



Board of Zoning Appeals BZA Division I (March 7, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, March 07, 2023

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

1. **2022-SE1-001 | 4330 Michigan Road**

Washington Township, Council District #8, Zoned SU-2 (FW) (FF)
Veracity Land Use Development Services, by Michael Clust

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 200-foot tall monopole tower and a four-foot lightening rod.

*Petitioner requesting continuance to April 4, 2023.

2. **2022-SE1-002 | 9140 East McGregor Road**

Franklin Township, Council District #25, Zoned D-A
Shalom Christian Church, by Jonathan L Albright Jr.

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses and a modification of development standards to allow for the construction of a religious use facility, parking lot and related accessory structures with a 22-foot western side yard and rear yard (minimum 30-foot side yard setback, 75-foot rear yard setback required).

*Staff requests continuance, for cause, to the April 4, 2023 hearing.

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

3. **2023-UV1-005 | 6144 North College Avenue**

Washington Township, Council District #2, Zoned D-4 (TOD)
Angela Alney

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a beauty salon (not permitted).

4. **2023-DV1-005 | 3100 North Meridian Street**

Center Township, Council District #9, Zoned SU-2 (TOD)
Herron Preparatory Academy Real Estate, LLC, by David Kingen & Emily Duncan

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a decorative six-foot tall fence within the front yard of Meridian Street (maximum 42-inch-foot tall fence permitted) and a freestanding monument sign within 85 feet of another freestanding sign (300-foot separation required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

- 5. 2022-DV1-057B | 4001 North Park Avenue (Indecisive)**
Washington Township, Council District #7, Zoned D-5 (TOD)
Brandi Waddy

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for street access to an existing detached garage (access from an improved alley required).

- 6. 2022-DV2-045 | 1251 South Alabama Street**
Center Township, Council District #16, Zoned D-5
David M Rollings, by Mark & Kim Crouch

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legalize the existing ten-inch front, rear and northern side yard setbacks (front setback of zero-ten feet required for Terrace Frontages, 20-foot rear yard, five-foot side yard setback required) with no off-street parking provided (one space required); and to provide for a roofline change along a non-conforming setback and vertical expansion (not permitted), all within the clear sight triangle of Alabama and the intersecting alley (encroachment of clear sight triangles not permitted).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

- 7. 2022-DV1-062 (Amended) | 1012 Olive Street**
Center Township, Council District #17, Zoned D-5 (TOD)
Kristen Fern

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway with a zero-foot north side yard setback and a three-foot rear yard setback (three-foot side yard setback and 20-foot rear setback required) providing access from Olive Street (exclusive vehicle access from improved alley required).

- 8. 2022-DV1-063 | 114 East 49th Street (4901 North Pennsylvania Street Parcel Address)**
Washington Township, Council District #7, Zoned C-3 (MSPC)
Patachou, Inc., by Jonathan W. Hughes

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the enlargement of an outdoor sidewalk cafe area from 777 square feet to 1,142 square feet (not permitted), with a permanent awning.

- 9. 2022-UV1-035 (3rd Amended) | 6234 East Hanna Avenue**
Franklin Township, Council District #18, Zoned I-3
Exotic Metal Treatment, by Brian E. Moench

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation a metal treatment facility (not permitted) and a building addition with a 38-foot front transitional yard along Hanna Avenue, an expanded parking area with a 14-foot transitional yard along Hanna Avenue (150-foot transitional yard required) and an expanded parking area with a 12-foot front yard setback from the proposed right-of-way of Churchman By-Pass (60-foot front setback from proposed right-of-way required), deficient landscaping and a waiver of sidewalk installation requirements along Churchman By-Pass (installation of sidewalks required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

- 10. 2023-DV1-003 | 8838 West 21st Street**
Wayne Township, Council District #6, Zoned D-A
Paul Brannon

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the

construction of a 3,450 square foot detached accessory structure to be used as a hobby shop, being larger than the primary dwelling (not permitted).

11. 2023-DV1-004 | 1456 Fletcher Avenue

Center Township, Council District #17, Zoned D-5
Equity Trust Company, by Mark and Kim Crouch

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached carriage house with 1.5-foot side yard setbacks (five-foot side setbacks), encroaching within the clear sight triangle of the alley (encroachment of clear sight triangles not permitted), without an entry to the secondary dwelling visible from the right-of-way (required) and a walkway with a 1.5-foot west side yard setback.

12. 2023-DV1-007 | 3651 Five Points Road

Franklin Township, Council District #18, Zoned D-A / SU-43
Kevin L. Strickford, by Russell L. Brown and Elizabeth Bentz Williams

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a barn with a 21-foot north and aggregate side yard setback (30-foot side yard setback, 75-foot aggregate required), partially located within the front yard of Five Points Road (accessory structures not permitted forward of the established building line).

*Possible Expedite

13. 2023-DV1-008 | 8144 East Southport Road

Franklin Township, Council District #25, Zoned C-4
DRGSF Surplus, LLC, by Russell Brown and Elizabeth Bentz Williams

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of an outlot, including:

- a) The erection of a third freestanding sign along Southport Road, being 260 feet from an existing freestanding sign to the east (maximum of two freestanding signs permitted per frontage, 300-foot separation required);
- b) 51 162-square foot parking spaces provided (maximum 43 parking spaces permitted, minimum 180 square feet required); and
- c) A drive through with stacking spaces within the front yard of Southport Road (not permitted) and no exclusive bypass aisle (required).

14. 2023-UV1-004 | 5201 West Raymond Street

Wayne Township, Council District #22, Zoned SU-9 / D-4
Speed Way Inc., by Pat Rooney

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a repair shop with outdoor storage (not permitted) and a six-foot tall fence within the front yard (maximum 42-inch fence height permitted).

15. 2023-UV1-006 | 201 West 38th Street and 3750 North Capitol Avenue

Center Township, Council District #7, Zoned C-4 / D-5
Martin Petroleum Inc., by Pat Rooney

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required), a dumpster enclosure within the front yard of West 38th Street (not permitted in front yards), zero bicycle parking spaces provided (three bicycle spaces required) and eight frontage trees provided (nine 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. For accommodations needed by persons with disabilities planning to attend this public hearing, please call the Office of Disability Affairs at (317) 327-5654, at least 48 hours prior to the meeting. - Department of Metropolitan Development - Current Planning Division.

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

Case Number: 2022-SE1-001
Address: 4330 Michigan Road (approximate address)
Location: Washington Township, Council District #8
Zoning: SU-2 (FW) (FF)
Petitioner: Veracity Land Use Development Services, by Michael Clust
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 200-foot-tall monopole tower and a four-foot lightening rod.

ADDENDUM FOR MARCH 7, 2023

This petition was continued from the January 3, 2023, hearing, to the March 7, 2023 hearing of Division I, at the request of the petitioner, in order to engage in further discussion with interested parties. No new information has been provided. Staff continues to **recommend approval** of the request.

ADDENDUM FOR JANUARY 3, 2023

This petition was continued from the December 6, 2022 hearing to the January 3, 2023 hearing of Division I, at the request of the petitioner in order to engage in further discussion with interested parties. No new information has been provided. Staff continues to **recommend approval** of the requests.

ADDENDUM FOR DECEMBER 6, 2022

The petitioner will be requesting a continuance for cause from the December 6, 2022, hearing of Division I to the January 3, 2022, hearing of Division I, for more time to discuss the petition with the neighborhood. This would require a vote by the Board.

ADDENDUM FOR SEPTEMBER 6, 2022

The petitioner requested a three-month continuance for cause from the September 6, 2022, hearing of Division I to the December 6, 2022, hearing of Division I. Staff is not opposed to the request, however, would suggest new Legal Notices be sent to all surrounding property owners. This would require a vote by the Board.

ADDENDUM FOR AUGUST 2, 2022

Due to an error related to publication of notice, this petition was continued by Staff from the August 2, 2022, hearing of Division I to the September 6, 2022, hearing of Division I, with additional notice.

(Continued)

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

SU-2	Metro	International School
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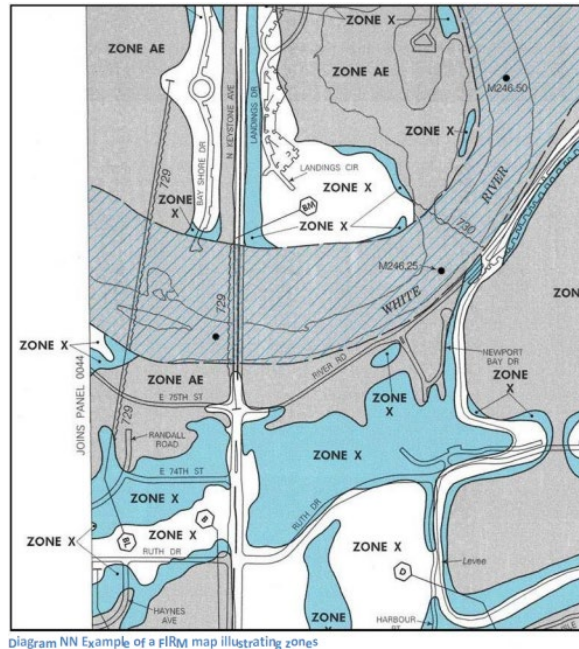
SURROUNDING ZONING AND LAND USE

North	D-5 / D-A	Single-family dwellings / Vacant lot
South	SU-7	Charitable / Non-profit institution
East	C-S	Linden House
West	D-P	Single-family dwellings

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Regional Special Uses.

- ◇ The subject site is 63.7 acres located in Washington Township. The current use of the subject site is a school. It is surrounded by residential to the north and west, a charitable organization to the south, and the well-known, Linden House to the east. The subject site is zoned SU-2. The SU-2 district is designated for schools.
- ◇ The subject site is also located within the Floodway Fringe, Zone AE. Zone AE: The floodway fringe (FF) zoning district boundary is determined by applying the base flood elevations from the flood insurance study base flood profiles to the specific topography of a site/parcel/property. The floodway (FW) district boundary is determined from the flood insurance rate map. The base flood elevation shall be determined from the flood insurance study base flood profile and is rounded up to the nearest ½ foot elevation. See below map.



SPECIAL EXCEPTION

- ◇ The request would provide for a wireless communications facility (WCF) with a 200-foot-tall monopole tower and a four-foot lightning rod. Table 743-305-1 states Wireless Communications Facilities are permitted in the SU-2 district only by Special Exception.
- ◇ The subject site consists of a 63.7-acre school, with multiple buildings, athletic fields, and parking lots. The surrounding neighborhood includes a recently zoned commercial use to the east, residential to the north and west and a charitable organization to the south of the subject site. The monopole tower with the four-foot lightning rod would be located to the southwest of the subject site (as shown in the site plan), abutting the SU -7 district (charitable organization) zoned property. The WCF would be separated and buffered by the White River and is heavily forested by trees.
- ◇ There are seven Findings of Fact that need to be met for a Special Exception to be approved. The first Finding of Fact is “The proposed use meets the definition of that use in Chapter 740, Article II.” The proposed monopole tower and four-foot lightning rod meet the definition for Wireless Communications Facility. *Wireless Communication Facility* is defined as any facility used by a licensed commercial wireless telecommunications provider to provide service, such as cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and other similar services that are marketed to the public. Additionally, the tower would be designed to have at least four carriers.
- ◇ The second Finding of Fact is “The proposed use will not injure or adversely affect the adjacent area or property values in that area.” The proposed monopole tower would be replacing an existing monopole tower, located along Michigan Road. The proposed tower would be screened by trees and separated from use to the south with the White River as a buffer.

(Continued)

- ◇ The third Finding of Fact is “The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property.” The use of the subject property is a school. The monopole tower would be separated from the school and located in a heavily forested area. The land in this area is not used currently by the school.
- ◇ The fourth Finding of Fact is “The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County.” The Comprehensive Plan recommendation is Regional Special uses. Monopole towers are usually located on school properties. The use of the land would not otherwise be used, since it is heavily forested and abuts the White River, suggesting that the monopole would also be heavily screened for compatibility with the character of the district.
- ◇ The fifth Finding of Fact is “The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located.” There are no variances needed for the tower to be located on the site, suggesting it conforms with the development standards of Chapter 744.
- ◇ The sixth Finding of Fact is “The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located.” The use of a Wireless Communication Facility at the subject site is permitted only through Special Exception. Staff finds the use to be supportable at the subject site.
- ◇ The seventh Finding of Fact is “The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use.” Again, the proposed tower would be compliant with all standards of the Ordinance.
- ◇ The proposed Wireless Communications Facility would meet all Findings of Fact where Staff would not find the proposed location detrimental to the surrounding area and would find the request supportable.

GENERAL INFORMATION

THOROUGHFARE PLAN

Michigan Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 132-foot existing right-of-way and a 112-foot proposed right-of-way.

SITE PLAN

File-dated July 13, 2022.

ELEVATIONS

File-dated July 13, 2022.

FINDINGS OF FACT

File-dated June 15, 2022.

(Continued)

ZONING HISTORY – SITE

EXISTING VIOLATIONS: **VIO22-000947; Building Code Violations.**

PREVIOUS CASES:

2022-DV1-023; 4330 Michigan Road (subject site), requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall ornamental and chain link fence in the front yard along Michigan Road, **approved.**

2003-DV3-033; 4330 Michigan Road (subject site), requested a Variance of development standards of the Sign Regulations to provide for a two-sided, 15.66 foot tall, 188 square foot pylon sign, with the angle between the sign faces being greater than fifteen degrees, and separated by more than 3.5 feet, being located 80 feet from a protected district, with a 24.66 square foot electronic variable message display, **approved.**

ZONING HISTORY – VICINITY

2001-ZON-162; 4615 North Michigan Road (adjacent to east), requests a rezoning of 177.74 acres from D-S (FF) and SU-2 (FF) (FW) to D-P (FW)(FF) to provide for 15 single-family residential lots, or 0.08 units per acre, **approved.**

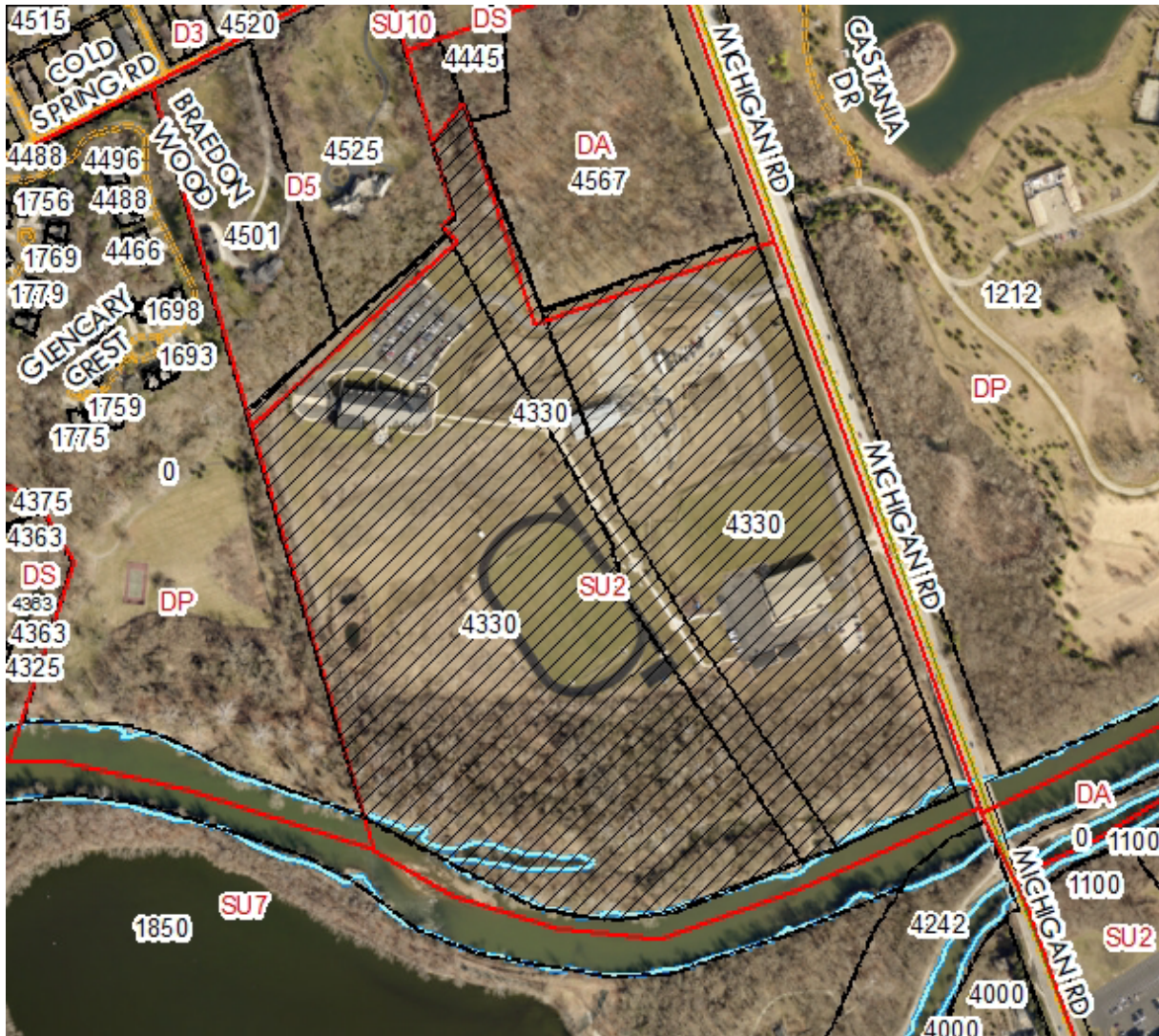
2000-APP-136; 4615 North Michigan Street (adjacent to east), requests a modification of commitments, related to petition 96-Z-60, modifying commitment #2, to provide for a 20-foot height extension to an existing 100-foot monopole tower (maximum 100-foot monopole tower permitted by previous commitment), **approved.**

96-Z-60; 4615 North Michigan Road (adjacent to east), requests a rezoning of 0.036 acre, from SU-2, to the SU-35 classification, to provide for a 100-foot tall telecommunications antenna and accessory equipment structures, **approved.**

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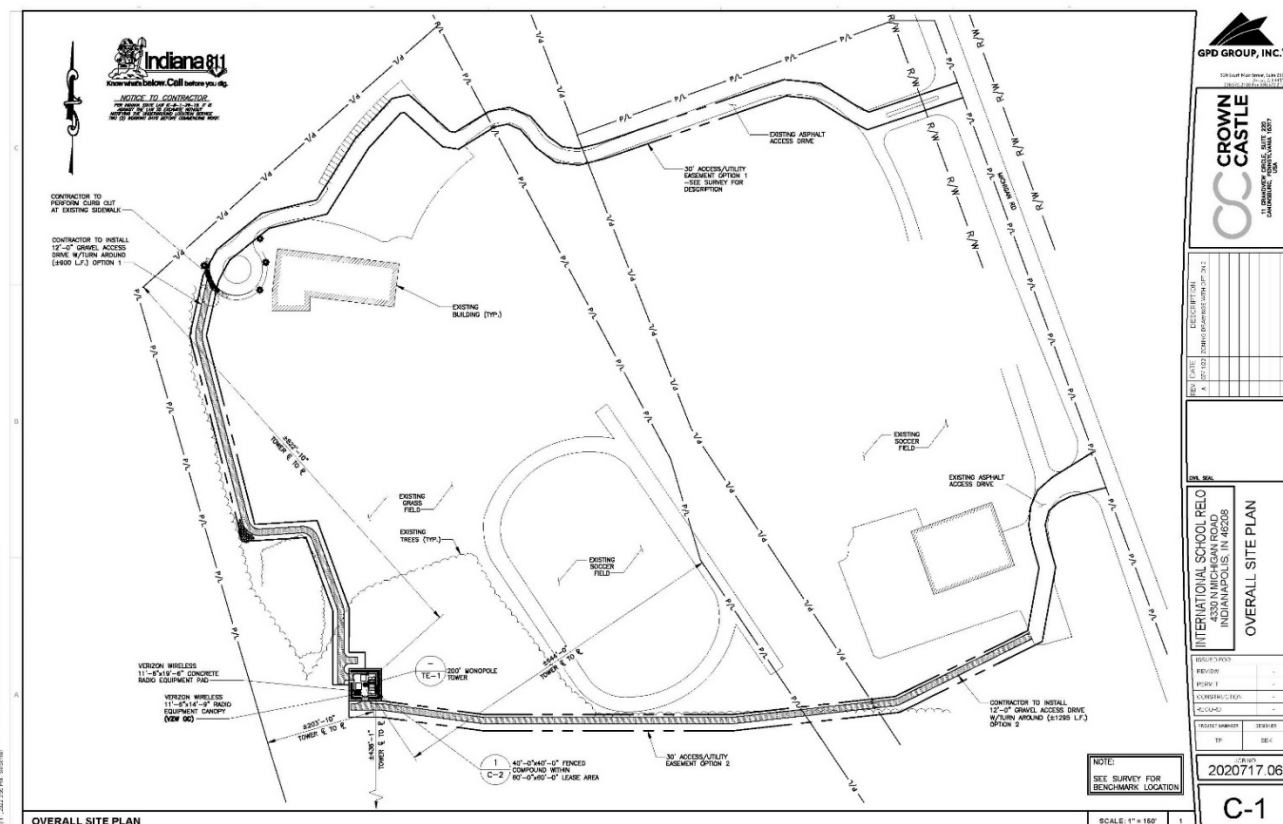
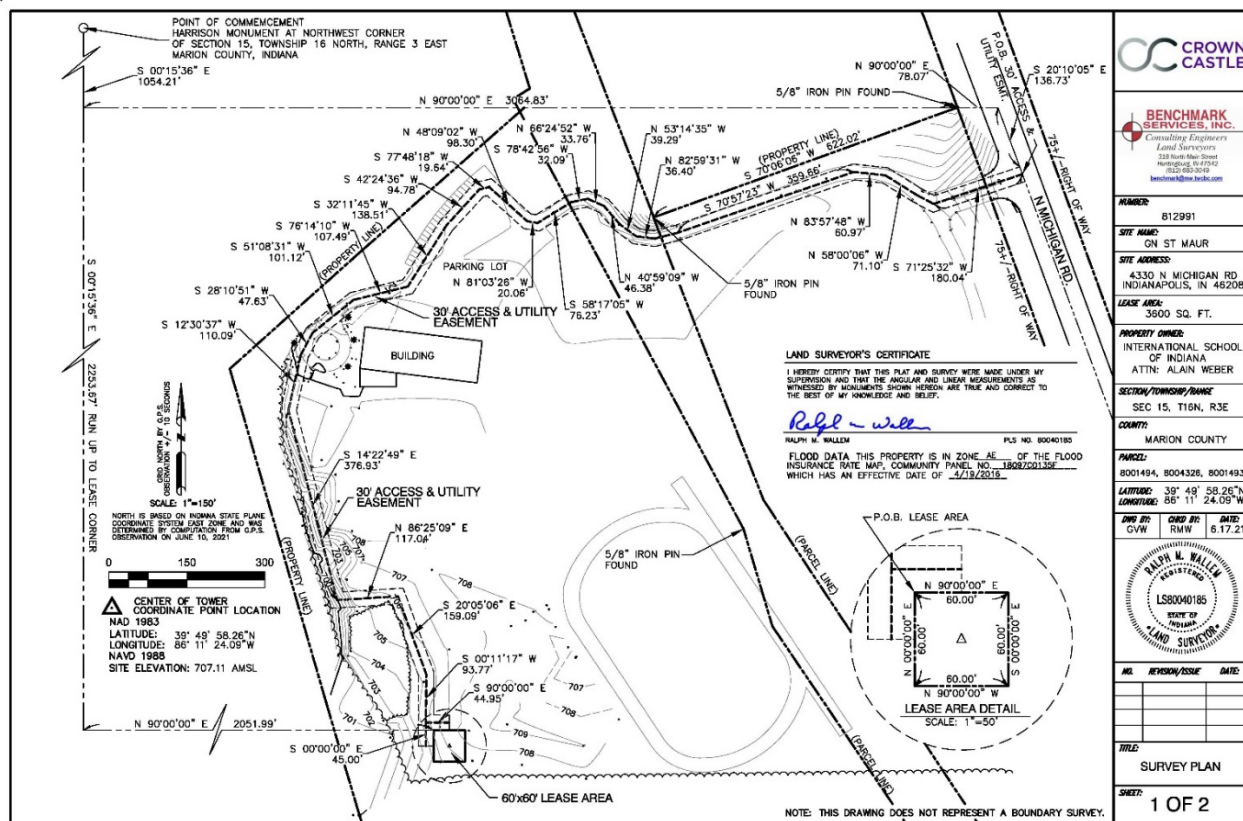
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2022-SE1-001; Aerial Map

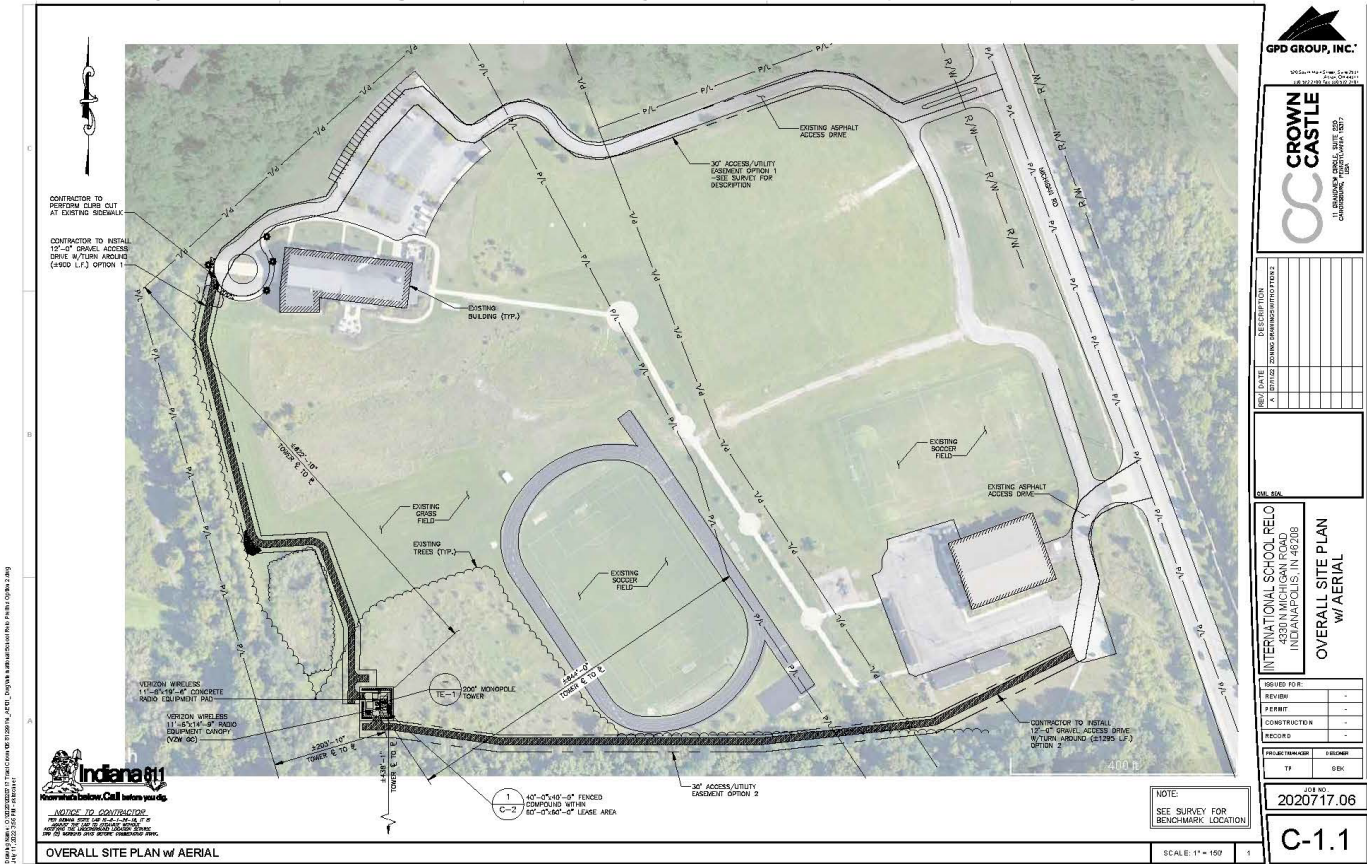


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2022-SE1-001; Site Plan



(Continued)



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Petition Number _____

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

**PETITION FOR SPECIAL EXCEPTION
FINDINGS OF FACT**

1. The proposed use meets the definition of that use in Chapter 740, Article II because

The proposed use is a Wireless Communication Facility (WCF). The tower structure and associated equipment will be utilized primarily to provide cellular services to the general public.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that area because

WCF are common in urban settings. The proposed WCF would be replacing an existing WCF approximately 2,300 feet away to the northeast. The tower is sited on the property to be setback from the road a great distance, while the existing tower is right upon Michigan Road. Wireless network integrity requires 'cells' located within certain proximity to one another to function, therefore the new tower must be in close proximity to the existing to achieve comparable coverage. Surrounding land uses are institutional or residential, some with high network demands. The site will largely be screened by a mature treeline to the south and west, and a far distance from adjacent properties to the north and east.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property because

WCF are common in urban settings. The tower will be a monopole structure, the most discreet of the common tower types. The WCF will be partially screened or far enough away from adjacent uses to substantially mitigate issues related to lawful use and enjoyment of surrounding properties.

4. The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County because

WCF are commonly located on school properties. The WCF is sited on an underutilized area on the property so as to provide minimal impacts. The proposed compound area will be heavily landscaped, and appropriately screened.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located because

The SU-2 district specifically does not provide for many development standards per the Ordinance, any required development standards will be adhered to per the plans filed. The WCF is thoughtfully sited on a large parcel, with ample setbacks from adjoining property and robust landscaping.

Metropolitan Development
Jun 15 2022
Division of Planning

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6. The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located because

All applicable development standards will be met per the plans filed. Most performance standards from Chapter 740 would not be applicable to the proposed WCF. Any noise generated will be nominal. Carriers may provide generators but only for emergency power purposes.

7. The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use because

All standards from 743-305.00 will be adhered to. The single existing tower within 0.5-mile will be decommissioned following the erection of the proposed tower.

DECISION

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

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Metropolitan Development
Jun 15 2022
Division of Planning

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Photo of school looking north east on subject site.
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Photo of subject site, looking northwest of the school.



Photo of subject site, looking northeast of the subject site.
(Continued)



Photo of subject site, location of proposed monopole (southwest).
(Continued)



Photo of location of proposed monopole tower.
(Continued)



Photo of the Subject Property: 4330 Michigan Road

STAFF REPORT

Item 2.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-SE1-002
Address: 9140 East McGregor Road (approximate address)
Location: Franklin Township, Council District #25
Zoning: D-A
Petitioner: Shalom Christian Church, by Jonathan L Albright Jr.
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses and a modification of development standards to allow for the construction of a religious use facility, parking lot and related accessory structures with a 22-foot western side yard and rear yard (minimum 30-foot side yard setback, 75-foot rear yard setback required).

This petition was previously continued for cause at the request of the petitioner, from the December 6, 2022, hearing to the February 7, 2023, hearing.

A registered neighborhood organization filed a timely automatic continuance, continuing this petition from the February 7, 2023, hearing, to the March 7, 2023, hearing.

The petitioner has submitted an amended site plan, which will need additional variances, and new notice for the amended petition. Therefore, **Staff is requesting a continuance for cause, from the March 7, 2023, hearing, to the April 4, 2023, hearing, with new notice** for the amended petition.

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STAFF REPORT

Item 3.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-005
Address: 6144 North College Avenue (approximate address)
Location: Washington Township, Council District #2
Zoning: D-4 (TOD)
Petitioner: Angela Alney
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a beauty salon (not permitted).

RECOMMENDATIONS

Staff **recommends approval** of the request subject to the following commitments:

1. The variance grant shall be subject to the site plan, file dated January 11, 2023.
2. The variance grant shall be subject to the plan of operation, file dated January 19, 2023.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-4	Single-family dwelling
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SURROUNDING ZONING AND LAND USE

North - D-4	Commercial office
South - D-4	Single-family dwelling
East - D-5	Single-family dwelling
West - D-4	Single-family dwelling

COMPREHENSIVE PLAN

The Comprehensive Plan recommends office commercial uses, with an overlay for the red Line transit-oriented development.

VARIANCE OF USE

- ◇ The Comprehensive Plan recommends office commercial development for the subject site. The proposed use would be considered a Hair and Body Care Salon or Service and would be permitted in the C-1 district. Therefore, the proposed use would not represent such a deviation, as it conforms with the general plan recommendation.
- ◇ Single-family dwellings, converted for commercial uses, within the D-5 District, are located in the general area. These uses include a hair stylist, and an acupuncture clinic. A single-family dwelling, converted to a commercial office, within the C-1 District, is located to the north of the subject site. A single-family dwelling is located to the east of the subject site, within the D-5 District

(Continued)

- ◇ While the dwelling districts of the Consolidated Zoning and Subdivision Ordinance are intended to provide for residential uses, the subject site is located in an area where other single-family dwellings are being used for commercial purposes.
- ◇ This portion of College Avenue is incrementally developing into a mixed-use corridor. Staff would note that the grant of the request would not deviate from the emerging development pattern. The Comprehensive Plan recognizes this pattern. Maintaining lower-intensity commercial uses along this portion of the corridor would help to serve as a buffer between the traffic and commercial intensity of College Avenue and the residential uses to the west.
- ◇ Staff believes that this request, as proposed, would conform to the Comprehensive Plans intent.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of College Avenue is classified as a primary arterial on the Official Marion County Thoroughfare Plan, with an existing 38-foot half right-of-way and proposed 60-foot half right-of-way.
SITE PLAN	File-dated January 11, 2023.
PLAN OF OPERATION	File-dated January 19, 2023.
FINDINGS OF FACT	File-dated January 11, 2023.

ZONING HISTORY

2019-UV2-004; 6173 North College Avenue (northeast of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a law office, with deficient off-street parking, **granted**.

2016-UV2-012; 6161 North College Avenue (east of site), requested a variance of use of the Consolidated Zoning and Subdivision Ordinance, to provide for a law office, **granted**.

2015-UV3-033; 6152 North College Avenue (north of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for an office, **granted**.

2014-UV2-029; 6148 North College Avenue (north of site), requested a variance of use of the Dwelling Districts Zoning Ordinance and variance of development standards of the Sign Regulations to provide for a professional office, with a four-foot tall, 34-square foot freestanding sign, with a 6.42-foot front setback, **granted**.

2014-UV3-020, 6210 North College Avenue (north), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance and the Sign Regulations to provide for a professional office, with a 28-square foot freestanding sign, with four-foot front setback and an unenclosed trash container, **withdrawn**.

(Continued)

2012-UV1-005, 6161 North College Avenue (east), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance and the Sign Regulations to provide for a massage and skin care studio, with a four-foot tall, 28-square foot freestanding sign, **granted**.

2011-UV1-016; 6144 North College Avenue (subject site), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for multiple additions to an existing residential building used for a financial office and upstairs apartment (approved by 99-UV1-92), including two room additions, two porch additions, a deck, an 880-square foot detached garage, and a parking lot with a zero-foot north side setback, **granted**.

2010-UV1-024, 6201 North College Avenue (northeast of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a tanning, esthetician, massage therapy and hair salon services, with off-street parking provided and a previously approved ground sign, **granted**.

2009-UV1-041, 6169 North College Avenue (northeast of site), requested a variance of use of the Dwelling Districts Zoning Ordinance and variance of development standards of the Sign Regulations to provide for a spa offering beauty and esthetic services, including make-up, facials, manicures, pedicures, therapeutic massage, hair styling, hair removal and the retail sale of beauty and health products, and to provide for a three-foot tall, 14.01-square foot free-standing sign, with a 10.67-foot front setback, and with off-street parking provided, **granted**.

2008-UV1-021, 6148 North College Avenue (north of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for an office and counseling center in an existing 2,360-square foot single-family dwelling with a 300-square foot porch and a 720-square foot detached garage and five existing off-street parking spaces, **granted**.

2006-UV3-015, 6120 North College Avenue, requests variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for a hair salon use, and a variance of development standards of the Sign Regulations to provide for a four-foot tall, eighteen square foot ground sign, **granted**.

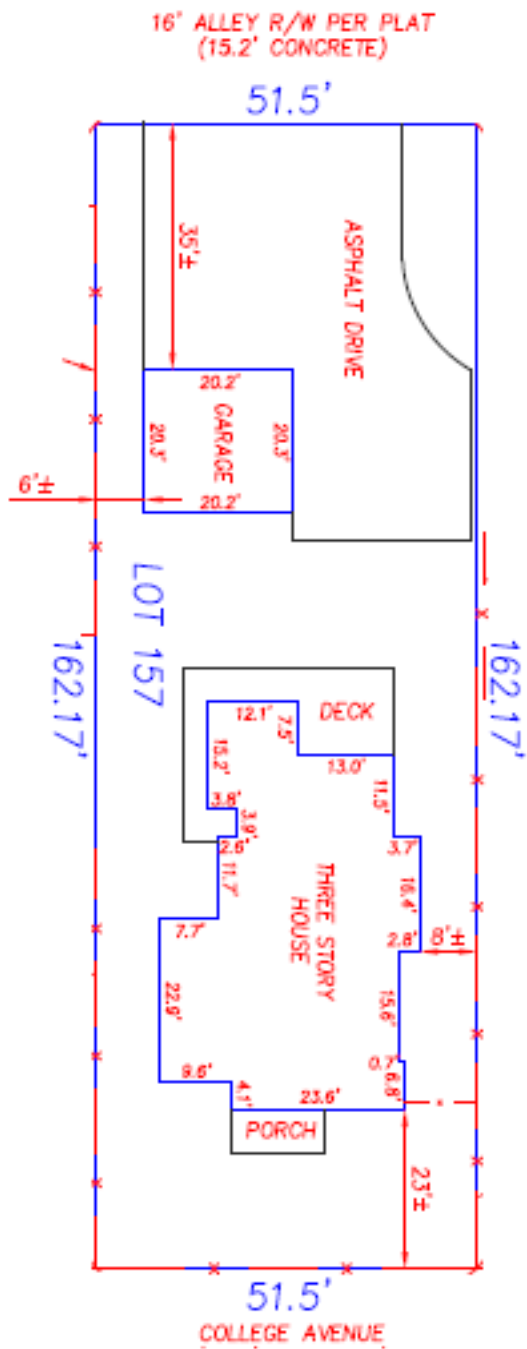
2006-UV1-003, 6155 North College Avenue, requests a variance of use of the Dwelling Districts Zoning Ordinance to provide for a medical acupuncture office within an existing 1,026 square foot single-family dwelling and a variance of development standards of the Sign Regulations to provide for a four-foot tall, fifteen-square foot, non-illuminated pylon sign, **granted**.

2005-UV2-024, 6124 North College Avenue (south of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for an insurance agency within an existing two-story single-family dwelling, **granted**.

2002-UV3-003, 6207 North College Avenue (north of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a beauty salon within an existing 1,393 square foot single family dwelling, **granted**.

RU







No Limit Rainbow – Air-Tan USA LLC

Operations Document

Employees

3-6 Employees depending on the day

Facility

6 – spray tanning rooms

Hours of operation

Mon-Tues 3pm-8pm

Wed-Fri 10am-8pm

Sat 10am-6pm

Sun closed

Services

Only UV free hand applied tans

Parking

Street parking in the front

8 designated parking spots in the back



Subject site, looking west.



Subject site, driveway parking area to the rear of site, looking east.



Adjacent residential dwellings to the south of subject site, facing west.



Adjacent former residential dwelling converted to commercial uses, to the north of subject site, looking west.



Residential dwelling to the east of subject site.



Residential dwelling to the west of subject site, located at 6147 N. Broadway Street.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-005
Address: 3100 North Meridian Street (approximate address)
Location: Center Township, Council District #9
Zoning: SU-2 (TOD)
Petitioner: Herron Preparatory Academy Real Estate, LLC, by David Kingen & Emily Duncan
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a decorative six-foot tall fence within the front yard of Meridian Street (maximum 42-inch-foot tall fence permitted) and a freestanding monument sign within 85 feet of another freestanding sign (300-foot separation required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

SU-2	Compact	School
------	---------	--------

SURROUNDING ZONING AND LAND USE

North	C-S	Museum
South	C-S	Multi-family Residential
East	D-9	Multi-family Residential
West	C-S	Museum

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Regional Special Use development.

- ◇ The subject site is approximately 1.36 acre and developed with a three-story masonry building. This property is east of the Children's Museum and located along the IndyGo Red Line and proposed Purple Line on Meridian Street.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a variance of development standards to provide for decorative six-foot tall fence within the front yard of Meridian Street (maximum 42-inch-foot tall fence permitted) and a freestanding monument sign within 85 feet of another freestanding sign (300-foot separation required).

(Continued)

STAFF REPORT 2023-DV1-005 (Continued)

- ◇ This request would provide for a freestanding monument sign within 85 feet of another freestanding sign. This site is integrated with several properties on this block of Meridian Street. The ordinance specifies that integrated properties are to be considered a single site when applying sign frontage standards; however, staff believes that allowing the school to have a separate sign would not negatively impact the site.
- ◇ The subject site has approximately 213 feet of frontage. The existing sign for the Children's Museum Sports Legends Experience is located on the south side of the access drive adjacent to this site. The proposed school does not have enough frontage to provide for a freestanding sign on this lot that would meet the separation requirement from the existing sign. Therefore, staff is not opposed to the reduced separation between signs.
- ◇ This request would provide for a decorative six-foot tall fence within the front yard of Meridian Street where a maximum height of 42 inches is permitted. The proposed fence would provide a barrier between the school's playground and the street. Staff would note that the front yard of this site has a sloping elevation as shown in the cross section below.
- ◇ The ordinance limits the height of fences in the front yard to promote a comfortable pedestrian environment and consistent aesthetic standards. Taller fences are typically limited to rear yards or industrial uses. However, the fence proposed in the front yard is set back 9.5 feet from the existing sidewalk, and the fence opacity is 25.9 percent. Staff would not be opposed to a taller fence where it is set back from the street and allows for visibility into the front yard (less than 30 percent opaque).

GENERAL INFORMATION

THOROUGHFARE PLAN	Meridian Street 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 a 78-foot proposed right-of-way.
SITE PLAN	File-dated January 27, 2023.
PLAYGROUND LANDSCAPE PLAN	File-dated January 27, 2023.
PLAYGROUND SECTION	File-dated February 23, 2023.
SIGN ELEVATION	File-dated February 23, 2023.
FENCE DETAIL	File-dated January 27, 2023.
FINDINGS OF FACT	File-dated January 27, 2023.

ZONING HISTORY – SITE

2022-ZON-067, 3100 North Meridian Street, rezoning of 1.36 acre from the SU-7 district to the SU-2 district, **approved**.

(Continued)

STAFF REPORT 2023-DV1-005 (Continued)

2011-HOV-023; 3100 North Meridian Street, requested a variance of development standards of the sign Regulations to provide for a 5.875-foot tall freestanding pylon sign within 50 feet of a D-9 zoned protected district to the east, **granted**.

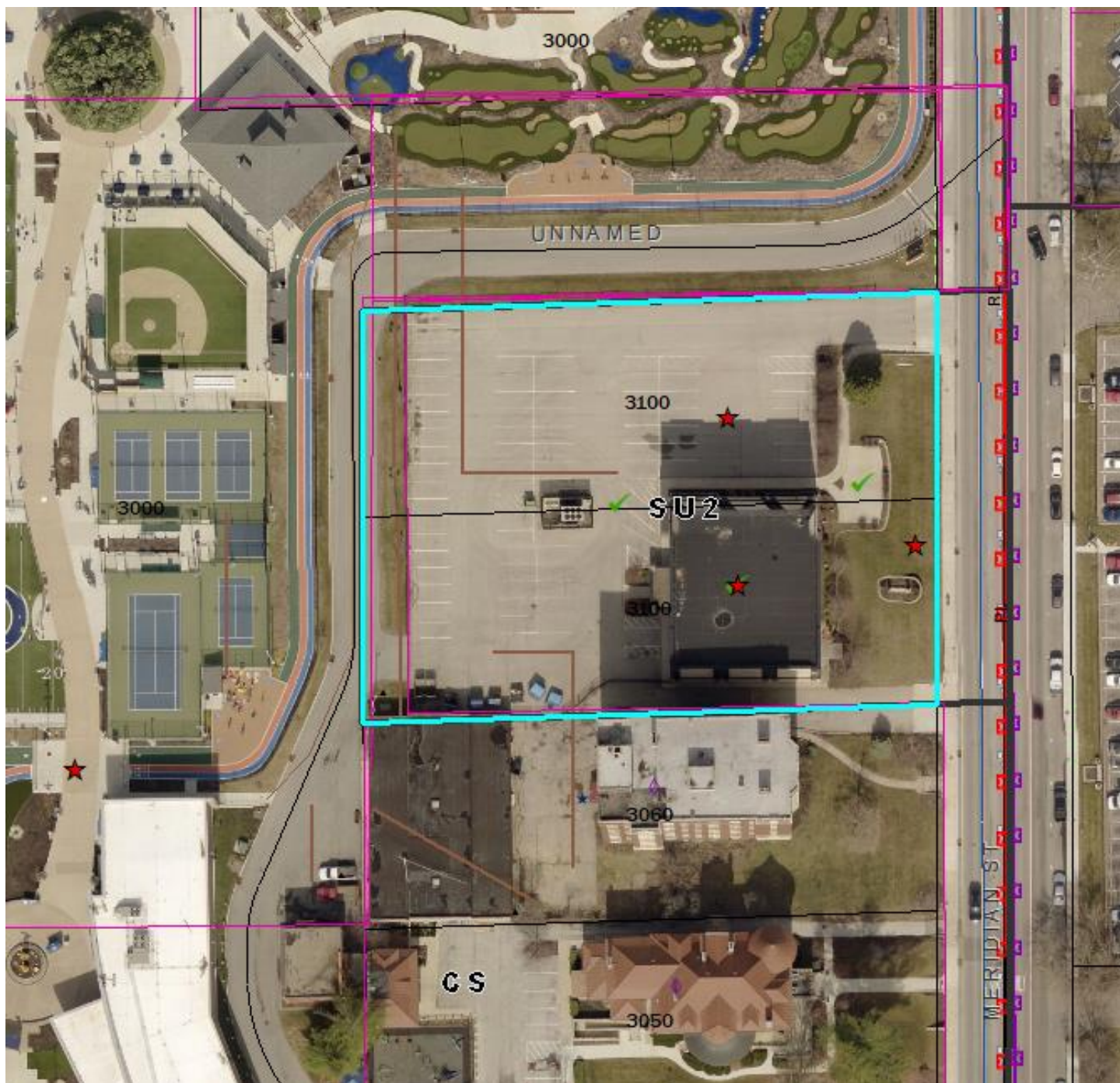
83-Z-60 3120 North Meridian Street, requested rezoning of 1.40 acres from the D-9 District to the SU-7 classification to provide for office uses, **approved**.

64-V-54; 3106 North Meridian Street, requested a variance of use and front building line requirements to permit erection and operation of a three-story office building with off-street parking and loading spaces, **approved**.

ZONING HISTORY – VICINITY

93-Z-61; 3051-3131 North Meridian Street, 3130 North Meridian Street, 120 West 30th Street, 3009-3043 North Kenwood Street (north and west of site), requested rezoning of 5.0 acres, being in the C-4, D-9 and D-8 District to the C-S classification to conform with the development scheme of museum property for parking, **approved**.

AR



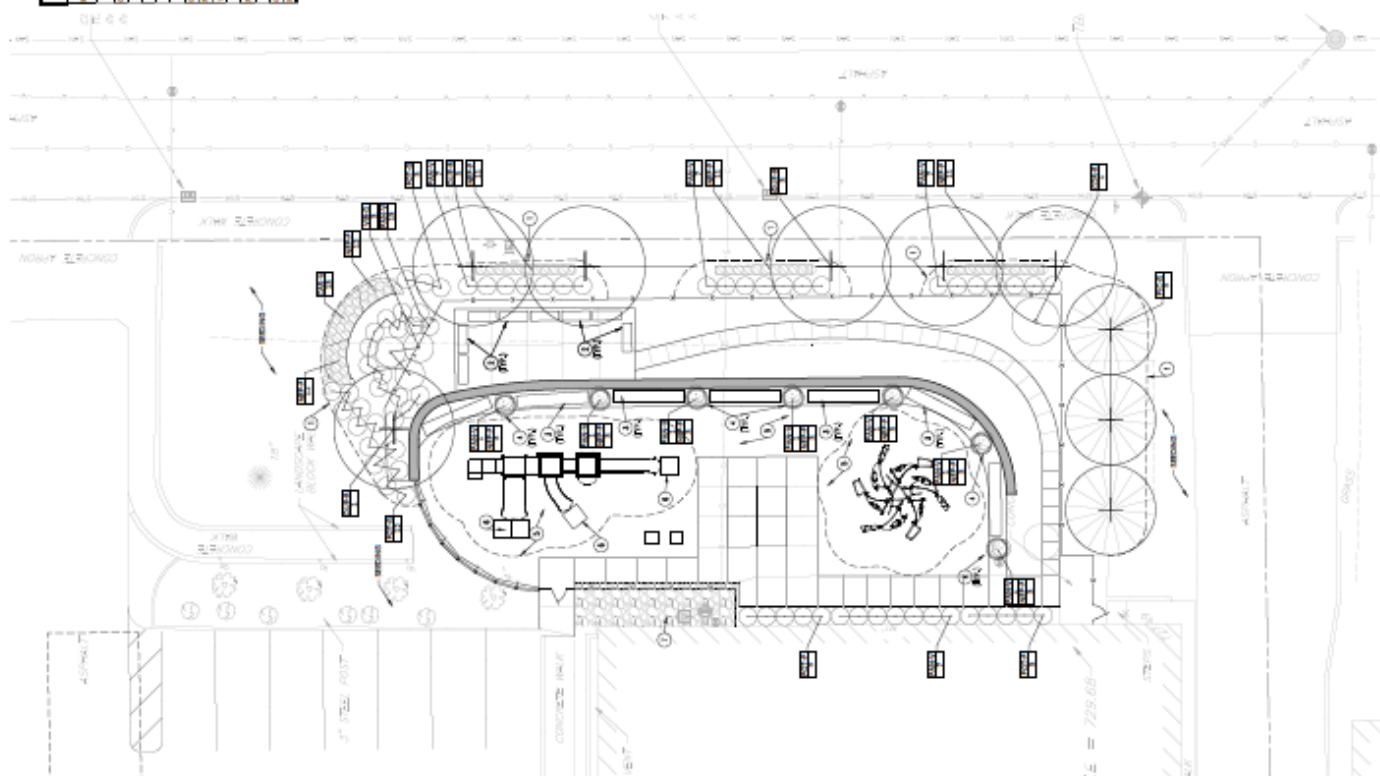
[illegible][illegible]

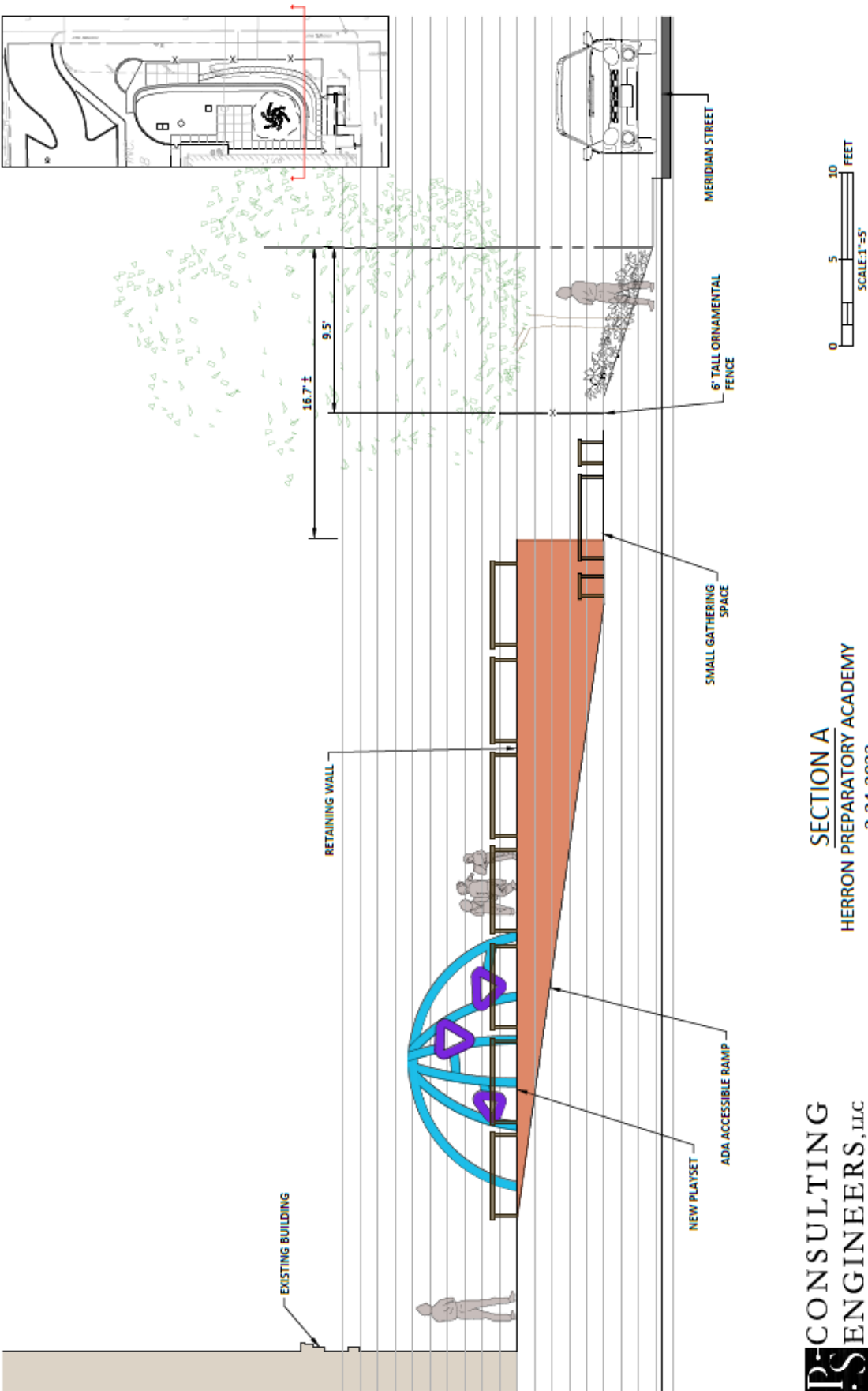
GENERAL NOTES

A. ALL CUSTOMERS LEAVE AREA TO BE SERVED UNDER CITY-OWNED
CITY-OWNED

PLAN NOTES

- [illegible]

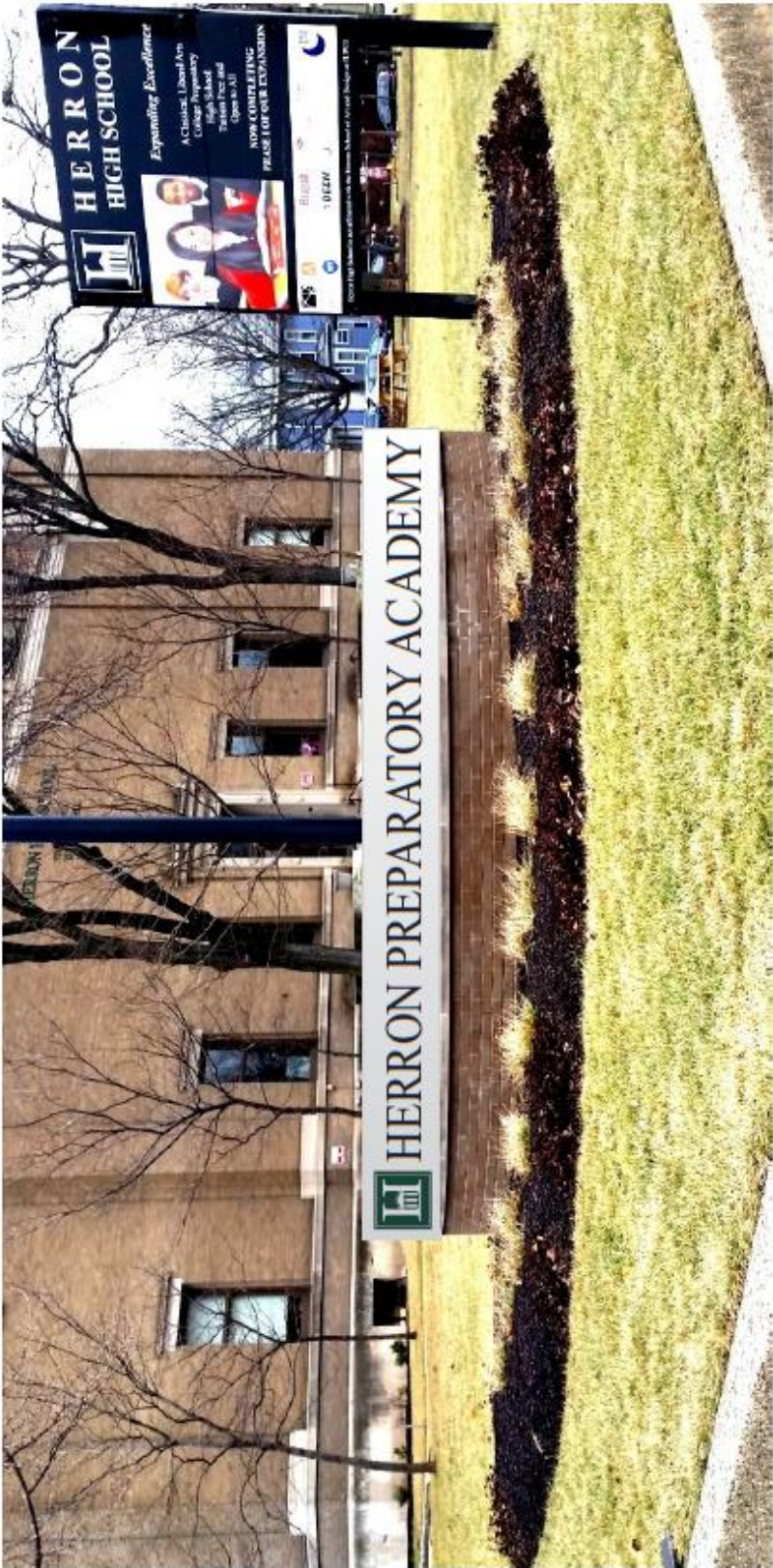




SECTION A
HERRON PREPARATORY ACADEMY
2-24-2023

J.P.S. CONSULTING
ENGINEERS, LLC

HHS 3100 North Meridian NOT FINAL



Project:

Drawing:

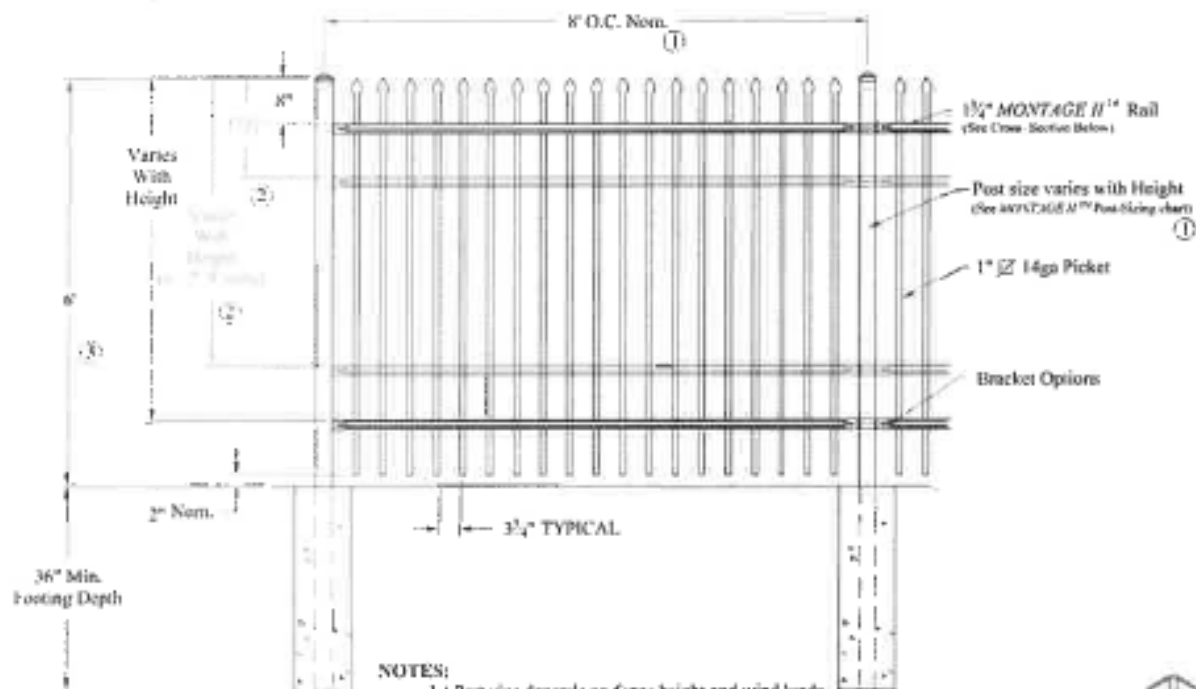
Date:

Version:

These designs, details, and plans represented herein are the property of ACS Sign Solutions; specifically developed for your use in connection with the project being planned for you by ACS Sign Solutions. They are not to be shown to anyone outside of your organization, nor are they to be used, reproduced, exhibited, or copied in any fashion whatsoever without the permission of ACS Sign Solutions. All designs (except registered trademarks) remain the property of ACS Sign Solutions.

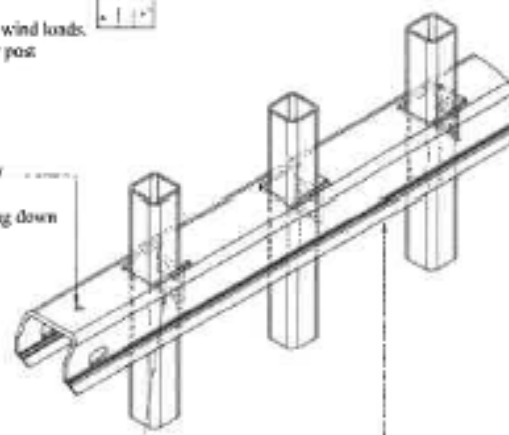
ACS
SIGN SOLUTIONS

1110 East 22nd Street
Indianapolis, IN 46202
acs@acs-sign.com
317.925.2835 voice
317.925.4337 fax
317.201.4838 cell



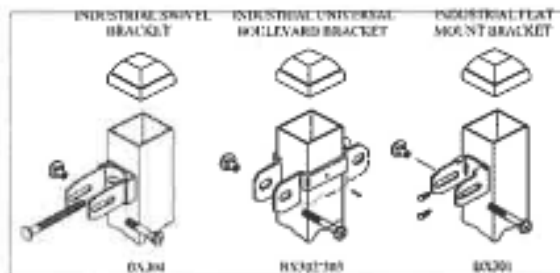
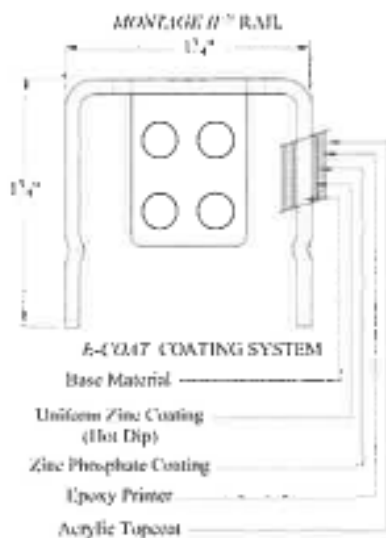
RAKING DIRECTIONAL ARROW

Welded panel can be raked 30° over R with arrow pointing down grade.



PROFUSION[™] WELDING PROCESS
No exposed welds.
Good Neighbor profile - Same appearance on both sides

MONTAGE II[®] RAIL
Specially formed high strength architectural shape.



Values shown are nominal and not to be used for installation purposes. See product specification for installation requirements.

20K18D

HEAVY INDUSTRIAL STRENGTH WELDED STEEL PANEL

PRE-ASSEMBLED

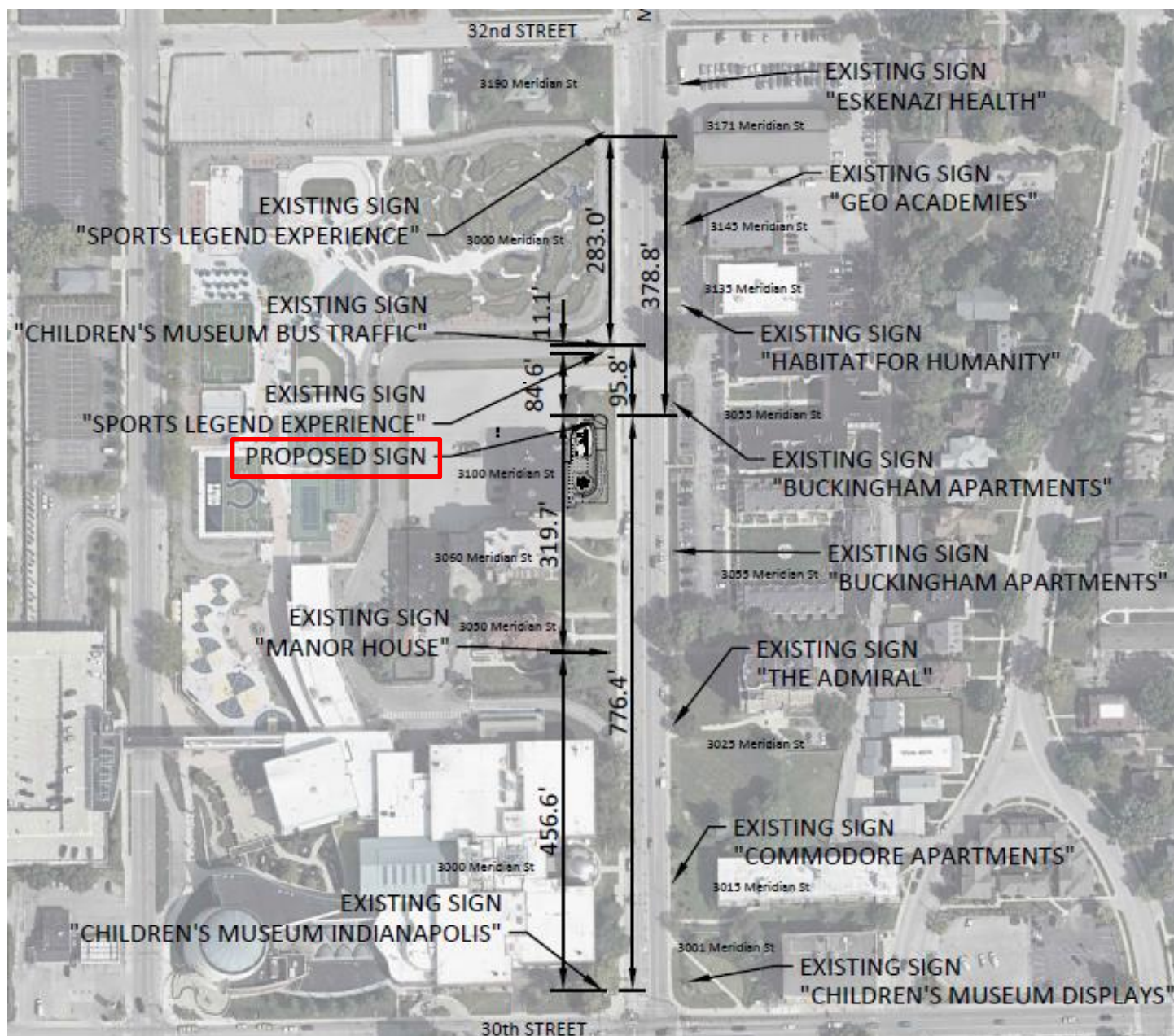
MONTAGE II CLASSIC 2 3/4-RAIL

DR: RTM SH: 1 of 1 SCALE: DO NOT SCALE

CK: ME Date: 6/28/10 REV: b

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1555 N. Mingo
Tulsa, OK 74116
1-888-333-3422
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Subject site viewed from Meridian Street, looking west



Subject site viewed from Meridian Street, looking southwest



Subject site viewed from Meridian Street; existing sign shown right



Subject site front yard, looking south; proposed playground and sign location.



Subject site existing drive, looking east. Existing sign shown left.



Subject site rear yard, proposed addition location

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-057B
Address: 4001 North Park Avenue (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (TOD)
Petitioner: Brandi Waddy
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for street access to an existing detached garage (access from an improved alley required).

ADDENDUM FOR MARCH 7, 2023

The Board voted to split petition 2022-DV1-057 into parts A and B with part A being approved. This petition was automatically continued from the February 7, 2023 hearing to the March 7, 2023 hearing due to an indecisive vote.

ADDENDUM FOR FEBRUARY 7, 2023

This petition was continued from the January 3, 2023 hearing to the February 7, 2023 hearing at the request of the petitioner.

ADDENDUM FOR JANUARY 3, 2023

This petition was continued from the December 6, 2022 hearing to the January 3, 2023 hearing at the request of the petitioner.

RECOMMENDATIONS

Staff **recommends denial** for street access to an existing detached garage.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Residential (Single-family dwelling)
-----	---------	--------------------------------------

SURROUNDING ZONING AND LAND USE

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

(Continued)

STAFF REPORT 2022-DV1-057 (Continued)**LAND USE PLAN**

The relevant plan (year) recommends traditional neighborhood development.

- ◇ The 0.15-acre site is improved with a single-family dwelling and detached garage. It is surrounded by similarly developed single-family dwellings and associated accessory structures.
- ◇ The traditional neighborhood land use plan recommendation is to provide for a full spectrum of housing types in compact and well-connected areas. Building form should promote social connectivity of neighborhood. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. This typology recommends a density range of 5 to 15 units per acre.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for street access from 40th street where it is not permitted.
- ◇ Section 744-301. A. of the Ordinance note that "...if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley." In addition, per Section 744-404. D.3.c. of the Ordinance "...no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line."
- ◇ The grant of the request would be injurious to the safety and general welfare of the community by increasing the number of new curb cuts across sidewalks, which would disrupt the pedestrian experience along the sidewalk and increase the probability of accidents. Instead, the curb and sidewalk could be repaired to meet the right-of-way standards and the driveway could be relocated along the eastern property boundary for alley access.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because any existing concrete/cement block wall along the fence or eastern property boundary could be removed and paved to allow for a more accommodating parking area/drive from the alley without the need for a variance.
- ◇ Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence. Furthermore, the property owner did not file for a driveway permit prior to illegally constructing within the right-of-way.

OTHER ISSUES

- ◇ The Ordinance, specifically 744-503.H, states "no obstructions shall be erected, placed, planted or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5 feet and 8 feet above grade level of the adjoining right-of-way within a Clear Sight Triangular Area." The clear sight triangular area is formed by the right-of-way centerline and the centerline of the driveway and the line connecting the two end points. The clear-sight triangle requirement is to provide for sight visibility for motorists at an intersection. Reduction in visibility at intersections would increase the possibility of motorists or pedestrian accidents.

(Continued)

STAFF REPORT 2022-DV1-057 (Continued)

- ◇ Staff's Exhibit 1 notes the clear sight triangle at the street and alley. The petitioner confirmed that they would ensure that the clear sight triangle would be visible by removing the portion of the fence located in this area. However, a revised site plan has not been provided to confirm that it will be removed.
- ◇ Additionally, there is some discrepancy whether the six-foot fence is within the right-of-way of 40th Street. A revised site plan noting the exact location of the fence was requested, but it has not been provided to staff.
- ◇ Therefore, these items would not be included with this variance unless the petitioner intends to provide an updated site plan and requests to continue this petition for an amendment.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Park Avenue 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.

THOROUGHFARE PLAN

40th 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.

SITE PLAN

File-dated October 27, 2022.

FINDINGS OF FACT

File-dated October 27, 2022.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

1. VIO22-006055; Failure to obtain a driveway permit.

PREVIOUS CASES

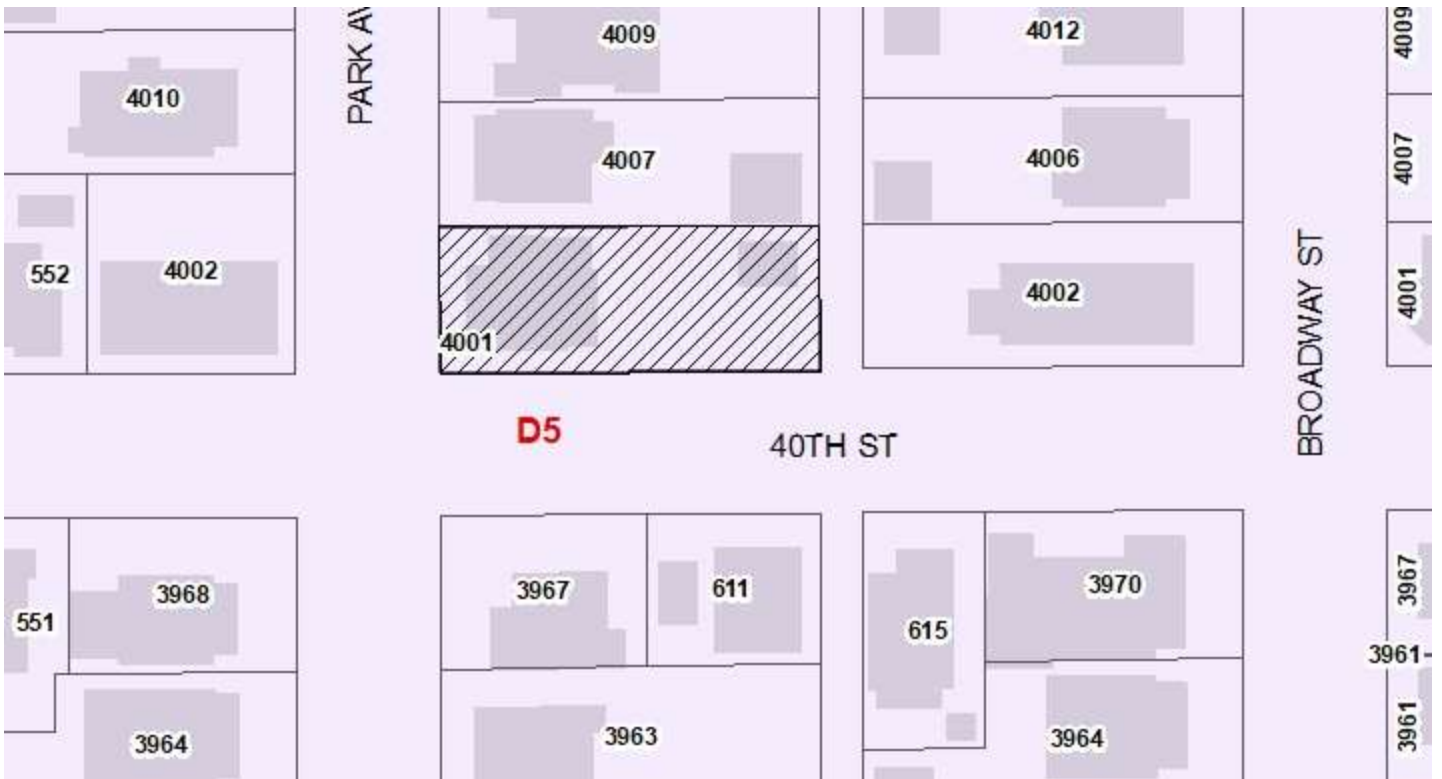
None.

ZONING HISTORY – VICINITY

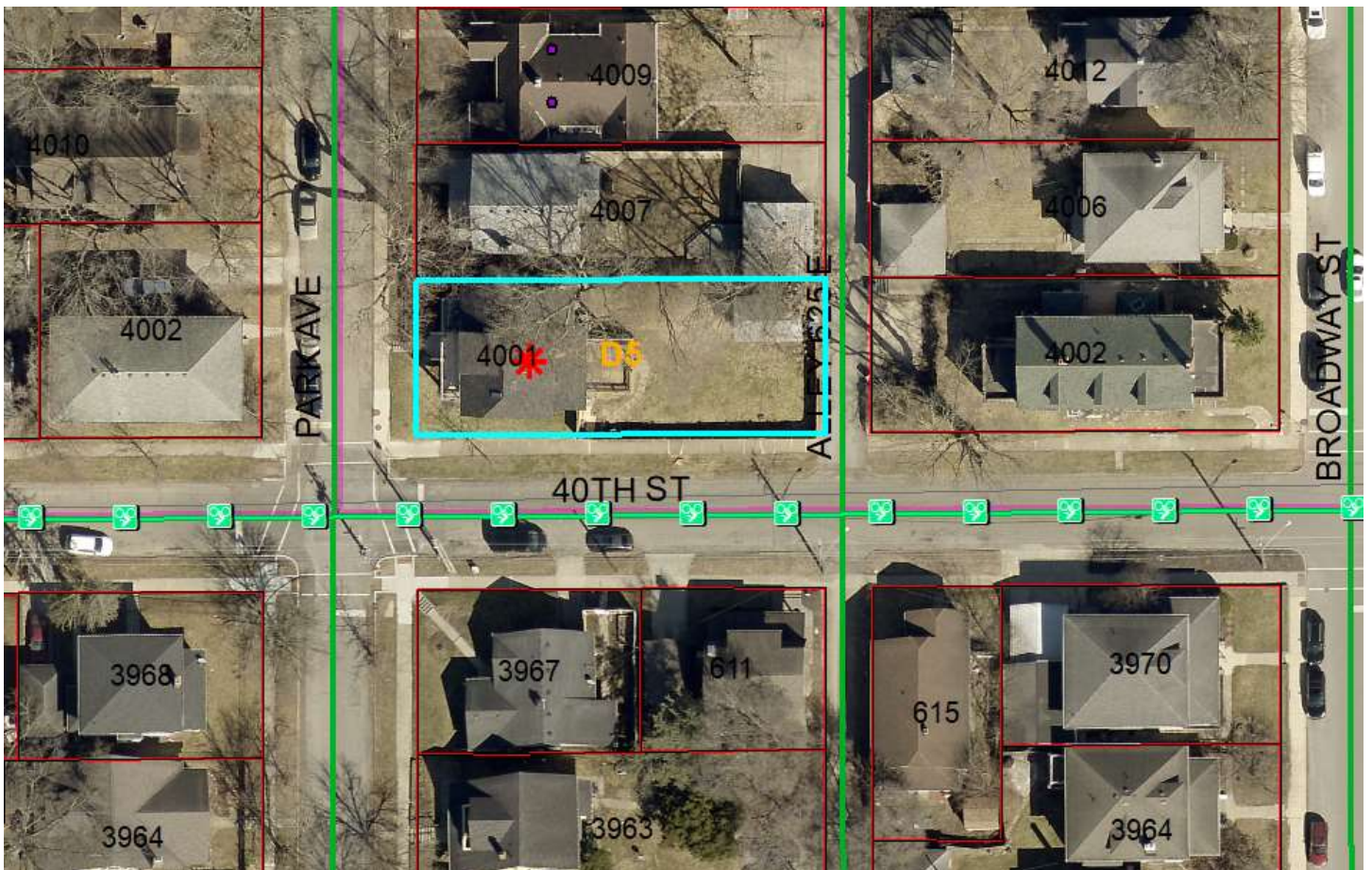
95-HOV-1; 7521, 7539, and 7551 North Lasalle Street (southwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of three single-family residences, with a private street to access each (minimum 40 feet of frontage on a public street required), **granted**.

MI

2022-DV1-057; Location Map

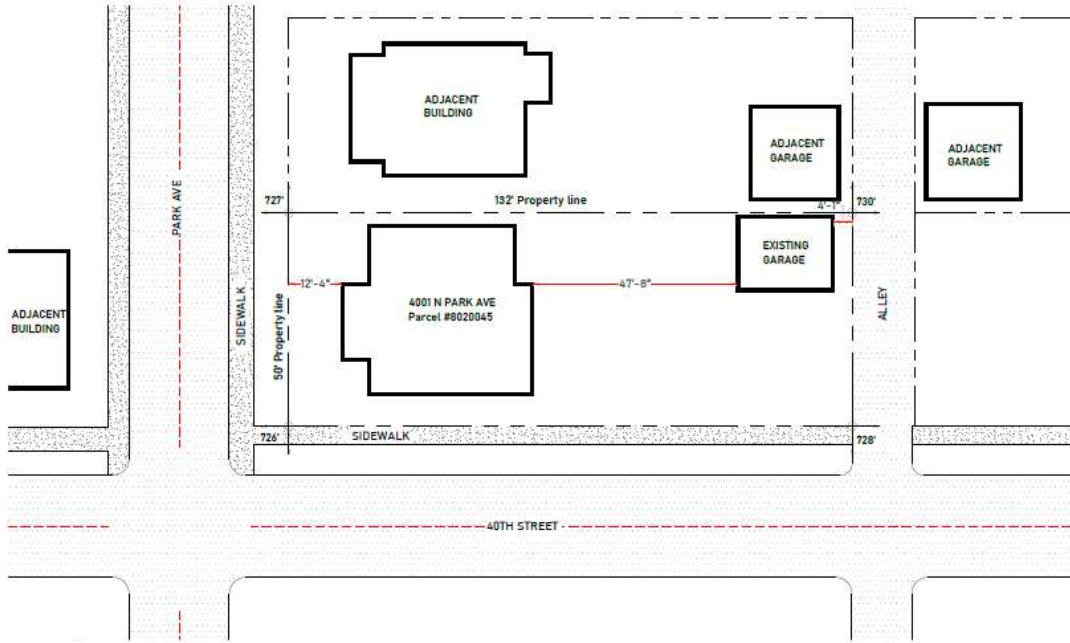


2022-DV1-057; Aerial Map



2022-DV1-057; Existing Site Plan

Item 5.



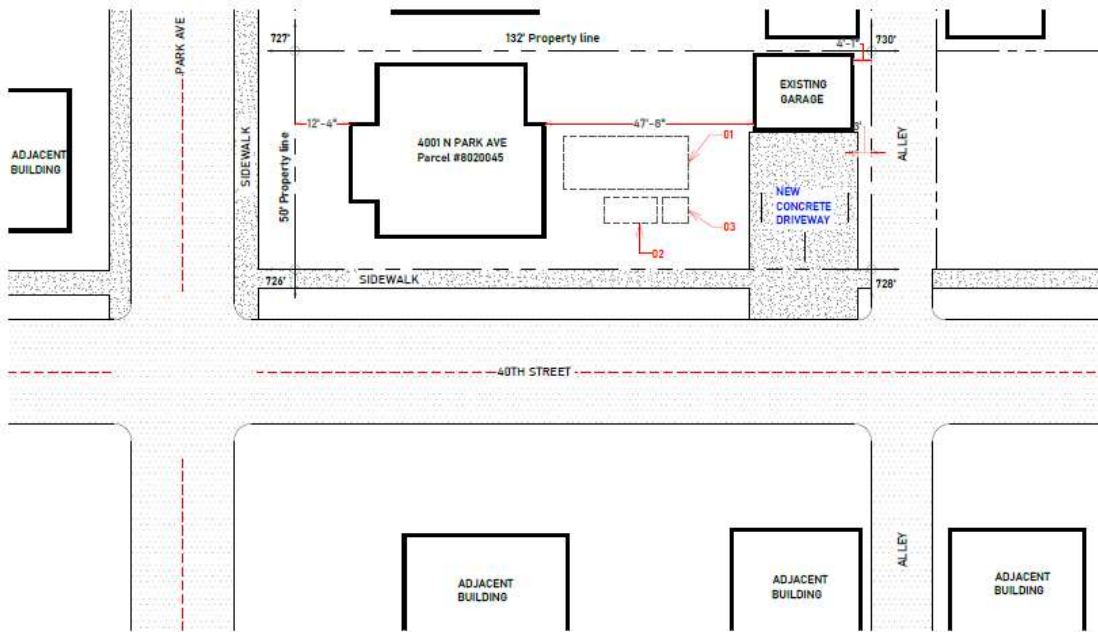
Contact:
E: ardra@rudy.com
P: 317-457-4472
© 2022 RUDY BLUEPRINTS
AND PERMITS

REVISION DATE:
10/24/22

4001 N PARK AVE,
INDIANAPOLIS, IN 46205

GENERAL NOTES:
All construction to be done in accordance with these plans and the 2022 Indiana residential code (IRC) (IRC).
Dimensions are to the face of framing, unless otherwise noted.
Do not scale drawings, use given dimensions, consult designer/draftsman for any discrepancies.
All products to be installed according to manufacturer's specifications.
Utility locations and routing are unknown, confirm location of water, sanitary sewer, electrical and gas utilities in field prior to commencement of work.

2022-DV1-057; Proposed Site Plan



Contact:
E: ardra@rudy.com
P: 317-457-4472
© 2022 RUDY BLUEPRINTS
AND PERMITS

REVISION DATE:
10/24/22

4001 N PARK AVE,
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All products to be installed according to manufacturer's specifications.
Utility locations and routing are unknown, confirm location of water, sanitary sewer, electrical and gas utilities in field prior to commencement of work.

TE DATA:

T AREA (D-5)
RCEL: #8020045
01 N PARK AVE
Indianapolis, IN 46205
rcei area: 6,600 SF (100'x43')
isting house area: 1616 SF
isting garage area: 409 SF
w concrete driveway area: 788 SF

KEYNOTES:

- 01 Equipment storage
- 02 Solid waste dumpster
- 03 Concrete / Paint washout

LEGEND:

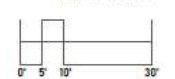
- Property line
- Building footprint
- Road centerline
- Fence line
- Sanitary sewer line
- Concrete
- Gravel
- Stormwater flow direction
- Railroad
- Contour line
- New construction
- To be removed
- Spot elevation
- Tree

GENERAL EXISTING SITE NOTES:

- 1- These drawings are intended to outline the general scope of work, contractors shall field verify all existing conditions and dimensions before starting any work; contractors shall also be responsible for adhering all applicable codes and generally accepted trade practices.
- 2- No topographic survey for property has been provided, drawings and features of the site were obtained based of field verified dimensions, cursory review, photography and other reliable means of inspection, as a result, all work must be field verified prior to start of construction, conflicts between these plans and the field conditions shall be reported immediately to the owner and/or architect for verification and/or correction.
- 3- Utility locations and routing are unknown, confirm location of water, sanitary sewer, electrical and gas utilities in field and with local utility companies as required prior to commencement of work.
- 4- Provide all fencing around construction perimeter as required by local authority having jurisdiction.
- 5- Heavy construction machinery must enter the property from the alley, no construction equipment is allowed to enter the site from the lot frontage.
- 6- The architect/designer shall bear no financial responsibility for the constructability of this project.
- 7- Coordinate stacking of building corners and benchmark elevations with surveyor as required to establish proper grades and finish floor elevations.



PROPOSED
SITE PLAN
Scale: 1"=10'-0"
Sheet size: 24x36



SHEET
NUMBER

C102

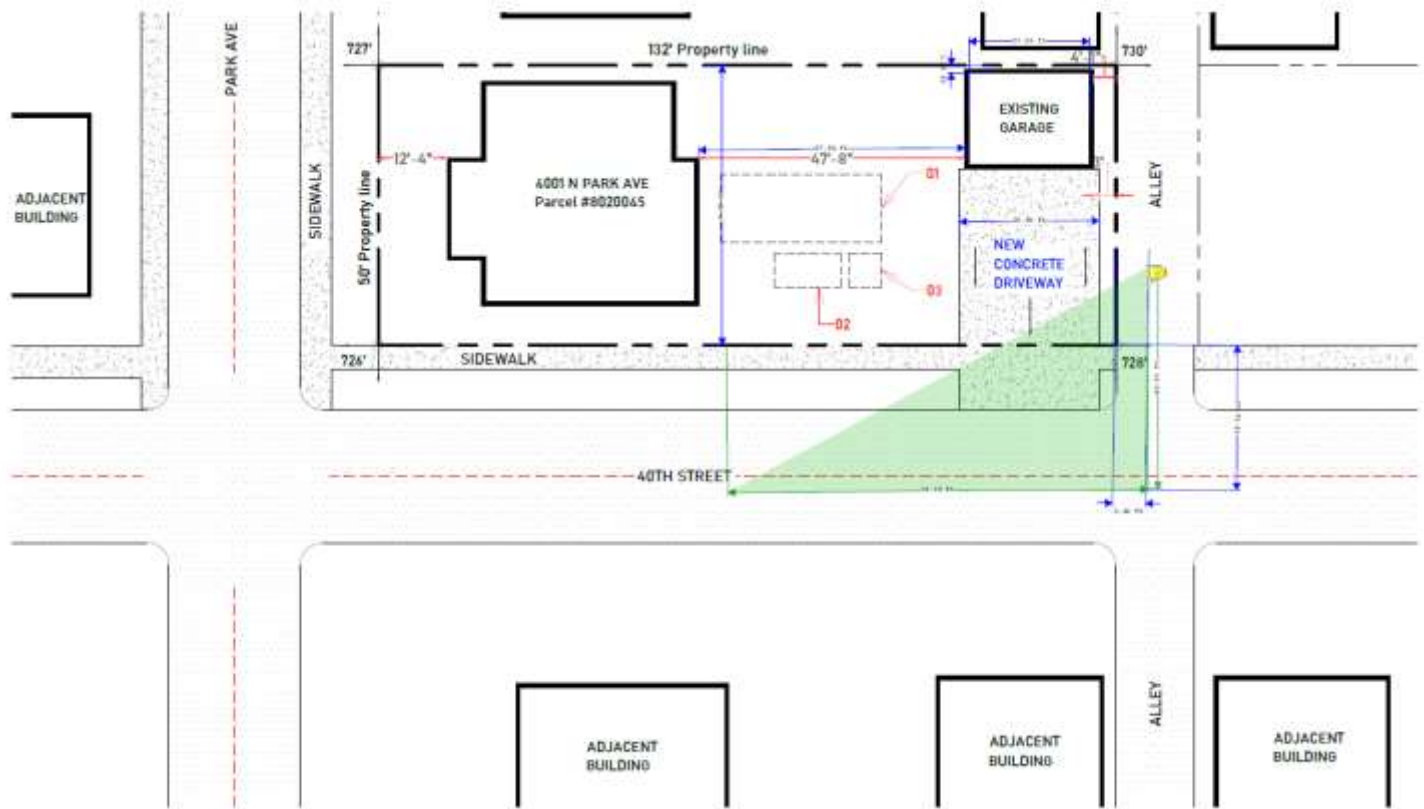




Photo of the Subject Property: 4001 North Park Avenue



Photo of the Subject Property: 4001 North Park Avenue



2011 Google Photo of the Subject Property.



2019 Google Photo of the Subject Property.



2022 Photo of the Subject Property.



2011 Photo of the Subject Property.



2022 Photo of the existing garage and alley.



Photo of the fence within the clear sight triangle.



Photo of the alley and other accessory structure that gain access from it.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV2-045
Address: 1251 South Alabama Street (approximate address)
Location: Center Township, Council District #16
Zoning: D-5
Petitioner: David M Rollings, by Mark & Kim Crouch
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legalize the existing ten-inch front, rear and northern side yard setbacks (front setback of zero-ten feet required for Terrace Frontages, 20-foot rear yard, five-foot side yard setback required) with no off-street parking provided (one space required); and to provide for a roofline change along a non-conforming setback and vertical expansion (not permitted), all within the clear sight triangle of Alabama and the intersecting alley (encroachment of clear sight triangles not permitted).

ADDENDUM FOR MARCH 7, 2023

This petition was continued for cause at the request of the petitioner, from the January 3, 2023 hearing, to the March 7, 2023 hearing. No additional information has been provided to the file.

January 3, 2023

This petition was continued for cause from the December 13, 2022, hearing of Board II, and transferred to the January 3, 2023, hearing, of Board I at the request of the petitioner.

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	D-5	Single-Family Dwelling
---------	-----	------------------------

SURROUNDING ZONING AND LAND USE

North	D-5	Single-Family Dwelling
South	D-5	Single-Family Dwelling
East	D-5	Undeveloped
West	D-5	Single-Family Dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood development.
--------------------	---

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks, are intended to ensure orderly development and protect surrounding property values, by providing for open buffer areas along lot lines, and to ensure adequate access around structures to help maintain the property without requiring access through adjacent properties.
- ◇ The existing structure, with ten-inch front, rear and northern side yard setbacks is considered a legally non-conforming structure, as a single-family use is allowed in the D-5 zoning district. The deficient setbacks are also considered legally non-conforming and already legally established for the existing structure, as they existed prior to the current Ordinance. The structure as it exists, can be rebuilt as-is 100% under the current Ordinance. Therefore, the request to legally establish the deficient side setbacks is not needed for the use of, or to remodel the existing structure as built.
- ◇ However, instead of remodeling the existing two-bedroom structure and using it as is, the requested variances are a result of the petitioner's intent to legalize the existing residence parameters for use with a proposed larger dwelling through a new construction expansion. The proposed expansion would be beyond the scope of a permitted remodel and would forfeit the legally non-conforming status of the existing dwelling. It would provide for new construction for a three-bedroom dwelling, including an expanded second floor, and partial third floor, both being greater in square footage and building height than the existing structure. This is the result of the need for the multiple variance requests.
- ◇ The intent of legally establishing deficient setbacks of original built pre-ordinance development should only apply when the original built structure is being remodeled or reconstructed in a similar fashion. Any expansion of the new construction beyond the original development, on a deficient sized lot would significantly intensify the use of the site, and negatively impact adjacent dwellings.
- ◇ The vertical expansion of the dwelling as indicated in the submitted elevations and floor plans, would expand the second-floor area, and increase the structure height. Staff is concerned the proposed new construction expansion would be too close to the existing power lines to satisfy AES/IPL separation requirements. Therefore, if this variance should be granted, Staff is requesting a commitment that the adjacent above ground utility power lines be buried or moved if needed to satisfy AES/IPL's separation requirements from the dwelling structures.
- ◇ The request to provide for zero-off street parking is a result of the petitioner's intent to increase the intensity and use of the site by constructing a dwelling larger than the existing dwelling, thereby forfeiting the existing legally non-conforming status of the existing structure, and lack of off-street parking. As proposed, an off-street parking space can be provided in the open space area to the south of the existing structure. The desire not to provide the off-street parking space is self-imposed, and not a practical difficulty as a result of the subject site.
- ◇ Therefore, for the variances as requested for the new-construction expansion of the existing dwelling, Staff is recommending denial of the request.

(Continued)

STAFF REPORT 2022-DV2-045 (Continued)**GENERAL INFORMATION**

THOROUGHFARE PLAN

This portion of South Alabama Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 48-foot existing and proposed right-of-way.

SITE PLAN

File-dated December 14, 2022.

FINDINGS OF FACT

File-dated November 11, 2022.

ZONING HISTORY

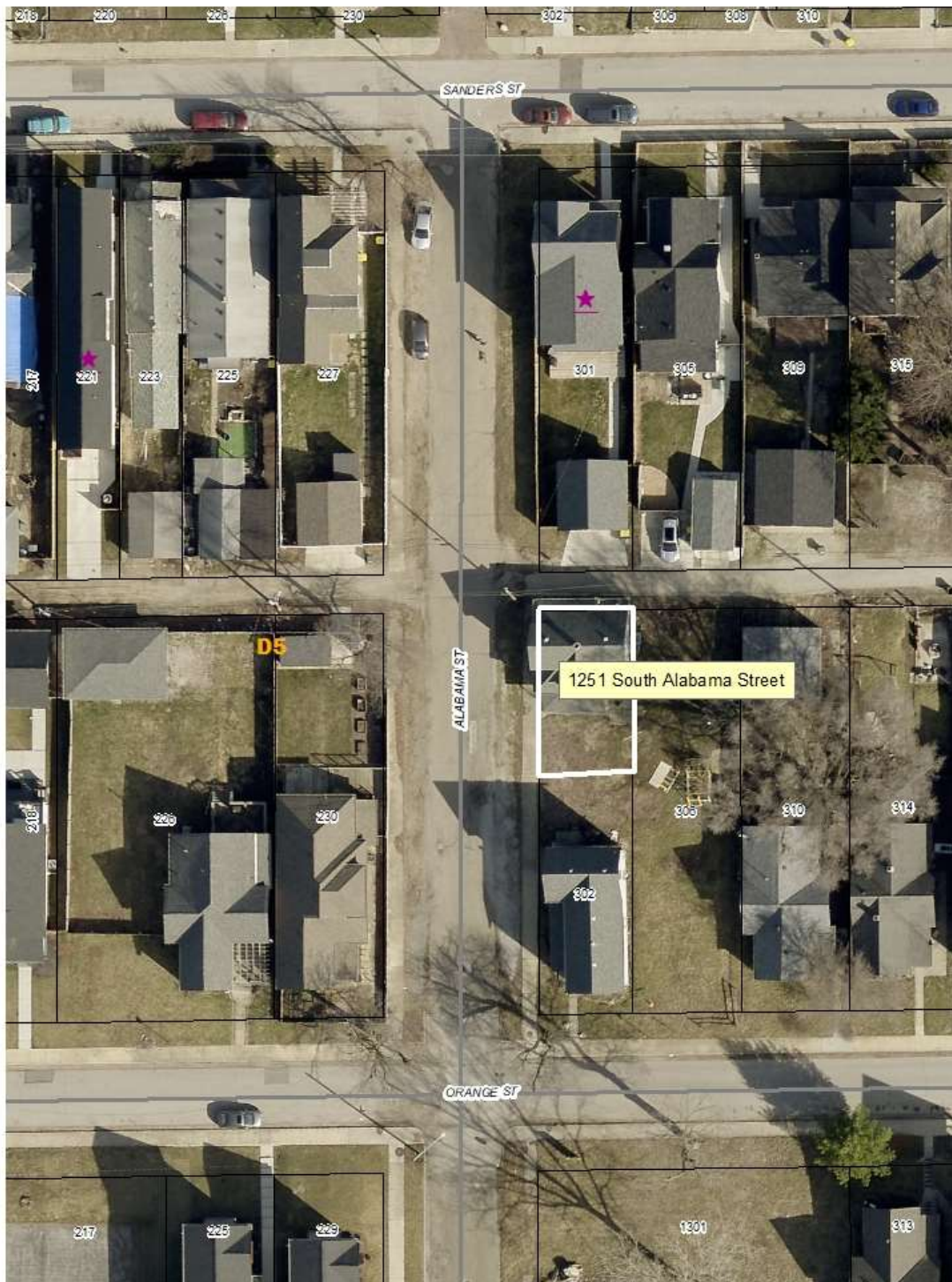
2020-DV2-031; 301 Sanders Street (north of site), requested a variance of development standards to provide for a single-family dwelling with a twelve-foot front setback, four feet between dwellings, 52 percent open space and a detached garage, with both buildings within the clear sight triangle of the abutting streets and alley, **granted**.

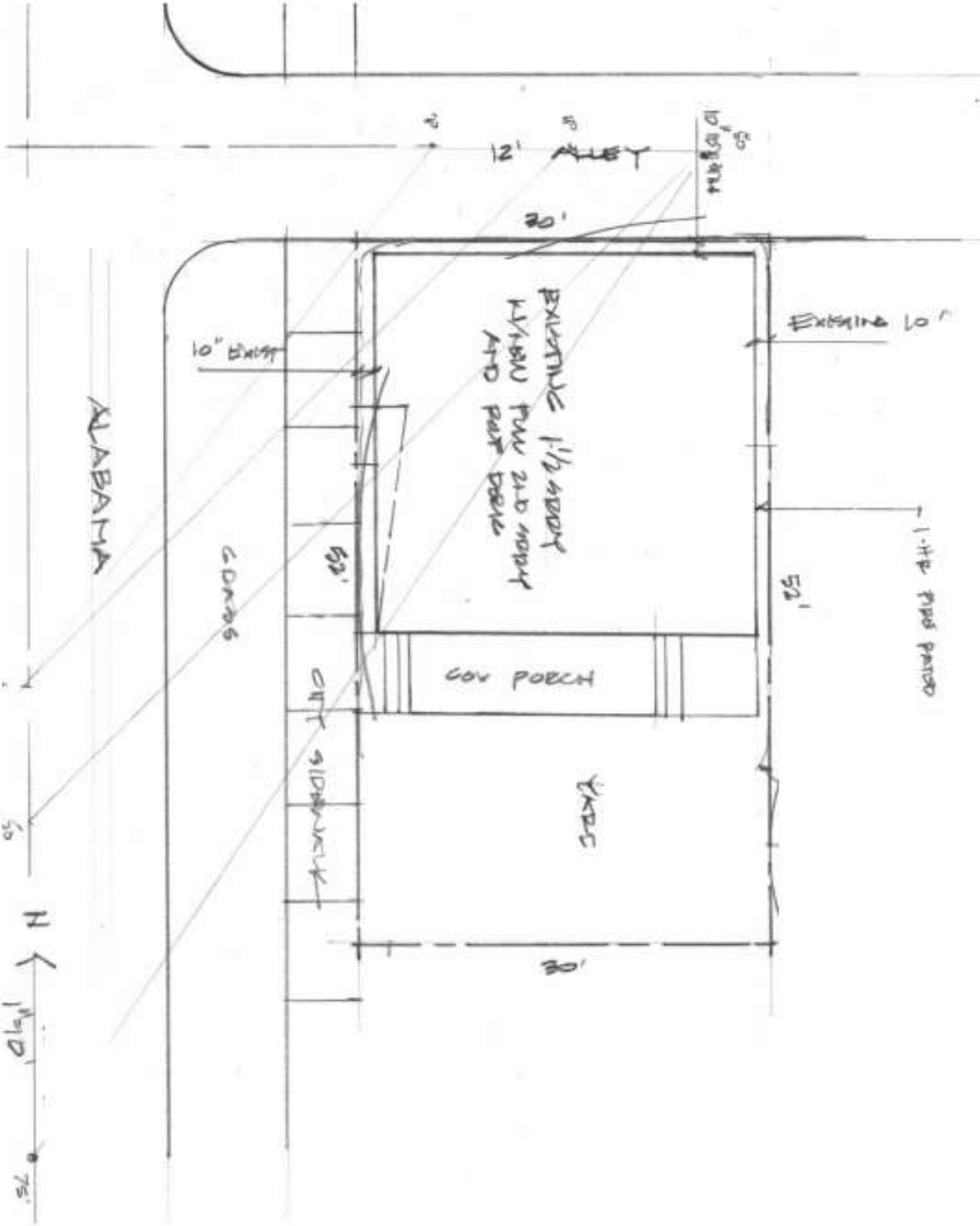
2018-DV1-001; 317 Orange Street (south of site), requested a variance of development standards to provide for a single-family dwelling, with an eight-foot front setback, with eight feet between primary dwellings, a detached garage with three-foot side setbacks, and with an open space of 54%, **granted**.

2017-DV1-052, 221 Sanders Street (west of site), requested a variance of development standards to legally establish a lot with 20 feet of frontage, and to provide for a two-story single-family dwelling with an attached garage, with an eight-foot front setback, two-foot side yard setbacks, five feet between dwellings, and 50 percent open space in a D-5 district, **granted**.

2016-DV3-027; 325 Sanders Street (east of site), requested a variance of development standards to provide for a single-family dwelling, with six feet between primary buildings, and with a 12-foot front setback, **granted**.

RU





2022-DV2-045; Existing Elevations



2022-DV2-045; Proposed Elevations





Subject site with existing structure, looking southeast.



Subject site with existing structure, and adjacent side yard, looking east.



Adjacent dwellign to the south, looking north.



Adjacent dwelling to the north.



Adjacent dwelling to the west, looking northwest.



Adjacent undeveloped lot to the east, looking north.

STAFF REPORT

Item 7.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-062 (Amended)
Address: 1012 Olive Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-5 (TOD)
Petitioner: Kristen Fern
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway with a zero-foot north side yard setback and a three-foot rear yard setback (three-foot side yard setback and 20-foot rear setback required) providing access from Olive Street (exclusive vehicle access from improved alley required).

ADDENDUM MARCH 3, 2023

This petition was automatically continued at the request of a registered neighborhood organization, from the February 7, 2022, hearing to the March 7, 2023, hearing.

ADDENDUM FEBRUARY 7, 2023

This petition was previously automatically continued at the request of the petitioner, from the January 3, 2022, hearing to the February 7, 2023, hearing.

A registered neighborhood organization filed a timely automatic continuance, **continuing this petition from the February 7, 2023, hearing, to the March 7, 2023, hearing.**

January 3, 2023

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-5	Single-family dwelling
-----	------------------------

SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwelling
South -	C-3	Commercial development
East -	D-5	Single-family dwelling
West -	D-5	Single-family dwelling

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Traditional Neighborhood uses for the site.

(Continued)

DEVELOPMENT STANDARDS

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to side and rear setbacks are intended to provide a minimum distance between property improvements and help reduce drainage overflows onto adjacent properties. Additionally, setbacks provide the required space needed to construct and maintain structures on a property without requiring access through adjacent properties.
- ◇ Staff believes the proposed driveway with a zero-foot north side yard setback and a three-foot rear yard setback would not provide sufficient area for accessibility and maintenance and would negatively impact the adjoining properties to the north and to the west.
- ◇ No practical difficulty exists for the property, since the proposed driveway can be relocated to an area on site that meets the required Ordinance setbacks. Any practical difficulty related to the proposed driveway setbacks would be self-imposed, by the proposed location.
- ◇ This property is required to gain exclusive access from the existing improved alley, per Section 744-301 of the Ordinance. The “Access to accessory parking areas” provision states that “... if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley.” In addition, per Section 744-401 of the Ordinance. The “Access to and from parking lots and garages” provision states that “... no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line.”
- ◇ The Department of Business and Neighborhood Services has determined that the abutting alley to the south of the property is an “improved” alley, and therefore access from Olive Avenue for an accessory parking area / driveway would not be allowed, per the Ordinance.
- ◇ The property has an existing curb cut from the alley at the southeast corner of the lot. The proposed driveway does not utilize this existing curb cut, and instead creates a new curb cut along Olive Street, reducing sidewalk access and on-street parking.
- ◇ Aerial photos indicate the property has a history of providing alley access and a driveway from the alley to a garage as recent as 2012.
- ◇ Alley access where available, helps the pedestrian environment by reducing the number of new curb cuts across sidewalks and preserves valuable curbside parking, along with reducing the amount of pavement needed for driveways, which causes significant storm water runoff into city drainage systems.
- ◇ No practical difficulty exists for the property, since the site has previously established alley access and could continue to do so, either with the existing alley access, or a new alley access, by right. Any practical difficulty related to the proposed curb cut access from Olive Street would be self-imposed, by the proposed design.

(Continued)

STAFF REPORT 2022-DV1-062 (Continued)**GENERAL INFORMATION**

THOROUGHFARE PLAN	This portion of Olive Street is designated as a local street on the Official Thoroughfare Plan, with an existing and proposed 60-foot right-of-way.
SITE PLAN	File-dated, November 29, 2022
FINDINGS OF FACT	File-dated, November 29, 2022

ZONING HISTORY

2020-DV2-040; 933 Olive Street (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for additions to a single-family dwelling with seven feet between buildings, a 17-foot rear setback and 52% open space, **granted**.

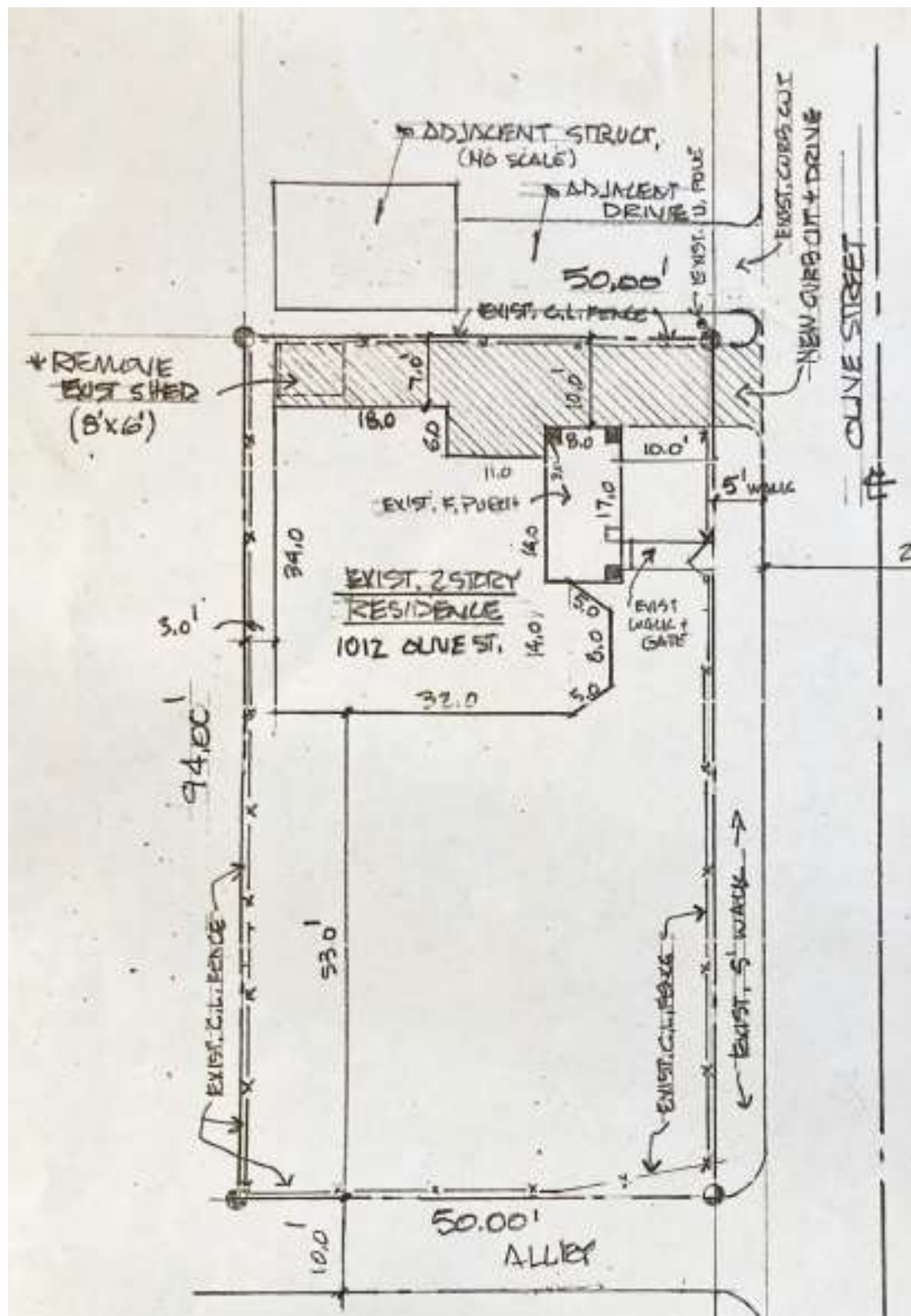
2018-HOV-006; 1134 Woodlawn Avenue (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage, creating an open space of 49%, and to legally establish an existing dwelling with a 1.33-foot west side setback, a 15-foot front setback and less than 10 feet between primary dwellings, **granted**.

2018-HOV-085; 1113 Woodlawn Avenue (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling with 4.4 feet and 5.6 feet between dwellings, **granted**.

RU

2018-DV2-003; Location Map







Picture 1: Subject site, looking northwest.



Picture 2: Subject site proposed driveway and curb cut location, looking west.



Picture 3: Subject site south side yard, looking west.



Picture 4: Subject site location of existing parking area with alley access, and former garage that was removed sometime after 2012, looking north.



Picture 5: Subject site location of existing curb cut from the alley, for previous driveway and garage, that was removed sometime after 2012, looking northwest.



Picture 6: Adjacent property to the east, with garage alley access, looking north.



Picture 7: Adjacent property to the north without alley access, looking northwest.



Picture 8: Adjacent commercial property to the south of subject site, looking southwest.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-063
Address: 114 East 49th Street (4901 North Pennsylvania Street Parcel Address) (approximate address)
Location: Washington Township, Council District #7
Zoning: C-3 (MSPC)
Petitioner: Patachou, Inc., by Jonathan W. Hughes
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the enlargement of an outdoor sidewalk cafe area from 777 square feet to 1,142 square feet (not permitted), with a permanent awning.

This petition was automatically continued by a registered neighborhood organization from the January 3, 2023 hearing to the February 7, 2023 hearing.

This petition was automatically continued by the petitioner from the February 7, 2023 hearing to the March 7, 2023 hearing.

RECOMMENDATIONS

Staff **recommends approval** of this request subject to the petitioner's seven submitted commitments.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-3	Compact	Commercial
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SURROUNDING ZONING AND LAND USE

North	D-4	Residential (Single-family dwelling)
South	C-3	Commercial
East	D-4	Residential (Single-family dwelling)
West	C-3/D-2	Commercial

NEIGHBORHOOD PLAN

Meridian Kessler Neighborhood Plan (2016) recommends village mixed-use development.

- ◇ The subject site is within the boundaries of the Meridian Street Preservation District (MSPC), a state-regulated historic district requiring design review of proposed developments prior to issuance of permits or land use approvals by the City of Indianapolis. The site is located in the Secondary Preservation Area, so only variance petitions and rezoning requests are reviewed by the Commission.

(Continued)

STAFF REPORT 2022-DV1-063 (Continued)

- ◇ This request received MSPC approval on November 15, 2022, which was subject to the site plan and commitments submitted November 15, 2022 from Meridian Kessler Neighborhood Association. The amended proposed site plan is substantially similar to that initially proposed with labels provided for additional clarity.
- ◇ This site is currently improved with a 13,444-square foot multi-tenant retail commercial building with the associated parking. The existing sidewalk café and all existing development on site was permitted through 2009-UV1-025. The site was granted a variety of development standards in 2009, including a total of 777 square feet of outdoor seating areas adjacent to the building. Specifically, the site plan indicated a 140-square foot seating area located on the 49th Street frontage of the site. The second area was a 513-square foot seating area located at the northeast corner of the intersection of 49th Street and Pennsylvania Streets. A third, 99-square foot seating area was adjacent to the Pennsylvania Street façade of the building, directly east of the largest outdoor seating area. An Administrative Approval in 2010 (2010-ADM-039) allowed for the rearrangement of the seating areas, but still limited the total outdoor café area to 777 square feet.
- ◇ The site was also the subject of variance approvals in 1945 and 1947. The 1945 and 1947 variances allowed for the construction and subsequent expansion of the parking lot on the D-4 zoned portion of the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow the enlargement of an existing outdoor sidewalk café from 777 square feet to 1,142 square feet with a permanent awning, as approved by the Meridian Street Preservation Commission, per the plans submitted.
- ◇ The site is subject to a zoning violation (VIO22-006968) for encroaching into the right-of-way with additional tables, chairs, and planters without an outdoor seating encroachment license. The petitioner has already removed some of the street furniture and existing landscape planters that were non-compliant. The other remedy for the violation is the grant of a variance which the petitioner is seeking from this Board.
- ◇ The grant of the request would allow for an additional 365 square feet along 49th Street for a total of 514 square feet along 49th Street that will only serve Café Patachou. The remaining, legally established 628 square feet, located at the southeast corner of the site and along the western building façade, will remain unchanged.
- ◇ Outdoor seating at this site is appropriate because this type of outdoor use is common in neighborhood commercial areas. The impact of the proposed outdoor seating area on surrounding uses would be limited because the nearest seating area would provide an approximately 25-foot setback from the property line of the nearest dwelling to the east. That dwelling is also setback approximately 30 feet from the 49th Street right-of-way, while the commercial structure features a three-foot setback. The building wall would therefore visually screen and mitigate noise that might emanate from the outdoor area.

(Continued)

STAFF REPORT 2022-DV1-063 (Continued)

- ◇ Some outdoor seating areas approved by variance in this portion of the city have been enclosed with walls and roofs and even in some cases heated to serve as temporary rooms that can be used throughout the year independent of temperature or weather conditions. Such dining areas are essentially permanent structures that are not required to comply with typical commercial building codes and are generally constructed of non-durable, tent-like materials. Staff once included a condition of approval to prohibit a structural addition to the site of such nature, but the proposed awning would not have the same effect as an enclosed area.
- ◇ The petitioner has proposed a commitment that the seating area within the public right-of-way could be removed within seven days of notification to do so by the Department of Public Works (DPW) or the City Controller. This provision is intended to ensure that outdoor cafés do not interfere with the City's ability to properly maintain its infrastructure.
- ◇ The grant of this variance doesn't absolve the owner of future violations; encroachments beyond what is allowed by this grant—even if they are temporary—are subject to enforcement.
- ◇ The amended site plan calls out existing speakers along the southern building façade. It is common for outdoor seating areas to provide outdoor musical entertainment for the enjoyment of customers. Given the proximity of residential development to the east of the site, such activity could represent an unwarranted intrusion into the quiet enjoyment of those residential properties.
- ◇ The petitioner has submitted a proposed commitment, which would prohibit outdoor live entertainment and conclude the broadcasting of prerecorded music by 8:00 p.m. during the week and 9:00 p.m. on weekends. The condition would also limit the volume of any music so that it would not be audible from the adjacent residential properties. Staff is satisfied that the proposed condition would adequately address the concern about music on the site disturbing the enjoyment of the adjacent residential property.
- ◇ Staff would note that there is some practical difficulty with the location of the existing building being approximately three feet from the right-of-way that previously limited the outdoor seating within the property boundary, where now sidewalk cafés would otherwise be permitted with the updated Ordinance.
- ◇ For these reasons, staff is recommending approval of this request.

GENERAL INFORMATION**THOROUGHFARE PLAN**

49th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 53-foot existing right-of-way and a 56-foot proposed right-of-way.

THOROUGHFARE PLAN

Pennsylvania Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 61-foot existing right-of-way and a 48-foot proposed right-of-way.

(Continued)

STAFF REPORT 2022-DV1-063 (Continued)

SITE PLAN	File-dated December 1, 2022.
AMENDED SITE PLAN	File-dated February 17, 2023.
ELEVATIONS	File-dated December 1, 2022.
PROPOSED COMMITMENTS	File-dated December 1, 2022.
FINDINGS OF FACT	File-dated December 1, 2022.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

1. **VIO22-006968:** 645-571 Encroachment (means an intrusion by an inanimate objection, in, under, above or upon the right-of-way) - outdoor seating including chairs, tables and decorative planter boxes on the sidewalk.

PREVIOUS CASES

2022-MO1-002; Modification of Conditions related to 2009-UV1-025 to terminate the first sentence of Condition One prohibiting the enclosure of the outdoor seating area with roofing or walls in a temporary or permanent manner, **withdrawn**.

2021-MO3-002; 114 East 49th Street (subject site), Modification of Condition One of 2009-UV1-025 to provide for an awning over an existing sidewalk café (outdoor seating area shall not be enclosed by roof or walls, temporary or permanent), **withdrawn**.

2013-UV1-042; 4901 North Pennsylvania Street (subject site), Variance of use of the Commercial Zoning Ordinance to provide for an event center (not permitted), **withdrawn**.

2012-DV1-011; 4901 North Pennsylvania Street (subject site), Variance of development standards of the Commercial Zoning Ordinance to provide for 280 square feet of additional outdoor seating area along 49th Street (777 square feet of outdoor seating area approved by 2009-UV1-025, outdoor seating not permitted in the C-3 district) and extending two feet into the right-of-way of 49th Street (outdoor seating not permitted in the public right-of-way), **denied**.

2010-ADM-039; 4901 North Pennsylvania Street (subject site), Amended plans including the relocation of 149 square feet of outdoor dining along 49th Street.

(Continued)

STAFF REPORT 2022-DV1-063 (Continued)

2009-UV1-025; 4901 North Pennsylvania Street (subject site), Variance of Use of the Dwelling Districts Zoning Ordinance to legally establish a parking lot associated with commercial uses (not permitted) with a zero-foot north side setback and a six-foot east side setback and Variance of Development Standards of the Commercial Zoning Ordinance to:

- a. provide for an approximately 777-square foot outdoor seating area (not permitted), portions of which encroach nine feet into the right-of-way of 49th Street (not permitted)
- b. being located within the clear sight triangle at the intersection of the 49th and Pennsylvania Streets (not permitted),
- c. legally establish a zero-foot front landscape strip along North Pennsylvania Street (minimum ten-foot front landscape strip required),
- d. legally establish a zero-foot front landscape strip along 49th Street (minimum ten-foot front landscape strip required),
- e. provide for a 12,964-square foot integrated center, including a 777-square foot outdoor seating area with 42 off-street parking spaces (minimum 55 off-street parking spaces required),
- f. legally establish ten parking spaces within the right-of-way of Pennsylvania Street (not permitted) with maneuvering area within the right-of-way of Pennsylvania Street (not permitted), being located within the clear-sight triangle (not permitted) at the north and south end of the parking area,
- g. legally establish 22 parking spaces having a usable area of 162square feet and with eighteen parking spaces having a usable area of 139.5 square feet (minimum 180 square feet of usable area required for each parking space),
- h. legally establish two parking spaces reserved for the physically handicapped having dimensions of twelve by eighteen feet (minimum thirteen-foot width and minimum twenty-foot length required),
- i. with six parking spaces along the east property line having deficient maneuvering area (proper maneuvering area required), and
- j. legally establish a minimum 1.5-foot east side transitional yard (minimum twenty-foot east side transitional yard required), with parking having a 1.5-foot east side setback, a trash enclosure having a five-foot east side setback and the existing building having a three-foot east side setback, with deficient landscaping (not permitted), **granted with seven conditions.**

47-V-256; 4917-4921 North Pennsylvania Street, requested a variance of use to provide for the expansion of a commercial parking lot, **granted, subject to the installation of landscaping and screening to the north and east.**

45-V-209; 4917-4921 North Pennsylvania Street, requested a variance of use to provide for a commercial parking lot on the southern 50 feet of the property, with the remainder of the lot to be landscaped, **granted.**

37-V-145; 4913-4919 North Pennsylvania Street, requested a variance of use to provide for the erection of a retail building, **denied.**

32-V-94; 4915-4921 North Pennsylvania Street, requested a variance of use to provide for the erection a retail building, **denied.**

(Continued)

ZONING HISTORY – VICINITY

2009-DV1-040; 4838 North Pennsylvania Street (southwest of site), Variance of development Standards of the Commercial Zoning Ordinance, to provide for the construction of a 3,018-square foot greenhouse addition and a 503-square foot deck with a zero-foot setback from 49th Street, resulting in an accessory use area of 54.2% of the primary structure, with a zero-foot landscape strip along 49th Street and two parking spaced within the required setback, with reduced off-street parking provided, **granted**.

2000-DV1-012; 111 East 49th Street (south of site), Variance of development standards of the Commercial Zoning Ordinance to provide for the carry-out sales of specialty wines and beer for an existing catering business, within seven feet of a protected district, **granted**.

97-Z-12 / 97-CV-1; 4930 North Pennsylvania Street (west of site), requested a rezoning of 0.722 acre, being in the D-2 District, to the C-3C classification, to provide for the development of a neighborhood retail center, and variances of development standards to provide for reduced front, rear and side transitional yards, **approved**.

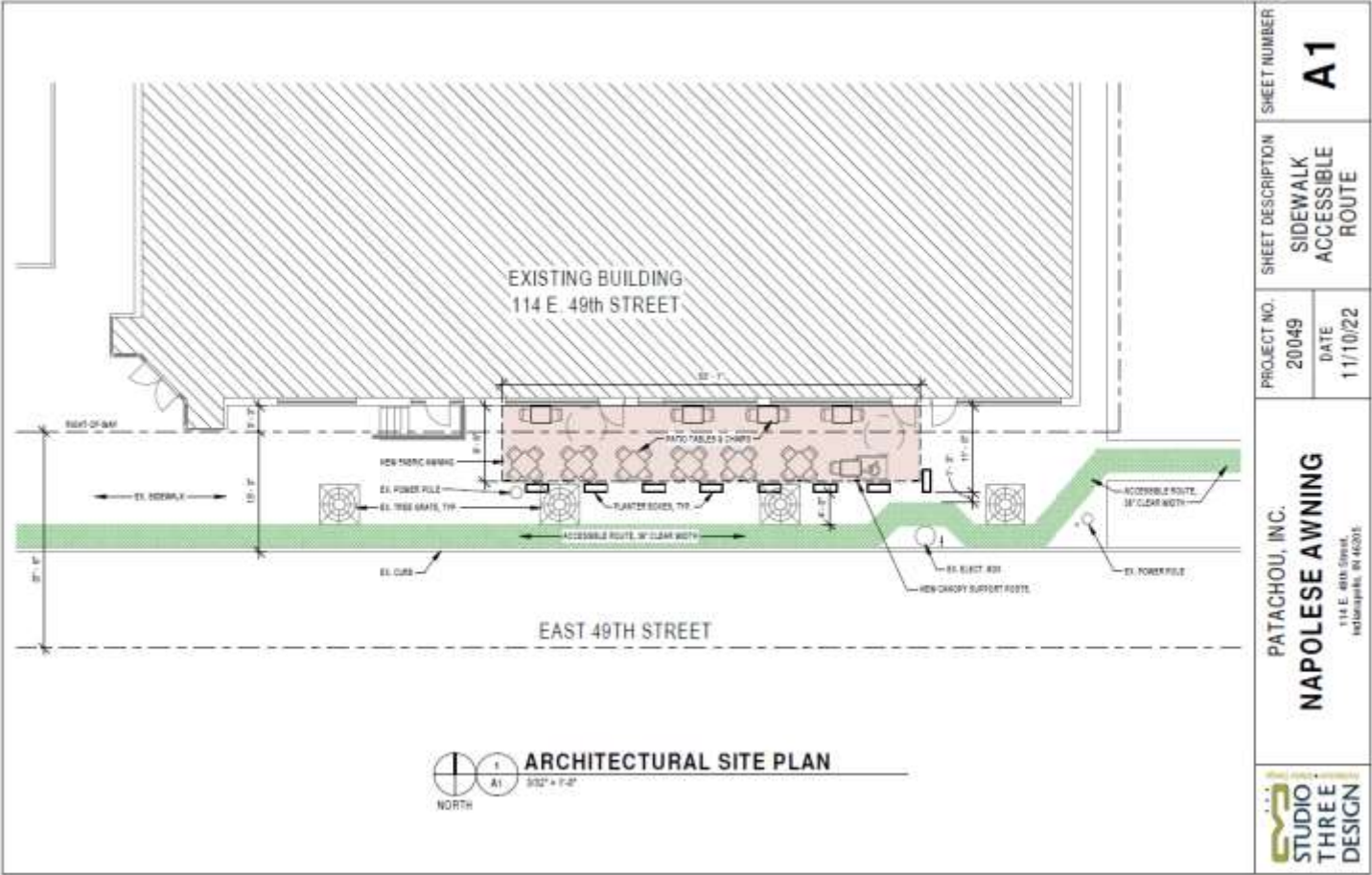
94-HOV-93; 4838 North Pennsylvania Street (southwest of site), Variance of development standards of the Commercial Zoning Ordinance, to provide for the construction of a 6,500-square foot building with 19 parking spaces provided (minimum 33 spaces required) and an outdoor storage area for seasonal items such as flowers, plants, garden supplies and Christmas trees (outdoor storage/display not permitted) with outdoor storage area being zero feet from East 49th Street, **granted**.

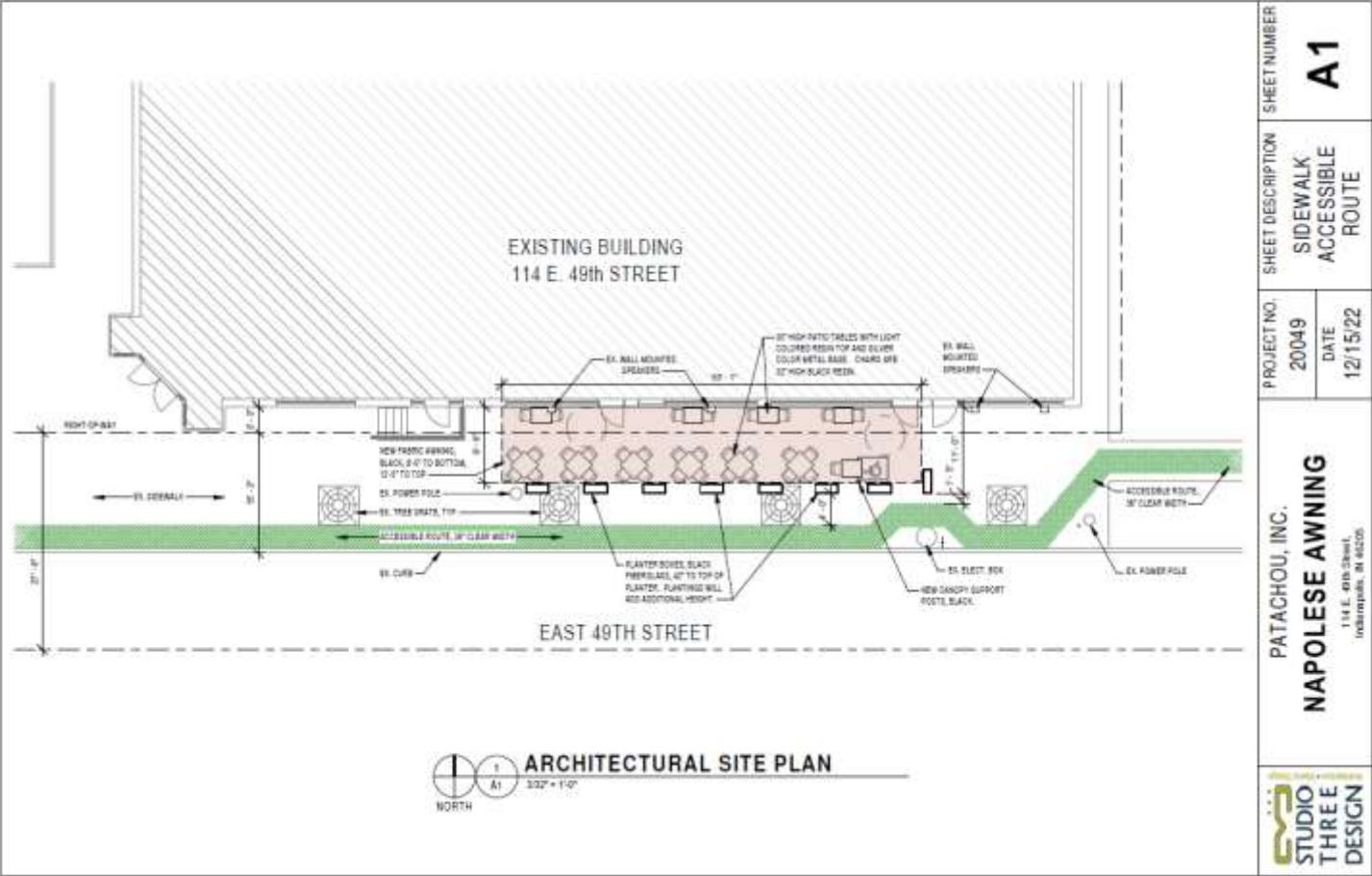
93-V1-112; 115 East 49th Street (south of site), Variance of development standards of the Commercial Zoning Ordinance to permit a restaurant with carryout within 100 feet of a residential district (not permitted), without the required number of off-street parking spaces, **granted**.

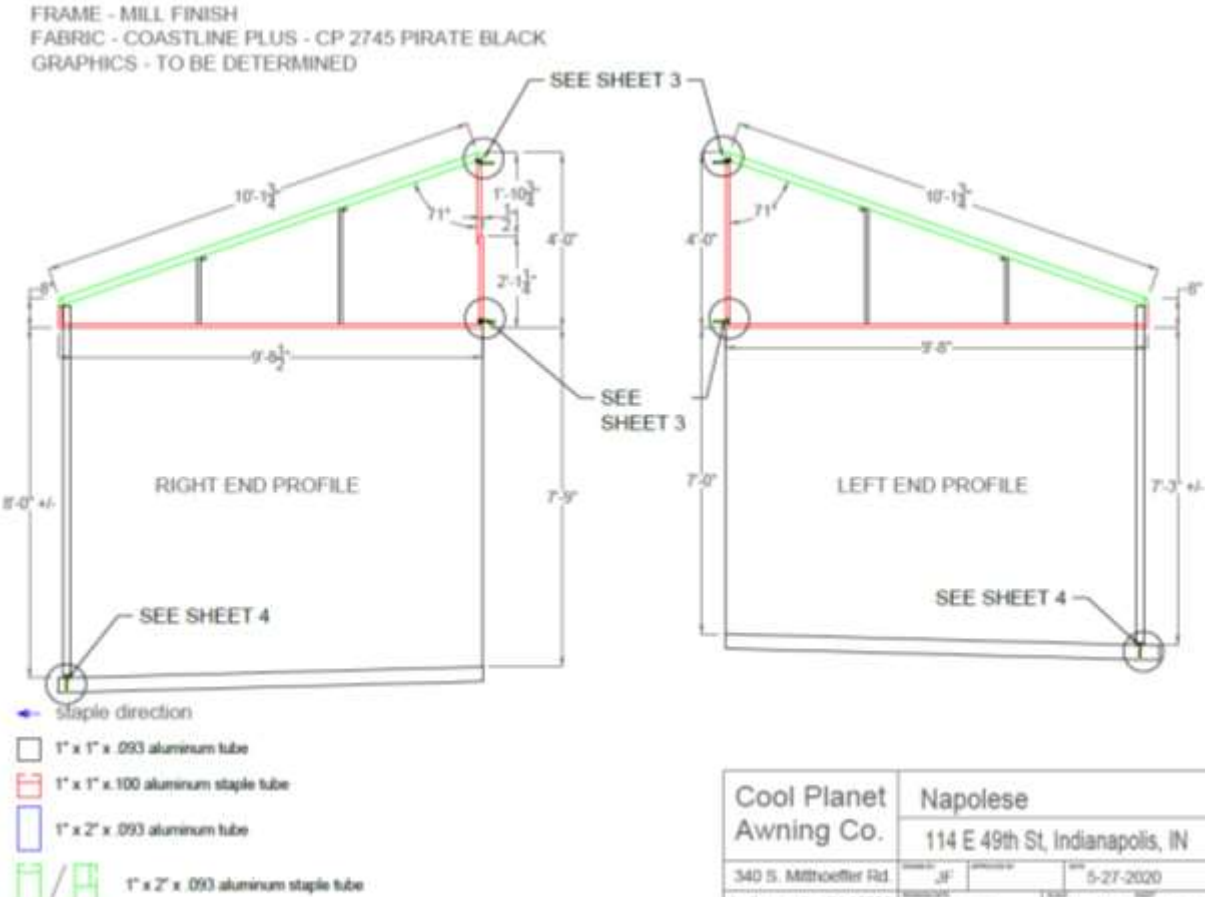
93-V1-73; 4930 North Pennsylvania Street, (west of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a ground sign, 4 feet by 8 feet, in the front yard (not permitted), **granted**.

91-V2-59; 4841 North Pennsylvania Street (south of site), Variance of development standards of the Sign Regulations of Marion County to permit the relocation of a pole sign 5 feet from the right-of-way of Pennsylvania Street and 49th Street (15 foot setback required from each right-of-way) with gasoline pricing panels and information about available service (principle identification only, permitted) and to legally establish an existing 44 x 70-inch sign on a light fixture on Pennsylvania Street and a variance of development standards of the Commercial Zoning Ordinance to permit the outdoor display/storage of tires, **granted**.

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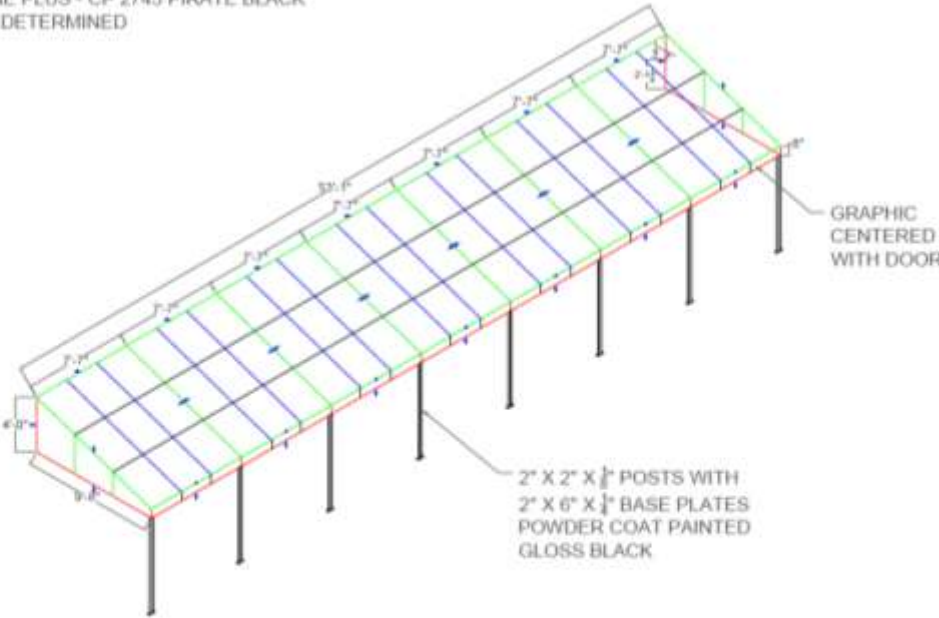






Cool Planet Awning Co.	Napolese		
	114 E 49th St, Indianapolis, IN		
340 S. Mitthoeffer Rd.	JF	5-27-2020	
Indianapolis, IN 46229	6-26-2020	3/8" x 1'-0"	1 of 4
SOUTH PATIO CANOPY			

FRAME - MILL FINISH
FABRIC - COASTLINE PLUS - CP 2745 PIRATE BLACK
GRAPHICS - TO BE DETERMINED



Cool Planet Awning Co.	Napolese		
	114 E 49th St, Indianapolis, IN		
340 S. Mitthoeffer Rd.	JF	5-27-2020	
Indianapolis, IN 46229	6-26-2020	1/8" x 1'-0"	2 of 4



Proposed awning.



View of the building façade today.





MERIDIAN STREET PRESERVATION COMMISSION

In the matter of an application filed by
Patachou, Inc.
for a Prior Approval of a Variance for the
property located at 114 E. 49th Street

**FINAL ORDER GRANTING PRIOR
APPROVAL OF A VARIANCE
#V-MSPC 22-12**

The Meridian Street Preservation Commission, at a meeting held at 4:00 p.m. on November 15, 2022, in the second floor conference room of the Meridian Street United Methodist Church at 5500 N. Meridian Street, and heard evidence and considered an application for a Prior Approval of a Variance filed by Patachou, Inc., for improvements to be made at the property located at 114 E. 49th Street.

Being duly advised in the premises, the Commission, by a vote of 7-0 of its seven (7) members present and voting AYE: (Norman, Fujawa, Hess, Welling, Colby, Vanderstel, Bennett), NAY: (None), ABSTAIN: (None) finds that:

1. The Commission has jurisdiction of this matter under Indiana Code 36-7-11.2-61.
2. The Certificate of Appropriateness requested approval for the:
 - Enlarge outdoor sidewalk café area from 777 sf. to 1142 sf. (addition of 365 sf.)
 - Construct a permanent awning to cover the enlarged outdoor seating area.
3. Such improvements shall be per plans on file with the Commission, except as amended below.
4. Said improvement is appropriate to the preservation of the area comprised of Meridian Street and bordering properties and complies with the architectural and construction standards in said area.
5. The Certificate of Appropriateness requested by the applicant should be **GRANTED**, with the following commitment(s): Per the site plan and commitments submitted 11.15.22.

*It is, therefore, ORDERED AND DECREED by the Meridian Street Preservation Commission that the Certificate of Appropriateness for the aforesaid construction is hereby **GRANTED**, to be evidenced solely by this Final Order. This Final Order must be acted upon within 2 years of the hearing date of the Meridian Street Preservation Commission and all aspects must be completed in whole.*

Shannon Norman
Shannon Norman, Chair

November 21, 2022
Date



October 29th, 2022

Ms. Shannon Norman
Department of Metropolitan Development
200 E. Washington Street
Indianapolis, IN 46204

Re: Patachou Inc./Napolese/Bar One Fourteen – 114 East 49th Street
VMSPC-22-12

Ms. Norman,

The Meridian Kessler Neighborhood Association Land Use Committee met with the petitioner to discuss a petition to allow for an expansion of an existing sidewalk café to 1,144 square feet and permanent awning structure. The subject property is zoned C-4, and is a multi-tenant commercial building within the Secondary District of the Meridian Street Preservation District. It has been noted that MSPC is seeking MKNA input ahead of their hearing on November 15, 2022.

At the presentation, the petitioner presented site plans, photography of the existing structure, and drawings of the planned awning. It was noted by the MKNA Land Use Committee that the current use of the seating area in front of Napolese/Bar One Fourteen has “organically” grown over time and has taken away the public accessible route to the east nearly completely save for approximately 18” of sidewalk.

The MKNA Land Use Committee reviewed the petition as submitted, and there is not enough information shown on the site plan or elevations to fully confirm the requests. We believe that at least two, and potentially three, variances are required under 743 Article III Section 06.HH - Sidewalk Café.

- Item #5 under the aforementioned section indicating that "a sidewalk cafe enclosed by a barrier cannot be within at least 8' of any standpipe, hydrant, crosswalk, driveway, alleyway, access ramp, parking meter, landscape bed, street tree, sign post, utility pole, or similar obstacle. In this case, street trees and a utility cabinet for the BlueIndy service are within this 8' boundary.
- Item #6: the depth of the sidewalk cafe as enclosed cannot be greater than 50% of the overall depth of the right of way extending from the edge of pavement to the lot line. As submitted, there are not enough dimensions able to confirm this either way.
- Item #7: in no instance shall the width of the sidewalk available for use outside the sidewalk cafe area be less than 8' in the CBD districts and 5' in the Commercial and MU districts (5' minimum applies in this instance). It appears that the street trees measured from the tree grate may not comply. Currently the use of the planters framing the sidewalk café has taken out the accessible route and is in violation of city code; this will be remediated with this Petition.

The LUC considered the existing conditions, impact to the community, and scrutinized the petition carefully to ensure the response was appropriate. LUC unanimously voted to support the petition with conditions as follows and have received full support from the MKNA Board.

- the site plan needs revised to show accurate site conditions, including dimensions as required from the edge of pavement and right-of-way, full extent of the enclosure (outside edge of planters, which lay beyond the footprint of the awning), and additional labels as necessary indicating dimensions to all obstructions.
- exterior elevations are required of the awning on all 3 sides to indicate which, if any, sides are to ever receive clear vinyl panels. MKNA would not support fully enclosing the awning due to life safety and fire codes that would require the building to be fully sprinkled per Indiana Building Code section 903.2.1.2.

2022-UV1-029; MSPC Approval Letter and MKNA Support

- Application and Findings of Fact would need to be revised to cite the correct section as well as the items under that section that a variance is required.
- Confirm that the awning will not affect the street trees. As it looks that the bottom 2' or more would need to be cropped. An arborist should be consulted.
- Site plan as submitted shows planters outside the boundary of the awning. As in the ordinance, the "enclosure" of the patio is the mechanism by which the area is being enclosed. In this case, the outside face of the planters are the boundary and the plans should reflect that.
- MKNA is not requiring an amended petition to be presented to the Land Use Committee, but should be amended ahead of the MSPC Hearing

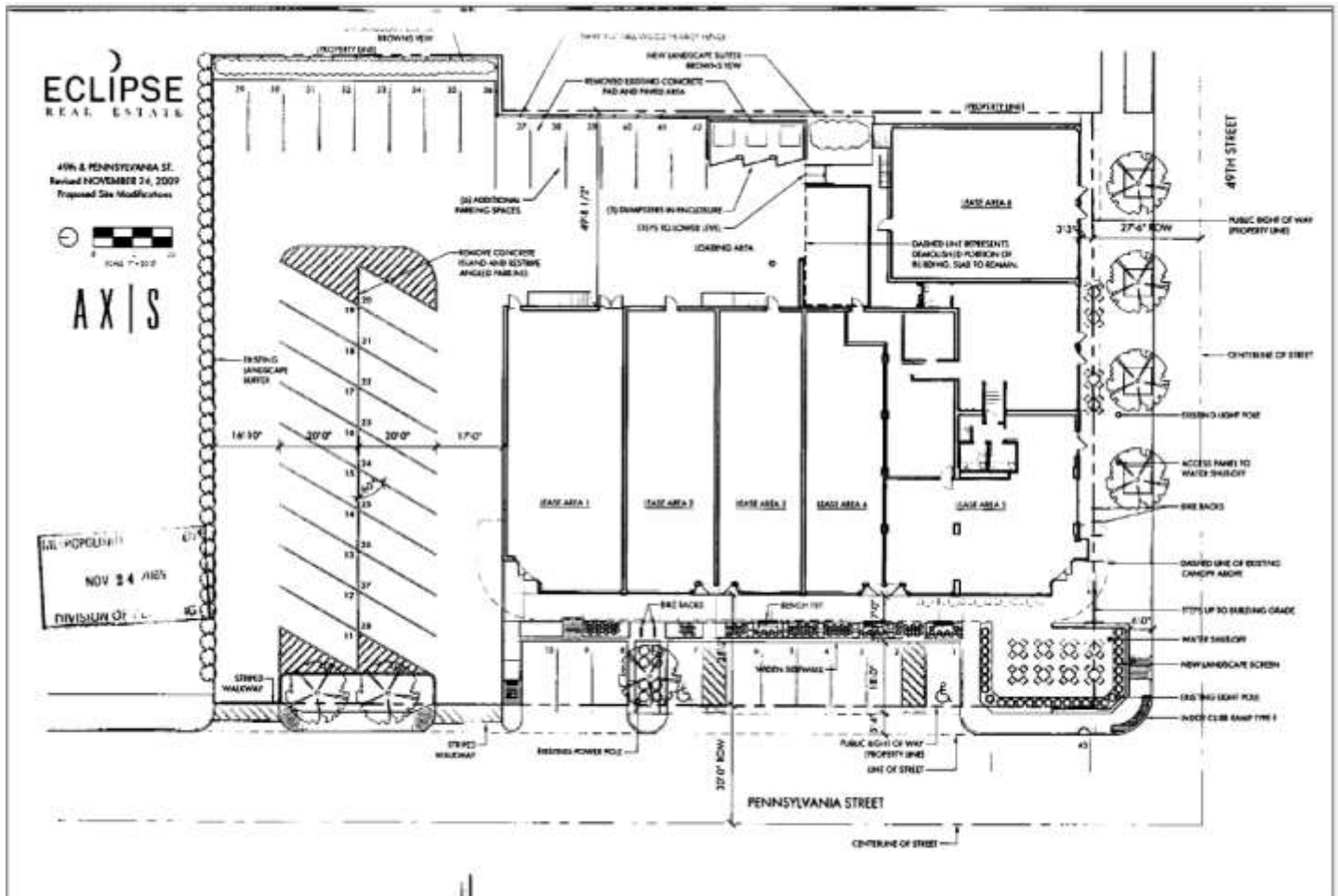
Sincerely,

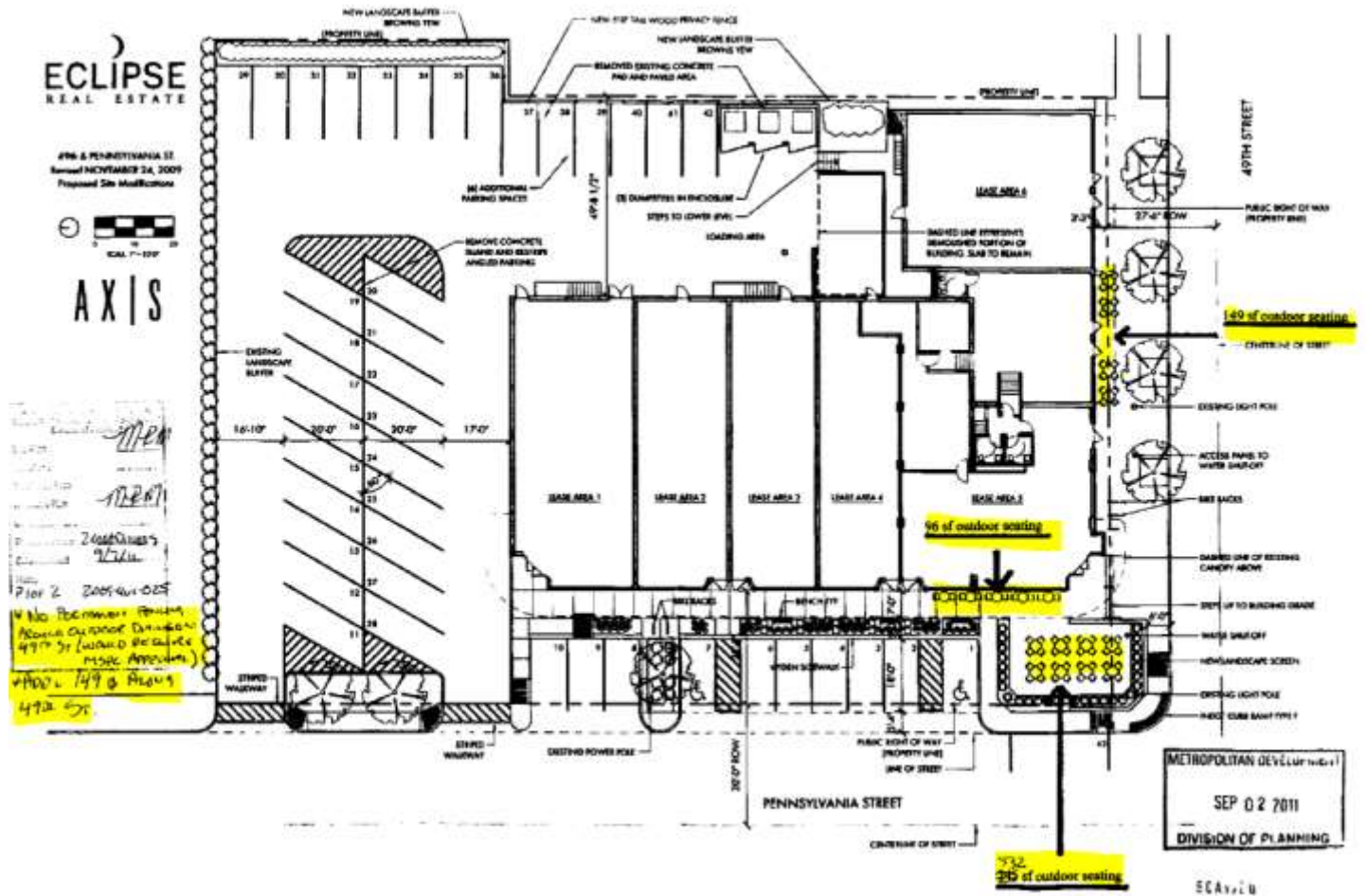
Matthew Albaugh
Board President
Meridian-Kessler Neighborhood Association
CC: Jonathan Hughes, Bose McKinney & Evans LLP, Petitioner
Emma Clust, MKNA Land Use Chair

2022-UV1-029; Petitioner's Proposed Commitments

Statement of Modification or Termination of CONDITIONS:

1. Variance 2009-UV1-025, which permitted 777-square feet of outdoor seating is hereby expanded to a total of 1,142 square feet of seating. The entire expansion of 365 square feet shall be as shown in the site plan and only for that seating area that borders 49th Street. The proposed outdoor seating area along 49th Street shall be designed as per the attached Site Plan and shall be enclosed with a permanent awning. There shall be no walls of either temporary or permanent construction. This condition shall not prohibit the erection of a typical rail or fence, less than four feet in height, around the perimeter of the seating area. All other conditions of Variance 2009-UV1-025 shall remain in full force and effect.
2. Architectural plans for the proposed outdoor seating area shall be subject to Administrator's Approval, with documentation provided to substantiate that the portion of the seating area within the public right-of-way could be removed within seven days.
3. Outdoor prerecorded music shall cease by 8 p.m. in the evening Sunday through Thursday and by 9 p.m. in the evening on Fridays and Saturdays. No outdoor live music will be allowed at the site. In addition, any music provided shall not violate the provisions of the Marion County, Indiana noise ordinance as set out in the Revised Code of the Consolidated City and County of Indianapolis/Marion County, Indiana. In no event shall any music provided upon the property be plainly audible from the nearby residentially zoned properties.
4. In the event that the primary structure on the site is demolished, removed, or otherwise determined to be unsuitable for reuse, as reasonably determined by a certified design professional, the parking area shall be reconfigured to eliminate the maneuvering of vehicles within the right-of-way of North Pennsylvania Street unless such maneuvering is required to provide on-site parallel parking adjacent to the existing public street. This condition shall only be applicable so long as a structure containing roughly the same amount of square footage is permitted to be rebuilt upon the property and parallel parking is allowed in front of the site along Pennsylvania and 49th Streets.
5. There shall be a maximum of 6,000 square feet of the structure devoted to restaurant use on the site at any time.
6. Bicycle racks shall be provided on-site to accommodate a minimum of 10 bicycles, with the racks locations being subject to Administrative Approval.
7. A landscape plan shall be submitted for Administrator's Approval. The Plan shall indicate the size and species of proposed plantings and shall include the replacement of the four existing street trees along East 49th Street. The improvements indicated in the landscape plan shall be installed within six months of the approval of the petition and maintained thereafter.







View of site's 49th Street frontage, proposed outdoor seating in background.



Proposed outdoor seating expansion area.



Photo of the subject site in violation.

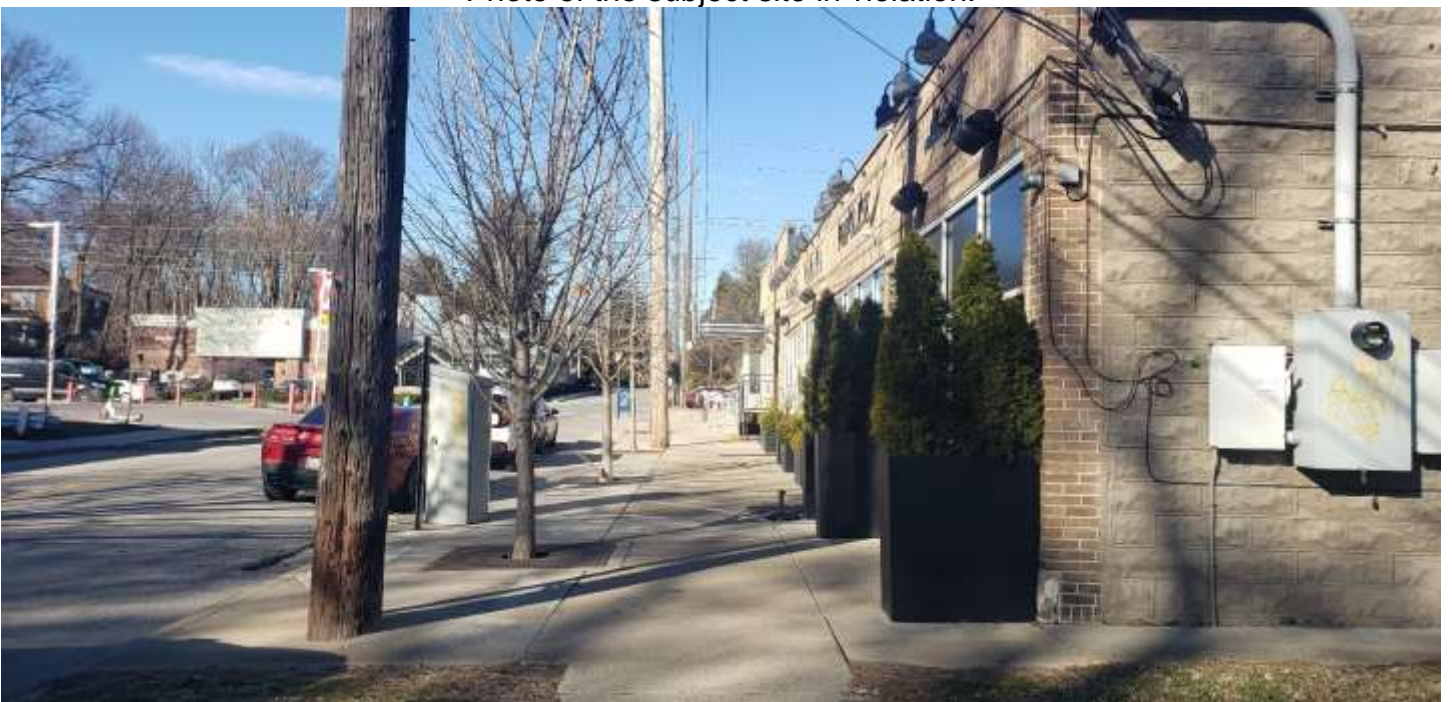


Photo of the subject site now.



A 3-foot wide access will be proposed and the large planters have been removed.



No planters will be proposed near Grate 1 per the submitted site plan.



Existing outdoor seating to remain.



Existing outdoor seating to remain.



Outdoor seating for the property south of the subject site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-035 (Amended)
Address: 6234 East Hanna Avenue (approximate address)
Location: Franklin Township, Council District #18
Zoning: I-3
Petitioner: Exotic Metal Treatment, by Brian E. Moench
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation a metal treatment facility (not permitted) and a building addition with a 38-foot front transitional yard along Hanna Avenue, an expanded parking area with a 25-foot transitional yard along Hanna Avenue (150-foot transitional yard required) and an expanded parking area with a 12-foot front yard setback from the proposed right-of-way of Churchman By-Pass (60-foot front setback from proposed right-of-way required), deficient landscaping and a waiver of sidewalk installation requirements along Churchman By-Pass (installation of sidewalks required).

ADDENDUM FOR MARCH 7, 2023

This petition was continued from the February 7, 2023, hearing, to the March 7, 2023, hearing of Division I of the Board of Zoning Appeals, at the request of the petitioner, to continue to work with Staff and interested parties. On February 15, 2023, an amended landscape plan (provided below) was submitted to Staff which depicts additional trees on the site with mounding associated with frontage trees along Hanna Avenue. Staff believes this would accomplish the goal of screening the neighborhood to the south from the building addition and increased activity associated with the parking expansion.

Therefore, Staff **recommends approval** of the request related to the building addition, parking expansion and landscaping. However, Staff **continues to recommend denial** of the waiver of sidewalk installation along Churchman By-Pass.

ADDENDUM FOR FEBRUARY 7, 2023

This petition was continued from the January 3, 2023, hearing, to the February 7, 2023 hearing of Division I of the Board of Zoning Appeals, at the request of the petitioner, in order to submit amended plans for review. On January 10, 2023, an amended plan was submitted, which is available further below in this report. This amended plan included a waiver of the sidewalk requirements along Churchman By-Pass, which Staff does not support. The amended site plan also shifted all new parking to the north side of the building and providing landscaping along the southern lot line. However, Staff would note that Hanna Avenue requires the installation of 19 trees, and Churchman By-Pass requires nine trees. Thirteen trees are provided between the two frontages, leaving a deficiency of 15 trees. Given this lack of required trees, as well as the berm requested below, Staff continues to **recommend denial** of this request.

(Continued)

STAFF REPORT 2022-UV1-035 (Continued)**ADDENDUM FOR JANUARY 3, 2023**

This petition was continued from the December 6, 2022 hearing to the January 3, 2023 hearing of Division I of the Board of Zoning Appeals. No new information has been provided, therefore, Staff continues to **recommend denial** of the request.

ADDENDUM FOR DECEMBER 6, 2022

The petitioner has requested that this petition be continued from the December 6, 2022, hearing of Division I to the January 3, 2022, hearing of Division I. This would require a vote by the Board.

ADDENDUM FOR NOVEMBER 1, 2022

This petition was continued from the November 1, 2022, hearing of Division I to the December 6, 2022, hearing of Division I, due to lack of quorum.

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE**EXISTING ZONING AND LAND USE**

I-3	Metro	Heavy Industrial
-----	-------	------------------

SURROUNDING ZONING AND LAND USE

North	Freeway / I-3	Interstate 465 / Industrial
South	D-4	Single-family dwellings
East	I-3	Industrial
West	Freeway / I-3	Interstate 465 / Industrial

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Light Industrial development.

- ◇ The subject site is 2.63 acre located in the Poplar Grove neighborhood in Franklin Township. The subject site has two frontages on Churchman Bypass and Hanna Avenue. Interstate 465 is located to the west of the subject site. The property consists of an industrial structure, used for heavy manufacturing. The surrounding neighborhood is mostly residential to the south and industrial uses to the north and west, across I-465.

(Continued)

STAFF REPORT 2022-UV1-035 (Continued)

- ◇ The subject site is zoned I-3 (Medium Industrial District). 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.

VARIANCE OF USE AND DEVELOPMENT STANDARDS

- ◇ The request would provide for the operation a metal treatment facility and a building addition with a 38-foot front transitional yard along Hanna Avenue, an expanded parking area with a 25-foot transitional yard along Hanna Avenue and an expanded parking area with a 12-foot front yard setback from the proposed right-of-way of Churchman By-Pass.
- ◇ The proposed use for a metal treatment facility would be categorized as *Heavy Manufacturing*. Heavy Manufacturing is defined as creation or production of a non-edible item that includes some transformation by way of heating, chilling, adding a liquid, adding a coating, or chemical or biochemical reaction or alteration. This use may also involve packaging, repackaging, assembling, or mechanical reshaping. This definition includes the manufacturing of bicycles, motorcycles, and parts; boats; ceramic and clay products; computers and computer equipment; electric lighting and wiring equipment; cosmetics, perfumes; glass or glass products; leather tanning and curing; major household appliances; construction machinery and equipment; processing of forest products; detergents and soaps; and engines and turbines.
- ◇ Heavy Manufacturing is only permitted in the I-3 district by grant of Special Exception by the Board of Zoning Appeals and is permitted by right in the I-4 district. The proposed use would not be permitted by Special Exception since the existing structure and proposed additions result in deficient transitional yard requirements, and landscaping. All dimensional standards of the Ordinance must be met to apply for a Special Exception. Staff is not opposed to the use, however, would like the use to be buffered from the residential (protected district) south of the subject site.
- ◇ Table 744-201-6 stipulates that the required front transitional yard in the Metro Context Area is 150 feet. The transitional yard requirement applies to the south lot line on Hanna Avenue, which is considered a front yard. The proposed front transitional yard would be 38 feet, with an additional parking area being 25 feet from the south lot line. Staff is opposed to the request for decreased transitional yard, where there is no buffer between the existing residential to the south.
- ◇ Table 744-201-6 also states that the required front yard in the Metro Context Area is 60 feet from proposed right of way. The proposed front setback from Churchman Bypass is 12 feet from the proposed right of way. Staff is opposed to this request, where the proposed parking could be situated elsewhere on the subject site, thus, no practical difficulty.

(Continued)

STAFF REPORT 2022-UV1-035 (Continued)

- ◇ Lastly, the proposed additions and use would result in deficient landscaping. A landscape plan has not been provided, displaying the required landscaping, as per 744-500 (Landscaping and Screening). Staff is not supportive of deficient landscaping, where additional landscaping could be used to buffer the heavy industrial use from the residential to the south. Staff suggested that a berm be placed along Hanna Avenue and the required landscaping be accomplished along Churchman Bypass.
- ◇ 744-302.F states sidewalks shall be provided along the entire frontage of all abutting eligible public streets. Sidewalks are required to be placed along Churchman Bypass and Hanna Avenue. The existing site plan displays sidewalks located partially on Hanna Avenue. Sidewalks are required along both frontages, Churchman Bypass and Hanna Avenue. If sidewalks are not to be added, this petition should be continued for New Notice to be sent to all surrounding property owners to add the request.
- ◇ Staff recommends denial, based on lack of practical difficulty and hardship of these requests.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Hanna Avenue 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 50-foot proposed right-of-way.

Churchman By-Pass is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 100-foot existing right-of-way and a 90-foot proposed right-of-way.

I-465 is classified in the Official Thoroughfare Plan for Marion County, Indiana as a freeway, with a 201-foot existing right-of-way.

SITE PLAN

File-dated August 29, 2022.

PLAN OF OPERATION

File-dated November 29, 2022.

FINDINGS OF FACT

File-dated November 21, 2022

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES: None.

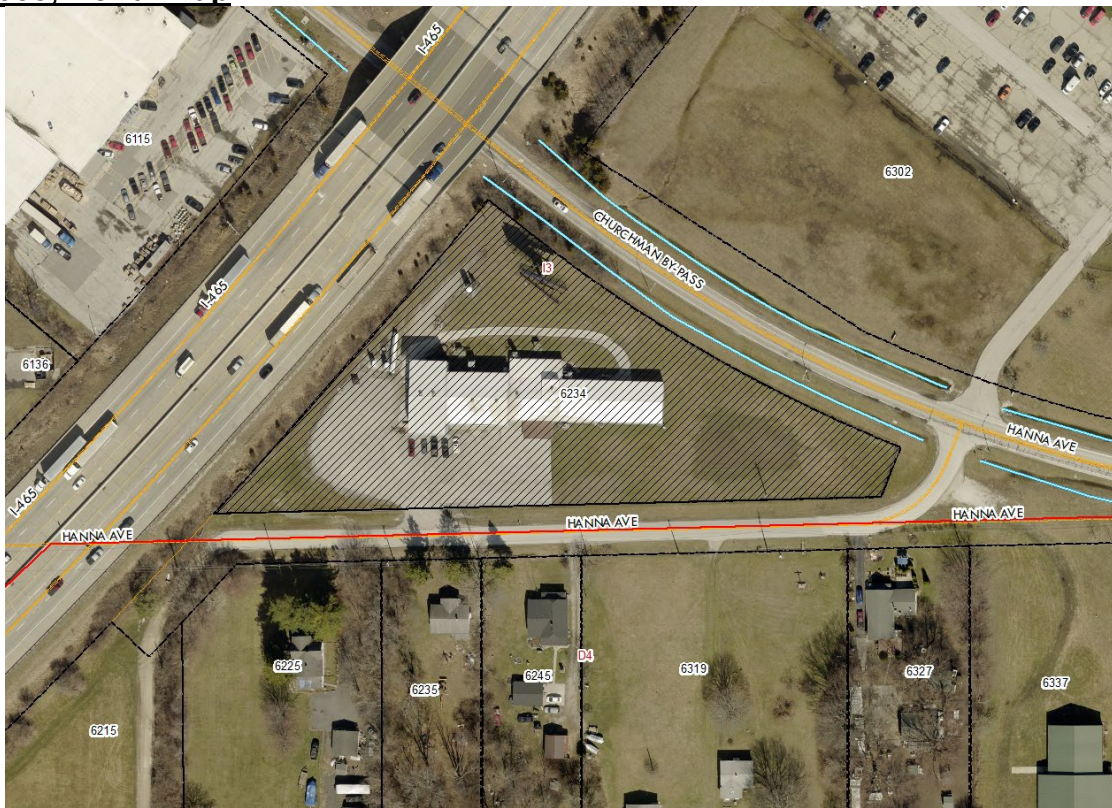
(Continued)

STAFF REPORT 2022-UV1-035 (Continued)**ZONING HISTORY – VICINITY**

2018-SE3-003; 6337 East Hanna Avenue, requested a Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a religious use in an existing building, with off-street parking, **approved**.

GLH

2022-UV1-035; Aerial Map

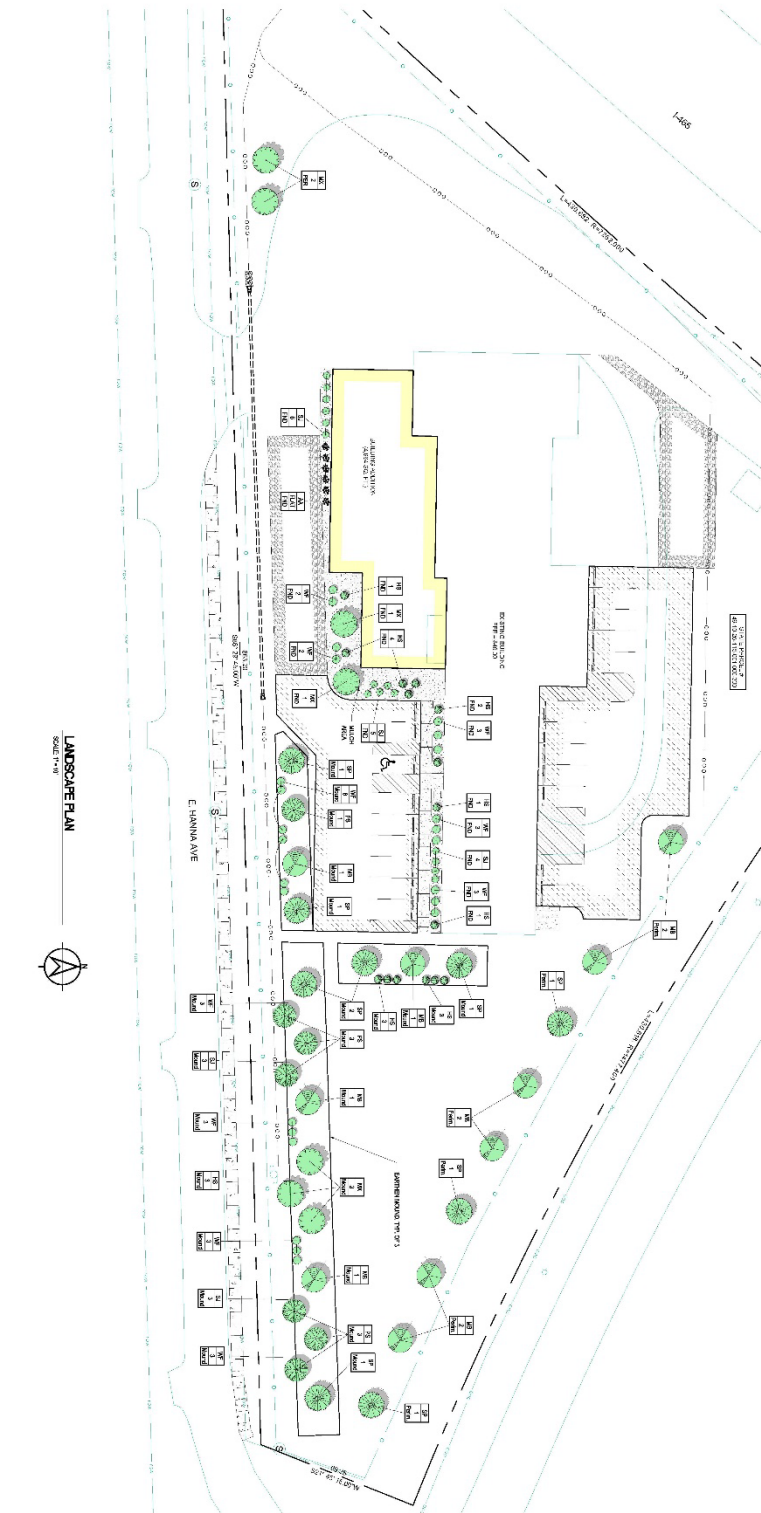


2022-UV1-035; Aerial (1979)



(Continued)

NOT TO SCALE



SHADE TREE PLANTING DETAIL

SMALL AND SMALL TREE PLANTING DETAIL

PLANTING SCHEDULE

NOT TO SCALE

NOT TO SCALE

PLANTING SCHEDULE									
PLANT	QTY	SYMBOL	COMMON NAME	SIZE	SPACING	PLANTING DATE	PLANTING METHOD	PLANTING COST	PLANTING TOTAL
1	1		SHADE TREE	12"	12"	2022	PLANTING	\$1,000.00	\$1,000.00
2	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
3	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
4	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
5	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
6	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
7	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
8	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
9	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00
10	1		SMALL AND SMALL TREE	6"	6"	2022	PLANTING	\$500.00	\$500.00

Exotic Metal Treatment
6234 Hanna Ave.
Indianapolis, Indiana 46203

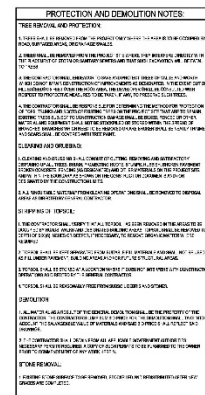
LANDSCAPE PLAN

Moench Engineering
ARCHITECTURAL & ENGINEERING
10101 E. 10th Ave.
Indianapolis, Indiana 46240
(317) 592-0000

REVISIONS

NO.	DATE	DESCRIPTION
1	01/11/2022	ISSUED FOR PERMIT
2	01/11/2022	REVISIONS TO PERMIT
3	01/11/2022	REVISIONS TO PERMIT
4	01/11/2022	REVISIONS TO PERMIT
5	01/11/2022	REVISIONS TO PERMIT

DATE: 01/11/2022
DRAWN: J. L. LIOI
CHECKED: J. L. LIOI
SCALE: AS SHOWN
SHEET: 1101



 <p>Moench Engineering 4800 South Clark Road Chicago, Illinois 60632 Phone: 773.354.0000 Fax: 773.354.0001</p>																
<p>THIS DOCUMENT IS A CONTRACT DOCUMENT. IT IS THE PROPERTY OF MOENCH ENGINEERING, P.C. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF MOENCH ENGINEERING, P.C.</p>																
<p>Exotic Metal Treatment 6234 Hanna Ave. Indianapolis, Indiana 46203</p>																
<p>EXISTING CONDITIONS/DEMOLITION PLAN</p>																
																
<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>ISSUED FOR PERMIT SUBMITTAL</td> <td>7/1/06</td> </tr> <tr> <td>2</td> <td>ISSUED FOR PERMIT SUBMITTAL</td> <td>7/1/06</td> </tr> <tr> <td>3</td> <td>ISSUED FOR PERMIT SUBMITTAL</td> <td>7/1/06</td> </tr> <tr> <td>4</td> <td>FOR THE CITY OF INDIANAPOLIS</td> <td>7/1/06</td> </tr> </tbody> </table>		NO.	DESCRIPTION	DATE	1	ISSUED FOR PERMIT SUBMITTAL	7/1/06	2	ISSUED FOR PERMIT SUBMITTAL	7/1/06	3	ISSUED FOR PERMIT SUBMITTAL	7/1/06	4	FOR THE CITY OF INDIANAPOLIS	7/1/06
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Petition Number: 2022-UV1-035



PLAN OF OPERATION

Exotic Metal Treating, Inc.
6234 East Hanna Avenue
Indianapolis, IN 46203

Exotic Metal Treating, Inc (EMTI) is a heat treat service supplier established in 1973 in Beech Grove, IN. This location was quickly outgrown and the current location was purchased and permitted to build and operate the heat treating facility at its present location in 1978. In the year 2000, the facility applied for and was approved for an expansion of the heat treat business. EMTI is a specialized service provider providing heat treat services primarily for the aerospace and power generation industries as well as the US Department of Defense. Facility equipment includes five electrically heated vacuum furnaces and four natural gas fired pit furnaces. The services performed are to enhance the metallurgical and or engineering properties of the metal as required by the customer. Services provided include:

- Annealing
- Stress relieving
- Hardening and tempering of air hardening steels
- Solution heat treating
- Precipitation age heat treating
- Furnace brazing

NOTE: EMTI **does not perform any component manufacturing operations.** We do not form, bend, fabricate, weld, extrude, forge, cast, or machine any of the components received. Individual parts are received from the customer, placed into the furnace for the operation required and then returned to the customer for further manufacturing completion. The customer provides for shipping, dropping parts off then picking up when completed.

EMTI's Quality system is AS9100D third party accredited and maintains third party Heat Treat accreditation through PRI – Nadcap (formerly National Aerospace Defense Contractor Accreditation Program).

EMTI works as a sub-tier to prime contractors who flow down work through fabrication shops who in turn subcontract special process heat treating to EMTI as a prime approved special processor. A copy of our Prime Contractor Approval list is attached as Attachment 'A'. Please note that these approvals do not represent high volume work.

Page 1 of 4

(Continued)

Petition Number: 2022-UV1-035

Much of our work stems from US Department of Defense contracts to the prime contractors. During the onset of the Covid19 pandemic, EMTI was identified by the US DoD through the Department of Homeland Security - Cybersecurity & Infrastructure Security Agency as part of Essential Critical Infrastructure providing support services to the defense manufacturing industry. (Attachment 'B').

ISSUES IDENTIFIED IN THE PLAN OF OPERATION

1. **WORK HOURS:** The facility works three shifts starting Monday 7:00AM and closing Saturday 7:00AM. There is occasional internal maintenance work performed on the weekends, but this is not standard operation. All work is performed onsite.
 - Total number of employees, including management, is 14 employees spread over the three shifts. Employees drive and park in the employee parking lot with a maximum of 10 cars in the lot at one time for minimum duration that occurs during first/second shift change. Two employees on first shift are undergoing apprentice training and will move to second or third shift upon training completion and certification.
 - All parking is within the facility and there is no on street parking.
 - The facility is surrounded by a perimeter wire fence with gate and has a monitored security alarm system. There is also an entrance alarm when persons enter the building and windows have security bars.
2. **CLIENTS and CUSTOMERS:** The nature of the business does not cater to walk-in off the street clientele. Our customers deliver parts to be processed to our loading door, are unloaded and they leave – there is no need for delivery parking. Shipments are received from customer via customer vehicle, FedEx or UPS, or by common carrier. Typical receiving/shipping hours are 8:00AM to 5:00PM although FedEx/UPS may run later in the afternoon.
 - On rare occasions, the facility may have an occasional visitor or auditor visit the facility, and use the employee parking area.
 - Due to stringent processing approval requirements by the prime contractors as noted in attachment 'A', our customer base is nationwide.
 - A customer list is provided in Attachment 'C'. Please note that the attached list may seem long, volume of work is not consistent nor high volume.
3. **PROCESSES CONDUCTED ON SITE:** As noted in paragraph 1, EMTI performs heat treat and furnace brazing operations only – no fabrication operations. Heat treat operations include:
 - Annealing
 - Stress relieving
 - Hardening and tempering of air hardening steels
 - Solution heat treating
 - Precipitation age heat treating
 - Furnace Brazing

Page 2 of 4

(Continued)

Petition Number: 2022-UV1-035

No oil quench or water quench operations are performed. There are no processes performed offsite. Processes performed are to prepare the material for further fabrication by the customer or to metallurgically enhance the material to meet design strength requirements. No other operations are performed and parts are return shipped in the same shape and form as received. The heat treatment entails heating the metal to a material specific temperature and time to obtain the desired metal metallurgical condition. Any alteration of part shape by the heat treat process creates an issue for the customer for further fabrication and is considered a nonconformance on our part.

Heat treatments are performed in a vacuum atmosphere in a vacuum furnace or a protective atmosphere utilizing a retort and pit furnace when the surface condition of the material must be preserved – no heat treat scale or alteration of metal surface chemistry is permitted. Depending upon material machine stock thickness, treatments may also be performed in an open air atmosphere as specified by the customer which results in a tight surface scale which is removed by the customer through subsequent machine operations.

No operations are performed outside although some equipment or customer parts may be temporarily placed outside as unloaded until room is made indoors for storage. **The main reason for building this addition is to provide more indoor storage for customer parts and EMTI equipment to alleviate the need for outside placement.**

Property security is provided by a perimeter fence and main access gate. The access gate is closed during second shift at approximately 7:00PM and reopened when first shift arrives. The large 16ft wide by 17ft tall front loading door has a security gate that covers the opening when door must be open during off-hour shifts. The main loading door and adjacent access door has a trip alarm warning of anyone entering the building. During closed business hours, the building is protected by a monitored security alarm system. A security camera system is in place but will be upgraded upon addition completion.

4. MATERIALS USED:

- Retorts used in pit furnaces for containing a protective atmosphere are 309 stainless steel and are repaired when needed. At end of service life they are sold as scrap to J. Solotken & Company for recycling.
- Process shielding gases: Protective atmosphere gases are provided from cryogenic storage tanks for Argon, Nitrogen and Hydrogen where the gas is drawn from the tank and introduced into the retort displacing all oxygen from the retort. EMTI owns the tanks with installation and tank maintenance service provided by Air Products, our gas supplier, meeting safety code requirements. These tanks are equipped with telemetry and monitored by Air Products when refill is needed.
 - Argon and Nitrogen are stored in cryogenic tanks at subzero temperatures as a liquid and can pose a risk if liquid escapes. These tanks are equipped with redundant pressure relief systems to prevent over pressurization and to safely vent gas in case working pressures are exceeded. These tanks are protected by balusters.

Page 3 of 4

(Continued)

Petition Number: 2022-UV1-035

- Hydrogen tank is located to the northwest corner of the property and is protected by a second perimeter fence as well as balusters. Installation and service is provided by Air Products meeting safety code requirements. In addition to the pressure relief safeties, gas flow from this tank can be remotely shut off from inside the building to isolate the tank. The installation has a clean safety record with no issues.
 - All process gas storage capacities fall below the minimum reporting requirements set by the Indiana Department of Environmental Management (IDEM).
 - Natural gas. The four pit furnaces are fueled by natural gas through forced air tangential burners and does not produce odors from combustion. Emissions from combustion during operations fall well below reporting requirements set by IDEM. These furnaces have safeties in place for natural gas over/under pressure as well as blower forced air pressure or loss of electric power. Natural gas flow is automatically shut off if set parameters are exceeded and must be manually reset.
5. SHIPPING AND RECEIVING. The customer handles all shipping for their parts – parts and materials are returned in the same manner as received. Local customers use their own vans or trucks for delivery. Shipments are also received from FedEx and UPS as well as via commercial carrier semi-truck/trailer. Typical delivery hours are from 8:00AM to 5:00PM Monday through Friday. Frequency of deliveries varies greatly. Shipments are received at the large loading door at building west end and are unloaded by hand, by forklift or by hoist. All loading/unloading is performed within the facility fenced property.
6. WASTE: The heat treat process does not produce waste as noted. No oil or water quench operations are performed negating any waste disposal for these operations. Metal furnace equipment is recycled through J. Solotken. Trash pickup is provided by Rays Trash service.

Page 4 of 4

(Continued)



Photos of subject site from east lot line.

(Continued)



Photo of industrial property to the northeast.



Photo of residential to the south lot line of Hanna Avenue.

(Continued)



Photos of residential south of subject site along Hanna Avenue.

(Continued)



Photo of east lot line, near Hanna Avenue and Churchman Bypass intersection.



Photo of west lot line, nearest I-465.

(Continued)



Photos of subject site from south lot line.

(Continued)



Photo of residential at south lot line.



Photo looking west on Hanna Avenue.

(Continued)



Photo looking west on Hanna Avenue.



Photo of the Subject Property: 6234 East Hanna Avenue

STAFF REPORT

Item 10.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-003
Address: 8838 West 21st Street (approximate address)
Location: Wayne Township, Council District #6
Zoning: D-A
Petitioner: Paul Brannon
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 3,450 square foot detached accessory structure to be used as a hobby shop, being larger than the primary dwelling (not permitted).

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-A	Single-family dwelling
-----	------------------------

SURROUNDING ZONING AND LAND USE

North -	D-4	Single-family dwellings
South -	SU-10	Single-family dwellings
East -	D-A	Single-family dwelling
West -	D-A	Single-family dwelling

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

DEVELOPMENT STANDARDS

- ◇ Chapter 743, Article III. Section 6.A.2.b. of the Ordinance notes that “the horizontal land area covered by any one accessory building or minor residential structure must be less than the horizontal land area covered by the primary building.”
- ◇ The Ordinance maintains an appropriate development pattern in a dwelling district by limiting the square footage of accessory buildings in an effort to maintain the dominance of the primary dwelling. To maintain that relationship, accessory buildings should be incidental and subordinate to that dwelling.
- ◇ This request would permit an accessory building with 3,456 square feet, or 116% larger than the primary dwelling. In Staff’s opinion, this increase in accessory building use area would disrupt and adversely impact the relationship and scale between the primary structure and accessory structures. Additionally, the residential scale of the neighborhood and the adjacent properties would be affected in a substantial adverse manner.

(Continued)

STAFF REPORT 2023-DV1-003 (Continued)

- ◇ With the primary dwelling at 2,913 square feet, the proposed accessory structure at 3,456 square feet, would minimize the importance and dominance of the primary dwelling as a result of the excess accessory building floor area. Furthermore, the size and location of the proposed pole barn lends itself to parking and storing vehicles and equipment related to commercial and industrial enterprises, if not for the petitioner, then possibly for future purchasers of the property.
- ◇ In this instance, a practical difficulty does not exist since an accessory structure smaller in footprint than the primary dwelling can be installed on the site. Or, if additional square footage is needed, then multiple accessory buildings, each with a footprint smaller than the primary dwelling can be installed on site, as long as the 15% maximum lot coverage (21,542sf) is not exceeded. For these reasons, staff is recommending denial of the request.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of West 21 st Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 32-foot existing right-of-way, and an 80-foot proposed right-of-way.
SITE PLAN	File-dated, January 17, 2023
FINDINGS OF FACT	File-dated, January 17, 2023

ZONING HISTORY

2019-SE1-002; 8240 West 21st Street (east of site), requested a special exception of the Consolidated Zoning and Subdivision Ordinance to provide for a parking lot accessory to an existing religious use at 2215 Country Club Road, **granted**.

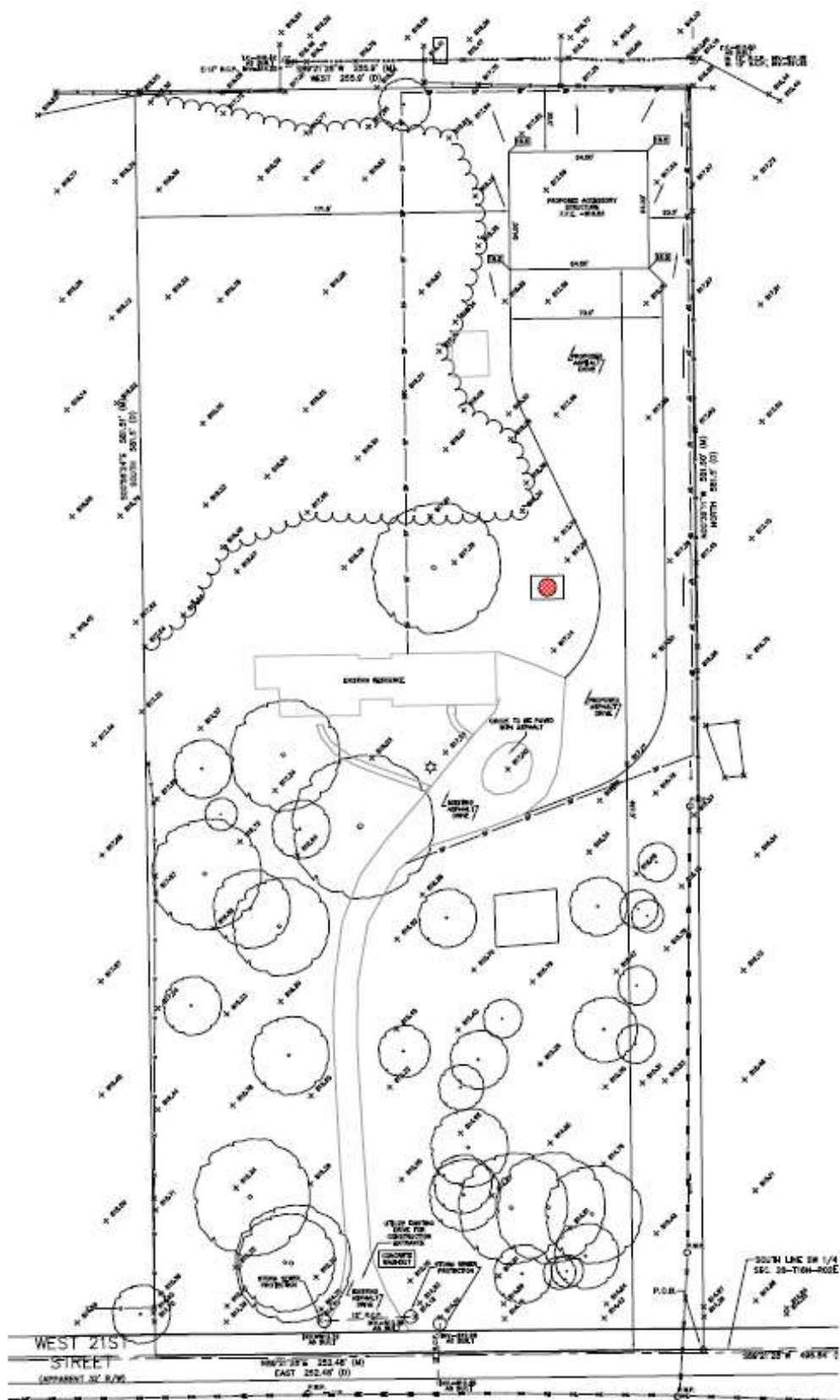
2014-UV2-013; 8434 West 21st Street (east of site), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the erection of a 1,500-square foot pole barn to house horses, cows and/or maintenance equipment, prior to the erection of a single-family dwelling, **granted**

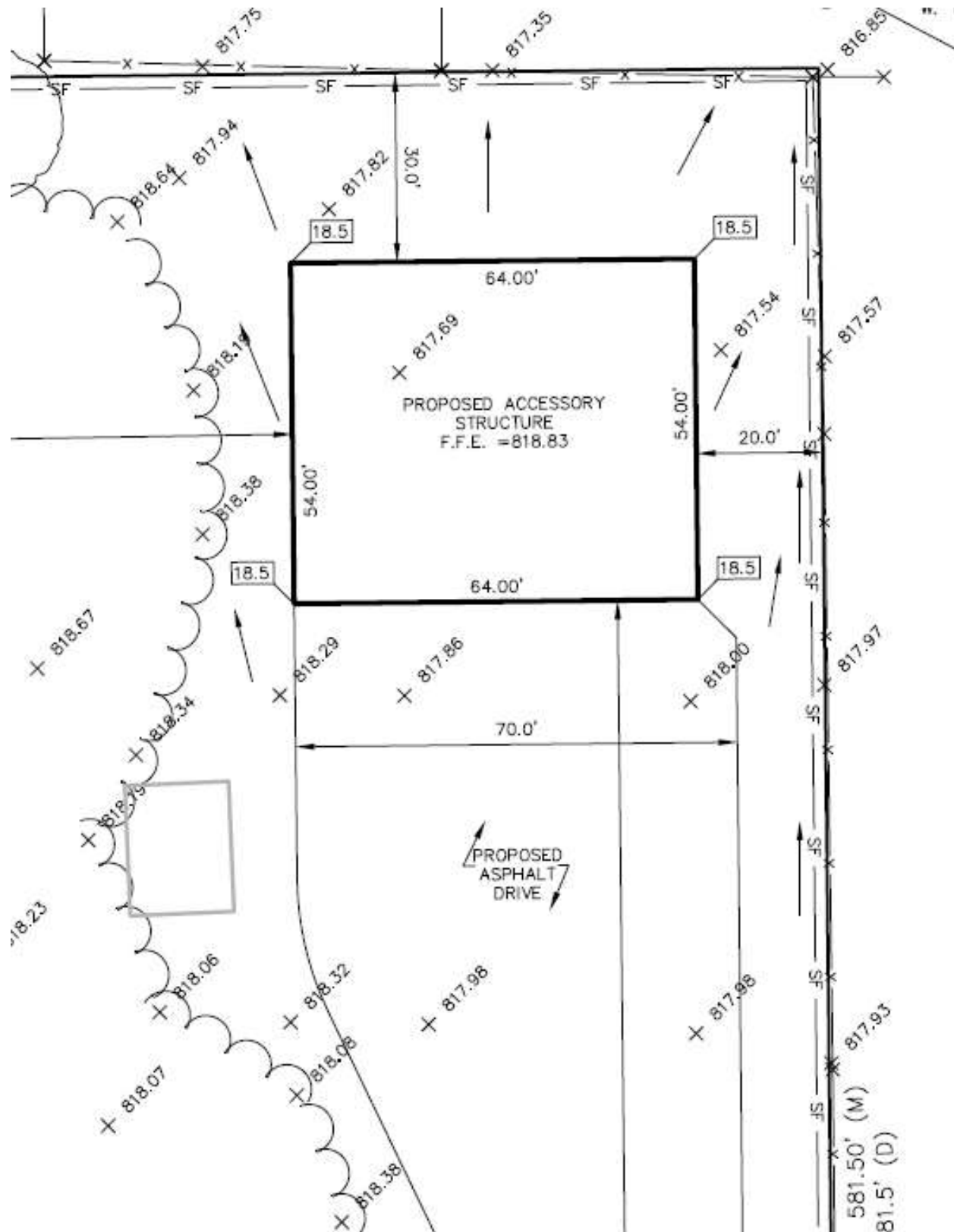
2007-UV1-004, 8434 West 21st Street, (east of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the construction of a twenty-foot tall, 2,048-square foot pole barn without a primary structure on the lot, **granted (subject to the construction of a primary dwelling within 18 months of approval-not completed)**.

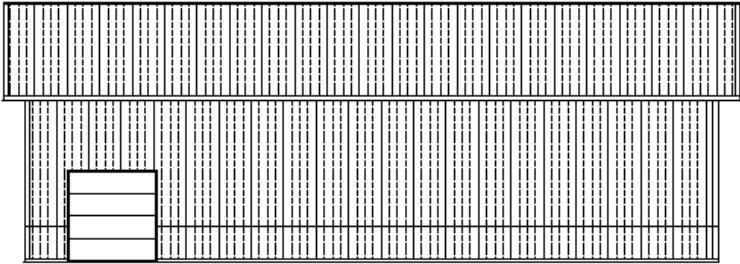
2005-DV1-044, 8410 West 21st Street, (east of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 2,120-square foot accessory building resulting in 2,648 square feet of accessory building area, or 262 percent of the main floor area of the primary structure, **withdrawn**.

RU

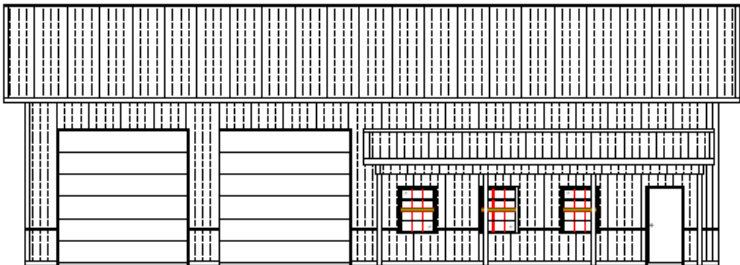




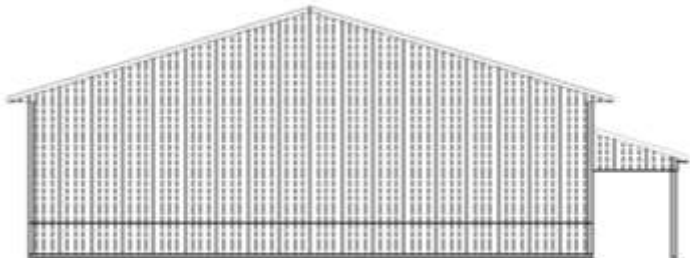




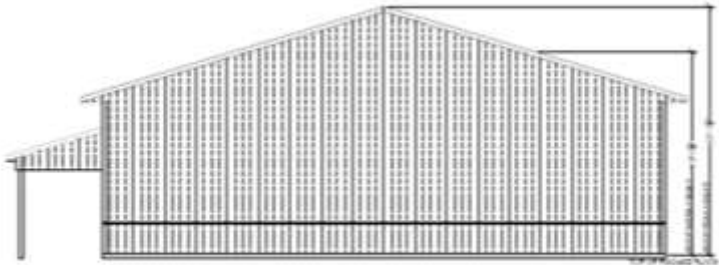
NORTH ELEVATION
SCALE: 3/8" = 1'-0"



SOUTH ELEVATION
SCALE: 3/8" = 1'-0"



WEST ELEVATION
SCALE: 3/8" = 1'-0"



EAST ELEVATION
SCALE: 3/8" = 1'-0"



Subject site primary dwelling, looking north.



Subject site rear yard, proposed accessory structure location, looking north.



Adjacent dwellings to the north.



Adjacent dwelling to the west.



Adjacent dwelling to the east



Adjacent undeveloped property to the south.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-004 (Amended)
Address: 1456 Fletcher Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Equity Trust Company, by Mark and Kim Crouch
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached carriage house with 1.5-foot side yard setbacks, (five-foot side setbacks), encroaching within the clear sight triangle of the alley (encroachment of clear sight triangles not permitted), without an entry to the secondary dwelling visible from the right-of-way (required) and a walkway with a 1.5-foot west side yard setback.

RECOMMENDATIONS

Staff **recommends denial of the request for 1.5-foot side yard setbacks.**

Staff would recommend approval of a variance for 3-foot side yard setbacks.

Staff **recommends approval** of this request to provide for a carriage house encroaching within the clear sight triangle of the alley, without an entry to the secondary dwelling visible from the right-of-way, and a walkway with a 1.5-foot west side yard setback.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Single-Family residential
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SURROUNDING ZONING AND LAND USE

North	D-5	Single-Family residential
South	D-5	Single-Family residential
East	D-5	Single-Family residential
West	D-5	Single-Family residential

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Traditional Neighborhood development
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- ◇ The subject site is a 2,825 square foot lot in the D-5 district, and is developed with a single-family dwelling and detached garage, to be replaced with a new detached carriage house.

(Continued)

STAFF REPORT 2023-DV1-004 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ This request would provide for a detached carriage house with 1.5-foot side setbacks. The existing lot width is 23 feet, and the proposed carriage house is 20 feet wide. Staff is recommending denial of this portion of the request. Although this is a narrow lot, staff would not support side setbacks less than three feet, which was the permitted minimum side setback for accessory structures in D-5 prior to adoption of the Walkable Neighborhood Districts standards.
- ◇ The proposed carriage house would be encroaching within the clear sight triangle of the alley. This site has an intervening lot between it and the alley. This lot is east of the site and contains an existing detached garage, which is within the clear sight triangle. Staff would not be opposed to encroachment in the clear sight triangle where the view is already obstructed by an existing building.
- ◇ The carriage house proposed would have an entry on the south elevation, but is partially obstructed by the existing primary dwelling. However, since this is also the elevation with the primary dwelling's entrance, staff is not opposed to the request. Furthermore, a walkway is proposed to connect to the frontage sidewalk, which would provide wayfinding for an entrance in the rear yard.
- ◇ This request would provide for a walkway with a 1.5-foot side yard setback. The ordinance would permit a minor residential feature, such as a sidewalk, to be no closer than two feet to a side lot line. The existing west side yard has 5.5 feet between the existing dwelling and the property line. The proposed walkway is approximately four feet wide. Staff would not be opposed to a slight encroachment into the side yard for walkway, at grade, where existing development would limit the location.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Fletcher Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 71-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated January 23, 2023

FINDINGS OF FACT

File-dated January 23, 2023

ZONING HISTORY – VICINITY

2021-DV3-036, 1448 Fletcher Avenue, Variance to provide for two single-family dwellings and detached garages with eight-foot front setbacks, and five and six feet between dwellings and 50% open space **approved**.

2020-DV1-043, 1453 Spann Avenue, Variance to provide for a single-family dwelling and detached garage, with a 6.5-foot front setback, three feet and six feet between buildings and 50% open space, **approved**.

(Continued)

STAFF REPORT 2023-DV1-004 (Continued)

2018-UV3-002, 1459 Spann Avenue, Variance to provide for a four-unit townhome, with a three-foot north front setback, a zero-foot east front setback, and four feet between primary dwellings, a detached garage with a zero-foot front setback, with the buildings encroaching into the clear sight triangle of the abutting streets and alleys, and with 45% open, **withdrawn**.

AR

2023-DV1-004; Aerial Map



Subject site, Fletcher Avenue frontage



Existing garage to be demolished, viewed from alley, looking west.



Existing garage east of site, viewed from alley

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-007
Address: 3651 Five Points Road (approximate address)
Location: Franklin Township, Council District #18
Zoning: D-A / SU-43
Petitioner: Kevin L. Strickford, by Russell L. Brown and Elizabeth Bentz Williams
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a barn with a 21-foot north and aggregate side yard setback (30-foot side yard setback, 75-foot aggregate required), partially located within the front yard of Five Points Road (accessory structures not permitted forward of the established building line).

RECOMMENDATIONS

Staff **recommends approval** of this request with the following commitments:

1. The west elevation of the proposed barn must include windows and other architectural features consistent with residential structures, subject to administrative approval prior to issuance of an improvement location permit.
2. Screening landscaping must be provided in the front yard of the proposed barn, subject to administrative approval prior to issuance of an improvement location permit.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-A / SU-43	Metro	Single-Family / Agriculture / Power Transmission Lines
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SURROUNDING ZONING AND LAND USE

North	D-A	Single-family residential / agriculture
South	SU-43	Power Transmission Lines
East	D-3	Undeveloped
West	D-A / SU-43	Single-family residential / Power Transmission Lines

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Suburban Neighborhood and Linear Park development.

- ◇ The subject site is approximately 5 acres and split zoned D-A on the north and SU-43 on the south. This site is developed with a single-family dwelling and two barns including horse stables. This site also includes power transmission lines.

(Continued)

STAFF REPORT 2023-DV1-007 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ This request would provide for construction of a barn with a 21-foot north side setback and partially located in the front yard of Five Points Road.
- ◇ The required side setback for the D-A district is 30 feet with an aggregate of 75 feet. Since this site is also zoned SU-43, the developable area is limited to the north side of the property. The rear yard already includes two barns related to the horse stables and the dwelling, so there is limited area within the D-A zoning for additional development. Staff would not be opposed to a reduced side yard setback where there is a practical difficulty.
- ◇ An agricultural operation is considered a permitted primary use in addition to a single-family dwelling in the D-A district. However, the primary dwelling shall establish the front building line. The proposed barn would be partially located in the front yard. As shown in the exhibit below, the location of the barn is to allow room for maneuvering a horse trailer. Although it is forward of the established front building line, the proposed front setback is 313 feet, which is well over the required 40-foot front setback.
- ◇ Staff would not be opposed to a structure partially within the front yard with the following commitments:
 1. The west elevation of the proposed barn must include windows and other architectural features consistent with residential structures, subject to administrative approval prior to issuance of an improvement location permit.
 2. Screening landscaping must be provided in the front yard of the proposed barn, subject to administrative approval prior to issuance of an improvement location permit.

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

SITE PLAN

File-dated January 27, 2023

FINDINGS OF FACT

File-dated January 27, 2023

ZONING HISTORY – VICINITY

2022-PLT-048, 7320 East Hanna Avenue, approval of a Subdivision Plat, to be known as Grayson, dividing 78.74 acres into 178 lots, with a waiver requirement to connect to an existing public street to the north, **approved**.

2021-ZON-075, 7320 East Hanna Avenue, rezoning of 73.85 acres from the D-A and SU-43 district to the D-3 district, **approved**.

2019-ZON-108, 7320 East Hanna Avenue, rezoning of 81.24 acres from the SU-43 and D-A districts to the D-4 district, **withdrawn**.

(Continued)

STAFF REPORT 2023-DV1-007 (Continued)

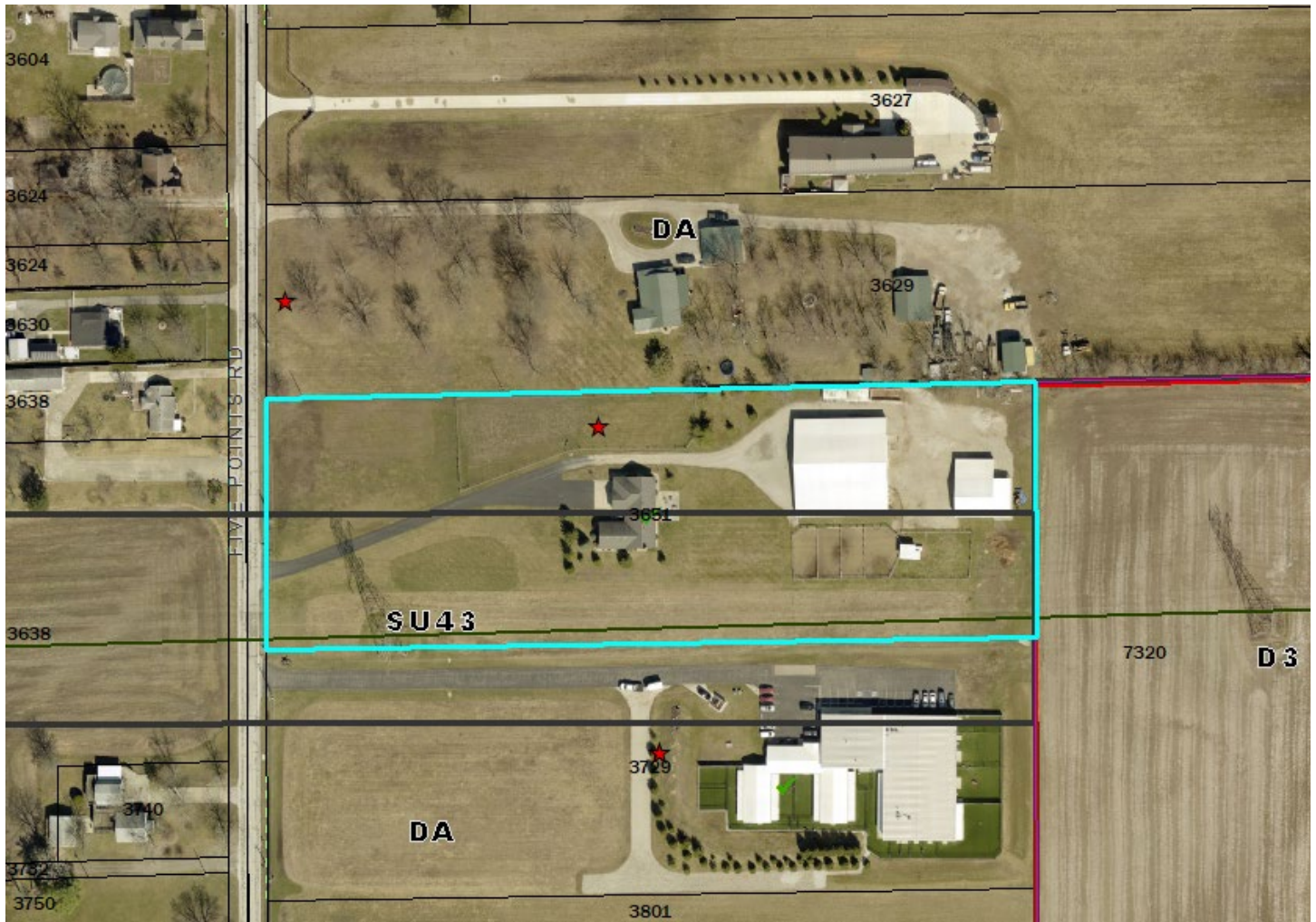
2015-MO2-003, 3729 Five Points Road, Modification of the Site Plan, variance conditions and plan of operation related to 2002-UV2-042 and 2005-UV2-016 to provide for a 12,000-square foot building addition to a kennel, **approval**.

2005-UV2-016, 3729 Five Points Road, variance to provide for a 2,320-square foot addition to an existing dog kennel in D-A (permitted by 2002-UV2-042) to be used for storage and dog training classes, **approved**.

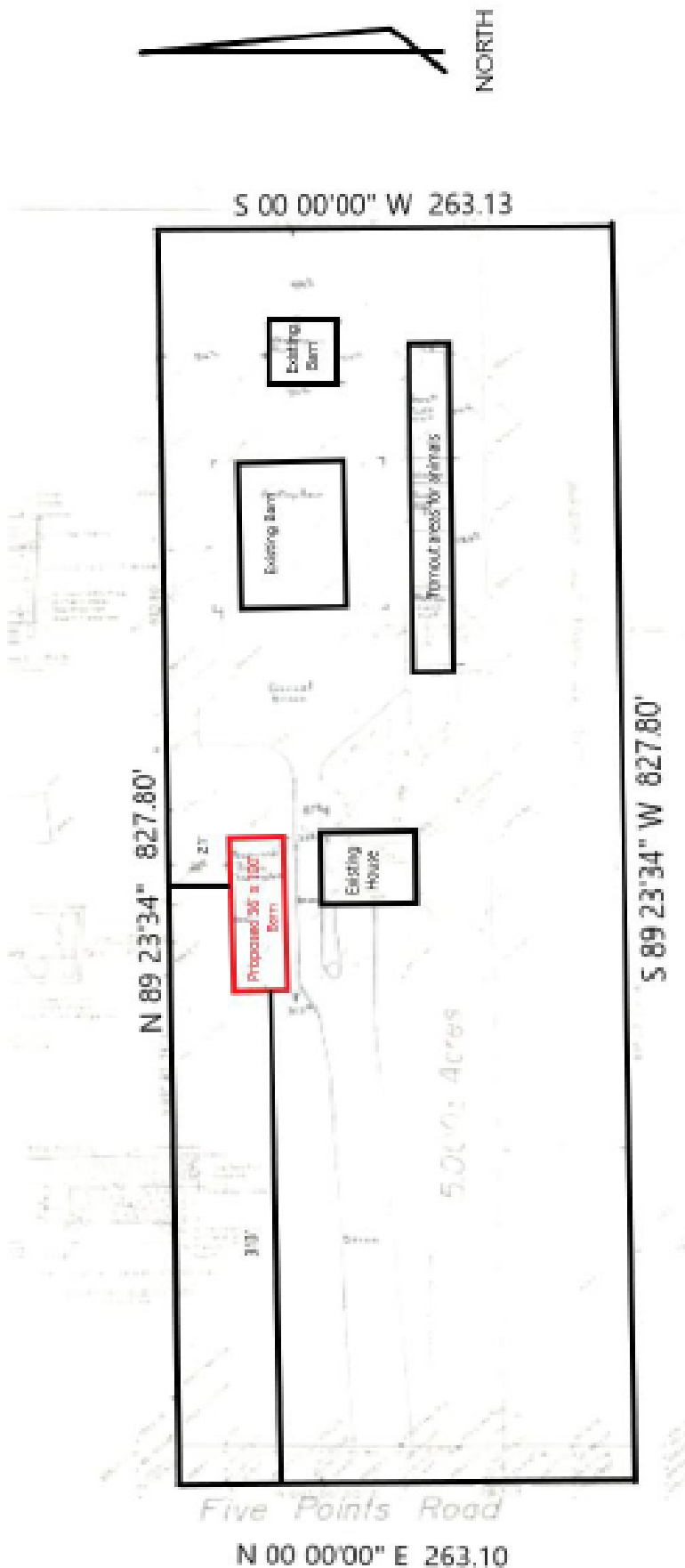
2002-UV2-042, 3729 Five Points Road, variance to permit a dog kennel in the D-A district, **approved**.

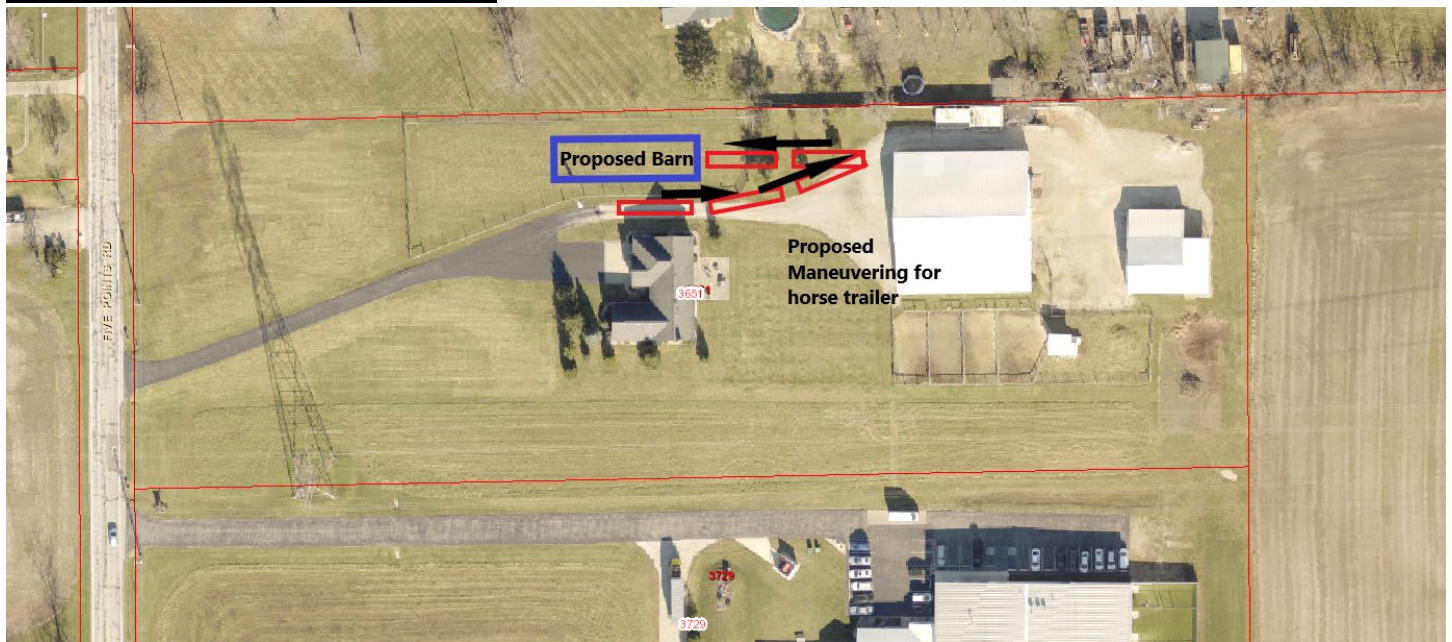
97-V2-87, 3629 Five Points Road, variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the division of one lot into two lots, resulting in the widths of each lot being 183.31 and 203.89 feet, **approved**.

AR



SITE PLAN







Proposed barn location right, looking west



Existing dwelling and driveway



Proposed barn location, looking east



View of street frontage from proposed barn setback, looking west.



Existing barn and corral



Existing barn, proposed maneuvering area for trailer related to the proposed barn

STAFF REPORT

Item 13.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-008
Address: 8144 East Southport Road (approximate address)
Location: Franklin Township, Council District #25
Zoning: C-4
Petitioner: DRGSF Surplus, LLC, by Russell Brown and Elizabeth Bentz Williams
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of an outlot, including:

- a) The erection of a third freestanding sign along Southport Road, being 260 feet from an existing freestanding sign to the east (maximum of two freestanding signs permitted per frontage, 300-foot separation required);
- b) 51 162-square foot parking spaces provided (maximum 43 parking spaces permitted, minimum 180 square feet required); and
- c) A drive through with stacking spaces within the front yard of Southport Road (not permitted) and no exclusive bypass aisle (required).

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4	Undeveloped out lot
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SURROUNDING ZONING AND LAND USE

North -	C-4	Integrated Commercial Center
South -	D-A	Single-Family Dwellings
East -	C-4	Commercial restaurant
West -	C-4	Commercial office under development

COMPREHENSIVE PLAN The Comprehensive Plan recommends community commercial uses.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ As a result of the petitioner's desire to build a multi-tenant building, with a drive-through restaurant, with a third frontage sign, excessive parking, and provide for a drive-through lane with stacking spaces in the front yard without an exclusive bypass aisle, multiple variances are being sought to provide for the proposed development.
- ◇ Standards of the Sign Regulations are intended to promote quality sign displays that are integrated with developments and reduce potential hazards to pedestrians and motorists. These standards include the number of signs, and separation requirements.
- ◇ The Sign Regulations allow two freestanding signs for an integrated center. In addition, a separation distance of 300 feet is required between individual signs. These requirements are designed to mitigate the proliferation of freestanding signs and the visual conflicts and negative aesthetics associated with multiple signs in close proximity to one another.
- ◇ This request would provide for the erection of a third freestanding sign along Southport Road, where a maximum of two freestanding signs are permitted, and being 260 feet from an existing freestanding sign to the east, where a 300-foot separation is required.
- ◇ The practical difficulty noted in the findings of fact for the third freestanding sign is due to the extreme length of the integrated center frontage, and the ability to safely identify the location of businesses.
- ◇ The primary sign for the integrated center contains approximately up to sixteen multiple tenant signs, plus the primary tenant sign. Allowing for the placement of this development's tenants on the sign. At the time of Staffs site visit, there were approximately 12 tenant spaces in the integrated center.
- ◇ The requested third freestanding sign could be replaced with an appropriate building or façade sign, providing the needed location identification for passing motorists. There is no obstructive buildings or structures in front of the proposed building that would restrict any potential building or façade signage. This would also reduce the potential hazard of additional freestanding signs and allow for the location of the business to be found safely.
- ◇ The requested 260-foot sign separation is a result of the petitioner's desire to locate the sign on the easternmost portion of the parcel, where other frontage is available that the sign could be located with a 300-foot separation. Therefore, the practical difficulty in locating the sign with less than a 300-foot separation is self-imposed.

(Continued)

- ◇ This request would provide for 51 deficient sized parking spaces when the maximum permitted is 43 parking spaces. The practical difficulty noted in the findings of fact for exceeding the maximum parking spaces references the need for an additional user, and the national user
- ◇ No data has been submitted to the file to demonstrate the need for the additional parking supply, or substantiate the need for the additional parking during periods of high traffic.
- ◇ Staff would note that the site is part of an integrated center and adjacent to a larger parking area that is shared by the integrated center tenants. Therefore, additional parking spaces are already available without increasing the parking area for this site, and subsequently the amount of hard surface that contributes to stormwater runoff and the heat island effect.
- ◇ If the deficient sized parking spaces were re-sized to provide for the required 180-square feet, instead of the 162-square feet provided, then a reduction of parking spaces would occur, thereby reducing the need for additional parking spaces beyond the maximum.
- ◇ This request would also provide for a drive through with stacking spaces within the front yard of Southport Road, and no exclusive bypass lane.
- ◇ The request is a result of the design for new construction on the site. Approximately eight to ten parking spaces along the frontage of Southport Road could be removed, or changed to parallel parking, allowing the development to be moved forward ten to fifteen feet, which would allow for the stacking spaces to move behind the front building façade, provide for an exclusive bypass lane, and reduce the amount of parking spaces to meet the maximum allowed by the Ordinance.
- ◇ Since the site is undeveloped, the requested ordinances are a result of the specific design and development and not a result of the site. The site has no limiting factors, other than being too small for the proposed development, which is not a factor imposed by the Ordinance. Therefore, the proposed design can be changed to meet the requirements of the Ordinance without the need of the requested variances and provide orderly development as other adjacent developments have been able to do so. Therefore, Staff does recommend denial of the requested variances due to no practical difficulty being imposed by the site.

GENERAL INFORMATION

THOROUGHFARE PLAN	This section of East Southport Road is classified as a primary arterial with a 90-foot existing and proposed right-of-way on the Official Thoroughfare Plan.
SITE PLAN	File-dated January 31, 2023
FINDINGS OF FACT	File-dated January 21, 2023, and March 1, 2023

(Continued)

ZONING HISTORY

2020-DV2-012; 8120 East Southport Road (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 139-foot setback and a double-loaded and single-loaded row of parking along Southport Road (maximum 85-foot front setback and one double-loaded row permitted), **granted**.

2014-CZN-824A; 8120 East Southport Road (includes subject site), Rezoning of 28.15 acres from the D-A district to the C-4 classification to provide for an approximately 98,500 square foot grocery store, a fueling station and integrated commercial center, **approved**.

2014-CVR-824; 8120 East Southport Road (includes subject site), requested a variance of development standards of the Commercial Zoning Ordinance to provide for a grocery store, a gasoline station and commercial retail development, with outdoor seating and dining, with 500 square feet of outdoor storage on the fueling station parcel, and with 665 parking spaces, **granted**.

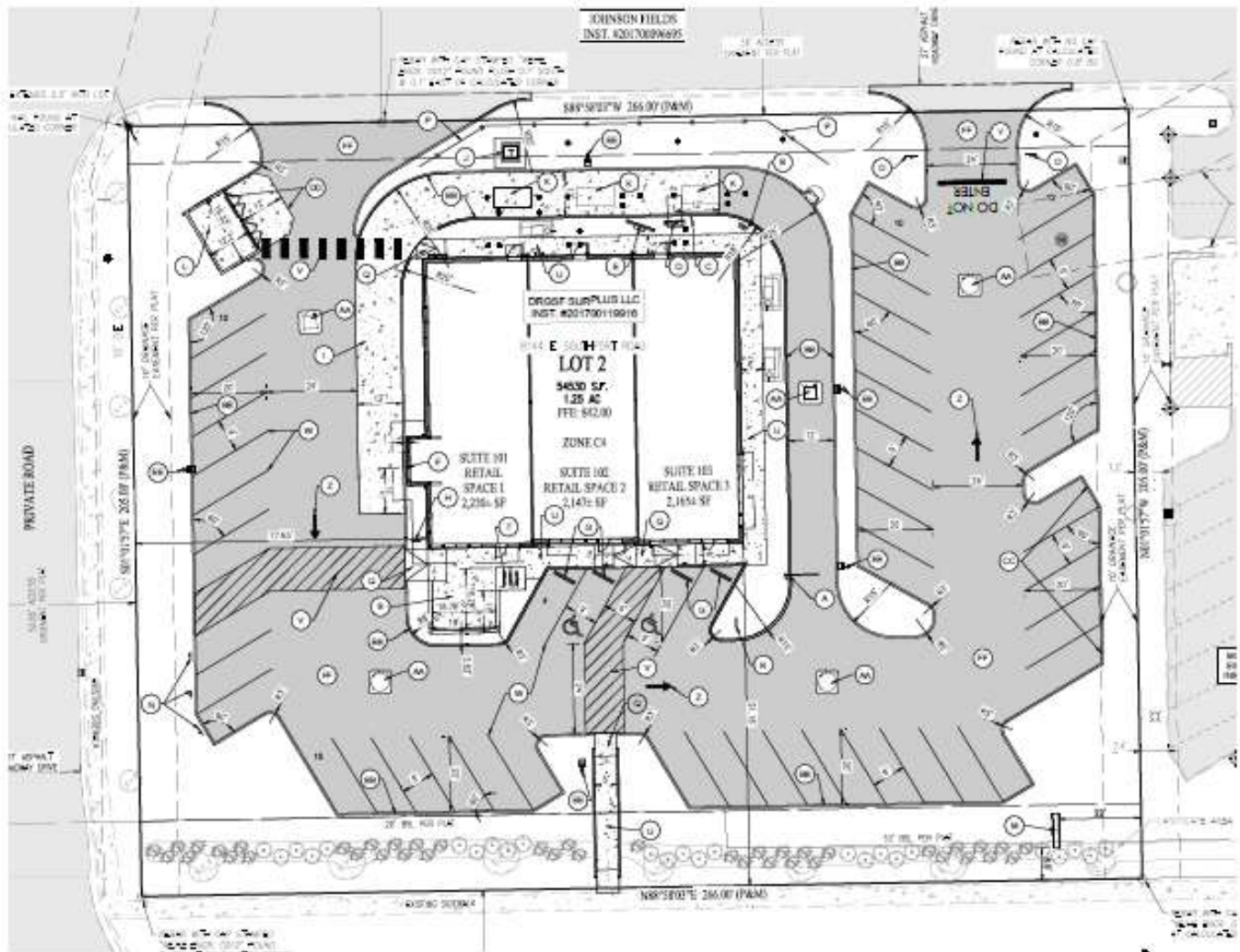
2014-CZN-824B; 8120 East Southport Road (west of site), Rezoning of 5.9 acres from the D-A district to the C-3 classification to provide for an integrated commercial center, **approved**.

2014-CZN-824C; 8120 East Southport Road (north of site), requested the rezoning of 12.5 acres from the D-A district to the C-S classification to provide for an integrated commercial center, **approved**.

2014-CZN-824D; 8120 East Southport Road (west of site), Rezoning of 6.7 acres from the D-A district to the C-S classification to provide for an integrated commercial center, **approved**.

RU







View of subject site, looking north.



View of subject site, looking south from the integrated center.



View of proposed sign separation to the east.



View of adjacent integrated commercial center to the north



View of adjacent office commercial under development to the west, looking north.



View of adjacent single-family dwelling to the south

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-004
Address: 5201 West Raymond Street (approximate address)
Location: Wayne Township, Council District #22
Zoning: SU-9 / D-4
Petitioner: Speed Way Inc., by Pat Rooney
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a repair shop with outdoor storage (not permitted) and a six-foot tall fence within the front yard (maximum 42-inch fence height permitted).

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-4/ SU-9	Compact	Commercial
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SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwellings)
South	D-4	Residential (Single-family dwellings)
East	D-4	Residential (Single and Two-family dwellings)
West	D-4	Residential (Single-family dwellings)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood development.
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- ◇ The 1.52-acre subject site consists of two parcels with one, zoned SU-9, developed with a commercial building and associated parking areas and the second, zoned D-4, an undeveloped lot. It was once a fire station and then used for the commercial installation and servicing of auto telephone and radio systems for government agencies and private companies. There were two previous attempts to use the site for truck storage and maintenance facility through a variance of use and rezoning, but both petitions were withdrawn.
- ◇ The subject property is abutted by residences on all sides and is in the middle of an established residential area.
- ◇ It is now subject to a zoning violation, VIO22-007295, for an unpermitted use of the site and a six-foot tall fence with more than 30% opacity in the front yard.

(Continued)

VARIANCE OF USE

- ◇ The grant of the request would provide for the operation of a repair shop with outdoor storage in the SU-9 and D-4 districts.
- ◇ The purpose of 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. The SU-9 district only permits government buildings or grounds.
- ◇ Truck or Heavy Vehicle Sales, Rental, or Repair is only permitted in the C-7, I-3 or I-4 districts per Table 743-1: Use Table. Automobile, Motorcycle, and Light Vehicle Service or Repair is only permitted in C-4, C-5, C-7 and I-3 or I-4 districts. The request does not specify the type of vehicles to be repaired on site.
- ◇ Commercial or industrial uses, when located on accurately zoned properties, require transitional yards to buffer such intense uses from protected districts which include dwellings and schools. In this instance, the proposed use would not be required to provide such buffer areas since it is not zoned appropriately for the proposed use. Therefore, the site provides insufficient screening to the surrounding dwellings, which staff finds concerning since this site is surrounded by residential development.
- ◇ The petitioner would commit to limiting outdoor storage of vehicles to 10 commercial vehicles at the rear of the property and eight non-commercial vehicles in the front parking area. Additionally, there would not be semi-trailers parked or stored on the property. These commitments would need to be provided on the correct form for the newly proposed variance of use request, but staff would not be supportive of the request even with the proposed commitments.
- ◇ Although the outdoor storage area would be fenced, staff has concerns that the business and outdoor storage could potentially expand based on the availability of open land to the east.

VARIANCE OF USE FINDINGS OF FACT

- ◇ Staff determined that the grant would be injurious to the general welfare of the community since a commercial operation would attract additional traffic and unnecessary noise from the commercial vehicles on site.
- ◇ The use and value of the area adjacent to the property included in the variance would be adversely affected by the development of this proposed commercial use in the area by decreasing the desirability of the area for potential residents, largely due to the siting of a heavy commercial use in a well-established residential area. Furthermore, the site would be directly visible from the surrounding properties during the winter.

(Continued)

STAFF REPORT 2023-UV1-004 (Continued)

- ◇ While staff recognizes that the re-use of a vacant fire station is a worthwhile objective, that re-use must be sensitive to surrounding development. The need for the variance does not arise from a condition peculiar to the property in question because the existing building could be utilized for a religious use or infill development that could consist of residential uses to fit within the context of the neighborhood. Staff would be more supportive of those uses with associated variances or rezoning since they would be more appropriate within the neighborhood.
- ◇ Lastly, the proposed use would not align with the suburban neighborhood recommendation of the Comprehensive Plan. In Staff's opinion, the request would represent a wholly inappropriate deviation from the Plan and would be a major commercial intrusion into a stable residential area.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for a six-foot tall fence in the front yard where it is not permitted.
- ◇ Per Table 744-510-2, the D-4 district is limited to a maximum height of 3.5 feet in the front yard or 4 feet if 30% opacity or less is provided. The SU-9 district would be limited to 3.5 feet in the front yard as well.
- ◇ Staff determined that there is no practical difficulty with the use of the site since the fence could be relocated to align with the front building façade to be out of the front yard without the need for a variance.
- ◇ Additionally, the petitioner was informed that the fence would need to have more than 30% opacity or else another variance for 0% opacity would be required at the front yard. Staff would prefer that a wooden privacy fence be aligned with the front building façade to be more aesthetically pleasing, but this would not alter staff's denial recommendation of the request.
- ◇ A final issue of the site would be the unenclosed dumpster on site, which would need to be enclosed per the Screening of Facilities and Equipment section of the Ordinance. Otherwise, another variance would be required.

GENERAL INFORMATION

THOROUGHFARE PLAN	Raymond Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 75-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN	File-dated January 19, 2023.
PLAN OF OPERATION	File-dated January 19, 2023.
PETITIONER'S COMMITMENTS	File-dated January 19, 2023.
FINDINGS OF FACT	File-dated January 19, 2023. (Continued)

STAFF REPORT 2023-UV1-004 (Continued)**ZONING HISTORY – SITE****EXISTING VIOLATIONS****1. VIO22-007295**

- a. The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Vehicle storage is not a permitted primary use in a SU-9 zoning district).
- b. The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - A trucking company is not a permitted use in a SU-9 zoning district...BROWNSBURG TRUCKING COMPANY).
- c. Failure to comply with use-specific standards and zoning district development standards for the SU-9 district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence).
- d. Failure to comply with use-specific standards and zoning district development standards for the SU-9 district; (744-510.A.1. - Barbed/razor wire fences are prohibited).

PREVIOUS CASES

85-UV3-9; 5201 West Raymond Street (subject site), Variance of use for the commercial installation and servicing of auto telephone and radio systems, **granted**.

84-UV1-52; 5201 West Raymond Street (subject site), Variance of use of the Dwelling Districts Zoning Ordinance and the Special Use Districts Zoning Ordinance to provide for the use of an existing building and adjacent lot as a truck dispatching office with maintenance and storage of semi-tractors and trailers, **withdrawn**.

83-Z-208; 5201 West Raymond Street (subject site), Rezoning of 1.6 acres, being in the SU-9 and D-4 districts, to the C-7 classification, to provide for a truck maintenance facility and offices, **withdrawn**.

ZONING HISTORY – VICINITY

98-CP-30V; 2214-2215 Beulah Avenue (east of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for a two-family residence, **granted**.

97-AP3-2; 5202 East Raymond Street (north of site), Approval to waive the Rules of Procedure to permit the refilling of a petition less than 12 months after 96-V3-68 was denied by the Metropolitan Board of Zoning Appeals, **granted**.

96-V3-68; 5202 East Raymond Street (north of site), Variance of development standards to provide for the construction of a barn, for agricultural purposes, with reduced setbacks, and the placement of three temporary detached garage structures which exceed the main floor area of the primary residence, **denied**.

(Continued)

STAFF REPORT 2023-UV1-004 (Continued)

95-SE3-12; 5137 West Regent Street (north of site), Special Exception of the Dwelling Districts Zoning Ordinance to provide for the placement of a manufactured home for residential use, **granted.**

84-UV1-14; 5224 West Kelley Street (southwest of site), Variance of use of the Dwelling District Zoning Ordinance to provide for an addition to an existing detached garage to be used as a second residence on the property, **granted.**

83-UV1-94; 5015 West Raymond Street (east of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to allow for more than one single-family residence on one lot, **granted.**

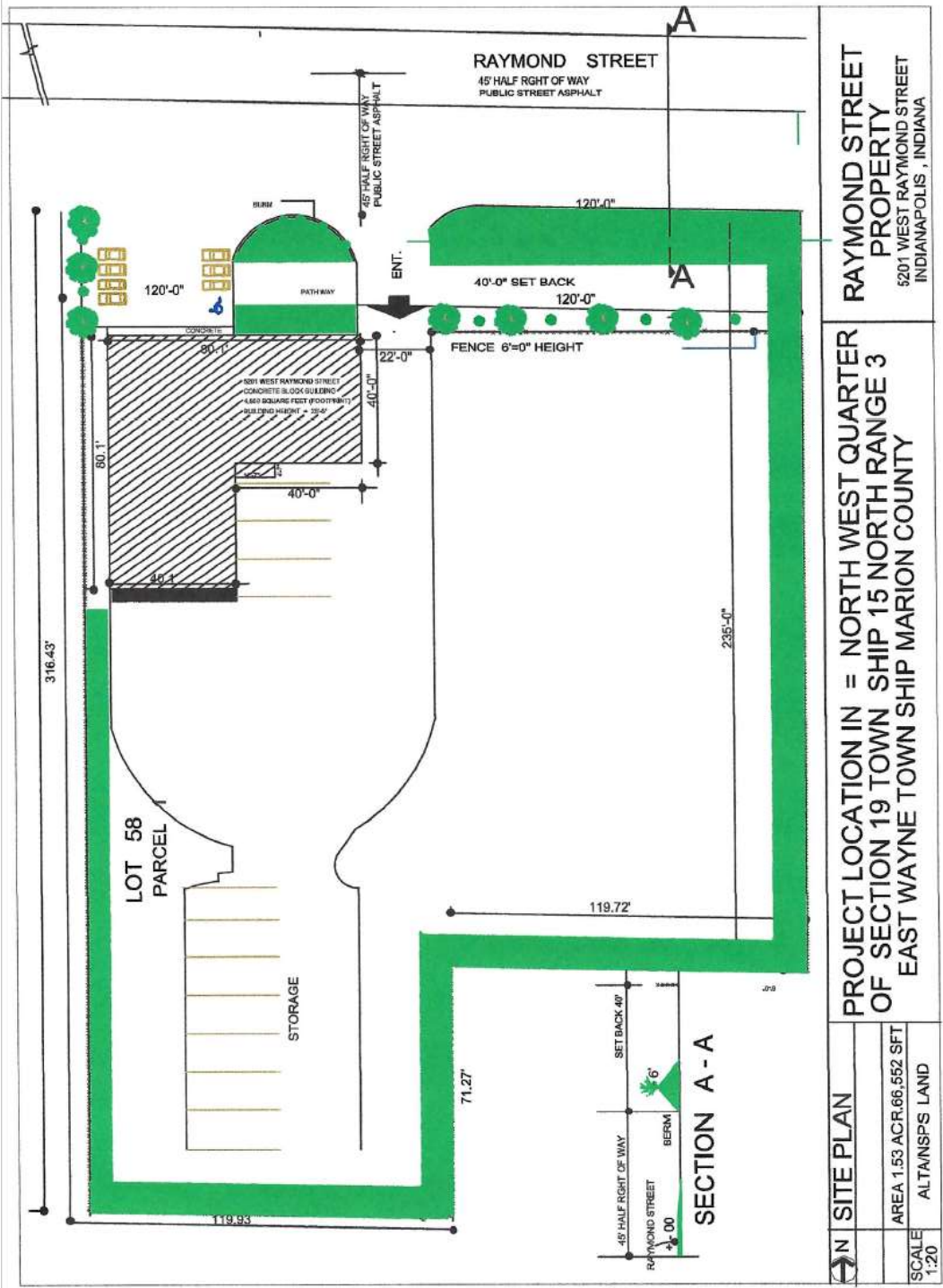
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2023-UV1-004; Location Map



2023-UV1-004; Aerial Map





PLAN OF OPERATIONS

The Petitioner plans to have the subject property continue with its operation as an existing repair shop. All repairs shall continue to be completed inside of the building during normal business hours. As further described in the site plan, up to (10) commercial vehicles shall be parked in the rear, and up to eight (8) non-commercial vehicles shall be parked in the front. There shall be no semi-trailers stored on the property.

2023-UV1-004; Petitioner's Commitments**STATEMENT OF MODIFICATION OR TERMINATION
OF COVENANTS OR COMMITMENTS****COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR
COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN
CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION
OR SPECIAL EXCEPTION PETITION**

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

Legal Description: See attached.

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Commitment No 3 from the Commitments recorded as Instrument No. 850006658 shall be terminated and replaced with the following: There shall be no permanent outside storage of vehicles or other equipment and materials, except solely for up to ten (10) commercial vehicles in the parking spaces in the rear and up to eight (8) non-commercial vehicles in front, all as shown in the site plan submitted herewith. For avoidance of doubt, there shall be no semi-trailers being parked or stored on the Property.
-

850006658

EXHIBIT A

10

NOTE: Article VI, Section 6(b) of the rules of the Metropolitan Board of Zoning Appeals and Article VI, Section 7(b) of the rules of the Hearing Officer require use of this form in recording commitments made with respect to variance or special exception cases in accordance with I.C. 36-7-4-921.

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH VARIANCE OR SPECIAL EXCEPTION GRANT.

In accordance with I.C. 36-7-4-921, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning to the use and development of that parcel of real estate:

Legal Description: See Exhibit A, attached hereto and by this reference incorporated herein.

Statement of COMMITMENTS:

1. Present Company policy shall be maintained to restrict new installations for government agencies and private companies to five (5) vehicles per day and servicing of equipped vehicles to fifteen (15) vehicles per day.
2. All work shall be performed entirely within the building.
3. There shall be no permanent outside storage of vehicles or other equipment and materials, and not more than two vehicles, and only in emergency situations, shall be stored overnight to the rear of the building.
4. Final site and landscape plans, together with any signage, shall be subject to review and approval of the Administrator of the Division of Development Services.

These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the real estate. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of variance or special exception petition # 85-UV3-9 by the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and
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; 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 at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance or special exception under the rules in force at the time the COMMITMENT was made); and,

3.

RECEIVED 8 18 1985
MARION COUNTY
RECORDS & CLERK'S
OFFICE

JAN 20 9 43 AM '85

The undersigned hereby authorizes the Division of Development Services of

PETITION

NO. 5

CAUSE NO. 85-UV3-9



Photo of the Subject Property: 5201 West Raymond Street



Photo of the Subject Property: 5201 West Raymond Street



Photo of the Subject Property looking east towards the single-family dwellings.



Photo of the Subject Property looking southeast.



Photo of the proposed parking area next to the existing building.



Photo of the dumpster that would need to be enclosed.



Photo of the proposed outdoor parking/storage area.



Photo of the proposed outdoor parking/storage area.



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



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



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

BOARD OF ZONING APPEALS DIVISION I

March 7, 2023

Case Number:	2023-UV1-006
Property Address:	201 West 38th Street and 3750 North Capitol Avenue (approximate address)
Location:	Center Township, Council District #7
Petitioner:	Martin Petroleum Inc., by Pat Rooney
Current Zoning:	C-4 / D-5
Request:	Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required), a dumpster enclosure within the front yard of West 38th Street (not permitted in front yards), zero bicycle parking spaces provided (three bicycle spaces required) and eight frontage trees provided (nine required).
Current Land Use:	Commercial (Automobile fueling station)
Staff Recommendations:	Denial
Staff Reviewer:	Marleny Iraheta, Senior Planner

PETITION HISTORY

This petition is scheduled to be heard March 7, 2023, by the Board of Zoning Appeals Division I.

STAFF RECOMMENDATION

Staff is recommending denial of the request.

PETITION OVERVIEW

VARIANCE OF USE

This request would allow the redevelopment of a convenience store within the D-5 and C-4 districts. The site consists of two parcels with the north parcel split zoned between D-5 and C-4 and the southern parcel zoned D-5.

The purpose of the C-4, Community-Regional District is to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. The uses permitted in this district may feature several large traffic generators and require excellent access from major thoroughfares.

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The purpose of the D-5 (Dwelling District Five) district is intended for medium intensity residential development and is not intended for suburban use. The application of this district will be found within urban, build-up areas of the community and where all urban public and community facilities and services are available. The D-5 district typically has a density of 4.5 units per gross acre. This district fulfills the low and medium density residential classification of the Comprehensive General Land Use Plan.

The Comprehensive Plan recommends village mixed-use development for the northern parcel (201), which the C-4 (community-regional commercial) District would be consistent with the recommendation, depending upon the context of the site. In this case, surrounding land uses are commercial along the north, west and east, but low-density residential is located south and would not be adequately buffered from this more intense 24-hour / seven-day use. The proposed use would not be appropriate for the southern parcel because the Comprehensive Plan recommends traditional neighborhood development, which would align more with small-scale offices, retailing, and personal or professional services rather than a regional use.

The commercial intensity and the impact upon the surrounding residences would include, but not be limited to, light, noise, and trash. Furthermore, the proposed use would be more of a regional draw, rather than serving just the surrounding residential neighborhood and would be a wholly and inappropriate commercial encroachment into a D-5 protected district. For these reasons, staff is recommending denial of the variance of use.

Staff would note that the existing site at 201 West 38th Street could be completely rezoned to C-4 to prevent issues with developing the site in the future.

VARIANCE OF DEVELOPMENT STANDARDS

This request would provide for a zero-foot south side transitional yard where the Ordinance requires a 10-foot south side transitional yard. The purpose of the 10-foot transitional yard is to provide separation and a buffer between residential uses and more intense uses, such as a fueling station and convenience store. The impact of this 24-hour, seven-day operation upon residential uses would be magnified with the proposed transitional yard reductions. Admittedly, the configuration of the site presents development challenges with dwelling district at the northwest corner, but staff determined the reduced setbacks are a result of the proposed expansion of the use, which would be detrimental to the surrounding neighborhood.

This request would allow for a trash container service area to encroach into the front yard of 38th Street in the front of the building line of the primary building when the Ordinance prohibits service areas in front of the primary building. The dumpster enclosure could be moved south to align with the front building façade to eliminate this variance request.

The site would not have the necessary bicycle parking spaces on site, but they could be proposed to eliminate this variance as well.

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Lastly, the request would provide for eight frontage trees where nine are required. Staff would note that one of the proposed trees could be relocated to be within 10 feet of the eastern property boundary for it to count towards the required frontage trees and meet the requirement without the need for this variance.

The lack of a south transitional yard, the location of the trash container service area in the front yard and the lack of bicycle spaces and deficient frontage trees show clear evidence that this site is not suitable for a convenience store and fueling station and would have a negative impact on the surrounding residential neighborhood. The proposed use would be better suited on a site that would accommodate the proposed use, while complying with required development standards.

If approved against staff's recommendation, the Department of Public Works would request that the eastern most driveway along 38th Street be closed to reduce vehicular conflicts with the heavy pedestrian traffic along this corridor.

GENERAL INFORMATION

Existing Zoning	C-4 / D-5	
Existing Land Use	Commercial / Undeveloped Lot	
Comprehensive Plan	Village Mixed-Use and Traditional Neighborhood Development	
Surrounding Context	Zoning	Surrounding Context
North:	C-3	North: Commercial
South:	D-5	South: Undeveloped Lot
East:	C-4 / D-5	East: Commercial / Residential
West:	D-5	West: Commercial and Residential
Thoroughfare Plan		
Enter Street(s)	38 th Street Capitol Avenue	Primary arterial street. Primary arterial street.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	January 20, 2023	
Site Plan (Amended)	N/A	
Elevations	January 20, 2023	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	January 20, 2023	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Red Line Transit-Oriented Development Strategic Plan (2021)
- Indy Moves Transportation Integration Plan (2018)

Pattern Book / Land Use Plan

- The Pattern Book recommends Village Mixed-Use and Traditional Neighborhood development.
- The subject site is also located within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove uses included in this request.
- The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.
- 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.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The site is located within the Red Line TOD Strategic Plan, but it is not located within the Transit Oriented Development Secondary Zoning District.

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- The closest station to the site is located within a ½ mile to the east at the intersection of 38th Street and Meridian Street. This station is categorized as a District Center with the potential for a dense mixed-use hub for multiple neighborhoods with tall buildings, minimum of 3 stories with no front or side setbacks, multi-family housing with a minimum of 5 units and structured parking only with active first floor.
- TOD investments here should leverage significantly higher residential and employment densities, demonstrations projects, urban living amenities and workforce housing.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- If residential development were proposed, then these guidelines would help to provide a framework that allows for new types of development to occur in a way that is compatible with existing development.

Indy Moves

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

- Indy Moves Transportation Integration Plan (2018), which includes PedalIndy Bicycle Master Plan, notes that 38th Street will be proposed as an off-street multi-use path with Complete Street upgrades from Eagle Creek Pkwy to Meridian Street.
- The West 38th Street multi-use path will provide a critical east-west connection on the near Northwest side of Indianapolis. To complete the multi-use path, no driving lanes will be removed, so impacts to drivers will be minimal. The path will include bicycle and pedestrian bridges over Crooked Creek, Guion Road, and Little Eagle Creek, with modifications to bridges over the White River and Central Canal.
- The plan would consider pedestrian and bicycle network/route connectivity, sidewalk/multi-use path consistency; reducing unnecessary road crossings as permitted, and for facilities to be designed for the safety & comfort for all ages and ability levels.
- Capitol Avenue is developed with an on-street bike lane per Indy Bike Master Plan (2011).

ZONING HISTORY

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

85-UV1-34; 201 West 38th Street (subject site), Variance of development standards of the Commercial Zoning Ordinance to provide for the construction and use of a convenience store with gasoline sales. Development will include an 8.6-foot rear transitional yard (20 feet required) and a pole sign located at six and eight feet from 38th Street and Capitol Avenue respectively (15 feet required), **granted**.

ZONING HISTORY – VICINITY

2018-UV3-026; 227 West 38th Street (west of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an automobile repair facility (not permitted), **granted**.

2013-CVR-814; 148 West 28th Street (northeast of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a gasoline station and a 484-square foot addition to an existing building, with a canopy with a 64.42-foot setback from the centerline of Capitol Avenue (70-foot setback from centerline required), with a parking area with a zero-foot setback from Capitol Avenue (10-foot front setback required), with access drives with a 1.5-foot front setback along Capitol Avenue and a 2.5-foot front setback along 38th Street (10-foot front setback required), with carryout food service within 10 feet of a D-5 zoned protected district (100-foot separation required), **withdrawn**.

2013-UV1-038; 202 West 38th Street (north of site), Variance of use and development standards of the Commercial Zoning Ordinance to legally establish a 1,380-square foot storage addition (not permitted) for a tire sales and repair shop, with a one-foot north side transitional yard (20-foot transitional yard required), **withdrawn**.

95-V1-128; 3807 Graceland Avenue (northwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally-establish a detached garage measuring 27 x 33 feet: a) resulting in the square footage devoted to accessory buildings being 80% of the square footage devoted to the primary building (maximum 75% permitted); b) with a side yard setback from the north property line being 2.4 feet (minimum 4 feet required); c) resulting in 46% of the lot being open space (minimum 65% required), **granted**.

93-UV2-23; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of an automobile repair shop with the variance being valid only for Albert Sutton, **granted**.

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89-AP2-4; 227 West 38th Street (west of site), Approval of extension of time to obtain an Improvement Location Permit to modify condition #2 concerning the site plan approved pursuant to petition 88-UV2-9, **granted**.

89-UV3-96; 148 West 28th Street (northeast of site), Variance of use of the Commercial Zoning Ordinance to provide for a restaurant with carry-out service, **denied**.

88-UV2-9; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an automobile repair business with signs. The grant shall be for a temporary period of five years, expiring January 12, 1993, **granted**.

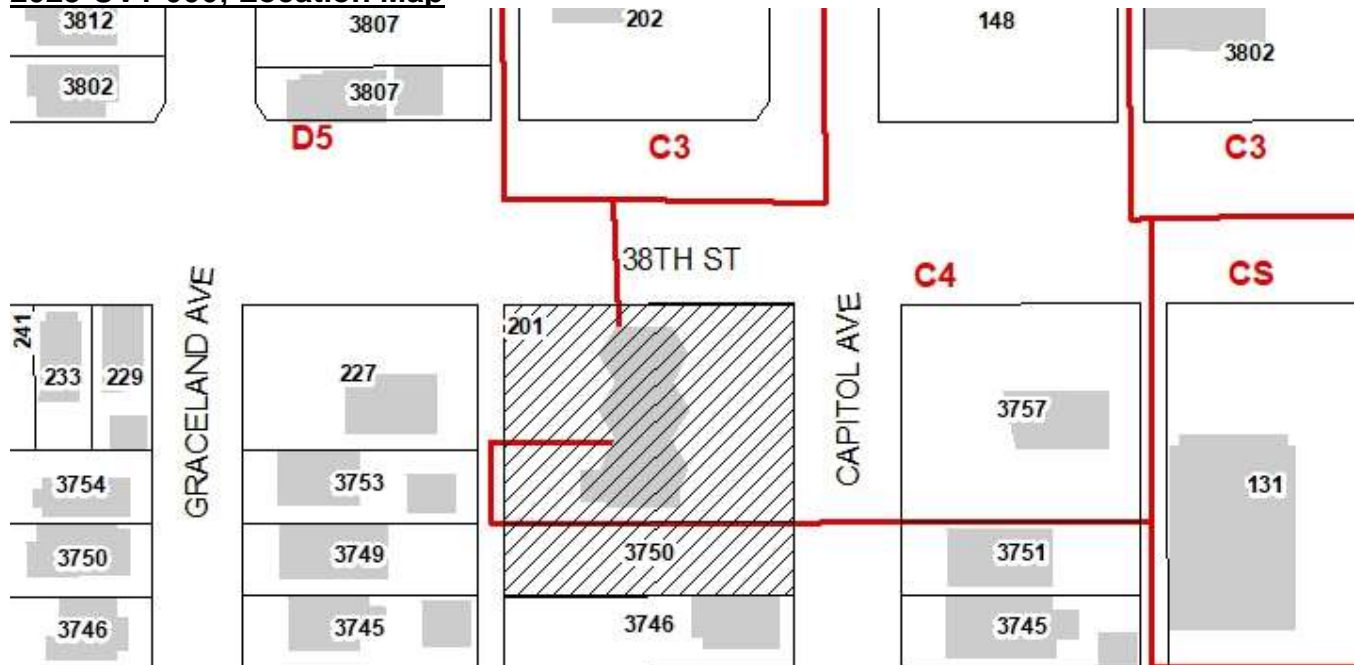
85-UV1-34; 201 West 38th Street (subject site), Variance of use of the Dwelling Districts Zoning Ordinance and development standards of the Commercial Zoning Ordinance to provide for the construction and use of a convenience store with gasoline sales. Development will include a 6.6-foot rear transitional yard (20 feet required) and a pole sign located at 6 and 8 feet from 38th Street and Capitol Avenue respectively (15 feet required). The sign will also include separate panels for the food mart, gas prices and food mart items, **granted**.

84-UV2-21; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the use of a former service station for automobile repair to be a temporary variance for three years, expiring on March 20, 1987, **granted**.

83-UV2-78; 3801 North Capitol Avenue (northeast of site), Variance of use and development standards to provide for a carry-out restaurant within one-hundred feet of a residential zoning district, a reduction in required transitional yards, a drive-up window canopy in required front yard setback and a pole sign within the clear-sight area, **granted**.

EXHIBITS

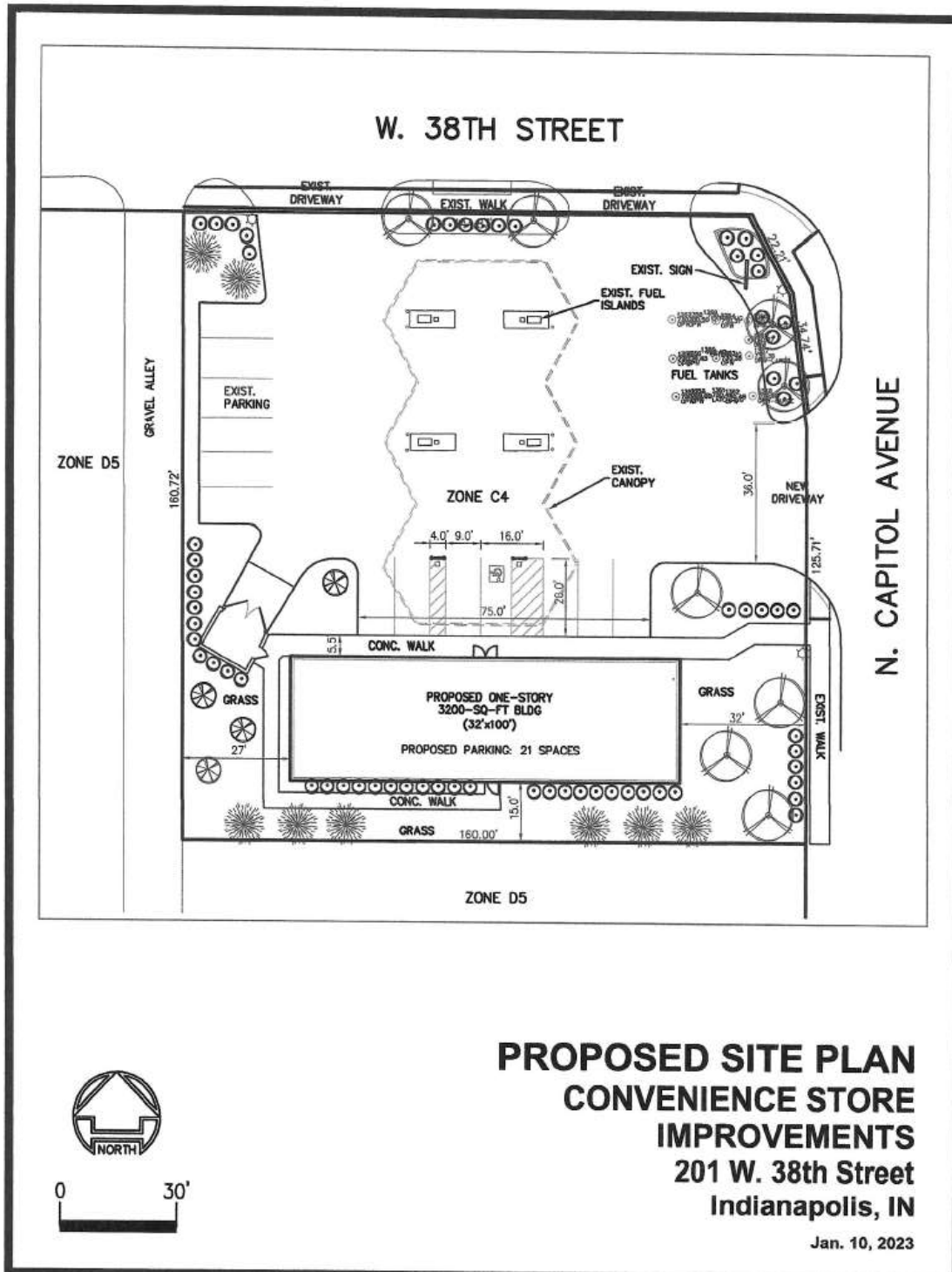
2023-UV1-006; Location Map



2023-UV1-006; Aerial Map



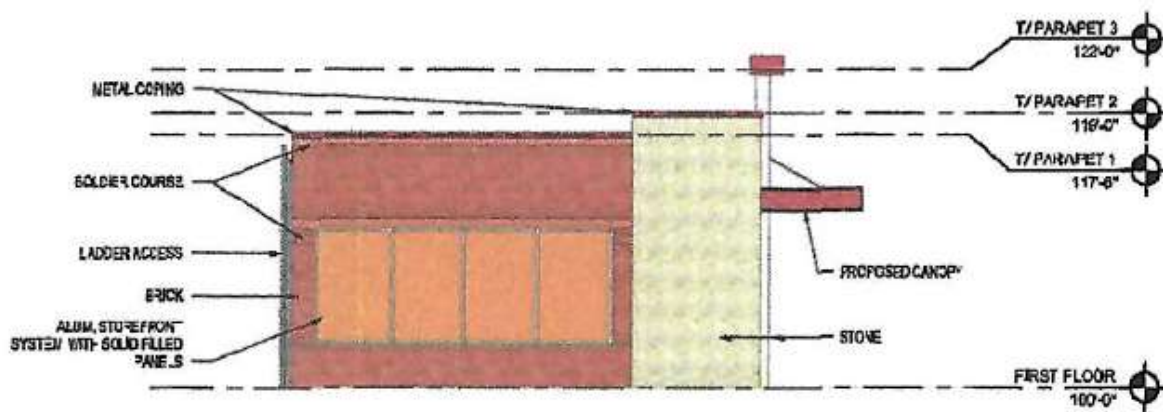
2023-UV1-006; Site Plan



2023-UV1-006; Elevations



5 EXTERIOR VIEW
 SCALE: NTS

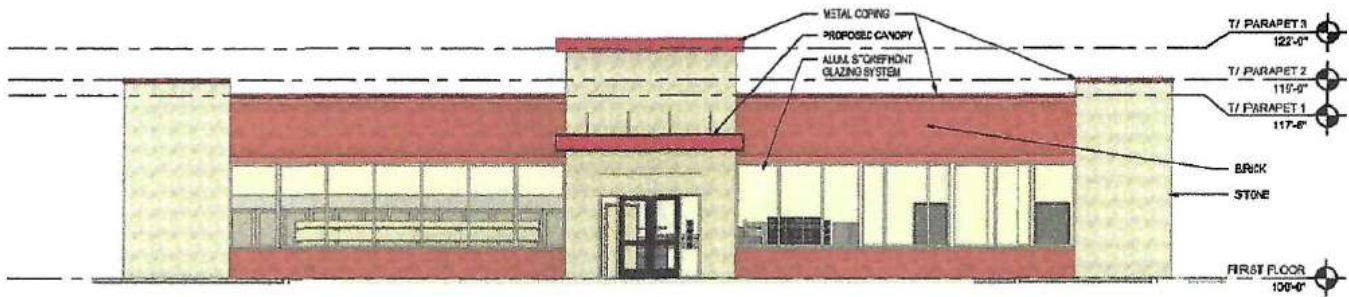


3 EAST ELEVATION
 SCALE: 1/8" = 1'-0"

2023-UV1-006; Elevations (Continued)

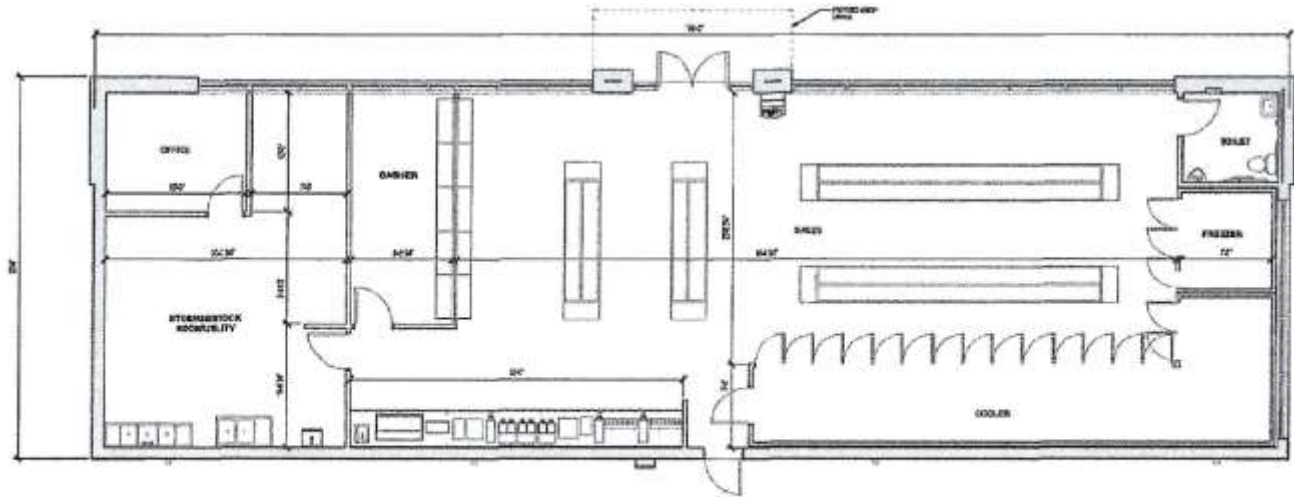


4 EXTERIOR VIEW
 SCALE: NIS



2 NORTH ELEVATION
 SCALE: 1/8" = 1'-0"

2023-UV1-006; Floor Plan



SP1006 1
1 FLOOR PLAN
SCALE: 3/16" = 1'-0"

2023-UV1-006; Plan of Operation

PLAN OF OPERATIONS

The Petitioner plans to have the subject property continue with its operation as an existing retail gas station. The convenience store will be expanded with the additional space to be used for additional inventory as depicted and described in the site plan, floor plan and renderings submitted simultaneously herewith. If the Variance is granted, Petitioner will hire additional employees for a total of approximately six employees. Petitioner is willing to make a commitment to hire individuals from the local community, as well as any other commitments reasonably requested by Staff or any relevant third party.

2023-UV1-006; Findings of Fact

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

the property is already a retail gas station along a busy street with similar properties adjacent thereto, there will be sufficient buffer to the residential properties to the south, and the property will be more aesthetically pleasing.

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

granting the variance will increase the value of the subject property and the adjacent properties because the property will be redeveloped with a new and improved building instead of the old, dilapidated building currently on the property.

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

a portion of the property is C-4 and a portion of the property is D-5, and the property was developed as a gas station when convenience stores mainly sold tobacco products instead of now when the convenience stores sell groceries which require a building with much larger square footage in order store and display the products.

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

the subject property has two zoning classifications thereby unduly restricting the ability to expand the convenience store which is necessary for the petitioner to update the building to match the times and allow petitioner to sell the same inventory being offered by petitioner's competitors instead of going out of business.

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

the use would still be the same, retail gas station, which is compatible with Village Mixed Use.

2023-UV1-006; Photos



Subject site and street frontage along 38th Street looking east.



Western property boundary abutting an alley.

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Existing southern property boundary and undeveloped residential lot to be included in the site.



Proposed location of the new convenience store abutting single-family dwellings to the south.



Street frontage along Capitol Avenue looking south.



Undeveloped residential lot to be included in the project development.



Commercial and residential uses east of the site.



Commercial use north of the site.



Commercial use west of the site.