



Board of Zoning Appeals Board of Zoning Appeals Div. I (December 6, 2022) Meeting Agenda

Meeting Details

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

Date: Tuesday, December 06, 2022 **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 for Public Hearing

PETITIONS REQUESTING TO BE CONTINUED:

1. 2022-SE1-001 | 4330 Michigan Road | Washington Township, Council District 8, Zoned SU-2 (FW) (FF)

Veracity Land Use Development Services, by Michael Clust

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 200-foot tall monopole tower and a four-foot lightning rod.

2. 2022-SE1-002 | 9140 East McGregor Road | Franklin Township, Council District 25, Zoned D-A

Shalom Christian Church, by Jonathan L Albright Jr.

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

3. 2022-DV1-055 | 2853 and 2849 McPherson Street | Center Township, Council District 17, Zoned D-5

Gary Ruble, by Matthew Peyton

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 10-foot front yard setback from McPherson Street (minimum 20-foot front setback required along Neighborhood Frontages) and a detached garage with two street trees provided (five street trees required) and no planting beds provided (minimum 10% of front yard must be improved with planting beds with shrubs or perennial plants).

4. 2022-UV1-027 | 2803 North New Jersey Street | Center Township, CD #9, Zoned C-1

Larry Eakle

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a storage garage and a six-foot fence in the front yards of New Jersey Street and 28th Street (not permitted, fence height limited to 3.5-feet in front yards).

5. 2022-UV1-035 | 6234 East Hanna Avenue | Franklin Township, Council District 18, Zoned I-3

Exotic Metal Treatment, by Brian E. Moench

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation a metal treatment facility (not permitted) and a building addition with a 38-foot front transitional yard along Hanna Avenue, an expanded parking area with a 25-foot transitional yard along Hanna Avenue (150-foot transitional yard required) and an expanded parking area with a 12-foot front yard setback from the proposed right-of-way of Churchman By-Pass (60-foot front setback from proposed right-of-way required) and deficient landscaping.

6. 2022-UV1-036 | 2711, 2715 and 2719 Madison Avenue | Center Township, Council District 16, Zoned C-5

SC Indy Land LP and TGA SC Global Indy I LP, by Joseph D. Calderon

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).

7. 2022-UV1-038 | 4010 West 86th Street | Pike Township, Council District 1, Zoned C-1 (FF)

UHS of Delaware, Inc., d/b/a Valle Vista Health System, by Joseph D. Calderon

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a methadone clinic, including counseling, and education, within 160 feet of a dwelling district (500 feet of separation required).

PETITIONS TO BE EXPEDITED:

8. 2022-DV1-054 (Amended) | 2655 Oliver Avenue | Wayne Township, Council District 16, Zoned D-5

Jonathan Dickey

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 60-foot setback from Holmes Avenue and a 208-foot setback from Addison Street (maximum 50-foot setback permitted along Neighborhood Yard Frontages) and no front entry feature along the Oliver Avenue frontage (front entry feature required).

9. 2022-DV1-056 | 235 West 44th Street | Washington Township, Council District 7, Zoned D-5

Deborah L. De Vries, by David Kingen & Emily Duncan

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached orangery with 15-foot rear setback (20-foot rear setback required) and to legally establish the existing one-foot western side yard setback (five-foot side yard setback required).

10. 2022-DV1-059 | 7036 Warwick Road | Washington Township, Council District 2, Zoned D-4

Margaret & Sandfria L. Hale

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage and building addition resulting in a three-foot northern side yard setback and seven-foot aggregate side yard setback (five-foot side yard setback and 13-foot aggregate side setback required).

11. 2022-UV1-040 | 1220 South High School Road | Wayne Township, Council District 22, Zoned SU-2 / D-3 (TOD)

MSD Wayne Township, by Barry Gadener

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the location of solar panels within the front yard of High School Road (solar panels not permitted within the front yard, accessory structures not permitted in front of the primary building in Dwelling Districts).

12. 2022-UV1-041 | 1110 Bates Street | Center Township, Council District 17, Zoned I-4

Daniel Graf and Erica Davis

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage (residential uses not permitted) with a six-foot west side yard setback and a seven-foot east side yard setback and a 10-foot rear yard setback (20-foot side and rear yard setbacks required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

13. 2022-DV1-047 | 409 East Morris Street | Center Township, Council District 16, Zoned D-5

Build Indy LLC, by John Cross

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a 39-foot wide lot, a zero-foot western side yard setback (40 foot lot width required) and provide for a three-story addition (not permitted) resulting in a 4.2-foot eastern side yard setback and a 19.4-foot rear setback and a walking path with a one-foot eastern side setback (five-foot side setbacks, 20-foot rear setback required).

14. 2022-DV1-052 | 358 East Terrace Avenue | Center Township, Council District 16, Zoned D-5

William T & Katherine Gribbin, by David Kingen & Emily Duncan

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached front-loaded garage (prohibited, must maintain access from alley when improved) with a zero-foot east corner side yard setback, and a three-foot western side yard setback, within the clear-sight triangle of the intersection of South New Jersey Street and the alley, resulting in an open space of 37 percent, and to legally establish a dwelling with a 3.5-foot corner side setback (eight-foot corner side setback required, five-foot west side yard setback required, encroachment of the clear sight triangles not permitted, 40 percent open space required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

15. 2022-DV1-051 | 3127 West Washington Street | Wayne Township, Council District 16, Zoned C-4 / C-5 (TOD)

RSM Oil, Inc, by Sarah M. Dillinger

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of retail building along a Connector Frontage, with:

- a) A 32-front setback from Washington Street (maximum 25-foot setback permitted);
- b) A building comprising 44% of the building line (60 percent building line width required);
- c) 16 parking spaces provided (maximum 13 parking spaces permitted);
- d) No bicycle parking spaces provided (three spaces required); and
- e) Deficient landscaping (frontage and interior parking area landscaping, and conformity with green factor required).

16. 2022-DV1-057 | 4001 North Park Avenue | Washington Township, Council District 7, Zoned D-5 (TOD)

Brandi Waddy

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for street access to an existing detached garage (access from an improved alley required) and legally establish the existing 0.60-foot north side setback and 4-foot east rear setback (five-foot side and rear setbacks required).

17. 2022-DV1-058 (Amended) | 1635 Cornell Avenue | Center Township, Council District 11, Zoned D-8

Hit It Till You're Happy LLC, by Matthew Peyton

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex on a 5,396 square foot, 43-foot-wide lot (minimum 7,200 square feet and 60-foot wide

lot required for a duplex) and a detached garage with three-foot side yard setbacks (five-foot side yard setbacks required), resulting in an open space of 55 percent (60 percent open space required).

18. 2022-UV1-042 | 3401 East 96th Street | Washington Township, Council District 3, Zoned C-4

YLTM LLC, by Jason P. Lueking

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of buying, selling, and leasing of motor vehicles (not permitted).

Additional Business:

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

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

Case Number: 2022-SE1-001
Address: 4330 Michigan Road (approximate address)
Location: Washington Township, Council District #8
Zoning: SU-2 (FW) (FF)
Petitioner: Veracity Land Use Development Services, by Michael Clust
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a wireless communications facility with a 200-foot-tall monopole tower and a four-foot lightening rod.

ADDENDUM FOR DECEMBER 6, 2022

The petitioner will be requesting a continuance for cause from the December 6, 2022, hearing of Division I to the January 3, 2022, hearing of Division I, for more time to discuss the petition with the neighborhood. This would require a vote by the Board.

ADDENDUM FOR SEPTEMBER 6, 2022

The petitioner requested a three-month continuance for cause from the September 6, 2022, hearing of Division I to the December 6, 2022, hearing of Division I. Staff is not opposed to the request, however, would suggest new Legal Notices be sent to all surrounding property owners. This would require a vote by the Board.

ADDENDUM FOR AUGUST 2, 2022

Due to an error related to publication of notice, this petition was continued by Staff from the August 2, 2022, hearing of Division I to the September 6, 2022, hearing of Division I, with additional notice.

RECOMMENDATIONS

Staff **recommends approval** of this request.

(Continued)

STAFF REPORT 2022-SE1-001 (Continued)**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

LAND USE**EXISTING ZONING AND LAND USE**

SU-2	Metro	International School
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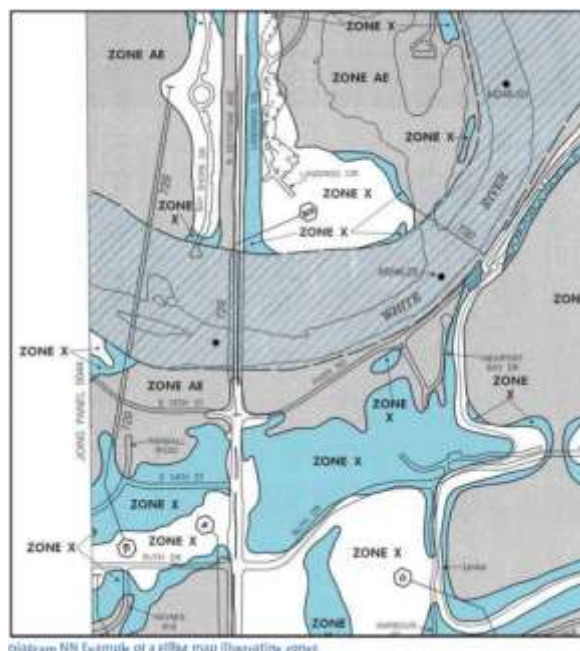
SURROUNDING ZONING AND LAND USE

North	D-5 / D-A	Single-family dwellings / Vacant lot
South	SU-7	Charitable / Non-profit institution
East	C-S	Linden House
West	D-P	Single-family dwellings

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Regional Special Uses.

- ◇ The subject site is 63.7 acres located in Washington Township. The current use of the subject site is a school. It is surrounded by residential to the north and west, a charitable organization to the south, and the well-known, Linden House to the east. The subject site is zoned SU-2. The SU-2 district is designated for schools.
- ◇ The subject site is also located within the Floodway Fringe, Zone AE. Zone AE: The floodway fringe (FF) zoning district boundary is determined by applying the base flood elevations from the flood insurance study base flood profiles to the specific topography of a site/parcel/property. The floodway (FW) district boundary is determined from the flood insurance rate map. The base flood elevation shall be determined from the flood insurance study base flood profile and is rounded up to the nearest ½ foot elevation. See below map.



(Continued)

SPECIAL EXCEPTION

- ◇ The request would provide for a wireless communications facility (WCF) with a 200-foot-tall monopole tower and a four-foot lightening rod. Table 743-305-1 states Wireless Communications Facilities are permitted in the SU-2 district only by Special Exception.
- ◇ The subject site consists of a 63.7-acre school, with multiple buildings, athletic fields, and parking lots. The surrounding neighborhood includes a recently zoned commercial use to the east, residential to the north and west and a charitable organization to the south of the subject site. The monopole tower with the four-foot lightening rod would be located to the southwest of the subject site (as shown in the site plan), abutting the SU -7 district (charitable organization) zoned property. The WCF would be separated and buffered by the White River and is heavily forested by trees.
- ◇ There are seven Findings of Fact that need to be met for a Special Exception to be approved. The first Finding of Fact is “The proposed use meets the definition of that use in Chapter 740, Article II.” The proposed monopole tower and four-foot lightening rod meet the definition for Wireless Communications Facility. *Wireless Communication Facility* is defined as any facility used by a licensed commercial wireless telecommunications provider to provide service, such as cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and other similar services that are marketed to the public. Additionally, the tower would be designed to have at least four carriers.
- ◇ The second Finding of Fact is “The proposed use will not injure or adversely affect the adjacent area or property values in that area.” The proposed monopole tower would be replacing an existing monopole tower, located along Michigan Road. The proposed tower would be screened by trees and separated from use to the south with the White River as a buffer.
- ◇ The third Finding of Fact is “The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property.” The use of the subject property is a school. The monopole tower would be separated from the school and located in a heavily forested area. The land in this area is not used currently by the school.
- ◇ The fourth Finding of Fact is “The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County.” The Comprehensive Plan recommendation is Regional Special uses. Monopole towers are usually located on school properties. The use of the land would not otherwise be used, since it is heavily forested and abuts the White River, suggesting that the monopole would also be heavily screened for compatibility with the character of the district.
- ◇ The fifth Finding of Fact is “The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located.” There are no variances needed for the tower to be located on the site, suggesting it conforms with the development standards of Chapter 744.

(Continued)

STAFF REPORT 2022-SE1-001 (Continued)

- ◇ The sixth Finding of Fact is “The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located.” The use of a Wireless Communication Facility at the subject site is permitted only through Special Exception. Staff finds the use to be supportable at the subject site.
- ◇ The seventh Finding of Fact is “The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use.” Again, the proposed tower would be compliant with all standards of the Ordinance.
- ◇ The proposed Wireless Communications Facility would meet all Findings of Fact where Staff would not find the proposed location detrimental to the surrounding area and would find the request supportable.

STAFF REPORT 2022-SE1-001 (Continued)**GENERAL INFORMATION****THOROUGHFARE PLAN**

Michigan Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 132-foot existing right-of-way and a 112-foot proposed right-of-way.

SITE PLAN

File-dated July 13, 2022.

ELEVATIONS

File-dated July 13, 2022.

FINDINGS OF FACT

File-dated June 15, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: **VIO22-000947; Building Code Violations.**

PREVIOUS CASES:

2022-DV1-023; 4330 Michigan Road (subject site), requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall ornamental and chain link fence in the front yard along Michigan Road, **approved.**

2003-DV3-033; 4330 Michigan Road (subject site), requested a Variance of development standards of the Sign Regulations to provide for a two-sided, 15.66 foot tall, 188 square foot pylon sign, with the angle between the sign faces being greater than fifteen degrees, and separated by more than 3.5 feet, being located 80 feet from a protected district, with a 24.66 square foot electronic variable message display, **approved.**

(Continued)

ZONING HISTORY – VICINITY

2001-ZON-162; 4615 North Michigan Road (adjacent to east), requests a rezoning of 177.74 acres from D-S (FF) and SU-2 (FF) (FW) to D-P (FW)(FF) to provide for 15 single-family residential lots, or 0.08 units per acre, **approved**.

2000-APP-136; 4615 North Michigan Street (adjacent to east), requests a modification of commitments, related to petition 96-Z-60, modifying commitment #2, to provide for a 20-foot height extension to an existing 100-foot monopole tower (maximum 100-foot monopole tower permitted by previous commitment), **approved**.

96-Z-60; 4615 North Michigan Road (adjacent to east), requests a rezoning of 0.036 acre, from SU-2, to the SU-35 classification, to provide for a 100-foot tall telecommunications antenna and accessory equipment structures, **approved**.

GLH

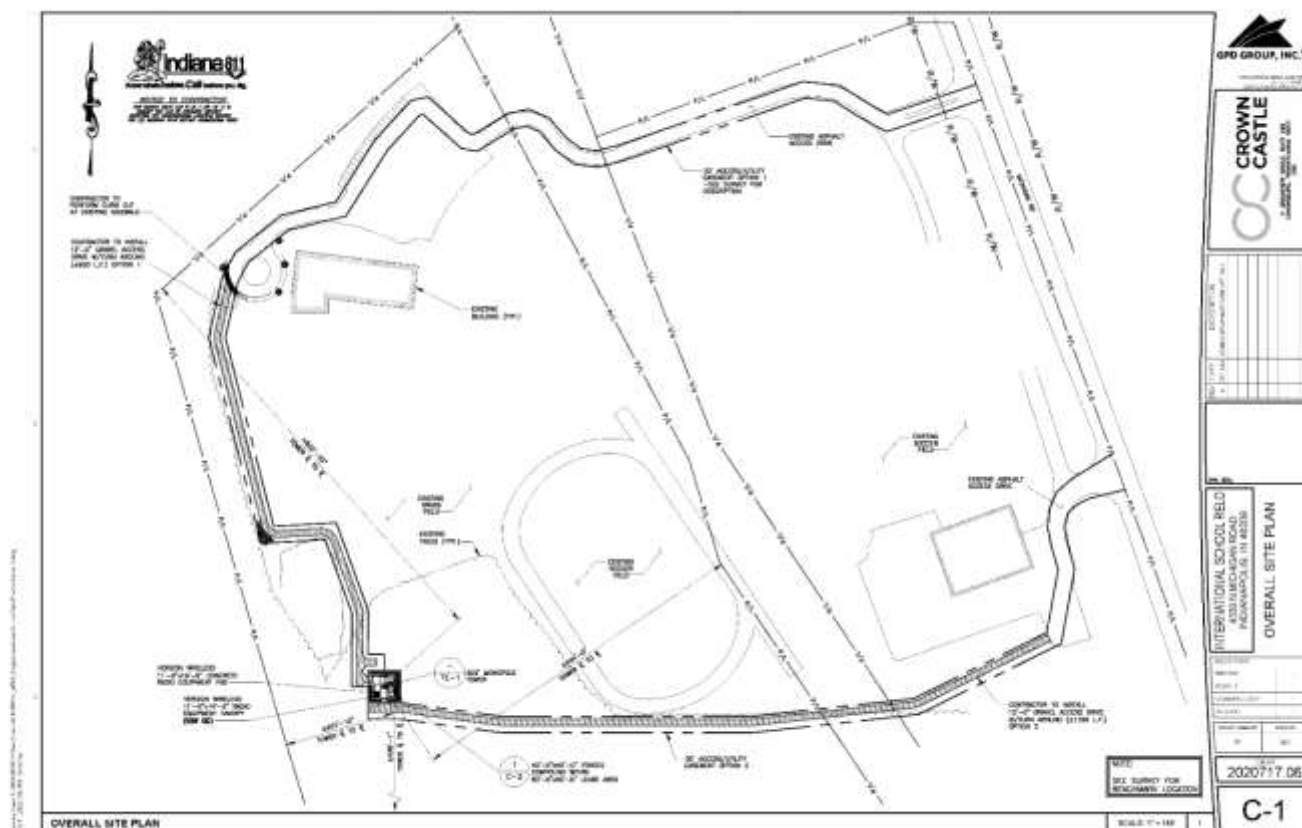
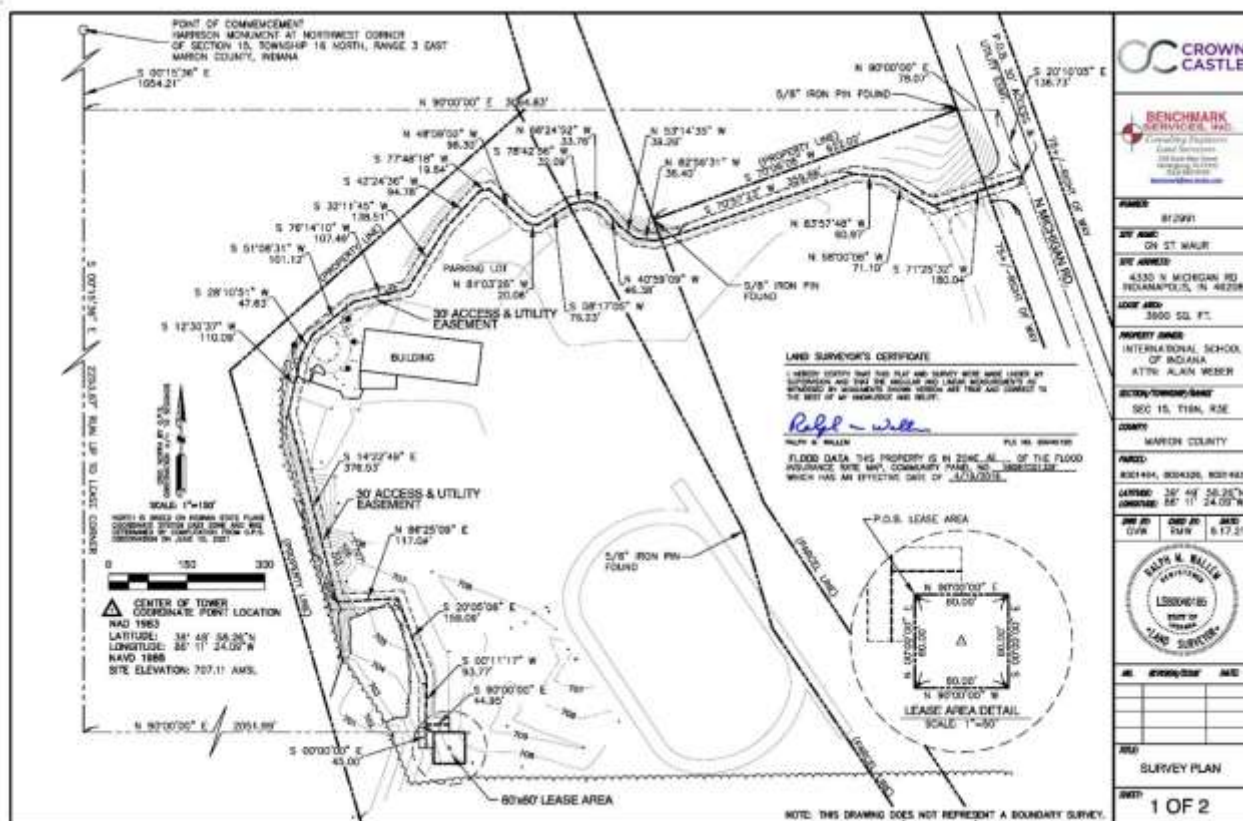
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2022-SE1-001; Aerial Map



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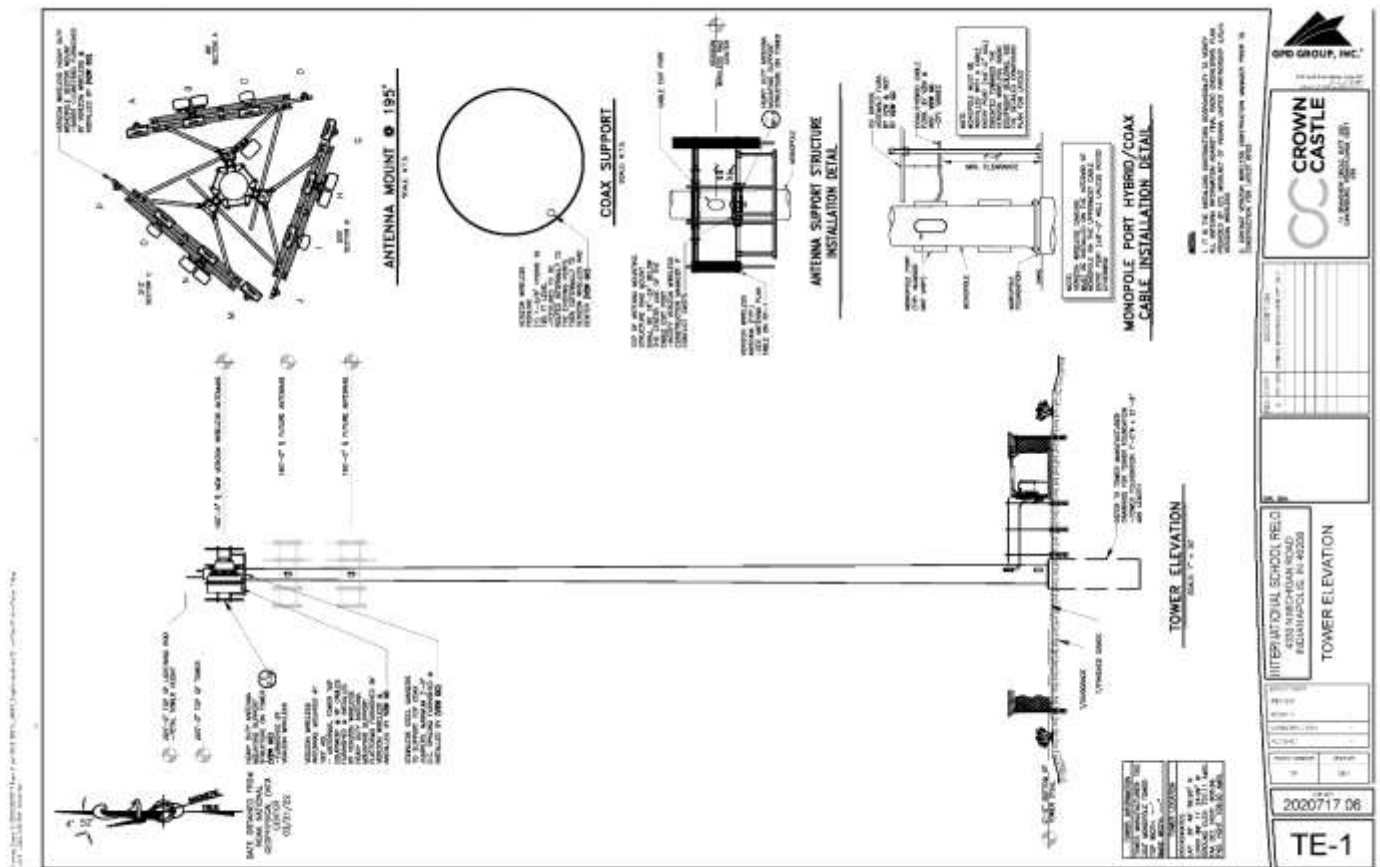
2022-SE1-001; Site Plan



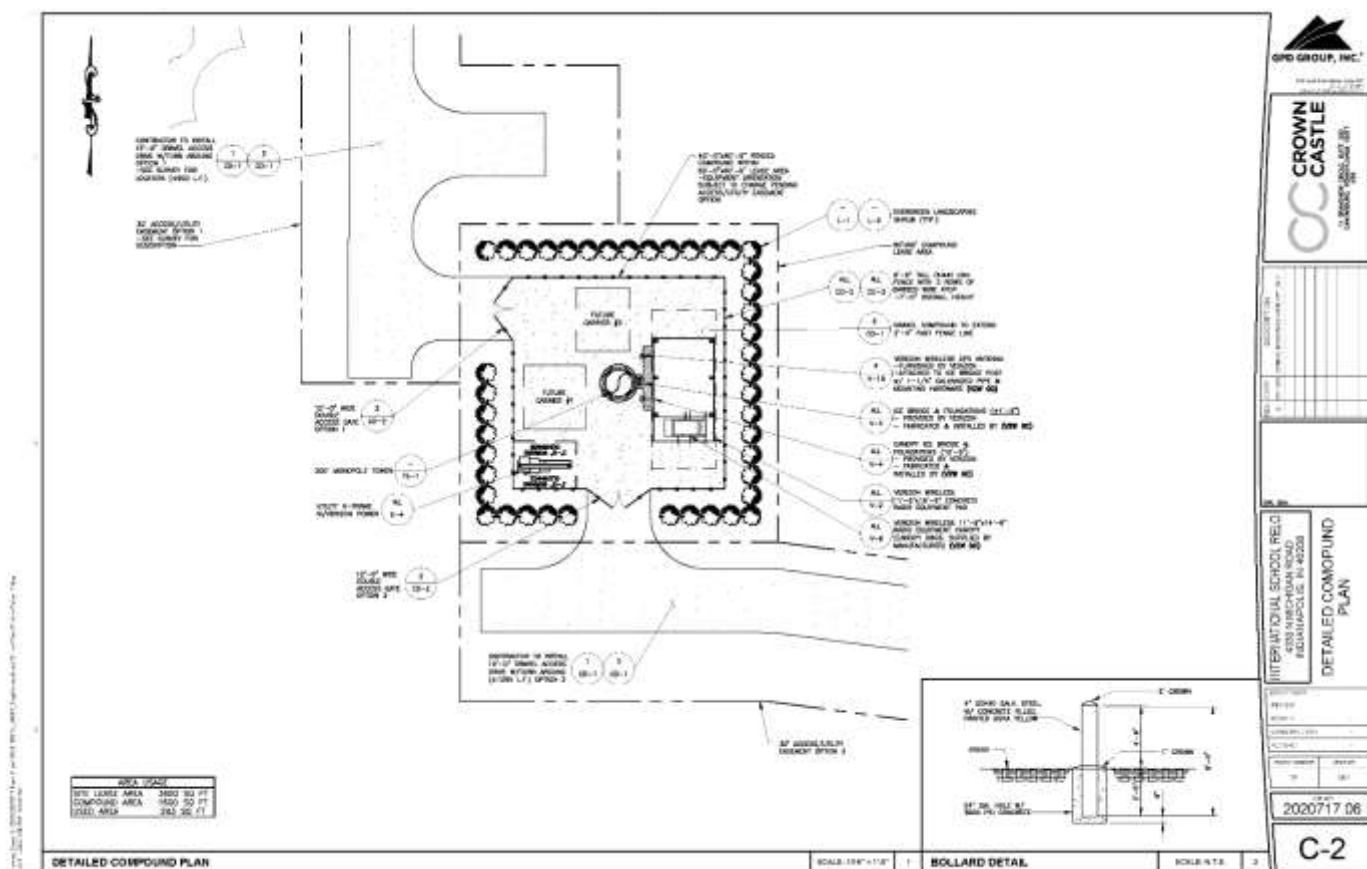
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(Continued)

Petition Number _____

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

**PETITION FOR SPECIAL EXCEPTION
FINDINGS OF FACT**

1. The proposed use meets the definition of that use in Chapter 740, Article II because

The proposed use is a Wireless Communication Facility (WCF). The tower structure and associated equipment will be utilized primarily to provide cellular services to the general public.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that area because

WCF are common in urban settings. The proposed WCF would be replacing an existing WCF approximately 2,300 feet away to the northeast. The tower is sited on the property to be setback from the road a great distance, while the existing tower is right upon Michigan Road. Wireless network integrity requires 'cells' located within certain proximity to one another to function, therefore the new tower must be in close proximity to the existing to achieve comparable coverage. Surrounding land uses are institutional or residential, some with high network demands. The site will largely be screened by a mature treeline to the south and west, and a far distance from adjacent properties to the north and east.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property because

WCF are common in urban settings. The tower will be a monopole structure, the most discreet of the common tower types. The WCF will be partially screened or far enough away from adjacent uses to substantially mitigate issues related to lawful use and enjoyment of surrounding properties.

4. The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County because

WCF are commonly located on school properties. The WCF is sited on an underutilized area on the property so as to provide minimal impacts. The proposed compound area will be heavily landscaped, and appropriately screened.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located because

The SU-2 district specifically does not provide for many development standards per the Ordinance, any required development standards will be adhered to per the plans filed. The WCF is thoughtfully sited on a large parcel, with ample setbacks from adjoining property and robust landscaping.

Metropolitan Development
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Division of Planning

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(Continued)

2022-SE1-001; Findings of Fact

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

All applicable development standards will be met per the plans filed. Most performance standards from Chapter 740 would not be applicable to the proposed WCF. Any noise generated will be nominal. Carriers may provide generators but only for emergency power purposes.

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

All standards from 743-305 OO will be adhered to. The single existing tower within 0.5-mile will be decommissioned following the erection of the proposed tower.

DECISION

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

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Metropolitan Development
Jun 15 2022
Division of Planning

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(Continued)



Photo of school looking north east on subject site.
(Continued)



Photo of subject site, looking northwest of the school.



Photo of subject site, looking northeast of the subject site.
(Continued)



Photo of subject site, location of proposed monopole (southwest).
(Continued)



Photo of location of proposed monopole tower.
(Continued)



Photo of the Subject Property: 4330 Michigan Road

STAFF REPORT

Item 2.

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

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

The petitioner has requested that this petition be continued from the December 6, 2022, hearing to the February 7, 2023 hearing, to allow time to provide additional information to the file.

Staff has no objection to this first request.

RU

STAFF REPORT

Item 3.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-DV1-055
Address: 2853 and 2849 McPherson Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Gary Ruble, by Matthew Peyton
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 10-foot front yard setback from McPherson Street (minimum 20-foot front setback required along Neighborhood Frontages) and a detached garage with two street trees provided (five street trees required) and no planting beds provided (minimum 10% of front yard must be improved with planting beds with shrubs or perennial plants).

The petitioner has submitted a request that **this petition be withdrawn**. This would require the acknowledgement of the Board.

RU

STAFF REPORT

Item 4.

Department of Metropolitan Development Division of Planning - Current Planning Section

Case Number: 2022-UV1-027
Address: 2803 North New Jersey Street (approximate address)
Location: Center Township, Council District #9
Zoning: C-1
Petitioner: Larry Eakle
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a storage garage and a six-foot fence in the front yards of New Jersey Street and 28th Street (not permitted, fence height limited to 3.5-feet in front yards).

ADDENDUM FOR DECEMBER 6, 2022

This petition was continued from the October 4, 2022, hearing, to the December 6, 2022 hearing, at the request of the petitioner to allow time to propose a relocation of the proposed storage garage and amend the request.

The petitioner has requested this petition **be continued to the February 7, 2023, hearing**, to allow additional time to propose a relocation of the proposed storage garage and amend the request. Staff has no objection to this request.

October 4, 2022

This petition was automatically continued by a registered neighborhood organization from the September 6, 2022, hearing, to the October 4, 2022, hearing.

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-1	Office parking lot
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SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwelling
South -	C-1	Office parking lot
East -	D-5	Single-family dwelling
West -	C-1	Office parking lot

COMPREHENSIVE PLAN

The Comprehensive Plan recommends office commercial uses for the site.

With an overlay for Red Line transit-oriented development.

(Continued)

VARIANCE OF USE

- ◇ The Comprehensive Plan recommends Office Commercial uses for the site. The proposed use is not permitted in the C-1 District. The request for the storage garage as a primary use would be similar to what is allowed in the C-7 District.
- ◇ The C-7 district is designed to provide for specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and the outdoor parking and storage of trucks, materials, or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares where the gradual and reasonable transition from lesser commercial uses exist. Due to the intensity of the uses, the location of this district adjacent to protected districts should be avoided.
- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the proximity to adjacent single-family dwellings without adequate separation, this site would be over-developed and inappropriately expand uses towards an established residential district. The proposed use would not be consistent with the recommendations of the Comprehensive Plan and would be detrimental to the use and value of the surrounding residential uses.
- ◇ There are no other C-7 uses located in the area, and, contrary to this request, this site should act as a buffer, to the protected districts to the north and east. An expansion of this magnitude would not be appropriate for this site.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a hardship for the property, since the site is zoned C-1 and could be used by any number of uses permitted, by right, in the C-1 zoning classification. Any practical difficulty is self-imposed by the desire to use the site for a storage garage.
- ◇ Staff does recognize the need for accessory maintenance uses, and therefore, has recommended the relocation of the proposed storage garage to the west in the adjacent parking lot. This proposed location would be adjacent to a service alley and would have a greater separation from any affected residential uses, thereby minimizing its impact. At the time of publishing, the petitioner has not agreed to this request from Staff.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request if granted, would also provide for a six-foot fence in the front yards of New Jersey Street and 28th Street.
- ◇ The Consolidated Zoning and Subdivision Zoning Ordinance restricts the height of fences in front yards throughout the County. The Ordinance limits fence height to 3.5 feet in height in front yards. The restriction on fence height is intended to preserve sight lines for vehicles and pedestrians. Fences taller than 3.5 feet in the front yard tend to be industrial in nature and create a compound aesthetic within residential neighborhoods.

(Continued)

STAFF REPORT 2022-UV1-027 (Continued)

- ◇ When improperly tall fences are erected adjacent to the public right-of-way, that area becomes a less desirable place for pedestrians to travel. The propagation of excessively sized fences, therefore, can have a detrimental impact on a given street or neighborhood by discouraging neighbors from walking in areas encumbered with such fences. The fence location is on a slight rise for the roadway, compounding this effect.
- ◇ In staff's opinion, the fence should be replaced with a zoning complaint fence or reduced in height to 3.5 feet to be zoning compliant, as other nearby properties are able to be complaint with.
- ◇ Failure to consult the Ordinance before installation, and/or the cost of replacing the fence are self-imposed difficulties, and not practical difficulties imposed by the Ordinance.
- ◇ As such, staff does not believe a practical difficulty has been demonstrated that necessitates a six-foot tall fence in the front yard and recommends denial of this request.

GENERAL INFORMATION

THOROUGHFARE PLAN

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

This portion of East 28th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 35-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated July 21, 2022

FINDINGS OF FACT

File-dated July 21, 2022

ZONING HISTORY

2022-UV2-003; 2802 Central Avenue (east of site), requested a variance of use to provide for a dog grooming business, **granted**.

2020-DV1-069; 412 East 28th Street (east of site), requested a variance of use and development standards to provide for a single-family dwelling with an attached garage with a 10-foot front setback, eight-foot rear setback, 47% open space and with a slight encroachment within the clear sight triangle, **granted**.

2019-ZON-019; 2916 Central Avenue (north of site), requested the rezoning of 0.12 acre from C-1 District to the D-5 classification, **approval**.

2019-ZON-023; 420 and 422 East 28th Street (west of site), requested the rezoning of 0.08 acre from the C-1 district to the D-8 classification, **approved**.

(Continued)

2015-ZON-097; 315 East 28th Street (west of site), requested the rezoning of 0.08 acre from the C-1 district to the D-8 classification, **approved**.

2015-CZN-838 / 2015-CVR-838 / 2015-CVC-838; 501 Fall Creek Parkway North Drive (east of site), requested the rezoning of 0.79 acre from the C-1 and C-4 districts to the C-3C district to provide for commercial and residential development, **approved**; a variance of .one mixed-use building and one apartment building, with ten-foot front setbacks along Central Avenue; two apartment buildings, with twenty-foot front setbacks along Central Avenue; a parking lot with a six-foot front setback along Central Avenue; a parking lot with ten-foot front transitional setbacks from 29th Street and Ruckle Street; with a dumpster located in front of the established front setback line along Ruckle Avenue; with 160 parking spaces; with a building height of 59 feet for the mixed-use building and one apartment building and a building height of 50 feet for two apartment buildings; and to provide for a zero-foot east side transitional yard, **granted**; and to provide for the vacation of 28th Street, from Central Avenue, to Ruckle Street, with a waiver of the assessment of benefits: the vacation of part of the north-south alley, east of Central Avenue and west of Ruckle Street, with a waiver of the assessment of benefits; and a vacation of part of the north-south alley, east of Central Avenue and west of Ruckle Street, with a waiver of the assessment of benefits, **granted**.

2014-ZON-054; 510 East Fall Creek Parkway, North Drive; 2819, 2821, 2825, 2829, 2837, 2841, 2845, 2917, 2925, 2927, 2931, 2935, 2941 Central Avenue and 2802, 2806, 2810, 2822, 2826, 2834, 2838 and 2844 Ruckle Street; 512 and 518 East 28th Street; 507 and 508 East 29th Street (east of site), requested a rezoning of 4.95 acres from the D-8, C-1, C-2 (FW) and C-4 districts to the C-3C (FW) and C-3C districts, **approved**.

2008-ZON-075; 2848 and 2852 North Central Avenue (north of site), requested a rezoning of 0.2388 acre, from the C-1 District, to the D-8 classification to provide for one- and two-family dwellings, **approved**.

2006-ZON-823/2006-VAR-823; 300 East Fall Creek Parkway North Drive (west of site), requested the rezoning of 2.69 acres. From the PK-1 District, to the C-1 classification to provide for an off-street parking lot, **approved**. Requested a variance of use and development standards to provide for a tavern and a family restaurant use, with a 576-square foot outdoor seating area, **granted**.

94-Z-15 / 94-CV-2; 302 East Fall Creek Parkway North Drive (includes subject site), requested the rezoning of 2.58 acres, being in the D-5 and D-7 Districts, to the C-1 classification to provide for office uses, and a variance of development standards of the Commercial Zoning Ordinance to permit the reduction of side and rear transitional yards to 10 feet, and the reduction of the front yard setback along East 28th Street to 6 feet, **approved**.

RU

2022-UV1-027; Location Map







Subject site, looking east



Subject site, looking north



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



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



Adjacent parking lot to the west, where Staff proposes relocating the storage garage.



Adjacent parking lot to the south.



Adjacent office building to the southwest.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-035
Address: 6234 East Hanna Avenue (approximate address)
Location: Franklin Township, Council District #18
Zoning: I-3
Petitioner: Exotic Metal Treatment, by Brian E. Moench
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation a metal treatment facility (not permitted) and a building addition with a 38-foot front transitional yard along Hanna Avenue, an expanded parking area with a 25-foot transitional yard along Hanna Avenue (150-foot transitional yard required) and an expanded parking area with a 12-foot front yard setback from the proposed right-of-way of Churchman By-Pass (60-foot front setback from proposed right-of-way required) and deficient landscaping.

ADDENDUM FOR DECEMBER 6, 2022

The petitioner has requested that this petition be continued from the December 6, 2022, hearing of Division I to the January 3, 2022, hearing of Division I. This would require a vote by the Board.

ADDENDUM FOR NOVEMBER 1, 2022

This petition was continued from the November 1, 2022, hearing of Division I to the December 6, 2022, hearing of Division I, due to lack of quorum.

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

I-3	Metro	Heavy Industrial
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SURROUNDING ZONING AND LAND USE

North	Freeway / I-3	Interstate 465 / Industrial
South	D-4	Single-family dwellings
East	I-3	Industrial
West	Freeway / I-3	Interstate 465 / Industrial

(Continued)

STAFF REPORT 2022-UV1-035 (Continued)**LAND USE PLAN**

The Marion County Land Use Plan (2019) recommends Light Industrial development.

- ◇ The subject site is 2.63 acre located in the Poplar Grove neighborhood in Franklin Township. The subject site has two frontages on Churchman Bypass and Hanna Avenue. Interstate 465 is located to the west of the subject site. The property consists of an industrial structure, used for heavy manufacturing. The surrounding neighborhood is mostly residential to the south and industrial uses to the north and west, across I-465.
- ◇ The subject site is zoned I-3 (Medium Industrial District). The I-3 district is an intermediate district for industries that present moderate risks to the general public. Wherever practical, this district should be away from protected districts and buffered by intervening lighter industrial districts. Where this district abuts protected districts, setbacks are large, and enclosure of activities and storage is required.

VARIANCE OF USE AND DEVELOPMENT STANDARDS

- ◇ The request would provide for the operation a metal treatment facility and a building addition with a 38-foot front transitional yard along Hanna Avenue, an expanded parking area with a 25-foot transitional yard along Hanna Avenue and an expanded parking area with a 12-foot front yard setback from the proposed right-of-way of Churchman By-Pass.
- ◇ The proposed use for a metal treatment facility would be categorized as *Heavy Manufacturing*. Heavy Manufacturing is defined as creation or production of a non-edible item that includes some transformation by way of heating, chilling, adding a liquid, adding a coating, or chemical or biochemical reaction or alteration. This use may also involve packaging, repackaging, assembling, or mechanical reshaping. This definition includes the manufacturing of bicycles, motorcycles, and parts; boats; ceramic and clay products; computers and computer equipment; electric lighting and wiring equipment; cosmetics, perfumes; glass or glass products; leather tanning and curing; major household appliances; construction machinery and equipment; processing of forest products; detergents and soaps; and engines and turbines.
- ◇ Heavy Manufacturing is only permitted in the I-3 district by grant of Special Exception by the Board of Zoning Appeals and is permitted by right in the I-4 district. The proposed use would not be permitted by Special Exception since the existing structure and proposed additions result in deficient transitional yard requirements, and landscaping. All dimensional standards of the Ordinance must be met to apply for a Special Exception. Staff is not opposed to the use, however, would like the use to be buffered from the residential (protected district) south of the subject site.
- ◇ Table 744-201-6 stipulates that the required front transitional yard in the Metro Context Area is 150 feet. The transitional yard requirement applies to the south lot line on Hanna Avenue, which is considered a front yard. The proposed front transitional yard would be 38 feet, with an additional parking area being 25 feet from the south lot line. Staff is opposed to the request for decreased transitional yard, where there is no buffer between the existing residential to the south.

(Continued)

STAFF REPORT 2022-UV1-035 (Continued)

- ◇ Table 744-201-6 also states that the required front yard in the Metro Context Area is 60 feet from proposed right of way. The proposed front setback from Churchman Bypass is 12 feet from the proposed right of way. Staff is opposed to this request, where the proposed parking could be situated elsewhere on the subject site, thus, no practical difficulty.
- ◇ Lastly, the proposed additions and use would result in deficient landscaping. A landscape plan has not been provided, displaying the required landscaping, as per 744-500 (Landscaping and Screening). Staff is not supportive of deficient landscaping, where additional landscaping could be used to buffer the heavy industrial use from the residential to the south. Staff suggested that a berm be placed along Hanna Avenue and the required landscaping be accomplished along Churchman Bypass.
- ◇ 744-302.F states sidewalks shall be provided along the entire frontage of all abutting eligible public streets. Sidewalks are required to be placed along Churchman Bypass and Hanna Avenue. The existing site plan displays sidewalks located partially on Hanna Avenue. Sidewalks are required along both frontages, Churchman Bypass and Hanna Avenue. If sidewalks are not to be added, this petition should be continued for New Notice to be sent to all surrounding property owners to add the request.
- ◇ Staff recommends denial, based on lack of practical difficulty and hardship of these requests.

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

Churchman By-Pass is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 100-foot existing right-of-way and a 90-foot proposed right-of-way.

I-465 is classified in the Official Thoroughfare Plan for Marion County, Indiana as a freeway, with a 201-foot existing right-of-way.

SITE PLAN
PLAN OF OPERATION
FINDINGS OF FACT

File-dated August 29, 2022.
 File-dated November 29, 2022.
 File-dated November 21, 2022

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.
 PREVIOUS CASES: None.

(Continued)

STAFF REPORT 2022-UV1-035 (Continued)**ZONING HISTORY – VICINITY**

2018-SE3-003; 6337 East Hanna Avenue, requested a Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a religious use in an existing building, with off-street parking, **approved**.

GLH

(Continued)

STAFF REPORT 2022-UV1-035 (Continued)

2022-UV1-035; Aerial Map

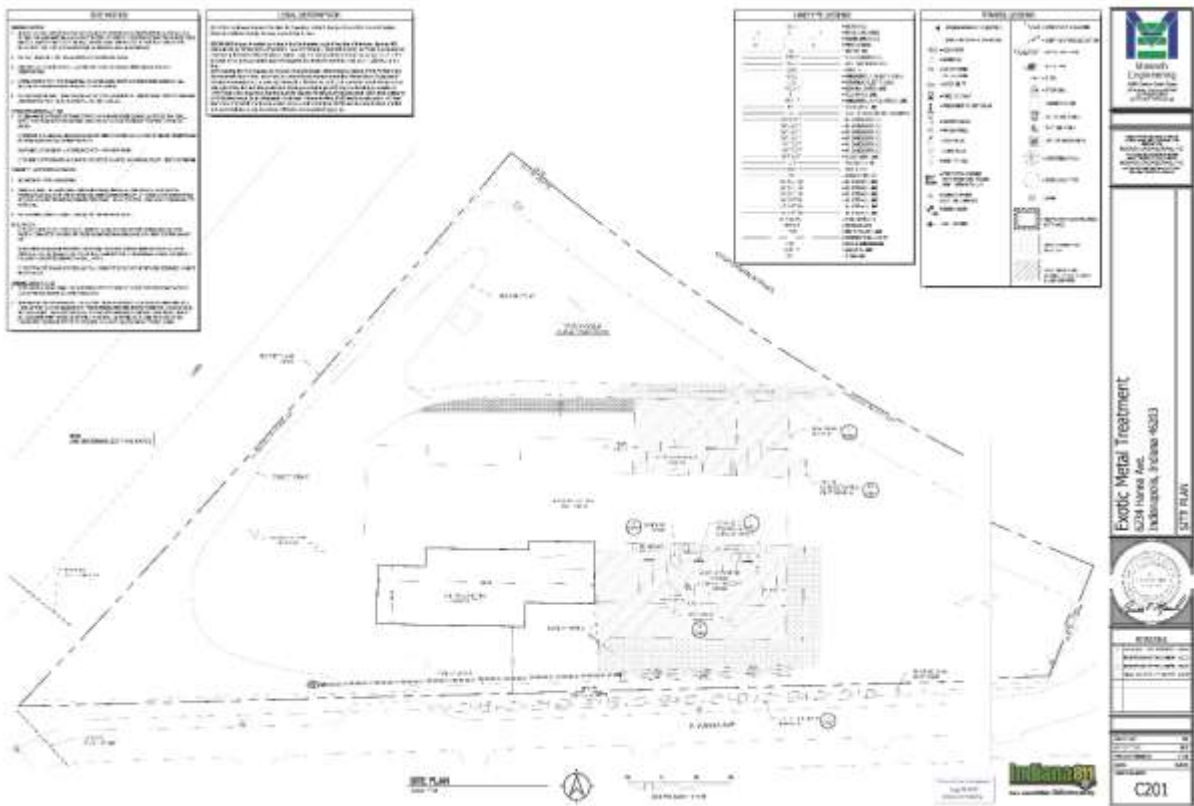


2022-UV1-035; Aerial (1979)

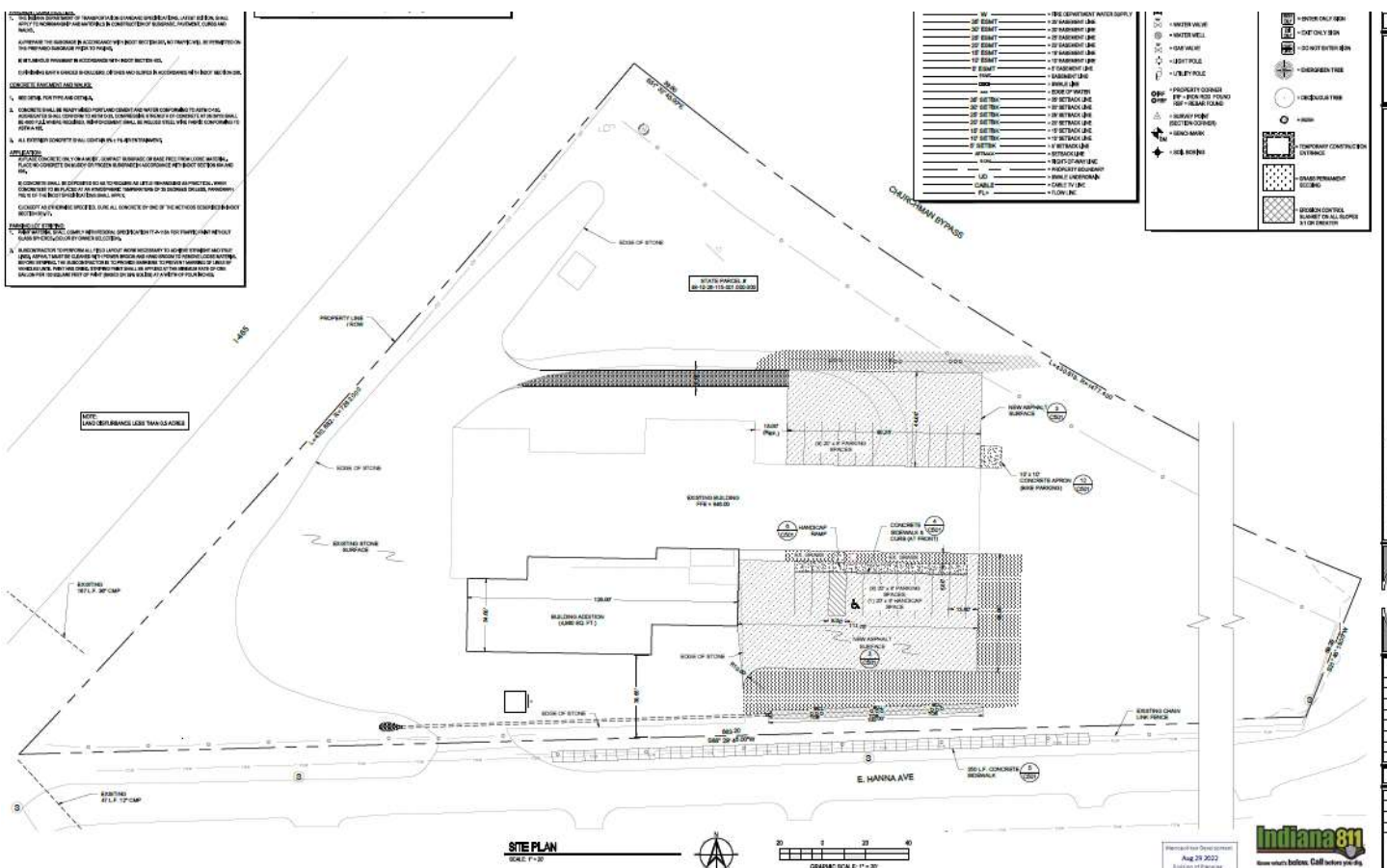


(Continued)

2022-UV1-035; Site Plan



2022-UV1-035; Site Plan (Enlarged)



(Continued)



PROPOSAL AND DEMOLITION NOTES	
1. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
2. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
3. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
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7. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
8. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
9. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
10. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
11. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
12. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
13. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
14. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
15. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
16. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
17. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
18. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
19. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	
20. DEMOLITION OF EXISTING BUILDING AND STRUCTURES TO BE COMPLETED BY 12/31/2022.	



Exotic Metal Treatment
6291 Hanna Ave.
Indianapolis, Indiana 46203



Robert J. Smith
Professional Engineer
No. 12345
State of Indiana

D101

(Continued)

Petition Number: 2022-UV1-035



PLAN OF OPERATION

Exotic Metal Treating, Inc.
6234 East Hanna Avenue
Indianapolis, IN 46203

Exotic Metal Treating, Inc (EMTI) is a heat treat service supplier established in 1973 in Beech Grove, IN. This location was quickly outgrown and the current location was purchased and permitted to build and operate the heat treating facility at its present location in 1978. In the year 2000, the facility applied for and was approved for an expansion of the heat treat business. EMTI is a specialized service provider providing heat treat services primarily for the aerospace and power generation industries as well as the US Department of Defense. Facility equipment includes five electrically heated vacuum furnaces and four natural gas fired pit furnaces. The services performed are to enhance the metallurgical and or engineering properties of the metal as required by the customer. Services provided include:

- Annealing
- Stress relieving
- Hardening and tempering of air hardening steels
- Solution heat treating
- Precipitation age heat treating
- Furnace brazing

NOTE: EMTI **does not perform any component manufacturing operations.** We do not form, bend, fabricate, weld, extrude, forge, cast, or machine any of the components received. Individual parts are received from the customer, placed into the furnace for the operation required and then returned to the customer for further manufacturing completion. The customer provides for shipping, dropping parts off then picking up when completed.

EMTI's Quality system is AS9100D third party accredited and maintains third party Heat Treat accreditation through PRI – Nadcap (formerly National Aerospace Defense Contractor Accreditation Program).

EMTI works as a sub-tier to prime contractors who flow down work through fabrication shops who in turn subcontract special process heat treating to EMTI as a prime approved special processor. A copy of our Prime Contractor Approval list is attached as Attachment 'A'. Please note that these approvals do not represent high volume work.

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(Continued)

Petition Number: 2022-UV1-035

Much of our work stems from US Department of Defense contracts to the prime contractors. During the onset of the Covid19 pandemic, EMTI was identified by the US DoD through the Department of Homeland Security - Cybersecurity & Infrastructure Security Agency as part of Essential Critical Infrastructure providing support services to the defense manufacturing industry. (Attachment 'B').

ISSUES IDENTIFIED IN THE PLAN OF OPERATION

1. **WORK HOURS:** The facility works three shifts starting Monday 7:00AM and closing Saturday 7:00AM. There is occasional internal maintenance work performed on the weekends, but this is not standard operation. All work is performed onsite.
 - Total number of employees, including management, is 14 employees spread over the three shifts. Employees drive and park in the employee parking lot with a maximum of 10 cars in the lot at one time for minimum duration that occurs during first/second shift change. Two employees on first shift are undergoing apprentice training and will move to second or third shift upon training completion and certification.
 - All parking is within the facility and there is no on street parking.
 - The facility is surrounded by a perimeter wire fence with gate and has a monitored security alarm system. There is also an entrance alarm when persons enter the building and windows have security bars.
2. **CLIENTS and CUSTOMERS:** The nature of the business does not cater to walk-in off the street clientele. Our customers deliver parts to be processed to our loading door, are unloaded and they leave – there is no need for delivery parking. Shipments are received from customer via customer vehicle, FedEx or UPS, or by common carrier. Typical receiving/shipping hours are 8:00AM to 5:00PM although FedEx/UPS may run later in the afternoon.
 - On rare occasions, the facility may have an occasional visitor or auditor visit the facility, and use the employee parking area.
 - Due to stringent processing approval requirements by the prime contractors as noted in attachment 'A', our customer base is nationwide.
 - A customer list is provided in Attachment 'C'. Please note that the attached list may seem long, volume of work is not consistent nor high volume.
3. **PROCESSES CONDUCTED ON SITE:** As noted in paragraph 1, EMTI performs heat treat and furnace brazing operations only – no fabrication operations. Heat treat operations include:
 - Annealing
 - Stress relieving
 - Hardening and tempering of air hardening steels
 - Solution heat treating
 - Precipitation age heat treating
 - Furnace Brazing

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(Continued)

Petition Number: 2022-UV1-035

No oil quench or water quench operations are performed. There are no processes performed offsite. Processes performed are to prepare the material for further fabrication by the customer or to metallurgically enhance the material to meet design strength requirements. No other operations are performed and parts are return shipped in the same shape and form as received. The heat treatment entails heating the metal to a material specific temperature and time to obtain the desired metal metallurgical condition. Any alteration of part shape by the heat treat process creates an issue for the customer for further fabrication and is considered a nonconformance on our part.

Heat treatments are performed in a vacuum atmosphere in a vacuum furnace or a protective atmosphere utilizing a retort and pit furnace when the surface condition of the material must be preserved – no heat treat scale or alteration of metal surface chemistry is permitted. Depending upon material machine stock thickness, treatments may also be performed in an open air atmosphere as specified by the customer which results in a tight surface scale which is removed by the customer through subsequent machine operations.

No operations are performed outside although some equipment or customer parts may be temporarily placed outside as unloaded until room is made indoors for storage. **The main reason for building this addition is to provide more indoor storage for customer parts and EMTI equipment to alleviate the need for outside placement.**

Property security is provided by a perimeter fence and main access gate. The access gate is closed during second shift at approximately 7:00PM and reopened when first shift arrives. The large 16ft wide by 17ft tall front loading door has a security gate that covers the opening when door must be open during off-hour shifts. The main loading door and adjacent access door has a trip alarm warning of anyone entering the building. During closed business hours, the building is protected by a monitored security alarm system. A security camera system is in place but will be upgraded upon addition completion.

4. MATERIALS USED:

- Retorts used in pit furnaces for containing a protective atmosphere are 309 stainless steel and are repaired when needed. At end of service life they are sold as scrap to J. Solotken & Company for recycling.
- Process shielding gases: Protective atmosphere gases are provided from cryogenic storage tanks for Argon, Nitrogen and Hydrogen where the gas is drawn from the tank and introduced into the retort displacing all oxygen from the retort. EMTI owns the tanks with installation and tank maintenance service provided by Air Products, our gas supplier, meeting safety code requirements. These tanks are equipped with telemetry and monitored by Air Products when refill is needed.
 - Argon and Nitrogen are stored in cryogenic tanks at subzero temperatures as a liquid and can pose a risk if liquid escapes. These tanks are equipped with redundant pressure relief systems to prevent over pressurization and to safely vent gas in case working pressures are exceeded. These tanks are protected by balusters.

Page 3 of 4

(Continued)

Petition Number: 2022-UV1-035

- Hydrogen tank is located to the northwest corner of the property and is protected by a second perimeter fence as well as balusters. Installation and service is provided by Air Products meeting safety code requirements. In addition to the pressure relief safeties, gas flow from this tank can be remotely shut off from inside the building to isolate the tank. The installation has a clean safety record with no issues.
 - All process gas storage capacities fall below the minimum reporting requirements set by the Indiana Department of Environmental Management (IDEM).
 - Natural gas. The four pit furnaces are fueled by natural gas through forced air tangential burners and does not produce odors from combustion. Emissions from combustion during operations fall well below reporting requirements set by IDEM. These furnaces have safeties in place for natural gas over/under pressure as well as blower forced air pressure or loss of electric power. Natural gas flow is automatically shut off if set parameters are exceeded and must be manually reset.
5. SHIPPING AND RECEIVING. The customer handles all shipping for their parts – parts and materials are returned in the same manner as received. Local customers use their own vans or trucks for delivery. Shipments are also received from FedEx and UPS as well as via commercial carrier semi-truck/trailer. Typical delivery hours are from 8:00AM to 5:00PM Monday through Friday. Frequency of deliveries varies greatly. Shipments are received at the large loading door at building west end and are unloaded by hand, by forklift or by hoist. All loading/unloading is performed within the facility fenced property.
6. WASTE: The heat treat process does not produce waste as noted. No oil or water quench operations are performed negating any waste disposal for these operations. Metal furnace equipment is recycled through J. Solotken. Trash pickup is provided by Rays Trash service.

Page 4 of 4

(Continued)



Photos of subject site from east lot line.

(Continued)



Photo of industrial property to the northeast.



Photo of residential to the south lot line of Hanna Avenue.

(Continued)



Photos of residential south of subject site along Hanna Avenue.

(Continued)



Photo of east lot line, near Hanna Avenue and Churchman Bypass intersection.



Photo of west lot line, nearest I-465.

(Continued)



Photos of subject site from south lot line.

(Continued)



Photo of residential at south lot line.



Photo looking west on Hanna Avenue.

(Continued)



Photo looking west on Hanna Avenue.



Photo of the Subject Property: 6234 East Hanna Avenue

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-036
Address: 2711, 2715 and 2719 Madison Avenue (approximate address)
Location: Center Township, Council District #16
Zoning: C-5
Petitioner: SC Indy Land LP and TGA SC Global Indy I LP, by Joseph D. Calderon
Request: 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).

ADDENDUM FOR DECEMBER 6, 2022

The petitioner has requested that this petition be continued from the December 6, 2022, hearing of Division I to the January 3, 2022, hearing of Division I. This would require a vote by the Board.

ADDENDUM FOR NOVEMBER 1, 2022

This petition was continued from the November 1, 2022, hearing of Division I, to the December 6, 2022 hearing of Division I, due to lack of quorum.

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-5	Compact	Heavy Commercial
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SURROUNDING ZONING AND LAND USE

North	C-5 / D-8	Commercial / Vacant lot
South	C-5 / C-4 / D-8	Commercial
East	SU-2	School
West	C-5	Commercial

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Community Commercial development.

(Continued)

STAFF REPORT 2022-UV1-036 (Continued)

- ◇ The subject site is a combination of three lots, totaling 13.69 acres, within the Madison Avenue Commercial Subdivision in the Garfield Park neighborhood. The subject site can be accessed from both Madison Avenue and East Street. The existing structure on the subject site was a big box retail store (dated back to the 1970s) that had been vacant for several years, but under 2016-UV3-017, was permitted to be used for mini-warehouses within the enclosed building. The surrounding neighborhood consists of a mix of commercial uses, with protected districts to the north and south, however, used commercially.
- ◇ The subject site is zoned C-5 (General Commercial District). The C-5 District is designed to provide areas for those retail sales and service functions whose operations are typically characterized by automobiles, outdoor display, or sales of merchandise; by major repair of motor vehicles; by outdoor commercial amusement and recreational activities; or by activities or operations conducted in buildings or structures not completely enclosed. The types of uses found in this district tend to be outdoor functions, brightly lit, noisy, etc. Therefore, to provide a location where such uses can operate in harmony with the vicinity, the C-5 district should be located on select heavy commercial thoroughfares and should avoid locating adjacent to protected districts.

VARIANCE OF USE

- ◇ The request would provide for the operation of a self-storage facility within a retail building with the outdoor covered storage of recreational vehicles, boats, and other vehicles. Table 743-1 states that mini-warehouses (Self Storage Facility) are permitted in the C-7 district and all industrial districts. Outdoor Storage and Operations is permitted as an accessory use in the C-5, C-7, and all industrial districts. Table 743-306-2 (Maximum Outside Storage and Operations Permitted) stipulates that Outdoor Operations is permitted (as an accessory use) in the C-5 district, but Outside Storage is limited to only storage of inoperable vehicles awaiting repair.

The subject site is zoned C-5. The use variance, 2016-UV3-017, allows for the existing structure to be used as a self-storage facility, subject to the Plan of Operation, which specifically states Outdoor Storage is not permitted. This commitment was part of Staff's reasoning for an approval recommendation of 2016-UV3-017.

- ◇ **Mini-Warehouses (or Self Storage Facility)** are defined as a building or group of buildings containing one or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds 600 square feet in area (740-202.M). Where permitted, mini warehouses should have:
 1. All storage shall be within enclosed buildings except in the C-7, I-3 and I-4 districts.
 2. Security fencing shall not include razor wire or barbed wire within 10 feet of a front lot line or transitional yard.
 3. Doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.
 4. A landscaped or naturally vegetated buffer at least 50 feet in width shall be provided along any lot line that abuts a protected district.
 5. Exterior access to any storage units within 100 feet, measured in any direction, of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. (See Section 743-301 and Section 740-308.)

(Continued)

STAFF REPORT 2022-UV1-036 (Continued)

- ◇ The Comprehensive Plan recommendation for the subject site is Community Commercial development. 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. The proposed use for mini warehousing, with Outdoor Storage, would be a significant deviation from the Comprehensive Plan recommendation, promoting a more of an industrial aesthetic.
- ◇ Staff is wholly opposed to the request, where the addition of Outdoor Storage would not fit within the definition of mini warehouses, where it states all storage be within enclosed buildings. The proposed use would be similar to that of Automobile and Vehicle Storage of Auction (which is only permitted in the C-7, I, 2, I-3, and I-4 districts). The proposed use of the subject site would be a significant deviation from the C-5 district uses and Comprehensive Plan recommendation.

2016-UV3-017

- ◇ The use variance, 2016-UV3-017, provided for the conversion of the existing retail building into an indoor self-storage facility, including indoor boat/RV storage. Staff recommended approval of the use variance because the lot had been vacant for at least two years. Staff is generally hesitant of an increase of intensity, however, due to the mitigating factors of the subject site being vacant and the difficulty in finding a way to reuse the structure, Staff was able to recommend approval. At the time of the request, no additional structures were proposed, and Outdoor Storage was specifically stated as not permitted within the Plan of Operation.
- ◇ The approved use variance, 2016-UV3-017, would continue to allow for the subject site to be used as a self-storage facility. Staff is not supportive of the current request, to add Outdoor Storage and increase industrial aesthetic, especially where there is no hardship in the use of the subject site.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Madison Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 90-foot existing right-of-way and a 114-foot proposed right-of-way.

SITE PLAN
PLAN OF OPERATION
FINDINGS OF FACT

File-dated September 19, 2022.
 File-dated September 19, 2022.
 File-dated September 30, 2022.

(Continued)

STAFF REPORT 2022-UV1-036 (Continued)**ZONING HISTORY – SITE**

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

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-mart department store, with patio shop, outside sales, pole sign and signs on the building, **approved**.

ZONING HISTORY – 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**.

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**.

(Continued)

STAFF REPORT 2022-UV1-036 (Continued)

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 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**.

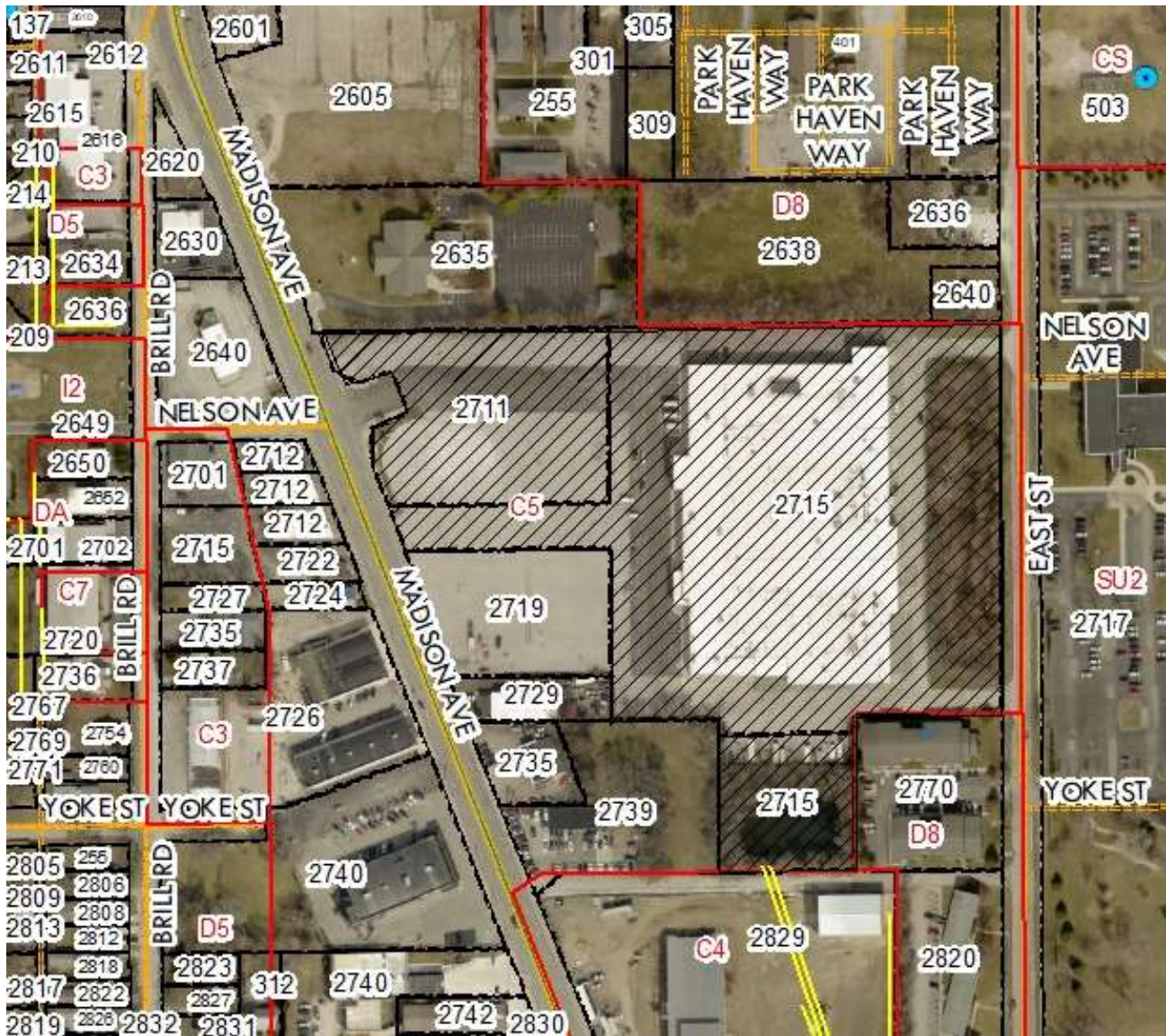
79-UV1-105; 2652 Brill Road, requested a variance of use to provide for an automobile machine shop; **granted**.

78-UV1-105; 2652 Brill Road, requested a variance of use and development standards to permit erection of a 60' x 40' building for automotive machine shop, as per plans filed, with three off-street parking spaces available, **granted**.

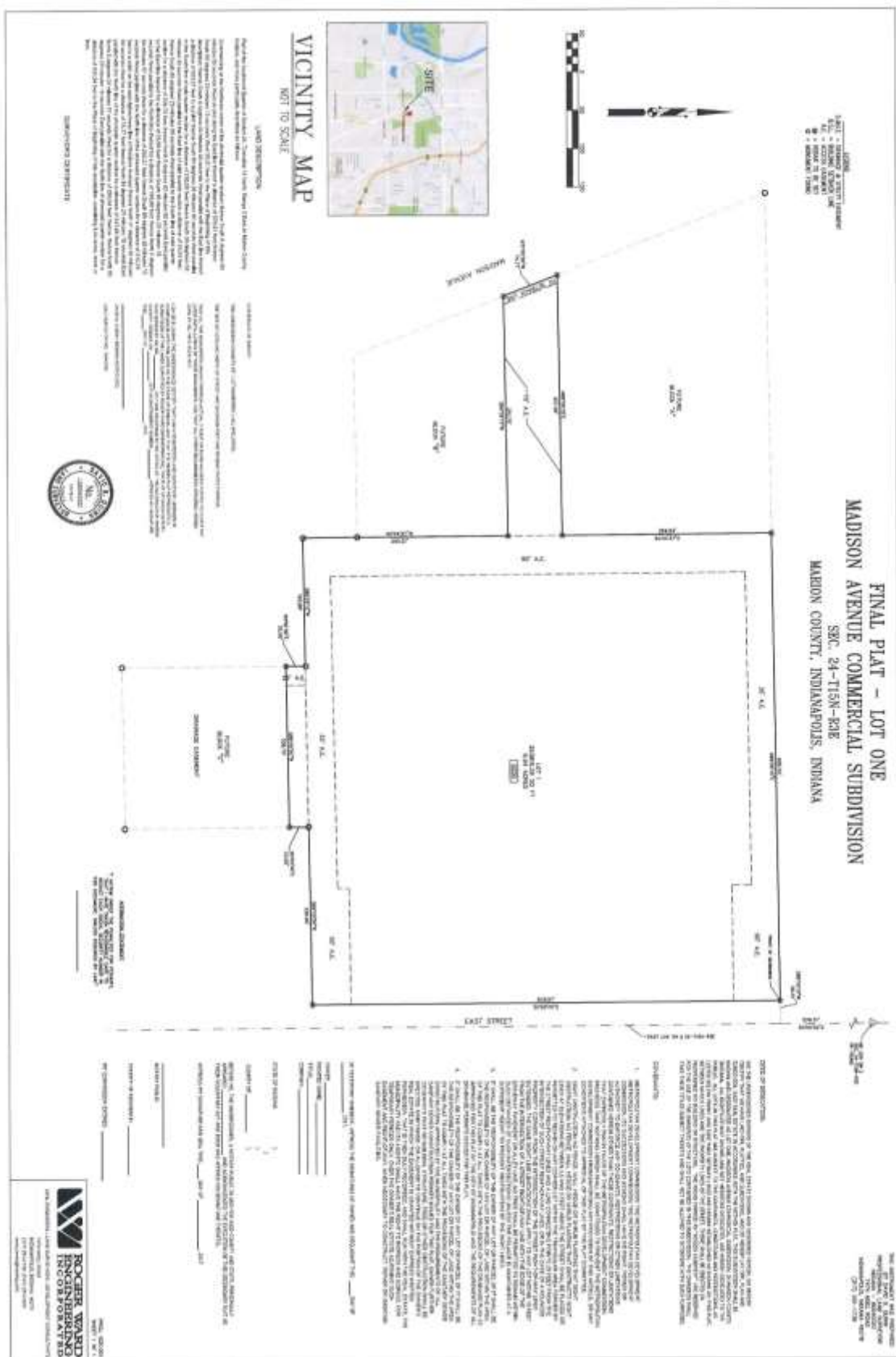
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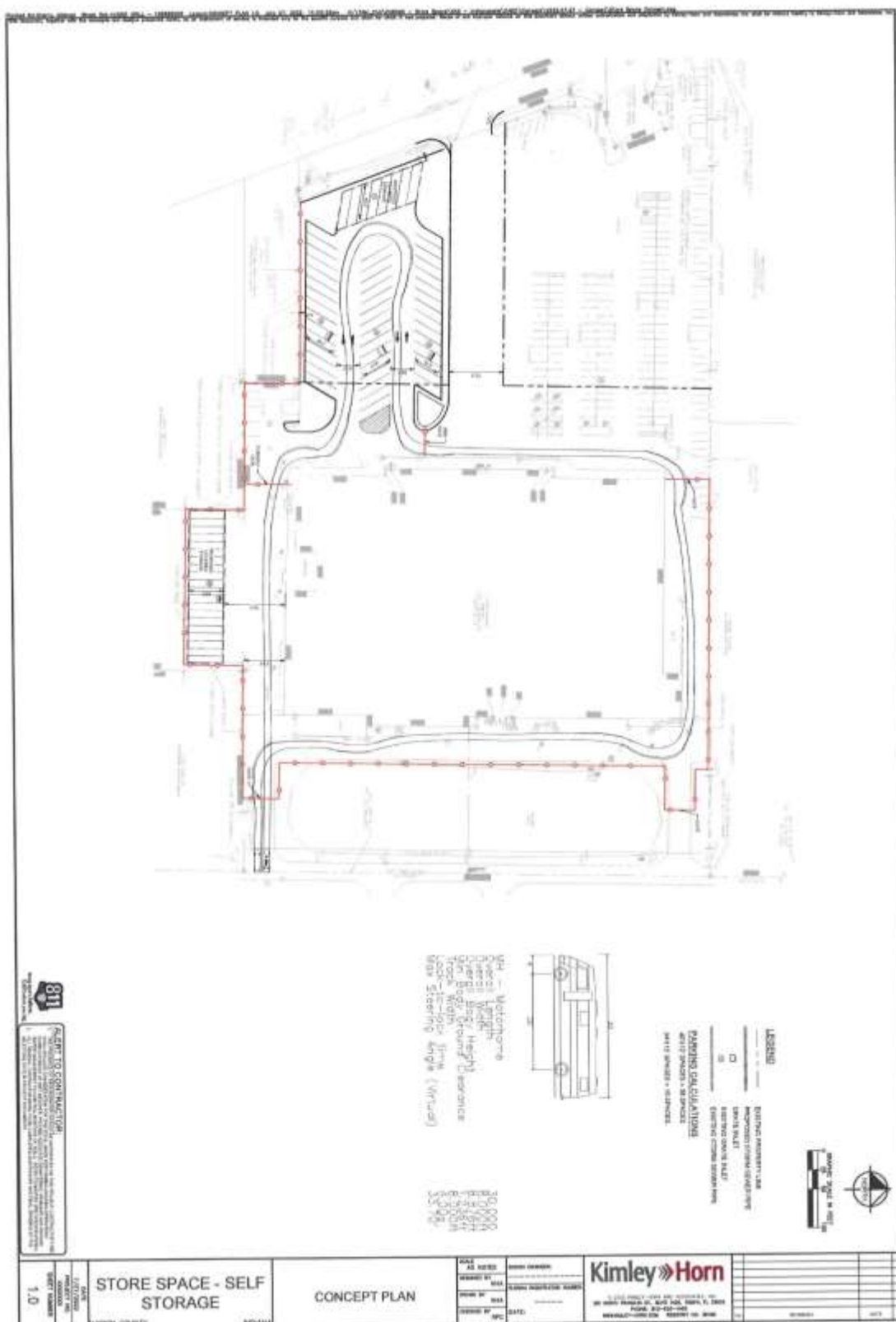
2022-UV1-036; Aerial Map



(Continued)



(Continued)



(Continued)

Exhibit "B"

AMENDED PLAN OF OPERATION

Store Space Self-Storage Facility
2715 Madison Avenue, Indianapolis

Location

The existing self-storage facility has been operating in the entire existing building at 2715 Madison Avenue that once housed the former K-Mart retail store (closed since December 2014). The building comprises approximately 154,700 square feet under roof on four parcels of land that total approximately 13.7 acres. The land fronts on both Madison Avenue to the west (primary access point) and East Street to the east (secondary access point).

Facility Design

The indoor facility includes approximately 986 personal storage units in addition to boat/RV storage units. Interior space will also include a management/leasing office for three employees and an employee restroom.

Store Space proposes additional covered outdoor space for RV's, boats and other vehicles in those areas shown on the site plan.

Hours of Operation

Hours of operation for the management/leasing office will be:

- Monday through Friday: 9:00 AM - 6:00 PM.
- Saturday: 9:00 AM - 5:30 PM.
- Sunday: Closed.

Hours of operation for tenant access to storage units:

- Monday through Sunday: 6:00 AM - 10:00 PM.

Security Provisions

Security cameras will be used to monitor all entrance and exit doors. Access to the interior will be keypad controlled. There will be approximately 60 security cameras monitoring the interior of the building.

Hazardous and Explosive Materials Prohibited

Hazardous or explosive materials are not allowed to be held or stored at this facility.

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 site is already used in part as a self-storage business, the outdoor self-storage area is a small portion of the site, and will not interfere with access to or visibility of the subject property, and will not be located in any clear site triangle area.

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

the properties are all commercial in nature, except for one multi-family property, which will be separated from the subject property by the existing indoor self-storage building.

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

the site is a former K-Mart property which had been vacant for some time before being converted to self-storage. The site is too large to be limited solely to indoor self-storage.

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

to distinguish between indoor and outdoor self-storage results in a one size fits all approach, does not take into account the relative utility or size of properties.

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

the comprehensive plan calls for community commercial use, which would allow for the use of parking lots for vehicle parking; without restriction, which would be similar to the type of storage requested.

DECISION

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

Adopted this _____ day of _____, 20 ____



Photo of the Subject Property: 2711, 2715, 2719 Madison Avenue



Photo of subject site, looking south.

(Continued)



Photo of subject site, looking north.



Photo of subject site, looking west towards Madison Avenue.

(Continued)



Photo looking south on Madison Avenue.



Photo looking south on subject site.

(Continued)



Photo looking south of subject site, towards neighboring commercial properties.



Photo looking west of subject site.

(Continued)



Photo looking northwest of subject site, towards existing signage and bus stop on Madison Avenue.



Photo looking south on Madison Avenue.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-038
Address: 4010 West 86th Street (approximate address)
Location: Pike Township, Council District #1
Zoning: C-1 (FF)
Petitioner: UHS of Delaware, Inc., d/b/a Valle Vista Health System, by Joseph D. Calderon
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a methadone clinic, including counseling, and education, within 160 feet of a dwelling district (500 feet of separation required).

ADDENDUM FOR DECEMBER 6, 2022

The petitioner has requested a continuance from the December 6, 2022, hearing of Division I to the January 3, 2022, hearing of Division I. This would require a vote by the Board.

ADDENDUM FOR NOVEMBER 1, 2022

This petition was automatically continued by a registered neighborhood organization, continuing it from the November 1, 2022, hearing of Division I to the December 6, 2022, hearing of Division I.

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-1	Metro	Commercial
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SURROUNDING ZONING AND LAND USE

North	C-S	Commercial
South	C-1	Commercial
East	C-1	Commercial
West	C-1	Commercial

LAND USE PLAN

The Marion County Land Use Plan recommends Office Commercial development.

(Continued)

STAFF REPORT 2022-UV1-038 (Continued)

- ◇ The subject site is 1.29 acres, located in the Boulder Gate Terrace Subdivision in the College Park neighborhood. The subject site is located at the intersection of 86th Street and Guion Road. The subject site consists of a structure with several tenant spaces, used for low intensity commercial. The surrounding neighborhood is mostly commercial, with a residential zoning district located within 160 feet of the site. However, the residential district has variances that allow for commercial uses.
- ◇ The subject site is zoned C-1 (Office Buffer District). The C-1 District is designed to perform two functions: act as a buffer between uses, and provide for a freestanding area that office uses, compatible office-type uses, such as medical and dental facilities, education services, and certain public and semipublic uses may be developed with the assurance that retail and other heavier commercial uses with incompatible characteristics will not impede or disrupt. Since the buildings for office, office-type and public and semipublic uses are typically much less commercial in appearance, landscaped more fully and architecturally more harmonious with residential structures, this district can serve as a buffer between protected districts and more intense commercial or industrial areas/districts - if designed accordingly. This district, with its offices and other buffer type uses, may also be used along certain thoroughfares where a gradual and reasonable transition from existing residential use should occur.

VARIANCE OF USE AND DEVELOPMENT STANDARDS

- ◇ The request would provide for the operation of a methadone clinic, including counseling, and education, within 160 feet of a dwelling district. Table 743-1 states that Methadone Clinics or Treatment Facilities are only permitted by Special Exception in the C-4, C-5, C-7, and CBD-2 districts. Methadone Clinics or Treatment Facilities are not permitted in the C-1 district, and therefore, a variance of use is required (as opposed to a Special Exception).
- ◇ As per Table 743-301-1, Methadone Clinics or Treatment Facilities are required to have 500 feet of separation between the following uses:
 1. Dwelling district
 2. Historic preservation district
 3. PK-1 Park district
 4. University quarter district
 5. SU-1 District (church)
 6. SU-2 District (school)
 7. SU-37 District (library)
 8. SU-38 District (community center)
 9. A lot or parcel containing an elementary, junior high, or high school

To the east of the subject site, is a protected district that is zoned D-2 (Dwelling District Two); only 160 feet from the subject site. Staff considered that the existing dwelling district has commercial use variances for office use and a beauty salon. In Staff's opinion, since commercial uses are permitted within the dwelling district, the proposed commercial use would not negatively impact the nearby protected district.

(Continued)

STAFF REPORT 2022-UV1-038 (Continued)

- ◇ The Comprehensive Plan recommendation for the subject site is Office Commercial. The **Office Commercial** typology provides for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses. Office commercial development can range from a small freestanding office to a major employment center. This typology is intended to facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons.
- ◇ Table 743-1 states that Medical or Dental Offices, Centers, or Clinics are permitted within the C-1 district. Staff finds that the proposed use would be similar to what is currently permitted at the subject site. The Plan of Operation provided, stipulates that a Diversion Control Plan and Safety Plan would be designed to promote safety for patients, employees, and the surrounding community. This would include the use of security cameras, alarm systems, and security staff. The Hours of Operation would be 5:30 am to 2:00 pm (open on Holidays), seven days a week. Security staff would be on premises during Hours of Operation.
- ◇ Staff is not aware of any other Methadone Clinics or Treatment Facilities within 10 miles of the subject site. Staff is supportive of the request, where the proposed use would not be a significant deviation from the permitted C-1 uses and Comprehensive Plan recommendation, and when the adjacent protected district is being used for non-residential uses.

GENERAL INFORMATION**THOROUGHFARE PLAN**

86th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 135-foot existing right-of-way and a 134-foot proposed right-of-way. Guion Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with an 88-foot existing right-of-way and a 50-foot proposed right-of-way.

SITE PLAN

File-dated September 27, 2022.

PLAN OF OPERATION

File-dated September 27, 2022.

FINDINGS OF FACT

File-dated September 27, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

2004-UV3-010; 4010 West 86th Street (subject site), requested a Variance of use of the Commercial Zoning Ordinance to provide for a beauty salon in an existing commercial office complex, **approved**.

(Continued)

STAFF REPORT 2022-UV1-038 (Continued)**ZONING HISTORY – VICINITY**

2009-UV3-005; 3904 West 86th Street, requested a Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to provide for an office and a five-foot tall, six-square foot sign with a two-foot front setback, **approved**.

2006-ZON-090; 3906 West 86th Street (west of site), rezone from D-2 (FW)(FF) to C-1 (FW)(FF) to provide for office-buffer commercial uses, **approved**.

STAFF REPORT 2022-UV1-038 (Continued)

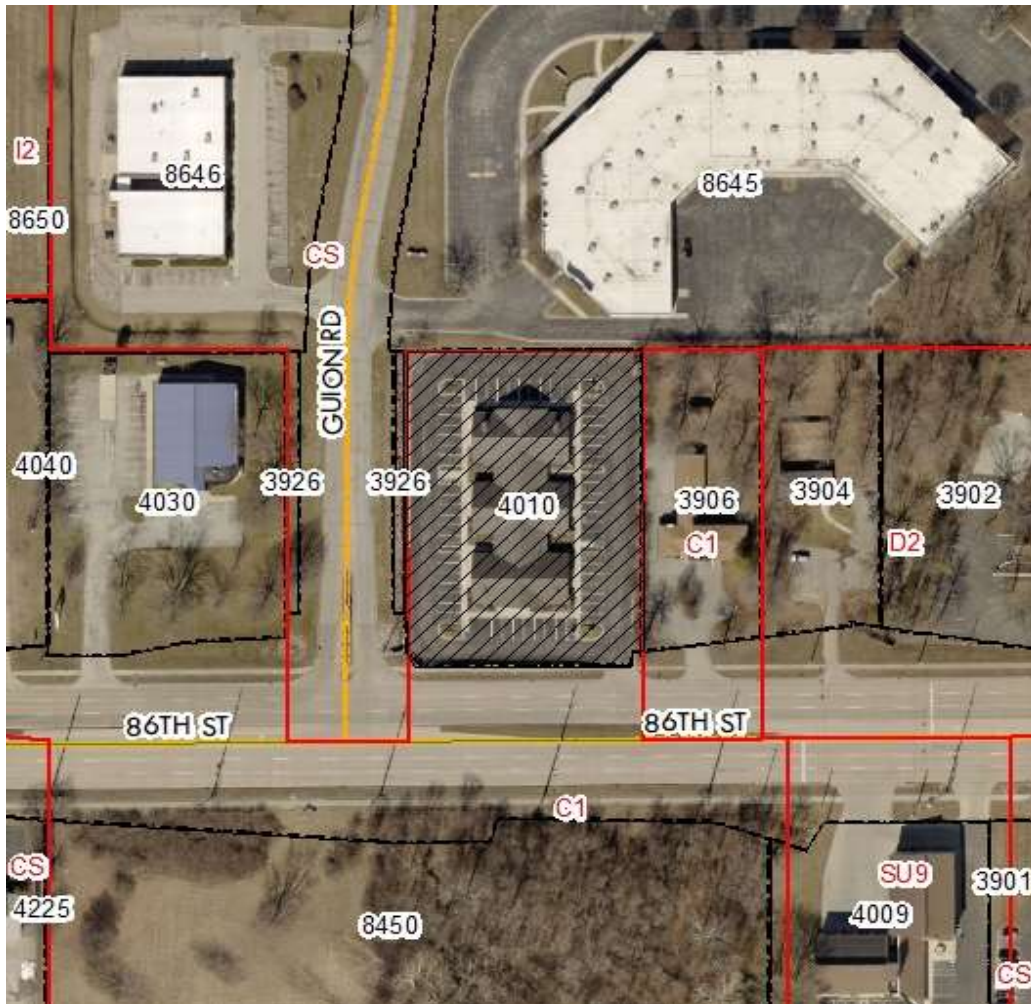
96-UV2-90; 3902 West 86th Street (east of site), requests a Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to provide for a beauty salon within a residential structure, with a 4 by 6-foot ground sign, being zero feet from the right-of-way, in D-2(FW)(FF), **granted**.

85-HOV-82; 3901 West 86th Street (southeast of site), requests a Variance of Development Standards of the Commercial Zoning Ordinance to provide for a drive-through window and a driveway in the required front yard of a bank, in C-S, **granted**.

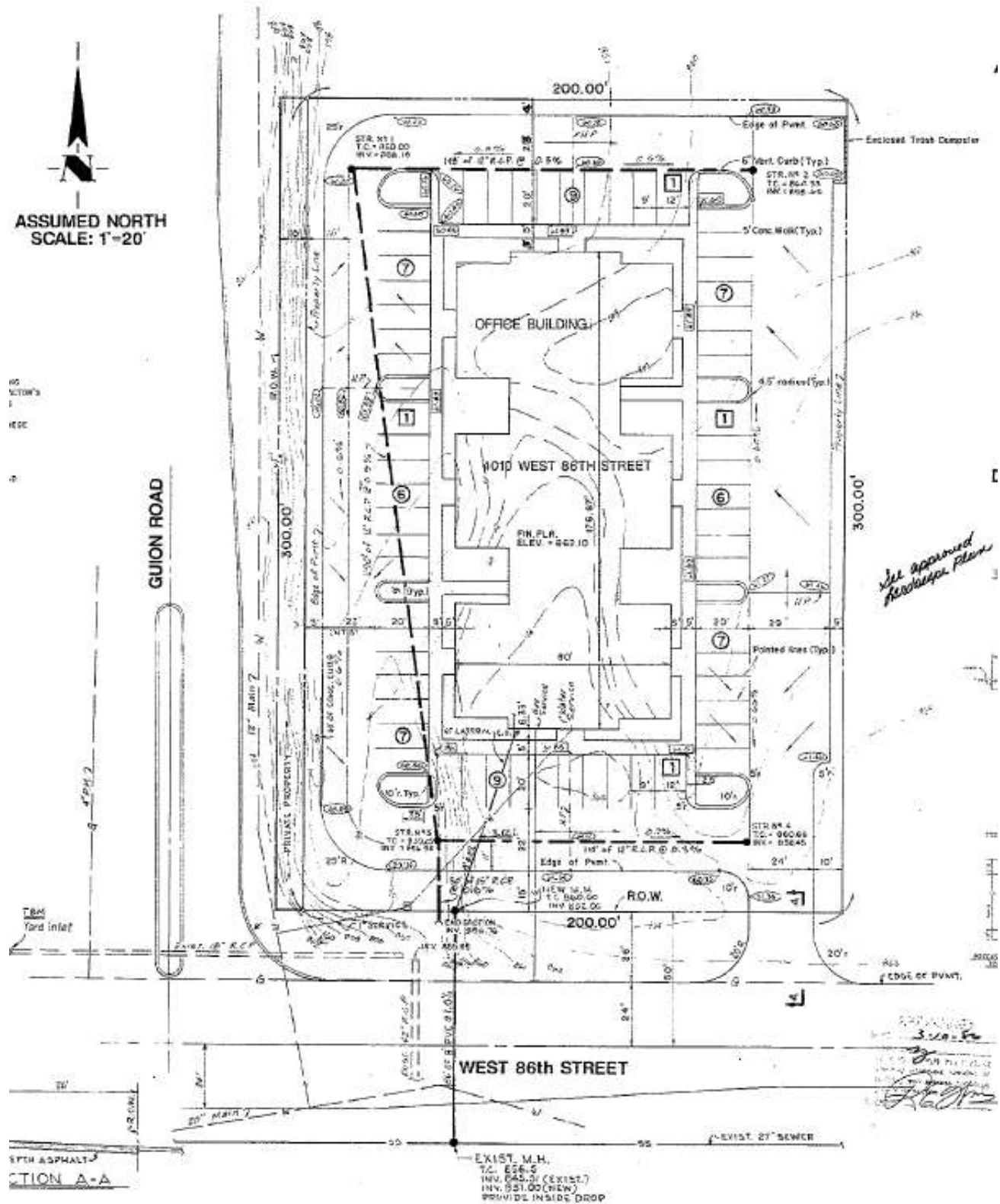
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2022-UV1-038; Aerial Map



(Continued)



(Continued)



Valle Vista Health System is part of a larger corporation, Universal Health Services (UHS), and has been providing quality addiction and behavioral health services that promote individual and community health, wellness, resiliency, and recovery since 1983 in central Indiana. Valle Vista provides inpatient and outpatient treatment to both adolescents and adults. In 2018, the organization expanded services by opening an Opioid Treatment Program in Johnson County.

Our agency's experience with this specialized service line includes the following:

1. Successful operation of a de novo clinic in the Indianapolis metropolitan area since 2018.
2. Successful annual surveys by the state and federal agencies with jurisdiction.
3. Consistent management and experienced medical, clinical, and administrative leadership, including:
 - a. Medical director with specialized training and experience in Addiction Medicine.
 - b. Clinic director with start-up experience and specialization in addiction care and healthcare administration.
 - c. Therapists, nurses, and support personnel with solid education, training, and experience in the field.
4. Robust operations support from one of the major healthcare systems in the USA.
5. Exceptional Clinical Outcomes
 - a. Treatment retention: 82.4% patients remained in treatment after 90 days
 - b. Engagement/Patient compliance with scheduled medication visits: 90%
 - c. Outcomes for patients who remained in treatment after 6 months:
 - i. 97% obtained or maintained stable housing
 - ii. 75% obtained or maintained gainful employment
 - iii. 92% remained uninvolved in new legal issues
 - iv. 91% remained in compliance with their current requirement with the judicial system
 - v. 100% remained in compliance with DCS requirements
 - vi. 86% were linked with medical care
 - vii. 99% reduced use of illegal drugs
 - viii. 74% improved their domestic relationships

Program Purpose and Overview

An Opioid Treatment Program is a comprehensive treatment program that incorporates the use of FDA-approved medications, in combination with counseling, to provide a "whole-patient" approach to the treatment of substance use disorders. This approach is called Medication-Assisted Treatment (MAT).

This treatment approach is associated with the following positive outcomes¹:

- Improve patient survival
- Increase retention in treatment
- Reduce need for inpatient detoxification services
- Decrease illicit opiate use and other criminal activity among people with substance use disorders
- Increase patients' ability to gain and maintain employment
- Improve birth outcomes among women who have substance use disorders and are pregnant
- Contribute to lowering a person's risk of contracting HIV or Hepatitis C by reducing the potential for relapse

Opioid Treatment Programs in Indiana are highly regulated by several state and federal entities, including the Department of Mental Health and Addiction (DMHA), Drug Enforcement Agency (DEA), Board of Pharmacy, Substance Abuse and Mental Health Services Administration (SAMHSA), and The Joint Commission. Regulatory statutes and rules govern the facility's operations (See Appendix A).

Market Analysis

As part of the governor's mission to address the opioid epidemic in our state, the Department of Mental Health and Addiction granted Valle Vista Health System the opportunity to open an Opioid Treatment Program in Marion County.

Marion County statistics regarding opioid use and opioid-related deaths necessitate additional treatment centers in this county. The Indiana Department of Health provides annual statistics reflecting deaths caused by acute drug poisonings that involve any opioid as a contributing cause of death. In 2020, Marion County residents accounted for 510 of the state's 1,875 opioid-related deaths. That's nearly double the amount of Marion County opioid-related deaths in the prior year (293 opioid-related deaths).²

While Marion County does have two other Opioid Treatment Programs, the statistics reflect the county's need for additional treatment providers. The existing programs continue to experience an influx of patients, and alternate locations are needed to meet the need of people in the community. Many patients enrolled in treatment are employed individuals, and centrally located treatment centers are needed in order to reduce the amount of time people drive to obtain treatment.

Community Relations

The facility functions in accordance with its approved Community Relations Plan which details comprehensive community engagement efforts to ensure that our facility promotes a peaceful co-existence within the community, provides education/outreach on substance use disorder and medication-assisted treatment, and remains a positive resource within the community. Valle Vista Health System has a demonstrated history of commitment to the community and strong relationships with local and state regulatory entities, licensed hospitals, community mental health centers, law

¹ Substance Abuse and Mental Health Services Administration. (Last Updated 2022, July 25). *Medication-Assisted Treatment (MAT)*. Retrieved on September 18, 2022 from [Medication-Assisted Treatment \(MAT\) | SAMHSA](#).

² Indiana Department of Health, Division of Trauma and Injury Prevention; Vital Records. Retrieved September 18, 2022 from https://gis.in.gov/apps/lscdh/meta/stats_layers.htm.

enforcement, and other local and state officials. Strong community partnerships are integral to demonstrating the effectiveness of treatment in meeting the behavioral health needs of the community. Valle Vista Health System is adept at collaborating with community members to ensure these objectives are met (See Appendix C).

Valle Vista Health System works diligently to ensure that our facility is not a disruption to neighbors or the community. The facility is strategic about positioning of the main entrance and works closely with city and county officials, including law enforcement, to mitigate potential impact from changes in foot and vehicle traffic. Our organization is transparent about our safety and security protocols and routinely integrates community feedback into operational processes to mitigate negative impact to the surrounding community.

Workforce

This facility employs clerical staff, security staff, medical staff (physician, nurse practitioner, registered nurses, licensed practical nurses), and clinical staff (licensed and credential counselors) who are on site daily to provide direct services. There is a Program Director to oversee operations who is on site five days per week, and an Executive Director who provides additional operational and clinical oversight both on and offsite. Upon opening, the facility will employ up to 10 staff (not all employees are present on site simultaneously), and the number of employees will increase based on the number of patients served. Employees arrive to the facility at 5:00AM and depart from the facility starting at 1:30PM. Employees will park in the facility's dedicated parking lot.

Unarmed security staff are on site 7 days a week during hours of operation. Video surveillance is utilized both inside and outside the facility to monitor all activities. A DEA-approved alarm system with 24-hour monitoring is also utilized both inside and outside the facility to maintain security of the premises during non-operational hours as well as to promote safety of patients and employees during business hours. Employees are not permitted to be in the building without at least one additional staff member present.

Administrative and supportive services (human resources, billing, information management) are provided by employees at our main campus location in Johnson County.

Clients & Customers

This facility provides services to persons, age 18 and above, who meet criteria for Opioid Use Disorder. Services are rendered regardless of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status. Individuals receiving services at the facility are voluntary. Individuals seeking treatment are either self-referred or referred by other service providers.

This facility is open 7 days a week, including holidays. The facility opens at 5:30AM to ensure that treatment is accessible to its employed patients. While the facility is open until 2:00PM to allow for completion of administrative tasks, patients are gone from the facility typically by 11:00AM. Patients arrive to the facility via their own vehicle, cab or other transportation service, or by foot. The parking lot is monitored by security cameras as well as an on-site security guard.

A portion of the patients who receive services present to the facility daily to receive medication. Patients are also required to meet with the physician and to participate in group and individual counseling services as detailed in their treatment plan. The length of time the patient spends at the facility varies based on the required services they have scheduled for that day. Patients who present for medication are at the facility for an average of 5-10 minutes. Patients participating in counseling services or other medical appointments may be at the facility for up to 60 minutes to complete their scheduled services.

The facility anticipates an average of 228 enrolled patients in the first year of operation. New patients enter the program on a weekly basis, but the total census served by the program at any one time varies based on the number of admissions and discharges that occur. It is anticipated that many patients who will receive services at this location will transfer from our existing facility, as this location will significantly reduce the amount of time they spend driving to a treatment provider.

Processes Conducted on Site

The scope of services provided to the patients (either by staff on-site or via referral to a local community resource) include the following:

- A. Medical Services-physical examinations, phlebotomy, medication administration, medication management, drug testing, referral to and consultation with other medical service providers to coordinate medical care
- B. Educational Services to address the following: relapse prevention, prevention, treatment, and transmission of communicable diseases, including but not limited to HIV/AIDS, Hepatitis A, B, and C, TB, and STDs; for pregnant women-prenatal care while receiving medication-assisted treatment; prevention of overdose; human trafficking
- C. Counseling Services-individual, group, and family counseling, substance abuse assessment, individualized treatment planning, case management, aftercare planning
- D. Referral Services-vocational rehabilitation, education, employment, housing, other medical services not provided by OTP (including pain management), prenatal care or other gender-specific services, and mental health services that require a higher level of care

Safety and security are of the highest consideration for this organization. The facility's policies and procedures are reviewed, approved, and monitored by the aforementioned regulatory agencies. Onsite inspections by the agencies with authority over operations are conducted prior to opening the facility and routinely thereafter. The safety and security protocols are also monitored by the organization's internal management and corporate staff and are routinely reviewed to ensure the highest level of safety and security are maintained by the facility. See Appendix B for additional information related to safety and security protocols.

Administrative functions performed offsite include those related to human resources, accounts payable, billing and finance, and information management.

Materials Used

Hazardous materials are not used in this facility's operations. The primary materials used at this facility are patient care supplies, including those used for phlebotomy services, and medication. Regarding phlebotomy supplies, licensed nursing staff are responsible for this function. Supply storage and collection procedures are in compliance with standard universal precautions.

Medication is stored and dispensed on site. The facility follows its extensive Diversion Control Plan which incorporates a multitude of policies and procedures to ensure safe and secure practices as it pertains to medication shipments, inventory control, storage, and administration (See Appendix B).

The Diversion Control Plan is reviewed and approved by all applicable state and federal regulatory agencies including Drug Enforcement Agency, Board of Pharmacy, Department of Mental Health and Addiction, Substance Abuse and Mental Health Services Association, and the Joint Commission. Onsite inspections by these agencies ensure consistent implementation of the Diversion Control Plan. The Diversion Control Plan also details the use of drug screening, the use of the state's Prescription Drug Monitoring Program, and pre-employment screening and background checks for employees to further ensure safety and security.

Shipping & Receiving

Patient care and office supplies are received via UPS. The frequency and time of day varies based on supply needs but may occur 1-2 times per month. The most frequently received material is medication. The medication is received 1-2 times per month via a wholesale drug distributor. The precise delivery time is unknown until the operations begin; however, delivery time is typically during the morning hours. The delivery vehicle is a van. Materials are received directly by nursing staff and escorted by security staff employed at the facility.

Lab Services present to the facility daily Monday-Friday to pick up specimens. The precise pick-up time is unknown until operations are initiated. The vehicle for pick-up is a regular size vehicle.

Waste

The waste generated by this operation primarily includes patient care supplies and biohazard waste. The medical, security, and housekeeping staff are responsible for handling all waste generated at the facility. Biohazard waste is secured properly according to OSHA standards and is picked up by a contracted biohazard waste company. Empty medication containers are disposed of by security staff into a locked dumpster stored on the property. A contracted information management services company handles confidential document shredding.

Appendix B**Safety And Security**

Security of the patients, employees, facility, and overall community is a top priority for our organization. The facility's Diversion Control Plan and Safety and Security Plan are designed to promote safety and integrates state and federal guidelines in doing so. Maintaining a safe and secure environment requires a multi-faceted approach, with all employees playing a role in the implementation of security protocols. Below are excerpts from the comprehensive plans in place as part of the facility's standard operating procedures.

Security of Environment

The facility utilizes a DEA-approved security system, employs on site security staff, uses video surveillance, and closely monitors all vendors and guests to ensure security of the environment. All clinic employees are responsible for continuous monitoring of the facility and grounds for the purpose of identifying potential diversion activities or other safety concerns. All employees are responsible for reporting any concerns immediately to the Program Director for further investigation and follow-up.

Alarm System

The facility contracts with a DEA-approved security service company for installation and monitoring of the main alarm system for the facility, the medication room, and a subsystem and keypad for the safe where medication is stored.

Security Staff

On-site security staff are employed by the facility during patient care hours. Security staff is present at the facility at least 30 minutes before the facility is open and at least 30 minutes after medication is dispensed. Facility policy prohibits loitering in the parking lot and the grounds are routinely patrolled to ensure this policy is enforced.

Video Surveillance

Video cameras are used to record and document the environment including common areas throughout the facility, patient and staff entrances, and the parking lots. Video surveillance is also used to monitor areas where controlled substances are stored and dispensed. These recordings and their use will be done in accordance with state, federal, and HIPAA regulations. Signage indicates that the facility is monitored by video surveillance.

Guests and Vendors

All vendors and guests must sign the visitor confidentiality log when entering the facility. Only authorized guests are allowed beyond the facility's front reception area. Authorized guests are those individuals participating in a patient's scheduled therapeutic session. All vendors are accompanied by a facility employee.

Security of MedicationRegulatory Compliance

The program requires a DEA Certificate of Registration to provide services. This registration is contingent upon a Controlled Substance Registration granted by the Board of Pharmacy. Registrations are renewed in accordance with state regulatory standards. Only authorized individuals with Power of Attorney are permitted to order and receive medication shipments. The facility uses an electronic Controlled Substance Operating System to order and receive medication. All records are maintained in accordance with regulatory standards and are subject to routine inspection by the DEA and Board of Pharmacy.

Purchasing and Receiving Medication

Only authorized individuals with Power of Attorney are permitted to order and receive medication shipments. All controlled substances are delivered directly to the facility where authorized nursing staff will be present to receive the order. Security staff accompanies nursing staff and the medication delivery to the medication room. All medications are secured immediately upon delivery.

Medication Storage and Inventory Control

Medication storage and inventory control are performed in accordance with state regulatory standards. Controlled substances are maintained in a DEA-approved narcotics safe, armed with an alarm. The room containing the safe is alarmed on a zone separate from the overall facility. Alarm features include panic alarms, contact alarms, and motion sensors, all of which are monitored offsite by a 24-hour monitoring company. Access to the medication room and safe is restricted to a limited number of authorized medical staff. Daily, monthly, and biennial inventory processes mitigate the risk of diversion.

Appendix C

Community Relations

General Objectives

- A. Solicit input from the community and use both solicited and unsolicited input from the community to determine the program's impact in the neighborhood
- B. Obtain input from patients to identify community concerns and consider both patient and community input when developing or revising its policies and procedures
- C. Establish a liaison(s) with community leaders to foster positive relations
- D. Include goals and procedures and identifies program staff who will function as community relations coordinators
- E. Address how the program serves as a community resource on substance use disorder and related health social issues, as well as how it promotes the benefit of MAT in preserving public health
- F. Document community relations efforts and community contacts
- G. Evaluate its community relations efforts over time and address any outstanding problems

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 use will take place within a comprehensive medical clinic and will be wholly contained in an existing office building.

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 use will operate like a normal medical clinic and the adjacent uses are all self contained commercial uses.

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

the property is located on a primary thoroughfare with a commercial building that can be used as a medical clinic without dispensing methadone.

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 dispensing of methadone is clinically prescribed and an accessory use of the proposed clinic.

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

the build out and overall use of the facility will be that of a medical clinic, which is contemplated as an office commercial use.

DECISION

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

Adopted this _____ day of _____, 20 ____



Photo of subject site from access drive off of Guion Road.



Photo of access drive from Guion Road, not connected to subject site.

(Continued)



Photos of subject site, from adjacent access drive to the north.

(Continued)



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



Photo of subject site (north / west lot lines).
(Continued)



Photo of subject site from west lot line, showing tenant spaces.



Photo Guion Road and 86th Street intersection, with exisiting signage.
(Continued)



Photo of subject site from the south lot line, with view of 86th Street.



Photo of the Subject Property: 4010 West 86th Street

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-054 (Amended)
Address: 2655 Oliver Avenue (approximate address)
Location: Wayne Township, Council District #16
Zoning: D-5
Petitioner: Jonathan Dickey
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 60-foot setback from Holmes Avenue and a 208-foot setback from Addison Street (maximum 50-foot setback permitted along Neighborhood Yard Frontages) and no front entry feature along the Oliver Avenue frontage (front entry feature required).

RECOMMENDATIONS

Staff **recommends approval** of the amended request.

Original request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 60-foot setback from Holmes Avenue and a 208-foot setback from Addison Street (maximum 50-foot setback permitted along Neighborhood Yard Frontages) with a main floor area of 250 square feet (660 square foot main floor area required) and total floor area of 890 square feet (900 square feet of total floor area required) and no front entry feature along the Oliver Avenue frontage (front entry feature required) with a front-loaded garage occupying greater than 30% of the front façade (front loaded garages limited to 30% of front façade, and prohibited if greater than 45% of the façade).

Amended request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 60-foot setback from Holmes Avenue and a 208-foot setback from Addison Street (maximum 50-foot setback permitted along Neighborhood Yard Frontages) and no front entry feature along the Oliver Avenue frontage (front entry feature required).

An amended site plan was provided to Staff, where the proposed dwelling would now meet the Ordinance standards for 1) minimum main floor of a dwelling over 1 story, and 2) total floor area for primary dwelling units. Additionally, there is no longer a front-loaded garage to provide for more space in the dwelling. Staff recommends approval, based on the amended request.

(Continued)

STAFF REPORT 2022-DV1-054 (Continued)**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

LAND USE**EXISTING ZONING AND LAND USE**

D-5	Compact	Vacant land
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SURROUNDING ZONING AND LAND USE

North	I-4	Railroad Tracks / Industrial
South	D-5	Single-family dwelling
East	D-5	Single-family dwelling
West	D-5	Right-of-Way

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends 3.5 to 5 Residential units per acre.

- ◇ The subject site is 0.438 acre (19,079.28 square feet) located in the West Indianapolis neighborhood in Wayne Township. The subject site is a vacant lot with vehicle access provided from the east, connecting Addison Street to the north-south alley directly to the south. The subject site has three frontages, being Holmes Avenue, Oliver Avenue, and Addison Street. The subject site is surrounded by residential to the west, east and south. To the north, there are railroad tracks with industrial uses further north.
- ◇ The subject site is zoned D-5 (Dwelling District Five). The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would provide for the construction of a single-family dwelling with a 60-foot setback from Holmes Avenue and a 208-foot setback from Addison Street and no front entry feature along the Oliver Avenue frontage.
- ◇ Under Table 744-701-2: Private Frontage Design Standards, the subject site would be classified as a Neighborhood Yard Frontage. Neighborhood Yard frontage is applied when there is a higher speed or higher volume streets that lack pedestrian amenities needed for a quality frontage, or the context of the block establishes larger frontages as the predominant pattern, (typically 50% or more on the block face or at transitions to adjacent blocks or frontages).

(Continued)

STAFF REPORT 2022-DV1-054 (Continued)

- ◇ The required front building line range for the Neighborhood Yard frontage should be between 20 feet to 50 feet (744-701-2). The subject site has three frontages from Holmes Avenue (west), Oliver Street (north), and Addison Street (east). The proposed front yard setback from Holmes Avenue is 60 feet and the proposed front setback from Addison Street is 208 feet. The subject site is atypical in that it is a residential lot that spans the width of a neighborhood block. Staff has no objection to the proposed front setback where there is practical difficulty in developing on the subject site because of the three frontages.
- ◇ Table 744-701-2 also stipulates that front entry for all buildings shall have a primary entrance on the front facade. The proposed dwelling would have one entry oriented towards the southern side lot line, not visible from a street. The existing drive comes off Addison Street and would connect to the proposed driveway. The primary sole entry to the dwelling would be located away from the right of way (alley) and provide better security getting into the dwelling. Staff is not opposed to the request, where it would not adversely impact the surrounding neighborhood.

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

Oliver Street (north) is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 58-foot existing right-of-way and a 78-foot proposed right-of-way.

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

SITE PLAN

File-dated November 21, 2022.

ELEVATIONS

File-dated November 21, 2022.

FINDINGS OF FACT

File-dated October 4, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES: None.

ZONING HISTORY – VICINITY

None.

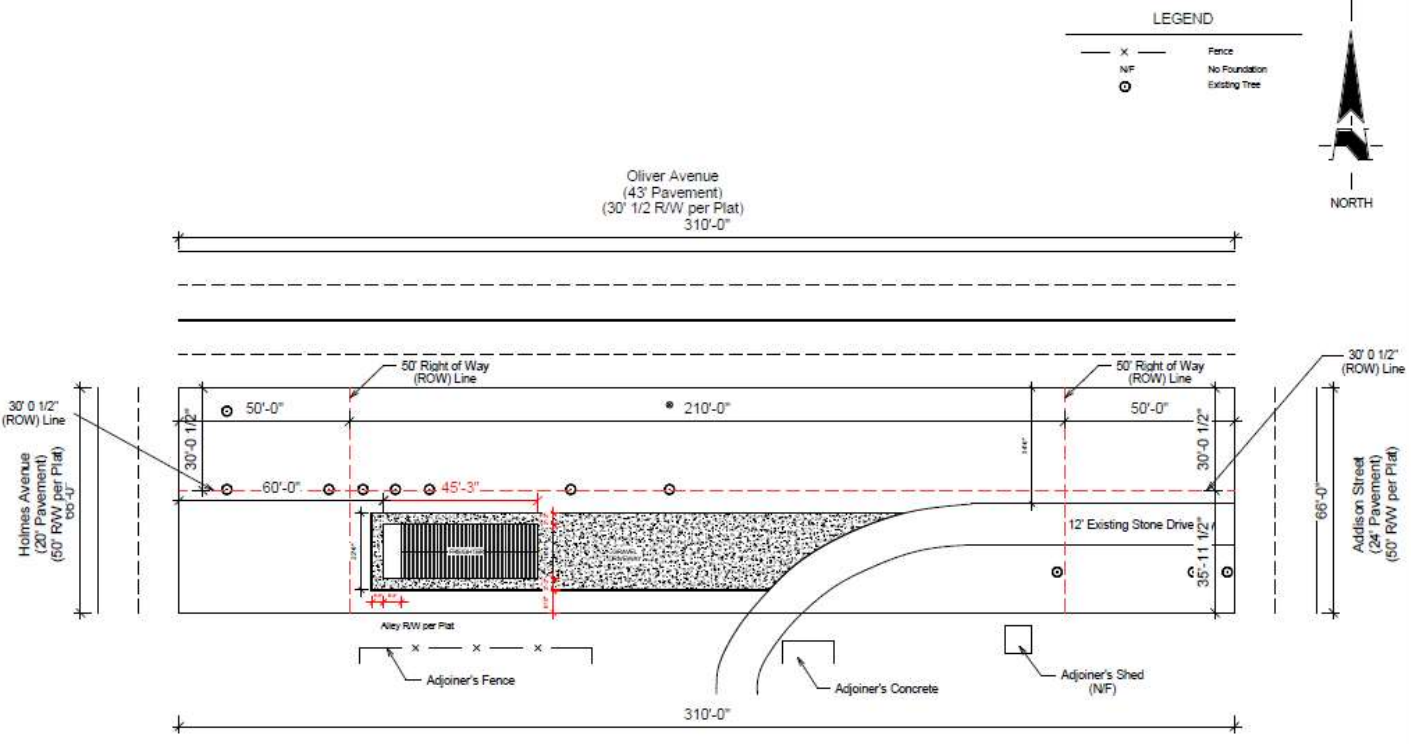
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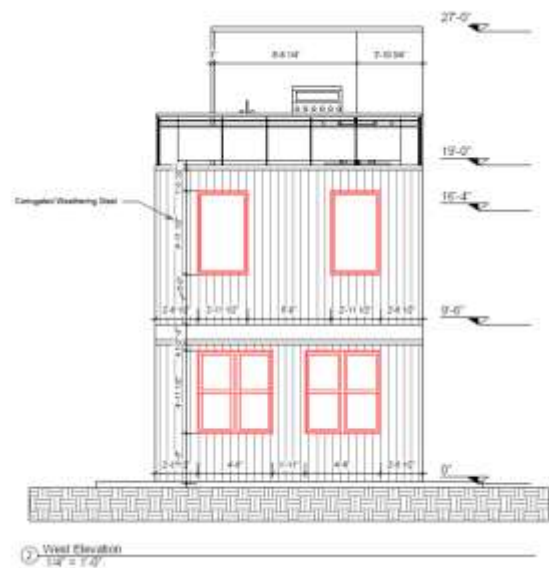
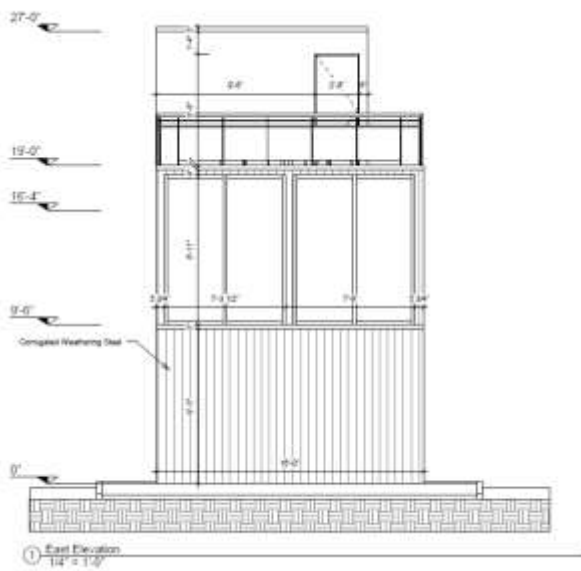
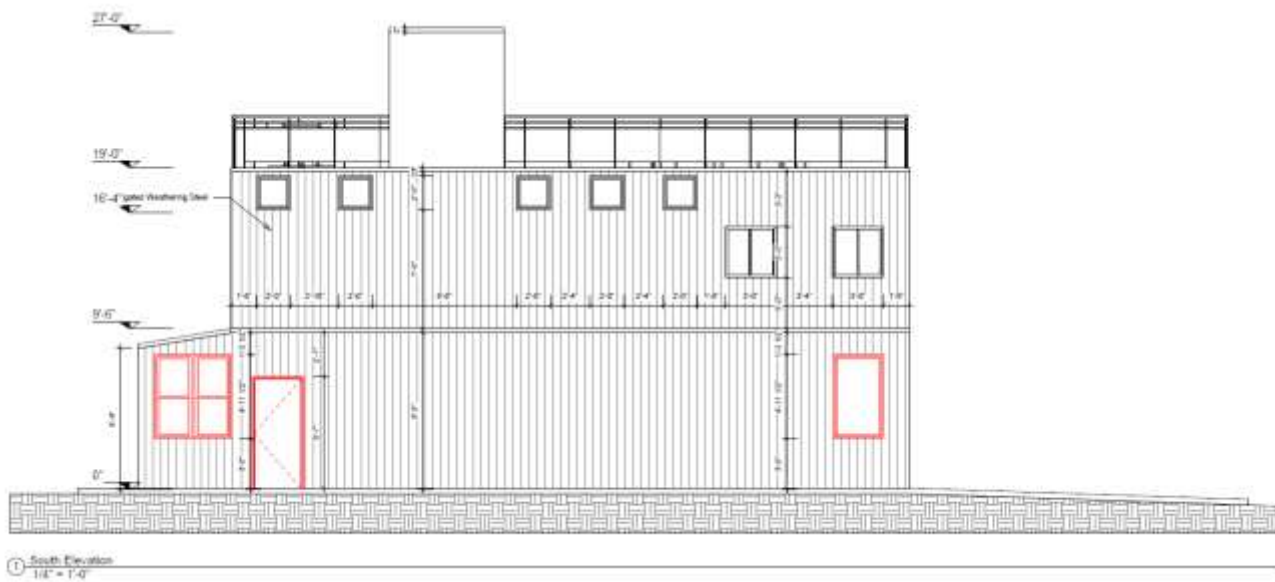
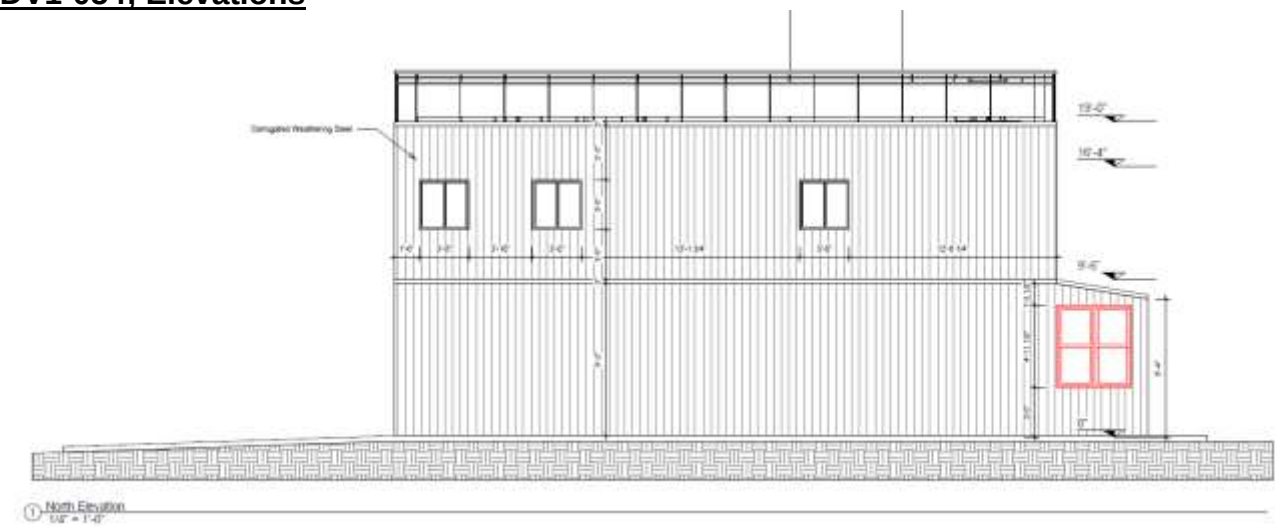
2022-DV1-054; Aerial Map



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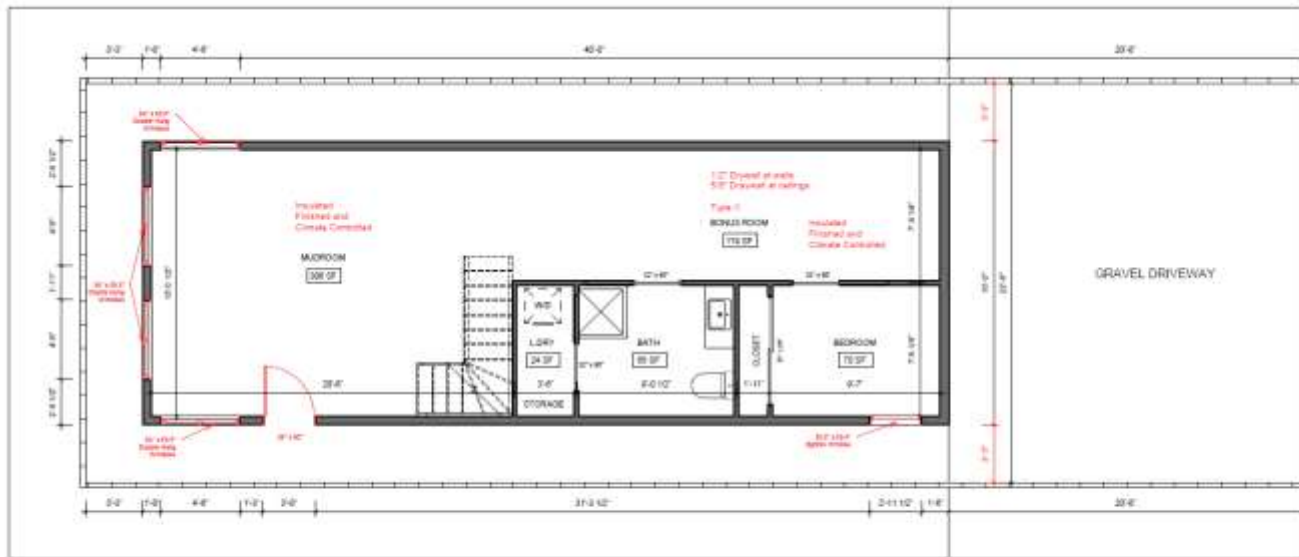


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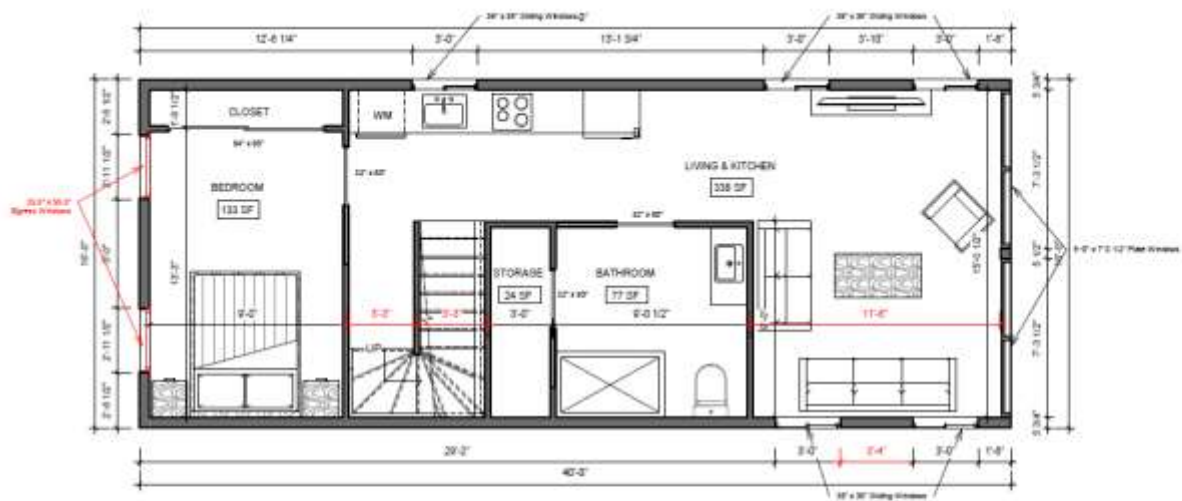
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2022-DV1-054; Floor Plans



1- Ground Floor Plan
1/4" = 1'-0"

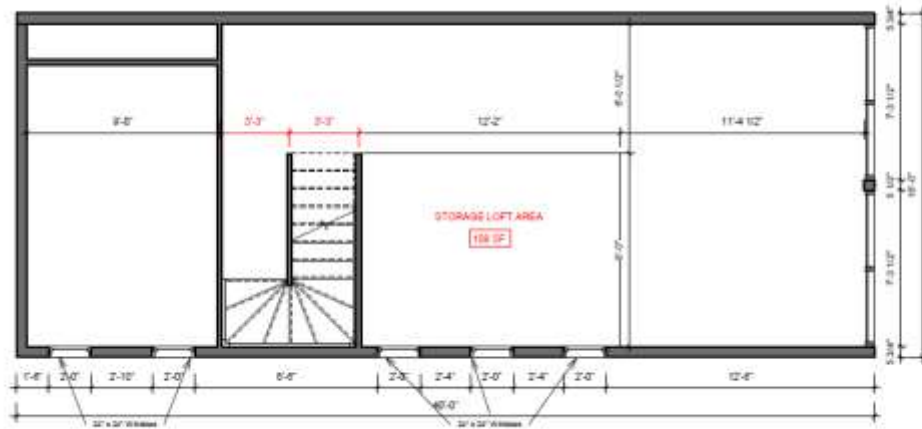
Ground floor plan



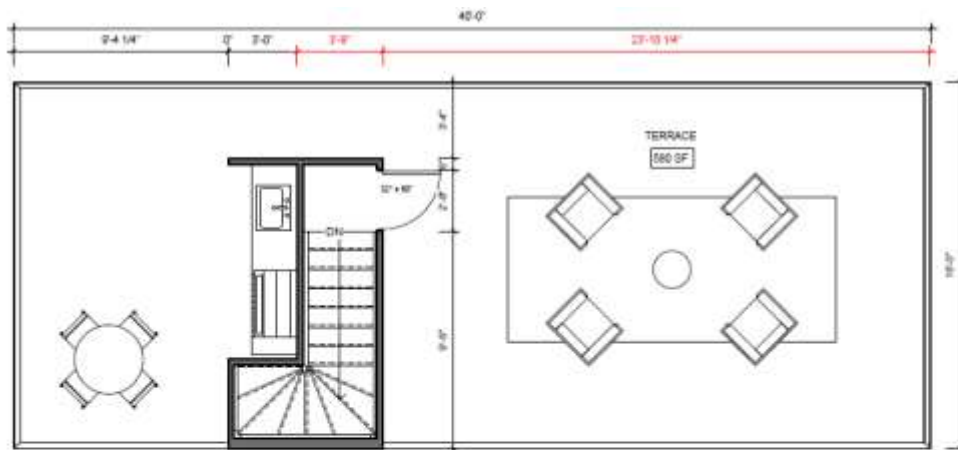
2- First Floor Plan
1/4" = 1'-0"

First floor plan

(Continued)



① 3-Loft Floor Plan
1/4" = 1'-0"



① 4-Terrace Plan
1/4" = 1'-0"



(Continued)



Photos of subject site, from east lot line.

(Continued)



Photo of existing alley, accessed from the east lot line.



Photo of surrounding vacant property to the east of subject site.

STAFF REPORT

Item 9.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-056
Address: 235 West 44th Street (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5
Petitioner: Deborah L. De Vries, by David Kingen & Emily Duncan
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached orangery with 15-foot rear setback (20-foot rear setback required) and to legally establish the existing one-foot western side yard setback (five-foot side yard setback required).

RECOMMENDATIONS

Staff **recommends approval** of the petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

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

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

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

- ◇ The request to provide for the construction of an attached orangery with 15-foot rear setback, is a result of the reduced lot depth. The subject site, at approximately 125.5 feet deep, is approximately 25 feet shorter than other typical D-5 zoned lots. The proposed attached orangery with the 15-foot rear setback, would roughly match the rear setback of other existing dwellings in the area. Therefore, Staff believes the reduced rear setback would have no impact on the surrounding property owners and would represent a minor deviation from the Ordinance.
- ◇ The request to legally establish the existing one-foot western side yard setback, would be for an existing garage that was originally added to the existing dwelling, sometime prior to 1956, according to Sanborn map and aerial photos.

(Continued)

- ◇ Adjacent properties are shown with detached garages built close to the rear and side property lines as well. A number of these original garages and garage locations exist today. Legally establishing the existing one-foot west side setback would represent a minor deviation from the Ordinance. The garage would still provide setbacks similar to or greater than adjacent parcels' garages. In staff's opinion, the request to provide for a one-foot rear setback, would have minimal impact, because of the structure's separation from adjacent structures and the adequate space available to provide for maintenance.
- ◇ Generally, staff supports property improvements if their location and characteristics do not negatively impact adjoining residential areas by causing a nuisance to the surrounding neighborhood. Staff believes that this would be true for this particular request, and additionally that no public safety or health risks would come from the grant of this variance.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of West 44 th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 48-foot existing and proposed right-of-way. This portion of Graceland Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 48-foot existing and proposed right-of-way.
SITE PLAN	File-dated October 25, 2022.
ELEVATIONS	File-dated October 25, 2022.
FINDINGS OF FACT	File-dated October 25, 2022.

ZONING HISTORY

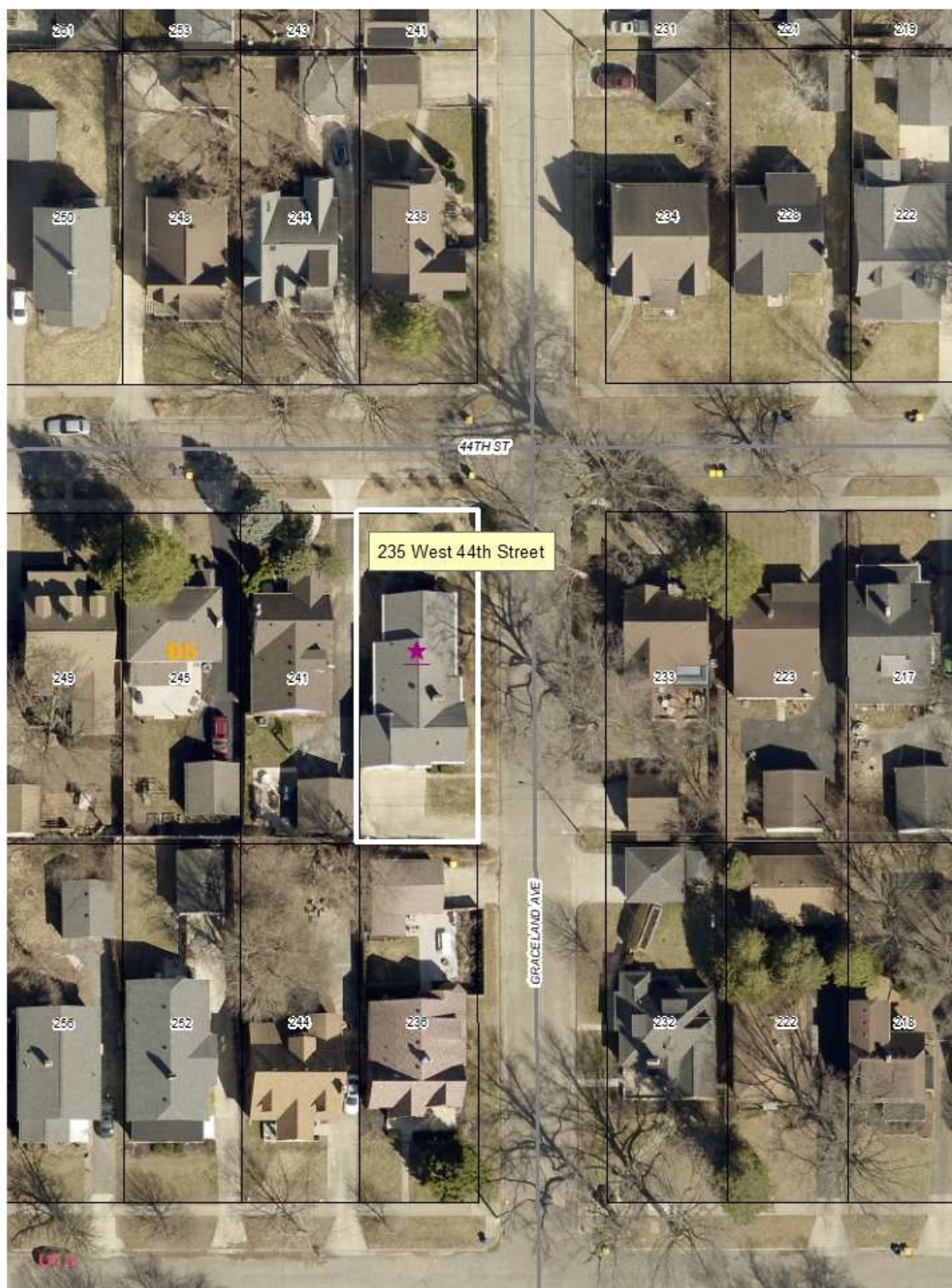
2004-DV1-027; 313 Blue Ridge Road (northwest of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 1,429-square foot single-family dwelling with a 320-square foot attached deck with a one-foot west side yard setback, and to provide for a 48-square foot bay window addition resulting in a 21-foot front yard setback from the existing right-of-way of Blue Ridge Road, **granted**.

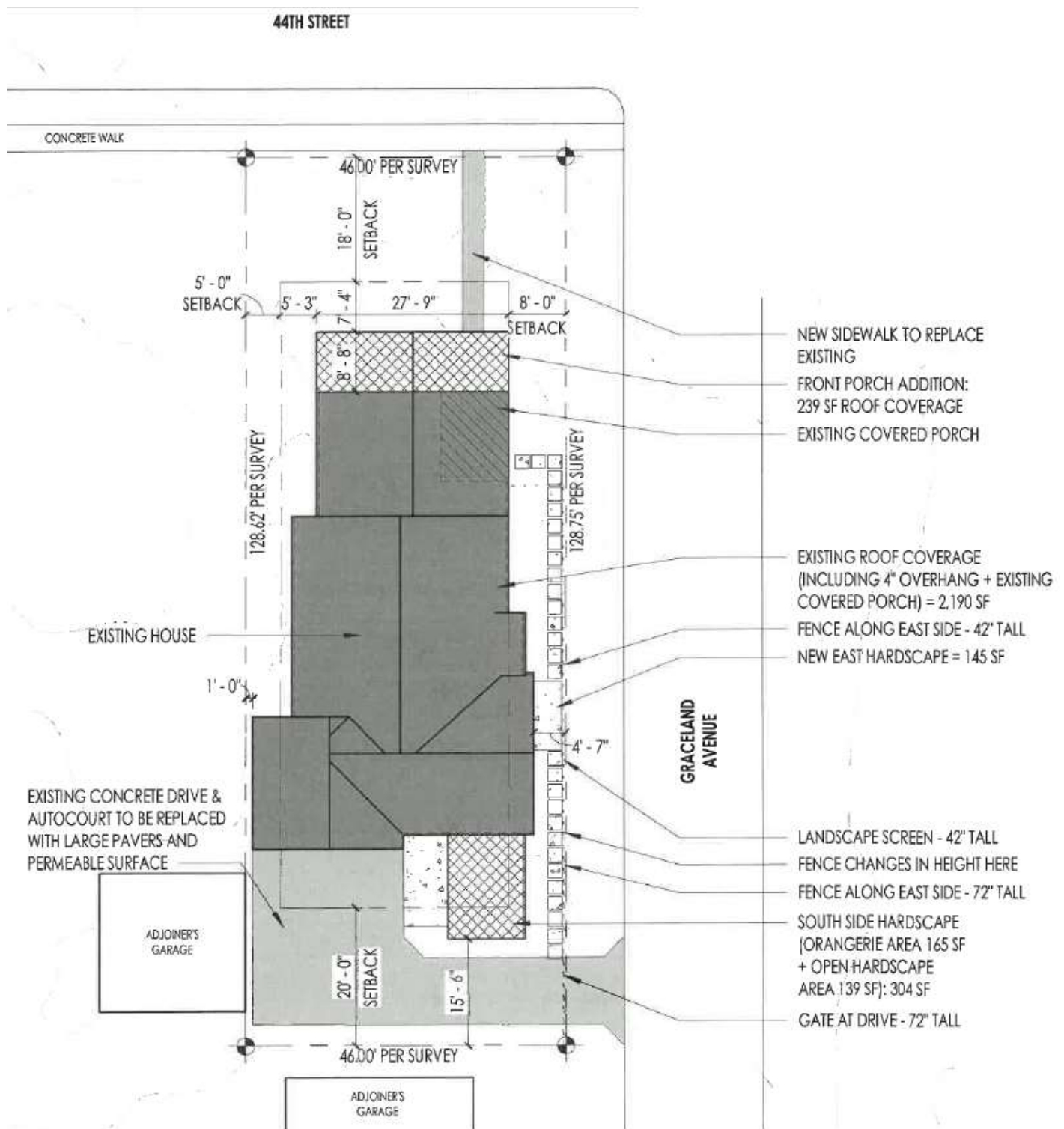
97-DV2-21; 250 Hampton Drive (north of site), requested a variance of development standards to provide for the construction of a two-story addition and attached garage to an existing single-family residence, with a rear yard setback of 17 feet, and a west side yard setback of 4 feet and an east side yard of zero feet, resulting in an aggregate side yard of 4 feet,

93-DV1-126; 339 West 44th Street (west of site), requested a variance of development standards to permit the construction of an addition to the residence with a 2-foot side yard setback and to legally establish a detached garage which is 110% of the main floor area of the primary structure,

RU

2022-DV1-056: Location Map









Subject site looking south.



Subject site with existing one-foot west side setback, looking south



Subject site location for proposed orangery with 15-foot rear setback, looking northwest.



Adjacent property, looking east from subject site.



Adjacent property to the south, looking south from subject site.



Adjacent property to the south, looking north.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-059
Address: 7036 Warwick Road (approximate address)
Location: Washington Township, Council District #2
Zoning: D-4
Petitioner: Margaret & Sandfria L. Hale
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage and building addition resulting in a three-foot northern side yard setback and six-foot aggregate side yard setback (five-foot side yard setback and 13-foot aggregate side setback required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

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

North	D-4	Residential (Single-family dwelling)
South	D-4	Residential (Single-family dwelling)
East	D-4	Residential (Single-family dwelling)
West	D-4	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood development.
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- ◇ The 0.14-acre subject site is improved with a single-family dwelling and is surrounded by similarly developed properties.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of this petition would allow for a deficient three-foot side setback and an aggregate of six feet.
- ◇ Per Table 744-201-1 of the Consolidated Zoning and Subdivision Ordinance, the D-4 district within the Metro Context area requires five-foot side setbacks with an aggregate of 13 feet.

(Continued)

STAFF REPORT 2022-DV1-059 (Continued)

- ◇ Setbacks are required to keep a minimum distance between property improvements and help reduce drainage overflows onto adjacent properties. Additionally, setbacks provide the required space needed to construct and maintain structures on a property without requiring access through adjacent properties.
- ◇ Staff determined that three-foot north side setback for the proposed garage and house addition would not be injurious to the public health, safety, morals and general welfare of the community since there would be sufficient room for property maintenance while allowing for the use of the attached garage with the two-foot widening proposed.
- ◇ The site once measured 60 feet wide, but a previous owner of the property sold a ten-foot-wide strip of land from the subject site to the property owners to the north, thus reducing the lot width that would have otherwise accommodated the proposed addition.
- ◇ For these reasons, staff recommends approval of this request.

GENERAL INFORMATION

THOROUGHFARE PLAN	Warwick Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 60-foot existing right-of-way and a 50-foot proposed right-of-way.
SITE PLAN	File-dated November 1, 2022.
FINDINGS OF FACT	File-dated November 1, 2022.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2007-DV1-046; 7064 Broadway Street (northeast of site), VARIANCE OF DEVELOPMENT STANDARDS of the Dwelling Districts Zoning Ordinance to legally establish a six-foot tall fence in the required front yard (not permitted), **dismissed**.

2006-AP2-002; 7071 Warwick Road (northeast of site) Approval of a Waiver of the one year filing rule, related to petition 2005-DV2-051, to provide for the filing of a variance on a property that was the subject of a variance which received an adverse decision on February 14, 2006 (Twelve month waiting period before re-filing following an adverse decision required), **denied**.

(Continued)

STAFF REPORT 2022-DV1-059 (Continued)

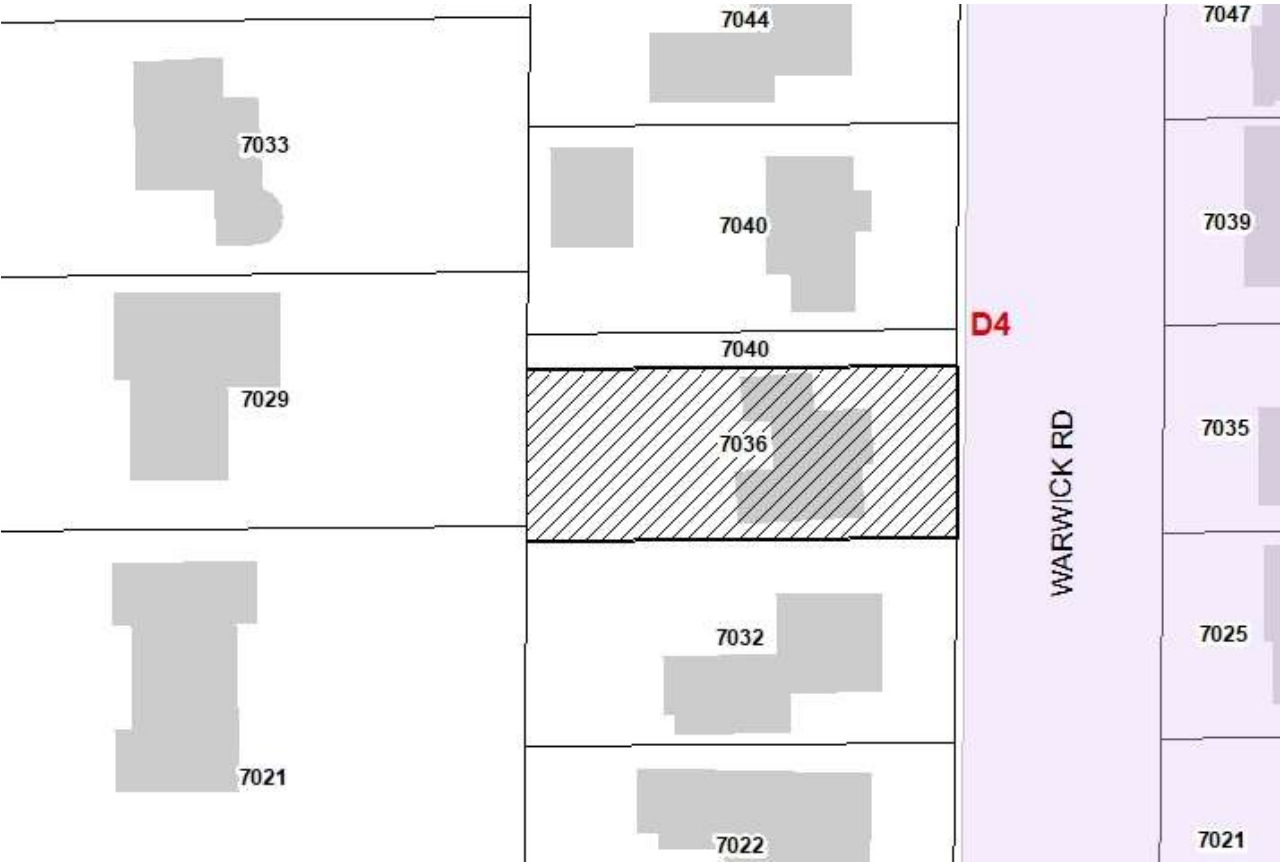
2005-DV2-051; 7071 Warwick Road (northeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a six-foot tall fence, within the required front yards and rights-of-way of both 71st Street and Warwick Road, **denied**.

2003-DV3-044; 7001 Central Avenue (southwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 247-square foot storage shed with a two-foot north side yard setback and a seven-foot aggregate side yard setback; **withdrawn**.

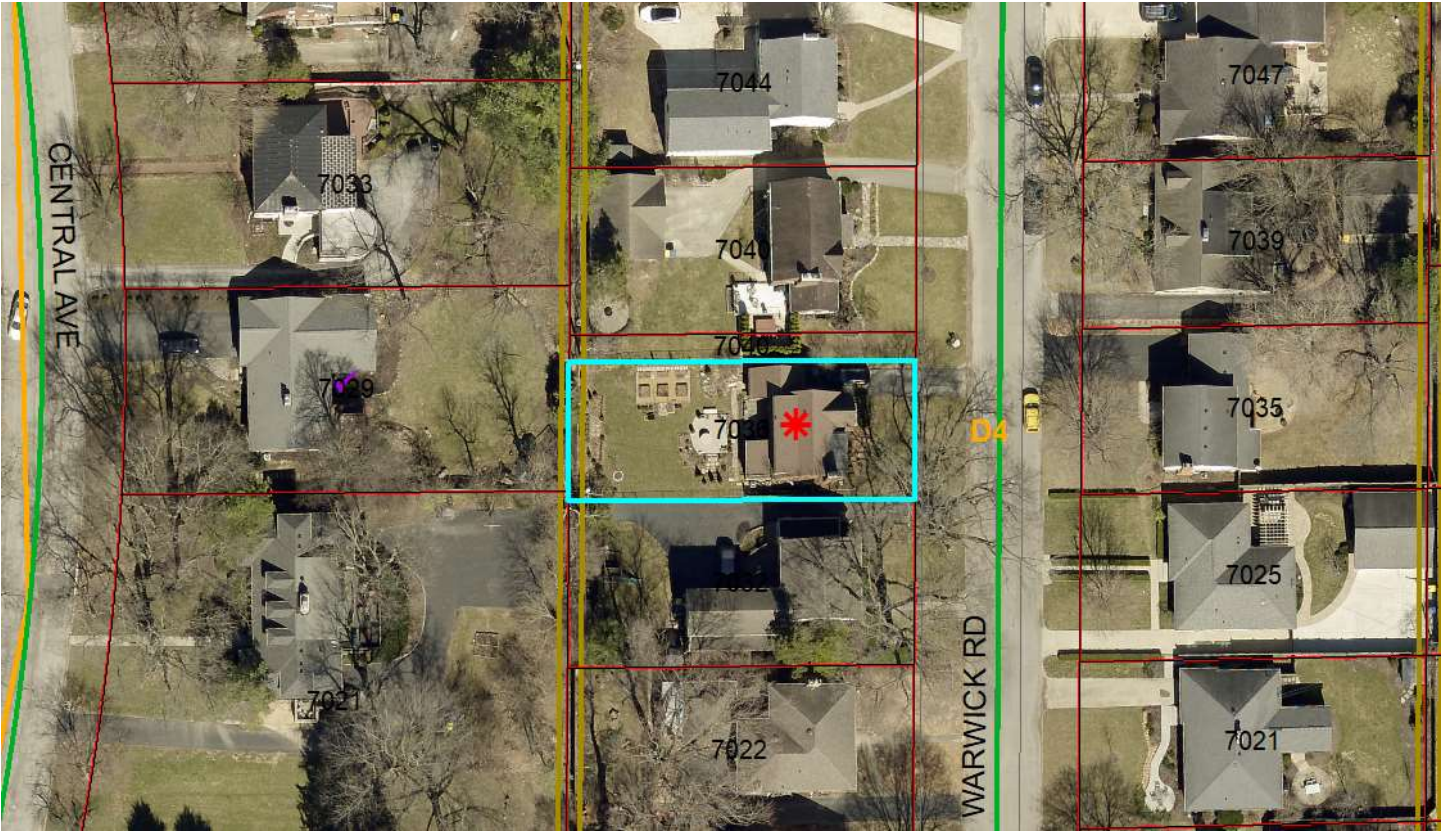
2001-LNU-039; 7029 Central Avenue (west of site), Certificate of Legal Nonconforming Use for a 48-square foot storage shed with a four-foot south side yard setback, **denied**.

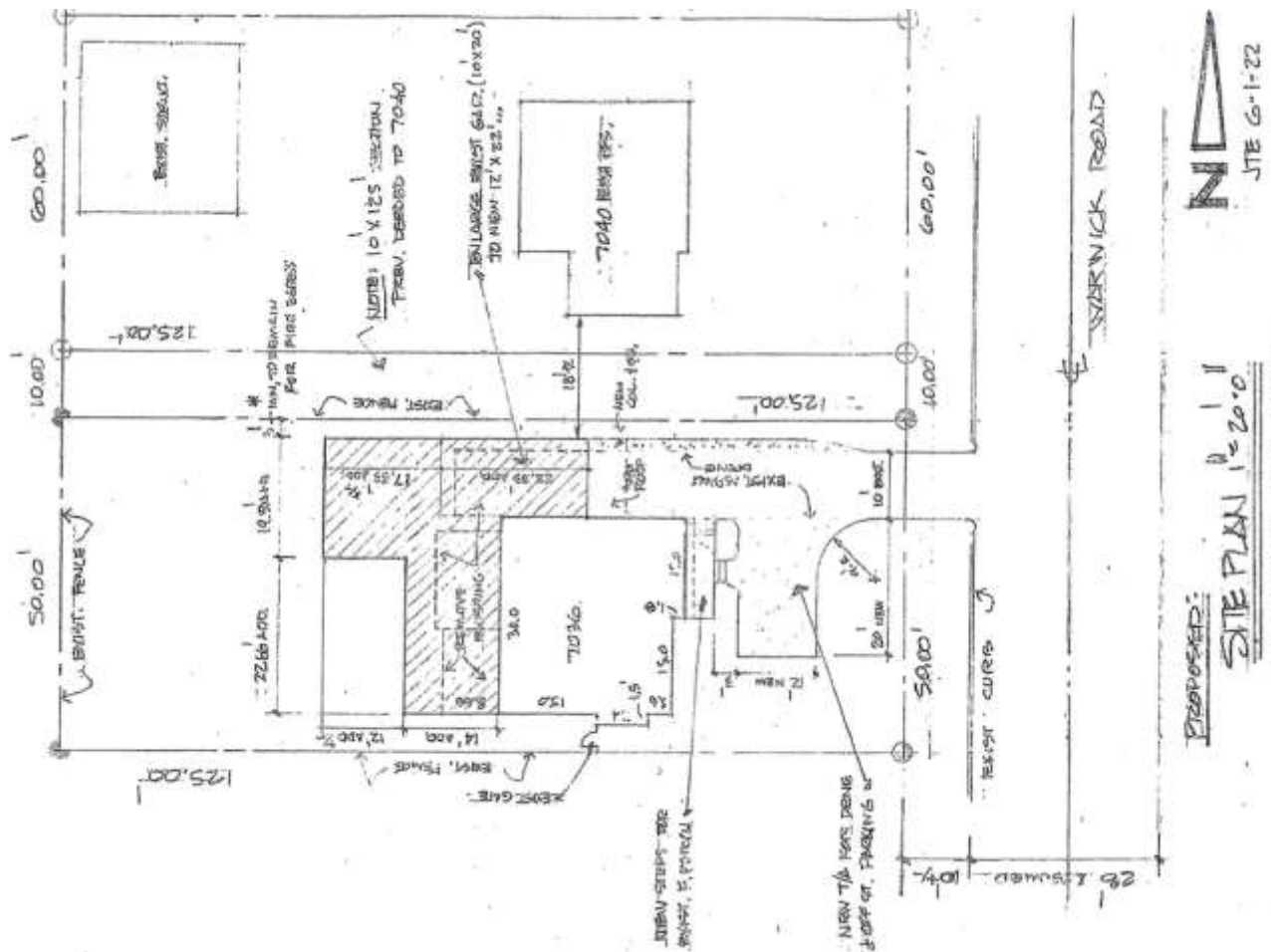
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2022-DV1-059; Location Map



2022-DV1-059; Aerial Map





PROPOSED MODIFICATIONS

Marked Up Aerial Photo





Photo of the Subject Property: 7036 Warwick Road

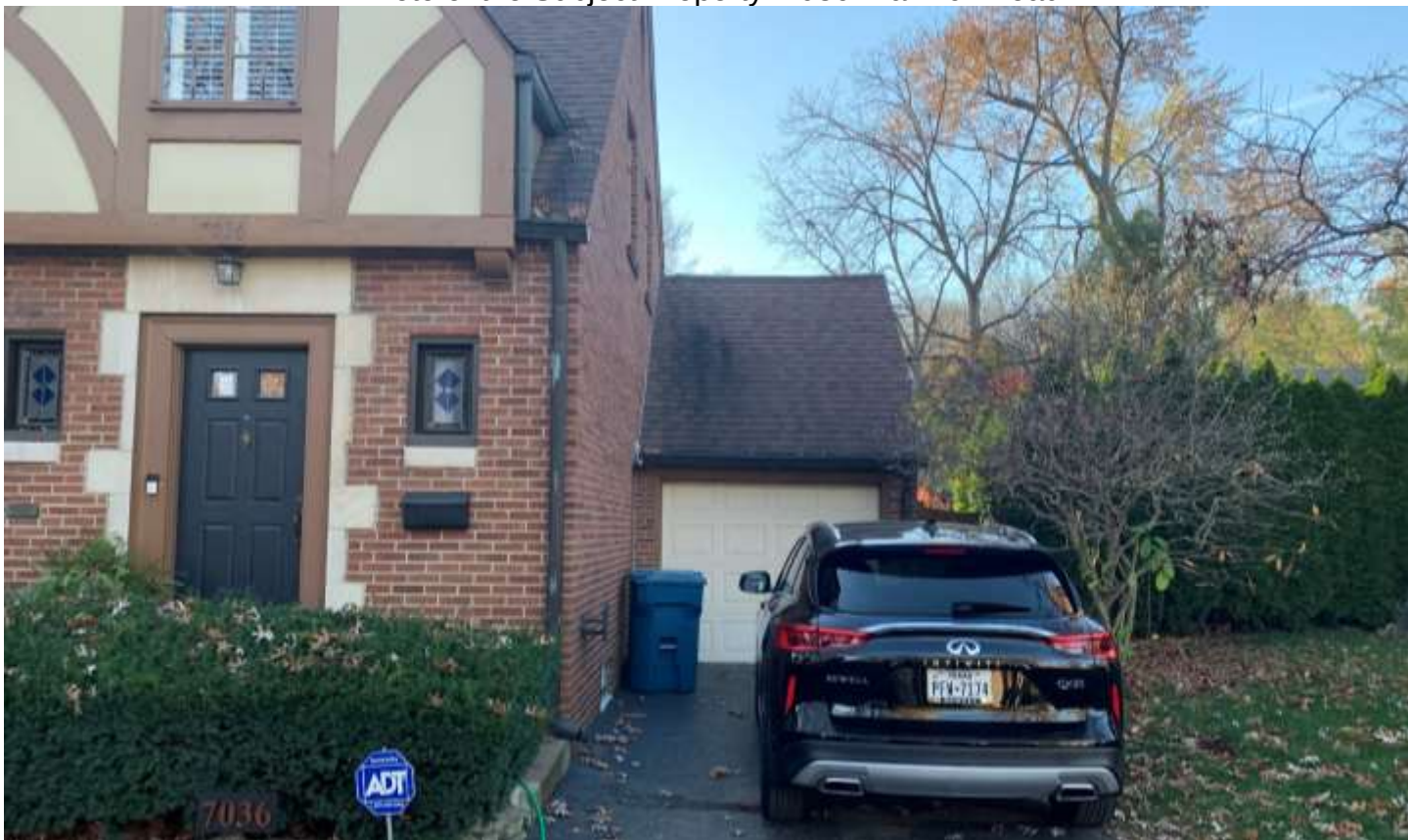


Photo of the existing narrow garage.



Photo of the existing north side yard.



Photo of the location of the house addition to replace the sunroom.



Photo of the rear yard and abutting single-family dwelling to the north.



Photo of the single-family dwelling to the south.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-040
Address: 1220 South High School Road (approximate address)
Location: Wayne Township, Council District #22
Zoning: SU-2 / D-3 (TOD)
Petitioner: MSD Wayne Township, by Barry Gadener
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the location of solar panels within the front yard of High School Road (solar panels not permitted within the front yard, accessory structures not permitted in front of the primary building in Dwelling Districts).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

SU-2 / D-3	Compact	School
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SURROUNDING ZONING AND LAND USE

North	D-3	Single-family dwelling
South	D-3	Single-family dwelling
East	C-4	Commercial
West	D-3	Single-family dwelling

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Suburban Neighborhood development.

- ◇ The subject site is 1.66 acre (7,2309.6 square feet) located partially in the Lookout Plaza Subdivision in the Chapel Hill / Ben Davis neighborhood. The subject site is currently used as a school with residential to the north, west, and south and to the east is a commercial district, across High School Road.
- ◇ The subject site has the primary zoning, SU-2 (Special Use District Two); northern lot. This district is designated for school uses.

(Continued)

STAFF REPORT 2022-UV1-040 (Continued)

- ◇ The subject site is partially zoned D-3 (Dwelling District Three); two southern lots. The D-3 district provides for low or medium intensity residential development. Land in this district should have good thoroughfare access, be relatively flat in topography, and be afforded pedestrian linkages to community and neighborhood services and facilities (schools, parks, shopping areas, etc.). Recreational facilities developed for the neighborhood complement the treed yards on the individual lots. Predominantly single-family detached dwellings are envisioned with two-family dwellings on corner lots in this district. The D-3 district has a typical density of 2.6 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan.

VARIANCE OF USE

- ◇ The request would provide for the location of solar panels within the front yard of High School Road. The proposed use of solar would be classified under *Renewable Energy Facility, Solar and Geothermal*, which is defined as the accessory use of solar collectors or other devices or structural design features of a structure that rely upon sunshine as an energy source and is capable of collecting, distributing or storing the sun's radiant energy for a beneficial use; or land area and equipment for the conversion of natural geothermal energy into energy for beneficial use (740-202.R).
- ◇ The subject site is zoned SU-2 (school district), however, is comparable to the C-1 (Office-Buffer District) district standards (Table 742-109-1). Renewable Energy Facility, Solar and Geothermal, under Table 743-1, is permitted in all zoning districts as an accessory use. All Special Use districts are required to go through Administrative Approval, prior to obtaining permits. Administrative Approval was submitted, 2022-ADM-250, for the proposed solar but could not be Administratively approved since the solar panels are in the front yard.
- ◇ Under 743-306.CC, it states accessory renewable energy facilities for solar and geothermal shall only be located in side and/or rear yards. The proposed solar panels would be atop a carport structure, located within the front yard of High School Road. Staff has no objection to the solar panels within the front yard, where it would not adversely affect the surrounding neighborhood (commercial to the east) and would be atop a carport structure which serves dual purpose. Staff considered that the solar panels would be more aesthetically pleasing atop the carport structure, rather than it be stand alone in the front yard.
- ◇ The site plan shows that solar is proposed atop three other carport structures on the entirety of the parking lot. These solar panels would be in the side and rear yard, where Staff's only concern is the solar in the front yard of High School Road.

(Continued)

STAFF REPORT 2022-UV1-040 (Continued)**GENERAL INFORMATION****THOROUGHFARE PLAN**

High School Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 65 -foot existing right-of-way and a 66-foot proposed right-of-way.

Morris Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 68-foot existing right-of-way and a 80-foot proposed right-of-way.

SITE PLAN

File-dated October 4, 2022.

PLAN OF OPERATION

File-dated October 4, 2022.

FINDINGS OF FACT

File-dated October 4, 2022.

ZONING HISTORY – SITE**EXISTING VIOLATIONS:****VIO22-007281, 1220 South High School Road:**

Indianapolis Building Standards & Procedures 2018: 536-201; 536-609; 536-705; 536-709. Stop Work Order. This Stop Work Order has been issued due to the installation of new foundations and erection of a new class 1 structure without a permit issued for that scope of work. Permit is currently in review.

PREVIOUS CASES:

2008-DV2-063; 1220 South High School Road, requested 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, **approved**.

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

ZONING HISTORY – VICINITY

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

2012-ZON-064; 1138 South High School Road, requested a Rezoning of 0.50 acre from D-3 to C-3 to provide for a substance abuse counseling office, **withdrawn**.

(Continued)

STAFF REPORT 2022-UV1-040 (Continued)

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

2001-HOV-026; 6501 West Morris Street, requested a Variance of the development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family dwelling with a front building setback of 12.14 feet from Glenn Arm Road (minimum front setback of 25 feet along a local street required), **granted**.

99-UV2-13; 1262 South High School Road, requested a Variance of use and development standards of the Commercial Districts Zoning Ordinance to provide for the construction of a 40 by 70-foot structure for use as a sales and contractors office (not permitted) with a 60-foot yard setback along High School Road (minimum 70 feet required), a seven-foot side transitional yard setback (minimum of 20 feet required), parking within a side transitional yard (not permitted), and without hard surfaced parking area (hard surfaced parking area required), **granted**.

87-V2-107; 6410 Morris Street, requested a Variance of the development standards of the Dwelling Districts Zoning Ordinance to provide

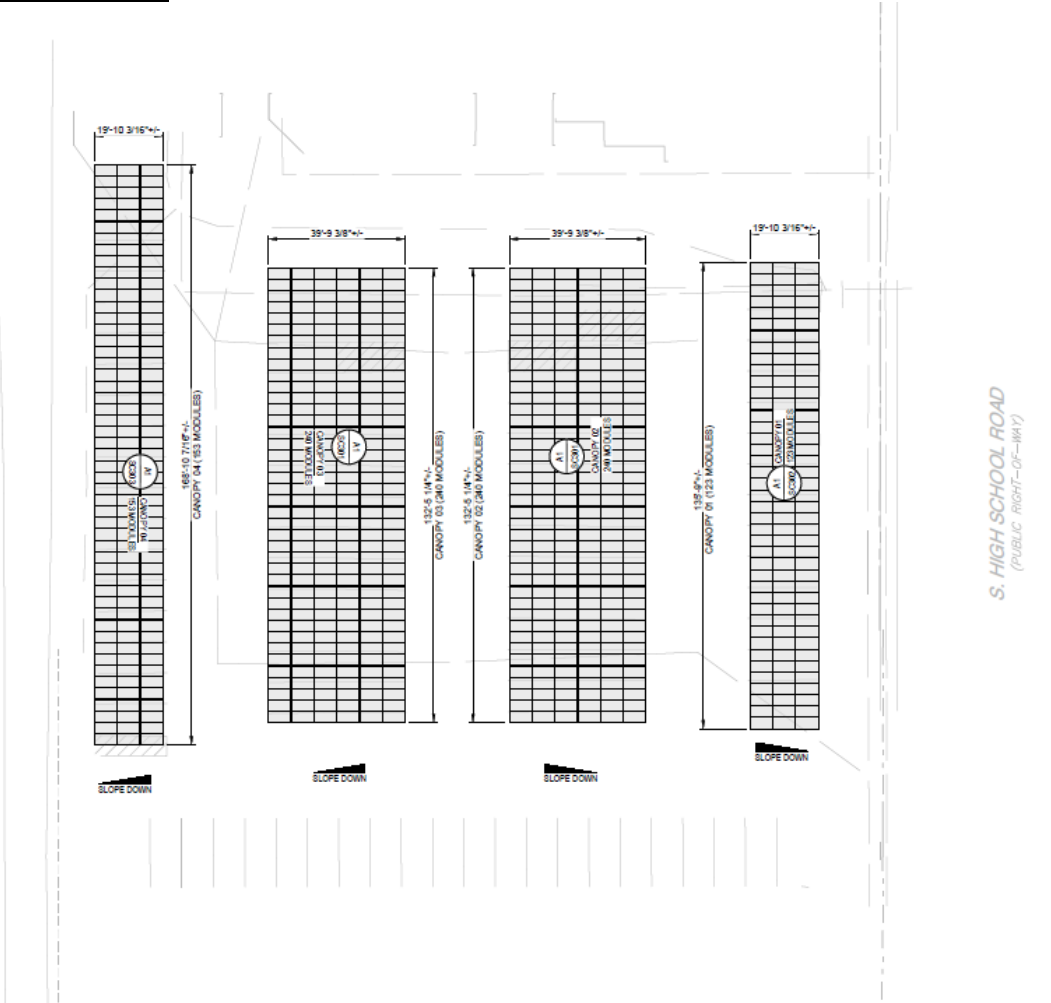
GLH

(Continued)

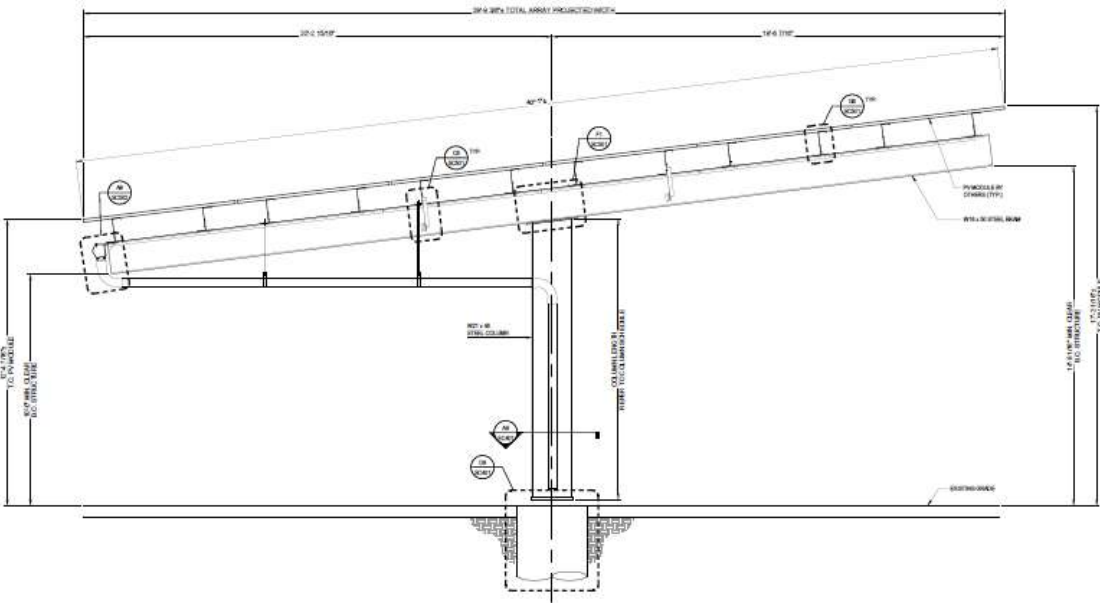
2022-UV1-040; Aerial Map



(Continued)



2022-UV1-040; Elevations



(Continued)

To Whom it May Concerns:

This document shall serve as the as the Operational Description for the proposed carport with solar on the roofs at 1220 S. High School Rd. Indianapolis IN 46241. The proposed carport will not change the existing use of the facility, nor will it change the hours of operations or the number of employees at this facility. This new structure will also not have the presence of hazardous/explosive material nor will is create any security concerns or the public, existing facility staff or pedestrians. The proposed new structure is for public parking area to be out of the weather elements.

(Continued)



Photo of the Subject Property: 1220 South High School Road



Photo looking north on High School Road.

(Continued)



Photo looking south on subject site, at solar on carport in front yard.



Photo of solar within the front yard of the subject site.

(Continued)



Photo of solar within the front yard of High School Road.



Photo of school structure on subject site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-041
Address: 1110 Bates Street (approximate address)
Location: Center Township, Council District #17
Zoning: I-4
Petitioner: Daniel Graf and Erica Davis
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage (residential uses not permitted) with a six-foot west side yard setback and a seven-foot east side yard setback and a 10-foot rear yard setback (20-foot side and rear yard setbacks required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

I-4	Compact	Residential (Single-family dwelling)
-----	---------	--------------------------------------

SURROUNDING ZONING AND LAND USE

North	I-3	Addiction Treatment Center
South	I-4	Industrial Buildings
East	I-3	Addiction Treatment Center Lawn
West	I-4	Vacant Building

COMPREHENSIVE PLAN The Comprehensive Plan recommends light industrial development.

- ◇ The 0.11-acre subject site is improved with a single-family dwelling. Although the site is developed residentially, the area is zoned for industrial uses.
- ◇ The surrounding area is developed with a variety of uses such as social services, residential uses, and industrial uses. There are also many undeveloped properties east and west of the site.

VARIANCE OF USE

- ◇ This request would allow the construction and residential use of a detached garage associated with an existing single-family dwelling in the I-4 zoning district.

(Continued)

STAFF REPORT 2022-UV1-041 (Continued)

- ◇ The Comprehensive Plan recommends light industrial development for this site. However, the site is located in an area that was platted for and historically developed with single-family dwellings. Some single-family dwellings remain southeast of the site with others located further west across Shelby Street.
- ◇ “The Light Industrial typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic.”
- ◇ The purpose of the I-4 District is for those heavy industrial uses which present an elevated risk to the general public and are typically characterized by factors that would be exceedingly difficult, expensive or impossible to eliminate. These industries are therefore buffered by a sizeable area to minimize any detrimental aspects. The development standards and performance standards reflect the recognition of these problems. Location of this district should be as far as possible from protected districts and environmentally sensitive areas as practical and never be adjacent to protected districts.
- ◇ The site is also located within an industrial reserve overlay, which is intended for areas that are prime for industrial development due to factors such as large parcel size, proximity to compatible uses, and/or interstate access.” Staff would note that this site is comprised of a residential parcel that would not be suitable for industrial development.
- ◇ Due to the historical residential use of the site, staff is recommending approval of the variance of use since the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property. Furthermore, the proposal would be consistent with the original and ongoing use of the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for the construction of a detached garage with a six-foot west side yard setback, seven-foot east side yard setback and a 10-foot rear yard setback.
- ◇ Per Table 744-201-6, the I-4 district within the Compact Context area requires 20-foot side and rear yard setbacks. However, the site is only 35 feet wide which would not be able to accommodate the required 20-foot side yard setbacks. Additionally, staff determined that the 10-foot rear yard setback would be acceptable for a residential development when compared to the five-foot allotment given to accessory structures if located within dwelling districts.
- ◇ For these reasons, staff is recommending approval of these variances.

(Continued)

STAFF REPORT 2022-UV1-041 (Continued)**GENERAL INFORMATION**

THOROUGHFARE PLAN	Bates Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 60-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN	File-dated October 27, 2022.
FINDINGS OF FACT	File-dated October 27, 2022.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2008-AP2-001; 229 Shelby Street (south of site), Approval of a Waiver of the three-month refiling rule for a petition, 2008-SE2-004, withdrawn on July 15, 2008, in I-4-U, **granted**.

2008-SE2-005; 229 Shelby Street (south of site), Special Exception of the Industrial Zoning Ordinance to provide for an automobile salvage operation, **withdrawn**.

2008-SE2-004; 229 Shelby Street (south of site), Special Exception of the Industrial Zoning Ordinance to provide for an automobile salvage operation, in I-4-U, **withdrawn**.

2003-UV2-043; 1127 Bates Street (southeast of site), Variance of Use and Development Standards of the Industrial Zoning Ordinance to provide for the continued operation of a motor vehicle salvage business, with a zero-foot west side setback, in I-4-U, **granted (later dismissed because conditions were not met)**.

99-UV1-48; 1101-1129 East Georgia Street and 1116-1126 East Bates Street (northeast of site), Variance of Use and Development Standards of the Industrial Zoning Ordinance to provide for an alcohol and drug treatment and recovery center, with a parking lot within the required front yards of Georgia and Shelby Streets, with off-street loading using an adjacent alley for vehicle maneuvering and loading, in I-3-U, **granted**.

99-UV1-19; 1129 -1225 East Georgia Street (north of site), Variance of use and development standards of the Industrial Zoning Ordinance to provide for an alcohol treatment and recovery center (not permitted) with 8 parking spaces located within the required front yard of Georgia Street and 1 parking space within the required front yard of Leota Avenue (parking not permitted in the required front yard), **granted**.

(Continued)

STAFF REPORT 2022-UV1-041 (Continued)

99-Z-186; 1133 East Georgia Street (northeast of site), Rezone 1.597 acres from SU-9 to I-3-U to provide for medium-intensity urban industrial development, **approved**.

97-V3-65; 1138 Bates Street (east of site), Variance of development standards of the Industrial Zoning Ordinance to provide for the construction of a 24 by 29-foot detached garage with a six-foot rear yard setback (minimum 20 feet required), **granted**.

97-UV3-28; 1138 Bates (east of site), Variance of use of the Industrial Zoning Ordinance to provide for the construction of a 24 by 29-foot detached garage for an existing single-family residence (not permitted), **granted**.

95-UV3-78; 1135 East Bates Street (southeast of site), Variance of use and development standards to permit the continued operation of a motor vehicle salvage business with a zero-foot side yard setback from the west property line and a gravel surface storage area, **granted for two years**.

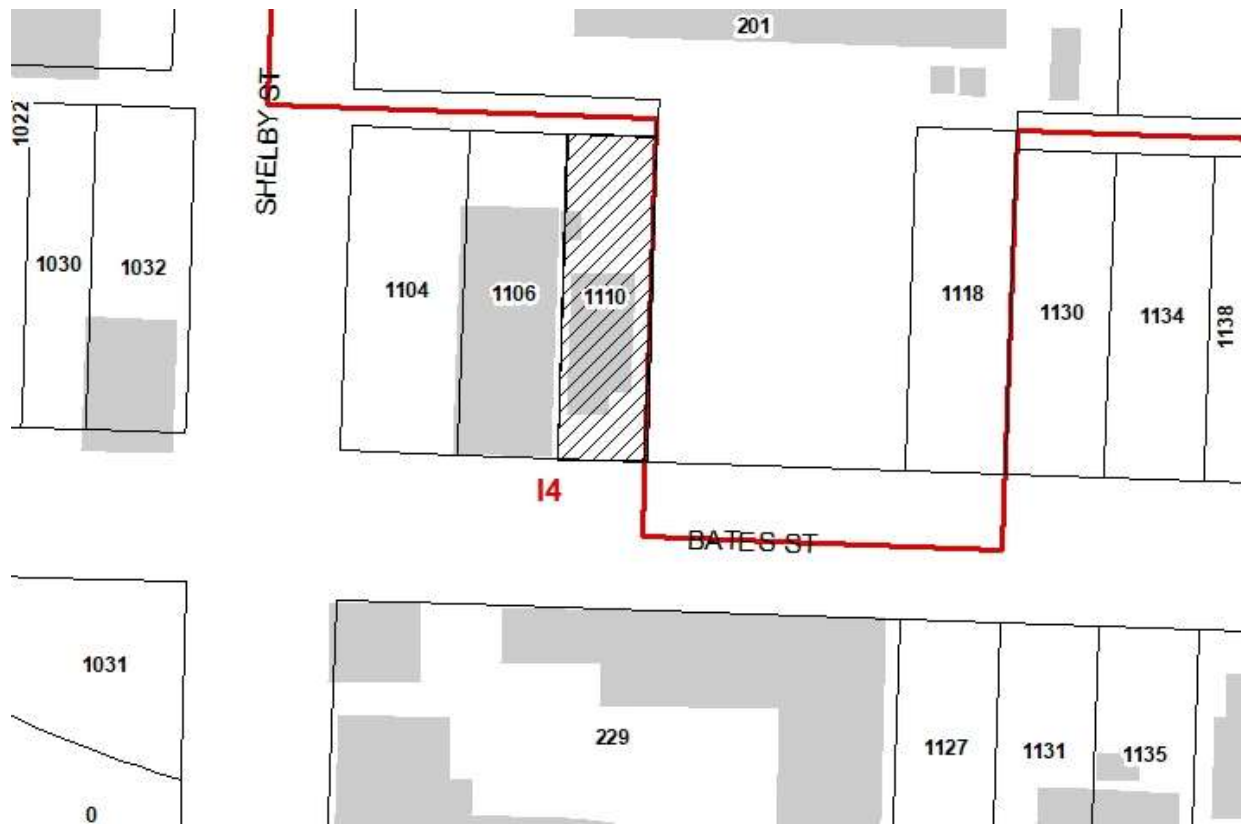
94-Z-116/ 94-CV-16; 1129-1225 East Georgia Street (north and east of site), Rezoning of 2.66 acres, being in the SU-9 District, to the I-3-U classification to provide for armored truck services, with a companion variance of development standards of the Industrial Zoning Ordinance to permit the construction of a 22,800 square foot industrial building, with parking and a service drive located within the required front yard of Georgia Street and Leota Street, and to use a portion of a side yard for a widened alley turn, **approved**.

93-UV3-51; 1135 East Bates Street (southeast of site), Variance of use and development standards to provide for the sale of automobile parts, to permit a mobile home to remain as an office, to permit parking within the front yard (not permitted) and to permit outdoor storage of automobiles and parts in excess of 75% of the gross floor area of a building, **approved for one year**.

90-Z-197; 1129-1225 East Georgia Street (north and east of site), Rezoning of 2.66 acres, being in the I-4-U District, to the SU-9 classification, **approved**.

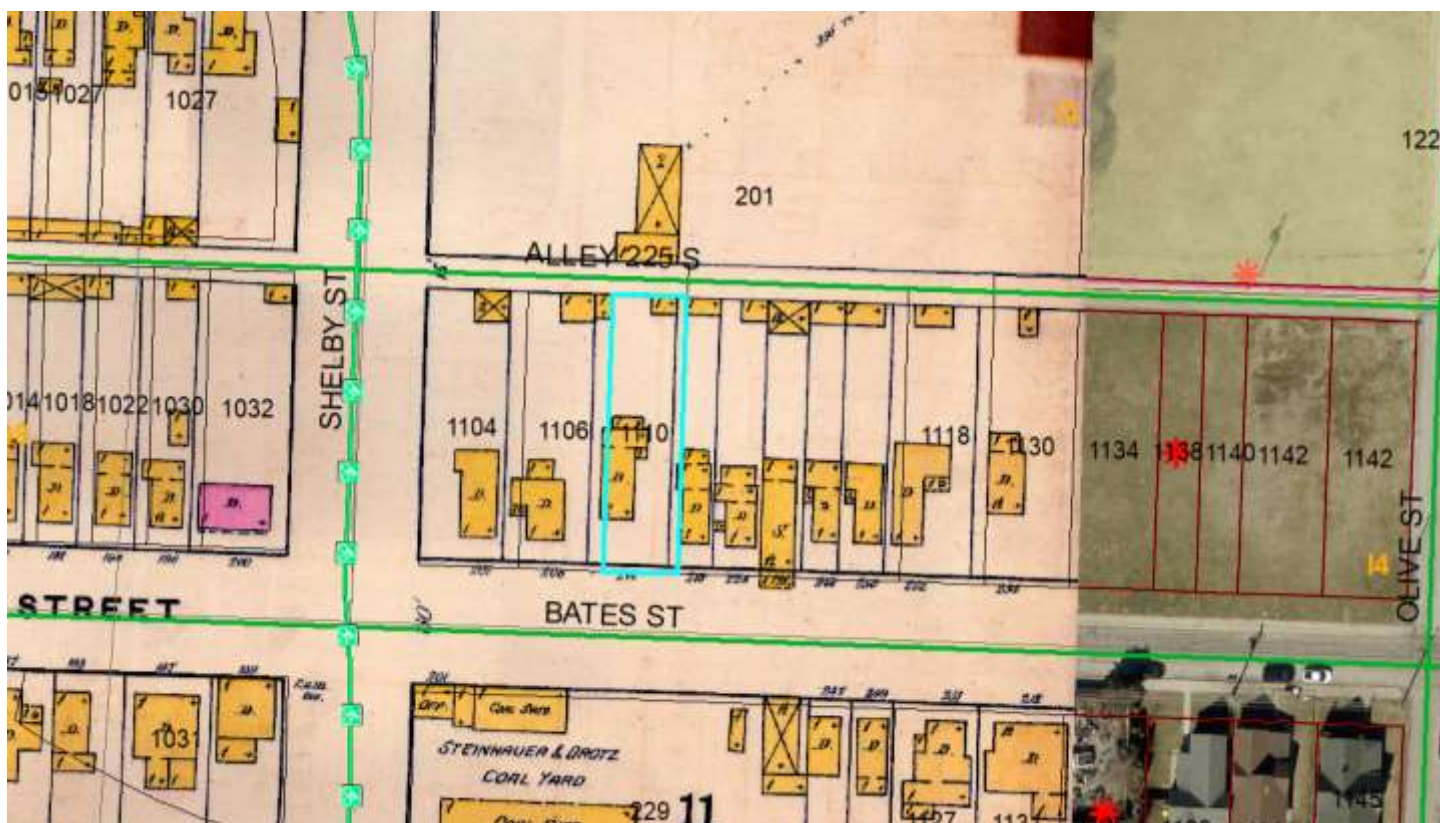
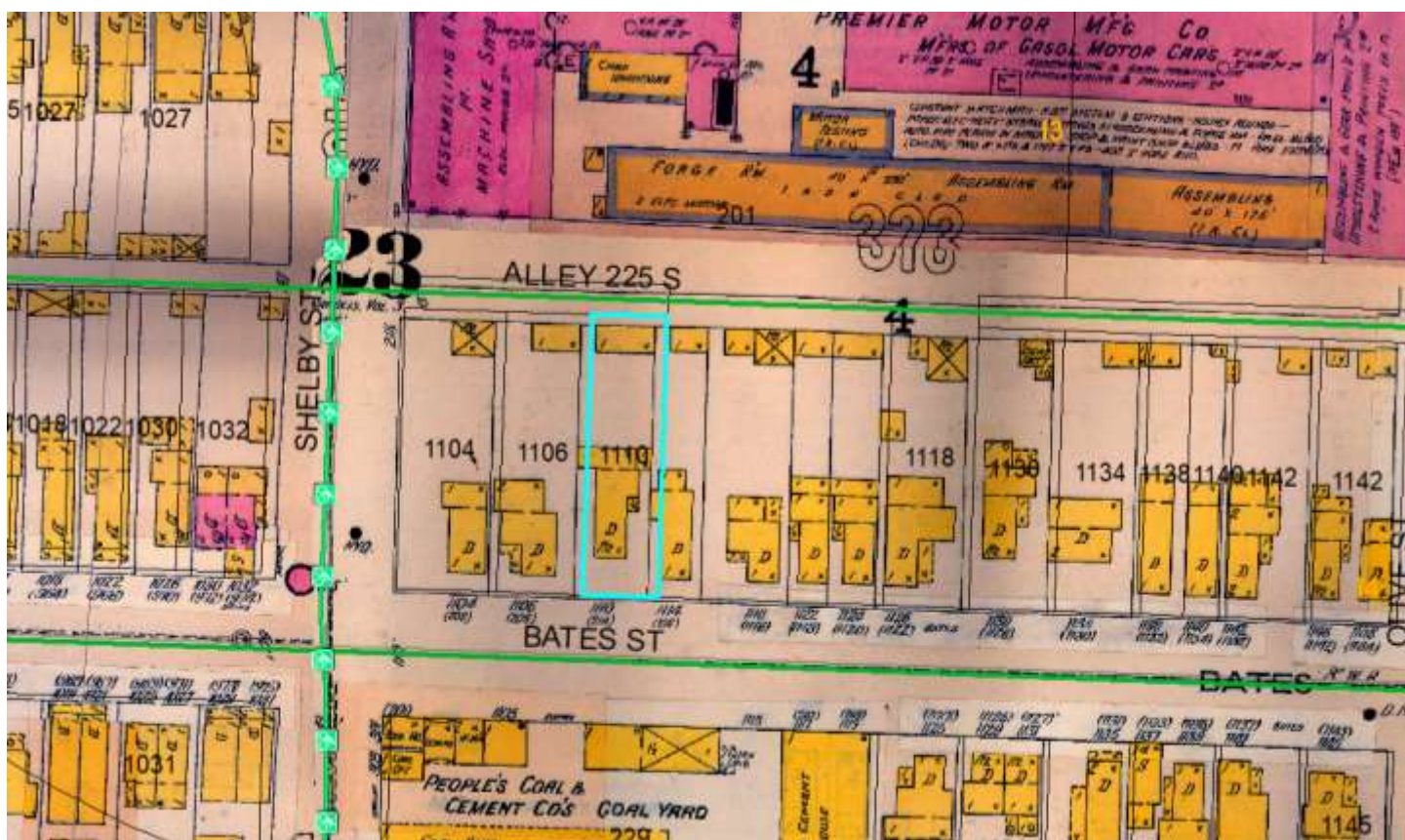
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2022-UV1-041; Location Map



2022-UV1-041; Aerial Map



2022-UV1-041; Sanborn (1887)2022-UV1-041; Sanborn (1898)

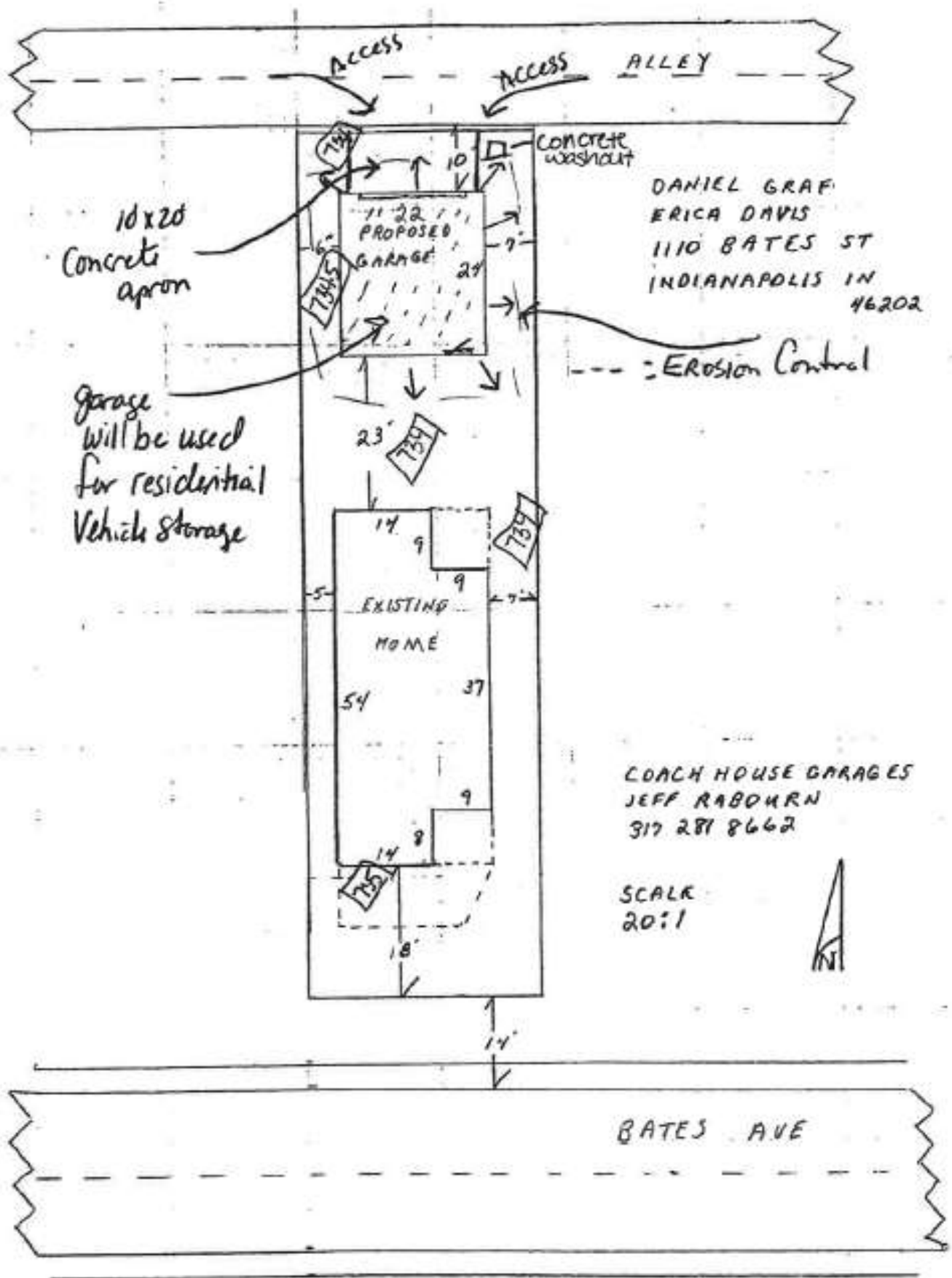




Photo of the Subject Property: 1110 Bates Street



Photo of the vacant building to the west.



Photo of the lawn associated with the addiction recovery center to the north.



Photo of the industrial property to the south.



Photo of the rear yard of the subject site.



Photo of the rear yard and proposed alley access for the garage.



Photo of the additction treatment center north of the alley.

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

Case Number: 2022-DV1-047
Address: 409 East Morris Street (approximate address)
Location: Center Township, Council District #16
Zoning: D-5
Petitioner: Build Indy LLC, by John Cross
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a 39-foot-wide lot, a zero-foot western side yard setback (40-foot lot width required) and provide for a three-story addition (not permitted) resulting in a 4.2-foot eastern side yard setback and a 19.4-foot rear setback and a walking path with a one-foot eastern side setback (five-foot side setbacks, 20-foot rear setback required).

ADDENDUM FOR DECEMBER 6, 2022

Staff was informed by the petitioner that this petition would be amended. However, no new information has been added to the file.

Staff **continues to recommend denial** of these requests.

ADDENDUM FOR NOVEMBER 1, 2022

This petition was continued from the November 1, 2022, hearing of Division I, to the December 6, 2022, hearing of Division I, due to lack of quorum.

ADDENDUM FOR OCTOBER 4, 2022

This petition was continued from the October 4, 2022, hearing of Division I to the November 1, 2022, hearing of Division I, at the request of the petitioner. No new information has been added to the file.

October 4, 2022**RECOMMENDATIONS**

Staff **recommends denial** of this request.

(Continued)

STAFF REPORT 2022-DV1-047 (Continued)**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

LAND USE**EXISTING ZONING AND LAND USE**

D-5	Compact	Single-family dwelling
-----	---------	------------------------

SURROUNDING ZONING AND LAND USE

North	C-3	Eating Establishment
South	D-5	Single-family dwelling
East	D-5	Vacant lot
West	D-5	Single-family dwelling

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Traditional Neighborhood development.

- ◇ The subject site is 0.10 acre (4,356 square feet) located in the J H Vajen's Subdivision in the Near Southside neighborhood. The subject site currently has an existing dwelling. The surrounding neighborhood consists of single-family dwellings to the west, east and south and to the north is a commercial eating establishment.
- ◇ The subject site is zoned D-5 (Dwelling District Five). The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would legally establish a 39-foot-wide lot, a zero-foot western side yard setback and provide for a three-story addition resulting in a 4.2-foot eastern side yard setback and a 19.4-foot rear setback and a walking path with a one-foot eastern side setback. Under Table 742.103.03, the subject site would be categorized as a *Detached House – Small Lot*. The Detached House – Small Lot category requires a lot width of 40 feet and a lot area of 5,000 square feet. The existing lot has a lot width of 39 feet and a lot area of 4,356 square feet, which is slightly deficient for the D-5 district.
- ◇ Additionally, under the Detached House – Small Lot category, the required side yard setback would be five feet. The required rear setback would be 20 feet. The proposed rear setback would be 19.4 feet. The existing western setback is zero feet, and the proposed eastern side yard setback would be 4.2 feet, with a walking path with a one-foot setback. Table 744-204-1 states for minor residential features (walking path) that is less than 18 inches above grade level, should be no closer than 2 feet to any side lot line. The proposed walking path would be one foot from the eastern side lot line.

(Continued)

STAFF REPORT 2022-DV1-047 (Continued)

Staff is opposed to the requests, where the proposed setbacks are a slight deviation from the Ordinance requirements, displaying a lack of practical difficulty (not meeting Finding #3). The required setbacks for the eastern side setback and rear yard could be met if the site plan were reconfigured by making the addition marginally smaller. Staff is not opposed to legally establishing the existing western zero-foot setback.

- ◇ Table 742.103.03 limits the height of structures to a maximum of 35 feet and 2 ½ stories. The proposed addition would be three stories. The Infill Housing Guidelines stipulates recommendations for building height, including:

1. Consider the shortest and tallest buildings on the block when planning height,
2. Avoid significant jumps in height, and
3. When adding to an existing House, minimize significant increases in height.

These Aesthetic Considerations listed in the Infill Housing Guidelines recommend using the neighborhood context and street types to guide appropriate massing. Local streets, like Morris Street, are appropriate for smaller massing, which would not support the variance for a third story addition. The surrounding neighborhood consists of dwellings that range from two to 2 ½ stories, with pitched roofs.

- ◇ The Comprehensive Plan recommendation for the subject site is *Traditional Neighborhood* development. The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible.
- ◇ Staff is not supportive of these requests, where they are a self-imposed practical difficulty.

GENERAL INFORMATION**THOROUGHFARE PLAN**

Morris Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a street local street, with a 84-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated August 19, 2022.

ELEVATIONS

File-dated August 19, 2022.

FINDINGS OF FACT

File-dated August 19, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES: None.

(Continued)

STAFF REPORT 2022-DV1-047 (Continued)**ZONING HISTORY – VICINITY**

2019-DV2-009; 421 East Morris Street, requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a single-family dwelling with a 10-foot front setback, two-foot side setbacks and a two-foot separation from a primary dwelling, creating 51% open space, **approved**.

2018-HOV-088; 422 East Sanders Street, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling and detached garage, with six feet between primary dwellings, a 17-foot front setback and an open space of 58%, **granted**.

2018-HOV-089; 423 East Morris Street, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage, creating an open space of 53%, **granted**.

2017-DV3-025; 429 East Morris Street, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of a four-unit dwelling into two units, on a 3,141-square foot lot with 30 feet of frontage, and to provide for a one-foot west side setback for the accessory garage and to legally establish a three-foot front setback required; clear sight triangle of the abutting street and alley, and to provide for an open space of 29%, **granted**.

2017-HOV-021; 346 Sanders Street, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage, creating an open space of 49%; **granted**.

2016-DV3-027; 325 Sanders Street, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling, with six feet between primary building, and with a 12-foot front setback; **granted**.

2011-CZN-828 / 2011-CVR-828; 436 Sanders Street, requested the rezoning of 0.1 acre from the C-5 District to the D-8 classification to provide for multi-family uses and a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a four-unit multifamily building with a 2.7-foot west side yard, with a zero-foot setback along East Street, with a three-foot encroachment into the right-of-way of Sanders Street, with zero parking spaces, and being within the clear sight triangles of East and Sanders Street; **granted and approved**.

2002-UV1-032; 403 East Morris Street, requested a variance of use of the Dwelling Districts Zoning Ordinance to legally establish a two-unit dwelling; **granted**.

96-Z-113; 382 East Morris Street, 1104 South East Street, requested the rezoning of 2.148 acres from D-5 and D-8 to C-3 to provide for a restaurant, gasoline station, check cashing and video store; **approved**.

GLH

(Continued)

2022-DV1-047; Aerial Map



(Continued)



A - 5 ELEVATIONS A



ITEM	QTY	UNIT	DESCRIPTION	REMARKS
1	1	SQ. FT.	CEILING	CEILING
2	1	SQ. FT.	FLOOR	FLOOR
3	1	SQ. FT.	WALL	WALL
4	1	SQ. FT.	ROOF	ROOF
5	1	SQ. FT.	PAINT	PAINT
6	1	SQ. FT.	GLASS	GLASS
7	1	SQ. FT.	DOOR	DOOR
8	1	SQ. FT.	WINDOW	WINDOW
9	1	SQ. FT.	STAIR	STAIR
10	1	SQ. FT.	BATH	BATH
11	1	SQ. FT.	KITCHEN	KITCHEN
12	1	SQ. FT.	LIVING	LIVING
13	1	SQ. FT.	SLEEPING	SLEEPING
14	1	SQ. FT.	BEDROOM	BEDROOM
15	1	SQ. FT.	BEDROOM	BEDROOM
16	1	SQ. FT.	BEDROOM	BEDROOM
17	1	SQ. FT.	BEDROOM	BEDROOM
18	1	SQ. FT.	BEDROOM	BEDROOM
19	1	SQ. FT.	BEDROOM	BEDROOM
20	1	SQ. FT.	BEDROOM	BEDROOM

ELEVATIONS A



A - 5

A - 6 ELEVATIONS B



ITEM	QTY	UNIT	DESCRIPTION	REMARKS
1	1	SQ. FT.	CEILING	CEILING
2	1	SQ. FT.	FLOOR	FLOOR
3	1	SQ. FT.	WALL	WALL
4	1	SQ. FT.	ROOF	ROOF
5	1	SQ. FT.	PAINT	PAINT
6	1	SQ. FT.	GLASS	GLASS
7	1	SQ. FT.	DOOR	DOOR
8	1	SQ. FT.	WINDOW	WINDOW
9	1	SQ. FT.	STAIR	STAIR
10	1	SQ. FT.	BATH	BATH
11	1	SQ. FT.	KITCHEN	KITCHEN
12	1	SQ. FT.	LIVING	LIVING
13	1	SQ. FT.	SLEEPING	SLEEPING
14	1	SQ. FT.	BEDROOM	BEDROOM
15	1	SQ. FT.	BEDROOM	BEDROOM
16	1	SQ. FT.	BEDROOM	BEDROOM
17	1	SQ. FT.	BEDROOM	BEDROOM
18	1	SQ. FT.	BEDROOM	BEDROOM
19	1	SQ. FT.	BEDROOM	BEDROOM
20	1	SQ. FT.	BEDROOM	BEDROOM

ELEVATIONS B



A - 6

(Continued)

A - 7 PERSPECTIVES



FRONT / RIGHT



FRONT / LEFT



BACK / LEFT



BACK / RIGHT

2022-DV1-047; Elevations

PERSPECTIVES

2022-DV1-047; Elevations



DATE

SCALE

A - 7

2022-DV1-047; Elevations

(Continued)

2022-DV1-047; Floor Plans

A - 3 **LEVEL 2**

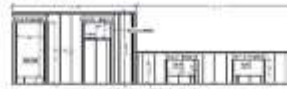
LANGUAGE NOTES

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LEVEL 2
WJ AS - GUILT SUPREMACY



TYPICAL EXTERIOR WALL FRAMING



LEVEL 2
APPLYING KNOWLEDGE TO NEW SITUATIONS



SQUARE FOOTAGE TABLE

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A - 4 LEVEL 3

LAYOUT NOTES

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TYPICAL INTERIOR WALL FRAMING



LEVEL 3
 (Advanced Intermediate)



SQUARE FOOTAGE TABLE

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2022-DV2-047; Findings of Fact

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 lot width variance is necessary to remodel the existing structure and construct a new rear addition on the deficiently sized lot. The variance for west side yard will legally establish the existing 0' side yard setback. The other variances are minimal deviations and would not be inconsistent with the area given the small-lot size.

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 lot width variance is necessary to remodel the existing structure and construct a new rear addition on the deficiently sized lot. The variance for west side yard will legally establish the existing 0' side yard setback. The other variances are minimal deviations and would not be inconsistent with the area given the small-lot size.

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

variance to legally establish the 0' west side yard setback and front setback are necessary to remodel the existing structures and remaining variances are necessary given the practical difficulty presented by the small size of the lot.

DECISION

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

Adopted this _____ day of _____, 20 ____

FOR: Variance DevStd

Metropolitan Development
Aug 19 2022
Division of Planning

01/12/06 T2

(Continued)



Photo of subject site: 409 East Morris Street



Photo looking west on Morris Street and surrounding neighborhood.

(Continued)



Photo looking east on Morris Street.



Photo looking north of subject site, with eating establishment.
(Continued)



Photo looking west on Morris Street.



Photo looking east on Morris Street.

(Continued)



Photo of rear yard and east lot line.

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-DV1-052 (Amended)
 Address: 358 East Terrace Avenue (approximate address)
 Location: Center Township, Council District #16
 Zoning: D-5
 Petitioner: William T & Katherine Gribbin, by David Kingen & Emily Duncan
 Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached front-loaded garage (prohibited, must maintain access from alley when improved) with a zero-foot east corner side yard setback, and a three-foot western side yard setback, within the clear-sight triangle of the intersection of South New Jersey Street and the alley, resulting in an open space of 37 percent, and to legally establish a dwelling with a 3.5-foot corner side setback (eight-foot corner side setback required, five-foot west side yard setback required, encroachment of the clear sight triangles not permitted, 40 percent open space required).

ADDENDUM FOR DECEMBER 6, 2022

This petition was continued from the November 1, 2022, hearing, to the December 6, 2022, hearing, at the request of the petitioner to amend the request.

Setbacks are required to keep a minimum distance between property improvements and help reduce drainage overflows onto adjacent properties. Additionally, setbacks provide the required space needed to construct and maintain structures on a property without requiring access through adjacent properties. A setback of less than three feet from the property line requires additional fire-rating.

The amended request for garage with a proposed zero-foot east corner side yard setback, within the clear sight triangle of the intersection of South New Jersey Street and the alley, is a self-imposed hardship due to the proposed design of the garage. The size of the garage at 27 feet deep and could be reduced to 24 feet to meet the three-foot fire-rating and move the garage further out of the intersecting clear sight triangle. A variance would still be needed due to the inability to meet the required eight-foot corner side setback, however the three-foot setback would be more in line with the existing dwelling's 3.5-foot corner side setback.

No practical difficulty exists for the requested variances as they relate to the proposed garage. Any deviation from the minimum standards should be related to the property, and not to the individual. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site for the construction of the garage, as this request would consist of new construction that could be designed to meet the terms of the Ordinance. Therefore, Staff does **recommend denial of the requested variances as they relate to the proposed garage.**

Staff has **no objection to the request to legally establish a dwelling** with a 3.5-foot corner side setback, as that construction would predate the current Ordinance corner side yard setback requirement.

(Continued)

STAFF REPORT 2022-DV1-052 (Continued)

November 1, 2022

RECOMMENDATIONS

Staff is recommending **this petition be continued with notice, to the December 6, 2022, hearing**, to allow time for the petitioner to amend the petition and provide new notice. At the time of publishing, the petitioner had not yet agreed to continue the petition.

Staff has determined that two additional variances would be needed for this petition. The petitioner did request a variance of development standards for the garage being located within the clear sight triangle. That request was not included in the original public notice request. A new public notice would be required if that variance request is still needed.

An additional variance is needed for a zero-foot corner side setback as indicated on the submitted site plan. This variance has not been requested by the petitioner.

If this petition is heard by the Board of Zoning Appeals, then **Staff recommends denial of this request as filed.**

If this petition (as filed) is heard and granted by the Board of Zoning Appeals, it should be with a condition that an amended site plan be submitted for Administrator's Approval showing a compliant eight-foot side-yard setback, and with the garage outside of the clear sight triangle.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

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

North	D-5	Single-Family Residential
South	D-5	Single-Family Residential
East	D-5	Single-Family Residential
West	D-5	Single-Family Residential

LAND USE PLAN

The Comprehensive Plan recommends traditional neighborhood development.

- ◇ A previous variance of development standards (2019-DV1-033) was granted for this site to provide for a detached garage accessory to a single-family dwelling with a five-foot front setback, a one-foot west side setback and within the clear sight triangle of the abutting streets and creating an open space of 50%. This variance is still valid.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The traditional neighborhood land use plan recommendation is to provide for a full spectrum of housing types in compact and well-connected areas. Building form should promote social connectivity of neighborhood. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. This typology recommends a density range of 5 to 15 units per acre. Development condition recommendations include:
- All development should include sidewalks along the street frontage,
 - Primary structures should be no more than one and a half times the height of other adjacent primary structures,
 - Housing should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk (driveways / parking areas do not qualify as pedestrian connections),
 - Detached housing should extend beyond the front of the garage. Garages should be loaded from an alley or side street when possible, and should be detached if located on the side of the house,
 - Secondary units are encouraged on lots developed with single-family dwellings,
 - If a duplex cannot be constructed on a corner lot, individual buildings of attached housing may be interspersed with single-family homes, but should not make up more than 25% of the primary residential structures on a block.
- ◇ The Ordinance was amended in April of 2016 to regulate access and connectivity for the zoning districts. This property is required to gain exclusive access from the existing improved alley, per Section 744-301 of the Ordinance. The “Access to accessory parking areas” provision states that “... if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley.” In addition, per Section 744-401 of the Ordinance. The “Access to and from parking lots and garages” provision states that “... no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line.”
- ◇ The Department of Business and Neighborhood Services has determined that the abutting alley to the north of the property is an “improved” alley, and therefore access from New Jersey Street to the proposed garage would not be allowed, per the Ordinance.
- ◇ Although the site previously had a garage with access from New Jersey Street, that previous garage would have been considered a legally non-conforming use with the current Ordinance. Once the garage and its foundation was removed, it lost that legal non-conforming status, and any new construction would need to comply with the current Ordinance on record.
- ◇ Alley access, where available, helps the pedestrian environment by reducing the number of new curb cuts across sidewalks and preserves valuable curbside parking, along with reducing the amount of pavement needed for driveways, which causes significant storm water runoff into city drainage systems.

(Continued)

STAFF REPORT 2022-DV1-052 (Continued)

- ◇ The submitted Findings of Fact indicate the access from South New Jersey Street is characteristic for properties along South New Jersey Street and in this portion of the neighborhood, and many of the dwellings in the area are unable to meet the D5 standards with typical improvements. The three other properties at this alley intersection: 357 Parkway Avenue, 401 Parkway Avenue, and 402 East Terrace Avenue, all have existing garages that access their respective alleys and are able to meet the D5 standard that requires that access, with two garages being recently constructed after 2016.
- ◇ No practical difficulty exists for the property since the site has an improved alley access. In addition, adjacent properties have demonstrated their ability to provide garage access to the alley. Any practical difficulty related to the proposed curb cut access from New Jersey Street would be self-imposed, by the proposed design.
- ◇ Setbacks are required to keep a minimum distance between property improvements and help reduce drainage overflows onto adjacent properties. Additionally, setbacks provide the required space needed to construct and maintain structures on a property without requiring access through adjacent properties. A setback of less than three feet from the property line requires additional fire-rating.
- ◇ Open space is required to provide for a development density that is consistent with the community and to reduce the impact storm water can have on adjacent properties.
- ◇ The submitted Findings of Fact indicate that the lots in the area, including the subject site, more closely meet the standards of the D8 district, implying the lots are small for their zoning category. However, instead of proposing a smaller garage that is compatible with the smaller lot, the submitted site plan proposes a 27" x 21'.4" garage with a three-foot west setback, and an unrequested zero-foot east front setback from New Jersey Street. If the width of the garage was reduced by seven feet, then a significant portion of the garage would be out of the clear sight triangle, an east corner setback of 4 feet would line up with the dwelling setback, and the west setback and open space requirements could be met, and their respective variances would no longer be needed and could be withdrawn.
- ◇ No practical difficulty exists for the requested variances as they relate to the proposed garage. Any deviation from the minimum standards should be related to the property, and not to the individual. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site for the construction of the garage, as this request would consist of new construction that could be designed to meet the terms of the Ordinance. As such, staff does not believe a practical difficulty has been demonstrated that necessitates the requested variances and recommends denial of this request.

(Continued)

STAFF REPORT 2022-DV1-052 (Continued)**GENERAL INFORMATION****THOROUGHFARE PLAN**

Terrace Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 65-foot existing and proposed right-of-way.

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

SITE PLAN (Amended)

File-dated November 3, 2022.

FINDINGS OF FACT

File-dated September 27, 2022.

ZONING HISTORY

2019-DV1-018; 357 Parkway Avenue (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a two-foot west side setback and deficient space between primary dwellings for the single-family dwelling, and provide for a garage, with 49% open space, and to provide for and legally establish structures within the clear sight triangles of the abutting streets and alleys, **granted**.

2019-DV1-033; 358 Terrace Avenue (subject site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage accessory to a single-family dwelling with a five-foot front setback, a one-foot west side setback and within the clear sight triangle of the abutting streets, and creating an open space of 50%, **granted**.

2019-DV1-068; 318 Terrace Avenue (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for detached garage with a secondary dwelling and 51% open space, **granted**.

2018-DV3-002; 337 Parkway Avenue (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for: two, 2,475-square foot, 22.5-foot wide lots; for the renovation of a single-family dwelling, with a 14-foot front setback, three feet and six feet between primary dwellings, and a detached garage with a one-foot east side setback and a four-foot south rear setback and 50% open space; and to provide for the construction of a second dwelling and garage encroaching into the clear sight triangle of the abutting alleys and street, with a 13-foot front setback and six feet between primary dwellings, and a detached garage with 50% open space, **denied**.

2018-DV2-042; 401 Parkway Avenue (north of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling in the clear-sight triangle of New Jersey Street and Parkway Avenue, with a 9.5-foot front setback and 4.5 feet between dwellings, with a detached garage, creating open space of 51%, **granted**.

(Continued)

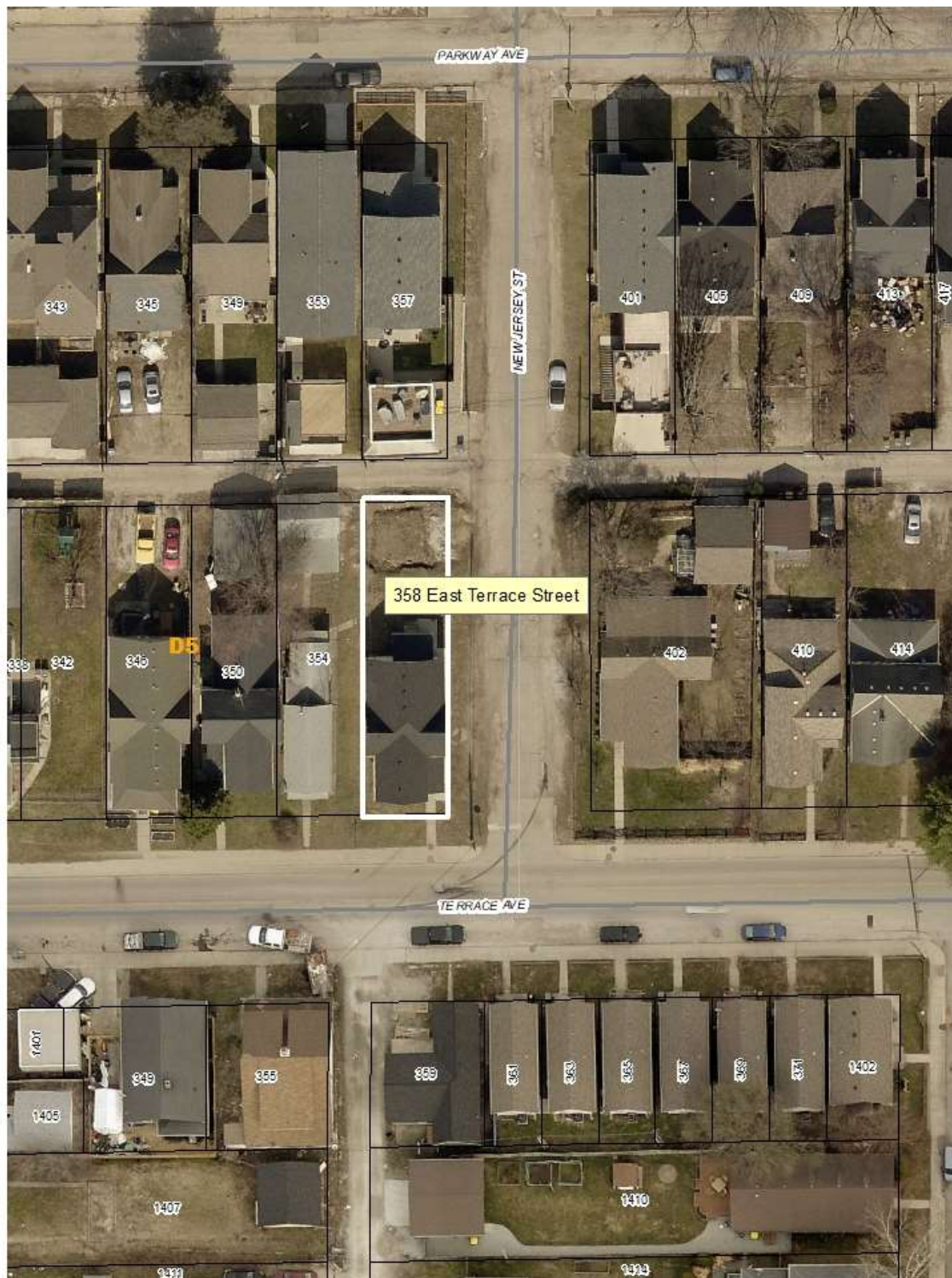
STAFF REPORT 2022-DV1-052 (Continued)

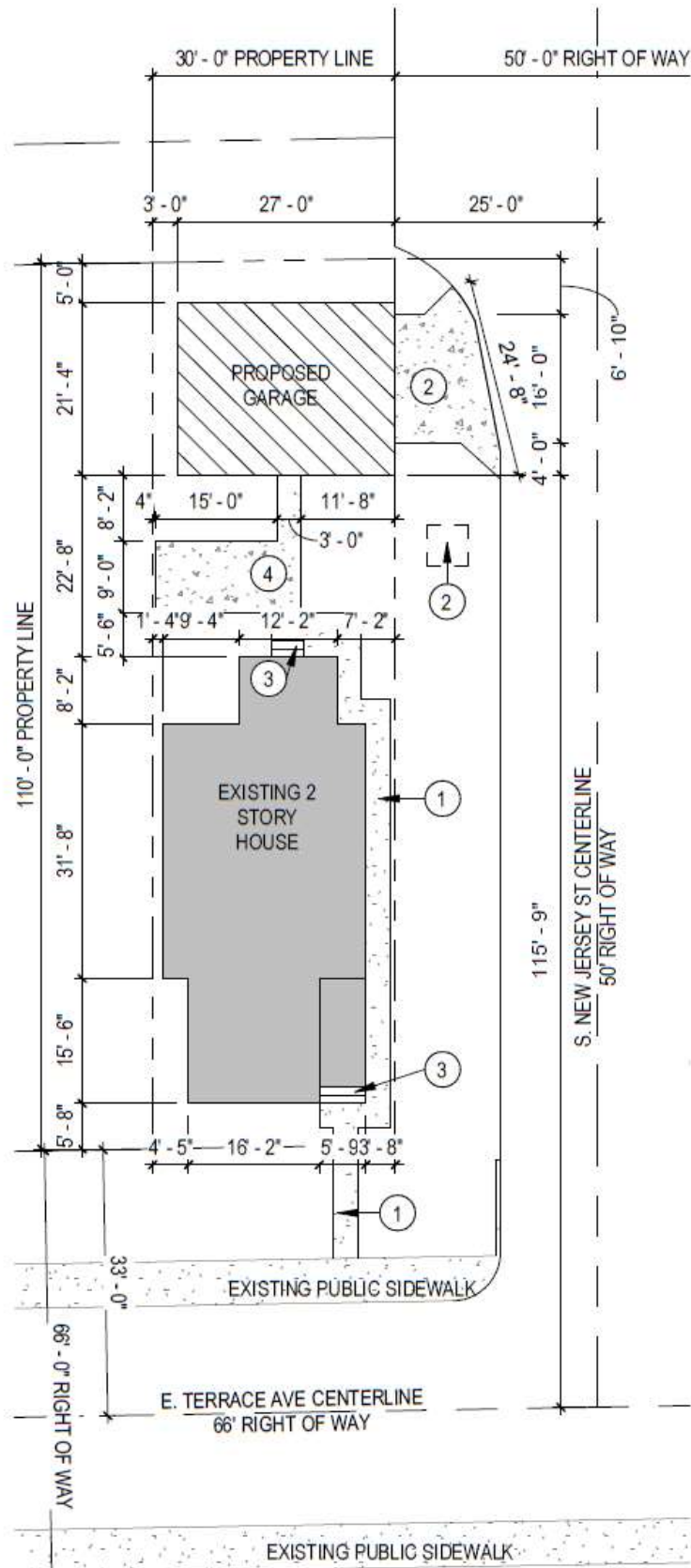
2018-DV2-030; 438 Parkway Avenue (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage, creating an open space of 46%, **granted**.

2018-DV1-016; 449 Parkway Avenue (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a six-foot fence in the front yard of East Street, **granted**.

2017-DV2-028; 353 Parkway Avenue (north of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the reconstruction of a single-family dwelling on an existing foundation, with a zero-foot front setback, one-foot and three-foot side setbacks, deficient space between buildings and the construction of a detached garage creating a 37% open space, **granted**.

RU







Subject site, looking north.



Subject site, looking south from existing alley.



Adjacent dwelling to the north at 357 Parkway Street, with a garage with alley access.



Adjacent dwelling to the northeast at 401 Parkway Street, with a garage with alley access.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-051
Address: 3127 West Washington Street (approximate address)
Location: Wayne Township, Council District #16
Zoning: C-4 (TOD)
Petitioner: RSM Oil, Inc, by Sarah M. Dillinger
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of retail building along a Connector Frontage, with:

- a) A 32-front setback from Washington Street (maximum 25-foot setback permitted),
- b) A building comprising 44% of the building line (60 percent building line width required),
- c) 16 parking spaces provided (maximum 13 parking spaces permitted),
- d) No bicycle parking spaces provided (three spaces required), and
- e) Deficient landscaping (frontage and interior parking area landscaping, and conformity with green factor required).

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	C-4	Automotive Fueling Station / Undeveloped
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SURROUNDING ZONING AND LAND USE

North	D-P	Mixed-Use development
South	D-5 / I-3	Single-Family residential
East	C-4	Commercial retail
West	C-5	Undeveloped

COMPREHENSIVE PLAN The Comprehensive Plan recommends Village Mixed Use for the site. With an overlay for the Blue Line Transit Oriented Development, and the Near West Neighborhood Plan Critical Area #8.

(Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would provide for the construction of a freestanding commercial building with a 32-foot front setback from Washington Street, where a maximum 25-foot front setback is required.
- ◇ The Ordinance requires a maximum setback for commercial uses to limit the distance of primary structures from sidewalks and pedestrian rights-of-way, and to dissuade a larger amount of parking in the front yard, which has negative connotations. This design standard of the Transit Oriented Design (TOD) Overlay is vital to ensuring an appropriate pedestrian-oriented streetscape along approved bus rapid transit lines.
- ◇ The request to provide for the construction of a freestanding commercial building with a 32-foot front setback from Washington Street, is self-imposed by the pre-determined partial development and encroachment of the site with the adjacent automotive fueling station building, canopy and sign. If the site was planned to be developed separately, then the automotive fueling station operations should have been limited to the eastern parcel.
- ◇ Since this is new construction, the building could be designed to be smaller or developed in terms of the Ordinance development standards. The desire for a specific sized building for a specific use is not a practical difficulty imposed by the site or Ordinance but is in fact a self-imposed difficulty. The petitioner has presented no practical difficulty other than the sign location that prevents the building from meeting the maximum setback. As such, there is no limitation that would prevent the sign from being relocated to allow the proposed building to meet the required maximum 25-foot front setback. If the proposed use is predicated by the size and engineering of the proposed building, then a larger site without size constraints should be considered.
- ◇ The request to provide for the construction of a freestanding commercial building with a building comprising 44% of the building line, instead of the required 60% of the building line, is self-imposed by the pre-determined development and building size and encroachment on the site with the adjacent automotive fueling station building, canopy and sign. If the site was planned to be developed separately, then the automotive fueling station operations should have been limited to the eastern parcel.
- ◇ The request would increase on-site parking to 16 spaces, where a maximum of 13 spaces would be permitted. Given that the proposed business is pedestrian oriented, and the subject site is on a proposed bus rapid transit line, typical users would not need the extra parking spaces. The reduction of the extra three spaces could also provide additional room to redesign the site and eliminate several of the other requested variances. Therefore, a deviation from the 13 maximum parking spaces requirement would not be supportable, as there is no practical difficulty, that would prevent the site from providing the 13 maximum parking spaces, other than a self-imposed practical difficulty of over-development of the site.
- ◇ No practical difficulty was submitted to the file as to why the required three bicycle parking spaces could not be provided.

(Continued)

STAFF REPORT 2022-DV1-051 (Continued)

- ◇ Since this is new construction, the site could be designed to provide for the required landscaping, and conformity with the green factor. There is not practical difficulty with the site that prevents this development standard from being met, as the proposed use could be designed to be smaller or developed in terms of the Ordinance development standards. The desire for a specific sized building for a specific use is not a practical difficulty imposed by the site or Ordinance but is a self-imposed difficulty. Because of the site's prominent location along West Washington Street, no waiver of landscaping should be allowed in Staff's opinion.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. The request for five variances would indicate the proposal is an overdevelopment of the site, needing the multiple variances to avoid meeting the required development standards. The proposed development would consist of new construction that could be designed to meet the terms of the Ordinance.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because the site could still be developed for C-4 uses without the need for variances. For this reason, staff is recommending denial of the request as submitted.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of West Washington Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with an 81-foot existing right-of-way and an 88-foot proposed right-of-way.
SITE PLAN (Amended)	File-dated October 3, 2022.
FINDINGS OF FACT	File-dated September 19, 2022.

ZONING HISTORY

87-UV2-113; 3127 West Washington Street (subject site), requested a variance of use to provide for the construction and use of a restaurant with drive-through and carry-out service located within 100 feet of a residential district, **granted**.

2013-ZON-065; 3000 West Washington Street (north of site), requested the rezoning of 115 acres from the D-P district to the D-P classification to provide for the following permitted uses; breweries, with accessory tasting rooms, indoor-outdoor event centers, student housing and urban farming, generally with respect to the re-use of historic buildings within the Cultural Village Section of the Central Greens Planned Unit Development, **approved**.

2010-DV2-009; 3234 West Washington Street (west of site), requested a variance of development standards to provide for an adult entertainment business consisting of retail sale of adult films and lingerie and live adult entertainment including modeling, located approximately 305 feet from a D-P District, **denied**.

(Continued)

STAFF REPORT 2022-DV1-051 (Continued)

2009-DV2-012; 2945 West Washington Street (east of site), requested a variance of development standards to legally establish an automobile display with a zero-foot front setback, being within the required front setback, **granted.**

2009-DV2-031; 3255 West Washington Street (west of site), requested a variance of development standards to legally establish a freestanding identification sign with a three-foot front setback, **granted.**

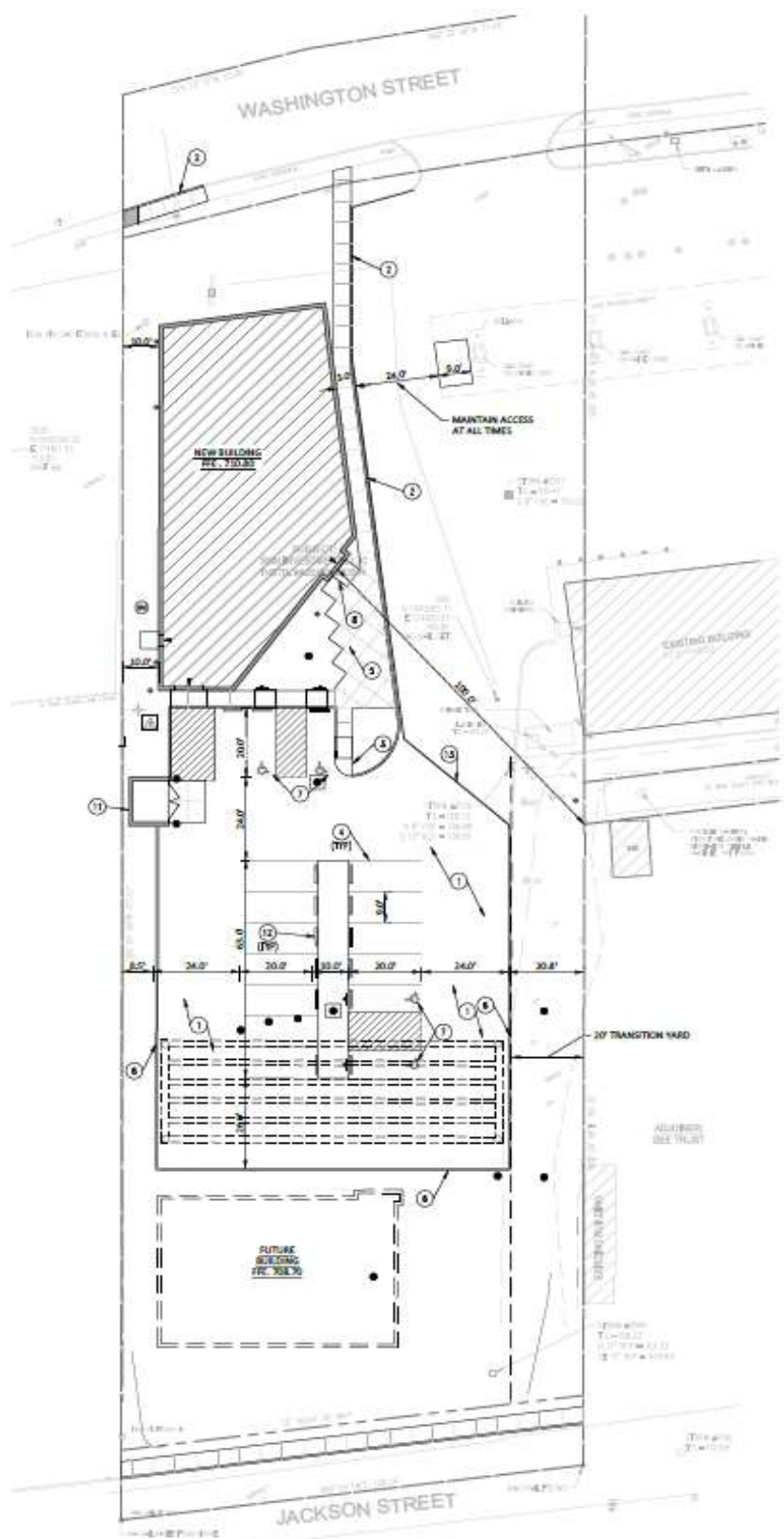
2007-ZON-134; 3000 West Washington Street (north of site), requested the rezoning of 149.49 acres from SU-9, PK-1, HD-1, and HD-2 to D-P to provide for a mixed-use redevelopment of an existing state hospital complex, **approved.**

2004-ZON-041; 3205-3223 West Washington Street (west of site), requested the rezoning of 1.68 acres from C-4 and I-3-U to C-5, **approved.**

2000-DV2-026; 3021 West Washington (east of site), requested a variance of development standards to provide for the construction of an 8,000 square foot retail store with a front yard setback of eight feet, and a 12-foot by 14-foot dumpster pad, with a rear transitional yard of 3.75 feet, and 28 off-street parking spaces with a non-standard aisle width, with maneuvering in a space encroaching three feet into the transitional rear yard, **granted.**

RU







Subject site looking southwest.



Subject site, adjacent existing automotive fueling station encroaching onto undeveloped parcel, looking southwest.



Subject site, undeveloped portion for proposed building location with increased front setback, looking south.



Adjacent commercial use to the east of site, looking south



Adjacent undeveloped and commercial use to the west of site, looking south



Adjacent single-family dwellings to the south.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-057
Address: 4001 North Park Avenue (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (TOD)
Petitioner: Brandi Waddy
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for street access to an existing detached garage (access from an improved alley required) and legally establish the existing 0.60-foot north side setback and 4-foot east rear setback (five-foot side and rear setbacks required).

RECOMMENDATIONS

Staff **recommends approval** to legally establish the existing 0.60-foot north side setback and the four-foot east rear setback.

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

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

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

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

LAND USE PLAN	The relevant plan (year) recommends traditional neighborhood development.
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- ◇ The 0.15-acre site is improved with a single-family dwelling and detached garage. It is surrounded by similarly developed single-family dwellings and associated accessory structures.
- ◇ The traditional neighborhood land use plan recommendation is to provide for a full spectrum of housing types in compact and well-connected areas. Building form should promote social connectivity of neighborhood. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. This typology recommends a density range of 5 to 15 units per acre.

(Continued)

STAFF REPORT 2022-DV1-057 (Continued)**VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The grant of the request would allow for street access from 40th street where it is not permitted. Additionally, it would legally establish the existing setbacks of the detached garage.
- ◇ Property Card records of the Assessor's Office indicate that the garage was constructed in 1928. Subsequently, Staff has determined that it is appropriate to legally establish these long-standing setbacks for the existing structure. However, Staff would recommend denial of the remainder of the request.
- ◇ Section 744-301. A. of the Ordinance note that "...if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley." In addition, per Section 744-404. D.3.c. of the Ordinance "...no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line."
- ◇ The grant of the request would be injurious to the safety and general welfare of the community by increasing the number of new curb cuts across sidewalks, which would disrupt the pedestrian experience along the sidewalk and increase the probability of accidents. Instead, the curb and sidewalk could be repaired to meet the right-of-way standards and the driveway could be relocated along the eastern property boundary for alley access.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because any existing concrete/cement block wall along the fence or eastern property boundary could be removed and paved to allow for a more accommodating parking area/drive from the alley without the need for a variance.
- ◇ Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence. Furthermore, the property owner did not file for a driveway permit prior to illegally constructing within the right-of-way.
- ◇ The denial of this variance would not prevent the current use or location of the existing garage, which could remain as is without the need for a variance.

OTHER ISSUES

- ◇ The Ordinance, specifically 744-503.H, states "no obstructions shall be erected, placed, planted or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5 feet and 8 feet above grade level of the adjoining right-of-way within a Clear Sight Triangular Area." The clear sight triangular area is formed by the right-of-way centerline and the centerline of the driveway and the line connecting the two end points. The clear-sight triangle requirement is to provide for sight visibility for motorists at an intersection. Reduction in visibility at intersections would increase the possibility of motorists or pedestrian accidents.

(Continued)

STAFF REPORT 2022-DV1-057 (Continued)

- ◇ Staff's Exhibit 1 notes the clear sight triangle at the street and alley. The petitioner confirmed that they would ensure that the clear sight triangle would be visible by removing the portion of the fence located in this area. However, a revised site plan has not been provided to confirm that it will be removed.
- ◇ Additionally, there is some discrepancy whether the six-foot fence is within the right-of-way of 40th Street. A revised site plan noting the exact location of the fence was requested, but it has not been provided to staff.
- ◇ Therefore, these items would not be included with this variance unless the petitioner intends to provide an updated site plan and requests to continue this petition for an amendment.

GENERAL INFORMATION**THOROUGHFARE PLAN**

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

THOROUGHFARE PLAN

40th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated October 27, 2022.

FINDINGS OF FACT

File-dated October 27, 2022.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

1. VIO22-006055; Failure to obtain a driveway permit.

PREVIOUS CASES

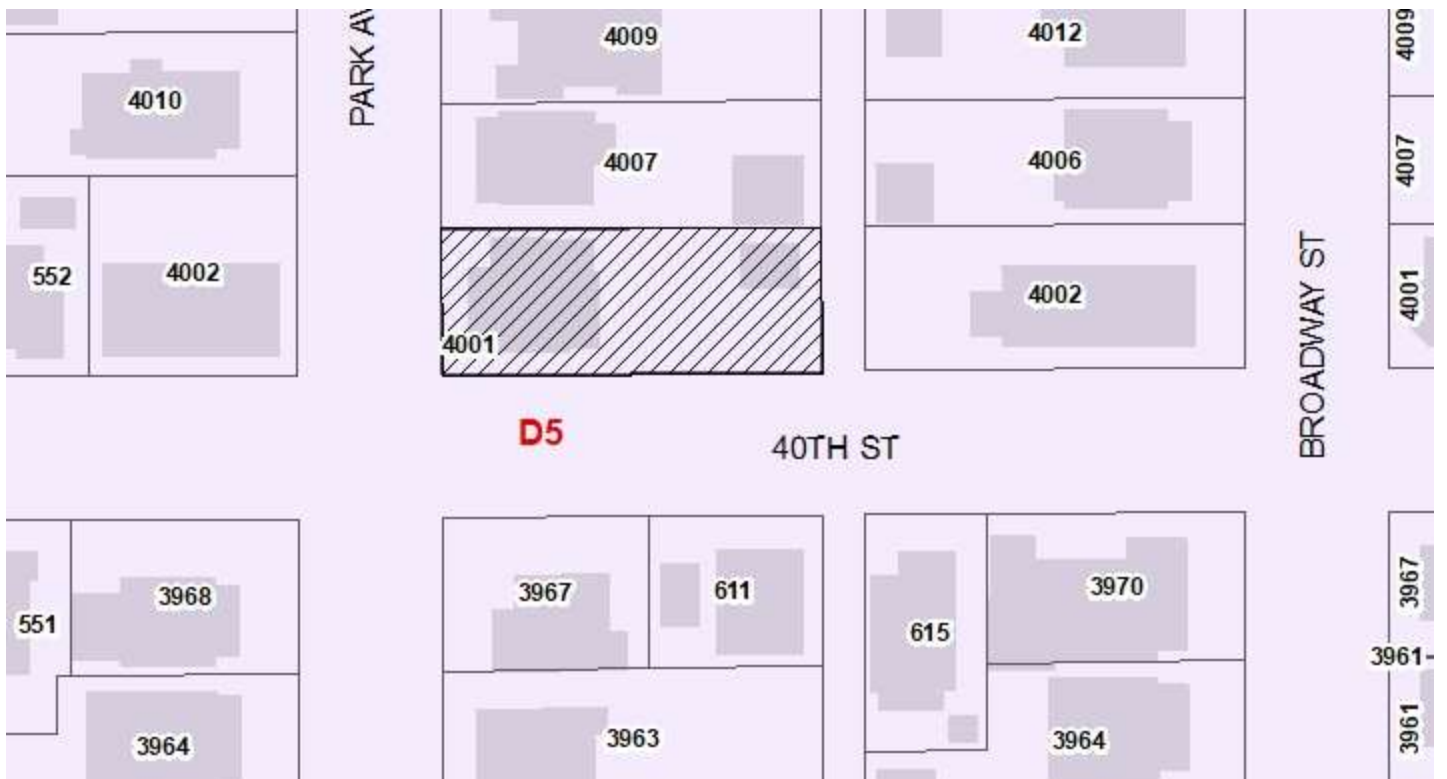
None.

ZONING HISTORY – VICINITY

95-HOV-1; 7521, 7539, and 7551 North Lasalle Street (southwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of three single-family residences, with a private street to access each (minimum 40 feet of frontage on a public street required), **granted**.

MI

2022-DV1-057; Location Map

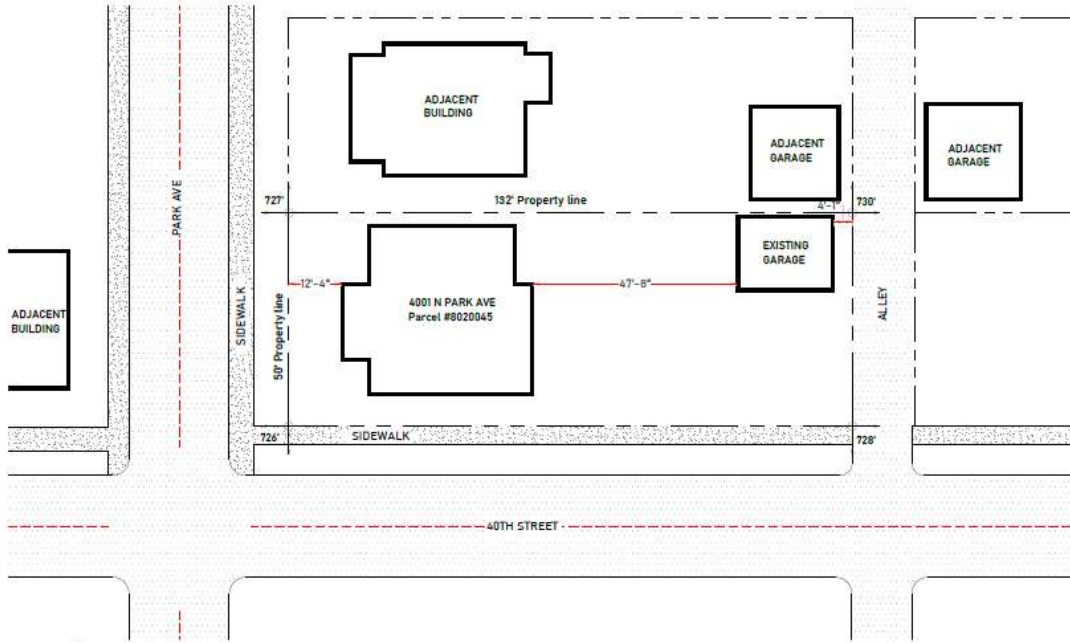


2022-DV1-057; Aerial Map



2022-DV1-057; Existing Site Plan

Item 16.



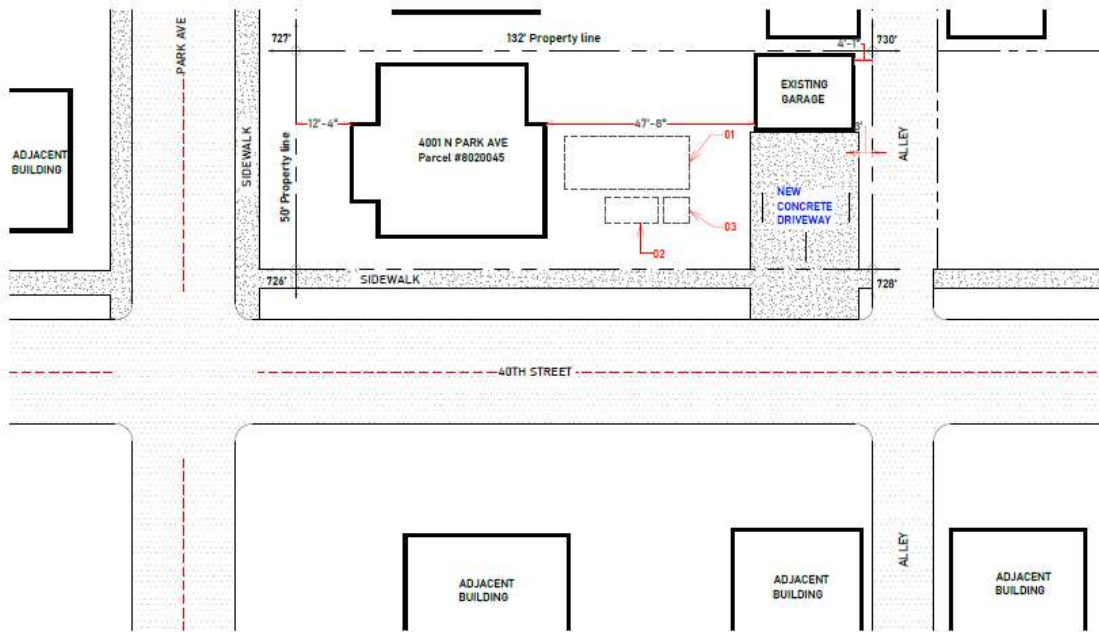
Contact:
E: ardra@rudy.com
P: 317-457-4472
© 2022 RUDY BLUEPRINTS
AND PERMITS

REVISION DATE:
10/24/22

4001 N PARK AVE,
INDIANAPOLIS, IN 46205

GENERAL NOTES:
All construction to be done in accordance with these plans and the 2022 Indiana residential code (IRC) (IRC).
Dimensions are to the face of framing, unless otherwise noted.
Do not scale drawings, use given dimensions, consult designer/draftsman for any discrepancies.
All products to be installed according to manufacturer's specifications.
Utility locations and routing are unknown, confirm location of water, sanitary sewer, electrical and gas utilities in field prior to commencement of work.

2022-DV1-057; Proposed Site Plan



Contact:
E: ardra@rudy.com
P: 317-457-4472
© 2022 RUDY BLUEPRINTS
AND PERMITS

REVISION DATE:
10/24/22

4001 N PARK AVE,
INDIANAPOLIS, IN 46205

GENERAL NOTES:
All construction to be done in accordance with these plans and the 2022 Indiana residential code (IRC) (IRC).
Dimensions are to the face of framing, unless otherwise noted.
Do not scale drawings, use given dimensions, consult designer/draftsman for any discrepancies.
All products to be installed according to manufacturer's specifications.
Utility locations and routing are unknown, confirm location of water, sanitary sewer, electrical and gas utilities in field prior to commencement of work.

TE DATA:

T AREA (D-S)
RCEL: #8020045
01 N PARK AVE
Indianapolis, IN 46205
rcei area: 6,600 SF (100'x43')
isting house area: 1616 SF
isting garage area: 409 SF
w concrete driveway area: 788 SF

KEYNOTES:

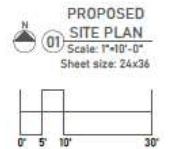
- 01 Equipment storage
- 02 Solid waste dumpster
- 03 Concrete / Paint washout

LEGEND:

- Property line
- Building footprint
- - - Road centerline
- Fence line
- Sanitary sewer line
- Concrete
- Gravel
- Stormwater flow direction
- ==== Railroad
- Contour line
- New construction
- To be removed
- Spot elevation
- Tree

GENERAL EXISTING SITE NOTES:

- 1- These drawings are intended to outline the general scope of work, contractors shall field verify all existing conditions and dimensions before starting any work; contractors shall also be responsible for adhering all applicable codes and generally accepted trade practices.
- 2- No topographic survey for property has been provided, drawings and features of the site were obtained based of field verified dimensions, cursory review, photography and other reliable means of inspection, as a result, all work must be field verified prior to start of construction, conflicts between these plans and the field conditions shall be reported immediately to the owner and/or architect for verification and/or correction.
- 3- Utility locations and routing are unknown, confirm location of water, sanitary sewer, electrical and gas utilities in field and with local utility companies as required prior to commencement of work.
- 4- Provide all fencing around construction perimeter as required by local authority having jurisdiction.
- 5- Heavy construction machinery must enter the property from the alley, no construction equipment is allowed to enter the site from the lot frontage.
- 6- The architect/designer shall bear no financial responsibility for the constructability of this project.
- 7- Coordinate stacking of building corners and benchmark elevations with surveyor as required to establish proper grades and finish floor elevations.



PROPOSED
SITE PLAN
Scale: 1"=10'-0"
Sheet size: 24x36

SHEET
NUMBER

C102

2022-DV1-057; Staff Exhibit 1- Clear Sight Triangle

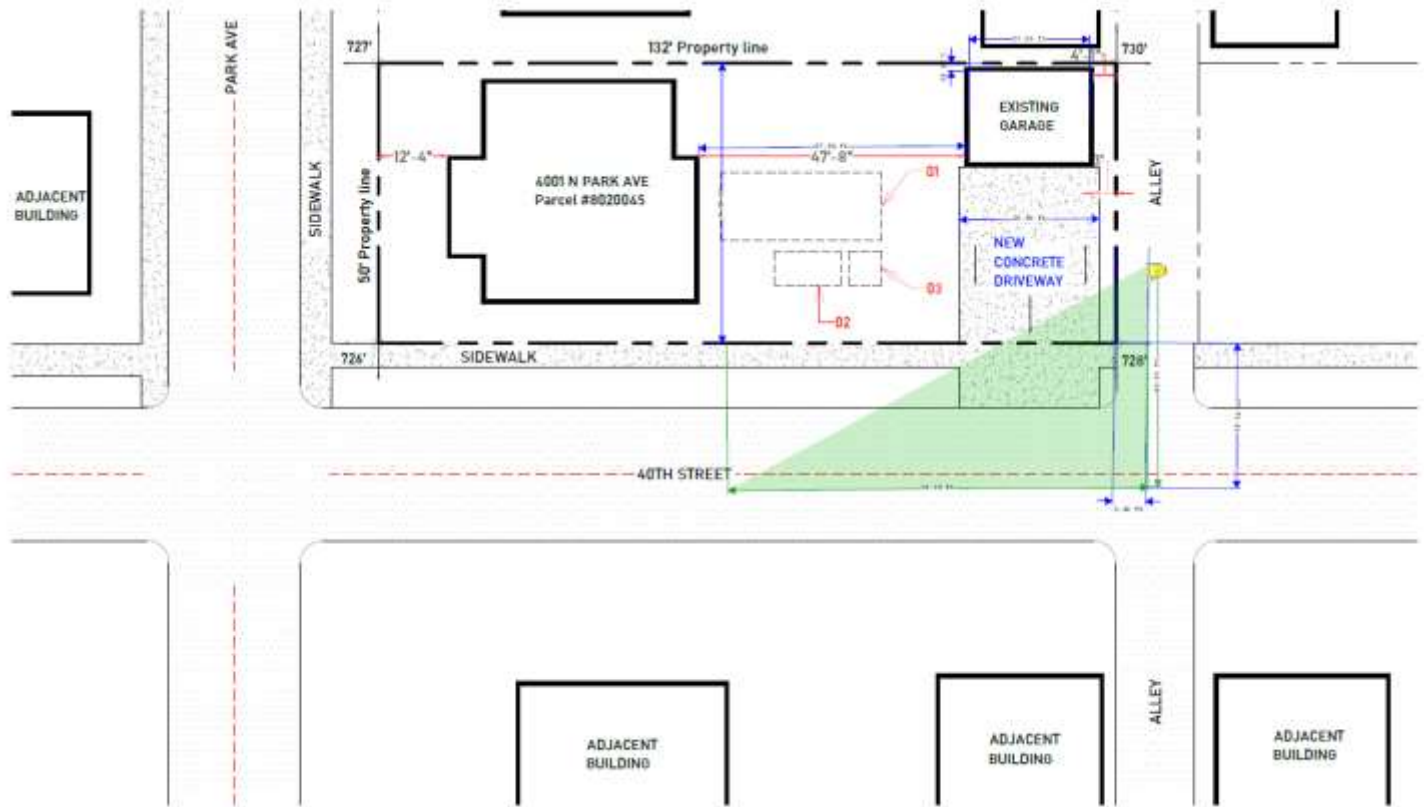




Photo of the Subject Property: 4001 North Park Avenue



Photo of the Subject Property: 4001 North Park Avenue



2019 Google Photo of the Subject Property.



2011 Google Photo of the Subject Property.



2022 Photo of the Subject Property.



2011 Photo of the Subject Property.



2022 Photo of the existing garage and alley.



Photo of the fence within the clear sight triangle.



Photo of the alley and other accessory structure that gain access from it.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-058 (Amended)
Address: 1635 Cornell Avenue (approximate address)
Location: Center Township, Council District #11
Zoning: D-8
Petitioner: Hit It Till You're Happy LLC, by Matthew Peyton
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex on a 5,396 square foot, 43-foot-wide lot (minimum 7,200 square feet and 60-foot wide lot required for a duplex) and a detached garage with three-foot side yard setbacks (five-foot side yard setbacks required), resulting in an open space of 55 percent (60 percent open space required).

RECOMMENDATIONS

Amendment: The petitioner submitted a revised site plan that increased the open space from 48.4 percent to 55 percent.

Staff **recommends approval** of the request as amended.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-8	Compact	Undeveloped
-----	---------	-------------

SURROUNDING ZONING AND LAND USE

North	I-3	Residential (Two-family Dwelling)
South	I-3	Residential (Single-family Dwelling)
East	MU-2	Monon Trail / Residential (Multi-family Dwellings)
West	D-8/ I-3	Residential (Single-family Dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends village mixed-use development.
--------------------	--

- ◇ The 0.13-acre subject site is currently undeveloped but was historically improved with a duplex that has since been demolished. It is surrounded by a mix of single-family, two-family, and multi-family dwellings in the immediate area.
- ◇ The site was recently rezoned from the I-3 District to the D-8 District for the purpose of developing the site residentially.

(Continued)

STAFF REPORT 2022-DV1-058 (Continued)

- ◇ "The D-8 district is intended for a variety of housing formats, with a mix of small-scale multi-unit building types. This district can be used as a part of new mixed- use areas, or for infill situations in established urban areas, including medium and high-density residential recommendations of the Comprehensive Plan, and the Traditional Neighborhood, City Neighborhood, and Village or Urban Mixed-Use Typologies of the Land Use Pattern Book."

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow the construction of a duplex on an insufficient lot size with a 55 percent open space and three-foot side setbacks for the garage.
- ◇ Table 742.103.03 notes that duplexes within the D-8 district require a minimum lot area of 7,200 square feet, minimum 60-foot lot width, five-foot side setbacks and 60 percent open space.
- ◇ The Comprehensive Plan recommends village mixed-use, which has a residential density of 6 to 25 dwelling units per acre. As proposed, the site would have a density of 15 units per acres. The proposed density would be consistent with the Comprehensive Plan recommendation.
- ◇ Since historical aerials indicate the existence of a two-family dwelling previously on site, staff is supportive of the construction of a duplex at this property since the open space of 55 percent and three-foot side setbacks would be slight deviations of the Ordinance.
- ◇ Staff determined that the approval of the request would not be injurious to the public health, safety, morals, and general welfare of the community because the site would be residentially developed, and the proposed density would be in line with the Comprehensive Plan.

GENERAL INFORMATION

THOROUGHFARE PLAN	Cornell Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN	File-dated November 1, 2022.
AMENDED SITE PLAN	File-dated November 18, 2022
FINDINGS OF FACT	File-dated November 1, 2022.

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

2022-ZON-100; 1635 Cornell Avenue (subject site), Rezoning of 0.13 acre from the I-3 district to the D-8 district, **approved**.

(Continued)

STAFF REPORT 2022-DV1-058 (Continued)**ZONING HISTORY – VICINITY**

2022-CZN-860/ 2022-CVR-860; 1606 Cornell Avenue (southwest of site), Rezoning of 0.07 acre from the I-3 district to the D-5II district and variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached single-family dwelling with a two-foot north side setback (three feet required), **pending and granted.**

2022-UV3-027; 1606 Cornell Avenue (southwest of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached single-family dwelling (not permitted) with a two-foot north side setback, a 5.5-foot south side setback and a 20-foot front transitional yard (10-foot side setbacks and 40-foot front transitional yard required), **withdrawn.**

2021-ZON-132; 1644 Cornell Avenue (northwest of site), Rezoning of 0.33 acre from the I-3 district to the D-8 district to provide for a single-family dwelling, **approved.**

2020-UV3-001; 1651 Cornell Avenue (north of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an addition to a single-family dwelling (not permitted) with a six-foot front setback and a two-foot north side setback and a detached garage with a three-foot north side setback and five-foot rear setback (30-foot front setback, 10-foot side and rear setbacks), **granted.**

2019-ZON-013; 1661 Cornell Avenue (north of site); Rezoning of 0.12 acre from the I-3 district to the D-8 district., **approved.**

2018-UV1-009; 1648 Cornell Avenue (northwest of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling (not permitted), with a 14-foot front setback and a four-foot south side yard and eight-foot north side yard (30-foot front yard and 10-foot side yards required), and 720-square foot secondary dwelling (not permitted), with a three-foot north side yard, a four-foot south side yard and a 15-foot rear transitional yard (10-foot side yard and 40-foot rear transitional yard required), **granted.**

2017-UV3-011; 1622 Cornell Avenue (southwest of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two, single-family dwellings and detached garages, with 20-foot front setbacks, five-foot side setbacks, and 15-foot rear setbacks, **approved.**

2017-UV3-003; 1622 Cornell Avenue (southwest of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for single-family dwelling (not permitted), with a 20-foot front setback, **granted.**

2017-ZON-043; 1621 Cornell Avenue (south of site), Rezoning of 0.12 acre from the I-3 district to the D-8 classification, **approved.**

2012-HOV-043; 1412 Cornell Avenue (southwest of site), Variance of use of the Industrial Zoning Ordinance to legally establish a single-family dwelling, **granted.**

(Continued)

STAFF REPORT 2022-DV1-058 (Continued)

2009-ZON-035; 1609 Cornell Avenue (south of site), Rezoning of 0.115 acre, being in the I-3-U District, to the D-8 classification to provide for residential uses, **approved.**

2008-DV3-016; 1607 Cornell Avenue (south of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a single-family dwelling and detached garage with reduced setbacks, **granted.**

2007-ZON-080; 1611 Cornell Avenue (south of site), Rezoning of 0.1148 acre, from the I-3-U District, to the D-8 classification to provide for residential uses, **approved.**

2007-ZON-007; 1601-1607 Cornell Avenue / 1010 East 16th Street (south of site), Rezoning of 0.258 acre, being in the I-3-U District, to the D-8 classification to provide for residential development, **approved.**

2006-ZON-027; 1636 Cornell Avenue (west of site), Rezoning of 0.306 acre from the I-3-U District to the D-8 classification to provide for residential development, **approved.**

2003-HOV-023; 1621 Cornell Avenue (south of site), Variance of use to legally establish an existing single-family dwelling, and to provide for construction of a room and garage addition, in I-3-U, **granted.**

2008-HOV-010; 1611 Cornell Avenue (south of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family dwelling, with a reduced front setback, **granted.**

91-UV3-46; 1611 Cornell Avenue (south of site), Variance of use of the Industrial Zoning Ordinance to permit a demolition and excavation business with outdoor storage, exceeding 50% of the gross floor area of primary building and within 300 feet of a Dwelling District, with deficient perimeter screening and landscaping and height of stored material exceeding the height of the chain link fence; **granted.**

MI

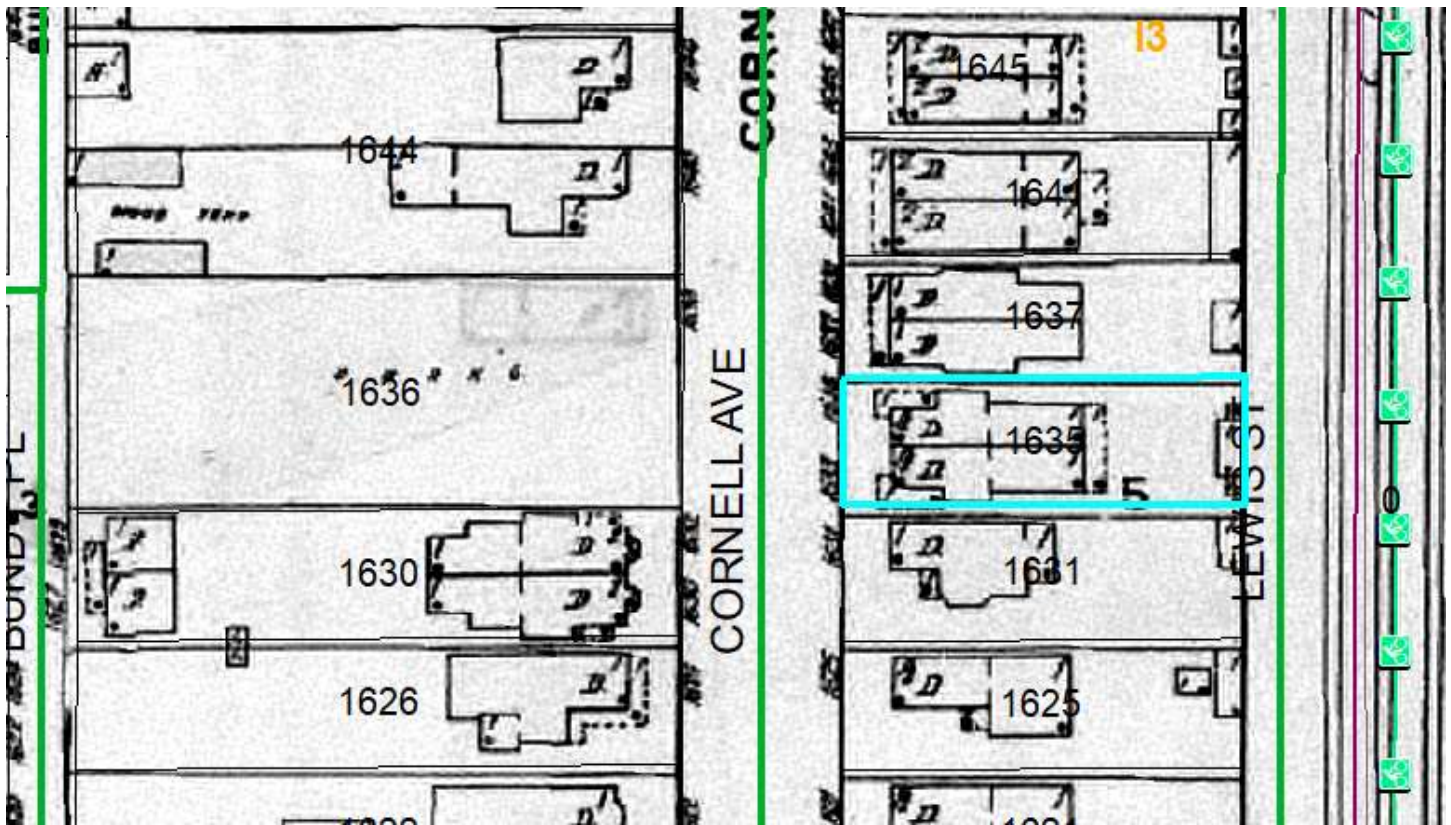
2022-DV1-058; Location Map



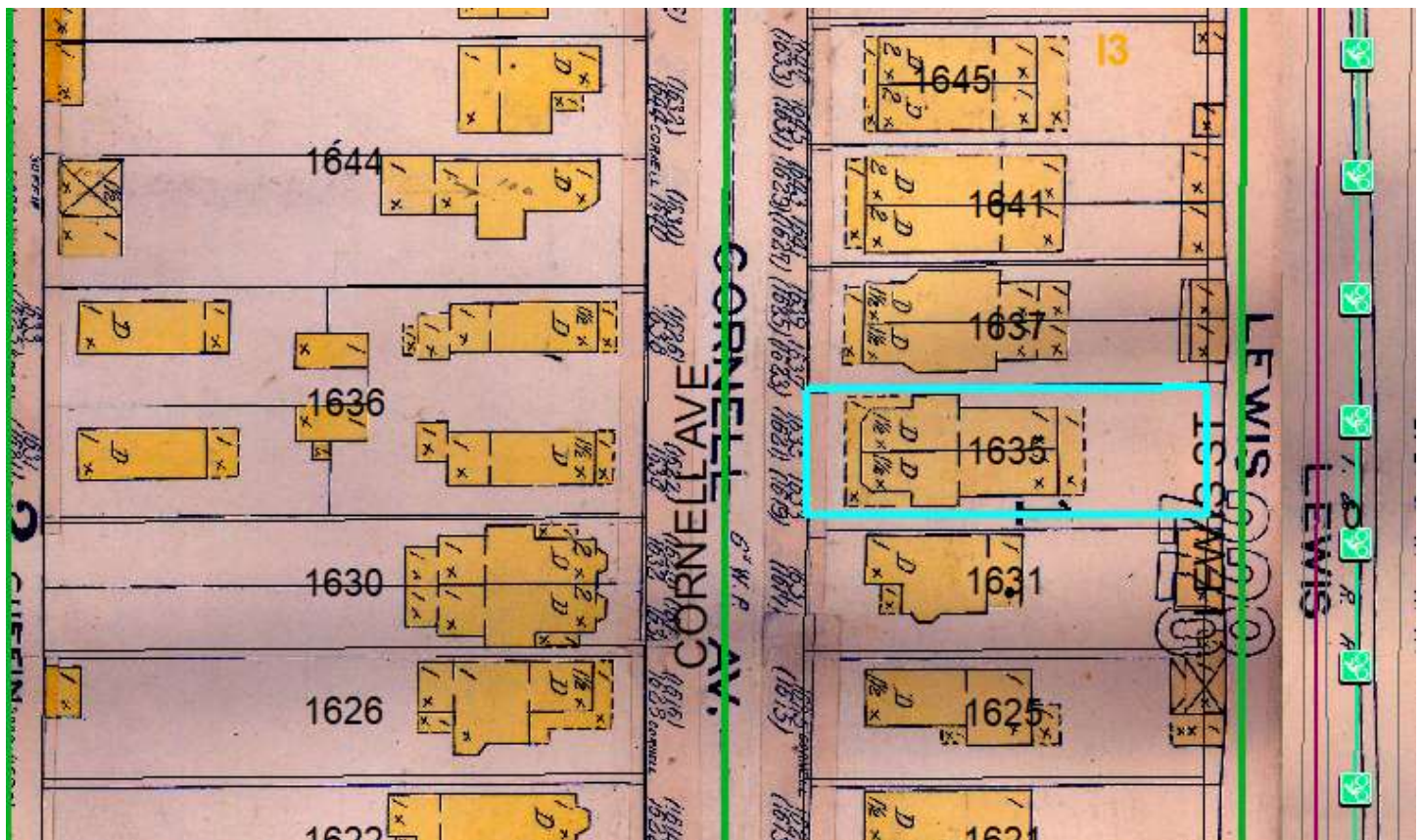
2022-DV1-058; Aerial Map



2022-DV1-058; Sanborn (1956)



2022-DV1-058; Sanborn (1898)



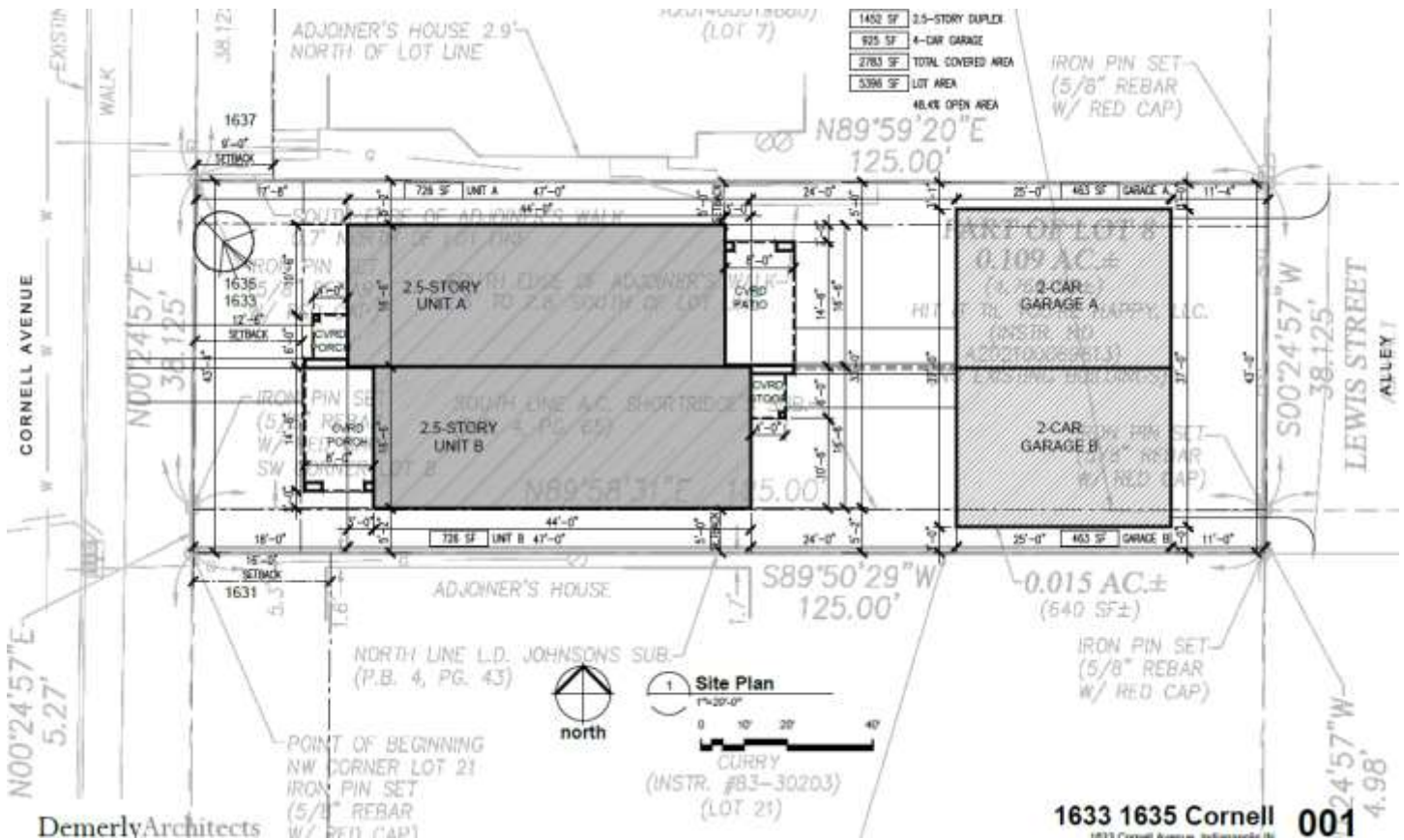
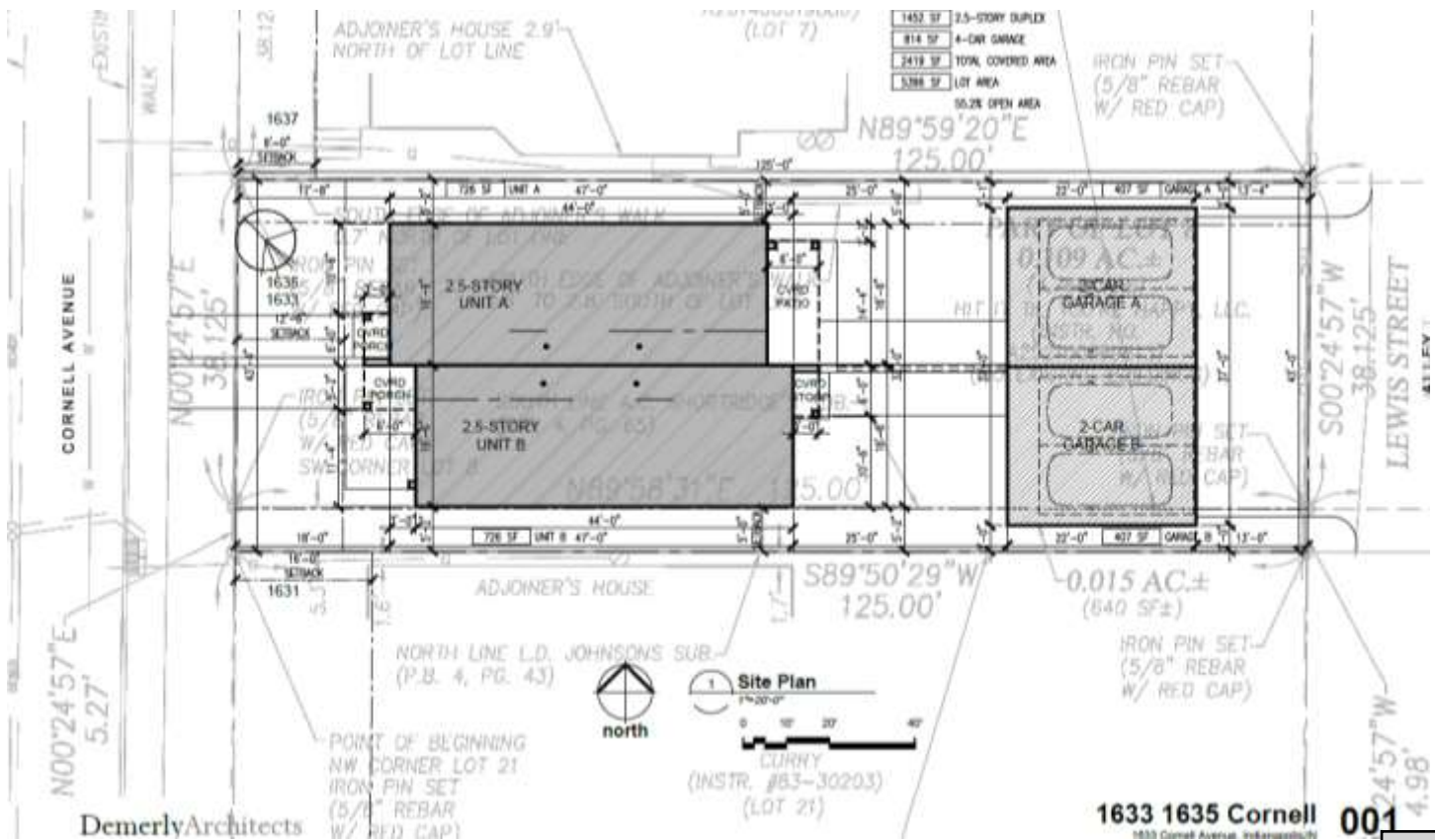
2022-DV1-058; Site Plan**2022-DV1-058; Amended Site Plan**



Photo of the Subject Property: 1635 Cornell Avenue



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



Photo of the two-family dwellings north of the site.



Photo of the Monon Trail and multi-family dwellings to the east.



Photo showing ther there are no accessory structures for the north and south abutting properties.



Photo of the subject site looking west from the alley.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-042
Address: 3401 East 96th Street (approximate address)
Location: Washington Township, Council District #3
Zoning: C-4
Petitioner: YLTM LLC, by Jason P. Lueking
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of buying, selling and leasing of motor vehicles.

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Metro	Vacant, old Bank
-----	-------	------------------

SURROUNDING ZONING AND LAND USE

North	C-5	Commercial
South	City of Carmel	Commercial
East	C-S	Commercial
West	C-4	Commercial

LAND USE PLAN

The Marion County Land Use Plan (2019) Community Commercial development.

- ◇ The subject site is 1.08 acres (47,044 square feet), located in the Keystone at the Crossing in Washington Township. The subject site is an old bank, with parking located along 96th Street and at the rear. The surrounding neighborhood consists of commercial uses, but mostly automobile dealerships.
- ◇ The subject site is zoned C-4 (Community-Regional District). The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.

(Continued)

STAFF REPORT 2022-UV1-042 (Continued)**VARIANCE OF USE**

- ◇ The request would provide for the operation of buying, selling, and leasing of motor vehicles, which is defined as Automobile, Motorcycle, and Light Vehicle Sales or Rental within the Ordinance. Table 743-1 states that Automobile, Motorcycle, and Light Vehicle Sales or Rental is only permitted within the C-5, C-7, and CBD-2 districts, which are all considered high intensity commercial districts. Staff is opposed to the request for proposed Automobile, Motorcycle, and Light Vehicle Sales or Rental, where there is no hardship in using the subject site for uses permitted by right in the C-4 district.
- ◇ Additionally, the Comprehensive Plan recommendation is Community Commercial development. 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.
- ◇ The subject site was once a bank with drive through services, which aligned with the Comprehensive Plan recommendation of low intensity commercial. The proposed Automobile, Motorcycle, and Light Vehicle Sales or Rental would not align with the Community Commercial typology, due to its high intensity. The proposed use would be better located to the east or south, which permits Automobile, Motorcycle, and Light Vehicle Sales or Rental.
- ◇ Staff opposes the request where there is no hardship, and the proposed use does not align with the Comprehensive Plan recommendation.

GENERAL INFORMATION**THOROUGHFARE PLAN**

96th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 110-foot existing right-of-way and a 119-foot proposed right-of-way.

SITE PLAN

File-dated October 27, 2022.

PLAN OF OPERATION

File-dated October 27, 2022.

FINDINGS OF FACT

File-dated October 27, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

86-HOV-32; 3401 East 96th Street, requested a Variance of development standards of the Sign Regulations of Marion County to provide for the use of a pole sign with signpost cover within the required 9-foot clearance area, **approved**.

(Continued)

STAFF REPORT 2022-UV1-042 (Continued)**ZONING HISTORY – VICINITY**

2013-DV3-037; 3301 East 96th Street, requested a Variance of development standards of the Sign Regulations to provide for a 5.2-foot freestanding sign within 100 feet of a freestanding sign to the west and 250 feet of freestanding sign to the east, being the fourth sign along the approximately 1,000 feet 96th Street frontage, **approved**.

2001-ZON-046, 9436-9525 Aronson Drive and 3477 East 96th Street (south of site); Requesting rezoning of 11.596 acres from the C-4 District to the C-5 classification to provide for automobile sales and services and related businesses, **approved**.

99-UV1-14, 3421 East 96th Street; Requesting a variance of use of the Commercial Zoning Ordinance to provide for the display of automobiles for an adjacent automobile sales facility, **denied**.

98-Z-199, 3421 East 96th Street; Requesting rezoning of 8.97 acres from the C-4 District to the C-5 classification to provide for general commercial uses, including display of vehicles, associated with automobiles, **withdrawn**.

97-V3-51, 3301 East 96th Street; Requesting a variance of development standards of the Commercial Districts Zoning Ordinance and Sign Regulations to provide for a food shop and restaurant additions to an existing gasoline station with zero feet of landscaping and two illuminated canopy signs, **granted**.

95-Z-146, 3218 Harper Road; Requesting rezoning of 0.67 acre from the C-4 District to the C-5 classification to provide for automobile sales, **approved**.

94-Z-88/94-CV-12, 3131 East 96th Street; Requesting a rezoning of 1.058 acres from the C-3 District to the C-4 to provide for a service station with attached car wash and a variance of development standards of the Sign Regulations and Commercial Zoning Ordinance to provide for the placement of a 52.6-square foot ground sign, 6.421 feet in height with a logo/identification panel and a 187.1-square foot pole sign with pricing panels, **approved**.

86-HOV-32, 3401 East 96th Street; Requesting a variance of development standards of the sign Regulations to provide for the use of a pole sign with a signpost cover within the required nine-foot clearance area, **granted**.

85-Z-83, 3401 East 96th Street; Requesting rezoning of 1.94 acres, being in the C-4 District, to the C-5 classification, to provide for automobile sales and display, **approved**.

84-Z-152, 3235 Harper Road; Requesting rezoning of 2.2 acres, being in the C-4 District, to the C-5 classification, to provide for the expansion of an automobile dealership, **approved**.

79-V2-49, 3201 East 96th Street; Requesting a variance of development standards of the Commercial Zoning Ordinance, to allow for a gasoline pump canopy, **granted**.

74-Z-114, 3401 East 96th Street; Requesting rezoning of 31 acres, being in the C-2 and A-2 Districts to the C-4 classification to provide for commercial development, **approved**.

70-Z-40, 3201 East 96th Street; Requesting rezoning of 1.51 acres, being in the A-2 District to the C-4 classification, to provide for a gasoline service station, **approved**.

GLH

2022-UV1-042; Aerial Map



(Continued)



Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The use of the property for buying and selling of motor vehicles is consistent with the use of several properties along the 96th Street corridor, many of which are in the immediate vicinity of this property. The owner has established and successfully operated other motor vehicle dealerships in Central Indiana and will operate this business consistent with other businesses that support the community and its residents.

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 owner will maintain this business in a first class manner similar to the maintenance of its affiliated nearby business at 9450 Threl Road. The area immediately adjacent and to the east of this property is already operated for an automobile dealership. The properties north of the site are also operated for automobile dealerships and rental of motor vehicles.

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

The 96th Street corridor in this area is known for automobile dealerships and the affiliated business of the owner located at 9450 Threl Road will be served by allowing ancillary services at this site. The closing of the Regions Bank and nearby Fifth Third Bank give evidence that banking operations have not thrived in this location but automobile dealerships have continued to operate and open in great numbers in this area.

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 has not been able to thrive for banking operations and the proximity to the owner's existing business make the site ideal for expanding operations of the owner to this location adjacent to 96th Street. The recent closure of the left hand turn from Aronson Road to 96th Street has negatively impacted which commercial businesses desire this site for their operations.

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

Commercial uses desired by the Comprehensive Plan will be performed at this site. The expansion to buying and selling of motor vehicles consistent with several other nearby businesses will not negatively impact with the commercial uses encouraged by the Comprehensive Plan.

DECISION

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

Adopted this _____ day of _____, 20 ____

10of-use frm 2/23/10

(Continued)



Photo of subject site: 3401 East 96th Street



Photo of front yard of subject site, along 96th Street.

(Continued)



Intersection of Aronson Road and 96th Street.



Photo looking west of subject site.

(Continued)



Photo of front yard of subject site.



Photo of the west lot line of subject site.

(Continued)



Photo looking north on subject site.

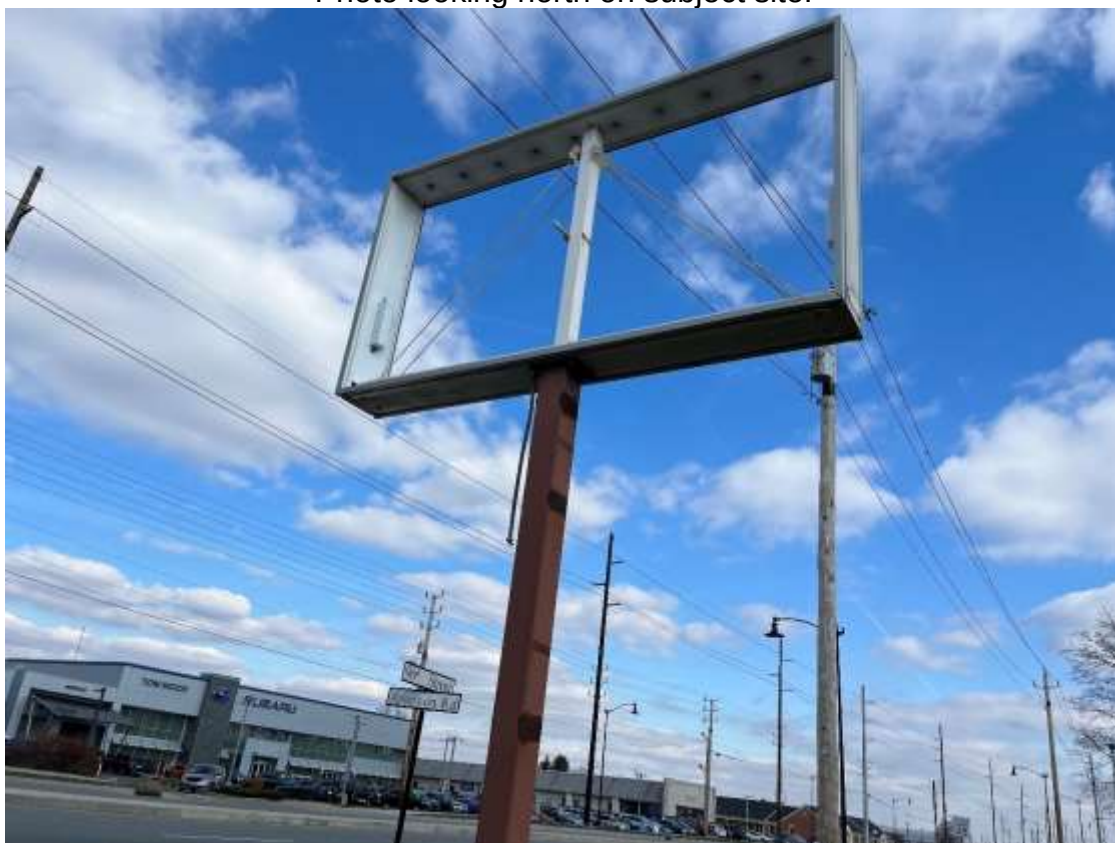


Photo of existing pole sign structure, permitted under 86-HOV-32.

(Continued)



Photos looking north of subject site.

(Continued)



Photo of the Subject Property: 3401 East 96th Street