



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

December 19, 2024

Case Number: 2024-MOD-016
Property Address: 3401 East New York Street (Approximate Address)
Location: Center Township, Council District #18
Petitioner: One Way Auto Parts by Joseph D. Calderon
Current Zoning: C-S (TOD)
Request: Modification of the development statement for 91-Z-64 to provide to modify Commitment # 2 to increase the number of vehicles stored on site at any one time (Current maximum number of vehicles is 54).
Current Land Use: Auto Parts Reclamation, Auto Parts Sales, Auto Storage
Staff Recommendations: Denial
Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

This petition was automatically continued from the November 21, 2024 hearing to the December 19, 2024 hearing at the request of a registered neighborhood organization.

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

PETITION OVERVIEW

LAND USE

The 3.16-acre subject site is developed with two commercial buildings and an outdoor storage area at the rear of the site.

It is bordered to the north by a single-family dwelling, zoned D-8, and a towing business, zoned I-4. To the east it is bordered by a railroad and industrial use further east, zoned I-4. To the west the site is bordered by single-family dwellings, zoned I-4, undeveloped residential land, zoned D-5, and a self-storage facility, zoned C-S. Lastly, an electrical contractor business is bordered to the south, zoned C-S.

The site was issued a zoning violation, VIO24-002594, for the following:

1. 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: - A salvage yard/junk yard is not a permitted use in a C-S zoning district...One Way Auto Parts Inc.).
2. Failure to comply with use-specific standards and zoning district development standards for the C-S district; (744-404.D.7.a. - The parking spaces lack 4 inch durable painted lines, curbs or signage), (744-404.A.6.e – Parking lots used for access or maneuverability shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris), (Table 744-402-1: - Failure to provide the required off-street parking spaces for other vehicle-related operations - used parts reclamation center... 5 off-street parking spaces are required), and (Table 744-402-2: - Failure to provide the required ADA parking...1 handicap parking space is required).
3. The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (Failure to comply with petition #91-Z-64; specifically, maximum number of vehicles stored on the site at any one time shall be 54; and landscaping shall be installed & maintained along New York St).
4. 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: - A salvage yard/junk yard is not a permitted use in a C-S zoning district...One Way Auto Parts Inc.).
5. Failure to comply with use-specific standards and zoning district development standards for the C-S district; (744-404.D.7.a. - The parking spaces lack 4 inch durable painted lines, curbs or signage), (744-404.A.6.e – Parking lots used for access or maneuverability shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris), (Table 744-402-1: - Failure to provide the required off-street parking spaces for other vehicle-related operations - used parts reclamation center... 5 off-street parking spaces are required), and (Table 744-402-2: - Failure to provide the required ADA parking...1 handicap parking space is required).
6. The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (Failure to comply with petition #91-Z-64; specifically, maximum number of vehicles stored on the site at any one time shall be 54; and landscaping shall be installed & maintained along New York St).

MODIFICATION

In 1991, the subject site was rezoned to the C-S classification to provide for automobile parts reclamation and sales of the reclaimed parts. There were five commitments that needed to be upheld and one of them is that “vehicle storage shall be kept south of the extended south line of Lot 12. The maximum number of vehicles stored on the site at any one time shall be 54”.

In 1995, a northern portion of the site was rezoned from C-S to C-S to provide for outdoor display and sale of vehicles, associated with an existing automobile parts reclamation and automobile part sales operation. There three commitments that limited vehicle sales and display to the property owner and family at that time, limited the number of vehicles to be displayed for sale at any one time to five vehicles, and prohibited signs advertising vehicle sales on site and on the vehicles except for a side window sticker.



This petition would modify Commitment #2 of the development statement for 91-Z-64 to increase the number of vehicles stored on site at any one time since it is limited to a maximum of 54 vehicles.

STAFF ANALYSIS

Based on the modification request, it would not provide a cap to the number of vehicles to be stored on site, which is very concerning to staff since the number of stored vehicles on site could be increased causing an excessive amount of vehicle storage on site than already exists.

During the site visit, a crusher was found to be on site and is part of the business operation according to the property owner. However, Commitment #1 of 91-Z-64 notes that “vehicles shall not be flattened on site” and Commitment #3 notes that “outdoor activity shall be limited to vehicle storage and the removal of parts”.

The current use of the crusher on site is a violation of the commitment that was not called out in the initial zoning violation. The crusher must be removed from the premises and not used on site to comply with the commitments, or the termination of Commitment #1 and modification of Commitment #3 will be required. The petitioner’s representative was notified that the crusher was not permitted to be used on site, yet staff has not received confirmation regarding how this will be addressed.

Additionally, Commitment #4 that states “landscaping shall be installed and maintained along New York Street, with the landscape plan subject to Administrator’s approval” is currently not being met.

Lastly, the front area fence contains bared and razor wire that is not permitted and would need to be removed.

Staff is recommending denial of the request since the rezoning to the C-S classification to provide for automobile parts reclamation and sales of the reclaimed parts, was granted with the intent of there being a limitation on the number of vehicles to be stored on site. Staff did not find that the number of stored vehicles on site should be increased due to the lack of due diligence by the new property owner.

Approval of the request should not be granted on the basis that the violation already exists and due to the negative impact upon the immediate and adjacent neighborhood.

GENERAL INFORMATION

Existing Zoning	C-S (TOD)	
Existing Land Use	Auto Parts Reclamation, Auto Parts Sales, Auto Storage	
Comprehensive Plan	Heavy Industrial	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	D-8 / I-4	Towing Business
South:	C-S	Electrical Contractor Business
East:	I-4	Railroad / Industrial
West:	I-4 / D-5/ C-S	Residential / Undeveloped / Self-Storage Facility

Thoroughfare Plan		
New York Street	Primary Arterial Street	78-foot proposed right-of-way and 63-foot existing right-of-way.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	September 2, 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	September 5, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Blue Line Transit-Oriented Development Strategic Plan (2018)
- The Near Eastside Quality of Life Plan (2020)

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book (2019) recommends heavy industrial development of the site.
- The Heavy Industrial typology provides for industrial, production, distribution, and repair uses that are intense and may create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Outdoor operations and storage are common. Typical uses include food processing, milling, storage of petroleum products, recycling, welding, and concrete mixing. Industrial or truck traffic should be separated from local/residential traffic.
- **Heavy Industrial Uses**
 - The primary entrance should be served by an arterial street.
 - Industrial truck traffic should not utilize local, residential streets.
 - Streets internal to industrial development must feed onto an arterial street.
 - Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

- **Heavy Commercial Uses**
 - Recommended without additional conditions.
- **Small-Scale Offices, Retailing, and Personal or Professional Services**
 - Should be subordinate to and serving the primary uses of production, warehousing, and offices.
 - Should be adjacent to interstate interchanges if present. If no interchange is present, should be located along arterial streets at the edge of the heavy industrial typology.
 - Should be located and served in such a way that the use will not interfere with industrial traffic or loading.
- **TRANSIT-ORIENTED DEVELOPMENT (TOD)**
 - The Transit-Oriented Development (TOD) overlay is not appropriate in this typology.
- **Heavy Industrial Uses**
 - Found only in the Heavy Industrial District, these industrial uses create emissions of light, odor, noise, or vibrations. All uses requiring an air permit and/or wastewater permit from the Indiana Department of Environmental Management (IDEM) is considered Heavy Industrial, but not all Heavy Industrial uses necessary require an IDEM permit.
- Heavy Industrial uses are removed as a recommended land use when adjacent to a living typology, which is the case to the northwest and west of the site which are recommended for traditional neighborhood development.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site falls within the Blue Line Transit-Oriented Development Strategic Plan (2018).
- The property falls within ¼ mile of the closest transit station at Lasalle street & Washington Street, which is classified as a community center typology that calls for a dense mixed-use neighborhood center, minimum of 2 stories at core, no front or side setbacks at core, zero to 10-foot front setbacks and zero to 10-foot side setbacks at the periphery, with multi-family housing with a minimum of 3 units and structured parking at the core and attractive surface parking at the periphery.

Neighborhood / Area Specific Plan

- The subject site falls within The Near Eastside Quality of Life Plan (2020).

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- An on-street bike lane was recently reconstructed along New York Street to a protected on-street bike lane with planted concrete medians.



ZONING HISTORY

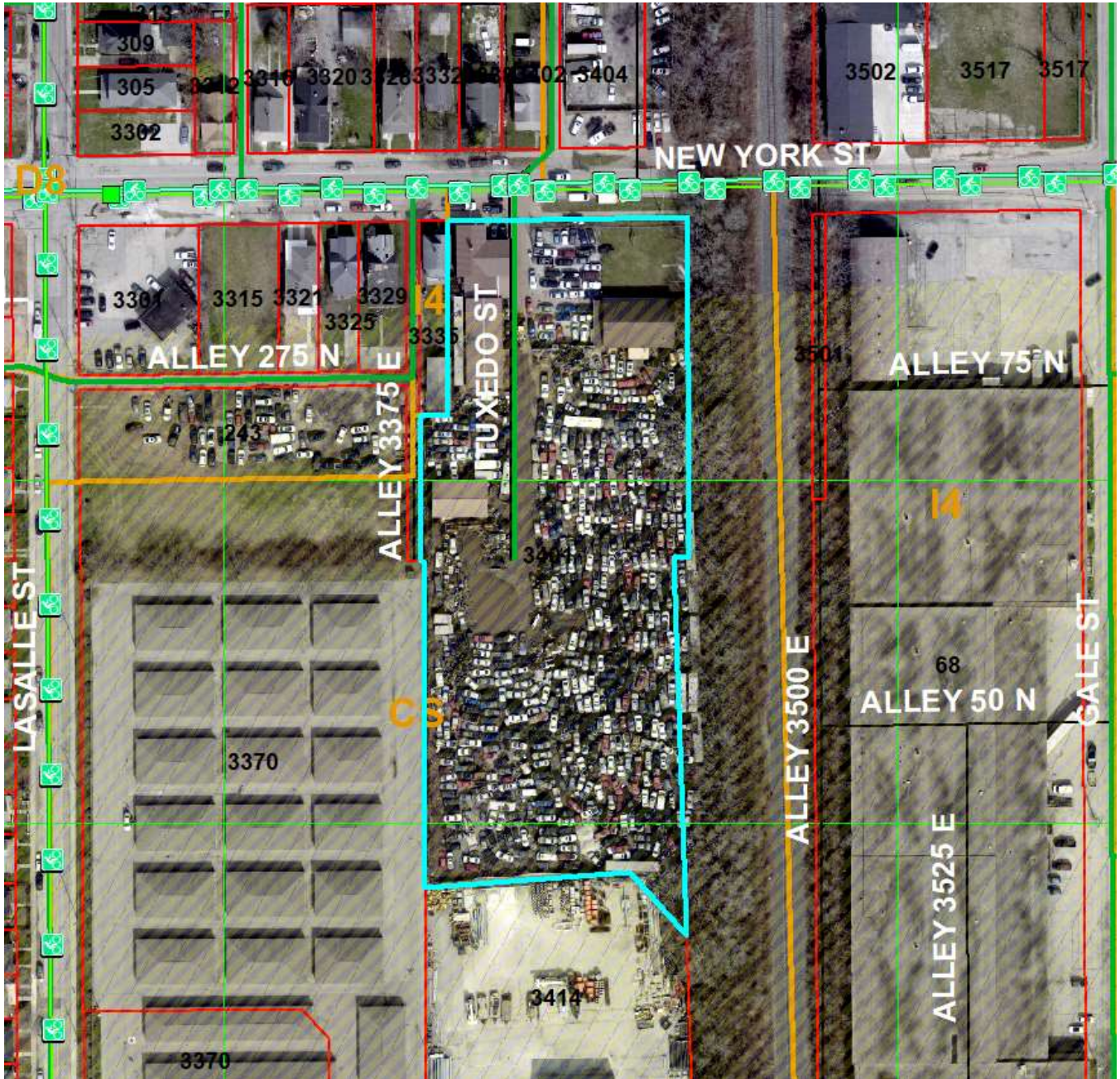
Zoning History - Site

95-Z-52; 3401 East New York Street (subject site), Rezoning of 1.6 acres, being in the C-S District, to the C-S classification to provide for the outdoor display and sale of vehicles associated with an existing automobile parts reclamation and automobile parts sales operation, **approved**.

91-Z-64; 3401 East New York Street (subject site), Rezoning of 3.16 acres, being in the I-4-U District, to the C-S classification to provide for automobile parts reclamation and sales of the reclaimed parts, **approved**.

90-Z-190; 3401 East New York Street (subject site), Rezoning of 3.16 acres, being in the I-4-U District, to the C-S classification to provide for automobile parts reclamation and used automobile sales, **withdrawn**.

EXHIBITS





PROPOSED MODIFICATION

STATEMENT OF MODIFICATION OR TERMINATION
OF COVENANTS OR COMMITMENTS

COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR
COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN
CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION
OR SPECIAL EXCEPTION PETITION

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

Legal Description: See Exhibit "A" Attached Hereto And Incorporated By Reference (the "Subject Property").

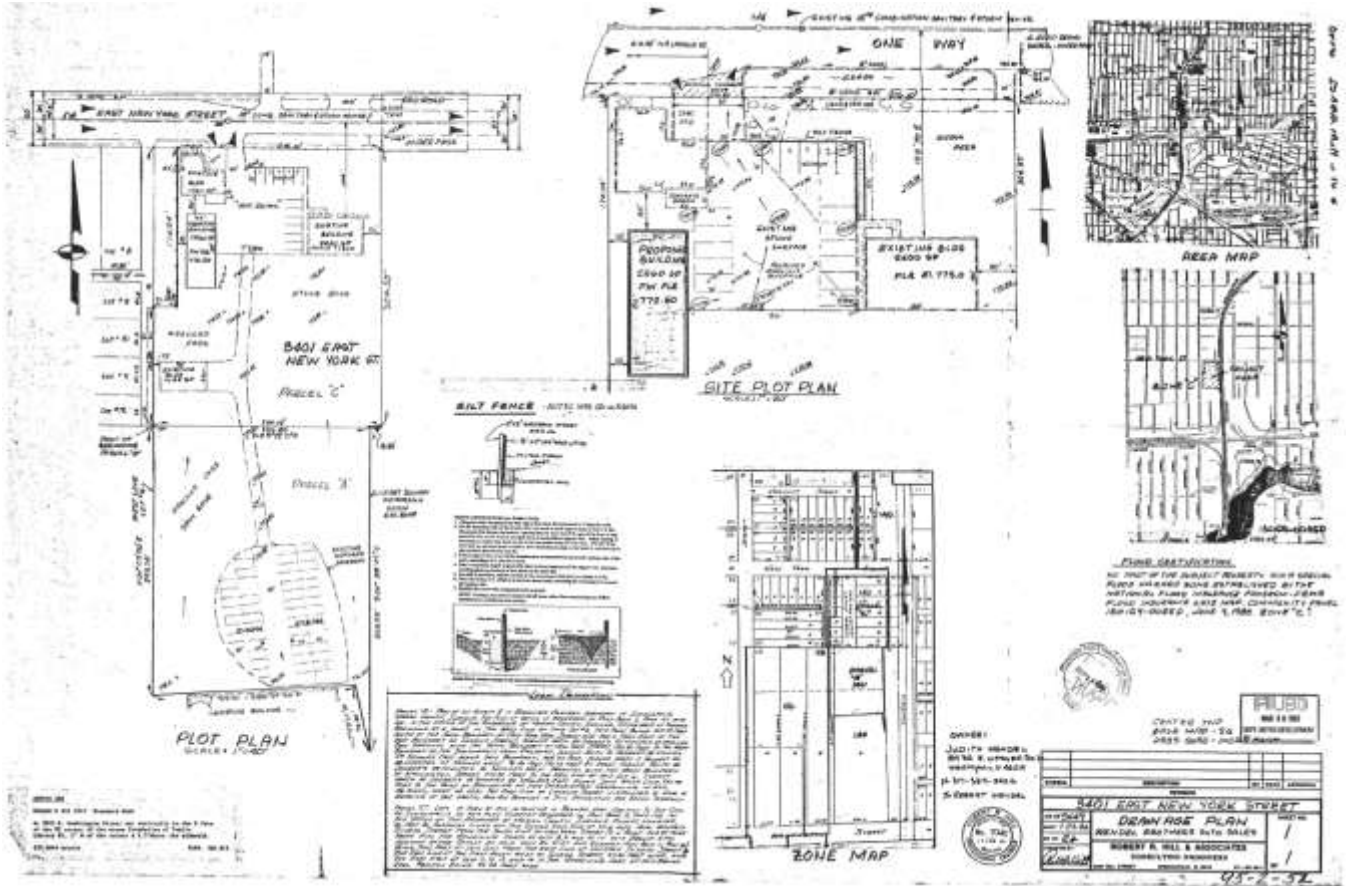
Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Commitment Number 2. In IV, Proposed Commitments as set forth in the "Plan of Operation for 3401 East New York Street", is hereby modified to read as follows:
"2. Vehicle storage shall be kept south of the extended south line of Lot 12."

These COVENANTS or COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COVENANTS or COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COVENANTS or COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition 2024-MOD-____.

91-Z-64 SITE PLAN



91-Z-64 DEVELOPMENT STATEMENT

PLAN OF OPERATION
For 3401 E. New York Street

I.

Introduction

Petitioner requests the rezoning of 3.16 acres from the I-4-U classification to the C-S Special Commercial classification to provide for the sale of new and used auto parts and for a used parts reclamation center.

The site is an abandoned coal yard bounded on the east by an elevated railroad track, on the south by a large industrial facility, on the southwest by a mini-warehouse project, on the northwest by single family homes, and on the north by C & C Fiberglass Products.

II.

Permitted Uses

The permitted uses shall be a combination of new and used auto parts sales, used parts reclamation center and auto storage area for vehicles awaiting parts reclamation.

The used parts reclamation center shall remove parts from existing vehicles, clean and recondition those parts and offer them for sale. The parts shall be removed from the vehicles located within the totally screened storage area, reconditioned in the new building to be erected on the site and then offered for sale.

III.

Site Development

Petitioner proposes to construct a 40' x 60' building on the northeast corner of the site, along the New York Street frontage. A paved customer and employee parking area shall be located adjacent to the building off the driveway from New York Street. A 6' high solid screening fence shall be erected along the western property line, and a 6' high chain link security fence shall be erected along the remaining property lines. Setbacks, side yards, transitional yards and parking shall be provided in compliance with the Commercial Districts Zoning Ordinance.

Vehicles awaiting parts reclamation shall be stored in rows at the rear of the site and no vehicle stacking shall be allowed. The average stay for a vehicle on the lot is expected to be approximately 120 days. Once fully utilized for parts, the remainder of the vehicles shall be transported from the site to a salvage yard. All tires shall be sold or removed from the site.



91-Z-64 DEVELOPMENT STATEMENT (CONTINUED)

IV.

Proposed Commitments

1. Vehicles shall not be flattened on the site.
2. Vehicle storage shall be kept south of the extended south line of Lot 12. The maximum number of vehicles stored on the site at any one time shall be 54.
3. Outdoor activity shall be limited to vehicle storage and the removal of parts.
4. Landscaping shall be installed and maintained along New York Street, with the landscape plan subject to Administrator's approval.
5. A 40 foot half right-of-way shall be dedicated along New York Street for all of the site at such time as requested by the Department of Transportation, except within the location of the existing structure and a distance five feet from that structure. When the structure is removed, a 40 foot half right-of-way shall be dedicated along the remainder of the frontage of the site.





Photo of the subject site looking southeast.



Photo of the subject site looking south.



Photo of the subject site's street frontage looking east.



Photo of single-family dwellings north of the site.



Photo of a towing business north of the site.



Photo of vehicle storage in the front yard looking east.



Photo of vehicle storage in the front yard looking east.



Photo of vehicle storage in front of the rear storage gate.



Photo of the gate to the rear vehicle storage area.



Subject site looking southwest from the entrance.



Subject site looking south from the entrance gate to the storage area.



Subject site looking east from the entrance gate to the storage area.

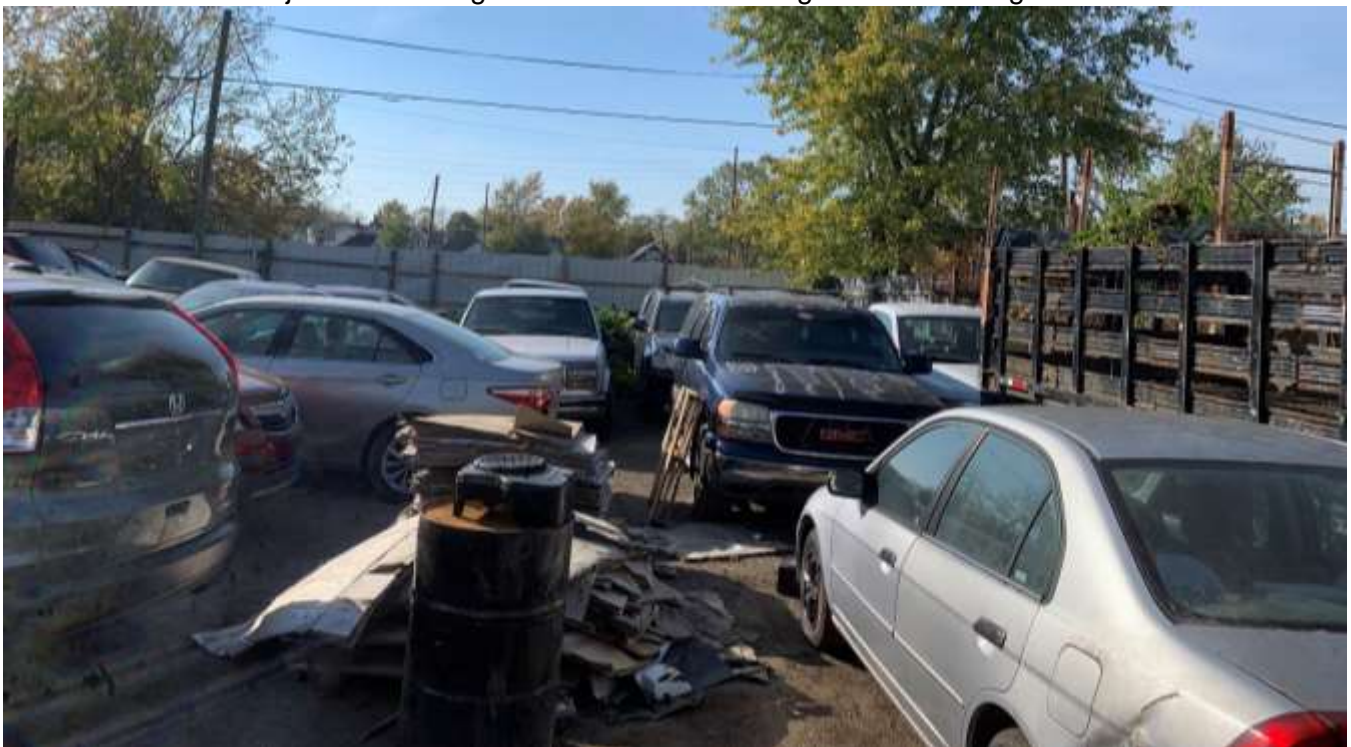


Photo of the storage area looking west towards the property owners additional lot west of the fence.



Photo of the crusher on site.



Photo of additional vehicle storage looking southwest.



Photo of additional vehicle storage looking east.



Photo of the storage area looking north.



Photo of the property owner's additional property west of the subject site.