



# Metropolitan Development Commission Hearing Examiner (December 14, 2023) Meeting Agenda

## Meeting Details

Notice is hereby given that the Hearing Examiner of the Metropolitan Development Commission will hold public hearings on:

**Date:** Thursday, December 14, 2023      **Time:** 1:00 PM

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

## Business:

### Special Requests

#### PETITIONS REQUESTING TO BE CONTINUED:

**1. 2023-ZON-057 | 6801 and 6921 Mills Road and 6912 Camby Road**

Decatur Township, Council District #20  
Arbor Homes, by Caitlin Dopher

Rezoning of 106.721 acres from the D-A district to the D-4 district to provide for residential development.

**\*\*Petitioner withdrawal of Petition**

**2. 2023-ZON-085 | 6531 East 34th Street**

Warren Township, Council District #13  
Ben Singh Bashal

Rezoning of one acre from the D-3 district to the I-2 district to provide for light industrial uses.

**\*\*Petitioner withdrawal of Petition**

**3. 2023-ZON-086 | 6185, 6421, 6423 and 6441 East 34th Street**

Warren Township, Council District #13  
Ben Singh Bashal

Rezoning of 4.3 acres from the D-3 and C-S districts to the I-3 district to provide for truck/trailer parking and repair.

**\*\*Petitioner request for continuance to January 11, 2024, with Notice, to allow amendment of Petition**

**4. 2023-ZON-106 | 2620 and 2710 Wicker Road**

Perry Township, Council District #20  
Reid Litwack, by Joseph D. Calderon

Rezoning of 6.39 acres from the D-A (W-1) district to the I-3 (W-1) district to provide for a fleet terminal and truck parking facility.

**\*\*Staff request for continuance to January 25, 2024**

**5. 2023-ZON-109 | 5136 Michigan Road**

Washington Township, Council District #8  
Paramount Schools of Excellence, Inc., by Timothy Ochs

Rezoning of 10.13 acres from the SU-1 district to the SU-2 district to provide for educational uses.

**\*\*Automatic Continuance to January 11, 2024, filed by Registered Neighborhood Organization**

- 6. 2023-CZN-863 / 2023-CAP-863 / 2023-CVR-863 / 2023-CPL-863 | 1228, 1232, 1302 and 1306 East 10th Street**  
Center Township, Council District #17  
Structure Midwest, LLC, by Russell L. Brown and Elizabeth Bentz Williams

Rezoning of 0.41 acres from the MU-1 and D-8 districts to the D-8 district.

Termination of Commitments related to 2019-CZN/CVR-821 to provide for a new two-family dwelling development (previous commitments required four-foot side setbacks for single-family detached dwellings). Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for front yard setbacks of nine feet and side yard setbacks of three feet for a six-unit, two-family dwelling development (setback range of 10-19.9 feet required, five-foot side yard required).

Approval of a Subdivision Plat to be known as Windsor on 10th, dividing 0.41 acres into three duplex lots (six units).

**\*\*Petitioner request for continuance to December 28, 2023, with Notice**

## Petitions for Public Hearing

### PETITIONS TO BE EXPEDITED:

- 7. 2023-MOD-018 (Amended) | 4411 Wild Pheasant Lane**  
Franklin Township, Council District #25  
D-P  
Nicole Smithers

Modification of Development Statement, related to 2003-ZON-060, to modify Commitment 8.B to legally establish a six-foot solid privacy fence (current commitment prohibits six-foot solid privacy fences along perimeter lots of the subdivision, unless they fence a patio, deck, hot tub, etc., are no more than 300 square feet and abut the residence).

- 8. 2023-ZON-100 | 4509 and 4585 Allisonville Road and 2828 E 45th Street**  
Washington Township, Council District #9  
Sheetmetal Workers Local No. 20 Apprenticeship and Training Trust, by Russell L. Brown

Rezoning of 7.40 acres from the MU-1 (FF) district to the C-S (FF) district to provide for the following permitted uses: Vocational, Technical or Industrial School or Training Facility; Office: Business, Professional or Government; Financial & Insurance Services; and Club or Lodge.

- 9. 2023-ZON-104 | 2920 and 2990 North Arlington Avenue**  
Warren Township, Council District #13  
Associated Drywall Partners, by Andrew Wert

Rezoning of 1.80 acres from the C-3 and D-3 district to the C-5 district to legally establish and provide for the expansion of a Commercial and Building Contractor.

- 10. 2023-ZON-105 | 5935 West 86th Street**  
Pike Township, Council District #1  
Ragin McQuade - Bohler Engineering

Rezoning of 1.345 acres from the C-3 district to the C-4 district to provide for a car wash.

### PETITIONS FOR PUBLIC HEARING (Continued Petitions):

- 11. 2023-ZON-072 (Amended) | 2143 and 2145 South Emerson Avenue**  
Warren Township, Council District #18  
Tropical Island, LLC, by David Kingen

Rezoning of 0.94 acre from the D-3 and SU-18 districts to the D-5 district to provide for residential uses.

**12. 2023-ZON-101 | 3905 East Raymond Street and 3820 and 3912 Bethel Avenue**

Center Township, Council District #21  
Malwa Truck & Tire Repair Shop, LLC, by David Gilman

Rezoning of 17.25 acres from the D-3 (FW) (FF), C-7 (FF) and I-3 districts to the C-7 (FW) (FF) district to provide for heavy commercial uses.

**13. 2023-ZON-102 | 117 (119) North Sherman Drive**

Center Township, Council District #12  
Verma Properties, Inc., by Sharmin Frye

Rezoning of 0.11 acre from the D-5 (TOD) district to the C-3 (TOD) district.

**14. 2023-CZN-803 / 2023-CVR-803 (Amended) | 3601 North Kitley Avenue and 6535 Massachusetts Avenue**

Warren Township, Council District #13  
Diego Diaz Huijon, by Joseph D. Calderon

Rezoning of 7.9 acres from the D-3 district to the C-S district to legally establish a commercial building contractor with outside storage, accessory uses related to the building contractor and two single-family dwellings with residential accessory uses.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a front building setback of 338 feet from Massachusetts Avenue (65-foot maximum permitted) and outside storage with a zero-foot setback from the east and west property lines (10-foot transitional yard/side yard required).

**15. 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Amended) | 3838 East 46th Street**

Washington Township, Council District #9  
Habitat for Humanity of Greater Indianapolis, Inc., by Chris Barnett

Rezoning of 4.22 acres from the SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.

Variance of Development Standards to provide for an access drive extending 34-feet into the Stream Protection Corridor of Devon Creek for a maximum length of 107 feet (100-foot Stream Protection Corridor Required) and a 68-foot front setback along 46th Street for property address 3860 East 46th Street (front building line range of 20 to 50 feet required).

Approval of a Subdivision Plat, to be known as Devon Creek, dividing 4.22-acres into ten single-family detached lots and one common area, including the vacation of an irregular portion of right-of-way at the northwest corner of the intersection of East 46th Street and Millersville Road containing 2,307.8 square feet, with a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.

**PETITIONS FOR PUBLIC HEARING (New Petitions):**

**16. 2023-ZON-107 | 2831 East 38th Street**

Center Township, Council District #9  
Kourain Burgers, LLC, by Joseph D. Calderon

Rezoning of 0.683 acre from the D-5 (TOD) district to the C-3 (TOD) district to provide for a restaurant.

**17. 2023-ZON-108 | 1102 East Stop 11 Road**

Perry Township, Council District #24  
SIDHU 13, LLC, by Joseph D. Calderon

Rezoning of 2.67 acres from the C-S district to the C-3 district to provide for neighborhood commercial uses.

**18. 2023-ZON-110 | 2837 East New York Street and 253 North Rural Street**

Center Township, Council District #17  
Carmel Lutheran Church - Missouri Synod Inc., by Kevin Buchheit

Rezoning of 0.99 acre from the MU-1 and D-5 districts to the MU-2 district to provide for educational uses.

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

**STAFF REPORT**

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

**Case Number:** 2023-ZON-057  
**Address:** 6801 and 6921 Mills Road and 6912 Camby Road (*Approximate Addresses*)  
**Location:** Decatur Township, Council District #20  
**Petitioner:** Arbor Homes, by Caitlin Dopher  
**Request:** Rezoning of 106.721 acres from the D-A district to the D-4 district to provide for residential development.

The petitioner has submitted a request to **withdraw** this petition. The Hearing Examiner would need to acknowledge this request.

klh / JY

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## STAFF REPORT

Item 2.

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

**Case Number:** 2023-ZON-085  
**Address:** 6531 East 34<sup>th</sup> Street (*approximate addresses*)  
**Location:** Warren Township, Council District #13  
**Petitioner:** Ben Singh Bashal  
**Request:** Rezoning of one acre from the D-3 district to the I-2 district to provide for light industrial uses.

#### ADDENDUM FOR DECEMBER 14, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the October 26, 2023 hearing, to the December 14, 2023 hearing, at the request of the petitioner's representative.

The petitioner's representative has indicated that this petition will be **withdrawn** and the parcel added to petition 2023-ZON-086.

#### ADDENDUM FOR OCTOBER 26, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the September 28, 2023 hearing, to the October 26, 2023 hearing, at the request of the neighborhood organization.

#### September 28, 2023

#### RECOMMENDATIONS

Staff **recommends denial** of this request, if approved, staff would request that approval be subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.
2. A 24-foot half right-of-way shall be dedicated along the frontage of East 34<sup>th</sup> Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

(Continued)

**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

**LAND USE**

- ◇ This 1.0-acre site, zoned D-3, is developed with a single-family dwelling and an accessory building. It is surrounded by a single-family dwelling to the north across East 34<sup>th</sup> Street, zoned D-3; undeveloped land to the south, zoned C-S; and single-family dwellings to the east and west, both zoned D-3.

**REZONING**

- ◇ This request would rezone the site from the D-3 District to the I-2 (Light Industrial) classification. “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 Comprehensive Plan recommends suburban neighborhood typology. “The Suburban Neighborhood 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 Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ Because industrial use is not a recommended land use within this typology, there are no guidelines provided in The Pattern Book.

**Overlays**

- ◇ This site is also located within an overlay, specifically the Industrial Reserve Overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”

(Continued)

- ◇ The Industrial Reserve (IR) 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.

**Environmental Public Nuisances**

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
  1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
  2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
  3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
  4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

**Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 24-foot half right-of-way along East 34<sup>th</sup> Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

**Planning Analysis**

- ◇ The request would not be consistent with the Comprehensive Plan recommendation of suburban neighborhood typology or compatible with the adjacent residential redevelopment.

(Continued)



- ◇ This site is located within an industrial reserve overlay but rezoning a one-acre site centrally located within an area consisting of five parcels developed with single-family dwellings would not be appropriate and would be disruptive to those residential uses.
- ◇ Staff would note that the industrial reserve overlay is meant for large parcel size, proximity to compatible uses, and/or interstate access. This site and request does not comply with any of these recommendations.
- ◇ Furthermore, the Ordinance would require a 30-foot side transitional yard. The site is approximately 90 feet wide and 475 feet long, which would leave a 30-foot-wide strip the length of the parcel for development. Because of the impact on abutting residential uses, staff would not support development standards that would reduce the buffer that would mitigate the negative impact on adjacent land uses.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

D-3                      Single-family dwelling

**SURROUNDING ZONING AND LAND USE**

North -	D-3	Single-family dwelling
South -	C-S	Undeveloped land
East -	D-3	Single-family dwelling
West -	D-3	Single-family dwelling

**COMPREHENSIVE PLAN**                      The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood typology.  
Marion County Land Use Pattern Book (2019)

**THOROUGHFARE PLAN**                      This portion of East 34<sup>th</sup> Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 40-foot right-of-way and a proposed 48-foot right-of-way.

**CONTEXT AREA**                                      This site is located within the compact context area.

**OVERLAY**    This site is located within an industrial reserve overlay

**ZONING HISTORY**

**2023-ZON-086; 6185, 6421, 6423 and 6441 East 34<sup>th</sup> Street (west of site),** requested rezoning of acres from the D-3 and C-S districts to the I-3 district to provide for truck/trailer parking and repair, **pending.**

**99-Z-77; 6147-6423 East 34<sup>th</sup> Street (west of site),** requested rezoning of 6.51 acres from the D-3 District to the C-S classification to provide for a construction business, **approved.**

(Continued)

**99-V1-34; 6423 East 34<sup>th</sup> Street (west of site)**, requested a variance of use to provide for a construction business with outdoor storage and parking of six commercial vehicles, three equipment trailers, and a backhoe, **withdrawn**.

**97-Z-206; 6105 East 34<sup>th</sup> Street (west of site)**, requested rezoning of five acres from the D-3 District, to the C-S classification to provide for an excavating and sewer construction business, **approved**.

**95-Z-87 / 95-CV-17; 6361 East 34<sup>th</sup> Street (east of site)**, requested rezoning of 35.748 acres, being in the D-A District, to the C-S classification to provide for heavy construction equipment sales, rental and service and other I-2-@ industrial uses and a variance of development standards of the Commercial Zoning Ordinance to provide for development of a heavy construction equipment sales, rental and service and other I-2-S industrial use operations, with access to be gained by way of an easement to Elizabeth Street, **approved and granted**.

**94-UV3-2; 6423 East 34<sup>th</sup> Street (west of site)**, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of an existing construction business with outside storage of materials and the construction of a 50- by 30-foot garage resulting in the square footage devoted to the accessory buildings exceeding the square footage of the primary building, **granted**.

**93-Z-94; 6141 East 34<sup>th</sup> Street, (west of site)**, requested rezoning of 5.14 acres, being in the D-A District to the C-S classification to provide for a combination self-storage facility and existing contractor office / utility building, **approved**.

**91-UV3-16; 6607 East 34<sup>th</sup> Street (east of site)**, required a variance of use and development standards of the Dwelling Districts Zoning Ordinance to permit the continued operation of a plumbing business within an existing garage with outdoor storage, **granted**.

**89-Z-140; 6669 East 34<sup>th</sup> Street (east of site)**, requested rezoning of 34 acres, being in the A-2 District, to the I-2-S classification to provide for light industrial uses, **withdrawn**.

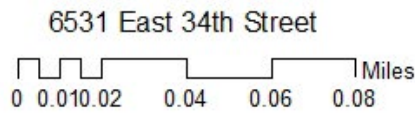
**88-UV1-90; 6141 East 34<sup>th</sup> Street (west of site)**, requested a variance of use to permit construction of a utility building for the storage of equipment and vehicles related to a concrete construction business, **granted**.

**86-Z-340; 6601 East 34<sup>th</sup> Street (east of site)**, requested rezoning office acres, being in the I-3 U District, to the C-ID classification to provide for outside storage of fences and an office and warehouse, **approved**.

**79-Z-150; 6105 East 34<sup>th</sup> Street (west of site)**, requested rezoning of five acres, being in the D-3 District to the C-7 classification to provide for an office building with a shop for heavy and light equipment rental, **denied**.

kb

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View looking east along East 34<sup>th</sup> Street



View looking east along East 34<sup>th</sup> Street



View looking west along East 34<sup>th</sup> Street



View from site looking east at adjacent single-family dwellings

## STAFF REPORT

Item 3.

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

**Case Number:** 2023-ZON-086  
**Address:** 6185, 6421, 6423 and 6441 East 34<sup>th</sup> Street (*approximate addresses*)  
**Location:** Warren Township, Council District #13  
**Petitioner:** Ben Singh Bashal  
**Request:** Rezoning of 4.3 acres from the D-3 and C-S districts to the I-3 district to provide for truck/trailer parking and repair.

#### **ADDENDUM FOR DECEMBER 14, 2023, HEARING EXAMINER**

The Hearing Examiner continued this petition from the October 26, 2023 hearing, to the December 14, 2023 hearing, at the request of the petitioner's representative.

This petition will need to be **continued from the December 14, 2023 hearing, to the January 11, 2024 hearing**, to provide time to amend the petition and provide required notice.

#### **ADDENDUM FOR OCTOBER 26, 2023, HEARING EXAMINER**

The Hearing Examiner continued this petition from the September 28, 2023 hearing, to the October 26, 2023 hearing, at the request of the neighborhood organization.

#### **September 28, 2023**

#### **RECOMMENDATIONS**

Staff **recommends denial** of this request. If approved, staff would request that approval be subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.
2. A 24-foot half right-of-way shall be dedicated along the frontage of East 34<sup>th</sup> Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
3. Access drives, internal drives and parking areas shall be paved and striped prior to the operation of the proposed use.

(Continued)

**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

**LAND USE**

- ◇ This 4.30-acre site, zoned D-3 and C-S is developed with a single-family dwelling and accessory buildings. It is surrounded by a single-family dwelling to the north across East 34<sup>th</sup> Street, zoned D-3; a single-family dwelling to the south, zoned D-A; single-family dwellings to the east, zoned D-3; and industrial uses to the west zoned I-3 and C-S.

**REZONING**

- ◇ This request would rezone the site from the D-3 and C-S Districts to the I-3 (Medium Industrial) classification. “The I-3 district is an intermediate district for industries that present moderate risks to the general public. Wherever practical, this district should be away from protected districts and buffered by intervening lighter industrial districts. Where this district abuts protected districts, setbacks are large, and enclosure of activities and storage is required.”
- ◇ The Comprehensive Plan recommends heavy commercial typology for the northern portion of the site and light industrial typology for the southern portion of the site.
- ◇ The following elements of the Pattern Book apply to this site:
  - ◇ “The Heavy Commercial typology provides for consumer-oriented general commercial, and office uses that tend to exhibit characteristics that are not compatible with less intensive land uses. They are often dominated by exterior operations, sales, and display of goods. Examples include vehicle sales and commercial lumber yards.”
  - ◇ “The Light Industrial 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 lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods, and serves as a policy guide for development or redevelopment of a site.

*Conditions for All Land Use Types*

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.

(Continued)

*Light Industrial Uses* (These industrial uses create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials)

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

*Heavy Commercial Uses* (Heavy commercial uses generally include outdoor operations, storage, and/or display.)

- Removed as a recommended land use where they would be adjacent to a living typology.

### **Overlays**

- ◇ The eastern portion of this site is also located within an overlay, specifically the Industrial Reserve Overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Industrial Reserve (IR) 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.

### **Environmental Public Nuisances**

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
  1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
  2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
  3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or

(Continued)



4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

**Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 24-foot half right-of-way along East 34<sup>th</sup> Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

**Planning Analysis**

- ◇ The request would generally be consistent with the Comprehensive Plan recommendation of heavy commercial and light industrial uses, but The Pattern Book expressly states that both uses should not be located adjacent to living typologies, not use local streets and feed onto arterial streets.
- ◇ Residential uses are located directly north of this site, East 34<sup>th</sup> Street is classified as a local street and this site does not feed onto an arterial street. Additionally, the pavement width of East 34<sup>th</sup> Street in this area is 20 feet, which would not be able to appropriately accommodate large trucks and trailers.
- ◇ The site plan, file dated August 22, 2023, provides for stone surface of the access drives and all parking areas. The Ordinance requires paved surfaces consisting of bricks, concrete or compacted aggregate base and surface with an asphaltic pavement. This would be particularly important given the proposed use involving heavy equipment and vehicles.
- ◇ As development on this site occurs, recommendations of the Pattern Book should be considered, as well as compliance with the Ordinance to mitigate negative impacts on surrounding residential development. In other words, development standards variances should be minimal and based on practical difficulty in the use of the property, rather than desires of the developer.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

D-3 / C-S      Single-family dwelling / accessory buildings

**SURROUNDING ZONING AND LAND USE**

North -	D-3	Single-family dwelling
South -	D-A	Single-family dwelling
East -	D-3	Single-family dwelling
West -	I-3 / C-S	Industrial uses

(Continued)

COMPREHENSIVE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends heavy commercial and light industrial typologies. Marion County Land Use Pattern Book (2019).
THOROUGHFARE PLAN	This portion of East 34 <sup>th</sup> Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 40-foot right-of-way and a proposed 48-foot right-of-way.
CONTEXT AREA	This site is located within the compact context area.
OVERLAY	The eastern portion of the site is located within the Industrial Reserve Overlay.
SITE PLAN	File-dated August 22, 2023

**ZONING HISTORY**

**2023-ZON-085; 6531 East 34<sup>th</sup> Street (east of site)**, requested rezoning of one acre from the D-3 district to the I-2 district to provide for light industrial uses, **pending**.

**99-Z-77; 6147-6423 East 34<sup>th</sup> Street (west of site)**, requested rezoning of 6.51 acres from the D-3 District to the C-S classification to provide for a construction business, **approved**.

**99-V1-34; 6423 East 34<sup>th</sup> Street (west of site)**, requested a variance of use to provide for a construction business with outdoor storage and parking of six commercial vehicles, three equipment trailers, and a backhoe, **withdrawn**.

**97-Z-206; 6105 East 34<sup>th</sup> Street (west of site)**, requested rezoning of five acres from the D-3 District, to the C-S classification to provide for an excavating and sewer construction business, **approved**.

**95-Z-87 / 95-CV-17; 6361 East 34<sup>th</sup> Street (east of site)**, requested rezoning of 35.748 acres, being in the D-A District, to the C-S classification to provide for heavy construction equipment sales, rental and service and other I-2-@ industrial uses and a variance of development standards of the Commercial Zoning Ordinance to provide for development of a heavy construction equipment sales, rental and service and other I-2-S industrial use operations, with access to be gained by way of an easement to Elizabeth Street, **approved and granted**.

**94-UV3-2; 6423 East 34<sup>th</sup> Street (west of site)**, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of an existing construction business with outside storage of materials and the construction of a 50- by 30-foot garage resulting in the square footage devoted to the accessory buildings exceeding the square footage of the primary building, **granted**.

(Continued)

**93-Z-94; 6141 East 34<sup>th</sup> Street, (west of site)**, requested rezoning of 5.14 acres, being in the D-A District to the C-S classification to provide for a combination self-storage facility and existing contractor office / utility building, **approved**.

**91-UV3-16; 6607 East 34<sup>th</sup> Street (east of site)**, required a variance of use and development standards of the Dwelling Districts Zoning Ordinance to permit the continued operation of a plumbing business within an existing garage with outdoor storage, **granted**.

**89-Z-140; 6669 East 34<sup>th</sup> Street (east of site)**, requested rezoning of 34 acres, being in the A-2 District, to the I-2-S classification to provide for light industrial uses, **withdrawn**.

**88-UV1-90; 6141 East 34<sup>th</sup> Street (west of site)**, requested a variance of use to permit construction of a utility building for the storage of equipment and vehicles related to a concrete construction business, **granted**.

**86-Z-340; 6601 East 34<sup>th</sup> Street (east of site)**, requested rezoning of office acres, being in the I-3 U District, to the C-ID classification to provide for outside storage of fences and an office and warehouse, **approved**.

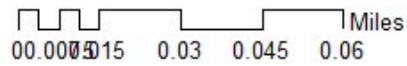
**79-Z-150; 6105 East 34<sup>th</sup> Street (west of site)**, requested rezoning of five acres, being in the D-3 District to the C-7 classification to provide for an office building with a shop for heavy and light equipment rental, **denied**.

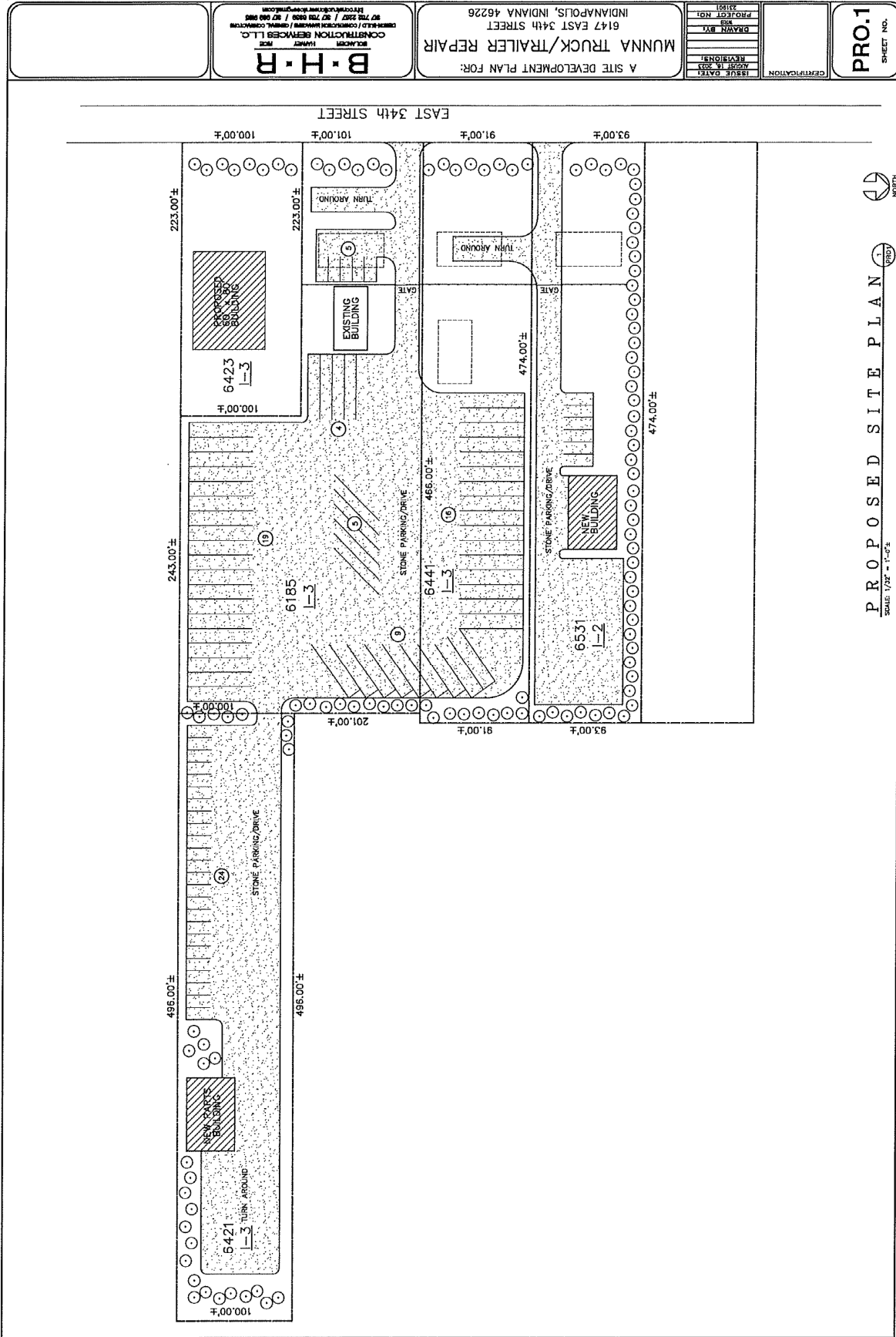
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6185, 6421, 6423 and 6441 East 34th Street







View looking east along East 34<sup>th</sup> Street



View looking east along East 34<sup>th</sup> Street



View looking west along East 34<sup>th</sup> Street



View from site looking east at adjacent single-family dwellings



View of site looking northeast



View looking east





View looking east



View of site looking east



View of site looking south



View from site looking west at adjacent uses

**STAFF REPORT**

Item 4.

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

**Case Number:** 2023-ZON-106  
**Address:** 2620 and 2710 Wicker Road (*Approximate Address*)  
**Location:** Perry Township, Council District #20  
**Petitioner:** Reid Litwack, by Joseph D. Calderon  
**Request:** Rezoning of 6.39 acres from the D-A (W-1) district to the I-3 (W-1) district to provide for a fleet terminal and truck parking facility.

This petition will need to be **continued from the December 14, 2023 hearing, to the January 25, 2024 hearing**, to provide time for further discussions with the petitioner and possibly provide new notice.

kb

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**STAFF REPORT**

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

**Case Number:** 2023-ZON-109  
**Address:** 5136 Michigan Road (*Approximate Address*)  
**Location:** Washington Township, Council District #8  
**Petitioner:** Paramount Schools of Excellence, Inc., by Timothy Ochs  
**Request:** Rezoning of 10.13 acres from the SU-1 district to the SU-2 district to provide for educational uses.

A timely automatic continuance request was filed by a registered neighborhood organization **continuing this petition from the December 14, 2023 hearing, to the January 11, 2023 hearing.** This would require acknowledgement from the Hearing Examiner. A staff report will be available prior to that hearing.

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**STAFF REPORT**

Item 6.

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

**Case Number:** 2023-CZN-863 / 2023-CAP-863 / 2023-CVR-863 / 2023-CPL-863  
**Address:** 1228, 1232, 1302 and 1306 East 10<sup>th</sup> Street (*Approximate Addresses*)  
**Location:** Center Township, Council District #17  
**Petitioner:** Structure Midwest, LLC, by Russell L. Brown and Elizabeth Bentz Williams  
**Requests:** Rezoning of 0.41 acres from the MU-1 and D-8 districts to the D-8 district.

**Termination of Commitments related to 2019-CZN/CVR-821 to provide for a new two-family dwelling development (previous commitments required four-foot side setbacks for single-family detached dwellings).**

**Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for front yard setbacks of nine feet and side yard setbacks of three feet for a six-unit, two-family dwelling development (setback range of 10-19.9 feet required, five-foot side yard required).**

**Approval of a Subdivision Plat to be known as Windsor on 10<sup>th</sup>, dividing 0.41 acres into three duplex lots (six units).**

These petitions will need to be **continued from the December 14, 2023 hearing, to the December 28, 2023 hearing**, to provide time to amend the variance of development standards request and provide new notice.

kb

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## STAFF REPORT

Item 7.

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

**Case Number:** 2023-MOD-018 (Amended)  
**Address:** 4411 Wild Pheasant Lane (approximate address)  
**Location:** Franklin Township, Council District #25  
**Zoning:** D-P  
**Petitioner:** Nicole Smithers  
**Request:** Modification of Development Statement, related to 2003-ZON-060, to modify Commitment 8.B to legally establish a six-foot solid privacy fence (current commitment prohibits six-foot solid privacy fences along perimeter lots of the subdivision, unless they fence a patio, deck, hot tub, etc., are no more than 300 square feet and abut the residence).

This petition was continued from the October 26, 2023 hearing to the December 14, 2023 hearing at the request of staff to amend the request and allow sufficient time for new notices to be mailed by the petitioner.

### RECOMMENDATIONS

**Amendment:** This petition was amended to correctly note the commitment being modified with this request from Commitment 8.A to 8.B.

Staff has **no recommendation** for this modification.

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The subject site, zoned D-P, is in the New Bethel neighborhood and is specifically within the Hunter's Crossing Estates subdivision. It is developed with a single-family dwelling with a fenced in rear yard and is surrounded by single-family dwellings.
- ◇ Petition 2003-ZON-060 rezoned the site from the D-P district to the D-P district to provide for 833 single-family dwellings at a density of 1.98 units per acre. With the creation of this subdivision, commitments associated to the development were put in place.

#### MODIFICATION

- ◇ The request would modify Commitment 8.A to legally establish a six-foot solid privacy fence on a perimeter lot of the subdivision. The 2003-ZON-060 Development Statement only permits six-foot tall solid privacy fences along the perimeter lots of the subdivision if they fence a patio, deck, hot tub area or the like and are no more than 300 square feet in size and abut the residence.

(Continued)

**Staff Analysis**

- ◇ Because staff played no role in the limitations placed for the development of the subdivision such as the perimeter lot fence limitations, staff does not have a recommendation.
- ◇ Staff would note that Commitment 8.G notes that “if the ARC approves a fence which is actually not in compliance with these specific perimeter lot fencing restrictions; and the ARC is unable to reach an agreement with the homeowner to bring the fence into compliance within 60 days of the date upon which the fence is finally determined to be in violation (either due to written admission by the ARC, or final determination of court of law, the ARC’s approval was in error) then the HOA shall promptly (weather permitting) supplement the landscaping on the mound located within the common buffer area behind/beside the lot on which such improper fence is located in a manner sufficient that the improper fence is effectively screened from the direct view of a person looking out the largest front window on each of the two closest existing residences which are located directly across Pentecost or Semour Road (as applicable) from the offending lot.”
- ◇ The petitioner submitted the Architectural Review Committee Application Form and the Architectural Review Committee Approval Letter for the fence that was installed.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

D-P	Metro	Residential (Single-family dwelling)
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**SURROUNDING ZONING AND LAND USE**

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

**COMPREHENSIVE PLAN**

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood development.

**THOROUGHFARE PLAN**

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

**FLOODWAY / FLOODWAY FRINGE**

This site is not located within a floodway or floodway fringe.

**WELLFIELD PROTECTION DISTRICT**

This site is not located within a wellfield protection district.

**SITE PLAN**

File-dated September 26, 2023.

**ARCHITECTURAL REVIEW COMMITTEE APPLICATION FORM**

File-dated September 26, 2023.

**ARCHITECTURAL REVIEW COMMITTEE APPROVAL LETTER**

File-dated September 26, 2023.

(Continued)

D-P STATMENT

File-dated September 21, 2023.

**ZONING HISTORY – SITE**

**EXISTING VIOLATIONS**

1. VIO23-004097- The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (Failure to comply with rezoning petition 2003-ZON-060; specifically, commitment #8.B.....the use of a solid privacy fence shall not be permitted unless it is for purposes of fencing a patio, deck, or hot tub area, and shall not exceed 300sq feet in size).

**PREVIOUS CASES**

**2003-ZON-060; 10050 East Thompson Road** (subject site), Rezoning of 423 acres from the D-P district to the D-P district to provide for 833 single-family dwellings at a density of 1.98 units per acre, **approved.**

**96-Z-18 / 96-DP-24650 Senour Road** (subject site), Rezoning of 423 acres from the D-A district to the D-P district to provide for a commercial center, golf course and single-family dwellings at a density of 1.18 units per acre, **approved.**

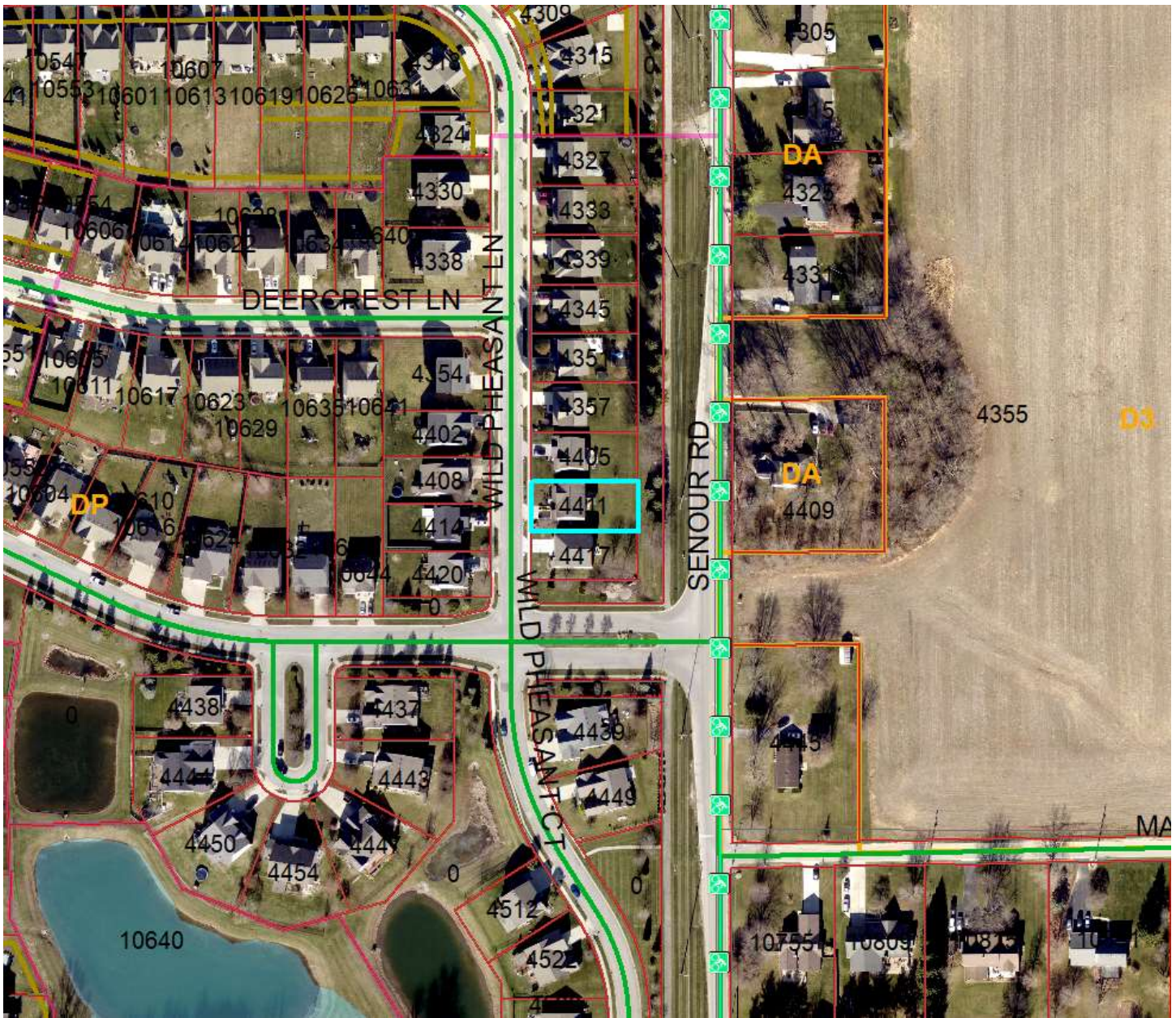
**ZONING HISTORY – VICINITY**

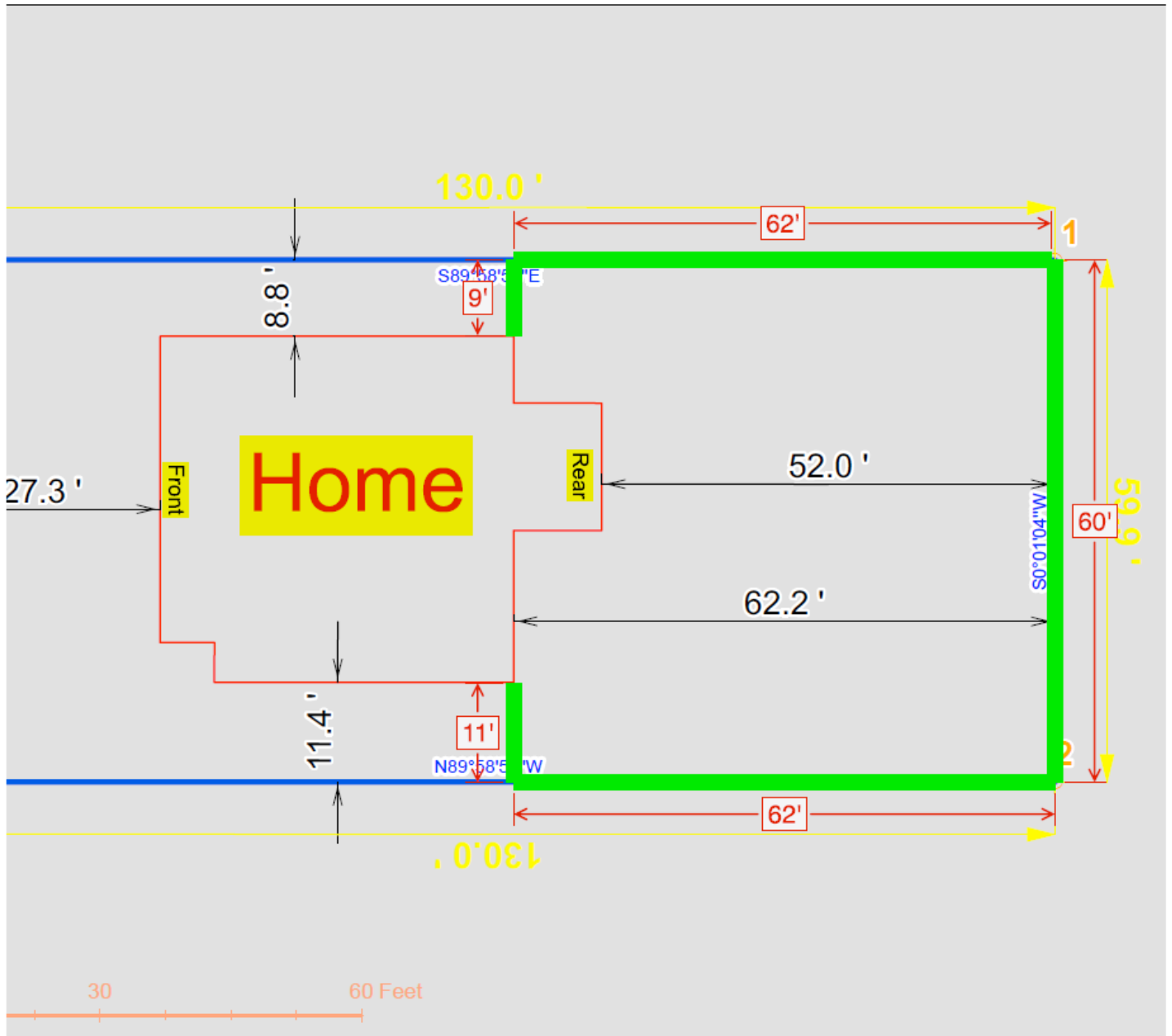
**2022-ZON-036; 4161 and 4355 Senour Road** (east of site), Rezoning of 63.60 acres from the D-A district to the D-3 district, **approved.**

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8. Other than perimeter fencing installed by the Developer, any fencing proposed along the perimeter of the development shall be of a uniform style, design, color and height within each neighborhood, and shall be subject to the approval of the applicable architectural control committee. In addition, the following additional provisions shall be applicable to all the perimeter lots located in Neighborhood 3 (with the exception of the perimeter lots located in Parcel A which contain homes with the front of the residence primarily facing Senour Road):

A. All fences constructed around an in-ground swimming pool shall be of a uniform style, design, color and height; and be in compliance with applicable ordinances for such pool fences.

B. With the exception of the provision of 8(A), the use of a solid "privacy" fence shall not be permitted unless it is for purposes of fencing a patio, deck, hot tub area or the like; and even in such case the area covered by a "privacy" fence shall not exceed 300 square feet in size (approx. 15' x 20', as an example), and the area fenced with the "privacy" fence must abut the residence.

C. No "privacy" fence shall exceed 6' in height. Further, the ARC shall determine a uniform style/design for "privacy" fences which will be used as the uniform standard for any and all "privacy" fencing on any perimeter lot (with the exception of the perimeter lots located in Parcel A which contain homes with the front of the residence primarily facing Senour Road).

D. With the exception of the above described fencing for in-ground pools, and for "privacy" fences, any other fencing in the rear/side yard of the residence shall be limited to vinyl coated chain link fence not to exceed four (4) feet in height.

E. There shall be no in-ground pools permitted on either of the first two perimeter lots along Pentecost Road which are just West of the intersection of Pentecost Road and Senour Road.

F. The Homeowner's Association shall require the prompt removal of any fence constructed which is not approved by the ARC as being in compliance with these perimeter lot fencing restrictions.

G. If the ARC approves a fence which is actually not in compliance with these specific perimeter lot fencing restrictions; and the ARC is unable to reach an agreement with the homeowner to bring the fence into compliance within 60 days of the date upon which the fence is finally determined to be in violation (either due to written admission by the ARC, or final determination of court of law, the

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ARC's approval was in error, then the HOA shall promptly (weather permitting) supplement the landscaping on the mound located within the common buffer area behind/beside the lot on which such improper fence is located in a manner sufficient that the improper fence is effectively screened from the direct view of a person looking out the largest front window on each of the two closest existing residences which are located directly across Pentecost or Senour Road (as applicable) from the offending lot.

9. Any fence which is constructed on any platted lot shall be constructed only in the rear yard; and shall not extend any closer to the public street in front of the residence than the applicable rear corner of the residence. However, the foregoing restriction shall not prohibit the extension of a primarily rear yard fence, up the side yard of the home as reasonable necessary to connect the fence to a garage service door.

**HUNTERS CROSSING**  
 3002 E 56<sup>TH</sup> ST. INDIANAPOLIS, IN 46220  
 317-253-1401  
**ARCHITECTURAL REVIEW COMMITTEE**  
**HOMEOWNER REQUEST FOR CHANGE**

1) Name Nicole Smithers Phone 317-650-6386

Address 4411 Wild Pheasant Lane

Lot # 4411 Email: nikismithers@gmail.com

2) Briefly describe the proposed change: Add a 6 ft wood privacy fence

3) Will there be changes or modifications in basic utility services or existing structures to accommodate the proposed change? Please indicate.

	Yes	No		Yes	No
Electric	___	<u>X</u>	Exterior Walls	___	<u>X</u>
Telephone	___	<u>X</u>	Patio Fencing	___	<u>X</u>
Gas	___	<u>X</u>	Patio Slab	___	<u>X</u>
Water	___	<u>X</u>	Sidewalks	___	<u>X</u>
Sewage	___	<u>X</u>	Pavements	___	<u>X</u>
TV Cable	___	<u>X</u>	Other	<u>changes will be adding a new fence</u>	

4) Please indicate the major materials, which will be used in this project. Be as specific as possible. (Exterior materials must conform to those used on the original building or be sufficiently compatible).

6 ft boards and 4x4 wood supports

5) Will the proposed project extend beyond your property line or limited common area? Yes \_\_\_ No X  
 If yes, please provide the name and address of the affected homeowner listed below.

Name \_\_\_\_\_ Address \_\_\_\_\_

6) Would any part of the proposed improvement extend into any Common Area, Utility Drainage or Sewer Easement, Landscape Easement, Landscape Prevention Easement, or Lake Easement shown on the plot plan of your lot? Yes \_\_\_ No X

7) If the project is an addition or alteration that would change the structural appearance of your residence, please attach the following information:

- A) Plot plan indicating the location and dimension of the project.
- B) Blueprints or working drawings indicating all necessary dimensions and elevations.
- C) Color swatches/chips of the paint(s) and/or stain(s) to be used.
- D) If available, a photograph or drawing of a similar project.

8) Project schedule:

- A) The project will be done by:  Homeowner  
 Contractor(s)  
 Both

B) Please indicate the approximate time needed to complete the project, subsequent to the committee approval. TBD based on contractor availability

C) Please indicate any building permits that will be required. N/A

**Fence Location:** Per fence guidelines: All fencing erected on a Lot must be erected either within six (6) inches of the property line OR more than four (4) feet from the property line of such Lot. If you decide to come within six inches of your property line, then you give permission to your neighbors to connect to your fence. If you decide to erect your fence more than four feet of your property, you are still responsible for maintaining the lawn up to your property line.

Please choose one of the following:

- My fence will be within 6 inches of property line (or adjoining neighbor's fence).
- The fence will be more than 4 feet from property line.

**A PLOT PLAN INDICATING THE LOCATION AND DIMENSIONS OF THE PROPOSED IMPROVEMENT MUST BE INCLUDED WITH ANY ARCHITECTURAL CHANGE REQUEST. THIS FORM WILL BE RETURNED TO YOU IF A PLAN IS NOT INCLUDED.**

All submitted materials shall remain the property of the Association. You may wish to make a copy for your personal records.

You must complete improvements in accordance with all HOA restrictions, Covenants and Architectural Guidelines as well as meet city/county codes and regulations.

I hereby acknowledge that I have read and understand the Architectural Control Standards set forth by the committee.

Homeowner's Signature 

Send request to: MAIL: P.O. Box 20887 Indianapolis IN 46220  
FAX: 317-259-0387  
EMAIL: kboyd@ardsleymgmt.com

Approved  Approved with Conditions (Stated Below)  Denied (Stated Below)

Signature

Date

Hunters Crossing Estates Community Association, Inc.  
3002 East 56<sup>th</sup> Street  
Indianapolis, IN 46220  
317-253-1401

5/15/2023

NICOLE SMITHERS  
4411 WILD PHEASANT LANE  
INDIANAPOLIS, IN 46239

RE: 4411 WILD PHEASANT LANE  
Lot#: 18

Dear NICOLE SMITHERS:

The improvement request that you sent in regarding a fence was received and approved by the Architectural Control Committee.

- **You are still required to follow up with your local municipality to determine if a permit is necessary for your improvement.**
- **It is highly recommended that you have the property lines properly marked before any fence installation.**
- **If your improvement is going into an easement- be aware that if the local utilities or city/county need access to this easement they can require you to remove your improvement at your expense.**

You have 90 days from beginning of the project to complete the updates unless you apply to the committee for an extension.

Any questions please feel free to contact Robin Wiggins at [rwiggins@ardsleymgmt.com](mailto:rwiggins@ardsleymgmt.com).

Thank you,

Hunters Crossing Estates Community Association, Inc.



Photo of the Subject Property: 4411 Wild Pheasant Lane



Photo of the subject site looking northeast from the subdivision entrance.



Photo of the subject site looking south along the berm west of the trail that runs along Senour Road.



Photo of the subject site immediately west of the trail and berm.





Photo of the adjacent property south of the site.



Photo of the subject site fence and the adjacent property north of the site.

## STAFF REPORT

Item 8.

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

**Case Number:** 2023-ZON-100  
**Address:** 4509 and 4585 Allisonville Road and 2828 E 45<sup>th</sup> Street (*Approximate Addresses*)  
**Location:** Washington Township, Council District #9  
**Petitioner:** Sheetmetal Workers Local No. 20 Apprenticeship and Training Trust, by Russell L. Brown  
**Request:** Rezoning of 7.40 acres from the MU-1 (FF) district to the C-S (FF) district to provide for the following permitted uses: Vocational, Technical or Industrial School or Training Facility; Office: Business, Professional or Government; Financial & Insurance Services; and Club or Lodge.

This petition was continued from the November 16, 2023 hearing to the December 14, 2023 hearing to allow additional time for the petitioner to file a revised site plan and plan of operation that addressed staff's concerns.

### **RECOMMENDATIONS**

Staff **recommends approval** of this request subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. Approval shall be subject to the December 4, 2023. file-dated site plan and November 29, 2023.file-dated C-S Statement.
2. A 50-foot half right-of-way shall be dedicated along the frontage of Allisonville Road, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

### **SUMMARY OF ISSUES**

#### **LAND USE**

- ◇ The 7.40-acre site is comprised of three parcels (8007786, 8006482, and 8006434), that contain two commercial buildings, associated parking lot, and three freestanding signs.
- ◇ The subject site is surrounded by a variety of different uses. To the north is an office, car dealership, furnace repair business, and retail uses, zoned MU-1 and C-3, to the south are multi-family dwellings, zoned MU-1, to the east are single-family dwellings and undeveloped lots, zoned D-5, and to the west is a hair salon, single-family dwellings, and an office, zoned C-3, D-7, and MU-1.

(Continued)

**REZONING**

- ◇ The request would allow for the rezoning from the MU-1 (FF) district to the C-S (FF) district to provide for the following permitted uses: Vocational, Technical or Industrial School or Training Facility; Office: Business, Professional or Government; Financial & Insurance Services; and Club or Lodge.
- ◇ The site was previously zoned C-2 until 2016, when this zoning district was renamed to MU-1.
- ◇ The subject site is zoned MU-1, which is intended for the development of high-rise office uses and apartments intermixed, grouped in varying combinations, or provided in the same building. MU-1 is designed for use along arterials with both high-traffic counts and positive pedestrian experience or demand. Appropriate settings for the MU-1 district include the midtown and uptown areas of the city, very near rapid transit stops, or in the midst of high intensity regional commercial complexes.
- ◇ The C-S District is designed to permit, within a single zoning district, multi-use commercial complexes or land use combinations of commercial and noncommercial uses, or single-use commercial projects. The primary objective of this district is to encourage development which achieves a high degree of excellence in planning, design or function, and can be intermixed, grouped or otherwise uniquely located with maximum cohesiveness and compatibility. The district provides flexibility and procedural economy by permitting the broadest range of land use choices within a single district, while maintaining adequate land use controls. The C-S District can include high-rise or low-rise developments, can be applied to large or small land areas appropriately located throughout the metropolitan area, and can be useful in areas of urban renewal or redevelopment.
- ◇ The Comprehensive Plan recommends the sites for office commercial development. The Office Commercial typology provides for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses. Office commercial development can range from a small freestanding office to a major employment center. This typology is intended to facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons.
- ◇ This site is also located within an overlay, specifically the environmentally sensitive areas (ES). “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ “The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.” The majority of the site is located within the 100-year floodplain and a portion of it is in a wetland.

(Continued)

**Floodway / Floodway Fringe**

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (C-7 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

**Wellfield Protection Secondary Zoning**

- ◇ A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.
- ◇ There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. All development within these districts is subject to Commission approval. The filing of a site and development plan is required and subject to approval, on behalf of the Commission, by a Technically Qualified Person (TQP), unless exempted by the Ordinance.
- ◇ “Because of the risk that hazardous materials or objectionable substances pose to groundwater quality, it is recognized that the further regulation of the manufacturing of, handling, transfer, disposal, use or storage of hazardous materials or objectionable substances related to nonresidential use activities is essential to preserve public health and economic vitality with Marion County.”
- ◇ All uses permitted in the applicable primary zoning district shall be those uses permitted in the W-1 and W-5 zoning districts, unless otherwise prohibited by the Ordinance, and provided no other secondary zoning district prohibits the use.
- ◇ “No building, structure, premises or part thereof shall be altered, constructed, converted, erected, enlarged, extended, modified, or relocated except in conformity with this Section, and not until the proposed Site and Development Plan has been filed with and approved on behalf of the Commission by the Technically Qualified Person (TQP). Regulations found in Chapter 742, Article II, Section 4 shall apply to all land within the Wellfield Protection Zoning Districts. The entire site shall be subject to review by the TQP. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.”

- ◇ The subject site is located within W-1 Fall Creek wellfield protection area and any use or development within a wellfield protection district would be subject to the Technically Qualified Person (TQP) review and approval, unless and until the property owner provides sufficient justification that the type of use, type of facility, and chemical quantity limits, independent of the land use would be exempt from the requirements for filing a development plan. Otherwise, a development plan would be required to be filed and approved on behalf of the Metropolitan Development Commission by the (TQP). Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

**Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 50-foot half right-of-way along Allisonville Road. This dedication would be less than what is recommended in the Marion County Thoroughfare Plan because DPW confirmed that the addition of a landscape buffer, stormwater infrastructure, and sidewalk would only require the requested right-of-way dedication.

**Staff Analysis**

- ◇ As proposed, the Vocational, Technical or Industrial School or Training Facility; Office: Business, Professional or Government; Financial & Insurance Services; and Club or Lodge uses would be consistent with the Comprehensive Plan recommendation of office commercial, which would provide for small-scale offices, retailing and personal / professional uses, while discouraging other unrelated uses.
- ◇ The C-S district would ensure that the existing offices and training facility for a local union would be allowed to continue. Only those uses listed in the C-S statement would be included in future development, which would allow for additional supportive services as needed. All future improvements will be subject to Administrative Approval in addition to any proposed signage. The C-S statement will legally establish the existing signs on site, allow for the proposed signs as depicted in Exhibit A of the development statement and would ensure any additional signage would meet the sign regulations consistent with the C-4 district as requested. For these reasons, staff is recommending approval of this request.
- ◇ Due to the 50-foot half right-of-way dedication along Allisonville Road, the freestanding sign at 4509 Allisonville Road will need to be relocated. The petitioner was made aware of this.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

MU-1	Metro	Federal Credit Union and Training Center
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(Continued)

**SURROUNDING ZONING AND LAND USE**

North	MU-1 / C-3	Office / Car dealership / Furnace Repair Business / Retail
South	MU-1	Residential (Multi-family dwellings)
East	D-5	Residential (Single-family dwellings) / Undeveloped lots
West	C-3 / D-7 / MU-1	Hair Salon / Single-family dwellings / Office

**COMPREHENSIVE PLAN**                      The Comprehensive Plan recommends office commercial development.

**THOROUGHFARE PLAN**                      Allisonville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 76-foot existing right-of-way and a 126-foot proposed right-of-way.

**THOROUGHFARE PLAN**                      45<sup>th</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 50-foot proposed right-of-way.

**THOROUGHFARE PLAN**                      Binford Boulevard is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 173-foot existing right-of-way and a 124-foot proposed right-of-way.

**THOROUGHFARE PLAN**                      46<sup>th</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 120-foot existing right-of-way and a 102-foot proposed right-of-way.

**THOROUGHFARE PLAN**                      Rural Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 50-foot proposed right-of-way.

**THOROUGHFARE PLAN**                      Oxford Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 50-foot proposed right-of-way.

**THOROUGHFARE PLAN**                      Glenwood Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 50-foot proposed right-of-way.

**CONTEXT AREA**                              This site is located within the metro context area.

**OVERLAY**                                      This site is located within an environmentally sensitive area overlay.

**FLOODWAY / FLOODWAY FRINGE**                      This site is located within a floodway or floodway fringe.

**STAFF REPORT 2023-ZON-100 (Continued)**

WELLFIELD PROTECTION DISTRICT This site is located within a wellfield protection district, specifically the Fall Creek W-1.

SITE PLAN File-dated October 11, 2023.

AMENDED SITE PLAN File-dated November 29, 2023.

FINAL SITE PLAN File-dated December 4, 2023.

C-S STATEMENT File-dated October 11, 2023.

AMENDED C-S STATEMENT File-dated November 29, 2023.

**ZONING HISTORY – SITE**

EXISTING VIOLATIONS

None.

PREVIOUS CASES

None.

**ZONING HISTORY – VICINITY**

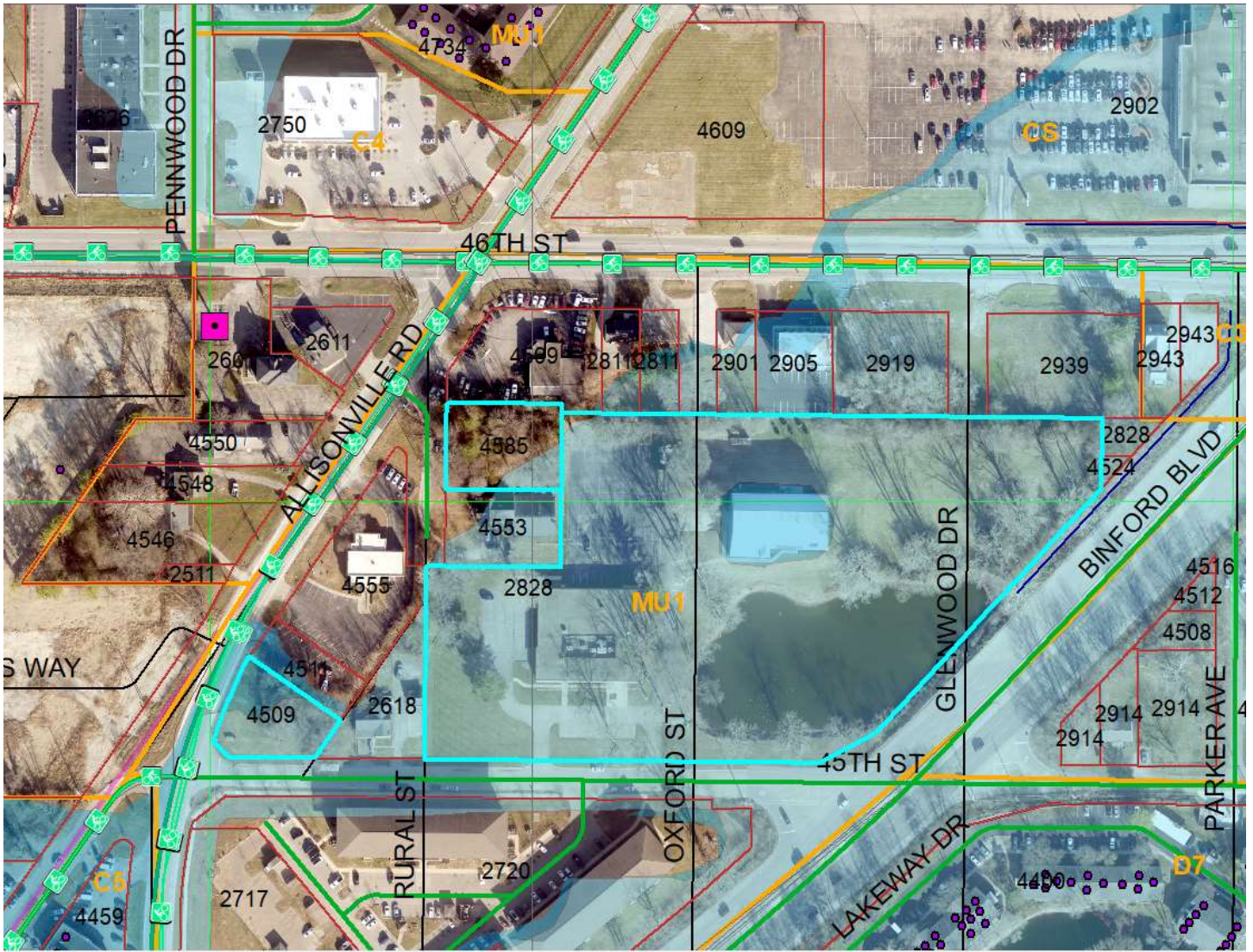
**2021-ZON-044;** (northeast of site), Rezoning of 0.28 acre from the MU-1 (W-1) (W-5) district to the C-3 (W-1) (W-5) district, **approved.**

**2018-ZON-133 / 2018-VAR-005; 2511 East 46<sup>th</sup> Street** (west of site), Rezoning of 8.5 acres from the C-3 (W-1) and C-5 (W-1) districts to the D-7 (W-1) classification to provide for approximately 135 multi-family units within existing and new buildings and Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a multi-family building with decks and balconies with a 13-foot perimeter yard and to legally establish the perimeter yards of the existing buildings and to permit the minimum livability space ratio to be less than 0.95 (20-foot perimeter yards and minimum livability space ratio of 0.95 required), **approved and granted.**

**2000-ZON-868 / 2000-VAR-868; 2902 East 46<sup>th</sup> Street** (north of site), Rezoning of 8.59 acres from the C-4 District to the C-S classification to provide for neighborhood retail uses and warehousing and a variance of development standards of the Commercial Zoning Ordinance to provide for a portion of an interior access drive to be seven feet from the north side transitional property line, **approved and granted.**

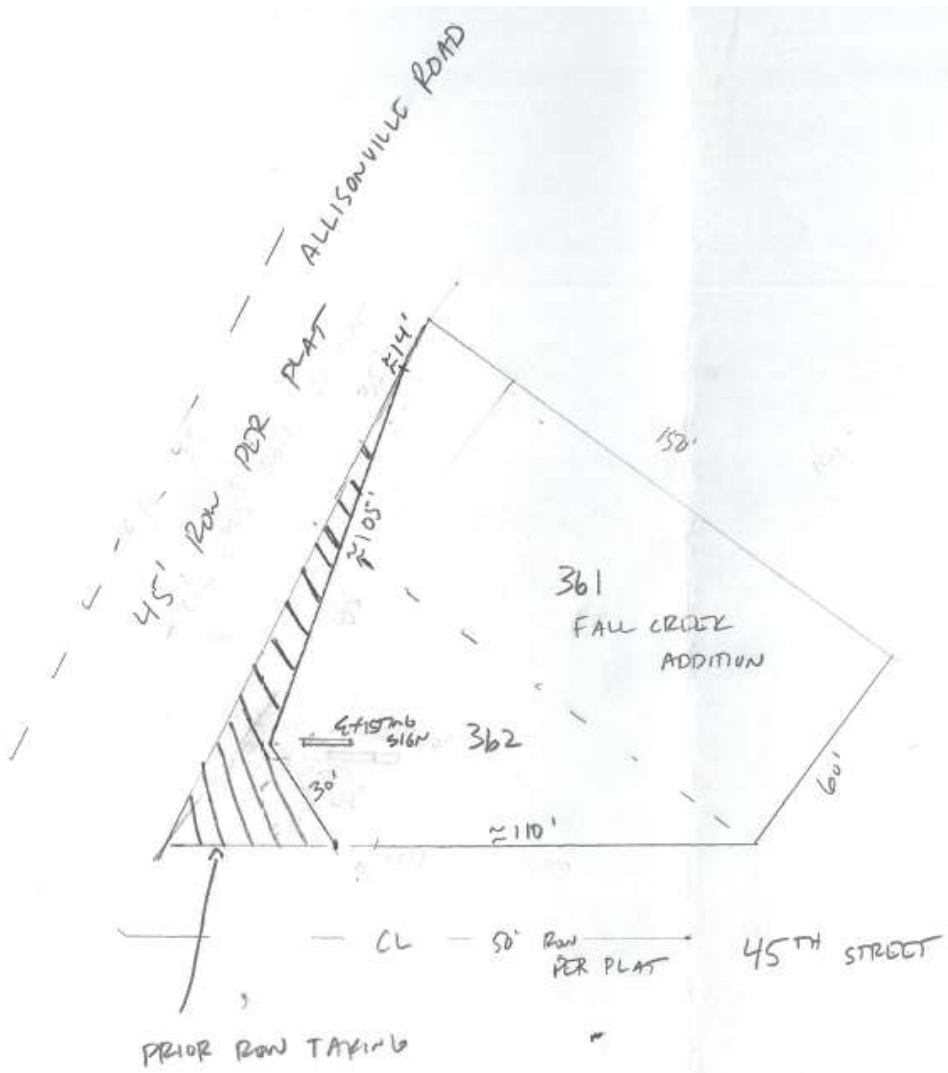
**90-Z-87; 2611 East 46<sup>th</sup> Street** (northwest of site), Rezoning of 0.5 acre, being in the D-5 District, to the C-3 classification to conform zoning with the Keystone Avenue Corridor Study, **approved.**

**88-Z-268; 4456 Allisonville Road** (southwest of site), Rezoning of 0.66 acre, being in the C-3 district, to the C-5 classification to provide the continued operation of a night club, withdrawn.









4509 ALLISONVILLE ROAD  
EXISTING  
SITE PLAN

CS Statement – Sheetmetal Workers Local No. 20 Apprenticeship and Training Trust  
4509, 4585 Allisonville Road and 2828 45<sup>th</sup> Street (the “Property”)

The proposed rezoning of the above property to the CS zoning classification is intended to legally establish the historic use of this property as offices and training facility for a local union. The Property is improved with two buildings, two existing ground signs, directional sign and a wall sign on one building as well as parking areas and drainage infrastructure as shown on the survey provided herewith. The property was rezoned by a zone map change to MU1, which is not supportive of the existing and historical use of the property.

Permitted uses:

The Property will continued to be utilize for offices of a local union (approximately 11,224 square feet), the union’s s apprenticeship program (approximately 4,340 square feet), services available to union members (credit union (approximately 500 square feet), benefit programs(approximately 1,620 square feet)) and for the union’s apprenticeship training classrooms and facility (approximately 19,276 square feet). The hours of operation for the various programs are typical weekday office hours with approximately 20 total employees with a daily duty station on site and seasonal training program which trains apprentices during the month of August through May. Monthly membership meetings are held on site and bi-monthly regional membership meetings are held on site. These combined services are best categorized by the following uses included in the Use Table: Vocational, Technical or Industrial School or Training Facility; Office: Business, Professional or Government; Financial & Insurance Services; and Club or Lodge.

Design standards/External modification/landscaping:

The uses included in the request do not require any modification to the footprint of the property as it exists today as shown on survey filed herewith. No additional landscaping is proposed based on this rezoning.

Signage:

The property is currently served by a ground sign near the corner of 45<sup>th</sup> and Binford (approximately 37” tall by 144” wide), 45<sup>th</sup> and Allisonville, (approximately 37” tall by 136” wide), directional signage in the southern building parking area (approximately 5.25 square feet in size) and wall signs (individual channel lettering) on the southern building. The petitioner desires to add wall signage to the Northern Building as included on Exhibit A hereto. Further signage modifications will be subject to administrative review and approval and shall be governed by the standards relevant to the C-4 zoning classification in place as of the date of approval hereof.

Parking/Site Plan:

Adequate parking exists for staff and training participant as required as currently exist on site as shown on survey filed herewith. 92 on site parking spaces currently exist.

The property is currently served by all adequate utilities, including trash service. No modifications to these services is necessary based on this rezoning.

**EXHIBIT A**  
**Proposed additional signage**



Each letter shown is 10" in size.



The SMACNA sign is approximately 44" x 6'2".  
The SMART logo sign is approximately 44" x 7'2".  
Logos are internally illuminated.



Photo of the Subject Property: 4509 Allisonville Road and the freestanding sign to be relocated.



Photo of the Subject Property: 2828 E 45th Street



Photo of the Subject Property: 2828 E 45th Street



Photo of the first existing commercial building on site and directional sign.



Photo of the entrance drive towards the parking lot.



Photo of the second existing commercial building on site.



Photo of the rear yard looking east.



Photo of the second existing freestanding sign.



View of the second existing commercial building on site from 45<sup>th</sup> Street.



Photo of the offices north and west of the site.



Photo of the single-family dwelling that falls between 2828 E 45th Street and 4585 Allisonville Road.



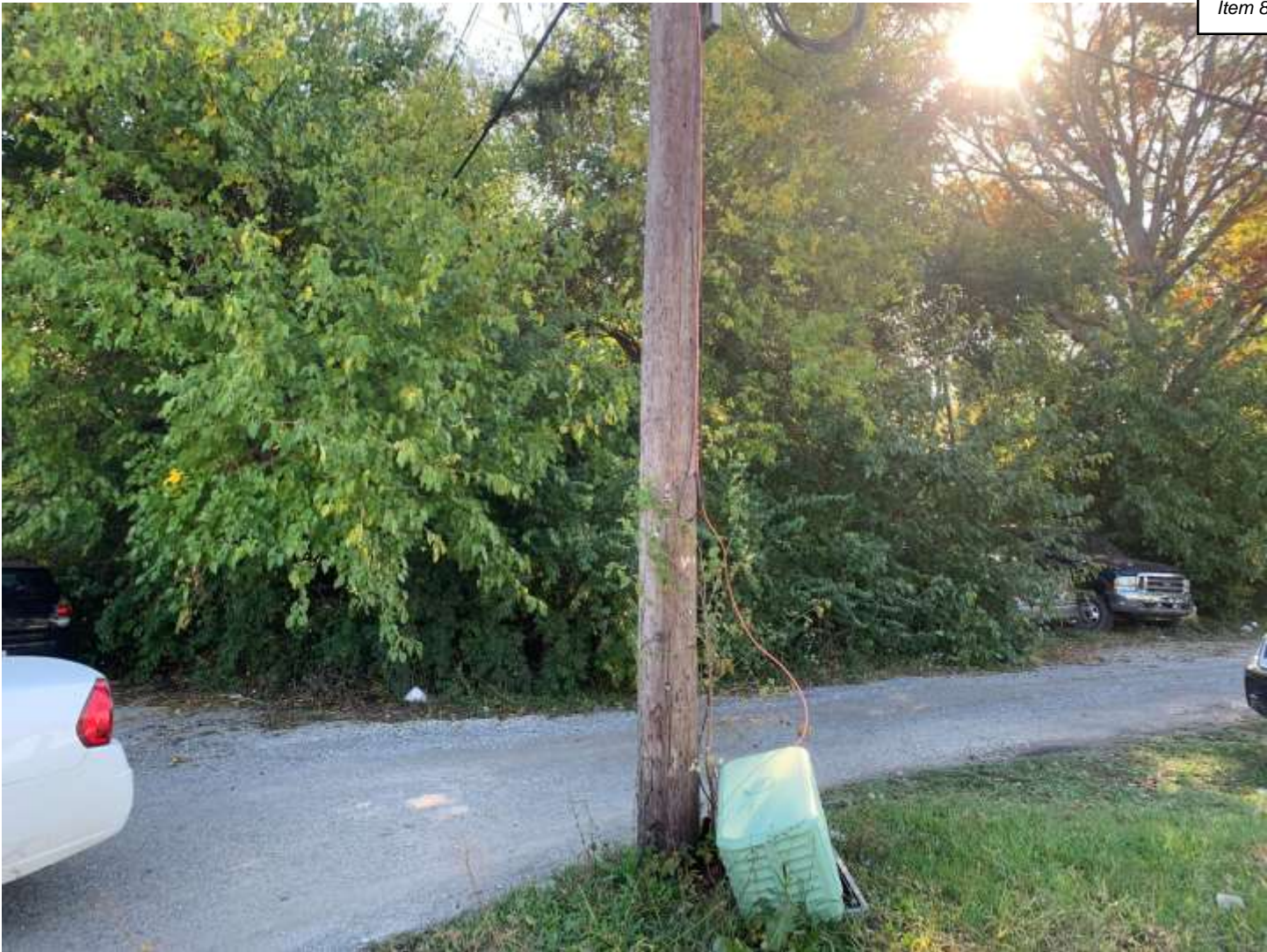


Photo of the Subject Property: 4585 Allisonville Road

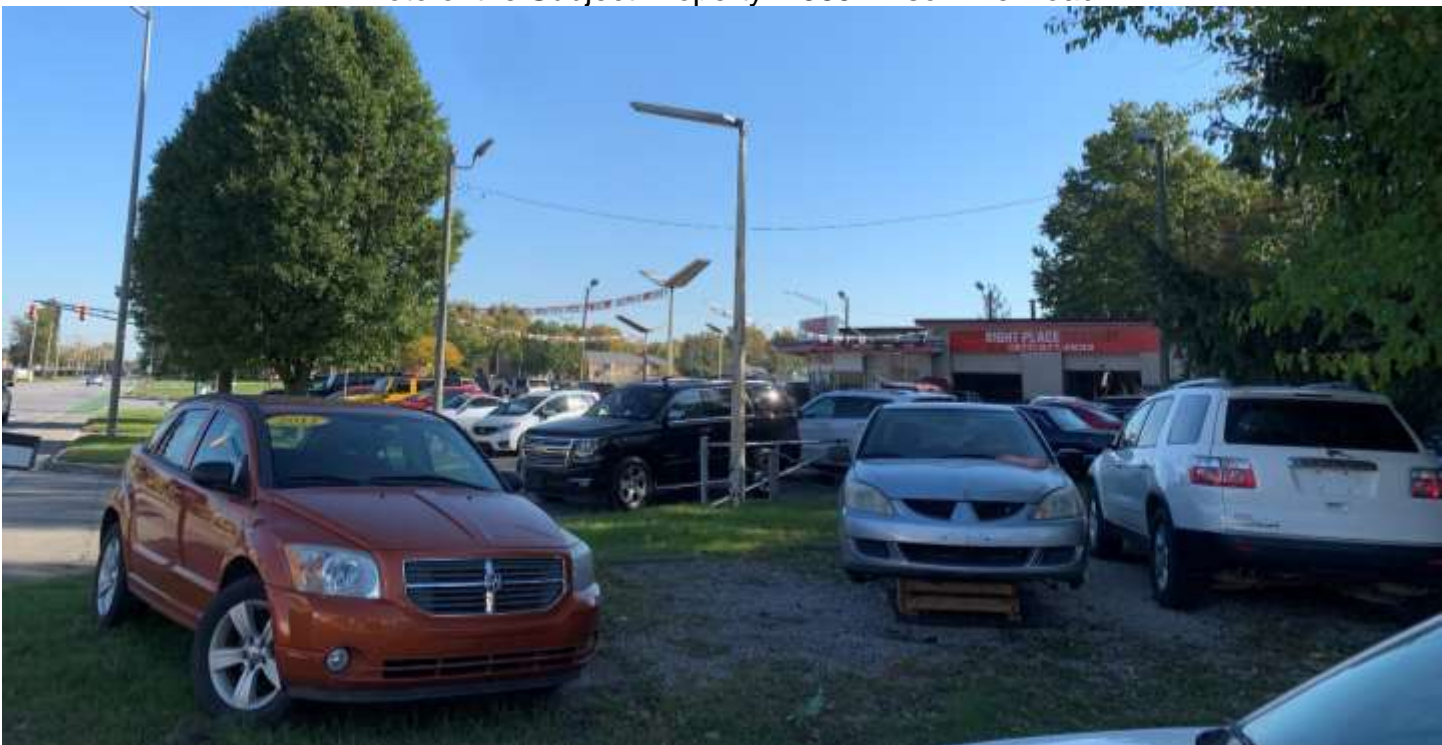


Photo of the use car dealership located northwest of the site.

## STAFF REPORT

Item 9.

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

**Case Number:** 2023-ZON-104  
**Address:** 2920 and 2990 North Arlington Avenue (*Approximate Address*)  
**Location:** Warren Township, Council District #13  
**Petitioner:** Associated Drywall Partners, by Andrew Wert  
**Request:** Rezoning of 1.80 acres from the C-3 and D-3 district to the C-5 district to legally establish and provide for the expansion of a Commercial and Building Contractor.

### RECOMMENDATIONS

Staff **recommends approval** of the rezoning.

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The 1.80-acre subject site is comprised of two parcels that are developed with a commercial building and associated parking lots. One tenant of the building is a drywall contracting company and the other is a medical clinic.
- ◇ The site is bordered to the north by a used car dealership, zoned C-3 and C-4, to the west by a tent rental service, zoned C-7 and D-3, to the south by a church, zoned D-3, and an office, zoned C-3, and industrial uses to the east, zoned I-2.

#### REZONING

- ◇ The request would rezone the property from the C-3 and D-3 district to the C-5 district to legally establish and provide for the expansion of a Commercial and Building Contractor.
- ◇ The site is split zoned with most of the site being C-3 and the southwest corner being D-3.
- ◇ The D-3 district provides for low or medium intensity residential development. Land in this district should have good thoroughfare access, be relatively flat in topography, and be afforded pedestrian linkages to community and neighborhood services and facilities (schools, parks, shopping areas, etc.). Recreational facilities developed for the neighborhood complement the treed yards on the individual lots. Predominantly single-family detached dwellings are envisioned with two-family dwellings on corner lots in this district. The D-3 district has a typical density of 2.6 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan. All public utilities and facilities must be present. Development plans, which may include the use of clustering, should incorporate, and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage, and wildlife.

(Continued)

- ◇ The C-3 District is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions
- ◇ The C-5 District is designed to provide areas for those retail sales and service functions whose operations are typically characterized by automobiles, outdoor display, or sales of merchandise; by major repair of motor vehicles; by outdoor commercial amusement and recreational activities; or by activities or operations conducted in buildings or structures not completely enclosed. The types of uses found in this district tend to be outdoor functions, brightly lit, noisy, etc. Therefore, to provide a location where such uses can operate in harmony with the vicinity, the C-5 district should be located on select heavy commercial thoroughfares and should avoid locating adjacent to protected districts.
- ◇ The Comprehensive Plan recommends heavy commercial development. The Heavy Commercial typology provides for consumer-oriented general commercial, and office uses that tend to exhibit characteristics that are not compatible with less intensive land uses. They are often dominated by exterior operations, sales, and display of goods. Examples include vehicle sales and commercial lumber yards

**Staff Analysis**

- ◇ The existing C-3 and D-3 districts do not permit the use of a Commercial and Building Contractor, but the requested C-5 district would.
- ◇ Outdoor storage in the C-5 district is permitted, but only for the storage of inoperable vehicles awaiting repair. Therefore, any existing outdoor storage of materials, equipment, and so on would not be permitted on site. The petitioner was made aware of this, and they noted that the purpose of the expansion is to store everything indoors.
- ◇ Because the Comprehensive Plan recommends heavy commercial development, staff determined the request to rezone the site to the C-5 district to allow a 5000-square foot building expansion for use of a Commercial and Building Contractor would be supportable.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

D-3 / C-3    Compact    Commercial

(Continued)

**SURROUNDING ZONING AND LAND USE**

North	C-3	Car Dealership
South	D-3/C-3	Church / Office
East	I-2	Industrial
West	D-3/C-7	Commercial

**COMPREHENSIVE PLAN**                      The Comprehensive Plan recommends heavy commercial development.

**THOROUGHFARE PLAN**                      Arlington Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 91-foot existing right-of-way and a 78-foot proposed right-of-way.

**FLOODWAY / FLOODWAY FRINGE**              This site is not located within a floodway or floodway fringe.

**WELLFIELD PROTECTION DISTRICT**              This site is not located within a wellfield protection district.

**SITE PLAN**    File-dated November 3, 2023.

**ZONING HISTORY – SITE**

**EXISTING VIOLATIONS**

None.

**PREVIOUS CASES**

**61-V-570; 2990 North Arlington Avenue** (subject site), Variance of use to permit off-street parking accessory to the proposed business in the existing building, **granted**.

**58-Z-34;** (subject site), Rezoning of Lot 4 and part of Lots 5 and 6 in Forrest Acres Subdivision, being in an R-3 district to a B-5 classification to permit the construction of a commercial building for a cutting and retailing glass service business, **approved**.

**56-A-103; 2992 North Arlington Avenue** (subject site), Rezoning of Lot No.3 and 60.88 feet by parallel lines off the entire south side of Lot No.2 in Forest Acres Subdivision, being in a B-4 district to a B-6 (7) classification to permit the construction of a Drive-In Root Beer Stand, **approved**.

**ZONING HISTORY – VICINITY**

**2008-ZON-060; 3045 North Arlington Avenue** (northeast of site), Rezoning of 0.65 acre, being in the SU-2 District, to the C-3 classification to provide for community-regional commercial uses, **approved**.

**99-Z-116; 2801 North Arlington Avenue** (southeast of site), Rezone of 2.417 acres from the C-3 district to I-2-S classification, **approved**.

**96-Z-40/96-CV-12; 2851 North Arlington Avenue** (east of site), Rezoning of 1.876 acres, from the C-3 District, to the I-2-S classification, to provide for an industrial cleaning and supply sales and distribution facility, with a variance of development standards of the Industrial Zoning Ordinance for 45% of front yard for parking and 10-foot side yard setback, **approved.**

**95-Z-94; 3045 North Arlington Avenue** (northeast of site), Rezoning of 2.275 acres from C-3 to SU-2, **approved.**

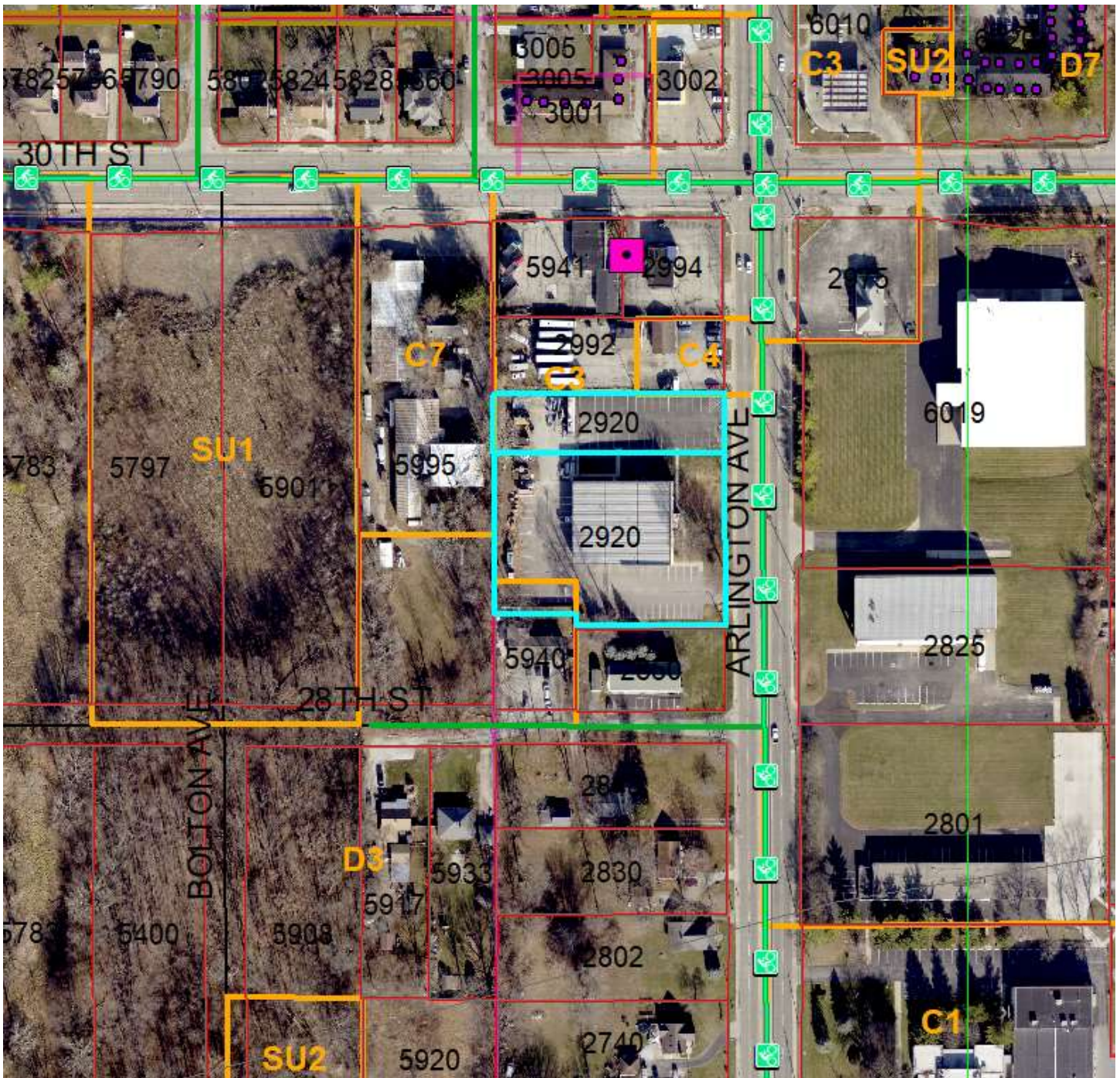
**90-Z-105; 5801 East 30<sup>th</sup> Street** (west of site), Rezoning of 4.66 acres, being in the D-3 District, to the SU-1 classification to provide for the construction of a church, **approved.**

**89-Z-231; 2915 North Arlington Avenue** (northeast of site), Rezoning of 3.76 acres, from the C-3 District, to the I-2-S classification, to provide for a book binding production plant, **approved.**

**77-Z-145; 2990 North Arlington Avenue** (north of site), Rezoning from the C-3 District, to the C-4 classification, **approved.**

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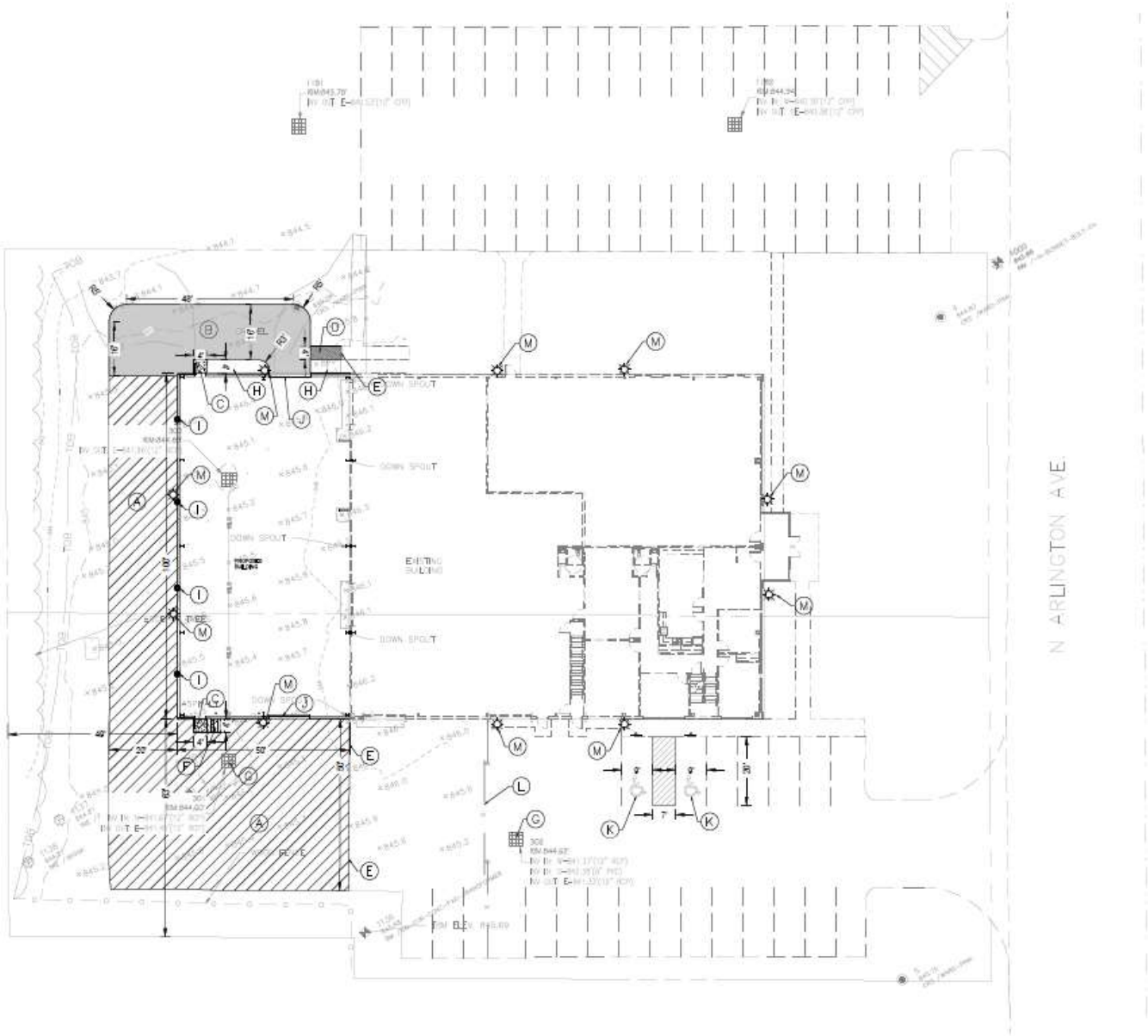




Photo of the Subject Property: 2920 North Arlington Avenue



Photo of the subject site's southern parking area looking east.





Photo of the street frontage along Arlington Avenue.



Photo of the Subject Property: 2990 North Arlington Avenue



Photo of the western property boundary looking north.



Photo of the existing west building façade and proposed building addition looking north.



Photo of the proposed buidling addition looking east.



Photo of the northern building façade.



Photo of the company vehicles on site.



Photo of the existing outdoor storage.



Photo of the used car dealership north of the site.



Photo of the industrial uses east of the site.



Photo of the office buiding south of the site.



Photo of the church south of the site.

## STAFF REPORT

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

**Case Number:** 2023-ZON-105  
**Address:** 5935 West 86<sup>th</sup> Street (*Approximate Address*)  
**Location:** Pike Township, Council District #1  
**Petitioner:** Ragin McQuade - Bohler Engineering  
**Request:** Rezoning of 1.345 acres from the C-3 district to the C-4 district to provide for a car wash.

### RECOMMENDATIONS

Staff **recommends approval** of the rezoning.

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The 1.345-acre site is developed with a commercial building that was previously used as a bank.
- ◇ The site is bordered to the east by an extended stay hotel, zoned C-3 and C-4, to the south by offices, zoned C-3, to the west across Northwest Boulevard by a gas station, zoned C-4, and to the north across 86<sup>th</sup> Street by bank and restaurant, zoned C-S.

#### REZONING

- ◇ The subject site is zoned C-3. The C-3 District is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine- grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters.
- ◇ The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.

(Continued)

- ◇ The Comprehensive Plan recommends community commercial development. The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

**Staff Analysis**

- ◇ The rezoning request would allow for a car wash to be developed on site, which is not permitted in the existing C-3 district.
- ◇ The petitioner informed staff that their intent is to demolish the existing bank building and to propose new construction on site.
- ◇ Staff notified the petitioner that all use-specific standards related to the Automobile and Light Vehicle Wash as listed in Article III. Section 05.D. of the Ordinance would apply. These standards are provided below.

**D. Automobile and Light Vehicle Wash**

1. In the Regional Center and North Meridian Street Corridor district, this use of any type, such as, completely indoors wash, self-service wash, automatic or semi- automatic wash, shall not be permitted on any lot with frontage on Meridian Street, Washington Street, Market Street, or located on any lot within the Mile Square.
  2. No drying, cleaning, polishing, dispensing of fuel, or other comparable operation shall be conducted within any required yard or required transitional yard.
  3. The use shall not be located within 100 feet, measured in any direction, of a protected district. (See Section 743-301 and Section 740-308)
  4. The exit drive as measured from the vehicle exit of the washing mechanism or activity to the pavement edge of the street shall be a minimum of 100 feet in length.
  5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or flows onto the public right-of-way as a result of the vehicle wash operations.
- ◇ This use would also be limited with the location of stacking spaces, drive-through lanes, etc. Staff does not typically support variances where new construction occurs since there is the opportunity to meet the standards of the Ordinance. No variances have been requested with this request.
  - ◇ With the development of a new building on site, sidewalk installation along Northwest Boulevard would be required.
  - ◇ Because the proposed zoning district would align with the community commercial recommendation of the Comprehensive Plan, staff is supportive of the rezoning request.



**GENERAL INFORMATION**

EXISTING ZONING AND LAND USE

C-3 Metro Vacant Bank Building

SURROUNDING ZONING AND LAND USE

North C-S Bank and Restaurant  
South C-3 Offices  
East C-3/C-4 Hotel  
West C-4 Gas Station

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development.

THOROUGHFARE PLAN

86<sup>th</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 206-foot existing right-of-way and a 134-foot proposed right-of-way.

THOROUGHFARE PLAN

Northwest Boulevard is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 100-foot existing right-of-way and a 50-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

LAND SURVEY

File-dated November 8, 2023.

**ZONING HISTORY – SITE**

EXISTING VIOLATIONS

None.

PREVIOUS CASES

**89-Z-135B; 6015 West 86<sup>th</sup> Street** (subject site), Rezoning of 7.2 acres, being in the I-2-S district, to the C-3 classification, to provide for a commercial retail center, **approved**.

**94-AP-21; 5935 West 86<sup>th</sup> Street** (subject site), Approval of Modifications of Commitments to remove commitment I.3.(d) to provide for an additional ground sign, **approved**.

**94-V3-27; 5935 West 86<sup>th</sup> Street** (subject site), Variance of Development Standards of the Sign Regulations to permit the placement of a 40 square-foot ground sign with a setback of six feet from 86<sup>th</sup> Street (minimum 15 feet required), **granted**.

**ZONING HISTORY – VICINITY**

**2003-ZON-102; 8750 and 9550 Zionsville Road** (north of site), Rezoning of 57.42 acres, being in the C-3 and C-S District, to the C-S classification to provide for office, retail, a hotel and theater uses, **approved.**

**2002-ZON-164; 8450 Northwest Boulevard** (southwest of site), Rezoning of 9.569 acres, being in the C-1 and C-6 district, to the HD-1 classification to provide for an inpatient orthopedic surgical hospital, **approved.**

**97-Z-239; 5925 West 86<sup>th</sup> Street** (east of site), Rezoning of 1.625 acres from C-3 to C-6 to provide for highway-oriented commercial uses, including a motel, **approved.**

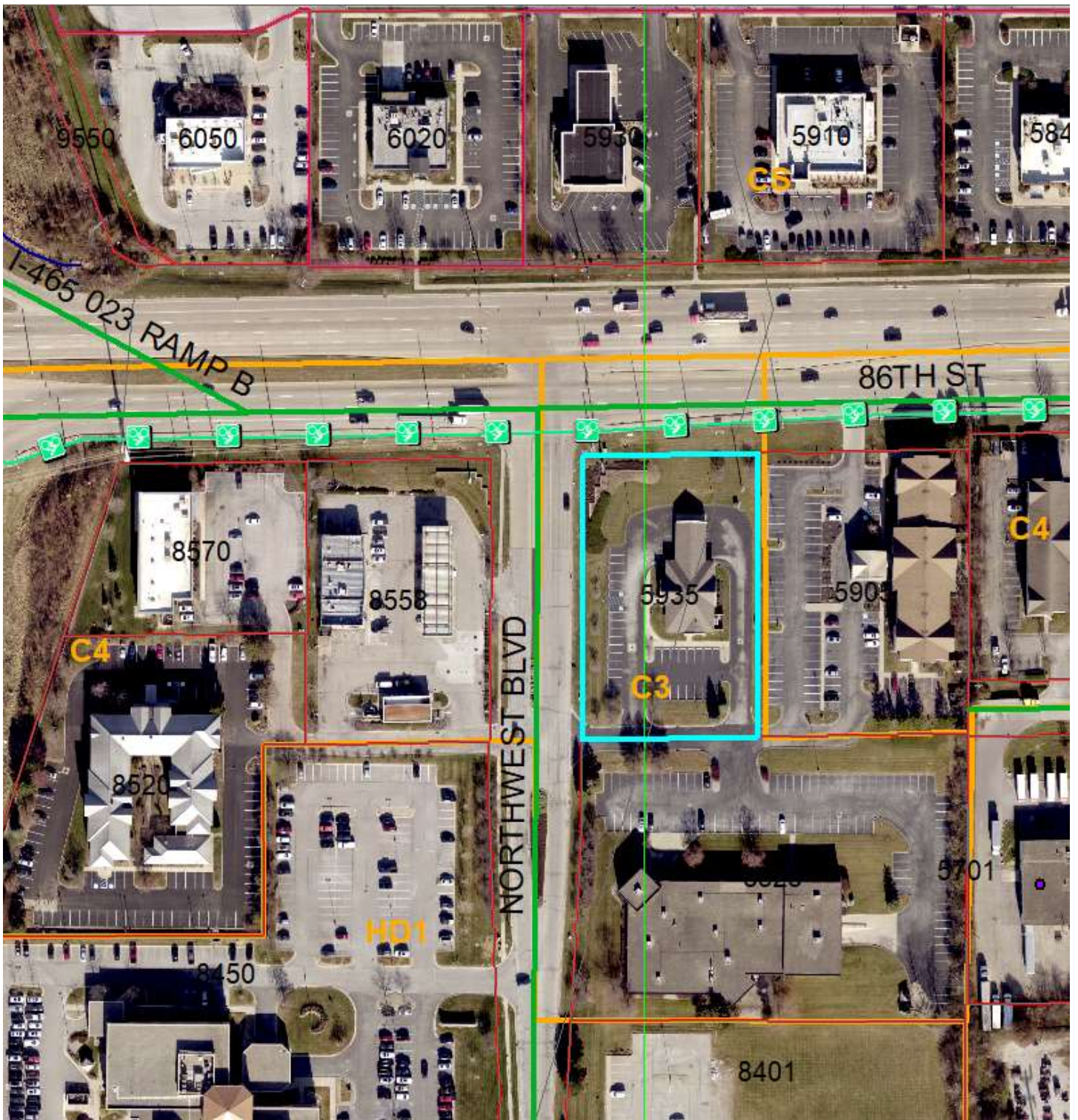
**96-Z-258; 5650 West 86<sup>th</sup> Street** (east of site), Rezoning of 2.199 acres from C-3 to C-4, to provide for commercial development, **approved.**

**91-Z-128; 5650 West 85<sup>th</sup> Street** (east of site), Rezoning of 1.85 acres, being in the C-1 District, to the C-3 classification to provide for commercial development, **approved.**

**89-Z-135D; 6055 West 86<sup>th</sup> Street** (west of site), Rezoning of 6.3 acres being in the A-2 and I-2-S Districts, to the C-6 classification, **approved.**

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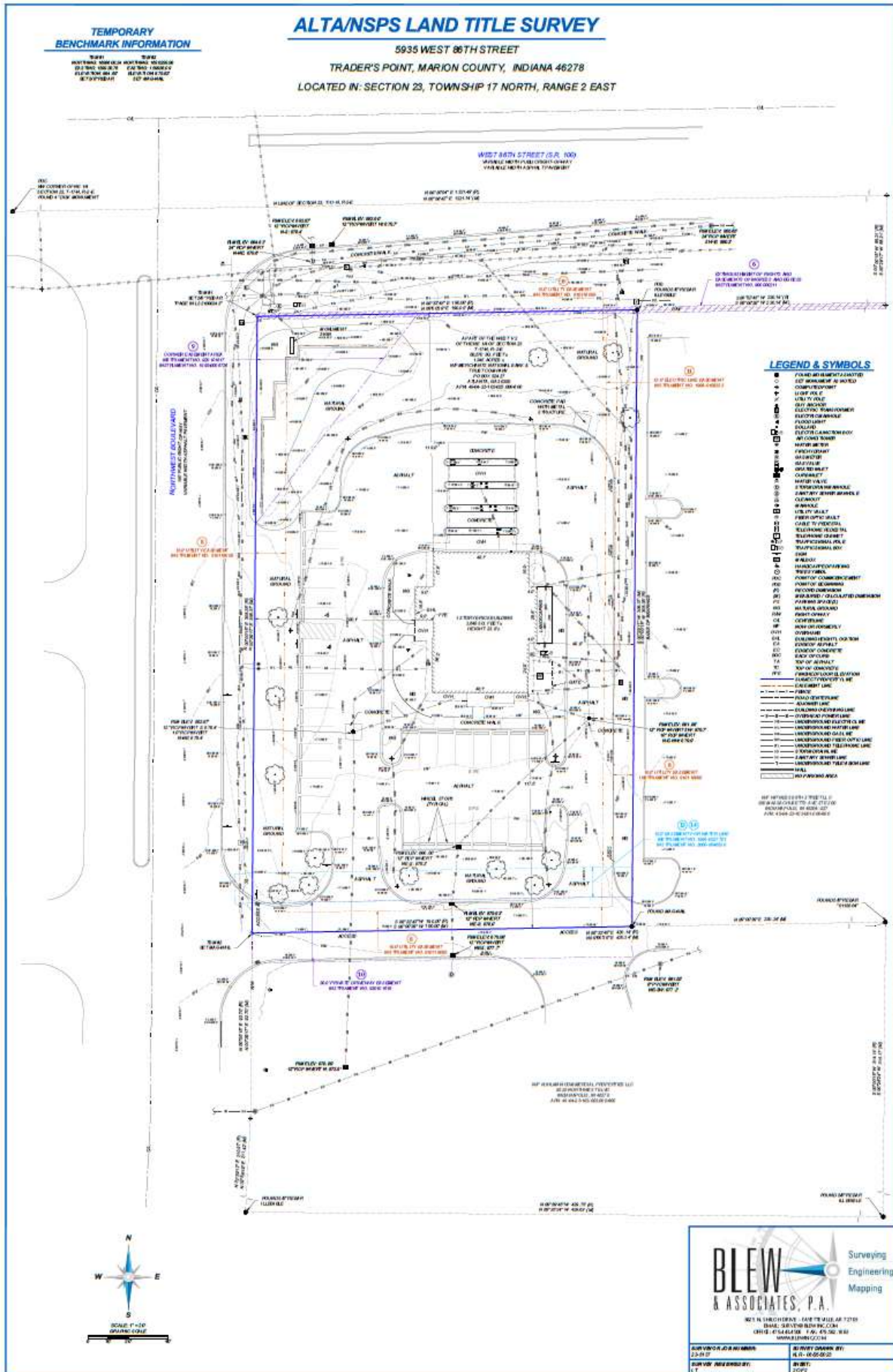




Photo of the existing north building façade.



Photo of the existing west building façade.



Photo of the existing east building façade.



Photo of the bank and restaruant north of the site.



Photo of the sidewalk along 86<sup>th</sup> Street looking west.

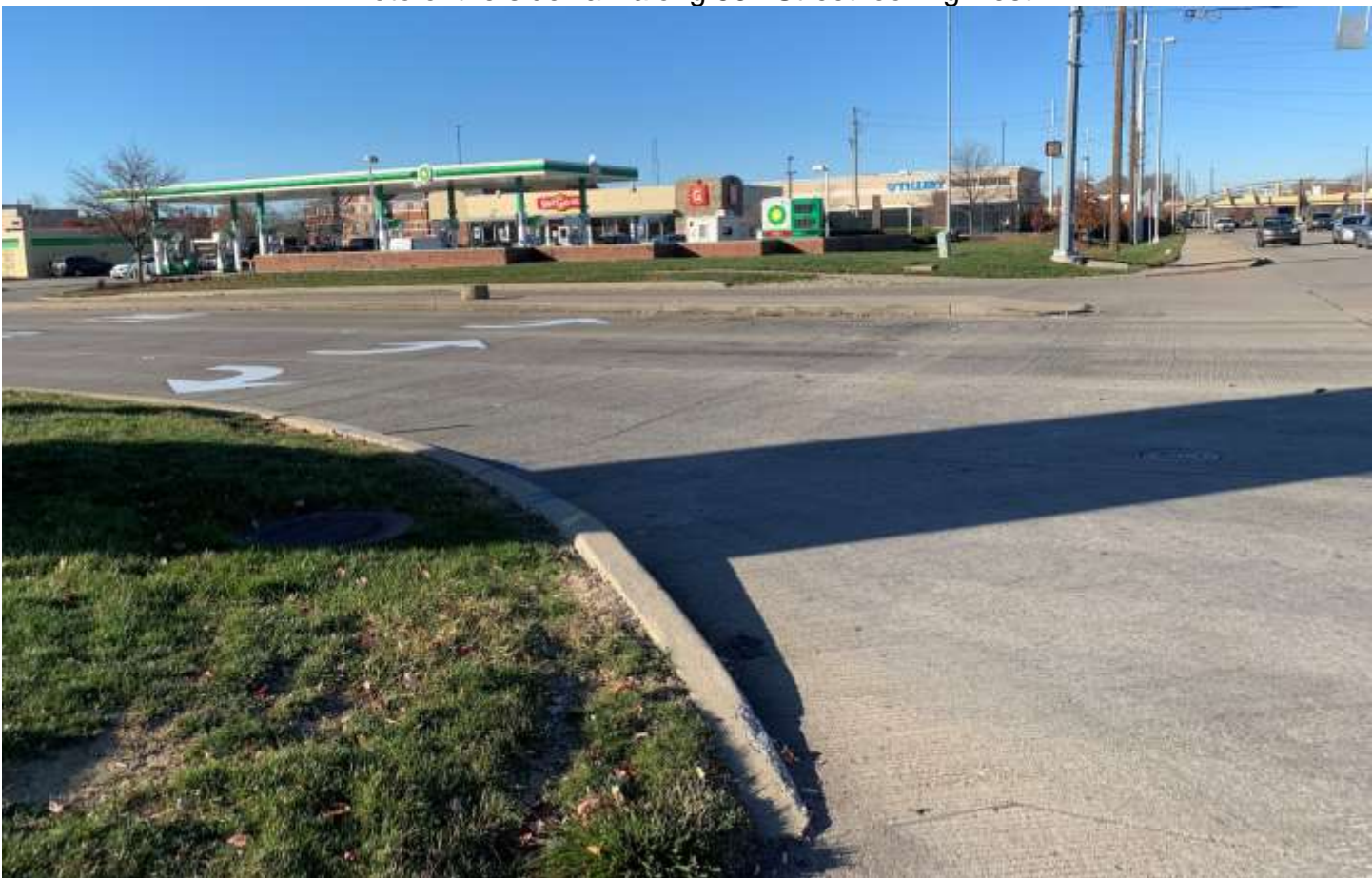


Photo of the gas station west of the site.



Photo of the end of the sidewalk along Northwest Boulevard.



Photo looking south along Northwest Boulevard where a sidewalk will need to be installed.





Photo of the offices south of the site.



Photo of the extended stay hotel east of the site.

## STAFF REPORT

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

**Case Number:** 2023-ZON-072 (Amended)  
**Address:** 2143 & 2145 South Emerson Avenue (*Approximate Addresses*)  
**Location:** Warren Township, Council District #18  
**Petitioner:** Tropical Island, LLC, by David Kingen  
**Request:** Rezoning of 0.94 acre from the D-3 and SU-18 districts to the D-5 district to provide for residential uses.

This petition has been continued three times since the original hearing date of August 24, 2023. On November 15, 2023, this petition was amended to request a rezoning to D-5.

### RECOMMENDATION

Staff **recommends approval** of this request, with the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

Development of the site shall be in substantial compliance with the site plan, file-dated November 6, 2023.

### SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

#### **LAND USE**

- ◇ The site was platted in 1924 as part of the Sycamore Terrace subdivision. Historic aerial photography indicates that by 1956 structures stood on the three western parcels of the four parcels that make up the subject site. By 1986, the structure on the corner lot had been demolished and the site was being used for automobile sales. By 2015 the remaining structures on the site had been cleared. The site is currently vacant.
- ◇ In the early 1970s, Raymond Street and Emerson Avenue south of the site were widened into major thoroughfares. It appears that the street widening required additional right-of-way and the subject lots were reduced in size to accommodate that. Medians in both streets partially restrict access to the site.
- ◇ The 2018 Comprehensive Land Use Plan recommends Suburban Neighborhood for the subject site. This typology primarily provides for single-family dwellings, although other forms of housing and commercial uses are anticipated under certain criteria. Typical residential density in this typology is one to five units per acre.

(Continued)

**STAFF REPORT 2023-ZON-072 (Continued)**

**ZONING**

- ◇ This petition requests a rezoning from the D-3 and SU-18 districts to the D-5 district. The SU-18 district is a Special Use district that provides for “light or power substation.” The D-3 district is a dwelling district that provides for low or medium intensity residential development with a typical density of 2.6 units per acre. Minimum lot size in the D-3 district is 10,000 square feet and minimum lot width is 70 feet.
- ◇ The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The site’s four existing parcels range in size from 8900 square feet to 12,700 square feet. At least one of the lots and perhaps two of them do not meet the minimum square footage for a D-3 lot, but all would meet the standard for a D-5 lot. Three of the lots don’t currently meet the minimum lot width for the D-3 district, but all of them would meet the minimum lot width for the D-5 district.
- ◇ A preliminary site plan was submitted to the file on November 6, 2023. Staff would support development of this site that would be in substantial compliance with this site plan.
- ◇ The D-5 district is appropriate as it is responsive to the Suburban Neighborhood recommendation of the Comprehensive Land Use Plan.

**GENERAL INFORMATION**

**EXISTING ZONING, CONTEXT AREA, AND LAND USE**

D-3, SU-18	Metro	Vacant land
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**SURROUNDING ZONING AND LAND USE**

North	D-3	Single-family dwellings
South	C-4, D-A	Woodland
East	D-A	Woodland
West	C-3	Gas station, single-family dwelling

**COMPREHENSIVE LAND USE PLAN** The Warren Township Comprehensive Plan (2018) recommends Suburban Neighborhood.

(Continued)

**STAFF REPORT 2023-ZON-072 (Continued)**

THOROUGHFARE PLAN	Emerson Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 107-foot existing right-of-way and a 119-foot proposed right-of-way.  Raymond Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 145-foot existing right-of-way and a 119-foot proposed right-of-way.
FLOODWAY / FLOODWAY FRINGE	A large portion of this site is located within the floodway fringe of Lick Creek.
WELLFIELD PROTECTION DISTRICT	This site is not located within a wellfield protection district.
SITE PLAN	File-dated November 6, 2023.

**ZONING HISTORY – SITE**

**2017-UV2-024; 2143 & 2145 South Emerson Avenue**, requested a variance of use to provide for automobile sales, storage trailers, storage of wrecked vehicles and a garage for the preparation of automobiles for sale, **denied**.

**64-V-137; 2145 South Emerson Avenue**, requested a variance of use to provide for the outdoor sales and display of automobiles, **approved**.

**ZONING HISTORY – VICINITY**

**2003-UV2-044; 2164 South Emerson Avenue (west of site)**, requested a variance of use to provide for automobile sales and a variance of development standards to provide for parking and display in the required setback and for a sign in the right-of-way, **approved except sign request, which was withdrawn**.

**85-UV2-119; 2164 South Emerson Avenue (west of site)**, requested a variance of use to provide for the sales and display of automobiles, **approved**.

**97-V3-69; 5202 East Raymond Street (east of site)**, requested a variance of use to provide for a confinement feeding operation on less than three acres and variances of development standards to provide for a barn with deficient setbacks and excess accessory structure area, **approved**.

(Continued)

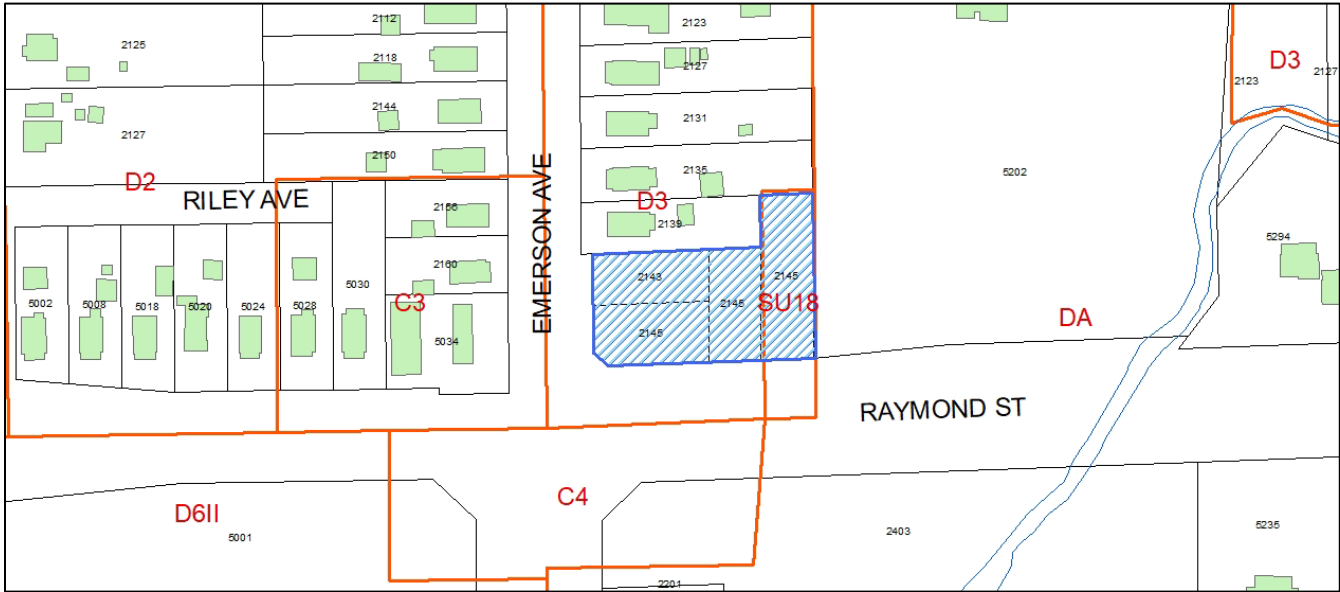
**STAFF REPORT 2023-ZON-072 (Continued)**

**96-V3-68; 5202 East Raymond Street (east of site)**, requested a variance of development standards to provide for a barn with deficient setbacks and excess accessory structure area, **denied.**

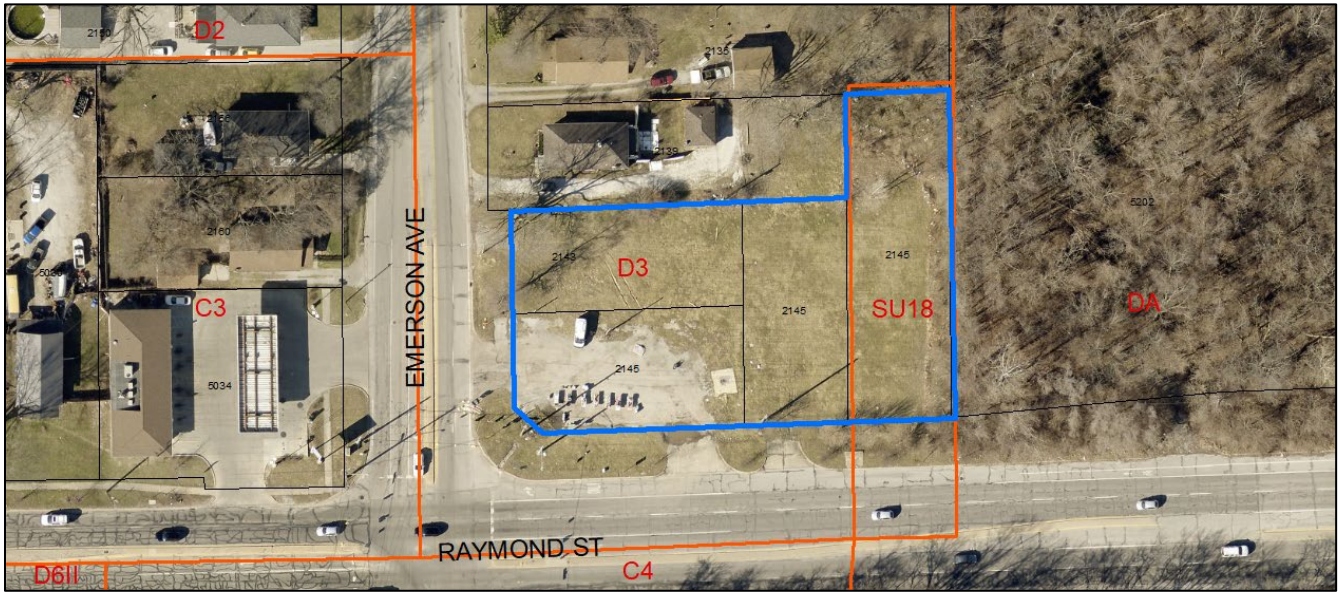
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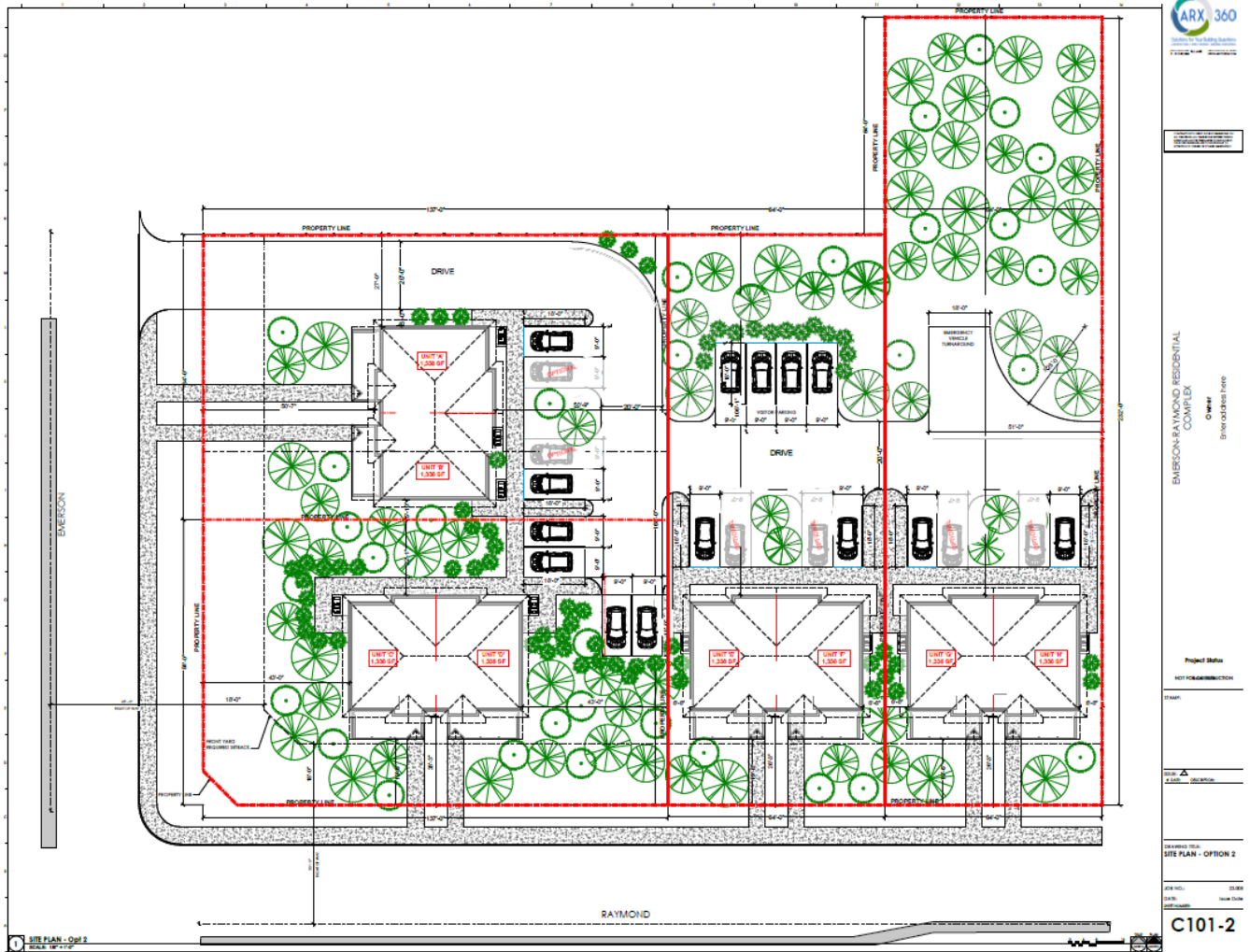
**STAFF REPORT 2023-ZON-072, Location**



**STAFF REPORT 2023-ZON-072, Aerial photograph (2022)**



**STAFF REPORT 2023-ZON-072, Preliminary site plan – file-dated, November 6, 2023**



**STAFF REPORT 2023-ZON-072, Photographs**



Looking east across the subject site from Emerson Avenue.



Looking north along the Emerson Avenue frontage at the site and the neighbor to the north.





Looking west across Emerson Avenue at the neighbors to the west.



Looking southwest from the site across the intersection of Emerson Avenue and Raymond Street.



Looking south across Raymond Street and along Emerson Avenue.



Looking east along the Raymond Street frontage of the site.

## STAFF REPORT

Item 12.

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

**Case Number:** 2023-ZON-101  
**Address:** 3905 East Raymond Street and 3820 and 3912 Bethel Avenue  
(Approximate Address)  
**Location:** Center Township, Council District #21  
**Petitioner:** Malwa Truck & Tire Repair Shop, LLC, by David Gilman  
**Request:** Rezoning of 17.25 acres from the D-3 (FW) (FF), C-7 (FF) and I-3 districts to the C-7 (FW) (FF) district to provide for heavy commercial uses.

#### ADDENDUM FOR DECEMBER 14, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the November 16, 2023 hearing, to the December 14, 2023 hearing, to clarify discrepancies related to the parcels included in this rezoning request and the proposed commitments.

Portions of this site were included in petition 2018-ZON-101 that rezoned the one parcel north of Bean Creek and three parcels south of Bean Creek, totaling 11.2 acres (See Exhibit B). This petition includes these three parcels and four additional parcels now owned by the petitioner, all south of Bean Creek. The 4.51-acre parcel north of Bean Creek fronting on Raymond Street is not included in this rezoning request but would be included in the overall business operation.

As a result of testimony during the November 16, 2023 hearing, two of the commitments have been amended to clarify the proposed Commitment Number One and respond to remonstrators concerns in amended Commitment Number Five. See below:

1. Except for Parcel No. 1096211 (4.51 acres north of Bean Creek fronting on East Raymond Street), all commitments associated with petition 2018-ZON-100 (Instrument Number A201900003018) shall be replaced by the following six commitments.
2. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such. The petitioner will send a copy of the plan to Indiana Forest Alliance, Inc. for their review and comment, prior to final staff approval. In addition, a final approved plan shall be provided to Mr. Robert Harris residing at 2231 S Sherman Drive.

(Continued)

**RECOMMENDATIONS**

Staff **recommends approval** of this request, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. All commitments associated with petition 2018-ZON-100 shall be replaced by the following six commitments.
2. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.
3. A 40-foot half right-of-way shall be dedicated along the frontage of Bethel Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
4. The following C-7 uses would be permitted: Agricultural machinery and equipment sales; rental or repair; heavy equipment sales, service or repair; fleet terminals; truck or heavy vehicle sales, rental or repair; mini warehouses /self-storage facility; and commercial parking lot (requires the grant of a Special Exception). All other permitted C-7 uses would be prohibited.
5. A site and landscape plan shall be submitted for Administrator Approval prior to any further disturbance of the site. The site plan shall consider the tree preservation plan, floodplain, stream protection corridor, and right-of-way dedication. The landscape plan shall provide for any necessary tree removal mitigation and enhanced year around landscaping along Bethel Avenue.
6. The entire site shall be brought into compliance with the Ordinance within 180 days from final approval of the rezoning.
7. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.

(Continued)

**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

**LAND USE**

- ◇ This 17.25-acre site, zoned D-3 (FW) (FF), C-7 (FF) and I-3, is bisected by Bean Creek and developed with a semi-truck and tire repair business on the northern portion of the site and single-family dwellings and truck / trailer parking on the southern portion of the site. It is surrounded by industrial uses to the north, zoned I-4; single-family dwellings to the south, across Bethel Avenue, zoned D-3; commercial uses to the east, zoned C-7; and undeveloped land to the west, zoned D-3 (FW) (FF).
- ◇ Petition 2018-ZON-018 rezoned the northern portion along East Raymond Street and three parcels south of Bean Creek to the C-7 (FF)(FW) district to provide for truck repair. Petition 2003-ZON-083 rezoned the northern two parcels to the C-S (FF)(FW) District to provide for a contractor's business.

**REZONING**

- ◇ This request would rezone the site from the D-3 (FW) (FF), C-7 (FF) Districts to the C-7 classification. "The C-7 District is designed to provide specific areas for 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 storage of trucks, materials or equipment essential to the operation of these uses. Many of these uses generally are not visited by customers, but rather involve service operations from headquarters with some on-site fabrication of parts. The nature of operation or appearance are more compatible with industrial than retail commercial activities. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares and near interstate freeways, but not in close association with those commercial activities involving shopping goods, professional services, restaurants, food merchandising, and the like. Due to the intensity of uses, location of this district should never be adjacent to protected districts."
- ◇ The Comprehensive Plan recommends light industrial typology north of Bean Creek. "The Light Industrial 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."

(Continued)

- ◇ The Comprehensive Plan recommends suburban neighborhood for the site south of Bean Creek. “The Suburban Neighborhood 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 Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

*Light Industrial Uses*

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology

*Conditions for All Land Use Types (Suburban Neighborhood)*

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- Hydrological patterns should be preserved wherever possible.
- Curvilinear streets should be used with discretion and should maintain the same general direction.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged

**Overlays**

- ◇ This site is also located within the Environmental Sensitive Areas (ES) overlay, specifically Forest Alliance Woodlands and a 100-year floodplain. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ “The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new

(Continued)

- ◇ As previously noted, Bean Creek bisects this site and enters the site at the northeast corner of the site along East Raymond Street, runs southwesterly and exits the site at the southwest corner. The northern and western portion of this site is covered by high quality woodlands, specifically identified as Forest Alliance Woodlands and generally follows the path of Bean Creek.

### **Tree Preservation / Heritage Tree Conservation**

- ◇ There are significant amounts of natural vegetation and trees located on the northern and western portion of the site. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.
- ◇ All development shall be in a manner that causes the least amount of disruption to the trees.
- ◇ A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.
- ◇ If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.
- ◇ The Ordinance defines “heritage tree” as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentukea*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)
- ◇ The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location issuance date. See Exhibit A, Table 744-503-3: Replacement Trees.

### **Stream Protection Corridor**

- ◇ A stream protection corridor consists of a strip of land, extending along both sides of all streams, with measurements taken from the top of the bank on either side. The width of the corridor is based upon whether the stream is designated as a Category One or Category Two. Category One streams have a corridor width of 60 feet in the compact context area and 100 feet in the metro context area. Category Two streams have a corridor width of 25 feet in the compact context area and 50 feet in the metro context area.

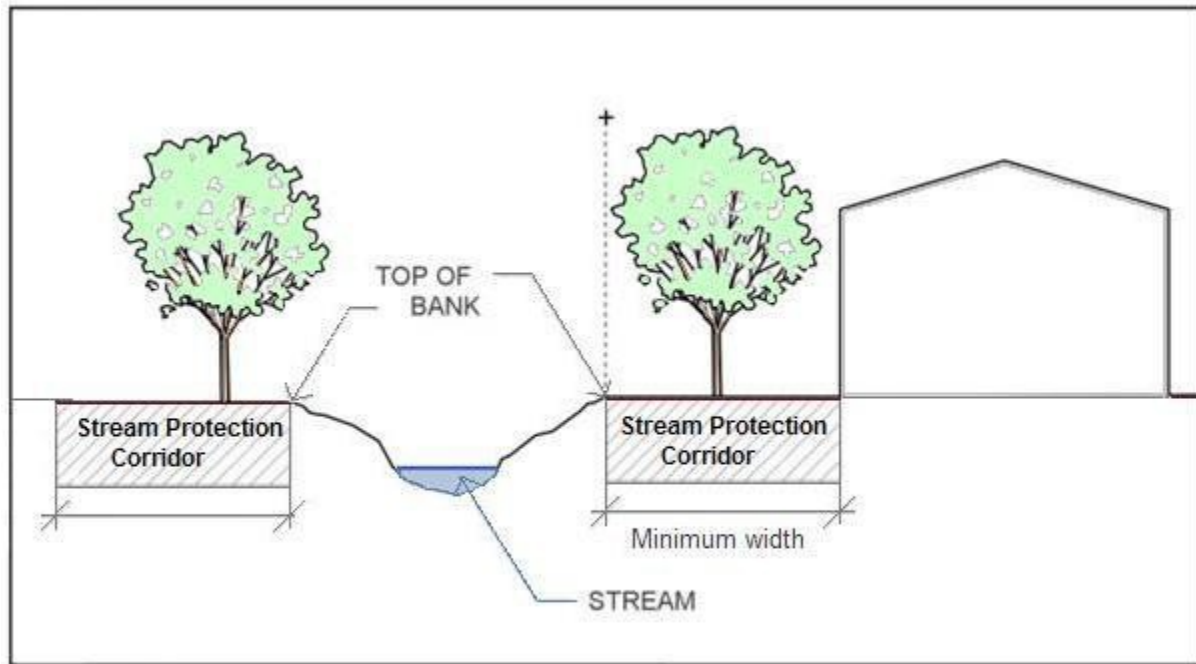
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- ◇ The vegetative target for the Stream Protection Corridor is a variety of mature, native riparian tree and shrub species that can provide shade, leaf litter, woody debris, and erosion protection to the stream, along with appropriate plantings necessary for effective stream bank stabilization.
- ◇ The Stream Protection Corridor is defined as:

“A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir, and where alteration is strictly limited. Functionally, stream protection corridors provide erosion control, improve water quality (lower sedimentation and contaminant removal) offer flood water storage, provide habitat, and improve aesthetic value.”
- ◇ Stream is defined as “a surface watercourse with a well-defined bed and bank, either natural or artificial that confines and conducts continuous or periodic flowing water.”
- ◇ Stream Bank is defined as “the sloping land that contains the stream channel and the normal flows of the stream.”
- ◇ Stream Channel is defined as “part of a watercourse that contains an intermittent or perennial base flow of groundwater origin.”
- ◇ There are two types of categories of Streams: Category One Streams and Category Two Streams. Bean Creek is listed as a Category One Stream, which is defined as: “A perennial stream that flows in a well-defined channel throughout most of the year under normal climatic conditions. Some may dry up during drought periods or due to excessive upstream uses. Aquatic organism such as some fish are normally present and easily found in these streams. The Category One Streams are listed in Table 744-205-2: Category One Streams.”
- ◇ Category Two Stream is defined as: “An intermittent stream that flows in a well-defined channel during wet seasons of the year but not necessarily for the entire year. These streams generally exhibit signs of water velocity sufficient to move soil, material, litter, and fine debris. Aquatic organisms, such as fish, are often difficult to find or not present at all in these streams. These streams are identified on the United States Geological Survey (USGS) topographic maps and on the Department of Natural Resources Conservation Service (NRCS) soils maps.”
- ◇ There are 32 Category One streams listed in the Ordinance. The stream protection corridor is a strip of land on both sides of the stream whose width varies according to whether it is within the Compact or Metro Context Area and whether it is a Category One or Category Two Stream.
- ◇ Bean Creek bisects the site, is designated as a Category One Stream within the Metro Context Area and is required to have a 100-foot stream protection corridor on both sides of the stream, as measured parallel from the top of the bank. Top of the bank is not defined by the Ordinance, other than by Diagram UU, Stream Protection Corridor Cross-section, as shown below.

(Continued)





**Stream Protection Corridor**

### Floodway Fringe

- ◇ Portions of this site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (C-7 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ Staff would note that certain uses are **prohibited in the floodplain, including “truck, train, or bus terminal, storage or maintenance facility,”** which is the proposed use with this rezoning. Consequently, those areas of the site that lie within the floodplain could not be developed as proposed.

### Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 40-foot half right-of-way along Bethel Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.
- ◇ The right-of-way along Bethel Avenue varies from 70 feet to 90 feet. The dedication requested would occur between the western property boundary and the existing 90-foot right-of-way along Bethel Avenue frontage, which would be approximately 775 feet to the southeast.

(Continued)

**Environmental Public Nuisances**

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
  1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
  2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
  3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
  4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

**Planning Analysis**

- ◇ As proposed, the portion of the site south of Bean Creek would not be consistent with the Comprehensive Plan recommendation of suburban neighborhood typology. However, it would be unlikely that this area would be residentially developed given the proximity of industrial and heavy commercial uses to the east. Furthermore, petition 2018-ZON-100 rezoned 11.2 acres of this site to the C-7 district. The additional six acres included in this request would be an acceptable deviation from the Plan recommended land use, with certain mitigation requirements.

(Continued)

- ◇ Staff also believes the impact of the C-7 district on the adjacent residential uses to the south, across Bethel Avenue, would be minimized by excluding most of the permitted uses. The petitioner has agreed to limit use of the site to the following uses: Agricultural machinery and equipment sales; rental or repair; heavy equipment sales, service or repair; fleet terminals; truck or heavy vehicle sales, rental or repair; mini warehouses /self-storage facility; and commercial park lot (requires the grant of a Special Exception). All other permitted C-7 uses would be prohibited.
- ◇ Additionally, staff would request a 40-foot transitional setback along Bethel Avenue from the proposed right-of-way. The Ordinance requires a 20-foot transitional setback, but staff would request a wider, heavily landscaped year around setback to provide undeveloped space that would result in a substantial buffer for the residential uses to the south, across Bethel Avenue.
- ◇ On the site visit, staff observed the installation of a 10-foot-tall chain link fence and removal of trees along Bethel Avenue. Previous aerials also indicate that the existing drive on Bethel Avenue has been widened and the interior drive alignment has changed. Staff, however, was unable to find any permits related to the access drive.
- ◇ Permits are not required for fence installation, but the Ordinance limits the fence height to six feet. Additionally petition 2018-ZON-100 required “a tree assessment by a certified arborist shall be filed for Administrator’s Approval prior to any site preparation or disturbance of the site as a commitment,” which has not been submitted.
- ◇ Staff was also unable to locate a sign permit for the sign along Raymond Street that does not comply with the Sign Regulations.
- ◇ Consequently, staff requests that the entire site be brought into compliance with the Ordinance and the commitments associated with the previous petition, within 180 days from the final approval date of the rezoning. This would also include required paving of driveways and areas where vehicles / trailers / equipment are stored.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

D-3 (FW)	Commercial uses / residential
(FF), C-7	
(FF) / I-3	

**SURROUNDING ZONING AND LAND USE**

North -	I-4	Industrial uses
South -	D-3	Single-family dwellings
East -	C-7	Commercial uses
West -	D-3 (FW)	Undeveloped land
	(FF)	

(Continued)

COMPREHENSIVE PLAN                      The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends light industrial typology for the northern portion and suburban neighborhood typology for the southern portion.  
  
Marion County Land Use Pattern Book (2019).

THOROUGHFARE PLAN                      This portion of East Raymond Street is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 230-foot right-of-way and a proposed 102-foot right-of-way.  
  
This portion of Bethel Avenue is designated in the Marion County thoroughfare Plan as a primary collector with a variable 70-foot to 90-foot right-of-way and a proposed 80-foot right-of-way

CONTEXT AREA                              This site in located within the metro context area.

OVERLAY                                      This site is located within the environmentally sensitive areas

**ZONING HISTORY**

**2018-ZON-100; 3905 East Raymond Street**, requested rezoning requested rezoning of 11.2 acres from the C-S (FF)(FW) and D-3 districts to the C-7 (FF)(FW) classification, **approved**.

**VICINITY**

**2011-ZON-038; 2319 South Sherman Drive (south of site)**, requested rezoning from the D-3 and C-4 Districts to the C-4 classification to provide commercial uses, **approved**.

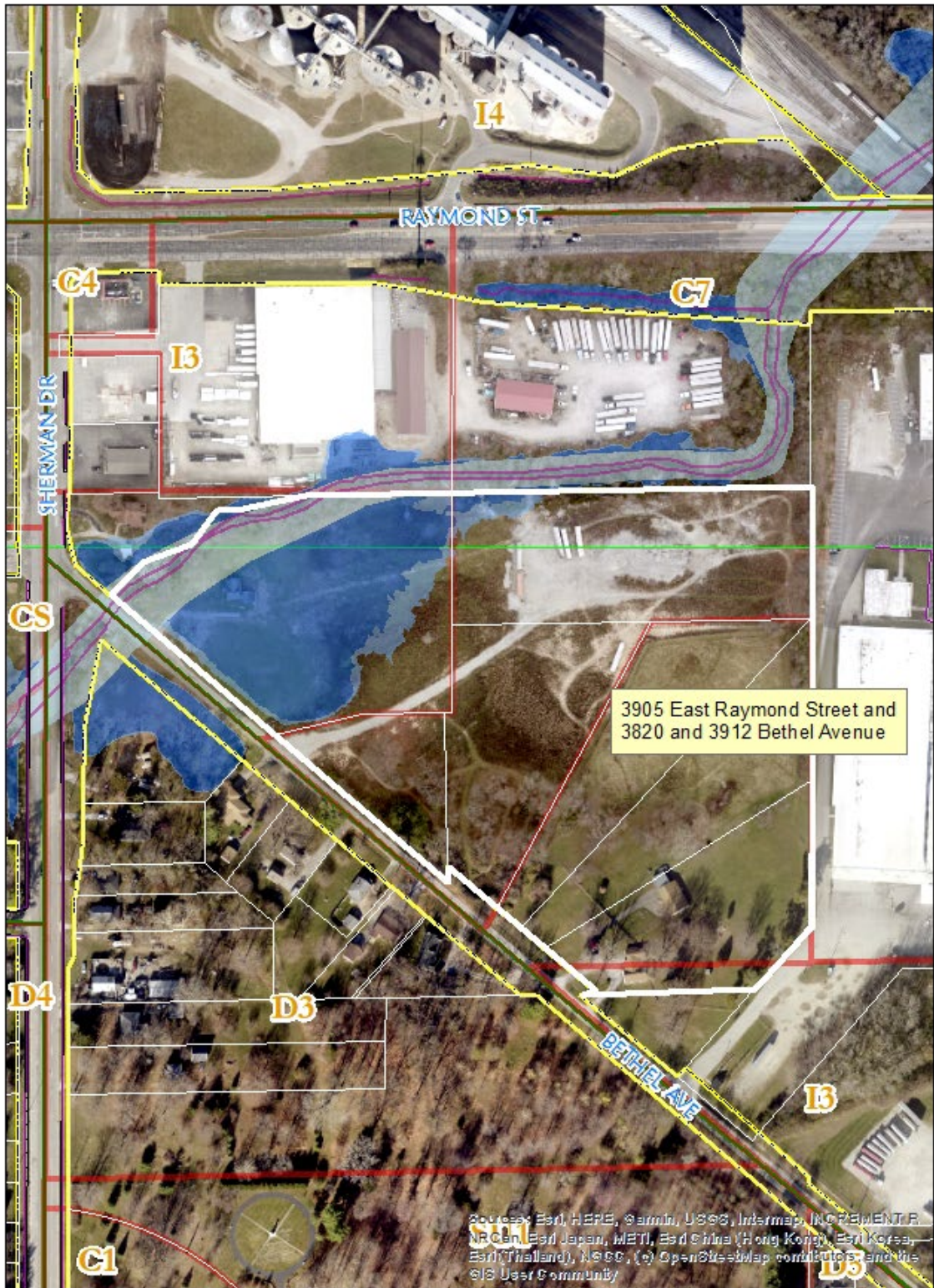
**2003-ZON-083; 3853 East Raymond Street (west of site)**, requested rezoning of 16.77 acres, being in the D-3 (FF)(FW) District to the C-S (FF)(FW) classification to provide for a contractor's business, **approved**.

**2000-ZON-014; 2221 South Sherman Drive (west of site)**, requested rezoning of 1.082 acres, from the D-3 district to the C-4 classification to provide for a tavern, **approved**.

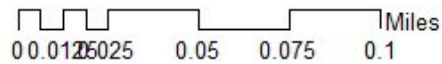
**96-Z-255; 3829 East Raymond Street, (west of site)**, requested rezoning of 4.33 acres from the D-3 (FF)(FW) District to the I-3-U (FF)(FW) classification, **approved**.

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3905 East Raymond Street / 3820 and 3912 Bethel Avenue

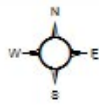
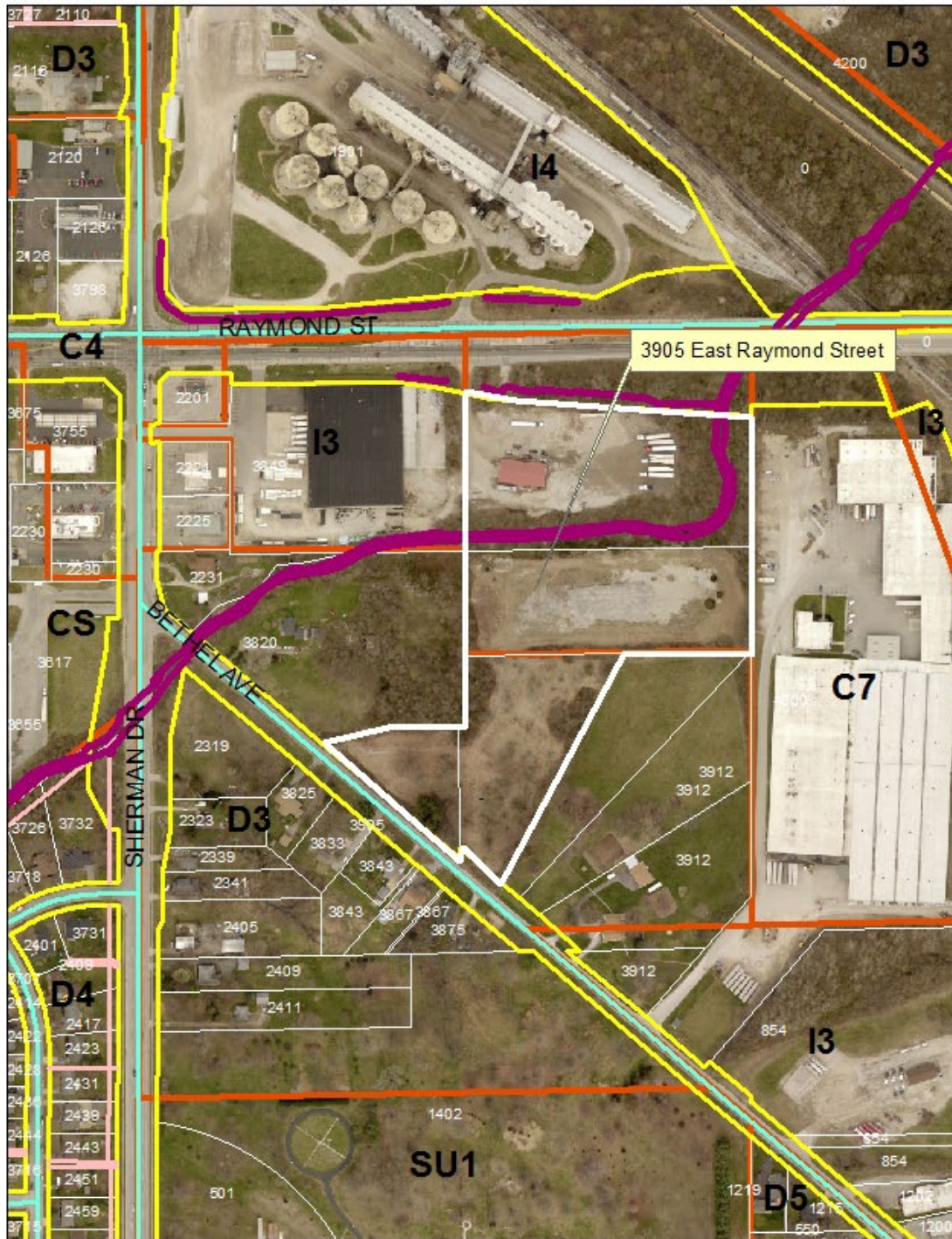


**Heritage Tree Conservation**

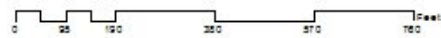
Removal of any Heritage Tree is prohibited unless any of the following determinations are made before removal:

1. The Administrator or the city’s Urban Forester determines that the tree is dead, significantly and terminally diseased, a threat to public health or safety, or is of an undesirable or nuisance species.
2. The Director of the Department of Public Works determines that the tree interferes with the provision of public services or is a hazard to traffic.
3. The Administrator determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree.
4. The site from which the tree is removed is zoned D-A and the tree is harvested as timber or similar forestry product.

<b>Table 744-503-3: Replacement Trees</b>		
<b>Size of tree removed or dead (inches)</b>	<b>Number of Trees to be planted to replace a Heritage Tree</b>	<b>Number of Trees to be planted to replace an existing tree</b>
Over 36 DBH	15	10
25.5 to 36 DBH	11	8
13 to 25 DBH	8	6
10.5 to 12.5 DBH	6	4
8.5 to 10 DBH	5	4
6.5 to 8	3	2
4 to 6	2	2
2.5 to 3.5	1	1



3905 East Raymond Street





View of northern entrance to site looking east along Raymond Street



View of site looking east





View of site looking east



View from site looking north towards Raymond Street



View from site looking northwest at adjacent property.



View looking east along Bethel Avenue



View looking west along Bethel Avenue



View of site looking north across Bethel Avenue



View of site looking north across Bethel Avenue



View of site looking north across Bethel Avenue



View of site looking north across Bethel Avenue



View of site looking north across Bethel Avenue



View of site looking northwest from adjacent drive to the east



View of site looking west from adjacent drive to the east

## STAFF REPORT

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

**Case Number:** 2023-ZON-102  
**Address:** 117 (119) North Sherman Drive (Approximate Addresses)  
**Location:** Center Township, Council District #12  
**Petitioner:** Verma Properties, Inc., by Sharmin Frye  
**Request:** Rezoning of 0.11 acre from the D-5 (TOD) district to the C-3 (TOD) district.

This petition was continued from the November 16, 2023 hearing to the December 14, 2023 hearing at the request of the petitioner to allow additional time for the mailing of the notice requirement to be fulfilled.

### RECOMMENDATIONS

Staff **recommends denial** of this request.

If approved, staff would recommend approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 44-foot half right-of-way shall be dedicated along the frontage of Sherman Drive, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The 0.11 acres subject site is an undeveloped residential lot. It abuts a gas station and convenience store to the north, zoned C-3, a vacant four-unit building to the west, zoned D-5, a single-family dwelling to the south, zoned D-5, and an undeveloped residential lot to the east, zoned D-5.

#### REZONING

- ◇ The request would rezone the parcel from the D-5 district to the C-3 district to allow for the expansion of the convenience store located north at 3801 New York Street and for the required transitional yard to be provided.
- ◇ The site is zoned D-5, which is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.

(Continued)

- ◇ The C-3 District is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters.
- ◇ The Comprehensive Plan recommends traditional neighborhood development for the site. The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- ◇ The site is located within the Blue Line TOD Strategic Plan and falls within the Transit Oriented Development Secondary Zoning District. It falls within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove the proposed convenience store use and excludes automotive uses such as gas stations.
- ◇ The closest station to the site is located within a ¼ mile south at the intersection of Sherman Drive and Washington Street. This station is categorized as a Community Center, which calls for a dense mixed-use neighborhood center, minimum of two stories at core, no front or side setbacks at core: zero to 10 feet front setbacks and zero to ten-foot side setbacks at periphery, multi-family housing with a minimum of 3 units and structured parking at the core and attractive surface parking at the periphery.

**Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 44-foot half right-of-way along Sherman Drive. This dedication would also be consistent with the Marion County Thoroughfare Plan.

**Staff Analysis**

- ◇ The rezoning of the site to a commercial district would not be appropriate at this location since it zoned residentially, aligns with the traditional neighborhood recommendation of the Comprehensive Plan, and could be developed with a residential use as intended to ensure the availability of housing options.

(Continued)



- ◇ If approved, this would be a commercial encroachment into the residential area which could negatively impact the residents in the immediate area.
- ◇ Staff understands that the site plan submitted only shows that the required transitional yard would be located at this site, but it would not prevent any future building or parking expansions onto the site since it would be zoned for the use.
- ◇ For these reasons, staff is recommending denial of the request.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

D-5	Compact	Undeveloped
-----	---------	-------------

**SURROUNDING ZONING AND LAND USE**

North	C-3	Gas station and convenience store
South	D-5	Residential (Single-family dwelling)
East	D-5	Undeveloped Residential Lot
West	D-5	Vacant Residential Building

**COMPREHENSIVE PLAN**

The Comprehensive Plan recommends traditional neighborhood development.

**OVERLAY**

This site is in a Transit-Oriented Development (TOD) overlay, specifically the Bus Rapid Transit Blue Line.

**THOROUGHFARE PLAN**

Sherman Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 62-foot existing right-of-way and an 88-foot proposed right-of-way.

**CERTIFIED PLAN**

The site falls within a Certified Plan, specifically the Near Eastside Quality of Life Plan.

**FLOODWAY / FLOODWAY FRINGE**

This site is not located within a floodway or floodway fringe.

**WELLFIELD PROTECTION DISTRICT**

This site is not located within a wellfield protection district.

**SITE PLAN**

File-dated October 11, 2023.

**ZONING HISTORY – SITE**

**EXISTING VIOLATIONS**

None.

**PREVIOUS CASES**

None.

(Continued)

**ZONING HISTORY – VICINITY**

**2012-ZON-077; 305 North Sherman Drive** (north of site), Rezoning of 0.25 acre, from the D-5 and C-3 District, to the C-3C classification to provide for residential and commercial development, **approved.**

**95-AP1-6; 3740 East New York Street** (northwest of site), Modification of conditions and site plan, related to 94-UV1-2, to permit 49 display vehicles on-site with 9 additional spaces for parking (33 display vehicles permitted pr the 94-UV1-2 petition) for an existing automobile sales business, **denied.**

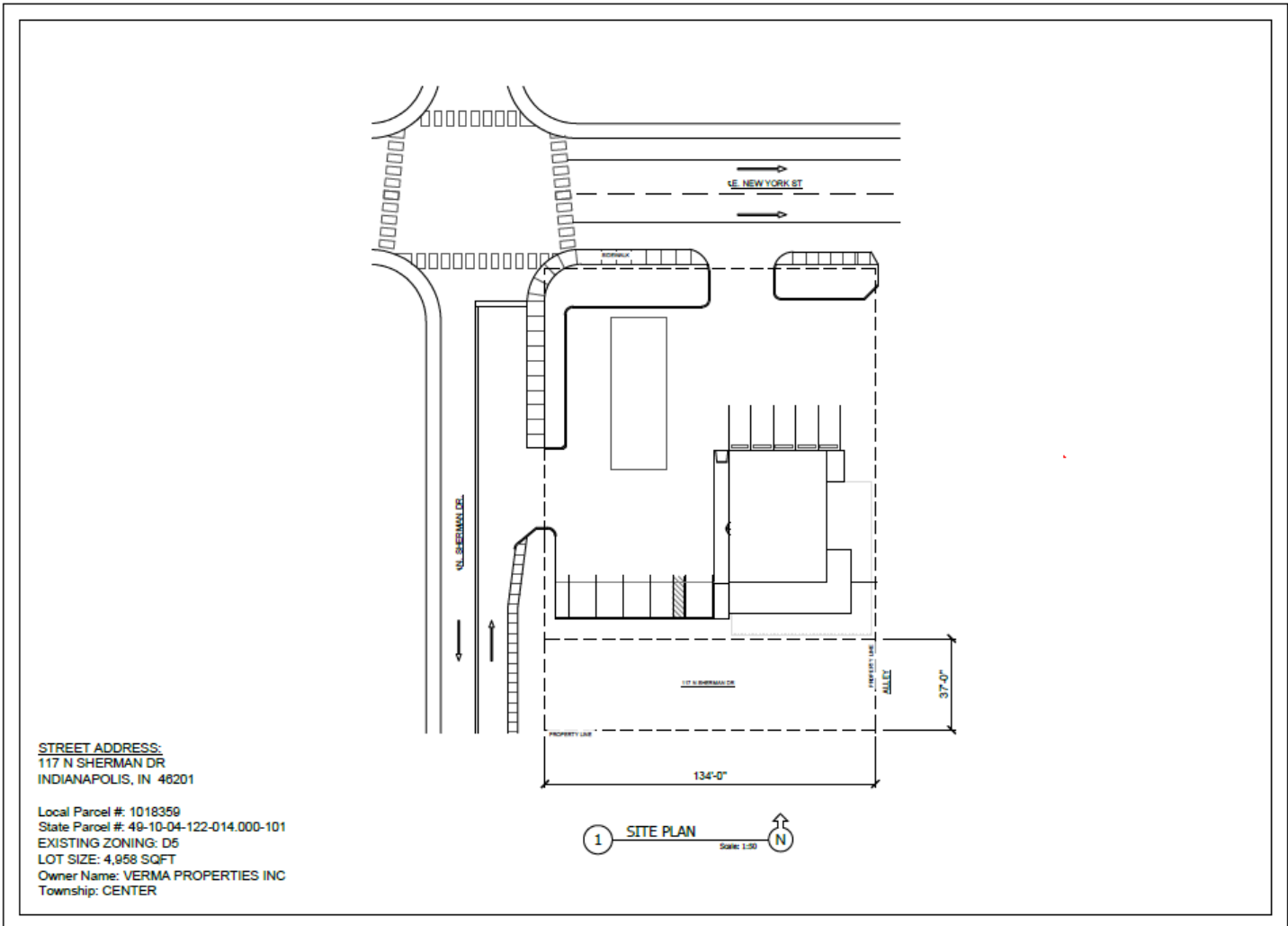
**87-Z-169; 3757 East New York Street** (northwest of site), Rezoning of 0.71 acre, being in the D-5 district, to the C-3 classification, to provide for retail use of an existing commercial building, **approved.**

**85-Z-146; 3801 East New York Street** (north of site), Rezoning 0.45 acre, from the D-5 district, to the C-3 classification, **approved.**

MI

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**STREET ADDRESS:**  
117 N SHERMAN DR  
INDIANAPOLIS, IN 46201

Local Parcel #: 1018359  
State Parcel #: 48-10-04-122-014.000-101  
EXISTING ZONING: D5  
LOT SIZE: 4,958 SQFT  
Owner Name: VERMA PROPERTIES INC  
Township: CENTER

1 SITE PLAN Scale: 1:50 N



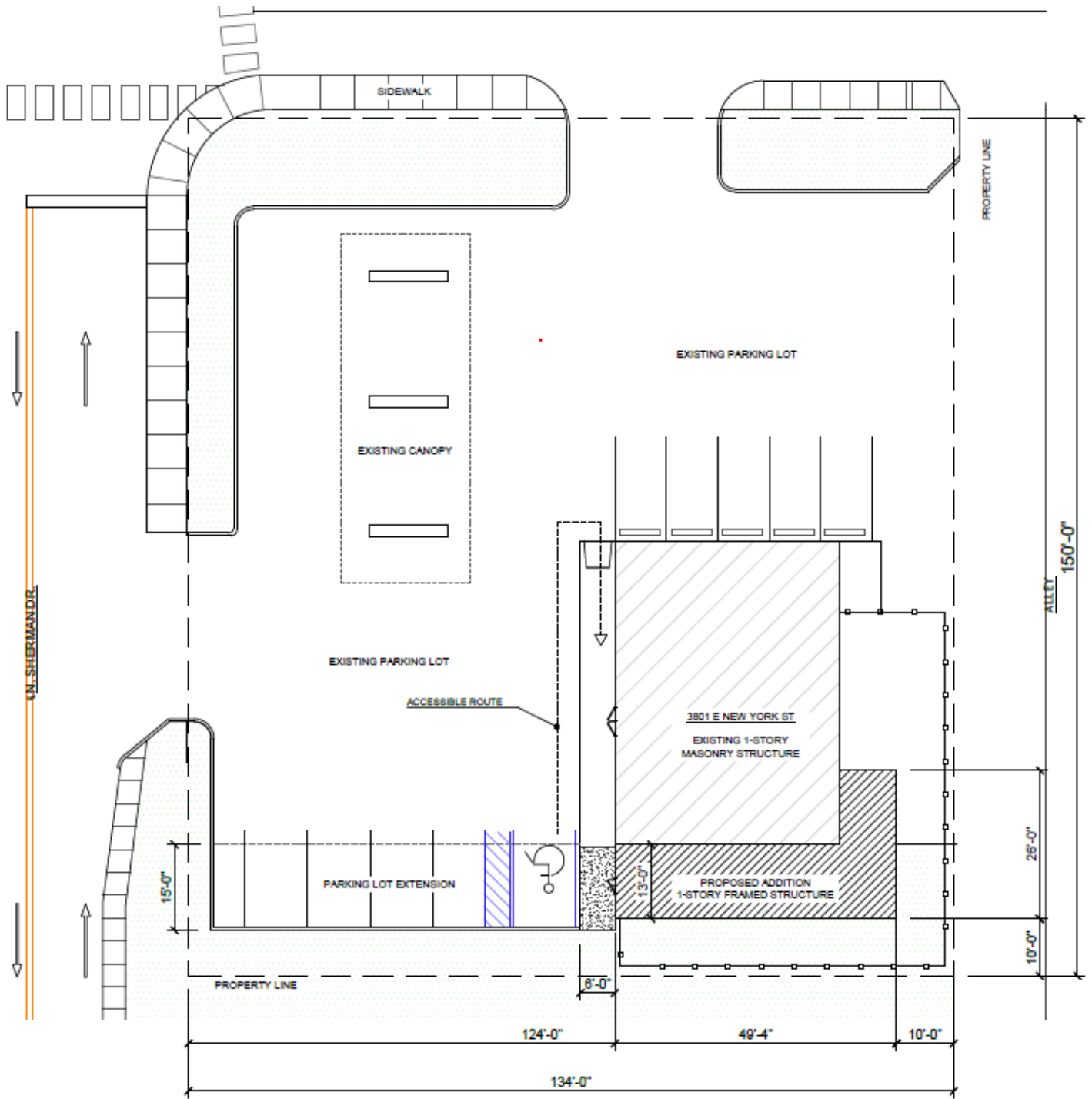




Photo of the Subject Property: 117 (119) North Sherman Drive



Photo of the gas station and convenience store to be expanded.



Photo of the existing convenience store north of the site.



Photo of the existing southern building façade.





Photo of the existing east building façade looking north.



Photo of the existing east building façade looking south.



Photo of the alley east of the site looking south.



Photo of the a single-family dwelling across the alley.



Photo of the undeveloped residential lot east of the site.



Photo of the vacant building north of the gas station.



Photo of the commercial building west of the gas station.



Photo of the vacant residential building west of the subject site.

## STAFF REPORT

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

**Case Number:** 2023-CZN-803 / 2023-CVR-803 (Amended)  
**Address:** 3601 North Kitley Avenue and 6535 Massachusetts Avenue  
*(Approximate Addresses)*  
**Location:** Warren Township, Council Districts #13  
**Petitioner:** Diego Diaz Huijon, by Joseph D. Calderon  
**Request:** Rezoning of 7.9 acres from the D-3 district to the C-S district to legally establish a commercial building contractor with outside storage, accessory uses related to the building contractor and two single-family dwellings with residential accessory uses.

**Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a front building setback of 338 feet from Massachusetts Avenue (65-foot maximum permitted) and outside storage with a zero-foot setback from the east and west property lines (10-foot transitional yard/side yard required).**

#### ADDENDUM FOR DECEMBER 14, 2023, HEARING EXAMINER

This companion petition was continued from the November 16, 2023, hearing to the December 14, 2023, hearing, due to inadequate legal notice. As of this writing, no new information has been submitted to the file.

#### NOVEMBER 16, 2023, HEARING EXAMINER

#### RECOMMENDATION

Staff **recommends approval** of this request, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. A tree preservation plan shall be submitted for Administrator's Approval, prior to the issuance of any Improvement Location Permit for this site. The plan shall include an inventory of existing trees and show how they relate to any proposed development. Any new development on the site shall preserve trees to the extent possible.

(Continued)

## **STAFF REPORT 2023-CZN-803 / 2023-CVR-803 (Continued)**

2. A site and development plan shall be required to obtain Administrator's Approval for use of 6535 Massachusetts Avenue, prior to the issuance of any Improvement Location Permit.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

- ◇ The site is four abutting parcels. The north parcel is undeveloped. The middle and south parcels are developed with two single-family dwellings, other structures, and a large storage yard for a contracting business. The dwellings date to the 1940s or early 1950s. The storage yard was established in 2017 in apparent violation of the Ordinance. The west parcel, which is the largest parcel at 4.9 acres, is used as a parking area. The requested uses, two, single-family dwellings and a fence contractor, are currently located only on the middle and south parcels.
- ◇ The Comprehensive Land Use Plan for Warren Township recommends the site for Suburban Neighborhood, which primarily provides for single-family residential development.
- ◇ This portion of Kitley Avenue is not a public right-of-way. It is unpaved and serves the subject site and five other parcels.

#### **ZONING**

- ◇ The site is currently zoned D-3, which is a zoning district that primarily provides for single-family dwellings.
- ◇ The request is for rezoning to the C-S district to provide for I-1 uses, two single-family dwellings and a fence contractor, with use of the large property to the west that would be subject to the review of a site and development plan through Administrator's Approval. This district provides for flexibility in land uses while maintaining adequate development controls. Petitioners must submit a customized list of permitted uses but must also submit a site plan.
- ◇ The request would not comply with the Comprehensive Land Use Plan. However, surrounding zoning districts, and uses include a wide mix of intensity, including single-family dwellings to outdoor storage of building materials. By requiring a review process for site and development plans, controls are placed on expansion of more intensive uses, therefore, staff recommends approval of this petition.

(Continued)

**STAFF REPORT 2023-CZN-803 / 2023-CVR-803 (Continued)**

**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ Variances of development standards are requested to provide for:
  - A front setback of the building of 338 feet from Massachusetts Avenue where a maximum of 65 feet is permitted
  - Outside storage with no setbacks from the east and west property lines where ten-foot transitional yards/side yards are required.
  
- ◇ Among other reasons, front setbacks are limited in order to create a lively and inviting streetscape and pedestrian experience. Because the developed parcels (middle and south parcels) are located 150 feet from a public street, the buildings on the middle and south parcels have a physical difficulty in meeting the requirement of the Ordinance.
  
- ◇ Transitional yards are buffer areas between uses of different intensities. They are located on the more-intense land use.
  
- ◇ In the case of this petition, a commercial zoning district would be sandwiched between dwelling districts to the east and west. The site plan indicates that the storage area would extend up to the property line to the east and the access road will run along the property line to the west. The site to the east, zoned residentially, is used for a commercial purpose, although in apparent violation of the Ordinance. The parcels to the west are zoned SU-1 and D-3, and used as a religious use, a single-family dwelling, and a Union Hall. North of the site is zoned D-3 and used residentially and south of the site is zoned I-2 and used for light industrial uses.

**GENERAL INFORMATION**

**EXISTING ZONING, CONTEXT AREA, AND LAND USE**

D-3	Compact	Single-family dwelling / fence contractor / parking area
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**SURROUNDING ZONING AND LAND USE**

North	D-3	Single-family dwelling / 4-bay garage / undeveloped land
South	I-2 / SU-1	Religious use / Light industrial
East	D-3	Paving and excavating contractor
West	D-3	Union Hall / Single-family dwelling / undeveloped land

**COMPREHENSIVE LAND USE PLAN**    The Warren Township Comprehensive Land Use Plan (2018) recommends Suburban Neighborhood.

(Continued)

**STAFF REPORT 2023-CZN-803 / 2023-CVR-803 (Continued)**

THOROUGHFARE PLAN	This portion of Kitley Avenue is a private street. As such, it is not classified in the Official Thoroughfare Plan for Marion County, Indiana.
FLOODWAY / FLOODWAY FRINGE	This site is not located within a floodway or floodway fringe.
WELLFIELD PROTECTION DISTRICT	This site is not located within a wellfield protection district.
STREAM PROTECTION CORRIDOR	This site is not located within a stream protection corridor.
SITE PLANS	File-dated October 10, 2023
FINDINGS OF FACT	File-dated October 10, 2023

**ZONING HISTORY – SITE**

None

**ZONING HISTORY - VICINITY**

**2022-CZN-857B; 3766 North Kitley Avenue and 6490, 6520 & 6522 Massachusetts Avenue (northwest of site)**, requested the rezoning of 8.3 acres from the I-2 (TOD) and D-3 (TOD) districts to the I-2 (TOD) district, **approved**.

**2022-CZN-857A / 2022-CVR-857; 3766 North Kitley Avenue (northwest of site)**, requested the rezoning of 6.6 acres from the I-2 (TOD) district to the I-4 (TOD) district and a variance of use to provide for a cement batching plant within 500 feet of a protected district, **approved**.

**2019-ZON-002; 3525 North Kitley Avenue (south of site)**, requested the rezoning of 4.9 acres from the D-3 district to the I-2 district, **approved**.

**2018-UV1-041; 3525 North Kitley Avenue (south of site)**, requested a variance of use to provide for outdoor storage, outdoor storage of commercial vehicles and an accessory building larger and taller than the primary structure, **withdrawn**.

**2018-UV1-038; 6629 Massachusetts Avenue (east of site)**, requested a variance of use to provide for outdoor storage and outdoor storage of commercial vehicles, **denied**.

(Continued)



**STAFF REPORT 2023-CZN-803 / 2023-CVR-803 (Continued)**

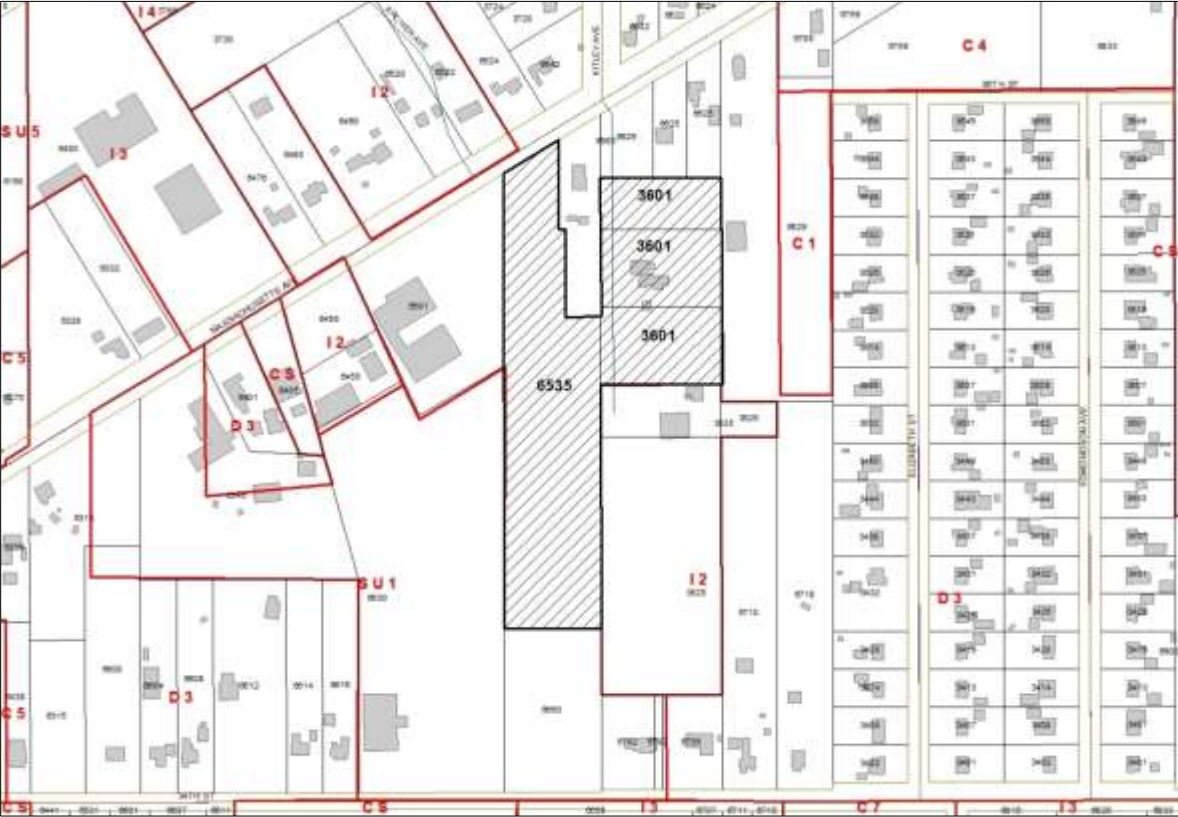
**93-UV2-109; 6629 Massachusetts Avenue (north of site)**, requested a variance of use to provide of a welding business in a dwelling district, **denied**.

**83-V2-21; 6580 Massachusetts Avenue (northwest of site)**, requested a variance of development standards to provide for an accessory structure larger than the primary structure, **denied**.

klh / JY

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**STAFF REPORT 2023-CZN-803 / 2023-CVR-803, Location map**



**Aerial Photography (2022)**



## **STAFF REPORT 2023-CZN-803 / 2023-CVR-803, Development Statement**

### **C-S Development Statement**

**Introduction:** Petitioner and Owner, Diego Diaz Huijon, seek to rezone approximately 3 acres of property commonly known as 3601 North Kitley Avenue and approximately 5.01 acres of property commonly known as 6535 Massachusetts Avenue (collectively, the “Subject Property”), as shown on the Concept Plan in order to legally establish the existing use of the Subject Property as both a residence and a contractor’s operation, whereby Petitioner may continue operating his company, Timber Ridge Fence Company. For purposes of providing clarity to this rezoning proposal, the fence company operates solely on 3601 North Kitley Avenue, and 6535 Massachusetts Avenue is only used as an accessory parking area. Expansion of the contracting operation onto the 6535 Massachusetts Avenue property may only occur following submittal of a new site plan for Administrator’s Approval as described below in “Phasing of Development”.

**Zoning:** The Subject Property is currently zoned D-3, as more particularly set forth in the City of Indianapolis Consolidated Zoning and Subdivision Ordinance (“Zoning Ordinance”).

**Permitted Uses.** Proposed Permitted Primary Uses of the Subject Property as described and defined in Chapter 743, Art II, Table 743-1 in the Zoning Ordinance shall be as follows:

- 1) Commercial/Building Contractor, including fence company
- 2) Two (2) single family residences

Permitted Accessory Uses of the Subject Property shall include all accessory uses permitted in the I-1 zoning district, for the existing Contractor’s use of the Subject Property; and all accessory uses permitted in the D-3 zoning district, for the existing residential use of the Subject Property.

**Development Standards:** Petitioner hereby incorporates the Lot and Building Dimensions for properties in the C-S zoning district set forth in Chapter 744; Art. II, Section 01.C, Table 744-201-3 of the Zoning Ordinance. Petitioner is filing a variance of development standards seeking relief from the maximum setback requirements from Kitley Avenue as well as a variance from the limitations on the amount of outside storage.

Landscaping plans are not yet fully developed as the site has not been fully engineered or site planned; however, the landscaping plans for each building or project phase shall be consistent with the Concept Plan tendered for Administrative Approval prior to obtaining an Improvement Location Permit.

**Signs:** The following sign types shall be permitted on the Subject Property:

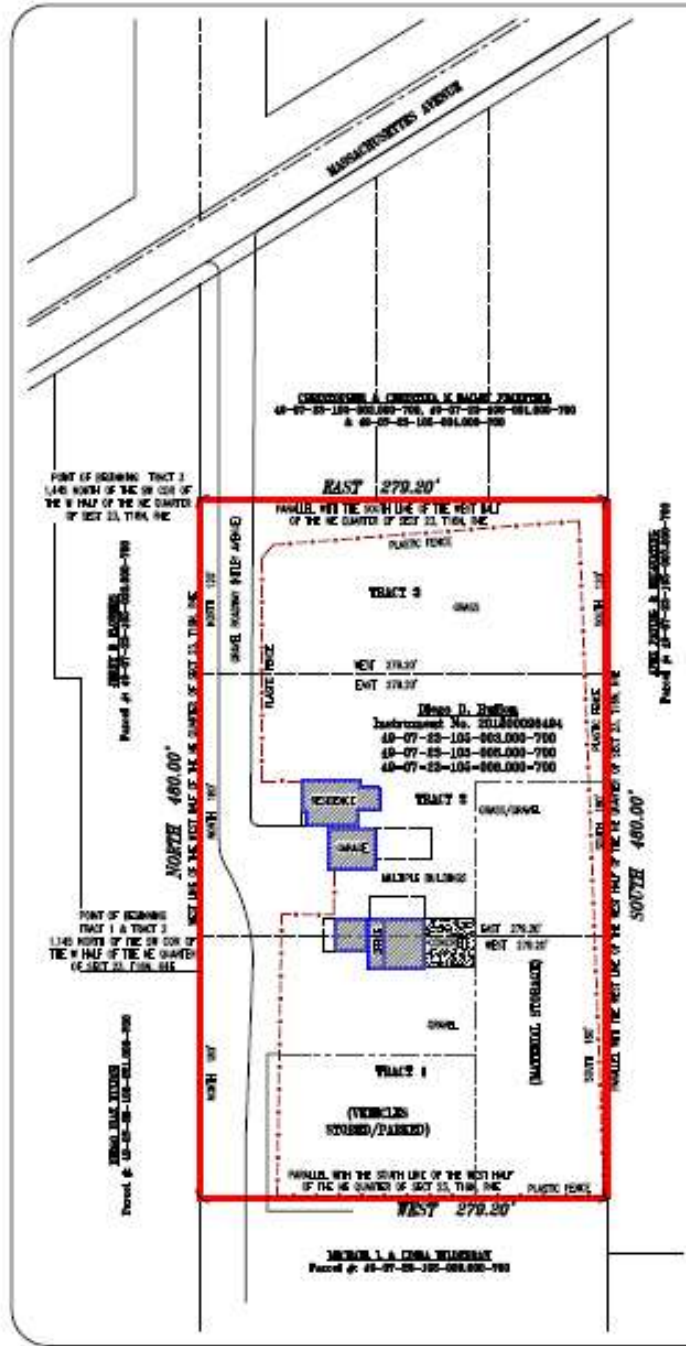
- 1) One (1) Ground Sign, not to exceed 32 square feet and non-illuminated at the entrance to the Subject Property
- 2) Incidental, Temporary, and Other Signs as would otherwise be permitted in a industrial zoning district

All signs shall meet the requirements for signs otherwise located in an Industrial zoning district.

#### **Phasing of Development:**

The Subject Property may be used as generally shown on the site plan submitted with the C-S Rezoning Petition and this C-S Development Statement (the “Existing Plan”); provided, however, prior to applying for an Improvement Location Permit required in conjunction with any new development or redevelopment of the Subject Property, a final site and development plan, consistent with the standards contained in this C-S Statement, shall be tendered for Administrator’s Approval.

**STAFF REPORT 2023-CZN-803 / 2023-CVR-803, Site Plan**



**SITE EXHIBIT**

DRAWING NO: 2-75065  
 DRAWN BY: R. STOHLER  
 CHECKED BY: D. SCOTTEN  
 ISSUE DATE: 06-23-2023

LEGEND:  
 303P736

SCALE 1" = 100'

ASSUMED NORTH

DAWN M. SCOTTEN  
 REGISTERED  
 No. S0510  
 STATE OF  
 OREGON  
 LAND SURVEYOR

*Dawn M. Scatten*

**STAFF REPORT 2023-CZN-803 / 2023-CVR-803, 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 operation is a small scale family business located on property which is secluded and adjacent to other commercial/industrial uses, is self-contained, and is not a high traffic generator.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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:

there is industrial existing use to the immediate south of the existing operation, another industrial use adjoining to the east, and significant separation of the proposed use from any residential use.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

the C-5 zoning district, as a planned district, also has certain strict development standards, which are incorporated with the notion that a C-5 designation may have industrial use including outside storage of materials. None of the parcels, which have been previously developed and used, have street frontage on Riley Avenue or are within 85 feet of Massachusetts Avenue.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DECISION**

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**STAFF REPORT 2023-CZN-802 / 2023-CVR-803, Photographs**



Looking south across the subject site.



Looking northwest across the site. I-465 is in the background.



Looking northeast across the subject site.



Looking north across site and Minnesota Street to the neighbor to the north.



Looking northeast across the subject site.



Looking north across site and Minnesota Street to the neighbor to the north.





Looking northeast across the subject site.



Looking north across site and Minnesota Street to the neighbor to the north.

## STAFF REPORT

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

**Case Number:** 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Amended)  
**Address:** 3838 East 46th Street (approximate address)  
**Location:** Washington Township, Council District #9  
**Petitioner:** Habitat for Humanity of Greater Indianapolis, Inc., by Chris Barnett  
**Requests:** Rezoning of 4.22 acres from the SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.

**Variance of Development Standards to provide for an access drive extending 34-feet into the Stream Protection Corridor of Devon Creek for a maximum length of 107 feet (100-foot Stream Protection Corridor Required) and a 68-foot front setback along 46<sup>th</sup> Street for property address 3860 East 46<sup>th</sup> Street (front building line range of 20 to 50 feet required).**

**Approval of a Subdivision Plat, to be known as Devon Creek, dividing 4.22-acres into ten single-family detached lots and one common area, including the vacation of an irregular portion of right-of-way at the northwest corner of the intersection of East 46th Street and Millersville Road containing 2,307.8 square feet, with a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.**

### ADDENDUM FOR DECEMBER 14, 2023 HEARING EXAMINER

This petition was continued from the November 9, 2023 hearing, to the December 14, 2023 hearing at the request of a staff to amend the request to include a vacation of the right-of-way request and allow sufficient time to provide new notices.

**Amendment:** The amendment included a vacation of right-of-way at the northwest corner of the intersection of East 46th Street and Millersville Road containing 2,307.8 square feet.

Staff determined that the section of street right-of-way to be vacated was not being utilized as a street since it is overgrown with grass and would not prevent safe passage at this intersection. Furthermore, the use of the proposed vacation would be in the public's best interest to ensure additional housing options can be developed.

For these reasons, staff is **recommending approval** of the request as amended.

(Continued)

**STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)**

**November 9, 2023**

**RECOMMENDATIONS**

Staff recommends **approval of the rezoning** petition.

Staff recommends **approval of the variance of development standards** petition.

Staff recommends that the Hearing Examiner **approve** and find that the plat, file-dated October 3, 2023, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. That the applicant provides a bond, as required by Section 741-210, of the Consolidated Zoning and Subdivision Ordinance.
2. Subject to the Standards and Specifications of the Department of Public Works, Sanitation Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
4. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
5. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat, prior to recording.
6. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
7. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
8. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
9. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat, prior to recording.
10. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted, prior to recording the final plat.
11. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance are met, prior to the recording of the final plat.
12. That the final plat or covenants shall include who will be responsible for maintenance and upkeep of the common area.

(Continued)

## **STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)**

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

- ◇ The subject site is comprised of an undeveloped parcel that is zoned SU-1. It is bordered to the north, west, and east by a sports club and associated wooded land, zoned SU-34, and across 46<sup>th</sup> street to the south by single-family dwellings, zoned D-2.
- ◇ This petition would subdivide the property into ten single-family detached lots and one common area with a partial waiver of sidewalks and associated variance of development standards.

#### **REZONING**

- ◇ This petition would rezone this site from SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.
- ◇ The SU-1 district only permits religious uses to be developed on site.
- ◇ The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends 3.5 to 5 residential units per acre development, which would be permitted in the proposed D-5 district.

#### **FLOODWAY / FLOODWAY FRINGE**

- ◇ The subject site lies within the floodway and floodway fringe of Devon Creek and is subject to the Flood Control Secondary Zoning Districts regulations.

#### **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ This petition would provide for an access drive extending 34 feet into the 100-foot Stream Protection Corridor of Devon Creek for a maximum length of 107 feet. Early in the planning phase of the development Planning Staff and the Department of Public Works recommended that rear access be provided for the proposed lots since it was determined that the encroachment into the stream protection corridor would be minimal and would prevent the alternative of unnecessary curb cuts along 46<sup>th</sup> Street.

(Continued)

**STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)**

- ◇ This petition would also provide for a 68-foot front setback along 46<sup>th</sup> Street for property address 3860 East 46<sup>th</sup> Street where a front building line range of 20 to 50 feet is required. Due to the anticipated access easement along the eastern property boundary, the proposed location of the single-family dwelling was pushed back to meet the front setback along Millersville Road.

**PLAT**

- ◇ The plat would subdivide the subject site into ten single-family detached lots and one common area. The proposed plat meets the standards of the D-5 (FW) (FF) zoning classification as proposed in the companion rezoning except for the 68-foot front setback along 46<sup>th</sup> Street for property address 3860 East 46<sup>th</sup> Street as proposed in the companion variance petition.
- ◇ The request includes a partial waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.
- ◇ Staff is requesting a commitment to ensure that the final plat or covenants note who will be responsible for maintenance and upkeep of the common area.

**TRAFFIC / STREETS**

- ◇ The proposed lots would front on 46<sup>th</sup> Street with a 34-foot-wide access easement along the northern property boundaries of the ten lots that wraps around to Millersville Road. No new streets are proposed as part of this petition.

**SIDEWALKS**

- ◇ Sidewalks are required on 46<sup>th</sup> Street and Millersville Road.
- ◇ This petition includes a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road. The Department of Public Works determined that the waiver is necessary due to the limited space between the guard rail and pavement to install a proper sidewalk. Additionally, the location of the creek and its topography creates a practical difficulty for the development of a sidewalk along the 65-foot stretch that the waiver is being requested for.

**GENERAL INFORMATION**

**EXISTING ZONING, CONTEXT AREA, AND LAND USE**

SU-1	Metro	Undeveloped
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**SURROUNDING ZONING AND LAND USE**

North	SU-34	Sports Club
South	D-2	Residential (Single-family dwellings)
East	SU-34	Undeveloped
West	SU-34	Undeveloped

(Continued)

**STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)**

NEIGHBORHOOD PLAN	The Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends 3.5 to 5 residential units per acre development.
THOROUGHFARE PLAN	Millersville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 107-foot existing and a 102-foot proposed right-of-way.
THOROUGHFARE PLAN	46th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.
SITE PLAN	File-dated October 3, 2023.
VACATION SITE PLAN	File-dated November 9, 2023.
PRELIMINARY PLAT	File-dated October 3, 2023.
FINDINGS OF FACT	File-dated October 3, 2023.
VACATION FINDINGS OF FACT	File-dated November 9, 2023.

**ZONING HISTORY – SITE**

## EXISTING VIOLATIONS

None.

## PREVIOUS CASES

**98-Z-200; 4602 Millersville Road** (subject site), Rezoning of 4.223 acres, being in the SU-34 District, to the SU-1 classification to provide for a religious use, **approved**.

**92-Z-86; 4650 Millersville Road** (subject site), Rezoning of 70 acres, being in the SU-34 District, to the D-P classification to provide for two-family development, **denied**.

**83-Z-188; 4650 Millersville Road** (subject site), Rezoning of 70 acres, being in the SU-34 District, to the D-6 classification to provide for multi-family development, **withdrawn**.

(Continued)

**STAFF REPORT 2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859 (Continued)****ZONING HISTORY – VICINITY**

**94-Z-57; 4650 Millersville Road** (north of site), Rezoning of 49.897 acres, being in the SU-34 District, to the D-P classification to provide for residential development in the floodway fringe, **approved.**

**90-Z-199; 4221-4231 East 46<sup>th</sup> Street** (southeast of site), Rezoning of 2.01 acres from the SU-34/FP/FF District to the D-2/FP/FW classification to provide for a single-family dwelling, **approved.**

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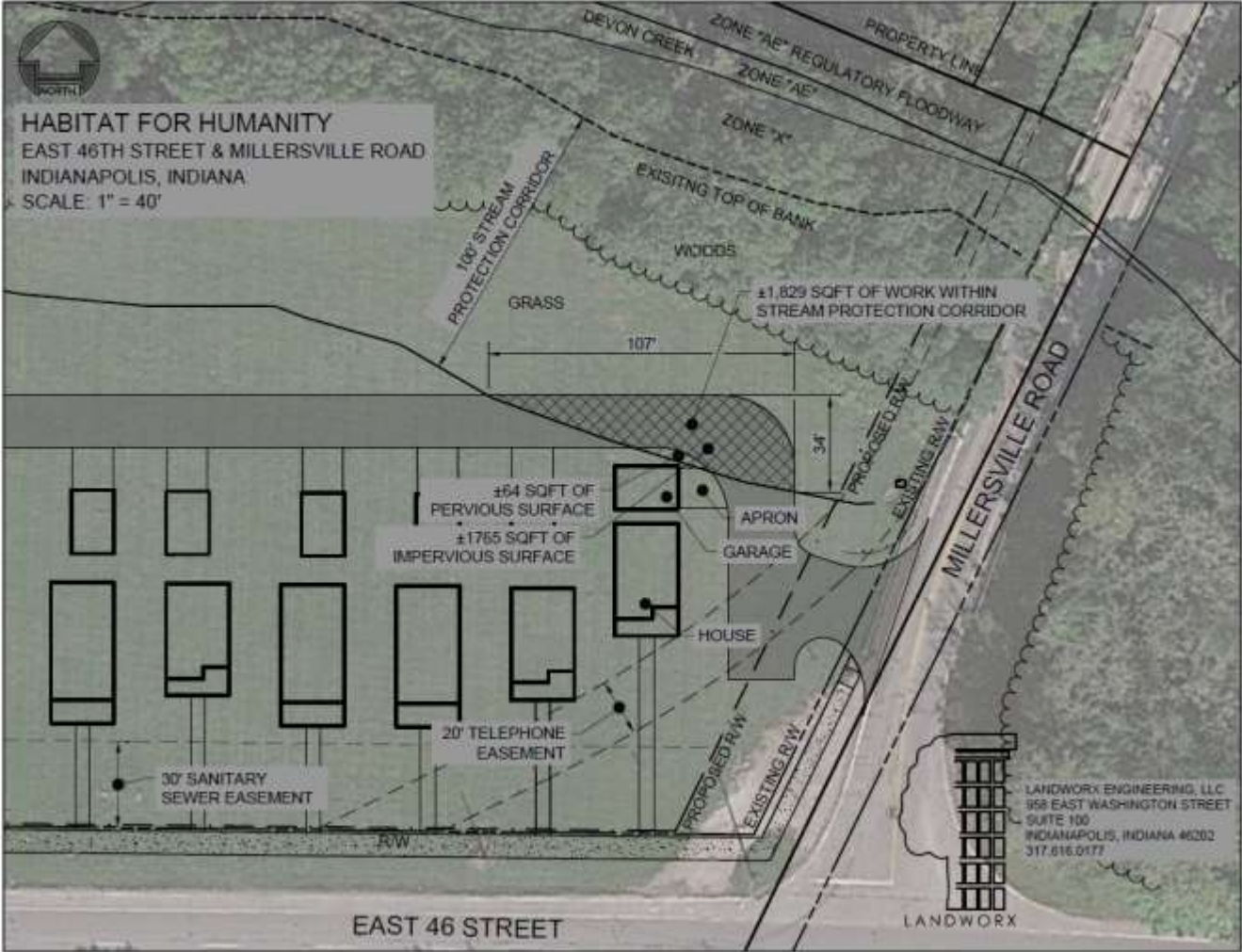
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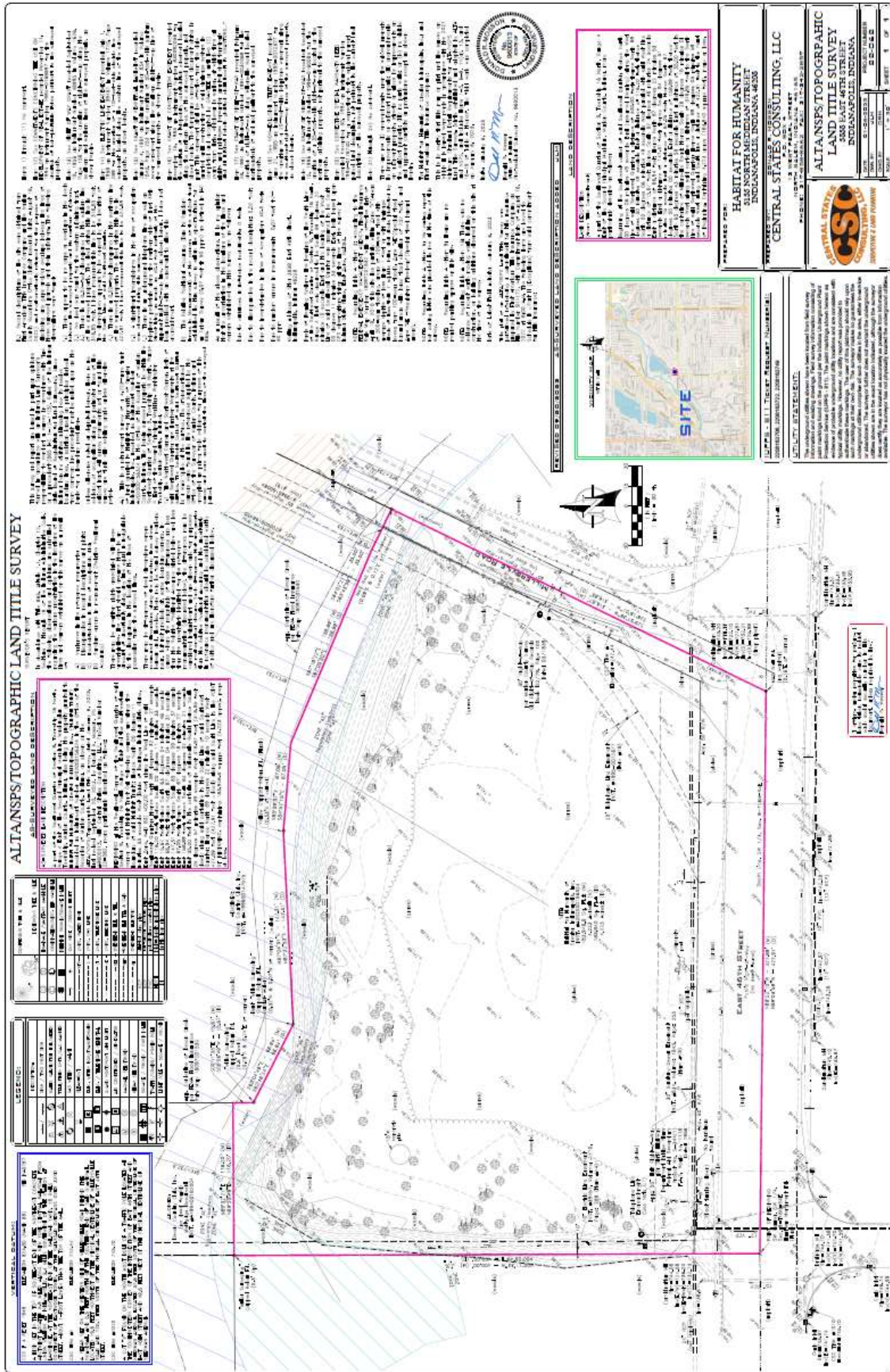




**2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Stream Protection Encroachment**

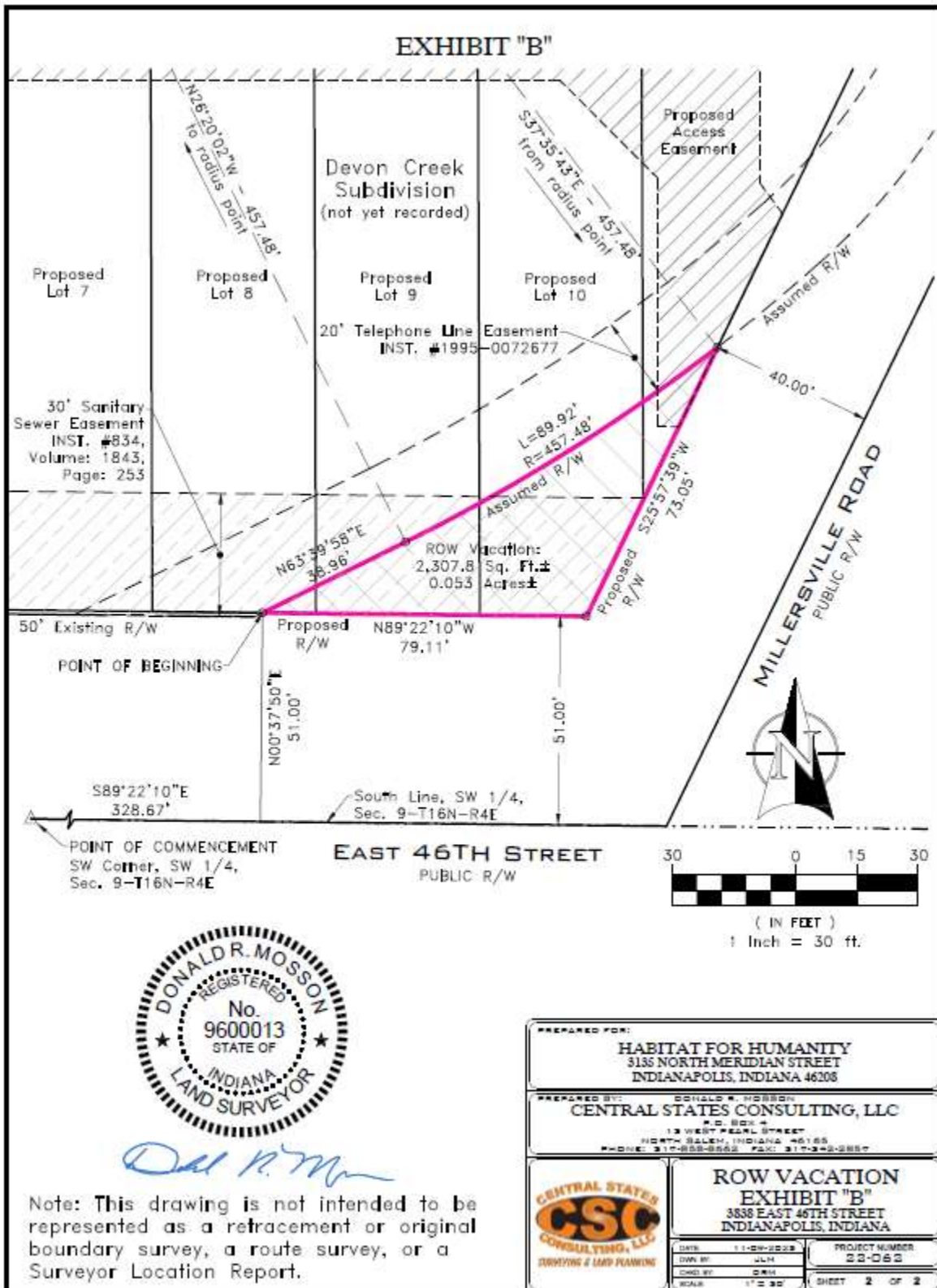


2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Survey





**2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Right-of-way Vacation**



*Donald R. Mosson*

Note: This drawing is not intended to be represented as a retracement or original boundary survey, a route survey, or a Surveyor Location Report.

PREPARED FOR: <b>HABITAT FOR HUMANITY</b> 3135 NORTH MERIDIAN STREET INDIANAPOLIS, INDIANA 46208	
PREPARED BY: DONALD R. MOSSON <b>CENTRAL STATES CONSULTING, LLC</b> P.O. BOX 4 13 WEST PEARL STREET NORTH SALEM, INDIANA 46166 PHONE: 317-888-8868 FAX: 317-888-2887	
<b>CENTRAL STATES CONSULTING, LLC</b> SURVEYING & LAND PLANNING	
<b>ROW VACATION EXHIBIT "B"</b> 3838 EAST 46TH STREET INDIANAPOLIS, INDIANA	
DATE: 11-29-2023 DWN BY: JLH CWD BY: DMH SCALE: 1" = 30'	PROJECT NUMBER: 22-062 SHEET: 2 OF 2

**2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Findings of Fact**

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division [redacted]  
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 intrusion into the Stream Protection Corridor is minimal and necessary to support development of this otherwise difficult-to-develop parcel as per the Area Plan recommendation (3.5-5 dwelling units per acre).

[Redacted area]

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 minimal intrusion into the Stream Protection Corridor will not remove tree cover along the stream, nor will it exacerbate runoff or flooding downstream of the subject property.

[Redacted area]

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

such terms would prevent the required rear access to the property when development is configured to meet other terms of the zoning ordinance that are required to implement the residential use and density recommended by the Area Plan. An additional complicating factor is a pre-existing easement in favor of AT&T which takes so much space at the corner of E. 46th and Millersville that it pushes building sites at the east end of the property so far back that the access drive must of necessity intrude into the Stream Protection Corridor.

[Redacted area]

**2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Findings of Fact**

**METROPOLITAN DEVELOPMENT COMMISSION  
PLAT COMMITTEE  
HEARING EXAMINER  
OF MARION COUNTY, INDIANA**

**WAIVER OF THE SUBDIVISION REGULATIONS  
FINDINGS OF FACT**

1. The granting of the waiver or modification will not be detrimental to the public health, safety, or welfare or injurious to other property because:

There is currently no sidewalk along Millersville Road in its entire length between 46th Street and Emerson Way. The subdivision plan proposes to provide such a sidewalk along most of the development's Millersville Road frontage.

2. The conditions upon which the request is based are individual to the property for which the relief is sought and are not applicable generally to other property because:

There is not sufficient width between guard rail and pavement at this specific location, nor is there a sidewalk on the Millersville Road bridge over Devon Creek (adjacent to the subject development to the north) to which a public sidewalk on the subdivision site could be connected.

3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out:

There is not sufficient width between guard rail and pavement at this specific location to install a regulation sidewalk, and the topography of the site would not allow the guardrail to be moved far enough away from the pavement edge to accommodate a sidewalk.

4. The resulting subdivision fulfills the purpose and intent of these regulations at an equal or higher standard than what would have been possible without the deviation because:

The subdivision plan provides public sidewalk along the rest of its frontage, which could be connected to a new sidewalk on the Millersville Road bridge over Devon Creek should Indianapolis DPW ever redesign and rebuild the bridge to accommodate a pedestrian way.

5. The relief sought shall not in any manner vary from the provisions of the Zoning Ordinance, or official zoning base maps, except as those documents may be amended in the manner prescribed by law because:

there exists local and practical difficulty in compliance with the regulation.

**2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Findings of Fact**

Petition Number \_\_\_\_\_

**METROPOLITAN DEVELOPMENT COMMISSION  
PLAT COMMITTEE  
HEARING EXAMINER  
OF MARION COUNTY, INDIANA**

**PETITION FOR VACATION OF A PUBLIC WAY, EASEMENT OR PUBLIC PLACE**

**FINDINGS OF FACT**

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:  
The former roadway, "old Millersville Road", was abandoned by Marion County in 1956, has been unused and un-maintained since then, and it should be reunited with the adjoining Greater Indy Habitat parcel to support use of the (previously undeveloped) adjoining land for affordable housing development.

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**DECISION**

IT IS THEREFORE the decision of this body that this VACATION petition is APPROVED, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_



**2023-CZN-859 / 2023-CVR-859 / 2023-CPL-859; Site Photos**



Photo of the street frontage looking west along 46<sup>th</sup> Street.



Photo of the subject site looking northwest from 46<sup>th</sup> Street.



Photo of the subject site looking north from 46th Street.



Photo of the subject site looking northeast from 46<sup>th</sup> Street.



Photo of the street frontage looking east along 46th Street.



Photo of the entire southern street frontage.



Photo of the eastern street frontage looking north on Millersville Road.



Photo of the eastern street frontage looking south on Millersville Road.



Photo looking west towards where the access easement would be proposed.



Photo looking south at Devon Creek located along the northern property boundary.



Photo of the driveway north of the site that leads toward the sports club.



Photo of single-family dwellings north of the sports club driveway.

## STAFF REPORT

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

**Case Number:** 2023-ZON-107  
**Address:** 2831 East 38<sup>th</sup> Street (*Approximate Address*)  
**Location:** Center Township, Council District #9  
**Petitioner:** Kourain Burgers, LLC, by Joseph D. Calderon  
**Request:** Rezoning of 0.683 acre from the D-5 (TOD) district to the C-3 (TOD) district to provide for a restaurant.

### RECOMMENDATIONS

Staff **recommends approval** of this request subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

Approval shall be subject to the elimination of the northern most driveway entrance along Oxford Street and the installation of a sidewalk within one year.

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The 0.683-acre site is developed with a restaurant, drive-through, and associated parking area.
- ◇ The site is bordered to the north by a restaurant, zoned C-4, to the east by a gas station, zoned C-4, to the west by an office building, zoned C-4, and to the south by a single-family dwelling, zoned D-5.

#### REZONING

- ◇ The request would rezone the property to allow the operation of a restaurant on site since it is not permitted in the dwelling district.
- ◇ The site is zoned D-5, which is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.

(Continued)

- ◇ The C-3 District is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.
- ◇ The Comprehensive Plan recommends community commercial development for the site. The Community Commercial typology provides for low intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.
- ◇ The site has historically been used for commercial purposes since at least 1972 according to historic aerial images that depicts two buildings surrounded by a large parking area. Additionally, a variance of use (74-UV2-66) issued in 1974 allowed for the alteration of an existing restaurant.
- ◇ The site is located within the Purple Line TOD Strategic Plan and is located within the Transit Oriented Development Secondary Zoning District. It falls within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove the use included in this request.
- ◇ The closest station to the site is located at the northeast intersection of the site at 38<sup>th</sup> Street and Meadows drive. This station is categorized as a District Center with the potential for a dense mixed-use hub for multiple neighborhoods with tall buildings, minimum of 3 stories with no front or side setbacks, multi-family housing with a minimum of 5 units and structured parking only with active first floor.

**Staff Analysis**

- ◇ The rezoning request would allow for the continued use of the site as a restaurant on a correctly zoned C-3 district instead of the use historically operating in a dwelling district.
- ◇ Because the C-3 district would not negatively affect the surrounding commercial properties or the single-family dwelling to the south that has historically bordered a commercial use, staff is supportive of the request.
- ◇ Furthermore, the rezoning would align with the community commercial recommendation of the Comprehensive Plan.

(Continued)



◇ The site plan notes that one of the existing driveway entrances on to the site will not be utilized and staff's site visit confirmed that it is blocked off. Therefore, Staff's approval shall be subject to the commitment that the northern most driveway entrance along Oxford Street be eliminated and replaced with a sidewalk so that pedestrians can safely access the future Purple Line Station.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

D-5                      Compact      Restaurant

**SURROUNDING ZONING AND LAND USE**

North                  C-4                  Fast-food restaurant)  
South                  D-5                  Residential (Single-family dwelling)  
East                    C-4                  Gas Station  
West                    C-4                  Office

**COMPREHENSIVE PLAN**

The Comprehensive Plan recommends community commercial development.

**THOROUGHFARE PLAN**

38<sup>th</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with an 89-foot existing right-of-way and an 88-foot proposed right-of-way.

**THOROUGHFARE PLAN**

Oxford Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 50-foot existing right-of-way and a 56-foot proposed right-of-way.

**FLOODWAY / FLOODWAY FRINGE**

This site is not located within a floodway or floodway fringe.

**WELLFIELD PROTECTION DISTRICT**

This site is not located within a wellfield protection district.

**ZONING HISTORY – SITE**

**EXISTING VIOLATIONS**

None.

**PREVIOUS CASES**

**97-Z-103; 2831 East 38<sup>th</sup> Street** (subject site), Rezoning of 0.7 acre from D-5 to C-3, **approved – decision letter never issued due to the lack of finalized commitments.**

**74-UV2-66; 2831 East 38<sup>th</sup> Street** (subject site), Variance of use, setback and Development Standards to permit alteration of existing restaurant, with pole and wall signs, as per plans filed, off-street parking provided, **granted.**

**ZONING HISTORY – VICINITY**

**2013-UV2-024; 2947 East 38<sup>th</sup> Street** (east of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for a beauty and barber salon, with retail sales (not permitted), **granted.**

**2010-ZON-042; 3801-4005 Meadows Drive, 3805-3806 Dearborn Street** (northeast of site), Rezoning of 101.9 acres, from the D-8 (W-5), D-9 (W-5), SU-2 (W-5), C-4 (W-5) and C-S (W-5) Districts, to the D-P (W-5) classification to provide for: a) single-family, two-family and multi-family residential uses, b) commercial uses permitted within the C-1, C-3 and C-4 Districts, c) special and institutional uses permitted within the SU-1, SU-2, SU-6, SU-7, SU-9, SU-37, SU-38, SU-39 Districts, d) mixed-use areas of residential and commercial in the same building as well as Live/work units, including light manufacturing and assembly and residential, commercial and institutional uses within the same building and e) uses permitted within the SU-3 and SU-9 Districts and agricultural uses, including a community garden and the sale of products produced therein, **approved.**

**2009-ZON-062; 2901 East 38<sup>th</sup> Street** (east of site), Rezoning of 0.755 acre, from the D-5 (W-5) District to the C-4 (W-5) classification to provide for community-regional commercial uses, **approved.**

**94-Z-175; 2947 East 38<sup>th</sup> Street** (east of site), Rezone 0.22 acre, being in the D-5 District, to the C-3 classification to provide for hair styling shop, **approved.**

**89-UV1-25; 2809 East 38<sup>th</sup> Street** (west of site), Variance of use and development standards of the Commercial Zoning Ordinance to provide for the outdoor display, sale, and repair of automobiles within the required front setback along Rural Street, and without the required transitional yard landscaping, **granted.**

**86-UV2-31; 2948 East 39<sup>th</sup> Street** (east of site); Variance of use of the Dwelling Districts Zoning Ordinance to provide for use of the dwelling as a beauty salon, **granted.**

**75-UV2-114; 2901 East 38<sup>th</sup> Street** (east of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to remodel existing gasoline station; erect kiosk, service building, canopy, signage, and six-foot fence, **granted.**

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<p><b>STATE GOVERNMENT REGULATION</b></p> <p>WE HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.</p> <p><b>MORAL CHARACTER</b></p> <p>WE HEREBY CERTIFY THAT WE ARE OF GOOD MORAL CHARACTER AND ARE NOT UNDER ANY PROSECUTION OR PENDING LITIGATION THAT MIGHT IMPAIR OUR ABILITY TO PERFORM THE DUTIES OF OUR OFFICE.</p>	<p><b>ZONING DATA</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>PROJECT NAME</td> <td>2023-ZON-107</td> </tr> <tr> <td>PROJECT ADDRESS</td> <td>10000 W. 100th St., Overland Park, KS 66207</td> </tr> <tr> <td>PROJECT TYPE</td> <td>COMMERCIAL</td> </tr> <tr> <td>PROJECT DATE</td> <td>10/20/2023</td> </tr> <tr> <td>PROJECT OWNER</td> <td>AMERICAN EXPRESS</td> </tr> <tr> <td>PROJECT CONTACT</td> <td>AMERICAN EXPRESS</td> </tr> <tr> <td>PROJECT PHONE</td> <td>913.241.1000</td> </tr> <tr> <td>PROJECT FAX</td> <td>913.241.1000</td> </tr> <tr> <td>PROJECT EMAIL</td> <td>AMERICAN EXPRESS</td> </tr> </table>	PROJECT NAME	2023-ZON-107	PROJECT ADDRESS	10000 W. 100th St., Overland Park, KS 66207	PROJECT TYPE	COMMERCIAL	PROJECT DATE	10/20/2023	PROJECT OWNER	AMERICAN EXPRESS	PROJECT CONTACT	AMERICAN EXPRESS	PROJECT PHONE	913.241.1000	PROJECT FAX	913.241.1000	PROJECT EMAIL	AMERICAN EXPRESS		<p><b>PROPERTY MAP</b></p> <p>SECTION 1 OF 1</p> <p><b>LAND AREA</b></p> <p>0.15 AC</p> <p><b>PAVING</b></p> <p>0.15 AC</p>
PROJECT NAME	2023-ZON-107																				
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Photo of the Subject Property: **2831 East 38<sup>th</sup> Street**



Photo of the street frontage along **38<sup>th</sup> Street**.



Photo of the eastern side of the property looking south.



Photo of the western parking area of the site looking south.





Photo of the northern most driveway that staff requests be closed off with a sidewalk installed.



Photo of the rear parking area abutting the alley.



Photo of the office building west of the site.



Photo of the restaurant north of the site.



Photo of the gas station east of the site.



Photo of the single-family dwelling south of the site.

## STAFF REPORT

Item 17.

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

**Case Number:** 2023-ZON-108  
**Address:** 1102 East Stop 11 Road (*Approximate Address*)  
**Location:** Perry Township, Council District #24  
**Petitioner:** SIDHU 13, LLC, by Joseph D. Calderon  
**Request:** Rezoning of 2.67 acres from the C-S district to the C-3 district to provide for neighborhood commercial uses.

### RECOMMENDATIONS

Staff **recommends approval** of this request, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.
2. A 45-foot half right-of-way shall be dedicated along the frontage of Shelby Street and a 56-foot half right-of-way along frontage of East Stop 11 Road as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of final approval and prior to the issuance of an Improvement Location Permit (ILP).

### SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

### **LAND USE**

- ◇ This 2.67-acre site, zoned C-S, is commercially developed, with associated parking areas. It is surrounded by commercial uses to the north, zoned C-3; commercial uses to the south across East Stop 11 Road, zoned C-1 and C-4; commercial uses to the east, zoned C-4; and a special use to the west across Shelby Street, zoned SU-38 (community center - Baxter Y).
- ◇ Petitions 2003-ZON-133 rezoned the site from the C-1 district to the C-S classification to provide for several specific uses. Petition 2017-ZON-039 provided for additional uses.

(Continued)

**REZONING**

- ◇ This request would rezone the site from the C-S District to the C-3 (neighborhood commercial district) classification. “The C-3 District is for the development of an extensive range of retail sales and personal, professional and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail and personal and professional service establishments. At this neighborhood scale of retail, a fine- grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters.

It does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions

- ◇ The Comprehensive Plan recommends community commercial typology. “The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

*Conditions for All Land Use Types*

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.

*Large-Scale Offices, Retailing, and Personal or Professional Services (defined as commercial uses with minimal outdoor operations, storage, or display on lots of more than 1.5 acres and a height of more than 35 feet.)*

- Should be located along an arterial street.
- Outdoor display of merchandise should be limited.
- If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
- If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
- Should be no larger than 25 acres with 125,000 square feet of floor space and no more than three out lots.

(Continued)

**Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 45-foot half right-of-way along Shelby Street and a 56-foot half right-of-way along East Stop 11 Road. This dedication would also be consistent with the Marion County Thoroughfare Plan.
- ◇ Staff would note that commitments related to petition 2017-ZON-039 requested dedication of right-of-way along Shelby Street but staff was unable to determine whether the dedication had been recorded.

**Environmental Public Nuisances**

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
  1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
  2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
  3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
  4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

(Continued)

**Planning Analysis**

- ◇ The request would be consistent with the Comprehensive Plan recommendation of community commercial, as well as existing uses on this site.
- ◇ The rezoning would also eliminate several uses that would not be appropriate for this site, including outdoor storage. The permitted uses in the C-3 district would be compatible with those existing uses as well as the uses in the surrounding area.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

C-S Commercial uses / parking areas

**SURROUNDING ZONING AND LAND USE**

North -	C-3	Commercial uses
South -	C-1 / C-4	Commercial office uses
East -	C-4	Commercial uses
West -	SU-38	Family Center (Baxter Y)

**COMPREHENSIVE PLAN**

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends community commercial typology. Marion County Land Use Pattern Book (2019).

**THOROUGHFARE PLAN**

This portion of East Stop 11 Road is designated in the Marion County Thoroughfare Plan as a secondary arterial, with an existing 100-foot right-of-way and a proposed 112-foot right-of-way.

This portion of Shelby Street is designated in the Marion County Thoroughfare Plan as a primary collector with an existing 50-foot right-of-way and a proposed 90-foot right-of-way.

**CONTEXT AREA**

This site is located within the metro context area.

**OVERLAY**

This site is not located within an overlay.

**SITE PLAN**

File-dated November 9, 2023

(Continued)

**ZONING HISTORY**

**2017-ZON-039; 1102 East Stop 11 Road**, requested rezoning of 2.7 acres from the C-S district to the C-S classification to provide for the construction of two additional buildings, and to provide for general retail uses and drive-through uses, in addition to the uses approved by Petition 2003-ZON-133, **approved**.

**2003-ZON-133; 1102 East Stop 11 Road**, requested rezoning of 2.61 acre, from the C-1 District to the C-S classification to provide for C-1 uses and certain C-3, C-4, and C-5 uses, including restaurants, furniture stores, automobiles leasing and detailing, motorcycle sales and service and a caterer, **approved**.

**VICINITY**

**2015-UV2-041; 1121 East Stop 11 Road (south of site)**, requested a variance of use of the Commercial Zoning Ordinance to provide for used automobile sales, **denied**.

**2007-UV2-020; 1240 East Stop 11 Road (east of site)**, requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the sale, rental and leasing of automobiles and to provide for 4,230 square feet of non-accessory outdoor display areas not located adjacent to a building, **granted**.

**2003-ZON-137; 8003 South U.S. 31 (east of site)**, requested rezoning of 1.14 acres, from the C-4 District to the C-5 classification to provide for automobile sales, **approved**.

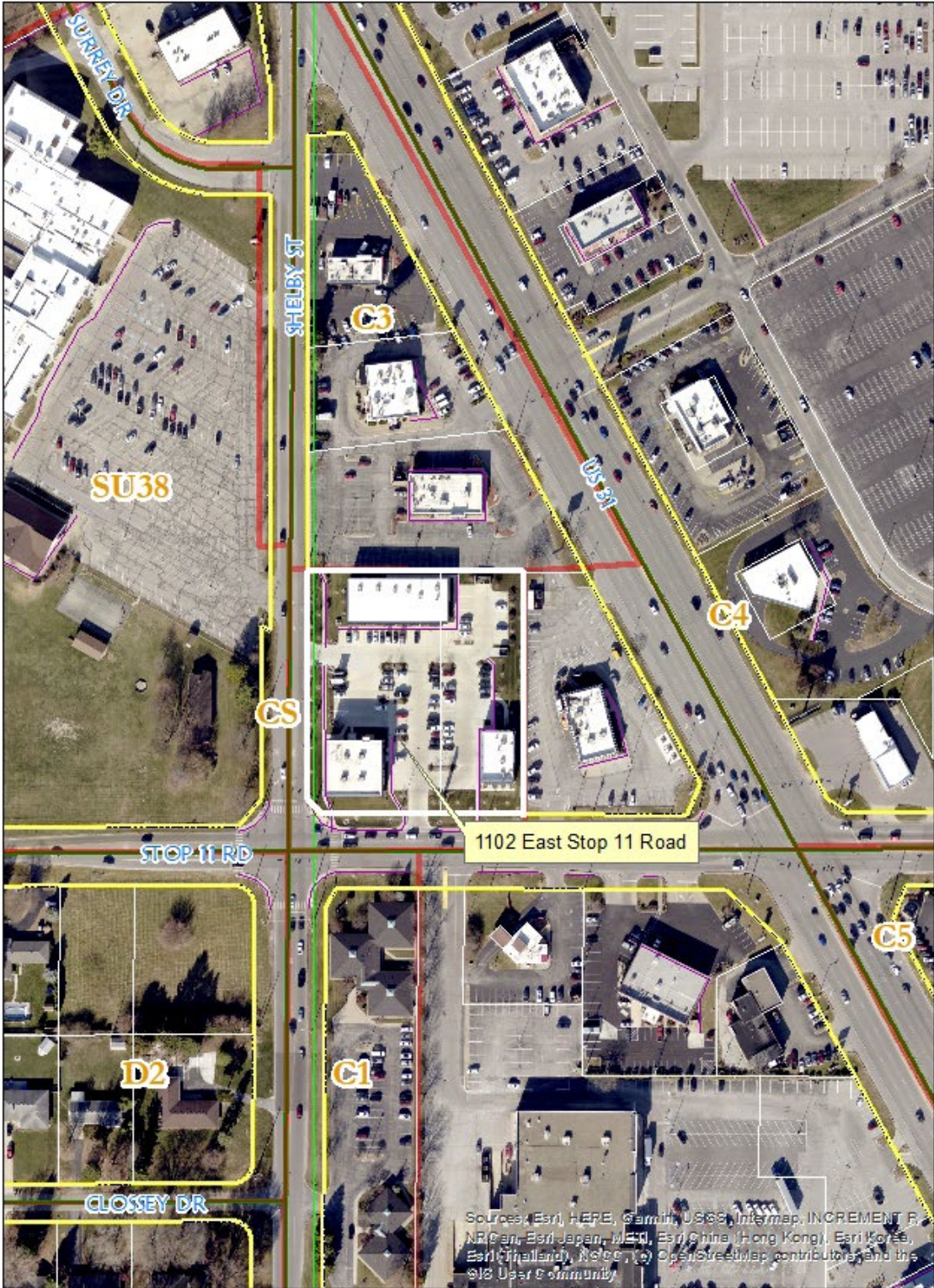
**2000-ZON-035; 8125 South U.S. 31 (east of site)**, requested rezoning of 1.35 acres from the C-3 District to the C-4 classification to provide for commercial retail uses, **approved**.

**97-UV2-5; 7916 Shelby Street (west of site)**, requested a variance of use of the special Districts Zoning Ordinance to provide for an 80-foot tall wireless communication facility, **granted**.

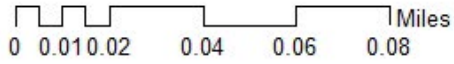
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1102 East Stop 11 Road







View looking east along East Stop 11 Road



View looking west along East Stop 11 Road



View looking north along Shelby Street



View looking south along Shelby Street



View of site looking north across East Stop 11 Road



View of site looking north across East Stop 11 Road



View of site looking east



View of site looking north



View of site looking northwest



View from site looking southwest across Shelby Street

## STAFF REPORT

Item 18.

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

**Case Number:** 2023-ZON-110  
**Address:** 2837 East New York Street and 253 North Rural Street (Approximate Addresses)  
**Location:** Center Township, Council District #17  
**Petitioner:** Carmel Lutheran Church - Missouri Synod Inc., by Kevin Buchheit  
**Request:** Rezoning of 0.99 acre from the MU-1 and D-5 districts to the MU-2 district to provide for educational uses.

### RECOMMENDATIONS

Staff **recommends approval** of the rezoning petition, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 39-foot half right-of-way shall be dedicated along the frontage of Rural Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The 0.99-acre site is comprised of three separate parcels.
- ◇ The subject sites are bordered to the north by residential and commercial uses, zoned MU-1, to the south by two-family dwellings, zoned D-5, to the east by two-family dwellings, zoned MU-1 and D-5, and to the west by single and two-family dwellings, zoned D-5 and MU-1.

#### REZONING

- ◇ The rezone request to the MU-2 district would allow for the operation of a church and a micro-school with associated parking on the sites. The high school would operate in the basement of the building, which would not be permitted under the existing D-5 and MU-1 district.
- ◇ The property at 2837 East New York Street (Parcel 1097279), has historically operated as a with a church on site since at least 1915 per the 1915 Sanborn Fire Insurance maps, included in this report, below. The adjacent parking lot to the west (Parcel 1071336) is addressed the same as the church and has historically been used as a parking lot since as early as 1979 as depicted in a historical aerial image. The property at 253 North Rural Street (Parcel 1063776) has also historically been used as a parking lot since 1986 per a historical aerial image. None of these sites have had variances issued for the uses that are presently being operated here.

(Continued)



- ◇ The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The MU-1 District is intended for the development of high-rise office uses and apartments intermixed, grouped in varying combinations, or provided in the same building. MU-1 is designed for use along arterials with both high-traffic counts and positive pedestrian experience or demand. Appropriate settings for the MU-1 district include the midtown and uptown areas of the city, very near rapid transit stops, or in the midst of high intensity regional commercial complexes.
- ◇ The MU-2 District is intended to meet the daily needs for surrounding neighborhoods, and include small social spaces that serve as neighborhood gathering places. The district includes primarily neighborhood-serving businesses and institutions, including a wide range of small-scale retail and service uses that typically do not draw customers from beyond the adjacent neighborhoods, and employment, institutional and residential uses that complement the compact, walkable development pattern. The MU-2 District is implemented as a small node or on busy corridors in the Traditional Neighborhood or City Neighborhood Typologies of the Land Use Pattern Book, or as a Village Mixed Use Typology. The typical size of a district is from 2 to 20 acres (1 to 4 blocks) but depends on the context and what integrates best into surrounding neighborhoods and complimentary zoning districts.
- ◇ The Comprehensive Plan recommends village mixed-use development for these sites. The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

**Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 39-foot half right-of-way along Rural Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.
- ◇ The Department of Public Works confirmed that street parking along New York Street on the south side would be removed with the conversion of New York Street into a two-way street and the new layout of the street will incorporate a bike lane along the south side of New York Street instead.

(Continued)

**Staff Analysis**

- ◇ Because two of the parcels have historically been used as parking lots, the continued use of the parking lots in association with the church would be appropriate to be included in the rezoning request to the MU-2 district to have the church properties uniformly zoned.
- ◇ Staff did not find that the additional use of a micro-school in the basement would impact parking since there would be a total of 40 students on site, which would only require five parking spaces for the additional use.
- ◇ Although the parking configuration has not been finalized, the parking adjustments permitted by the Ordinance should help to meet the total required parking by incorporating the proximity to public transportation adjustment that reduces the total parking requirements by 30% since the site is located within a ¼ mile of a proposed Blue Line transit station at Rural Street and Washington Street. shared vehicle, carpool, or vanpool spaces and providing additional bike spaces on site could also be applied, but the total parking reductions cannot exceed 35% of the minimum requirement.
- ◇ The only concern staff still has is regarding the drop-off and pick-up location for the students. The location has not been confirmed by the petitioner.
- ◇ Lastly, staff would note that dumpsters are required to be enclosed by the Ordinance.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

MU-1 / D-5 Compact Church and Parking Lots

**SURROUNDING ZONING AND LAND USE**

North	MU-1	Commercial / Residential (Single-family and Two-family dwellings)
South	D-5	Residential (Two-family dwelling)
East	MU-1 / D-5	Residential (Two-family dwellings)
West	D-5 / MU-1	Residential (Single-family and Two-family dwellings)

**COMPREHENSIVE PLAN**

The Comprehensive Plan recommends village mixed-use development.

**CERTIFIED PLAN**

The site falls within a Certified Plan, specifically the Near Eastside Quality of Life Plan.

**THOROUGHFARE PLAN**

New York Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 63-foot existing right-of-way and a 78-foot proposed right-of-way.

(Continued)

- THOROUGHFARE PLAN Rural Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 60-foot existing right-of-way and a 78-foot proposed right-of-way.
- THOROUGHFARE PLAN Oxford Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.
- FLOODWAY / FLOODWAY FRINGE This site is not located within a floodway or floodway fringe.
- WELLFIELD PROTECTION DISTRICT This site is not located within a wellfield protection district.

**ZONING HISTORY – SITE**

EXISTING VIOLATIONS

None.

PREVIOUS CASES

**99-Z-155; 237 and 243 North Rural Street** (subject site), Rezone 0.661 acre from SU-1 to D-5 to provide for single-family residential development, **approved**.

**ZONING HISTORY – VICINITY**

**2019-CZN-818; 2810 and 2818 East New York Street and 315 and 319 North Rural Street** (northwest of site), Rezoning of 0.848 acre from the D-5 and MU-1 districts to the MU-1 classification, **approved and granted**.

**2014-CZN-810; 2810 East New York Street** (northwest of site), Rezoning of 0.49 acre from the C-2 district to the C-3 classification to provide for an integrated center, with a convenience store / gasoline station and laundromat, **denied**

**2013-CZN/CVR-831; 2801 East New York Street** (northwest of site), rezoning of 0.48 acre from the C-2 and D-5 districts to the C-3 classification to provide for a convenience store / gasoline station and variance of development standards of the Commercial Zoning Ordinance and Sign Regulations to provide for a canopy, with a 49.5-foot setback from the centerline of New York Street and a 48.5-foot setback from the centerline of Rural Street to legally establish a freestanding sign with a 12.33-foot setback from the right-of-way line of New York Street, and to provide for carryout food service within nine feet of a D-5 zoned protected district and to legally establish insufficient landscaping in the required front yards of New York and Rural Streets, to provide for outdoor dining, **recommended for denial by the Hearing Examiner and subsequently withdrawn**.

**82-Z-1; 209 -235 North Rural Street** (southwest of site), Rezoning of 1.55 acres, being in D-5 district, to SU-1 classification, to provide for church use, **approved**.

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**2023-ZON-110; Sanborn Map (1915)**

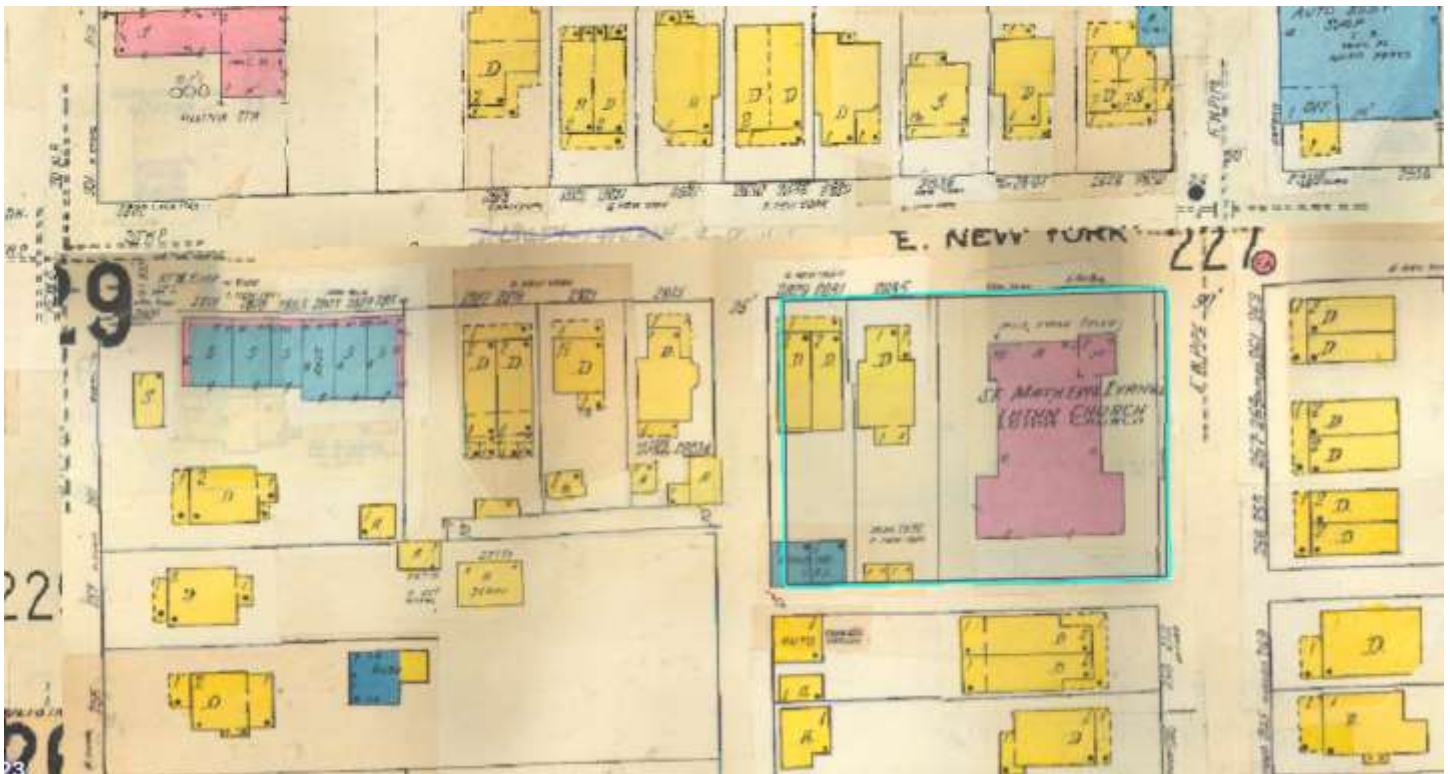






Photo of the Subject Property: 2837 East New York Street



Photo of the on-site parking west of the building.



Photo of the Subject Property: 253 North Rural Street



Photo of the Subject Property: 2837 East New York Street



Photo of the dwellings north of the site.



Photo of the dwellings east of the site.





Photo of the dwelling south of the site.



Photo of the street frontage along Rural Street and adjacent single-family dwelling to the south.