

**METROPOLITAN BOARD OF ZONING APPEALS
DIVISION III**

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

STAFF REPORTS FOR JANUARY 17, 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**

PETITION NO.	PETITION ADDRESS AND LOCATION	PAGE NO.
EXPEDITED PETITIONS:		
2022-DV3-052	1730 WISHMEYER LANE WARREN TOWNSHIP, CD #18	3
2022-UV3-032 (Amended)	10859 EAST WASHINGTON STREET WARREN TOWNSHIP, CD #19	9
CONTINUED PETITIONS:		
2022-DV3-046** (Amended)	1321 STURM AVENUE CENTER TOWNSHIP, CD #17	20
2022-DV3-049**	2315 NORTH SPENCER AVENUE WARREN TOWNSHIP, CD #13	21
2022-DV3-050	3501 SOUTH EAST STREET PERRY TOWNSHIP, CD #16	22
2022-UV3-029	1009 WEST EDGEWOOD AVENUE PERRY TOWNSHIP, CD #20	36
NEW PETITIONS:		
2022-DV3-051	6830 LAKE PLAZA DRIVE LAWRENCE TOWNSHIP, CD #3	52
2022-DV3-053	1028 EAST EDWARDS AVENUE PERRY TOWNSHIP, CD #16	60
2022-DV3-054***	644 NORTH TEMPLE AVENUE CENTER TOWNSHIP, CD #17	69

2022-DV3-055	5959 FALL CREEK ROAD LAWRENCE TOWNSHIP, CD #4	70
2022-DV3-056	4411 EAST THOMPSON ROAD PERRY TOWNSHIP, CD #24	81
2022-UV3-037	1410 EAST EPLER AVENUE PERRY TOWNSHIP, CD #24	93
2022-UV3-038	2530 EAST BANTA ROAD PERRY TOWNSHIP, CD #24	103
2022-UV3-039	1751 SOUTH MERIDIAN STREET CENTER TOWNSHIP, CD #16	116

* Automatic Continuance

** Continuance Requested

*** Withdrawn or Dismissal

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-052
Address: 1730 Wishmeyer Lane (approximate address)
Location: Warren Township, Council District #18
Zoning: D-A
Petitioner: Jessica Lynne Rios, by John Cross
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a lot with a street frontage and lot width of 66 feet (minimum lot street frontage of 125 and lot width of 250 feet required) and provide for the construction of a single-family dwelling with a zero-foot north side yard setback and 26.3-foot south side yard setback (minimum 30-foot side yard, 75-foot aggregate side setbacks required).

RECOMMENDATIONS

Staff **recommends approval** of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

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

North - D-A / I-3 / SU-16	Single-family dwelling / Industrial warehouse / Undeveloped
South - D-A / D-3	Undeveloped / Single-family dwellings
East - D-A	Undeveloped
West - I-3	Industrial development

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Suburban Neighborhood uses.
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VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request to legally establish a lot with a street frontage and lot width of 66 feet is due to the unique size of the lot, and its previous use. The lot appears to have originally been platted as additional right-of-way for the adjacent CSX Transportation railroad. At some point, the lot was no longer needed by CSX and was sold off with its current configurations.
- ◇ The lot has existed in its current platted dimensions for some time without any known negative impact, therefore, Staff believes that the request to legally establish the existing lot with a street frontage and lot width of 66 feet would have no impact on the streetscape or the surrounding property owners and would represent a minor deviation from the Ordinance.

(Continued)

STAFF REPORT 2022-DV3-052 (Continued)

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks and separation, are intended to ensure orderly development and protect surrounding property values, by providing for open buffer areas along lot lines, and to ensure adequate access around buildings.
- ◇ The proposed single-family dwelling with a zero-foot north side yard setback and 26.3-foot south side yard setback is a result of the unique size and depth of the lot. The subject site, at approximately 66 feet wide, is shorter than other typical D-A lots. The proposed single-family dwelling would roughly match the location of a legally non-conforming dwelling that previously existed on site.
- ◇ The proposed reduced setbacks would not be in proximity to other dwellings, therefore, Staff believes that the requested reduced setbacks would have no impact on the streetscape or the surrounding property owners, and would represent a minor deviation from the Ordinance.
- ◇ Generally, staff supports property improvements if their location and characteristics do not negatively impact adjoining residential areas by causing a nuisance to the surrounding neighborhood. Staff believes that this would be true for this particular variance request, and additionally that no public safety or health risks would come from the grant of this variance.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Wishmeyer Lane is not classified in the Official Thoroughfare Plan for Marion County, Indiana.

This portion of South Post Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 56-foot existing right-of-way and a 119-foot proposed right-of-way.

SITE PLAN

File-dated November 29, 2022.

FINDINGS OF FACT

File-dated November 29, 2022.

ZONING HISTORY

95-UV1-99; 1544 Wishmeyer Lane (northeast of site), requested a variance of use to legally establish a mobile home on a lot with an existing residence, **granted with limits to petitioner.**

83-UV3-89; 1644 Wishmeyer Lane (northeast of site), requested a variance of use to permit a mobile home, for a temporary period of 10 years, **granted.**

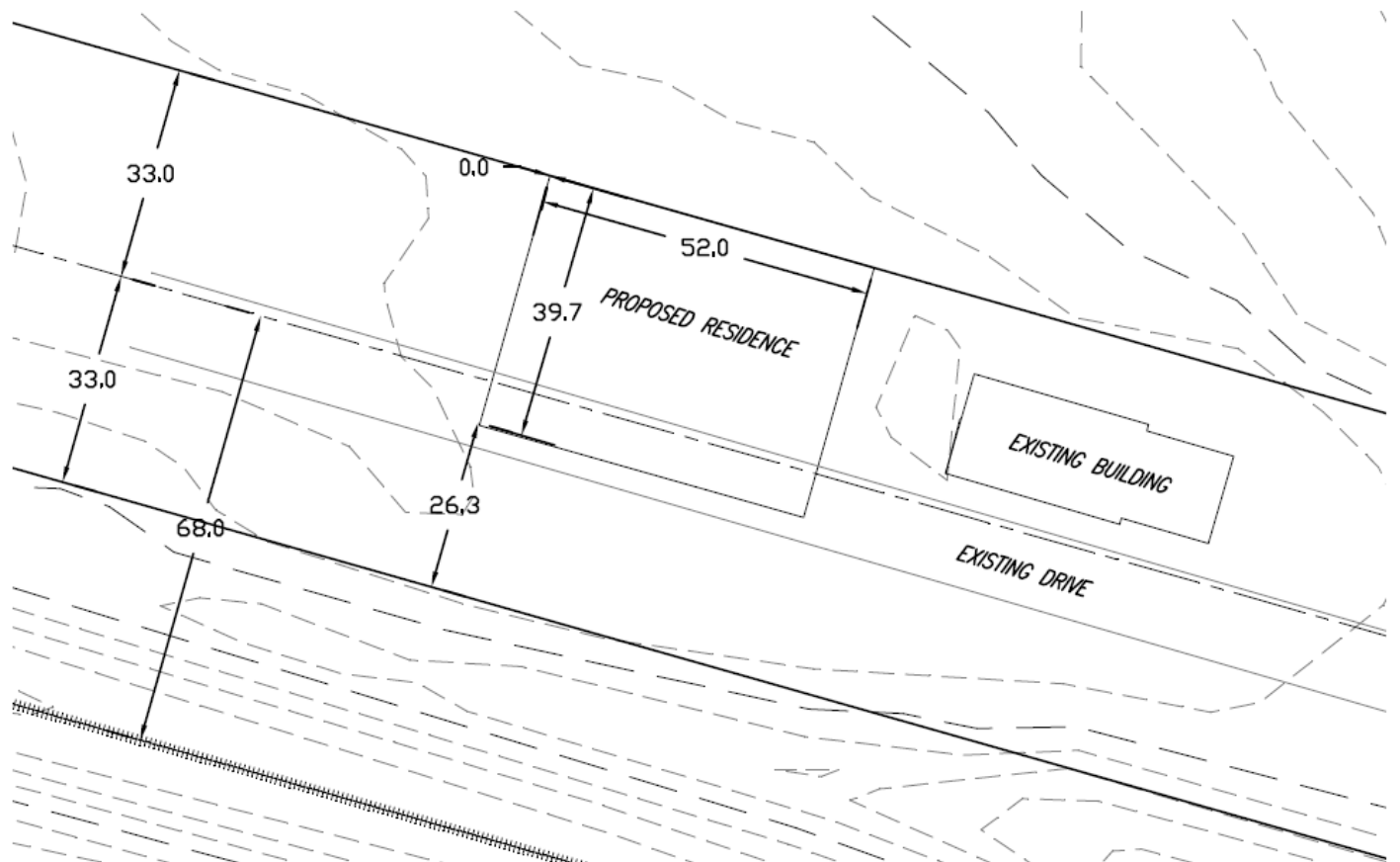
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2022-DV3-052: Location Map



2022-DV3-052: Site Plan



2022-DV3-052: Photographs



Subject site from Wishmeyer Lane frontage, looking west.



Rear of subject site, looking west.



Adjacent undeveloped property to the north.



Adjacent CSX Transportation railroad to the south.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-032 (Amended)
Address: 10859 East Washington Street (approximate address)
Location: Warren Township, Council District #19
Zoning: C-4 (TOD)
Petitioner: Gilligan Company, by Patrick Moone
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with a 27.3-percent required front building line (minimum 60% front building line required) and with 43 parking spaces provided (maximum 21 spaces permitted).

January 11, 2023

The applicant has provided a revised site plan, eliminating the need for variances for an increased maximum front setback and for drive through lanes that do not provide exclusive bypass aisles. These revisions also increased the front building line from 11.95-percent to 27.3-percent, and decreased the number of parking spaces from 59 spaces to 43 spaces.

December 20, 2022

The petitioner was granted a continuance from the December 20, 2022, hearing to the January 17, 2023, hearing to allow additional time for revisions to the site plan.

November 22, 2022

The petitioner was granted a continuance from the November 22, 2022, hearing to the December 20, 2022, to allow for revisions to the site plan to reduce some of the variances requested.

RECOMMENDATIONS

Staff **recommends approval** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Metro	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	SU-10	Cemetery
South	C-4	Industrial
East	C-4	Commercial
West	C-4	Commercial

(Continued)

STAFF REPORT 2022-UV3-032 (Continued)

COMPREHENSIVE PLAN The Comprehensive Plan recommends Regional Commercial uses

- ◇ The subject site is zoned C-4 and developed with a parking lot. This site was subdivided from a larger integrated center to create a developable lot. This property is within the Transit Oriented Development Overlay.

VARIANCE OF USE AND DEVELOPMENT STANDARDS

- ◇ This request would provide for the construction of an eating establishment with a 27.3-percent required front building line (minimum 60% front building line required) and with 43 parking spaces provided (maximum 21 spaces permitted).
- ◇ The Transit Oriented Development overlay limits vehicle-oriented uses such as eating establishments with drive throughs.
- ◇ This request would provide for a reduced percentage of the front building line. The intent of this request is to ensure that the widest part of a building is oriented to the street and consistent with urban development patterns. The proposed building is for one tenant, a café/restaurant, on a lot with 275 feet of frontage. The proposed building is also an infill development in an existing suburban integrated center. Staff would not be opposed to the reduced percent of the front building line where the existing lot width frontage is very large, and the proposed building façade is oriented to the street frontage.
- ◇ This request would provide for 43 parking spaces where a maximum of 21 parking spaces is permitted. The site was previously developed with surface parking. The development of this site would reduce some of the existing parking, but would still be more than the maximum permitted parking spaces. The ordinance includes an exception that lots established prior to April 1, 2016, are not required to reduce excessive parking where it is existing; however, this site was created by a plat in 2022, 2022-PLT-057. Staff would not be opposed to the variance request for more than the maximum parking where it was existing.

GENERAL INFORMATION

THOROUGHFARE PLAN	Washington Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial Street, with a 110-foot existing and proposed right-of-way.
SECONDARY ZONING DISTRICT	Transit Oriented Development Overlay
INITIAL SITE PLAN	File-dated October 20, 2022
INITIAL LANDSCAPE PLAN	File-dated October 20, 2022
AMENDED SITE PLAN	File-dated January 11, 2023
PLAN OF OPERATION	File-dated September 23, 2022
FINDINGS OF FACT	File-dated September 23, 2022

(Continued)

STAFF REPORT 2022-UV3-032 (Continued)

ZONING HISTORY – SITE

PREVIOUS CASES: **2022-PLT-057**, Approval of a Subdivision Plat, to be known as Park 10859 Washington, dividing 9.317 acres into two lots.

ZONING HISTORY – VICINITY

2020UV1004; 10859 East Washington Street (south of site), variance to provide for a commercial playground equipment distributor and wholesaler, **approved**.

2019-UV3-009; 10901 East Washington Street (east of site), variance to provide for a self-storage facility, **approved**.

2006-DV2-036; 10863 and 10919 East Washington Street (east of site), variance to provide for parking with a zero-foot front setback from East Washington Street, **granted**.

2006-DV2-037; 10863 and 10919 East Washington Street (east of site), Variance to provide for parking with a zero-foot front setback from East Washington Street and to provide for parking with a zero-foot setback from German Church Road, **granted**.

2006-DV2-038; 10745 East Washington Street (west of site), Variance to provide for parking with a zero-foot front setback from East Washington Street, **granted**.

2001-DV3-005; 10722 East Washington Street (northwest of site), Variance to provide for an 11.5-foot tall, 108-square foot pylon sign, with a 32.4-square foot electronic variable message component, zero-foot front setback from Washington Street and located within the clear sight triangle, **granted**.

99-V2-88; 10617 East Washington Street (west of site), Variance to provide for 27,666 square feet of outdoor display and sale of merchandise, **granted**.

89-Z-190; 10680 East Washington Street (northwest of site), Rezoning of 0.70 acre from C-1 to SU-10, to provide for a cemetery administration office, **approved**.

89-Z-237; 10521-10729 East Washington Street (west of site), Rezoning of 25.4 acres from the D-2 and C-4 districts to the C-4 classification, **adopted**.

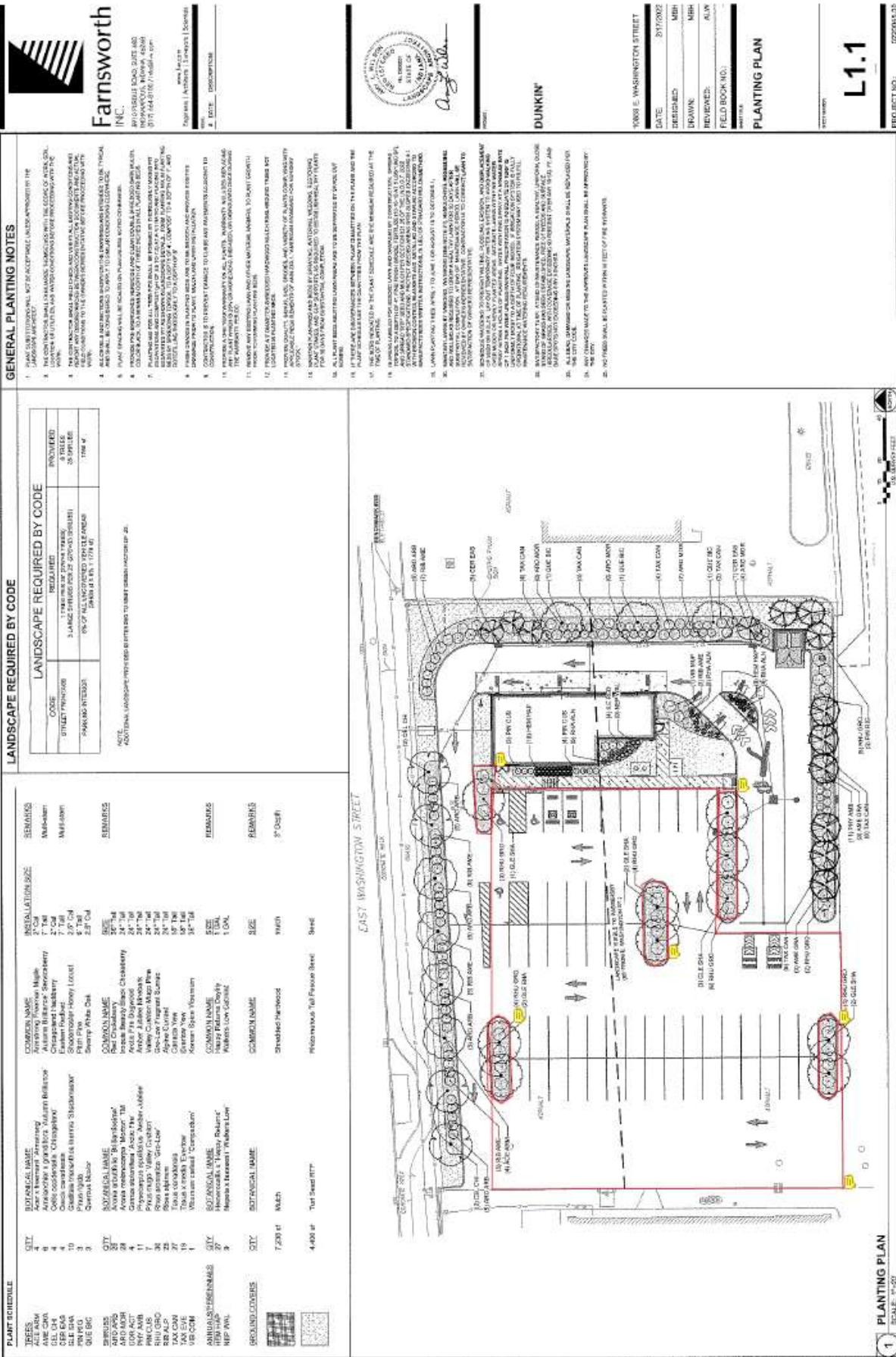
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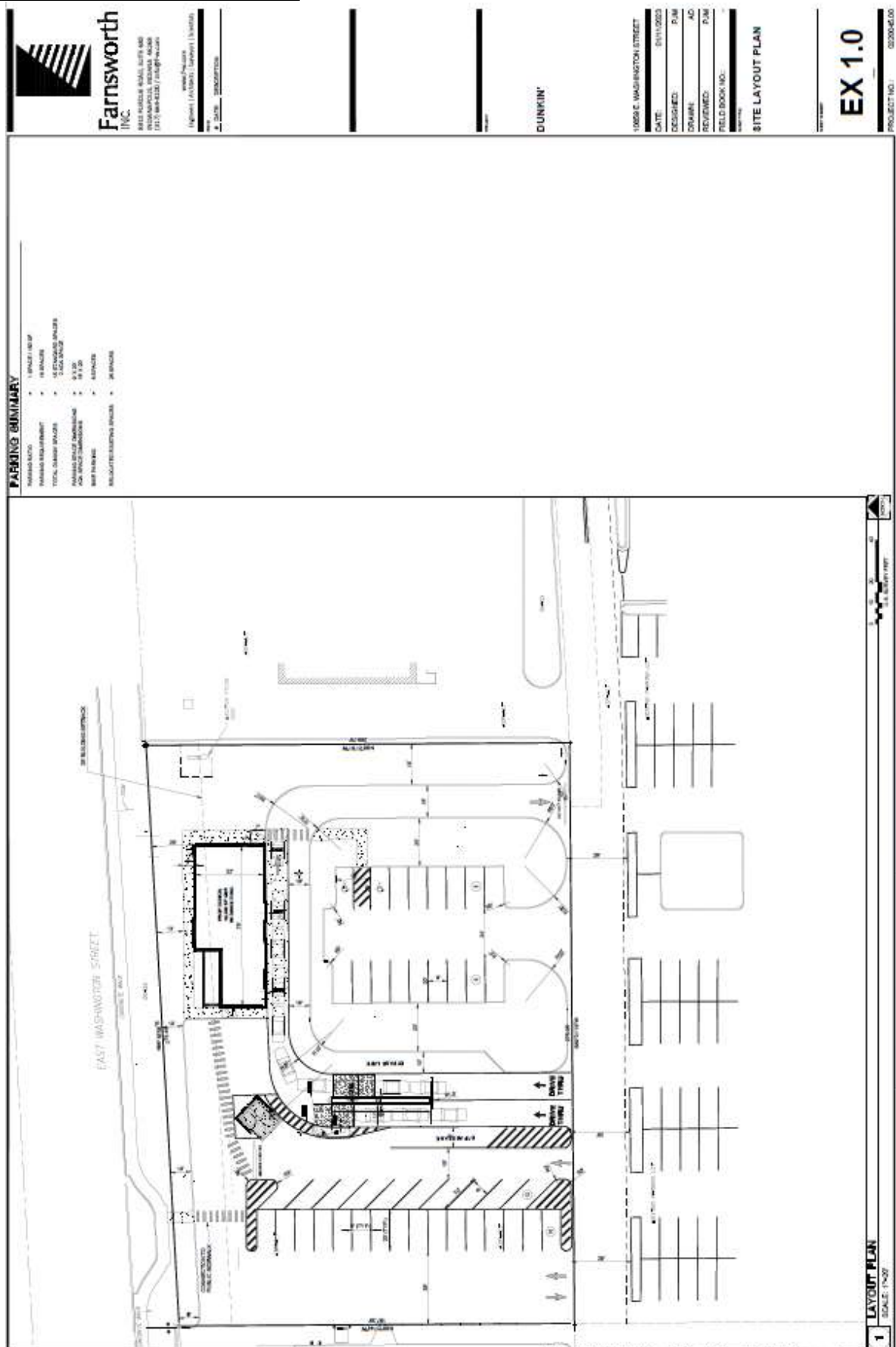
2022-UV3-032; Aerial Map



2022-UV3-032; Initial Site Plan







Dunkin Restaurant – Plan of Operation
10859 East Washington Street Site

Description of Proposed Facility:

1. The site will redevelop an existing asphalt parking lot into a new Dunkin' Restaurant with dine in and drive thru capabilities. The store will be approximately 2,300 sft in size.
2. The maximum shift size will be 8-10 employees.

Security Provisions

1. Onsite security system with security cameras.

Hours of Operation

1. The typical hours of operation are expected to be from 5:00AM to 7:00PM Monday thru Friday and 6:00Am to 7:00PM on weekends.

Hazardous Materials

1. There will be no hazardous or explosive materials stored on site.

2022-UV3-032; Findings of Fact

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 parcels adjacent to the proposed development are in the C4 zone, Commercial Office District, and are compatible with the proposed use. An increase of the building setback from 25' to 35.4' will not be injurious to the general public - the additional setback granted will provide additional space for the customers to safely traverse the parking lot when entering and exiting the store. The travel lane will not be immediately adjacent to the store.

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 parcels adjacent to the proposed development are in the Commercial Office District and are compatible with the proposed use. The proposed increase of the building setback from 25' to 35.4' will not adversely affect the use of the adjacent areas. The setback proposed results from the required 10' landscape buffer for the project, the travel lane for the drive thru around the front of the building and the buffer area between the building and the travel lanes.

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

The current zoning for this project site is compatible for the proposed use. The building setback requirement (maximum of 25' from right of way) for the TOD causes some concern for the store operation. The site is required to have a 10' landscape buffer, a one-way travel lane of 14' for the drive thru and fire protection and a safety zone of 5' from the face of the building to the travel lane. The minimum distance that satisfies the zoning requirements, design issues and customer safety is approximately 29'. The variance is requesting that the 35.4' setback be permitted for additional customer and vehicular safety within the project site.

2022-UV3-032; Photographs



Subject site Washington Street frontage, facing west



Washington Street frontage



South of site



Subject site, facing east



Driveway for site access, east of site

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-DV3-046 (Amended)
Address: 1321 Sturm Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: Chase & Kristin Glassburn, by David Kingen & Emily Duncan
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish the existing two-foot rear yard setback of Lot 24 (15-foot rear setback required); and on Lot 25, provide for:

- a) The construction of a single-family dwelling with a 79-foot setback from Oriental Avenue (maximum setback of 19.9 feet permitted); and
- b) A six-foot fence within the front yard of Oriental Street (maximum 3.5-foot-tall fence permitted); and
- c) A three-foot corner side yard setback (eight-foot corner side yard setback required); and
- d) A 10-foot rear setback (minimum 15-foot rear setback required); and
- e) No front entry feature on the front façade (entry feature required).

This petition was automatically continued by a registered neighborhood organization, from the November 2022, hearing, to the December 20, 2022, hearing.

A continuance for cause was requested by the petitioner, from the December 20, 2022, hearing, to the January 17, 2023, hearing, to allow time to submit additional information and amend the request.

The petitioner has submitted additional information and variance requests, to amend the request. Therefore, this petition **will need to be continued to the February 21, 2023**, hearing, with additional notice.

RU

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-DV3-049
Address: 2315 North Spencer Avenue (approximate address)
Location: Warren Township, Council District #13
Zoning: I-2
Petitioner: Jaspal S Athwal, by David Kingen & Emily Duncan
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a five-foot wide landscape strip along the south and west frontages (six-foot landscape strips required) with zero shade trees (ten shade trees required) and 34 shrubs (39 shrubs required; and to legally establish zero-foot eastern and northern side yard setbacks (10-foot side setbacks required); a six-foot tall fence within the front yards of Spencer Avenue and 23rd Street (front yard fence height limited to 3.5-feet); and parking area within the front yard setbacks of Spencer Avenue and 23rd Street (improvements not permitted within the 20-foot front setbacks).

This petition was continued from the December 20, 2022, hearing to the January 17, 2023, hearing to allow the petitioner additional time to provide new information for review and amend the request.

An amended site plan was submitted January 9, 2023, which did not allow staff sufficient time for review. Therefore, this petition will need to be **continued from the January 17, 2023, hearing to the February 21, 2023, hearing** to allow staff additional time to review the new information and amend the request.

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STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-050
Address: 3501 South East Street (approximate address)
Location: Perry Township, Council District #16
Zoning: C-4
Petitioner: Dahm No. 21, LLC, by Joseph D. Calderon
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a digital display sign panel to be located on a 29-foot tall pole sign (maximum 20-foot tall pole sign permitted, digital displays not permitted on pole signs), located 175 feet, 427 feet and 528 feet from protected districts (600 feet of separation required).

ADDENDUM FOR JANUARY 15, 2023

This petition was automatically continued from the December 20, 2022, hearing to the January 17, 2023, hearing at the request of a registered neighborhood organization.

December 20, 2022

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Compact	Commercial
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SURROUNDING ZONING AND LAND USE

North	C-5	Fast food restaurant
South	C-5	Furniture store
East	C-4	Commercial building
West	C-5	Automobile repair

COMPREHENSIVE PLAN

The Comprehensive Plan recommends village-mixed use development.

(Continued)

STAFF REPORT 2022-DV3-050 (Continued)

- ◇ The 0.87-acre site, zoned C-4, is currently under construction for improvements to an existing car wash facility. It is immediately surrounded by commercial uses with residential uses in the surrounding proximity.
- ◇ Petitions 2016-CZN-822 and 2016-CVR-822 rezoned the property to a C-4 district and allowed for the construction of a canopy for an existing carwash with an eight-foot setback from East Street.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for a digital display sign panel to be located on a 29-foot-tall pole sign with deficient separation from protected districts.
- ◇ The existing sign was permitted through a sign permit (SGN01-00901) which allowed for a 27-foot-tall pole sign with a total sign area of 222 square feet, however, the elevation submitted noted a 28-foot-tall sign as shown in Staff Exhibit 1.
- ◇ Due to the addition of the digital display component, the need for a height variance and separation from protected districts would be required since it would be treated as a new sign for a permit.
- ◇ Per Table 744-906-1, pole signs are limited to 20-feet in height, are not permitted to have digital displays in the C-4 district and must meet additional standard of Sec. 744-907.C for digital display regulations. Said regulations note that no digital display shall be located within 600 feet of any protected district unless visibly obstructed from view from within that district, but in no instance, may it be located within 400 feet of such a district.
- ◇ Electronic variable message signs (EVMS) contain animated, flashing, or scrolling text that is intended to attract the attention of passersby. Seeing that there are no digital display signs in the immediate area, the residents are not accustomed to this type of signage in their area. Additionally, the petitioner did not make any attempt at visibly obstructing the sign from view of the protected districts. As a result, this sign could unnecessarily distract the attention of motorists from traffic signals or other traveling vehicles.
- ◇ The Ordinance permits these types of signs in commercial districts because it would be acceptable in commercialized areas. However, the sign's locations are limited within proximity to residential uses to protect residential and other protected uses. The proposed digital display sign would be located within 175 feet, 427 feet and 528 of the nearest protected districts, which staff does not support.
- ◇ The petitioner will be replacing 75.5 square feet of signage for a 54-square foot sign, which they state, "would not be more intensive or intrusive than the existing sign". However, staff has no issue with the amount of existing signage on site but does have concerns for the digital display component that would be injurious to the safety of motorists.
- ◇ Staff determined that the strict application of the terms of the Zoning Ordinance would not result in practical difficulties in the use of the property because the services on site could still be promoted with non-EVMS signage.

(Continued)

STAFF REPORT 2022-DV3-050 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	East Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 100-foot existing right-of-way and a 104-foot proposed right-of-way.
THOROUGHFARE PLAN	Sumner Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 59-foot existing right-of-way and a 56-foot proposed right-of-way.
CERTIFIED PLAN	The subject site falls within The South Indy Quality of Life Plan, but the plan does not provide guidance for this site.
SITE PLAN	File-dated November 16, 2022.
ELEVATIONS	File-dated November 16, 2022.
COMMITMENTS	File-dated November 16, 2022.
FINDINGS OF FACT	File-dated November 16, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

2016-CZN-822 / 2016-CVR-822; (subject site), Rezoning of 0.86 acre from the D-3 district to the C-4 classification and variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a canopy for an existing carwash, with an eight-foot setback from the existing right-of-way of East Street (10-foot setback required), **approved and granted.**

76-UV1-128, 3501 South East Street, Variance of use and development standards to relocate pump islands and erect a canopy over the islands, **granted.**

ZONING HISTORY – VICINITY

2020-CVR-818; 3620 South East Street (southwest of site) Approval of a Subdivision Plat to be known as Felbram Plaza North Subdivision, dividing 18.43 acres into five lots, with a waiver of sidewalks and variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the replacement of an existing pole sign with a 36-foot tall, 260-square foot pole sign with a two-foot front setback from East Street (maximum 20-foot tall pole sign and five-foot front setback required), **granted.**

(Continued)

STAFF REPORT 2022-DV3-050 (Continued)

2017-UV3-018; 527 East Sumner Avenue (east of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an asphalt paving company (not permitted), with outdoor storage (not permitted), and a gravel parking lot (not permitted), **granted**.

2007-UV2-009; 3429 South East Street (north of site), Variance of use and development standards of the Commercial Zoning Ordinance to legally establish a tattoo parlor within 20 feet of a protected district, reduced setback for parking spaces, and no landscaping, **granted**.

94-UV1-67; 520 East Norton Avenue (southeast of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for outdoor storage of automobiles (not permitted), **granted**.

89-V3-91; 3599 South East Street (south of site), Variance of use of the Commercial Zoning Ordinance to provide for a restaurant with a drive-thru within 100 feet of a Dwelling District, **granted**.

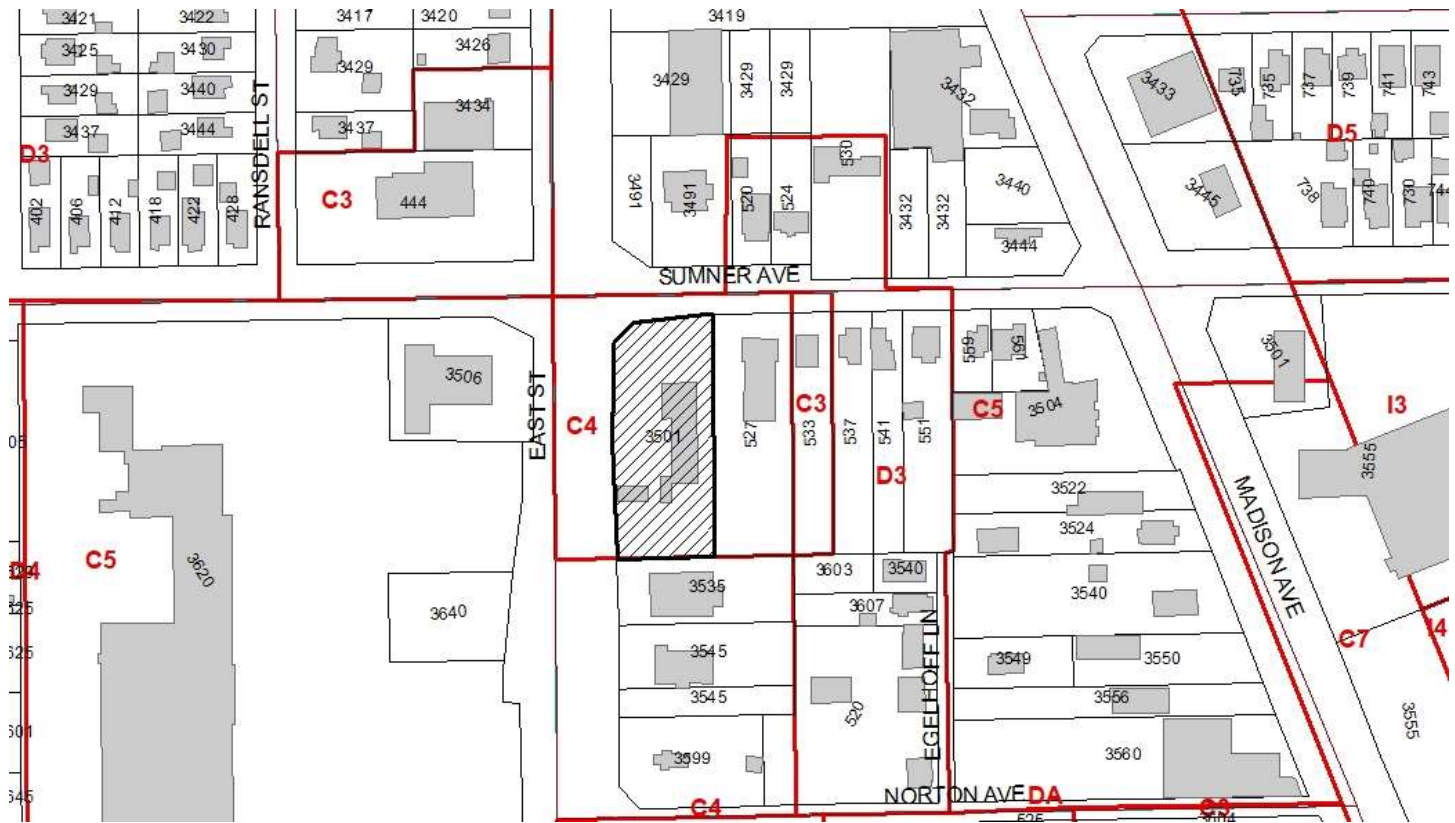
88-UV2-29; 3432 South Madison Avenue (northeast of site), Variance of use and development standards of the Commercial Zoning Ordinance to legally establish an automobile sales operation with a zero-foot setback and without landscaping, **granted for three years**.

86-UV2-47; 551 East Sumner Avenue (east of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the use of a mobile home in addition to an existing single-family residence, **denied**.

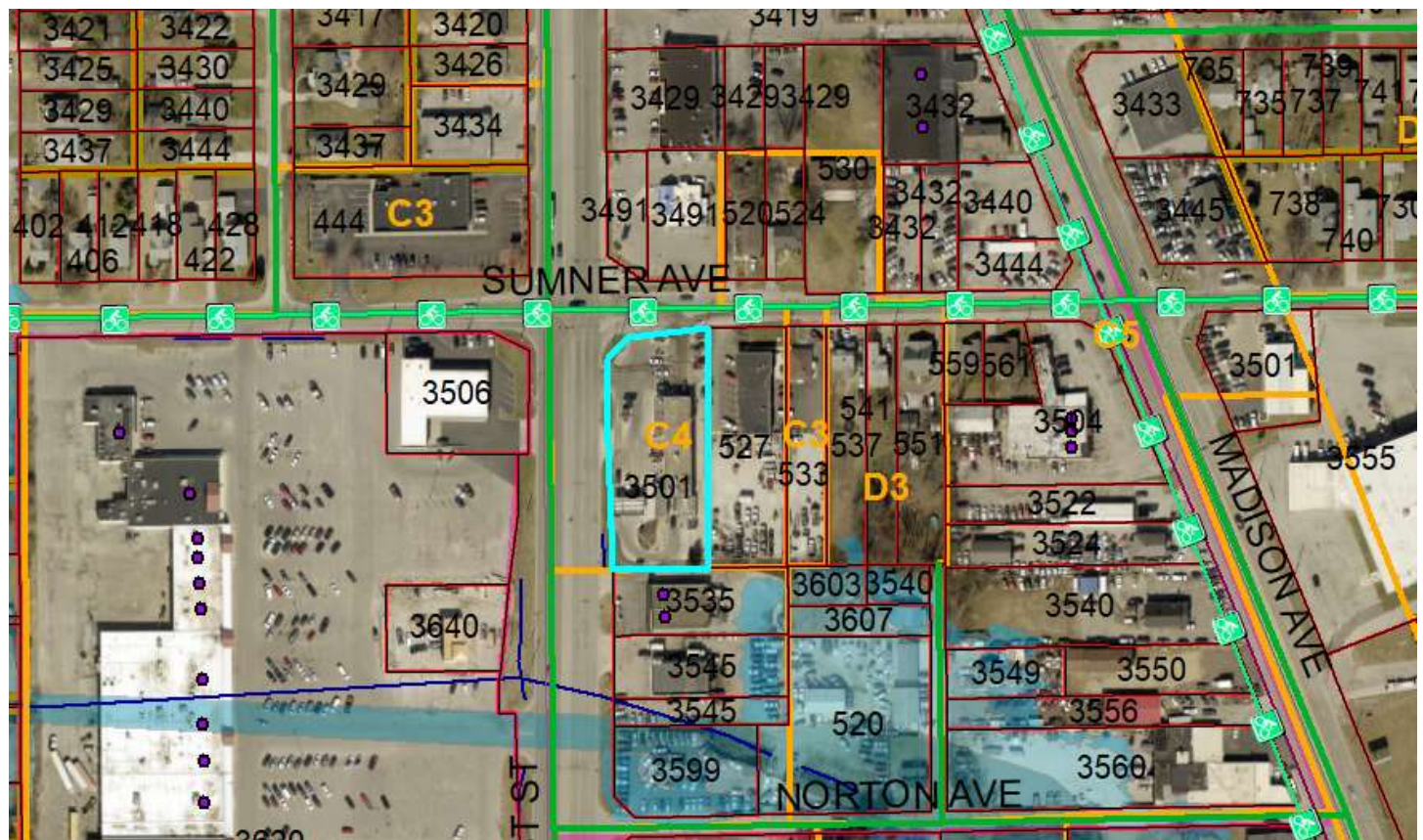
77-UV3-93; 3491 South East Street (north of site), Variance of use and development standards to permit an auto leasing office in the abandoned service station building, with outside display and storage of automobiles, with pole sign, **granted**.

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2022-DV3-050; Location Map



2022-DV3-050; Aerial Map



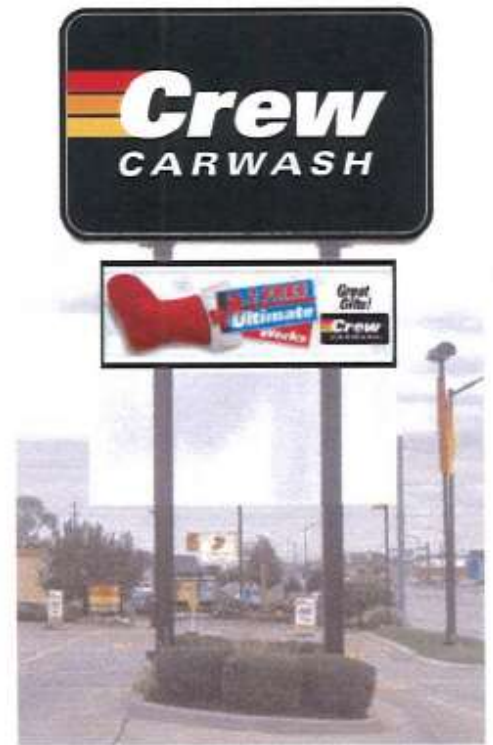
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2022-DV3-050; Elevations

Existing Signage



New Signage



1/8" = 1'-0"



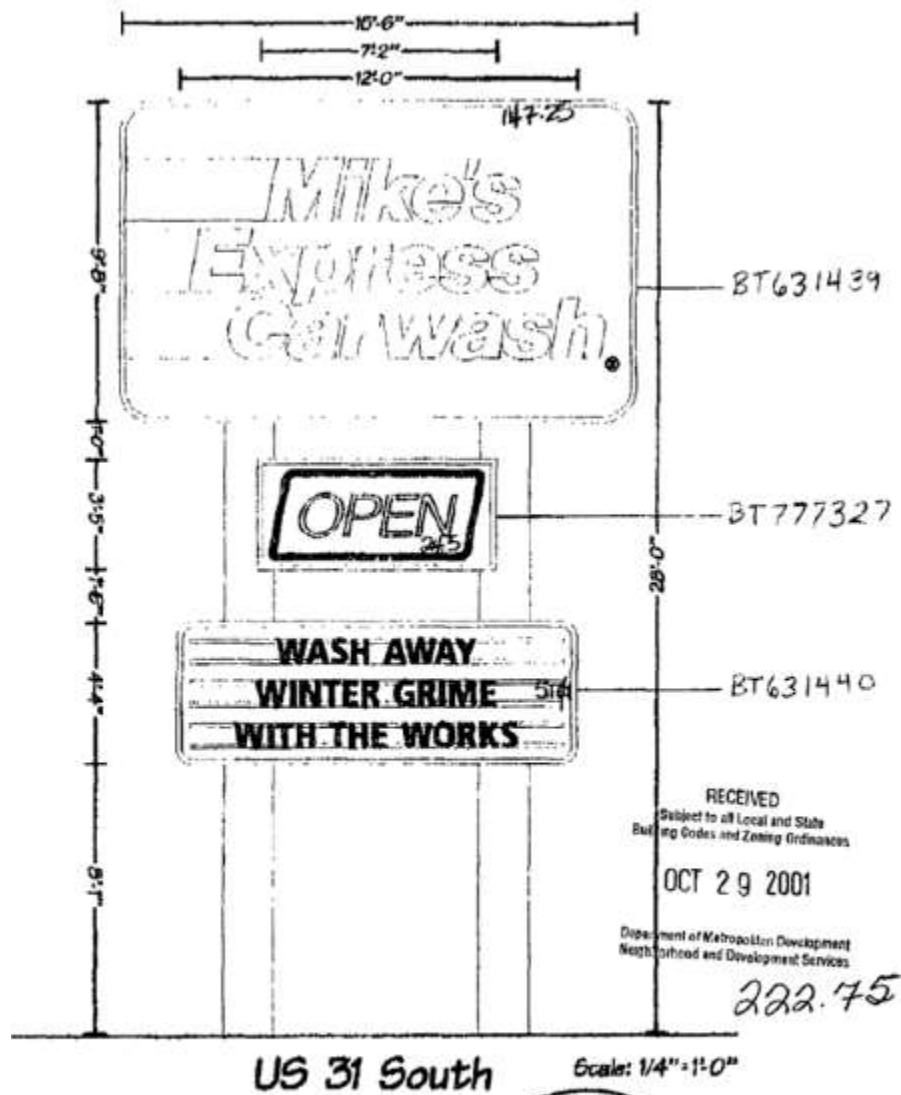
FABRICATE AND INSTALL NEW EMCS WITH EXTERIOR FRAMING

16MM FULL COLOR EMCS (DOUBLE FACE TWINPAK)
8 LINES / 43 CHARACTERS AT A 4" TYPE HEIGHT
EXTERIOR ALUMINUM FRAMING PAINTED BLACK

INSTALLATION - MOUNTED TO EXISTING POLE SIGN

REMOVE - EXISTING READER BOARD

REINSTALL - OPEN NEON SIGN



2022-DV3-050; Commitments

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 Exhibit "A" Attached Hereto And Incorporated By Reference (the "Subject Property").

Statement of COMMITMENTS:

1. There shall be no blinking, scrolling, flashing or video type messages on the proposed digital display message center sign ("Digital Display Sign"). All messages shall change instantaneously.
2. All messages on the Digital Display Sign shall remain static for at least thirty (30) seconds.
3. There shall be only one static message on the Digital Display Sign between the hours of 7:30 a.m. and 9:00 a.m., and 4:00 p.m. to 6:00 p.m. during weekdays (Monday through Friday).
4. The Digital Display Sign shall contain an automatic light sensing device that adjusts brightness as ambient light conditions change as set forth in Chapter 744, Article XI, Section 07.C. of the City of Indianapolis Consolidated Zoning/Subdivision Ordinance in effect as of the date of approval of 2022-DV3-____ (the "Digital Display Regulations").
5. The Digital Display Sign shall be turned off completely between the hours of 10:00 p.m. and 6:00 a.m.
6. The primary color of any monochromatic message shall not be red, yellow or green.
7. The Digital Display Sign shall be operated in compliance with the Digital Display Regulations unless these commitments contain a more stringent standard, in which case the more stringent standard shall control.

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 # 2022-DV3-____ by the Metropolitan Board of Zoning Appeals or the Hearing Officer.



Photo of the Subject Property: 3501 South East Street



Photo of the subject site looking south along East Street.



Photo of the subject property looking south of Sumner Avenue.



Photo of the commercial property to the west.



Photo of the commercial properties northwest fo the site.



Photo of the D-3 district northwest of the subject site



Photo of the commercial property to the north.



Photo of the D-3 district northeast of the subject site.



Photo of the commercial and dwelling districts to the east.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-029
Address: 1009 West Edgewood Avenue (approximate address)
Location: Perry Township, Council District #20
Zoning: D-A / D-4
Petitioner: Willis Group LLC, by James Lewis Hillery
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of two commercial storage buildings with a total of 11 storage units (not permitted), each with a 15-foot side yard setback resulting in a 30-foot aggregate side setback (30-foot side yard setback and 75-foot aggregate side yard setback required).

ADDENDUM FOR JANUARY 17, 2023

This petition was continued from the November 22, 2022, hearing to the January 17, 2023, of Division III at the request of the petitioner. On January 10, 2023, the petitioner informed Staff that they intend to make an additional continuance request to the March 21, 2023, hearing of Division III in order to amend the request and discuss the request with interested parties. Staff is supportive of this request, however, this would be the last continuance request Staff would support.

ADDENDUM NOVEMBER 22, 2022

This petition was automatically continued from the October 18, 2022, hearing of Division III, to the November 22, 2022, hearing of Division III, at the request of the petitioner.

November 22, 2022

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-A / D-4 Metro Commercial

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

SURROUNDING ZONING AND LAND USE

North	SU-1	Religious use
South	D-4	Single-family dwelling
East	D-A	Single-family dwelling
West	D-A	Single-family dwelling

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Rural or Estate neighborhood development.

- ◇ The subject site is 2.96 acres located in the Glens Valley neighborhood in Perry Township. The subject site contains two commercial buildings, with outdoor storage. The surrounding neighborhood consists of residential to the west, east and south, and religious uses to the north. The site abuts a railroad track to the east.
- ◇ The subject site is primarily zoned D-A (Dwelling Agriculture District). The D-A district holds the agricultural lands of Marion County and provides for a variety of agricultural uses. It is intended to provide for animal and poultry husbandry, farming, cultivation of crops, dairying, pasturage, floriculture, horticulture, viticulture, apiaries, aquaculture, hydroponics, together with necessary, accompanying accessory uses, buildings, or structures for housing, packing, treating, or storing said products; or lands devoted to a soil conservation or forestry management program. A single-family dwelling is intended to be permitted as a part of such agricultural uses. A secondary provision of this district is large estate development of single-family dwellings. This district fulfills the very low-density residential classification of the Comprehensive General Land Use Plan. This district does not require public water and sewer facilities.
- ◇ The subject site is zoned D-4 (Dwelling District Four), at the southernmost portion of site. The D-4 district is intended for low or medium intensity single-family and two-family residential development. Land in this district needs good thoroughfare access, relatively flat topography, and nearby community and neighborhood services and facilities with pedestrian linkages. Provisions for recreational facilities serving the neighborhood within walking distance are vitally important. Trees fulfill an important cooling and drainage role for the individual lots in this district. The D-4 district has a typical density of 4.2 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan.

VARIANCE OF USE

- ◇ The request would provide for the construction of two commercial storage buildings with a total of 11 storage units, each with a 15-foot side yard setback resulting in a 30-foot aggregate side setback.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

- ◇ The proposed use would be comparable to Mini-Warehouses (or Self Storage Facility). **Mini-Warehouses (or Self Storage Facility)** is defined as a building or group of buildings containing one or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds 600 square feet in area (740-202.M). Mini-Warehouse (or Self-Storage Facility) is only permitted in the C-7 and all industrial districts. Where permitted, mini warehouses should follow the use specific standards (743-305.X) below:
 - All storage shall be within enclosed buildings except in the C-7, I-3, and I-4 districts.
 - Security fencing shall not include razor wire or barbed wire within 10 feet of a front lot line or transitional yard.
 - 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.
 - A landscaped or naturally vegetated buffer at least 50 feet in width shall be provided along any lot line that abuts a protected district.
 - Exterior access to any storage units within 100 feet, measured in any direction, of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. (See Section 743-301 and Section 740-308.)
- ◇ Section 743-301 states that public access to any storage unit within 100 feet of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. The subject site is located within a dwelling district and is surrounded by dwelling districts to the west, east, and south. The Plan of Operation does not specify hours of operation, but states customers can access the subject site during “controlled business hours.” Staff is strongly opposed to the request where the subject site is located and surrounded by protected districts and would be a significant deviation from what is permitted within the D-A district. The use would be more appropriate in a commercial or industrial district.
- ◇ Additionally, the Plan of Operation states that the proposed storage units would exceed 600 square feet in area, being 800 square feet for business customers that require “large storage space.” Furthermore, the proposed use would primarily be for customers who “cannot keep their storage at their dwellings, due to HOA restrictions.” Staff is concerned the large size of the units could allow for storage for semi-trailers. As per 743-306. B.3, no commercial vehicle or trailer shall be parked, stored, maintained, or kept on any property in a Dwelling district unless:
 - The vehicle has a gross vehicle weight rating (GVWR) of 10,000 pounds or less; or
 - The vehicle is parked, stored, maintained, or kept within a garage or carport and is not categorized as a commercial vehicle by Item 2 in the definition of a commercial vehicle; or,
 - The vehicle is parked or stored on a site where active, legal construction activity is taking place. Commercial vehicles that are in the course of making normal and reasonable service calls are exempt from this provision.

The proposed use would not follow any of the above regulations.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

- ◇ The Comprehensive Plan recommendation for the subject site is Rural or Estate Neighborhood development. The **Rural or Estate Neighborhood** typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space. Staff believes the proposed use does not align with the Comprehensive Plan recommendation.
- ◇ Staff is wholly opposed to the request, where there is no hardship in using the subject site for permitted uses within the D-A district. The proposed use would be better suited in a commercial or industrial district, removed from residential.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The two proposed commercial structures would result in deficient side yard setbacks. Table 744-201-1 states that in the D-A district, Metro Context Area, the required side yard setback is thirty feet, with a required 75-foot combined side yard. The proposed commercial buildings would have a 15-foot side yard setback, resulting in a 30-foot aggregate side setback. Staff is opposed to the requested side setbacks where the proposed use promotes overdevelopment of the subject site, thus creating deficient setbacks. This would be considered a self-imposed practical difficulty, considering that the use would be better suited in a commercial or industrial district.
- ◇ Staff would note, that although there is no violation on the subject site, the existing uses are not compliant with the Ordinance standards. There are currently semi-trailers in the rear yard, which would be defined as Outside Storage and Operations. Outdoor Storage and Operations is only permitted as an accessory use in the C-5, C-7, and industrial districts (Table 743-1).

Previous Variance, 80-UV3-138

- ◇ Staff found an old variance for the subject site, like the proposed use requested. The previous variance was to permit the erection of an addition to an existing building for servicing tractors and continued use of residence as an office and residence. The grant of the variance had the following conditions applied:
 1. All development and construction shall be in compliance with plans filed in this office dated October 21, 1980.
 2. Landscaping and parking plan to be submitted to the Administrator of the Division of Planning and Zoning for approval prior to the issuance of an Improvement Location Permit.
 3. No more than eight semi-cab and trailers to be parked or stored on the site. No more than three of these shall be refrigeration units in operation at any one time.
 4. To be for the use of Contract Carriers, Inc. only.
 5. Unless an Improvement Location permit is obtained within one year of this variance is void.

Based on condition number 4, this variance no longer applies to the subject site. Additionally, the expansion of the use, to add two more commercial structures with deficient setbacks for storage, would adversely impact the surrounding neighborhood, while promoting overdevelopment of the subject site.

STAFF REPORT 2022-UV3-029 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN

Edgewood Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 30-foot existing right-of-way and an 80-foot proposed right-of-way.

SITE PLAN

File-dated September 2, 2022.

PLAN OF OPERATION

File-dated September 2, 2022.

FINDINGS OF FACT

File-dated September 2, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

80-UV3-138; 1009 West Edgewood Avenue (subject site), requested a Variance of use and development standards to permit the erection of an addition to an existing building for servicing tractors, and continued use of residence as an office and residence, as per plans filed, off-street parking required, **granted**.

ZONING HISTORY – VICINITY

2007-DV1-048; 1137 West Edgewood Avenue, requested a Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a twenty-foot tall, 1,500 square foot detached accessory structure, with a 240-square foot porch, resulting in an accessory building area of 1,500-square feet or 96 percent of the main floor area of the primary structure, **approved**.

GLH

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

2022-UV3-029; Aerial Map



(Continued)



PLAN OF OPERATION

1009 WEST EDGEWOOD AVENUE
BUSINESS CLIENT'S LARGE COLD WAREHOUSE STORAGE UNITS

WORKFORCE:

Property will be managed and maintained by the current property owner, who will be onsite to monitor activities. There will be no additional employees or volunteers associated with the new buildings.

CLIENTS AND CUSTOMERS:

The 11 cold warehouse storage units of approximately 800 square feet will be for business customers who require large storage spaces only, not for individual use. Business class customers will have access to the buildings only during controlled business hours to store excess tools, equipment, trailers and materials that are not used in their day-to-day operations and may not be allowed at their residence due to zoning HOA restrictions and the like. A minimum one-year lease will be required. There will be no work done on the site or in the storage units, there will be no HVAC and no running water, so there will not be much daily traffic by customers.

PROCESSES CONDUCTED ON SITE:

There will be only storage pick up and drop off on site. All storage will be inside the buildings and not visible from outside. There will be security fencing, security cameras and onsite management.

MATERIALS USED:

There will be no hazardous materials allowed on site. Periodic inspections will be performed to monitor compliance.

SHIPPING AND RECEIVING:

There will be shipping or receiving allowed to or from the storage units as needed. Customers will not be allowed to use the site as a business address for any purposes.

WASTE:

There will be no waste from the storage units. Customers will be required to dispose of their own waste, if any, at their own business locations, job site or local recycling facilities, trash or other waste. (Recycling will be encouraged.)

(Continued)

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The proposed cold warehouse storage building units for business customers will not be injurious to public health, safety, morals and general welfare of the community.

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

This property has been used for commercial semi tractor truck repair for over 62 years, since 1960. Areas adjacent will not be adversely affected because activities in the new buildings will be indoors during controlled business hours and will not create much traffic or activity, since there will only be 11 storage warehouse units. Current owner will be only staff and will be on site during business hours. Units will be located 100 feet back from front lot line.

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

Because the property is directly adjacent to the railroad tracks, Owner would not otherwise be able to get the highest and best use of this large 2.96 acre already commercial property on which there is sufficient room for the construction/expansion. Because there is no city sewer or water, cold storage warehouses are one of few best uses of the property.

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

Because the property is directly adjacent to the railroad tracks, Owner would not be able to get the highest and best use of the property. There is sufficient room for the construction/expansion on the 2.96 acre property which value will be enhanced by its improved utility. Because there is no city sewer or water, cold storage warehouses are one of few best uses of the property.

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

In addition to already being used for commercial use, there are many commercial uses nearby already. This property lies adjacent to the railroad tracks on Edgewood Avenue, a heavily used East-West truck route, and also the location of the Perry Township School System bus garage which creates a lot of traffic. The property is also very near Bluff Road, a major road from the South, so it will not create any traffic on nearby neighborhood streets.

DECISION

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

Adopted this _____ day of _____, 20__

2022-UV3-029; Findings of Fact (Development Standards)

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 proposed cold storage building units for business customers will not be injurious to public health, safety, morals and general welfare of the community.

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

The property has been used for commercial semi tractor truck repair for over 62 years, since 1960. Areas adjacent will not be adversely affected because activities in the new building will be indoors during controlled business hours and will not create any traffic on neighborhood streets. There will only be 11 large cold storage warehouse units. Current owner will be only staff and will be on site during business hours. Units will be located 100 feet back from front lot line.

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

Owner would not be able to get the highest and best use of the property. The property is adjacent to the railroad tracks. There is sufficient room for the construction/expansion on the 2.96 acre property which value will be enhanced by its improved utility.

DECISION

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

Adopted this _____ day of _____, 20__ 22

(Continued)

2022-UV3-029; Photographs



Photo looking west on Edgewood Avenue.



Photo looking north of subject site, towards religious use (protected district).

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)



Photo looking east on Edgewood Avenue.



Photo of west lot line, where proposed commercial structure would be located.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)



Photo of existing structure, resembling an old pole barn, with semi-trailer storage behind.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)



Photo of rear yard, with outdoor storage.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)



Photo of driveway from Edgewood Avenue.



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

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)



Photo of the Subject Property: 1009 West Edgewood Avenue

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-051
Address: 6830 Lake Plaza Drive (approximate address)
Location: Lawrence Township, Council District #3
Zoning: C-3
Petitioner: CMG Binford, LLC, by Michael Rabinowitch
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 31 parking space for an eating establishment (maximum of 23 parking spaces permitted), and to provide one stacking space after the final drive-through component (two stacking spaces after the final drive-through component required).

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-3	Integrated Commercial Center
-----	------------------------------

SURROUNDING ZONING AND LAND USE

Northeast -	C-3	Integrated Commercial Center / Retail
Southwest -	C-3 / D-6II	Integrated Commercial Center / Multi-family dwellings
Southeast -	C-3	Integrated Commercial Center / Offices
Northwest -	C-3 / C-4	Integrated Commercial Center / Retail

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Office Commercial uses for the subject site.
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VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petitioner proposes to demolish the existing structure and replace it with an eating establishment with 31 parking spaces where the Ordinance maximum of 23 parking spaces is permitted. The eating establishment would also have a drive through window component, with one stacking space after the window component where two stacking spaces are required.
- ◇ The Ordinance provides for a maximum amount of parking to help limit stormwater runoff and reduce the amount of large surface parking areas which have negative impacts such as producing a heat island effect.

(Continued)

STAFF REPORT 2022-DV3-051 (Continued)

- ◇ The practical difficulty noted in the findings of fact for exceeding the maximum parking spaces references the configuration of the lot is conducive to parking that is in excess of the Ordinance maximum number of parking spaces, and experience with the proposed use establishes that more parking than the minimum is required to accommodate guests.
- ◇ No data has been submitted to the file to demonstrate the need for the additional parking supply or substantiate the need for the additional parking during periods of high traffic.
- ◇ Staff would note that the Northtown bike path is located nearby on East 71st Street. This path will allow for the increased use in pedestrian accessibility and bicycles to the site, thereby reducing the need for additional parking spaces beyond the maximum.
- ◇ The proposed site plan provides for one stacking space after the final drive-through component, where two are required to help with traffic flow and safety.
- ◇ The subject site has no natural or manmade physical obstacles that would prohibit compliance with the required two stacking spaces after the final drive-through component. If the design/layout of the site due to the positioning of the building on the site does not allow for compliance with the Ordinance requirements, then the site could be designed with drive-through stacking spaces that are compliant to Ordinance standards.
- ◇ Because the site will be cleared, staff believes that the new construction of a commercial drive-through restaurant should adequately align with modern development standards in order to better preserve the intent of each development standard. Given the increase in size of the proposed development, in Staff's opinion, this site would be over-developed and detrimental to the use and value of future development and other adjacent uses.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. This site would consist of new construction that could be designed to meet the terms of the Ordinance. The proposed structure could be modified to meet the maximum parking standards and provide for the required two stacking spaces after the final drive-through component, as required by the Ordinance.

GENERAL INFORMATION

THOROUGHFARE PLAN

This section of Lake Plaza Drive is not classified in the Official Thoroughfare Plan for Marion County, Indiana.

This section of Binford Boulevard is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 175-foot existing and proposed right-of-way.

SITE PLAN

File-dated November 22, 2022

FINDINGS OF FACT

File-dated November 22, 2022

(Continued)

STAFF REPORT 2022-DV3-051 (Continued)

ZONING HISTORY

2019-UV3-014; 5745 East 71st Street (north of site), requested a variance of use and development standards to provide for a fitness/exercise facility and drive-through service unit on a façade facing a public street more than 30 feet wide, **granted**.

2013-HOV-024; 6935 Lake Plaza Drive (north of site), requested a variance of development standards to provide for an approximately 912-square foot outdoor seating area, **granted**.

2011-DV3-008; 6830 Lake Plaza Drive (subject site), requested a variance of development standards of the Sign Regulations to permit a freestanding sign to be located 170 feet from an existing freestanding sign, **granted**.

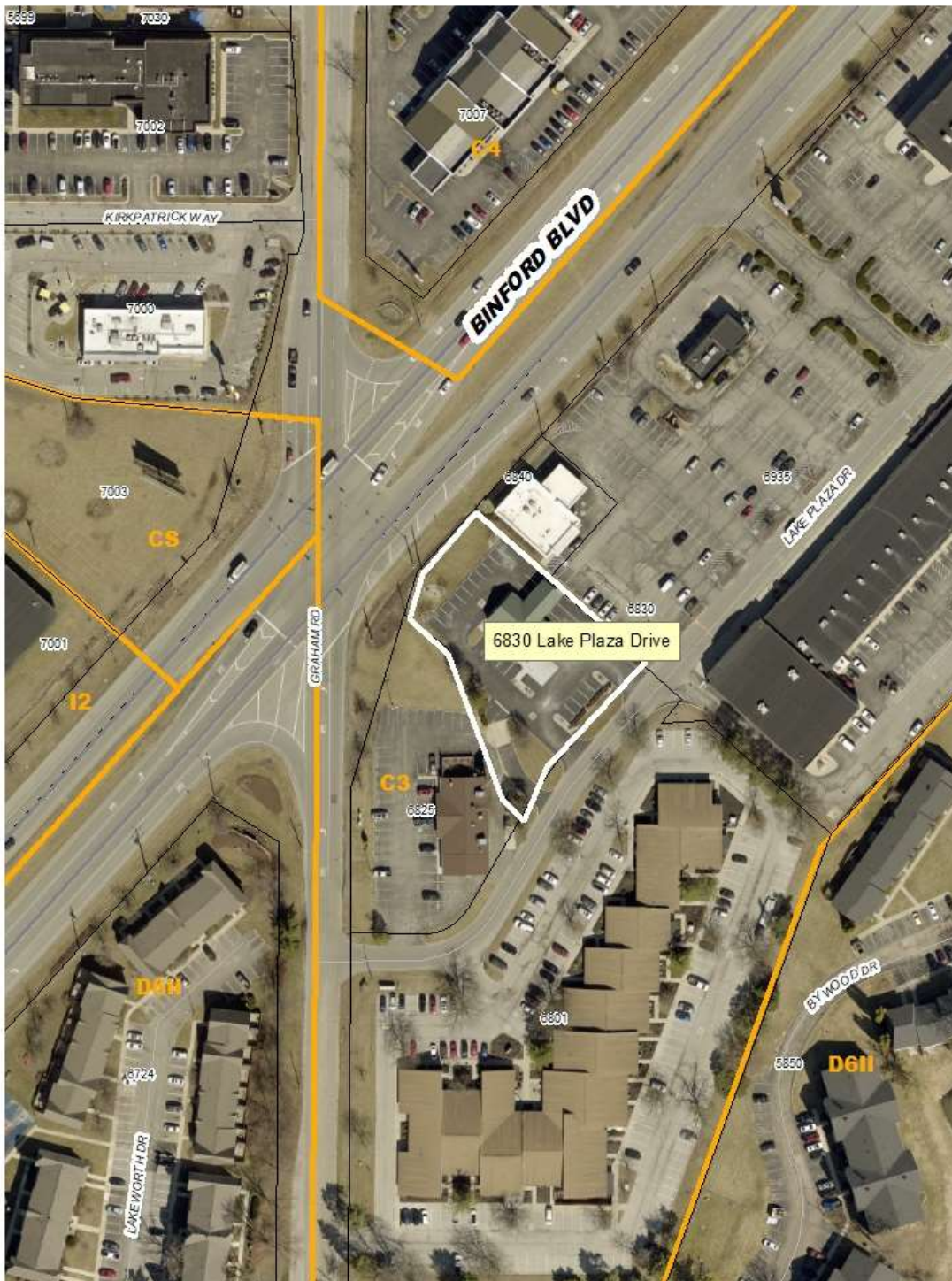
2010-UV3-014; 6840 Lake Plaza Drive (north of site), requested a variance of Use and Development Standards to provide for a veterinarian establishment, with a 700-square foot outdoor area for dogs, in C-3, **denied**.

2007-DV1-020; 6935 Lake Plaza Drive (north of site), requested a variance of development standards to provide for a drive-through restaurant with one stacking space after the final component of the drive-through service unit, and to provide for an 854-square foot outdoor seating area, **granted**.

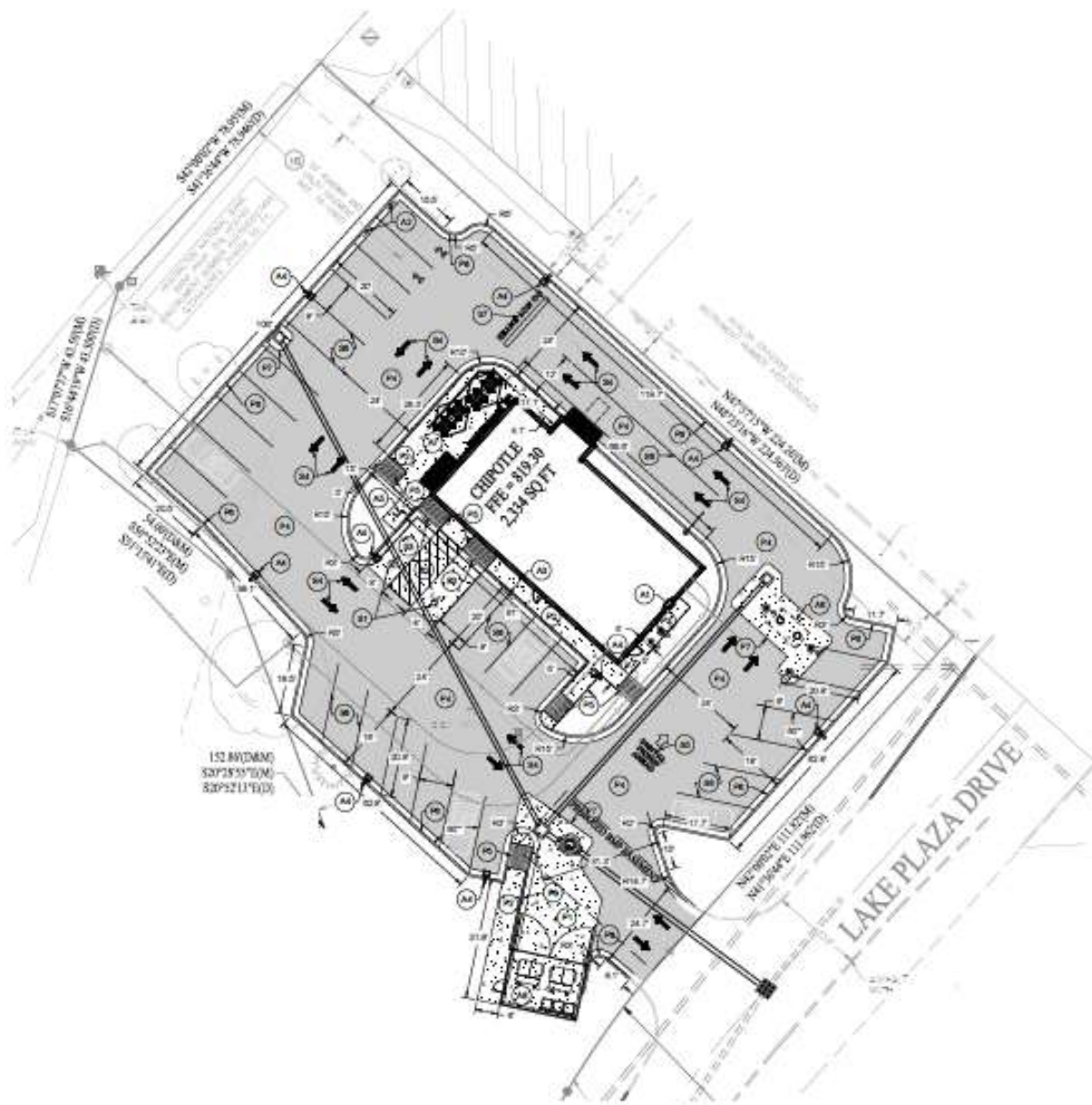
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STAFF REPORT 2022-DV3-051 (Continued)

2022-DV3-051: Location Map



2022-DV3-051: Site Plan



2022-DV3-051: Photographs



View of subject site from Binford Boulevard, with existing building to be demolished, looking southeast



View of subject site from Lake Plaza Drive, with existing building to be demolished, looking west



View of adjacent integrated commercial center to the northeast.



View of adjacent integrated commercial center offices to the southeast.



View of adjacent site down restaurant within integrated commercial center, looking south.



View of adjacent commercial uses to the west of Binford Boulevard.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-053
Address: 1028 East Edwards Avenue (approximate address)
Location: Perry Township, Council District #16
Zoning: D-3 (TOD)
Petitioner: James L. Riedeman
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for vehicular access from Edwards Avenue (exclusive access from improved alleys required).

RECOMMENDATIONS

Staff **recommends denial** of the request as submitted.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-3	Compact	Undeveloped (Residential)
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SURROUNDING ZONING AND LAND USE

North	D-3	Residential (Single-family dwellings)
South	D-3	Residential (Single-family dwelling)
East	D-3	Residential (Single-family dwelling)
West	C-1	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The 2008 Shelby Street Corridor Plan recommends 1.75-3.5 Residential Units Per Acre
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- ◇ The subject site was rezoned to the D-3 district via 2021-ZON-131. The site is undeveloped, but construction of the foundation for a single-family dwelling has begun. This block of Edwards Avenue bordered by Shelby Street to the east and Madison Avenue to the west. This site is within the Transit Oriented Development overlay. The surrounding area is developed with single-family dwellings.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would provide for vehicular access from Edwards Avenue. The zoning ordinance requires that where a property abuts an improved alley, vehicle access must be from the alley.

(Continued)

STAFF REPORT 2022-DV3-053 (Continued)

- ◇ Staff would note that an Improvement Location Permit was issued for this property, but no driveway permit has been issued.
- ◇ The subject site is within the Transit Oriented Development overlay, which is intended to promote compact walkable development. The TOD overlay is not applicable for properties zoned D-3, but these principles should be considered for infill development. The TOD overlay limits or prohibits front-loading garages in the applicable districts. Staff would suggest that a variance for vehicle access from Edwards Avenue is the result of the applicant's desire to have a front-loading garage (a suburban-style dwelling). Staff would not support a variance for development that would be inappropriate in the TOD overlay.
- ◇ The subject site is an undeveloped lot with alley access to the north. The alley is improved. Staff would suggest that a compliant development is possible for this site and any practical difficulty would be self-imposed by the desire to have a front-loading garage. Staff would not support a variance that does not have a practical difficulty.
- ◇ Several properties on this block of Edwards Avenue have vehicle access from Edwards Avenue; however, the overall development pattern is dwellings with detached garages. Several detached garages do have alley access. Staff would suggest that this site could be developed with a detached garage in compliance with the ordinance. A dwelling with a detached garage accessed from the alley would be consistent with the infill housing guidelines and principles for Transit Oriented Development; therefore, staff believes any practical difficulty is self-imposed.

GENERAL INFORMATION

THOROUGHFARE PLAN	Edwards Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 500-foot existing right-of-way and a proposed right-of-way.
SECONDARY ZONING DISTRICT	Transit Oriented Development Overlay
SITE PLAN	File-dated November 29, 2022.
FLOOR PLAN	File-dated November 29, 2022
ELEVATIONS	File-dated November 29, 2022.
FINDINGS OF FACT	File-dated November 29, 2022.

ZONING HISTORY – SITE

2021-ZON-131, rezoning of 0.31 acre from the C-1 district to the D-3 district, **approved**.

(Continued)

STAFF REPORT 2022-DV3-053 (Continued)

ZONING HISTORY – VICINITY

2000-SE2-002, 4124 Shelby Street, special exception for a religious us in the D-3 district, **approved**.

93-Z-62, 4137 Madison Avenue, rezoning of .034 acre from the C-S district to the C-1 district, **approved**.

85-Z-165, 4128 Madison Avenue, rezoning of 2.25 acres from the D-3 district to the D-12 district, **withdrawn**.

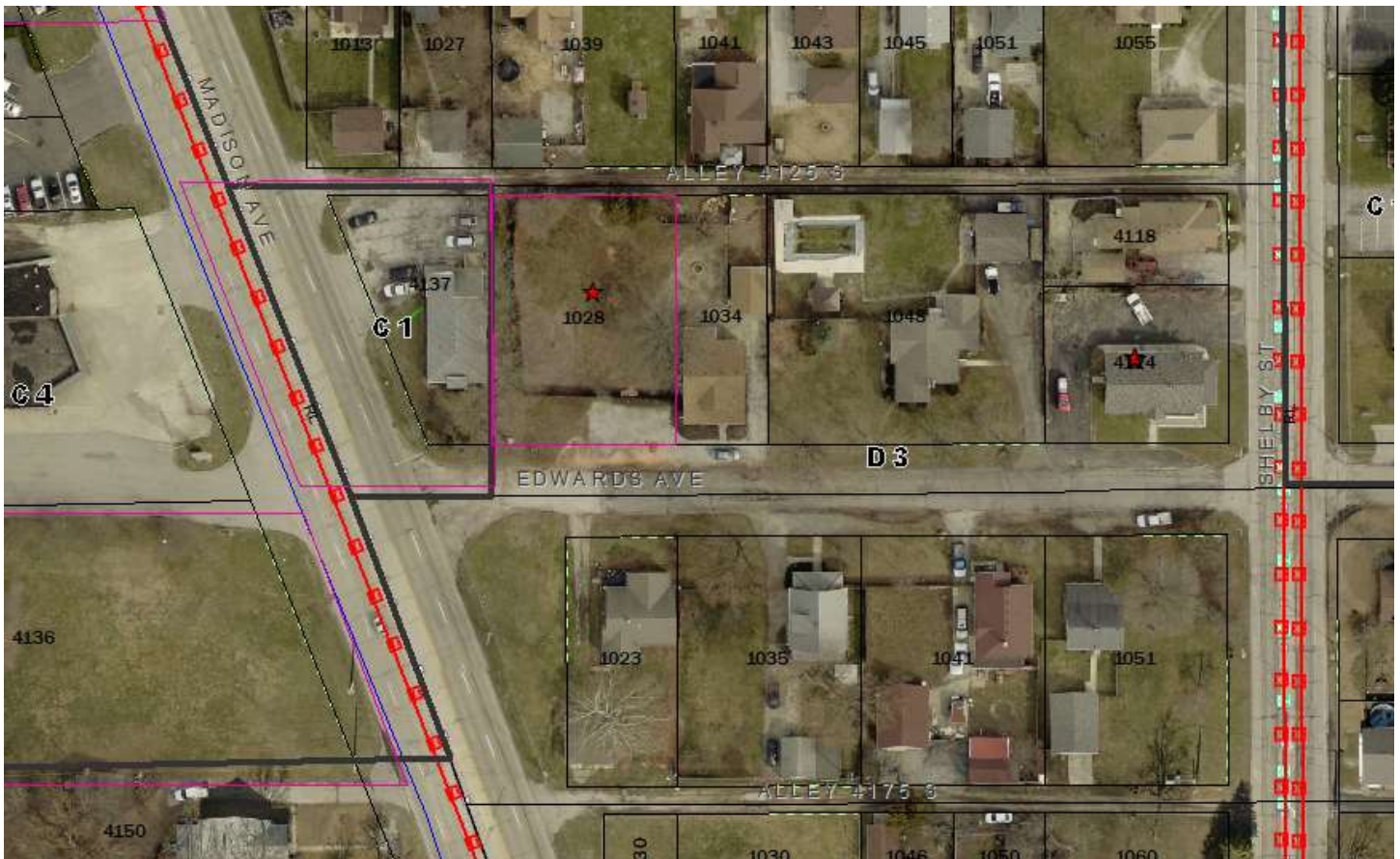
85-Z-166, 4128 Madison Avenue, rezoning of 2.78 acres from the D-3 district to the C-4 district, **approved**.

85-UV3-53, 4124 Shelby Street, variance to provide for a medical office in an existing building in the D-3 district, **approved**.

74-AP-38, 4137 Madison Avenue, modification to the C-S district to provide for a cocktail lounge, **denied**.

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2022-DV3-053; Aerial Map



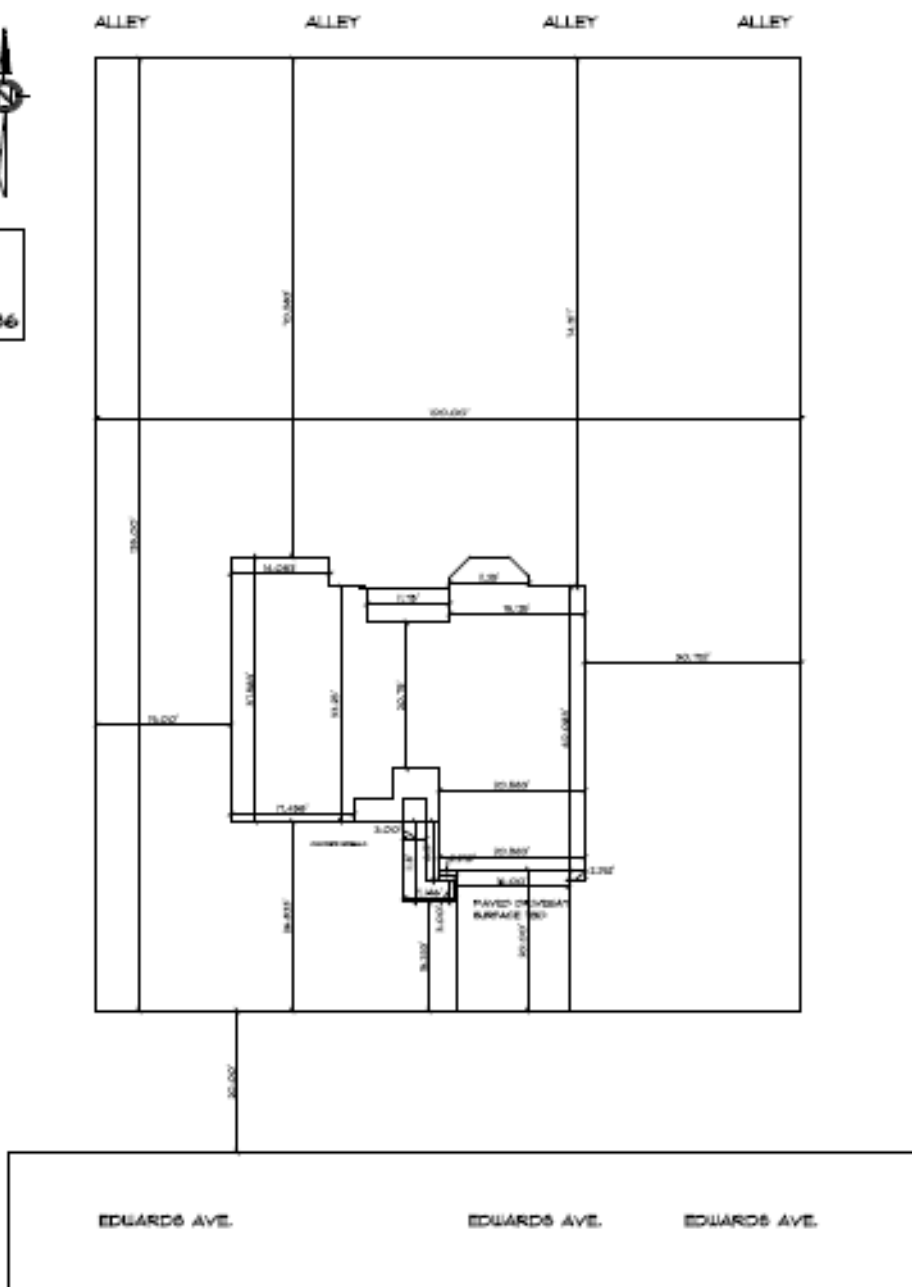
2022-DV3-053; Site Plan



1029 E. EDWARDS AVE.
INDIANAPOLIS, IN 46227

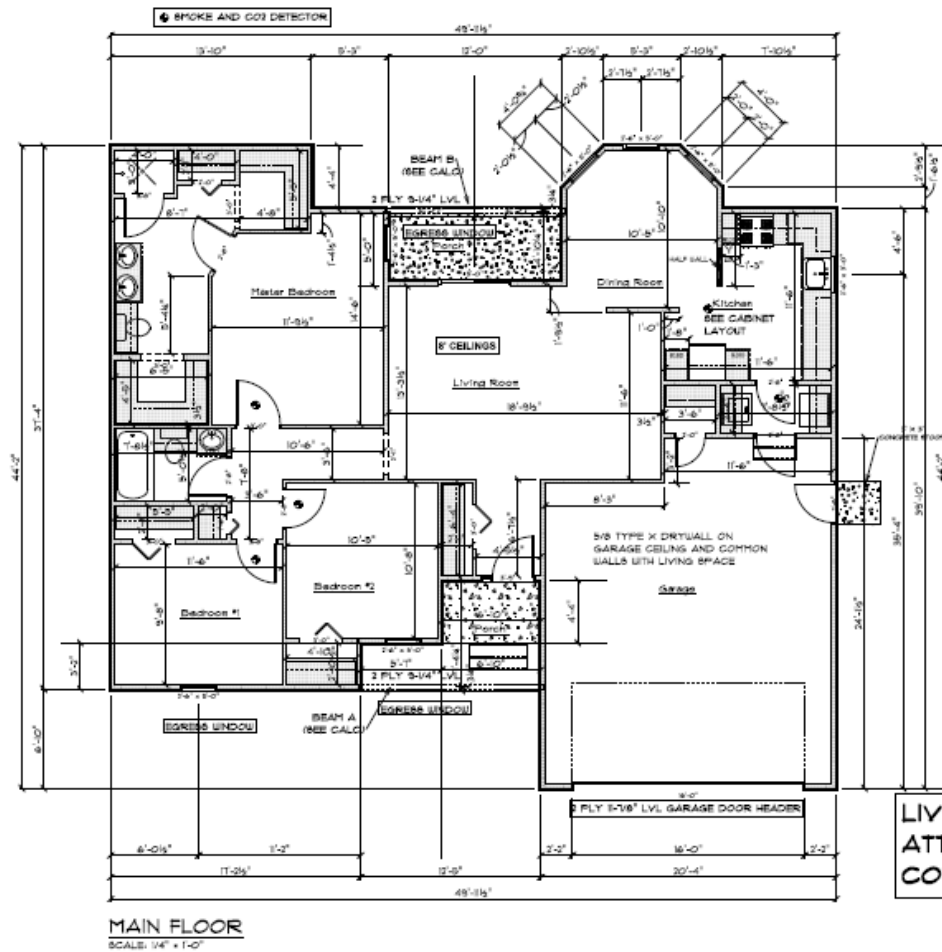
LEGAL: ELDERS 2ND MARION HTS SUB L 36

LIVING AREA: 1339 SQ. FT.
ATTACHED GARAGE: 478 SQ. FT.
COVERED PORCHES: 117 SQ. FT.



SITE PLAN
SCALE: 1" = 10'-0"

2022-DV3-053; Floor Plan



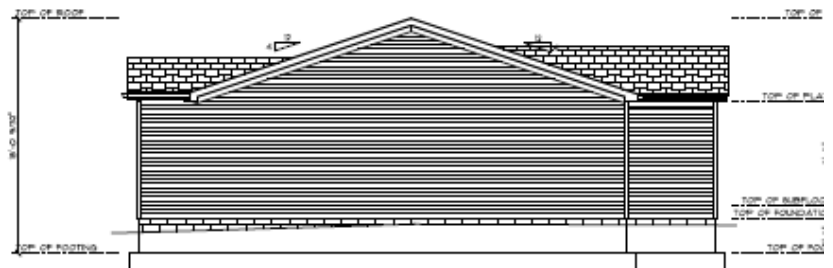
2022-DV3-053; Elevations



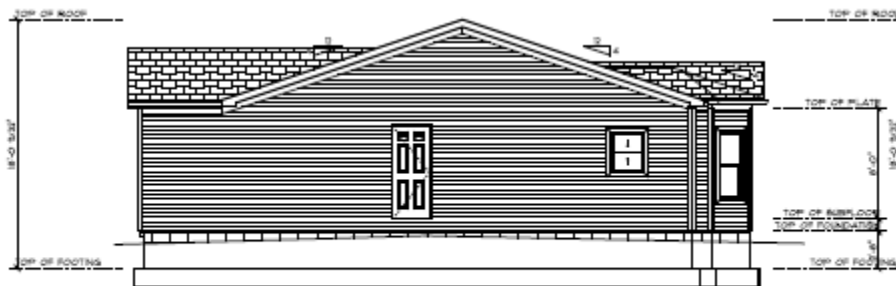
SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"



WEST ELEVATION
SCALE: 1/4" = 1'-0"



EAST ELEVATION
SCALE: 1/4" = 1'-0"

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 driveway would not obstruct any sidewalks or curbs.

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 driveway would only add value to the property and give access to the already approved structural permit for the home that has an attached garage facing Edwards Ave. This would also be consistent with all other homes on the street because they all have driveays off Edwards Ave.

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

The alley behind the home is not easily accessible as stated. Also, it would be impractical to build the home already approved in the structural permit with the attached garage and not have a driveway leading up to that garage from the street. It would be impractical for the driveway to reach from the alley to the garage.

2022-DV3-053; Photographs



Subject site viewed from Edwards Avenue



Subject site viewed from alley



East of site, northern street frontage of Edwards Avenue



South of site



East of site, southern street frontage of Edwards Avenue

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-DV3-054
Address: 644 North Temple Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: D-5
Petitioner: Adducci Partners LTD, by John Cross
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a lot width of 39 feet (40-foot lot width required) and a north side yard setback of 4.5 feet (five-foot side yard setbacks required).

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

MI

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-055
Address: 5959 Fall Creek Road (approximate address)
Location: Lawrence Township, Council District 4
Zoning: D-2 (FF)
Petitioner: Latasha & Kyle Bradberry
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with an 11.5-foot rear setback (25-foot rear setback required).

RECOMMENDATIONS

Staff **recommends denial** of this request.

If the Board is inclined to vote against staff's recommendation, then staff would request a commitment that the variance be subject to the addition of four evergreen shrubs or trees to be located within the width of the building and between the southern building façade and the fence. The trees or shrubs shall be at least 6 feet in height at the time of planting and maintained at a minimum of 8 feet in height

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-2	Metro	Residential (Single-family dwelling)
-----	-------	--------------------------------------

SURROUNDING ZONING AND LAND USE

North	D-2	Residential (Single-family dwelling)
South	D-2	Residential (Single-family dwelling)
East	SU-5	Undeveloped
West	D-2	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends 0 to 1.75 residential units per acre development.
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- ◇ The 0.58-acre subject site is under construction of a single-family dwelling and is surrounded by residential development except for a vacant property to the east.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Per Table 744-201-1 of the Ordinance, the D-2 district within the Metro Context area requires a 25-foot rear setback.

(Continued)

STAFF REPORT 2022-DV3-055 (Continued)

- ◇ As proposed, the single-family dwelling would have an 11.5-foot rear setback to the south.
- ◇ Setbacks are required to keep a minimum distance to help reduce drainage overflows onto adjacent properties and are intended to provide sufficient buffering to prevent the lateral expansion of fires, as well as the operation of emergency equipment in such situations. Setbacks also allow for property improvements to be constructed and maintained on a property without requiring access through adjacent properties.
- ◇ The site was initially proposed to meet the 25-foot rear setback through ILP22-01945 as shown in Staff Exhibit 2. With the conclusion of an inspection, the inspector noted that the excavated foundation was not located in conformance with the plans submitted for the permit and a violation was issued.
- ◇ Another permit, ILP22-02511, was applied for and issued to relocate the house on the site. This permit was placed on abeyance since the site plan did not meet the required 25-foot rear setback.
- ◇ The strict application of the terms of the Zoning Ordinance would not result in a practical difficulty in the use of the property because the dwelling could be relocated to meet the required setback. The site is sufficient in size to allow for the required setbacks seeing that the originally submitted plans show this in Staff Exhibit 2.
- ◇ The submitted findings state that “the topography of the lot dictated where this home was to be placed, as there is a drainage swale off Fall Creek Road as one goes north from the home location.” There is a drainage ditch along Fall Creek Road, but a 2016 Contour Lines Map, noted as Staff Exhibit 1, shows that the dwelling did not have to be relocated as far back as proposed.
- ◇ Staff’s position regarding practical difficulties is predominately determined by whether the site creates an issue with the development of the site, which in this case it would not. Staff is opposed to requests where the standards of the Ordinance could be met, displaying a lack of practical difficulty, and therefore, not meeting the Findings of Fact.
- ◇ If the request is approved against staff’s recommendation, then staff would request that additional landscaping be provided along the southern property boundary within the width of the building to provide additional privacy for the lot to the south. This shall include a minimum of four evergreen trees or shrubs planted at 6 feet in height and maintained at a minimum of eight feet in height.

GENERAL INFORMATION

THOROUGHFARE PLAN

Fall Creek Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 90-foot existing right-of-way and an 80-foot proposed right-of-way.

SITE PLAN

File-dated December 13, 2022.

FINDINGS OF FACT

File-dated December 13, 2022.

(Continued)

STAFF REPORT 2022-DV3-055 (Continued)

ZONING HISTORY – SITE

PREVIOUS VIOLATION

1. VIO22-005975; Violation of Indianapolis Building Standards and Procedures 2018: 536-801 Minimum standards for structures and building equipment and Indianapolis Building Standards and Procedures 2018: 536-217 Notice of change in permit information amendment of permits and plans – Current foundation excavation is not located in conformance with indicated callouts on file-marked ILP plot plan.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

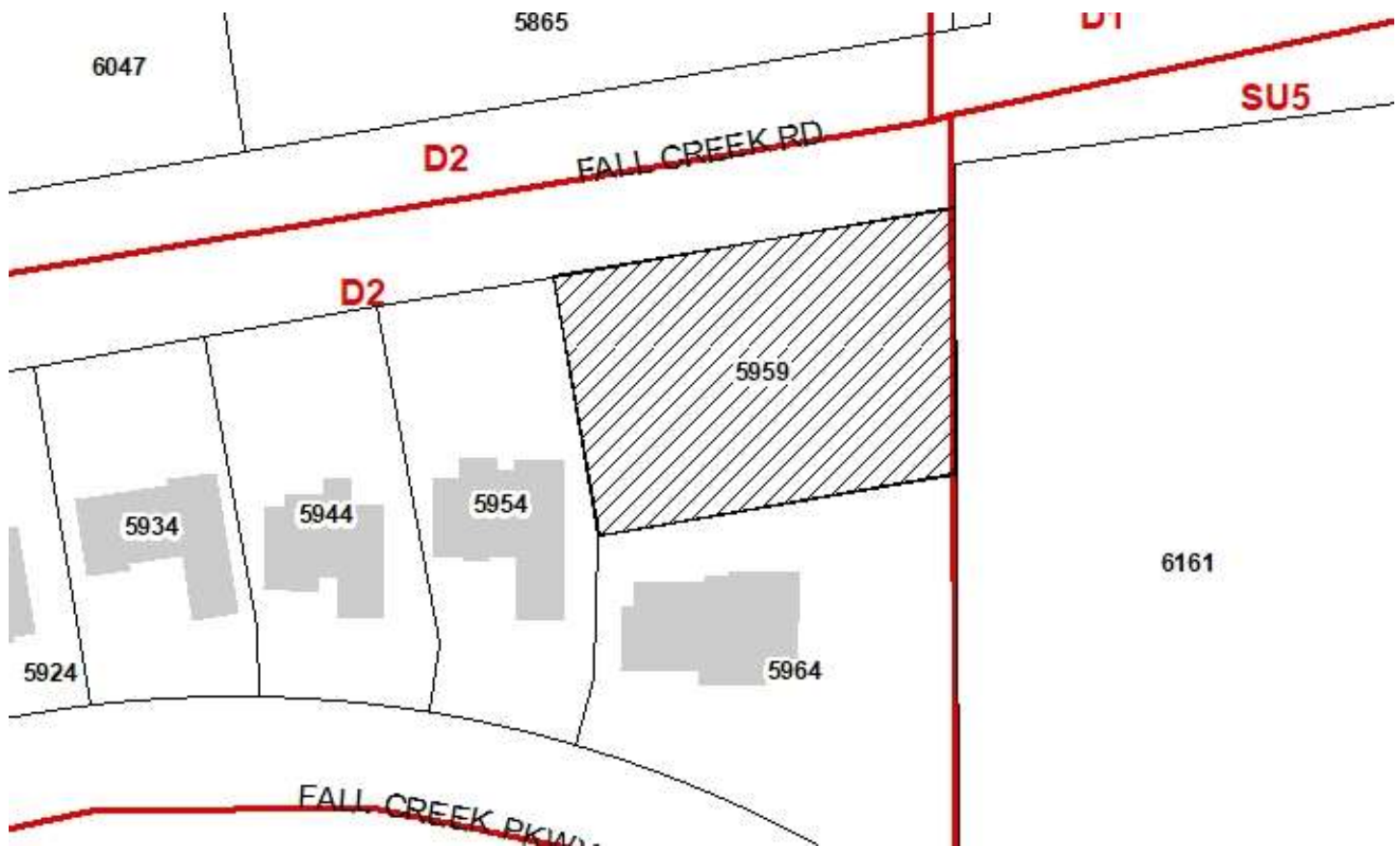
2012-DV2-037; 5534 Fall Creek Road (northwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 5.83-foot tall, 33.64-square foot (maximum height of four feet), externally illuminated freestanding sign at 5534 Fall Creek Road, with an approximate 8.5-foot setback from the front property line (15-foot setback required) and a 10.67-foot tall, 17 square foot (maximum height of four feet), externally illuminated freestanding sign, with an approximate 2.5-foot setback from the front property line (15-foot setback required), **granted**.

2009-HOV-016; 5904 Fall Creek Parkway (west of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for an in-ground pool in front of the established front building line, **granted**.

2005-DV3-016; (east of site), Variance of development standards of the Flood Control Districts Zoning Ordinance to provide for a 280-sq.ft. storage shed for lawn and maintenance equipment with a finished floor elevation of 743 feet above sea level (minimum finished floor elevation of 748.5 ft. above sea level, or two ft. above the 100-year floodplain elevation required), **granted**.

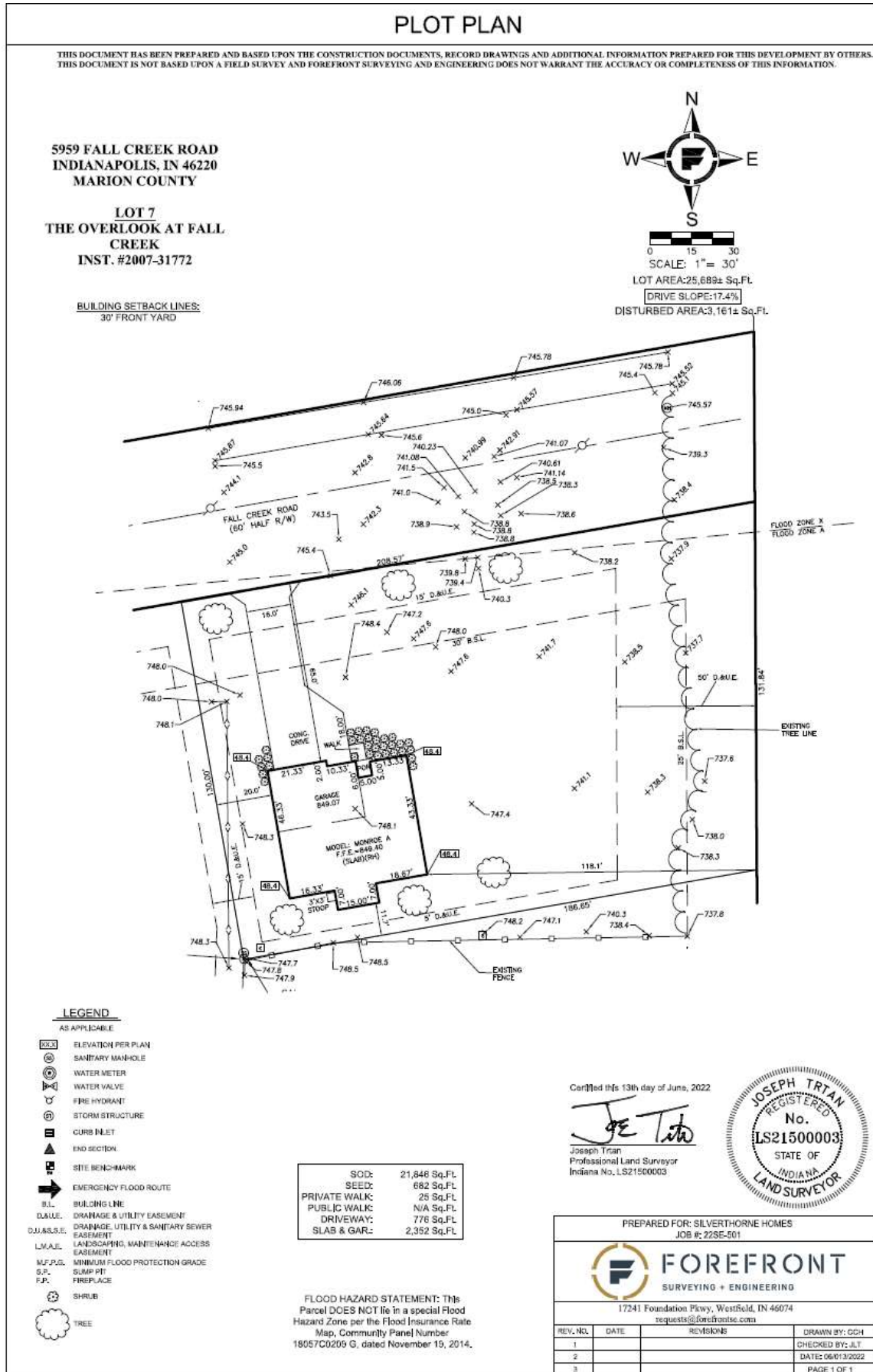
MI

2022-DV3-055; Location Map

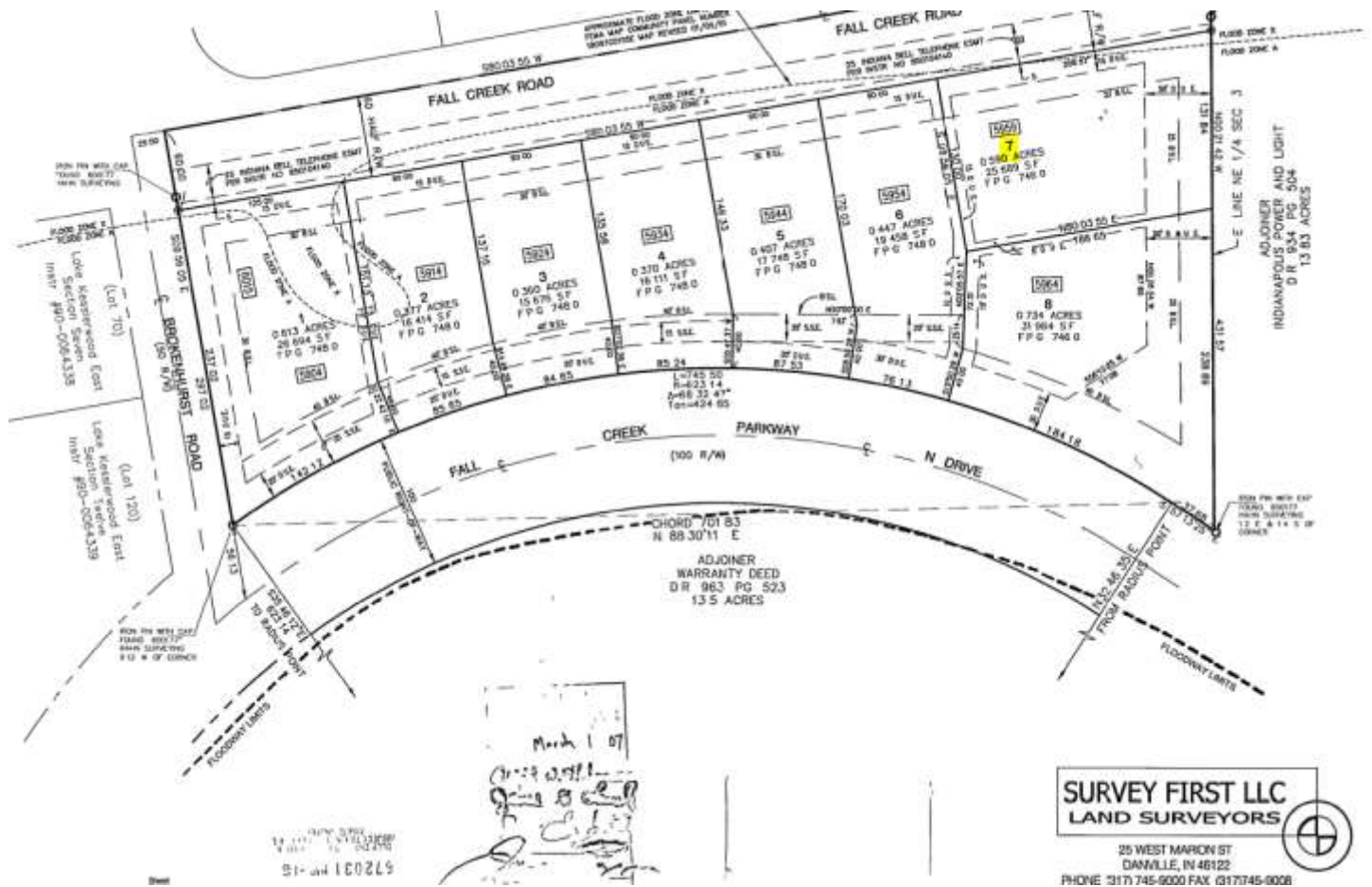


2022-DV3-055; Aerial Map





2022-DV3-055; Subdivision Plat



2022-DV3-055; Staff Exhibit 1 - Site Plan for ILP22-01945



PLOT PLAN

THIS DOCUMENT HAS BEEN PREPARED AND BASED UPON THE CONSTRUCTION DOCUMENTS, RECORD DRAWINGS AND ADDITIONAL INFORMATION PREPARED FOR THIS DEVELOPMENT BY OTHERS. THIS DOCUMENT IS NOT BASED UPON A FIELD SURVEY AND FOREFRONT SURVEYING AND ENGINEERING DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THIS INFORMATION.

**5959 FALL CREEK ROAD
INDIANAPOLIS, IN 46220
MARION COUNTY**

**LOT 7
THE OVERLOOK AT FALL
CREEK
INST. #2007-31772**

BUILDING SETBACK LINES:
30' FRONT YARD

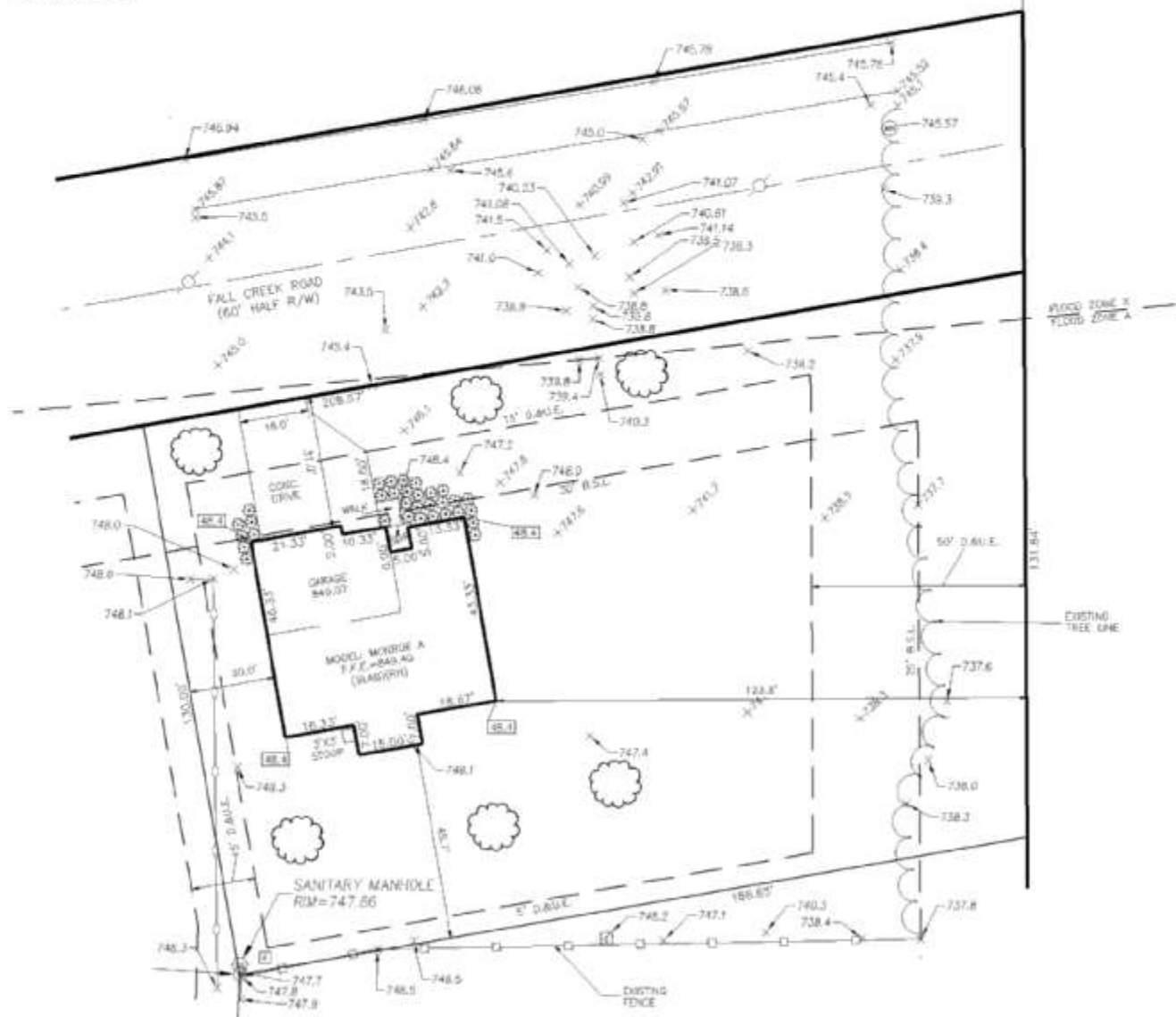


0 15 30
SCALE: 1" = 30'

LOT AREA: 25,689± Sq. Ft.

DRIVE SLOPE:17.4%

DISTURBED AREA: 3,161± Sq.Ft.



2022-DV3-055; Photographs



Photo of the Subject Property: **5959 Fall Creek Road**



Photo of the dwellings to the west of the subject site.



Photo of the front setback looking west.



Photo of the west side setback looking south.



Photo of the 11.5-foot rear setback looking east.



Photo of the single-family dwelling to the south.



Photo of the 11.5-foot rear setback looking west.



Photo of the east side setback looking north.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV3-056
Address: 4411 East Thompson Road (approximate address)
Location: Perry Township, Council District #24
Zoning: D-A
Petitioner: Dana Eveland
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 20.08-foot detached garage, being taller than the 13-foot tall primary structure (not permitted) with 83% open space (85% open space required)

RECOMMENDATIONS

Staff **recommends denial** of the request as submitted.

If the petitioner were to **meet the 85% open space and remove the commercial vehicles from the site**, then staff would recommend approval of an amended request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

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

North	D6-II	Residential (Multi-family dwellings)
South	D-A	Residential (Single-family dwelling)
East	D-A	Residential (Single-family dwelling)
West	D-A	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood development.
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- ◇ The subject site is developed with a one-story single-family dwelling, detached garage, storage shed, and an in-ground pool. It is surrounded by single-family dwellings in each direction except for the multi-family dwellings to the north.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for the construction of a pole barn to be taller than the primary structure with 83% open space.

(Continued)

STAFF REPORT 2022-DV3-056 (Continued)

- ◇ Section 743-306.A states that any accessory use shall be customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot. This regulation is in place to prevent residential districts being developed with garages and barns that are out of character with the development pattern of the area.
- ◇ Furthermore, the Ordinance does not allow for the height of an accessory building to exceed the height of the primary building. As proposed, the pole barn would measure 20.08 feet tall, which would be 7.08 feet taller than the existing 13-foot-tall dwelling.
- ◇ Staff determined that there is a practical difficulty regarding the height of the primary structure and the limitation it poses on an accessory structure that would require 12- to 13-foot-tall garage doors to store a recreational vehicle.
- ◇ Due to the proposed placement of the structure being at the rear of the property and with it being screened from the street frontage, staff is not opposed to the height variance requested.
- ◇ However, the 85% required open space of the D-A district could be met with a reduction of the size of the proposed pole barn.
- ◇ The petitioner confirmed that the storage shed would be removed with the construction of the new pole barn, which would have otherwise decreased the amount of open space on site.
- ◇ A revised site plan was provided with accurate dimensions of the single-family dwelling and garage, which increased the open space to 84.6%. Staff would still require that the 85% be met.
- ◇ With the conclusion of the site visit, it was brought to staff's attention that two commercial vehicles, a storage unit and an open trailer measuring longer than 12 feet in length, were stored on site. Since the storage of such vehicles is not permitted in a dwelling district, the petitioner confirmed that they would be removed from the property and would not be stored on site.

GENERAL INFORMATION

THOROUGHFARE PLAN	Thompson Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 100-foot existing right-of-way and a 90-foot proposed right-of-way.
SITE PLAN	File-dated December 7, 2022.
AMENDED SITE PLAN	File-dated January 3, 2022.
ELEVATIONS	File-dated December 7, 2022.
FINDINGS OF FACT	File-dated December 7, 2022.

(Continued)

STAFF REPORT 2022-DV3-056 (Continued)

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2006-DVB-004; 1709 South 9th Avenue (northeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for an aluminum awning with a 20-foot front yard setback (minimum 30-foot front yard setback), **denied**.

97-V2-26; 4419 East Thompson Road (east of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 26 by 36-foot addition to a detached garage being 1,656 square feet or 88% of the main floor area of the primary structure (maximum 1,398 square feet or 75% of the primary structure required) for an existing single-family residence, **granted**.

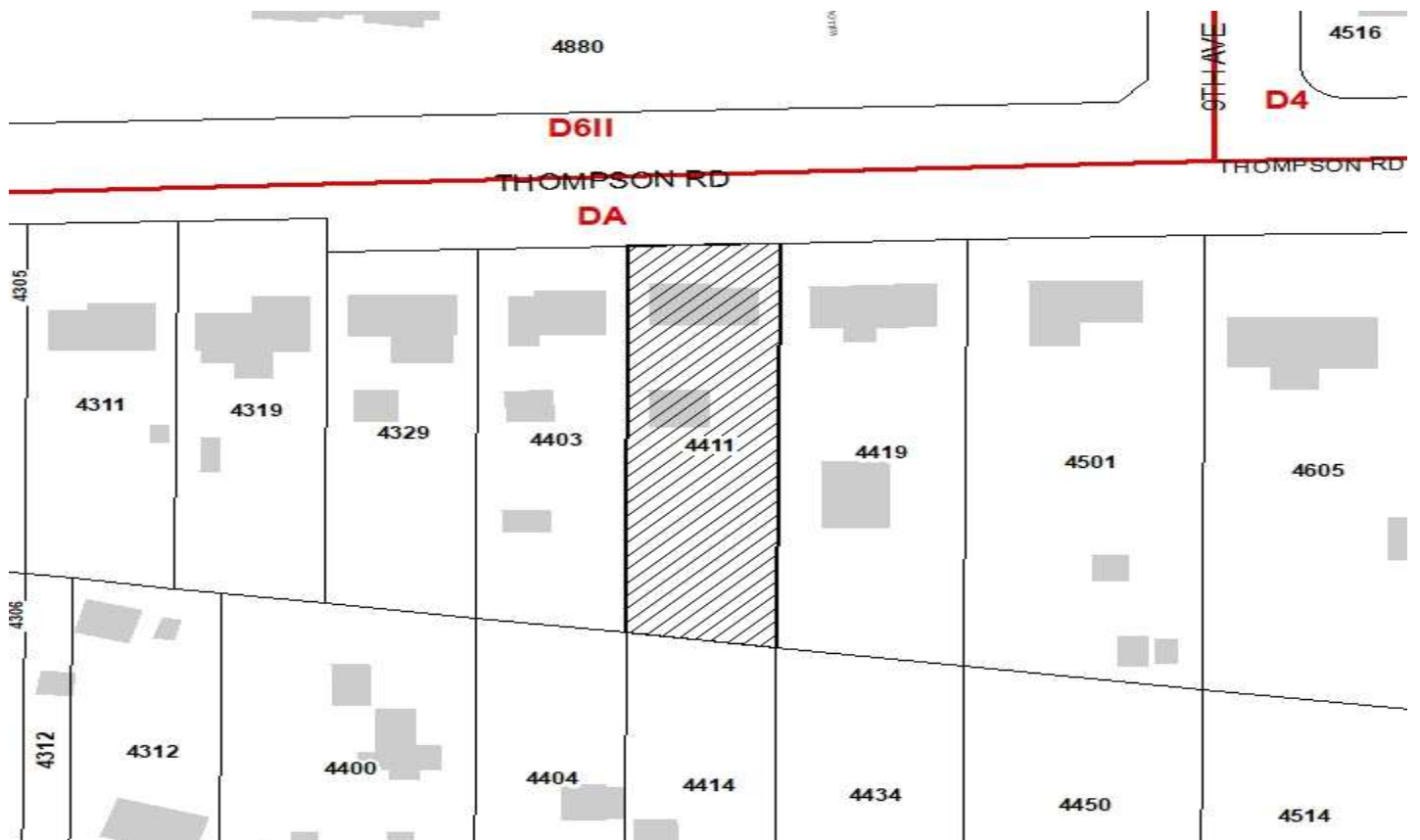
93-UV2-33; 4701 East Thompson Road (east of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the sale of flowers, bushes grown on site and the sale of garden and lawn supplies and accessories and a variance of development standards of the Sign Regulations of Marion County to permit the placement of a 32 square foot ground sign (one square foot permitted), **denied**.

90-UV2-70; 4701 East Thompson Road (east of site), Variance of use and development standards to permit a lawn and garden center with retail sales, outdoor storage and a 4 by 8-foot ground sign, **denied**.

83-V2-83; 4715 East Thompson Road (east of site), Variance to allow a door to be added to the carport approved by the previous variance, **granted**.

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2022-DV3-056; Location Map



2022-DV3-056; Aerial Map





1 SITE PLAN
A5 SCALE: 1"=20'

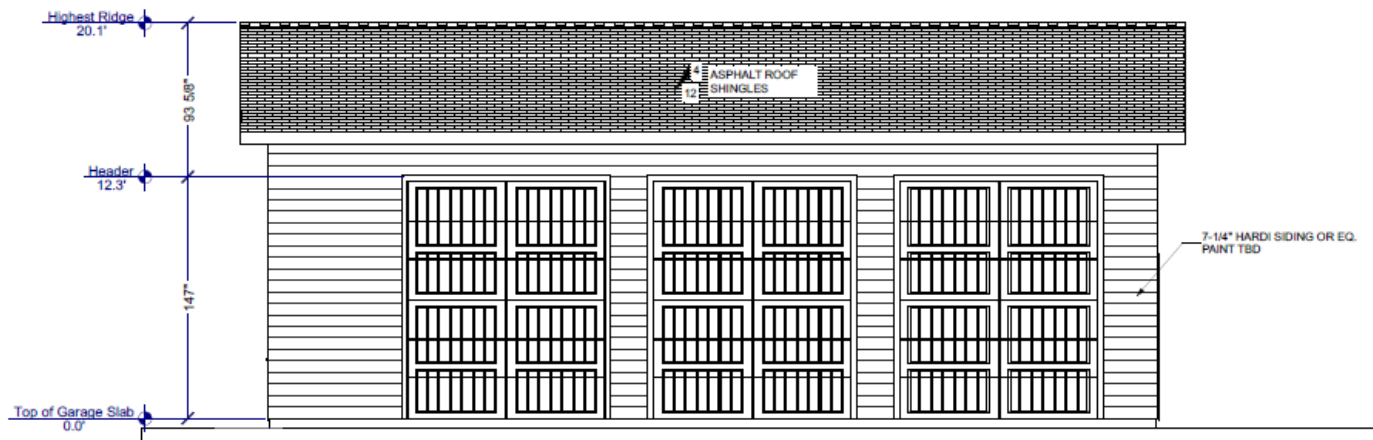




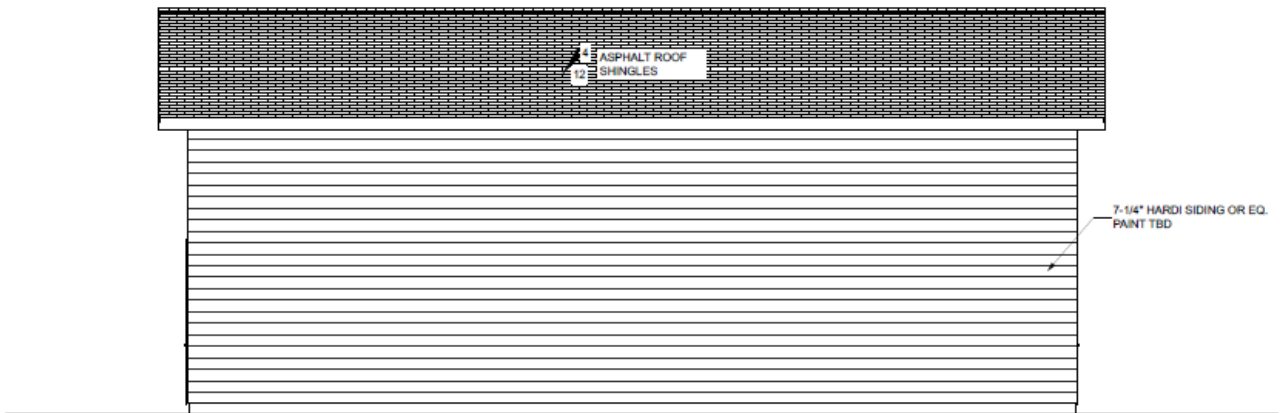
1 SITE PLAN
A5 SCALE: 1"=20'



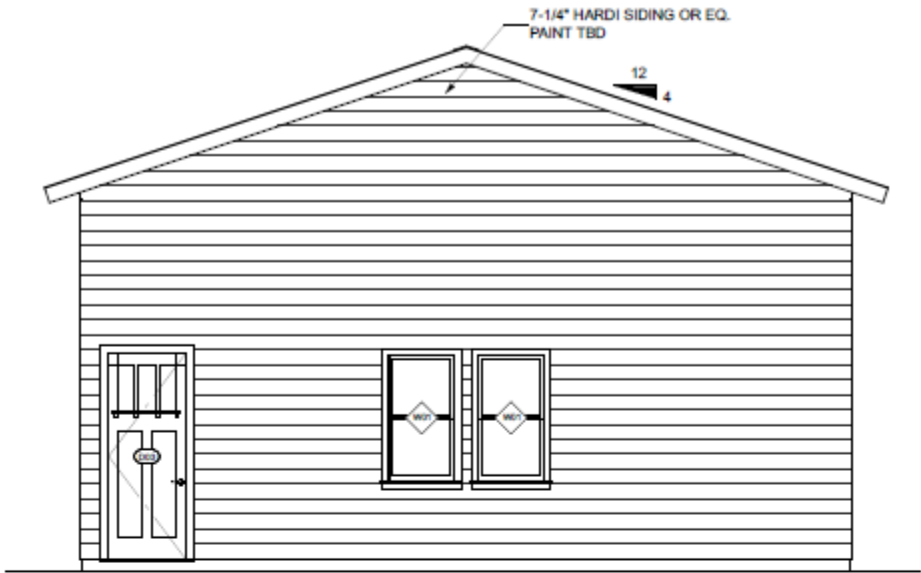
2022-DV3-056; Elevations



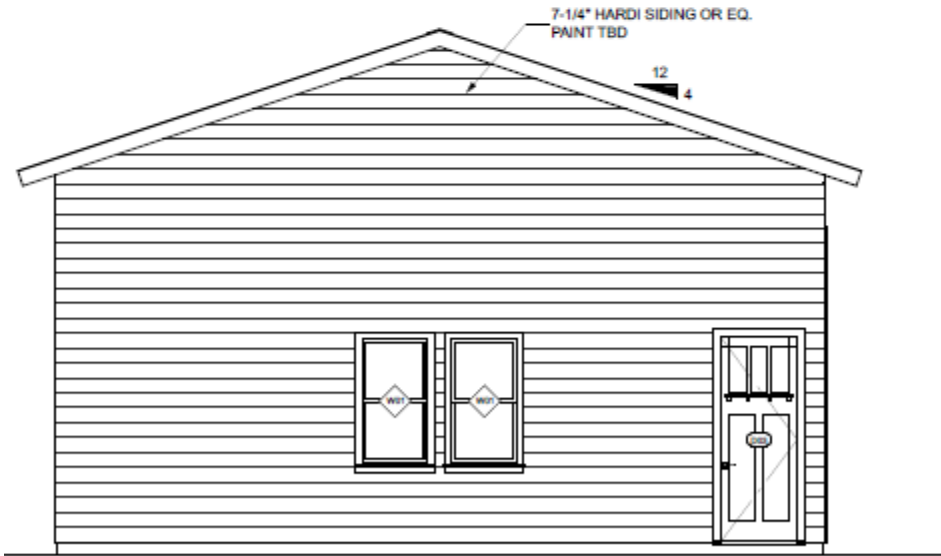
1 FRONT ELEVATION
A3 SCALE: 1/4"=1'



3 REAR ELEVATION
A3 SCALE: 1/4"=1'

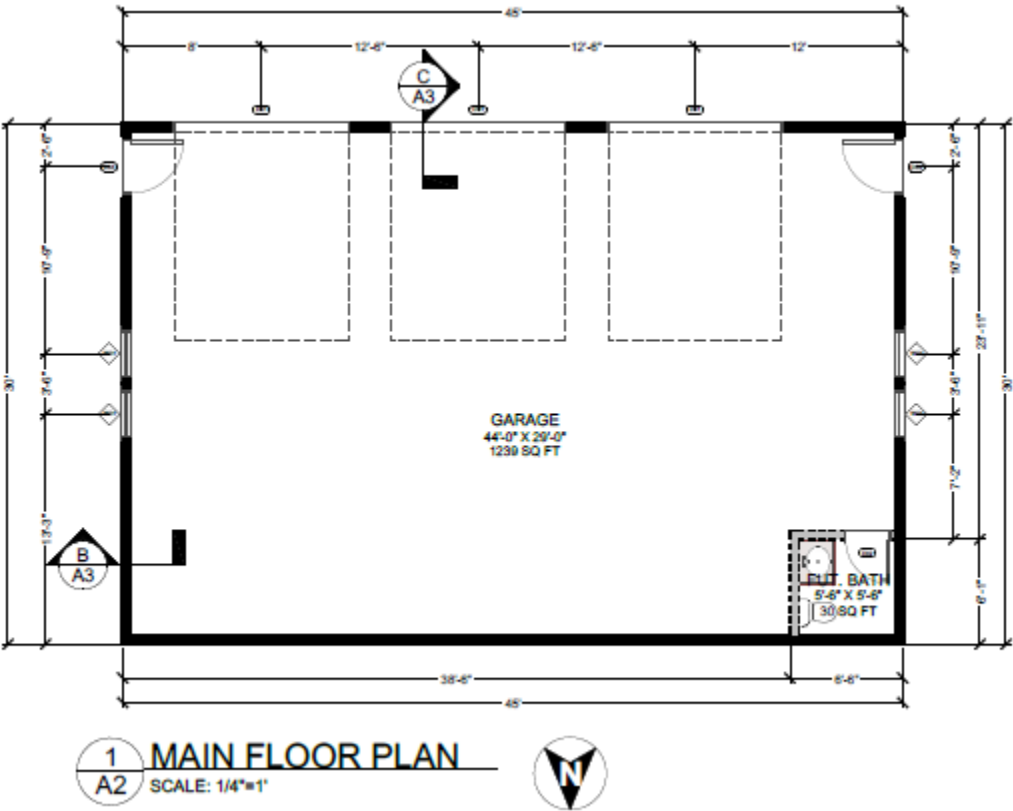


2
A3 RIGHT ELEVATION
SCALE: 1/4"=1'



4
A3 LEFT ELEVATION
SCALE: 1/4"=1'

2022-DV3-056; Floor Plan



2022-DV3-056; Photographs



Photo of the Subject Property: 4411 East Thompson Road



Photo of the existing pool area.



Photo of the stoarage shed to be removed.



Photo of the proposed location of the pole barn.



Photo of the commercial vehicle on site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-037
Address: 1410 East Epler Avenue (approximate address)
Location: Perry Township, Council District #24
Zoning: C-1 / C-3 (TOD)
Petitioner: Indianapolis Insulators Union Local #18, by Michael Rabinowitch
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a commercial building to be used as a union insulators training facility, with a front setback of 35 feet (maximum 10-foot setback required along Pedestrian / Urban Frontages) and a required front building line of 56% (80% front building line required).

RECOMMENDATIONS

Staff recommends **approval** of these requests, subject to the following commitment being reduced to writing on the BZA's Exhibit "A" forms at least three days prior to the hearing:

That a landscape plan and green factor be subject to Administrator's Approval, prior to the issuance of an Improvement Location Permit

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-1 / C-3	Metro	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	C-1	Undeveloped
South	D-1	Single-family residential
East	C-3	Commercial
West	C-1	Union Hall

LAND USE PLAN

The 2019 Marion County Land Use Plan recommends community commercial development.

- ◇ This site is zoned C-1 and is undeveloped. A small portion of the site along the east property line is zoned C-3. This site is in the Transit Oriented-Development overlay district. It is two parcels west of Madison Avenue Red Line route.

(Continued)

STAFF REPORT 2022-UV3-037 (Continued)

- ◇ The adjacent site to the west is also owned by the petitioner and is developed with a union hall and related parking. The subject site's proposed development is an expansion for a vocational training facility. East of site is a commercial corridor. South of site is a residential development. North and west of site are schools and special use.

VARIANCE OF USE

- ◇ This request would provide for a union insulators training facility (vocational training) in the C-1 / C-3 district. The use would be located entirely within the C-1 zoning. This use is permitted in C-4 or greater commercial districts or industrial districts.
- ◇ This use would be directly related to the existing union hall on the adjacent site to the west, which is a permitted C-1 use. Furthermore, school uses are existing nearby to the north and west. Staff believes that a training facility is related to school uses and the existing use; therefore, staff is not opposed to the variance of use.
- ◇ The training facility use would be contained within the proposed building, which would be consistent with the surrounding commercial uses.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for an increased front setback. The proposed front setback is 35 feet. The Transit Oriented Development overlay has a maximum setback of ten feet. The surrounding sites generally have setbacks greater than ten feet. The proposed 35-foot setback is more consistent with the neighborhood context, and would allow for increased frontage landscaping. Therefore, staff is not opposed to the increased front setback.
- ◇ This request would provide for a front building line that is 56 percent of the lot width where 80 percent is required. The intent of this requirement is to have the widest part of the building on the lot frontage. This lot is an irregular shape, so the lot width is larger closer to the street, and narrower towards the rear. The proposed building is rectangular, so there is some practical difficulty in meeting this standard; therefore, staff is not opposed to the reduced percentage for the front building line.
- ◇ Staff is requesting that approval of the variances of development standards be subject to a commitment for administrative approval of the landscape plan and green factor requirement.
- ◇ Staff would note that all other standards for the C-1 district TOD Overlay would apply, including entry features and transparency as described in Section 744-702 of the zoning ordinance.

(Continued)

STAFF REPORT 2022-UV3-037 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	Epler Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with a 50-foot existing right-of-way and an 80-foot proposed right-of-way.
SECONDARY ZONING DISTRICT	Transit Oriented Development Overlay (TOD)
SITE PLAN	File-dated December 1, 2022.
PLAN OF OPERATION	File-dated December 1, 2022.
FINDINGS OF FACT	File-dated December 1, 2022.

ZONING HISTORY – SITE

2005-ZON-105, rezoning of 3.22 acres from to the SU-34 district, **approved**.

2015-ZON-046, rezoning of 5.34 acres to the C-1 district, **approved**.

ZONING HISTORY – VICINITY

2006-ZON-060, 5350 Madison Avenue, rezoning of 0.75 acre to the C-5 district, **approved**.

2006-APP-118, 5410 Madison Avenue, modification of commitments 88-Z-56 to delete restrictions on use and outdoor storage, **withdrawn**.

88-Z-56, 5410 Madison Avenue, rezoning of 0.75 acre to the C-5 district, **approved**.

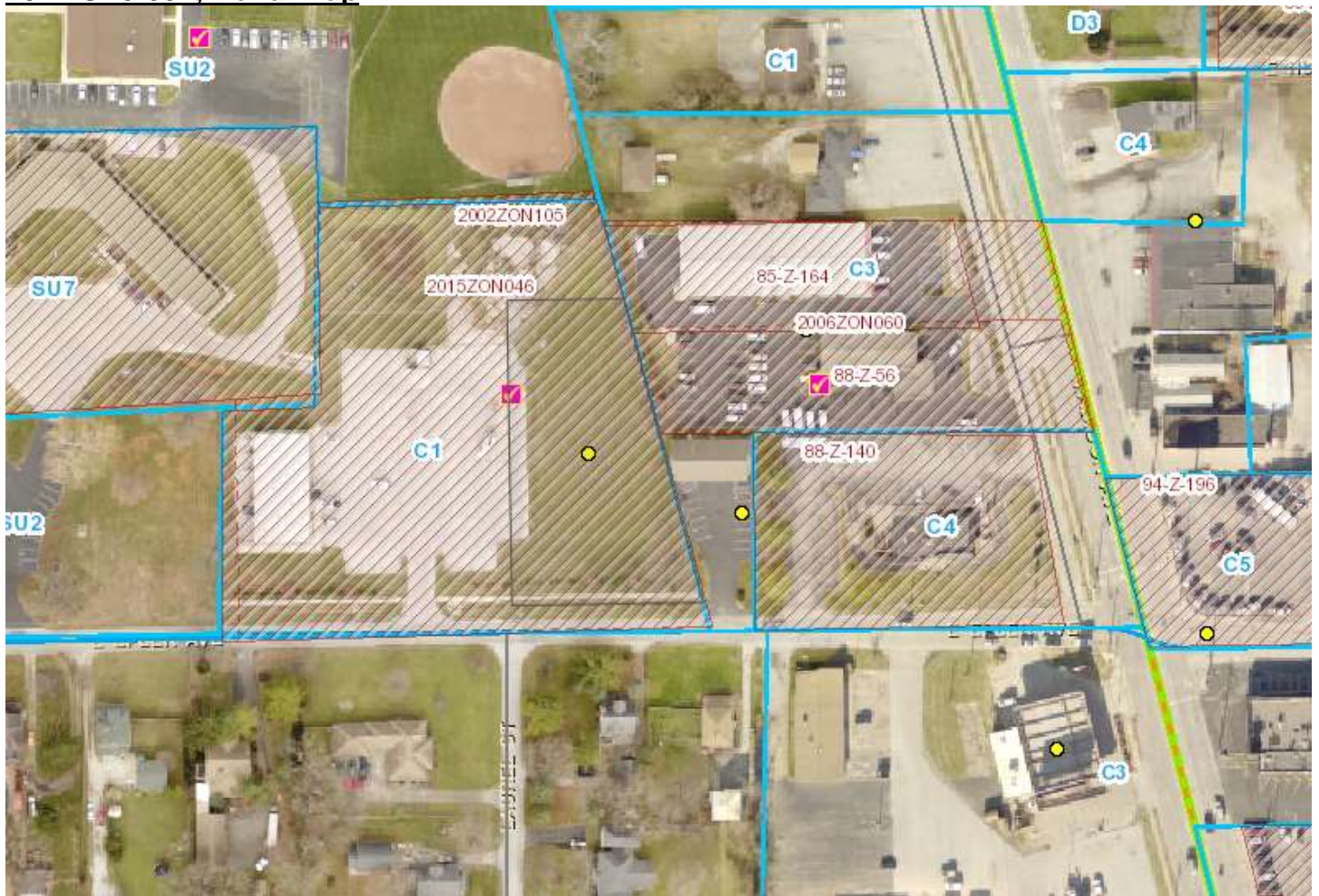
88-Z-140, 5452 Madison Avenue, rezoning of 1 acre to the C-4 district, **approved**.

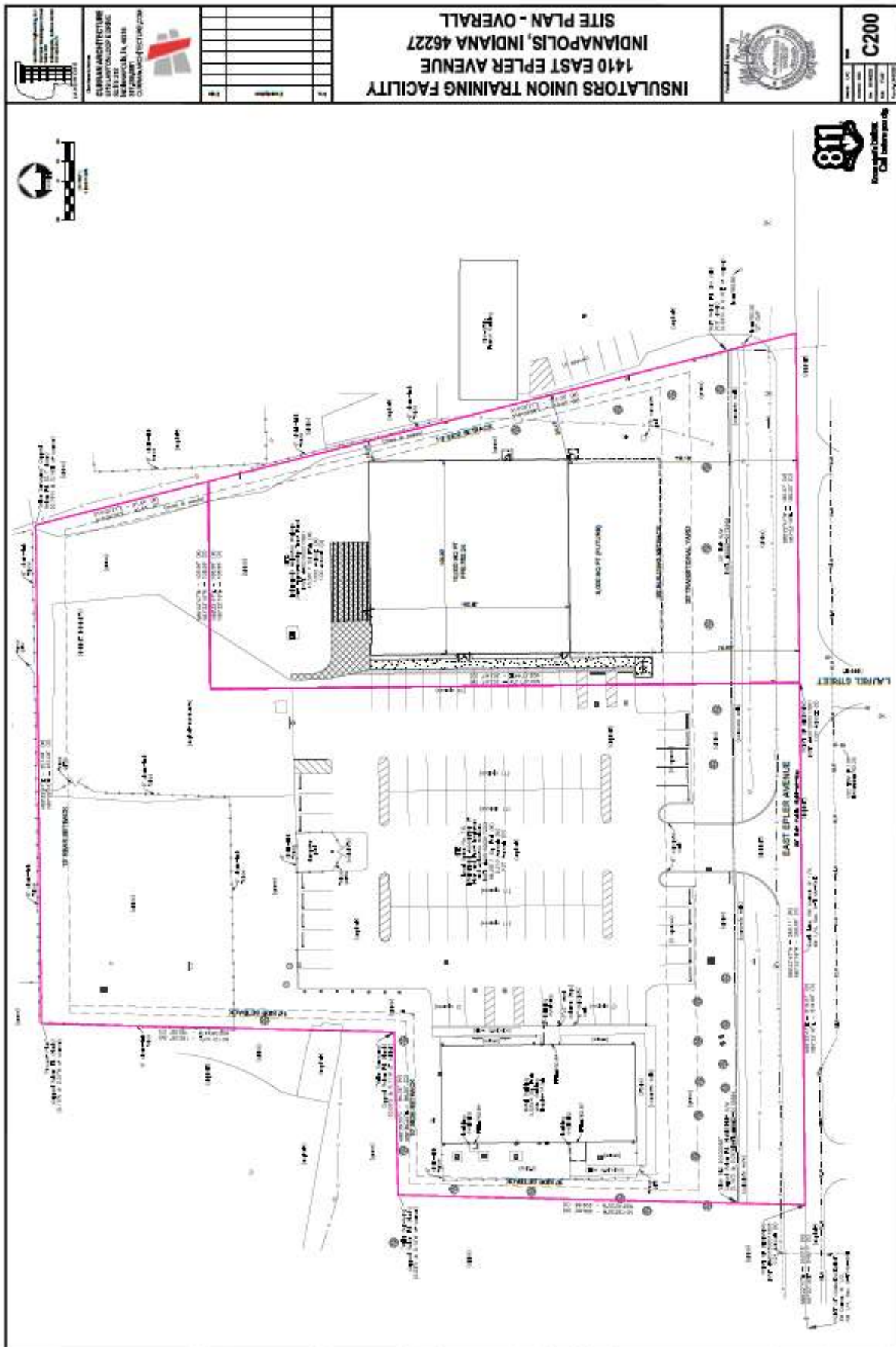
87-UV2-63, 1416 East Epler Avenue, variance to provide for an ambulance service sub-station, **approved**.

85-Z-164, 5350 Madison Avenue, rezoning of 0.75 acre to the C-3 district, **approved**.

AR

2022-UV3-037; Aerial Map





Indianapolis Insulators Union Local #18 Training Facility

PLAN OF OPERATION

Facility Description

Indianapolis Insulators Union Local #18 ("Local #18") plans to construct a 10,000 square foot building to be used to train its apprentices in the skilled trade of insulation solutions.

Description of Business

Local #18 will be using the facility to train its apprentices in the skilled trade of Union Insulators. Local #18 provides insulation solutions for all types of mechanical systems, but their training facility will specifically have mock piping systems and duct work used for training purposes.

Hours of Operation

Trainings are held on Saturdays from 8:00 A.M. to 4:30 P.M. Meetings are held once or twice per week, starting at 4:30 P.M. and running until 7:00 P.M. at the latest. The current schedule may be adjusted to allow for trainings any time Monday through Friday from 7:00 A.M. to 3:30 P.M. Trainings occur four to five times every month.

Occupancy

Trainings will have 50 people or less. Meetings will have 10 to 20 people.

2022-UV3-037; Findings of Fact

**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

Training operations will be contained inside the proposed building, which will be on land that Petitioner already owns and has a continuous presence. The building will not disrupt the commercial-residential character of the surrounding area where a number of large buildings and businesses already exist.

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

The petitioner's training facility will be largely self-contained and not disturb the businesses and residences in the surrounding area. Ample on-site parking and the low frequency of trainings (4-5 times per month) will not cause traffic congestion in the area. Because training occurs inside, the facility will not cause noise pollution. Additionally, the volume of occupants will not exceed that of existing businesses and schools in the surrounding area.

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

The property is particularly well-suited for the training facility because it is just across the parking lot from their already existing union hall. The large vacant lot and adjoining parking area provides space and parking accommodations for a training facility such as this one.

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 proposed use is consistent with the intensity of uses otherwise permitted in the C-1 zoning classification. The parcel has remained empty despite substantial development in the surrounding area, and a self-contained training facility does not substantially diverge from the character of the surrounding schools and businesses.

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

There are a number of schools in the surrounding area. Although this is a training center, the heavy presence of education facilities establishes that a self-contained training facility will not disturb the commercial-residential nature of the area. Additionally, the fact that the union already has a meeting hall there establishes that the union's presence will not disrupt the surrounding community.

2022-UV3-037; Photographs



Subject site viewed from Epler Avenue, facing north



Subject site viewed from parking lot, facing east



Subject site viewed from parking lot, facing east



West of site, adjacent union hall. Site curb cut shown left.



Subject site street frontage and south of site, facing southeast



Subject site frontage and east of site, facing east



South of site



Southwest of site

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-038
Address: 2530 East Banta Road (approximate address)
Location: Perry Township, Council District #24
Zoning: D-A / D-3 (FW) (FF)
Petitioner: Gleidson Santanna & Fernanda Santanna
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a general contractor, including the storage of commercial vehicles (not permitted) and to allow for the construction of a loft shed with a 25.5-foot north side setback, located in a corner lot front yard (accessory structures within an established front setback not permitted, 30-foot north side setback required) and legally establish two accessory structures located in a corner front yard (not permitted).

RECOMMENDATIONS

Staff **recommends denial** of the request to provide for the operation of a general contractor, including the storage of commercial vehicles and to allow for the construction of a loft shed with a 25.5-foot north side setback, located in a corner lot front yard.

Staff **recommends approval** of the request to legally establish two accessory structures located in a corner front yard.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-A / D-3	Metro	Residential
-----------	-------	-------------

SURROUNDING ZONING AND LAND USE

North	D-3	Single-family residential
South	D-2	Single-family residential
East	D-3	Single-family residential
West	D-A	Single-family residential

LAND USE PLAN

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

- ◇ This site is split-zoned D-A on the west and D-3 on the east, and developed with a single-family dwelling and accessory structures. This site is a corner lot at the intersection of Banta Road and Perrault Drive. The eastern portion of the site is within a floodway and has an existing pond.

(Continued)

STAFF REPORT 2022-UV3-037 (Continued)

- ◇ The subject site is east of the town of Homecroft. The surrounding development is nearly all low-density single-family residential use.

VARIANCE OF USE

- ◇ This request would provide for the operation of a general contractor, including the storage of commercial vehicles. Contractor uses are categorized as heavy services and are permitted in the C-7 or industrial districts. Outdoor storage and operations are also limited to the C-5 and C-7 districts or industrial districts.
- ◇ The comprehensive plan recommends suburban neighborhood uses, which are primarily residential. Home occupations may be permitted as an accessory use, but the use may not include heavy services or storage of commercial vehicles. Therefore, staff is recommending denial of the variance of use.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for construction of a loft shed with a 25.5-foot north side setback, located in a corner lot front yard.
- ◇ The subject loft shed is proposed to be used for storage related to the contractor use. Staff is recommending denial of the variance of use, so we would not support a related structure.
- ◇ The subject loft shed has a 25.5-foot north side setback where 75 feet is required (by D-A zoning standards) and in a corner front yard. In the metro context area, a corner lot has front yards on each frontage—in this case, the south and east property lines. An accessory structure is not permitted to be in front of the established setback line of the primary structure (dwelling). The structure was constructed without obtaining permits and is used for a use that is not permitted, therefore staff is recommending denial of the development standards variances as well.
- ◇ Staff would note that the minimum front yard setback for the D-A district is 35 feet. The established front building line from the east property line is 154.1 feet.
- ◇ This request would legally establish two accessory structures located in a corner front yard—a detached garage and a shed. The detached garage appears to have existed since the 1960s and could potentially be eligible for a certificate of legally established non-conforming use. The garage setback is 106.2 feet. Staff would not be opposed to legally establishing garage.
- ◇ The shed is 203 square feet and appears to have existed since the early 2000s. The shed has a 98.7-foot setback. Sheds 200 square feet or less are exempt from Improvement Location Permits, so staff would not be opposed to establishing a slightly larger mini barn with a large setback from the right-of-way.
- ◇ Staff would note that the western side of the lot is in a floodway and has an existing pond. These conditions limit the availability to locate accessory structures behind the established front building line, so staff would not oppose slightly reduced setbacks.

(Continued)

STAFF REPORT 2022-UV3-037 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	Banta Road 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. Perrault Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing and proposed right-of-way.
SECONDARY ZONING DISTRICT	Floodway / Floodway Fringe
SITE PLAN	File-dated December 2, 2022.
LANDSCAPE PLAN	File-dated December 2, 2022.
PLAN OF OPERATION	File-dated December 2, 2022.
FINDINGS OF FACT	File-dated December 2, 2022.

ZONING HISTORY – SITE

VIO22-006478, violation for failure to obtain an improvement location permit for an accessory structure, for outdoor storage of junk, trash, or debris (construction materials), for parking or storage of commercial vehicles, for activities not permitted in by the D-A zoning district (contractor use and outdoor storage use).

99-P-65, Approval of a subdivision to be known as Buck Creek Village, Section One.

ZONING HISTORY – VICINITY

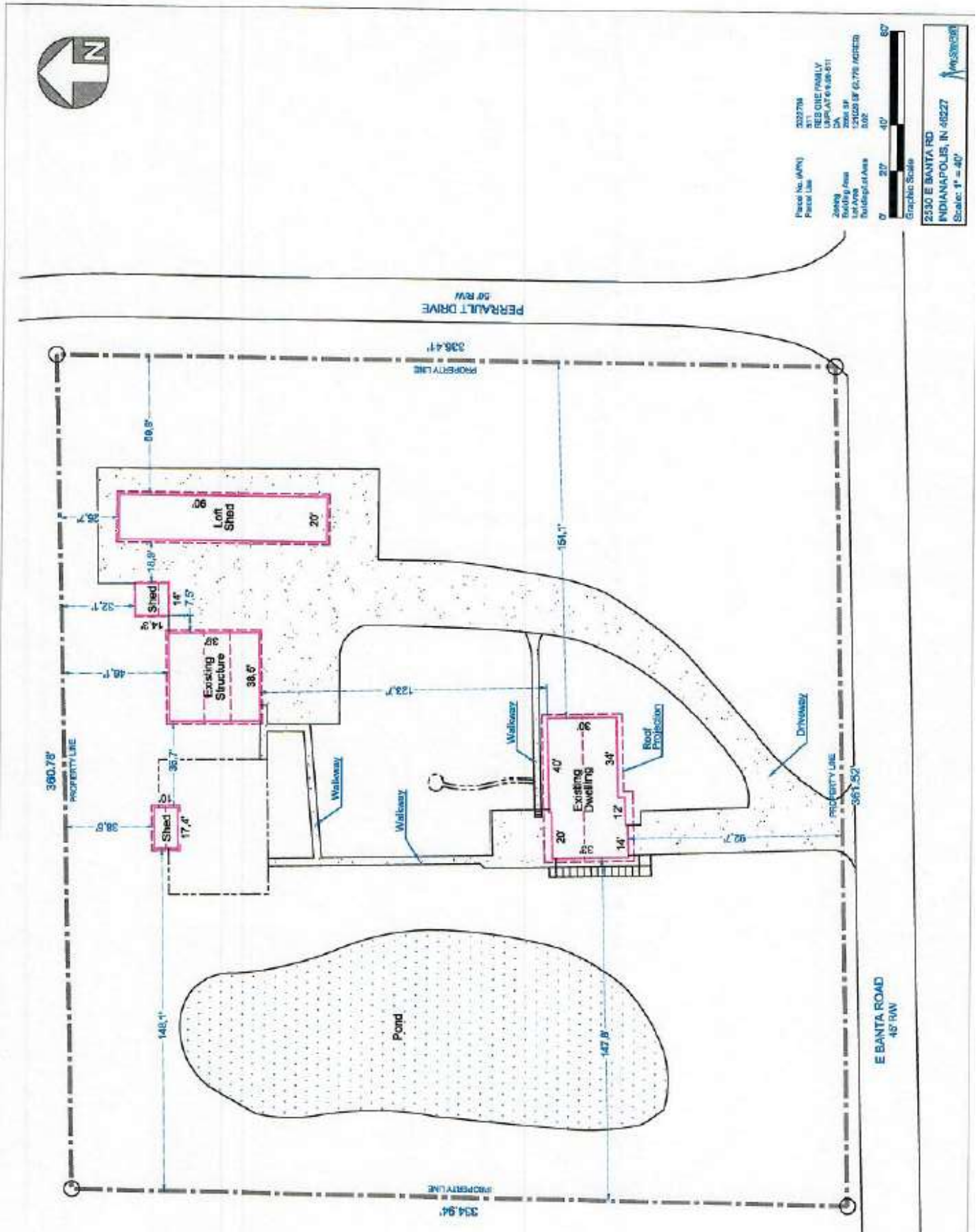
57-P-3, Approval of a subdivision to be known as Banta Ranch Sites

AR

2022-UV3-038; Aerial Map



2022-UV3-038; Site Plan



2022-UV3-038; Landscape Plan



PLAN OF OPERATION

M&J EXTERIORS LLC

Property located at:

2530 East Banta Road Indianapolis, IN 46227

- **WORKFORCE** - We currently have 6 employees on payroll. They commute to the property using 4 cars. They arrive around 6am and finish work by 5pm, depending on weather. Their personal Cars are parked on the driveway as they take the trucks to go to work. At the end of the day, the trucks return, workers then, pick up their cars and go home. Every truck has a GPS and Camera system.
- **CLIENTS & CUSTOMERS** - we do not have clients or customers coming to the property whatsoever. Never.
- **PROCESSES CONDUCTED ON SITE** - we are a General Contractor company. We focus on Exterior work such as Roof, Siding, Gutters, Trim, Soffit and Fascia. Mostly of our jobs nowadays are Commercial. We do, occasionally, residential jobs too. When residential jobs are done, we sometimes have some leftover materials, such as, rolls of coil, some packages of shingles, trim wood, and small left-over woods, which we save for future use on other projects. When only commercial jobs are being done, there is no leftover materials brought into the property. The leftovers are strictly from Residential jobs and are a small number of materials.
- **MATERIALS USED** - there are no hazardous materials used in our operations. Again, we only provide exterior work. We have different size ladders that are stored, roof nails and siding nails. For safety, we use magnetic rollers to collect anything that might fall to the ground, as they are small pieces. No hazardous, no chemical's, nothing dangerous is stored in the property.
- **SHIPPING AND RECEIVING** - Occasionally, we have rolls of coils, which are only 15x.027, 200 ft, delivered by regular small truck delivery. It's literally once every 3 months or so. Sometimes even further apart. This is for residential jobs only, to produce gutters and downspouts. Supplier delivers to the property and on the same day, it goes to the customer's homes for Gutters production and installation. Delivery is done by 6am and out of the property no later than 7am. Nothing else is shipped or delivered in the property related to business.
- **WASTE** - No hazardous waste is generated. We have Recycling trailers for metal disposal that is taken to the City Recycling Waste, and any other material waste, such as, old roof or vinyl siding removal, is thrown on the dump trailers and then taken to the proper city Waste location. No trash or waste is left on the property.

**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

this is within our property limits, not outside on the main road, not exposing anyone to danger.

It is safe, enclosed and guarded within the property limits, behind the fence and inside the loft shed.

There will be no injurious danger for the public health, safety, morals and general welfare whatsoever.

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

All the vehicles and materials will be in the enclosed area and hidden from street view, behind the fence and inside the loft shed. This is in the back of the property. Not on the main road. This will not alter value in any way, as it maintains a clean view of the property and street. Many pine trees, on the property, also help to cover the area, making a beautiful landscape of the property and coexistent properties.

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

It's a fairly spacious land and Petitioner's are interested only on improving the property

by making it more appealing and organized. There is sufficient acreage to accommodate the trucks, trailers and materials without causing discomfort to the surrounding properties.

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

Despite multiple property owners who also have commercial activity surrounding East Banta Road,

and surrounding streets, Petitioner would have to sell the property as it will become unnecessary to maintain such big acreage for no other use than to park our vehicles. The property will have no value for any purpose permitted by the zoning ordinance.

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

The Comprehensive Plan speaks to the use of homes for business in other areas of Indianapolis. However,

petitioner's are not requesting a variance to run the Business from the property, petitioner's are only requesting to continue to use the property to park the Business trucks - which by the way - don't have the Business name printed on them. They are Blank white trucks and black trailer dumpsters.- and to store in the enclosed shed left over materials.

No business will be done on the parking lot of the property.

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

this is within our property limits, not outside the main road, not exposing anyone to danger.

It is safe, enclosed and guarded within the property limits, behind the fence, and inside the loft shed.

There will be no injurious danger to the public health, safety, morals, and general welfare whatsoever.

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:

All the vehicles (which are white, no name of the business is printed on them), dump trailers are black, not marked, and leftover materials (which are wood trim, soffit and fascia, rolls of coils, siding pannels and some roof shingle packages) will be in the enclosed area and hidden from street view., behind the fence and inside the loft shed. This is in the back of the property, not on the main road. This will not alter the value of the surrounding properties in any way, as it maintains a clean view of the property and street. Many pine trees, on the property, also help to cover the area, making a beautiful landscape of the property and coexistent properties.

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

this is a fairly spacious land and petitioner's are interested only on improving the property by making it more appealing and organized. Petitioner's therefore, would have to sell the property as it will become unnecessary to maintain such a big acreage for no other use than to park vehicles. The property will have no value for any purpose permitted by zoning ordinance.

2022-UV3-038; Inspections Violation Photographs



Storage shed in the corner front yard



Trailer storage



Commercial vehicle parking



Storage of construction materials



Storage of construction materials

2022-UV3-038; Photographs



Subject site viewed from Banta Road



Subject site viewed from Banta Road



Subject site viewed from Perrault Drive



Subject site viewed from Perrault Drive



Western side yard in the floodway

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-039
Address: 1751 South Meridian Street (approximate address)
Location: Center Township, Council District #16
Zoning: C-1
Petitioner: Derick Williams, by Hannah Able
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an event center and eating establishment, with a parking area maintaining a zero-foot transitional yard along the alley and a two-foot north transitional yard (eight-foot transitional yard along alley and 10-foot side transitional yard required), a trash enclosure and an outdoor patio with a five-foot transitional yard along Caven Steet (10-foot front transitional yards required).

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	C-1	Commercial
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SURROUNDING ZONING AND LAND USE

North -	D-8	Two-Family Dwelling
South -	D-8	Two-Family Dwelling
East -	D-5	Undeveloped
West -	D-8	Undeveloped

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Village Mixed Use for the site.
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VARIANCE OF USE

- ◇ The proposed use would include an 1,800-square foot facility as an event center and eating establishment.
- ◇ The maximum capacity outlined in the original Plan of Operation would be 50 guests, with one to two staff members. Food and beverage service would be provided by groups, renters, or outside caterers.

(Continued)

STAFF REPORT 2022-UV3-039 (Continued)

- ◇ Event centers or indoor spectator venue uses are permitted in the C-4 district and are generally considered a high-intensity regional commercial use due to the amount of parking they require. The site is currently zoned C-1, or office commercial, which tends to typically serve the surrounding neighborhoods.
- ◇ Staff is concerned that adequate off-street parking provisions would not be provided due to the amount of parking needed for the proposed use. The submitted site plan indicates the subject site has two parking spaces available on site. The plan of operation indicates valet parking would be available but provides no details or information as to the location or operation of the valet parking.
- ◇ In addition to the two staff members and 50 possible attendees, parking would need to be provided for any outside catering service, including food trucks if used.
- ◇ The strict application of the terms of the zoning ordinance does not constitute an unusual and unnecessary hardship for the property, since the site is zoned C-1 and could be used for any number of uses permitted, by right, in the C-1 zoning classification without the need for a use variance. Any practical difficulty is self-imposed by the desire to use the site as an event center.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The purpose of the transitional yard setback requirement is to provide a buffer between land uses, when one land use is more intense and more impactful. Without the required transitional yard setbacks, the impact of the proposed use upon the less intense uses, such as the residential neighborhood uses to the east, west and north would be detrimental and injurious to the overall community.
- ◇ As requested, the reduced transitional yard setbacks would place an undue hardship on the surrounding protected residential uses.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of South Meridian Street is indicated as a primary arterial on the Official Thoroughfare Plan, with a 50-foot existing right-of-way and a 78-foot proposed right-of-way.

This portion of Caven Street is indicated as a local street on the Official Thoroughfare Plan, with a 38-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated December 14, 2022

PLAN OF OPERATION

File-dated December 14, 2022

FINDINGS OF FACT

File-dated December 14, 2022

(Continued)

STAFF REPORT 2022-UV3-039 (Continued)

ZONING HISTORY

2022-DV2-046; 14 East Caven Street (east of site), requested a 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, encroaching into the clear sight triangles of Caven Street and the intersecting alley, and the intersecting alleys along the rear and western lot lines, **ongoing**.

2021-ZON-097; 1747 South Meridian Street (north of site), 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 (east of site), 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 (south of site), 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, **granted**.

2003-ZON-035; 1805, 1807, 1817, 1821, and 1827 South Meridian Street (south of site), 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**.

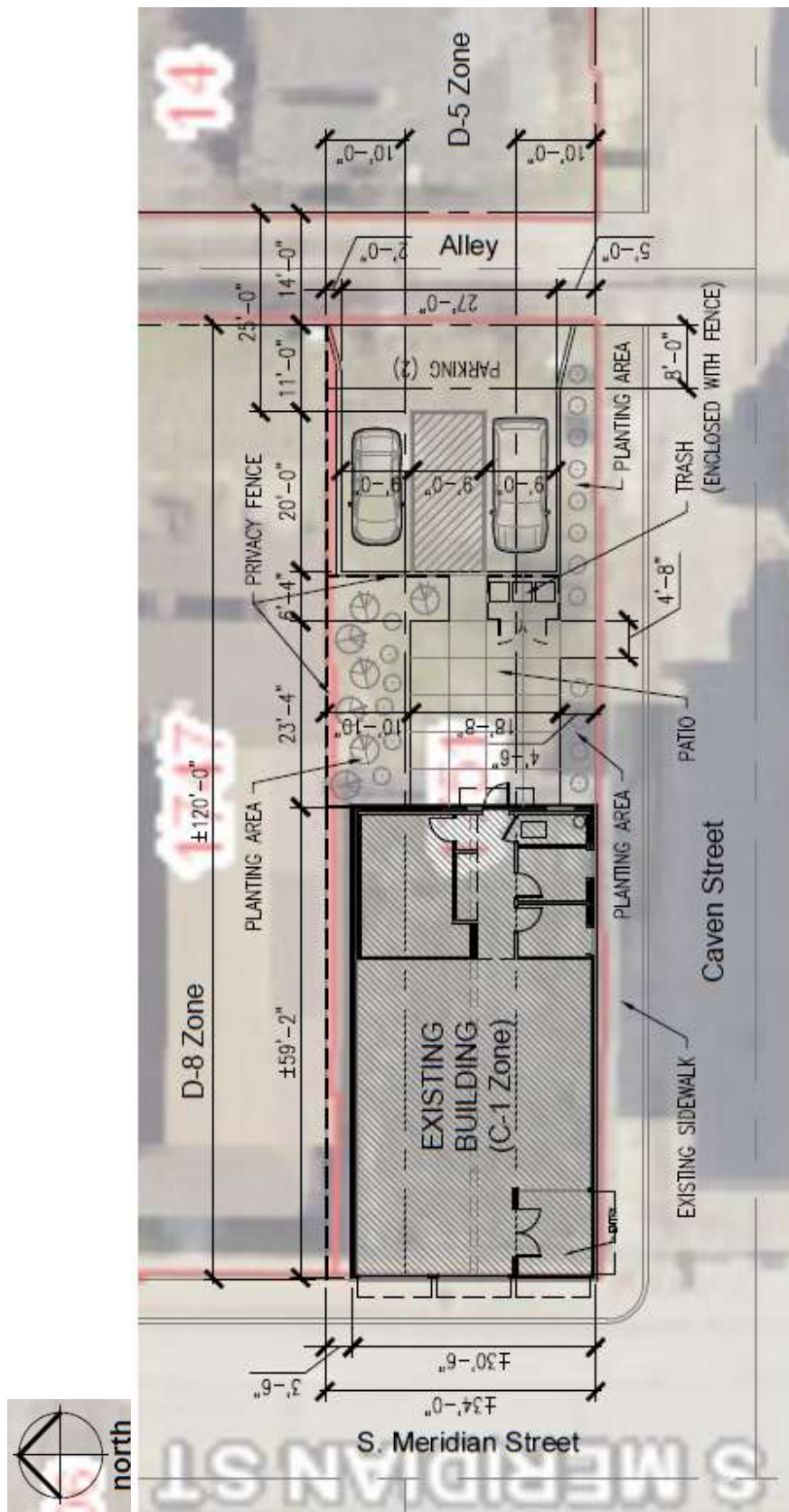
2001-UV3-033; 1741 South Meridian Street (north of site), requested a Variance of use of the Dwelling Districts Zoning Ordinance to legally establish a contractor's warehouse and a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 1,943-square foot commercial 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**.

RU

STAFF REPORT 2022-UV3-039 (Continued)

2022-UV3-039; Location Map





Plan of Operation

1751 S. Meridian Street

The proposed use of the existing building will be as a small event center and banquet hall for less than 50 occupants. The space will include a flexible open space, a prep/support room for use by visiting caterers and other support services, and restrooms. The plan for the space is to rent it out for small events including weddings, birthdays, showers, community meetings, and training workshops. The owner would also like to use the space for shared community events such as markets, pop-up shops, and pop-up restaurants.

The proposed exterior patio is supplemental to the interior and would not have a separate event or group. The proposed parking will provide an accessible space for visitors as well as a space for catering services as needed. Valet parking will be provided for events as needed.

Trash will be enclosed at the rear in rolling bins or dumpster to be collected along the alley.

Staff would include one or two employees to supervise events. Any food and beverage service staff would be provided by the groups or individuals renting the space. Any alcohol served on the premises for events will require either temporary permits and/or an appropriately licensed caterer per state laws.

2022-UV3-039; Photographs



Subject site looking east.



Subject site rear, looking west.



Adjacent residential uses to the north, looking east.



Adjacent residential uses to the south, looking east.