



Board of Zoning Appeals BZA Division III (February 20, 2024) Meeting Agenda

Meeting Details

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

Date: Tuesday, February 20, 2024 **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:

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

1. **2023-SE3-005 (Amended) | 6179 East 26th Street**

Warren Township, Council District #9, Zoned D-A
Iglesia De Dios Israelita El Elohe Israel II Inc., by Marco Antonio Vazquez

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses with a 5.5-foot tall, 21-square foot monument sign (not permitted).

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 37-foot wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).

2. **2024-DV3-002 | 6161 East 82nd Street**

Lawrence Township, Council District #4, Zoned C-3 (FF)
Gilligan Company, by Mike Friend

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).

3. **2023-UV3-026 | 4328 East Michigan Street**

Center Township, Council District #12 (#13 Beginning 2024), Zoned MU-1
Robert McInteer

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an existing building to a duplex (not permitted) with one-foot front yard setbacks from Michigan Street and Euclid Avenue and a six-foot west side yard setback (12-foot front yard, 10-foot side yard

setbacks required) with vehicular access from Euclid Avenue (exclusive vehicular access from an improved alley required).

4. 2024-UV3-001 | 1615 West Edgewood Avenue
Perry Township, Council District #22, Zoned C-4
GND Property Inc., by Epifanio Carbajal

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for primary and accessory residential uses (not permitted).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

5. 2023-DV3-050 | 805 and 825 South Kitley Avenue
Warren Township, Council District #18 (#20 Beginning 2024), Zoned I-4 / C-7
Kitley Avenue Properties LLC, by J. Murray Clark and Mark R. Leach

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an eight-foot-tall fence and gate within the front yard of Kitley Avenue (maximum height of six feet permitted).

6. 2023-UV1-023 | 7217 Woodland Drive
Pike Township, Council District #1, Zoned C-4
Enterprise Leasing Company of Indianapolis, LLC, by Joseph D. Calderon

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a car and truck rental facility with associated outdoor storage (not permitted).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

7. 2023-SE3-006 | 1140 Dr. Martin Luther King Jr. Street
Center Township, Council District #11, Zoned SU-2 / D-8 (RC)
SMJ International o/b/o ATC, by Aaron Adelman

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 120-foot tall monopole tower and a four-foot lightening rod.

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

8. 2023-UV3-022 | 8345 Bash Street
Lawrence Township, Council District #3, Zoned C-4
CF Laughner Associates, by David Gilman

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a building to be used for automobile sales (not permitted).

9. 2023-UV3-024 | 2745 and 2815 Curry Road
Warren Township, Council District #14, Zoned D-A
David Palacios, by Joseph D. Calderon

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping contractor, including the indoor and outdoor storage of commercial vehicles, equipment, and materials (not permitted).

PETITIONS FOR PUBLIC HEARING (New Petitions):

10. 2024-DV3-001 | 6027 Castlebar Circle
Lawrence Township, Council District #3, Zoned D-2
Audrey Dressel, by Russell Brown

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yard of Circlewood Road (maximum 3.5-foot tall fence permitted) and an 88-foot wide parking area within the front yard of Castlebar Circle (maximum 30-foot wide parking area permitted).

11. 2024-DV3-003 | 3308 North Mitthoefer Road

Warren Township, Council District #15, Zoned I-3 / I-4
The Finish Line Inc., by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two incidental signs, each encroaching 4.5-feet into the right-of-way of Mitthoefer Road (prohibited), with the north sign located 70-feet from a dwelling district (100-foot transitional yard 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.



BOARD OF ZONING APPEALS DIVISION III **February 20, 2024**

Case Number: 2023-SE3-005

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

Location: Warren Township, Council District #13

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

Current Zoning: D-A
Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses with a 5.5-foot tall, 21-square foot monument sign (not permitted).

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 37-foot wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).

Current Land Use: Vacant

Staff Recommendations: Staff recommends approval of this petition.

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 20, 2024 BZA III HEARING

- This petition was automatically continued from the November 28, 2023 BZA III hearing to the December 19, 2023 BZA III hearing and was continued again to the January 16, 2024 BZA III hearing to allow for site plan revisions.
- An additional continuance was requested by Staff to the February 20, 2024 BZA III hearing to allow for further review and to amend the request.

STAFF RECOMMENDATION

Staff recommends approval of this petition.

PETITION OVERVIEW

- This petition would provide for religious uses on the subject site, as well as a 5.5-foot tall, 21-square foot monument sign (not permitted) and a 37-foot wide parking area within the front yard of Sheridan Avenue (parking area width limited to 30 feet within front yards).



Department of Metropolitan Development
 Division of Planning
 Current Planning

- Religious uses are permitted in D-A zoning districts via special exception, which this petition allow for. Additionally, despite monument signs not being a permitted use in D-A districts, with monument signs being permitted in SU-1 (religious use) districts, Staff finds the request for a monument sign to be reasonable in nature and is, therefore, unopposed to the request for the monument sign.
- Finally, with the only portion of the parking area that is to be located in the front yard being the access drive, and with all of the parking spaces being located in the rear of the proposed building, Staff is unopposed to the variance of development standards request for a parking area width of 37 feet within the front yard of Sheridan Drive.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Vacant	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-4	North: Single-Family Residential
South:	D-A	South: Single-Family Residential
East:	D-A	East: Single-Family Residential
West:	D-A	West: Single-Family Residential
Thoroughfare Plan		
	E 26 th Street (Local Street) Existing ROW: 50 feet Proposed ROW: 48 feet	Sheridan Avenue (Local Street) Existing ROW: 30 feet Proposed ROW: 48 feet
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	9/21/23	
Site Plan (Amended)	2/6/24	
Elevations	9/21/23	
Elevations (Amended)		
Landscape Plan	N/A	
Findings of Fact	9/21/23	
Findings of Fact (Amended)	N/A	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

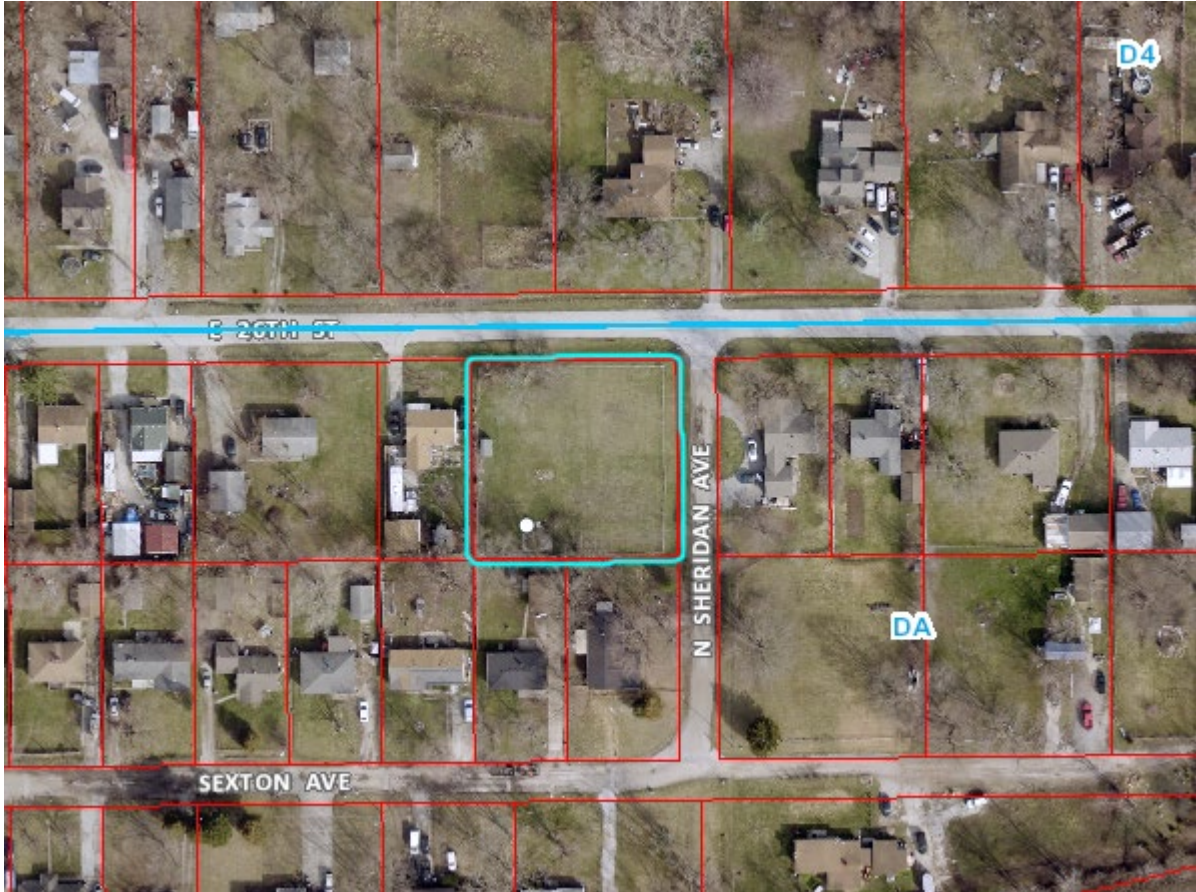
97-Z-236; 6023 E 26th Street (west of site), rezoning of 1.24 acres, to the I-2-S classification to provide for light industrial uses, **approved**.

95-Z-232; 2505 North Arlington Avenue (west of site), Rezone of 3.152 acres from C-ID to C-1 to provide for the construction of a health care center, **approved**.

95-UV2-6; 6043 E Sexton Avenue (south of site), variance of use and development standards of the Dwelling Districts Zoning Ordinance to legally establish a two-family residence (not permitted), with an aggregate side yard of 34 feet (minimum 75 feet required) and a side yard of 6 feet (minimum 30 feet setback required) and main floor area of 576 square feet for one unit and 874 square feet for the second unit (minimum 1,200 square feet required), **approved**.

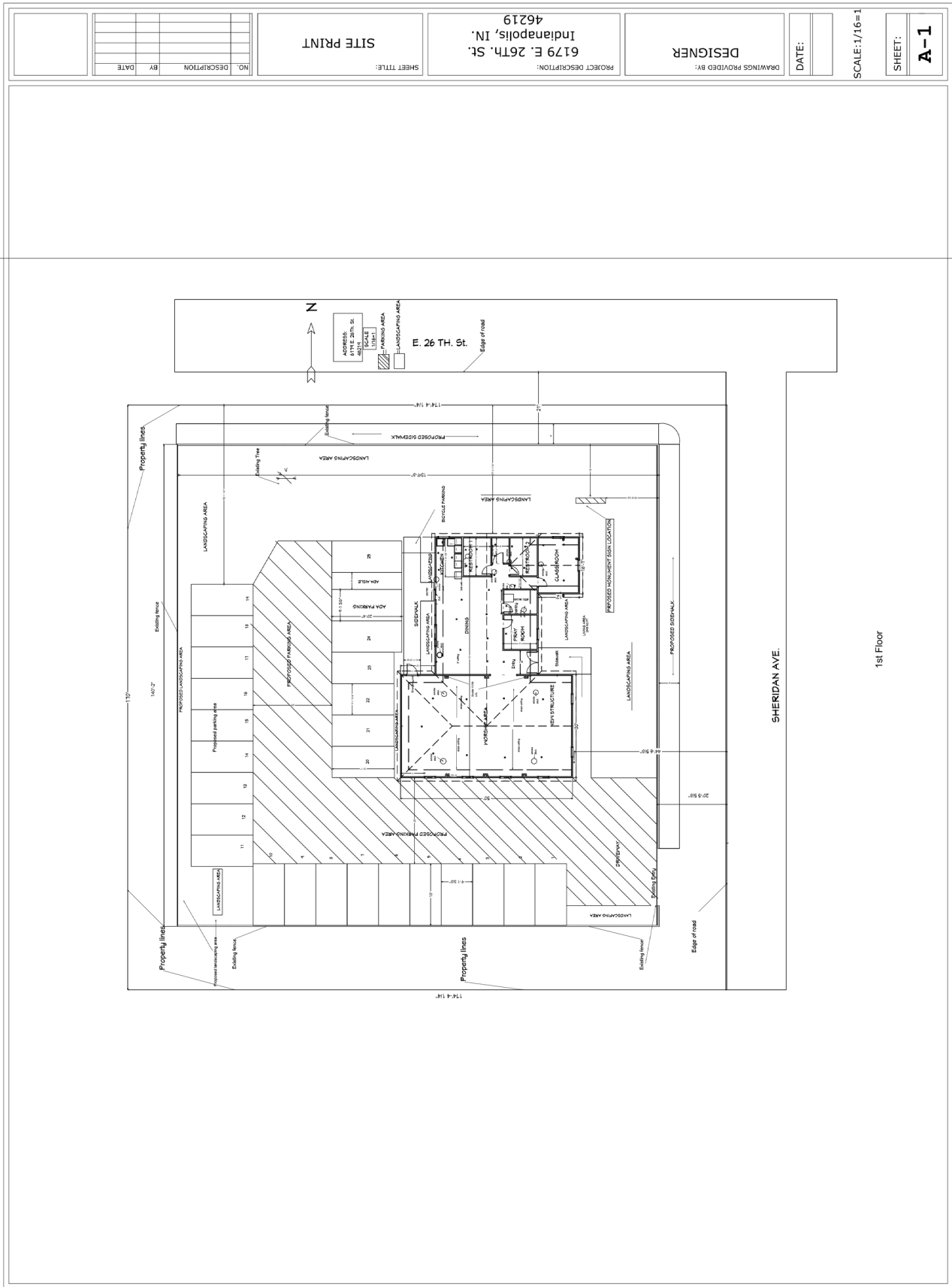
86-Z-179; 2601 N Arlington Avenue (west of site), rezoning of 1.3 acres, being in the D-4 district, to the I-2-S classification, to permit a new use to occupy an existing industrial facility, **approved**.

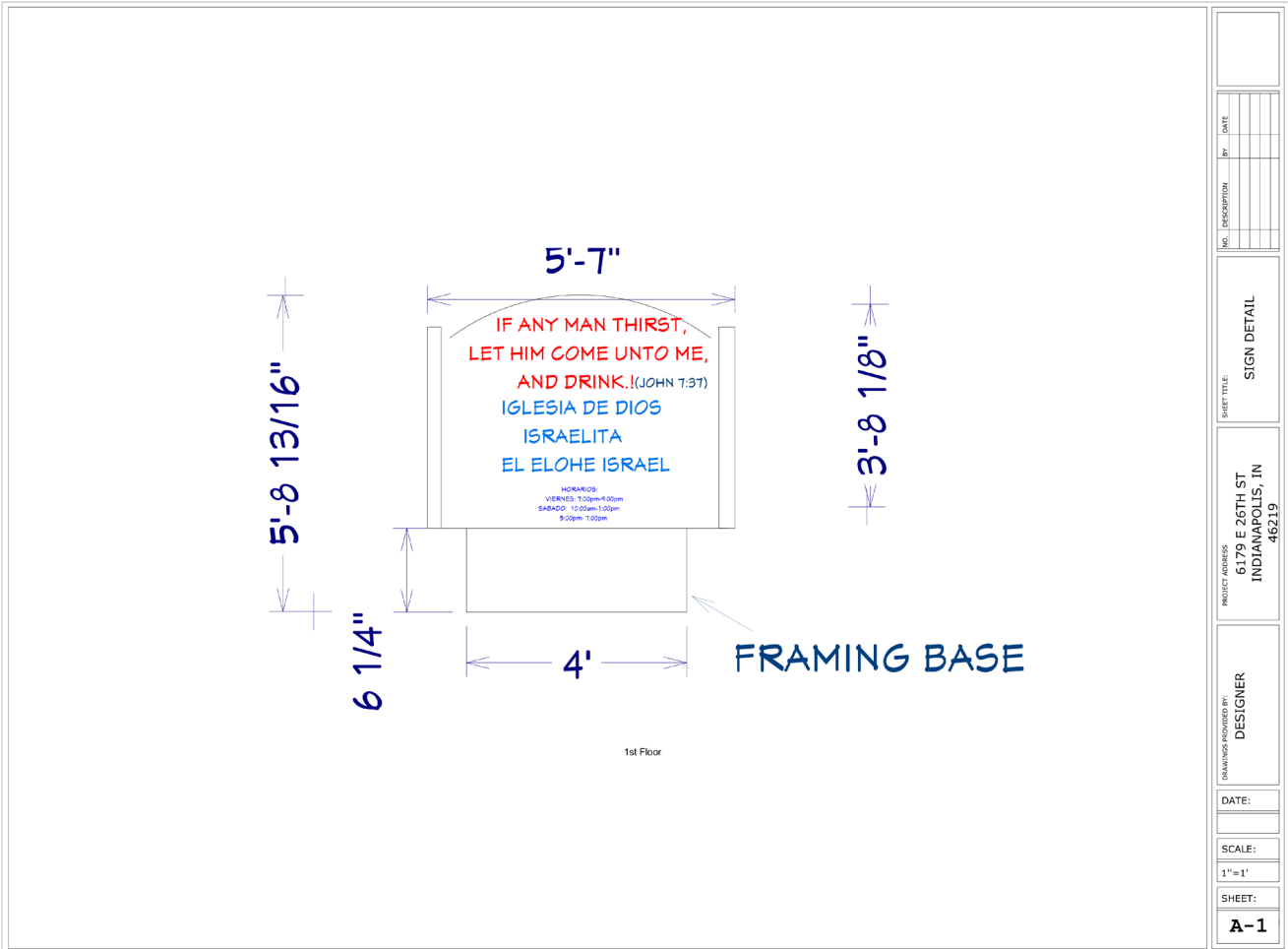
EXHIBITS





Department of Metropolitan Development
 Division of Planning
 Current Planning

















BOARD OF ZONING APPEALS DIVISION III

February 20, 2024

Case Number: 2024DV3002

Property Address: 6161 East 82nd Street (approximate address)

Location: Lawrence Township, Council District #4

Petitioner: Gilligan Company, by Mike Friend

Current Zoning: C-3 (FF)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).

Current Land Use: Commercial

Staff Recommendations: Staff recommends **approval** of the request with a commitment that frontage landscaping in compliance with Table 744-505-1 and with the Selected and Prohibited Plantings List be added along Knue Road within 6 months of approval of the variance.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of the request with a commitment that frontage landscaping in compliance with Table 744-505-1 and with the Selected and Prohibited Plantings List be added along Knue Road within 6 months of approval of the variance.

PETITION OVERVIEW

- The site currently contains a commercial eating establishment with an existing drive-thru lane. The menu board and beginning of the service unit is located with the side yard to the south, while the rest of the drive-thru lane and pick-up windows constituting the end of the service unit are along the eastern side of the building in the front yard. The current building was constructed in 2015 under a previous version of the ordinance.
- In 2023, permit applications were made to allow for an interior and exterior remodeling of the property. These plans included a new menu board and partial addition to the drive-thru lane (see



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Division of Planning
Current Planning**

site plan below). This reconfiguration of the site would require the full drive-thru lane to comply with current ordinance standards for stacking spaces within front yards.

- Current ordinance standards disallow stacking spaces within front yards along rights-of-way greater than 30 feet wide, require exclusive bypass aisles, and provide screening requirements per 743-306.I.3. Grant of this variance request would legalize the existing layout at the site and allow for the proposed stacking additions within the southern yard. Staff has determined that the proposed layout contains a sufficient exclusive bypass aisle, and that the only variances needed would be for expansion of the use partially within the front yard and the deficient screening.
- This property is zoned C-3 (FF) to allow for retail sales and persona, professional and business services to meet the demands of full developed residential neighborhoods with a basic level of accessibility for all modes of travel. The Land Use Plan Pattern Book recommends the Community Commercial working typology for this site to allow for low-intensity commercial and office uses that serve nearby neighborhoods.
- The property is also within a floodplain and the Environmentally Sensitive overlay of the Land Use Plan Pattern Book. Development associated with this remodel would not result in a decrease of the tree canopy or natural area recommended by the Comp Plan, and the current use of an eating establishment with drive-thru is not disallowed or restricted within the 100-year floodplain per the Flood Control Secondary Districts Ordinance.
- The Comprehensive Plan and the recent Castleton Plan (not formally certified) indicate that the area to the north of this parcel should be reserved for a 'linear park' (i.e. multi-use path, greenway, bicycle path, etc.). This is reflective of community desire for the 82nd Street corridor and Castleton area to be reimagined as a series of walkable villages in the future.
- Limitations on the placement of stacking spaces within front yards exist to reduce congestion and vehicular conflict with pedestrian as well as to allow for attractive, pedestrian-oriented storefronts facing rights-of-way (screening requirements also contribute to these goals). Although staff doesn't wish to expand a non-compliant automotive use in an area attempting to establish greater walkability, this scope of work would not result in the placement of any new stacking spaces within the front yard and may improve pedestrian safety for those attempting to enter the building from the west. Staff is supportive of the variance request on the condition that additional landscaping is added along the Knue Road frontage to provide partial screening of existing stacking spaces.



Department of Metropolitan Development
Division of Planning
Current Planning

GENERAL INFORMATION

Existing Zoning	C-3 (FF)	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-4	North: Regional Comm. / Linear Park
South:	C-S	South: Office Commercial
East:	C-3	East: Community Commercial
West:	C-S	West: Office Commercial
Thoroughfare Plan		
82 nd Street	Primary Arterial	Existing ROW: 145' Prop ROW: 134'
Knue Road	Local Street	Existing ROW: 100' Prop ROW: 50'
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	12/20/2023	
Site Plan (Amended)	N/A	
Elevations	12/20/2023	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	12/20/2023	
Findings of Fact (Amended)	01/23/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Land Use Plan Pattern Book recommends the Community Commercial working typology for this site to allow for low-intensity commercial and office uses that serve nearby neighborhoods.
- The site also falls within the Environmentally Sensitive overlay which is designed to prevent or mitigate potential damage to high quality woodlands, wetlands, or other natural resources.



Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2014DV2046, Variance of development standards of the Sign Regulations to provide for a 25-foot tall, approximately 150-square foot freestanding sign, exceeding the maximum integrated center sign area, being the ninth sign along this approximately 2300-foot frontage, within 105 feet of an existing freestanding sign (maximum 900 square feet of sign area permitted, maximum seven signs permitted, minimum 300 feet of separation), **approved**.

2014DV1003, Variance of development standards of the Sign Regulations to provide for a six-foot tall (ground signs cannot exceed four feet in height, minimum clearance of nine feet required), off-site business park advertising sign located in the right-of-way of 86th Street (signs not permitted within the right-of-way, 10-foot setback from proposed right-of-way required), approximately 215 feet from an existing advertising sign to the west (1,000 feet radial separation required), **approved**.

2001DV1040, Variance of development standards of Sign Regulations to provide for a 58.5 square foot advertising sign, being six feet tall (minimum of nine feet required), located within the right-of-way, 67 feet from the centerline of 82nd Street (minimum front setback of 90 feet required), and having 250 feet of linear separation oriented to the same street and radial separation from an advertising sign (minimum 1,000 feet of linear separation oriented to the same street and 500 feet of radial separation between advertising signs required), **denied**.

ZONING HISTORY – VICINITY

2023DV3046, 6415 E 82nd Street (east of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through that faces a public right-of-way greater than 30-foot wide (not permitted) with five parking spaces provided (six required), **withdrawn**.

2022DV3048, 6303 E 82nd Street (east of site), (Amended) Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster within the front yard of Knue Road (not permitted), **approved**.

2014DV1037, 6130 E 82nd Street (northwest of site), Variance of development standards of the Sign Regulations to provide for a 40-foot tall, 150-square foot pylon sign within approximately 195 feet of an existing freestanding sign to the west (minimum 300 feet of separation required), with an 11.25-foot front setback (minimum 15-foot setback required), **approved**.

2014DV3027, 6801 E 82nd Street, (west of site), Variance of development standards of the Sign Regulations to provide for two signs within two feet of each other (300 feet of separation required), **approved**.



Department of Metropolitan Development
Division of Planning
Current Planning

2011DV1028, 6055 E 82nd Street (west of site), Variance of development standards of the Sign Regulations to provide for a freestanding sign 133 feet from a freestanding sign (600 feet of separation required), **approved**.

2011ZON011, 6055 E 82nd Street (west of site), Rezoning of 1.52 acres, from the C-3 District, to the C-4 classification to provide for commercial uses, **approved**.

2005DV2053, 6110 E 82nd Street (northwest of site), Variance of the Sign Regulations to provide for a forty-foot tall, 153.75-square foot pole sign located 196.1 feet from an existing freestanding sign within an integrated center (minimum 300-foot separation required between freestanding signs in an integrated center) in C-4, **approved**.

2001ZON817, 6081 E 82nd Street (south of site), Rezone 122.13 acres from C-3, C-4, C-7 and I-2-S to C-S to provide for the development and redevelopment of an office-commercial-industrial business park, **approved**.

2000UV3057, 6070 E 82nd Street (northwest of site), Variance of use of the Commercial Zoning Ordinance to provide for an automobile glass replacement shop (not permitted), **approved**.

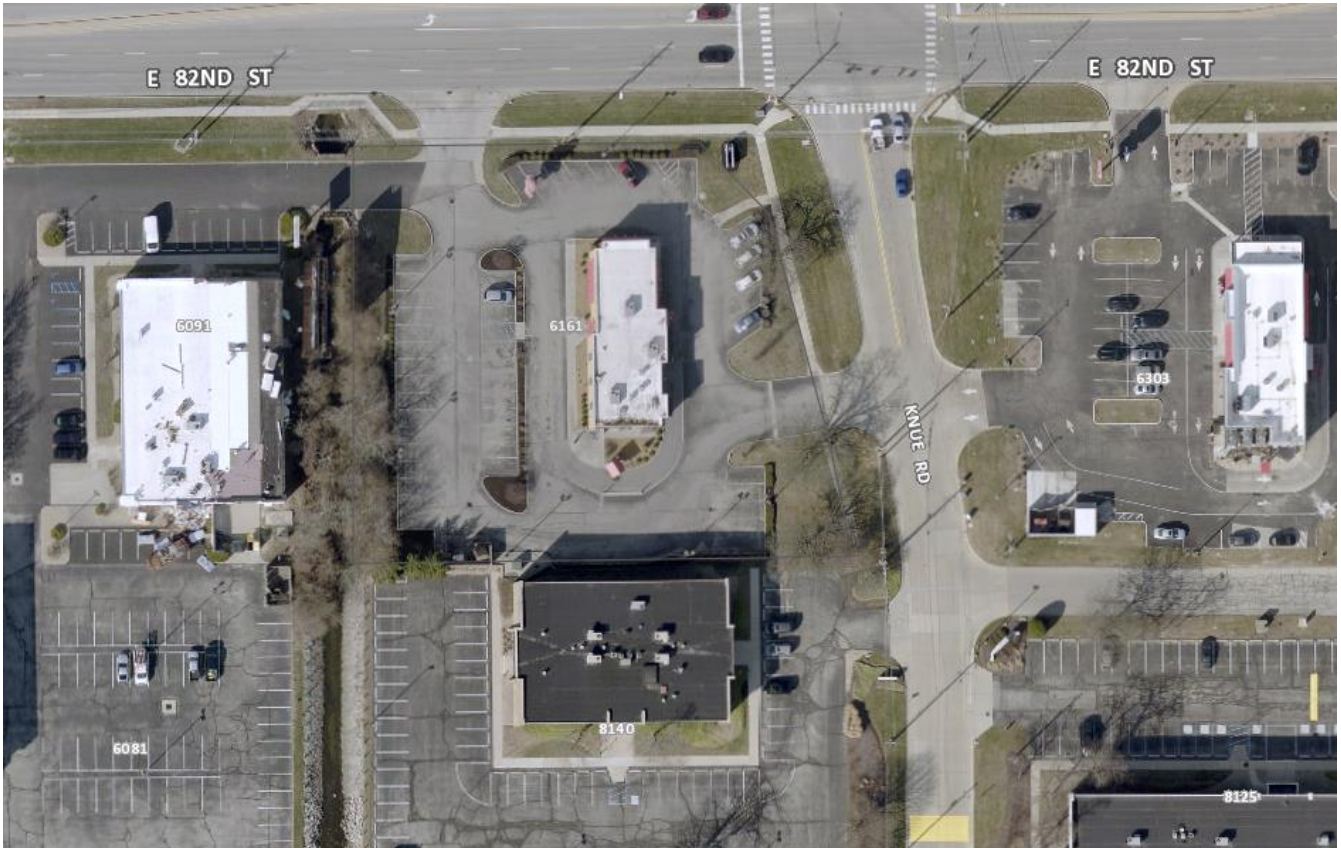
99-V1-153, 6071 E 82nd Street (west of site), Variance of development standards of the Sign Regulations to provide for a 50 square foot, illuminated pylon sign being 10 feet in height, located 96 feet from an existing pylon sign and 219 feet from an additional pylon sign, within an integrated commercial center (minimum 300-foot separation required), **denied**.

91-V2-52, 6081 E 82nd Street (west of site), Variance of development standards of the Commercial and Industrial Zoning Ordinances to permit the development of a commercial business park without the required public street frontage, **approved**.

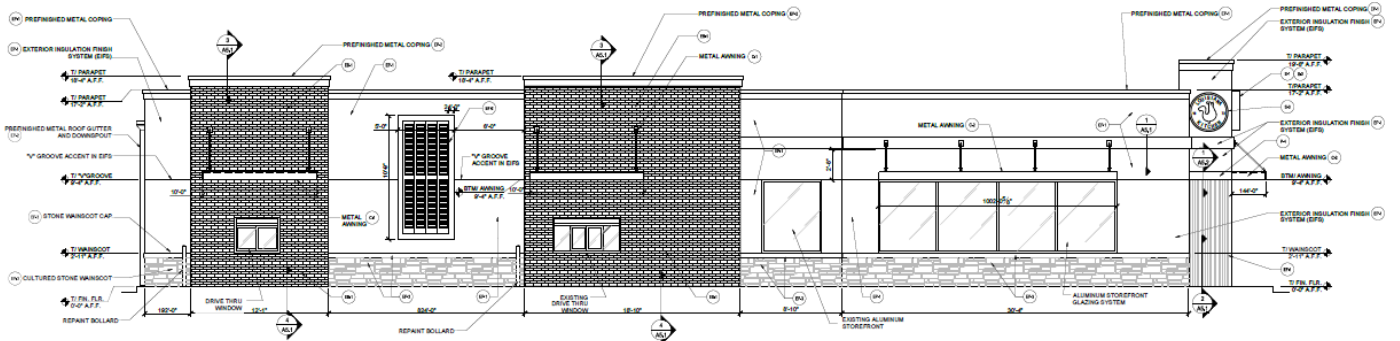
85-SE3-7, 6302 E 82nd Street (northeast of site), Commercial special exception to provide for an amusement arcade with 50 game machines, **approved**.

EXHIBITS

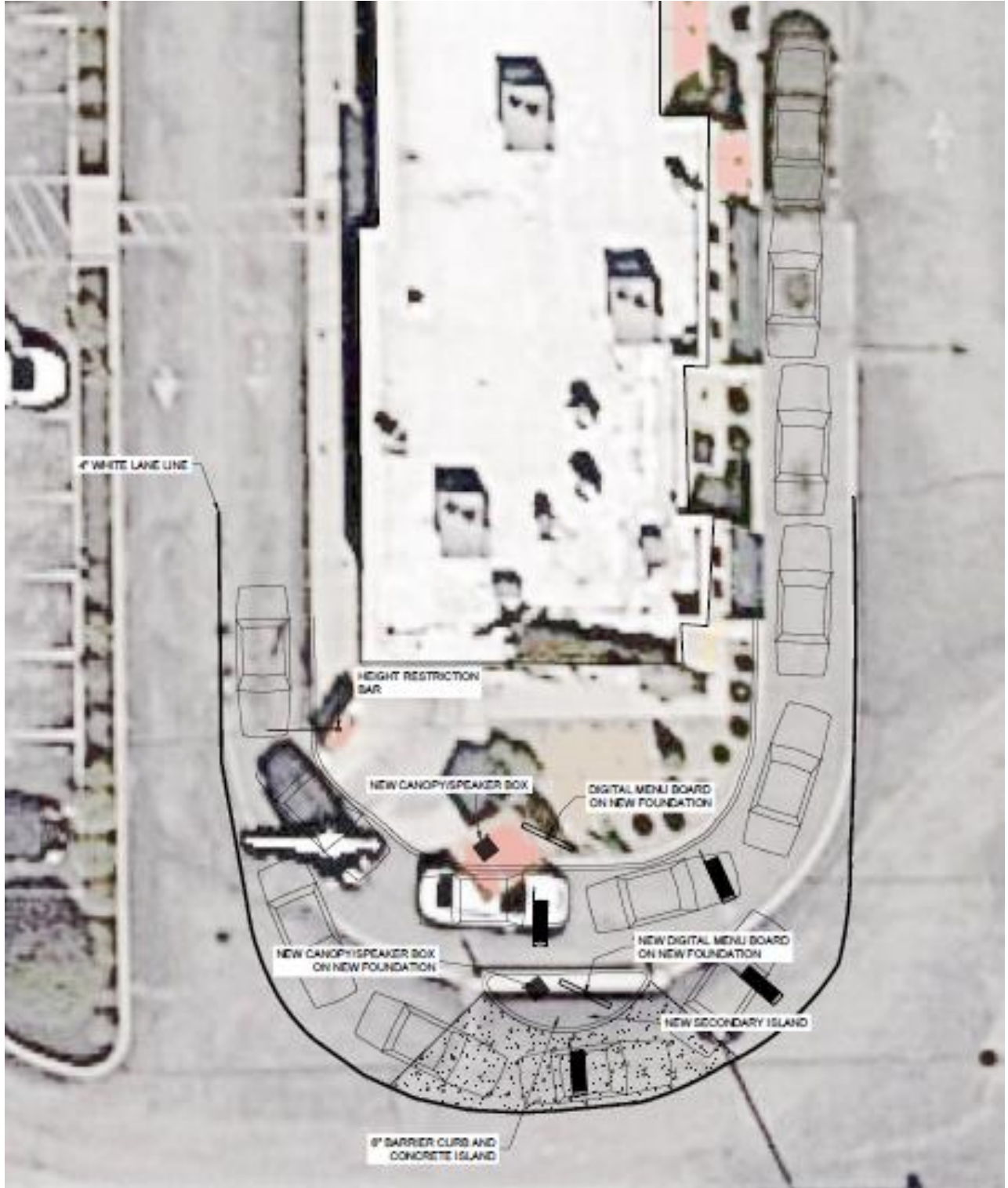
2024DV3002 ; Aerial Map



2024DV3002 ; Proposed Eastern Elevation



2024DV3002 ; Layout Plan





2024DV3002 ; Findings of Fact

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

This project is an interior and exterior remodel of the existing Popeye's Restaurant and so has no adverse effect on the surrounding parcels or general welfare of the community. Converting the drive-thru from a single lane to a double lane drive-thru will not increase the car stacking on the east side of the property where the front yard that is exceeding 30 feet along the public right of way is located, and hence not have an adverse effect on the community.

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

The parcels adjacent to the existing Popeye's Restaurant are in the C-3, Neighborhood Commercial District, and are compatible with the existing Popeye's Restaurant. The proposed remodel of the existing Popeye's Restaurant by the addition of a secondary island for the proposed double lane drive-thru, will not affect the accessibility of the stores adjacent to the project.

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

Without the car stacking being allowed on the east side of the building at the pick up windows, there will be more vehicle stacking on the west side of the property. This could create dangerous conditions for vehicles trying to drive around the site and for patrons trying to enter the building. By the addition of a double lane drive-thru vehicles will be able to move through the drive-thru quicker and there will be more vehicles able to be stacked at the back of the building where there are no parking spaces versus the west side of the building where patrons will be entering the building.

2024DV3002 ; Pictures



Photo 1: Eastern Elevation (Front Yard)



Photo 2: Drive-Thru in Front Yard Viewed from North

2024DV3002 ; Pictures (continued)



Photo 3: Building and Drive-Thru From Southeast



Photo 4: Adjacent Property to East

2024DV3002 ; Pictures (continued)



Photo 5: Existing Drive-Thru Menu Board from East



Photo 6: Southern Elevation and Existing Drive-Thru Menu Board

2024DV3002 ; Pictures (continued)



Photo 7: Existing Drive-Thru Menu Board from West



Photo 8: Western Elevation

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-UV3-026
Address: 4328 East Michigan Street (approximate address)
Location: Center Township, Council District #12 (#13 Beginning 2024)
Zoning: MU-1
Petitioner: Robert McInteer
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an existing building to a duplex (not permitted) with one-foot front yard setbacks from Michigan Street and Euclid Avenue and a six-foot west side yard setback (12-foot front yard, 10-foot side yard setbacks required).

ADDENDUM FOR FEBRUARY 20, 2024

This petition was continued, for cause, at the request of a registered neighborhood organization, to the February 20, 2024 hearing of Division III. The petitioner has since withdrawn the portion of the request related to prohibited vehicular access from Euclid Avenue. Subsequently, **Staff recommends approval** of the request.

January 16, 2024

RECOMMENDATIONS

Staff **recommends denial** of the request to allow for vehicular access from Euclid Avenue, however, **recommends approval** of the remainder of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

MU-1 Compact Vacant

SURROUNDING ZONING AND LAND USE

North D-5 Single-family Dwellings
South MU-1 Single-family Dwellings and General Commercial
East D-5 Multi-family Dwellings
West D-5 Single-family Dwellings & Two-Family Dwellings

(Continued)

STAFF REPORT 2023-UV3-026 (Continued)

COMPREHENSIVE PLAN The Comprehensive Plan recommends Village Mixed-Use development.

- ◇ This 0.11-acre lot, zoned MU-1, is currently improved with a vacant, previously commercial office building, with a residential appearance.
- ◇ North of the subject site are single-family dwellings, within the D-5 District. West of the site are single and two-family dwellings within the MU-1 District. To the east is a multi-family structure within the MU-1 District. To the south, across Michigan Street, are single-family dwellings and a general commercial building.
- ◇ The MU-1 District is intended to promote the development of high-rise office uses with apartments intermixed within the same building. The district is intended to be applied in areas with access to primary arterials, within proximity to high frequency mass transit, in order to promote increased presence of regional commercial complexes. Prior to the adoption of Indy Rezone, the subject site was zoned C-2, which served a similar purpose to the MU-1 District.

VARIANCE OF USE

- ◇ The request, as proposed, would allow for the conversion of the existing structure into a two-family dwelling.
- ◇ According to Assessor Property Cards, the structure was built in 1922, and has an area of 756 square feet. While a floor plan has not been provided, this would allow for the development of two efficiency style dwelling units. Staff would note that this would support the Ordinances Livability Principles, specifically to promote equitable, affordable housing options.
- ◇ Ideally, this Livability Principle would be applied in instances where the goal of lowering the combined cost of housing and transportation can be achieved. At the time of publication, the subject site is located along Indy Go's Route 3, which provides service every 30 minutes. Therefore, Staff believes the request to represent a reasonable deviation from the Ordinance.
- ◇ In Staff's opinion, the subject site is mis-zoned, given that the lot is substandard to reasonably provide for the building typology and intensity of uses associated with the intent of the district. Given that the request intends to repurpose the existing building, Staff believes there to be sufficient hardship warranting a favorable recommendation.
- ◇ Staff would note, however, that if approved, the variance grant would only apply to the existing building. Its grant would not apply to any subsequent building additions or site redevelopment.
- ◇ The use, as proposed, is more in line with the Artisan Food and Beverage land use. While this use is permitted within most Commercial and Mixed-Use Districts, and therefore would continue to require a variance of use within the D-5 District, Staff would note that this type of use is contemplated by the Land Use Pattern Book.

(Continued)

STAFF REPORT 2023-UV3-026 (Continued)

- ◇ According to the Land Use Pattern Book, such operations, classified as Community Farms/Gardens, are promoted to be located on sites recommended for Traditional Neighborhood Development, so long as they are limited to no more than two acres per site. This recommendation contemplates the sales of products grown on site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The portions of the request related to setbacks effectively legally establish deficiencies associated with the footprint of the existing building. Given the adaptive reuse of the structure, and facts indicated above, Staff believes this to be a reasonable request.
- ◇ The request also intends to provide vehicular access from Euclid Avenue along its eastern lot line. All lots within Marion County, with less than 200 linear feet of street frontage, that abut improved alleys, are required to maintain exclusive vehicular access from said alley. This alley is improved and appears to be well used given the presence of parking pads along the alley.
- ◇ This standard is intended to reduce the potential for conflict between vehicles and pedestrians and preserve the sidewalk network throughout the County by reducing the number of unnecessary curb cuts. Staff believes that this would unduly introduce a pedestrian hazard, and that no practical difficulty exists warranting approval of this portion of the request.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Michigan Street is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing 59-foot right of way and proposed 78-foot right-of-way.

This portion of Euclid Avenue is classified as a Local Street in the Official Thoroughfare Plan for Marion County, Indiana, with an existing and proposed 50-foot right-of-way.

SITE PLAN

File-dated December 11, 2023.

FINDINGS OF FACT

File-dated December 11, 2023.

ZONING HISTORY – SITE

None.

(Continued)

STAFF REPORT 2023-UV3-026 (Continued)**ZONING HISTORY – VICINITY**

2021-UV1-005; 437 North Euclid Avenue; requests variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a transitional living quarters; *granted*.

2006; UV3-011; 4401 East Michigan Street; requests variance to provide for repair of used automobiles, with one parking space in the required ten-foot east transitional yard, with one parking space with insufficient maneuvering area in the alley; **granted**.

2005-HOV-035; 4319 East Michigan Street; requests variance to legally establish an existing two-story single-family dwelling with a detached garage; **granted**.

99-UV2-27; 4406 East Michigan Street; requests variance of use of the Commercial Zoning Ordinance to legally establish a 20 by 20 foot addition to an existing garage, associated with an existing single-family dwelling; **granted**.

98-Z-84; 4410-4424 East Michigan Street; requests rezoning of 0.5 acre from C-2 and D-5 Districts to the SU-1 classification; **approved**.

98-UV2-1; 4406 East Michigan Street; requests variance of use of the Commercial Zoning Ordinance to legally establish a 20 by 20 foot addition to an existing detached garage associated with a single-family residence; **denied**.

95-UV1-72; 4324 East Michigan Street; requests variance to provide for an ice producing operation; **granted**.

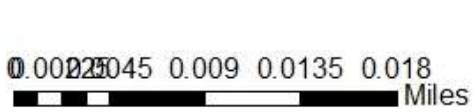
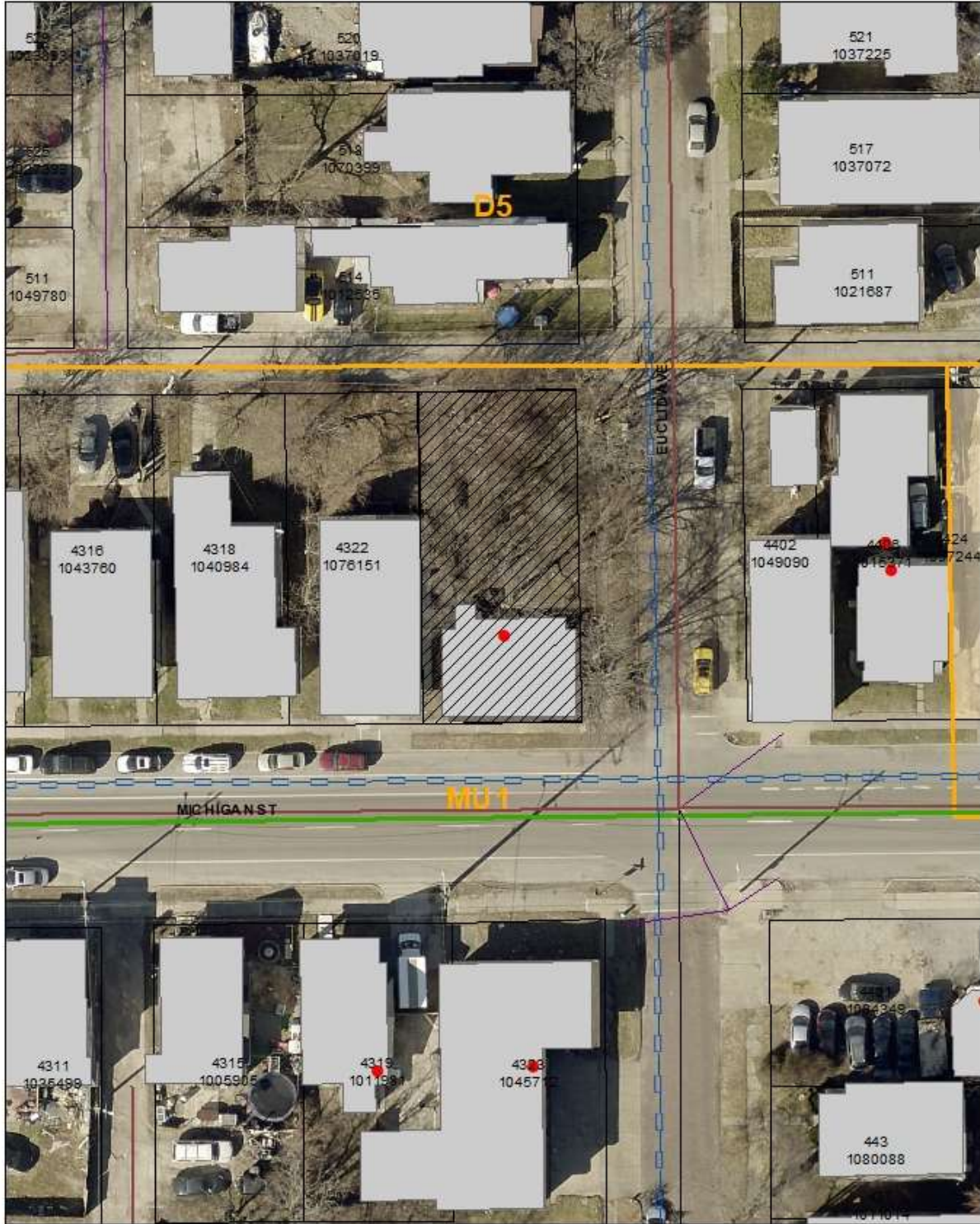
95-UV1-44; 4401 East Michigan Street; requests variance to legally establish a building contractor's facility in two one-story structures; **granted**.

94-V1-86; 422 North Linwood Avenue; requests variance to legally establish a 336-square foot carport with a zero-foot side yard setback, resulting in 62% open space; **granted**.

88-Z-75; 4428 East Michigan Street; requests rezoning of 0.12 acre from D-5 to C-3; **approved**.

81-V3-16; 4501 East Michigan Street; requests variance of use and development standards to permit open air auto sales with office and signs; **granted**.

EDH



2023-UV3-026; Findings of Fact - Use

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 nature of this petition is to allow for safe, healthy and affordable housing for residents of Indianapolis. This petition also mirrors the city's comprehensive plan of being a residential area.

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

A majority of the properties in close proximity are used as residential dwellings, which will allow for this variance of use to seamlessly interlock with the current zoning of adjacent properties. Speaking to the value of adjacent properties, the previous condition of the property is light, as a result would help better the community image and value, in the immediate area as well as this overall section of the michigan st corridor.

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

It is the petitioner's understanding that a zoning ordinance was adopted in 1968 to promote the development of commercial buildings to support the needs of the local community. This ordinance included converting 4328 E. Michigan st to a MU1 designation which does not fit well within the city's or community's needs the the present day. Since 1968 other areas have had more success garnering development for the community.

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

The current property use drastically limits the property's ability to have a positive contribution to the community. The majority of uses for MU1 generally require a much larger lot size for development.

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

The current comprehensive plan designates this area as heavily traditional neighborhood. Two family dwellings are and will continue to be depended upon to provide safe, healthy and affordable housing for the constituents of Indianapolis.

DECISION

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

Adopted this _____ day of _____, 20 ____

2023-UV3-026; Findings of Fact – Development Standards

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 property is to remain within the comprehensive plan set forth by the city as a residential area and add affordable safe and healthy housing units, for residents of Indianapolis.

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 and overall use will increase by adding affordable living conditions for at least two residents to become part of the community.

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

The property will not conform to the zoning ordinance development standards designated for MU1 for many factors including, minimum street frontage, minimum front yard setback, side transitional yard/abutting alley, minimum primary building height (all included in table (744-201-4). The development standards will prevent the practical use of the property in a reasonable manner due to the MU1 zoning designation being primarily for use in high rise and large unit mixed use buildings.

DECISION

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

Adopted this _____ day of _____, 20 ____

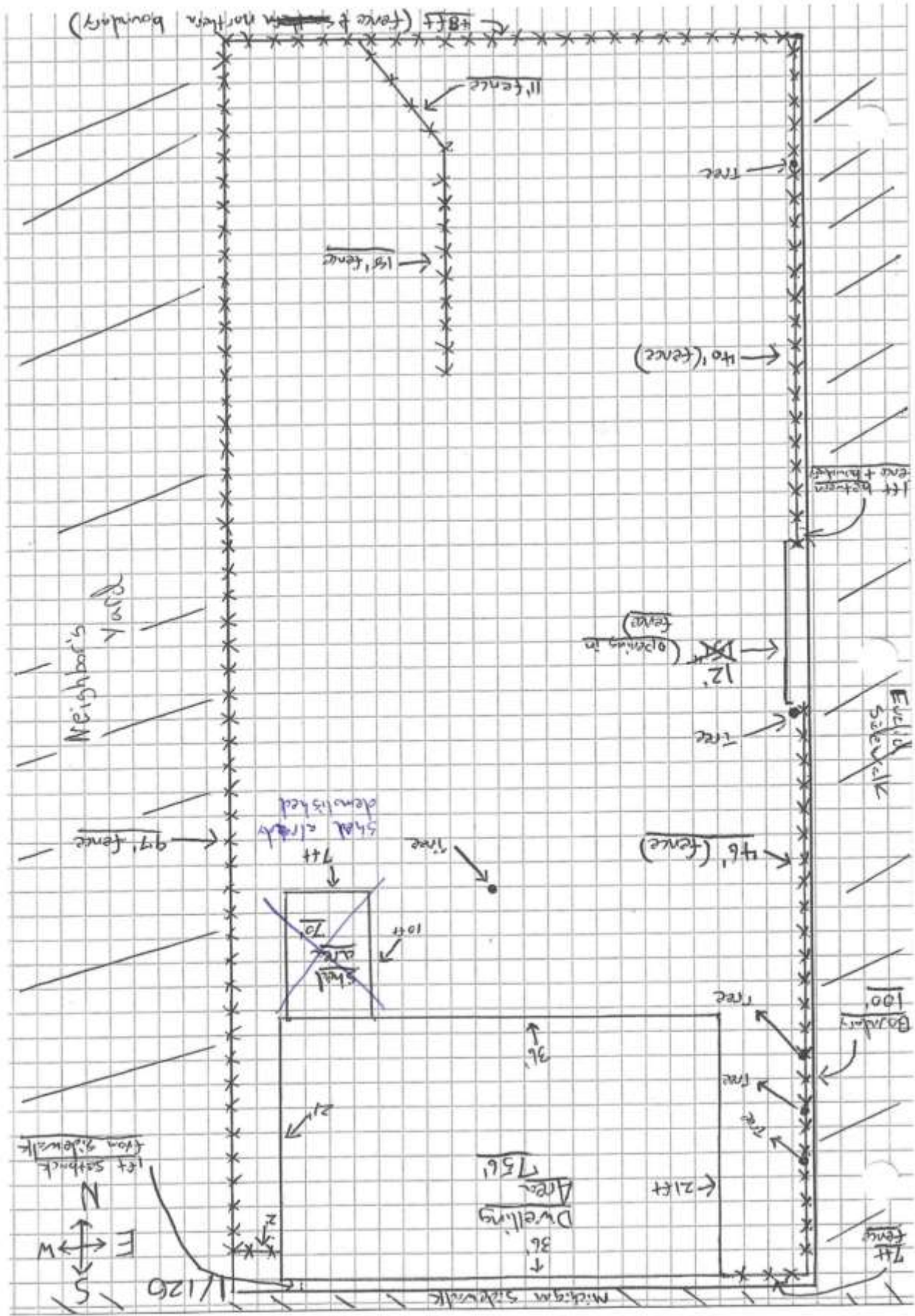




Photo One: Looking East Along Michigan Street



Photo Two: Looking West Along Michigan Street – Subject Site On Right



Photo Three: Facing South Along Euclid Avenue, Across Michigan Street



Photo Four: Looking North Along Euclid Avenue, Subject Site On Left



Photo Five: Existing Gap In Fence, Facing West



Photo Six: Looking West Along Improved Alley, Subject Site On Left



BOARD OF ZONING APPEALS DIVISION III

February 20, 2024

Case Number: 2024-UV3-001

Property Address: 1615 West Edgewood Avenue (approximate address)

Location: Perry Township, Council District #22

Petitioner: GND Property Inc., by Epifanio Carbajal

Current Zoning: C-4

Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for primary and accessory residential uses (not permitted).

Current Land Use: Residential

Staff Recommendations: Staff **recommends approval** of this petition, conditional to substantial compliance with the site plan, file-dated 1/2/2024

Staff Reviewer: Noah, Stern Associate Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff **recommends approval** of this petition, conditional to substantial compliance with the site plan, file-dated 1/2/2024.

PETITION OVERVIEW

- This petition would provide for primary residential uses on site (not permitted).
- The site was a part of the plat petition 2023-PLT-063, which created two separate parcels, 1615 and 1635 West Edgewood Avenue. The accessory structure is located on 1635 W Edgewood Avenue. The parcel pertaining to this petition is 1615 W Edgewood Avenue, meaning that no accessory structures exist on the subject site. Likewise, the petitioner confirmed with Staff that no future accessory structures are to be built on site. Therefore, that portion of the request can be removed from the petition.
- With the primary structure being built in 1900, and, thus, containing legal non-conforming status, Staff is not opposed to the request, but would ask for substantial compliance with the submitted site plan.



GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Residential	
Comprehensive Plan	Office Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	I-2 North: Industrial
	South:	C-4 South: Commercial
	East:	D-A East: Single-family residential
	West:	C-4 West: Commercial
Thoroughfare Plan		
West Edgewood Avenue	Primary Arterial Existing ROW: 40 feet Proposed ROW: 80 feet	
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	1/2/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/2/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Office Commercial working typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.



Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2023PLT063, Approval of a Subdivision Plat, to be known as Edgewood Properties, dividing 1.45 acres into two lots, **approved**.

2015ZON074, Rezoning of 1.45 acres from the D-A (W-1) district to the C-4 (W-1) classification to provide for a 10,000-square foot building for a haunted house, **approved**.

ZONING HISTORY – VICINITY

2023DV3006; 6039 S Harding Street (east of site), 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 (accessory structures not permitted in front of the primary building); 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), **approved**.

2021ZON114; 1525 W Edgewood Avenue (east of site), Rezoning of 0.417 acre from the D-A district to C-1 district, **approved**.

2021ZON086; 1735 W Edgewood Ave (west of site), Rezoning of 2.29 acres from the I-2 (FF) district to the I-3 (FF) district, **approved**.

2020ZON058; 6111 Lakehaven Lane (south of site), Rezoning of 8.2 acres from the I-2 district to the C-7 district, **approved**.

2017DV2013; 6020 Lakehaven Lane (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an industrial building, with a 49-foot north front setback and 32-foot east front setback (60-foot front setback from the proposed right-of-way required), **approved**.

2013ZON055; 1739 W Edgewood Avenue (west of site), Rezoning of four acres from the D-A (FF) (W-1) district to the C-S (FF) (W-1) classification to provide for office use, warehouse use, a distribution facility, with a retail component, and all I-3-S uses, **approved**.

2009ZON067; 6020 W Edgewood Ave (west of site), Rezoning of 3.06 acres, from the I-2-S (W-1)(FF) and C-S (W-1)(FF) Districts, to the I-3-S (W-1)(FF) classification to provide for medium-intensity industrial uses, **approved**.

2006ZON042; 6111 Lakehaven Lane (south of site), REZONING of 8.19 acres, from the C-S (FF) (W-1) and I-2-S (FF)(W-1) Districts, to the I-2-S (FF)(W-1) classification to provide for light industrial suburban uses. recorded commitment instrument number 2006-0146077, **approved**.

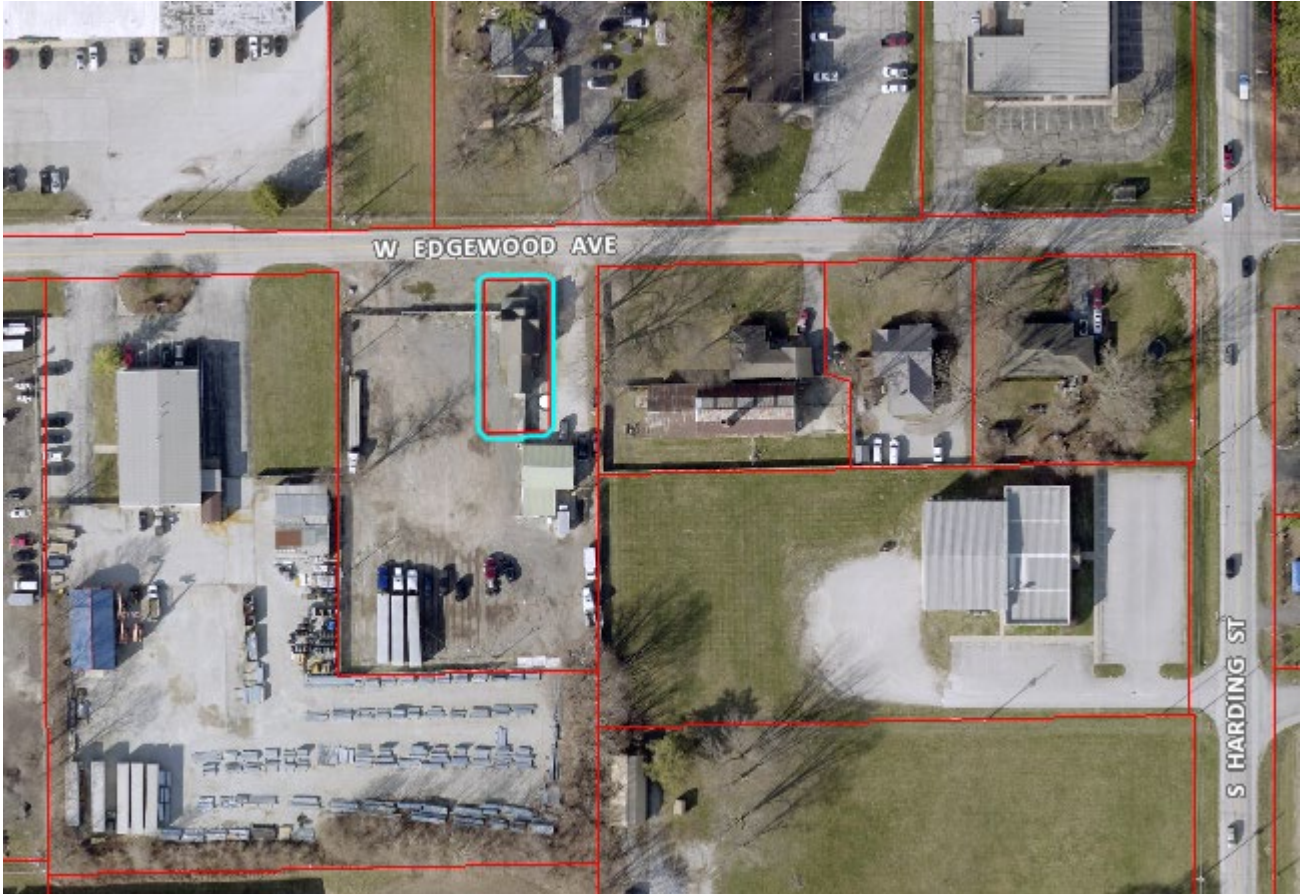


Department of Metropolitan Development
Division of Planning
Current Planning

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

94-UV1-120; 1614 W Edgewood Ave (north of site), variance of use of the Industrial Zoning Ordinance to provide for a licensed animal kennel and residence (not permitted), **approved.**

EXHIBITS









BOARD OF ZONING APPEALS DIVISION III **January 16, 2024**

Case Number: 2023DV3050

Property Address: 805 S Kitley Ave (approximate address)

Location: Warren Township, Council District #18 (#20 beginning 2024)

Petitioner: Kitley Avenue Properties LLC, by J. Murray Clark and Mark R. Leach

Current Zoning: I-4 / C-7

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an eight-foot-tall fence and gate within the front yard of Kitley Avenue (maximum height of six feet permitted).

Current Land Use: Commercial

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This case was first heard in full at the January 16, 2024 hearing where it received an indecisive 2-1 vote. It has therefore been continued to this hearing date on February 20, 2024.

STAFF RECOMMENDATION

Staff **recommends denial** of this request.

PETITION OVERVIEW

- This property currently houses a fencing contractor. The property was previously used as an appliance repair service business and received a variance in 2016 to allow for up to two dwelling units on the second floor of the existing building. In September of 2023, a violation case was opened related to the installation of a fence with height exceeding 6' in the front yard (disallowed per Table 744-510-2 of the Indianapolis Zoning Ordinance).
- This petition would seek to legalize the portion of the fence installed on the western portion of the property within the front yard at a height of 8 feet. The portions of the fence placed in the side yard are allowed by-right (maximum height allowable would be 10 feet for side and rear yards).



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

- Most of the land occupied by these parcels are zoned I-4 (Heavy Industrial District) while a small portion to the south is zoned C-7 (High-Intensity Commercial District). The Marion County Land Use Plan Pattern Book recommends Heavy Commercial development for this area.
- The Indianapolis Zoning Ordinance prescribes height limitations for fences to maintain visibility, orderly development, and the appearance of open space while also allowing for reasonable privacy. Although neighboring properties have taller fences in front yards that predate current ordinance standards, it is unclear what inherent practical difficulties exist that would be remedied by an 8-foot fence but not by an ordinance-compliant 6-foot fence. Therefore, staff recommends denial of this request.

GENERAL INFORMATION

Existing Zoning	I-4/C-7	
Existing Land Use	Commercial	
Comprehensive Plan	Heavy Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-S	North: Light Industrial
South:	C-7	South: Heavy Commercial
East:	I-3	East: Light Industrial
West:	C-S	West: Light Industrial
Thoroughfare Plan		
Kitley Avenue	Primary Collector	Existing ROW: 50' Prop ROW: 80'
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	11/27/23	
Site Plan (Amended)	N/A	
Elevations	11/27/23	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	11/27/23	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book



Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Heavy Commercial working typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2016UV3014, Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for up to two dwelling units (not permitted) on the second floor of the existing building, including residential accessory uses and structures (not permitted), **approved**.

2002LNU021, legally established nonconforming use certificate to legally establish uses and development standards in relation to the Industrial Zoning Ordinance and the Sign Regulations of Marion County, Indiana, **denied**.

81-Z-108, requested the rezoning of 2.39 acres from the SU-28 district to the I-4-U district, **approved**.

ZONING HISTORY – VICINITY

95-Z-104; 601 Kitley Avenue (west of site), Rezoning of 24.84 acres from the I-3-U and I-3-S Districts, to the C-S classification to provide for the continued use and development of a racetrack and associated facilities, **approved**.

93-UV2-44; 6464 Brookville Road (southwest of site), Variance of use of the Industrial Zoning Ordinance to provide for the sale of automobiles, **approved**.

90-V1-109; 6520 Brookville Road (southeast of site), Variance of development standards of the Industrial Zoning Ordinance to legally establish an existing front setback of less than the required 40 feet from the right-of-way; to allow more than 10% of the required parking within the front yard; to permit the construction of a storage building to store fencing materials within 300 feet of a dwelling district; to permit a rear yard setback of 3.5 feet; and a variance of development standards of the Sign Regulations of Marion County to legally establish an existing pole sign with a 14.5 foot setback from the right-of-way, **approved**.

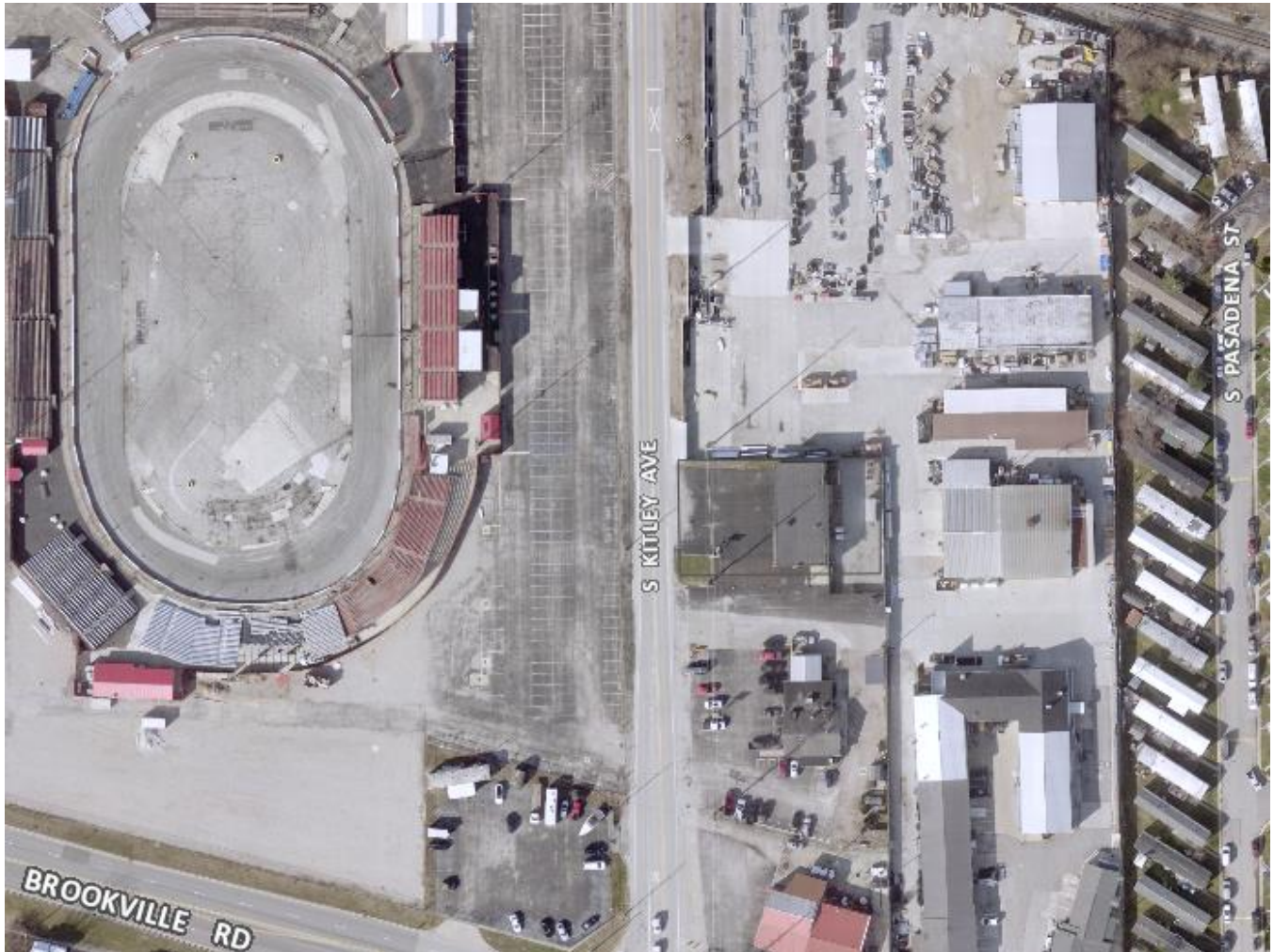
85-V1-59; 6520 Brookville Road (southeast of site), Special request to allow outside storage in excess of fifty percent of total building space, use of the required front yard for outdoor display of products and the use of side transitional yard for storage and display and to extend the time in which to obtain an Improvement Location Permit, **approved**.

84-Z-80; 6450 Brookville Road (southwest of site), Rezoning of 0.822 acres from the I-3-U District, to the C-3 District to provide for restaurant and tavern uses, **approved**.

83-UV1-133; 802 S Kitley Avenue (west of site), Variance of use of the Industrial Zoning Ordinance to allow the construction of a building for restroom facilities accessory to an auto-race track, **approved**.




EXHIBITS

2023DV3050 ; Aerial Map



2023DV3050 ; Site Plan



-  Front Yard with Tall Fence
-  8' Ornamental Black Metal Fence with 24'-wide Cantilever Gate
-  8' Decorative Masonry Fence



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



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

2023DV3050 ; 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 fence was installed at its current height to protect the safety of those from the surrounding area as well to protect the substantial business investment of the Petitioner. The Petitioner operates a Monday - Friday business that is open during normal business hours. However, the surrounding sites include a bar (to the south) that is open until 3:00 AM each day and the Indianapolis Speedrome (to the west) that has eclectic, but often after hours, events drawing large numbers of people to the area. During these times, Petitioner's site, which stores its commercial vehicles and a large supply of valuable and dangerous (i.e., sharp) fencing materials, is vulnerable. Further, if someone were to gain access, especially with reduced mental faculties due to alcohol consumption, the potential to injure themselves is great.

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 Petitioner owns a number of parcels in the area which they have taken pains to secure to preserve the safety of their property and the general public. The business to the west, the Indianapolis Speedrome, is an entertainment complex with inconsistent hours of visiting patrons and patrons that may be new to the area. The fence is of high quality and looks aesthetically pleasing and complements the surrounding area. Clearly the use or value of adjacent properties will not be adversely affected.

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

The fence is of similar height and quality as the other fences along the business and in the area. This specific parcel is one of many that the Petitioner owns that completes an entire business footprint that encompasses a majority of the block. Requiring the fence to be lowered to less than its current height would create inconsistencies and detriment to the business. Further, IMPD reports that from June 6, 2023, to November 20, 2023, there were 167 incident reports made within a 1-mile radius of the site. If the Petitioner's fence is lower, the site could become a magnet for the existing nearby activity, and attract the problematic activity to the site. Additionally, strict compliance with the ordinance would substantially decrease protection of the commercial materials within the Petitioner's property. Finally, it would be cost prohibitive to remove the fence, as it is valued at more than \$42,000.

2023DV3050 ; Pictures



Photo 1: View of the Subject Site (from West)



Photo 2: View of the Subject Site (from South)

2023DV3050 ; Pictures (continued)



Photo 3: Fence from South

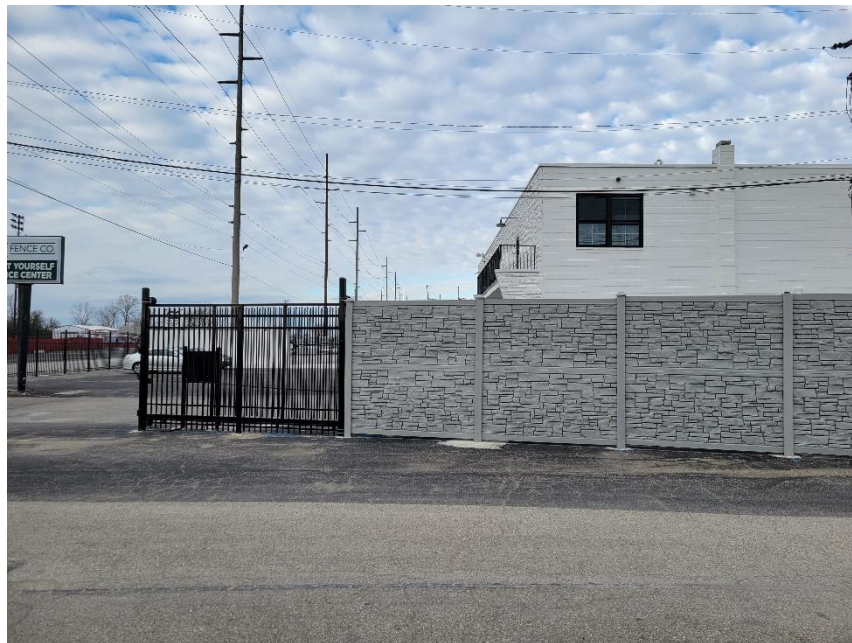


Photo 4: Fence from South showing Front Building Line

2023DV3050 ; Pictures (continued)



Photo 5: Adjacent Property to North



Photo 6: Adjacent Property to South

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-UV1-023
Address: 7217 Woodland Drive (approximate address)
Location: Pike Township, Council District #1
Zoning: C-4
Petitioner: Enterprise Leasing Company of Indianapolis, LLC, by Joseph D. Calderon
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a car and truck rental facility with associated outdoor storage (not permitted).

ADDENDUM

At the January 9, 2024 hearing, the Board, having insufficient members present for a quorum, continued this petition to the next regular meeting on February 20, 2024.

Due to an indecisive vote at the December 12, 2023 hearing, this petition was continued to the January 9, 2024 hearing.

At the November 14, 2023 hearing, the Petitioner requested a continuance to the next regular hearing and a transfer of the case to Division 2 of the Board of Zoning Appeals. The Board granted the transfer and continued to the December 12, 2023 hearing.

RECOMMENDATIONS

Staff **recommends denial** of the request for the variance of use to provide for the operation of a car and truck rental facility with associated outdoor storage. The proposed use is more intense than those contemplated in the Marion County Land Use Plan for Community Commercial or Regional Commercial typologies but is reserved for either Heavy Commercial or Heavy Industrial districts.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4 Metro Community-Regional Commercial (vacant restaurant)

SURROUNDING ZONING AND LAND USE

North C-S Child Daycare Center
South C-4 Automobile Fueling Station
East C-3 / I-2 Neighborhood commercial mix / light industrial
West C-4 Restaurant / vacant lot

(Continued)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Community Commercial development.

- ◇ The 1.22-acre subject site consists of a single parcel developed approximately 1989 with a single commercial structure. The site has been used as a restaurant with an accessory drive-thru until recently vacated.

VARIANCE OF USE

- ◇ The grant of the request would provide for the operation of an auto and truck rental facility with associated outdoor storage. Light vehicle (passenger vehicles) rental is permitted in the C-5, C-7, and CBD-2 districts while heavy vehicle (greater than 14,000 GVWR) rental is permitted by right in C-7, I-3, and I-4 districts. The proposed use includes outdoor storage of heavy trucks and has been determined to be of the most intense commercial/industrial uses and is therefore reserved to the most intense commercial/industrial districts. Such uses are not suitable for the regional commercial district.
- ◇ The purpose of the C-4 district is to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, *certain permitted uses may have limited outdoor activities* [emphasis added], as specified.
- ◇ Guidance for the C-4 district is found in the Marion County Land Use Plan Pattern Book under the Regional Commercial typology. The Regional Commercial typology provides for general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers.
- ◇ Guidance for the C-5 and C-7 districts can be found in the Marion County Land Use Plan Pattern Book under the Heavy Commercial typology. This typology provides for consumer-oriented general commercial and office uses that tend to exhibit characteristics that are not compatible with less intensive land uses. They are often *dominated by exterior operations, sales, and display of goods* [emphasis added]. Examples include vehicle sales and commercial lumber yards.
- ◇ Approval of the proposed use would be incongruent with the Comprehensive Plan.

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 use is less intense than many permitted uses and will not generate significant traffic.

- ◇ Staff has determined that the grant would be injurious to the general welfare of the community as this use has already been determined to be more intense than those permitted uses within the current zoning district. Traffic generation is not the sole determining factor for intensity of a use. Outdoor storage of vehicles is a related use which makes the proposal too intense for the C-4 district.

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

the proposed use will serve other non-retail uses in Park 100, and will not impede access to any adjoining property.

- ◇ The use and value of the area adjacent to the property included in the variance would be adversely affected by the use as it is bordered to the north by a child day care facility. A child day care facility as a primary use, as seen in this scenario, is reserved to less intense commercial and industrial districts creating a conflict of adjacent uses.

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

the property has been developed and used for a particular use and it would be difficult to reuse the existing improvements for a permitted use. Furthermore, Park 100 has a wide variety of uses in the commercial and industrial realm.

- ◇ The property was developed and used as a restaurant for approximately 30 years. The existing zoning allows many uses for which this property could reasonably be adapted.

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

the ordinance allows for more intense motor vehicle related uses in C-4 than the proposed use as an auto/truck rental facility.

- ◇ The ordinance does not allow for more intense automotive uses in the C-4 district. Those vehicle uses with such intense outdoor storage are reserved for heavy commercial and heavy industrial districts.

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

the proposed use will be comparable in intensity to many commercial uses contemplated in the community commercial classification.

- ◇ The Comprehensive Plan has reserved uses with such outdoor storage of heavy vehicles to the heavy commercial typology.

GENERAL INFORMATION

THOROUGHFARE PLAN	Woodland Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 90-foot existing right-of-way and a 50-foot proposed right-of-way.
SITE PLAN	File-dated October 9, 2023.
PLAN OF OPERATION	File-dated October 9, 2023.
FINDINGS OF FACT	File-dated October 9, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None

PREVIOUS CASES

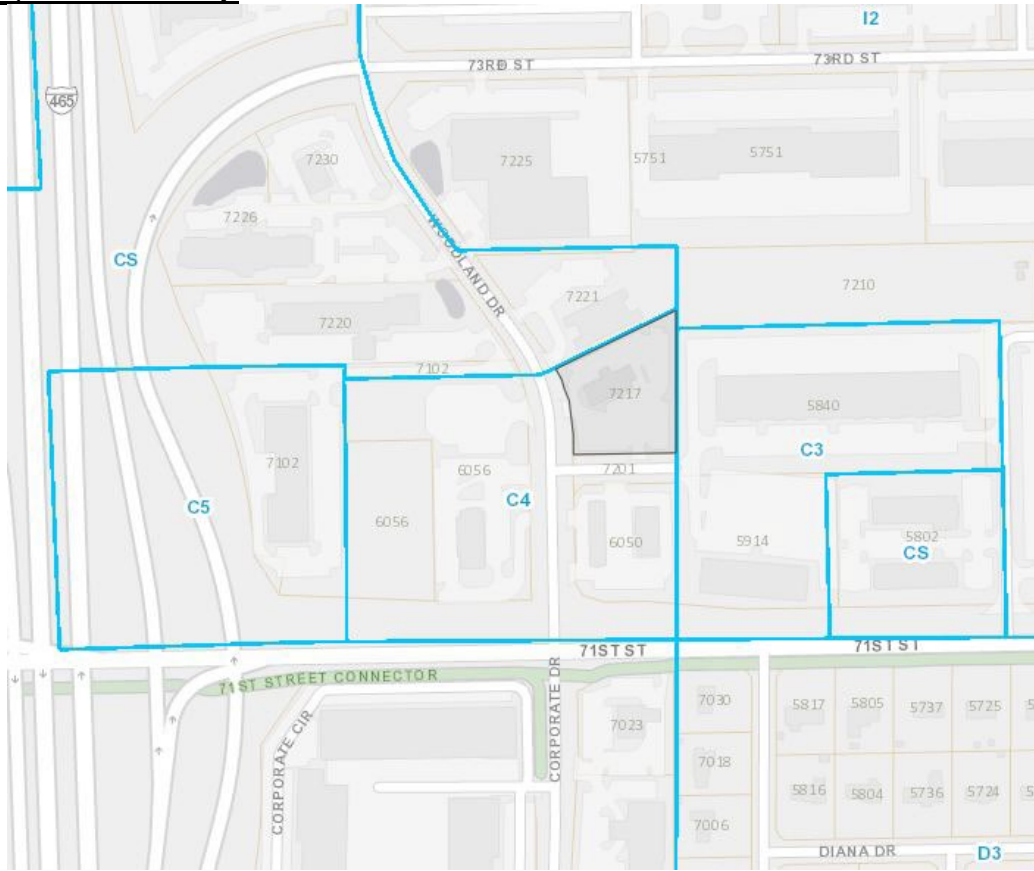
69-Z-317; West 71st (including subject site), Rezoning of 28.28 acres from the A-2 district to the C-4 district, **granted**.

ZONING HISTORY – VICINITY

2000-DV1-065; 6050 West 71st Street (south of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for the construction of a 4,220 square foot convenience store, with an interior access drive located within the required front yard of Woodland Drive (interior access drives not permitted with the required front yard), **granted**.

BB

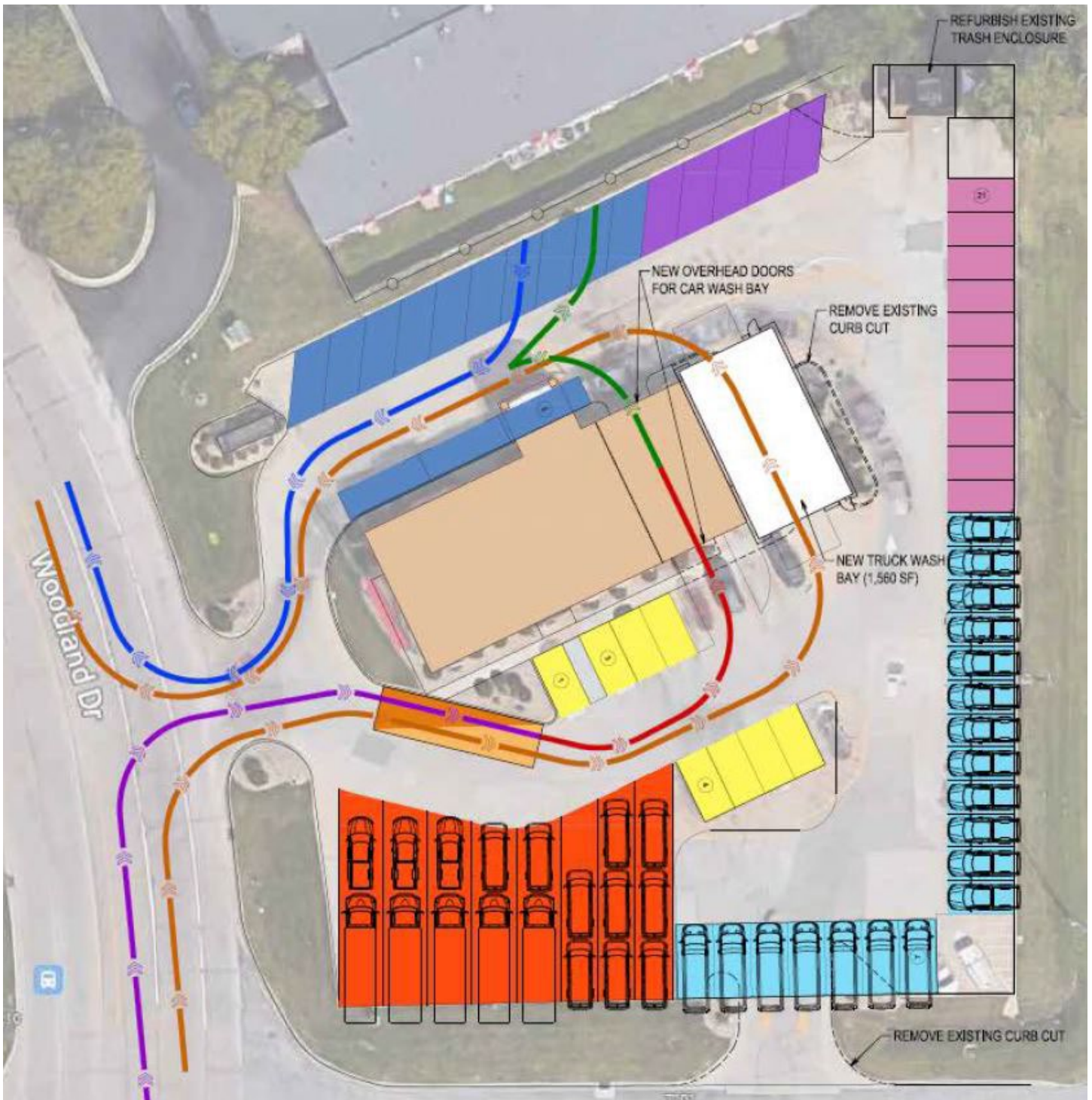
2023-UV1-023; Location Map



2023-UV1-023; Aerial Map



(Continued)



(Continued)



Photo of the Subject Property, view from north



Photo of the Subject Property, view from south

(Continued)



View of north neighbor site (child day care)



View south (Woodland Dr/71st St)

(Continued)



View west from site



Industrial site north of subject site



BOARD OF ZONING APPEALS DIVISION III

February 20, 2024

Case Number: 2023-SE3-006
Property Address: 1140 Dr. Martin Luther King, Jr Street
Location: Center Township, Council District #11
Petitioner: SMJ International o/b/o ATC, by Aaron Adelman
Current Zoning: SU-2 (RC)

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 120-foot-tall monopole tower and a four-foot lightning rod.

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

Current Land Use: Public high school

Staff

Recommendations: Approval

Staff Reviewer: Jeffrey York, Principal Planner I

PETITION HISTORY

This petition was originally scheduled for hearing on November 28, 2023. It has been continued one time at the request of staff, one time as an Automatic Continuance from a neighborhood organization and one time at the request of the petitioner.

STAFF RECOMMENDATION

Staff recommends **approval** with a commitment that a revised site plan shall be filed with 2023-REG-089, which shall note the proposed location of the Wireless Communication Facility at the southern end of the site.

PETITION OVERVIEW

- This petition seeks to install a new 120-foot-tall wireless communications monopole tower, with a four-foot lightning rod, at a public school, Crispus Attucks. An existing wireless communication facility (WCF) is located at the southwestern edge of the existing athletic stadium. This WCF was established by 2009-SE2-001 and 2009-DV2-003 and is 129 feet in height, including a nine-foot lightning rod. This tower also includes lighting for the stadium.



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

- Along with the Special Exception request, a variance of development standards is also requested for no perimeter landscape screening surrounding the base of the WCF.
- The school plans to replace the existing athletic stadium and construct a new athletic stadium. The proposed stadium would be oriented east-west, rather than the existing north-south configuration. A Regional Center Approval petition is pending for this work, via 2023-REG-027. The new stadium necessitates the need for a new location for a WCF.
- Staff understands the need for the WCF and is not opposed to a newly relocated WCF in an appropriate location on the school’s grounds. It should be noted, however, that the Crispus Attucks is listed on the *National Register of Historic Places*. The neighborhood that the school serves to the north, Flanner House Homes, is also listed on the *National Register of Historic Places*. The area is significant in the history of African Americans in the mid-20th Century as an area of Indianapolis where many African Americans settled. Most of the dwellings in this area were constructed in the 1940s and 1950s. In many cases, the owners assisted in the construction of the dwellings. It is common that original owners or their descendants still reside in these homes today. This type of structure should not be near or adjacent to these notable historic structures.
- Originally, the proposed location of the WCF would be west of the existing location, near Brooks Street and within 50 feet of the historic neighborhood. Through discussions with staff and neighbors, the revised location of the WCF would be at the far southern end of the school grounds, adjacent to Oscar Robertson Boulevard and the former Clarian People Mover structure, which is within the public right-of-way. This revised location would place the WCF far away from any of the existing single-family dwellings within Flanner House Homes. In addition, the revised location of the WCF would be in a location further away from the historic school building on the grounds of this site.
- The request also includes a lack of perimeter landscaping surrounding the base of the WCF. The proposed location would be internal to the campus, away from residential, commercial uses and rights-of-way. This scenario mitigates the impact of little to no landscaping surrounding this structure.
- The petitioner submitted a Regional Center Approval petition for the proposed wireless communications facility, which is 2023-REG-089 and is pending the outcome of this petition. Per the discussions with the petitioner, Staff would require a revised site plan noting the revised location of the structure, as indicated in the Staff recommendation above. Staff is supportive of the proposed revised location of the WCF, as discussed with the petitioner.

GENERAL INFORMATION

Existing Zoning	SU-2 (RC)
Existing Land Use	Public high school
Comprehensive Plan	Regional Special Use



Department of Metropolitan Development
Division of Planning
Current Planning

Surrounding Context	Zoning	Surrounding Context
North:	D-8 (RC)	Single-family dwellings
South:	D-8 / C-5 (RC)	Multi-family dwellings / commercial
East:	D-8 (RC)	Multi-family dwellings
West:	D-8 (RC)	Single-family dwellings
Thoroughfare Plan		
Dr. Martin Luther King, Jr. Street	Primary arterial	88-foot right-of-way existing and proposed
12 th Street	Local Street	48-foot right-of-way existing and proposed
Brooks Street	Local Street	48-foot right-of-way existing and proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes, Regional Center. Design of new construction would require the submittal and approval of a Regional Center Approval petition	
Wellfield Protection Area	No	
Site Plan	October 10, 2023	
Site Plan (Amended)	November 30, 2023	
Elevations	October 10, 2023	
Elevations (Amended)	November 30, 2023	
Landscape Plan	N/A	
Findings of Fact	October 10, 2023	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Center Township Land Use Plan.
- Regional Center Urban Design Guidelines

Pattern Book / Land Use Plan

The Center Township Land Use Plan recommends Regional Special-Use development for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.



Neighborhood / Area Specific Plan

- The site is within the Neighborhood Residential typology of the Regional Center Urban Design Guidelines.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2023-REG-089; Regional Center Approval for the installation of a Wireless Communication Facility on the grounds of the athletic field of Crispus Attucks school, **pending**.

2023-REG-027; Regional Center Approval for demolition of an existing athletic stadium and construction of a proposed athletic stadium, new lighting, and bus parking area, at Crispus Attucks school, **pending**.

2009-SE2-001 / 2009-DV2-003; requested a Special Exception and a variance of development standards of the Wireless Communications Zoning Ordinance to provide for a 129-foot monopole tower, including a nine-foot lightening rod, and a 345-square-foot equipment shelter, **granted**.

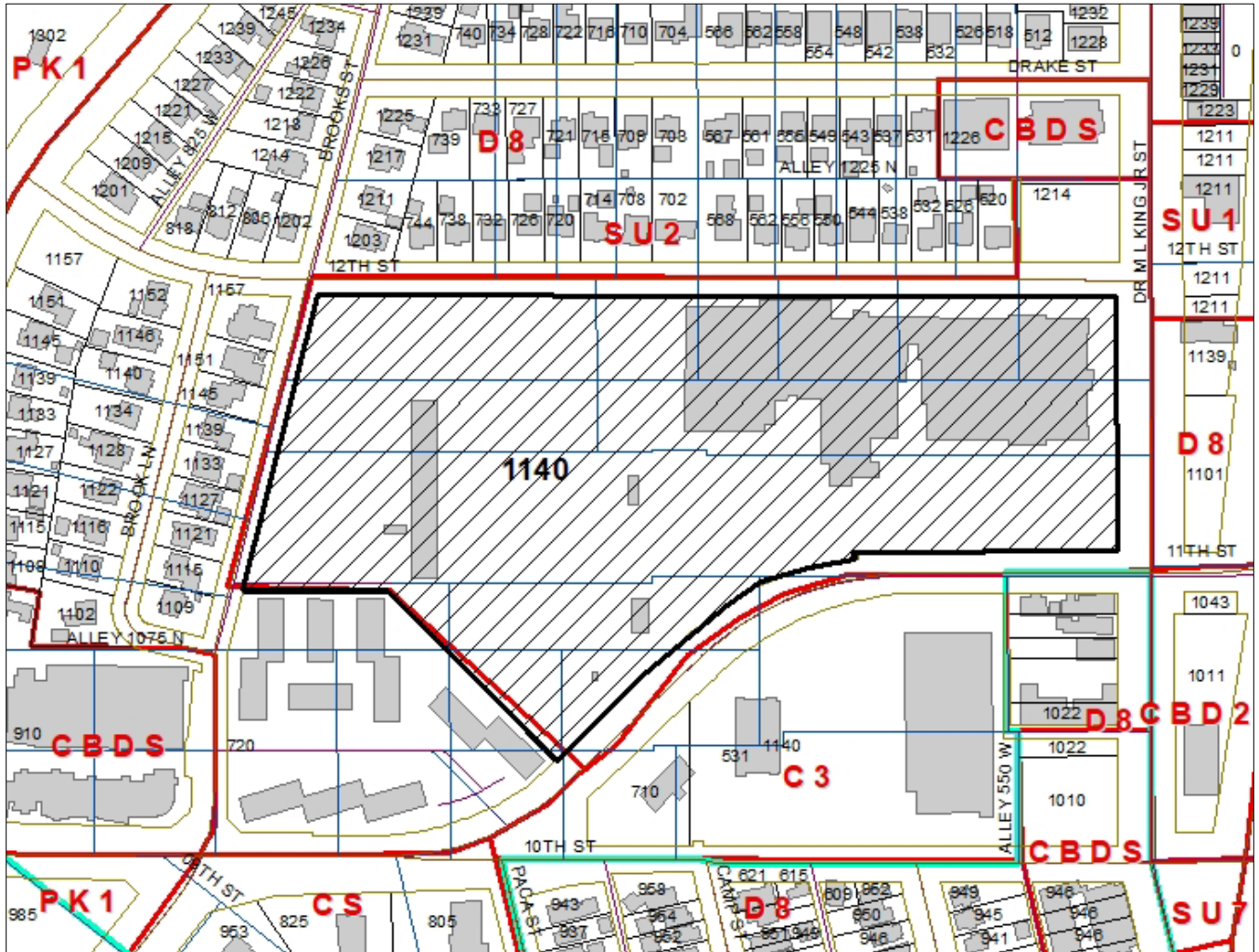
ZONING HISTORY – VICINITY

None



EXHIBITS

2023-SE3-006 Map and Aerial

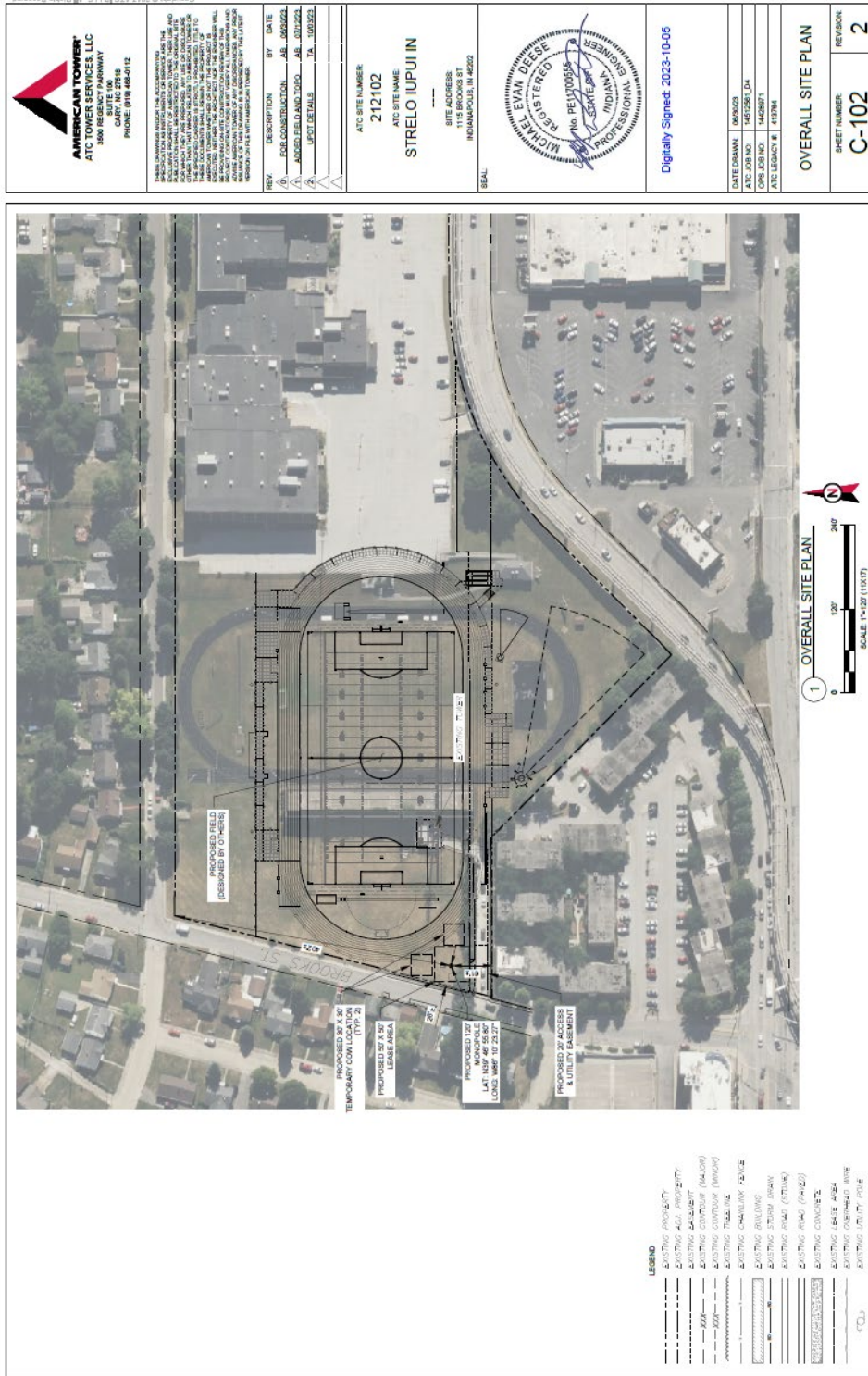






Department of Metropolitan Development
Division of Planning
Current Planning

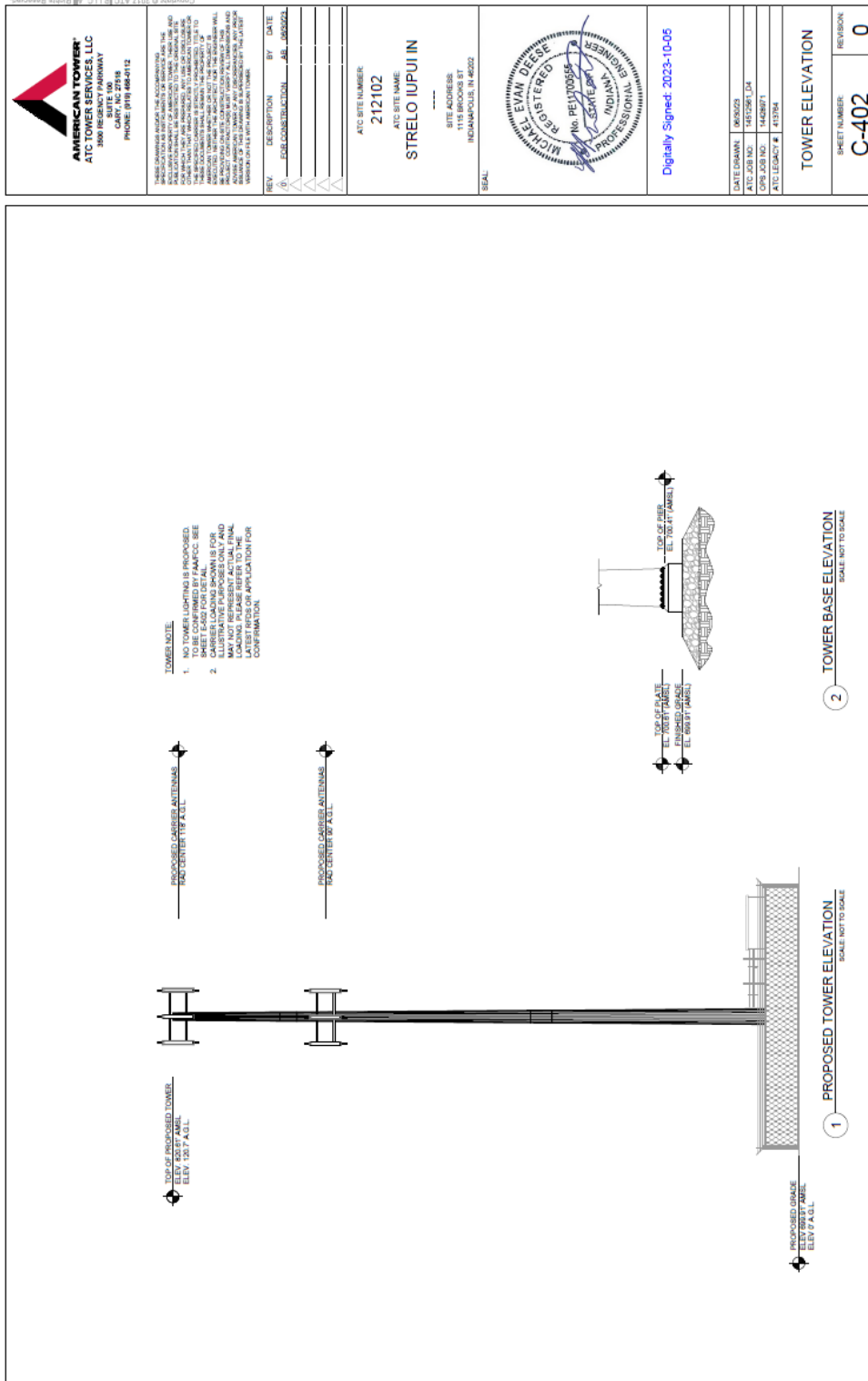
2023-SE3-006; Site plan





Department of Metropolitan Development
Division of Planning
Current Planning

2023-SE3-006; Elevations





Department of Metropolitan Development
Division of Planning
Current Planning

2023-SE3-006; Findings of Fact

Petition Number _____

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

PETITION FOR SPECIAL EXCEPTION
FINDINGS OF FACT

1. The proposed use meets the definition of that use in Chapter 740, Article II because
the proposed scope-of-work calls for the relocation of the tower and equipment on the property to accommodate expansion by the school.
The height of the tower and the impact will remain the same, but in a different location on the property.
Please see enclosed drawings for details and specifications.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that
area because
the impacts from the facility are already in existence. The change in location on the property will not have any effect on the adjacent area
or property.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of
adjoining property because
the facility is already in existence. The proposed scope will not materially alter the current state of the site.

4. The proposed use will be compatible with the character of the district, land use authorized therein
and the Comprehensive Plan for Marion County because
the facility is in existence. The proposed scope will not have any impact on the land use authorized or the Comprehensive Plan.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the
zoning district in which it is located because
it is an existing use and will not be materially altered by the proposed scope under this application.



Department of Metropolitan Development
Division of Planning
Current Planning

2023-SE3-006; Findings of Fact, continued

6. The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located because

It is an existing approved use. The change in location will not affect that use.

7. The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use because

It is an existing approved use. The change in location will not affect that use.

DECISION

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

Adopted this _____ day of _____, 20__

2023-SE3-006; Photos



Existing wireless communications facility, from Brooks Street



Existing wireless communications facility and stadium structure, from Brooks Street



Existing wireless communications facility from vacated 11th Street (private access to site)



Approximate location of proposed wireless communication facility along Oscar Robertson Boulevard

STAFF REPORT

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

Case Number: 2023-UV3-022
Address: 8345 Bash Street (approximate address)
Location: Lawrence Township, Council District #3
Zoning: C-4
Petitioner: CF Laughner Associates, by David Gilman
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a building to be used for automobile sales (not permitted).

This petition was automatically continued from the December 19, 2023, hearing, to the January 16, 2024, hearing, and continued for cause from the January 16, 2024, hearing, to the February 20, 2024, hearing, both at the request of the petitioner’s representative.

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4 Undeveloped

SURROUNDING ZONING AND LAND USE

North - C-4 Commercial Restaurant
South - C-4 Commercial Hotel
East - C-4 Commercial Hotel
West - C-S Commercial office park

COMPREHENSIVE PLAN The Comprehensive Plan community commercial uses for the site.

VARIANCE OF USE

- ◇ This request would provide for automobile sales, a C-5 use, within an area associated with community commercial development, with C-4 and C-S zoning. A use compatible with a C-5 zoning at this location would represent a deviation from the Comprehensive Plan recommendation of community commercial uses.

(Continued)

- ◇ Retail automobile, motorcycle and light vehicle sales and rentals are generally considered a high-intensity commercial use, along with go-cart raceways, tractor sales, outdoor flea markets, and newspaper printing and publishing. The C-5 zoning classification where automobile sales are permitted, is intended for uses that often tend to have extensive outdoor display and activity, bright lighting, and noise; characteristics that negatively affect lesser zoned districts.
- ◇ The proposed use would require extensive outdoor storage of product, materials, and equipment, compared to uses that are permitted in the C-4 district. Staff believes that this request, if approved, would run counter to the intent of the C-4 District, and would detract from a streetscape that has no uses that require outdoor storage.
- ◇ Staff has concerns that recommending approval of the variance request would encourage the encroachment of other heavy commercial and C-5 uses in the corridor.
- ◇ There is no hardship associated with this property that necessitates a grant of this variance. It is currently zoned C-4 and can be utilized for C-4 uses without the benefit of a use variance.
- ◇ The petitioner has submitted a proposed site plan to the file. If the Board should approve the petition, Staff recommends that approval be subject to the submitted amended site plan file-dated February 8, 2024.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Bash Street is indicated in the Official Thoroughfare Plan as a primary collector, with a 103-foot existing and proposed right-of-way.
SITE PLAN (AMENDED)	File-dated February 8, 2024.
FINDINGS OF FACT	File-dated November 2, 2023.

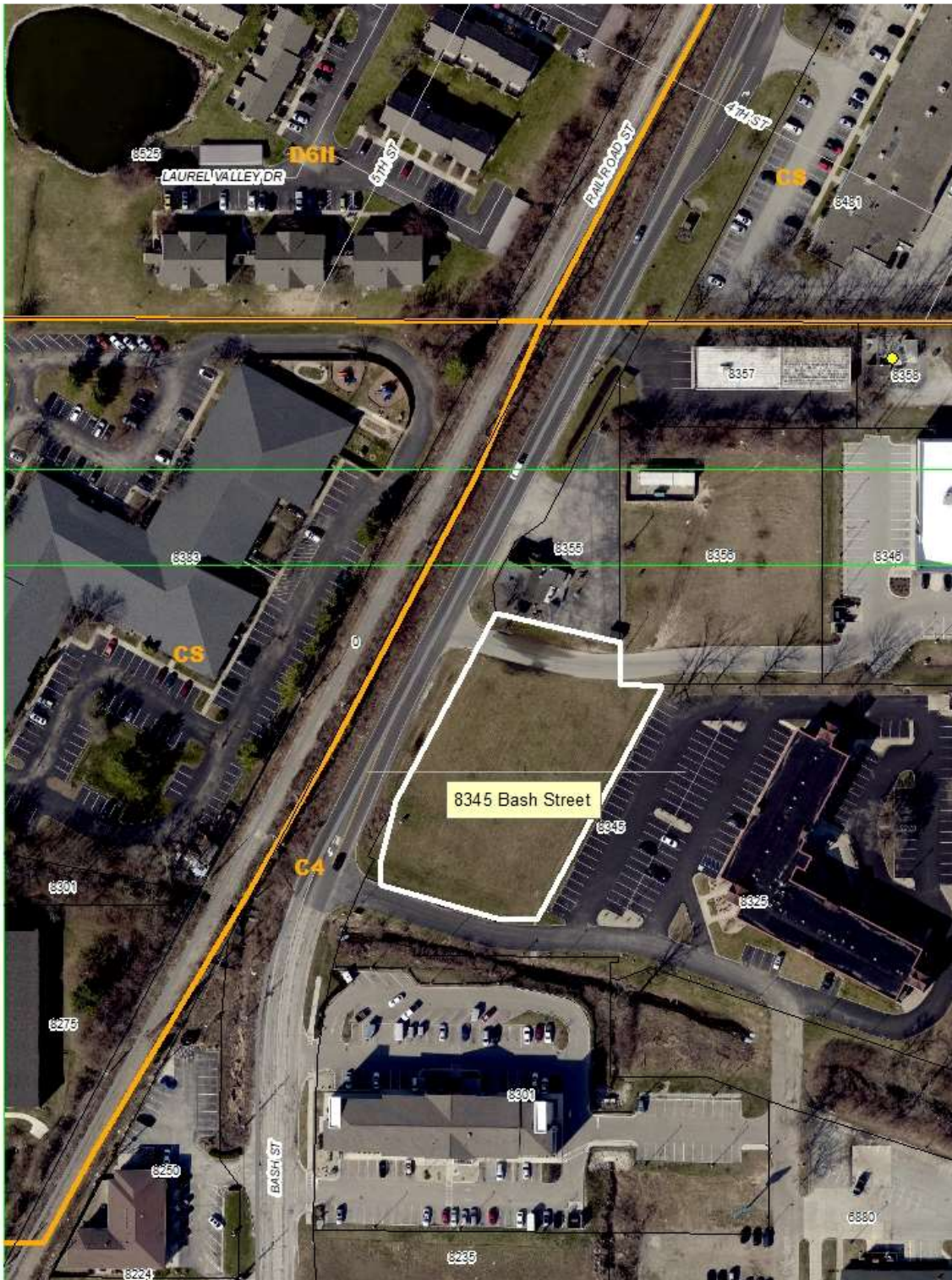
ZONING HISTORY

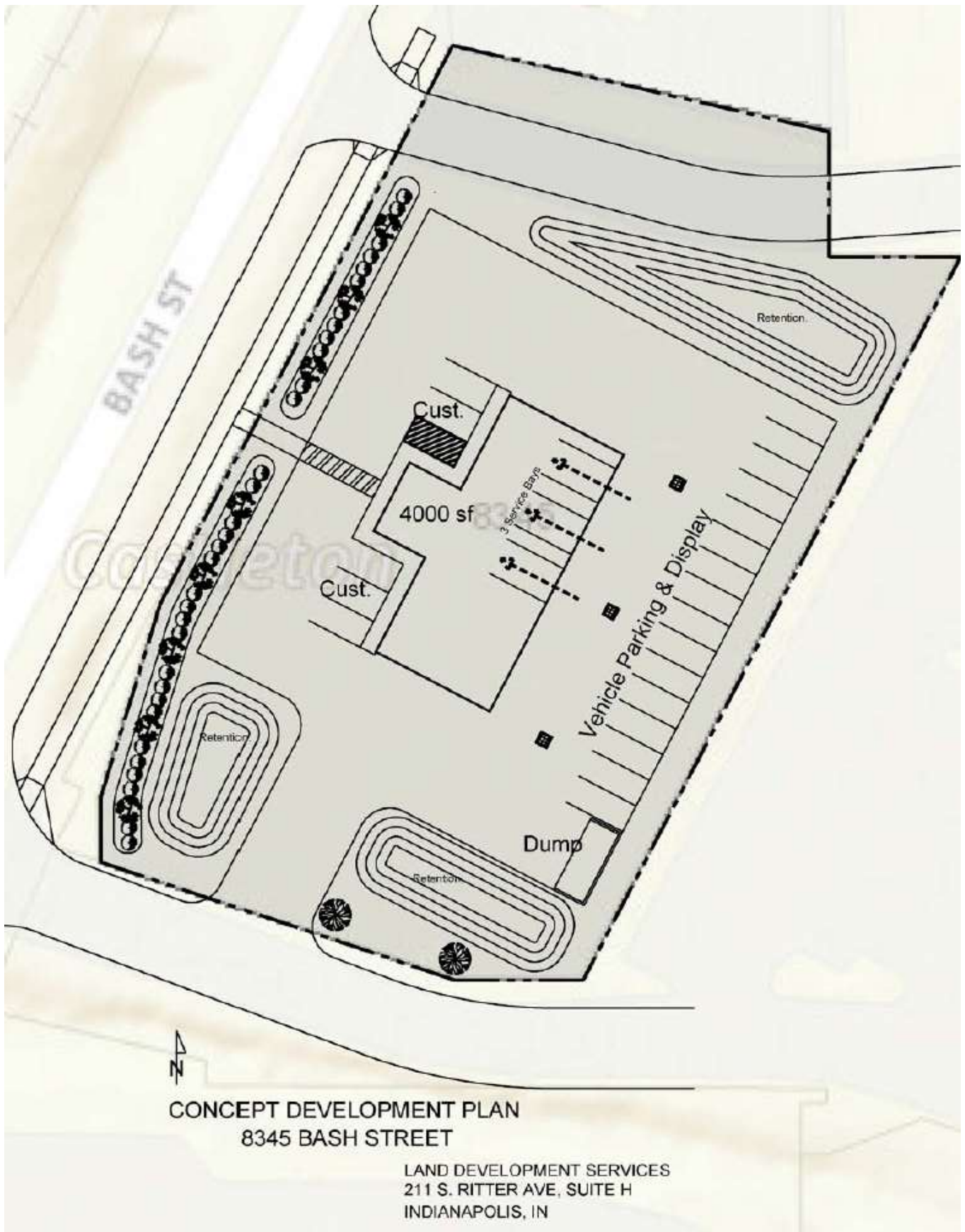
2017-DV3-036; 8301 Bash Street (south of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for transparency only adjacent to public areas at public entrances, **granted**.

85-Z-170; 6902 East 82nd Street (includes subject site), requested a rezoning of 4.7 acres, being in the C-4, SU-2, and I-1-S Districts, to the C-6 classification, to provide for highway-oriented commercial uses, **approved**.

RU * * * * *

2023-UV3-022: Location Map





CONCEPT DEVELOPMENT PLAN
8345 BASH STREET

LAND DEVELOPMENT SERVICES
211 S. RITTER AVE, SUITE H
INDIANAPOLIS, IN



subject site looking east



subject site looking east



Adjacent community commercial restaurant use to the north of site.



Adjacent community commercial hotel use to the east of site.



Adjacent community commercial hotel use to the south of site, looking southeast.



Adjacent office commercial use to the west of site

STAFF REPORT

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

Case Number: 2023-UV3-024
Address: 2745 and 2815 Curry Road (approximate address)
Location: Warren Township, Council District #14
Zoning: D-A
Petitioner: David Palacios, by Joseph D. Calderon
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping contractor, including the indoor and outdoor storage of commercial vehicles, equipment, and materials (not permitted).

This petition was automatically continued at the request of a registered neighborhood organization, from the January 16, 2024, hearing, to the February 20, 2024, hearing.

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-A Single-family dwelling, commercial contractor

SURROUNDING ZONING AND LAND USE

North - D-A Single-family dwellings
South - SU-2 Middle School
East - SU-2 Agricultural uses
West - D-A Single-family dwellings

COMPREHENSIVE PLAN

The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site.

VARIANCE OF USE

- ◇ The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site. The proposed use would be permitted in the C-7, High Intensity Commercial Zoning District. The C-7 district is designed to provide for specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and/or the outdoor parking and maintenance of trucks or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares where the gradual and reasonable transition from lesser commercial uses exist. Due to the intensity of the uses, the location of this district adjacent to protected districts should be avoided.

(Continued)

- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings. Because no agricultural enterprise exists on the subject site, development of the site would be considered a large estate or rural single-family dwelling
- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the number of commercial vehicles as outdoor storage, approval of this request would over-develop the site and facilitate the intrusion of heavy commercial uses into an established residential rural neighborhood. The request would encourage additional encroachment, in a manner violating the development norms and residential aesthetics of the street, and squarely deviating from the recommendations of the Comprehensive Plan.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-A and could be used by any number of uses permitted, by right, in the D-A zoning classification. Any practical difficulty is self-imposed by the desire to use the site for the operation of a landscaping contractor, including the indoor and outdoor storage of commercial vehicles, equipment, and materials associated with the use.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the comprehensive plan and zoning ordinance without the need for variances. Therefore, the Comprehensive Plan recommendation should not be disregarded, nor of the clearly residential nature of the surrounding area. For these reasons, staff recommends its denial.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Curry Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 25-foot existing right-of-way and a 50-foot proposed right-of-way.
SITE PLAN	File-dated November 15, 2023
PLAN OF OPERATION	File-dated November 15, 2023
FINDINGS OF FACT	File-dated November 15, 2023

ZONING HISTORY

2019-SE3-002; 11149 Stoneybrook Drive (south of site), requested a special exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 120-foot monopole tower, with a 10-foot antenna, **granted.**

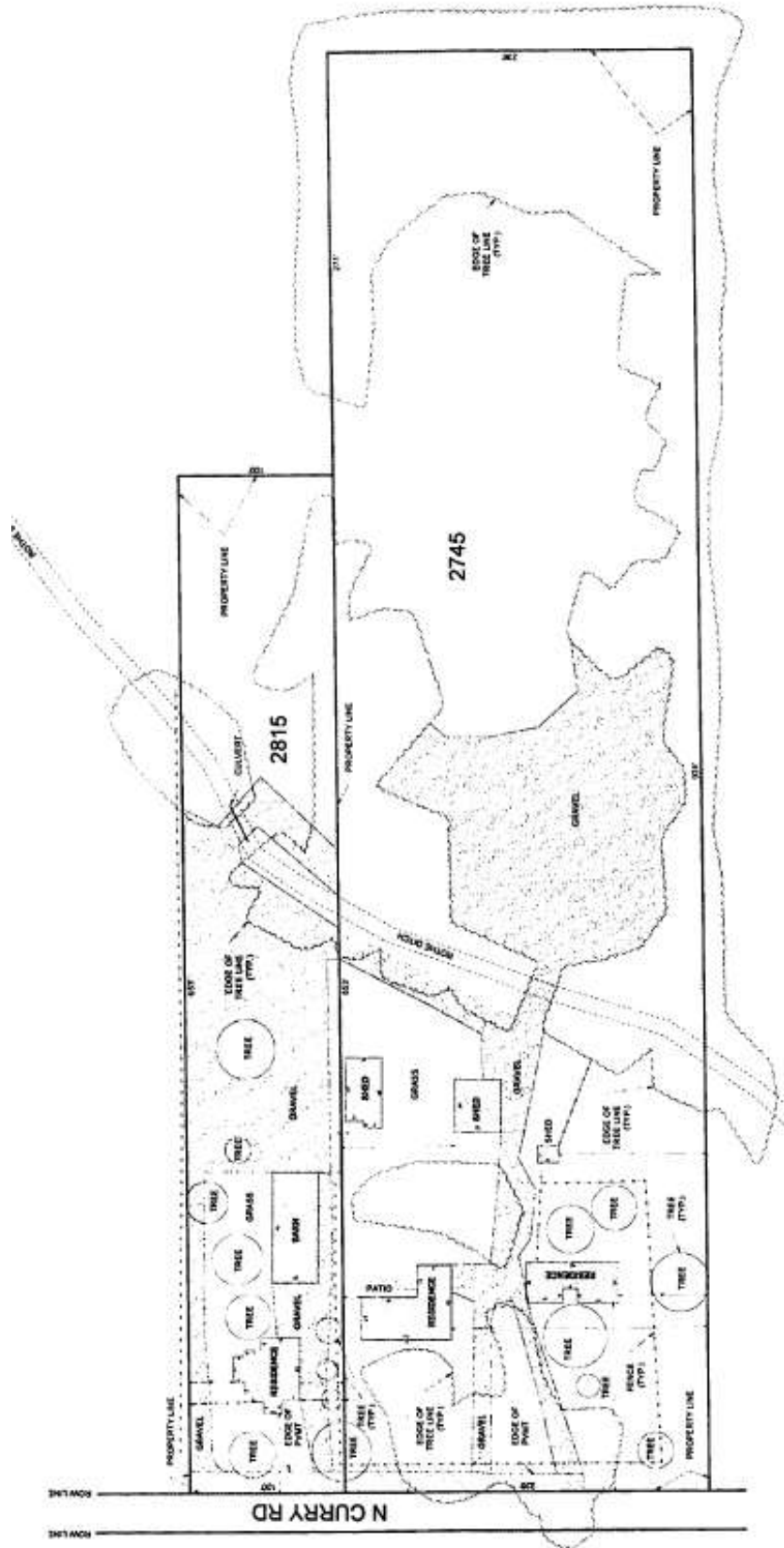
2000-DV2-015; 2910 Curry Road (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a single-family dwelling and detached garage on a 1.1-acre lot, **granted.**

95-V2-60; 11205 East 30th Street (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family residence with a lot area of 1.1 acres, **granted.**

RU *****

2023-UV3-024; Location Map





DAVID PALACIOS | THE RANCHES LANDSCAPING LLC

**PLAN OF OPERATION
2745 and 2815 Curry Road**

THE BUSINESS

David Palacios d/b/a The Ranches Landscaping LLC, performs certain activities associated with the landscaping business on property commonly known as 2745 and 2815 Curry Road (the "Subject Property"). The Subject Property has two (2) existing residential structures and multiple accessory structures, including garages, barns and sheds. Petitioner proposes to continue to use the property, using the existing accessory structures, for storing landscaping equipment, including mowers, trimmers, weed whackers, shovels, rakes, wheel barrels and ladders, a skid steer and mini track loader in the existing barn on 2745 Curry. There is a shed between both 2745 and 2815 Curry where mowers and tools are stored. Mowers, trucks and trailers will be maintained in the existing garage on 2815 Curry. Trucks and trailers, which are deployed to job sites during the day, are stored overnight at the rear of 2745 Curry. Landscaping materials are intended to be used at the job site, but occasionally there will be landscaping materials on-site for temporary periods of time.

ZONING

Existing zoning is D-A, which permits residential use and agri-business uses.

HOURS OF OPERATION

Petitioner is planning to operate the facility between 8:00 a.m. to 6:00 p.m.

NUMBER OF EMPLOYEES

Approximately four (4) employees are expected to be working for the Company. Employees meet at the Subject Property in the morning, go to the job site and return thereafter.

EXISTING STRUCTURES

Petitioner intends to use the existing accessory structures located on the Subject Property, generally as shown on the site plan submitted with this plan of operation.

SALES | CUSTOMERS

There will be no sales activity occurring on the Subject Property.



Subject site 2745 Curry Road existing dwelling, looking east.



Subject site 2815 Curry Road existing dwelling, looking east.



Subject site barns and storage for trucks, to the rear of dwelling looking west.



Subject site parking area and storage area for trucks, to the rear of dwelling looking south.



On-site outdoor storage area to the rear of existing barn, looking east.



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



Adjacent single-family dwelling to the west.



Adjacent middle school to the south.



BOARD OF ZONING APPEALS DIVISION III **February 20, 2024**

Case Number: 2024DV3001

Property Address: 6027 Castlebar Circle (approximate address)

Location: Lawrence Township, Council District #3

Petitioner: Audrey Dressel, by Russell Brown

Current Zoning: D-2

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall fence within the front yard of Circlewood Road (maximum 3.5-foot tall fence permitted) and an 88-foot wide parking area within the front yard of Castlebar Circle (maximum 30-foot wide parking area permitted).

Current Land Use: Residential

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this request.

PETITION OVERVIEW

- This site currently contains a residential property on a corner lot along with an existing 6-foot fence within the front yard to the west fronting Cricklewood Drive. The front-yard fence had a compliant height of 3.5 feet before being recently replaced. There are also two curb cuts along the north side of the property that share a driveway access to Castlebar Circle and create a driveway with a width of approximately 88 feet. This existing ‘half-moon’ driveway layout has existed for decades but was recently repaved from blacktop to concrete around the same time of installation of the 6-foot-tall fence.
- The enforcement action VIO23-008065 was opened for this property in November 2023 which cited the fence height exceeding 42 inches in the front yard and the parking area in a front yard exceeding 30 feet in width. The grant of this petition would legalize both of those recent site improvements.



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

- Parking area is defined within the Indianapolis Zoning Ordinance as being “an area of paving other than an open exhibition or display area, not inclusive of interior access drives, and driveways intended for the temporary storage of automotive vehicles includes parking spaces and the area of access for the parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space”. Both staff and the inspector who wrote the violation feel that the existing half-moon driveway would be included under this definition.
- The site is currently zoned D-2 to allow for low-density suburban development with ample yards, trees, and passive open spaces. It is also within the Suburban Neighborhood living typology of the Comprehensive Plan Pattern Book which is predominantly made up of single-family housing along curvilinear streets and supported by a variety of neighborhood-servicing amenities.
- The Infill Housing Guidelines indicate that within the front yards of residential areas, fences should be ornamental in nature and that privacy fences should not be installed. Additionally, the guidelines indicate that see-through fencing is more appropriate for these areas than fences that lack opacity or visibility.
- The Indianapolis Zoning Ordinance prescribes height limitations for fences to maintain visibility, orderly development and the appearance of open space while also allowing for reasonable privacy. This variance would seek to retroactively legalize a 6-foot fence in an area that previously had a fence 3.5 feet tall and is slightly uphill from the grade of the street which gives the appearance of the fence being even taller.
- The recently installed 6-foot fence is almost double the required ordinance standard of 3.5 feet. Additionally, adjacent properties on both standard and corner lots don't have fences of any kind in the front yard; the Devonshire V Civic Association described the fence as being “totally out of place” within the neighborhood context. Since this fence runs counter to ordinance rules and Infill Housing Guidelines, doesn't relate to any practical difficulty at the site, and is out of character with existing development patterns in the area, staff would recommend denial of the variance for a 6-foot-tall fence.
- The zoning ordinance also places limitations on parking between the fronts of buildings and street rights-of-way to allow for attractive front yards and avoid the appearance of vast impervious spaces filled with cars between roadways and residential or commercial properties. This variance would seek to legalize the ‘half-moon’ parking layout within the northern yard that has existed previously but was recently repaved. The ordinance has historically disallowed additional paving within front yards beyond what was sufficient for reasonable parking access. Staff does not wish to create a precedent of legalizing overly wide driveways within residential areas and feels that residential front yards should be predominantly reserved for landscaping. Staff would recommend denial of the variance for the 88-foot-wide parking area.



Department of Metropolitan Development
Division of Planning
Current Planning

GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Suburban Neighborhood
	South:	South: Suburban Neighborhood
	East:	East: Suburban Neighborhood
	West:	West: Suburban Neighborhood
Thoroughfare Plan		
Castlebar Circle	Local Street	Existing ROW: 50' Prop ROW: 50'
Cricklewood Road	Local Street	Existing ROW: 50' Prop ROW: 50'
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	12/20/2023	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	12/20/2023	
Findings of Fact (Amended)	01/24/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Comprehensive Plan Land Use Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan



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

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- The IHG indicate that fencing around dwellings should be carefully placed, and that see-through fencing is the safest. In the front, fences should be ornamental in style and privacy fences should not be installed.

Indy Moves

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

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY – SITE

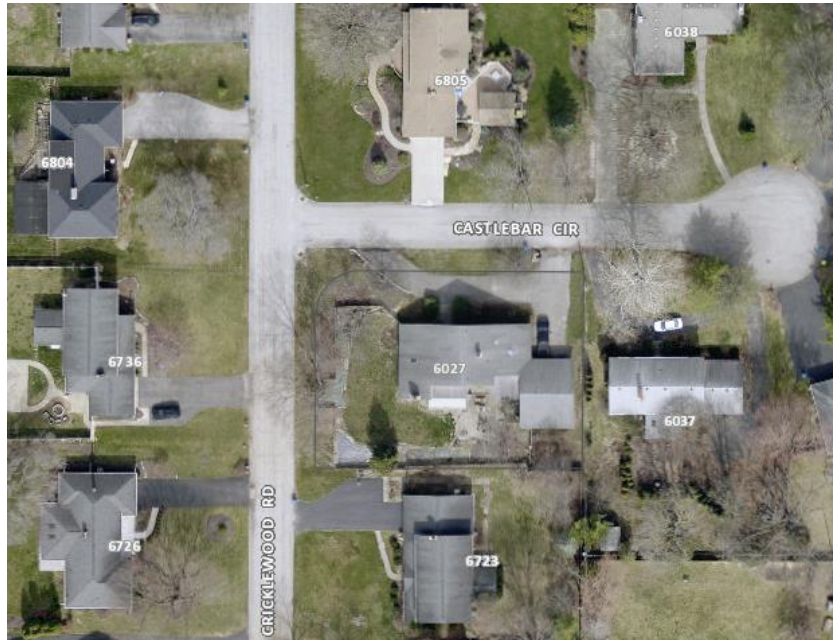
N/A

ZONING HISTORY – VICINITY

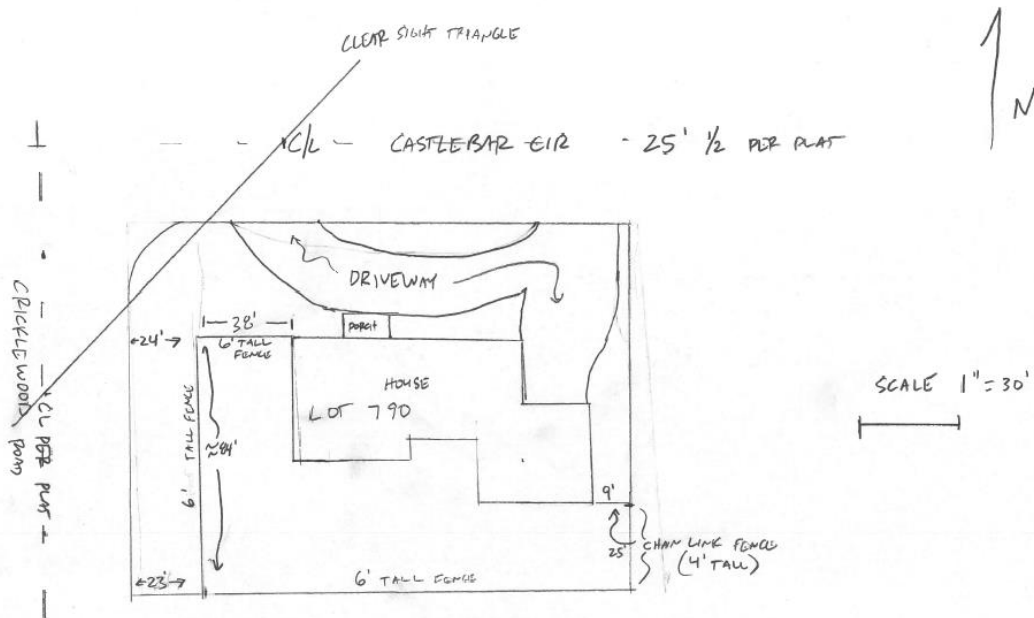
N/A

EXHIBITS

2024DV3001 ; Aerial Map



2024DV3001 ; Site Plan





Department of Metropolitan Development
Division of Planning
Current Planning

2024DV3001 ; Findings of Fact (Fence)

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

The requested variance does not impact the public at large. The location of the fences are outside of any clear site triangle and are adequately setback from the edge of pavement to allow for drainage and safe passage by pedestrians. The fence height and construction type is desired by the petitioner to provide privacy in areas of the home which would normally be visible only as a side or rear yard, but are a front yard in this location by virtue of having two street frontages.

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 fence is of a high-quality design and construction. The fence location is similar to the historical location of previous fences present on the property (which were lower in height), but have been modified to allow for a large mature tree to be outside the fence. The fence provides privacy for the petitioner and shields back yard activities (like gardening, use by domestic animals) from view from the Cricklewood Road right of way, without blocking the clear site triangle.

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's location on a corner lot with the largest portion of what would otherwise be a sideyard, located near Cricklewood Road, provides a large area which, if located NOT on a corner lot, would be able to be fenced as proposed. The area located near Cricklewood Road has been treated by Petitioner (and her parents who lived in the house before her) as their side yard and the home has features largely present in a side yard (windows into living area) in this area. The proposed variance would allow this high quality fence to be retained in its current location, providing privacy for the petitioner, without negatively impacting other property owners.

2024DV3001 ; Findings of Fact (Parking)

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

The requested variance does not impact the public at large. The driveway has traditionally be installed as half-moon circular drive, which was redone as part of renovations on the property. The location of the entry and exit from the half-moon drive do not negatively impact traffic flow on the small cul de sac upon which it fronts and does not impact the clear site triangle.

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 approximately 150' feet of frontage on the cul de sac right of way and the layout of the driveway has been in place for a number of years. The layout allows for landscaping to be maintained and for easy in and out from the driveway, thus having no impact on adjacent property owners.

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 has been improved with the half-moon circular drive for a number of years. The half moon drive allows for ease of access to the front door and also allows for use of the attached garage. The existing conditions do not occupy more than 50% of the frontage of the property with direct access to the right of way, which appears to be in line with the requirements of the ordinance, but the two accesses required for a half-moon cannot be obtained within the restrictions of the ordinance.

2024DV3001 ; Pictures



Photo 1: Fence from Front Yard (West)



Photo 2: Previous Fence in Front Yard (taken September 2016)

2024DV3001 ; Pictures (continued)



Photo 3: Fence from Southwest



Photo 4: Fence and Property from Front Yard (North)

2024DV3001 ; Pictures (continued)



Photo 5: Existing Driveway/Parking Area in Front Yard (North)



Photo 6: Driveway/Parking Area in Front Yard (taken September 2007)



BOARD OF ZONING APPEALS DIVISION III **February 20, 2024**

Case Number: 2024-DV3-003
Property Address: 3308 North Mitthoefer Road (approximate address)
Location: Warren Township, Council District #15
Petitioner: The Finish Line Inc., by Joseph D. Calderon
Current Zoning: I-3 / I-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two incidental signs, each encroaching 4.5-feet into the right-of-way of Mitthoefer Road (prohibited), with the north sign located 70-feet from a dwelling district (100-foot transitional yard required).

Current Land Use: Industrial
Staff Recommendations: Staff recommends denial of the request
Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends denial of the request.

PETITION OVERVIEW

- This petition would provide for the location of two incidental signs, each encroaching 4.5-feet into the right-of-way of Mitthoefer Road (prohibited), with the north sign located 70-feet from a dwelling district (100-foot transitional yard required).
- The business operating at the subject property frequently has semi-trucks entering and exiting for shipments and pick-ups. The site contains two access drives for vehicular entry and exit, leading to the need for adequate signage to communicate to truck drivers the correct access drive to use.
- On-premise signs are required to be placed within the lot lines of private property to ensure that businesses do not obstruct visibility and access to public rights-of-way. The right-of-way at this property measures at approximately 70 feet from the centerline, and 134 feet in total. Additionally, pole signs in industrial districts have a front setback requirement of 5 feet.



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

- Current Planning Staff, as well as members of DPW are concerned with the proposed placement of the two signs being within the public right-of-way, potentially blocking visibility of both vehicles and pedestrians along North Mitthoefer Road. Despite the right-of-way along this portion of North Mitthoefer Road being wider than usual (approximately 70 feet from the centerline), Staff does not view this as a practical difficulty, as a significant portion of the subject property remains visible from the road at various points of view.
- Additionally, Staff finds that any claimed hardship created by the chain-link fence to be self-imposed, and that the site itself possesses no practical difficulty in nature. Moreover, Staff sees the desire to have the signs placed within the right-of-way to be unnecessary and that the fence does not truly constitute hardship, as alternative solutions exist that allow for adequate wayfinding to truck drivers that do not result in signs being placed within the right-of-way. The petitioner has the ability to alter the fencing to accommodate new signs, the signs could be mounted or bracketed atop the fence, or the signs could be placed just inside the property line at a height that stands above the height of the fence (pole signs are permitted to have a height of up to 20 feet in industrial districts). These options would be both visible to truck drivers from North Mitthoefer Road and located outside public right-of-way. Staff would note that these solutions would likely still require variances for the 100-foot transitional yard and the 5-foot front setback, which Staff would be willing to support, as the main concern remains the placement of signs in the right-of-way.
- To summarize, Staff does not wish to see any signs placed within the right-of-way, the site itself does not create any practical difficulty upon the petitioner, and the petitioner has alternative location options within the subject property lines. For these reasons, Staff recommends denial of the request for the proposed on-premise signs located in the right-of-way.

GENERAL INFORMATION

Existing Zoning	I-3 / I-4	
Existing Land Use	Industrial	
Comprehensive Plan	Heavy Industrial	
Surrounding Context	Zoning	Surrounding Context
North:	I-3	North: Industrial
South:	I-3	South: Industrial
East:	D-4	East: Residential
West:	I-4	West: Industrial
Thoroughfare Plan		
N Mitthoefer Road	Secondary Arterial Existing ROW: 134 feet Proposed ROW: 80 feet	
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	



Wellfield Protection Area	No
Site Plan	1/17/24
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	1/17/24
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Greenways Master Plan

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Heavy Industrial working typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

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

- The Grassy Creek Regional Park Trail is to connect Grassy Creek Regional Park with the eastern side of North Mitthoefer Road directly across from the subject site.



ZONING HISTORY

ZONING HISTORY – SITE

94-HOV-25, variance of development standards of the Industrial Zoning Ordinance to provide for the construction of a parking area that is 75 feet from Mitthoefer Road (minimum 150 feet required) and that exceeds 10% of the total area of the required front yard (maximum 10% permitted), **approved**.

90-V2-116, variance of development standards of the Industrial Zoning Ordinance to permit the construction of a building without the required 75 feet of public street frontage and to allow off-street parking within the front yard in excess of 10%, **approved**.

ZONING HISTORY – VICINITY

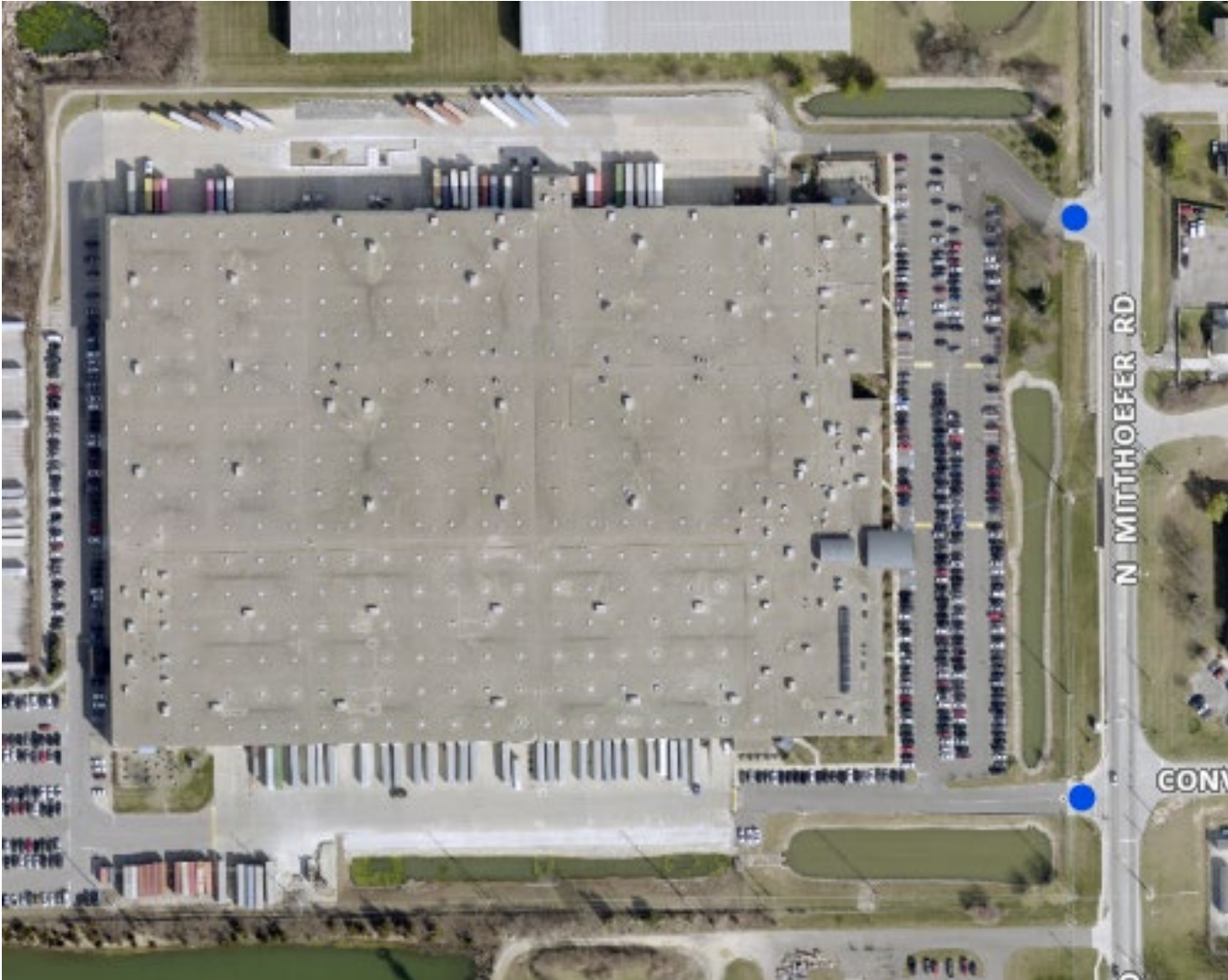
2021ZON041; 3601 N Mitthoefer Road (north of site), Rezoning of 4.81 acres from the D-6II district to the MU-2 district, **approved**.

2020DV1065; 9635 Park Davis Drive (north of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an industrial development with a 14-foot front setback, a five-foot west side setback and a four-foot south rear setback with deficient landscaped yards, and with parking being within 45% of the front yard (60-foot front setback from proposed right-of-way, 30-foot rear and side setbacks with 10-foot landscape yards required, 10% of front setback may be used for parking required), **withdrawn**.

97-Z-61; 9503 E 33rd Street (west of site), rezoning of 10.993 acres, being in the I-3-S district, to the I-4-S classification to provide for heavy industrial development including a truck terminal over 10 acres in size, **approved**.

91-Z-15B; 3620 Mitthoefer Road (north of site), requested the rezoning of 46.0 acres from the D-6II district to the I-3-S district, **approved**.

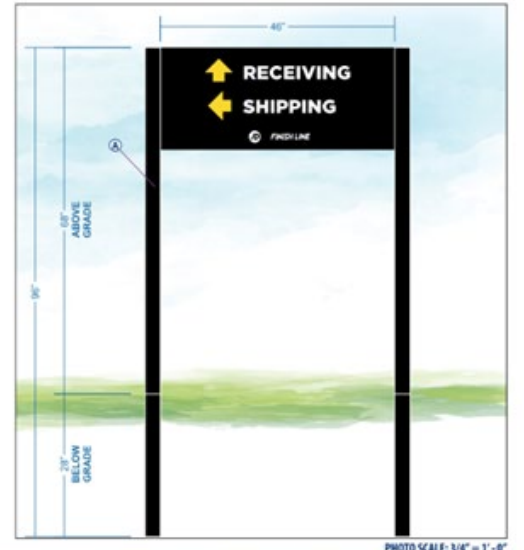
EXHIBITS



Department of Metropolitan Development
Division of Planning
Current Planning



JD/FINISH LINE • INDIANAPOLIS, IN RENDERING #: 1122-0055B



FABRICATE AND INSTALL QTY 2 D/F POST AND PANEL SIGNS (SIGNCOMP)

SIGN KIT - SERIES 3 3" POST AND PANEL SYSTEM WITH SLIDE BODY PART #K1260
REVEAL POSITION - QTY 2- 3/8" REVEALS
PANEL ADAPTOR - 1/8" PANEL ADAPTOR
PANELS - SERIES 3 ALUMINUM PANELS PAINTED TO MATCH SPECS
POSTS - 3" EXTRUDED SQUARE ALUMINUM POSTS PAINTED TO MATCH SPECS
VINYL - MATCH SPECS

INSTALLATION - PANELS SLID INTO POSTS, POSTS BURIED IN GRADE
 (68" ABOVE GRADE, 28" BELOW GRADE)

		COLOR SPECIFICATIONS: ① M2 BLACK ② SIGNCRAFT 3000-010 WHITE REFLECTIVE ③ SIGNCRAFT 300-025 BRIGHT YELLOW REFLECTIVE	NOTE: THERE WILL BE COLOR VARIATIONS FROM THIS PRINTED DRAWING TO THE FINAL PRODUCT. COLORS SPECIFIED WILL ALWAYS BE MATCHED AS CLOSELY AS POSSIBLE. RENDERING IS BASED ON ESTIMATED OVERSIGHT. A FINAL SURVEY MAY ALTER ELEVATIONS, PROJECTIONS AND PLACEMENT. IF ILLUMINATED: SHALL BE WIRED TO 120VOLT (60HZ) OTHERWISE SPECIFIED. THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.	SD REP: SMC	DESIGNER: JR	PERMIT INFORMATION: N/A
		© 2020 - SIGNCRAFT INDUSTRIES ALL RIGHTS RESERVED - 8816 CORPORATION DR • INDIANAPOLIS, INDIANA 46256 • 317-842-8664 • SIGNCRAFTIND.COM		DATE: 11/14/2022	REVISION DATE: 05/23/2023	FINAL DATE & BY: 1/2



Department of Metropolitan Development
Division of Planning
Current Planning

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 signs need to be placed as proposed in order to properly direct traffic to the appropriate location within the facility, which actually will improve public safety.

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 properties to the north, south, and west are industrial properties, and the proposed signs will not interfere with access to or visibility of said properties, and the properties across Milthoeffer Road will likewise not be adversely impacted because there will be no interference with the access to or visibility to or from those properties either.

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

the requirement that an incidental sign meet a 100 foot setback requirement will result in the sign not being able to meet its purpose, which in this case is providing important directional information.

DECISION

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

Adopted this _____ day of _____, 20 ____





