

**METROPOLITAN BOARD OF ZONING APPEALS
DIVISION III**

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

STAFF REPORTS FOR DECEMBER 20, 2022

**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.
CONTINUED PETITIONS:		
2022-DV3-046** (Amended)	1321 Sturm Avenue Center Township, CD #17	2
2022-UV3-031 (Amended)	10435 East Washington Street (10409 Parcel) Warren Township, CD #19	3
2022-UV3-032**	10859 East Washington Street Warren Township, CD #19	21
NEW PETITIONS:		
2022-DV3-049**	2315 North Spencer Avenue Warren Township, CD #13	22
2022-DV3-050*	3501 South East Street Perry Township, CD #16	23
2022-UV3-034	3030 North Shadeland Avenue Warren Township, CD #13	24
2022-UV3-035	1621 East Thompson Road Perry Township, CD #24	33
2022-UV3-036**	1516 East Edwards Avenue Perry Township, CD #24	44

* Automatic Continuance

** Continuance Requested

*** Withdrawn or Dismissal

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.

The petitioner has submitted an additional variance request requiring new notice, and Staff has requested additional information. Therefore, this petition will need to **be continued to the January 17, 2023, hearing, with additional notice**. Staff has no objection to this request.

RU

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-031 (2nd Amended)
Address: 10435 East Washington Street (10409 East Washington Parcel Address)
(approximate address)
Location: Warren Township, Council District #19
Zoning: C-4 (TOD)
Petitioner: Valvoline LLC, by Joseph D. Calderon
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an automobile service business (not permitted on lots greater than 0.5-acres) with a 23.5-foot front building line, 4% of the building line (60% front building line required).

ADDENDUM FOR DECEMBER 20, 2022

This petition was continued from the October 18, 2022, hearing of Division III to the December 20, 2022, hearing of Division III, at the request of the petitioner.

On December 7, 2022, an amended site plan was provided to the file, eliminating variances for front setback, deficient parking stalls, and no bicycle parking. (Bicycle parking was provided on the originally submitted site plan.) The petitioner has indicated that they will commit to platting a new lot from the integrated center that would be less than 0.5 acre. Automobile Service or Repair, where otherwise permitted is limited to lots no larger than 0.5 acre (Table 742-207-2).

The proposed lot would be less than 0.5 acre (0.496 acre), where the proposed automobile service would be permitted by right. However, Staff **continues to recommend denial** of these requests. Although the petitioner has agreed to this commitment of platting a new lot, Staff believes the petition request was filed out of order. A plat petition should have been filed prior to the requested variances. The variance of use request would not be needed if the plat petition would have been filed first or simultaneously. Staff is not supportive of the request for the variance of use, where the variance is not needed, thus proving there is no hardship and is self-imposed.

October 18, 2022

RECOMMENDATIONS

Staff **recommends denial** of this request.

(Continued)

STAFF REPORT 2022-UV3-031 (Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Metro	Parking lot
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SURROUNDING ZONING AND LAND USE

North	C-4	Commercial
South	C-4	Commercial
East	C-5	Commercial
West	D-A	Grassy Creek (stream) / Vacant lot

LAND USE PLAN	The Marion County Land Use Plan (2019) recommends Regional Commercial development.
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LAND USE PLAN	Transit Oriented Development Overlay District
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- ◇ The subject site is part of an integrated center totaling 11 acres. The proposed tenant space would be operated within a 0.42-acre project area and would front Washington Street. This portion of Washington Street will be going through substantial change because it is a selected segment along the proposed Blue Line transit system. Therefore, the property is also located within the Transit Oriented Development Overlay district, which is more restrictive on automotive uses. The surrounding neighborhood consists of commercial to the north, south and east of the subject site. The lot west of the subject site is undeveloped, with a stream, Grassy Creek, making it environmentally sensitive, per the Comprehensive Plan. The subject site's integrated center contains commercial tenants, such as a gym and flea market emporium.
- ◇ The subject site is zoned C-4 (Community-Regional District). The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature several large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.

VARIANCE OF USE

- ◇ This request was originally noticed as being categorized as a Pedestrian Frontage under the Ordinance. After further review, Staff determined that this site would be more appropriately categorized as a Connector Frontage, which permits the use so long as it does not exceed 0.5-acres. However, the project, being part of a larger 11-acre integrated center, and not contained within a commercially platted lot, is subsequently prohibited due to this excessive acreage. This alteration does not require amended notice.

(Continued)

STAFF REPORT 2022-UV3-031 (Continued)

The request would provide for the construction of an automobile service business with a 20-foot front building line, a 60-foot front setback from East Washington Street, with deficient parking stalls of 162 square feet, and no bicycle parking provided.

- ◇ The proposed use would fall under the definition of *Automobile, Motorcycle, and Light Vehicle Service or Repair*. This use is permitted within the C-4 district; however, the subject site is located within the Transit Oriented Development District Overlay. Table 742-207-2: Location and Limitation of Specific Uses, states that Automobile Service or Repair, where otherwise permitted is limited to **lots** no larger than 0.5 acres. The entirety of the lot is eleven acres.
- ◇ The Transit Oriented Development Secondary District is established on all lots, wholly or partially, within 1,000' from centerline of a BRT Line. The intent of the Transit Oriented Development (TOD) Secondary District is to coordinate more compact, walkable, and urban development patterns with public investment in the transit system. These development patterns ensure that walking and biking are viable options for short trips and transit is a priority for longer trips. Development patterns and site designs that prioritize automobile travel undermine these public and private investments. This district follows the policies and principles of the comprehensive plan, the transit-oriented development strategic plans, and the Livability Principles in this code, and has the following specific design objectives:
 - Place a wide range of housing types within walking distance of commercial centers and transit stops or stations, and at a critical mass that supports these places.
 - Create connections through many different modes of transportation between neighborhoods and places for commercial services and employment.
 - Provide a concentration of many different and small-scale uses with a fine-grained pattern that integrates and transitions well with the neighborhoods they support.
 - Ensure human-scale design that prioritizes relationships of sites and buildings to the streetscapes.

The proposed use of Automobile Service and Repair would not align with the design objectives of the TOD Overlay District, as it would prioritize vehicular use in an area set to become more multimodal. The subject site is currently along a bus route with a bus stop just across Washington Street to the north. Additionally, the proposed Blue Line transit station would be within 1,000 feet of the subject site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The subject site would be classified as a Connector Frontage type, rather than Pedestrian / Urban frontage or Buffer / Suburban, under Table 744-702-3. The required front building line, which provides for the front setback, is a range between zero to 25 feet. The subject site would exceed the required front building line (setback), as it would be approximately 60 feet from the right of way.

(Continued)

STAFF REPORT 2022-UV3-031 (Continued)

- ◇ The required front building line percentage is 60%. The *front building line* percentage is defined as the percentage of the lot frontage which must be occupied by at least a portion of the front building (740-201.B). The front lot line of the parcel is 569 feet. The proposed width of the structure is approximately 31 feet. Therefore, the proposed front building line percentage would be 5.4%, which is 90.93 reduction from the Ordinance requirement.
- ◇ Under 744-404. D.2. b, parking space measuring should be not less than nine feet in width (measured perpendicularly from the sides of the parking space) and not less than 18 feet in length and at least 180 square feet in total area. The proposed square footage of the parking is 162 square feet. Staff is not supportive of this request, where the required square footage for parking spaces is a safety concern for proper maneuvering. Staff would also note, the required parking for the subject site, which under 744-402-1 is 1 per 250 square feet (requiring 9 parking spaces) would be satisfied under the parking for the integrated center. Therefore, this request is considered a self-imposed practical difficulty.
- ◇ As per Table 744-402-1: Required Parking Table, the required bicycle parking for Automobile Service and Repair is two spaces. The proposed bicycle parking at the subject site is zero spaces. Staff opposes the request for lack of bicycle parking, where the required bicycle parking could be provided for the overall integrated center and possible future use of the subject site, which would further support multi-modal transportation. There is no practical difficulty for the lack of bicycle parking.
- ◇ Staff is wholly opposed to the requests, where the subject site is within walking distance of a Blue Line bus rapid transit station. Auto-oriented uses are not recommended within these areas. The Blue Line TOD Strategic Plan emphasizes the importance of uses that help catalyze future private development and increase activity levels through density and/or urban amenities. Additionally, the site is adjacent to a proposed greenway, which will further increase pedestrian activity in the area. Ultimately, the proposed use and development standard variances do not align with the City's commitment to transit-oriented development.

GENERAL INFORMATION

THOROUGHFARE PLAN

Washington Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 146-foot existing right-of-way and a 124-foot proposed right-of-way.

SITE PLAN

File-dated September 21, 2022.

PLAN OF OPERATION

File-dated October 6, 2022.

FINDINGS OF FACT

File-dated September 21, 2022.

EXISTING VIOLATIONS: None.

(Continued)

STAFF REPORT 2022-UV3-031 (Continued)

ZONING HISTORY – SITE

PREVIOUS CASES:

89-HOV-17; 10301 East Washington Street, requested a Variance of development standards to provide for 910 parking spaces, **granted**.

88-HOV-58; 10301 East Washington Street, requested a Variance of development standards to provide for 910 parking spaces, **granted**.

89-UV1-36; 10301 East Washington Street, requested a Variance of use and development standards to provide for a garden center within a required transitional yard, **granted**.

89-SE1-6 / 89-UV1-48; 10301 East Washington Street, requested a Variance of use and development standards to provide for an amusement arcade within five hundred feet of a property zoned for residential development, **granted**.

89-V1-50; 10331 East Washington Street, requested a Variance of the Sign Regulations to provide for an animated sign exceeding twenty five percent of the surface area of the wall on which it is located and within three hundred feet, **granted**.

90-SE3-7; 10429 East Washington Street, requested a Commercial Special Exception to provide for a billiard parlor with 14 billiard tables, within an existing integrated center, **approved**.

ZONING HISTORY – VICINITY

2018-UV2-008; 10501 East Washington Street, requested a Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a contractor with outdoor storage, **approved**.

2011-DV2-017; 10531 East Washington Street, requested a variance of development standards of the Sign Regulations to provide for a 24-foot tall, 144-square foot freestanding sign, with a two-foot setback from the proposed 80-foot half right-of-way of Washington Street, **granted**.

2002-UV3-001; 10520 East Washington Street, requests variance of use and development standards of the Commercial Zoning Ordinance to provide for the retail sales of portable backyard storage buildings and related accessory items (not permitted), within 11,500 square feet of outdoor retail display and sales (outdoor displays required to be accessory to the primary use, be located adjacent to the primary structure, and not exceed 1% of the gross floor area of the establishment, **granted**.

90-UV1-151; 10499 East Washington Street, requests variance of use of the Commercial Zoning Ordinance to permit the construction of a go-cart track, **granted**.

87-V3-81; 10501 East Washington Street, requested a variance of use of the Commercial Zoning Ordinance to provide for the outside display and scale of buses and the repair of buses, **granted**.

GLH

(Continued)

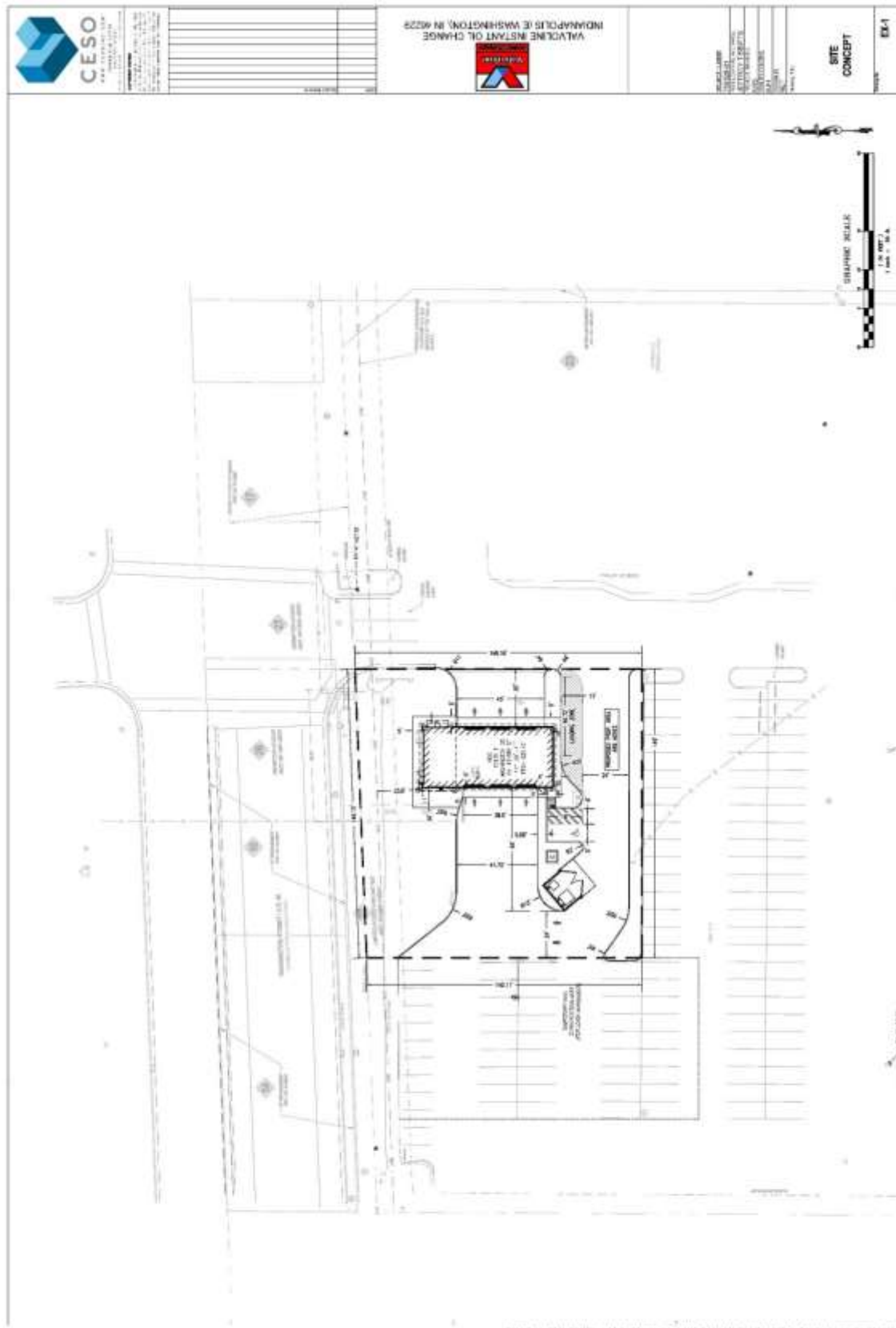
STAFF REPORT 2022-UV3-031 (Continued)

2022-UV3-031; Aerial Map



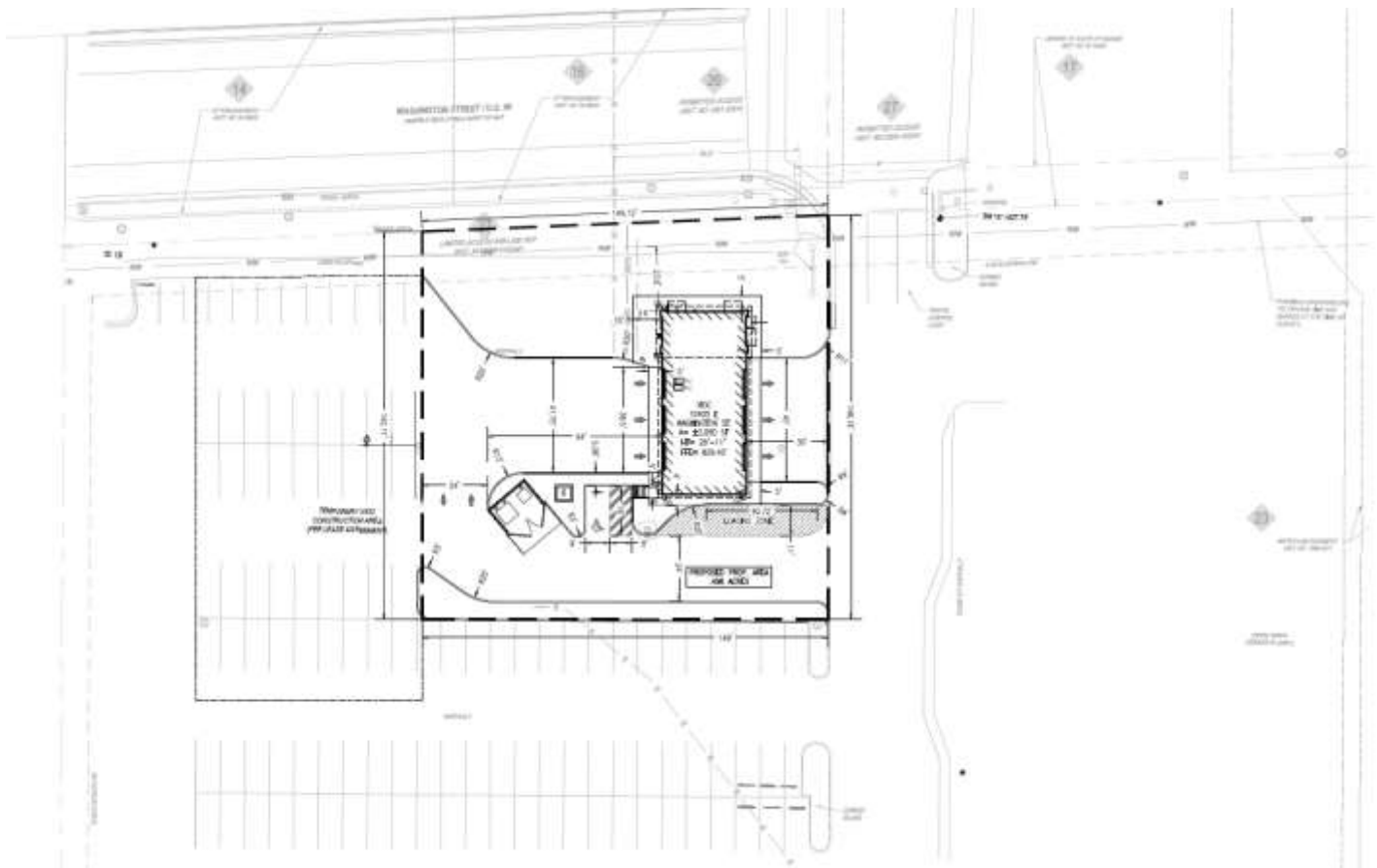
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2022-UV3-031; Site Plan (2nd Amended)



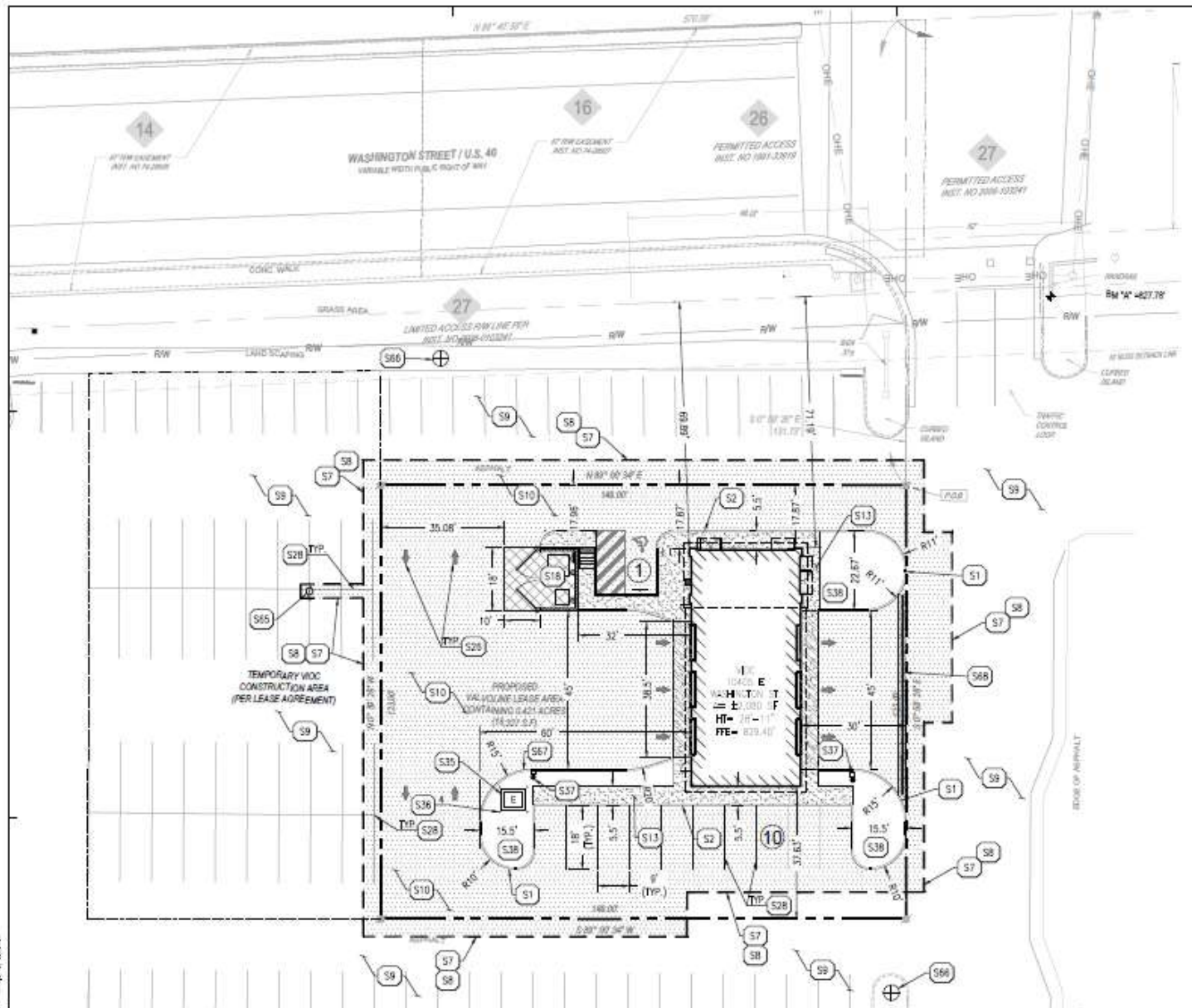
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2022-UV3-031; Site Plan (2nd Amended)



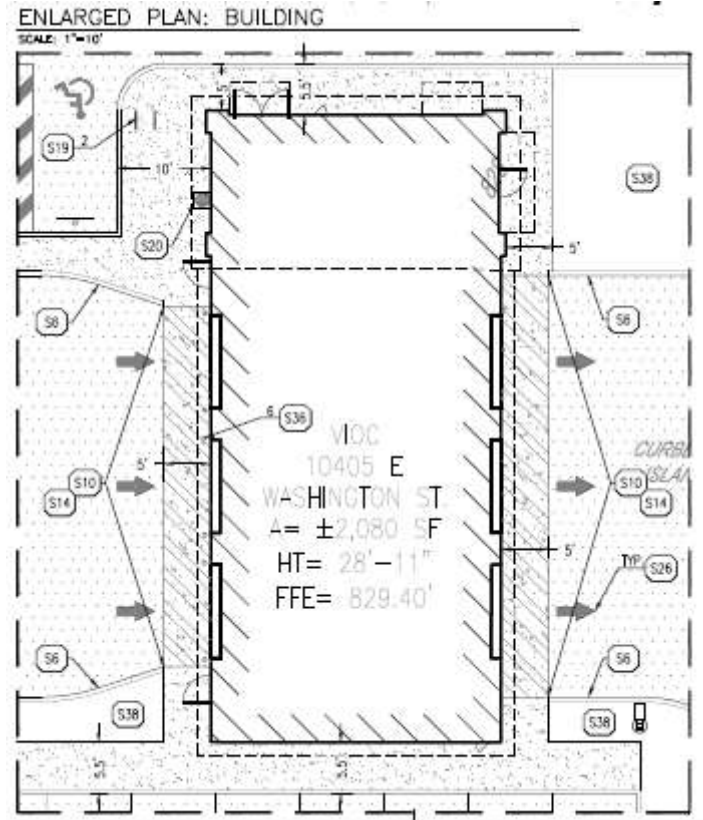
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2022-UV3-031; Site Plan (Original)

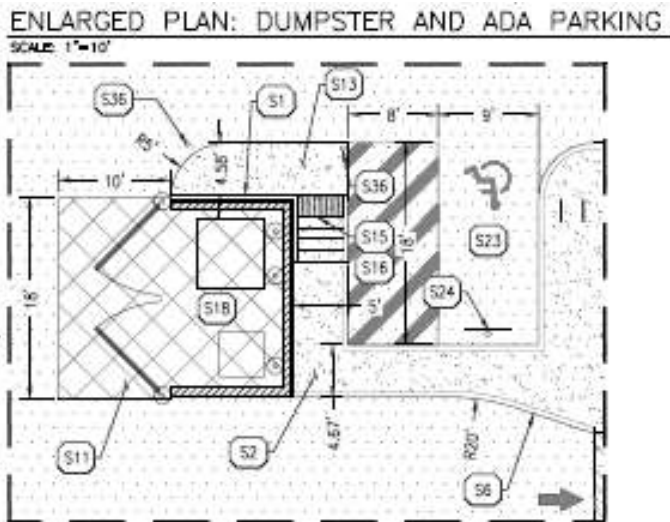


(Continued)

2022-UV3-031; Enlarged Building Plan



2022-UV3-031; Dumpster Location



(Continued)

VALVOLINE LLC

PLAN OF OPERATION
10409 a/k/a 10435 EAST WASHINGTON STREET

THE BUSINESS

Valvoline LLC is under contract to lease approximately .42 acres of a parking lot in a shopping center commonly known as 10409 a/k/a 10435 East Washington Street (the "Subject Property"), where it intends to construct a building of approximately 2080 square feet in which it will perform certain automotive services.

ZONING

The Subject Property is zoned C-4, which contemplates a wide variety of commercial uses. The proposed business will provide general preventative automotive service; including, but not limited to oil changes, air and cabin filter replacement, battery replacement, serpentine belt replacement, light bulb and wiper blade replacement, tire rotations, fuel system cleaning, 12 month fuel treatment, transmission, radiator and gearbox fluid replacement, diesel fuel filter replacement and A/C refrigerant replacement.

HOURS OF OPERATION

Valvoline is planning to operate the facility between 8:00 a.m. to 7:00 p.m., Monday through Friday, 8:00 a.m. – 6:00 p.m. Saturday, and 9:00 a.m. – 5:00 p.m. on Sunday. Peak hours typically occur during lunchtime and after 5:00 p.m. on weekdays, with Saturday typically the peak volume day. The average number of customers are between 40 and 50 per day.

NUMBER OF EMPLOYEES

3 – 10 employees are expected to be working at the facility on the Subject Property at any given time.

23874486.1

(Continued)

2022-UV3-031; 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 flow of traffic in and out of the site will be located with sufficient separation from Washington Street,
and the improvement is on what is now a vast parking area, so it will provide some building frontage
where none exists today.

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 of the adjacent properties are commercial and suburban in nature, and the proposed building will
be in character with the improvements on such properties.

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

the building width has to face Washington Street as is due to separate drive through restrictions which will not allow
drive through entry and exits fronting on Washington Street.

DECISION

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

Adopted this _____ day of _____, 20 ____

(Continued)

Petition Number 2022-UV3-031

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

the use is actually going to take place within a footprint that is less than .5 acres and will not overwhelm the context of the Transit Oriented Overlay lot size requirements.

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 area is all suburban in nature, with the prevailing commercial development pattern featuring parking in front of buildings and outlots, as is the case with the Petitioner's request.

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

the property has been legally established with a large parking lot in excess of .5 acres.

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 area to be used will in fact be platted after the use is approved, and the ordinance does not contemplate the normal development sequence where the use needs to be approved first.

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

the proposed use is consistent with the Regional Commercial use contemplated by the comprehensive plan.

DECISION

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

Adopted this _____ day of _____, 20____

(Continued)

2022-UV3-031; Photographs



Photo of subject site: 10435 East Washington Street



Photo of subject site, existing parking lot.
(Continued)

2022-UV3-031; Photographs



Photo looking north of subject site, towards Washington Street.



Photo looking west on Washington Street.

(Continued)

2022-UV3-031; Photographs



Photo looking east on Washington Street.



Photo looking north of subject site, across Washington Street.
(Continued)

2022-UV3-031; Photographs



Photos looking east of subject site, part of the same integrated center.
(Continued)

2022-UV3-031; Photographs



Photo looking east of subject site, part of the same integrated center.



Photo of bus stop north of subject site, along Washington Street.

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2022-UV3-032
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) A 35-foot front setback from Washington Street (maximum 25-foot front setback permitted);
- b) An 11.95-percent required front building line (minimum 60% front building line required);
- c) With 59 parking spaces provided (maximum 21 spaces permitted); and
- d) Two drive thru lanes that do not provide exclusive bypass aisles (exclusive bypass aisles required in Metro Context Area).

Staff is **requesting a continuance from the December 20, 2022, hearing to the January 17, 2023, hearing** to allow for additional time for the petitioner to make revisions to the site plan. No new information has been received.

A written request for a continuance for cause was received requesting a continuance from the November 22, 2022, hearing to the December 20, 2022, hearing to allow time to revise the site plan to reduce some of the variances requested.

AR

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 will need to be 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.

MI

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).

A timely automatic continuance request was submitted by a registered neighborhood organization **continuing this matter from the December 20, 2022, hearing to the January 17, 2023, hearing.** This would require the Board's acknowledgement.

MI

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-034
Address: 3030 North Shadeland Avenue (approximate address)
Location: Warren Township, Council District #13
Zoning: C-4
Petitioner: Abdallah Alshorman, by David Kingen & Emily Duncan
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an auto sales lot (not permitted).

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4	Former Commercial Bank
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SURROUNDING ZONING AND LAND USE

North -	C-4	Commercial Contractor office
South -	C-4	Commercial office and restaurant
East -	C-4 / I-3	Commercial retail / Industrial warehouse
West -	I-3	Industrial warehouse

COMPREHENSIVE PLAN	The Comprehensive Plan recommends community commercial uses.
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VARIANCE OF USE

- ◇ This request would provide for automobile sales, a C-5 District permitted use, within an area associated with community commercial and industrial warehouse development, with C-4, I-2, and I-3 zoning. A C-5 use at this location would represent a deviation from the Comprehensive Land Use Plan recommendation of community commercial uses.
- ◇ Retail automobile sales are generally considered a high-intensity commercial use, along with go-cart raceways, tractor sales, outdoor flea markets, and newspaper printing and publishing. The C-5 zoning classification that they are permitted in is intended for uses that often tend to have extensive outdoor display and activity, bright lighting, and noise; characteristics that negatively affect lesser zoned districts.

(Continued)

STAFF REPORT 2022-UV3-034 (Continued)

- ◇ The proposed use would require extensive outdoor storage of product, materials, and equipment, which runs counter to the intent of the C-4 District. Staff believes that this request, if approved, would detract from a streetscape that is already overburdened with a number of existing businesses possessing poorly maintained outdoor storage.
- ◇ Staff has concerns that recommending approval of the variance request would continue the encroachment of heavy commercial and C-5 use conversions of lots fronting on Shadeland Avenue, further north towards an established community commercial area.
- ◇ There is no hardship associated with this property that necessitates a grant of this variance. It is currently zoned C-4 and can be utilized for C-4 uses and meet the Comprehensive plan without the benefit of a variance of use.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of North Shadeland Avenue is indicated in the Official Thoroughfare Plan as a primary arterial, with a 150-foot existing and proposed right-of-way.
SITE PLAN	File-dated October 26, 2022.
PLAN OF OPERATION	File-dated October 26, 2022.
PROPOSED COMMITMENTS	File-dated October 26, 2022.
FINDINGS OF FACT	File-dated October 26, 2022.

ZONING HISTORY

2017-DV1-053; 3035 and 3169 North Shadeland Avenue (east of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for loading areas within the front setback and front yard along Shadeland Avenue, **granted**.

2007-ZON-078; 3110 N. Shadeland Avenue (north of site), requested the rezoning of 2.4 acres, from the I-3-S District to the C-4 classification to provide for community-regional commercial uses, **approved**.

2000-DV3-012; 3005 North Shadeland Avenue (east of site), requested a variance of development standards of the Commercial Zoning Ordinance to provide for the reconstruction of a convenience store/gasoline station, with paving in the required setback of Shadeland Avenue instead of landscaping, **granted, subject to the provision of landscaping**.

RU

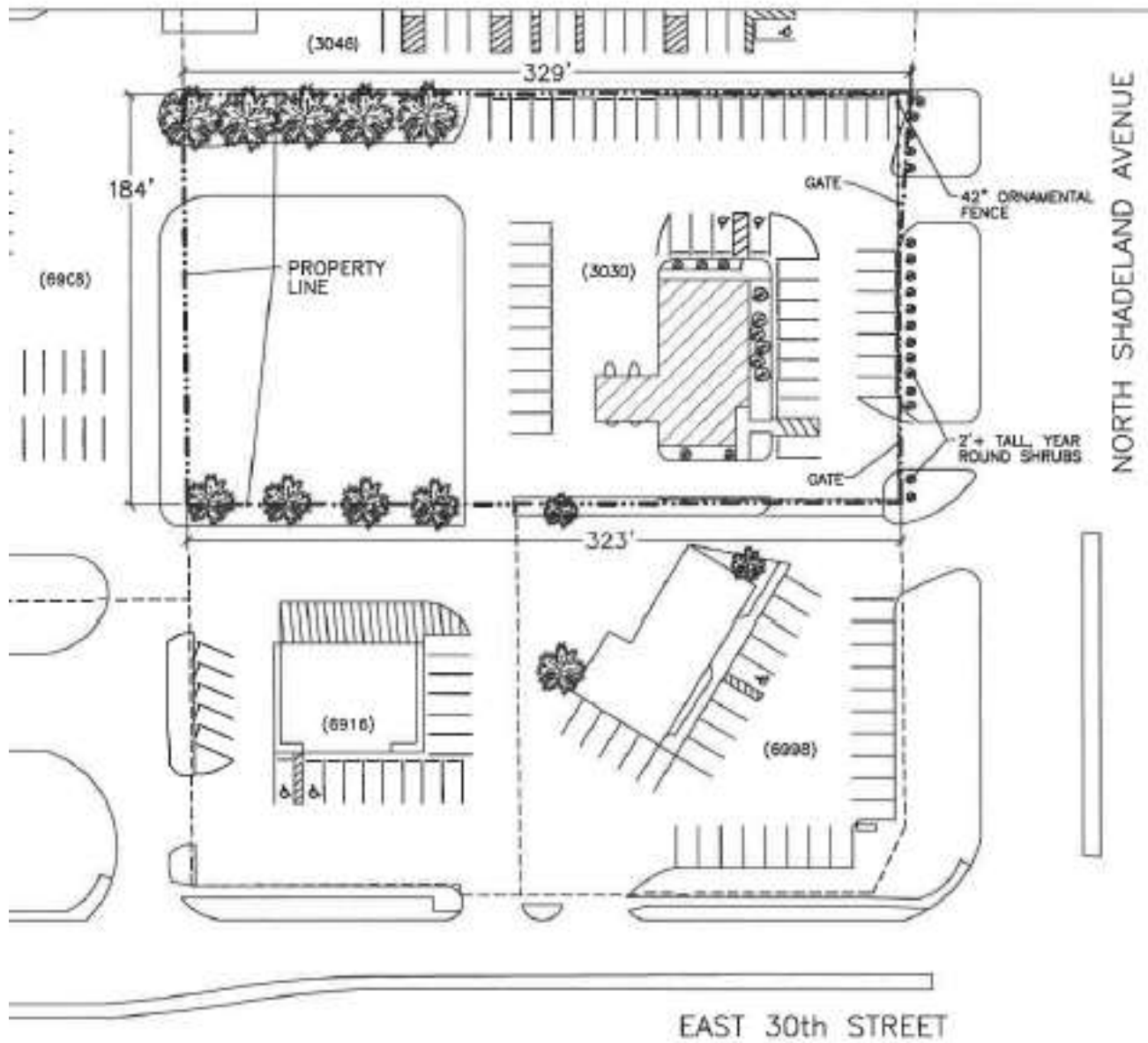
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STAFF REPORT 2022-UV3-034 (Continued)

2022-UV3-034: Location Map



2022-UV3-034: Proposed Site Plan



PLAN OF OPERATION

Employees:	Two (2)
Music	No outside noise on the site.
Maintenance:	No work on any vehicle on the site
Hours of Operation:	9 am to 7 pm Monday thru Saturday
Signs/ Promotions:	No temporary signs, no banners, no streamers
Lighting:	Any exterior lighting shall be affixed to the building. No free-standing pole lights shall be erected.
Litter/ weeds:	Shall be picked and removed from the site within twenty-four (24) hours

2022-UV3-034; Proposed Commitments

ATTACHMENT D

Petitioner agrees to the following commitments:

1. No "buy here, pay here" operation shall be permitted on the premises
2. No banners or string lights shall be permitted. There shall be only outside lighting for security purposes.
3. No junk, wrecked or inoperable vehicles or storage of auto parts shall be permitted to be stored on the subject real estate at any time.
4. There shall be no vehicle repair on the subject real estate.
5. Business hours shall be no longer than 9 AM to 7 PM, Monday through Saturday
6. Only one free standing sign shall be permitted on the property. No electronic variable message sign (EVMS) component shall be permitted.
7. All lighting shall be of the shielded type.
8. There shall be no vending machines located on the outside of the building.
9. The maximum number of vehicles will be 40 cars (only).
10. Landscaping will be professionally maintained including plants, shrubs and trees to be replaced expeditiously if/when they die.
11. Ornamental fencing shall be installed and maintained along the eastern frontage and on the two sides back to a point equal to the front façade of the building.
12. A secure entrance gate/chain arrangement shall be installed and kept in good working order.

ATTACHMENT "E":

Petitioner commits to exclude the following C4 uses from the subject site:

1. Emergency shelter
2. Adult Entertainment
3. Greenway
4. Garden as primary use
5. Check cashing or validation service
6. Outdoor advertising off premise sign (new)
7. Night club or cabaret
8. Firearm sales
9. Fireworks sales on-going
10. Pawn shop
11. Power generating facility
12. Automobile, motorcycle and light vehicle service or repair
13. Automobile fueling station.
14. Vape shop, solely

2022-UV3-034: Photographs



Subject site looking west.



Rear of subject site looking south.



Rear of subject site looking west.



Adjacent C-4 commercial contractor office use to the north, looking west.



Adjacent C-4 commercial office and restaurant uses to the south of site, looking west.



Adjacent Industrial warehouse uses to the east of site.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-035
Address: 1621 East Thompson Road (approximate address)
Location: Perry Township, Council District #24
Zoning: D-3
Petitioner: Margaret Bridges, by Russell L. Brown
Request: Variance of use of the Commercial Zoning Ordinance to provide for a dog training and boarding business (not permitted).

RECCOMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-3	Single-family dwelling
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SURROUNDING ZONING AND LAND USE

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

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Suburban Neighborhood uses for the site.
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VARIANCE OF USE

- ◇ The proposal would provide for a dog training and boarding business, to be conducted within a single-family dwelling.
- ◇ The site is improved with a single-family dwelling and is located within an established single-family residential neighborhood. Dog training and boarding is classified as a C-3 commercial use. C-3 Districts generally provide for a cluster of commercial uses, located along arterial street, utilized by the immediate neighborhood. This request would provide for the establishment of a C-3 use along a residential street, on a site surrounded by single-family dwellings. Allowing the encroachment of commercial uses into a residential neighborhood would lead to the decline of abutting residential uses and property values.

(Continued)

STAFF REPORT 2022-UV3-035 (Continued)

- ◇ Additionally, the proposed use, would include outdoor training and kennel operations, which is classified as a C-4 commercial use. The outdoor operations would potentially generate noise and odors that would be detrimental to the enjoyment of the surrounding single-family dwellings. Due to the character and associated impacts, the proposed use should be located in close association with similar commercial uses and not within a residential neighborhood.
- ◇ This proposed use was previously located in a C-3 district at 3139 East Thompson Road and was recently relocated to the single-family dwelling in the D-3 district.
- ◇ This request is not consistent with the Comprehensive Plan, which recommends Suburban Neighborhood uses for this site. Suburban neighborhood uses typically do not have neighborhood commercial uses or outdoor operations. The proposed request for a dog training and boarding business with outdoor dog runs and training areas would not be consistent with this recommendation.
- ◇ There is no unusual or unnecessary hardship associated with the subject site that would warrant the grant of this use variance. The subject site features a structure that was originally developed as a single-family dwelling. A residential use is still possible at this location that would be in Compliance with the Comprehensive Plan and the Ordinance, without the need for a variance. The subject property does not feature any peculiarity that would warrant a dog training and boarding business at this location. The fact that the proposed use requires outside operations is a self-imposed hardship
- ◇ The petitioner's findings of fact indicate the proposed use would be a permitted as a home-based occupation, and the outdoor training and kennel operations would be an extension of that home occupation. As previously indicated, the proposed use is a commercial use permitted in the C-3 and C-4 districts and is not defined as a home occupation.
- ◇ A home occupation is defined as an occupation, profession, craft, service, or business activity carried on within a legally established dwelling unit, or associated legally established accessory building, by a resident of a dwelling unit on the same lot or parcel, where the occupation or business activity is clearly incidental and subordinate to the residential use. Examples of professional services that are permitted home occupations include but are not limited to accounting, counseling, cabinet making, computer programming, web design, graphic design, law, medicine, dentistry, architecture, engineering, sewing, real estate brokerage, tailoring, weaving, therapy provided by a practitioner licensed by the State of Indiana, tutoring, writing, painting, photography, music instruction, web design, and such services as are provided by clergyman, insurance agents, and manufacturer's agents.
- ◇ According to the plan of operation, 4 staff members would be associated with the operation. This would exceed the allowable staffing permitted for a home-based occupation of two nonresident assistants.

(Continued)

STAFF REPORT 2022-UV3-035 (Continued)

- ◇ With the additional commercial use as requested by the variance, Staff is concerned with the number of commercial customers accessing the site with a gravel driveway. Gravel driveways are allowed for residential uses, but not for commercial uses.
- ◇ The impact of six daily customers, above and beyond normal residential uses, on a gravel driveway would be a cause for concern because of potential impacts upon surrounding property and public rights-of-way. Gravel parking can generate dust, and air quality issues that can leave the site and impact surrounding properties; erosion control and run-off associated with exposed gravel and soil; negative aesthetic impacts; and the inefficient use of space due to lack of striping. Furthermore, loose stones can enter the public right-of-way and become a hazard for passing vehicles and accelerate the deterioration of street surfaces. Therefore, if approved, the parking and maneuverability area should be hard-surfaced and striped. The six daily customers would also exceed the home-based occupation standard of four individual visitors.
- ◇ If this use was located in a commercial district, an additional variance of development standards would be required for the proposal outdoor training and kennel operations to operate within zero feet from the nearest protected district, where a 100-foot separation would be required. The outdoor training and kennel operations would be part of the dog training and boarding business.
- ◇ The outdoor training and kennel operations would be located outside of the dwelling, to the side and rear, with an adjacent unfenced western side yard being used as well.
- ◇ A home occupation shall be clearly incidental and subordinate to the primary residential use of the dwelling. No more than 600 square feet or 30% of the total square footage of the dwelling unit, whichever is less shall be used in connection with the home occupation. This request, in addition to the indoor use square footage, would provide for an approximate 2,600-square foot outdoor fenced in dog run and training area, plus additional non-fenced in outdoor areas close to the adjacent residential dwellings, for the animals that the business serves.
- ◇ As with most dog related uses, noise generated inside and outside from the dogs would be a legitimate concern. The outdoor training and kennel operations with the reduced setbacks would be located immediately adjacent to other residential properties. Without proper consistent housekeeping, inside and out, odors would also be a significant issue. The existing outdoor training area that would be used, would be located zero feet from the adjacent residential parcels to the south, east, and west. In staff's opinion, the proposed use would be detrimental to the community and surrounding area as the associated dog noises (inside and outside of the building) would be a nuisance to the neighborhood.

(Continued)

STAFF REPORT 2022-UV3-035 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of East Thompson Road is identified as a primary arterial in the Official Thoroughfare Plan with a 50-foot existing right-of-way and an 80-foot proposed right-of-way.
SITE PLAN	File-dated November 3, 2022
PLAN OF OPERATION	File-dated November 3, 2022
FINDINGS OF FACT	File-dated November 3, 2022

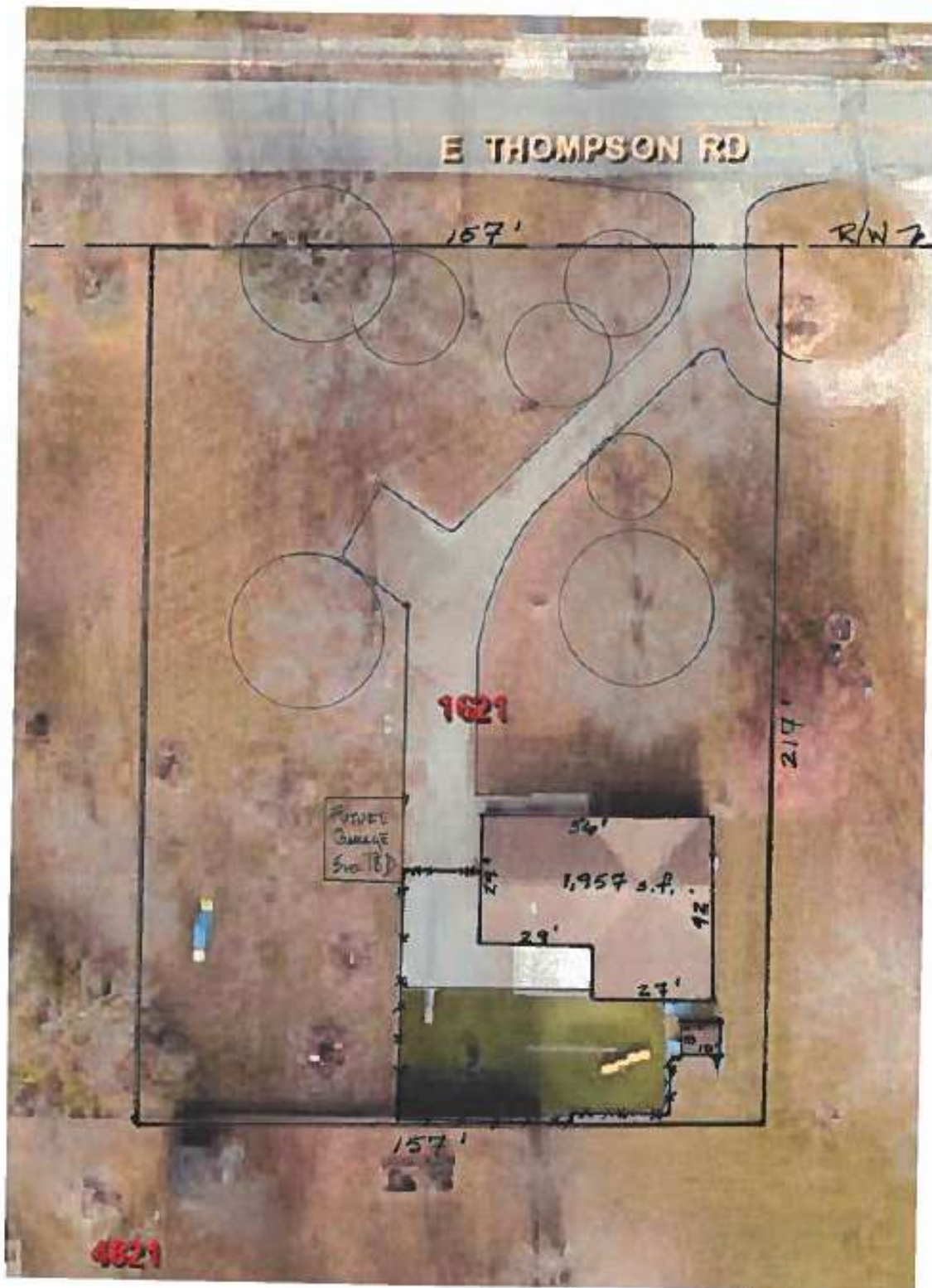
ZONING HISTORY

2001-DV1-084; 4957 Matthews Avenue (south of site), requested a variance of development standards to provide for the construction of a 936 square foot detached accessory structure, with an 8.5-foot front setback from the unimproved right-of-way of Prague Street, creating 1,484.6 square feet of detached accessory building area, or 181 percent of the main floor area of the primary dwelling and 1,624.6 square feet of accessory use area, **denied**.

RU *****

2022-UV3-035; Location Map





**Purpose Driven K9, Inc Business Plan
Petition for Variance
1621 E Thompson Road**

Purpose Driven K9 inc will employ the following:

- Owner, Margaret Bridges (f/k/a Margaret Earl)
- 1 Full Time Dog Trainer
 - Hours: Monday - Friday; 9:00 AM - 6:00 PM
 - Job Duties: Training dogs on site to complete requirements of training program, conduct one hour private lessons with clients
- 2 Part Time Pet Care Attendants
 - Hours: Monday - Friday **Morning Shift** - 7:30 AM / **Evening Shift** - 8:00 AM - 1:00 PM / 6:00 PM - 8:00 PM; 1 morning attendant and 1 evening attendant
 - Job Duties: Potty dogs outdoors one at a time supervised, feed & water dogs, waste removal, clean kennels, mop the "training room"
- 1 Part Time Receptionist working Remotely; not required to appear on property to complete job duties

Operational description:

Clients & Customers will arrive at the facility during the following hours:

- **Monday morning Drop Off:** Clients will be scheduled to drop their dog off for training between 8:00 AM & 9:00 AM scheduled at 15 minute intervals to disperse overlap. The drop off process takes 5-10 minutes to complete for each dog as we confirm client information, feeding instructions, and take payment for training. Up to 6 dogs will be scheduled for drop off on Monday morning; in other words, up to 6 cars will come and go from the property during this hour.
- **Private Lessons:** These are 1 hour appointments held at 12:00 PM, 3:00 PM, & 4:00 PM Monday – Friday (no Friday 4:00 lesson because of Small Group). Lessons will be held indoors and outdoors weather permitting. Up to 2 private lessons could be held in a one hour slot. There will be 2 cars parked in the driveway per hour with overlap of 4 cars at the 4:00 PM hour as one client departs and another client arrives
- **Small group Distraction Lesson:** Monday - Thursday at 5:00 PM AND Friday at 4:00 PM; a 1 hour small group lesson will be held to provide distraction proofing for dogs that have completed training. I would like to request up to 4 dogs be allowed to attend this lesson. The appointment will be held indoors or outdoors weather permitting. Offsite classes may also be held. Dogs will have completed training so will be practicing calm, quiet, heel and focus on the owner
- Dogs boarding on property:
 - No more than 10 total dogs will stay onsite overnight during the week to complete their training program. Typical will be no more than six.
 - Training Programs are Monday - Friday; the trainer and owner will train each dog individually indoors and outdoors for 20-30 minute intervals between the hours of 9:00 AM & 3:00 PM. Dogs resting from training will be kenneled in a Petmate

Ultra Vari Kennel located in a bedroom. As part of training, dogs will be learning to be calm and quiet in their kennel. Bark collars will be used to prevent any excessive barking. Excessive barking will not be heard for any duration longer than 10 minute intervals

- Training Programs are held for 1-2 weeks. Clients will take their dog home at 4:00 PM on Friday. If a dog is doing a 2 week program, the dog will be back the following Monday. Clients have an option to day train. If a client chooses to do day train, clients will drop their dog off Monday - Friday at 9:00 AM and pick up in the evening between 3:00 PM - 6:00 PM. Clients will park in the driveway for less than 10 minutes for this exchange

2022-UV3-035; Plan of Operation Continued

- Board & Train Programs and how they are conducted:
 - 1 dog will be trained at a time per trainer (Full time trainer & owner) for 20-30 minute intervals between the hours of 9:00 AM - 3:00 PM Monday - Friday
 - Training begins indoors. A large bedroom will be used for indoor training and private lessons. As training progresses dogs will practice outdoors in a fenced yard, the front yard, as well as taken off site to local business for more distraction proofing practice
 - Skills learned: Dogs learn how to be calm and relaxed on leash, how to focus in a heel, automatically sit when the person stops, stay for duration, and general manners i.e jumping, drop it, and quiet
 - Training Tools used:
 - Heather's Hero's Sidekick; aka Transitional Leash: This leash can be best described as a slip lead with a loop that can be put over the dogs nose. The trainer applies gentle pressure with the tool to teach the dog to calm down and sit. This leash teaches dogs to remain calm in front of distractions like other dogs, people, and squirrels
 - Training Collar or Pinch Collar: this tool is used as needed for owners needing more control and to correct unwanted behaviors i.e jumping, chewing, and drop it
 - Bark Collars: this tool is used to prevent and manage excessive barking in a crate. Our bark collars have 5 levels that can be adjusted to the right number for each individual dog. The goal is to interrupt the barking behavior at the lowest level possible
- Private lessons and how they are conducted:
 - Clients will bring their dog to the property at 1 hour intervals
 - The trainer will teach the client how to properly hold the leash, address unwanted behaviors i.e barking, jumping, chewing and build a positive relationship with obedience to improve focus and overall produce good manners in public settings.
 - These lessons will be conducted in the master bedroom and outdoors weather permitting

Traffic impact: The home has a long driveway (please refer to the site plan) that stretches from Thompson Road to the house. The driveway "as is" is wide enough to accommodate 2 cars side by side. There is room for parallel parking for 3 cars from the house to the big tree as well as additional gravel between the tree and the ditch that accommodate 3 more cars (regular parking style)

Waste: Owner anticipates the equivalent of 1 trash bag of waste will be produced per week; however, trash will be tied and removed daily for cleanliness. Trash is collected every Wednesday and it is anticipated the current trash will be sufficient to accommodate any extra waste produced by the dogs.

2022-UV3-035; Photographs



Subject site frontage, looking south



Subject site frontage side yard with dog training apparatus, looking south



Subject site proposed area for outdoor dog run and training area, looking east.



Subject site proposed area for outdoor dog run and training area, looking northeast.



Adjacent single-family dwellings to the east, looking south



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

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-036
Address: 1516 East Edwards Avenue (approximate address)
Location: Perry Township, Council District #24
Zoning: D-4
Petitioner: House to Home Realty Solutions LLC, by Steven Smith
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of a single-family dwelling into a fourplex (not permitted) and the construction of a walkway with a zero-foot west side yard setback (four-foot side setback required).

A registered neighborhood organization has indicated they would like **to request a continuance for cause, to continue this petition from the December 20, 2022, hearing to the January 17, 2023,** hearing to allow the petitioner time to present this petition to their organization. Staff has no objection to this request

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

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

North -	D-4	Two-family dwelling
South -	D-4	Single-family dwellings
East -	D-4	Single-family dwelling
West -	D-4	Single-family dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood uses for this site.
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VARIANCE OF USE

- ◇ This site is zoned D-4 which is intended for low or medium intensity single-family residential development, at a density of 4.2 units per acre. Two-family dwellings are permitted on corner lots in this district.
- ◇ A fourplex use is permitted in the higher density zoned districts of D-6, D-6II, D-7, D-8, and MU-2. All which accommodate higher densities of dwellings such as apartment buildings and multi-family developments; and have infrastructure to accommodate those higher densities.

(Continued)

STAFF REPORT 2022-UV3-036 (Continued)

- ◇ The current use of the existing structure is a single-family dwelling, that is in the process of being converted into a fourplex. A stop work-order was issued for failure to obtain a structural permit prior to the interior and exterior remodel that included converting a single-family dwelling to a four-unit dwelling, removal of the front porch bricks so a new concrete overlay could be placed over the original pad on the front porch, a new front door installed on the front right side of the house providing for four (4) entry doors. Additional stop work orders were issued for failure to obtain permits for heating and cooling, electrical for the individual units.
- ◇ Staff is concerned that the number of units on a site originally developed with a single unit, would greatly exceed the site's capacity, and provided parking spaces, and would result in increased traffic, street congestion and additional trash removal services. This increase in traffic, and other associated uses, would have the potential for adverse or detrimental impacts to abutting residential properties or uses.
- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the increase in number of residents and lack of appropriate zoning, this site would be over-developed and inappropriately expand non-permitted uses towards established single-family residential dwellings.
- ◇ There is no unusual or unnecessary hardship associated with the subject site that would warrant the grant of this use variance. The subject site features a structure that was originally developed as a single-family dwelling. A single-family dwelling use is still possible at this location that would be in compliance with the Comprehensive Plan and the Ordinance, without the need for a variance. The subject property does not feature any peculiarity that prevents permitted uses at this location.

VARIANCE OF DEVELOPEMENT STANDARDS

- ◇ The requested variance of development standards would allow for a walkway with a zero-foot west side yard setback, where a four-foot side setback is required.
- ◇ The need for the reduced setback is a self-imposed difficulty, and not a result of the Ordinance as the walkway was installed without permits, and a stop work order was issued. Had permits been obtained prior to installation of the walkway, the walkway could have been appropriately located with the required side setback and not needed a variance. Therefore, the existing walkway can be removed and reinstalled with the required side setback without the need for a variance.
- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the installation of an unpermitted walkway with a deficient side setback, this site would be over-developed and inappropriately expand higher density residential uses towards established residential dwellings.

(Continued)

STAFF REPORT 2022-UV3-036 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	The Official Thoroughfare Plan designates this portion of East Edwards Avenue as a local street, with a 48-foot existing and proposed right-of-way.
SITE PLAN	File-dated November 1, 2022.
FINDINGS OF FACT	File-dated November 1, 2022.

ZONING HISTORY

2015-CAP-814; 4133 South Matthews Avenue (east of site), requested University Quarter-One Approval for the development of University Heights Park, including landscaping, walks and a shelter, **approved**.

2013-HOV-061; 1411 East Castle Avenue (west of site), requested a variance of development standards to provide for a dwelling addition, with a new deck and stairway, creating approximately 59.5% open space, and to legally establish an approximately four-foot west side yard, and a nine-foot aggregate side yard, **granted**.

2001-UV1-022; 1446 East Edwards Avenue (west of site), requested a variance of use to legally establish a dog grooming and training business in the basement of an existing single-family dwelling, **withdrawn**.

97-HOV-33; 1511-1519 East Edwards Avenue (south of site), requested a variance of development standards to provide for the construction of two single-family residences with side yards totaling 10 feet for each lot and a front yard setback of 19.5 feet along Edwards Avenue, **granted**.

RU

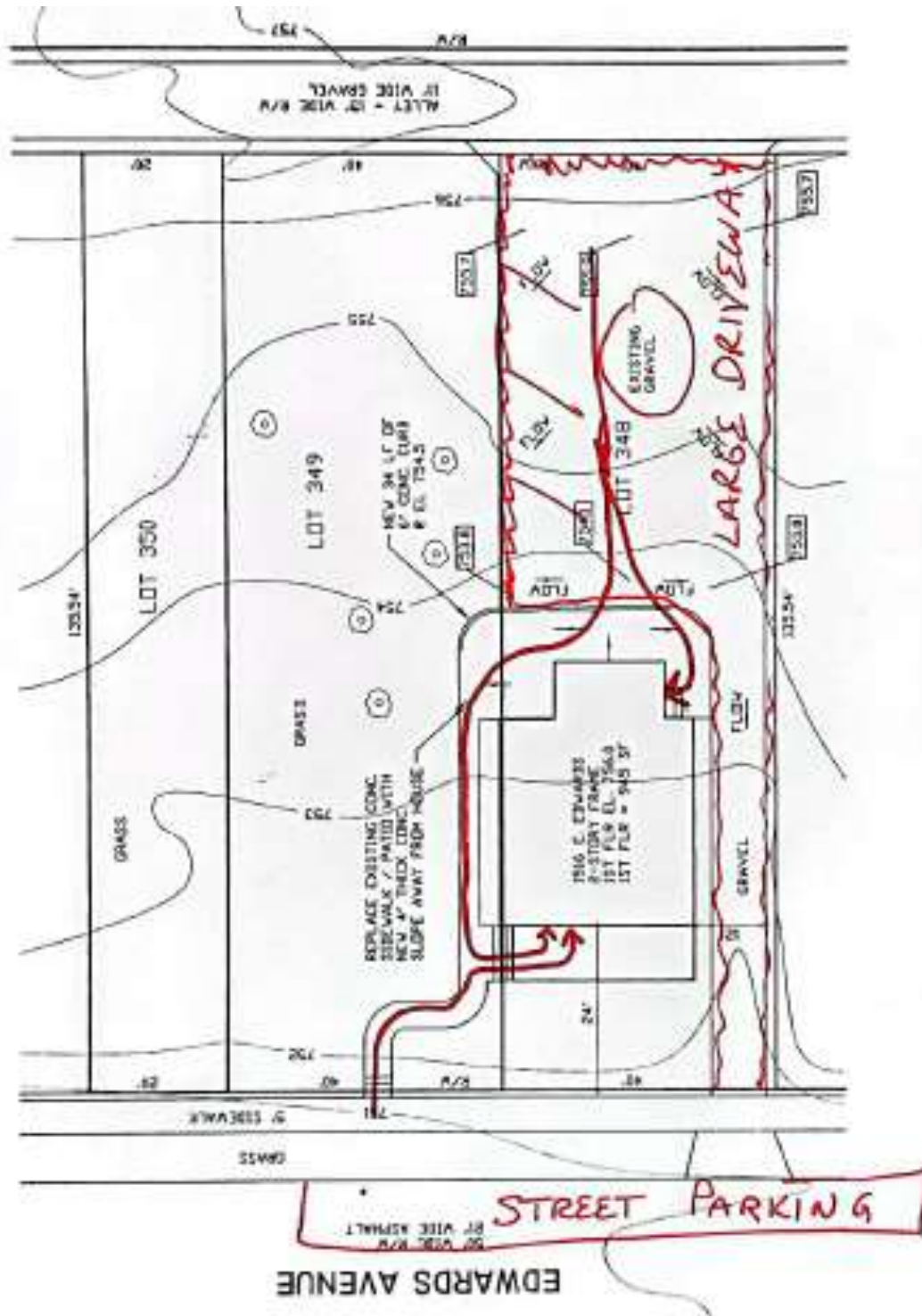
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STAFF REPORT 2022-UV3-036 (Continued)

2022-UV3-036: Location Map



2022-UV3-036: Site Plan



2022-UV3-036: Photographs



View of subject site, looking north



View of subject site walkway with a zero-foot west side yard setback, looking north



View of adjacent single-family dwelling to the west, looking north.



View of adjacent single-family dwelling to the south.