

BOARD OF ZONING APPEALS DIVISION III

September 17, 2024

Case Number: 2023DV3023

Property Address: 11700, 11850 East 38th Street and 4002 North Carroll Road (*approximate addresses*)

Location: Lawrence Township, Council District #15

Petitioner: Laibe & Russell Investments LLC, by Mark and Kim Crouch

Current Zoning: D-5 (FF)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of single-family dwellings with front loaded garages comprising up to 65% of the front façade (maximum 45%) for a future 138-lot subdivision.

Current Land Use: Undeveloped

Staff Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- The subject site is currently undeveloped and is surrounded by single-family homes within residential subdivisions to the north, south, and west (Hancock County lies to the east). It was rezoned to the D-5 designation in 2022 to allow for development of additional single-family homes and was replatted for 138 lots in 2023. The site is partially within the floodway fringe and is located near a park to the north as well as Mount Comfort Airport to the east within Hancock County.
- Amendments to the zoning ordinance were introduced in November 2021 to promote walkable neighborhoods that had an impact on allowable development within D-5 zoning districts. These new rules would limit the width of front-loaded garages along neighborhood yard frontages to 30% of the width of the full front façade (or to 45% if the garage were recessed more than 12 feet behind the front of the property). These rules are frequently relevant for infill development within the Compact context area but would be applicable for D-5 zoning areas throughout the county.

- Although the rezoning to D-5 was formally approved in 2022 after these rules had gone into effect, the initial rezoning process for this property began in September 2021 under a voided petition that was seeking a D-P zoning designation. Under the three-year vested rights state statute, older ordinance rules could be utilized for development of site where the petition process had begun prior to new rules being implemented as long as permits were fully issued within three years of the time of the rule change. Rather than modify plans to meet current D-5 standards or attempt to have permits for the 138 homes issued by November 2024, the developer has chosen to pursue a variance to allow for development with non-compliant garage widths without utilization of the vested interest clause.
- The exhibits provided by the applicant show a sample of what front building elevations might look like for homes within the proposed subdivision if the variance is granted. The detail of the plat also shows approximate placement of proposed houses on individual lots, but staff was unable to confirm full compliance with other new Walkable Neighborhood standards from Tables 742.103.03 and 744-701-2 at this level of detail. The only variance requested relates to the width of the front-loaded garages.
- D-5 zoning is intended for medium and large-lot housing formats, primarily for detached houses. This district can be used for new, walkable suburban neighborhoods or for infill situations in established urban areas. The property also falls within the area contemplated by the 38th Street Corridor Plan which recommends it for 'Airport Related Mixed Uses': this term is not defined in the 38th Street or within the Comprehensive Plan, but staff would note that surrounding properties and the D-5 zoning district seem to be a close fit for the Suburban Neighborhood typology which does contemplate placement of single-family homes such as what is proposed.
- The findings submitted by the applicant for this petition indicate that their site-specific hardship results from a lack of alleys onto which garages could front and that if the petition is denied, they would be unable to have front-loaded garages for the houses within this subdivision. Staff disagrees on both fronts: the choice of this zoning classification as well as the specific layout of the lots were chosen by the developer during the rezoning and platting process, which would mean that any lack of alleys would be a self-imposed hardship and that any restrictions on placement of front-loaded garages would be based on the zoning classification they selected.
- Rules within Table 744-701-2 of the ordinance would not disallow front garages entirely: although they would be limited to only 45% of the width of the front façade and would need to be recessed at least 12 feet from the front building boundary. It is unclear to staff why lots with widths that appear to range from 35-40 feet would be unable to facilitate this type of design to fulfill parking minimums for the district (1 parking space per dwelling unit). If the property owner feels that they would be fully unable to construct homes that would meet current D-5 requirements, the option would also exist to pursue a rezoning or replatting that would allow for front-loaded garages with their desired width (example might include a D-4 zoning with the cluster subdivision option). Ultimately, staff feels that development promoting walkability and pedestrian-friendly front yards should be a design priority even within Metro areas, and that any hardships in meeting this standard are self-imposed. Staff recommends denial of the variance request.

GENERAL INFORMATION

Existing Zoning	D-5 (FF)	
Existing Land Use	Undeveloped	
Comprehensive Plan	Airport Related Mixed Use	
Surrounding Context	Zoning	Surrounding Context
	North: D-P / D-3 / D-A	North: Residential
	South: D-7 / D-4	South: Residential / Undeveloped
	East: Hancock County	East: Residential
	West: D-P	West: Residential
Thoroughfare Plan		
38 th Street	Primary Arterial	x-foot existing ROW and 90-foot proposed ROW
Carroll Road	Primary Collector	x-foot existing ROW and 106-foot proposed ROW
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	07/18/2024	
Site Plan (Amended)	N/A	
Elevations	09/03/2024	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	07/18/2024	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- East 38th Street Corridor Plan (2012)

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The East 38th Street Corridor Plan recommends this property for Airport Related Mixed Use development and falls within Critical Area 35. Neither this plan nor the Marion County Land Use Plan Pattern Book provide specific definitions or guidance for this typology/critical area, but staff notes that the surrounding area is developed residentially and recommended for Suburban Neighborhood uses (predominantly single-family housing with some multifamily development, neighborhood-serving businesses and natural features interspersed).

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

2022ZON030, Fees paid in 2021-ZON-117. Rezoning of 46.2 acres from the D-A and D-3 (FF) Districts to the D-5 (FF) District, **approved**.

2021ZON117, Rezoning of 46.2 acres from the D-A and D-3 (FF) Districts to the D-P (FF) District, **withdrawn**.

2008ZON049, Rezoning of 20 acres from the D-3 (FF) District to the D-6II (FF) District, **denied**.

2001ZON150, Rezoning of 20.6 acres from the D-A District to the D-3 District, **approved**.

2000ZON058, Rezoning of 20.05 acres from the D-A District to the D-6II District, **denied**.

ZONING HISTORY – VICINITY

2022ZON107 ; 11517 E 38th Street (south of site), Rezoning of 54.46 acres from the D-A (FF) district to the D-7 (FF) district to provide for 204 multi-family dwellings, **approved**.

2014UV1020 ; 3960 Carroll Road (east of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to legally establish two single-family dwelling units on one lot (one single-family dwelling permitted), with the second dwelling being 765 square feet (minimum 1,200 square feet required), with a 7.5-foot south side setback (minimum 30-foot side yard setback required), **approved**.

2006APP050 ; 4310 N Carroll Road (north of site), Modification of Site Plan and Development Statement, related to 2004-ZON-080 (2004-DP-004), to provide for the removal of eight alleys from the proposed development and to amend the Third Sentence of Paragraph Five on Page Two of the development statement to remove the words “characterized by alley access to garages, reduced front yard setbacks and front porches”, **approved**.

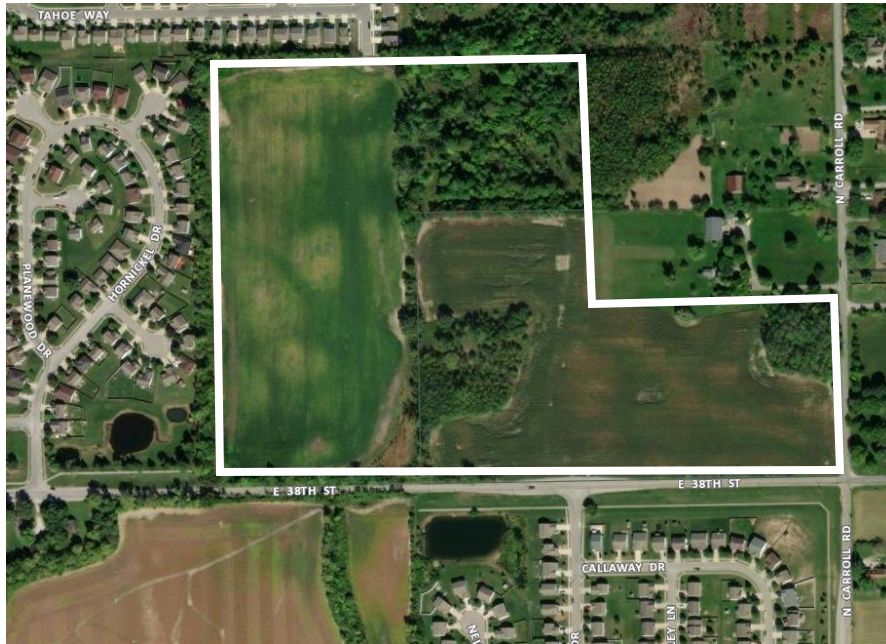
2004ZON070 ; 11717 E 42nd Street (north of site), rezoning of 193 acres from the D-A District to the D-P District, **approved**.

98-HOV-11 ; 11500 E 38th Street (west of site), development of single family dwellings with a minimum floor area for buildings higher than one story of 570 square feet (660 square feet required), **approved**.

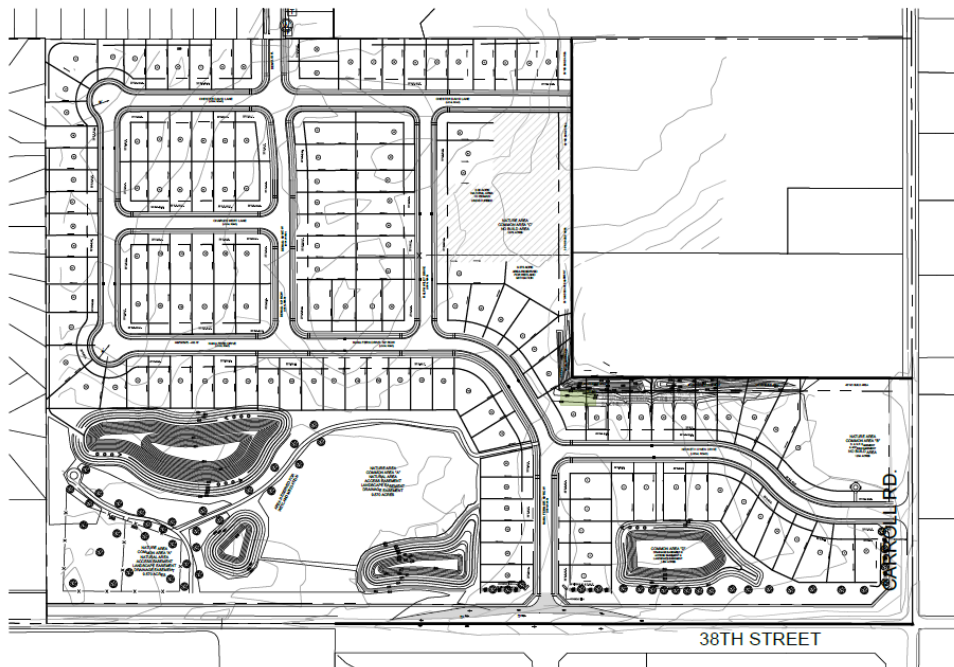
94-HOV-21 ; 11401 E 38th Street (southwest of site), variance of development standards of the Sign Regulations Zoning Ordinance to provide for two 72 square foot entry wall ground signs for a residential subdivision (maximum 1 entrance sign permitted) with a zero foot setback from a corner cut right-of-way line at the intersection of Barberry Drive and 38th Street (minimum 15 foot setback required), **approved**.

EXHIBITS

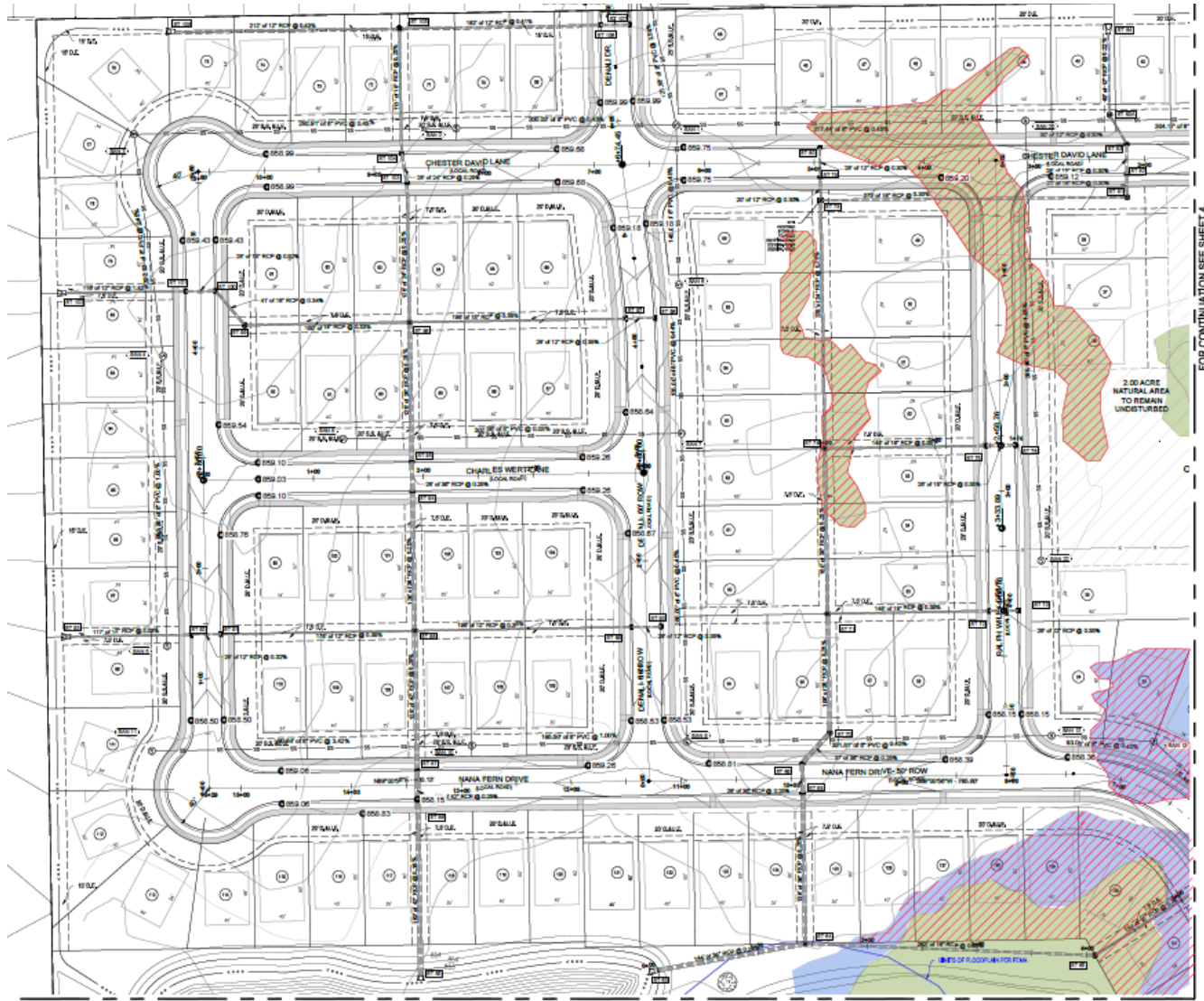
2024DV2026 ; Aerial Map



2024DV2026 ; Proposed Site Layout (Full)



2024DV2026 ; Proposed Site Layout (Detail from Center of Development)



FOR CONTINUATION SEE SHEET 2

2024DV2026 ; Sample Elevations





2024DV2026 ; Findings of Fact

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

the grant will allow for the construction of a new front load attached garages for private residential use in a planned development.

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

the proposed attached garages will be consistent with development in the area and adjacent area.

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

the planned development will not have alleys resulting in a need to allow for larger front loading garages. Without variance approval, proposed front loading garages will not be built.

2024DV2026 ; Photographs



Photo 1: Subject Site from North (Denali)



Photo 2: Adjacent Property to North

2024DV2026 ; Photographs (continued)



Photo 3: Subject Site from South (38th)



Photo 4: Adjacent Property to South

2024DV2026 ; Photographs (continued)



Photo 5: Subject Site from East (Carroll)



Photo 6: Adjacent Property to East (December 2021)