



## Board of Zoning Appeals Division III (October 17, 2023) Meeting Agenda

### Meeting Details

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

**Date:** Tuesday, October 17, 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-DV3-028 | 405 South Shortridge Road**  
Warren Township, Council District #18, Zoned C-S  
SRMK Realty LLC, by In and Out Unlimited

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an 8.5-foot tall, chain link perimeter fence, without vinyl coating or equivalent treatment (chain link fences prohibited within front yards of commercial districts, vinyl coating required, fence heights limited to 3.5-foot-tall in front yards and six-foot tall within side and rear yards).

**\*\*Continuance requested by staff**

- 2. 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).

**\*\* Continuance requested due to deficient notice**

- 3. 2023-UV3-017 | 5420 McFarland Road**  
Perry Township, Council District #24, Zoned D-1  
David Smithmeyer, by Jerry Hornback

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to allow:

On Parcel One

- Two primary dwellings (only one primary dwelling permitted per lot); and
- The westernmost dwelling maintaining a zero-foot northern side yard setback (eight-foot side yard setback required)

On Parcel Two

- An accessory structure without a primary dwelling (primary dwellings must be erected prior to accessory

structures); and

b) Legally establish a lot with a street frontage and width of 43-feet wide (minimum 45-foot-wide street frontage and lot width of 90 feet required).

**\*\*Continuance requested by staff**

## Petitions for Public Hearing

### PETITIONS TO BE EXPEDITED:

- 4. 2023-DV3-037 | 2519 Guilford Avenue**  
Center Township, Council District #17, Zoned D-8  
FFEW Investment Group LLC, by Hannah Able

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex on a 40-foot-wide lot (60-foot lot width required).

- 5. 2023-DV3-038 | 2434 & 2444 Winthrop Avenue**  
Center Township, Council District #17, Zoned D-8  
Indianapolis Neighborhood Housing Partnership Inc., by Brandon Knox

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a townhome community development with six-foot rear yard setbacks and a livability space ratio of 0.21 (15-foot rear yard setback, livability space ratio of 0.66 required).

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

- 6. 2023-UV3-020 | 3465 Newhart Street and 5200 Sandhurst Drive (Indecisive)**  
Perry Township, Council District #20, Zoned D-A (FF)  
Thomas Loudermilk

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping business with the outdoor storage of trucks, equipment, and materials (not permitted).

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

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

## Additional Business:

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



**BOARD OF ZONING APPEALS DIVISION III** **October 17, 2023**

**Case Number:** 2023-DV3-028

**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:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an 8.5-foot tall, chain link perimeter fence, without vinyl coating or equivalent treatment (chain link fences prohibited within front yards of commercial districts, vinyl coating required, fence heights limited to 3.5-foot-tall in front yards and six-foot tall within side and rear yards).

**Current Land Use:** Commercial

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

**Recommended Motion:** Motion to approve petition 2023-DV3-028

**Staff Reviewer:** Noah Stern, Associate Planner

**PETITION HISTORY**

**ADDENDUM FOR OCTOBER 17, 2023**

- This petition was continued from the September 19, 2023 BZA III hearing to the October 17, 2023 BZA III hearing due to additional variance requests needed.
- Staff is working with the Petitioner on providing additional information regarding the fencing that will require variances not listed in the initial request. Therefore, this petition will need a continuance with additional notice to the November 28, 2023 BZA Division III hearing.

**STAFF RECOMMENDATION**

Staff **recommends denial** of this request

**PETITION OVERVIEW**

- This request would provide for the location of an 8.5-foot tall, chain link perimeter fence, without vinyl coating or equivalent treatment (chain link fences prohibited within front yards of commercial districts, vinyl coating required, fence heights limited to 3.5-foot-tall in front yards and six-foot tall within side and rear yards).



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

- Staff has received additional details regarding the fencing on site that are not reflected in the request statement:
  - The Petitioner informed Staff that the fencing is not one but two separate fences surrounding the property, one constructed with metal panels at a height of 6 feet, and one of barbed wire (barbed wire fences are prohibited unless used to enclose livestock or at a public safety facility) at a height of 10 feet.
  - The barbed wire fence is also electrified, which is prohibited, except when associated with specific uses such as livestock containment and public safety facilities. In these instances, electrified fences are limited to a maximum of 0.1 amps and must be setback five feet from the lot line. The subject site does not operate one of these uses, meaning the location of an electrified fence is prohibited. Therefore, the request must be continued or this portion of the fence removed.
- With this additional information, the request will need to be amended and a continuance with new notice to the November 28, 2023 BZA III hearing will be required.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-S	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Suburban Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	D-11	North: Mobile home community
South:	C-S	South: Commercial uses
East:	D-11	East: Mobile home community
West:	I-3	West: Industrial uses
<b>Thoroughfare Plan</b>		
South Shortridge Road	Local Street Existing ROW: 30 feet Proposed ROW: 60 feet	
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	6/27/23	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	6/27/23	



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

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**Pattern Book / Land Use Plan**

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

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

- Not Applicable to the Site

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site

**Infill Housing Guidelines**

- Not Applicable to the Site

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

- Not Applicable to the Site



## ZONING HISTORY

### ZONING HISTORY- SITE

**81-Z-72**, requested rezoning of 9.58 acres being in an A-2 District, to the C-5 classification, to provide for a car lot, **denied**.

**83-UV2-119**, requested a variance of the use of the (A-2) Marion County Master Plan Permanent Zoning Ordinance to allow automobile service with storage with a sign, **denied**.

**89-Z-144/89-CV-21**, requested rezoning of 5.545 acres, being in the A-2 District to the D-11 classification to provide for a mobile dwelling park, with reduced perimeter yards and minimum distance between buildings reduced from 25 feet to 22 feet, **approved**.

**91-Z-90/91-CV-4**, requested rezoning of two acres, being in the D-A District to the D-11 classification to provide for the expansion of a mobile dwelling park, with the rear perimeter yard reduced from 50 feet to 20 feet and the minimum distance between buildings reduced from 25 feet to 22 feet, **approved**.

**2018ZON068**, Rezoning of 8.77 acres from the D-11 and C-7 district to the C-S classification to provide for C-1 uses; I-1 uses; warehouse; commercial and building contractor; truck and trailer parking; and heavy truck, heavy equipment and vehicles sales, repair and service, **approved**.

### ZONING HISTORY – VICINITY

**84-UV1-40; 411 S Shortridge Road (south of site)**, variance of use and development standards of the Marion County Master Plan Permanent Zoning Ordinance to provide for the following uses and activities: rental and repair of commercial search lights, electrical contracting, fabrication, maintenance and sales of radio towers, automobile repair service, and outside storage of related equipment and materials, **approved**.

**86-Z-78; 415 S Shortridge Road (south of site)**, rezoning of approximately 4 acres, being in the A-2 district, to the C-1 classification, to provide for the construction of an office building, **approved**.

**88-Z-232/88-CV-32; 373-403 S Shortridge Road (north of site)**, requested rezoning of 18.213 acres, being in the A-2 district, to the D-11 classification to provide for a mobile dwelling park, with reduced perimeter yards and minimum distance between building reduced from 25 feet to 22 feet, **approved**.

**98-Z-100; 411 S Shortridge Road (south of site)**, variance of development standards of the Commercial Zoning Ordinance to provide for an auctioneering service and accessory, incidental uses with: a) a 1 foot side transitional yard to the north (minimum of 20 feet required) and; b) a 4 foot side yard setback to the south (minimum of 10 feet required), **approved**.

**2002DV3019; 400 S Shortridge Road (west of site)**, variance of development standards of the Industrial Zoning Ordinance to provide for a parking and maneuvering area located 8.59 feet from the east property line (parking and maneuvering areas not permitted within the required 150-foot front



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transitional yard), and a temporary gravel parking area (not permitted) located 39 feet from the right-of-way, **withdrawn**.

**2005DV3029; 7441 Chinook Circle (north of site)**, legally establish a mobile home park with distances between dwelling units varying from 9.5 ft. to 30.5 ft. (min. 25-ft. separation between dwelling units req.), and two dwellings with front yard setbacks of 4.9 ft. and 7.3 ft. (min. 10-ft. front yard setbacks req.) in D-11, **approved**.

**2005ZON155; 409 S Shortridge Road (south of site)**, rezone 2 acres from the D-11 District to the I-2-S classification to provide for industrial uses, **withdrawn**.

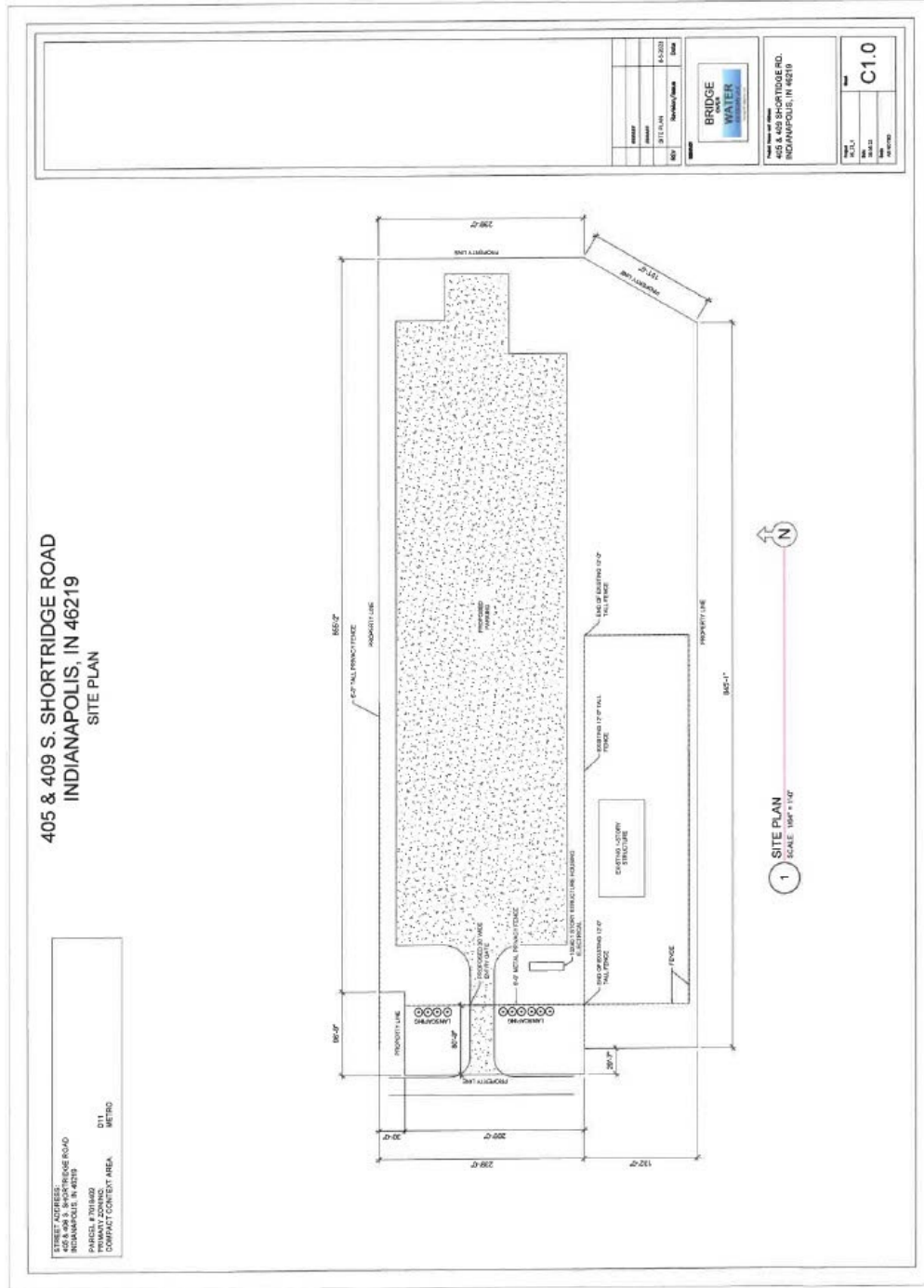
**2007ZON071; 415 S Shortridge Road (south of site)**, rezoning of 2.74 acres, from the C-1 district, to the C-ID classification to provide for commercial-industrial uses, **approved**.

**2022CZN868; 431 S Shortridge Road (south of site)**, (Second amendment) Rezoning of 2.74 acres from the D-A district to the C-S district to provide for an event center and C-1 uses with exceptions, **approved**.

**2022CVR868; 431 S Shortridge Road (south of site)**, Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a zero-foot east yard (10-foot rear yard required), and without the required front-yard landscaping (landscaping required), **withdrawn**.



EXHIBITS



STREET ADDRESS: SHORTEGE ROAD  
INDIANAPOLIS, IN 46219  
PARCEL # 071802  
COUNTY: INDIANAPOLIS COUNTY  
CITY: INDIANAPOLIS, IN

Project	Parcel	Project Name	Date
BRIDGE AND WATER	071802	BRIDGE AND WATER	8.13.2019

**BRIDGE AND WATER**

405 & 409 S. SHORTRIDGE RD.  
INDIANAPOLIS, IN 46219

Scale: **C1.0**

DATE: 8/13/2019  
DRAWN BY: J. GILBERT  
CHECKED BY: M. GILBERT

**1 SITE PLAN**  
SCALE: 1/8" = 1'-0"



















**BOARD OF ZONING APPEALS DIVISION III**

**October 17, 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 23<sup>rd</sup> 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

**Recommended Motion:** Motion to approved petition 2023DV3035

**Staff Reviewer:** Noah Stern, Associate Planner

**PETITION HISTORY**

Due to the Petitioner not meeting the mailed notice requirement, this petition requires a continuance to the November 28, 2023 BZA Division III hearing.

**STAFF RECOMMENDATION**

Staff recommends denial of this petition.

**PETITION OVERVIEW**

- This petition would provide for a wooden privacy fence with a height ranging between 8.5 to 9.5 feet tall within the front yards and clear sight triangle of the intersection of Leland Avenue and 23<sup>rd</sup> Street (maximum fence height of 3.5 feet permitted, encroachment of clear sight triangle not permitted).

## STAFF REPORT

Department of Metropolitan Development  
Division of Planning  
Current Planning Section

**Case Number:** 2023-UV3-017  
**Address:** 5420 McFarland Road (approximate address)  
**Location:** Perry Township, Council District #24  
**Zoning:** D-1  
**Petitioner:** David Smithmeyer, by Jerry Hornback  
**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to allow:

**On Parcel One**

- a) Two primary dwellings (only one primary dwelling permitted per lot); and
- b) The westernmost dwelling maintaining a zero-foot northern side yard setback (eight-foot side yard setback required)

**On Parcel Two**

- a) An accessory structure without a primary dwelling (primary dwellings must be erected prior to accessory structures); and
- b) Legally establish a lot with a street frontage and width of 43-feet wide (minimum 45-foot-wide street frontage and lot width of 90 feet required).

### 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 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.

(Continued)

**STAFF REPORT 2023-UV3-017 (Continued)**

**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

<b>COMPREHENSIVE PLAN</b>	The Comprehensive Plan recommends suburban neighborhood uses for the site.
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- ◇ 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.
- ◇ 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.

(Continued)



**STAFF REPORT 2023-UV3-017 (Continued)**

- ◇ 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.

**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**

File-dated July 10, 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

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**2023-UV3-017; Location Map**



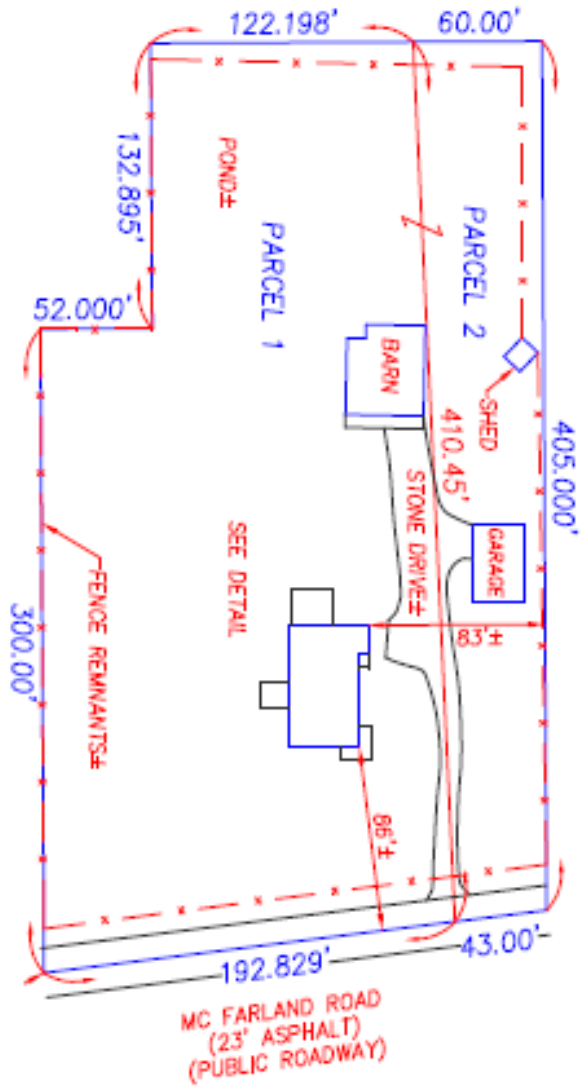






Photo of the subject site, primary dwelling on parcel 1, looking west



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/auxiliary 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-DV3-037  
**Address:** 2519 Guilford Avenue (approximate address)  
**Location:** Center Township, Council District #17  
**Zoning:** D-8  
**Petitioner:** FFEW Investment Group LLC, by Hannah Able  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex on a 40-foot-wide lot (60-foot lot width required).

**RECOMMENDATIONS**

Staff **recommends approval** of the request.

**SUMMARY OF ISSUES**

**LAND USE**

**EXISTING ZONING AND LAND USE**

Compact      D-8      Undeveloped parcel

**SURROUNDING ZONING AND LAND USE**

North -    D-8      Single-Family Dwelling  
South -    D-8      Single-Family Dwelling  
East -      I-2      Single-Family Dwelling  
West -     D-8      Single-Family Dwelling

**COMPREHENSIVE PLAN**      The Comprehensive Plan recommends traditional neighborhood uses for the site.

**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The Ordinance intentionally establishes standards in the D-8 district for lot width. These standards apply broadly to all properties zoned D-8 across Marion County and serve several purposes:
  - Access for maintaining building exteriors without trespassing into adjacent properties.
  - Storm water runoff management.
  - Areas for landscaping/green space.
  - Access for emergency responders.
  - Separation between buildings to reduce risk of fires spreading.
  
- ◇ The proposed duplex would meet the side setback and open space requirements and have a similar footprint as several nearby existing single-family dwellings.

(Continued)



- ◇ The proposed duplex would be consistent with many of the existing dwellings within the immediate area. Therefore, providing for the proposed 40-foot lot width would be supportable.
- ◇ Given the close proximity of other similarly developed properties, staff does not believe this would be a significant deviation from the Ordinance or negatively impact the character of development within the surrounding area, and would therefore, be supportable.

**GENERAL INFORMATION**

THOROUGHFARE PLAN	This portion of Guilford Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 60-foot existing and proposed right-of-way.
SITE PLAN	File-dated September 12, 2023
FINDINGS OF FACT	File-dated September 12, 2023

**ZONING HISTORY**

**2021-CZN-850 / 2021-CVR-850; 2606 Winthrop Avenue (north of site)**, requested the rezoning of 0.13 acre from the I-2 district to the D-8 district, **approved**. Requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling and detached garage with 53% open space, **granted**.

**2021-ZON-015; 2614 & 2618 Winthrop Avenue (north of site)**, requested the rezoning of 0.26 acre from the I-2 district to the D-8 district, **approved**.

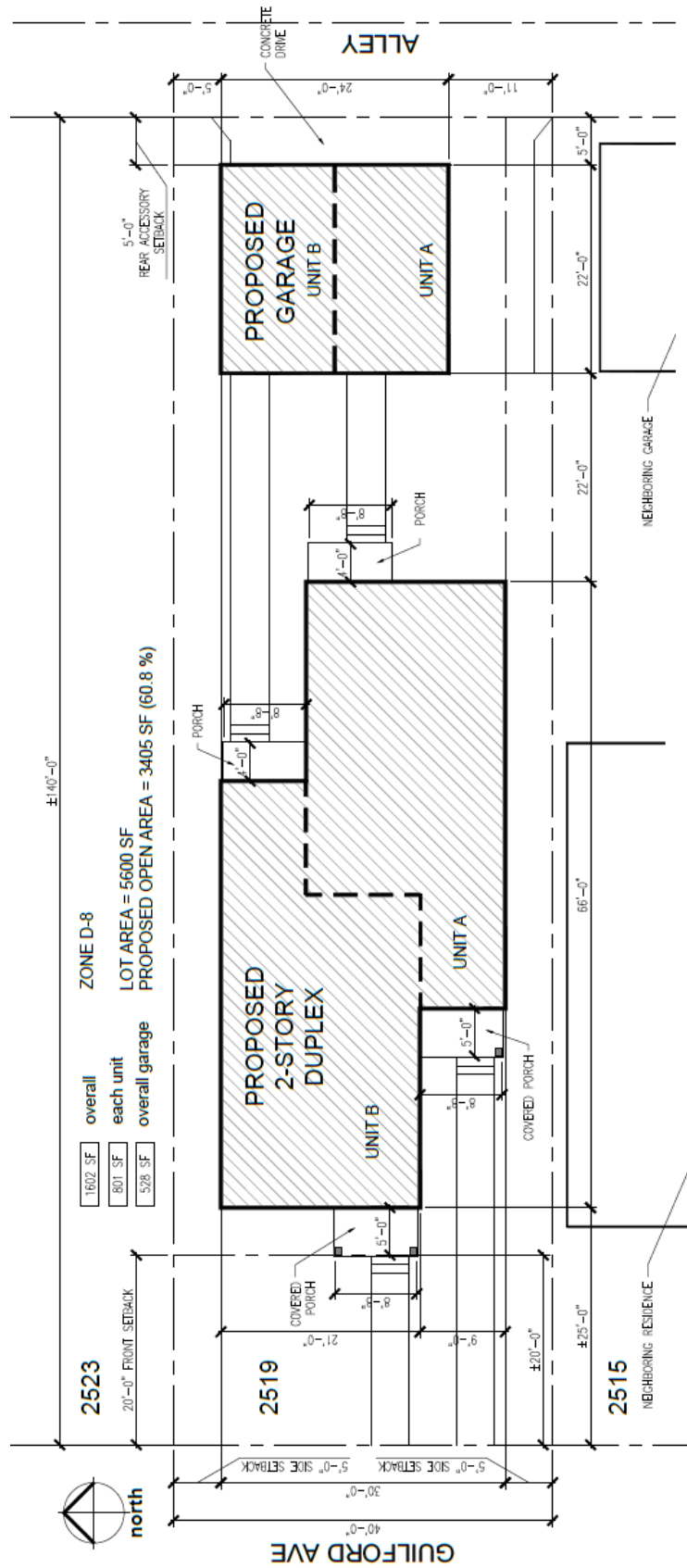
**2020-CZN-830 / 2021-CVR-830; 2625 Winthrop Avenue (north of site)**, requested the rezoning of 0.25 acre from the I-2 district to the D-8 district and a variance of development standards to provide for deficient front and side setbacks, distance between dwellings and open space, **approved**.

**2004-HOV-063; 2520 Winthrop Avenue (east of site)**, requested a variance of use to legally establish a 1,484-square foot single-family dwelling, **granted**.

**2003-UV1-044; 2504 Winthrop Avenue (southeast of site)**, requested a variance of use to provide for religious uses with an off-site parking lot, **granted**.

RU \*\*\*\*\*









Subject site, looking east



Single-Family Dwelling to the south of the site, looking east.



Single-Family Dwelling to the north of the site, looking east.



Single-family dwelling to the west of the site.



**STAFF REPORT**

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

**Case Number:** 2023-DV3-038  
**Address:** 2434 & 2444 Winthrop Avenue (approximate address)  
**Location:** Center Township, Council District #17  
**Zoning:** D-8  
**Petitioner:** Indianapolis Neighborhood Housing Partnership Inc., by Brandon Knox  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a townhome community development with six-foot rear yard setbacks and a livability space ratio of 0.21 (15-foot rear yard setback, livability space ratio of 0.66 required).

**RECOMMENDATIONS**

Staff **recommends approval** of the request.

**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

**LAND USE**

**EXISTING ZONING AND LAND USE**

D-8            Compact    Undeveloped

**SURROUNDING ZONING AND LAND USE**

North        I-2            Religious Uses  
South        I-2 / D-8    Undeveloped land / single-family dwellings  
East         D-8           Undeveloped land  
West         D-8           Single-family dwellings and Two-family dwellings

**COMPREHENSIVE PLAN**

The Comprehensive Plan recommends Traditional Neighborhood development.

- ◇ This 1.35-acre lot, zoned D-8, is currently undeveloped.
- ◇ North of the subject site is a religious use facility within the I-2 District. South of the subject site is an undeveloped lot and single-family dwellings located within the I-2 and D-8 Districts. To the east are undeveloped lots within the D-8 District. West of the subject site are various single-family dwellings and duplexes within the D-8 District.
- ◇ The subject site has historically been used for industrial uses, namely, the location of a former industrial bakery and associated surface parking. According to aerial imagery, these structures were demolished by 2008. The site has remained undeveloped ever since.

(Continued)

**STAFF REPORT 2023-DV3-038 (Continued)**

- ◇ The subject site was recently rezoning from the I-2 District to the D-8 District to allow for the development of a townhome community. This approval is subject to commitments related to maintaining a reasonable level of cleanliness of the site and future elevations being subject to Administrator's Approval, to be in line with the Infill Housing Guidelines.

**VARIANCE**

- ◇ As proposed, the request would provide for the construction of a townhome community, with a total of 33 units across 10 buildings, each containing three to four units.
- ◇ The Comprehensive Plan recommends the development of Traditional Neighborhood development. This typology is intended to provide for a full spectrum of housing types, ranging from detached single-family homes to large-scale multifamily housing. Development within this typology should be compact and well-connected with exclusive vehicular access from improved alleys when feasible. This typology is recommended for a residential density of five to 15 units per acre, however, greater density is recommended when located within a quarter mile of a frequent transit line, greenway, or park.
- ◇ As proposed, the development maintains a six-foot rear yard setback from the alley located along the western lot line. This setback would allow for five primary buildings to be located within the required 15-foot rear yard setback, and three vehicular access drives. Staff would note that the Ordinance requires exclusive vehicular access from this alley, and that other forms of residential development, particularly detached single-family housing, affords exceptions that would allow for detached accessory structures to be located as close as five feet from the rear lot line. Given that the development does not propose individual garages, which would result in numerous points of access, Staff believes that this portion of the request to be a reasonable deviation from the Ordinance.
- ◇ As the initial development will occur while the property is under sole ownership, the development is subject to providing for a livability space ratio 0.66. The livability space ratio expresses the relationship between the size of a development and the size of the non-vehicular outdoor, natural areas available for use and enjoyment. A ratio of 0.21 is proposed. While Staff is hesitant to recommend approval of such a deviation, Staff would note that the Monon Trail is located 240 feet to the east, with pedestrian access located 440 feet to the east from the northern lot line, along 25<sup>th</sup> Street. Given that the comprehensive plan outlines enhanced density within a quarter mile of greenways, Staff believes that the proposed decrease of livability space to be responsive to the plan.
- ◇ While the development will occur under a sole owner, the intent of the development is to allow for affordable housing ownership opportunities. Staff believes that this is responsive to the Ordinances Livability Principles, particularly to promote equitable and affordable housing. The grant of this variance is required to allow for future subdivision of the property to allow for individualized ownership.

(Continued)

**STAFF REPORT 2023-DV3-038 (Continued)****GENERAL INFORMATION**

## THOROUGHFARE PLAN

This portion of Winthrop Avenue is classified as a local street in the Official Thoroughfare Plan for Marion County, Indiana with an existing 50-foot right-of-way and proposed right-of-way of 48 feet.

This portion of East 24<sup>th</sup> Street is classified as a local street in the Official Thoroughfare Plan for Marion County, Indiana with an existing 50-foot right-of-way and proposed 48-foot right-of-way

## SITE PLAN

File-dated September 15, 2023.

## FINDINGS OF FACT

File-dated September 15, 2023 and September 28, 2023.

**ZONING HISTORY – SITE**

**2023-ZON-015; 2423 and 2444 Winthrop Avenue;** requests rezoning of 1.35 acres from the I-2 District to the D-8 District; **approved.**

**ZONING HISTORY – VICINITY**

**2020-ZON-048; 1123 East 25<sup>th</sup> Street;** requests rezoning of 1.435 acres from the I-4 District to the D-8 District; **approved.**

**2018-ZON-002; 2401-2475 Winthrop Avenue;** requests rezoning of 2.04 acres from the I-4 District to the D-8 classification; **approved.**

**2005-DV1-032; 1100 East 24<sup>th</sup> Street;** requests variance of development standards of the Industrial Zoning Ordinance to provide for the construction of a 42, 379-square foot addition to an existing 108,294-square foot industrial building, with a zero-foot front setback from Yandes Street (minimum 20-foot front yard setback required), with a zero-foot north side yard setback (minimum 20-foot side yard setback required), and with a maneuvering space for an off-street loading area within the rights-of-way of Yandes Street and East 24<sup>th</sup> Street; **granted.**

**2004-SE2-001; 1131 East 25<sup>th</sup> Street;** requests special exception of the Industrial Zoning ORdinacne to provide for a 10,000-square foot office and warehouse with a ten-foot front yard setback from the existing right-of-way line of Yandes Street and East 25<sup>th</sup> Street; **granted.**

**2004-DV2-010; 1131 East 25<sup>th</sup> Street;** requests variance of development standards of the Industrial Zoning Ordinance to provide for a 10,000-square foot office and warehouse with a ten-foot front yard setback from the existing right-of-way line of Yandes Street and East; **granted.**

**2002-UV3-006; 925 East 25<sup>th</sup> Street, and 2454, 2458, 2462, 2468, 2470 and 2476 Winthrop Avenue;** requests variance of use of the Industrial Zoning Ordinance to provide for religious uses, within an existing 4,334.32 square foot building; **granted.**

(Continued)



**STAFF REPORT 2023-DV3-038 (Continued)**

**2001-UV3-008; 2462 Winthrop Avenue;** requests variance of use of the Industrial Zoning Ordinance to provide for a social club; **granted.**

**2001-UV3-023; 2450 Winthrop Avenue;** requests variance of use of the Industrial Zoning Ordinance to legally establish the outside storage of licensed and unlicensed vehicles and truck parts, and the mechanical and body repair of vehicles, in an existing building, with outside storage exceeding 17,350 square feet or 173.32 percent of the total floor area of enclosed structures and buildings; **granted.**

**2000-UV1-008; 2401-2479 Winthrop Avenue;** requests variance of use of the Industrial Zoning Ordinance to provide for 64 multi-family units, a clubhouse and playground area; **granted.**

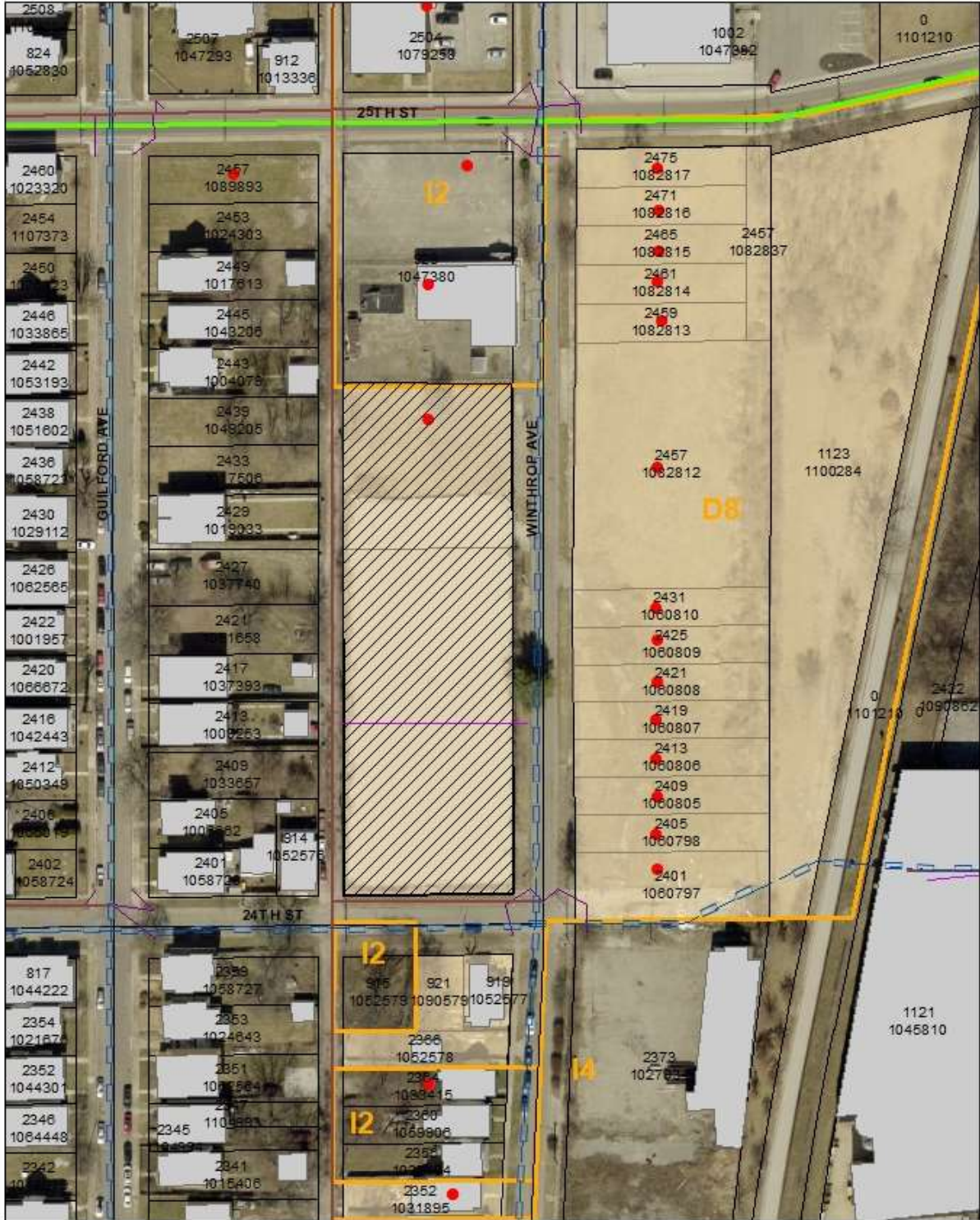
**95-SE3-4; 1204 East 24<sup>th</sup> Street;** requests Special Exception of the Dwelling Districts Zoning Ordinance to provide for an addition to an existing church with additional parking; **granted.**

**63-V-524; 1204 East 24<sup>th</sup> Street;** requests variance of use of the Industrial Zoning Ordinance to permit the construction of a church; **granted.**

EDH

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# 2023-DV3-038; Location Map



0 0.01 0.02 0.03 0.04 Miles



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

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

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

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

The requested variance will not have any negative impact to the public health, safety, morals, or general welfare of the community because the rear-yard setback will be internal to the proposed development and will not interfere with the overall public health and general welfare as the perimeter of the development and will overall improve the public infrastructure and connectivity of the existing site by adding sidewalk connections.

\_\_\_\_\_

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 requested variance will not affect the adjacent property as the rear setbacks are all internally oriented within the proposed development. Since all units have attached garages, there is still on-site parking for each individual unit within the footprint of the building.

\_\_\_\_\_

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

Although the development has the necessary space needed to meet the 15' rear setback requirement, the strict application of this standard would result in practical difficulties of this property due to the extensive private infrastructure that needs to be installed in the private roadways. By keeping the rear setback of the property outside of the private roadway, all private utilities, curbs, and surface pavement can be within the platted "common area" of the community which is owned and managed by the HOA. This would keep all private infrastructure off of the future homeowners and newly created townhome lots.

**DECISION**

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

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

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

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

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

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

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

Granting the requested variance from the Livability Space Ratio development standard requirement will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed product and site plan is common in higher-density, missing middle, housing products and patterns such as this. The proposed lot dimensions, home sizes, and internal infrastructure is all sized appropriately for safe and healthy connectivity and livability.

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 use of value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed townhome product and community pattern is in line with the surrounding zoning districts and suggested comprehensive plan land uses. Higher-density products, such as townhomes, are encouraged in multi-modal corridors such as this to promote diverse housing options and connectivity throughout 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 strict application of the terms of the zoning ordinance requiring a .66 Livability Space Ratio will result in practical difficulties of the property and proposed development due to the nature of townhome development patterns. Because townhouses have small lots and vertical floor space, the livability space ratio is weighed down due to the small lot size and minimal open space or traditional private "yard" that is typical in a traditional single family home. The open space within the community is not part of the deeded lot for the unit but is rather included as platted common area for the HOA to own and maintain.

**DECISION**

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

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

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

2023-DV3-038; Site Plan – File-dated September 15, 2023

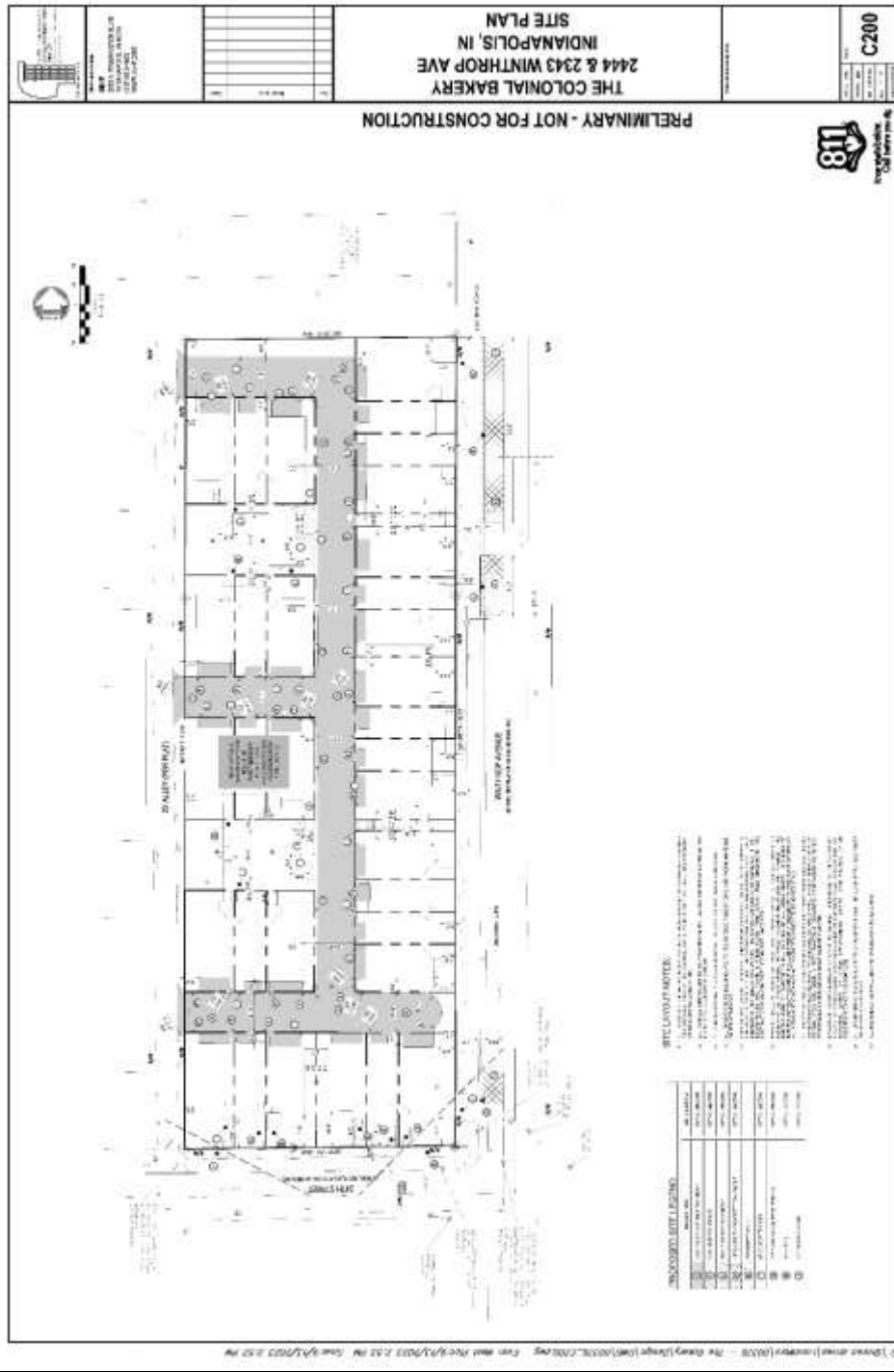






Photo One: East 24<sup>th</sup> Street, Facing East



Photo Two: East 24<sup>th</sup> Street, Facing West





Photo Three: Looking South of Subject Site



Photo Four: Alley Along Rear Lot Line, Facing North





Photo Five: Looking Towards Subject Site From Winthrop Avenue, Facing West



Photo Six: Looking East of Subject Site, Towards Monon Trail Connection Along 25<sup>th</sup> Street



**STAFF REPORT**

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

**Case Number:** 2023-UV3-020  
**Address:** 3465 Newhart Street and 5200 Sandhurst Drive (approximate address)  
**Location:** Perry Township, Council District #20  
**Zoning:** D-A (FF)  
**Petitioner:** Thomas Loudermilk  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping business with the outdoor storage of trucks, equipment, and materials (not permitted).

**October 17, 2023**

This petition was continued from the September 19, 2023 hearing to the October 17, 2023 hearing due to an indecisive vote by the Board of Zoning Appeals.

No new information has been provided. Staff continues to recommend denial of the petition.

**September 19, 2023**

**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 Metro Single-family residential / agriculture

**SURROUNDING ZONING AND LAND USE**

North D-A Single-family residential  
South D-A Single-family residential  
East D-A Single-family residential  
West D-A Single-family residential

**LAND USE PLAN**

The Comprehensive Plan recommends Suburban Neighborhood development, with a 100-year flood overlay.

- ◇ The subject site contains the dwelling and accessory structures to the south on Newhart Street and the farmland on Sandhurst Drive to the north. The site is within the Sunshine Gardens Subdivision and Neighborhood east of the White River.

(Continued)

**STAFF REPORT 2023-UV3-020 (Continued)****VARIANCE OF USE**

- ◇ This request is for a variance of use to provide for the operation of a landscaping business with the outdoor storage of trucks, equipment, and materials, which is not permitted in the D-A district.
- ◇ The subject site has been used for residential and agriculture uses for several years, which are both permitted by the D-A zoning. Equipment for farming uses is permitted to be on site as part of the farming operations and are not part of the variance request.
- ◇ The subject variance would permit a landscaping business including storing and hauling dirt, gravel, and building materials as shown in the site visit photos. The current operation, which has an active violation, includes outdoor storage of much of these items. These uses are permitted only in heavy commercial districts or industrial districts. Staff believes these are inappropriate uses for the D-A district, and they do not meet the comprehensive plan recommendation; therefore, staff is recommending denial of the request.
- ◇ Staff would note that the plan of operation is primarily descriptive of the agricultural use and is not comprehensive. Commercial trucks and materials are a recent addition to the site as evidenced in the exhibits below, and has continued to increase in intensity. While some of the equipment may be dual use for the farm use and contractor use, staff believes the primary use of the equipment is for the landscaping contractor, and are, therefore, not permitted.

**GENERAL INFORMATION****THOROUGHFARE PLAN**

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

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

**SITE PLAN**

File-dated August 7, 2023

**PLAN OF OPERATION**

File-dated August 7, 2023

**FINDINGS OF FACT**

File-dated August 7, 2023

**ZONING HISTORY – SITE**

PREVIOUS CASES: None

(Continued)

**STAFF REPORT 2023-UV3-020 (Continued)**

**EXISTING VIOLATIONS:** **VIO22-001940**, the following violations were issued on March 22, 2022:

Failure to obtain an Improvement Location Permit for an accessory structure exceeding 200 square feet,

Failure to comply with use-specific standards and development standards for the D-A zoning district (parking areas in front yards shall be paved; the parking of vehicles on grass in the front yard is prohibited),

The following uses in a zoning district (D-A), when the provisions of which do not specifically permit such a use:

Conduct of an activity not permitted as a primary or accessory use (Landscape service/ construction contractor is not permitted in the D-A district, Gravel Guy, Excavation and More, LLC),

The outdoor storage of junk, trash, or debris (construction materials, logs, scrap wood, pipes, and miscellaneous items throughout the property),

The outdoor storage of inoperable vehicles or vehicle parts (tractor tool attachments, vehicle jack, excavator bucket, and miscellaneous vehicle parts throughout property),

The storage of commercial vehicles (trailer with a cargo holder more than 12 feet in length),

The parking or storage of a commercial vehicle (vehicle designed to be used as a flat-bed truck, tractor, steam roller, or dump truck),

**ZONING HISTORY – VICINITY**

**2000-UV1-030, 5330 Sandhurst Drive**, variance of use to permit auto sales and display, **withdrawn**.

**93-V1-29, 3420 West Byrkit Street**, variance to permit an addition to an existing dwelling at a floor elevation of less than two feet above the base flood elevation, **approved**.

**96-UV3-82, 5031 Sandhurst Drive**, variance to legally establish the continued placement of a mobile home dwelling unit as a second dwelling on one lot with a side setback of 1.5 feet, to legally establish a single-family dwelling with a side yard of 3.2 feet, to legally establish a detached garage, measuring 22.6 by 27.8 feet, with a side setback of 0.5 foot, and to legally establish two detached sheds with a side setback of zero feet, **approved**.

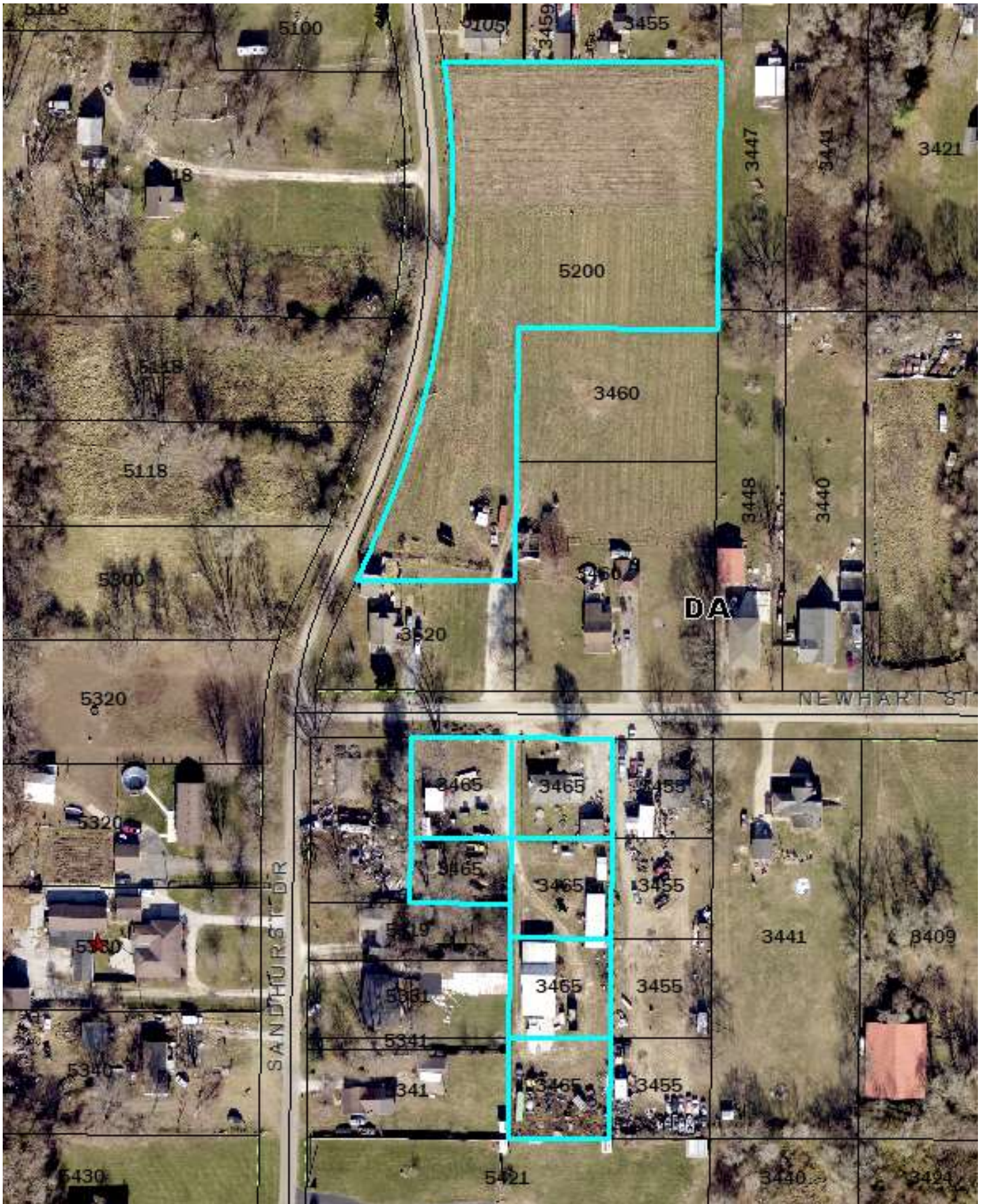
**91-UV3-29, 5031 Sandhurst Drive**, variance to permit the placement of a mobile home in addition to an existing single-family residence, **denied**.

**2002-UV3-034, 5100 Sandhurst Drive**, variance to provide for a graphic and decal business for vehicles in an existing pole barn, **approved**.

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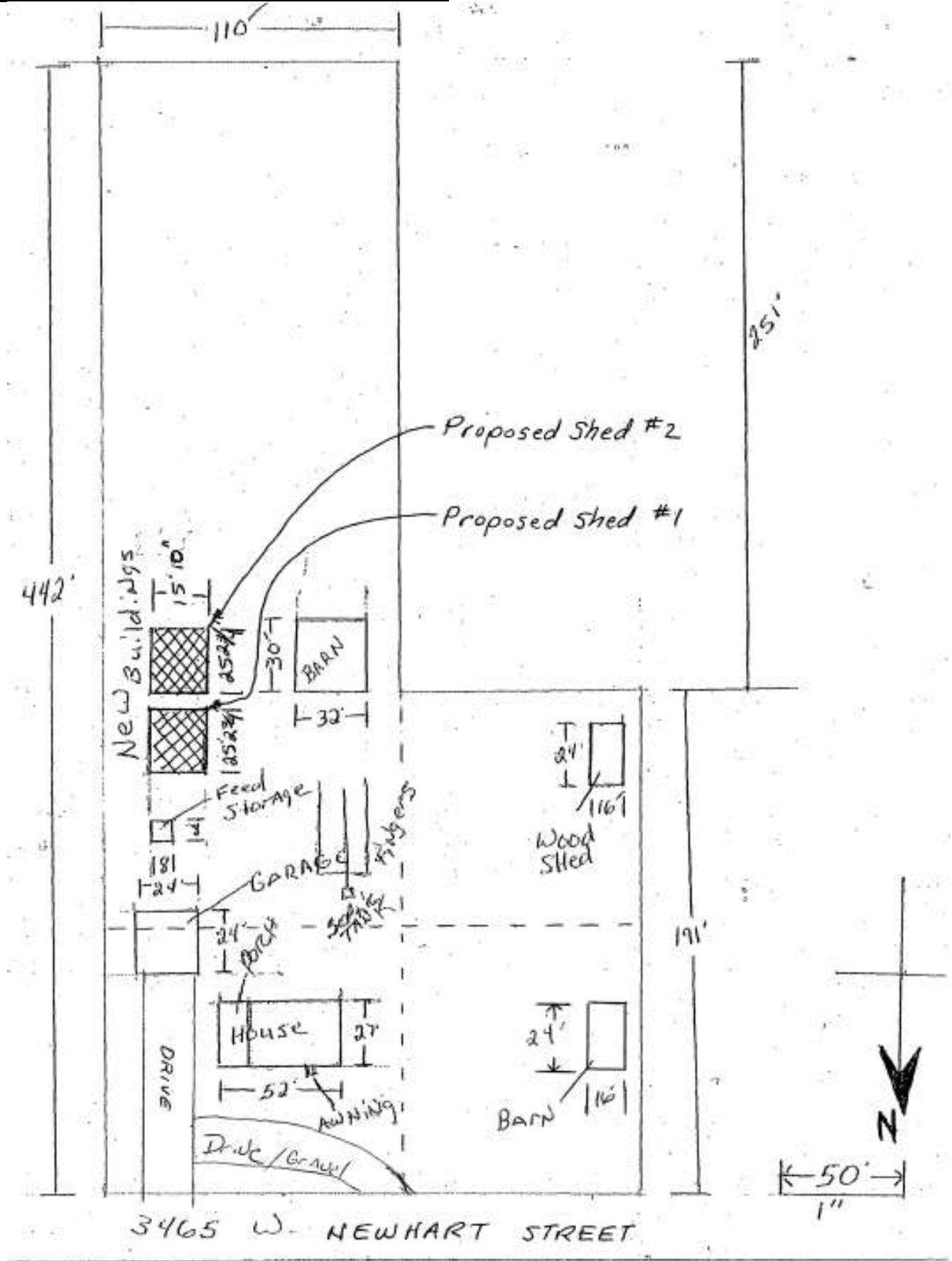
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**2023-UV3-020; Plan of Operation**

3465 West Newhart Street and 5200 Sandhurst Drive

**Plan of Operation**

The trucks on this property are flat bed and dump bed trucks, which are larger than permitted on residential properties. The trucks are used for a farm and landscaping business to haul materials. These trucks and trailers are also used to haul tractors, which are larger and heavier than typical residential vehicles.

The farm grows corn, tomatoes, pumpkins, mums, beans, cucumbers, gourds, and other products. Straw is also transported to the site for farm use and for livestock.

Each product requires a different type of trailer to transport, flat-bed trucks for straw, etc. and dump bed trucks for corn for livestock, trailer for tractor transport.

Trucks and trailers, landscape trailers, and equipment/materials are to be parked on the same property as the owner's house. These vehicles have been operating at this site for 43 years. The variance is needed to continue operation.

All maintenance for trucks and trailers is done off-site at the vehicle dealership.

**2023-UV3-020; Findings of Fact**

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division III \_\_\_\_\_  
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 land is use for agriculture, and all equipment are used for agricultural and commercial purposes.

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**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 variance is for parking of trucks and trailers for landscaping equipment and materials

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

The equipment for the subject variance is larger than permitted in the D-A district, but is directly related to the agriculture use. The trucks are used to transport products to farmers' markets.

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

The operation of the agricultural use includes transporting produce to markets. The transport vehicles are stored on the same site as the agricultural use. The size of the agricultural business requires larger equipment than permitted for D-A

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

The parking of trucks, trailers, and equipment is for use on agricultural land that is zoned D-A

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Farm field viewed from Sandhurst Drive, looking east



Site viewed from Sandhurst Drive, looking east. Proposed storage area.



Site viewed from Sandhurst Drive, looking east. Proposed Storage Area





Site viewed from Sandhurst Drive, looking east. Proposed storage area.



Site viewed from Sandhurst Drive, looking east. Proposed storage area.



Site viewed from Sandhurst Drive, looking east, Google Street View from 2011





Site viewed from Sandhurst Drive, looking east, Google Street View from 2019



Site viewed from Newhart Street, looking north



Site viewed from Newhart Street looking north Google Street View 2011





Site viewed from Newhart Street looking north Google Street View 2019



Site viewed from Newhart Street, looking south



Site viewed from Newhart Street, looking south





Site viewed from Newhart Street, looking south. Driveway trailer storage



Subject site driveway Google Street View August 2007



Subject site driveway Google Street View September 2011





Subject site driveway Google Street View May 2019



Aerial 2016



Aerial 2023