



# Metropolitan Development Commission Hearing Examiner (January 25, 2024) Meeting Agenda

## Meeting Details

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

**Date:** Thursday, January 25, 2024

**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-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 a continuance for cause to February 29, 2024, with Notice**

**2. 2023-ZON-119 | 7725 Kentucky Avenue**

Decatur Township, Council District #20 (#21 Beginning 2024)  
Lennar Homes of Indiana, LLC, by Brian J. Tuohy

Rezoning of 60.22 acres from the C-4 and C-S districts to the D-4 district to provide for single-family residential development.

**\*\*Staff request for a continuance for cause to February 15, 2024**

**3. 2023-ZON-124 | 5252 Hickory Road**

Franklin Township, Council District #25  
Grand Communities, LLC, by Joseph D. Calderon

Rezoning of 31.63 acres from the D-A (FW) (FF) district to the D-4 (FW) (FF) district, to provide for single-family residential development.

**\*\*Automatic Continuance to February 29, 2024, filed by registered neighborhood organization**

**4. 2023-ZON-125 | 4027 West 10th Street**

Wayne Township, Council District #15 (#16 Beginning 2024)  
Insight Engineering, by Don Fisher

Rezoning of 1.75 acres from the I-3 and I-4 districts to the C-4 district to provide for community commercial uses.

**\*\*Staff request a continuance for cause to February 15, 2024**

**5. 2023-CZN-868 / 2023-CPL-868 | 9024 West Mooresville Road**

Decatur Township, Council District #20 (#21 Beginning 2024)  
Dean Ehr Gott & Greg Gass, by David Gilman

Rezoning of 2.88 acres from the D-A district to the D-1 district to provide for two residential lots.

Approval of a Subdivision Plat to be known as Camby Hosta Estates, dividing 2.88 acres into two lots.

**\*\*Petitioner request for continuance for cause to February 15, 2024**

**6. 2023-CZN-869 / 2023-CAP-869 | 4105 and 4151 East 96th Street**

Washington Township, Council District #4  
96th Street Developers, LLC, by Joseph D. Calderon

Rezoning of 30.64 acres from the C-S (FW) (FF) district to the C-S (FW) (FF) district to provide for the following uses: Commercial and Building Contractor, Offices, Light Manufacturing, Artisan Manufacturing, Recycling Station, Research and Development, Warehousing, Wholesaling and Distribution (including showroom with retail), Consumer Services, repair of Consumer Goods, Medical or Dental Office, Center or Clinic, Hair and Body Care Salon or Service, Financial and Insurance Services, Eating Establishment or Food Preparation, including brewery, distillery or tap room, Indoor Recreation/Entertainment, Retail, Light and Heavy General, Automobile Fueling Station, Automobile, Motorcycle, and Light Vehicle Service, Sales or Repair, Automobile and Light Vehicle Wash, Hotel or Motel, Food Trucks, Vocational, Technical or Industrial School or Training Facility, Day Care Center or Nursery School and other Accessory Uses.

Modification of Commitments related to 85-Z-128 and 98-Z-76 to terminate all existing commitments related to these two rezoning petitions.

**\*\*Automatic Continuance to February 29, 2024, filed by registered neighborhood organization**

## Petitions for Public Hearing

### PETITIONS TO BE EXPEDITED:

**7. 2023-MOD-022 | 5151 East 82nd Street**

Washington Township, Council District #3  
C-S  
LMR II – Clearwater Springs, LLC, by Joseph D. Calderon

Modification of Commitments related to rezoning petition 95-Z-171, as amended by petitions 2007-ZON-833 and 2007-APP-833, to amend Commitment #9 (B) to allow a retail store that sells second-hand goods (current commitment lists second-hand store as a prohibited use).

**8. 2023-ZON-122 | 530 West 41st Street**

Washington Township, Council District #7  
Melissa Iannucci

Rezoning of 0.06 acre from D-5 District to the D-5II District to provide for a single-family detached dwelling.

**9. 2023-CZN-858 / 2023-CVR-858 (Amended) | 7338 Five Points Road**

Franklin Township, Council District #25  
Narinder Sodhi, by Joseph D. Calderon

Rezoning of 5.45 acres from the D-A district to the D-2 district to provide for five single-family detached dwellings.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a three-foot setback from Five Points Road with an 18-foot front setback from a private street for Lot 1 (30-foot setback from proposed 40-foot half right-of-way along Five Points Road required, and 25-foot front setback from private street required), to provide for two lots with frontage on a private street (public street frontage required), and to allow for a 76.01 lot width for Lot 1 (minimum 80-foot lot width required).

**10. 2023-CZN-865 / 2023-CPL-865 | 9665 Southeastern Avenue**

Franklin Township, Council District #25  
D-A (D-S pending) and C-5  
Star Group Investments, LLC, by Raymond Basile

Rezoning of 1.809 acres from the D-A to the D-S district to provide for a single-family dwelling lot.

Approval of a Subdivision Plat, to be known as Star-Southeastern Development, dividing 3.225 acres into two lots.

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

**11. 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.

**12. 2023-ZON-114 | 2307 Post Drive**

Warren Township, Council District #19  
Indy 70, LLC, by Bill Niemier

Rezoning of 1.714 acres from the C-4 district to the I-3 district to provide for truck parking.

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

**13. 2023-ZON-123 | 8550 East 30th Street**

Warren Township, Council District #13 (#9 Beginning 2024)  
Marotza Y Castro Rivas, by David Kingen

Rezoning of 0.64 acre from the I-2 district to the SU-1 district, to provide for religious 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

Item 1.

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.

The Hearing Examiner continued this petition from the December 14, 2023 hearing, to the January 25, 2024 hearing, at the request of staff to provide time for further discussions with the petitioner and possibly provide new notice.

Staff is requesting a **continuance from the January 25, 2024, hearing, to the February 29, 2024 hearing**, to provide time for the petitioner's representative to submit an amended petition and send new notice. An amended site plan, file-dated January 15, 2024, has been submitted, but the amended petition has not been submitted for review and preparation of the updated legal notice.

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STAFF REPORT

Item 2.

Department of Metropolitan Development  
Division of Planning  
Current Planning Section

**Case Number:** 2023-ZON-119  
**Address:** 7725 Kentucky Avenue (*Approximate Address*)  
**Location:** Decatur Township, Council District #20 (#21 Beginning 2024)  
**Petitioner:** Lennar Homes of Indiana, LLC, by Brian J. Tuohy  
**Request:** Rezoning of 60.22 acres from the C-4 and C-S districts to the D-4 district to provide for single-family residential development.

The Hearing Examiner continued this petition from the January 11, 2024 hearing, to the January 25, 2024 hearing to provide time for discussions regarding the need for a Traffic Impact Study (TIS). Because the Indiana Department of Transportation (INDOT) has jurisdiction of Kentucky Avenue in this area, the decision would be made by that office.

Staff is requesting a **continuance from the January 25, 2024 hearing, to the February 15, 2024 hearing**, to provide time for a response from INDOT and submittal of a TIS for review.

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**STAFF REPORT**

Item 3.

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

**Case Number: 2023-ZON-124**  
**Address: 5252 Hickory Road (approximate address)**  
**Location: Franklin Township, Council District #25**  
**Petitioner: Grand Communities, LLC, by Joseph D. Calderon**  
**Request: Rezoning of 31.63 acres from the D-A (FW) (FF) district to the D-4 (FW) (FF) district, to provide for single-family residential development.**

A timely automatic continuance has been filed by a registered neighborhood organization **continuing this petition from the January 25, 2024 hearing, to the February 29, 2024 hearing.** This would require acknowledgement from the Hearing Examiner.

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**STAFF REPORT**

Item 4.

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

**Case Number:** 2023-ZON-125  
**Address:** 4027 West 10<sup>th</sup> Street (*Approximate Addresses*)  
**Location:** Wayne Township, Council District #15 (#16 Beginning 2024)  
**Petitioner:** Insight Engineering, by Don Fisher  
**Request:** Rezoning of 1.75 acres from the I-3 and I-4 districts to the C-4 district to provide for community commercial uses.

Staff is requesting a **continuance from the January 25, 2024, hearing, to the February 15, 2024 hearing**, to provide time for discussions between staff and the petitioner's representative related to the impact on and possible construction of on-site amenities for the B&O Trail along the southern boundary of this site.

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**STAFF REPORT**

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

**Case Number:** 2023-CZN-868 / 2023-CPL-868  
**Address:** 9024 West Mooresville Road (Approximate Addresses)  
**Location:** Decatur Township, Council District #20 (#21 Beginning 2024)  
**Petitioner:** Dean Ehrgott & Greg Gass, by David Gilman  
**Requests:** Rezoning of 2.88 acres from the D-A district to the D-1 district to provide for two residential lots.

**Approval of a Subdivision Plat to be known as Camby Hosta Estates, dividing 2.88 acres into two lots.**

The petitioner notified staff that they will be requesting a joint **continuance for cause from the January 25, 2024 hearing to the February 15, 2024 hearing** to provide them additional time to meet and work with a registered neighborhood organization. Staff received confirmation from the registered neighborhood organization that they agreed with the continuance request and proposed hearing date. Staff has no objection with the continuance request. A staff report will be available prior to that hearing.

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STAFF REPORT

Department of Metropolitan Development  
Division of Planning  
Current Planning Section

**Case Number:** 2023-CZN-869 / 2023-CAP-869  
**Address:** 4105 and 4151 East 96<sup>th</sup> Street (*Approximate Addresses*)  
**Location:** Washington Township, Council District #4  
**Petitioner:** 96<sup>th</sup> Street Developers, LLC, by Joseph D. Calderon  
**Request:** Rezoning of 30.64 acres from the C-S (FW) (FF) district to the C-S (FW) (FF) district to provide for the following uses: Commercial and Building Contractor, Offices, Light Manufacturing, Artisan Manufacturing, Recycling Station, Research and Development, Warehousing, Wholesaling and Distribution (including showroom with retail), Consumer Services, repair of Consumer Goods, Medical or Dental Office, Center or Clinic, Hair and Body Care Salon or Service, Financial and Insurance Services, Eating Establishment or Food Preparation, including brewery, distillery or tap room, Indoor Recreation/Entertainment, Retail, Light and Heavy General, Automobile Fueling Station, Automobile, Motorcycle, and Light Vehicle Service, Sales or Repair, Automobile and Light Vehicle Wash, Hotel or Motel, Food Trucks, Vocational, Technical or Industrial School or Training Facility, Day Care Center or Nursery School and other Accessory Uses.  
**Modification of Commitments related to 85-Z-128 and 98-Z-76 to terminate all existing commitments related to these two rezoning petitions.**

A timely automatic continuance request was filed by a registered neighborhood organization **continuing this petition from the January 25, 2024 hearing, to the February 29, 2024 hearing.** This would require acknowledgement from the Hearing Examiner. A staff report will be available prior to that hearing.

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**METROPOLITAN DEVELOPMENT COMMISSION** **January 25, 2024**  
**HEARING EXAMINER**

**Case Number:** 2023-MOD-022

**Property Address:** 5151 East 82nd Street

**Location:** Washington Township; Council District #3

**Petitioner:** LMR II-Clearwater Springs, LLC, by Joseph D. Calderon

**Current Zoning:** C-S

**Request:** Modification of Commitments related to rezoning petition 95-Z-171, as amended by petitions 2007-ZON-833 and 2007-APP-833, to amend Commitment #9 (B) to allow a retail store that sells second-hand goods (current commitment lists second-hand store as a prohibited use)

**Current Land Use:** Commercial Strip Center

**Staff Recommendations:** No recommendation.

**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

This petition is scheduled to be heard on January 25, 2024.

**STAFF RECOMMENDATION**

No recommendation. If approved, staff would request that approval be subject to modification of commitments being reduced to writing on the Commission’s Exhibit “C” form at least three days prior to the MDC hearing.:

**PETITION OVERVIEW**

This 21.45-acre site, zoned C-S is part of a regional commercial shopping center and parking lot, located at the southwest corner of the intersection of Allisonville Road and East 82<sup>nd</sup> Street. It is surrounded by commercial uses to the north, across East 82<sup>nd</sup> Street, zoned C-S; undeveloped land to the south, zoned D-A; and commercial uses to the east (across Allisonville Road) and west, zoned C-S.

**Modification (Commitments)**

As proposed this modification would modify commitments related to rezoning petition 95-Z-171, as amended by petitions 2007-ZON-833 and 2007-APP-833, to amend Commitment #9 (B) to allow a retail store that sells second-hand goods that would occupy an approximately 5,000-square foot tenant space.

The existing commitments prohibit second-hand stores, except for an antique store.



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The commitments were originally the result of negotiation between the petitioner and remonstrators during the 1995 and 2007 rezoning process. Because staff played no role in the negotiation of these subject commitments, staff would ordinarily provide no recommendation under such circumstances. Staff, however recommended approval of the request, subject to the commitments and the “buffer for the residential area and the preservation of a portion of the site,” which is approximately 13 acres (30%) of the entire site.

The permitted uses in the 1995 rezoning (29 years ago) were generally C-3 uses. Because of the intervening years and development of the area, staff believes the proposed use would be supportable and appropriate, without detrimentally impacting the surrounding area. The buffer to the residential along the southern boundary would remain and vacant commercial space would be occupied.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-S	
<b>Existing Land Use</b>	Commercial shopping center	
<b>Comprehensive Plan</b>	Village Mixed-Use Typology	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	C-S	Commercial uses
South:	D-A	Undeveloped land
East:	C-S	Commercial uses
West:	C-S	Commercial uses
<b>Thoroughfare Plan</b>		
East 82nd Street	Marion County Thoroughfare Plan (2019)	This portion of East 82nd Street is designated as a primary arterial with an existing 120-foot right-of-way and a proposed 134-foot right-of-way.
Allisonville Road		This portion of Allisonville Road is designated in the Marion County Thoroughfare Plan as a secondary arterial, with an existing 150-foot right-of-way and a proposed 102-foot right-of-way.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	December 21, 2023	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	



Landscape Plan	N/A
Findings of Fact	N/A
Findings of Fact (Amended)	N/A
C-S/D-P Statement	N/A

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends village mixed-use typology for the site.
- “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.”

**Pattern Book / Land Use Plan**

- 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.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- Where possible, contributing historic buildings should be preserved or incorporated into new development.



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- The Pattern Book does not provide guidance in this typology for 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).

**Red Line / Blue Line / Purple Line TOD Strategic Plan**

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

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

- Not Applicable to the Site.



## ZONING HISTORY

**2018-ZON-099; 5151 East 82nd Street, requested** rezoning of 4.68 acres from the C-S district to the C-S classification to provide for the following uses: a health and fitness facility; gymnasium; instruction in baseball, basketball, gymnastics or swimming; trampoline park; or other similar indoor commercial amusement / recreation establishment in addition to the uses permitted by 95-Z-171, with a Modification of the Commitments related to 95-Z-171 to modify Commitment Ten to permit a health and fitness facility; gymnasium; instruction in baseball, basketball, gymnastics or swimming; trampoline park; or other similar indoor commercial amusement / recreation establishment in addition to the uses permitted by 95-Z-171, **approved**.

**2012-CAP-817 / 2012-CVR-817; 5151 East 82nd Street,** requested modification of commitments related to 95-Z-171, as modified by 98-Z-87, 98-AP-6, 2007-APP-833, 2007-ZON-833 and 2009-APP-055 to modify Commitments Nine and 13 to provide for outdoor seating / dining for all types of restaurants, adjacent to the applicable tenant space and a variance of development standards of the Commercial Zoning Ordinance to provide for outdoor seating / dining for all types of restaurants, adjacent to the applicable tenant space, **approved and granted**.

**2009-APP-055; 5025 East 82nd Street,** requested modification of commitments, related to petition 95-Z-171, as previously modified by 98-AP-6, to modify Commitment Two to permit construction of off-street parking areas and a pedestrian walkway, in an area required to be maintained in its natural state, **approved**.

**2007-ZON-833 / 2007-APP-833; 5151 East 82nd Street** requested rezoning of 1.678 acres, from the C-S District to the C-S classification to provide for a kennel, associated with a retail pet store and approval of a modification of commitments, related to petition 98-Z-87, to modify Commitments Nine and Ten to permit a veterinary care facility with overnight stays as medically necessary and the overnight boarding of pets, **approved**.

**98-AP-6; 5101 East 82nd Street,** requested a modification of commitments related to petition 95-Z-171, to modify commitment #22 pertaining to the location of a grocery store; and the material and design of the grocery store's elevations, **approved**.

**98-Z-87; 4825 East 82nd Street** requested rezoning of 41 acres from the C-S District to the C-S classification to provide for a veterinary clinic within a pet store, **approved**.

**95-Z-171; 4825 East 82nd Street,** requested rezoning of 45 acres from D-A, C-1 and C-4 to C-S to provide for a mixed-use commercial office and retail complex, **approved**.









Department of Metropolitan Development  
Division of Planning  
Current Planning

R4

(13)

STATEMENT OF MODIFICATION OR TERMINATION  
OF COVENANTS OR COMMITMENTS

COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR  
COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN  
CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE  
PETITION OR SPECIAL EXCEPTION PETITION

In accordance with I.C. 36-7-4-613, I.C. 36-7-4-614, and/or I.C. 36-7-4-918.8 and I.C. 36-7-4-921, the owner of  
the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or  
termination(s) of covenants or commitments concerning the use and development of that parcel of real estate.

Legal Description:

See attached Exhibit A.

FILED  
SEP 13 2007  
DEPT METRO DEVELOPMENT  
BY

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. The Statement of Commitments recorded as Instrument No. 1997-0044945 in the Office of the Recorder of Marion County, Indiana in connection with Petition 95-Z-171 (the "Original Commitment") is hereby modified and amended by replacing Attachment C from the Original Commitment with the Attachment C attached hereto.
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

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

COVENANTS or COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition 2007-ZON-833 and 2007-APP-833.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of

MDC's Exhibit C - page 1 of 2

12/11/2007 10:49 Julie Voorhies MARION COUNTY RECORDER GAN 35.00 PAGES: 13  
Inst # 2007-0172254



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Division of Planning  
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record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);

- 3. N/A
- 4. N/A

These COVENANTS may be enforced by the Metropolitan Development Commission.

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Covenant or Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of modification and/or termination of Covenant(s) or Commitment(s) of petition # 2007-APP-333 by the Metropolitan Development Commission.

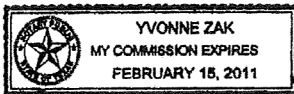
IN WITNESS WHEREOF, owner has executed this instrument this 5 day of September, 2007

Signature: [Signature] Signature: \_\_\_\_\_  
Printed: MITZI PATIN Printed: \_\_\_\_\_

Secretary, CPD General, Parkway, Inc., Member  
STATE OF INDIANA

COUNTY OF MARION ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Mitzi Patin, owner(s) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.



Witness my hand and Notarial Seal this 5 day of September, 2007  
[Signature]  
Notary Public  
Yvonne Zak  
Printed Name of Notary Public  
My Commission expires: 2/15/2011  
My County of residence: Dallas

This instrument was prepared by Thomas H. Engle; Barnes & Thornburg, LLP, 11 S. Meridian St., Indianapolis, IN 46204

This modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 19th day of September, 2007.  
[Signature]  
Secretary, Metropolitan Development Commission

Enter any photographs or site plan



View of site looking southeast



View of site looking east



View from site looking north



View of site looking northwest



View of site looking southeast at available tenant space



View of site looking east along building facade



View of site looking west along building facade

## STAFF REPORT

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

**Case Number:** 2023-ZON-122  
**Address:** 530 West 41st Street (Approximate Address)  
**Location:** Washington Township, Council District #7  
**Petitioner:** Melissa Iannucci  
**Request:** Rezoning of 0.06 acre from D-5 District to the D-5II District to provide for a single-family detached dwelling.

### RECOMMENDATIONS

Staff recommends approval of the rezoning.

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The 0.06-acre subject site is developed with a detached garage and is surrounded by single-family dwellings in each direction.

#### REZONING

- ◇ This request would rezone the site from D-5 District to the D-5II classification to provide for residential uses. 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 D-5II district is intended for small-lot housing formats, primarily for small, detached houses, but also including a mix of small-scale multi-unit building types. This district can be used for new, walkable suburban neighborhoods or for infill situations in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood or Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ 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

(Continued)

**Staff Analysis**

- ◇ As proposed, the request would be consistent with the Comprehensive Plan recommendation of traditional neighborhood development.
- ◇ Therefore, staff determined the proposed D-5ll district would be appropriate for this site due to the deficient size of the exiting lot.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

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

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

**COMPREHENSIVE PLAN**

The Comprehensive Plan recommends traditional neighborhood development.

**THOROUGHFARE PLAN**

41<sup>st</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 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.

**PROPERTY SURVEY**

File-dated December 18, 2023.

**ZONING HISTORY – SITE**

**EXISTING VIOLATIONS**

None.

**PREVIOUS CASES**

None.

**ZONING HISTORY – VICINITY**

None.

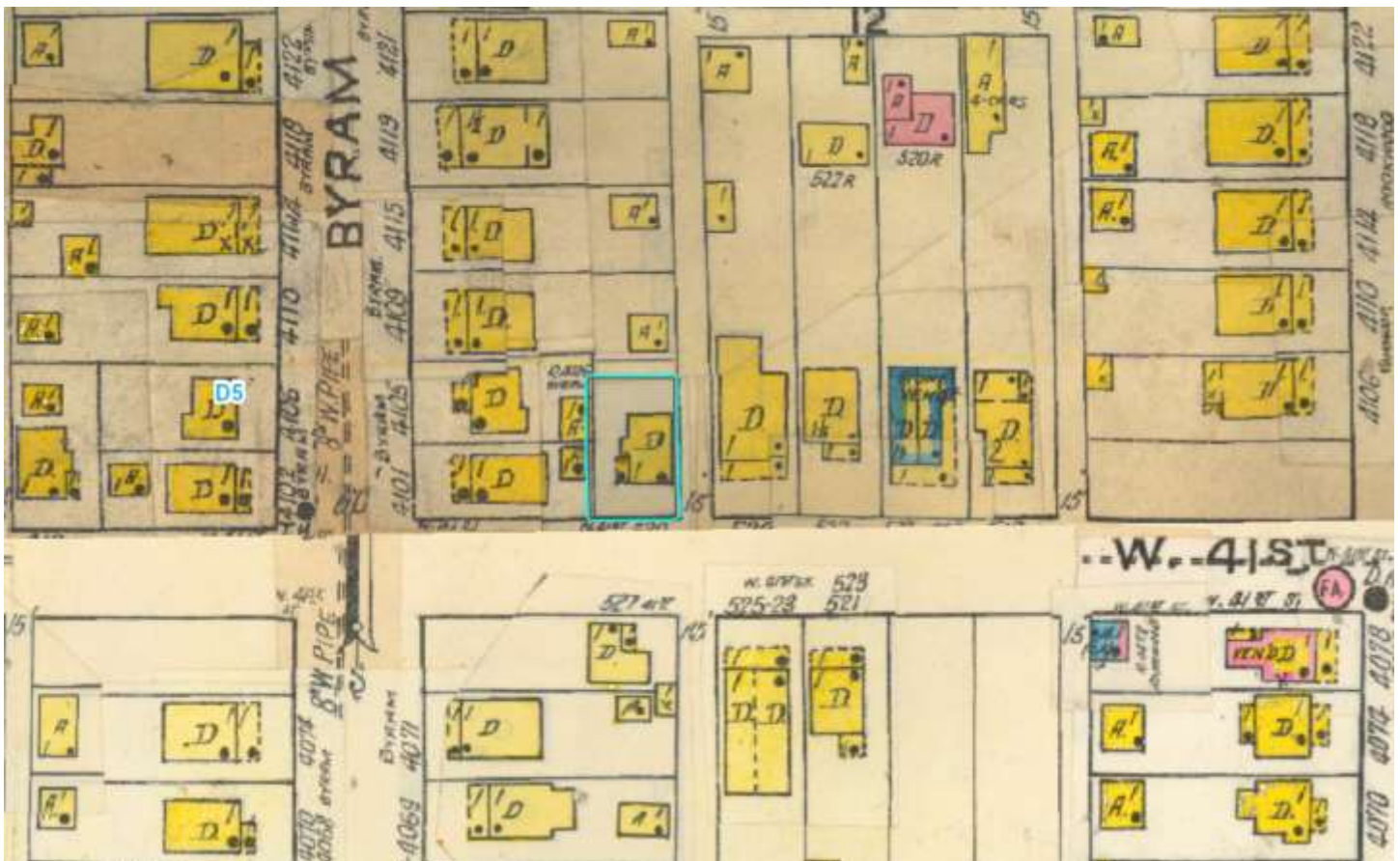
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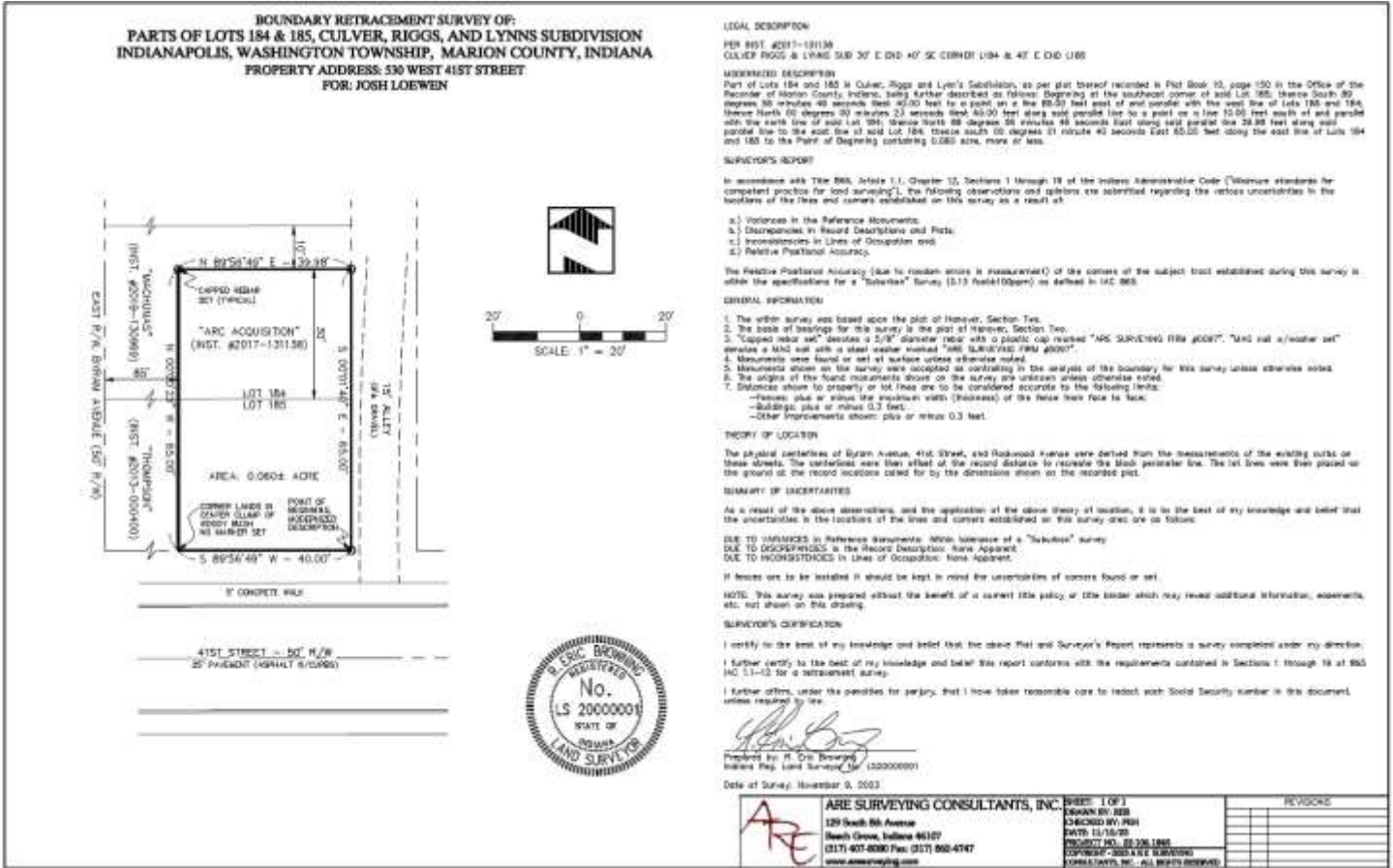
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2023-ZON-122; Sanborn 1915





2023-ZON-122; Property Survey (Close-up)

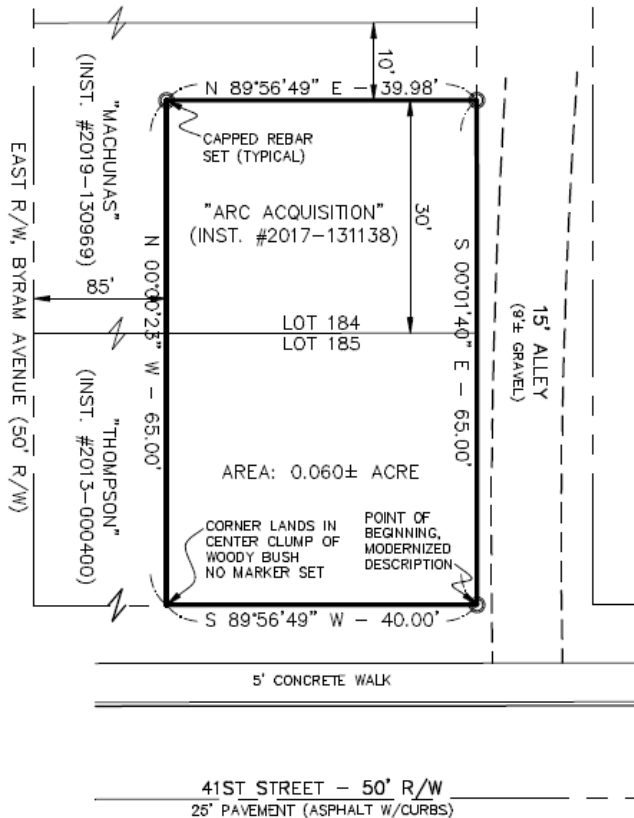




Photo of the Subject Property: 530 West 41st Street



Photo of the northern property boundary.



Photo of the single-family dwelling to the west.



Photo of the single-family dwelling to the east.



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

## STAFF REPORT

Item 9.

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

**Case Number:** 2023-CZN-858 / 2023-CVR-858 (Amended)  
**Address:** 7338 Five Points Road (Approximate Address)  
**Location:** Franklin Township, Council District #25  
**Petitioner:** Narinder Sodhi, by Joseph D. Calderon  
**Request:** Rezoning of 5.45 acres from the D-A district to the D-2 district to provide for five single-family detached dwellings.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a three-foot setback from Five Points Road with an 18-foot front setback from a private street for Lot 1 (30-foot setback from proposed 40-foot half right-of-way along Five Points Road required, and 25-foot front setback from private street required), to provide for two lots with frontage on a private street (public street frontage required), and to allow for a 76.01 lot width for Lot 1 (minimum 80-foot lot width required).

#### ADDENDUM FOR THE JANUARY 25, 2024 HEARING EXAMINER

**Amendment:** The petitioner addressed staff's recommendation to meet the D-2 standards for the newly proposed lots, which reduced the total number of lots from six to five. However, with interest from the community to save the existing dwelling there were variances required to maintain the dwelling such as the three-foot and 18-foot front setbacks and 76.01-foot proposed lot width for Lot 1. Staff did not have an issue with allowing these reductions since the house is existing and would be preserved.

Because Lots 2, 3, 4, and five will meet the D-2 standards as required and the location of the entrance drive was moved south to be furthest away from the intersection, staff is now supportive of the changes made to the proposed site plan.

Staff now **recommends approval** of the amended variance of development standards requests.

Staff now **recommends approval** of the amended 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 40-foot half right-of-way along Five Points Road and a 45-foot half right-of-way along Shelbyville 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).

(Continued)

**ADDENDUM FOR THE DECEMBER 28, 2023, HEARING EXAMINER**

This petition was continued from the November 16, 2023 hearing, to the December 28, 2023 hearing at the request of the petitioner’s representative. A revised site plan was submitted, which requires the petition to be amended and new notices to be mailed.

This petition will need to be **continued from the December 28, 2023 hearing to the January 25, 2024 hearing** with new notice. This will be the last continuance request that staff will support.

**ADDENDUM FOR THE NOVEMBER 16, 2023, HEARING EXAMINER**

This petition was continued **from the October 26, 2023 hearing, to the November 16, 2023 hearing** at the request of the petitioner’s representative. No additional information has been provided to the case file.

**October 26, 2023**

**RECOMMENDATIONS**

Staff **recommends denial** of the variance of development standards request.

Staff **recommends denial** of the rezoning request.

If the rezoning is 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 40-foot half right-of-way along Five Points Road and a 45-foot half right-of-way along Shelbyville 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 5.45 -acre subject site is currently developed with a single-family dwelling and accessory structures along the southern portion of the site and the northern portion is undeveloped. The site is surrounded by single-family dwellings.
- ◇ In 2021, the site received a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two lots measuring 114,686 square feet and 95,669 square feet with one lot having 215 feet of lot width, with minimum side setbacks of 25 feet, aggregate side setbacks of 40 feet and rear setbacks of 40 feet and 80% open space. The site was subsequently granted a subdivision plat approval for two lots.

**REZONING**

- ◇ The grant of the request would rezone the property from the D-A district to the D-2 district to allow for six single-family detached dwellings.
- ◇ The D-A district holds the agricultural lands of Marion County and provides for a variety of agricultural uses. It is intended to provide for animal and poultry husbandry, farming, cultivation of crops, dairying, pasturage, floriculture, horticulture, viticulture, apiaries, aquaculture, hydroponics, together with necessary, accompanying accessory uses, buildings, or structures for housing, packing, treating, or storing said products; or lands devoted to a soil conservation or forestry management program. A single-family dwelling is intended to be permitted as a part of such agricultural uses. A secondary provision of this district is large estate development of single-family dwellings. This district fulfills the very low-density residential classification of the Comprehensive General Land Use Plan.
- ◇ The D-2 district is intended for use in suburban areas. Ample yards, trees and passive open spaces easily serving each individual lot are envisioned for this district. The D-2 district has a typical density of 1.9 units per gross acre. Two- family dwellings are permitted on corner lots in this district. This district fulfills the lowest density recommendation of the Comprehensive General Land Use Plan. Public water and sewer 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 conditions, including vegetation, topography, drainage, and wildlife.
- ◇ The Comprehensive Plan recommends rural or estate development. The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. This typology typically has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The grant of the request would allow for the development of six lots with deficient front setbacks and two lots without street frontage on a public street. Instead, frontage on a private street would be proposed.
- ◇ Per Table 744-201-1: Dimensional Standards for Districts D-A through D-5II, the proposed D-2 district requires a 40-foot front setback from the proposed right-of-way of Shelbyville Road where a 30-foot setback would be proposed and a 30-foot front setback from Five Points Road would be required and a 25-foot setback would be proposed.
- ◇ The public street frontage requirement is in place to provide direct access from a public road to a dwelling in case of an emergency, thus making it easier and quicker for emergency services to find the address in question.

(Continued)

**Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, typically requests the dedication and conveyance of the proposed right-of-way consistent with the Marion County Thoroughfare Plan. The dedication would include a 40-foot half right-of-way along Five Points Road and a 45-foot half right-of-way along Shelbyville Road.
- ◇ The Department of Public Works (DPW) stated that there are plans to build a roundabout at this intersection to enhance traffic flow and reduce accidents at this location.
- ◇ Per the requested variance of development standards for reduced setbacks, it is understood that the petitioner would not have this right-of-way dedication proposed.

**Staff Analysis**

- ◇ Staff determined that the strict application of the terms of the Zoning Ordinance would not result in practical difficulties in the use of the property because the site could continue to be used for one single-family dwelling. Furthermore, the site could be developed as previously approved with variance petition 2021-DV1-028 and plat petition 2022-PLT-043, which subdivided the property into two lots with associated development standard variances.
- ◇ Staff has concerns with the proximity of the driveway to the Five Points Road and Shelbyville Road intersection which generates a high volume of vehicular traffic. The additional traffic from the proposed dwellings could be injurious to the public safety of the community since cars would have to make a quick left turn to avoid oncoming traffic from either direction during peak commute hours. Staff would recommend the driveway be located at the furthest southern point along Five Points Road.
- ◇ Staff would not support the variance for private street frontage for two of the proposed lots. It is often difficult for private infrastructure to be maintained by the surrounding property owners, which is why staff would recommend the street be built to the standards of the Department of Public Works and having it be dedicated as a public street.
- ◇ Furthermore, if the site were platted as proposed, the corner lot (Lot #1) would not be allowed to have triple street frontages and sidewalks would need to be installed along Five Points Road and Shelbyville Road. This would include the installation of a pedestrian bridge to cross over the drainage ditch located on the northern section of the site.
- ◇ Due to the desire to not meet the required front setback standards, thus preventing the right-of-way dedication as typically requested by DPW, staff is not supportive of the reduced front setback variances.
- ◇ If the necessary right-of-way were dedicated ensuring future infrastructure improvements would be possible and if the required D-2 setbacks were proposed, then staff could discuss the possibility to potentially support the number of lots that would meet the D-2 development standards.



**GENERAL INFORMATION**

EXISTING ZONING AND LAND USE

D-A Metro Residential (Single-family dwelling)

SURROUNDING ZONING AND LAND USE

North D-A Residential (Single-family dwelling)  
South D-3 Residential (Single-family dwellings)  
East D-P / D-A Residential (Single-family dwellings)  
West D-A Residential (Single-family dwelling)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends rural or estate neighborhood development.

THOROUGHFARE PLAN

Five Points Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 40-foot existing right-of-way and an 80-foot proposed right-of-way.

THOROUGHFARE PLAN

Shelbyville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 60-foot existing right-of-way and a 90-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 September 21, 2023.

AMENDED SITE PLAN

File-dated December 13, 2023.

FINDINGS OF FACT

File-dated September 21, 2023

**ZONING HISTORY – SITE**

EXISTING VIOLATIONS

None.

PREVIOUS CASES

**2021-DV1-028 (Amended); 7338 Five Points Road** (subject site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two lots measuring 114,686 square feet and 95,669 square feet with one lot having 215 feet of lot width, with minimum side setbacks of 25 feet, aggregate side setbacks of 40 feet and rear setbacks of 40 feet and 80% open space (three acre lots, 125-foot frontage on public street, 250-foot lot width, 30-foot side setback, 75-foot aggregate side setback, 75-foot rear setback and 85% open space required), **granted.**

(Continued)

**2022-PLT-043; 7338 Five Points Road** (subject site), Approval of a Subdivision Plat, to be known as Clover Subdivision, dividing 5.187 acres into two lots, **granted**.

**ZONING HISTORY – VICINITY**

**2018-MOD-015; 7120-7338 Wooden Grange Drive** (east of site), Modification of the Development Statement of 2016-ZON-068 to permit a 12-foot aggregate setback in the Villas section (13 feet required) and to replace approved Exhibit “D” under Miscellaneous, Character Exhibits with the Elevation Exhibits filed with this petition, **approved**.

**2017-PLT-033; 7008 Shelbyville Road** (east of site), Approval of a Subdivision Plat, to be known as Birchwood Park, Section One, dividing 32.3 acres, into 49 lots, **approved**.

**2016-ZON-068; 7008 Shelbyville Road** (east of site), Rezoning of 64.25 acres from the D-A district to the D-P classification to provide for a variety of single-family and two-family dwellings, **approved**.

**2004-PLT-011; 6519 Wolverine Way** (west of site), Approval of a Subdivision Plat to be known as A REPLAT OF WESTBROOK SUBDIVISION, SECTION TWO, dividing 28.39 acres into 65 lots, **approved**.

**99-CP-32P; 7201 Combs Road** (west of site), Approval of a Cluster Subdivision Plat to be known as Westbrook Subdivision, dividing 50.646 acres into 115 lots, **approved**.

**97-V3-99; 6835 Shelbyville Road** (northwest of site), Variance of development standards of the Sign Regulations to provide for the placement of an illuminated five by 10-foot pole sign being 14 feet in height, located 50 feet from a dwelling district, **granted**.

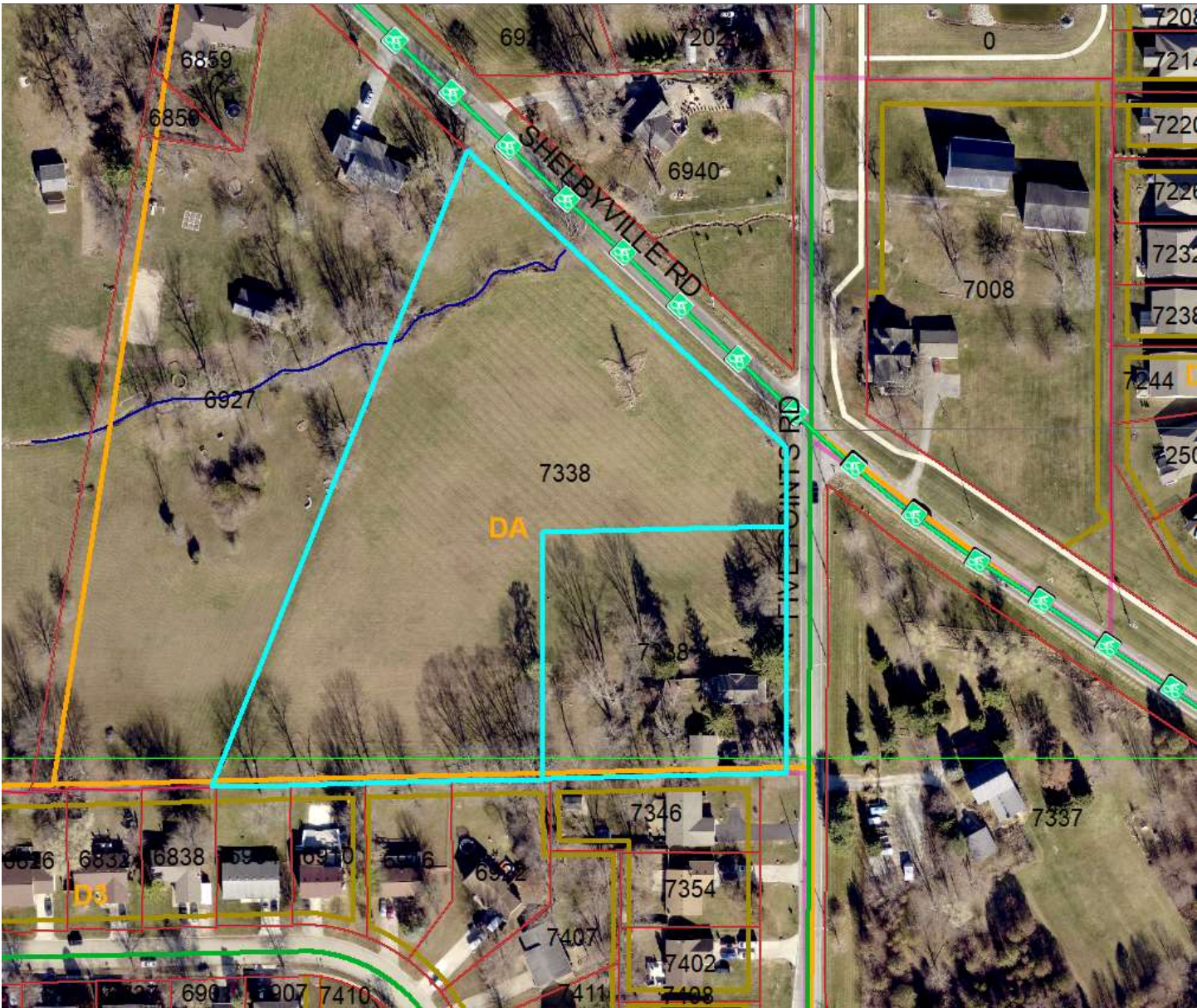
**76-P-06; 6814 Troon Way** (southwest of site), Approval of a preliminary plan of a subdivision plat to be known as MUIR FIELD SUBDIVISION, SECTION I, dividing 43.00 acres into 127 lots, being in the D-3 district, **approved**.

**76-P-26; 7346 Five Points Road** (south of site), **Approval of a preliminary plan of a subdivision plat to be known as MUIR FIELD SUBDIVISION (Section 4)**, dividing 38.73 acres into 121 lots, being in the D-3 district, **approved**.

**72-Z-269; 6835 Shelbyville Road** (northwest of site), Rezoning of 10.04 acres from A-2 to SU-1, **approved**.

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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 development will be extremely low density and the rear of the homes will face Shelbyville Road with a high likelihood that setback requirements will be met along Shelbyville Road. None of the improvements encroaching into the required front setback will interfere with visibility from the adjoining public streets.

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

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 variances sought will still result in a very low density development and will not impact access of visibility to or from any adjacent property.

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

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

the ordinance applies front yard standards to "double front yards", leading to excessive setbacks for what otherwise is a secondary front, which would otherwise be a side or rear yard.

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\_\_\_\_\_  
\_\_\_\_\_  
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DECISION

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

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

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



Photo of the existing single-family dwelling and detached garage on site.



Photo of the eastern street frontage along Five Points Road looking north.



Photo of the eastern street frontage along Five Points Road looking south.



Photo of the subject site at the intersection.





Photo of the subject site northern street frontage along Shelbyville Road looking west.



Photo of the subject site northern street frontage along Shelbyville Road looking east.



Photo of the Shelbyville Road and Five Points Road intersection.



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

## STAFF REPORT

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

**Case Number:** 2023-CZN-865 / 2023-CPL-865  
**Address:** 9665 Southeastern Avenue (approximate address)  
**Location:** Franklin Township, Council District #25  
**Zoning:** D-A (D-S pending) and C-5  
**Petitioner:** Star Group Investments, LLC, by Raymond Basile  
**Requests:** Rezoning of 1.809 acres from the D-A to the D-S district to provide for a single-family dwelling lot.

#### Approval of a Subdivision Plat, to be known as Star-Southeastern Development, dividing 3.225 acres into two lots.

This petition was automatically continued from the December 28, 2023, hearing to the January 25, 2024, hearing, by request of a registered neighborhood organization. As of this writing, no new information has been submitted to the file.

### RECOMMENDATIONS

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

Staff recommends that the Hearing Examiner **approve** and find that the plat, file-dated October 17, 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.

(Continued)

## **2023-CZN-865 / 2023-CPL-865 STAFF REPORT (Continued)**

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.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

- ◇ The subject site is split-zoned D-A and C-5. It is developed with a single-family dwelling and accessory barn and shed.
- ◇ This petition would rezone 1.649 acres of the property to the D-S district to allow for a smaller lot size and width.
- ◇ This petition would subdivide the property into two lots along the existing zoning boundary.

#### **REZONING**

- ◇ This petition would rezone part of this site from the D-A district to the D-S district. The D-S district has a minimum lot area of one acre and a minimum lot width of 150 feet. This zoning classification is more consistent with the existing site dimensions and would avoid future noncompliant setbacks or open space consistent with the current D-A zoning.
- ◇ The comprehensive plan recommends community commercial; however, the existing site is being used residentially. The surrounding residential typologies recommend rural or estate neighborhood, or suburban neighborhood. These typically are single-family zoning districts, with densities of one or more dwelling units per acre. Staff believes the proposed D-S district is consistent with the existing lot size and uses of the surrounding properties.

#### **PLAT**

- ◇ The plat would subdivide the subject site into two lots along the existing zoning boundary. The proposed plat meets the standards of the C-5 zoning classification, and the proposed D-S zoning classifications as proposed in the companion rezoning.

#### **TRAFFIC / STREETS**

- ◇ The proposed lots would front on Southeastern Avenue to the east. Proposed Lot One would be a corner lot, and it will have frontage on Thompson Road to the north as well. No new streets are proposed as part of this petition.

(Continued)

**2023-CZN-865 / 2023-CPL-865 STAFF REPORT (Continued)**

**SIDEWALKS**

- ◇ Sidewalks are required along Thompson Road.
- ◇ Proposed Lot Two is a single-family dwelling that may be exempt from sidewalks per Section 744-303.B. of the zoning ordinance.

**GENERAL INFORMATION**

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

D-A / C-5	Metro	Residential
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**SURROUNDING ZONING AND LAND USE**

North	D-A	Undeveloped / Agriculture
South	D-A	Residential
East	C-4	Commercial
West	D-A	Undeveloped

**COMPREHENSIVE LAND USE PLAN** Community Commercial development

**THOROUGHFARE PLAN** Southeastern Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 155-foot existing and proposed right-of-way.

Thompson Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 50-foot existing and 119-foot proposed right-of-way.

**SITE PLAN** File-dated October 17, 2023

**PRELIMINARY PLAT** File-dated October 17, 2023

**ZONING HISTORY – SITE**

**60-Z-39**, rezoning from the A-2 district to the B-5 district (modern C-5 district), **approved**.

**ZONING HISTORY – VICINITY**

**85-UV2-131, 9615 Southeastern Avenue**, variance to provide for a welding business in a detached garage, **denied**.

**74-Z-63, 9811 East Thompson Road**, rezoning from the A-2 district to the C-4 district, **approved**.

**2018-ZON-017, 9600 Southeastern Avenue**, rezoning from the D-A (FF) district to the D-3 (FF) district, **approved**.

**86-Z-245, 9811 East Thompson Road**, rezoning from the SU-1 district to the CID district, **denied**.

(Continued)

**2023-CZN-865 / 2023-CPL-865 STAFF REPORT (Continued)**

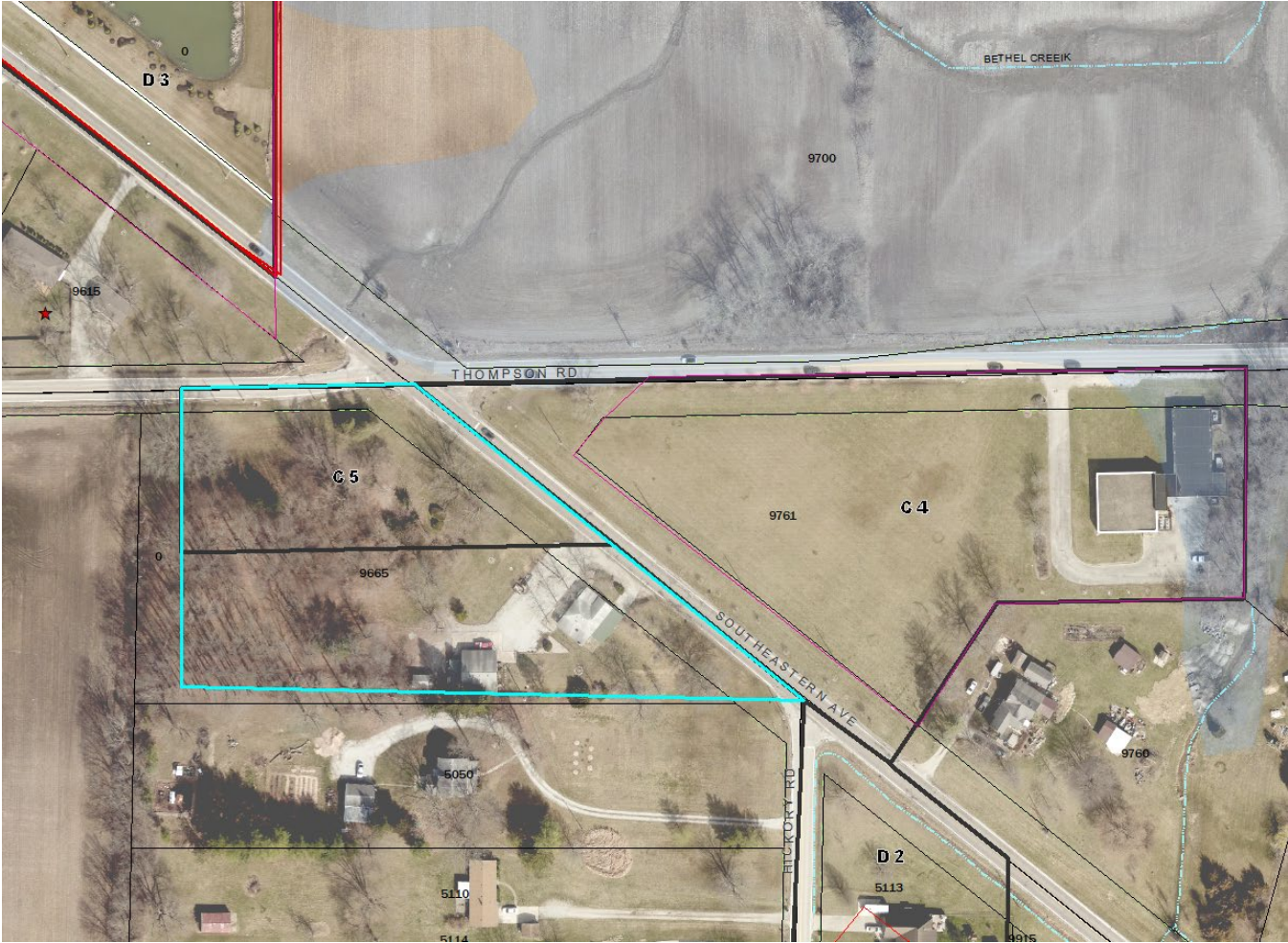
**2019-PLT-027, 9600 Southeastern Avenue**, approval of a plat to be known as Bethel Creek, Section One and Two, dividing 18.61 acres into 30 lots and 28.96 acres into 33 lots, respectively, with a waiver to provide for only one entrance.

**2020-PLT-015, 9600 Southeastern Avenue**, approval of a plat to be known as Bethel Creek, dividing 61.362 acres into 64 single-family lots and 21 two-family lots.

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**2023-CZN-865 / 2023-CPL-865 Aerial Map**











**2023-CZN-865 / 2023-CPL-865 Site Photos**



Subject site viewed from proposed Lot Two, looking north



Proposed Lot Two, looking north



Proposed Lot Two existing dwelling, barn, and shed, looking west



Existing dwelling viewed from Southeastern Avenue, looking west



Intersection south of site at Southeastern Avenue and Hickory Road, looking northwest



Intersection of Southeastern Avenue and Thompson Road, looking west. Proposed Lot One shown left.



Proposed Lot One viewed from Thompson Road, looking south



Proposed Lot One viewed from Thompson Road, looking east, Lot One shown right.

## 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.

#### ADDENDUM FOR THE JANUARY 25, 2024 HEARING EXAMINER

This petition was continued for cause from the December 14, 2023 hearing to the January 25, 2024 hearing at the request of a registered neighborhood organization. Staff continues to **recommend approval** of the request.

#### December 14, 2023

#### 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.
- ◇ 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.

(Continued)



- ◇ 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
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**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**.

(Continued)

**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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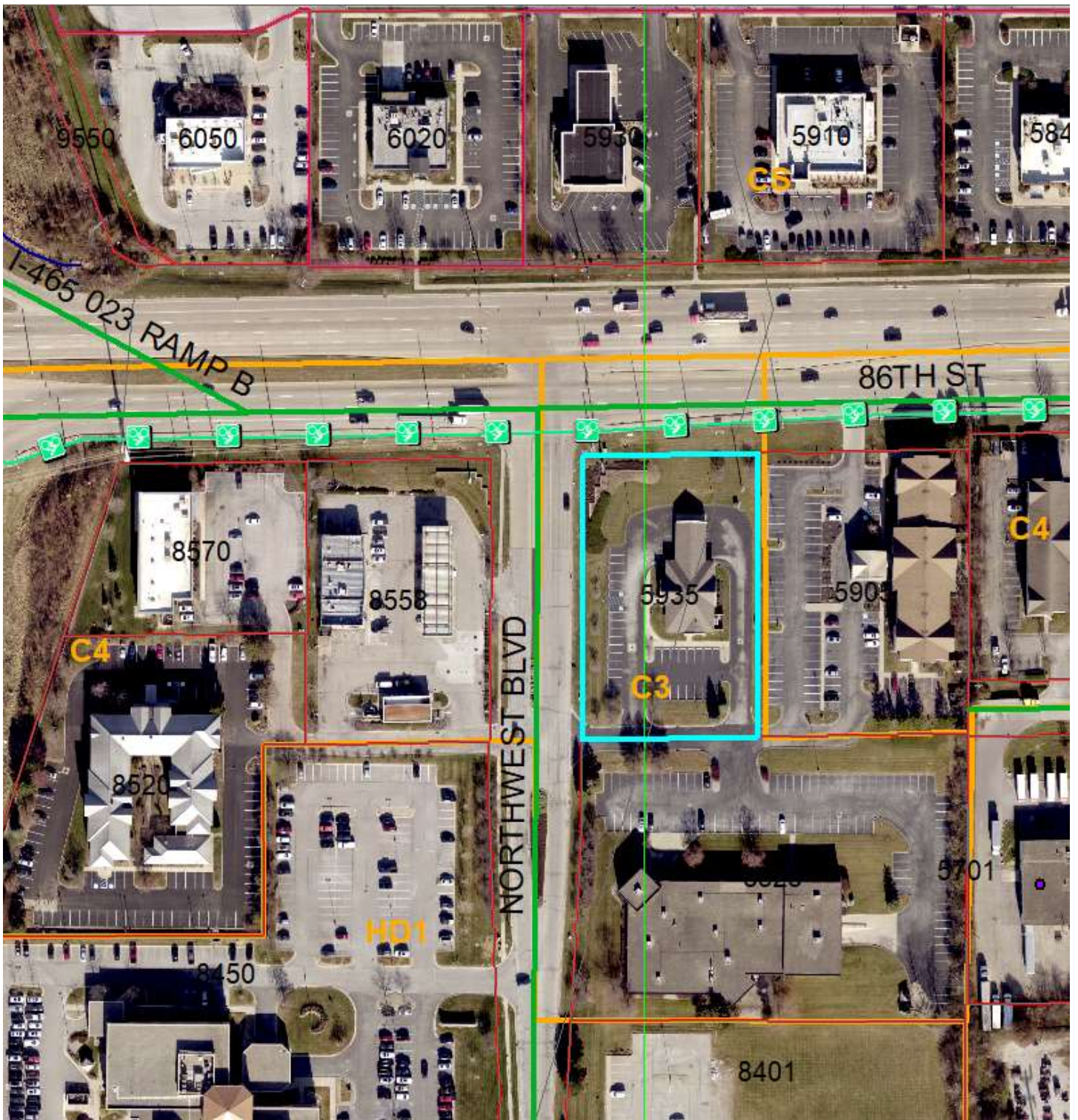






Photo of the existing north building façade.



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.

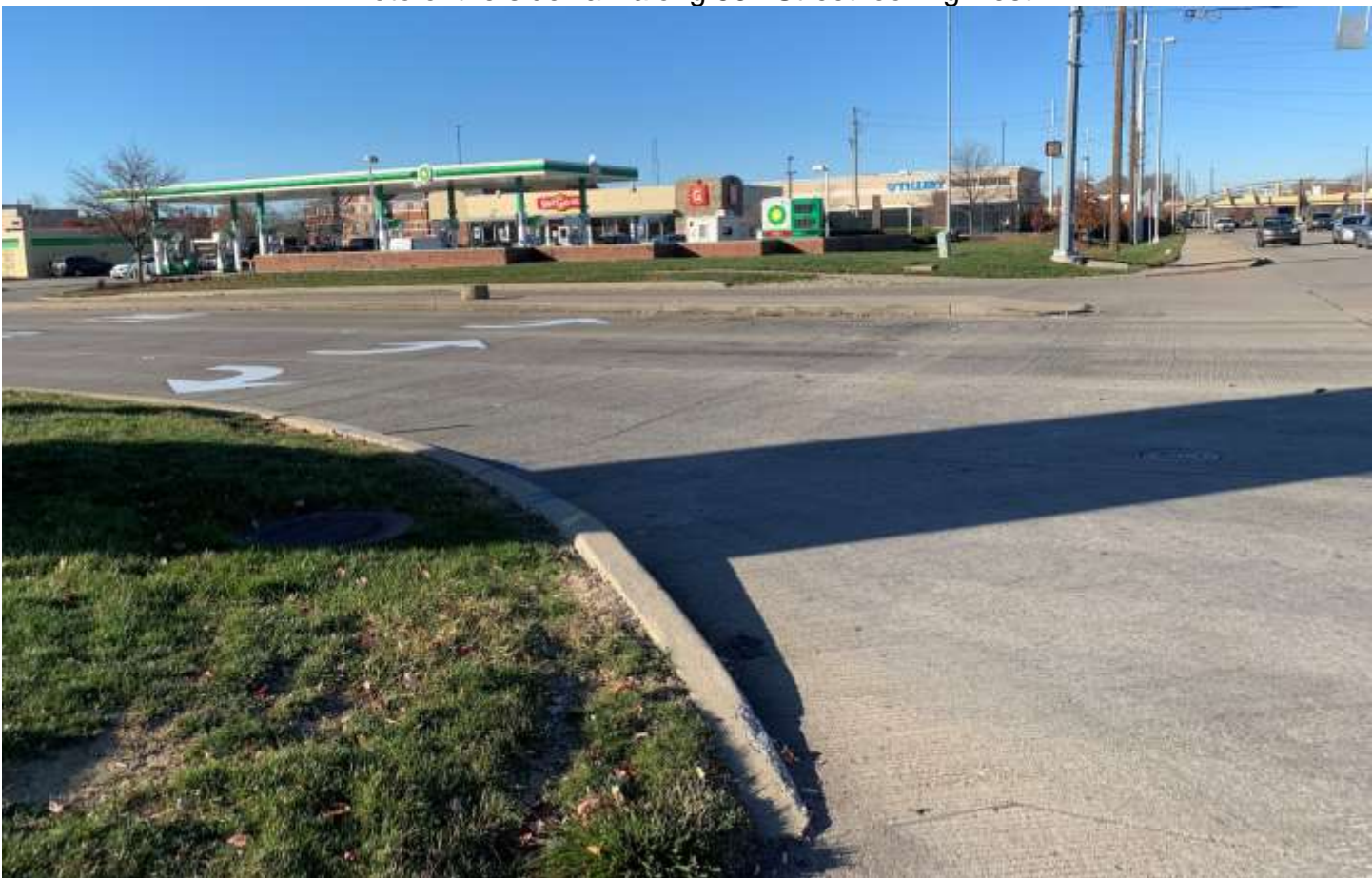


Photo of the gas station west of the site.



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.



**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

January 25, 2024

**Case Number:** 2023-ZON-114

**Property Address:** 2307 Post Drive

**Location:** Warren Township; Council District #19

**Petitioner:** Indy 70, LLC, by Bill Niemier

**Current Zoning:** I-3 / I-4

**Request:** Rezoning of 1.714 acres from the D-4 district to the I-3 district to provide for truck parking.

**Current Land Use:** Vacant land

**Staff Recommendations:** Recommends Denial

**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner acknowledged the timely automatic continuance filed by a registered neighborhood organization that continued this petition from the December 28, 2023 hearing, to the January 25, 2024 hearing.

**STAFF RECOMMENDATION**

Denial. If approved staff requests 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 final site plan shall be submitted for Administrator Approval prior to any disturbance on the site and prior to the issuance of an Improvement Location Permit (ILP).

**PETITION OVERVIEW**

This 1.714-acre site is vacant land surrounded by industrial uses to the north, zoned I-2; Interstate 70 right-of-way to the south, zoned C-4 / SU-9; commercial uses to the east, zoned C-4; and an extended-stay hotel to the west, zoned C-4.



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## Rezoning

“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.”

As proposed, the rezoning request would not be consistent with the Comprehensive Plan recommendation of community commercial, which would contemplate either C-3 (Neighborhood Commercial) or C-4 (Community-Regional), depending upon the surrounding land uses.

Staff believes the introduction of more intense industrial uses would not be appropriate and would be detrimental to the surrounding land uses.

Furthermore, the grant of a Special Exception for this use would be required in accordance with the Ordinance, along with all development standards.

No site plan for the proposed use has been submitted but because this site has been cleared, staff believes there are no encumbrances that would prevent redevelopment of the site that would comply with all development standards. In other words, staff would not support any requested variances as final plans are prepared if this is approved.

## 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



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Current Planning

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.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-4	
<b>Existing Land Use</b>	Commercial uses (vacant)	
<b>Comprehensive Plan</b>	Office Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	I-2	Industrial uses
South:	C-4 / SU-9	Interstate 70 right-of-way
East:	C-4	Commercial uses
West:	C-4	Extended stay hotel
<b>Thoroughfare Plan</b>		
Post Drive	Marion County Thoroughfare Plan (2019)	This portion of Post Drive is a private street with a 52-foot right-of-way.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	This site is not located within a floodway / floodway fringe.	
<b>Overlay</b>	This site is not located within an overlay.	
<b>Wellfield Protection Area</b>	This site is not located within a wellfield protection area.	
<b>Site Plan</b>	N/A	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	N/A	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan



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

### **Pattern Book / Land Use Plan**

- 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.
- Industrial uses are not included as a recommended land use by The Pattern Book.

### **Red Line / Blue Line / Purple Line TOD Strategic Plan**

- Not Applicable to the Site.



**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

**Indy Moves**

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

- Not Applicable to the Site.



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## ZONING HISTORY

**97-Z-177;2301 Post Drive**, requested rezoning of 4.15 acres from the I-2-S district to the C-4 classification to provide for commercial uses, **approved**.

**89-Z-240 A, B, and C; 2490 North Post Road (east of site)**, requested rezoning of 15.86 acres, being in the D-7, C-4, and C-1 districts to the C-4, C-3 and C-6 classification, **approved**.

**87-Z-26; 2502 North Post Road (east of site)**, requested rezoning of 98.35 acres, being in the I-2-S, I-3-S, D-7, C-1 and C-4 districts to the C-S classification to provide for a mixed-use complex consisting of a water park, outdoor recreation, offices, restaurants, motels, neighborhood retail uses, light industrial use and office-warehouse, **withdrawn**.

**87-Z-25; 2450 Tobey Drive (north of site)**, requested rezoning of 18 acres, being in the I-3-S district to the SU-16 classification, **withdrawn**.

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View looking east along Post Drive



View looking west along Post Drive



View of site looking south across Post Drive



View of site looking south across Post Drive



View of site looking south across Post Drive



View of site looking east from adjacent property to the west



View from site looking west from adjacent property to the east



View of site looking west from adjacent property to the east



View from site looking northwest at adjacent use to the west



View from site looking northwest



View from site looking north across Post Road



View from site looking north across Post Drive



View from site looking north across Post Drive



View from site looking northwest across Post Drive



View from site looking north across Post Drive



View from site looking northeast across Post Drive



## STAFF REPORT

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

**Case Number:** 2023-ZON-123  
**Address:** 8550 East 30th Street (approximate address)  
**Location:** Warren Township, Council District #13 (#9 Beginning 2024)  
**Petitioner:** Marotza Y Castro Rivas, by David Kingen  
**Request:** Rezoning of 0.64 acre from the I-2 district to the SU-1 district, to provide for religious uses.

### RECOMMENDATIONS

Staff **recommends denial** of the rezoning.

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 40-foot half right-of-way shall be dedicated along the frontage of 30<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).

### SUMMARY OF ISSUES

#### LAND USE

- ◇ The 0.64-acre subject site is developed with a commercial building that was historically used as an animal clinic.

#### REZONING

- ◇ The request would rezone the site from the I-2 district to the SU-1 district for religious uses.
- ◇ 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 SU-1 district is only intended for religious uses.
- ◇ The site falls within the Industrial Reserve (IR) overlay, which is intended for areas that are prime for industrial development due to factors such as large parcel size, proximity to compatible uses, and/or interstate access.

(Continued)

**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 30<sup>th</sup> Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

**Staff Analysis**

- ◇ Due to the existing industrial reserve overlay, staff cannot support the rezoning of the site to a zoning district that would ultimately never allow for industrial use again if the proposed religious use on site were to cease. For this reason, staff would recommend that the petitioner file for a Special Exception for the religious use instead.
- ◇ Table 743-1: Use Table, notes that the I-2 district contemplates religious uses in the I-2 district as a special exception so long as the use-specific standards are met.
- ◇ Because there are industrial uses in the immediate proximity, staff determined that the use-specific standards could be met and would be supportable since the zoning district would remain I-2 to ensure that future industrial uses could still be possible on site.
- ◇ Staff is concerned that the site might not be large enough for a religious use due to the limited parking available on site, but that would ultimately be determined by the number of seats the proposed church would have for its congregation. Staff would not support any variances needed for the site to be used as a religious use if the existing layout of the site does not meet the petitioners needs.
- ◇ For these reasons, staff is recommending denial of the request.

**GENERAL INFORMATION**

**EXISTING ZONING AND LAND USE**

I-2	Metro	Commercial Building
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**SURROUNDING ZONING AND LAND USE**

North	I-2	Railroad
South	I-3	Industrial Use
East	I-3	Industrial Use
West	I-2	Industrial Use

**COMPREHENSIVE PLAN**

The Comprehensive Plan recommends light industrial development.

**THOROUGHFARE PLAN**

30<sup>th</sup> 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 80-foot proposed right-of-way.

(Continued)

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

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

**ZONING HISTORY – VICINITY**

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

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

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

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

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

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Photo of the Subject Property: 8550 East 30th Street



Photo of the Subject Property: 8550 East 30th Street



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



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



Photo of the industrial use south of the site.