



Metropolitan Development Commission (July 19, 2023) Meeting Notice

Meeting Details

Notice is hereby given that the Metropolitan Development Commission of Indianapolis-Marion County, IN, will hold public hearings on:

Date: Wednesday, July 19, 2023

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes: July 5, 2023

Bid Openings: Twin Aire Shopping Center and Drive In Site per RFP-13DMD-2023-5

202 S. Alabama / Old City Hall

Policy Resolutions:

REAL ESTATE:

1. 2023-R-027

Metropolitan Development Commission authorizes DMD to deed property to accurately reflect the use and tax status of the Property.

ECONOMIC DEVELOPMENT / INCENTIVES:

2. 2023-E-025 (For Public Hearing)

Recommendation for the build-operate-transfer developer of the City Market improvement project.

3. 2023-E-026

Interlocal agreement to support the development of an automotive training center.

BOND BANK:

4. 2023-BB-004 (For Public Hearing)

Confirmatory Resolution Authorizing the Issuance of Bonds of the Development District of the City of Indianapolis (Pan Am Plaza Project Hotel Revenue Bonds).

Zoning Petitions:

Special Requests

PETITIONS OF NO APPEAL (RECOMMENDED FOR APPROVAL):

5. 2023-MOD-012 | 6107 Timberland Way

Decatur Township, Council District #20

D-3

Simone D. Ridgeway

Modification of the Commitments related to petition 97-Z-30 to modify Commitment #20 to allow for a privacy fence along the property boundary (current commitment limits privacy fencing to being used in conjunction with a porch, patio, deck, terrace or pool, it must be located within fifteen feet of said structure and shall not encroach into the required building setbacks). _

6. 2023-ZON-021 | 3449 South Harding Street

Perry Township, Council District #20

RIARS, LLC, by David Gilman

Rezoning of 0.75 acre from the D-4 (FF) district to the C-3 (FF) district to provide for retail sales of accessories and parts for semi-tractors and trailers.

7. 2023-ZON-027 | 1130 and 1134 East 19th Street

Center Township, Council District #17

Anderson Benjamin, by In and Out Unlimited LLC (Jamilah Mintze)

Rezoning of 0.14 acres from the C-3 district to the D-8 district to provide for single-family dwellings.

8. 2023-ZON-031 | 3807 Graceland Avenue

Washington Township, Council District #7

Larry K. Covington, by Jamilah Mintze

Rezoning of 0.35 acre from the D-5 district to the D-8 district to provide for a seven-unit townhome development.

9. 2023-ZON-038 | 6041 and 6125 East Thompson Road

Franklin Township, Council District #18

Albert Fullenkamp, by David Gilman

Rezoning of 3.40 acres from the C-S and D-P districts to the C-3 district to provide for a neighborhood commercial development.

10. 2023-ZON-046 | 7250 North Keystone Avenue

Washington Township, Council District #2

Hansen Collision, Inc., by J. Murray Clark

Rezoning of 4.199 acres from the D-4 and C-4 (FF) district to the C-4 (FF) district to provide for automobile, motorcycle, and light vehicle service or repair.

11. 2023-ZON-051 | 1354 Shelby Street

Center Township, Council District #21

Churchyard, LLC, by David Gilman

Rezoning of 0.30 acre from the MU-1 (TOD) district to the MU-2 (TOD) district to provide for retail commercial uses.

12. 2022-CZN-876 | 1507 & 1517 West Vermont Street and 333 Koehne Street

Center Township, Council District #16

Own It Enterprise, LLC, by David Kingen and Emily Duncan

Rezoning of 0.721-acre from the D-8 (RC) district to the CBD-2 (RC) district.

13. 2023-CAP-819 | 2801 South Pennsylvania Street

Center Township, Council District #16

2801 S Pennsylvania LLC, by Jason E. Burk

D-8

Modification of Commitments related to 2019-ZON-086, modifying Commitment Four to reduce the amount of required parking to 1.75 spaces per residential unit, from two spaces per unit, and Commitment Ten to allow for additional lighting elements and height placement.

Petitions for Public Hearing

PETITIONS FOR PUBLIC HEARING:

14. ASSESSMENT OF BENEFITS HEARING:**

2023-CVC-829 (Amended) | 822-838 Eugene Street, 815-827 West 30th Street, 629 & 631 West 28th Street, and 2954 & 2709-2735 Dr. Martin Luther King Jr Street

Center Township, Council District #11
The NRP Group, by Russell L. Brown

Vacation of the first alley west of Dr. Martin Luther King, Jr. Street, being 12.9 feet in width, from the south right-of-way line of 30th Street, being the northwest corner of Lot 1 of Block 1 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, south 270 feet, to the north right-of-way line of Eugene Street,

Vacation of the first east-west alley south of 30th Street, being 20 feet in width, from a point 125 feet south of the northeast corner of Lot 1 of Block 2 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, being the southeast corner of Lot 1 of said Block, east 120 feet to the southwest corner of Lot 4 of said Block,

Vacation of the first alley east of Dr. Martin Luther King, Jr. Street, being 12 feet in width, from the south right-of-way line of 28th Street, being the northeast corner of Lot 9 in Harland and Kessler's Northern Heights, Recorded in Plat Book 13, Page 37 in the Office of the Recorder of Marion County, Indiana, south 245.88 feet, to the southeast corner of Lot 2 of said subdivision

****Staff request for a continuance to August 2, 2023, to allow time for vacation appraisal to be completed and reviewed**

15. COMPANION PETITIONS RECOMMENDED FOR DENIAL BY THE HEARING EXAMINER, APPEAL FILED BY PETITIONER:

2022-CZN-862 / 2022-CVR-862 (Second Amendment) | 5204, 5206 and 5216 South Harding Street

Perry Township, Council District #20
Quiktrip Corporation, by J. Murray Clark

Rezoning of 5.327 acres from the C-S district to C-7 classification to provide for a truck stop.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster enclosure in the front yard of SR 37 (not permitted in front yard), with a 50-foot tall pole sign (maximum 20-foot tall permitted), with fifteen street trees along Harding Street (29 required) and sixteen trees along SR 37 (23 required) and to provide for a 23-foot tall, 109-square-foot free-standing incidental sign (maximum eight-foot tall, 32 square feet permitted).

16. COMPANION PETITIONS** RECOMMENDED FOR DENIAL BY THE HEARING EXAMINER, APPEAL FILED BY PETITIONER:

2023-ZON-025 / 2023-VAR-002 | 1002 West Hanna Avenue and 3500 Division Street

Perry Township, Council District #20
Lauth Group, Inc., by Brian J. Tuohy

Rezoning of 24 acres from the I-2 (FF) and D-3 (FF) districts to the I-3 (FF) district to provide for a plastic recycling facility.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for development within the north and east transitional yards (100-foot transitional yard required).

****Petitioner request for a continuance to August 2, 2023**

17. COMPANION PETITIONS RECOMMENDED FOR DENIAL BY THE HEARING EXAMINER, APPEAL FILED BY PETITIONER:**

2023-CZN-830 / 2023-CVR-830 | 201 West 38th Street and 3750 North Capitol Avenue
Center Township, Council District #7
C-4 / D-5
Martin Petroleum Inc., by Pat Rooney

Rezoning of 0.44 acre from the D-5 and C-4 districts to the C-4 district.

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

****Petitioner request (to be made by Staff on behalf of the Petitioner) for a continuance to August 16, 2023**

18. COMPANION PETITIONS TRANSFERRED FROM THE HEARING EXAMINER FOR INITIAL HEARING:

2023-ZON-023 / 2023-VAR-003 (Amended) | 8480, 8508 and 8510 Ditch Road
Washington Township, Council District #1
Adams French Property, LLC, by Brian J. Tuohy

Rezoning of 1.88 acres from the C-1 and C-4 districts to the C-S district to provide for a self-storage facility.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for self-storage facility with a reduced landscaped buffer along the lot lines abutting a protected district (a minimum 50-foot landscaped buffer required).

19. REZONING PETITION SCHEDULED FOR INITIAL HEARING:

2023-ZON-048 | 2214, 2218, 2222, 2228, 2232, 2240, 2302, 2310, 2316 and 2320 Station Street, 3619 and 3631 Massachusetts Avenue, and 2219, 2221, 2225 and 2233 Avondale Place
Center Township, Council District #17
Crossroads Development and Consulting, by David Gilman

Rezoning of 2.22 acres from the D-5 and C-7 districts to the D-P district to provide for multi-family residential uses, daycare and office/retail commercial uses.

20. REZONING PETITION SCHEDULED FOR INITIAL HEARING:**

2023-ZON-049 | 1011 East 22nd Street
Center Township, Council District #17
DJ BCG Monon 22, LLC, by Michael Rabinowitch

Rezoning of 2.30 acres from the I-3 district to the D-P district to provide for a 111-unit multi-family development.

****Petitioner request for a continuance to August 16, 2023, due to a scheduling conflict**

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.

Disposition
Real Estate – July 19, 2023

**METROPOLITAN DEVELOPMENT COMMISSION
OF
MARION COUNTY, INDIANA
Resolution No. 2023-R-027**

WHEREAS, The City of Indianapolis, Department of Metropolitan Development ("DMD"), is engaging in disposition and redevelopment activities within the Marion County Redevelopment District in Marion County, Indiana ("Redevelopment District"); and

WHEREAS, pursuant to I.C. 36-7-15.1-6, and 7(a) (2) the Metropolitan Development Commission ("MDC") is charged with the responsibility of promoting the use of land in the manner that best serves the interest of the City of Indianapolis ("City") and its inhabitants, both from the standpoint of human needs and economic values and has the authority to convey property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the city and its inhabitants.; and

WHEREAS, the garages for the homes located at 2202 and 2206 New Jersey Street sit on DMD-owned land currently known as 318 E. 22nd Street (parcel #1033977) ("Property"); and

WHEREAS, DMD wishes to dispose of the Property to align ownership and of the homes with their respective garages and to accurately reflect the use and tax status of the Property.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Metropolitan Development Commission does hereby authorize the DMD to convey the Property in to promote the use of land in the manner that best serves the interest of the City.
2. The DMD Director is hereby authorized to execute the necessary documents, with such terms and provisions as may be deemed necessary or appropriate, including without limitation, commitments to be made by Renew Indianapolis Inc., consistent with Indiana Code 36-7-15.1-15.6, to best accomplish the objectives set forth herein and all actions heretofore taken by any such official toward the completion thereof are hereby ratified, confirmed and approved, for the conveyance of said Property in accordance with this Resolution.

Approved as to Adequacy & Legal Form

Sheila Kinney *sek*

Sheila Kinney, Asst. Corp Counsel

Date: July 11, 2023

Metropolitan Development Commission

John J. Dillon III, President

Date: _____

**METROPOLITAN DEVELOPMENT COMMISSION
OF
MARION COUNTY, INDIANA**

RESOLUTION NO. 2023-E-025

**A RESOLUTION OF THE METROPOLITAN DEVELOPMENT COMMISSION
SELECTING BUILD-OPERATE-TRANSFER DEVELOPER
FOR CITY MARKET IMPROVEMENTS**

WHEREAS, in accordance with I.C. 5-23, *et seq.* (the “Code”), the Metropolitan Development Commission of Marion County, Indiana (the “Commission”) issued a request for proposals and qualifications (the “RFPQ”) for delivery and operation of certain improvements to the Indianapolis City Market and adjacent infrastructure (the “Project”);

WHEREAS, the Department of Metropolitan Development for the City of Indianapolis/Marion County (the “DMD”) received responses to the RFPQ and convened a committee which proceeded to review such proposals and make recommendations to the Commission;

WHEREAS, following its review of the submitted proposals, the RFPQ Committee, by Memorandum dated June 21, 2023, recommended that the Commission select respondent Gershman Partners for discussion and negotiation of a prospective public-private partnership build-operate-transfer agreement (“BOT Agreement”) in accordance with the Code;

WHEREAS, not fewer than seven days before the date hereof, and as required by the Code, notice of the public hearing occurring on the date hereof was published in accordance with I.C. 5-14-3;

WHEREAS, the Commission, having considered the recommendation of the DMD, and having conducted a public hearing on the selection as required under the Code, now desires to: (a) select Gershman Partners as the build-operate-transfer developer of the Project; and (b) authorize further negotiation with and execution of the BOT Agreement for development and operation of the Project.

ACCORDINGLY, be it resolved by the Metropolitan Development Commission as follows:

- 1. Selection.** Pursuant to and in accordance with the Code, the Commission hereby: (a) selects Gershman Partners as the developer of the Project under a BOT Agreement; and (b) authorizes further discussion and negotiation of the BOT Agreement terms.
- 2. Document Authorization.** The Commission authorizes the DMD, acting in consultation with the legal counsel and on behalf of the Commission, to negotiate, finalize, and execute the BOT Agreement and any related agreements appurtenant to the BOT Agreement.
- 3. Other Actions.** The officers of the Commission hereby are authorized to take any and all actions, including executing and delivering any documents or certificates, that the President or any such officer deems to be necessary or reasonably appropriate to effect the resolutions set forth herein. Any such actions taken, including any documents or certificates executed and delivered, hereby are ratified, confirmed, and approved.
- 4. No Conflict.** All ordinances, resolutions, and orders (or parts thereof) that conflict with the provisions of this Resolution hereby are repealed to the extent of such conflict.

5. Severability. If any section, paragraph, or provision of this Resolution is held to be invalid or unenforceable for any reason, then the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Resolution.

6. Effectiveness. This Resolution shall be in full force and effect from and after its passage.

ADOPTED AND APPROVED at a meeting of the Metropolitan Development Commission of Marion County, Indiana, held on the 19th day of July, 2023.

METROPOLITAN DEVELOPMENT COMMISSION OF
MARION COUNTY, INDIANA, acting as the Redevelopment
Commission of the City of Indianapolis, Indiana

John J. Dillon III, President

RESOLUTION NO. 2023-E-026

**RESOLUTION OF THE
METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA
APPROVING INTERLOCAL COOPERATION AGREEMENT
WITH THE
CENTER TOWNSHIP TRUSTEE, MARION COUNTY, INDIANA**

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana (the “MDC”) serves as the Redevelopment Commission of the City of Indianapolis, Indiana (the “City”) under Indiana Code Section 36-7-15.1; and

WHEREAS, in that capacity, the MDC serves as the governing body of the City of Indianapolis Redevelopment District (the “District”); and

WHEREAS, under Indiana Code Section 36-7-15.1-6, the MDC is tasked with the duty to promote the use of land in the manner that best serves the interest of the consolidated city and its inhabitants, both from the standpoint of human needs and economic values; and

WHEREAS, pursuant to Indiana Code Section 36-6-4-8, the Center Township Trustee may provide services not specifically provided by another governmental entity; and

WHEREAS, the Center Township Trustee is working with Flanner House, Inc. (“Flanner House”) to implement an automotive training program at 3017 Doctor Martin Luther King, Jr. St., Indianapolis, IN 46208 (“Project”); and

WHEREAS, the Project is located in the UNWA Redevelopment Allocation Area (the “UNWA Allocation Area”); and

WHEREAS, Indiana Code Section 36-7-15.1-26(b)(3)(J) authorizes the Redevelopment Commission to utilize property tax proceeds in excess and on deposit in the UNWA Redevelopment Allocation Fund to pay the costs of carrying out “eligible efficiency projects” within Marion County; and

WHEREAS, under Indiana Code Section 36-9-41-1.5, an “eligible efficiency project” includes a project necessary or useful to carrying out an interlocal cooperation agreement entered into by two or more political subdivisions or governmental entities; and

WHEREAS, under Indiana Code Section 36-1-7, the MDC and the Center Township Trustee are authorized to enter into an interlocal cooperation agreement to implement an automotive training program located in the UNWA Allocation Area; and

WHEREAS, the MDC and the Center Township Trustee mutually and specifically desire to enter into an Interlocal Cooperation Agreement (the “Agreement”) for the purpose of

promoting the use of land in the manner that best serves the interest of the consolidated city and its inhabitants, both from the standpoint of human needs and economic values;

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission of Marion County, Indiana. Acting as the Redevelopment Commission of the City of Indianapolis, Indiana, as follows:

1. The MDC authorizes the President or Vice President of the MDC to finalize, execute and deliver the Agreement on behalf of the MDC and the District.
2. The MDC hereby authorizes an expenditure not to exceed \$300,000.00 of the available funds in the UNWA Redevelopment Allocation Fund for the implementation of an automotive training program, as detailed in the Agreement between the parties. The MDC hereby finds and determines that the activities financed under the Agreement will occur within the UNWA Allocation Area in accordance with the UNWA Redevelopment Plan for the area.
3. The City Controller is hereby authorized to disburse the moneys from the UNWA Redevelopment Allocation Fund for purposes set forth in the Agreement. The Mayor and City Controller of the City, the officers of the MDC and the Director of the Department of Metropolitan Development, are hereby authorized and directed to take such further actions and execute such documents as they deem necessary to effectuate the authorizations set forth in this Resolution.
4. This Resolution shall take effect immediately upon adoption by the MDC.

METROPOLITAN DEVELOPMENT
COMMISSION

John J. Dillon III, President

As approved to the availability of funding by

Sarah Riordan, Controller

As approved to adequacy of legal form by

/s/Toae Kim
Toae Kim, Deputy Chief Counsel

THE METROPOLITAN DEVELOPMENT COMMISSION
OF
MARION COUNTY, INDIANA
RESOLUTION NO. 2023-BB-004
FINAL BOND RESOLUTION

CITY OF INDIANAPOLIS REDEVELOPMENT DISTRICT
CONVENTION CENTER HOTEL REVENUE BONDS

THE METROPOLITAN DEVELOPMENT COMMISSION

OF

MARION COUNTY, INDIANA

RESOLUTION NO. 2023-BB-004

FINAL BOND RESOLUTION

REDEVELOPMENT DISTRICT OF THE CITY OF INDIANAPOLIS, INDIANA

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana, acting as the Redevelopment Commission of the City of Indianapolis, Indiana (the "Commission"), being the governing body of the Redevelopment District of the City of Indianapolis, Indiana (the "District"), exists and operates under the provisions of Indiana Code 36-7-15.1, as amended from time to time (the "Act"); and

WHEREAS, the Commission has heretofore adopted resolutions declaring the establishment of the Consolidated Redevelopment Area (the "Area"), and has further amended said resolutions from time to time; and

WHEREAS, the Commission desires for the Area to be developed in order to serve the needs of the City of Indianapolis, Indiana (the "City"), and in order to produce increased tax revenues for the various taxing districts authorized to levy taxes within the Area; and

WHEREAS, the Act authorizes the issuance of bonds of the District payable from revenues of the District; and

WHEREAS, on May 17, 2023, the Commission adopted its Preliminary Bond Resolution (Resolution No. 2023-BB-001) preliminarily authorizing the issuance and sale of the negotiable bonds of the District, in one or more series or issues, to provide for the cost of property acquisition and redevelopment in or serving the Area (including, in particular, the construction, installation and equipping of an approximately 800 guestroom convention center-connected headquarters hotel, together with functionally related and subordinated facilities, appurtenances and improvements on the site commonly known as Pan Am Plaza) (collectively, the "Project"), the principal of and interest on which bonds are payable solely from available revenues generated from the operation of the Project (the "Project Revenues"), all subject to the adoption of a Final Bond Resolution of the Commission; and

WHEREAS, the Commission now further determines that the issuance of revenue bonds in an aggregate principal amount not to exceed Six Hundred Twenty-Five Million Dollars (\$625,000,000), and the issuance and sale of bond anticipation notes in anticipation of the issuance and sale of such bonds, is necessary in order to provide funds for the payment of all or a portion of the costs of the Project; and

WHEREAS, the Commission now desires to authorize the issuance of the Bonds (as defined in Section 1 hereof), in one or more series, to finance the costs of the Project, together

with all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount and supervisory expenses related to the Project or the issuance of the Bonds and the bond anticipation notes described herein, capitalized interest on the Bonds or the bond anticipation notes described herein, one or more debt service reserves for the Bonds to the extent that the Commission determines that a reserve is reasonably required (including the cost of one or more surety bonds therefor), and any other costs or expenses in connection with or on account of the issuance of the Bonds or the bond anticipation notes therefor (collectively, the "Project Costs"); and

WHEREAS, on June 5, 2023, the City-County Council of the City of Indianapolis and Marion County, Indiana, adopted its resolution approving of the issuance of the Bonds; and

WHEREAS, Indiana Code 5-1.4 provides that a "qualified entity," which term includes the District, may issue and sell its bonds to The Indianapolis Local Public Improvement Bond Bank (the "Bond Bank"); and

WHEREAS, the Bond Bank, through its Executive Director, has expressed a willingness to purchase one or more series of the Bonds in a negotiated sale subject to approval by the Board of Directors of the Bond Bank; and

WHEREAS, the Commission has previously approved pursuant to its Resolution No. 2022-R-012 the execution of a Podium Project Delegation Agreement (the "Delegation Agreement") between the Commission and the Capital Improvement Board of Managers of Marion County (the "CIB"), and the Commission now desires to authorize the execution of an amendment to the Delegation Agreement to delegate the Commission's responsibilities with respect to the Project; and

WHEREAS, there has been presented to the Commission at this meeting a form of Indenture of Trust among the District, the City and a bond trustee to be selected by the Controller of the City (the "Trustee"), setting forth various terms of the Bonds and providing for the security for the Bonds (the "Indenture"), and the Commission desires to approve such form of Indenture and to authorize its execution; and

WHEREAS, the Commission desires to authorize the lease of certain portions of property owned by the City of Indianapolis Department of Metropolitan Development (the "DMD") and commonly known as Pan Am Plaza to each of the District and the CIB and the sublease of property from the District to the CIB, all in furtherance of the construction and operation of the Project; and

WHEREAS, the District does not have sufficient funds available or provided for in the existing budgets or tax levies that may be applied to the costs of the Project, and the Commission finds that an emergency exists with respect to the Project making it necessary to authorize the issuance of the Bonds; and

WHEREAS, the making of the additional appropriation of the proceeds of the Bonds (and any bond anticipation notes described herein) set out herein is necessary and appropriate, and the Commission has caused notice of a hearing on said appropriation to be published as required by

law, and such public hearing was held on said appropriation at which all taxpayers and interested persons had an opportunity to appear and express their views as to such additional appropriation;

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN DEVELOPMENT COMMISSION OF MARION COUNTY, INDIANA, ACTING AS THE REDEVELOPMENT COMMISSION OF THE CITY OF INDIANAPOLIS, INDIANA, AS FOLLOWS:

SECTION 1. Issuance of Bonds. For the purpose of procuring funds to pay the Project Costs, the City, acting for and on behalf of the District, is hereby authorized to issue revenue bonds in an aggregate principal amount not to exceed Six Hundred Twenty-Five Million Dollars (\$625,000,000).

In order to procure funds for said loan, the Controller of the City (the "Controller") is hereby authorized and directed to have prepared and to issue and sell the negotiable bonds of the District, in one or more series, which bonds shall be issued in the name of the City, for and on behalf of the District, and which shall be designated "City of Indianapolis Redevelopment District Convention Center Hotel Revenue Bonds, Series 20____" (the "Bonds") (with the series designation to reflect the calendar year of issuance and an appropriate letter designation in the event that more than one series of the Bonds will be issued, and with such other changes to the series designation as the Controller deems to be appropriate), in an aggregate principal amount not to exceed Six Hundred Twenty-Five Million Dollars (\$625,000,000), and which amount (together with expected investment earnings thereon) does not exceed the Project Costs, as estimated by the Commission.

The Bonds shall not constitute a corporate obligation or indebtedness of the City, but shall constitute an obligation of the District. The Bonds, together with interest thereon, shall be payable solely from the Project Revenues, as more particularly set forth in the Indenture. The relative priority of the Bonds with respect to the pledge of the Project Revenues shall be as set forth in the Indenture.

The form and tenor of the Bonds shall be substantially as set forth in form of Bonds included in the Indenture, with such modifications to reflect the negotiated terms of the Bonds. The Bonds shall be issued in fully registered form, and the Bonds of each series shall be issued in denominations of Five Thousand Dollars (\$5,000) or integral multiples thereof, or, if set forth in the Purchase Agreement (as defined herein), any series of the Bonds may be issued in denominations of One Hundred Thousand Dollars (\$100,000) or integral multiples of Five Thousand Dollars (\$5,000) in excess thereof (e.g., \$100,000, or \$105,000, or \$110,000, etc.) (the "Authorized Denominations"), not exceeding the aggregate principal amount of the Bonds maturing in any year, and shall be numbered consecutively from ____R-1 upwards (with the Bond numbers to reflect the last two digits of the calendar year of issuance and an appropriate letter designation in the event that more than one series of the Bonds will be issued). The Bonds shall have a final maturity date not later than forty-four (44) years after the date of issuance, and principal shall be payable in the amounts and on March 1 and/or September 1 of the years set forth in the Purchase Agreement. The Bonds shall bear interest at a fixed rate or rates not exceeding twelve percent (12.0%) per annum (the exact rate or rates of interest to be determined by negotiation with the purchaser thereof). The final maturity date, amortization schedule, and interest rate or rates for the Bonds shall be set forth in the Purchase Agreement.

The interest on each series of Bonds shall be payable on each March 1 and September 1 of the years set forth in the Purchase Agreement relating to such series (each such payment date referred to herein as an "Interest Payment Date"). The first Interest Payment Date for each series of Bonds shall be set forth in the Purchase Agreement. Interest on the Bonds shall be calculated on the basis of twelve (12) thirty (30)-day months for a three hundred sixty (360)-day year.

Bonds issued hereunder shall bear an original date which shall be (i) the date of their delivery, or (ii) the first day of the month in which the Bonds are to be delivered, as set forth in the Purchase Agreement (the "Original Date"), and each Bond or BAN (as hereinafter defined) issued hereunder shall also bear the date of its authentication. Bonds or BANs authenticated on or before the fifteenth day of the calendar month immediately preceding the first Interest Payment Date shall be paid interest from their respective Original Date. Bonds or BANs authenticated after the fifteenth day of the calendar month immediately preceding the first interest payment date shall be paid interest from the interest payment date immediately preceding the date of authentication of such Bonds or BANs unless the Bonds or the BANs are authenticated after the fifteenth day of the calendar month immediately preceding an interest payment date, in which case interest thereon shall be paid from such interest payment date.

SECTION 2. Issuance of BANs. In anticipation of the issuance and sale of the Bonds authorized herein, and to provide interim financing to apply to a portion of the costs for which the Bonds are to be issued, the Controller is hereby authorized to have prepared and to issue and sell negotiable bond anticipation notes (the "BANs") of the District, in one or more series, which BANs shall be issued in the name of the City, for and on behalf of the District, in an aggregate principal amount not to exceed Six Hundred Twenty-Five Million Dollars (\$625,000,000), to be designated "City of Indianapolis Redevelopment District Convention Center Hotel Revenue Bond Anticipation Notes, Series 20____" (with the series designation to reflect the calendar year of issuance and an appropriate letter designation in the event that more than one series of the BANs will be issued). The BANs shall be issued in fully registered form, shall be numbered consecutively from ____R-1 upwards) (with the BAN numbers to reflect the last two digits of the calendar year of issuance and an appropriate letter designation in the event that more than one series of the BANs will be issued), shall be issued in denominations of Five Thousand Dollars or integral multiples thereof, or, if set forth in the BAN Purchase Agreement (as defined herein), in denominations of One Hundred Thousand Dollars (\$100,000) or any integral multiple of Five Thousand Dollars (\$5,000) in excess thereof (*e.g.*, \$100,000, or \$105,000, or \$110,000, etc.), shall be dated the date of their delivery, and shall bear interest at a fixed rate or rates not exceeding twelve percent (12.0%) per annum (the exact rate or rates of interest to be determined by negotiation with the purchaser thereof). The BANs shall mature not later than five (5) years from their date of issuance. The interest on the BANs shall be payable on the dates set forth in the BAN Purchase Agreement and on the final maturity of the BANs. The principal amount, first interest payment date, final maturity date and interest rate or rates for the BANs shall be set forth in the BAN Purchase Agreement. The BANs shall be sold at a price of not less than ninety-seven percent (97.0%) of the par amount thereof. The term of the BANs and all renewal BANs may not exceed five (5) years from the date of delivery of the initial BANs.

The BANs shall not constitute a corporate obligation or indebtedness of the City, but shall constitute an obligation of the District. The principal of and final payment of interest on the BANs shall be payable solely from the proceeds of the issuance and sale hereunder of the Bonds,

when and if issued, and interest (other than the final payment of interest) on the BANs shall be payable from any sources legally available to the Commission for the payment thereof.

SECTION 3. Registrar and Paying Agent.

(a) The Trustee will serve as Registrar and Paying Agent for the Bonds pursuant to the terms of the Indenture.

(b) The Controller, or such financial institution as the Controller may designate pursuant to this Resolution, is hereby appointed as the Registrar for the BANs (the "BAN Registrar") and is hereby charged with the responsibility of authenticating the BANs. The BAN Registrar shall keep and maintain at its principal office books for the registration and for the transfer of the BANs (the "BAN Register"). The Controller is hereby authorized and directed, on behalf of the Commission, to enter into such agreements or understandings with the BAN Registrar as will enable the BAN Registrar to perform the services required of a registrar, and is directed to pay the BAN Registrar for its services out of available funds.

The principal of and premium, if any, on the BANs shall be payable at the principal office of the Controller, or such financial institution as the Controller may designate pursuant to this Resolution, which Controller or designated financial institution is hereby appointed as the Paying Agent for the BANs (the "BAN Paying Agent"). Interest on the BANs shall be paid by check or draft mailed or delivered at least one (1) business day prior to the payment date to the registered owners of the BANs at the address as it appears on the BAN Register as of the fifteenth day of the calendar month immediately preceding the interest payment date or at such other address as is provided to the BAN Paying Agent in writing by such registered owners. All payments on the BANs shall be made in lawful money of the United States of America. The Controller is hereby authorized and directed, on behalf of the Commission, to enter into such agreements or understandings with the BAN Paying Agent as will enable the BAN Paying Agent to perform the services required of a paying agent, and is directed to pay the BAN Paying Agent for its services out of available funds.

The BAN Registrar or the BAN Paying Agent may at any time resign as BAN Registrar or BAN Paying Agent by giving thirty (30) days' written notice to the Commission and by first-class mail to each registered owner of BANs then outstanding, and such resignation will take effect at the end of such thirty (30) days or upon the earlier appointment of a successor BAN Registrar or BAN Paying Agent, as the case may be, by the Commission. Such notice to the Commission may be served personally or be sent by registered mail. The BAN Registrar or the BAN Paying Agent may be removed at any time as BAN Registrar or BAN Paying Agent by the Commission, in which event the Commission may appoint a successor BAN Registrar or BAN Paying Agent, as the case may be. The Commission shall notify each registered owner of BANs then outstanding by first-class mail of the removal of the BAN Registrar or the BAN Paying Agent. Notices to registered owners of BANs shall be deemed to be given when mailed by first-class mail to the addresses of such registered owners as they appear on the BAN Register. Any predecessor BAN Registrar shall deliver all the BANs in its possession

and the BAN Register to the successor BAN Registrar, and any predecessor BAN Paying Agent shall deliver all the cash in its possession to the successor BAN Paying Agent.

SECTION 4. Transfer and Exchange.

(a) The transfer and exchange provisions set forth in the Indenture shall govern transfers and exchanges of the Bonds.

(b) Each BAN shall be transferable or exchangeable only upon the BAN Register by the registered owner thereof in person, or by his attorney duly authorized in writing, upon surrender of such BAN together with a written instrument of transfer or exchange satisfactory to the BAN Registrar duly executed by the registered owner or his attorney duly authorized in writing, and thereupon a new fully registered BAN or BANs in the same aggregate principal amount and of the same maturity shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. BANs may be transferred or exchanged without cost to the registered owner, except for any tax or governmental charge required to be paid with respect to the exchange. The BAN Registrar shall not be required to transfer or exchange any BAN called for redemption or during the period from the fifteenth day of any calendar month immediately preceding an interest payment date to such interest payment date. The City, the Commission, the BAN Registrar and the BAN Paying Agent may treat and consider the person in whose name such BANs are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

In the event any BAN is mutilated, lost, stolen or destroyed, the City may execute and the BAN Registrar may authenticate a new BAN of like date, maturity and denomination as that mutilated, lost, stolen or destroyed, which new BAN shall be marked in a manner to distinguish it from the BAN for which it was issued; provided, that in the case of any mutilated BAN, such mutilated BAN shall first be surrendered to the BAN Registrar, and in the case of any lost, stolen or destroyed BAN there shall be first furnished to the City and the BAN Registrar evidence of such loss, theft or destruction satisfactory to the City and the BAN Registrar, together with indemnity satisfactory to them. In the event any such lost, stolen or destroyed Bond or BAN shall have matured, instead of issuing a duplicate BAN, the City and the BAN Registrar may, upon receiving indemnity satisfactory to them, pay the same without surrender thereof. The City and the BAN Registrar may charge the owner of such BAN with their reasonable fees and expenses in connection with the above. Every substitute BAN issued by reason of any BAN being lost, stolen or destroyed shall, with respect to such BAN, constitute a substitute contractual obligation of the City, acting for and on behalf of the District, whether or not the lost, stolen or destroyed BAN shall be found at any time, and shall be entitled to all the benefits of this Resolution, equally and proportionately with any and all other BANs duly issued hereunder.

SECTION 5. Execution and Delivery. The Bonds and the BANs shall be executed in the name of the City, acting for and on behalf of the District, by the manual or facsimile signature of the Mayor of the City (the "Mayor"), and attested by the manual or facsimile signature of the Controller, who shall cause the official seal of the City to be impressed or a facsimile thereof to

be printed on each of the Bonds and the BANs. Subject to the provisions for registration, the Bonds and the BANs shall be negotiable under the laws of the State of Indiana.

The Bonds and the BANs shall be authenticated with the manual signature of an authorized representative of the Trustee or the BAN Registrar, as applicable, and no Bond or BAN shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution until the certificate of authentication on such Bond or BAN shall have been so executed.

The Mayor is hereby authorized to execute the Bonds and the BANs with his manual or facsimile signature and the Controller is hereby authorized and directed to have the definitive Bonds and BANs prepared, attest the Bonds and the BANs by manual or facsimile signature, and cause the seal of the City to be impressed or a facsimile thereof to be printed on the Bonds and the BANs, all in the form and manner herein provided. In case any officer whose signature appears on the Bonds or the BANs shall cease to hold that office before the delivery of the Bonds or the BANs, the signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the Bonds or the BANs. After the Bonds and the BANs have been properly executed, the Controller shall certify the amount the purchaser is to pay, together with the name and address of the purchaser, and upon receipt of the amount of payment certified, deliver the Bonds and the BANs to the respective purchasers thereof. The Controller shall take a receipt for the Bonds and the BANs delivered to the respective purchasers thereof and pay such purchasers' payments into the respective funds described herein.

SECTION 6. Prepayment and Redemption.

(a) Prepayment of BANs. The BANs are prepayable by the Commission, in whole or in part (and if in part, only in the authorized denominations set forth pursuant to Section 2 hereof and in order of maturity determined by the Commission and by lot within any such maturity or maturities in such manner as may be designated by the BAN Registrar), on any date after the issuance of the BANs (or such other date as set forth in the BAN Purchase Agreement), upon at least seven (7) days' written notice to the registered owner or owners of the BANs to be prepaid, at a prepayment price of one hundred percent (100%) of the principal amount of the BANs to be prepaid, plus accrued and unpaid interest on the BANs so prepaid to the prepayment date.

(b) Redemption of Bonds. The Bonds shall be subject to redemption as set forth in the Indenture.

SECTION 7. Funds and Accounts. The Commission hereby authorizes the establishment of such Funds and Accounts as are set forth in the Indenture. Such Funds and Accounts shall be held by the Trustee, subject to and pursuant to the provisions of the Indenture.

SECTION 8. Deposit of Proceeds of Bonds and BANs. Proceeds received from the sale of the Bonds shall be deposited as set forth in the Indenture. Proceeds received from the sale of the BANs, if any, shall be deposited in a special fund to be designated as the "Convention Center Hotel Project Note Capital Fund" (the "Note Capital Fund").

SECTION 9. Note Capital Fund. Proceeds deposited in the Note Capital Fund, if any, shall be deposited with a legally qualified depository or depositories for funds of the City as now provided by law and shall be segregated and kept separate and apart from all other funds of the City and may be invested as permitted by law. The proceeds in the Note Capital Fund shall be expended only for the purpose of paying costs of the Project, capitalized interest on the BANs, if any, and costs of issuance of the BANs.

SECTION 10. Sale of Bonds and BANs.

(a) The Controller is hereby authorized and directed to sell one or more series of Bonds at a negotiated sale or sales to the Bond Bank at a price of not less than ninety-seven percent (97.0%) of par plus accrued interest, if any, to the date of delivery of the Bonds. The Controller and the President of the Commission may negotiate a purchase agreement to be entered into with respect to the purchase of the Bonds (the "Purchase Agreement"), and the Controller and/or the President of the Commission hereby are authorized to execute and deliver the Purchase Agreement. The Controller and the President of the Commission are further authorized to carry out, on behalf of the City and the Commission, the terms and conditions set forth in the Purchase Agreement, consistent with the provisions of this Resolution.

(b) The Controller is hereby authorized to sell one or more series of BANs at a negotiated sale or sales to the Bond Bank at a price of not less than ninety-seven percent (97.0%) of par in accordance with a purchase agreement to be entered into with respect thereto (the "BAN Purchase Agreement"). The Controller and/or the President of the Commission are, and each of them is, hereby authorized to negotiate, execute and deliver the BAN Purchase Agreement. The Controller and the President of the Commission are further authorized to carry out, on behalf of the City and the Commission, the terms and conditions set forth in the BAN Purchase Agreement, consistent with the provisions of this Resolution.

(c) The Controller and/or the President of the Commission are hereby authorized to deem any preliminary official statement or other offering document relating to the issuance of the Bonds to be a "final" official statement as of its date for the purposes of and to the extent required by Rule 15c2-12 of the Securities and Exchange Commission. The Controller and/or the President of the Commission are hereby authorized and directed to execute and deliver a continuing disclosure undertaking, pursuant to which the Commission and/or the City would agree to provide certain continuing disclosure information, all to the extent required for the purpose of inducing a purchaser to purchase the Bonds and to comply with the provisions of Rule 15c2-12 of the Securities and Exchange Commission. The Controller and the President of the Commission are further authorized to review and approve on behalf of the Commission and the City any disclosure materials prepared in connection with the sale of the Bonds or the BANs or the Bond Bank Bonds.

(d) The Controller and the President of the Commission, with the advice of the Commission's municipal advisor, are authorized to procure a rating or ratings on the Bonds from one or more nationally recognized securities rating agencies. The appropriate officers of the Commission and the City are hereby authorized to take all

actions required to obtain a rating for the Bonds or to obtain municipal bond insurance or other credit enhancement on the Bonds, if economically feasible and desirable.

(e) The President of the Commission and/or the Controller is hereby authorized and directed to obtain a legal opinion as to the validity of the Bonds and the BANs from Faegre Drinker Biddle & Reath LLP, bond counsel, and to furnish such opinions to the Bond Bank. The cost of said opinions shall be considered as part of the costs incidental to these proceedings and shall be paid out of the proceeds of the Bonds or the BANs, as appropriate.

SECTION 11. Supplemental Resolutions Without Consent. The Commission may, from time to time and at any time, without the consent of, or notice to, any of the owners of the Bonds or the BANs, adopt resolutions supplemental hereto (which supplemental resolutions shall thereafter form a part hereof) for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Resolution or in any supplemental resolution;

(b) To grant to or confer upon the owners of the Bonds or the BANs any additional benefits, rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the Bonds or the BANs;

(c) To modify, amend or supplement this Resolution to permit the qualification of the Bonds or the BANs for sale under the securities laws of the United States of America or of any of the states of the United States of America;

(d) To procure a rating on the Bonds or the BANs from a nationally recognized securities rating agency designated in such supplemental resolution or to obtain or maintain bond insurance or other credit enhancement with respect to payments of principal of and interest on the Bonds or the BANs, if such supplemental resolution will not adversely affect the owners of the Bonds or the BANs; or

(e) Any other purpose which in the judgment of the Commission does not adversely affect the owners of the Bonds or the BANs.

SECTION 12. Supplemental Resolutions Requiring Consent. This Resolution and the rights and obligations of the Commission and the owners of the Bonds or the BANs may be modified or amended at any time by supplemental resolutions adopted by the Commission with the consent of the owners of the Bonds or the BANs holding at least a majority in aggregate principal amount of the outstanding Bonds or the BANs (exclusive of Bonds or BANs, if any, owned by the Commission or the City); provided, however, that no such modification or amendment shall, without the express consent of the owners of the Bonds or the BANs affected, reduce the principal amount of any Bond or BAN, reduce the interest rate or premium payable thereon, advance the earliest redemption date, extend its maturity or the times for paying interest thereon, permit a privilege or priority of any Bond over any other Bond or of any BAN over any other BAN, create a lien securing any Bonds or BANs other than a lien ratably securing all of the Bonds or the BANs outstanding, or change the monetary medium in which principal and interest

are payable, nor shall any such modification or amendment reduce the percentage of consent required for amendment or modification.

Any act done pursuant to a modification or amendment so consented to shall be binding upon all the owners of the Bonds or the BANs and shall not be deemed an infringement of any of the provisions of this Resolution or of the Act, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after such consent relating to such specified matters has been given, no owner shall have any right or interest to object to such action or in any manner to question the propriety thereof or to enjoin or restrain the Commission or any officer thereof from taking any action pursuant thereto.

If the Commission shall desire to obtain any such consent, it shall cause the Trustee or the BAN Registrar, as applicable, to mail a notice, postage prepaid, to the respective owners of the Bonds or the BANs at their addresses appearing on the registration books held by the Trustee or the BAN Registrar, as applicable. Such notice shall briefly set forth the nature of the proposed supplemental resolution and shall state that a copy thereof is on file at the office of the Trustee or the BAN Registrar, as applicable, for inspection by all owners of the Bonds or the BANs. The Trustee and the BAN Registrar, as applicable, shall not, however, be subject to any liability to any owners of the Bonds or the BANs by reason of their failure to mail the notice described in this Section 12, and any such failure shall not affect the validity of such supplemental resolution when consented to and approved as provided in this Section 12.

Whenever at any time the Commission shall receive an instrument or instruments purporting to be executed by the owners of the Bonds or the BANs of not less than a majority in aggregate principal amount of the Bonds or the BANs then outstanding (exclusive of Obligations, if any, owned by the Commission or the City), which instrument or instruments shall refer to the proposed supplemental resolution described in such notice, and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice as on file with the Trustee or the BAN Registrar, as applicable, thereupon, but not otherwise, the Commission may adopt such supplemental resolution in substantially such form, without liability or responsibility to any owners of the Bonds or the BANs, whether or not such owner shall have consented thereto.

Upon the adoption of any supplemental resolution pursuant to the provisions of this Section 12, this Resolution shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

SECTION 13. Appropriation of Bond and BAN Proceeds. The proceeds derived from the sale of the Bonds and the BANs heretofore authorized to be issued and all investment earnings thereon shall be, and are, hereby appropriated by the Commission for the purpose of providing funds to be applied to the Project Costs, all of which is not provided for in the existing budget and tax levy. Such appropriation shall be in addition to all appropriations provided for in the existing budget and levy (or in the budget and levy for the calendar year of issuance if the Bonds or the BANs are issued in a calendar year after 2023) and shall continue in effect until the completion of the activities described above. Any surplus of such proceeds (including investment earnings thereon) shall be credited to the proper fund as provided by law. The

President and the Secretary of the Commission shall be, and hereby are, authorized and directed to certify, or cause to be certified by the Controller, a copy of this Resolution together with such other proceedings and actions as may be necessary to the Indiana Department of Local Government Finance.

SECTION 14. Approval of Amendment to Delegation Agreement. The Commission hereby authorizes the execution of an amendment to the Delegation Agreement to delegate the Commission's responsibilities with respect to the Project to the CIB, and either the President of the Commission or the Director of the DMD is authorized to approve the form of and to execute said amendment to the Delegation Agreement. The President, the Vice President and the Secretary of the Commission, and the Director of the DMD, and such other officers of the Commission or the District as may be necessary and appropriate, are, and each of them is, hereby authorized to take any and all actions and to execute and attest such instruments as may be necessary or appropriate to accomplish the furtherance of the Project and to carry out the transactions contemplated by the Delegation Agreement, as amended, and this Resolution.

SECTION 15. Approval of Indenture. The Indenture is hereby approved substantially in the form presented to this meeting, and the President of the Commission, the Mayor and/or the Controller are authorized to indicate such approval on the Indenture in the form approved herein with such changes as said officers approve, and any of such officers are authorized to execute the final Indenture. The President, the Vice President and the Secretary of the Commission, and the Mayor and Controller, and such other officers of the Commission, the District and the City as may be necessary and appropriate, are, and each of them is, hereby authorized to take any and all actions and to execute and attest such instruments as may be necessary or appropriate to carry out the transactions contemplated by the Indenture and this Resolution.

SECTION 16. Approval of Leases. The Commission hereby authorizes: (a) the lease of that portion of the real estate owned by the DMD and commonly known as Pan Am Plaza that is necessary to construct the Project (the "Project Site") to the District for nominal consideration for a term not to exceed ninety-nine (99) years, (b) the sublease of the Project Site from the District to the CIB for nominal consideration for a term not to exceed ninety-nine (99) years, and (c) the lease of the remainder of Pan Am Plaza from the DMD to the CIB for nominal consideration for a term not to exceed ninety-nine (99) years. The President, the Vice President and the Secretary of the Commission, and the Director of the DMD, and such other officers of the Commission or the District as may be necessary and appropriate, are, and each of them is, hereby authorized to take any and all actions and to execute and attest such instruments as may be necessary or appropriate to accomplish the lease and the subleases authorized in this Section 16.

SECTION 17. Federal Tax Matters. Any series of the Bonds or the BANs may be issued as either tax-exempt or taxable with respect to the federal tax treatment of interest on the Bonds or the BANs. Prior to the sale of each series of the Bonds and the BANs, the Controller shall determine, based upon the advice of its bond counsel and municipal advisor, whether such series of the Bonds or the BANs will be issued as tax-exempt or taxable. In the event that a series of the Bonds or the BANs will be issued as a taxable series, the designation of such series of Bonds or BANs shall be revised to appropriately reflect such taxable nature of the interest on such series of Bonds or BANs for federal income tax purposes. In the event that a series of the Bonds or the BANs will be issued on a tax-exempt basis, the Commission, the District and the City, as appropriate, shall make such certifications, representations and covenants as shall be necessary in

order to preserve the tax-exempt nature of the interest on such series of Bonds or BANs for federal income tax purposes.

SECTION 18. Miscellaneous.

(a) The appropriate officers of the Commission are hereby authorized to enter into any other agreements as may be necessary or desirable for the purpose of further securing the payment of the principal of and interest on the Bonds or the BANs.

(b) As soon as can be done after the adoption of this Resolution, the President and the Secretary of the Commission are hereby directed to deliver on behalf of the Commission a certified copy of this Resolution to the Controller.

(c) If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

(d) All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, and this Resolution shall be in immediate effect from and after its adoption.

(e) If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Resolution, shall be a legal holiday or a day on which banking institutions in the City or the city or town in which the Trustee or the BAN Paying Agent, as applicable, is located are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this Resolution, and no interest shall accrue for the period after such nominal date.

(f) The Commission hereby expressly authorizes the Mayor, the Controller and the President of the Commission, and each of them, to negotiate with the Bond Bank as to the terms of the Bonds or the BANs, provided that such negotiated terms are consistent with the provisions of this Resolution.

(g) The President, the Vice President and the Secretary of the Commission and the Mayor and the Controller are, and each of them is, hereby authorized to take all such actions and to execute all such instruments, certificates or other documents as are desirable to carry out the transactions contemplated by this Resolution, in such forms as the President, the Vice President and the Secretary of the Commission and the Mayor and the Controller executing the same shall deem proper, to be evidenced by the execution thereof.

* * * * *

ADOPTED AND APPROVED at a meeting of the Metropolitan Development Commission of Marion County, Indiana held on the 19th day of July, 2023.

METROPOLITAN DEVELOPMENT
COMMISSION OF MARION COUNTY

John J. Dillon III, President

Date

Vincent Ash, Secretary

Date

Approved to as legality and form:

Scott E. Peck

Scott E. Peck, Faegre Drinker Biddle & Reath LLP

July 12, 2023

Date

Approved to as Availability of Funding:

Sarah Riordan, Controller

Date

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829

Address: 822-838 Eugene Street, 815-827 West 30th Street, 629 & 631 West 28th Street, and 2954 & 2709-2735 Dr. Martin Luther King Jr Street
(Approximate Address)

Location: Center Township, Council District #11

Petitioner: The NRP Group, by Russell L. Brown

Request: Modification of the plan of operation related to 2020-ZON-067 to allow for the development of 122 multi-family dwelling units and 12,160 square feet of food supply and a workforce training center, with no greater than 197 parking spaces between two sites.

Variance of use to allow for the development of 2713 and 2717 Dr. Martin Luther King Jr. Street, 629 and 631 West 28th Street to be developed in association with uses provided by 2020-ZON-067 and further amended by petition 2023-CAP-829, including multi-family development, grocery and food retail, job training and associated accessory parking

Vacation of the first alley west of Dr. Martin Luther King, Jr. Street, being 12.9 feet in width, from the south right-of-way line of 30th Street, being the northwest corner of Lot 1 of Block 1 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, south 270 feet, to the north right-of-way line of Eugene Street, with a waiver of the assessment of benefits

Vacation of the first east-west alley south of 30th Street, being 20 feet in width, from a point 125 feet south of the northeast corner of Lot 1 of Block 2 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, being the southeast corner of Lot 1 of said Block, east 120 feet to the southwest corner of Lot 4 of said Block, with a waiver of the assessment of benefits

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

Vacation of the first alley east of Dr. Martin Luther King, Jr. Street, being 12 feet in width, from the south right-of-way line of 28th Street, being the northeast corner of Lot 9 in Harland and Kessler's Northern Heights, Recorded in Plat Book 13, Page 37 in the Office of the Recorder of Marion County, Indiana, south 245.88 feet, to the southeast corner of Lot 2 of said subdivision, with a waiver of the assessment of benefits

Vacation of a portion of the first east-west alley south of 28th Street, being 12 feet in width, from a point 140.79 feet south of the northwest corner of Lot 10 of said subdivision, being the southwest corner of Lot 11, east 22.29 feet to the southeast corner of Lot 11, with a waiver of the assessment of benefits

ADDENDUM FOR JULY 19, 2023, METROPOLITAN DEVELOPMENT COMMISSION

The Metropolitan Development Commission approved petitions 2023-CAP-829 and 2023-CVR-829 at the June 21, 2023 hearing.

The Commission acknowledged the withdrawal of that portion of petition 2023-CVC-829 for the vacation of a portion of the first east-west alley south of 28th Street, being 12 feet in width, from a point 140.79 feet south of the northwest corner of Lot 10 of said subdivision, being the southwest corner of Lot 11, east 22.29 feet to the southeast corner of Lot 11.

The Commission continued the remainder of petition 2023-CVC-829 from the June 21, 2023 hearing to the July 19, 2023 hearing to provide time for an assessment of benefits to be conducted.

The required information has not yet been submitted for the assessment of benefits, so petition 2023-CVC-829 will need to be **continued to the August 2, 2023 hearing**.

June 21, 2023

At the request of the petitioners, this petition was transferred by the Hearing Examiner for initial hearing by the Metropolitan Development Commission at the June 21, 2023 hearing.

RECOMMENDATION

Staff **recommends approval of these requests**, provided that the following commitments be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to certification to the City-County Council:

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

1. Administrator's Approval of the site plans shall include a livability space ratio within substantial compliance with the standards of the D-9 zoning district and shall provide either a turn-around or a connection to a public access at the west end-point of Alley 2775 N.
2. A right-of-way shall be dedicated connecting Alley 2975 N to Eugene Street and an alley shall be constructed within that right-of-way to the standards of the Department of Public Works.
3. Building elevations shall be submitted for Administrator' Approval prior to the issuance of an Improvement Location Permit for that building.

Staff **recommends denial of the waiver of benefits for Alley 825 W, Alley 2975 N, and Alley 675 W.** Staff **recommends approval of the waiver of benefits for Alley 2775 N.**

RECOMMENDED MOTION: That the Hearing Examiner finds that the proposed vacation is in the public interest; that a hearing upon the assessment of benefits be scheduled for July 19, 2023; and that the Metropolitan Development Commission confirms and ratifies the adoption of Declaratory Resolution 2023-CVC-829; subject to the rights of public utilities under IC 36-7-3-16 and to Commitments One and Two.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ This petition comprises two sites along Dr. Martin Luther King, Jr. Street. In this report, the site between 30th Street and Eugene Street is referred to as the North Site. The site between 28th Street and 27th Street is referred to as the South Site.
- ◇ Dr. Martin Luther King, Jr. Street from 30th Street south to 27th Street has long been a mixed commercial, institutional and residential corridor, with dwellings becoming a larger part of the mix as one moved south. However, by the mid-1990s most of the single-family dwellings along the street had given way to either cleared lots or other uses. Behind the lots facing Dr. Martin Luther King, Jr. Street to both the east and the west are neighborhoods predominately made up of single-family dwellings.
- ◇ With the exception of the Eugene Street parcels, the United Northwest Neighborhood Plan, a segment of the Indianapolis/Marion County Comprehensive Plan, recommends Commercial Retail and Service for the three sites. This typology envisions neighborhood-serving retail establishments; personal, profession, and business services; consumer repair

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

services; restaurants and taverns. The Eugene Street parcels are recommended for single-family dwellings at a density of 3.5 to five units per acre.

MODIFICATION OF PLAN OF OPERATION

- ◇ Both sites were the subject of a 2020 petition (2020-ZON-067) that rezoned the sites to the C-S district. The C-S district is intended to provide for adaptability and flexibility within the established zoning controls by allowing a petitioner to submit an individualized list of potential land uses and a site plan for review and approval of the Metropolitan Development Commission. The site plan may fall anywhere in the range of specificity from conceptual to highly detailed. Future development on the site is expected to be substantially in compliance with the approved site plan. The 2020 petition approved the following land uses:
 - ◇ North site – 30 units of Multi-family dwellings and Grocery Store
 - ◇ South site – 57 units of Multi-family dwellings and a Vocational/Technical Training Center
- ◇ This petition proposes the following:
 - ◇ North site – 50 units of Multi-family dwellings
 - ◇ South site – 72 units of Multi-family dwellings and approximately 12,000 square feet of commercial space
- ◇ The C-S district was established in part to encourage a more creative approach to land planning and superior site and structural design and development. As such, development in C-S districts should be at least to the same level of quality, and ideally a higher level of quality, as other districts that permit the proposed uses.
- ◇ If this development was developed in the D-9 district, a Livability Space Ratio of 0.75 would be required. The Livability Space Ratio expresses the relationship between the size of the proposed structures and the amount of usable open space. The bigger the number, the more open space available for the residents of the site. Staff's rough calculations of the Livability Space Ratio for the proposed development is 0.157 on the north site and 0.015 on the south site. These numbers indicate that little useable open space will be available to those persons living in these buildings.
- ◇ The sites' Livability Space Ratios could be improved by reducing the amount of built space within the structures or reducing the amount of space dedicated to parking. As the site plans show more parking than is required by the Ordinance, a reduction in the amount of parking is likely the easiest way to make these sites more livable.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

- ◇ The proposed buildings will be taller than nearly any other buildings in their proximity site and will be located close to the right-of-way line of Dr Martin Luther King Jr Street. The buildings will be very prominent, so it's especially important that the architecture of the building be appropriate for the site, the streetscape and the pedestrian experience. As such, staff is requesting Administrator's Approval of the building elevations.

VARIANCE

- ◇ This petition includes a variance of use for four parcels that were not a part of the 2020 rezoning but have now been added to the project. The variance of use would allow for these parcels to be developed in conjunction with the rest of the subject site and under the same standards.

VACATIONS

This vacation petition would vacate four sections of right-of-way. They are:

- Alley 825 W, a north-south alley that runs from 30th Street to Eugene Street through the north site,
- Alley 2975 N, an east-west alley that runs from its T-intersection with the north-south alley described above to the point where it leaves the subject site,
- Alley 675 W, a north-south alley that runs approximately 450 feet south through the south site from 28th Street south to its dead-end, and
- A short portion of Alley 2775 N, an east-west alley south of 629 West 28th Street.
- A waiver of the Assessment of Benefits has been requested for all four rights-of-way.

The requests would allow for larger buildable sites. However, it would create several situations that are poor platting practices.

The vacation of the two alleys through the north site would create a dead-end on Alley 2975 N. The petitioner has accommodated this situation by proposing a drive within an access easement from the end-point of Alley 2975 N and Eugene Street. Staff recommends that instead of an access easement, a new right-of-way be dedicated for the new alley connection.

The vacation of the two alleys through the south site would create a dead-end on Alley 2775 N. The site plan does not propose any mitigation of this situation. Although Alley 2775 N does not appear to be in active use at this time, it does provide access to the backs of the lots at 553 to 625 West 28th Street. Many of these lots are vacant. Should they be redeveloped, the Ordinance would require that they be accessed from the alley. Creating a dead-end on Alley 2775 N makes future redevelopment more difficult. Staff recommends that the petition provide a solution for this situation such as a turn-around, or connection of the alley to their parking lot.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

After evaluation of the above considerations, staff finds that the vacation **would be in the public interest** and recommends the vacation petition be **approved with Commitments 1 and 2 above**.

ASSESSMENT OF BENEFITS

Rights-of-way are public assets. Many of them are improved either by the City or original developer and then dedicated to the City which has maintained the improvement over time. Vacation of a right-of-way transfers that public asset to a private entity. Assessment of Benefits compensates the City for the loss of that asset.

Waiver of the Assessment of Benefits allows the private entity to assume the right-of-way without compensation to the City. Staff routinely recommends denial of the waiver if there is evidence that the street or alley in the right-of-way was ever constructed. Staff will frequently recommend approval of the waiver if it appears that the right-of-way was never improved.

The two alleys within the north site are currently in place and in use. Historic aerial photography indicates that the north-south alley through the south site was constructed and in use for many years. The east-west alley through the south site does not appear to have existed within the right-of-way. As such staff **recommends denial of the waiver of benefits for Alley 825 W, Alley 2975 N, and Alley 675 W**. Staff **recommends approval of the waiver of benefits for Alley 2775 N**.

PROCEDURE

Neither the Division of Planning nor the Plat committee, Hearing Examiner or Metropolitan Development Commission determines how vacated right-of-way is divided. The approval of a vacation petition only eliminates the public right-of-way. The vacation approval does nothing more. A petitioner will not receive a deed or other document of conveyance after the approval of a vacation.

The general rule under Indiana case law is that when a street or highway is vacated or abandoned the title to the land reverts to the abutting property owners. This rule exists by virtue of the fact that the abutting landowner owns to the center of the street or highway subject only to an easement for the public for the use of the street or highway. *Gorby v. McEndarfer* 135 Ind.App. 74, *82, 191 N.E.2d 786, **791 (Ind.App. 1963). However, there are possible exceptions to this general rule.

After a vacation of a public right-of-way, the county assessor determines how the vacated right-of-way will be assessed for tax purposes.

Petitioners and abutters of the vacated right-of-way should consult their own attorneys for advice regarding the ownership of the vacated right-of-way.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

GENERAL DESCRIPTION:

Vacation of the first alley west of Dr. Martin Luther King, Jr. Street, being 12.9 feet in width, from the south right-of-way line of 30th Street, being the northwest corner of Lot 1 of Block 1 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, south 270 feet, to the north right-of-way line of Eugene Street,

Vacation of the first east-west alley south of 30th Street, being 20 feet in width, from a point 125 feet south of the northeast corner of Lot 1 of Block 2 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, being the southeast corner of Lot 1 of said Block, east 120 feet to the southwest corner of Lot 4 of said Block,

Vacation of the first alley east of Dr. Martin Luther King, Jr. Street, being 12 feet in width, from the south right-of-way line of 28th Street, being the northeast corner of Lot 9 in Harland and Kessler's Northern Heights, Recorded in Plat Book 13, Page 37 in the Office of the Recorder of Marion County, Indiana, south 245.88 feet, to the southeast corner of Lot 2 of said subdivision,

Vacation of a portion of the first east-west alley south of 28th Street, being 12 feet in width, from a point 140.79 feet south of the northwest corner of Lot 10 of said subdivision, being the southwest corner of Lot 11, east 22.29 feet to the southeast corner of Lot 11.

UTILITIES AND AGENCY REPORT

Telephone:	No answer, retain easement
CEG, Gas:	No answer, retain easement
CEG, Wastewater:	No answer, retain easement
CEG, Water:	No answer, retain easement
Power:	No answer, retain easement
Cable:	Retain easement
DPR:	No answer, retain easement, if requested
DPW, TS:	No answer, retain easement

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

North Site: C-S	Compact	Vacant lots, retail center
South Site: C-S, C-3	Compact	Vacant lots, retail center

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

SURROUNDING ZONING AND LAND USE

North site:

North	C-3, C-4	Retail buildings
South	C-4, D-5	Automobile fueling station, Single-family dwellings, vacant lots
East	C-4	Automotive use, vacant lot
West	C-3, D-5	Single-family dwellings, Single-family dwelling converted to a retail use

South site:

North	C-3, D-5	Single-family dwellings, Religious use
South	MU-2	Vacant lot, Multi-family dwelling
East	D-5, SU-1	Single-family dwellings, Religious use
West	C-3, SU-6	Post Office, Health Center

COMPREHENSIVE LAND USE PLAN

North site: the United Northwest Neighborhood Plan recommends Commercial Retail and Service for a portion of the site and Residential development at 3.5 to five units per acre for the remainder of the site.

South site: the United Northwest Neighborhood Plan recommends Commercial Retail and Service.

THOROUGHFARE PLAN

Dr. Martin Luther King Jr. Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary arterial, with an existing right-of-way ranging from 78 feet to 135 feet and a proposed right-of-way ranging from 66 feet to 88 feet.

30th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with an existing right-of-way that varies from 60 to 70 feet, and a 78-foot proposed right-of-way.

Eugene 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.

28th 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.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

27th 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.

FLOODWAY / FLOODWAY FRINGE The north site is not located within a floodway or floodway fringe.

The south site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT The north site is not located within a wellfield protection district.

The south site is located within the White River W-5 wellfield protection district.

ZONING HISTORY – SITE

Both sites –

2020-ZON-067; 2439, 2455, 2461, 2709, 2711, 2713, 2715, 2717, 2723, 2735, 2753, 2954 Dr. ML King Jr. Street; 815, 821 and 827 West 30th Street; 822, 826, 830, 834 and 838 Eugene Street, requested the rezoning of 4.5 acres from the D-5, C-3, C-3 (W-5) and C-4 districts to the C-S and C-S (W-5) classifications to provide for multi-family residential development, a food hub/food supply, medical training, automotive training and relocation of a lodge, **approved.**

ZONING HISTORY – VICINITY

North site –

2002-DV3-048; 850, 854, & 858 Eugene Street and 19 other addresses (west of site), requested variances of development standards to provide for townhouses with deficient main floor area and deficient front yard setback, **approved.**

2001-DV1-079; 2926 Dr. Martin Luther King Jr Street (south of site), requested variances of development standards to provide for deficient transitional yard, deficient separation of a fast food restaurant from a Protected District, and a trash container in a transitional yard, **approved.**

98-UV2-65; 832 - 836 West 30th Street (north of site), requested a variance of use for off-site parking and a variance of development standards for deficient front setback, **approved.**

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

South site –

2011-CVR-814; 2625 - 2637 Dr. Martin Luther King Jr Street (south of site), requested variances of development standards to provide for a commercial building in excess of permitted size, deficient front setbacks, without landscaping, deficient number of parking spaces, a building and trash container in a transitional yard, truck loading in a transitional yard and a sign with deficient setback and space from a protected district, **approved**.

2011-CVR-809; 551 – 611 West 27th Street (southeast of site), requested variances of development standards to provide for a building in excess of permitted height, deficient front transitional yard, deficient number of parking spaces, deficient side transitional yard, and a maintenance shed and trash container in a transitional yard, **approved**.

2007-ZON-822, 2007-CVR-822, 2007-VAC-822; 2625 Dr. Martin Luther King Jr Street and 617 East 26th Street (south of site), requested the rezoning of 1.77 acres from the C-3 and SU-1 districts to the C-3C district, variance of development standards, and an alley vacation, **withdrawn**.

2006-DV2-033; 561 West 28th Street and 23 other addresses (north of site), requested a variance of development standards to provide for deficient main floor area, **approved**.

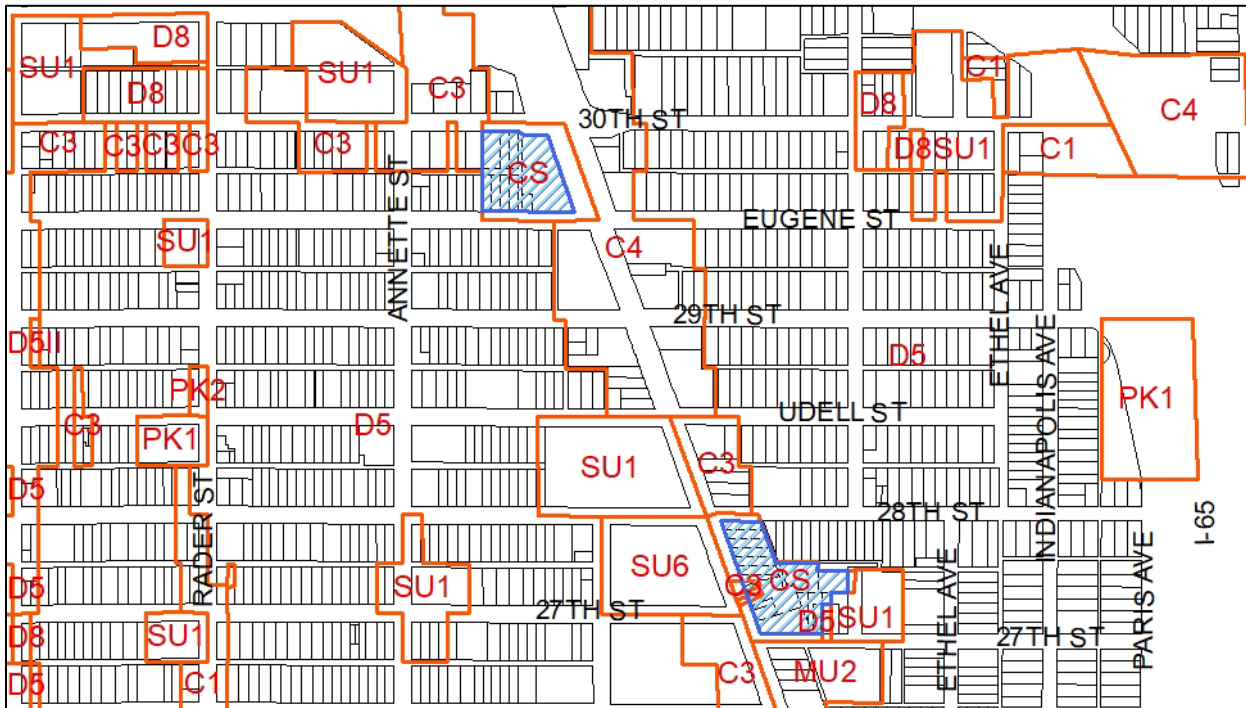
2002-DV3-048; 625 West 28th Street and 21 other addresses (north of site), requested variances of development standards to provide for townhouses with deficient main floor area and deficient front yard setback, **approved**.

2002-UV2-014; 2701 California Street (east of site), requested a variance of use to provide for a funeral home, **approved**.

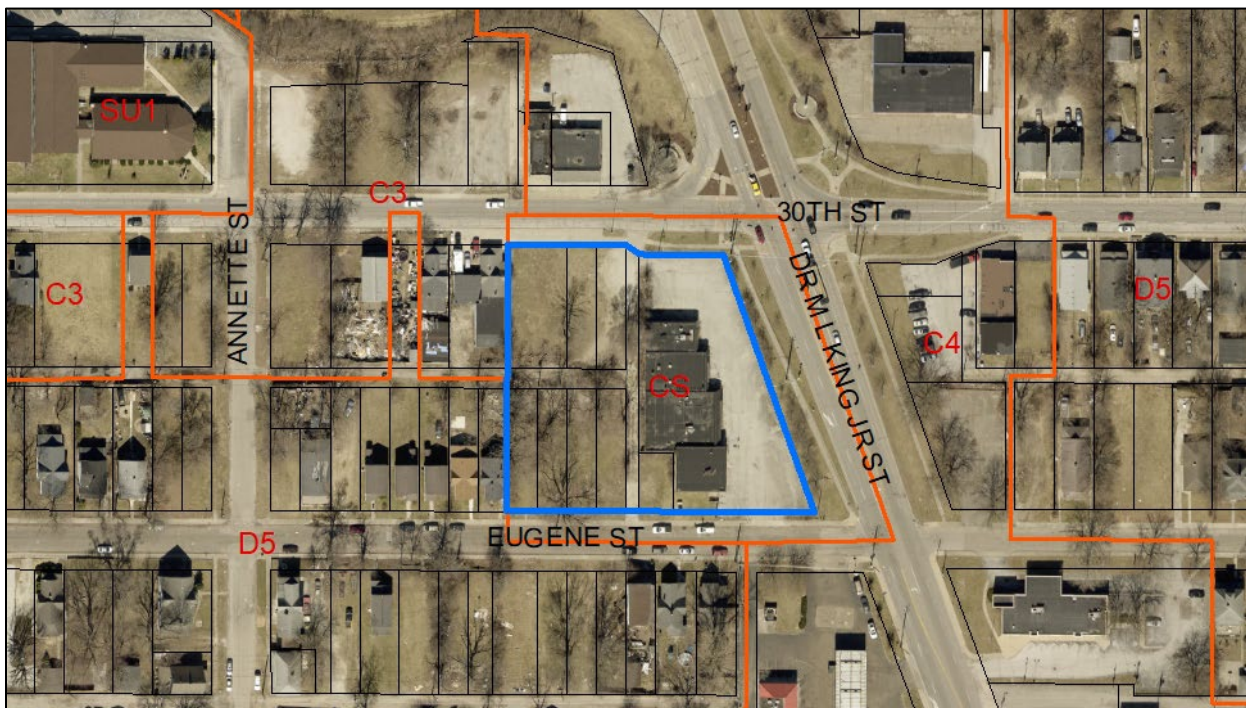
85-UV3-040; 2658 Dr. Martin Luther King Jr Street (west of site), requested a variance of use to provide for a motorcycle club, **denied**.

klh

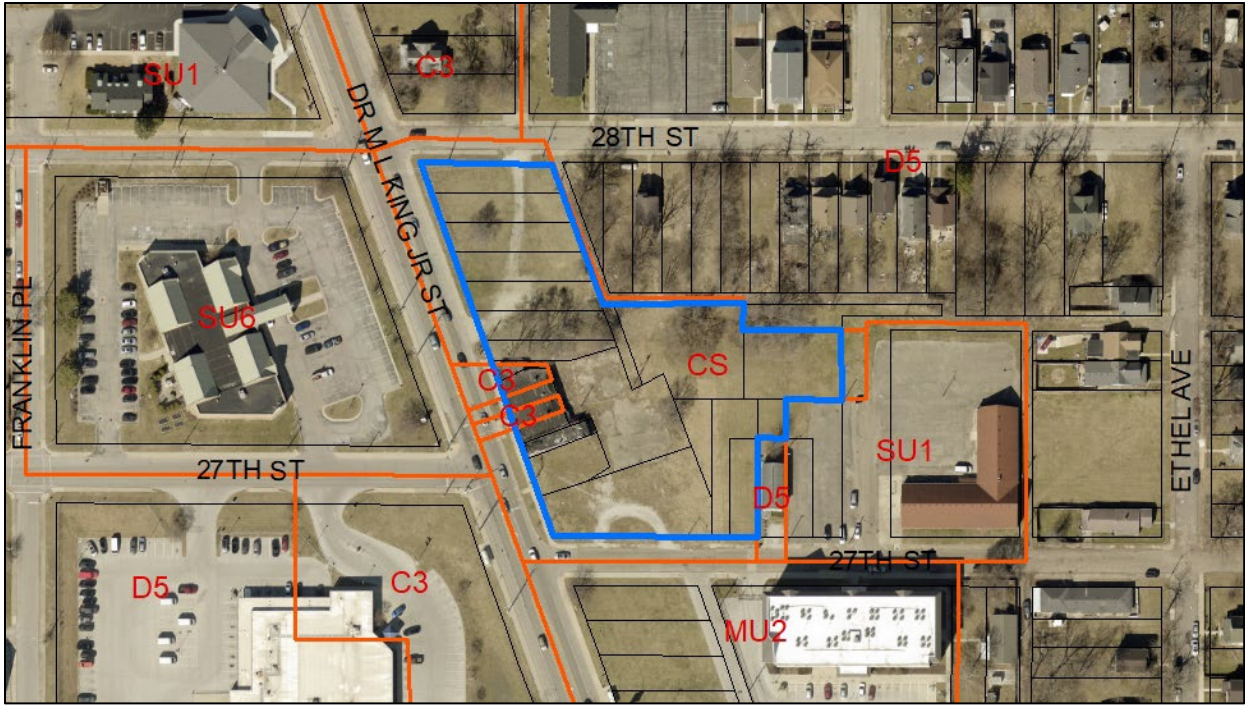
STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Locations



STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Aerial photograph (2022)

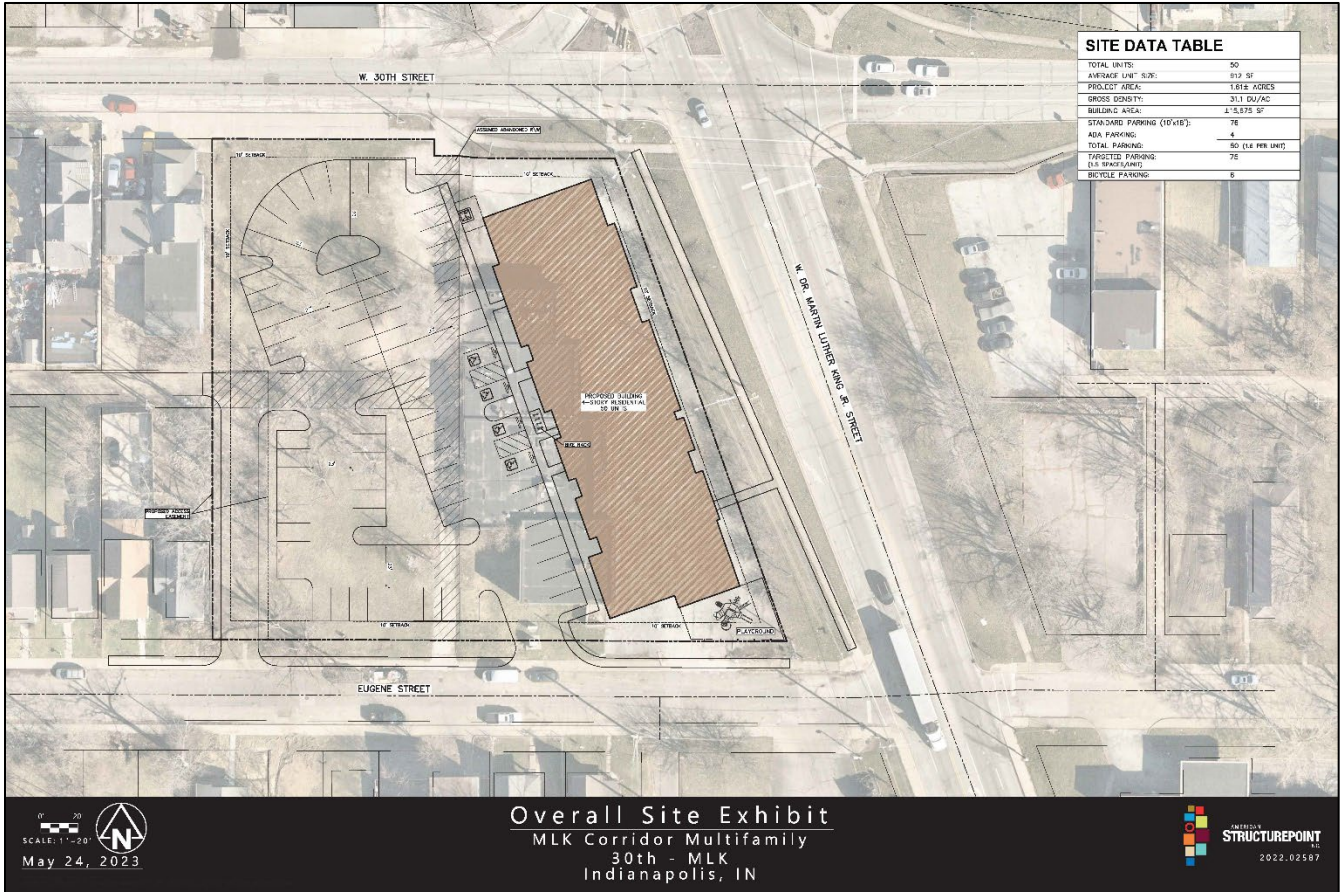


North site.

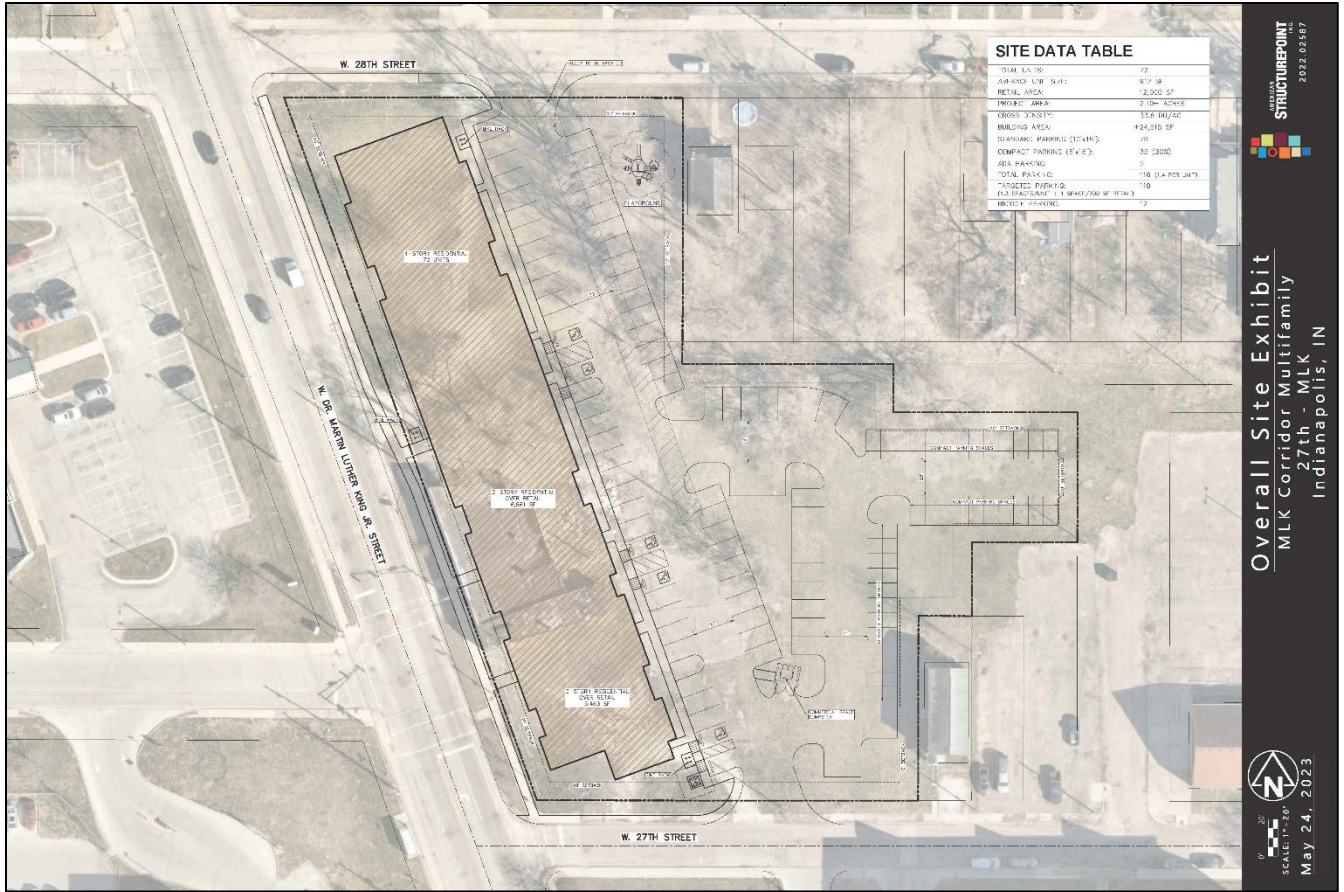


South site

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Site Plans



North Site



South site

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Variance Findings of Fact

Petition Number _____

METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The proposed use will allow for the comprehensive redevelopment of the block from 28th to 27th on Dr. Martin Luther King Jr. Street with a development that is responsive to the community and provides for affordable housing options on a major thoroughfare. The five parcels which are subject to this petition are adjacent to and/or engulfed by a previously approved project. The variance will allow for development which is integrated to this previously approved project.

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 use of these five parcels in conjunction with the previously approved project will provide for a more cohesive development with adequate and necessary parking infrastructure and open space. The inclusion of these parcels will have an overall positive value to the aesthetics and functionality of the previously approved project (as modified by the companion petitions filed herewith).

3. The need for the variance arises from some condition peculiar to the property involved and the condition is not due to the general condition of the neighborhood because:

These parcels were originally not under common ownership with the properties approved for the comprehensive development and thus were largely designed around. The continued exclusion of these parcels will make those fronting on MLK largely unusable and would impact available parking for the previously approved project.

4. The strict application of the terms of the zoning ordinance constitutes an unusual and unnecessary hardship if applied to the property for which the variance is sought because:

The properties on MLK would be largely undevelopable or unusable if not folded into the proposed project. The 28th Street parcels provide for off street parking and open space necessary to support the previously approved project. If the variance is not granted, these parcels will become orphan parcels with difficulties for reuse instead of part of an overall redevelopment benefitting the community and neighborhood.

5. The grant does not interfere substantially with the Comprehensive Plan because:

The Comprehensive Plan contemplates Commercial Retail and Service. The proposed mixed use development contains a community serving grocery space as well as job readiness training for a known community partner. The multi-family development will encourage further retail and service development by increasing residential density. The parking provided on parcels included in this variance will support all users of the property, residential and commercial users.

DECISION

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

Adopted this _____ day of _____, 20 ____

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Vacation Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
PLAT COMMITTEE
HEARING EXAMINER
OF MARION COUNTY, INDIANA**

PETITION FOR VACATION OF A PUBLIC WAY, EASEMENT OR PUBLIC PLACE

FINDINGS OF FACT

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:

Southern Alley - The alley exists on paper only. It is completely grown over with vegetation and provides access to no homes or business.

Upon vacation, the vacated property will be part of a parking field for a mixed use development providing services to area residences and affordable housing options.

Northern Alley - The current alley largely serves one commercial building to be replaced with an affordable housing development. The proposed development will include a reconstructed access drive off of Eugene Street to provide access to the remainder of the alley. The vacated alley way will allow for development of required parking in support of the proposed residential development.

DECISION

IT IS THEREFORE the decision of this body that this VACATION petition is APPROVED, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this _____ day of _____, 20 ____

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Proposed commitments for the variance of use

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A VARIANCE, SPECIAL EXCEPTION OR APPROVAL GRANT.

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description:

SEE ATTACHED EXHIBIT A

Statement of COMMITMENTS:

1. The variance grant shall be utilized only in a development which is developed in an integrated manner with the CS Zoned mixed use development on parcels immediately adjacent to the subject property, and in conformance with the petition originally filed as 2020-ZON-067 as modified.

These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the real estate. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition # 2021-UV1-031 the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and
2. Owners of all parcels of ground adjoining the real estate depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various township assessors of the Marion County, which the current owners of record at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the COMMITMENT was made);

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition # 2023-CMP-

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Photographs



North site – view of site looking northwest from the corner of Eugene Street and Dr. Martin Luther King, Jr. Street.



North site – looking north along the north-south alley (Alley 825 W).



North site - Looking north from Eugene Street at the site of the proposed access easement and neighbor to the west.



North site – looking east along the east-west alley (Alley 2975 N) toward the subject site.



South site – looking northeast across the site from the corner of Dr. Martin Luther King, Jr. Street and 27th Street.



South site – looking northwest along the Dr Martin Luther King Jr Street frontage.



South site – looking southeast along the north-south alley (Alley 675 W) .



South site – looking west along the east-west alley (Alley 2775 N) from Ethel Avenue.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-CZN-862 / 2022-CVR-862 (Second Amendment)
Address: 5204, 5206 and 5216 South Harding Street (*Approximate Address*)
Location: Perry Township, Council District #20
Petitioner: Quiktrip Corporation, by J. Murray Clark
Request: Rezoning of 5.327 acres from the C-S district to C-7 classification to provide for a truck stop.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster enclosure in the front yard of SR 37 (not permitted in front yard), with a 50-foot tall (maximum 20-foot tall permitted), with fifteen street trees along Harding Street (29 required) and sixteen trees along SR 37 (23 required) and to provide for a 23-foot tall, 109-square-foot free-standing incidental sign (maximum eight-foot tall, 32 square feet permitted).

ADDENDUM FOR JULY 19, 2023, METROPOLITAN DEVELOPMENT COMMISSION

At the request of the petitioner, this petition was continued from the June 21, 2023 hearing to the July 19, 2023.

ADDENDUM FOR JUNE 21, 2023, METROPOLITAN DEVELOPMENT COMMISSION

After a full public hearing on May 25, 2023, this petition was recommended for denial by the Hearing Examiner. A memorandum of the Hearing Examiner's decision is included below. The Hearing Examiner's decision was subsequently appealed to the Metropolitan Development Commission by a remonstrator.

At the May 25, 2023 hearing one of the variances of development standards was withdrawal. That variance provided for excessive primary-freestanding-sign area.

Staff **continues to recommend denial of these requests.** However, should the Hearing Examiner decide to approve the request staff asks that the following commitment be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

A 40-foot half right-of-way shall be dedicated along the frontage of Harding Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

ADDENDUM FOR MAY 25, 2023, HEARING EXAMINER

This petition was continued from the April 13, 2023 hearing to the May 25, 2023 hearing at the request of a remonstrator.

ADDENDUM FOR APRIL 13, 2023, HEARING EXAMINER

This petition was continued from the March 9, 2023 hearing to the April 13, 2023 hearing at the request of the petitioner. New site and landscape plans, and a new sign elevation were submitted that resulted in an amendment to the request.

Staff **continues to recommend denial of these requests.** However, should the Hearing Examiner decide to approve the request staff asks that the following commitment be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 40-foot half right-of-way shall be dedicated along the frontage of Harding Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

The rezoning request was not amended. Staff recommends denial of the rezoning for the reasons found below in the November 10, 2022 Staff Report.

Changes were made in the variance requests. This petition now requests seven variances of development standards to provide for

- a dumpster enclosure in the front yard of SR 37. A trash enclosure is not permitted in a front yard,
- sixteen street trees along SR 37 where 23 trees are required,
- fifteen street trees along Harding Street where 29 are required,
- a 50-foot tall, 568.5-square-foot pole sign. Maximum pole sign height is 20 feet tall and maximum pole sign area is 300 square feet, and
- a 23-foot tall, 109-square-foot free-standing incidental sign. Maximum incidental sign height is eight feet tall and maximum incidental sign area is 32 square feet.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

Trash enclosures are not permitted in front yards. Trash enclosures in a front yard are frequently unsightly and disrespect passers-by and neighbors by forcing them to look at the site's trash. Because the subject site is roughly triangular with streets on two sides, the number of potential locations for a trash enclosure is limited. However, the site plan makes little attempt to locate the enclosures in an inconspicuous spot. Instead, they are placed along State Road 37.

The landscape strip along Harding Street is large enough to provide space for a compliant number of trees to be planted. There is no apparent reason the required number of trees cannot be planted. This use will generate a significant amount of vehicle fumes compared to most uses that would be typically found in the Community Commercial typology. The site should be providing more trees rather than a deficient number of trees to mitigate the site's impact on air quality and urban heat.

The landscape strip along Harding Street is large enough to provide space for a compliant number of trees to be planted. No reason for the lack of trees is given in the Findings of Fact.

A pole sign over double the permitted height and nearly double the permitted area has been requested. Freestanding signs in limited numbers can significantly help the motoring public identify destinations. However, unnecessarily large or tall signs tend to distract, confuse and disorient motorists while losing the effectiveness of commercial messages in a harsh sea of poles, colors, logos and words. This would be especially true in the subject area with its heavy, fast traffic and preponderance of large trucks.

Incidental signs are those whose purpose is secondary and incidental to the use of the site and carries no commercial message that is legible beyond the site. They are limited in size to 32 square feet and in height to eight feet. One of the incidental signs on this site provides directions to the users of the site, specifically truck drivers seeking to weigh their vehicle. It's proposed to be 109 square feet and 23 feet tall. The function of this sign is atypical of incidental signs and as such, must be taller and larger than typical incidental signs to be useful.

ADDENDUM FOR MARCH 9, 2023, HEARING EXAMINER

This petition was continued from the December 15, 2022 hearing to the March 9, 2023 hearing at the request of the petitioner. No additional information has been supplied.

ADDENDUM FOR DECEMBER 15, 2022, HEARING EXAMINER

This petition was continued from the November 10, 2022 hearing to the December 15, 2022 hearing.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

November 10, 2022 Staff Report

RECOMMENDATION

Staff **recommends denial of these requests.** However, should the Hearing Examiner decide to approve the request staff asks that the following commitment be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 40-foot half right-of-way shall be dedicated along the frontage of Harding Street, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ Historic aerial photography from 1937 indicates a farmstead on 5204 South Harding Street and a single-family dwelling at 5216 South Harding Street. By 1956 a dwelling on 5206 South Harding had been constructed as had a row of dwellings south along the east side of Harding Street. Those dwellings still stand today. In the mid-1960s State Road 37 was under construction along the west edge of the subject site and headed southwest across open farmland. By 1972 industrial uses were developed along the west side of Harding Street.
- ◇ The Comprehensive Land Use Plan (2018) recommends Community Commercial for the site. This land use category is intended for low intensity commercial uses that serve nearby neighborhoods.

ZONING

- ◇ This petition requests a rezoning from the C-S district to the C-7 district. The C-S district allows for a customized list of permitted land uses, but also requires adherence to an approved site plan and development statement. For this site, Petition 2009-ZON-057 provided for wholesale and retail landscape supply

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

operations, two single-family dwellings, C-3 uses and a hotel. The C-3 uses are responsive to the Land Use Plan recommendation. Depending on its size and amenities the hotel might also be responsive to the Land Use Plan. The landscape supply operations might also fit into the Community Commercial typology depending on its operations and arrangement.

- ◇ The C-7 district is designed to provide for commercial uses that have qualities that are incompatible with less intense land uses. Examples of these qualities are outdoor storage and display of merchandise, and the outdoor parking and storage of trucks. Because of the character and intensity of these uses, this district should be located on major commercial arterial thoroughfares and near interstate interchanges, but not in close association with consumer commercial activities such as retailing, professional services, or restaurants. Due to the intensity of its uses, location of this district should never be adjacent to protected districts, such as dwellings, churches and schools.
- ◇ This request would locate the C-7 district across the street from single-family dwellings in the D-A zoning district. The Comprehensive Land Use Plan recommendation for the adjacent dwellings is Office Commercial. The petitioner has supplied a list of uses that they are willing to commit to excluding from the site (See below.). However, the remaining C-7 uses are not appropriate adjacent to either single-family dwellings or office development.

VARIANCES

- ◇ This petition requests eight variances of development standards to provide for
 - a dumpster enclosure in the front yard with a five-foot setback along SR 37. A trash enclosure is not permitted in front yard and a ten-foot setback is required,
 - parking and drive aisles with a five-foot setback from SR 37. A ten-foot wide landscape area required,
 - thirteen street trees along SR 37 where 23 trees are required,
 - fifteen street trees along Harding Street where 29 are required,
 - a 90-foot tall, 391-square-foot pole sign. Maximum pole sign height is 20 feet tall and maximum pole sign area is 300 square feet, and
 - a 23-foot tall, 109-square-foot free-standing incidental sign. Maximum incidental sign height is eight feet tall and maximum incidental sign area is 32 square feet.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

- ◇ Trash enclosures are not permitted in front yards. Trash enclosures in a front yard are frequently unsightly and disrespect passers-by and neighbors by forcing them to look at the site's trash. Because the subject site is roughly triangular with streets on two sides, the number of potential locations for a trash enclosure is limited. However, the site plan makes no attempt to locate the enclosures in an inconspicuous spot. Instead, they are placed along State Road 37 and five feet closer to the right-of-way than a structure of any sort is permitted.
- ◇ The site plan depicts parking spaces and drive aisles within the required ten-foot landscape space along State Route 37. This site is an intense use that will generate a significant amount of traffic. The reduced landscape space detracts from the site's ability to adequately screen the site or provide the other aesthetic and environmental benefits conferred by landscaping. The lack of landscaping space along SR 37 is also an indication that the site would be overdeveloped.
- ◇ The lack of an adequately sized landscape strip plays into the further request to reduce the required number of street trees along SR 37 from 23 to 13. If an adequately sized landscape strip was provided, a compliant number of trees could be planted. This use will generate a significant amount of vehicle fumes compared to most uses that would be typically found in the Community Commercial typology. The site should be providing more trees rather than a deficient number of trees to mitigate the site's impact on air quality and urban heat.
- ◇ The landscape strip along Harding Street is large enough to provide space for a compliant number of trees to be planted. No reason for the lack of trees is given in the Findings of Fact.
- ◇ A pole sign over four times the permitted height has been requested, presumably to allow it to be seen from I-465. Tall signs in close proximity to interstate interchanges were once permitted by the Ordinance. The tall interchange sign provision of the Ordinance was removed in 2019.
- ◇ The tall interchange sign provisions that were in place prior to 2019 allowed for signs up to 80 feet in height if they were within 1,320 feet of the intersection of the centerlines of the interstate and local street. The sign had to be at least 600 feet from a protected district and could be no greater in area than that permitted for other freestanding signs on the site. The tall interchange sign could be the only pole or pylon sign on the site.
- ◇ An eighty-foot-tall sign was permitted nearby at 1551 West Thompson Road in the late 1990s. This sign required a variance because it was approximately 1440 feet from the interchange.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

- ◇ The proposed sign would not meet any of the 2019 provisions above. The proposed sign is 90 feet tall, roughly 2,600 feet from the interchange, roughly 550 feet from a protected district, is 91 square feet larger than the largest freestanding sign permitted on the site, and is one of two freestanding signs on the site. It would be more distant from the new I-69 interchange than from the remaining I-465 interchange.
- ◇ Freestanding signs in limited numbers can significantly help the motoring public identify destinations; however, unnecessarily large or tall signs tend to distract confuse and disorient motorists while losing the effectiveness of commercial messages in a harsh sea of poles, colors, logos and words. This would be especially true in the subject area with its heavy, fast traffic and preponderance of large trucks.
- ◇ Incidental signs are those whose purpose is secondary and incidental to the use of the site and carries no commercial message that is legible beyond the site. They are limited in size to 32 square feet and in height to eight feet. One of the incidental signs on this site provides directions to the users of the site, specifically truck drivers seeking to weigh their vehicle. It's proposed to be 109 square feet and 23 feet tall. The function of this sign is atypical of incidental signs and as such, must be taller and larger than typical incidental signs to be useful.

Traffic Impact Study

- ◇ A traffic impact study was submitted with this petition. The study investigates how the traffic generated by this project would affect seven nearby intersections and the proposed access points to the site.
- ◇ This request comes at a unique time for this area with the coming of I-69 in the next two years. The opening of the new interstate will cause major shifts in the traffic flows in the vicinity. Among the changes will be a drop in traffic volumes on State Route 37 and its transfer in responsibility to the City of Indianapolis.
- ◇ According to the study, the proposed development would generate 120 new trips during the peak morning hour and 100 new trips during the peak afternoon hour.
- ◇ The study determined that the proposed development would not generate enough traffic to reduce the operations of nearby intersections to unacceptable levels. The study also looked at the access and egress on the two proposed driveways on Harding Street. The study found that dedicated left turns lanes into the site are not

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

warranted. It also found that a dedicated right turn lane from southbound Harding Street into the north driveway is warranted. A dedicated right turn lane from southbound Harding Street into the south driveway was not warranted. The driveways should each have three lanes: an inbound lane, a right-turn only outbound lane and a left-turn only outbound lane.

- ◇ The study made recommendations for the improvement of traffic flow in the vicinity upon the opening of I-69. These improvements include establishing a left-bound turn lane from northbound Harding Street to southbound S.R. 37 and retiming the stoplights in the area.
- ◇ A Department of Public Works traffic engineer was of the opinion that even after the opening of I-69 and S. R. 37 reverts to the City's responsibility, a driveway from this site directly onto S.R. 37 is unlikely to be permitted. However, the traffic engineer stated that a study would need to be done before a definite decision on this matter was made.
- ◇ The site plan does not show sidewalks along Harding Street or from Harding Street to the front of the proposed building. Staff notes that sidewalks in these locations will be required to be provided by the Ordinance.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

C-S	Metro	Landscape materials supplier
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SURROUNDING ZONING AND LAND USE

Northwest	I-3, I-4	Electrical contractor, truck sales
South	I-3	Construction contractor
East	C-7, D-A, I-2	Truck repair, single-family dwellings

COMPREHENSIVE LAND USE PLAN	The Perry Township Comprehensive Land Use Plan (2018) recommends Community Commercial.
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THOROUGHFARE PLAN	Harding Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with an existing right-of-way ranging from 65 feet to 107 feet and an 80-foot proposed right-of-way.
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(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

State Route 37 is classified in the Official Thoroughfare Plan for Marion County, Indiana as an Expressway. The plan does not propose a future right-of-way width.

FLOODWAY / FLOODWAY FRINGE This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT This site is not located within a wellfield protection district.

STREAM PROTECTION CORRIDOR This site is not located within a Stream Protection Corridor.

ZONING HISTORY – SITE

2009-ZON-057; 5204, 5206 & 5216 South Harding Street, requested the rezoning of 5.3 acres from the C-S district to the C-S district to provide for wholesale and retail landscape supply operations, two single-family dwellings, C-3 uses and a hotel, **approved**.

2007-ZON-851 / 2007-CAP-851; 5202, 5206 & 5216 South Harding Street, requested the rezoning of 5.3 acres from the C-S district to the C-S district to provide for C-3 uses and an extended stay hotel, **approved**.

90-Z-12; 5202 South Harding Street, requested the rezoning of 5.3 acres from the I-2-U district to the C-S district to provide a construction company, display of model homes, outdoor storage, retail sales associated with a construction company and manufacturing of homes, **approved**.

89-Z-132; 5202 South Harding Street, requested a variance to provide for a second business sign structure, **approved**.

89-UV1-30; 5202 South Harding Street, requested a variance of use to provide for five model homes and sales office, **approved**.

ZONING HISTORY – VICINITY

2022-ZON-045; 1600 West Thompson Road (northwest of site), requested the rezoning of 3.2 acres from the C-4 district to the I-3 district, **approved**.

(Continued)

STAFF REPORT 2022-CZN-862 / 2022-CVR-862 (Second Amendment) (Continued)

2018-UV3-024; 5201 South Harding Street (east of site), requested a variance of use to provide for a transport company and a variance of development standards to provide for deficient maneuvering space, the storage of tractor trailers and deficient setbacks and transitional yard, **denied**.

2014-ZON-074; 1600 West Thompson Road (northwest of site), requested the rezoning of 3.2 acres from the I-3-S district to the C-4 district, **approved**.

2007-ZON-051; 5191 Harding Lane (east of site), requested the rezoning of 0.9 acre from the I-2-S district to the C-7 district, **approved**.

98-Z-225; 4950 Harding Lane (east of site), requested the rezoning of 2.5 acres from the C-4 district to the C-7 district, **approved**.

94-UV1-68; 1631 West Thompson Road (west of site), requested a variance of use to provide for commercial truck and trailer servicing, repair, sales and leasing and the sale of truck parts, **approved**.

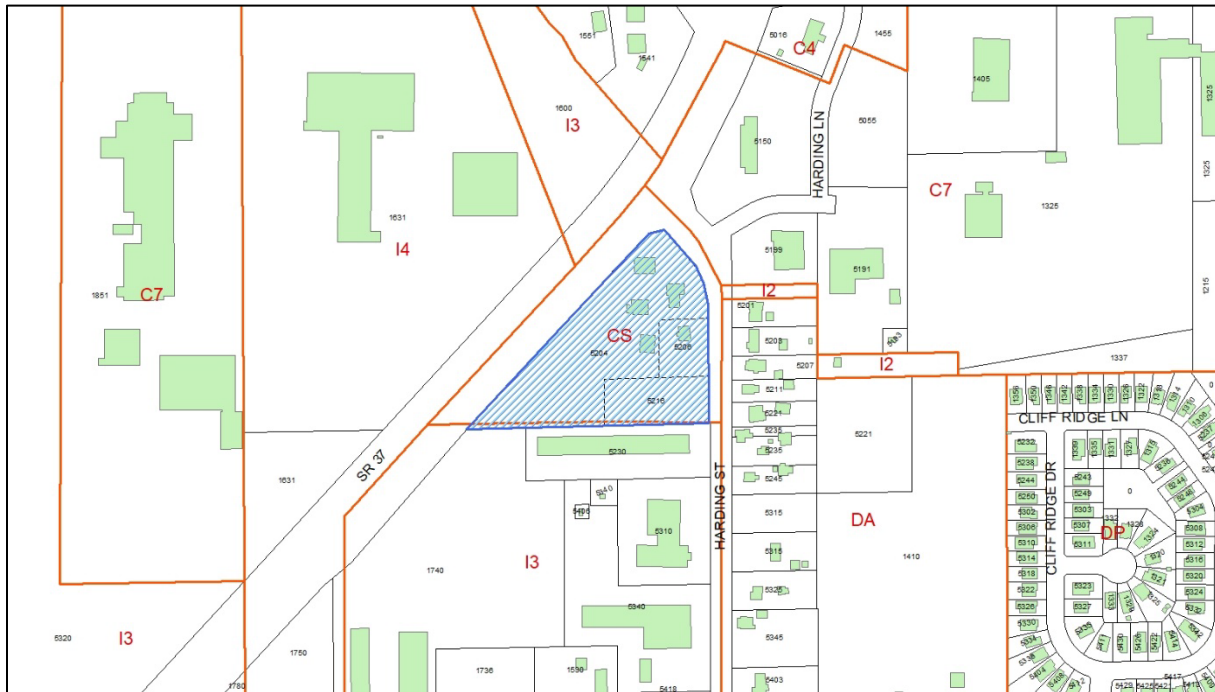
94-Z-45; 1631 West Thompson Road (northwest of site), requested the rezoning of 22.9 acres from the I-4-S district to the C-7 district, **withdrawn**.

87-UV3-82; 1631 West Thompson Road (west of site), requested a variance of use to provide for a mobile structure as a temporary facility, **approved**.

83-Z-241; 1751 West Thompson Road (northwest of site), requested the rezoning of twenty acres from the I-3-S district to the I-4-S district, **approved**.

klh

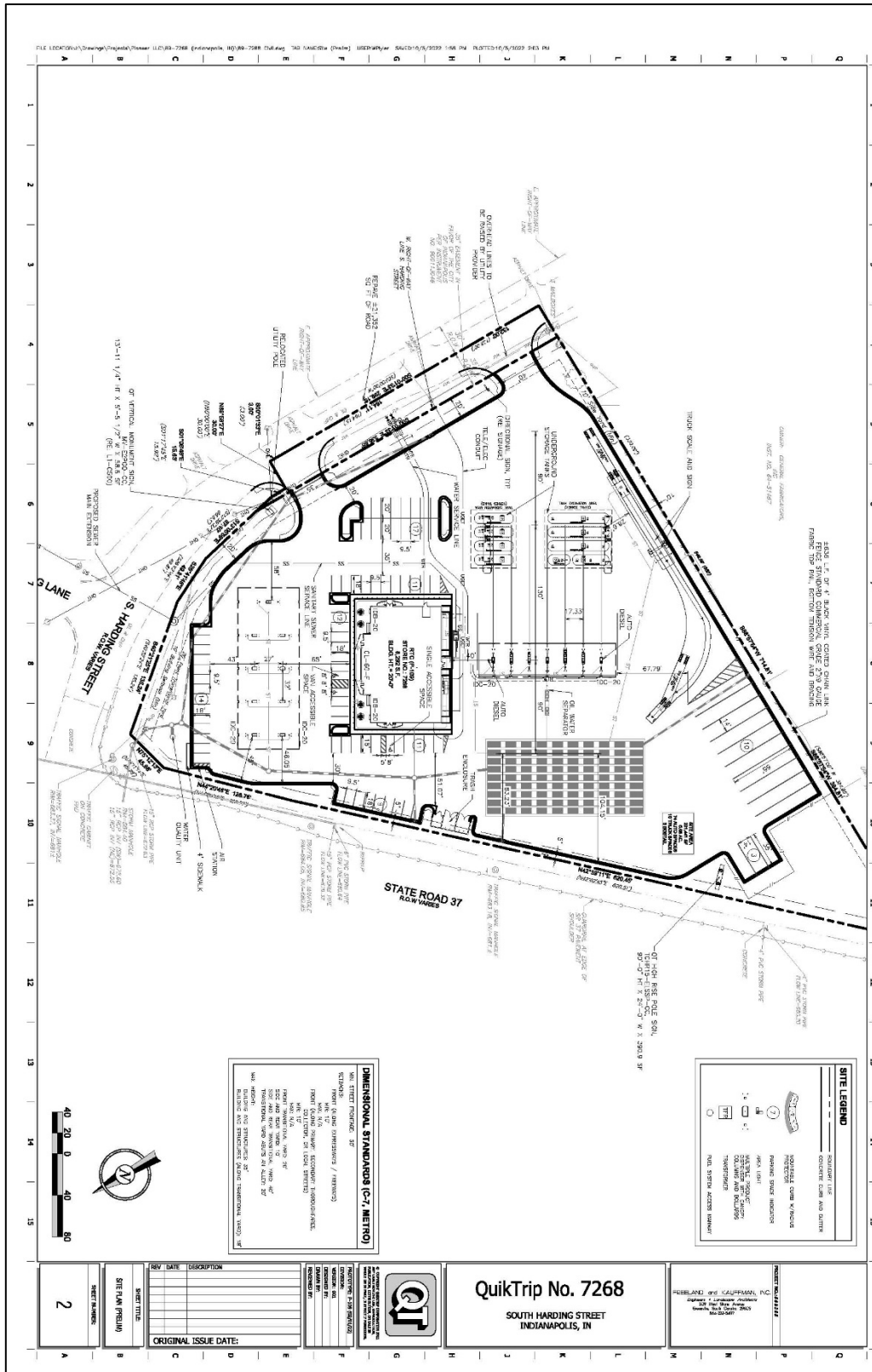
STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Location



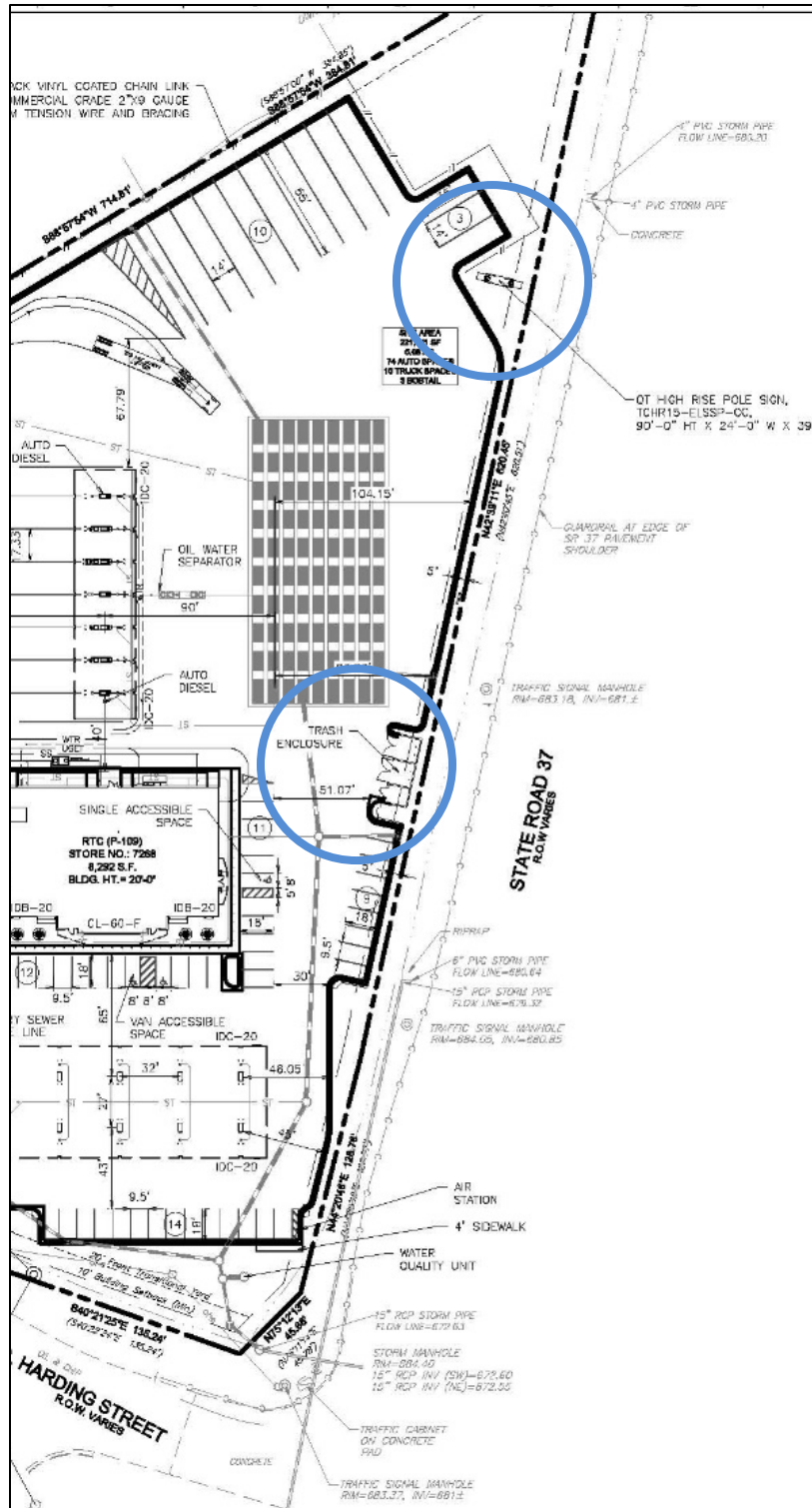
STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Aerial photograph (2021)



STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Site Plan

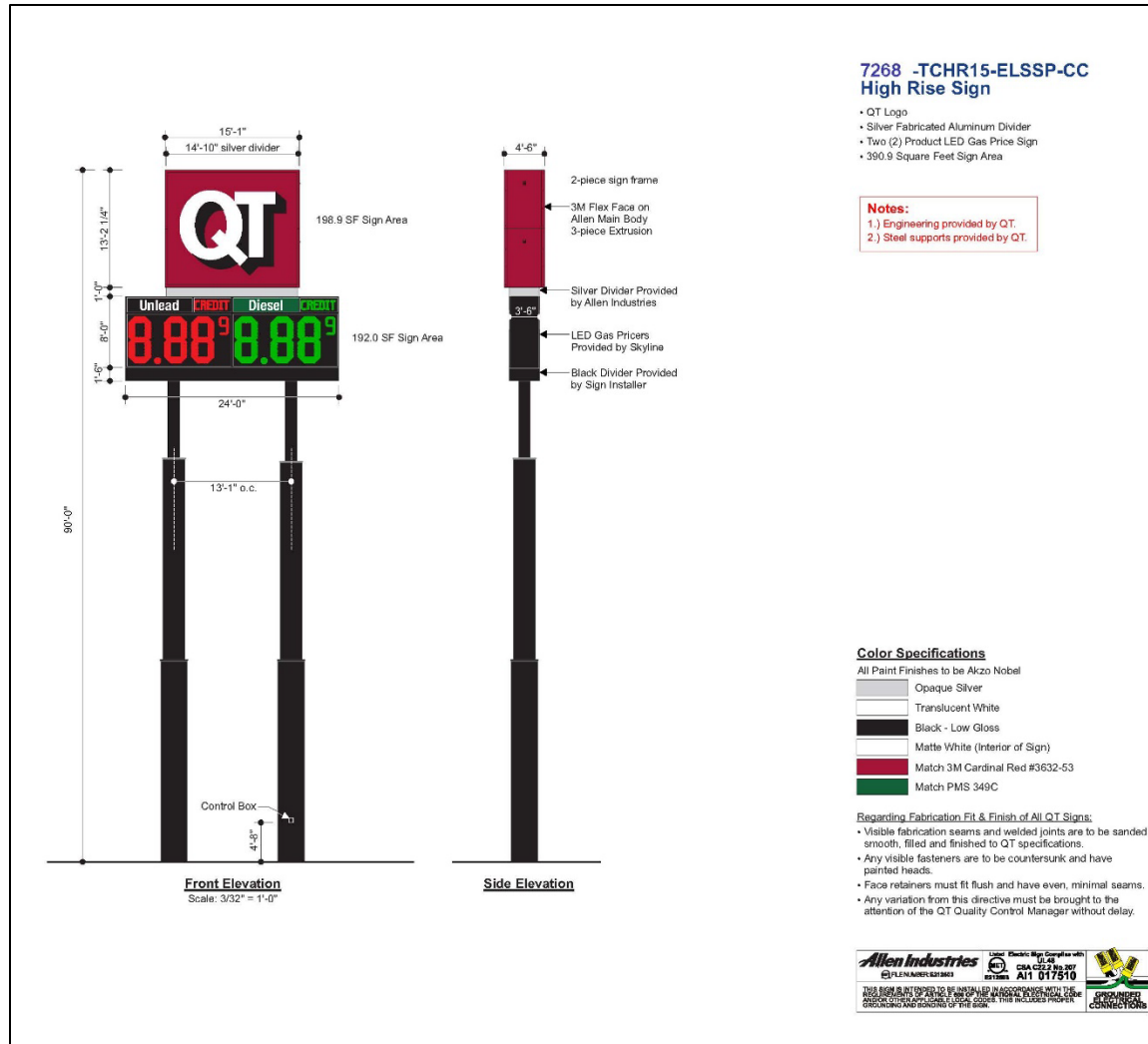


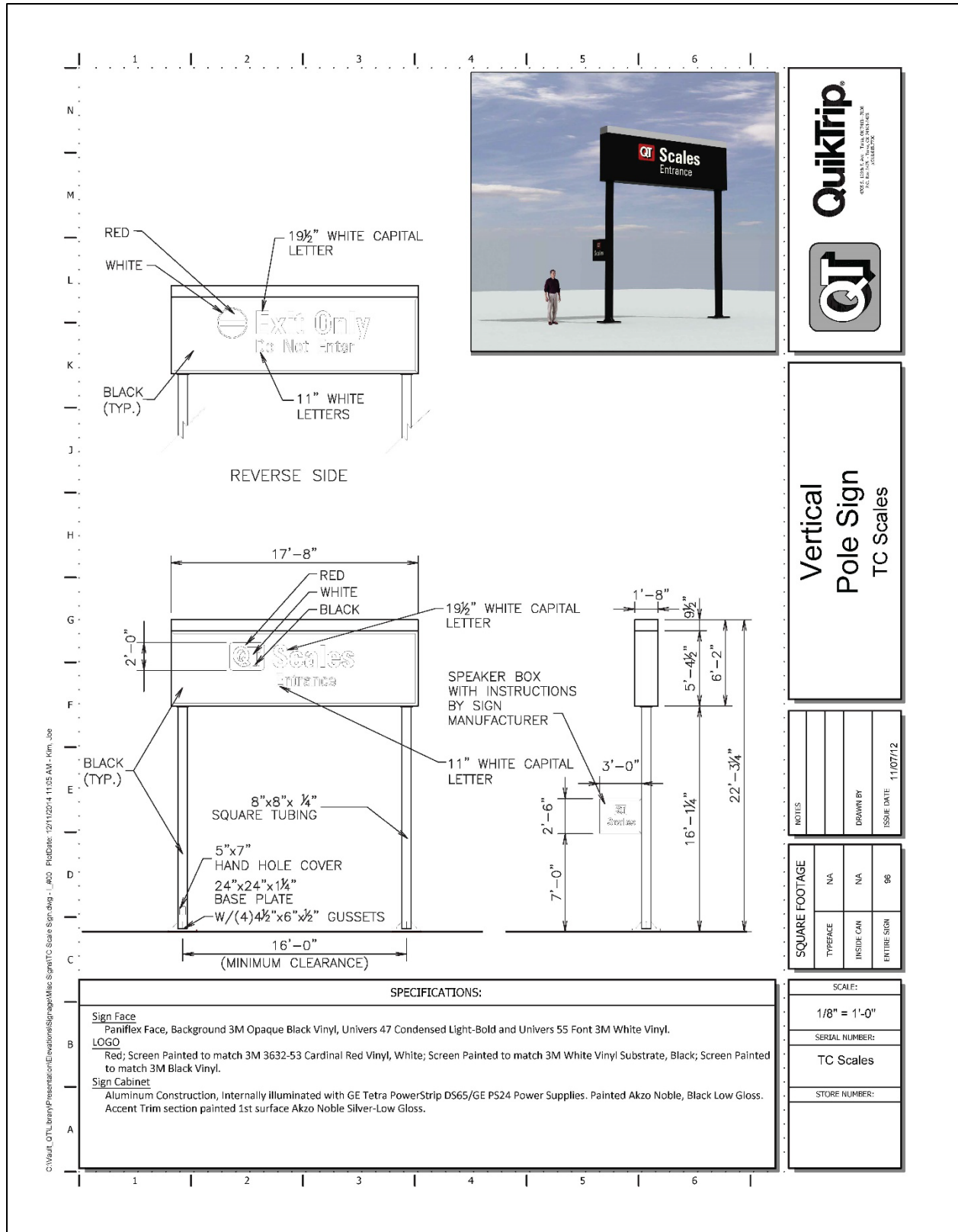
STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Site Plan Insert



This inset shows the proposed location of the trash enclosures and 80-foot tall freestanding sign. North is to the bottom of the page.

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Sign elevations





STAFF REPORT 2022-CZN-862 / 2022-CVR-862, 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 grant will not be injurious to the community because the property is ideally situated for use as a truck stop, as it is located at the corner of an expressway and a primary collector, and is nearby to other heavy commercial and industrial type uses. The requested development standards variances will allow for the best possible layout of the property and will allow for adequate signage for community members who wish to utilize the truck stop.

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 grant will not substantially adversely effect the area adjacent to the property because the real estate is already operating with a heavy commercial / industrial type use, and is nearby to other heavy commercial and industrial type uses. The requested development standards variances will allow for the best possible layout of the property and will allow for adequate signage for community members who wish to utilize the truck stop.

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

The property has two frontages, and in order for the truck stop to function with the greatest efficiency and provide the best utilized signage, the property needs the grant of the development standards variances. The requested development standards variances will allow for the best possible layout of the property and will allow for adequate signage for community members who wish to utilize the truck stop.

DECISION

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

Adopted this _____ day of _____, 20 ____

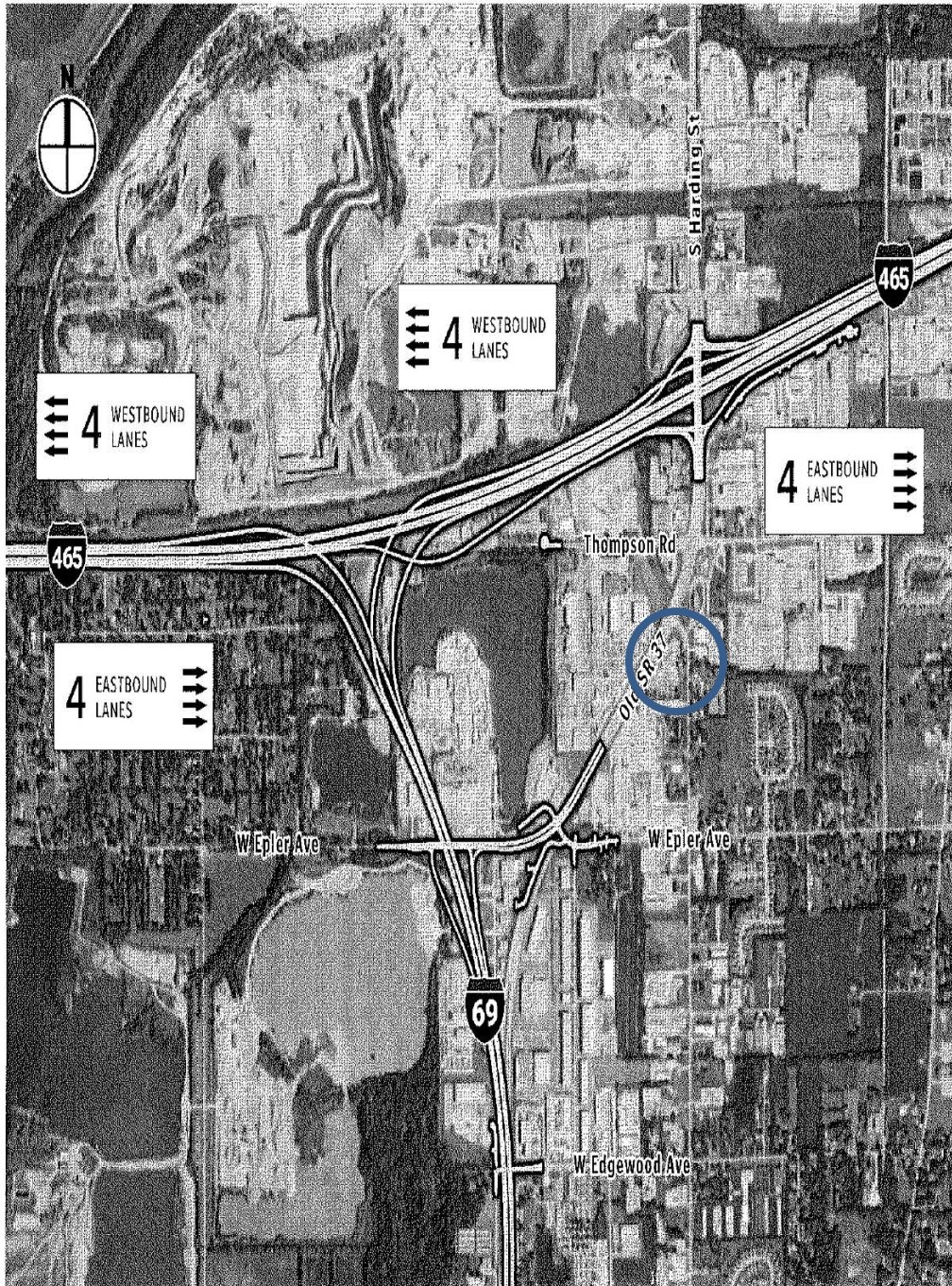
STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Proposed list of excluded uses.

**QuikTrip Store #7268
5204, 5206, 5216 S. Harding St.**

Rezoning of real estate from C-S district to C-7 district for use as a Truck Stop.

List of prohibited uses:

- Agricultural Machinery and Equipment Sales, Rental, or Repair
- Auctioneering and Liquidating Services
- Dry Cleaning Plant or Industrial Laundry
- Adult Entertainment Business
- Bar or Tavern
- Night Club or Cabaret
- Commercial and Building Contractors
- Heavy Equipment Sales, Service or Repair
- Adult Entertainment Business: Retail
- Firearm Sales
- Fireworks Sales, On-going
- Liquor Store
- Pawn Shop
- Automobile and Light Vehicle Wash
- Automobile and Vehicle Storage or Auction
- Automobile, Motorcycle, and Light Vehicle Sales or Rental
- Automobile, Motorcycle, and Light Vehicle Service or Repair
- Heavy Vehicle Wash
- Motorsports Industry
- Other Vehicle Sales, Rental or Repair
- Truck or Heavy Vehicle Sales, Rental, or Repair
- Recycling Station
- Mini-Warehouses (Self-Storage Facility)
- Warehousing, Wholesaling and Distribution

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Proposed Route of I-69.**STOP 11 RD to I-465**

Subject site is in the blue circle.

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Hearing Examiner's Memorandum**MEMORANDUM OF EXAMINER'S DECISION****2022-CZN/CVR-862(amended)****5204-5216 S. Harding Street**

The petitions request the rezoning of 5.33 acres from the C-S district to the C-7 district to provide for a truck stop, with variances for deficient landscaping along Harding Street and along S.R. 37 and variances for the size and height of signs.

Your Hearing Examiner visited the site prior to the hearing and noted its triangular shape with extensive street frontage. While industrial uses exist in the area, there are also single family residences along the east side of Harding Street.

The petitioner's representative described the proposed use as a best class travel center rather than a truck stop, focused on serving day truck trips as well as automobiles with limited overnight parking for trucks. Due to the shape of the site, extensive street frontages and the need for proper identification, he opined the necessity of variances. The petitioner's representative described meetings with neighbors, and presented a letter of support from the City-County Councillor.

About 12 remonstrators appeared at the hearing, and letters and emails of opposition were presented. The primary concern was that the C-7 district, and the proposed use, are incompatible adjacent to residences. The 24/7 operation of the business would impact the health and safety of the residents. The remonstrators expressed appreciation for outreach done by the petitioner.

Staff opined that the requested C-7 district is inconsistent with the Comp Plan recommendation of community commercial use, and it is too intense across from single family residences. Staff also shared that an ordinance adopted by the City-County Council after these petitions were filed prohibits truck stops within 500 feet of a protected district.

In your Hearing Examiner's opinion, the proposed development is not compatible with the established residences in this area, and the unique shape of the site does not warrant reducing the required buffer. Denial of these petitions was recommended.

For Metropolitan Development Commission Hearing on June 21, 2023

STAFF REPORT 2022-CZN-862 / 2022-CVR-862, Photographs



Looking south across the southwest portion of the subject site.



Looking southeast from SR 37 across the central section of the site.



Looking southwest along the site's frontage on SR 37.



Looking south at the northern point of the site from Harding Street.



Looking west at the site from Harding Street.



Looking west at the site from Harding Street.



Looking southwest across the southern portion of the site. The industrial building in the background is the neighbor to the south.



Looking southeast along Harding Street at the neighboring dwellings to the east.



Looking east from the site across Harding Street.



Looking north from the site across Harding Street.



Looking north at the intersection of Harding Street and SR 37 toward the I-465 interchange.



Looking southwest along SR 37 to the neighbor to the west.

STAFF REPORT

Item 16.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-025 / 2023-VAR-002
Address: 1002 West Hanna Avenue and 3500 Division Street (*Approximate Address*)
Location: Perry Township, Council District #20
Petitioner: Lauth Group, Inc., by Brian J. Tuohy
Request: Rezoning of 24 acres from the I-2 (FF) and D-3 (FF) districts to the I-3 (FF) district to provide for a plastic recycling facility.

A variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for development within the north and east transitional yards (100-foot transitional yard required).

ADDENDUM FOR JULY 19, 2023, METROPOLITAN DEVELOPMENT COMMISSION

The petitioner's representative has requested a **continuance from the July 19, 2023 hearing, to the August 2, 2023 hearing**. Staff would have no objection to the continuance.

This petition was heard by the Hearing Examiner on June 29, 2023. After a full hearing, the Hearing Examiner recommended denial of the rezoning and variance requests. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

The petitioner's representative has agreed to eliminate I-3 uses that would be most impactful to the surrounding land uses, provide a final report on the sound study and submit a landscaping plan for Administrator Approval prior to the issuance of an improvement location permit that would provide a buffer along the northern boundary of the site.

Staff continues to **recommend approval** of the rezoning request and the variance request subject to the following commitments reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.
2. A 59.5-foot half right-of-way shall be dedicated along the frontage of West Hanna Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

(Continued)

3. A landscape plan shall be submitted for Administrator's Approval prior to the issuance of an Improvement Location Permit that would provide for year around landscaping along the northern, eastern and southern boundaries of the site.

June 29, 2023

The Hearing Examiner continued these petitions, with notice from the April 27, 2023 hearing, to the May 11, 2023 hearing, to provide time to amend the request to add a variance of development standards.

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued these petitions from the May 11, 2023 hearing, to the June 15, 2023.

The Hearing Examiner continued these petitions from the June 15, 2023 hearing, to the June 29, 2023 hearing, at the request of the petitioner's representative.

RECOMMENDATIONS

Staff **recommends approval** of the rezoning request and the variance request, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.
2. A 59.5-foot half right-of-way shall be dedicated along the frontage of West Hanna Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 24-acre site, zoned I-2 (FF) and D-3 (FF), is undeveloped and surround by undeveloped land to the north, zoned D-3 (FF); industrial uses to the south, across West Hanna Avenue, zoned I-3 (FF); a railroad right-oof-way to the east, zoned I-2 (FF); and industrial uses to the west, zoned I-2 (FF).

(Continued)

REZONING

- ◇ This request would rezone the site from the I-2 (FF) and the D-3 (FF)s Districts to the I-e (FF) classification. “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.”
- ◇ The Comprehensive Plan recommends suburban neighborhood typology. “The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- Hydrological patterns should be preserved wherever possible.
- Curvilinear streets should be used with discretion and should maintain the same general direction.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.

Overlays

- ◇ This site is located within an overlay, specifically the Environmentally Sensitive overlay (ES). “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”

(Continued)

- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ The entire site is located within the 100-year floodplain of White River

Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (I-3 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ Staff would note the following uses are prohibited in the floodplain:
 - a. Jails;
 - b. Hospitals;
 - c. Assisted living facilities;
 - d. Nursing homes;
 - e. Laboratories;
 - f. Elementary, Middle or High Schools;
 - g. Daycare facilities;
 - h. Fire stations;
 - i. Emergency operation centers;
 - j. Police facilities;
 - k. Truck, train, or bus terminal, storage or maintenance facility;
 - l. Wrecking or salvage facility;
 - m. Gas, oil or propane storage facility;
 - n. Industrial laundry;
 - o. Hazardous waste handling or storage facility; and
 - p. Other public equipment storage facilities.

Environmental Public Nuisances

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

(Continued)

◇ Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5 -foot half right-of-way along West Hanna Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Site Plan

- ◇ The amended conceptual site plan, file-dated April 14, 2023, provides for two structures. Building One would be 127,000 square feet. Building Two would be 159,500 square feet.
- ◇ Employee parking would be located adjacent to the proposed buildings, with truck / trailer parking located interior to the site and at the northwest portion of the site.
- ◇ Access would be gained from West Hanna Avenue at the southwest corner of the site. Staff would note that the proposed dedication of the right-of-way along the West Hanna Avenue frontage is depicted on the plan.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for development within the north and east transitional yards, when a 100-foot transitional yard would be required.

(Continued)

- ◇ Staff believes that a reduced transitional yard along the northern site boundary would have minimal impact on the abutting undeveloped land that would unlikely be residentially developed in the future.
- ◇ The Ordinance provides that no setback is required from a railroad or rail spur when industrial facilities are located along a railroad or rail spur. Staff understands, however, that the petitioner and their representative wanted to assure development could occur with the transitional setback along the eastern boundary of the site.

Planning Analysis

- ◇ The request would not be consistent with the Comprehensive Plan recommendation of suburban neighborhood typology. However, given the surrounding industrial development to the west and south of this site, staff believes it would be unlikely that residential development would occur on this site.
- ◇ Staff would note that the railroad right-of-way provides an appropriate boundary and buffer between the existing and proposed industrial uses and the residential uses to the east, which would minimize the impact of the proposed industrial uses on surrounding land uses.
- ◇ Staff supports the requests primarily because of the industrial uses to the west and south, which continue west along South Hanna Avenue to South Harding Street. Furthermore, staff believes the railroad along the eastern site boundary provides an appropriate buffer from the existing residential uses and forms a strong delineation between the uses.
- ◇ As development on this site occurs, consideration and incorporation of floodplain regulations would be required. Drainage features are shown on the plan, but the location and configuration of those features may change as final plan are prepared.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

I-2 (FF) / D-3 (FF)	Undeveloped
------------------------	-------------

SURROUNDING ZONING AND LAND USE

North -	D-8 (FF)	Undeveloped
South -	I-3 (FF)	Industrial uses
East -	I-2 (FF)	Railroad right-of-way
West -	I-2 (FF)	Industrial uses

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood typology.
Marion County Land Use Pattern Book (2019).

(Continued)

THOROUGHFARE PLAN	This portion of West Hanna Avenue is designated in the Marion County Thoroughfare Plan as a primary, with an existing 85-foot right-of-way and a proposed 119-foot right-of-way.
CONTEXT AREA	This site is located within the metro context area.
OVERLAY	This site is located within an environmentally sensitive area.
SITE PLAN	File-dated March 30, 2023
SITE PLAN (AMENDED)	File-dated April 14, 2023

ZONING HISTORY

2015-ZON-028; 1112 West Hanna Avenue (west of site) requested rezoning of 10 acres, from the D-3 (FF) District to the I-2-S (FF) classification to provide for an industrial rail park, **approved**.

2014-ZON-046; 3550 Division Street (west of site), requested rezoning of 3.731 acres from the D-4 (FF) District to the I-3-S (FF) classification to provide for tractor trailer storage and truck repair and service, **withdrawn**.

2013-ZON-033; 1405, 1423 and 1425 West Hanna Avenue (west of site), requested rezoning of 4.79 acres from the I-2-S (FF) and D-3 (FW) (FF) Districts, to the I-3-S (FW) (FF) classification to provide for medium industrial uses, **approved**.

2013-UV2-020; 3800 South Harding Street & 3800 Division Street (west of site), requested variance of use and development standards of the Industrial Zoning Ordinance to provide for a shingle recycling facility (not permitted), with 7,500 square feet of outdoor storage and to provide for operations within two, 7,500-square foot, three-sided buildings for shingle grinding within 90 feet of a D-3 protected district, **granted**.

2011-ZON-085; 1015, 1315 and 1335 West Hanna Avenue (west of site), requested a rezoning of 47.28 acres from the I-2-S and I-3-S Districts to the I-3-S Classification to provide for industrial uses, **approved**.

2010-ZON-038; 1405 West Hanna Avenue (west of site), requested rezoning of 1.6 acres from the D-3 (FF) District, to the I-2-S (FF) classification to provide for industrial uses, **approved**.

2009-UV2-029; 1315 West Hanna Avenue (west of site), requested variance of use and development standards of the IZO to provide for a truck washing and decal removal business, with outdoor storage 6,574 percent of the total building area, **granted**.

2008-UV1-026; 1315 West Hanna Avenue (west of site), requested variance of use and development standards of the IZO to provide for the expansion of a truck washing and decal removal operation, with outdoor storage 3,135 percent of building area, **granted**.

(Continued)

2006-ZON-827/2006-VAR-827; 3730 Division Street (west of site), requested rezoning of 13.27 acres from the I-3-S (FF) District to the I-4-S (FF) classification to provide for heavy industrial suburban uses, requests a special exception of the Industrial Zoning Ordinance to provide for the construction of a chemical manufacturing plant, **dismissed**.

2006-UV2-045; 1008 and 1112 West Hanna Avenue (west of site), requested variance of use and development standards of the Industrial Zoning Ordinance and the Dwelling Districts Zoning Ordinance to provide for a motor truck terminal, with temporary use of gravel in lieu of hard surfacing, **granted**.

2000-ZON-056; 4101 South Harding Street (west of site), requested rezoning of 6.1 acres from the D-3 District to the I-3-S Classification to provide for industrial uses, **approved**.

98-Z-187; 3801 South Harding Street (west of site), requested rezoning of 27.3 acres from the D-3 (FF) to I-3-S (FF) to provide for medium industrial suburban development, **granted**.

96-Z-75; 1002-1012 West Hanna Avenue (west of site), requested a rezoning of 28.38 acres from D-3 (FF) to I-2-S (FF), **approved**.

96-CP-17Z/96-CP-17V; 3950 Division Street and 1402 West Hanna Avenue (west of site), requested a rezoning 1.01 acres from D-3 (FW) to I-2-S (FW) and variance of use and development Standards of the Industrial Zoning Ordinance and Sign Regulations to provide for the operation of a fleet maintenance facility with a gravel parking area within the required front yard along Hanna Avenue and pole sign being 60-75 from a protected district, **approved**.

92-Z-51; 4309 South Harding Street (west of site), requested a rezone of 12.05 acres from I-3-S(FW)(FF) to C-7(FW)(FF) to provide for the sales and service of semi-tractors and trailers, **approved**.

93-V3-11; 3926 Division Street (west of site), requested variance of development standards of the Flood Control Districts Zoning Ordinance to provide for the construction of a 936-square foot detached garage approximately five feet below the Base Flood Elevation, **denied**.

91-UV3-34; 3850 South Harding Street (west of site), requested variance of use and development standards of the Industrial Zoning Ordinance to provide for a dry ash disposal facility without the required street frontage in I-4-S (FF), **granted**.

89-Z-90 / 89-CV-17; 1020 West Hanna Avenue (west of site), requested rezoning of 10-24 acres, being in the D-3 district to the I-3-S classification to provide for a cement storage and distribution facility with no outdoor storage of materials of products and a variance of development standards of the Industrial Zoning Ordinance to permit the construction of 80-foot-tall storage bins, **denied**.

kb

MEMORANDUM OF EXAMINER'S DECISION

2023-ZON-025/2023-VAR-002 1002 W. Hanna Ave., 3500 Division St.

The petitions request the rezoning of 24 acres from the I-2 (FF) and D-3 (FF) districts to the I-3 (FF) district to provide for a plastic recycling facility with development within the 100 foot north and east transitional yards.

Your Hearing Examiner visited the site prior to the hearing and noted the industrial uses west and south of the site and the railroad tracks north and east of it. The residences east and north of the railroad tracks and southeast of the site were also noted.

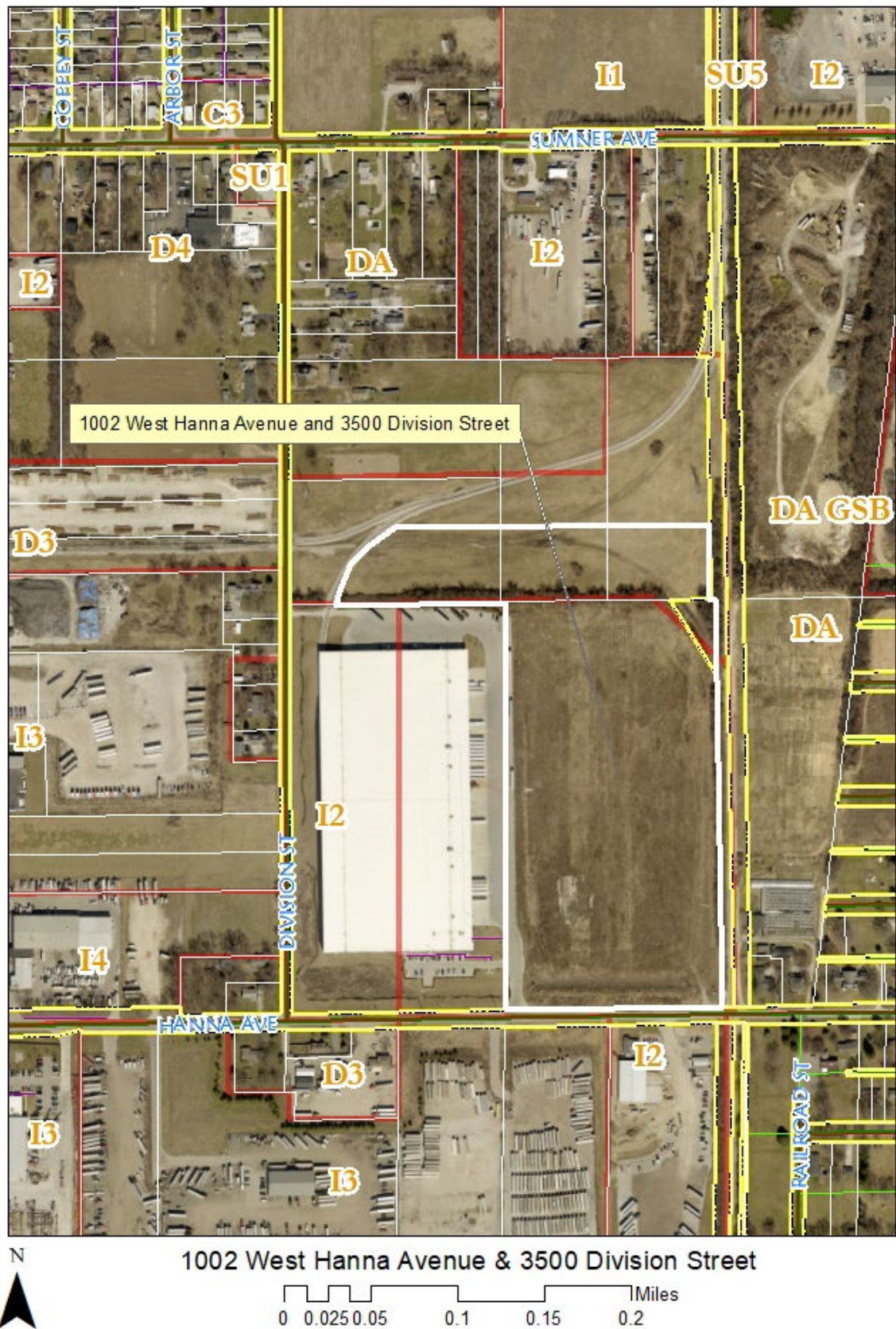
The petitioner's representative described the nature of the proposed polymer center and said that the facility would be fully enclosed and without smokestacks. Truck traffic is anticipated to not exceed 10 trips per day. A sound study completed the day prior to the hearing concluded that the sound would have no meaningful impact in the area. The petitioner's representative expressed willingness to limit permitted uses, file the finalized sound study for review by DMD, and submit details for buffering.

About 15 remonstrators appeared at the hearing, and letters of opposition were filed. The primary concerns expressed involved intensity of the use, sound, smell, operation of the use 24/7, traffic, and the uncertainty of the impact, given that the proposed facility is only the second in the country and the first one is not yet operational.

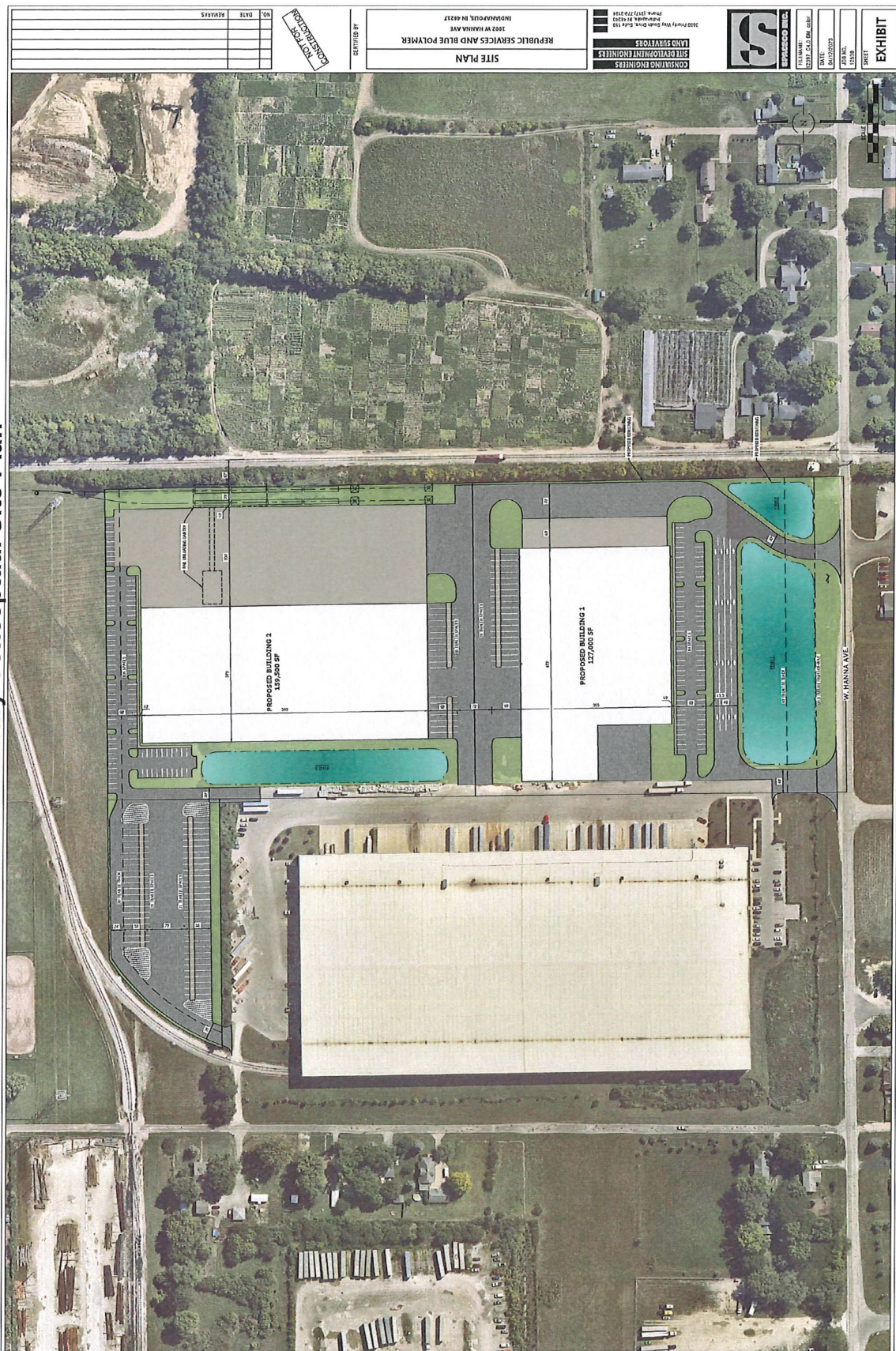
Staff stated that, although the Comp Plan recommends suburban neighborhood typology, the existing industrial uses west and south of the site warrant deviating from the Comp Plan. Staff also opined that the railroad tracks east of this site provide a strong delineation between the proposed industrial development and the residences to the east.

In your Hearing Examiner's opinion, the proposed development may be appropriate on the site; however, without commitments detailing prohibited uses and specific landscape buffer details and without adequate time to review the finalized sound study, approving these petitions is premature. Denial of these petitions was recommended.

For Metropolitan Development Commission Hearing on July 19, 2023



Amended Preliminary Conceptual Site Plan





View looking west along West Hanna Avenue



View looking east along West Hanna Avenue



View of site looking northeast across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site and adjacent property looking north across West Hanna Avenue



View from site looking south across West Hanna Avenue

STAFF REPORT

Item 17.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-830 / 2023-CVR-830
Address: 201 West 38th Street and 3750 North Capitol Avenue (approximate address)
Location: Center Township, Council District #7
Petitioner: Martin Petroleum Inc., by Pat Rooney
Request: Rezoning of 0.44 acre from the D-5 and C-4 districts to the C-4 district.

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

ADDENDUM FOR JULY 19, 2023, METROPOLITAN DEVELOPMENT COMMISSION

These petitions were heard by the Hearing Examiner on June 29, 2023. After a full hearing, the Hearing Examiner recommended denial of the rezoning and the variance requests. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

A continuance for cause request was submitted by the petitioner's representative to continue these petitions from the **July 19, 2023 hearing, to the August 16, 2023 hearing**. This would require a vote from the Metropolitan Development Commission.

RECOMMENDATIONS

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

Staff **recommends denial** of the variance of use and development standards request.

SUMMARY OF ISSUES

LAND USE

- ◇ The subject site consists of a gas station and convenience store on the north parcel with an undeveloped residential lot at the southern parcel.
- ◇ The site is surrounded with an auto repair shop and single-family dwellings to the west, zoned D-5, tire shop to the north, zoned C-3, liquor store to the east, zoned C-4, and single and two-family dwellings to the east and south, zoned D-5.

REZONING

- ◇ The grant of the rezoning request would correct the split zoned northern parcel from the D-5 and C-4 districts to the C-4 classification for the entire parcel where the current gas station and convenience store are located.

(Continued)

- ◇ The property at 201 West 38th Street is recommended for village mixed-use development by the Comprehensive Plan. Staff recommended the petitioner rezone the northern parcel to prevent future issues with the continued use and development of the northern parcel since the existing uses are not permitted in the D-5 district.
- ◇ The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.
- ◇ Therefore, staff would recommend approval of the rezoning request.

VARIANCE OF USE

- ◇ This request would allow the redevelopment of a convenience store within the D-5 district. The site consists of two parcels with the north parcel split zoned between D-5 and C-4 and the southern parcel zoned D-5.
- ◇ The purpose of the D-5 (Dwelling District Five) district is intended for medium intensity residential development and is not intended for suburban use. The application of this district will be found within urban, build-up areas of the community and where all urban public and community facilities and services are available. The D-5 district typically has a density of 4.5 units per gross acre. This district fulfills the low and medium density residential classification of the Comprehensive General Land Use Plan.
- ◇ The purpose of the C-4, Community-Regional District is to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. The uses permitted in this district may feature several large traffic generators and require excellent access from major thoroughfares.
- ◇ The Pattern Book recommends the property at 3750 North Capitol Avenue for 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. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- ◇ The Comprehensive Plan recommends village mixed-use development for the northern parcel (201), which the C-4 (community-regional commercial) District would be consistent with the recommendation, depending upon the context of the site. In this case, surrounding land uses are commercial along the north, west and east, but low-density residential is located south and would not be adequately buffered from this more intense 24-hour / seven-day use. The proposed use would not be appropriate for the southern parcel because the Comprehensive Plan recommends traditional neighborhood development, which would align more with small-scale offices, retailing, and personal or professional services rather than a regional use.
- ◇ The site is located within the Red Line TOD Strategic Plan, but it is not located within the Transit Oriented Development Secondary Zoning District. It falls within a Transit-Oriented Development (TOD) overlay within the Pattern Book, but it does not remove the use included in this request.
- ◇ The closest station to the site is located within a ½ a mile to the east at the intersection of 38th Street and Meridian Street. This station is categorized as a District Center with the potential for a dense mixed-use hub for multiple neighborhoods with tall buildings, minimum of 3 stories with no front or side setbacks, multi-family housing with a minimum of 5 units and structured parking only with active first floor.
- ◇ TOD investments here should leverage significantly higher residential and employment densities, demonstrations projects, urban living amenities and workforce housing.
- ◇ The commercial intensity and the impact upon the surrounding residences would include, but not be limited to, light, noise, and trash. Furthermore, the proposed use would be more of a regional draw, rather than serving just the surrounding residential neighborhood and would be a wholly and inappropriate commercial encroachment into a D-5 protected district. For these reasons, staff is recommending denial of the variance of use.

VARIANCE OF DEVELOPMENT STANDARDS

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

(Continued)

- ◇ The lack of a south transitional yard shows clear evidence that this site is not suitable for a convenience store and fueling station expansion which would have a negative impact on the surrounding residential neighborhood. The proposed use would be better suited on a site that would accommodate the proposed use, while complying with required development standards.
- ◇ If approved against staff's recommendation, the Department of Public Works would request that the eastern most driveway along 38th Street be closed to reduce vehicular conflicts with the heavy pedestrian traffic along this corridor.

GENERAL INFORMATION**EXISTING ZONING AND LAND USE**

C-4 / D-5 Compact Commercial / Undeveloped Lot

SURROUNDING ZONING AND LAND USE

North	C-3	Commercial
South	D-5	Residential (Single-family dwelling)
East	C-4 / D-5	Commercial / Residential (Two-family dwelling)
West	D-5	Commercial and Residential (Single-family dwellings)

COMPREHENSIVE PLAN

The Marion County Land Use Plan Pattern Book (2019) recommends village mixed-use on the north parcel and traditional neighborhood development on the south parcel.

THOROUGHFARE PLAN

38th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 101-foot existing right-of-way and a 114-foot proposed right-of-way.

Capitol Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 60-foot existing right-of-way and a 56-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

CONTEXT AREA

This site is located within the compact context area.

SITE PLAN

File-dated June 12, 2023.

ELEVATIONS

File-dated June 12, 2023.

RENDERINGS

File-dated June 12, 2023.

FLOOR PLAN

File-dated June 12, 2023.

(Continued)

ZONING HISTORY – SITE**EXISTING VIOLATIONS**

None.

PREVIOUS CASES

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

ZONING HISTORY – VICINITY

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

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

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

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

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

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

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

(Continued)

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

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

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

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

MI

2023-CZN-830 / 2023-CVR-830; Location Map

Item 17.



2023-CZN-830 / 2023-CVR-830; Aerial Map



MEMORANDUM OF EXAMINER'S DECISION

2023-CZN/CVR-830

201 W. 38th St, 3750 N. Capitol Ave.

The petitions request the rezoning of 0.44 acre from the D-5 and C-4 districts to the C-4 district, with a variance of use to provide for the redevelopment of a convenience store within a residential district and a variance of development standards to permit a zero foot south side transitional yard (10 foot side transitional yard required).

Your Hearing Examiner visited the site prior to the hearing and noted the existing gas station and convenience store on the north end of the site and a vacant lot on its south end. A variety of auto-related and commercial uses exist in the area, as well as single-family and two-family residences.

The petitioner's representative explained that the 18 year owners of the existing gas station and convenience store want to redevelop the site, including the vacant parcel to the south, with a new convenience store and enhanced landscaping. The representative described meeting with neighbors and neighborhood groups to garner support, and referenced the plan of operation, commitments, and a petition of support with over 200 signatures. A neighbor stated that the proposal would improve the corner and the neighborhood.

The president of Crown Hill Neighborhood Association shared that several neighborhood groups in the Midtown area were excited about this transformational project; however, commitments requested by these groups were not completely reflected in the commitments proposed by the petitioner.

Staff stated that, because the north parcel had a split zoning, staff recommended approval of the rezoning petition. Staff expressed concern with having the convenience store on south parcel, without a transitional yard, because of activity associated with this use, including lights, noise, trash, and incompatibility with the residences to the south.

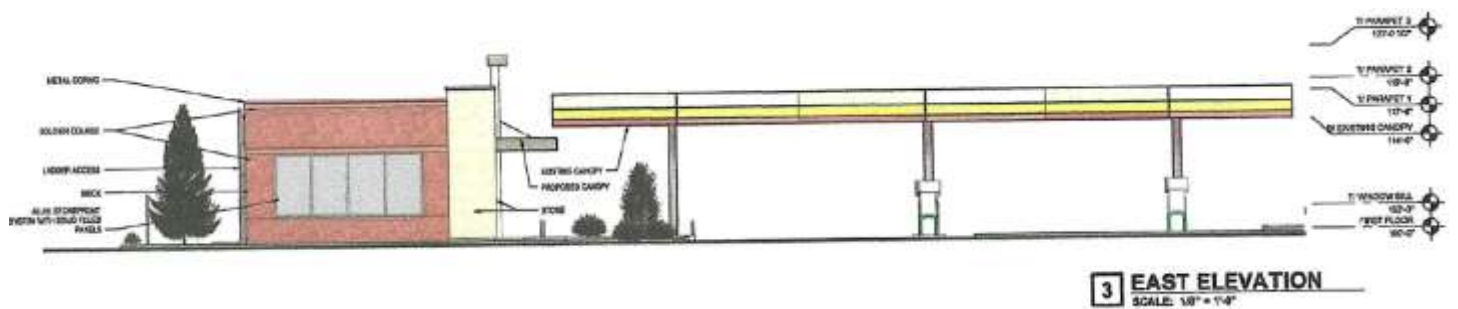
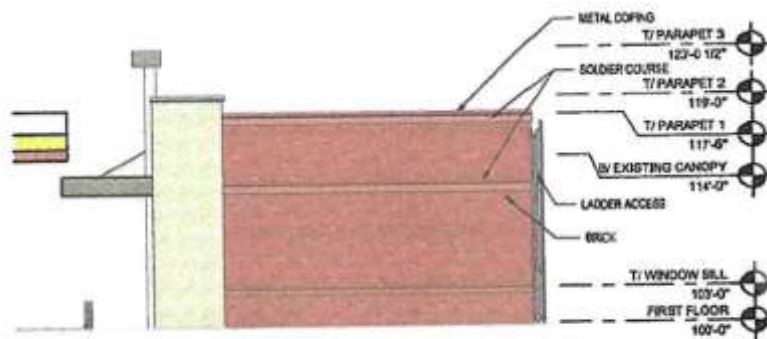
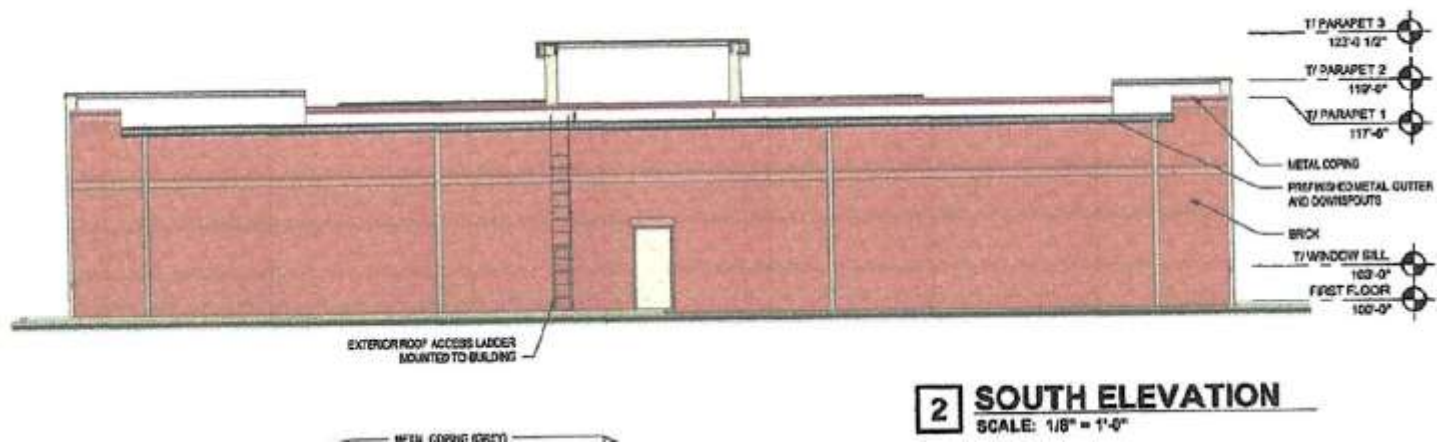
In your Hearing Examiner's opinion, while a redevelopment of the existing gas station and convenience store may enhance the neighborhood, encroachment into the residential area to the south should be avoided. The encroachment would be exacerbated by not providing the required transitional yard. Denial of these petitions was recommended.

For Metropolitan Development Commission Hearing on July 19, 2023



SPIARS ENGINEERING LLC

SHRUBS AND GRASSES = 72





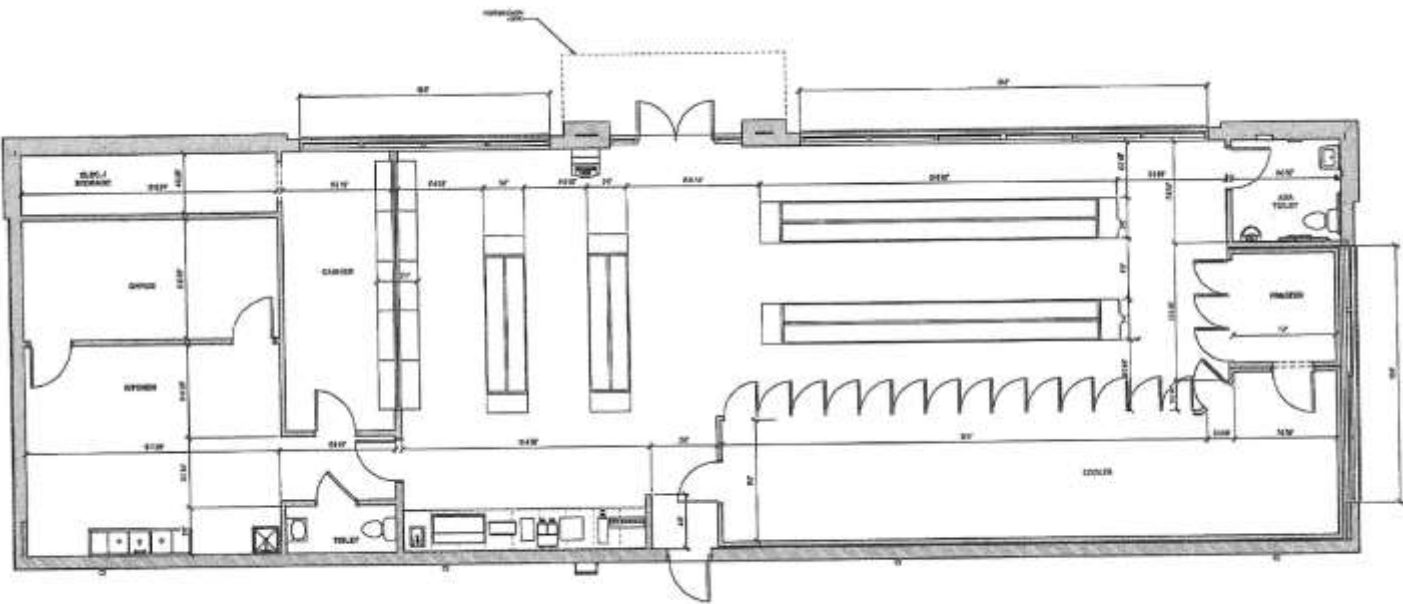
SOUTHEAST PERSPECTIVE



NORTH PERSPECTIVE



NORTHEAST PERSPECTIVE



1 FLOOR PLAN
SCALE: 1/4" = 1'-0"

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

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE
granting the variance will increase the value of the subject property and the adjacent properties because the property will be redeveloped with a new and improved building instead of the old, dilapidated building currently on the property.

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

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

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

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

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

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

DECISION

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

Adopted this _____ day of _____, 20 ____

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

the property is already a retail gas station along a busy street with retail properties adjacent thereto, there will be sufficient buffer to the residential properties to the south, including a transitional yard with abundant landscaping between the actual property and any residential properties.

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:

granting the variance will increase the value of the property and surrounding properties because the property will be redeveloped with a new, modern building which will replace the old, run down building currently on the property. The property and adjacent properties will also benefit from the substantial landscaping included in the transitional yard which will create a buffer between the property and any adjacent residential properties.

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

the subject property has two zoning classifications thereby unduly restricting the ability to expand the convenience store which is necessary for the petitioner to update the building to match the times and allow the petitioner to sell additional groceries instead of limiting sales to tobacco products.

DECISION

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

Adopted this _____ day of _____, 20 ____



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



Western property boundary abutting an alley.



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



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



Street frontage along Capitol Avenue looking south.



Undeveloped residential lot to be included in the project development.



Commercial and residential uses east of the site.



Commercial use north of the site.



Commercial use west of the site.

STAFF REPORT

Item 18.

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-023 / 2023-VAR-003 (Amended)
Address: 8480, 8508 and 8510 Ditch Road (*Approximate Address*)
Location: Washington Township, Council District #1
Petitioner: Adams French Property, LLC, by Brian J. Tuohy
Request: Rezoning of 1.88 acres from the C-1 and C-4 districts to the C-S district to provide for a self-storage facility.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for self-storage facility with a reduced landscaped buffer along the lot lines abutting a protected district (a minimum 50-foot landscaped buffer required).

ADDENDUM FOR JULY 19 2023, METROPOLITAN DEVELOPMENT COMMISSION

The Metropolitan Development Commission continued these petitions from the June 21, 2023 hearing, to the July 19, 2023 hearing, at the request of the petitioner's representative.

ADDENDUM FOR JUNE 21, 2023, METROPOLITAN DEVELOPMENT COMMISSION

The Hearing Examiner acknowledged the timely automatic continuance filed by a registered neighborhood organization that continued this petition from the April 13, 2023 hearing, to the May 11, 2023 hearing.

Prior to the May 11, 2023 hearing, it was discovered that a variance of development standards would be required to provide for a reduced landscaped buffer. Consequently, the petitioner's representative requested that the petition be continued and transferred to the Metropolitan Development Commission for initial hearing on June 21, 2023, due certain conditions of the sales contract.

The purpose of a required landscaped buffer abutting a protected district is to provide appropriate separation between land uses when a more intense land use (such as warehousing in this case) abuts a protected district such as the existing residential uses to the west and south.

Staff believes the lack of a buffer represents over development of a site that is currently undeveloped with no impediments to provide for appropriate development that complies with the Ordinance. The amended site plan, file-dated May 24, 2023, provides for a 30-foot landscaped buffer, which is an approximately 40% decrease in the buffer.

The substantially reduced landscaped buffer and the mass of the development would be wholly detrimental and impactful on the surrounding land uses in this area. Furthermore, staff does not believe there is a practical difficulty in the use of the property because the building footprint could be reduced to comply with the Ordinance and minimize impact of the proposed use on surrounding land uses.

Staff, therefore, **recommends denial** of the variance request.

(Continued)

RECOMMENDATIONS

Staff **recommends denial** of the request. If approved, staff would request the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptables provided for the proper disposal of trash and other waste.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 1.88-acre site, zoned C-1 and C-4, is undeveloped and comprised of three parcels. It is surrounded by commercial uses to the north, zoned C-4, multi-family dwellings to the south and west, zoned D-7; and commercial uses to the east, across Ditch Road, zoned C-4 and C-3.
- ◇ Petition 72-UV3-88 provided for a car wash and gasoline station. Petition 73-Z-143 provided for commercial uses. Petition 73-Z-144 provided for a branch bank.

REZONING

- ◇ This request would rezone the site from the C-1 and C-4 Districts to the C-S classification to provide for a self-storage facility.
- ◇ The C-S District is designed to permit, within a single zoning district, multi-use commercial complexes or land use combinations of commercial and noncommercial uses, or single-use commercial projects. The primary objective of this district is to encourage development which achieves a high degree of excellence in planning, design or function, and can be intermixed, grouped or otherwise uniquely located with maximum cohesiveness and compatibility. The district provides flexibility and procedural economy by permitting the broadest range of land use choices within a single district, while maintaining adequate land use controls. The C-S District can include high-rise or low-rise developments, can be applied to large or small land areas appropriately located throughout the metropolitan area, and can be useful in areas of urban renewal or redevelopment.

(Continued)

- ◇ The purpose of the C-S District is to:
 - 1. Encourage:
 - a. A more creative approach in land planning.
 - b. Superior site and structural design and development.
 - c. An efficient and desirable use of open space.
 - 2. Provide for a use of land with high functional value.
 - 3. Assure compatibility of land uses, both within the C-S District and with adjacent areas.
 - 4. Permit special consideration of property with outstanding feature, including, but not limited to, historical, architectural or social significance, unusual topography, landscape amenities, and other special land characteristics.
 - 5. Provide maximum adaptability and flexibility in zoning and development controls to meet the changing and diverse needs of the metropolitan area.
- ◇ The Comprehensive Plan recommends community commercial for the northern parcel. “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 Comprehensive Plan also recommends office commercial typology for the southern parcel. “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.”
- ◇ The Comprehensive Plan consists of two components that include the Pattern Book and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.
- ◇ The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- Master-planned developments in excess of 2 acres should include pedestrian amenities for passive and active recreation internal to the development.

(Continued)

Heavy Commercial Uses

- Heavy commercial uses generally include outdoor operations, storage, and/or display.

Light Industrial Uses

- These industrial uses create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials.

Heavy Industrial Uses

- Found only in the Heavy Industrial District, these industrial uses create emissions of light, odor, noise, or vibrations. All uses requiring an air permit and/or wastewater permit from the Indiana Department of Environmental Management (IDEM) is considered Heavy Industrial, but not all Heavy Industrial uses necessary require an IDEM permit.

Environmental Public Nuisances

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
 1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
 2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
 3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
 4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

(Continued)

- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

C-S Statement

- ◇ The C-S Statement, file-dated March 10, 2023, states that the proposed new building would provide for a self-storage facility. The northeastern portion of the building would be three stories, with the remaining building being two stories.
- ◇ All storage would be within the proposed building.
- ◇ Sidewalks would be provided, and a 20-foot-wide landscape buffer would be installed along the western and southern property boundaries.
- ◇ Based upon the number of parking spaces provided and the number of required parking spaces of one parking space per 30 storage units, there would be approximately 540 storage units available for rent.

Site Plan

- ◇ The site plan, file-dated March 10, 2023, depicts a 45,600-square-foot building, with a parking lot consisting of 18 parking spaces and sidewalk along the Ditch Road frontage. Two of the existing access drives would be eliminated.
- ◇ Landscaping is shown along the western and southern boundaries and adjacent to multi-family dwellings. Staff would note that a 50-foot landscape buffer would be required along the western and southern boundaries that abut a protected district (see below).

Planning Analysis

- ◇ As proposed, this rezoning would not be consistent with the Comprehensive Plan recommendation of Community Commercial and Commercial Office typologies, both of which are low intense commercial uses intended to serve the surrounding neighborhoods.
- ◇ A self-storage facility is considered warehousing, an industrial use, that is only permitted in the highest intense commercial district (C-7) and all four industrial districts.
- ◇ Because of the potential impact of this use on surrounding land uses the Ordinance requires the following “specific use standards” to mitigate the impact:

(Continued)

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.

◇ Staff believes the mass of this 300+-foot long, two and three-story building is out of character from and would not be compatible with the scale and the architectural character of the surrounding land uses, which primarily consist of one-story commercial structures and two-story multi-family buildings, the longest of which is approximately 172 feet.

◇ A self-storage facility at this location would be wholly inappropriate for this site because it would introduce an intense use into an area with a much less intense commercial node / corridor character and an adjacent dwelling district, resulting in a detrimental impact on those adjacent uses. Furthermore, this request would be inconsistent with the previously noted purposes of the C-S District.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-1 / C-4

Undeveloped land

SURROUNDING ZONING AND LAND USE

North - C-4

South - C-7

East - C-3 / C-4

West - D-7

Commercial uses

Multi-family dwellings

Commercial uses

Multi-family dwellings

COMPREHENSIVE LAND USE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends office commercial typology for the northern portion of the site and community commercial for the southern portion of the site

THOROUGHFARE PLAN

This portion of Ditch Road is designated in the Marion County Thoroughfare Plan as a secondary arterial with an existing 100-foot right-of-way and a proposed 90-foot right-of-way.

CONTEXT AREA

This site is located within the metro context area.

(Continued)

OVERLAY	This site is not located within an overlay.
C-S STATEMENT	File-dated March 10, 2023
AMENDED C-S STATEMENT	File-dated May 24, 2023
SITE PLAN	File-dated March 10, 2023
SITE PLAN (AMENDED)	File-dated May 24, 2023
RENDERINGS	File-dated March 10, 2023
FINDINGS OF FACT	File-dated May 24, 2023

ZONING HISTORY

91-Z-72; 8510 Ditch Road, requested rezoning of 0.77 acre being in the D-7 District to the C-4 classification to confirm zoning to the existing use, **approved**.

83-Z-9; 8450 Ditch Road, requested rezoning (Commission initiated) from the D-7 and C-1 Districts to the C-1 classification to correct a mapping error based on information found in 72-UV3-88 and 73-Z-144, **approved**.

73-Z-144; 8502 Ditch Road, requested rezoning of 1.03 aces being in the D-7 district to the C-1 classification to provide for construction of a branch bank and offices, **approved**.

73-Z-143, 8430 Ditch Road, requested rezoning of 4.21 acres, being in the D-7 District to the C-3 classification to provide for retail sales and service center, **approved**.

72-UV3-88; 8460 Ditch Road, requested a variance of use, setback and transitional yard requirement to permit erection of an automatic car wash with cleaning installation and sale of gasoline, with pole sign, **granted**.

kb



C-S Statement

8480, 8508 and 8510 Ditch Road (Approx. Address)

Petitioner proposes to construct a new building on the Site ("Proposed Building") to provide for a self-storage facility with an office, as approximately depicted on the proposed plans filed herewith. The northeast portion of the Proposed Building will be 3-stories tall, and the remaining portion of the Proposed Building will be 2-stories tall. The storage on the Site will be limited to indoor storage within the Proposed Building.

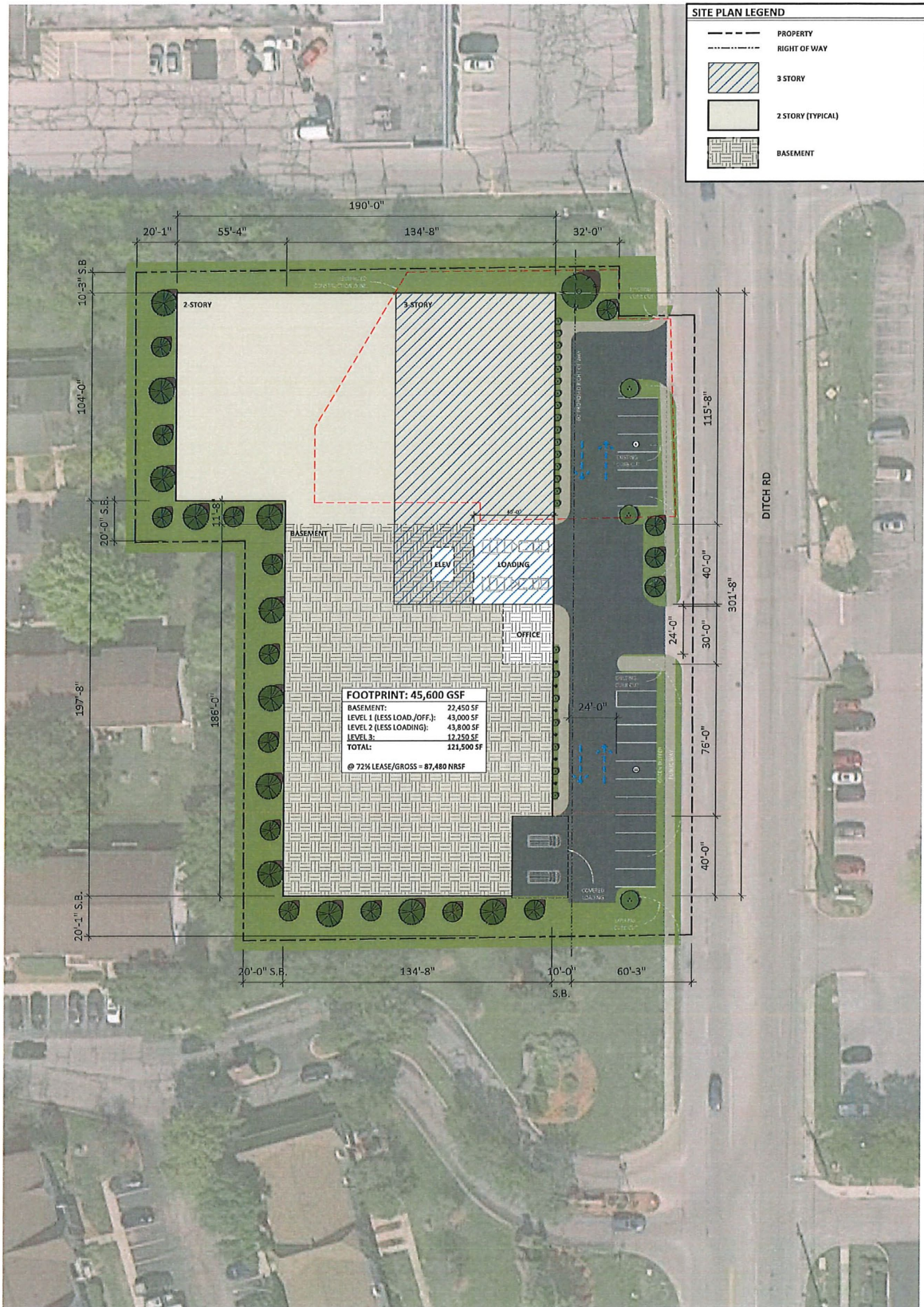
Along Ditch Road, Petitioner proposes to install sidewalks and eliminate two existing curb cuts. Between the Site and the existing multi-family community to the west and south, Petitioner proposes to install landscaping within twenty-foot wide west and south rear/side yards. The 2-story portion of the Proposed Building will be adjacent to the existing multi-family community.

Second Amended C-S Statement

8480, 8508 and 8510 Ditch Road (Approx. Address)

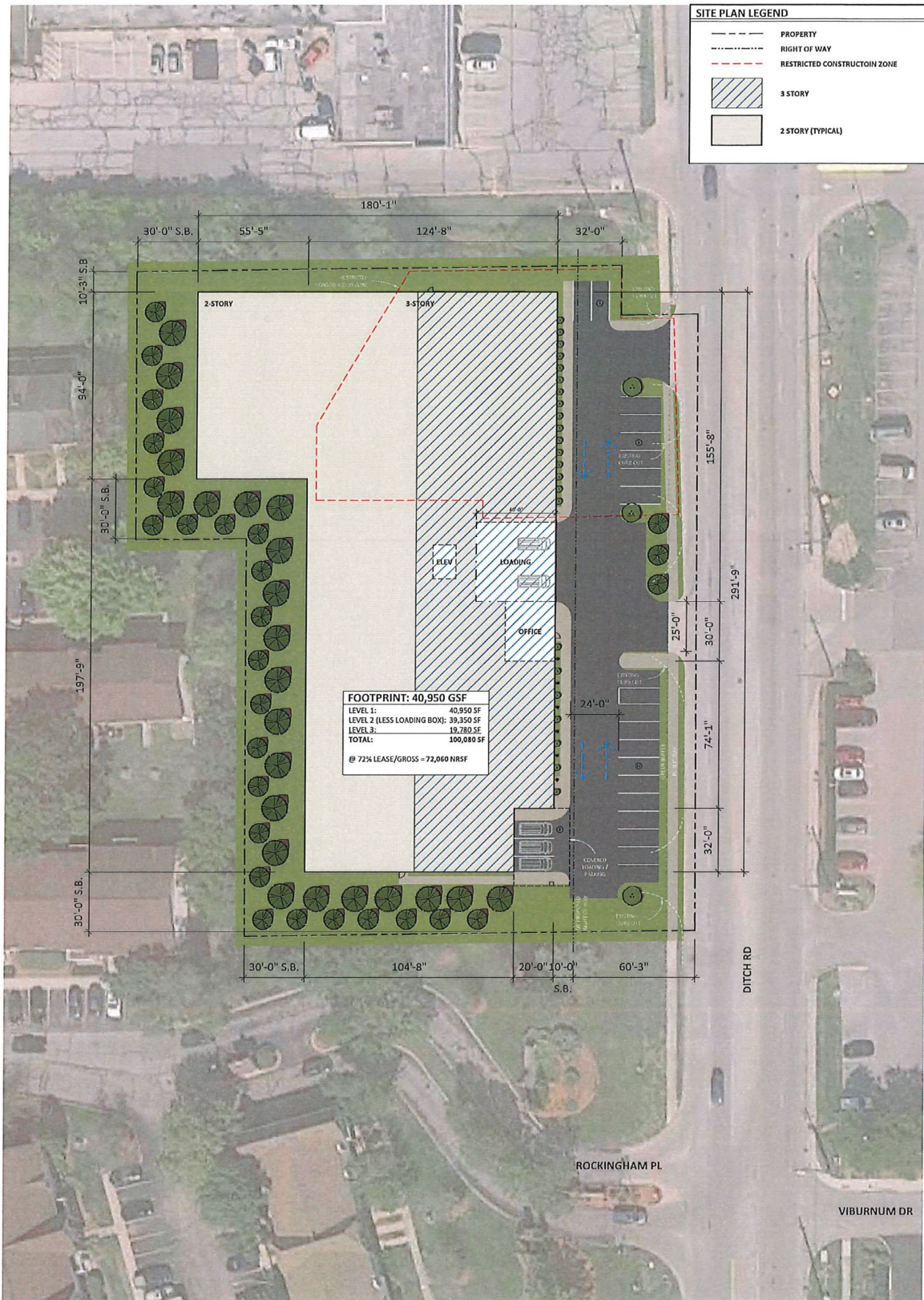
Petitioner proposes to construct a new building on the Site ("Proposed Building") to provide for a self-storage facility with an office, as approximately depicted on the proposed plans filed herewith. The east portion of the Proposed Building will be 3-stories tall, and the remaining portion of the Proposed Building will be 2-stories tall. The storage on the Site will be limited to indoor storage within the Proposed Building.

Along Ditch Road, Petitioner proposes to install sidewalks and eliminate two existing curb cuts. Between the Site and the existing multi-family community to the west and south, Petitioner proposes to install approximately thirty-foot wide landscaped buffers (Petitioner is requesting a variance relating to the widths of the west and south buffers).



SITE CONCEPT - 3 STORY
INDIANAPOLIS, IN
12/01/22

DITCH ROAD STORAGE **M-I**
MOORE HANSEN
ARCHITECTS



SITE CONCEPT - 3 STORY - 30 FT BUFFER
INDIANAPOLIS, IN
05/23/2023

DITCH ROAD STORAGE

BOHANNAN HANSEN
ARCHITECTS & ENGINEERS

Petition Number _____

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

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
Amended
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 was previously used as a gas station / car wash and bank with a drive through. The proposed use is for a completely indoor storage business. Petitioner proposes extensive landscaping within approximately 30' wide yards along the west and south sides of the site to buffer the neighboring apartment complex, which includes two story apartment buildings. Similarly, the west and a portion of the south elevations of the proposed building are two stories. Further, directly south of the site is an undeveloped green area and the drive for the adjacent apartment complex. The west elevation of the proposed building will face the ends of the apartment buildings and will contain no windows. Due to the proposed landscaped buffer areas to be provided, the configuration of the adjacent apartment buildings and the proposed storage building's design, granting the variance will not be injurious.

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:

A gas station / car wash and a bank with a drive through previously operated on the site. The proposed use will have no outdoor operations or storage. Petitioner proposes to install extensive landscaping within approximately 30' wide yards along the west and south sides of the site to provide separation to the adjacent apartment complex. Directly south of the site is a green area / driveway and to the west of the site, the ends of the apartment buildings face the west side of the site. Due to the configuration of the apartment buildings, the landscaped buffer area to be provided and the proposed indoor use, the area adjacent to the site will not be adversely affected. The variance will allow for substantial investment in a long vacant site, which will increase the assessed value of the site. The storage building will provide a convenient storage place for residents of the nearby apartments and condominiums. The proposed use will generate limited traffic and will not disturb adjoining properties.

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

The zoning ordinance requires the front yard setback (the east side setback) of the site to be at least ten feet from the proposed right-of-way of Ditch Road, which is 60'. In order to comply with the front setback requirements and substantial proposed right-of-way, the width of the buildable area of the site east to west is reduced. Previous uses on the site included a gas station, car wash and bank with drive through, but the proposed use will have no outdoor operations or storage. The strict application of the terms of the zoning ordinance prevents the improvement of a former gas station site with a use that will have substantially less of an impact on the adjacent apartment community than previous uses, due to the proposed building's design and operations.

DECISION

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

Adopted this _____ day of _____, 20 _____



INDIANAPOLIS, IN
ISSUE DATE



DITCH ROAD STORAGE



INDIANAPOLIS,
IN 02/24/23



DITCH ROAD STORAGE



DITCH ROAD STORAGE

INDIANAPOLIS,
IN 02/24/23



INDIANAPOLIS,
IN 02/24/23



DITCH ROAD STORAGE



View looking south along Ditch Road



View looking north along Ditch Road



View of site looking southwest across Ditch Road



View of site looking west across Ditch Road



View of site looking west across Ditch Road



View of site looking south from adjacent property to the north

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-048
Address: 2214, 2218, 2222, 2228, 2232, 2240, 2302, 2310, 2316 and 2320 Station Street, 3619 and 3631 Massachusetts Avenue, and 2219, 2221, 2225 and 2233 Avondale Place (*Approximate Addresses*)
Location: Center Township, Council District #17
Petitioner: Crossroads Development and Consulting, by David Gilman
Request: Rezoning of 2.22 acres from the D-5 and C-7 districts to the D-P district to provide for multi-family residential uses, daycare and office/retail commercial uses.

RECOMMENDATION

Staff **recommends approval** of this request, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 28-foot half right-of-way shall be dedicated along the frontage of Massachusetts Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ The northwesternmost three lots of the subject were platted in 1910 as part of Hindman's Subdivision. The remaining portion of the site had been platted 37 years earlier in 1873. The lot on the corner of Station Street and Massachusetts Avenue was developed as the G. Mock Feed & Coal Yard. The lot on the corner of Avondale Place and Massachusetts Avenue was developed as a restaurant. The remainder of the subject site was originally developed as single-family and two-family dwellings. 3831 Massachusetts Avenue was later redeveloped as a commercial building. By the mid-1980s demolitions had begun to

(Continued)

STAFF REPORT 2023-ZON-048 (Continued)

occur on the subject site. Today only the former restaurant building on the corner of Avondale Place and Massachusetts Avenue remains.

- ◇ The Comprehensive Land Use Plan recommends Community Commercial for the parcels fronting Massachusetts Avenue and Traditional Neighborhood for the remaining parcels. The Community Commercial typology provides for low intensity commercial and offices uses that serve nearby neighborhoods. The Traditional Neighborhood typology provides for a spectrum of housing types with a typical residential density of five to 15 units per acre. It also provides for some commercial development under certain criteria.

ZONING

- ◇ The subject property's current zoning is C-7 for the lots with frontage on Massachusetts Avenue and D-5 for the remaining portion of the site.
- ◇ The requested zoning district, D-P, was established for the following purposes:
 1. To encourage a more creative approach in land and building site planning.
 2. To encourage an efficient, aesthetic and desirable use of open space.
 3. To encourage variety in physical development pattern.
 4. To promote street layout and design that increases connectivity in a neighborhood and improves the directness of routes for vehicles, bicycles, pedestrians, and transit on an open street and multi-modal network providing multiple routes to and from destinations.
 5. To achieve flexibility and incentives for residential, non-residential and mixed-use developments which will create a wider range of housing types as well as amenities to meet the ever-changing needs of the community.
 6. To encourage renewal of older areas in the metropolitan region where new development and restoration are needed to revitalize areas.
 7. To permit special consideration of property with outstanding features, including but not limited to historical significance, unusual topography, environmentally sensitive areas and landscape amenities.
 8. To provide for a comprehensive review and processing of development proposals for developers and the Metropolitan Development Commission by providing for concurrent review of land use, subdivision, public improvements and siting considerations.
 9. To accommodate new site treatments not contemplated in other kinds of districts.
- ◇ Petitions for the D-P district must include a preliminary site plan that identifies the locations and types of land uses and proposed layout of streets, open space, parking and other basic elements of the plan.

(Continued)

STAFF REPORT 2023-ZON-048 (Continued)

- ◇ The proposed development would have two apartment buildings, one facing Station Street and one facing Avondale Place. A third building on the corner of Station Street and Massachusetts Avenue would house a daycare and commercial space on the ground floor with apartments above. A small park is proposed at the intersection of Avondale Place and Massachusetts Avenue. The site would have no more than 55 dwelling units for a maximum residential density of approximately 24.8 units per acre. The housing on site is intended to primarily serve students at nearby Martin University. The commercial space would serve the general neighborhood.
- ◇ The Traditional Neighborhood typology of the Comprehensive Land Use Plan recommends that multi-family development be located on an arterial street, that the site be as wide as it is deep, with parking to the interior of the site and the buildings not overly large or tall in comparison to the surrounding dwellings.
- ◇ Massachusetts Avenue is a two-lane primary collector. However, it is a high traffic route that is used for extended trips across the northeast quadrant of the county. It also connects to Interstate 465. As such, functions much like an arterial street.
- ◇ The site is trapezoidal in shape. This shape is dictated by the established street and development pattern of the area, but makes it somewhat difficult to apply the width vs. depth test. The Massachusetts Street frontage is roughly 340 feet, which is greater than the Avondale Street frontage, but shorter than the Station Street frontage.
- ◇ Parking is proposed in the interior of the site along the alley.
- ◇ The apartment buildings are proposed to be two stories and would be capped in height at 35 feet. The height is in keeping with the neighborhood, which has a mix of one-, one-and-a-half-, and two-story dwellings. The building footprints would be 9,928 square feet, which is five to six times larger than the surrounding dwellings. However, the buildings are not out of scale with the buildings on the Martin University campus, which is a half a block away.
- ◇ The mixed-use commercial and residential building in the northeast corner of the site is a creative approach to the Comprehensive Land Use Plan's recommendation for commercial development along Massachusetts Avenue with residential use behind it.
- ◇ The proposal does not meet all the criteria of the Comprehensive Land Use Plan. The shape of the site is too narrow and building footprints are significantly larger than the surrounding dwellings. However, it's staff's opinion that the proposal is appropriate in its context. It fronts a major street, is in proximity to Martin University, and is modest in height. Staff also believes that it meets the criteria for a rezoning to the D-P district in that it is well-designed and is redevelopment of a site in an area in need of revitalization.

(Continued)

STAFF REPORT 2023-ZON-048 (Continued)

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

C-7, D-5	Compact	Vacant lots, commercial structure
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SURROUNDING ZONING AND LAND USE

North	I-3	Railroad tracks, industrial building
South	D-5	Single-family dwellings
East	C-7, D-5	Single-family dwellings, automobile repair
West	C-7	Single-family dwellings, car and truck storage

COMPREHENSIVE LAND USE PLAN

The Center Township Comprehensive Plan (2018) recommends Community Commercial for the parcels fronting Massachusetts Avenue and Traditional Neighborhood for the remaining parcels.

THOROUGHFARE PLAN

Station Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot right-of-way and a 48-foot proposed right-of-way.

Massachusetts Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with a 40-foot existing right-of-way and a 56-foot proposed right-of-way.

Avondale Place is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot right-of-way and a 48-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

SITE PLAN

Dated June 22, 2023

(Continued)

STAFF REPORT 2023-ZON-048 (Continued)**ZONING HISTORY – SITE**

2014-UV1-034; 2233 Avondale Place, requested a variance of use to provide for a childcare facility and a variance of development standards to provide for a parking lot without hard surfacing and parking maneuvering in a right of way, **approved**.

2005-UV2-018; 2310-2320 Station Street and 3631 Massachusetts Avenue, requested a variance of use to provide for wholesale distribution in commercial and dwelling districts, **withdrawn**.

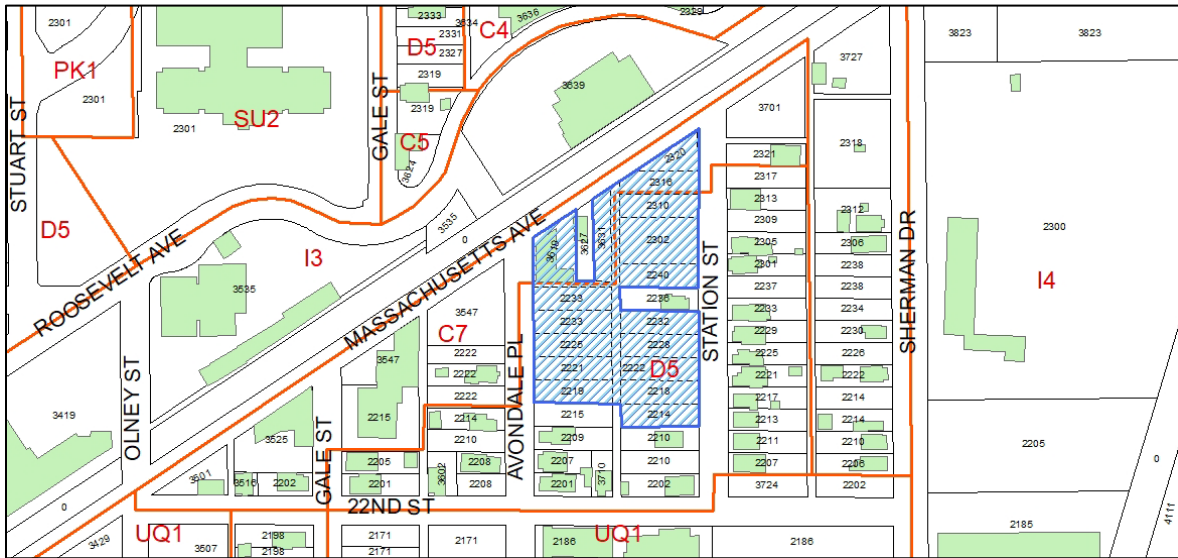
2000-UV3-045; 2214 Station Street, requested a variance of use to provide for the temporary placement of construction trailers, heavy equipment parking, employee parking and offsite construction staging, **approved for a period of two years**.

ZONING HISTORY – VICINITY

2001-ZON-801 / 2001-VAR-801; 2321 Station Street (east of site), requested the rezoning of 0.12 acre from the D-5 district to the C-7 district and a variance of development standards to provide for a parking lot without hard surfacing, with deficient yards and setbacks and parking maneuvering in a right of way, **approved**.

klh

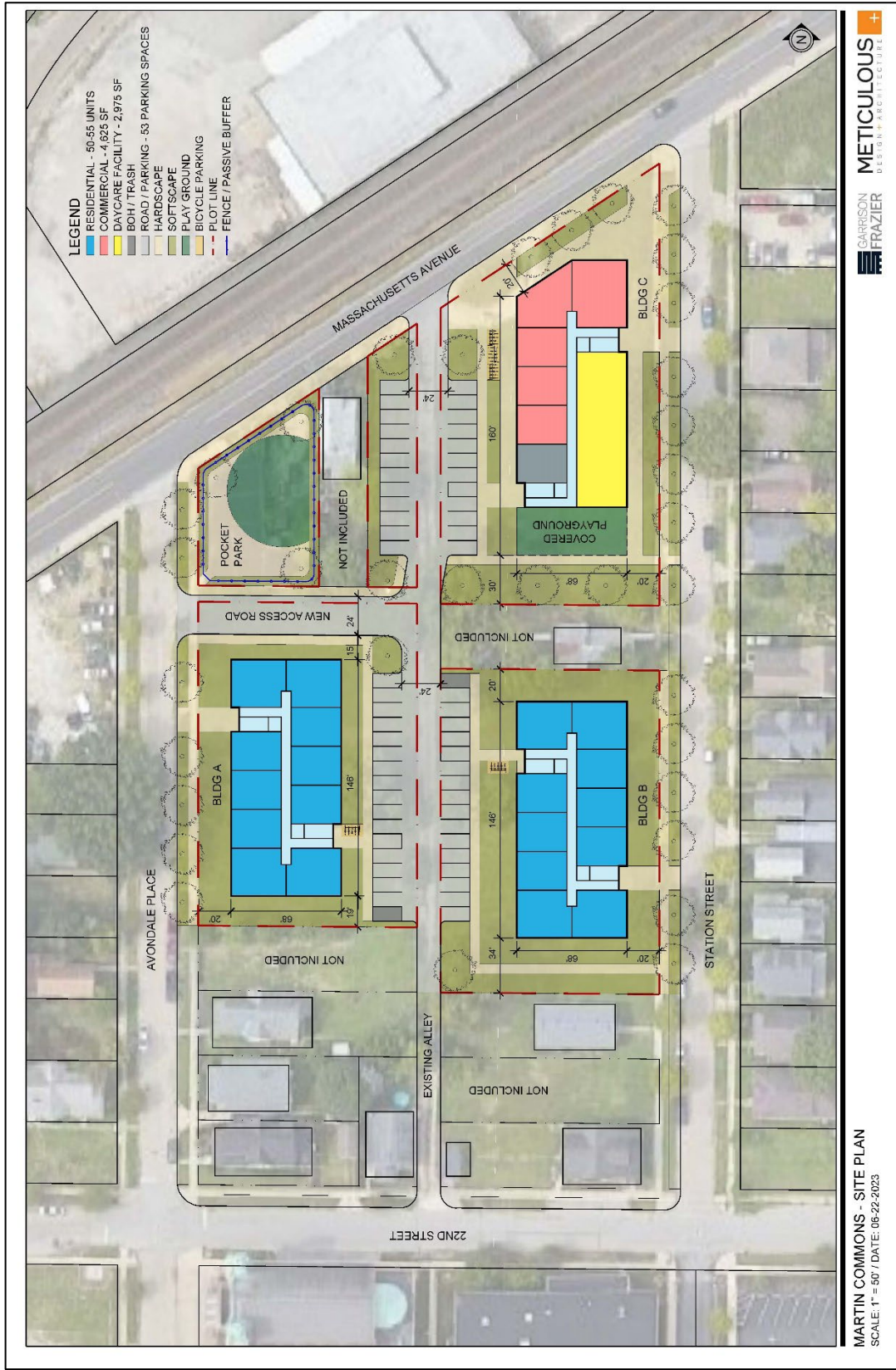
STAFF REPORT 2023-ZON-048, Location



STAFF REPORT 2023-ZON-048, Aerial photograph (2021)



STAFF REPORT 2023-ZON-048, Site Plans



STAFF REPORT 2023-ZON-048, Development Statement

WRITTEN DEVELOPMENT STATEMENT

For

MARTIN COMMONS

Revised 6/22/2023

The petition proposes a Development Plan for a mixed-use development consisting of multi-family residential, daycare facility and commercial space for lease.

The proposed development is bounded by Massachusetts Avenue to the North; Avondale Place to the West; Station Street to the East; and approximately 150 feet north of East 22nd Street to the South, containing 2.22 acres. There are eight (8) existing single-family homes within the same block that are not included in the proposed development.

As Proposed, the Development Summary is as follows:

- 50-55 Residential Units
- 2975 sqft Daycare Facility w/ Covered Play Area
- 4625 sqft Commercial Space
- 53 Off-street Parking Spaces

Development Standards:

- Height: 35 feet (Maximum)
- Setbacks:
 - Front: 0 to 20 feet
 - Side: 10 to 20 feet
 - Rear: 5 to 15 feet
- Parking:
 - Residential: 0.70 spaces per Unit
 - Commercial/Daycare: 1 space per 350 sqft (Gross)
- Bicycle Parking:
 - Residential 10 spaces (Minimum)
 - Commercial/Daycare: 15 spaces (Minimum)

➤ Signs:

The signs shall comply with the standards for Mixed-use Development under Chapter 744-906-01, 02 and 03.

➤ Streets, Sidewalks, Right of Way Dedication

The development will have its primary access from an existing alley that will be upgraded to accommodate 2-way traffic and off-street parking to the southern terminus of the proposed development. A new access road will be constructed for connectivity to Avondale Place and to serve a new Pocket Park.

Sidewalks exist along Avondale Place, Station Street and East 22nd Street and are in good condition. Additional Sidewalks will be provided on all interior streets.

Petitioner agrees additional right of way dedication to achieve a 28-foot, ½ right of way along Massachusetts Avenue.

➤ Construction Schedule

Construction is proposed to begin in Spring of 2024 and anticipated completed in Fall of 2024.

STAFF REPORT 2023-ZON-048, Photographs

View south along the Station Street frontage of the site. The yellow dwelling in the background is not part of the subject but is surrounded on three sides by the site.



View southwest along the Massachusetts Avenue frontage of the site. The dwelling in the background is not part of the subject but is surrounded on three sides by the site.



View south across Massachusetts Avenue at the remaining building on the site.



Looking east across the southern portion of the site from Avondale Place towards Station Street.



Looking northeast along Station Street at the neighbors to the east.



Looking east across Station Street to the neighbor to the east.



Looking northeast across Massachusetts Avenue at the neighbor to the north.



Looking east across Avondale Place and along Massachusetts Avenue at the neighbors to the west.



Looking southwest across Avondale Place at the neighbors to the west.



Looking south on Avondale Place toward Martin University.

STAFF REPORT

Item 20.

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-ZON-049
Address: 1011 East 22nd Street (*Approximate Address*)
Location: Center Township, Council District #17
Petitioner: DJ BCG Monon 22, LLC, by Michael Rabinowitch
Request: Rezoning of 2.30 acres from the I-3 district to the D-P district to provide for a 111-unit multi-family development.

The petitioner's representative is requesting a **continuance from the July 19, 2023 hearing, to the August 16, 2023 hearing**, due to a scheduling conflict. Staff would have no objection to the request.

kb
