

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-064
Address: 40 West 40th Street (*Approximate Address*)
Location: Washington Township, Council District #7
Petitioner: Martin Luther King Multi-Service Center, by David Kingen
Request: Rezoning of 2.37 acres from the D-2 (MSPC) district to the SU-7 (MSPC) district to legally establish a community center.

ADDENDUM FOR AUGUST 16, 2023, METROPOLITAN DEVELOPMENT COMMISSION

After a full public hearing on July 27, 2023, this petition was recommended for approval by the Hearing Examiner. A memorandum of the Hearing Examiner's decision is included below. The Hearing Examiner's decision was subsequently appealed to the Metropolitan Development Commission by a remonstrator.

Subsequent to the Hearing Examiner hearing, the petitioner has submitted a preliminary tree inventory. The inventory shows that there are 28 trees on the site, eight of which are Heritage Trees. Heritage Trees are trees over 18 inches in diameter of certain species. Removal of Heritage Trees on sites larger than 20,000 square feet is prohibited unless certain determinations are made. Among these determinations are if the tree is terminally diseased or a threat to public health or safety, a hazard to traffic, or is preventing development that cannot be physically designed to protect the tree. Removal of a Heritage Tree can result in the requirement to plant replacement trees. The preliminary tree inventory is included below.

Staff continues to **recommend approval** of this petition subject to the commitment below.

RECOMMENDATION

Staff **recommends approval** of this request, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

Prior to the issuance of any Improvement Location Permit for this site, a tree inventory and preservation plan shall be submitted for Administrator's Approval. The size, species, location and condition of any Heritage Tree shall be provided. Any new development on the site shall avoid disturbance of Heritage Trees to the extent possible.

(Continued)

STAFF REPORT 2023-ZON-064 (Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ Historic aerial photography indicates that the structure on the site was built in the late 1950s or early 1960s. The site is currently the home of a multi-service center.
- ◇ The 2018 Comprehensive Land Use Plan recommends City Neighborhood for the subject site. This typology consists largely of multi-family housing and other forms of attached dwellings. It is intended to be dense and walkable with a full range of city services and public amenities.
- ◇ The subject site is within the jurisdictional area of the Meridian Street Preservation Commission. This State agency has the authority for prior approval of zoning petitions within its jurisdiction. If the MSPC gives prior approval to a rezoning, the petition may proceed through the City's land use petition process. However, the MSPC's prior approval does not obligate the Hearing Examiner or the Metropolitan Development Commission to approve a petition.
- ◇ This request was heard by the MSPC on May 16, 2023 and given prior approval subject to two commitments:
 - Improvements shall be carried out in accordance with the submitted documentation presented at the May 16, 2023 Commission hearing and filed with the MSPC,
 - The applicant shall work with residents and neighborhood organizations on the proposed plans for the expansion.
- ◇ As is evident from the photographs below, the site has a number of large, mature trees. These trees exhibit the intrinsic benefits of large trees in general, but also help blend this large institutional use into the context of the neighborhood where large trees on single-family lots and in Tarkington Park are the norm.

ZONING

- ◇ This petition requests a rezoning to the SU-7 district. This Special Use district provides for charitable, philanthropic and not-for-profit institutions.

(Continued)

STAFF REPORT 2023-ZON-064 (Continued)

- ◇ Land in any SU District is subject to the following site and development requirements, which are evaluated at the time of an application for an Improvement Location Permit. The site and development plan, proposed uses, buildings and structures must:
 - Be so designed as to create a superior land development plan, in conformity with the Comprehensive Plan;
 - Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the Special Use District and with adjacent uses;
 - Provide sufficient and adequate access, parking and loading areas;
 - Provide traffic control and street plan integration with existing and planned public streets and interior access roads;
 - Provide adequately for sanitation, drainage and public utilities; and
 - Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan;
 - Provide sidewalks along eligible public streets and pedestrian accessibility to available public transit.
- ◇ Development in a Special Use district requires approval by the Administrator. In addition to the points above, in the SU-7 district the Administrator would use MU-1 development standards in his or her review, but would have the authority to modify them as appropriate to the use and context. Among the MU-1 development standards are a minimum front transitional yard of twenty feet and a minimum rear transitional yard of 15 feet. The site plan submitted with this petition does not meet those standards and ideally should be redesigned to do so. Redesign might also help with tree preservation on the site.
- ◇ Approval of this zoning petition does not approve the submitted site plan.
- ◇ In staff's opinion, the SU-7 district is appropriate as it is responsive to the City Neighborhood recommendation of the Comprehensive Land Use Plan and would conform the zoning of the site to its long-term and appropriate use.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-2

Compact

Multi-service center

(Continued)

STAFF REPORT 2023-ZON-064 (Continued)

SURROUNDING ZONING AND LAND USE

North	D-2	Single-family dwelling
South	PK-1	Tarkington Park
East	D-2, D-9	Multi-family residential complex
West	D-5, SU-2	Single-family dwellings, elementary school

COMPREHENSIVE LAND USE PLAN The Washington Township Comprehensive Plan (2018) recommends City Neighborhood.

THOROUGHFARE PLAN 40th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

Illinois Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with a 60-foot existing right-of-way and a 56-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.

ZONING HISTORY – SITE

97-UV3-66; 40 West 40th Street, requested a variance of use for a community center in a dwelling district and variances of development standards for a ground sign with deficient setbacks, **approved**.

ZONING HISTORY – VICINITY

2018-DV1-021; 4030 North Illinois Street (west of site), requested a variance of development standards to provide for an over-height fence, **approved**.

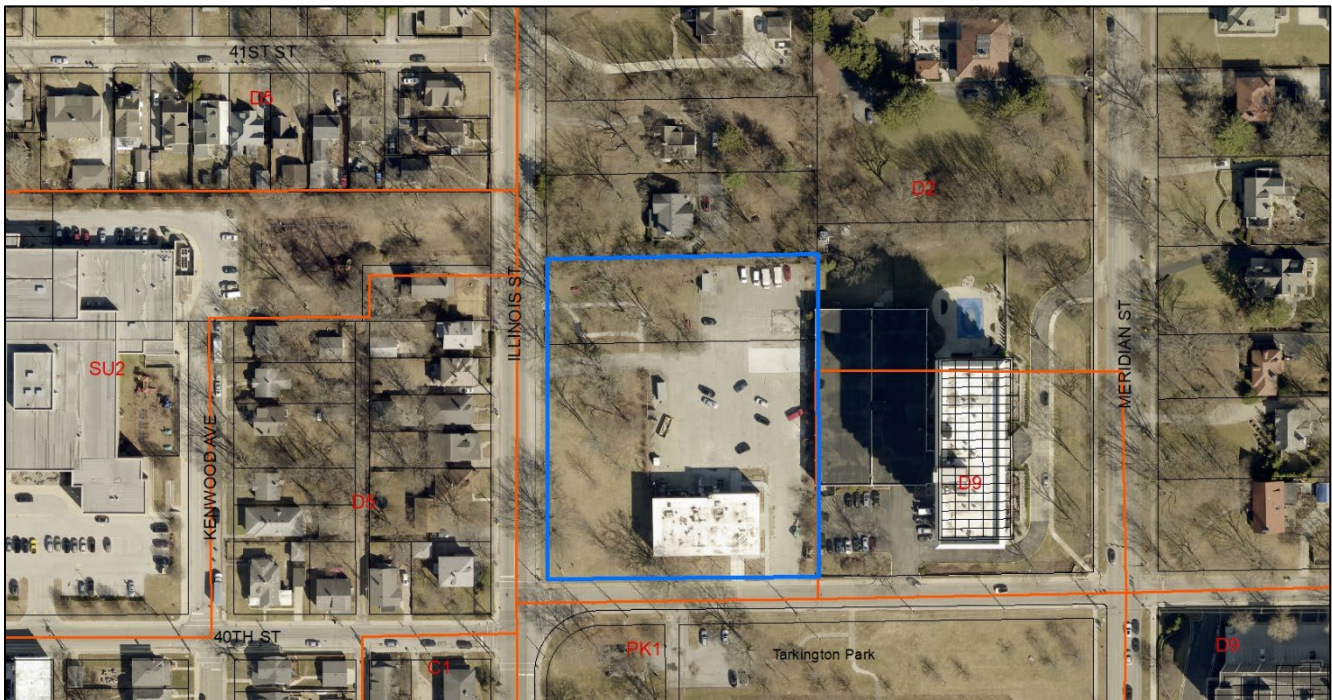
97-UV3-19; 4002 North Meridian Street (east of site), requested a variance of use to provide for a rooftop telecommunications facility, **withdrawn**.

klh

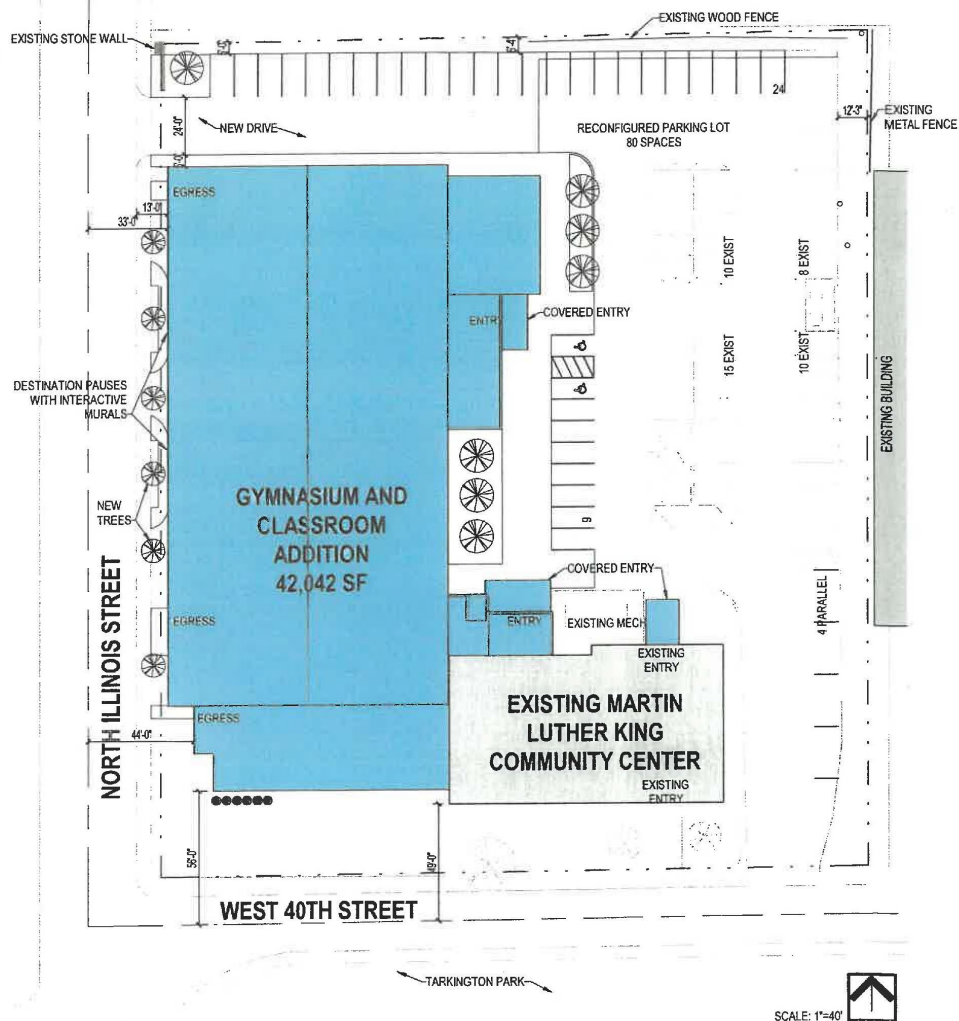
STAFF REPORT 2023-ZON-064, Location



STAFF REPORT 2023-ZON-064, Aerial photograph (2022)



STAFF REPORT 2023-ZON-064, Site Plan



PRELIMINARY SITE PLAN
ADDITION TO MLK CENTER

MARCH 21, 2023

40 WEST 40TH STREET
INDIANAPOLIS, IN 46208
2238

HALSTEADarchitects

STAFF REPORT 2023-ZON-064, Hearing Examiner's Memorandum

MEMORANDUM OF EXAMINER'S DECISION

2023-ZON-064

40 West 40th Street

The petition requests the rezoning of 2.37 acres from the D-2 (MSPC) district to the SU-7 (MSPC) district to legally establish a community center.

Your Hearing Examiner visited the site prior to the hearing and noted the multi-service center on it, with a high-rise multi-family residential building east of it and single family residences to the north. Tarkington Park is south of 40th Street, and single family residences are on the west side of Illinois Street.

The petitioner's representative explained that the multi-service center was established by variance in 1997, and the request would conform the zoning district to the use. An expansion of the multi-service center is proposed, and all plans would be subject to administrator's approval. The Meridian Street Preservation Commission granted prior approval of the rezoning petition, and the Butler Tarkington Neighborhood Association voted to support the rezoning request, both of which were documented in writing. The petitioner agreed to staff's request for a commitment for a tree inventory and preservation plan. A neighbor spoke in support.

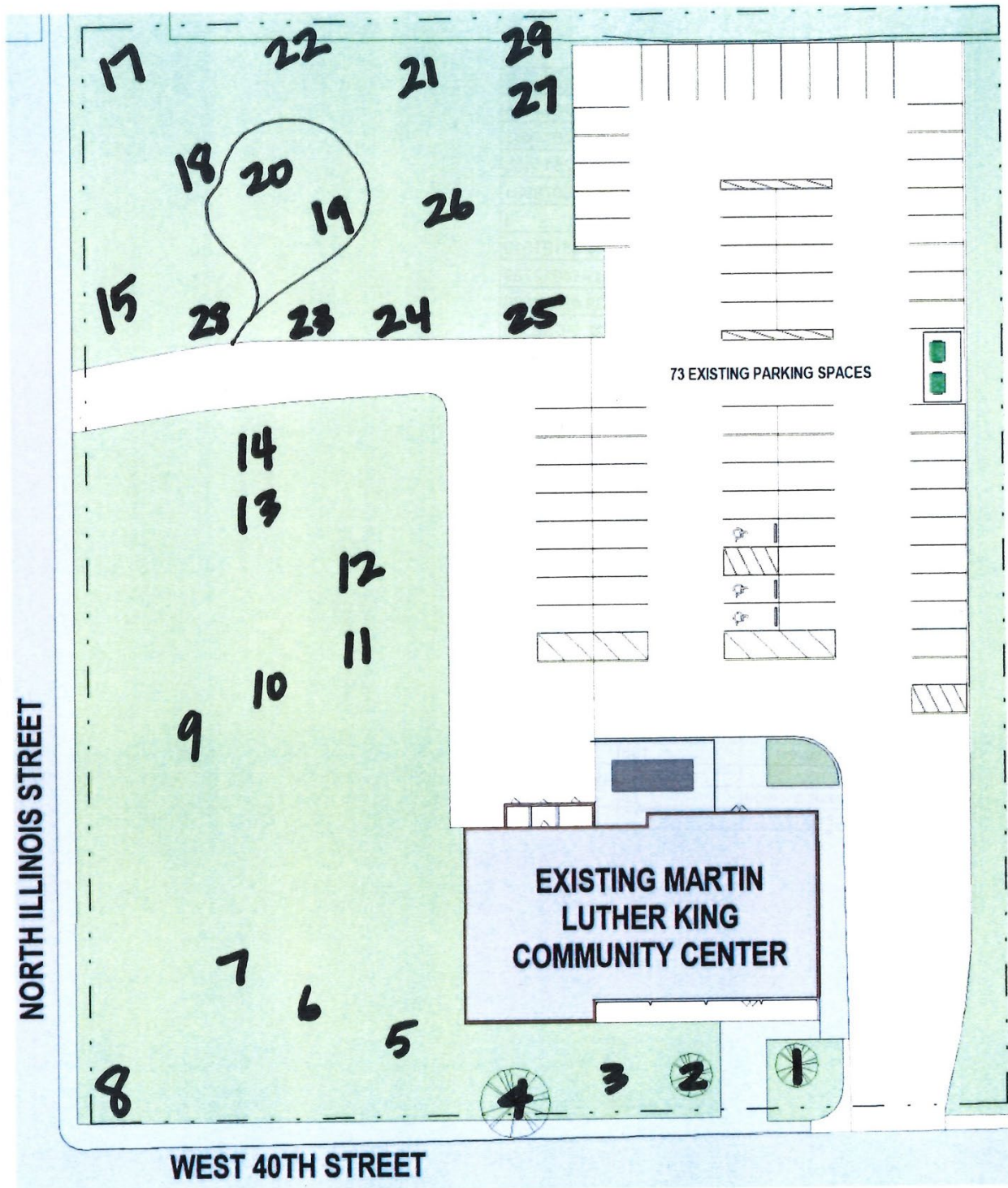
About six remonstrators attended and spoke at the hearing, and about six letters of opposition were received. The primary concern was the potential loss of green space and trees on the western portion of the site. Other concerns included increased traffic, pedestrian and biker safety, noise, and inability to give input once the property is rezoned.

Staff opined that the Comp Plan recommendation of City Neighborhood is being met because this established use is dense, walkable, and a public amenity. Because the conceptual site plan does not meet transitional yard requirements, revisions would be necessary, and all final plans are subject to administrator's approval.

In your Hearing Examiner's opinion, it is appropriate to rezone this site to SU-7 to reflect its use for the last 25 years. In addition to the administrator having approval of all final plans, your Hearing Examiner requested a commitment that all plans will be provided to neighbors and neighborhood groups for review. Approval of this petition was recommended.

For Metropolitan Development Commission Hearing on August 16, 2023

STAFF REPORT 2023-ZON-064, Tree Inventory



* 28 trees. There is no #16 on the list.

Trees 4, 8, 9, 13, 14, 15, 17 and 25 are Heritage Trees.

number	type	circumfrence	diameter
1	coffee	31	9.872611465
2	coffee	31	9.872611465
3	coffee	31	9.872611465
4	hackberry	112	35.66878981
5	thicket shadebush		3
6	maple (red)	45	14.33121019
7	coffee	17	5.414012739
8	oak	124	39.49044586
9	maple (sugar)	70	22.29299363
10	oak	36	11.46496815
11	oak	36	11.46496815
12	maple (red)	100	31.84713376
13	oak	88	28.02547771
14	sweetgum	96	30.57324841
15	hackberry	124	39.49044586
17	hackberry	170	54.14012739
18	redbud	26	8.280254777
19	maple (silver)	74	23.56687898
20	mulberry	63	20.06369427
21	maple (silver)	108	34.39490446
22	serviceberry	10	3.184713376
23	cedar	37	11.78343949
24	redbud	62	19.74522293
25	hackberry	58	18.47133758
26	maple (silver)	108	34.39490446
27	oak	28	8.917197452
28	japanese snowba	78	24.84076433
29	serviceberry	10	3.184713376

STAFF REPORT 2023-ZON-064, Photographs



Looking north across 40th Street at the subject site.



Looking east from Illinois Street at the site.



Looking south along the Illinois Street frontage of the site.



Looking north from Illinois Street. The subject site is to the right.



Looking east from Illinois Street at the neighbor to the north.



Looking south across 40th Street at Tarkington Park.



Looking northeast from 40th Street at the neighbor to the east.