



**Board of Zoning Appeals  
Board of Zoning Appeals Division I  
(September 3rd)  
Meeting Agenda**

**Meeting Details**

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

**Date:** Tuesday, September 03, 2024      **Time:** 1:00 PM

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

**Business:**

**Adoption of Meeting Minutes**

**Special Requests**

**PETITIONS REQUESTING TO BE CONTINUED:**

- 1. 2024-DV1-025 | 6438 Marble Lane**  
Franklin Township, Council District 24, zoned D-2  
Patricia Moore

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a fence with a maximum height of eight feet within the side yards and front yard of Marble Lane (maximum height of six feet in side yards, 3.5 feet in front yards permitted).

**\*\*Petitioner to request a continuance to the October 1, 2024 hearing of Division. Staff supportive of the request, but will not support any further continuances**

- 2. 2024-UV1-011 | 5151 South Franklin Road**  
Franklin Township, Council District 25, Zoned I-2  
Zahn Real Estate LLC, by Joseph D. Calderon

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for warehousing with outdoor storage within zero-feet of a protected district (not permitted within 500 feet of protected districts) and 247% the size of the gross floor area of enclosed buildings (25% maximum allowed) with deficient transitional yard landscaping and 33 parking spaces (59 spaces required), and the construction of several buildings with a minimum of an eight-foot transitional side yard and 20-foot rear transitional yard (50 feet required) and a 30-foot front transitional yard (100 feet required).

**\*\* Automatic continuance filed by remonstrator, petition to be amended requiring additional notice**

- 3. 2024-UV1-013 | 5501 East 71st Street**  
Washington Township, Council District #3, zoned C-1  
Rock Investment LLC, by Tyler Ochs

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an indoor event center and banquet hall (not permitted).

**\*\*Automatic continuance files a City-County Councilor**

- 4. 2024-UV1-014 | 6301 Lafayette Road**  
Pike Township, Council District #1, zoned D-4  
Robinson Rental Solutions LLC

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a childcare facility (not permitted) with 27 parking spaces located within the right-of-way, including maneuverability (not permitted) and 34 spaces provided (maximum 22 spaces permitted).

**\*\*Petitioner to request a continuance to the October 1, 2024 hearing of Division to amend the site plan**

## Petitions for Public Hearing

### PETITIONS TO BE EXPEDITED:

**5. 2024-UV1-012 | 35 North Lynhurst Drive**

Wayne Township, Council District 16, zoned C-3

MSI LYNHURST INDIANAPOLIS GROCERY LLC,%RAMIN POURTEYMOUR, by Thomas Pottschmidt

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a wholesale operation within an existing building (not permitted).

**6. 2024-UV1-016 | 11263 Maze Road**

Franklin Township, Council District #25, zoned D-A

Westys LLC, by Elizabeth Bentz Williams

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a silt fence assembly operation (not permitted).

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

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

**7. 2024-DV1-017 | 2715 and 2719 Madison Avenue**

Center Township, Council District 18, Zoned C-5

TGA SC Global Indy I LP, by Jay Ingrassia

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall wooden privacy fence and a six-foot tall chain link privacy fence within the front yards of Madison Avenue and East Street (maximum fence height of five feet permitted) with the chain link fence along East Street being topped with barbed wire (prohibited, chain link fences not permitted within the front yard) and encroaching within the clear sight triangle of the driveways along East Street (not permitted).

**8. 2024-DV1-027 | 5101 East Thompson Road**

Franklin Township, Council District #24, zoned C-4

BET Investments Inc., by Matthew Maple

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two drive-throughs and stacking spaces within the front yard of Thompson Road (not permitted) and without required bypass aisles, deficient compliance with various landscaping standards, and 64 parking spaces accessory to a restaurant use (maximum 25 spaces permitted for proposed square footage).

**9. 2024-UV1-009 | 1307 South High School Road**

Wayne Township, Council District 17, Zoned C-4 (TOD)

Sohum Hotels Indy West LLC, by Russell Brown

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 122-unit hotel (not permitted), with a 70-foot front building line from Washington Street (maximum 10-foot building line permitted), one primary entry (four required), and parking within the front yard (prohibited) and with zero-foot landscape strip along the frontage and deficient landscaping (six-foot landscape strip required), and a chain link fence within the front yard of Washington Street (not permitted).

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

**10. 2024-UV1-015 | 3402 Georgetown Road**

Wayne Township, Council District #5, zoned C-3 (FF)  
Georgetown Parcel I LLC, by Thomas Pottschmidt

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an existing liquor store (not permitted) within nine feet of a protected district (100-foot separation, 20-foot transitional yard required) with zero-frontage trees and deficient landscaping (eight trees, landscaping required) and 12 parking spaces and zero bicycle parking spaces provided (14 spaces, three bicycle spaces 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](mailto:planneroncall@indy.gov). Written objections to a proposal are encouraged to be filed via email at [dmdpubliccomments@indy.gov](mailto:dmdpubliccomments@indy.gov), before the hearing and such objections will be considered. At the hearing, all interested persons will be given an opportunity to be heard in reference to the matters contained in said proposals. The hearing may be continued from time to time as may be found necessary. For accommodations needed by persons with disabilities planning to attend this public hearing, please call the Office of Disability Affairs at (317) 327-5654, at least 48 hours prior to the meeting. - Department of Metropolitan Development - Current Planning Division.



**BOARD OF ZONING APPEALS DIVISION I**

**August 6, 2024**

**Case Number:** 2024-DV1-025  
**Address:** 6438 Marble Lane (approximate address)  
**Location:** Franklin Township, Council District #24  
**Zoning:** D-2  
**Petitioner:** Patricia Moore  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a fence with a maximum height of eight feet within the side yards and front yard of Marble Lane (maximum height of six feet inside yards, 3.5 feet in front yards permitted).

**Current Land Use:** Single-family dwelling

**Staff Recommendation:** Staff recommends denial of this petition.

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

**PETITION HISTORY**

This petition was continued for cause by the petitioner from the August 6, 2024, hearing, to the September 3, 2024, hearing.

The petitioner’s representative has notified staff that they will be out of town on September 3, 2024, therefore they **will be requesting to continue this petition for cause, from the September 3, 2024, hearing, to the October 1, 2024, hearing.** Staff will not object to the second continuance request but will not support any more continuances after this one.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this petition.

**PETITION OVERVIEW**

- ◇ The request would legally establish the location of a fence with a maximum height of eight feet within the side yards and front yard of Marble Lane.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance permits a maximum fence height of 42 inches within the front yard, and six feet in the rear yard. The purpose of the height limitation is to create an open appearance along public rights-of-way, prevent blocking views at intersections, limit the negative visual impacts on adjacent properties, and prevent a canyonized effect of the streetscape.



- ◇ The height requirements are in place to limit bulk, create a consistent density and intensity, and keep the environment at a human-scale. This regulation limits the number of “walls” or abnormally tall structures that can be built to ensure neighborhood compatibility and to prevent unreasonable blockage of sunlight.
- ◇ The fence could remain in its current location if reduced to six feet behind the dwelling, and 42 inches where in front of the dwelling. In addition, supplemental plantings could be added to increase any needed privacy.
- ◇ Staff acknowledges there is a grade change on site, but the property, and adjoining neighboring properties have been able to operate without a hardship prior to the current fence being installed
- ◇ 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 fence height requirements of the Ordinance. Similar nearby properties on adjacent and nearby corners are able to comply with the Ordinance.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-2		
<b>Existing Land Use</b>	Single-Family Dwelling		
<b>Comprehensive Plan</b>	Recommends Suburban Neighborhood uses		
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>	
	North:	D-2	North: Single-Family dwelling
	South:	D-2	South: Single-Family dwelling
	East:	D-2	East: Single-Family dwelling
	West:	D-2	West: Single-Family dwelling
<b>Thoroughfare Plan</b>			
	Marble Lane	Local Street	50-foot existing and proposed right-of-way.
<b>Context Area</b>	Metro area		
<b>Floodway / Floodway Fringe</b>	No		
<b>Overlay</b>	N/A		
<b>Wellfield Protection Area</b>	No		
<b>Site Plan</b>	June 24, 2024		
<b>Elevations</b>	N/A		
<b>Landscape Plan</b>	N/A		
<b>Findings of Fact</b>	June 24, 2024		

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Comprehensive Plan recommends Suburban Neighborhood uses for the site.



**Pattern Book / Land Use Plan**

- The Comprehensive Land Use Plan recommends the Suburban Neighborhood typology, which is predominantly made up of single-family housing, but is interspersed with multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features 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 1 to 5 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**

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

**Indy Moves**

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

- Not Applicable to the Site.

**ZONING HISTORY**

**97-HOV-46; 5221 Sandstone Court (south of site)**, requested a variance of development standards to legally establish a 12 by 17-foot screened porch with a rear yard setback of 18 feet, for an existing single-family dwelling, **granted**.

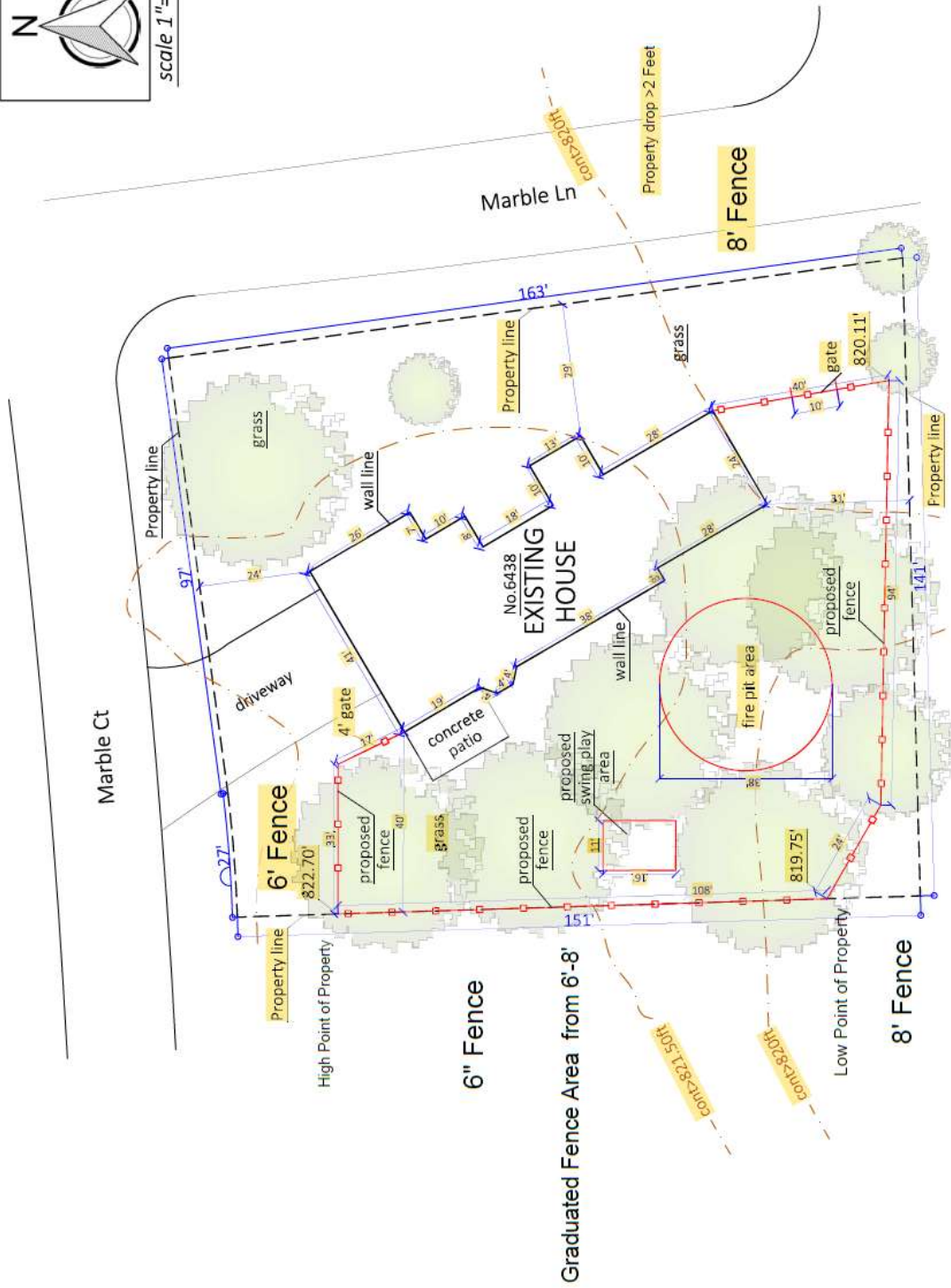
**83-HOV-103; 6419 Lava Court (northeast of site)**, requested a variance of development standards to allow the construction of an attached garage at 9.75 feet from a side property line making the aggregate side setbacks of the lot 20.75 feet, **granted**.

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**Site Plan**







**Findings of Fact**

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

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division I  
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:

\_\_\_\_\_  
This request concerns the height of a fence and will have no impact  
\_\_\_\_\_  
on the public health, safety, morals, and general welfare of the community.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
There is no impact to the nearby use of residential properties because the location of  
\_\_\_\_\_  
the fence does not impede their use in any way. This is a tasteful fence which should  
\_\_\_\_\_  
not detract from the values of the neighbors' properties but add to them.  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Section 744-510 provides for a maximum height of residential fences of 6 feet in the  
\_\_\_\_\_  
rear of the house. However, Subsection C, (Exceptions to fence heights) 4, Terrain  
\_\_\_\_\_  
Change Allows for a fence to exceed this 6 feet maximum by an amount equal to the  
\_\_\_\_\_  
drop in topography up to a maximum of 2 feet. The terrain here drops by more than 2  
\_\_\_\_\_  
feet, and the fence is 8' feet tall in those areas and 6' tall in areas with no slope.  
\_\_\_\_\_  
Therefore, the fence meets this exception, and the variance is approved.  
\_\_\_\_\_

**DECISION**

**Photographs**



Subject property looking southwest.



Subject property looking west.



Subject property looking south.



Subject property looking south.



Subject property looking west.



**BOARD OF ZONING APPEALS DIVISION I** **August 6, 2024**

**Case Number:** 2024-UV1-011  
**Property Address:** 5151 South Franklin Road (approximate address)  
**Location:** Franklin Township, Council District #25  
**Petitioner:** Zahn Real Estate LLC, by Joseph D. Calderon  
**Current Zoning:** I-2

**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for warehousing with outdoor storage within zero-feet of a protected district (not permitted within 500 feet of protected districts) and 247% the size of the gross floor area of enclosed buildings (25% maximum allowed) with deficient transitional yard landscaping and 33 parking spaces (59 spaces required), and the construction of several buildings with a minimum of an eight-foot transitional side yard and 20-foot rear transitional yard (50 feet required) and a 30-foot front transitional yard (100 feet required).

**Current Land Use:** Industrial  
**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

**September 3, 2024:** A timely automatic continuance request was filed by a registered neighborhood group in advance of the hearing date to allow additional time for discussion. The request will be amended in advance of the new hearing date of October 1, 2024.

**August 6, 2024:** An automatic continuance request was filed by the petitioner to continue this petition to the September 3, 2024 meeting to allow time for additional discussion with staff and neighborhood groups that will likely result in amendments to the scope and plans. A full staff report will be available in advance of the September hearing date.



**BOARD OF ZONING APPEALS DIVISION I**

**September 3, 2024**

**Case Number:** 2024-UV1-013

**Property Address:** 5501 East 71<sup>st</sup> Street (approximate address)

**Location:** Washington Township, Council District #3

**Petitioner:** C-1

**Current Zoning:** Rock Investment LLC, by Tyler Ochs

**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an indoor event center and banquet hall (not permitted).

**Current Land Use:** Commercial

**Staff Recommendations:** Staff has no recommendation for this petition

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

**PETITION HISTORY**

- The City-County Councilor for District #3 has filed an automatic continuance for this case, continuing this petition to the October 1, 2024 BZA Division I hearing.



**STAFF RECOMMENDATION**

- Staff **recommends** of this petition

**PETITION OVERVIEW**

- This petition would ---

**GENERAL INFORMATION**

<b>Existing Zoning</b>	--
<b>Existing Land Use</b>	--
<b>Comprehensive Plan</b>	--
<b>Surrounding Context</b>	<b>Zoning</b>
North:	<b>Surrounding Context</b> North:
South:	South:
East:	East:
West:	West:
<b>Thoroughfare Plan</b>	
Enter Street(s)	Enter Thoroughfare _____ feet of right-of-way existing and _____ feet proposed
<b>Context Area</b>	Compact or Metro
<b>Floodway / Floodway Fringe</b>	Yes or No
<b>Overlay</b>	Yes or No
<b>Wellfield Protection Area</b>	Yes or No
<b>Site Plan</b>	
<b>Site Plan (Amended)</b>	
<b>Elevations</b>	
<b>Elevations (Amended)</b>	
<b>Landscape Plan</b>	
<b>Findings of Fact</b>	
<b>Findings of Fact (Amended)</b>	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book



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**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan pattern Book recommends the \_\_\_\_\_ typology for this site.

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

- Enter Recommendation by TOD Plans or “Not Applicable to the Site.”

**Neighborhood / Area Specific Plan**

- Enter Recommendation by Pattern Book or “Not Applicable to the Site.”

**Infill Housing Guidelines**

- Enter Recommendation by IHG or “Not Applicable to the Site.”

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

- Enter Recommendation by Indy Moves Plans or “Not Applicable to the Site.”





## ZONING HISTORY

### ZONING HISTORY – SITE

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### ZONING HISTORY – VICINITY

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Department of Metropolitan Development  
Division of Planning  
Current Planning

**EXHIBITS**

Enter any photographs or site plans



**BOARD OF ZONING APPEALS DIVISION I**

**September 3, 2024**

**Case Number:** 2024-UV1-014

**Property Address:** 6301 Lafayette Road (approximate address)

**Location:** Pike Township, Council District #1

**Petitioner:** Robinson Rental Solutions LLC

**Current Zoning:** D-4

**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a childcare facility (not permitted) with 27 parking spaces located within the right-of-way, including maneuverability (not permitted) and 34 spaces provided (maximum 22 spaces permitted).

**Current Land Use:** Commercial

**Staff Recommendations:** Staff has no recommendation for this petition

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

**PETITION HISTORY**

- The petitioner is requesting a continuance to the October 1, 2024 BZA Division I hearing to allow for changes to the proposed site plan.



**STAFF RECOMMENDATION**

- Staff **recommends denial** of this petition

**PETITION OVERVIEW**

- This petition would provide for the operation of a childcare facility (not permitted) with 27 parking spaces located within the right-of-way, including maneuverability (not permitted) and 34 spaces provided (maximum 22 spaces permitted).
- The subject site is zoned D-4 and is located at the triangular intersection of Lafayette Road and Shanghai Road. The proposed use of a childcare facility is not permitted as a primary use in any dwelling district.
- Staff has numerous concerns about the proposed use and proposed site plan for this petition. First, the proposed site plan shows parking and maneuverability being located within the public right-of-way which Staff sees as a serious safety concern, both for clients of the business who would be accessing the site and unloading children, and for drivers of vehicles passing by the site along Lafayette Road or Shanghai Road. Likewise, the two roads that bound the site are listed as a primary arterial and a primary collector which regularly carry high speed traffic including semi-trucks, heightening Staffs' concerns.
- Additionally, Staff sees the estimated scale of the business of approximately 70 children on site per the plan of operation to be entirely too large and intense for a site of this size, especially given the dangerous situation of ingress and egress of the site. Staff members from the Department of Public Works echoed these worries when reviewing this proposal.
- Further, Staff sees the proposed use and scale of the proposed operation as wholly inappropriate given the Comprehensive Plan recommendation of Rural or Estate Neighborhood and the surrounding context of D-4 and D-3 zoning. Staff strongly suggests the petitioner find a site more appropriate for a use of this scope and scale.
- Finally, Staff would note that the Findings of Fact do not list an unnecessary hardship about the property itself that disallows the petitioner to meet the standards of the Ordinance. For all of these reasons, Staff recommends denial of the request in its entirety.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-4
<b>Existing Land Use</b>	Commercial
<b>Comprehensive Plan</b>	Rural or Estate Neighborhood



Department of Metropolitan Development  
 Division of Planning  
 Current Planning

<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	D-4	North: Single-family residential
South:	D-3	South: Single-family residential
East:	D-3	East: Single-family residential
West:	PK-1	West: Parks and Recreation
<b>Thoroughfare Plan</b>		
Lafayette Road	Primary Arterial	85 feet of right-of-way existing and 80 feet proposed
Shanghai Road	Primary Collector	45 feet of right-of-way existing and 80 feet proposed
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	6/26/24	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	6/26/24	
<b>Findings of Fact (Amended)</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan pattern Book recommends the Rural or Estate Neighborhood living typology for this site.

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

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**



Department of Metropolitan Development  
Division of Planning  
Current Planning

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

**Indy Moves**

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

- Not Applicable to the Site.



## ZONING HISTORY

### ZONING HISTORY – SITE

90-Z-98

96-UV2-115

### ZONING HISTORY – VICINITY

**2010UV1027; 6317 Shanghai Road (east of site),** Variance of use of the Dwelling Districts Zoning Ordinance to provide for a landscape business, with the outdoor storage of vehicles, **granted subject to commitments.**

97-Z-99; (north of site),

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Department of Metropolitan Development  
Division of Planning  
Current Planning

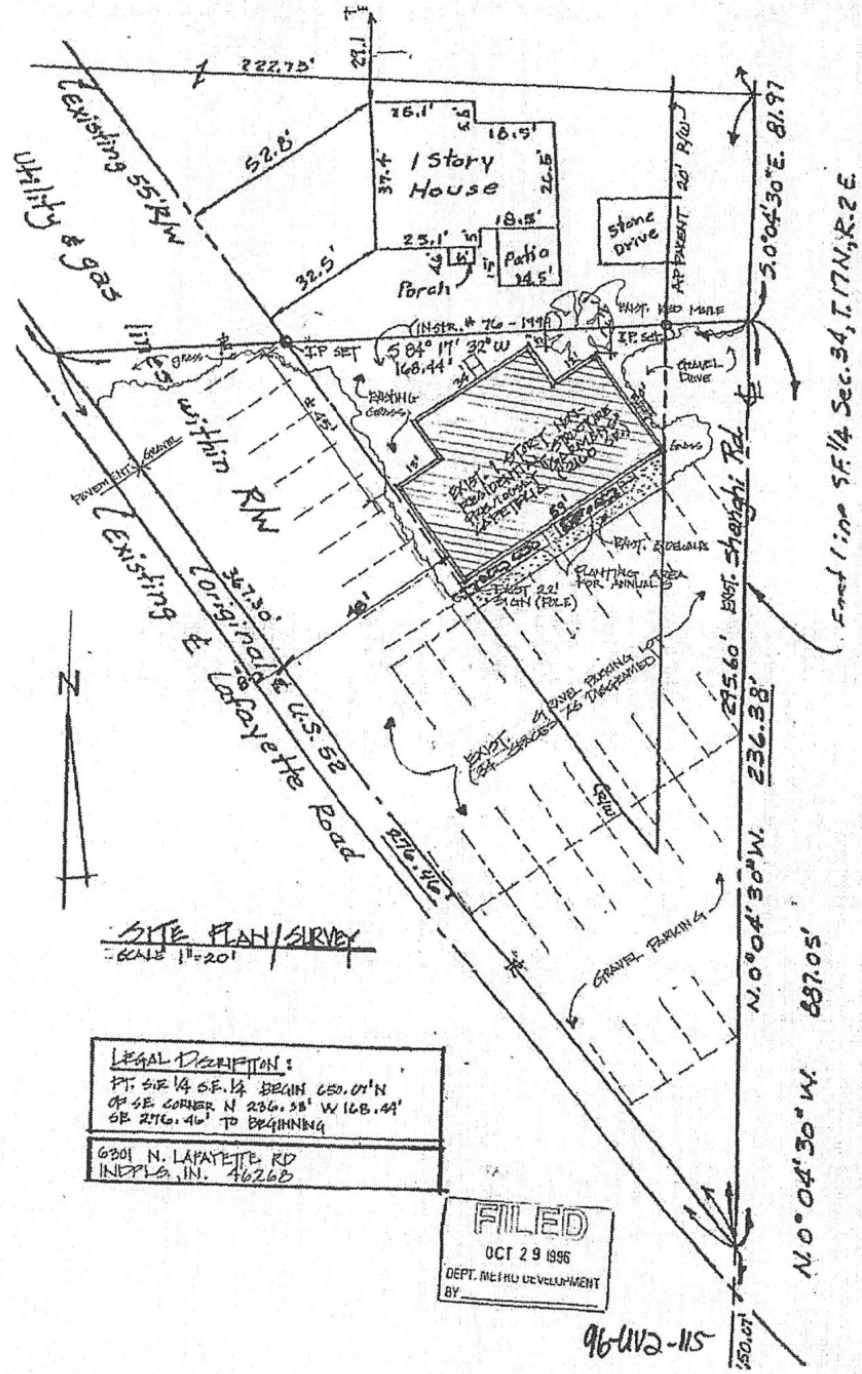
**EXHIBITS**

HOLD FOR AERIAL





Department of Metropolitan Development  
 Division of Planning  
 Current Planning



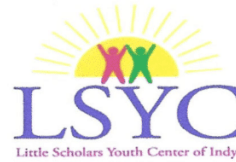


Department of Metropolitan Development  
Division of Planning  
Current Planning

Little Scholars Youth Center (LSYC)

*Also known as Little Scholars Youth Services*

Operational Plan 2024



Summary: To convert an existing art studio & gallery into a licensed childcare program. Property A (6301 Lafayette) is parallel to Property B (6305 Lafayette) located in a rural neighborhood. Both properties are fenced in, and you do not have direct access to Property B without going through Property A or by entering through the side gate. There is paved asphalt parking on the front and the side of Property A. The properties are on .46 acreage in Pike township. It has adequate yard space for an outdoor playground. Operation hours will be Monday through Friday from 7am-5:30pm.

Customers: We will provide high-quality childcare, preschool and school-age services to families who have children aged from infancy (8wks to 13yrs) of age. We are expanding our program from the Eagledale neighborhood to the Crooked Creek neighborhood and have been in business since 2009. In Pike township, there are 2,623 children using CCDF vouchers and 61% of the providers offer high quality childcare services on the Paths to Quality rating system (level 3 or 4). The property is near an interstate and that will bring families from different areas who may work in the surrounding areas.

Workforce: We will hire Early Childhood Educators (ECE) Teaching positions and support staff (kitchen help and transportation services). We estimate 7 full-time and 3 part-time staff members based on an enrollment of 70 students- Property A (45 students) and Property B (25 students). The nearest bus stop for commuting is about a 17-minute walk (Intech Blvd & Network Way) and parking is available on site.

Operations Timeline:

- April-June 2024      File variance of use, clean out properties, complete maintenance repairs, fresh paint interior and exterior, complete landscaping and new signage for curb appeal.
- July-September      Complete classroom set-up, recruiting new staff members, complete licensing inspections and host our grand opening.
- October-December      Professional development training, enrolling new families and connecting with community partners.

Statistics for CCDF eligible families: <https://brighterfuturesindiana.org/data-center>



Department of Metropolitan Development  
Division of Planning  
Current Planning

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

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE  
A childcare program benefits a community by supporting working families, create job opportunities, fosters connections among families and other organizations in the area and promotes long-term economics benefits by providing a high quality childcare that contributes to the overall well-bieng of children.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE  
The operation of the childcare program will be Monday through Friday during business hours. We have ample parking spaces to accomodate traffic for drop-offs and pick-ups which will be managed effectively.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE  
The property was used as an art studio/gallery by the previous owner. The variance is necessary to operate both of these properties as a licensed or registered childcare program.

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 properties (6301 & 6305) were purchased as combined parcels for business use. If we are not able to operate a licensed childcare program it would cause a financial hardship and we will be forced to sale the property as the previous variance was for an art studio which has expired. With the increased shortage of childcare seats, we hope to fill that need in the community by operating both properties for childcare use.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE  
The properties has existed as a commerical propoerty for many years and the structure blends into the neighborhood. The properties are fenced in and there is a parking lot in the front and side of the property for at least 15 parking spots.

DECISION

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

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

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











**BOARD OF ZONING APPEALS DIVISION I**

**September 3, 2024**

**Case Number:** 2024UV1012

**Property Address:** 35 North Lynhurst Drive (approximate address)

**Location:** Wayne Township, Council District #16

**Petitioner:** MSI LYNHURST INDIANAPOLIS GROCERY LLC,%RAMIN POURTEYMOUR, by Thomas Pottschmidt

**Current Zoning:** C-3

**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a wholesale operation within an existing building (not permitted).

**Current Land Use:** Commercial

**Staff Recommendations:** Staff recommends **approval** of the variance subject to commitments.

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **approval** of the variance subject to commitments specifying that: (a) all operations shall be conducted internally and no portion of the site would be utilized for outdoor storage, sales, or display; (b) no fencing shall be installed around the perimeter of the parking area; and (c) trees shall be planted along the western frontage (Lynhurst) between the two existing outlots consistent with requirements from 744-504 of the Indianapolis Zoning Ordinance.

**PETITION OVERVIEW**

- The subject site is currently improved with a commercial structure that contains several smaller commercial tenants on the southern portion of the building addressed 5224 Rockville Road (liquor store, barbershop, restaurant, cell phone sales) with the larger northern portion vacant (having formerly housed a grocery store). There are two out lots on the western portion of the property that contain a gas station (northern) and a vacant bank (southern). Adjacent properties are improved with a discount store and residences (west), a nightclub (north), a bank and utility site (east), and a church, barbershop, and legal offices (south).





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

- The structural permit STR23-02634 was issued to allow for internal conversion of the vacant northern portion of the subject building to allow for a 'warehouse' in November of 2023. The permit was placed into abeyance one month later when it was realized that neither warehousing nor wholesaling (the true use) would be allowed within C-3 zoning absent a variance. This petition would allow for wholesaling within the existing building.
- The subject site contains existing off-street parking and loading spaces beyond what would be required for the proposed use by ordinance. However, grant of this variance would not legalize any signage placed onto the building without permits in place and would not allow for any changes to the western façade of the existing building that would reduce the transparency below standards required by 742-104.C.4 of the ordinance.
- This property is zoned C-3 (Neighborhood Commercial) to allow for an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed neighborhood, regardless of its size. It does not allow for businesses whose primary audience is well beyond the neighborhood boundary and does not allow for businesses that require outdoor display or storage. Similarly, the Comprehensive Plan recommends the site to the Community Commercial typology to allow for low-intensity commercial and office uses that serve nearby neighborhoods from either freestanding building or small integrated centers. Light industrial land uses (such as wholesaling) are not a contemplated land use for this typology.
- The operation plan provided by the applicant indicates the business would have 4 employees on-site during hours of operation (10a-8p most days) and would anticipate servicing 15 customers simultaneously at a maximum. It also indicates that the existing dumpster and loading spaces would be utilized and that trucks would drop off merchandise weekly during normal business hours. While the plan doesn't specify products for sale beyond confirming there would be no hazardous materials on-site, their webpage indicates products might include "disposable products, medicines, candy, t-shirts, lighters, energy drinks, soft drinks, rolling papers, glass accessories, vapes, novelty items, snacks, chips and incense".
- The findings of fact included with the submittal indicate that this use would be 'mercantile' in a similar manner to the previous occupant and increase adjacent property values through improving the vacant site. Staff agrees and would note that (a) the Use Table of the zoning ordinance does include some allowances for reuse of large vacant buildings for alternate use categories that might not be contemplated otherwise and (b) it is unlikely that the proposed use would generate intensity of traffic above the previous grocery store tenant. Given this context, staff would recommend approval of the petition with three limiting commitments.
- To allow for the development to maintain C-3 characteristics and prevent the appearance of a more intense commercial or industrial use, approval should be conditioned upon keeping all operations internal, preventing placement of perimeter fencing around the parking, and the addition of some frontage landscaping along Lynhurst. The petitioner has expressed agreement with the proposed commitments.



**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-3	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	C-4 North: Commercial
	South:	C-3/SU-1 South: Commercial/Religious
	East:	C-3/SU-35 East: Commercial/Vacant
	West:	C-3/D-3 West: Commercial/Residential
<b>Thoroughfare Plan</b>		
Lynhurst Drive	Primary Arterial	100-foot existing right-of-way and 88-foot proposed right-of-way
Rockville Road	Primary Arterial	105-foot existing right-of-way and 95-foot proposed right-of-way
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	07/13/2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	07/13/2024	
<b>Findings of Fact (Amended)</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends this site to the Community Commercial working typology to allow for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding building or small integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.
- Wholesaling would be considered a Light Industrial land use type by the Comprehensive Plan which is not a contemplated use for the Community Commercial typology.



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

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

**Indy Moves**

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

- Not Applicable to the Site.



## ZONING HISTORY

### ZONING HISTORY – SITE

N/A

### ZONING HISTORY – VICINITY

**2012HOV048 ; 111 N Lynhurst Drive (north of site)**, Variance of development standards of Commercial Zoning Ordinance to provide for a nightclub, with outdoor seating, within 39 feet of a protected district (100-foot separation for nightclubs required), **approved**.

**2006ZON038 ; 5212 Rockville Road (east of site)**, rezoning of 1.683 acres, from the SU-35 District, to the C-3 classification to provide for neighborhood commercial uses, **approved**.

**2004LNU033 ; 5233 Rockville Road (south of site)**, legally establish a second single-family dwelling unit on a single parcel, **denied**.

**2004DV3038 ; 5332 Rockville Road (west of site)**, variance of development standards of the Commercial Zoning Ordinance to provide for a drug store with a pharmacy drive-through with one stacking space before the final drive-through service component (minimum three stacking spaces before the final service component required), and a 6.24 landscaped strip along Lynhurst Drive (minimum ten-foot wide landscape strip required), **approved**.

**95-Z-163 ; 5206 Rockville Road (east of site)**, rezoning of 13.63 acres to SU-35, **approved**.

**95-UV1-114 ; 5304 Rockville Road (west of site)**, variance of use of the Commercial Zoning Ordinance to provide for the reuse of an existing building for automobile repair and maintenance service (not permitted), **approved**.

**94-V3-107 ; 5301 Rockville Road (southwest of site)**, variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a convenience store and gas station, with a 6 foot landscape strip along Rockville Road, a 4 foot landscape strip along the corner/intersection of Rockville Road and Lynhurst Drive and a 6 foot landscape strip along Lynhurst Drive (minimum 10 foot landscape strip required for each street frontage), **approved**.

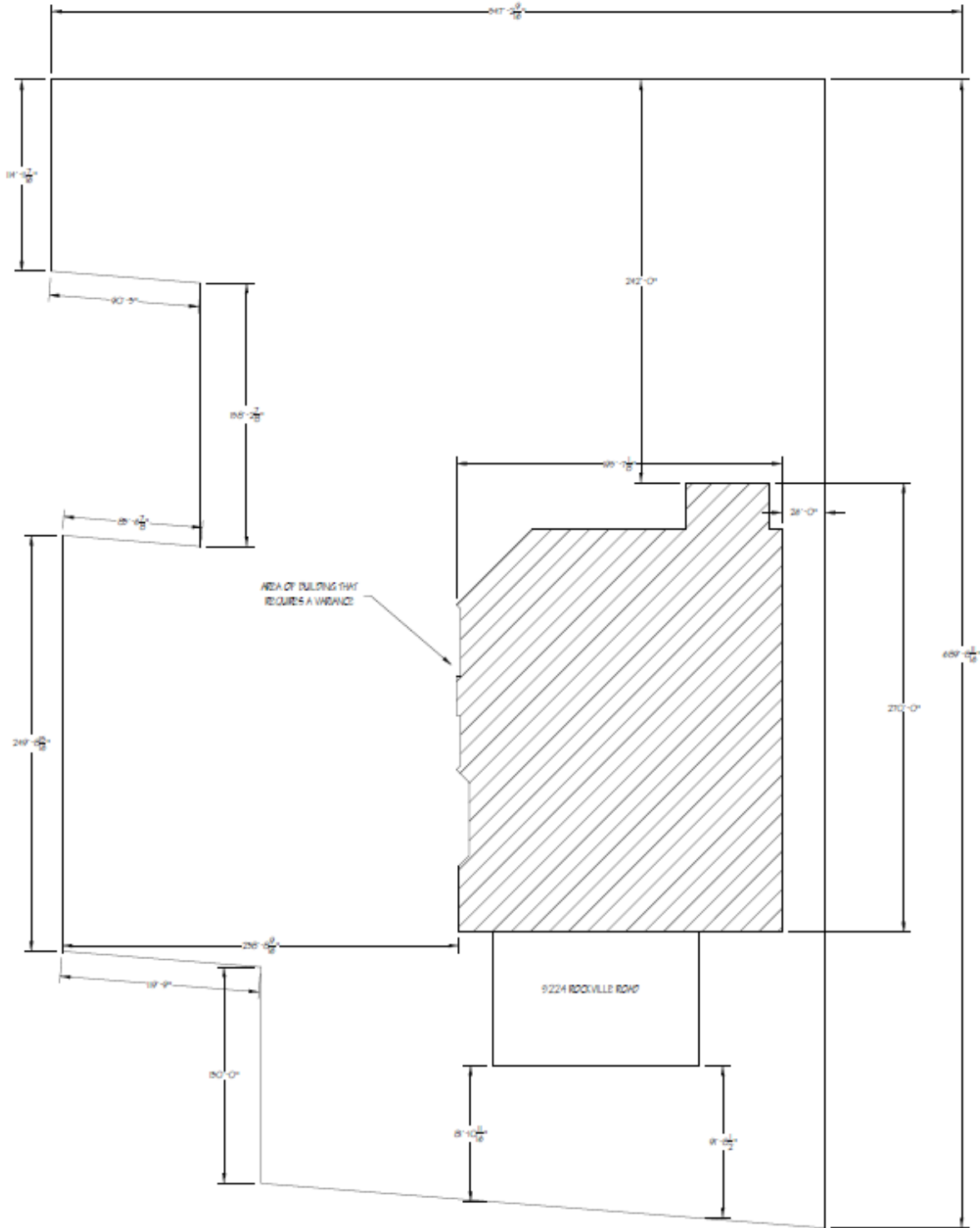
**93-UV1-78 ; 5332 Rockville Road (west of site)**, variance of use and development standards of the Commercial Zoning Ordinance to provide for the sale of automobile parts including the installation of glass and tires with 12 parking spaces (28 parking spaces required) and a gravel drive (hard-surfacing required), **approved**.

**EXHIBITS**

**2024UV1012 ; Aerial Map**



**2024UV1012 ; Site Plan**





## **2024UV1012 ; Plan of Operation**

### **Workforce:**

Typically, there will be two cashiers and two stockkeepers. The hours of operation are:

M-Sat: 10 a.m. to 8 p.m.

Sun: 12 p.m. to 8 p.m.

### **Clients and Customers:**

Customers are from the general population and can be from all different backgrounds. They typically park on site although there are some customers within walking distance. There could be upwards of 15 customers at a time depending on the day and hour.

### **Processes Conducted on Site:**

The store requires stocking of all items that they will sell. A cashier is required at all hours of operation. There are cameras located by the cashier and throughout the building.

### **Materials Used:**

There are no hazardous materials on site.

### **Shipping and Receiving:**

Usually, a semi-truck is sent to the store that contains our order of stock. We stock during the day at all hours from 9 a.m. to 5 p.m. Depending on the order it can take an hour to unload the truck. We have orders come about once a week. There are existing loading docks that can accommodate a semi-truck.

### **Waste:**

The waste generated from the store is minimal as the cardboard boxes are recycled. Waste is handled with trash bags and taken out to the dumpster by non-cashier employees.



**2024UV1012 ; Finding of Fact**

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

There is nothing associated with this variance that would harm anyone in the community. This was previously a Marsh Supermarket and it's vacancy has caused much vandalism to the structure. It would benefit the community in every way if this building was no longer vacant. Certainly this variance is not immoral.

**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**

Actually, it is our belief that the values of the adjoining properties will increase in value as this building will become a occupied. As mentioned above, much vandalism has occurred and having it occupied would bring the general public to the area. This would increase traffic and other businesses would benefit.

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

This was a Marsh Supermarket and had busy retail traffic. The current zoning allows for a retail business but the applicant desires to make this a wholesale business which is not covered under its current zoning. In reality, there will not be any noticeable change for anyone driving by the facility versus what it once was.

**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**

This building has been vacant for a very long time and thus has been very undesirable to the surrounding properties. If this building does not get this variance approved it could take many more years for another tenant to occupy it.

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

This building was mercantile when it was a Marsh Supermarket. It will remain mercantile if this variance is approved. Therefore, there will be no interference with the comprehensive plan of the community. In the end, many in the community would appreciate this building being used for the betterment of the surrounding area.



**2024UV1012 ; Photographs**



Photo 1: Subject Property Viewed from West



Photo 2: Subject Property Viewed from South

**2024UV1012 ; Photographs (continued)**



Photo 3: Subject Property + Loading Docks Viewed from North



Photo 4: Subject Property + Dumpster Viewed from Southeast

**2024UV1012 ; Photographs (continued)**



Photo 5: Existing Outlet on Northwestern Section of Site



Photo 6: Existing Outlet on Southwestern Section of Site

**2024UV1012 ; Photographs (continued)**



Photo 7: Adjacent Property to North



Photo 8: Adjacent Property to West

**2024UV1012 ; Photographs (continued)**



Photo 9: Adjacent Property to South



Photo 10: Adjacent Property to East



**BOARD OF ZONING APPEALS DIVISION I** **September 3, 2024**

**Case Number:** 2024-UV1-016

**Property Address:** 11263 Maze Road (approximate address)

**Location:** Franklin Township, Council District #25

**Petitioner:** Westys LLC, by Elizabeth Bentz Williams

**Current Zoning:** D-A

**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a silt fence assembly operation (not permitted).

**Current Land Use:** Propane Distribution

**Staff Recommendations:** Recommendation of Approval, subject to a commitment

**Staff Reviewer:** Eddie Honea, Principal Planner II

**PETITION HISTORY**

The September 3, 2024, hearing of Division I is the initial hearing of the request.

**STAFF RECOMMENDATION**

Staff recommends approval of the request, subject to the filed Plan of Operation, file-dated August 22, 2024

**PETITION OVERVIEW**

- The subject site, zoned D-A, is currently improved with one large metal building used for the storage of vehicles, a small metal building used for an office, a Quonset hut used for general storage and a large propane tank used in association with a propane distribution business. These non-permitted used are permitted by the grant of 2016-UV2-016.
- Single-family dwellings, within the D-P District, are located directly north of the subject site. Agricultural land is located to the west, within the D-A District. Agricultural uses and a wireless communications facility are located to the south, within Johnson County. Accessory structures with an unknown use are located east of the subject site, within the D-A District.
- The request, as proposed, would allow for the assembly of silt fencing for sale to the general public. The use would be contained within a portion of the large metal structure on the northern portion of the site. No noise would be detectable outside of the structure.



Department of Metropolitan Development  
 Division of Planning  
 Current Planning

- While the Ordinance would classify the proposed use as Light Manufacturing, Staff would note that the property is zoned D-A and that it is not uncommon for agricultural properties to either manufacture or install silt fencing to delineate separate operations or areas of a property. In addition, the request does not propose to allow for the dispatch of contactors to install or provide labor off-site.
- In Staff’s opinion, the request represents a substantial reduction of intensity of the operation permitted by the 2016 grant. While the propane distribution use will continue, the application outlines removal of several tanks, leaving only the large tank located within the eastern portion of the property.
- Staff would note that the subject site has an extensive history of being improved with non-residential structures, going back as far as 1956 according to aerial imagery. Given this and the general isolation of the site as evidenced by the substantial separation from Maze Road, Staff believes residential development to be impractical and therefore the request to be a reasonable deviation from the Ordinance.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-A	
<b>Existing Land Use</b>	Commercial – Propane Distribution	
<b>Comprehensive Plan</b>	Rural or Estate Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	D-P	North: Estate Single-Family Dwellings
South:	Johnson County	South: Agriculture
East:	D-A	East: Residential
West:	D-A	West: Agriculture
<b>Thoroughfare Plan</b>		
Maze Road	Secondary Arterial	80-foot existing and proposed right-of-way
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	Yes	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	August 2, 2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	August 2, 2024	
<b>Findings of Fact (Amended)</b>	N/A	



## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Land Use Pattern Book

### Pattern Book / Land Use Plan

- The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

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

- Not Applicable to the Site

### Neighborhood / Area Specific Plan

- Rural or Estate Neighborhood

### Infill Housing Guidelines

- Not Applicable to the Site

### Indy Moves

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

- Not Applicable to the Site

## ZONING HISTORY

### Subject Site:

**2016-UV2-016; 11263 Maze Road;** requests Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a propane distribution business, with a propane storage tank (not permitted) and outdoor storage (not permitted), to provide for an existing building to be used as an indoor storage facility for vehicles, trailers, boats, RV's and similar vehicles (not permitted), to provide for an existing building to serve as offices for both businesses (not permitted), to





Department of Metropolitan Development  
Division of Planning  
Current Planning

legally establish the lot without the required width, frontage and direct access from a public street (not permitted) and to legally establish the existing Quonset hut with a one-foot west side setback and the propane tank, with a six-foot east side setback (30-foot side and 75-foot aggregate side setbacks required); **granted.**

Vicinity:

**2014-UV3-003; 11498 Maze Road;** Variance of use and development standards of the Dwelling Districts Zoning Ordinance to legally establish a machine shop in an existing pole barn, with a 57-foot rear setback on a 150-foot side lot without direct access to a public street, and to legally establish a second lot with 80 feet of a street frontage and lot width; **dismissed.**

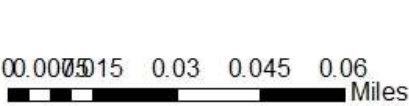
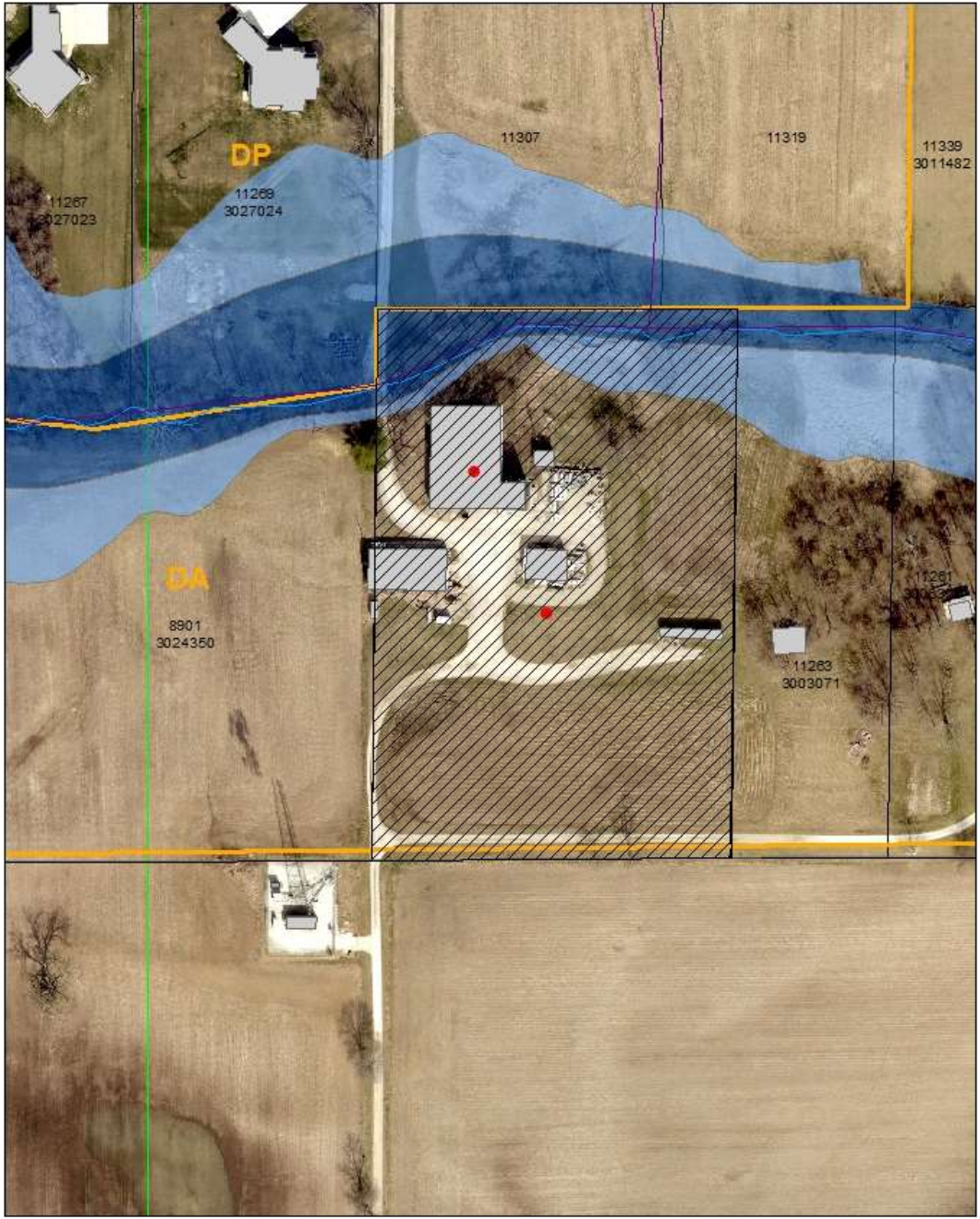
**2014-DV1-010; 11270 Maze Road;** Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 1,920-square foot, 24-foot tall pole barn, with a 240-square foot porch, creating accessory building area of 2,280 square feet or 112.4% of the main floor area of the primary dwelling and accessory use of 3,036 square feet or 150% of the total floor area of the primary building; **granted.**

**2009-HOV-013; 11266 Maze Road;** Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a lot with 172.33 feet of lot width at the required front setback line; **granted.**

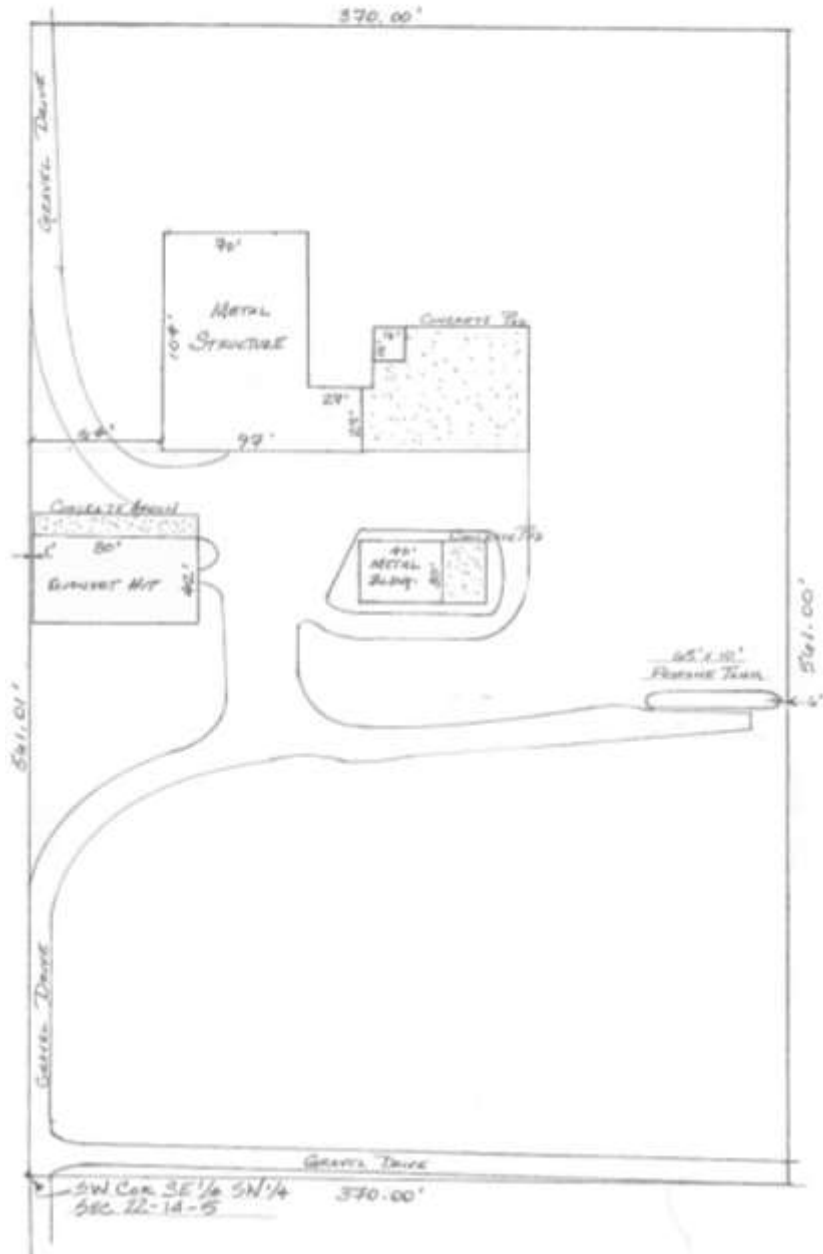
**2009-DV1-021; 11338 Maze Road;** Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for: a) Tract A to be divided into no more than three residential lots, with each lot having a minimum of 25 feet of street frontage on Maze Road and 25 feet of lot width at the required front setback line, b) Tract B to be divided into two lots, with each lot having a minimum of 150 feet of lot width at the required front setback line; **granted.**

**89-V3-1; 11263 Maze Road;** Variance of development standards of the Marion County Master Plan Permanent Zoning Ordinance to provide for the construction of a single-family residence with thirty feet of street frontage; **granted.**

**EXHIBITS**



SITE PLAN  
11243 MARE ROAD





Plan of Operation, File-Dated August 22, 2024

**2024-UV1-016**  
**PLAN OF OPERATION**  
**11261 Maze Road**

**Intent:**

Existing Use: The property currently operates under a variance (2016-UV1-016) granted to permit a propane distribution business, outdoor storage of the tanks, indoor storage of boats, vehicles, trailers, etc. and the existing buildings serving as offices for both businesses and legally establishing the lot access, width of lot, and setbacks of a Quonset Hut and large propane tank.

The commitments limit the propane business and indoor storage to not grow beyond the existing buildings and storage pads. They also specify no outdoor storage of the recreational vehicles, boats, etc.

**Proposed Use:**

- 1- Petitioner plans to scale down the propane business. The smaller outdoor storage tanks have been or will be removed. The propane distribution business from the large tank will continue. The indoor storage of boats, trailers and other vehicles will remain as operating.
- 2- Petitioner proposes to use a part of the existing structure for indoor assembly of silt fence. This involves attaching rolled fabric to wood posts, with a staple gun. This operation will be indoors. There is no noise beyond the structure and there are no odors produced.
- 3- The operation will not include any contractor operations including running crews from the site to install fencing.
4. The property will also continue to be used for permitted agricultural uses and at some point, the petitioner plans to build a dwelling.

**Hours of Operation:** The silt fence assembly would be a small number of employees working inside the structure. Typical work hours do not extend beyond the hours of 8 AM until 9 PM. Deliveries and pick ups are limited to normal business hours 8 – 6.

**Outdoor Lighting:**

Limited to security lighting. All lighting would be shielded and down lit and measuring zero-foot candle at all property lines.

**Future:**

Any changes to the Plan of Operation or Site Plan shall be subject to Administrative Review and Approval.



Department of Metropolitan Development  
Division of Planning  
Current Planning

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

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

PETITION FOR VARIANCE OF 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 the proposed use will reduce the scale of outdoor operations on site and provide for indoor operation of a new venture to assemble silt fence. This operation will not increase noise nor will it produce any odors. This is in keeping with typical agricultural operations in the area. The proposed change in the operation will not be injurious to the public health, safety, morals or general welfare of the community.

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

The existing operations of the propane business, with outdoor storage and the inside storage of recreational vehicles, boats and trailers have operated in harmony with adjoining uses for many years. The proposed change in the variance will reduce the outdoor operations. The proposed indoor assembly of silt fencing will not cause any negative aspects that will substantially adversely affect property in the area.

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

Historically the property has been uses for business; the structures have existing for decades. No new structures are proposed. The petitioner plans to also build his home on the property. The property is relatively isolated and the uses businesses are low impact and are supportive uses to agricultural uses.

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 property property is removed from existing development. The petitioner is utilizing structures that have supported non-residential use for many decades. The property is relatively isolated and the businesses have been operating without issue or producing any negative affects for many years.

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

The comprehensive plan recommends rural or estate neighborhood. The property is almost 5 acres in size and the use is limited to the existing improvements. In the future, a residential home will be added respecting the recommendations of the plan.

DECISION

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

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

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



Photo One: Looking North Along Maze Road



Photo Two: Looking East Along Maze Road



Photo Three: Looking South Along Private Drive From Maze Road



Photo Four: Looking East, Towards Subject Site From Private Drive



Photo Five: Primary Building For Assembly, Looking North



Photo Six: Storage Building, Facing West





Photo Seven: Office Building On Eastern Portion of Site, Facing South



Photo Eight: Large Propane Storage Tank, Abutting Properties, Facing South



Photo Nine: Abutting Properties, Facing West



Photo Ten: Abutting Properties, Facing East |



**BOARD OF ZONING APPEALS DIVISION I**

**September 3, 2024**

**Case Number:** 2024-DV1-017  
**Property Address:** 2715 and 2719 Madison Avenue  
**Location:** Center Township, Council District #18  
**Petitioner:** TGA SC Global Indy I LP, by Jay Ingrassia  
**Current Zoning:** C-5

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall wooden privacy fence and a six-foot tall chain link privacy fence within the front yards of Madison Avenue and East Street (maximum fence height of five feet permitted) with the chain link fence along East Street being topped with barbed wire (prohibited, chain link fences not permitted within the front yard) and encroaching within the clear sight triangle of the driveways along East Street (not permitted).

**Current Land Use:** Self-Storage Facility  
**Staff Recommendations:** Denial  
**Staff Reviewer:** Eddie Honea, Principal Planner II

**PETITION HISTORY**

This case was initially scheduled for hearing on July 2, 2024. It was continued, for cause, by agreement between Staff and the petitioner, in order to further discuss specifics of the filing.

At the August 6, 2024 hearing, Staff requested a continuance in order to make an amendment to the address on the notice. The petitioner subsequently amended the petition to clarify that the barbed wire portion of the fence is only along East Street. Staff continues to recommend denial of the request.

**STAFF RECOMMENDATION**

Staff recommends denial of the request.

**PETITION OVERVIEW**

- This petition would allow for the installation of a six-foot tall decorative fence along the frontage of Madison Avenue, and a six-foot tall chain link fence along the East Street frontage. It would also legally establish an existing six-foot tall chain link fences along the side lot lines, but within the front yard of the subject site.



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

- At the time of filing, the fence along East Street was improved with barbed wire. The petitioner has verbally indicated this may be removed. Should this still be the intent, the petitioner should verbally withdraw this portion of the request.
- Chain link fencing is not permitted within the front yards of Commercial, Industrial or Mixed-Use Districts in order to promote an enhanced streetscape. In addition, non-chain link fencing tends to be more difficult to scale, remove or otherwise breach which has the effect of enhancing site security.
- The C-5 District, due to the intensity of uses permitted and typical application in areas with significant separation from protected districts and less intense land uses, allows for five-foot tall fencing within front yards. Fence height limitations within front yards are intended to promote aesthetic streetscapes and prevent their “canyonization”
- The clear sight triangle is an area along rights-of-way intersections or driveways where structures or landscaping between 2.5-feet and eight-feet tall are not permitted to be located. This clearance is intended to preserve lines of sight in order to reduce the potential for vehicle, pedestrian and cyclists collisions.
- Barbed or Razor wire is prohibited in all districts and applications with the exception of: enclosing livestock or agricultural uses; public safety facilities; or correctional or penal institutions. This prohibition is intended to enhance streetscapes and the injury or maiming of the public.
- The fence along East Street is comprised of a six-foot tall chain link fence and an electric sliding access gate. Staff believes that this fence can be modified or replaced with a compliant five-foot tall decorative fence that would comply with Ordinance standards. Staff would note that the properties directly across East Street include a High School (Providence Cristo Rey High School) and a public park (Columbia Park). In Staff's opinion, the location of a non-compliant fence, particularly one improved with barbed wire, in close proximity to these land uses is wholly inappropriate.
- Existing six-foot tall chain link fences are located along the northern and southern lot lines, but forward of the primary building, therefore are located within the front yard of the property. The subject site contains two out lots, being 2711 and 2719 Madison Avenues. If these were developed, this portion of the fence request would become compliant. These fences also abut other C-5 zoned properties. While Staff is not opposed to this portion of the request, for these reasons, given the scope of the petition in its entirety, Staff recommends denial.
- As proposed, the mid to southern portion of the subject site along Madison Avenue would be improved with a six-foot tall decorative fence. In Staff's opinion, a five-foot-tall fence would provide the same degree of site security and that an appropriate practical difficulty is not present warranting a favorable Staff recommendation.



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

- The subject site was originally improved as a large format retail building (K-Mart) and automobile fueling station. The automobile fueling station has since be demolished and remediated for redevelopment. In 2016 a use variance was filed to allow for an indoor self-storage facility for personal property, including recreational vehicles. It was expressly conveyed to Staff in that filing that outdoor storage and operations would not be provided. Staff recommended approval of that request largely due to this exclusion. The request was approved by the Board of Zoning Appeals on January 17, 2017.
- In 2022 another use variance was filed to allow for the existing self-storage facility in addition to the outdoor covered storage of recreational vehicles. Staff strongly opposed the request given the reasoning of support for the 2016 filing. While outdoor operations are permitted in the C-5 District, outdoor storage is only permitted for vehicles awaiting repair. General outdoor storage, which includes the type of storage permitted by the grant of 2022-UV1-036, is only permitted within the C-7 and Industrial District. Staff would note that these are the same districts that permit self-storage facilities by-right.
- Six-foot tall fences are only permitted by-right within the front yards of C-7, I-3 and I-4 Districts. This is due to the generally enhanced intensity and significant separation from less intense land uses. Staff is concerned about the growing intensity and development pattern of the subject site, particularly by variance grant, and that the site effectively operates at an intensity that is comparable to C-7, I-3 and I-4 uses. In addition, Staff would note that the site is recommended for Community Commercial, which is indicative of C-3 and C-4 zoning. Therefore, Staff believes the property to be over zoned in comparison to its comprehensive plan recommendation.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-5	
<b>Existing Land Use</b>	Self-Storage Facility	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	C-5 /D-8	North: Office Building and Single-family dwellings
South:	C-5	South: Automotive Repair
East:	SU-2	East: School
West:	C-5	West: Retail & Non-profit
<b>Thoroughfare Plan</b>		
	Madison Avenue East Street	Local Street Local Street
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	



Overlay	No
Wellfield Protection Area	No
Site Plan	April 23, 2024
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	April 23, 2024
Findings of Fact (Amended)	N/A

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Land Use Pattern Book

**Pattern Book / Land Use Plan**

- The Community Commercial typology provides for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.
- While the request is a development standard and the Land Use Pattern book generally provides guidance on land use, Staff would note that one of the conditions for Large-Scale retailing and Services is that outdoor display should be limited. Given that, in Staffs opinion, the request is primarily driven by the non-permitted outdoor storage, that the request is in direct conflict with the plan recommendation.

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

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.



### Indy Moves

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

- Not Applicable to the Site.

## ZONING HISTORY

### Subject Site:

**2022-UV1-036; 2711, 2715 and 2719 Madison Avenue;** requested Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a self-storage facility in an existing retail building (not permitted) with the outdoor covered storage of recreational vehicles, boats, and other vehicles (only storage of inoperable vehicles awaiting repair permitted); **approved**

**2019-MO3-002; 2711 Madison Avenue (subject site),** requested a Modification of Commitments of 2016-UV3-017 to extend the time limitation for Commitment Two until April 1, 2020, **denied**.

**2016-UV3-017; 2715 Madison Avenue (subject site),** requested a Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of the existing retail building into an indoor self-storage facility, including indoor boat/RV storage, **approved (subject to Plan of Operation)**.

**2001-ZON-059; 2715 Madison Avenue,** requested a rezoning of 10.337 from D-8 and C-5 district, **approved (with commitments)**.

**2001-UV1-005; 2715 Madison Avenue,** requested a Variance of use of the Dwelling Districts Zoning Ordinance to provide for a 7,396 square foot addition and a 28,804 square foot addition to an existing commercial building, **approved (with conditions)**.

**70-V3-32; 2715 Madison Avenue,** requested a Variance of use and setback requirements of the Dwelling Districts Ordinance to permit the erection and operation of a K-mort department store, with patio shop, outside sales, pole sign and signs on the building, **approved**.

### Vicinity:

**2021-UV1-033, 2726 Madison Avenue,** requested a Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a collection center/warehouse and to provide for a 3,840-square-foot building with zero percent transparency on the west facade, without west and south transitional yards, without landscaping and without sidewalks, **approved**.



Department of Metropolitan Development  
Division of Planning  
Current Planning

**2018-DV1-044; 2729 Madison Avenue**, requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an automobile repair shop, with storage of operable vehicles and equipment equal to 48% of the gross floor area and to legally establish zero-foot side and rear setbacks, with a handicapped space with deficient width and a three-foot front setback, **approved**.

**2017-ZON-010; 2829 Madison Avenue**, requested the rezoning of 4.8 acres from the D-10 district to the C-4 classification to provide for commercial uses, **approved**.

**2016-UV3-017; 2715 Madison Avenue**, requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of the existing retail building into an indoor self-storage facility, including indoor boat/RV storage, **granted**.

**2014-CZN-828 / 2014-CVR-828; 2829 Madison Avenue**, requested the rezoning of 4.48 acres from the C-5 District to the D-10 classification to provide for four, three-story multi-family buildings, with 144 units and a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a multi-family development, with a floor area ratio of 0.7036 and an open space ratio of 1.067; **approved and granted**.

**2002-HOV-026; 2640 Madison Avenue**, requested a variance of development standards of the Commercial Zoning Ordinance to provide for a trash dumpster located within the required front yard, **granted**.

**2001-UV1-005; 2715 Madison Avenue**, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a 7,396-square foot addition and a 28,804-square foot addition to an existing commercial building, **granted**.

**2001-ZON-059; 2715 Madison Avenue**, requested the rezoning of 10.337 acres from C-5 and D-8 to C-5, **approved**.

**94-UV1-17; 2715 Brill Road**, requested a variance of use to expand a parking lot for an adult entertainment business, **granted**.

**85-UV2-32; 2735 Brill Road**, requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the removal of an existing residence and construction of a 1,256-square foot addition to an existing garage to be used for the storage of commercial vehicles both inside and outside; **granted**.

**83-UV1-107; 2740 Madison Avenue**, requested a variance of use of the Commercial



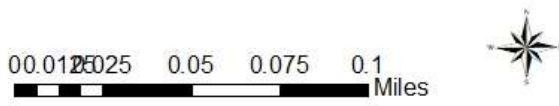
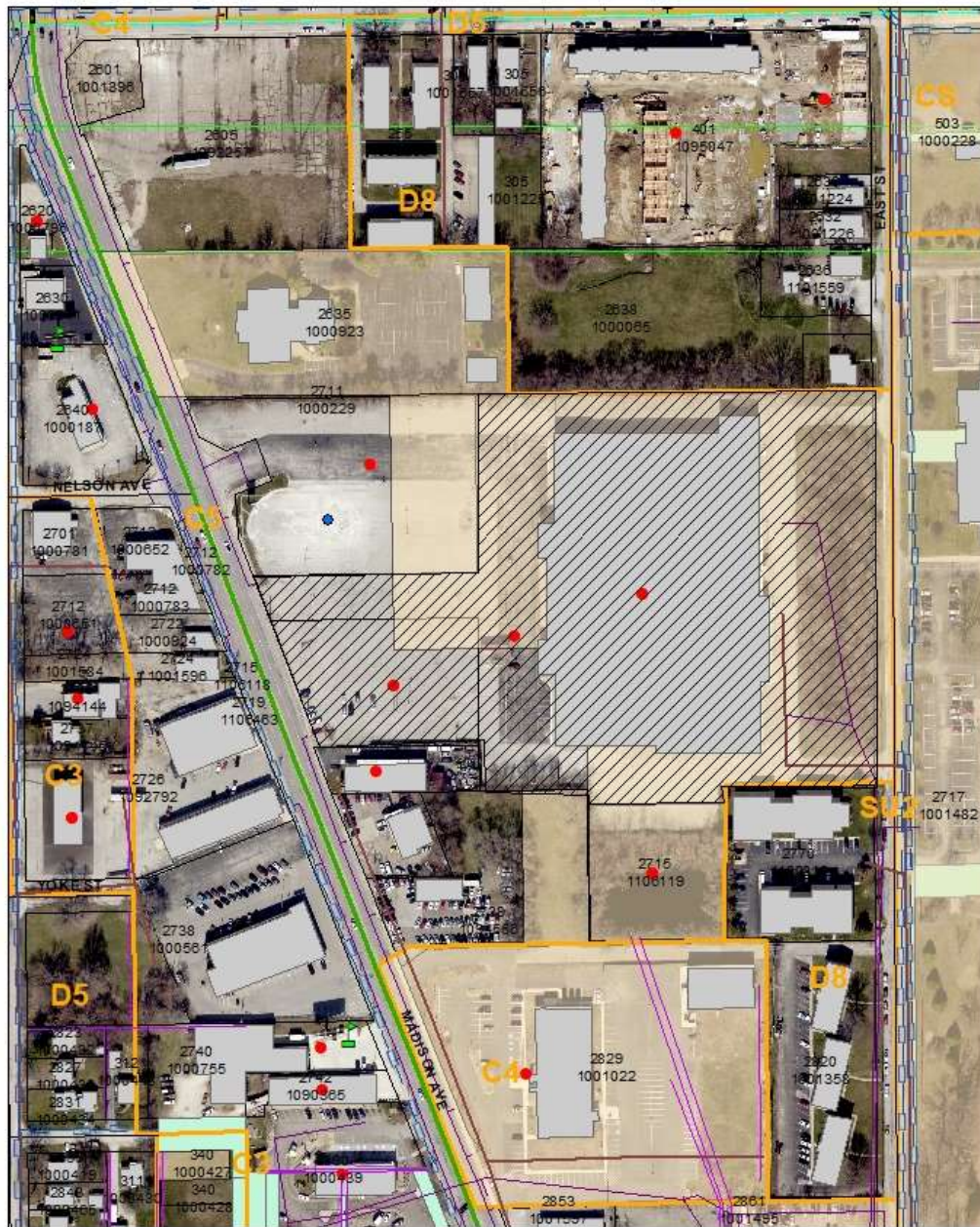


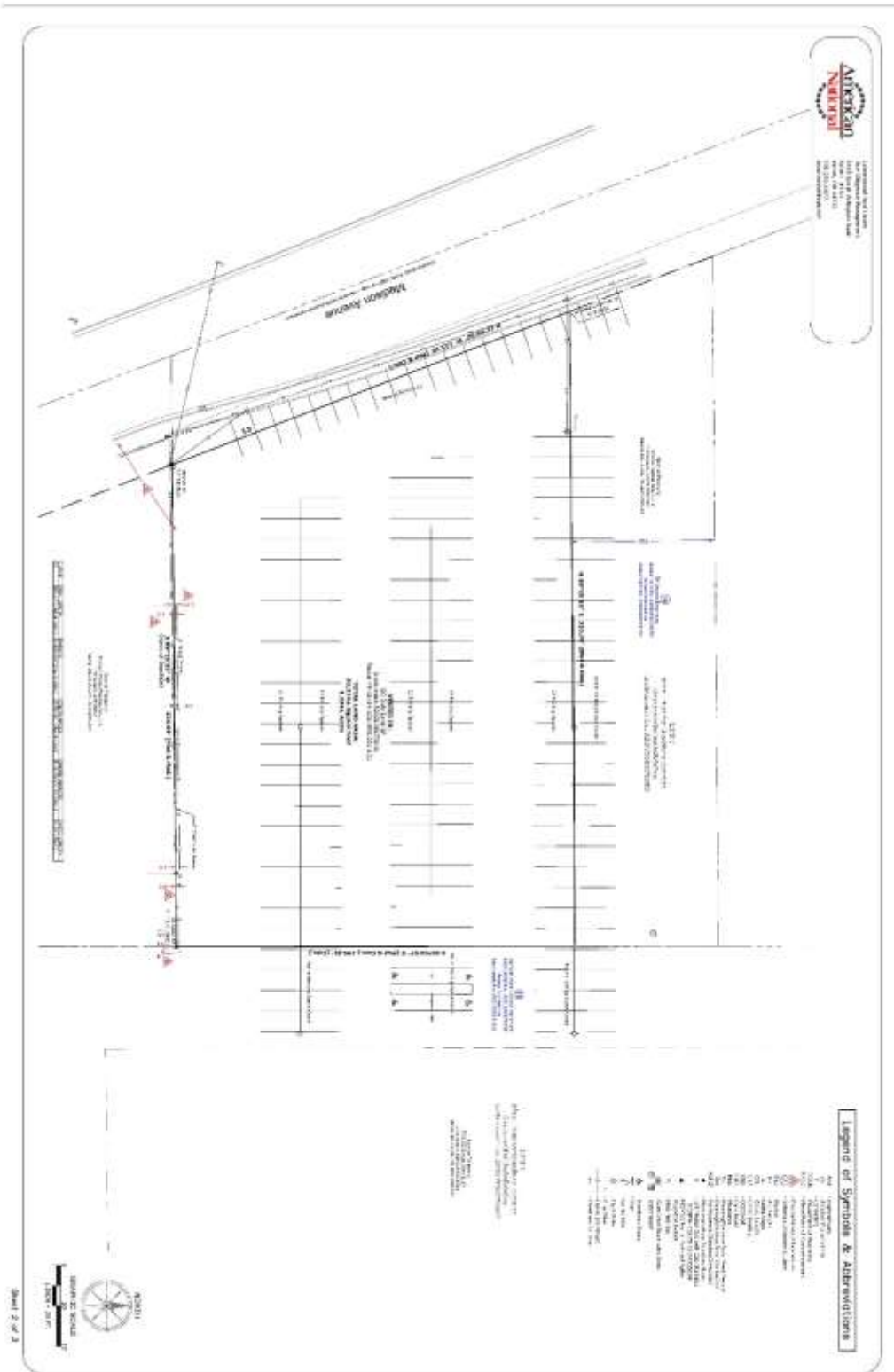
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Division of Planning  
Current Planning**

Zoning Ordinance and of the Dwelling Districts Zoning Ordinance to allow the outside display of merchandise in the required front yard of an existing retail furniture store and off-street parking on a portion of the subject property; **granted.**

**79-UV1-105; 2652 Brill Road,** requested a variance of use to provide for an automobile machine shop; **granted.**

EXHIBITS







Department of Metropolitan Development  
Division of Planning  
Current Planning

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

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

*The gate and fence will be within the property limits and will not interfere with regular public operations.*

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

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

*Use will be self-contained and has pre-existed for multiple years without any issues.*

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

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

*The gate and fence proposed to be approved in the variance were installed prior to the current management. Having to modify them to comply with code would represent a significant detriment to operations of the facility.*

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

DECISION

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

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

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



Photo One: Looking South Along Madison Avenue



Photo Two: Area of Proposed Fencing Within Front Yard of Madison Avenue



Photo Three: Primary Building, Facing East



Photo Four: Facing North Along Madison Avenue



Photo Five: Existing Fencing Within North Side Yard



Photo Six: Existing Fence Within Front Yard of East Street in Background



**BOARD OF ZONING APPEALS DIVISION I** **September 3, 2024**

**Case Number:** 2024-DV1-027

**Property Address:** 5101 East Thompson Road (approximate address)

**Location:** Franklin Township, Council District #24

**Petitioner:** BET Investments Inc., by Matthew Maple

**Current Zoning:** C-4

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two drive-throughs and stacking spaces within the front yard of Thompson Road (not permitted) and without required bypass aisles, deficient compliance with various landscaping standards, and 64 parking spaces accessory to a restaurant use (maximum 25 spaces permitted for proposed square footage).

**Current Land Use:** Vacant Commercial

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

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this petition.

**PETITION OVERVIEW**

- The subject site is near the intersection of Thompson Road and Emerson Avenue and is part of the Emerson Plaza multitenant shopping center. The plat petition 2024PLT009 was recently approved along with a waiver of sidewalk placement requirements to split this parcel into four distinct lots to allow for development of individual commercial sites. The legal description and application provided by the applicant indicates these variances would be applicable for Lot 1 (multitenant retail building), Lot 2 (chicken fast-food restaurant chain), and Lot 3 (auto wash facility) while excluded Lot 4 to be developed as a fueling station by a separate ownership group. This petition would also not be applicable for the existing Juicy Seafood restaurant on the corner of Thompson and Emerson.





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Division of Planning  
Current Planning**

- Grant of this variance would allow for Lots 1-3 to be developed with deficient landscaping as described below, and would also allow for the drive-through layouts shows within Exhibits for Lots 2 and 3. The original version of the variance language provided to the applicant by staff overstated the proposed parking allowed for Lot 2; although the maximum parking allowed for the square footage of this use is 25 spaces, the proposed amount would be 64 spaces.
- The application provided indicated relevant landscape deficiencies as a reduction in tree plantings along Thompson Road, the height of understory trees along Thompson, screening for the proposed drive-through lane along Thompson, location of plantings within 3 feet of property lines, and a reduction in the required Green Factor for each parcel. Staff also notes a small transitional yard that would be required to the west of Lot 1, and feels that the species variation of trees shown on submitted plans fulfills requirements from 744-503.G.
- The proposed layout of the drive-through units servicing Lots 2 and 3 would also require variance: neither appears to have an exclusive bypass aisle to allow for vehicles to exit the unit, and the Lot 2 layout shows stacking spaces within the front yard along Thompson Road (the definition of 'service unit' for auto washes in 744-406 means that the car wash spaces in the front yard of Emerson would not be subject to the need for variance).
- Staff was not provided with details on the specific tenants utilizing the proposed Lot 1 building or elevation renderings for any of the proposed structures, and any potential non-conformities with the amounts of parking, transparency, or internal connectivity of pedestrian walkways would not be legalized by approval of this variance.
- The property is zoned C-4 to allow 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 Comprehensive Plan recommends it for the Regional Commercial working typology to allow for general commercial and offices that serve a significant portion of the county.
- The findings of fact provided by the applicant indicate that the proposed layout would reduce congestion and enhance circulation for vehicles accessing the proposed businesses and that the landscape plans submitted would install attractive plantings that meet the intent of ordinance.
- The presence of overhead power lines complicates placement of ordinance-compliant landscaping along the Thompson Road frontage: the ordinance requires ornamental "understory" trees with a maximum height of 15 feet to be placed in these areas, but the understory trees allowed by-right all have maximum height ranges that exceed 15 feet. Additionally, a utility site is present along the western portion of this frontage that would complicate planting of new trees of any height to serve as screening for the proposed drive-through lane on Lot 2. Given these difficulties, staff would be supportive of a variance for these deficiencies if a commitment were in place to ensure that the height (15 feet) and mature spread (15-25 feet) of the understory trees proposed be maintained by the owner.



Department of Metropolitan Development  
Division of Planning  
Current Planning

- The landscape plans provided also show plantings less than 3 feet from the property line to the east and no plantings along the approximately 40-foot transitional yard that Lot 1 has along Emerson to the west. Given that the property to the east is a part of the same large commercial center and that the small yard to the west would be comprised of a private access drive with adequate transitional yard landscaping along Lot 3's boundary to the north, staff feels these are both minor deviations from ordinance requirements.
- Green Factor requirements were added to the ordinance in 2016 to ensure that new development sites are more sustainable and integrate landscaping, screening, and buffering while encouraging resilient native plantings and flexibility based on site context. These requirements were also added for aesthetic purposes and to decrease the urban heat island effect. For redevelopment of commercial sites, a minimum Green Factor score of 0.22 is required (calculated based on the amount and concentration of various landscaping elements; see Exhibits below). The proposed value of .0514 (revised up from an original .0463) is less than a quarter of the score required by ordinance, and the lack of current non-pavement development on the property should give optimal flexibility to meet these standards. Staff does not feel a practical difficulty to justify this deviation exists and recommends denial of the variance request.
- Regulations on stacking spaces and drive-through layouts exist to, among other reasons, ensure optimal circulation and egress for motorists while allowing for vibrant and pedestrian-oriented storefronts by reducing the placement of vehicles within front yards. Legalization of a drive-thru without the ability for bypass may create hardship for motorist experiencing personal or vehicular emergencies, and it is unclear why the proposed deviation would create superior circulation for the site. Staff notes that other nearby fast-food restaurants (Dairy Queen to the east and both Wendy's and Hardee's to the north) appear to meet the standards of the ordinance without issue, and adequate evidence to establish practical difficulty has not been provided to justify these deviations. Staff would recommend denial of this variance request.
- In summation, staff recommends denial of this petition due to the extreme gap between required and proposed Green Factor scores and the layout of the proposed drive-throughs. If the petition were to be approved over staff recommendation, it should be subject to a commitment to ensure maintenance of the height of trees along the Thompson Road frontage.



**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-4	
<b>Existing Land Use</b>	Vacant Commercial	
<b>Comprehensive Plan</b>	Regional Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	North: Community Commercial
	South:	South: Community Commercial
	East:	East: Regional Commercial
	West:	West: Commercial/Residential
<b>Thoroughfare Plan</b>		
Thompson Road	Primary Arterial	110-foot right-of-way existing and 119-foot right-of-way proposed
Emerson Avenue	Primary Arterial	145-foot right-of-way existing and 112-foot right-of-way proposed
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	07/02/2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	07/02/2024	
<b>Findings of Fact</b>	07/02/2024	
<b>Findings of Fact (Amended)</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends this site to the Regional Commercial working typology for provide for general commercial and offices that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are typically in large freestanding buildings or integrated centers and should provide pedestrian connection between buildings.



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

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

**Indy Moves**

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

- Not Applicable to the Site.



## ZONING HISTORY

### ZONING HISTORY – SITE

**2024PLT009**, Approval of a Subdivision plat to be known as BT Indianapolis, dividing 7.527 acres into four lots, with a waiver of the sidewalk requirement, **approved**.

**91-UV1-41**, variance of use of the Commercial Zoning Ordinance to permit an expansion of a garden shop resulting in 9,370 square feet (200 square feet permitted) and a variance of development standards to permit a reduction in the number of required parking spaces from 409 to 356, **approved**.

### ZONING HISTORY –VICINITY

**2020DV2053B ; 5255 E Thompson Road (east of site)**, Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to permit exit stacking spaces in the front yard of Thompson Road (not permitted), **approved**.

**95-HOV-23 ; 5095 E Thompson Road (northwest of site)**, variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a drug store with a drive-through customer service window located on the west side of the building, being 87.92 feet from a residential zoning district (drive-through service units not permitted on the side or rear of a building and not permitted less than 100 feet from a protected district), **approved**.

**94-HOV-130 ; 5079 E Thompson Road (west of site)**, variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a drug store with a drive-through customer service window located on the south side of the building being 49 feet from a residential zoning district (drive-through service units not permitted on the side or rear of a building and not permitted less than 100 feet from a protected district), **approved**.

**88-UV2-122 ; 5130 E Thompson Road (north of site)**, variance of use and development standards of the Commercial Zoning Ordinance to provide for a restaurant drive-through window within 100 feet of a residential district and within the required front yard (seventy-feet required), **denied**.

**87-UV3-101 ; 4925 S Emerson Avenue (north of site)**, variance of use of the Commercial Zoning Ordinance to provide for a restaurant with drive-through and carry-out service within 100 feet of a residential zoning district, **withdrawn**.

**EXHIBITS**

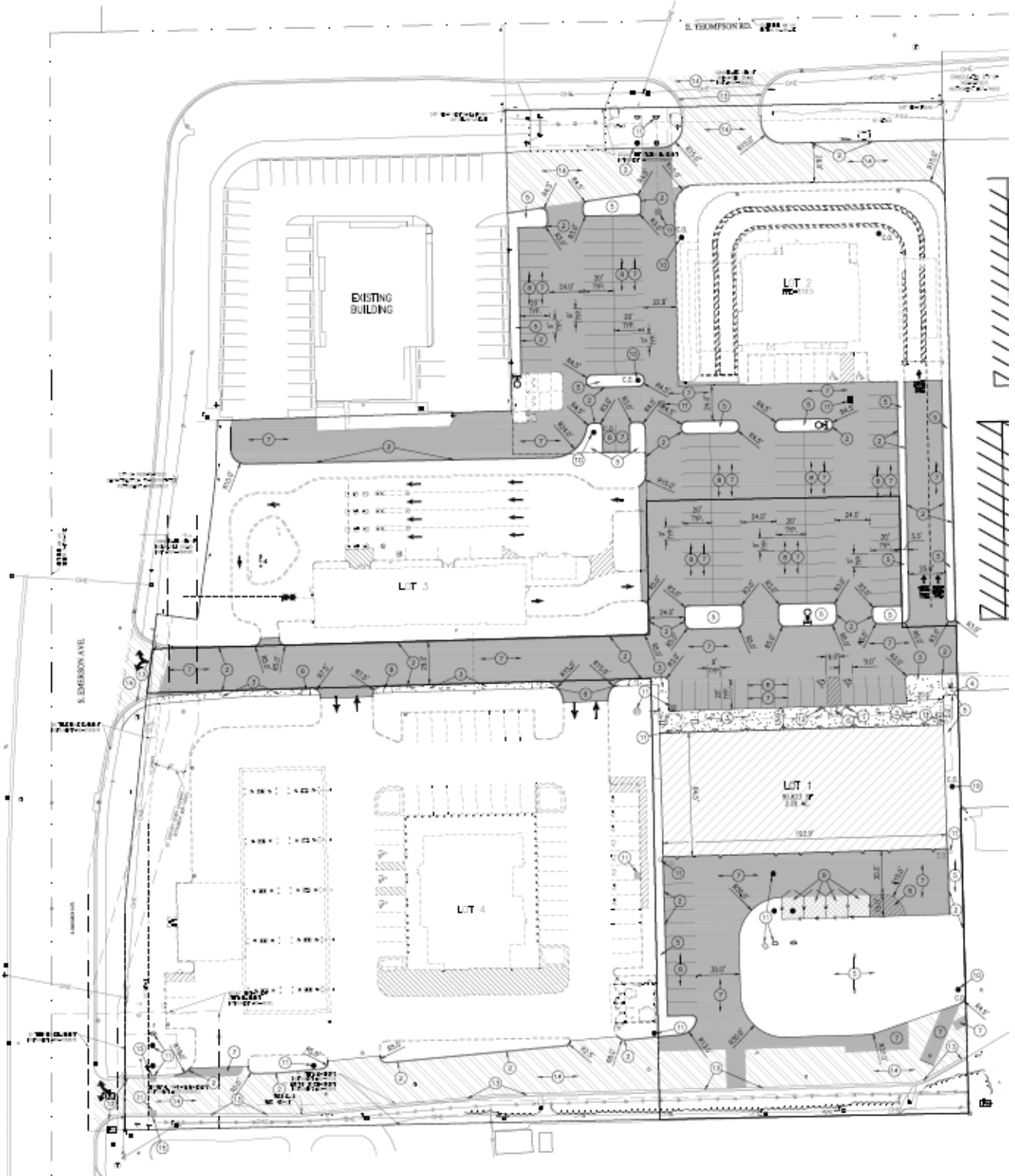
**2024DV1027 ; Aerial Map**



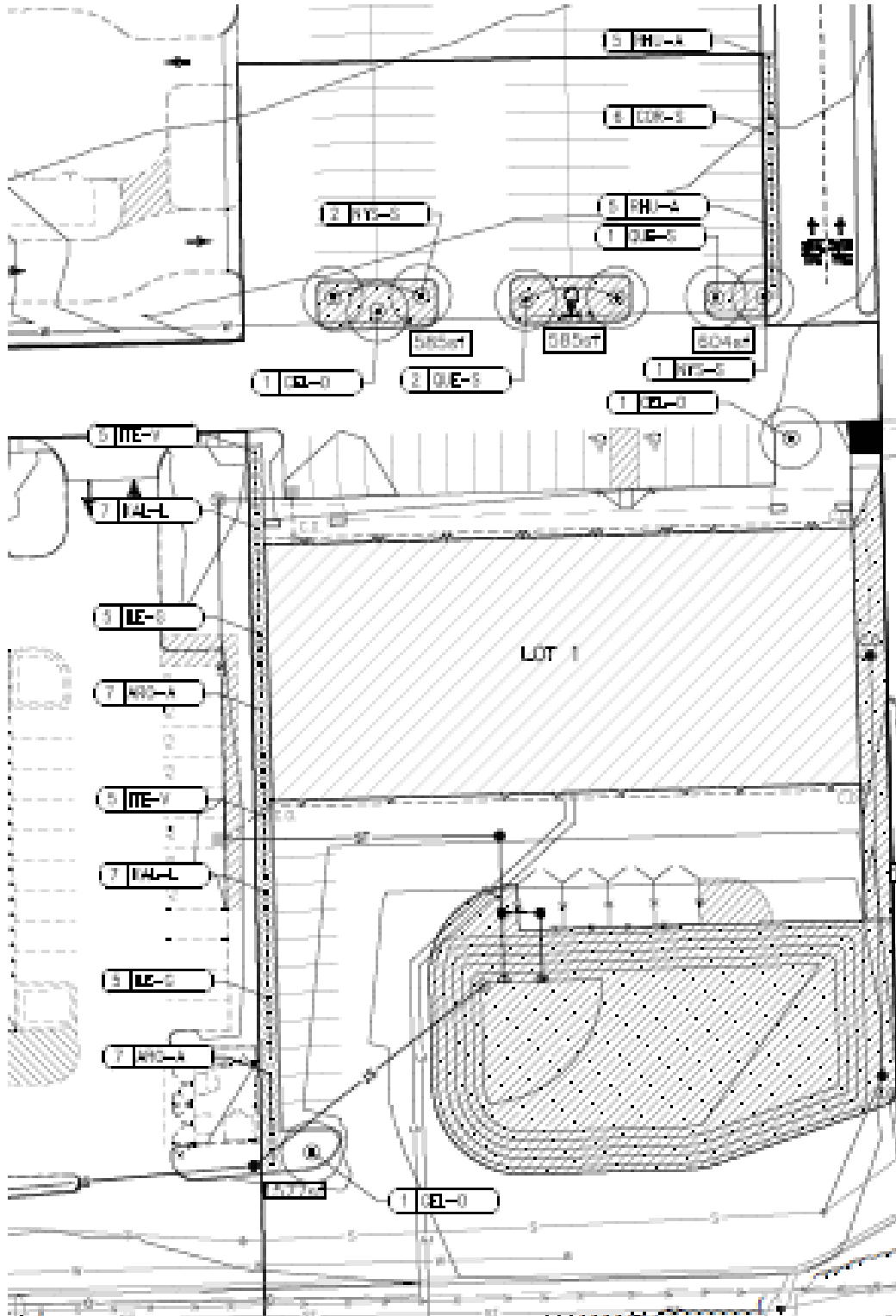


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**2024DV1027 ; Site Plan**



**2024DV1027 ; Lot 1 Detail + Landscaping**











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**2024DV1027 ; Lots 1-3 Green Factor Calculation**

Table 744-509-1: Green Factor Calculation				
Project Name or Address:		BT Indianapolis - Lots 1, 2 and 3		
Column A	Column B	Column C	Column D	Column E
Type of Area or Element	Number of Plants	Measured Area or Area Equivalent in Sq. Ft.	Multiplier	Score
Parcel Size		220,506		
<b>Landscaped areas with uncompacted soil depth less than 24 inches</b>				
Area of lawn, grass pavers, ground covers, or other plants typically less than 3 ft tall at maturity		19,769	0.2	3,954
Large shrubs or ornamental grasses [1]	270	16 sq. ft. per	0.3	1,296
<b>Landscaped areas with uncompacted soil depth of 24 in. or more</b>				
Required Yards with mulch, ground covers, grass pavers, or other plants typically less than 3 ft tall at maturity			1.0	-
Areas other than required yards with mulch, ground covers, grass pavers, or other plants typically less than 3 ft tall at maturity			0.7	-
Large shrubs or ornamental grasses [1]		16 sq. ft. per	0.3	-
Small trees [2]	58	50 sq. ft. per	0.3	870
Medium trees [3]	0	100 sq. ft. per	0.4	-
Large trees [4]	42	200 sq. ft. per	0.4	3,360
<b>Undisturbed Areas [5]</b>				
Undisturbed areas less than 10,000 sf		2,322	0.8	1,858
Undisturbed contiguous areas 10,000 sf or more		-	1.5	-
Significant Trees over 10 in. DBH preserved	0	250 sq. ft. per	0.5	-
Heritage Tree over 8 in. DBH preserved	0	250 sq. ft. per	0.5	-
Tree Preservation Credits as per Sec. 503.L for preserved Significant or Heritage Trees	0	250 sq. ft. per	0.5	-
<b>Building or Structural Features</b>				
Permeable paving for walkways, parking lots, etc		-	1.2	-
Photocatalytic pavement or building exterior		-	1.5	-
White roof area		-	0.1	-
Vegetated walls - area of wall covered		-	0.7	-
Infiltration areas, underground chambers or surface, such as sand filters		-	1.5	-
<b>Green roofs</b>				
Area of green roof with less than 2 in. but not more than 4 in. growing depth		-	1.2	-
Area of green roof with over 4 in. growing depth		-	1.4	-
<b>Off-site improvements</b>				
Tree credit to the Tree Fund [6]		100 sq. ft. per	0.4	-
<b>Bonuses applied to factors above</b>				
Bioretention areas such as rain gardens, stormwater planters, and bioretention swales		-	1.5	-
Landscaping that consists entirely of drought-tolerant or native species, as defined by the Administrator		-	0.4	-
Landscaped areas where at least 50% of annual irrigation needs are met through the use of harvested rainwater or grey water		-	0.2	-
Landscaping visible to passersby (adjoining & up to 85 ft depth)		-	0.1	-
Landscaping to be maintained in food cultivation		-	0.2	-
Landscape area utilizing structural soil		-	0.4	-
<b>Total Green Factor Score</b>				<b>0.0514</b>



**2024DV1027 ; Findings of Fact**

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

The proposed improvements will create a safe and efficient traffic flow throughout the site and surrounding parking areas and adjacent streets. The proposed design has been configured to utilize the best available points of access to the drive-thru to minimize traffic effects that would be transferred to the adjoining streets. Positioning the drive-thru in the side and front yards allows the majority of the stacking to occur away from the front, and reducing congestion in the higher traffic areas adjacent to the entrances. The alignment also keeps a separation of traffic from the guest parking to enhance circulation. The landscaping improvements that are proposed will not be injurious to the public and will only be a benefit to reduce the existing impervious areas.

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

The proposed site plan would work in conjunction with the surrounding commercial areas. These variances would not alter the character, but but would allow these lots to be developed and safely account for traffic. The landscaping that is being added will only enhance the area and the adjacent properties.

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

The proposed site plan has been configured to help create safe and efficient traffic flow throughout the site and the surrounding roadways and existing parking lot. The proposed drive-thru variances would allow the petitioner to best utilize the site to maximize circulation and minimize traffic congestion. The Landscaping requirements do not fit will with redevelopment and create practical difficulties with modifying an entirely impervious existing space into a developable area that meets all of the standards. The proposed landscaping variances would allow for the intent of the ordinances to achieved with the greenspace that is being added to the development lots.

**2024DV1027 ; Photographs**



Photo 1: Lot 2 Building Site + Overhead Power Lines from Thompson to North



Photo 2: Lot 1 Building Site + Vacant Building (to be removed)

**2024DV1027 ; Photographs (continued)**



Photo 3: Lot 3 Building Site from Emerson to West



Photo 4: Adjacent Property to East (August 2018)

**2024DV1027 ; Photographs (continued)**



Photo 5: Adjacent Property to North



Photo 6: Adjacent Property to West



## BOARD OF ZONING APPEALS DIVISION I

September 3, 2024

**Case Number:** 2024-UV1-009 (Amended)  
**Address:** 1307 South High School Road (approximate address)  
**Location:** Wayne Township, Council District #17  
**Zoning:** C-4 (TOD)  
**Petitioner:** Sohum Hotels Indy West LLC, by Russell Brown  
**Request:** Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 122-unit hotel (not permitted), with one primary entry (four required), and 111 parking spaces (122 parking spaces required), and a chain link fence within the front yard of Washington Street (not permitted).

**Current Land Use:** Vacant parking lot.

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

## PETITION HISTORY

This petition was previously automatically continued at the request of the petitioner, from the July 2, 2024, hearing, to the August 6, 2024, hearing, and continued for cause at the request of the petitioner from the August 6, 2024, hearing, to the September 3, 2024, hearing.

## STAFF RECOMMENDATION

Staff recommends **approval** of this petition as amended.

## PETITION OVERVIEW

- ◇ The request would provide for the construction of a 122-unit hotel, with one primary entry, and 111 parking spaces, and a chain link fence within the front yard of Washington Street.
- ◇ The proposed use is permitted in the existing C-4 district, but this site is also located in the Transit Oriented Development secondary or overlay district (TOD), which limits the scale of the proposed use. The TOD does allow for lodging uses up to 100 guest rooms in the C-4 district. Lodging uses that are larger than 100 units are not permitted within the C-4 district in the TOD, thus a variance of use is required to allow for the proposed use based on the hotel size.
- ◇ Hotels are limited in size within the TOD as larger uses tend to have a higher volume of automobile traffic, instead of customers that access the existing transit infrastructure.
- ◇ Although this site is still designated as in the TOD. The proposed Blue Line route has been amended in that it will now access the airport via Holt Road and the I-70 Interstate, instead of this portion of West Washington Street. The TOD layer has not been amended to reflect this recent change, so the variance of use is still required.





- ◇ Staff also feels that the due to its proximity to the airport, the proposed hotel use would not be a large traffic generator in that some customers may arrive at the site from the airport via shuttle, taxi or even the existing regular bus line. In addition, it would be occupying an out lot location for a commercial retail site that has remained under-developed, reducing a portion of its large empty parking lot. In Staff’s opinion, this request would be a minor deviation and consistent with the adjacent commercial properties.
- ◇ In addition, the petition is requesting a reduced amount of parking spaces form the required 120, to 111 spaces. This reduction will also encourage the reduction of onsite vehicular traffic due to the reduced amount of parking spaces. Again, encouraging users to access available shuttle, taxi or the existing regular bus line if arriving from the airport. In Staff’s opinion, this request would be a minor deviation.
- ◇ The request for one primary entry, where four entries are required is due to the site location being adjacent to an Indiana Department of Transportation (INDOT) interstate exit right of way for the I-465 Interstate that does not allow for any curb cuts or entrances along this portion of West Washington Street. The site does have a primary easement that allows for access to South High School Road through the adjacent commercial retail parking lot. Two additional access entries to South High School are also available via the adjacent parking lot.
- ◇ Staff feels that this limitation by INDOT is a practical difficulty in that any use on this site would be limited in the number of primary entry’s due to the INDOT requirement. Therefore, in Staff’s opinion, this request would be a minor deviation.
- ◇ The request for a chain link fence in the front yard, is another requirement imposed by INDOT to limit any pedestrian traffic from accessing the adjacent I-465 interchange. As it is on the joint property line placed there by INDOT, any removal would need to be with INDOT’s permission. In Staff’s opinion, this request would be a minor deviation.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-4	
<b>Existing Land Use</b>	Parking lot	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Overlay</b>	Blue Line TOD	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North: C-4	Commercial shopping center
	South: C-S	Motel
	East: C-4	I-465 Interstate interchange
	West: C-4	Automotive repair and Commercial Bank
<b>Thoroughfare Plan</b>		
South High School Road	Primary Collector	100-foot existing and proposed right-of-way.



<b>Context Area</b>	Compact
<b>Floodway / Floodway Fringe</b>	No
<b>Wellfield Protection Area</b>	No
<b>Site Plan - Amended</b>	August 13, 2024
<b>Elevations</b>	N/A
<b>Commitments</b>	N/A
<b>Landscape Plan</b>	N/A
<b>Findings of Fact - Original</b>	May 27, 2024

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Comprehensive Plan recommends Community Commercial uses for the site.

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends the Community Commercial typology which provides for low intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

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

- The Transit-Oriented Development (TOD) overlay is intended for areas within walking distance of a rapid transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area.
- Modified Uses
  - Small-Scale Offices, Retailing, and Personal or Professional Services - Development should be supportive of pedestrian activity (e.g., compact, connected to a pedestrian system, no more than one third of the frontage used for parking.)
  - Large-Scale Offices, Retailing, and Personal or Professional Services - Development should be supportive of pedestrian activity (e.g., compact, connected to a pedestrian system, no more than one third of the frontage used for parking.)
  - Large-Scale Schools, Places of Worship, Community- Serving Institutions/Infrastructure, and Other Places of Assembly - Development should be supportive of pedestrian activity (e.g., compact, connected to a pedestrian system, no more than one third of the frontage used for parking.)
  - Small-Scale Parks - Bollards or other vehicular barriers should be present.



**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

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

- Not Applicable to the Site.

**ZONING HISTORY**

**2019-DV1-028; 12159 South High School Road (west of site)**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 13-foot front setback and zero-foot side setback for a freestanding sign within approximately 80 feet and 100 feet of existing freestanding signs, **granted**.

**2014-DV3-048; 1225 South High School Road (north of site)**, requested a variance of development standards of the Sign Regulations to increase the height of an existing 32-foot tall, 144-square foot freestanding sign to 40 feet, within approximately 80 feet and 195 feet of existing freestanding signs, **granted**.

**2008-DV2-063; 1220 South High School Road (northwest of site)**, requests a variance of development standards of the Sign Regulations to legally establish 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 155 feet of a protected district, **granted**.

**2008-DV2-064; 1155 South High School Road (north of site)**, requests a variance of development standards of the Sign Regulations to legally establish 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**.

**95-V1-110; 6240 West Washington Street (west of site)**, requests a variance of development standards of the Sign Regulations to provide for the installment of illuminated awnings signs, exceeding the front, side, and rear façade restrictions, and illumination within 600 feet of a protected district, **granted**.

**86-V1-78; 1259 South High School Road (west of site)**, requests a variance of development standards of the Sign Regulations relative to the number of integrated center signs to allow for the replacement of an existing sign with a new sign in the same location at equal or less total square footage, **granted**.

RU

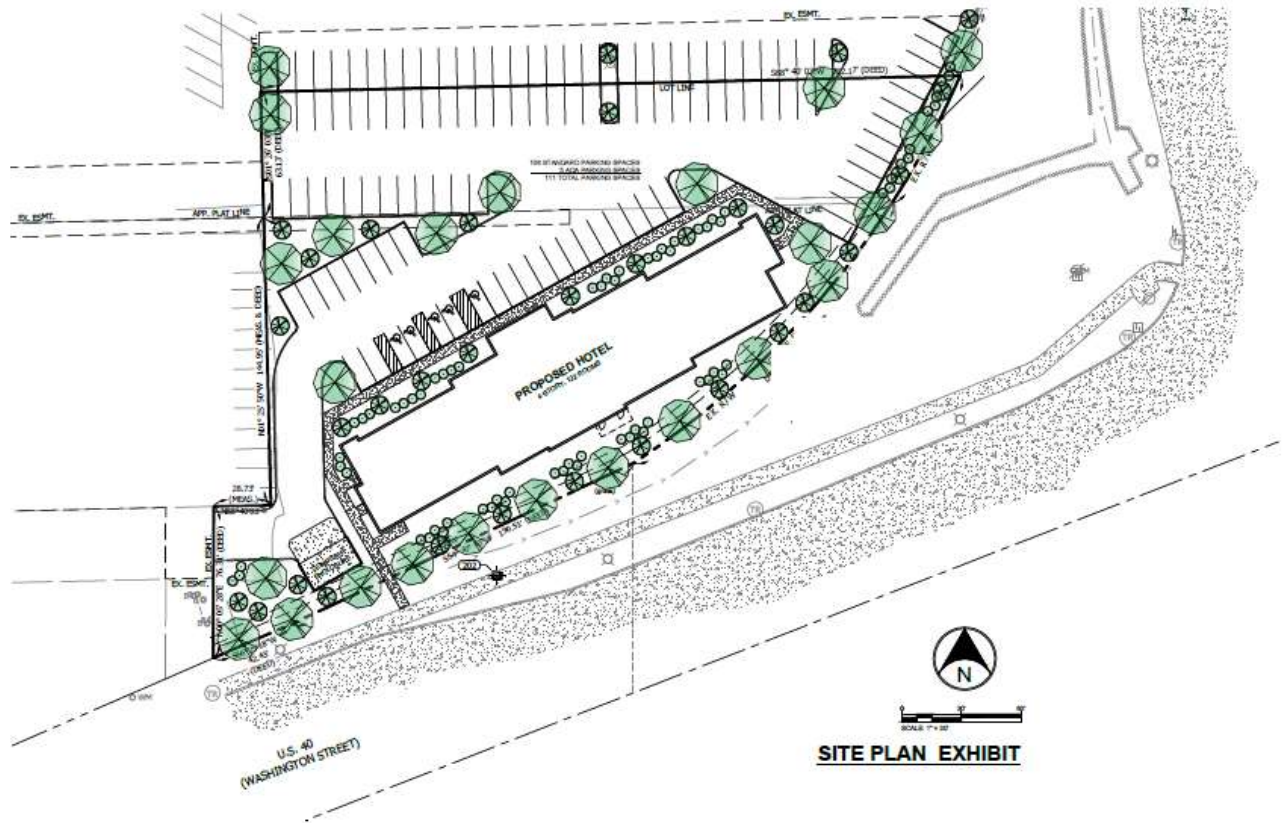
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**EXHIBITS**

Location Map



**Site Plan – Amended 8-13-2024**



**Photographs**



Subject site West Washington Street frontage, looking east.



Subject site, looking south towards West Washington Street.



Subject site, proposed parking lot area, looking east



Subject site primary entry from South High School Road via an easement through the adjacent commercial retail parking lot, looking west.



Adjacent commercial retail intergaged center, looking north.



Adjacent commercial retail, looking west.





Adjacent commercial motel, pre-dating the TOD, looking south.



Adjacent I-465 interstate interchange, looking east.



**BOARD OF ZONING APPEALS DIVISION I** **September 3, 2024**

**Case Number:** 2024UV1015  
**Property Address:** 3402 Georgetown Road (approximate address)  
**Location:** Wayne Township, Council District #5  
**Petitioner:** Georgetown Parcel I LLC, by Thomas Pottschmidt  
**Current Zoning:** C-3 (FF)

**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an existing liquor store (not permitted) within nine feet of a protected district (100-foot separation, 20-foot transitional yard required) with zero-frontage trees and deficient landscaping (eight trees, landscaping required) and 12 parking spaces and zero bicycle parking spaces provided (14 spaces, three bicycle spaces required).

**Current Land Use:** Commercial

**Staff**

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

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **denial** of the request.

**PETITION OVERVIEW**

- The subject site is located at the northwest corner of the intersection of 34<sup>th</sup> and Georgetown and is currently improved with a liquor store with a building area of 3380 square feet. The property is surrounded by fueling stations to the south and east and multitenant commercial development to the north and west. It is also directly adjacent to D-5 residential zoning to the north and northwest.
- In 1988, the property was rezoned from D-4 to C-3 to allow for the package liquor store use (allowed by-right within C-3 at the time but disallowed under current ordinance). Any expansion of the legally non-conforming use would require a variance of use as well as compliance with applicable use-specific standards (proximity to protected districts, placement of cameras, cash registers, and trash receptacles, etc.).



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- The proposed site plan provided with this application indicates an expansion of the existing use to a building area of 4965 square feet. In addition to requiring a use variance for the expansion of the non-conformity and its proximity to a protected district, variances of development standards would also be required for the required transitional yard separation as well as deficient existing landscaping and amounts of vehicle and bicycle parking.
- Available aerial and street-level photography and testimony from a concerned neighbor indicate that this site may also house the accessory use of outdoor seasonal produce sales. The area utilized for this potential use would likely be the southeastern portion of the site nearest to the intersection and that a trailer stored on the western portion of the property may also be affiliated. Staff would note that such a use could be cited for a zoning violation if it did not meet the standards of 744-306.S within the ordinance and may have an impact on maneuverability and availability of parking at the subject site.
- 3402 Georgetown Road is zoned C-3 (Neighborhood Commercial district) to allow for an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Similarly, the Comprehensive Plan recommends it to the Community Commercial typology to allow for low-intensity commercial and office uses that serve nearby neighborhoods.
- Additionally, most of the property is located both within a 100-year floodplain (floodway fringe) as well as being within an Environmentally Sensitive Area overlay as defined by the Comprehensive Plan. The Plan recommends that development of this land use type should either preserve or add at least 20% of the entire parcel as tree canopy or naturalized area.
- The plan of operation provided for this business by the applicant indicates that the business would be open until 2 to 3 am on most nights and that it would be staffed by one cashier and 2 stockers. Sales of both cold and warm package liquor would be conducted typically to one customer at a time, and weekly deliveries would be made by a “mid-sized” truck. No hazardous materials would be on-site, and the existing dumpster to the northwest would be utilized for waste. No mention of outdoor seasonal produce sales was made.
- Findings of fact provided by the applicant indicate that the use would beautify and present no harms to surrounding properties while allowing the business to sell additional alcohol within a less cramped space, and that no additional landscaping should be required since the site hasn’t historically been landscaped. Staff disagrees that a proposal with such deficiencies in landscaping would constitute substantial beautification and does not feel that an appropriate remedy for the small lot size would be development in even closer proximity to residential areas and zonings. Staff also disagrees that a lack of landscaping at the site in the past constitutes a substantial site-specific practical difficulty given that the ordinance has specific exemptions for landscaping rules at previously developed sites that would not be applicable here.
- While the liquor store use was allowed by-right in 1988 at the time of rezoning, approval of this variance would constitute a dramatic expansion of the currently non-conforming use in a manner



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that would result in the property only being separated from the property line of residential areas to the northwest by 10 feet. While the western side setback of 2 feet would be allowed by-right, ordinance rules require a 20-foot separation from residential zoning and uses to the north and northwest, and staff does not feel that sufficient practical difficulty exists to justify this encroachment into the required transitional yard setback.

- Since the expansion of the building would result in a new square footage more than 125% of the original area, no exemptions to compliance with current landscape requirements would apply. Areas of current non-compliance include the lack of trees and deficient width of landscape strips along both frontages and the lack of landscaping between this property and the D-4 zoning to the north. Staff notes that the proposal doesn't meet comprehensive plan guidance for landscaping within environmentally sensitive areas and would place the building much closer to a protected district without required buffering.
- Similarly, there would be no exemptions to parking minimums for the property since the proposed expansion would increase the number of parking spaces required at a rate higher than 15% of the current requirement. Retail uses with this square footage would require 14 spaces, and the site plan showing 12 spaces is below this requirement while also not showing any required bicycle parking spaces. Staff is concerned that an expansion of this size on a small lot that may already contain outdoor seasonal produce sales would result in higher demand for parking on a parcel with insufficient parking spaces and constitute overdevelopment of the property.
- Overall, staff feels that an expansion of this size would not be appropriate for any retail use within such close proximity to residential areas but would be especially inappropriate given that the business would remain open until 2-3am on most evenings. This, coupled with the lack of transitional yard landscaping to the north and northwest and the reduction in available parking, could create various negative externalities of noise and light pollution and would lead staff to recommend denial of the variance application.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-3 (FF)	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	D-4	North: Commercial
South:	C-3	South: Commercial
East:	C-3	East: Commercial
West:	C-3	West: Commercial
<b>Thoroughfare Plan</b>		
Georgetown Road	Secondary Arterial	90-foot existing right-of-way and 80-foot proposed right-of-way
34 <sup>th</sup> Street	Primary Collector	90-foot existing right-of-way and 102-foot proposed right-of-way



<b>Context Area</b>	Metro
<b>Floodway / Floodway Fringe</b>	Yes
<b>Overlay</b>	Yes
<b>Wellfield Protection Area</b>	No
<b>Site Plan</b>	06/25/2024
<b>Site Plan (Amended)</b>	08/14/2024
<b>Elevations</b>	08/26/2024
<b>Elevations (Amended)</b>	N/A
<b>Landscape Plan</b>	N/A
<b>Findings of Fact</b>	06/25/2024
<b>Findings of Fact (Amended)</b>	08/26/2024

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends this site for the Community Commercial typology which provides for low-intensity commercial and office uses that serve nearby neighborhoods. Examples of contemplated land uses include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.
- The site is predominantly located within an Environmentally Sensitive Area overlay which is intended for areas either containing high quality woodlands, wetlands, or other natural resources that should be protected or that present an opportunity to create a new environmental asset. Development should fully preserve or replace any wetlands or woodlands impacted by development and should preserve or add at least 20% of the entire parcel as tree canopy or naturalized area.

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

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**



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

- Not Applicable to the Site.

**Indy Moves**

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

- Not Applicable to the Site.



## ZONING HISTORY

### ZONING HISTORY – SITE

**88-Z-262**, rezoning of 0.63 acres from the D-4 zoning classification to the C-3 zoning classification to allow the existing commercial use to continue its legal non-conformity (package liquor store) under the appropriate zoning classification, **approved**.

**88-UV1-104**, variance of use of the Dwelling Districts Zoning Ordinance to provide for an addition to a package liquor store, **withdrawn**.

### ZONING HISTORY – VICINITY

**2011DV1040 ; 3401 Georgetown Road (east of site)**, variance of development standards of the Commercial Zoning Ordinance to provide for a gasoline station / convenience store, with access aisles with five-foot front setbacks along 34th Street and Georgetown Road, (minimum 10-foot front setbacks required), **approved**.

**2006DV3021 ; 3350 Georgetown Road (south of site)**, variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a 2,368 square foot building with a nine-foot rear setback and transitional yard (minimum ten-foot rear setback and transitional yard required), and with a kerosene dispenser and a portion of one parking space in the rear transitional yard (not permitted), and with a phone, air pump and vacuum in the required ten-foot front landscape strip along Georgetown road (not permitted), and with a trash enclosure located between the established front building line and Georgetown Road (not permitted), and to legally establish a five-foot landscape strip along approximately 25 feet of frontage along 34th Street (minimum ten-foot landscape strip required), **approved**.

**96-Z-186 ; 3361 Georgetown Road (southeast of site)**, rezoning of 0.55 acres from D-5 to the C-4 zoning classification to allow for an automobile repair garage, **approved**.

**81-Z-131 ; 3350 Georgetown Road (south of site)**, rezoning of 1.6 acres from D-5 to the C-3 zoning classification to allow for a gasoline filling station, **approved**.

**73-UV3-30 ; 3410 Georgetown Road (north of site)**, variance of use, setback street frontage, side, rear and transitional yard requirements and issuance of an Improvement Location Permit on an easement, to permit erection of a 222 unit motel, with office and pole sign, as per plans filed, **withdrawn**.

**EXHIBITS**

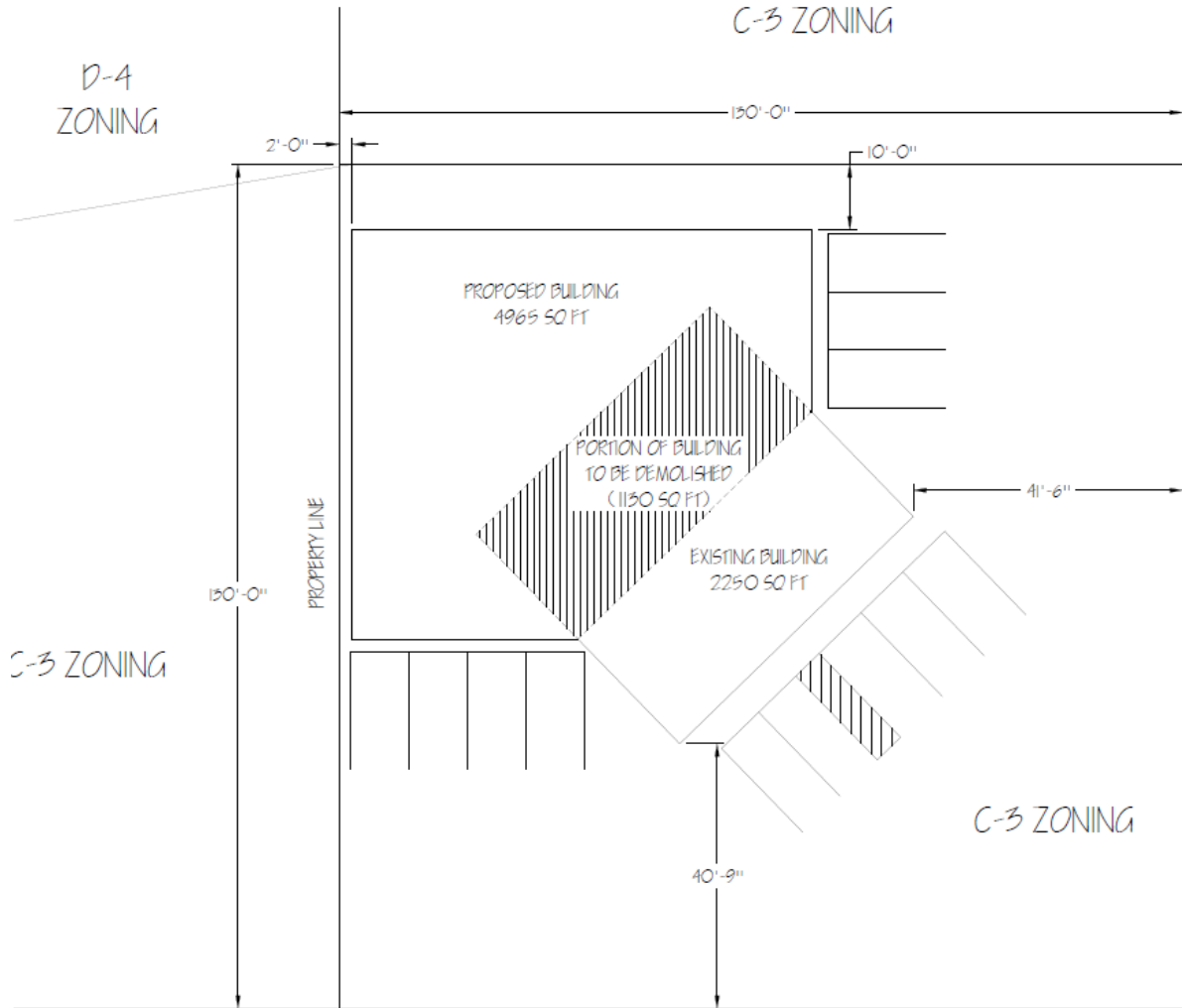
**2024UV1015 ; Aerial Map**







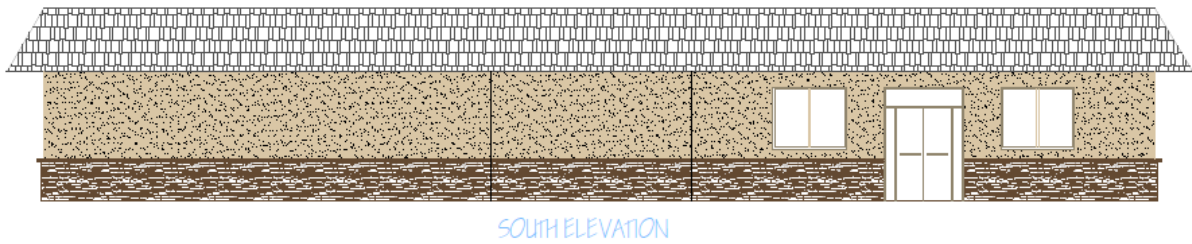
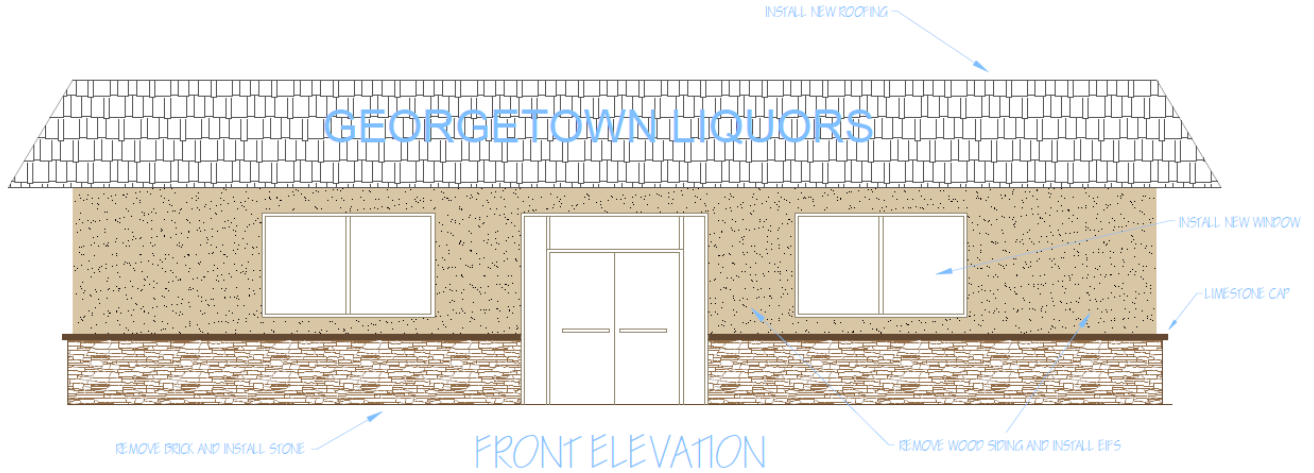
**2024UV1015 ; Site Plan**



34TH STREET 40' R/W

(Staff note: adjacent land to the north of the property is zoned D-4, not C-3)

**2024UV1015 ; Front Elevation**





## **2024UV1015 ; Plan of Operation**

### **Workforce:**

Typically, there is one cashier and at times 2 additional stockmen. The hours of operation are:

M-Th: 7 a.m. to 2 a.m.

Fri-Sat: 7 a.m. to 3 a.m.

Sun: 12 p.m. to 8 p.m.

### **Clients and Customers:**

Customers are from the general population and can be from all different backgrounds. They typically park on site although there are some customers within walking distance. There could be upwards of 3 customers at a time depending on the day and hour. But generally speaking, they come one at a time.

### **Processes Conducted on Site:**

The store requires stocking of all items that we sell. This goes for both refrigerated items and non-refrigerated items. A cashier is required at all hours of operation. There are cameras located by the cashier and bullet-proof glass exists for protection.

### **Materials Used:**

There are no hazardous materials on site.

### **Shipping and Receiving:**

Usually, a mid-sized truck is sent to our store that contains our order of stock. We stock during the day at all hours from 9 a.m. to 5 p.m. Depending on the order it can take an or so to unload an order. We have orders come about once a week.

### **Waste:**

The waste generated from the store is minimal as the cardboard boxes are recycled. Waste is handled with trash bags and taken out to the dumpster by non-cashier employees.



**2024UV1015 ; Findings of Fact (Use)**

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

there is nothing associated with the addition that any harm could occur to someone and it certainly is not immoral to build an addition. The general welfare of the community will actually improve due to the higher level of aesthetics.

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

Actually, it is our belief that the values of the adjoining properties will increase in value as this building will become a much better looking building. The addition will have no ill effects on the properties adjacent to this one.

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

This liquor store is very tight on interior space. Unfortunately for some reason it is not zoned C-4 or C-5 which would allow an addition to the liquor store.

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 interior of the building is very tight with tight aiseways. Once this addition is finished it will open up the store significantly. This addition will allow for a larger cooler and for the owner to purchase more in bulk.

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

This building is a liquor store already. Therefore an addition and remodeling will only make the community better. There will be no interference caused to the adjacent properties as this addition will make for a better store.



Department of Metropolitan Development  
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Current Planning

**2024UV1015 ; Findings of Fact (Landscaping/Parking)**

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

Historically, there has not been any room for landscaping in the front of the building. If landscaping was planted in this area it would cause vehicular accidents as there would not be enough room for vehicular movement. (see attached satellite view from Google Maps). Landscaping has not been on this property for decades thus not having it in the future will not be a burden to the community in any way - health, safety, morals, and general welfare. Actually, if landscaping was put on this property it would prohibit clear views of traffic at the intersection.

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:

As mentioned, landscaping has not been on this property in decades and thus values of the adjacent properties will be effected by not having landscaping in the future.

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

The current parcel historically never had any land available for landscaping other than behind the building which is surrounded by a privacy fence. This would make the landscaping irrelevant. The front of the building that is exposed to the public is all asphalt which is required for the movement of vehicles. If landscaping was installed in the front of the building it would render the property useless as there would be no room for the building with parking.

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

The current liquor store currently has ten parking spaces and really no clear handicap parking stall. An addition of two parking spaces will be adequate even with the addition as the retail space will not expand much in relation to the additional storage space. Thus the traffic will not increase much and twelve spaces will be more than adequate. The typical liquor store customer will not spend much time in the store as opposed to like a clothing store. They get what they want, pay for the item, and leave. The 12 spaces will never be used. Probably 6 would suffice.

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

The number of parking stalls will not adversely effect the use or the value of the adjacent properties as with this remodeling the parking lot will be changed appropriately unlike its current state (see attached street view). The current parking is in violation with the triangle view of the intersection and it has been like this for decades. If anything, it will increase the value of the adjacent properties and be more safe.

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

When it comes to retail, especially a liquor store, the larger the order of merchandise the better the pricing. If the addition had to be smaller just because of the lack of two parking spaces it would adversely effect the owner's pricing on goods and thus reduce his profits.

**2024UV1015 ; Photographs**



Photo 1: Subject Site Viewed from Southwest



Photo 2: Subject Site Viewed from Northeast

**2024UV1015 ; Photographs (continued)**



Photo 3: Subject Site Viewed from West



Photo 4: Existing Dumpster (NW of Property) + Residence Viewed from South

**2024UV1015 ; Photographs (continued)**



Photo 5: Adjacent Property to West



Photo 6: Adjacent Property to North



**2024UV1015 ; Photographs (continued)**



Photo 7: Adjacent Property to South



Photo 8: Adjacent Property to East