



Board of Zoning Appeals Division III (March 19, 2024) Meeting Agenda

Meeting Details

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

Date: Tuesday, March 19, 2024

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. 2024-DV3-003 | 3308 North Mitthoefer Road**
Warren Township, Council District #15, Zoned I-3 / I-4
The Finish Line Inc., by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two incidental signs, each encroaching 4.5-feet into the right-of-way of Mitthoefer Road (prohibited), with the north sign located 70-feet from a dwelling district (100-foot transitional yard required).

**** Petitioner requesting a continuance to the April 16, 2024 hearing of Division III**

- 2. 2024-DV3-005 | 2360 Prospect Street**
Center Township, Council District #18, Zoned C-4
Linda Thompson, by Daniel Newton

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot-tall perimeter chain link fence within the required clear-sight triangle (maximum 3.5-foot-tall fence permitted in front yards, chain link not permitted within front yards, encroachment into the clear-sight triangle not permitted).

**** Staff to request continuance, on the Petitioners behalf, to the April 16, 2024 hearing of Division III**

- 3. 2024-DV3-006 | 3805 South East Street**
Perry Township, Council District #23, Zoned C-5
S & L Properties Indianapolis East LLC, by Emily Bublitz

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with the location of a drive through and stacking spaces within the front yard of National Avenue without the required screening of a service unit (not permitted) and 120 parking spaces and zero bicycle parking (maximum 46 spaces permitted, three bicycle parking spaces required) and deficient landscaping.

**** Petitioner requesting a continuance to the April 16, 2024 hearing of Division III to revise the filed site plan**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

4. **2023-SE3-005 (Amended) | 6179 East 26th Street**

Warren Township, Council District #9, Zoned D-A
Iglesia De Dios Israelita El Elohe Israel II Inc., by Marco Antonio Vazquez

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses with a 5.5-foot tall, 21-square foot monument sign (not permitted).

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 37-foot wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).

5. **2024-SE3-001 | 8550 East 30th Street**

Warren Township, Council District #9, Zoned I-2
Marita y Castro Rivas, by David Kingen

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an expanded parking area with a zero-foot rear yard setback (30-foot setback required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

6. **2024-MO1-001 / 2024-DV1-007 | 7530 Allisonville Road**

Washington Township, Council District #3, Zoned D-A (FW) (FF)
Phillip D. Rushton & Joanne Rushton Rev. Trust – Rebecca Patton Successor TTE, by Gregory J. Cagnassola

Modification of Commitments related to 2009-UV2-036, to terminate Commitment Number Eight and Four, which requires compliance with required setbacks of the D-A District, and the use of slick mounted antenna and associated attachments, respectively.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of structures related to the cell phone tower resulting in a seven-foot south side and 0.5-foot north side yard setback and a 2.5-foot rear yard setback, resulting in a 7.5-foot aggregate side yard setback (30-foot side yard, 75-foot aggregate side yard, 75-foot rear yard setbacks required) and a lot line adjustment resulting in a 0.606-acre lot and a 40-foot frontage (minimum three acres and frontage of 125 feet required).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

7. **2023-SE3-006 | 1140 Dr. Martin Luther King Jr. Street**

Center Township, Council District #11, Zoned SU-2 / D-8 (RC)
SMJ International o/b/o ATC, by Aaron Adelman

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 120-foot tall monopole tower and a four-foot lightning rod.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communication facility without the required perimeter landscape screening (minimum 10-foot landscape yard required).

8. **2023-UV3-024 | 2745 and 2815 Curry Road**

Warren Township, Council District #14, Zoned D-A
David Palacios, by Joseph D. Calderon

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping contractor, including the indoor and outdoor storage of commercial vehicles, equipment, and materials (not permitted).

9. **2024-DV3-001 | 6027 Castlebar Circle**

Lawrence Township, Council District #3, Zoned D-2
Audrey Dressel, by Russell Brown

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yard of Circlewood Road (maximum 3.5-foot tall fence permitted) and an 88-foot wide parking area within the front yard of Castlebar Circle (maximum 30-foot wide parking area permitted).

PETITIONS FOR PUBLIC HEARING (New Petitions):

10. 2024-SE3-002 | 6760 Dalton Street

Lawrence Township, Council District #4, Zoned C-4
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 I-465 by a state agency.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 14-foot by 48-foot, 50-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of 65 feet (maximum height of 40 feet permitted) and will be considered a multi-sided sign with faces 33 degrees and 30 feet apart (maximum 15 degrees or 42 inches of separation permitted), to a 7,170 square-foot lot (maximum 6-foot by 12-foot sign permitted on lots with less than 10,000 square feet of area), with a five-foot setbacks from Bash Street, Dalton Street and the western property line (10-foot setback required), located 345 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), within 605 and 975 feet from other outdoor advertising signs (1,000-foot radial spacing required).

11. 2024-DV3-004 | 1328 Lawrence Avenue

Perry Township, Council District #23, Zoned D-4
Amy DiVincenzo & William Esquivel Najera

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yards of Otterbein Avenue and Lawrence Avenue (maximum 3.5-foot-tall fence permitted).

**** Staff requests continuance to the April 16, 2024 hearing of Division III, in order to amend the request**

12. 2024-UV3-002 | 5312 South Emerson Avenue

Perry Township, Council District #24, Zoned D-A
Ranveer Singh Khangura

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an insurance agency office and real estate brokers office (not permitted).

**** Petition to be withdrawn in order to file a rezoning petition**

13. 2024-UV3-003 | 8540 US 31

Perry Township, Council District #23, Zoned SU-1 / HD-1
Christ Indianapolis United Methodist Church, Inc., by Damon C. Cox

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a pole sign (not permitted), within 90 and 180 feet of existing freestanding signs (300-foot of separation required, one freestanding sign permitted along a frontage) and including a 37.28-square-foot digital display component (prohibited) and to legally establish an existing pole and monument sign.

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.



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2024-DV3-003
Property Address: 3308 North Mitthoefer Road (approximate address)
Location: Warren Township, Council District #15
Petitioner: The Finish Line Inc., by Joseph D. Calderon
Current Zoning: I-3 / I-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two incidental signs, each encroaching 4.5-feet into the right-of-way of Mitthoefer Road (prohibited), with the north sign located 70-feet from a dwelling district (100-foot transitional yard required).

Current Land Use: Industrial

Staff Recommendations: Staff **recommends denial** of the request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR MARCH 19, 2024

- This petition was continued from the February 20, 2024 BZA Division III hearing to allow for additional review.
- The petitioner is requesting a continuance to the April 16, 2024 BZA Division III hearing to potentially revise the site plan. In the case that there are any additions to the request, new mailed notice would be required.

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

PETITION OVERVIEW

- This petition is to be continued to the April 16, 2024 BZA Division III hearing.



BOARD OF ZONING APPEALS DIVISION III **March 19, 2024**

Case Number: 2024DV3005
Property Address: 2360 Prospect Street (approximate address)
Location: Center Township, Council District #18
Petitioner: Linda Thompson, by Daniel Newton
Current Zoning: C-4
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot-tall perimeter chain link fence within the required clear-sight triangle (maximum 3.5-foot-tall fence permitted in front yards, chain link not permitted within front yards, encroachment into the clear-sight triangle not permitted).
Current Land Use: Commercial
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This petition should be continued to the April 16, 2024 hearing at the request of the petitioner since they will be unable to attend. Full staff report will be available in advance of that hearing.



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2024-DV3-006
Property Address: 3805 South East Street (approximate address)
Location: Perry Township, Council District #23
Petitioner: S & L Properties Indianapolis East LLC, by Emily Bublitz
Current Zoning: C-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with the location of a drive through and stacking spaces within the front yard of National Avenue without the required screening of a service unit (not permitted) and 120 parking spaces and zero bicycle parking (maximum 46 spaces permitted, three bicycle parking spaces required) and deficient landscaping.

Current Land Use: Vacant commercial building
Staff Recommendations: Staff has no recommendation for this petition
Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- The petitioner is requesting a continuance to the April 16, 2024 BZA Division III hearing to revise the submitted site plan. In the case that there are any additions to the request, new mailed notice would be required.

STAFF RECOMMENDATION

- Staff has no recommendation for this petition.

PETITION OVERVIEW

- This petition is to be continued to the April 16, 2024 BZA Division III hearing.



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2023-SE3-005 (Amended)

Property Address: 6179 East 26th Street (approximate address)

Location: Warren Township, Council District #13

Petitioner: Iglesia De Dios Israelita El Elohe Israel II Inc., by Marco Antonio Vazquez

Current Zoning: D-A
Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses with a 5.5-foot tall, 21-square foot monument sign (not permitted).

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 37-foot wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).

Current Land Use: Vacant

Staff Recommendations: Staff recommends approval of this petition.

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 20, 2024 BZA III HEARING

- This petition was automatically continued from the November 28, 2023 BZA III hearing to the December 19, 2023 BZA III hearing and was continued again to the January 16, 2024 BZA III hearing to allow for site plan revisions.
- An additional continuance was requested by Staff to the February 20, 2024 BZA III hearing to allow for further review and to amend the request.
- The petition was continued one more time on February 20, 2024 to the March 19, 2024 BZA Division III hearing due to lack of quorum.

STAFF RECOMMENDATION

Staff recommends approval of this petition.

PETITION OVERVIEW



Department of Metropolitan Development
 Division of Planning
 Current Planning

- This petition would provide for religious uses on the subject site, as well as a 5.5-foot tall, 21-square foot monument sign (not permitted) and a 37-foot wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).
- Religious uses are permitted in D-A zoning districts via special exception, which this petition allow for. Additionally, despite monument signs not being a permitted use in D-A districts, with monument signs being permitted in SU-1 (religious use) districts, Staff finds the request for a monument sign to be reasonable in nature and is, therefore, unopposed to the request for the monument sign.
- Finally, with the only portion of the parking area that is to be located in the front yard being the access drive, and with all of the parking spaces being located in the rear of the proposed building, Staff is unopposed to the variance of development standards request for a parking area width of 37 feet within the front yard of Sheridan Drive.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Vacant	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-4	North: Single-Family Residential
South:	D-A	South: Single-Family Residential
East:	D-A	East: Single-Family Residential
West:	D-A	West: Single-Family Residential
Thoroughfare Plan		
	E 26 th Street (Local Street) Existing ROW: 50 feet Proposed ROW: 48 feet	Sheridan Avenue (Local Street) Existing ROW: 30 feet Proposed ROW: 48 feet
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	9/21/23	
Site Plan (Amended)	2/6/24	
Elevations	9/21/23	
Elevations (Amended)		
Landscape Plan	N/A	
Findings of Fact	9/21/23	
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 Traditional 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

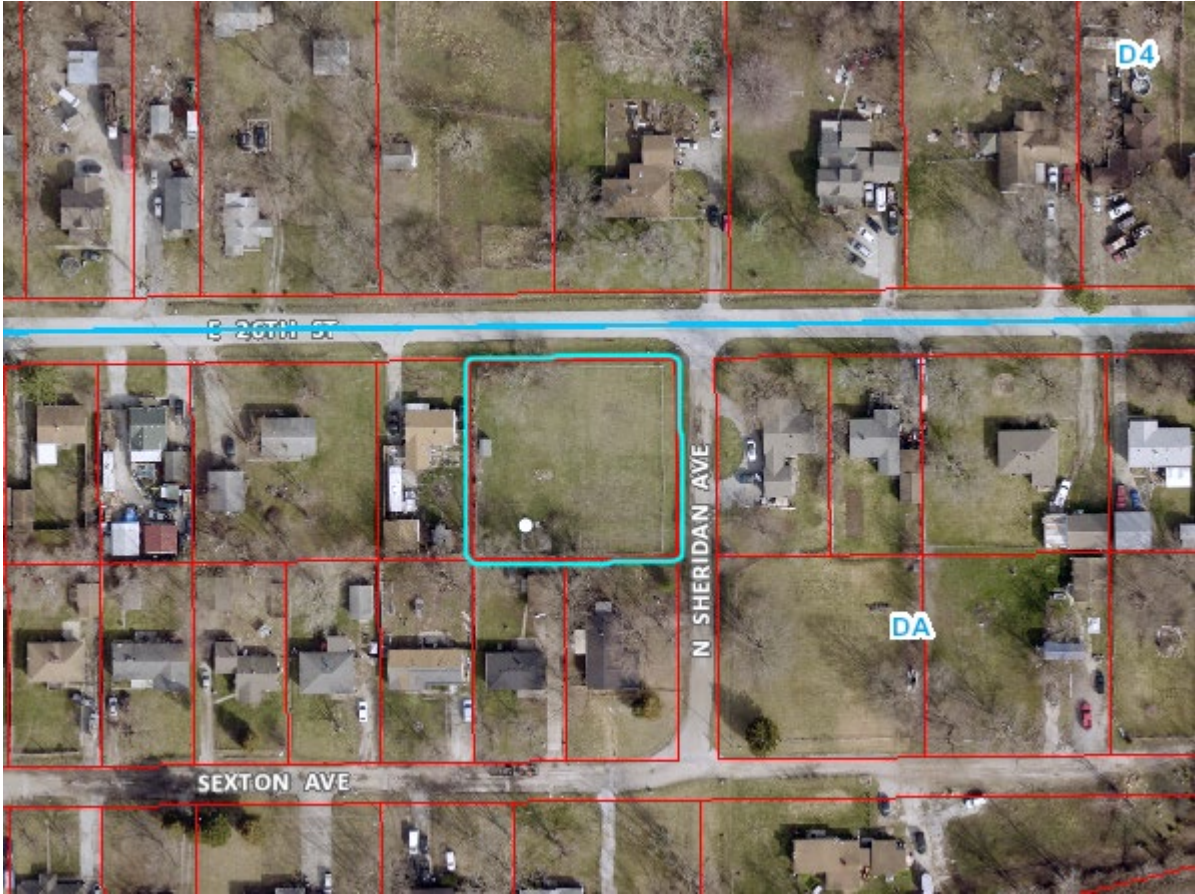
97-Z-236; 6023 E 26th Street (west of site), rezoning of 1.24 acres, to the I-2-S classification to provide for light industrial uses, **approved**.

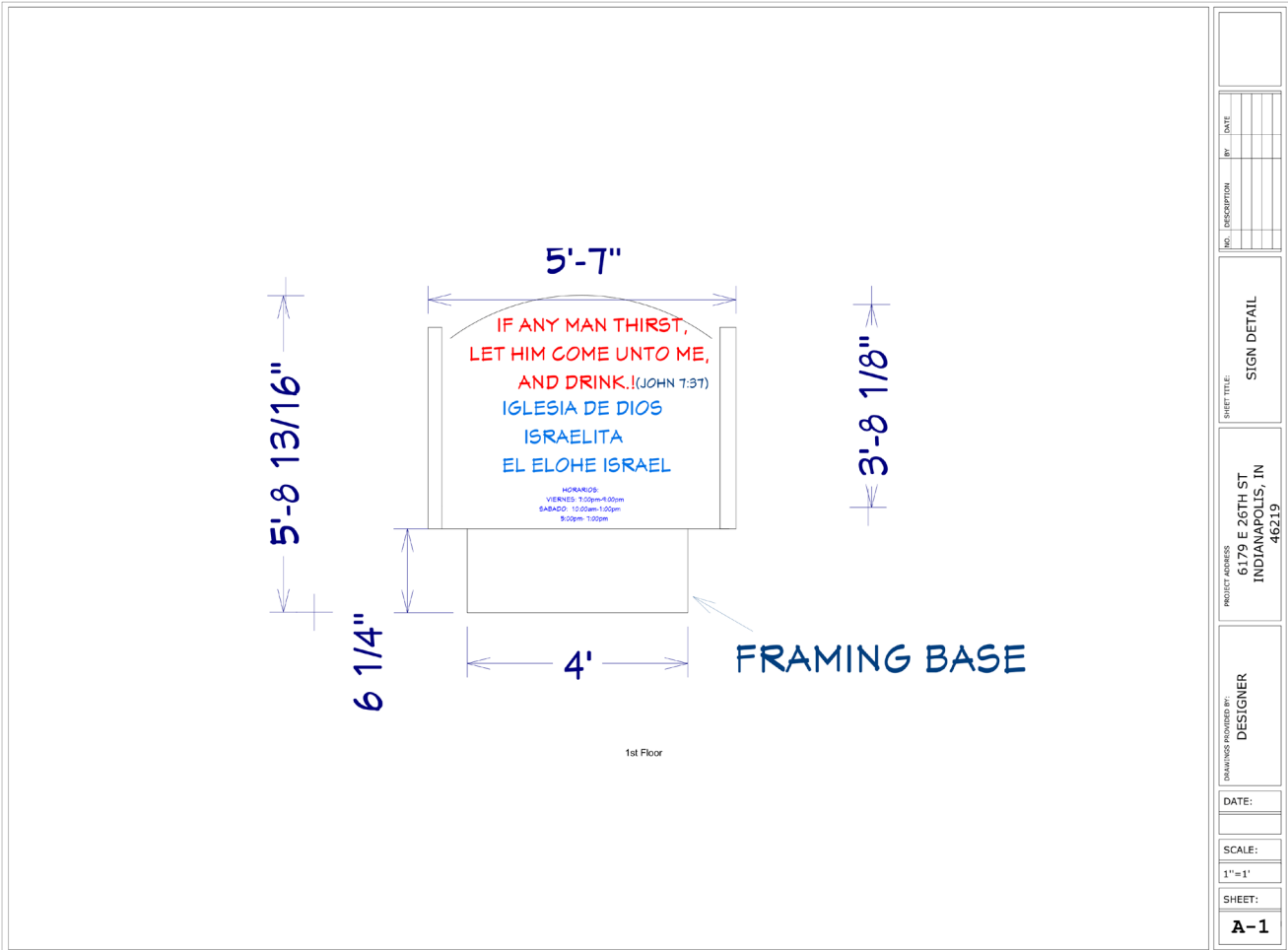
95-Z-232; 2505 North Arlington Avenue (west of site), Rezone of 3.152 acres from C-ID to C-1 to provide for the construction of a health care center, **approved**.

95-UV2-6; 6043 E Sexton Avenue (south of site), variance of use and development standards of the Dwelling Districts Zoning Ordinance to legally establish a two-family residence (not permitted), with an aggregate side yard of 34 feet (minimum 75 feet required) and a side yard of 6 feet (minimum 30 feet setback required) and main floor area of 576 square feet for one unit and 874 square feet for the second unit (minimum 1,200 square feet required), **approved**.

86-Z-179; 2601 N Arlington Avenue (west of site), rezoning of 1.3 acres, being in the D-4 district, to the I-2-S classification, to permit a new use to occupy an existing industrial facility, **approved**.

EXHIBITS

















BOARD OF ZONING APPEALS DIVISION III **March 19, 2024**

Case Number: 2024-SE3-001
Address: 8550 East 30th Street (approximate address)
Location: Warren Township, Council District #9
Zoning: I-2
Petitioner: Marita y Castro Rivas, by David Kingen
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an expanded parking area with a zero-foot rear yard setback (30-foot setback required).

Current Land Use: Vacant Veterinary Office

Staff Recommendation: Staff recommends **approval** of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for religious uses in an I-2 district.
- ◇ The I-2 district is for those industries that present minimal risk and typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, etc.) that extend beyond the lot lines. Outdoor operations and storage are completely screened if adjacent to protected districts and are limited throughout the district to a percentage of the total operation. Wherever possible, this district is located between a protected district and a heavier industrial area to serve as a buffer. For application to the older industrial districts within the central city, standards specifically accommodate the use of shallow industrial lots.
- ◇ The site falls within the Industrial Reserve (IR) overlay, which is intended for areas that are prime for industrial development due to factors such as large parcel size, proximity to compatible uses, and/or interstate access.



- ◇ The subject site was originally developed as a commercial building for a veterinarian’s office and clinic, and the proposed use will continue to use the existing building in a similar manner as the previous use.
- ◇ The subject site is limited in expansion due to the East 30th Street frontage and the proximity of a railroad right of way to the rear. Therefore, the proposed use should not negatively impact adjacent properties.
- ◇ The proposed rear setback reduction would have minimal impact due to the adjacent parcel’s use as a similar parking area and drive aisle, in additional being adjacent to a railroad right of way.

GENERAL INFORMATION

Existing Zoning	I-2		
Existing Land Use	Vacant Commercial		
Comprehensive Plan	Light Industrial Development		
Surrounding Context	Zoning	Surrounding Context	
	North:	I-2	North: Industrial Use / Railroad
	South:	I-3	South: Industrial Use
	East:	I-3	East: Industrial Use
	West:	I-2	West: Industrial Use

Thoroughfare Plan		
East 30 th Street	Primary Arterial	60-foot existing right-of-way and an 80-foot proposed right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Industrial Reserve	
Wellfield Protection Area	No	
Site Plan	January 24, 2024	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	January 25, 2024, and March 12, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends light industrial development.



Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Light Industrial typology for this site. This typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic.
- THE pattern Book recommends this site as part of the Industrial Reserve overlay. This overlay is intended for areas that are prime for industrial development due to factors such as large parcel size, proximity to compatible uses, and/or interstate access.

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

PREVIOUS CASES

2023-ZON-123; 8550 East 30th Street (subject site), Rezoning of 0.64 acre from the I-2 district to the SU-1 district, to provide for religious uses, **withdrawn to file for a Special Exception instead.**

84-UV3-46; 8550 East 30th Street (subject site), Rehearing of 84-UV3-46, variance of use of the Industrial Zoning Ordinance to provide for the construction of a 40 x 50-foot building for an animal clinic, to modify the building and site plans to provide for 60-foot setback from the right-of-way as opposed to a 70-foot setback previously approved, **granted.**



ZONING HISTORY – VICINITY

2008-ZON-082; 8620 East 30th Street (east of site), Rezoning of 0.919 acre, being in the C-S District, to the C-S classification to provide for all I-2-S uses, **approved**.

2005-ZON-159; 8535 and 8600 East 30th Street (south of site), Rezoning of eleven acres from I-2-S and I-3-S to SU-1, withdrawn.

90-Z-192; 8309 East 30th Street (southwest of site), Rezoning of 1.25 acres, being in the I-3-S District to the SU-18 classification to provide for the construction of an electrical substation, **approved**.

87-Z-25; 2502 North Post Road (southeast of site), Rezoning of 98.35 acres, being in the I-2-S, I-3-S, D-7, C-1, and C-4 districts, to the C-S classification, to provide for a mixed-use complex consisting of a water park, outdoor recreation, offices, restaurants, motels, neighborhood retail uses, light industrial uses, and office-warehouses, **withdrawn**.

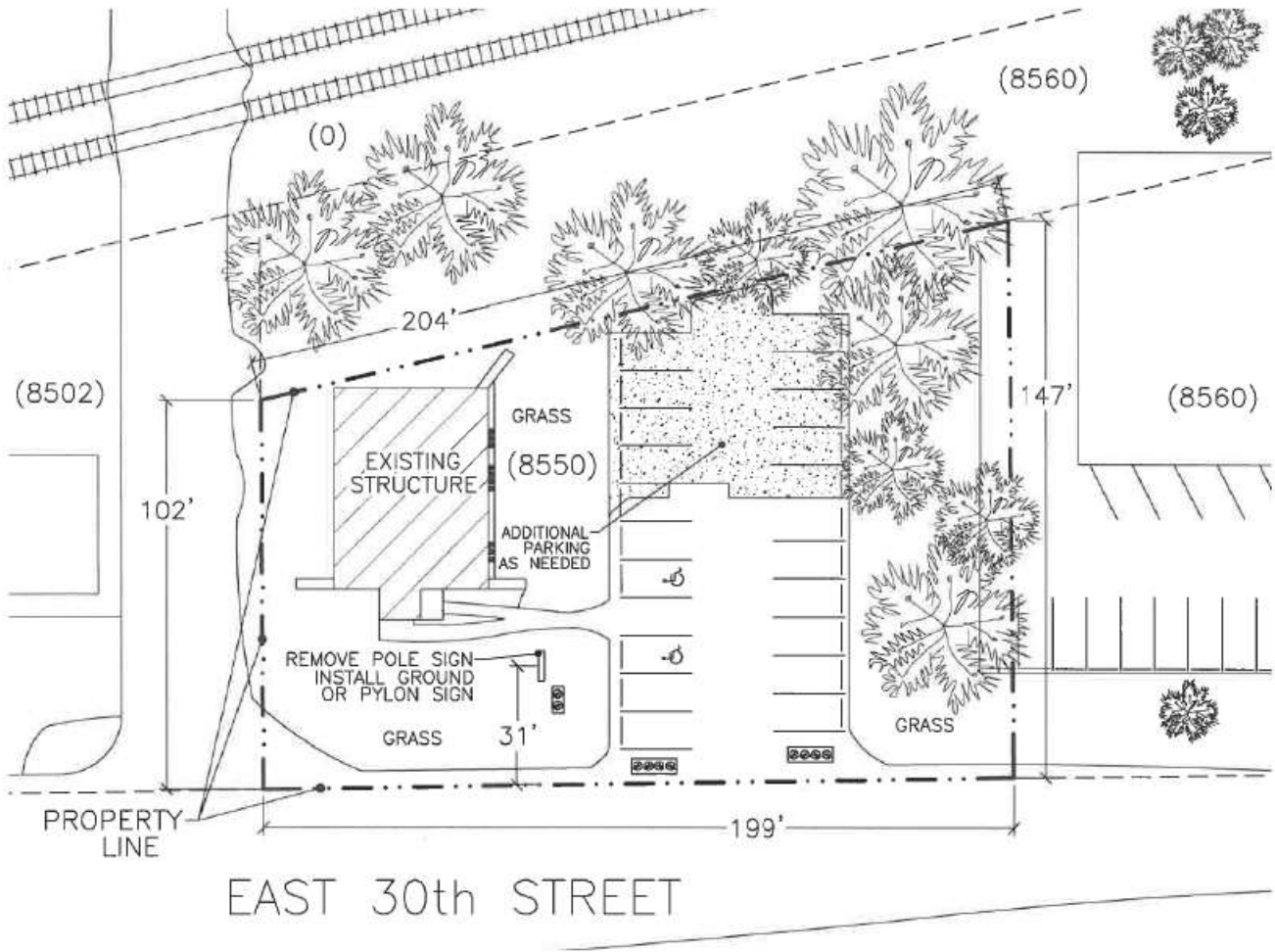
76-Z-86; 8620 East 30th Street (formerly 8630 East 30th Street) (east of site), Rezoning of 0.67 acre from I-2-S to C-S to provide for warehouse storage, parts distribution, and sales and service of lawn mowers, **approved**.

EXHIBITS

Location Map



Site Plan





Findings of Fact

Petition Number _____

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

**PETITION FOR SPECIAL EXCEPTION
FINDINGS OF FACT**

1. The proposed use meets the definition of that use in Chapter 740, Article II because
A religious use shall function on the property and within the structure

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

The building located on East 35th Streets the size needed for a small church and the building was constructed for a commercial use and not for an industrial use. The property shall be used primarily on Sundays or in the evening hours during the week, times when many of the nearby industrial uses will be closed.

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

Many of the nearby or adjoining industrial uses will be closed on sundays or during the evening hours when the proposed religious use shall be functioning.

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

Being located on a primary arterial, the proposed use will function and be compatible with the existing and adjoining industrial district and will continue to recommend industrial use for the subject property in the Comprehensive Plan.



Department of Metropolitan Development
Division of Planning
Current Planning

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

The proposed religious use shall conform to the industrial standards for the I2 industrial district that it will be located within.

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

The religious use shall operate within the building with no outdoor activity which is typically found in the I2 Industrial District that it is located within.

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

The religious use shall operate with the building, with no outdoor activity.

DECISION

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

Adopted this _____ day of _____, 20 ____



Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The potential parking lot expansion would be in the rear yard abutting a railroad track

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 reduction in the rear yard setback will not affect in any adverse manner for the reduction shall be in the direction of the railroad track in an east/west direction at the rear of the property and shall not influence any adjoining property.

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

The strict application would prohibit the potential needed expansion of the the parking lot to the north.

DECISION

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

Adopted this _____ day of _____, 20 ____

Photographs



Photo of the Subject Property primary building: 8550 East 30th Street



Photo of the Subject Property existing parking area: 8550 East 30th Street



Photo of proposed parking area expansion/setback, looking northwest.



Photo of the railroad north of the subject site looking north.



BOARD OF ZONING APPEALS DIVISION III **March 19, 2024**

Case Number: 2024-MO1-001 / 2024-DV1-007
Address: 7530 Allisonville Road (approximate address)
Location: Washington Township, Council District #3
Zoning: D-A (FW) (FF)
Petitioner: Phillip D. Rushton & Joanne Rushton Rev. Trust – Rebecca Patton Successor TTE, by Gregory J. Cagnassola
Request: Modification of Commitments related to 2009-UV2-036, to terminate Commitment Number Eight and Four, which requires compliance with required setbacks of the D-A District, and the use of slick mounted antenna and associated attachments, respectively.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of structures related to the cell phone tower resulting in a seven-foot south side and 0.5-foot north side yard setback and a 2.5-foot rear yard setback, resulting in a 7.5-foot aggregate side yard setback (30-foot side yard, 75-foot aggregate side yard, 75-foot rear yard setbacks required) and a lot line adjustment resulting in a 0.606-acre lot and a 40-foot frontage (minimum three acres and frontage of 125 feet required).

Current Land Use: Single-family dwelling and Wireless Communication Facility
Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was assigned to the March 5, 2024, Board I hearing, in order to comply with the township representation statute as it has a Washington Township representative. However, the commitments that are being requested to be modified were previously imposed by Board III. Therefore, Staff requested that this petition be continued from the March 5, 2024, Board I hearing, and transferred to the March 19, 2024, Board III hearing, so that any modification of the commitments can be done by Board III as statutorily required.

STAFF RECOMMENDATION

Staff makes **no recommendation** for the modification of commitments.
 Staff **recommends denial** of the Variance of Development Standards request.



PETITION OVERVIEW

- ◇ In 2000, petition 2009-UV2-036, requested a variance of use to provide for a 137-foot tall wireless communications facility (WCF), with accessory equipment cabinets. That variance was continued and transferred to Division III. On March 16, 2010, the Metropolitan Board of Zoning Appeals, Division III, granted the request. The request was subject to the amended site plan and elevations, file-dated September 20, 2010, and to the commitments, recorded as Instrument NO: 2010-00094718, in the office of the Recorder of Marion County, Indiana.

MODIFICATION REQUEST

- ◇ The 2009-UV2-036 variance grant was subject to nine total commitments (attached). The petitioner requests to modify the commitments to terminate the following two commitments. Commitment 2.4 indicates that all planned and future antenna attachments will be slick mounted to further blend with the established tree canopy. Commitment 2.8 indicates the site shall comply with the applicable setback requirements set forth in Chapter 731 of the Dwelling Districts Zoning Ordinance – City of Indianapolis.
- ◇ The commitments restricting site development and layout were the result of negotiation between the petitioner and interested parties during the 2009 variance process. Staff played no role in the negotiation of the subject commitments, and ordinarily provides no recommendation under such circumstances. Staff would note, however, that the neighborhood organization(s) negotiated in good faith with the petitioner during the petition process, and their agreement was contingent upon all commitments being included with the variance petition.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petitioner is requesting to create a second parcel to provide for the location of structures related to the cell phone tower (WCF) resulting in a seven-foot south side and 0.5-foot north side yard setback and a 2.5-foot rear yard setback, resulting in a 7.5-foot aggregate side yard setback and a lot line adjustment resulting in a 0.606-acre lot and a 40-foot frontage.
- ◇ The need for the reduced setbacks is self-imposed by mistakes made by the cell provider and property owner, and not a result of the zoning ordinance.
- ◇ According to the petitioner, it was discovered that when the cell tower was constructed, the cell provider did not correctly follow the plans, and the lean-to-shelter was constructed to the south of the existing one-story building instead of in line with it or to the north of it. This resulted in a reduced ten-foot side setback.
- ◇ Additionally, it was determined that sometime after the original 2009 use variance was granted, subject to the zoning setbacks, the property owners sold off (conveyed) a portion of the rear property to neighbors, thereby reducing the required rear setback to five feet and the northside setback to three feet, causing the current non-compliance that exists today.



- ◇ The proposed request is self-imposed by the desire of the property owner to create a deficient lot and legally establish deficient setbacks, by separating it from the primary use single-family dwelling with a majority of the acreage that originally made the WCF zoning compatible, only to maintain ownership of the WCF.
- ◇ The WCF can continue to be provided without the variances requested through either the relocation of the current WCF to a zoning complaint parcel, or by relocating the misplaced lean-to shelter, buying back the required setbacks that were previously sold off, and not splitting the parcel to be ordinance compliant.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-A and could accommodate appropriate uses as permitted, by right, in the D-A zoning classification. Any practical difficulty is self-imposed by the desire to create a smaller deficient sized parcel in order to maintain ownership of the income-producing portion of the site.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the zoning ordinance without the need for variances. Therefore, staff does recommend denial of the variance of development standards request.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single-family dwelling and Wireless Communication Facility	
Comprehensive Plan	Suburban Neighborhood / Floodway	
Overlay	100-year floodplain	
Surrounding Context	Zoning	Surrounding Context
	North:	D-A, D-2 North: Single-family dwellings
	South:	D-A South: Single-family dwellings
	East:	D-A, D-2 East: Single-family dwellings
	West:	D-A West: Single-family dwellings
Thoroughfare Plan		
Allisonville Road	Secondary Arterial	90-foot existing and proposed right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	Yes / Yes	
Wellfield Protection Area	No	
Site Plan	January 19, 2024	
Elevations	N/A	
Commitments	January 31, 2024	
Landscape Plan	N/A	
Findings of Fact	January 17, 2024.	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends suburban neighborhood and floodway uses for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban Neighborhood typology for this site. This typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- The Floodway category delineates areas that exhibit a great potential for property loss and damage from severe flooding, or for water quality degradation. No development should occur within the floodway. Nonconforming uses currently within a floodway should not be expanded or altered.

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

76-V2-60; 7530 Allisonville Road (subject site), requested a variance of development standards to erect an addition to a detached garage, **granted**.

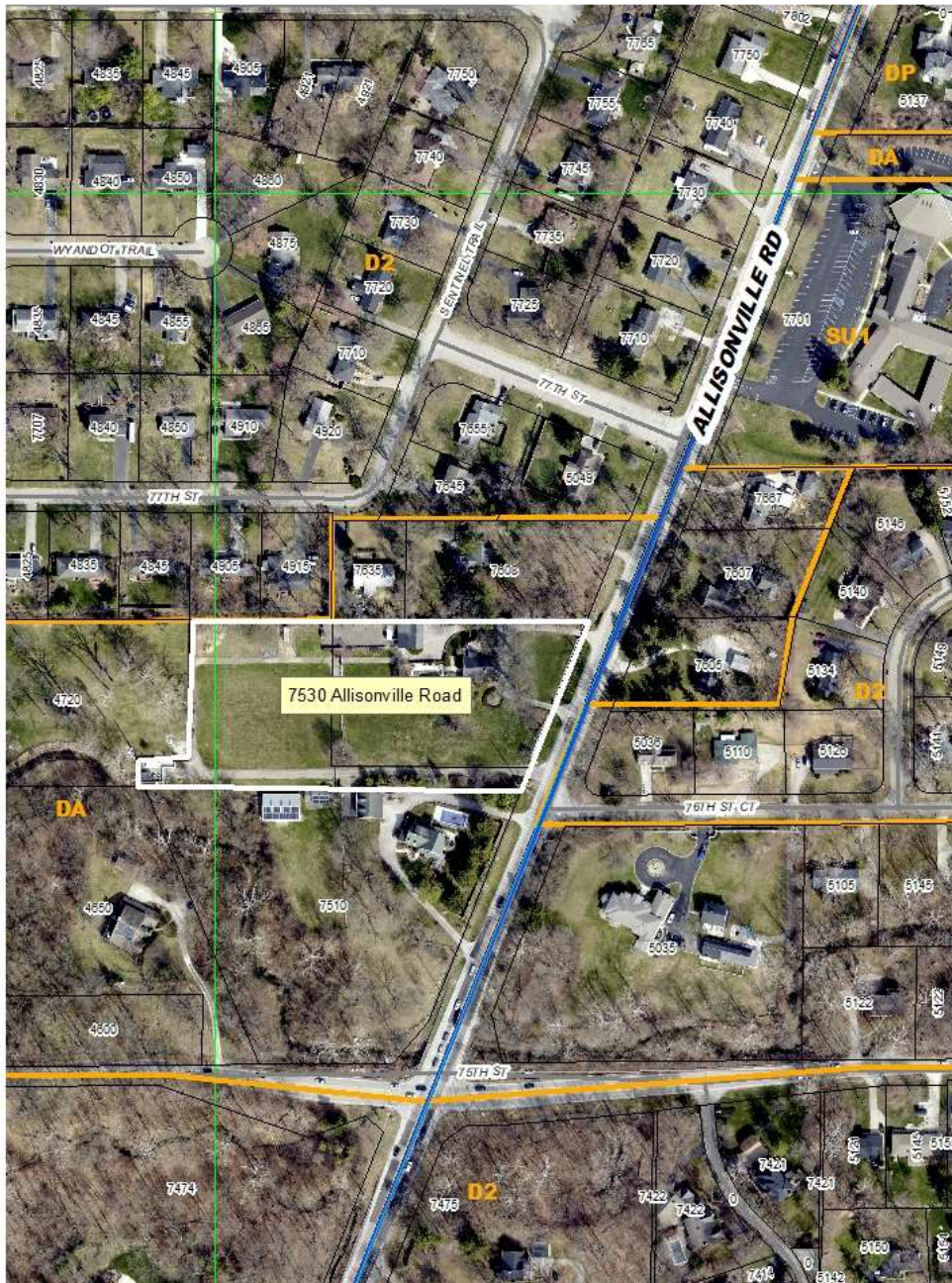
2004-HOV-041; 4720 East 75th Street (west of site), requested a variance of development standards to provide for a 368-square foot enclosed non-habitable attached accessory structure with one-square inch of open venting per two square feet of enclosed area subject to flooding, **granted**

2007-DV2-027; 5035 East 76th Street (southeast of site), requested a variance of development standards to provide for the construction of an 830-square foot cabana and in-ground swimming pool in front of the established front building lines along East 75th Street and Allisonville Road, **granted**.

2009-UV2-036; 7530 Allisonville Road (subject site), requested a variance of sue to provide for a 137-foot tall wireless communications facility, with accessory equipment cabinets, **granted subject to commitments**.

EXHIBITS

Location Map





Commitments - Current

A201000094718



September 27, 2010 1:50 PM
Julie L. Voorhies
Marion County Recorder

Pages: 5
Fee: \$25.50
By: MJM

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

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

Legal Description: See attached, "Exhibit A".

Statement of COMMITMENTS:

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

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

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition # 2009-UV2-036 by the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various township assessors of Marion County which list the current owners of record at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception, or approval under the rules of the Board in force at the time the COMMITMENT was made); and
3. _____
4. _____



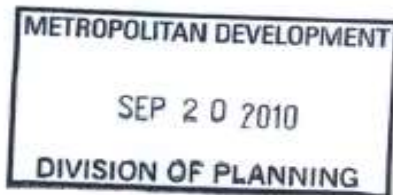
Commitments – Current continued

"Exhibit B"

**Commitments
7530 Allisonville Road
Petition 2009-UV2-036 (Amended)**

1. The equipment compound area illustrated on the site plan dated October 22, 2009 will be enclosed with 1) a white privacy fence at a minimum height of six (6) feet to match existing fence lines, and 2) a shed or other enclosure.
2. The perimeter of the equipment compound area illustrated on the site plan dated October 22, 2009, with the exception of the gate area, will be landscaped with shrubs planted 10-feet on-center with a minimum spread of 18 inches at time of planting. Final placement location, size, spacing, and species will be subject to administrator's approval prior to the issuance of an Improvement Location Permit.
3. The lower section of the proposed 130-foot tall cellular tower (not including a 7-foot tall lightening rod atop the tower) will be painted brown in color to blend with the established tree canopy (as depicted in the simulation).
4. That all planned and future antenna attachments will be slick mounted to further blend with the established tree canopy (as depicted in the simulation).
5. In the event that the cellular tower becomes obsolete, the Petitioner will remove the tower from the site within 90 days of the tower ceasing to function as a part of the Petitioner's communications network.
6. The petitioner will provide enhanced landscaping where adjoining the rear yards of certain properties within the Arrowhead Estates subdivision, as per the landscape plan presented at the March 9, 2010 Greater Allisonville Community Council meeting, which plan shall require the final approval of the Arrowhead Estates Homeowner's Association Board of Directors prior to the issuance of an Improvement Location Permit.
7. All antenna attachments will be mounted to be compatible with the established tree canopy to the extent reasonably possible.
8. The site shall comply with the applicable setback requirements set forth in Chapter 731 Dwelling Districts Zoning Ordinance – City of Indianapolis.

1460584





Commitments - Proposed

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

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

Legal Description:

Legal Description:

Commencing at the southwest corner of the Northwest Quarter of said Section 28; thence along the west line of said quarter section, North 00 degrees 25 minutes 38 seconds East 465.10 feet (basis of bearing - Indiana Geospatial Coordinate System, Marion Zone) to the southwest corner of a parcel of land conveyed to Phillip D. Rushton & Joanne Ruston, Trustees of Phillip D. Rushton & Joanne Rushton Revocable Trust in Instrument Number 1999-0232886, on file in the Office of the Recorder of Marion County, Indiana, and also being the southwest corner of an original survey parcel conveyed to Eric Y. & Christa R. Knoll in Instrument Number A201000061475, on file in said Recorder's Office; thence parallel with the south line of the Northwest Quarter of said Section 28 and along the boundary of said Rushton parcel and said Knoll parcel, North 89 degrees 14 minutes 42 seconds East 222.64 feet to the southeast corner of said Knoll parcel and being the point of beginning; thence continue along the boundary of said Knoll parcel the following two (2) courses: 1) North 00 degrees 44 minutes 41 seconds West 47.31 feet; 2) North 89 degrees 14 minutes 42 seconds East 83.44 feet; thence South 00 degrees 32 minutes 42 seconds East 9.65 feet; thence parallel with the south line of the Northwest Quarter of said Section 28, North 89 degrees 14 minutes 42 seconds East 603.79 feet to the centerline of Allisonville Road and also being a point on the east line of said Rushton parcel; thence along said centerline and said east line, South 21 degrees 10 minutes 54 seconds West 40.60 feet to the southeast corner of said Rushton parcel; thence parallel with the south line of the Northwest Quarter of said Section 28 and along the south line of said Rushton parcel, South 89 degrees 14 minutes 42 seconds West 672.04 feet to the point of beginning and containing 0.606 acres, more or less.

Statement of Modification or Termination of COMMITMENTS:

1. Commitments #4 and #8 related to 2009-UV2-036, as Recorded in Instrument #A2010000094718 shall be terminated.
- 2.



Findings of Fact

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The cellular tower has been onsite for about 13 years. In that time, the cellular tower has not been injurious to the public health, safety, morals, and general welfare of the surrounding property owners or the community as a whole. In fact, the cell tower serves to provide a necessary utility to the community, one that could cause harm to the general welfare of the community if it were not able to be continued or if it was disrupted.

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:

In seeking the variance, Petitioner does not propose a change to the property as it stands, rather they seek only to bring the existing landscape of the property into compliance with local ordinance by way of a variance. The adjacent property owners will not be substantially affected because the surrounding land will stay the same, and they will continue to receive the same utility if the variance is granted. In fact, denial of the variance is likely to affect adjacent property owners more if the cell had to be removed or modified.

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

Applying the setback requirements as is would present a substantial difficulty. The cell tower is a structure which is difficult to move or modify, and in taking either of those actions there would be a large expense. The practical result of applying the setback requirements is that the cell tower would have to be moved or removed. If it is moved, this could cause a nuisance on the property and to the adjacent properties. If it is removed, this could cause a dead zone in cellular coverage and deprive the community of a utility that has been traditionally enjoyed. Additionally, requiring a 3 acre parcel is impractical because both parcels total 4.2 acres, making it not possible to achieve 3 acre parcels. It benefits the Rushtons and the neighborhood most to keep the home parcel larger.

DECISION

Photographs



Subject property, existing single-family dwelling looking west



Subject property, existing wireless communications facility looking west



Existing wireless communication facility with seven-foot south side setback, looking west



Existing wireless communication facility with 0.5-foot north side setback, looking west



Existing wireless communication facility with 2.5-foot west rear setback, looking east



Adjacent single-family dwelling to the south, looking west.



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2023-SE3-006
Property Address: 1140 Dr. Martin Luther King, Jr Street
Location: Center Township, Council District #11
Petitioner: SMJ International o/b/o ATC, by Aaron Adelman
Current Zoning: SU-2 (RC)

Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 120-foot-tall monopole tower and a four-foot lightning rod.
Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communication facility without the required perimeter landscape screening (minimum 10-foot landscape yard required)

Current Land Use: Public high school
Staff Recommendations: Approval
Staff Reviewer: Jeffrey York, Principal Planner I

PETITION HISTORY

This petition was originally scheduled for hearing on November 28, 2023. It has been continued one time at the request of staff, one time as an Automatic Continuance from a neighborhood organization and one time at the request of the petitioner. On February 20, 2024, this petition was continued, due to a lack of a quorum. On March 6, 2024, revised plans were submitted that meet the requested commitment below. Therefore, staff recommends **approval** of the request and the commitment would not be required.

STAFF RECOMMENDATION

Staff recommends **approval** with a commitment that a revised site plan shall be filed with 2023-REG-089, which shall note the proposed location of the Wireless Communication Facility at the southern end of the site.

PETITION OVERVIEW

- This petition seeks to install a new 120-foot-tall wireless communications monopole tower, with a four-foot lightning rod, at a public school, Crispus Attucks. An existing wireless communication facility (WCF) is located at the southwestern edge of the existing athletic stadium. This WCF was established by 2009-SE2-001 and 2009-DV2-003 and is 129 feet in height, including a nine-foot lightning rod. This tower also includes lighting for the stadium.



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

- Along with the Special Exception request, a variance of development standards is also requested for no perimeter landscape screening surrounding the base of the WCF.
- The school plans to replace the existing athletic stadium and construct a new athletic stadium. The proposed stadium would be oriented east-west, rather than the existing north-south configuration. A Regional Center Approval petition is pending for this work, via 2023-REG-027. The new stadium necessitates the need for a new location for a WCF.
- Staff understands the need for the WCF and is not opposed to a newly relocated WCF in an appropriate location on the school’s grounds. It should be noted, however, that the Crispus Attucks is listed on the *National Register of Historic Places*. The neighborhood that the school serves to the north, Flanner House Homes, is also listed on the *National Register of Historic Places*. The area is significant in the history of African Americans in the mid-20th Century as an area of Indianapolis where many African Americans settled. Most of the dwellings in this area were constructed in the 1940s and 1950s. In many cases, the owners assisted in the construction of the dwellings. It is common that original owners or their descendants still reside in these homes today. This type of structure should not be near or adjacent to these notable historic structures.
- Originally, the proposed location of the WCF would be west of the existing location, near Brooks Street and within 50 feet of the historic neighborhood. Through discussions with staff and neighbors, the revised location of the WCF would be at the far southern end of the school grounds, adjacent to Oscar Robertson Boulevard and the former Clarian People Mover structure, which is within the public right-of-way. This revised location would place the WCF far away from any of the existing single-family dwellings within Flanner House Homes. In addition, the revised location of the WCF would be in a location further away from the historic school building on the grounds of this site.
- The request also, initially, included a lack of perimeter landscaping surrounding the base of the WCF. The proposed location would be away from residential uses and near commercial uses and rights-of-way. The revised plans indicate that landscaping would surround the WCF area.
- The petitioner submitted a Regional Center Approval petition for the proposed wireless communications facility, which is 2023-REG-089 and is pending the outcome of this petition. Per the discussions with the petitioner, Staff would require a revised site plan noting the revised location of the structure, as indicated in the Staff recommendation above. Staff is supportive of the proposed revised location of the WCF, as discussed with the petitioner.

GENERAL INFORMATION

Existing Zoning	SU-2 (RC)
Existing Land Use	Public high school
Comprehensive Plan	Regional Special Use



Department of Metropolitan Development
Division of Planning
Current Planning

Surrounding Context	Zoning	Surrounding Context
North:	D-8 (RC)	Single-family dwellings
South:	D-8 / C-5 (RC)	Multi-family dwellings / commercial
East:	D-8 (RC)	Multi-family dwellings
West:	D-8 (RC)	Single-family dwellings
Thoroughfare Plan		
Dr. Martin Luther King, Jr. Street	Primary arterial	88-foot right-of-way existing and proposed
12 th Street	Local Street	48-foot right-of-way existing and proposed
Brooks Street	Local Street	48-foot right-of-way existing and proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes, Regional Center. Design of new construction would require the submittal and approval of a Regional Center Approval petition	
Wellfield Protection Area	No	
Site Plan	October 10, 2023	
Site Plan (Amended)	November 30, 2023	
Elevations	October 10, 2023	
Elevations (Amended)	November 30, 2023	
Landscape Plan	N/A	
Findings of Fact	October 10, 2023	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Center Township Land Use Plan.
- Regional Center Urban Design Guidelines

Pattern Book / Land Use Plan

The Center Township Land Use Plan recommends Regional Special-Use development for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.



Neighborhood / Area Specific Plan

- The site is within the Neighborhood Residential typology of the Regional Center Urban Design Guidelines.

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.



Department of Metropolitan Development
Division of Planning
Current Planning

ZONING HISTORY

ZONING HISTORY – SITE

2023-REG-089; Regional Center Approval for the installation of a Wireless Communication Facility on the grounds of the athletic field of Crispus Attucks school, **pending**.

2023-REG-027; Regional Center Approval for demolition of an existing athletic stadium and construction of a proposed athletic stadium, new lighting, and bus parking area, at Crispus Attucks school, **pending**.

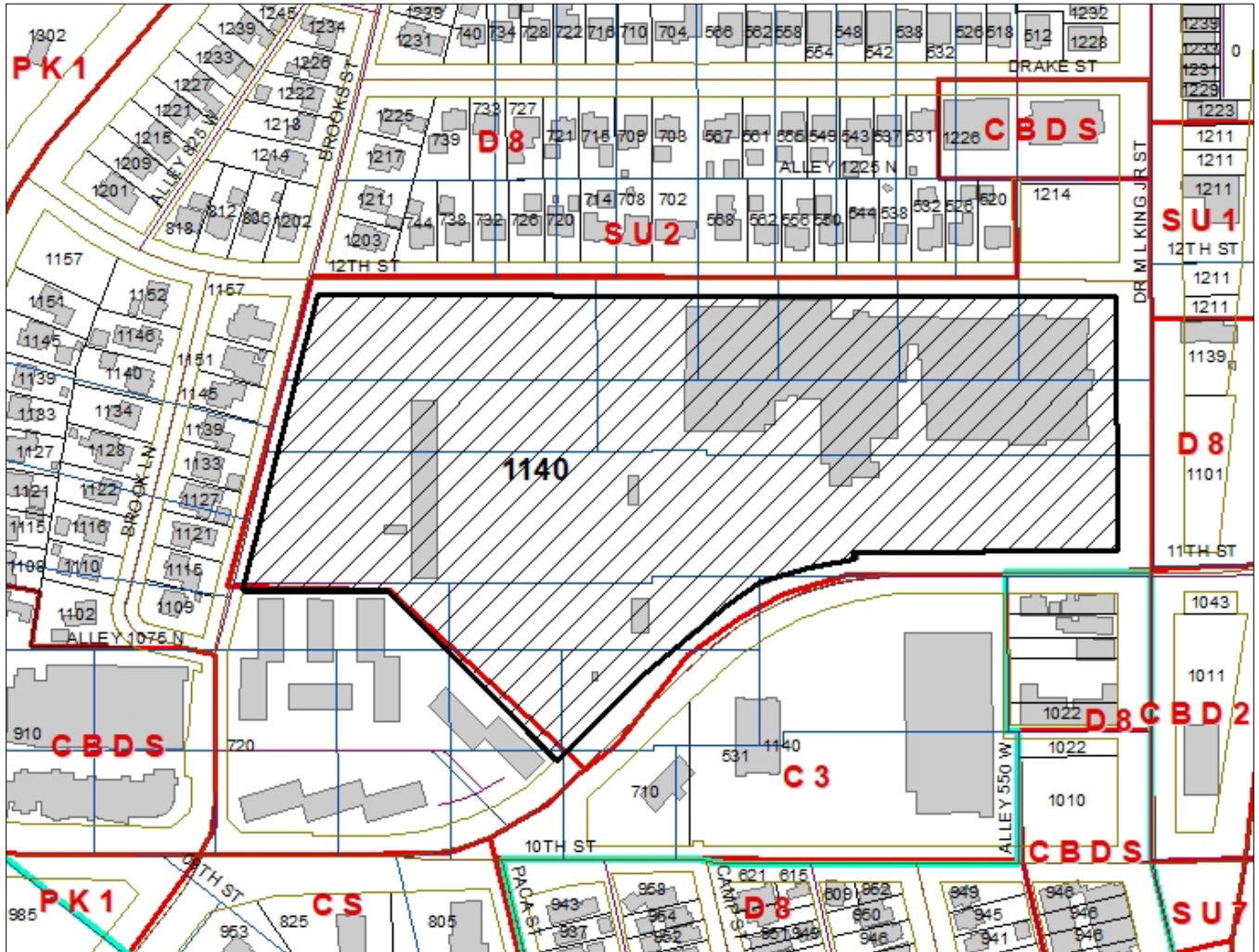
2009-SE2-001 / 2009-DV2-003; requested a Special Exception and a variance of development standards of the Wireless Communications Zoning Ordinance to provide for a 129-foot monopole tower, including a nine-foot lightening rod, and a 345-square-foot equipment shelter, **granted**.

ZONING HISTORY – VICINITY

None

EXHIBITS

2023-SE3-006 Map and Aerial

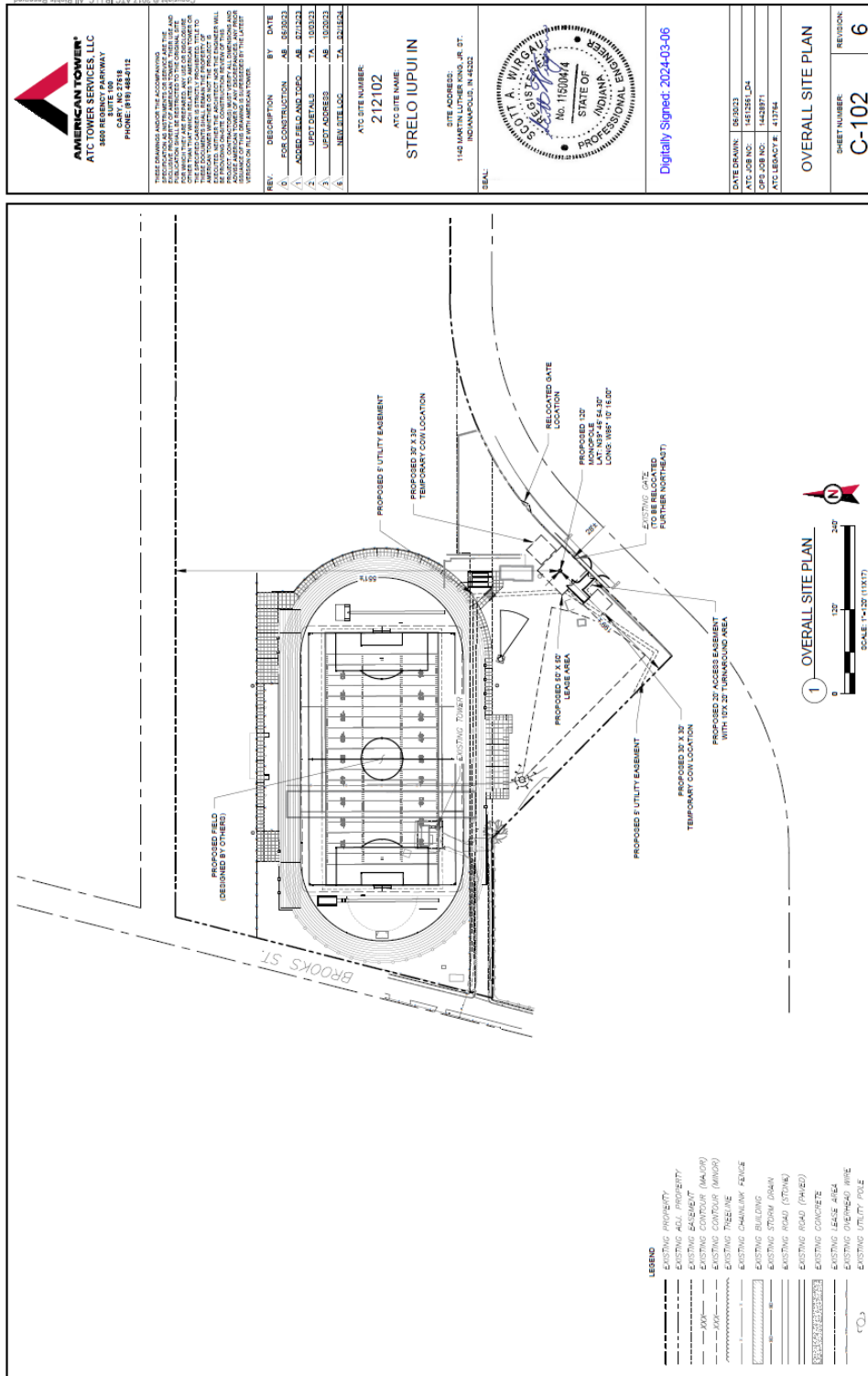






Department of Metropolitan Development
Division of Planning
Current Planning

2023-SE3-006; Site plan - revised



<p>AMERICAN TOWER AT&T SERVICES, LLC SITE 100 CAMP HILL PHONE: (978) 484-2112</p>		<p>THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATIONS SHALL BE CONSIDERED TO BE A PART OF THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.</p>	
REV.	DESCRIPTION	BY	DATE
0	FOR CONSTRUCTION	JSE	05/20/23
1	ADDED FIELD AND TOWER	JSE	05/20/23
2	UPDT RELEASE	JLA	05/20/23
3	UPDT ADDRESS	JSE	05/20/23
4	ADDED FIELD AND TOWER	JLA	05/20/23

AT&T SITE NUMBER: 212102
AT&T SITE NAME: STRELO IUPUI IN
SITE ADDRESS: 1140 MARTIN LUTHER KING, JR. ST. INDIANAPOLIS, IN 46202

SEAL:

Digitally Signed: 2024-03-06

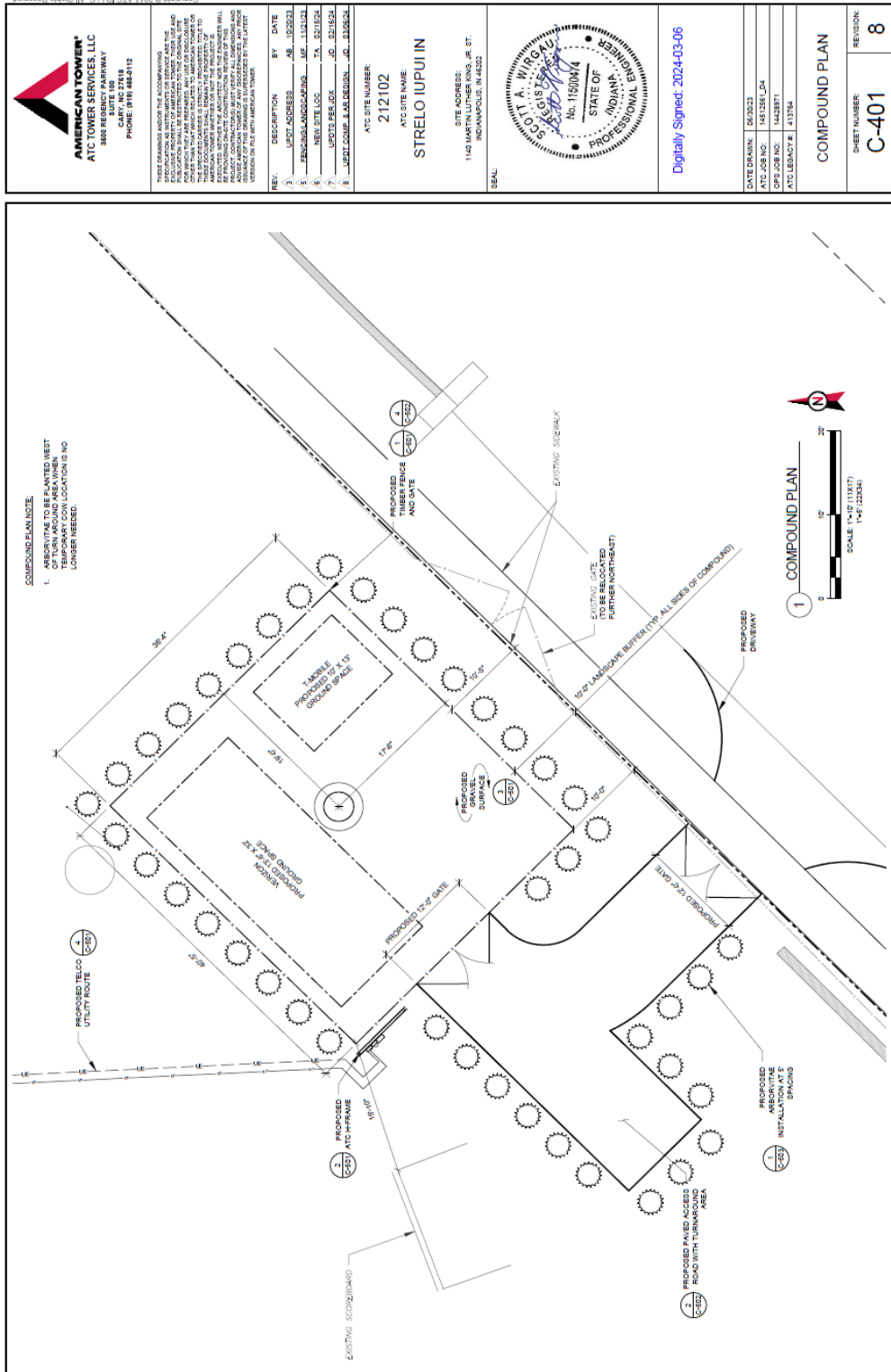
DATE DRAWN	05/20/23
AT&T JOB NO.	1403261_24
OP&S JOB NO.	1428281
AT&T LEADY #	413764

OVERALL SITE PLAN	
SHEET NUMBER	C-102
REVISION	6



Department of Metropolitan Development
Division of Planning
Current Planning

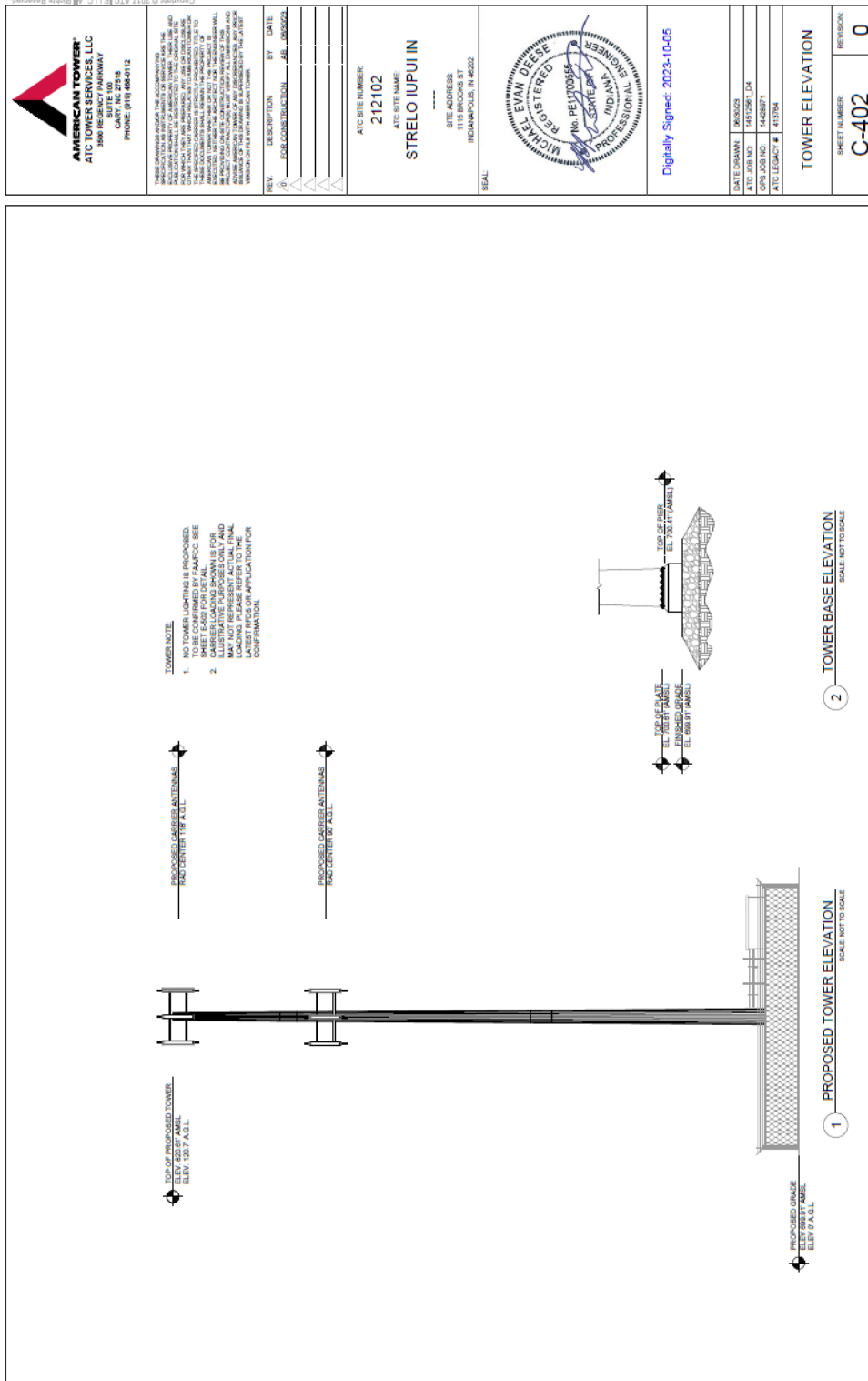
2023-SE3-006; Site plan detail - revised





Department of Metropolitan Development
Division of Planning
Current Planning

2023-SE3-006; Elevations





Department of Metropolitan Development
Division of Planning
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2023-SE3-006; Findings of Fact

Petition Number _____

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

PETITION FOR SPECIAL EXCEPTION
FINDINGS OF FACT

1. The proposed use meets the definition of that use in Chapter 740, Article II because
the proposed scope-of-work calls for the relocation of the tower and equipment on the property to accommodate expansion by the school.
The height of the tower and the impact will remain the same, but in a different location on the property.
Please see enclosed drawings for details and specifications.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that
area because
the impacts from the facility are already in existence. The change in location on the property will not have any effect on the adjacent area
or property.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of
adjoining property because
the facility is already in existence. The proposed scope will not materially alter the current state of the site.

4. The proposed use will be compatible with the character of the district, land use authorized therein
and the Comprehensive Plan for Marion County because
the facility is in existence. The proposed scope will not have any impact on the land use authorized or the Comprehensive Plan.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the
zoning district in which it is located because
it is an existing use and will not be materially altered by the proposed scope under this application.



Department of Metropolitan Development
Division of Planning
Current Planning

2023-SE3-006; Findings of Fact, continued

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

It is an existing approved use. The change in location will not affect that use.

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

It is an existing approved use. The change in location will not affect that use.

DECISION

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

Adopted this _____ day of _____, 20__

2023-SE3-006; Photos



Existing wireless communications facility, from Brooks Street



Existing wireless communications facility and stadium structure, from Brooks Street



Existing wireless communications facility from vacated 11th Street (private access to site)



Approximate location of proposed wireless communication facility along Oscar Robertson Boulevard



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2023-UV3-024
Address: 2745 and 2815 Curry Road (approximate address)
Location: Warren Township, Council District #14
Zoning: D-A
Petitioner: David Palacios, by Joseph D. Calderon
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping contractor, including the indoor and outdoor storage of commercial vehicles, equipment, and materials (not permitted).

Current Land Use: Single Family Dwelling

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously automatically continued at the request of a registered neighborhood organization, from the January 16, 2024, hearing, to the February 20, 2024, hearing, and for cause at the request of the petitioner, from the February 20, 2024, hearing, to the March 19, 2024, hearing.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for a commercial contractor, a C-7 use, in a D-A district.
- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings. Because no agricultural enterprise exists on the subject site, development of the site would be considered a large estate or rural single-family dwelling
- ◇ The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site. The proposed use would be permitted in the C-7, High Intensity Commercial Zoning District. The C-7 district is designed to provide for specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and the outdoor parking and maintenance of trucks or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares where the gradual and reasonable transition from lesser commercial uses exist. Due to the intensity of the uses, the location of this district adjacent to protected districts should be avoided.



- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the number of commercial vehicles and trailers as outdoor storage, approval of this request would facilitate the intrusion of heavy commercial uses into an established residential rural neighborhood. The request would encourage additional encroachment, in a manner violating the development norms and residential aesthetics of the street, and squarely deviating from the recommendations of the Comprehensive Plan.
- ◇ The petitioner has proposed commitments and a plan of operation that approval shall be subject to. However, they provide no limit on the number of days of operation, allowing for the commercial contractor business to operate seven days a week. In addition, there are references to vehicles and equipment, but there is no limit on these amounts to protect adjacent properties from an intensification of the already high intensity use, either from this user, or future owners.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-A and could be used by any number of uses permitted, by right, in the D-A zoning classification. Any practical difficulty is self-imposed by the desire to use the site for operation of a construction contractor, including the on-site storage of commercial vehicles and trailers associated with the use.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the comprehensive plan and zoning ordinance without the need for use variances. Therefore, the Comprehensive Plan recommendation should not be disregarded, nor of the clearly residential nature of the surrounding area. For these reasons, staff recommends its denial.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single Family Dwellings	
Comprehensive Plan	Rural or Estate Neighborhood	
Overlay	No	
Surrounding Context	Zoning	Surrounding Context
	North: D-A	North: Single-family dwelling
	South: SU-2	South: School
	East: SU-2	East: Undeveloped
	West: D-A	West: Single-family dwelling
Thoroughfare Plan		
Curry Road	Local Street	30-foot existing and proposed right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	500-year flood plain	
Wellfield Protection Area	No	
Site Plan	November 15, 2023	
Elevations	N/A	
Commitments	February 16, 2024	
Landscape Plan	N/A	
Findings of Fact	November 15, 2023	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends rural or estate neighborhood development.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Rural or Estate Neighborhood typology for this site. This typology provides for rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

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

2019-SE3-002; 11149 Stoneybrook Drive (south of site), requested a special exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 120-foot monopole tower, with a 10-foot antenna, **granted**.

2001-DV3-031; 11300-11149 East Stonybrook Drive (south of site), requested a variance of development standards of the Sign Regulations to provide for the installation of a 122.96 square foot, two-sided, brick, limestone, and modular aluminum double pylon sign being 7.33 feet tall, with a 61.92 square foot electronic variable message sign component, being 50.35-percent of the total sign area, and located 80 feet from a protected district, **granted**.



Department of Metropolitan Development
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2000-DV2-015; 2910 Curry Road (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a single-family dwelling and detached garage on a 1.1-acre lot, **granted**.

95-DV2-60; 11205 East 30th Street (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family residence with a lot area of 1.1 acres, **granted**.

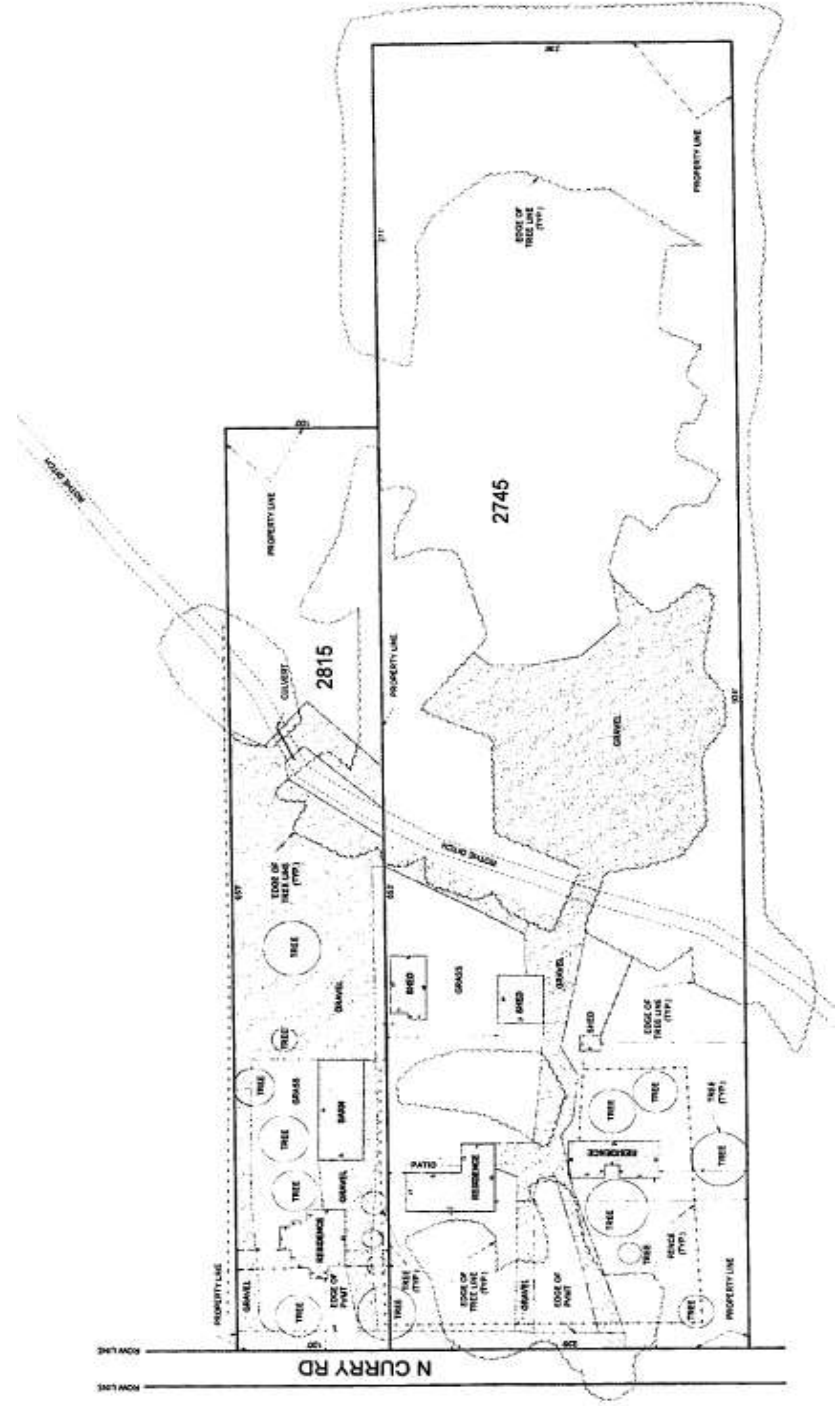
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EXHIBITS

Location Map



Site Plan





Plan Of Operation

DAVID PALACIOS | THE RANCHES LANDSCAPING LLC

**PLAN OF OPERATION
2745 and 2815 Curry Road**

THE BUSINESS

David Palacios d/b/a The Ranches Landscaping LLC, performs certain activities associated with the landscaping business on property commonly known as 2745 and 2815 Curry Road (the "Subject Property"). The Subject Property has two (2) existing residential structures and multiple accessory structures, including garages, barns and sheds. Petitioner proposes to continue to use the property, using the existing accessory structures, for storing landscaping equipment, including mowers, trimmers, weed whackers, shovels, rakes, wheel barrels and ladders, a skid steer and mini track loader in the existing barn on 2745 Curry. There is a shed between both 2745 and 2815 Curry where mowers and tools are stored. Mowers, trucks and trailers will be maintained in the existing garage on 2815 Curry. Trucks and trailers, which are deployed to job sites during the day, are stored overnight at the rear of 2745 Curry. Landscaping materials are intended to be used at the job site, but occasionally there will be landscaping materials on-site for temporary periods of time.

ZONING

Existing zoning is D-A, which permits residential use and agri-business uses.

HOURS OF OPERATION

Petitioner is planning to operate the facility between 8:00 a.m. to 6:00 p.m.

NUMBER OF EMPLOYEES

Approximately four (4) employees are expected to be working for the Company. Employees meet at the Subject Property in the morning, go to the job site and return thereafter.

EXISTING STRUCTURES

Petitioner intends to use the existing accessory structures located on the Subject Property, generally as shown on the site plan submitted with this plan of operation.

SALES | CUSTOMERS

There will be no sales activity occurring on the Subject Property.



Proposed Commitments

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

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

Legal Description: See Exhibit "A" Attached Hereto And Incorporated By Reference (the "Subject Property").

Statement of COMMITMENTS:

1. The Subject Property shall be used as set forth in the Plan of Operation attached hereto as Exhibit "B".
2. All storage and disposal of fluids associated with the maintenance and repair of landscaping equipment shall be in compliance with all applicable environmental laws and regulations.
3. No materials for off-site landscaping jobs shall be drop-shipped to the Subject Property.

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

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition #2023-UV3-024 by the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and,
2. Owners of all parcels of ground adjoining the real estate depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various township assessors of the Marion County, which the current owners of record at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the COMMITMENT was made); and,
3. Warren Township Development Association.



Findings of Fact

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 operation of the business still allows for residential use of the properties and is wholly contained behind the residential structures, thus preserving the residential character of the property. The proposed use is similar in intensity to permitted agricultural uses.

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 properties are large and the operation of the business is no more intense than permitted agricultural uses, and there is adequate separation of the business activities and uses on the adjacent properties.

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

the parcels are unusually deep and, while large, have been parceled out such that agricultural use is not realistic.

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 proposed business uses many of the same types of equipment and materials as agricultural uses which are permitted, yet the business is categorized along with other general contractors.

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

the proposed business operates well with the 6.5 acres which comprises the subject property as an accessory use of the property, which is consistent with the rural or estate category of the comprehensive plan.

Photographs



Subject site 2745 Curry Road single family dwelling, looking east



Subject site 2815 Curry Road single family dwelling, looking east



Subject site, storage of multiple commercial trucks and trailers



Subject site, storage of commercial landscaping materials



Adjacent single family dwelling to the west



Adjacent single family dwelling to the north, looking east.



BOARD OF ZONING APPEALS DIVISION III **March 19, 2024**

Case Number: 2024DV3001

Property Address: 6027 Castlebar Circle (approximate address)

Location: Lawrence Township, Council District #3

Petitioner: Audrey Dressel, by Russell Brown

Current Zoning: D-2

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yard of Circlewood Road (maximum 3.5-foot tall fence permitted) and an 88-foot wide parking area within the front yard of Castlebar Circle (maximum 30-foot wide parking area permitted).

Current Land Use: Residential

Staff Recommendations: Staff recommends **denial** of this request.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

Due to a lack of quorum at the February 20, 2024 hearing, this petition was continued by the petitioner to the March 19, 2024 hearing of Division III.

STAFF RECOMMENDATION

Staff recommends **denial** of this request.

PETITION OVERVIEW

- This site currently contains a residential property on a corner lot along with an existing 6-foot fence within the front yard to the west fronting Cricklewood Drive. The front-yard fence had a compliant height of 3.5 feet before being recently replaced. There are also two curb cuts along the north side of the property that share a driveway access to Castlebar Circle and create a driveway with a width of approximately 88 feet. This existing 'half-moon' driveway layout has existed for decades but was recently repaved from blacktop to concrete around the same time of installation of the 6-foot-tall fence.
- The enforcement action VIO23-008065 was opened for this property in November 2023 which cited the fence height exceeding 42 inches in the front yard and the parking area in a front yard



Department of Metropolitan Development
Division of Planning
Current Planning

exceeding 30 feet in width. The grant of this petition would legalize both of those recent site improvements.

- Parking area is defined within the Indianapolis Zoning Ordinance as being “an area of paving other than an open exhibition or display area, not inclusive of interior access drives, and driveways intended for the temporary storage of automotive vehicles includes parking spaces and the area of access for the parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space”. Both staff and the inspector who wrote the violation feel that the existing half-moon driveway would be included under this definition.
- The site is currently zoned D-2 to allow for low-density suburban development with ample yards, trees, and passive open spaces. It is also within the Suburban Neighborhood living typology of the Comprehensive Plan Pattern Book which is predominantly made up of single-family housing along curvilinear streets and supported by a variety of neighborhood-servicing amenities.
- The Infill Housing Guidelines indicate that within the front yards of residential areas, fences should be ornamental in nature and that privacy fences should not be installed. Additionally, the guidelines indicate that see-through fencing is more appropriate for these areas than fences that lack opacity or visibility.
- The Indianapolis Zoning Ordinance prescribes height limitations for fences to maintain visibility, orderly development and the appearance of open space while also allowing for reasonable privacy. This variance would seek to retroactively legalize a 6-foot fence in an area that previously had a fence 3.5 feet tall and is slightly uphill from the grade of the street which gives the appearance of the fence being even taller.
- The recently installed 6-foot fence is almost double the required ordinance standard of 3.5 feet. Additionally, adjacent properties on both standard and corner lots don't have fences of any kind in the front yard; the Devonshire V Civic Association described the fence as being “totally out of place” within the neighborhood context. Since this fence runs counter to ordinance rules and Infill Housing Guidelines, doesn't relate to any practical difficulty at the site, and is out of character with existing development patterns in the area, staff would recommend denial of the variance for a 6-foot-tall fence.
- The zoning ordinance also places limitations on parking between the fronts of buildings and street rights-of-way to allow for attractive front yards and avoid the appearance of vast impervious spaces filled with cars between roadways and residential or commercial properties. This variance would seek to legalize the ‘half-moon’ parking layout within the northern yard that has existed previously but was recently repaved. The ordinance has historically disallowed additional paving within front yards beyond what was sufficient for reasonable parking access. Staff does not wish to create a precedent of legalizing overly wide driveways within residential areas and feels that residential front yards should be predominantly reserved for landscaping. Staff would recommend denial of the variance for the 88-foot-wide parking area.



GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Suburban Neighborhood
	South:	South: Suburban Neighborhood
	East:	East: Suburban Neighborhood
	West:	West: Suburban Neighborhood
Thoroughfare Plan		
Castlebar Circle	Local Street	Existing ROW: 50' Prop ROW: 50'
Cricklewood Road	Local Street	Existing ROW: 50' Prop ROW: 50'
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	12/20/2023	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	12/20/2023	
Findings of Fact (Amended)	01/24/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Comprehensive Plan Land Use Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

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



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

- The IHG indicate that fencing around dwellings should be carefully placed, and that see-through fencing is the safest. In the front, fences should be ornamental in style and privacy fences should not be installed.

Indy Moves

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY – SITE

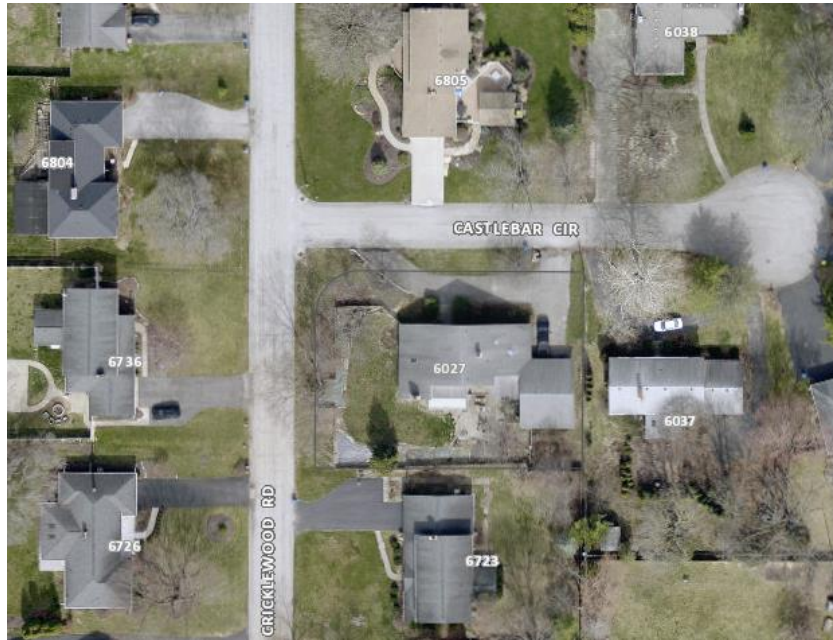
N/A

ZONING HISTORY – VICINITY

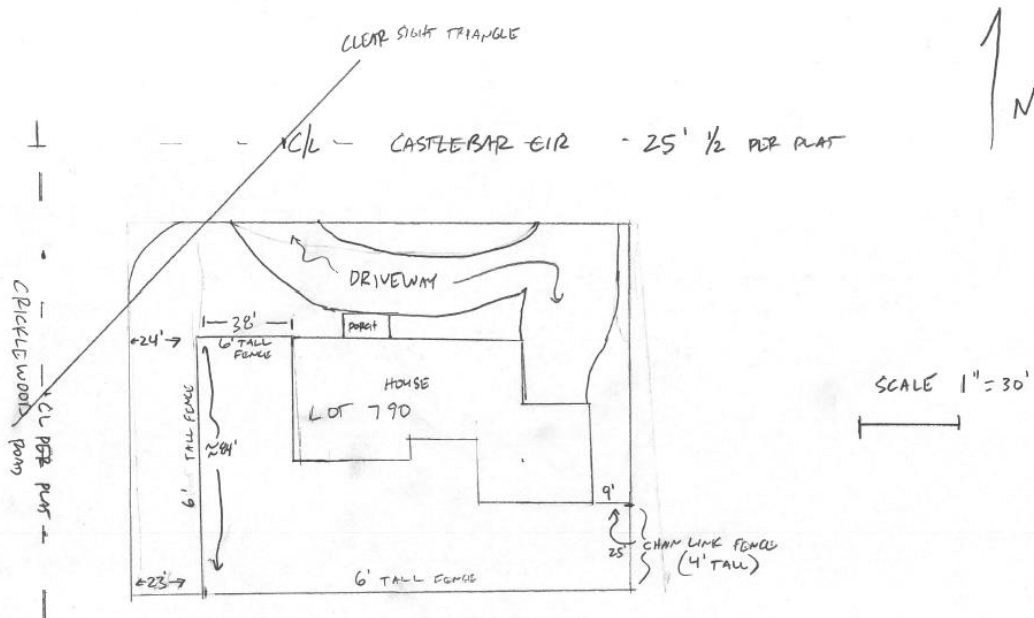
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EXHIBITS

2024DV3001 ; Aerial Map



2024DV3001 ; Site Plan





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2024DV3001 ; Findings of Fact (Fence)

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

The requested variance does not impact the public at large. The location of the fences are outside of any clear site triangle and are adequately setback from the edge of pavement to allow for drainage and safe passage by pedestrians. The fence height and construction type is desired by the petitioner to provide privacy in areas of the home which would normally be visible only as a side or rear yard, but are a front yard in this location by virtue of having two street frontages.

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 is of a high-quality design and construction. The fence location is similar to the historical location of previous fences present on the property (which were lower in height), but have been modified to allow for a large mature tree to be outside the fence. The fence provides privacy for the petitioner and shields back yard activities (like gardening, use by domestic animals) from view from the Cricklewood Road right of way, without blocking the clear site triangle.

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

The property's location on a corner lot with the largest portion of what would otherwise be a sideyard, located near Cricklewood Road, provides a large area which, if located NOT on a corner lot, would be able to be fenced as proposed. The area located near Cricklewood Road has been treated by Petitioner (and her parents who lived in the house before her) as their side yard and the home has features largely present in a side yard (windows into living area) in this area. The proposed variance would allow this high quality fence to be retained in its current location, providing privacy for the petitioner, without negatively impacting other property owners.

2024DV3001 ; Findings of Fact (Parking)

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

The requested variance does not impact the public at large. The driveway has traditionally be installed as half-moon circular drive, which was redone as part of renovations on the property. The location of the entry and exit from the half-moon drive do not negatively impact traffic flow on the small cul de sac upon which it fronts and does not impact the clear site triangle.

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 property has approximately 150' feet of frontage on the cul de sac right of way and the layout of the driveway has been in place for a number of years. The layout allows for landscaping to be maintained and for easy in and out from the driveway, thus having no impact on adjacent property owners.

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

The property has been improved with the half-moon circular drive for a number of years. The half moon drive allows for ease of access to the front door and also allows for use of the attached garage. The existing conditions do not occupy more than 50% of the frontage of the property with direct access to the right of way, which appears to be in line with the requirements of the ordinance, but the two accesses required for a half-moon cannot be obtained within the restrictions of the ordinance.

2024DV3001 ; Pictures



Photo 1: Fence from Front Yard (West)



Photo 2: Previous Fence in Front Yard (taken September 2016)

2024DV3001 ; Pictures (continued)



Photo 3: Fence from Southwest



Photo 4: Fence and Property from Front Yard (North)

2024DV3001 ; Pictures (continued)



Photo 5: Existing Driveway/Parking Area in Front Yard (North)



Photo 6: Driveway/Parking Area in Front Yard (taken September 2007)



BOARD OF ZONING APPEALS DIVISION III **March 19, 2024**

Case Number: 2024-SE3-002
Property Address: 6760 Dalton Street (approximate address)
Location: Lawrence Township, Council District #4
Petitioner: Reagan Outdoor Advertising, Michelle Noppenberger
Current Zoning: C-4

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 I-465 by a state agency.

Request:

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 14-foot by 48-foot, 50-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of 65 feet (maximum height of 40 feet permitted) and will be considered a multi-sided sign with faces 33 degrees and 30 feet apart (maximum 15 degrees or 42 inches of separation permitted), to a 7,170 square-foot lot (maximum 6-foot by 12-foot sign permitted on lots with less than 10,000 square feet of area), with a five-foot setbacks from Bash Street, Dalton Street and the western property line (10-foot setback required), located 345 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), within 605 and 975 feet from other outdoor advertising signs (1,000-foot radial spacing required).

Current Land Use: Undeveloped

Staff Recommendations:

Staff recommends **approval** of the special exception request to provide for the relocation and of the variance requests related to separation of faces of the sign, sign area, sign setbacks, and proximity from both the centerline of an interstate exit roadway and from other outdoor advertising signs.
Staff makes **no recommendation** on the variance request related to sign height.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.



STAFF RECOMMENDATION

Staff recommends **approval** of the special exception request to provide for the relocation and of the variance requests related to separation of faces of the sign, sign area, sign setbacks, and proximity from both the centerline of an interstate exit roadway and from other outdoor advertising signs.

Staff makes **no recommendation** on the variance request related to sign height.

PETITION OVERVIEW

- The subject site is currently undeveloped land zoned for commercial use. It is surrounded by C-4 zoning on all sides and is approximately 345 feet from an interstate exit ramp. The site is approximately 187 feet to the northwest from the location of a Tri-vision off-premises sign that was removed from 8011 Bash Street in late 2021 or early 2022 due to the expansion of I-69 by INDOT eliminating the previous location on private property.
- The Indianapolis Zoning Ordinance defines off-premises signs as “a sign that directs attention to a business, profession, commodity, or service offered on the property other than that on which the sign is located. This limitation does not apply to the content of noncommercial messages”. This definition would be inclusive of outdoor advertising signage.
- In 2017, the Indiana State Legislature adopted I.C. 8-23-20-25.6. This statute imposes new obligations on local municipalities with respect to state highway projects that result in the required removal or relocation of outdoor advertising signs. In cases when an existing outdoor advertising sign must be moved or removed as part of a highway improvement project, the owner of the sign must be allowed to either elevate or relocate the sign either by-right or by special exception. This statute would supersede local ordinance and is excerpted within the exhibits below.
- Ordinance amendments adopted by the City of Indianapolis in 2023 (744.904.C) would require the filing of a special exception for circumstances when legally established off-premises signs are required to be relocated from highway widening. Although the elevation or relocation sign would need to comply with other applicable developmental standards of the zoning ordinance (regardless of if those standards were enforceable at the initial time of construction), this circumstance matches the context described by the above-referenced statute and ordinance.
- Based on the plans provided to staff, several variances of development standards would be required to legalize the off-premises advertising sign in this location. The petitioner has asked for a sign height of 65 feet when 40 is the maximum height (the original sign was 50 feet tall). Additionally, variances for the sign size, degree of separation between the two faces, sign setbacks, and sign proximity to both an interstate exit and other outdoor advertising signs would be needed per current ordinance standards.



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- A separate but related section of Indiana Code (8-23-20.5-3), also excerpted in the exhibits below, indicates that under certain circumstances, the county or municipality “is responsible for the payment of full and just compensation for the outdoor advertising sign... including any costs and fees associated with a variance application, if applicable, to the outdoor advertising sign’s owner”. Given this constraint and the government-imposed practical difficulty at the previous site, staff would be supportive of the special exception request.
- The variance requests related to the sign area, sign setbacks from the property lines of the Dalton parcel, and proximity to both other off-premises signs and the centerline of the interstate exit are borne from the state-imposed practical difficulty caused by the INDOT expansion. These variances also come as close as possible to being a ‘one-for-one’ replacement of the removed sign given that it would be relocated to a vacant parcel 187 feet away that is an appropriate area removed from protected districts and oriented to the same location. Staff would be supportive of the variance requests related to area, setbacks, and proximities.
- Based on aerial photography of the previous sign, it appears that the two faces of the originally constructed off-premises sign had a separation of approximately 18 feet. Grant of this variance would allow for legalization of a multi-sided sign with a wider degree of separation (33 degrees and 30 feet apart requested) than what is allowed by ordinance for multi-sided signs or what was existing for the previously legalized sign. The applicant has provided site plan and findings of fact documentation indicating that the increased separation would be needed to allow both northbound and southbound traffic along the interstate to view the contents of the billboard. Given the small degree of increased separation and the fact that the replacement sign has a greater distance from the interstate, staff views this as minimal relief as close to a ‘one-to-one’ replacement as possible and would be supportive of the variance request for increased width between sign faces.
- The variance requested related to height would result in legalization of a sign that is approximately 163% taller than that typically allowed by ordinance. The findings of fact submitted along with this application and additional correspondence with the applicant mention that the increased height would be necessary to allow for visibility over the road deck adjacent to I-69 as well as potential obstruction of the view from a nearby hotel to the northeast (height of 52 feet). Several requests were made to the applicant for renderings showing how severely the proposed sign would be obstructed by these impediments and how visible the sign might be from heights of both 40 feet and 65 feet, but this documentation was not received by the date of publishing. Although IC 8-23-20-25.6 does allow for elevation of a conforming outdoor advertising sign or the sign’s relocation due to highway widening, staff was not provided with conclusive documentation indicating a hardship that would only be made whole by grant of a variance for a dramatically taller sign. Considering this context, staff would make no recommendation on the variance request related to the sign height.



GENERAL INFORMATION

Existing Zoning	C-4		
Existing Land Use	Undeveloped		
Comprehensive Plan	Community Commercial		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-4	North: Community Commercial
	South:	C-4	South: Community Commercial
	East:	C-4	East: Community Commercial
	West:	C-4	West: Community Commercial
Thoroughfare Plan			
Dalton Street	Local Street	30-foot right-of-way existing and 50-foot right-of-way proposed	
Bash Street	Local Street	40-foot right-of-way existing and 50-foot right-of-way proposed	
Context Area	Metro		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	02/13/2024		
Site Plan (Amended)	N/A		
Elevations	Not provided		
Elevations (Amended)	N/A		
Landscape Plan	N/A		
Findings of Fact	02/13/2024		
Findings of Fact (Amended)	03/12/2024		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Community Commercial working typology allows for low-intensity commercial and office uses to serve nearby neighborhoods. The Pattern Book makes no specific recommendations related to the placement of on-premises or off-premises signage.



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

80-Z-103, rezoning of 43.38 acres from D-S zoning to the C-4 zoning classification, **approved**.

ZONING HISTORY – VICINITY

2017UV3005 ; 8130 Summit Hill Drive (northeast of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the automobile sales and fulfillment center, including a 65-foot tall vehicle vending machine (not permitted), with a portion of the parking and circulation area having a five-foot setback along the interstate (10-foot setback required), **approved**.

2016UV3004 ; 8073 Castleton Road (west of site), Variance of use of the Commercial Zoning Ordinance to provide for a retail and wholesale automobile sales facility (not permitted), **approved**.

2001DV1029 ; 8111 Bash Street (northeast of site), Variance of development standards of the Sign Regulations to provide for a 15-foot wide sign canopy above the eastern entrance of a hotel (maximum 10 feet of width permitted), **approved**.

2001ZON148 ; 6752 Gentry Street (north of site), rezoning of 0.69 acres to C-4 zoning, **approved**.

91-UV3-72 ; 8067 Castleton Road (west of site), variance of use of the Commercial Zoning Ordinance to permit the repair of fire trucks, **approved**.

89-Z-51 ; 6817 E 82nd Street (east of site), rezoning of 3.51 acres to C-6 zoning, **approved**.

88-Z-83 ; 8123 Castleton Road (north of site), rezoning of 1.39 acres to SU-9 zoning, **approved**.

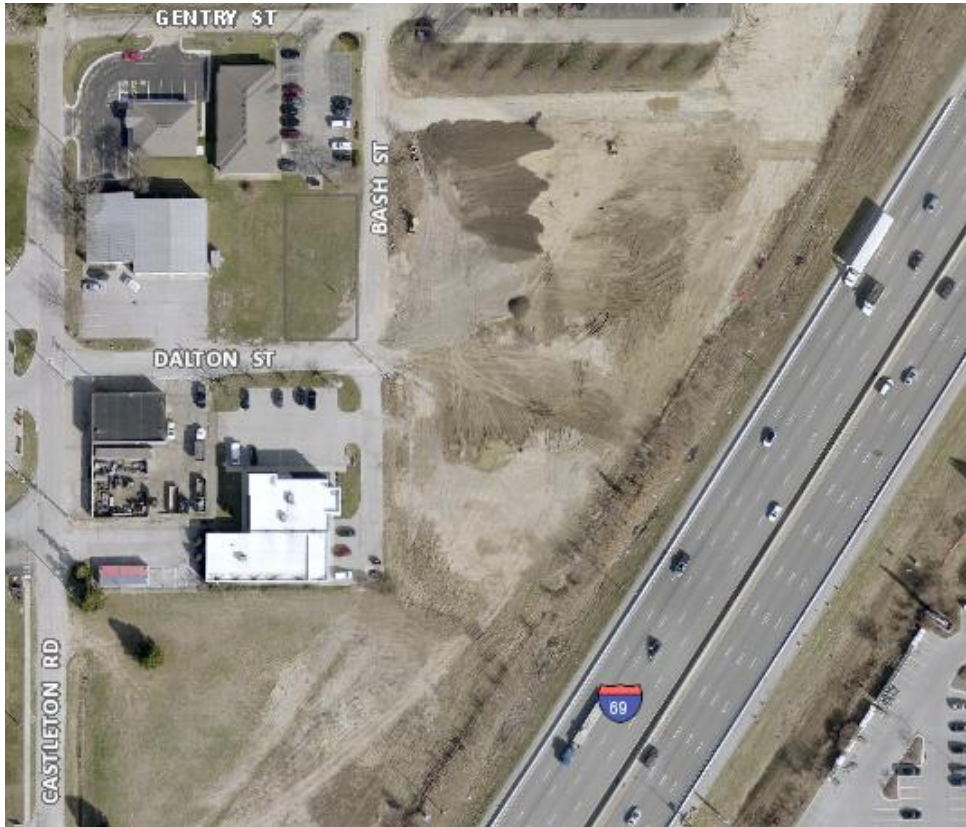
84-HOV-58 ; 8007 Castleton Road (south of site), variance of development standards of the Industrial Zoning Ordinance to provide for the construction and use of a 7978 square foot office and warehouse building within the required front and rear yards and with parking in the side and rear yards, **approved**.

83-HOV-104 ; 8015 Castleton Road (south of site), variance of front, side and rear development standards of the Industrial Zoning Ordinance to provide for an office warehouse on parcel A and future development of parcel B, with a waiver of the one year limit to obtain a permit for parcel B, **approved**.

75-Z-151 ; 8111 Bash Street (northeast of site), rezoning of 7.75 acres to C-4 zoning, **approved**.

EXHIBITS

2024SE3002 ; Aerial Map



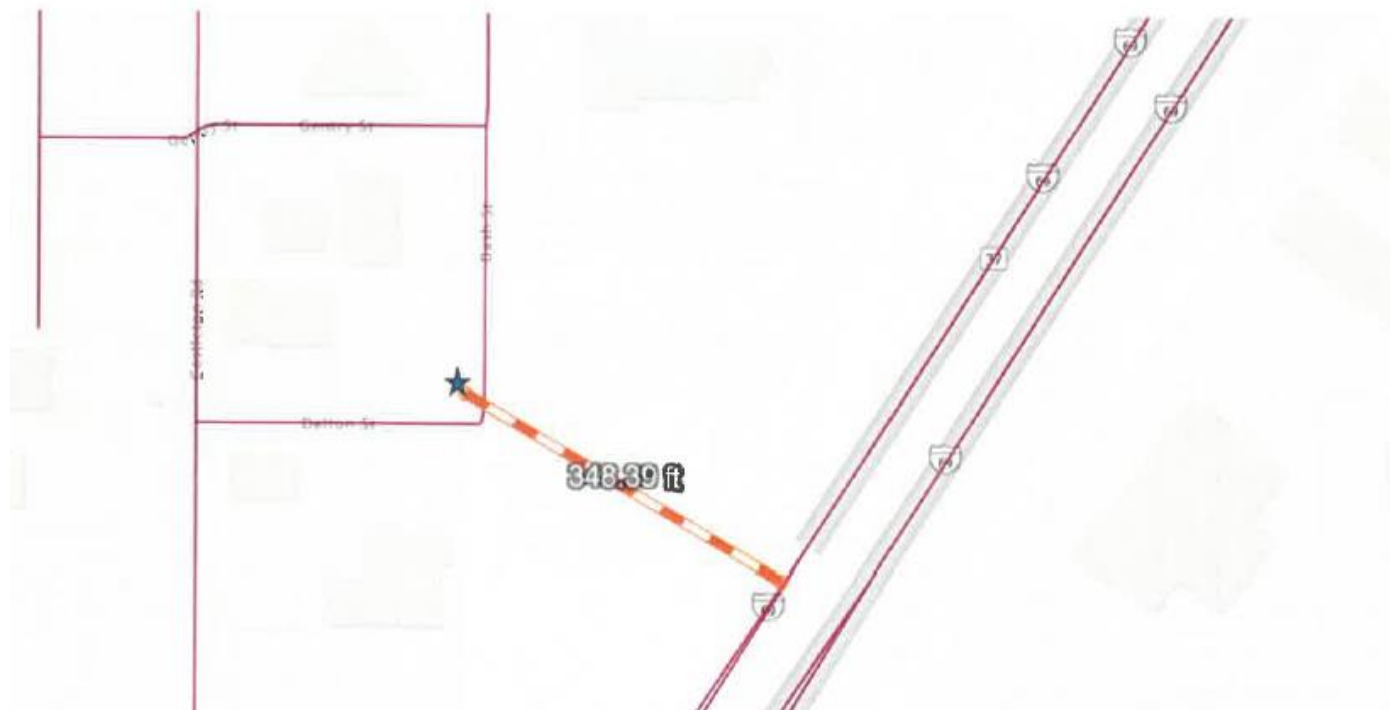
2024SE3002 ; Site Plan



2024SE3002 ; Distance from Previous Sign Location



2024SE3002 ; Distance from Interstate Exit Roadway





Department of Metropolitan Development
Division of Planning
Current Planning

2024SE3002 ; I.C. 8-23-20-25.6

IC 8-23-20-25.6 Obstruction or removal of outdoor advertising sign; elevation or relocation of outdoor advertising sign; compensation; notice of project

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) Except as provided in subsection (j), if within one (1) year of an action being filed under [IC 32-24](#), 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.

(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;
- (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 32-24](#), 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 twelve (12) 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 32-24-1-8](#).

(j) Notwithstanding subsection (d), if an action that has been filed under [IC 32-24](#) is pending as of July 1, 2023, and:

- (1) the parties have not entered into a final settlement agreement; or
- (2) no final judgment has been entered by the trier of fact;

the owner may relocate the outdoor advertising sign under this section and [IC 8-23-20.5](#).

As added by P.L.222-2017, SEC.2. Amended by P.L.97-2022, SEC.1; P.L.178-2022(ts), SEC.10; P.L.201-2023, SEC.115.



Department of Metropolitan Development
Division of Planning
Current Planning

2024SE3002 ; I.C. 8-23-20.5-3

IC 8-23-20.5-3 Special exception or variance; compensation by county or municipality; eminent domain action

Sec. 3. (a) If a county or municipality either:

- (1) subject to [IC 8-23-20-10](#), does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance for the relocation of an outdoor advertising sign; or
- (2) does not approve a variance to the zoning ordinance filed by the outdoor advertising sign's owner that conforms to the filing requirements;

the county or municipality that did not approve the relocation of the outdoor advertising sign within the market area is responsible for the payment of full and just compensation for the outdoor advertising sign under [IC 8-23-20-27](#), including any costs and fees associated with a variance application, if applicable, to the outdoor advertising sign's owner.

(b) A county or municipality's consideration of a special exception or variance may not be a basis to delay the appointment of appraisers under [IC 32-24-1-9](#).

(c) If a county or municipality has not approved the relocation of an outdoor advertising sign located within its jurisdiction before the date an action under [IC 32-24](#) is filed, the county or municipality must be named as a party to the action.

As added by P.L. 97-2022, SEC. 4. Amended by P.L. 201-2023, SEC. 116.

2024SE3002 ; Project Description

DETAILED DESCRIPTION OF THE PROPOSAL: There is an Off-Premises sign that existed at 8011 Bash Street, Indianapolis, IN 46250, in the County of Marion in the State of Indiana. As a result of a State of Indiana Department of Transportation Road project at the I-465 N/I-69 N Interchange (INDOT Project - ClearPath 465), this necessitates the taking of multiple parcels including the parcel where an Off-Premises sign owned by Reagan Outdoor advertising and the removal of our sign. Pursuant to INDOT Rules and Regulations, and in conformity with state statute, this Off-premises sign is eligible for relocation as it is permitted to be relocated within the same county of the current location per INDOT rules. The outdoor advertising sign is eligible for relocation pursuant to Indiana Code 8-23-20.

The structure will continue to be a v-type structure with each facing being 14 feet by 48 feet in advertising sign space. The structure will also continue to be illuminated by lights affixed to each side of the structure. The relocated sign would consist of the construction and operation of a 65' tall, V-shaped, 14'x48' static off-premises sign (billboard or sign). The proposed height of the sign is necessary to overcome the height of the road deck adjacent to the location along I-69 where the sign will be viewed from. Each face of the proposed sign will be oriented toward Interstate 69 and hold static messages. The property and location is in a commercial area of the city that is bordered by commercial properties. C4 zoning to the North, South, East and West with C7 zoning to the southeast. The Land Use Plan for this parcel and surrounding parcels is Community Commercial.



2024SE3002 ; Findings of Fact (Special Exception)

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

The existing outdoor advertising sign that is being relocated pursuant to this special exception has been in place for over 32 years. The existing and relocated signs are both zoned commercial. This highly commercial area is compatible with signage, both on-premise and off-premise.

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

The existing outdoor advertising sign that is being relocated pursuant to this special exception already has been in place since 1992 without affecting the neighboring properties in a substantially adverse manner. The new location of the sign is in an area of the City of Indianapolis appropriate for outdoor advertising signs. Further, pursuant to this special exception, the outdoor advertising sign is being relocated to facilitate a road improvement project administered by the Indiana Department of Transportation ("INDOT") known as the ClearPath 465/I-69 Project.

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

The outdoor advertising sign that is being relocated pursuant to this special exception already has been in place since 1992 without affecting the neighboring properties in a substantially adverse manner. The new location of the sign is in an area of the City of Indianapolis appropriate for outdoor advertising signs. Further, the sign will be located on the perimeter of the property so it will not interfere with future commercial development.

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

The proposed location of the outdoor advertising sign is in an area of the City of Indianapolis (oriented to I-69) appropriate for outdoor advertising signs. The Comprehensive Plan base land use is Community Commercial. Further, this area is zoned commercial, and it already is a highly commercial corridor.

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

The outdoor advertising sign is being relocated to a nearby site appropriate for outdoor advertising signs. It will continue to be oriented to Interstate 69.

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

The outdoor advertising sign is being relocated to a nearby site appropriate for outdoor advertising signs. It will continue to be oriented to Interstate 69. It will be approximately 605 feet from another off-premises sign, adjacent to an I-69 ramp. It will continue to be located in Commercial zoning.

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

The outdoor advertising sign is being relocated to a nearby site appropriate for outdoor advertising signs. It is an area zoned and highly developed as commercial.



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

2024SE3002 ; Findings of Fact (Variances)

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

The existing outdoor advertising sign that is being relocated pursuant to this grant of variance has been in place over 32 years without causing any injury to the public health, safety, morals, and general welfare of the community. The existing outdoor sign is being relocated to facilitate a road improvement project being administered by the Indiana Department of Transportation (“INDOT”) known as the Clear Path 465 Project. The use of the property for a billboard site is consistent with the underlying zoning and usage. The property is zoned C-4 Community Commercial. The majority of the immediate area is commercially zoned.

There is no evidence that the outdoor advertising sign has caused any injury, in any manner, to the public health, safety, morals, and general welfare of the community. The sign will conform to Federal, INDOT, and industry standards with regard to construction and safety. The general welfare of the community could be adversely impacted should the variance not be granted by requiring Indianapolis-Marion County tax dollars to be diverted from other public programs to pay for the taking of the billboard. Additionally, the sign will remain oriented to Interstate 69. The general welfare of the community could be adversely impacted should the variance not be granted by requiring Indianapolis-Marion County tax dollars to be diverted from other public programs to pay for the taking of the billboard.

- 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:**

Currently, the zoning is C-4 Community Commercial, for this parcel. The existing outdoor advertising sign that is being relocated pursuant to this grant of variance has been in place for 32 years without affecting the neighboring properties in a substantially adverse manner. The location of the already existing sign is in an area of the City of Indianapolis appropriate for outdoor advertising signs

Pursuant to this grant of variance, the outdoor advertising sign will be relocated to facilitate a road improvement project being administered by the Indiana Department of Transportation (“INDOT”) known as Clear Path 465.

A majority of the surrounding parcels are also zoned C-4 and used as commercial and office spaces. The parcel to the south opposite Dalton Street (also zoned C-4) is used as office spaces. The property to the east is now owned by the State for the Clear Path 465 road widening project. The property to the west is an auto repair shop along with more office spaces to the north. The relocation of the outdoor advertising sign is within 187 feet of the removed structure.



2024SE3002 ; Findings of Fact (Variances) cont.

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

The location of the already existing 50' off-premise billboard sign is in an area of the City of Indianapolis (oriented to I-69) appropriate for outdoor advertising signs. The existing off-premise billboard sign that is being relocated pursuant to this grant of variance already has been in place for over 32 years without generating any adverse impact. The relocation is a direct result of the State of Indiana Department of Transportation's Road project Clear Path 465/I-69. Strict application of the zoning ordinance will result in the loss of the billboard, and the costs of the taking would be shifted to Indianapolis-Marion County pursuant to Indiana Code 8-23-20-25.6. The zoning ordinance places an unnecessary and unusual hardship on the application through no fault or action of applicant and does not further the intent of the zoning ordinance. The petitioner seeks to be made whole through the replacement of the billboard taken under eminent domain. Construction of a 65-foot-tall structure will be approximately 55 feet above road grade, of Interstate-69, as the property sits below Interstate-69 at approximately 10'.

The parcel's overall square footage is approximately 7,900 sf and any future development would require the increased off-premises sign's height, of 65' to allow for construction of a building. Without the increased sign height to 65', a practical difficulty would exist for future development. The existing off-premise sign was also closer to I-69 whereas the relocated sign sits west of Bash Street. Clear Path 465's interstate widening and moving the structure further away from the interstate will cause blockage of the faces at 40', which creates a practical difficulty. To the northeast, of our proposed site, sits a 4-story hotel building at 52' overall height and to the south, sits an office building at approximately 28' overall height creating a practical difficulty if the overall height is set at 40'.

The off-premise billboard sign setback that existed was approximately 60 feet from the right of way. The five (5) foot setback at the proposed off-premise billboard location is measured at approximately 190 feet from the soon to be constructed interstate creating a 130-foot increase in distance from the interstate view. Not receiving the five (5) foot setback variances would create a practical difficulty as the distance seen from the interstate is farther than the off-premise sign that existed and due to the limited square footage of the parcel it would not be possible to have a setback of more than 5'. Also, there is a practical difficulty regarding the limited square footage, of the parcel, where our existing off-premise billboard's face size was 14'x48' and the ordinance requires a parcel, of at least 43,650 sf or above to have the 14'x48' face sizing. A 6'x12' sign would not be able to be seen from the interstate. Also, due to the setback from the interstate, a 30' (33 degree) V separation is also required to view the faces from I-69. It would be a practical difficulty to limit the separation to 15 degrees, as the faces would not be seen from I-69 due to the interstate widening and the setback. Due to special circumstances with the need to relocate the off-premise billboard sign there is a need for flexibility as the existing sign was not previously subject to (i.e. radial distance less than 1,000' from other existing off-premise signs and distance from the centerline of an interstate exit roadway).

2024SE3002 ; Pictures



Photo 1: View of Subject Site & Previous Sign from I-465 looking West (June 2021)

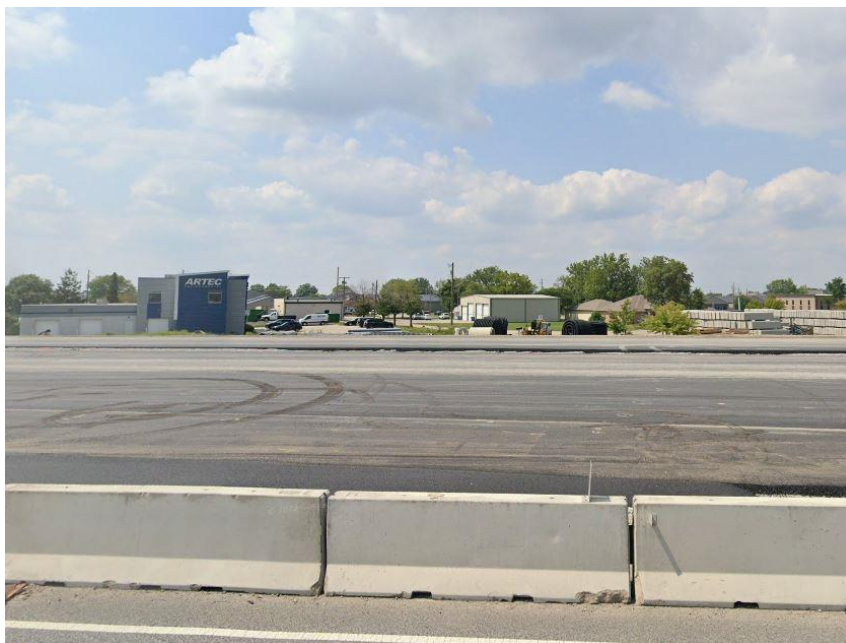


Photo 2: View of Subject Site and Removed Previous Sign from I-465 looking West (August 2023)

2024SE3002 ; Pictures (continued)



Photo 3: View of Previous Sign from I-465 looking South (June 2021)



Photo 4: View of Subject Site from I-465 looking South (August 2023)

2024SE3002 ; Pictures (continued)



Photo 5: Subject Site looking East to I-465



Photo 6: Subject site looking Northwest to Adjacent Property

2024SE3002 ; Pictures (continued)



Photo 7: Previous Sign Approx. Location looking E to I-465



Photo 8: Previous Sign Approx. Location looking N to I-465

2024SE3002 ; Pictures (continued)



Photo 9: Subject Site looking North to Adjacent Property



Photo 10: Subject Site looking South to Adjacent Property



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2024-DV3-004

Property Address: 1328 Lawrence Avenue (approximate address)

Location: Perry Township, Council District #23

Petitioner: Amy DiVincenzo & William Esquivel Najera

Current Zoning: D-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yards of Otterbein Avenue and Lawrence Avenue (maximum 3.5-foot-tall fence permitted).

Current Land Use: Residential

Staff Recommendations: Staff has no recommendation for this petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- This petition is to be continued to amend the language of the request, requiring new mailed notice. The petitioner has requested a two-month continuance to the May 28, 2024 BZA Division III hearing due to a scheduling conflict during the April 16, 2024 BZA Division III hearing.

STAFF RECOMMENDATION

- Staff has no recommendation for this petition.

PETITION OVERVIEW

- This petition is to be continued to the May 28, 2024 BZA Division III hearing.



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2024-UV3-002

Property Address: 5312 S Emerson Avenue (approximate address)

Location: Perry Township, Council District #24

Petitioner: Ranveer Singh Khangura

Current Zoning: D-A

Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an insurance agency office and real estate brokers office (not permitted).

Current Land Use: Commercial

Staff Recommendations: Staff has no recommendation for the petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- This petition is to be formally withdrawn, as the petitioner has refiled as a rezoning petition. This simply requires the Board’s acknowledgement.

STAFF RECOMMENDATION

- Staff has no recommendation for this petition.

PETITION OVERVIEW

- This petition is to be formally withdrawn.



BOARD OF ZONING APPEALS DIVISION III **March 19, 2024**

Case Number: 2024-UV3-003
Address: 8540 US 31 (approximate address)
Location: Perry Township, Council District #23
Zoning: SU-1 / HD-1
Petitioner: Christ Indianapolis United Methodist Church, Inc., by Damon C. Cox
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a pole sign (not permitted), within 90 and 180 feet of existing freestanding signs (300-foot of separation required, one freestanding sign permitted along a frontage) and including a 37.28-square-foot digital display component (prohibited) and to legally establish an existing pole and monument sign.

Current Land Use: Religious Use

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first time this petition has been heard.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The Sign Regulations “facilitate an easy and agreeable communication between people...and serve an important function.” The purpose of the Sign Regulations is to “eliminate potential hazards to motorists, and pedestrians; to encourage signs which, by their good design, are integrated with and harmonious to the buildings and site which they occupy; and which eliminate excessive and confusing sign displays.” Proliferation of signs causes those signs that are permitted and legal to become less effective and reduces their value. Additionally, the Sign Regulations preserve and improve the appearance of the City as a place in which to live and work.
- ◇ The granting of this request would continue the intensification of the signs with digital display components. The proposed request has no practical difficulty, other than the property owners desire to advertise church events, drives, and outreach event. The proposed messaging can be provided without the variances requested through the use of ordinance complaint signage, including a reader board.
- ◇ This request would also legally establish an existing pole and monument sign. Staff, however, would caution that these additional signs would create clutter, duplicate signage, and would increase, rather than eliminate, confusion for motorists and pedestrians.

- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned SU-1 and could accommodate appropriate signage as permitted, by right, in the SU-1 zoning classification. Any practical difficulty is self-imposed by the desire to use the site for an excessive amount of signage, including one with a digital display component.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the zoning ordinance without the need for variances. Therefore, staff does recommend denial.

GENERAL INFORMATION

Existing Zoning	SU-1		
Existing Land Use	Religious Use		
Comprehensive Plan	Regional Special Use		
Overlay	No		
Surrounding Context	Zoning		Surrounding Context
	North:	C-5	North: Regional Commercial
	South:	HD-1	South: Hospital
	East:	C-3	East: Neighborhood Commercial
	West:	D-P	West: Multi-family dwelling
Thoroughfare Plan			
	US 31 South	Primary Arterial	130-foot existing and proposed right-of-way.
Context Area	Metro		
Floodway / Floodway Fringe	No		
Wellfield Protection Area	No		
Site Plan	February 1, 2024		
Elevations	February 1, 2024		
Commitments	N/A		
Landscape Plan	N/A		
Findings of Fact	Development Standards February 1, 2024. Variance of Use not submitted		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends regional special use for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Regional Special Use typology for this site. This typology provides for public, semi-public, and private land uses that serve a specific institutional purpose for a significant portion of the county. Examples are large-scale, generally stable institutional uses such as cemeteries, hospitals, universities, high schools, government complexes, large museums, the Indiana State Fairgrounds, and the Indianapolis Motor Speedway.



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

2018-UV3-027; 1551 East Stop 12 Road (east of site), requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a painting class with retail sales of beer and wine, **granted**.

2013-ZON-032; 8545 US 31 South (east of site), requested the rezoning of 0.469 acre from C-1 to C-S to provide for all C-1 uses and an antique store, **approved**.

2007-UV2-006; 8245 and 8345 US 31 South, (north of site), requested a variance of use of the Commercial Zoning Ordinance to for amusement machines and legally establish the sale of alcoholic beverages within 80 feet of a protected district, **granted**.

2006-UV2-004; 8265 U.S. Highway 31 (north of site); requested a variance of use to provide for the sale of alcoholic beverages, with live entertainment and eight amusement machines, within a tenant space of an existing commercial building, located 80 feet from a protected district, in C-5, **granted**.

2000-ZON-124; 8631 South US 31 (east of site), requested the rezoning of 0.5 acre from D-3 to C-1 to provide for office uses, **approved**.

2000-ZON-062; 8605 and 8617 South US 31 (east of site), requested the rezoning of 0.9 acre from D-3 to C-1 to provide for office uses, **approved**.

88-Z-261; 8525 South US 31 (east site), requested the rezoning of two acres from A-2 to C-3 to provide for commercial retail uses, **approved**.

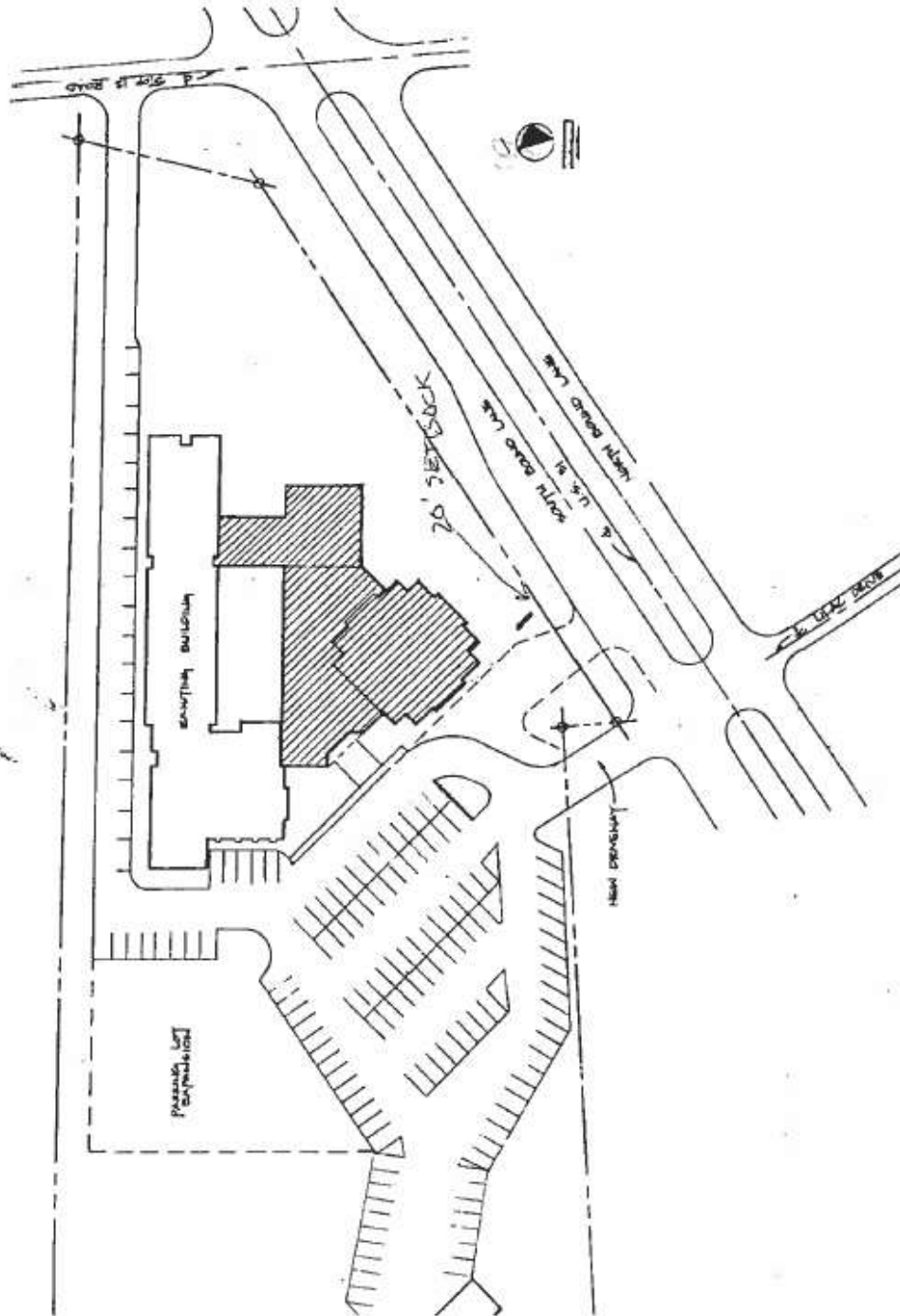
84-HOV-136; 8540 US 31 South (subject site), requested a variance of development standards to provide for a pole sign without the minimum nine-foot minimum required clearance, **granted**.

EXHIBITS

Location Map



Site Plan



Sign Elevation



Plan Of Operation



PLAN OF OPERATION

For nearly sixty years Christ Indianapolis United Methodist Church has served the south side of Indianapolis. Sixty years ago, the area in which the church is located changed – from corn fields and rural route roads to a densely populated area of the great City of Indianapolis, and so has the way the church works within the community.

Christ Indy UMC strives to be an outward focused church, knowing that real church happens outside of Sunday mornings.

- Partnering with Winchester Village Elementary School to supply necessities such as hygiene packs, for students and families, Christmas assistance, the purchase of curriculum to strengthen the education of students, and much more.
- Andrew's Harvest Food Pantry, serving in excess of 60 families a week to supply them with nutritious food items, hygiene items, and items needed for a child, such as diapers and wipes.
- Numerous outreach events each year, designed to show messages of love and hope, and to express our gratitude like:
 - Annual Vacation Bible School, serving well over 100 children within the community.
 - Breakfast with Jesus and Santa, a free event designed to give families the opportunity to have breakfast and receive pictures with Santa Clause
 - Trunk or Treat, a free event providing a safe area for families to receive candy, have dinner together, and enjoy the festivities of the season.
- Preschool, Daycare and Infant Care, an unlicensed registered ministry with the State of Indiana, we provide a clean, safe, secure area for the children we are entrusted too.

The approval of the requested petition allows us to reach deeper into the community, informing them of the events we offer, the resources available to them, and the love that Christ has for them. In a harsh world, we have the opportunity to be a beacon of light.



Findings of Fact

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The requested sign will be an electronic messaging center to advertise church events, drives, and outreach events. Christ Indy UMC is a well known church in our community. We strive to stay focused on serving those outside of our walls, such as our partnership with Winchester Village Elementary School, where we provide school uniforms, Christmas assistance, educational assistance, and basic supplies for both students and teachers. This would not be possible without our church members and local community. A new electronic messaging center will allow us to better serve our community. Additionally, we hope to display the current time and outdoor temperature.

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 current sign structure which was approved by the Metropolitan Development Commission in 1984, will remain in its current location. The only change proposed is to add an electronic messaging center and to update the sign panels with the church name and logo.

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

Currently Marion County does not allow the addition of electronic messaging centers. This impedes on our desire to install an electronic electronic messaging center. There are numerous other electronic messaging centers nearby. We respectfully request a variance so we are able to move forward with our current installation.

DECISION

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

Adopted this _____ day of _____, 20 ____

Photographs



Subject site building, looking north



Subject site existing signage with reader board, looking north



Subject site existing second and third freestanding signs, including a second reader board, to be legally established, looking south.



Subject site existing sign placed illegally in the right of way, looking south



Adjacent commercial uses with ordinance compliant signage, to the east



Adjacent commercial uses with ordinance compliant signage, to the west