

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CVR-855 / 2023-CPL-855
Address: 3702 East 32nd Street (*Approximate Address*)
Location: Center Township, Council District #17
Petitioner: ABA N Play, LLC, by Jynell D. Berkshire
Zoning: D-5
Requests: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a lot with a 20.45-foot lot width (minimum 60-foot lot width required).

Approval of a Subdivision Plat to be known as Replat Lot L McGillard Carpenter & Field's Brightwood Addition, subdividing 5.07 acres into seven lots to be developed with six duplexes.

ADDENDUM FOR NOVEMBER 9, 2023, HEARING EXAMINER

The Hearing Examiner continued these petitions from the October 12, 2023 hearing, to the November 9, 2023 hearing, at the request of the petitioner's representative.

October 12, 2023

RECOMMENDATIONS

Staff **recommends denial** of these requests.

Staff recommends that the Hearing Examiner **deny** and find that the plat, file-dated September 7, 2023, does not comply with the standards of the Subdivision regulations because Lot Seven does not provide the required lot width.

If approved, staff would request that approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to final plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

(Continued)

STAFF REPORT CVR-855 / 2023-CPL-855 (Continued)

And the following conditions related to the plat:

1. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
2. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
4. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
5. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
6. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
7. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
9. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
10. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 5.07-acre site, zoned D-5, is undeveloped and surrounded by undeveloped land to the north; single-family dwellings to the south, across East 32nd Street; undeveloped land to the east; and unimproved public right-of-way to the west, all zoned D-5.
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site as development occurs on the lots:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.

(Continued)

STAFF REPORT CVR-855 / 2023-CPL-855 (Continued)

Conditions for All Housing

- A mix of housing types is encouraged.
- Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly-accessible recreational or cultural amenity that is available at no cost to the user.
- Primary structures should be no more than one and a half times the height of other adjacent primary structures.
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.

Attached Housing

- Duplexes should be located on corner lots, with entrances located on different sides of the lot.
- It is preferred that townhomes should be organized around intersections of neighborhood collector streets, greenways, parks or public squares, or neighborhood-serving retail.
- If the above conditions are not met, individual buildings of attached housing (not part of a complex) may be interspersed with single-family homes, but should not make up more than 25% of the primary residential structures on a block

Infill Housing Guidelines

- ◇ The Infill Housing Guidelines were updated and approved in May 2021, with a stated goal “to help preserve neighborhood pattern and character by providing guiding principles for new construction to coexist within the context of adjacent homes, blocks, and existing neighborhoods. These guidelines provide insight into basic design concepts that shape neighborhoods, including reasons why design elements are important, recommendations for best practices, and references to plans and ordinance regulations that reinforce the importance of these concepts.”
- ◇ These guidelines apply to infill development in residential areas within the Compact Context Area and include the following features:

Site Configuration

- Front Setbacks
- Building Orientation
- Building Spacing
- Open Space
- Trees, Landscaping, and the Outdoors

Aesthetic Considerations

- Building Massing
- Building Height
- Building Elevations and Architectural Elements

(Continued)

STAFF REPORT CVR-855 / 2023-CPL-855 (Continued)

Additional Topics

- Secondary Dwelling Units, Garages, and Accessory Structures
- Adapting to the Future

Tree Preservation / Heritage Tree Conservation

- ◇ There are significant amounts of natural vegetation and trees located on the northern portion of the site. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.
- ◇ All development shall be in a manner that causes the least amount of disruption to the trees.
- ◇ A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.
- ◇ If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.
- ◇ The Ordinance defines “heritage tree” as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentuckia*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)
- ◇ The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location issuance date. See Exhibit A, Table 744-503-3: Replacement Trees.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a lot with a 20.45-foot lot width when the Ordinance requires a 60-foot lot width.
- ◇ As proposed, this request would be infill development and one of the purposes of the Ordinance is to protect the character of the existing neighborhood, which is primarily single-family dwellings. Staff believes the development of duplexes on six of the lots along East 32nd Street would be acceptable because the six lots would have a similar configuration and frontage of adjacent lots in the area.

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STAFF REPORT CVR-855 / 2023-CPL-855 (Continued)

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to street frontage, are intended to ensure that a property has adequate, unobstructed, and direct access from a public right-of-way.
- ◇ However, Lot 7 is contrary to orderly future development and would be inconsistent with the neighborhood character and would, in fact, result in safety issues related to access should the remaining property be further subdivided.
- ◇ Staff does not support this type of development, resulting in a “flag lot” and believes that it would be inappropriate to increase the number of these exceptions in Marion County, when there is no practical difficulty present. This property could be developed to prevent this type of long and narrow “flag lot”. Staff does not wish to encourage the creation of these lots, and, therefore, recommends denial of this request, based upon the information above and the lack of practical difficulty for dividing this property, as proposed.
- ◇ Staff would support a plat for seven lots that would continue the current proposed parcel lines to the northern site boundary, thereby eliminating the flag lot. See Exhibit B.

PLAT

- ◇ This proposed plat would divide the existing parcel into seven lots. Lots One through Five would be 0.21 acre each, with a 60-foot frontage. Lot Six would be 0.27 acre with a 79.32-foot frontage and Lot Seven would be 3.39 acres, with a 20.45-foot frontage. The proposed plat does not meet the standards of the D-5 zoning classification.

Traffic / Streets

- ◇ The proposed lots would front on East 32nd Street. No new streets are proposed as part of this petition.

Procedure

- ◇ This plat petition, if approved, only legally establishes the division of land. Any new construction would be required to meet all development standards of the D-5 Dwelling District, including, but not limited to setbacks, minimum lot width and frontage, and minimum open space.
- ◇ As development on these sites occurs, recommendations of the Pattern Book should be considered, as well as compliance with the Ordinance to mitigate negative impacts on surrounding residential development. In other words, development standards variances should be minimal and based on practical difficulty in the use of the property, rather than desires of the developer.

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STAFF REPORT CVR-855 / 2023-CPL-855 (Continued)

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-5 Undeveloped land

SURROUNDING ZONING AND LAND USE

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

COMPREHENSIVE PLAN The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends traditional neighborhood typology. Marion County Land Use Pattern Book (2019). Infill Housing Guidelines (2021)

THOROUGHFARE PLAN This portion of East 32nd Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 30-foot right-of-way and a proposed 48-foot right-of-way.

CONTEXT AREA This site is located within the compact context area.

OVERLAY There is no overlay for this site.

SITE PLAN / PRELIMINARY PLAT File-dated September 7, 2023

FINDINGS OF FACT File-dated September 7, 2023

ZONING HISTORY

2022-ZON-002; 3208 North Sherman Drive (east of site), requested rezoning of 1.26 acres from the SU-7 district to the C-S district to provide for a detoxification and residential inpatient behavioral health treatment facility, **approved**.

2020-ZON 091; 3208 North Sherman Drive (east of site), requested rezoning of 1.26 acres from the SU-6 district to the SU-7 district to provide for transitional housing for males recovering from drug and alcohol addiction. **approved**.

kb

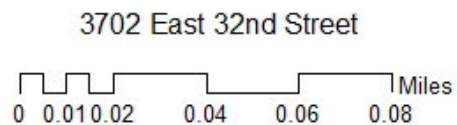
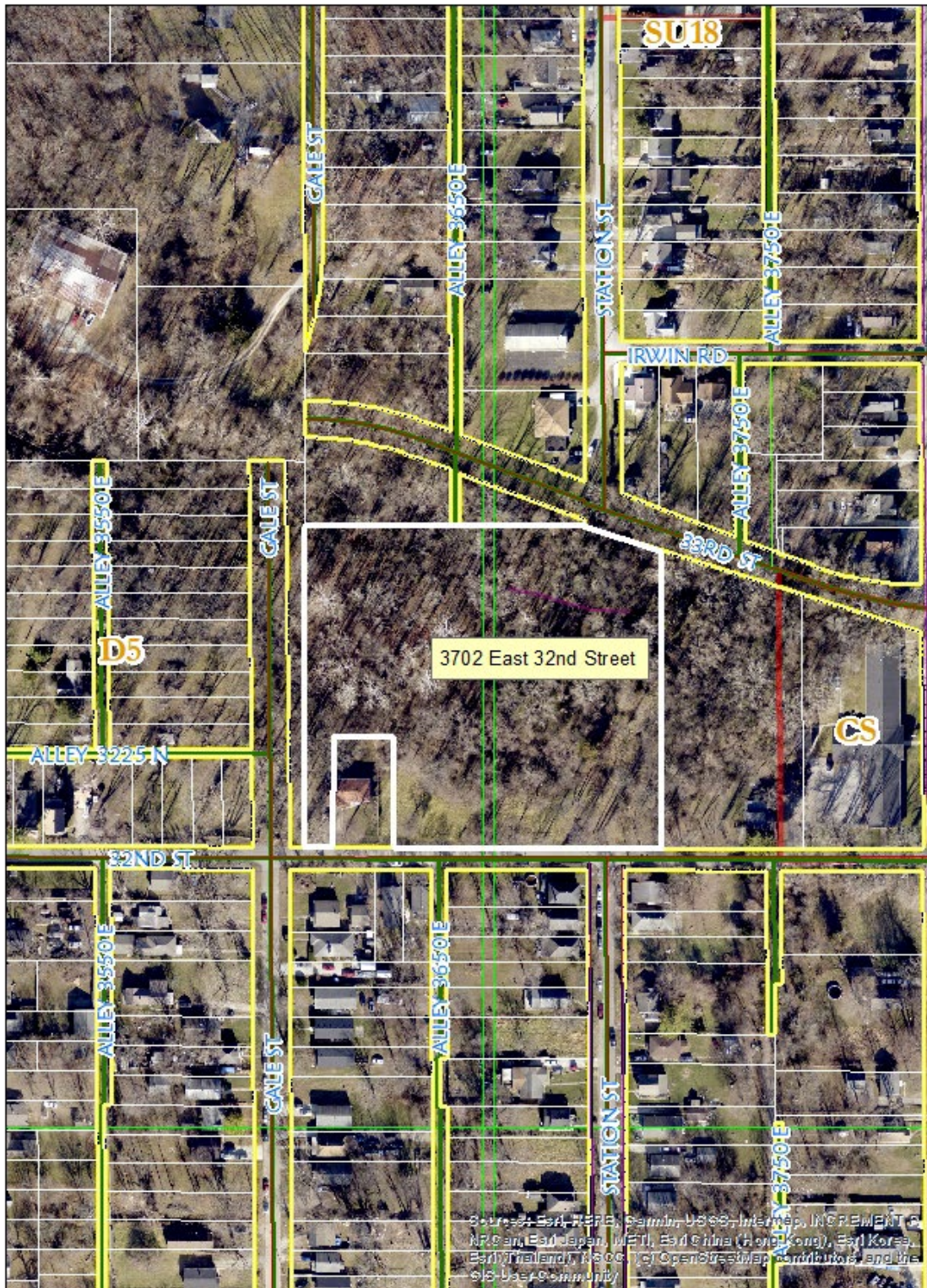


EXHIBIT A

Heritage Tree Conservation

Removal of any Heritage Tree is prohibited unless any of the following determinations are made before removal:

1. The Administrator or the city's Urban Forester determines that the tree is dead, significantly and terminally diseased, a threat to public health or safety, or is of an undesirable or nuisance species.
2. The Director of the Department of Public Works determines that the tree interferes with the provision of public services or is a hazard to traffic.
3. The Administrator determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree.
4. The site from which the tree is removed is zoned D-A and the tree is harvested as timber or similar forestry product.

Table 744-503-3: Replacement Trees		
Size of tree removed or dead (inches)	Number of Trees to be planted to replace a Heritage Tree	Number of Trees to be planted to replace an existing tree
Over 36 DBH	15	10
25.5 to 36 DBH	11	8
13 to 25 DBH	8	6
10.5 to 12.5 DBH	6	4
8.5 to 10 DBH	5	4
6.5 to 8	3	2
4 to 6	2	2
2.5 to 3.5	1	1

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:

will not result in an increase in public expenditure nor unduly increase traffic congestion in the public streets and highways. The variance will not substantially increase the hazard from fire or other dangers to the subject property.

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 reduced lot width is a minimum variation that will make possible the reasonable use of land. The variance will not diminish or impair property values within the neighborhood nor create a nuisance, but is needed for preservation of property rights which are substantially the same as owners of other property in the same or vicinity possessed.

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

without the variance, the permitted use of the property will result in practical difficulties in the use and proposed use of the property in compliance with the zoning ordinance.

DECISION

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

Adopted this _____ day of _____, 20 _____

SECONDARY PLAT

REPLAT LOT L MCGILLIARD CARPENTER &
FIELD'S BRIGHTWOOD ADDITION
SE QUATER SECTION 20-T16N-R4E
3702 EAST 32ND STREET INDIANAPOLIS, INDIANA

LAND DESCRIPTION

PART OF LOT L IN MCGILLIARD, CARPENTER, AND FIELDS' ADDITION TO BRIGHTWOOD, NOW IN THE CITY OF INDIANAPOLIS, THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 7, PAGE 88, IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT L IN MCGILLIARD, CARPENTER, AND FIELDS' ADDITION TO BRIGHTWOOD, NOW IN THE CITY OF INDIANAPOLIS, INDIANA; THENCE ON THE SOUTH LINE OF SAID LOT L SOUTH 89 DEGREES 40 MINUTES 00 SECONDS EAST 20.45 FEET TO THE WEST LINE OF THE TRACT OF REAL ESTATE DESCRIBED IN INSTRUMENT No. 890067581; THENCE ON SAID WEST LINE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 150.00 FEET TO THE NORTH LINE OF SAID TRACT; THENCE ON SAID NORTH LINE SOUTH 89 DEGREES 40 MINUTES 00 SECONDS EAST 80.00 FEET TO THE EAST LINE OF SAID TRACT; THENCE ON SAID EAST LINE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 150.00 FEET TO THE SOUTH LINE OF SAID LOT L; THENCE ON SAID SOUTH LINE SOUTH 89 DEGREES 40 MINUTES 00 SECONDS EAST 379.32 FEET TO THE WEST LINE OF THE TRACT OF REAL ESTATE DESCRIBED IN INSTRUMENT No. 2006-0163309; THENCE ON SAID WEST LINE NORTH 00 DEGREES 46 MINUTES 06 SECONDS WEST 425.21 FEET TO THE NORTH LINE OF SAID LOT L; THENCE NORTH 72 DEGREES 54 MINUTES 00 SECONDS WEST 100.40 FEET; THENCE CONTINUING ON SAID NORTH LINE NORTH 88 DEGREES 40 MINUTES 00 SECONDS WEST 378.20 FEET TO THE WEST LINE OF SAID LOT L; THENCE ON SAID WEST LINE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 460.70 FEET TO THE POINT OF BEGINNING, CONTAINING 4.70 ACRES, MORE OR LESS.

CERTIFICATE OF SURVEY

THIS SUBDIVISION CONSISTS OF 6 LOTS NUMBERED 1, 2, 3, 4, 5, AND 6.

THE SIZE OF LOTS AND WIDTH OF STREET ARE SHOWN IN FEET AND DECIMAL PARTS THEREOF.

I, K. NATHAN ALTHOUSE, THE UNDERSIGNED CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA AND THAT THE WITHIN PLAT REPRESENTS A SUBDIVISION OF THE LANDS SURVEYED WITHIN THE CROSS REFERENCED SURVEY PLAT, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THERE HAS BEEN NO CHANGE FROM THE MATTERS OF THE SURVEY REVEALED BY THE CROSS-REFERENCE SURVEY AND ANY LINES THAT ARE COMMON WITH THE NEW SUBDIVISION.

CERTIFIED THIS 18TH DAY OF JUNE, 2023

MILLER SURVEYING, INC.

K. NATHAN ALTHOUSE, PLS
PROFESSIONAL LAND SURVEYOR No. LS 20400007
STATE OF INDIANA

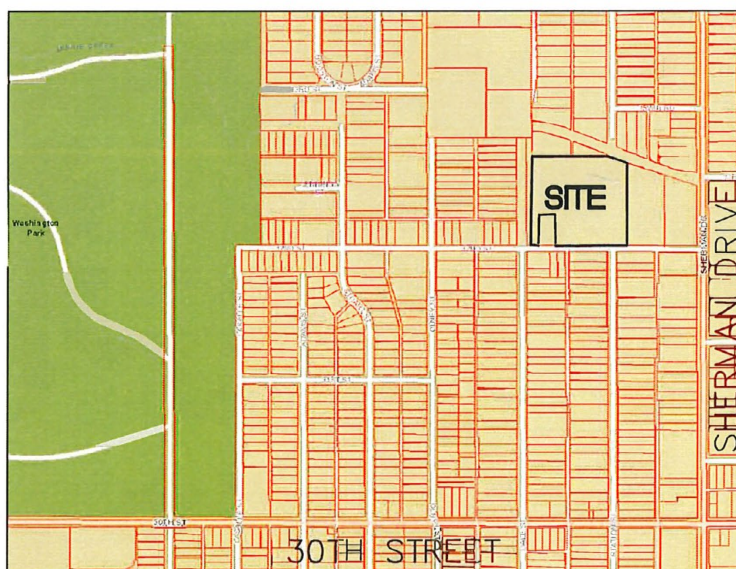
VACATION SURVEY

OWNER/ SUBDIVIDER SOURCE OF TITLE

ABA N PLAY LLC.
3815 RIVER CROSSING PKWY.
INDIANAPOLIS, IN 46240
INSTRUMENT #A202300072454

SURVEYOR

THIS INSTRUMENT PREPARED BY:
K. NATHAN ALTHOUSE
MILLER SURVEYING, INC.
948 CONNER STREET
NOBLESVILLE, IND. 46060
Ph 773-2644 Fx 773-2694
DATE: JUNE 28-2023
Job No. B41126



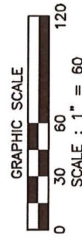
SECONDARY PLAT

REPLAT LOT L MCGILLARD CARPENTER &
FIELD'S BRIGHTWOOD ADDITION
3702 EAST 32ND STREET INDIANAPOLIS, INDIANA



LEGEND

- BL BUILDING LINE
- R/W RIGHT-OF-WAY
- 5/8" IRON ROD WITH
YELLOW CAP STAMPED
"MILLER S0083" SET
- 1035 PROPERTY ADDRESS



OWNER / SUBDIVIDER SOURCE OF TITLE

GAIL L. BURRIS
4240 LINCOLN RD
INDIANAPOLIS, IN 46228--272
INSTRUMENT #A202200008248

SURVEYOR

THIS INSTRUMENT PREPARED BY:
K. NATHAN ALTHOUSE
MILLER SURVEYING, INC.
948 CONNER STREET
NOBLESVILLE, IN. 46060
DATE: JUNE 28--2023
Job No. B41126

DMD--DEPT. METRO. DEV.
STREET NAMES AND
ADDRESSES APPROVED

By Chad B.
DATE 6/30/2023

N72°54'00"
100.40'

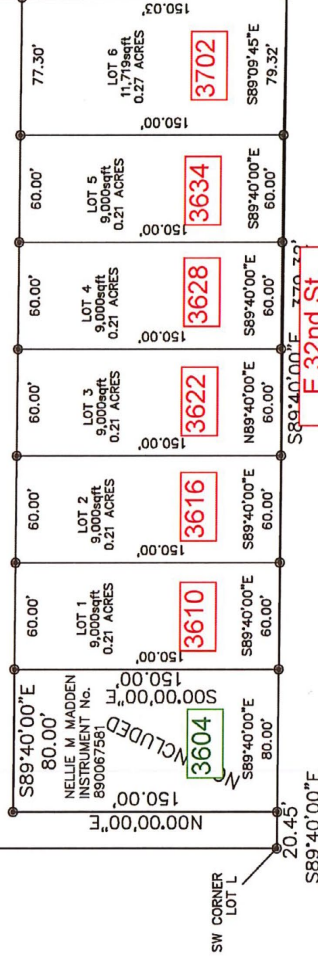
N88°40'00"W 378.20'

LOT 7
147,593sqft
3.39 ACRES
3602

S00°00'00"E 460.70'

EBBIE J. HUBBARD
INSTRUMENT No.
2006--0163309

N00°46'06"W 425.21'



E 32nd St
60.0' R/W



View looking east along East 32nd Street



View looking west along East 32nd Street



View of western portion of the site looking north across East 32nd Street



View of the western portion of the site looking northeast across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of site looking north across East 32nd Street



View of Gale Street looking south across East 32nd Street



View of alley looking south across East 32nd Street