



Board of Zoning Appeals BZA Division III (April 18, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, April 18, 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-DV3-012 | 2411 North Rural Street (approximate address)

Center Township, Council District #17, Zoned D-5

Martindale Brightwood Community development Corp., by Jamilah Mintze (In and Out Unlimited LLC)

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a multi-unit house on a 30-foot-wide lot and a parking pad with 1.5-foot side yard setbacks (minimum 35-foot lot width, three-foot side yard setbacks required).

**** Staff and the Petitioner are requesting a continuance and transfer of this petition to the May 9, 2023 hearing of Division I**

2. 2023-UV3-006 | 3650 & 3652 South Meridian Street (approximate address)

Perry Township, Council District #16, Zoned D-A

Indiana Entertainment Holdings, LLC, by Brian J. Tuohy

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with outdoor seating on an existing patio (not permitted).

*** An Automatic Continuance has been filed by a registered neighborhood organization, continuing this petition to the May 23, 2023 hearing.**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

3. 2023-DV3-010 | 1040 Jefferson Avenue (approximate address)

Center Township, Council District #17, Zoned D-5

Drucker Investments LLC, by Jose Roque

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a three-foot south side yard setback (five-foot side yard setback required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

4. 2022-UV3-029 (Amended) | 1009 West Edgewood Avenue (approximate address)

Perry Township, Council District #20, Zoned D-A / D-4

Willis Group LLC, by James Lewis Hillery

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a semi-tractor repair facility (not permitted) and the construction of a building addition and freestanding commercial building, with a 15-foot eastern side yard setback, resulting in a 30-foot aggregate side yard setback (30-foot side yard setback, 75-foot aggregate side yard setback required).

5. 2023-DV3-002 | 3620 South East Street (approximate address)

Perry Township, Council District #16, Zoned C-5

Felbram Holdings LLC, by Joseph D. Calderon

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of trash enclosures within the front yard of National Avenue, enclosed on three sides only (not permitted, four-sided enclosures required).

6. 2023-DV3-007 (Amended) | 9539 Prospect Street (approximate address)

Warren Township, Council District #18, Zoned D-A (FF)

Jose A. Angel Nunez and Evelyn Y. Jacome Mazariegos

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of three commercial vehicles (not permitted), and the construction of a detached garage with a four-foot west side yard setback (15-foot side yard required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

7. 2023-SE3-002 | 186 South Post Road (approximate address)

Warren Township, Council District #18, Zoned D-2

Melony Moore, by Stephanie J. Truchan

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a religious use facility and a modification of development standards providing for an exemption of landscaping requirements and a 47-foot wide parking area within the front yard (landscaping compliance required, maximum 30-foot wide parking area permitted in front yard).

8. 2023-DV3-011 | 1855 North Shadeland Avenue (approximate address)

Warren Township, Council District #19, Zoned C-4

MG Oil Inc., by Cindy Thrasher

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 23-foot tall illuminated pole sign, within 10 feet of a protected district (maximum height of 20 feet permitted, illumination not permitted within 50 feet of a protected district).

9. 2023-DV3-013 | 7424 East Washington Street (approximate address)

Warren Township, Council District #19, Zoned C-4 (TOD)

Dahm No. 7, LLC d/b/a Crew Carwash, by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for digital display on an existing pole sign (not permitted) within 129 feet of a protected district (digital display not permitted within 400 feet of a protected district) and legally establish its height of 24.5 feet tall (maximum height of 20 feet permitted).

10. 2023-UV3-005 | 5220 East Minnesota Street (approximate address)

Warren Township, Council District #18, Zoned D-5 (FW) (FF)

Sandra Biamonti, by Timothy O'Connor

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of a commercial vehicle and a permanent portable storage container (not permitted, portable storage containers limited to 30 consecutive days).

11. 2023-UV3-007 | 7802 Hague Road (approximate address)

Lawrence Township, Council District #4, Zoned SU-2

Metropolitan School District of Lawrence Township of Marion County, Indiana, by Joseph D. Calderon

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a 12-foot-tall monument sign (maximum height of five feet permitted) with digital display within 80 feet of a protected district (not permitted, no digital display permitted within 400 feet of a protected district).

Additional Business:

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

STAFF REPORT

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

Case Number: 2023-DV3-012
Address: 2411 North Rural Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Martindale Brightwood Community development Corp., by Jamilah Mintze (In and Out Unlimited LLC)
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a multi-unit house on a 30-foot-wide lot and a parking pad with 1.5-foot side yard setbacks (minimum 35-foot lot width, three-foot side yard setbacks required).

Staff and the petitioner are requesting a **continuance and transfer from the April 18, 2023 BZA III hearing to the May 9, 2023 BZA I hearing** for an amendment requiring new legal notice.

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

Case Number: 2023-UV3-006
Address: 3650 & 3652 South Meridian Street (approximate address)
Location: Perry Township, Council District #16
Zoning: D-A
Petitioner: Indiana Entertainment Holdings, LLC, by Brian J. Tuohy
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with outdoor seating on an existing patio (not permitted).

A timely automatic continuance request was submitted by a registered neighborhood organization, **continuing this matter from the April 18, 2023 hearing to the May 23, 2023 hearing**. This would require the Board's acknowledgement.

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STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-010
Address: 1040 Jefferson Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Drucker Investments LLC, by Jose Roque
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a three-foot south side yard setback (five-foot side yard setback required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Single-Family residential
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SURROUNDING ZONING AND LAND USE

North	D-5	Single-Family residential
South	D-5	Single-Family residential
East	D-5	Two-Family residential
West	D-5	Single-Family residential

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood development
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- ◇ The subject site is a 5,000 square foot lot in the D-5 district, and is developed with single-family dwelling. This site is within the Near Eastside neighborhood.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a garage with a three-foot side setback where five feet is required.
- ◇ This site originally obtained an Improvement Location Permit that proposed a five-foot south side setback. The site plan was amended to increase the north side setback to preserve an existing tree on site. Staff would not be opposed to a slight reduction of the side setbacks to preserve an existing tree on the site.

(Continued)

STAFF REPORT 2023-DV3-010 (Continued)

- ◇ Staff would also note that adjacent properties are developed with structures less than five feet from the side yard property line. Also, similar zoning districts such as the D-5II and D-8 districts would allow for three-foot side yards. Staff would not be opposed to reduced setbacks where it is consistent with historic development and similar development standards for comparable districts.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Jefferson Avenue 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 March 10, 2023

FINDINGS OF FACT

File-dated March 10, 2023

FINDINGS OF FACT (REVISED)

File-dated April 12, 2023

ZONING HISTORY – VICINITY

97-NC-37, 1025 North Jefferson Avenue, certificate of legally established nonconforming use for multi-family apartments, **denied**.

97-NC-69, 1025 North Jefferson Avenue, certificate of legally established nonconforming use for multi-family apartments, **denied**.

97-UV3-70, 1025 North Jefferson Avenue, variance to legally establish a five-unit apartment within an existing building, with less than the required floor area for four units, and without adequate parking, **withdrawn**.

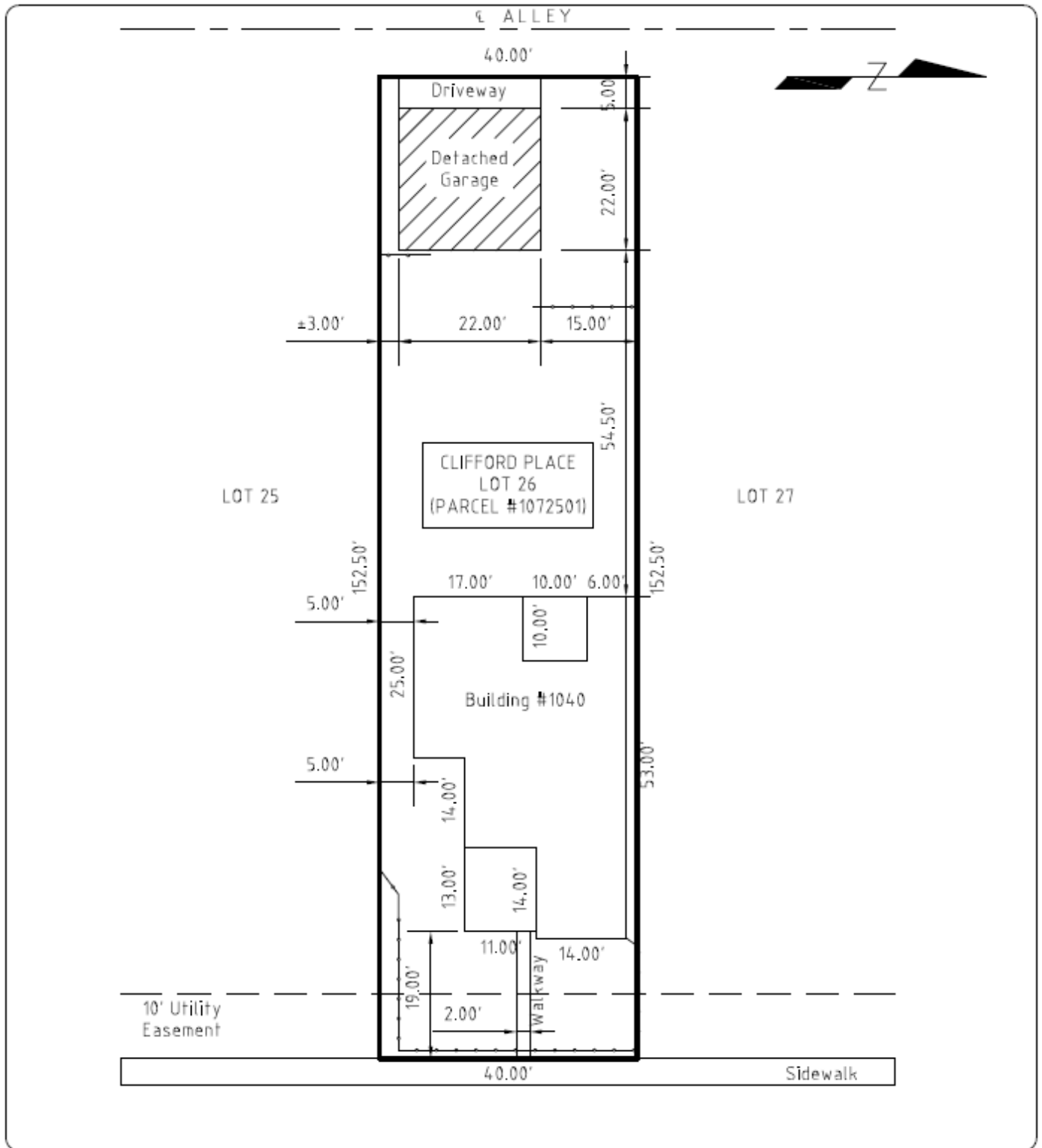
98-UV3-19, 1025 North Jefferson Avenue, variance to provide for two dwelling units within an existing building, **approved**.

2018-HOV-063, 1047 North Hamilton Avenue, variance to provide for a single-family dwelling with eight feet between dwellings, **approved**.

2021-ZON-096, 1025 Jefferson Avenue, rezoning of 0.15 acre from the D-5 district to the SU-38 district to provide for a parking lot, **withdrawn**.

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PROJECT NAME:

1040 JEFFERSON AVE.

SCALE:

1" = 20'

DATE:

03/01/2023

SHEET TITLE:

SITE PLAN

PROJECT NO.

2023-3171040

SHEET NO.

A-0

2023-DV3-010; Findings of Fact (Revised)

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division I, II, or III
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:

Area in question is not of access to general public and does not possess any real danger to public health, morals or general welfare of the community.

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

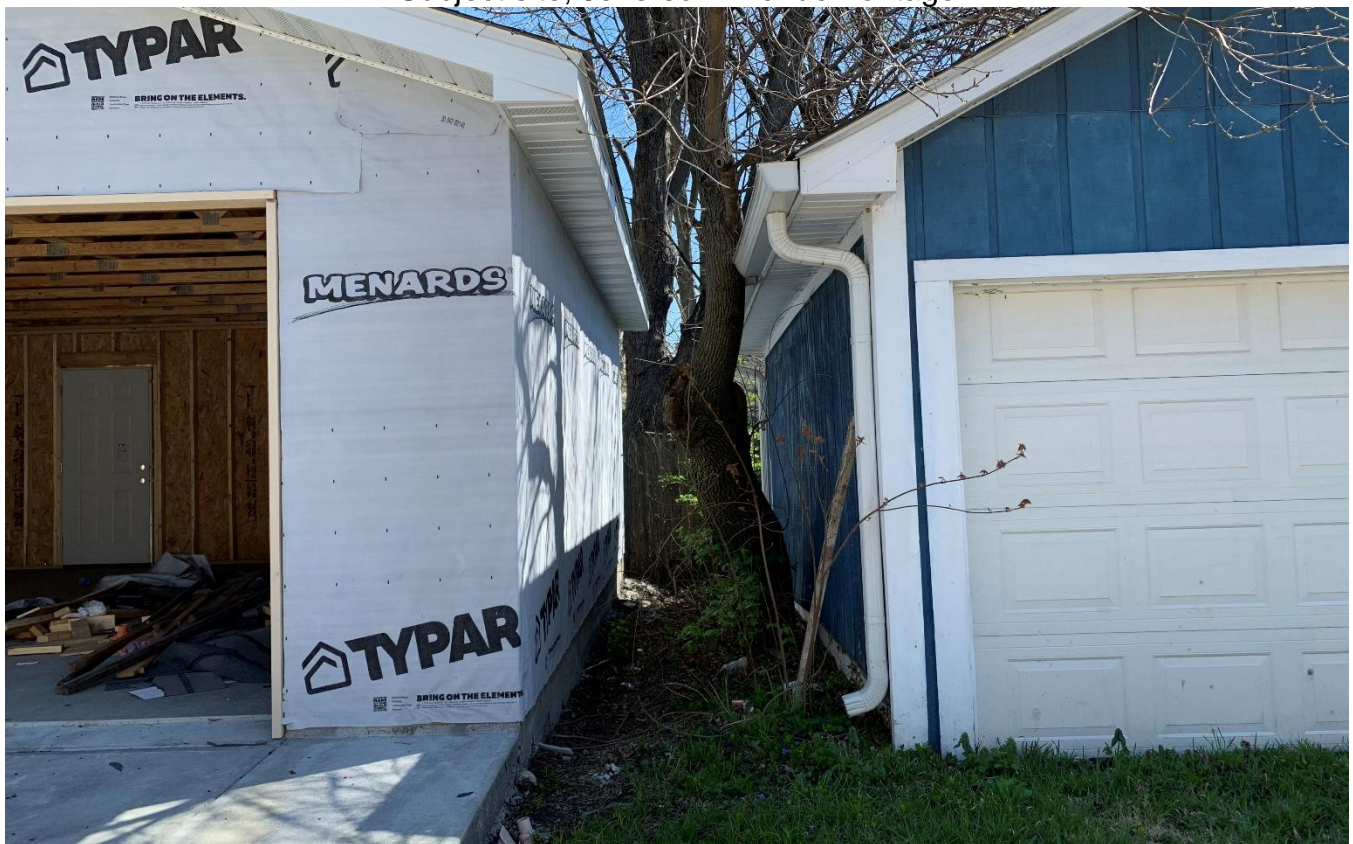
Use or value of the area adjacent will not be affected since everything will still be within the legal bounds and property lines of the property in question.

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

Structure is already existing, any changes to it would implicate removing and rebuilding from zero, in addition, it will require to remove a a very mature tree which provides with huge areas of shade for the property and its surrounding neighbors.



Subject site, Jefferson Avenue frontage



Reduced south side setback and separation from neighbor's garage south of site



Garage and north side yard, existing tree shown left



Garage and north side yard, existing tree shown center, adjacent property north of site shown left

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

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

ADDENDUM FOR APRIL 18, 2023

This petition was amended to eliminate the request for commercial storage and replace it with a request for a tractor repair facility, including additions of 324 and 252 square foot canopies to the existing structure within the southern portion of the property, and a new 4,800 square foot freestanding building, resulting in a deficient 15-foot east side yard and aggregate setback. The petitioner has indicated that landscape buffering would be provided 100 feet from the front lot line along Edgewood Avenue, that includes a combination of Arbor Vitae and ornamental grasses every 15 feet across the entire width of the property.

The amended plan of operation indicates that there would be no more than three employees and the business would operate from 6AM to 6PM Monday through Saturday.

The proposed use is classified as Truck or Heavy Vehicle Sales, Rental or Repair in the Zoning Ordinance, and is only permitted within the C-7, I-3 and I-4 Districts, all of which are the most intense commercial and industrial districts of the Ordinance.

This use is permitted by the grant of 80-UV3-138 but limited to the site plan and operator on file at the time of approval. As proposed, this would be an expansion of this use, requiring the grant of this variance.

This use would be an extreme deviation from the comprehensive plan recommendation of Rural or Estate Neighborhood. Staff would note that while some commercial uses are within the broader area, the immediate vicinity is composed predominantly of residential and institutional uses. For this reason, Staff believes the proposed expansion would be inappropriate and subsequently **recommends denial** of the request.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

However, Staff recognizes the long-standing use of the site for tractor repair and maintenance, and **would support** a modification of the existing variance indicated above to allow for the current operator, but not the building additions. This would require the withdrawal of this request and refile of a modification.

ADDENDUM FOR MARCH 21, 2023

This petition was continued from the January 17, 2023, hearing to the March 21, 2023 hearing of Division III, at the request of the petitioner. The petitioner has since amended the request in a substantial manner that requires amended notice and additional time for Staff review. Therefore, Staff is requesting that this petition be continued to the April 18, 2023, hearing in order to facilitate these actions.

ADDENDUM FOR JANUARY 17, 2023

This petition was continued from the November 22, 2022 hearing to the January 17, 2023 of Division III at the request of the petitioner. On January 10, 2023, the petitioner informed Staff that they intend to make an additional continuance request to the March 21, 2023 hearing of Division III in order to amend the request and discuss the request with interested parties. Staff is supportive of this request, however, this would be the last continuance request Staff would support.

ADDENDUM NOVEMBER 22, 2022

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

November 22, 2022**RECOMMENDATIONS**

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE**EXISTING ZONING AND LAND USE**

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

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

(Continued)

LAND USE PLAN

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

- ◇ The subject site is 2.96 acres located in the Glens Valley neighborhood in Perry Township. The subject site contains two commercial buildings, with outdoor storage. The surrounding neighborhood consists of residential to the west, east and south, and religious uses to the north. The site abuts a railroad track to the east.
- ◇ The subject site is primarily zoned D-A (Dwelling Agriculture District). The D-A district holds the agricultural lands of Marion County and provides for a variety of agricultural uses. It is intended to provide for animal and poultry husbandry, farming, cultivation of crops, dairying, pasturage, floriculture, horticulture, viticulture, apiaries, aquaculture, hydroponics, together with necessary, accompanying accessory uses, buildings, or structures for housing, packing, treating, or storing said products; or lands devoted to a soil conservation or forestry management program. A single-family dwelling is intended to be permitted as a part of such agricultural uses. A secondary provision of this district is large estate development of single-family dwellings. This district fulfills the very low-density residential classification of the Comprehensive General Land Use Plan. This district does not require public water and sewer facilities.
- ◇ The subject site is zoned D-4 (Dwelling District Four), at the southernmost portion of site. The D-4 district is intended for low or medium intensity single-family and two-family residential development. Land in this district needs good thoroughfare access, relatively flat topography, and nearby community and neighborhood services and facilities with pedestrian linkages. Provisions for recreational facilities serving the neighborhood within walking distance are vitally important. Trees fulfill an important cooling and drainage role for the individual lots in this district. The D-4 district has a typical density of 4.2 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan.

VARIANCE OF USE

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

(Continued)

4. A landscaped or naturally vegetated buffer at least 50 feet in width shall be provided along any lot line that abuts a protected district.
 5. Exterior access to any storage units within 100 feet, measured in any direction, of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. (See Section 743-301 and Section 740-308.)
- ◇ Section 743-301 states that public access to any storage unit within 100 feet of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. The subject site is located within a dwelling district and is surrounded by dwelling districts to the west, east, and south. The Plan of Operation does not specify hours of operation, but states customers can access the subject site during “controlled business hours.” Staff is strongly opposed to the request where the subject site is located and surrounded by protected districts and would be a significant deviation from what is permitted within the D-A district. The use would be more appropriate in a commercial or industrial district.
- ◇ Additionally, the Plan of Operation states that the proposed storage units would exceed 600 square feet in area, being 800 square feet for business customers that require “large storage space.” Furthermore, the proposed use would primarily be for customers who “cannot keep their storage at their dwellings, due to HOA restrictions.” Staff is concerned the large size of the units could allow for storage for semi-trailers. As per 743-306. B.3, no commercial vehicle or trailer shall be parked, stored, maintained, or kept on any property in a Dwelling district unless:
1. The vehicle has a gross vehicle weight rating (GVWR) of 10,000 pounds or less; or
 2. The vehicle is parked, stored, maintained, or kept within a garage or carport and is not categorized as a commercial vehicle by Item 2 in the definition of a commercial vehicle; or,
 3. The vehicle is parked or stored on a site where active, legal construction activity is taking place. Commercial vehicles that are in the course of making normal and reasonable service calls are exempt from this provision.

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

- ◇ The Comprehensive Plan recommendation for the subject site is Rural or Estate Neighborhood development. The **Rural or Estate Neighborhood** typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space. Staff believes the proposed use does not align with the Comprehensive Plan recommendation.
- ◇ Staff is wholly opposed to the request, where there is no hardship in using the subject site for permitted uses within the D-A district. The proposed use would be better suited in a commercial or industrial district, removed from residential.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

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

Previous Variance, 80-UV3-138

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

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

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

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

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

(Continued)

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

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

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

ZONING HISTORY – VICINITY

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

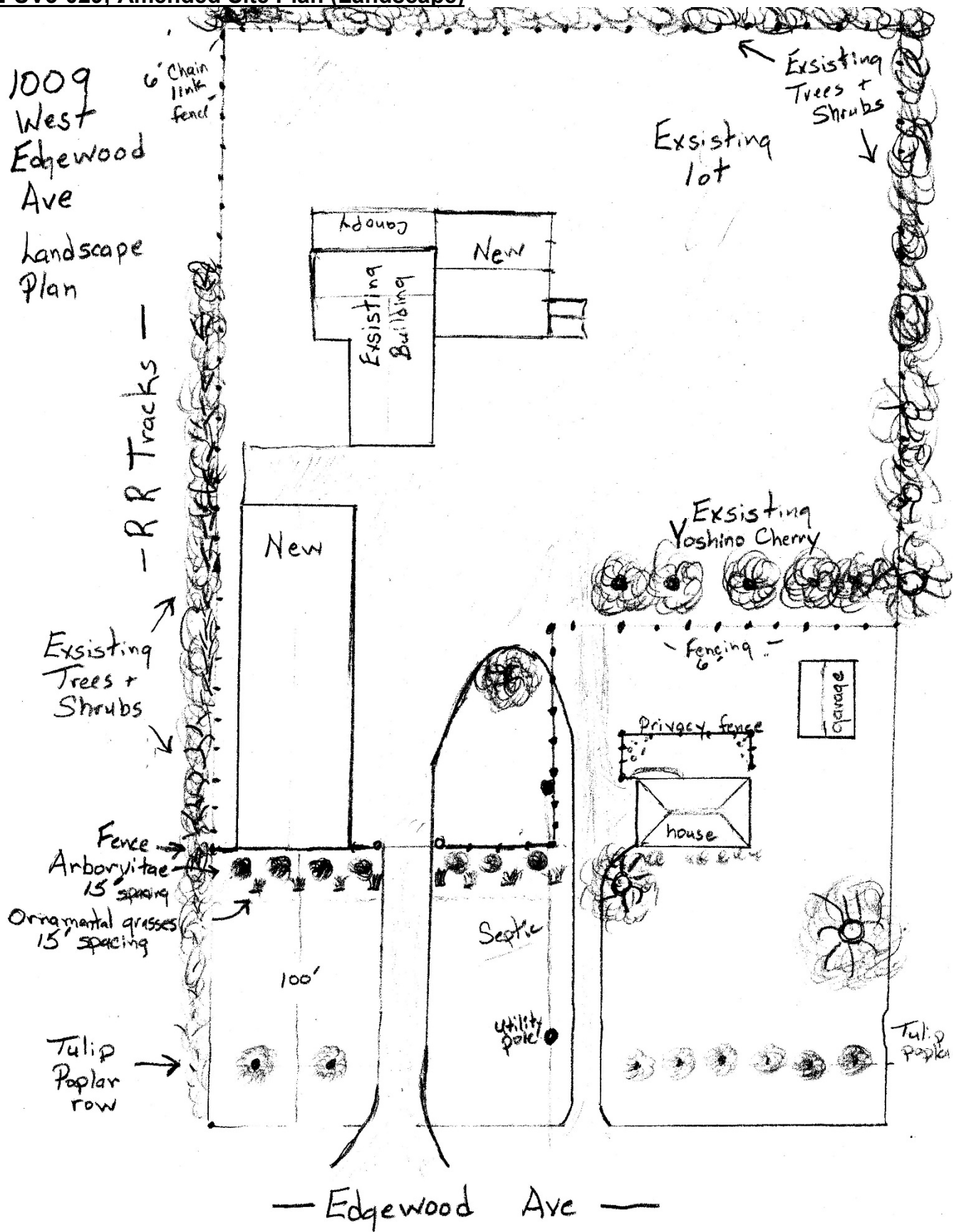
GLH

(Continued)

2022-UV3-029; Aerial Map



(Continued)



(Continued)

2022-UV3-029; Amended Plan of Operation**PLAN OF OPERATION**

1009 West Edgewood Ave.

Continued operation as repair and maintenance facility.

WORKFORCE:

The business operation would continue to be managed by the property owner, who will continue to be onsite and perform the semi-tractor trailer repair and maintenance work. There are currently 2 to 3 employees and there will be no additional employees or volunteers associated with the new buildings. Current business traffic is not anticipated to increase.

CLIENTS AND CUSTOMERS

This would not be an expansion of the use. The use for repair and maintenance of semi-tractor trailers would continue as it has for over 62 years, but the new structures would allow both servicing and repair work and the storage of some of the equipment to be brought under roof. The business is only open to customers during regular business hours from 6:00 AM to 6:00 PM, and is closed on Sunday.

PROCESSES CONDUCTED ON SITE:

Semi-tractor and trailer repair and maintenance would be the only continued activity. There will be security fencing, cameras, and onsite management to oversee the property.

MATERIALS USED:

Hazardous materials currently used on site include lubricants and cleaning supplies normally used in vehicle maintenance and which are, and will continue to be stored and disposed of according to all local, State and Federal laws.

SHIPPING AND RECEIVING:

Only the current level of shipping and receiving for semi-tractor service and repair parts and supplies would occur during normal business hours.

WASTE:

All waste is currently disposed of by the Owner who utilizes a private trash service, and who will continue to do so, while recycling as much as possible to minimize waste.

(Continued)

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division of Planning
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

This variance of use will only continue the existing use, which has been such for over 62 years, since 1960. The one change would be allowing the business to repair semi-tractor trailers for customers other than Contract Carriers, Inc., which is not a change that will be a risk to the public health, safety, morals and general welfare of the community. The neighborhood has many more intensive uses than the requested variance of use.

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

This property has been used for the same purpose for the last 62 years. The new building would be over 100' from the front lot line, and would be nicely landscaped and screened from the front on Edgewood Avenue.

Petitioner wishes to replace a temporary building with a permanent addition to the current commercial building, and build one additional building for dry storage. Because it is not a change in use, there will be no adverse effect on adjacent areas.

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

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

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 present use would not be allowed under the existing zoning variance from 1980. It would be an unusual and unnecessary hardship if Owner was not able to continue the use that has been in place for over 62 years.

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

Many nearby properties are already operating under variances, or zoned commercial including properties to the west on Edgewood Avenue which has heavy commercial and light industrial uses and traffic, and properties along Bluff Road to the east, which is presently recognized as a major access road to downtown Indianapolis from the south.

DECISION

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

Adopted this _____ day of _____, 20 ____

(Continued)

Petition Number 2022-UV3-029

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division of Planning
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 addition to the existing shop building by replacing a temporary structure and building an additional dry storage building, which will be used for the same business operations that have been located at the site since 1960 and operating under a variance to service and repair semi-tractor trailers since 1980, will not be a big change to the property. The new structures will allow the business to store its equipment and inventory inside, avoiding the temptation for others to steal or vandalize company and customers' property and would not be injurious to the public health, safety, morals and general welfare.

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:

This variance request is not going to mean a change in how the property is used and is consistent with the area which has many heavy commercial operations and light industrial uses and traffic nearby including properties to the west on Edgewood Avenue which is the location of the Perry Township School System bus garage and storage and which creates a lot of bus traffic, also also along Bluff Road to the east, which is presently recognized as a major access road to downtown Indianapolis from the south. The value of the site will be enhanced by its improved utility. The areas adjacent will not be adversely affected because activities and storage in the new addition and building will be indoors and only during controlled business hours from 6:00 AM to 6:00 PM.

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 of the Zoning Ordinances would result in the business having to relocate from the present site, as the existing building is too small to meet its needs and by the strict terms of the prior variance from 1980, the business is not supposed to be conducting semi-tractor service and repair for customers other than Contract Carriers, Inc. Because the property is adjacent to the railroad tracks, and has no city sewer or water, Owner would not be able to get the highest and best use of his 2.96 acre parcel unless its commercial use since 1960 is allowed to continue.

DECISION

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

Adopted this _____ day of _____, 20 ____

(Continued)



Photo looking west on Edgewood Avenue.



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

(Continued)



Photo looking east on Edgewood Avenue.



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

(Continued)



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

(Continued)



Photo of rear yard, with outdoor storage.

(Continued)



Photo of driveway from Edgewood Avenue.



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

(Continued)



Photo of the Subject Property: 1009 West Edgewood Avenue

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-002 (Amended)
Address: 3620 South East Street (approximate address)
Location: Perry Township, Council District #16
Zoning: C-5
Petitioner: Felbram Holdings LLC, by Joseph D. Calderon
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of trash enclosures within the front yard of National Avenue, enclosed on three sides only (not permitted, four-sided enclosures required).

ADDENDUM FOR APRIL 18, 2023

This petition was granted a continuance from the March 21, 2023 hearing to the April 18, 2023 hearing for lack of payment of the application fees. Fees have been paid and this case can be heard. No new case information has been provided.

ADDENDUM FOR MARCH 21, 2023

The original request was to provide for seven unenclosed trash dumpsters in the front yard of National Avenue. The petitioner provided a revised site plan for a three-sided detached trash enclosure, as described in the amendment—shown in the exhibits below. Staff is recommending approval to have the dumpsters in the front yard provided all dumpsters would be enclosed.

February 21, 2023

This petition was automatically continued from the **February 21, 2023 hearing to the March 21, 2023 hearing.**

RECOMMENDATIONS

Staff **recommends approval** of the request to provide for trash enclosures in the front yard of National Avenue with a commitment that all dumpsters on site must be enclosed.

Staff **recommends denial** of the request to have a detached trash enclosure enclosed on three sides only.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-5 Compact Commercial

(Continued)

STAFF REPORT 2023-DV3-002 (Continued)**SURROUNDING ZONING AND LAND USE**

North	C-3 / D-5	Commercial/Residential
South	C-5 / D-5	Commercial/Residential
East	C-4 / C-5	Commercial
West	D-4 / D-6II	Single / Multi-family Residential

LAND USE PLAN The Comprehensive Plan recommends Village Mixed-Use development.

- ◇ The subject site is a commercial shopping center developed with two multi-tenant buildings, shared parking, and commercial out-lots.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This petition would provide for the location of trash enclosures within the front yard of National Avenue, enclosed on three sides only.
- ◇ The site is developed with a multi-tenant building at the corner of South East Street and National Avenue. The storefront faces north, orienting the rear of the building toward National Avenue to the south. The existing conditions of the site would prevent proper location of trash enclosures for this building; therefore, staff would not be opposed to permitting trash enclosures in the front yard of National Avenue provided it complies with screening requirements.
- ◇ The applicant has proposed a detached three-sided enclosure to screen the dumpsters visible from National Avenue. The enclosure would not include a gate; detached trash enclosures are required to have three sides and a gate. The unenclosed portion of the trash enclosure would face the drive aisle. The dumpsters would be screened on the east, west, and south. Staff would argue that there is no practical difficulty in providing a gate for the enclosure; therefore, staff recommends denial of the three-sided enclosure.

GENERAL INFORMATION

THOROUGHFARE PLAN	South East Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 120-foot existing right-of-way and proposed right-of-way. National Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 48-foot existing and proposed right-of-way.
SITE PLAN	File-dated December 14, 2022
TRASH ENCLOSURE DETAILS	File-dated March 8, 2023
FINDINGS OF FACT	File-dated December 14, 2022

(Continued)

STAFF REPORT 2023-DV3-002 (Continued)**ZONING HISTORY – SITE**

EXISTING VIOLATIONS: **VIO22-004462**, Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (744-508.B.1.a. - Failure to enclose dumpster with a solid wall at least the height of the service area on 3 sides with the 4th side having a solid gate).

PREVIOUS CASES:

2020-CVR-818, Variance to provide for the replacement of an existing pole sign with a 36-foot tall, 260-square foot pole sign with a two-foot front setback from East Street (maximum 20-foot-tall pole sign and five-foot front setback required), **approved**.

2020-CPL-818, Approval of a Subdivision Plat to be known as Felbram Plaza North Subdivision, dividing 18.43 acres into five lots, with a waiver of sidewalks, **approved**.

ZONING HISTORY – VICINITY

2013-ZON-053, 3800 South East Street, rezoning of 4.82 acres from the D-4 and C-5 districts to the C-5 classification to provide for automobile-related uses, **approved**.

2000-ZON-865, 3653 New Jersey Street, rezoning of 0.5 acres from the D-6II district to the D-4 classification, **approved**.

2000-VAR-865, 3653 New Jersey Street, variance to provide for construction of a single-family dwelling on a lot containing zero feet of street frontage and zero feet of lot width at the required setback line, **approved**.

95-Z-189, 3715 South East Street, rezoning of 2 acres from the C-3 district to the C-4 classification, **approved**.

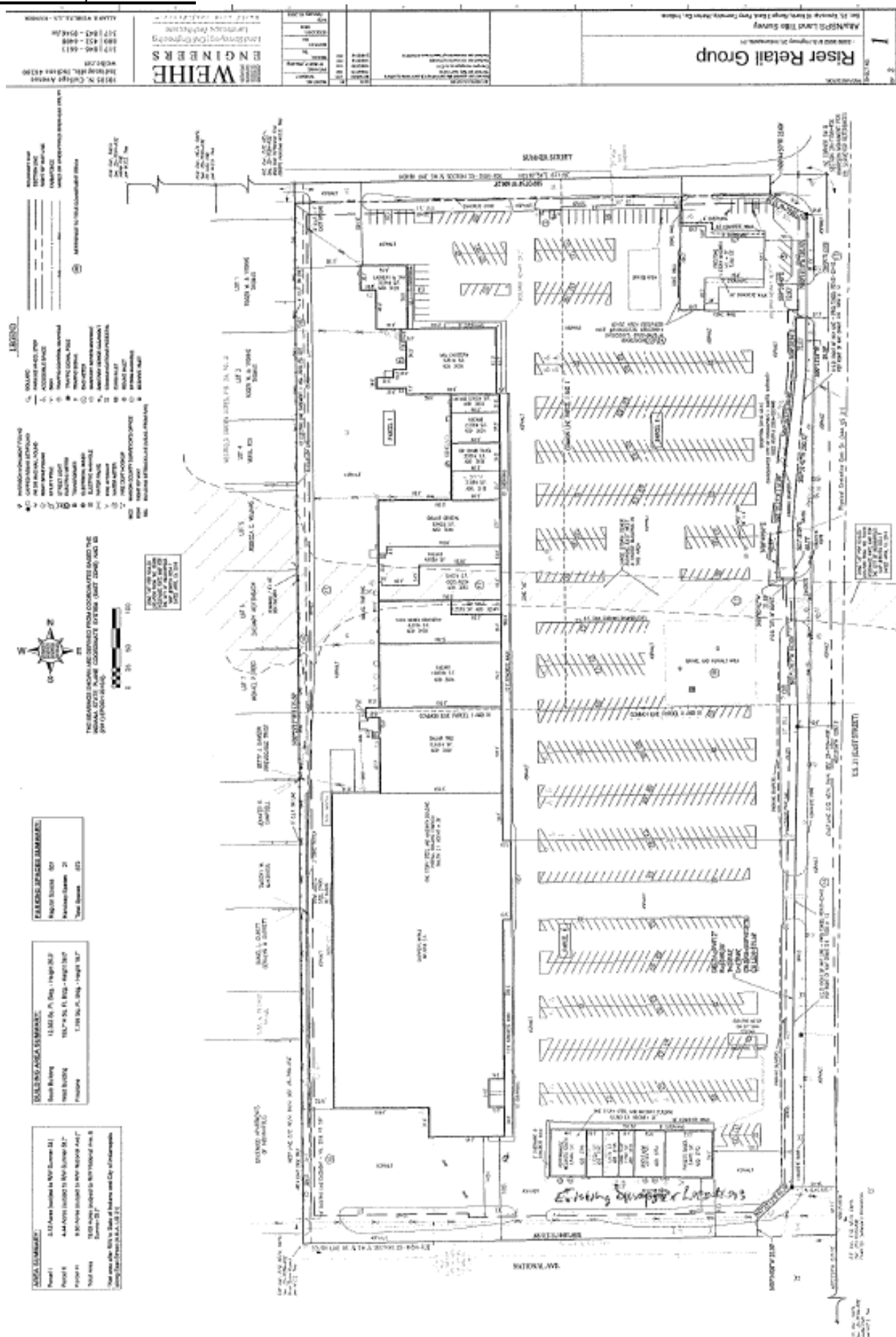
94-Z-128, 3715 South East Street, rezoning of 2.28 acres from the D-A district to the C-3 classification, **approved**.

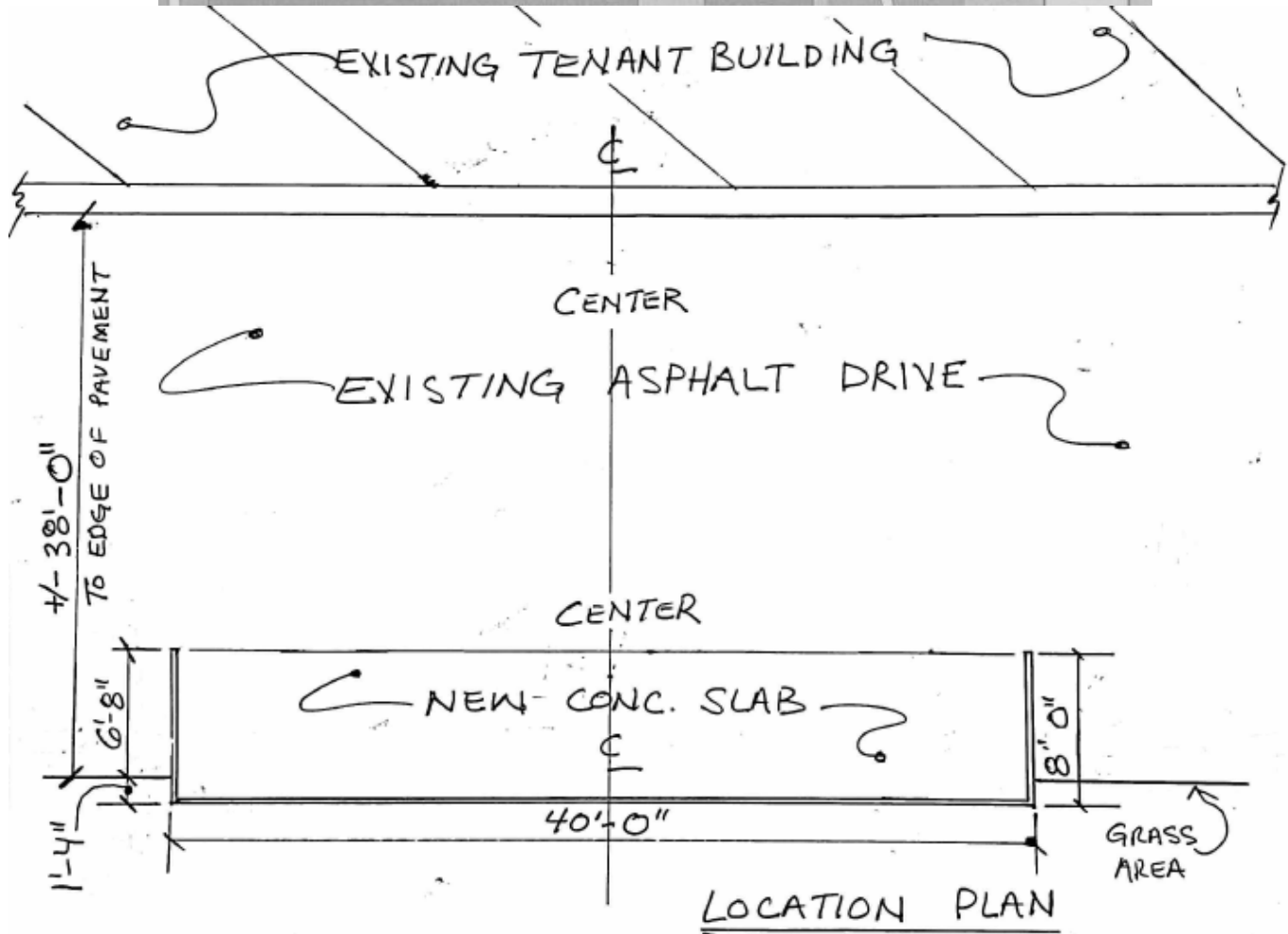
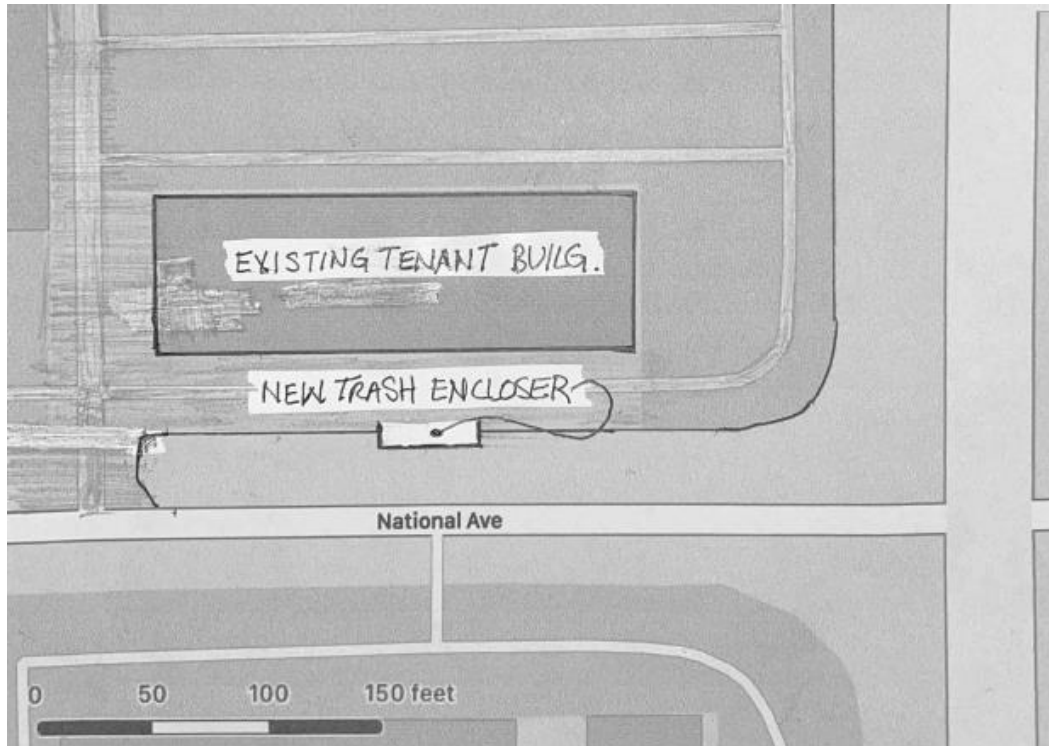
89-V3-91, 3599 South East Street, variance to provide for a restaurant with a drive-through within 100 feet of a dwelling district, **approved**.

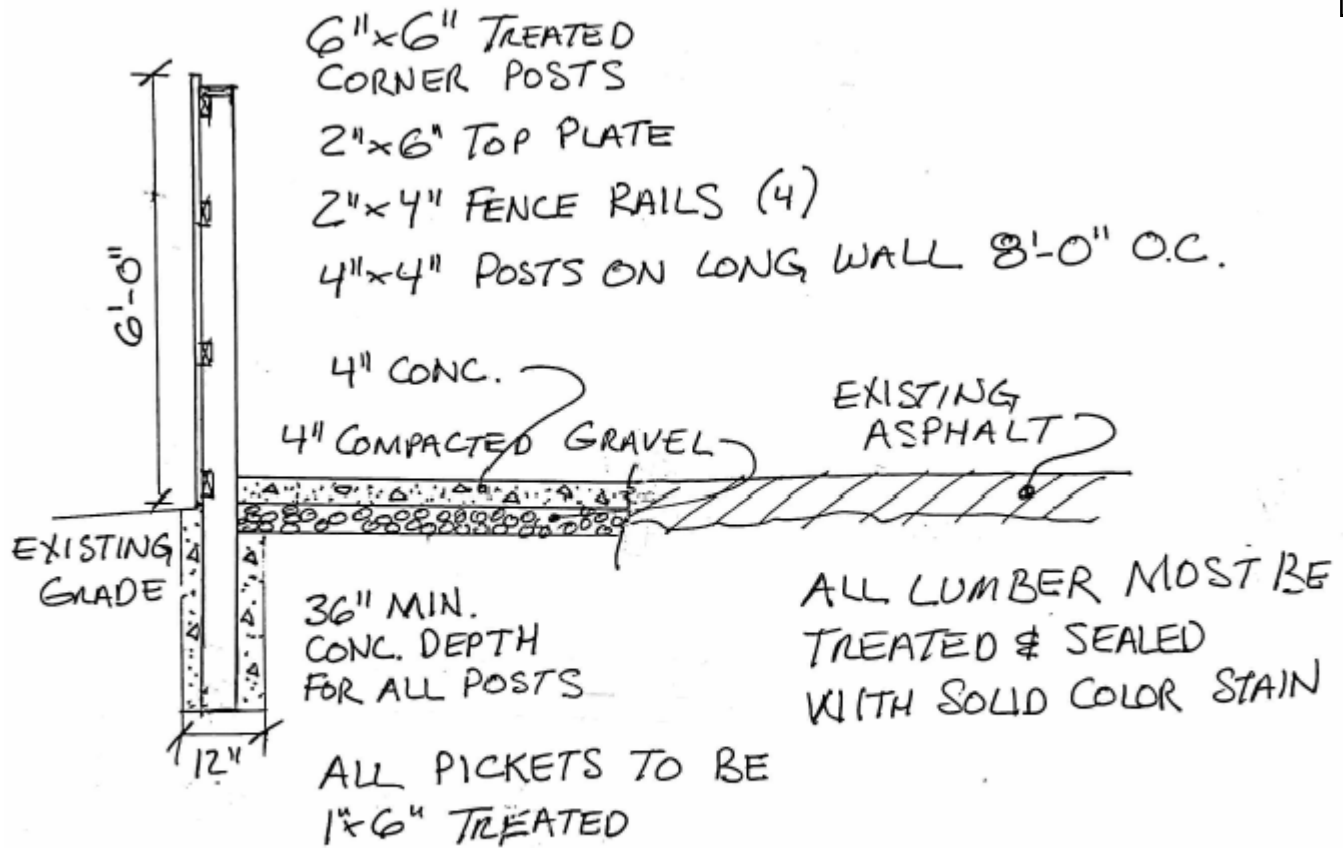
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2023-DV3-002; Aerial Map









TYPICAL WALL SECTION
SCALE 1/2" = 1'-0"

**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 location of the enclosures have existed in the same area for over 40 years without apparent incident, nor do they interfere with traffic flow.

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

there is adequate separation between the enclosures and adjacent properties, most of which are separated by a public street.

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

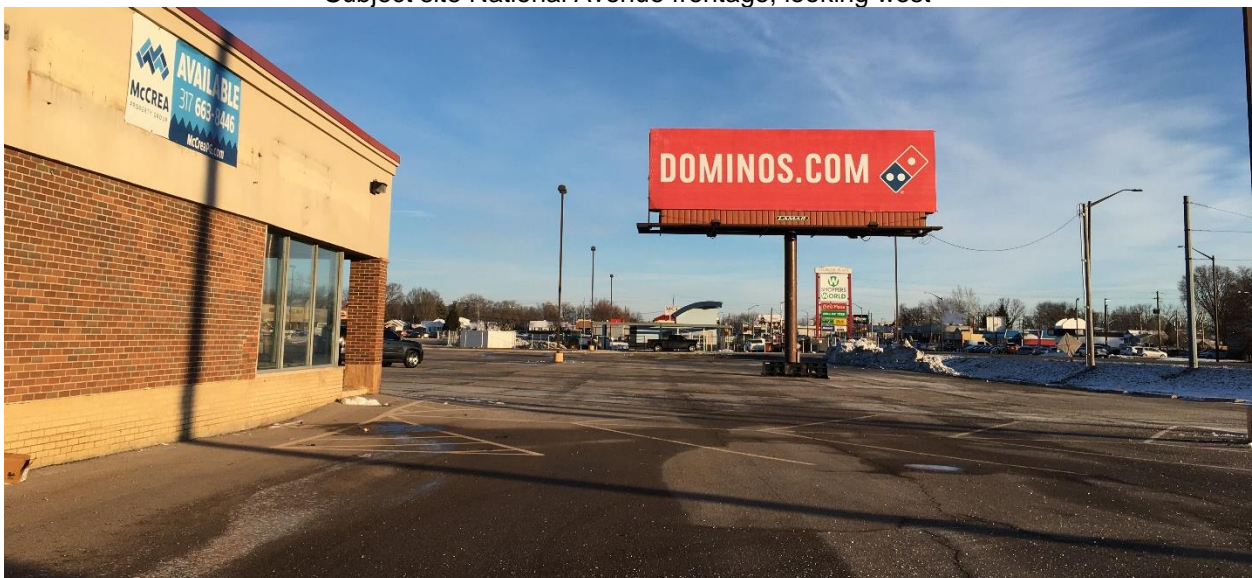
the rear of the building faces National Avenue, and there is no practical way for the dumpster location and enclosure standards to be met without risk of non-compliance by tenants.



Subject site National Avenue frontage, existing dumpster location, looking east



Subject site National Avenue frontage, looking west



Subject site East Street frontage, looking north



Subject site viewed from parking area, looking south



National Avenue frontage, west of dumpster location



National Avenue frontage, looking east

STAFF REPORT

Item 6.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-007 (Amended)
Address: 9539 Prospect Street (approximate address)
Location: Warren Township, Council District #18
Zoning: D-A (FF)
Petitioner: Jose A. Angel Nunez and Evelyn Y. Jacome Mazariegos
Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of three commercial vehicles (not permitted), and the construction of a detached garage with a four-foot west side yard setback (15-foot side yard required).

This petition was continued for cause at the request of the petitioner, from the March 21, 2023, hearing, to the April 18, 2023, hearing, to allow time to amend the request and provide new notice.

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-A	Single-family dwelling.
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SURROUNDING ZONING AND LAND USE

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

COMPREHENSIVE PLAN	The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site.
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VARIANCE OF USE

- ◇ The purpose of the D-A district is to provide for a variety of agricultural uses. A secondary intent of this district is large estate development of single-family dwellings. The D-A district provides the lowest density of the Dwelling Districts. The storage of commercial vehicles related to contractor uses is not permitted in the D-A District.

(Continued)

- ◇ The Comprehensive Plan recommends rural, or estate uses at this site. The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.
- ◇ The proposed use would be classified as accessory to a Commercial and Building Contractor, which is defined as an “establishment or activity that supplies materials and labor to fulfill work at a remote site and that work is typically a building trade or activity associated with the construction or maintenance of a physical building or structure. This definition includes uses such as contractors for awning; building/construction; carpentry work; concrete; decorating; demolition; electrical; excavation; extermination/disinfection; fence; flooring; home remodeling; masonry/stonework/tile/setting; painting; pest control; plastering/drywall; plumbing; roofing; septic system; sheet metal; siding; sign; storm door; window; construction companies, contractors, lumber yards; swimming pool installation and services; home remodeling companies; heating; air conditioning; landscaping; lawn services; tree services; and water softener services. This definition may include accessory offices for operation of the contracting business but does not include retail sales of goods to the public.
- ◇ The storage of commercial vehicles and construction equipment is permitted in the C-7 district or any industrial district since it is classified as a heavy commercial service in Table 743-1: Use Table.
- ◇ Commercial or industrial uses, when located on appropriately zoned properties, require transitional yards to buffer such intense uses from protected districts which include dwellings and schools. In this instance, the proposed use would not be required to provide such buffer areas since the D-A district is intended to be utilized for less intense uses such as residential neighborhoods. Therefore, the site provides insufficient screening to the surrounding dwellings, which staff finds concerning.
- ◇ Although the storage of commercial vehicles is proposed due to the large size of the lot, staff has concerns if this petition were to be approved, that the storage of commercial vehicles could potentially expand on other surrounding large lots based on the availability of land.
- ◇ The large lot size should not allow for disregard of the Comprehensive Plan recommendation, nor of the clearly residential nature of the surrounding area.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This variance of development standards request for a detached garage with a four-foot side setback is the result of a zoning violation, particularly related to the petitioner's failure to obtain a permit prior to illegally constructing the detached garage within the side setback. Had the petitioner inquired about a permit prior to construction, they would have been notified of the deficient setback, and the detached garage could have been placed appropriately without the need for a variance. Therefore, Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence, to discourage such practices.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-A and could be used by any number of uses permitted, by right, in the D-A zoning classification without any variances. Any practical difficulty is self-imposed by the petitioner's desire to choose to not follow the ordinance and use the site for the storage of a commercial vehicle and a detached garage with a four-foot side setback.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Prospect Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with an 85-foot existing and proposed right-of-way.
SITE PLAN (AMENDED)	File-dated March 8, 2023
PLAN OF OPERATION	File-dated March 22, 2023
FINDINGS OF FACT (AMENDED)	File-dated March 21, 2023

ZONING HISTORY

2014-DV2-034; 9277 Prospect Street (west of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 15.5-foot tall, 1,200-square foot detached garage, with a 12-foot west side setback, creating an accessory building area of 1,320 square feet of 96.6% of the main floor area of the primary dwelling and 2,076 square feet of accessory use area or 151% of the total floor area of the primary dwelling, **granted**.

2012-DV3-023; 9150 Prospect Street (west of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 650-square foot pool, a 3,800-square foot deck area, a 458.25-square foot covered shelter and bar area, a 56.25-square foot hot tub, and a 31.5-square foot outdoor fireplace creating an accessory use area of 9,145 square feet or 331.6 percent of the total floor area of the primary building and an accessory building area of 3,737.91 square feet or 196.9 percent of the main floor area of the primary dwelling, **granted**.

(Continued)

STAFF REPORT 2023-DV3-007 (Continued)

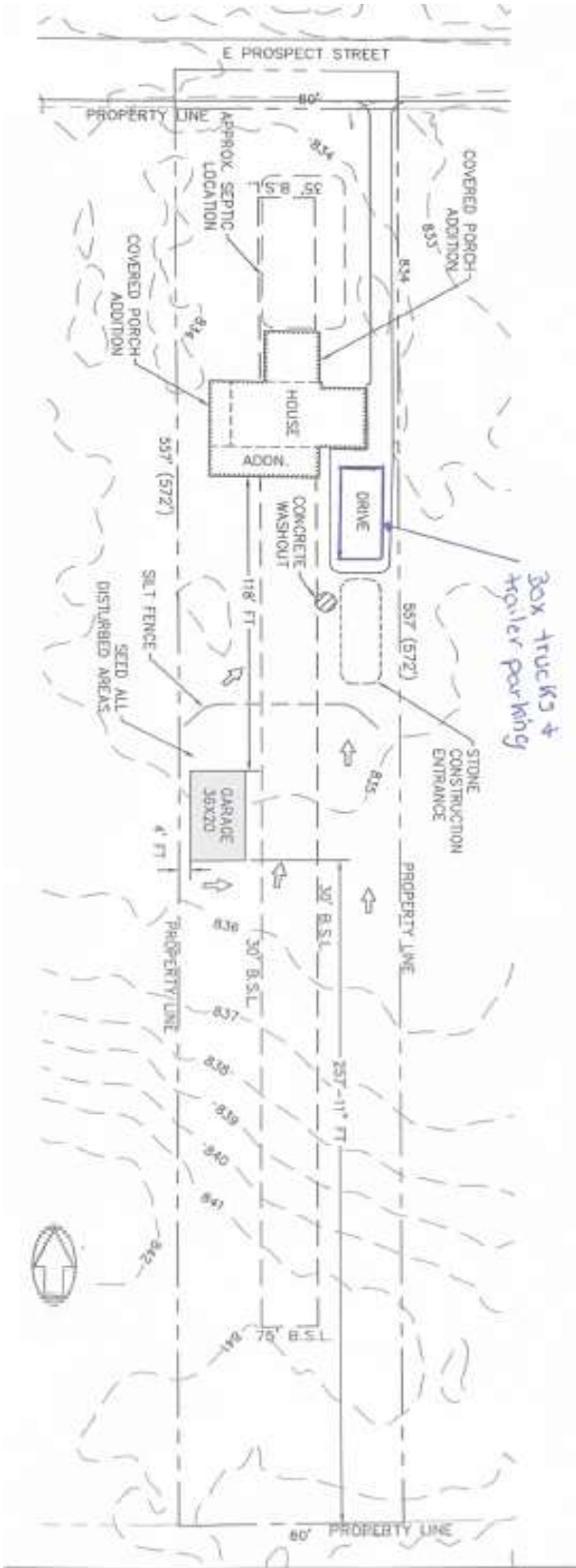
2006-DV2-003; 9150 Prospect Street (west of site), requested a variance of development standards to provide for a single-family dwelling with insufficient street frontage and insufficient lot width and to legally establish two barns, one of which in the established front yard and to provide for

2001-DV1-012; 9310 Prospect Street (west of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 1,560 square foot detached garage, creating 1560 square feet of detached accessory building area or 86 percent of the main floor area of the primary dwelling and 3,637 square feet of total accessory use area or 201.5 percent of the total floor area of the primary dwelling, **granted**.

RU

2023-DV3-007; Location Map





2023-DV3-007; Plan of Operation**Plan of Operation**

9539 Prospect St, Indianapolis, In 46239

- **Workforce:** Our business company is set as a remodeling company doing construction work. This business only has the owner with no employees. Does have sub-contractors who perform the work. Sub- contractors do not work on-site due that this property is our primary leaving home. All type of work gets complete on jobsite location.
- **Clients & Customers:** Our business works as a sub-contractor for the following companies, Drexel Interiors INC, Johnson Commercial Flooring, SFR3 Renovations. All of these companies don't come onsite, we usually go to the companies and load material and take them to the jobsite that has been assigned to us.
- **Processes conducted on Site:** The process of our daily business is early in the morning around from 7:00am to 9:00am we get ready to go out and leave the property 9539 Prospect St, to load/pick the jobs we were assigned from the mention companies above. Then we head out to the jobsite perform the work and depending on if it's a big or small job we're back to our house at 9539 Prospect St, just having our own time at home either watching our kids, cleaning, cooking but nothing differently.
- **Material Used:** Majority of the times what we're performing is doing flooring installation which are tools are mainly a kicker, power stretcher, box tools, drills, carpet roller, broom, vacuum, seam tape, iron, measure tape, blades all of these materials are stored inside of the vehicle used daily for work. Only bring brought out when doing installation. All other tools like sander, ladder, power washer, paint sprayer, plumbing PVC, saw cutter is all stored either in a closed or a shed house that is located on the back side of the house.
- **Shipping & Receiving:** Materials are not being shipped or received in our property because we go to the mention company and load material from there warehouses and take them to the jobsite. Other times we go to Home-depot, Lowes, Menards, or discounted retail stores by any type of material being used to perform and complete work and take them directly to the jobsite. No material gets delivered or shipped from property due that we don't have a warehouse set to do that type of things we practically only perform labor rarely provide material for jobs.
- **Waste:** When doing a flooring installation, the set companies mention above have their own warehouse so any trash waste leftovers from jobs get unloaded at their own set dumpster. If doing any remodeling work all the trash that comes out get taken to a trash & recycling waste place to drop it off and actually to dump it in those types of facilities.



1) Subject site dwelling, looking south.



2) Subject site, proposed commercial vehicle parking area, looking south.



3) Proposed detached garage with four-foot west side setback, looking south.



4) Adjacent single-family dwelling to the west, looking south.



5) Adjacent single-family dwelling to the east, looking south.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-SE3-002
Address: 186 South Post Road (approximate address)
Location: Warren Township, Council District #18
Zoning: D-2
Petitioner: Shalom Christian Church, by Jonathan L Albright Jr.
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a religious use facility and a modification of development standards providing for an exemption of landscaping requirements and a 47-foot wide parking area within the front yard (landscaping compliance required, maximum 30-foot wide parking area permitted in front yard).

RECOMMENDATIONS

Staff **recommends approval** of the religious use facility.

Staff **recommends denial** of the modification of development standards providing for an exemption of landscaping requirements and a 47-foot-wide parking area within the front yard.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

EXISTING ZONING AND LAND USE

D-2	Metro	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-2	Residential (Single-family dwelling)
South	D-2	Residential (Single-family dwelling)
East	SU-1	Church
West	D-2	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends rural or estate neighborhood development.
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LAND USE

- ◇ The subject site is developed with a single-family dwelling, attached garage, pool and access drive with parking area.
- ◇ The site is surrounded by similarly platted and developed D-2 properties to the north, west, and south. The lot across the street is developed and appropriately sized for religious uses and zoned SU-1. There are some I-2 zoned and developed sites adjacent to the religious use.

(Continued)

SPECIAL EXCEPTION

- ◇ The grant of the request would permit a religious use facility in a residential neighborhood.
- ◇ The subject site is recommended for rural or estate neighborhood development that typically applies to rural or agricultural areas with estate-style homes on large lots. This typology prioritizes natural features and a lower density of one dwelling unit per acre.
- ◇ The purpose of the D-2 district is to allow residential development with ample yards, trees, and passive open spaces. The density envisioned for this district is 1.9 units per gross acre, with duplexes only being developed on corner lots.
- ◇ Religious uses are only permitted in the D-2 district by special exception and by meeting the use-specific standards of the Ordinance.
- ◇ Per the Plan of Operation, the religious use facility would have components to allow bible study, prayer, praise and worship, children's ministry, and community outreach programs. The hours of operation vary amongst the various uses but would predominately be for the children's ministry Monday through Friday between 6am and 6pm with a maximum expected occupancy of 24 children.
- ◇ During Staff's site visit it was noted that there is heavy traffic flow along Post Road, which made it difficult to exit the property.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of this request would permit the front yard of a developed house to be paved with a 47-foot-wide parking area.
- ◇ The Ordinance limits parking areas in the front yard of dwelling districts to a maximum of 30 feet wide. Parking area width requirements are in place to maintain a residential aesthetic and limit bulk of parking within front yards.
- ◇ Ultimately, the request to exceed the parking area limitation would be impacted by the proposed use of the site. The probability that traffic would build up from persons turning into the site from Post Road could cause safety issues. The lack of a commercial curb cut and a designated drop off area for the children's ministry could cause safety issues as well.
- ◇ The variance request also included a modification from the landscape standards required to be met per the Use-Specific standards of Article III. Section 03.G. However, the proposed use on the site would not require any additional landscaping to be installed. Therefore, this variance could be withdrawn.

(Continued)

STAFF REPORT 2023-SE3-002 (Continued)

- ◇ In conclusion, staff has concerns with the excessive parking area requested and required for the religious use which could negatively impact the aesthetic of the residential area. Instead, the parking could be reduced to meet the Ordinance and be in line with what is typical for a residence by proposing parallel parking spaces along the access drive and utilizing the attached garage on site.

GENERAL INFORMATION

THOROUGHFARE PLAN	Post Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 92-foot existing right-of-way and a 119-foot proposed right-of-way.
SITE PLAN	File-dated January 4, 2023.
PLAN OF OPERATION	File-dated January 4, 2023.
FINDINGS OF FACT	File-dated January 4, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

1. VIO22-004264; 186 South Post Road (subject site), The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (A commercial daycare center is not a permitted use in a D-2 district). The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (A religious use shall not be permitted in a D-2 district without the issuance of a Special Exception Grant...."Mels Academy Childcare Ministry").

PREVIOUS CASES

2019-UV1-006; 186 South Post Road (subject site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a daycare center (not permitted), with an accessory parking lot in the front yard setback of Post Road (40-foot front setback from the proposed right-of-way required), being more than 30 feet in width (not permitted), **withdrawn**.

ZONING HISTORY – VICINITY

2015-DV2-024; 260 South Boehning Street (southwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish and provide for a five-foot side setback for a 378-square foot detached garage and 306-square foot addition (seven-foot side setback required), creating accessory building area of 1,029 square feet or 88.3% of the main floor area of the primary building and 1,443 square feet of accessory use area or 123.9% of the total floor area of the primary dwelling (maximum 75% of the main floor area and 99.9% of the total floor area permitted), **granted**.

93-UV1-11; 9920 Burk Road (east of site), Variance of use of the Industrial Zoning Ordinance to provide for the construction of a detached garage for an existing single-family residence, **granted**.

(Continued)

STAFF REPORT 2023-SE3-002 (Continued)

93-UV2-14; 197 Boehning Street (southwest of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to legally establish an existing 24x40 feet pole barn on a residential lot without a dwelling, **denied**.

86-UV1-153; 9118 Burk Road (east of site), Variance of use and development standards of the Industrial Zoning Ordinance to provide for the construction and use of a single-family residence and detached garage with an east side setback of nine feet and a west side setback of seven feet (30 feet required), **granted**.

80-UV2-54; 216 South Boehning Street (southwest of site), Variance of use and development standards to permit continued occupancy of a mobile home on lot for Mother, as per plans filed, off-street parking provided, **granted**.

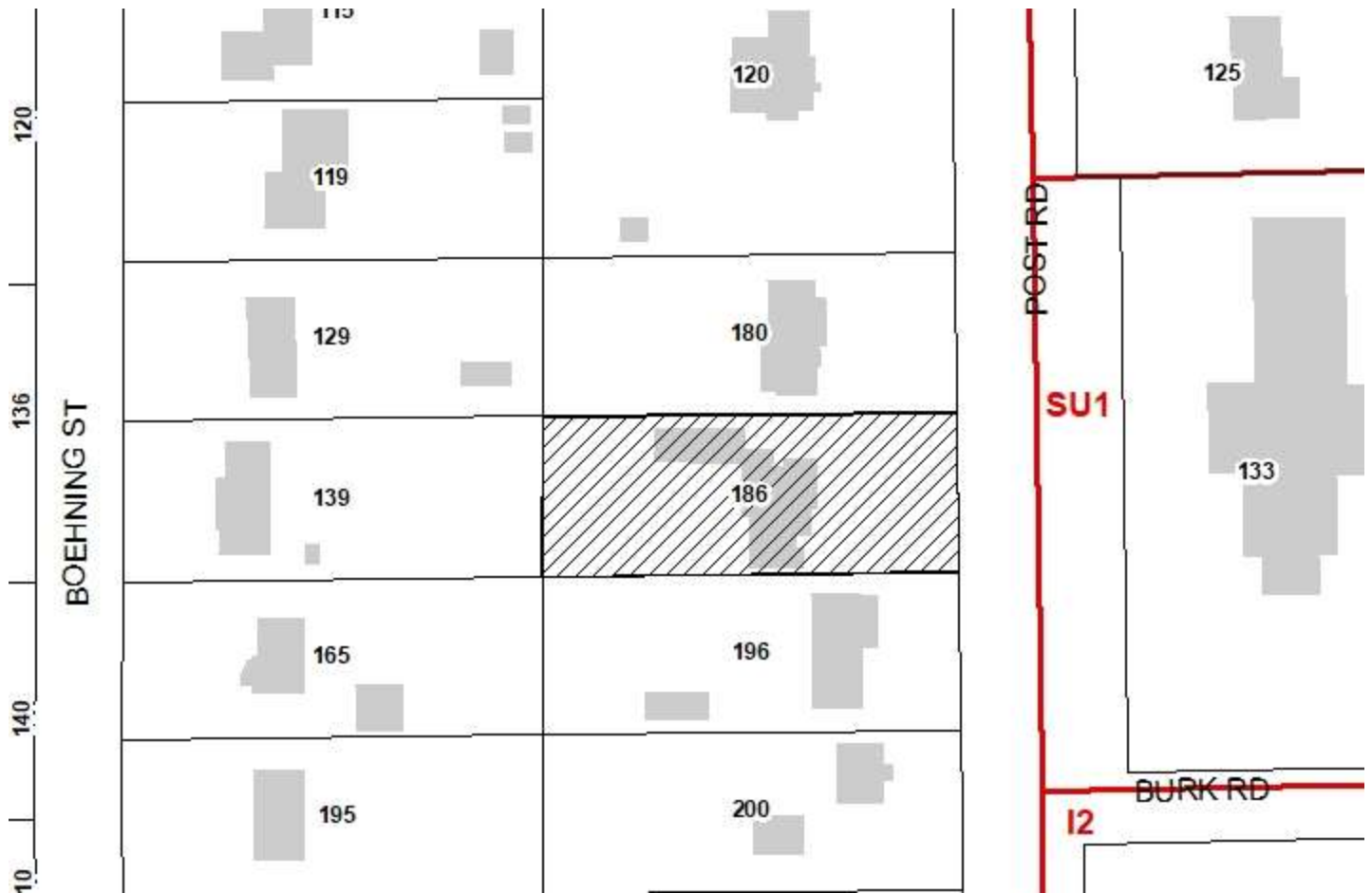
78-UV3-42; 246 Boehning Street (southwest of site), Variance of use and Development Standards to permit occupancy of a mobile home on lot for mother, as per plans filed, off-street parking provided, **granted for two years**.

76-V1-59; 165 Boehning Street (southwest of site), Variance of development standards of the side yard requirements to erect a detached garage, **granted**.

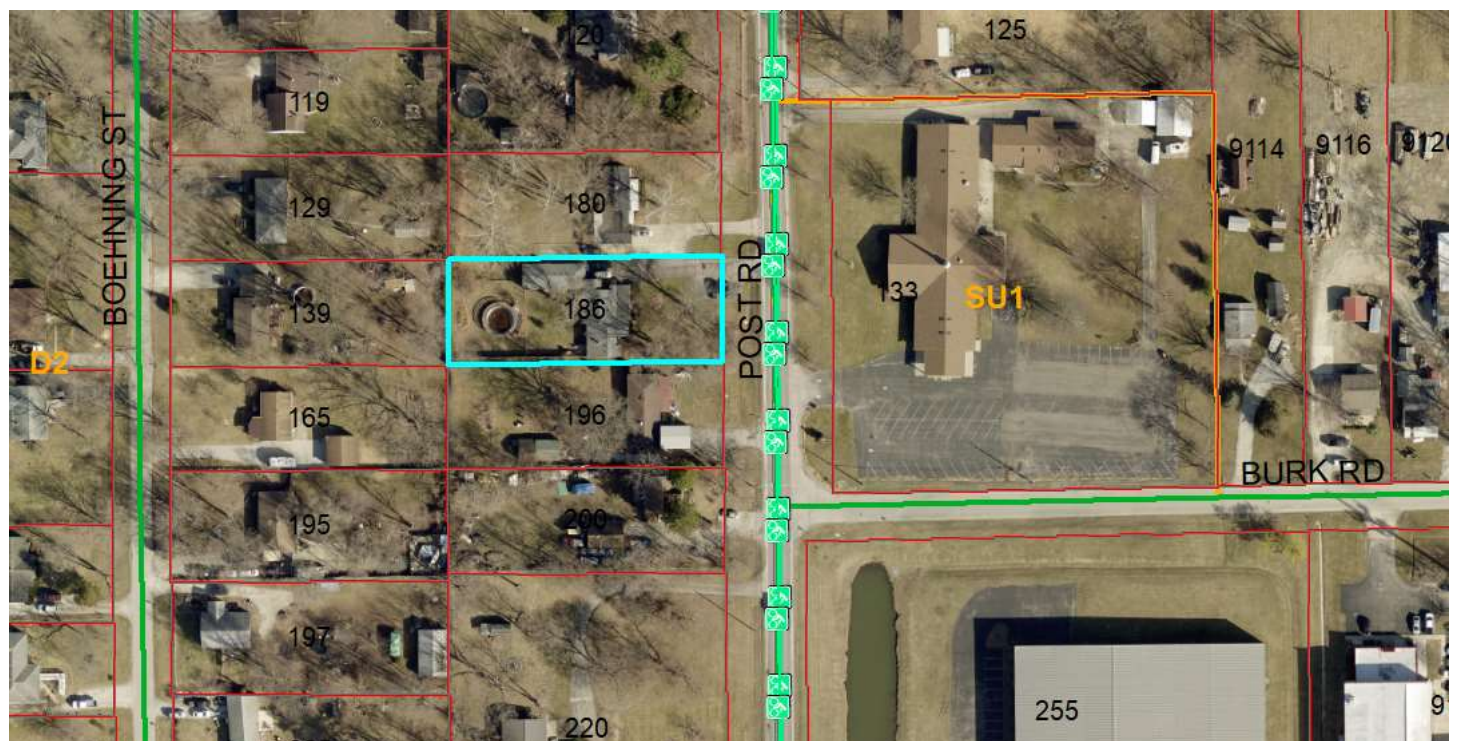
73-V2-141; 210 South Boehning Street (southwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to allow a detached garage with a three-foot side yard setback, **granted**.

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2023-SE3-002; Location Map



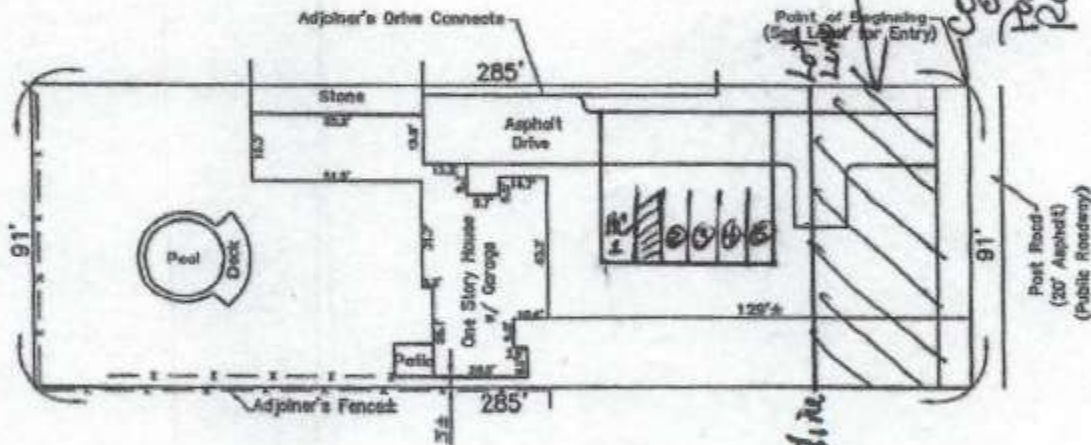
2023-SE3-002; Aerial Map



SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT. Unless otherwise noted there is no visible evidence of possession lines found.

Note: Fence locations shown are approximate.
An accurate boundary survey is required to determine exact locations.
Note: Adjoiner's drive connects to subject drive 3'± post North line.
Note: Stone extends post North line as shown.



Metropolitan Development

FEB 14 2019

Division of Planning



HAHN SURVEYING GROUP, INC.

Land Surveyors
2850 E. 96th Street, Indianapolis, IN 46240
PHONE: (317) 846-0840 / (317) 846-4119
FAX: (317) 846-4298 / (317) 582-0662
EMAIL: orders@hahnsurveying.com
www.hahnsurveying.com



CERTIFIED: 10/11/2018

Chad L. Brown
Chad L. Brown
Registered Land Surveyor,
Indiana #21100002
Drawn By: JEC
Job No.: 2018101202
Sheet 2 of 3

2023-SE3-002; Plan of Operation**Plan of Operation**

The primary development of this property will remain residential. The proposed use of the property will be for religious ministries and divine worship for adults and children. Programs include:

- Bible Study – Tuesday and/or Thursday evenings from 6:30-8:30 p.m. and includes prayer, praise, and worship.
- Prayer – scheduled throughout the day, as needed, with formal prayer times at 6:00 a.m., noon, and 6:15 p.m.
- Praise and Worship – daily between noon and 3:00 p.m.
- Children's Ministry – Monday through Friday between 6:00 a.m. and 6:00 p.m. and includes bible education, worship music, and prayer.
- Community Outreach Programs – as needed. Programming includes creating care packages for men's and women's shelters and collecting nonperishables and essential items for food banks.

In-person attendance is not expected to exceed ten (10) adults and twenty-four (24) children, with actual numbers varying depending on the days, times, and programs (i.e. not every child attends the Children's Ministry services each day, and not every adult attends daily Praise and Worship). Select programs will be live-streamed online. Due to the relatively low numbers of in-person attendees, there are no plans to expand the building at this time.

Worship services will primarily be held in Rooms 6 and 7. Select services and small group meetings will be held in Rooms 1 and 2. Children's Ministry services are separated by age, using Rooms 1, 2, and 3 as service areas as needed.

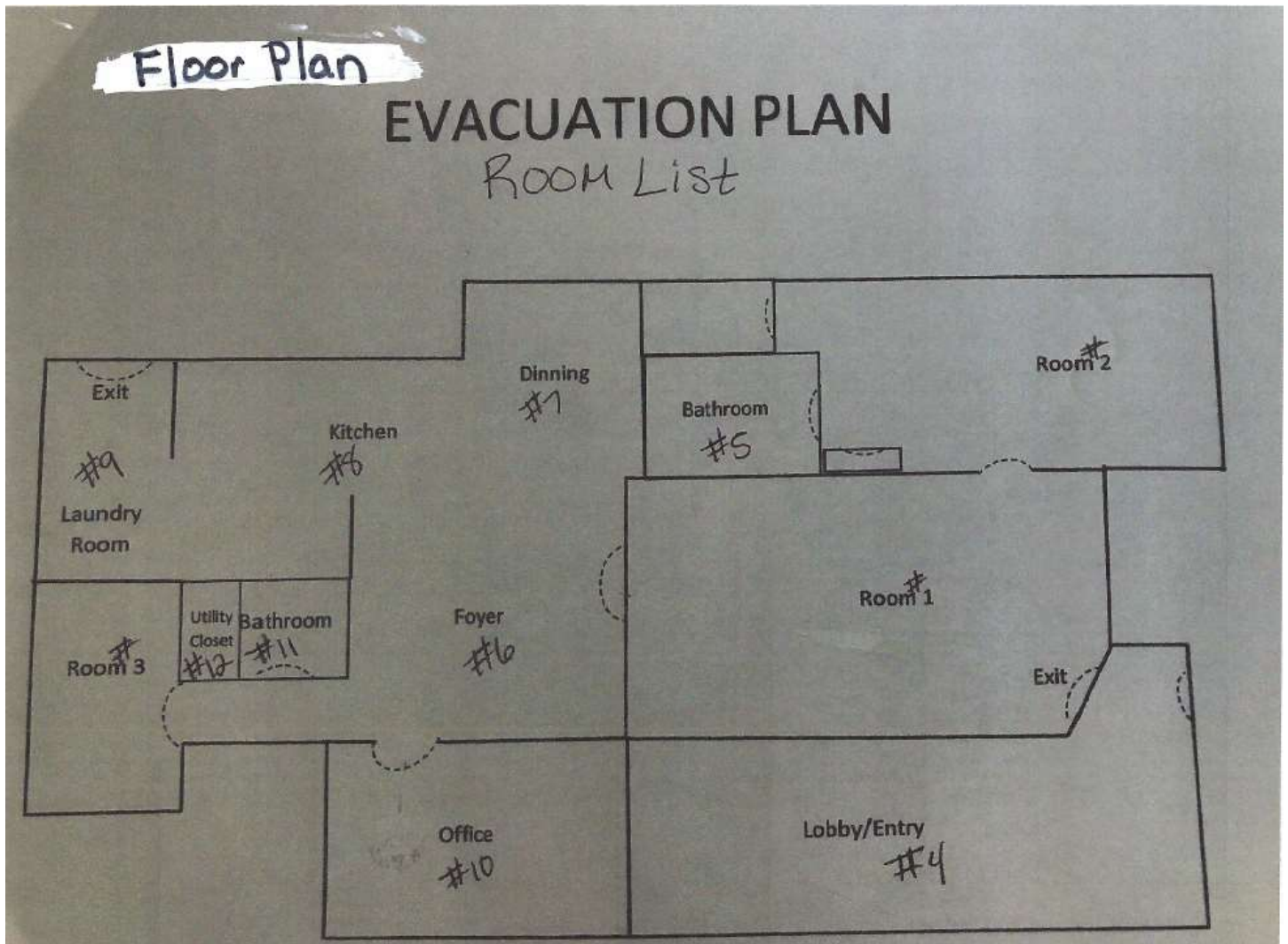




Photo of the Subject Property: 186 South Post Road



Photo of the Subject Property: 186 South Post Road



Photo of the Subject Property: 186 South Post Road



Photo of the existing parking area.



Photo of the single-family dwelling north of the subject site.



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

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-011
Address: 1855 North Shadeland Avenue (approximate address)
Location: Warren Township, Council District #19
Zoning: C-4
Petitioner: MG Oil Inc., by Cindy Thrasher
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 23-foot tall illuminated pole sign, within 10 feet of a protected district (maximum height of 20 feet permitted, illumination not permitted within 50 feet of a protected district).

RECOMMENDATIONS

Staff **recommends denial** of this request.

If the Board is inclined to vote against staff's recommendation, approval shall be subject to the installation of the illuminated sign within three months after the completion of commitment #6 of 2021-ZON-105 that calls for a pedestrian safety island and a pedestrian-activated crossing signal on Shadeland Avenue at the intersection of Shadeland Avenue and Pleasant Run Parkway South Drive.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Compact	Gas Station
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SURROUNDING ZONING AND LAND USE

North	D-4	Pleasant Run
South	D-4	Residential (Single-family dwelling)
East	D-4	Residential (Single-family dwelling)
West	C-5	Automobile Dealership

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development on most of the site and office commercial along the southern property boundary.

- ◇ The 0.39-acre subject site is developed with a gas station and pole sign. The site abuts a single-family dwelling to the east, southeast, and south with a commercial use to the west.

(Continued)

STAFF REPORT 2023-DV3-011 (Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Table 744-901-1 of the Sign Regulations notes that internal lighting is permitted in the C-4 district, but no illumination is permitted on signs within 50 feet of a dwelling district without an intervening public or private street.
- ◇ As proposed, an internally illuminated sign would be located ten feet from a dwelling district to the south.
- ◇ Staff is recommending denial of the request since there is no practical difficulty with the use of the site as it is currently developed. The findings of fact note that the sign is an illuminated sign, but the photographs show it to be a manual changing sign. Instead, the existing sign could be replaced with non-illuminated sign faces.
- ◇ Additionally, the illuminated pole sign could be relocated to the northwest corner of the site where the proposed trees and shrubs could be rearranged since a minimum five-foot front setback is needed. This would ensure the illuminated sign would not be within 50 feet of a protected district and would eliminate the need for the variance.
- ◇ In staff's opinion, the height of the pole sign could be reduced to the maximum 20-foot height without any issue if a new sign were proposed at the northwest corner.
- ◇ Another option would be to propose a canopy sign along the western or northern canopy façades that would not be within 50 feet of a protected district.
- ◇ Staff determined that the use and value of the dwelling adjacent to the property included in the variance could be affected in a substantially adverse manner by having an illuminated sign immediately adjacent to it for 24 hours, seven days a week which could interrupt the resident's sleep pattern.
- ◇ The site is planned to be redeveloped per rezone petition 2021-ZON-105 but since there was no required timeframe for the installation of commitment #6 for a pedestrian safety island and a pedestrian-activated crossing signal on Shadeland Avenue at the intersection of Shadeland Avenue and Pleasant Run Parkway South Drive, staff would request that the installation of said items be completed prior to the installation of a new pole sign if approved. Staff understands the importance of signage for a business and would request a commitment for completion of commitment #6 to then allow for the installation of the proposed signage within three months of completion, if approved against staff's recommendation.

GENERAL INFORMATION

THOROUGHFARE PLAN

Shadeland Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 149-foot existing right-of-way and a 104-foot proposed right-of-way.

(Continued)

STAFF REPORT 2023-DV3-011 (Continued)

THOROUGHFARE PLAN	Pleasant Run Parkway South Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 70-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN	File-dated March 3, 2023.
ELEVATIONS	File-dated March 3, 2023.
FINDINGS OF FACT	File-dated March 3, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

2021-ZON-105; 1855 North Shadeland Avenue (subject site), Rezoning of 0.415 acre from the C-3 district to the C-4 district, **approved**.

97-V3-92; 1855 North Shadeland Avenue (subject site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for the placement of an illuminated canopy, measuring 24 by 71 feet, with a front setback of 1 foot along Shadeland Avenue (minimum 10 feet from the proposed right-of-way required), **granted**.

93-V3-41; 1855 North Shadeland Avenue (subject site), Variance of development standards of the Sign Regulations of Marion County to permit the placement of a pole sign with gasoline pricing panels (not permitted) located 4 feet from the right-of-way of Shadeland Avenue, **denied**.

92-V3-62; 1855 North Shadeland Avenue (subject site), Variance of development standards of the Sign Regulations of Marion County to permit the placement of a pole identification sign 3 feet from the right-of-way of North Shadeland Avenue (15 feet required) with pricing panels (not permitted), **granted with the condition that the pole sign be located 15 feet from North Shadeland Avenue right-of-way**.

70-Z-204; 1855 North Shadeland Avenue (subject site), rezoning of 0.45 acre from the D-4 district to the C-3 district, **approved**.

70-V2-80; 1855 North Shadeland Avenue (subject site), Variance of use and setback requirements to permit construction of a gasoline station with identification and display signs, **withdrawn**.

(Continued)

STAFF REPORT 2023-DV3-011 (Continued)**ZONING HISTORY – VICINITY**

2023-DV3-003; 1739 and 1795 North Shadeland Avenue (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an enclosed dumpster within the front yard of 18th Street (not permitted); a drive-through within 18 feet of a protected district without the required transitional yard landscaping and screening of service units (25-foot separation required, landscaping required), a stacking space within the front yard of 18th Street (not permitted) and zero-stacking spaces provided at the exit of the service unit (two stacking spaces required); a building with a 28-foot front setback from 18th street, a 12.8% front building line along 18th Street (maximum 25-foot front setback and 60% front building line required along Connector Frontage,), and a 23.9-foot front building line along Shadeland Avenue (40% front building line required along Buffer/Suburban Frontages); on a lot with deficient landscaping, **withdrawn**.

2012-HOV-015; 1752 North Shadeland Avenue (southwest of site), Variance of Development Standards of the Sign Regulations to replace the cabinet of an existing freestanding sign (original approved by 97-HOV-12), with a 10-foot front setback along Shadeland Avenue, being within 80 feet of a freestanding sign to the north and 105 feet of a freestanding sign to the south, being the seventh sign along an approximately 750-foot long integrated frontage (300 feet of separation required, 300 feet of frontage required per sign), **granted**.

2009-DV1-031; 6830 Industry Place and 6926 East 16th Street (southwest of site), Variance of Development Standards of the Sign Regulations to provide for a 26.02-foot tall, 80-square foot Pole Sign with a ten-foot front setback from the existing right-of-way of Shadeland Avenue (minimum fifteen-foot front setback required), within 105 feet of a pole sign to the north within the same integrated center (minimum 300-foot separation between signs required), **granted**.

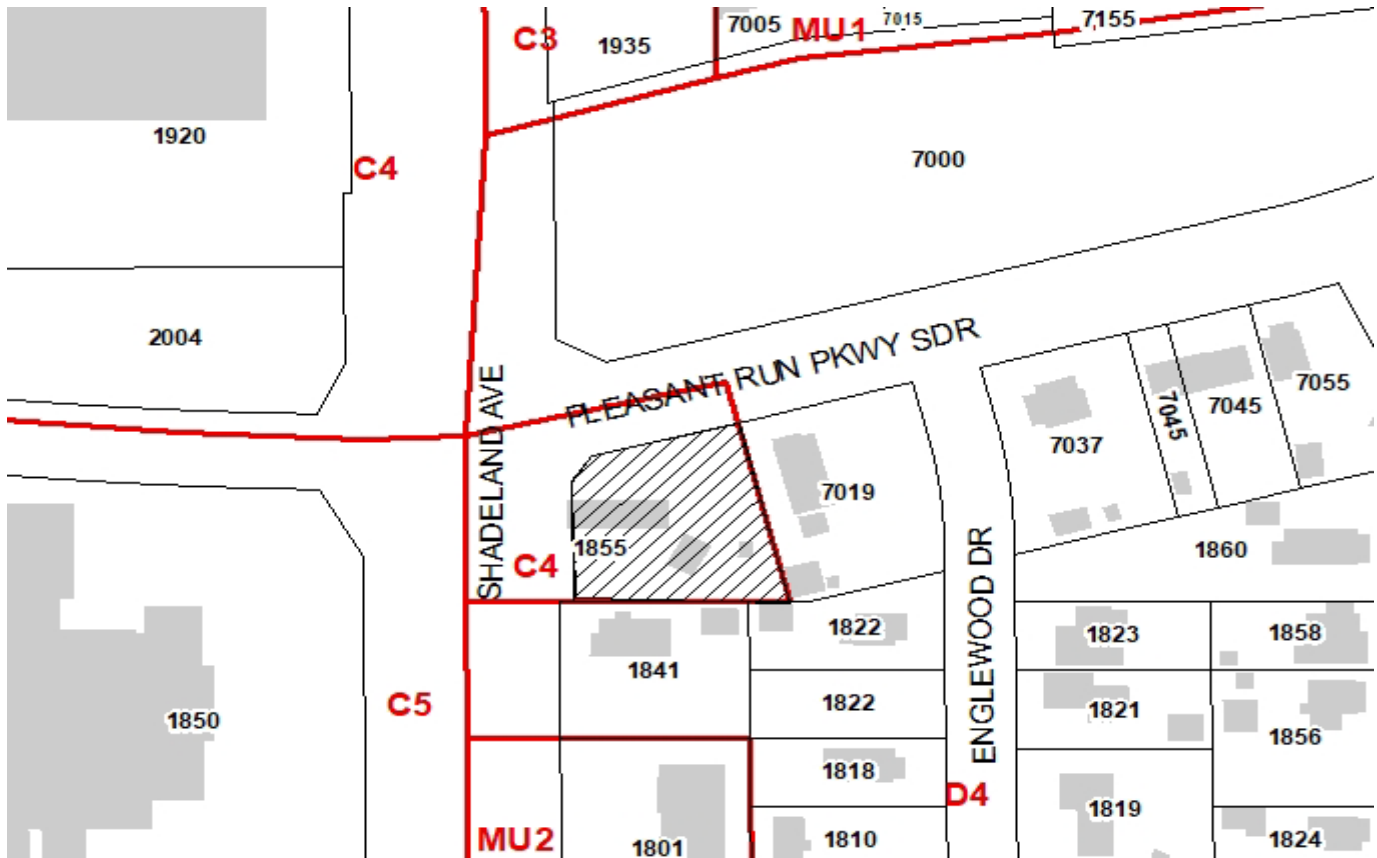
2004-DV1-035; 1739 North Shadeland Avenue (south of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the temporary location of the required handicapped parking space in an existing asphalt driveway (not permitted) until the construction of the proposed parking area is completed, **dismissed**.

97-HOV-12; 1752 North Shadeland Avenue (southwest of site), Variance of Development Standards of the Sign Regulations to provide for a 9.5 by 21-foot sign, 40 feet in height, being located 10 feet from the right-of-way of Shadeland Avenue, in C-3, **granted**.

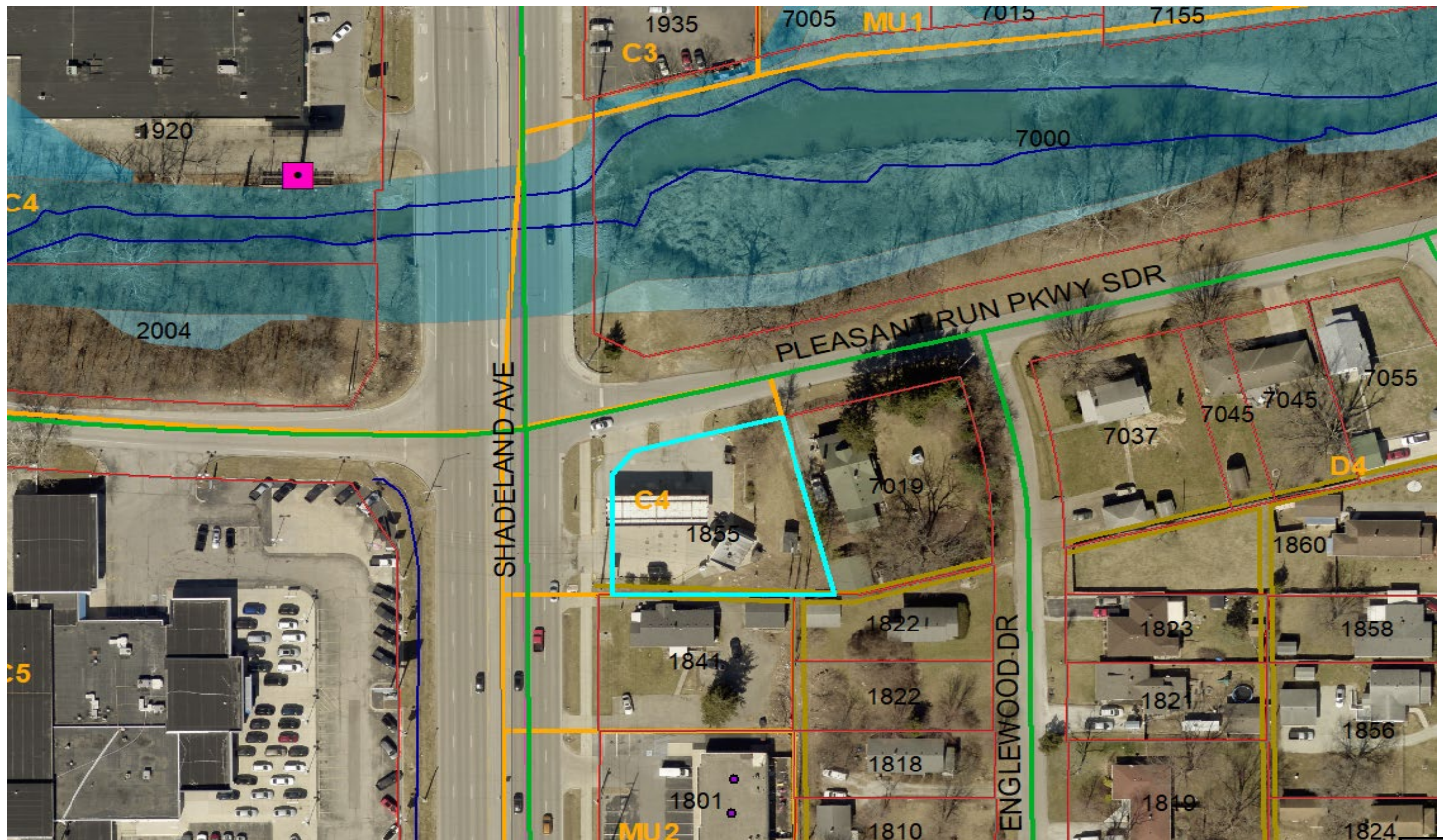
72-UV3-76; 1811 to 1815 North Shadeland Avenue (south of site), Variance of use to provide for a restaurant and retail sales in a D-4 district and a variance of development standards to provide for deficient setbacks and transitional yard, **granted**.

MI

2023-DV3-011; Location Map



2023-DV3-011; Aerial Map







ILLUMINATION VIEW



EXISTING



PROPOSED

NOTE : SR SURVEY NEEDED.

6X6 CITGO ID CABINET

4X6 - 2 PRODUCT PRICER CABINET
12" PRICE VISION LEDS

2X6 TRICLEAN CABINET



8111 CHURCH ROAD - HANCOCK, MA 01930
800-443-4633 • Fax: 508-846-7143
WWW.SIGNRESOURCE.COM

REVISION HISTORY			
NO.	DATE	DESCRIPTION	BY
1	04/10/22	INITIAL DRAWING RELEASE	J.S.
2	04/14/22	REVISED TO ADD TRICLEAN CAB	J.S.

PARTS LIST:	
ITEM	DESCRIPTION
1	6X6 CITGO ID CABINET
2	4X6 - 2 PRODUCT PRICER CABINET
3	2X6 TRICLEAN CABINET

SCALE: NTS

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF APPLICABLE AND OF THE NATIONAL ELECTRIC CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER DIMENSIONS AND DIMENSIONS OF THE SIGN.

GENERAL NOTES

1. TOLERANCE UNLESS NOTED
2. GRAFICS +/- 1/8" • FACE SIZE +/- 1/16" • 1/16"
3. CORNER +/- 1/8" • CORNER OVERLAP +/- 1/8" +/- 1/16"
4. ALL CORNER UNLESS NOTED OTHERWISE
5. FINISH DISTANCE 25" TO 30" UNLESS NOTED OTHERWISE
6. THIS SIGN SHALL BE INSTALLED AS PER NATIONAL AND LOCAL CODES
7. NO DEVIATION OR MATERIAL SUBSTITUTION WITHOUT SIGN
8. ALL ELECTRICAL SHALL BE COMPLY WITH NEC 40

DESCRIPTION

RENDERING

REVISION	DATE	DESCRIPTION	BY
1	04/10/22	INITIAL DRAWING RELEASE	J.S.

DATE: 06/10/22

BY: J.S.

1 OF 1

Please Note: Weights and Measures requirements vary by State, County and Municipality. It is the responsibility of the customer to confirm that these graphics are compliant with all local Regulations, Statutes and Ordinances. Compliance must be confirmed by the party obtaining the permit. SignResource is not liable for misinterpretation of local Weights and Measures requirements or any rule changes that may occur after the order has been placed. If permitting and installation is provided by SignResource, we will make every effort to confirm the signage provided is compliant at the time of installation.

APPROVAL SIGNATURE: [Signature] DATE: 06/10/22

By signing, you are validating the dimensions and graphic provided to SignResource and/or you are handling your own installation.



West view of the existing pole sign



North view of the existing pole sign.



Photo of the ten-foot separation from the single-family dwelling to the south.



Photo of the existing fueling station and convenience store.



Photo of existing freestanding signs looking south along Shadeland Avenue.



Photo of existing freestanding signs west of the subject site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-013
Address: 7424 East Washington Street (approximate address)
Location: Warren Township, Council District #19
Zoning: C-4 (TOD)
Petitioner: Dahm No. 7, LLC d/b/a Crew Carwash, by Joseph D. Calderon
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for digital display on an existing pole sign (not permitted) within 129 feet of a protected district (digital display not permitted within 400 feet of a protected district) and legally establish its height of 24.5 feet tall (maximum height of 20 feet permitted).

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Compact	Commercial
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SURROUNDING ZONING AND LAND USE

North	D-3	Residential (Single-family dwellings)
South	C-S	Commercial
East	C-5	Commercial
West	C-1	Commercial

COMPREHENSIVE PLAN	The Comprehensive Plan recommends community commercial development.
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- ◇ The subject site is developed with a drive-through carwash facility. It is adjacent to residential uses to the north, and commercial uses to the west, south and, east of the site.
- ◇ Petitions 2016-CZN-837 and 2016-CVR-837 rezoned the property to a C-4 district and allowed for the construction of a canopy with a six-foot front setback from the existing right-of-way, and to provide for a carwash and accessory uses, within approximately 28 feet of a protected district

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for a digital display sign panel to be located on a 24.5-foot-tall pole sign with deficient separation from a protected district.

(Continued)

STAFF REPORT 2023-DV3-013 (Continued)

- ◇ The existing sign may have been permitted in 1987 through a sign permit for a pole sign (ILP87-00747), which would not have had the same restrictions as new pole signs do per the newly updated Sign Regulations in 2019.
- ◇ Due to the addition of the digital display component, the need for a height variance and separation from protected districts would be required since it would be treated as a new sign for a permit.
- ◇ Per Table 744-906-1, pole signs are limited to 20-feet in height, are not permitted to have digital displays in the C-4 district and must meet additional standard of Sec. 744-907.C for digital display regulations. Said regulations note that no digital display shall be located within 600 feet of any protected district unless visibly obstructed from view from within that district, but in no instance, may it be located within 400 feet of such a district.
- ◇ Electronic variable message signs (EVMS) contain animated, flashing, or scrolling text that is intended to attract the attention of passersby. Seeing that there are no digital display signs in the immediate area, the residents are not accustomed to this type of signage in their area. Additionally, the petitioner did not make any attempt at visibly obstructing the sign from view of the protected district.
- ◇ The Ordinance permits these types of signs in commercial districts because it would be acceptable in commercialized areas. However, the sign's locations are limited within proximity to residential uses to protect residential and other protected uses. The proposed digital display sign would be located within 129 feet of the nearest protected district, which staff does not support.
- ◇ The petitioner will be replacing approximately 41.73 square feet of signage for a 36.47-square foot sign. Staff has no issue with the amount of existing signage on site but does have concerns for the digital display component that would be injurious to the safety of motorists since this sign could unnecessarily distract the attention of motorists from traffic signals or other traveling vehicles.
- ◇ Staff determined that the strict application of the terms of the Zoning Ordinance would not result in practical difficulties in the use of the property because the services on site could still be promoted with non-EVMS signage.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Washington Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 90-foot existing right-of-way and a 102-foot proposed right-of-way.

Burbank Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

Sadlier Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

(Continued)

STAFF REPORT 2023-DV3-013 (Continued)

SITE PLAN File-dated March 17, 2023.

ELEVATIONS File-dated March 17, 2023.

FINDINGS OF FACT File-dated March 17, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

2016-AP3-002; 7410 and 7424 East Washington Street (subject site), Waiver of the Refiling Rule related to 2015-UV3-031, to permit the refiling of a variance of use petition, prior to the expiration of the one-year waiting period, **granted**.

2016-CZN-837 / 2016-CVR-837; 7410 and 7424 East Washington Street (subject site), Rezoning of 1.19 acres from the C-3 district to the C-4 classification and variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a canopy with a six-foot front setback from the proposed (existing) right-of-way (10-foot setback required), and to provide for a carwash and accessory uses, within approximately 28 feet of a protected district (100-foot separation required), **approved and granted**.

2015-UV3-031; 7410 and 7424 East Washington Street (subject site), Variance of use and development standards of the Commercial Zoning Ordinance to provide for the expansion of a carwash, with additional vending, change and storage structures and 16 vacuum stations (not permitted), with a five-foot north side transitional yard (20-foot transitional yard required), with said facilities being within 100 feet of a protected district, **denied**.

2011-DV1-019; 7410 East Washington Street (subject site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for a 312-square foot outdoor seating area, **granted**.

86-UV2-92; 7470 East Washington Street (subject site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for a drive-through car wash without the required transitional yard and without the required landscaping along Burbank Road, in C-3, **granted**.

72-V3-44; 7410 East Washington Street (subject site), Variance of setback development standards and transitional yard requirements to erect a restaurant with a pole sign, as per plans filed, off-street parking provided, **granted**.

(Continued)

ZONING HISTORY – VICINITY

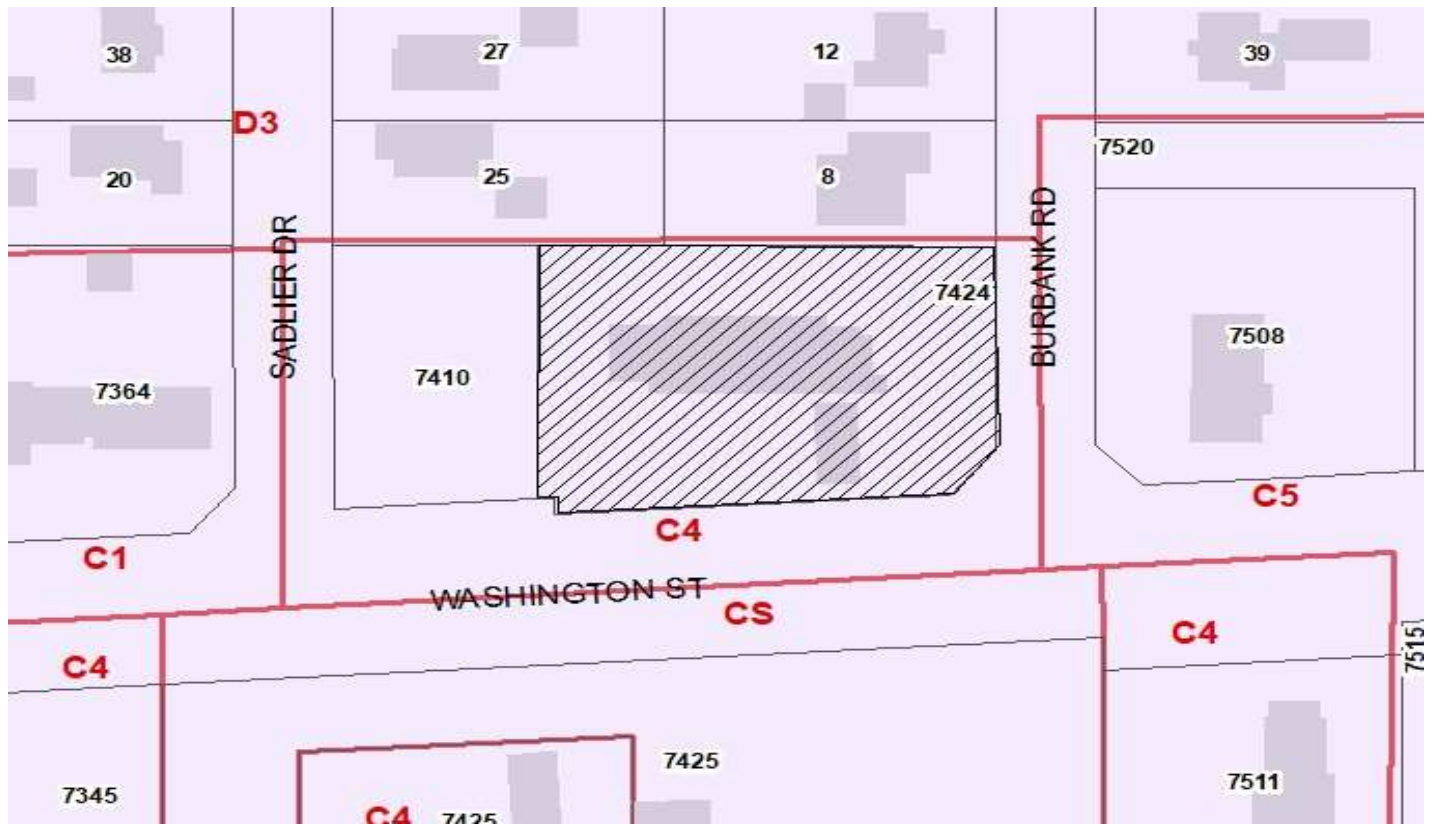
2000-ZON-143; 7340, 7360, 7362, and 7364 East Washington Street (west of site), Rezone 0.96 acre from D-3 to C-1, to provide for commercial uses, **approved**.

84-UV2-103; 7360 East Washington Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for general office uses, **granted**.

78-UV3-33; 7362 East Washington Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for a real estate office, **granted**.

MI

2023-DV3-013; Location Map



2023-DV3-013; Aerial Map





Existing cabinet: 75" x 119"

Existing cabinet: 28.25" x 58"

Existing cabinet: 20" x 58"

Existing cabinet: 33.5" x 96.25"

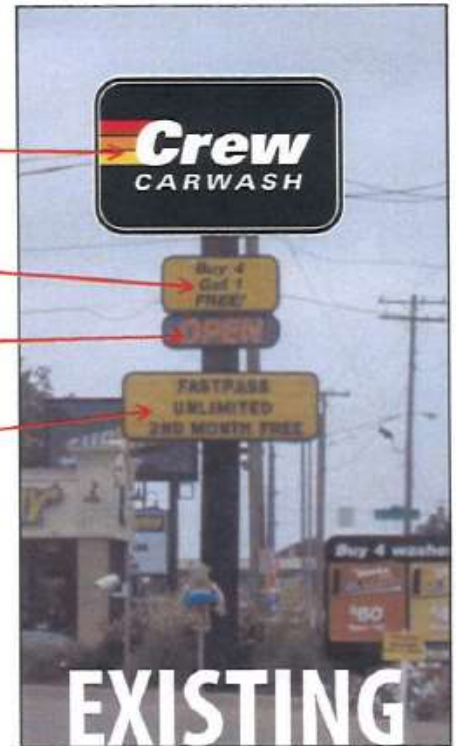


PHOTO SCALE: NOT TO SCALE

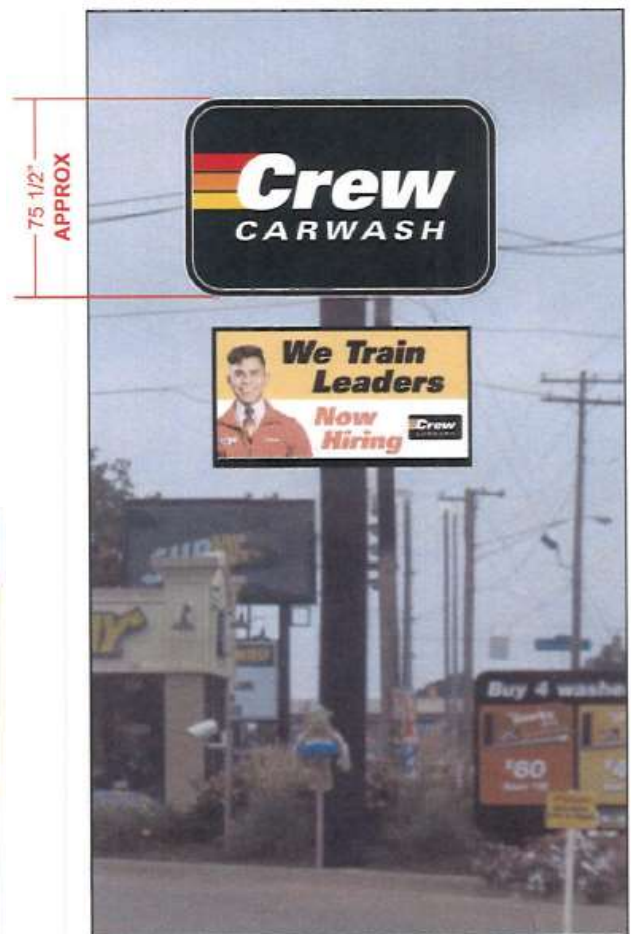


PHOTO SCALE: 3/16" = 1' - 0"





Photo of the existing pole sign at 7424 East Washington Street looking east.



Photo of the existing pole sign at 7424 East Washington Street looking west.



Photo of the protected dwelling district north and northeast of the site.



Photo of the restaurant and freestanding signs east of the subject site.



Photo of the protected dwelling district north and northwest of the site.



Photo of the freestanding signs and commercial uses south of the site.



Photo of the freestanding signs and commercial uses southwest of the site.

STAFF REPORT

Item 10.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-005
Address: 5220 East Minnesota Street (approximate address)
Location: Warren Township, Council District #18
Zoning: D-5 (FW) (FF)
Petitioner: Sandra Biamonti, by Timothy O'Connor
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of a commercial vehicle and a permanent portable storage container (not permitted, portable storage containers limited to 30 consecutive days).

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-5	Single-family dwelling.
-----	-------------------------

SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwellings
South -	D-3	Single-family dwellings
East -	D-5	Single-family dwelling
West -	D-5	Single-family dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood uses for the subject site.
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VARIANCE OF USE

- ◇ The purpose of the D-3 district is to provide for areas of medium intensity single-family residential development. The application of this district will be found within urban built-up areas, and where all urban public and community facilities are available. The district is not intended for suburban use. The D-5 district has a typical density of 4.5 units per gross acre. The storage of commercial vehicles and permanent portable storage containers are not permitted in the D-5 District.
- ◇ The Comprehensive Plan recommends suburban neighborhood development at this site. The suburban neighborhood land use plan recommendation is to provide for predominately single-family housing but interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. This typology recommends a density range of 1 to 5 dwelling units per acre, but higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

(Continued)

- ◇ The large lot size should not allow for disregard of the Comprehensive Plan recommendation, nor of the clearly residential nature of the surrounding area.
- ◇ Vehicle classification is based on size and weight, and larger sized trailers would meet the definition of a commercial vehicle. In this case, any trailer, open or enclosed, with a cargo holder measuring more than 12 feet in length would be considered a commercial vehicle. The trailer stored on the subject site is 30 feet in length. Therefore, even though the trailer would be used for personal uses, it would still be classified as a commercial vehicle.
- ◇ The storage of a commercial vehicle (trailer) is permitted in the C-7 district or any industrial district since it is classified as a heavy commercial service in Table 743-1: Use Table.
- ◇ Commercial or industrial uses, when located on accurately zoned properties, require transitional yards to buffer such intense uses from protected districts which include dwellings and schools. In this instance, the proposed use would not be required to provide such buffer areas since the D-5 district is intended to be utilized for less intense uses such as residential neighborhoods. Therefore, the site provides insufficient screening to the surrounding dwellings, which staff finds concerning.
- ◇ The portable storage container is a truck container box, as seen in staff photo #4, and not intended to be used as a permanent residential storage shed. Permanent residential accessory structures have a residential form and are regulated by the Residential Building Code. The proposed portable storage container has a heavy commercial/industrial form and is not regulated by the Residential Building Code.
- ◇ Although the storage of a commercial vehicle and a portable storage container is proposed due to the large size of the lot, staff has concerns if this petition were to be approved, that the storage of commercial vehicles and portable storage containers could potentially expand on other surrounding large lots based on the availability of land.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-5 and could be used by any number of uses permitted, by right, in the D-5 zoning classification without any variances. Any practical difficulty is self-imposed by the petitioner's desire to choose to not follow the ordinance and use the site for the storage of a commercial vehicle and temporary storage container.

(Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	<p>This portion of East Minnesota Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 90-foot existing and proposed right-of-way.</p> <p>This portion of South Butler Avenue 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.</p> <p>This portion of South Spencer Avenue 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.</p>
SITE PLAN	File-dated March 1, 2023
FINDINGS OF FACT	File-dated March 1, 2023

ZONING HISTORY

2008-HOV-031; 1711 South Emerson Avenue (south of site), requested a variance of use to legally establish a single-family dwelling in the C-3 district, **granted**.

2006-HOV-035; 5438 East Minnesota Street (east of site), requested a variance of development standards to legally establish a single-family dwelling with a 4.66-foot west side setback, and a four-foot east side setback, with an 8.66-foot side yard aggregate, and to provide for a 233-square foot addition with a ten-foot west side setback, and 82.63 percent lot open space, **granted**.

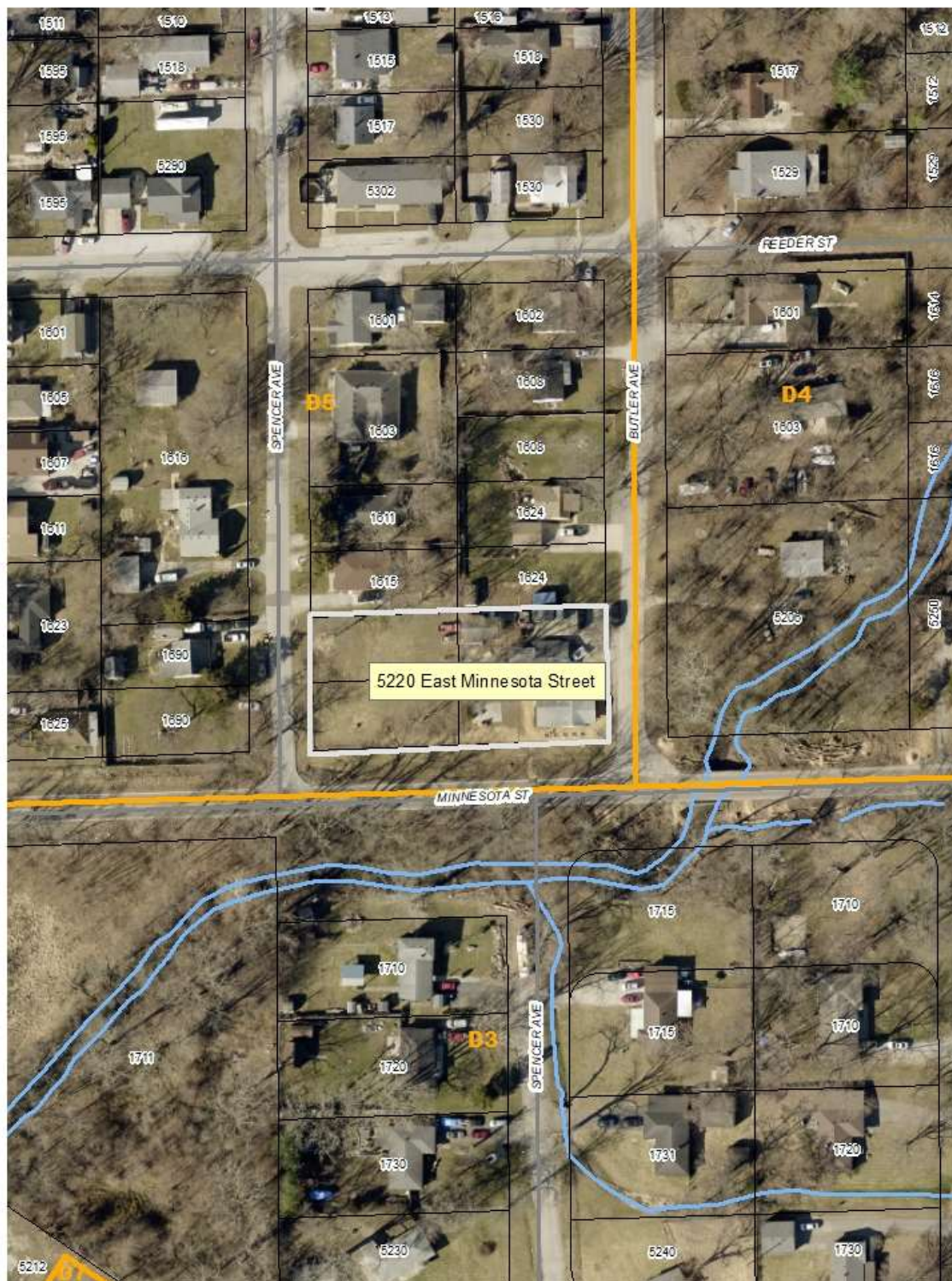
2000-HOV-020; 1418 S Butler Avenue (north of site), requested a variance of development standards to provide for the construction of a 24 by 30-foot detached garage, creating an accessory building area of 960-square feet or 78.1 percent of the main floor of the primary dwelling, **granted**.

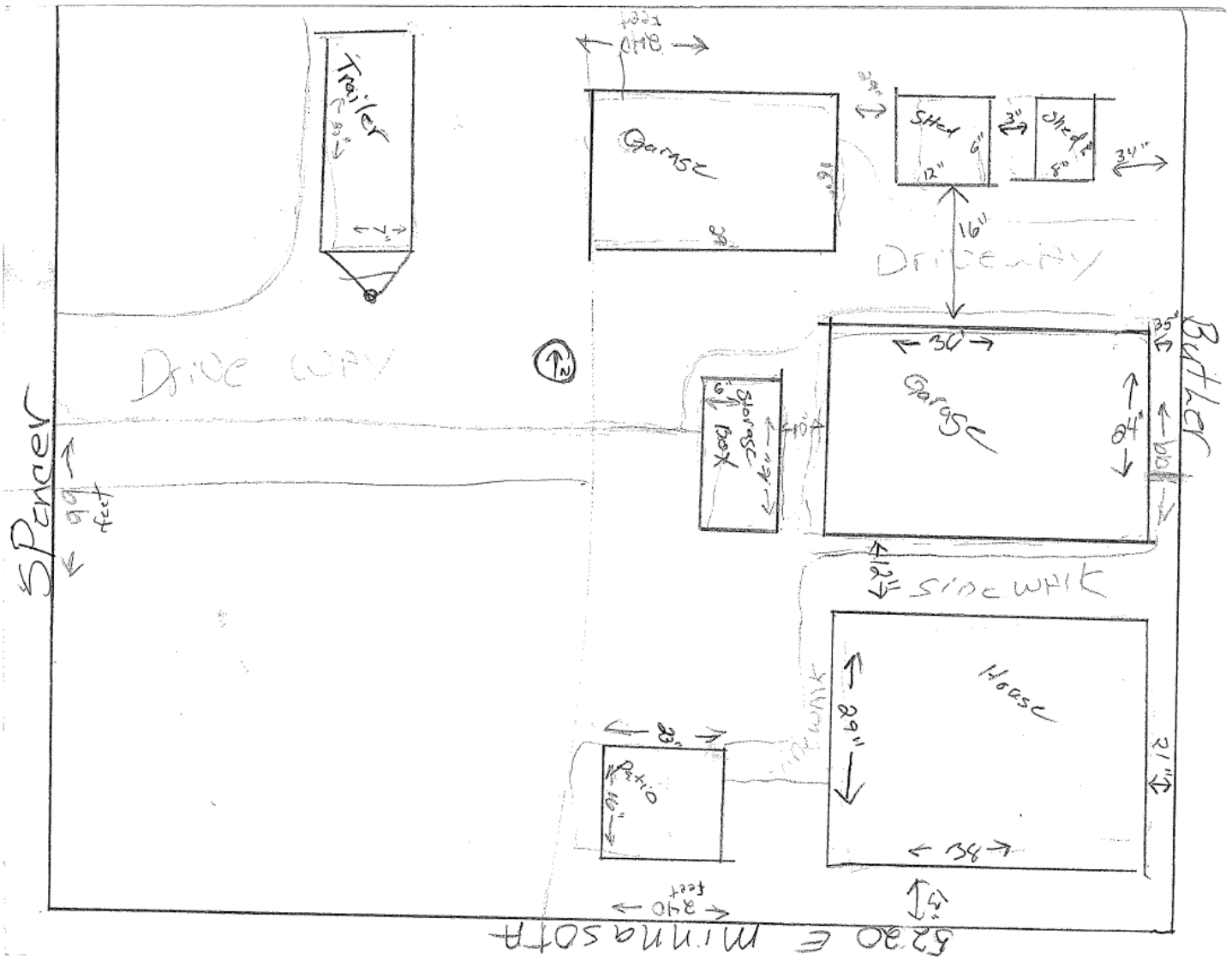
2000-UV1-045; 5260 Southeastern Avenue (south of site), requested a variance of use to legally establish a 1,119.36 square foot single-family dwelling, and provide for the construction of a 10- by 19-foot attached deck, located within the proposed right-of-way of Southeastern Avenue, **granted**.

93-V3-27; 1523 South Emerson Avenue (west of site), requested a variance of development standards to permit the construction of a carport with a side yard setback of one foot, and a rear yard setback of four feet, **granted**.

RU

2023-UV3-005; Location Map







1) Subject site dwelling, looking west.



2) Subject site, looking east.



3) 30-foot long commercial trailer on subject site, looking north.



4) Portable storage container on subject site, looking southeast.



5) Adjacent single-family dwelling to the north, looking east.



6) Adjacent single-family dwelling to the west.



7) Adjacent single-family dwelling to the east.

STAFF REPORT

Item 11.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-007
Address: 7802 Hague Road (approximate address)
Location: Lawrence Township, Council District #4
Zoning: SU-2
Petitioner: Metropolitan School District of Lawrence Township of Marion County, Indiana, by Joseph D. Calderon
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a 12-foot-tall monument sign (maximum height of five feet permitted) with digital display within 80 feet of a protected district (not permitted, no digital display permitted within 400 feet of a protected district).

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

SU-2	Lawrence North High School
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SURROUNDING ZONING AND LAND USE

North -	SU-37 / D-2	Library / Single-Family Dwellings
South -	D-6	Multi-Family Dwellings
East -	D-P	Single-Family Dwellings
West -	D-P	Multi-Family Dwellings

COMPREHENSIVE PLAN The Comprehensive Plan recommends regional special use for the site.

- ◇ A previous variance (2006-DV1-001) requested a variance of development standards of the Sign Regulations to provide for a 7.33-foot tall, 50.83 square-foot pylon sign within 100 feet of a protected district where a minimum 600 feet separation is required for signs over four feet tall and containing an Electronic Variable Message Sign (EVMS) component (not permitted) comprising 60 percent of the sign area. That variance request was granted.

VARIANCE OF USE

- ◇ This proposal would allow the existing sign to be replaced with a 12-foot tall, monument sign, with digital display within 80 feet of a protected district. The digital display (EVMS) is not permitted in and SU district, and when allowed, it is not permitted within 400 feet of a protected district. The Ordinance has been constructed to limit these signs near protected districts, because of their scrolling displays, brightness and aesthetic impact on protected districts.

(Continued)

STAFF REPORT 2023-UV3-007 (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.
- ◇ There are no buildings or landscaping that would obscure the proposed EVMS from the impacted dwelling districts. This sign, therefore, would clearly impact the dwellings to the east because of its brightness and aesthetic impact. The petitioner has submitted seven proposed commitments to the file, in their attempt to reduce the impact on the adjacent protected district. They are included in this Staff report.
- ◇ The granting of this request would continue the intensification of the EVMS component on the subject site, providing no relief to the adjacent protected districts. Since the previous granted EVMS sign has existed for approximately 17 years without the need for an increase in sign size, the proposed request has no practical difficulty, other than the property owners desire of providing consistent signage for all of their properties in the district. Consistent signage can be provided without the variances requested. In addition, the previously approved sign can continue to be used as granted, without the need for the requested variances resulting in an increase in the size of the proposed sign.
- ◇ If this variance grant shall be approved, a precedent continues to be set, and the property owner could possibly return in another 17 years, and request another 5-foot increase in sign height, similar to this increase, for a 17-foot tall sign with an even larger EVMS component being 40% of that increased sign size.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for the proposed monument sign to be 12-foot tall, and for the proposed electronic variable message sign (EVMS) to be located within 80 feet of a protected district, where a 400-foot separation is required where permitted. In this case, single-family dwellings are located immediately to the east across Hague Road. In addition, multi-family dwellings are located to the south.
- ◇ The Ordinance was developed to limit the incidence of these signs near protected districts because of their scrolling displays, brightness, and negative aesthetic impact for 24 hours a day, 365 days a year.

(Continued)

- ◇ No practical difficulty in the use of this property would result from denial of this variance request., as the previously granted sign could continue to be used. The petitioner's proposed findings indicate the size of the campus requires the need for the additional messaging. However, in developing the Sign Regulations, it was determined that the impact of EVMS signs on protected districts outweighed the positive aspects of such signs. The proposed sign has no physical barriers that prevent the community from visually seeing the sign. There is no reason that a manual reader board, although not typically essential to the operation of a high school, could be used, along with social media and other alternative communication methods.
- ◇ Any practical difficulty is self-imposed by the petitioner's desire to choose to not follow the ordinance for their purposes of providing consistent signage, by proposing a sign larger than the Ordinance allows and within the protected district separation which is not allowed.
- ◇ In staff's opinion, the requested sign, with an increase in height from the previous granted sign, and its proposed 80 feet of separation from the protected district would degrade the quality of life in the area and because there is no practical difficulty that would justify the increase in intensity of the proposed sign, staff recommends denial of the request.

GENERAL INFORMATION

THOROUGHFARE PLAN	This section of Hague Road is classified on the Official Thoroughfare Plan as a primary collector, with a 116-foot existing and proposed right-of-way.
SITE PLAN	File-dated March 17, 2023
ELEVATIONS	File-dated March 17, 2023
FINDINGS OF FACT	File-dated March 17, 2023

ZONING HISTORY

2018-DV1-033; 7250 East 75th Street (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a twelve-foot tall, freestanding sign, electronic variable message sign, comprising approximately 47% of the sign area, within approximately 150 feet of the nearest protected district, **granted**.

2006-DV1-001; 7802 Hague Road (subject site), requested a variance of development standards of the Sign Regulations to provide for a 7.33-foot tall, 50.83 square-foot pylon sign within 100 feet of a protected district (minimum 600 feet separation required for signs over four feet tall) containing an Electronic Variable Message Sign (EVMS) component (not permitted) comprising 60 percent of the sign area, **granted**.

2001-UV1-039; 8004 Hague Road (north of site), requested a variance of use to legally establish a 625 square floor chiropractic office within an existing single-family dwelling, **denied**.

(Continued)

2000-UV3-010; 7871 Hague Road (east of site), requested a variance of use and development standards to legally establish an existing landscape business, with existing side setbacks of 20 feet along the north property line and fifteen feet along the south property line, parking encroaching 20 feet into the proposed right-of-way of Hague Road, a display area encroaching five feet into the proposed right-of-way of Hague Road, a front building setback of 29 feet, and to provide for a 1,675 square foot office/design addition, with a front setback of 29 feet, **granted**.

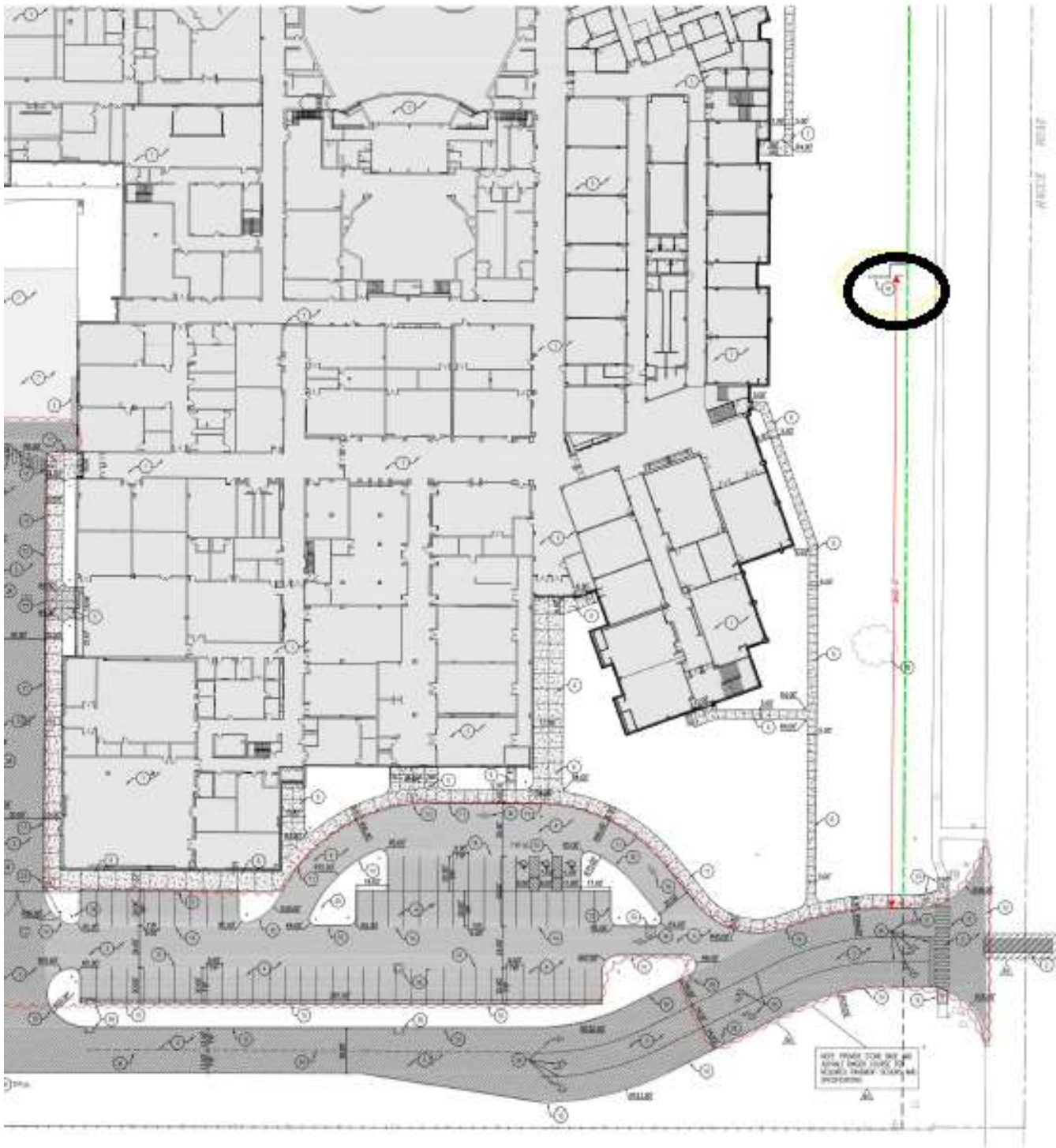
97-HOV-92; 7898 Hague Road (north of site), requested a variance of development standards of the Sign Regulations to provide for the placement of an incidental sign with a surface area of nine-square feet and being four feet in height with the following conditions: all development shall comply with the Sign Regulations development standards, except as modified by this petition, and all development shall substantially comply with the site plans and elevations, file-dated September 22, **granted**.

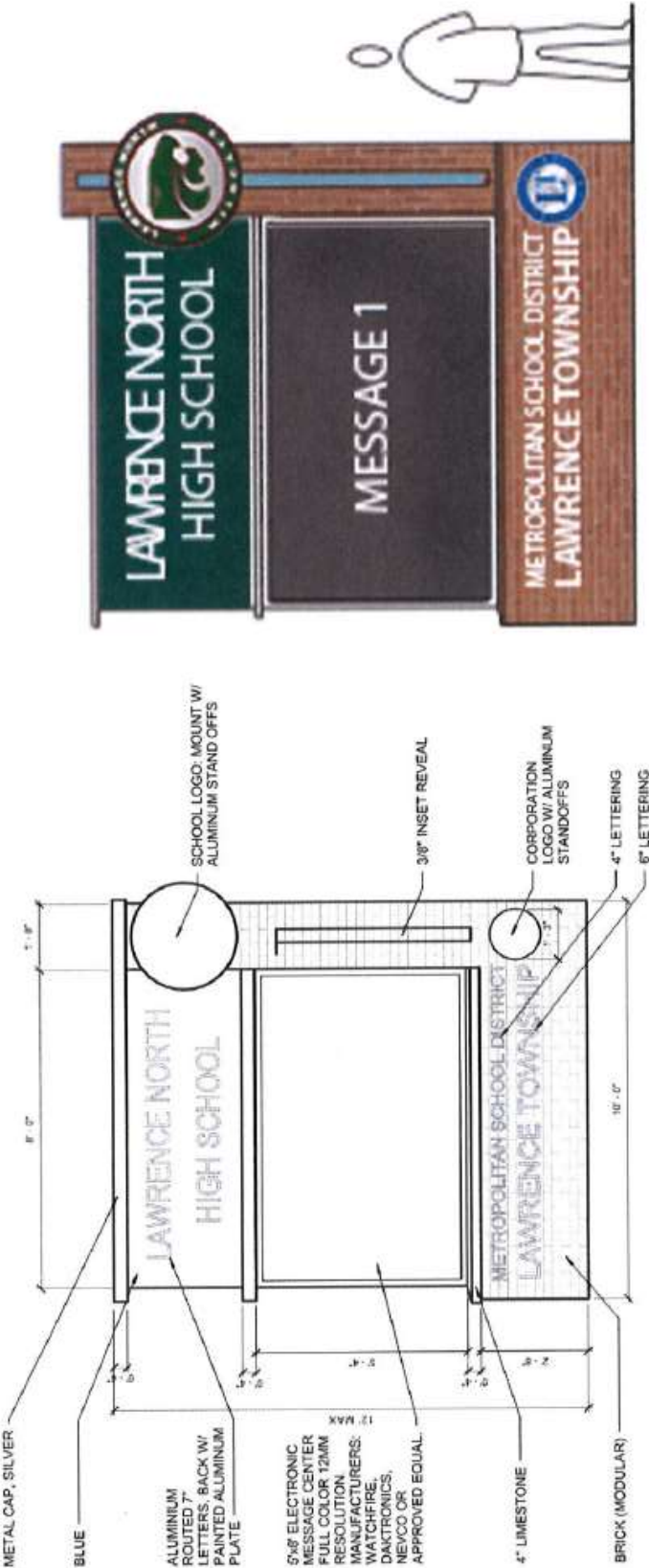
RU

2023-UV3-007: Location Map









**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE
IN CONNECTION WITH A VARIANCE, SPECIAL EXCEPTION OR APPROVAL GRANT.**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description: See Exhibit "A" attached hereto and incorporated by reference (the "Subject Property").

Statement of COMMITMENTS:

1. There shall be no blinking, scrolling, flashing or video type messages on the proposed digital display sign ("Digital Display Sign"). All messages shall change instantaneously.
2. All messages on the Digital Display Sign shall remain static for at least thirty (30) seconds.
3. There shall be only one static message on the Digital Display Sign between the hours of 7:30 a.m. and 9:00 a.m., and 4:00 p.m. to 6:00 p.m. during the weekdays (Monday through Friday).
4. The Digital Display Sign shall be programmed to automatically dim the level of brightness during hours the sign is permitted to be on after sunset and before sunrise.
5. The Digital Display Sign shall be turned off completely between the hours of 10:00 p.m. and 6:00 a.m.
6. The primary color of any monochromatic message shall not be red, yellow or green.
7. The variance is granted to the Metropolitan School District of Lawrence Township and should the Subject Property be sold, the variance shall automatically terminate.

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

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition # 2023-UV3-007 by the Metropolitan Board of Zoning Appeals or the Hearing Officer.



View of subject site, looking southwest



View of proposed sign location, looking west



View of protected district to the east



View of protected district to the southeast



View of multi-family dwellings to the south



View of library and protected district to the north