



**METROPOLITAN DEVELOPMENT COMMISSION**

**August 21, 2024**

<b>Case Number:</b>	2024-ZON-059 (Amended)
<b>Property Address:</b>	2345 South Arlington Avenue
<b>Location:</b>	Warren Township, Council district #20
<b>Petitioner:</b>	Doris M. Lambert, by Teri L. Hutchison
<b>Current Zoning:</b>	D-A (FF)
<b>Request:</b>	Rezoning of five acres from the D-A (FF) district to the C-1 (FF) district to provide for office-buffer commercial uses.
<b>Current Land Use:</b>	Single-family dwelling
<b>Staff Recommendations:</b>	Approval, subject to the commitments noted below.
<b>Staff Reviewer:</b>	Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued this petition from the June 13, 2024 hearing, to the July 11, 2024 hearing.

The Hearing Examiner continued this petition from the July 11, 2024 hearing, to the July 25, 2024 hearing, at the request of the petitioner's representative.

This petition was heard by the Hearing Examiner on July 25, 2024. After a full hearing, the Hearing Examiner recommended approval of the rezoning. Subsequently, a remonstrator filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

**STAFF RECOMMENDATION**

Approval subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. A 59.5-foot half right-of-way shall be dedicated along the frontage of South Arlington Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

2. 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.
3. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.

## PETITION OVERVIEW

This 5.0-acre site, zoned D-A (FF), is developed a single-family dwelling. It is surrounded by single-family dwellings to the north, zoned D-A (FF); commercial uses to the south zoned C-3 and C-S; a single-family dwelling and undeveloped land to the east, zoned D-A; and vacant land and single-family dwellings to the west, across South Arlington Avenue, zoned C-3 and D-2, respectively.

Petition 2022-ZON-025 requested rezoning to the C-7 district to provide for a commercial contracting business but was withdrawn.

## REZONING

The request would rezone the site to the C-1 (Office Buffer Commercial) District. "The C-1 District is designed to perform two functions: act as a buffer between uses, and provide for a freestanding area that office uses, compatible office-type uses, such as medical and dental facilities, education services, and certain public and semipublic uses may be developed with the assurance that retail and other heavier commercial uses with incompatible characteristics will not impede or disrupt. Since the buildings for office, office-type and public and semipublic uses are typically much less commercial in appearance, landscaped more fully and architecturally more harmonious with residential structures, this district can serve as a buffer between protected districts and more intense commercial or industrial areas/districts - if designed accordingly. This district, with its offices and other buffer type uses, may also be used along certain thoroughfares where a gradual and reasonable transition from existing residential use should occur."

The Comprehensive Plan recommends suburban neighborhood typology for this site, which does allow for low intense small scale, neighborhood commercial uses that would be limited to lots less than 1.5 acres, with a limited aggregate of 3.5 acres per intersection. Currently, this intersection has over 11.64 acres that are commercially zoned or variances granted for commercial uses. Despite the expansion of commercial uses at this intersection, staff believes this request would serve as a buffer from the more intense commercial uses surrounding this intersection of Arlington Avenue and Southeastern Avenue.



## Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5-foot half right-of-way along South Arlington Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

## Floodway Fringe

This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.

The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (C-3 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

Henninger Ditch, including a 500-year unregulated flood plain is located within the northeast portion of the site.

## Tree Preservation / Heritage Tree Conservation

The entire site is covered with natural vegetation and trees. 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 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 kentukea*), 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.

### **Environmental Public Nuisances**

The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-A (FF)	
<b>Existing Land Use</b>	Single-family dwelling	
<b>Comprehensive Plan</b>	Suburban Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
	North:	D-A (FF) Single-family dwelling
	South:	C-3 / C-S Commercial uses
	East:	D-A Single-family dwelling / undeveloped land
	West:	C-3 / D-2 Vacant land / Single-family dwelling
<b>Thoroughfare Plan</b>		
South Arlington Avenue	Primary arterial	Existing 45-foot right-of-way and proposed 119-foot right-of-way.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	Yes – unregulated 500-year floodplain	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	N/A	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	N/A	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

## Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include the Pattern Book and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

- *Conditions for All Land Use Types – Suburban Neighborhood Typology*
  - 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
  - Hydrological patterns should be preserved wherever possible
  - Curvilinear streets should be used with discretion and should maintain the same general direction.
  - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- *Small-Scale Offices, Retailing, and Personal or Professional Services (defined as commercial uses with minimal outdoor operations, storage, or display on lots of less than 1.5 acres and a height of less than 35 feet.)*
  - If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
  - Should be located at the intersections of arterial streets and should be no closer than one mile to another commercial node with one acre or more of commercial uses except as reuse of a historic building.
  - Should be limited to an aggregate of 3.5 acres per intersection, with no one corner having more than 1.5 acres.
  - Should be limited to areas and parcels with adequate space for required screening and buffering.
  - Automotive uses (such as gas stations and auto repair) and uses requiring a distance of separation of greater than 20 feet under the zoning ordinance (such as liquor stores, adult uses, and drive-through lanes) are excluded.
  - Should not include outdoor display of merchandise.

## Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

### 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)

- The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”
- The following listed items describes the purpose, policies and tools:
  - Classify roadways based on their location, purpose in the overall network and what land use they serve.
  - Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
  - Set requirements for preserving the right-of-way (ROW)
  - Identify roadways for planned expansions or new terrain roadways
  - Coordinate modal plans into a single linear network through its GIS database
- A bike lane along South Arlington Avenue is proposed from Raymond Street to Southeastern Avenue.

## ZONING HISTORY

**2022-ZON-025; 2345 South Arlington Avenue**, requested rezoning of five acres from the D-A district to the C-7 district to provide for a commercial contracting business, **withdrawn**.

### VICINITY

**2023-ZON-001; 5960 Southeastern Avenue (west of site)**, requested rezoning of 0.93 acres from the C-3 district to the C-4 district to provide for a gas station/convenience store, **denied**.

**2020-ZON-071; 6002 Southeastern Avenue (south of site)**, requested rezoning of 0.70 acre from the C-3 district to the C-4 district, **withdrawn**.

**2016-ZON-052; 6011 Southeastern Ave (south of site)**, requested rezoning of two acres from the C-3 district to the C-4 district, **denied**.

**2007-ZON-082; 6011 Southeastern Avenue (south of site)**, requested rezoning of 0.5 acre from the D-A district to the C-3 district, **approved**.

**2004-ZON-048; 6010 and 6020 (east of site)**, requested the rezoning of three acres from the D-A and C-3 districts to the C-3 district, **approved**.

**95-UV1-81; 6020 Southeastern Avenue (east of site)**, requested a variance of use to provide for an office in a dwelling district, **approved**.

**91-UV3-103; 5990 Southeastern Avenue (west of site)**, requested a variance of use to provide for outdoor automobile sales and variances of development standards for deficient landscaping and deficient transitional yards, **approved**.

**85-Z-145; 6011 Southeastern Avenue (south of site)**, requested a rezoning of one acre from the A-2 district to the C-7 classification, **withdrawn**.

**85-UV2-78; 6030 Southeastern Avenue (south of site)**, requested a variance of use to provide for the display and sales of automobiles in a dwelling district, **withdrawn**.



**MEMORANDUM OF EXAMINER'S DECISION**

**2024-ZON-059 (amended)**

**2345 S. Arlington Avenue**

The petition requests the rezoning of 5 acres from the D-A (FF) district to the C-1 (FF) district to provide for office-buffer commercial uses.

Your Hearing Examiner visited the site prior to the hearing and noted the heavy commercial uses at the intersection of Arlington and Southeastern Avenues, said intersection being just south of this site. Several residences remain in the area on larger lots.

The petitioner's representative shared that the original request for C-3 was amended to C-1. Although there is not currently a buyer, the petitioner is willing to agree to commitments requested by staff, including the preparation of a tree inventory, tree assessment and preservation plan prepared by a certified arborist. Petitioner also agreed to submit a site plan for Administrator's approval prior to applying for permits, and to share this plan with neighbors.

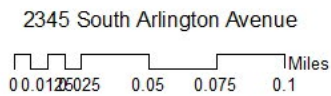
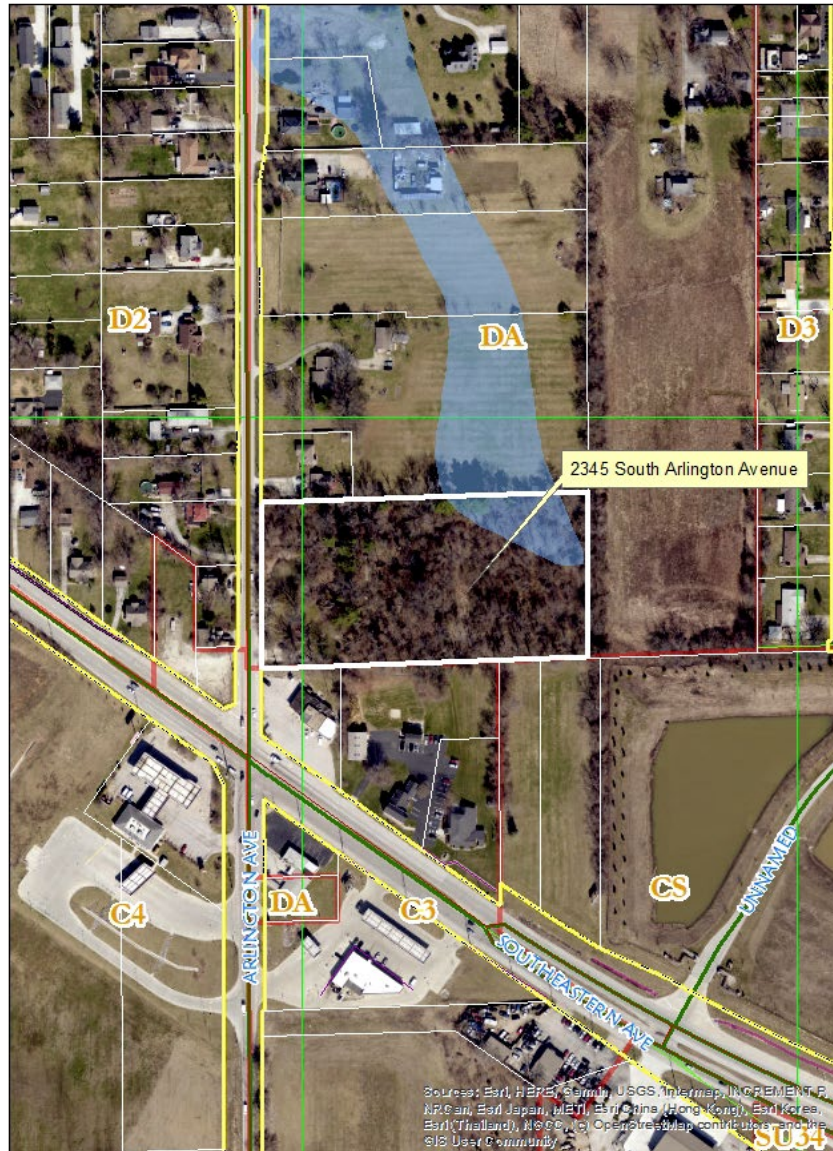
Three remonstrators spoke at the hearing, and there were several letters and a petition of opposition. Concerns stated included commercial encroachment, lack of development plan, removal of trees, heavy traffic, and the abundance of development in Warren Township. A letter also cited the recent adoption of an ordinance by the City-County Council to support the allocation of funds in the 2025 budget for the preservation of urban forests.

Staff commented that amending the petition from C-3 to C-1 was appropriate, and that C-1 would establish a buffer between the heavy commercial uses at the intersection and the residences north of this site. Staff also reiterated that the request conformed with the Comp Plan recommendation.

In your Hearing Examiner's opinion, the requested C-1 district is an appropriate buffer, and the proposed commitments provide protection of the environmental assets on the site. Approval of this petition was recommended.

For Metropolitan Development Commission Hearing on August 21, 2024

EXHIBITS



**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.

<b>Size of tree removed or dead (inches)</b>	<b>Number of Trees to be planted to replace a Heritage Tree</b>	<b>Number of Trees to be planted to replace an existing tree</b>
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



View looking south along South Arlington Avenue



View looking north along South Arlington Avenue



View of site looking northeast across South Arlington Avenue



View from site looking northwest across South Arlington Avenue



View from site looking west across South Arlington Avenue



View from site looking south at adjacent property



View looking east at intersection of South Arlington Avenue and Southeastern Avenue