



Metropolitan Development Commission Hearing Examiner (January 11, 2024) Meeting Agenda

Meeting Details

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

Date: Thursday, January 11, 2024

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-086 | 6185, 6421, 6423 and 6441 East 34th Street

Warren Township, Council District #13
Ben Singh Bashal, by David Gilman

Rezoning of 4.3 acres from the D-3 and C-S districts to the I-3 district to provide for truck/trailer parking and repair.

****Petitioner request for continuance to February 29, 2024 to amend Petition**

2. 2023-ZON-102 | 117 (119) North Sherman Drive

Center Township, Council District #12
Verma Properties, Inc., by Sharmin Frye

Rezoning of 0.11 acre from the D-5 (TOD) district to the C-3 (TOD) district.

****Petitioner request for a continuance for cause to January 25, 2024**

3. 2023-ZON-109 | 5136 Michigan Road

Washington Township, Council District #8
Paramount Schools of Excellence, Inc., by Timothy Ochs

Rezoning of 10.13 acres from the SU-1 district to the SU-2 district to provide for educational uses.

****Remonstrator request for a continuance for cause to February 15, 2024**

4. 2023-ZON-115 | 5850 Fortune Circle West

Wayne Township, Council District #22 (#17 Beginning 2024)
GriffGen Investments, LLC, by Brian Jones

Rezoning of 3.997 acres from the C-S district to the C-S district to add licensed group home to the list of permitted uses for the site.

****Petitioner withdrawal of Petition**

5. 2023-ZON-119 | 7725 Kentucky Avenue

Decatur Township, Council District #20 (#21 Beginning 2024)
Lennar Homes of Indiana, LLC, by Brian J. Tuohy

Rezoning of 60.22 acres from the C-4 and C-S districts to the D-4 district to provide for single-family residential development.

****Staff request for a continuance for cause to January 25, 2024**

6. 2023-CZN-828 / 2023-CVR-828 (Amended) | 3416, 3420 and 3520 South Post Road

Franklin Township, Council District #18
Quicktrip Corporation, by J. Murray Clark

Rezoning of 12.269 acres from the C-S and C-7 districts to the C-7 district to provide for a truck stop.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for no street trees along the northern portion of the Post Road frontage (street trees required), no planting beds/shrubs along the entire Post Road frontage (landscaping required), three parking lot trees (17 required), to provide for a 50-foot tall, 391-square-foot pole sign (maximum 20-foot tall, 300 square foot pole sign permitted), to provide for a 23-foot tall, 109-square-foot freestanding incidental sign (maximum eight-foot tall, 32 square feet permitted) and to provide for a truck stop located within 425 feet of a protected district (500-foot separation required).

****Petitioner request for a continuance for cause to February 29, 2024**

7. 2023-CZN-864 / 2023-CVR-864 | 6100 North Keystone Avenue

Washington Township, Council District #2 (#7 Beginning in 2024)
TWG Development, LLC, by Joseph D. Calderon

Rezoning of 2.49 acres from the C-4 district to the MU-2 district to provide for a multi-family building.

Variance of development standards for the Consolidated Zoning and Subdivision Ordinance to provide for a 70-foot tall, five-story multi-family building with a 3.75-foot front yard, a 22-foot front building setback, a ten-foot south transitional yard (maximum 35-foot height permitted, five foot front yard required, maximum 20-foot front setback permitted and fifteen-foot transitional yard required).

****Petitioner withdrawal of Petition and request for partial refund of fees**

8. 2023-CAP-866 / 2023-CVR-866 | 3502 North Shadeland Avenue

Warren Township, Council District #13 (#9 Beginning 2024)
C-S
3500 Shadeland, LLC, by Russell L. Brown

Modification of Site Plan, Plan of Operation and Commitments related to 2021-ZON-010 / 2021-VAR-002, 2007-ZON-841 / 2007-VAR-841 and 2014-MOD-008 to provide for a revised site plan for a home repair/improvement contractor consisting of two phases with Phase I to include an approximately 16,500 square foot building with approximately 20 Parking Spaces and Phase II to include a second building of approximately 22,000 additional square feet of space, approximately 37 parking spaces as well as a gravel fleet parking and outdoor storage area located on the north portion of the property with three sided structures, and a modification of Commitment #3 to allow for compliance with the site plan submitted with this petition in two development phases.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 15,000-square foot building with a five-foot north side setback (minimum 10-foot setback required).

****Automatic Continuance to February 15, 2024, filed by a registered neighborhood organization**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

9. 2023-ZON-120 | 9501 36th Place

Warren Township, Council District #14 (#15 Beginning 2024)
Indianapolis Public Schools, by Russell McClure

Rezoning of 9.12 acres from the D-4 district to the SU-7 district to provide for a non-profit center providing education, mentoring and meals.

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

10. 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Amended) | 3838 East 46th Street

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

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

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

Approval of a Subdivision Plat, to be known as Devon Creek, dividing 4.22-acres into ten single-family detached lots and one common area, including the vacation of an irregular portion of right-of-way at the northwest corner of the intersection of East 46th Street and Millersville Road containing 2,307.8 square feet, with a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.

PETITIONS FOR PUBLIC HEARING (New Petitions):

11. 2023-MOD-021 | 10 South Mickley Avenue

Wayne Township, Council District #15 (#16 Beginning 2024)
C-4
Zach Wilkinson

Modification of Commitments related to 90-Z-48 to terminate Commitment #2.C, which restricts the permitted uses of the subject site to C-1 uses, to provide for a gas station.

12. 2023-ZON-116 | 2002 North Tibbs Avenue

Wayne Township, Council District #11
Hugo Rubin de Celis

Rezoning of 0.35 acres from the D-5 district to the C-3 district to provide for food sales from food trucks.

13. 2023-ZON-118 | 5181 North High School Road

Pike Township, Council District #10 (#5 Beginning 2024)
Abdulateef O. Aregbe

Rezoning of 1.98 acres from the D-A (FW) (FF) and D-6 districts to the D-6 (FW) (FF) district to provide for a residential triplex.

14. 2023-CZN-867 / 2023-CVR-867 (Amended) | 2233 Dr Martin Luther King Jr Street

Center Township, Council District #11 (#12 Beginning 2024)
Days Property Group, LLC, by Sarah Walters

Rezoning of 0.17 acres from the C-1 (W-1) district to the D-8 (W-1) district to legally establish and provide for the expansion of an existing two-family dwelling with a new detached garage.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish and provide for the expansion of a 3.5-foot north side yard setback for the dwelling and allow for a 3.5-foot north side yard setback for a detached garage (five feet required).

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. F

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-086
Address: 6185, 6421, 6423 and 6441 East 34th Street (*approximate addresses*)
Location: Warren Township, Council District #13
Petitioner: Ben Singh Bashal
Request: Rezoning of 4.3 acres from the D-3 and C-S districts to the I-3 district to provide for truck/trailer parking and repair.

ADDENDUM FOR JANUARY 11, 2024, HEARING EXAMINER

An amended petition has not been submitted for review. Consequently, this petition will need to be **continued from the January 11, 2024 hearing, to the February 29, 2024 hearing.**

ADDENDUM FOR DECEMBER 14, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the October 26, 2023 hearing, to the December 14, 2023 hearing, at the request of the petitioner's representative.

This petition will need to be **continued from the December 14, 2023 hearing, to the January 11, 2024 hearing,** to provide time to amend the petition and provide required notice.

ADDENDUM FOR OCTOBER 26, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the September 28, 2023 hearing, to the October 26, 2023 hearing, at the request of the neighborhood organization.

September 28, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request. If approved, staff would request that approval be subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.
2. A 24-foot half right-of-way shall be dedicated along the frontage of East 34th Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
3. Access drives, internal drives and parking areas shall be paved and striped prior to the operation of the proposed use.

(Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 4.30-acre site, zoned D-3 and C-S is developed with a single-family dwelling and accessory buildings. It is surrounded by a single-family dwelling to the north across East 34th Street, zoned D-3; a single-family dwelling to the south, zoned D-A; single-family dwellings to the east, zoned D-3; and industrial uses to the west zoned I-3 and C-S.

REZONING

- ◇ This request would rezone the site from the D-3 and C-S Districts to the I-3 (Medium Industrial) classification. “The I-3 district is an intermediate district for industries that present moderate risks to the general public. Wherever practical, this district should be away from protected districts and buffered by intervening lighter industrial districts. Where this district abuts protected districts, setbacks are large, and enclosure of activities and storage is required.”
- ◇ The Comprehensive Plan recommends heavy commercial typology for the northern portion of the site and light industrial typology for the southern portion of the site.
- ◇ The following elements of the Pattern Book apply to this site:
 - ◇ “The Heavy Commercial 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. Examples include vehicle sales and commercial lumber yards.”
 - ◇ “The Light Industrial typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic.”
- ◇ 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.

Conditions for All Land Use Types

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

(Continued)

Light Industrial Uses (These industrial uses create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials)

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

Heavy Commercial Uses (Heavy commercial uses generally include outdoor operations, storage, and/or display.)

- Removed as a recommended land use where they would be adjacent to a living typology.

Overlays

- ◇ The eastern portion of this site is also located within an overlay, specifically the Industrial Reserve Overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Industrial Reserve (IR) overlay is intended for areas that are prime for industrial development due to factors such as large parcel size, proximity to compatible uses, and/or interstate access.

Environmental Public Nuisances

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

(Continued)

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

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

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 24-foot half right-of-way along East 34th Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Planning Analysis

- ◇ The request would generally be consistent with the Comprehensive Plan recommendation of heavy commercial and light industrial uses, but The Pattern Book expressly states that both uses should not be located adjacent to living typologies, not use local streets and feed onto arterial streets.
- ◇ Residential uses are located directly north of this site, East 34th Street is classified as a local street and this site does not feed onto an arterial street. Additionally, the pavement width of East 34th Street in this area is 20 feet, which would not be able to appropriately accommodate large trucks and trailers.
- ◇ The site plan, file dated August 22, 2023, provides for stone surface of the access drives and all parking areas. The Ordinance requires paved surfaces consisting of bricks, concrete or compacted aggregate base and surface with an asphaltic pavement. This would be particularly important given the proposed use involving heavy equipment and vehicles.
- ◇ As development on this site occurs, recommendations of the Pattern Book should be considered, as well as compliance with the Ordinance to mitigate negative impacts on surrounding residential development. In other words, development standards variances should be minimal and based on practical difficulty in the use of the property, rather than desires of the developer.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-3 / C-S	Single-family dwelling / accessory buildings
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SURROUNDING ZONING AND LAND USE

North -	D-3	Single-family dwelling
South -	D-A	Single-family dwelling
East -	D-3	Single-family dwelling
West -	I-3 / C-S	Industrial uses

(Continued)

COMPREHENSIVE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends heavy commercial and light industrial typologies. Marion County Land Use Pattern Book (2019).
THOROUGHFARE PLAN	This portion of East 34 th Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 40-foot right-of-way and a proposed 48-foot right-of-way.
CONTEXT AREA	This site is located within the compact context area.
OVERLAY	The eastern portion of the site is located within the Industrial Reserve Overlay.
SITE PLAN	File-dated August 22, 2023

ZONING HISTORY

2023-ZON-085; 6531 East 34th Street (east of site), requested rezoning of one acre from the D-3 district to the I-2 district to provide for light industrial uses, **pending**.

99-Z-77; 6147-6423 East 34th Street (west of site), requested rezoning of 6.51 acres from the D-3 District to the C-S classification to provide for a construction business, **approved**.

99-V1-34; 6423 East 34th Street (west of site), requested a variance of use to provide for a construction business with outdoor storage and parking of six commercial vehicles, three equipment trailers, and a backhoe, **withdrawn**.

97-Z-206; 6105 East 34th Street (west of site), requested rezoning of five acres from the D-3 District, to the C-S classification to provide for an excavating and sewer construction business, **approved**.

95-Z-87 / 95-CV-17; 6361 East 34th Street (east of site), requested rezoning of 35.748 acres, being in the D-A District, to the C-S classification to provide for heavy construction equipment sales, rental and service and other I-2-@ industrial uses and a variance of development standards of the Commercial Zoning Ordinance to provide for development of a heavy construction equipment sales, rental and service and other I-2-S industrial use operations, with access to be gained by way of an easement to Elizabeth Street, **approved and granted**.

94-UV3-2; 6423 East 34th Street (west of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of an existing construction business with outside storage of materials and the construction of a 50- by 30-foot garage resulting in the square footage devoted to the accessory buildings exceeding the square footage of the primary building, **granted**.

(Continued)

93-Z-94; 6141 East 34th Street, (west of site), requested rezoning of 5.14 acres, being in the D-A District to the C-S classification to provide for a combination self-storage facility and existing contractor office / utility building, **approved**.

91-UV3-16; 6607 East 34th Street (east of site), required a variance of use and development standards of the Dwelling Districts Zoning Ordinance to permit the continued operation of a plumbing business within an existing garage with outdoor storage, **granted**.

89-Z-140; 6669 East 34th Street (east of site), requested rezoning of 34 acres, being in the A-2 District, to the I-2-S classification to provide for light industrial uses, **withdrawn**.

88-UV1-90; 6141 East 34th Street (west of site), requested a variance of use to permit construction of a utility building for the storage of equipment and vehicles related to a concrete construction business, **granted**.

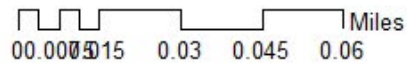
86-Z-340; 6601 East 34th Street (east of site), requested rezoning of office acres, being in the I-3 U District, to the C-ID classification to provide for outside storage of fences and an office and warehouse, **approved**.

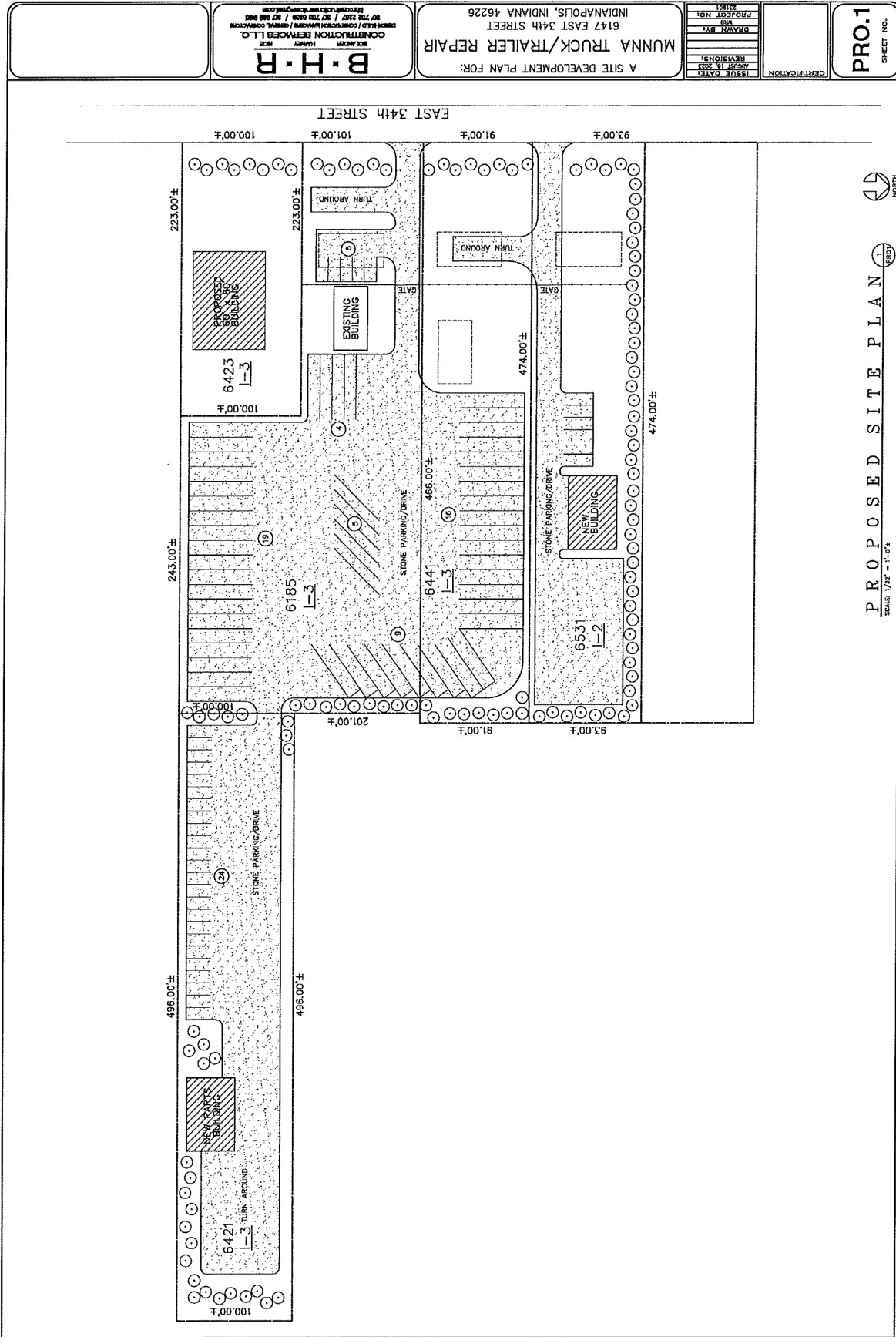
79-Z-150; 6105 East 34th Street (west of site), requested rezoning of five acres, being in the D-3 District to the C-7 classification to provide for an office building with a shop for heavy and light equipment rental, **denied**.

kb



6185, 6421, 6423 and 6441 East 34th Street







View looking east along East 34th Street



View looking east along East 34th Street



View looking west along East 34th Street



View from site looking east at adjacent single-family dwellings



View of site looking northeast



View looking east



View looking east



View of site looking east



View of site looking south



View from site looking west at adjacent uses

STAFF REPORT

Item 2.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-102
Address: 117 (119) North Sherman Drive (Approximate Addresses)
Location: Center Township, Council District #12
Petitioner: Verma Properties, Inc., by Sharmin Frye
Request: Rezoning of 0.11 acre from the D-5 (TOD) district to the C-3 (TOD) district.

ADDENDUM FOR JANUARY 11, 2024 HEARING EXAMINER

This petition was continued from the December 14, 2023 hearing to the January 11, 2024 hearing at the request of the petitioner to allow more time to provide additional information to staff for review. A revised site plan was submitted on January 2, 2024 which did not allow sufficient time for staff to review.

The petitioner intends to request a final **continuance to the January 25, 2024 hearing**. Staff has no objection to this final continuance request but will not support any additional continuances.

December 14, 2023

This petition was continued from the November 16, 2023 hearing to the December 14, 2023 hearing at the request of the petitioner to allow additional time for the mailing of the notice requirement to be fulfilled.

RECOMMENDATIONS

Staff **recommends denial** of this request.

If 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 44-foot half right-of-way shall be dedicated along the frontage of Sherman Drive, 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 0.11 acres subject site is an undeveloped residential lot. It abuts a gas station and convenience store to the north, zoned C-3, a vacant four-unit building to the west, zoned D-5, a single-family dwelling to the south, zoned D-5, and an undeveloped residential lot to the east, zoned D-5.

(Continued)

REZONING

- ◇ The request would rezone the parcel from the D-5 district to the C-3 district to allow for the expansion of the convenience store located north at 3801 New York Street and for the required transitional yard to be provided.
- ◇ The site is zoned D-5, which is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The C-3 District 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.
- ◇ The Comprehensive Plan recommends traditional neighborhood development for the site. The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- ◇ The site is located within the Blue Line TOD Strategic Plan and falls within the Transit Oriented Development Secondary Zoning District. It falls within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove the proposed convenience store use and excludes automotive uses such as gas stations.
- ◇ The closest station to the site is located within a ¼ mile south at the intersection of Sherman Drive and Washington Street. This station is categorized as a Community Center, which calls for a dense mixed-use neighborhood center, minimum of two stories at core, no front or side setbacks at core: zero to 10 feet front setbacks and zero to ten-foot side setbacks at periphery, multi-family housing with a minimum of 3 units and structured parking at the core and attractive surface parking at the periphery.

(Continued)

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 44-foot half right-of-way along Sherman Drive. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Staff Analysis

- ◇ The rezoning of the site to a commercial district would not be appropriate at this location since it zoned residentially, aligns with the traditional neighborhood recommendation of the Comprehensive Plan, and could be developed with a residential use as intended to ensure the availability of housing options.
- ◇ If approved, this would be a commercial encroachment into the residential area which could negatively impact the residents in the immediate area.
- ◇ Staff understands that the site plan submitted only shows that the required transitional yard would be located at this site, but it would not prevent any future building or parking expansions onto the site since it would be zoned for the use.
- ◇ For these reasons, staff is recommending denial of the request.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-5	Compact	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	C-3	Gas station and convenience store
South	D-5	Residential (Single-family dwelling)
East	D-5	Undeveloped Residential Lot
West	D-5	Vacant Residential Building

COMPREHENSIVE PLAN

The Comprehensive Plan recommends traditional neighborhood development.

OVERLAY

This site is in a Transit-Oriented Development (TOD) overlay, specifically the Bus Rapid Transit Blue Line.

THOROUGHFARE PLAN

Sherman Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 62-foot existing right-of-way and an 88-foot proposed right-of-way.

CERTIFIED PLAN

The site falls within a Certified Plan, specifically the Near Eastside Quality of Life Plan.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.
(Continued)

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

SITE PLAN File-dated October 11, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2012-ZON-077; 305 North Sherman Drive (north of site), Rezoning of 0.25 acre, from the D-5 and C-3 District, to the C-3C classification to provide for residential and commercial development, **approved.**

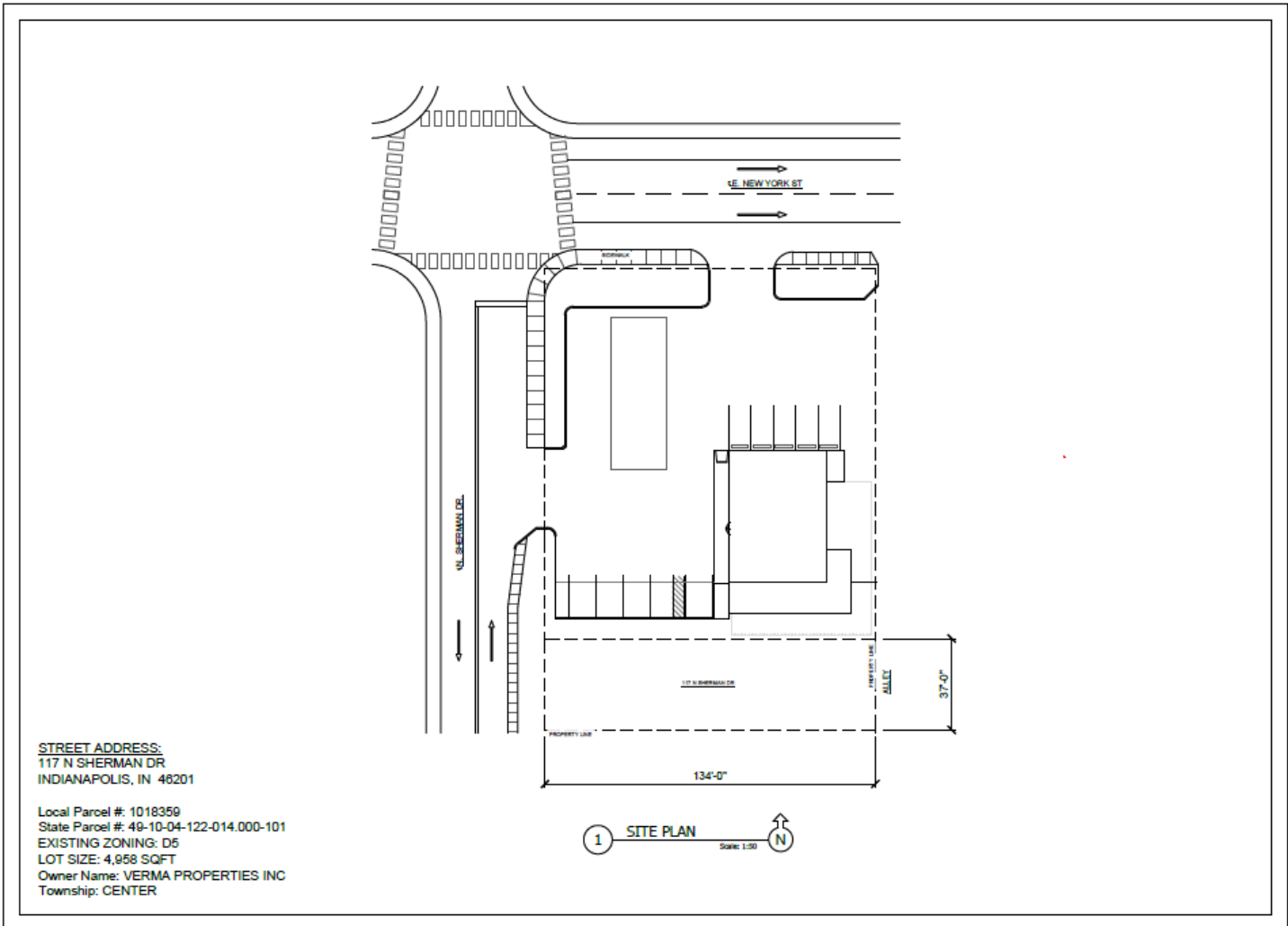
95-AP1-6; 3740 East New York Street (northwest of site), Modification of conditions and site plan, related to 94-UV1-2, to permit 49 display vehicles on-site with 9 additional spaces for parking (33 display vehicles permitted pr the 94-UV1-2 petition) for an existing automobile sales business, **denied.**

87-Z-169; 3757 East New York Street (northwest of site), Rezoning of 0.71 acre, being in the D-5 district, to the C-3 classification, to provide for retail use of an existing commercial building, **approved.**

85-Z-146; 3801 East New York Street (north of site), Rezoning 0.45 acre, from the D-5 district, to the C-3 classification, **approved.**

MI





STREET ADDRESS:
117 N SHERMAN DR
INDIANAPOLIS, IN 46201

Local Parcel #: 1018359
State Parcel #: 48-10-04-122-014.000-101
EXISTING ZONING: D5
LOT SIZE: 4,958 SQFT
Owner Name: VERMA PROPERTIES INC
Township: CENTER

1 SITE PLAN Scale: 1:50 N

2023-ZON-102; Proposed Site Plan

Item 2.

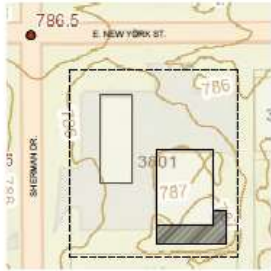
STREET ADDRESS
 3801 E NEW YORK ST
 INDIANAPOLIS, IN 46201

Local Parcel #: 8002238
 State Parcel #: 49-10-04-122-018-000-101

PRIMARY ZONING: C2
 COMPACT CONTEXT AREA: COMPACT

LOT SIZE: 19,988 SQFT

PROPOSED COVERAGE: 2,662 SQFT (13.3%)
 PROPOSED TOTAL OPEN SPACE: 17,326 SQFT (86.7%)



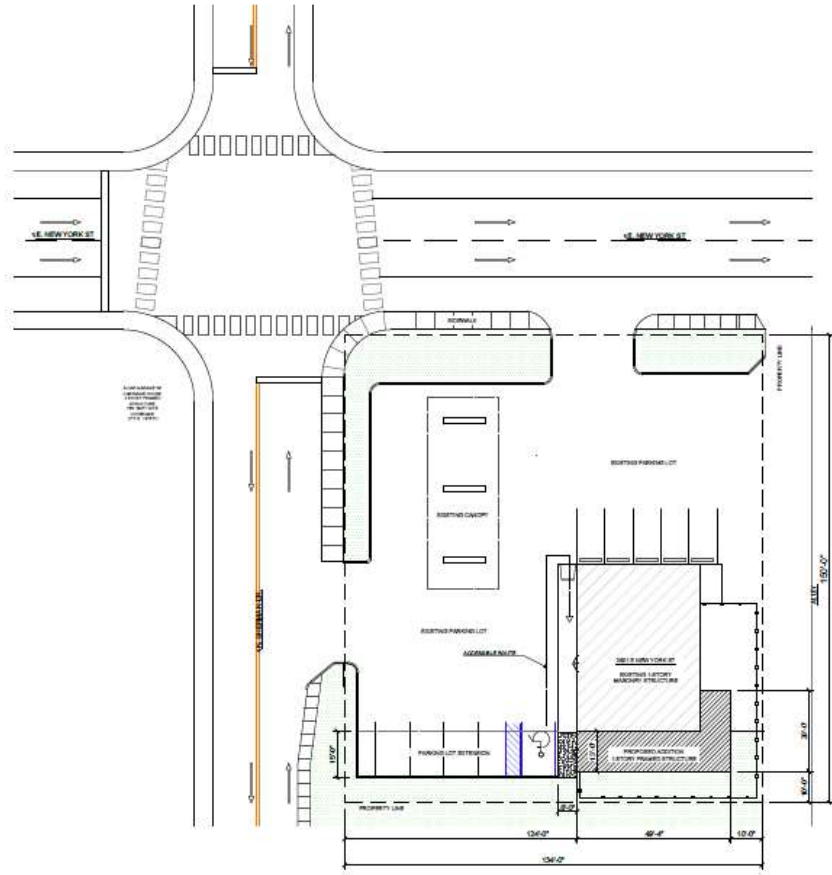
2 DRAINAGE MAP
 SCALE: 1:50

PRELIMINARY NOTES:

- INSURANCE COVERAGE MUST BE IN PLACE PRIOR TO CONSTRUCTION AND REMAIN THROUGHOUT CONSTRUCTION AND FINISH WORK
- CONCRETE AND PAINT INGREDIENTS MUST BE PLACED ON SITE AND REMAIN THROUGHOUT CONSTRUCTION
- STORM DRAIN LOCATED WITHIN 5 FEET OF SITE TO BE PROTECTED WITH BRICKWORK BARRIERS
- SITE DRAINS AWAY FROM THE EXISTING BUILDING AT A SLOPE OF - 1.0%



AERIAL VIEW



1 SITE PLAN
 SCALE: 1:50



VERMA PROPERTIES
 GAS STATION ADDITION - RETAIL SHOP
 3801 E. NEW YORK ST.
 INDIANAPOLIS, IN 46201

DATE	
BY	
FOR	
PROJECT	

PROJECT ADDRESS 3801 E NEW YORK ST INDIANAPOLIS, IN 46201	
DATE	03/19/19
SCALE	C1.1
DATE	

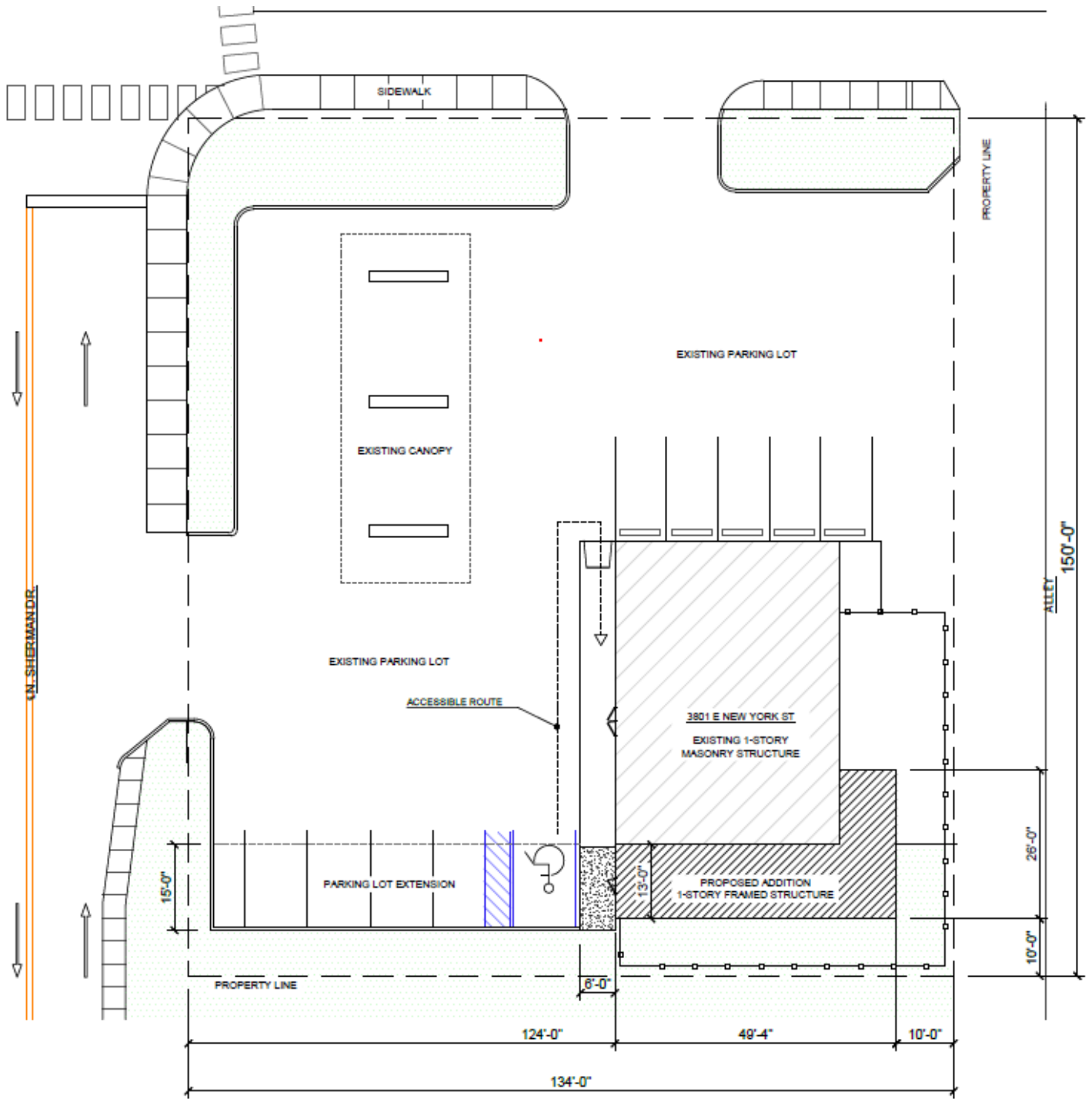




Photo of the Subject Property: 117 (119) North Sherman Drive



Photo of the gas station and convenience store to be expanded.



Photo of the existing convenience store north of the site.



Photo of the existing southern building façade.



Photo of the existing east building façade looking north.



Photo of the existing east building façade looking south.



Photo of the alley east of the site looking south.



Photo of the a single-family dwelling across the alley.



Photo of the undeveloped residential lot east of the site.



Photo of the vacant building north of the gas station.



Photo of the commercial building west of the gas station.



Photo of the vacant residential building west of the subject site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-109
Address: 5136 Michigan Road (*Approximate Address*)
Location: Washington Township, Council District #8
Petitioner: Paramount Schools of Excellence, Inc., by Timothy Ochs
Request: Rezoning of 10.13 acres from the SU-1 district to the SU-2 district to provide for educational uses.

This petition was automatically continued from the December 14, 2023 hearing, to the January 11, 2024 hearing at the request of a registered neighborhood organization.

It is staff's understanding that a registered neighborhood organization will request a **continuance for cause from the January 11, 2024 hearing to the February 15, 2024 hearing** to allow additional time for discussions to take place. Staff has no objection to this additional continuance request but will be prepared to move forward.

RECOMMENDATIONS

Staff **recommends approval** of the rezoning.

SUMMARY OF ISSUES

LAND USE

- ◇ The 10.13-acre subject site is developed with a large church, associated parking areas, and an accessory structure. It is surrounded by single-family dwellings in each direction, zoned D-2 and D-S, except for a multi-family development to the north, zoned D-6.

REZONING

- ◇ The property has historically been used as a church since 1972, per an historical aerial map depicted in the staff report. The religious use was permitted in 1967 through rezone petition 67-Z-103 that rezoned the property from the D-5 district to the SU-1 district for the construction of a church.
- ◇ The site is zoned SU-1, which is only intended for religious uses where the proposed SU-2 district is only intended for school uses.
- ◇ The Comprehensive Plan recommends rural or estate neighborhood 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. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space

(Continued)

Staff Analysis

- ◇ Staff determined that rezoning the site to the SU-2 district would allow for the adaptive reuse of the existing church building into a school and would allow the construction of an additional building on site for more classrooms.
- ◇ Although the rural or estate neighborhood typology does not specifically call out educational uses, it is common to see schools and places of worship mixed in primarily residential neighborhoods. Thus, staff did not find the proposed school use to be out of line with the context of the surrounding area considering that the previous religious use had limited business hours and days when events, gatherings, and the like would take place.
- ◇ For these reasons, staff is recommending approval of the request.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

SU-1	Metro	Church
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SURROUNDING ZONING AND LAND USE

North	D-6 / D-S	Residential (Multi-family and Single-family dwellings)
South	D-S	Residential (Single-family dwellings)
East	D-3	Residential (Single-family dwellings)
West	D-2	Residential (Single-family dwellings)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends rural or estate neighborhood development.

THOROUGHFARE PLAN

Michigan Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 100-foot existing right-of-way and a 102-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 13, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

67-Z-103; (subject site), Rezoning of approximately 10.126 acres being in D-5 district to Special Use (1) classification to provide for the construction of a church, **approved.**

(Continued)

ZONING HISTORY – VICINITY

2006-SE2-001; 5210 and 5212 Michigan Road (north of site), Special Exception of the Dwelling Districts Zoning Ordinance to provide for the construction of a 10,491 square-foot church building, with 34 off-street parking spaces, and with a four-foot tall, 30-square foot ground sign encroaching into the right-of-way of Michigan Road (minimum fifteen-foot front setback required), **denied**.

93-Z-70; 1836 West 51st Street (west of site), Rezoning of 13.79 acres, being in the D-S district, to the D-2 classification to provide for the development of a single-family residential subdivision, **approved**.

89-SE1-3; 5210 Michigan Road (north of site), Special exception of the Dwelling Districts Zoning Ordinance to provide for religious uses within an existing dwelling structure, with proposed hard surfaced and striped off-street parking areas and a sanitary sewer connection; **granted**.

88-Z-245; 5210 Michigan Road (north of site), Rezoning of approximately 0.5 acre from SU-1 to D-S to comply with a commitment that the zoning of the property would revert to the D-S classification five years after the adoption of rezoning petition 74-Z-150; **approved**.

86-Z-237; 5105 Grandview Drive (southeast of site), Rezoning of 4.62 acres, being in the D-S district, to the D-P classification, to provide for the construction of seven residential structures containing two living units each, **dismissed**.

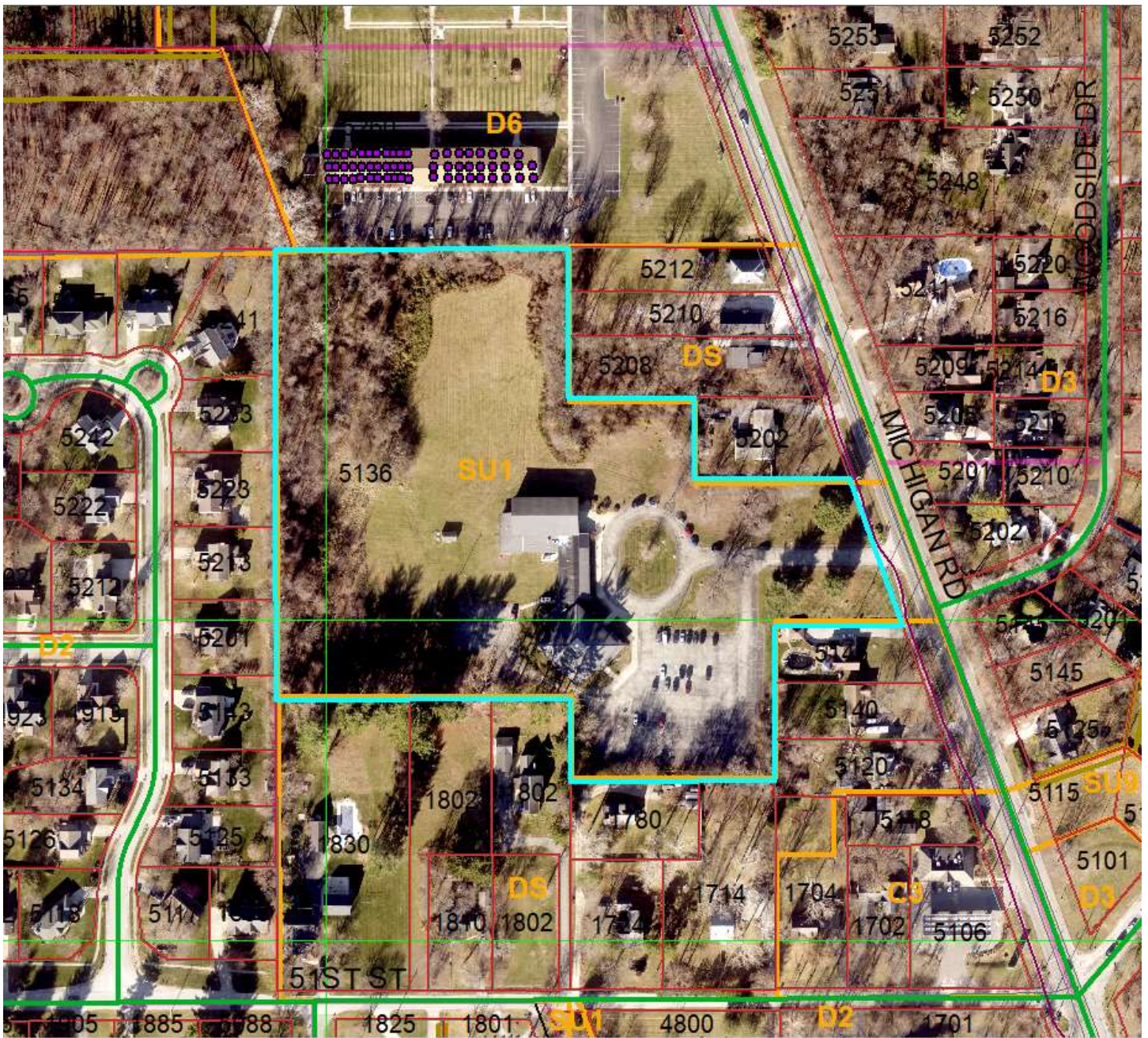
85-UV1-78; 5210 Michigan Road (north of site), Variance of use to provide for the continued use of a day care center within an existing building; **granted**.

84-Z-5; 5117 Michigan Road (southeast of site), Rezoning of 0.48 acre from the D-3 to SU-9 to conform the zoning to its current use as a fire station and to correct a mapping error, **approved**.

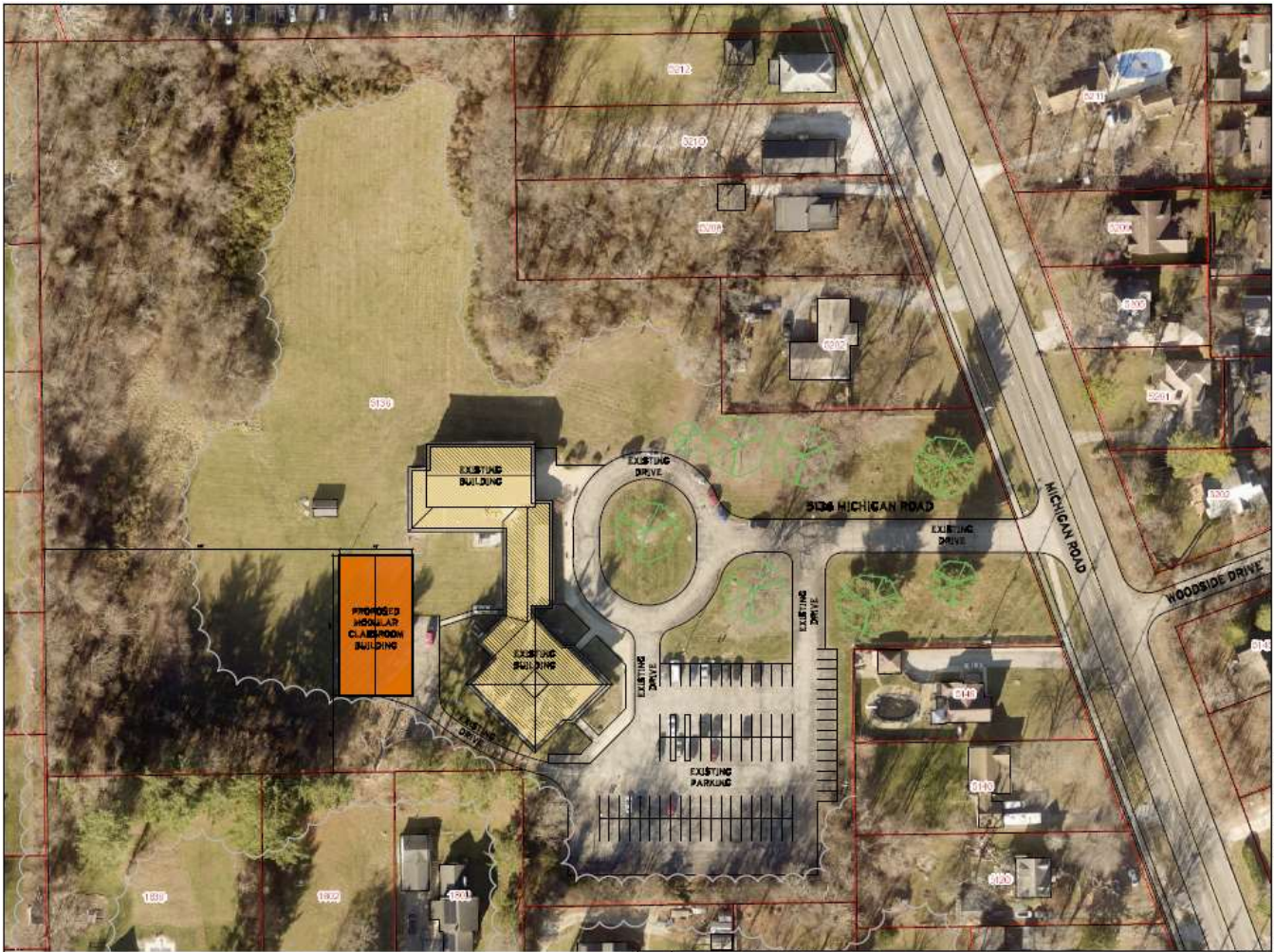
81-Z-15; 5210 Michigan Road (north of site), Rezoning of approximately 0.5 acre from SU-1 to C-1 to provide for the continued use of a daycare center; **withdrawn**.

74-Z-150; 5210 Michigan Road (north of site), Rezoning of approximately 0.5 acre from D-S to SU-1 to provide for a daycare center; **approved**.

MI







1 PROPOSED SITE PLAN
1" = 30'

ROTHBORN COLLIER
ARCHITECTS
PLANNERS
ENGINEERS
10000 WOODBRIDGE DRIVE
SUITE 100
DUBLIN, OHIO 43017
TEL: 614.885.1100
WWW.ROTHBORNCOLLIER.COM

PARAMOUNT SCHOOL OF EXCELLENCE
MICHIGAN ROAD
DUBLIN, OHIO 43017
JOHN W. B. JONES ARCHITECTS

PROPOSED SITE PLAN
DATE: 10/20/23
SCALE: 1" = 30'
BY: JWB

C1

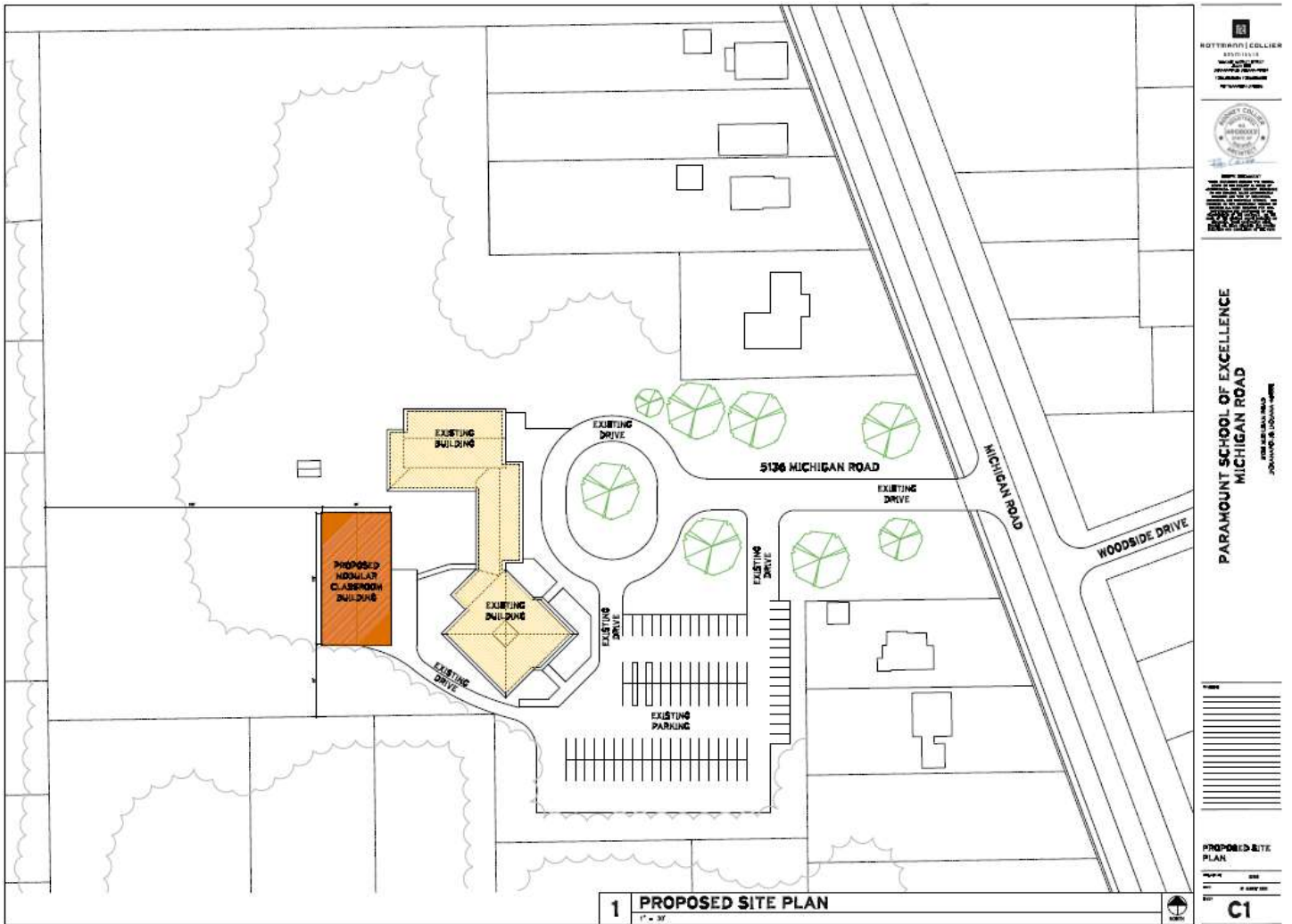




Photo of the Subject Property: 5136 Michigan Road



Photo of the parking area looking south on the site.



Photo of the existing church building looking west on the site.



Photo of the north property boundary and existing drive.



Photo of the rear yard where the proposed building will be located.



Photo of the rear yard and existing accessory structure looking north.



Photo of the rear of the existing building looking north.



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



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

STAFF REPORT

Item 4.

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

Case Number: 2023-ZON-115
Address: 5850 Fortune Circle West (*Approximate Addresses*)
Location: Wayne Township, Council District #22 (#17 Beginning 2024)
Petitioner: GriffGen Investments, LLC, by Brian Jones
Request: Rezoning of 3.997 acres from the C-S district to the C-S district to add licensed group home to the list of permitted uses for the site.

On December 27, 2023, the petitioner's representative sent an e-mail withdrawing this rezoning request. This would require acknowledgement from the Hearing Examiner.

kb

STAFF REPORT

Item 5.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-ZON-119
Address: 7725 Kentucky Avenue (*Approximate Address*)
Location: Decatur Township, Council District #20 (#21 Beginning 2024)
Petitioner: Lennar Homes of Indiana, LLC, by Brian J. Tuohy
Request: Rezoning of 60.22 acres from the C-4 and C-S districts to the D-4 district to provide for single-family residential development.

Staff is requesting a **continuance from the January 11, 2024 hearing, to the January 25, 2024 hearing**, to provide time for discussions regarding the need for a Traffic Impact Study (TIS). Because the Indiana Department of Transportation (INDOT) has jurisdiction of Kentucky Avenue in this area, the decision would be made by that office.

kb

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-CZN-828 / 2023-CVR-828 (Amended)
Address: 3416, 3420 and 3520 South Post Road (approximate address)
Location: Franklin Township, Council District #18
Petitioner: Quicktrip Corporation, by J. Murray Clark
Request: Rezoning of 12.269 acres from the C-S and C-7 districts to the C-7 district to provide for a truck stop.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for no street trees along the northern portion of the Post Road frontage (street trees required), no planting beds/shrubs along the entire Post Road frontage (landscaping required), three parking lot trees (17 required), to provide for a 50-foot tall, 391-square-foot pole sign (maximum 20-foot tall, 300 square foot pole sign permitted), to provide for a 23-foot tall, 109-square-foot freestanding incidental sign (maximum eight-foot tall, 32 square feet permitted) and to provide for a truck stop located within 425 feet of a protected district (500-foot separation required).

The Hearing Examiner continued these petitions from the October 26, 2023 hearing to the January 11, 2024 hearing, at the request of the petitioner’s representative to provide additional time to address some issues. No new documents have been submitted to the file. Consequently, these petitions will need to be **continued from the January 11, 2024 hearing, to the February 29, 2024 hearing.**

The petitioner’s representative has requested a continuance from the October 26, 2023 hearing, to the November 16, 2023 hearing, to provide additional time to review the Traffic Operations Analysis (TOA) and research right-of-way jurisdiction at Post Road / Interstate 74 interchange.

The Hearing Examiner continued these petitions from the August 24, 2023 hearing, to the October 26, 2023 hearing, at the petitioner’s representative request to provide time for completion of the TOA and continued discussions with the neighborhood organization. Staff would have no objection to the continuance.

The Hearing Examiner continued these petitions from the July 27, 2023 hearing, to the August 24, 2023 hearing, at the request of staff to provide additional time for a Traffic Operations Analysis (TOA) to be conducted and submitted for review.

The Hearing Examiner acknowledged the timely automatic continuance filed by a registered neighborhood organization that continued these petitions from the June 29, 2023 hearing, to the July 27, 2023 hearing.

The Hearing Examiner continued these petitions from the from the June 15, 2023 hearing, to the June 29, 2023 hearing to provide additional time to amend the variance request and provide required notice.

STAFF REPORT

Item 7.

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

Case Number: 2023-CZN-864 / 2023-CVR-864
Address: 6100 North Keystone Avenue (*Approximate Address*)
Location: Washington Township, Council District #2 (#7 Beginning in 2024)
Petitioner: TWG Development, LLC, by Joseph D. Calderon
Requests: Rezoning of 2.49 acres from the C-4 district to the MU-2 district to provide for a multi-family building.

Variance of development standards for the Consolidated Zoning and Subdivision Ordinance to provide for a 70-foot tall, five-story multi-family building with a 3.75-foot front yard, a 22-foot front building setback, a ten-foot south transitional yard (maximum 35-foot height permitted, five foot front yard required, maximum 20-foot front setback permitted and fifteen-foot transitional yard required).

On December 28, 2023, the petitioner's representative sent an e-mail withdrawing this rezoning and variance requests. This would require acknowledgement from the Hearing Examiner.

The petitioner's representative also requested a partial refund of the filing fees. The Administrator has approved a refund of \$3,662.75.

kb

STAFF REPORT

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

Case Number: 2023-CAP-866 / 2023-CVR-866
Address: 3502 North Shadeland Avenue (Approximate Addresses)
Location: Warren Township, Council District #13 (#9 Beginning 2024)
Zoning: C-S
Petitioner: 3500 Shadeland, LLC, by Russell L. Brown
Request: Modification of Site Plan, Plan of Operation and Commitments related to 2021-ZON-010 / 2021-VAR-002, 2007-ZON-841 / 2007-VAR-841 and 2014-MOD-008 to provide for a revised site plan for a home repair/improvement contractor consisting of two phases with Phase I to include an approximately 16,500 square foot building with approximately 20 Parking Spaces and Phase II to include a second building of approximately 22,000 additional square feet of space, approximately 37 parking spaces as well as a gravel fleet parking and outdoor storage area located on the north portion of the property with three sided structures, and a modification of Commitment #3 to allow for compliance with the site plan submitted with this petition in two development phases.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 15,000-square foot building with a five-foot north side setback (minimum 10-foot setback required).

A timely automatic continuance request was filed by a registered neighborhood organization **continuing this petition from the January 11, 2024 hearing, to the February 15, 2024 hearing.** This would require acknowledgement from the Hearing Examiner.

MI

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-120
Address: 9501 36th Place (*Approximate Address*)
Location: Warren Township, Council District #14 (#15 Beginning 2024)
Petitioner: Indianapolis Public Schools, by Russell McClure
Request: Rezoning of 9.12 acres from the D-4 district to the SU-7 district to provide for a non-profit center providing education, mentoring and meals.

RECOMMENDATIONS

Staff **recommends approval** of the request.

SUMMARY OF ISSUES

LAND USE

- ◇ The 9.12-acre subject site has historically been used as a school. It is bordered in each direction by single-family dwellings, zoned D-4, except for the park to the northeast of the site, zoned PK-1.

REZONING

- ◇ The grant of the request would rezone the site from the D-4 district to the SU-7 district to provide for a non-profit center providing education, mentoring and meals, which would not be permitted in the exiting dwelling district.
- ◇ The D-4 district is intended for low or medium intensity single-family and two-family residential development. Land in this district needs good thoroughfare access, relatively flat topography, and nearby community and neighborhood services and facilities with pedestrian linkages. Provisions for recreational facilities serving the neighborhood within walking distance are vitally important. Trees fulfill an important cooling and drainage role for the individual lots in this district. The D-4 district has a typical density of 4.2 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan. All public utilities and 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.
- ◇ The SU-7 district is intended for charitable, philanthropic, and not-for-profit institutional uses.
- ◇ The Comprehensive Plan recommends special use development, which was maintained as the recommendation associated to schools.

(Continued)

Staff Analysis

- ◇ The proposed use would be similar to services that the school provided and would not bring any additional traffic to the area than that which was previously generated by the school.
- ◇ For these reasons, staff is recommending approval of the rezone request.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-4	Metro	School
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SURROUNDING ZONING AND LAND USE

North	D-4 / PK-1	Residential (Single-family dwellings) / Park
South	D-4	Residential (Single-family dwellings)
East	D-4	Residential (Single-family dwellings)
West	D-4	Residential (Single-family dwellings)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends special use development.

THOROUGHFARE PLAN

36th Place is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary 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.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2017-MOD-006; 9443 East 38th Street (north of site), Modification of Commitments of 95-Z-32, to modify Commitment Six to provide for outdoor activities (health and community center approved with a prohibition on outdoor activities), **approved.**

2014-CAP-832 / 2014-CVR-832; 9443 East 38th Street; (north of site), Modification of Commitments to modify Commitment Thirteen of 95-Z-32 (95-CV-7), prohibiting internally illuminated signs and a variance of development standards of the Sign Regulations to provide for a 12.1-foot tall, 53.4-square foot freestanding sign, with a five-foot front setback (15-foot front setback required), **approved and granted.**

2009-ZON-034; 400 Acton Road; 5706 North Meridian Street; 2605 Kentucky Avenue; 9501 East 36th Place; 5335 & 5353 South High School Road and 6038-6240 Valley Lane; 8401 Rockville Road; 1934 North Dequincy Street; 5398 Milhouse Road; 750 Greer Street; 4241 Fairview Terrace and 4242 Crown Street; 5670 Stonehill Drive; 1700 North Franklin Road; 7425 Mendenhall Road; 1313 Madison Avenue; 254 East Beecher Street; 5624 South Carroll Road; 4900 West Southport Road; 1616 East 71st Street; 1603 & 1625 West Ohio Street, 1618 Everett Street, 120 North Reisner Street, and 135 North Richland Street; 4459 Shelbyville Road; 5700 East 23rd Street; and 1701 East Washington (north of site), Rezoning of 463.544 acres, from multiple zoning classifications, to the PK-I classification to provide for park and recreational uses, **approved.**

2000-ZON-858; 9701 Park Davis Drive (southeast of site), Rezoning of 1.98 acres, being in the I-3-S and I-2-S Districts, to the I-3-S classification for a heating duct metal fabrication plant, **approved.**

95-Z-111; 3550 North Mitthoefer Road (south of site), Rezoning of 11.41 acres, being in the D-4 District, to the I-2-S classification to provide for light industrial suburban development, **approved.**

95-Z-32 / 95-CV-7; 9467 East 38th Street (north of site), Rezoning of 10 acres from SU-1 to C-1 with a companion variance of development standards of the Sign Regulations of Marion County to provide for the placement of a 72 square foot pylon sign located 40 feet from a Protected District, **approved and granted.**

94-Z-84; 9467 East 38th Street (north of site), Rezoning of 9.7 acres, being in the D-4 District, to the SU-1 classification to provide for a church, **approved.**

91-Z-15A; 3620 North Mitthoefer Road (southeast of site), Rezoning of 37.45 acres, being in the D-6II District, to the I-2-S classification to provide for industrial, **approved.**

91-Z-15B; 3620 North Mitthoefer Road (southeast of site), Rezoning of 46.97 acres, being in the D-6II District, to the I-3-S classification to provide for industrial development, **approved.**

91-Z-14; 3622 North Mitthoefer Road (south of site), Rezoning of 14.20 acres, being in the D-6II District, to the D-4 classification to provide for single-family housing, **approved.**

MI





Photo of the Subject Property: 9501 36th Place



Photo of the Subject Property: 9501 36th Place



Photo of the single-family dwellings west of site.



Photo of the single-family dwellings north of the site.



Photo of the park northeast of the site.

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

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

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

Approval of a Subdivision Plat, to be known as Devon Creek, dividing 4.22-acres into ten single-family detached lots and one common area, including the vacation of an irregular portion of right-of-way at the northwest corner of the intersection of East 46th Street and Millersville Road containing 2,307.8 square feet, with a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.

ADDENDUM FOR JANUARY 11, 2024 HEARING EXAMINER

This petition was continued from the December 14, 2023 hearing to the January 11, 2024 hearing at the request of a remonstrator. No additional information has been provided to the case file.

ADDENDUM FOR DECEMBER 14, 2023 HEARING EXAMINER

This petition was continued from the November 9, 2023 hearing, to the December 14, 2023 hearing at the request of a staff to amend the request to include a vacation of the right-of-way request and allow sufficient time to provide new notices.

Amendment: The amendment included a vacation of right-of-way at the northwest corner of the intersection of East 46th Street and Millersville Road containing 2,307.8 square feet.

Staff determined that the section of street right-of-way to be vacated was not being utilized as a street since it is overgrown with grass and would not prevent safe passage at this intersection. Furthermore, the use of the proposed vacation would be in the public's best interest to ensure additional housing options can be developed.

(Continued)

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

For these reasons, staff is **recommending approval** of the request as amended.

November 9, 2023

RECOMMENDATIONS

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

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

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

1. That the applicant provides a bond, as required by Section 741-210, of the Consolidated Zoning and Subdivision Ordinance.
2. Subject to the Standards and Specifications of the Department of Public Works, Sanitation Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
4. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
5. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat, prior to recording.
6. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
7. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
8. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
9. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
10. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted, prior to recording the final plat.
11. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance are met, prior to the recording of the final plat.
12. That the final plat or covenants shall include who will be responsible for maintenance and upkeep of the common area.

(Continued)

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

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

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

REZONING

- ◇ This petition would rezone this site from SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.
- ◇ The SU-1 district only permits religious uses to be developed on site.
- ◇ The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends 3.5 to 5 residential units per acre development, which would be permitted in the proposed D-5 district.

FLOODWAY / FLOODWAY FRINGE

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

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This petition would provide for an access drive extending 34 feet into the 100-foot Stream Protection Corridor of Devon Creek for a maximum length of 107 feet. Early in the planning phase of the development Planning Staff and the Department of Public Works recommended that rear access be provided for the proposed lots since it was determined that the encroachment into the stream protection corridor would be minimal and would prevent the alternative of unnecessary curb cuts along 46th Street.

(Continued)

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

- ◇ This petition would also provide for a 68-foot front setback along 46th Street for property address 3860 East 46th Street where a front building line range of 20 to 50 feet is required. Due to the anticipated access easement along the eastern property boundary, the proposed location of the single-family dwelling was pushed back to meet the front setback along Millersville Road.

PLAT

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

TRAFFIC / STREETS

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

SIDEWALKS

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

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

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

SURROUNDING ZONING AND LAND USE

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

(Continued)

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

NEIGHBORHOOD PLAN	The Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends 3.5 to 5 residential units per acre development.
THOROUGHFARE PLAN	Millersville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 107-foot existing and a 102-foot proposed right-of-way.
THOROUGHFARE PLAN	46th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.
SITE PLAN	File-dated October 3, 2023.
PRELIMINARY PLAT	File-dated October 3, 2023.
FINDINGS OF FACT	File-dated October 3, 2023.
VACATION FINDINGS OF FACT	File-dated November 9, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

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

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

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

(Continued)

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

ZONING HISTORY – VICINITY

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

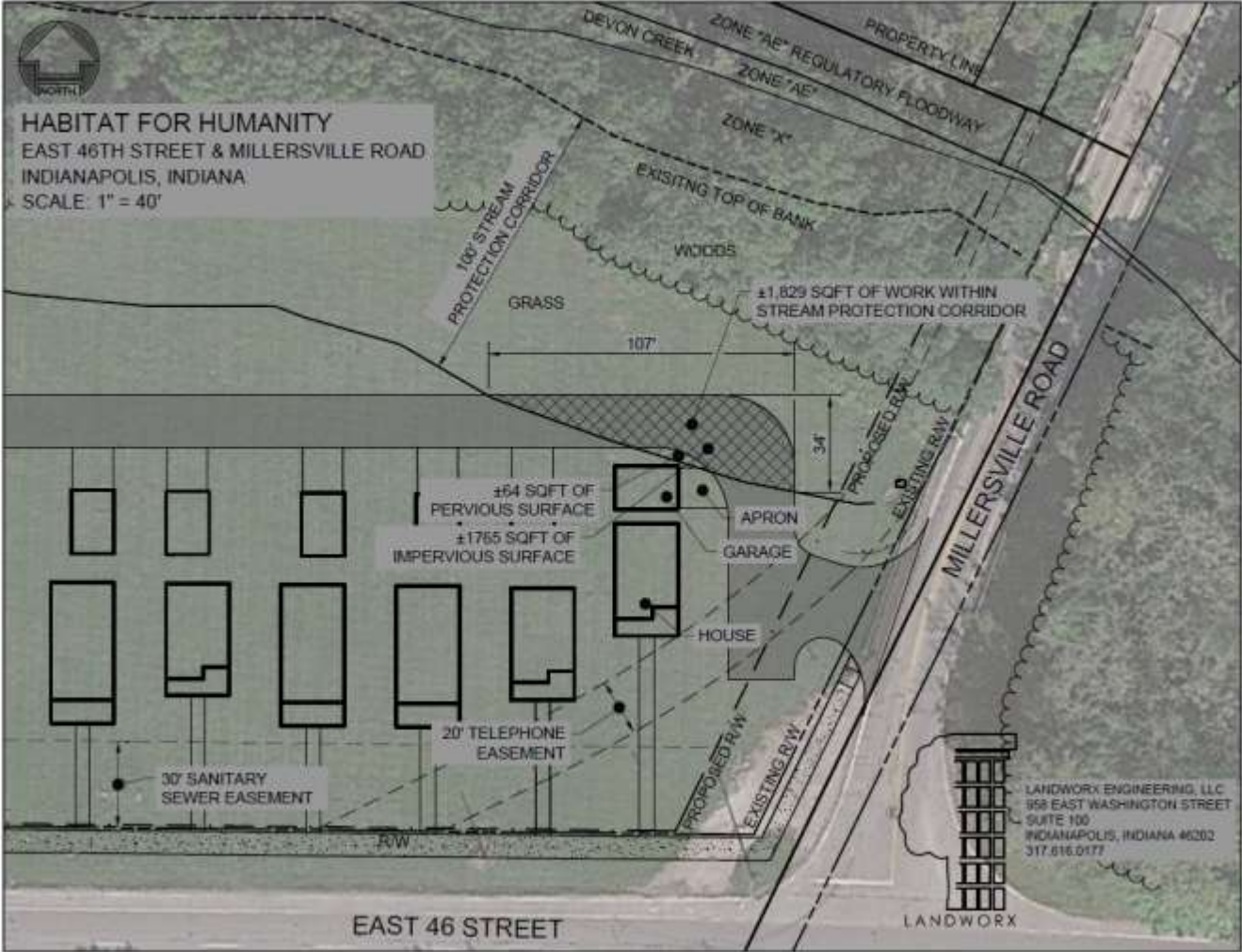
90-Z-199; 4221-4231 East 46th Street (southeast of site), Rezoning of 2.01 acres from the SU-34/FP/FF District to the D-2/FP/FW classification to provide for a single-family dwelling, **approved.**

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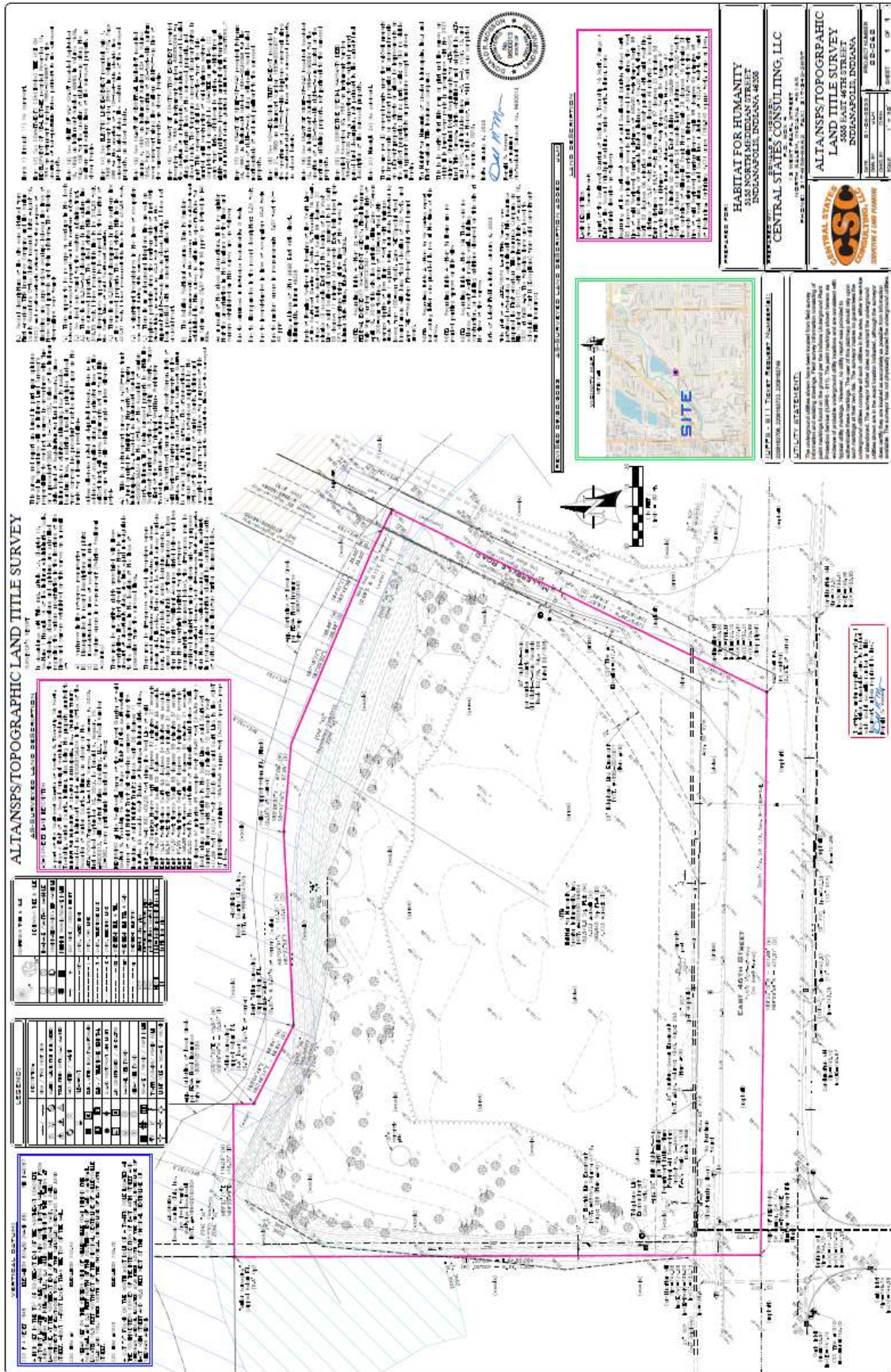
2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Aerial Map



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



2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Survey



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

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division [redacted]
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

the intrusion into the Stream Protection Corridor is minimal and necessary to support development of this otherwise difficult-to-develop parcel as per the Area Plan recommendation (3.5-5 dwelling units per acre).

[Redacted area]

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

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

[Redacted area]

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

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

[Redacted area]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Petition Number _____

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

PETITION FOR VACATION OF A PUBLIC WAY, EASEMENT OR PUBLIC PLACE

FINDINGS OF FACT

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:
The former roadway, "old Millersville Road", was abandoned by Marion County in 1956, has been unused and un-maintained since then, and it should be reunited with the adjoining Greater Indy Habitat parcel to support use of the (previously undeveloped) adjoining land for affordable housing development.

DECISION

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

Adopted this _____ day of _____, 20 ____

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



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



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



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



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



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



Photo of the entire southern street frontage.



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



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



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



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



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



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

STAFF REPORT

Item 11.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-021
Address: 10 South Mickley Avenue (*Approximate Address*)
Location: Wayne Township, Council District #15 (#16 Beginning 2024)
Zoning: C-4
Petitioner: Zach Wilkinson
Request: Modification of Commitments related to 90-Z-48 to terminate Commitment #2.C, which restricts the permitted uses of the subject site to C-1 uses, to provide for a gas station.

RECOMMENDATIONS

Staff has **no recommendation** of this request. If approved, staff requests that the 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:

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

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 1.40-acre site, zoned C-4, is developed with a one-story commercial building and associated parking lot. It is surrounded by commercial uses to the north across Rockville Road, zoned D-6 and C-3; commercial uses (hotel) to the south, zoned C-S; single-family dwellings to the east, across South Mickley Avenue, zoned D-2; and commercial uses (funeral home) to the west, zoned C-4.
- ◇ Petition 90-Z-48 rezoned this site from the D-2 district to the C-4 classification to provide for retail commercial uses.

MODIFICATION

- ◇ This request would modify commitments related to 90-Z-48 to terminate Commitment #2C, that limited the uses on this site to C-1 uses, to provide for a gas station.

(Continued)

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

Conditions for All Land Use Types

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

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

- Outdoor display of merchandise should be limited.
- If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended

Environmental Public Nuisances

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

(Continued)

3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or

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

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

Planning Analysis

- ◇ This request would modify commitments for the rezoning Petition 90-Z-048 (See Exhibit “A”) that limited uses to the C-1 district at the easternmost 150 feet of the out lot at the corner of Rockville and Mickley Avenue. Based on review of the file, it appears that this commitment was originally the result of negotiation between the petitioner and remonstrators during the 1990 rezoning process. Because staff played no role in the negotiation of this subject commitment, staff would ordinarily provide no recommendation under such circumstances. Staff would note, however, that the remonstrators negotiated in good faith with the petitioner during the petition process, and their agreement was contingent upon all commitments being included with the rezoning petition.
- ◇ The request would be consistent with the Comprehensive Plan recommendation of regional typology and compatible with the commercial development to the north, south and west. Staff would note, however, that The Pattern Book discourages outdoor operations, storage or display adjacent to living (residential) typologies.
- ◇ Staff would also note that a multi-use path is planned along the Rockville Road frontage.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-4 Commercial uses (vacant)

SURROUNDING ZONING AND LAND USE

North -	D-6 / C-3	Commercial uses
South -	C-S	Commercial uses
East -	D-2	Vacant land / single-family dwelling
West -	C-4	Commercial uses

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends regional commercial typology.
Marion County Land Use Pattern Book (2019).

(Continued)

THOROUGHFARE PLAN	This portion of South Mickley Avenue is designated in the Marion County Thoroughfare Plan as a local street, with an existing 45-foot right-of-way and a proposed 50-foot right-of-way. This portion of Rockville Road is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 218-foot right-of-way and a proposed 112-foot right-of-way.
CONTEXT AREA	This site is located within the metro context area.
OVERLAY	There is no overlay for this site.
SITE PLAN	File-dated December 1, 2023
PLAN OF OPERATION	File-dated December 1, 2023

ZONING HISTORY

90-Z-48; 5805 Rockville Road, requested rezoning of 19.65 acres, being in the D-2 district to the C-4 classification to provide for the development of retail commercial uses, **approved**.

VICINITY

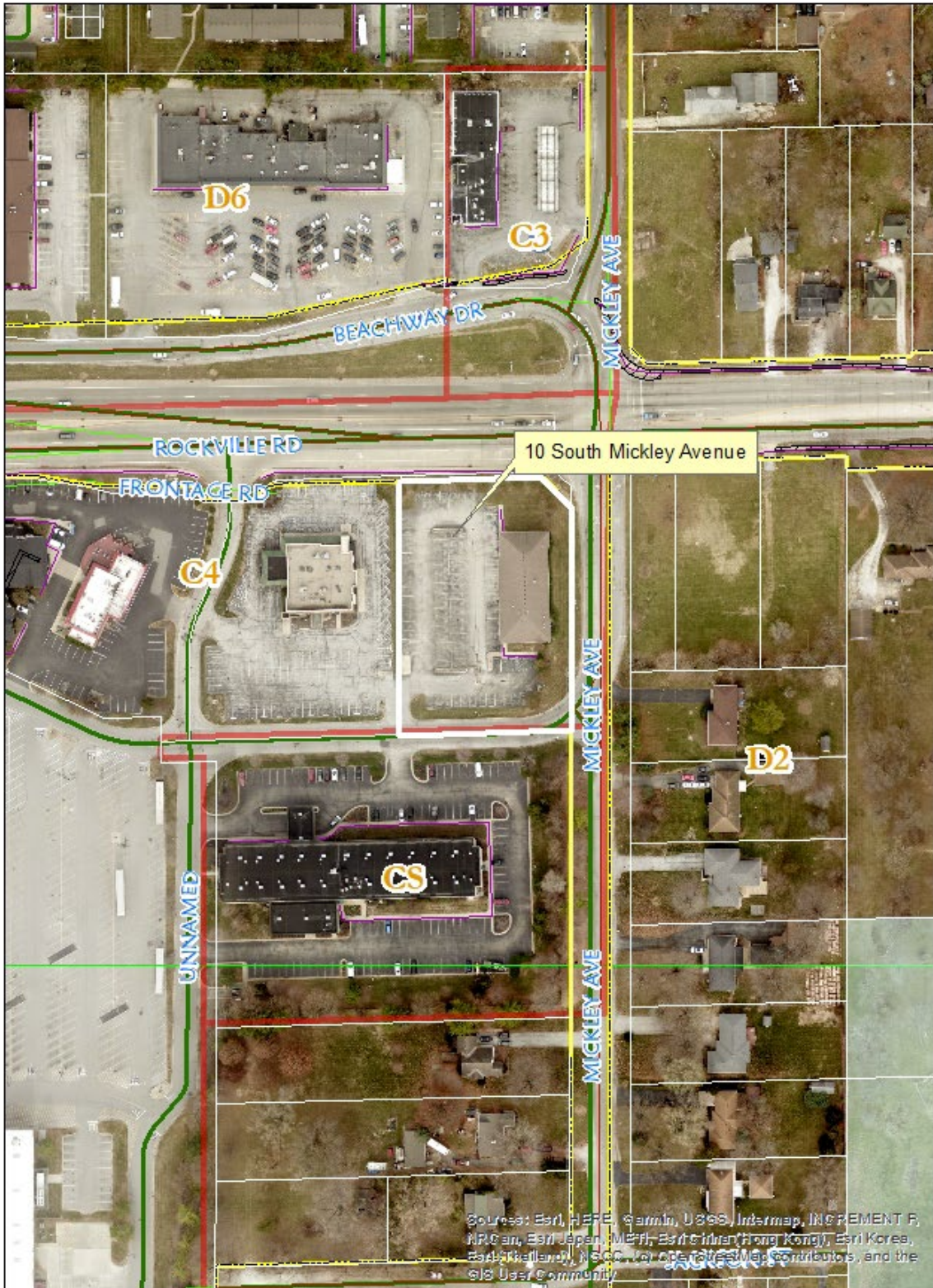
99-Z-91; 52 South Mickley Avenue (south of site), requested rezoning of 3.21 acres from the C-1 classification to the C-S classification to provide for development of hotel, **approved**.

97-Z-22; 40 South Mickley Avenue (south of site), requested a rezoning of 3.21 acres from the C-1 District to the C-6 classification to provide for construction of a 96-unit hotel facility with an outdoor pool, a courtyard and 112 parking spaces, **withdrawn**.

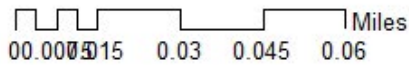
90-Z-47, 52 South Mickley Avenue (south of site), requested rezoning of 3.28 acres from the D-2 and D-7 Districts, to the C-1 classification to provide for office-buffer development, **approved**.

90-Z-40; 5851 Rockville Road (west of site), requested rezoning of 6.16 acres from the D-2 and D-7 Districts, to the C-6 classification to provide for highway oriented lodging, **approved**.

kb



10 South Mickley Avenue





3961 Perry Boulevard • Whitestown, IN 46075 • Phone: (317) 769-2916

Plan of Operation

Mickley Avenue Convenience Store 10 South Mickley Avenue, Indianapolis, IN 46112

Goal

- Our goal is to repurpose the abandoned building into a fueling station and convenience store.
- The property offers an ideal location for travelers looking to refuel, whether it is a short rest from travel on I-465 or a first stop after arriving from the Indianapolis International Airport.

Workforce

- There will be multiple employment opportunities offered.
- Multiple day shift employees throughout the week, as well as night shift.
- All employees are onsite ensuring continuous operation for the fuel station and convenience store.

Clients & Customers

- Our clients and customers consist of travelers along I-465 and Rockville Road.
- Many of these travelers are guests of lodging in the immediate area, such as the Holiday Inn and Wingate.
- Other possible customers include commuters to nearby businesses, such as Sam's Club, and local area residents.

Safety & Security

- The security of our employees and customers are a top priority.
- Employee training is given for any circumstance.
- Security surveillance of the property and store.
- Emergency fuel shut off.

Waste Prevention

- As a fuel station, the main concern for waste is gasoline and diesel runoff.
- During site planning, appropriate steps are taken to adhere to stormwater quality standards.
- The existing stormwater system will be modified to include a stormwater quality structure, which will remove petroleum runoff and other debris from entering the city stormwater system.

Other Considerations

- The location offers easy circulation of traffic for customers and fuel delivery trucks with two access points onto Rockville Road.
- Ample parking is offered for customers and employees.
- Existing infrastructure and mature landscaping presents a great opportunity for investment and support.



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NOTE: Article VI, Section 3(b) of the rules of the Metropolitan Development Commission requires use of this form in recording commitments made with respect to zoning and approval cases in accordance with I.C. 36-7-4-607. Resolution No. 85-R-69, 1985 of the Metropolitan Development Commission requires the owner to make Commitment #1.

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

In accordance with I.C. 36-7-4-607, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description:

See Legal Description Attached as Exhibit A.

Statement of COMMITMENTS:

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".

2. Uses

- A. The use of the central portion of the C-4 tract shall be limited to the development of a Sam's Wholesale Club. Initial development will be approximately 110,000 square feet with future expansion of up to an additional 30,000 square feet.
- B. The use of the outlots located along Rockville Road shall be limited so as to prohibit any: Class 1 Regulated Commercial Uses as set forth in the Commercial Special Exception Ordinance, 76-AO-2, as amended; Adult Entertainment Businesses as set forth in the Adult Entertainment Business Zoning Ordinance, 84-AO-4; liquor store, tavern or bar (defined as any establishment which derives 65% or more of its gross sales value from the sale of liquor); or head shops.
- C. The use of the eastern most one-hundred and fifty (150) feet of the outlot at the corner of Rockville Road and Mickley Avenue shall be limited to C-1 uses.

3. Development Standards

- A. Petitioner shall provide transitional yard landscaping and screening in compliance with the following:
 - 1) A transitional yard shall be provided south of the Sam's Wholesale Club of not less than twenty (20) feet.
 - 2) A transitional yard shall be provided along the east side of the Sam's Wholesale Club building of not less than fifty (50) feet in depth.
 - 3) Landscaping within the above described transitional yards shall be subject to Administrator's Approval.
- B. Petitioner shall limit access along Rockville Road to one right-turn-in/right-turn-out drive for the overall center, subject to final approval by the Department of Transportation.
- C. Petitioner shall redevelop the access approach along Mickley Avenue in substantial compliance with the Preliminary Lining Plan

REC'D - METRO DEPT. JUN 11 11 41 AM '89

JUN 07 1990 DEPT. METRO DEVELOPMENT

2000 18880 2168

dated May 1, 1990, subject to final approval by the Department of Transportation, in such a manner as to discourage commercial traffic from entering the remaining residential area along Mickley Avenue and Jackson Street.

- D. All buildings shall be constructed with a finished facade of masonry, synthetic stucco or wood.
- E. The developer anticipates the utilization of one integrated center pole sign to provide the primary identification for the entire center. However, due to the unique mixture of uses anticipated to locate in this project, the developer wishes to reserve the right to file a variance of development standards for the development of an overall sign program without the need to modify these commitments.
- F. Wall signs shall be limited to individual letters and/or logos. There shall be no signs located on the south facade of the Sam's Wholesale Club building.
- G. This parcel shall be developed as an integrated center with the two parcels which are subject to the companion commercial zoning petitions 90-Z-49 and 90-Z-47, subject to the conditions of Commitment 3E above.
- H. There shall be no more than two outlets developed in the C-4 parcel, however, such limitation shall not be construed to prohibit the development of two separate buildings or users on each outlet sharing common entrance or exit drives and site facilities. Access to the outlets shall be limited to the internal service drives.
- I. Development of the eastern most one-hundred and fifty (150) of the outlet at the corner of Rockville Road and Mickley Avenue shall not include parking between a building and the right-of-way of Mickley Avenue. This commitment does not prohibit the development of an internal driveway to service a bank drive-up window, as such use may be developed on this portion of the outlet.
- J. Petitioner shall reserve a fifty (50) foot strip of land along the northwestern property line for the future upgrading of the interstate interchange. No buildings shall be placed within this portion of the site.
- K. Petitioner agrees to comply with the requests of the Department of Transportation as set forth in paragraphs 1, 5, 6, 7 and 8 of Memorandum dated May 2, 1990 from John P. Willen to Elizabeth Williams, as those terms may be amended from time to time by agreement between the developer and the Department of Transportation.

4. Neighbor-Related Commitments

- A. At its own expense, the owner/developer shall, upon construction of the proposed Sam's Wholesale Club building, extend water and sanitary sewer lines east along Jackson Street to the northwest corner of the residential lot commonly known as 5787 West Jackson Street and legally described in attached Exhibit B.
- B. The owner/developer shall not relocate any of the existing homes from the subject property or from any residential lot subsequently acquired by the owner/developer and having frontage on Mickley Avenue or Jackson Street to any property within the area bounded by Rockville Road, Lynhurst Drive, the Conrail tracks and Mickley Avenue.

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other persons acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A", which is attached hereto and incorporated by reference. These COMMITMENTS may be modified or terminated by a decision of the

90-Z-48

300058403

JUN 07 1990

L. VALANZA (KOSERE) COMM. C-4

DEPT. METRO DEVELOPMENT

Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition #90-2-48 by the City-County Council changing the zoning classification of the real estate from a D-2 & D-7 zoning classification to a C-4 zoning classification; or
- (b) the adoption of approval petition #----- by the Metropolitan Development Commission;

and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the C-4 zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made); and
3. Any person who is aggrieved by a violation of either of the Commitments contained in Commitment #1 (Open Occupancy and Equal Employment Opportunity Commitments);
4. _____

The undersigned hereby authorizes the Division of Development Services of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition #90-2-48.

IN WITNESS WHEREOF, owner has executed this instrument this 4th day of June, 1990.

By: Rockville Road Associates
 Signature [Signature] (Seal) Signature _____ (Seal)
 Printed C. A. Ross Printed _____

90-2-48

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared G. A. Kosene, General Partner, owner(s) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 4th day of June, 1970.

Signature Angela C. Quinn
Printed Angela C. Quinn
County of Residence Boone

My Commission expires:
September 25, 1992

This instrument was prepared by Harry F. McNaught, Jr., Attorney-at-Law, Baker & Daniels, 300 North Meridian Street, Suite 2700, Indianapolis, Indiana 46204.

900058403

90-2-48
EVALANZA (KOSENE) COUNTY, C-1

-4-



View from site parking lot looking northeast across Rockville Road



View from site parking lot looking north across Rockville Road



View from site looking east



View from site looking south



View from site looking southwest



View from site looking west



View existing building proposed for redevelopment of a convenience store



View of site looking east



View from site looking northwest



View from site looking north

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-116
Address: 2002 North Tibbs Avenue (*Approximate Address*)
Location: Wayne Township, Council District #11
Petitioner: Hugo Rubin de Celis
Request: Rezoning of 0.35 acres from the D-5 district to the C-3 district to provide for food sales from food trucks.

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

LAND USE

- ◇ The 0.35-acre subject site consists of two parcels (9000337 and 9000336) and is developed with a single-family dwelling and storage shed. The property is in a well-established residential neighborhood surrounded by single-family dwellings in each direction.

REZONING

- ◇ The request would rezone a residential lot from the D-5 district to the C-3 district to provide for food sales from food trucks, which is not permitted in the existing dwelling district.
- ◇ The D-5 District is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The C-3 District 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.

(Continued)

- ◇ The site falls within the Near West Neighborhood Land Use Plan (2014), which recommends 3.5 to 5 residential units per acre development.

Staff Analysis

- ◇ A food truck service would be classified as an eating establishment or food preparation use in the Consolidated Zoning and Subdivision Ordinance. That use is permitted within the C-3, C-4, C-5, C-7, MU-2, MU-3, and MU-4 districts and all of the central business districts. However, because the food truck would constitute outdoor sales, it would not be permitted in the C-3, or C-4 districts as primary uses. Instead, they would be limited in duration throughout the year per the Outdoor Display and Sales, Temporary use-specific standards below:

Outdoor Display and Sales, Temporary

1. In the Dwelling districts, any Temporary Outdoor Display and Sales shall meet the standards of Chapter 987, Article II (Garage Sales).
2. Temporary Outdoor Display and Sales by transient merchants are permitted if licensed under Chapter 987, Article I (Transient Merchant Activity).
3. Temporary Outdoor Display and Sales must not be located in any transitional yard or edge buffering area or required landscape area.
4. Unless otherwise regulated, Temporary Outdoor Display and Sales are limited to:
 - a. 30 days and no more than 3 times a calendar year;
 - b. Using no more than 10% of the required on-site parking spaces and maintaining vehicle maneuverability on the site;
 - c. Maintaining a setback of at least 5 feet from any lot line and any sidewalk;
 - d. Not obstructing any clear sight triangular area.
5. In the C-3, CBD and MU districts, Temporary Outdoor Display and Sales shall only be permitted once each month for a 3-day period provided the outdoor display and sales area is limited to 200 square feet or less.
5. In the C-4 district, Temporary Outdoor Display and Sales shall only be permitted once each month for a 3-day period provided the Temporary Outdoor Display and Sales is limited to 200 square feet or less. In addition, Temporary Outdoor Display and Sales for dealers of motor vehicles shall be permitted if the temporary outdoor display and sales:
 - a. Meets the requirements of IC 9-23-2-6 and IC 9-23-2-7;
 - b. Limited in duration to a total of 10 calendar days per event, and no more than two events per calendar year per site or integrated center;
 - c. Limited to vehicles with GVWR of less than 14,000 pounds;
 - d. Not located within 500 feet, measured in any direction, of any protected district. (See Section 743-301) The measurement shall be taken from the perimeter of the display or operations area of the Temporary Outdoor Display and Sales to the zoning boundary of the protected district;
 - e. Complies with all setback requirements for a parking area on the site;
 - f. Does not encroach upon any interior access drive or parking maneuvering area or otherwise inhibit the internal circulation of the remaining vehicle areas.

(Continued)

- ◇ As proposed, the commercial zoning district would be an undue intrusion into a long-established residential area. This would result in additional intensity from the significant commercial customer base, placing demands on parking, and creating increased traffic, lighting, and noise. These externalities would pose a negative impact on the quality of life for the surrounding residents.
- ◇ A plan of operation was not submitted with the request so the hours of operation, number of days of activity, and the number of anticipated customers cannot be predicted.
- ◇ Given the area’s D-5 zoning and existing development pattern, neighboring and nearby homeowners have a reasonable expectation of protection from commercial development.
- ◇ Furthermore, the commercial use would not align with the residential development recommendation of the Near West Neighborhood Land Use Plan (2014) and the site could continue to be developed and used as a residential property as intended.
- ◇ Staff reached out to the petitioner to confirm if the single-family dwelling would continue to be used residentially, but a response was not provided. If it were to remain, then the residential use would not be permitted in the proposed C-3 District and a variance of use would be required.
- ◇ Due to the proposed commercial rezoning and uncertainty of the anticipated use of the existing buildings, staff is recommending denial of the request.
- ◇ Staff would note that Temporary Outdoor Display and Sales by transient merchants are permitted if licensed under Chapter 987, Article I (Transient Merchant Activity). There is also the option of obtaining a Special Event Permit for a limited time and must meet the requirements for the permit and event. Information for either of these options would need to be obtained with the Department of Business and Neighborhood Services.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-5	Compact	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwelling)
South	D-5	Residential (Single-family dwelling)
East	D-5	Residential (Single-family dwelling)
West	D-5	Residential (Single-family dwelling)

NEIGHBORHOOD PLAN

The Near West Neighborhood Land Use Plan (2014) recommends 3.5 to 5 residential units per acre development.

THOROUGHFARE PLAN

Tibbs Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 70-foot existing right-of-way and a 56-foot proposed right-of-way.

(Continued)

STAFF REPORT 2023-ZON-116 (Continued)

THOROUGHFARE PLAN	20 th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-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 8, 2023.
PROPOSED COMMITMENTS	File-dated November 8, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

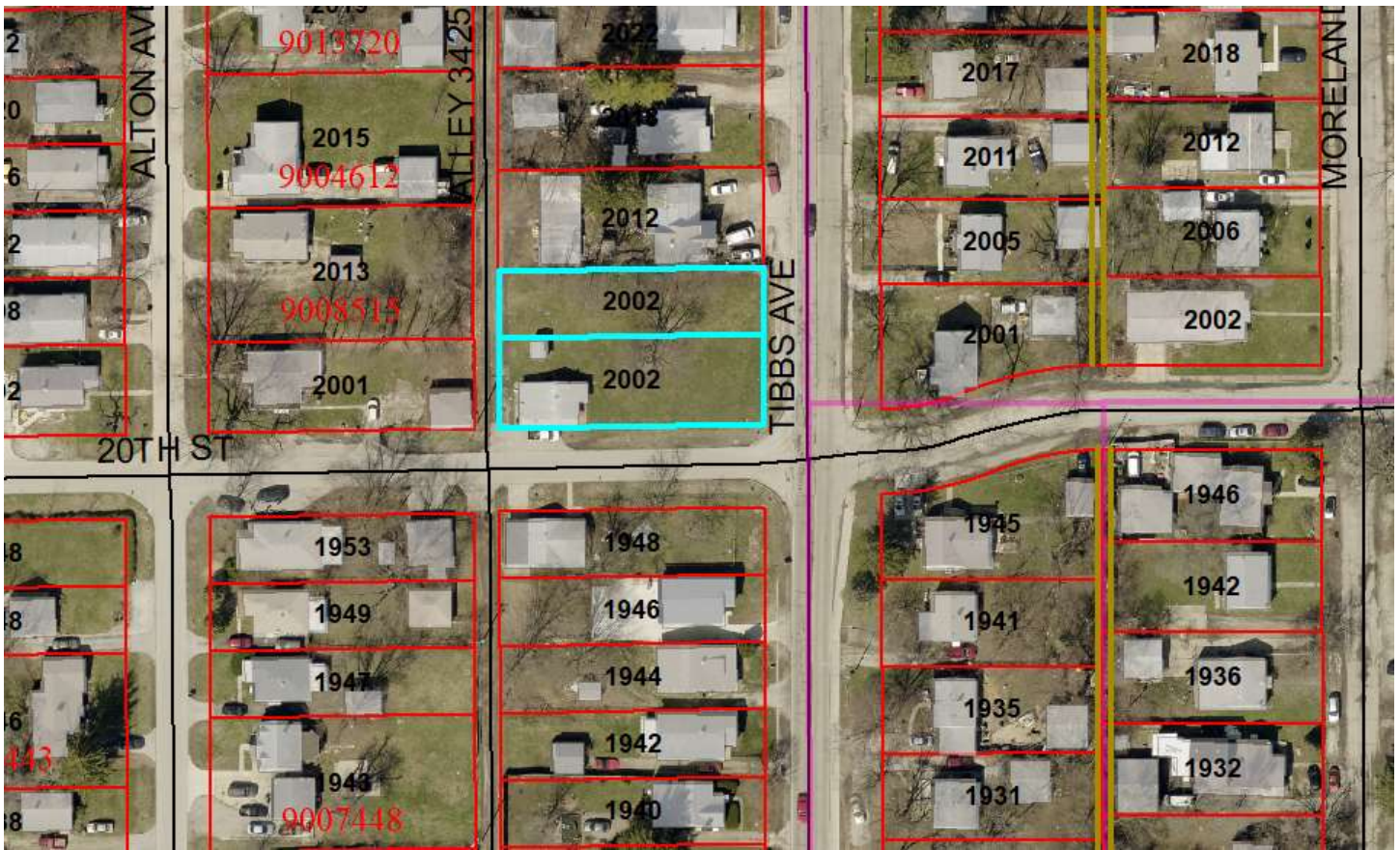
PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

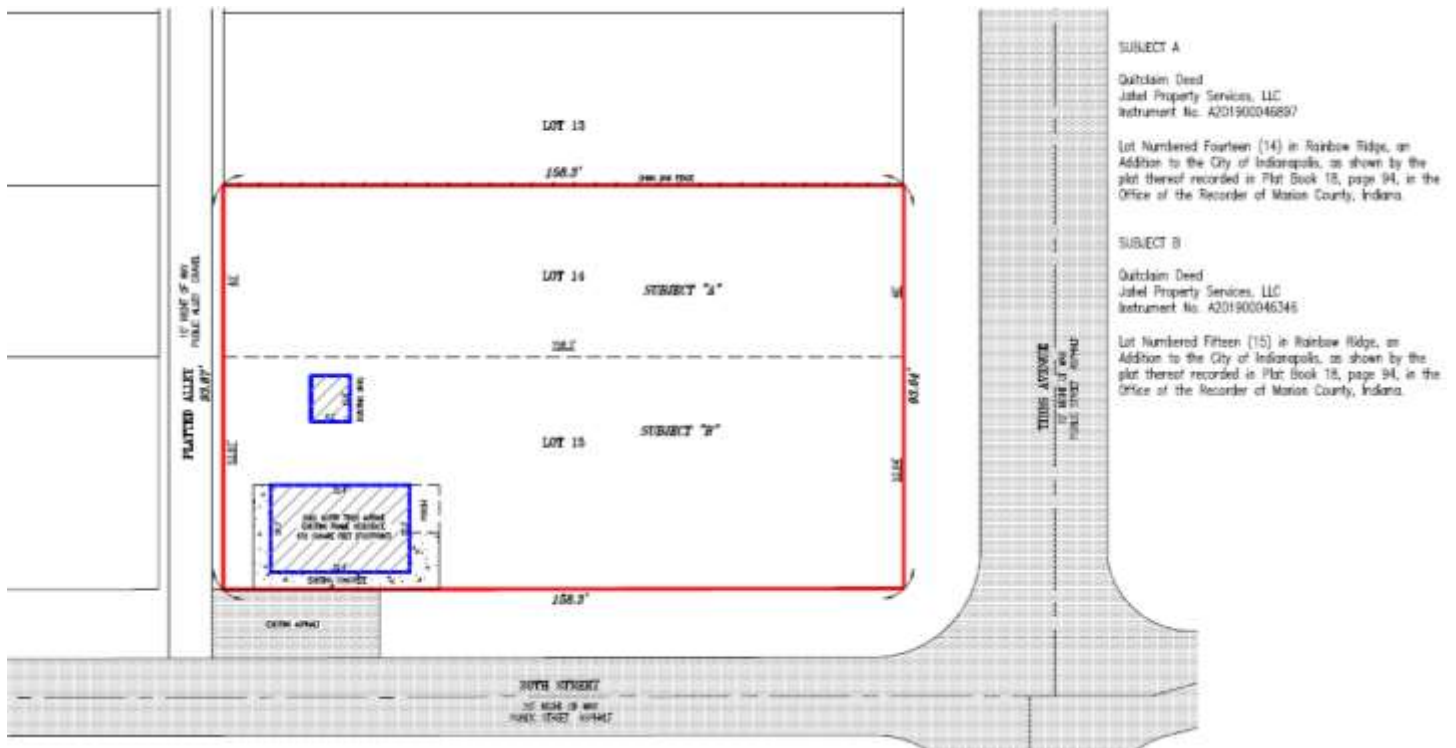
None.

MI

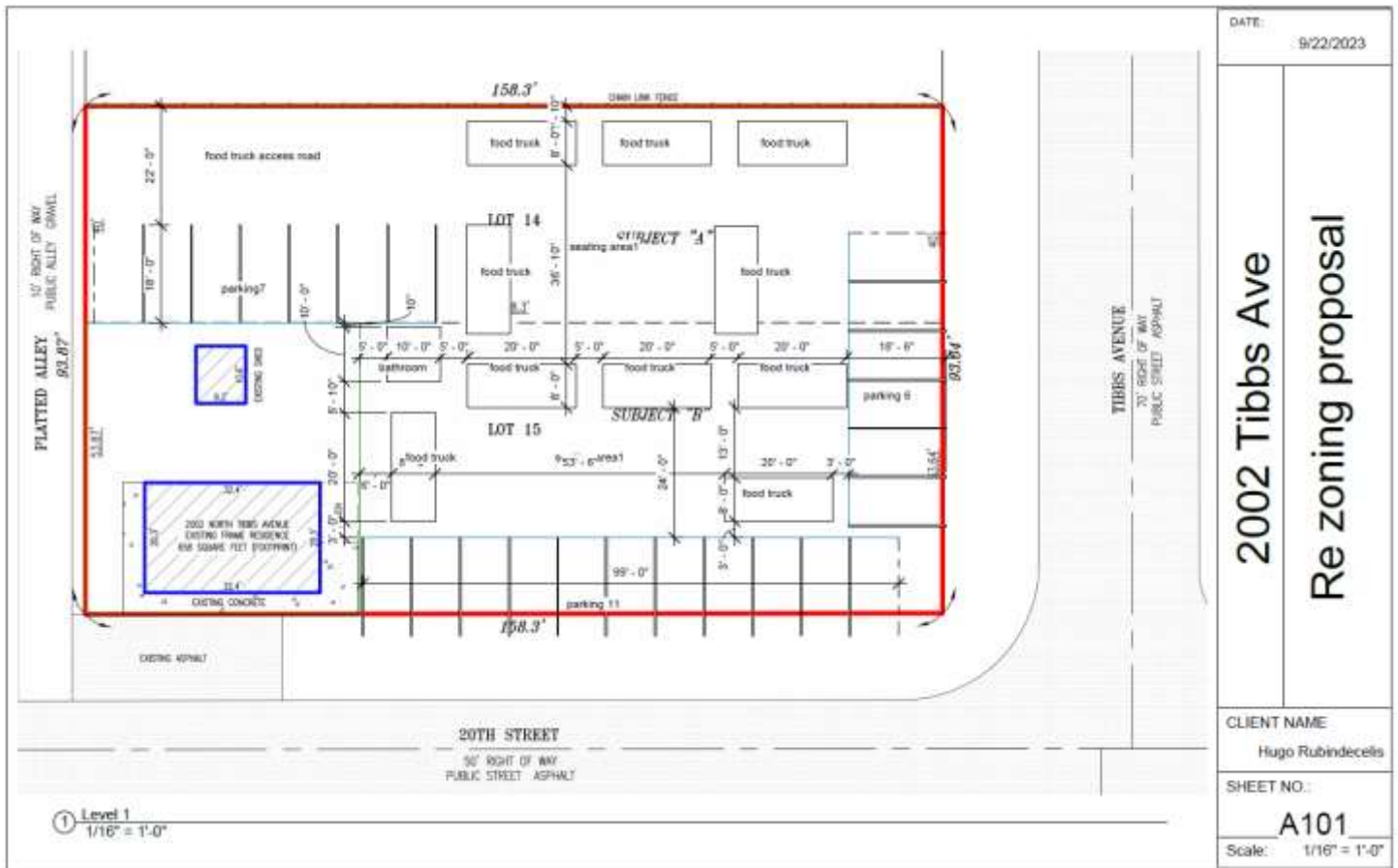


2023-ZON-116; Existing Site Plan

Item 12.



2023-ZON-116; Proposed Site Plan



STATEMENT OF COMMITMENTS

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

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

Legal Description: Lot number fourteen 14 and fifteen 15, in rainbow ridge, an addition to the city of Indianapolis, as shown by the plat thereof recorded in Plat Book 18, page 94, in the Office of the Recorder of Marion County, Indiana.

Statement of COMMITMENTS:

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. The owner agrees to comply with regulations that pertain to zoning C-3 once the city allows for this change.



Photo of the storage shed and single-family dwelling on site.



Photo of the vacant portion of the subject site.



Photo of the Subject Property: 2002 North Tibbs Avenue



Photo of the Subject Property: 2002 North Tibbs Avenue



Photo of the street frontage along 20th Street where parking is not permitted, but proposed on site.



Photo of street frontage along Tibbs Avenue where parking is proposed.



Photo of single-family dwellings east of the site.



Photo of single family dwellings southeast of the site.



Photo of single-family dwellings south of the site.



Photo of a single-family west of the site.



Photo of the alley west of the subject site where food trucks would gain access to the site.

STAFF REPORT

Item 13.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-118
Address: 5181 North High School Road (*Approximate Address*)
Location: Pike Township, Council District #10 (#5 Beginning 2024)
Petitioner: Abdulateef O. Aregbe
Request: Rezoning of 1.98 acres from the D-A (FW) (FF) and D-6 districts to the D-6 (FW) (FF) district to provide for a residential triplex.

RECOMMENDATIONS

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

1. A 40-foot half right-of-way along the North High School Road frontage and 40-foot half right-of-way along West 52nd Street frontage shall be dedicated 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. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.
3. The existing dwelling shall remain and shall not be demolished or expanded. Conversion to a residential triplex shall be limited to the interior of the existing dwelling.
4. The existing accessory structure shall not be converted to living space.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 1.98-acre site, zoned D-A (FW) (FF), is developed with a single-family dwelling surrounded by single-family dwellings to the north, across West 52nd Street, zoned D-P; multi-family dwellings to the south zoned D-6 (FW) (FF); a single-family dwelling to the east, zoned D-A (FW) (FF); and a single-family dwelling to the west, across North High School Road, zoned D-2 (FW) (FF).
- ◇ Petition 2005-UV1-007 provided for a transitional residential facility for young males, ages, 18-24, within an existing building; for a two-year period commencing upon the beginning of the operation.

(Continued)

REZONING

- ◇ This request would rezone the site from the D-A (FW) (FF) District to the D-6 (FW) (FF) classification to provide for a residential triplex. “The D-6 district provides for medium intensity residential development of a variety of housing types: multifamily dwellings, triplex, fourplex, two-family and single-family attached dwellings. The district is intended for developments in suburban areas well served by major thoroughfares, sanitary sewers, and school and park facilities. In its application, the district need not be directly associated with more intense land uses such as commercial or industrial areas. The development pattern envisioned is one of trees lining curving drives with the ample open space provided for in the district affording a wide variety of on-site recreational facilities. The D-6 district has a typical density of 6 to 9 units per gross acre. This district fulfills the medium density residential recommendation of the Comprehensive General Land Use Plan. Development plans 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.”
- ◇ The Comprehensive Plan recommends rural or estate neighborhood typology. “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. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.”
- ◇ 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 Pattern Book recommends detached housing, working farms, group homes, bed and breakfast and wind / solar farms in this typology.

Overlays

- ◇ This site is also located within an overlay, specifically the Environmentally Sensitive Areas (ES) Overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ The northern portion of the site is located within the floodway and floodplain of Falcon Creek.

(Continued)

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 North High School Road frontage and a 40-foot half right-of-way along the West 52nd Street frontage. These dedications would also be consistent with the Marion County Thoroughfare Plan.

Environmental Public Nuisances

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

(Continued)

Floodway / Floodway Fringe (Falcon Creek)

- ◇ This site has a secondary zoning classification of a Floodway (FW) and Floodway Fringe (FF). The Floodway (FW) is the channel of a river or stream and those portions of the floodplains adjoin the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream. The Floodway Fringe (FF) is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The purpose of the floodway district is to guide development in areas identified as a floodway. The Indiana Department of Natural Resources (IDNR) exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (D-6 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

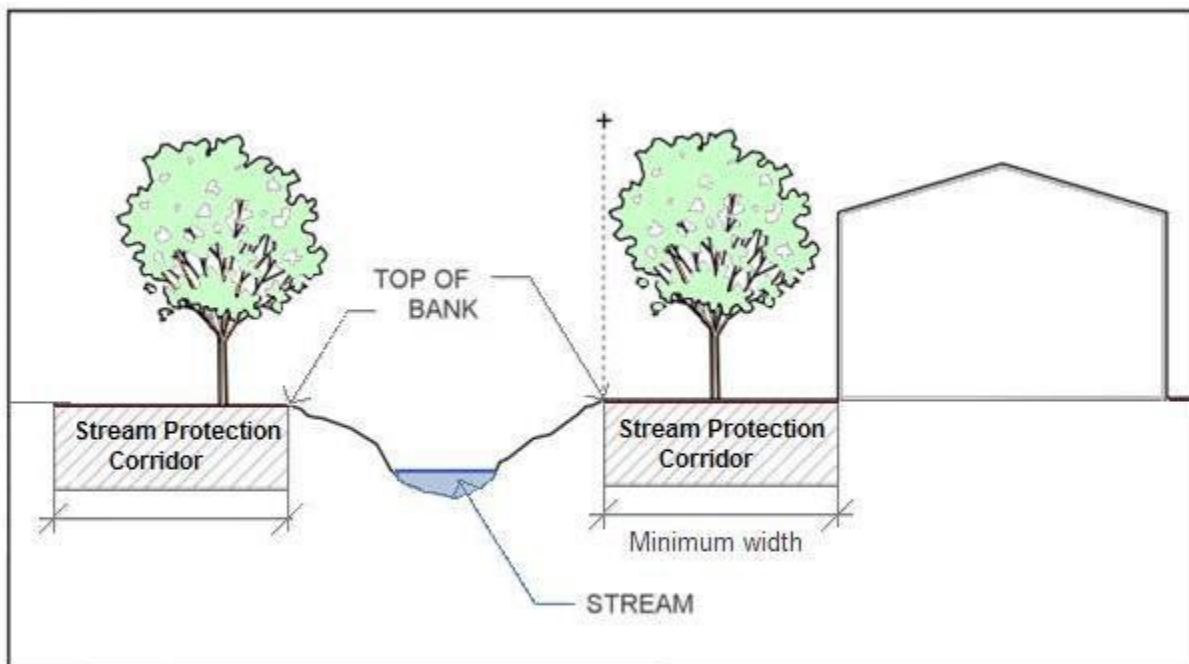
Stream Protection Corridor

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

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

(Continued)

- ◇ There are two types of categories of Streams: Category One Streams and Category Two Streams. Category One Stream is defined as: “A perennial stream that flows in a well-defined channel throughout most of the year under normal climatic conditions. Some may dry up during drought periods or due to excessive upstream uses. Aquatic organism such as some fish are normally present and easily found in these streams. The Category One Streams are listed in Table 744-205-2: Category One Streams.”
- ◇ A Category Two Stream is defined as: “An intermittent stream that flows in a well-defined channel during wet seasons of the year but not necessarily for the entire year. These streams generally exhibit signs of water velocity sufficient to move soil, material, litter, and fine debris. Aquatic organisms, such as fish, are often difficult to find or not present at all in these streams. These streams are identified on the United States Geological Survey (USGS) topographic maps and on the Department of Natural Resources Conservation Service (NRCS) soils maps.”
- ◇ There are 34 Category One streams listed in the Ordinance. The stream protection corridor is a strip of land on both sides of the stream whose width varies according to whether it is within the Compact or Metro Context Area and whether it is a Category One or Category Two Stream.
- ◇ Falcon Creek lies within the Metro Context Area and is located along the northern portion of the site. It is designated as a Category Two stream requiring a 50-foot-wide stream protection corridor on both sides of the stream, as measured parallel from the top of the bank. Top of the bank is not defined by the Ordinance, other than by Diagram UU, Stream Protection Corridor Cross-section, as shown below.



Stream Protection Corridor

(Continued)

Planning Analysis

- ◇ The request would not be consistent with the Comprehensive Plan recommendation of rural or estate neighborhood typology. However, staff understands that the existing dwelling would remain and would be converted into a three-family residential structure (triplex). Because the footprint of the dwelling would not change, the impact on the surrounding residential development would be minimal.
- ◇ This rezoning would result in density of 1.74 units per acre. The abutting development to the south, comprised of one duplex, 12 triplexes and three fourplexes, has a density of 4.5 units per acre. In other words, the resulting increased density of this request would be compatible with residential development in the area.
- ◇ The site is also developed with an approximately 26-foot by 42-foot accessory building. This structure should remain an accessory structure and should not be converted to a dwelling or living quarters.
- ◇ Access to the site is gained from a drive along North High School Road and a drive along West 52nd Street. During the site visit, staff observed that the access on West 52nd Street includes a bridge over Falcon Creek. This bridge is in a state of disrepair, which should be repaired or removed. If removed, the driveway should be closed to mitigate safety concerns.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-A (FW)	Single-family dwelling
(FF)	

SURROUNDING ZONING AND LAND USE

North -	D-P (FW)	Single-family dwelling
	(FF)	
South -	D-6 (FW)	Multi-family dwellings
	(FF)	
East -	D-A (FW)	Single-family dwelling
	(FF)	
West -	D-8 (FW)	Single-family dwellings
	(FF)	

COMPREHENSIVE PLAN

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

Marion County Land Use Pattern Book (2019).

(Continued)

THOROUGHFARE PLAN This portion of North High School Road is designated in the Marion County Thoroughfare Plan as a primary collector, with an existing variable 40-foot and 70-foot right-of-way and a proposed 80-foot right-of-way.

This portion of West 52nd Street is designated in the Marion County Thoroughfare Plan as a primary collector, with an existing variable 48-foot right-of-way and a proposed 80-foot right-of-way.

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

OVERLAY This site is located within the Environmental Sensitive Area

ZONING HISTORY

2005-UV1-007; 5181 North High School Road, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a transitional residential facility for young males, ages 18-24, within an existing 1,950-square foot building, **granted**.

VICINITY

96-257 / 96-DP-26; 5801 West 52nd Street (east of site), requested rezoning of 34.5 acres, being in the D-A (FF)(FW) Districts, to the D-P (FF)(FW) classification to provide for single-family residential development at a density of 2.9 units per acers, **approved**.

96-CP-23Z / 96-DP-7; 5950 West 52nd Street (east of site), requested rezoning of 40 acres, being in the D-A and SU-43 Districts, to the DP classification to provide for single-family residential development at a density of 3.97 units per acre, **approved**.

92-Z-149; 5412 North High School Road (north of site), requested rezoning of 0.5739 acre, being in the D-6II District to the SU-2 classification to provide for a school, **approved**.

90-Z-19; 5401 North High School Road (north of site), requested rezoning of 17.6 acres, being in the A-2 District, to the SU-2 classification to provide for a school, **approved**.

88-Z-84 / 88-CV-11; 4701 North High School Road (south of site), requested rezoning of 57.69 acres, being in the A-2 District, to the D-5 classification to provide for single-family residential development and a variance of development standards of the Dwelling Districts Zoning Districts to provide for a zero-foot lot line on one side of the residence with 10-foot side clearance on the other side, **approved and granted**.

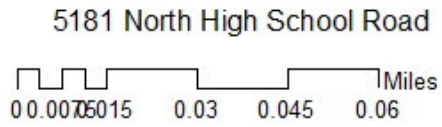
86-Z-209; 5590 North High School Road (north of site), requested rezoning of 51.05 acres, being in the D-P District, to the D-6II classification to provide for condominiums, **approved**.

(Continued)

81-Z-73; 5011 North High School Road (south of site), requested rezoning of 11.0 acres from the A-2 District to the D-6 classification to provide for a maximum of 16 four-unit condominium development, **approved**.

76-Z-59; 5200 North High School Road (north of site), requested rezoning of 18.38 acres, being in the D-P, SU-43 and A-2 Districts, to the SU-18 classification to provide for an electrical substation, **approved**.

kb





View looking north along North High School Road



View looking south along North High School Road



View looking east along West 52nd Street



View looking west along West 52nd Street



View of site looking south across West 52nd Street



View of site looking south across West 52nd Street



View of site looking south across West 52nd Street



View from site looking north at intersection of North High School Road and West 52nd Street



View of site looking east



View from site looking southeast

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-867 / 2023-CVR-867 (Amended)
Address: 2233 Dr Martin Luther King Jr Street (*Approximate Addresses*)
Location: Center Township, Council District #11 (#12 Beginning 2024)
Petitioner: Days Property Group, LLC, by Sarah Walters
Request: Rezoning of 0.17 acres from the C-1 (W-1) district to the D-8 (W-1) district to legally establish and provide for the expansion of an existing two-family dwelling with a new detached garage.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish and provide for the expansion of a 3.5-foot north side yard setback for the dwelling and allow for a 3.5-foot north side yard setback for a detached garage (five feet required).

RECOMMENDATIONS

Amendment: The petition was amended to include the secondary (W-1) district notation, which did not require new notice.

Staff **recommends approval** of the rezoning request and variance to legally establish and provide for the expansion of a 3.5-foot north side yard setback for the dwelling.

Staff **recommends denial** of the variance to allow for a 3.5-foot north side yard setback for a detached garage.

SUMMARY OF ISSUES

LAND USE

- ◇ The 0.17-acre subject site is developed with a two-family dwelling.
- ◇ The property is bordered to the north with a two-family dwelling, zoned C-1, to the west across Dr Martin Luther King Jr Street with a park, zoned PK-1, to the south with an office building, zoned C-1, and to the east with a single-family dwelling, zoned D-8.

REZONING

- ◇ The request would rezone the property from the C-1 district to the D-8 district to allow the continued use of the site for residential use, which is not permitted in the commercial district.

(Continued)

- ◇ The C-1 District is designed to perform two functions: act as a buffer between uses, and provide for a freestanding area that office uses, compatible office-type uses, such as medical and dental facilities, education services, and certain public and semipublic uses may be developed with the assurance that retail and other heavier commercial uses with incompatible characteristics will not impede or disrupt. Since the buildings for office, office-type and public and semipublic uses are typically much less commercial in appearance, landscaped more fully and architecturally more harmonious with residential structures, this district can serve as a buffer between protected districts and more intense commercial or industrial areas/districts - if designed accordingly. This district, with its offices and other buffer type uses, may also be used along certain thoroughfares where a gradual and reasonable transition from existing residential use should occur.
- ◇ The 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 residential development for 8 to 15 units per acre.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for the expansion of the dwelling along the existing non-conforming 3.5-foot north side setback greater than the 50 percent limitation and for the construction of a detached garage with a deficient 3.5-foot north side setback.
- ◇ Per Table 742.103.03, the proposed D-8 district requires 5-foot side setbacks.

Wellfield Protection Secondary Zoning

- ◇ A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.
- ◇ There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. All development within these districts is subject to Commission approval. The filing of a site and development plan is required and subject to approval, on behalf of the Commission, by a Technically Qualified Person (TQP), unless exempted by the Ordinance.
- ◇ “Because of the risk that hazardous materials or objectionable substances pose to groundwater quality, it is recognized that the further regulation of the manufacturing of, handling, transfer, disposal, use or storage of hazardous materials or objectionable substances related to nonresidential use activities is essential to preserve public health and economic vitality with Marion County.”
- ◇ All uses permitted in the applicable primary zoning district shall be those uses permitted in the W-1 and W-5 zoning districts, unless otherwise prohibited by the Ordinance, and provided no other secondary zoning district prohibits the use.

(Continued)

- ◇ “No building, structure, premises or part thereof shall be altered, constructed, converted, erected, enlarged, extended, modified, or relocated except in conformity with this Section, and not until the proposed Site and Development Plan has been filed with and approved on behalf of the Commission by the Technically Qualified Person (TQP). Regulations found in Chapter 742, Article II, Section 4 shall apply to all land within the Wellfield Protection Zoning Districts. The entire site shall be subject to review by the TQP. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.”
- ◇ The subject site is located within W-1 White River wellfield protection area and any use or development within a wellfield protection district would be subject to the Technically Qualified Person (TQP) review and approval, unless and until the property owner provides sufficient justification that the type of use, type of facility, and chemical quantity limits, independent of the land use would be exempt from the requirements for filing a development plan. Otherwise, a development plan would be required to be filed and approved on behalf of the Metropolitan Development Commission by the (TQP). Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

Staff Analysis

- ◇ As proposed, rezoning to the D-8 district would be consistent with the Comprehensive Plan recommendation for residential development and would ensure the continued residential historical use of the site since the building was constructed in 1910 per the Assessor’s Property Card records.
- ◇ The variance for the expansion along the 3.5-foot north side yard setback would be acceptable since this would not create a more deficient setback than what already exists. However, the 3.5-foot setback proposed for the garage would not be supportable by staff since there is sufficient room on site to relocate the garage to meet the five-foot requirement. Therefore, there is no practical difficulty.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-1	Compact	Residential (Two-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	C-1	Residential (Two-family dwelling)
South	C-1	Office
East	D-8	Residential (Single-family dwelling)
West	PK-1	Park

COMPREHENSIVE PLAN

The Comprehensive Plan recommends dwellings 8 to 15 units per acre development.

(Continued)

THOROUGHFARE PLAN	Doctor Martin Luther King Junior Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with an 81-foot existing right-of-way and a 66-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 located within a wellfield protection district, specifically the White River – W-1.
SITE PLAN	File-dated December 7, 2023.
ELEVATIONS	File-dated December 7, 2023.
FINDINGS OF FACT	File-dated December 7, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2022-UV2-030; 2307 Dr. Martin Luther King Jr Street (north of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for construction of a single-family dwelling (not permitted) with a 1.5-foot front setback along 23rd Street (10-foot front setback required), **granted**.

2021-UV2-023; 2307 Dr. Martin Luther King Jr Street (north of site), Variance of use and development standards to allow for the construction of a manufactured home with a three-foot front setback and two parking spaces, **granted**.

2019-ZON-012; 2319 Dr. Martin Luther King Jr. Street (north of site), Rezoning of 0.12 acre from the C-1 (W-5) District to the D-8 (W-5) classification, **approved**.

2008-VAR-001; 2201 Dr. Martin Luther King Jr Street (south of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a gasoline station with a five-foot east side transitional yard (minimum twenty-foot side transitional yard required), and to provide for carryout foot service within five feet of a protected district (minimum 100-foot separation required), **withdrawn**.

2007-ZON-139; 2201 Dr. Martin Luther King Jr. Street (south of site), Rezoning of 0.42 acre, from the C-1 (W-1) District to the C-3C (W-1) classification to provide for corridor commercial uses, **approved**.

2003-ZON-071; 2335 Dr. Martin Luther King Jr. Street (north of site), Rezoning of 0.104 acre from C-1 (W-5) to C-3 (W-5), to provide for a beauty and barbershop, **denied**.

2002-ZON-149; 300, 400, 412, and 468 West Fall Creek Boulevard, 427 West 23rd Street, 2253, 2257, 2261, 2265, 2271, 2275, 2277, 2281, 2285, and 2289 Indianapolis Avenue, and 2276, 2278, 2286, 2288, and 2292 Paris Avenue (east of site), Rezone 6.74 acres from D-8 (W-1) and PK-1 (W-1) to SU-1 (W-1), to provide for religious uses, **approved**.

99-SE3-2; 2271 Indianapolis Avenue (east of site), Special Exception of the Dwelling Districts Zoning Ordinance to legally establish an administrative office, associated with a youth center, providing tutoring, gardening, and small meetings, associated with an adjacent church, **granted**.

83-HOV-86; 2302 North Indianapolis Avenue (northeast of site), Variance of development standards to allow a room addition in the required four-foot side setback, **granted**.

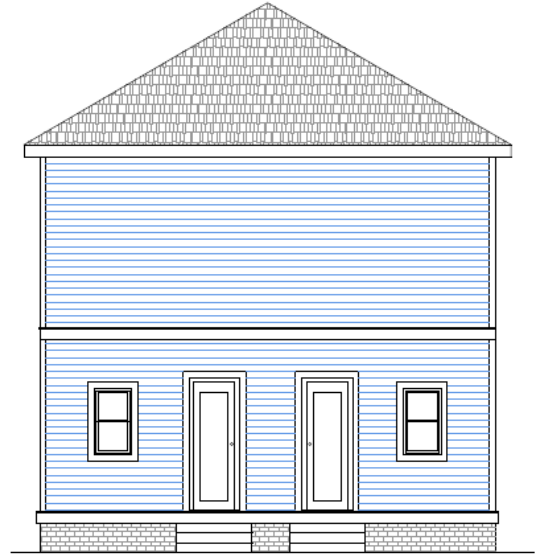
65-V-324; 2201 Northwestern Avenue (subject site), Variance of use to permit a trailer for storage of merchandise in conjunction with an existing service station, **denied**.

46-V-303; 2201-2223 Northwestern Avenue (subject site), variance of use to provide for the expansion of a filling station, **granted**.

MI



1 WEST ELEVATION
3/16" = 1'-0"



2 EAST ELEVATION
3/16" = 1'-0"



3 NORTH/SOUTH ELEVATION
3/16" = 1'-0"

**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 addition will be built in a similar manner to the surrounding homes, creating no changes to the community

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

the surrounding area and properties are similar in development and size

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

the home is existing and does not currently meet the side setback, so there's no way to comply with the ordinance without tearing down the house and rebuilding



Photo of the Subject Property: 2233 Dr Martin Luther King Jr Street



Photo of the southern building façade and adjacent office to the south.



Photo of the rear yard where expansion and detached garage will be located.



Photo of alley east of the subject site looking north.



Photo of the residential dwellings north of the site.



Photo of the park west of the site.