

**METROPOLITAN BOARD OF ZONING APPEALS
DIVISION I
2nd Floor City-County Building
1:00 p.m.**

**PUBLIC ASSEMBLY ROOM
STAFF REPORTS FOR JANUARY 3, 2012**

**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:		
2011-SE1-001	940 WEST 16 TH STREET CENTER TOWNSHIP, CD #15	2
2011-SE1-003	3430 NORTH OLNEY AVENUE CENTER TOWNSHIP, CD #10	10
2011-DV1-030	5520 WEST SOUTHPORT ROAD DECATUR TOWNSHIP, CD #22	17
2011-DV1-046	5402 WEST 34 TH STREET WAYNE TOWNSHIP, CD #7	24
2011-DV1-053	4450 SOUTHPORT CROSSING DRIVE PERRY TOWNSHIP, CD #24	29
NEW PETITIONS:		
2011-DV1-056	3931 SOUTH EAST STREET PERRY TOWNSHIP, CD #23	34
2011-UV1-029**	8514 WEST WASHINGTON STREET WAYNE TOWNSHIP, CD #13	41

*Automatic Continuance
** Continuance requested
*** Withdrawn or Dismissal

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2011-SE1-001
Address: 940 West 16th Street (*Approximate Address*)
Location: Center Township, Council District #15
Lot Size: 15 acres
Petitioner: Pic-A-Part, LLC, by S. Gregory Zubek
Request: Special exception of the Industrial Zoning Ordinance to provide for a crusher related to a legal nonconforming vehicle salvage and storage yard (approval did not include the crushing, flattening, compacting or shredding of vehicles, the sale of new parts or the installation of used auto parts sold on site) approved by 2007-LNU-015.

ADDENDUM FOR JANUARY 3, 2012

This petition was continued from the December 6, 2011 hearing to the January 3, 2012 hearing at the request of the petitioner. No additional information was submitted to the file.

DECEMBER 6, 2011

The Board acknowledged a timely request for an automatic continuance, filed jointly by the petitioner and a remonstrator, continuing the petition from the November 1, 2011 hearing to the December 6, 2011 hearing, without additional notice.

RECOMMENDATIONS

Staff **recommends denial** of the petition.

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ As proposed, the request would provide for a crusher related to the existing legal nonconforming vehicle salvage and storage yard.
- ◇ The site is surrounded to the north and east by the canal and heavy industrial uses, to the south by the Indianapolis Water Company, and to the west by Fall Creek and heavy industrial uses.

SPECIAL EXCEPTION

- ◇ An automobile recycling, salvage and storage facility is only permitted in the I-4 Districts, and only after a grant of special exception, based upon these three findings:

(Continued)

STAFF REPORT 2011-SE1-001 (Continued)

1. The grant will not be injurious to the public health, safety, convenience or general welfare.
 2. The grant will not injure or adversely affect the adjacent area or property values therein.
 3. The grant will be in harmony with the character of the district and land uses authorized therein.
- ◇ The approximately 15-acre site was granted a Certificate of Legal-Nonconforming Use (LNCU) for the existing vehicle salvage and storage yard. The LNCU did not include crushing, flattening, compacting or shredding of vehicles, the sale of new auto parts, or the installation of used auto parts sold on site. Therefore, a special exception would be required to expand the existing use.
- ◇ The subject site is located within a heavy industrial zoning district, and surrounded on all sides by various heavy industrial uses. Given the site's location and the location of the proposed crusher, it is unlikely that expanding the vehicle salvage and storage yard would injure or adversely affect the adjacent area or property values. The use would also be in harmony with the character of the district and land uses authorized therein. However, the site is located within the W-1 wellfield protection area, which could have serious impacts on public health and safety.

WELLFIELD ISSUES

- ◇ The site is located within the W-1 district of the White River Wellfield protection area, meaning it would take groundwater and its contaminants less than one year to infiltrate into the wellfield. Because of the risk that certain chemicals pose to groundwater quality, it is recognized that the further regulation of the use and storage of such chemicals related to land use activities in these areas is essential in order to preserve public health and economic vitality within Marion County. Therefore, specific land uses, including scrap or junk yards, are required to go through a review by a technically qualified person in order to ensure that the use will not have an adverse impact on the water quality.
- ◇ The location of vehicle salvage yards are especially of concern within wellfield districts, as junk cars still contain varying amounts of contaminating fluids, including gasoline, ethanol, diesel fuel, lubricating oils, and antifreeze. Over time, the cumulative impact of even small amounts of these substances could be detectable in the ground water. Concerns specifically related to vehicle crushing include the concentration of these fluids in one area as well as the release of heavy metals.
- ◇ The plan of operation file-dated November 3, 2011 addresses the operations on the site, indicating that all fluids, mercury switches, Freon and batteries would be removed from the vehicles prior to crushing. The plan also indicated that the crusher would be located on a concrete pad, and includes a fluid containment system, which would recover any additional fluids. Furthermore, the addition of the proposed car crusher would require the petitioner to obtain an Improvement Location Permit, which would cause the project to be reviewed by the Technically Qualified Person (TQP) and the wellfield review team. This review would likely require the crusher to be located on a concrete pad that would be designed to capture and contain all of these fluids so that they could be disposed of in a way that would protect the ground water. The subject site is especially susceptible to contamination, as the facility is located on top of the Riverside Wellfield. Despite the TQP review and even with the best design, accidents occur due to human error, mechanical or structural failure, lack of maintenance and/or lack of plan implementation, resulting in severe impacts to water quality.

(Continued)

STAFF REPORT 2011-SE1-001 (Continued)

◇ Given the public health and safety concerns related to vehicle crushing, the expansion of the use within this district would be inappropriate.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

1-4-U(W-1) Automobile salvage operation

SURROUNDING ZONING AND LAND USE

North -	1-4-U(W-1)	Industrial
South -	1-4-U(W-1)	Industrial
East -	1-4-U(W-1)	Industrial
West -	1-3-U (FW) (W-1)	Industrial

COMPREHENSIVE GENERAL LAND USE PLAN Proposes light industrial development.

THOROUGHFARE PLAN The Official Thoroughfare Plan indicates that 16th Street is a primary arterial with a 90-foot right-of-way existing and a 90-foot right-of-way proposed.
Aqueduct Street is not indicated on the Official Thoroughfare Plan.

SITE PLAN File-dated September 23, 2011

FINDINGS OF FACT File-dated September 27, 2011

ZONING HISTORY

2007-LNU-015; 940 West 16th Street (subject site), requests a Certificate of Legal Non-Conforming Use to legally establish an open vehicle salvage storage yard, without crushing, flattening, compacting, or shredding of vehicles, the sale of new auto parts, or the installation of used auto parts sold on site, in I-4-U, **granted**.

2000-VAR-849; 2101 Montcalm Street (west of site), requests a special exception of the Industrial Zoning Ordinance to provide for the development of a waste transfer and recycling facility, in I-4-U (W-1), **granted**.

2000-VAR-849A; 2101 Montcalm Street (west of site), requests a variance of development standards of the Industrial Zoning Ordinance to provide for the construction of a 31,760-square foot waste transfer and recycling facility with a 12-foot rear yard setback, and 20 off-street parking spaces located within the required front yard, in I-4-U (W-1), **granted**.

97-V2-67; 832 Langsdale Avenue (northeast of site), requests a variance of development standards of the Industrial Zoning Ordinance to provide for the construction of a building addition for an existing recycling facility with a one-foot rear yard setback, in I-4-U, **granted**.

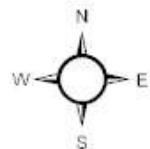
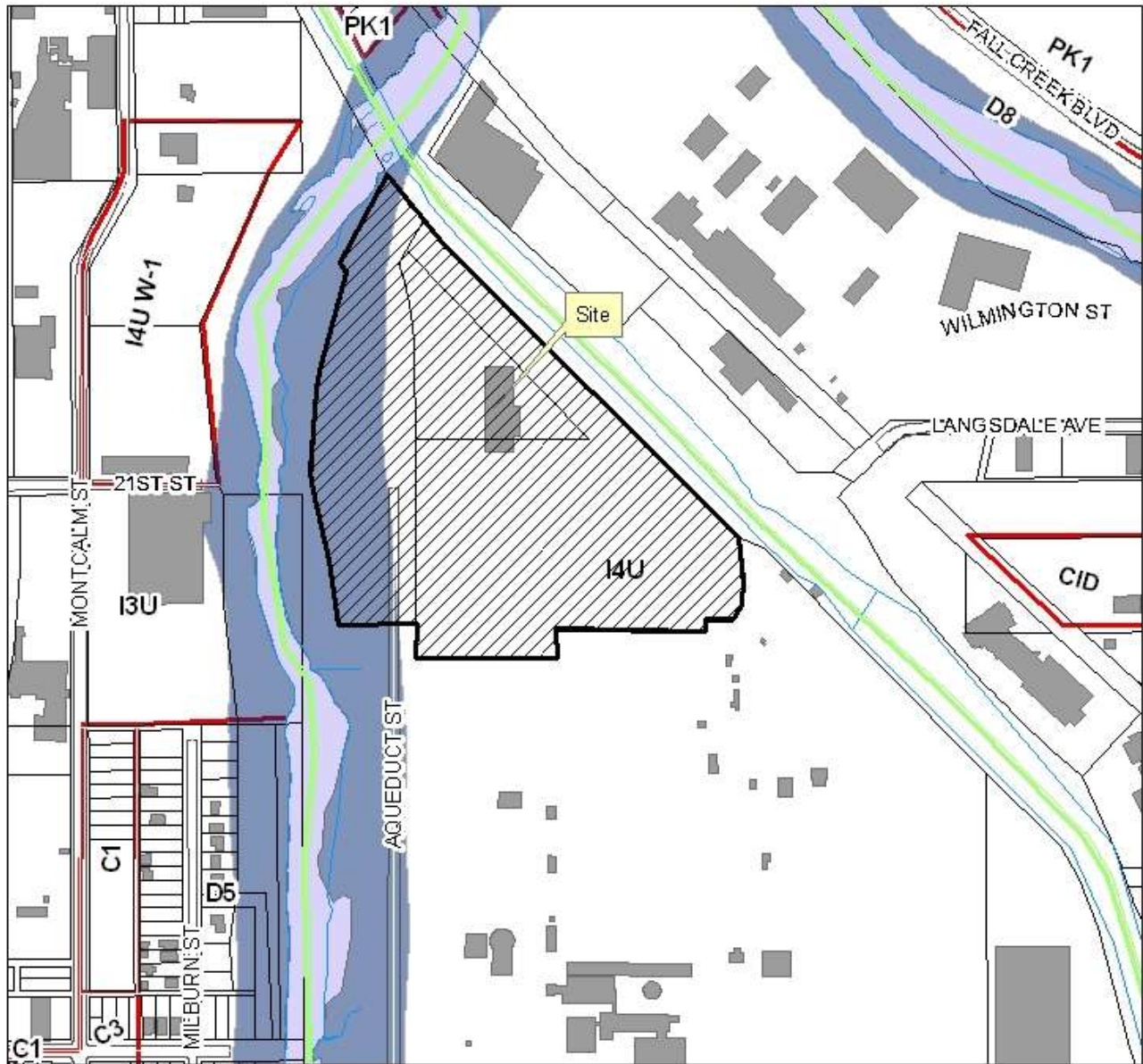
(Continued)

STAFF REPORT 2011-SE1-001 (Continued)

93-UV1-69; 2069-2099 Montcalm Street (west of site), requests a variance of use of the Industrial Zoning Ordinance to provide for a recycling recovery facility including sorting baling and distribution, in I-3-U, **granted**.

MRM

2011-SE1-001 940 West 16th Street



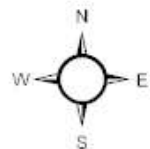
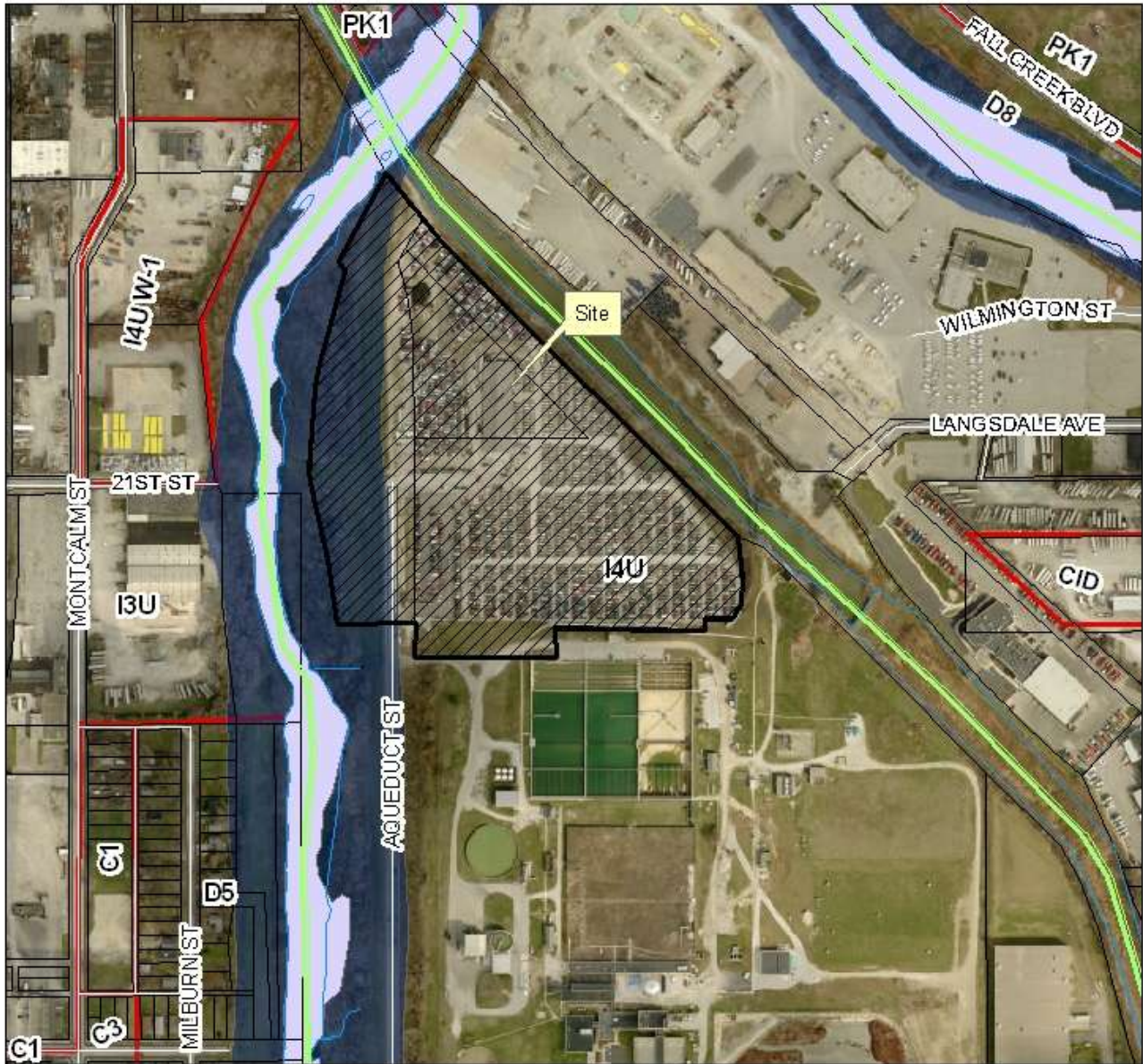
Produced By: The GIS Section

Data Source: The City of Indianapolis
Geographic Information Systems



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2011-SE1-001 940 West 16th Street



Produced By: The GIS Section

Data Source: The City of Indianapolis
Geographic Information Systems



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The site has been used as a vehicle salvage yard for decades. A certificate of legal non-conforming use ("LNCU") was issued in 2007 and it is attached hereto.

Petitioner acquired the site in 2007. The previous owner of the site had conducted crushing for years and apparently contracted with entities to bring in a crusher on an as-needed basis. Crushing is, and has been for decades, the best way to prepare vehicles for removal from salvage yards. More crushed vehicles can be put on a truck than uncrushed vehicles, which results in fewer tractor trailer trips, less traffic, fewer diesel emissions and more efficient recycling of the metal and steel from the vehicle chassis and/or bodies.

Petitioner asserts that vehicle crushing is merely a part of the process of operating a vehicle salvage yard. The vehicle salvage yard use of the property is not changing, rather, the crushing is a step in the vehicle salvage yard process. Petitioner asserts its is akin to

- a) a farmer in an agricultural district using a hay baler on a farm to prepare the harvest for shipment, or
- b) a homeowner in a dwelling district using a trash compactor (appliance) before putting the trash out to the curb, or
- c) a hospital or restaurant using a trash compactor before the trash is removed.

In such examples, the use as agricultural or dwelling has not changed. The only thing that has changed is the introduction of a machine to make more efficient the use on the property.

While Petitioner verily believes that crushing of vehicles after they have been "picked" of re-useable parts including, but not limited to, mirrors, hubcaps, windshields, tires and engine parts is not a "use" requiring a variance; because the LNCU certificate expressly does not extend to vehicle crushing, which is the penultimate step in the vehicle recycling/salvage process, followed only by transport offsite (to a shredder), this petition is being filed.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2011-SE1-003
Address: 3430 North Olney Street (*Approximate Address*)
Location: Center Township, Council District #10
Lot Size: 0.148 acre
Petitioner: Dennis A. Vaughn
Request: Special exception of the Dwelling Districts Zoning Ordinance to provide for a religious use, with a front deck and handicapped ramp addition and parking in the rear.

ADDENDUM FOR JANUARY 3, 2011

This case was continued from the **December 6, 2011** hearing to the **January 3, 2012** hearing to provide time for the petitioner to amend the site plan.

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ The 0.148 acre lot was developed with a single-family dwelling in 1948 and has been used residentially since that time. The site is surrounded by similar single-family dwellings.

SPECIAL EXCEPTION

- ◇ The United North East Neighborhood Plan calls for low-density residential development at this location. Religious uses are generally compatible with residential uses and are permitted within any dwelling district by a grant of special exception, which must include findings that “the adverse impact on the public health, safety, morals, and general welfare caused by the grant does not outweigh the restriction on the petitioner’s right to worship and peaceful assembly”, and that it “will not materially and substantially interfere with the lawful use and enjoyment of adjoining property.”
- ◇ The mid-block location of the site and the small size of the lot make any non-residential use of this site inappropriate. Because the site would only be used for a limited amount of time each week, the dwelling would be empty most of the time. This would leave a hole in the residential fabric of the neighborhood and could adversely impact the adjoining property.

(Continued)

STAFF REPORT 2011-SE1-003 (Continued)

- ◇ If this development were proposed in a commercial district or in an SU-1 zoning district, the development standards of the Commercial Zoning Ordinance would suggest that ten off-street parking spaces (one space per four seats at maximum calculated capacity) would be necessary. The site plan file dated October 25, 2011 indicates that three spaces would be provided in the rear of the lot and that on-street parking would accommodate the remaining parking needs.
- ◇ The off-street parking spaces would be difficult to access via the alley which requires a 90-degree turn to reach the subject parcel. Although the parking provided in the front yard would be easier to access, it would only account for two spaces and would require the loss of at least one on-street parking space.
- ◇ In addition, the residential development in this area is fairly dense (approximately 6.7 dwelling units per acre) and many of the dwellings have limited off-street parking. Therefore the availability of on-street parking for the religious use cannot be guaranteed and the additional parking need created by the religious use would interfere with the use and enjoyment of adjoining property.
- ◇ Because the religious use could adversely impact and interfere with the use and enjoyment of the adjoining property, staff recommends denial of the request.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-5 Single-family dwelling

SURROUNDING ZONING AND LAND USE

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

NEIGHBORHOOD PLANNING DISTRICTS

The subject site is located within the boundaries of the United North East Neighborhood Plan which recommends low-density residential use at this location, specifically the D-5 zoning classification.

THOROUGHFARE PLAN

Olney Street is not indicated in the Official Thoroughfare Plan.

SITE PLAN

File-dated October 25, 2011

FINDINGS OF FACT

File-dated October 25, 2011

ZONING HISTORY

89-UV1-108; 3345 North Gale Street (southeast of subject), requests variance of use of the Dwelling Districts Zoning Ordinance to permit the construction of a facility to be used for the design, research and development of electronic circuits and for the fabrication of small electronic assemblies, **granted.**

(Continued)

STAFF REPORT 2011-SE1-003 (Continued)

97-SE1-6; 3611 East 34th Street (southeast of subject), requests a special exception of the Dwelling Districts Zoning Ordinance to provide for the continued operation of a religious use, **granted**.

2000-SE3-006; 3611 East 34th Street (southeast of subject), requests a special exception of the Dwelling Districts Zoning Ordinance to provide for a 1,800 square foot addition to a legally established church, **granted**.

ATS

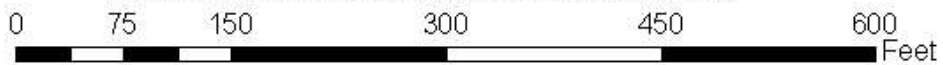
2011-SE1-003 3430 North Olney Avenue



Legend

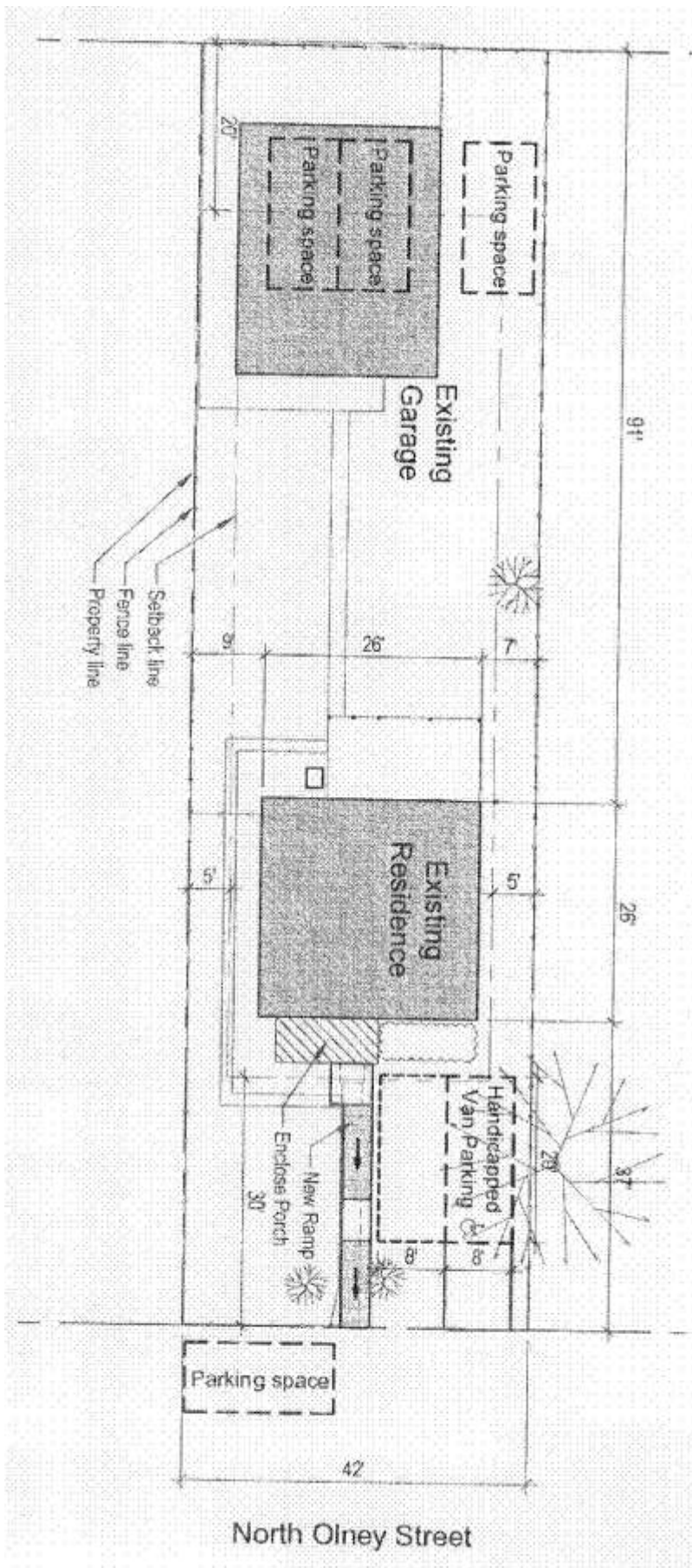
- COGIS PARCELS
- ZONING
- VARIANCE
- APPROVAL

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November 1, 2011
Produced by the Current Planning Section

2011-SE1-003 – Site Plan



2011-SE1-003 – Photographs



1) The dwelling sits on a narrow lot and is surrounded with similar dwellings.



2) Three off-street parking spaces would be provided in and next to the existing detached garage.



3) Access to the off-street parking is provided through an alley which would be difficult to navigate.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2011-DV1-030 (*Amended*)
Address: 5520 West Southport Road (*Approximate Address*)
Location: Decatur Township, Council District #22
Lot Size: 4.38 acres
Petitioner: Carlie Lockhart
Request: Variance of use and development standards of the Dwelling Districts
Zoning Ordinance to:
a) legally establish a lot, with 48.8 feet of frontage and width (80 feet of lot width and frontage required),
b) and to provide for accessory uses without a primary use, including a 312-square foot cabin, and a 640-square foot accessory building (accessory uses not permitted without primary use).

ADDENDUM FOR JANUARY 3, 2012

This petition was continued from the November 1, 2011 hearing to the January 3, 2012 hearing at the request of the petitioner. An amended petition was submitted, indicating that the property was established in 1980 and would, therefore, qualify for the D-A district regulations exception for lots recorded prior to December 20, 1989. Therefore, a lot width and frontage of only 80 feet would be required, and a minimum side yard setback of twelve feet with an aggregate of 24 feet. The request was also amended to provide for accessory uses without a primary use, in lieu of legally establishing the cabin as a primary use.

The Dwelling Districts Zoning Ordinance (DDZO) permits certain accessory uses within all dwelling districts including, but not limited to, accessory structures (garages, carports, etc.), off-street parking areas, swimming pools, storage or parking of recreational vehicles, and game courts. These uses are all subject to meeting the general accessory use requirements as well as additional requirements, which are intended to mitigate any potential negative impacts on adjacent properties and ensure that accessory uses remain incidental and subordinate to the primary use. Allowing for accessory structures without a primary use tends to promote non-permitted reuse of the site, such as commercial or industrial.

Additionally, it is staff's understanding that the accessory structures would continue be used for camping/overnight purposes. As the structures were designed and built as accessory structures, there is no guarantee that they are suitable for living purposes, even on a temporary basis. Furthermore, classifying the structures as accessory as opposed to legally establishing the cabin as a primary use does not address concerns that the uses would not be connected to a flush toilet and plumbing, which is in good working condition and properly connected to an approved sewer system. In staff's opinion, legally establishing the structures as accessory uses would not allow for their legal use for camping or overnight stays, as this use is not a typical accessory use to a single-family dwelling, and would not be permitted within this district, without specific use variance approval.

(Continued)

STAFF REPORT 2011-DV1-030 (Continued)

Therefore, staff **recommends denial** of the request to provide for accessory uses without a primary use, including a 312-square foot cabin, and a 640-square foot accessory building.

A practical difficulty exists with the use of the property, as the lot has existed in its current configuration since as early as 1980. This unique circumstance would warrant relief from the frontage and width requirements. Therefore, staff would **recommend approval** of the amended request to legally establish a lot, with 48.8 feet of frontage and width.

ADDENDUM FOR NOVEMBER 1, 2011

This petition was continued from the October 4, 2011 hearing to the November 1, 2011 hearing at the request of the petitioner. No additional information was submitted to the file.

OCTOBER 4, 2011

The Board acknowledged a timely request for automatic continuance, filed on behalf of a registered neighborhood organization, continuing this petition from the August 2, 2011 hearing to the September 6, 2011 hearing. Subsequently, the Board continued the petition from the September 6, 2011 hearing to the October 4, 2011 hearing, to allow time for amended notice to be provided, including the variance for the 312-square foot cabin as a primary use.

RECOMMENDATIONS

Staff **recommends denial** of the petition.

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ The 4.38-acre site is improved with a 312-square foot cabin and a 640-square foot accessory building. As proposed, the lot would be legally established with 48.8 feet of frontage and width. Additionally, the request would legally establish an accessory use and building area of 205.1 percent of the main and total floor area of the primary building.
- ◇ The site is surrounded on all sides by single-family dwellings on lots varying in size.

VARIANCE OF USE

- ◇ The Dwelling Districts Zoning Ordinance (DDZO) defines dwelling unit as the following:

One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

(Continued)

STAFF REPORT 2011-DV1-030 (Continued)

Additionally, the Marion County Health and Hospital Code requires that all dwellings have a flush toilet, which is in good working condition and properly connected to an approved sewer system. The petitioner has indicated that the 312-square foot cabin would not meet this requirement. Therefore, it could not be considered a legal single-family dwelling.

◇ The purpose of the Health and Hospital Code's Minimum Standards for Residential Property and Housing are to:

- a) protect, preserve and promote the physical and mental health of the people,
- b) prevent and control the incidence of communicable diseases,
- c) reduce environmental hazards to health,
- d) regulate privately- and publicly-owned dwellings for the purpose of maintaining adequate sanitation and public health,
- e) protect the safety of the people,
- f) insure that the quality of housing is adequate for protection of public health, safety and general welfare,
- g) establish minimum standards for basic equipment and facilities for light, ventilation and thermal conditions,
- h) establish minimum standards for fire and accident safety,
- i) establish minimum standards for the use and location and amount of space for human occupancy,
- j) establish minimum standards for an adequate level of maintenance, and
- k) determine the responsibilities of owners and occupants of dwellings.

Legally establishing a primary use without meeting these minimum requirements would be injurious to the public health, safety, morals and general welfare, and could cause potential health and safety concerns for both persons utilizing the subject property as well as adjacent sites.

LOT WIDTH AND ACCESS

- ◇ The DDZO requires that all residential lots have frontage upon and derive direct access from a public street. The D-A District specifically requires 125 feet of public street frontage and 250 feet of lot width at the required setback. This provision of the DDZO is intended to provide for an orderly development pattern in the County, wherein all residential lots may easily be accessed from a public street with a clear and obvious entrance, without reliance on easements or other agreements to obtain access to residential properties.
- ◇ When lots are developed without adequate frontage on a public street, the delivery of emergency and non-emergency services can be needlessly complicated. Even if the structures would be properly addressed, the dwelling would be difficult to locate especially in an emergency, because it would be visually obstructed by the existing dwellings on the lots to the south.

ACCESSORY USE/BUILDING AREA

- ◇ The DDZO limits the size of accessory buildings and accessory use area because large detached accessory structures tend to promote commercial or industrial reuses by subsequent owners, such as contractors or automobile repair. These uses are not appropriate home occupations and have characteristics that negatively affect adjacent residential uses, such as excessive outdoor storage.

(Continued)

STAFF REPORT 2011-DV1-030 (Continued)

- ◇ The accessory use and building area is out-of-scale and not in character with the majority of other uses in the area. Legally establishing the accessory use and building area would increase concerns related to the accessory uses overwhelming the primary use. The cumulative effects of the existing and proposed accessory structures would represent an over-intensification of use and would have a depreciating effect on surrounding dwellings.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-A Cabin and accessory buildings

SURROUNDING ZONING AND LAND USE

North -	D-4	Single-family dwellings
South -	D-A	Single-family dwellings
East -	D-A	Single-family dwellings
West -	D-A	Single-family dwellings

COMPREHENSIVE GENERAL LAND USE PLAN

Proposes residential development of 1.75 to 3.5 dwelling units per acre.

CODE ENFORCEMENT ACTION / LEGAL SECTION STATUS

This site was issued a Notice of Zoning Violation on June 10, 2011, for the outdoor storage of junk, trash, or debris in a dwelling district.

This site was issued a Notice of Zoning Violation on May 15, 2011, for the parking or storage of commercial vehicles or equipment in a dwelling district and the failure to obtain permits for multiple detached accessory structures.

This site was issued a Notice of Zoning Violation on January 6, 2011, for the outdoor storage or display of merchandise (picnic tables) in a dwelling district, and the location, erection or maintenance of non-permitted signs.

This site was issued a Notice of Zoning Violation on November 16, 2010, for the location, erection or maintenance of non-permitted signs, conduct of an activity not permitted in a D-A dwelling district (masonry business), for the outdoor storage or display of merchandise (picnic tables) in a dwelling district, and the outdoor storage of junk, trash, or debris in a dwelling district.

This site was issued a Notice of Zoning Violation on August 6, 2010, for the failure to obtain a permit for a cabin, the parking or storage of commercial vehicles or equipment in a dwelling district, conduct of an activity not permitted in a D-A dwelling district (masonry business and camp ground), and the outdoor storage of junk, trash, or debris in a dwelling district.

(Continued)

STAFF REPORT 2011-DV1-030 (Continued)

THOROUGHFARE PLAN	This portion of Southport Road is not indicated on the Official Thoroughfare Plan.
SITE PLAN	File-dated June 27, 2011
FINDINGS OF FACT	File-dated June 27, 2011

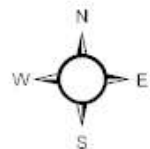
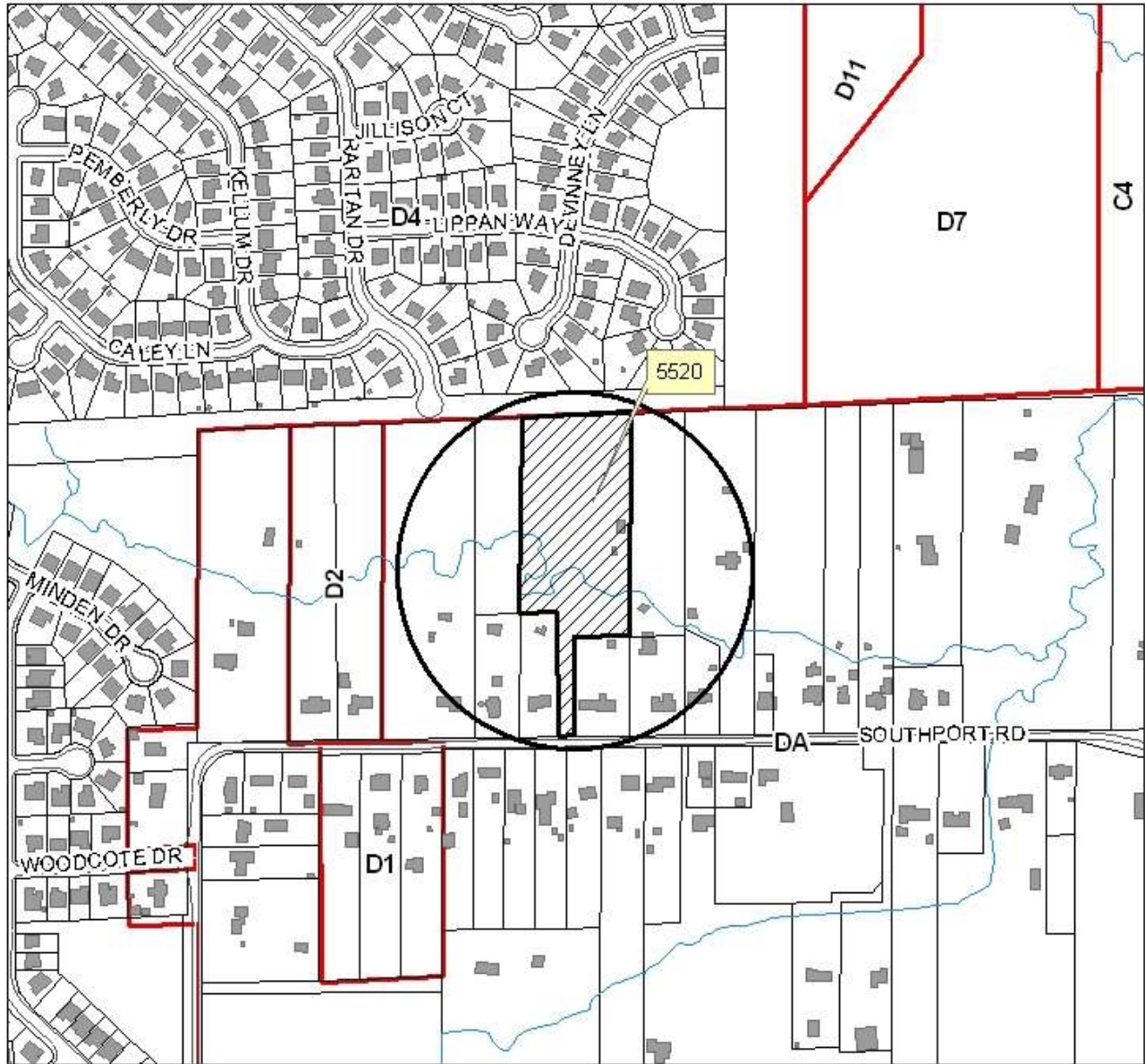
ZONING HISTORY

94-V1-84; 5324 West Southport Road (east of site), requests a variance of development standards of the Dwelling Districts Zoning Ordinance and the Flood Control Districts Zoning Ordinance to provide for the construction of a single-family residence with a lot width of 188 feet, and without public street frontage or direct public street access, to establish a single-family residence with a lot width of 163.5 feet, and to permit the construction of a gravel drive located within the floodway fringe, in D-A (FF), **granted**.

MRM

2011-DV1-030

5520 West Southport Road



Produced By: The GIS Section

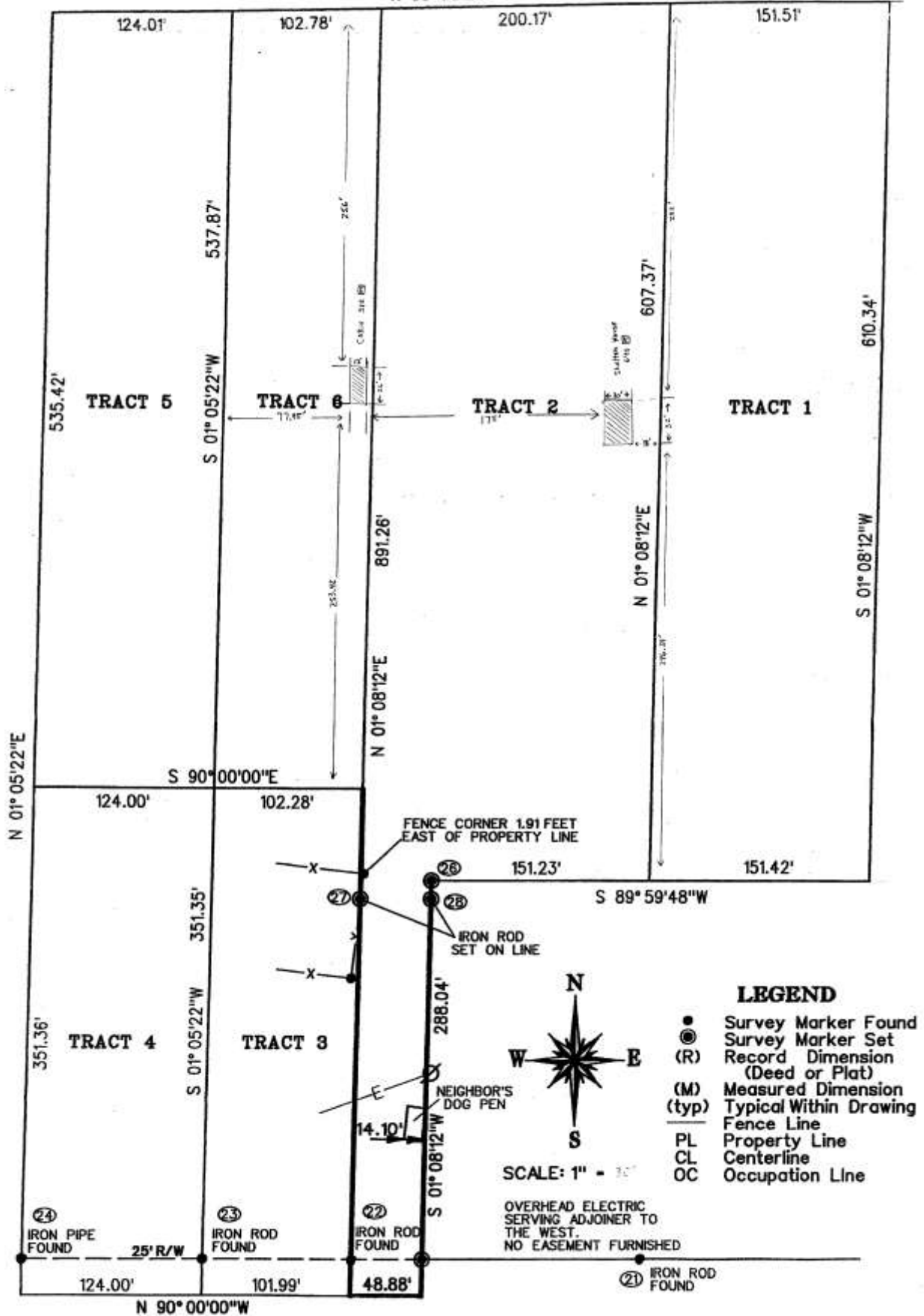
Data Source: The City of Indianapolis
Geographic Information Systems



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2011-DV1-030 – SITE PLAN

N 88° 52' 23" E



STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2011-DV1-046
Address: 5402 West 34th Street (*Approximate Address*)
Location: Wayne Township, Council District #7
Lot Size: 0.17 acre, approximately 74' by 100'
Petitioner: Gerald R. Bougher
Request: Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a beauty shop home occupation with a separate entrance (not permitted) and additional off-street parking within the front and side yards (parking beyond minimum requirements not permitted, parking not permitted in any required yard).

ADDENDUM FOR JANUARY 3, 2012

This petition was continued and transferred from the November 22, 2011 hearing of Division III to the January 3, 2012 hearing of Division I, at the joint request of the petitioner and remonstrator. No additional information has been submitted to the file.

ADDENDUM FOR NOVEMBER 22, 2011

This petition was continued and transferred from the November 1, 2011 hearing of Division I to the November 22, 2011 hearing of Division III, at the request of the petitioner. No additional information has been submitted to the file.

It is staff's understanding that the petitioner and a remonstrator will be requesting a joint continuance and transfer from the **November 22, 2011** hearing of Division III to the **January 3, 2012** hearing of Division I, due to scheduling conflicts.

NOVEMBER 1, 2011

During a site visit on October 3, 2011 it was noted that the site currently has one wall sign located on the east façade of the building, and one-roof integral sign on the south façade of the building. The Sign Regulations would permit one non-illuminated wall sign per street frontage, with an area not exceeding three percent of the building façade to which the sign is oriented. Roof-integral signs are not permitted within dwelling districts. The existing signs have not been included as part of the variance request. If the petitioner desires to include the sign, the petition should be continued from the **November 1, 2011** hearing to the **December 6, 2011** hearing to allow time for the petition to be amended and additional notice to be provided.

RECOMMENDATIONS

Staff **recommends approval** of the petition subject to the site plan file-dated September 15, 2011 and the following commitments:

(Continued)

STAFF REPORT 2011-DV1-046 (Continued)

1. A plan of operation, indicating compliance with all other home occupation requirements, shall be submitted for and subject to Administrator's Approval prior to the issuance of an Improvement Location Permit.
2. A curb shall be provided between the proposed parking area and the sidewalk.
3. All signage shall meet the requirements of the Sign Regulations, as permitted for home occupations.

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ The 0.17-acre site is improved with a single-family dwelling with a 120-square foot shed. As proposed, the request would provide for an existing beauty shop home occupation to have a separate entrance and additional parking within the required front and side yards.
- ◇ The site is abutted to the north and east by single-family dwellings, and to the south and west by multi-family dwellings.

VARIANCE ISSUES

- ◇ The Dwelling Districts Zoning Ordinance allows for home occupations provided that certain requirements are met. These requirements include:
 - The primary use of the dwelling remaining residential,
 - The home occupation being clearly incidental and subordinate to the primary residential use,
 - All home occupation activity occurring within the dwelling structure,
 - No structural alterations being made which would change the residential appearance of the structure,
 - No additional or separate exterior entrance shall be constructed for the purpose of conducting the home occupation,
 - The home occupation not attracting more than four individuals simultaneously onto the premises,
 - No provision for off-street parking or loading facilities, other than requirements of the applicable Dwelling District shall be permitted. No part of the minimum required yard shall be used for such off-street parking or loading purposes. No additional driveway, to serve such home occupation, shall be permitted.
- ◇ The subject site is located at the northwest corner of 34th Street and Ellen Drive, and is the only single-family dwelling west of Ellen Drive oriented to and with access from 34th Street. Uses to the west of the site include a multi-family development and several retail commercial uses. The proposed improvements would allow for the dwelling to serve as a transition between the more intense uses and the single-family residential to the north and east, while allowing the primary use of the structure to remain residential. Furthermore, the proposed parking area and entrance would be located southwest of the dwelling, furthest away from the more sensitive single-family dwellings.

(Continued)

STAFF REPORT 2011-DV1-046 (Continued)

- ◇ No plan of operation has been submitted. While providing for the two proposed improvements would not adversely impact the surrounding residential uses, the home occupation should not be permitted to overcome the primary residential use. A plan of operation should be submitted for and subject to Administrator’s Approval, indicating compliance with all home occupation requirements not varied by this petition.
- ◇ The proposed parking area would abut the sidewalk along the 34th Street frontage with no separation to prevent vehicles from backing over it. In order to prevent potential vehicle-pedestrian conflicts, a curb should be provided to separate the parking area from the sidewalk.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-4 Single-family dwelling

SURROUNDING ZONING AND LAND USE

North -	D-4	Single-family dwellings
South -	D-7	Multi-family dwellings
East -	D-4	Single-family dwellings
West -	C-2	Multi-family dwellings

NEIGHBORHOOD PLANNING AREA

The site is located within the boundaries of the Eagledale Neighborhood Plan which designates the site for low-density residential development, specifically the D-4 zoning classification.

CODE ENFORCEMENT ACTION / LEGAL SECTION STATUS

This site was issued a Notice of Zoning Violation on August 8, 2011, for converting a garage into a beauty salon including structural alterations to the interior dwelling rendering it undesirable for residential use, and changing the residential appearance of the structure, adding sliding glass doors for a separate entry, and attracting more than four individuals simultaneously onto the premises for reasons related to the home occupation.

This site was issued a Notice of Zoning Violation on June 3, 2011, for a banner related to a home occupation.

THOROUGHFARE PLAN

Ellen Drive and 34th Street are not indicated on the Official Thoroughfare Plan.

PARKING

Four parking spaces proposed.

SITE PLAN

File-dated September 15, 2011

FINDINGS OF FACT

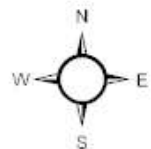
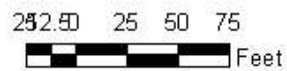
File-dated September 15, 2011

ZONING HISTORY

None.

MRM

2011-DV1-046 5402 West 34th Street

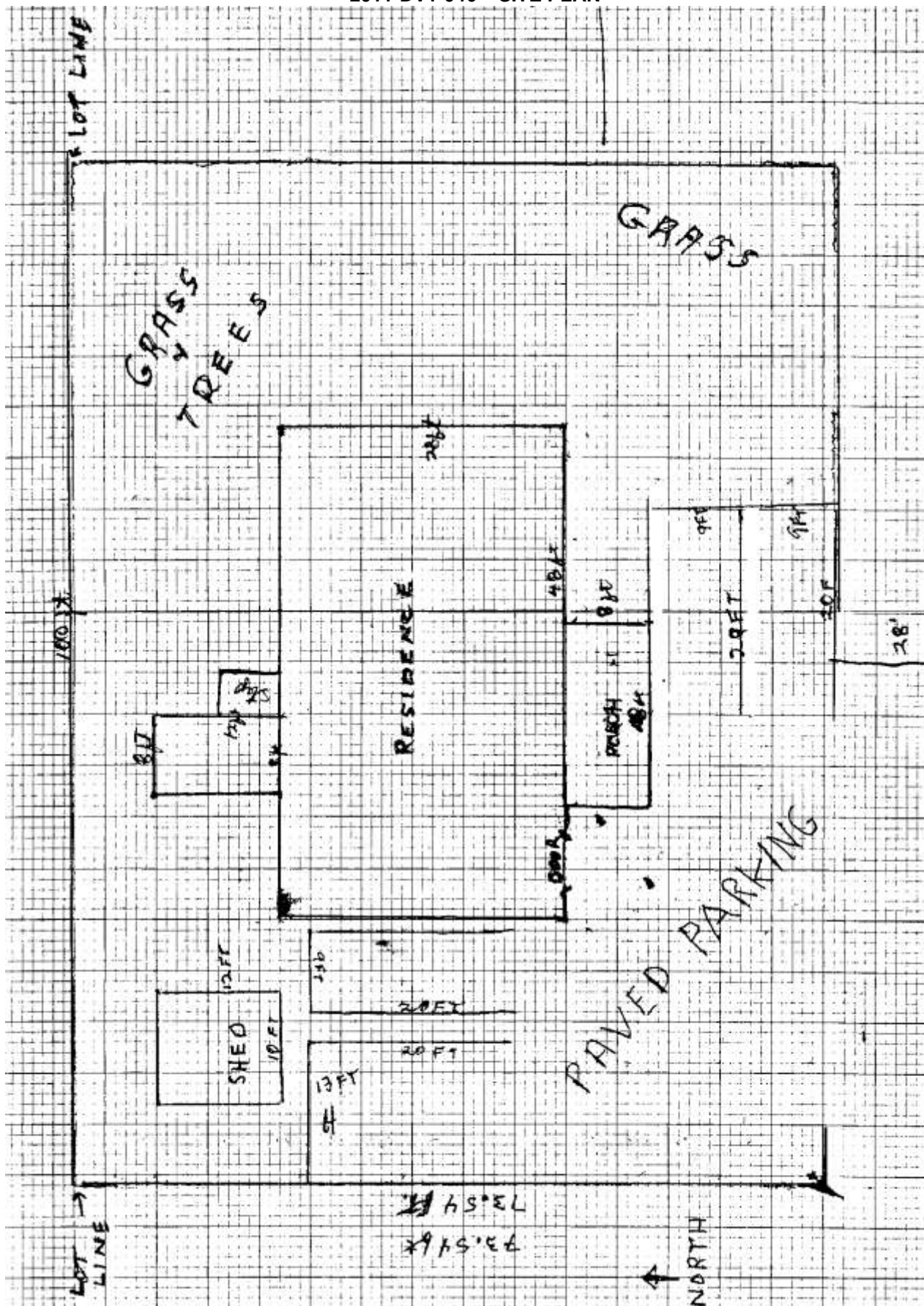


Produced By: The GIS Section

Data Source: The City of Indianapolis
Geographic Information Systems



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STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2011-DV1-053 (*Amended*)
Address: 4450 Southport Crossing Drive (*Approximate Address*)
Location: Perry Township, Council District #24
Lot Size: 1.60 acres
Petitioner: Jimmy Barona
Request: Variance of development standards of the Sign Regulations to provide for a sixty-foot tall pole sign (maximum 40-foot tall pole sign permitted), being the second on-site sign (maximum one sign permitted within 660 feet of an interstate).

ADDENDUM FOR JANUARY 3, 2012

This petition was continued from the December 6, 2011 hearing to the January 3, 2012 hearing to allow time for legal notice requirements to be met. The petition was amended to include a request to permit the proposed sign to be the second on-site sign on a site within 660 feet of an interstate.

The Sign Regulations only allow for one freestanding identification sign on sites within 660 feet of the right-of-way of freeways and expressways in order to minimize sign clutter and proliferation along these thoroughfares. Appropriate space between signs provides reasonable communication and adequate display of signs, while eliminating potential hazards to motorists caused by dense sign clusters that are difficult and confusing to read. Furthermore, there is no practical difficulty that would warrant the proposed sign, as the sign would be oriented toward a road on which the site does not have frontage. As discussed below, there are a number of similar sites within the area that are located within 660 feet of the interstate, without direct frontage on Southport Road. If each lot were permitted a second sign, the additional sign clutter would render permitted and legal signs less effective, thereby reducing their value.

Therefore, staff continues to **recommend denial** of this request.

DECEMBER 6, 2011

RECOMMENDATIONS

Staff **recommends denial** of the petition.

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ The 1.6-acre site is improved with a two-story hotel and accessory parking. As proposed, the request would provide for a sixty-foot tall pole sign.

(Continued)

STAFF REPORT 2011-DV1-053 (Continued)

- ◇ The site is abutted to the east by Interstate 65 and on all other sides by various commercial uses, including various hotel and restaurant uses.

SIGN ISSUES

- ◇ The purpose of the Sign Regulations is to eliminate potential hazards to motorists and pedestrians and encourage well-designed signs that are compatible with the surroundings, while eliminating excessive and confusing sign displays. Proliferation of signs causes those signs that are permitted and legal to become less effective and reduces their value. Additionally, the Sign Regulations preserve and improve the appearance of the City as a place in which to live and work.
- ◇ The Sign Regulations provides an exception for tall signs to be located within 1,320 feet of an interchange on I-465 or freeways between I-465 and the Marion County Boundary lines. This exception is reserved for signs designed to give information in the specific interest of the traveling public, including identification of places for camping, lodging, eating and vehicle service stations. The site is located within 1,320 feet of the interchange of I-65 and Southport Road; however, there is not a grade change of more than ten feet between the base of the sign and the pavement of the street. Therefore, the site would not qualify for the tall sign exception. Additionally, the location of the sign is such that it would be oriented towards vehicles traveling Southport Road and not Interstate 65.
- ◇ There is no practical difficulty with the site that would warrant the additional sign height, as a 40-foot tall sign would be visible from Southport Road. Furthermore, the precedent created by the accumulative impact of such signs should also be considered. There are a number of similar uses within the area without direct frontage on Southport Road. If each lot were permitted a sign at this height, the additional sign clutter would render permitted and legal signs to become less effective, thereby reducing their value.

PROCEDURE

- ◇ The rezoning of the site in 1988 included a commitment that “there shall be no tall signs or advertising signs as defined in the Marion County Sign Ordinance permitted on the subject real estate.” While a modification of the commitments would not be required because the sign would not meet the Ordinance definition of a tall sign, the intention of the commitment to limit the height of signs to the forty feet permitted by the Sign Regulations should be taken into account.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-6 Hotel

SURROUNDING ZONING AND LAND USE

North -	C-6	Restaurant
South -	C-6	Hotel
East -	C-6	I-65
West -	C-6	Commercial

(Continued)

STAFF REPORT 2011-DV1-053 (Continued)

COMPREHENSIVE GENERAL LAND USE PLAN	Proposes community commercial development.
THOROUGHFARE PLAN	Southport Crossings Drive is not indicated on the Official Thoroughfare Plan.
PARKING	63 parking spaces proposed.
SITE PLAN	File-dated October 27, 2011
FINDINGS OF FACT	File-dated October 27, 2011

ZONING HISTORY

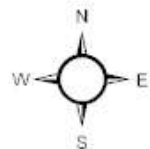
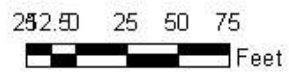
88-Z-192; 4601 East Southport Road (includes subject site), rezone from D-7 to C-6 to provide for commercial development, **approved.**

98-V1-30; 4450 Southport Crossing Drive (subject site), requests a variance of development standards of the Sign Regulations to provide for the placement of a roof-mounted sign, in C-6, **denied.**

85-HOV-25; 4402 Creek View Drive (north of site), requests a variance of development standards of the Sign Regulations to provide for two, four-foot tall ground signs, and to permit an additional sign panel on an 80-foot tall pole sign, in C-6, **granted.**

MRM

2011-DV1-053
4450 Southport Crossing Drive



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Geographic Information Systems



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STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2011-DV1-056
Address: 3931 South East Street (*Approximate Address*)
Location: Perry Township, Council District #23
Lot Size: 6.38 acres
Petitioner: Robert Okely, by Michael Pflum
Request: Variance of development standards of the Sign Regulations to provide for a 40-foot tall, 360-square foot freestanding sign, with an 80-square foot electronic variable message sign, within 300 feet of a D-4 zoned protected district and with a five-foot front setback (600-foot separation and 15-foot front setback required).

RECOMMENDATIONS

Staff **recommends approval** of the request for a 40-foot tall, 360-square foot freestanding sign with a five-foot front setback subject to the site plan, file-dated November 29, 2011, an amended sign elevation, indicating the removal of the EVMS being submitted for Administrative Approval and the following commitment:

That the freestanding "Service" sign be removed prior to the issuance of an ILP.

Staff **recommends denial** of the request for an 80-square foot EVMS sign within 300 feet of a protected district.

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

FREESTANDING SIGN

- ◇ The subject parcel is zoned C-5 and has approximately 500 feet of frontage on South East Street. This would permit the erection of a 40-foot tall, 360-square foot freestanding sign with a 15-foot setback from the existing right-of-way of South East Street.
- ◇ Variance case 2001-DV1-060 permitted the erection of a pole sign with a five-foot front setback from South East Street. Although the sign was smaller than what is proposed, the requested setback was the same and staff recommended approval of the request.
- ◇ Because the proposed sign would have the same setback as previous signs on the parcel staff recommends approval of the request to permit the requested five-foot front setback.

ELECTRONIC VARIABLE MESSAGE SIGN

- ◇ This petition also includes a request to permit an 80-square foot electronic variable message sign (EVMS) that would be a part of the 40-foot freestanding sign structure.

(Continued)

STAFF REPORT 2011-DV1-056(Continued)

- ◇ EVMS components must be 600 feet from a protected district to prevent light and flashing from impacting the more sensitive uses, such as residential. By their nature, EVMS components are illuminated and attention-getting, particularly at night. Night-time is also the primary time that residential districts are in use. Ways to mitigate an EVMS component include superior overall design, limited size, judicious operational parameters (such as hours of operation, limited message change frequency, light intensity limits), and effective screening.
- ◇ An EVMS with a separation of only 300 feet from a dwelling district could degrade the quality of life for those residents who would be able to see the sign from their homes. This visual pollution created by the sign would be increased by any blinking, scrolling, or other animation, which EVMS are capable of.
- ◇ In addition, there is no practical difficulty which would require an EVMS. A changeable copy sign with removable letters could serve the same purpose for the business without the need for an EVMS. There are no other EVMS in the surrounding area.
- ◇ Because the EVMS could create a traffic hazard, degrade the quality of residential life in the area and because there is no practical difficulty that would justify an EVMS, staff recommends denial of the request for an EVMS.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-5 Vacant automobile dealership

SURROUNDING ZONING AND LAND USE

North -	C-5	Commercial
South -	C-7	Commercial
East -	C-5	Commercial
West -	C-5	Commercial

**NEIGHBORHOOD PLANNING
AREA RECCOMENDATION**

This site lies within the boundaries of the Concord Community Plan, which recommends commercial retail and service uses for the site.

**CODE ENFORCEMENT
ACTION**

VIO11-0003815: Cited for failure to obtain Improvement Location Permit for construction on the site.

THOROUGHFARE PLAN

The Official Thoroughfare Plan indicates that East Street is a primary arterial street with a 140-foot right-of-way existing and a 140-foot right-of-way proposed and indicates that Hanna Avenue is a primary arterial with a 75-foot right-of-way existing and a 120-foot right-of-way proposed.

SITE PLAN

File-dated November 29, 2011

FINDINGS OF FACT

File-dated November 29, 2011

(Continued)

STAFF REPORT 2011-DV1-056 (Continued)

ZONING HISTORY

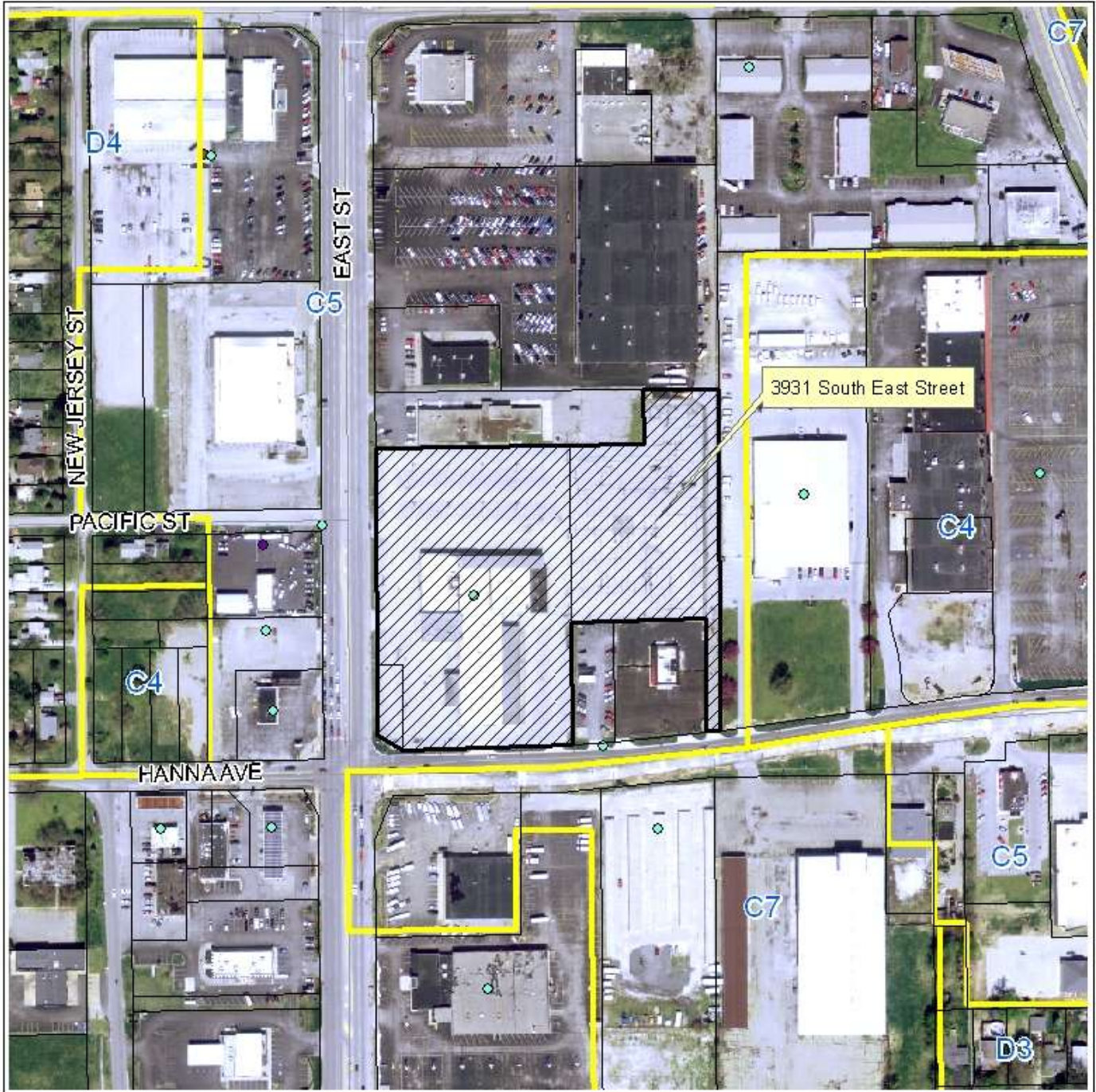
2001-DV1-060; 3931 South East Street (subject site), requests variance of development standards of the Sign Regulations to provide for a 165-square foot sign on an existing pole sign structure, with a five-foot setback from the existing right-of-way of South East Street, **granted**.

95-V1-138; 3998 South East Street (west of subject), requests variance of development standards of the Sign Regulations to provide for the installment of:

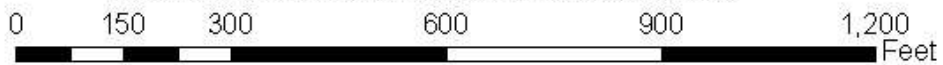
- a) An illuminated awning with a sign on the front of the building, being 37% or 346.45 square feet of the façade and
- b) Two illuminated awnings with signs on both sides of the building, being 39% or 191.88 square feet of the façade, **granted**.

ATS

2011-DV1-056 3931 South East Street



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December 4, 2011
Produced by the Current Planning Section

2011-DV1-056 – Photographs



1) Primary structure on site



2) Sign post permitted by variance 2001-DV1-060 to be removed. Service sign on left should be removed.



3) Nearby dwellings can easily be seen from the base of the proposed sign. The EVMS would be higher, and therefore more visible to the residents.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2011-UV1-029
Address: 8514 West Washington Street (*Approximate Address*)
Location: Wayne Township, Council District #13
Lot Size: 1.71 acres
Petitioner: Shidler's Auto Center, by Stephen D. Mears
Request: Variance of use and development standards of the Commercial Zoning Ordinance to legally establish

- a) automobile repair and towing service, with outdoor storage (not permitted, storage not permitted within 500 feet of a protected district without the required solid fence or wall),
- b) to legally establish a trash enclosure in front of the established front building line (not permitted), with a 14-foot west side transitional yard,
- c) to legally establish parking with a two-foot east side yard and east side transitional yard, without landscaping (10-foot yard and 20-foot transitional yard, with landscaping required),
- d) to legally establish a paved asphalt area, with a zero-foot setback from Washington Street (10-foot front setback, with landscaping required), and
- e) to legally establish one handicapped parking space (two spaces required).

The petitioner has indicated that they need more time to meet with staff regarding this petition. Therefore it should be continued from the January 3, 2012 hearing to the February 7, 2012 hearing. This would not require new notice. Staff comments will be provided prior to the hearing.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-7 / D-3 / Commercial Auto Repair
D-A

SURROUNDING ZONING AND LAND USE

North -	D-A	Single-family dwelling
South -	A	Undeveloped Airport Land
East -	D-3 / C-3	Commercial
West -	SU-1	Religious use

COMPREHENSIVE PLAN RECOMMENDATION The Comprehensive Plan recommends Community Commercial Use for this site.

THOROUGHFARE PLAN The Official Thoroughfare Plan indicates that Washington Street is a primary arterial street with an 80-foot right-of-way existing and a 140-foot right-of-way proposed.

(Continued)

STAFF REPORT 2011-UV1-022 (Continued)

SITE PLAN File-dated November 23, 2011

FINDINGS OF FACT File-dated November 23, 2011

ZONING HISTORY

99-UV3-70; 8516 West Washington Street (west of subject), requests variance of use of the Dwelling Districts Zoning Ordinance and the Special Districts Zoning to provide for a 2,640 square foot addition to an existing building for a trucking, mobile home storage and equipment storage business, **granted**.

2001-UV1-038; 8514 West Washington Street (subject site), requests variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 7,440 square-foot automobile repair center, **granted**.

2006-UV2-038; 8538 West Washington Street (west of subject), requests variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for automobile sales and repair, with outdoor display with zero-foot side setbacks and outdoor display with a ten-foot front setback from West Washington Street, **granted**.

90-UV1-111; 8437 West Washington Street (south of subject), requests variance of use of the Commercial Zoning District to permit the construction of a building to be used as a lodge, **granted**.

86-UV1-100; 8506 West Washington Street (east of subject), requests variance of use of the Commercial Zoning Ordinance to provide for the operation of an automobile service and repair facility, **granted**.

89-UV2-11; 8450 West Washington Street (east of subject), requests variance of use of the Commercial Zoning Ordinance to provide for the construction of a building for a heating and air conditioning contractor with sales, storage, and on-site service of heating and air conditioning equipment, **granted**.

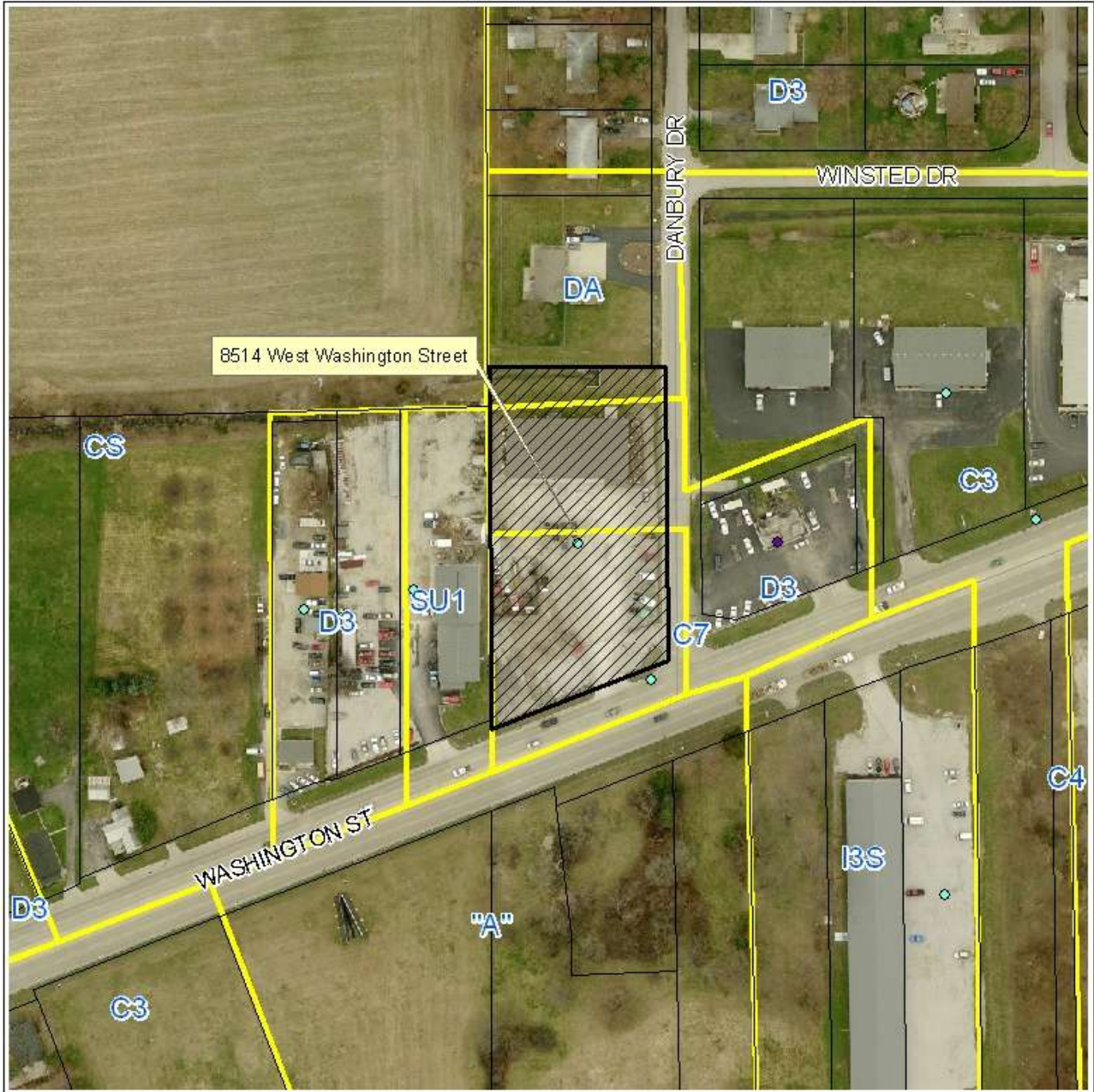
92-UV2-109; 8484 West Washington Street (east of subject), requests variance of use of the Commercial Zoning Ordinance to provide for the sale and rental of tools and equipment with limited outdoor storage, **granted**.

2008-UV3-019; 8350 West Washington Street (east of subject), requests variance of use of the Commercial Zoning Ordinance to provide for the sale of automobiles, with a maximum outdoor display of six vehicles, **granted**.

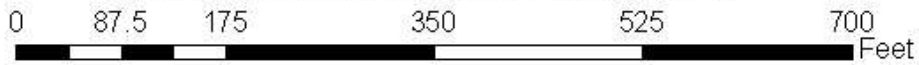
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2011-UV3-029

8514 West Washington Street



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- Legend
- Lot boundary
 - Street
 - Water well
 - Sewer manhole

December 4, 2011
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