



Board of Zoning Appeals Division III (November 28, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, November 28, 2023 **Time:** 1:00 PM

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

Business:

Adoption of Meeting Minutes:

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

1. 2023-SE3-005 | 6179 East 26th Street

Warren Township, Council District #13, Zoned D-A
Iglesia De Dios Israelita El Elohe Israel II Inc., by Marco Antonio Vazquez

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses with an 8.5-foot tall, 22-square foot pole sign (not permitted).
Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 111-foot wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).

****Automatic Continuance to be acknowledged.**

2. 2023-SE3-006 | 1140 Dr. Martin Luther King Jr. Street

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

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

****Continuance requested by staff.**

3. 2023-SE3-007 | 1841 Ludlow Avenue

Center Township, Council District #17, Zoned I-3
Reagan Outdoor Advertising, by Michelle Noppenberger

Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).
Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of 70-feet tall (maximum height of 40 feet permitted), a setback of five feet from I-70 (60-foot setback required), within 761 and 630 feet from other outdoor advertising signs (1,000-feet of radial spacing

required between signs) and being located within no less than 197 feet from protected districts (300-foot separation from protected districts required).

****Automatic Continuance to be acknowledged.**

4. 2023-DV3-028 (Amended) | 405 South Shortridge Road

Warren Township, Council District #18, Zoned C-S
SRMK Realty LLC, by In and Out Unlimited

A). Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 6-foot tall, metal perimeter fence (fence heights limited to 3.5-foot-tall in front yards and six-foot tall within side and rear yards).

B). Variances of Use and Development Standards to provide for the location of a 10-foot tall, electric fence containing barbed-wire (electric fences not permitted, barbed-wire not permitted).

****Automatic Continuance to be acknowledged.**

5. 2023-DV3-040 | 8850 East 21st Street

Warren Township, Council District #19, Zoned C-4 (D-7 Pending)
8850 East Twenty First Street Inc., by David E. Dearing

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an existing motel into a multi-family dwelling project, resulting in a 15-foot-wide perimeter yard (20-foot perimeter yard required).

****Continuance requested.**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

6. 2023-UV3-017 (Amended) | 5420-5418 McFarland Road

Perry Township, Council District #24, Zoned D-1
David Smithmeyer, by Jerry Hornback

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a 19,966 square foot parcel (24,00 square feet required), with a street frontage and width of 43-feet wide (minimum 45-foot-wide street frontage and lot width of 90 feet required), and to provide for a dwelling with a five foot south side setback, and a 16 foot north side setback (eight-foot side yard setback and twenty-two-foot aggregate side yard setback required).

7. 2023-DV3-042 | 6830 Lake Plaza Drive

Lawrence Township, Council District #3, Zoned C-3
CMG Binford LLC, by Michael Rabinowitch

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a third freestanding sign along the Binford Boulevard frontage of an integrated center (maximum two signs per frontage).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

8. 2023-DV3-035 | 2305 North Leland Avenue

Warren Township, Council District #13, Zoned I-2
Philip Chambers, by Pat Rooney

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a wooden privacy fence with a height ranging between 8.5-feet to 9.5 feet tall within the front yards and clear sight

triangle of the intersection of Leland Avenue and 23rd Street (maximum fence height of 3.5-foot tall permitted, encroachment of clear sight triangles not permitted).

PETITIONS FOR PUBLIC HEARING (New Petitions):

9. 2023-DV3-039 | 6422 Fall Creek Road

Lawrence Township, Council District #4, Zoned D-1 (FF)
Sean Clauson, by Chris Schrader

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 36.17-foot front yard setback from Fall Creek Road (84-foot front yard setback required).

10. 2023-DV3-041 | 1409 and 1411 Roosevelt Avenue

Center Township, Council District #17, Zoned C-S
Early Learning Center Indiana, by Jennifer Milliken

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a second skyline sign on the northwestern elevation (one skyline sign per elevation permitted).

11. 2023-DV3-043 | 7801 East 38th Street

Warren Township, Council District #13, Zoned C-S (TOD)
Second Circle Investments, LLC, by Misha Rabinowitch

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a retail establishment with one public entry along the 140' front facade (one public entry per 50 feet required) and the building occupying 41% of the lot width (minimum 80% required) and a front building line of 63 feet (maximum 10-foot front building line required) with parking in the front yard (prohibited) and a 36-foot wide driveway width (maximum of 16 feet permitted).

12. 2023-DV3-044 | 2440 West County Line Road

Perry Township, Council District #20, Zoned C-4
Reeder Real Estate Holdings LLC, by Brian J. Tuohy

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 35-foot pylon sign (maximum height of 25 feet permitted).

13. 2023-UV3-021 | 1838 East Epler Avenue

Perry, Council District #24, Zoned D-3
Griselda Delgado, by James R. Browne Jr.

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of four commercial vehicles (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.



BOARD OF ZONING APPEALS DIVISION III

November 28, 2023

Case Number: 2023-SE3-005

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

Location: Warren Township, Council District #13

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

Current Zoning: D-A

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses with an 8.5-foot tall, 22-square foot pole sign (not permitted).

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 111-foot-wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).

Current Land Use: Vacant

Staff

Recommendations: Staff has no recommendation for this request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

A timely automatic continuance request was filed by a registered neighborhood organization, continuing this petition to the December 19, 2023 BZA III hearing. This continuance would need to be acknowledged by the Board.

STAFF RECOMMENDATION

Staff has no recommendation for this request.

PETITION OVERVIEW

- The request is to be continued, per the automatic continuance request by a registered neighborhood organization.

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-SE3-006
Address: 1140 Dr. Martin Luther King, Jr. Street (*Approximate Address*)
Location: Center Township, Council District #11
Petitioner: SMJ International o/b/o ATC, by Aaron Adelman
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 120-foot monopole tower and a four-foot lightening rod.

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

The neighborhood, petitioner and staff are continuing discussions regarding this petition. Therefore, staff requests that this petition be **continued** to the **December 19, 2023**, hearing. A staff report will be available prior to that hearing.

JY

STAFF REPORT

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

Case Number: 2023-SE3-007 (Amended)
Address: 1841 Ludlow Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Michelle Noppenberger
Request: Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of 70-feet tall (maximum height of 40 feet permitted), a setback of five feet from I-70 (60-foot setback required), within 761 and 630 feet from other outdoor advertising signs (1,000-feet of radial spacing required between signs) and being located within no less than 197 feet from protected districts (300-foot separation from protected districts required).

A registered neighborhood organization has filed an automatic continuance, continuing this petition from the November 28, 2023, hearing, to the December 19, 2023, hearing.

RU



BOARD OF ZONING APPEALS DIVISION III

November 28, 2023

Case Number: 2023-DV3-028 (Amended)
Property Address: 405 South Shortridge Road (approximate address)
Location: Warren Township, Council District #18
Petitioner: SRMK Realty LLC, by In and Out Unlimited
Current Zoning: C-S

Request:
A). Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 6-foot tall, metal perimeter fence (fence heights limited to 3.5-foot-tall in front yards and six-foot tall within side and rear yards).
B). Variances of Use and Development Standards to provide for the location of a 10-foot tall, electric fence containing barbed-wire (electric fences not permitted, barbed-wire not permitted).

Current Land Use: Commercial
Staff Recommendations: Staff **strongly recommends denial** of this request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR NOVEMBER 28, 2023 BZA III HEARING

- This petition was continued from the September 19, 2023 BZA III hearing to the October 17, 2023 BZA hearing and then continued a second time to the November 28, 2023 hearing because additional information and variance requests were needed.
- A timely automatic continuance request was filed by a registered neighborhood organization, continuing this petition to the December 19, 2023 BZA III hearing. This continuance would need to be acknowledged by the Board.

STAFF RECOMMENDATION

Staff **strongly recommends denial** of this request

PETITION OVERVIEW

- This request would provide for the location of a 6-foot tall, metal perimeter fence, (fence heights limited to 3.5-foot-tall in front yards and six-foot tall within side and rear yards) as well as a 10-foot-tall electric fence containing barbed wire (electric fences not permitted, barbed wire not permitted).



BOARD OF ZONING APPEALS DIVISION III

November 28, 2023

Case Number: 2023-DV3-040

Property Address: 8850 East 21st Street (approximate address)

Location: Warren Township, Council District #19

Petitioner: 8850 East Twenty First Street Inc., by David E. Dearing

Current Zoning: C-4 (D-7 Pending)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an existing motel into a multi-family dwelling project, resulting in a 15-foot-wide perimeter yard (20-foot perimeter yard required).

Current Land Use: Motel

Staff Recommendations: Staff has no recommendation for this request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

This petition needs to be amended and continued with new notice to the December 19, 2023 BZA III hearing.

STAFF RECOMMENDATION

Staff has no recommendation for this request.

PETITION OVERVIEW

- This petition would provide for the conversion of an existing motel into a multi-family dwelling project, resulting in a 15-foot perimeter yard (20-foot perimeter yard required). Upon reviewing the property, Staff found that the request of a 15-foot perimeter yard would not be sufficient given the existing nature of the subject site and will, therefore, need to be continued.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number:	2023-UV3-017 (Amended)
Address:	5420-5418 McFarland Road (approximate address)
Location:	Perry Township, Council District #24
Zoning:	D-1
Petitioner:	David Smithmeyer, by Jerry Hornback
Request:	Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a 19,966 square foot parcel (24,000 square feet required), with a street frontage and width of 43-foot wide (minimum 45-foot-wide street frontage and lot width of 90 feet required), and to provide for a dwelling with a five-foot south side setback, and a 16-foot north side setback (eight-foot side yard setback and twenty-two-foot aggregate side yard setback required).

ADDENDUM FOR NOVEMBER 21, 2023

After a review of the site on the City GIS map, it was determined that the submitted survey, also drawn based on GIS information and not a staked survey, had a deviation of several feet from the platted lot lines. The petitioner decided to amend the site plan for the petition to reflect the distances measured on the GIS map and use those measurements to determine the needed variances.

With the amended site plan, the petition was also amended to withdraw request a) for Parcel One, after it was determined there was no second dwelling and the structure was a carriage house. In addition, request b) for Parcel One was withdrawn after it was determined that the carriage house had a compliant north side setback. The variance request a) for Parcel Two was also withdrawn after it was determined the accessory structure identified on the original site plan was actually a primary dwelling.

With the new submitted site plan, three additional variances were added. A request to legally establish Parcel Two with a 19,966 square foot parcel where 24,000 square feet is required, and to provide for a dwelling with a five-foot south side setback, and a 16-foot north side setback where an eight-foot side yard setback and twenty-two-foot aggregate side yard setback are required. Additional notice was needed, as the request was greater than the original notice

The need for the requested variances are a result of a previous owner requesting that the original parcel be split by the County Assessor back to an original platted lot, since both parcels were owned by that owner. No new structures have been added, and the current owner/petitioner requested the variances so that the parcels could be financed with a mortgage separately.

As the amended request would legally establish long standing structures and would not increase the intensity of the site, staff does not object to the request and would find it to be a minor deviation from the Ordinance. Therefore, Staff does **now recommend approval** of the request as amended.

(Continued)

STAFF REPORT 2023-UV3-017 (Continued)

ADDENDUM FOR OCTOBER 17, 2023

Staff recently determined that an additional variance may be needed due to possible inconsistencies with the submitted site plan. Therefore, **Staff is requesting this petition be continued to the November 28, 2023, hearing**, with possible new notice, to allow time to resolve the inconsistencies.

If additional information is not submitted in a timely manner prior to the November 28 hearing, then Staff may request dismissal of the petition at that time due to a lack of want of prosecution.

ADDENDUM FOR SEPTEMBER 19, 2023

This petition was continued from the August 15, 2023, hearing, to the September 19, 2023, hearing, at the request of the petitioner.

Due to being out of town at the time of the September 19, 2023, hearing, the petitioner is requesting this petition **be continued from the September 19, 2023, hearing to the October 17, 2023, hearing**. Staff has no objection to this request but will not support any further continuances.

August 15, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	D-1	Single-family dwelling, barn, and a detached accessory dwelling.
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SURROUNDING ZONING AND LAND USE

North	D-5	Single-family dwelling / Two-family dwellings
South	C-3	Commercial Offices
East	SU-1	Religious use grade school athletic fields
West	D-5	Two-family dwellings

COMPREHENSIVE PLAN

The Comprehensive Plan recommends suburban neighborhood uses for the site.

- ◇ The subject site was originally developed with a single-family dwelling and a barn. A detached accessory dwelling with a garage was added to the site sometime between 1972 and 1978 according to aerial photos. Living space was added to the barn around 1956, according to Assessor’s records, however, the living space as a use appears to have been abandoned and vacant for a number of years. Therefore, it would no longer be considered legally non-conforming. The petitioner plans to renovate the living space within the barn and turn it into a second primary dwelling on parcel one.

(Continued)

STAFF REPORT 2023-UV3-017 (Continued)

- ◇ After a Staff site visit, it was determined that parcel two would have a single-family dwelling on it after the parcel split, as the structure was mislabeled on the submitted site plan as a garage. Therefore, the portion of the request to provide for a parcel with an accessory structure without a primary dwelling could be withdrawn. Another variance may be needed if the structure does not meet the minimum square footage required for a single floor single-family dwelling.

VARIANCE OF USE

- ◇ Per Table 743-1: Use Table, a single-family dwelling is permitted in the D-1 District. However, two single-family dwellings are not permitted on a single lot in this district.
- ◇ Staff believes that the site is large enough to be divided appropriately to provide for two single-family dwellings on separate lots without the need for variances, or provide for two-family dwellings if rezoned, similar to surrounding properties. However, with the variances as proposed, the site would negatively impact surrounding properties. In Staff's opinion, by granting the requested variances to allow two single-family dwellings on an original single-family lot, with reduced setbacks, with an increase in density over the previous structure's use on a single lot, would provide for increased intensity and negatively impact adjacent properties.
- ◇ There is no practical difficulty with the site, as the site is large enough to be split into two parcels while meeting all required development standards. The strict application of the Ordinance would not constitute an unnecessary hardship since there are multiple options for residential development without the need for a variance of use.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of this petition would allow for the parcel to be split, with the westernmost dwelling maintaining a zero-foot northern side yard setback on parcel one and provide for a lot with a street frontage and width of 43-feet wide on parcel two after the split.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to building setbacks and lot widths, are intended to ensure orderly development and protect surrounding property values, by providing for sufficient space, open buffer areas along lot lines and to ensure adequate access around buildings, as well as to prevent fires from spreading between buildings.
- ◇ There is no practical difficulty with the site, as the site is large enough to be split into two parcels while meeting all required development standards. The strict application of the Ordinance would not constitute an unnecessary hardship since there are multiple options for residential development on this site without the need for the requested variances.

(Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of McFarland Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 40-foot existing right-of-way, and a 90-foot proposed right-of-way.

SITE PLAN (Amended)

File-dated October 11, 2023.

FINDINGS OF FACT

File-dated July 10, 2023.

ZONING HISTORY

2004-UV2-039; 2551 East Epler Avenue (west of site), requested a variance of use to provide for a two-family dwelling,

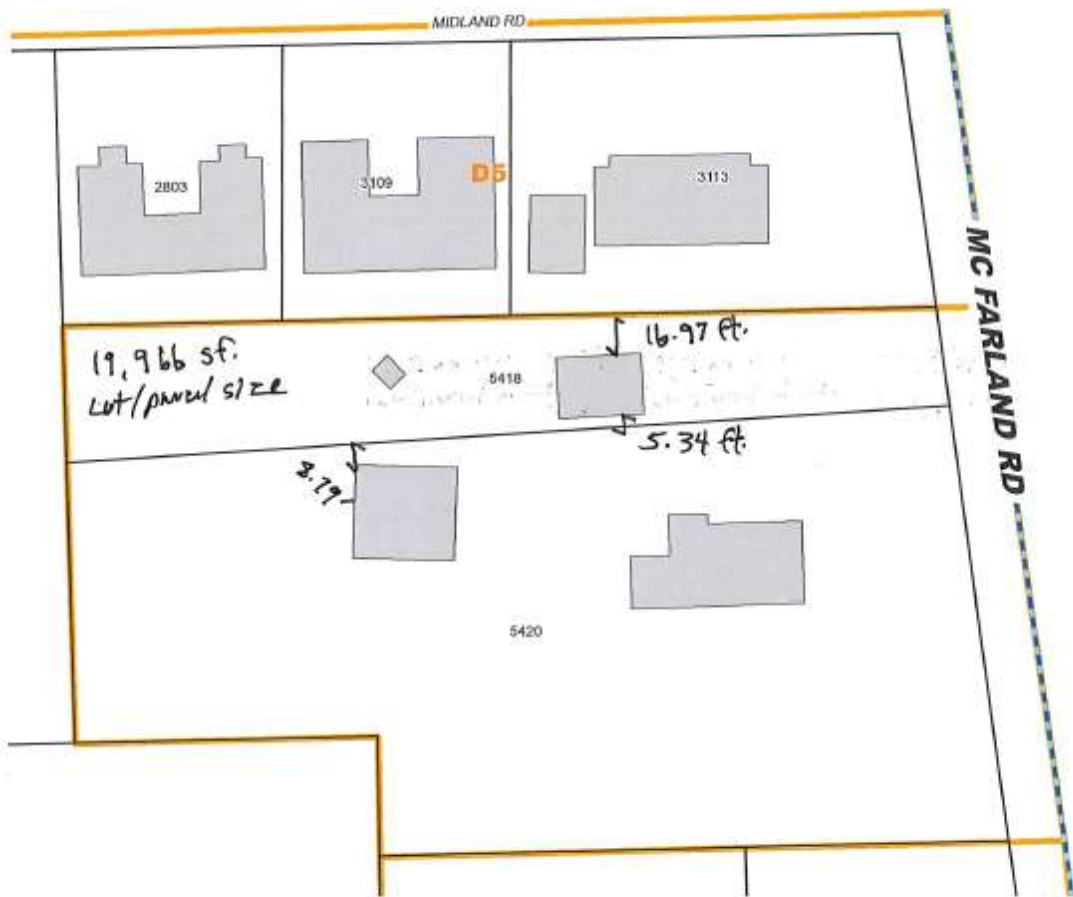
2003-DV1-044; 2551 East Epler Avenue (west of site), requested a variance of development standards to provide for a 4,000 square foot detached accessory structure resulting in 4,896 square feet of detached accessory building area or 331.93 percent of the main floor area of the primary dwelling and 4,896 square feet of total accessory use area or 331.93 percent of the total floor area of the primary dwelling,

2002-UV2-005; 5424 McFarland Road (south of site), requested a variance of use to provide for automobile and transmission service in an existing 1,288 square-foot building, **granted**.

RU

2023-UV3-017; Location Map





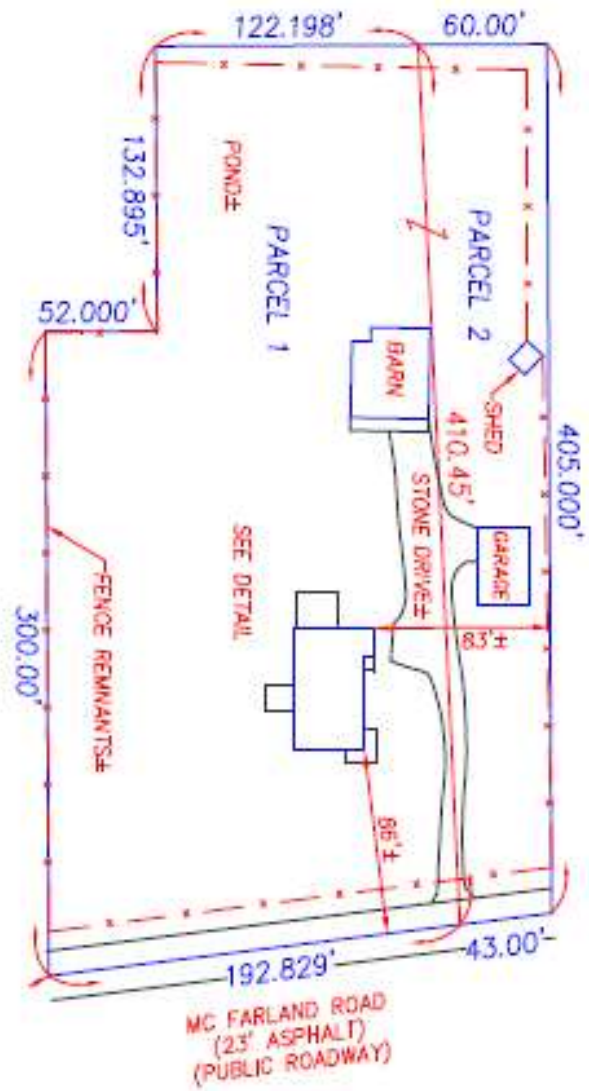




Photo of the subject site, primary dwelling on parcel 1, looking west



Photo of the subject site, south side yard on parcel 1, looking west



Photo of the subject site, second primary dwelling on parcel 1, looking west



Photo of the subject site, second primary dwelling proposed zero foot north side setback on parcel 1, looking west



Photo of subejct site parcel two frontage, looking west.



Photo of subejct site parcel two garage/accessory dwelling, looking west.



Photo of adjacent property to the south, looking west.



Photo of adjacent property to the north, looking south.

STAFF REPORT

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

Case Number: 2023-DV3-042
Address: 6830 Lake Plaza Drive (approximate address)
Location: Lawrence Township, Council District #3
Zoning: C-3
Petitioner: CMG Binford LLC, by Michael Rabinowitch
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a third freestanding sign along the Binford Boulevard frontage of an integrated center (maximum two signs per frontage).

RECOMMENDATIONS

Staff **recommends approval** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-3 Integrated Commercial Center

SURROUNDING ZONING AND LAND USE

Northeast - C-3 Integrated Commercial Center / Retail
Southwest - C-3 / D-6II Integrated Commercial Center / Multi-family dwellings
Southeast - C-3 Integrated Commercial Center / Offices
Northwest - C-3 / C-4 Integrated Commercial Center / Retail

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

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Standards of the Sign Regulations are intended to promote quality sign displays that are integrated with developments and reduce potential hazards to pedestrians and motorists. These standards include the number of signs, and separation requirements.
- ◇ The Sign Regulations allow two freestanding signs for an integrated center. These requirements are designed to mitigate the proliferation of freestanding signs and the visual conflicts and negative aesthetics associated with multiple signs in close proximity to one another.
- ◇ The practical difficulty noted in the findings of fact for the third freestanding sign is a result of the subject site having no rights to signage on either of the two existing integrated center signs. In addition, the adjacent building has an approximate ten-foot front setback from Binford Avenue that obscures the sight line of the wall signage from southbound motorists on Binford Avenue.

(Continued)

STAFF REPORT 2023-DV3-042 (Continued)

- ◇ The practical difficulty noted in the findings of fact for the third freestanding sign is a result of the subject site having no rights to signage on either of the two existing integrated center signs. In addition, the adjacent building has an approximate ten-foot front setback from Binford Avenue that obscures the sight line of the wall signage from southbound motorists on Binford Avenue.
- ◇ The subject sites previous tenant was granted a variance (2011-DV3-008) for a third sign along the frontage. The proposed sign would be located in approximately the same area at the previous sign and would not have any negative impact on adjoining businesses or property owners in Staffs opinion.
- ◇ The proposed sign would be more than 300 feet from the closest integrated center sign, and given the variance and location of the previous sign, providing for a sign at this location would be a minor deviation from the Ordinance requirements and would be supportable

GENERAL INFORMATION

THOROUGHFARE PLAN

This section of Lake Plaza Drive is not classified in the Official Thoroughfare Plan for Marion County, Indiana.

This section of Binford Boulevard is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 175-foot existing and proposed right-of-way.

SITE PLAN

File-dated October 16, 2023

FINDINGS OF FACT

File-dated October 16, 2023

ZONING HISTORY

2022-DV3-051; 6830 Lake Plaza Drive (subject site), requested a variance of development standards to provide for 31 parking spaces for an eating establishment, and to provide one stacking space after the final drive-through component, **granted**.

2019-UV3-014; 5745 East 71st Street (north of site), requested a variance of use and development standards to provide for a fitness/exercise facility and drive-through service unit on a façade facing a public street more than 30 feet wide, **granted**.

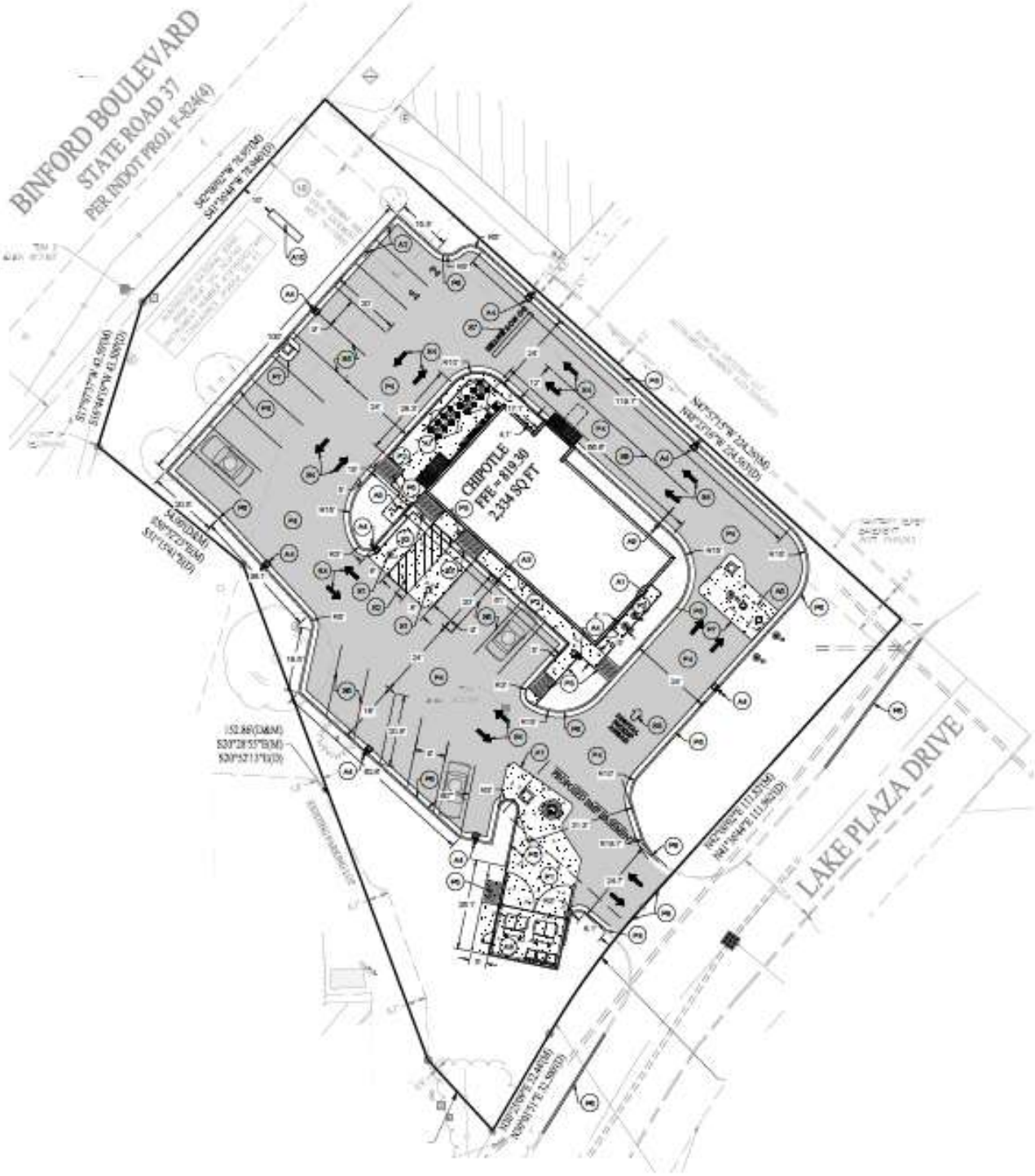
2011-DV3-008; 6830 Lake Plaza Drive (subject site), requested a variance of development standards of the Sign Regulations to permit a freestanding sign to be located 170 feet from an existing freestanding sign, **granted**.

2010-UV3-014; 6840 Lake Plaza Drive (north of site), requested a variance of Use and Development Standards to provide for a veterinarian establishment, with a 700-square foot outdoor area for dogs, in C-3, **denied**.

RU

2023-DV3-042: Location Map





D/F MONUMENT SIGN (Qty 1)





View of subject site from Binford Boulevard, looking southeast



View of subject site from Lake Plaza Drive, looking northwest



View of subject site proposed sign location, looking northeast.



View of adjacent commercial bank to the north, looking south.



View of adjacent integrated commercial center sign to the northeast.



View of adjacent integrated commercial center offices to the southeast.



View of adjacent site down restaurant to the west of subject site, looking south.



View of adjacent commercial uses to the northwest of Binford Boulevard.



BOARD OF ZONING APPEALS DIVISION III

November 28, 2023

Case Number: 2023-DV3-035
Property Address: 2305 North Leland Avenue (approximate address)
Location: Warren Township, Council District #13
Petitioner: Philip Chambers, by Pat Rooney
Current Zoning: I-2

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a wooden privacy fence with a height ranging between 8.5-feet to 9.5 feet tall within the front yards and clear sight triangle of the intersection of Leland Avenue and 23rd Street (maximum fence height of 3.5-foot tall permitted, encroachment of clear sight triangles not permitted).

Current Land Use: Light Industrial

Staff

Recommendations: Staff recommends denial of this petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR NOVEMBER 28, 2023 BZA III HEARING

This petition was continued from the October 10, 2023 BZA III hearing to the November 28, 2023 BZA Division III hearing due to insufficient mailed notice.

STAFF RECOMMENDATION

Staff recommends denial of this petition.

PETITION OVERVIEW

- After working with Staff, the petitioner has agreed to remove the portion of the fence that lies within the clear sight triangle of 23rd Street and North Leland Avenue (shown in site plan). Therefore, that portion of the request is no longer necessary and will not require a variance. The remainder of the petition would provide for a wooden privacy fence with a height ranging between 8.5 to 9.5 feet tall within the front yards of the subject site (maximum fence height of 3.5 feet permitted).
- The subject site is zoned I-2 and is surrounded by primarily residential uses, with light industrial to the east. 23rd Street and North Leland Avenue are local streets with minimal vehicular traffic. North Leland reaches a dead-end before it runs into the highway just to the north of the subject site. 23rd



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

Street reaches a dead-end before intersecting with North Emerson Road. The access to the property is further restricted by the railroad running parallel to 23rd Street that cuts through North Leland. This makes the subject site and surrounding area difficult to access, with 23rd Street being the only right-of-way that connects with this portion of North Leland Avenue. The result is an area of the city that is largely hidden and inaccessible from nearby streets.

- Fence height limitations are in place to maintain visibility and open space while allowing for a reasonable amount of privacy. These standards call for shorter heights in the front yards of properties so that fencing does not block the visibility from the public right-of-way. Doing so can present a safety hazard for the surrounding area by creating significant blind spots where the current activities occurring on site are hidden from public view. With the access to this area already being severely limited, maintaining sufficient visibility throughout private properties is important and necessary. The fence in question eliminates almost all visibility to the interior of the property and significantly deviates from the standard, resulting in a fence that is well over twice the permitted height in the front yards along 23rd Street and North Leland Avenue. Staff finds the fence height of 8.5-9.5 feet to be excessive and without any practical difficulty on the owner for being this tall. Therefore, Staff is opposed to the request of a fence ranging from 8.5-9.5 feet in height in the front yards of the subject site.

GENERAL INFORMATION

Existing Zoning	I-2	
Existing Land Use	Light Industrial	
Comprehensive Plan	Light Industrial	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Single-Family Residential
	South:	South: Single-Family Residential
	East:	East: Light Industrial
	West:	West: Single-Family Residential
Thoroughfare Plan		
North Leland Avenue 23 rd Street	Local Street Existing ROW: 50 feet Proposed ROW: 48 feet	
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	09/06/23	
Site Plan (Amended)	11/3/23	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	09/06/23	



**Findings of Fact
(Amended)** N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Pattern Book recommends the Light Industrial working typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Not Applicable to the Site

Infill Housing Guidelines

- Not Applicable to the Site

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY -VICINITY

81-Z-83; 2359 N Leland Avenue (north of site), requests a rezoning of 1.00 acre, being in the I-2-U district, to SU-1 classification, to provide for church use, **approved**.

81-Z-91; 2245-48 N Leland Avenue (south of site), requests a rezoning of 0.109 acres, being in C-1 district, top D-S classification, to provide for residential use, **approved**.

86-UV1-113; 2350 N Spencer Avenue (north of site), Variance of development standards of the Industrial Zoning Ordinance to provide for the construction of a building with a five-foot side yard setback and without the required on-site loading area, **approved**.

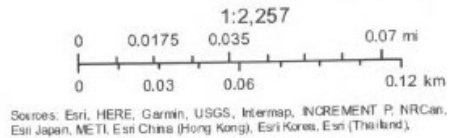
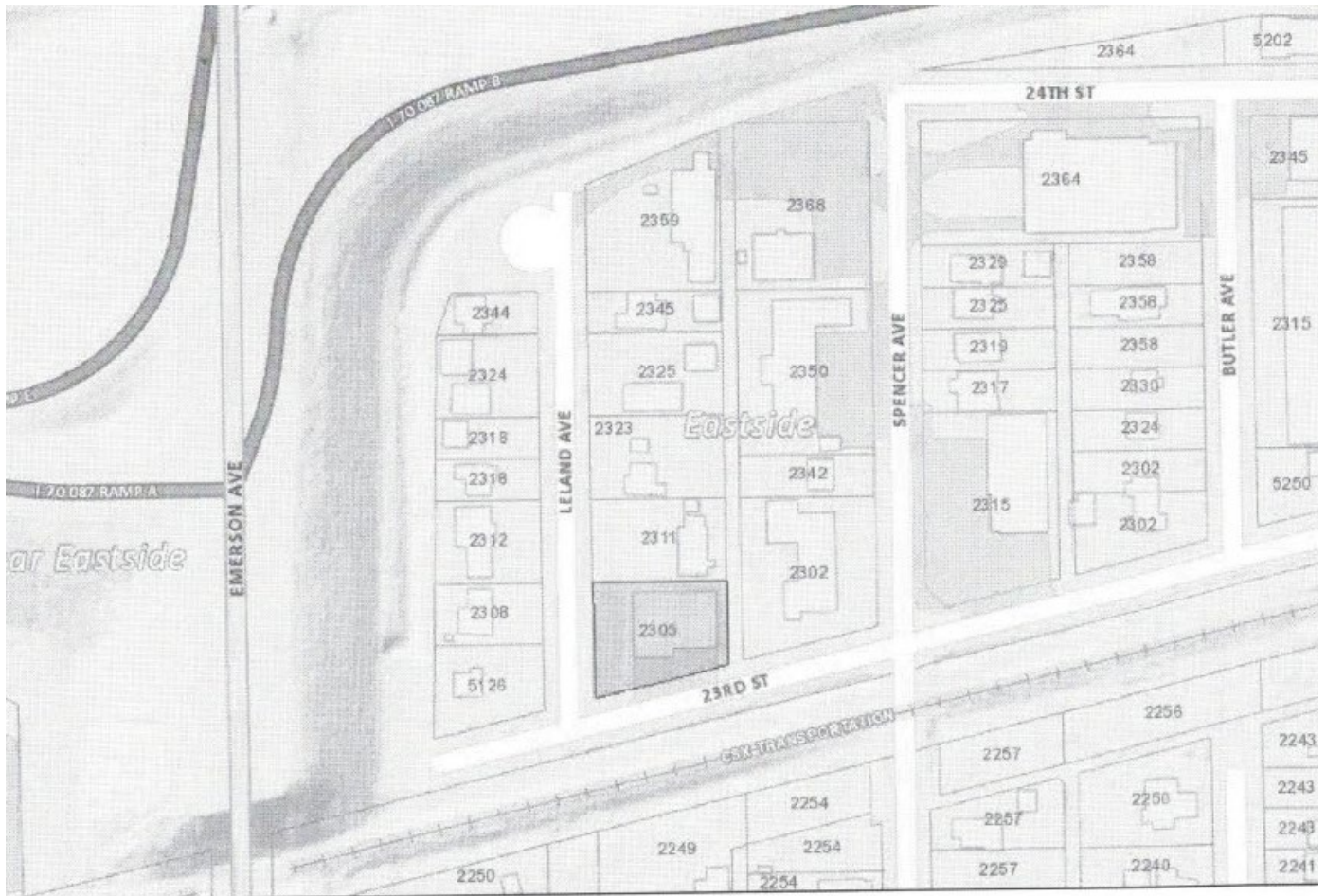
87-UV3-37; 2340 N Leland Avenue (north of site), Variance of use and development standards of the Industrial Zoning Ordinance to provide for the construction of a garage to be used for residential and commercial storage and to provide for the location of the garage within the required rear and side setbacks, **approved**.

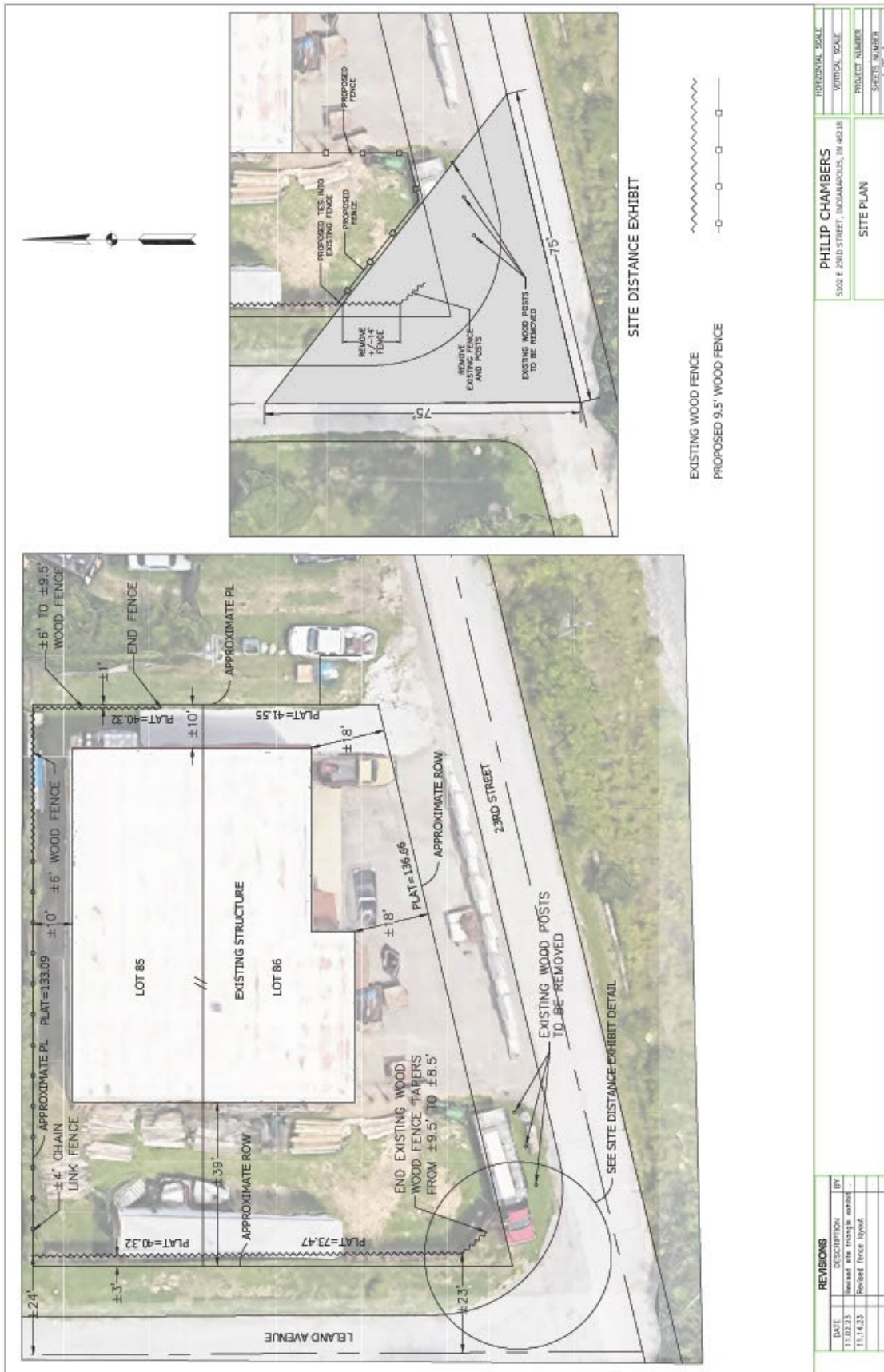
2002DV2031; 2359 N Leland Street (north of site), variance of development standards of the Sign Regulations to provide for the construction of a 19-foot tall, 128 square foot pylon sign located 447 feet from a protected district (minimum 600-foot separation from a protected district required), located four feet from the right-of-way of I-70 (minimum 20-foot setback from the federal right-of-way required), with a sign face area totaling 3.9% of the front building façade (maximum face area of 3% of building façade permitted), **approved**.

2003UV2018; 2311 N Leland Street (north of site), variance of use of the Industrial Zoning Ordinance to legally establish a single-family dwelling (not permitted), **approved**.

2022DV3049; 2315 N Spencer Avenue (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide five shade trees (ten shade trees required) and to legally establish a zero-foot northern side yard setback (10-foot side setback required); a six-foot tall fence within the front yards of Spencer Avenue and 23rd Street being within the clear sight triangle of a street and alley (front yard fence height limited to 3.5-feet, not permitted in the clear sight triangle); with a dumpster in the front yard of Spencer Avenue (not permitted), **withdrawn**.

EXHIBITS















STAFF REPORT

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

Case Number: 2023-DV3-039
Address: 6422 Fall Creek Road (approximate address)
Location: Lawrence Township, Council District #4
Zoning: D-1 (FF)
Petitioner: Sean Clauson, by Chris Schrader
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 36.17-foot front yard setback from Fall Creek Road (84-foot front yard setback required).

RECOMMENDATIONS

Staff **recommends approval** of the request, subject to the following commitment being reduced to writing on the BZA’s Exhibit “A” forms: A heritage tree preservation plan shall be submitted for Administrator’s Approval prior to issuance of an Improvement Location Permit.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-1	Metro	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	D-1	Single-Family residential
South	D-2	Single-Family residential
East	D-1	Single-Family residential
West	D-1	Single-Family residential

COMPREHENSIVE PLAN

The Comprehensive Plan recommends 0-1.75 Residential Units per Acre

SPECIFIC AREA PLAN

Millersville at Fall Creek Valley Village and Corridor Plan

- ◇ The subject site is an undeveloped lot containing approximately 36,444 square feet. This lot is part of the Avalon Hills Subdivision in the Devonshire Neighborhood. The site has dense existing vegetation and slopes uphill to the north. This site is partially located in a floodplain toward the northeast and along the frontage.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide the construction of a single-family dwelling with a 36.17-foot front setback where an 84-foot front setback is required.

(Continued)

STAFF REPORT 2023-DV3-039 (Continued)

- ◇ The development standards for the D-1 district require a front setback of the greater of fifty feet or average setback. The average of the adjoining lots' front setbacks is 84 feet, which is the greater setback.
- ◇ As shown on the site plan, the rear of the site slopes uphill. There is also a floodplain in the proposed rear yard. The proposed dwelling placement is to avoid building into the hill or flood plain. Staff would not be opposed to a reduced front setback where there is a practical difficulty.
- ◇ Staff would note that the placement of the attached garage results in the encroachment into the required front yard. The proposed orientation is a side-loaded garage that would have parking and maneuvering in the side yard, behind the front building line. Staff would prefer this placement rather than rotating the garage, which would result in garage doors on the façade and maneuvering in the front yard.
- ◇ There are several trees existing on this site. Staff is willing to support variances of development standards where they would preserve existing trees and has requested a commitment for a heritage tree preservation plan to be submitted for administrative approval prior to issuance of an Improvement Location Permit.

GENERAL INFORMATION

THOROUGHFARE PLAN

Fall Creek Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial, with an 80-foot existing and proposed right-of-way.

SITE PLAN

File-dated October 23, 2023

FINDINGS OF FACT

File-dated October 23, 2023

ZONING HISTORY – SITE

None

ZONING HISTORY – VICINITY

2014-DV2-047, 6533 Cherbourg Circle, variance to provide for a 751-square foot and deck, with a one-foot rear setback and a six-foot east side setback, and to legally establish 72% open space, **approved.**

88-Z-38, 6301 Fall Creek Road, rezoning of 72.57 acres from the A-2 district to the D-2 district, **approved.**

88-P-40, 6301 Fall Creek Road, Approval of a plat to be known as Lake Charlevoix, Section One

AR





PLOT PLAN
 PREPARED FOR
DESIGN GALLERY HOMES INC.
 IGA587



NOTE: ALL DIMENSIONS SHOWN TO BE MAXIMUM LOT DIMENSIONS IN ACCORDANCE WITH ACTM 3606 AS DETERMINED BY THE DESIGNER. THE SURVEY SHALL EXTEND AT LEAST TEN FEET BEYOND THE PERMITTED CONSTRUCTION TO THE ADJACENT PROPERTY TO SHOW THE BASE FLOOD ELEVATION.

NOTE: BELIEVED TO BE AN ADJUTIVE DAMAGE FROM STRUCTURES) BASE FLOOD ELEVATION DATA: THE BASE FLOOD ELEVATION IS 705.4 FOR NEIGHBORHOOD AS SHOWN ON PAGE 179 OF THE FIRM STUDY FOR MARION COUNTY, VOLUME 2 OF 3, DATED APRIL 15, 2016.

AVALON HILLS
 A PART OF
LOT #43
 CITY OF INDIANAPOLIS, INDIANA
 8422 FALL CREEK ROAD

HOUSE TYPE: ALDEN - "A" - FULL BASEMENT
 OPTIONS: - 3-CAR SIDE ENTRY GARAGE
 - REAR PATIO

RECORDABLE DATA: THIS LOT IS ENTIRELY IN FLOODED HAZARD ZONE "AE" AS SCALED FROM THE FLOODED INSURANCE RATE MAP (FRM) FOR MARION COUNTY, INDIANA, COMMUNITY NUMBER: INDIANAPOLIS, INDIANA, DATED APRIL 15, 2016.

NO PORTION OF THIS LOT IS INTERFERED BY THE FLOODWAY AS SCALED FROM THE FLOODED INSURANCE RATE MAP (FRM) FOR MARION COUNTY, INDIANA, COMMUNITY NUMBER: INDIANAPOLIS, INDIANA, DATED APRIL 15, 2016.



NOTE:
 - HAVE ENTRY TO CONFORM WITH CITY OF LAWRENCE STANDARDS PLAN 18-00
 - THE LOCATIONS, DIMENSIONS AND MATERIALS SHALL BE INDICATED ON ALL PLANS. ALL DIMENSIONS SHALL BE MEASURED FROM THE EXTERIOR FACE OF THE FOUNDATION WALLS UNLESS OTHERWISE NOTED.
 - VERIFY SHADY LATERAL LOCATION PRIOR TO CONSTRUCTION
 - IT SHALL BE THE RESPONSIBILITY OF THE BUILDER/CONTRACTOR TO VERIFY THE LOCATION, DIMENSIONS AND MATERIALS PRIOR TO THE START OF OTHER CONSTRUCTION. THE INTERIOR USE OF THIS FLOOD PLAN IS FOR SCHEDULING PURPOSES ONLY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.

00 - SEWER CLEANOUT
 000.0 - PROPOSED GRADE
 000.0 - EXISTING GRADE

TRUE NORTH
 LAND SURVEY (REGISTERED CONSULTANT) & LAND SURVEYING (REGISTERED) 11400 Ohio Road, Suite 200-210, Noblesville, Indiana 46051
 Phone: (317) 947-4734 Fax: (317) 441-0762 Email: Tony@trueandnorth.com

DATE: 10/04/23 REV: 10/14/23	SCALE: 1" = 30' DOCUMENT SHEET: 11" x 17"
ISSUE: 10/23-738	F.F.E. H.S.E.: 736.0' F.F.E. GAR.: 754.0' F.F.E. B.S.M.T.: 743.8'

ZONING: 8 MIN. SIDE/22' AGO, 25' REAR

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The requested placement of this home does not impact public health, safety, morals and general welfare of the community. Placement of the house into the floodplain would cause the opposite to be true.

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 grant will allow the petitioner to improve what is a vacant and overgrown lot. This will increase the value of said lot which only benefits surrounding properties.

The grant does not position improvements any closer to adjacent properties than if improvements could occur without. Therefore this does not have a substantial adverse affect on adjacent property use.

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

Strict application can not be adhered to because of terrain/contours and flood hazard areas on the lot prohibit moving the house further away from Fall Creek Road.



Subject site viewed from the intersection of Fall Creek Road and Charlevoix Lane, looking north



Subject site Fall Creek Road frontage, looking west



Subject site Fall Creek Road frontage, looking east

Department of Metropolitan Development
Division of Planning - Current Planning Section

Case Number: 2023-DV3-041
Address: 1409 and 1411 Roosevelt Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: C-S
Petitioner: Early Learning Center Indiana, by Jennifer Milliken
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a second skyline sign on the northwestern elevation (one skyline sign per elevation permitted).

RECOMMENDATIONS

Staff recommends denial of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-S Mixed-uses with retail, office, indoor recreation, restaurant and/or industrial uses.

SURROUNDING ZONING AND LAND USE

North - C-S Parking lot associated with subject site / I-70 Interstate
South - C-S Mixed-uses with commercial, manufacturing and offices uses.
East - I-3 Wireless communication facilities/ Commercial contractor
West - C-S Mixed-uses with retail, office, and restaurant uses

COMPREHENSIVE PLAN The Comprehensive Plan recommends village mixed uses.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Standards of the Sign Regulations are intended to promote quality sign displays that are integrated with developments and reduce potential hazards to pedestrians and motorists. These standards include limits on the number of signs, lighting, size and setback limitations.
- ◇ The strict application of the Sign Regulations does not prohibit the use of the property for its intended use or limit the site’s ability to provide for other adequate signage.
- ◇ The maximum one skyline sign per elevation is designed to mitigate the proliferation of signage and the visual conflicts and negative aesthetics associated with multiple signs on a single building elevation. The grant of this variance would allow for every building tenant to have a skyline sign which would result in increasing sign proliferation along the northwest building elevation that would inhibit the ability of motorists to properly read and react to sign messages in a safe and efficient manner.

(Continued)

STAFF REPORT 2023-DV3-041 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	This section of Roosevelt Avenue is classified as a local street with a 60-foot existing and proposed right-of-way on the Official Thoroughfare Plan.
	This section of Newman Street is classified as a local street with a 60-foot existing and proposed right-of-way on the Official Thoroughfare Plan.
SITE PLAN	File-dated October 10, 2023
SIGN ELEVATIONS	File-dated October 10, 2023
FINDINGS OF FACT	File-dated October 10, 2023

ZONING HISTORY

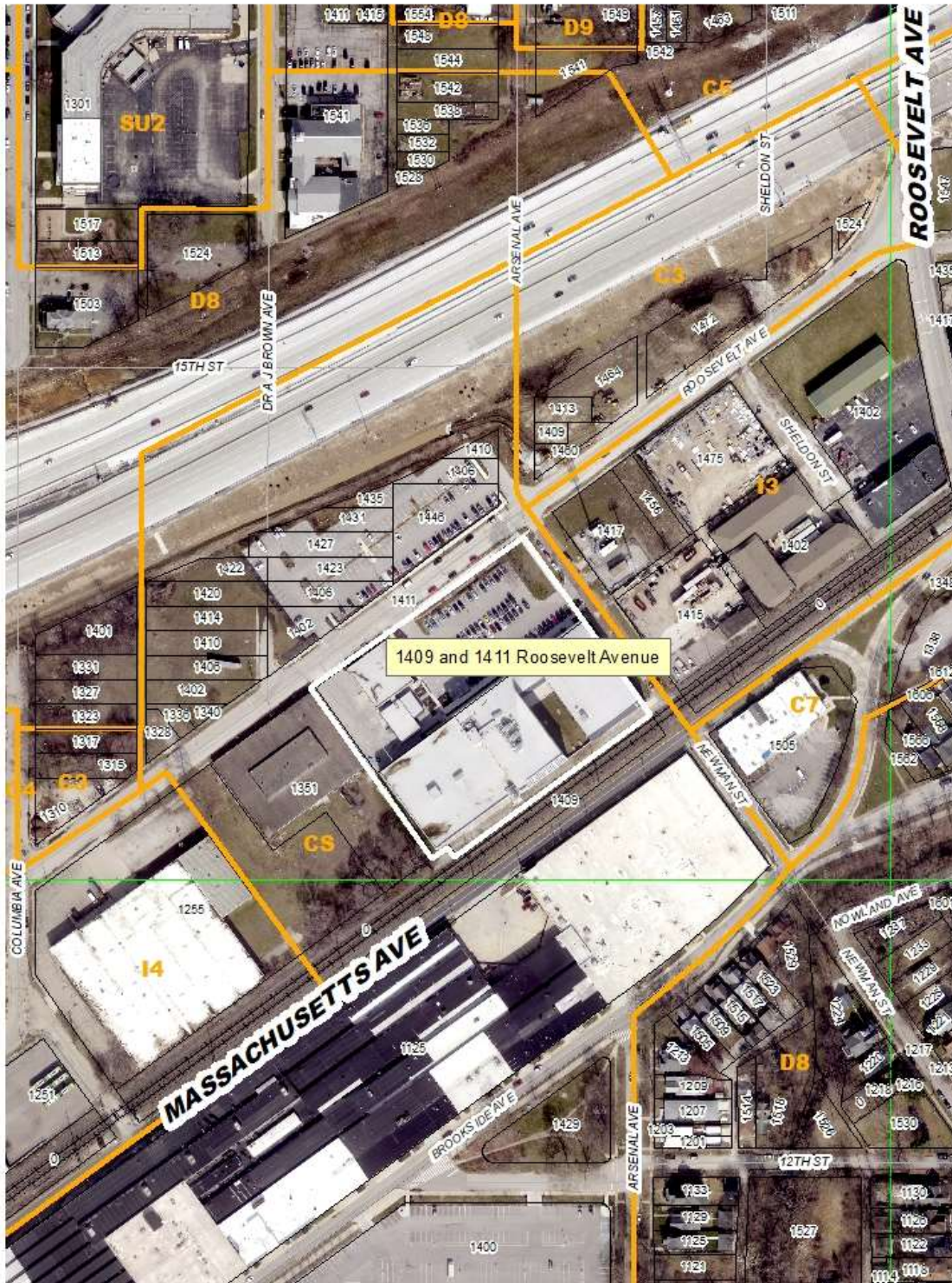
2022-ZON-115; 1255 and 1351 Roosevelt Avenue (west of site), requested the rezoning of 2.26 acres from the I-4 district to the C-S district to provide for a mixed-use development with retail, office, and restaurant uses (including outdoor seating), **approved**.

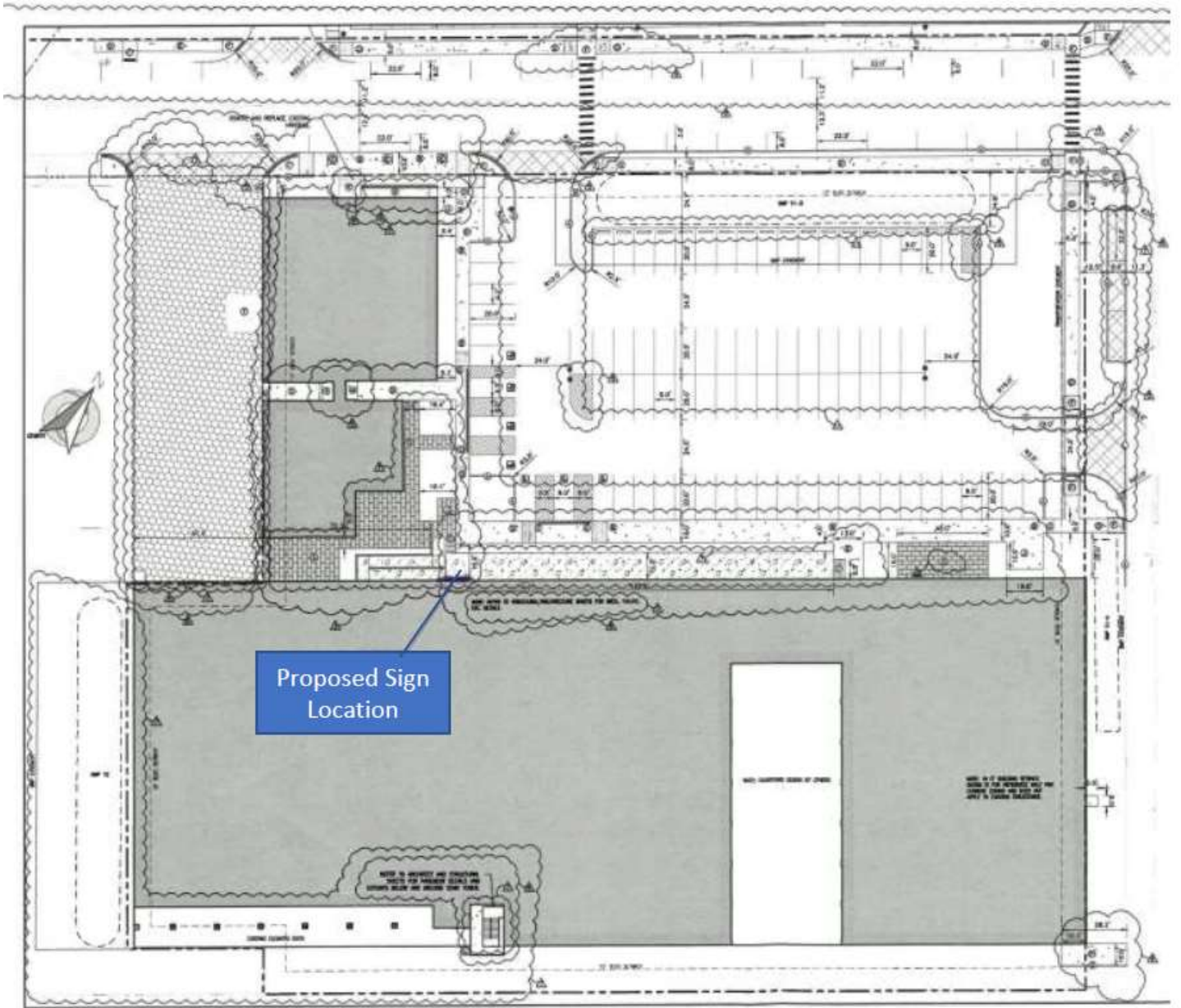
2019-CZN-859 / 2019-CVR-859 / 2019-CVC-859; 1328, 1336, 1340, 1402, 1406, 1409, 1411, 1430, 1436, 1443 and 1446 Roosevelt Avenue; 1402, 1406, 1410, 1414, 1420, 1422, 1423, 1427, 1431 and 1435 Dr. A J Brown Avenue; 1406 and 1410 Arsenal Avenue; 1420 Newman Avenue (subject site), requested the rezoning of six acres from the D-8, C-3 and C-S district to the C-S district to provide for a mixed-use development with retail, office, indoor recreation, restaurant and/or industrial uses permitted by the I-1 and I-2 districts; a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 254 parking spaces; and the vacation of a portion of Dr. A J Brown Avenue, being 60 feet wide, from the southeast corner of Lot 36 of Ingram Fletchers Addition, being the north right-of-way line of Roosevelt Avenue, 247.37 feet to the northeast corner of Lot 30 of said Addition being the south right-of-way line of Interstate 70, and a vacation of a portion of a north-south alley, being 15 feet wide, from the southeast corner of Lot 39 of said Addition, being the north right-of-way line of Roosevelt Avenue, to a point 170.42 at the northeast corner of Lot 43, being the south right-of-way line of Interstate 70, both with a waiver of the assessment of benefits **approved, granted and approved**.

2016-UV3-002; 1505 Massachusetts Avenue (east of site), requested a variance of use to provide for the expansion of a veterinary clinic, with accessory animal boarding facilities, with a two-story addition, **granted**.

RU *****

2023-DV3-041: Location Map

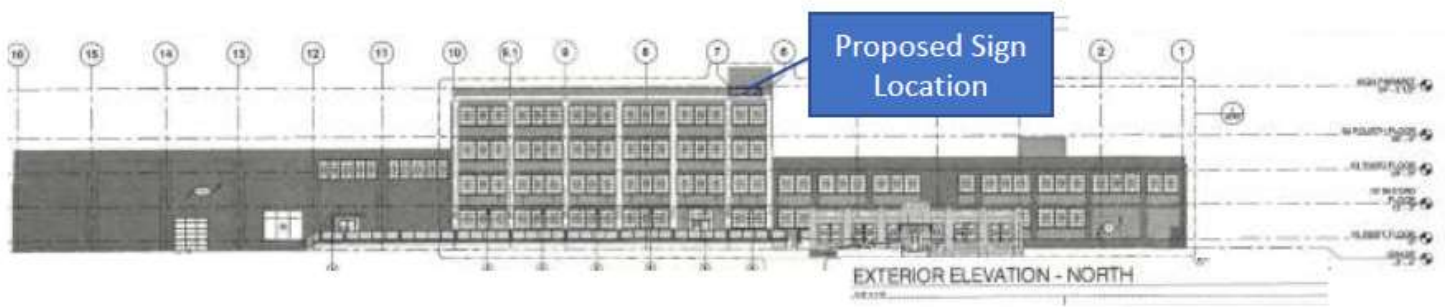




Proposed Sign Design



30.93 ✓
FABRICATE AND INSTALL ONE (1) SET OF NON-ILLUMINATED REVERSE CHARRED LETTERS AND LOGO
FINISHES - 300 ALUMINUM PAINTED TO MATCH SPEC.
RETURNES - 2" TO MATCH SPEC.
INSTALLATION - ANCHORED PLUMP TO FACIA





View of subject site north / northwest elevation, looking south from Roosevelt Avenue.



View of subject site southwest / west elevation, looking northeast from Roosevelt Avenue.



View of subject site south / southeast elevation, looking north from Massachusetts Avenue



View of accessory parking lot and elevated Interstate I-70 to the northwest.

STAFF REPORT

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

Case Number: 2023-DV3-043
Address: 7801 East 38th Street (approximate address)
Location: Warren Township, Council District #13
Zoning: C-S (TOD)
Petitioner: Second Circle Investments, LLC, by Misha Rabinowitch
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a retail establishment with one public entry along the 140' front facade (one public entry per 50 feet required) and the building occupying 41% of the lot width (minimum 80% required) and a front building line of 63 feet (maximum 10-foot front building line required) with parking in the front yard (prohibited) and a 36-foot wide driveway width (maximum of 16 feet permitted).

RECOMMENDATIONS

Staff **recommends approval** of the requests for: one public entry along the 140-foot front façade and for the building occupying 41% of the lot width where 80% is required.

Staff **recommends denial** of the requests for: a front building setback of 63 feet where a maximum allowed setback is 10 feet; parking in the front yard; and, a 36-foot driveway width where a maximum width of 16 feet is permitted.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-S Metro Self-Storage / Vacant

SURROUNDING ZONING AND LAND USE

North C-S / C-3 Auto fueling station / vacant
South I-2 Commercial (flower/garden center)
East D-5 / C-3 Residential (single family) / Neighborhood commercial
West D-5 Residential (single-family)

LAND USE PLAN

The Comprehensive Plan recommends office commercial development.

(Continued)

STAFF REPORT 2023-DV3-043 (Continued)

- ◇ The 4.59-acre site is partially developed with a self-storage facility which occupies approximately 2.52 acres. The remaining area is currently undeveloped. The present plan is to develop the eastern undeveloped portion (approx. 1.32 acres) along the Franklin St frontage while the northern .75 acres will remain undeveloped at this time.

TRANSIT-ORIENTED DEVELOPMENT OVERLAY

- ◇ The TOD overlay applies to properties within 1000' of a centerline of a BRT Line. The northern line of the subject site fronts 38th Street and the Purple Line. Additionally, the location of the proposed development is less than 400' from the nearest BRT stop at 38th Street and Franklin Road. The TOD overlay includes
- ◇ The intent of the TOD Secondary District is to coordinate more compact, walkable and urban development patterns with public investment in the transit system. These development patterns ensure that walking and biking are viable options for short trips and transit is a priority for longer trips. Development patterns and site designs that prioritize automobile travel undermine these public and private investments. *This district follows the policies and principles of the comprehensive plan, the transit-oriented development strategic plans, and the Livability Principles in this code, and has the following specific design objectives:*
 1. Place a wide range of housing types within walking distance of commercial centers and transit stops or stations, and at a critical mass that supports these places.
 2. Create connections through many different modes of transportation between neighborhoods and places for commercial services and employment.
 3. Provide a concentration of many different and small-scale uses with a fine-grained pattern that integrates and transitions well with the neighborhoods they support.
 4. Ensure human-scale design that prioritizes relationships of sites and buildings to the streetscapes.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would allow the construction of a retail establishment with:
 - one public entry along the 140-foot front façade where two are required (one public entry per 50-feet required),
 - the building occupying 41% of the lot width where 80% is required,
 - a front building line of 63 feet where a maximum permitted build line is 10 feet,
 - parking in the front yard; and,
 - a 36-foot driveway width where a maximum of 16-feet is permitted.

(Continued)

STAFF REPORT 2023-DV3-043 (Continued)

DEVELOPMENT STANDARDS FINDINGS OF FACT

FINDINGS OF FACT

(BUILDING ENTRANCE)

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

One building entrance is appropriate for this site, where the property, though located within a Transit Oriented Development Overlay, it is not adjacent to the transit line on 38th St., so only having 1 building entrance for the proposed building will not have a negative impact on 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:

One building entrance is appropriate for this site, where the property, though located within a Transit Oriented Development Overlay, it is not adjacent to the transit line on 38th St., so only having 1 building entrance for the proposed building will not have a negative impact on the community.

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

The site is relatively narrow and must accommodate building frontage, parking, and retention. Moreover, one entrance for the proposed type of building is standard in the industry.

- ◇ Petitioner states that the site is shaped in a way which creates a practical difficulty in meeting the standard for the required two entrance points.
 - Staff finds that, based on the situation of the site, a second entry point north of the planned single entry would likely create unnecessary conflicts with adjacent commercial entrances to the north and east of the subject site. Therefore, staff supports the request for a single site entrance.

(Continued)

**FINDINGS OF FACT
(BUILDING FRONTAGE)**

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

Although located within a Transit Oriented Development Overlay per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, so not requiring 80% of the width of the site to be occupied by a building permits more green space, drainage areas, and, generally speaking, a development that is more consistent with the surrounding neighborhood.

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:

Although located within a Transit Development Corridor per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, so not requiring 80% of the width of the site to be occupied by a building permits more green space, drainage areas, and, generally speaking, a development that is more consistent with the surrounding neighborhood.

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

The site is relatively narrow, so requiring a building that occupies 80% of the site width would make the site essentially undevelopable as a commercial site.

- ◇ Petitioner claims that the site is shaped in a way which creates a practical difficulty in meeting the standard for the building occupying 80% of the lot width.
 - Staff agrees that a practical difficulty exists to support the request for the building width to occupy less than 80% of the lot width.

FINDINGS OF FACT

(FRONT BUILDING LINE)

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

Although located within a Transit Oriented Development Overlay per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, where the established building line is consistent with the proposed building line. The building would not fit in context with only a 10' building line.

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:

Although located within a Transit Oriented Development Overlay per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, where the established building line is consistent with the proposed building line. The building would not fit in context with only a 10' building line.

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

It would require a building that is inconsistent with the established building line and would not permit site design that fits in context.

- ◇ Petitioner claims that new construction would not fit with the existing development context.
 - While context is often cited as cause for varying from development standards, the context in this case is outdated, vehicle centric development not aligned with current development pattern goals found in the TOD guidelines and standards. Given that this is new construction, staff finds that no practical difficulty exists which prevents the Petitioner from meeting this standard.

(Continued)

FINDINGS OF FACT

(Parking in the Front Yard)

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

Although located within a Transit Oriented Development Overlay per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, so permitting parking in the front yard, with a significant grass and landscape buffer between the road, the sidewalk and the parking area, will permit a safe and visually appealing frontage.

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:

Although located within a Transit Oriented Development Overlay per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, so permitting parking in the front yard, with a significant grass and landscape buffer between the road, the sidewalk and the parking area, will permit a safe and visually appealing frontage.

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

The site is relatively narrow, and requiring parking in the rear of the building is not desirable in this context, where the adjacent property has parking in the front yard.

- ◇ Petitioner claims that the site is shaped in a way which makes meeting the standard for parking in the rear 'not desirable' and that the adjacent commercial development has parking in the front.
 - Staff finds that no practical difficulty exists which prevents the Petitioner from meeting the standard for locating parking in the rear of the building. Meeting this standard would contribute to the TOD goals found in the Ordinance and Comprehensive Plan.

(Continued)

STAFF REPORT 2023-DV3-043 (Continued)

FINDINGS OF FACT

(DRIVEWAY WIDTH)

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

Although located within a Transit Oriented Development Overlay per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, where the established development pattern includes deeper setbacks and wider driveway openings to safely permit vehicular traffic to enter and exit the property. Also, sidewalks and a crosswalk will be provided.

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:

Although located within a Transit Oriented Development Overlay per the Marion County Zoning Ordinance, the subject site is south of the transit line along 38th Street, where the established development pattern includes deeper setbacks and wider driveway openings to safely permit vehicular traffic to enter and exit the property. Also, sidewalks and a crosswalk will be provided.

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

In order to permit retail development on the site, there must be adequate driveway width to safely permit vehicular traffic to enter and exit the property.

- ◇ Petitioner claims that the requested width is necessary to provide vehicular access.
 - Staff finds that a driveway width of 36 feet is excessive, and no practical difficulty exists to support such an increase in driveway width. A 36-foot drive creates an unnecessarily wide break in the sidewalk and increases the likelihood of vehicle/pedestrian conflict. Given staff's support for a decrease from two access drives to one, an increase in that single drive from the maximum allowed width of 16 feet to 24 feet would be sufficient to allow safe vehicular access while minimizing pedestrian impact.

GENERAL INFORMATION

THOROUGHFARE PLAN	North Franklin Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 90-foot existing right-of-way.
SITE PLAN	File-dated October 18, 2023.
FINDINGS OF FACT	File-dated October 18, 2023.

(Continued)

STAFF REPORT 2023-DV3-043 (Continued)

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None

PREVIOUS CASES:

2014-ZON-011; 3650 North Franklin Road (subject site), rezoning of 4.59 acres from the C-3 district to the C-S classification to provide for a self-storage facility and all C-3 uses, **granted.**

2006-ZON-084; 3650 North Franklin Road (subject site), rezoning of 4.59 acres from the SU-1 district to the C-3 classification to provide for neighborhood commercial uses, **granted.**

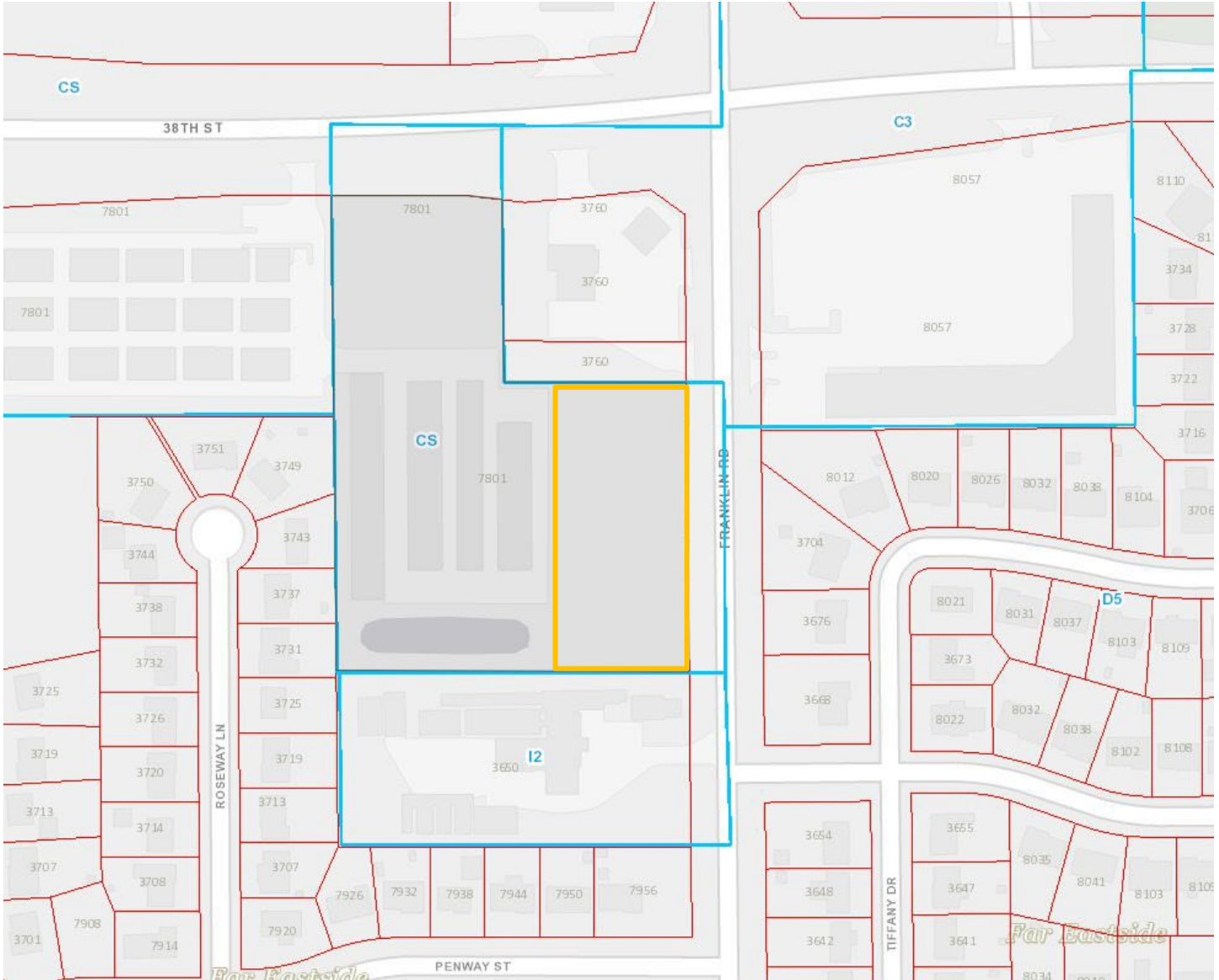
2002-ZON-084; 3650 North Franklin Road (subject site), rezoning of 4.26 acres from the C-3 district to the SU-1 classification to provide for religious uses, **granted.**

ZONING HISTORY – VICINITY

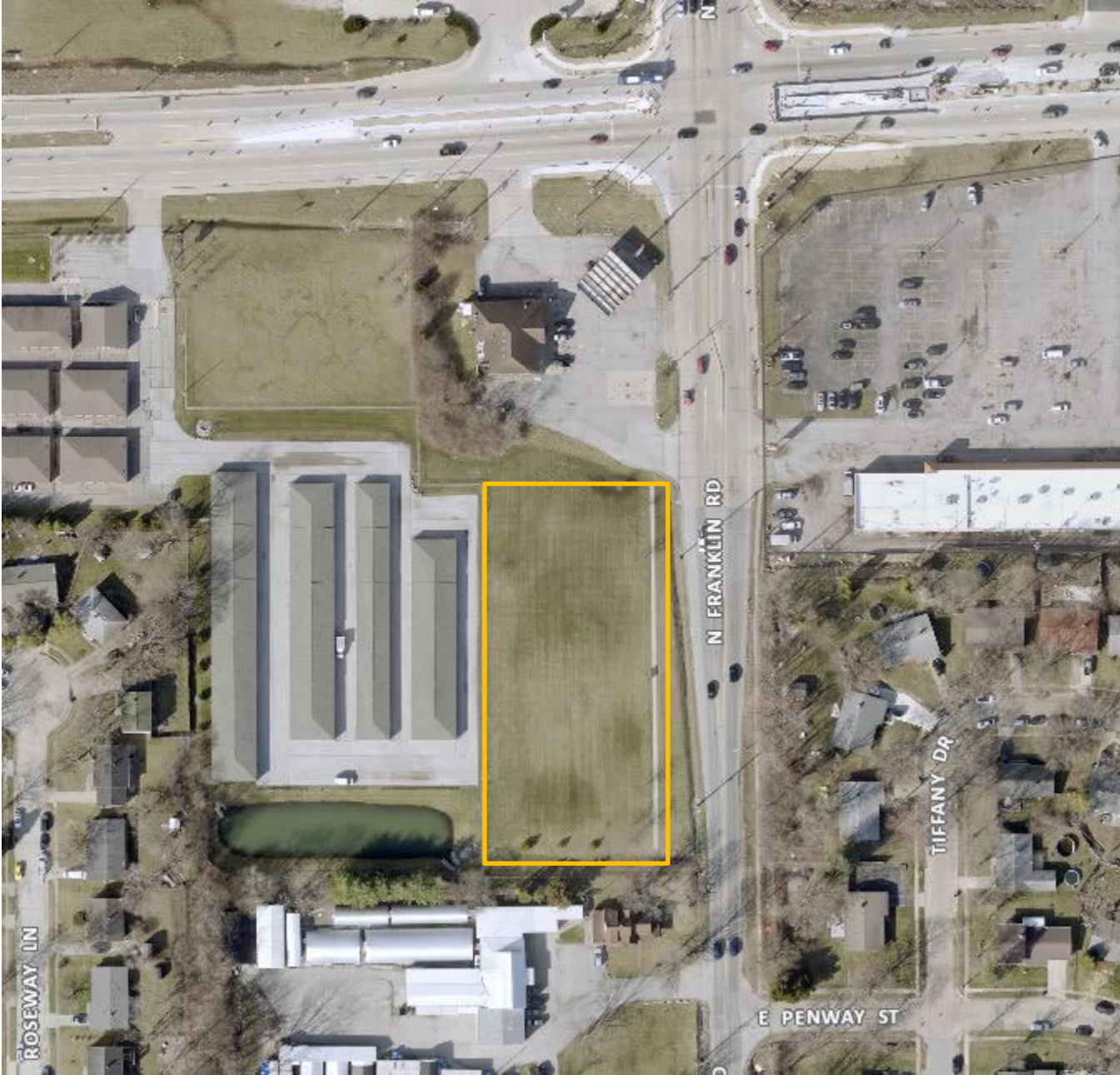
2009-ZON-026; 7930 East 38th Street (north of site), rezoning of 1.5 acres from the C-S district to the C-S classification to provide for a gas station, convenience store, and car wash, **granted.**

BB

(Continued)



Location map



Aerial view of site

(Continued)



TOD Overlay in area of subject site



(Continued)



View of site from east side of Franklin Road



View of property south of site

(Continued)



View south along Franklin Road (subject site on right)



Shopping center northeast of site

STAFF REPORT

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

Case Number: 2023-DV3-044
Address: 2440 West County Line Road (approximate address)
Location: Perry Township, Council District #20
Zoning: C-4
Petitioner: Reeder Real Estate Holdings LLC, by Brian J. Tuohy
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 35-foot pylon sign (maximum height of 25 feet permitted).

RECOMMENDATIONS

Staff recommends denial of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4 Liquor Store

SURROUNDING ZONING AND LAND USE

North - D-A Undeveloped Land
South - N/A Single-Family Dwellings in Johnson County
East - D-2 Single-Family Dwellings
West - C-4 I-69 Ramp

COMPREHENSIVE PLAN The Comprehensive Plan recommends regional Community Commercial development for the site.

- ◇ The site is improved with a one-story liquor store and associated surfacing parking. The structure was issued permits for initial construction in 2020. The current site replaces a previous site which was acquired to accommodate the expansion of I-69 in the southwest portion of Marion County.
- ◇ According to the site plan, a future commercial building will be located along the northern portion of the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request, as proposed, would allow for the erection of a 35-foot pylon sign on the western portion of the site, parallel to an I-69 entrance ramp. This represents a 40% increase from the sign height limitation permitted by the Sign Regulations.

(Continued)

- ◇ The Sign Regulations “facilitate an easy and agreeable communication between people...and serve an important function.” The purpose of the Sign Regulations is to “eliminate potential hazards to motorists, and pedestrians; to encourage signs which, by their good design, are integrated with and harmonious to the buildings and site which they occupy; and which eliminate excessive and confusing sign displays.” Proliferation of signs causes those signs that are permitted and legal to become less effective and reduces their value. Additionally, the Sign Regulations preserve and improve the appearance of the City as a place in which to live and work.
- ◇ Primary freestanding signs are intended to provide wayfinding along thoroughfares immediately abutting or adjacent to a site. Staff would note that the proposed sign would be parallel to an entry ramp for the newly constructed I-69 extension directly west of the subject site. However, the proposed sign appears to be intended to provide wayfinding for northbound traffic on I-69 to allow for identification prior to approaching the off-ramp of I-69. Staff would note that the location of this off-ramp is roughly 900 feet to the southwest. It is Staff’s opinion that this intended viewshed substantially exceeds the intent of primary freestanding signs, and that any on-site freestanding sign should be intended to identify traffic traveling along County Line Road.
- ◇ Should the Board be inclined to approve the request, Staff requests that any approval be subject to the commitment that no additional primary freestanding sign be erected. Staff would note that any future freestanding sign, at the time of publication of this report, would require a variance for reduced sign separation. Staff believes this to be appropriate considering the filed elevation indicates a second panel for the future construction of a primary building to be located on site.

GENERAL INFORMATION

THOROUGHFARE PLAN This portion of County Line Road is indicated as a primary arterial on the Official Thoroughfare Plan, with a proposed right-of-way of 119 feet.

This portion of I-69 is classified as an Interstate. Due to its recent construction, this portion is not identified in the Official Thoroughfare Plan.

SITE PLAN File-dated October 5, 2023

ELEVATIONS File-dated October 5, 2023

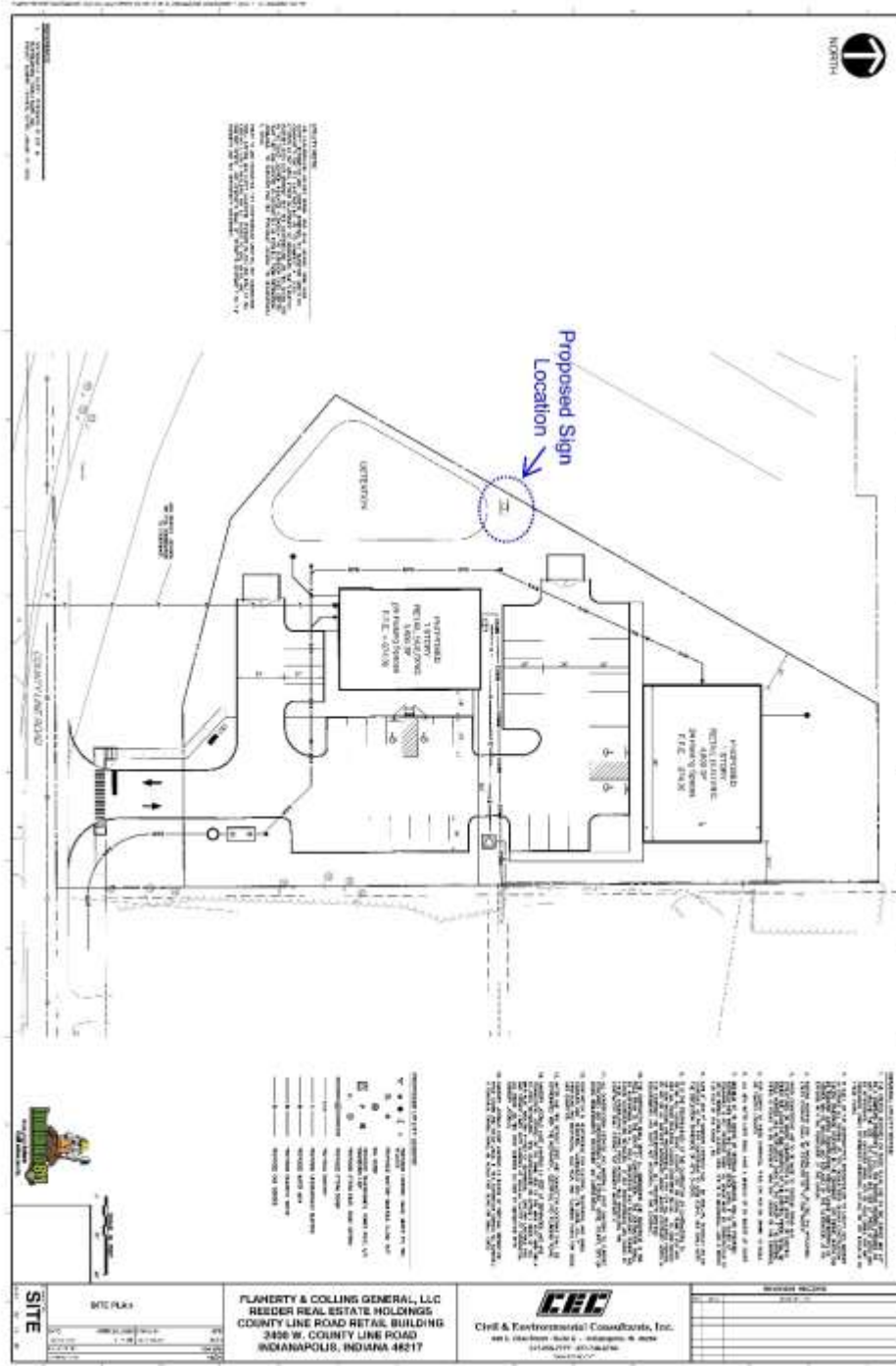
FINDINGS OF FACT File-dated October 5, 2023

ZONING HISTORY

Subject Site:

2017-ZON-035; 8901 Bluff Road and 2400 West County Line Road; requests rezoning of 4.96 acres from the D-A (W-1) classification to provide for the relocation of a package liquor store; **approved.**





SITE	DATE: 10/11/2023	FLAHERTY & COLLINS GENERAL, LLC REIDER REAL ESTATE HOLDINGS COUNTY LINE ROAD RETAIL BUILDING 3450 W. COUNTY LINE ROAD INDIANAPOLIS, INDIANA 46217	CEC Civil & Environmental Consultants, Inc. 9815 Greenway Circle - Indianapolis, IN 46268 (317) 555-5555 WWW.CEC-INDIANAPOLIS.COM	REVISION RECORD
	SCALE: 1" = 40'			
	PROJECT: COUNTY LINE ROAD RETAIL BUILDING			

2023-DV3-044: Sign Elevation

PMS 432



SPECIFICATIONS
SIGN: SIGNAGE GRADE WHITE LED/ALUMINUM
VINYL GRAPHIC TO MATCH NETWORK
2" ALUMINUM ENDGAIN BASE
2" FINISHES
2" FINISHES
600 4013



- DESIGN
- FABRICATION
- INSTALLATION
- LED CONVERSION

Client

Norma's Fine Wine & Spirits

Address

2400 West County Line Road

City, State

Indianapolis, IN 46217

Date

4-20-23

Job Number

23wh-12594

Sales Representative

Bill Hutchison

Scale

1/4" = 1'

Graphic Artist

wph II

Customer Approval



Photo One: Looking East Along County Line Road.



Photo Two: Facing West Along County Line Road.



Photo Three: Facing South Across County Line Road.



Photo Four: Existing Commercial Building On Site.



Photo Five: General Area of Proposed Sign, Facing North.

STAFF REPORT

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

Case Number: 2023-UV3-021
Address: 1838 East Epler Avenue (approximate address)
Location: Perry, Council District #24
Zoning: D-3
Petitioner: Griselda Delgado, by James R. Browne Jr.
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of four commercial vehicles (not permitted).

RECOMMENDATIONS

Staff **recommends denial** of the request for outdoor storage of four commercial vehicles in a D-3 district. The proposed use is only permitted in heavy commercial and industrial districts and is incongruous with residential districts.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-3	Metro	Residential (single-family)
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SURROUNDING ZONING AND LAND USE

North	D-3	Residential (single-family)
South	D-3	Residential (single-family)
East	SU-1	Religious
West	D-3	Residential (single-family)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends suburban neighborhood development.

- ◇ The .91-acre subject site consists of a single-family residence. While the primary residential structure was erected several decades ago, this parcel was platted as part of the Epler Church Home Addition and rezoned from SU-1 to D-3 in 2022.
- ◇ The subject property is abutted on three sides by suburban residential and a church on the fourth.
- ◇ It is now subject to zoning violations related to unpermitted storage of commercial vehicles.
- ◇ Petitioner has recently expanded the parking area with gravel.
- ◇ No drainage plan has been submitted to identify the impact of the parking expansion.

(Continued)

VARIANCE OF USE

- ◇ The grant of the request would provide for outdoor storage of four commercial vehicles in a D-3 district.
- ◇ The purpose of the D-3 district is for low or medium intensity residential development. Land in this district should have good thoroughfare access, be relatively flat in topography, and be afforded pedestrian linkages to community and neighborhood services and facilities (schools, parks, shopping areas, etc.). Recreational facilities developed for the neighborhood complement the treed yards on the individual lots. Predominantly single-family detached dwellings are envisioned with two-family dwellings on corner lots in this district. The D-3 district has a typical density of 2.6 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan.
- ◇ The Comprehensive Plan Pattern Book defines the Suburban Neighborhood typology as: predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

VARIANCE OF USE FINDINGS OF FACT

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

Petitioner's use of fourteen (14) foot cargo bed trailers is not substantially different than the current twelve (12) foot maximum. The trailers are not used for hazardous or noxious waste that would create a health concern or nuisance.
Petitioner's use of property and trailers remains subject to existing ordinances prohibiting outdoor equipment storage in the trailers, trash accumulation and disabled motor vehicles.

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

The designated parking area for the trailers is substantially set back from the lot's boundary lines. The trailers will not affect traffic flow around the property. The Petitioner commits to installing fencing along the north and west parking area to create visual privacy and beautification.

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

There is no natural condition on the property affecting the use or this petition for variance.

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

A strict application creates an unnecessary hardship because the difference between a twelve (12) and fourteen (14) cargo bed is minimal. Petitioner uses the trailers for self employed income. Requiring Petitioner to pay for rental space at another site creates unnecessary hardship.

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

The two foot length difference for the trailer cargo bed is de minimus compared to a fourteen foot bed and does not substantially interfere with the comprehensive plan.

- ◇ Staff determined that the grant would be injurious to the general welfare of the community. The proposed use is restricted to heavy commercial and industrial districts.
- ◇ The use and value of the area adjacent to the property included in the variance would be adversely affected by the use as it is surrounded by suburban development. The introduction of a heavy commercial use would clearly be detrimental.
- ◇ The strict application of the terms of the Zoning Ordinance would not constitute an unusual hardship as the need for appropriate accommodations for such commercial vehicles is a normal part of operation of a Commercial and Building Contractor, such as the existing roofing business.
- ◇ The grant would interfere substantially with the Comprehensive Plan as the plan calls for suburban neighborhood development not heavy commercial.
- ◇ Staff finds that no practical difficulty exists. Petitioner seeks to operate a building contractor business as a home occupation in a suburban neighborhood. Denial of the request would cause the Petitioner to locate the business on an appropriate site with typical costs associated with a roofing business.

GENERAL INFORMATION

THOROUGHFARE PLAN	Epler Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with a 50-foot existing and an 80-foot proposed right-of-way.
SITE PLAN	File-dated October 3, 2023.
FINDINGS OF FACT	File-dated October 3, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATION

VIO23-004914. (July 20, 2023) Following inspection by enforcement the following violations were found to be present:

The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use; (roofing shingles and construction equipment, plastic containers and other miscellaneous items throughout the property).

The outdoor storage of vehicle parts in any zoning district, the provisions of which do not specifically permit such a use; (Vehicle tires, and other miscellaneous vehicle parts throughout the property).

The outdoor storage of inoperable vehicles in any zoning district, the provisions of which do not specifically permit such a use; (Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, that cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate, or flat tires; or that is otherwise partially dismantled or mechanically inoperable...Silver Dodge 4x4 with flat tire on front left side.)

The parking or storage of a commercial vehicle in any zoning district, when the provisions of which do not specifically permit such a use; (Trailer, open or enclosed, with a cargo holder exceeding 12ft. in length... 14 ft. trailers).

The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Single family dwelling is not a permitted primary use in a SU-1 zoning district).

PREVIOUS CASES

2022-CZN-859; 1838 East Epler Avenue, rezoning of 1.41 acres from the SU-1 district to the D-3 district to provide for residential development. Approval of a Subdivision Plat to be known as Epler Church Home Addition, dividing 1.41 acres into two lots, **approved**.

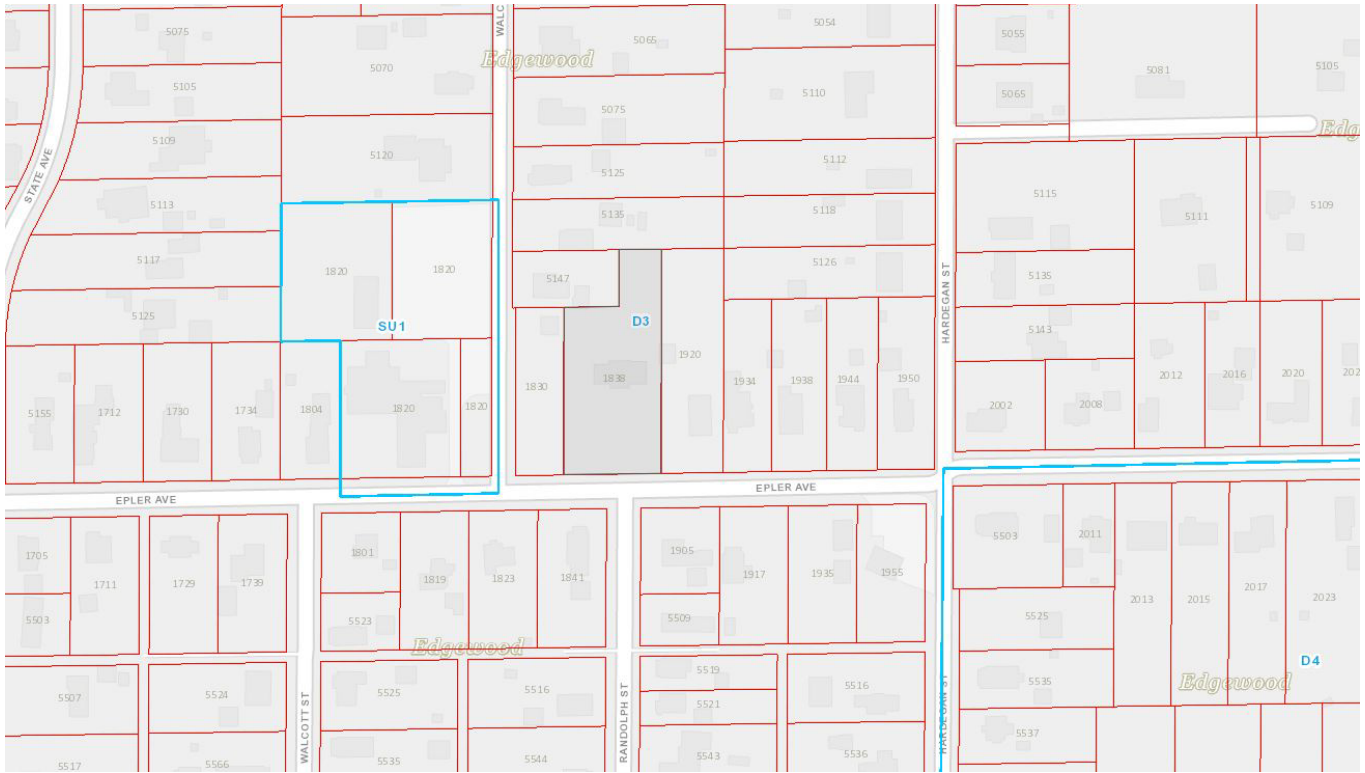
2006-ZON-839, 1820 & 1838 Epler Avenue, rezoning from the D-3 district to the SU-1 district, **approved**.

ZONING HISTORY – VICINITY

2006-VAR-839, 1820 Epler Avenue, variance to provide for annual parking of six commercial semi-trailers, during the months of October and November, for a church fundraiser, **approved**.

BB

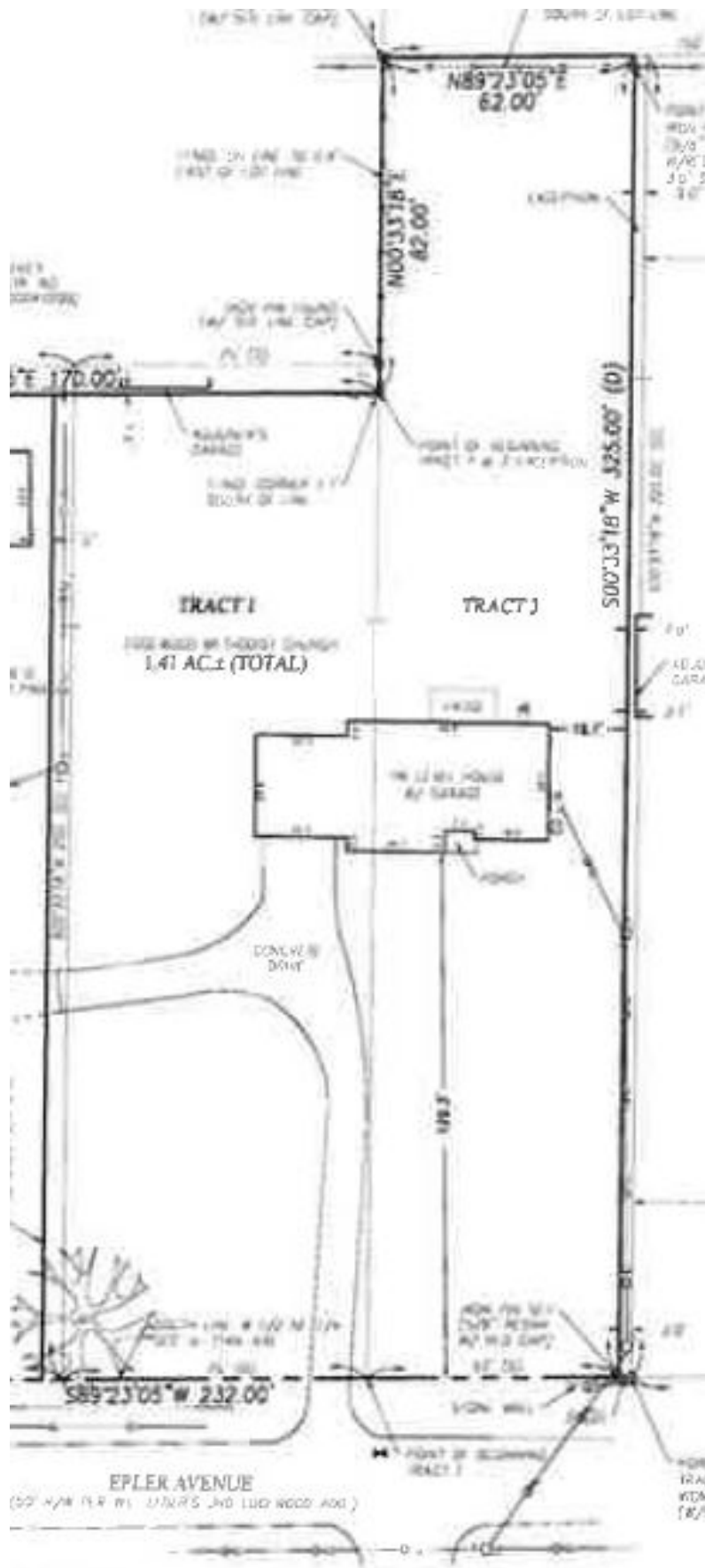
2023-UV3-021; Location Map



2023-UV3-021; Aerial Map



(Continued)



(Continued)



Photo of the Subject Property, west view from Walcott St



Photo of the Subject Property, vehicles on site

(Continued)



Photo of the Subject Property, south view (Epler Ave)



View east along Epler Ave