing four parcels into six lots ranging from 24.17 to 53.5 feet in lot width to provide for three duplexes. Variances for lot width and lot area have been requested.
- ◇ The plat would not provide for any new streets. The proposed structures would front on East 10th Street, with vehicular access to the lots from the first east-west alley north of East 10th Street (Alley 1050 North).

Planning Analysis

- ◇ This neighborhood is primarily comprised of duplexes and single-family dwellings, but these uses are not permitted in the MU-1 District. Research indicates the MU-1 (formerly C-2) District existed prior to 1977, despite the site being platted in 1885 for residential development. Staff would note that a number of rezonings from the MU-1 District to the D-8 classification have been approved in recent years.
- ◇ The request would be consistent with Comprehensive Plan recommendation of traditional neighborhood. Furthermore, staff would note that historical maps indicate that the site was initially developed with a single-family dwelling and duplexes that were subsequently demolished through the years until 2019, at which time the site was cleared of all structures. Redevelopment of the site with three duplexes would be compatible with the neighborhood.
- ◇ For these reasons, staff is recommending approval of the rezoning request.
- ◇ As development on this site occurs, recommendations of the Infill Housing Guidelines should be considered to assure the proposed dwellings will be architecturally compatible and harmonious with the surrounding land uses and neighborhood character to mitigate negative impacts on surrounding residential development.

(Continued)

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-8 / MU-1 Vacant land

SURROUNDING ZONING AND LAND USE

North -	D-8	Single-family dwelling
South -	D-8	Single-family dwelling
East -	D-8	Single-family dwelling
West -	D-8	Vacant land

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

THOROUGHFARE PLAN This portion of East 10th Street is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing and proposed 66-foot right-of-way.

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

OVERLAY This site is located within the unregulated 500-year floodplain.

SITE PLAN File-dated November 11, 2023

SITE PLAN (AMENDED) File-dated December 4, 2023

PLAT File-dated November 11, 2023

PLAT (AMENDED) File-dated December 4, 2023

FINDINGS OF FACT File-dated November 11, 2023

ZONING HISTORY

2019-CZN-821 / 2019-CVR-821; 1232, 1302 and 1306 East 10th Street, requested rezoning of 0.27 acre from the MU-1 district to the D-8 district a variances of development standards to provide for three single-family dwellings and detached garages with five-foot front setbacks, three-foot side setbacks, four and six feet between dwellings and 45% open space, **approved and granted.**

VICINITY

2019-CZN-801 / 2019-CVR-801; 1436, 1440 and 1442 East 10th Street (east of site), requested rezoning of 0.27 acre from the MU-1 district to the D-8 district to provide for the construction of three single-family dwellings, with detached garages and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 3.5-foot separation between the western proposed dwelling and the dwelling to the west, **approved and granted.**

(Continued)

2019-ZON-006; 1227 East 10th Street (south of site), requested rezoning of 0.149 acre from the MU-1 district to the D-8 classification, **approved**.

2017-CZN-801 / 2017-CVR-801; 1313, 1325 and 1409 East 11th Street (east of site), requested rezoning of 0.23 acre from the MU-1 district to the D-8 classification and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for six-foot separation between primary dwellings and a 0.5-foot setback for an exterior stairway attached to the detached garage, **approved and granted**.

2016-ZON-011; 1329 and 1401 East 11th Street (east of site), requested rezoning of 0.42 acre, from the C-2 (FF) District, to the D-8 (FF) classification, **approved**.

2016-ZON-004; 1322, 1326, 1330, 1402 and 1406 East 10th Street (south of site), requested rezoning of 0.42 acre, from the C-2 (FF) District, to the D-8 (FF) classification, **approved**.

2011-CAP-833 / 2011-CVR-933; 1500 East Michigan Street (south of site), requested a modification of the development statement related to 2010-ZON-099 to modify the requirement that all signs be compliant with the Sign Regulations and a variance of development standard of the Sign Regulations to provide for a four-foot tall freestanding sign with reduced setbacks and an eleven-foot tall freestanding sign exceeding the required height and with reduced separation from a protected district, **approved**.

2011-UV2-002; 1414 East 10th Street (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for a single-family detached dwelling, with reduced setbacks, **granted**.

2010-ZON-099; 1401 East 10th Street (south of site), requested rezoning of 3.433 acres from the SU-2 classification to the C-S classification to provide for fire department headquarters, SU-9 uses, SU-7 uses, educational uses, C-1 uses, and commercial service and retail, **approved**.

2004-HOV-016; 1434 East 10th Street (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish a single-family dwelling, with reduced setbacks, **granted**.

2002-HOV-036; 1402 East 10th Street (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish a single-family and detached garage and provide for an addition to the dwelling, **granted**.

2002-UV2-019; 1323 East 10th Street (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish a single-family dwelling and provide for the construction of a detached garage with reduced setbacks, **granted**.

92-Z-138 / 92 / 92-CV-18; 1125 Brookside Avenue (north of site), requested rezoning of 16.7 acres from the I-4-U, PK-1, C-2, and D-8 Districts to the C-S classification to provide for a multi-use commercial facility (including manufacturing, receiving, storage, distribution and office uses) and a variance of development standards to permit the use of the existing buildings without the required yards and parking, **approved / granted**.

(Continued)

99-NC-4; 1414 East 10th Street (east of site), requested a certificate of legal non-conforming use to permit a single-family dwelling in a C-2 District, **granted**.

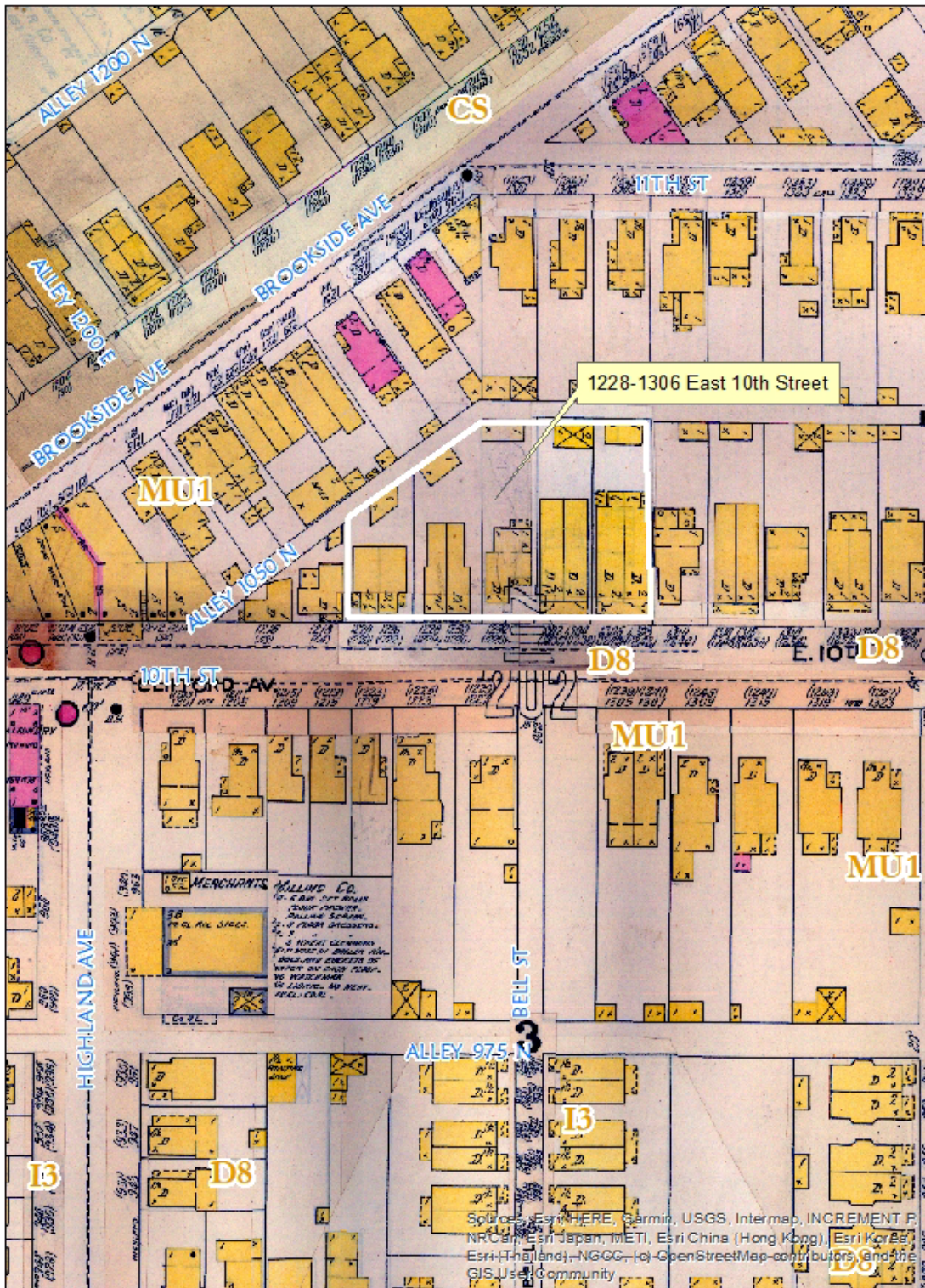
91-UV1-84; 1333 East 10th Street (south of site), requested a variance of use of the Commercial Zoning Ordinance to permits an addition to an existing single-family dwelling, **granted**.

kb

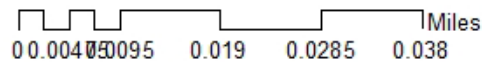


1228-1306 East 10th Street





1228-1306 East 10th Street



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 setbacks and will not affect any traveled way or adjacent properties or cause any harm to the public health, safety, morals and general welfare. This is an urban setting and the design is compacible with surrounding recent development.

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 adjacent property will not be negatively impacted, because the proposed development meets the average front setbacks of other structures on the block. The garages are alley access which also conforms with the neighborhood. The proposed reinvestment will be a positive economic investment to the area.

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

The petitioner is endeavoring to redevelop the site in accordance with the Comprehensive Plan. In order to promote new duplexes development, some relaxation of standards relating to lot improvements are required. The petitioner is trying to introduce a positive reinvestment into the area, commiserate with area development, while providing a safe, attractive addition for housing.

DECISION

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

Adopted this _____ day of _____, 20 ____



View looking west along East 10th Street



View looking east along East 10th Street



View of site looking north across East 10th Street



View of site looking northwest across East 10th Street



View of site looking northeast across East 10th Street



View of site looking south from east / west alley along the northern boundary



View of site looking south from east / west alley along the northern boundary



View of site looking southwest from east / west alley along the northern boundary



View looking west at adjacent residential development to the south across East 10th Street

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-111
Address: 9950 East 42nd Street (Approximate Address)
Location: Lawrence Township, Council District #14
Petitioner: Jugaad, LLC, by David Retherford
Request: Rezoning of 0.92 acre from the C-3 district to the C-4 district to provide for the renovation/replacement of a gas station and convenience store.

RECOMMENDATIONS

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

1. A 40-foot half right-of-way shall be dedicated along the frontage of 42nd Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
2. Two of the existing driveways shall be permanently closed by adding a sidewalk connecting to the existing sidewalk segments as well as a grass strip abutting the new sidewalk segment closest to the street. The new sidewalk connection and grass strip shall be installed within one (1) year of the adoption of 2023-ZON-111.

SUMMARY OF ISSUES

LAND USE

- ◇ The 0.92-acre subject site is developed with an automobile fueling station and convenience store that was constructed between 1966 and 1972 per historical aerial images. At the time, the use was permitted in the C-3 district but was later removed from the list of permitted uses in 2016 with the adoption of Indianapolis-Marion County Consolidated Zoning and Subdivision Ordinance.
- ◇ The site is bordered to the north and west by an undeveloped lot, zoned C-3, to the east by a single-family dwelling, zoned C-3, and to the south by a vacant laundromat, zoned C-3.

REZONING

- ◇ The request would rezone the property from the C-3 district to the C-4 district to allow for the construction of a canopy associated with the automobile fueling station and would include the construction of a new convenience store.

- ◇ The site is zoned C-3, which is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.
- ◇ The C-4 District is designed 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, as specified.
- ◇ The Comprehensive Plan recommends community commercial development for the southern portion of the site. The Community Commercial typology provides for low intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.
- ◇ The site has historically been used as an automobile fueling station since at least 1972 according to historic aerial images.

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 40-foot half right-of-way along 42nd Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.
- ◇ DPW has also requested that two of the driveways be eliminated and replaced with a sidewalk and grass strip to be closest to the street to increase walkability. This could allow for additional parking if needed.
- ◇ The petitioner provided five different truck routes, to which DPW determined the elimination of Entrances B and C, as shown on the Truck Route Site Plan in the report, would be most appropriate. The two drives to remain would be Entrances A and D to prevent fewer accidents when leaving the site by being furthest from the intersection.

(Continued)

Staff Analysis

- ◇ The rezoning request would allow for the continued operation of an automobile fueling station on a correctly zoned C-4 district since it was constructed and operated in the C-3 district when it was permitted prior to the 2016 adopted Zoning Ordinance changes.
- ◇ Because the C-4 district would not negatively affect the surrounding existing properties and would align with the community commercial recommendation of the Comprehensive Plan, staff is supportive of the request subject to two commitments for the right-of-way dedication and driveway removal and replacement with sidewalks and grass.
- ◇ Staff notified the applicant that the canopy would need to meet the ten-foot front setback requirement of the Ordinance so they should keep that in mind with finalizing their plans. Otherwise, they would need to seek a variance of development standards.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-3	Metro	Commercial (Fuel station)
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SURROUNDING ZONING AND LAND USE

North	C-3	Undeveloped
South	C-3	Commercial (Vacant Laundromat)
East	C-3	Residential (Single-family dwelling)
West	C-3	Undeveloped

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development.

THOROUGHFARE PLAN

42nd Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 67-foot existing right-of-way and an 80-foot proposed right-of-way.

THOROUGHFARE PLAN

Mitthoefer Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 70-foot existing right-of-way and an 80-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

SITE PLAN

File-dated November 15, 2023.

TRUCK ROUTE SITE PLAN

File-dated December 18, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

87-UV1-12; 9950 East 42nd Street (subject site), Variance of use of the Commercial Zoning Ordinance to provide for the use of an existing building for an automobile muffler shop, **withdrawn**.

ZONING HISTORY – VICINITY

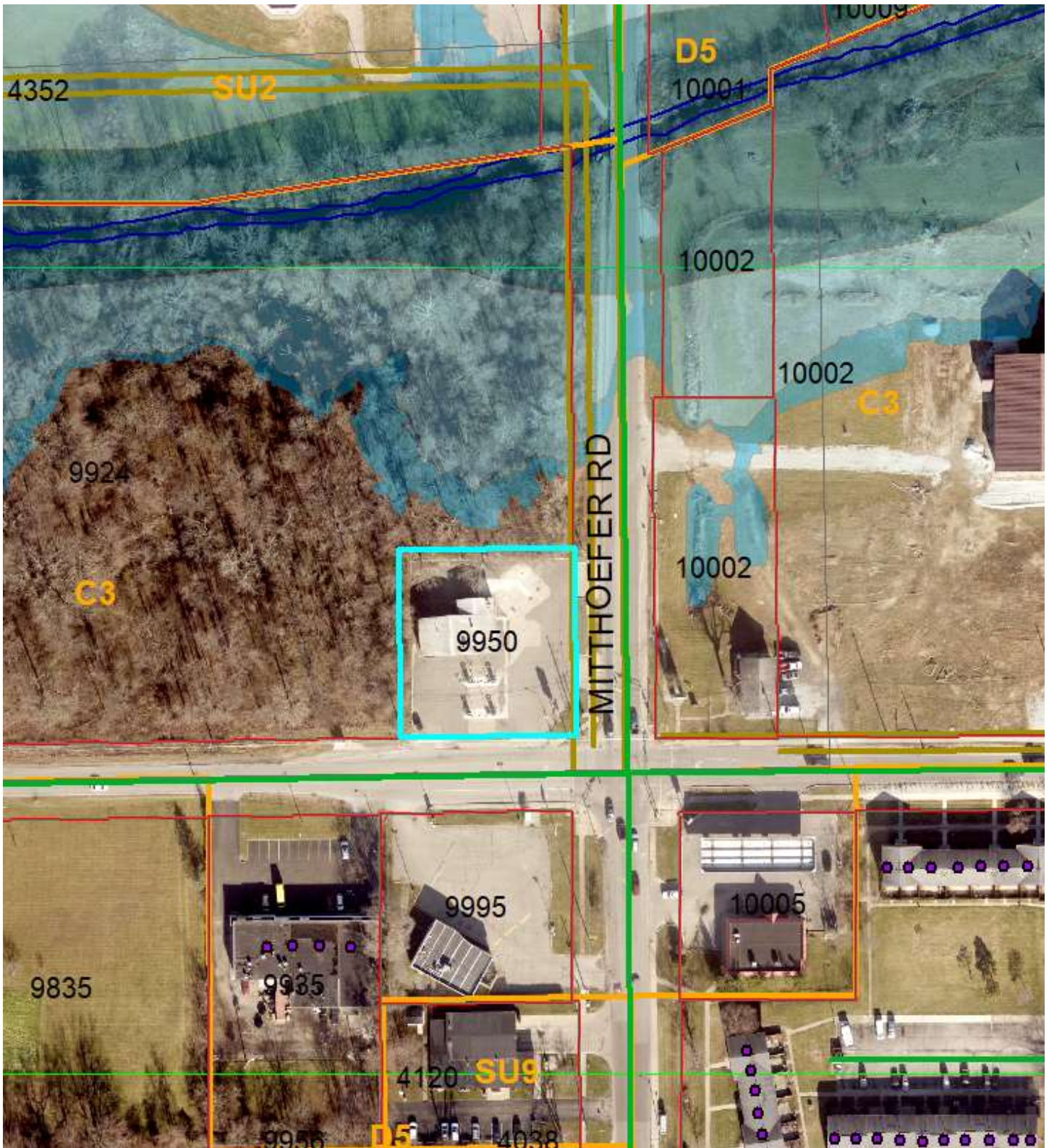
2018-ZON-078; 10002 East 42nd Street (east of site), Rezoning of 6.10 acres from the SU-1 district to the C-3 classification, **approved**.

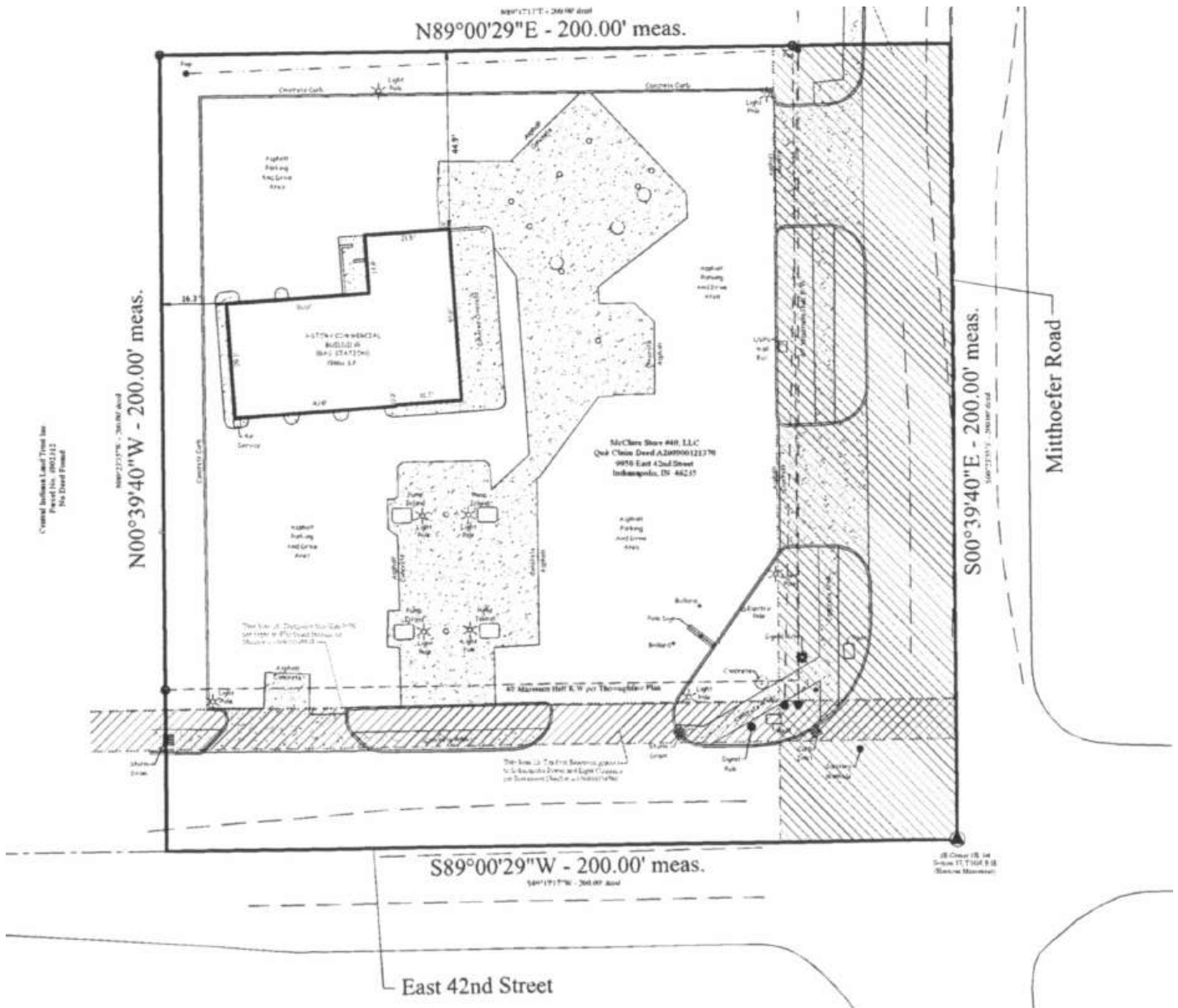
2008-ZON-850; 4352 North Mitthoefer Road (north of site), Rezoning of 10.11 acres, from the SU-1 District, to the SU-2 classification to provide for educational uses, **approved**.

2002-ZON-104; 10023 East 42nd Street (southeast of site), Rezoning of 0.71 acres, being in the D-7 District, to the C-3 classification to provide for a gas station and convenience store, **approved**.

98-Z-102; 4352 North Mitthoefer Road (north of site), Rezoning of 10.11 acres from SU2 to SU-1 to provide for a church, and associated day care and school, **approved**.

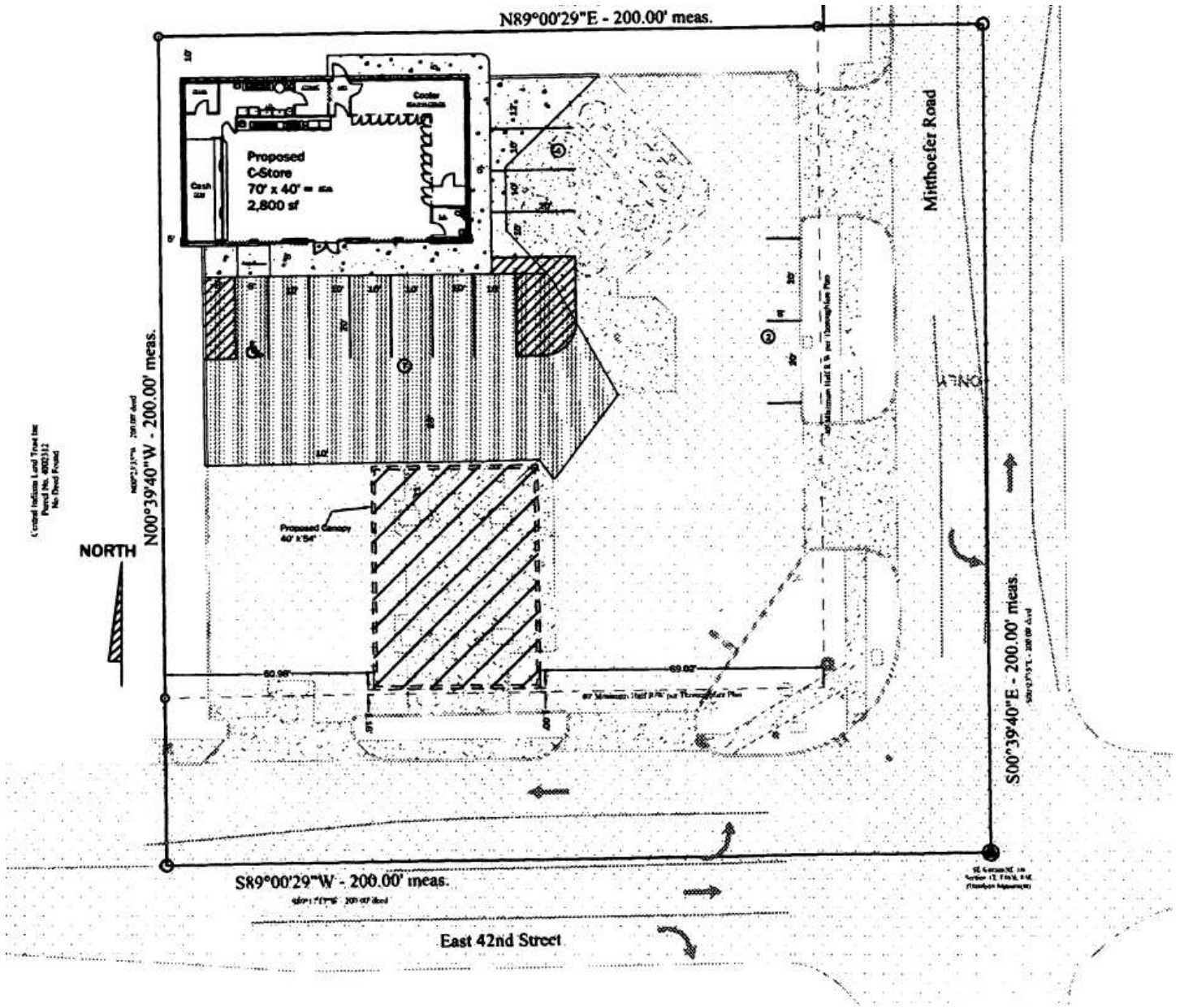
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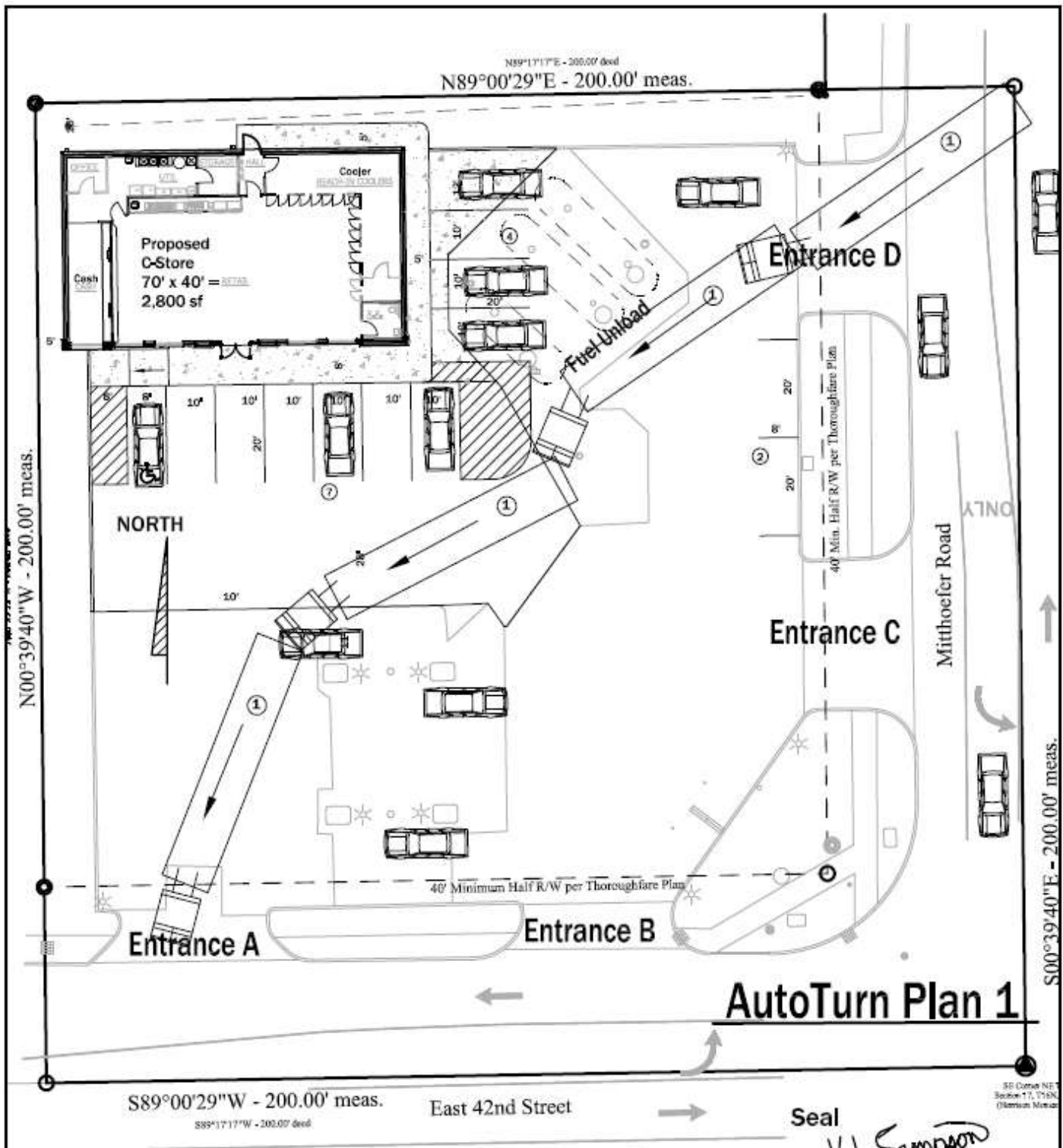




Created Indiana Land Trust Inc
 Project No. 090212
 The David Perini

JE Check 1/8/24
 Scale 1/4" = 100'-0"
 (Review Maximum)





Site Plan

No Scale

Slng C-Store
 9950 E. 42nd Street
 Indlanapolls, IN

Engineer Associates, Inc.

645 Main Street, Suite 201
 Tell City, Indiana 47586
 Phone 812-547-1100
 e-mail KLSimpsonPE@comcast.net

Kenneth Leo Simpson, P.E.
 Date of drawing 12-18-23





Photo of the Subject Property: **9950 East 42nd Street**



Photo of the two entrances on 42nd Street.



Photo of the two entrances on Mitthoeffer Road.



Photo of the proposed location of the new convenience store closer to the northern property boundary



Photo of the two drives to be removed per DPW's request.



Photo of the fuel station southeast of the site.



Photo of the vacant commercial building south of the site.



Photo of the adjacent bus station west of the site and undeveloped parcel north of it.