



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

September 26, 2024

Case Number: 2024-MOD-009
Property Address: 7710 Johnson Road (Approximate Address)
Location: Lawrence Township, Council District #3
Petitioner: 7710 Johnson, LLC, by Joseph D. Calderon
Current Zoning: C-S
Request: Modification of the Commitments, Development Statement and Site Plan related to petitions 99-Z-195, and, as amended with 2006-ZON-810, to provide for display of dumpsters for rent to consumers for home improvement projects.
Current Land Use: Commercial
Staff Recommendations: Denial
Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

ADDENDUM FOR SEPTEMBER 26, 2024 HEARING EXAMINER

This petition was continued from the August 15, 2024 hearing to the September 26, 2024 hearing at the request of the petitioner.

August 15, 2024

This petition was continued for cause from the July 11, 2024 hearing to the August 15, 2024 hearing at the request of staff.

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

PETITION OVERVIEW

LAND USE

The subject site is developed with a commercial building, associated parking lot and a billboard on site.

It is bordered to the west and south by I-465, to the north by a landscape contractor business, zoned C-S, and to the east with commercial offices and industrial uses, zoned C-S, as well as an apartment complex, zoned D-6II.



MODIFICATON

The request would modify the site plan and development statement to provide for display of dumpsters for rent to consumers for home improvement projects.

The current C-S district only allows for outdoor display of lawn and garden equipment, per 2006-ZON-810 and 2006-VAR-810, in addition to motorcycles, per 99-Z-196.

The primary objective of this district is to encourage development which achieves a high degree of excellence in planning, design or function, and can be intermixed, grouped or otherwise uniquely located with maximum cohesiveness and compatibility. The district provides flexibility and procedural economy by permitting the broadest range of land use choices within a single district, while maintaining adequate land use controls. The C-S District can include high-rise or low-rise developments, can be applied to large or small land areas appropriately located throughout the metropolitan area, and can be useful in areas of urban renewal or redevelopment.

STAFF ANALYSIS

Staff is recommending denial of the request primarily due to the location of the apartment complex immediately east of the site. It is understood that outdoor storage currently permitted on site is smaller in size and more aesthetically pleasing than the display of large dumpsters on site.

The proposed use would be categorized under the Heavy Equipment Sales, Service and Repair definition which calls for the sales, service, leasing and repair of heavy equipment including, but not limited to, tire recapping, crane repair, construction equipment repair, and other large equipment repairs. For purposes of this definition, equipment does not include self-propelled vehicles. This definition does not include any facility meeting the definition of a Truck or heavy vehicle sales rental and repair use. An inherent characteristic of this use is the outside display of vehicles offered for sale which is considered a primary facet of the use; as a primary use, this display must meet the development standards as a primary use and not the standards associated with an accessory use.

This use is only permitted by right in the C-7 and all industrial districts. Allowing this use in such close proximity to residential dwellings would be wholly inappropriate. Furthermore, the districts where the use would be permitted require a substantial transitional yard that is not currently present and would not be provided at this location.

In normal circumstances, the proposed use would not be as close to a protected district as would be proposed with this request.

Currently there is an eight-foot-tall privacy fence east of the subject site that provides some screening to the apartment complex. However, the location of dumpsters immediately next to the fence as well as limited landscaping between the two opposing uses is concerning to staff.

The apartment buildings are three-stories in height and would have visibility of the dumpster display area even with the dumpsters measuring seven feet in height.



The site is developed with a commercial building, would continue to not be consistent with the suburban neighborhood recommendation of the Comprehensive Plan, and it would be very unlikely that residential development would be proposed in the future. However, the use of the site can still be dictated based on the user and type of operation to provide some protection for the protected district.

The petitioner’s representative mentioned a potential installation of a sound barrier wall along the eastern property boundary of the site, but without knowing when and if it would be installed staff cannot recommend approval for the outdoor display of dumpsters.

GENERAL INFORMATION

Existing Zoning	C-S	
Existing Land Use	Commercial	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	C-S	Landscape Contractor
South:	MU-1	I-465
East:	C-S / D-6II	Commercial and Industrial / Multifamily dwellings
West:	C-S	I-465
Thoroughfare Plan		
Johnson Road	Private Street	N/A
77 th Street	Local Street	50-foot proposed right-of-way and 61-foot exiting right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	May 10, 2024	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	N/A	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)

Pattern Book / Land Use Plan

- The Comprehensive Plan recommends suburban neighborhood development for the site.
- 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.
- **Small-Scale Offices, Retailing, and Personal or Professional Services**
 - 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 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.
- The suburban neighborhood recommendation contemplates some small-scale offices, retailing, or professional services, but they should be neighborhood serving business which this business would not be since they would serve a more regional area due to the nature of their rental business. Additionally, the Comprehensive Plan would not recommend outdoor display of merchandise in this typology.

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)

- Not Applicable to the Site.

ZONING HISTORY

Zoning History – Site

2006-ZON-810 / 2006-VAR-810; 7710 Johnson Road (subject site), Rezoning of 1.5 acres, from the C-S and D-6II Districts, to the C-S classification to provide for all uses permitted in the I-2-S zoning district, sale of BMW motorcycles and retail sales, services and outdoor display related to home improvements and lawncare and Variance of development standards of the Commercial Zoning Ordinance to provide for outdoor display of fencing within the east side transitional yard (not permitted), and to provide for outdoor display of law and garden equipment items with a ten-foot west front setback from an expressway (minimum twenty-foot front setback required), **approved**.

99-Z-195; 7710 Johnson Road (subject site), Rezone 1.005 acres from C-S to C-S, to provide for a motorcycle sales facility, **approved**.

99-V3-95; 7710 Johnson Road (subject site), Variance of development standards of the Sign Regulations to provide for the placement of an outdoor advertising sign, being 14 by 48 feet (maximum 12 by 25 feet permitted), the seventh advertising sign within a one-mile portion of I-465 and I-69 (maximum two signs per mile permitted), **granted**.

92-VAC-45; 7700 Johnson Road (subject site), Vacation of a portion of Johnson Road, being 15 feet at its northern terminus and 30 feet at its southern terminus from the north right-of-way of East 77th Street to the northeast right-of-way of I-465, **approved**.

89-CV-40; 7710 Johnson Road (includes subject site), Variance of development standards of the Commercial Zoning Ordinance to permit a parking lot four feet from the right-of-way line of a Federal Interstate Highway route (10 feet required) and with less than 25 feet of frontage on a public street, **granted**.

89-Z-243 / 89-CV-36; 7710 Johnson Road (includes subject site), Rezoning of 5.890 acres, from A-2 to C-S, to provide for the development of two industrial buildings for uses permitted in an I-2-S district and Variance of development standards of the Commercial Zoning Ordinance to permit a parking lot four feet from the right-of-way line of a Federal Interstate Highway route (10 feet required), **approved and granted**.

88-Z-222; 7702 North Shadeland Avenue (subject site), Rezoning of 5.890 acres, being in the A-2 district, to the C-S classification to provide for retail sales and service uses and office/warehouse uses, **denied**.

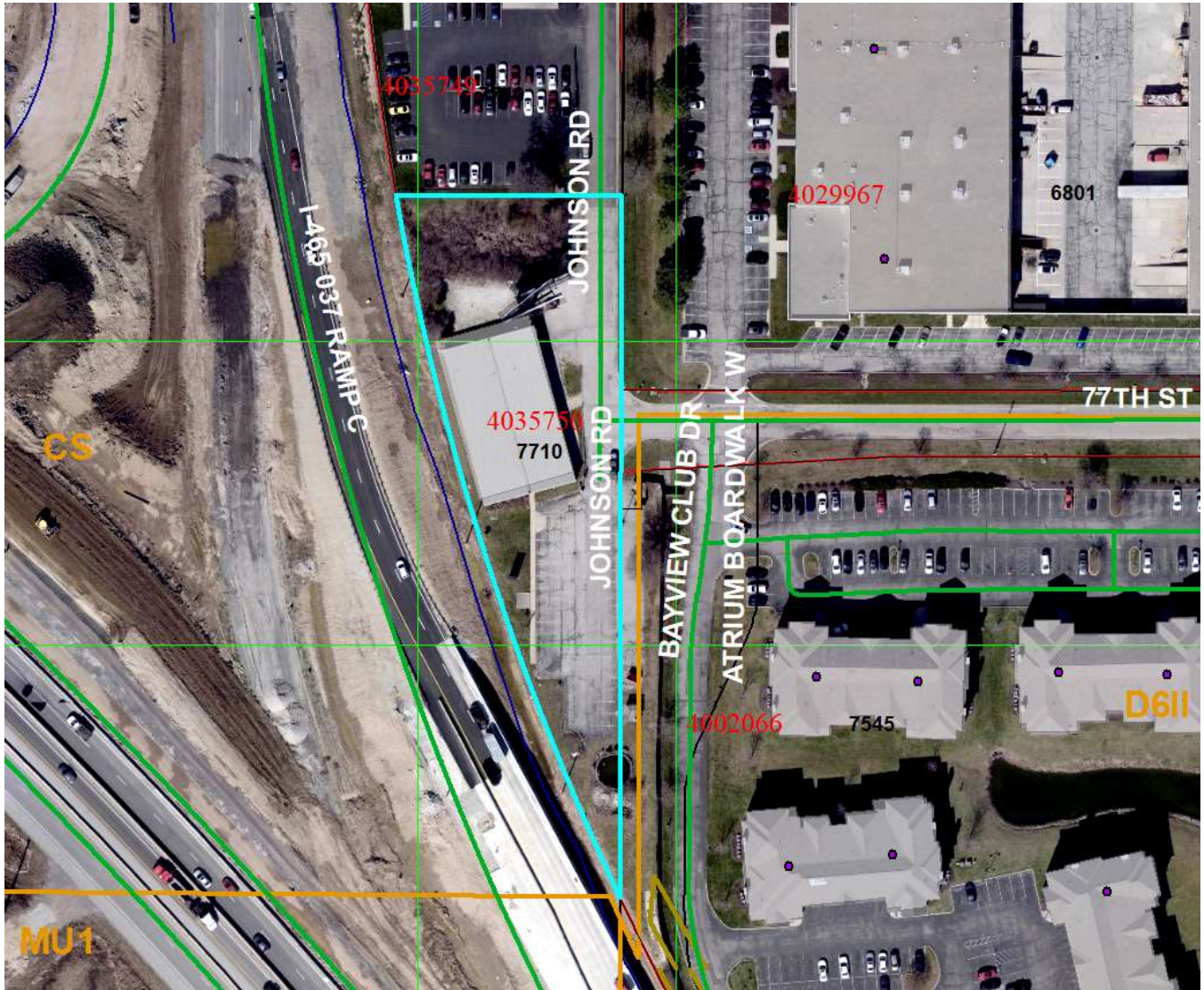


Zoning History – Vicinity

87-VAC-50; 7702 North Shadeland Avenue (north of site), Vacation of a part of Johnson Road from the north right of way of 77th Street to the east right-of-way of I-465, **approved.**

84-Z-133; 7602 Shadeland Avenue (east of site), Rezoning of 28.89 acres, being in the D6-II district, to the C-S classification to provide for the development of a residential and commercial community, **withdrawn.**

EXHIBITS

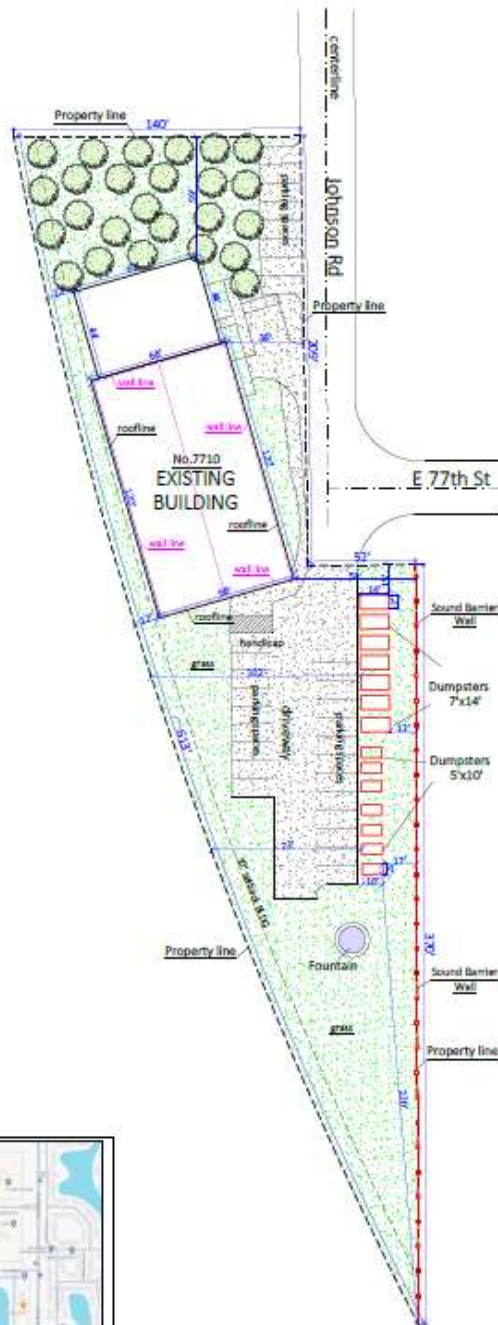
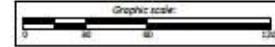


SITE PLAN

7710 Johnson Road
 Indianapolis, IN 46250
 Parcel ID: 49-02-27-120-002.000-400
 Lot area: 1.19 Acres
 Paper Size: 11"x17"



scale 1"=50'



VICINITY MAP



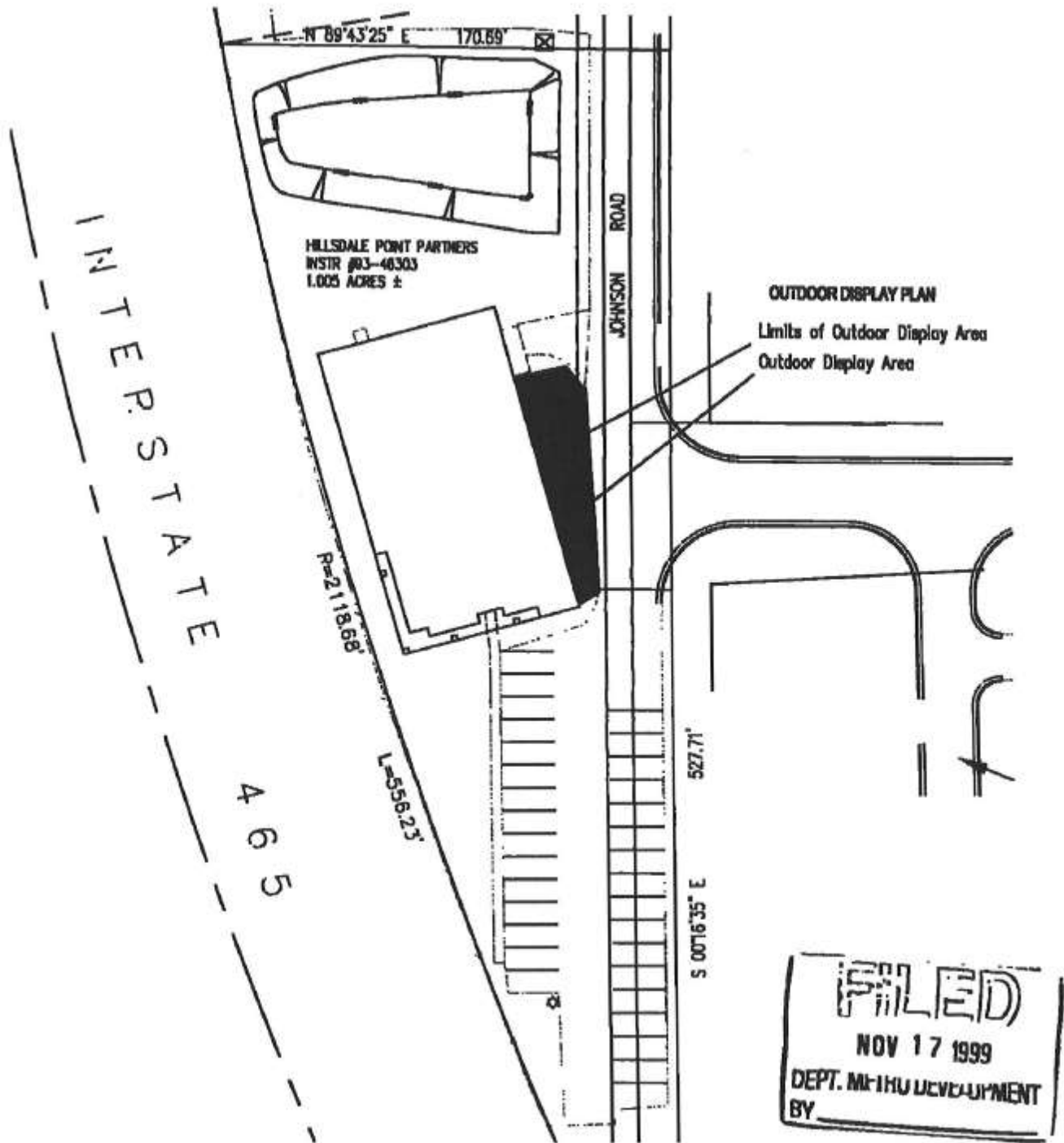
Amended Detailed Description of Request

7710 Johnson, LLC d/b/a Funky Junk Dumpsters

Plan of Operation

Petitioner, 7710 Johnson, LLC d/b/a Funky Junk Dumpsters is a contractor specializing in the rental of dumpsters to consumers who need a temporary dumpster while undergoing residential improvement projects. The existing C-S zoning allows I-2 uses, which include contractors; however, the C-S development statement was specific regarding the outdoor display of motorcycles (99-Z-195) and lawn and garden equipment items (2006-ZON-810).

The Petitioner's request, therefore, is to allow for the display of dumpsters available to rent in the areas show on the site plan submitted with this Petition.

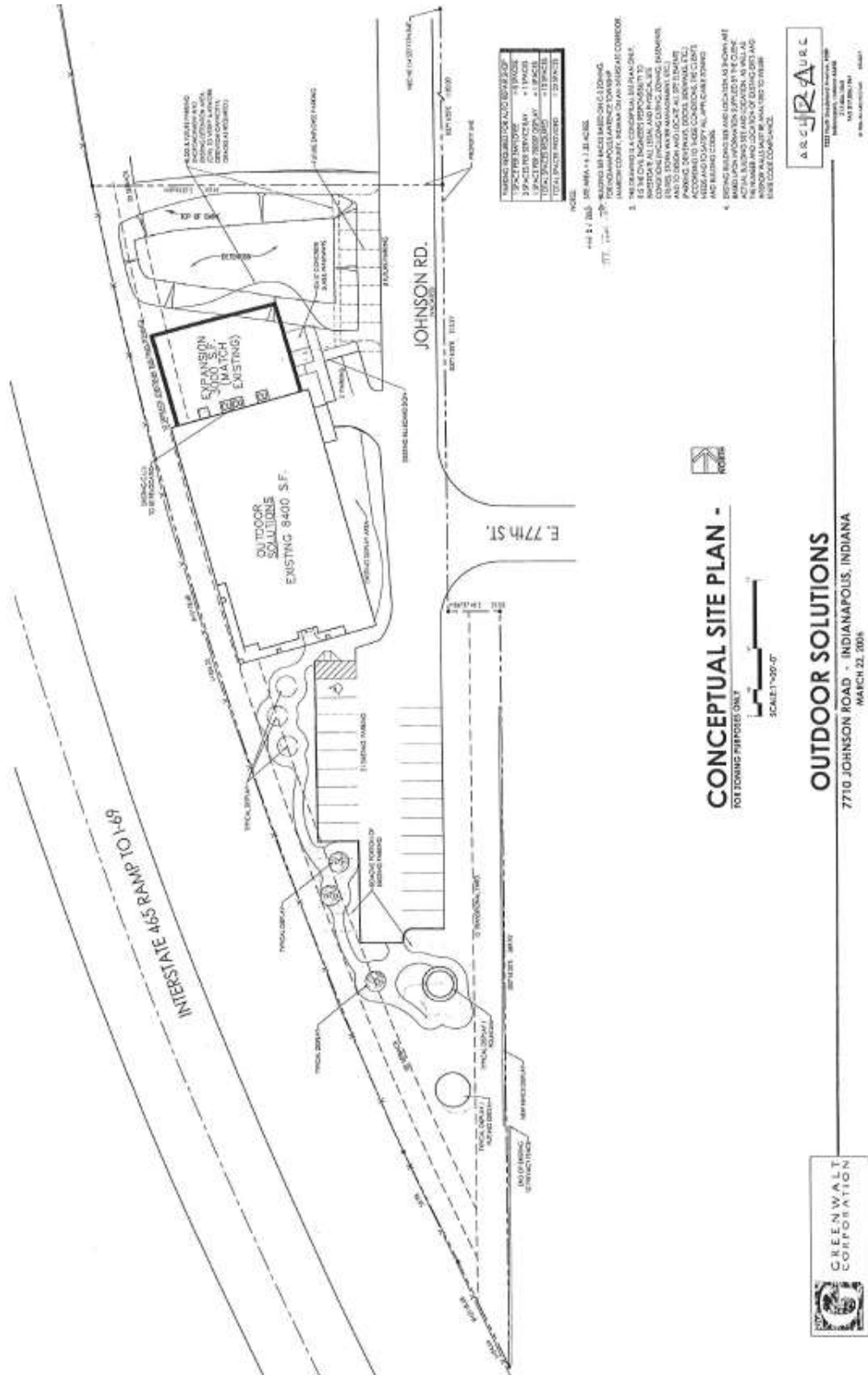


1999 Site Plan

Exhibit "B"

1. Any use permitted in the C-1 zoning District, Section 2.01(A) of the Commercial Zoning District 29-20-1, as amended.
2. Any use permitted in the I-2-S Light Industrial Suburban District, Section 2.03(A) of the Industrial Zoning Ordinance 63-20-4, as amended.
3. Commercial or Industrial uses supply; carpet and upholstery cleaning; advertising agencies; outdoor advertising services; computer and data processing services; equipment rental and leasing services; blueprinting and photocopying services; commercial research and development laboratories; commercial printing laboratories; sign manufacturing, sales and service; reupholstery and furniture repair; motion picture or video production studios; distribution and related services; instructional schools; dental laboratories; engineering, architectural and surveying equipment sales and services; cellular phone sales, installation and service.
4. The following enumerated uses, but only to the extent engaged primarily in selling on a wholesale or contract basis, with retail consumer sales constituting only a secondary or incidental part of the business:

building and construction materials and supply stores; radio, television and related audio-visual services and parts; camera and photographic supply stores; mail-order houses; automatic merchandising machine operations; spa and pool sales (indoor, dipper only) and service; piano sales and service; interior painting and construction; interior decorating; interior painting companies; painting and wallpaper covering contractors with sales and service; interior plant sales and leasing companies; food preparation and distribution; sporting and recreational goods and supplies; photographic equipment and supplies; electrical goods, hardware, pharmaceutical sales and services; washing and heating equipment supplies and service; commercial machines and equipment; office furniture; industrial supplies; paper and paper products; travel and brokers; chemical products; business services and computer sales and services; office supply stores; printing services and supplies.



2006 Site Plan

7710 Johnson Rd
2006-20N-810

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STATEMENT OF COMMITMENTS

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL

In accordance with I.C. 36-7-4-613 or I.C. 36-7-4-614, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description: See Legal Description attached as Exhibit A.

Statement of COMMITMENTS:

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. All development shall be in substantial compliance with the site plan and elevations file-dated March 27, 2006.



Photo of the subject site looking west from 77th Street.



Photo of the street frontage.



View of the proposed location of the outdoor display area.



Photo of the remainder of the parking lot looking south.



Photo of the remainder of the parking lot looking west.



Photo of the existing fence between the subject site and apartments to the east.



Photo of the apartment complex east of the site.



Photo of the entrances to the apartments and the subject site parking lot.



Photo of the landscape contractor business to the north.