

BOARD OF ZONING APPEALS DIVISION III

February 18, 2025

Case Number: 2024-UV3-017 (Amended)
Property Address: 8949 East Washington Street (*approximate address*)
Location: Warren Township, Council District #20
Petitioner: Integrity Electric & Machine LLC, by David E. Dearing
Current Zoning: C-5 / D-2 (TOD)
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of seven shipping containers within the southern side yard (not permitted) without landscape screening (required for outdoor storage and operations) and with a fence exceeding 10 feet in height (not permitted).
Current Land Use: Commercial
Staff Recommendations: Staff recommends **denial** of the variances.
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

1/21/25: Due to the presence of only three Board members at the January 21st hearing, the petitioner requested a one-month continuance to avoid the likelihood of an inconclusive vote.

12/17/24: The petitioner requested a continuance to the January 21st hearing date to allow for additional time to discuss the petition with a registered neighborhood organization.

11/19/24: A timely automatic continuance request was filed by a registered neighborhood organization to continue this petition from the November 19th hearing date to the December 17th hearing date. A full staff report will be made available in advance of the December hearing, and the petition was amended with new notice sent by the applicant.

STAFF RECOMMENDATION

Staff recommends **denial** of the variances.

PETITION OVERVIEW

- 8949 East Washington Street is currently improved with a multitenant commercial building and sits to the southwest of the intersection of Washington Street and Post Road. In addition to the electrical supply store that is requesting this variance, other tenant uses appear to include retail sales and hair and body care salons. Adjacent land uses include a gas station and automotive

parts store to the north, a smaller multitenant commercial center to the northeast, seasonal fireworks sales to the west, residences to the east, an industrial equipment supplier to the southwest, and an automotive repair use to the south. The property is predominantly zoned C-5 (a small sliver of the western portion of the site that doesn't contain the existing or proposed uses is zoned D-2), and the site's proximity to a proposed Blue Line BRT stop at the Washington and Post intersection means that this property is also located within the Transit Oriented Development secondary zoning layer.

- This business purchases used electronic supplies (breakers, disconnects, transformers, etc.) wholesale for purchase by other business or members of the public. Almost all public purchases are made in small increments of only 1-2 units purchased at a time. Since there is a public-facing sales component on-site and the bulk purchasing/wholesaling is limited to the initial purchase, staff would classify this as a retail sales use allowed within C-5 zoning and not as a wholesaler disallowed by the zoning district.
- VIO24-001297 was opened earlier this year at the property and cited various zoning non-conformities at the site, including but not limited to the placement of inoperable vehicles and commercial trailers, outdoor storage beyond vehicles awaiting repair, and portable storage units placed for more than 30 days (see Exhibits for full list of violations). The notice of violation additionally mentioned the operation of a truck repair use at the property due to the large number of vehicles parked to the east of the building near the Post Road frontage (this would be disallowed given the size of the lot and its proximity to the proposed BRT stop). The applicant initially indicated that while the inoperable vehicles and for-sale trucks were in the process of being removed from the property, the current owner planned to continue renting this parking area to the neighboring business to the south to allow them to place "only completed customer vehicles awaiting pickup" on the subject property. However, they later indicated that no vehicles associated with the southern land use would be placed on-site, and approval of this variance would not allow for placement of any vehicles associated with an automobile repair use.
- The original variance request was narrowly focused on allowing for the continued placement of seven shipping containers and two trailers within the southern side yard of the property. The containers would not encroach into required setback areas or exceed 25% of the gross area of the primary building but would be considered by the Zoning Ordinance to be both outdoor storage (limited within C-5 zoning strictly to cars awaiting repair) and portable storage (limited to 30 consecutive days). Staff confirmed with the petitioner that the trailers parked on-site would be used for the loading and unloading of electronic equipment and would not be utilized for full-time outdoor storage of goods. This is why the trailers are not mentioned within the variance text, and approval of this variance would not allow for full-time placement of any vehicles or trailers associated with outdoor/portable storage.
- Additionally, 744-508.C of the Ordinance requires outdoor storage areas near protected districts to be screened by a fence between 6 feet and 10 feet in height and to have transitional yard landscaping installed around the perimeter. The applicant has indicated placement of a "chain link fence with privacy slats" that would be installed in between shipping containers on the site

(not forming any sort of perimeter around the outdoor storage area) and that required buffer landscaping would also not be added; this would not meet regulations and would also require a variance to be allowed. Additionally, site photography and elevations show the installation of a freestanding overhead garage door placed between two of the shipping containers that would constitute placement of a fence over 10 feet in height (see Exhibits and Photograph 5). The rendering did not provide a scale but appears to show the overhead door would have a height of around 20 feet; this height would require grant of a variance to be legalized as well.

- The property is primarily zoned C-5 (General Commercial District) to allow for retail sales and service functions along heavy commercial thoroughfares whose operations are typically characterized by sales and repair of automobiles or the outdoor display and sales of merchandise in areas isolated from protected districts. However, the Comprehensive Plan recommends it for Community Commercial uses for which outdoor storage and display is discouraged when adjacent to residential typologies. The Blue Line TOD Strategic Plan indicates that development should be pedestrian-oriented with limits on automotive uses and placement of parking.
- The operation plan originally submitted by the applicant didn't provide comprehensive information on what would be stored within the shipping containers. Subsequent emails and an updated plan of operation sent to staff indicated that they would contain propane, pallets, plywood for shipping and shelving needs, and both wooden and plastic shipping crates. Although seven storage containers are mentioned in the variance request and shown on the site plan, the operation plan only mentions six (the seventh would presumably contain similar materials) and the site plan detail provided shows eight (the applicant has indicated removal of the eighth, smaller shipping container should the variance be granted, and approval of this variance would solely allow for placement of seven containers). Trailers would also be parked on-site and stored either in the gaps between shipping containers or the gaps between the containers and the building.
- Findings of fact and written testimony submitted by the applicant indicate that the use would be in an isolated position with limited visibility at the rear of the property, options for indoor storage of pallets are limited for insurance reasons, and a denial would hamper the petitioner's ability to use the property as a departure point for shipments. Staff would contend that the storage area would be easily viewable from the Post Road frontage (especially if the vehicles associated with the southern vehicle repair use are removed), and it is unclear why seven full-size shipping containers would be needed for portable storage of shipping materials when indoor storage options appear to exist. Staff would note that the current tenant space only comprises around 6% of the total building area, storage of wooden materials in outdoor containers could also introduce fire risks, and options for internal storage within the existing building or permanent building additions could be feasible to meet storage needs. It is also unclear to staff what safety or security advantages would be offered by the 20-foot fence that would not also be offered by a 10-foot one.
- No practical difficulty was identified that would justify placement of seven separate storage containers permanently on this site with inadequate buffering installed around the perimeter fence. Regulations on portable and outdoor storage are enshrined within the ordinance to prevent these storage units (which are classified as being closer to commercial vehicles than buildings)

on a permanent basis for aesthetic and structural reasons as well as to allow for those buildings to be included within the city’s tax base. Staff also doesn’t note any practical difficulty that would prevent the placement of compliant perimeter fencing and landscape buffering.

- Additionally, staff feels that a risk of placement of additional outdoor storage or (operable or inoperable) cars and trucks for sale or repair in the future would exist given the previous agreement and scope and intensity of repair uses to the south. This risk would likely be compounded if approval of a variance to allow for placement of portable outdoor storage units were granted. Given the future transformative potential granted by proximity to the future BRT Line, staff also hopes to ensure that nearby development matches the TOD vision of walkable mixed-used communities with slow traffic speeds and well-connected sidewalks that serve activated streetscapes with limited front-yard parking. An allowance for outdoor storage that isn’t fully screened and would be easily visible from the Post Road frontage does not meet this vision. For these reasons, staff recommends denial of the request for permanent placement of portable outdoor storage within the southern yard.

GENERAL INFORMATION

Existing Zoning	C-5 / D-2 (TOD)	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-5	North: Commercial
South:	C-5 / C-7	South: Commercial
East:	D-5	East: Residential
West:	C-7	West: Commercial
Thoroughfare Plan		
Washington Street	Primary Arterial	128-foot existing right-of-way and 104-foot proposed right-of-way
Post Road	Primary Arterial	112-foot existing right-of-way and 112-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	10/07/2024	
Site Plan (Amended)	N/A	
Elevations	11/20/2024	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	10/07/2024	
Findings of Fact (Amended)	12/05/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Blue Line Transit Oriented Development Strategic Plan

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Community Commercial typology for low-intensity commercial/office uses that serve nearby neighborhoods. Examples include small-scale shops, drug stores, grocery stores, restaurants, public gathering spaces, and personal, professional, and business services.
- Outdoor display of merchandise is not recommended near residential areas, and development should be supportive of pedestrian activity (e.g. compact, connected to a pedestrian system, no more than one third of the frontage used for parking) when near TOD lines.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Blue Line Transit Oriented Development Strategic Plan identifies this site as being within the Community Center typology given its proximity to the proposed Washington/Post TOD stop. This typology is designed for walkable commercial centers with a range of commercial uses. Contemplated land uses would be a mix of retail, entertainment, office and residential development, and surface parking should be consolidated and placed behind buildings to allow pedestrian-oriented streets.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

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

94-HOV-31, variance of development standards of the Sign Regulations Zoning Ordinance to provide for the relocation and replacement of an existing advertising sign adjacent to a protected district (minimum 250 feet from a protected district required), being 620 feet from a second advertising sign and 630 feet from a third advertising sign (minimum 1000 feet between advertising signs oriented toward the same street required), **approved**.

ZONING HISTORY – VICINITY

2002UV3031 ; 40 N Post Road (north of site), variance of use of the Commercial Zoning Ordinance to provide for the retail sale of automotive parts (not permitted), **approved**.

2000UV3051 ; 140 N Post Road (north of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for sales and display of automobiles (not permitted), vehicle display area located within the required front yard (display area not permitted within the required front yard), the construction of a 2,448 square foot, four bay, service garage (maximum three service bays permitted), with a five-foot rear transitional yard (minimum 20-foot rear transitional yard required), 12 off-street parking spaces (19 off-street parking spaces required), two off-street parking spaces located within the required front yard (off-street parking not permitted within the required front yard), and six off-street parking spaces and maneuvering area located within the rear transitional yard (parking and maneuvering area not permitted within the rear transitional yard), **approved**.

98-UV1-73 ; 9009 E Washington Street (west of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for the sale of portable storage buildings (not permitted) with: (a) outdoor operations and outdoor display areas (not permitted); and (b) to eliminate landscape requirements in the required transitional yard, with existing pavement and treatment remaining, and to allow storage buildings to serve as the required screen, **approved**.

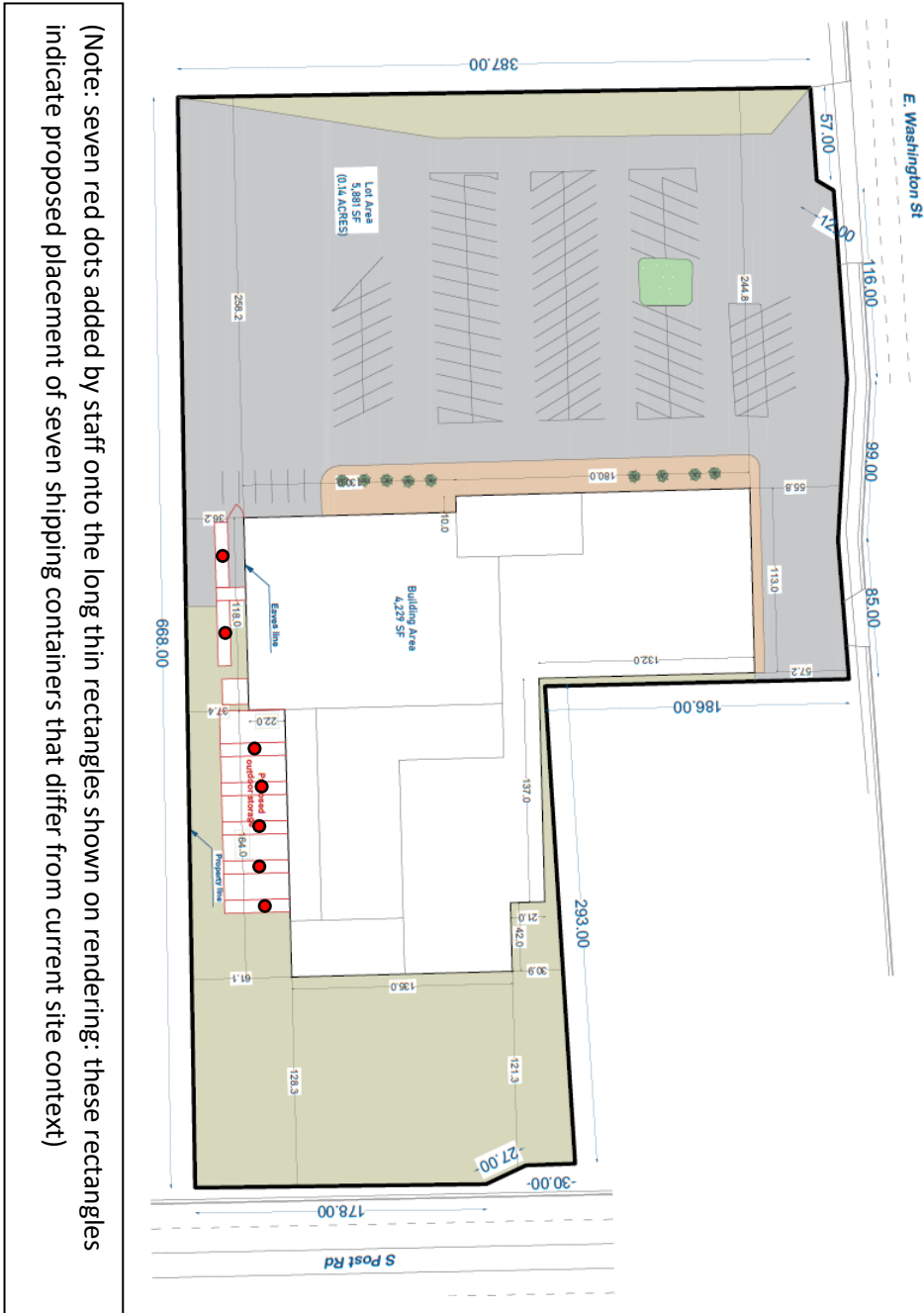
96-UV2-101 ; 140 N Post Road (north of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for the operation of a used automobile sales and preparation facility (not permitted) with outdoor display of automobiles (not permitted), **approved**.

EXHIBITS

2024UV3017 ; Aerial Map



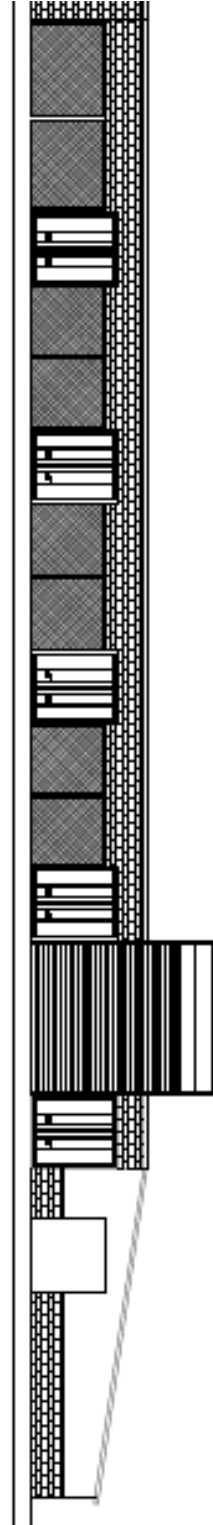
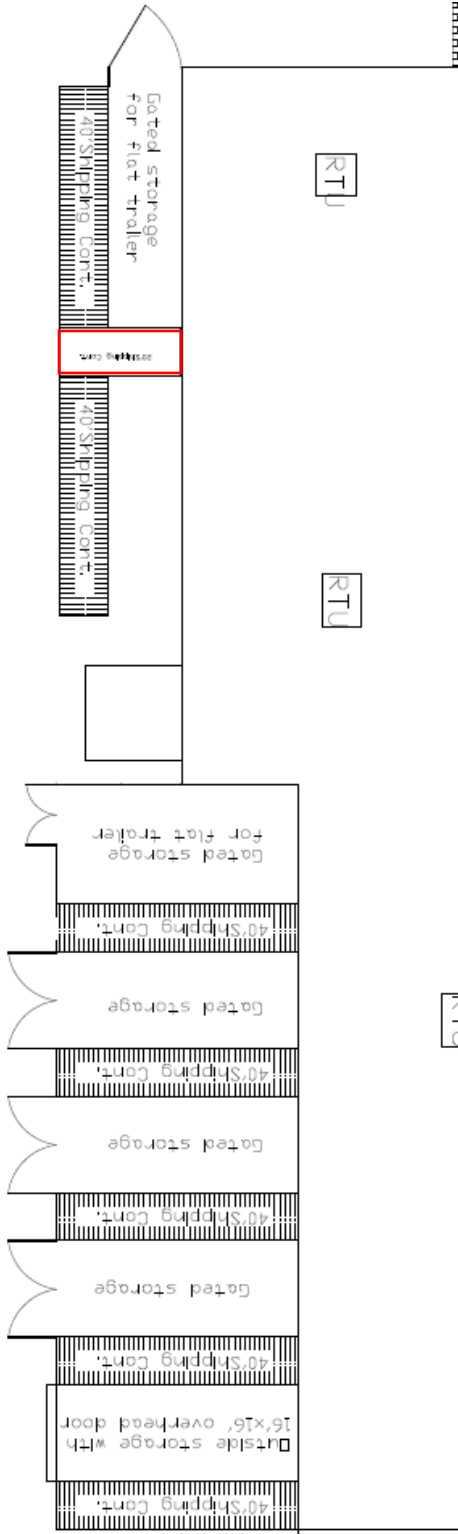
2024UV3017 ; Site Plan



(Note: seven red dots added by staff onto the long thin rectangles shown on rendering: these rectangles indicate proposed placement of seven shipping containers that differ from current site context)

2024UV3017 ; Site Detail + Southern Elevation (Partial)

(Note: grant of this variance would only allow for placement of seven shipping containers. The applicant has indicated that the eighth, smaller container shown on these plans outlined in red would be removed)



2024UV3017 ; Operation Plan

The business is located at 8949 E. Washington St. Its operating hours are 8:00 a.m. to 4:30 p.m. Monday through Friday. Integrity has eight full-time employees and two subcontractors who work in the building; they park within a 92 space lot on the west side of the building. Handicapped spaces are marked in blue. In addition, parking is provided for up to 24 customers on the north and northeast side of the building.. Integrity has three audio surveillance systems inside and outside the building as well as a night-time security officer.

Integrity keeps six shipping containers outside, behind the building.

Container No. 1 contains propane used for the fork truck. The propane is kept in the container rather than a cage to prevent theft. The business is located in a high crime area with many homeless people on the street.

Container No. 2 contains pallets used for shipping. Use of the container keeps the pallets dry and avoids the risk of fire from indoor storage.

Containers Nos. 3 and 4 hold plywood for shipping and shelving needs. Container No. 5 holds wooden shipping crates. Use of the containers avoids the risk of fire from the indoor storage of these materials.

Container No. 6 holds large plastic shipping crates. Because of their size, these cannot be stored in the building without impacting warehouse flow.



2024UV3017 ; Findings of Fact (Use)

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE
the grant will merel allow the Petitioner to store shipping containers and trailers at the rear of th propety and thus has no capacity to affect the public health, safety, morals, or general welfare of the communit.

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 storage area is in an isolated position at the rear of the property, behind Petitioner's building.

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

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
it would significantly hamper Petitioner's ability to use the property as a departure point for the many shipments

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE
the storage area will be located behind the building and will have little if any visibility

2024UV3017 ; Findings of Fact (Development Standards)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
the 10-foot gate will merely allow Petitioner a means of entry/exit at the rear of its property and has no capacity to affect the public health, safety, morals, or general welfare of the community.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:
the gate will be located in an isolated position, behind the Petitioner's building, with little visibility from the neighborhood

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:
the property is located in a high crime area and strict application of the zoning ordinance would prevent Petitioner from adequately protecting its property with a tall gate.

2024UV3017 ; Notice of Violation (VIO24-001297)

Section 740 -1005.A.3. Civil Zoning Violation

Specific Violation: The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use; (Boxes, bottles, and other miscellaneous items throughout the property).

Section 740 -1005.A.4. Civil Zoning Violation

Specific Violation: The outdoor storage of inoperable vehicles in any zoning district, the provisions of which do not specifically permit such a use; (Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, that cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate, or flat tires; or that is otherwise partially dismantled or mechanically inoperable...multiple vehicles).

Section 740 -1005.A.5. Civil Zoning Violation

Specific Violation: The parking or storage of a commercial vehicle in any zoning district, when the provisions of which do not specifically permit such a use; (Trailer, open or enclosed, with a cargo holder exceeding 12ft. in length...multiple trailers).

Section 740 -1005.A.5. Civil Zoning Violation

Specific Violation: The parking or storage of a commercial vehicle in any zoning district, when the provisions of which do not specifically permit such a use; (Vehicle, regardless of weight, used or designed to be used as a semi-trailer, flatbed truck, step van, box truck).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (743-306.Y.1- The storage of portable storage units is limited to 30 days....shipping container).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (744-404.A.6.e – Parking lots used for access or maneuverability shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (744-404.D.7.a. - The parking spaces lack 4 inch durable painted lines, curbs or signage).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (744-508.B.1.a. - Failure to enclose dumpster with a solid wall at least the height of the service area on 3 sides with the 4th side having a solid gate).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; (Table 743-306-2: - Only outdoor storage of inoperable vehicles awaiting repair is permitted in a C-5 zoning district).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-5 district; 743-305.G.1. - (All servicing, motor repair, or body repair shall be conducted within an enclosed building).

2024UV3017 ; Photographs



Photo 1: Subject Site from West (northern portion)



Photo 2: Subject Site from West (southern portion)

2024UV3017 ; Photographs (continued)



Photo 3: Storage Containers from West



Photo 4: Storage Containers from East (Post Road)

2024UV3017 ; Photographs (continued)



Photo 5: Overhead Garage Door along Southern Elevation (submitted by applicant)



Photo 6: Subject Site from East

2024UV3017 ; Photographs (continued)



Photo 7: Adjacent Property to South (eastern portion)



Photo 8: Adjacent Property to South (western portion)

2024UV3017 ; Photographs (continued)



Photo 9: Adjacent Property to West



Photo 10: Adjacent Property to East

2024UV3017 ; Photographs (continued)



Photo 11: Adjacent Property to North



Photo 12: Adjacent Property to Northeast