



Board of Zoning Appeals Division II (December 12, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, December 12, 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-SE2-002 | 3210 Chief Lane**

Decatur Township, Council District #22, Zoned I-3
Reagan Outdoor Advertising, by Jon Campbell

Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no greater than 65-feet tall (maximum height of 40 feet permitted), a setback of five feet from Rand Road (20-foot setback required), within 50 feet from another outdoor advertising signs (1,000-feet of radial spacing required between signs), being located within 400 feet of the centerline of an Interstate Ramp (500-foot separation from interstate ramp entries required) and being located within no less than 148 feet from protected districts (300-foot separation from protected districts required).

**** Automatic Continuance to be acknowledged.**

2. **2023-DV2-027 (Indecisive) | 4110 North Illinois Street**

Washington Township, Council District #7, Zoned D-5 (MSPC)
Rebecca Trenner, by Michael Brannan

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

**** Withdrawal to be acknowledged.**

3. **2023-DV2-032 | 911 Sanders Street**

Center Township, Council District #21, Zoned D-5 (TOD)
E&D Hopkins LLC, by Mark and Kim Crouch

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of either:

A single-family dwelling:

- a) On a medium lot typology with an area of 2,817 square feet (minimum lot area of 7,200 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required);
- f) An open space of 40 percent (60 percent required); and
- g) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

Or a two-unit multi-unit home:

- a) On a small lot with an area of 2,817 square feet (minimum lot area of 5,000 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required); and
- f) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

**** Continuance requested by petitioner.**

4. 2023-UV2-015 | 7069 Riverfront Avenue

Washington Township, Council District #2, Zoned D-4 (FW)
Linda Kelly, by Andrew Wert

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage within the floodway (prohibited), with a 12.5-foot front yard setback from Riverfront Avenue (20-foot front yard setback required).

**** Continuance requested by petitioner.**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

5. 2023-UV2-012 | 6328 Sharrob Road

Decatur Township, Council District #22, Zoned I-2
Francisco Javier Vazquez Rocha, by David Stevens

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition to a single-family dwelling (not permitted) with a three-foot east side yard setback (30-foot side yard setbacks required).

6. 2023-UV2-016 | 37 West St. Clair Street

Center Township, Council District #11, Zoned CBD-3 (RC) (TOD)
37 W St Clair LLC, by Paul J. Lambie

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

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

7. 2023-DV2-030 (Indecisive) | 3833 East 56th Street

Washington Township, Council District #3, Zoned D-3
Race Dorsey and Lauren Hall

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot fence within the front yard of 56th Street.

8. 2023-UV1-023 (Transferred) | 7217 Woodland Drive

Pike Township, Council District #1, Zoned C-4
Enterprise Leasing Company of Indianapolis, LLC, by Joseph D. Calderon

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

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

9. 2023-SE2-001 | 2400 Roosevelt Avenue

Center Township, Council District #17, Zoned I-3
Reagan Outdoor Advertising, by Michelle Noppenberger

Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 and SR-37 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no taller than 70-foot tall (maximum height of 40 feet permitted), within 220 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), with a six-foot front setback from I-70 (60-foot front setback required), and being located within 130 feet from protected districts (300-foot separation from protected districts required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

10. 2023-DV2-034 | 1949 Alvord Street

Center Township, Council District #17, Zoned D-8
Kathryn Ramseyer, by Melissa Iannucci

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a front building line of 26 feet (maximum 19.9-foot front building line permitted) and a detached garage with four-foot side yard setbacks (five-foot side yard setbacks required).

11. 2023-DV2-035 | 5602 North Keystone Avenue

Washington Township, Council District #9, Zoned C-4
T5 Keystone LLC, by Timothy E. Ochs

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through with only one stacking space before the final component (four stacking spaces required) that faces a public right-of-way greater than 30-foot wide (not permitted).

Additional Business:

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

STAFF REPORT

Item 1.

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

Case Number: 2023-SE2-002
Address: 3210 Chief Lane (approximate address)
Location: Decatur Township, Council District #22
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Jon Campbell
Request: Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no greater than 65-feet tall (maximum height of 40 feet permitted), a setback of five feet from Rand Road (20-foot setback required), within 50 from another outdoor advertising signs (1,000-feet of radial spacing required between signs), being located within 400 feet of the centerline of an Interstate Ramp (500-foot separation from interstate ramp entries required) and being located within no less than 148 feet from protected districts (300-foot separation from protected districts required).

A registered neighborhood organization has filed an automatic continuance, continuing this petition from the December 12, 2023, hearing, to the January 9, 2024, hearing.

RU

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-DV2-027
Address: 4110 North Illinois Street (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (MSPC)
Petitioner: Rebecca Trenner, by Michael Brannan
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an eight-foot wooden privacy fence within the side and rear yards (maximum six-foot tall fence permitted).

ADDENDUM FOR DECEMBER 12, 2023

Due to an indecisive vote, this petition was continued from the November 21, 2023, hearing, to the December 12, 2023 hearing.

The petitioner has since **submitted a request to withdraw** this petition. The withdrawal will need to be acknowledged by the Board.

November 21, 2023

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-5 Single-family dwelling

SURROUNDING ZONING AND LAND USE

North - D-5 Single-family dwelling
South - D5 Single-family dwelling
East - D-5 Single-family dwelling
West - D-5 Single-family dwelling

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

(Continued)

STAFF REPORT 2023-DV2-027 (Continued)

- ◇ The Meridian Street Preservation Commission (MSPC) has jurisdiction over the subject site to grant prior approval of a variance before such a variance petition may be filed with the Department of Metropolitan Development. At their August 15, 2023, hearing, the MSPC granted prior approval of a variance for petition #V-MSPC 23-09 regarding the subject site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The Consolidated Zoning and Subdivision Ordinance requires that fences not exceed six feet in height to the rear of the primary dwelling and intentionally limits the heights of fences across a given zoning classification to ensure that lots maintain residential qualities and characteristics by promoting orderly development, reducing crime opportunities, and enhancing public safety
- ◇ Staff finds that the requested variance, if granted, would establish a pattern running counter to orderly development. A six-foot tall fence is common as a privacy fence for residential properties. Fences taller than six feet are associated with commercial or industrial uses and create a compound aesthetic within residential neighborhoods.
- ◇ The rear yard of the subject site abuts the end of a dead-end alley. Installing a taller fence around all or part of this alley could make it more difficult to see, hear, or access the alley—potentially creating a more attractive area for people who don't want to be seen. Generally, Staff is also concerned that taller rear yard fences on residential property may decrease safety by slowing public safety response times for identifying and accessing emergency situations.
- ◇ The petitioner has indicated in the findings of fact that the proximity of adjacent properties would diminish privacy and perception of security without the additional requested fence height.
- ◇ The requested privacy and perception of security can be achieved with appropriate plantings and taller landscaping without the need for a variance.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this request, as a swimming pool is not a requirement, and the requested privacy is self-imposed by the desire to have a swimming pool.
- ◇ Staff finds that the proposed findings do not successfully establish a practical difficulty in the use of the property caused by the terms of the Ordinance. Staff recognizes that privacy and safety concerns for property and personal health have profound effects on quality of life. The proposed variance would exceed the measures found on other properties facing similar concerns.
- ◇ The subject site has no natural or manmade physical obstacles that would prohibit compliance with the fence height requirements of the Ordinance, as the existing fence is compliant. Similar adjoining properties are able to comply with the Ordinance requirements on fence height.
- ◇ Therefore, Staff does not believe a practical difficulty has been demonstrated that necessitates an eight-foot tall fence located in the rear and side yard.

(Continued)

STAFF REPORT 2023-DV2-027 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of North Illinois Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 60-foot existing and proposed right-of-way.
SITE PLAN	File-dated September 8, 2023
FINDINGS OF FACT	File-dated September 8, 2023

ZONING HISTORY

2018-DV1-021; 4030 North Illinois Street (south of site), requested a variance of development standards to provide for a seven-foot tall fence in the side and rear yards, **granted**.

97-UV3-66: 40 West 40th Street (east of subject site), requests a variance of use of the Dwelling Districts Zoning Ordinance and a variance of Development Standards of the Sign Regulations to provide for a community center in an existing building with a ground sign being located with a setback of 9 feet from Illinois and 40th Streets, **granted**.

88-V3-80; 4115 North Illinois Street (north of site), requested a variance of development standards to provide for the construction of an enclosed swimming lane at two feet from the side property line, **granted**.

88-V3-112; 4117 North Capitol Avenue (west of site), requested a variance of development standards to provide for a detached garage with a rear setback of 3.5 feet, **granted**.

RU *****

2023-DV2-027; Location Map





Subject sit, looking west



Subject site rear yard swimming pool/swim spa, looking northeast



Subject site existing six-foot rear fence, eight-foot fence proposed, looking east.



Subject site existing six-foot rear and south side fence, eight-foot fence proposed, looking southeast.



Adjacent property to the south, looking west.



Adjacent property to the north, looking west.

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-DV2-032
Address: 911 Sanders Street (approximate address)
Location: Center Township, Council District #21
Zoning: D-5 (TOD)
Petitioner: E&D Hopkins LLC, by Mark and Kim Crouch
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of either:

A single-family dwelling:

- a) On a medium lot typology with an area of 2,817 square feet (minimum lot area of 7,200 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-foot required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required);
- f) An open space of 40 percent (60 percent required); and
- g) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

Or a two-unit multi-unit home:

- a) On a small lot with an area of 2,817 square feet (minimum lot area of 5,000 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-foot required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required); and
- f) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

ADDENDUM FOR DECEMBER 12, 2023

This petition was continued at the request of the petitioner from the November 21, 2023, hearing to the December 12, 2023, hearing, to allow time to amend the petition.

The petitioner is working with Staff to amend the petition additional information was submitted after the deadline to review for this hearing. Therefore, **this petition should be continued** one more time, to the January 9, 2024, hearing, to allow time for the petitioner to finalize and amend their request. This will be the last continuance that Staff will support.

(Continued)

November 21, 2023

RECOMMENDATIONS

Staff recommends denial of the request as proposed.

Otherwise, this petition should be continued so that the petitioner can amend the petition to a specific request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact D-5 Undeveloped

SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwellings
South -	D-5	Undeveloped
East -	D-5	Single-family dwellings
West -	D-5	I-65 Interstate exit ramp / Single-family dwellings

COMPREHENSIVE PLAN The Comprehensive Plan recommends traditional neighborhood uses for the site, with an overlay for the Red Line Transit Oriented Development.

- ◇ After filing the petition, the petitioner indicated that a revised site plan and findings of fact would be submitted to amend the petition to a specific request. No additional information has been submitted to date.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Staff believes that any proposed new construction should adequately align with modern development standards in order to better preserve the intent of each development standard. Given the size of the proposed structure and attached garage, along with the number of requested variances, in Staff’s opinion, this site would be overdeveloped.
- ◇ Staff feels the requested two-unit multi-unit home would be out of character for the area, as no other multi-unit dwellings are located nearby. In addition, with the number of variances requested for an undeveloped site, the proposed two-unit multi-unit home would be an overdevelopment of the small site.
- ◇ The proposed single-family dwelling with seven variances requested for an undeveloped site, presumably using the same submitted site plan, as no updated site plan has been submitted, would also be an overdevelopment of the site.

(Continued)

- ◇ Staff has recommended to the petitioner that the request be amended to provide for a single-family dwelling only, and to eliminate at least four or five of the original requested variances. No additional information has been submitted in a timely manner to amend the petition or update the site plan.
- ◇ Therefore, Staff recommends this petition be continued so that the petitioner can submit an amended petition and related elevations, and to allow time to review the amended information. New notice may also be required.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Sanders Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 49-foot existing and proposed right-of-way.
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This portion of Hartford Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 40-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN	File-dated October 4, 2023
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FINDINGS OF FACT	File-dated October 4, 2023
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ZONING HISTORY

2021-UV1-021; 929 Sanders Street (east of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the renovation of existing buildings for a community center with light hosting capabilities, to provide for community meetings, artist pop-up exhibits, family gatherings such as reunions, or small business milestone celebrations and similar events, with zero parking spaces and to provide for pavers and/or stamped concrete improvements and an arbor with 0.8-foot east side setback and a planter with a zero-foot west side setback, **withdrawn**.

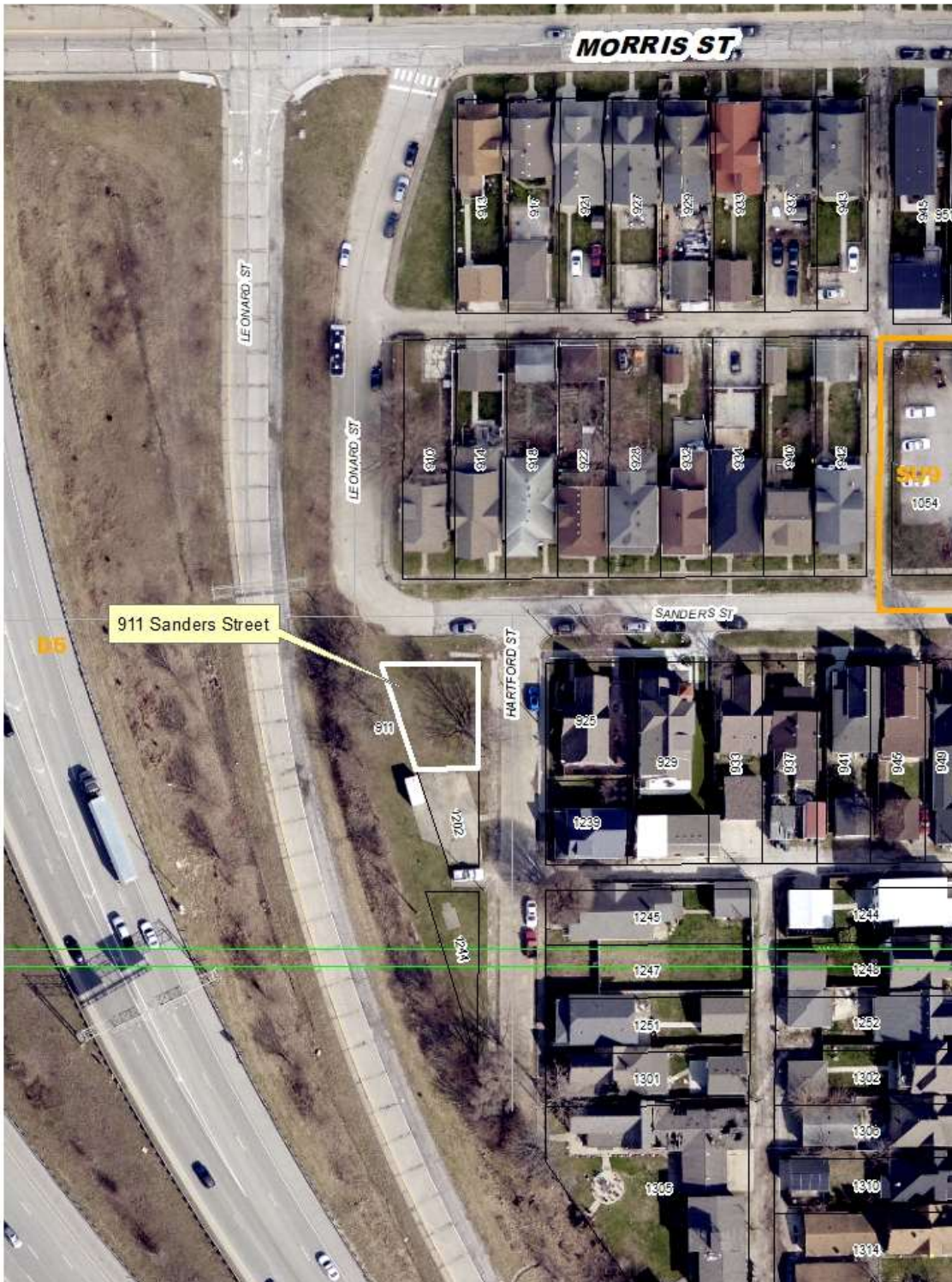
2017-DV3-015; 1015 Orange Street (south of site), requested a variance of development standards to provide for three lots, with 3,325 square feet, 4,728 square feet, and 3,268 square feet, with two lots having 35 feet of lot width, containing dwellings, with five-foot front setbacks, with setbacks along the interstate right-of-way ranging from three feet to 28 feet for dwellings and a detached garage, with 405 open space for lot one, and with a dwelling on lot one being within the clear sight triangle of the street and the abutting alley, **granted**.

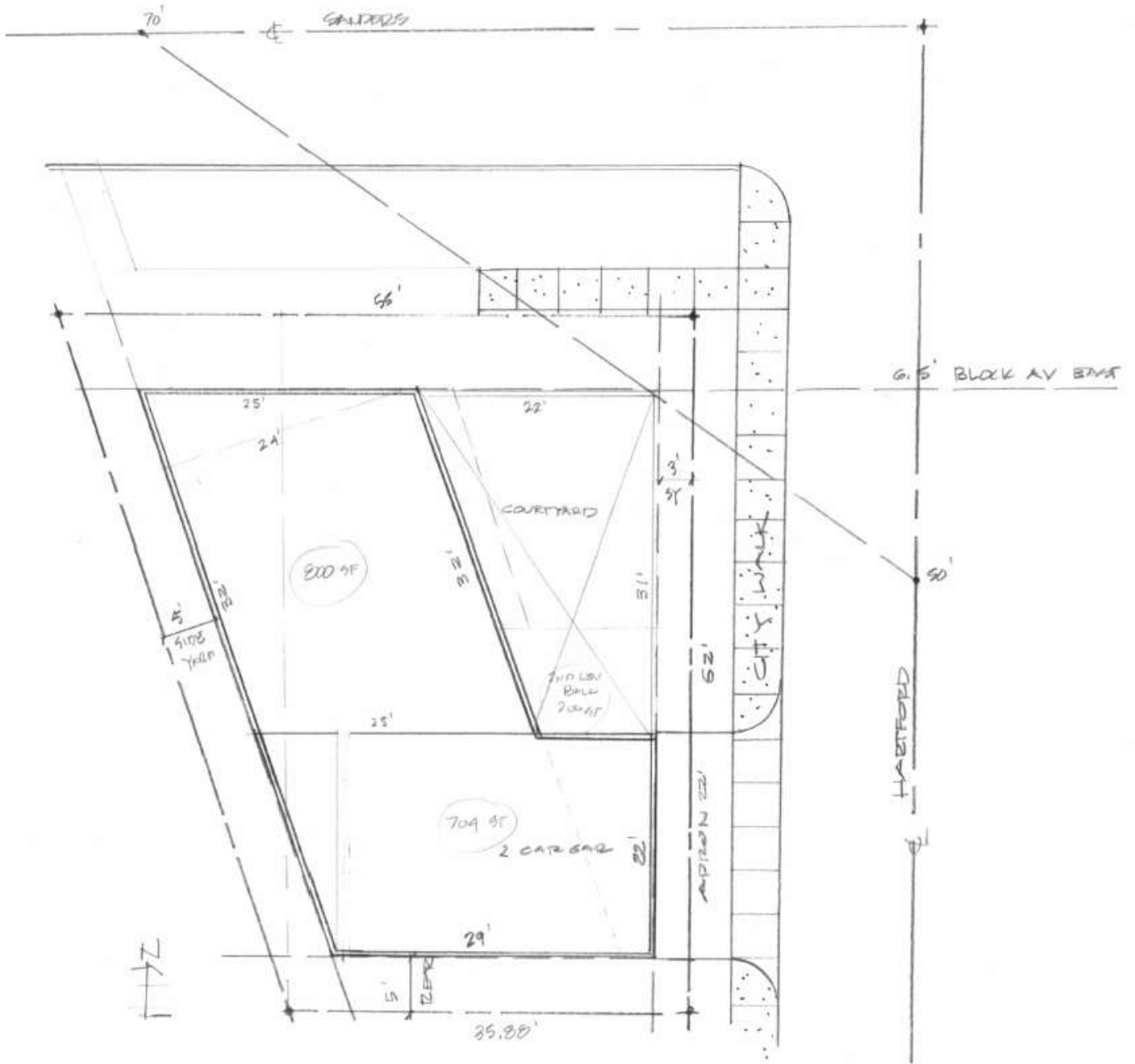
2014-HOV-014; 914 Sanders Street (north of site), requested a variance of development standards to provide for the construction of a 440-square foot garage, and an open space ratio of 50%, **granted**.

2014-HOV-043; 1249 Ringgold Avenue (east of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 576-square foot garage, creating an open space ratio of 55%, **granted**.

RU *****

2023-DV2-032; Location Map







Undeveloped subject site, looking south.



Undeveloped subject site, looking west.



Adjacent single-family dwelling to the east of subject site.



Adjacent single-family dwellings to the north of subject site, looking northeast.



Adjacent undeveloped lot to the south of subject site, looking west.



Interstate I-65 northbound exit ramp to the west of subject site.

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

Case Number: 2023-UV2-015
Address: 7069 Riverfront Avenue (approximate address)
Location: Washington Township, Council District #2
Zoning: D-4 (FW)
Petitioner: Linda Kelly, by Andrew Wert
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage within the floodway (prohibited), with a 12.5-foot front yard setback from Riverfront Avenue (20-foot front yard setback required).

The petitioner has requested a continuance from the December 12, 2023 hearing to the January 9, 2024 hearing to provide for an amendment, with new legal notice.

This petition was continued from the November 21, 2023 hearing to the December 12, 2023 hearing.

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BOARD OF ZONING APPEALS DIVISION II

December 12, 2023

Case Number: 2023-UV2-012
Property Address: 6328 Sharrob Road (approximate address)
Location: Decatur Township, Council District #22
Petitioner: Francisco Javier Vazquez Rocha, by David Stevens
Current Zoning: I-2

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition to a single-family dwelling (not permitted) with a three-foot east side yard setback (30-foot side yard setbacks required).

Current Land Use: Residential

Staff

Recommendations: Staff recommends approval of this request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR THE DECEMBER 12, 2023 HEARING

- This petition was automatically continued by a registered neighborhood organization from the November 19, 2023 BZA II hearing to the December 12, 2023 BZA II hearing.

STAFF RECOMMENDATION

Staff recommends approval of this request.

PETITION OVERVIEW

- This request would provide for an addition to a single-family dwelling (not permitted) with a three-foot east side yard setback (30-foot side yard setbacks required).
- The subject site is located in the Metro Context Area and zoned I-2 (light industrial) but has been developed with the current single-family residence since 1989. The side setback standard for I-2 districts in the Metro Context Area of 30 feet is meant for lots that contain at least 75 feet of street frontage or lot width. The subject site is far under that amount, sitting at just over 50 feet of street frontage, representing a practical difficulty and unrealistic expectation for the owner to comply with 30-foot side yard setbacks. Further, the residence has an existing east side yard setback of 3 feet that the proposed addition related to this petition is to match (site plans depicted below). With the proposal set to meet the existing east side yard setback of the primary structure (thus not encroaching



Department of Metropolitan Development
 Division of Planning
 Current Planning

on the adjacent property any closer than the current conditions of the site), and the practical difficulty of the substantial setback requirements of the present zoning classification for a lot of this size, Staff is not opposed to the request for a 3-foot east side yard setback to provide for the proposed addition.

GENERAL INFORMATION

Existing Zoning	I-2										
Existing Land Use	Residential										
Comprehensive Plan	Suburban Neighborhood										
Surrounding Context	<table border="0"> <tr> <td>Zoning</td> <td>Surrounding Context</td> </tr> <tr> <td>North: I-2</td> <td>North: Single-Family Residential</td> </tr> <tr> <td>South: I-2</td> <td>South: Single-Family Residential</td> </tr> <tr> <td>East: I-2</td> <td>East: Single-Family Residential</td> </tr> <tr> <td>West: I-2</td> <td>West: Single-Family Residential</td> </tr> </table>	Zoning	Surrounding Context	North: I-2	North: Single-Family Residential	South: I-2	South: Single-Family Residential	East: I-2	East: Single-Family Residential	West: I-2	West: Single-Family Residential
Zoning	Surrounding Context										
North: I-2	North: Single-Family Residential										
South: I-2	South: Single-Family Residential										
East: I-2	East: Single-Family Residential										
West: I-2	West: Single-Family Residential										
Thoroughfare Plan											
	Sharrob Road Local Street Existing ROW: 30 feet Proposed ROW: 48 feet										
Context Area	Metro										
Floodway / Floodway Fringe	No										
Overlay	No										
Wellfield Protection Area	No										
Site Plan	9/11/23										
Site Plan (Amended)	N/A										
Elevations	9/11/23										
Elevations (Amended)	N/A										
Landscape Plan	N/A										
Findings of Fact	9/11/23										
Findings of Fact (Amended)	N/A										

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan



- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban Neighborhood living typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Not Applicable to the Site

Infill Housing Guidelines

- Not Applicable to the Site

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY - SITE

N/A

ZONING HISTORY – VICINITY

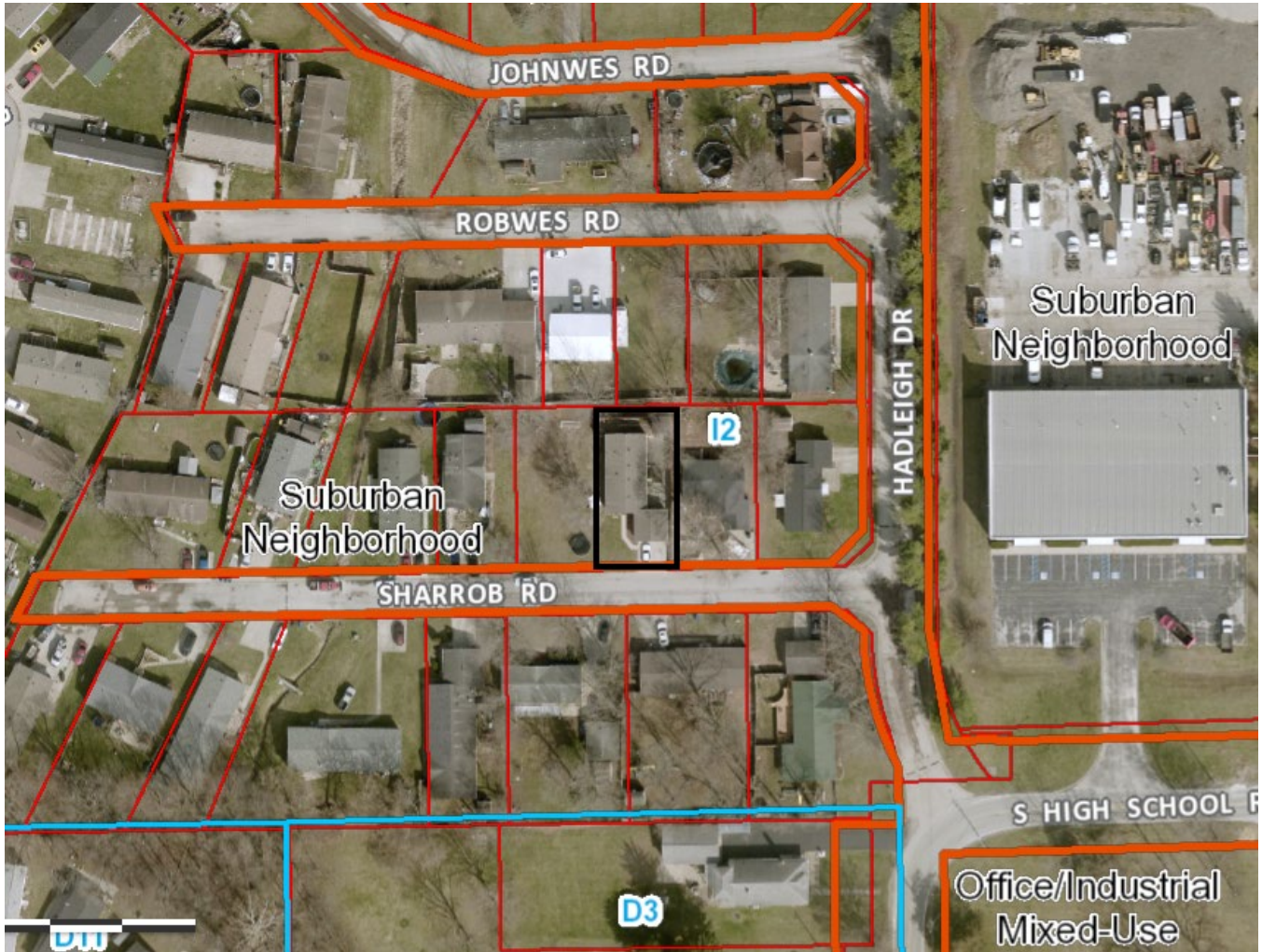
2021ADM217; 6345 (north of site), Detached garage in I-2 district, **approved**.

98-Z-231; 4302 South High School Road (east of site), rezone of 6 acres from the SU-1 to the I-2-S district, **approved**.

94-Z-150; 4302 South High School Road (east of site), rezone of 6 acres, being in the I-2-S, to the SU-1 classification, **approved**.

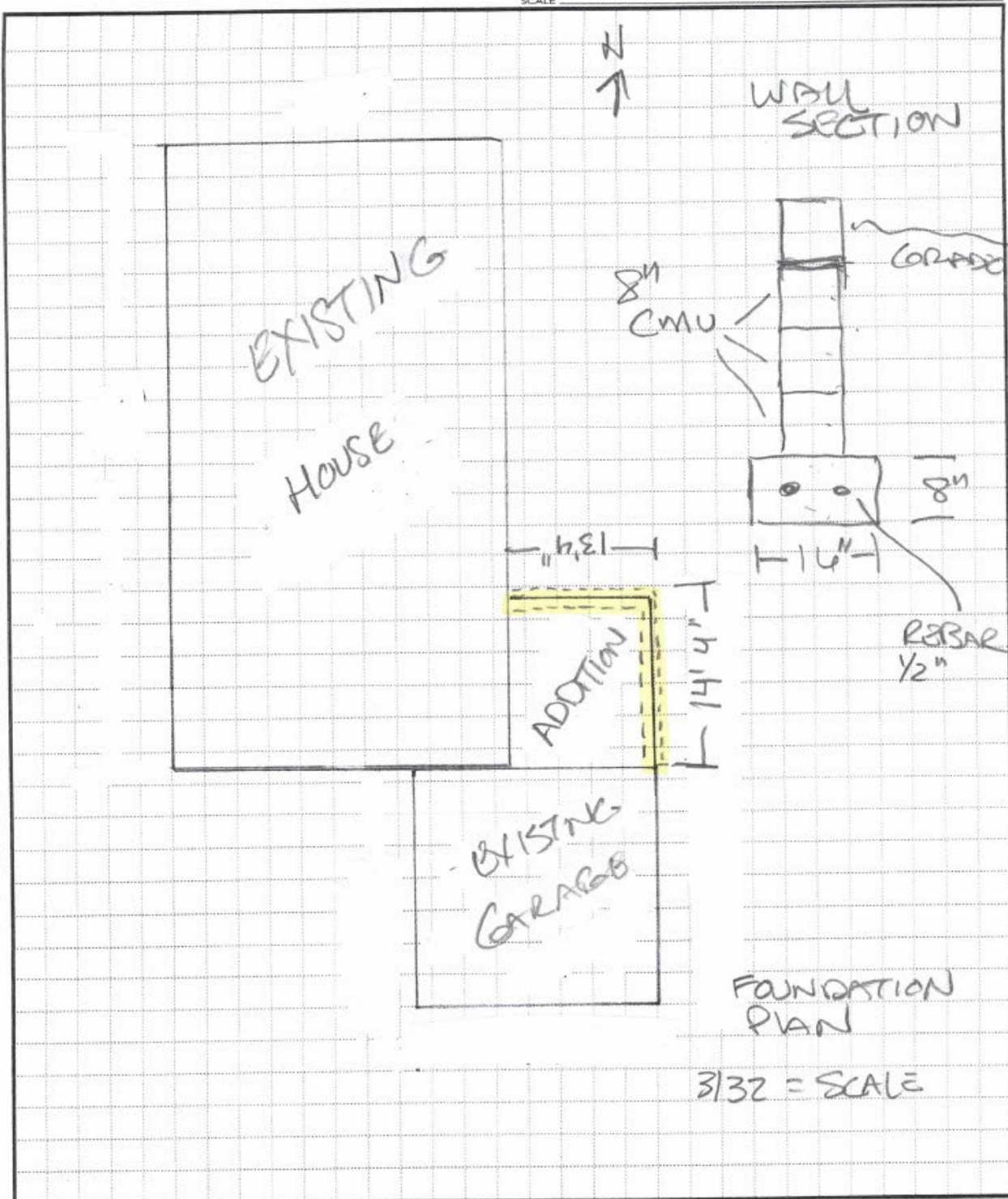
92-Z-115; 4541 South High School Road (south of site), rezone of 9.3 acres, being in the D-3 district, to the I-2-S classification, **approved**.

EXHIBITS



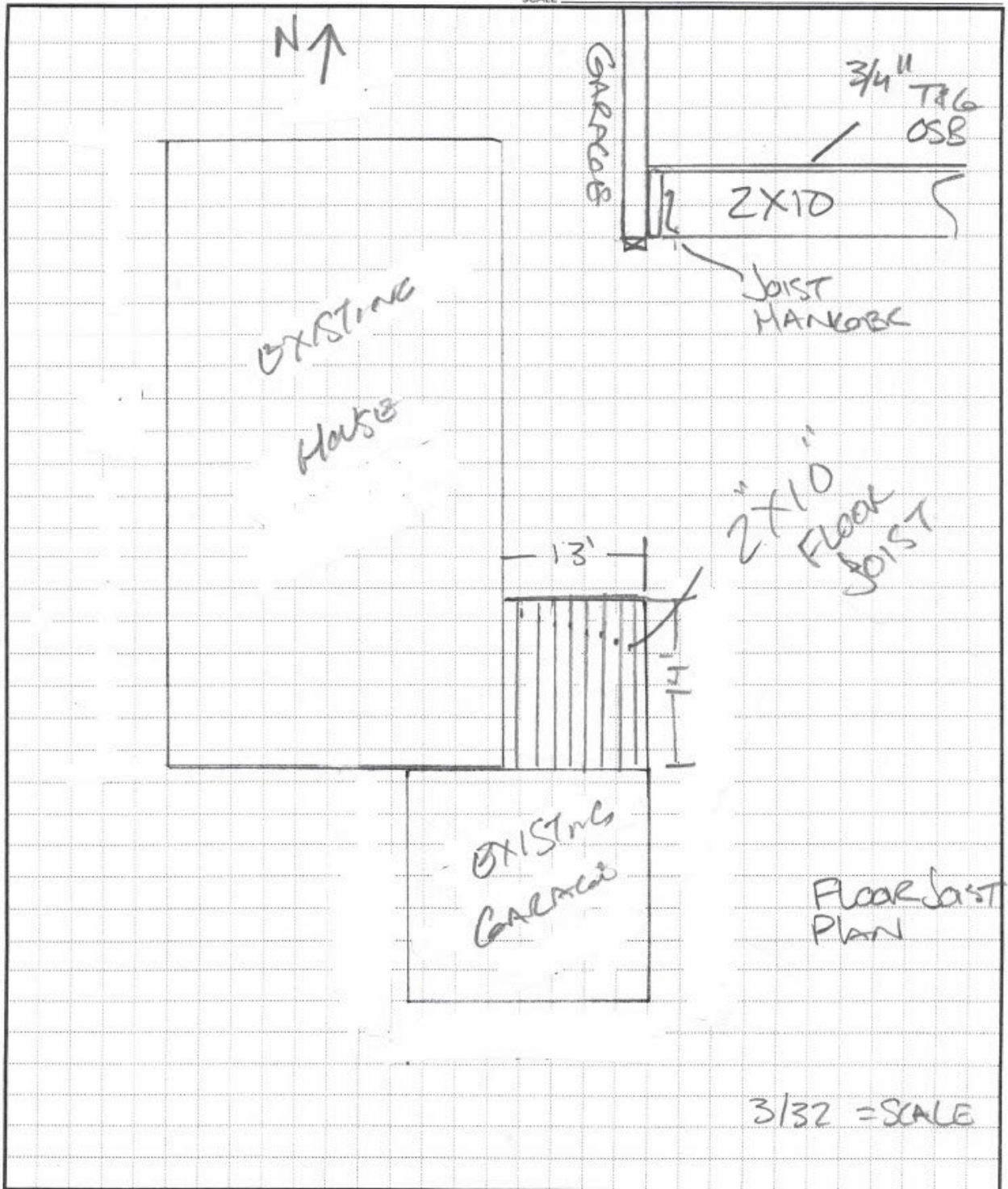


JOB ROCH
 SHEET NO. 3 OF 8
 CALCULATED BY _____ DATE _____
 CHECKED BY _____ DATE _____
 SCALE _____



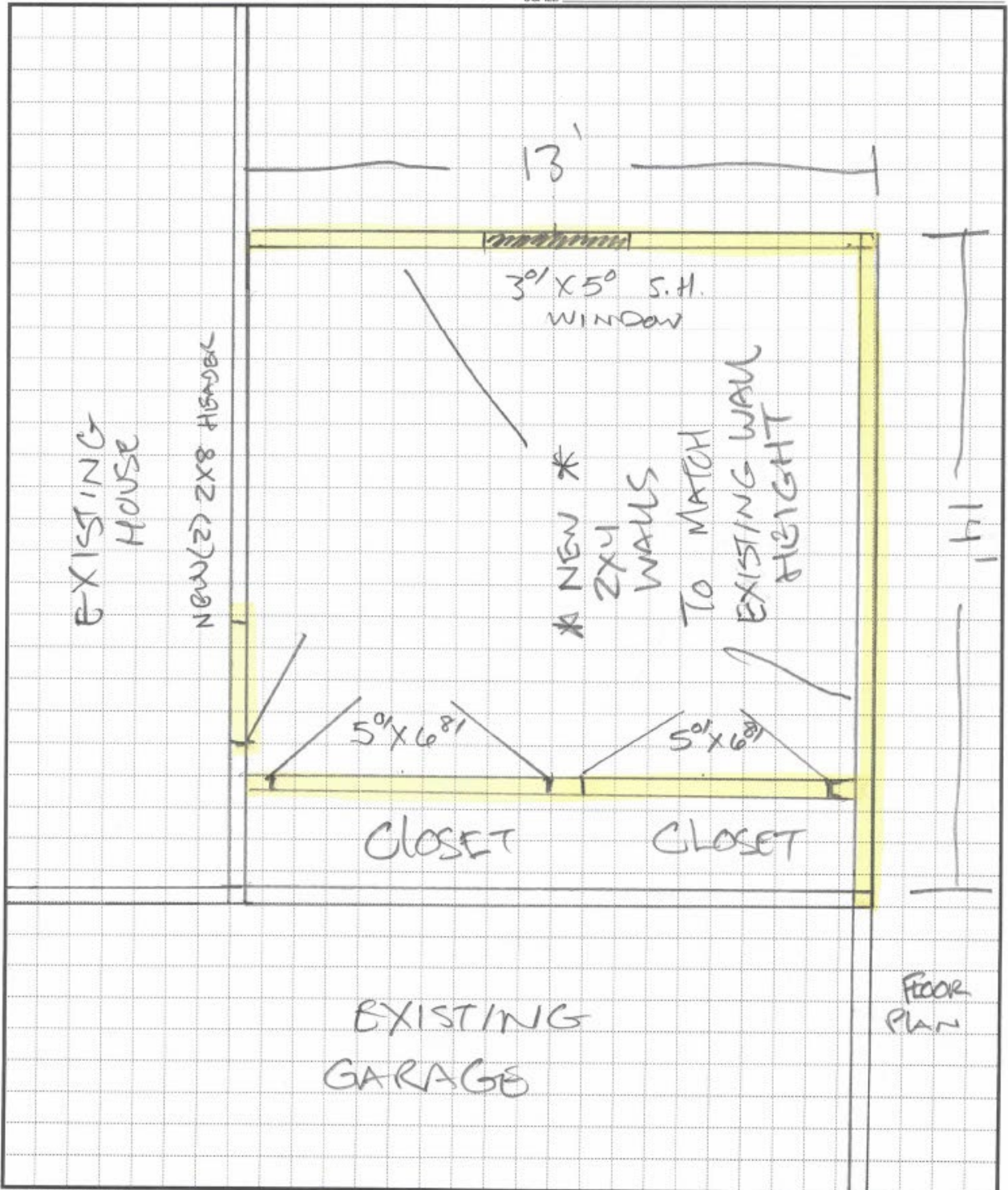


JOB ROCHA
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 SCALE _____



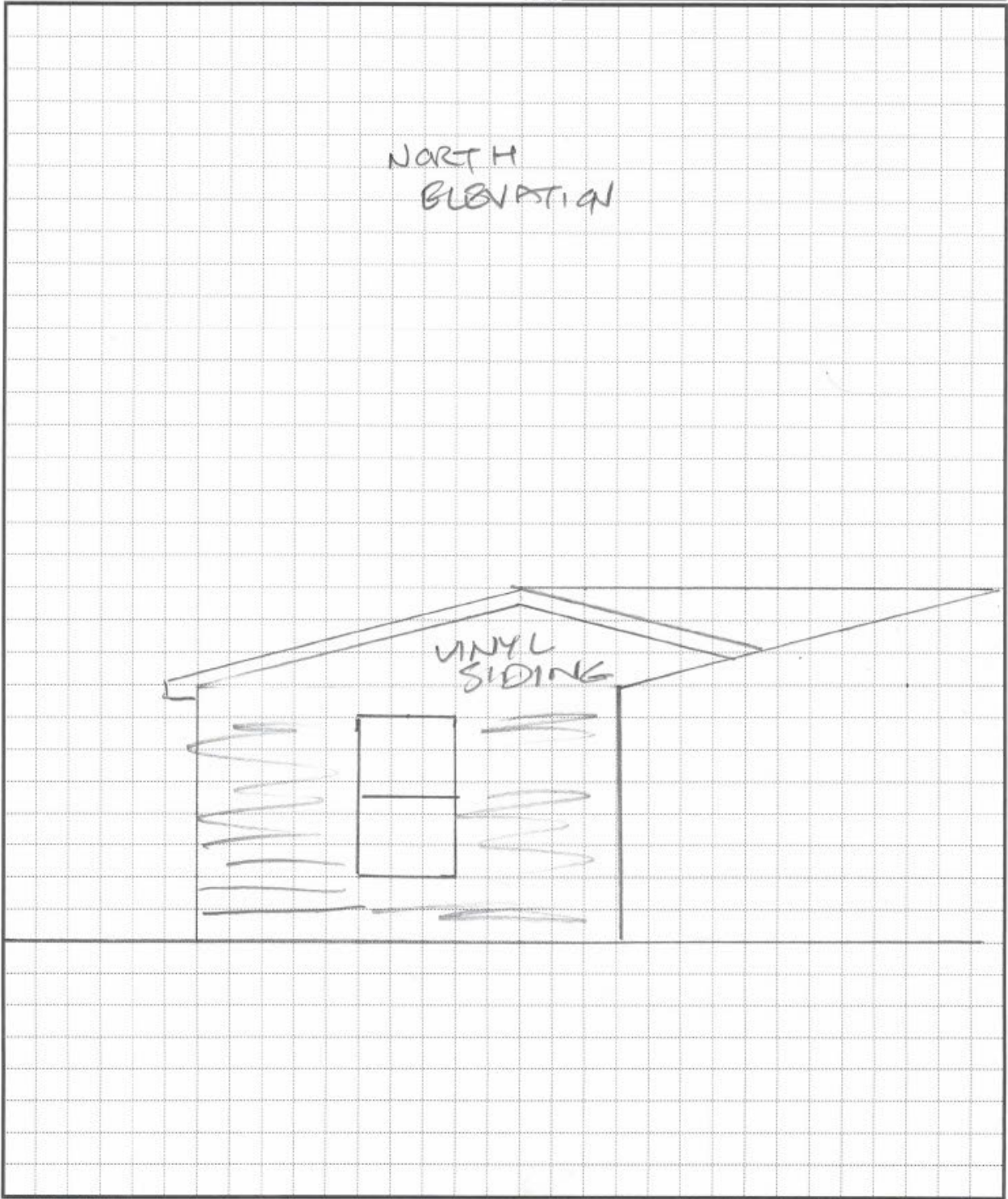


JOB Rochester
 SHEET NO. 5 OF 8
 CALCULATED BY _____ DATE _____
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JOB Rockledge
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CALCULATED BY _____ DATE _____
CHECKED BY _____ DATE _____
SCALE _____











STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-UV2-016
Address: 37 West St. Clair Street (approximate address)
Location: Center Township, Council District #11
Zoning: CBD-3 (RC) (TOD)
Petitioner: 37 W St Clair LLC, by Paul J. Lambie
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a tattoo parlor (not permitted).

RECOMMENDATIONS

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

The grant of this variance shall be subject to the Plan of Operation, file-dated November 8, 2023.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

CBD-3 (RC) (TOD) Compact Mixed-use building

SURROUNDING ZONING AND LAND USE

North CBD-3 (RC) (TOD) Surface parking / office
South CBD-3 (RC) (TOD) Single-family attached dwellings
East CBD-3 (RC) (TOD) Single-family attached dwellings
West CBD-2 (RC) (TOD) Automobile repair

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Core mixed-use development.

- ◇ This 0.2-acre lot, zoned CBD-S (RC) (TOD) is currently improved with a three-story historic mixed-use building, with retail uses on the first floor and residential above. This Art Deco structure was constructed in 1925 and is listed on the *National Register of Historic Places*.
- ◇ South and east of the subject site are recently built single-family attached dwellings. Further south is Phoenix Theatre and the *Cultural Trail*. To the north is a surface parking lot with and office building. To the west, across Illinois Street, is an automobile repair business.
- ◇ The CBD-3 district is for the area surrounding the American Legion Mall extending down to the CBD-1 district. To foster the highly pedestrian environment and maximize land efficiency, vehicle accommodations are strictly limited, and surface parking is prohibited.

(Continued)

STAFF REPORT 2023-UV2-016 (Continued)

The district is designed to protect the views of landmarks, monuments and plazas that are public assets, specifically views of the Soldiers and Sailors Monument, the Capitol Building, the World War Memorial Plaza, the public library, and Meridian Street. Pedestrian activity is encouraged both by the presence of pedestrian facilities like sidewalks as well as by the environment through which the pedestrian passes, such as an active grade level street front, trees, and landscaping, maintaining a sense of defined urban space that is safe and highly legible.

VARIANCE

- ◇ The first floor of this structure is used for retail uses, with most tenant spaces leased. This request would provide for the corner tenant space to be used for a tattoo parlor. This leased space is approximately 1,740-square feet in size, according to the submitted Plan of Operation. The Plan of Operation includes that maximum hours of operation would be from 9am to 10pm, daily, and that there would be three tattoo artists and one piercing professional. As required, the tattoo parlor must meet state and local health and safety standards, plus maintain a license annually.
- ◇ The Ordinance restricts tattoo parlors to only being permitted, by right, in C-4, C-5 and C-7. A Special Exception is required if within the C-3, MU-3, or MU-4 districts. Thus, tattoo parlors are typically permitted in suburban settings, adjacent to major thoroughfares, rather than in urban settings, like downtown.
- ◇ The Ordinance restricts this use in all other zones in order to provide for further scrutiny and review.
- ◇ The proposed use would not substantially affect the adjacent property values in a negative manner as it would be located within a small portion of the first floor of a long-standing mixed-use building and within a highly urbanized and walkable area of downtown. Therefore, staff recommends approval of this request, with a commitment that the grant be subject to the Plan of Operation.

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. A Regional Center Approval petition has not been filed for this site.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Illinois 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 78 feet.

St. Clair Street is classified as a Primary Collector in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 56 feet
(Continued)

STAFF REPORT 2023-UV2-016 (Continued)

TRANSIT ORIENTED
DEVELOPMENT OVERLAY

The site is located within a transit-oriented development area.

SITE PLAN

File-dated November 8, 2023.

PLAN OF OPERATION

File-dated November 8, 2023

FINDINGS OF FACT

File-dated November 8, 2023.

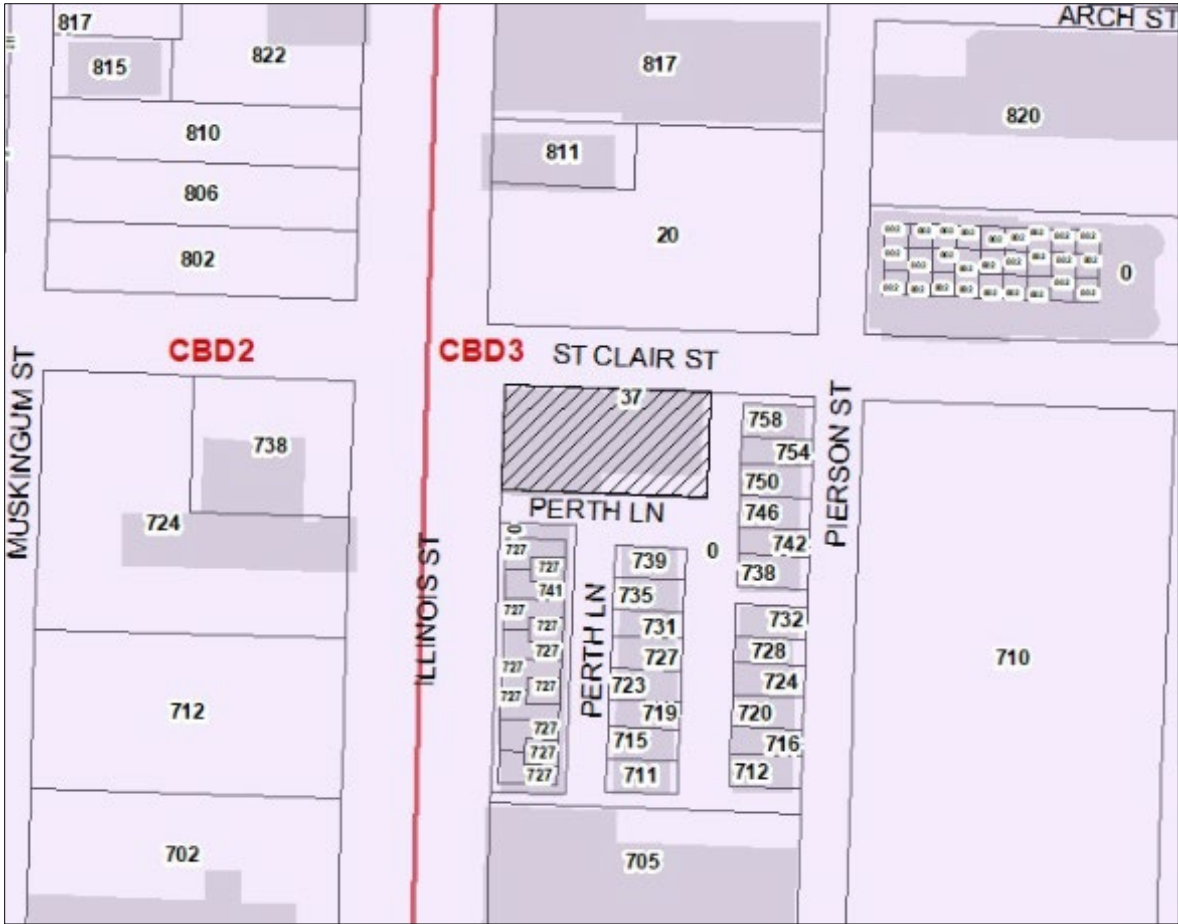
ZONING HISTORY – SITE

2020-REG-086; 735 North Illinois Street / 37 West St. Clair Street, requested Regional Center Approval for a mural, **approved**.

ZONING HISTORY – VICINITY

2019-REG-059; 727 North Illinois Street, requested Regional Center Approval to provide for updated elevations for a single-family attached development, **approved**.

JY



Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
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 facility will comply with all applicable public safety and health regulations.

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 facility will operate business hours that are similar to other commercial establishments in the area and will not be a source of loud noise or other nuisance activity.

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

the ground floor commercial space is not well suited for other uses currently permitted.

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 location of this property is along a heavily automobile trafficked arterial that makes the ground floor commercial space more suited to the type of general commercial uses more commonly found in such locations.

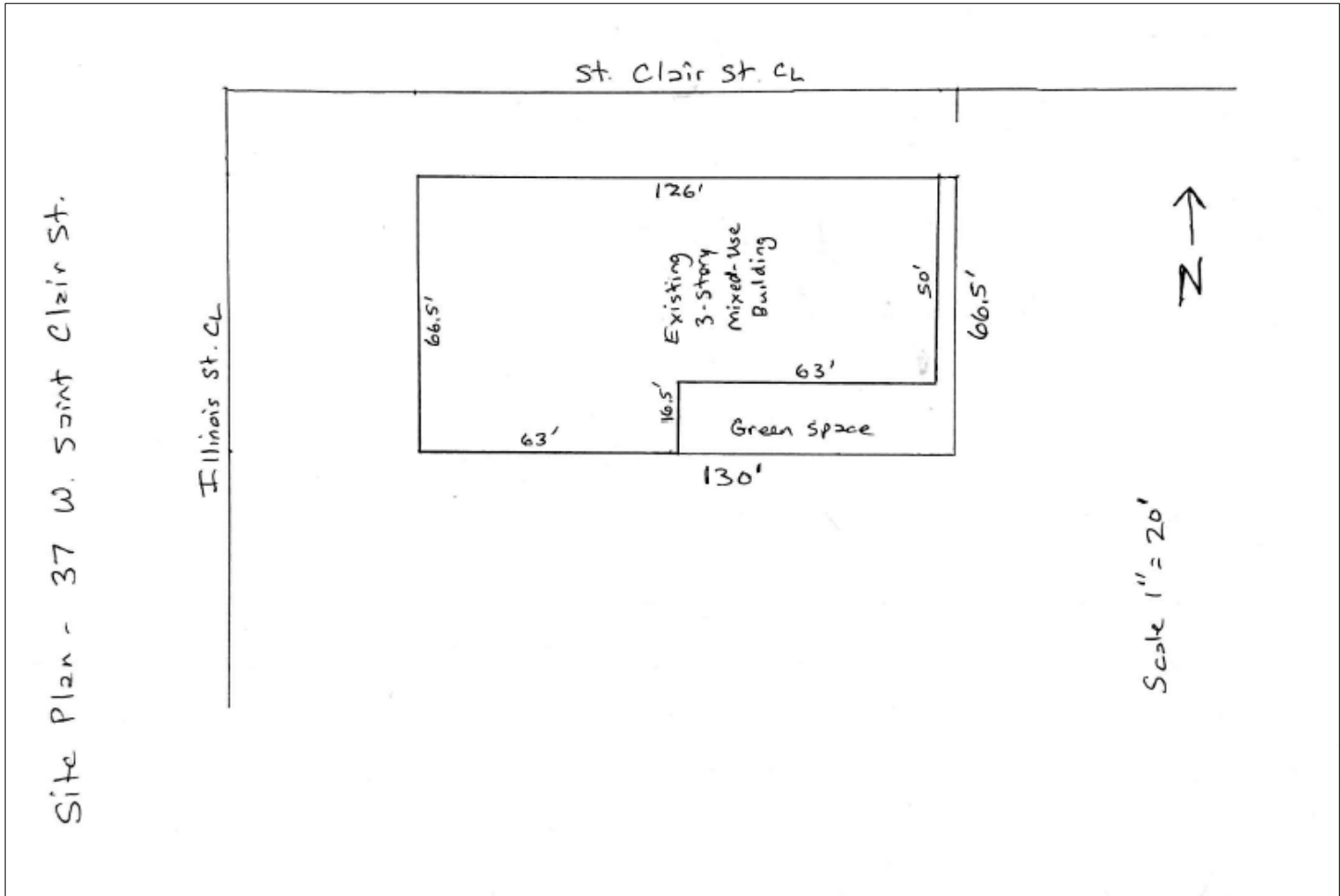
5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

the property would continue to be used for mixed-use as recommended by the Regional Center Plan.

DECISION

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

Adopted this _____ day of _____, 20 ____



Plan of Operation - 37 West Saint Clair Street

Brian Winston of 77 Art Collective respectively requests a variance of use to provide for operation of a tattoo parlor in a CBD-3 zoning district. The proposed facility would be located within a 1,740-square foot ground-floor tenant space of an existing mixed-use building located at the southeast corner of Illinois Street and Saint Clair Street. The site would comply with all applicable health and safety regulations and maintain a license from the Marion County Public Health Department prior to opening and annually thereafter.

Brian Winston is currently a licensed tattoo artist with 17 years of experience in the field. All tattoo artists and piercing professionals operating at the facility will fully comply with all health and safety regulations, including standards related to bloodborne pathogen exposure and handling of infectious waste. Mr. Winston further commits to going above and beyond the training requirements of the Indiana Occupational Safety and Health Administration (IOSHA) with the goal of this facility being viewed as the most professionally run tattoo shop in the City of Indianapolis.

Maximum Proposed Hours of Operation: 9 a.m. - 10 p.m. daily.

Maximum Number of Design Professionals Operating On Site: Three tattoo artists and one piercing professional.



Photos of the subject building (top); and tenant space entrance of the proposed tattoo parlor



Existing building along St. Clair Street



Existing single-family attached dwellings south of the subject site



View of Illinois Street looking south (subject site is to the left of the photo, across Illinois Street)



Views north of the site, across St. Clair Street (top); and north along Illinois Street



BOARD OF ZONING APPEALS DIVISION II

December 12, 2023

Case Number: 2023-DV2-030

Property Address: 3833 E 56th Street (approximate address)

Location: Washington Township, Council District #3

Petitioner: Race Dorsey, and Lauren Hall

Current Zoning: D-3

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot fence within the front yard of 56th Street.

Current Land Use: Residential

Staff Recommendations: Staff recommends denial of the request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR THE DECEMBER 12, 2023 BZA II HEARING

- This petition was heard at the November 21, 2023 hearing but was continued to the December 12, 2023 hearing due to an indecisive vote by the Board.

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

PETITION OVERVIEW

- This petition would provide for the location of a 6-foot fence within the front yard of 56th Street (3.5 feet in the front yard permitted). The fence in question is a 6-foot privacy fence made of wood panels painted white. The fence lies approximately 40 feet from the right-of-way line along 56th Street. The fence was cited for a violation on August 29th, 2023 for exceeding 42 inches in height in the front yard.
- Fence height standards are in place to allow for a reasonable amount of privacy/security and moderate barriers in between properties while maintaining visibility and open space by limiting unreasonable and overly intense fences. Fences located in the front yards of residentially zoned properties are limited to 3.5 feet in height to allow for visibility from the right-of-way and from adjacent properties. Restricting this visibility has the potential to present safety hazards by creating large blind spots on the site. Likewise, the Infill Housing Guidelines document recommends that privacy fences should not be placed in the front yards and that fences should not obstruct views of the front of the



Department of Metropolitan Development
 Division of Planning
 Current Planning

house. The fence pertaining this petition is a privacy fence and significantly restricts the visibility of both the front yard and the primary structure from all points of view.

- The Infill Housing Guidelines also recommends building fences that are in character with the surrounding context/neighborhood. This fence substantially deviates from the aesthetic and built character of adjacent properties, as no other nearby properties contain a 6-foot fence in the front yard. Moreover, fences 6 feet in height tend to represent a departure from residential character and instead begin to resemble commercial or industrial properties. Finally, Staff sees no practical difficulty for the owner to be unable to comply with the required height standard and does not wish to set any precedent for fences that are well beyond that standard. For these reasons, Staff is opposed to and recommends denial of the request for a 6-foot fence in the front yard of the subject site.

GENERAL INFORMATION

Existing Zoning	D-3										
Existing Land Use	Residential										
Comprehensive Plan	Residential use at 0-1.75 units per acre										
Surrounding Context	<table border="0"> <tr> <td>Zoning</td> <td>Surrounding Context</td> </tr> <tr> <td>North: D-6</td> <td>North: Multi-Family Residential</td> </tr> <tr> <td>South: D-6</td> <td>South: Multi-Family Residential</td> </tr> <tr> <td>East: D-3</td> <td>East: Single-Family Residential</td> </tr> <tr> <td>West: D-3</td> <td>West: Single-Family Residential</td> </tr> </table>	Zoning	Surrounding Context	North: D-6	North: Multi-Family Residential	South: D-6	South: Multi-Family Residential	East: D-3	East: Single-Family Residential	West: D-3	West: Single-Family Residential
Zoning	Surrounding Context										
North: D-6	North: Multi-Family Residential										
South: D-6	South: Multi-Family Residential										
East: D-3	East: Single-Family Residential										
West: D-3	West: Single-Family Residential										
Thoroughfare Plan											
East 56 th Street	Primary Collector Existing ROW: 55 feet Proposed ROW: 80 feet										
Context Area	Metro										
Floodway / Floodway Fringe	No										
Overlay	No										
Wellfield Protection Area	No										
Site Plan	9/26/23										
Site Plan (Amended)	N/A										
Elevations	N/A										
Elevations (Amended)	N/A										
Landscape Plan	N/A										
Findings of Fact	9/26/23										
Findings of Fact (Amended)	N/A										



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Infill Housing Guidelines

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan (etc.) below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends residential use at a density of 0-1.75 housing units per acre.

Infill Housing Guidelines

- The Infill Housing Guidelines (IHG) document is used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects for all scales and types.
- With regards to fencing, the Infill Housing Guidelines document recommends:
 - Design ornamental elements, such as fences, to fit the context of the block and neighborhood
 - Do not obstruct views of the front of the house
 - See-through fences are the safest
 - Do not install privacy fence in the front yard
- The fence that pertains to this petition is a 6-foot privacy fence that obstructs the view of the front of the house from 56th Street. Likewise, it does not fit the context of the surrounding block, as none of the nearby properties have a privacy fence in the front yard along 56th Street. The request is not in accordance with the recommendations of the Infill Housing Guidelines document.

Indy Moves

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY - SITE

N/A

ZONING HISTORY – VICINITY

81-Z-63; 4045 E 56th Street (east of site), requests the rezoning of 0.81 acres, being in the D-3 District to the SU-9 classification to provide for a Fire Department use, **approved**.

88-Z-126; 5601 Allisonville Road (north of site), requests the rezoning of 20.8 acres from the D-6 district, to the D6II classification to provide for the development of multi-family housing, **withdrawn**.

92-Z-127A; (west of site), requests the rezoning of 40.657 acres from the D-A to the D-4 zoning classification to allow for the development of single-family residences, **approved**.

98-Z-19; 4010 E 56th Street (east of site), requests the rezoning of 0.83 acres from the D-P district to the D-P classification to provide for two, two-family dwellings, **approved**.

2005ZON090; 4025, 4047 & 4049 E 56th Street (east of site), rezone of 5.5 acres, being in the D-3 District, to the C-S classification to provide for the construction of a self-storage facility, **approved**.

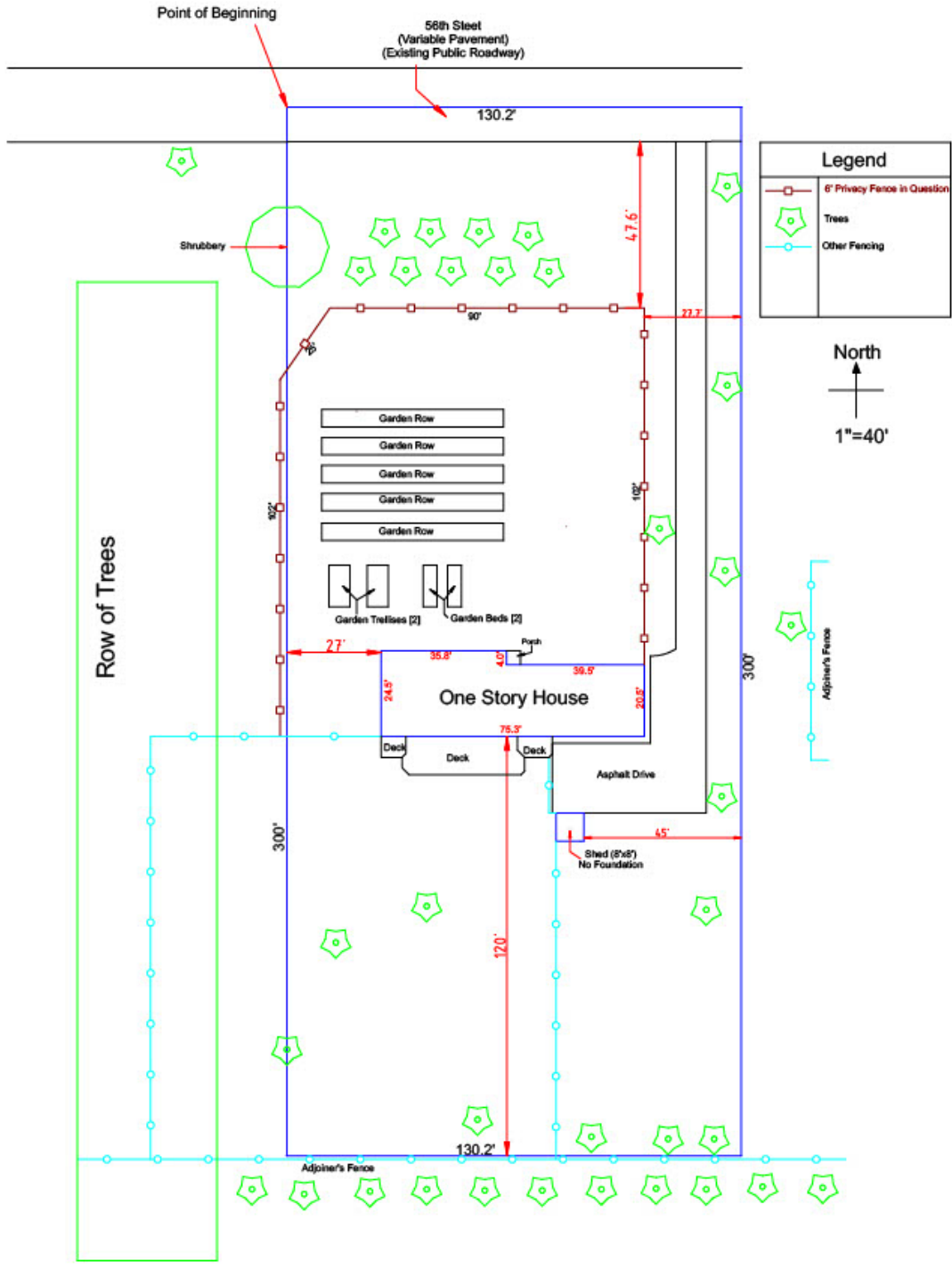
2010ZON052; 3940 E 56th Street (north of site), Rezoning of 7.236 acres, from the D-P District, to the C-2 classification to provide for office and multifamily uses, **approved**.

2016CVR817; 5525 Allisonville Road (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a lot without direct access to a public street and without frontage on a public street (not permitted), **approved**.

EXHIBITS



3833 E 56th Street, Site Plan for Privacy Fence





Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The variance for fence height is for a fence that is situated 47.6 feet from the public roadway which exceeds the setback requirement of 30 feet as specified in Table 744-201-1[1] [4]. The fence does not obstruct visibility or create safety hazards for drivers or pedestrians along the roadway. Additionally, the fence is designed to enhance privacy, safety, and security on the property, which is in alignment with the general welfare of the community by providing a secure and peaceful residential environment. The fence is also designed to improve property aesthetics and reduce noise pollution. These benefits contribute to a safer, more harmonious, and visually appealing community.

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

The fence complies with, and exceeds, the setback requirements to ensure it does not obstruct views from adjacent lots into the public roadway or vice versa. Additionally, the variance request seeks to improve privacy, safety, and security of the petitioners' property without imposing negative consequences on the usability or the property values of the adjacent area. The fence will be properly maintained and will contribute to the enhancement of the overall neighborhood.

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

The petitioners' property encompasses a total of .896 acres with .47 acres constituting the front yard. The strict enforcement of the zoning ordinance would limit the petitioners' ability to utilize a portion of the property's front yard. Given the unique characteristics of the property (including its size, long rectangular shape, proximity to primary collector and arterial roadways, and the presence of two apartment complexes that overlook the property), the grant for a variance of fence height serves as a necessary enhancement to ensure the privacy, safety, security, and use of the property's front yard. The grant of this variance would resolve these practical difficulties related to the utilization of the property without compromising the overall zoning regulations.

DECISION

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

Adopted this _____ day of _____, 20 ____











STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-UV1-023
Address: 7217 Woodland Drive (approximate address)
Location: Pike Township, Council District #1
Zoning: C-4
Petitioner: Enterprise Leasing Company of Indianapolis, LLC, by Joseph D. Calderon
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a car and truck rental facility with associated outdoor storage (not permitted).

ADDENDUM

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

RECOMMENDATIONS

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

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

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

SURROUNDING ZONING AND LAND USE

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

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Community Commercial development.

(Continued)

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

VARIANCE OF USE

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

VARIANCE OF USE FINDINGS OF FACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL INFORMATION

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

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None

PREVIOUS CASES

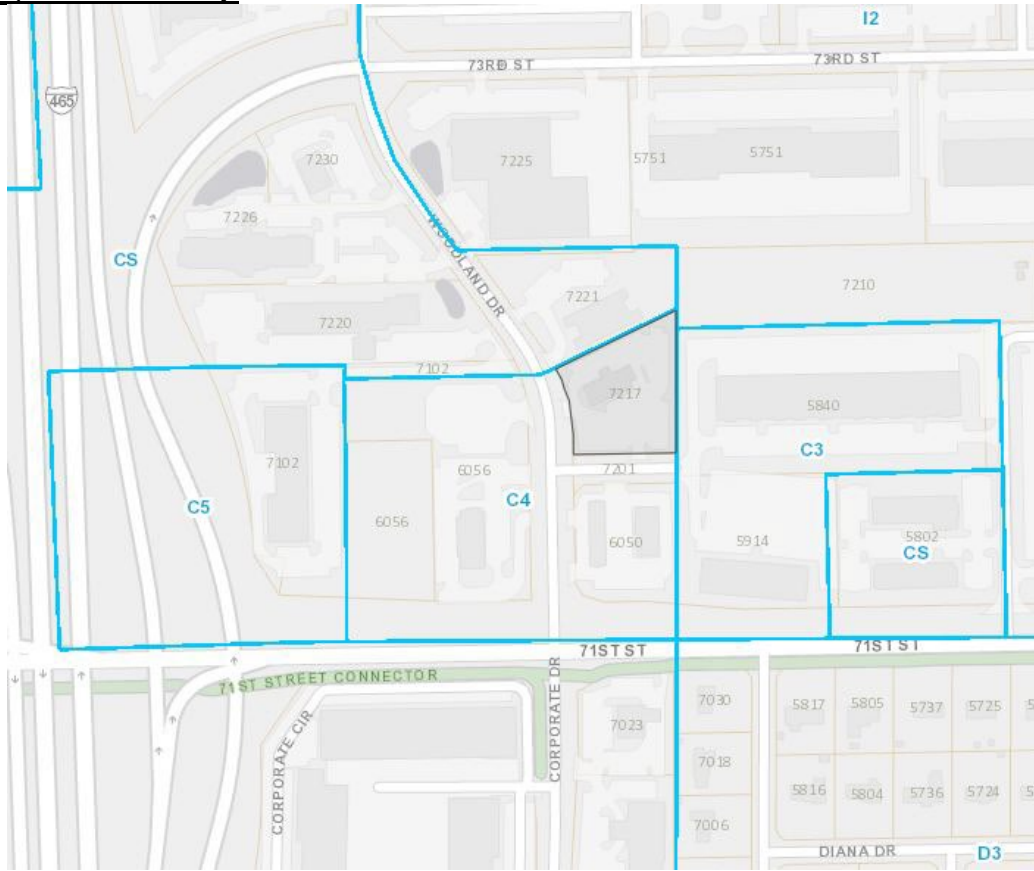
69-Z-317; West 71st (including subject site), Rezoning of 28.28 acres from the A-2 district to the C-4 district, **granted**.

ZONING HISTORY – VICINITY

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

BB

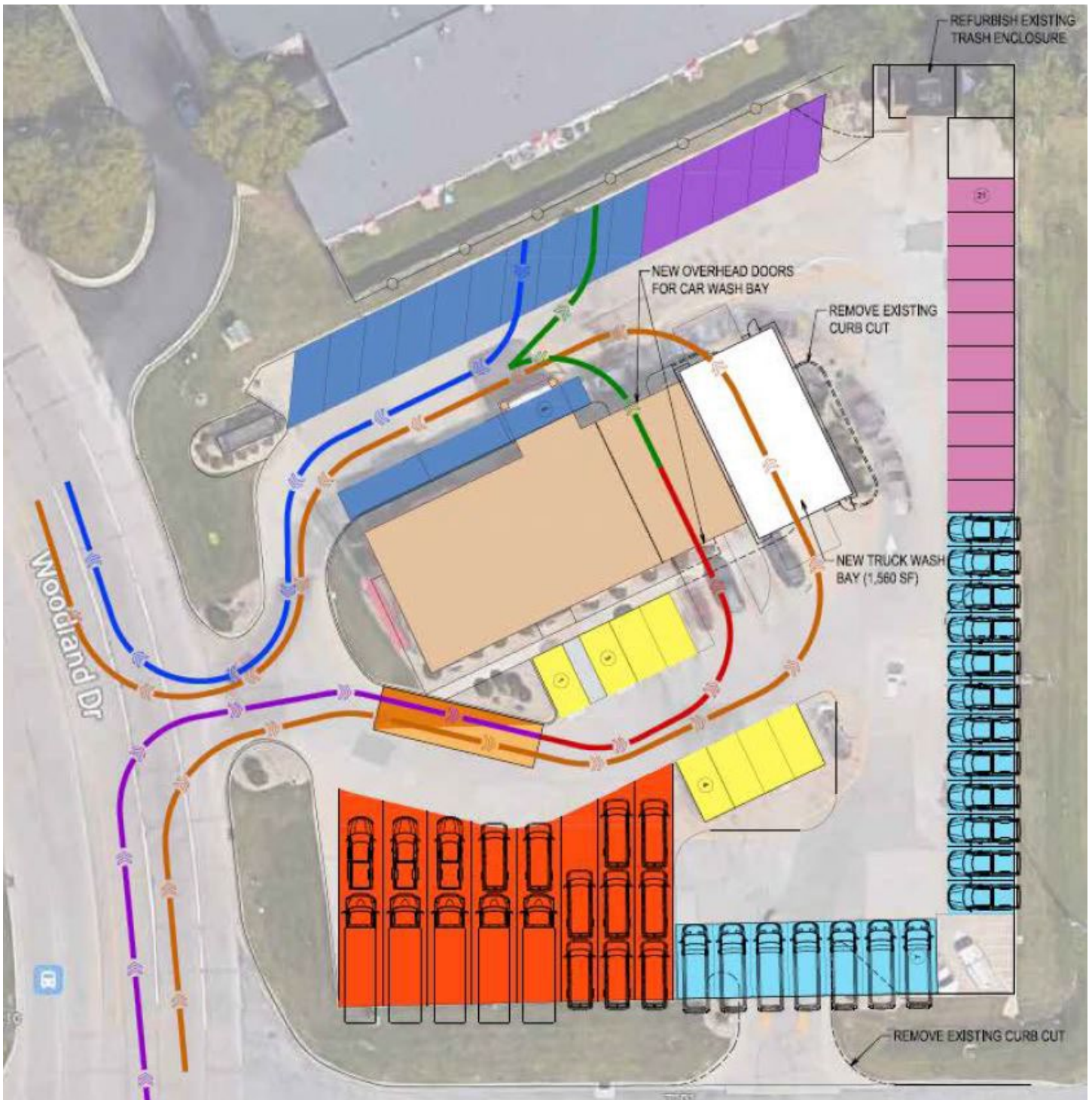
2023-UV1-023; Location Map



2023-UV1-023; Aerial Map



(Continued)



(Continued)



Photo of the Subject Property, view from north



Photo of the Subject Property, view from south

(Continued)



View of north neighbor site (child day care)



View south (Woodland Dr/71st St)

(Continued)



View west from site



Industrial site north of subject site

STAFF REPORT

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

Case Number: 2023-SE2-001
Address: 2400 Roosevelt Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Michelle Noppenberger
Request: Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 and SR-37 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no taller than 70-foot tall (maximum height of 40 feet permitted), within 220 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), with a six-foot front setback from I-70 (60-foot front setback required), and being located within 130 feet from protected districts (300-foot separation from protected districts required).

RECOMMENDATIONS

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

Staff **recommends denial** of the Variance of Development Standards request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact I-3 Commercial Contractor

SURROUNDING ZONING AND LAND USE

North D-5 Single-family residential / Interstate I-70
South D-5 / I-3 Single-family residential / Undeveloped
East I-3 Commercial contractor / Industrial uses
West D-5 / SU-1 Single-family residential / Religious uses / Interstate I-70

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

(Continued)

STAFF REPORT 2023-SE2-001 (Continued)**SPECIAL EXCEPTION**

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as “A sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages.”
- ◇ The need for the special exception arises from a condition peculiar to the property involved because a road expansion project included West Thompson Road, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location at 1720 W. Thompson Road on private property causing the relocation of the sign.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

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

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

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

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

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

(Continued)

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

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

- (1) to elevate the sign to make the entire advertising content of the sign visible; and*
- (2) to an angle to make the entire advertising content of the sign visible; and*
- (3) in size or material type, at the expense of:
 - (A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or*
 - (B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.**

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

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

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

- ◇ The current Zoning and Subdivision Ordinance does align with state code, which provides for a special exception to the zoning ordinance to allow for an elevation or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.
- ◇ The owner has a government imposed practical difficulty due to a road expansion project that includes the sign's current location at 1720 W. Thompson Road, and the expansion of I-69 by INDOT, which would eliminate the sign's existing location on private property causing the relocation of the sign.
- ◇ State code notes that there should be the option to elevate the sign or relocate the sign but does not specify that both options must be granted. Since the widening of SR-37/I-69 is out of the petitioner's control, staff is supportive of the special exception request as proposed.

(Continued)

STAFF REPORT 2023-SE2-001 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The petitioner has requested variances of development standards to allow for an increase in permitted sign height from 40 feet to 70 feet in height, to be within 220 feet from the centerline of an interstate exit roadway where a 500-foot separation is required from interstate ramp entries, to have a six-foot front setback from I-70 where a 60-foot front setback is required, and to be located within 130 feet from protected districts where a 300-foot separation from protected districts is required.
- ◇ The request for the increase in height from 40 feet to 70 feet is a result of Interstate I-70 road deck being 20 feet above ground level. With the sign being permitted at 20 feet above the road deck, the request would provide for an additional 30 feet, resulting in a request to provide for a sign 50 feet above the road surface of Interstate I-70. No practical difficulty has been presented as to why the additional 10 feet in sign height is needed. Therefore, Staff recommends denial of the request as proposed to increase the sign height from 40 feet to 70 feet.
- ◇ The petitioner has requested a variance to allow for the outdoor advertising sign location to be reduced from the required 500-foot separation to a 220-foot separation from the centerline of an interstate exit roadway. Outdoor advertising signs are not permitted within 500 feet from entrance or exit roadways, as they would cause those signs that are permitted and legal to become less effective and reduces their value.
- ◇ The petitioner has requested a variance to allow for a 6-foot setback from Interstate 70, where a 60-foot setback is required. Providing for a reduced setback from Interstate 70 would not be supportable, as it would increase the intensity of the off-premise advertising sign by locating closer to motorists that would be distracted by the content. Additionally, it would bring the activities on the site closer to adjacent properties, without adequate buffering.
- ◇ The site, at approximately 175 feet at its widest from Interstate 70, could accommodate the required setback. Therefore, no peculiar condition exists on site for staff to be supportive of these requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, this is a self-imposed difficulty since the newly constructed/installed signs could be developed to meet the Ordinance standards by right without the need for variances.
- ◇ The Ordinance has been constructed to limit these signs near protected districts, because of their brightness and aesthetic impact. In this case, a D-5 District is located approximately 130 feet to the south, and a SU-1 District and D-5 District are located approximately 260 feet to the north. Due to the width and size of the lot, the sign could be located to meet the required 300-foot separation from the adjacent protected districts.
- ◇ The requested decreased separation from the protected districts would degrade the quality of life in the area. The proposed sign has no physical barriers that limit the view of the sign from the nearby protected districts. There is no reason that a sign that meets the Sign Ordinance could not be used, along with alternative communication methods.

(Continued)

STAFF REPORT 2023-SE2-001 (Continued)

- ◇ No peculiar condition exists on site for staff to be supportive of these variance of development standards requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, the requested variances of development standards are a self-imposed difficulty since the newly constructed/relocated sign could be developed to meet the Ordinance standards by right without the need for the requested variance of development standards. The need to provide for a 70-foot tall sign, within 220 feet from the centerline of an interstate exit roadway, with a six-foot front setback from I-70, and to be located within 130 feet from protected districts, is self-imposed by the desire to attract the attention of a larger number of vehicles, thus increasing the amount of driver distractions and negative impact on adjacent properties.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of Roosevelt 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.

This portion of I-70 is classified in the Official Thoroughfare Plan for Marion County, Indiana as a freeway, with a 340-foot to 480-foot existing right-of-way.

SITE PLAN

File-dated September 11, 2023.

ELEVATIONS

File-dated September 11, 2023.

FINDINGS OF FACT

File-dated September 11, 2023.

ZONING HISTORY

2022-UV2-010; 2400 Roosevelt Avenue (subject site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 70-foot tall, 14-foot by 48-foot digital off-premise advertising sign, with an eight-foot setback from Interstate 70, within Interstate 465, within 100 feet of a protected district, adjacent to an exit roadway and to allow for digital messages to display for minimum of eight seconds, **withdrawn**.

83-Z-69; 2408 Roosevelt Avenue (subject site), requested the rezoning of 3.53 acres, being in the D-5 and C-3 districts, to I-3-U classification to provide for the Rural/I-70 Industrial Park Phase II Urban Renewal Plan, **approved**.

98-Z-210; 2411 Roosevelt Avenue and 18 other addresses (south of site), requested the rezoning of 6.6 acres, being in the D-5 and C-3 Districts, to the I-3 classification to provide for medium industrial uses, **approved**.

87-HOV-109; 2503 Bloyd Avenue (northeast of site), requested a variance of development standards to provide for the development of the subject site without the required public street frontage, **granted**.

(Continued)

STAFF REPORT 2023-SE2-001 (Continued)

86-HOV-29; 2502 Roosevelt Avenue (east of site), requested a variance of development standards to provide for the development of the subject site without the required public street frontage, **granted**.

84-HOV-66; 2507 Roosevelt Avenue (south of site), requested a variance of development standards to provide for an additional to an existing manufacturing facility within the required front yard setback with no landscaping in the front yard, and with loading maneuvering encroaching into the right-of-way, **granted**.

RU

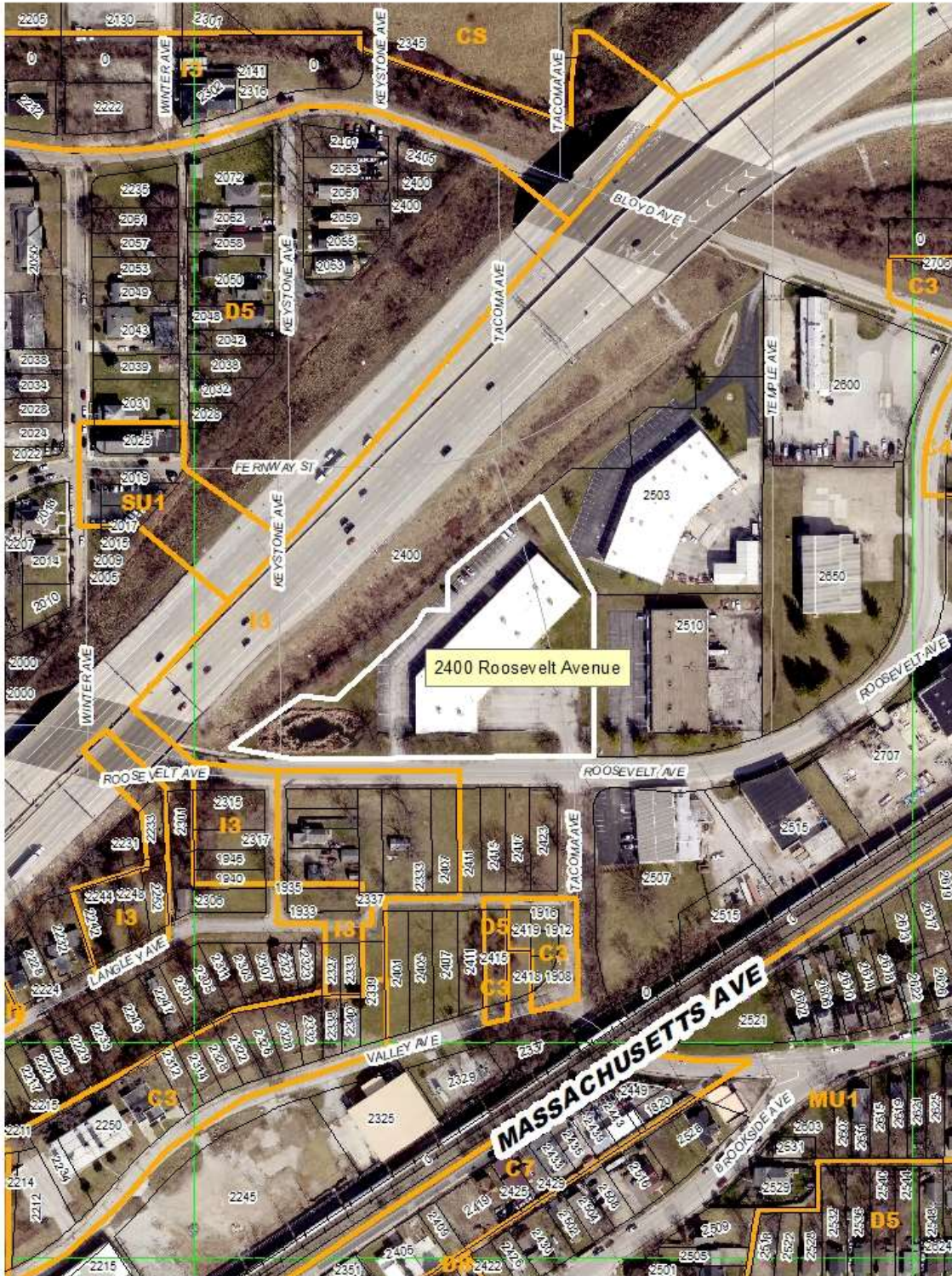






Photo of subject site, looking northwest.



Photo of subject site, proposed sign relocation area, looking north.



Photo of subject site, proposed sign relocation area, looking west.



Photo of adjacent Interstate I-70 elevation, looking north



Photo of adjacent protected district to the south.



Photo of adjacent commercial contractor use to the east, looking north.

STAFF REPORT

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

Case Number: 2023-DV2-034
Address: 1949 Alvord Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: Kathryn Ramseyer, by Melissa Iannucci
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a front building line of 26 feet (maximum 19.9-foot front building line permitted) and a detached garage with four-foot side yard setbacks (five-foot side yard setbacks required).

RECOMMENDATIONS

Staff **recommends approval** of the request to provide for construction of a single-family dwelling with a front building line of 26 feet.

Staff **recommends denial** of the request to provide for construction of a detached garage with four-foot side setbacks.

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

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Traditional Neighborhood development

- ◇ The subject site is a 5,600-square foot lot with a 40-foot lot width. A single-family dwelling is under construction at this site.
- ◇ This site is within the Monon and 16th Redevelopment Area in the Martindale-Brightwood neighborhood.

(Continued)

STAFF REPORT 2023-DV2-034 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ This request would provide for a single-family dwelling with a 26-foot front building line where a maximum of 19.9 feet is permitted, and a detached garage with four-foot side yard setbacks where a five-foot setback is required.
- ◇ The frontage standards in Sec. 744-701 for the walkable neighborhood districts are either terrace or neighborhood frontages. The terrace frontage typically applies to the D-8 district, but the neighborhood frontage may apply where the context of the block establishes larger frontages as the predominant pattern (more than 50 percent of properties). The terrace frontage requires a 10 to 19.9-foot front setback, and the neighborhood frontage requires a 20 to 50-foot front setback. The front building line is determined by the exterior wall closest to the front property line.
- ◇ A permit was issued for this site based on the neighborhood frontage requirement as established by the adjacent properties; however, staff believes there is some ambiguity of interpretation based on the context of the block. Staff suggests that this variance should remain in the request to avoid any confusion for compliance, and staff is recommending approval of the increased front building line of 26 feet.
- ◇ The existing lot is 40 feet wide. The ordinance requires five-foot side setbacks, which would allow this property to construct a garage up to 30 feet wide. The proposed garage would be 32 feet wide and have three bays. The ordinance requires one off-street parking space per dwelling unit. Staff would suggest that the proposed garage width could be reduced, and it would still exceed the minimum parking requirements. Staff does not believe there is a practical difficulty in meeting the ordinance and is recommending denial for the reduced side yards.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Alvord Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 62-foot existing and proposed right-of-way.

SITE PLAN

File-dated November 1, 2023

FINDINGS OF FACT

File-dated November 1, 2023

ZONING HISTORY – VICINITY

2023-PLT-096, 1902 and 1960 Alvord Street, approval of a plat to be known as Alvord Street Townhomes, **pending**

2022-ZON-059 / 2022VAR004, 1902 Alvord Street, rezoning of 1.38 acre from the MU-1 district to the D-8 district, variance to provide for a townhome development with lots ranging from 1,074 square feet to 1,091 square feet, with a 10-foot west rear setback, and with a main floor area ranging from 406 to 466 square feet, **approved**.

2018CZN866 / 2018CPL866, 1932 Yandes Street, rezoning of 1.04 acres from the D-8 and C-1 districts to the D-8 district, approval of a plat to be known as Yandes Homes Subdivision, **approved**.

2011-ZON-077, 1902 Alvord Street, rezoning of 2 acres from the I-3-U district to the C-2 district (MU-1), **approved**.

(Continued)

STAFF REPORT 2023-DV2-034 (Continued)

2011-DV1-048, 1902 Alvord Street, variance to provide for deficient major livability space, approved.

2006-ZON-111, 1928, 1932, 1940, 1944, & 1946 Yandes Street, rezoning of 0.642 acre from the SU-1 district to the D-8 district, approved.

82-Z-105, 1930, 1934, & 1940 through 1960 Yandes Street, and 1955 through 1959 Alvord Street, rezoning of 1.29 acres from the D-8 and C-1 district to the SU-1 district, approved.

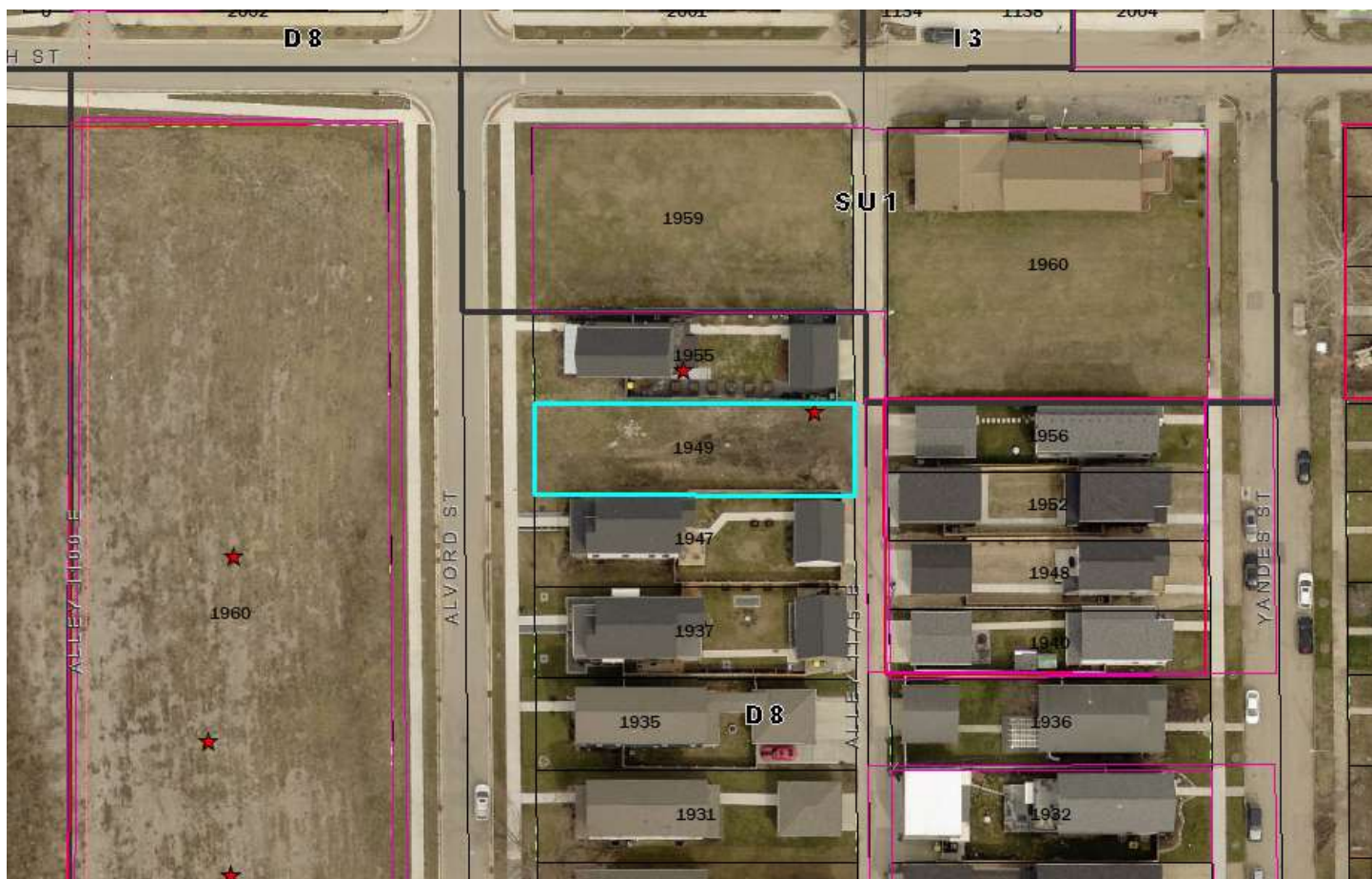
74-UV1-92, 1902 Alvord Street, requested a variance of use to provide for the outdoor storage and repair of wrecking equipment and an office, and a variance of development standards for a fence with excess height, denied.

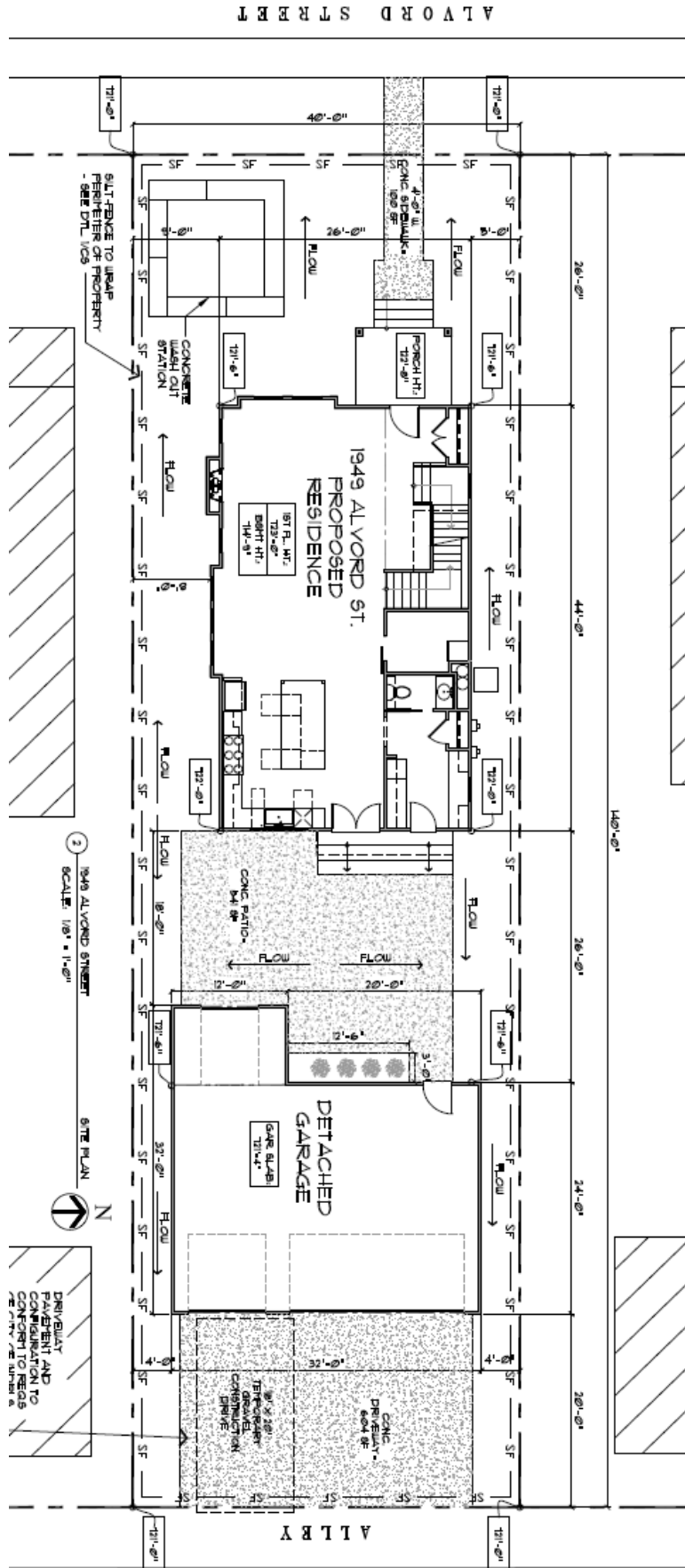
73-UV2-64, 1902 Alvord Street, requested a variance of use to provide for the outdoor storage and repair of wrecking equipment and an office, and a variance of development standards for a fence with excess height, approved for a period of one year.

50-V-239, 1955 Alvord Street, variance to provide for a heat-treating business, dismissed.

AR

2023-DV2-034; Aerial Map





ALFORD STREET

ALLEY

2023-DV2-034; Findings of Fact

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

4'-0" setbacks are quite common in D8 zoning.

- For lots of 5,000 sf or less, only a 3'-0" setback is required. This lot is only 5,600 sf.

- In the historic districts of HMP and the ONS, a 4' setback on the garage is quite typical, even for lots larger than 5,600sf.

- Until 2021, the standard side yard setback for D8 was 4'-0" so anything built prior to 2021 is likely to have a similar setback

- Attached are some examples of 4' setbacks in the surrounding properties.

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

The adjacent garages on either side are not so close to the property as to cause any sort of access issues. Furthermore, 4'-0" of clearance on 1949 Alvord, still allows for plenty of access on all sides of the garage. Finally, 4'-0" setbacks are a common occurrence in D8 zoning and even in the surrounding properties. Examples are attached and listed below.

1. 2001 Alvord: Garage and attached deck to house are 4'-0" from the south lot line.

2. 2005 Alvord: House bumpout @ stair is 4'-0" from the north lot line.

3. 1932 Yandes: Carriage house is 4'-0" from the property line.

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

The garage is not atypical to the neighborhood and is simply in keeping with neighboring properties.



Subject site front yard



View of properties on Alvord Street frontage



Subject site rear yard viewed from the alley

STAFF REPORT

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

Case Number: 2023-DV2-035
Address: 5354 North Keystone Avenue (approximate address)
Location: Washington Township, Council District #9
Zoning: C-4
Petitioner: Charles and Brenna Carroll, by Todd Williams
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through with only one stacking space before the final component (four stacking spaces required) that faces a public right-of-way greater than 30-foot wide (not permitted).

RECOMMENDATIONS

Staff recommends denial of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4 Community Commercial

SURROUNDING ZONING AND LAND USE

North - C-4 / D-5 Commercial Contractor
South - C-5 Integrated Commercial Center
East - C-3 Commercial Retail uses
West - D-5 Single-family dwellings

COMPREHENSIVE PLAN The Comprehensive plan recommends community commercial uses for the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petitioner proposes to demolish and replace the existing structure, with a quick service oil change facility designed with a drive-through with only one stacking space before the final component that faces a public right-of-way greater than 30-foot wide.
- ◇ The purpose of off-street stacking space regulations is to promote public safety by alleviating on-site and off-site traffic congestion from the operation of a facility that has a drive-through service unit.

(Continued)

- ◇ With the lack of the required stacking spaces and the proximity of the final component facing a public right-of-way, traffic at this site is likely to result in congestion and vehicular conflict.
- ◇ The proposed oil change facility with a drive-through with only one stacking space before the final component that faces a public right-of-way is a design component of the petitioner that is proposing the development, and not reflective of any difficulty imposed on the site, as the site was previously developed with and can still be developed with C-4 uses that are Ordinance compliant without the need for any variances.
- ◇ The petitioner’s findings of fact indicate that the practical difficulty in the use of the property does in fact result from the components of the drive through experience and are part of the overall design of the facility, and any changes to the design of the facility would be a practical difficulty.
- ◇ Staff disagrees, in that the petitioner did not do their due diligence in finding a site that accommodates their proposed design for a complete facility without the need for variances. Staff believes that since this is new construction, and not the reuse of the previous building, that the design of the new construction should relate to the site in meeting the Ordinance standards.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed design of the facility or development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. This site would consist of new construction that could be designed to meet the terms of the Ordinance, but the petitioner has decided not to follow the Ordinance for their specific design. Therefore, Staff does recommend denial of the request as proposed.

GENERAL INFORMATION

THOROUGHFARE PLAN

This section of North Keystone is classified on the Official Thoroughfare Plan as a primary arterial with a 98-foot existing right -of-way and a 104-foot proposed right-of-way

This section of East 56th Street is classified on the Official Thoroughfare Plan.as a local street with a 70-foot existing and proposed right-of-way

SITE PLAN

File-dated November 8, 2023

FINDINGS OF FACT

File-dated November 8, 2023

(Continued)

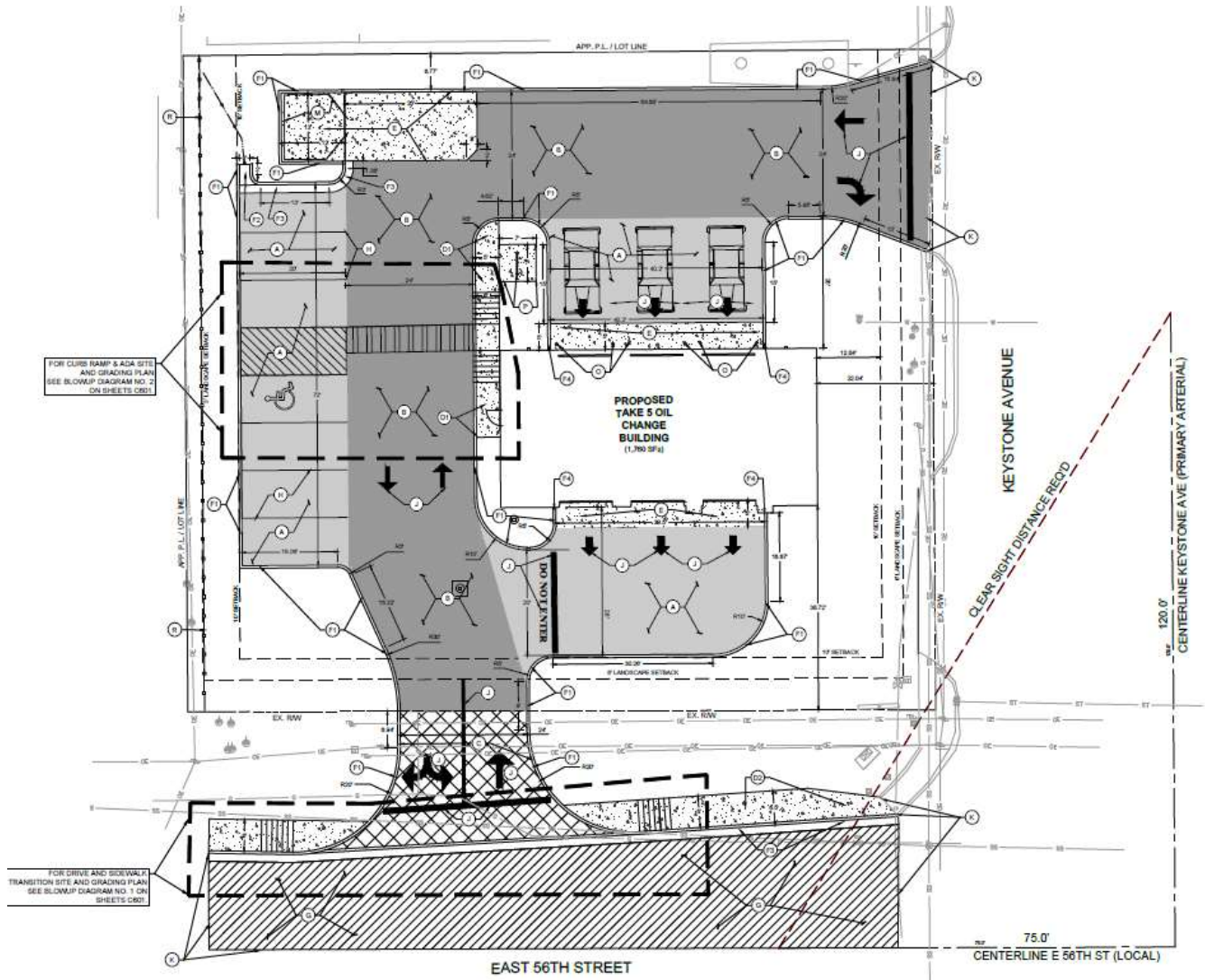
ZONING HISTORY

2018-ZON-065; 5581 North Keystone Avenue (southeast of site), requested the rezoning of 0.3 acre from the D-4 (W-5) district to the C-4 (W-5) classification, **approved**.

2018-UV1-027; 5565 North Keystone Avenue (southeast of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish three roof signs and a pylon sign with a three-foot front setback from Keystone Avenue, **granted**.

2015-UV3-022; 5616 North Keystone Avenue (north of site), requested a variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinances to provide for a contractor, with outdoor storage of construction equipment, a parking lot, a gravel outdoor storage area, with a five-foot west side transitional setback, without landscaping, and a trash container enclosure, with said storage enclosed by a 10-foot tall fence, and with the parking area having a zero-foot front yard, **granted**.

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View of subject site, proposed building under construction, looking north from East 56th Street.



View of subject site, proposed building under construction, looking west from North Keystone Avenue.



View of adjacent single family residential to the west, looking north.



View of adjacent integrated commercial center to the south.