

**METROPOLITAN BOARD OF ZONING APPEALS  
DIVISION II**

**PUBLIC ASSEMBLY ROOM  
2nd Floor City-County Building  
1:00 PM**

**STAFF REPORTS FOR JANUARY 10, 2023**

**These reports do not in any way commit the Board  
to approve or disapprove any petition filed before it.**

**DEPARTMENT OF METROPOLITAN DEVELOPMENT  
DIVISION OF PLANNING  
CURRENT PLANNING SECTION**

<b>PETITION NO.</b>	<b>PETITION ADDRESS AND LOCATION</b>	<b>PAGE NO.</b>
<b>TRANSFERRED PETITION:</b>		
2022-UV3-022 (Amended)	830 RIVER AVENUE CENTER TOWNSHIP, CD #16	3
<b>CONTINUED PETITIONS:</b>		
2022-DV2-046	14 EAST CAVEN STREET CENTER TOWNSHIP, CD #16	13
2022-UV2-024	3916 MINNESOTA STREET CENTER TOWNSHIP, CD #18	29
<b>NEW PETITIONS:</b>		
2022-AP2-002***	977 ROACHE STREET CENTER TOWNSHIP, CD #11	42
2022-DV2-047**	2304 AND 2302 WEST 60 <sup>th</sup> STREET WASHINGTON TOWNSHIP, CD #8	43
2022-DV2-048*	3815 RIVER CROSSING PARKWAY WASHINGTON TOWNSHIP, CD #3	44
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2022-UV2-030

2307 DR. MARTIN LUTHER KING JR STREET  
CENTER TOWNSHIP, CD #11

54

- \* Automatic Continuance
- \*\* Continuance Requested
- \*\*\* Withdrawn or Dismissal

## STAFF REPORT

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

**Case Number:** 2022-UV3-022 (Amended)  
**Address:** 830 River Avenue (approximate address)  
**Location:** Center Township, Council District #16  
**Zoning:** D-5 (RC)  
**Petitioner:** Two Chicks & A Hammer 830 River LLC, by Austin Aynes  
**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a three-story duplex (maximum height of 2.5 stories permitted), on a 40-foot wide, 6,000-square foot lot (60-foot lot width, minimum area of 7,200 square feet required) with an open space of 48% (60% required) with a third and fourth dwelling within a detached garage (not permitted) with mechanical equipment, walking paths and patios encroaching within the side yard setbacks (five-foot setback required, walking paths must be two-feet from side lot lines).

#### **ADDENDUM FOR JANUARY 11, 2023, BOARD OF ZONING APPEALS, DIVISION TWO**

This petition was continued from November 15, 2022, hearing to January 10, 2023, hearing. As of this writing, no new information has been submitted to the file.

#### **ADDENDUM FOR NOVEMBER 15, 2022, BOARD OF ZONING APPEALS, DIVISION TWO**

This petition was continued and transferred from the October 18, 2022, Division Three hearing to November 15, 2022, Division Two hearing. As of this writing, no new information has been submitted to the file.

#### **OCTOBER 18, 2022, BOARD OF ZONING APPEALS, DIVISION THREE**

A request to **continue** and **transfer** this petition was submitted by a registered neighborhood group to Board II for hearing on **November 15, 2022**. Staff would not object to this request.

#### **RECOMMENDATIONS**

Staff **recommends denial** of the variance request. If the request would be amended to only request a duplex and the open space variance amended to 55% staff would **recommend approval**.

#### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

(Continued)

## **STAFF REPORT 2022-UV3-022 (Continued)**

### **LAND USE**

#### **EXISTING ZONING AND LAND USE**

D-5 (RC) Compact      Undeveloped

#### **SURROUNDING ZONING AND LAND USE**

North - D-5 (RC)	Single-family dwelling
South - D-5 (RC)	Two-family dwelling
East - D-5 (RC)	Single-and two-family dwellings; four-unit dwelling
West - D-5 (RC)	Single-family dwellings

**COMPREHENSIVE PLAN**      The Comprehensive Plan recommends Traditional Neighborhood development.

- ◇ This 0.138-acre parcel is unimproved. This area, named The Valley, is generally characterized as a mix of single- and two-family dwellings within the neighborhood and commercial retail and vehicle-related businesses along Oliver Avenue. This site is less than two blocks south of the former GM Stamping Plant site, which is being redeveloped into a mixed-use development, with offices, hotels, multi-family dwellings and an extension of White River State Park. This neighborhood dates at least to 1898, according to *Sanborn Fire Insurance Maps*.

### **ORDINANCE**

- ◇ The Consolidated Zoning and Subdivision Ordinance was amended in November 2021. This amendment included new Walkable Neighborhood Dwelling Districts use and development standards. The D-5 zone is included in these standards. The Walkable Neighborhood Dwelling Districts standards implement walkable, compact neighborhoods within a well-connected street network and block structure, using slow neighborhood streets, walkable connectors, and multi-mode thoroughfares. Access to parks and recreation, transit and neighborhood services within walking distance is important. The Valley Neighborhood has many of these items already in place.
- ◇ The Walkable Neighborhood Dwelling Districts standards for D-5 would permit a multi-unit house within the main structure, without the need for a variance. A multi-unit house would be up to four units. All dwelling units would be required to be within the main structure, however, the four dwelling units that are requested with this petition could be permitted without the need for a variance.

### **VARIANCES / REGIONAL CENTER**

- ◇ This petition would provide for new development on a 40-foot-wide lot that would consist of a duplex structure and a separate structure that would include two additional dwelling units, plus garage parking. several development standards variances are requested, including height of the main structure at three stories, open space of 48%, and mechanical equipment, walking paths and patios encroaching into the side yard setbacks.

(Continued)

## **STAFF REPORT 2022-UV3-022 (Continued)**

- ◇ A duplex would be permitted on this D-5 lot if the lot would be 60 feet in width with land area of 7,200 square feet. The lot is 40 feet in width and 6,000 square feet in size. Staff would support a duplex if most of the other variances would be withdrawn from consideration. A duplex would not be out of character of this neighborhood. Staff would support an open space of 55%, as opposed to the requested 48%. The accessory structure could be reduced in size to be closer to the required 60% open space.
- ◇ Two secondary dwelling units are requested within a separate structure to west of the main structure. The Ordinance permits one secondary dwelling unit if the main structure is a single-family dwelling. The request for two secondary dwelling units on a lot with a duplex, represents a gross intensification of the Ordinance requirements. Additionally, this request would not be compatible with the neighborhood.
- ◇ The proposed encroachment of mechanical equipment, walking paths and patios into the side yard setbacks and a reduction in the open space to 48% would be a clear indication of over-development of the site. There is no practical difficulty demonstrated in these development standards request.
- ◇ The site is located within the Regional Center overlay district. Since the adoption of the Regional Center on November 17, 1970, design of renovations, new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to compliance to the Regional Center Secondary District regulations, along with zoning district development standards. A Regional Center Approval has been filed for this development via 2022-REG-008.

## **SITE PLAN / ELEVATIONS**

- ◇ The proposed site plan indicates that the main structure would have individual entries to each of the two units, with backyard areas for each of these units. The accessory structure would include two dwelling units that may or may not have visibility to the street or alley. If this petition would be approved, the secondary dwelling unit entries must be visible to the street or alley, for safety purposes.
- ◇ Patios, walking paths and mechanical equipment would encroach into the required side yard setbacks. In the rear, a concrete drive would access the vehicle entries into the garage, from the alley.
- ◇ The elevations for the main structure indicate that a portion of this structure would be three stories in height. The Ordinance requires a maximum of 2.5-stories. The dwellings that abut this site are single-story. A three-story structure would be out of character for this neighborhood and would impact the adjacent dwellings in a negative manner. Additionally, there is no practical difficulty demonstrated as the structure could be re-designed with minimal effort to meet the maximum 2.5-story height.

(Continued)

## **STAFF REPORT 2022-UV3-022 (Continued)**

SITE PLAN	File-dated July 8, 2022
Amended	File-dated August 15, 2022
FINDINGS OF FACT	File-dated July 8, 2022
Amended	File-dated September 19, 2022.

### **ZONING HISTORY - SITE**

None.

### **ZONING HISTORY - VICINITY**

**2022-HOV-001; 835 Birch Avenue**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling with three-foot side yard setbacks and a fifteen-foot rear yard setback, **granted**.

**2021-DV1-078; 673 River Avenue**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage with a five-foot rear setback and a five-foot side yard setback, **granted**.

**2021-DV2-056; 649 Birch Avenue**, requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a two-family dwelling on a 6,750-square foot lot, 45-foot-wide lot with 49% open space, **granted**.

**2021-REG-051; 649 Birch Avenue**, requested Regional Center Approval to provide for a two-family dwelling, **approved**.

**2018-DV2-001; 833 Birch Avenue**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling with a one-foot side yard setback and 43.5% open space, **granted**.

**95-UV1-135; 1173 Oliver Avenue**, requested a variance of use of the Commercial Zoning Ordinance to provide for automobile sales, **granted**.

JY

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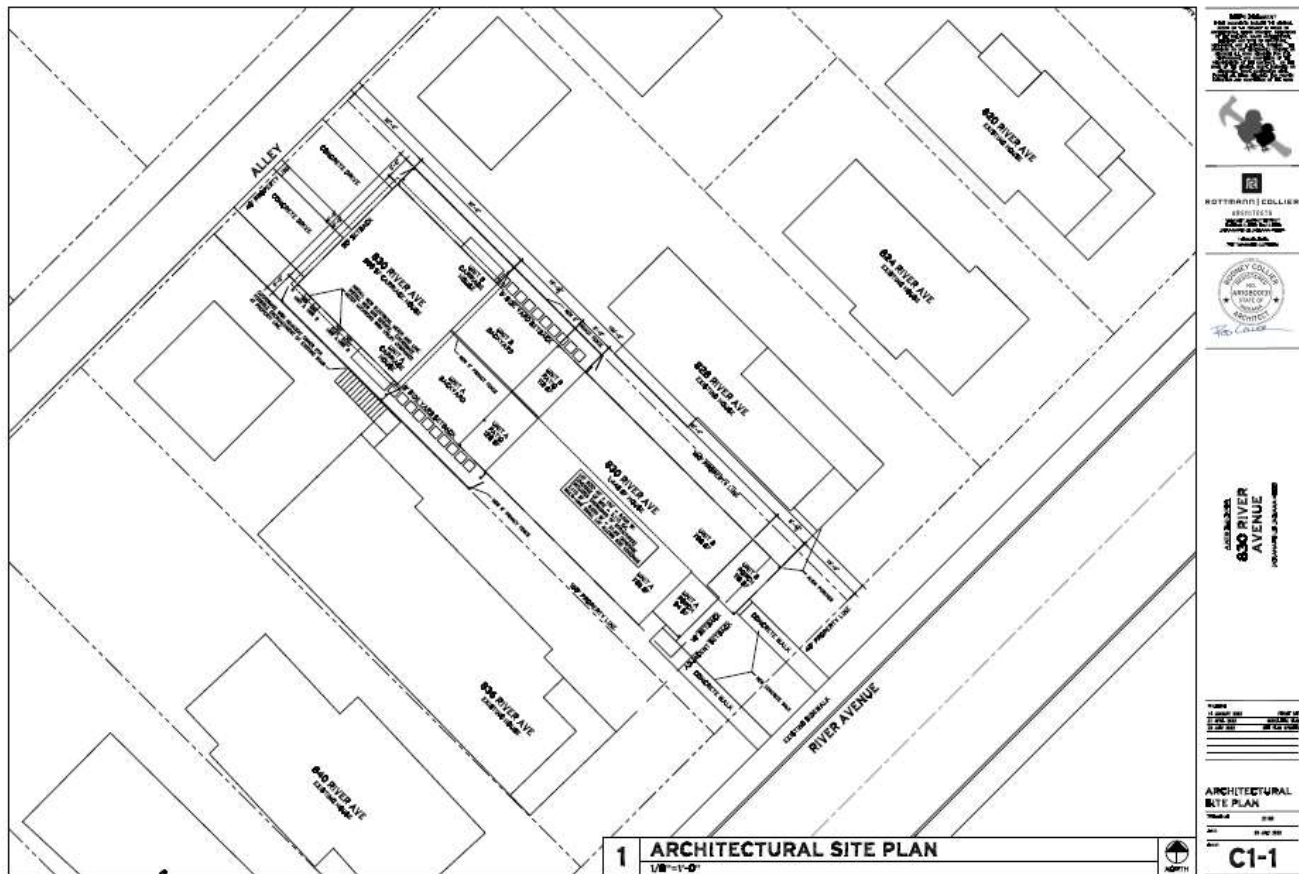


Map of site and surrounding parcels

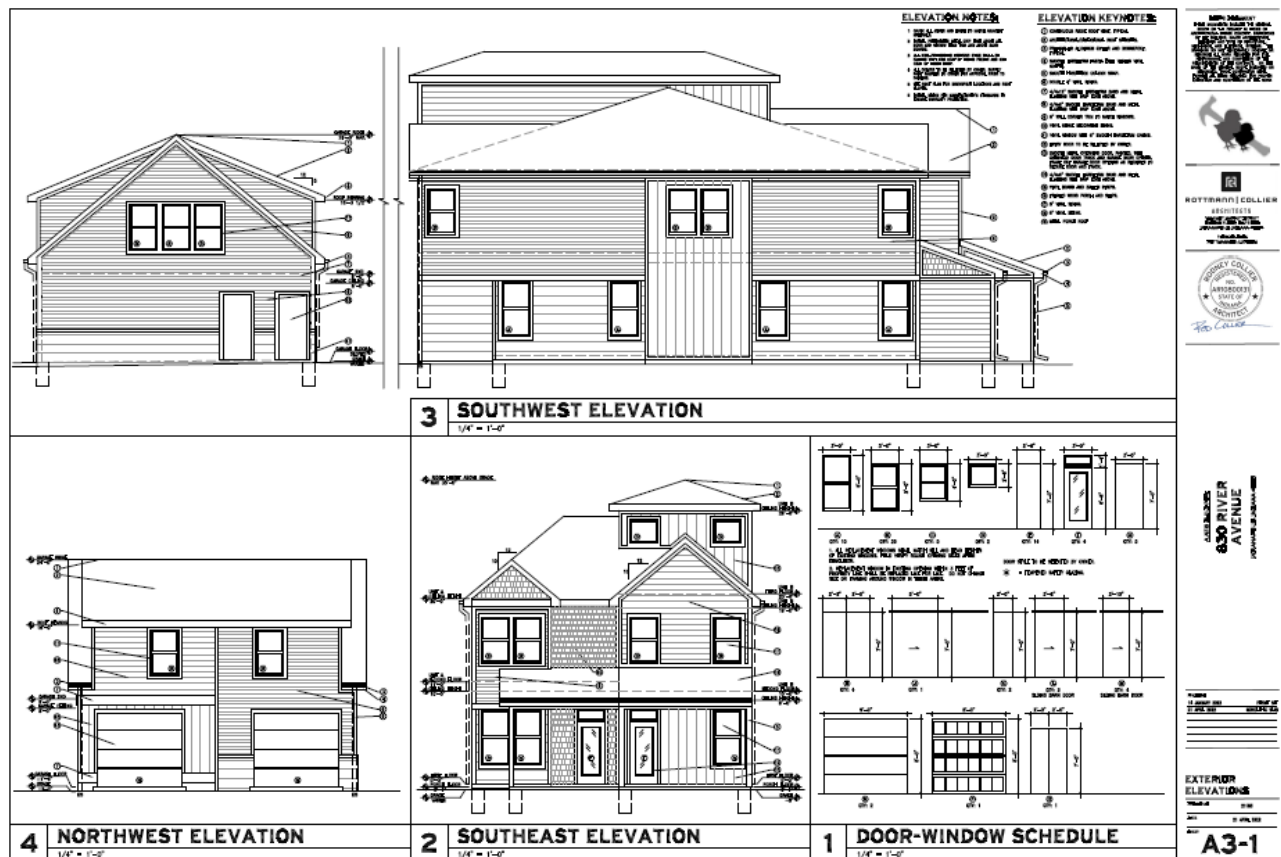


Aerial of site and surrounding neighborhood





Site plan



Proposed elevations - 2022-UV3-022







Subject site with neighboring structures



Views of neighboring structures - 2022-UV3-022





Views of neighboring structures



Views of duplex across the street - 2022-UV3-022



## STAFF REPORT

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

**Case Number:** 2022-DV2-046  
**Address:** 14 East Caven Street (approximate address)  
**Location:** Center Township, Council District #16  
**Zoning:** D-5  
**Petitioner:** Shelby Holdings LLC, by Mark & Kim Crouch  
**Request:** Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a multi-unit house on a 30-foot wide, 3,000-square foot lot (minimum 35-foot wide, 3,500-square foot lot required), encroaching into the clear sight triangles of Caven Street and the intersecting alley, and the intersecting alleys along the rear and western lot lines (encroachment of clear sight triangles not permitted).

### **RECOMMENDATIONS**

Staff **recommends approval** of this request.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

##### **EXISTING ZONING AND LAND USE**

D-5	Compact	Single-family dwelling
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##### **SURROUNDING ZONING AND LAND USE**

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

##### **LAND USE PLAN**

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

- ◇ The subject site is 0.07 acre (3049.2 square feet) located in the Alexander C Ayer's South Meridian Subdivision in the Near Southside neighborhood. The subject site consists of a single-family dwelling with a detached garage, accessed from the west/east alley at the rear. The surrounding neighborhood is single-family dwellings to the north, south, west, and east.

(Continued)



## **STAFF REPORT 2022-DV2-046 (Continued)**

- ◇ The subject site is zoned D-5 (Dwelling District Five). The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.

### **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The request would provide for the construction of a two-unit multi-unit house on a 30-foot wide, 3,000-square foot lot, encroaching into the clear sight triangles of Caven Street and the intersecting alley, and the intersecting alleys along the rear and western lot lines.
- ◇ These reduced minimum lot areas and widths are required for multi-unit homes in order to promote residential densification while recognizing that such a typology is much more likely to remain rental in nature as compared to duplexes, which have greater lot area and width requirements, due to their increased likelihood of being individually owned. Given that the proposed unit would be for two units rather than the maximum of four, Staff believes this reduction to be appropriate. Staff would also note that this block of platted lots is substandard by historic and modern D-5 requirements.
- ◇ The subject site is zoned D-5, which permits multi-unit houses (2-4 units) only on lots with a lot width of 35 feet and lot size of 3,500 square feet. The subject site is slightly deficient in size for the D-5 district, where Staff is not opposed to the proposed where there is practical difficulty in developing the site.
- ◇ Clear sight triangles of the zoning ordinance are intended to preserve line-of-sights and maneuverability in order to prevent vehicular and pedestrian collisions and conflicts. Given the minimal encroachment along Caven Street, Staff believes this encroachment to be a reasonable deviation. While the encroachment into the alley clear sight triangle is greater, Staff would note that the small size of the lot severely inhibits the ability to build in a fashion consistent with the historic development pattern of the immediate area. In addition, the proposed encroachment is less than what is typical for garages in the immediate area.

### **GENERAL INFORMATION**

THOROUGHFARE PLAN	Caven Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 40-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN	File-dated November 10, 2022.
ELEVATIONS	File-dated November 10, 2022.
FINDINGS OF FACT	File-dated September 22, 2022.

(Continued)

## **STAFF REPORT 2022-DV2-046 (Continued)**

### **ZONING HISTORY – SITE**

EXISTING VIOLATIONS: None.

PREVIOUS CASES: None.

### **ZONING HISTORY – VICINITY**

**2021-ZON-097; 1747 South Meridian Street**, requested a Rezoning of 0.09 acre from the C-1 district to the D-8 district, **approved**.

**2018-HOV-057; 21 East Caven Street**, requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling, with a 15-foot front setback and with seven and nine feet between dwellings, **approved**.

**2004-UV2-001; 13 East Caven Street and 14, 18, and 22 Adler Street**, requested a Variance of use of the Dwelling Districts Zoning Ordinance to provide for a parking lot for a popcorn production, distribution, and retail outlet, **approved**.

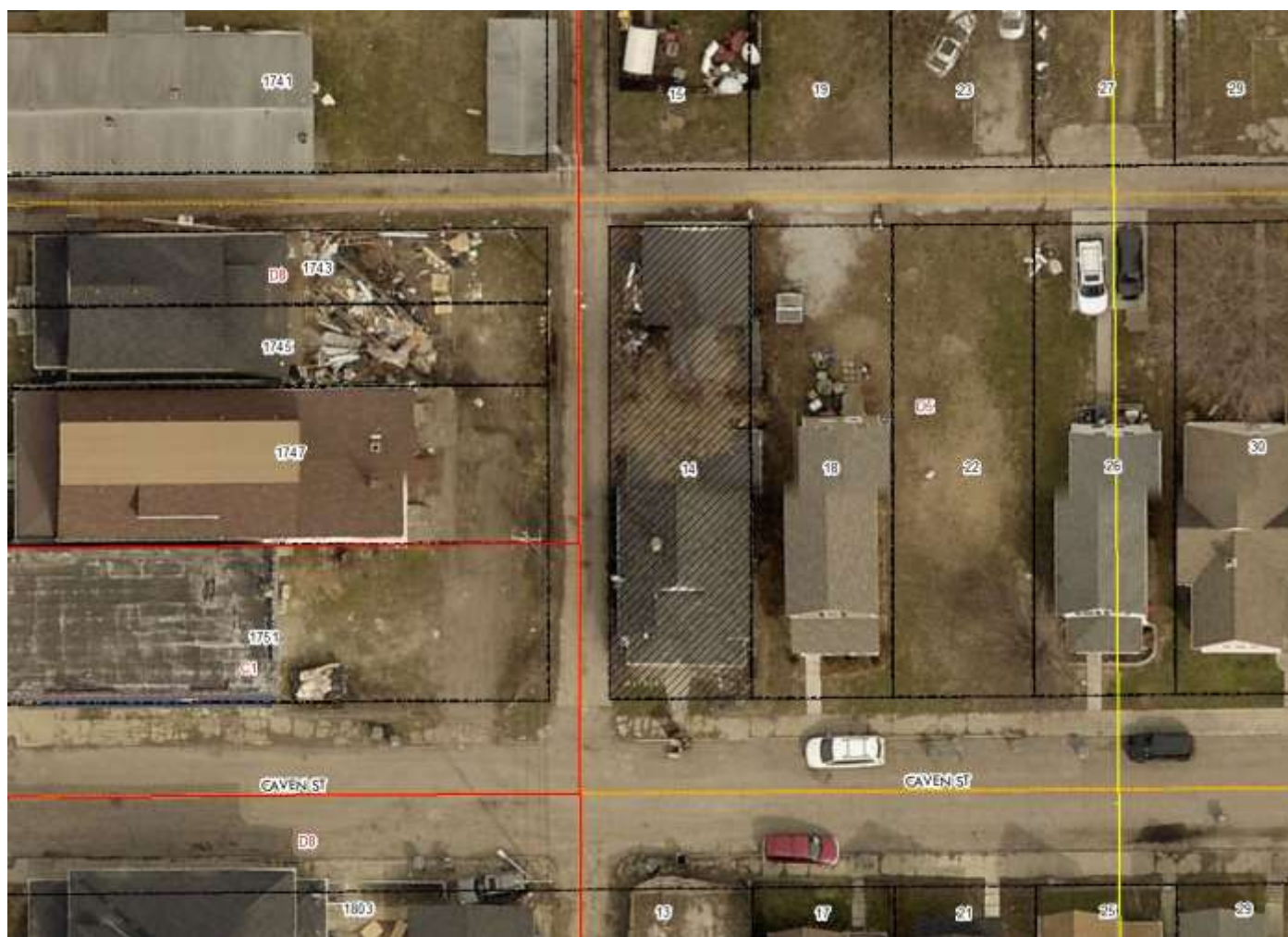
**2003-ZON-035; 1805, 1807, 1817, 1821, and 1827 South Meridian Street**, requested Rezoning 0.66 acre from D-8 and C-1 to the C-S classification to legally establish a popcorn production, distribution, and retail outlet, **approved**.

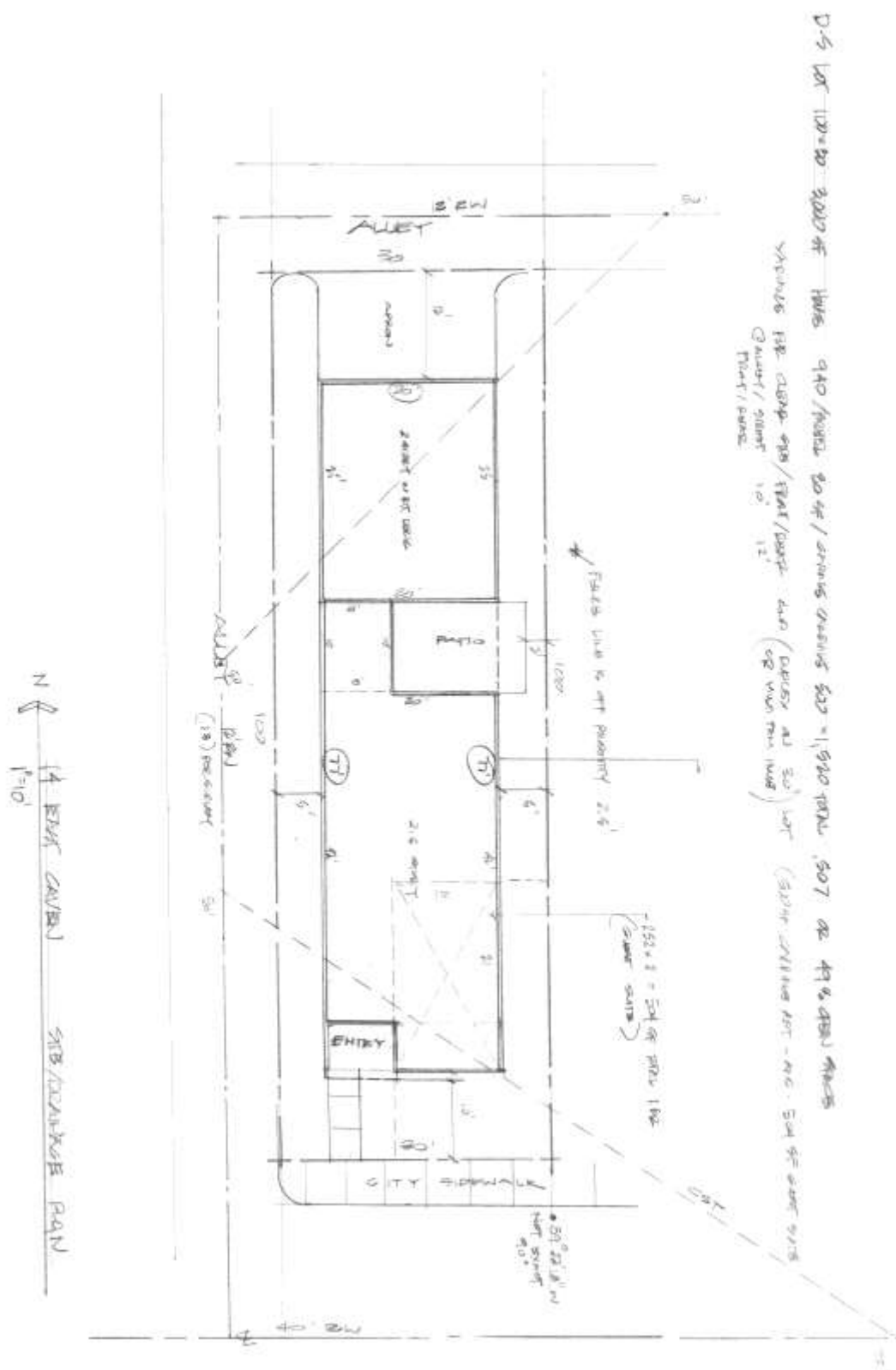
**2001-UV3-033; 1741 South Meridian Street**, requested a Variance of use of the Dwelling Districts Zoning Ordinance to legally establish a contractor's warehouse and a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 1,943-square foot commercial warehouse, with a 6.5-foot setback from Meridian Street, a zero-foot side setback from the south property line and a two-foot side setback from the north property line and a two-foot aggregate side setback; and a garage with a two-foot rear setback and a nine-foot aggregate side setback, **granted**.

GLH

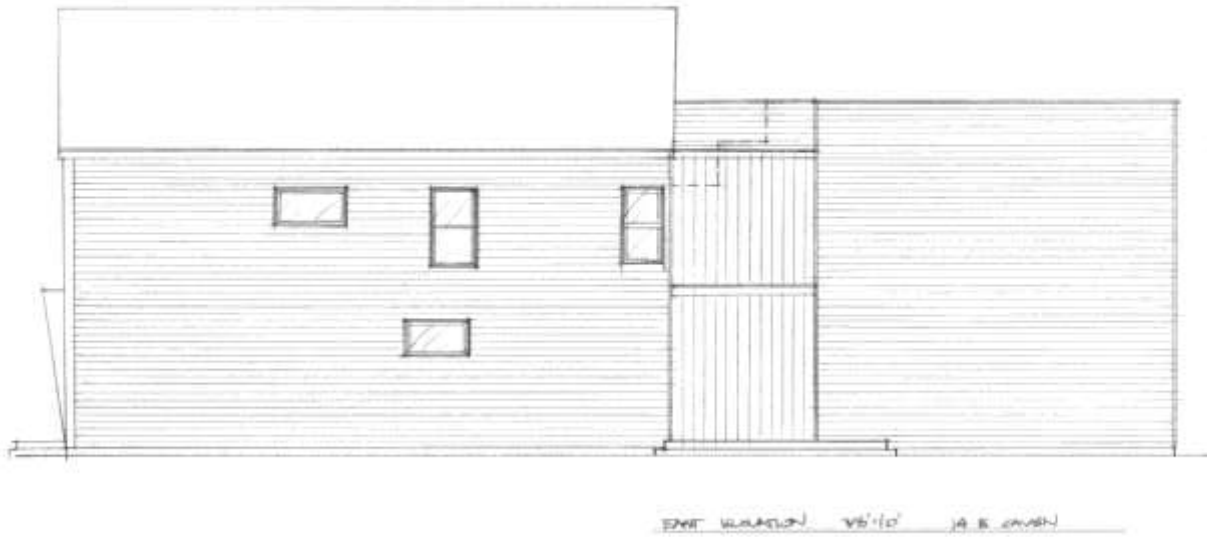
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**2022-DV2-046; Aerial Map**





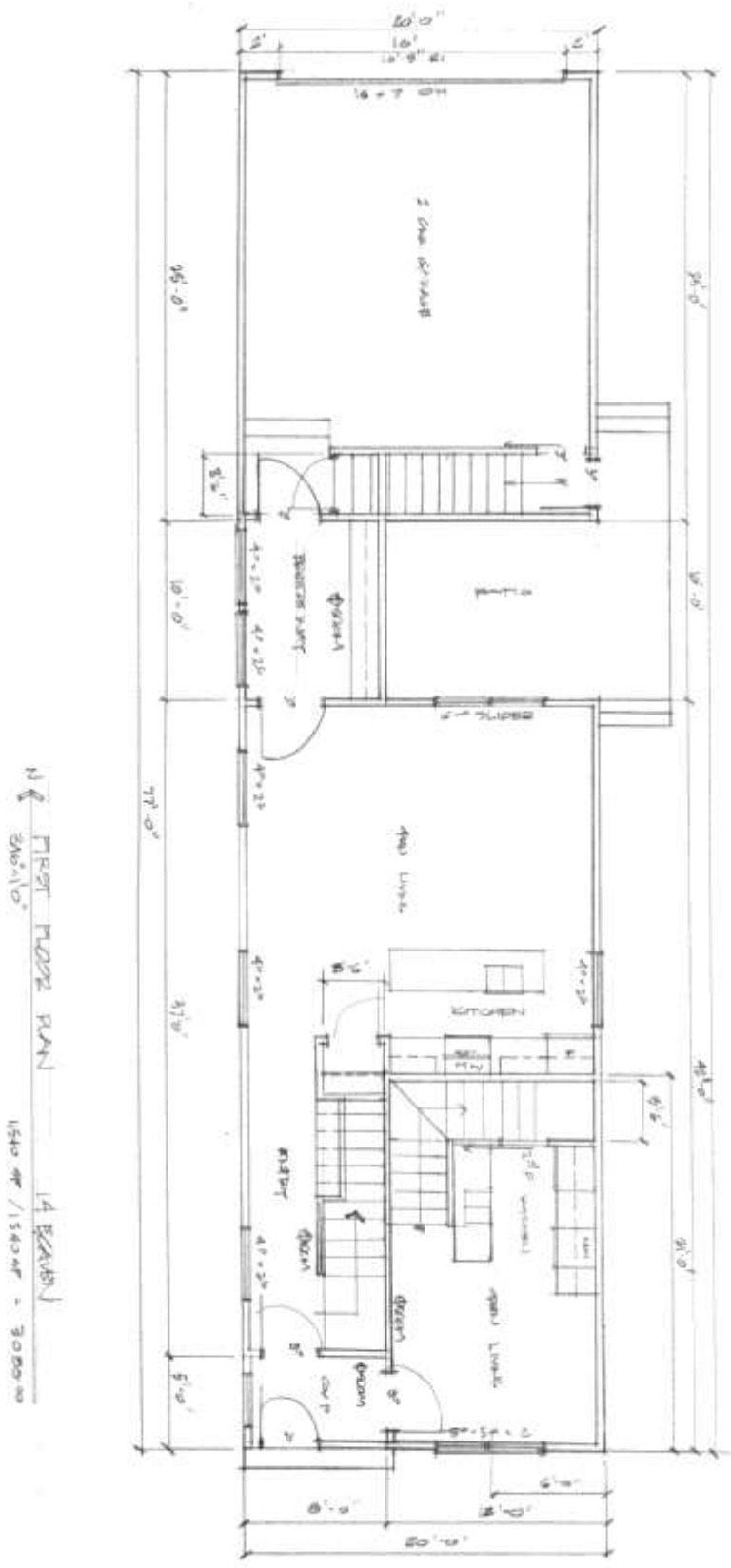
**2022-DV2-046; Elevations**



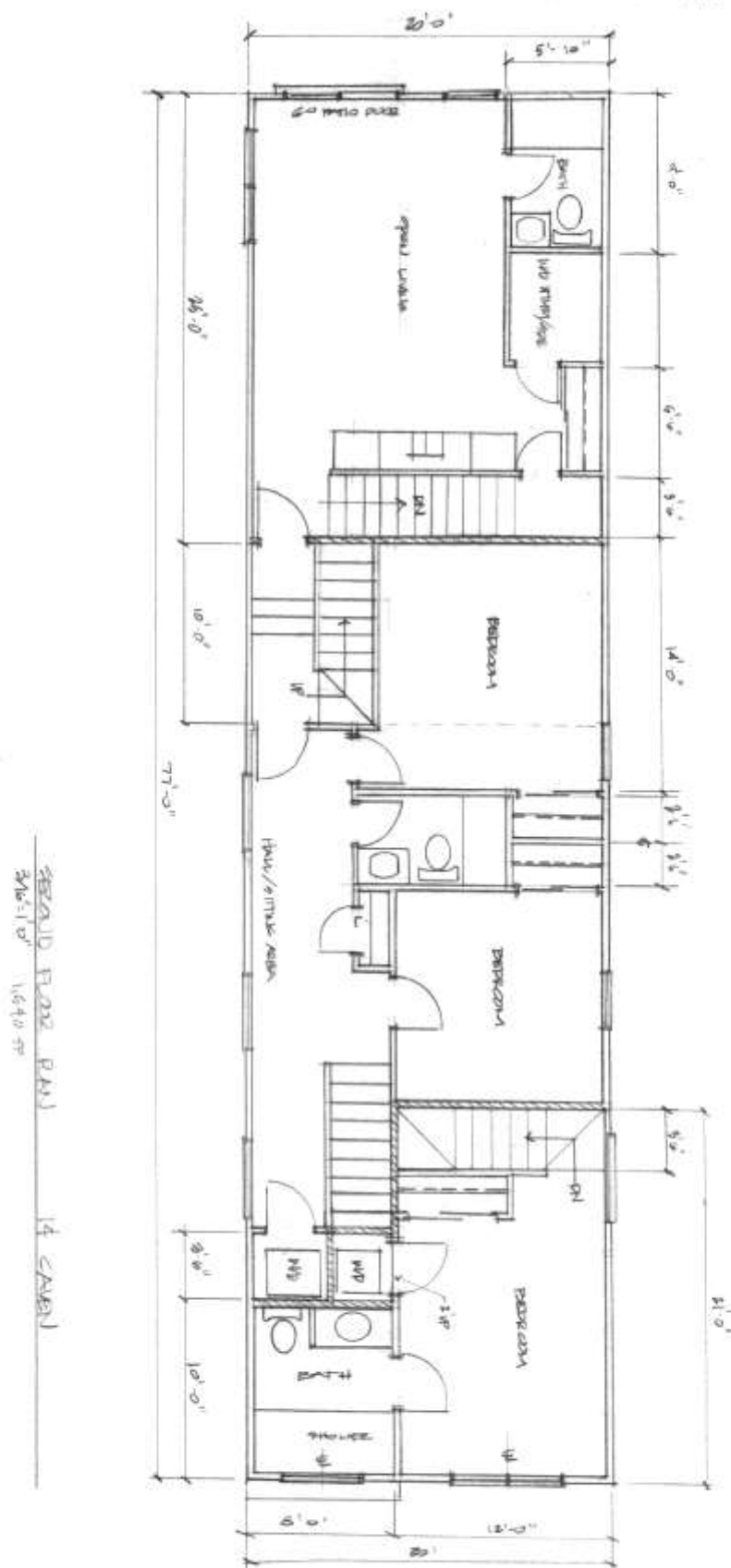


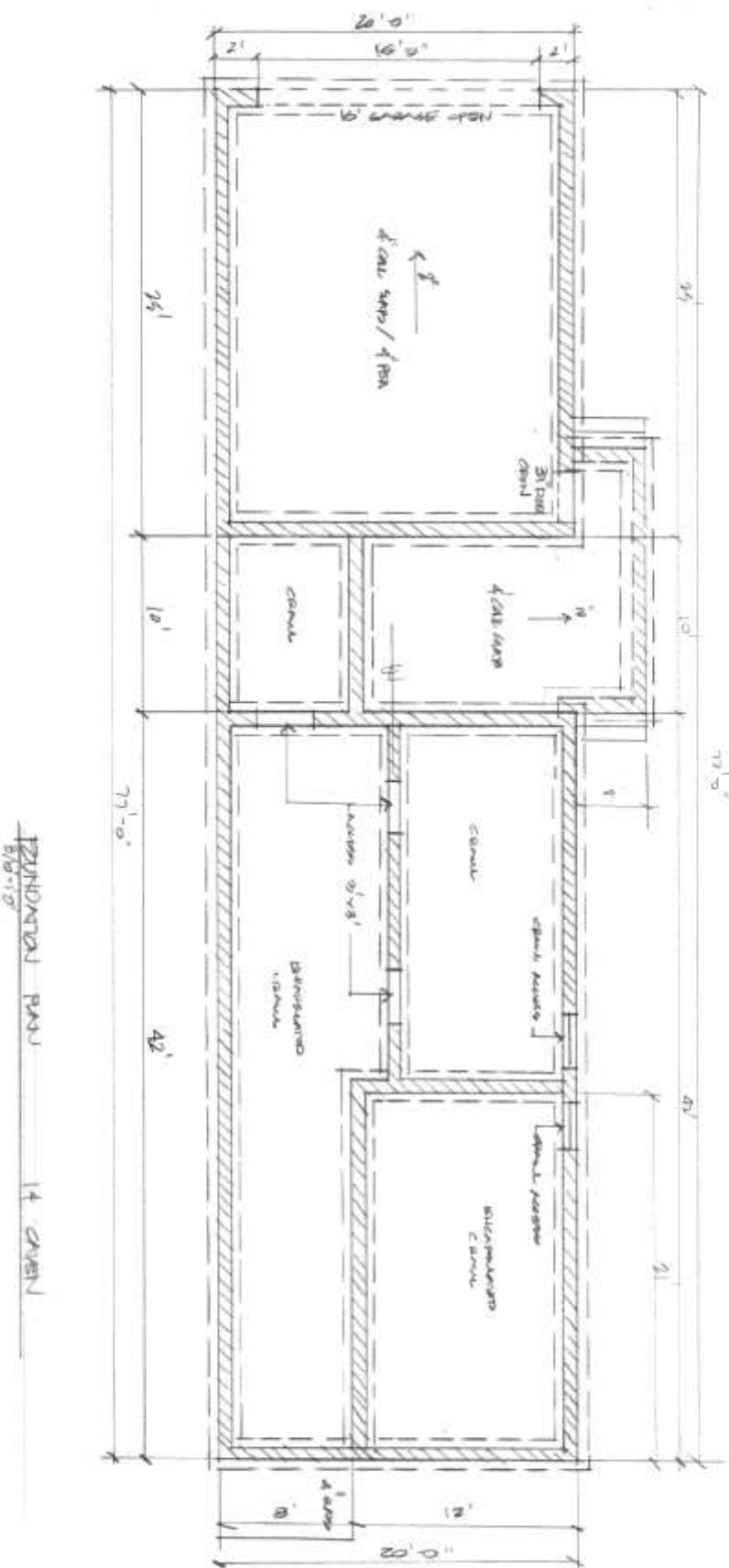
**2022-DV2-046; Elevations (Continued)**



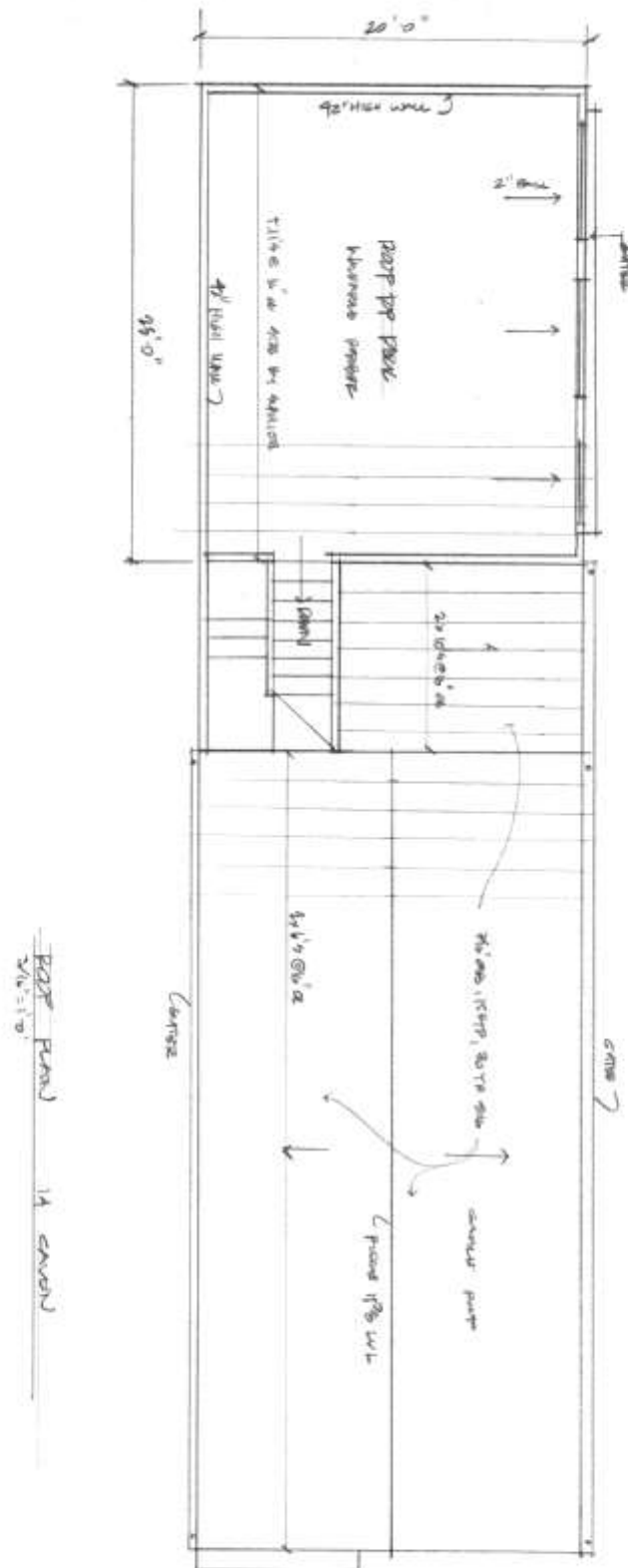


**2022-DV2-046; Floor Plans (Continued)**





**2022-DV2-046; Floor Plans (Continued)**





Petition Number 2022-DV2-046

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division 2  
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 allow for the construction of a duplex/multi family residence with attached carriage house garage for private residential use.

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

the proposed residence and carriage house garage will be consistent with development in the area and adjacent area.

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

lot is smaller than zoning minimums resulting in a need to reduce required lot size and width, side and rear setbacks and allow for clearsite encroachment. Without variance approval, proposed residence and carriage house garage will not be built.

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**DECISION**

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

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

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**2022-DV2-046; Photographs**



Photo of the Subject Property: 14 East Caven Street



Photo looking west of subject site.



Photo of subject site.



Photo of west lot line, with adjacent north / east alley.





Photo of subject site, looking west on west / east alley.



Photo looking west on Caven Street.



Photo of looking east on Caven Street.



## STAFF REPORT

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

**Case Number:** 2022-UV2-024  
**Address:** 3916 Minnesota Street (approximate address)  
**Location:** Center Township, Council District #18  
**Zoning:** D-3  
**Petitioner:** Angel Mendoza, by David Kingen & Emily Duncan  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of five commercial vehicles and two large pieces of construction equipment in a dwelling district (not permitted).

#### **ADDENDUM FOR January 10, 2023**

This petition was continued for cause at the request of the petitioner from the November 15, 2022, hearing to the January 10, 2023, hearing.

#### **ADDENDUM FOR NOVEMBER 15, 2022**

This petition was automatically continued from the October 11, 2022, hearing to the November 15, 2022, hearing due to an indecisive vote by the Board.

#### **October 11, 2022**

#### **RECOMMENDATIONS**

Staff **recommends denial** of this petition.

#### **SUMMARY OF ISSUES**

##### **LAND USE**

##### **EXISTING ZONING AND LAND USE**

D-3	Single-family dwelling, Commercial contractor, and outside storage.
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##### **SURROUNDING ZONING AND LAND USE**

North -	D-3	Single-family dwellings
South -	D-3	Single-family dwellings
East -	D-3	Single-family dwelling
West -	D-3	Single-family dwelling

##### **COMPREHENSIVE PLAN**

The Comprehensive Plan recommends suburban neighborhood uses for the subject site.

(Continued)

## **STAFF REPORT 2022-UV2-024 (Continued)**

### **VARIANCE OF USE**

- ◇ The grant of the request would permit the storage of five commercial vehicles and two large pieces of construction equipment related to a commercial contractor.
- ◇ Staff has notified the petitioner that additional variances are needed to legally establish the commercial contractor use on site, and the outside storage of materials which has been ongoing since 2017, as indicated in aerial photos.
- ◇ The purpose of the D-3 district is to provide for low or medium intensity residential development. Land in this district should have good thoroughfare access, be relatively flat in topography, and be afforded pedestrian linkages to community and neighborhood services and facilities (schools, parks, shopping areas, etc.). Recreational facilities developed for the neighborhood complement the treed yards on the individual lots. Predominantly single-family detached dwellings are envisioned with two-family dwellings on corner lots in this district. The D-3 district has a typical density of 2.6 units per gross acre. The storage of commercial vehicles and commercial uses are not permitted in the D-3 District.
- ◇ The Comprehensive Plan recommends suburban neighborhood development at this site. The suburban neighborhood land use plan recommendation is to provide for predominately single-family housing, but interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. This typology recommends a density range of 1 to 5 dwelling units per acre, but higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- ◇ Small-scale offices, retailing, and personal or professional services would only be permitted in the suburban neighborhood typology at the intersections of arterial streets and would need to have continuous pedestrian infrastructure between the proposed site and any residential development within one-half mile. Additionally, outdoor display of merchandise would not be allowed.
- ◇ The large lot size should not allow for disregard of the Comprehensive Plan recommendation, nor of the clearly residential nature of the surrounding area.
- ◇ The proposed use would be classified as accessory to a Commercial and Building Contractor, which is defined as an “establishment or activity that supplies materials and labor to fulfill work at a remote site and that work is typically a building trade or activity associated with the construction or maintenance of a physical building or structure. This definition includes uses such as contractors for awning; building/construction; carpentry work; concrete; decorating; demolition; electrical; excavation; extermination/disinfection; fence; flooring; home remodeling; masonry/stonework/tile/setting; painting; pest control; plastering/drywall; plumbing; roofing; septic system; sheet metal; siding; sign; storm door; window; construction companies, contractors, lumber yards; swimming pool installation and services; home remodeling companies; heating; air conditioning; landscaping; lawn services; tree services; and water softener services. This definition may include accessory offices for operation of the contracting business but does not include retail sales of goods to the public.

(Continued)

## **STAFF REPORT 2022-UV2-024 (Continued)**

- ◇ The storage of commercial vehicles and construction equipment is permitted in the C-7 district or any industrial district since it is classified as a heavy commercial service in Table 743-1: Use Table.
- ◇ Commercial or industrial uses, when located on accurately zoned properties, require transitional yards to buffer such intense uses from protected districts which include dwellings and schools. In this instance, the proposed use would not be required to provide such buffer areas since the D-3 district is intended to be utilized for less intense uses such as residential neighborhoods. Therefore, the site provides insufficient screening to the surrounding dwellings, which staff finds concerning.
- ◇ Although the storage of commercial vehicles and equipment is proposed due to the large size of the lot, staff has concerns if this petition were to be approved, that commercial contractor storage and uses could potentially expand on other surrounding large lots based on the availability of land.
- ◇ A portion of the subject site used for the contractor vehicles and equipment would be graveled as indicated on the submitted site plan. Significant concerns arise regarding the proposed gravel surface treatment used in conjunction with commercial uses, specifically: the inevitable dust and air quality impact upon the surrounding properties; erosion control and run-off associated with exposed gravel and soil; negative aesthetic impacts; and, the inefficient use of space due to lack of striping. Furthermore, loose stones can enter the public right-of-way and become a hazard for passing vehicles and accelerate the deterioration of public funded street surfaces. If this site was zoned appropriately for a commercial contractor use, no gravel would be allowed, and paving would be required in all driveway and storage areas.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-3 and could be used by any number of uses permitted, by right, in the D-3 zoning classification. Any practical difficulty is self-imposed by the desire to use the site for the storage of commercial vehicles and equipment.

## **GENERAL INFORMATION**

THOROUGHFARE PLAN	This portion of East Minnesota Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 60-foot existing right-of-way and an 80-foot proposed right-of-way.
SITE PLAN	File-dated August 30, 2022
PLAN OF OPERATION	File-dated August 30, 2022
FINDINGS OF FACT	File-dated August 30, 2022

(Continued)

## **STAFF REPORT 2022-UV2-024 (Continued)**

### **ZONING HISTORY**

**2022-DV2-009; 1635 South Sherman Drive (west of site)**, requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 3,200-square foot detached accessory structure to be taller than the primary structure and to allow for the operation of a roofing business and storage of commercial vehicles, **granted**.

**2016-UV2-019; 3849 Terrace Avenue (north of site)**, requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a daycare and three free-standing signs, with deficient setbacks, **denied**.

**86-Z-46; 4009 East Minnesota Street (east of site)**, requested the rezoning of 4.5 acres, being in the D-3 district, to the C-ID classification, to allow for commercial uses, **dismissed**.

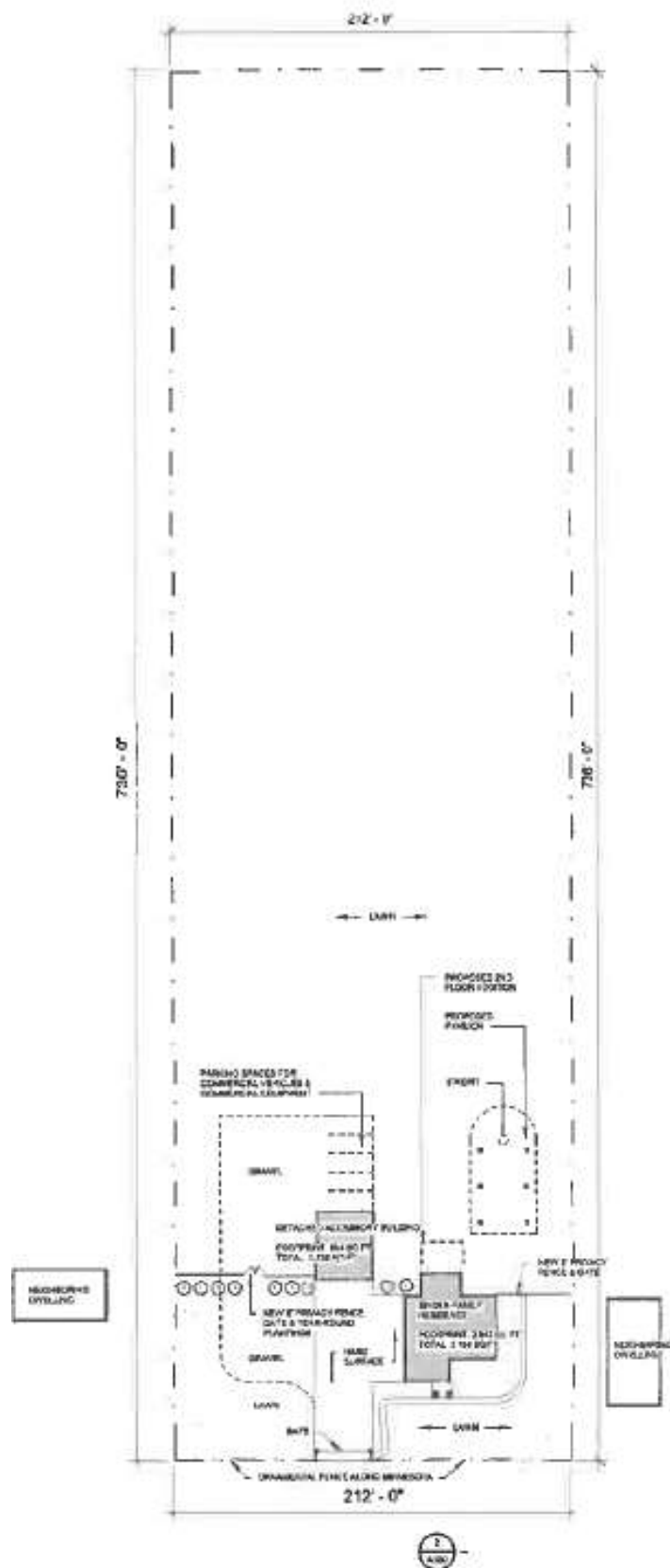
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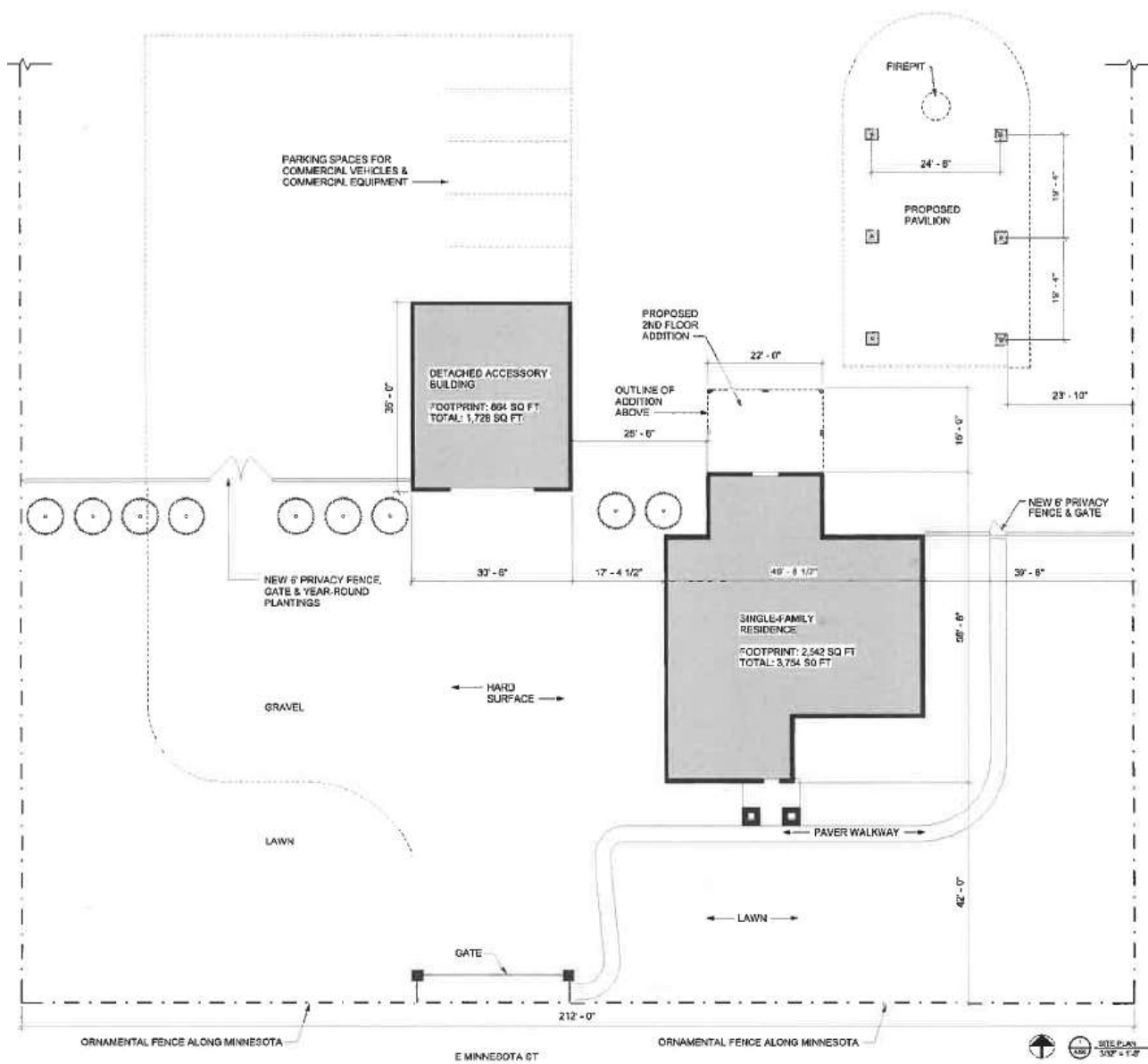
**2022-UV2-024; Location Map**



**2022-UV2-024; Site Plan - Overall**



## 2022-UV2-024; Site Plan - Closeup



## PLAN OF OPERATION

### Commercial vehicles on the property:

- Only those that are owned and operated by Pancho's Pavers
- Driven from this location to a work site only in the am hours and returning in the pm hours at the end of the workday
- Always parked behind the detached accessory building and behind the privacy fence, as shown on the site plan

### Music

- No outside noise on the site, all work undertaken inside the building

### Maintenance:

- No outside work on any vehicle

### Maximum Number of Commercial vehicles on the site:

- Three commercial trucks, one as the primary vehicle of the owner and operator of Poncho's Pavers and the other two driven daily to and from a work site.
- Two large pieces of landscaping equipment as shown on the photos on file.

### Additional Information:

- No exterior commercial signs on the property
- Any exterior lighting shall be affixed to the building and will not project light onto any protected district.
- No free-standing pole lights shall be erected



**2022-UV2-024; Photographs**



Subject site dwelling, looking north.



Subject site driveway and graveled parking area, looking north.



Subject site storage area for commercial vehicles, looking southwest.



Subject site storage area for commercial vehicles, looking northeast.





Subject site storage area for two large pieces of construction equipment, looking east.



Subject site ongoing outside storage of construction materials and other equipment, looking west.



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



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





Adjacent single-family dwelling to the south.

## STAFF REPORT

Department of Metropolitan Development  
Division of Planning  
Current Planning Section

**Case Number:** 2022-AP2-002  
**Address:** 977 Roache Street (approximate address)  
**Location:** Center Township, Council District #11  
**Zoning:** C-1  
**Petitioner:** Priority One LLC, by Anthony Morman and Joseph Cirillo  
**Request:** Waiver of the refiling rule to permit the filing of a rezoning petition, for a duplex, subsequent to the denial of 2022-UV1-037 on November 15, 2022, for the conversion of an existing structure to a fourplex, and prior to the expiration of the twelve-month waiting period.

The petitioner has submitted a **request to withdraw this petition**. This would require the Board's acknowledgement.

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## STAFF REPORT

Department of Metropolitan Development  
Division of Planning  
Current Planning Section

**Case Number:** 2022-DV2-047  
**Address:** 2304 and 2302 West 60th Street (approximate address)  
**Location:** Washington Township, Council District #8  
**Zoning:** D-2  
**Petitioner:** Cesar Felix Garay, by In and Out Unlimited LLC  
**Request:** Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an 18.75-foot-tall pole barn taller and larger than the primary building (accessory buildings not permitted to be taller or larger in square footage than primary structure).

This petition will need to be continued from the **January 10, 2023 hearing to the February 14, 2023 hearing** to allow to allow the petitioner additional time to provide new information for review and potentially amend the request if needed.

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## STAFF REPORT

Department of Metropolitan Development  
Division of Planning  
Current Planning Section

**Case Number:** 2022-DV2-048  
**Address:** 3815 River Crossing Parkway (approximate address)  
**Location:** Washington Township, Council District #3  
**Zoning:** C-S (FF)  
**Petitioner:** ASAP Permits, by Brent Bennett  
**Request:** Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a second skyline sign on the northern elevation (one skyline sign permitted per elevation).

A timely automatic continuance request was submitted by the petitioner, **continuing this matter from the January 10, 2023 hearing to the February 14, 2023 hearing**. This would require the Board's acknowledgement.

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## STAFF REPORT

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

**Case Number:** 2022-UV2-028  
**Address:** 1634 South East Street (approximate address)  
**Location:** Center Township, Council District #16  
**Zoning:** C-3  
**Petitioner:** Sherfick Companies LLC, by Marcus Crouch  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a bar within 22 feet and 75 feet of protected districts (100-foot separation required).

### **RECOMMENDATIONS**

Staff **recommends denial** of this petition.

### **SUMMARY OF ISSUES**

#### **LAND USE**

##### EXISTING ZONING AND LAND USE

C-3	Commercial
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##### SURROUNDING ZONING AND LAND USE

North -	C-3	Office / Warehouse
South -	C-3	Commercial
East -	C-3	Parking lot
West -	C-3 / D-5	Undeveloped / Single-Family Dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Village Mixed Use for the site.
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#### **DEVELOPMENT HISTORY**

- ◇ A previous petition, 1996-UV1-101, requested a variance of use of the Commercial Zoning Ordinance to provide for three dwelling units in an existing structure and an office use, in C-3. That request was granted and was in use as requested until approximately February 2020.

#### **VARIANCE OF USE**

- ◇ This request would provide for a variance of use, for a bar to be located within 22 feet and 75 feet of adjacent protected districts, when the Ordinance requires a separation of 100 feet, measured in any direction. The purpose of the separation requirement is to provide a buffer between land uses, when one land use is more intense and more impactful. Without the required 100-foot buffer, the impact upon the less intense uses, such as the residential neighborhood uses to the east and west, would be detrimental and injurious to the overall community.

(Continued)

## **STAFF REPORT 2022-UV2-028 (Continued)**

- ◇ The proposed use would be in an existing building that is legally non-conforming in lot coverage and setbacks. The existing building covers approximately 75% of the site, limiting the site from providing appropriate parking for that size of structure. This may require staff and customer parking to use adjacent residential streets and further impact adjacent protected residential dwellings.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned C-3 and could be used for any number of uses permitted, by right, in the C-3 zoning classification without the need for a separation variance. Any practical difficulty is self-imposed by the desire to use the site for a bar within 22 feet and 75 feet of protected districts.

## **GENERAL INFORMATION**

THOROUGHFARE PLAN	This portion of South East Street is indicated as a primary arterial on the Official Thoroughfare Plan, with a 25-foot existing and proposed half right-of-way.
SITE PLAN	File-dated December 2, 2022
FINDINGS OF FACT	File-dated December 2, 2022

## **ZONING HISTORY**

**2019-DV3-024; 1628 South East Street (north of site)**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a real estate office, with accessory storage, with five parking spaces, and with maneuvering within the rear transitional yard, **granted**.

**2018-AP3-001; 1628 South East Street (north of site)**, requested a waiver of the Refiling Rule to permit the refiling of a variance petition less than 12 months after the denial of 2018-DV3-009 on April 17, 2018, **granted**.

**2018-DV3-009; 1628 South East Street (north of site)**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an office / warehouse building, with 80% accessory use area, with six parking spaces provided, with deficient size and maneuvering area, with parking conflicting with a loading area, **denied**.

**2018-DV1-025; 1531 South East Street (north of site)**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a retail building, with four parking spaces, three of which are substandard, without a van handicapped parking space, and with a zero-foot east transitional yard without landscaping, **granted**.

**2018-UV1-017; 1529 South East Street (north of site)**, requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for primary and accessory residential uses, including a single-family dwelling and a detached garage, **granted**.

(Continued)

## **STAFF REPORT 2022-UV2-028 (Continued)**

**2018-CZN-821; 1526 South East Street (north of site)**, requested the rezoning of 0.13 acre from the C-1 district to the D-5 district; **approved**.

**2017-HOV-082; 1434 South East Street (north of site)**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a front porch roof, with a front setback of five feet, **granted**.

**2017-ZON-016; 1401, 1425, 1441, 1460, 1462, 1464, 1502, 1816 and 1827 South East Street; 828 Beecher Street; 306, 310, 318, 322, 329, 353 and 401 Lincoln Street; 510 East Morris Street; 1538, 1542, 1551 and 1555 South New Jersey Street; 438 Orange Street; 445 and 446 Parkway Avenue (includes sites to the north and south)**, requested the rezoning of 1.95 acres, from the C-1, C-3, C-5 and I-4 districts, to the D-5 classification, **approved**.

**2014-UV2-003; 1537 South East Street and 516 Lincoln Street (north of site)**, requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for commercial space and two dwelling units; and to legally establish an existing building, with a zero-foot front setback along East Street and Lincoln Street being within the clear sight triangle of said streets; a parking area with a zero-foot front setback; five parking spaces, with maneuvering within the right-of-way of Lincoln Street; without a landscape buffer along the frontage of both streets; and to provide for two stoops, with steps and a handicapped ramp encroaching approximately four to five feet, respectively into the right-of-way of Lincoln Street, **granted**.

**2004-UV2-035; 1721 South East Street (south of site)**, requested a variance of use of the Commercial Zoning Ordinance to legally establish an existing 985.25-square foot single-family home, **granted**.

**97-UV3-21; 1531 South East Street (north of site)**, requested a variance of use of the Commercial Zoning Ordinance to permit for the manufacture, display, and sale of kitchen countertops and other laminated products in the existing building, with off-street parking, **granted**.

**96-UV1-101; 1632-1634 South East Street and 422-424 east Minnesota Street (subject site)**, requests a variance of use of the Commercial Zoning Ordinance to provide for three dwelling units in an existing structure and an office use, in C-3, **approved**.

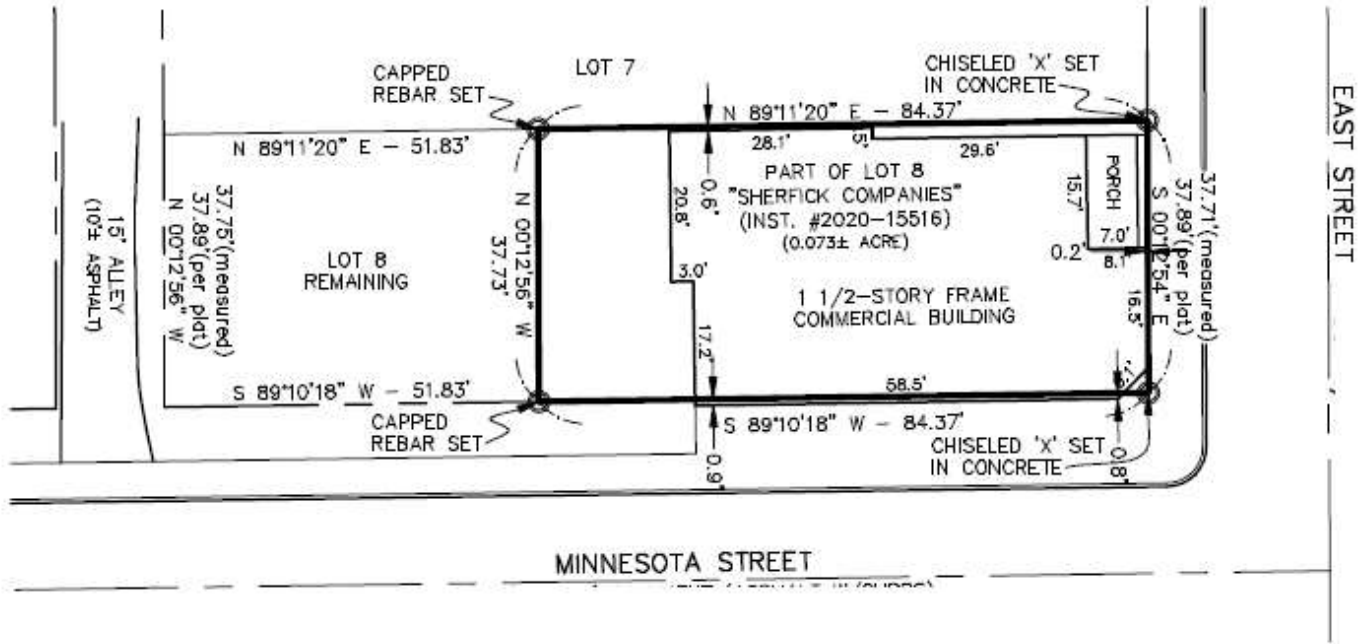
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**2022-UV2-028; Location Map**



## 2022-UV2-028; Site Plan





**2022-UV2-028; Photographs**



Subject site looking west.



Subject site looking east, from adjacent protected district.





Adjacent residential protected district approximately 75 feet to the west, looking north.



Adjacent residential protected district approximately 22 feet to the east.



Subject site, July 1998 photo of previous residential and office uses, looking northwest.

## STAFF REPORT

Department of Metropolitan Development  
Division of Planning  
Current Planning Section

**Case Number:** 2022-UV2-029  
**Address:** 1645 East Minnesota Street (approximate address)  
**Location:** Center Township, Council District #21  
**Zoning:** C-3  
**Petitioner:** Fatima Lamas  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish an existing single-family dwelling and residential accessory structure (not permitted) with a seven-foot rear setback (eight feet required).

This petition will need to be continued from the **January 10, 2023, hearing to the February 14, 2023, hearing** to allow the petitioner additional time to provide new information for review, potentially amend the request if needed, and to provide proper notice.

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## STAFF REPORT

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

**Case Number:** 2022-UV2-030  
**Address:** 2307 Dr. Martin Luther King Jr Street (approximate address)  
**Location:** Center Township, Council District #11  
**Zoning:** C-1  
**Petitioner:** Flanner House Inc., by Brent Lyle  
**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for construction of a single-family dwelling (not permitted) with a 1.5-foot front setback along 23<sup>rd</sup> Street (10-foot front setback required).

### RECOMMENDATIONS

Staff **recommends denial** of the Variance of Use request to provide for construction of a single-family dwelling.

Staff **recommends the petition be refiled as a rezoning petition**, as the existing C-1 zoning is a legacy zoning and outdated for the site.

Staff **recommends approval** of the Variance of Development Standards request for a 1.5-foot front setback along West 23<sup>rd</sup> Street.

### SUMMARY OF ISSUES

#### LAND USE

##### EXISTING ZONING AND LAND USE

Compact	C-1	Undeveloped
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##### SURROUNDING ZONING AND LAND USE

North	C-1	Single-Family Dwelling
South	C-1	Undeveloped
East	D-8	Multi-Family and Single-Family Dwellings
West	PK-1	Community Park

COMPREHENSIVE PLAN	The Comprehensive Plan recommends eight to fifteen residential units per acre development.
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#### VARIANCE OF USE

- ◇ While Sanborn Fire Insurance Maps, as early as 1915, indicate the presence of a single-family dwelling, similar to the proposed development, Staff would note that such construction would have predated the implementation of zoning in Marion County. Similarly, the subject site is located within a subdivision which was originally platted in 1891, which predates zoning ordinance requirements.

(Continued)

## **STAFF REPORT 2022-UV2-030 (Continued)**

- ◇ However, since the proposed development is a change in use from the existing C-1 zoning, Staff has recommended this petition be withdrawn and refiled as a rezoning petition due to the existing zoning being a legacy zoning and outdated for the site.
- ◇ Staff believes that if the petitioner chooses to use this commercially zoned property in a residential manner, then they should be held to the same standards as their surrounding residentially zoned neighbors are held to. Staff thinks that the regulations for a single-family dwelling in a D-8 District, should be followed.
- ◇ At the time of printing, the petitioner has indicated their reluctance to file for a rezoning, and their intent to proceed with the petition as filed.
- ◇ Staff feels rezoning the property to either D-8 would be appropriate. Staff also acknowledges that additional variances may still be needed with that re-zoned district, however, any new variances would be for deficiencies that are less of a deviation than what is currently proposed.
- ◇ With the lack of a demonstrable hardship for filing a rezoning petition, Staff does recommend denial of this Variance of Use as requested.

## **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ Although the subject site is zoned C-1 for commercial office uses, the subject site, and adjacent properties were originally developed as single-family and two-family dwellings. Due to the proposed residential character of the development, Staff would be supportive of variances that would maintain the residential character of the area. Additionally, Staff would note that the request would provide for a structure that would support future residential use of the property to match this existing context.
- ◇ The proposed 1.5-foot front setback from West 23<sup>rd</sup> Street, would be similar to the setback of the existing original developed dwelling on site, and therefore would not have any negative impact on adjacent properties, in Staff's opinion.

## **GENERAL INFORMATION**

### **THOROUGHFARE PLAN**

This portion of Dr. M. L. King Jr. Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 40-foot existing and proposed half right-of-way.

This portion of West 23<sup>rd</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 25-foot existing and proposed half right-of-way.

### **SITE PLAN**

File-dated December 7, 2022.

### **FINDINGS OF FACT**

File-dated December 7, 2022.

(Continued)

## **STAFF REPORT 2022-UV2-030 (Continued)**

### **ZONING HISTORY**

**2021-UV2-023; 2307 Dr. Martin Luther King Jr. Street (subject site)**, requested a variance of use and development standards to allow for the construction of a manufactured home with a three-foot front setback and two parking spaces, **granted**.

**2019-ZON-012; 2319 Dr. Martin Luther King Jr. Street (north of site)**, requested the rezoning of 0.12 acre from the C-1 (W-5) District to the D-8 (W-5) classification, **approved**.

**2007-ZON-139; 2201 Dr. Martin Luther King Jr. Street (south of site)**, requested the rezoning of 0.42 acre, from the C-1 (W-1) District, to the C-3C (W-1) classification to provide for corridor commercial uses, **approved**.

**2003-ZON-071; 2335 Dr. Martin Luther King Jr. Street (north of site)**, requested the rezoning of 0.104 acre from C-1 (W-5) to C-3 (W-5), to provide for a beauty and barbershop, **denied**.

**83-HOV-86; 2302 North Indianapolis Avenue (east of site)**, requested a variance of development standards to allow a room addition in the required four-foot side setback, **granted**.

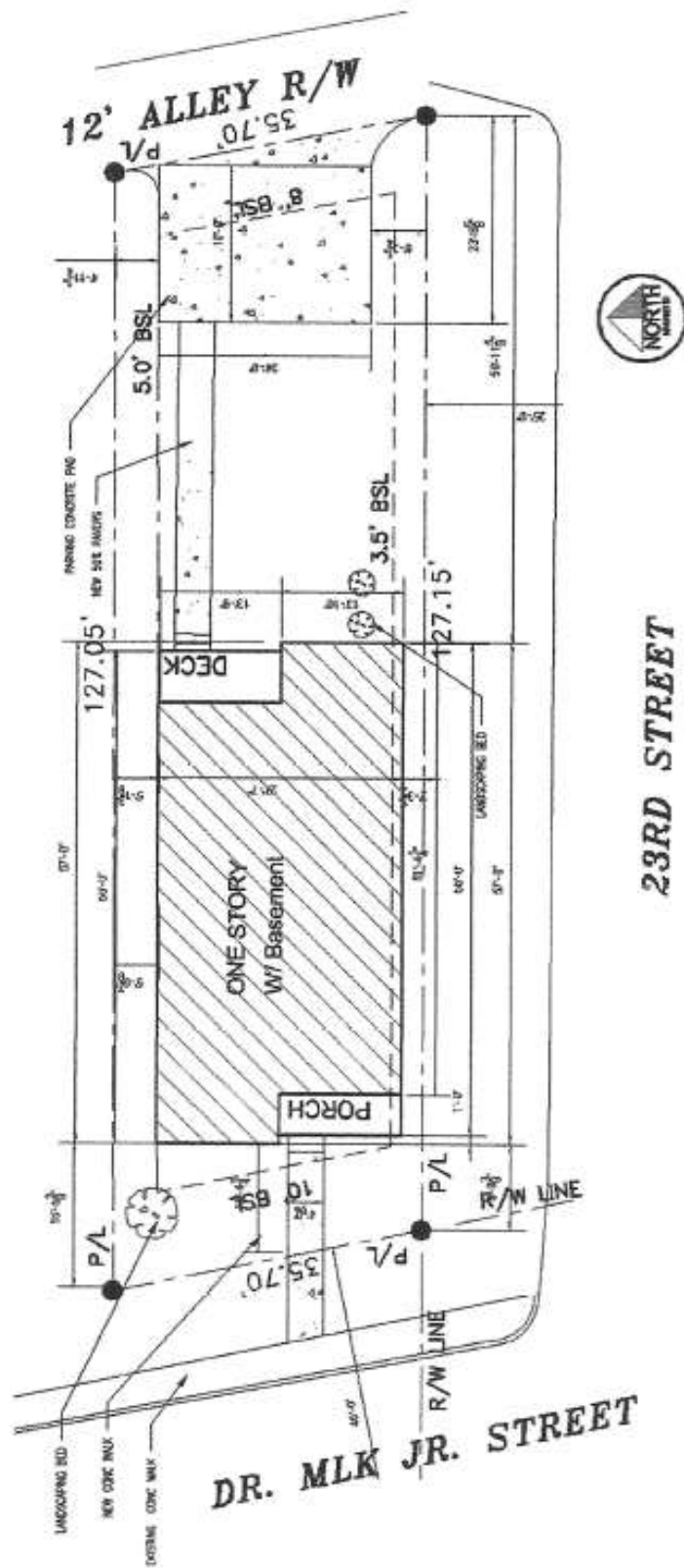
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**2022-UV2-030; Location Map**







**2022-UV2-030; Photographs**



Subject site, looking east.



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



Adjacent undeveloped lot and single-family dwelling to the south of the subject site, looking southeast.



Adjacent multi-family and single-family dwellings to the east of the subject site, looking north from West 23<sup>rd</sup> Street.