



Board of Zoning Appeals Division I (May 9, 2023) Meeting Agenda

Meeting Details

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

Date: Tuesday, May 09, 2023

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

- 1. 2023-DV1-014 | 1103 South Mickley Avenue**
Wayne Township, Council District #22, Zoned D-5 (TOD)
Hector O. Gomez

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for vehicle access from a front yard curb cut (exclusive vehicular access from an improved alley required).

- 2. 2023-DV1-015 | 1128 South High School Road**
Wayne Township, Council District #22, Zoned D-3
Arcelia Hernandez-Badillo & Leodegario Montiel-Munoz, by Sarah Walters

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage with a four-foot south side yard setback, resulting in an eight-foot aggregate side yard setback, six-foot rear yard setback and 63% open space (six-foot side yard setback, 16-foot aggregate side yard setback, 20-foot rear yard setback, and 70% open space required).

- 3. 2023-DV1-018 | 6490 North Sherman Drive**
Washington Township, Council District #3, Zoned D-S
Ronald Todd, by James P. Mack

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dwelling renovation and construction of an attached garage resulting in a 68-foot front yard setback from 65th Street (75-foot front yard setback required).

- 4. 2023-DV1-019 | 8719 Southeastern Avenue**
Franklin Township, Council District #25, Zoned C-4
Cornerstone Wealth LLC, by David A. Retherford

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the

renovation of an existing commercial structure resulting in an 18% front façade transparency (40% transparency required) and the addition of a porch with a zero-foot front setback and encroaching up to two feet into the right-of-way of Southeastern Avenue (10-foot front yard setback required, encroachment within the right-of-way not permitted).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

- 5. 2022-DV1-062 (2nd Amended) | 1012 Olive Street**
Center Township, Council District #17, Zoned D-5 (TOD)
Kristen Fern

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway with a zero-foot north side yard setback and a three-foot rear yard setback (three-foot side yard setback and 20-foot rear setback required) providing access from Olive Street (exclusive vehicle access from improved alley required), also with the existing single-family dwelling encroaching within the clear site triangle of Olive Street and the driveway (encroachment into the clear site triangle not permitted).

- 6. 2023-DV3-012 (Amended) | 2411 North Rural Street**
Center Township, Council District #17, Zoned D-5
Martindale Brightwood Community development Corp., by Jamilah Mintze (In and Out Unlimited LLC)

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex on a 30-foot-wide lot with an area of 4,050 square feet (minimum 60-foot lot width, minimum 7,200 square foot lot area), with an eight-foot lot width for proposed plat of Lot 17A and a 22-foot lot width for proposed plat of Lot 17B, and a parking pad with 1.5-foot side yard setbacks (three-foot side yard setbacks required).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

- 7. 2022-SE1-002 (Amended) | 9140 East McGregor Road**
Franklin Township, Council District #25, Zoned D-A
Shalom Christian Church, by Jonathan L Albright Jr.

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses and a modification of development standards to allow for the construction of a religious use facility, parking lot and related accessory structures with a 22-foot western side yard and an 18-foot rear yard (minimum 30-foot side yard setback, 75-foot rear yard setback required), and a 110-foot wide parking area within the front yard (maximum 30-foot wide parking area permitted within the front yard).

- 8. 2023-DV1-009 | 1313 Gumwood Drive**
Wayne Township, Council District #6, Zoned D-4
Toni Clark

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a mini-barn with a 0.5-foot west side yard setback (five foot-side yard setback required).

- 9. 2023-DV1-011 (Amended) | 902 East 66th Street**
Washington Township, Council District #2, Zoned D-4 (TOD)
A Ciobanu Properties LLC, by Andrea Ciobanu

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 3.5-foot-tall fence within the clear sight triangle of the intersection, with the location of automated gates within the clear sight triangle of two vehicular access drives (encroachment within clear sight triangles not permitted).

- 10. 2023-DV1-012 | 6209 East Edgewood Avenue**
Franklin Township, Council District #25, Zoned D-A
Salina and Jaime Hernandez, by David Gilman

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the future subdivision of a parcel into two lots, with:

- a. Future Lot One maintaining a 100.5-foot street frontage and lot width and an area of .81-acre

(minimum 125-foot street frontage, 250-foot lot width and area of three acres required); and
b. Future Lot Two maintaining a 25-foot street frontage and lot width.

***** Petitioner to withdraw**

11. 2023-UV1-006 (Amended) | 201 West 38th Street and 3750 North Capitol Avenue

Center Township, Council District #7, Zoned C-4 / D-5
Martin Petroleum Inc., by Pat Rooney

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

12. 2023-DV1-016 | 2701 Wheeler Street

Center Township, Council District #17, Zoned D-8
Georgia May Craig, by Gary S. Cole

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for vehicular access from 27th Street (exclusive vehicular access from an improved alley required).

13. 2023-DV1-017 | 4002 North Park Avenue

Washington Township, Council District #7, Zoned D-5 (TOD)
Elite Custom Homes, by Cassandra Nielsen

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a deck with a two-foot rear yard setback (20-foot rear yard setback required).

14. 2023-UV1-007 | 1034 South Tremont Street

Wayne Township, Council District #16, Zoned D-5
Abel Solares and Reina Alfaro, by Sarah Walters

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a commercial contractor and the parking of up to eight commercial vehicles (not permitted), a 48.5-foot wide parking area in the front yard with a zero-foot south side yard setback and an eight-foot tall perimeter fence (parking area in front yard limited to 30-foot wide, seven-foot side yard setback required, maximum 3.5-foot tall fence permitted within the front yard and maximum six-foot tall fence permitted in side and rear yards) and deficient living materials and landscaping (60% of required landscaped areas must be covered by living materials, minimum landscaping required).

Additional Business:

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

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-014
Address: 1103 South Mickley Avenue (approximate address)
Location: Wayne Township, Council District #22
Zoning: D-5 (TOD)
Petitioner: Hector O. Gomez
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for vehicle access from a front yard curb cut (exclusive vehicular access from an improved alley required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwelling)
South	D-5	Residential (Single-family dwelling)
East	D-5	Residential (Single-family dwelling)
West	D-7	Residential (Multi-family apartments)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends 5 to 8 residential units per acre development.
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- ◇ The 0.13-acre subject site is developed with a single-family dwelling and is surrounded by other residential uses in each direction. However, this property is the only one that is setback at the rear of the property.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow vehicle access from the front yard where it is not permitted.

(Continued)

STAFF REPORT 2023-DV1-014 (Continued)

- ◇ The Ordinance was amended in April of 2016, to regulate access and connectivity for the zoning districts. This property is required to gain exclusive access from the existing improved alley, per Section 744-301 of the Ordinance. The “Access to accessory parking areas” provision states that “... if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley.” In addition, per Section 744-401 of the Ordinance. The “Access to and from parking lots and garages” provision states that “... no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line.”
- ◇ Aerial photos since 1962, indicate an existing driveway and curb cut on site. The petitioner installed a concrete driveway over an existing gravel driveway, without a permit from the Department of Business and Neighborhood Services (DBNS). When attempting to obtain a permit, DBNS determined that the abutting alley to the west of the property is an “improved” alley, and therefore access from Mickley Avenue to the subject site would not be allowed, per the Ordinance.
- ◇ Alley access where available, helps the pedestrian environment by reducing the number of new curb cuts across sidewalks and preserves valuable curbside parking, along with reducing the amount of pavement needed for driveways, which causes significant storm water runoff into city drainage systems. In this instance, the property had a driveway from Mickley Avenue that was used for the new concrete driveway. Using the existing driveway did not reduce the sidewalk access or on-street parking any further.
- ◇ The use and value of the area adjacent to the property included in the variance would not be affected in a substantially adverse manner because the site was developed with a driveway from Mickley Avenue like the other properties along this block.
- ◇ The strict application of the terms of the zoning ordinance would result in practical difficulties in the use of the property for off-street parking because the dwelling was originally built at the rear of the property which prevents alley access to the site.

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

SITE PLAN

File-dated March 8, 2023.

FINDINGS OF FACT

File-dated March 8, 2023.

(Continued)

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO23-000978; Creating a drive access without proper permit. Must obtain drive permit
2. VIO23-001156; Indianapolis Building Standards and Procedures 2018: Section(s) 536-201; 536-609; 536-705; 536-709. This Stop Work-Order has been issued for failure to obtain a structural permit prior to the interior and exterior remodel, new construction of a deck on 2nd sty, new siding, exchanging windows of smaller sizes on a two-story single-family dwelling. Admin fee assessed.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2021-DV1-052; 1122 Waldemere Avenue (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for access from Waldemere Avenue (access from alley required), **granted**.

2020-DV3-047; 408 Lindley Avenue, 1108 South Whitcomb Avenue, 5625 Henry Street, 5564 Linda Lane, 315 South Norfolk Street, 22 South Whitcomb Avenue, 124 South Worth Avenue and 314 South Biltmore Avenue (north and east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 47-foot-tall wood and metal poles for small cell wireless communications facilities, with associated equipment and antennas within the right-of-way (underground utilities only permitted after January 1, 1973.), **withdrawn**.

2010-CVR-831; 5784, 5796, and 5798 West Morris Street (south of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a three-foot front setback, without landscaping along Morris Street and to provide for a three-foot front setback, without landscaping, along Mickley Avenue (10-foot front setback, with landscaping required), and carry-out food service within 10 feet of a protected district (100-foot separation required), **granted**.

2010-DV1-020A; 1019 Whitcomb Avenue (northeast of site); Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 576-square foot garage in front of the established building line of the primary dwelling, **approved**.

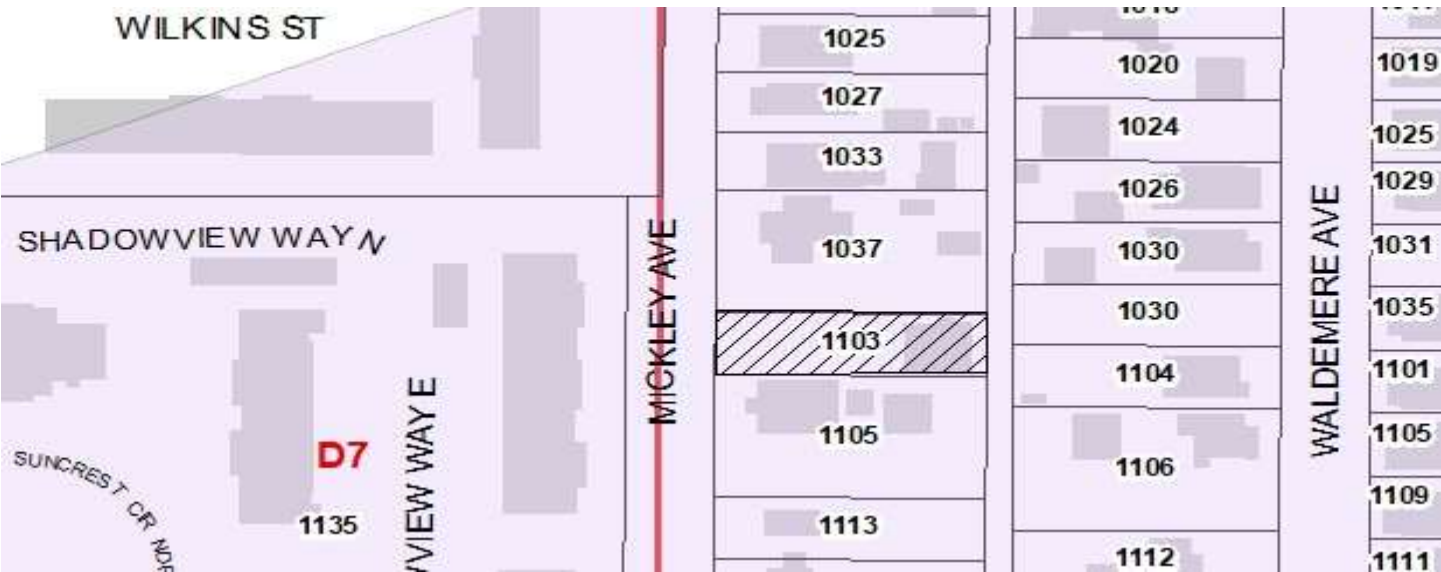
2010-DV1-020B; 1019 Whitcomb Avenue (northeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 42-inch fence within the clear sight triangle of the driveway, **denied**.

2005-LNU-029; 5784 West Morris Street (south of site), Certificate of Legal Non-Conforming Use for a single-family residence, **granted**.

90-V3-31; 5760 West Morris Street (southeast of site), Variance of development standards of the Commercial Zoning Ordinance to permit a second story addition, retaining wall, and down ramp to the underground parking area with a total of 27 parking spaces (35 parking spaces required; located within a transitional yard), **granted**.

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2023-DV1-014; Location Map



2023-DV1-014; Aerial Map





2023-DV1-014; Site Plan

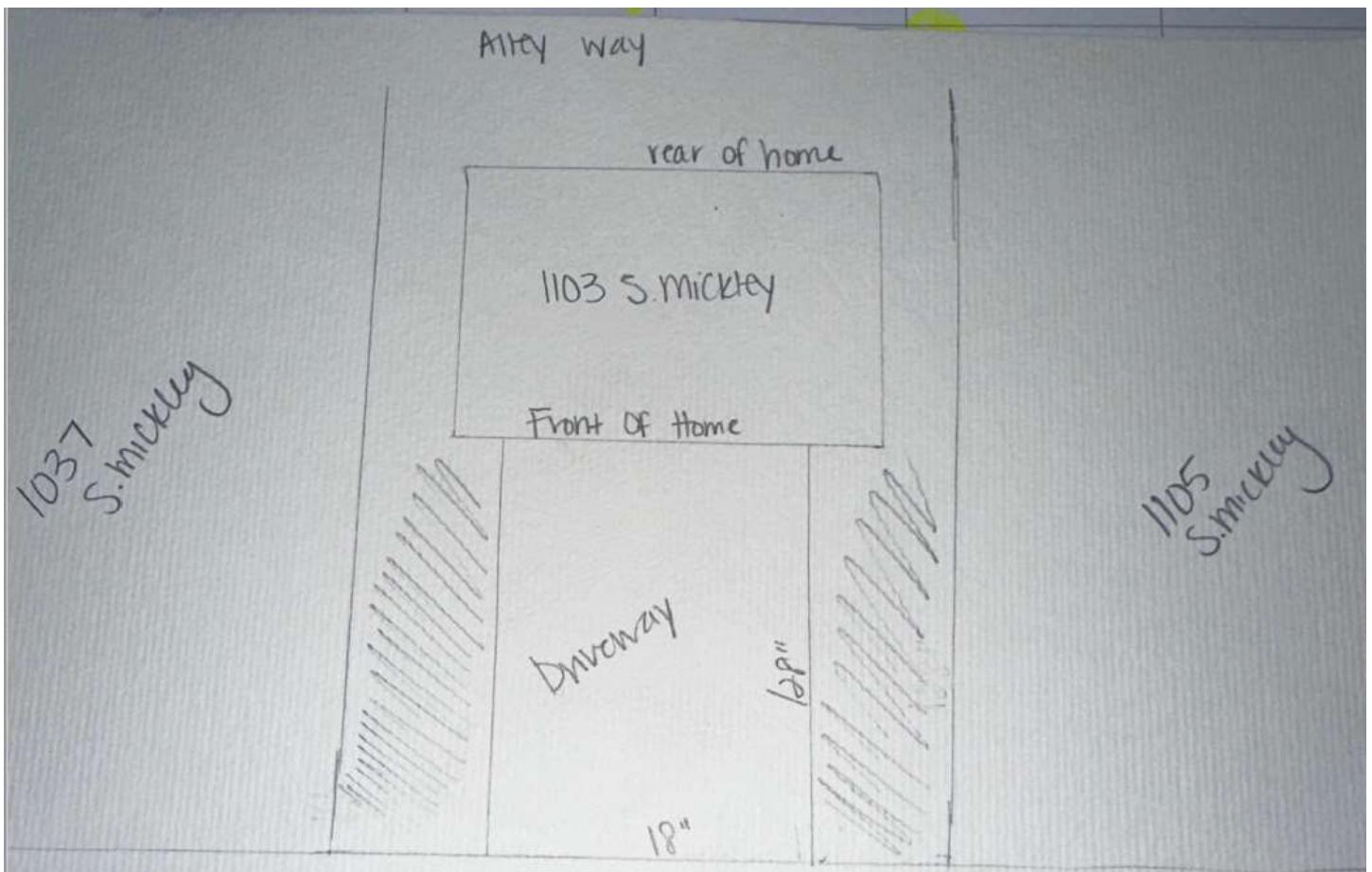




Photo of the subject site with existing curb cut, looking east.



Photo of the placement of the single-family dwelling at the rear of the property without alley access.



Photo of the adjacent property to the north, with existing curb cut and driveway, looking east.



Photo of other properties north with front driveways.



Photo of the Adjacent property to the south, with existing curb cut and driveway, looking east.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-015
Address: 1128 South High School Road (approximate address)
Location: Wayne Township, Council District #22
Zoning: D-3
Petitioner: Arcelia Hernandez-Badillo & Leodegario Montiel-Munoz, by Sarah Walters
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage with a four-foot south side yard setback, resulting in an eight-foot aggregate side yard setback, six-foot rear yard setback and 63% open space (six-foot side yard setback, 16-foot aggregate side yard setback, 20-foot rear yard setback, and 70% open space required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

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

North	D-3	Residential (Single-family dwelling)
South	D-3	Residential (Single-family dwelling)
East	SU-2	School
West	D-3	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood development.
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- ◇ The 0.13-acre subject site is developed with a single-family dwelling, detached garage, and shed.
- ◇ The site is surrounded by residential development on the west side of High School Road and a school with associated parking area east of the site.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for the construction of an attached garage with a four-foot south side yard setback, resulting in an eight-foot aggregate side yard setback, six-foot rear yard setback and 63% open space.
- ◇ Setbacks are required to keep a minimum distance between property improvements and help reduce drainage overflows onto adjacent properties. Additionally, setbacks provide the required space needed to construct and maintain structures on a property without requiring access through adjacent properties.
- ◇ According to Table 744-201-1 of the Consolidated Zoning and Subdivision Ordinance, the D-3 district in the Metro Context area requires minimum six-foot side setbacks, aggregate 16-foot side setbacks, 20-foot rear setback, and 70% open space. However, these standards are for a typical D-3 zoned lot measuring 10,000 square feet with a 70-foot lot width.
- ◇ The subject site measures approximately 4,358 square feet and is 50-feet wide. The existing dwelling has a four-foot north side setback and the detached garage to be demolished has a four-foot south side setback and six-foot rear setback.
- ◇ Since the garage addition would create a four-foot south side setback for an 18-foot-wide garage entrance width, staff determined that this would be acceptable considering the possibility of a detached garage would not be viable due to the unusually short lot depth of 92 feet compared to the 313-foot lot depth of the properties north and south of the site.
- ◇ Furthermore, Staff understands that the 20-foot rear setback would be difficult to meet even if a minimally sized 20 by 20-foot garage were proposed. Ultimately, the deficient lot size and lot width create difficulties with meeting the side, rear, aggregate side setback and 70% open space from being met.
- ◇ In staff's opinion, the strict application of the terms of the zoning ordinance would result in practical difficulties in the use of the property because the property is limited in size, which dictates the location of a garage on site.
- ◇ For these reasons, staff is supportive of the variance request.

GENERAL INFORMATION

THOROUGHFARE PLAN

High School Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 70-foot existing right-of-way and a 90-foot proposed right-of-way.

SITE PLAN

File-dated March 7,2023.

FINDINGS OF FACT

File-dated March 7,2023.

(Continued)

STAFF REPORT 2023-DV1-015 (Continued)**ZONING HISTORY – SITE****EXISTING VIOLATIONS**

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2022-UV1-040; 1220 South High School Road (south of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the location of solar panels within the front yard of High School Road (solar panels not permitted within the front yard, accessory structures not permitted in front of the primary building in Dwelling Districts), **granted**.

2020-DV3-016; 6331 West Morris Street (southwest of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a secondary dwelling and three-foot south side setback (six-foot side setbacks required) within the clear sight triangle of the abutting alleys (not permitted) on a lot without frontage on a public street (not permitted) and with 63% open space (70% open space required), **granted**.

2019-DV2-037; 1055 South High School Road (northeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a two-story accessory building taller than the primary dwelling (not permitted), **granted**.

2012-UV3-020; 1138 South High School Road (south of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance and the Sign Regulations to provide for a substance abuse counseling agency (not permitted) and to provide for a 2.125-square foot sign hanging from the mailbox (not permitted), **denied**.

2008-DV2-064; 1220 South High School Road (east of site), Variance of development standards of the Sign Regulations to legally established a 6.083 foot tall, 33.33 square foot pylon sign, containing a 24 square foot electronic variable message sign component being 72 percent of the total sign area, within approximately 60 feet of a protected district, **granted**.

2008-DV2-063; 1220 South High School Road (south of site), Variance of Development Standards of the Sign Regulations to legally establish a 6.083-foot tall, 33.33-square foot pylon sign (maximum four-foot tall ground sign permitted), containing a 24-square foot electronic variable message sign component (not permitted) being 72 percent of the total sign area (maximum 13.3 square feet or 40 percent of the total sign area permitted), within approximately 155 feet of a protected district (minimum 600-foot separation required), **granted**.

2003-UV1-001; 1050 South High School Road (north of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the storage of three commercial vehicles in a Dwelling District (not permitted), for up to a five-year period, **denied**.

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STAFF REPORT 2023-DV1-015 (Continued)

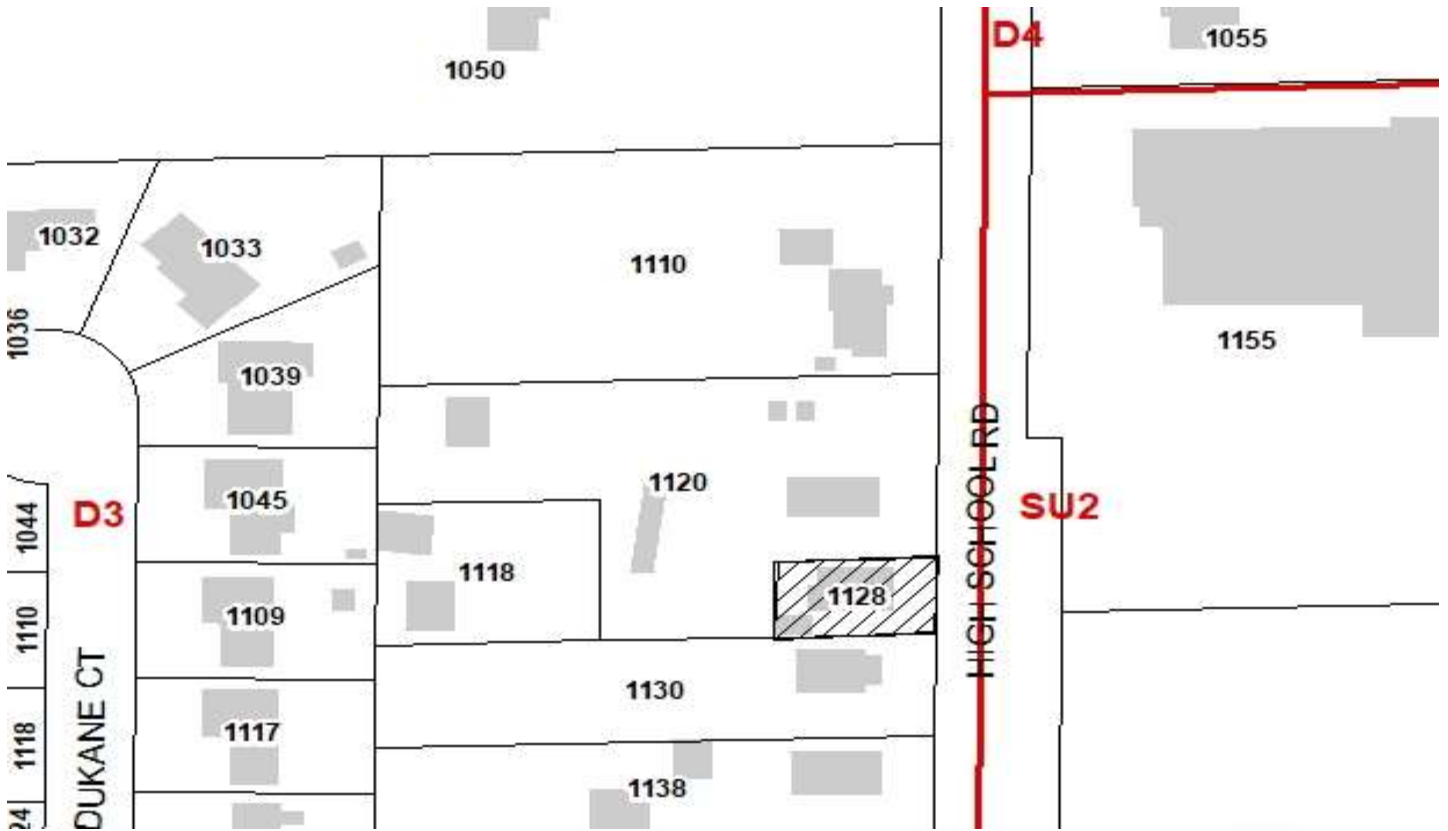
2001-DV1-068; 1050 South High School Road (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the outside storage of a semi-tractor and trailer (commercial vehicles or trailers not permitted to be parked, stored, maintained or kept on any property in a Dwelling District unless the vehicle has a maximum load capacity of $\frac{3}{4}$ of a ton or less and serves as the sole vehicle transportation of a resident of the property, and is within a garage or carport which complies with all standards and regulations of the Dwelling Districts Zoning Ordinance), **denied.**

87-V2-107; 6410 West Morris Street (southwest of site), Variance of the development standards of the Dwelling Districts Zoning Ordinance to provide for a detached garage located within the required front setback from Morris Street, **withdrawn.**

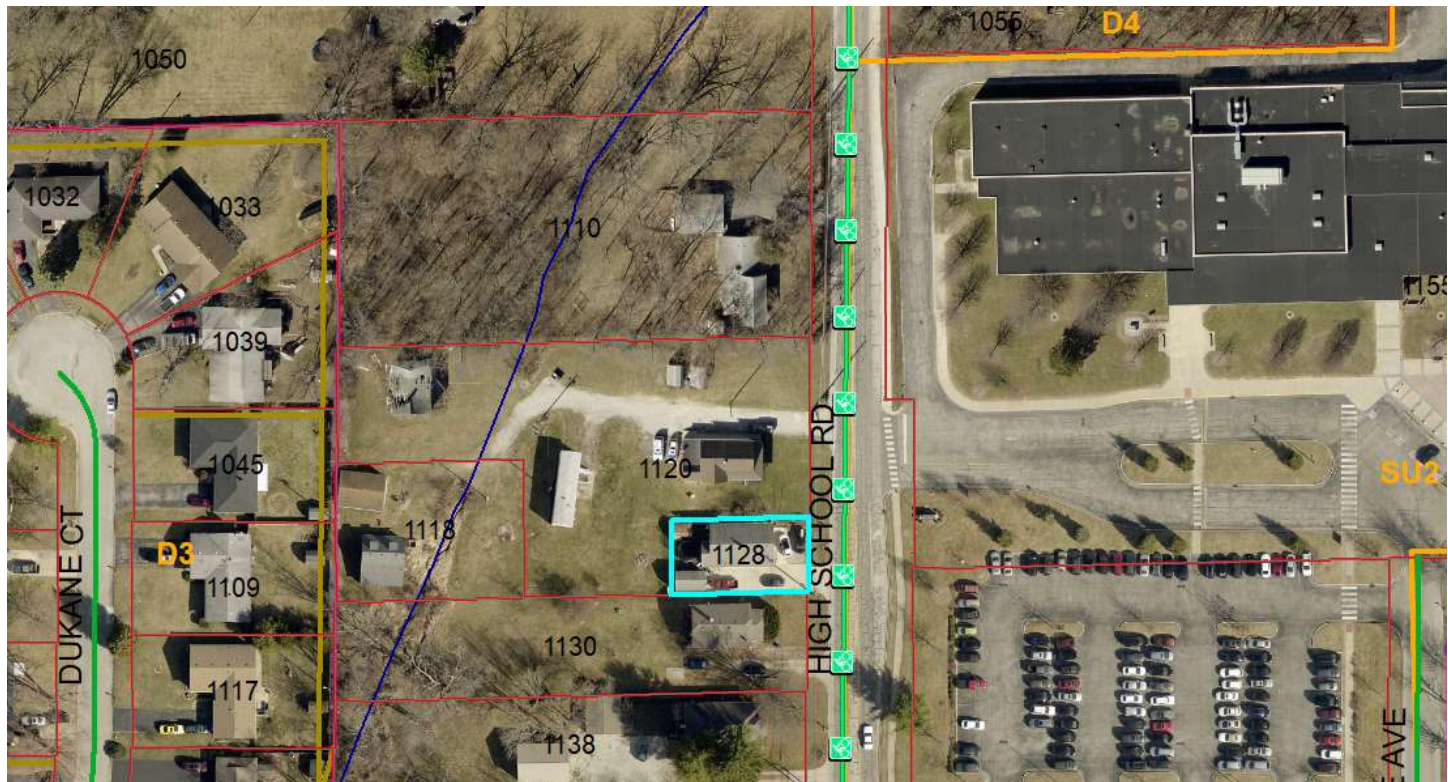
83-V3-8; 350 West Ray Street (north of site), Variance of the development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a detached garage, being larger than the primary dwelling and located within the required side yard setback, **approved.**

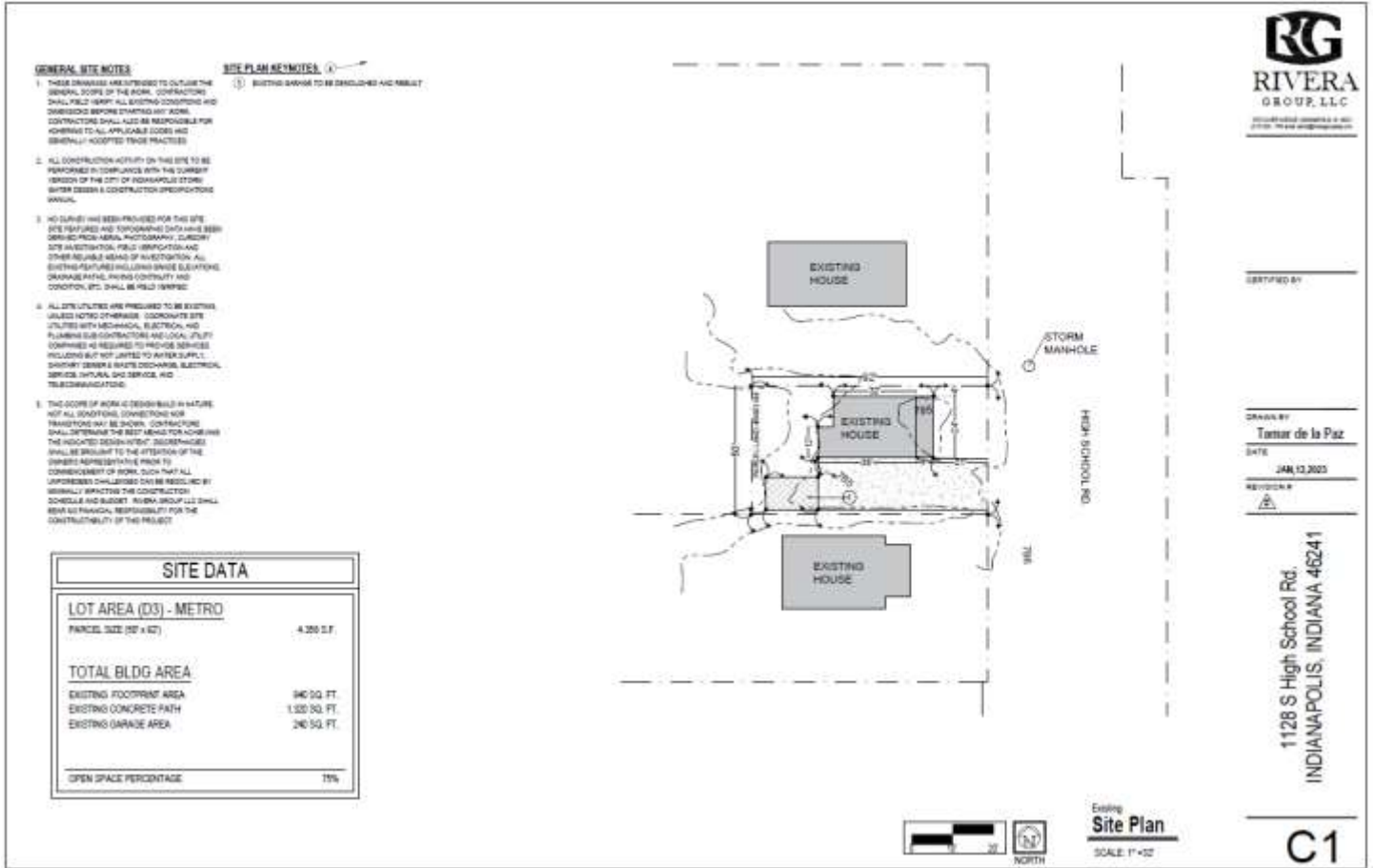
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2023-DV1-015; Location Map



2023-DV1-015; Aerial Map





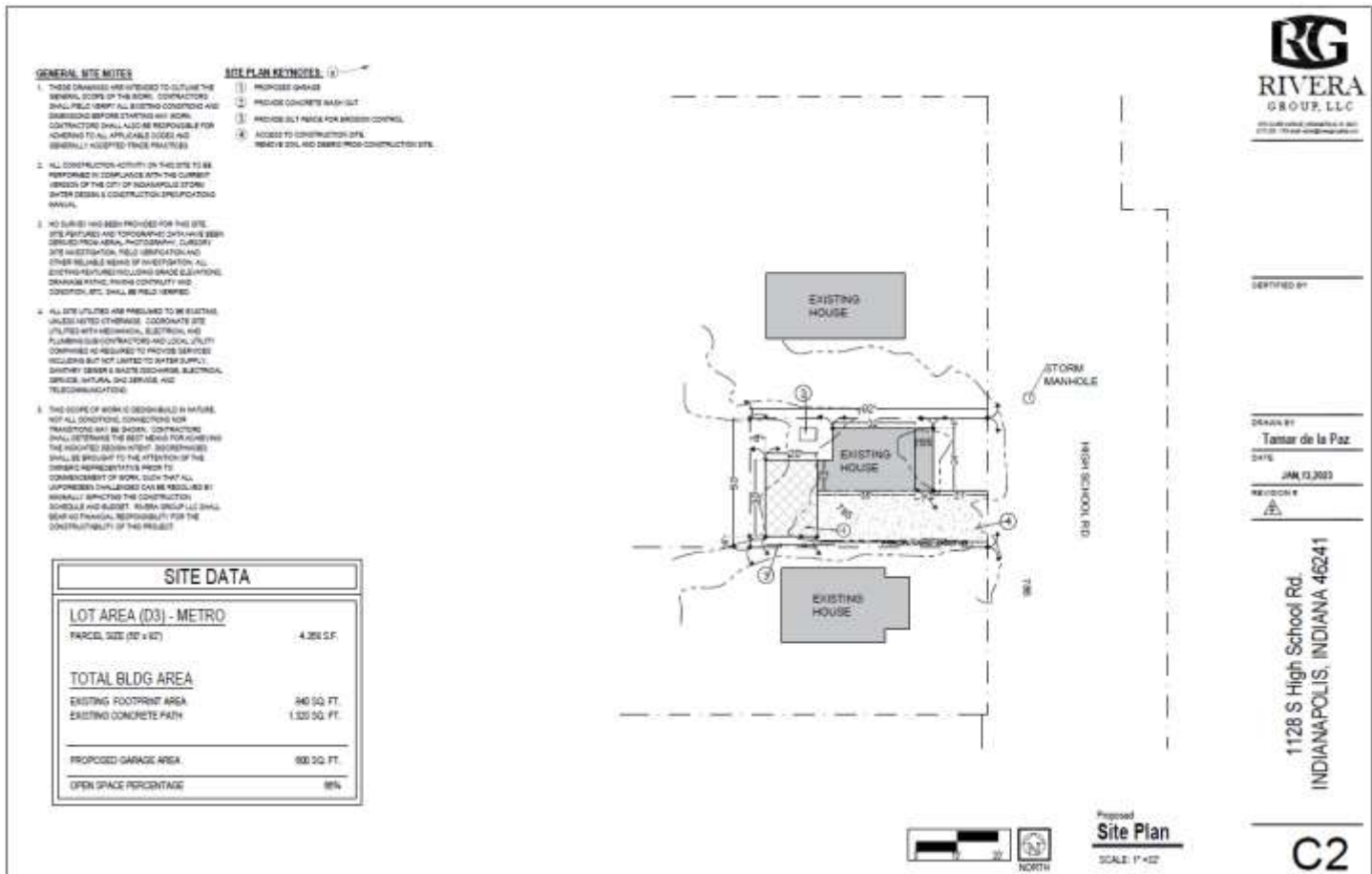




Photo of the Subject Property: 1128 South High School Road

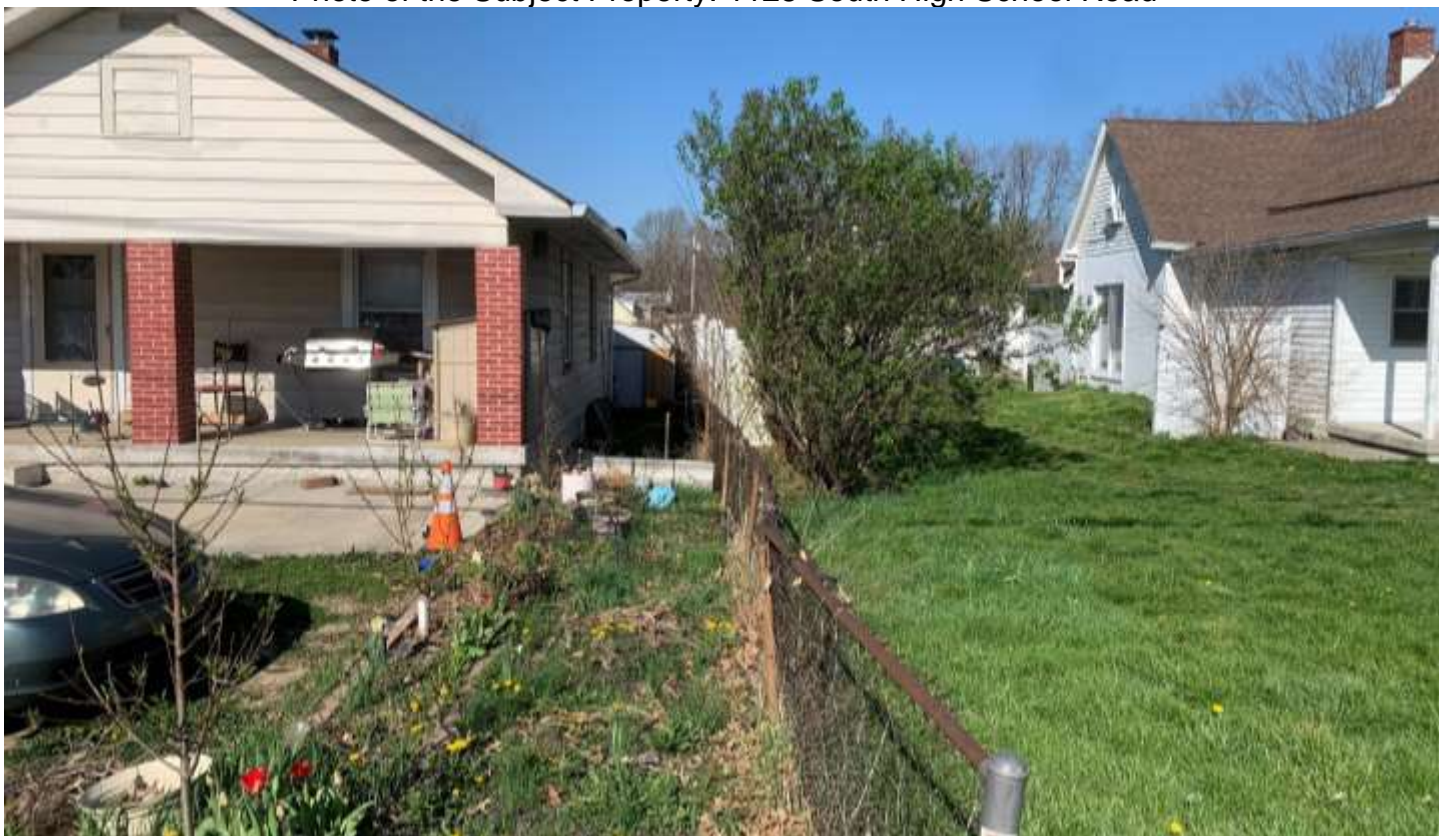


Photo of the single-family dwelling and separation to the north.



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



Photo of the garage to be demolished.



Photo of the existing rear setback.



Photo of the rear yard with the garage and shed to be removed per the submitted site plan.

STAFF REPORT

Item 3.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-018
Address: 6490 North Sherman Drive (approximate address)
Location: Washington Township, Council District #3
Zoning: D-S
Petitioner: Ronald Todd, by James P. Mack
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dwelling renovation and construction of an attached garage resulting in a 68-foot front yard setback from 65th Street (75-foot front yard setback required).

RECOMMENDATIONS

Staff **recommends approval** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-S	Single-family dwelling
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SURROUNDING ZONING AND LAND USE

North -	D-2	Single-family dwelling
South -	D-S	Single-family dwelling
East -	D-S	Single-family dwelling
West -	D-S	Single-family dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood uses for the site.
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VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a garage addition, with an approximately 68-foot front setback, where a 75-foot front setback would be required.
- ◇ The Consolidated Zoning and Subdivision Ordinance, specifically the D-S District, was developed to promote dwelling uses within areas of extreme topography, areas conducive to estate development, or areas where it is desirable to permit only low-density development. The D-S district provides for one-acre single-family residential building lots.

(Continued)

- ◇ A practical difficulty exists because of the mismatch between the zoning district and the lot size. The lot, at 35,632 square feet, is a D-1 sized lot. However, this site is within the D-S district, which includes standards that would be difficult to meet, particularly when proposing development consistent with the neighborhood.
- ◇ The average front setback of 75 feet, for a corner lot, is determined from the average of the adjacent 90-foot existing front setback to the west, and 60 feet from the proposed right-of-way. The 68-foot setback would be an 8% reduction from the average. In Staff's opinion, the proposed setback would represent a minor deviation from the Ordinance.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of North Sherman Drive is designated as a local street on the Official Thoroughfare Plan, with a 60-foot existing and proposed right-of-way.
	This portion of East 65 th Street is designated as a primary collector on the Official Thoroughfare Plan, with a 90-foot existing and proposed right-of-way.
SITE PLAN	File-dated March 28, 2023
FINDINGS OF FACT	File-dated March 29, 2023

ZONING HISTORY

2018-DV1-034; 3820 Nesbitt Road (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a pool, pool deck, retaining wall, pergola, fireplace, and other outdoor structures and features with a 10-foot rear setback, within 16 feet of a mapped stream, and with the pool encroaching into the west side yard with a 13-foot side setback, **granted**.

2017-DV2-022; 6449 Chester Avenue (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition, with a nine-foot north side setback, creating a 21-foot aggregate side setback, **granted**.

2016-DV2-042; 6477 North Chester Avenue (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 30.5-foot tall, detached garage, with a seven-foot north side setback, **granted**.

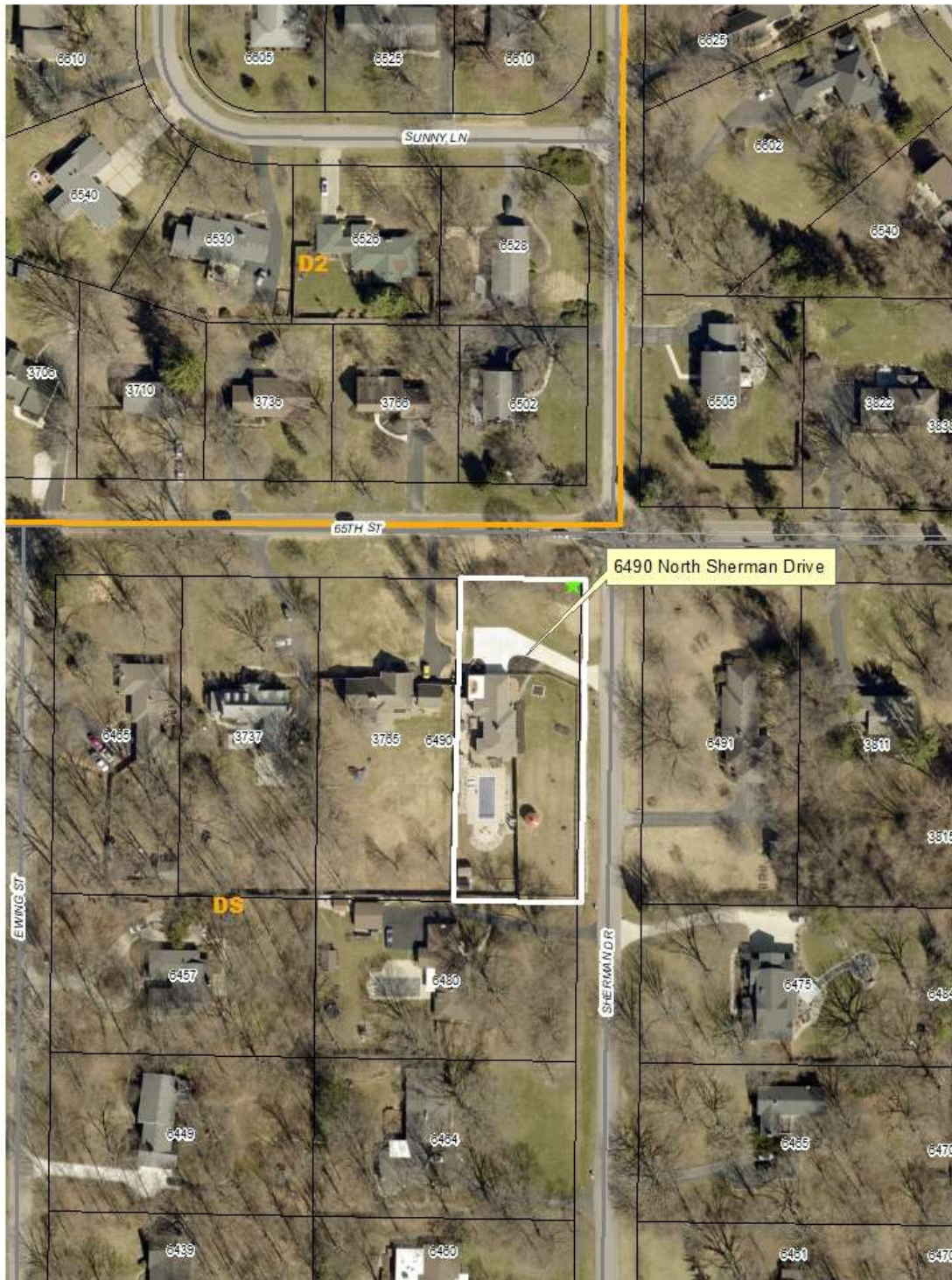
2013-DV1-017; 6330 Ewing Street (south of site), requested a variance of development standards to provide for an approximately 23-foot tall 1,345-square foot accessory pavilion, creating an accessory use area of 11,036-square feet or 280.53% of the total floor area of the primary structure, **granted**.

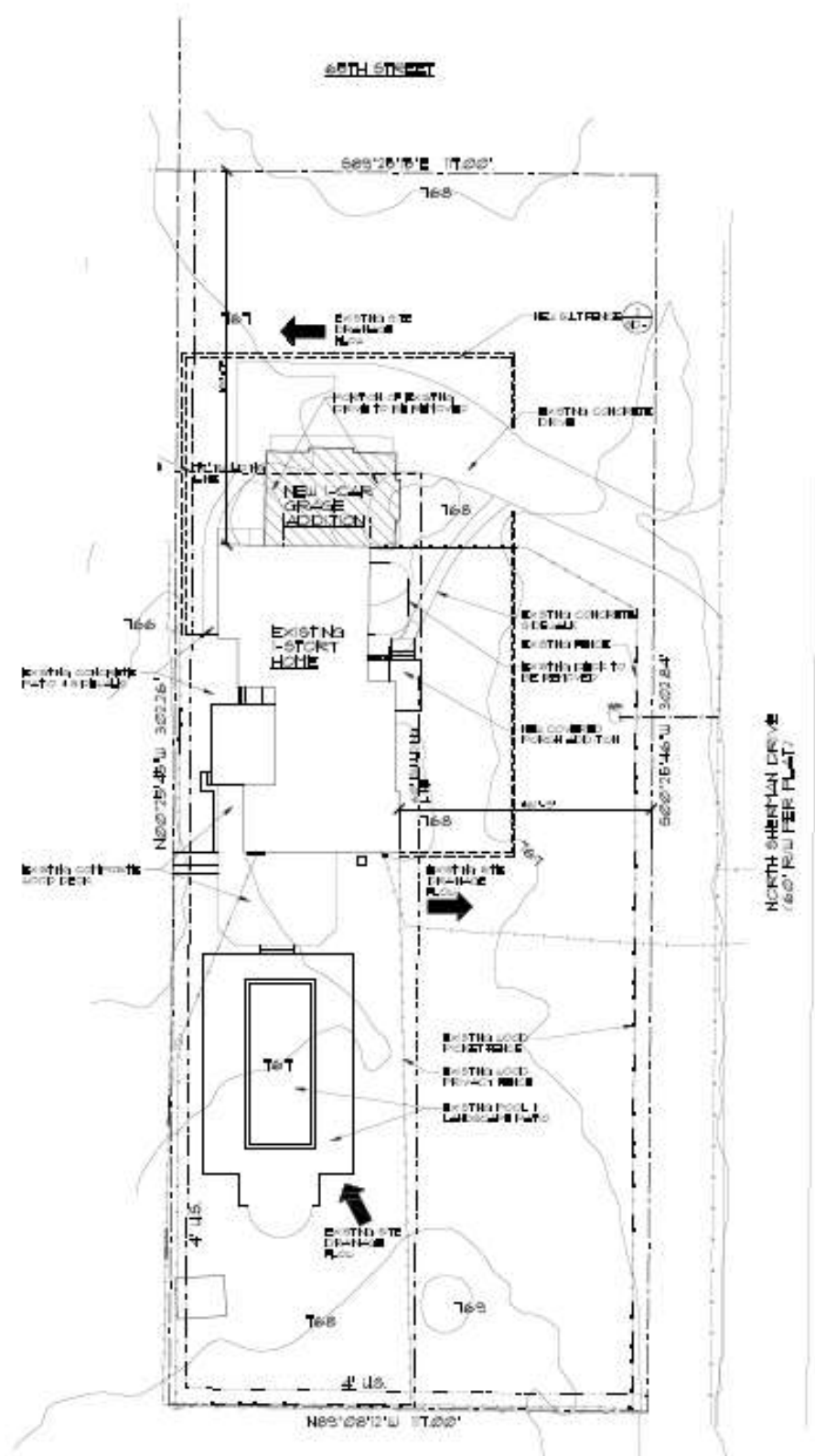
2010-DV2-020; 6320 Ewing Street (south of site), requested a variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a dwelling addition with an 11-foot south side setback, **granted**.

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STAFF REPORT 2023-DV1-018 (Continued)

2023-DV1-018; Location Map







Subject site looking south



Subject site with existing front setback looking west.



Adjacent dwelling to the east



Adjacent dwelling to the west

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-019
Address: 8719 Southeastern Avenue (approximate address)
Location: Franklin Township, Council District #25
Zoning: C-4
Petitioner: Cornerstone Wealth LLC, by David A. Retherford
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the renovation of an existing commercial structure resulting in an 18% front façade transparency (40% transparency required) and the addition of a porch with a zero-foot front setback and encroaching up to two feet into the right-of-way of Southeastern Avenue (10-foot front yard setback required, encroachment within the right-of-way not permitted).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Metro	C-4	Commercial Office
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SURROUNDING ZONING AND LAND USE

North	C-4	Commercial Retail
South	D-5	Undeveloped
East	C-4	Undeveloped
West	C-4	Commercial / Single-Family Residential

COMPREHENSIVE PLAN

The Comprehensive Plan recommends village mixed-use development, with an overlay for a Town Center.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would provide for the renovation and addition of a front porch to be added to the existing structure, with an 18% front façade transparency, and encroaching up to two feet within the right-of-way of Southeastern Avenue
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to the transparency requirement for facades with pedestrian access is intended to promote safety, by ensuring an adequate surface area of transparent materials, so that activity within a building can be surveilled by public safety.

(Continued)

STAFF REPORT 2023-DV1-019 (Continued)

- ◇ The Ordinance requires a certain percentage of transparency in commercial spaces, in order to maintain a visual connection between indoor and outdoor spaces, and to increase safety with visual surveillance.
- ◇ Upon entering or exiting, customers and public safety first responders should be able to see into and out of a structure, and be able to safely assess and appropriately respond to any incident. The lack of transparency and visibility could hamper safety, by increasing response time.
- ◇ In this instance, two additional windows would be added for transparency visibility, but would not be immediately adjacent to the entrance. It is Staff's opinion, that these windows, along with the added front porch, would provide sufficient transparency, for a small commercial building that was originally built prior to the Ordinance requirement.
- ◇ The existing structure was constructed with a side entrance to the parking lot and currently consists of two small windows to the front façade. The addition of the proposed porch and front door renovation would replace the existing two small windows with a front door and two sidelights for transparency, and a covered front porch.
- ◇ The minimum front yard setback for the porch in a commercial district is ten feet from the existing right-of-way.
- ◇ In staff's opinion, the existing developed properties have a practical difficulty with the existing 100-foot right-of-way, which prevents the reconfiguration of the building to provide for a front porch and front entrance in a village mixed use pedestrian friendly streetscape.
- ◇ The approval of the request would not be injurious to the public health, safety, morals, and general welfare of the community since the building is existing and would enhance the pedestrian connectivity of the surrounding area.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Southeastern Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector classification, with a 100-foot existing and proposed right-of-way.

SITE PLAN

File-dated April 12, 2023.

FINDINGS OF FACT

File-dated April 5, 2023.

(Continued)

ZONING HISTORY

2019-DV3-004; 8602-9010 Southeastern Avenue (approximate various addresses), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish and provide for the replacement of existing wall, pole, monument and pylon signs of similar style, height and size within the required setbacks and within the right-of-way of Southeastern Avenue, without obtaining permits, when located no closer than 10 feet from the back of the curb; to provide for replacement wall signs when located closer than 10 feet to the back of the curb without permits; and to provide for new signs and replacement signs inconsistent with the above only after obtaining a permit and when located no closer than 10 feet from the back of the curb, **granted**.

2015-UV3-034; 8711 Southeastern Avenue, Variance of use of the Commercial Zoning Ordinance to legally establish and provide for primary and accessory single-family residential uses (not permitted), **granted**.

2015-ZON-108; 8939 Southeastern Avenue, Rezoning of one acre from the D-3 (FF) district to the C-4 (FF) classification.

2011-ZON-025; 8614 Southeastern Avenue, Rezoning of 1.172 acres, from the C-4 and SU-9 districts to the C-S classification to provide for C-4 uses and a limousine service (8614) and C-1 and residential uses (8721), **approval**.

2006-UV1-045; 8935 Southeastern Avenue, Variance of use of the Dwelling Districts Zoning Ordinance to provide for commercial office uses (not permitted) within the existing two-family dwelling, **granted**.

2006-ZON-144; 4437 Clark Drive, Rezoning of 40.99 acres, from the D-A district to the C-S classification to provide for C-1 uses, C-4 uses, residential uses, I-2 uses, and a machine shop or use engaged in the manufacture, assembly or repair of machinery and machinery components as permitted in the I-3 districts, **approval**.

2002-UV3-004; 8800 Southeastern Avenue, Variance to legally establish a single-family dwelling and to provide for an 804 square-foot addition to said dwelling, **granted**.

99-UV3-65; 8933 Southeastern Avenue, Variance of use of the Commercial Zoning Ordinance to provide for the construction of a 572-square foot above ground pool, associated with an existing single-family residence (not permitted), **granted**.

96-UV2-120; 8935 Southeastern Avenue, Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a two-family dwelling with a reduced lot width, **granted**.

85-HOV-136, 8845 Southeastern Avenue, Variance of development standards of the Commercial and Zoning Ordinance to provide for a commercial building at 55 feet from the centerline of Southeastern Avenue (70 feet required) and without the required rear transitional yard, **granted**.

RU









Existing structure front façade, looking south



Existing structure west façade, with front entrance, looking southeast



Adjacent commercial building to the west, with residential features, looking south.



Adjacent commercial building to the east, with residential features, looking south.

STAFF REPORT

Item 5.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-062 (2nd Amended)
Address: 1012 Olive Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-5 (TOD)
Petitioner: Kristen Fern
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway with a zero-foot north side yard setback and a three-foot rear yard setback (three-foot side yard setback and 20-foot rear setback required) providing access from Olive Street (exclusive vehicle access from improved alley required), also with the existing single-family dwelling encroaching within the clear site triangle of Olive Street and the driveway (encroachment into the clear site triangle not permitted).

ADDENDUM MAY 9, 2023

This petition was automatically continued to the May 9, 2023, hearing, due to an indecisive vote by the Board.

ADDENDUM APRIL 4, 2023

This petition was continued for cause at the request of the petitioner to allow time to amend the petition and provide new notice.

An amended site plan, file dated March 21, 2023, was provided to the file.

The amended request provides for an additional variance of development standards to allow the existing porch to be within the clear sight triangle of the proposed driveway. There is no practical difficulty for this additional request, along with the original request, as the proposed driveway could be relocated to access the improved alley as the Ordinance requires, thereby allowing the site to be developed without the need for any variances and eliminating the entire petition request.

Staff continues **to recommend denial** of the request as amended.

ADDENDUM MARCH 3, 2023

This petition was automatically continued at the request of a registered neighborhood organization, from the February 7, 2022, hearing to the March 7, 2023, hearing.

ADDENDUM FEBRUARY 7, 2023

This petition was previously automatically continued at the request of the petitioner, from the January 3, 2022, hearing to the February 7, 2023, hearing. A registered neighborhood organization filed a timely automatic continuance, continuing this petition from the February 7, 2023, hearing, to the March 7, 2023, hearing.

(Continued)

STAFF REPORT 2022-DV1-062 (Continued)**January 3, 2023****RECOMMENDATIONS**

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES**LAND USE****EXISTING ZONING AND LAND USE**

D-5	Single-family dwelling
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SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwelling
South -	C-3	Commercial development
East -	D-5	Single-family dwelling
West -	D-5	Single-family dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Traditional Neighborhood uses for the site.
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DEVELOPMENT STANDARDS

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to side and rear setbacks are intended to provide a minimum distance between property improvements and help reduce drainage overflows onto adjacent properties. Additionally, setbacks provide the required space needed to construct and maintain structures on a property without requiring access through adjacent properties.
- ◇ Staff believes the proposed driveway with a zero-foot north side yard setback and a three-foot rear yard setback would not provide sufficient area for accessibility and maintenance and would negatively impact the adjoining properties to the north and to the west.
- ◇ No practical difficulty exists for the property, since the proposed driveway can be relocated to an area on site that meets the required Ordinance setbacks. Any practical difficulty related to the proposed driveway setbacks would be self-imposed, by the proposed location.
- ◇ This property is required to gain exclusive access from the existing improved alley, per Section 744-301 of the Ordinance. The "Access to accessory parking areas" provision states that "... if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley." In addition, per Section 744-401 of the Ordinance. The "Access to and from parking lots and garages" provision states that "... no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line."

(Continued)

STAFF REPORT 2022-DV1-062 (Continued)

- ◇ The Department of Business and Neighborhood Services has determined that the abutting alley to the south of the property is an “improved” alley, and therefore access from Olive Avenue for an accessory parking area / driveway would not be allowed, per the Ordinance.
- ◇ The property has an existing curb cut from the alley at the southeast corner of the lot. The proposed driveway does not utilize this existing curb cut, and instead creates a new curb cut along Olive Street, reducing sidewalk access and on-street parking.
- ◇ Aerial photos indicate the property has a history of providing alley access and a driveway from the alley to a garage as recent as 2012.
- ◇ Alley access where available, helps the pedestrian environment by reducing the number of new curb cuts across sidewalks and preserves valuable curbside parking, along with reducing the amount of pavement needed for driveways, which causes significant storm water runoff into city drainage systems.
- ◇ No practical difficulty exists for the property, since the site has previously established alley access and could continue to do so, either with the existing alley access, or a new alley access, by right. Any practical difficulty related to the proposed curb cut access from Olive Street would be self-imposed, by the proposed design.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Olive Street is designated as a local street on the Official Thoroughfare Plan, with an existing and proposed 60-foot right-of-way.
SITE PLAN (AMENDED)	File-dated, March 21, 2023
FINDINGS OF FACT	File-dated, November 29, 2022

ZONING HISTORY

2020-DV2-040; 933 Olive Street (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for additions to a single-family dwelling with seven feet between buildings, a 17-foot rear setback and 52% open space, **granted**.

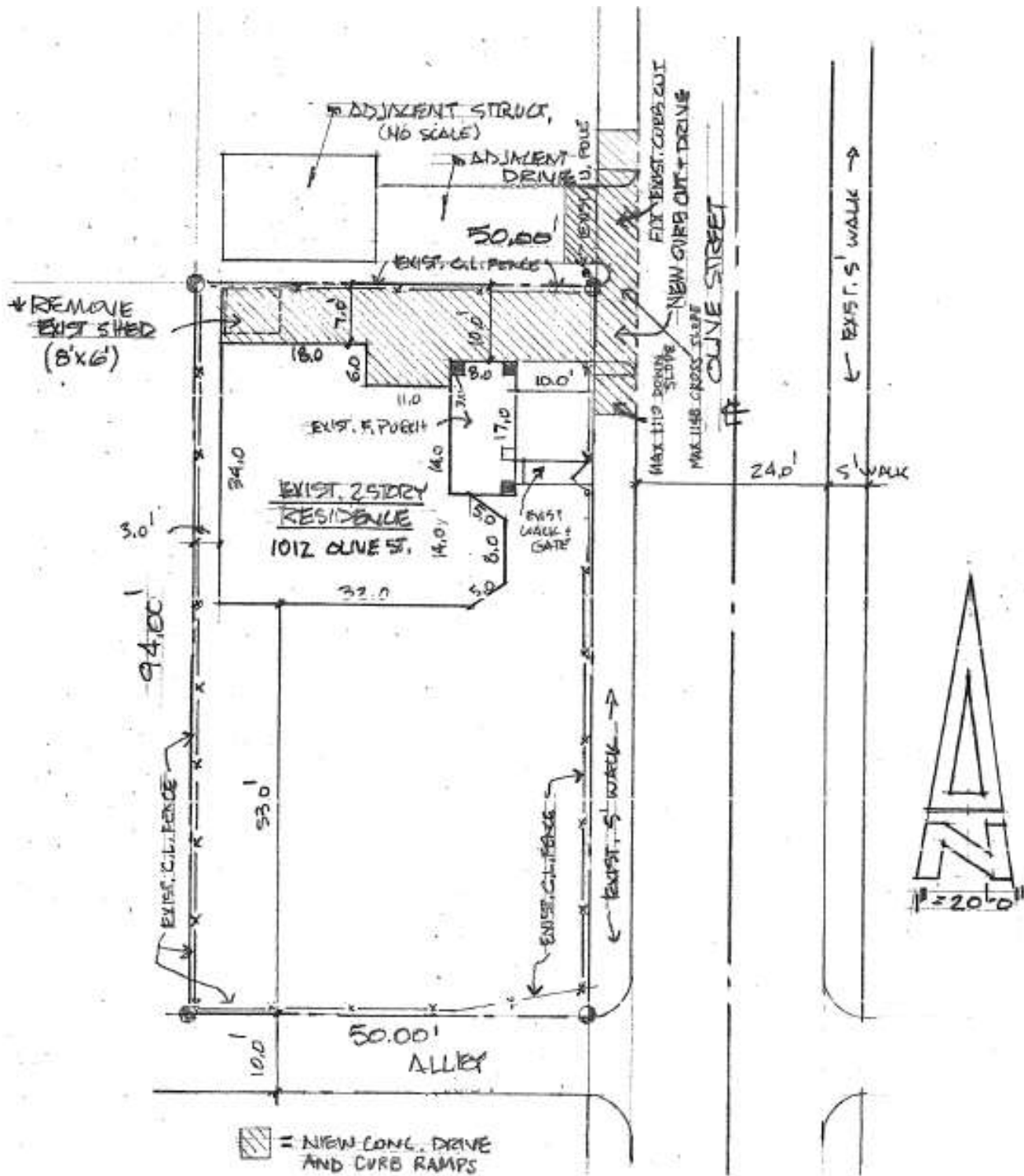
2018-HOV-006; 1134 Woodlawn Avenue (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage, creating an open space of 49%, and to legally establish an existing dwelling with a 1.33-foot west side setback, a 15-foot front setback and less than 10 feet between primary dwellings, **granted**.

2018-HOV-085; 1113 Woodlawn Avenue (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling with 4.4 feet and 5.6 feet between dwellings, **granted**.

RU

2018-DV2-003; Location Map







Picture 1: Subject site, looking northwest.



Picture 2: Subject site proposed driveway and curb cut location, looking west.



Picture 3: Subject site south side yard, looking west.



Picture 4: Subject site location of existing parking area with alley access, and former garage that was removed sometime after 2012, looking north.



Picture 5: Subject site location of existing curb cut from the alley, for previous driveway and garage, that was removed sometime after 2012, looking northwest.



Picture 6: Adjacent property to the east, with garage alley access, looking north.



Picture 7: Adjacent property to the north without alley access, looking northwest.



Picture 8: Adjacent commercial property to the south of subject site, looking southwest.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-012
Address: 2411 North Rural Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Martindale Brightwood Community development Corp., by Jamilah Mintze (In and Out Unlimited LLC)
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex on a 30-foot-wide lot with an area of 4,050 square feet (minimum 60-foot lot width, minimum 7,200 square foot lot area), with an eight-foot lot width for proposed plat of Lot 17A and a 22-foot lot width for proposed plat of Lot 17B, and a parking pad with 1.5-foot side yard setbacks (three-foot side yard setbacks required).

This petition was continued and transferred from the April 18, 2023 hearing to the May 9, 2023 hearing to provide for an amendment.

RECOMMENDATIONS

Staff **recommends approval** of this request to provide for the construction of a duplex on a 30-foot-wide lot with an area of 4,050 square feet, with an eight-foot lot width for proposed plat of Lot 17A and a 22-foot lot width for the proposed plat of Lot 17B.

Staff **recommends denial** of the request to provide for a parking pad with 1.5-foot side yard setbacks.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Multi-unit dwelling
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SURROUNDING ZONING AND LAND USE

North	D-5	Undeveloped
South	D-5	Single-family dwelling
East	D-5	Single-family dwelling
West	D-5	Single-family dwelling

LAND USE PLAN

The Comprehensive Plan recommends Traditional Neighborhood development.

(Continued)

STAFF REPORT 2023-DV3-012 (Continued)

- ◇ The subject site is zoned D-5 and developed with a multi-unit house (two units). This property is within the Parker, Hanway and Hanna's Resubdivision northeast of the Interstate-70 exit on Keystone Avenue in the Martindale-Brightwood neighborhood.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for the construction of a duplex on a 30-foot-wide lot with an area of 4,050 square feet, with an eight-foot lot width for proposed plat of Lot 17A, a 22-foot lot width for proposed plat of Lot 17B, and a parking pad with 1.5-foot side yard setbacks.
- ◇ This request would provide for a parking pad in the rear yard with 1.5-foot setbacks where three feet is required. The ordinance requires that off-street parking must meet the building setback requirements for the zoning district. The proposed parking pad is 27-feet in width. The ordinance requires one off-street parking space for each dwelling unit. Staff would suggest that the proposed parking pad could be reduced to 24-feet in width and easily accommodate parking for two vehicles and meet the required three-foot side yard setbacks. Staff recommends denial for the reduced side yard setbacks for the parking pad.
- ◇ This request would provide for the construction of a duplex on a 30-foot-wide lot with an area of 4,050 square feet, with an eight-foot lot width for proposed plat of Lot 17A and a 22-foot lot width for proposed plat of Lot 17B. The ordinance would permit a multi-unit house in the D-5 district with a minimum lot width of 35 feet and a minimum lot area of 3,500 square feet; however, multi-unit houses are not permitted to be platted into single-family attached dwellings. Newly constructed single-family attached dwellings must meet the standards for a duplex in the D-5 district.
- ◇ This site has a lot area of 4,050 square feet and a lot width of 30 feet. It is common that historic platted properties are less than the minimum lot area and width for the D-5 district, but exceptions for infill development apply only to single-family dwellings. As a multi-unit house, the site is only deficient five feet of lot width, but multi-unit houses do not allow for platting the structure into single-family attached dwellings without variances to legally establish the structure as a duplex.
- ◇ Although the site is less than the required size for a traditional duplex, staff would note that regardless of whether this property is platted into two parcels, it would still function as a two-family dwelling. The proposed variances for lot size and width would allow each dwelling unit to have individual ownership with minimal impact on the surrounding properties. Staff would note that if approved, the variance and subsequent plat would not permit detached single-family dwellings to be built on the individual lots. Therefore, staff is not opposed to the variances for reduced lot width and area, and the proposed lot widths of eight feet and 22-feet for Lots 17A and 17B, respectively.

GENERAL INFORMATION

THOROUGHFARE PLAN

Rural Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a street classification, with a 60-foot existing and proposed right-of-way.

(Continued)

STAFF REPORT 2023-DV3-012 (Continued)

SITE PLAN File-dated March 7, 2023.

ELEVATIONS File-dated March 7, 2023.

FINDINGS OF FACT File-dated March 7, 2023.

ZONING HISTORY – SITE

PREVIOUS CASES: None

ZONING HISTORY – VICINITY

86-UV3-081, 2815 East 25th Street, special exception to permit a religious use, **approved**.

88-Z-271, 2432 North Rural Street, rezoning of 0.204 acre from the D-5 district to the SU-1 district, **withdrawn**.

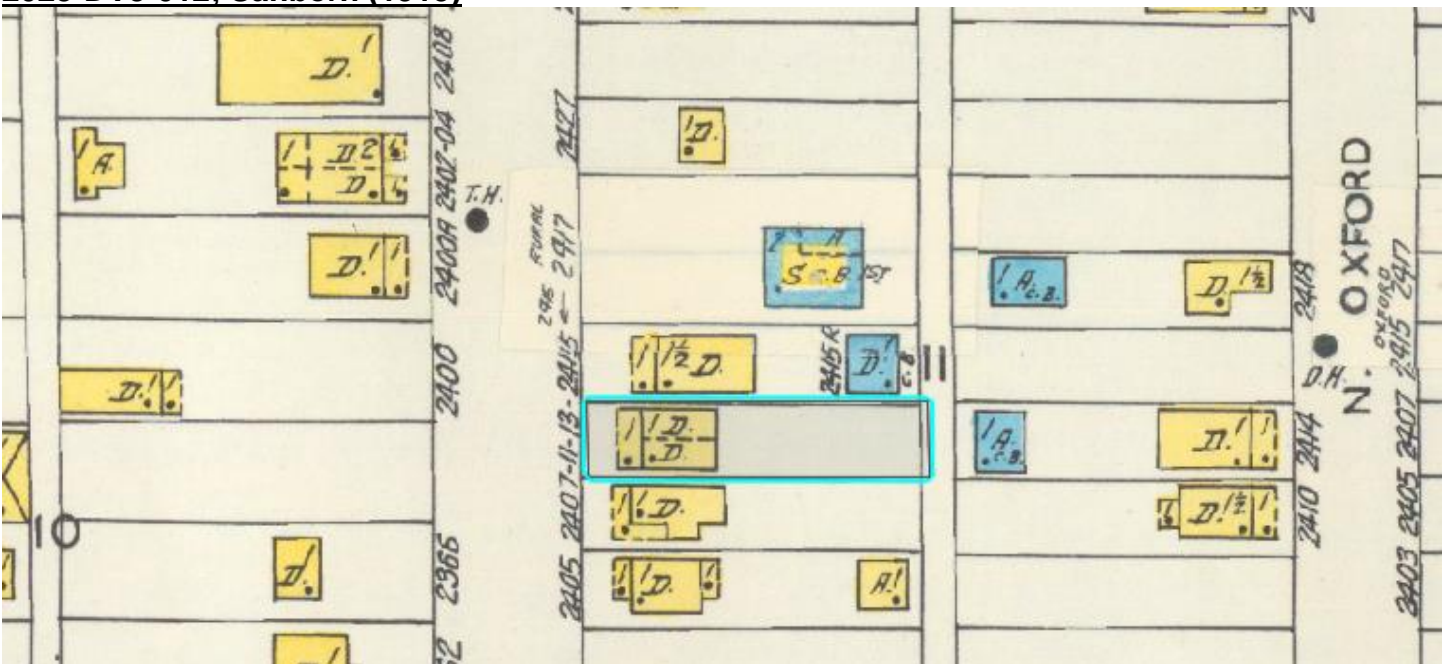
94-Z-85, 2815 East 25th Street, rezoning of 0.659 acres from the C-3 and D-5 district to the SU-1 district, **approved**.

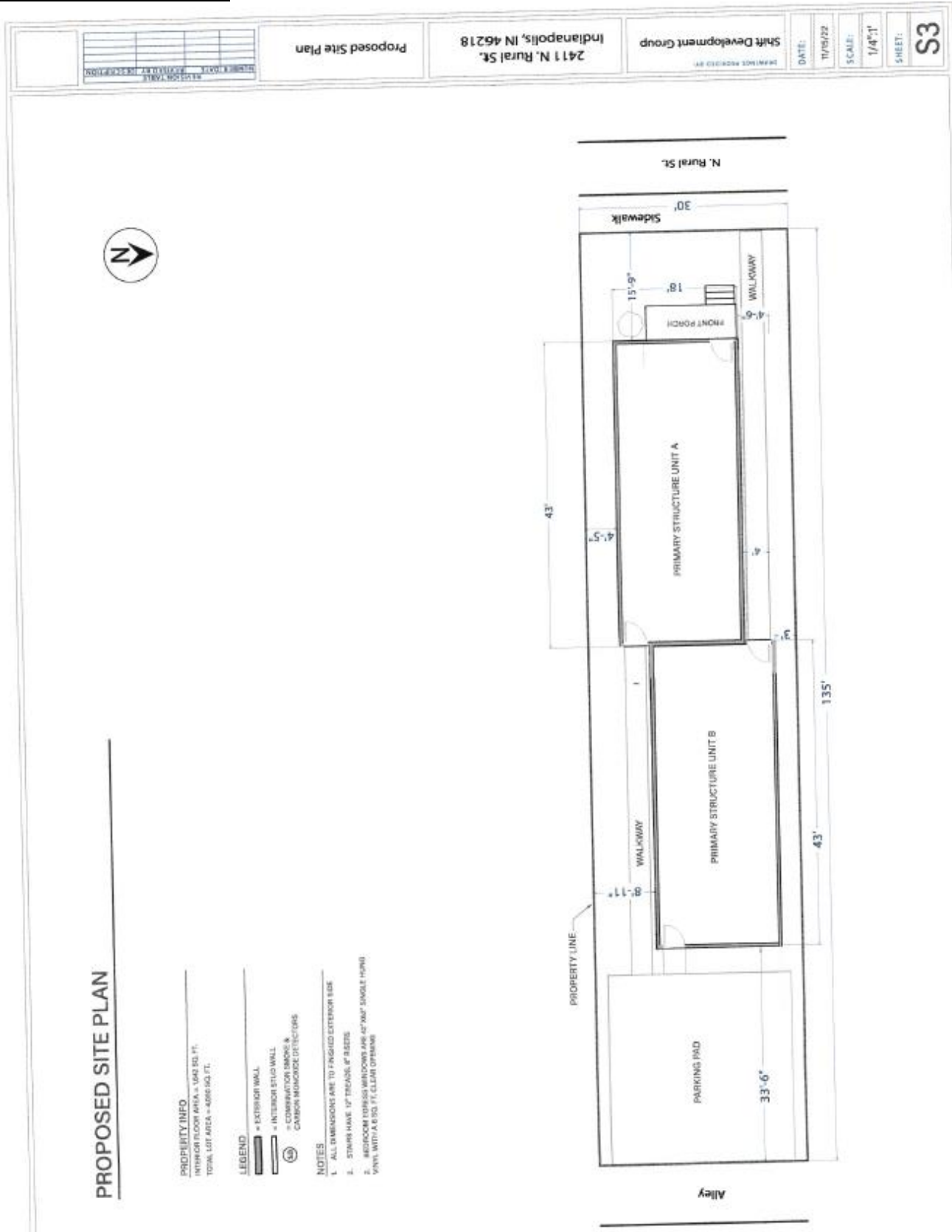
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2023-DV3-012; Aerial Map

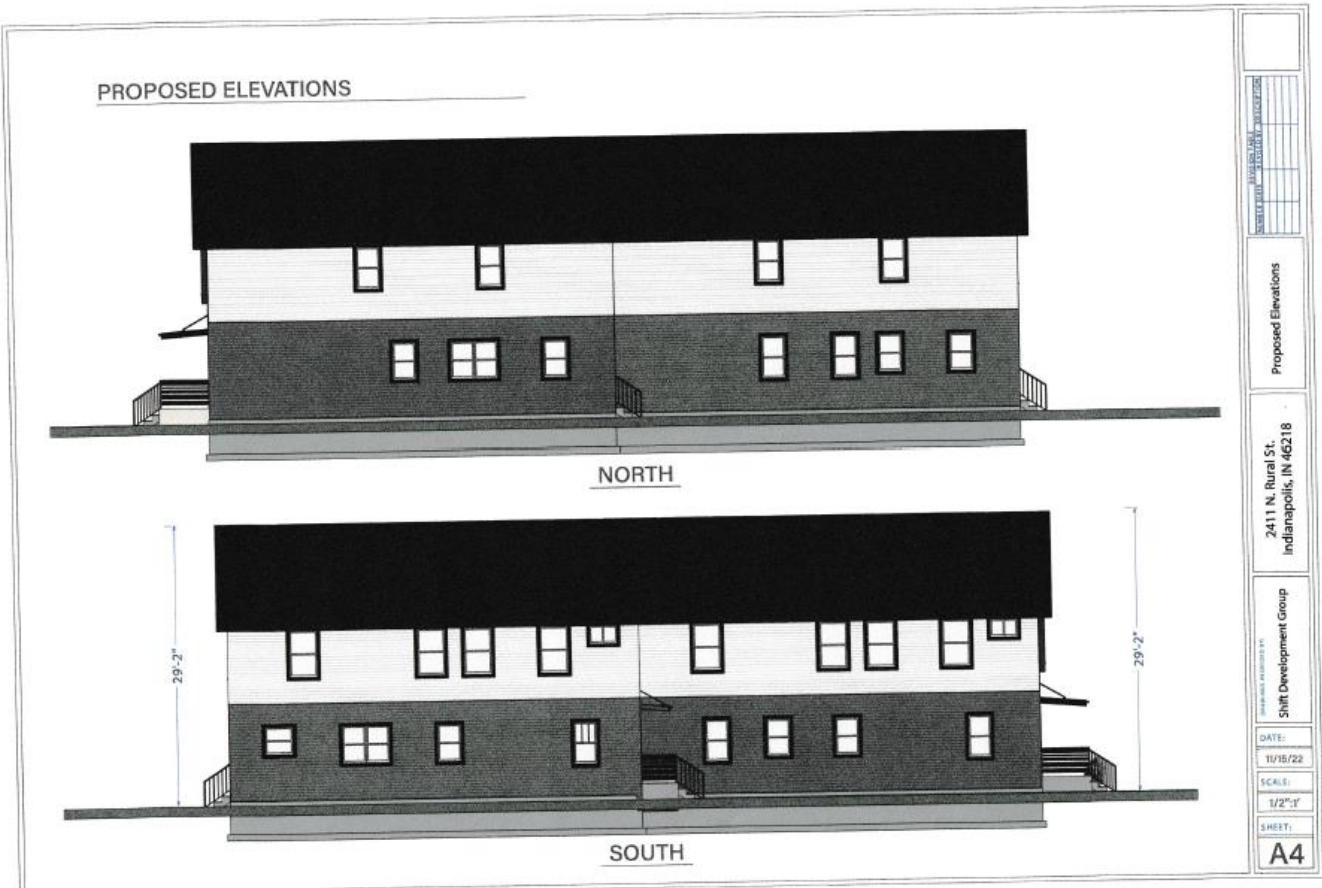


2023-DV3-012; Sanborn (1915)





2023-DV3-012; Elevations



2023-DV3-012; 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:

Proposed plans for development on this site would not be injurious to any property adjacent, the request for 2 family dwellings would benefit and provide a new overall facade to the existing area

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

This petition is within the single family dwelling development plan for the area. Petitioning for this approval will give access to provide affordable housing for residents within 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:

This project was approved and issued permits to begin construction, has such since begun the construction of this dwelling. Plan review for additional projects, the matter was brought to attention of the development requirements for the parcel and as such, the petition is necessary to obtain proper approval to continue with completion of this parcel.

DECISION



Subject site viewed from Rural Street, looking east



Subject site viewed from alley, looking south



North of site

STAFF REPORT

Item 7.

Department of Metropolitan Development Division of Planning - Current Planning Section

Case Number: 2022-SE1-002 (Amended)
Address: 9140 East McGregor Road (approximate address)
Location: Franklin Township, Council District #25
Zoning: D-A
Petitioner: Shalom Christian Church, by Jonathan L Albright Jr.
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for religious uses and a modification of development standards to allow for the construction of a religious use facility, parking lot and related accessory structures with a 22-foot western side yard and an 18-foot rear yard (minimum 30-foot side yard setback, 75-foot rear yard setback required), and a 110-foot wide parking area within the front yard (maximum 30-foot wide parking area permitted within the front yard).

RECOMMENDATIONS

Staff **recommends approval** of this petition, subject to the following commitments:

1. The Special Exception grant shall be subject to substantial compliance with the amended site plan file-dated February 10, 2023, and the plan of operation, file-dated October 13, 2022.
2. The Special Exception grant shall be subject to the dedication of a 45-foot half right of way for a future road widening.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

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

North -	D-4	Under development with single-family dwellings
South -	D-P	Single-family dwelling
East -	D-A	Single-family dwelling
West -	D-4	Under development with single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood uses for the site.
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(Continued)

SPECIAL EXCEPTION

- ◇ The proposed use of the subject site is listed as a Special Exception within the D-A district. Churches, as a religious use, are permitted within the D-A District with the grant of a Special Exception. Due to the exceptional land use characteristics and locational impacts of certain residential uses, if inappropriately located, other land uses and values within the county would be negatively impacted. It is recognized that the further classification and regulation of such uses is essential in order to preserve property values, as well as to promote the public health, safety, comfort, morals, convenience, and general welfare within Marion County through a Special Exception. With good design, churches are generally thought of as being compatible with residential uses.
- ◇ The subject site is zoned D-A, which is intended for the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals and any mutations or hybrids thereof, including a single-family dwelling as a part of such enterprise. A secondary intent of this district is large estate development of single-family dwellings.
- ◇ The Comprehensive Land Use Plan (2017) recommends suburban neighborhood for this site and the surrounding area. "The suburban neighborhood typology is predominately made up of single-family housing but is interspersed with attached and multi-family housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of one to five dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park."
- ◇ Each special exception request must show that the grant would not be injurious to the public health, safety, convenience, and general welfare of the community. The proposed church use would utilize the existing single-family dwelling similar to other single-family dwelling uses and would replace the existing barn with a worship facility and accessory parking lot. In Staff's opinion, the request would not jeopardize the public safety. Further, the site is not located within a floodway/floodplain or in a Wellfield Protection District, therefore, there would be limited environmental concerns created by this request.
- ◇ The special exception must indicate that the grant would not injure or adversely affect the adjacent area or property values. The proposed use would be similar to other uses in the area, in regard to traffic, noise, and clientele. To help alleviate traffic concerns, Staff has requested the dedication of a 45-foot half right of way for a future road widening. This portion of the right-of-way can also be used as a turn off lane for those vehicles traveling east.

(Continued)

- ◇ Additionally, the grant must be in harmony with the character of the district and the land use authorized therein. The subject site is located within the D-A zoning classification; the proposed church would be consistent with surrounding residential uses and would be compatible with the Marion County Comprehensive Land Use Plan recommendation of suburban neighborhood uses for the site.
- ◇ In Staff's opinion, the proposed location and size of the lot would meet the general intent of the D-A district and the requirements to be granted a special exception.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of McGregor Road is designated as a primary collector on the Official Thoroughfare Plan, with a 50-foot existing right-of-way, and a 90-foot proposed right-of-way.
SITE PLAN (AMENDED)	File-dated February 10, 2023.
PLAN OF OPERATION	File-dated October 13, 2022.
FINDINGS OF FACT	File-dated October 13, 2022.

ZONING HISTORY

2022-DV1-013; 9625 East McGregor Road (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a barn with a 15-foot east side setback, **granted**.

2020-ZON-020; 9140 East McGregor Road (north and west of site), requested the rezoning of 67.54 acres from the D-A district to the D-4 classification, **approved**.

2019-DV2-015; 9860 East McGregor Road (east of site), requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 1,680-square foot pole barn with an attached porch with a 12-foot east side setback, **approved**.

2000-SE1-001; 9510 East McGregor Road (east of site), requested a special exception of the Dwelling Districts Zoning Ordinance to provide for a manufactured home, **granted to petitioner only**.

99-V2-7; 8640 East McGregor Road (west of site), requested a variance of development standards to provide for a detached accessory garage with a 10-foot side yard setback, being 109% of the primary structure, **denied**.

RU

2022-SE1-002 Location Map





Shalom Christian Church Plan of Operation

The Shalom Christian Church Plan of Operation will describe the request including, but not limited to, a description and size of the proposed facilities, number of employees, security provisions, and hours of operation. The existing and proposed seating capacity of the largest public assembly room.

Shalom Church Congregation

Shalom Christian Church is a Burmese-Chin ethnic found and operated church consisted of 156 growing members located in the southside of Indianapolis, Indiana. The demographic of the members consist of 79 adults, 36 youths and 42 children.

Proposed Building Overview

The proposed building will be a new permanent location for the growing Burmese-Chin Congregation. The sanctuary is designed to seat over 300 people along with a Meeting Hall to seat over 20 people altogether.

Project Description

Square Footage: 4,950

Use: to seat over 300 people along with a Meeting Hall to seat over 20 people altogether.

Office Hours

Monday - Friday : 9 am - 5 pm

Saturday: 9 am - 5 pm

Sunday: 9 am - 5 pm

Office Staff

Currently, full-time office staff will be consisting of Church Pastors, Secretary, and Office Manager. The Office will follow standard office hours from 9 am to 5 pm.

Detailed Operation Plan

The Shalom Christian Church plan to have Youth Training Program every Thursday Night from 6 pm to 9 pm. Followed by Women Training Program every Saturday night from 6 pm to 9 pm. Shalom Christian Church will also have weekly Sunday school Program from 8 am to 9:30 am. Afterward, Sunday Worship services will be held from 10 am to 12 pm which will be followed by Sunday Evening Youth programs from 4 pm to 8 pm.

Future Plan for the proposed building

Shalom Christian Church proposed building will be available to provide resources and services for church members. Also, it provide resources for newly immigrant Chin individual and families to help their integration process simpler. Below are resources and services Shalom Christian Church plans to integrate in the future:

- Provide ESL programs for newly immigrants.
- Provide US Citizenship class for in-members and community members.
- After School programs for in-members and community members.
- Marriage Counseling programs the members.
- Provide Outreach ministry such as Evangelism and Church planting.



Subject site, existing single-family dwelling, looking north.



Subject site, existing pole barn, proposed parking lot area, looking north.



Subject site, existing pole barn northside setback, looking west.



Subject site, existing pole barn westside setback, looking north.



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



Adjacent single-family dwellings to the south of subject site.



Adjacent single-family subdivision under development to the west of subject site.



Adjacent single-family subdivision under development to the north of subject site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-009
Address: 1313 Gumwood Drive (approximate address)
Location: Wayne Township, Council District #6
Zoning: D-4
Petitioner: Toni Clark
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a mini-barn with a 0.5-foot west side yard setback (five foot-side yard setback required).

ADDENDUM MAY 9, 2023

This petition was continued for cause to the May 9, 2023, hearing, at the request of the petitioner.

April 4, 2023

RECOMMENDATIONS

Staff **recommends denial** of the variance petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Metro	D-4	Single-family dwelling
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SURROUNDING ZONING AND LAND USE

North	D-4	Single-family dwelling
South	D-4	Single-family dwelling
East	D-4	Single-family dwelling
West	D-4	Single-family dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood development.
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(Continued)

STAFF REPORT 2023-DV1-009 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The request would provide for a 12 by 18-foot mini-barn with a 0.5-foot west side yard setback
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks, are intended to ensure orderly development and protect surrounding property values, by providing for open buffer areas along lot lines, and to ensure adequate access around structures to help maintain the property without requiring access through adjacent properties.
- ◇ No peculiar condition exists on site for staff to be supportive of the request. Instead, this is a self-imposed difficulty since either a smaller mini barn can be placed in the same location to meet the side setback, or the existing 12 by 18-foot mini barn could be relocated to another area of the site, without the need for a variance of development standards.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this variance. The subject site has no natural or manmade physical obstacles that would prohibit compliance with the required setbacks of the Ordinance. Given that there is no practical difficulty associated with this site, the mini barn should either be relocated to another located on site or replaced with a smaller barn that meets the standards of the Ordinance.

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

SITE PLAN

File-dated March 23, 2023.

FINDINGS OF FACT (Amended)

File-dated March 8, 2023

ZONING HISTORY

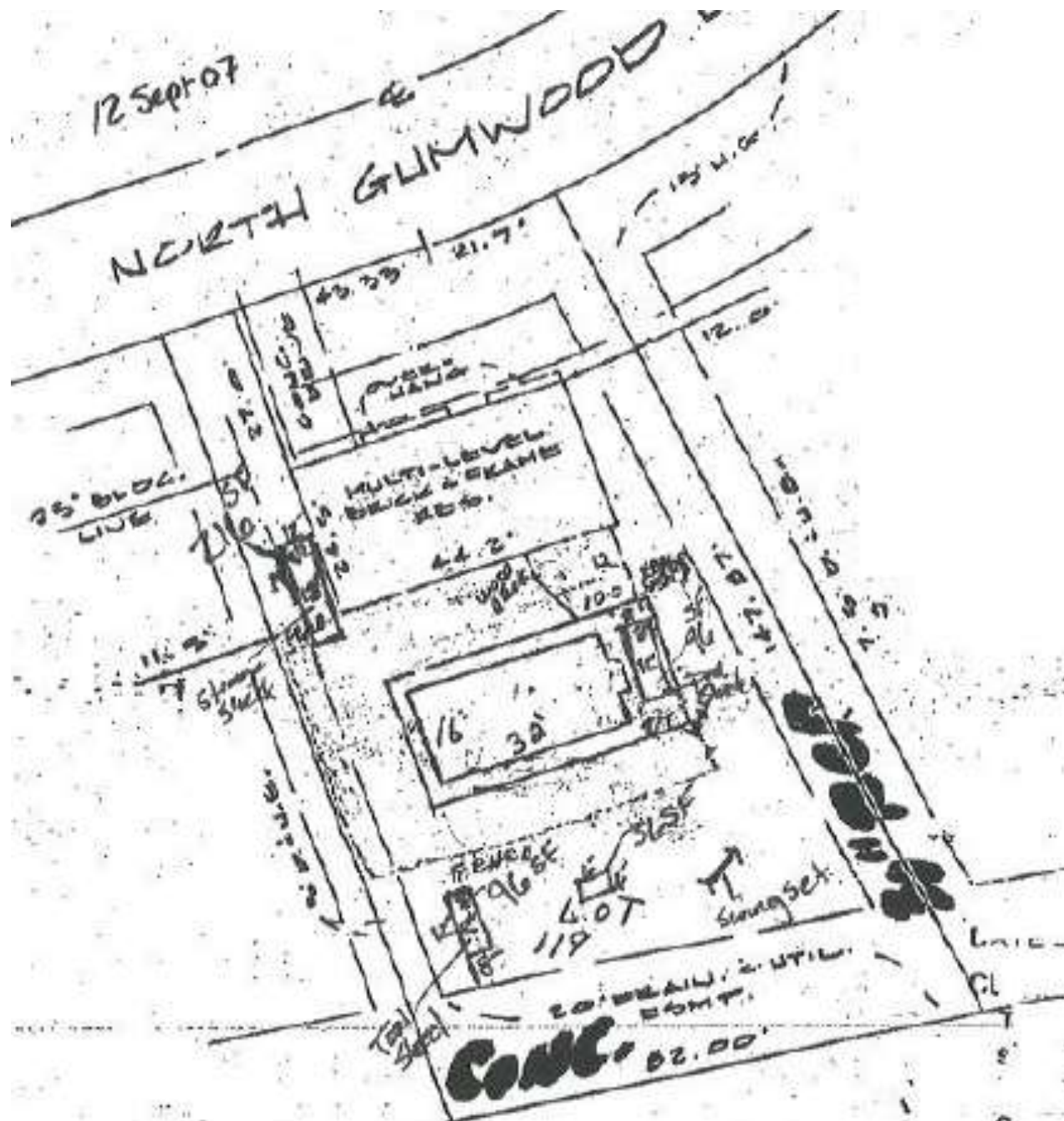
2007-DV2-023; 1313 Gumwood Drive (subject site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a single-family dwelling with a 0.5-foot west side setback and a 12.5-foot aggregate side yard setback, and to legally establish a 294-square foot attached garage, a 240-square foot attached carport, a 232-square foot deck, a 200-square foot deck, a 988-square foot pool and deck, and a 211-square foot pool house, resulting in an accessory use area of 2,145 square feet or 135.9 percent of the total living area of the primary structure, **denied**.

2003-DV2-026; 1552 Woodpointe Drive (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 103.30-square foot, 10 by 10.33-foot wood deck, with a two-foot side yard setback and a twelve-foot aggregate side yard setback, **denied**.

RU

2023-DV1-009; Location Map





2023-DV1-009; Pictures



Subject site, looking south



Subject site, 12x18-foot mini barn with 0.5-foot west side setback, looking south



Subject site, 12x18-foot mini barn with 0.5-foot west side setback, looking north from back yard



Second mini barn, 8x12-foot, in back yard, looking east



Third mini barn, 8x12-foot, in back yard, looking west



Fourth mini barn, 6x6-foot, in back yard, looking south.



Adjacent dwelling to the west, looking south



Adjacent dwelling to the east, looking south

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-011 (Amended)
Address: 902 East 66th Street (approximate address)
Location: Washington Township, Council District #2
Zoning: D-4 (TOD)
Petitioner: A Ciobanu Properties LLC, by Andrea Ciobanu
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 3.5-foot-tall fence within the clear sight triangle of the intersection, with the location of automated gates within the clear sight triangle of two vehicular access drives (encroachment within clear sight triangles not permitted).

ADDENDUM FOR MAY 9, 2023

This petition was continued from the April 4, 2023 hearing to the May 9, 2023 hearing at the request of the petitioner.

The petitioner amended the request to reduce the fence height in the front yard from five feet to 3.5 feet which eliminated the variance for the fence height. This change did not alter staff's denial recommendation.

April 4, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-4	Compact	Office
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SURROUNDING ZONING AND LAND USE

North	D-4	Office
South	D-4	Residential (Single-family dwelling)
East	D-4	Religious Use
West	D-10	Residential (Multi-family apartments)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends village mixed-use development.

(Continued)

STAFF REPORT 2023-DV1-011 (Continued)

- ◇ The 0.32-acre subject site is developed with a single-family dwelling that was permitted for the conversion of the first floor as office use and second floor residential use through 94-UV1-73. The property to the north is zoned residentially but used as an office. A church is located east of the site and the properties west and south are residentially zoned and used as such.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would allow for a five-foot tall fence in the front yards of Ferguson Street and East 66th Street and within the clear sight triangle of the abutting streets when a maximum 3.5-foot-tall fence is permitted by the Ordinance in the Dwelling districts and prohibited within the clear sight triangle.
- ◇ A fence with 30% opacity or less could permit a maximum height of four feet in the front yard without a variance. The type of fence on site would allow for a four-foot maximum fence height at this location, but it would still need to be outside of the clear sight triangle.
- ◇ The request would also allow for automated gates to be located within the clear sight triangles of two vehicular access drives where they are not permitted.
- ◇ All of the variance requests are related to an open zoning violation case (VIO23-000246) that was reported regarding an existing fence and associated gates that were improperly installed. The initial submittal of a complaint to the Mayor's Action Center shows that there is a neighbor or community concern regarding the installed fence.
- ◇ Furthermore, Staff does not support variance requests that would have otherwise been prevented if proper due diligence had occurred.
- ◇ The grant of the request would be injurious to the public safety of the community because the relocation of the fence outside of the clear sight triangles while meeting the height limitations of the Ordinance would provide the best opportunity for accident prevention due to the high level of pedestrian and cyclist travel within the immediate area that does not already provide sidewalks for safe travel.
- ◇ The strict application of the terms of the Zoning Ordinance would not result in practical difficulty with the use of the site since the office and residence could still be operated on site with the restrictions of the Ordinance. A slightly shorter fence with entrance gates pushed further back on the site could prevent vehicles and people from entering the fenced area.

GENERAL INFORMATION

THOROUGHFARE PLAN

66th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 40-foot existing right-of-way and a 48-foot proposed right-of-way.

(Continued)

STAFF REPORT 2023-DV1-011 (Continued)**THOROUGHFARE PLAN**

Ferguson Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 43-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated February 27, 2023.

FINDINGS OF FACT

File-dated February 27, 2023.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

1. VIO23-000246 (subject site) Failure to comply with use-specific standards and zoning district development standards for the D-4 district; (Table 744-510-2: - Fence height exceeding 48 inches in the front yard) and Failure to comply with use-specific standards and zoning district development standards for the D-4 district;(740-304. - No obstructions shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5ft. and 8ft. above grade level of the adjoining right-of-way within a Clear Sight Triangular Area- 5ft fence.)

PREVIOUS CASES

94-UV1-73; 902 East 66th Street (subject of site), Variance of use of the Dwelling Districts Zoning ordinance to permit the first floor of the existing structure to be used for professional offices and a variance of development standards of the Sign Regulations to legally establish an existing 15.2 square foot ground sign (maximum one square foot permitted) within the required 15-foot setback from the rights-of-way of Ferguson and 66th Street, **granted**.

88-UV3-103; 902 East 66th Street (subject of site), Variance of use of the of the Dwelling Districts Zoning ordinance to provide for an interior design studio, **withdrawn**.

83-UV1-150; 6607 Ferguson Street (subject of site), Variance of use and development standards to provide for a travel agency office, **granted**.

79-UV1-11; 6607 Ferguson Street (subject of site), Variance of use and development standards to provide for an interior design studio, **granted**.

ZONING HISTORY – VICINITY

2021-CVR-812; 6572 Cornell Avenue (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to permit a three-foot front transitional yard along 66th Street, with a wood porch and handrail encroaching into the front transitional setback and right-of-way of 66th Street, to legally establish portions of a four-foot tall and six-foot tall fence in the front yards of 66th Street and Cornell Avenue, portions of the parking lot in the front yard of 66th Street, a playground in the front yard of Cornell Avenue, portions of a parking lot in the west side transitional yard (12-foot front transitional yard, structures not permitted within the right-of-way and 10-foot side transitional yard required, maximum 3.5-foot tall fence permitted, parking and playground not permitted in the front yard), **granted**.

(Continued)

STAFF REPORT 2023-DV1-011 (Continued)

2016-UV1-008; 6556 Ferguson Street (southwest of site), Variance of use of the Commercial Zoning Ordinance to provide for a contract florist office and staging facility for special events (not permitted), **granted.**

2015-CZN-801 / 2015-CVR-801; 806, 808, 812 and 888 East 66th Street and 6616 and 6618 Ferguson Street (west of site) Rezoning of 1.34 acres from the D-4 (FF) and D-10 (FF) districts to the D-10 (FF) classification to provide for multi-family development and Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a four-story, 93-unit multi-family dwelling with 15-foot front setbacks from 66th and Ferguson Streets, with the 66th Street entryway having an 11-foot front setback (minimum 25-foot front setback required), with a 10-foot southwest side perimeter yard and zero-foot north and northwest perimeter yards (20-foot perimeter yards required), with a 1.94 floor area ratio (maximum 0.80 floor area ratio required), with a 0.18 open space ratio (minimum 0.87 open space ratio required), with a livability space ratio of 0.10 (minimum 0.49 livability space ratio required), with a major livability space ratio of zero (minimum major livability space ratio of 0.095 required), **granted.**

2015-HOV-034; 806, 808, and 812 East 66th Street and 6616 and 6618 Ferguson Street (west of site), Variance of development standards of the Flood Control Districts Zoning Ordinance to provide for one square inch of openings for every one square feet of enclosed area (one square foot of openings for every two square feet of enclosed area required), **granted.**

2014-CZN-820 / 2014-CVR-820, 806, 808, 812 and 888 East 66th Street and 6616 and 6618 Ferguson Street (west of site), Rezoning of 0.91 acre from the D-4 (FF) to the D-10 (FF) to provide for a 63-unit multi-family development, Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a four-story, 63-unit multi-family dwelling with 15-foot front setbacks from 66th and Ferguson Streets (minimum 25-foot front setback required), with 14-foot north and 12.5-foot west side perimeter yards (20-foot perimeter yards required), with a 1.80 floor area ratio (maximum 0.80 floor area ratio required), with a 0.22 open space ratio (minimum 0.87 open space ratio required), with a livability space ratio of 0.13 (minimum 0.49 livability space ratio required), with a major livability space ratio of zero (minimum major livability space ratio of 0.095 required), with two, four-foot tall freestanding signs having approximate twelve- and eleven-foot front setbacks from 66th Street and one, four-foot tall freestanding sign having an approximate nine-foot front setback from Ferguson Street (15-foot front setback required), and the Ferguson Street sign being within the clear sight triangle of the parking garage entrance (structures not permitted within the clear sight triangle). **approved and granted.**

2008-VAR-002; 6568 Cornell Avenue (southeast of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for a building with a ten-foot front setback from the existing right-of-way of Cornell Avenue (minimum twenty-foot front setback required), a building with a five-foot south side setback and parking with a zero-foot south side setback (minimum fifteen-foot south side transitional yard required), an interior drive aisle and parking with a zero-foot north side setback (minimum ten-foot north side yard required), parking with a five-foot rear transitional setback (minimum ten-foot rear transitional yard required), reduced landscaping in the required front, side and rear yards (landscaping required), deficiently-sized off-street parking spaces (minimum 180-square foot spaces required), and a 4,796-square foot, mixed-use building with 12 off-street parking spaces with reduced maneuvering area (minimum 19 off-street parking spaces required; adequate vehicular maneuvering area required), **granted.**

(Continued)

STAFF REPORT 2023-DV1-011 (Continued)

2005-UV3-025; 6568 Cornell Avenue (southeast of site), Variance of use to provide for office use in D-4, **granted.**

2004-UV3-011; 6572 Cornell Avenue (southeast of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for an art studio with an administrative office with a 3.6-foot setback from the existing right-of-way of 66th Street and a fourteen-foot setback from the existing right-of-way of Cornell Avenue, **granted.**

2001-UV3-009; 6562 Ferguson Street (southwest of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the conversion of a single-family dwelling into a three-family dwelling, **granted.**

2000-UV2-035; 930 East 66th Street (east of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an office (not permitted), within an existing single-family dwelling, and variance of development standards of the Sign Regulations to provide for a four-foot tall, 40 square foot ground sign (freestanding signs not permitted), **granted.**

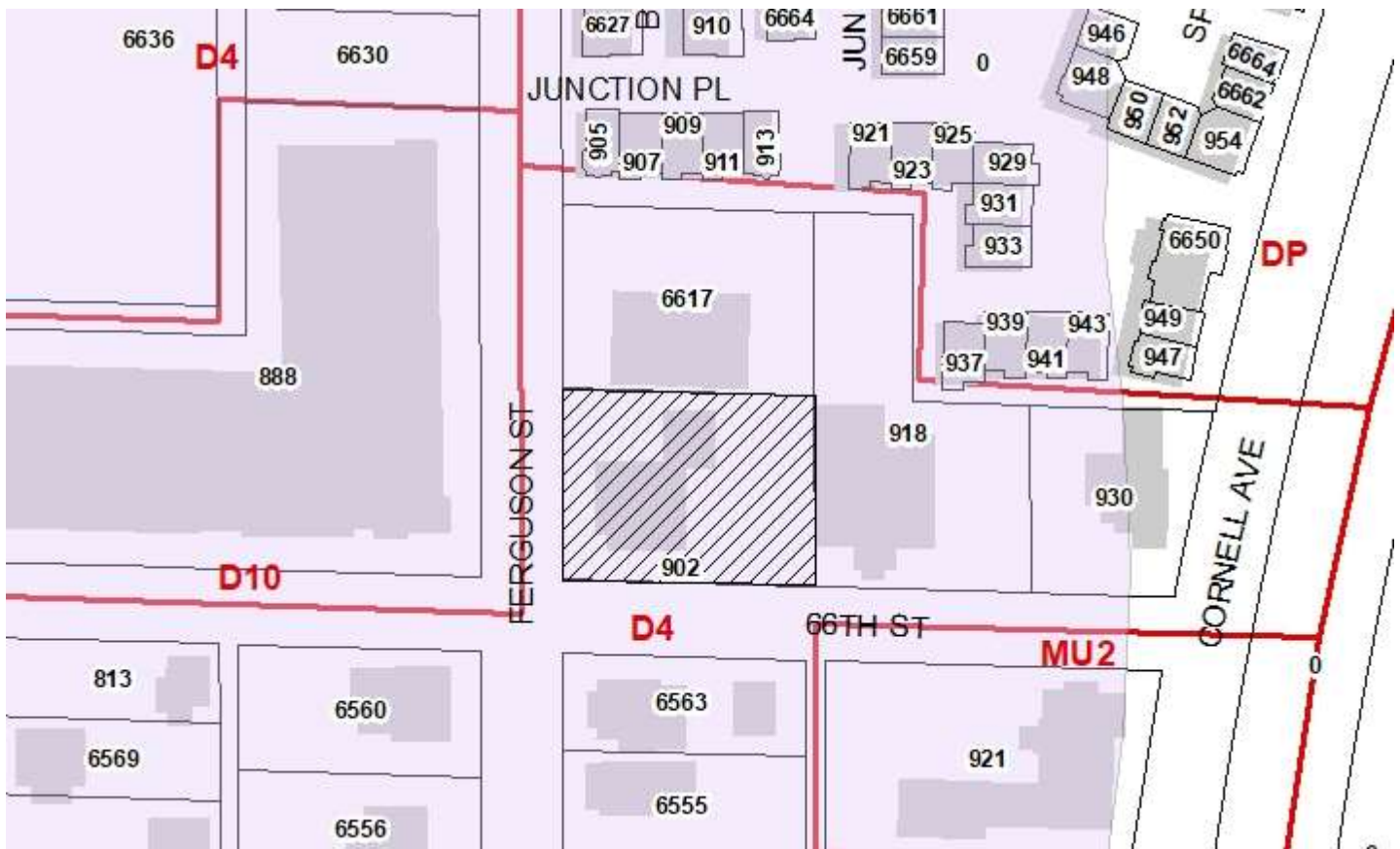
94-UV1-13; 6617 Ferguson Street (north of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the expansion of an existing tool and die manufacturer's representative business, **granted.**

93-UV1-5; 6568 Cornell Avenue (southeast of site), Variance of use to provide for a studio for the commercial development of instructional photography and video tapes in D-4, **granted.**

84-UV2-89; 921 East 66th Street (southeast of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the use of the existing structure for professional offices, **granted.**

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2023-DV1-011; Location Map



2023-DV1-011; Aerial Map



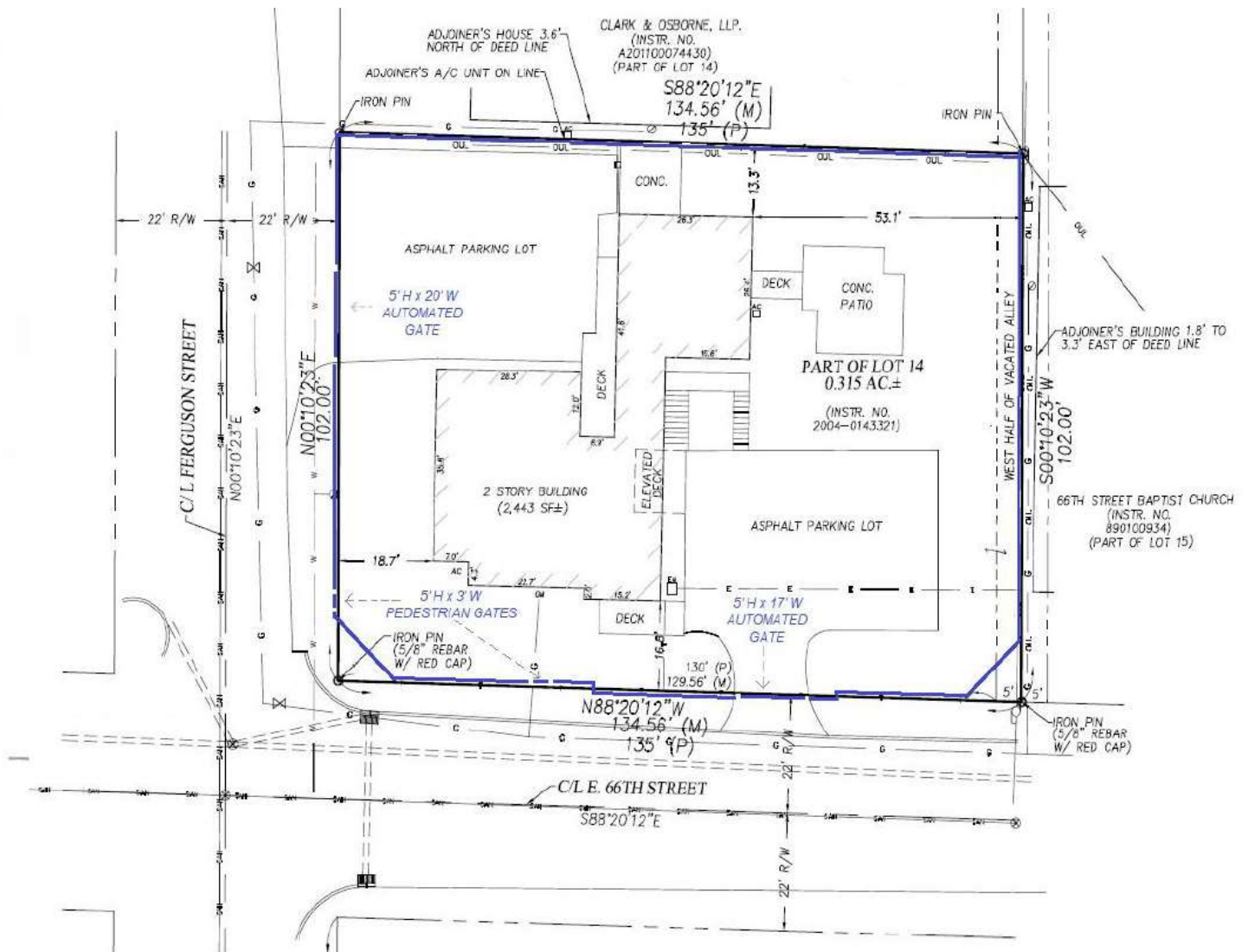






Photo of the Subject Property: 902 East 66th Street
Photo of the automated gate along 66th Street.



Photo of the other office on site and second parking lot.



Photo of the automated gate along Ferguson Street.



Photo of the five-foot tall fence in the front yards.



Photo of the fence in the clear sight triangle.

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

Case Number: 2023-DV1-012
Address: 6209 East Edgewood Avenue (approximate address)
Location: Franklin Township, Council District #25
Zoning: D-A
Petitioner: Salina and Jaime Hernandez, by David Gilman
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the future subdivision of a parcel into two lots, with:

- a. Future Lot One maintaining a 100.5-foot street frontage and lot width and an area of .81-acre (minimum 125-foot street frontage, 250-foot lot width and area of three acres required); and
- b. Future Lot Two maintaining a 25-foot street frontage and lot width.

ADDENDUM FOR MAY 9, 2023

The petitioner has submitted a written request to withdraw this petition and will be filing a subsequent companion rezoning and variance. The petitioner has requested a transfer of fees to be applied to the companion petitions.

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BOARD OF ZONING APPEALS DIVISION I

May 9, 2023

Case Number: 2023-UV1-006 (Amended)

Property Address: 201 West 38th Street and 3750 North Capitol Avenue (approximate address)

Location: Center Township, Council District #7t

Petitioner: Martin Petroleum Inc., by Pat Rooney

Current Zoning: C-4 / D-5

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required).

Current Land Use: Commercial (Automobile fueling station)

Staff Recommendations: Denial

Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

ADDENDUM FOR MAY 9, 2023

This petition was continued from the April 4, 2023 hearing to the May 9, 2023 hearing at the request of the petitioner. No new information has been provided to the case file.

Staff continues to recommend denial of the request as amended.

ADDENDUM FOR APRIL 4, 2023

The petitioner filed an updated site plan on March 20, 2023 that relocated the dumpster to be in line with the façade of the convenience store, removing it from the front yard, proposed the required bike parking spaces to the east of the building and noted nine frontage trees. The variances associated with these items were no longer necessary, so the request was amended.

Unfortunately, the new location of the additional tree resulted in staff's observation that most of the required street trees would fall within the clear sight triangles of the abutting streets and alley. Therefore, this petition would either need to be continued and amended with new notices for the inclusion of the additional variance or a separate petition would need to be filed to address the issue.

Staff continues to recommend denial of the request as amended.

March 7, 2023

This petition was scheduled to be heard March 7, 2023, by the Board of Zoning Appeals Division I.

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

This petition was automatically continued from the March 7, 2023 hearing to the April 4, 2023 hearing at the request of a registered neighborhood organization.

STAFF RECOMMENDATION

Staff is recommending denial of the request.

PETITION OVERVIEW

VARIANCE OF USE

This request would allow the redevelopment of a convenience store within the D-5 and C-4 districts. The site consists of two parcels with the north parcel split zoned between D-5 and C-4 and the southern parcel zoned D-5.

The purpose of the C-4, Community-Regional 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. The uses permitted in this district may feature several large traffic generators and require excellent access from major thoroughfares.

The purpose of the D-5 (Dwelling District Five) district is intended for medium intensity residential development and is not intended for suburban use. The application of this district will be found within urban, build-up areas of the community and where all urban public and community facilities and services are available. The D-5 district typically has a density of 4.5 units per gross acre. This district fulfills the low and medium density residential classification of the Comprehensive General Land Use Plan.

The Comprehensive Plan recommends village mixed-use development for the northern parcel (201), which the C-4 (community-regional commercial) District would be consistent with the recommendation, depending upon the context of the site. In this case, surrounding land uses are commercial along the north, west and east, but low-density residential is located south and would not be adequately buffered from this more intense 24-hour / seven-day use. The proposed use would not be appropriate for the southern parcel because the Comprehensive Plan recommends traditional neighborhood development, which would align more with small-scale offices, retailing, and personal or professional services rather than a regional use.

The commercial intensity and the impact upon the surrounding residences would include, but not be limited to, light, noise, and trash. Furthermore, the proposed use would be more of a regional draw, rather than serving just the surrounding residential neighborhood and would be a wholly and inappropriate commercial encroachment into a D-5 protected district. For these reasons, staff is recommending denial of the variance of use.

Staff would note that the existing site at 201 West 38th Street could be completely rezoned to C-4 to prevent issues with developing the site in the future.

VARIANCE OF DEVELOPMENT STANDARDS

This request would provide for a zero-foot south side transitional yard where the Ordinance requires a 10-foot south side transitional yard. The purpose of the 10-foot transitional yard is to provide separation and a buffer between residential uses and more intense uses, such as a fueling station and convenience store. The impact of this 24-hour, seven-day operation upon residential uses would be magnified with the proposed transitional yard reductions. Admittedly, the configuration of the site presents development challenges with dwelling district at the northwest corner, but staff determined the reduced setbacks are a result of the proposed expansion of the use, which would be detrimental to the surrounding neighborhood.

This request would allow for a trash container service area to encroach into the front yard of 38th Street in the front of the building line of the primary building when the Ordinance prohibits service areas in front of the primary building. The dumpster enclosure could be moved south to align with the front building façade to eliminate this variance request.

The site would not have the necessary bicycle parking spaces on site, but they could be proposed to eliminate this variance as well.

Lastly, the request would provide for eight frontage trees where nine are required. Staff would note that one of the proposed trees could be relocated to be within 10 feet of the eastern property boundary for it to count towards the required frontage trees and meet the requirement without the need for this variance.

The lack of a south transitional yard, the location of the trash container service area in the front yard and the lack of bicycle spaces and deficient frontage trees show clear evidence that this site is not suitable for a convenience store and fueling station and would have a negative impact on the surrounding residential neighborhood. The proposed use would be better suited on a site that would accommodate the proposed use, while complying with required development standards.

If approved against staff's recommendation, the Department of Public Works would request that the eastern most driveway along 38th Street be closed to reduce vehicular conflicts with the heavy pedestrian traffic along this corridor.

GENERAL INFORMATION

Existing Zoning	C-4 / D-5s	
Existing Land Use	Commercial / Undeveloped Lot	
Comprehensive Plan	Village Mixed-Use and Traditional Neighborhood Development	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-3	North: Commercial
South:	D-5	South: Undeveloped Lot
East:	C-4 / D-5	East: Commercial / Residential
West:	D-5	West: Commercial and Residential

Thoroughfare Plan		
Enter Street(s)	38 th Street Capitol Avenue	Primary arterial street. Primary arterial street.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	January 20, 2023	
Site Plan (Amended)	March 20, 2023	
Elevations	January 20, 2023	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	January 20, 2023	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Red Line Transit-Oriented Development Strategic Plan (2021)
- Indy Moves Transportation Integration Plan (2018)

Pattern Book / Land Use Plan

- The Pattern Book recommends Village Mixed-Use and Traditional Neighborhood development.
- The subject site is also located within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove uses included in this request.
- The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

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

- The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The site is located within the Red Line TOD Strategic Plan, but it is not located within the Transit Oriented Development Secondary Zoning District.
- The closest station to the site is located within a ½ a mile to the east at the intersection of 38th Street and Meridian Street. This station is categorized as a District Center with the potential for a dense mixed-use hub for multiple neighborhoods with tall buildings, minimum of 3 stories with no front or side setbacks, multi-family housing with a minimum of 5 units and structured parking only with active first floor.
- TOD investments here should leverage significantly higher residential and employment densities, demonstrations projects, urban living amenities and workforce housing.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- If residential development were proposed, then these guidelines would help to provide a framework that allows for new types of development to occur in a way that is compatible with existing development.

Indy Moves

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

- Indy Moves Transportation Integration Plan (2018), which includes PedalIndy Bicycle Master Plan, notes that 38th Street will be proposed as an off-street multi-use path with Complete Street upgrades from Eagle Creek Pkwy to Meridian Street.

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

- The West 38th Street multi-use path will provide a critical east-west connection on the near Northwest side of Indianapolis. To complete the multi-use path, no driving lanes will be removed, so impacts to drivers will be minimal. The path will include bicycle and pedestrian bridges over Crooked Creek, Guion Road, and Little Eagle Creek, with modifications to bridges over the White River and Central Canal.
- The plan would consider pedestrian and bicycle network/route connectivity, sidewalk/multi-use path consistency; reducing unnecessary road crossings as permitted, and for facilities to be designed for the safety & comfort for all ages and ability levels
- Capitol Avenue is developed with an on-street bike lane per Indy Bike Master Plan (2011).

ZONING HISTORY

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

85-UV1-34; 201 West 38th Street (subject site), Variance of development standards of the Commercial Zoning Ordinance to provide for the construction and use of a convenience store with gasoline sales. Development will include an 8.6-foot rear transitional yard (20 feet required) and a pole sign located at six and eight feet from 38th Street and Capitol Avenue respectively (15 feet required), **granted**.

ZONING HISTORY – VICINITY

2018-UV3-026; 227 West 38th Street (west of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an automobile repair facility (not permitted), **granted**.

2013-CVR-814; 148 West 28th Street (northeast of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a gasoline station and a 484-square foot addition to an existing building, with a canopy with a 64.42-foot setback from the centerline of Capitol Avenue (70-foot setback from centerline required), with a parking area with a zero-foot setback from Capitol Avenue (10-foot front setback required), with access drives with a 1.5-foot front setback along Capitol Avenue and a 2.5-foot front setback along 38th Street (10-foot front setback required), with carryout food service within 10 feet of a D-5 zoned protected district (100-foot separation required), **withdrawn**.

2013-UV1-038; 202 West 38th Street (north of site), Variance of use and development standards of the Commercial Zoning Ordinance to legally establish a 1,380-square foot storage addition (not permitted) for a tire sales and repair shop, with a one-foot north side transitional yard (20-foot transitional yard required), **withdrawn**.

95-V1-128; 3807 Graceland Avenue (northwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally-establish a detached garage measuring 27 x 33 feet: a) resulting in the square footage devoted to accessory buildings being 80% of the square footage devoted to the primary building (maximum 75% permitted); b) with a side yard setback from the north property line being 2.4 feet (minimum 4 feet required); c) resulting in 46% of the lot being open space (minimum 65% required), **granted**.

93-UV2-23; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of an automobile repair shop with the variance being valid only for Albert Sutton, **granted**.

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

89-AP2-4; 227 West 38th Street (west of site), Approval of extension of time to obtain an Improvement Location Permit to modify condition #2 concerning the site plan approved pursuant to petition 88-UV2-9, **granted**.

89-UV3-96; 148 West 28th Street (northeast of site), Variance of use of the Commercial Zoning Ordinance to provide for a restaurant with carry-out service, **denied**.

88-UV2-9; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an automobile repair business with signs. The grant shall be for a temporary period of five years, expiring January 12, 1993, **granted**.

85-UV1-34; 201 West 38th Street (subject site), Variance of use of the Dwelling Districts Zoning Ordinance and development standards of the Commercial Zoning Ordinance to provide for the construction and use of a convenience store with gasoline sales. Development will include a 6.6-foot rear transitional yard (20 feet required) and a pole sign located at 6 and 8 feet from 38th Street and Capitol Avenue respectively (15 feet required). The sign will also include separate panels for the food mart, gas prices and food mart items, **granted**.

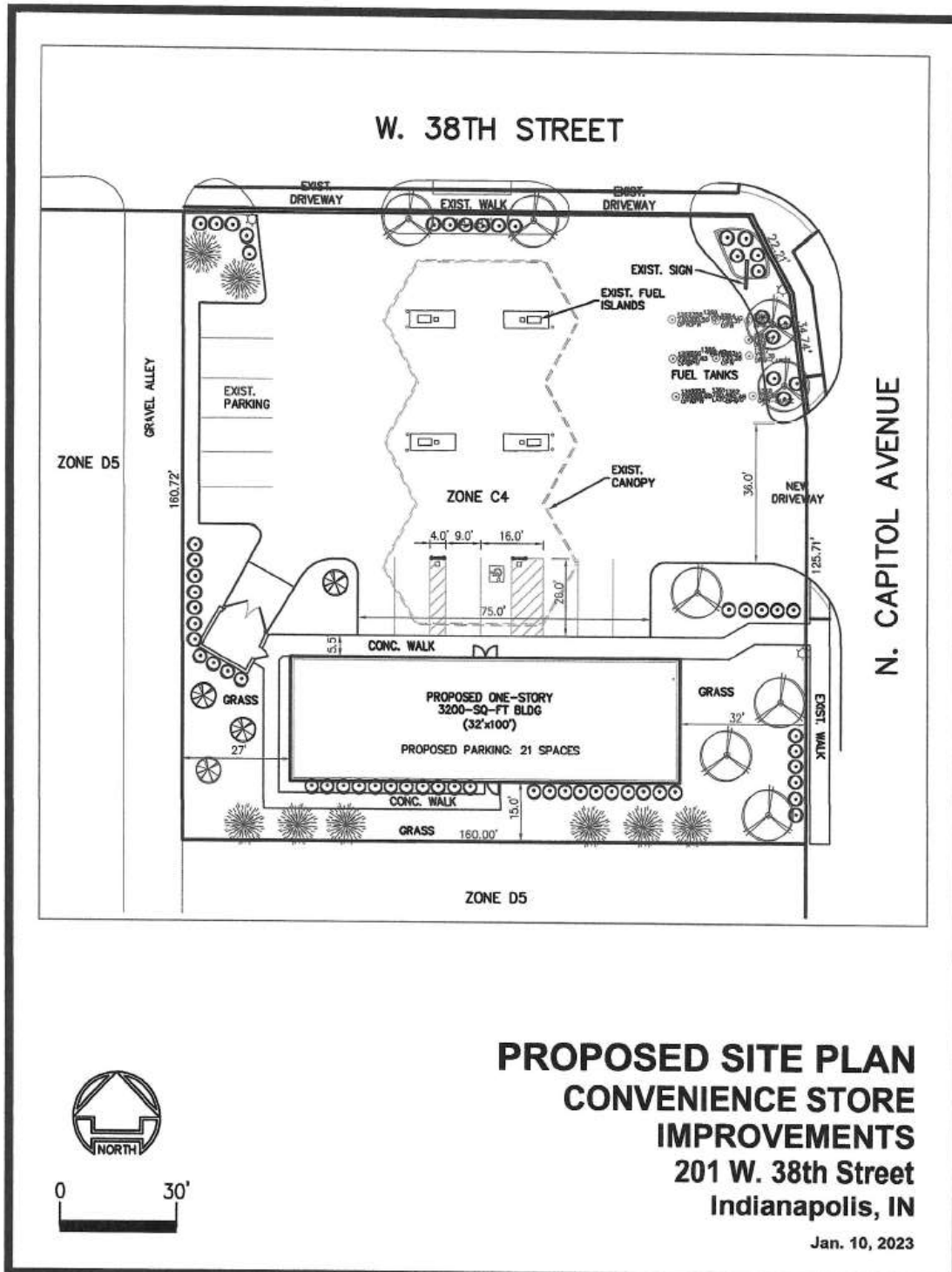
84-UV2-21; 227 West 38th Street (west of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the use of a former service station for automobile repair to be a temporary variance for three years, expiring on March 20, 1987, **granted**.

83-UV2-78; 3801 North Capitol Avenue (northeast of site), Variance of use and development standards to provide for a carry-out restaurant within one-hundred feet of a residential zoning district, a reduction in required transitional yards, a drive-up window canopy in required front yard setback and a pole sign within the clear-sight area, **granted**.

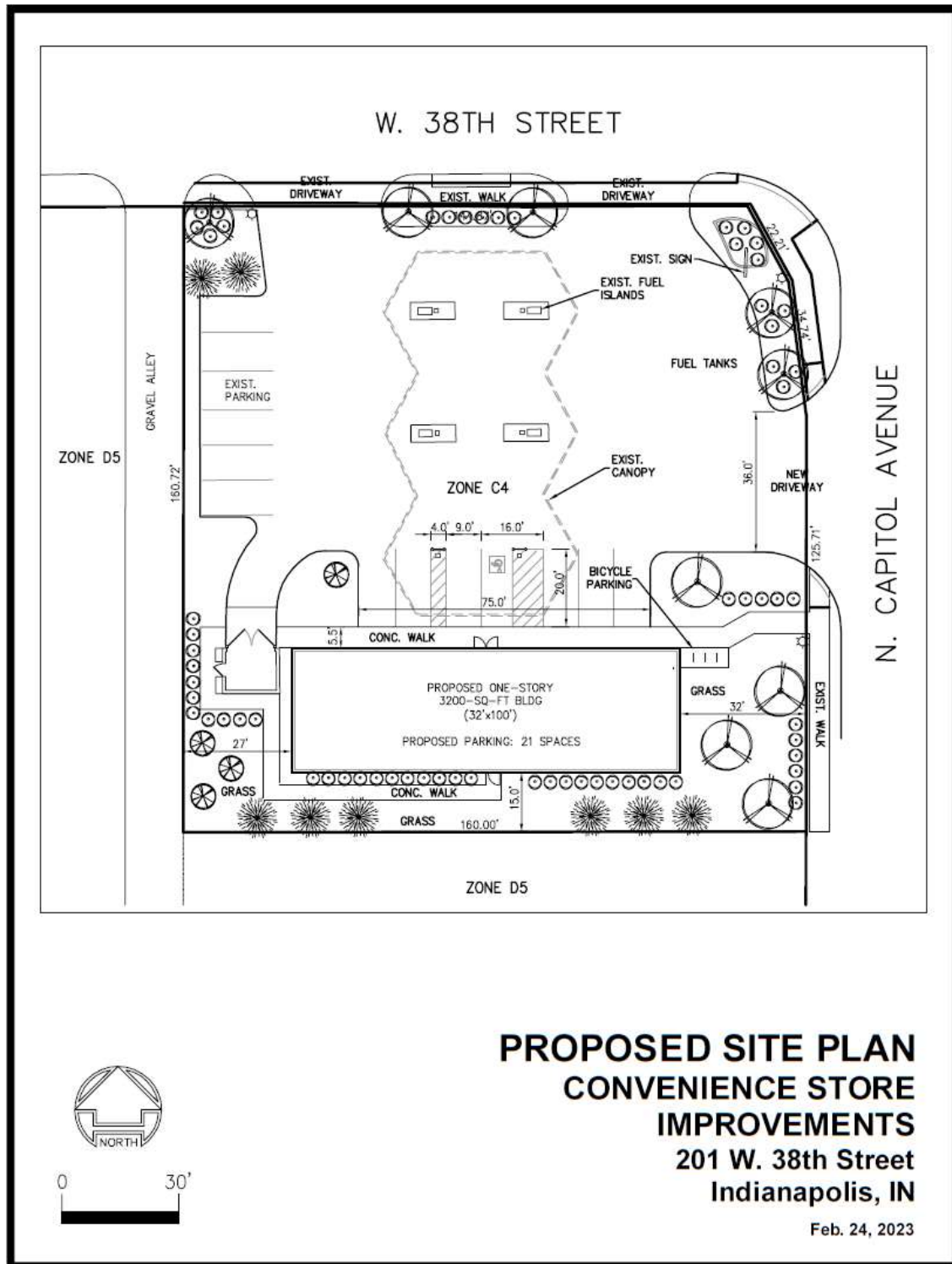
2020 CVT 600, Location map

3812, 3807, 202, 148, 3802, 3807, 201, 227, 233, 229, 3754, 3750, 3746, 3753, 3749, 3745, 3757, 3751, 3745, 131, 38TH ST, GRACELAND AVE, CAPITOL AVE, D5, C3, C4, CS

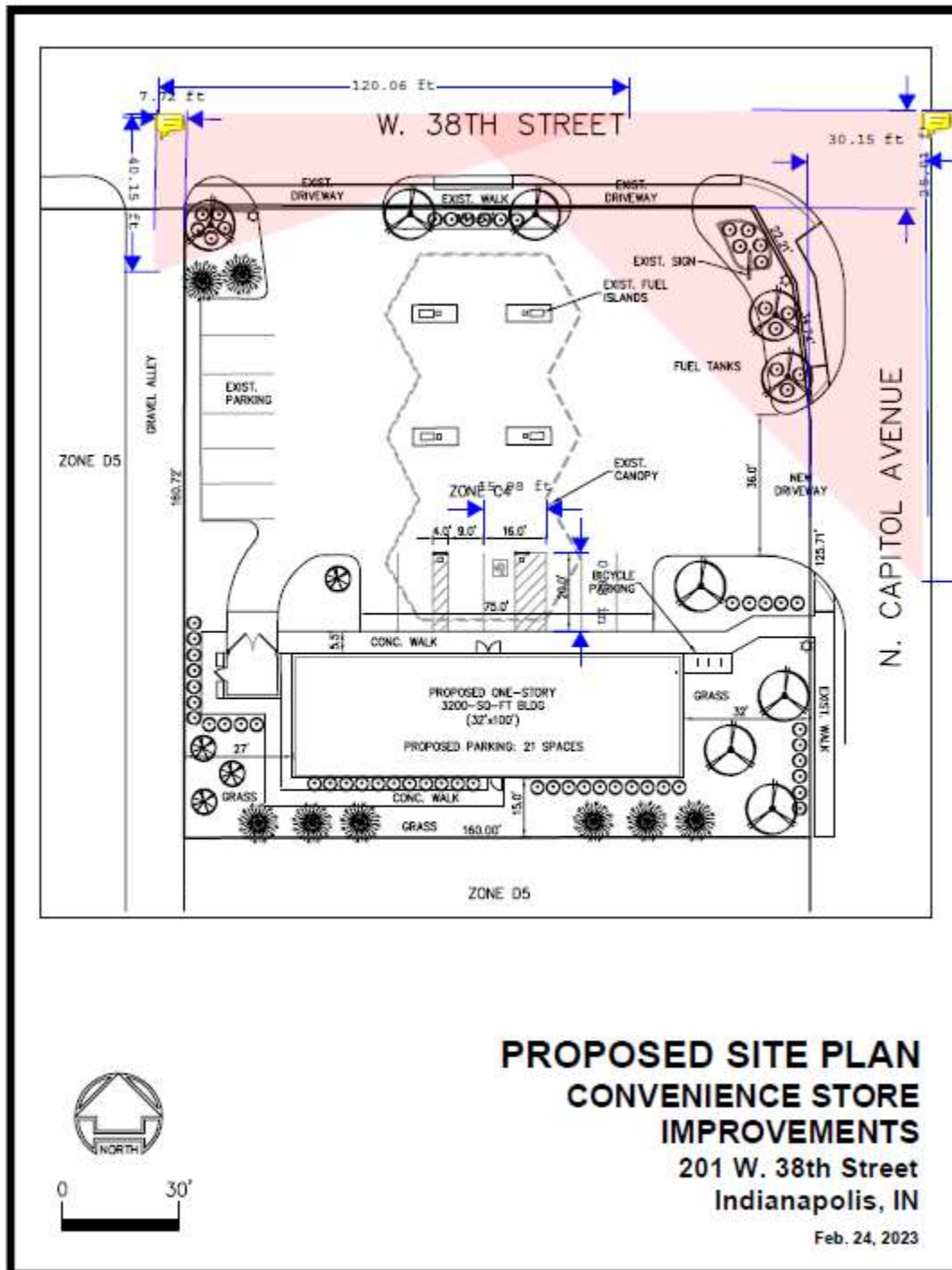
2023-UV1-006; Site Plan



2023-UV1-006; Amended Site Plan



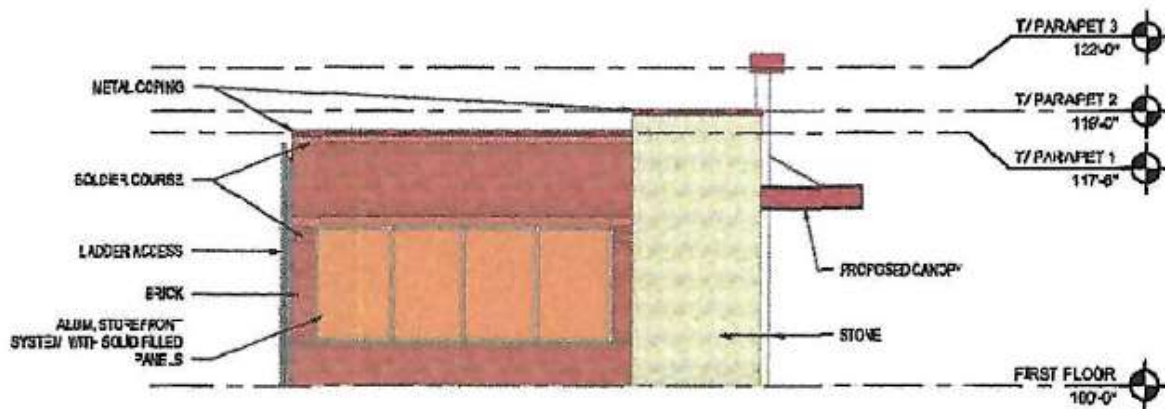
2023-UV1-006; Clear Sight Triangles



2023-UV1-006; Elevations



5 EXTERIOR VIEW
 SCALE: NTS



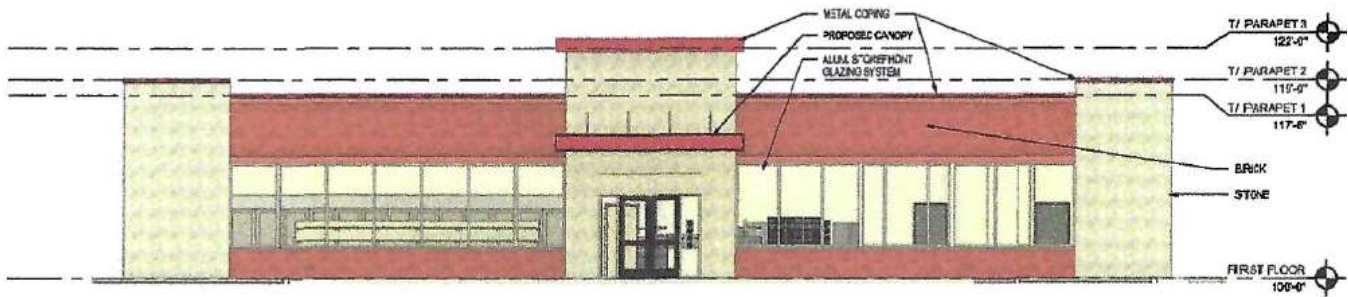
3 EAST ELEVATION
 SCALE: 1/8" = 1'-0"

2023-UV1-006; Elevations (Continued)



4 EXTERIOR VIEW

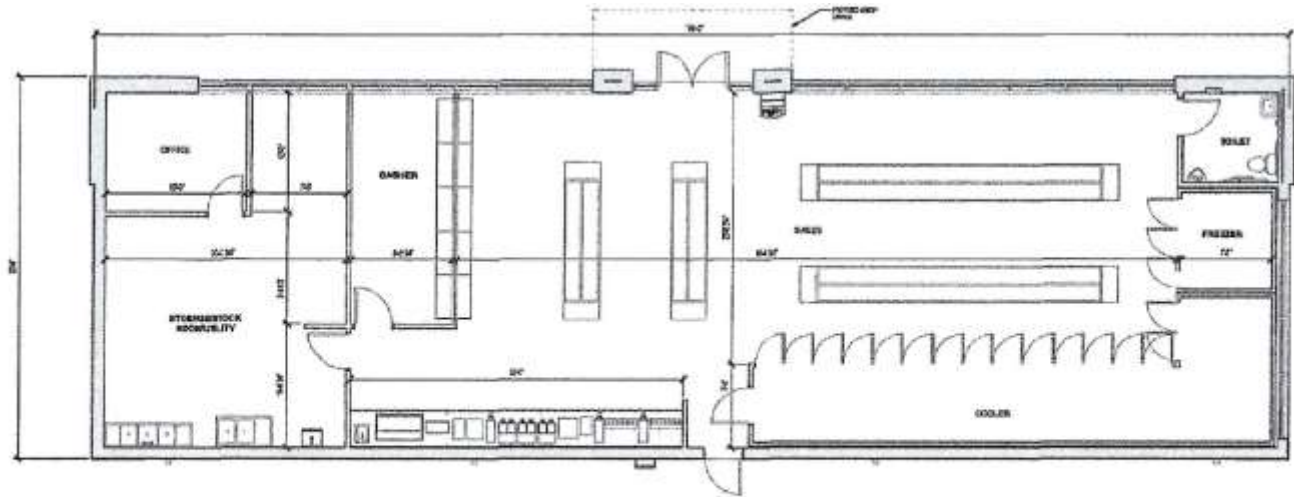
SCALE: NIS



2 NORTH ELEVATION

SCALE: 1/8" = 1'-0"

2023-UV1-006; Floor Plan



SP100 1
1 FLOOR PLAN
 SCALE: 3/16" = 1'-0"

2023-UV1-006; Plan of Operation

PLAN OF OPERATIONS

The Petitioner plans to have the subject property continue with its operation as an existing retail gas station. The convenience store will be expanded with the additional space to be used for additional inventory as depicted and described in the site plan, floor plan and renderings submitted simultaneously herewith. If the Variance is granted, Petitioner will hire additional employees for a total of approximately six employees. Petitioner is willing to make a commitment to hire individuals from the local community, as well as any other commitments reasonably requested by Staff or any relevant third party.

2023-UV1-006; Findings of Fact

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

the property is already a retail gas station along a busy street with similar properties adjacent thereto, there will be sufficient buffer to the residential properties to the south, and the property will be more aesthetically pleasing.

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

granting the variance will increase the value of the subject property and the adjacent properties because the property will be redeveloped with a new and improved building instead of the old, dilapidated building currently on the property.

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

a portion of the property is C-4 and a portion of the property is D-5, and the property was developed as a gas station when convenience stores mainly sold tobacco products instead of now when the convenience stores sell groceries which require a building with much larger square footage in order store and display the products.

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 subject property has two zoning classifications thereby unduly restricting the ability to expand the convenience store which is necessary for the petitioner to update the building to match the times and allow petitioner to sell the same inventory being offered by petitioner's competitors instead of going out of business.

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

the use would still be the same, retail gas station, which is compatible with Village Mixed Use.

2023-UV1-006; Photos



Subject site and street frontage along 38th Street looking east.



Western property boundary abutting an alley.

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



Existing southern property boundary and undeveloped residential lot to be included in the site.



Proposed location of the new convenience store abutting single-family dwellings to the south.



Street frontage along Capitol Avenue looking south.



Undeveloped residential lot to be included in the project development.



Commercial and residential uses east of the site.



Commercial use north of the site.



Commercial use west of the site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-016
Address: 2701 Wheeler Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: Georgia May Craig, by Gary S. Cole
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for vehicular access from 27th Street (exclusive vehicular access from an improved alley required).

RECOMMENDATIONS

Staff **recommends denial** for street access to an existing detached garage.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	D-8	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	D-8	Two-family dwelling
South	D-5	Single-family dwelling
East	D-5	Single-family dwellings
West	D-8	Single-family dwelling

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

- ◇ The subject site is a 0.35 acre (15,248 square feet) undeveloped lot located in the Rosedale Subdivision in the Martindale Brightwood neighborhood. The surrounding neighborhood consists of single-family dwellings and a duplex to the north of the site.
- ◇ The subject site is zoned D-8 (Dwelling District Eight). The D-8 district is intended for a variety of housing formats, with a mix of small-scale multi-unit building types. This district can be used as a part of new mixed-use areas, or for infill situations in established urban areas, including medium and high-density residential recommendations of the Comprehensive Plan, and the Traditional Neighborhood, City Neighborhood, and Village or Urban Mixed-Use Typologies of the Land Use Pattern Book.

(Continued)

STAFF REPORT 2023-DV1-016 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The grant of the request would allow for a proposed garage and driveway to have street access from 27th street where it is not permitted.
- ◇ Section 744-301. A. of the Ordinance note that "...if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley." In addition, per Section 744-404. D.3.c. of the Ordinance "...no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line."
- ◇ The Infill Housing Guidelines (2021) suggests that, when possible, to access accessory buildings from alleys and to avoid front-loading garages and driveways where alleys are available.
- ◇ The subject site abuts an improved north / south alley located to the east of the rear lot line. Staff is wholly opposed to this request where there is no practical difficulty resulting in the alley not being used for vehicular access. The purpose of having vehicular access exclusively from the alley is to decrease vehicle and pedestrian conflict, which would further create a safer street scape. This requirement is relatively new to the Ordinance (2016) and was specifically added as a safety measure to reduce the number of driveways accessing public streets. This variance request would be in direct conflict with the goal of the ordinance amendment.
- ◇ The grant of the request would be injurious to the safety and general welfare of the community by increasing the number of new curb cuts across sidewalks, which would disrupt the pedestrian experience along the sidewalk and increase the probability of accidents. Instead, the proposed garage and driveway could be relocated along the eastern property boundary for alley access.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because the site can be developed to accommodate the garage and driveway from the alley without the need for a variance.

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

THOROUGHFARE PLAN

This portion of East 27th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 48-foot existing and proposed right-of-way.

SITE PLAN

File-dated March 15, 2023.

FINDINGS OF FACT

File-dated March 15, 2023.

(Continued)

ZONING HISTORY

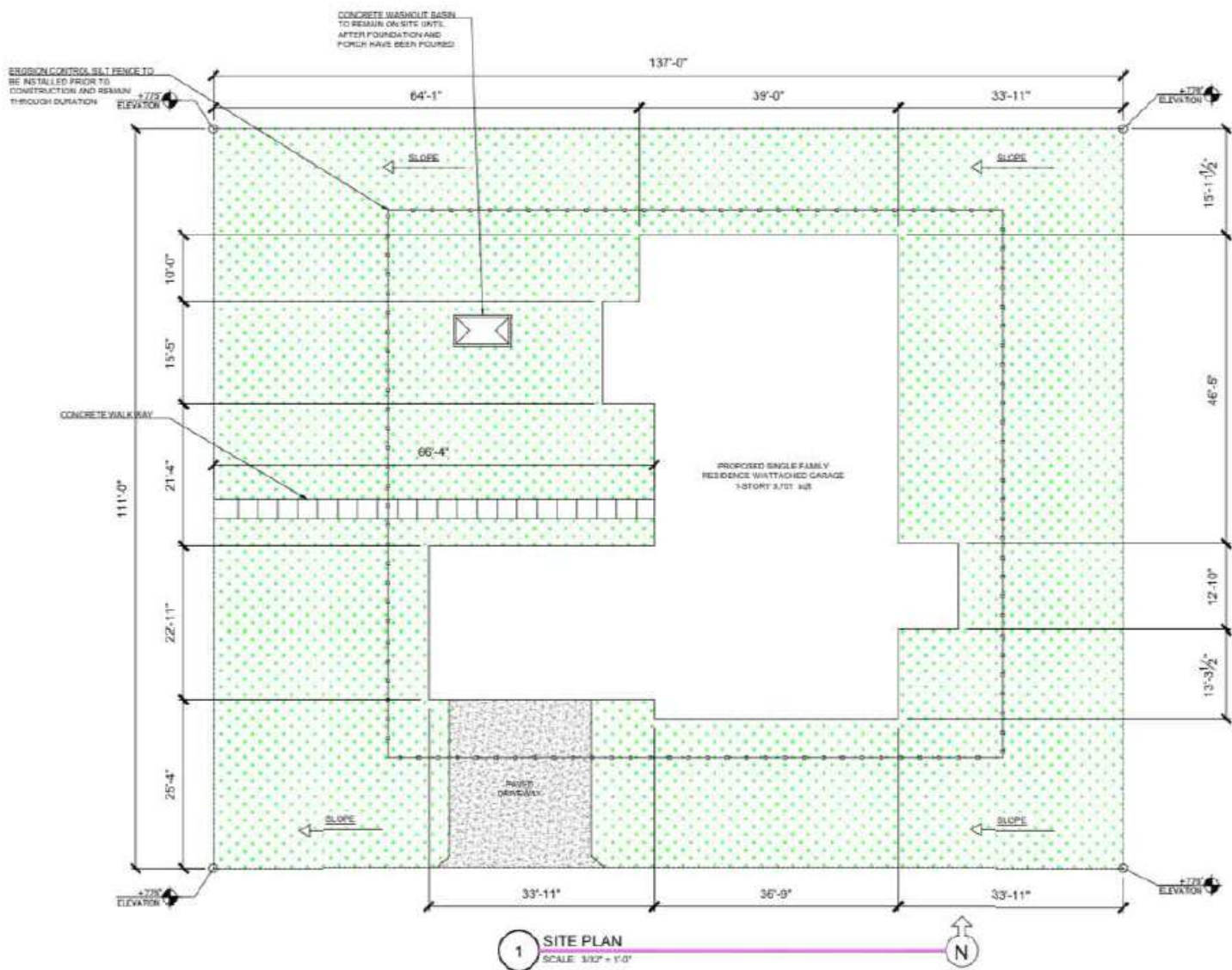
2022-DV1-034; 2727 Wheeler Street (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for duplex with vehicular access to Wheeler Street, **granted**.

2004-UV3-047; 3216 East 25th Street (south of site), requested a variance of use to provide for a child day care center, **granted, subject to conditions**.

97-HOV-52; 2304 North Dearborn Street (east of site), requested a variance of development standards to provide for the construction of a single-family dwelling with the aggregate side yards totaling nine feet, **granted**.

RU







Subject site looking east.



Existing improved north-south alley to the rear of subject site, with adjacent properties having alley access as well.



Adjacent duplex to the north (with non-permitted curbcut), looking east.



Adjancet single-family dwellign to the west, with existing curb cut that pre-dates current Ordiance, looking northwest.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-017
Address: 4002 North Park Avenue (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (TOD)
Petitioner: Elite Custom Homes, by Cassandra Nielsen
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a deck with a two-foot rear yard setback (20-foot rear yard setback required).

RECOMMENDATIONS

Staff **recommends denial** of the request as proposed, consisting of an elevated two-story deck.

Staff **would recommend approval** of an amended petition to provide for the construction of a ground floor deck only, with a two-foot rear yard setback.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	D-5	Residential (Two-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwelling)
South	D-5	Residential (Single-family dwelling)
East	D-5	Residential (Single-family dwelling)
West	D-5	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood development for the site.
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- ◇ The traditional neighborhood land use plan recommendation is to provide for a full spectrum of housing types in compact and well-connected areas. Building form should promote social connectivity of neighborhood. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. This typology recommends a density range of 5 to 15 units per acre.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would be injurious to the safety and general welfare of the community by imposing the elevated deck structure within two feet of the rear parcel line and overlooking the adjunct property to the west.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because the structure existed previously without the need for the elevated deck as constructed. The addition of the deck is not a requirement of the Ordinance, and the structure would be ordinance compliant without the need for a variance, with the removal of the deck as proposed.
- ◇ Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence. Furthermore, the property owner did not file for a wrecking permit or a structural permit prior to illegally constructing the two-story deck with the deficient two-foot rear setback.
- ◇ However, if the second-floor portion of the deck were removed, including the stairs, then staff would support an amended petition to provide for the construction of a ground floor deck only, with a two-foot rear yard setback. The petitioner has discussed this with Staff but has not officially agreed to this option.
- ◇ If amended, the proposed ground floor deck setback, due to the small encroachment and limited height of the structure, in Staff's opinion, would be a minor deviation from the Ordinance.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Park Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.
THOROUGHFARE PLAN	This portion of 40 th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.
SITE PLAN	File-dated March 22, 2023.
FINDINGS OF FACT	File-dated March 22, 2023.

(Continued)

STAFF REPORT 2023-DV1-017 (Continued)

EXISTING VIOLATIONS

1. **VIO22-005936, 9/9/2022**, Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-609; 536-705; 536-709 Stop Work Order. This Stop Work Order has been issued due to the failure to obtain a wrecking permit prior to the Interior / Exterior strip including windows, doors and siding on a two-story two-family dwelling.
2. **VIO23-000013, 1/3/2023**, Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-705; 536-709. This Stop Work-Order has been issued for failure to obtain a structural permit prior to the construction of a two tier/story wood deck backside (on the property line) of a two story 2 family residence.
3. **VIO23-001863, 3/22/2023**, Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-705; 536-709. This Stop Work-Order has been issued for failure to obtain a structural permit prior to the construction of a two tier/story wood deck on the backside (very close to property line) of a two story 2 family residence.

ZONING HISTORY

2022-DV1-057A; 4001 Park Avenue (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish an existing detached garage with a 0.60-foot north side setback and four-foot east rear setback, **granted**.

2022-DV1-057B; 4001 Park Avenue (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for street access to an existing detached garage, **denied**.

2015-DV1-032; 4001 Central Avenue (west of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of an 858-square foot detached garage, with a 1.5-foot north side setback and a 6.5-foot aggregate side setback, **granted**.

2012-ZON-822; 3959 Central Avenue (west of site), requested the rezoning of 0.38 acre from SU-38 to C-S to provide for residential and commercial uses, **approved**.

RU







Subject site, looking west



Subject site with two-story deck, with proposed two-foot rear (west) setback, looking north.



Adjacent single-story single family dwelling to the west, looking north.



Adjacent single-story single family dwelling to the north, looking west.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-007
Address: 1034 South Tremont Street (approximate address)
Location: Wayne Township, Council District #16
Zoning: D-5
Petitioner: Abel Solares and Reina Alfaro, by Sarah Walters
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a commercial contractor and the parking of up to eight commercial vehicles (not permitted), a 48.5-foot wide parking area in the front yard with a zero-foot south side yard setback and an eight-foot tall perimeter fence (parking area in front yard limited to 30-foot wide, seven-foot side yard setback required, maximum 3.5-foot tall fence permitted within the front yard and maximum six-foot tall fence permitted in side and rear yards) and deficient living materials and landscaping (60% of required landscaped areas must be covered by living materials, minimum landscaping required).

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwelling)
South	D-5	Residential (Single-family dwelling)
East	D-5	Residential (Single-family dwelling)
West	D-5	Residential (Single-family dwelling)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends 3.5 to 5 residential units per acre development.

- ◇ The 0.38-acre subject site is located mid-block of a residential neighborhood and surrounded by appropriately developed single-family dwellings in every direction.

(Continued)

STAFF REPORT 2023-UV1-007 (Continued)

- ◇ A variance was issued in 1987 for a garage measuring greater than the principal living space with a condition that the garage would be utilized for residential purposes only. This condition was specifically added to prevent commercial usage of the site in the future due to the size of the garage.
- ◇ This condition proves that the site was never intended to be used for commercial purposes and should remain residentially used.

VARIANCE OF USE

- ◇ The grant of the request would permit a commercial contractor and the parking of up to eight commercial vehicles in the D-5 district.
- ◇ The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book
- ◇ The use would be classified as a Commercial and Building Contractor, which is defined as an “establishment or activity that supplies materials and labor to fulfill work at a remote site and that work is typically a building trade or activity associated with the construction or maintenance of a physical building or structure. This definition includes uses such as contractors for awning; building/construction; carpentry work; concrete; decorating; demolition; electrical; excavation; extermination/disinfection; fence; flooring; home remodeling; masonry/stonework/tile/setting; painting; pest control; plastering/drywall; plumbing; roofing; septic system; sheet metal; siding; sign; storm door; window; construction companies, contractors, lumber yards; swimming pool installation and services; home remodeling companies; heating; air conditioning; landscaping; lawn services; tree services; and water softener services. This definition may include accessory offices for operation of the contracting business but does not include retail sales of goods to the public.
- ◇ Commercial and Building Contractors are only permitted in the C-7 district or any industrial district since it is classified as a heavy commercial service in Table 743-1: Use Table.
- ◇ Commercial or industrial uses, when located on accurately zoned properties, require transitional yards to buffer such intense uses from protected districts which include dwellings and schools. In this instance, the proposed use would not be required to provide such buffer areas since the D-5 district is intended to be utilized for a variety of housing types. Therefore, the site provides insufficient screening to the surrounding dwellings, which staff finds concerning.
- ◇ Although the commercial vehicles may be fenced at the rear of the site, staff has concerns that the business could potentially expand with the additional storage of commercial vehicles based on the availability of land that is covered with gravel and fenced in at the rear of the site.

(Continued)

STAFF REPORT 2023-UV1-007 (Continued)**VARIANCE OF USE FINDINGS OF FACT**

- ◇ Staff finds that the grant would be injurious to the general welfare of the community since a commercial operation would attract additional traffic and unnecessary noise from the commercial vehicles on site.
- ◇ The use and value of the area adjacent to the property included in the variance would be adversely affected by the development of this proposed commercial use in the area by decreasing the desirability of the area for potential residents, largely due to the location of a heavy commercial use in a well-established residential area.
- ◇ The need for the variance does not arise from a condition peculiar to the property in question because it is developed residentially and could continue to be used as such without the need for a variance.
- ◇ The strict application of the terms of the zoning ordinance will not constitute an unnecessary hardship if applied to the property for which the variance is sought because the site is appropriately developed and zoned residentially.
- ◇ Lastly, the proposed use would not align with the 3.5 to 5 residential units per acre development recommendation of the Comprehensive Plan. In Staff's opinion, the request would represent a wholly inappropriate deviation from the Plan.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would permit an excessive parking area in the front yard with deficient side setbacks, deficient landscaping and an eight-foot-tall perimeter fence in the D-5 district.
- ◇ The D-5 district limits parking areas in the front yard to a maximum width of 30 feet, requires seven-foot side yard setbacks, and has a requirement for 60% of landscaped areas in the front yard to be covered by living materials.
- ◇ The request is for a zero-foot south side yard setback since the parking area measures 48.5 feet wide and extends up to the southern property line. There is no practical difficulty with the use of the site if the parking area were to be reduced to the 30-foot width required by the Ordinance while also meeting the seven-foot side yard setback requirement.
- ◇ Fences in the dwelling district are limited to 3.5 feet in the front yard and six-feet in the sides and rear yards. Although the request is for an eight-foot-tall perimeter fence, the conclusion of the site visit did not result in the location of an eight-foot-tall fence. Instead, the fence along the rear and side yards appears to measure six-feet tall and the front yard fence appears to measure the 42 inches or 3.5 feet that was noted in the zoning violation VIO22-005247. If this is the case, then the variance for the eight-foot-tall fence height can be withdrawn by the petitioner.
- ◇ Staff would not support an eight-foot-tall fence at this site since taller fences are meant to be more commercial in nature and that would not be appropriate in this walkable residential neighborhood. For these reasons, staff is not supportive of the variance of development standards requests.

(Continued)

STAFF REPORT 2023-UV1-007 (Continued)**GENERAL INFORMATION**

THOROUGHFARE PLAN

Tremont Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 60-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated March 7, 2023.

FINDINGS OF FACT

File-dated March 7, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO22-005455: Failure to obtain a drainage permit for land alteration.
2. VIO22-005247:
 - a. The parking or storage of a commercial vehicle in any zoning district, when the provisions of which do not specifically permit such a use; (Vehicle, regardless of weight, used or designed to be used as fleet vehicles).
 - b. Failure to comply with use-specific standards and zoning district development standards for the D-5 district; (Table 744-404-1 - The parking area in front yards shall not exceed 30 feet in width or 50% of the lot width).
 - c. Failure to comply with use-specific standards and zoning district development standards for the D-5 district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence).
 - d. Failure to comply with use-specific standards and zoning district development standards for the D-5 district; (744-510.C.3. - Fence post height exceeding 1ft. above the permitted height of the fence).
 - e. Failure to comply with use-specific standards and zoning district development standards for the D-5 district; (744-503.C. - In all areas where landscaping is required, a minimum of 60% of the surface area shall be covered by living materials, rather than gravel, stone, concrete or other non-living materials).
 - f. The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - A construction/roofing contractor is not a permitted use in a D-5 zoning district...Carroll's Roofing).

PREVIOUS CASES

89-V1-7; 1034 South Tremont Street (subject site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for construction of a garage in excess of the maximum allowed height and resulting in the accessory space in excess of the principal living space, **granted**.

ZONING HISTORY – VICINITY

2020-DV2-010; 1042 South Tremont Street (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage with a two-foot south side setback on a through lot and to legally establish a two-foot north side setback for the existing single-family dwelling (three-foot side setback required), **denied**.

(Continued)

STAFF REPORT 2023-UV1-007 (Continued)

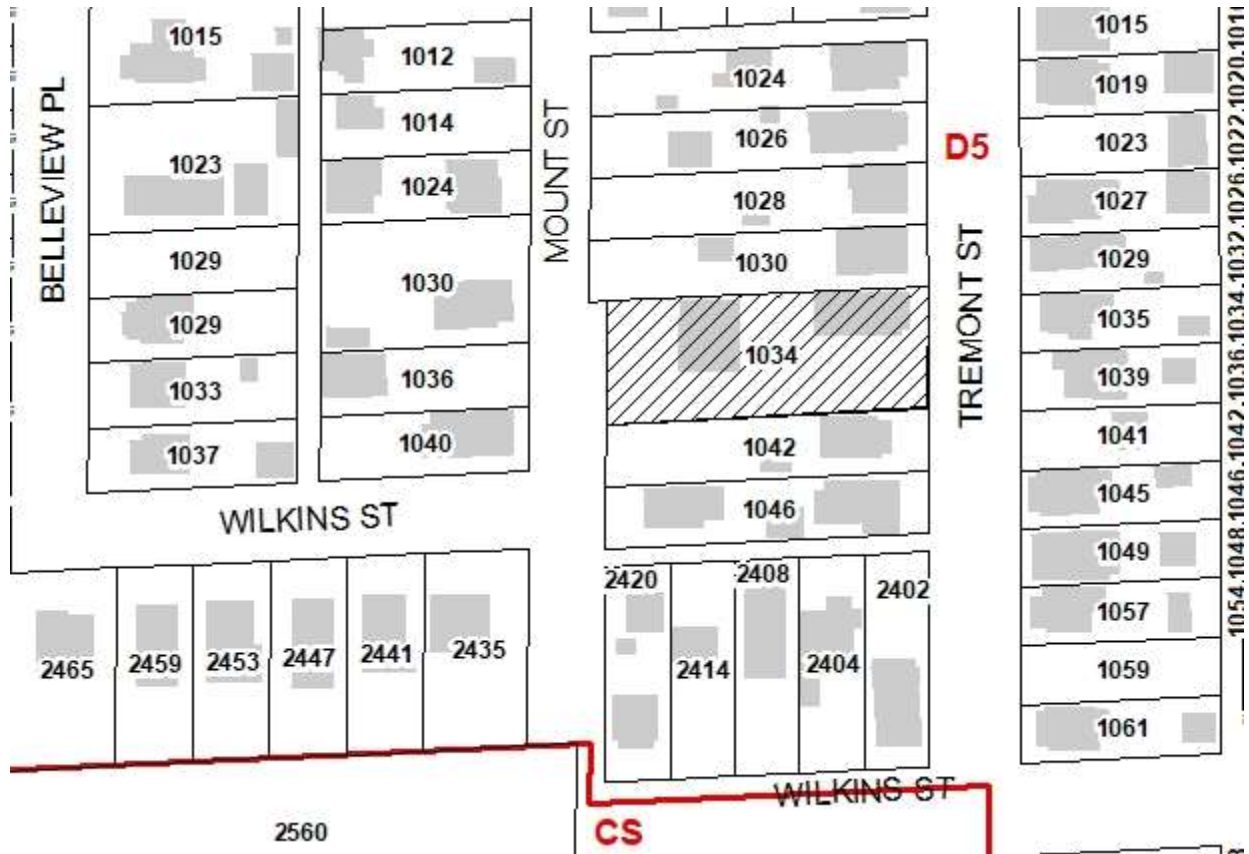
2001-DV3-040; 1016 South Pershing Avenue (northeast of site), Variance of legally establish a 732-square foot single-family dwelling with a two-foot rear yard setback, and an eight by eight-foot mini barn with a 24.5-foot front yard setback, within the established front yard of South Pershing Avenue; and to provide for installation of an 18-foot diameter, above ground swimming pool within the established front yard of South Pershing Avenue, **granted**.

94-V2-61; 1101 South Pershing Avenue (southeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a detached garage being 5.2 feet from Wilkins Street (minimum 25-foot setback required), with a side setback of 3.5 feet (minimum 4-foot setback required) and resulting in an open space of the lot to be 51% (minimum 65% required), **granted**.

83-UV3-88; 1101 South Tremont Street (southeast of site), Variance of use to provide for the continued use of an existing garage for storage of two church buses in a dwelling district. A temporary variance of five years had expired (78-UV2-69), **granted with conditions**.

MI

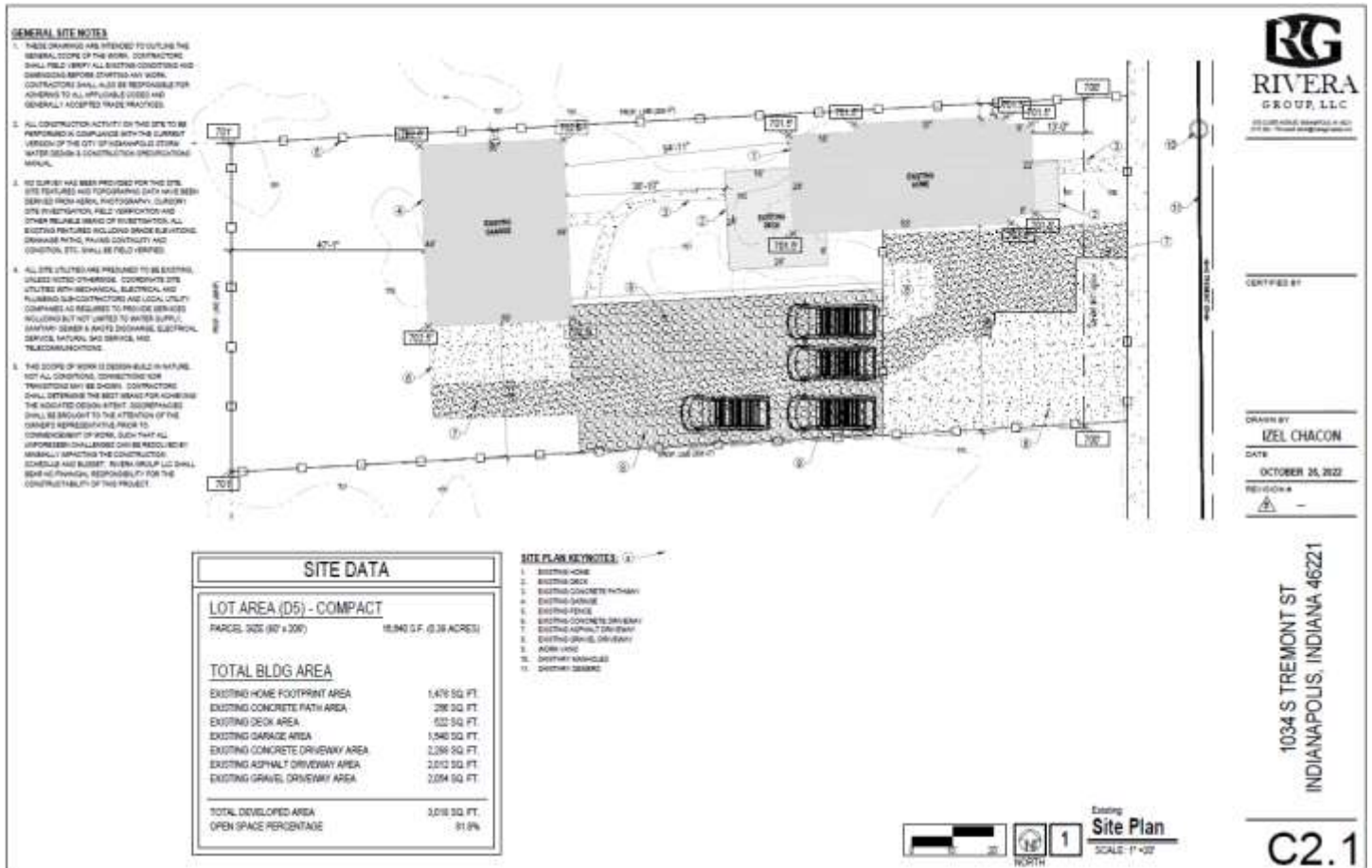
2023-UV1-007; Location Map



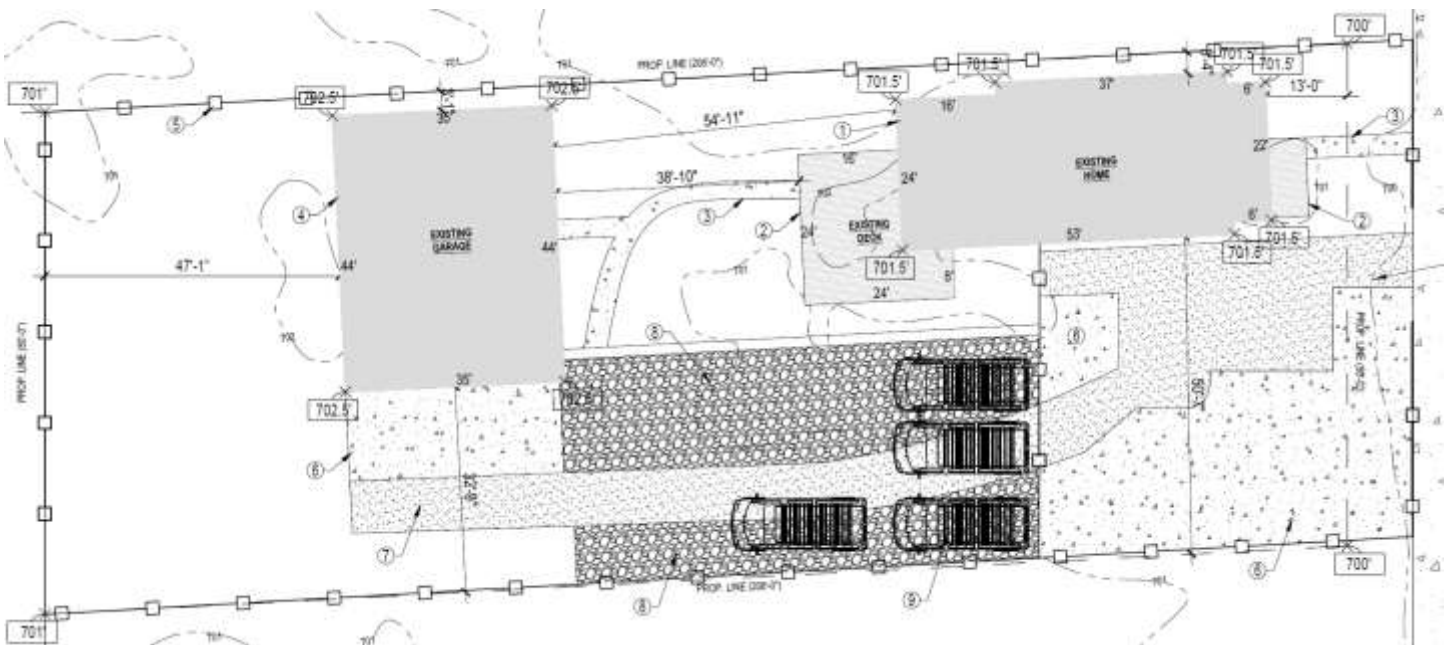
2023-UV1-007; Aerial Map



2023-UV1-007; Site Plan



2023-UV1-007; Site Plan (Close Up)





1073 Oliver Avenue • Indianapolis • Indiana • 46221
Phone (317) 328-1704 • Fax (317) 328-1756
admin@riveragroupindy.com

February 24th 2023

RE: 1034 S Tremont Street
Indianapolis IN 46221

Plan of Operation

- Workforce: Include the number of employees or volunteers associated with the business or organization. Do they work onsite? When do they work? How do they get to the site? If they drive, where do they park? What kind of security is used?
No work is ever done at the 1034 S Tremont site. They work Monday- Friday & sometimes Sundays; this does not happen often. Yes, employees drive to the site at 1034 S Tremont and they park their vehicles outside along the street (1 car) & in the rear along the fence (3 cars in the rear). They have security cameras throughout the property.
- Clients and customers: Describe typical customers and clients. Do they come to the site? If so, when and how many? Where do they park?
No, clients do not visit the site at all. Owner visits the clients at their residence or office.
- Processes conducted on site: Explain what is done by the business or organization, onsite and offsite. What happens outside? What safety and security measures are taken?
They are a construction company. They work with siding, trim, soffits, aluminum fascias. NO WORK is ever done at the 1034 S Tremont site. At the job site: They use harnesses when climbing up ladders to complete work. They wear masks & safety glasses for when siding is being cut.
- Materials used: List the types of materials used for the operation. Are any hazardous materials used? Include the applicable safety and security measures.
They do not use any hazardous materials. They use nail guns, store bough siding, trim and fascias.
- Shipping and receiving: How are materials shipped or received? Size of vehicle? What time of day? Frequency?



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No shipping or delivering of materials is ever done at the site 1034 S Tremont. It is delivered directly to the job site. Not applicable as no deliveries are ever done at the site. Not applicable as no deliveries are ever done at the site. Not applicable as no deliveries are ever done at the site.

- Waste: List the types of waste generated. How is it handled? By whom? Is hazardous waste generated? Is there a recycling program?

Not applicable as no deliveries are ever done at the site.

It is not a business, there are people that live in the house. The owner does have a business for siding. However, he does not run an office from the location at 1034 S Tremont. Carroll's Roofing seems to be the old person that used to live there; **they** did run a business from within the premises. They no longer live here as it is now Abel Solares property. There are a total of **8 work vans at the 1034 S Tremont property**, they typically take 4 of them to the job sites. The other 4 remain within the fenced area (they are back-ups in case one breaks down). The employees' vehicles are parked along the S Tremont Street and along the alley by their fence. The owner has 1 brother and 2 nephews living(renting) at the site; they have their own personal vehicles 4 total.

Attached is documentation of what the house looks like from inside:



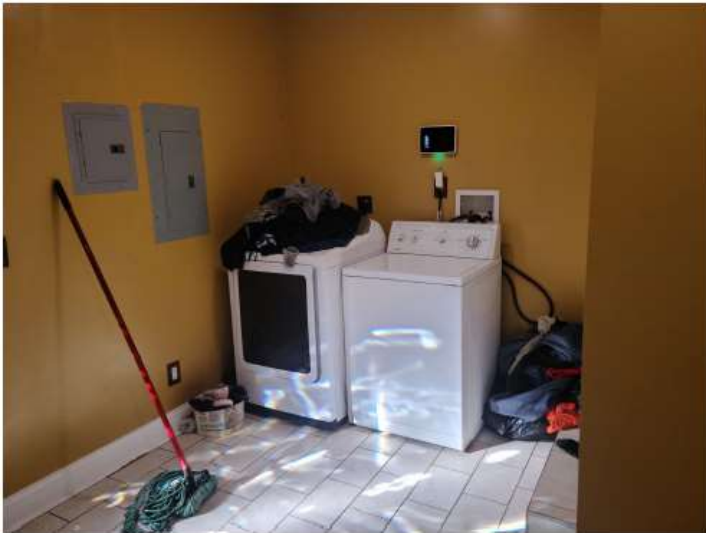
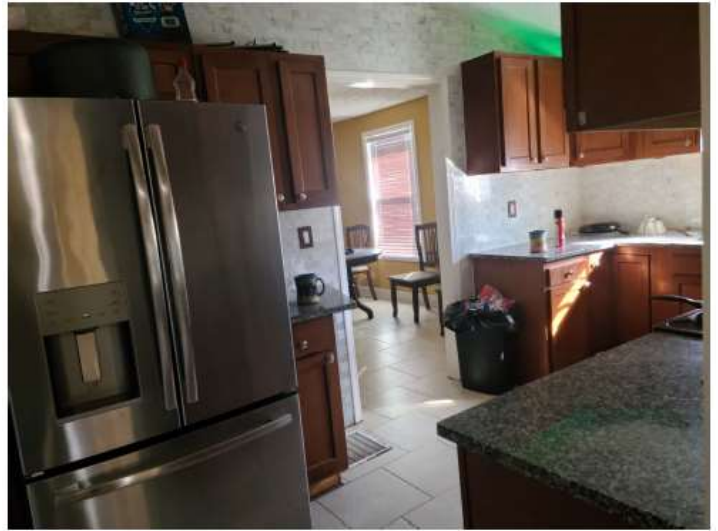




Photo of the Subject Property: 1034 South Tremont Street



Photo of the Subject Property: 1034 South Tremont Street



Photo of the rear yard.



Photo of the rear yard.



Photo of the existing privacy fence.