



Board of Zoning Appeals Board of Zoning Appeals Division III (June 20, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, June 20, 2023

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes:

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

- 1. 2023-DV3-016 | 1616 Marlowe Avenue**
Center Township, Council District #17, Zoned D-8
James A. Allen, by David E. Dearing

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall fence within the front yard of Marlowe Avenue (front yard fences limited to 3.5-feet in height).

**** Withdrawal to be acknowledged**

- 2. 2023-DV3-022 | 7930 Castleton Road**
Lawrence Township, Council District #3, Zoned C-5
Outfront Media LLC, by Alan S. Townsend

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign within 260 and 650 feet of other advertising signs along I-465 (1,500-foot separation along expressways required), within 960 feet from an advertising sign (minimum 1,000-foot radial separation required), adjacent to an I-465 ramp (500-foot separation required from interstate ramp entries), with a 20-foot south front setback from an I-465 ramp (60 feet required).

**** Continuance request to July 18, 2023**

- 3. 2023-UV3-013 | 5437 Greenfield Avenue**
Warren Township, Council District #12, Zoned D-5
Glenroy Construction Co. Inc, by Brian J. Tuohy

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the outdoor storage of materials, equipment and vehicles associated with a commercial contractor (not permitted) and an existing perimeter fence topped with barbed wire (barbed wire fencing prohibited).

**** Continuance request to July 18, 2023**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

4. 2023-DV3-017 | 1700 West 10th Street

Center Township, Council District #11, Zoned SU-6 / D-5 / C-S (RC) (W-5)
Kindred Hospital Limited Partnership, by Ed Williams

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of two illuminated pylon signs within 600 feet of a protected districts (not permitted, one pylon sign permitted along frontages of less than 500 feet).

5. 2023-DV3-020 (Amended) | 6036 and 6110 East 86th Street

Lawrence Township, Council District #3, Zoned C-4
Costco Wholesale Corporation, by Stephen J. Cross

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an existing parking area resulting in 812 total spaces (maximum 717 parking spaces permitted).

6. 2023-UV3-009 (Amended) | 1330 Sadlier Circle West Drive

Warren Township, Council District #18, Zoned I-1 (FF) (FW)
Calloway Group LLC, by David Gilman

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a freestanding building and associated parking with a four-foot south side yard setback and zero-foot front yard setback (10-foot side yard, 30-foot front yard setback required) and deficient landscaping.

7. 2023-UV3-014 | 5640 East 38th Street

Lawrence Township, Council District #13, Zoned SU-1 (TOD)
BWI LLC, by Vincent L. Smith

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of up to 50 multi-family dwelling units and independently operated social services (not permitted).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

8. 2023-DV3-011 (Amended) | 1855 North Shadeland Avenue

Warren Township, Council District #19, Zoned C-4
MG Oil Inc., by Cindy Thrasher

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 23-foot tall pole sign (maximum height of 20 feet permitted).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

PETITIONS FOR PUBLIC HEARING (New Petitions):

9. 2023-DV3-019 | 2059 North Pasadena Street

Warren Township, Council District #19, Zoned D-4
Gregory Gordon and Kyle Stewart, by Matthew Lyles

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 3,200 square foot pole barn, being larger than and in front of the primary dwelling (not permitted) with a seven-foot front yard setback from Pasadena Street (20-foot front setback required).

10. 2023-DV3-021 | 1690 South Spencer Avenue

Warren Township, Council District #18, Zoned D-5 (FF)
Lacia Coons

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a fence ranging in height between five-foot and six-foot tall within the front yards, encroaching into the clear sight triangle of Spencer Avenue and Minnesota Street (maximum 3.5-foot-tall fence permitted, encroachment into the clear sight triangles not permitted), and encroaching into the right-of-way on Minnesota Street (encroachment into the right-of-way not permitted).

11. 2023-DV3-023 (Amended) | 6160 East 38th Street

Lawrence Township, Council District #13, Zoned C-S (TOD)
Indy Fresh Market Enterprises, LLC, by Tammy Rice

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a pylon sign including a 28.2-square foot digital display (not permitted) within 218 feet of a protected district (digital display prohibited within 400 feet of a protected district).

12. 2023-UV3-011 | 5505 Massachusetts Avenue

Warren Township, Council District #13, Zoned C-7
CitySite LLC, by Joseph Ringger

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for manufacturing of materials (not permitted) used in association with the operation of a commercial contractor.

13. 2023-UV3-012 | 1735 West Edgewood Avenue

Perry Township, Council District #20, Zoned I-3 (FF)
GND Property Inc., by Pat Rooney

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a truck terminal (prohibited in Floodway Fringe District) and parking area with 53-foot front yard setback from Edgewood Avenue and a six-foot east side yard setback (60-foot front yard setback required, 30-foot side yard setback required) and deficient landscaping.

Additional Business:

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

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-016
Address: 1616 Marlowe Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: James A. Allen, by David E. Dearing
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall fence within the front yard of Marlowe Avenue (front yard fences limited to 3.5-feet in height).

ADDENDUM FOR JUNE 20, 2023.

Due to an indecisive vote, this petition was automatically continued to the June 20, 2023 hearing date.

The petitioner submitted a request to **withdraw** this petition. This would require the Board's acknowledgement.

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-8	Compact	Residential (Single-family dwelling)
-----	---------	--------------------------------------

SURROUNDING ZONING AND LAND USE

North	D-8	Commercial
South	D-8	Residential (Single-family dwelling)
East	D-8	Residential (Two-family dwelling)
West	D-8	Undeveloped Lot / Funeral Home

COMPREHENSIVE PLAN	The Comprehensive Plan recommends urban mixed-use development.
--------------------	--

- ◇ The 0.11-acre subject site is developed with a single-family dwelling and a six-foot tall fence in the front yard. It is surrounded by residential dwellings to the south and east with an undeveloped lot to the west, and a commercial use to the north.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for a six-foot tall fence in the front yard of Marlowe Avenue.
- ◇ A fence with 30% opacity or less could permit a maximum height of four feet in the front yard without a variance. However, the type of fence on site is a privacy fence that is limited to 3.5 feet in height in the front yard.
- ◇ The variance request is related to an open zoning violation case (VIO23-000001) that was the result of a complaint reported to the Mayor's Action Center regarding the existing fence. Another item in the violation is for a parking area in front yard that exceeds 30 feet in width or 50% of the lot width.
- ◇ It is staff's understanding that the other violation will be corrected since the petition in question is only for the fence height.
- ◇ The Findings of Fact note that the strict application of the terms of the Zoning Ordinance would result in the practical difficulty in the use of the site because "without a 6-foot fence, Petitioner's home will lack privacy and protection". However, protection can be provided by the installation of security cameras and privacy could be accomplished with the installation of evergreen trees or shrubs in the front yard.
- ◇ The purpose of the limitation in fence heights in the front yard is to create an open appearance along public sidewalks, to prevent blocking of views at intersections, and prevent a canyon-like effect of the streetscape.
- ◇ In staff's opinion, there is not a practical difficulty associated with the use of this site. Furthermore, the six-foot tall fence would present a significant impediment to the free flow of light and air, reduce the security for pedestrians and negatively impact the residential character of the neighborhood.

GENERAL INFORMATION

THOROUGHFARE PLAN

Marlowe Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 37-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated April 24, 2023.

FINDINGS OF FACT

File-dated April 24, 2023.

(Continued)

STAFF REPORT 2023-DV3-016 (Continued)**ZONING HISTORY – SITE****EXISTING VIOLATIONS**

1. **VIO23-000001** - Failure to comply with use-specific standards and zoning district development standards for the D-8 district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence). Failure to comply with use-specific standards and zoning district development standards for the D-8 district;(Table 744-404-1 - The parking area in front yards shall not exceed 30 feet in width or 50% of the lot width, whichever is lesser). Failure to comply with use-specific standards and zoning district development standards for the D-8 district;(744-404. D.6.a. - Parking areas in front yards shall be paved with bricks, concrete, asphalt, permeable pavers or pavement, or a gravel surface with a distinct edge boundary to retain the gravel; the parking of vehicles on grass in the front yard is prohibited)

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2022-CVR-845; 1601 East New York Street, 322 & 324 North Summit Street, and 1612 Marlowe Avenue (west and northwest of site); Variance of Development Standards to provide for a townhome development with zero-foot front setbacks (ten feet required) and zero-foot corner side setbacks (eight feet required), with encroachments into the clear-sight triangles of the adjacent alleys (not permitted),

2021-DV1-026; 244 North Summit Street (southwest of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a single-family dwelling, with three feet between dwellings, a two-foot west rear setback and a zero-foot north side setback and 43% open space (10 feet between dwellings, four-foot side setback, 15-foot rear setback and 55% open space required), **granted**.

2021-DV3-058A; 1523 Marlowe Avenue (southwest of site), Variance to legally establish vehicular access from Marlowe Avenue, **granted**.

2021-DV3-058B; 1523 Marlowe Avenue (southwest of site), Variance to legally establish a three-story, two-family dwelling with a five-foot front setback, five-foot rear setback, 44% open space, and with an encroachment into the clear sight triangle of the abutting street and alley, **granted**.

2021-DV3-015; 1523 Marlowe Avenue (southwest of site), Variance to provide for a single-family dwelling and attached garage with a five-foot front setback, five-foot rear setback, 47% open space, and with an encroachment into the clear sight triangle of the abutting street and alley, **approved**.

(Continued)

STAFF REPORT 2023-DV3-016 (Continued)

2018-DV1-042; 314 North State Avenue (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling, with a 15-foot front setback (18-foot setback required) and with a secondary dwelling in a detached garage, **granted.**

2004-UV1-031; 1601 East New York Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to legally establish an existing funeral home in a residential district and to provide for a crematorium, **approved**

99-UV2-94; 302 North State Street (east of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the replacement of a previously established building, being the 5th dwelling unit on one lot (not permitted), with a front setback of 8.8 feet along Marlowe Avenue (minimum 25 feet required), being detached from another 4-dwelling unit building on the same lot, **granted.**

MI

2023-DV3-016; Location Map



2023-DV3-016; Aerial Map







Photo of the Subject Property: 1616 Marlowe Avenue



Photo of the rear yard of the subject site.



Photo of the single-family dwelling south of Marlowe Avenue.



Photo of an undeveloped lot southeast of the site.



Photo of the dwellings southeast of the site.

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

Case Number: 2023-DV3-022
Address: 7930 Castleton Road (approximate address)
Location: Washington Township, Council District #7
Zoning: C-5
Petitioner: Outfront Media LLC, by Alan S. Townsend
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign within 260 and 650 feet of other advertising signs along I-465 (1,500-foot separation along expressways required), within 960 feet from an advertising sign (minimum 1,000-foot radial separation required), adjacent to an I-465 ramp (500-foot separation required from interstate ramp entries), with a 20-foot south front setback from an I-465 ramp (60 feet required).

This petition will need to be **continued from the June 20, 2023 hearing to the July 18, 2023 hearing** to allow the petitioner sufficient time to file a special exception and development standards petition instead.

MI

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

Case Number: 2023-UV3-013
Address: 5437 Greenfield Avenue (approximate address)
Location: Warren Township, Council District #12
Zoning: D-5
Petitioner: Glenroy Construction Co. Inc, by Brian J. Tuohy
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the outdoor storage of materials, equipment and vehicles associated with a commercial contractor (not permitted) and an existing perimeter fence topped with barbed wire (barbed wire fencing prohibited).

This petition will need to be **continued from the June 20, 2023 hearing to the July 18, 2023 hearing** to allow the petitioner sufficient time to file a rezone and special exception petition instead.

MI

STAFF REPORT

Item 4.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-017
Address: 1700 West 10th Street (*Approximate Address*)
Location: Center Township, Council District #11
Petitioner: Kindred Hospital Limited Partnership, by Ed Williams
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of two illuminated pylon signs within 600 feet of a protected district (not permitted, one pylon sign permitted along frontages of less than 500 feet).

ADDENDUM FOR JUNE 20, 2023, BOARD OF ZONING APPEALS, DIVISION THREE

This petition was continued, by request of the petitioner, from the May 23, 2023, hearing, to the June 20, 2023, hearing. On June 6, 2023, the petitioner submitted a revised sign elevation indicating that the proposed signs would be eight feet in height, matching the staff recommendation. Therefore, staff **recommends approval** of this request.

RECOMMENDATIONS

Staff **recommends approval** of the variance request, if the height of the proposed signs would be reduced to no taller than eight feet. Any freestanding sign over eight feet in height would necessitate a **continuance** to **June 20, 2023**, and an amended petition due to the restriction on pylon sign height that is specific to sites within the Regional Center.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

SU-6 / D-5 (RC)	Compact	Hospital facility, with surface parking lots
-----------------	---------	--

SURROUNDING ZONING AND LAND USE

North	-	C-S (RC)	Multi-family dwellings / hotel
South	-	CBD-S (RC)	Multi-family dwellings
East	-	D-5 (RC)	White River
West	-	D-5 / SU-1 (RC)	Vacant commercial/single-family dwellings/churches

COMPREHENSIVE PLAN

The Comprehensive Plan recommends the site for special use development.

(Continued)

REGIONAL CENTER APPROVAL

- ◇ The site is located within the Regional Center overlay district. Design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning. Along with this variance petition, a Regional Center Approval petition was filed for the proposed signs, through 2023-REG-030. The Regional Center Approval petition is subject to the grant of this petition.

REQUEST

- ◇ This request seeks to permit two, eleven-foot-tall pylon signs within 600 feet of a protected district. As noted above, pylon signs within the Regional Center are limited to eight feet in height. That particular variance was not requested, therefore, this petition would need to be continued, with notice to the June 20, 2023, hearing, if the petitioner moves forward with the submitted filing.

VARIANCES

- ◇ The site is mostly zoned SU-6, for an acute care hospital. The far western portion of the site, however, is zoned D-5. This portion of the site is unimproved and is likely an area that the property owner purchased and did not pursue rezoning this portion. Aerial photography from 1993 shows that there were seven dwellings in this area, fronting Miley Avenue.
- ◇ Freestanding pylon signs are limited to one per street frontage, if less than 500 feet of street frontage and at least 600 feet from protected districts. The proposed location of the western-most sign, at the entrance to a surface parking lot along 10th Street, would be approximately 140 feet to the unimproved protected district. The second sign, at the southeast portion of the site, and near a railroad track, and fronting 10th Street, would be approximately 490 feet from the unimproved protected district.
- ◇ This site already has freestanding signs at these locations. Both would be considered monument signs because they are no taller than five feet in height. The proposed signs would replace these signs and would be eleven feet in height, which would be a permitted height if not within the Regional Center. Freestanding pylon signs are a permitted sign type in the Regional Center; however, the Ordinance limits these signs to eight feet in height, due to the inherent urban characteristics of sites within the Regional Center.
- ◇ The signs would each front 10th Street, which is a very wide right-of-way, due to the angle of the bridge of the street over White River. Additionally, an active railroad track lies along the east boundary of the site, preventing significant pedestrian use from downtown to the site. As noted above, the protected district that is most affected is part of the subject site and unimproved. Finally, existing landscaping along the site's frontage with 10th Street is in excellent condition and in quantity of trees. Therefore, the grant of this variance would not negatively affect the adjacent properties in a substantially adverse manner, if this variance would be granted, and if the signs are reduced to an overall height of eight feet.

(Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	The Official Thoroughfare Plan for Marion County indicates that White River Parkway, West Drive is a primary arterial, with a 66-foot right-of-way existing and proposed. 10 th Street is a primary arterial, with an 88-foot right-of-way existing and proposed.
URBAN DESIGN GUIDELINES DISTRICT TYPOLOGY	The site is located within the Neighborhood Residential typology.
TRANSIT-ORIENTED DEVELOPMENT	The site is not located within a transit-oriented development area.
SITE PLAN	File-dated April 26, 2023
SIGN ELEVATIONS	File-dated June 6, 2023
FINDINGS OF FACT	File-dated April 26, 2023

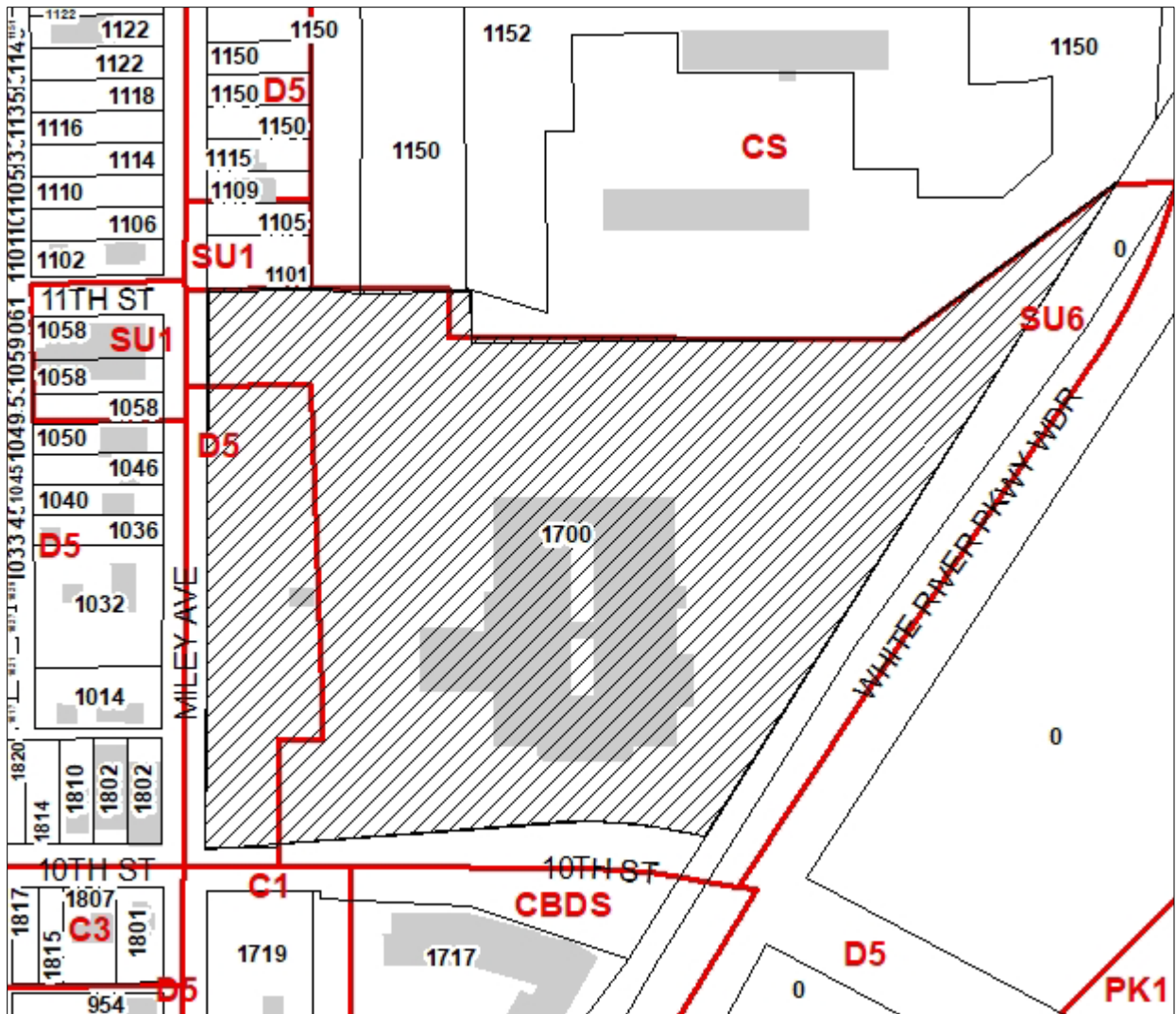
ZONING HISTORY - SITE

2023-REG-030; 1700 West 10th Street, requests Regional Center Approval to provide for a building sign and two freestanding signs, **pending**.

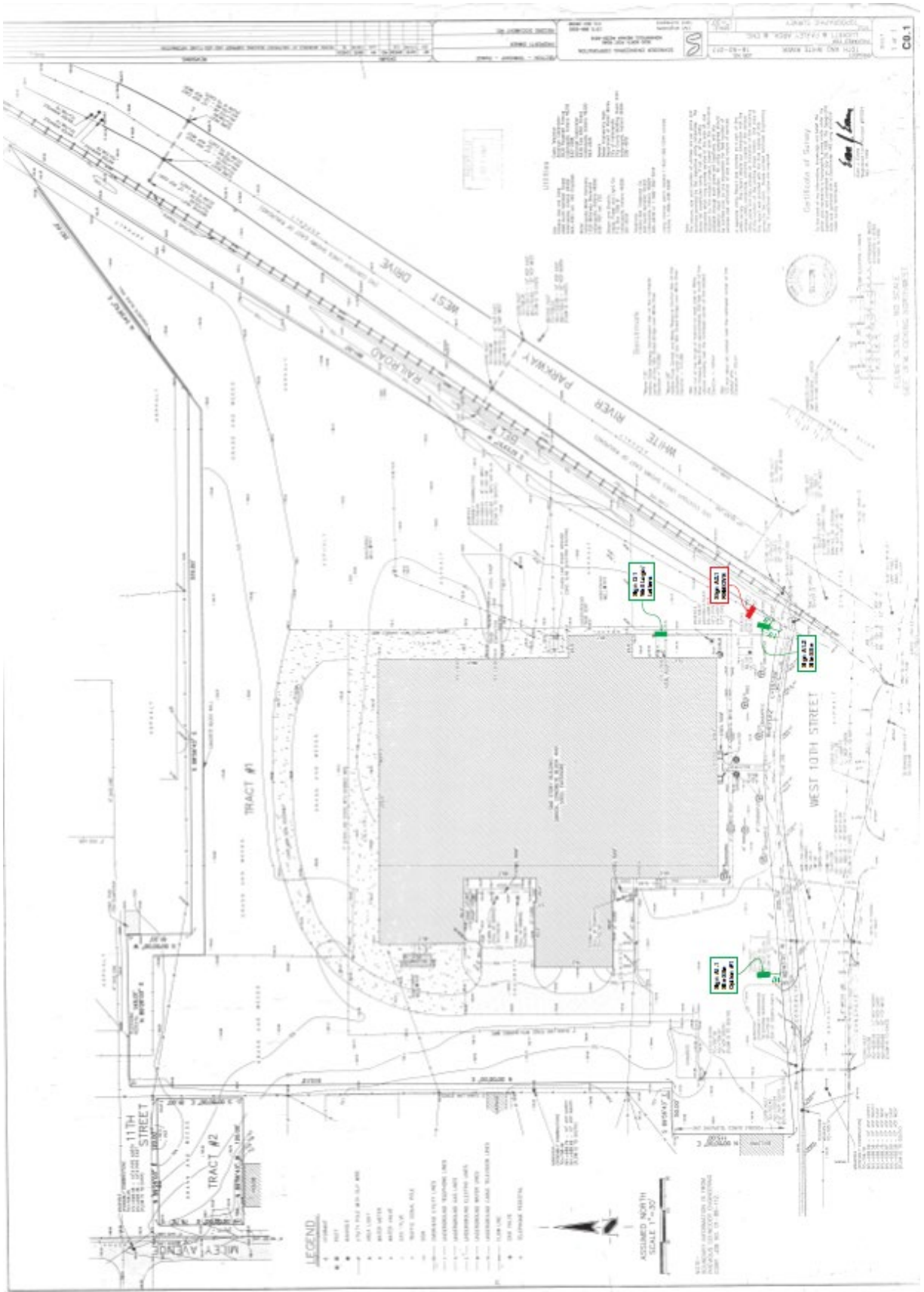
ZONING HISTORY - VICINITY

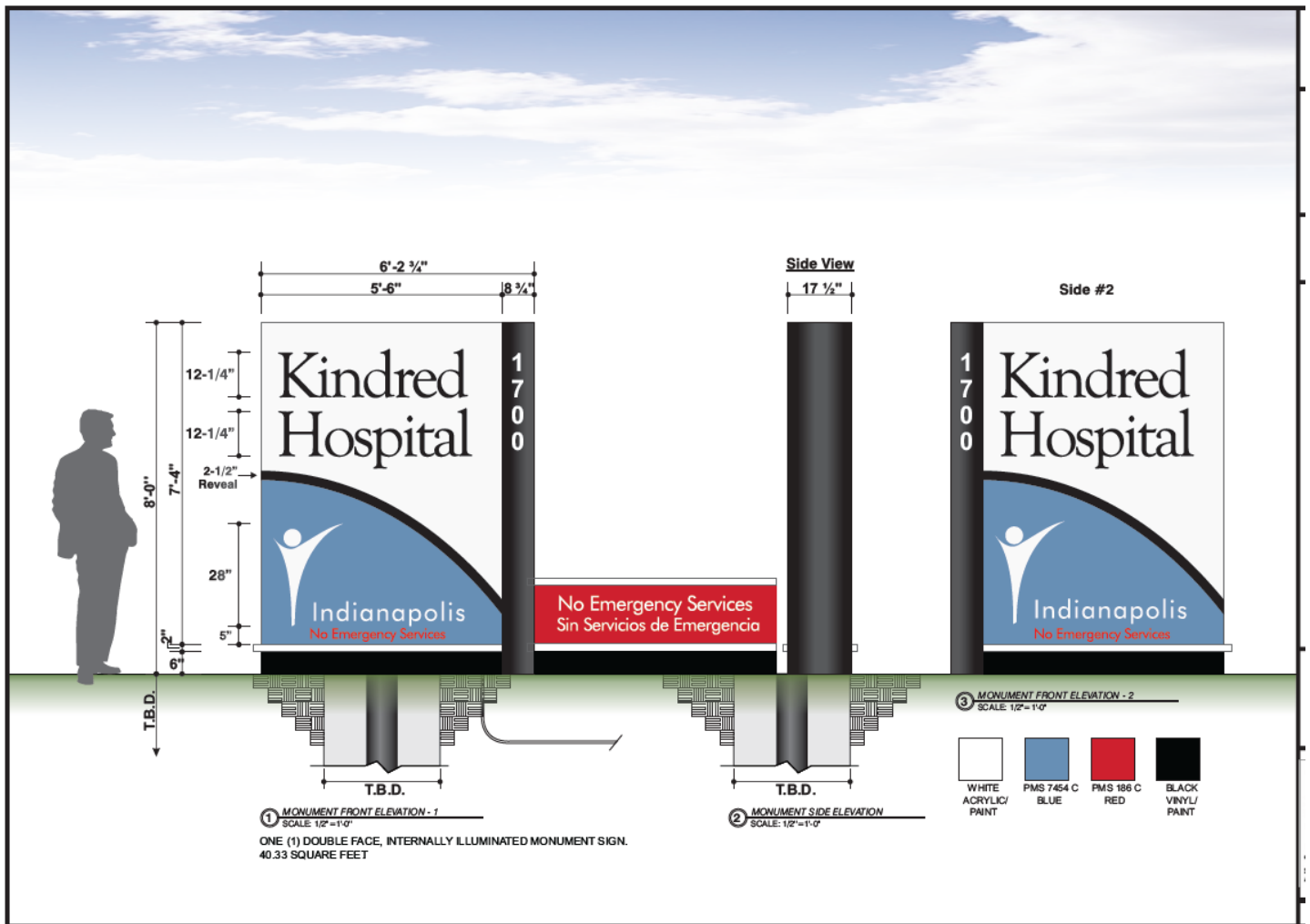
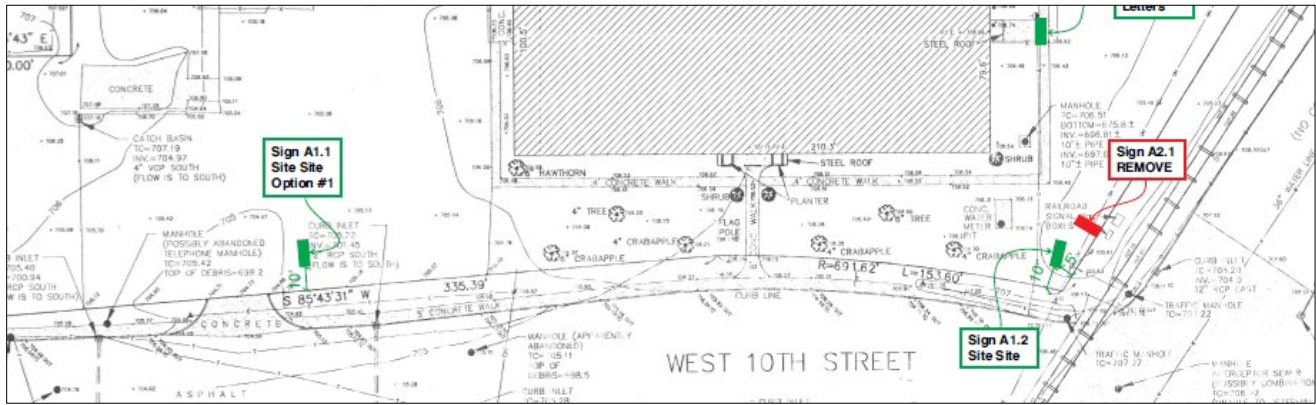
None.

JY



Zoning map of the site







View of the site (to the left), railroad track and White River Parkway, West Drive, from 10th Street looking north



View of the existing eastern-most sign from 10th Street



View of the existing building and landscaping along 10th Street



Views along 10th Street of the site and existing western-most sign



View of wester-most portion of the site, near Miley Avenue. This portion of the site is zoned D-5 (RC)

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-020 (Amended)
Address: 6036 and 6110 East 86th Street (approximate address)
Location: Lawrence Township, Council District #3
Zoning: C-4
Petitioner: Costco Wholesale Corporation, by Stephen J. Cross
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an existing parking area resulting in 812 total spaces (maximum 717 parking spaces permitted).

RECOMMENDATIONS

Staff **recommends approval** of the variance.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Metro	Commercial
-----	-------	------------

SURROUNDING ZONING AND LAND USE

North	MU-1	Office Building
South	C-4	Commercial
East	SU-9/PK-1	Fire Station/Park
West	C-4/C-S	Commercial

COMPREHENSIVE PLAN The Comprehensive Plan recommends regional commercial and community commercial development.

- ◇ The subject site is developed with a 148,663 square-foot membership club commercial retail use. It is surrounded by other regional commercial uses, a fire station and a park. The site was originally developed in 2002.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request originally included a request to provide reduced bicycle parking. The petitioner has withdrawn this request.

(Continued)

STAFF REPORT 2023-DV3-020 (Continued)

- ◇ This request would allow for additional parking to be developed to the west of the existing parking lot. The petitioner has filed a plat petition to transfer 2.181 acres from of the adjacent parcel west of the existing site for the development of additional parking. A plat petition for this property transfer has been approved by the Plat Committee.
- ◇ The Ordinance limits the maximum amount of off-street parking for commercial retail uses to 1 per 200 square feet, resulting in a maximum of 717 parking spaces permitted by-right. Staff would note that under Section 744-306.A of the Ordinance, required parking space calculation is required to be rounded down to the nearest whole number. The proposed 812 parking spaces represent a 13.2% increase of the maximum parking spaces permitted by the Ordinance.
- ◇ The purpose of the ordinance requirement is to prevent commercial establishments from providing excessive and unnecessary parking, which is usually installed to give the appearance of available parking. Restricting excessive parking can control development sprawl and decrease stormwater runoff.
- ◇ While staff is typically hesitant to recommend approval of a variance request to exceed the maximum parking standards, staff is typically supportive if a real need for the additional parking can be adequately demonstrated.
- ◇ In the case of the subject site, the petitioner has provided documentation showing the usage of the parking lot on Saturday, April 22, 2023. Aerial photos of the parking lot were taken every half hour between the time of 10:00am and 5:30pm. In most of the photos, the parking lot was nearing capacity, at capacity or overcapacity. When the parking was overcapacity, customers parked on the grassy area adjacent to the existing parking.
- ◇ Therefore, staff believes the petitioner has demonstrated a practical difficulty in meeting the maximum Ordinance parking standards and relief from the maximum parking standard is warranted.

GENERAL INFORMATION

THOROUGHFARE PLAN	86 th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 156-foot existing right-of-way and a 102-foot proposed right-of-way.
SITE PLAN	File-dated May 9, 2023.
FINDINGS OF FACT	File-dated May 9, 2023.

ZONING HISTORY

98-Z-44; 8801 Castle Creek Parkway, requested rezoning of 7.95 acres from the C-2 to the C-S classification to provide for offices and/or a fitness center, **approved**.

(Continued)

STAFF REPORT 2023-DV3-020 (Continued)

96-Z-59A; 6102 East 86th Street (Subject Site included); requested a rezoning of 26.63 acres, being in the C-2 District, to the C-4 classification to provide for commercial development, **approved.**

96-Z-59B; 5902 East 86th Street, requested rezoning of 5.1 acres, being in the C-2 District, to the C-3 classification to provide for commercial development, **approved.**

LA

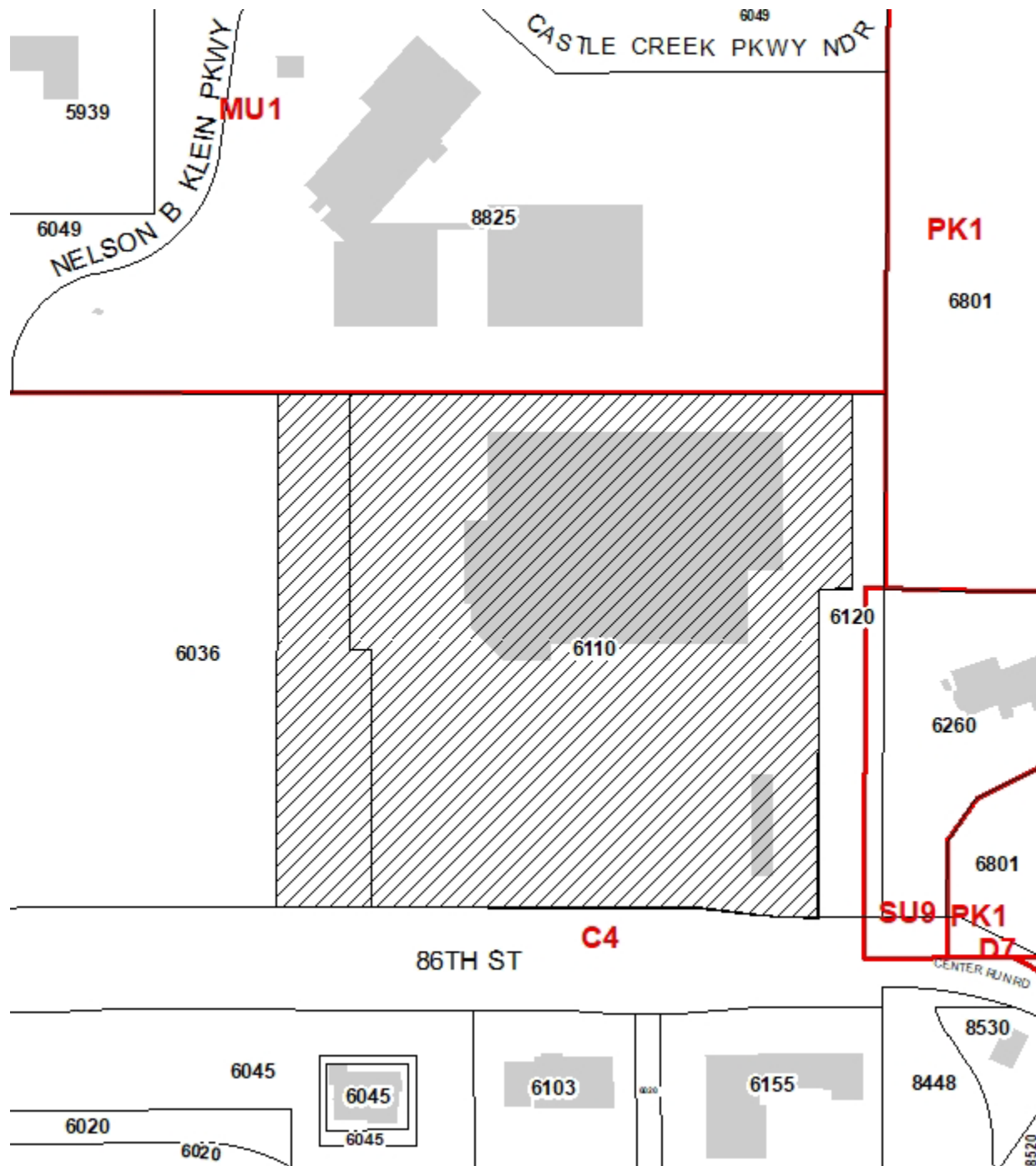








Figure 1 - Existing bike parking on site



Figure 2 - Area of overflow parking



Figure 3 - Area of overflow parking

STAFF REPORT

Item 6.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-009 (Amended)
Address: 1330 Sadlier Circle West Drive (approximate address)
Location: Warren Township, Council District #18
Zoning: I-1 (FF) (FW)
Petitioner: Calloway Group LLC, by David Gilman
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a freestanding building and associated parking with a four-foot south side yard setback and zero-foot front yard setback (10-foot side yard, 30-foot front yard setback required) and deficient landscaping.

ADDENDUM FOR JUNE 20, 2023

Due to an indecisive vote by the Board, this petition was automatically continued from the May 23, 2023, hearing, to the June 20, 2023, hearing.

At the May 23, 2023, hearing, the petitioner withdrew the portion of the request to provide for the operation of a semi-tractor and trailer light maintenance business. Therefore, **Staff is now recommending approval** of the request as amended.

May 23, 2023

RECOMMENDATIONS

Staff **recommends denial of the request as proposed.**

The petitioner has indicated their intent to withdraw the request for a variance of use to provide for the operation of a semi-tractor and trailer light maintenance business. This withdrawal will need to be acknowledged by the Board.

Staff will then **recommend approval of the amended request**, for the proposed variance of development standards to provide for a building with a four-foot south side yard setback and zero-foot front yard setback and deficient landscaping.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

I-1 Undeveloped

(Continued)

SURROUNDING ZONING AND LAND USE

North -	I-1	Commercial / Warehouse Structure
South -	I-1	Commercial / Warehouse Structure
East -	I-1	Commercial / Warehouse Structure
West -	I-2	Commercial / Warehouse Structure

COMPREHENSIVE PLAN	The Comprehensive Plan recommends light industrial uses and designates floodway and 100-year flood plain for portions of the site.
--------------------	--

VARIANCE OF USE

- ◇ The Consolidated Zoning and Subdivision Ordinance, specifically as it relates to the I-1 District, was developed to promote light industrial uses within areas where industries can carry on their entire operation within a completely enclosed building in a manner where no nuisance factor is created or emitted outside an enclosed building. Uses within the I-1 District range from warehousing, wholesaling, and industrial schools or training facilities.
- ◇ The proposed use for the operation of a semi-tractor and trailer light maintenance business is not permitted in the flood plain, and if not withdrawn, would need to be continued with notice for an additional variance of use.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The subject site is located adjacent to other industrial and commercial uses that have similar reduced setbacks that were granted through a Special Exception request (2010-SE2-003). The subject site was not included in that request.
- ◇ As the subject site is the last remaining undeveloped parcel in the industrial park, the proposed amended request would provide for the subject site to be developed in a similar fashion as the other parcels in the industrial park.
- ◇ The narrowness in width of the site, requires a reduced southside setback to allow for driveway access to the rear of a proposed structure. The concept site plan shows a structure outside of the required setback, and only the driveway to the rear, needing the reduced south setback.
- ◇ Approximately 60 feet of the front yard is within the floodway. The required landscaping in this area, would hinder the flow of any future floodwaters, causing floodwater displacement out of the floodway. Therefore, Staff is agreeable to the request for deficient landscaping.
- ◇ In Staff's opinion, the proposed amended request would be a minor deviation from the Ordinance and is supportable by Staff.

(Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	Sadlier Circle West Drive is a private drive and not indicated on the Official Thoroughfare Plan for Marion County, Indiana.
SITE PLAN	File-dated March 17, 2023.
PLAN OF OPERATION	File-dated March 17, 2023.
FINDINGS OF FACT	File-dated March 17, 2023.

ZONING HISTORY

2018-UV1-036; 1414 (1410-tenant) Sadlier Circle West Drive (south of site), requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a fitness center, **granted**.

2010-SE2-003; 1304-1441 Sadlier Circle, West Drive, 1341-1347 and 1504 Sadlier Circle, South Drive, 1311-1438 Sadlier Circle, East Drive (south and east of site), requested a special exception of the Industrial Zoning Ordinance to provide for an industrial park, with internal private streets, with variances of development standards of the Industrial Zoning Ordinance to legally establish: Parking areas for 1304 Sadlier Circle, West Drive occupying 30% of the front yard; Parking areas for 1352-1354 Sadlier Circle, West Drive occupying 90% of the front yard, and with a fence with barbed wire in the front yard; Parking areas for 1402-1430 Sadlier Circle, West Drive occupying 22% of the front yard; Parking areas for 1504 Sadlier Circle, South Drive occupying 25% of the front yard; Parking areas for 1365-1367 Sadlier Circle, South Drive occupying 76% of the front yard, and with vehicle maneuvering in the private street; Parking areas for 1341-1347 Sadlier Circle, South Drive occupying 38% of the front yard, and with vehicle maneuvering in the private street, and with deficient parking space dimensions; Side building setback of 15 feet and parking areas for 1335 Sadlier Circle, East Drive occupying 100% of the front yard, with parking and maneuvering within 10 feet of the interstate; Side building setback of two feet at 1327 Sadlier Circle, East Drive and with parking and maneuvering 10 feet from the interstate; Front building setback of zero feet at 1322-1440 Sadlier Circle, East Drive with parking areas occupying 40% of the front yard; and Deficient parking space dimensions for 1327-1441 Sadlier Circle, West Drive, **granted**.

2001-HOV-051; 7401 Brookville Road (east of site), requests a Variance of Development Standards of the Industrial Zoning Ordinance to legally establish two buildings located in Lincoln Center East Industrial park; 1335 Sadlier Drive with a rear setback of 25 feet, 1504 Sadlier Drive with a rear setback of 10 feet, 1352 and 1354 Sadlier Drive with a rear setback of 24 feet, 1311 Sadlier Drive with parking and maneuvering areas occupying more than ten percent of the total area of the required front yard, and six parking and maneuvering areas located zero to ten feet from a federal interstate highway, in I-1-S, **granted**.

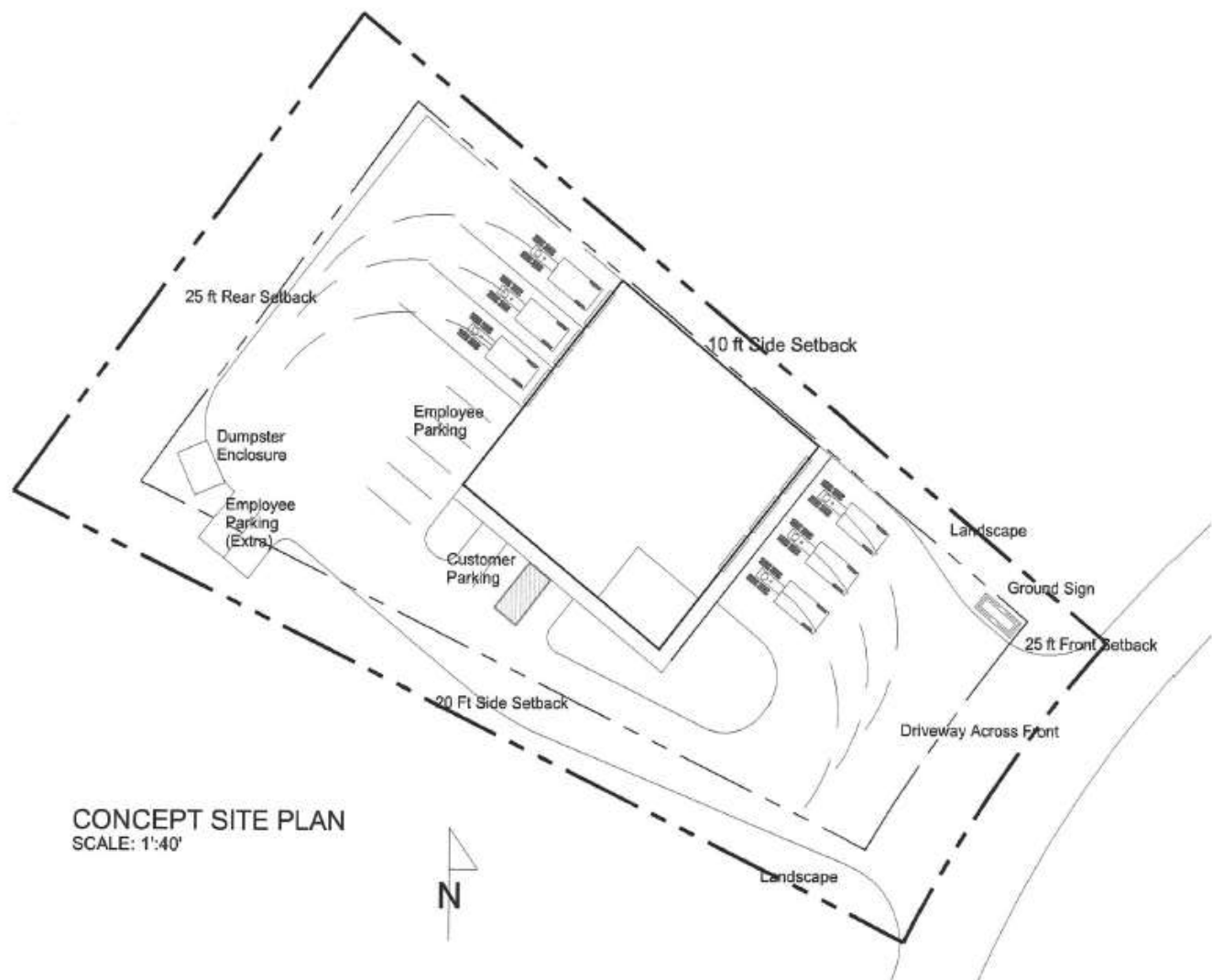
99-UV2-20; 1311 Sadlier Circle East Drive (east of site), requested a Variance of Use and Development Standards of the Industrial Zoning Ordinance to provide for an automotive repair facility in an existing building with 13,000 square feet of outdoor storage, in I-1-S, **granted**.

RU

* * * * *

2023-UV3-009: Location Map





PLAN OF OPERATION

Petitioner proposes to use the site for a semi-tractor and trailer maintenance facility. The maintenance activities will be limited to the following:

Services:

- *Tire Changes for truck and trailers
- *Air Brake system preventive maintenance
- *Wheel and Trailer Alignment
- *Air Filter Replacement
- *Wiper Blades Replacement
- *Interior Truck Accessories

All work will be done within the enclosed building and there will be not outdoor operations.

The business will operate normal business hours Monday to Friday 7am to 6pm and Saturday 7am to 3pm Closed on Sundays.



View of subject site, looking west.



Adjacent use to the south of site.



Adjacent use to the east of site.



Adjacent uses to the north of site, looking northwest

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-014
Address: 5640 East 38th Street (approximate address)
Location: Lawrence Township, Council District #13
Zoning: SU-1 (TOD)
Petitioner: BWI LLC, by Vincent L. Smith
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of up to 50 multi-family dwelling units and independently operated social services (not permitted).

RECOMMENDATIONS

Staff **recommends approval** of the request, subject to the following commitment:

1. The property shall be rezoned to an appropriate Dwelling or Mixed-Use District prior to the 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

SU-1	Compact	Vacant religious use facility and associated parking lot
------	---------	--

SURROUNDING ZONING AND LAND USE

North	D-10	Multi-family
South	C-1 /D-4	Single-family dwellings and commercial services
East	D-5	Single-family dwellings
West	D-5	Single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Community Commercial development.
--------------------	---

- ◇ This 3.7-acre lot, zoned SU-1 is currently improved with a religious use facility and associated surface parking.
- ◇ North of the subject site is a multi-family development within the D-10 District. Beyond that are single-family dwellings within the D-5 District. East and west of the subject sites are single-family dwellings within the D-5 District. To the South, across 38th Street North Drive and 38th Street are single-family dwellings and small-scale commercial businesses within the D-5 and C-1 Districts, respectively.

(Continued)

STAFF REPORT 2023-UV3-014 (Continued)

- ◇ The SU-1 District is a special use classification that only allows for the operation of religious worship as a primary use and associated accessory uses. The Ordinance provides broad discretion in regard to the application of development standards, allowing the Administrator to approve plans as appropriate. This District uses the development standards of the C-1 District to guide appropriateness of such waivers.

VARIANCE

- ◇ The request, as proposed, would provide for the demolition of the existing church and the construction of three-story mixed-use development including up to 50 dwelling units and independently operated social services.
- ◇ The Comprehensive Plan recommends the development of community commercial uses. This typology is intended to provide for low-intensity commercial and office uses that serve nearby neighborhoods. Examples of such uses include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gather spaces.
- ◇ The request, being mixed-use, would be responsive to the plan recommendation and the intent of the Transit Oriented Development overlay. In addition, the increased density would aid in the implementation of the Comprehensive Plan recommendation of the nearby area. Most properties along this portion of East 38th Street are recommended for Community Commercial development. It is Staff's position that the request addresses two of the Livability Principles of the Ordinance, being promoting equitable, affordable housing and supporting existing communities.
- ◇ The request is contingent on obtaining financial incentives includes tax credits. Given the lack of certainty of obtaining these funds, Staff believes that a variance of use is appropriate. A premature rezoning of the property would result in an improper zoning classification, which may prohibit future use of the existing purpose-built religious use facility. The grant of the request would allow the applicant to demonstrate land use entitlement, a requirement of obtaining funds from various sources, including the Indiana Housing & Community Development Authority.
- ◇ However, Staff believes that full-scale redevelopment of the site would warrant a rezoning of the property to an appropriate zoning classification. Doing so ensures that appropriate development standards are enforced, prevent issues which may arise during future transaction of the property, and prevent the necessity of future land use filings for projects such as building additions, construction of new structures, and signage. While identifying an appropriate district is contingent upon finalization of plans and specific uses, the MU-2 District is a strong candidate to address the scope of the current proposal. For this reason, Staff requests that any approval be subject to a commitment that the property be rezoned prior to the issuance of an Improvement Location Permit.

(Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of East 10 th Street is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 80 feet.
SITE PLAN	File-dated April 11, 2023.
PLAN OF OPERATION	File-dated April 11, 2023
FINDINGS OF FACT	File-dated April 11, 2023.

ZONING HISTORY – SITE

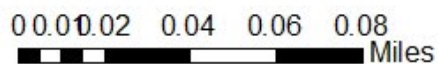
96-Z-94; 5604-5640 East 38th Street; requests rezoning of 0.8 acre, being in the D-5 District, to the SU-1 classification to conform the zoning classification for an existing church use and to provide for additional parking; **approved.**

69-Z-77; 5640 East 38th Street; requests a rezone of approximately four acres from the D-5 to SU-1 to provide for church use; **approved.**

ZONING HISTORY – VICINITY

96-Z-33 / 96-CV-35; 3901 North Lesley Avenue; requests a rezone of 1.5 acres from SU-1 and D-5 to D-10 with companion variances to provide for the construction of multi-family housing; **approved.**

EDH



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

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 proposed development will pose no threat to the public health, safety, morals, or general welfare of the community.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE
the proposed development will not disturb the businesses and residences in the surrounding area.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE
the property is currently zoned for religious use, not allowing the mixed-use development needed in the area as part of Transit-Oriented Development

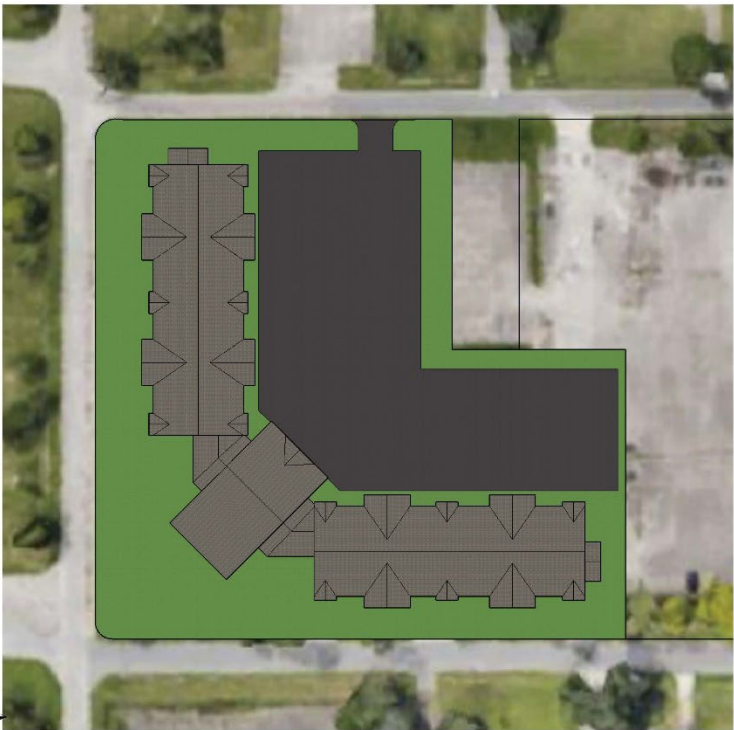
4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE
the property is currently zoned for religious use, not allowing the mixed-use development needed in the area as part of Transit-Oriented Development

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE
the proposed variance is in compliance with the comprehensive plan as amended for transit-oriented development along the Purple Line.

DECISION

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

Adopted this _____ day of _____, 20 ____



 ARCHITECTURAL SITE PLAN
38th & Lesley Ave
Indianapolis, IN 46205
 GUIDON



GUIDON

RENDERING
38th & Lesley Ave
Indianapolis, IN 46205



Photo One: Existing building, facing north.



Photo Two: Looking South across 38th Street.



Photo Three: Existing buildings eastern façade, facing west.



Photo Four: Single-family dwellings east of subject site.



Photo Five: Church parking lot north of building. Adjacent multi-family development in background.



Photo Six: Area west of subject site, facing northwest.

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

Case Number: 2023-DV3-011 (Amended)
Address: 1855 North Shadeland Avenue (approximate address)
Location: Warren Township, Council District #19
Zoning: C-4
Petitioner: MG Oil Inc., by Cindy Thrasher
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 23-foot tall pole sign (maximum height of 20 feet permitted).

ADDENDUM FOR JUNE 20, 2023.

Due to an indecisive vote, this petition was automatically continued to the June 20, 2023 hearing date.

At the May 23, 2023 hearing, the petitioner amended the request to eliminate the variances for the internal sign illumination and separation from the protected district associated to the illumination. The remaining variance would be for the excessive height of the pole sign.

Staff **continues to recommend denial** of this request.

ADDENDUM FOR MAY 23, 2023

This petition was continued for cause from the April 18, 2023 hearing to the May 23, 2023 hearing at the request of the petitioner. No new information has been provided to the file.

Staff **continues to recommend denial** of this request.

April 18, 2023**RECOMMENDATIONS**

Staff **recommends denial** of this request.

If the Board is inclined to vote against staff's recommendation, approval shall be subject to the installation of the illuminated sign within three months after the completion of commitment #6 of 2021-ZON-105 that calls for a pedestrian safety island and a pedestrian-activated crossing signal on Shadeland Avenue at the intersection of Shadeland Avenue and Pleasant Run Parkway South Drive.

(Continued)

STAFF REPORT 2023-DV3-011 (Continued)**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

LAND USE**EXISTING ZONING AND LAND USE**

C-4	Compact	Gas Station
-----	---------	-------------

SURROUNDING ZONING AND LAND USE

North	D-4	Pleasant Run
South	D-4	Residential (Single-family dwelling)
East	D-4	Residential (Single-family dwelling)
West	C-5	Automobile Dealership

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development on most of the site and office commercial along the southern property boundary.

- ◇ The 0.39-acre subject site is developed with a gas station and pole sign. The site abuts a single-family dwelling to the east, southeast, and south with a commercial use to the west.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Table 744-901-1 of the Sign Regulations notes that internal lighting is permitted in the C-4 district, but no illumination is permitted on signs within 50 feet of a dwelling district without an intervening public or private street.
- ◇ As proposed, an internally illuminated sign would be located ten feet from a dwelling district to the south.
- ◇ Staff is recommending denial of the request since there is no practical difficulty with the use of the site as it is currently developed. The findings of fact note that the sign is an illuminated sign, but the photographs show it to be a manual changing sign. Instead, the existing sign could be replaced with non-illuminated sign faces.
- ◇ Additionally, the illuminated pole sign could be relocated to the northwest corner of the site where the proposed trees and shrubs could be rearranged since a minimum five-foot front setback is needed. This would ensure the illuminated sign would not be within 50 feet of a protected district and would eliminate the need for the variance.
- ◇ In staff's opinion, the height of the pole sign could be reduced to the maximum 20-foot height without any issue if a new sign were proposed at the northwest corner.
- ◇ Another option would be to propose a canopy sign along the western or northern canopy façades that would not be within 50 feet of a protected district.

(Continued)

STAFF REPORT 2023-DV3-011 (Continued)

- ◇ Staff determined that the use and value of the dwelling adjacent to the property included in the variance could be affected in a substantially adverse manner by having an illuminated sign immediately adjacent to it for 24 hours, seven day a week which could interrupt the resident's sleep pattern.
- ◇ The site is planned to be redeveloped per rezone petition 2021-ZON-105 but since there was no required timeframe for the installation of commitment #6 for a pedestrian safety island and a pedestrian-activated crossing signal on Shadeland Avenue at the intersection of Shadeland Avenue and Pleasant Run Parkway South Drive, staff would request that the installation of said items be completed prior to the installation of a new pole sign if approved. Staff understands the importance of signage for a business and would request a commitment for completion of commitment #6 to then allow for the installation of the proposed signage within three months of completion, if approved against staff's recommendation.

GENERAL INFORMATION

THOROUGHFARE PLAN	Shadeland Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 149-foot existing right-of-way and a 104-foot proposed right-of-way.
THOROUGHFARE PLAN	Pleasant Run Parkway South Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 70-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN	File-dated March 3, 2023.
ELEVATIONS	File-dated March 3, 2023.
FINDINGS OF FACT	File-dated March 3, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

2021-ZON-105; 1855 North Shadeland Avenue (subject site), Rezoning of 0.415 acre from the C-3 district to the C-4 district, **approved**.

97-V3-92; 1855 North Shadeland Avenue (subject site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for the placement of an illuminated canopy, measuring 24 by 71 feet, with a front setback of 1 foot along Shadeland Avenue (minimum 10 feet from the proposed right-of-way required), **granted**.

(Continued)

STAFF REPORT 2023-DV3-011 (Continued)

93-V3-41; 1855 North Shadeland Avenue (subject site), Variance of development standards of the Sign Regulations of Marion County to permit the placement of a pole sign with gasoline pricing panels (not permitted) located 4 feet from the right-of-way of Shadeland Avenue, **denied**.

92-V3-62; 1855 North Shadeland Avenue (subject site), Variance of development standards of the Sign Regulations of Marion County to permit the placement of a pole identification sign 3 feet from the right-of-way of North Shadeland Avenue (15 feet required) with pricing panels (not permitted), **granted with the condition that the pole sign be located 15 feet from North Shadeland Avenue right-of-way**.

70-Z-204; 1855 North Shadeland Avenue (subject site), rezoning of 0.45 acre from the D-4 district to the C-3 district, **approved**.

70-V2-80; 1855 North Shadeland Avenue (subject site), Variance of use and setback requirements to permit construction of a gasoline station with identification and display signs, **withdrawn**.

ZONING HISTORY – VICINITY

2023-DV3-003; 1739 and 1795 North Shadeland Avenue (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an enclosed dumpster within the front yard of 18th Street (not permitted); a drive-through within 18 feet of a protected district without the required transitional yard landscaping and screening of service units (25-foot separation required, landscaping required), a stacking space within the front yard of 18th Street (not permitted) and zero-stacking spaces provided at the exit of the service unit (two stacking spaces required); a building with a 28-foot front setback from 18th street, a 12.8% front building line along 18th Street (maximum 25-foot front setback and 60% front building line required along Connector Frontage,), and a 23.9-foot front building line along Shadeland Avenue (40% front building line required along Buffer/Suburban Frontages); on a lot with deficient landscaping, **withdrawn**.

2012-HOV-015; 1752 North Shadeland Avenue (southwest of site), Variance of Development Standards of the Sign Regulations to replace the cabinet of an existing freestanding sign (original approved by 97-HOV-12), with a 10-foot front setback along Shadeland Avenue, being within 80 feet of a freestanding sign to the north and 105 feet of a freestanding sign to the south, being the seventh sign along an approximately 750-foot long integrated frontage (300 feet of separation required, 300 feet of frontage required per sign), **granted**.

2009-DV1-031; 6830 Industry Place and 6926 East 16th Street (southwest of site), Variance of Development Standards of the Sign Regulations to provide for a 26.02-foot tall, 80-square foot Pole Sign with a ten-foot front setback from the existing right-of-way of Shadeland Avenue (minimum fifteen-foot front setback required), within 105 feet of a pole sign to the north within the same integrated center (minimum 300-foot separation between signs required), **granted**.

STAFF REPORT 2023-DV3-011 (Continued)

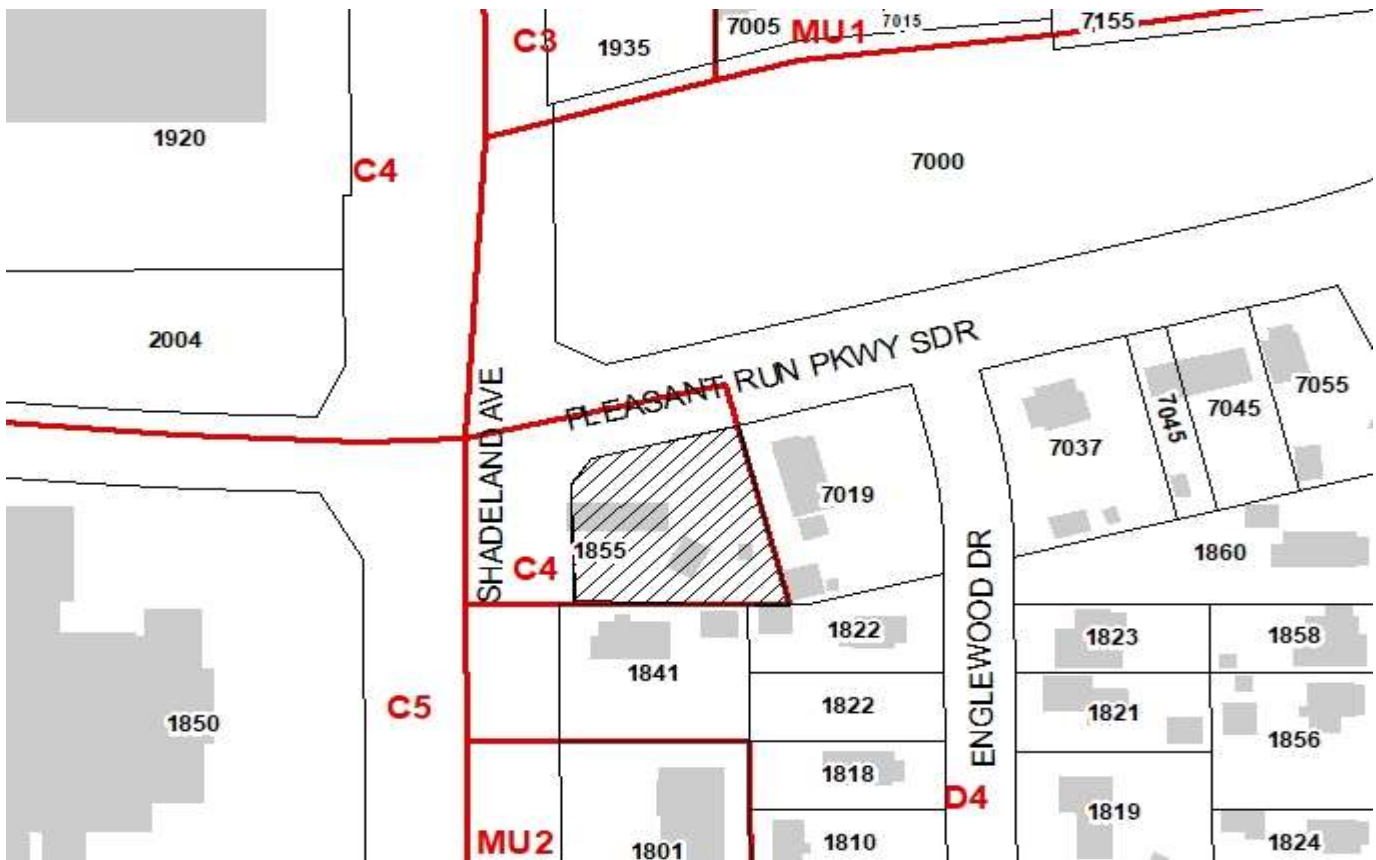
2004-DV1-035; 1739 North Shadeland Avenue (south of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the temporary location of the required handicapped parking space in an existing asphalt driveway (not permitted) until the construction of the proposed parking area is completed, **dismissed**.

97-HOV-12; 1752 North Shadeland Avenue (southwest of site), Variance of Development Standards of the Sign Regulations to provide for a 9.5 by 21-foot sign, 40 feet in height, being located 10 feet from the right-of-way of Shadeland Avenue, in C-3, **granted**.

72-UV3-76; 1811 to 1815 North Shadeland Avenue (south of site), Variance of use to provide for a restaurant and retail sales in a D-4 district and a variance of development standards to provide for deficient setbacks and transitional yard, **granted**.

MI

2023-DV3-011; Location Map



2023-DV3-011; Aerial Map







ILLUMINATION VIEW



EXISTING



PROPOSED

NOTE : SR SURVEY NEEDED.

434 CITGO ID CABINET

434 - 2 PRODUCT PRICER CABINET
12" PRICE VISION LEDS

334 TRICLEAN CABINET

Please Note: Heights and clearances requirements vary by State, County and Municipality. It is the responsibility of the customer to confirm that these graphics are compliant with all local Regulations, Statutes and Ordinances. Consistency must be confirmed by the party submitting this permit. SignResource is not liable for non-compliance of local Heights and clearances requirements or any rule changes that may occur after the order has been placed. If permitting and installation is provided by SignResource, we will make every effort to confirm the signage provided is compliant at the time of installation.

APPROVAL SIGNATURE

By signing, you are certifying the dimensions and graphics provided in SignResource and/or you are handling your own installation.

DATE

RENDERING

NAME: J. CARDON

DATE: 07/00

LOCATION: COLUMBIANA, MISSISSIPPI

PROJECT: 0000000000

DATE: 05/10/22

REVISION: 0

1 OF 1

REVISION HISTORY

NO.	DATE	DESCRIPTION
1	05/10/22	INITIAL DESIGN & APPROVAL
2	05/10/22	REVISION TO ADD TRICLEAN LOGO

PARTS LIST

NO.	DESCRIPTION
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

SCALE: NTS

THIS SIGN IS DESIGNED TO BE INSTALLED IN CONFORMANCE WITH THE REQUIREMENTS OF THE STATE OF MISSISSIPPI. THE SIGNAGE IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SIGNAGE IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SIGNAGE IS NOT TO BE USED FOR ANY OTHER PURPOSES.

GENERAL NOTES

1. SIGNAGE IS TO BE INSTALLED IN CONFORMANCE WITH THE REQUIREMENTS OF THE STATE OF MISSISSIPPI. THE SIGNAGE IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SIGNAGE IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SIGNAGE IS NOT TO BE USED FOR ANY OTHER PURPOSES.



West view of the existing pole sign



North view of the existing pole sign.



Photo of the ten-foot separation from the single-family dwelling to the south.



Photo of the existing fueling station and convenience store.



Photo of existing freestanding signs looking south along Shadeland Avenue.



Photo of existing freestanding signs west of the subject site.

STAFF REPORT

Item 9.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-019
Address: 2059 North Pasadena Street (approximate address)
Location: Warren Township, Council District #19
Zoning: D-4
Petitioner: Gregory Gordon and Kyle Stewart, by Matthew Lyles
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 3,200 square foot pole barn, being larger than and in front of the primary dwelling (not permitted) with a seven-foot front yard setback from Pasadena Street (20-foot front setback required).

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	D-4	Single-family dwelling
---------	-----	------------------------

SURROUNDING ZONING AND LAND USE

North -	C-1	Commercial office
South -	D-4	Single-family dwellings
East -	D-4	Single-family dwellings
West -	D-4 / C-1	Single-family dwelling / Commercial office parking lot

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

VARIANCE OF 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.

(Continued)

STAFF REPORT 2023-DV3-019 (Continued)

- ◇ This request would permit an accessory building with 3,200 square feet, or approximately 350% larger than the 918 square foot 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.
- ◇ The proposed accessory structure at 3,200 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, and not accessory to the primary dwelling. If not for the petitioner, then possibly for future purchasers of the property.
- ◇ The Comprehensive Plan recommends suburban neighborhood development at this site. For residential uses, the suburban neighborhood land use plan recommendation is to provide for predominately single-family housing but interspersed with attached and multifamily housing where appropriate.
- ◇ The large lot size should not allow for disregard of the Comprehensive Plan recommendation, nor of the clearly residential nature of the surrounding area.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since an accessory structure smaller in footprint than the primary dwelling can be installed on the site, by right without any variances. Any practical difficulty is self-imposed by the petitioner's desire to choose to not follow the ordinance and use the site for an accessory structure 3.5 times larger than the primary dwelling.
- ◇ The requested seven-foot front yard setback from Pasadena Street is a self-imposed hardship as a result of the petitioner proceeding with construction prior to applying for proper permits. Had the petitioner applied for permits as required prior to starting construction, the proposed foundation and building could have been placed to meet the 20-foot front setback, as there is an additional approximate 115 feet in lot width available to do so.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since there is adequate open space to the rear of the proposed structure to provide for the required 20-foot front setback, without the need for a setback variance. Any practical difficulty is self-imposed by the desire to use the existing foundation that was poured prior to obtaining the appropriate permits.

(Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of North Pasadena 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.

This portion of East 20th 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, April 24, 2023

FINDINGS OF FACT

File-dated, May 2, 2023

ZONING HISTORY

2004-SE1-008; 6602 East 20th Street (west of site), requested a special exception to provide for a 1,760.22-square foot manufactured home, **granted**.

1991-Z-168; 6635 East 21st Street (north of site), requested the rezoning of 0.485 acre from the D-4 district to the C-1 classification to provide for medical offices, **approved**.

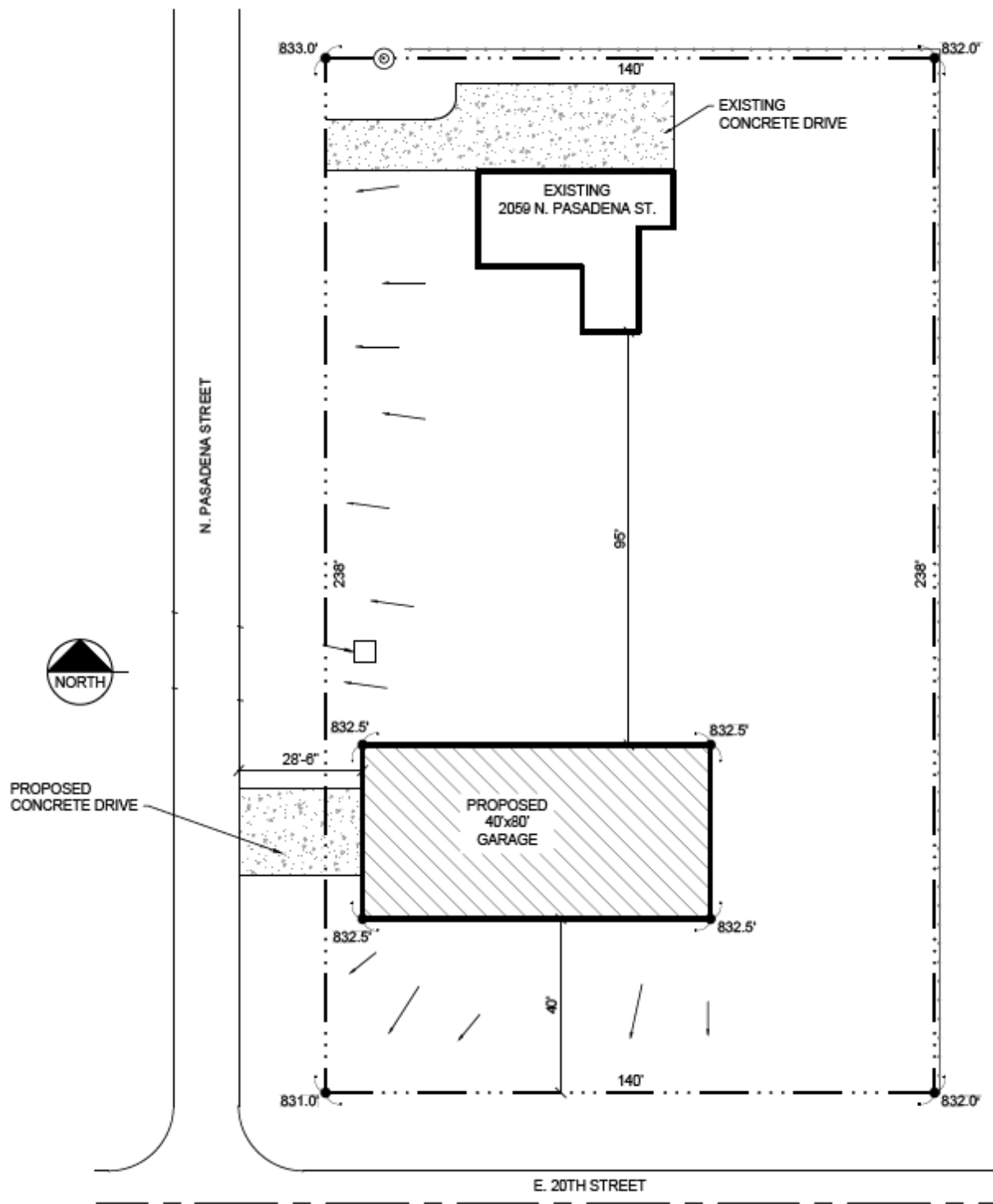
1989-DV3-119; 6635 East 21st Street (north of site), requested a variance of development standards to permit development of two medical office buildings, on to be located 42 feet from the centerline of Pasadena Street and with a parking ratio of one space per 235 square feet of gross floor area, **granted**.

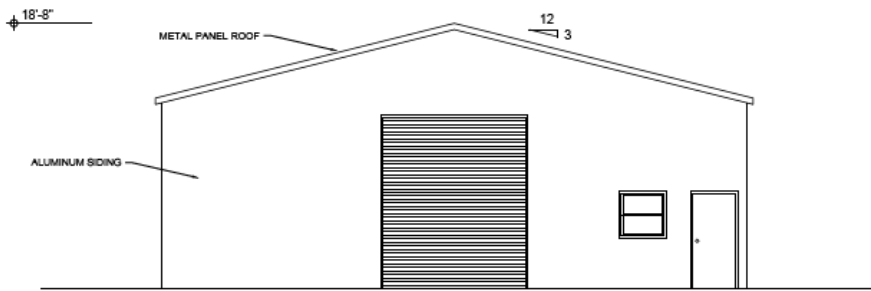
1985-Z-127; 6665 East 21st Street (north of site), requested the rezoning of 1.35 acre, being in the D-4 district, to the C-1 classification to provide for a bank, **approved**.

RU

2023-DV3-019; Location Map

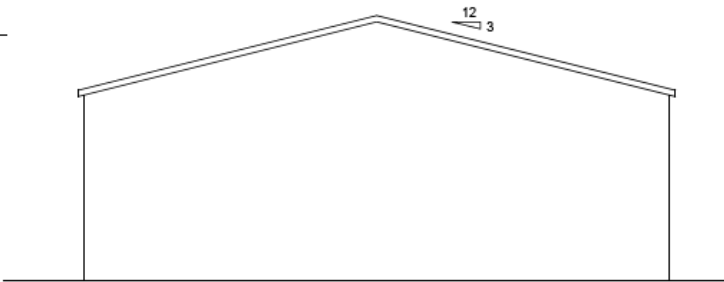






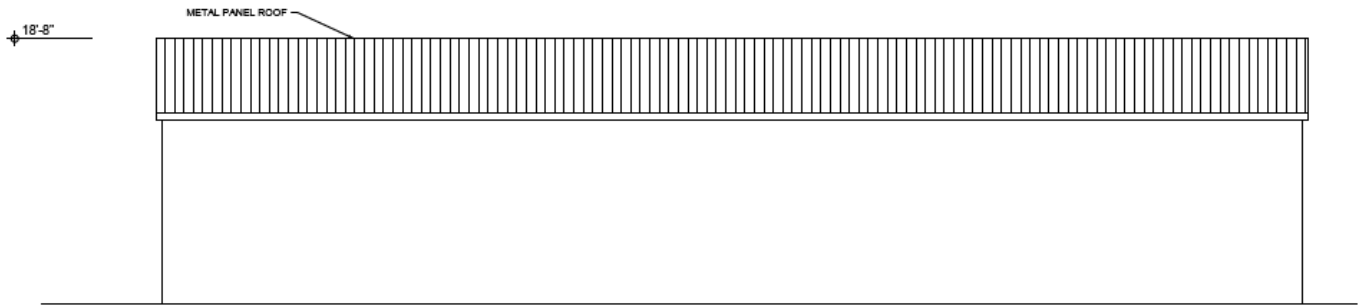
NORTH ELEVATION

SCALE : 1/8" = 1' - 0"



SOUTH ELEVATION

SCALE : 1/8" = 1' - 0"



EAST AND WEST ELEVATION

SCALE : 1/8" = 1' - 0"



Subject site primary dwelling, looking east.



Subject site side yard, proposed accessory structure location with poured foundation, looking east.



Adjacent dwelling to the west.



Adjacent dwelling to the south.



Adjacent dwelling to the east, looking west.



Adjacent commercial bank to the north, looking south.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-021
Address: 1690 South Spencer Avenue (approximate address)
Location: Warren Township, Council District #18
Zoning: D-5 (FF)
Petitioner: Lacia Coons
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a fence ranging in height between five-foot and six-foot tall within the front yards, encroaching into the clear sight triangle of Spencer Avenue and Minnesota Street (maximum 3.5-foot-tall fence permitted, encroachment into the clear sight triangles not permitted), and encroaching into the right-of-way on Minnesota Street (encroachment into the right-of-way not permitted).

RECOMMENDATIONS

Staff **recommends approval** of the six-foot fence on Minnesota Street, encroaching into the clear sight triangle, and encroaching into the right-of-way on Minnesota Street.

Staff **recommends denial** of the request for a fence ranging from five to six feet tall in the front yard of Spencer Avenue.

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
-----	---------	---------------------------

SURROUNDING ZONING AND LAND USE

North	D-5	Single-Family residential
South	D-3	Undeveloped
East	D-5	Single-Family residential
West	D-5	Single-Family residential

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Suburban Neighborhood development
--------------------	---

- ◇ The subject site consists of two parcels with a combined area of approximately 12,840 square feet. The site is developed with a single-family dwelling and two detached accessory structures.

(Continued)

STAFF REPORT 2023-DV3-021 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ This request would provide for the erection of a fence ranging in height between five-foot and six-foot tall within the front yards, encroaching into the clear sight triangle of Spencer Avenue and Minnesota Street, and encroaching into the right-of-way on Minnesota Street.
- ◇ Minnesota Street is elevated several feet above the subject site's lot boundaries at grade. Spencer Avenue slopes to meet Minnesota Street at the intersection. Therefore, staff would suggest that the increased height along Minnesota Street and encroachment into the clear sight triangle do not affect traffic visibility and are not opposed to this portion of the request.
- ◇ The portion of the fence along Minnesota Street appears to encroach in the right-of-way, however, the fence is downhill from the street and is not located in the established drainage area. Staff is not opposed to a fence that slightly encroaches into the right-of-way. Whether an encroachment license is required is to be determined by the Department of Business and Neighborhood Services.
- ◇ The fence in the front yard on Spencer Avenue is generally at grade. The ordinance permits a fence height of 3.5 feet in a front yard, or four feet if 40% or more opaque. Staff believes that the fence in the front yard on Spencer Avenue does not have a practical difficulty as it does along Minnesota Street. Staff would recommend denial of this portion of the request.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Spencer Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

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

SITE PLAN

File-dated May 19, 2023

FINDINGS OF FACT

File-dated May 19, 2023

ZONING HISTORY –SITE

None

ZONING HISTORY – VICINITY

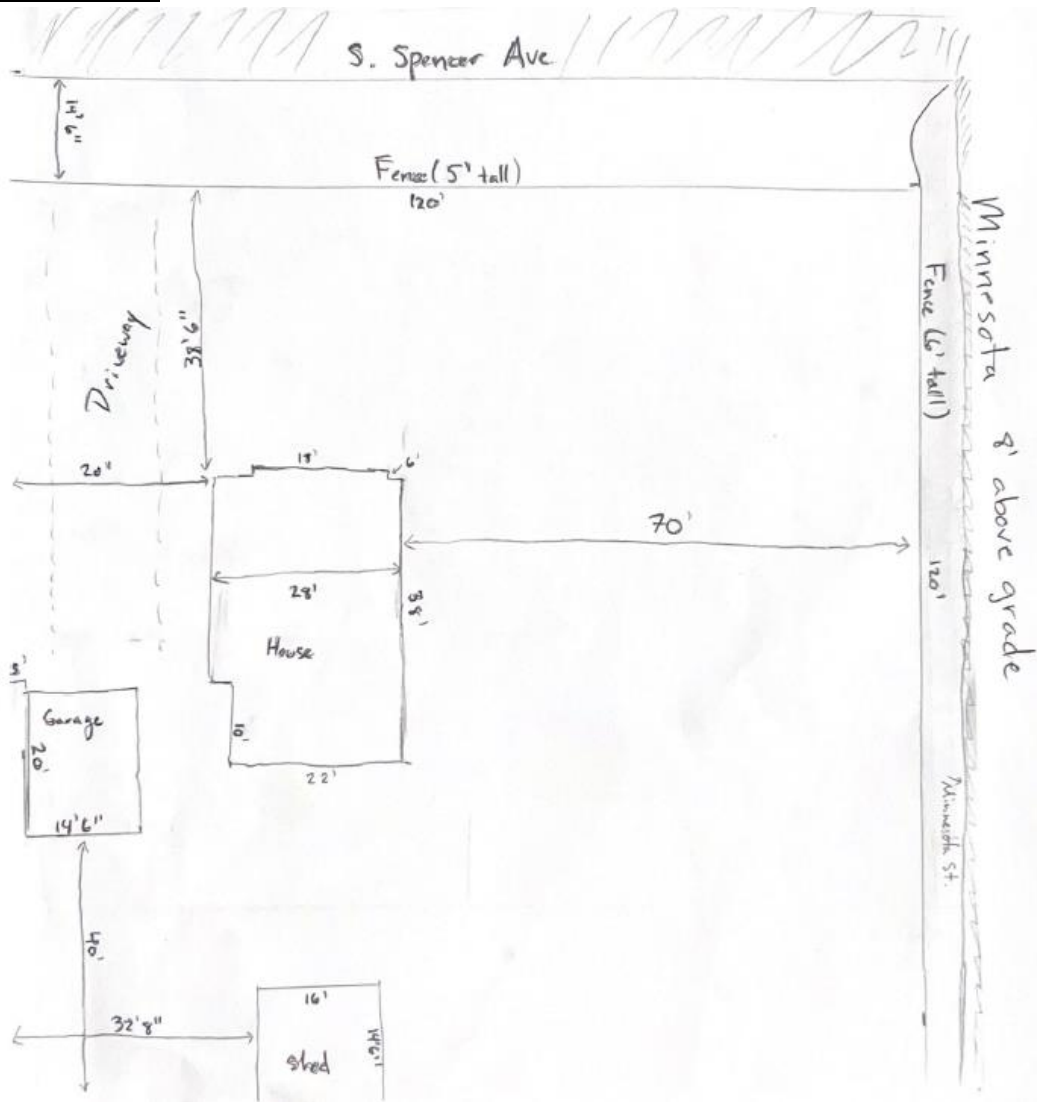
2023-UV3-005, 5220 Minnesota Street, variance to provide for the storage of a commercial vehicle and a permanent portable storage container, **denied**.

83-SE2-1, 5114 Minnesota Street, a special exception to provide for a manufactured home, **approved**.

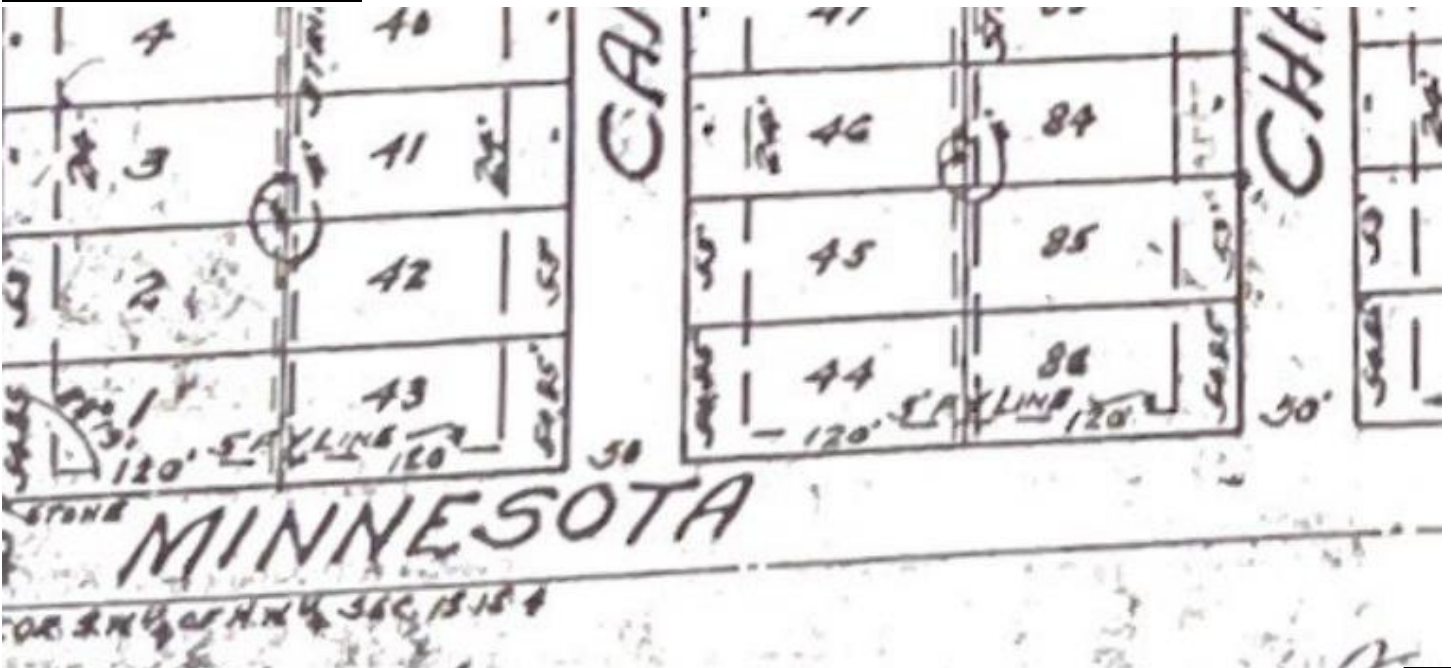
AR



2023-DV3-021; Site Plan



2023-DV3-021; Plat Map







Subject site viewed from Minnesota Street, looking east



Subject site viewed from the intersection of Minnesota Street and Spencer Avenue, looking north



Subject site viewed from Minnesota Street, looking north



Fence viewed from vehicle at the intersection, looking southwest



Grade change from street to fence viewed from the intersection, looking west



Fence in the front yard on Spencer Avenue, looking west



Fence in the front yard on Spencer Avenue, looking south

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-023 (Amended)
Address: 6160 East 38th Street (approximate address)
Location: Lawrence Township, Council District #13
Zoning: C-S (TOD)
Petitioner: Indy Fresh Market Enterprises, LLC, by Tammy Rice
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a pylon sign including a 28.2-square foot digital display (not permitted) within 218 feet of a protected district (digital display prohibited within 400 feet of a protected district).

RECOMMENDATIONS

Staff **recommends denial** of this request as amended.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-S	Compact	Commercial
-----	---------	------------

SURROUNDING ZONING AND LAND USE

North	C-S	Commercial
South	C-5	Commercial
East	D-3	Residential (Single-family dwellings)
West	C-S	Commercial

COMPREHENSIVE PLAN	The Comprehensive Plan recommends community commercial development.
--------------------	---

- ◇ The 1.25-acre subject site is developed with a grocery store and associated parking lot.
- ◇ The site is surrounded by commercial uses to the north, west and south with residential dwellings to the east.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The initial request was for the erection of a pole sign including a 28.2-square foot digital display with a 23-foot front setback and within 218 feet of a protected district.

(Continued)

STAFF REPORT 2023-DV3-023 (Continued)

- ◇ The proposed sign would meet the definition of a pylon sign with a 22-inch pole instead of the 8-inch pole that staff originally used in the classification of sign type. Additionally, the petitioner revised the site plan to meet the 20-foot maximum front setback. This resulted in the elimination of the variance for a pole sign and excessive front yard setback.
- ◇ The grant of the amended request would allow for a pylon sign with a 28.2-square foot digital display with deficient separation from a protected district.
- ◇ Digital display components are only permitted on pylon signs within the C-4, C-5 and C-7 districts and cannot be located within 600 feet of any protected district unless visibly obstructed from view from within that district, but in no instance can they be located within 400 feet of a said district.
- ◇ As proposed, the digital display would be located 218 feet from the D-3 protected district to the east. Although visibly obstructed from the protected district, it would not have the sufficient separation necessary to meet the Ordinance.
- ◇ The submitted findings of fact state no practical difficulties in the use of the property. The items mentioned are that digital displays are not permitted and that the proposed sign would be furthest from the protected district and visibly obstructed. However, neither of these statements prove that the property could not be used as the proposed grocery store without the variance.
- ◇ Instead, appropriate signage could be located on site within the constraints of the Ordinance such as the installation of a pylon sign or wall sign without digital display components.
- ◇ Lastly, the subject site fronts along 38th Street which is a frequently traveled primary arterial street where the Bus Rapid Transit Purple Line is currently under construction. The business would be clearly identifiable from the street limiting the need for a quick changing digital display sign.
- ◇ For these reasons, staff is recommending denial of the request.

GENERAL INFORMATION**THOROUGHFARE PLAN**

38th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with an 82-foot existing right-of-way and a 88-foot proposed right-of-way.

THOROUGHFARE PLAN

Sheridan Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 41-foot existing right-of-way and a 48-foot proposed right-of-way.

SECONDARY DISTRICT

This site is in the Transit Oriented Development Secondary District.

(Continued)

STAFF REPORT 2023-DV3-023 (Continued)

OVERLAY	This site is in a Transit-Oriented Development (TOD) overlay, specifically the Bus Rapid Transit Purple Line.
SITE PLAN	File-dated May 19, 2023.
AMENDED SITE PLAN	File-dated June 7, 2023.
ELEVATION	File-dated May 19, 2023.
FINDINGS OF FACT	File-dated May 19, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

2021-HOV-027; 6190 East 38th Street (subject site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for reduced transparency on both street facades (40% transparency required within three and eight feet above grade within 50 feet of a local, collector or arterial street), **granted**.

2020-CZN-840 / 2020-CVR-840; 6190 East 38th Street and 3850 North Sheridan Avenue (subject site), Rezoning of 6.6 acres from the SU-1 and C-4 districts to the C-S district to provide for a medical device manufacturing facility, including warehousing, wholesaling and distribution as an accessory use; all C-1 uses; vocational, technical or industrial school or training facility; hospital; animal care and veterinary services; farmers' market; artisan food and beverage; business, home and personal services or repair (not including a tattoo parlor); eating establishment or food preparation; indoor recreation and entertainment; department store; grocery store; light and heavy general retail; transit center; recycling station; all accessory uses permitted by the C-4 district; and with all proposed signs meeting C-4 standards. Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a maximum building height of 65 feet and to eliminate the maximum setback requirement (38-foot height permitted and maximum 65-foot setback permitted), **approved and granted**.

ZONING HISTORY – VICINITY

2022-DV3-038: 6002, 6006 and 6106 East 38th Street (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a health center facility without a primary entrance for every 100 feet of façade (one entry per 100' of building façade required), **granted**.

2021-CVR-857; 6205, 6215 and 6225 East 38th Street (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a commercial contractor with outside storage of materials and equipment in excess of 25% of the square-footage of the buildings (maximum 25% of all buildings permitted), **granted**.

(Continued)

STAFF REPORT 2023-DV3-023 (Continued)

2011-UV3-024; 3805 North Sheridan Avenue (northeast of site), Variance of use to provide for a beauty salon and nail shop, **granted**.

2009-UV3-007; 6105 East 38th Street (southwest of site), Variance of use and development standards of the Commercial Zoning Ordinance to provide for a towing service and impound lot (not permitted) including the storage of inoperable vehicles (not permitted), and a zero-foot front landscaping strip along East 38th Street (minimum ten-foot front landscape strip required), **denied**.

99-V3-89; 6205 and 6209 East 38th Street (southeast of site), Variance of use of the Commercial Zoning Ordinance to provide for sales and storage of boats, **granted**.

87-UV2-139; 6225 East 38th Street (southeast of site), Variance of use to provide for boat sales and services and a variance of development standards to provide for a deficient front yard, **granted**.

83-SE1-2; 6125 East 38th Street (southwest of site), Commercial Special Exception to provide for the operation of an amusement arcade consisting of eleven machines within the existing bowling alley, later modified to seventeen machines, **granted**.

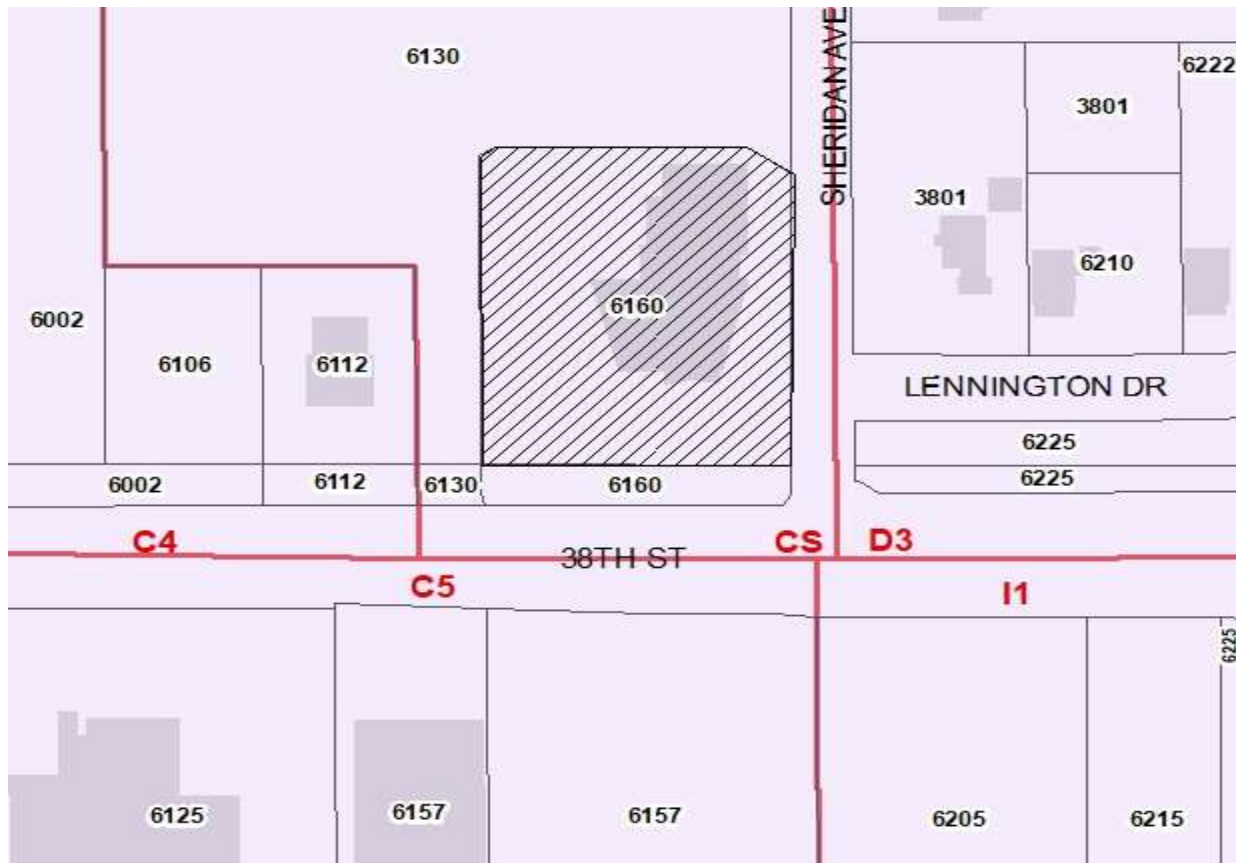
83-V1-58; 6125 East 38th Street (southwest of site), Variance of development standards to provide for the operation of an amusement arcade within 500 feet of a residential district, **granted**.

81-SE1-2; 2139 East Prospect Street (southwest of site), Commercial Special Exception to permit the continued operation of a pool hall, as per plans filed, off-street perming provided, **granted**.

81-UV3-58A; 3755 North Arlington Avenue (southwest of site), Variance of development standards of the Commercial Special Exception Ordinance 76-AO-2 to permit the installation of 25 amusement machines in the game room at Putt-Putt Golf Course within 500 feet of a residential district, **granted**.

MI

2023-DV3-023; Location Map

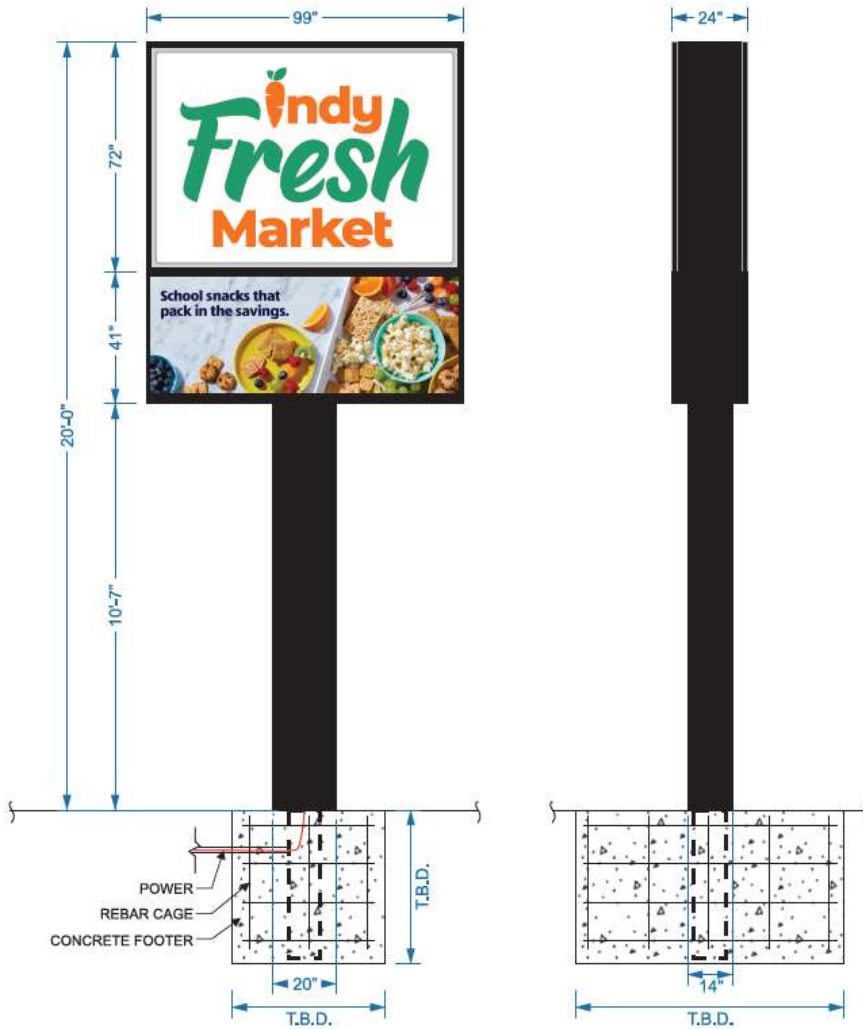


2023-DV3-023; Aerial Map









P1 Fabricate and instal QTY (1) double sided illuminate pole sign

Top Cabinet
 Aluminum tube/angle framing
 .080 Aluminum cladding - painted black
 2" Retainers - painted black
 Pan formed faces - clear polycarbonate with 2nd surface graphics
 Illumination: AVL 6500k white LEDs

Electronic Message Center
 16mm LED RGB
 Front Ventilation
 Cabinet Size: 41" x 8'-3" x 5"
 Viewing Area: 36" x 8'-0"
 Software: Ignite OP (PC-based)
 Temperature sensor
 Communication: 4G Wireless with cellular data plan
 Electrical: 120v 14 amps (7.00 per face)

8"x8" Steel Pole - painted black
 Direct bury install in grass/dirt area with concrete footer
 Footer TBD

Power Requirements
 (1) 20Amp & (1) 30Amp circuits
 Power to be brought to sign area by client/GC



Photo of the Subject Property: 6160 East 38th Street



Photo of the subject site to the right and the adjacent restaurant to the left.



Photo of the proposed location of the pylon sign.



Photo of the protected dwelling district to the east of the site.

STAFF REPORT

Item 12.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-011
Address: 5505 Massachusetts Avenue (approximate address)
Location: Warren Township, Council District #13
Zoning: C-7
Petitioner: CitySite LLC, by Joseph Ringger
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for manufacturing of materials (not permitted) used in association with the operation of a commercial contractor.

RECOMMENDATIONS

Staff **recommends approval** of this petition, subject to the following commitment:

The variance grant shall be subject to substantial compliance with the submitted plan of operation, file-dated April 18, 2023.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-7 Commercial Contractor

SURROUNDING ZONING AND LAND USE

North -	I-3	Semi-truck repair and sales
South -	D-5	Commercial Contractor / Single-family dwelling
East -	C-7 / D-5	Automobile and truck repair / Single-family dwelling
West -	I-4	Commercial Contractor

COMPREHENSIVE PLAN The Comprehensive Plan recommends light Industrial uses for the site.

VARIANCE OF USE

- ◇ This petition proposes to provide for the manufacturing of materials used in association with the operation of a commercial contractor. The manufacturing of materials would be considered a medium manufacturing use, which is permitted in the I-2, I-3, and I-4 districts.
- ◇ The proposed use is not consistent with the Comprehensive Plan, which proposes light industrial use for the site. The proposed use would be considered compatible with medium and heavy industrial uses, but not normally with light industrial uses. The area near the site is a mixture of industrially uses, commercial uses, and single-family dwellings.

(Continued)

- ◇ The proposed use would be compatible with the surrounding area and would not interfere with the implementation of the Plan, provided that it is limited in such a way as to not hinder the use and enjoyment of the nearby residential properties. Therefore, Staff is recommending approval subject to the submitted plan of operation, which limits the manufacturing to take place inside the two large structures on the property and limits the use as a small facility with normal operating hours.
- ◇ Therefore, in Staff's opinion, the proposed variance of use would represent a minor deviation from the Ordinance.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Massachusetts Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial, with a 56-foot existing and proposed right-of-way.

This portion of Ritter Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 52-foot existing right-of-way and a 56-foot proposed right-of-way.

This portion of Layman Avenue 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.

This portion of East 32nd 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 April 18, 2023

PLAN OF OPERATIONS

File-dated April 18, 2023

FINDINGS OF FACT

File-dated April 18, 2023

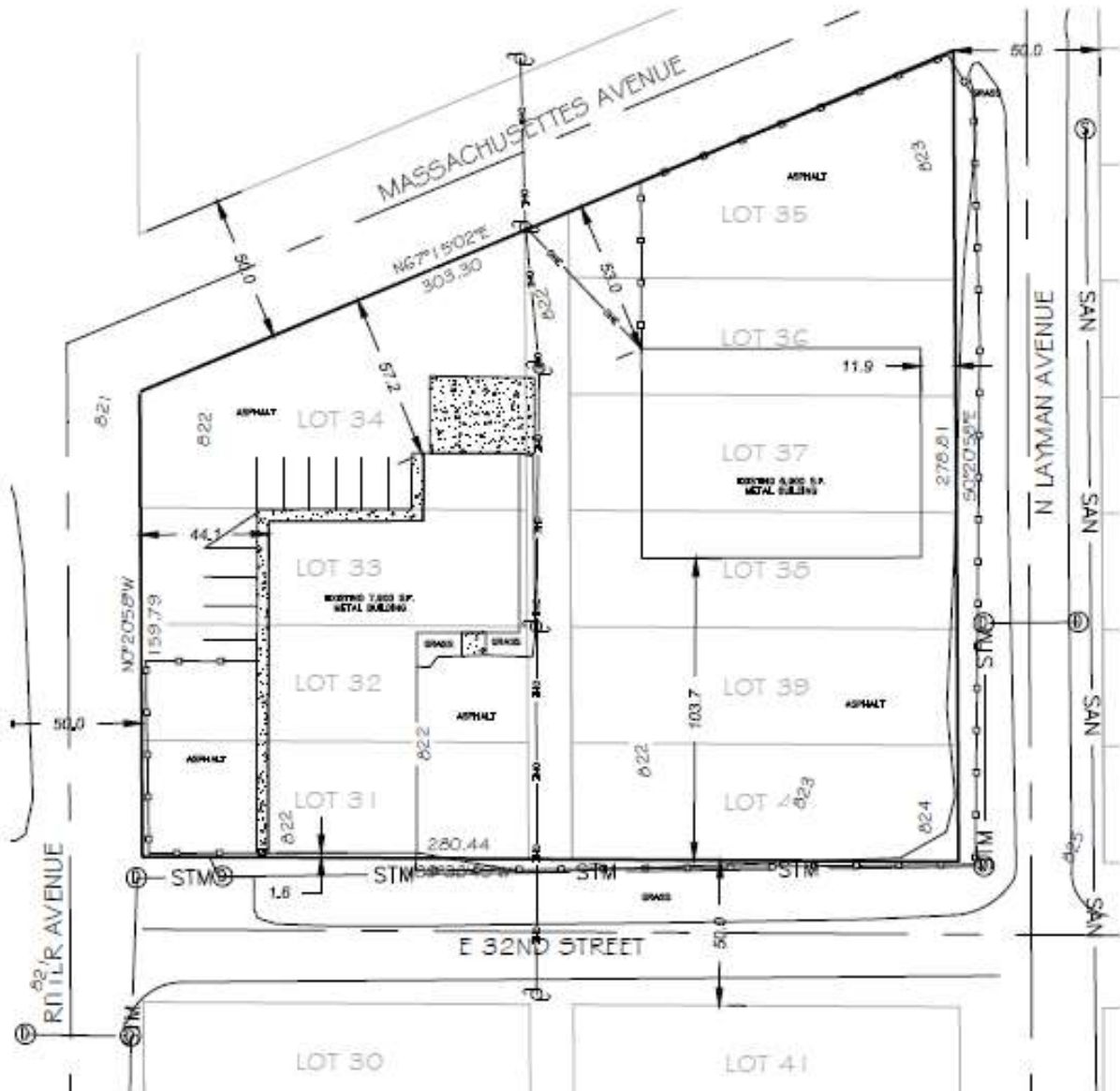
ZONING HISTORY

86-Z-139; 5461 Massachusetts Avenue (west of site), requested the rezoning of 0.29 acres, being in the SU-11 district, to the I-5-U classification to conform with the existing use, **approved**.

76-Z-92; 3221 North Layman Avenue (east of site), requested the rezoning of 0.63 acre, being in the D-5 district, to the C-7 classification to permit storage and sales of used cars, **approved**.

RU





Plan of Operation

5505 Massachusetts Ave.

The petitioner is a construction contractor that specializes in exterior improvements such as light excavation, flatwork, landscaping, and deck/fence/ pergola construction. After a job is contracted, pre-fabrication of applicable materials is done in the shop to expedite field work. Such activity includes welding, cutting, fastening, and assembly. A portion of the petitioner's business also consists of mixing and pre-casting concrete for pavers, hardscapes, and post-setting. Landscaping and grading materials are also stored on site for access when needed.

Currently the business has five employees that work at the shop/office full time along with a couple install crews. Due to the nature of the business and because sales are done in the field, it's rare that customers come to the office. There are ten designated off-street parking spaces in front of the building allowing for plenty of parking.

The necessary preparation and manufacturing take place inside the two large shop/barn structures on the property which encompass about 12,000 sq./ft. Stored outside are piles of stone, aggregate, pavers, treated lumber, and some equipment. The entire property is fenced in with 6' chain link with a barbed wire top. Types of materials used include light gauge metal, lumber, hardware, sand, gravel, soil, cement, and common adhesives. None of these materials are hazardous.

In terms of equipment, the petitioner uses and stores a few medium sized machines such as a mini-excavator and a front loader. There is also common traffic of civilian work trucks and medium duty single axle work trucks which enter and exit between 5-10 times a day. Some heavier deliveries are required via tri-axle trucks which are estimated at 5-15 times a week. All activity at the property takes place between 7AM-5PM. The waste created on site is stored in a removable dumpster that is emptied as needed by a waste removal company. Jobsite spoils such as old dirt or broken up concrete are taken directly to a facility and not stored at the business location.



Subject site, building 1, looking south.



Subject site, building 2, looking south.



Adjacent commercial contractor to the west, looking south.



Adjacent commercial auto sales to the east, looking south.



Adjacent truck sales and repair to the north.



Adjacent commercial contractor supply to the south.

STAFF REPORT

Item 13.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-012
Address: 1735 West Edgewood Avenue (approximate address)
Location: Perry Township, Council District #20
Zoning: I-3 (FF)
Petitioner: GND Property 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 truck terminal (prohibited in Floodway Fringe District) and parking area with 53-foot front yard setback from Edgewood Avenue and a six-foot east side yard setback (60-foot front yard setback required, 30-foot side yard setback required) and deficient landscaping.

RECOMMENDATIONS

Staff **recommends denial** of the petition as proposed.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

I-3	Truck Terminal
-----	----------------

SURROUNDING ZONING AND LAND USE

North -	I-3	Truck Terminal
South -	C-7	Commercial Contractor
East -	I-2	Commercial Contractor
West -	C-S	Truck Repair Facility

COMPREHENSIVE PLAN The Comprehensive Plan recommends Office Commercial uses for the site with an Environmentally Sensitive overlay that matches the flood plain area.

VARIANCE OF USE

- ◇ This request would provide for the operation of a truck terminal in a Floodway Fringe District.
- ◇ The Comprehensive Plan recommends the Office Commercial typology for the site. "The Office Commercial typology provides for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses. Office commercial development can range from a small freestanding office to a major employment center. This typology is intended to facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons.

(Continued)

- ◇ This site is also located within an overlay, specifically the Environmentally Sensitive Areas. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. In this case it would be for the floodway fringe. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ While the proposed use is allowed in the I-3 zoning district, the Ordinance gives clear direction that the development of this property should not include specific uses within the floodway fringe in order to prevent contaminants from leaking into waterways and negatively impacting adjacent properties downstream. To exacerbate this, the site has already been used as a truck terminal with gravel parking areas where surface paving is required.

Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (I-3 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ Staff would note the following uses are prohibited in the floodplain:
 - a. Jails;
 - b. Hospitals;
 - c. Assisted living facilities;
 - d. Nursing homes;
 - e. Laboratories;
 - f. Elementary, Middle or High Schools;
 - g. Daycare facilities;
 - h. Fire stations;
 - i. Emergency operation centers;
 - j. Police facilities;
 - k. Truck, train, or bus terminal, storage or maintenance facility;**
 - l. Wrecking or salvage facility;
 - m. Gas, oil or propane storage facility;
 - n. Industrial laundry;
 - o. Hazardous waste handling or storage facility; and
 - p. Other public equipment storage facilities.

(Continued)

STAFF REPORT 2023-UV3-012 (Continued)

- ◇ As proposed, the request would not be consistent with the Comprehensive Plan recommendation of office commercial.
- ◇ Because of the location within the floodplain of Little Buck Creek, the requested use would be detrimental and could negatively impact surrounding land uses and the water quality of Little Buck Creek.
- ◇ There is no practical difficulty that would prevent the site from being developed with permitted uses within the floodway. Therefore, Staff does not support the requested use for this site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a parking area with a 53-foot front yard setback from Edgewood Avenue and a six-foot east side yard setback, with deficient landscaping
- ◇ The requested variance of development standards for reduced setbacks would allow for a larger truck terminal area to be located within the flood plain. As the use is not permitted, the associated variances should not be permitted as well, as they would only intensify the unpermitted use. There is no practical reason as to why the required landscaping can not be provided, again, other than to maximize the covered surface area for truck terminal parking
- ◇ This variance of development standards request is the result of the petitioner's failure to obtain a permit prior to illegally using the site as a truck terminal with the requested reduced setbacks. Had the petitioner inquired about a permit prior to initiating the use on the site, they would have been notified of the deficient setbacks, and the parking area could have been placed appropriately without the need for a variance. Therefore, Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence, to discourage such practices.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Edgewood Avenue is indicated as a primary arterial on the Official Thoroughfare Plan, with a 32 to 46-foot existing right-of-way and an 80-foot proposed right-of-way. Lakehaven Lane is a private street and is not indicated on the Official Thoroughfare Plan.
FLOODWAY / FLOODWAY FRINGE	The southern 2/3rds portion of this site falls within the floodway fringe of Little Buck Creek
SITE PLAN	File-dated May 8, 2023
FINDINGS OF FACT	File-dated May 8, 2023

(Continued)

ZONING HISTORY

2021-ZON-086; 1735 West Edgewood Avenue (subject site), requested the rezoning of 2.29 acres from 1-2 (FF) to I-3 (FF), **granted**.

2017-DV2-013; 6020 Lakehaven Lane (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an industrial building, with a 32-foot east front setback, **granted**.

2015-ZON-074; 1615 West Edgewood Avenue (east of site), requested the rezoning of 1.45 acres from the D-A (W-1) (FF) district to the C-4 (W-1) (FF) classification to provide for a 10,000-square foot building for a haunted house, **approved**.

2013-ZON-055; 1739 West Edgewood Avenue (west of site), requested the rezoning of four acres from the D-A (FF)(W-1) district to the C-S (FF)(W-1) classification to provide for office use, warehouse use, a distribution facility, with a retail component, all I-2-S uses, and limited I-3-S uses, **approved**.

2009-ZON-067, 6020 Lakehaven Lane and 1951 West Edgewood Avenue (west of site), requested rezoning of 3.06 acres, from the I-2-S (W-1) (FF) and C-S (W-1) (FF) districts to the I-3-S (W-1) (FF) classification to provide for medium-intensity industrial uses, **approved**.

2008-UV2-008; 1735 Edgewood Avenue (subject site), requested a variance of use and development standards of the Industrial Zoning Ordinance to provide for the rental of recreational vehicles, with a 528-square foot office-trailer, and with a 22,275-square foot, gravel outdoor storage area, being approximately 4,200 percent of the total area of enclosed buildings, with outdoor storage of recreational vehicles exceeding the height of the surrounding fence within approximately 250 feet of a protected district, **withdrawn**.

2007-ZON-828 and 2007-VAR-828; 1846 West Banta Road and 6215 Lakehaven Lane (south of site), requested rezoning of 15.20 acres from D-A (FF)(W-1) and I-2-S (FF)(W-1) to I-2-S (FF) (W-1), and variance of use and development standards of the IZO to provide for outdoor storage and rental of large construction equipment, such as cranes and lifts, on a lot without direct access to a public street, with 364,755 square feet of outdoor storage for construction equipment or 2,399 percent of the total gross floor area of enclosed buildings, and outdoor storage of construction equipment with a height exceeding ten feet, **approved**.

2006-ZON-042; 6111 Lakehaven Lane (south of site), requested the rezoning of 2.95 acres, being in the C-S (FF)(W-1) District, to the I-2-S (FF)(W-1) classification to provide for light industrial suburban uses, **approved**.

2002-ZON-038; 1735 West Edgewood Avenue (subject site), requested the rezoning of 4.6 acres from D-A (FF)(W-1) to I-2-S (FF)(W-1) to provide for light industrial uses, **granted**.

72-Z-162; 1735 West Edgewood Avenue (subject site), requested the rezoning of 27.735 acres from A-2 to C-S to provide for campground facilities, **granted**.

RU

2023-UV3-012; Location Map







Subject site looking south from West Edgewood Avenue



Subject site looking east from Lakehaven Lane



Subject site looking north.



Adjacent truck repair facility to the west, looking south.



Adjacent commercial contractor to the east, looking south.



Adjacent commercial contractor to the south, looking east.