



Board of Zoning Appeals BZA Division III (March 21, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, March 21, 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-DV3-007 (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 Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a four-foot west side yard setback (15-foot side yard required).

****Petitioner requests a continuance to the April 18, 2023 hearing**

2. 2023-UV3-003 | 3146 and 3202 Arbor Street (approximate address)

Perry Township, Council District #20, Zoned D-4 (FF)

Jose Ariza

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a commercial contractor with outdoor storage and multiple commercial vehicles (not permitted) with a parking area in the front yard greater than 30 feet in width (maximum 30-foot wide parking area permitted) and a six-foot fence within the front yard of Arbor Street and a four-foot fence in the front yard of Arbor Street and Murray Street, encroaching within the clear sight triangle of these intersecting streets (maximum 3.5-foot tall fence permitted in front yards, encroachment of clear sight triangle not permitted).

**** Staff requests continuance to the April 18, 2023 hearing**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

3. 2022-DV3-046 (2nd Amended) | 1321 Sturm Avenue (approximate address)

Center Township, Council District #17, Zoned D-8

Chase & Kristin Glassburn, by David Kingen & Emily Duncan

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

- a) The construction of an addition, with a two-foot rear setback (15-foot rear setback required); and
- b) A six-foot fence within the front yard of Oriental Street (maximum 3.5-foot-tall fence permitted).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

4. 2023-DV3-006 (Amended) | 6039 South Harding Street (approximate address)

Perry Township, Council District #20, Zoned D-A (FF)

Robert E. Wampler and Linda L. Waites

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for:

- a) A carport and mini barn located within the front yard of Harding Street, and with a 20-foot front yard setback from Harding Street (accessory structures not permitted in front of the primary building, 35-foot front yard setback required);
- b) A mini barn with a six-foot north side yard setback, and another with an eight-foot north side yard setback, resulting in a 50-foot aggregate side yard setback (minimum 30-foot side yard setback, 75-foot aggregate side yard setback required); and
- c) Resulting in an open space of 82% (85% open space required).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

5. 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).

6. 2022-UV3-039 | 1751 South Meridian Street (approximate address)

Center Township, Council District #16, Zoned C-1

Derick Williams, by Hannah Able

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an event center and eating establishment, with a parking area maintaining a zero-foot transitional yard along the alley and a two-foot north transitional yard (eight-foot transitional yard along alley and 10-foot side transitional yard required), a trash enclosure and an outdoor patio with a five-foot transitional yard along Caven Steet (10-foot front transitional yards required).

7. 2023-DV3-002 (Amended) | 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).

8. 2023-DV3-003 | 1739 and 1795 North Shadeland Avenue (approximate address)

Warren Township, Council District #19, Zoned MU-2

VAG Indiana LLC, by Ryan Grassly

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.

*****Petitioner has requested that this petition be withdrawn**

9. 2023-DV3-005 | 7548 East Washington Street (approximate address)

Warren Township, Council District #19, Zoned C-5 (TOD)

Ray Skillman Realty LLC, by Michael Kalberg

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a car dealership with:

- a) A surface parking lot with a six-foot front yard setback from Washington Street and Mitchner Avenue (25-foot setback required along Connector Frontages, improvements not permitted within the front setback);
- b) A surface parking lot maintaining a 56% width of the lot at the front building line along Washington Street and 64% width of the lot along Mitchner Avenue (40% maximum width of the lot along Connector Frontages);
- c) Three single-loaded rows of parking in front of the building along Washington Street (one double-loaded row of parking permitted);
- d) A building with a 125' front setback from Washington Street and a 30-foot front setback from Mitchner Avenue (maximum 25-foot front yard setback permitted), a 46% width along Washington Street and 13% along Mitchner Avenue (minimum building width of 60% required);
- e) A zero-foot transitional yard along the northern lot line (15-foot transitional yard required);
- f) Deficient landscaping; and
- g) 29 and 30-foot wide driveway widths (24 feet maximum width permitted).

10. 2023-UV3-004 | 3049 North Post Road (approximate address)

Warren Township, Council District #14, Zoned I-3

Volumod Indy LLC, by David Gilman

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the outdoor display and sales of modular homes within the required front yard and not abutting a building exterior wall and a 48-foot front setback from Post Road (not permitted, 60-foot front yard setback required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

11. 2023-DV3-008 | 5030 Southport Crossing Place (approximate address)

Perry Township, Council District #24, Zoned C-4

McDonald's Corp., by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a restaurant remodel resulting in drive through service units and stacking spaces within the front yards of Emerson Avenue and Southport Road (not permitted), a dumpster enclosure within the front yard of Southport Road (not permitted) and without the required screening along the entirety of the drive through within the front yard of Southport Road or walkways connecting public entries to the sidewalk (required).

12. 2023-DV3-009 | 10700 East Troy Avenue (approximate address)

Warren Township, Council District #19, Zoned D-A (FF) (FW)

Joel Wesseling

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling and related accessory structures on a lot without street frontage (125 feet of frontage required).

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-DV3-007
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 Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a four-foot west side yard setback, resulting in a 14-foot aggregate side yard setback (30-foot side yard, 75-foot aggregate side yard setbacks required).

The petitioner is requesting a **continuance for cause, from the March 21, 2023, hearing, to the April 18, 2023, hearing**, to allow time to amend the request and provide new notice.

RU

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

Case Number: 2023-UV3-003
Address: 3146 and 3202 Arbor Street (approximate address)
Location: Perry Township, Council District #20
Zoning: D-4 (FF)
Petitioner: Jose Ariza
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a commercial contractor with outdoor storage and multiple commercial vehicles (not permitted) with a parking area in the front yard greater than 30 feet in width (maximum 30-foot wide parking area permitted) and a six-foot fence within the front yard of Arbor Street and a four-foot fence in the front yard of Arbor Street and Murray Street, encroaching within the clear sight triangle of these intersecting streets (maximum 3.5-foot tall fence permitted in front yards, encroachment of clear sight triangle not permitted).

This petition was automatically continued from the February 21, 2023 hearing to the March 21, 2023 hearing at the request of a registered neighborhood organization.

This petition would **need to be continued from the March 21, 2023 hearing to the April 18, 2023 hearing** to allow the petitioner additional time to amend the request and provide proper notice.

MI

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-046 (2nd Amended)
Address: 1321 Sturm Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: Chase & Kristin Glassburn, by David Kingen & Emily Duncan
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish the existing two-foot rear yard setback of Lot 24 (15-foot rear setback required); and on Lot 25, provide for:
 a) The construction of an addition, with a two-foot rear setback (15-foot rear setback required); and
 b) A six-foot fence within the front yard of Oriental Street (maximum 3.5-foot-tall fence permitted).

This petition was automatically continued by a registered neighborhood organization, from the November 2022, hearing, to the December 20, 2022, hearing.

A continuance for cause was requested by the petitioner, from the December 20, 2022, hearing, to the January 17, 2023, hearing, to allow time to submit additional information and amend the request.

A second continuance for cause was requested by the petitioner, from the January 17, 2023, hearing to the February 21, 2023, hearing, with additional notice, to amend the request.

A third continuance for cause was requested by the petitioner, from the February 21, 2023, hearing to the March 21, 2023, hearing, with additional notice, to amend the request.

RECOMMENDATIONS

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

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-8

Single-family dwelling with a side yard

SURROUNDING ZONING AND LAND USE

North - D-5

Single-family dwellings

South - D-8

Single-family dwellings

East - D-8

Single-family dwelling

West - D-8

Single-family dwelling

(Continued)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Traditional Neighborhood uses, with an overlay for the Blue Line Transit Oriented Development.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Setbacks are required to keep a minimum distance between property improvements and help reduce drainage overflows onto adjacent properties. Additionally, setbacks provide the required space needed to construct and maintain structures on a property without requiring access through adjacent properties. A setback of less than three feet from the property line requires additional fire-rating.
- ◇ The request to legally establish the existing two-foot rear dwelling setback, would have minimal impact as the existing setback has existed since approximately 1999, and has caused no problems to Staff's knowledge. The request to provide for a proposed addition, with a two-foot rear setback, would roughly match the rear setback of the existing dwelling. Therefore, Staff believes that the request to legally establish the existing two-foot rear dwelling setback and provide for a proposed addition with a two-foot rear setback, would have no impact on the streetscape or the surrounding property owners and would represent a minor deviation from the Ordinance.
- ◇ Staff would note that the petitioner has indicated there will be a pass-through door between living spaces of the existing primary dwelling and the addition, indicating it is an expansion of the dwelling. If the addition is not connected internally to the primary dwelling or has a solid wall between the primary dwelling and the added space, then it would be considered as a second dwelling or duplex, and an additional variance may be required.
- ◇ The request to provide for a six-foot fence within the front yard of Oriental Street, is a result of the site having two street frontages. In this instance, the subject site was previously used as a side yard for the adjacent western lot. The proposed six-foot fence within the front yard of Oriental Street has been in existence since 2007. The fence is setback from the sidewalk approximately eight feet, with ornamental trees planted in between. Therefore, Staff believes that the requested six-foot fence within the front yard of Oriental Street would represent a minor deviation from the Ordinance.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of Sturm 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.

This portion of Oriental Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 48-foot existing right-of-way, and a 56-foot proposed right-of-way.

SITE PLAN (AMENDED TWICE)

File-dated February 28, 2023.

FINDINGS OF FACT (AMENDED)

File-dated February 28, 2023.

(Continued)

STAFF REPORT 2022-DV3-046 (Continued)**ZONING HISTORY**

2017-HOV-014; 1315 Sturm Avenue (west of site), requested a variance of development standards to provide for a single-family dwelling with a 15-foot front setback, and a seven-foot separation between dwellings, **granted**.

2017-DV2-041; 1310 Sturm Avenue (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage, with a secondary dwelling, creating an open space of 50%, **granted**.

2014-DV3-016; 1301 Sturm Avenue (west of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 158-square foot screened porch addition, with an approximately 2.5-foot east side setback, creating an approximate 6.5-foot aggregate side setback, **granted**.

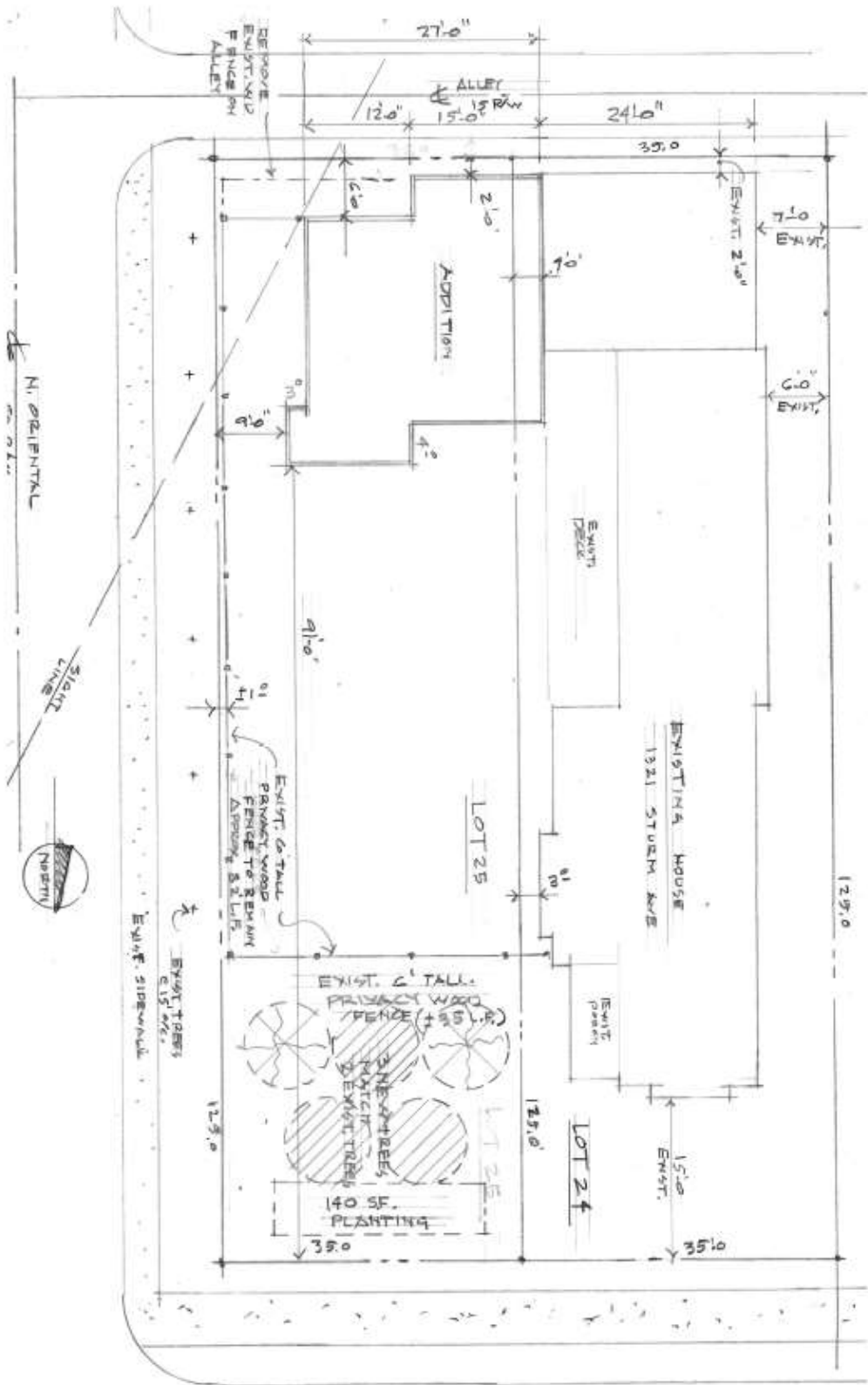
2011-DV3-018; 1402 East Vermont Street (south of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 24 by 32-foot accessory structure, with 50.7% open space, **granted**.

2005-DV2-048; 1315 and 1319 East Vermont Street (south of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 480-square foot detached garage with a zero-foot east side yard setback and a six-foot west side yard setback, **granted**.

2001-UV3-035(b); 1320 East Vermont Street (south of site), requested a variance of development standards of the Dwelling District Zoning Ordinance to legally establish a two-foot side yard setback for the existing dwelling and a three-foot side yard setback for the existing garage, **granted**.

RU







Front of subject site lot 24, looking south.



Front of subject site lot 25, looking south.



Existing two-foot rear setback of the dwelling, and area of addition, looking northwest.



Existing six-foot fence in the front yard or Oriental Street, looking southwest.



Adjacent property to the north, looking northwest.



Adjacent properties to the east, looking southeast.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-006
Address: 6039 South Harding Street (approximate address)
Location: Perry Township, Council District #20
Zoning: D-A
Petitioner: Robert E. Wampler and Linda L. Waites
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for:

- a) A carport, being taller than the primary building, and another mini barn located within the front yard of Harding Street, and with a 20-foot front yard setback from Harding Street (accessory structures not permitted in front of, or taller than, the primary building, 35-foot front yard setback required);
- b) A mini barn with a six-foot north side yard setback, and another with an eight-foot north side yard setback, resulting in a 50-foot aggregate side yard setback (minimum 30-foot side yard setback, 75-foot aggregate side yard setback required); and
- c) Resulting in an open space of 82% (85% open space required).

ADDENDUM FOR MARCH 21, 2023

This petition was heard at the February 21, 2023 hearing but resulted in an indecisive vote of 2-1 opposed and was therefore continued to the March 21, 2023 hearing.

At the February hearing, Petitioner committed to reducing the height of the carport to a height less than that of the primary structure.

Petitioner submitted additional documents on March 15, 2023. Those documents include an amended site plan with additional details regarding the size and location of the septic system. While the septic system does occupy a substantial portion of the rear yard, sufficient area remains within the rear and south side yards for the carport, therefore, staff **continues to recommend denial** of this request.

If the Board is inclined to vote against staff's recommendation, staff would request that Petitioner retain all existing landscaping within the front yard.

February 21, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

(Continued)

STAFF REPORT 2023-DV3-006 (Continued)**LAND USE****EXISTING ZONING AND LAND USE**

D-A	Metro	Residential
-----	-------	-------------

SURROUNDING ZONING AND LAND USE

North	C-S	Union Hall
South	C-S	Fleet Terminal
East	D-A	Residential (Single Family)
West	I-2	Food Processing/Packaging

LAND USE PLAN

The Comprehensive Plan recommends office commercial development.

- ◇ The .43-acre site is developed with a single-family residence and three accessory structures. The residence is a 1,121 sq ft single story home built in approximately 1965.
- ◇ The site is bounded by commercial to the north and south, light industrial to the west, and single-family dwellings to the east.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would allow:
 - An accessory structure (carport) to remain in a front yard where the ordinance only permits accessory structures within side or rear yards; within a front setback which no structures are permitted (at about 20' from the right of way where 35' is required); and which is taller than the primary structure where ordinance requires all accessory structures to be subordinate so they may not be larger or taller than the primary structure.
 - A second accessory structure (shed) to remain in the front yard and 6' from the north side lot line and a third structure (shed) to remain 8' from the north side lot line where 15' side yard setback is required as an exception to the 30' requirement for homes in the D-A district built prior to 1989.
 - An open space deficiency of 82% where 85% is required in the D-A district. No more than 15% of the lot may be covered by structures. In this case, the home, carport, and three sheds cover 18% of the lot.

DEVELOPMENT STANDARDS FINDINGS OF FACT

- ◇ Criterion 3 states "THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL RESULT IN PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY BECAUSE." The petitioner's response is "The property is located in a 100-year flood zone. The relocation of the sheds to other locations puts them at risk due to standing water during heavy rains."

(Continued)

- The subject site has a rear yard of a size and topography which would accommodate a reasonable amount of residential accessory structures. Because the entire property is of a consistent elevation and within the flood zone, staff finds no practical difficulty which would prohibit the placement of the accessory structures within the rear yard. Staff could find no other practical difficulty which exists to allow for an accessory structure taller than the primary structure, insufficient open space, or reduced setbacks.

GENERAL INFORMATION

THOROUGHFARE PLAN

South Harding Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with an 80-foot existing right-of-way.

SITE PLAN

File-dated January 17, 2023.

FINDINGS OF FACT

File-dated January 17, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: VIO22-007767, December 2022

◇ **Section 740-1005.A.2.**

Failure to obtain an Improvement Location Permit when one is required by the terms and provisions of the Zoning Ordinance; (740-801.A.3. - Failure to obtain an Improvement Location Permit (ILP) for mini-barn, shed, or carport exceeding 200sq. feet).

◇ **Section 740-1005.A.3.**

The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use; (Scrap wood, crates, sheet metal, buckets, tarps, and other miscellaneous items throughout the property).

◇ **Section 740-1005.A.4.**

The outdoor storage of inoperable vehicles or vehicle parts in any zoning district, the provisions of which do not specifically permit such a use; (Truck camper shell, and other miscellaneous vehicle parts throughout the property).

◇ **Section 740-1005.A.8.**

Failure to comply with use-specific standards and zoning district development standards for the D-A district; (743-306.4.a - Detached accessory structures shall not be located closer to any front lot line than the established front yard setback....Mini-barn/shed and carport).

◇ **Section 740-1005.A.8.**

Failure to comply with use-specific standards and zoning district development standards for the D-A district; (743-306.AA.1.b - No recreational vehicle shall be parked outside in the front yard, unless parked on a hard surfaced area of the driveway or interior access drive).

◇ **Section 740-1005.A.8.**

Failure to comply with use-specific standards and zoning district development standards for the D-A district; (Table 744-201-1: - Mini-barn/shed located in the 15 ft. side yard setback).

(Continued)

STAFF REPORT 2023-DV3-006 (Continued)

PREVIOUS CASES: None.

ZONING HISTORY – VICINITY

2004ZON018; 1319 West Edgewood Avenue (south and east of site), Rezoning of 14 acres from the C-3 district to the C-S district classification, **approved**.

99-Z-48; 1319 West Edgewood Avenue (south and east of site), Rezoning of 6.2 acres from the D-A district to the C-S district classification, **approved**.

99-Z-29; 6030 South Harding Street (west of site), Rezoning of 2 acres from the D-A district to the I-2 district, **approved**.

96-Z-74; 6007 South Harding Street (north of site), Rezoning of .81 acres from the D-A district to the C-S district, **approved**.

BB

(Continued)

2023-DV3-006; Location Map



Location map



Location map with floodplain

(Continued)

2023-DV3-006; Aerial Map



(Continued)

6039 S. Harding St
Indpls, IN 46217
MARION CO - Perry Twp

The site plan is drawn on a grid. A horizontal line at the top is marked with 'x's and labeled '6039 S. Harding St' and 'MARION CO - Perry Twp'. A vertical line on the left is labeled 'Property line'. A vertical line on the right is labeled 'Drive way'. A horizontal line at the bottom is labeled 'Road Harding St' with a double-headed arrow and the number '115'. The main building is a large rectangle labeled 'Built 1965' and '1121 sq ft'. It has several smaller rooms or sections labeled with numbers: '43', '15', '12', '14', '44', '20', '22', '5', '8', '10', '12', '16', '18', '20', '22', '24', '26', '28', '30', '32', '34', '36', '38', '40', '42', '44', '46', '48', '50', '52', '54', '56', '58', '60', '62', '64', '66', '68', '70', '72', '74', '76', '78', '80', '82', '84', '86', '88', '90', '92', '94', '96', '98', '100'. A 'Septic' tank is located near the top left. A 'Well' is located near the bottom left. A 'Sidewalk' is located near the bottom left. A 'Fence' is indicated by a dashed line. A 'Property line' is indicated by a dashed line. A 'Scale 1=5'' is located on the right side.

11ft to Property line

Property line

Septic

Well

Sidewalk

Drive way

Scale 1=5'

115 Road Harding St

21

[illegible]

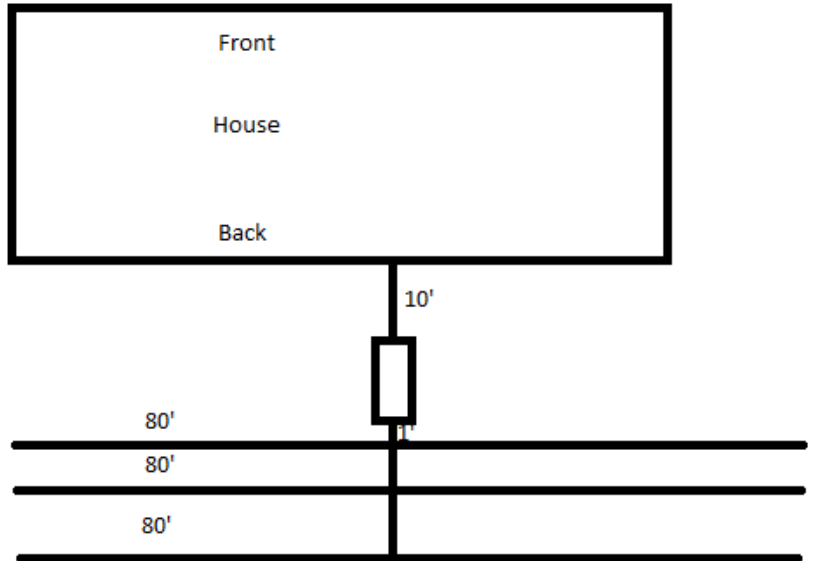
22

2023-DV3-006; Septic System Layout



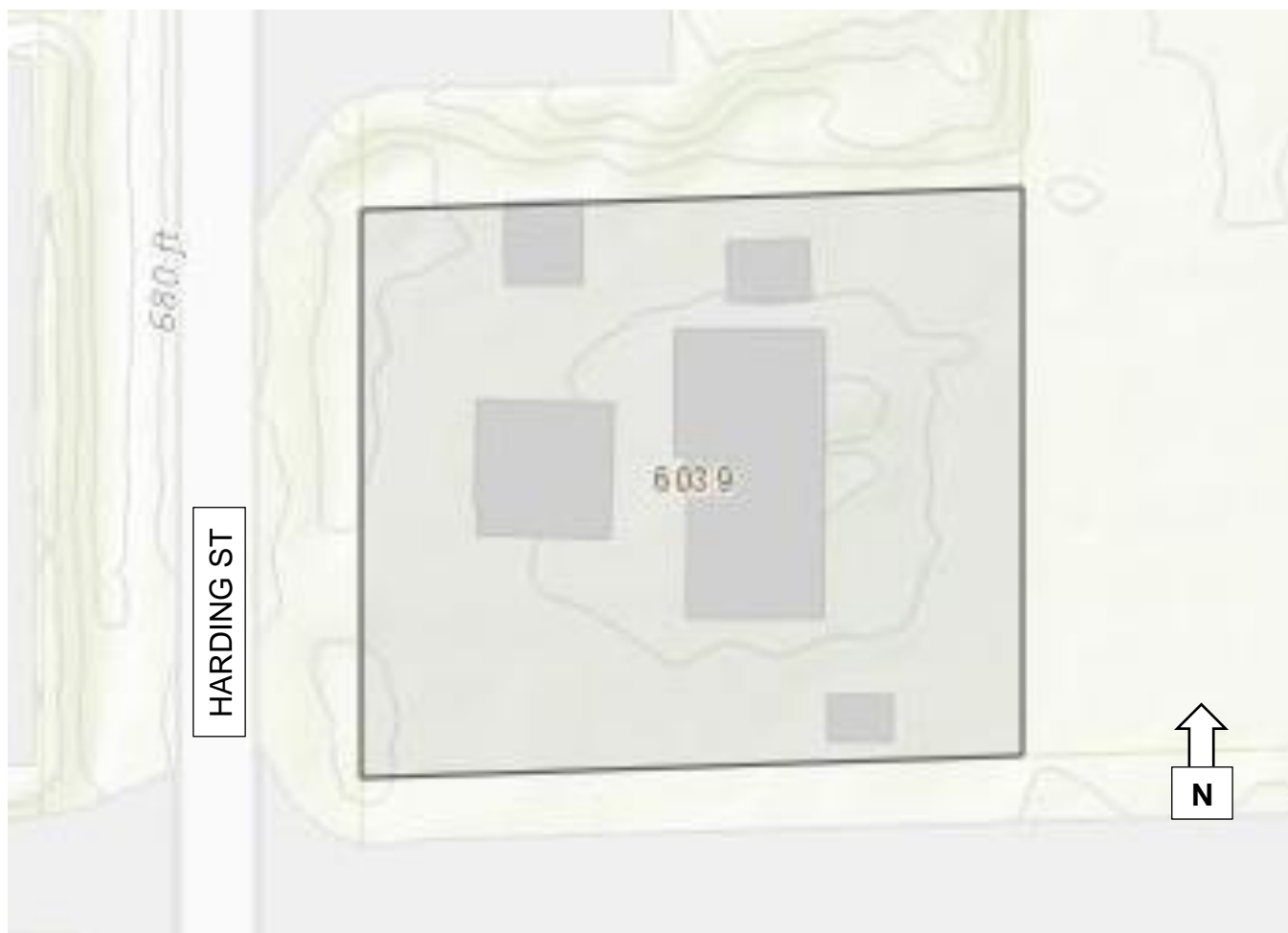
6039 S Harding St

We do not suggest building, placing, or digging within 10 ft of a septic system. This can cause problems and failure with the system and cause health hazards.



(Continued)

2023-DV3-006; Topographical Site Plan



(Continued)

2023-DV3-006; Findings of Fact

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 variances being requested involve a concrete pad and shed that have been in place since prior to purchase by petitioner in 2004. The other shed and car port have been in place since prior to 2008. They do not negatively affect the public health, safety, morals and general welfare of the community. Due to the industrialization of the area, the petitioner is now surrounded by commercial business on all four sides of his home.

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

The value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the occupants of the adjacent properties purchased/rented/occupied the properties AFTER the structures were added to the petitioner's property. If anything, the petitioner has likely had a reduction of property value due to the industrialization / commercialization of the four adjacent properties.

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

The property is located in a 100 year flood zone. The relocation of the sheds to other locations puts them at risk due to standing water during heavy rains.

(Continued)

2023-DV3-006; Photographs

Photos of the Subject Property: 6039 South Harding Street



View 1 from south, excessive height of carport



View 2 from south, inadequate front setback

(Continued)



View 1 from west, inadequate side setback from north lot line



North neighbor

(Continued)



West neighbor



South neighbor

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 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.

(Continued)

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
-----------	-------	------------

SURROUNDING ZONING AND LAND USE

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

LAND USE PLAN

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

- ◇ 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.

(Continued)

VARIANCE OF USE

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

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

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.

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.

(Continued)

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

File-dated September 2, 2022.

PLAN OF OPERATION

File-dated September 2, 2022.

FINDINGS OF FACT

File-dated September 2, 2022.

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)

(Page 3 of 3)



PLAN OF OPERATION

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

WORKFORCE:

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

CLIENTS AND CUSTOMERS:

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

PROCESSES CONDUCTED ON SITE:

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

MATERIALS USED:

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

SHIPPING AND RECEIVING:

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

WASTE:

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

(Continued)

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

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

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

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

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

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

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

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

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

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

DECISION

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

Adopted this _____ day of _____, 20__ 22

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

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

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

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

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

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

DECISION

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

Adopted this _____ day of _____, 20__ 22



Photo looking west on Edgewood Avenue.



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

(Continued)



Photo looking east on Edgewood Avenue.



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

(Continued)



Photo of 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

Item 6.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-039
Address: 1751 South Meridian Street (approximate address)
Location: Center Township, Council District #16
Zoning: C-1
Petitioner: Derick Williams, by Hannah Able
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an event center and eating establishment, with a parking area maintaining a zero-foot transitional yard along the alley and a two-foot north transitional yard (eight-foot transitional yard along alley and 10-foot side transitional yard required), a trash enclosure and an outdoor patio with a five-foot transitional yard along Caven Steet (10-foot front transitional yards required).

ADDENDUM FOR MARCH 21, 2023

This petition was continued for cause by the petitioner from the February 21, 2023, hearing, to the March 21, 2023, hearing.

The petitioner has since submitted an updated site plan, indicating the location of three bicycle parking spaces.

Staff continues to recommend denial of the request.

ADDENDUM FOR FEBRUARY 21, 2023

This petition was continued for cause by the petitioner from the January 17, 2023 hearing, to the February 21, 2023 hearing.

January 17, 2023

RECOMMENDATIONS

Staff **recommends denial** of this petition.

(Continued)

STAFF REPORT 2022-UV3-039 (Continued)**SUMMARY OF ISSUES****LAND USE****EXISTING ZONING AND LAND USE**

Compact	C-1	Commercial
---------	-----	------------

SURROUNDING ZONING AND LAND USE

North -	D-8	Two-Family Dwelling
South -	D-8	Two-Family Dwelling
East -	D-5	Undeveloped
West -	D-8	Undeveloped

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Village Mixed Use for the site.
--------------------	---

VARIANCE OF USE

- ◇ The proposed use would include an 1,800-square foot facility as an event center and eating establishment.
- ◇ The maximum capacity outlined in the original Plan of Operation would be 50 guests, with one to two staff members. Food and beverage service would be provided by groups, renters, or outside caterers.
- ◇ Event centers or indoor spectator venue uses are permitted in the C-4 district and are generally considered a high-intensity regional commercial use due to the amount of parking they require. The site is currently zoned C-1, or office commercial, which tends to typically serve the surrounding neighborhoods.
- ◇ Staff is concerned that adequate off-street parking provisions would not be provided due to the amount of parking needed for the proposed use. The submitted site plan indicates the subject site has two parking spaces available on site. The plan of operation indicates valet parking would be available but provides no details or information as to the location or operation of the valet parking.
- ◇ In addition to the two staff members and 50 possible attendees, parking would need to be provided for any outside catering service, including food trucks if used.
- ◇ The strict application of the terms of the zoning ordinance does not constitute an unusual and unnecessary hardship for the property, since the site is zoned C-1 and could be used for any number of uses permitted, by right, in the C-1 zoning classification without the need for a use variance. Any practical difficulty is self-imposed by the desire to use the site as an event center.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The purpose of the transitional yard setback requirement is to provide a buffer between land uses, when one land use is more intense and more impactful. Without the required transitional yard setbacks, the impact of the proposed use upon the less intense uses, such as the residential neighborhood uses to the east, west and north would be detrimental and injurious to the overall community.
- ◇ As requested, the reduced transitional yard setbacks would place an undue hardship on the surrounding protected residential uses.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of South Meridian Street is indicated as a primary arterial on the Official Thoroughfare Plan, with a 50-foot existing right-of-way and a 78-foot proposed right-of-way. This portion of Caven Street is indicated as a local street on the Official Thoroughfare Plan, with a 38-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN (AMENDED)	File-dated March 7, 2023
PLAN OF OPERATION	File-dated December 14, 2022
FINDINGS OF FACT	File-dated December 14, 2022

ZONING HISTORY

2022-DV2-046; 14 East Caven Street (east of site), requested a 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, 3,000-square foot lot, encroaching into the clear sight triangles of Caven Street and the intersecting alley, and the intersecting alleys along the rear and western lot lines, **ongoing**.

2021-ZON-097; 1747 South Meridian Street (north of site), requested a Rezoning of 0.09 acre from the C-1 district to the D-8 district, **approved**.

2018-HOV-057; 21 East Caven Street (east of site), requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling, with a 15-foot front setback and with seven and nine feet between dwellings, **approved**.

2004-UV2-001; 13 East Caven Street and 14, 18, and 22 Adler Street (south of site), requested a Variance of use of the Dwelling Districts Zoning Ordinance to provide for a parking lot for a popcorn production, distribution, and retail outlet, **granted**.

(Continued)

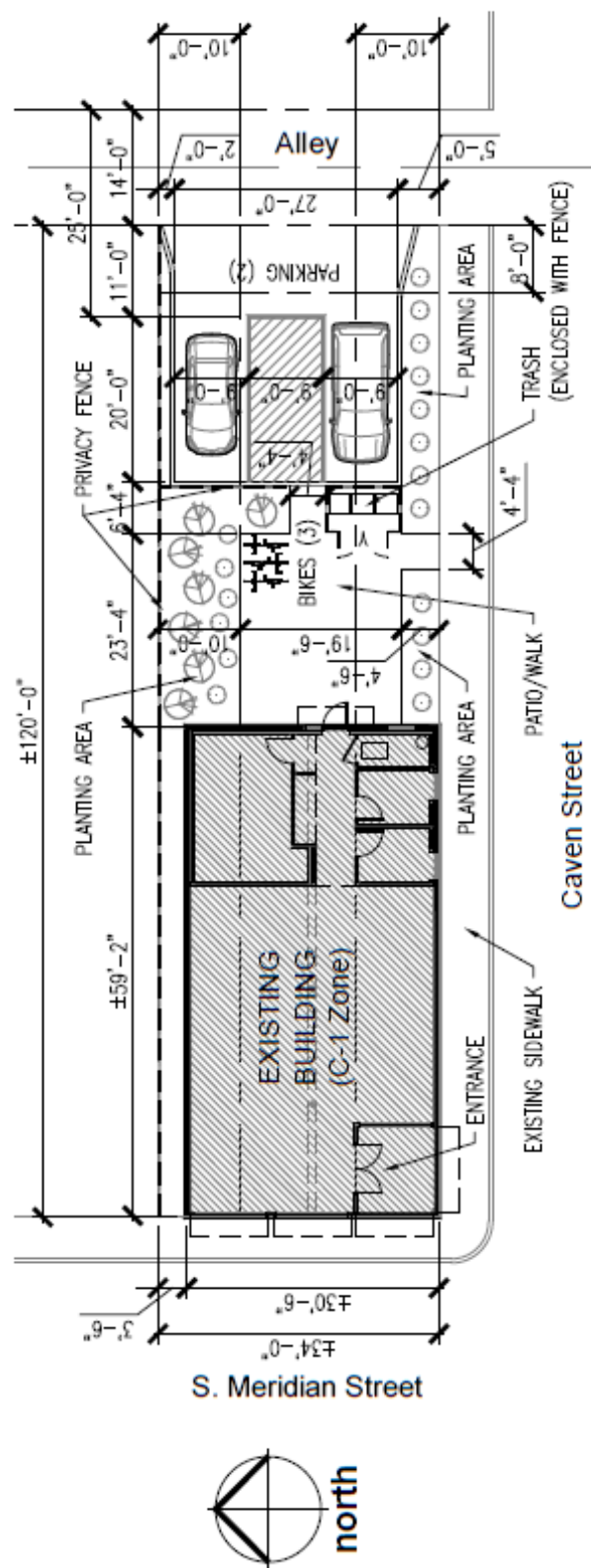
2003-ZON-035; 1805, 1807, 1817, 1821, and 1827 South Meridian Street (south of site), requested Rezoning 0.66 acre from D-8 and C-1 to the C-S classification to legally establish a popcorn production, distribution, and retail outlet, **approved.**

2001-UV3-033; 1741 South Meridian Street (north of site), requested a Variance of use of the Dwelling Districts Zoning Ordinance to legally establish a contractor's warehouse and a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 1,943-square foot commercial warehouse, with a 6.5-foot setback from Meridian Street, a zero-foot side setback from the south property line and a two-foot side setback from the north property line and a two-foot aggregate side setback; and a garage with a two-foot rear setback and a nine-foot aggregate side setback, **granted.**

RU

2022-UV3-039; Location Map





2022-UV3-039; Plan of OperationPlan of Operation

1751 S. Meridian Street

The proposed use of the existing building will be as a small event center and banquet hall for less than 50 occupants. The space will include a flexible open space, a prep/support room for use by visiting caterers and other support services, and restrooms. The plan for the space is to rent it out for small events including weddings, birthdays, showers, community meetings, and training workshops. The owner would also like to use the space for shared community events such as markets, pop-up shops, and pop-up restaurants.

The proposed exterior patio is supplemental to the interior and would not have a separate event or group. The proposed parking will provide an accessible space for visitors as well as a space for catering services as needed. Valet parking will be provided for events as needed.

Trash will be enclosed at the rear in rolling bins or dumpster to be collected along the alley.

Staff would include one or two employees to supervise events. Any food and beverage service staff would be provided by the groups or individuals renting the space. Any alcohol served on the premises for events will require either temporary permits and/or an appropriately licensed caterer per state laws.



Subject site looking east.



Subject site rear, looking west.



Adjacent residential uses to the north, looking east.



Adjacent residential uses to the south, looking east.

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 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
-----	---------	------------

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

(Continued)

STAFF REPORT 2023-DV3-002 (Continued)

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

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).

(Continued)

STAFF REPORT 2023-DV3-002 (Continued)**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**.

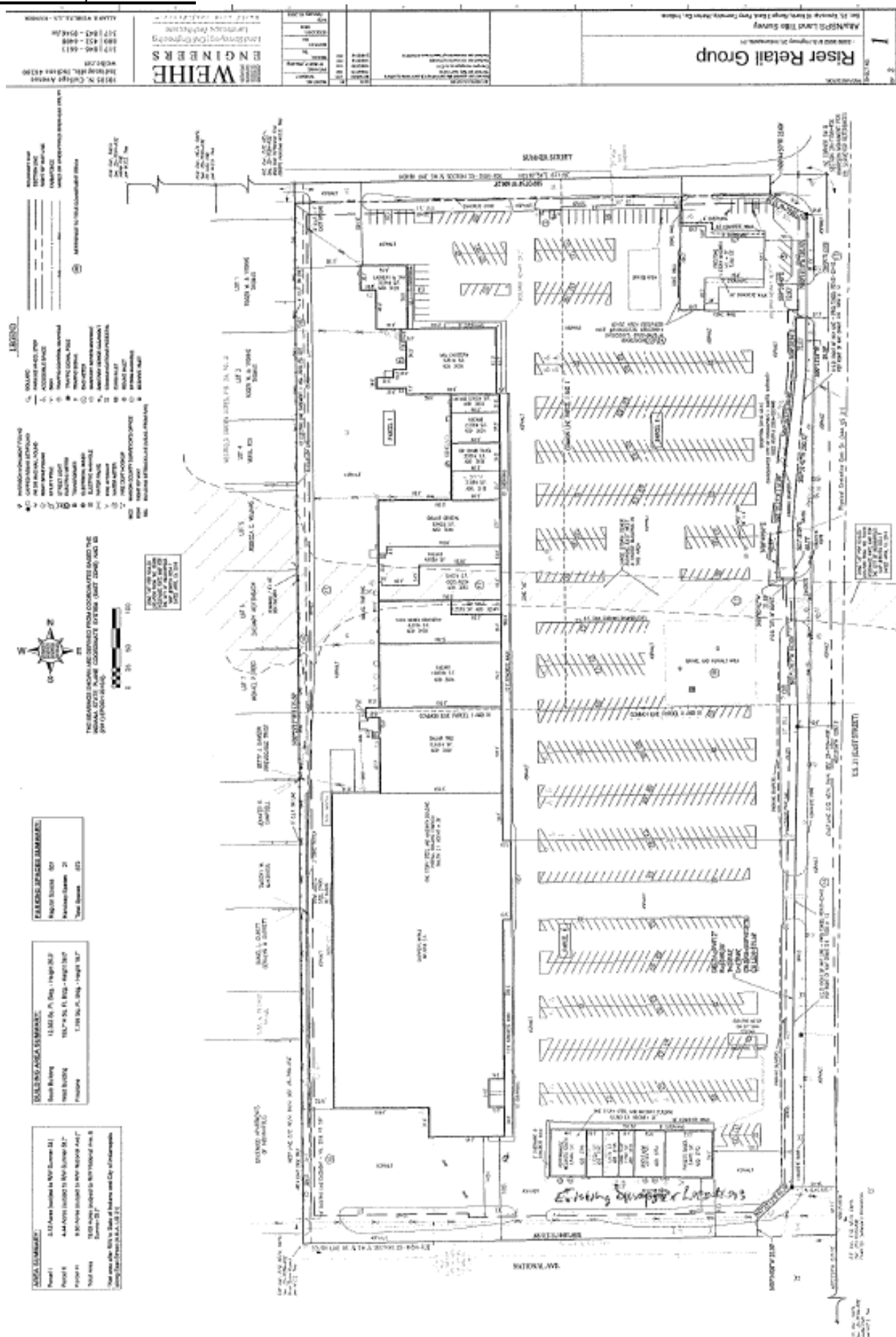
94-Z-128, 3715 South East Street, rezoning of 2.28 acres from the D-A district to the C-3 classification, **approved**.

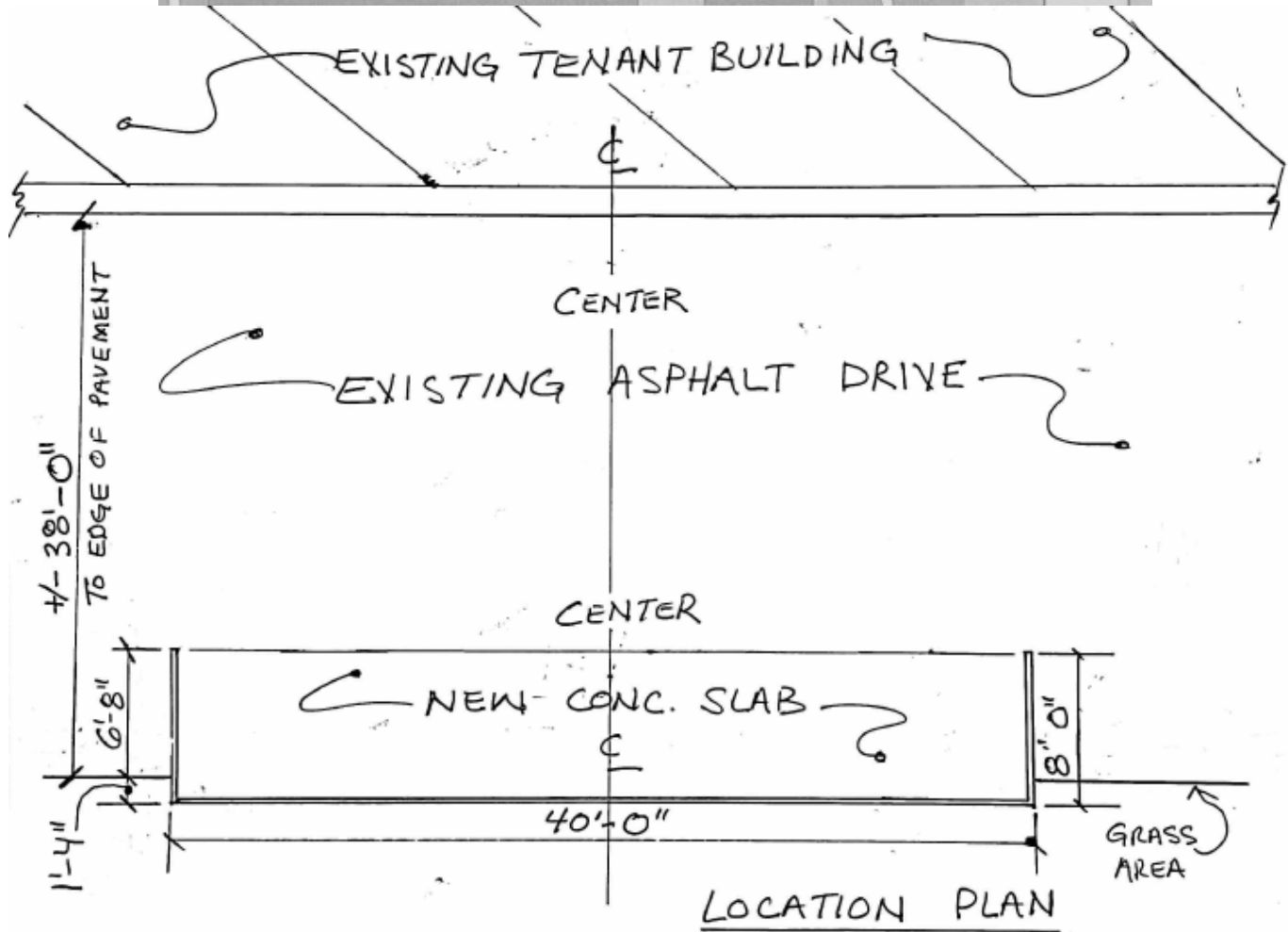
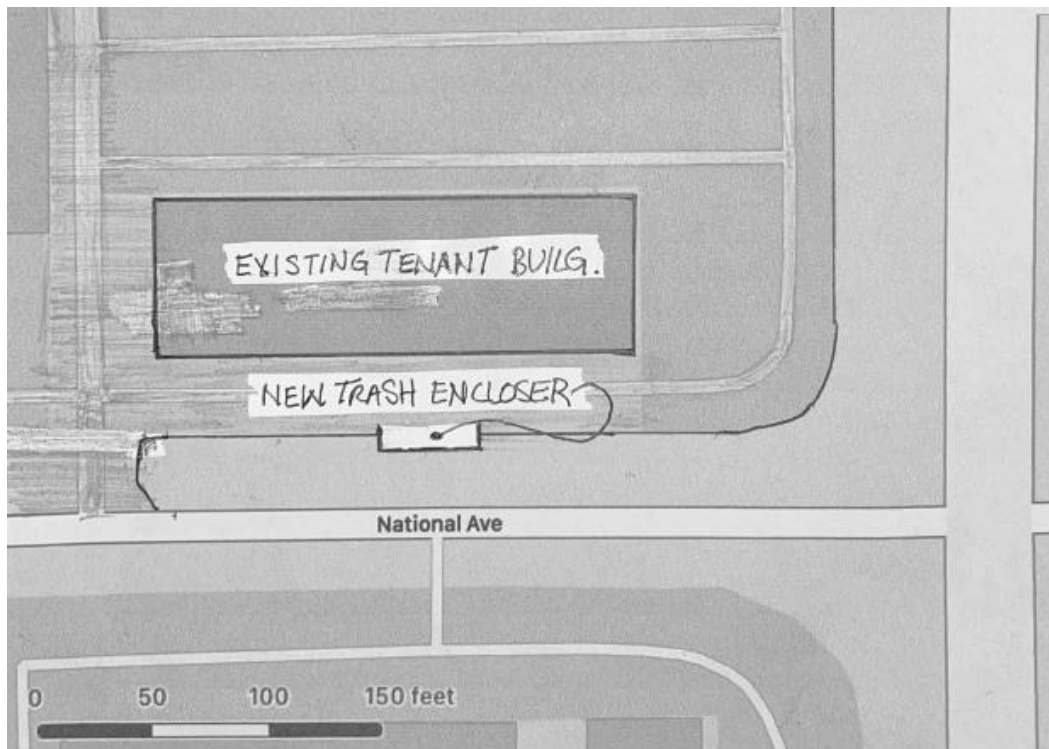
89-V3-91, 3599 South East Street, variance to provide for a restaurant with a drive-through within 100 feet of a dwelling district, **approved**.

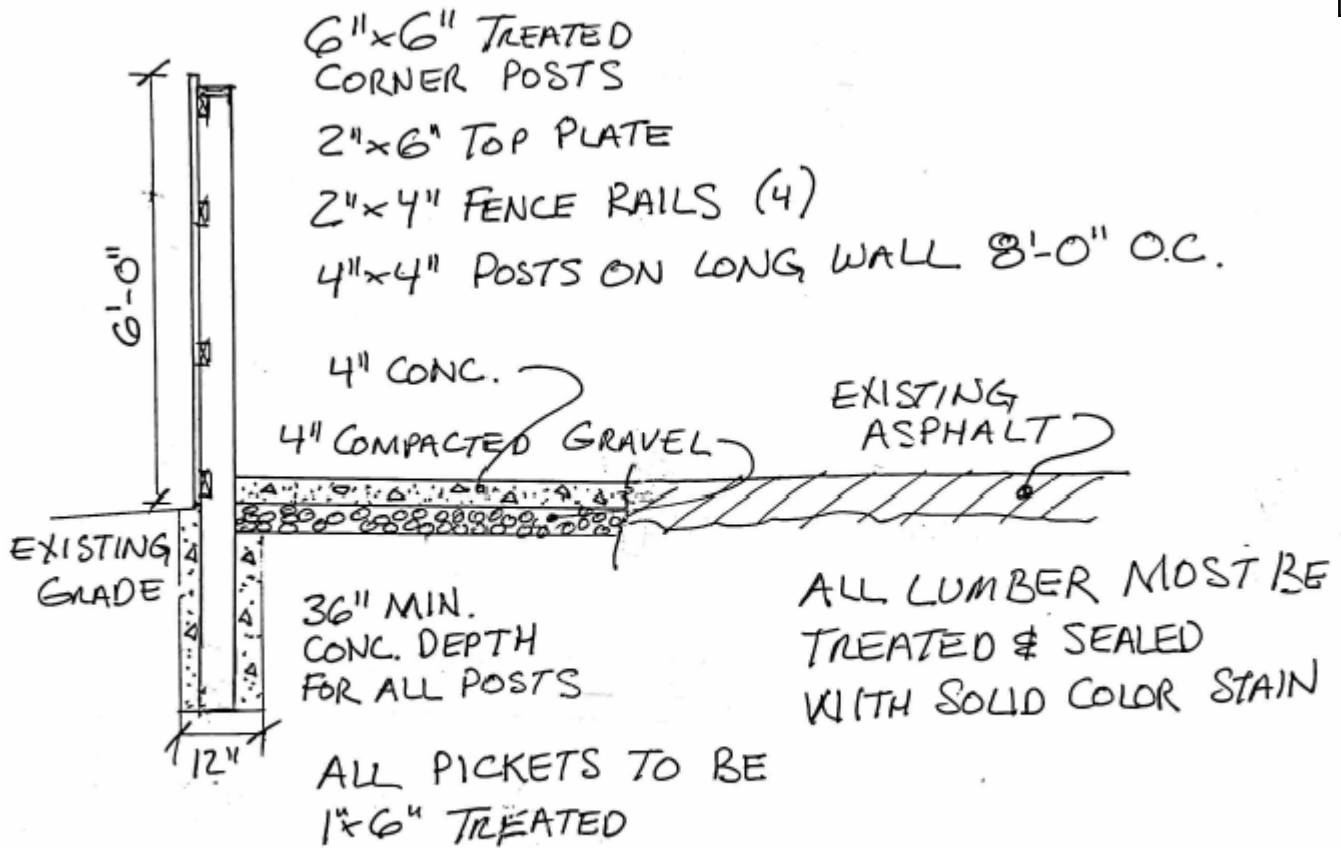
AR

2023-DV3-002; Aerial Map









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

2023-DV3-002; Findings of Fact

**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:

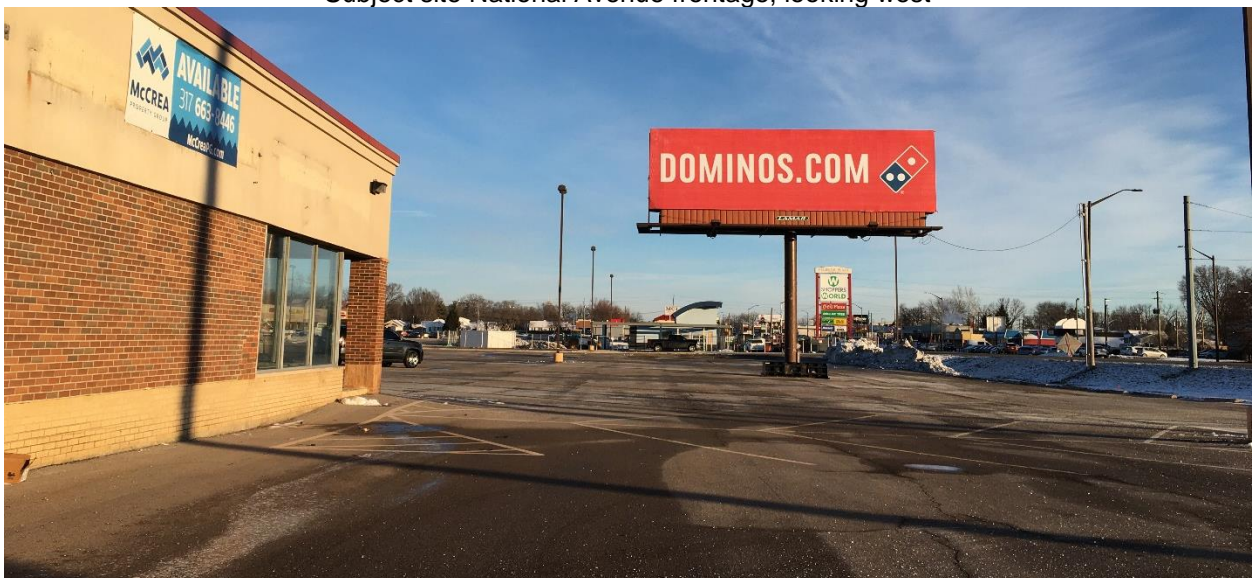
the rear of the building faces National Avenue, and there is no practical way for the dumpster location and enclosure standards to be met without risk of non-compliance by tenants.



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 8.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-DV3-003
Address: 1739 and 1795 North Shadeland Avenue (approximate address)
Location: Warren Township, Council District #19
Zoning: MU-2
Petitioner: VAG Indiana LLC, by Ryan Grassly
Request: 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.

This petition was automatically continued by a registered neighborhood organization from the February 21, 2023, hearing, to the March 21, 2023, hearing.

The petitioner **has requested that this petition be withdrawn.** This would require the Board's acknowledgment.

RU

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-005 (Amended)
Address: 7548 East Washington Street (approximate address)
Location: Warren Township, Council District #19
Zoning: C-5 (TOD)
Petitioner: Ray Skillman Realty LLC, by Michael Kalberg
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a car dealership with:

- a) A surface parking lot with a six-foot front yard setback from Washington Street and Mitchner Avenue (25-foot setback required along Connector Frontages), improvements not permitted within the front setback);
- b) A zero-foot transitional yard along the northern lot line (15-foot transitional yard required); and
- c) Deficient landscaping; and
- d) 29 and 30-foot wide driveway widths (24 feet maximum width permitted).

This petition was automatically continued from the February 21, 2023 hearing to the March 21, 2023 hearing, at the request of a registered neighborhood organization.

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-5	Compact	Vacant Lot
-----	---------	------------

SURROUNDING ZONING AND LAND USE

North	D-3	Parking Lot
South	C-5	Commercial (Vacant Building)
East	C-5	Commercial (Auto Dealership)
West	C-5	Commercial (Vacant Building)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends heavy commercial development.

(Continued)

STAFF REPORT 2023-DV3-005 (Continued)

- ◇ The 0.36-acre subject site is a vacant lot that was previously used as a car dealership. It is surrounded to by vacant commercial buildings to the west and south with commercial uses to the north and east although the property to the north is zoned residentially and does not have history of a variance of use for the existing use.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The initial request include several variances associated with a proposed building on site for a surface parking lot maintaining a 56% width of the lot at the front building line along Washington Street and 64% width of the lot along Mitchner Avenue, three single-loaded rows of parking in front of the building along Washington Street, a building with a 125' front setback from Washington Street and a 30-foot front setback from Mitchner Avenue, a 46% width along Washington Street and 13% along Mitchner Avenue. Since the building was removed per an amended site plan submitted, these variances would no longer apply.
- ◇ The grant of the amended request would allow for a car dealership surface parking lot to have deficient front setbacks with encroachments, no transitional yard along the northern property boundary with deficient landscaping on site, and driveway widths that exceed the maximum permitted.
- ◇ Chapter 744, Article IV, Section 04.D.1 states that "...parking lots and parking garages shall be subject to all use and development standards of the applicable zoning district in addition to the requirements contained in this article." Therefore, the site requires 25-foot front yard setbacks from Mitchner Avenue and Washington Street.
- ◇ As proposed, the parking lot would have six-foot front setbacks from both street frontages and would encroach within the required front setback, which is not permitted.
- ◇ The request would also provide for a zero-foot separation from a protected district where a 15-foot transitional yard is required to the north. Staff cannot support this request because the site could be developed to meet this requirement to ensure any potential development of the D-3 district to the north would be protected.
- ◇ Driveway widths along Connector Frontages are limited to 24 feet where the site has 29 and 30-foot existing driveway widths. Perhaps, if the site were to be proposed to not require any additional variances other than continuing the use of the existing driveways, then maybe it could have been supportable by staff. However, with the number of variances requested staff finds that the driveway widths could be reduced to increase the amount of proposed landscaping on site seeing that it would be deficient in landscaping as proposed.
- ◇ Interior landscaping is required for the new parking area expansion that was previously composed of the building location and where parking spaces were not previously present. This new parking area should also meet the green factor standards since it would not be exempt.
- ◇ Staff determined that the proposed car dealership surface parking lot would not be the highest and best use of the site since it is valuable land located within a heavily trafficked future Bus Rapid Transit Corridor and within ½ mile from a proposed station at Sadler Drive and Washington Street.

(Continued)

STAFF REPORT 2023-DV3-005 (Continued)

- ◇ The Blue Line Transit-Oriented Development Strategic Plan (2018) categorizes the area for a community center around the proposed transit station, which would promote a dense mixed-use neighborhood center with a minimum of 2 story buildings with no front or side setbacks at the core. Furthermore, projects that help increase activity levels through density and/or urban amenities such as parks, plazas, and public buildings would be appropriate.
- ◇ Unfortunately, the site is not categorized as a Pedestrian/Urban Frontage that would have prohibited automobile, motorcycle, and light vehicle sales or rental uses if the site were within 600 feet of a transit station.
- ◇ Although the use is permitted since it would be less than ½ acre in lot area, the standards of the Ordinance could be met without the need for variances. If the standards limit the use of a surface parking lot, then that proves why it should not be supported.
- ◇ Lastly, staff would recommend the installation of a sidewalk along Mitcher Avenue to provide connectivity between Washington Street and the single-family dwellings to the north. This would ensure that residents could safely access the local bus system.

DEVELOPMENT STANDARDS FINDINGS OF FACT

- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because another use could be proposed on site that would allow for a building to be located within zero to 25 feet from Washington Street and Mitchner Avenue without the need for a variance.

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.

Mitchner Avenue 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.

SECONDARY DISTRICT

This site is located within the Transit Oriented Development Secondary Zoning District (TOD).

OVERLAY

This site is in a Transit-Oriented Development (TOD) overlay, specifically the Bus Rapid Transit Blue Line.

SITE PLAN

File-dated January 17, 2023.

LANDSCAPE PLAN

File-dated January 17, 2023.

(Continued)

STAFF REPORT 2023-DV3-005 (Continued)

AMENDED LANDSCAPE PLAN	File-dated March 3, 2023.
PLAN OF OPERATION	File-dated January 17, 2023.
FINDINGS OF FACT	File-dated January 17, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

97-Z-178; 7548 East Washington Street (subject site), Rezoning of 0.25 acre, to the C-5 classification to provide for the continued operation of a used automobile dealership, **approved**.

ZONING HISTORY – VICINITY

2016-AP3-002; 7410 and 7424 East Washington Street (west of 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 (west of 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 (west of 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**.

2014-DV2-031; 7550 East Washington Street (east of site), Variance of development standards of the Sign Regulations to provide for a 35-foot tall, 375-square foot freestanding sign, with a 150-square foot electronic variable message sign, located approximately 300 feet from a D-5 protected district to the north (600 feet separation required), **withdrawn**.

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

(Continued)

STAFF REPORT 2023-DV3-005 (Continued)

2005-DV2-017; 7520 East Washington Street (west of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for a 7.2-foot landscaped front yard (minimum ten-foot landscaped front yard required), to legally establish parking within the required front yard along East Washington Street (not permitted), to legally establish a 4.6-foot north side yard setback without landscaping abutting 39 Burbank Road and a zero-foot north side yard setback without landscaping abutting 7548 East Washington Street (minimum twenty-foot side transitional yard with landscaping required), and to provide for a zero-foot front transitional yard along Burbank Road (minimum twenty-foot front transitional yard required), **granted**.

2001-DV1-082; 7525 East Washington Street (southeast of site), Variance of development standards of the sign Regulations to provide for the placement of an advertising sign within a one-mile portion of I-465 and in a protected area adjacent to an entrance-exit roadway, **denied**.

88-UV2-12; 7520 East Washington Street (west of site), Variance of use and development standards to provide for an existing restaurant, with drive-through and carry-out service within 100 feet of a dwelling district, a patio, and a playground, and a pole sign containing 257.29 square feet of sign area, **granted**.

86-UV2-92; 7470 East Washington Street (west of 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**.

85-HOV-145; 7520 East Washington Street (west of site), Variance of development standards of the Commercial zoning Ordinance to provide for a patio and playground in the front yard of an existing restaurant, **granted**.

85-V1-38; 7508 East Washington Street (west of site), Variance of Variance of Development Standards of the Commercial Zoning Ordinance to provide for the addition of a 10 x 30-foot solarium to an existing restaurant within the required building setback, **withdrawn**.

MI

2023-DV3-005; Location Map



2023-DV3-005; Aerial Map











Photo of the subject site looking northeast.



Photo of the lack of a transitional yard along the northern property boundary.



Photo of the existing northern driveway along Mitchner Avenue.



Photo of the existing southern driveway along Mitchner Avenue.



Photo of an existing bus stop along Washington street and the southern property boundary.



Photo of western property boundary looking south.

STAFF REPORT

Item 10.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-004
Address: 3049 North Post Road (approximate address)
Location: Warren Township, Council District #14
Zoning: I-3
Petitioner: Volumod Indy LLC, by David Gilman
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the outdoor display and sales of modular homes within the required front yard and not abutting a building exterior wall and a 48-foot front setback from Post Road (not permitted, 60-foot front yard setback required).

ADDENDUM FOR MARCH 21, 2023

This petition was continued for cause without notice by the petitioner, from the February 21, 2023, hearing to the March 21, 2023, hearing.

The petitioner has since indicated they are **withdrawing the request for the outdoor display and sales to have a 48-foot front setback** from Post Road. This request will need to be acknowledged by the Board. No updated site plan has been provided.

Staff continues to **recommend denial of the request for the outdoor display and sales of modular homes within the required front yard.**

February 21, 2023

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

I-3 Office / Warehouse

SURROUNDING ZONING AND LAND USE

North -	I-4	Warehouse
South -	SU-1	Religious Uses
East -	C-S	Warehouse
West -	C-3 / C-5	Community Center / Automotive repair

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan recommends heavy industrial uses for the site.

(Continued)

STAFF REPORT 2023-UV3-004 (Continued)**VARIANCE OF USE**

- ◇ The subject site is zoned in the I-3 district, which is designed as an intermediate district for industries that present moderate risks to the general public. Wherever practical, this district should be away from protected districts and buffered by intervening lighter industrial districts. Where this district abuts protected districts, setbacks are large, and enclosure of activities and storage is required.
- ◇ The I-3 district does allow for an unlimited amount of outdoor storage, however, the outdoor storage is required to be to the rear of the building. An exception to the front yard restriction of outdoor display and storage would be if the outdoor display would be abutting a building exterior wall. The proposed location would not be abutting an exterior wall and would place the outdoor storage and display in the front yard of Post Road, with a reduced front yard setback of 48 feet.
- ◇ The proposed outdoor storage and display location would be an inappropriate encroachment and intrusion into the front yard of this commercial / industrial area because it is not in harmony with the adjacent industrial properties, who are able to meet the Ordinance standards for outdoor storage and display. Furthermore, staff is most concerned that, if approved, further outdoor storage and display areas in front yards would follow and encroach upon the Post Road arterial, which is a main traffic throughfare in this area, connecting to the I-70 Interstate to the south.
- ◇ The proposed location of the outdoor storage and display is not a result of a hardship imposed upon the site by the Ordinance, as the site has been in compliance since 1960 when it was originally developed, and other nearby similarly zoned industrial properties are able to comply with the Ordinance requirement as well.
- ◇ The proposed location of the outdoor storage and display is a self-imposed hardship due to the desire to visually publicize and promote the product to drive by traffic. The outdoor storage and display could be more appropriately located to the rear of the building, where ample open space remains to accommodate the proposed site plan, without the need for a variance. Consequently, an unusual and unnecessary hardship does not exist, and the subject site could continue to be used without the requested variance of use.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The requested 48-foot front setback is a self-imposed hardship as a result of the petitioner's variance of use request to place a product display for modular structures in the front yard.
- ◇ If the product display would be moved to the rear of the structure, where ample open space is available, then the requested variance for a reduced front setback would not be needed. If the open space to the rear is already dedicated for other uses, then the request would cause the site to be overdeveloped and another location should be determined to fit the needs of the petitioner, including a proper outdoor display area.

(Continued)

- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since there is adequate open space to the rear of the structure to provide for a product display area, without the need for a setback variance. Any practical difficulty is self-imposed by the desire to use the site for a product display area in the front yard with a reduced front setback.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of North Post Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 112-foot existing and proposed right-of-way.

This portion of East 30th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial, with a 100-110-foot existing and proposed right-of-way.

SITE PLAN

File-dated January 13, 2023

PLAN OF OPERATION

File-dated January 13, 2023

FINDINGS OF FACT

File-dated January 13, 2023

ZONING HISTORY

2004-UV2-027; 2961 North Post Road (south of site), Variance of use of the Commercial Zoning Ordinance to provide for the annual temporary seasonal sales of fireworks and Independence Day related party supplies between June 1st and July 10th, **granted**.

99-UV2-33; 2945 North Post Road (south of site), Variance of use of the Commercial Zoning Ordinance to provide for the outdoor display and sale of motor vehicles, and to provide for a zero-foot transitional yard on the east and south property lines with no landscaping, **granted**.

99-V2-33; 2945 North Post Road (south of site), Variance of use of the Commercial Zoning Ordinance to provide for the outdoor display and sale of motor vehicles, and to provide for a zero-foot transitional yard on the east and south property lines with no landscaping, **granted**.

99-Z-148; 9045 East 30th Street (south of site), Rezoning of 0.758 acre, being in the C-3 District, to the SU-1 classification to provide for religious uses, **approved**.

99-Z-121; 9202 East 30th Street (east of site), Rezoning of 11 acres from the I-3-S District to the C-S classification to provide for tire and tube sales, and a tire retread facility, **approved**.

97-HOV-35; 3120 North Post Road (west of site), Variance of development standards of the Industrial Zoning Ordinance to provide for a 150 by 96.33-foot building addition with a side yard setback of 28.3 feet, **granted**.

94-Z-92; 9041 East 30th Street (south of site), Rezoning of 0.758 acre from C-3 to SU-1 to provide for a religious use, **approved**.

(Continued)

STAFF REPORT 2023-UV3-004 (Continued)

88-SE1-10; 9350 East 30th Street (east of site), Industrial Special Exception to provide for an industrial park, **granted**.

88-Z-251; 9151 East 30th Street (southeast of site), Rezoning of 10 acres, from C-3 to SU-1 to provide for a church parking lot, **approved**.

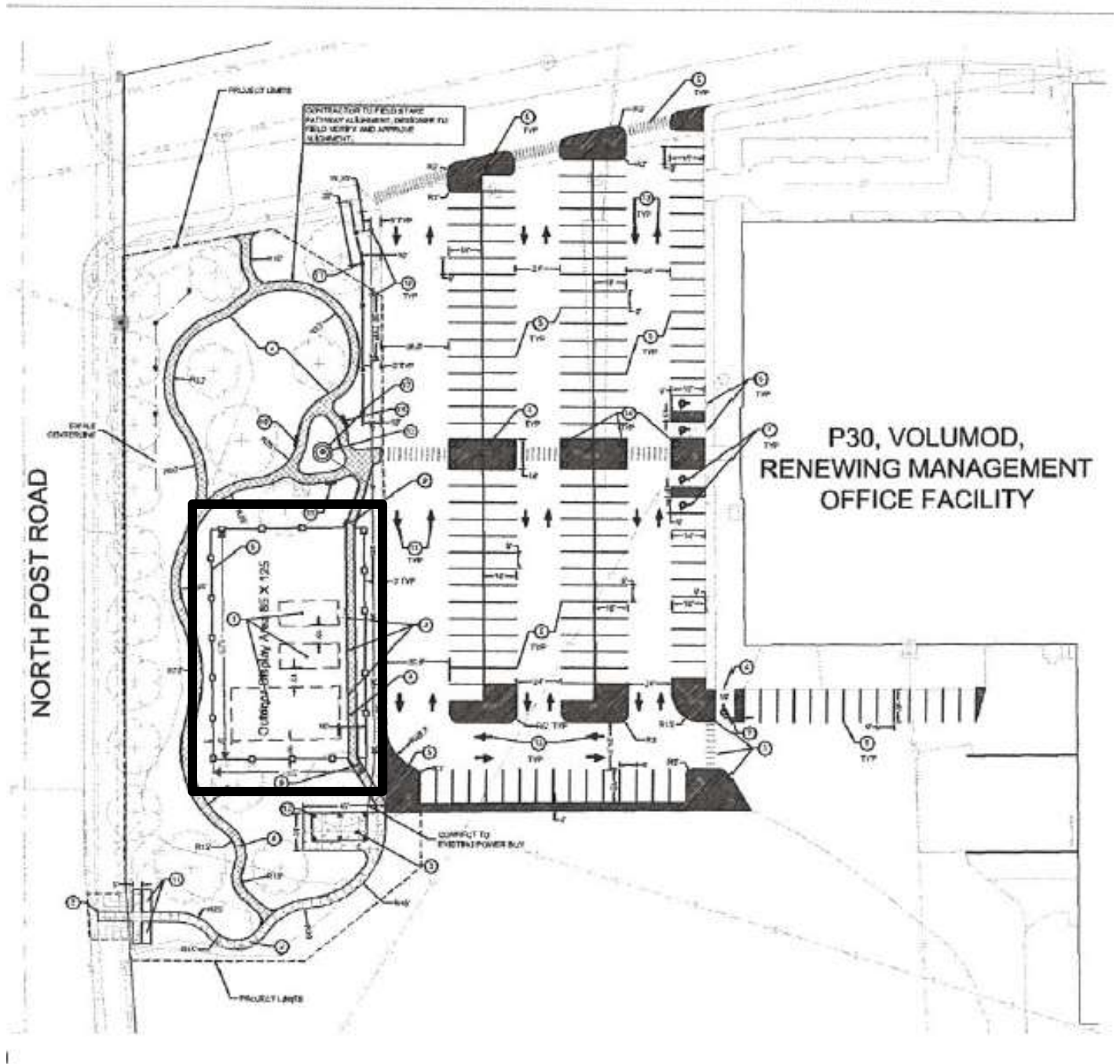
84-UV2-117; 3002 North Post Road (west of site), Variance of use of the Industrial Zoning Ordinance to provide for a used car sales lot with outside display at six feet from the right-of-way, **granted**.

84-V1-72; 3129 North Post Road (north of site), Variance of development standards of the Industrial Zoning Ordinance to provide for the use of two open loading berths located on the front of the building, between the front building setback line and Post Road, **granted**.

78-UV2-115; 2945 North Post Road (south of site), Variance of use and development standards to permit the conversion of an existing service station into a convenience grocery store, with sales of gasoline and relocate canopy over pumps, one pole sign, and sign on building, **granted**.

RU





Plan of Operation

3039 N Post Road

January 10, 2023

The use variance will allow for an outdoor display area for modular homes in a paved area 85 X 125 or 10,625 sq ft. The display units will be securely affixed to the pavement and will have electrical service but will not have plumbing or water services. The units will be replace from time to time to introduce a new product.

The outdoor display area will be provided with full shield security lights and open to the public Monday through Saturday 8am to 8pm.



Existing subject site looking east.



Existing subject site building, looking southeast.



Proposed outdoor display and storage area with reduced front setback, looking west.



Existing outdoor storage area to the rear of the building, looking east.



Existing open space to the rear of the building, looking north from East 30th Street.



Additional existing open space to the rear of the building, looking northeast from East 30th Street.



Adjacent religious use to the south.



Adjacent industrial use to the north.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-008 (Amended)
Address: 5030 Southport Crossing Place (approximate address)
Location: Perry Township, Council District #24
Zoning: C-4
Petitioner: McDonald's Corp., by Joseph D. Calderon
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a restaurant remodel resulting in drive through service units and stacking spaces within the front yards of Emerson Avenue and Southport Road (not permitted), and without the required screening along the entirety of the drive through within the front yard of Southport Road or walkways connecting public entries to the sidewalk (required).

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	Metro	Commercial
-----	-------	------------

SURROUNDING ZONING AND LAND USE

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

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development.

- ◇ The subject site is developed with a fast-food restaurant and convenience store with an associated fueling station.
- ◇ It is surrounded by a variety of commercial uses in every direction.

(Continued)

STAFF REPORT 2023-DV3-008 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The grant of the request would allow for a restaurant remodel resulting in drive through service units and stacking spaces within the front yards of Emerson Avenue and Southport Road without the required screening along the entirety of the front yard of Southport Road and without the required walkway connections.
- ◇ A previous variance (97-V3-12) permitted the dumpster located in the front yard of Southport Road, so the request was amended to remove the variance which was no longer needed.
- ◇ Chapter 743, Article III Section 06.1.3 notes that “no service unit shall be located on a façade that is adjacent to or faces a public right-of-way that exceeds 30 feet in width. In all instances, service units shall be screened from all public right-of-way that exceeds 30 feet in width regardless of proximity.”
- ◇ As proposed, two drive-through stacking lanes and associated ordering service units would be in front of the front building line without any additional landscaping provided. Shrubs at least three feet in height should be planted for improved screening to shield the headlights of the vehicles in the drive-through from the east and west bound traffic on Southport Road. Otherwise, the vehicles waiting in line would cause additional road hazards.
- ◇ The requested variances would be the result of an existing site layout and the desire to make changes to the building and site. Seven parking spaces would be removed to provide the additional room needed for a secondary lane and the required bypass lane.
- ◇ However, staff would argue that the elimination of the parking spaces along Southport Road would provide the opportunity for the front entrance to be relocated along the northern building façade with one row of parking in the front yard as permitted in a commercial district. This change could allow for the ordering lanes and stacking spaces to be relocated along the western and southern building façades outside of the front yard.
- ◇ The site would have sufficient space for maneuverability between the fueling stations and the southern building façade if the parking spaces were removed. Therefore, the proposed design of the site could be changed to meet the requirements of the Ordinance without the need for variances.
- ◇ Staff is recommending denial of the request due to a lack of practical difficulty with the use of the site since it could remain as is without an issue since the layout of the site is existing and was developed under a previous version of the Ordinance.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Southport Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 175-foot existing right-of-way and a 124-foot proposed right-of-way.

(Continued)

STAFF REPORT 2023-DV3-008 (Continued)

THOROUGHFARE PLAN	Emerson Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 161-foot existing right-of-way and a 119-foot proposed right-of-way.
SITE PLAN	File-dated January 31, 2023.
LANDSCAPE PLAN	File-dated January 31, 2023.
FINDINGS OF FACT	File-dated March 2, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

97-V3-12; 5030 Southport Crossing Place (subject site), Variance of development standards of the Commercial Zoning Ordinance to legally establish an enclosed trash dumpster in front of the established building line along Southport Road (location of trash containers behind the established building line required), **granted**.

88-Z-8; 5001 East Southport Road (subject site), Rezoning of 24.41 acres, being in the A-2 district, to C-4 classifications to provide for regional retail uses, approved.

ZONING HISTORY – VICINITY

2021-DV2-039; 7030 Emblem Drive (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the replacement of an existing 36-foot tall, 234-square foot illuminated pole sign with a 20-foot tall, 103-square foot illuminated pole sign (pole signs and internal illumination not permitted), **granted**.

2020-DV2-024; 7030 Emblem Drive (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 36-foot tall, 223-square foot pole sign, with internal illumination (pole sign not permitted, maximum height limited to 20 feet, internal illumination not permitted, maximum sign area limited to 158 square feet), **denied**.

2015-DV3-053; 7060 Emblem Drive (east of site), Variance of development standards of the Sign Regulations to provide for a 70.5-square foot electronic variable message sign (not permitted), within 65 feet of a signalized intersection (125-foot separation required), **denied**.

(Continued)

STAFF REPORT 2023-DV3-008 (Continued)

2014-DV3-006; 7140 South Emerson Avenue (south of site), Variance of development standards of the Commercial Zoning Ordinance and modification of Commitments of 2012-UV3-014 to provide for: a) the construction of a 48,748-square foot warehouse building, being 25.3% of the floor area of the primary building (maximum 25% permitted), b) with a 10-foot setback (20-foot setback required), c) with 169,841 square feet of outdoor display and sales area and 218,589 square feet devoted to outdoor operations and storage (maximum outdoor display area of 19,318 square feet permitted, outdoor storage not permitted), d) with a 14-foot wrought iron and opaque fences along the front and side yards (maximum 10-foot-tall fence permitted in side and rear yard and six-foot tall, 50% opaque fence permitted in the front yard), e) with 414 parking spaces, measuring nine by 18 feet (773 parking spaces required or four spaces per 1,000 square feet, minimum ten by eighteen for uses with shopping carts, at or 180-square feet required)), and f) to modify Commitment One of 2012-UV3-014 to permit the relocation of the display area of eight trailers (Commitment requires the location to adhere to the site plan file-dated December 5, 2012), **granted**.

2012-UV3-014; 7140 South Emerson Avenue (south of site), Variance of use of the Commercial Zoning Ordinance to provide for outdoor trailer sales (not permitted), **granted**.

2003-UV3-026; 4930 Southport Crossing Place (west of site), Variance of use to provide for a 7,427 square foot, two-story addition for motorcycle storage, **granted**.

2002-DV3-010; 4930 Southport Crossing Place (west of site), Variance of development standards to provide for an off-premise advertising sign, **denied**.

97-V2-99; 7072 Emblem Drive (east of site), Variance of development standards of the Sign Regulations to provide for the placement of an additional freestanding pylon sign, being 4 by 15 feet and 13 feet in height within an integrated center (one freestanding identification sign permitted), **granted**.

97-V3-27; 7137 Company Drive (east of site), Variance of development standards of the Commercial Zoning Ordinance to provide for the required 10-foot-wide landscape strip along a portion of Company Drive (minimum 10-foot-wide landscape strip required), **granted**.

96-HOV-24; 5101 East Southport Road (east of site), Variance of development standards of the Sign Regulations to provide for the placement of a free-standing pylon sign within 50 feet of another free-standing sign, **granted**.

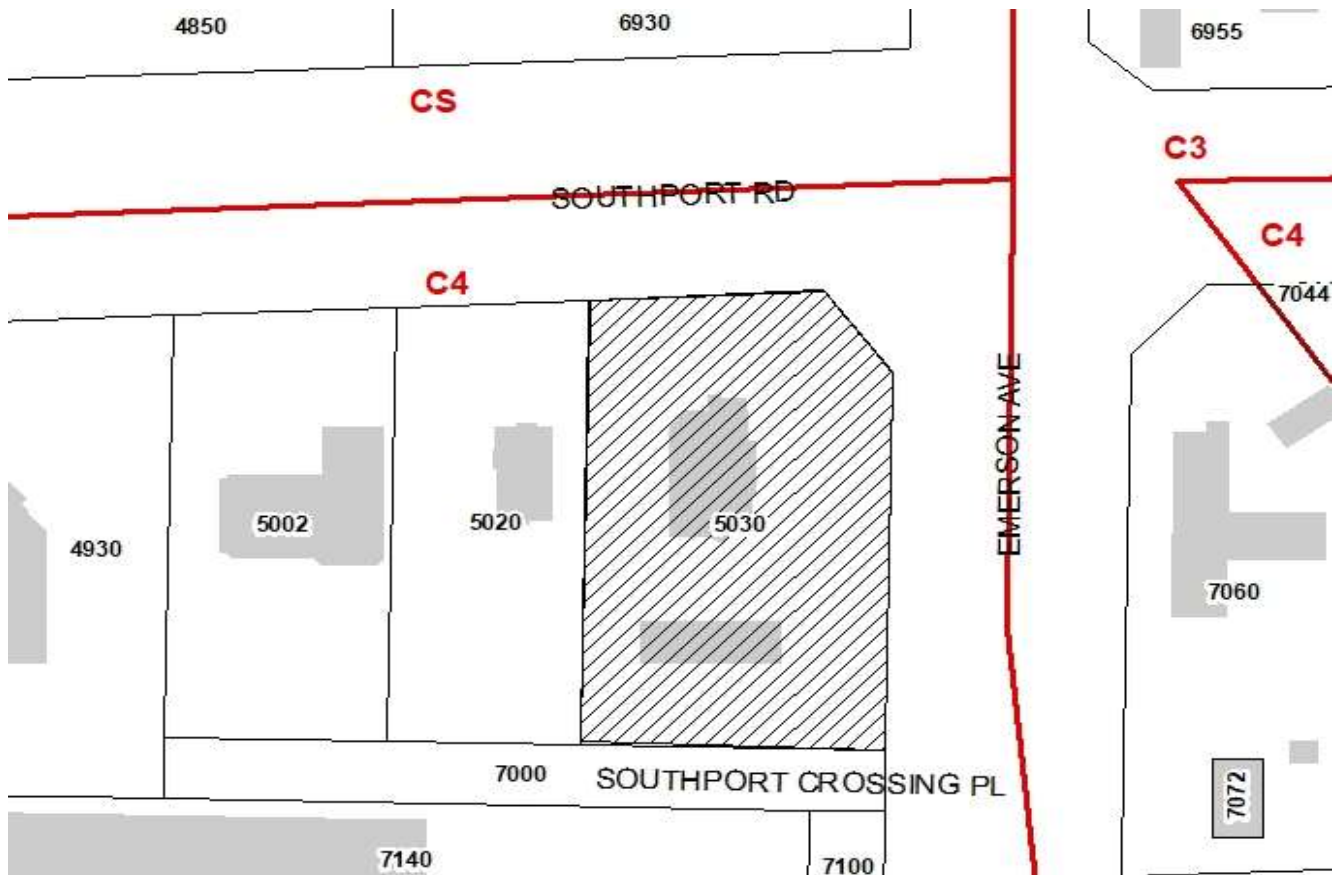
96-UV2-23; 7101 South Emerson Avenue (east of site), Variance of use of the Commercial Zoning Ordinance to provide for the construction for an automatic automobile carwash, **granted**.

93-V3-14; 5139 East Southport Road (east of site), Variance of development standards of the Commercial Zoning Ordinance to permit the construction of a shopping center with parking ratio of 1 parking space per 250 square feet of gross floor area (one space per 150 square feet required), **granted**.

90-V3-80; 4601 East Southport Road (south of site), Variance of development standards of the Sign Regulations of Marion County to permit a 96 square foot addition to an existing pole sign resulting in a total of 192 square feet of signage (160 square feet permitted) and allowing the placement of an off-site advertising sign, **granted**.

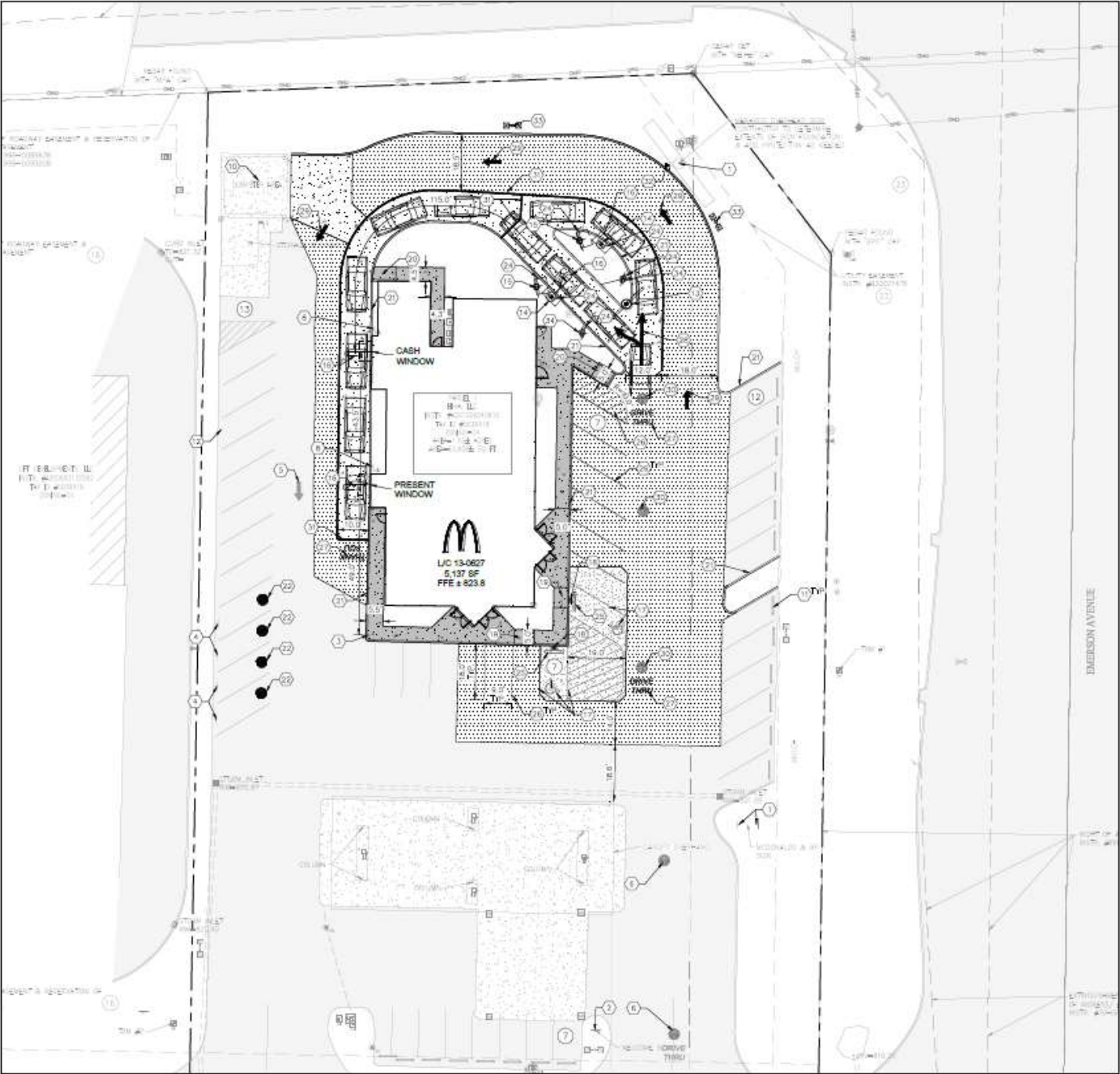
MI

2023-DV3-008; Location Map



2023-DV3-008; Aerial Map

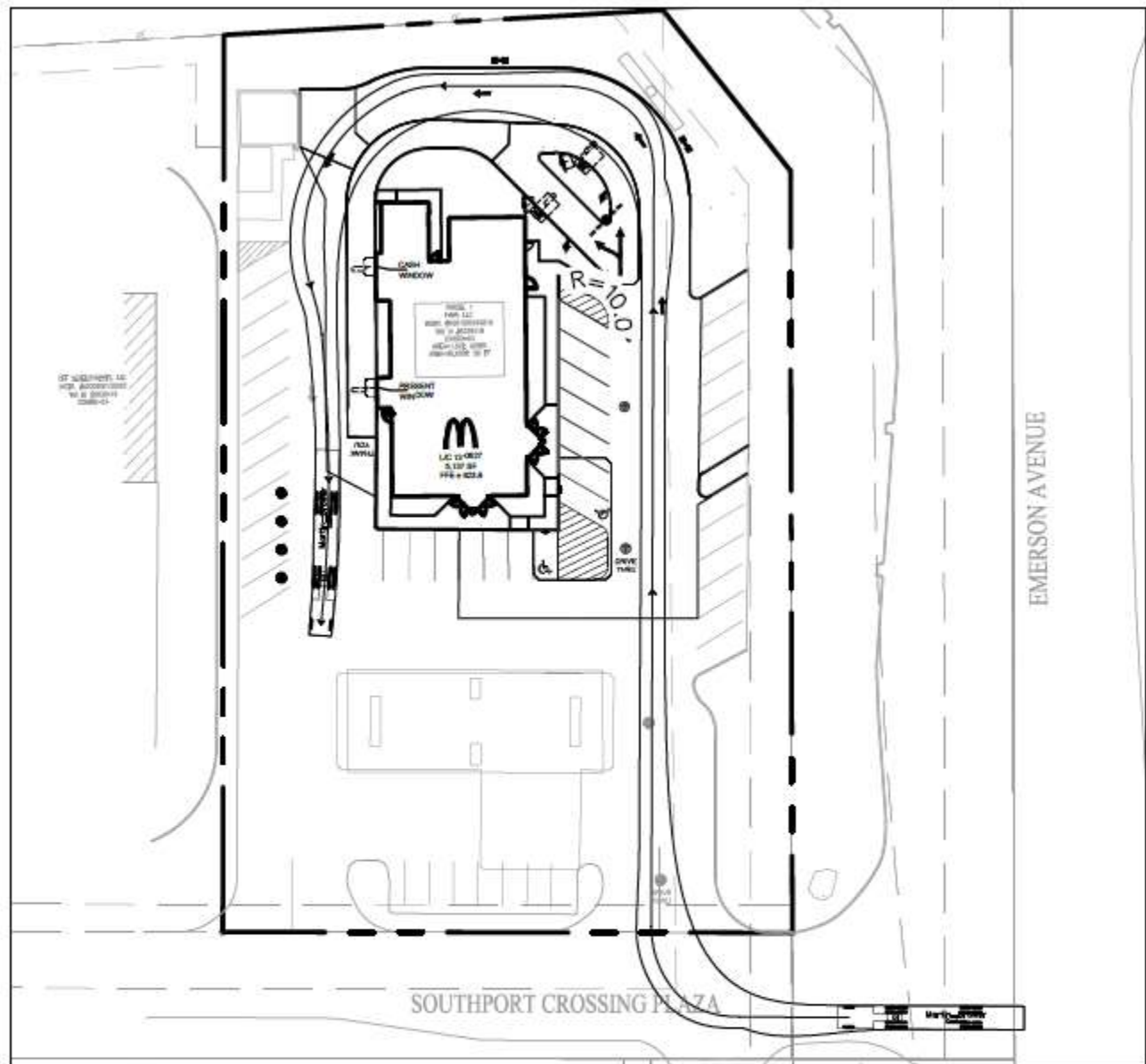




PARKING SUMMARY	
PARKING SPACES REQUIRED (INDIANAPOLIS STANDARD)	= 1 SPACE PER 150 SF
	= 35 SPACES
STANDARD PARKING SPACES PROVIDED	= 44 SPACES
ACCESSIBLE PARKING SPACES REQUIRED	= 2 SPACES
ACCESSIBLE PARKING SPACES PROVIDED	= 2 SPACES
TOTAL PARKING SPACES PROVIDED	= 46 SPACES
EXISTING STANDARD PARKING SPACES PROVIDED	= 49 SPACES
EXISTING ACCESSIBLE PARKING SPACES PROVIDED	= 3 SPACES
EXISTING TOTAL PARKING SPACES PROVIDED	= 52 SPACES
NET LOSS OF PARKING SPACES FROM PROPOSED WORK	= 6 SPACES

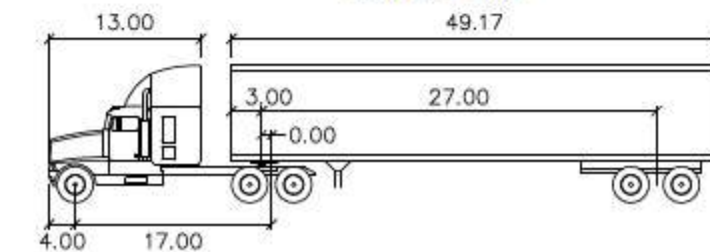


- = 5036418
- = C-4
- = 1.52 AC
- = 3,477 SF OR 0.08 AC
- = 116 SF



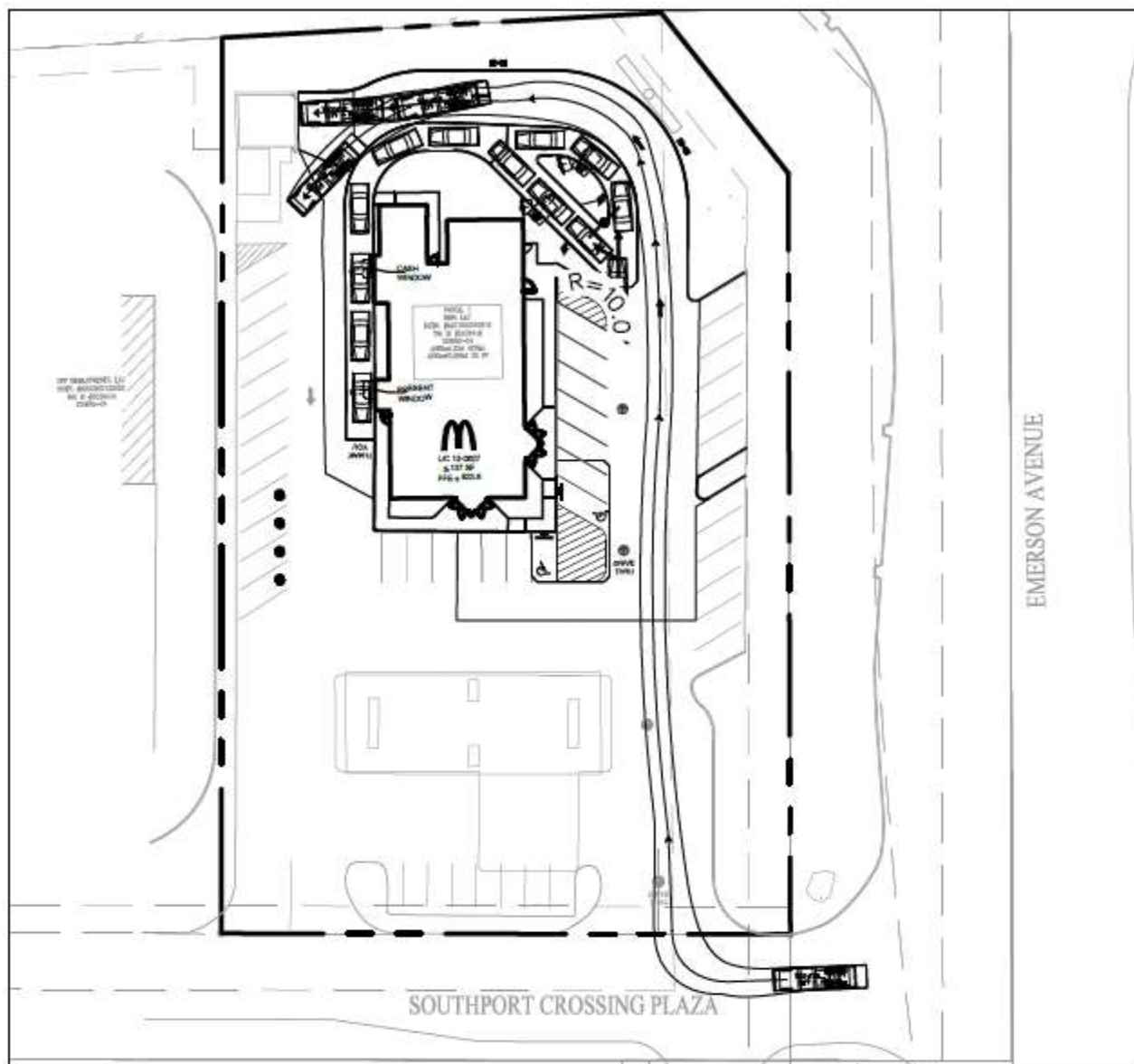
DELIVERY TRUCK DETAIL

SCALE: 1" = 70'



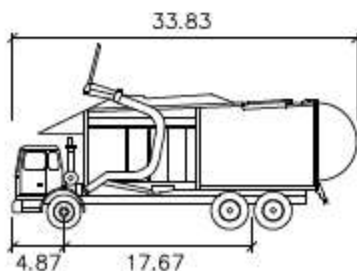
	feet
Tractor Width	: 8.00'
Trailer Width	: 8.50'
Tractor Track	: 8.00'
Trailer Track	: 8.00'
Lock to Lock Time	: 6.0
Steering Angle	: 28.4
Articulating Angle	: 70.0

Martin-Brower



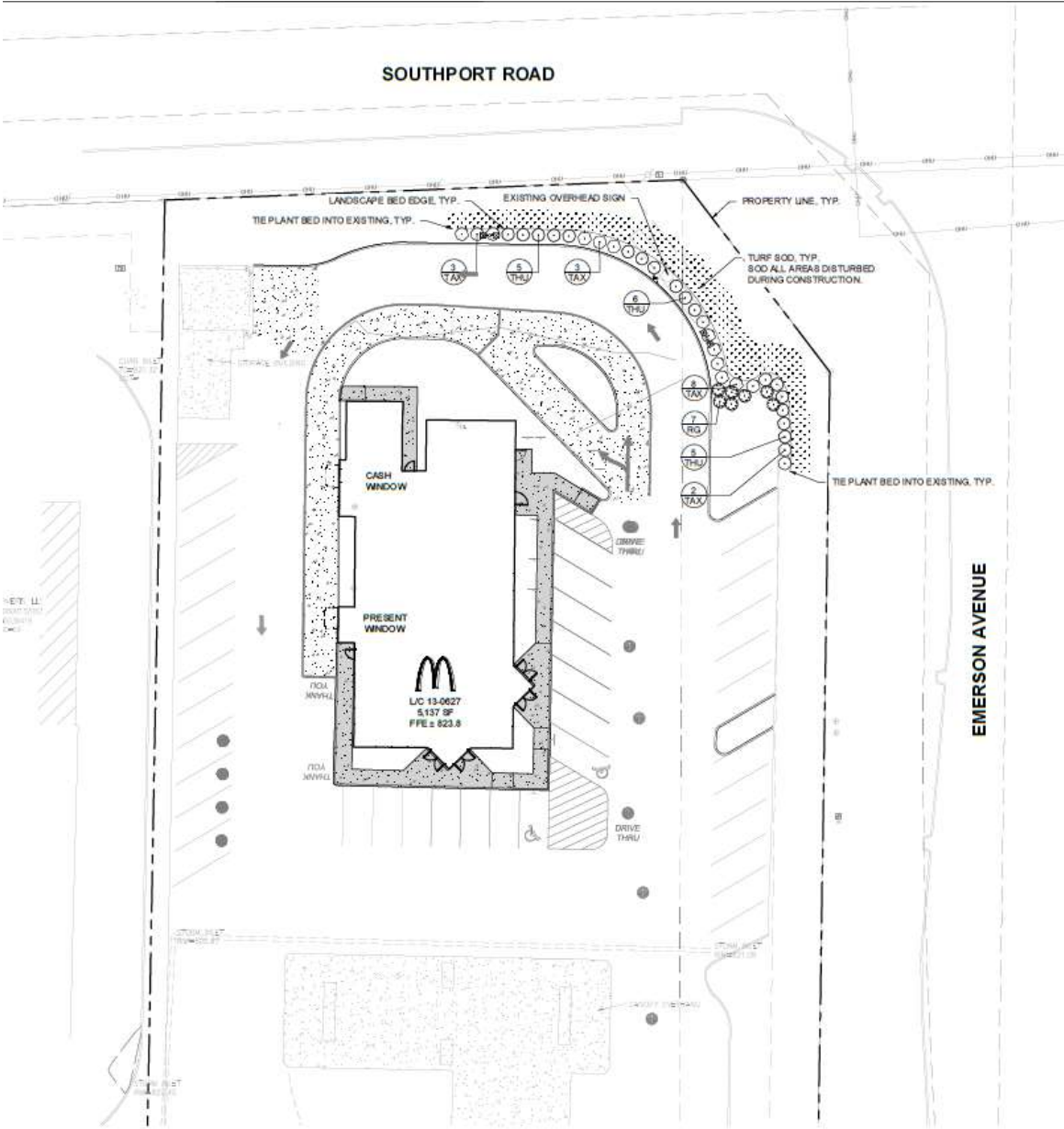
GARBAGE TRUCK DETAIL

SCALE: 1" = 70'







Wayne Titan

	feet
Width	: 8.46
Track	: 8.00
Lock to Lock Time	: 6.0
Steering Angle	: 45.0



PLANT SCHEDULE

SHRUBS	CODE	QTY	BOTANICAL / COMMON NAME	CONT	SIZE
	RG	7	RHUS AROMATICA 'GRO-LOW' / GRO-LOW FRAGRANT SUMAC	2 GAL	24" HT. MIN.
	TAX	16	TAXUS X MEDIA 'TAUNTONII' / TAUNTON'S ANGLO-JAPANESE YEW	5 GAL	36" HT. MIN.
	THU	16	THUJA OCCIDENTALIS 'CONGABE' / FIRE CHIEF™ ARBORVITAE	5 GAL	36" HT. MIN.
GROUND COVERS	CODE	QTY	BOTANICAL / COMMON NAME		
	TD		/ TURF SOD		

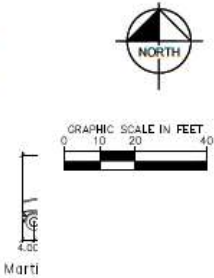




Photo of the Subject Property: 5030 Southport Crossing Place



Photo of the Subject Property: 5030 Southport Crossing Place



Photo of the northern property boundary where a sidewalk should be installed.



Photo of the parking spaces to be removed.



Photo of the existing drive-through windows.



Photo of the fueling station to the south.



Photo of the western property boundary looking north.



Photo of the southern property boundary.

STAFF REPORT

Item 12.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-009
Address: 10700 East Troy Avenue (approximate address)
Location: Warren Township, Council District #19
Zoning: D-A (FF) (FW)
Petitioner: Joel Wesseling
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling and related accessory structures on a lot without street frontage (125 feet of frontage required).

RECOMMENDATIONS

Staff **recommends approval** of the petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Metro	D-A	Undeveloped
-------	-----	-------------

SURROUNDING ZONING AND LAND USE

North -	D-2	Undeveloped
South -	SU-18	Undeveloped
East -	D-A	Undeveloped
West -	D-A	Undeveloped

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Rural or Estate Neighborhood, Agricultural Preservation, and Floodway uses for various portions of the subject site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ As proposed, a single-family dwelling would be constructed on the 8.4-acre lot without public street frontage
- ◇ The parcel appears to have been developed in 1995, at approximately the same time as the adjacent parcel to the south, that was to be developed as an electrical distribution substation. The adjacent property is still owned by the electrical utility, but the substation has not been developed. A 25-foot access easement for ingress and egress to the subject site, through the adjacent site to the south, was recorded on April 11, 1995.

(Continued)

- ◇ Providing for the single-family dwelling on a lot without street frontage would be supportable, as it would not affect the adjacent properties in an adverse manner. Several nearby properties gain access from the similarly established easements, and there are similar access drives off of Davis Road to the west of the site.
- ◇ Additionally, a practical difficulty exists because the site is land-locked and would be unable to be developed without relief from the Ordinance.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of East Troy Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 60-foot existing right-of-way, and an 80-foot proposed right-of-way

FINDINGS OF FACT

File-dated February 20, 2023

ZONING HISTORY

2016-DV3-020; 10140 East Troy (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the subdivision of 6.42 acres into two lots, with 225 feet of street frontage and lot width, and to legally establish the side setbacks of the existing accessory structures, including an approximate 15-foot setback along the proposed interior lot line, **granted**.

2016-HOV-009; 2636 Senour Road (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for three lots with less than the 250 feet of required lot width, **granted**.

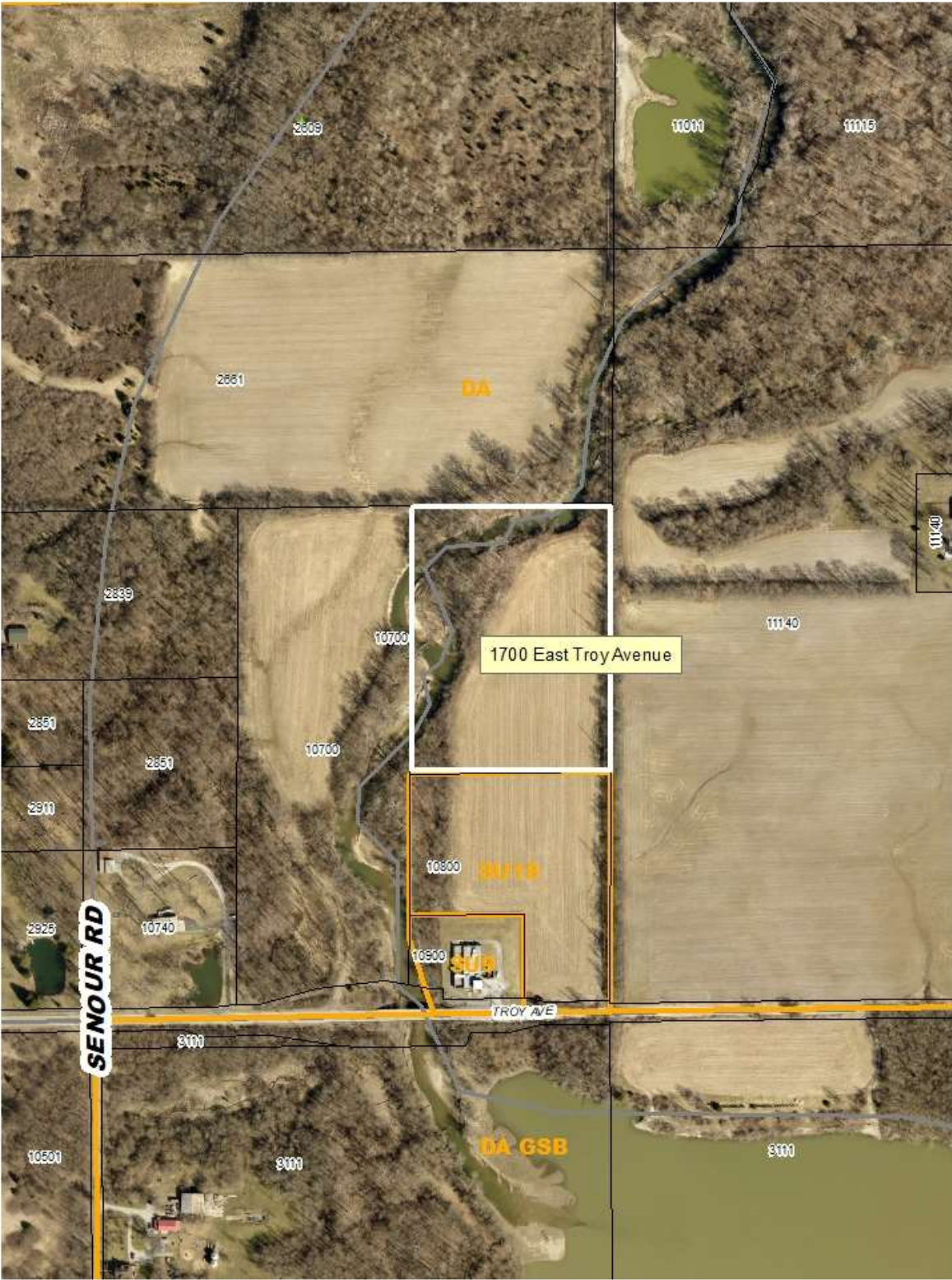
2010-ZON-059; 11400 East Troy (east of site), requested the rezoning of 60.0 acres, being in the D-A District, to the PK-1 classification to provide for park use, **approved**.

2008-DV1-032; 2610 Senour Road (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to: a) provide for a 720-square foot detached garage with a fifteen-foot south side setback, and b) legally establish a 320 square foot outbuilding with a four-foot north side setback, c) resulting in an accessory building area of 1,280 square feet or 96.97 percent of the main floor area of the primary structure, d) and resulting in an accessory use area of 1,645 square feet or 124.62 percent of the total living area of the primary structure, **granted**.

94-Z-209; 10802 East Troy Avenue (south of site), requested the rezoning of 5.778 acres, being in the D-A District, to the SU-18 classification to provide for an electrical distribution substation, **approved**.

77-Z-176; 10920 East Troy Avenue (south of site), requested the rezoning of 1.52 acres, being in the A-2 District, to the SU-9 classification to provide for a sanitary lift station, **approved**.

RU





Access easement location, looking north from Troy Avenue, towards subject site.



Subject site, looking north.



Subject site, looking northwest, towards adjacent undeveloped parcel.



Subject site, looking south, towards adjacent utility sanitary lift station.