

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-SE2-002A (Amended)
Address: 3210 Chief Lane (approximate address)
Location: Decatur Township, Council District #22
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Jon Campbell
Request: Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).

ADDENDUM JUNE 11, 2024

This petition was continued due to a lack of Board quorum from the May 21, 2024, hearing, to the June 11, 2024, hearing.

ADDENDUM MAY 21, 2024

At the March 12, 2024, hearing, the petition was split into Part A for the Special Exception, and Part B for the Variance of Development Standards.

The Part A request for a Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465, resulted in a split vote of 2-2, which automatically continued the Part A portion of the petition. Due to a conflict, **Part A was continued for two months to the May 21, 2024, hearing.**

The Part B request for a Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no greater than 65-feet tall, a setback of five feet from Rand Road, being located within 400 feet of the centerline of an Interstate Ramp and being located within no less than 148 feet from protected districts, **was denied by a vote of 0-4.**

ADDENDUM MARCH 12, 2024

This petition was continued from the February 13, 2024, hearing, to the March 12, 2024 hearing, at the request of the Board President.

February 13, 2024

This petition was automatically continued from the December 12, 2023, hearing, to the January 9, 2024, hearing, at the request of a registered neighborhood organization. This petition was automatically continued from the January 9, 2024, hearing, to the February 13, 2024, hearing, at the request of the petitioner.

(Continued)

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RECOMMENDATIONS

Staff **recommends approval** of the Special Exception request.

Staff makes **no recommendation** for the Variance of Development Standards requests.

Amended Petition: This petition was amended to remove the request for the Variance of development standards to provide for an outdoor advertising sign to be within 50 from another outdoor advertising sign, where a 1,000-foot of radial spacing is required between signs. However, it was determined after the petition was docketed, that the adjacent sign is an on-premise sign, and the separation variance was not needed. Additional notice would not be needed, as the request would now deviate less from the Ordinance than the original notice.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Metro	I-3	Trade Association office building
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SURROUNDING ZONING AND LAND USE

North	I-3	Manufacturing facility
South	I-3	Interstate I-70 / Undeveloped
East	D-A	Interstate I-70 / Undeveloped
West	I-3	Single-family dwelling / Manufacturing facility

COMPREHENSIVE PLAN The Comprehensive Plan recommends office / industrial mixed-uses for the site.

SPECIAL EXCEPTION

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as “A sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages.”
- ◇ The need for the special exception arises from a condition peculiar to the property involved because a road expansion project included South State Road 37, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location at 8900 South SR 37 on private property causing the relocation of the sign.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

(a) As used in this section, “market area” means a point within the same county as the prior location of an outdoor advertising sign.

(b) This section applies only to an outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

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(c) If an outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

- (1) elevate a conforming outdoor advertising sign; or*
- (2) relocate a conforming or nonconforming outdoor advertising sign to a point within the market area, if the new location of the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.*

(d) If within one (1) year of an action being filed under IC 32-34, an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and IC 8-23-20.5, if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter. Notwithstanding subsections (d) and (g), if a conforming outdoor advertising sign cannot be elevated or relocated within the market area, the removal or relocation of the conforming outdoor advertising sign constitutes a total taking of a real property interest, including the sign structure, and the owner must be compensated under section 27 of this chapter.

(e) The county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

(f) The elevated outdoor advertising sign or outdoor advertising sign to be relocated, to the extent allowed by federal or state law, may be modified:

- (1) to elevate the sign to make the entire advertising content of the sign visible; and*
- (2) to an angle to make the entire advertising content of the sign visible; and*
- (3) in size or material type, at the expense of:
 - (A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or*
 - (B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.**

(g) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

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(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under IC 32-34, the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana Department of transportation that a project has been planned that may impact the outdoor advertising sign.

(i) If the agency fails to provide notice required by subsection (h) within (12) twelve months of an action being filed against an owner under IC 32-24, the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under IC 32-23-1-8.

- ◇ The current Zoning and Subdivision Ordinance does align with state code, which provides for a special exception to the zoning ordinance to allow for either an elevation increase or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.
- ◇ The owner has a government imposed practical difficulty due to a road expansion project that includes the sign's current location at 8900 South SR 37, and the expansion of I-69 by INDOT, which would eliminate the sign's existing location on private property causing the relocation of the sign.
- ◇ State code notes that there should be the option to elevate the sign or relocate the sign but does not specify that both options must be granted. Since the widening of SR-37/I-69 is out of the petitioner's control, staff is supportive of the special exception request as proposed to relocate the sign.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The subject site parcel is addressed as 3210 Chief Lane, but also has frontage on the 3200 block of Rand Road, which the proposed outdoor advertising sign would be located and oriented.
- ◇ The petitioner has requested variances of development standards to allow for the relocated sign to have an increase in permitted sign height from 40 feet to 65 feet in height, to have a five-foot setback from Rand Road where a 20-foot front setback is required, to be within 400 feet of the centerline of an Interstate Ramp where a 500-foot separation is required and being located within 148 feet from protected districts where a 300-foot separation is required.
- ◇ The site is relatively level with the Interstate I-70 road deck and has no visible structural obstructions. With the sign being permitted at 40 feet tall, the request would provide for an additional 25 feet, resulting in a request to provide for a sign 65 feet above the road surface of Interstate I-70. No practical difficulty has been presented as to why the additional 30 feet in sign height is needed. Therefore, Staff recommends denial of the request as proposed to increase the sign height from 40 feet to 70 feet, as any increase in height, would decrease road safety by negatively impacting motorists that would be distracted.

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- ◇ The petitioner has requested a variance to allow for a five-foot setback from the subject site frontage along Rand Road, where a 20-foot setback is required. Providing for a reduced setback from Rand Road would increase the intensity of the off-premise advertising sign by locating it closer to motorists on nearby Interstate I-70 that maybe distracted. Additionally, it would bring the activities on the site closer to adjacent properties, without adequate buffering.
- ◇ The site, at approximately 290 feet at its widest from Rand Road, is wide enough to accommodate the required 20-foot setback. Therefore, no peculiar condition exists on site for staff to be supportive of these requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, this is a self-imposed difficulty since the newly constructed/installed signs could be developed to meet the Ordinance standards by right without the need for variances.
- ◇ The petitioner has requested a variance to allow for the outdoor advertising sign location to be reduced from the required 500-foot separation to a 400-foot separation from the centerline of an interstate exit roadway for eastbound I-70 to northbound I-465. Outdoor advertising signs are not permitted within 500 feet from entrance or exit roadways, as they would cause those signs that are permitted and legal to become less effective and reduces their value.
- ◇ The Ordinance has been constructed to limit these signs near protected districts, because of their brightness and aesthetic impact. In this case, a D-A District is located approximately 148 feet to the southeast, with no visible obstructions or change in elevations. Due to the width and size of the lot, the sign could be located approximately 120 feet to the northwest to meet the required 300-foot separation from the adjacent protected districts.
- ◇ The requested decreased separation from the protected districts would degrade the quality of life in the area. The proposed sign has no physical barriers that limit the view of the sign from the nearby protected districts. There is no reason that a sign that meets the Sign Ordinance could not be used, along with alternative communication methods.
- ◇ No peculiar condition exists on site for staff to be supportive of these variance of development standards requests. The strict application of the Ordinance would not constitute an unnecessary hardship, as the site is already zoning compliant for I-3 uses by right without the need for the requested variance of development standards. Instead, the requested variances of development standards are a self-imposed difficulty needed for the specific proposed use of an off-premise advertising sign, that would intensify the use on the subject site that would increase the amount of driver distractions and negative impacts on adjacent properties. Therefore, Staff makes no recommendation for the variance of development standards request.

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GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Chief Lane is a private drive and is not classified in the Official Thoroughfare Plan for Marion County, Indiana.

This portion of Rand Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with an approximate 56-foot existing right-of-way.

SITE PLAN

File-dated October 25, 2023.

FINDINGS OF FACT

File-dated October 25, 2023.

ZONING HISTORY

2014-UV2-006; 5925 Stockberger Place (north of site), requested a variance of use of the Industrial Zoning Ordinance to provide for a Compressed Natural Gas (CNG) Fueling Station as a primary public use, **granted**.

99-V1-84, 5925 Stockberger Place (east of site); Requesting a variance of use and development standards of the Industrial Zoning Ordinance to provide for an equipment rental facility with outdoor storage, **granted**.

88-HOV-43; 3150 Rand Road (north of site), requested a variance of development standards to provide for the development of a warehouse without frontage on a public street, **granted**.

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2023-SE2-002; Location Map



2023-SE2-002; Site Plan



2023-SE2-002; Photographs



Photo of subject site, proposed sign location, looking northwest.



Adjacent manufacturing facility to the north of the site.



Adjacent manufacturing facility to the west of the site.



Adjacent I-70 interstate and undeveloped protected district to the east.