



Board of Zoning Appeals Division I (June 6, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, June 06, 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-DV1-022 | 2247 Broadway Street**
Center Township, Council District #17, Zoned D-8
Reuben & Katherine Maust, by Peter Meehan

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached carriage house with a 3.5-foot south side yard setback (five-foot setback required).

****Continuance requested by petitioner to July 6, 2023**

- 2. 2023-UV1-010 | 1946 North Euclid Avenue**
Center Township, Council District #17, Zoned D-5
Daria Powell, by Kevin J. Powell

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of a single-family dwelling into a multi-unit house (2 units) (not permitted) and conversion of the detached garage into a third dwelling unit (not permitted) without any of the units on site being owner occupied (secondary dwelling units only permitted with single-family detached dwellings and owner shall occupy a unit on the lot as their permanent residence).

****Automatic Continuance by remonstrator to July 6, 2023 to be acknowledged**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

- 3. 2023-DV1-023 (Amended) | 4511 Central Avenue**
Washington Township, Council District #7, Zoned D-2
Joshua Altherr and Clarissa Rodda, by Josh Valentine

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a five-foot north side yard setback (seven-foot side yard setback required).

4. 2023-UV1-008 | 545 South East Street

Center Township, Council District #16, Zoned CBD-2 (RC) (TOD)
AOI Properties LLC, by Paul Reynolds

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for building additions resulting in the residential component of a Live/Work unit being the dominant use (residential use must be incidental to a commercial use).

5. 2023-UV1-009 | 409 Lincoln Street

Center Township, Council District #16, Zoned C-1
2 Jets LLC, by Joe Fall

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition to an existing single-family dwelling (not permitted) resulting in a two-foot west transitional side yard (10-foot transitional side yards required).

6. 2023-UV1-011 | 6809 West Washington Street

Wayne Township, Council District #22, Zoned C-5
SLEKA II LLC, by Andrew Wert

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for operation of a fleet terminal facility and building addition resulting in a five-foot wide parking aisle width for four parking stalls (23-foot-wide parking aisle required).

7. 2023-UV2-006 | 2320 Duke Street

Washington Township, Council District #9, Zoned I-1 (W-1)
Sweezy & Sweezy Properties LLC, by David Kingen

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the use of a rubber press, a Heavy Manufacturing operation (not permitted).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

8. 2023-DV2-004 | 849 South Belmont Avenue

Center Township, Council District #16, Zoned D-5
D.G. Kidanemhret Eritrean Orthodox Tewahdo Cathedral, Inc., by Biniam Sahlezghi Kifle

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide a 54-inch decorative fence within the front yards and clear sight triangle of Belmont Avenue and Wyoming Street (maximum 3.5-foot-tall fence permitted, encroachments within clear sight triangles prohibited).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

9. 2023-UV1-006 (Amended) | 201 West 38th Street and 3750 North Capitol Avenue

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

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

10. 2023-DV1-024 | 1718 Lafayette Road

Wayne Township, Council District #11, Zoned D-5 (W-5)
Lafayette Rooms LLC, by David E. Dearing

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a 12.5-foot tall, 11.25-square foot pylon sign (not permitted) and a 40-square foot wall sign (maximum six-square foot wall sign 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**Department of Metropolitan Development
Division of Planning
Current Planning Section**

Case Number: 2023-DV1-022
Address: 2247 Broadway Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: Rueben & Katherine Maust, by Peter Meehan
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached carriage house with a 3.5-foot south side yard setback (five-foot setback required).

This petition will require an amendment either for a secondary dwelling greater than 720 square feet, or to permit construction of an accessory structure taller than 24 feet. Which variance will be required will depend on whether the second story will be developed as a secondary dwelling. Floor plans provided to staff show that the second story is intended to be used as a secondary dwelling.

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STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-010
Address: 1946 North Euclid Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Daria Powell, by Kevin J. Powell
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of a single-family dwelling into a multi-unit house (2 units) (not permitted) and conversion of the detached garage into a third dwelling unit (not permitted) without any of the units on site being owner occupied (secondary dwelling units only permitted with single-family detached dwellings and owner shall occupy a unit on the lot as their permanent residence).

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

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

COMPREHENSIVE PLAN

The Comprehensive Plan recommends traditional neighborhood development.

- ◇ The 0.12-acre subject site is developed with a single-family dwelling and detached garage. The property is surrounded by similarly developed single-family dwellings with associated detached accessory structures.

VARIANCE OF USE

- ◇ The grant of the request would allow three units on site with two proposed in the single-family dwelling and one in the detached garage. The property owner would not reside on site.

(Continued)

STAFF REPORT 2023-UV1-010 (Continued)

- ◇ The D-5 district allows new construction of multi-unit dwellings. However, a variance is needed to convert a single-family dwelling into a multi-unit dwelling.
- ◇ The Ordinance only permits secondary dwelling units for properties with single-family detached dwellings and requires that the property owner occupy one of the dwelling units as a permanent resident.
- ◇ As proposed, this request would result in a density of 25 units per acre, which exceeds the Comprehensive Plan recommended density of five to 15 units per acre for the traditional neighborhood typology. Staff is supportive of the addition of density throughout the city, but there is a limit that can be placed per small individual residential lots. Additionally, the context of the neighborhood should be considered when reviewing variance proposals and staff was unable to locate any two-family or multi-family dwellings in the immediate area.
- ◇ Staff determined that the two units proposed in the existing dwelling would not be appropriate because it is unusually small measuring approximately 750 square feet per the site plan or 720 square feet per the floor plan compared to the minimum 900 square-foot main floor area required for a single-family dwelling. Two units within the existing dwelling would have a minimum floor area of 375 square feet or 360 square feet, but the petitioners' application noted that a one-bedroom apartment and studio apartment would be proposed resulting in one of the units being much smaller in size.
- ◇ An increase in housing units could be accomplished if the single-family dwelling were to remain and the garage converted to a secondary dwelling for a maximum of two units on site without the need for variances. This would result in an approximate density of 16 units per acre that would be more in line with the Comprehensive Plan recommendation.
- ◇ The requirement related to the property owner occupying one of the dwelling units as their permanent residence is to discourage the possibility of absentee owners and the resulting negative impact on adjacent residences and neighborhood such as neglect in property maintenance.
- ◇ The need for the variance does not arise from some condition peculiar to the property involved because two appropriately sized dwelling units could be proposed on site without the need for a variance.
- ◇ The strict application of the terms of the zoning ordinance would not constitute an unnecessary hardship if applied to the property for which the variance is sought because the site could continue to be used as is without variances.
- ◇ For these reasons, staff is recommending denial of the requests.

GENERAL INFORMATION

THOROUGHFARE PLAN

Euclid Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.
(Continued)

STAFF REPORT 2023-UV1-010 (Continued)

SITE PLAN File-dated May 1, 2023.

FLOOR PLAN File-dated May 1, 2023.

FINDINGS OF FACT File-dated May 1, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

None.

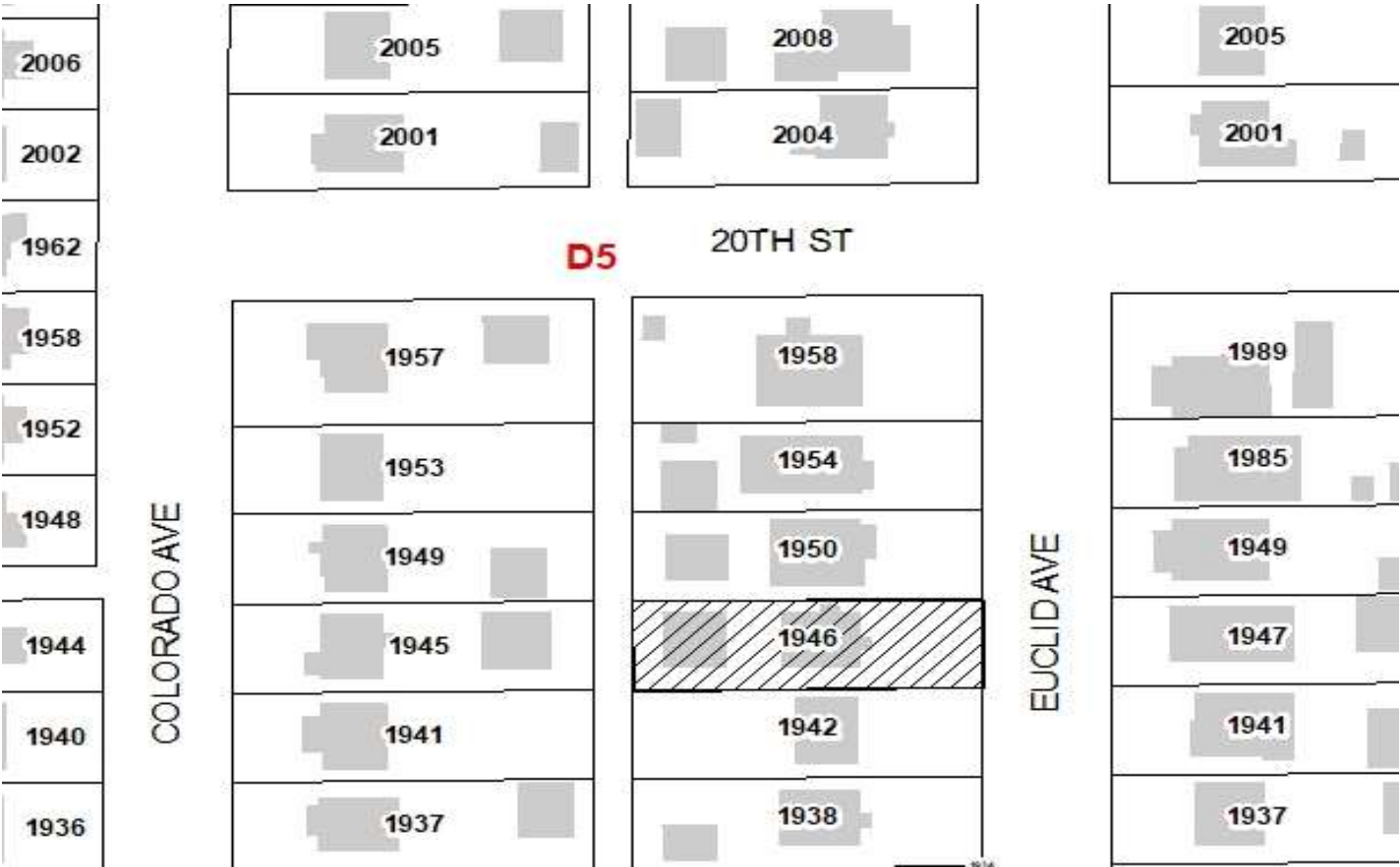
ZONING HISTORY – VICINITY

2008-HOV-023; 1949 Forest Manor Avenue (northwest of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the construction of a 578-square foot attached garage with a three-foot rear setback (minimum twenty-foot rear setback required), **granted**.

95-V2-10; 2002 North Linwood Avenue (northeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a six-foot tall fence within the required front yard along 20th Street (minimum 42 inches in height required within the front yard) and within the right-of-way of 20th Street (not permitted), **granted**.

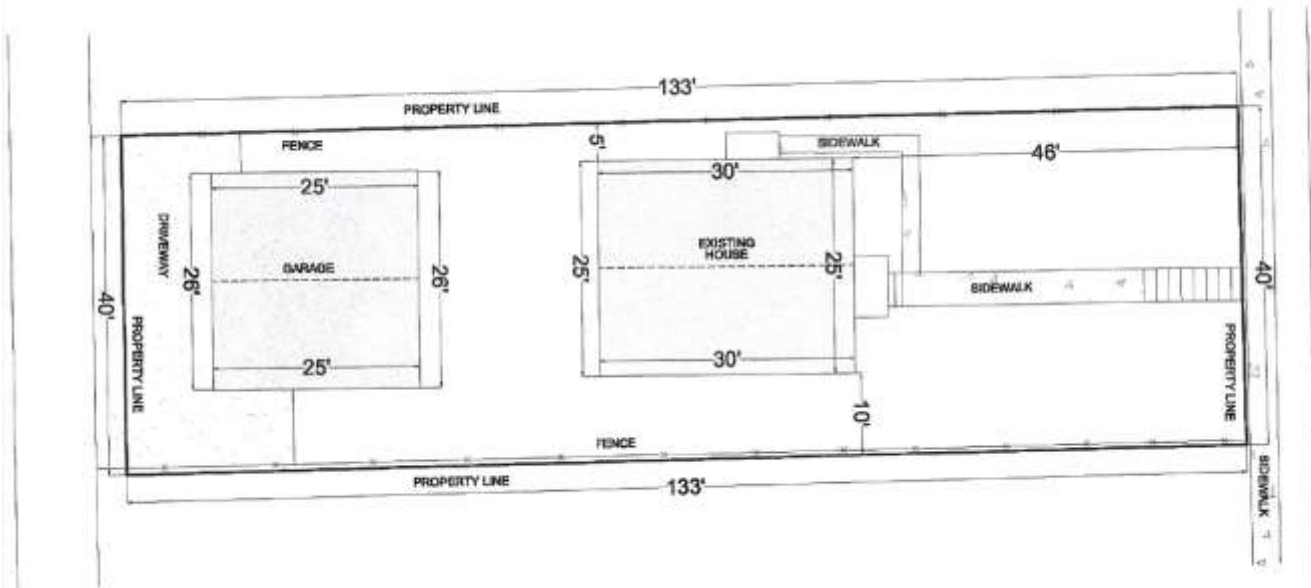
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2023-UV1-010; Location Map



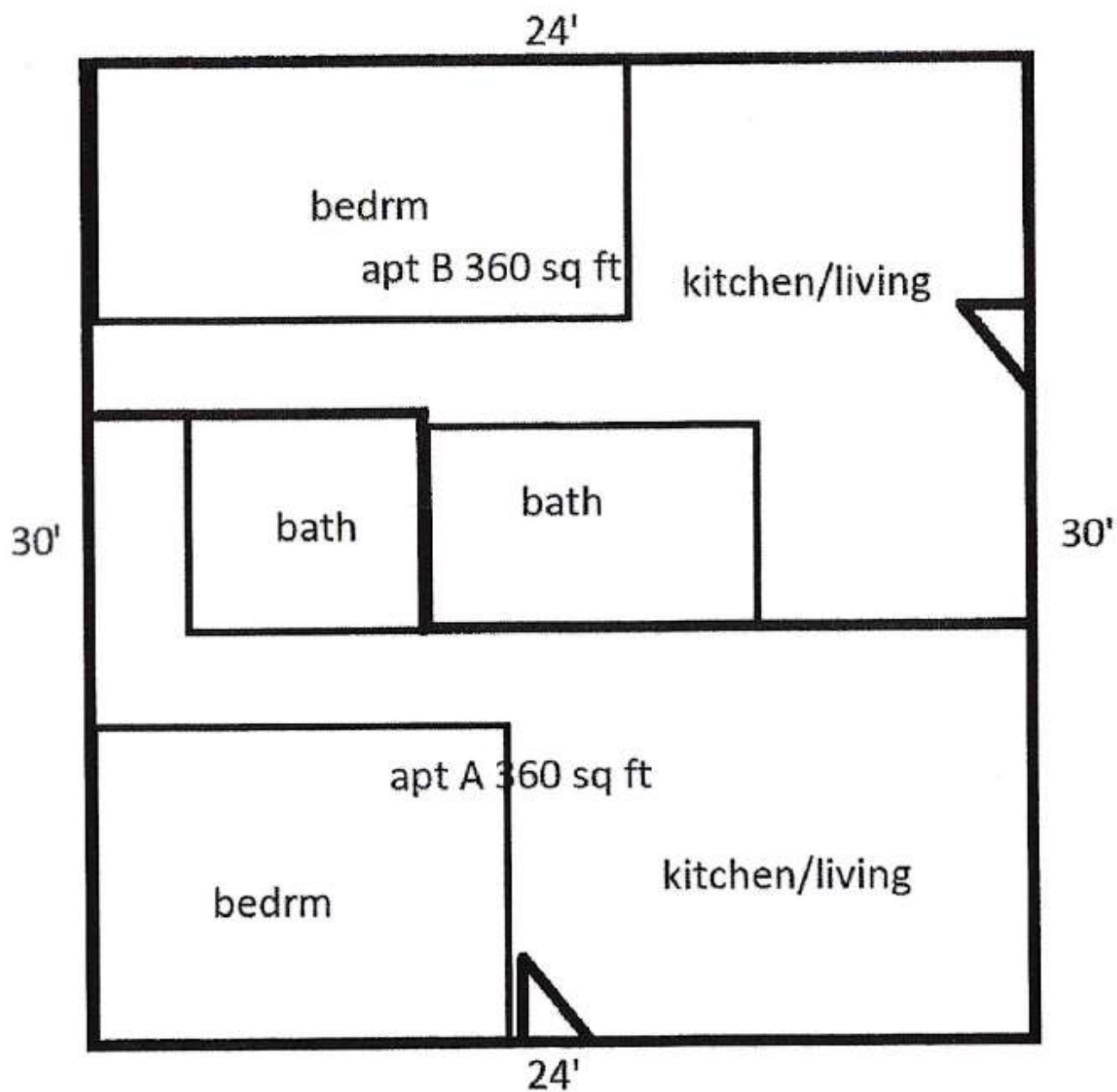
2023-UV1-010; Aerial Map





N EUCALYPT AVE

1946 N. Euclid, Indianapolis, IN. 46218



PLAN OF OPERATION
1946 N EUCLID AVENUE
INDIANAPOLIS, IN 46218

The workforce would be maintenance, grass cutting, landscaping, performed done by the owner and/or subcontractors who are not W-2 employees.

Clients/Customers would be the occupants/tenants. There is parking in the detached two-car garage, street parking, plus a side area next to the garage.

The processes conducted on site would be providing safe, functional housing for tenants.

The materials used would be appliances and maintenance materials.

There will be no shipping and receiving other than regular mail

There will be no waste other than normal trash generated by tenants.



Photo of southern building façade at 1946 North Euclid Avenue.



Photo of the northern buiding façade at 1946 North Euclid Avenue.



Photo of the detached garage and north side setback.



Photo of the detached garage and south side setback.



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



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



Photo of a corner lot that could potentially be a two-family dwelling, but this was not confirmed.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-023 (Amended)
Address: 4511 Central Avenue (approximate address)
Location: Washington Township, Council District #7
Zoning: D-2
Petitioner: Joshua Altherr and Clarissa Rodda, by Josh Valentine
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a five-foot north side yard setback (seven-foot side yard setback required).

RECOMMENDATIONS

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

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-2	Compact	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-2	Residential (Single-family dwelling)
South	D-2	Residential (Single-family dwelling)
East	D-2	Residential (Single-family dwelling)
West	D-2	Residential (Single-family dwellings)

NEIGHBORHOOD PLAN The Meridian Kessler Neighborhood Plan (2016) recommends traditional neighborhood development.

- ◇ The 0.21-acre subject site is developed with a single-family dwelling and storage shed. The surrounding properties are similarly developed with a pattern of reduces setbacks in the Meridian Kessler neighborhood.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for the construction of a detached garage with a deficient five-foot side setback. The initial request was for a three-foot side setback.

(Continued)

STAFF REPORT 2023-DV1-023 (Continued)

- ◇ Table 744-201-1: Dimensional Standards for Districts D-A through D-5II indicates that the D-2 district requires a seven-foot side setback for new construction. The minimum lot area is 15,000 square feet for a single-family dwelling with a required 80-foot lot width and 40-foot street frontage required.
- ◇ Setbacks are required to maintain proper fire separation distance between buildings from adjacent properties, allow for property maintenance, and ensure adequate drainage on site.
- ◇ Considering that the lot is deficient in size with an approximate 8,900 square foot area and 50-foot lot width, staff is supportive of a setback reduction and requested an increase from three feet to five to provide more separation from the property boundary for a slight reduction of the Ordinance.

GENERAL INFORMATION

THOROUGHFARE PLAN	Central Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 59-foot existing right-of-way and a 78-foot proposed right-of-way.
OVERLAY	This site is in a Transit-Oriented Development (TOD) overlay, specifically the Bus Rapid Transit Red Line.
SITE PLAN	File-dated April 24, 2023.
AMENDED SITE PLAN	File-dated May 22, 2023.
FINDINGS OF FACT	File-dated April 24, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2023-DV2-005; 4540 Park Avenue (northeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached carriage house with a secondary dwelling containing 850 square feet (maximum 720 square feet), resulting in an open space of 72 percent (75 percent open space required), **pending**.

2021-DV3-023; 4519 Central Avenue (north of site), Variance to provide for a detached garage with a four-foot south side setback and 72% open space, **granted**.

(Continued)

STAFF REPORT 2023-DV1-023 (Continued)

2020-DV3-017; 4545 Central Avenue (north of site), Variance to provide for a dwelling addition with a 4.5-foot north side setback, **granted**.

2019-DV1-046; 4456 North Park Avenue (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 685-square foot secondary dwelling, without an entrance visible from a public right-of-way (not permitted) and within a detached garage with a one-foot side and rear setback (five-foot rear and seven-foot side setback required). **granted**.

2019-DV1-038; 4520 Broadway Street (northeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 700-square foot garage with a 0.33-foot north side setback for the garage eave and two-foot north side setback for the garage wall (seven-foot side yard required), **granted**.

2018-CVR-804; 4550 North Central Avenue (northwest of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for Two small school Theatrical or musical production and instruction; Neighborhood offices for Meridian Kessler area neighborhood organizations; Gymnastics, karate, yoga and theatrical instruction; offices and meeting space for not-for-profits; Event space for not-for-profit organizations; Outdoor events (with temporary tents) for Fall Festival related to IPS public school; Neighborhood party or Home tour; Meeting space for addiction-related activities; Artists' work space; and a Shared commercial kitchen (not permitted); and to legally establish a 20-square foot freestanding sign, with zero-foot setbacks from Washington Boulevard and 46th Street, within the clear sight triangle of the abutting streets (15-foot setback, signs not permitted within the clear sight triangle of the abutting streets), **granted**.

2018-DV1-047; 4565 Park Avenue (northeast of site), Variance to legally establish a six-foot tall opaque fence in the front yard of 46th Street and within the clear sight triangle of the abutting street and alley, and to legally establish a four-foot-tall wrought iron fence in the right-of-way of Park Avenue and the clear sight triangle of the abutting streets, **granted**.

2018-DV2-003; 4535 North Park Avenue (northeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage, with access from Park Avenue (access required exclusively from an improved alley), **granted**.

2016-DV2-011; 4551 Central Avenue (north of site), Variance to provide for the construction of a detached garage, with a 1.75-foot rear setback, **granted**.

2015-DV2-040; 4466 Central Avenue (west of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish and provide for an addition, with a 3.7-foot east side yard for a single-family dwelling and a four-foot west side yard for a detached garage, creating a 7.7-foot aggregate side yard, **granted**.

2014-DV1-046; 4559 Central Avenue (north of site), Variance to provide for single-family dwellings on two proposed 8,228-square foot lots, a) with the single-family dwelling on the northern lot having a 10.5-foot front setback from 46th Street, b) with the detached garage on the northern lot having an approximately 20-foot front setback from 46th Street and five-foot side setbacks for a 10-foot aggregate side yard, c) with the single-family dwelling on the southern lot having a 18-foot aggregate side setback, d) with the detached garage on the southern lot having a five-foot side setback, e) with the southern lot having a lot width of 46 feet, and f) with both lots having an open space of 73%, **withdrawn**.

(Continued)

STAFF REPORT 2023-DV1-023 (Continued)

2014-DV3-005; 4450 North Park Avenue (southeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a garage addition to an existing single-family dwelling, creating a 12-foot rear yard setback, **granted**.

2014-HOV-004; 4426 North Broadway Street (southeast of site), Variance development standards of the Dwelling Districts Zoning Ordinance to provide for an attached living and accessory area addition to an existing single -family dwelling, with a 1.2-foot north side setback and a 21.7-foot rear setback, and to provide for an open space of 67%, in D-2, **granted**.

2011-DV1-054; 4421 North Central Avenue (south of site), Variance development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of an 800-square foot garage, with a three-foot north side setback, in D-2, **granted**.

2005-DV3-002; 4515 Washington Boulevard (northwest of site), Variance of development standards to provide for a 308-square foot detached garage with a three-foot north side yard and rear yard setback, **granted**.

2002-DV2-026; 4401 North Central Avenue (south of site), Variance of development standards of the Sign Regulations to provide for a 3.66-foot-tall ground sign, located nine feet from the proposed right-of-way of Central Avenue, in D-2, **granted**.

99-V2-71; 4550 North Central Avenue (northwest of site), Variance of development standards of the Sign Regulations to provide for a 52-square foot ground sign (freestanding sign not permitted), **withdrawn**.

90-HOV-62; 4515 Washington Boulevard (northwest of site), Variance of development standards of the Dwelling District Zoning Ordinance to permit the construction of an inground pool and convert an existing garage to a patio and storage building with a side yard setback of four feet (7 feet required), **withdrawn**.

90-HOV-43; 4505 North Park Avenue (southeast of site), Variance development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 13 by 20-foot breezeway connecting a 24 by 33-foot detached garage to the primary structure, creating a rear setback of 5.25 feet, in D-2, **granted**.

88-HOV-93; 4401 North Park Avenue (southeast of site), Variance development standards of the Dwelling Districts Zoning Ordinance to provide for a side yard of four feet for an addition to an existing single-family residence, in D-2, **granted**.

86-UV1-109; 4550 Central Avenue (northwest of site), variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a foyer addition to an existing church, **granted**.

88-UV2-63; 4407 North Central Avenue (south of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an architect's office, in D-2, **granted**.

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2023-DV1-023; Location Map



2023-DV1-023Aerial Map







Photo of the Subject Property: 4511 Central Avenue



Photo of the single-family dwellings with accessory structures north of the site.

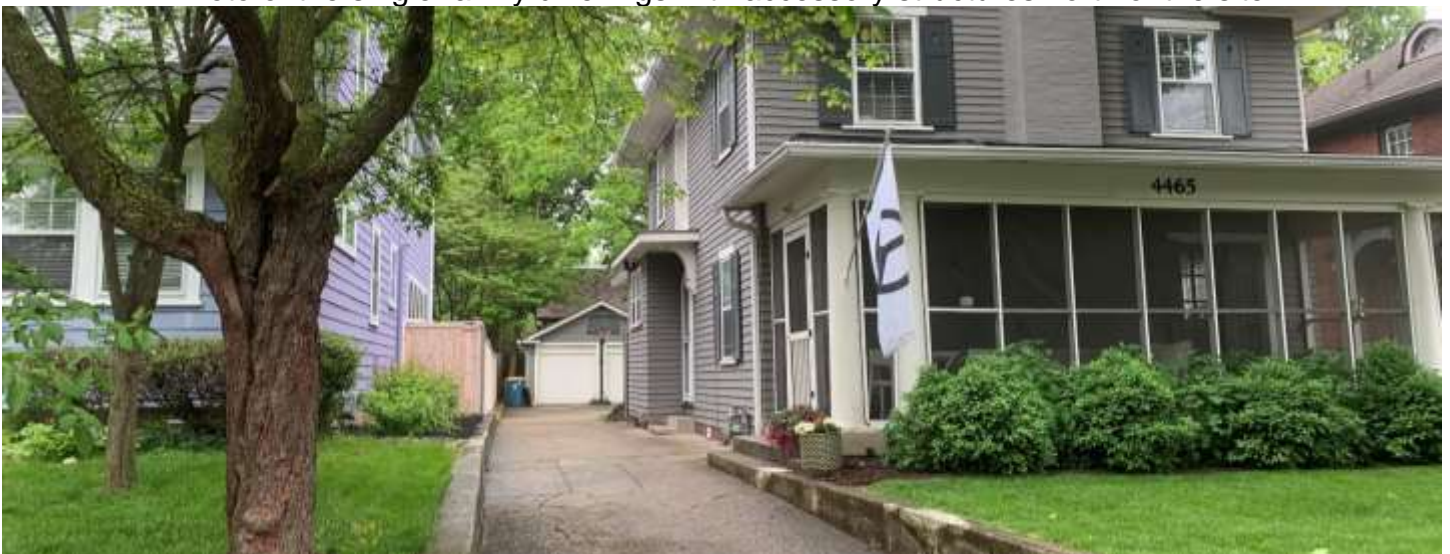


Photo of the single-family and detached garage south of the site.



Photo of the existing driveway on site looking east.



Photo of the rear yard of the subject site.



Photo of the proposed location of the detached garage looking west.

STAFF REPORT

Item 4.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-008
Address: 545 South East Street (*Approximate Address*)
Location: Center Township, Council District #16
Petitioner: AOI Properties, LLC, by Paul Reynolds
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for building additions resulting in the residential component of a Live/Work unit being the dominant use (residential use must be incidental to a commercial use).

RECOMMENDATIONS

Staff **recommends approval** of the variance request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

CBD-2 (RC) Compact	Office and single-family dwelling unit
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SURROUNDING ZONING AND LAND USE

North -	CBD-2 (RC)	Single-family dwelling
South -	SU-1 (RC)	Surface parking area for a church
East -	D-8 (RC)	Single- and two-family dwellings
West -	I-3 (RC)	Industrial

COMPREHENSIVE PLAN

The Comprehensive Plan recommends the site for Traditional Neighborhood uses

REGIONAL CENTER APPROVAL

- ◇ Along with this petition, a Regional Center Approval petition was filed for the proposed building additions, plus new windows, parking lot screening and painted brick. This petition, 2023-REG-035, would be subject to the approval of the subject variance petition.

VARIANCES

- ◇ This petition seeks to provide for an expansion of an existing dwelling unit that would, ultimately, exceed the maximum square footage for a Live/Work unit. The Ordinance requires that the non-residential use be the primary use of the site. In terms of square footage, the existing commercial
(Continued)

STAFF REPORT 2023-UV1-008 (Continued)

space on the first level is 3,154 square feet. Part of the existing dwelling unit space is also on the first floor, at 795 square feet, with more dwelling space on the second level, consisting of 1,767 square feet. The proposed additional dwelling space would be within a proposed loft and third level, with 1,283 square feet in the loft and 1,568 square feet in a proposed third level, totaling 5,413 square feet of dwelling area. Thus, the dwelling would be a primary use of the land.

- ◇ The site includes a surface parking area to the north of the structure. This lot would remain, with a proposed screen that would replace the existing failing brick and glass screen. The elevations indicate that the proposed screen would extend in front of the existing building, which is not permitted. The petitioner has indicated that they would submit a revised plan that would meet the Ordinance.
- ◇ The site is recommended for Traditional Neighborhood uses, according to the Land Use Plan. Traditional Neighborhood uses would include small-scale offices, retailing, and personal or professional services, as well as mix of uses, including housing. This recommendation indicates that mixed-use structures is preferred in situations like located at street intersections. The site is located at the northeast corner of Merrill Street and East Street. Therefore, the request would meet the Plan.

GENERAL INFORMATION

THOROUGHFARE PLAN

The Official Thoroughfare Plan for Marion County indicates that East Street is a primary arterial, with a 78-foot right-of-way existing and proposed. Merrill Street is a local street, with a 48-foot existing and proposed right-of-way.

LAND USE PLAN / URBAN DESIGN GUIDELINES DISTRICT TYPOLOGY

The Comprehensive Land Use Plan recommends Traditional Neighborhood development. The site is within Neighborhood Residential District typology of the Regional Center Urban Design Guidelines

TRANSIT-ORIENTED DEVELOPMENT

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

SITE PLAN FINDINGS OF FACT

File-dated, April 20, 2023
File-dated, April 20, 2023

ZONING HISTORY - SITE

2023-REG-035; 545 South East Street, requested a Regional Center Approval petition to provide for building additions to an existing structure, for residential use, **pending**.

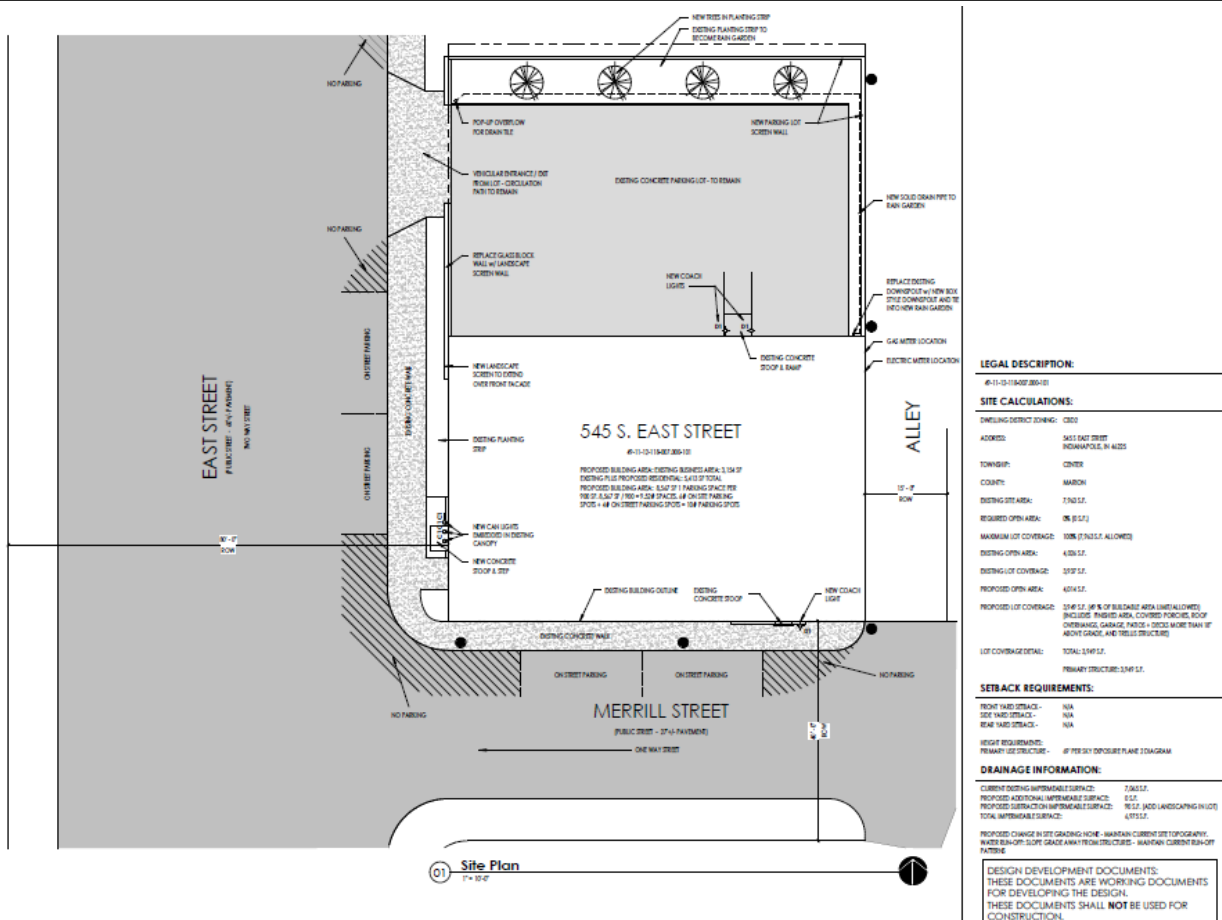
ZONING HISTORY – VICINITY

None.

JY

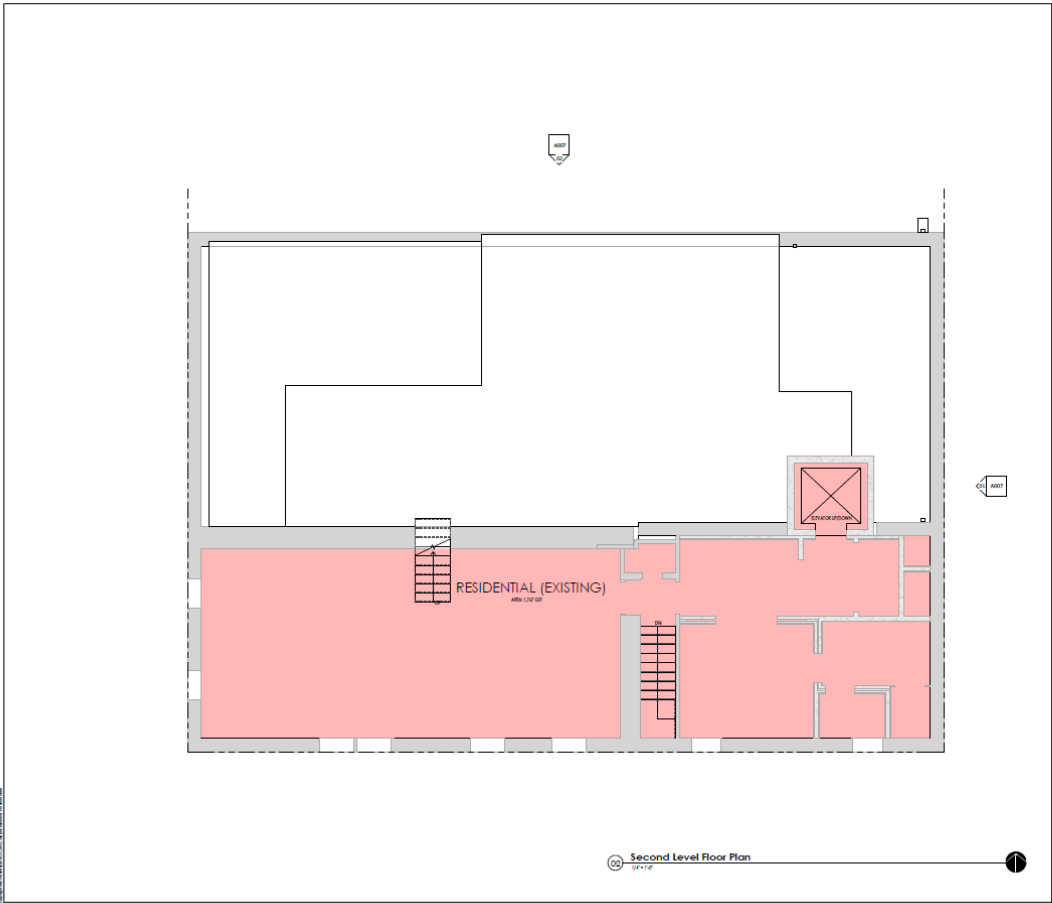
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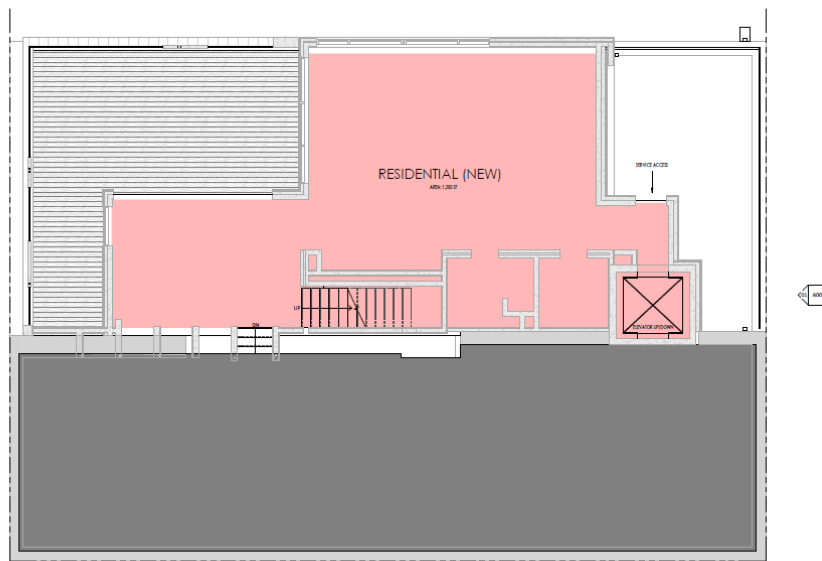




HAUS Architecture for Modern Lifestyles	
317 E. 42 ND STREET MARIETTA, GA 30067 404.875.1422	
FOR REGIONAL CENTER VARIANCE	
CERTIFICATION	
PROJECT NAME	
PRIVATE RESIDENCE	
3455 East Street Marietta, GA 30067	
DATE	DESCRIPTION
11.07.23	CONCEPT
11.08.23	CONCEPT
11.10.23	PRELIMINARY
11.10.23	REV 1
DESIGNED BY	AUTHOR
DESIGNED BY	CHUCK
COMPILED BY	HAUS
PROJECT NUMBER	2023_01
REV	
001	
SHEET TITLE	
Ground Level	
SHEET NUMBER	
A002	

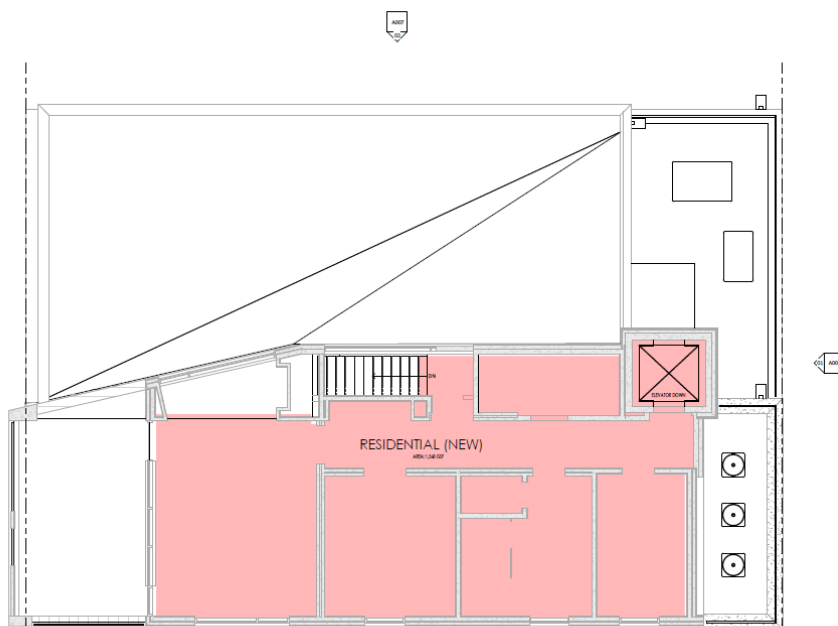


HAUS Architecture for Modern Lifestyles	
317 E. 42 ND STREET MARIETTA, GA 30067 404.875.1422	
FOR REGIONAL CENTER VARIANCE	
CERTIFICATION	
PROJECT NAME	
PRIVATE RESIDENCE	
3455 East Street Marietta, GA 30067	
DATE	DESCRIPTION
11.07.23	CONCEPT
11.08.23	CONCEPT
11.10.23	PRELIMINARY
11.10.23	REV 1
DESIGNED BY	AUTHOR
DESIGNED BY	CHUCK
COMPILED BY	HAUS
PROJECT NUMBER	2023_01
REV	
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SHEET TITLE	
Second Level	
SHEET NUMBER	
A003	



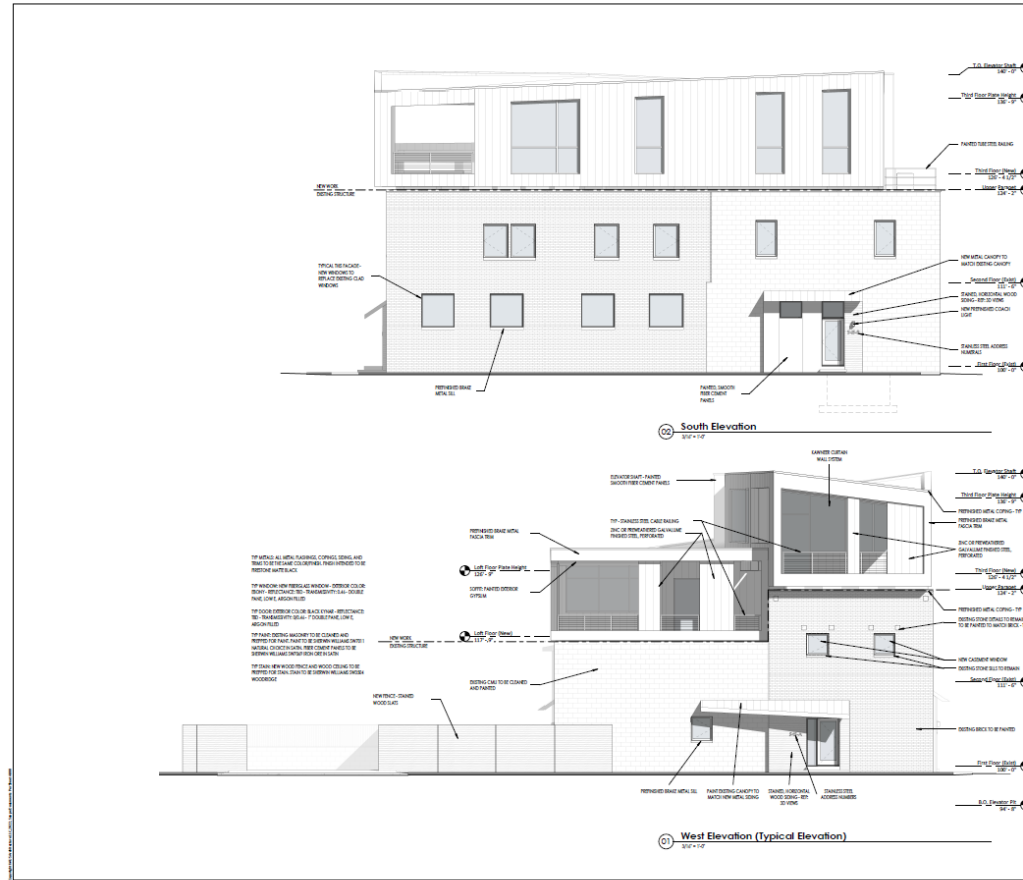
03 **Loft Level Floor Plan**
11'0" x 11'0"

DESIGN DEVELOPMENT DOCUMENTS:
THESE DOCUMENTS ARE WORKING DOCUMENTS
FOR DEVELOPING THE DESIGN.
THESE DOCUMENTS SHALL **NOT** BE USED FOR
CONSTRUCTION.

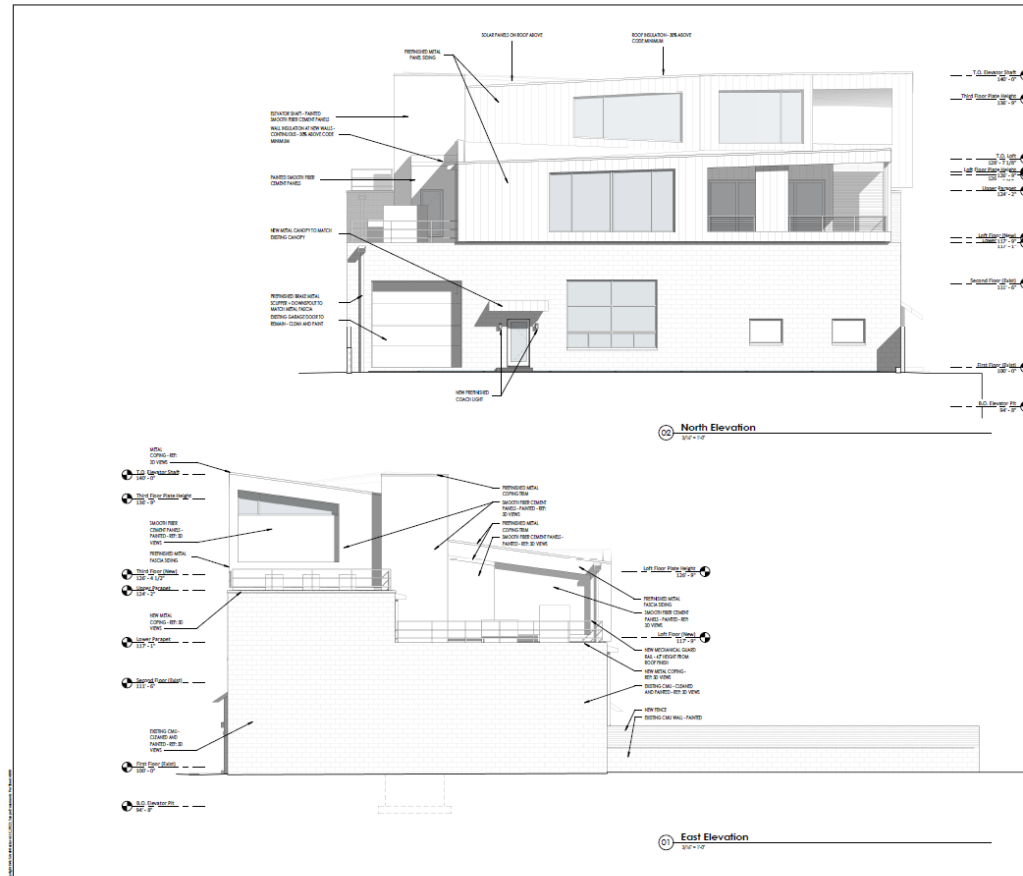


04 Third Level Floor Plan
10' x 10'

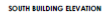
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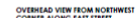
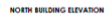
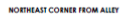
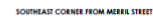


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FOR DEVELOPING THE DESIGN.
THESE DOCUMENTS SHALL NOT BE USED FOR
CONSTRUCTION.



SOUTHWEST CORNER FROM MERRIL STREET

SOUTHWEST CORNER FROM MERRIL STREET



DESIGN DEVELOPMENT DOCUMENTS:
THESE DOCUMENTS ARE WORKING DOCUMENTS
FOR DEVELOPING THE DESIGN.
THESE DOCUMENTS SHALL **NOT** BE USED FOR
CONSTRUCTION.

DATE	DESCRIPTION
12.07.20	CHECKOUT
12.06.20	CHECK OUT
02.10.20	VAR. DOC.
04.13.20	BEP-1
DRAWING BY:	**
CHECKED BY:	**
COPYRIGHT:	KAUZ - 2020
PROJECT NUMBER:	3022_38
FILE NAME:	
SHEET TITLE:	

3D Views

A009



Views of the site from Merrill Street, looking north



View of adjacent properties to the east, along Merrill Street (top); and subject site from East Street



Views of the site from East Street

STAFF REPORT

Item 5.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-009
Address: 409 Lincoln Street (approximate address)
Location: Center Township, Council District #16
Zoning: C-1
Petitioner: 2 Jets LLC, by Joe Fall
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition to an existing single-family dwelling (not permitted) resulting in a two-foot west transitional side yard (10-foot transitional side yards required).

RECOMMENDATIONS

Staff **recommends approval** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	C-1	Single-family dwelling
---------	-----	------------------------

SURROUNDING ZONING AND LAND USE

North -	C-1	Single-family dwelling
South -	D-5	Single-family dwelling
East -	C-3	Single-family dwelling
West -	D-5	Single-family dwelling

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

VARIANCE OF USE

- ◇ This request would provide for an addition to an existing originally built single-family dwelling in a C-1 zoned Commercial District. The records of the Assessor's Office indicate that the single-family dwelling was originally constructed on the site in 1882, prior to the adoption of the zoning code.
- ◇ The subject site is adjacent to a D-5 District, and properties to the north and east of the subject site are residential structures within the C-1 and C-3 districts. In Staff's opinion, the request would be consistent with surrounding residential properties.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would legally establish an existing, originally built two-foot west side transitional setback for a single-family dwelling and would provide for an above grade addition to the dwelling.
- ◇ The proposed two-foot side transitional setback is existing and would not be the result of any horizontal floor plan expansion. It would roughly match the setbacks of other existing single-family dwellings in the area. Therefore, Staff believes that the reduced setback would have no impact on the streetscape or the surrounding property owners and would represent a minor deviation from the Ordinance.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Lincoln Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 64-foot existing and proposed right-of-way.
SITE PLAN	File-dated May 1, 2023.
FINDINGS OF FACT	File-dated May 1, 2023.

ZONING HISTORY

2019-HOV-056; 438 Lincoln Street (north of site), requested a variance of use and development standards to provide for the construction of a porch, with a five-foot west side transitional yard, attached to a single-family dwelling in a C-1 zoned district, and located within the clear-sight triangle of the abutting street and alley, with zero-foot front and front transitional yards, **granted**.

2018-DV1-014; 329 Lincoln Street (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling and detached garage, with a 15-foot front setback, two-foot side setback, four feet between dwellings and 50% open space, **granted**.

2018-UV1-020; 334 Lincoln Street (west of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for primary and accessory single-family residential uses, including, but not limited to a single-family dwelling and detached garage, with a six-foot front setback and a four-foot side transitional setback, **granted**.

2017-ZON-016; 1401, 1425, 1441, 1460, 1462, 1464, 1502, 1816 and 1827 South East Street; 828 Beecher Street; 306, 310, 318, 322, 329, 353 and 401 Lincoln Street; 510 East Morris Street; 1538, 1542, 1551 and 1555 South New Jersey Street; 438 Orange Street; 445 and 446 Parkway Avenue (includes sites south, east and west of site), requested the rezoning of 1.95 acres, from the C-1, C-3, C-5 and I-4 districts, to the D-5 classification, **approved**.

(Continued)

2016-DV3-030; 1502-1510 South New Jersey Street (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to reconfigure three existing lots into four 30-foot wide lots, with eight feet, internally, and four feet, externally, between primary buildings, **granted**.

2015-UV3-018; 1533 South Alabama Street (north of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to convert a detached garage into a second dwelling, **denied**.

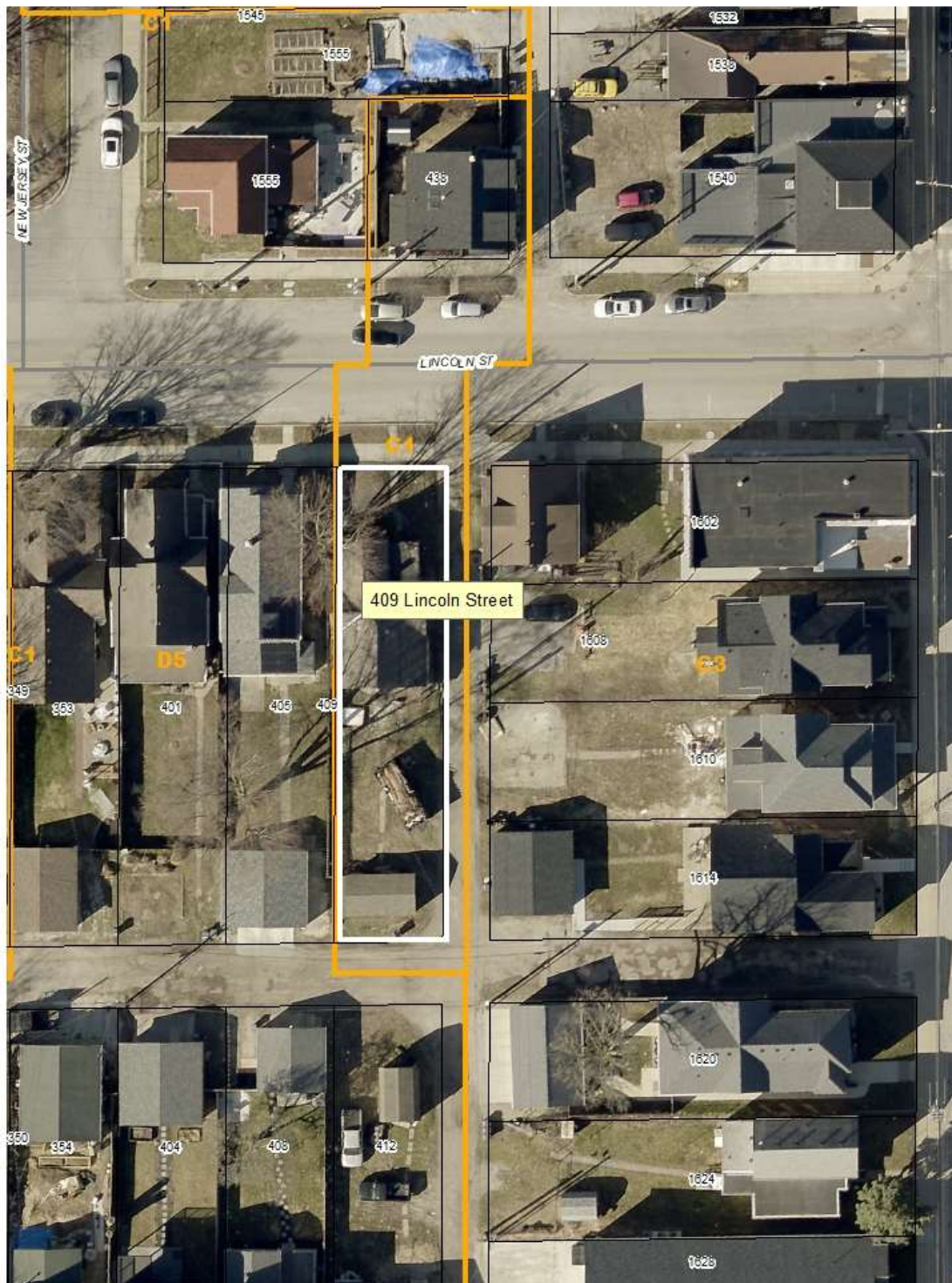
2003-UV3-028; 1514 South New Jersey Street (north of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance (Part A) to legally establish a 2,288-square foot dwelling and a 468-square foot attached carport with a zero-foot north side yard setback and a 23-foot front yard setback and (Part B) to provide for a second 720 square foot dwelling on the same parcel with a five-foot rear yard, **granted Part A, denied Part B**.

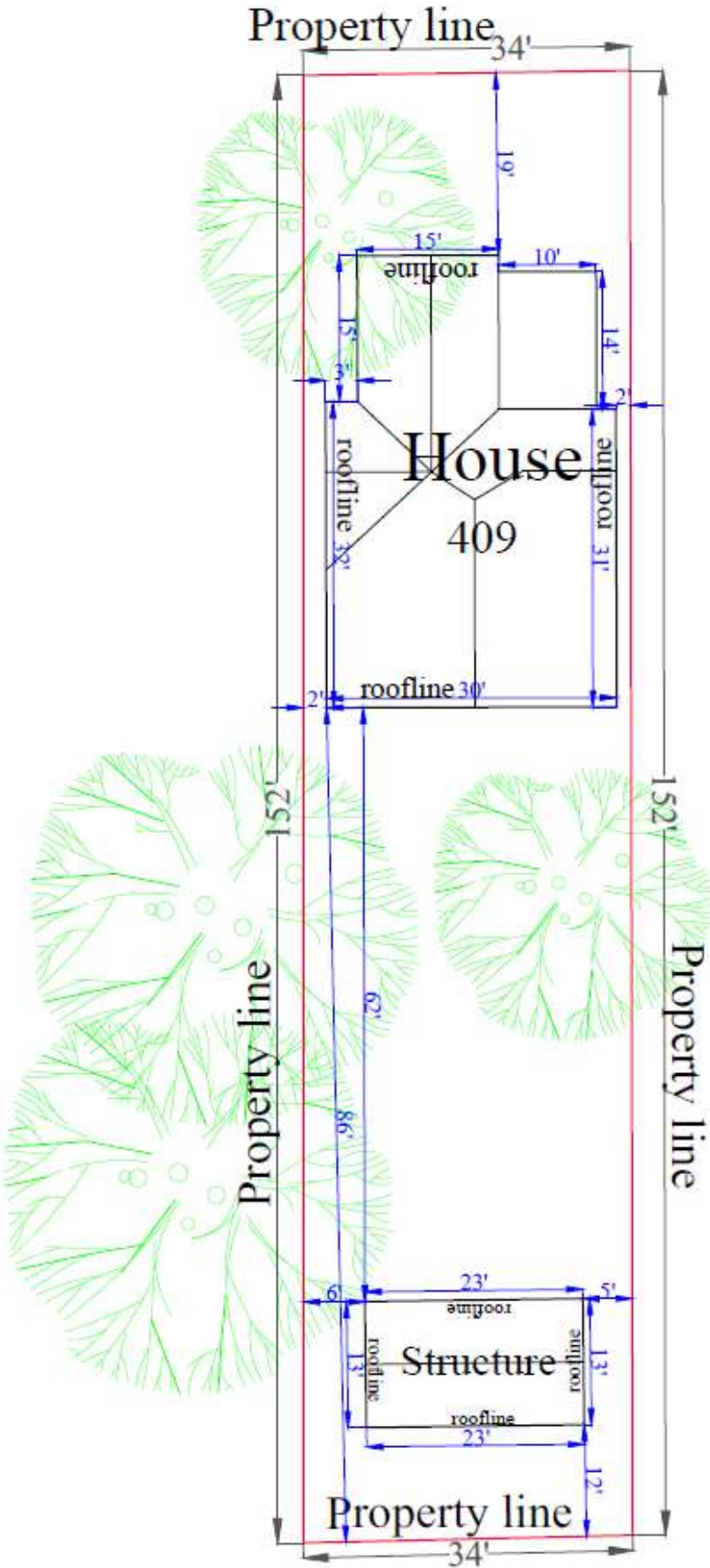
2001-HOV-004; 1538 South New Jersey Street (east of site), Variance of development standards of the Commercial Zoning Ordinance to legally establish a 1,193-square foot single-family dwelling, with a 0.5-foot side transitional yard, and to provide for the construction of a 320-square foot detached garage, with a six-foot side transitional yard, and a two-foot side yard setback, **granted**.

94-UV1-129; 341 Lincoln Street (south of site), requested a variance of use of the Commercial Zoning Ordinance to provide for construction of a 140-square foot room addition for an existing single-family residence, **granted**.

RU

2023-UV1-009: Location Map







Subject site looking south, with existing two-foot west transitional yard setback



Rear of subject site looking north.



Adjacent residential uses to the west, looking south.



Adjacent residential use to the east of subject site, looking south.

STAFF REPORT

Item 6.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-011
Address: 6809 West Washington Street (approximate address)
Location: Wayne Township, Council District #22
Zoning: C-5
Petitioner: SLEKA II LLC, by Andrew Wert
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for operation of a fleet terminal facility and building addition resulting in a five-foot wide parking aisle width for four parking stalls (23-foot-wide parking aisle required).

RECOMMENDATIONS

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

The variance grant shall be subject to the plan of operation, file-dated May 1, 2023.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-5	Fleet Terminal
-----	----------------

SURROUNDING ZONING AND LAND USE

North -	C-4	Commercial
South -	C-5	Undeveloped
East -	C-5/SU-46/I-2	Commercial / Undeveloped / Mechanical Contractor
West -	C-S	Mini-Warehouse Storage

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Community Commercial uses for the site.
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VARIANCE OF USE

- ◇ This petition proposes to provide for the operation of a fleet terminal facility and building addition. A fleet terminal facility is permitted in the I-3 and I-4 Districts.
- ◇ The request would not be consistent with the community commercial recommendation of the Comprehensive Plan. However, the proposed use would be similar to an automobile rental facility, which is permitted in the C-5 district and consistent with the Plan recommendation. Adjacent properties have a heavy commercial recommendation of the Comprehensive Plan, and there are automobile-related and heavy commercial uses already existing in the surrounding area as well. In Staff's opinion, the proposed use would be compatible with nearby heavy commercial land uses and would not interfere with the implementation of the Plan.

(Continued)

- ◇ The plan of operation limits the number of cabs or car rentals to 15 vehicles parked on site, keeping the operation small in relation to the size of the lot. Therefore, any approval should be subject to this plan of operation.
- ◇ In Staff's opinion, the proposed variance of use would represent a minor deviation from the Ordinance.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The requested five-foot wide parking aisle width for four parking stalls, where a 23-foot-wide parking aisle is required, would be located to the rear of the parking area, where vehicles are temporarily stored for either repair or removal. The proposed aisle area would not be accessed by drivers or other vehicles.
- ◇ A temporary gravel area has been added to the rear of the parking area to provide for a compliant 23 -foot wide drive aisle, however this is not shown on the site plan, and the gravel would need to be paved, in order for this variance to be withdrawn.
- ◇ As proposed, the reduced drive aisle would have minimal impact upon the adjacent neighbors, would provide adequate space to mitigate any adverse impacts, and provide the minimum area necessary for maintenance.
- ◇ Therefore, in Staff's opinion, the proposed variance of development standards would represent a minor deviation from the Ordinance.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of West Washington Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 90-foot existing right-of-way and a 102-foot proposed right-of-way.
SITE PLAN	File-dated May 1, 2023
PLAN OF OPERATIONS	File-dated May 1, 2023
FINDINGS OF FACT	File-dated May 1, 2023,

ZONING HISTORY

2019-UV3-006; 6780 West Washington Street (east of site), requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the outdoor sales, display and storage and the repair of construction equipment, **granted**.

2019-ZON-049; 6780 and 6870 West Washington Street (north of site), requested the rezoning of 19.154 acres from the C-4 District to the C-7 Classification, **approved**.

(Continued)

99-CP-43Z; 6820 West Minnesota Street (east of site), requested the rezoning of 0.41 acre from the D-3 District to the I-2-S Classification, **approved**.

99-CP-43V; 6820 West Minnesota Street (east of site), requested a variance of development standards to provide for the expansion of a machine shop with a side yard setback of 20 feet, a two-foot east side transitional yard, and parking in the rear of the transitional yard, **granted**.

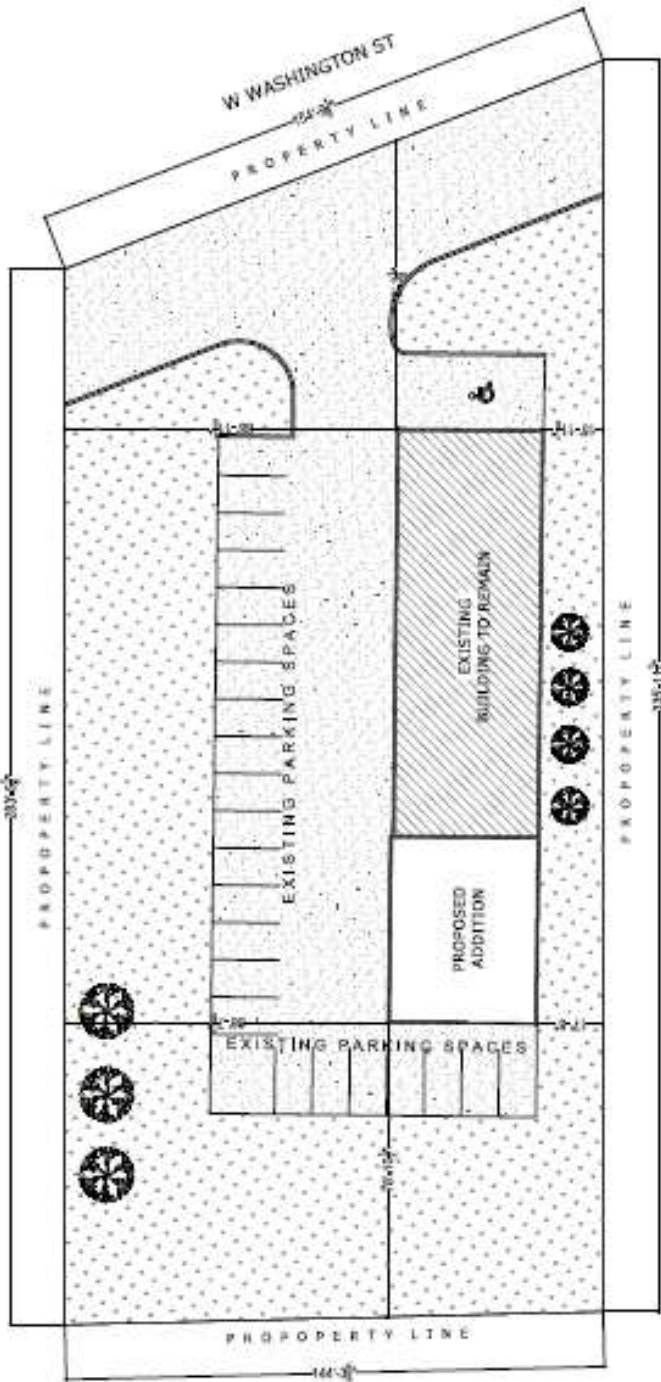
90-UV3-74; 6801 West Washington Street (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to permit a drive-thru restaurant within 100 feet of a dwelling district and a 4-foot rear transitional yard, **granted**.

85-Z-107; 6817 West Washington Street (west of site), requested the rezoning of 3.61 acres from the C-5 and C-7 Districts to the C-S Classification, **approved**.

RU

2023-UV1-011; Location Map





Plan of Operation

ZTrip, Variance of Use petition

6809 West Washington Street

In August of 2022, SLEKA II, LLC purchased a 1+ acre parcel at 6809 West Washington Street. The property contains a 4400 square foot building previously occupied by a CarX facility. The owners have applied for a 2000 square foot building addition to the south with the intent to lease to a ZTrip taxi operation.

This addition would consist of four offices, a conference room and restrooms. ZTrip is a taxi cab business that leases vehicles for their drivers. The drivers pay a fee to operate the car and keep all of the fares. Drivers take the car home with them when they are not in operation. ZTrip provides maintenance to the vehicles.

The site on West Washington will be utilized by an office staff of ten that works Monday through Friday, 7am to 5 pm. There will be approximately 15 cabs parked on the site for new drivers or spares. The only other vehicles from the ZTrip fleet that will be on the site will be those that are undergoing maintenance. These typically number ten cars per day for service, with an average stay of one hour per vehicle. The traffic in and out of the site will be reduced from the previous approved use.

There are no customers that come to the site, only ZTrip employees and deliveries. Most deliveries are by regular passenger vehicles except for tires, that are usually delivered in a small cargo van. Vehicle fluids are recycled through a service such as Safety Kleen. There will be no other hazardous materials on the site.

A variance of use is being sought because the C-5 zoning district does not permit a Fleet Terminal. In this particular case, the majority of the fleet is not located on site. It is the intent of the owners that this Plan of Operation document be included as a Commitment to the variance approval. Owners are also willing to commit to the approval being to this use and this use only.

The Comprehensive Plan for Wayne Township identifies this property as Community Commercial. In that the proposed addition is composed of offices, it is likely that this will enhance the likelihood of future uses conforming with the Comprehensive Plan recommendation.



Subject site looking east.



Subject site proposed addition area, looking south.



Subject site proposed five-foot wide parking aisle width for four parking stalls, looking east



Adjacent Heavy Commercial and Community Commercial to the north.



Adjacent mini-warehouse storage to the west.



Adjacent Community Commercial to the east.

STAFF REPORT

Item 7.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV2-006
Address: 2320 Duke Street (approximate address)
Location: Washington Township, Council District #9
Zoning: I-1 (W-1)
Petitioner: Sweezy & Sweezy Properties LLC, by David Kingen
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the use of a rubber press, a Heavy Manufacturing operation (not permitted).

RECOMMENDATIONS

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

The variance grant shall be subject to substantial compliance with the submitted site plan, and plan of operation, both file-dated April 7, 2023.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

I-1	Mechanical Contractor
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SURROUNDING ZONING AND LAND USE

North -	I-1	Single-family dwellings / Industrial
South -	I-2	Research lab
East -	C-3	Commercial
West -	I-1	Single-family dwellings / Industrial

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

- ◇ The subject site was granted a previous variance of use (97-UV1-63), to provide for the operation of a mechanical contractor, within an existing building.

VARIANCE OF USE

- ◇ This petition proposes to provide for the use of a single rubber press, a Heavy Manufacturing operation inside the existing building, currently used by a mechanical contractor.
- ◇ The press itself would be considered a medium manufacturing use, but with the addition of the heat, it is classified as a heavy manufacturing operation.

(Continued)

- ◇ The proposed use is not consistent with the Comprehensive Plan, which proposes light industrial use for the site. The proposed use is an I-3 or I-4 use, which is 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 zoned residences, industrial uses, and commercial uses.
- ◇ 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 surrounding residential properties. Therefore, Staff is recommending approval subject to the submitted site plan, which limits the use to one press to be located inside the building. In addition, Staff is recommending approval subject to the plan of operation, which 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 Duke 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 7, 2023
PLAN OF OPERATIONS	File-dated April 7, 2023
FINDINGS OF FACT	File-dated April 7, 2023

ZONING HISTORY

2018-UV2-003; 2307 Duke Street (south of site), requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish a dwelling unit associated with an office and research lab, **granted**.

2017-UV1-009; 2302 East 44th Street (south of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance, to provide for automobile repair and outdoor storage of vehicles, with parking in the front yard of 44th Street, and parking and maneuvering within the right-of-way of 44th Street, **granted**.

2008-UV1-029; 2220 East 44th Street (southwest of site), requested a variance of use of the Industrial Zoning Ordinance to provide for a meeting place and assembly hall for a social club, within a 3,000-square foot tenant space in an existing industrial building, **granted with conditions**.

2004-DV2-003; 2207 Duke Street (west of site), requested a variance of development standards of the Industrial Zoning Ordinance to legally establish a 3,072-square foot machine shop and to provide for a 1,200-square foot addition with a five-foot east side yard setback, **granted**.

(Continued)

2002-ZON-846/2002-VAR-846; 2114 Clay Street and 4630, 4380, and 4390 North Keystone Avenue (south of site), requested the rezoning of 0.9 acre from C-5 (W-1) to C-4 (W-1), to provide for regional commercial uses, **approved**; and requested a variance of development standards of the Commercial Zoning Ordinance to provide for eight off-street parking spaces associated with a proposed restaurant, with zero handicap parking spaces, and with required drive-through stacking spaces located within the access drive, **granted**.

97-UV1-63; 2320 East Duke Street (subject site), requested a variance of use of the Industrial Zoning Ordinance to provide for the operation of a mechanical contractor, within an existing building, **granted**.

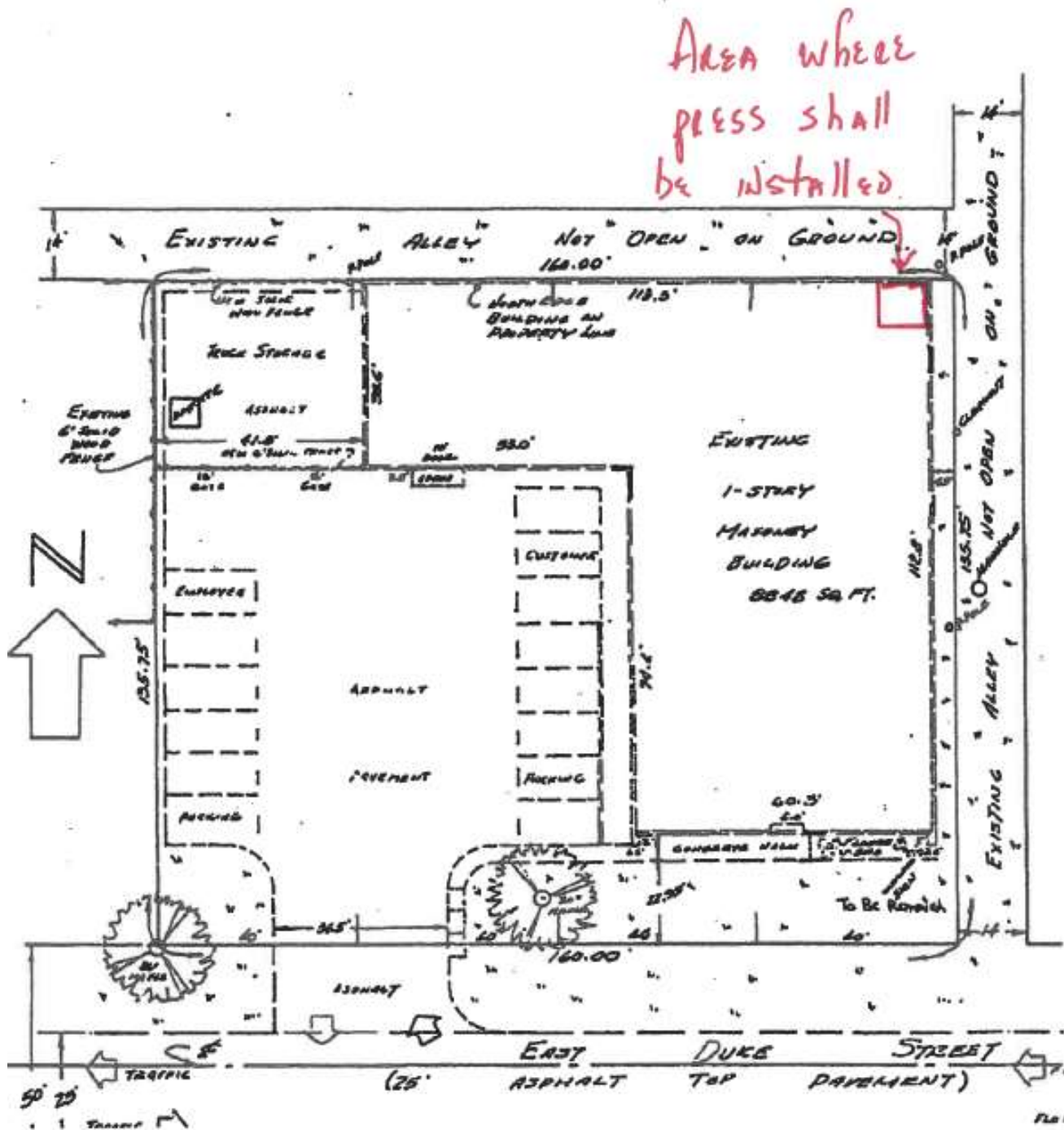
96-UV3-27, 2207 Duke Street (west of site), requested a variance of development standards of the Industrial Zoning Ordinance to provide for an expansion to an existing structure with a three-foot side yard setback along the west property line and parking within the required front yard, **approved**.

93-HOV-99; 2207-13 Duke Street (west of site), requested a Variance of Development Standards of the Industrial Zoning Ordinance to provide for a building addition with a side yard setback of five feet, **granted**.

89-V1-105; 2202 East 44th Street (southwest of site), requested a Variance of Development Standards of the Industrial Zoning Ordinance to permit two building additions, with maneuvering area for each of three new loading docks, in I-2-U, **granted**.

RU





PLAN OF OPERATION

Employees: Eight (8)

Noise No outside noise on the site.

Maintenance: No exterior maintenance performed

Hours of Operation: 8 am to 6 pm Monday thru Saturday

Signs/ Promotions: No temporary signs, no banners, no streamers on the site

Visitors/ clients Three to four visiting clients per year

Lighting: Any exterior lighting shall be affixed to the building.

Litter/ weeds: Shall be picked and removed from the site within twenty-four (24) hours

Waste: Picked up by private service on a regular basis

Security: Alarms and cameras on interior and exterior

Deliveries/ Pickups: Most by van , with 3/4 semi per week

Primary customers: Fire Departments. Vehicle towing and recovery companies



Subject site looking northeast.



Subject site looking northwest.



Adjacent research lab to the south.



Adjacent commercial to the east, looking north.



Adjacent industrial zoned single-family dwelling, looking north.



Adjacent industrial zoned single-family dwellings to the north.

STAFF REPORT

Item 8.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV2-004
Address: 849 South Belmont Avenue (approximate address)
Location: Center Township, Council District #16
Zoning: D-5
Petitioner: D.G. Kidanemhret Eritrean Orthodox Tewahdo Cathedral, Inc., by Biniam Sahlezeghi Kifle
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide a 54-inch decorative fence within the front yards and clear sight triangle of Belmont Avenue and Wyoming Street (maximum 3.5-foot-tall fence permitted, encroachments within clear sight triangles prohibited).

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-5 Religious Use

SURROUNDING ZONING AND LAND USE

North -	C-1	I-70 interstate / parking lot
South -	PK-1	Rhodus Community Park
East -	D-5	Single-family dwellings
West -	D-5	Single-family dwellings

COMPREHENSIVE PLAN The Comprehensive Plan recommends special use for the subject site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The Consolidated Zoning and Subdivision Zoning Ordinance restricts the height of fences in front yards throughout the County. The Ordinance limits fence height to 3.5 feet in height in front yards. The restriction on fence height is intended to preserve sight lines for vehicles and pedestrians, and to ensure that residentially used lots maintain residential qualities and characteristics. Fences taller than 3.5 feet in the front yard tend to be industrial in nature and create a compound aesthetic within residential neighborhoods.
- ◇ When improperly tall fences are erected adjacent to the public right-of-way, that area becomes a less desirable place for pedestrians to travel. The propagation of excessively sized fences, therefore, can have a detrimental impact on a given street or neighborhood by discouraging neighbors from walking in areas encumbered with such fences.

(Continued)

STAFF REPORT 2023-DV2-004 (Continued)

- ◇ In staff's opinion, the need for a fence with a non-complaint height is a personal choice in this instance, and the fence should be replaced with a zoning complaint fence or reduced in height to 3.5 feet to be zoning compliant, as other nearby properties are able to be complaint with.
- ◇ Failure to consult the Ordinance before installation, and/or the cost of replacing the fence are self-imposed difficulties, and not practical difficulties imposed by the Ordinance.
- ◇ As such, staff does not believe a practical difficulty has been demonstrated that necessitates a five-foot tall fence in the front yard and recommends denial of this request.

Clear Sight Triangle

- ◇ The Ordinance, specifically 744-503.H, states "no obstructions shall be erected, placed, planted or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5 feet and 8 feet above grade level of the adjoining right-of-way within a Clear Sight Triangular Area." The clear sight triangular area is formed by the right-of-way centerline and the centerline of the driveway and the line connecting the two end points. The clear-sight triangle requirement is to provide for sight visibility for motorists at an intersection. Reduction in visibility at intersections would increase the possibility of motorists or pedestrian accidents.
- ◇ The original fence was located within the clear sight triangle of the Belmont Avenue and Wyoming Street intersection. The petitioner has submitted a revised site plan, file dated May 30, 2023, that indicates a portion of the fence has been relocated outside of the clear sight triangle, and with that portion reduced in height. If the fence has been related outside of the entire clear site triangle, then this portion of the request can be withdrawn.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of South Belmont Avenue is designated as a secondary arterial on the Official Thoroughfare Plan, with a 70-foot existing and proposed right-of-way.

This portion of Wyoming Street is designated as a local street in the Official Thoroughfare Plan, with a 50-foot and 68-foot existing right-of-way, and a 95-foot proposed right-of-way.

SITE PLAN (Amended)

File-dated May 30, 2023

FINDINGS OF FACT

File-dated March 8, 2023

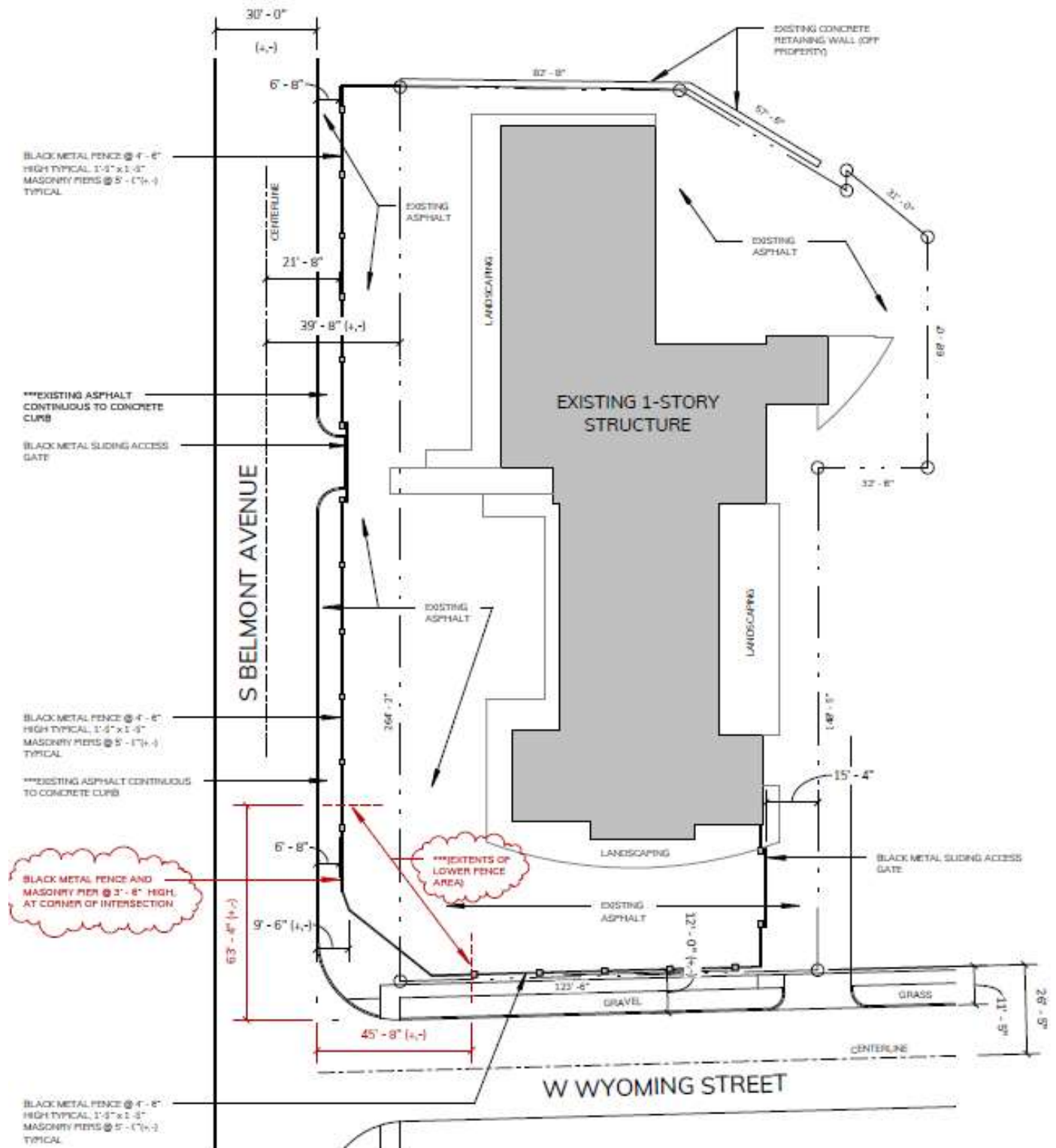
ZONING HISTORY

None.

RU

2023-DV2-004; Location Map







Subject site Belmont Street frontage, looking northeast.



Subject site Wyoming Street frontage, looking north.



Adjacent dwellings to the east, looking north,



Adjacent dwellings to the west.



Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION I

June 6, 2023

Case Number: 2023-UV1-006 (Amended)

Property Address: 201 West 38th Street and 3750 North Capitol Avenue (approximate address)

Location: Center Township, Council District #7t

Petitioner: Martin Petroleum Inc., by Pat Rooney

Current Zoning: C-4 / D-5

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required).

Current Land Use: Commercial (Automobile fueling station)

Staff Recommendations: Denial

Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

ADDENDUM FOR JUNE 6, 2023

This petition was continued from the May 9, 2023 hearing to the June 6, 2023 hearing at the request of the petitioner. No new information has been provided to the case file.

Staff continues to recommend denial of the request as amended.

It is staff's understanding that the petitioner may decide to withdraw this petition.

ADDENDUM FOR MAY 9, 2023

This petition was continued from the April 4, 2023 hearing to the May 9, 2023 hearing at the request of the petitioner. No new information has been provided to the case file.

Staff continues to recommend denial of the request as amended.

ADDENDUM FOR APRIL 4, 2023

The petitioner filed an updated site plan on March 20, 2023 that relocated the dumpster to be in line with the façade of the convenience store, removing it from the front yard, proposed the required bike parking spaces to the east of the building and noted nine frontage trees. The variances associated with these items were no longer necessary, so the request was amended.



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

Unfortunately, the new location of the additional tree resulted in staff's observation that most of the required street trees would fall within the clear sight triangles of the abutting streets and alley. Therefore, this petition would either need to be continued and amended with new notices for the inclusion of the additional variance or a separate petition would need to be filed to address the issue.

Staff continues to recommend denial of the request as amended.

March 7, 2023

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

This petition was automatically continued from the March 7, 2023 hearing to the April 4, 2023 hearing at the request of a registered neighborhood organization.

STAFF RECOMMENDATION

Staff is recommending denial of the request.

PETITION OVERVIEW

VARIANCE OF USE

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

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

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

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



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

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

VARIANCE OF DEVELOPMENT STANDARDS

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

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

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

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

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

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



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GENERAL INFORMATION

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

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Pattern Book recommends Village Mixed-Use and Traditional Neighborhood development.
- The subject site is also located within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove uses included in this request.



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- The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.
- The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The site is located within the Red Line TOD Strategic Plan, but it is not located within the Transit Oriented Development Secondary Zoning District.
- The closest station to the site is located within a ½ a mile to the east at the intersection of 38th Street and Meridian Street. This station is categorized as a District Center with the potential for a dense mixed-use hub for multiple neighborhoods with tall buildings, minimum of 3 stories with no front or side setbacks, multi-family housing with a minimum of 5 units and structured parking only with active first floor.
- TOD investments here should leverage significantly higher residential and employment densities, demonstrations projects, urban living amenities and workforce housing.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

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



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Indy Moves

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

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



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ZONING HISTORY

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

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

ZONING HISTORY – VICINITY

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

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

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

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

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



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

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

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

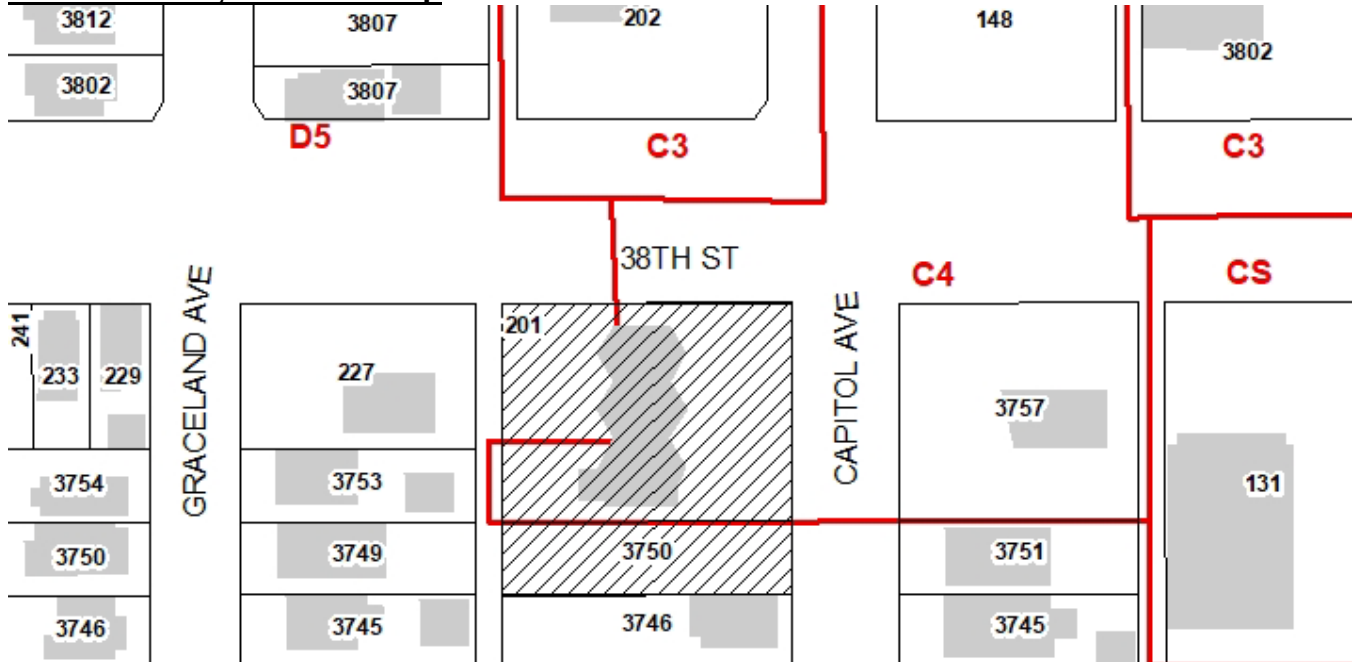
85-UV1-34; 201 West 38th Street (subject site), Variance of use of the Dwelling Districts Zoning Ordinance and development standards of the Commercial Zoning Ordinance to provide for the construction and use of a convenience store with gasoline sales. Development will include a 6.6-foot rear transitional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

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

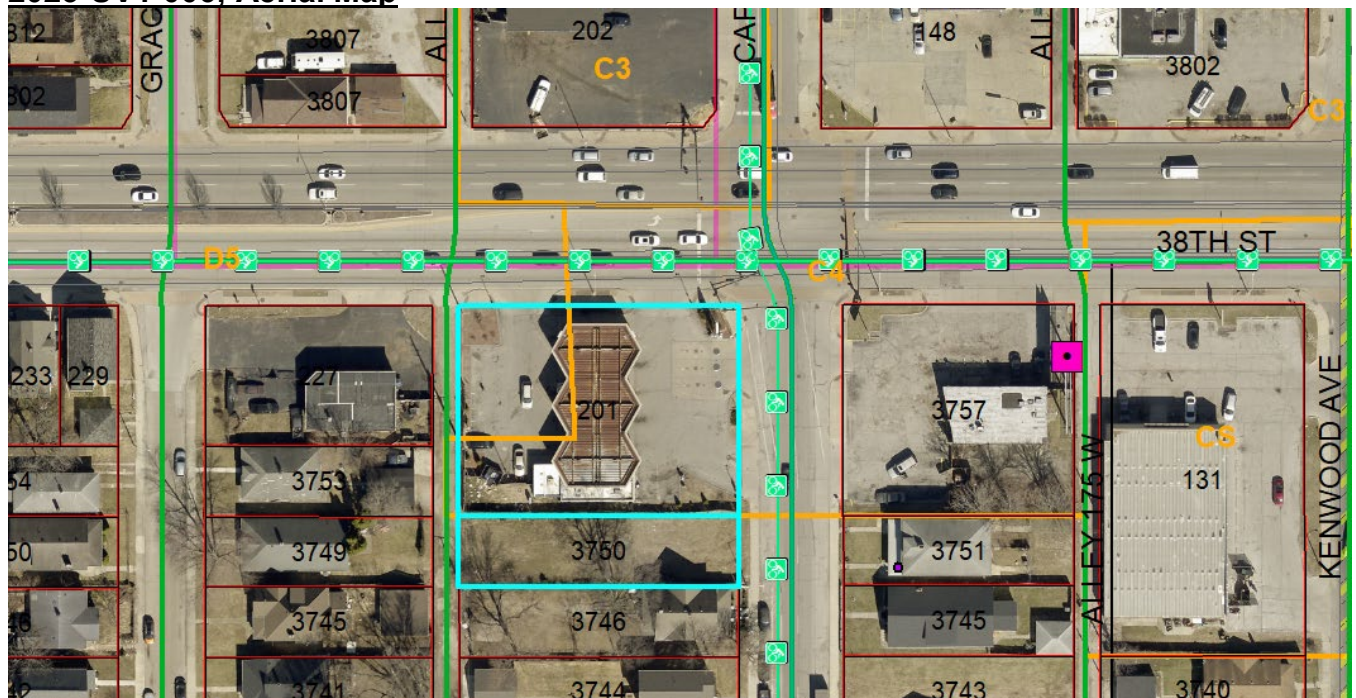
83-UV2-78; 3801 North Capitol Avenue (northeast of site), Variance of use and development standards to provide for a carry-out restaurant within one-hundred feet of a residential zoning district, a reduction in required transitional yards, a drive-up window canopy in required front yard setback and a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

EXHIBITS

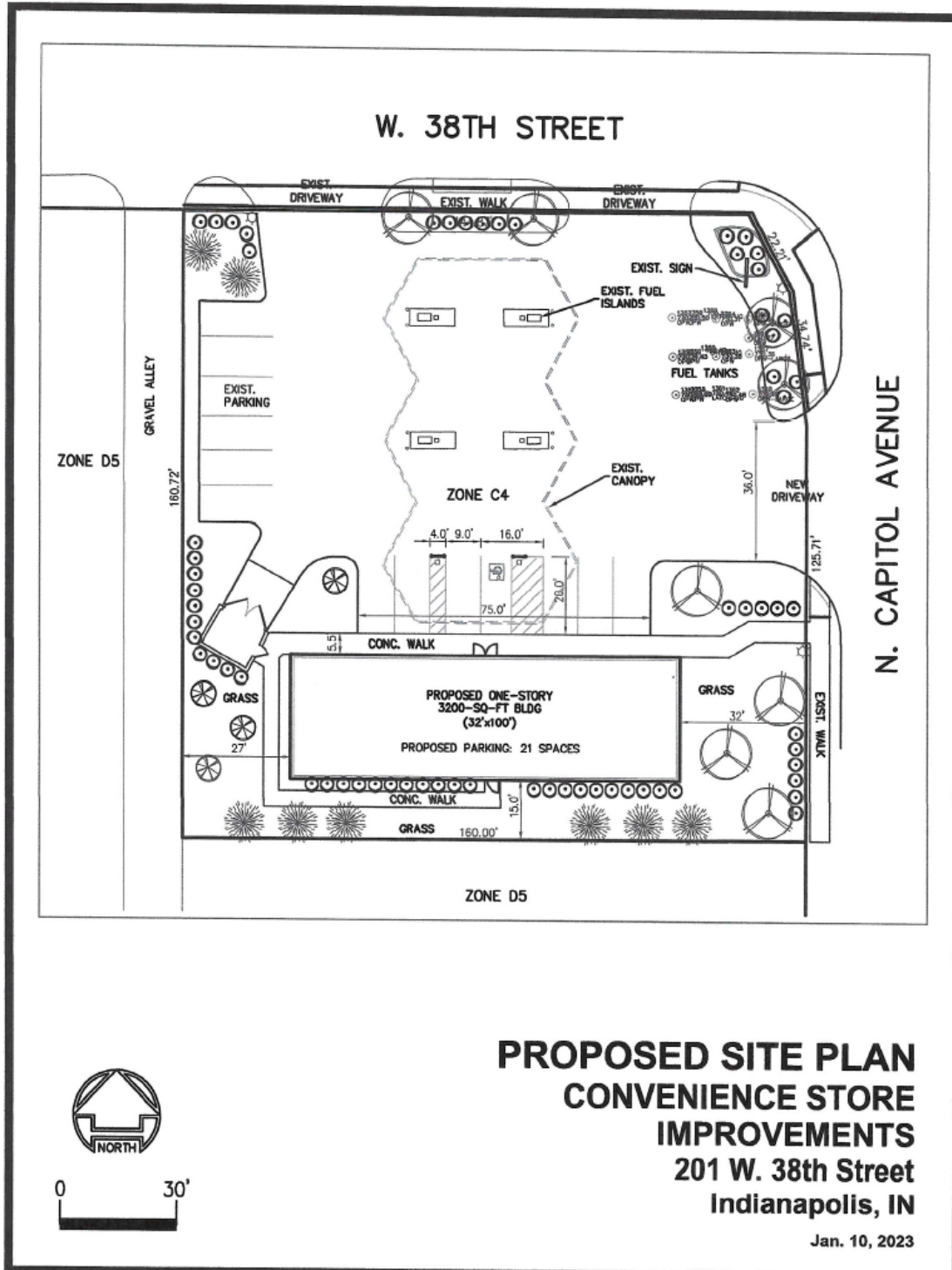
2023-UV1-006; Location Map



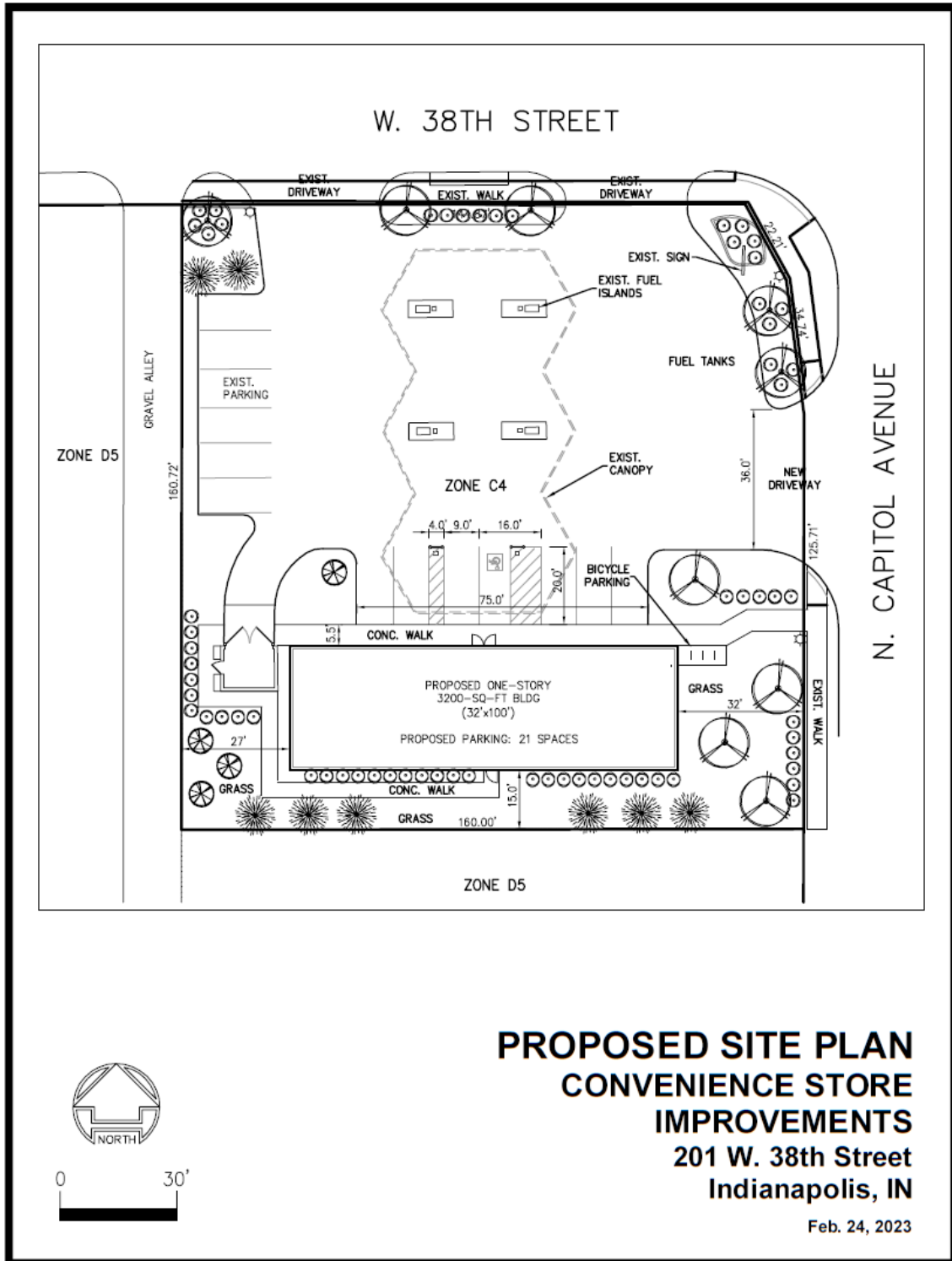
2023-UV1-006; Aerial Map



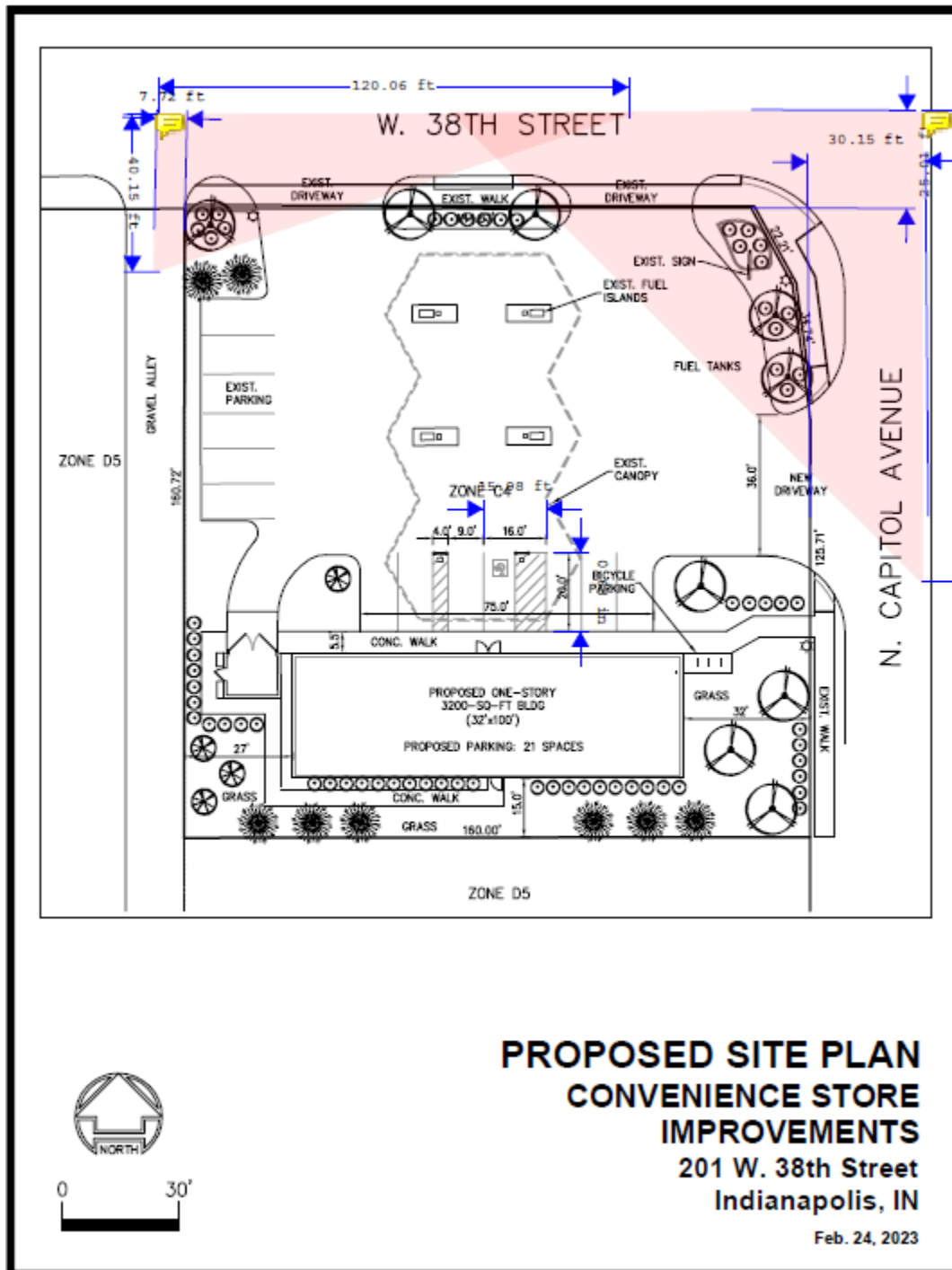
2023-UV1-006; Site Plan



2023-UV1-006; Amended Site Plan



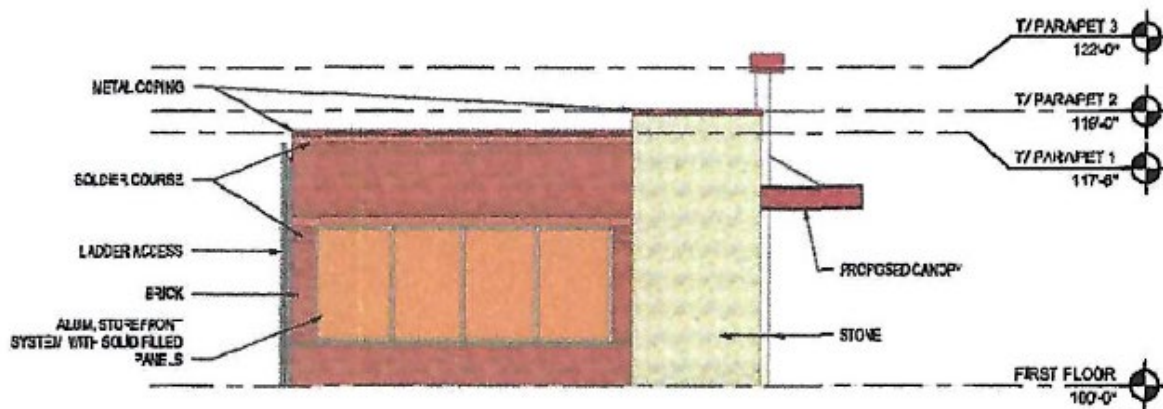
2023-UV1-006; Clear Sight Triangles



2023-UV1-006; Elevations



5 EXTERIOR VIEW
 SCALE: NTS



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

2023-UV1-006; Elevations (Continued)

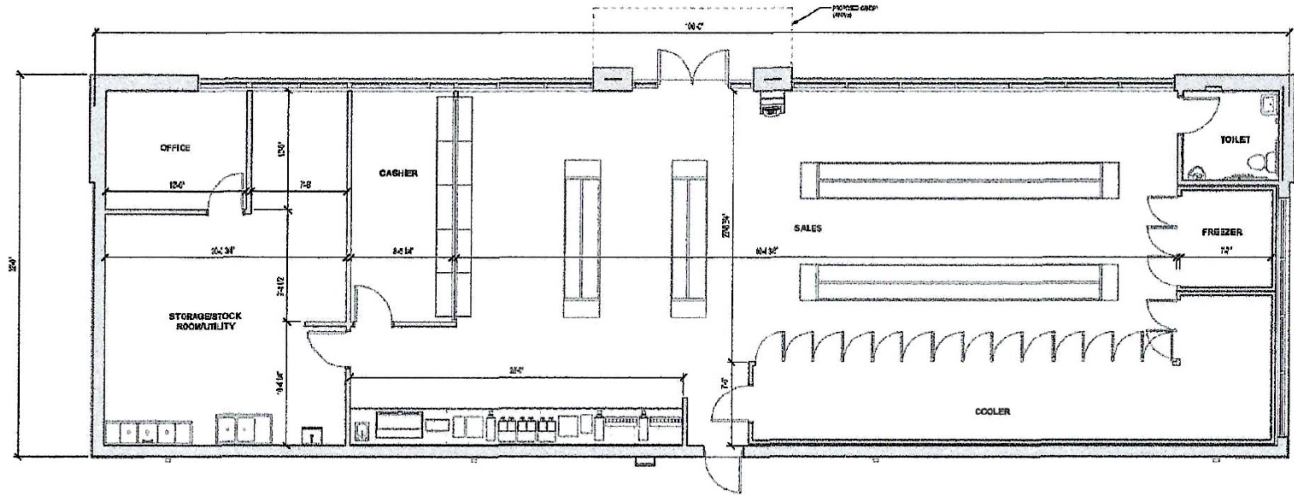


4 EXTERIOR VIEW
 SCALE: NTS



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

2023-UV1-006; Floor Plan



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



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2023-UV1-006; Plan of Operation

PLAN OF OPERATIONS

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



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2023-UV1-006; Findings of Fact

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

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

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

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

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

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

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

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

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

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

2023-UV1-006; Photos



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



Western property boundary abutting an alley.



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



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



Street frontage along Capitol Avenue looking south.



Undeveloped residential lot to be included in the project development.



Commercial and residential uses east of the site.



Commercial use north of the site.



Commercial use west of the site.

STAFF REPORT

Item 10.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-024
Address: 1718 Lafayette Road (approximate address)
Location: Wayne Township, Council District #11
Zoning: D-5 (W-5)
Petitioner: Lafayette Rooms LLC, by David E. Dearing
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a 12.5-foot tall, 11.25-square foot pylon sign (not permitted) and a 40-square foot wall sign (maximum six-square foot wall sign permitted).

RECOMMENDATIONS

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

SUMMARY OF ISSUES

LAND USE ISSUES

EXISTING ZONING AND LAND USE

Compact D-5 Commercial (Vacant Medical Office)

SURROUNDING ZONING AND LAND USE

North - D-5	Commercial (Motel)
South - D-5	Single-Family Dwellings / Automobile Repair
East - D-5 & I-3	Single-Family Dwellings / Warehousing
West - D-5	Single-Family Dwellings

COMPREHENSIVE PLAN The Comprehensive Plan recommends Community Commercial uses for the subject site.

- ◇ Based on 1915 Sanborn maps and 1937 aerial photos, the site was previously developed residentially, until approximately 1954, when a variance of use for a publishing house was granted (54-V-355). That use continued until 1974, when a new variance of use for a wholesale optician, eyeglasses and contact lenses fabrication in the existing building, was granted (74-UV3-69).
- ◇ A recent request on the subject site, for a variance of use and development standards (2022-UV1-034) to provide for the operation of a community center and event center with a proposed 65-foot wide parking area in the front yard was granted.
- ◇ Due to the existing zoning being a long-term legacy zoning and outdated for the site, and to avoid future variances related to the existing D-5 zoning, Staff had recommended the site be rezoned instead. At the time of the previous variance of use petition, the petitioner had indicated their reluctance to file for a rezoning.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request for a proposed 12.5-foot tall, 11.25-square foot pylon sign, and a 40-square foot wall sign, is a result of the petitioner's refusal to rezone the property.
- ◇ If the property would be rezoned to the C-4 District, then this variance could be dismissed, and any potential future variance filed as a result of the existing D-5 zoning would not be needed.
- ◇ Rezoning to the C-4 District would address deficiencies with the current D-5 District zoning such as sign standards, parking standards, required landscaping and transitional yard setbacks that will protect the dwelling district to the east, south and west, where variances in the current D-5 zoning do not.
- ◇ With the proposed use expanding onto a property that is not properly zoned, and the lack of a demonstrable hardship, Staff does recommend denial of this petition as requested.
- ◇ The previous variance of use petition (2022-UV1-034) was subject to commitments, including that petitions site plan file-dated February 2, 2023. That site plan does not show or provide for a pylon sign as requested by this petition. Therefore, if this request should be approved, an Approval petition to modify the commitments for 2022-UV1-034 will still be required, before the pylon sign could be permitted.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Lafayette Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 75-foot existing right-of-way and an 88-foot proposed right-of-way.
SITE PLAN	File-dated April 24, 2023.
FINDINGS OF FACT	File-dated April 24, 2023.

ZONING HISTORY

2022-UV1-034; 1718 Lafayette Road (subject site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a community center and event center with proposed 65-foot wide parking area in the front yard, **granted**.

2020-UV3-003; 1718 Lafayette Road and 2438 West 17th Street (includes subject site), requested a variance of use to provide for a police station, **withdrawn**.

2005-ZON-131, 2429 West 17th Street (south of site), requested the rezoning from the D-5, C-3, and C-5 districts to the C-5 district, **approved**.

2004-DV3-031, 1850 Belleview Place (west of site), requested a variance to provide for a 900-square foot accessory structure resulting in an accessory building area of 90 percent of the main floor area of the primary dwelling, **approved**.

(Continued)

94-HOV-79, 1657 North Belleview Place (west of site), requested a variance to provide for a 720-square foot detached garage on a corner lot with a seven-foot setback from 18th Street, **approved**.

91-HOV-42, 1709 Lafayette Road (east of site), requested a variance to provide for a 77.3-foot transitional yard setback from the north property line, **approved**.

79-UV2-134; 1718 Lafayette Road (subject site), requested a variance of use and development standards to permit erection of an addition to rear of existing wholesale optician, eyeglass and contact lenses fabrication business, **granted, subject to conditions for landscaping and parking plan**.

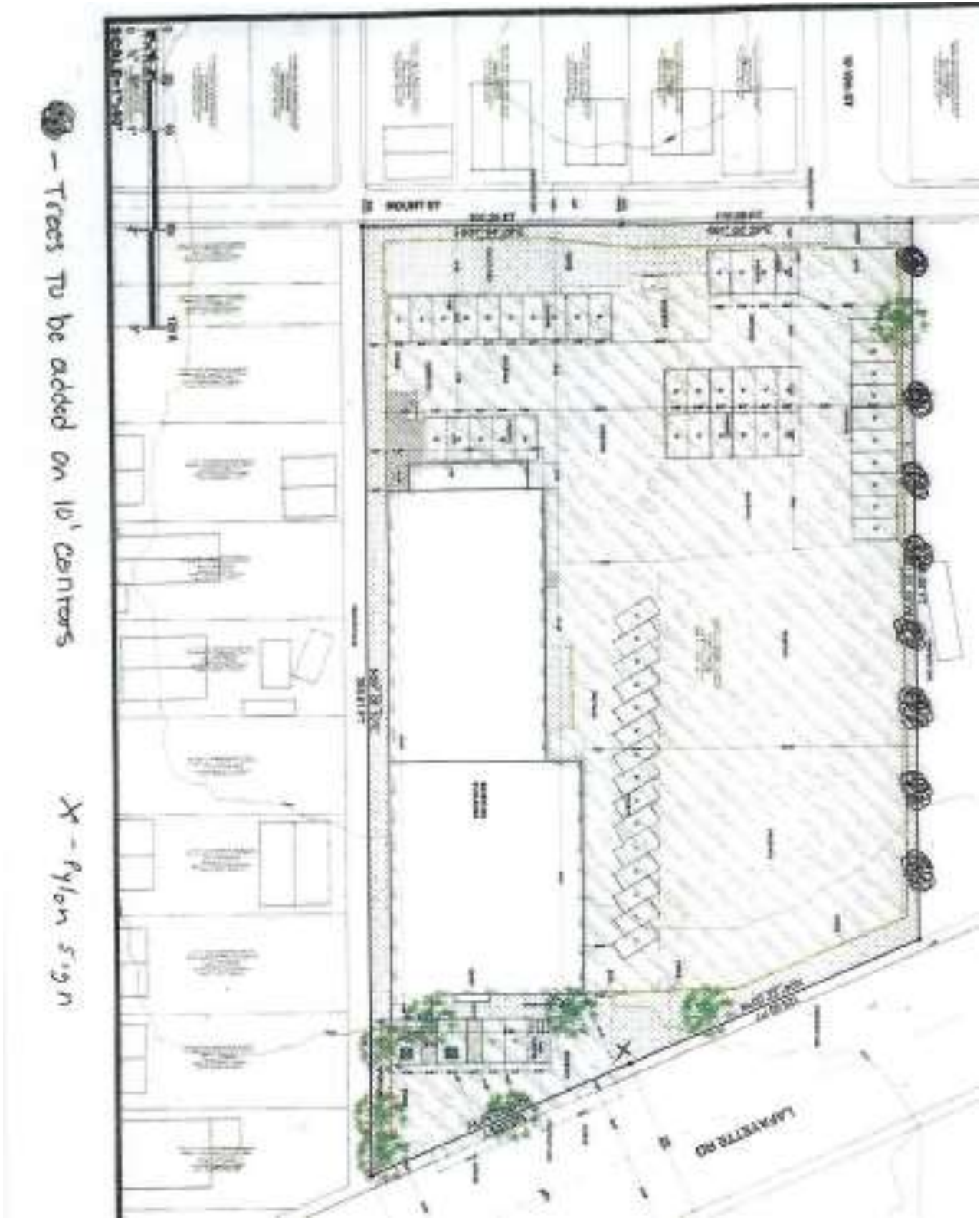
74-UV3-69; 1718 Lafayette Road (subject site), requested a variance of use and development standards to permit operation of a wholesale optician, eyeglasses and contact lenses fabrication in existing building, **granted, with parking to be arranged in a fashion which will not harm the existing trees**.

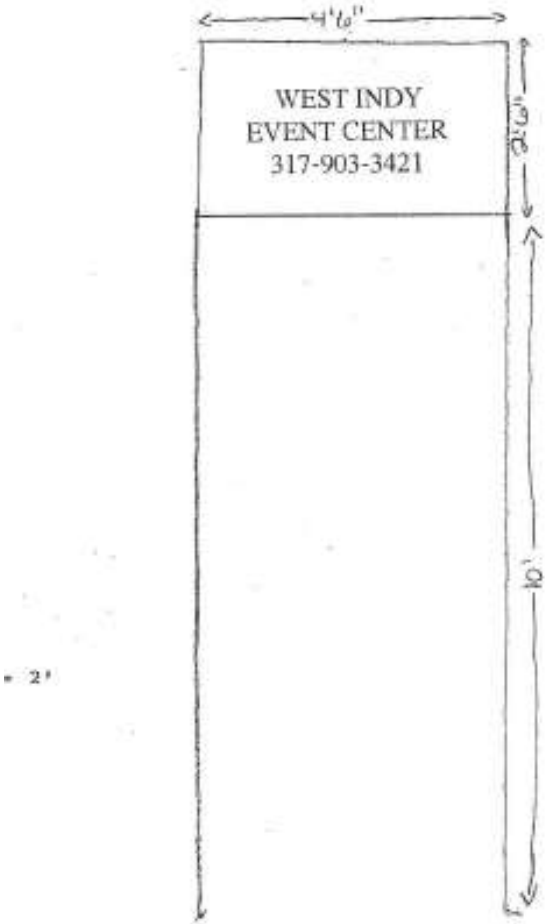
71-V1-37; 1718 Lafayette Road (subject site), requested a variance of use and setback requirements to erect an addition to the north side of an existing publishing house, **granted**.

54-V-355; 1718 Lafayette Road (subject site), requested a variance of use to provide for a publishing house, **granted**.

RU









Subject site, looking west



Subject site north side yard, looking west



Proposed location of pylon sign, looking north.



Adjacent automobile repair use to the south, looking west



Adjacent warehouse uses to the east.



Adjacent commercial motel use to the north, looking west