

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-010
Address: 1041 South East Street (approximate address)
Location: Center Township, Council District #16
Zoning: C-5 / D-8
Petitioner: Red Oak Real Estate Investments LLC, by Epifanio Carbajal
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for primary and accessory residential uses (not permitted), with an eight-foot front transitional yard (10-foot front transitional yard required) and to legally establish a 2.33-foot north side setback, 2.5-foot south side setback, and 14.92-foot rear setback (10-foot side and 15-foot rear setbacks required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-5	Compact	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	C-5	Commercial
South	C-5	Commercial
East	D-8	Residential
West	SU-1 / C-5	Religious Use / Commercial

COMPREHENSIVE PLAN

The Comprehensive Plan recommends village mixed-use development.

- ◇ The 0.05-acre site is developed with a single-family dwelling and is surrounded by residential uses to the east with commercial uses to the north, west, and south. There is also a church to the west of the site.
- ◇ The subject site was originally platted as part of Hendrick's Subdivision in 1859 and was originally developed as a single-family dwelling according to an 1898 Sanborn map.

(Continued)

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VARIANCE OF USE

- ◇ The grant of the request would allow for primary and accessory residential uses in the C-5 district.
- ◇ The purpose of the C-5, General Commercial District is to provide areas for those retail sales and service functions whose operations are typically characterized by automobiles, outdoor display, or sales of merchandise. Uses permitted in the C-5 district should be located on select heavy commercial thoroughfares and should avoid locating adjacent to protected districts.
- ◇ Although the site is split zoned C-5 to the west and D-8 to the east, the site is recommended for village mixed-use which creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. Therefore, the proposed use would be consistent with the Comprehensive Plan recommendation.
- ◇ The strict application of the terms of the zoning ordinance would constitute an unnecessary hardship if applied to the property for which the variance is sought because the site is residentially developed and could not continue to be used as such without the variance.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for deficient front, side, and rear setbacks within the C-5 District.
- ◇ Per Table 744-201-3, the C-5 district in the Compact Context Area calls for a 10-foot front transitional yard with 10-foot side and rear setbacks. The request would legalize the existing two-story single-family dwelling with a 2.5-foot south side setback and 14.92-foot rear setback. It would also allow for a second-floor deck addition along an existing 2.33-foot north side setback and the creation of an eight-foot front transitional yard for said addition.
- ◇ In staff's opinion, the eight-foot front transitional yard would be a slight deviation from the Ordinance that would be located further from the western property line than the abutting property to the north that has a zero-foot front setback. The addition would also not encroach further north than what already exists. For these reasons, staff would support these requests.

GENERAL INFORMATION

THOROUGHFARE PLAN

East Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 85-foot existing right-of-way and a 78-foot proposed right-of-way.

SITE PLAN

File-dated April 18, 2023.

(Continued)

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ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2020-UV2-014; 368, 372, 376, 382 Prospect Street (west of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dog park (not permitted) with a six-foot tall fence in the front yard, with banner yard signs on the perimeter fence (3.5-foot maximum fence height in a front yard, yard signs permitted as freestanding signs, maximum size six square feet), **granted**.

2019-CVR-838; 643, 701, 705, 709, 713, 717 and 721 Prospect Street (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for six single-family dwellings, as follows: a) 643 Prospect Street (Lot One); 25-foot street frontage and lot width, an eleven-foot front setback, 4.5 and eight feet between dwellings and a three-foot side setback (30-foot street frontage and lot width, 18-foot front setback or average, 10 feet between dwellings and four foot side setback required); b) 701 Prospect Street (Lot Two); an eleven-foot front setback and eight feet between dwellings (18-foot front setback or average and 10 feet between dwellings required); c) 705 Prospect Street (Lot Three); an eleven-foot front setback and eight feet between dwellings (18-foot front setback or average and 10 feet between dwellings required); d) 709 Prospect Street (Lot Four); a seven-foot front setback and eight feet between dwellings (18-foot front setback or average and 10 feet between dwellings required); e) 713 Prospect Street (Lot Five); a ten-foot front setback, eight feet between dwellings, and a nine-foot rear setback (18-foot front setback or average, ten feet between dwellings, 15-foot rear setback required); and f) 717-721 Prospect Street (Lot Six); a five-foot front setback, less than 25-foot lot width, within the clear sight triangle of the abutting street and alley (18-foot front setback or average, 30-foot lot width required and structures not permitted within the clear sight triangle), **granted**.

2018-HOV-009; 606 East Morris Street (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling, with a 15-foot front setback, with 4.5 feet between primary dwellings, and creating an open space of 56% (18-foot front setback, 10 feet between dwellings, and 60% open space required), **granted**.

2006-DV2-014; 1032 South East Street (northwest of site), Variance to provide for construction of a 2,987-square foot family restaurant building with a 60-foot front setback from the centerline of South East Street, with a zero-foot front setback from the proposed right-of-way of Interstate 70, with a six-foot west side transitional yard, with eight off-street parking spaces, **granted**.

90-V3-64; 1104 South East Street (southwest of site), Variance to permit 26 square feet of sign area per pump island and to permit a sign to be placed on an existing canopy with less than the required setback, **granted**.

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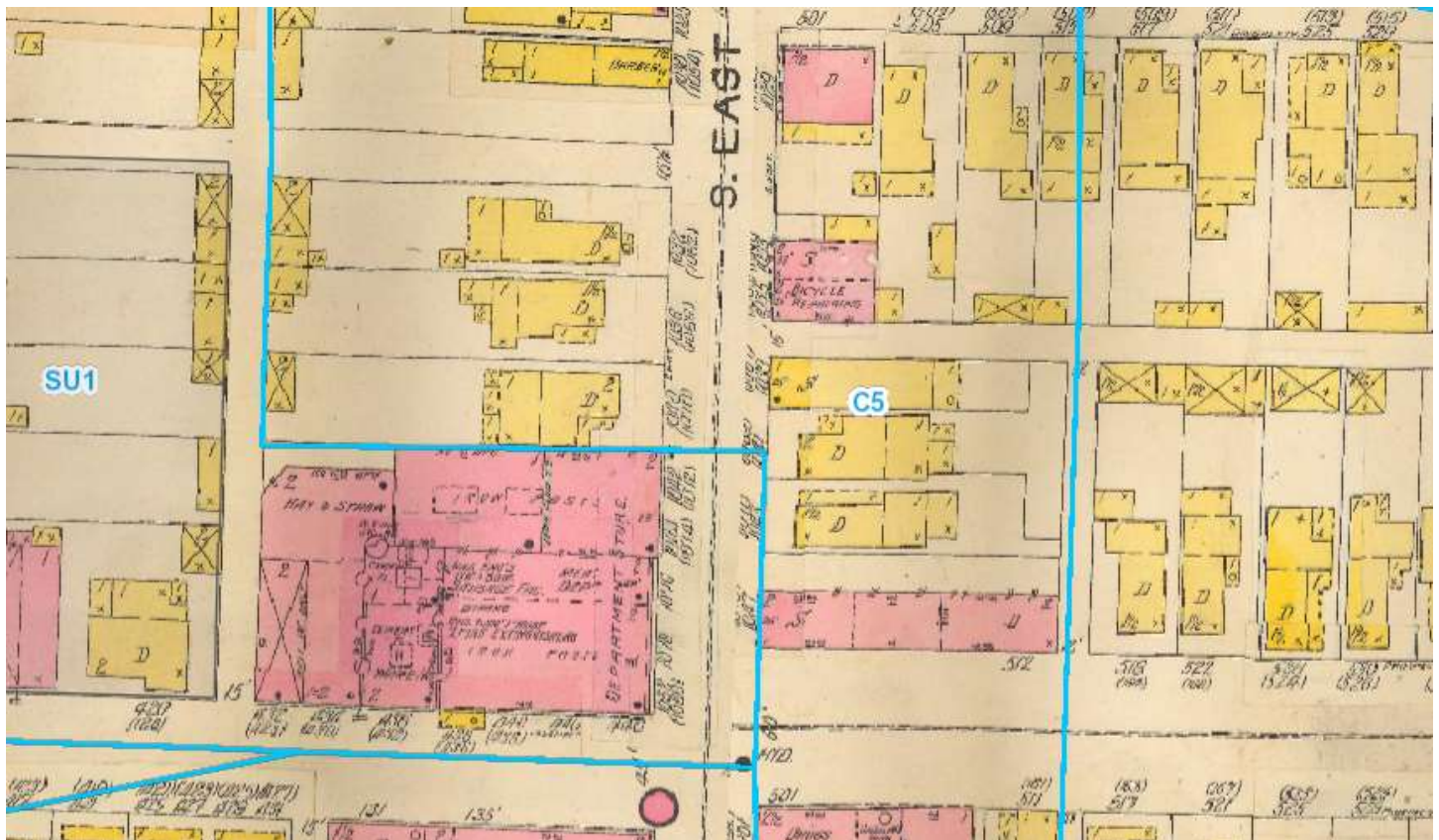
2023-UV3-010; Location Map



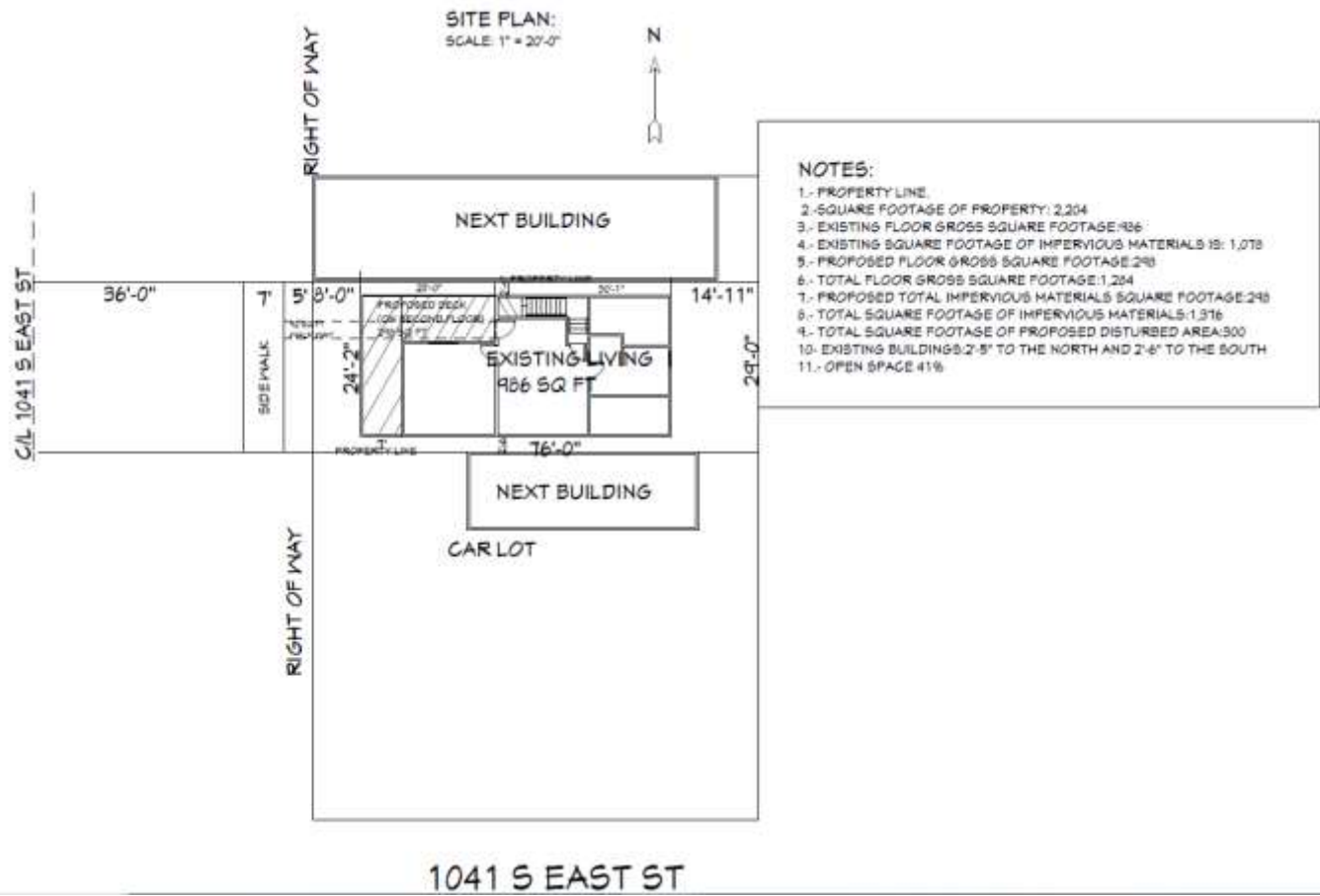
2023-UV3-010; Aerial Map



2023-UV3-010; Sanborn Map (1898)



2023-UV3-010; Site Plan



2023-UV3-010; Photographs



Photo of the Subject Property: 1041 South East Street



Photo of the Subject Property: 1041 South East Street



Photo of the rear yard of the subject site.



Photo of the commercial building north of the site.



Photo of the commercial property and church west of the site.



Photo of the commercial property and church west of the site.