



Board of Zoning Appeals Board of Zoning Appeals Div. III (November 22, 2022) Meeting Agenda

Meeting Details

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

Date: Tuesday, November 22, 2022 **Time:** 1:00 PM

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

Business:

Adoption of Meeting Minutes:

Special Requests

Petitions for Public Hearing

PETITIONS REQUESTING TO BE CONTINUED:

1. 2022-DV3-044 | 111 Albert Drive (approximate address) | Perry Township, Council District #23

Gordon & Kellie Adams

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an eight-foot-tall fence (maximum six-foot tall fence permitted) and to:

- a) Legally establish an existing mini-barn with 0.5-foot rear yard setback and two-foot west side yard setback; and
- b) Provide for a pool deck with a two-foot east side and rear setback (minimum 30-foot side yard setback, 75-foot aggregate side setback required, and 75-foot rear setback required);
- c) Resulting in an 83% open space (85% open space required).

2. 2022-DV3-046 | 1321 Sturm Avenue (approximate address) | Center Township, Council District #17

Chase & Kristin Glassburn, by David Kingen & Emily Duncan

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish the existing two-foot rear yard setback of Lot 24 (15-foot rear setback required); and on Lot 25, provide for:

- a) The construction of a single-family dwelling with a 79-foot setback from Oriental Avenue (maximum setback of 19.9 feet permitted); and
- b) A six-foot fence within the front yard of Oriental Street (maximum 3.5-foot-tall fence permitted); and
- c) A three-foot corner side yard setback (eight-foot corner side yard setback required); and
- d) No front entry feature on the front façade (entry feature required); and
- e) Zero street trees (five required) and no planting beds in the front yard (20% of front yard must be occupied by planting beds).

3. 2022-UV3-029 | 1009 West Edgewood Avenue | Perry Township, Council District #20, Zoned D-A / D-4

Willis Group LLC, by James Lewis Hillery

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of two commercial storage buildings with a total of 11 storage units (not permitted), each with a 15-foot side yard setback resulting in a 30-foot aggregate side setback (30-foot side yard setback and 75-foot aggregate side yard setback required).

4. 2022-UV3-032 | 10859 East Washington Street (approximate address) | Warren Township, Council District #19

Gilligan Company, by Patrick Moore

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with:

- a) A 35-foot front setback from Washington Street (maximum 25-foot front setback permitted);
- b) An 11.95-percent required front building line (minimum 60% front building line required);
- c) With 59 parking spaces provided (maximum 21 spaces permitted); and
- d) Two drive thru lanes that do not provide exclusive bypass aisles (exclusive bypass aisles required in Metro Context Area).

5. 2022-UV3-033 | 8020 Brookville Road (approximate address) | Warren Township, Council District #18

Rahi Petroleum Inc., by Christian C. Badger

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an existing automobile fueling station (not permitted) through the construction of an additional canopy with three diesel fuel pumps, with an 88-foot front setback from Brookville Road (maximum 85-foot front setback permitted).

PETITIONS TO BE EXPEDITED:

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

6. 2022-DV3-042 | 3510 South Keystone Avenue | Center Township, Council District #12, Zoned C-7

Richmond Acquisitions LLC, by David Gilman

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 200-square foot, 40-foot-tall pole sign, with digital display, located within 250 feet of an existing freestanding sign and within 210 feet of a protected district (maximum 20-foot-tall pole sign permitted, digital display not permitted on pole signs, 300-foot separation from other freestanding signs and 600-foot separation from protected districts required).

7. 2022-UV3-030 | 4613 South Harding Street | Perry Township, Council District #20, Zoned I-4

Lamar Advantage GP Company, LLC, by Derek Raymond

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation and digital conversion of a 60-foot tall, 14-foot by 48-foot off premise advertising sign (digital off premise sign not permitted, height limited to 40 feet) with a 20-foot front setback from I-465 and 20-foot western side yard setback (60-foot front setback required along freeways, 30-foot side setback required) within 460 feet of another off-premise advertising sign (1,000-foot radial separation required), and within 460 feet, 880 feet and 1,100 feet of other off-premises signs along I-465, and within 20 feet along the centerline of an interstate exit roadway (1,500-foot separation required along I-465, 500-foot separation required from interstate ramp entries).

PETITIONS FOR PUBLIC HEARING (New Petitions):

8. 2022-DV3-043 | 1423 South State Avenue (approximate address) | Center Township, Council District #21

Platinum SPC LLC, by Paul Carroll

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a zero-foot south side yard setback and provide for the construction of a building addition resulting in a two-foot south setback (five-foot side yard setbacks required)

9. 2022-DV3-045 | 3141 East Thompson Road (approximate address) | Perry Township, Council District #24

Nike Adebomojo, by William T. Niemier

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a freestanding commercial building with a 96.5-foot front setback from Thompson Road (maximum 85-foot front setback permitted).

10. 2022-DV3-047 | 920 Mitthoefer Road (approximate address) | Warren Township, Council District #19

Tune Up Pros LLC, by Martin Tomey

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition with a height of 24 feet (height limited to 18 feet along a transitional yard) and a 15-foot rear transitional yard (20-foot transitional yard required).

11. 2022-DV3-048 | 6303 East 82nd Street (approximate address) | Lawrence Township, Council District #3

Huffer Holdings, LLC, by Brent Bennett

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an internally illuminated pole sign with digital display, and within 125 feet of a signalized intersection (pole signs, internal illumination and digital display not permitted in the C-3 District) and a dumpster within the front yard of Knue Road (not permitted).

Additional Business:

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

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-DV3-044
Address: 111 Albert Drive (approximate address)
Location: Perry Township, Council District #23
Zoning: D-A / D-2
Petitioner: Gordon & Kellie Adams
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an eight-foot-tall fence (maximum six-foot tall fence permitted) and to:

- a) Legally establish an existing mini-barn with 0.5-foot rear yard setback and two-foot west side yard setback; and
- b) Provide for a pool deck with a two-foot east side and rear setback (minimum 30-foot side yard setback, 75-foot aggregate side setback required, and 75-foot rear setback required);
- c) Resulting in an 83% open space (85% open space required).

On November 16, 2022, the petitioner indicated they would like to **withdraw** the petition request. This would require the Board's acknowledgment.

GLH

STAFF REPORT

Item 2.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-DV3-046
Address: 1321 Sturm Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: Chase & Kristin Glassburn, by David Kingen & Emily Duncan
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish the existing two-foot rear yard setback of Lot 24 (15-foot rear setback required); and on Lot 25, provide for:

- a) The construction of a single-family dwelling with a 79-foot setback from Oriental Avenue (maximum setback of 19.9 feet permitted); and
- b) A six-foot fence within the front yard of Oriental Street (maximum 3.5-foot-tall fence permitted); and
- c) A three-foot corner side yard setback (eight-foot corner side yard setback required); and
- d) No front entry feature on the front façade (entry feature required); and
- e) Zero street trees (five required) and no planting beds in the front yard (20% of front yard must be occupied by planting beds).

A timely automatic continuance was filed by a registered neighborhood organization, continuing this petition from the November 2022, hearing, to the December 20, 2022, hearing.

In addition, the petitioner has indicated their intent to amend the petition, so the continuance will be with new notice.

RU

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-029
Address: 1009 West Edgewood Avenue (approximate address)
Location: Perry Township, Council District #20
Zoning: D-A / D-4
Petitioner: Willis Group LLC, by James Lewis Hillery
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of two commercial storage buildings with a total of 11 storage units (not permitted), each with a 15-foot side yard setback resulting in a 30-foot aggregate side setback (30-foot side yard setback and 75-foot aggregate side yard setback required).

ADDENDUM NOVEMBER 22, 2022

This petition was automatically continued from the October 18, 2022, hearing of Division III, to the November 22, 2022, hearing of Division III, at the request of the petitioner.

November 22, 2022

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-A / D-4	Metro	Commercial
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SURROUNDING ZONING AND LAND USE

North	SU-1	Religious use
South	D-4	Single-family dwelling
East	D-A	Single-family dwelling
West	D-A	Single-family dwelling

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Rural or Estate neighborhood development.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

- ◇ The subject site is 2.96 acres located in the Glens Valley neighborhood in Perry Township. The subject site contains two commercial buildings, with outdoor storage. The surrounding neighborhood consists of residential to the west, east and south, and religious uses to the north. The site abuts a railroad track to the east.
- ◇ The subject site is primarily zoned D-A (Dwelling Agriculture District). 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. This district does not require public water and sewer facilities.
- ◇ The subject site is zoned D-4 (Dwelling District Four), at the southernmost portion of site. The D-4 district is intended for low or medium intensity single-family and two-family residential development. Land in this district needs good thoroughfare access, relatively flat topography, and nearby community and neighborhood services and facilities with pedestrian linkages. Provisions for recreational facilities serving the neighborhood within walking distance are vitally important. Trees fulfill an important cooling and drainage role for the individual lots in this district. The D-4 district has a typical density of 4.2 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan.

VARIANCE OF USE

- ◇ The request would provide for the construction of two commercial storage buildings with a total of 11 storage units, each with a 15-foot side yard setback resulting in a 30-foot aggregate side setback.
- ◇ The proposed use would be comparable to Mini-Warehouses (or Self Storage Facility). **Mini-Warehouses (or Self Storage Facility)** is defined as a building or group of buildings containing one or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds 600 square feet in area (740-202.M). Mini-Warehouse (or Self-Storage Facility) is only permitted in the C-7 and all industrial districts. Where permitted, mini warehouses should follow the use specific standards (743-305.X) below:
 1. All storage shall be within enclosed buildings except in the C-7, I-3 and I-4 districts.
 2. Security fencing shall not include razor wire or barbed wire within 10 feet of a front lot line or transitional yard.
 3. Doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.
 4. A landscaped or naturally vegetated buffer at least 50 feet in width shall be provided along any lot line that abuts a protected district.

(Continued)

5. Exterior access to any storage units within 100 feet, measured in any direction, of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. (See Section 743-301 and Section 740-308.)

- ◇ Section 743-301 states that public access to any storage unit within 100 feet of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. The subject site is located within a dwelling district and is surrounded by dwelling districts to the west, east, and south. The Plan of Operation does not specify hours of operation, but states customers can access the subject site during “controlled business hours.” Staff is strongly opposed to the request where the subject site is located and surrounded by protected districts and would be a significant deviation from what is permitted within the D-A district. The use would be more appropriate in a commercial or industrial district.
- ◇ Additionally, the Plan of Operation states that the proposed storage units would exceed 600 square feet in area, being 800 square feet for business customers that require “large storage space.” Furthermore, the proposed use would primarily be for customers who “cannot keep their storage at their dwellings, due to HOA restrictions.” Staff is concerned the large size of the units could allow for storage for semi-trailers. As per 743-306. B.3, no commercial vehicle or trailer shall be parked, stored, maintained, or kept on any property in a Dwelling district unless:
1. The vehicle has a gross vehicle weight rating (GVWR) of 10,000 pounds or less; or
 2. The vehicle is parked, stored, maintained, or kept within a garage or carport and is not categorized as a commercial vehicle by Item 2 in the definition of a commercial vehicle; or,
 3. The vehicle is parked or stored on a site where active, legal construction activity is taking place. Commercial vehicles that are in the course of making normal and reasonable service calls are exempt from this provision.

The proposed use would not follow any of the above regulations.

- ◇ The Comprehensive Plan recommendation for the subject site is Rural or Estate Neighborhood 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. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space. Staff believes the proposed use does not align with the Comprehensive Plan recommendation.
- ◇ Staff is wholly opposed to the request, where there is no hardship in using the subject site for permitted uses within the D-A district. The proposed use would be better suited in a commercial or industrial district, removed from residential.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The two proposed commercial structures would result in deficient side yard setbacks. Table 744-201-1 states that in the D-A district, Metro Context Area, the required side yard setback is thirty feet, with a required 75-foot combined side yard. The proposed commercial buildings would have a 15-foot side yard setback, resulting in a 30-foot aggregate side setback. Staff is opposed to the requested side setbacks where the proposed use promotes overdevelopment of the subject site, thus creating deficient setbacks. This would be considered a self-imposed practical difficulty, considering that the use would be better suited in a commercial or industrial district.
- ◇ Staff would note, that although there is no violation on the subject site, the existing uses are not compliant with the Ordinance standards. There are currently semi-trailers in the rear yard, which would be defined as Outside Storage and Operations. Outdoor Storage and Operations is only permitted as an accessory use in the C-5, C-7, and industrial districts (Table 743-1).

Previous Variance, 80-UV3-138

- ◇ Staff found an old variance for the subject site, like the proposed use requested. The previous variance was to permit the erection of an addition to an existing building for servicing tractors and continued use of residence as an office and residence. The grant of the variance had the following conditions applied:
 1. All development and construction shall be in compliance with plans filed in this office dated October 21, 1980.
 2. Landscaping and parking plan to be submitted to the Administrator of the Division of Planning and Zoning for approval prior to the issuance of an Improvement Location Permit.
 3. No more than eight semi-cab and trailers to be parked or stored on the site. No more than three of these shall be refrigeration units in operation at any one time.
 4. To be for the use of Contract Carriers, Inc. only.
 5. Unless an Improvement Location permit is obtained within one year of this variance is void.

Based on condition number 4, this variance no longer applies to the subject site. Additionally, the expansion of the use, to add two more commercial structures with deficient setbacks for storage, would adversely impact the surrounding neighborhood, while promoting overdevelopment of the subject site.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Edgewood Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 30-foot existing right-of-way and a 80-foot proposed right-of-way.

**SITE PLAN
PLAN OF OPERATION
FINDINGS OF FACT**

File-dated September 2, 2022.
File-dated September 2, 2022.
File-dated September 2, 2022.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)**ZONING HISTORY – SITE**

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

80-UV3-138; 1009 West Edgewood Avenue (subject site), requested a Variance of use and development standards to permit the erection of an addition to an existing building for servicing tractors, and continued use of residence as an office and residence, as per plans filed, off-street parking required, **granted**.

ZONING HISTORY – VICINITY

2007-DV1-048; 1137 West Edgewood Avenue, requested a Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a twenty-foot tall, 1,500 square foot detached accessory structure, with a 240-square foot porch, resulting in an accessory building area of 1,500-square feet or 96 percent of the main floor area of the primary structure, **approved**.

GLH

(Continued)

2022-UV3-029; Aerial Map



(Continued)

[illegible]

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PLAN OF OPERATION

1009 WEST EDGEWOOD AVENUE
BUSINESS CLIENT'S LARGE COLD WAREHOUSE STORAGE UNITS

WORKFORCE:

Property will be managed and maintained by the current property owner, who will be onsite to monitor activities. There will be no additional employees or volunteers associated with the new buildings.

CLIENTS AND CUSTOMERS:

The 11 cold warehouse storage units of approximately 800 square feet will be for business customers who require large storage spaces only, not for individual use. Business class customers will have access to the buildings only during controlled business hours to store excess tools, equipment, trailers and materials that are not used in their day-to-day operations and may not be allowed at their residence due to zoning HOA restrictions and the like. A minimum one-year lease will be required. There will be no work done on the site or in the storage units, there will be no HVAC and no running water, so there will not be much daily traffic by customers.

PROCESSES CONDUCTED ON SITE:

There will be only storage pick up and drop off on site. All storage will be inside the buildings and not visible from outside. There will be security fencing, security cameras and onsite management.

MATERIALS USED:

There will be no hazardous materials allowed on site. Periodic inspections will be performed to monitor compliance.

SHIPPING AND RECEIVING:

There will be shipping or receiving allowed to or from the storage units as needed. Customers will not be allowed to use the site as a business address for any purposes.

WASTE:

There will be no waste from the storage units. Customers will be required to dispose of their own waste, if any, at their own business locations, job site or local recycling facilities, trash or other waste. (Recycling will be encouraged.)

(Continued)

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The proposed cold warehouse storage building units for business customers will not be injurious to public health, safety, morals and general welfare of the community.

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

This property has been used for commercial semi tractor truck repair for over 62 years, since 1960. Areas adjacent will not be adversely affected because activities in the new buildings will be indoors during controlled business hours and will not create much traffic or activity, since there will only be 11 storage warehouse units. Current owner will be only staff and will be on site during business hours. Units will be located 100 feet back from front lot line.

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

Because the property is directly adjacent to the railroad tracks, Owner would not otherwise be able to get the highest and best use of this large 2.96 acre already commercial property on which there is sufficient room for the construction/expansion. Because there is no city sewer or water, cold storage warehouses are one of few best uses of the property.

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

Because the property is directly adjacent to the railroad tracks, Owner would not be able to get the highest and best use of the property. There is sufficient room for the construction/expansion on the 2.96 acre property which value will be enhanced by its improved utility. Because there is no city sewer or water, cold storage warehouses are one of few best uses of the property.

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

In addition to already being used for commercial use, there are many commercial uses nearby already. This property lies adjacent to the railroad tracks on Edgewood Avenue, a heavily used East-West truck route, and also the location of the Perry Township School System bus garage which creates a lot of traffic. The property is also very near Bluff Road, a major road from the South, so it will not create any traffic on nearby neighborhood streets.

DECISION

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

Adopted this _____ day of _____, 20 22

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 proposed cold storage building units for business customers will not be injurious to public health, safety, morals and general welfare of the community.

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

The property has been used for commercial semi tractor truck repair for over 62 years, since 1960. Areas adjacent will not be adversely affected because activities in the new building will be indoors during controlled business hours and will not create any traffic on neighborhood streets. There will only be 11 large cold storage warehouse units. Current owner will be only staff and will be on site during business hours. Units will be located 100 feet back from front lot line.

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

Owner would not be able to get the highest and best use of the property. The property is adjacent to the railroad tracks. There is sufficient room for the construction/expansion on the 2.96 acre property which value will be enhanced by its improved utility.

DECISION

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

Adopted this _____ day of _____, 20__22



Photo looking west on Edgewood Avenue.



Photo looking north of subject site, towards religious use (protected district).

(Continued)



Photo looking east on Edgewood Avenue.



Photo of west lot line, where proposed commercial structure would be located.

(Continued)



Photo of exisiting structure, resembling an old pole barn, with semi-trailer storage behind.

(Continued)



Photo of rear yard, with outdoor storage.

(Continued)



Photo of driveway from Edgewood Avenue.



Photo of surrounding residential to the north of the subject site.

(Continued)



Photo of the Subject Property: 1009 West Edgewood Avenue

STAFF REPORT

Item 5.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-033
Address: 8020 Brookville Road (approximate address)
Location: Warren Township, Council District #18
Zoning: C-3
Petitioner: Rahi Petroleum Inc., by Christian C. Badger
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an existing automobile fueling station (not permitted) through the construction of an additional canopy with three diesel fuel pumps, with an 88-foot front setback from Brookville Road (maximum 85-foot front setback permitted).

The petitioner has indicated **their intent to withdraw this petition**, so that it can be refiled in the future as a rezoning petition. The withdrawal will need to be acknowledged by the Board.

The petitioner will also request to transfer the filing fee of \$2,044.00 for the variance of use, to apply it to the rezoning fee. Staff has no objection to this request. This will require a motion from the Board.

RU

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-042
Address: 3510 South Keystone Avenue (approximate address)
Location: Center Township, Council District #12
Zoning: C-7
Petitioner: Richmond Acquisitions LLC, by David Gilman
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 200-square foot, 40-foot-tall pole sign, with digital display, located within 250 feet of an existing freestanding sign and within 210 feet of a protected district (maximum 20-foot-tall pole sign permitted, digital display not permitted on pole signs, 300-foot separation from other freestanding signs and 600-foot separation from protected districts required).

ADDENDUM FOR NOVEMBER 22, 2022

This petition was continued from the October 18, 2022, hearing of Division III, to the November 22, 2022 hearing of Division III, at the request of the petitioner.

October 18, 2022

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-7	Metro	Heavy Commercial
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SURROUNDING ZONING AND LAND USE

North	D-5	Single-family dwelling / Interstate 65
South	C-7	Heavy Commercial
East	C-4	Commercial
West	C-7	Heavy Commercial

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Office Commercial development.

(Continued)

STAFF REPORT 2022-DV3-042 (Continued)

- ◇ The subject site is 3.37 acres, located in the Keystone 65 Business Park Subdivision in the University Heights neighborhood. The lot is located along the I-65 off-ramp for Keystone Avenue. The only and primary access to the subject site is from Keystone Avenue, which leads to the integrated center's access drives. The existing structure on the site was constructed in the late 1970s (as shown in Aerial images). There are eleven leased tenant spaces on the subject site, including commercial contractor uses. The subject site is surrounded by a range of commercial uses, including high intensity commercial to the west and south, community-regional commercial uses to the east, and residential to the north, across I-65.
- ◇ The subject site is zoned C-7 (High-Intensity Commercial District). 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.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would provide for a 200-square foot, 40-foot-tall pole sign, with digital display, located within 250 feet of an existing freestanding sign and within 210 feet of a protected district. A *pole sign* is defined as a freestanding sign, accessory to the primary use of land, that has as its support structure one or more poles anchored in the ground as it extends upward from grade level (744-902).
- ◇ Under Table 744-906-1, pole signs are permitted within the C-7 district. However, only a maximum of one pole sign per street frontage; if frontage to which the sign is oriented is greater than 500 feet of an additional freestanding sign is permitted (minimum 300 feet separation between freestanding signs on site). The proposed sign would be within 250 of an existing pole sign, located on the property to the east. Staff is wholly opposed to the request, where there is no practical difficulty resulting in the need for the proposed pole sign. Signage that is compliant with the Ordinance can be effective in advertising existing uses on the subject site, such as wall signs or monument signs. One of the main goals of the 2019 Sign Revisions was to reduce proliferation and increase the aesthetics of sign displays. This variance request is in direct conflict with the goals of the sign revisions.

(Continued)

STAFF REPORT 2022-DV3-042 (Continued)

- ◇ The maximum height for pole signs in commercial districts is 20 feet (Table 744-906-1). The proposed height of the pole sign would be 40 feet. Additionally, the proposed pole sign would have a digital display, which is not permitted on pole signs. Even in the instance that digital displays would be permitted, there are separation requirements between digital displays and protect districts. (No digital display shall be located within 600 feet of any protected district unless visibly obstructed from view from within that district; but in no instance may it be located within 400 feet of such a District, as per 744-907.C).
- ◇ Digital display panels feature the ability to rapidly change messages and typically produce lighter and glare than a conventional sign because all the sign's copy is produced by light. This sign, therefore, would clearly impact the protected district to the north because of its changing and/or scrolling display, brightness, and aesthetic impact. Staff is not supportive of this request, where the site plan shows the proposed pole sign would be visible across I-65, where the protected district (dwelling district) is located 210 feet away. In Staff's opinion, the request of the digital display component would degrade the quality of life in the area and because there is no practical difficulty that would justify the request, Staff recommends denial.

STAFF REPORT 2022-DV3-042 (Continued)**GENERAL INFORMATION**

THOROUGHFARE PLAN

Keystone Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a freeway, with a 0-foot existing right-of-way and a 432-foot proposed right-of-way.

SITE PLAN

File-dated September 16, 2022.

ELEVATION

File-dated August 9, 2022.

FINDINGS OF FACT

File-dated August 9, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES: None.

ZONING HISTORY – VICINITY

2021-UV1-028; 3451 Developers Road, requested a Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 70-foot tall, 14-foot by 48-foot digital off-premise advertising sign, with a five-foot setback from Interstate 65, with a five-foot east and a six-foot south side setback, located 200 feet from a protected district, located adjacent to and exit roadway of Interstate 65, located within Interstate 465, and to allow for digital messages to display for minimum of eight seconds, **denied**.

2022-DV2-025; 3316 St Paul Street, requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of single-family dwellings with private wells, **approved**.

(Continued)

STAFF REPORT 2022-DV3-042 (Continued)

2015-UV3-005; 7220 90th Street, requested a Variance of use and development standards of the Industrial Zoning Ordinance to provide for an automobile dealer, with indoor and outdoor vehicle display, with the construction of a 3,000-square foot addition, with an 18.5-foot north side setback, **approved**.

2010-DV3-013; 3451 Developers Road, requested a variance of development standards of the Sign Regulations to provide for a 54-square foot electronic variable message wall sign, within 265 feet of a protected district, **granted, subject to commitments**.

2005-UV1-010; 3555 Developers Road, requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for a business that repairs, distributes, and manufactures tools, within an existing 59,628-square foot building, with a 6.9-foot rear yard setback, **granted**.

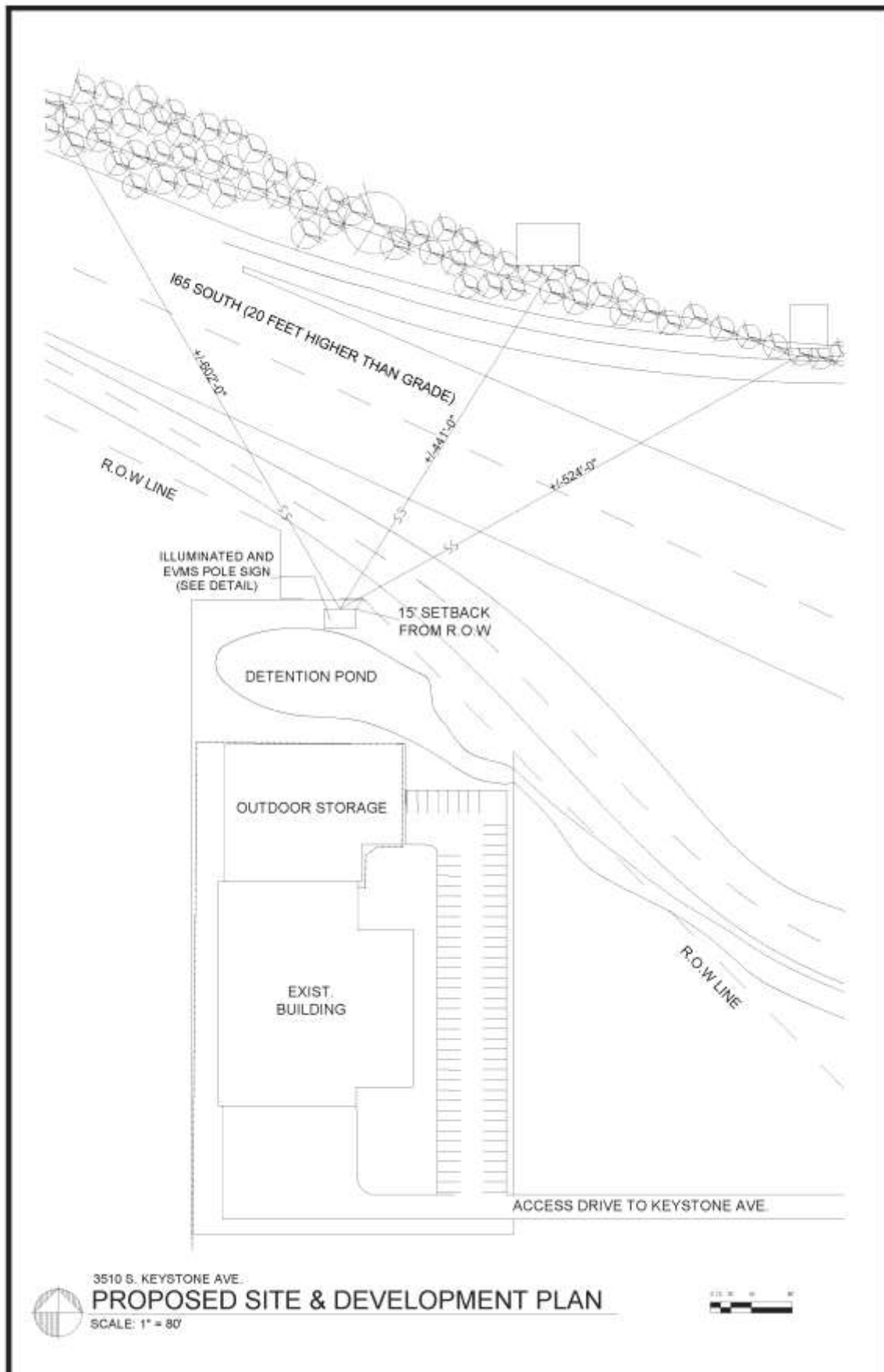
2005-DV2-023; 3740 South Dearborn Street, requested a variance of development standards of the Sign Regulations to legally establish a 25-foot tall, 89.91-square foot pylon sign with a 24.11-square foot electronic variable message component, located 130 feet from a protected district, **denied**.

94-Z-164; 3504 Developers Road, requested the rezoning of 3.5 acres, being in the D-4 and C-4 Districts, to the C-ID classification, to provide for a motor distribution operation, **approved**.

79-Z-75; 2120 Nation Avenue, requested the rezoning of 15.12 acres, being in the SU-1, Special Use district, to the C-ID classification, to provide for an air conditioning and heating business, **approved**.

GLH

(Continued)



(Continued)



3510 S. KEYSTONE AVE.

RICHMOND EXTERIORS

SCALE: 1" = 10'



(Continued)

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 sign will be designed and installed by a professional sign company. The functionality of the graphic display will be designed in a manner not to be a traffic hazard. This sign will advertise business activities that are not immoral or injurious to the general public.

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 are other LED or illuminated signs in the general vicinity to promote the success of individual businesses.

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

The existing building has an excessive setback due to stormwater detention requirements. There are 3 to 6 businesses that will share the same LED sign. There is not direct access to the business from the major road frontage and the building is difficult to locate. The terms of the Sign Ordinance will make it difficult for businesses to advertise from the major frontage on I65S and only 1 sign is permitted.

DECISION

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

Adopted this _____ day of _____, 20 ____



Google image of subject site from off ramp. Proposed signage would be 40 feet, as opposed to the maximum height of 20 feet.

(Continued)



Photo looking south on Keystone Avenue. Existing freestanding signage for integrated center.



Photo looking east of subject site, across Keystone Avenue.

(Continued)



Photo looking north on Keystone Avenue, towards I-65 Keystone exit and overpass.



Photo of eating establishment east of subject site. Located in same integrated center, with different zoning district.

(Continued)



Photo of commercial business located southeast of subject site.



Photo of subject site.

(Continued)



Photo of subject site, existing parking lot.



Photo of hotel located east of subject site.

(Continued)



Photo of existing signage, east of subject site.



Photo of parking lot, facing I-65, where proposed sign would be.

(Continued)



Photo of subject site.



Photo of subject site, with existing structure.

(Continued)



Photo of subject site.



Photo of existing signage, east of subject site

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-030 (Amended)
Address: 4613 South Harding Street (approximate address)
Location: Perry Township, Council District #20
Zoning: I-4
Petitioner: Lamar Advantage GP Company, LLC, by Derek Raymond
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of a 60-foot tall, 14-foot by 48-foot off premise advertising sign (height limited to 40 feet) with a 20-foot front setback from I-465 and 20-foot western side yard setback (60-foot front setback required along freeways, 30-foot side setback required) within 460 feet of another off-premise advertising sign (1,000-foot radial separation required), and within 460 feet, 880 feet and 1,100 feet of other off-premises signs along I-465, and within 20 feet along the centerline of an interstate exit roadway (1,500-foot separation required along I-465, 500-foot separation required from interstate ramp entries).

This petition was automatically continued at the request of a registered neighborhood organization, from the October 18, 2022 hearing, to the November 22, 2022 hearing.

RECOMMENDATIONS

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

Amended Petition: This petition was amended to withdraw the request for a digital conversion. The petition included a request to provide for a digital conversion of the off-premise advertising sign, which was an administrative mistake and should not have been included. Additional notice would not be needed, as the request would now deviate less from the Ordinance than the original notice. The request for the digital conversion is being withdrawn, and the Board will need to acknowledge the withdrawal of the digital conversion request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Metro	I-4	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	I-4	Undeveloped
South	C-7	Truck or Heavy Vehicle Sales, Rental or Repair
East	I-4	Undeveloped
West	C-7	Truck Stop

(Continued)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends heavy commercial uses for the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as any off-premises sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages. Same as billboard or advertising sign.”
- ◇ The need for the variance arises from a condition peculiar to the property involved because a road expansion project along South Harding Avenue, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location on private property causing the relocation of the sign.
- ◇ The grant of the petition would also permit for the outdoor advertising sign to be located, with a 60-foot height, with a 20-foot front setback from I-465 and 20-foot western side yard setback, within 460 feet of another off-premise advertising sign, and within 460 feet, 880 feet and 1,100 feet of other off-premises signs along I-465, and within 20 feet along the centerline of an interstate exit roadway.
- ◇ The Ordinance limits outdoor advertising signs to a maximum 40-foot height, and outdoor advertising signs are not permitted radially within 1000 feet of another off-premise sign and not permitted linearly along the interstate roadway within 1500 feet of another off-premise sign.
- ◇ Staff understands that an outdoor advertising sign has existed on site since 2012 per an aerial image. Therefore, the variance request would be to establish a new location of the existing sign according to the updated standards of the Ordinance, which include some that the existing sign was not previously subject to.
- ◇ Indiana Code Section 36-7-4-918.5(a) provides:
 - (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board’s approval. A variance may be approved under this section only upon a determination in writing that:
 - (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the “practical difficulties” standard prescribed by this subdivision.

(Continued)

STAFF REPORT 2022-UV3-030 (Continued)

- ◇ With respect to the first prong of this test, it is the opinion of staff that approval of this variance would not be injurious to the public health, safety, morals, and general welfare of the community. The sign in its current location has not caused any such injury to the community.
- ◇ With respect to the second prong, the outdoor advertising sign in its current location, has existed without any negative impact to adjacent property owners. In staff's opinion, the request to relocate the sign would not impose a significant negative impact upon adjacent properties.
- ◇ Staff finds that the third prong of the statutory test is also satisfied here, because of special circumstances and the need for flexibility mandated by a separate state statute, as explained below.
- ◇ The owner has a government imposed practical difficulty due to a road expansion project along Harding Street and the expansion of the I-465/SR-37/I-69 interchange by INDOT, which would eliminate the sign's existing location on private property causing the relocation of the sign.
- ◇ The petitioner plans to relocate the sign to the north and increase the sign height from 40 feet to 60 feet in height. This increase is due to INDOT's proposed construction of an elevated roadway adjacent to the proposed billboard location.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

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

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

(1) elevate the outdoor advertising sign; or

(2) relocate the outdoor advertising sign to a point within five hundred (500) feet of its prior location, if the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.

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

(Continued)

STAFF REPORT 2022-UV3-030 (Continued)

(d) The elevated outdoor advertising sign or outdoor advertising sign to be relocated shall be the same size as the previous outdoor advertising sign and, to the extent allowed by federal or state law, may be modified to:

(1) elevate the sign to make the entire advertising content of the sign visible; and

(2) an angle to make the entire advertising content of the sign visible.

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

(f) If the county or municipality does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance under subsection (c), notwithstanding IC 8-23-20-10, the county or municipality is responsible for the payment for just and full compensation to an owner under IC 32-24.

- ◇ The current Zoning and Subdivision Ordinance does not align with state code, which should provide for a special exception to the zoning ordinance to allow for an elevation or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.
- ◇ State code notes that there should be the option to elevate the sign or relocate the sign but does not specify that both options must be granted. Since the widening of the I-465/SR-37/I-69 interchange is out of the petitioner's control, staff is supportive of the variance requests as proposed.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of South Harding Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 200-foot existing and proposed right-of-way.

SITE PLAN

File-dated September 21, 2022.

ELEVATIONS

File-dated September 20, 2022

FINDINGS OF FACT

File-dated August 23, 2022.

ZONING HISTORY

2022-UV3-019; 1245 Harding Court (south of site), requested a variance of use and development standards to provide for 50-foot tall, 14-foot by 48-foot digital off-premise advertising sign (digital off-premise sign not permitted, maximum 40-foot height permitted), within 495 feet and 885 feet of other off-premise advertising signs, **denied**.

(Continued)

2021-DV1-043; 4607 South Harding Street (west of site), requested a variance of development standards to provide for the relocation and replacement of an existing 85-foot tall, 792-square foot pole sign with an 85-foot tall, 526.3-square foot pole sign along Interstate 465 and to replace an existing 40.17-foot tall, 157-square foot sign with a 30-foot tall, 130.8-square foot freestanding sign along Harding Street, **granted**.

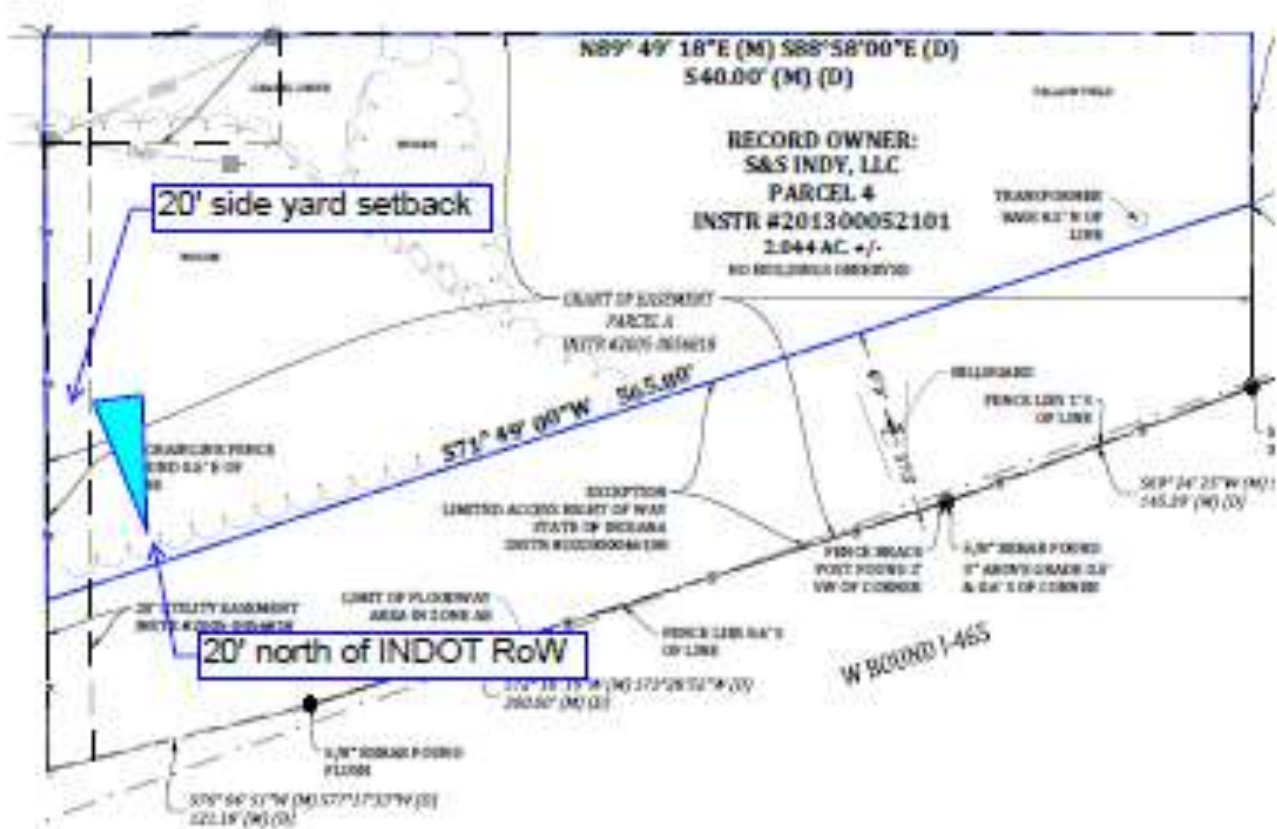
2012-CVR-813; 4585, 4600, and 4800 South Harding Street (north of site), requested a variance of use and development standards to provide for truck and truck-related sales and to provide for zero-foot side yards abutting the parcel shown as an exception (addressed as 4585 (Parcel 5028528) 4603 and 4605 South Harding Street), on the site plan submitted to the file, **granted**.

2012-CZN-813; 4585, 4600, and 4800 South Harding Street (north of site), requested the rezoning of 37.11 acres from the C-2 (FF), C-3 (FF), C-5 (FF), C-7 (FF) and I-3-S (FF) districts to the I-4-S classification to provide for a motor truck terminal, **approval**.

83-HOV-110; 4575 South Harding Street (east of site), requested a variance of size, setbacks, and spacing development standards of the Sign Regulations to allow the erecting of a 14 by 48-foot advertising pole sign at 60 feet from intersection right-of-way and 15 feet from a side property line, **granted**.

RU





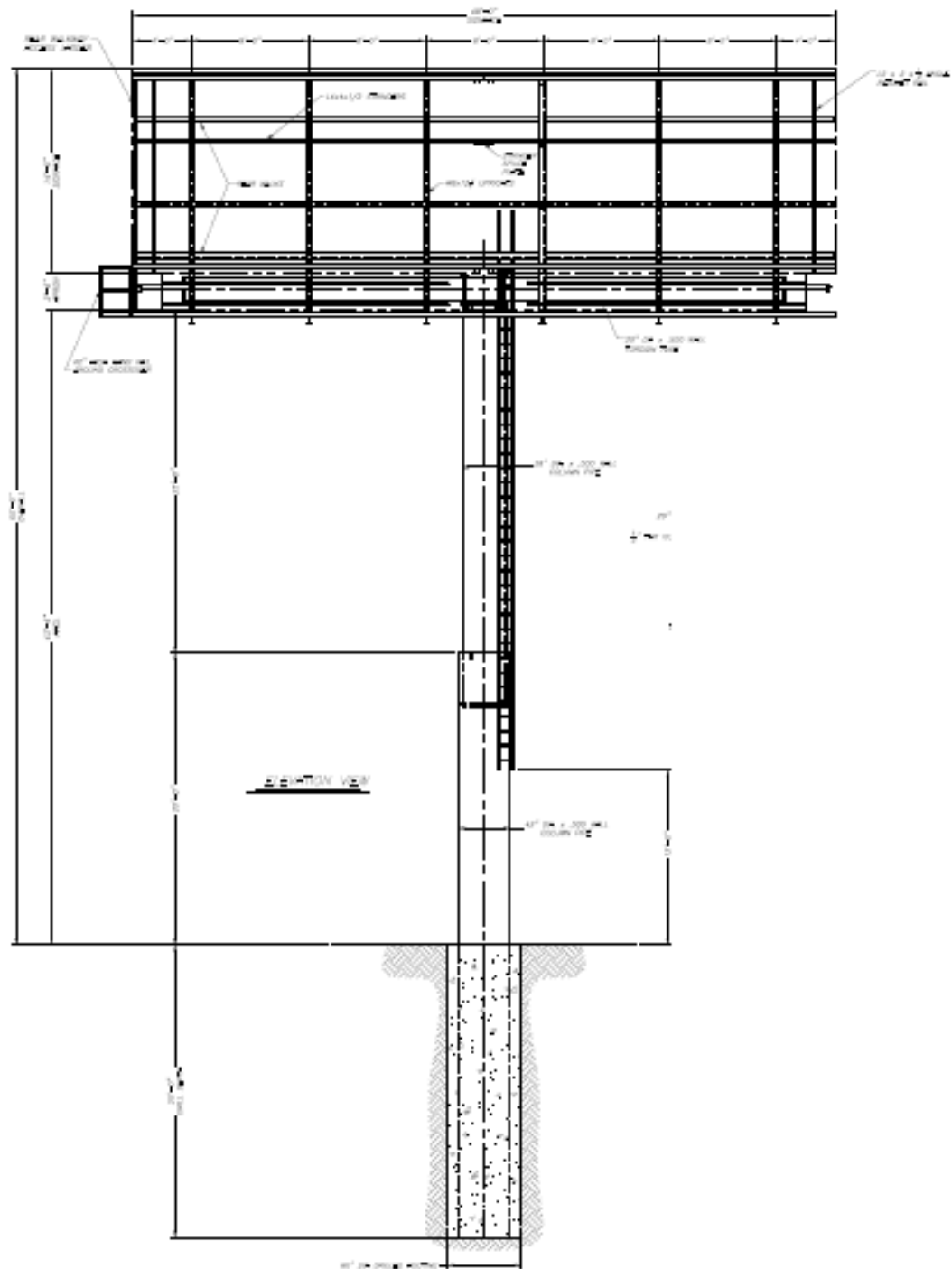




Photo of subject site, looking north.



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



Photo of the adjacent truck stop tp the west, looking south.



Photo of the 460 foot radial seperation of an existing billboard sign to the south.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-043 (Amended)
Address: 1423 South State Street (approximate address)
Location: Center Township, Council District #21
Zoning: D-5
Petitioner: Platinum SPC LLC, by Paul Carroll
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a zero-foot south side yard setback and provide for the construction of a building addition resulting in a two-foot south setback (five-foot side yard setbacks required).

RECOMMENDATIONS

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

The variance grant for the zero-foot south side setback would be subject to the existing dwelling only. If the structure would be demolished or replaced, that portion of the variance grant would no longer be valid.

Amended Petition: This petition originally included a request for deficient landscaping where one street tree and planting beds with shrubs or perennial plants covering at least 10% of the frontage area would be required. The petitioner has agreed to meet the landscaping requirements, therefore this portion of the request is withdrawn. Additional notice would not be needed, as the request would now deviate less from the Ordinance than the original notice.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

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

North	D-5	Residential (Single-family Dwelling)
South	D-5	Residential (Single-family Dwelling)
East	D-5	Residential (Two-family Dwellings)
West	SU-6	Detention Center

COMPREHENSIVE PLAN

The Comprehensive Plan recommends traditional neighborhood development.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the amended request would legally establish a zero-foot south side yard setback for the existing dwelling and provide for the construction of a building addition resulting in a two-foot south setback.
- ◇ The request would legalize the existing zero-foot south side yard setback and provide for the construction of a building addition resulting in a two-foot south setback. Staff would note that many of the dwellings in the vicinity have minimal separation from other primary dwellings with similar side setbacks. Therefore, staff determined that the deviation of the required side setback would be appropriate and in line with the character of the neighborhood
- ◇ The proposed zero-foot south side setback would legally establish the south side setback of the existing dwelling. According to Assessor's records the existing dwelling was originally built in 1930, with the existing south setback, which has not caused any community concern or any known negative impacts. Several properties in the area have similar original reduced side setbacks. In staff's opinion, the request to legally establish the existing zero-foot east side setback would be appropriate
- ◇ In the event that the existing dwelling with the legally established zero-foot side setback were to be demolished or replaced, any future development may have a larger scale and greater impact on those reductions than the existing dwelling that was built in 1930. Therefore, Staff is requesting a commitment that the variance grant for the zero-foot south side setback would be for the existing dwelling only. If the structure would be demolished or replaced, then that portion of the variance grant would no longer be valid. The petitioner has agreed to this commitment.
- ◇ Staff determined that the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner since the existing setbacks and separation between dwellings would not be further reduced.
- ◇ The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because the residential building is existing and would not be permitted to remain without the variance.

GENERAL INFORMATION

THOROUGHFARE PLAN

State Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 65-foot existing right-of-way and a 66-foot proposed right-of-way.

SITE PLAN

File-dated August 18, 2022.

FINDINGS OF FACT

File-dated August 18, 2022.

(Continued)

STAFF REPORT 2022-DV3-043 (Continued)**ZONING HISTORY**

2021-DV3-027; 1423 South State Avenue (subject site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the reconstruction and rehabilitation of a single-family dwelling, with a 13-foot front setback, a zero-foot south side setback, and 5.5 feet between dwellings, **denied**.

2003-UV3-023; 1726 Cottage Avenue (east of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to legally establish a housing complex consisting of eight, 816 square foot two-family dwellings on a single parcel, each dwelling unit having a main floor area of 408 square feet (minimum main floor area of 660 square feet per unit required), with a front yard setback of zero feet from the existing right-of-way of Cottage Avenue, with 23 eight-foot wide off-street parking spaces and maneuvering area in the required side and rear yards, and provide for a 960 square foot caretaker's residence and maintenance facility with the dwelling space located entirely on the second floor and a maintenance facility-garage on the first floor with a five-foot rear yard setback resulting in 59 percent open space, **granted**.

91-UV2-73; 1420 Dawson Street (east of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to permit the conversion of a single-family dwelling to a two-family dwelling (single-family dwelling permitted) and to permit the addition of a deck resulting in a seven-foot aggregate side yard setback (10-foot aggregate side yard required), **granted**

RU



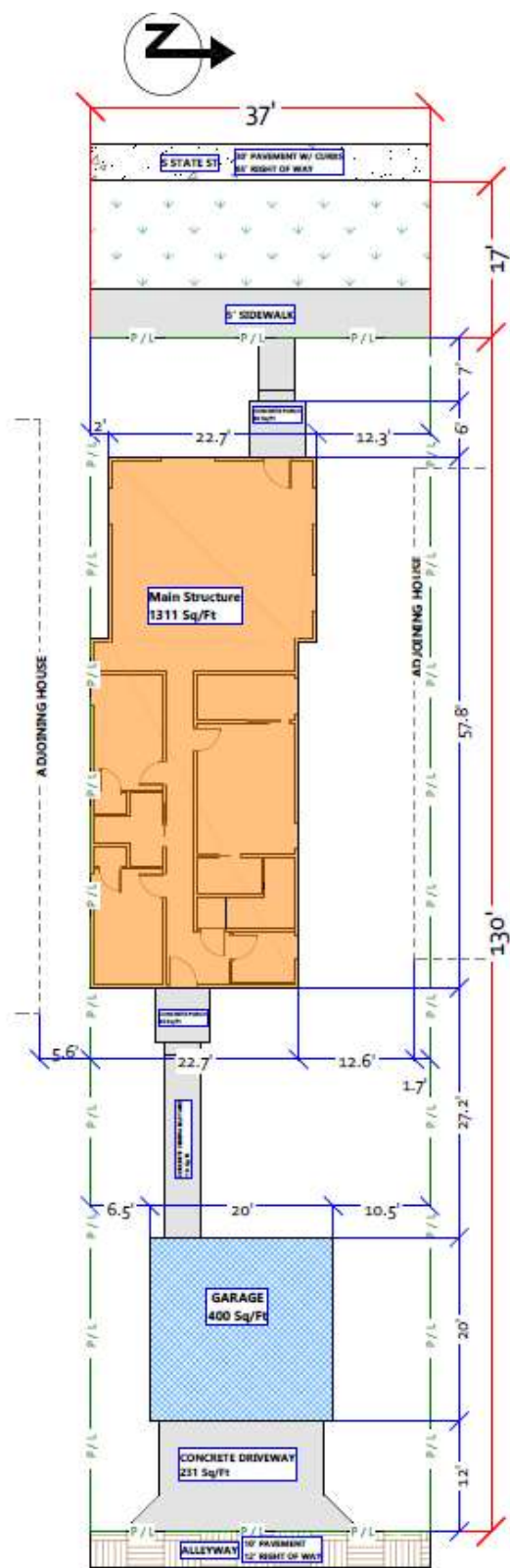




Photo of the Subject Property: 1423 South State Avenue



Photo of the existing foundation to be built upon, with the cinder block portion being moved to a two-foot south side setback.



Photo of the location of the proposed detached garage.



Photo of the abutting duplexes to the east of the site.



Photo of the abutting dwellings to the south of the site, looking east.



Photo of the abutting dwellings to the north of the site, looking east.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-045
Address: 3141 East Thompson Road (approximate address)
Location: Perry Township, Council District #24
Zoning: C-3
Petitioner: Nike Adebomojo, by William T. Niemier
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a freestanding commercial building with a 96.5-foot front setback from Thompson Road (maximum 85-foot front setback permitted).

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-3	Metro	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	C-3	Commercial retail
South	C-4	Commercial retail / Event Center
East	C-4	Commercial office
West	I-3	Automotive vehicle repair, with a use variance

COMPREHENSIVE PLAN	The Comprehensive Plan recommends community commercial uses for the site.
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VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would provide for the construction of a freestanding commercial building with a 96.5-foot front setback from Thompson Road, where a maximum 85-foot front setback is required.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. This site was previously used commercially and is currently undeveloped. The proposed development would consist of new construction that could be designed to meet the terms of the Ordinance. The subject site could be developed with a smaller building to address the existing sign location, or the proposed building could be rotated 90 degrees, meeting the maximum setback, and providing for parking to the east side of the building.

(Continued)

STAFF REPORT 2022-DV3-045 (Continued)

- ◇ The request to provide for the construction of a freestanding commercial building with a 96.5-foot front setback from Thompson Road, is self-imposed by the pre-determined engineering of the proposed building. If the building was rotated 90 degrees, with the entrance facing east, along with the majority of the parking spaces, then the building could be located at the required 85-foot maximum front setback. The petitioner has presented no practical difficulty that prevents the building from either being rotated 90 degrees or reduced in size. If the proposed use is predicated by the size and engineering of the proposed building, then a larger site without size constraints should be considered.
- ◇ 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 still be developed for C-3 uses without the need for variances. For this reason, staff is recommending denial of the request as submitted.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of East Thompson Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 75-foot existing right-of-way and a 90-foot proposed right-of-way.

SITE PLAN

File-dated September 26, 2022.

FINDINGS OF FACT

File-dated September 26, 2022.

ZONING HISTORY

2019-ZON-080; 3130 East Thompson Road (north of site), requested the rezoning of 4.613 acres from the C-3 district to the C-S district to provide for a self-storage facility, **approved**

2019-VAR-003; 3130 East Thompson Road (north of site), requested a variance of development standards to provide for 15-foot side buffer yards, **granted**.

2010-DV3-012; 5055 South Dearborn Street (east of site), requested a variance of development standards to provide for a 975-square foot outdoor seating area, **granted**.

2003-UV2-041; 3125 East Thompson Road (west of site), requested a variance of use to provide for a three-bay automobile repair shop, without the sale of gasoline, **granted**.

2003-ZON-049; 3158 East Thompson Road (north of site), requested the rezoning of 0.59 acres from the D-2 district to the C-3 classification to legally establish a bank with a drive through, **approved**.

2001-UV2-001; 3121 East Thompson Road (east of site), requested a variance of use to provide for seasonal outdoor sales and display of produce, plants, concrete statuary, and other seasonal goods, **denied**.

RU







Subject site looking southwest.



Subject site looking south from Thompson Road.



Adjacent commercial office to the east of site, looking south



Adjacent commercial use to the west of site, looking south

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-047
Address: 920 North Mitthoefer Road (approximate address)
Location: Warren Township, Council District #19
Zoning: C-4
Petitioner: Tune Up Pros LLC, by Martin Tomey
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition with a height of 24 feet (height limited to 18 feet along a transitional yard) and a 15-foot rear transitional yard (20-foot transitional yard required).

RECOMMENDATIONS

Staff **recommends denial** of these requests.

Upon making the site visit to the subject site, Staff noticed that the existing fence has barbed wire, which is prohibited and a dumpster that was not enclosed. Staff informed the petitioner that both issues would require variances, and thus, new Notices. The petitioner has confirmed that the barbed wire will be taken down and the dumpster will be enclosed and/or removed from the subject site.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Metro	Automotive Repair
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SURROUNDING ZONING AND LAND USE

North	D-A	Single-family dwelling
South	SU-1	Religious use
East	C-4	Commercial
West	D-A	Single-family dwelling

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Community Commercial development.

- ◇ The subject site is 0.77 acre (31,434 square feet) located in the East Warren neighborhood in Warren Township. The subject site consists of an existing automotive repair shop. The surrounding neighborhood consists of single-family residential to the north and west, religious use to the south, and commercial uses to the east.

(Continued)

STAFF REPORT 2022-DV3-047 (Continued)

- ◇ The subject site is zoned C-4 (Community Regional District). 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.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would provide for a building addition with a height of 24 feet and a 15-foot rear transitional yard. Under Table 744-201-3, the maximum height in Metro Context Areas for buildings and structures along a transitional yard is 18 feet. The existing / proposed height would be 24 feet. Table 744-201-3 also indicates that the required rear transitional yard setback is 20 feet. The proposed setback would be 15 feet from the rear lot line.
- ◇ The subject site abuts dwelling districts to the north and west and a SU-1 district to the south, both of which are considered protected districts. Staff is opposed to these requests where there is no practical difficulty resulting in a need to deviate from the Ordinance standards, especially when adjacent to protected districts. The proposed height of 24 feet and transitional yard would adversely impact the surrounding neighborhood by further increasing the intensity of the existing use of auto repair.
- ◇ Automotive repair is permitted within the C-4 district., however, Staff is concerned about the number of vehicles located in the parking lot awaiting repair. Outdoor Storage and Operations is not permitted in the C-4 district (Table 743-1). **Outdoor Storage and Operations** is defined as an outdoor area used for the long-term deposit (more than 24 hours) of any goods, material, merchandise, vehicles or junk as an accessory use to and associated with a primary use on the property. Staff is opposed to the request because the number of vehicles on site, with the existing / proposed addition, shows that the subject site is overdeveloped, where the existing use would be better located in a nearby commercial district, possibly across Mitthoefer Road (east of subject site).

GENERAL INFORMATION**THOROUGHFARE PLAN**

Mitthoefer Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial, with a 90-foot existing right-of-way and a 102-foot proposed right-of-way.

SITE PLAN

File-dated October 27, 2022.

FINDINGS OF FACT

File-dated October 20, 2022.

(Continued)

STAFF REPORT 2022-DV3-047 (Continued)**ZONING HISTORY – SITE**

EXISTING VIOLATIONS:

VIO22-004047; 920 North Mitthoefer Road (subject site), Indianapolis Building Standards and Procedure 2016: Section(s) 536-201; 536-705; 536-709. This Stop Work Order has been issued for failure to obtain a structural permit prior to the construction of a two car 24' X 40' X 20' high garage attached to the backend of a commercial building.

PREVIOUS CASES: None.

ZONING HISTORY – VICINITY

2017-DV2-046; 10202 East Washington Street, requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility, with a 150-foot-tall monopole tower, with a five-foot lightning rod, without landscaping, and with barbed wire, **approved**.

2010-UV1-014; 9930 East 10th Street, requested a Variance of use of the Commercial Zoning Ordinance to provide for a pet grooming facility, **approved**.

GLH

(Continued)

STAFF REPORT 2022-DV3-047 (Continued)

2022-DV3-047; Aerial Map



2022-DV3-047; Aerial (1979)



(Continued)

Mittlerer Rd

A hand-drawn site plan of a property, likely a residential lot, showing various areas and dimensions. The plan is oriented with a north arrow pointing towards the top right. The overall dimensions are 135'-0" wide and 930'-0" deep. The plan includes a "Paved Parking" area at the top, a "Storm Drain" on the right, a "Bicycle Parking" area on the left, a "Swell storm water" area in the center, and a "Paved Parking" area at the bottom. A "Survey Line" is indicated at the bottom right. Dimensions are marked throughout the plan, including 24'-0", 50'-0", 40'-0", 74', 128'-0", 24'-0", 20'-0", and 135'-0".

68

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:

ADDITION WILL PROVIDE A PLACE FOR SNOW TRACTOR AND PROPERTY MAINTANCE TOOLS. WILL BE OUT OF SITE AND WEATHER SO AS NOT

ADDITION WILL PROVIDE SHELTER FOR TRACTOR TO REMOVE SNOW AND TO STORE MAINTANCE TOOLS
IT WILL KEEP THEM OUT OF SITE AND NOT HOLD STANDING WATER FOR MOSQUITOES

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:

1) RUN OFF WATER WILL SHED TO EXISTING SWELL TO THE EAST THROUGH PARKING LOT TO STORM DRAIN

2) STORED ITEMS THAT WERE OUT SIDE WILL NOW BE INSIDE ADDITION OUT OF WEATHER ,GIVING PROPERTY AN ORGINIZED LOOK

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

ITEMS BEING STORED OUTSIDE

WILL HOLD WATER FOR MOSQUITOES TO BREED

AND GIVE A CLUTTERED EFECT

DECISION

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

Adopted this _____ day of _____, 20 ____

(Continued)



Photo of the Subject Property: 920 North Mitthoefer Road



Photo looking south on Mitthoefer Road.

(Continued)



Photo of subject site's sign and parking, located on the south lot line.



Photo of subject site: 920 North Mitthoefer Road.

(Continued)



Photo of vehicles, awaiting pick up or repair.



Photo of addition located at the rear lot line (west lot line).

(Continued)



Photo of addition located at the rear lot line.



Photo of existing structure.

(Continued)



Photo of subject site.



Photo looking north on Mitthoefer Road.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-048
Address: 6303 East 82nd Street (approximate address)
Location: Lawrence Township, Council District #3
Zoning: C-3 / C-S
Petitioner: Huffer Holdings, LLC, by Brent Bennett
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an internally illuminated pole sign with digital display, and within 125 feet of a signalized intersection (pole signs, internal illumination and digital display not permitted in the C-3 District) and a dumpster within the front yard of Knue Road (not permitted).

RECOMMENDATIONS

Staff **recommends denial** of these requests.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-3	Metro	Commercial
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SURROUNDING ZONING AND LAND USE

North	C-4	Commercial
South	C-S	Commercial
East	C-3	Commercial
West	C-3	Commercial

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Community Commercial development.

NEIGHBORHOOD PLAN

Castleton Strategic Revitalization Plan (2020)

- ◇ The subject site is 1.06 acre located in the Castleton neighborhood in Lawrence Township. The subject site consists of a commercial structure, used as an eating establishment, with a drive through and trash enclosure (located in the front yard of Knue Road). The subject site is surrounded by other commercial uses / development.

(Continued)

STAFF REPORT 2022-DV3-048 (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.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would provide for the erection of an internally illuminated pole sign with digital display, and within 125 feet of a signalized intersection and a dumpster within the front yard of Knue Road.

Pole sign, with internal illumination, and digital display

- ◇ A **pole sign** is defined as a freestanding sign, accessory to the primary use of land, that has as its support structure one or more poles anchored in the ground as it extends upward from grade level (744-902). The proposed pole sign would consist of three components/requests that are not permitted, under Table 744-906-1.

Firstly, pole signs, with internal illumination, are not permitted in the C-3 district. Pole signs, and the internal illumination component, are only permitted in the C-4, C-5, C-7 districts, and some C-S districts. Lastly, the proposed pole sign would have a digital display, which is specifically not permitted on pole signs.

Digital displays are not permitted on pole signs to prevent or slow the conversion of poles signs to digital because of their design aesthetic. On the technical side, the weight load on a pole sign is significantly less than other signs, where the addition of a digital display would encourage adding weight and stress to monopole structures.

- ◇ Section 744-905.B indicates that no sign may be located in a way that obstructs or blocks any public right-of-way, sidewalk, walkway, intersection, ingress or egress point, transit stop, pedestrian ramp, parking space, drive aisle, driveway, building entrance, fire escape, or accessibility ramp. The subject site is located at the intersection of 82nd Street and Knue Road, with a bus stop in front of the subject site's vehicular access drive. The proposed pole sign would be approximately 140 feet from both the intersection of 82nd Street and Knue Road centerlines and the bus stop.

(Continued)

STAFF REPORT 2022-DV3-048 (Continued)

- ◇ The Castleton Plan emphasizes the importance of establishing a unified signage standard because the current streetscape is "cluttered and chaotic." The plan specifically states, "As properties redevelop, signage should be consolidated and limited to building facades and monument signage advertising multiple businesses. Existing pole signs and billboards along the corridor should be retired as redevelopment occurs. The request to increase the intensity of the existing pole sign with internal illumination and a digital display would completely undermine the goals of the Castleton Plan and the recently amended Sign Regulations (2019).
- ◇ Staff is wholly opposed to the request, where there is no practical difficulty resulting in the increase of intensity for the signage, where one of the main goals of the Sign Regulation (and Castleton Plan) are to reduce sign proliferation.

Dumpster enclosure

- ◇ The site plan shows that the dumpster enclosure is in the front yard of Knue Road. Under 744-508: Loading and Service Areas, it states that service areas (dumpster enclosures) shall not be located in any front yard. Staff is opposed to the request where there is no practical difficulty. The dumpster enclosure can be moved to the eastern corner of the subject site.
- ◇ If the Board votes to approve this portion of the petition's request, Staff would request that a commitment to add landscaping (three trees, four feet in height) on the west lot line, be applied to screen the dumpster enclosure from Knue Road to reduce the aesthetic impact.

GENERAL INFORMATION**THOROUGHFARE PLAN**

82nd 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 134-foot proposed right-of-way. Knue Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 95-foot existing right-of-way and a 50-foot proposed right-of-way.

SITE PLAN

File-dated October 20, 2022.

ELEVATIONS

File-dated October 20, 2022.

FINDINGS OF FACT

File-dated October 20, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

85-UV2-79; 6303 East 82nd Street (subject site), requested a Variance of use of the Commercial Zoning Ordinance to provide for outdoor seating at an existing restaurant, **approved.**

(Continued)

STAFF REPORT 2022-DV3-048 (Continued)**ZONING HISTORY – VICINITY**

2014-DV2-046; 6161 East 82nd Street, requested a Variance of development standards of the Sign Regulations to provide for a 25-foot tall, approximately 150-square foot freestanding sign, exceeding the maximum integrated center sign area, being the ninth sign along this approximately 2300-foot frontage, within 105 feet of an existing freestanding sign, **approved**.

2014-DV1-003; 6161 East 82nd Street, requested a variance of development standards of the Sign Regulations to provide for a six-foot tall, off-site business park advertising sign, within the clear sight triangle of 82nd Street and Knue Road, within the right-of-way of 86th Street, approximately 215 feet from an existing advertising sign to the west, **approved**.

2014-DV1-037; 6130 East 82nd Street, requested a variance of development standards of the Sign Regulations to provide for a 40-foot tall, 150-square foot pylon sign, within approximately 195 feet of an existing freestanding sign to the west, with an 11.25-foot front setback, **granted**.

2014-DV3-027; 6081 East 82nd Street, requested a variance of development standards of the Sign Regulations to provide for two signs within two feet of each other, **granted**.

2007-DV3-054; 6020 East 82nd Street, requested a variance of development standards of the Sign Regulations to provide for a 36.19-foot tall, 228.67-square foot pole sign with an approximately 740-foot front setback from East 82nd Street, resulting in a total sign area of 1,558.67 square feet within an integrated center (maximum 900-square feet permitted), **approved**.

2007-DV3-030; 6020 East 82nd Street, requested a variance of development standards of the Sign Regulations, to provide for the construction of a 40-foot tall, 471.63-square foot pole sign with a 379.75 square foot electronic variable message sign component or 80.52 percent of the total sign area, being within twenty feet of a signalized traffic intersection and resulting in a total sign area of 1,330 square feet within an integrated center, **approved**.

2005-DV2-053; 6110 East 82nd Street, requested a variance of development standards of the Sign Regulations, to provide for a 25-foot tall, 153.75 square foot pole sign within 196.1 feet of an existing freestanding sign within an integrated center, **approved**.

2001-DV1-040; 6161 East 82nd Street, requested a variance of development standards of the Sign Regulations to provide for a 58.5 square foot advertising sign, located within the right-of-way of East 82nd Street, and 250 feet from another freestanding sign within an integrated center, **denied**.

2001-ZON-817 / 2001-VAR-817; 6081 East 82nd Street, requests a rezoning of 122.13 acres from C-3, C-4, C-7 and I-2-S to C-S to provide for the redevelopment of an existing business park, and to provide for a variance of development standards of the Sign Regulations to provide for specific sign criteria for an office-commercial-industrial business park, including reduced sign separation, larger directional signs, additional freestanding signage and reduced sign setbacks, **approved**.

(Continued)

STAFF REPORT 2022-DV3-048 (Continued)

99-UV1-153; 6071 East 82nd Street, requested a variance of development standards of the Sign Regulations to provide for 50 square foot pylon sign 96 feet from one existing freestanding sign and 219 feet from another freestanding sign, within an integrated center, **denied**.

GLH

(Continued)

2022-DV3-048; Aerial Map



(Continued)



Rendering

All graphic purposes only are not intended for actual construction purposes. For accurate measurements, actual elevations are required and should be used to determine the final dimensions of the sign.



GENERAL SPECIFICATIONS:

MAIN FACE: CITY BBQ	2ND FACE: DRIVE THRU
Ex. Cabinet	Ex. Cabinet
Height : 123"	Height : 21 1/4"
Width : 125"	Width : 122 1/4"
Cabinet Corner Radius	Cabinet Corner Radius
Radius	Radius
Fixed Radius : 24"	Fixed Radius : 7 1/2"
Overall Trim	Overall Trim
Height : 135"	Height : 19 1/2"
Width : 137"	Width : 121"
Visual Opening	Visual Opening
Height : 123"	Height : 17 3/4"
Width : 125"	Width : 119 1/2"
Material:	Material:
Flex Face Full Bleed	OPEN

4x8 Full Color Digital Reader Board
B934160
EMC, ESO 4'S X 8'S DF RGB 10 MM 1/4"

COLORS:



WARNING: SIGN IS TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND ALL OTHER APPLICABLE LOCAL CODES. THIS INCLUDES THE PROPER GROUNDING OF THE SIGN.

4x8 Full Color Digital Reader Board
B934160
EMC, ESO 4'S X 8'S DF RGB 10 MM 1/4"

		<p>DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For detailed requirements, actual dimensions and mounting details, please refer to engineering specifications and install drawings. © 2021 Everbrite, LLC, all rights reserved. This document is confidential and proprietary to Everbrite, LLC. Any disclosure to a third party is expressly prohibited.</p>	
Customer: CITY BARBEQUE		Description: Replacement Faces	
Project No: 458045 - 4	Scale:		
Date: 10/11/2021	Drawn By: ERJ		
Location & Site No: 6303 E 82ND STREET		Revised: 11/9/21, 11/17/21	CUSTOMER SIGNATURE
INDIANAPOLIS, IN 46250 CBBQCASTLETON		Revised:	DATE
			LANDLORD SIGNATURE
			DATE

(Continued)



Photos of the Subject Property: 6303 East 82nd Street

(Continued)



Photo of existing signage, proposed to be converted with a digital display.



Photo of trash enclosure, located in the front yard of Knue Road.

(Continued)



Photo of trash enclosure, located in the front yard of Knue Road.



Photo of subject site's drive through.