

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-838 / 2023-CVR-838A / 2023-CVR-838B
Address: 5437 Greenfield Avenue (approximate address)
Location: Warren Township, Council District #12
Petitioner: Glenroy Construction Co. Inc, by Brian J. Tuohy
Request: Rezoning of 0.73 acre from the D-5 District to the I-2 District.

Special Exception to legally establish heavy outdoor storage associated with a commercial contractor in an I-2 Classification.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish heavy outdoor storage associated with a commercial contractor within the north transitional yard and the side and rear yard setbacks (30-foot transitional yard required, 10-foot side and rear setbacks required) and an existing perimeter fence topped with barbed wire (barbed wire fencing prohibited).

RECOMMENDATIONS

Staff **recommends approval** of the rezoning.

Staff **recommends approval** of the special exception.

Staff **recommends approval** of the variance of development standards to legally establish heavy outdoor storage associated with a commercial contractor within the side and rear yard setbacks.

Staff **recommends denial** of the variance for heavy outdoor storage associated with a commercial contractor within the north transitional yard and the existing perimeter fence topped with barbed wire.

SUMMARY OF ISSUES

LAND USE

- ◇ The subject site is zoned D-5 and consists of a heavy outdoor storage operation associated with a commercial contractor and is fenced in with a barbed wire fence.
- ◇ The property is surrounded by undeveloped land west, zoned C-3, undeveloped land north, zoned D-5, a commercial contractor's business east, zoned C-5, and a car dealership south, zoned C-7.

REZONING AND SPECIAL EXCEPTION

- ◇ The petition would rezone the site from the D-5 district to the I-2 district to allow for the industrial use of the site for heavy outdoor storage associated with a commercial contractor. The site has historically been used for as outdoor storage for an approximate 50 years.

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- ◇ The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The I-2 district is for those industries that present minimal risk and typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, etc.) that extend beyond the lot lines. Outdoor operations and storage are completely screened if adjacent to protected districts and are limited throughout the district to a percentage of the total operation. Whenever possible, this district is located between a protected district and a heavier industrial area to serve as a buffer.
- ◇ Heavy Outdoor Storage is permitted in the I-2 by special exception. Because the use and proposed I-2 district would align with the Comprehensive Plan recommendation of light industrial and would buffer the C-7 district south from the D-5 district to the north, staff is recommending approval of the request.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Rezoning the site from D-5 to I-2 triggers transitional yard and setback requirements that were not previously required with the D-5 district.
- ◇ Table 744-201-6 notes that the I-2 district in the Compact Context area requires a 30-foot front transitional yard and 10-foot side and rear yard setbacks.
- ◇ Considering that there are commercial districts west, east, and south, Staff is not concerned with the outdoor storage being within the side and rear setbacks. However, staff does have concern with the front transitional yard not being proposed on site. It is understood at the fence is already in place, but staff was comfortable with requesting a minimal six-foot front transitional yard within the fence because any proposed landscaping would provide the necessary buffer from any future residential development north of the site.
- ◇ The petitioner did not agree with the installation of any landscaping along the northern property boundary and suggested that the existing landscaping was sufficient. Staff would argue that the existing vegetation is not enough to screen the property as shown in the site photos of the staff report.
- ◇ Staff also notified the applicant that the barbed wire on the fence would not be supportable since it is prohibited except for when used to enclose livestock or when used for public safety or security purposes for a public facility or correctional or penal institution.
- ◇ With the properties north of the subject site falling within the protected D-5 district and pending a zoning petition to allow for multi-family developments, staff finds that the least that could be done to ensure public safety and an enhances quality of life would be to remove the barbed wire and provide a minimal six-foot wide transitional yard per the landscape standards of the Ordinance.

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GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-5	Compact	Industrial
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SURROUNDING ZONING AND LAND USE

North	D-5	Undeveloped lots
South	C-7	Auto Sales
East	C-5	Construction Contractor
West	C-3	Undeveloped lot

COMPREHENSIVE PLAN

The Comprehensive Plan recommends light industrial development.

THOROUGHFARE PLAN

Greenfield Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 52-foot existing right-of-way and a 48-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

SITE PLAN

File-dated July 6, 2023.

PLAN OF OPERATION

File-dated July 5, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO23-000534; 5437 Greenfield Avenue (subject site),
 - a. The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use; (Construction materials, wood pallets, and other miscellaneous items throughout the property),
 - b. 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).
 - c. The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Vehicle storage is not a permitted primary use in a D-5 zoning district).
 - d. Failure to comply with use-specific standards and zoning district development standards for the D-5 district; (743-306.Y.1- The storage of portable storage units is limited to 30 days....roll-off dumpster).
 - e. Failure to comply with use-specific standards and zoning district development standards for the D-5 district; (743-306.Y.1- The storage of portable storage units is limited to 30 days....shipping container).
 - f. Failure to comply with use-specific standards and zoning district development standards for the D-5 district; (744-510.A.1. - Barbed/razor wire fences are prohibited).

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PREVIOUS CASES

2023-UV3-013; 5437 Greenfield Avenue (subject site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the outdoor storage of materials, equipment and vehicles associated with a commercial contractor (not permitted) and an existing perimeter fence topped with barbed wire (barbed wire fencing prohibited), **withdrawn**.

ZONING HISTORY – VICINITY

2022-CZN-867; 5400 and 5430 Greenfield Avenue and 400 Burgess Avenue (north of site), Rezoning of 2.71 acres from the D-5 district to the D-7 district to provide for multi-family development, **pending**.

2022-CZN-840 / 2022-CVR-840; 5436 Brookville Road (southwest and west of site), Rezoning of 1.60 acres from the C-3 district to the C-S district to provide for a truck retail and repair facility with related parking and limited C-4 uses and Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for loading bays in the front yard (not permitted), **withdrawn**.

2008-UV2-017; 441 South Ritter Avenue (northeast of site), Variance of Use and Development Standards of the Industrial Zoning Ordinance to provide for a counseling center/meeting place (not permitted) for Alcoholics Anonymous in an existing 8,520-square foot building, legally establish the 8,520-square foot building with an eight-foot front setback (minimum twenty-foot front setback required), without landscaping in the required front yard along Ritter Avenue (landscaping required), and to legally establish a 1,392-square foot storage building with a zero-foot west side setback (minimum ten-foot west side yard required), Variance of Use of the Dwelling Districts Zoning Ordinance to provide for a paved, commercial drive aisle and a portion of a storage building (not permitted), **granted**.

2006-UV1-025; 441 South Ritter Avenue (east of site), Variance of Use of the Commercial Zoning Ordinance and the Dwelling Districts Zoning Ordinance to provide for the expansion of an existing roofing contractor's business permitted by variance petition 91-UV1-55, with the construction of a 2,150-square foot building for use as a metal fabrication shop (not permitted) and a Variance of Development Standards of the Commercial Zoning Ordinance to provide for a three-foot landscape strip along South Ritter Avenue (minimum ten-foot landscape strip required), **granted**.

2006-ZON-022; 471 South Ritter Avenue (east of site), Rezoning of 0.5 acre, from the C-5 District, to the C-S classification to provide for all C-4 uses, roofing contracting, catering, auto restoration, and sheet metal fabrication uses, **withdrawn**.

2002-ZON-139; 5424 Brookville Road (southwest of site), Rezoning from the D-5 district to the C-5 classification, **denied**.

2002-ZON-134; 5536 Brookville Road (southeast of site), Rezone 0.78 acres, being in the C-1, C-5 and D-5 Districts, to C-5 classification to provide for a truck repair facility and storage, **approved**.

2000-ZON-043; 5402 Brookville Road (west of site), Rezoning from the D-5 district to the SU-1 classification, **approved**.

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91-UV1-55; 471 South Ritter Avenue (east of site), Variance of use and development standards of the Commercial and Dwelling District Zoning Ordinance to permit the construction of a 60 x 32 storage building to store materials for an existing contractors' business with a side yard setback of two feet (four feet required) and an aggregate side yard setback of four feet (10 feet required), **granted**.

89-HOV-103; 5346 Brookville Road (southwest of site), Variance to provide for a pricing sign on the canopy within the required 70-foot setback from the street centerline in the C-3 district, **granted**.

88-UV1-79; 450 South Ritter Road (east of site), Variance to provide for an office expansion for a construction contractor in the C-5 district, **granted**.

87-V1-29; 5436 Brookville Road (southwest of site), Variance to provide for a gas station canopy with a 1.5-foot setback in the C-3 district, **granted**.

86-UV3-35; 5478 Brookville Road (southeast of site), Variance to permit an adult cabaret limited to live entertainment within 500 feet of a residential district, **denied**.

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2023-CZN-838 / 2023-CVR-838A / 2023-CVR-838B; Site Plan

Proposal Description/ Plan of Operation

5437 Greenfield Avenue (“Site”)

Petitioner, Glenroy Construction Co., Inc. (“Petitioner”) operates a construction business (the “Construction Company”) located at 450 S. Ritter Avenue, which is adjacent to and east of the Site. The Construction Company has been in its current location since 1945. From approximately the 1950's on, the Construction Company has utilized the Site for outdoor storage relating to its Construction Company. Such outdoor storage includes construction materials, wood pallets, vehicles, trailers, roll-off dumpsters, shipping containers and/or other miscellaneous items. Petitioner respectfully requests a variance of use of the D-5 District to legally establish the decades-long use of the Site for outdoor storage of items relating to the Construction Company’s operations.

Additionally, a chain link fence with barbed wire (the “Existing Fence”) encloses the outdoor storage on the Site, which has existed on the Site for approximately 50+ years. Petitioner requests a variance of development standards of Chapter 744, Article V, Section 10.A.1 to allow for continued use of the Existing Fence, including the barbed wire.

2023-CZN-838 / 2023-CVR-838A / 2023-CVR-838B; Photographs



Photo of the existing fence along the front northeastern portion of the site



Photo of the existing fence along the front northwestern portion of the site



Photo of a vacated alley east of the site.



Photo of the contractor's business east of the site associated to the subject site.

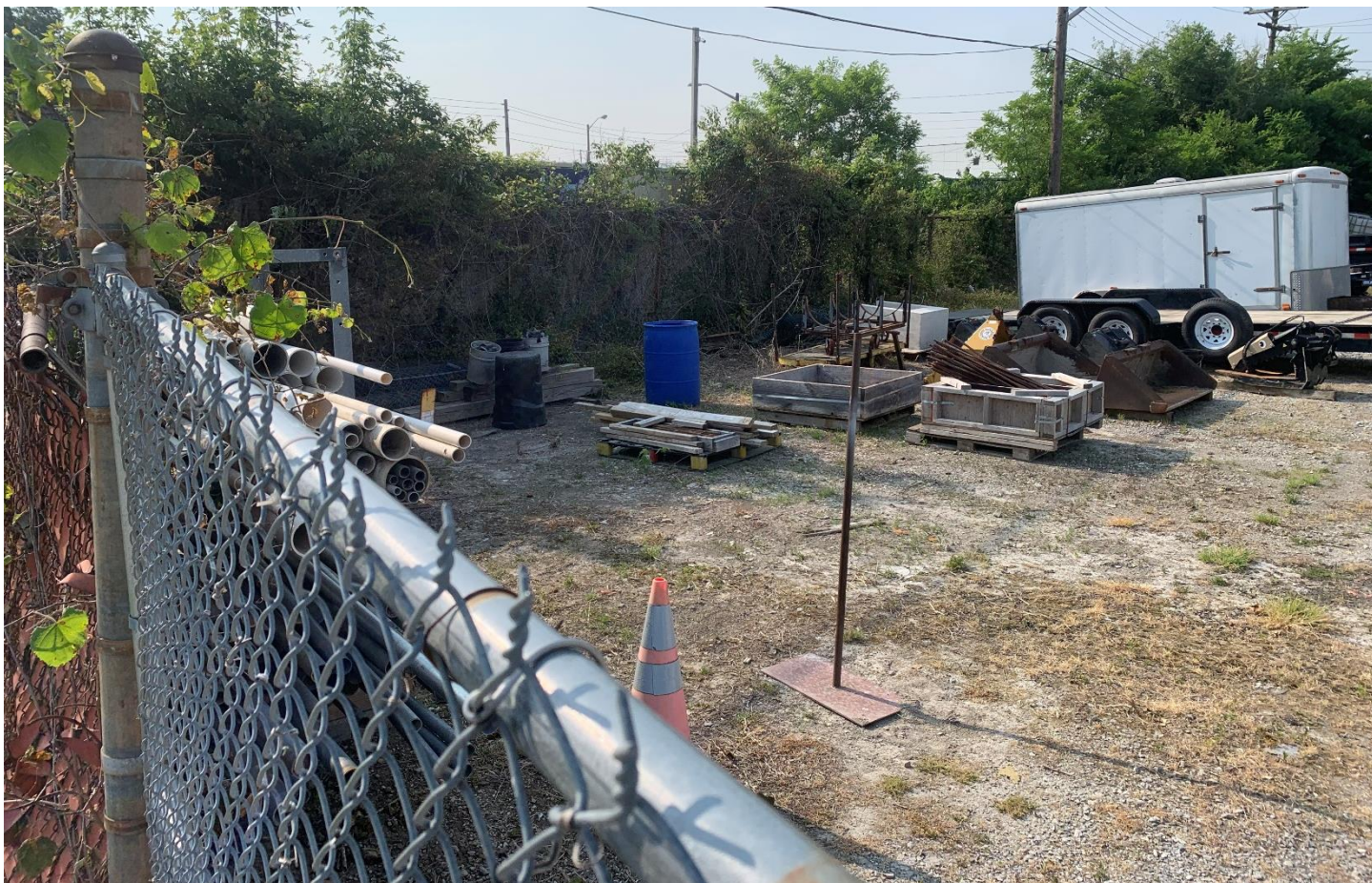


Photo of the eastern property boundary.



Photo of the enclosed outdoor storage area looking southwest.



Photo of the enclosed outdoor storage area looing northeast.



Photo taken in 2022 of the undeveloped D-5 zoned properties north of the site.