

eSTAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-009 (Amended)
Address: 4375 Kentucky Avenue (approximate address)
Location: Decatur Township, Council District #22
Zoning: C-S
Petitioner: Five Star Oil, Inc., by Garrett E. Lawton
Request: Modification of the Commitments related to 2019-ZON-053 to extend the deadline for the completion of all commitments to March 31, 2024 (previous commitments required completion by several dates in 2020).

The Hearing Examiner continued this petition from the August 24, 2023 hearing, to the September 28, 2023 hearing, to provide time for the petitioner's representative to amend the petition and provide new notice.

The amended request extends completion time from September 30, 2023, to March 31, 2024. Staff continues to **recommend approval** of the request that would provide additional time to complete the commitments.

It is staff's understanding that the commitment requiring expansion and installation of the water line will require additional time. Staff would expect, however, that all commitments will be completed by March 31, 2024, and will not support further time extensions.

The Hearing Examiner continued this petition from the July 27, 2023 hearing, to the August 24, 2023 hearing, at the request of the petitioner's representative to provide time to amend the petition and send new notice. The amended petition has not been submitted at this time.

The Hearing Examiner continued this petition from the June 29, 2023 hearing, to the July 27, 2023 hearing, at the request of staff and the petitioner's representative to provide additional time for discussions with the Prosecutor's Office related to on-going violations.

The Hearing Examiner continued this petition from the June 15, 2023 hearing, to the June 29, 2023 hearing, at the request of the petitioner's representative.

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

(Continued)

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LAND USE

- ◇ This 0.82-acre site, zoned C-S, is developed with a fueling station and convenience store with additional tenant spaces. It is surrounded by industrial uses to the west, across Kentucky Avenue, zoned C-S; single-family dwellings to the north and east zoned D-A; and a hotel and commercial uses to the southwest, zoned C-S.
- ◇ Petitions 2019-ZON-053 / 2020-VAR-004 requested rezoning the site from the C-S District to the C-S classification to provide for a convenience store / gasoline station and C-3 uses; modification of commitments related to 2002-ZON-178; and variances to legally establish reduced setbacks. a zero-foot southwest side yard setback, an eleven-foot northeast transitional yard, a zero-foot southeast rear yard and a five-foot front yard.
- ◇ Petition 2002-ZON-178 rezoned the site to the C-S District to provide for a gas station, convenience store, hotel, and restaurant. Petition 2018-PLT-072 platted the site that separated the gasoline station / convenience store from the hotel and commercial uses. Petitions 2018-CZN-850 / 2018-CVR-850 provided for a hotel and other commercial uses adjacent to the south of this site.

MODIFICATION

- ◇ This request would modify commitments related to 2019-ZON-053 to extend the deadline for the completion of all commitments to September 30, 2023, when the previous commitments required completion by several dates in 2020.
- ◇ The Comprehensive Plan recommends office industrial mixed-use typology. “The Office/Industrial Mixed-Use (Business Park) typology is intended to provide for light industrial, distribution, and office uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. The typology is characterized by groups of buildings within office/warehouse parks. Examples of typical uses include warehousing, wholesaling, research and development facilities, testing and evaluation facilities, offices, education resource centers, assembly of high technology products, and conference centers. Industrial or truck traffic should be separated from local/ residential traffic in this typology.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Conditions for All Land Use Types

- Master-planned developments in excess of 2 acres should include pedestrian amenities for passive and active recreation internal to the development.

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Small-Scale 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 business park.
- Should be located and served in such a way that the use will not interfere with industrial traffic or loading

Overlays

- ◇ This site is located within an overlay, specifically the Residential Corridor Reserve (RR) overlay. "Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology."
- ◇ The Residential Corridor Reserve (RR) overlay is intended for areas where the residential nature of a corridor is at risk due to encroachment from other land uses. An example might be residential areas that are being overtaken by school, hospital, or corporate campuses.

Planning Analysis

- ◇ As previously noted, this request amends the completion date of many of the commitments agreed upon during the 2019-ZON-053 / 2020-VAR-004 rezoning and variance process.
- ◇ An Agreed Judgement and Order (Cause Number 49D04-2206-OV-21933, file-dated November 16, 2022) enumerated those commitments that have not been satisfied and / or completed. The defendant (Five Start Oil Inc.) admitted to the allegations and agreed to comply with the commitments related to the 2019 rezoning.
- ◇ Staff would note that further extensions of the completion date will not be supported because final approval by the City-County Council was on November 16, 2020. Staff believes there has been adequate time within which to complete and comply with the required and agreed upon commitments associated with 2019-ZON-053 / 2020-VAR-004.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-S Fueling station / convenience store / commercial uses

(Continued)

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SURROUNDING ZONING AND LAND USE

North -	D-A	Single-family dwelling
South -	C-S	Commercial use / hotel
East -	D-A	Single-family dwelling
West -	C-S	Industrial uses

COMPREHENSIVE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends office industrial mixed-use typology. Marion County Land Use Pattern Book (2019).
THOROUGHFARE PLAN	This portion of Kentucky Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 162-foot right-of-way and a proposed 112-foot right-of-way.
CONTEXT AREA	This site is located within the metro context area.
OVERLAY	This site is located within the residential corridor reserve.
SITE PLAN	File-dated May 1, 2023

ZONING HISTORY

2019-ZON-053 / 2020-VAR-004; 4375 Kentucky Avenue, requested rezoning of 0.82 acre from the C-S district to the C-S district to provide for a convenience store and gasoline station and C-3 uses and to modify Commitments Three, Six and Seven of petition 2002-ZON-178; and a variance of development standards to legally establish reduced setbacks along the southwest side yard northeast transitional yard, southeast rear yard and a five-foot front yard, **approved and granted**.

2013-ZON-080 / 2014-VAR-001; 4375 Kentucky Avenue, requested rezoning of 4.79 acres from the C-S District to the C-S classification and a modification of Commitment #3 of 2002-ZON-178 to provide for a liquor store, in addition to the uses previously permitted; and a variance of development standards of the Commercial Zoning Ordinance to provide for a liquor store within 20 feet of a D-3 zoned protected district, **withdrawn**.

2002-ZON-178; 4375 Kentucky Avenue, requested rezone 4.79 acres from the D-A and D-3 Districts, to the C-S classification to provide for a gas station, convenience store, hotel and restaurant, **approved**.

2000-ZON-180; 4375 Kentucky Avenue, requested a rezoning of 4.92 acres from D-A and D-3 to C-6, to provide for commercial uses, **denied**.

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VICINITY

2018-CZN-850 /, 2019-CVR-850; 4545 Kentucky Avenue; 4251 Meadowlark Lane and 5500, 5560, 5570 and 5590 Varna Drive, requested rezoning of 3.97 acres from C-S to C-S to provide for retail uses in addition to the uses approved by 2002-ZON-178, and to Modify Commitment Six to modify the site plan of May 2, 2003 and a variance of development standards to provide for a 46.5-foot tall hotel, with a 109-foot front setback and 20% transparency, **approved and granted**.

2018-PLT-072; 4100 Kentucky Avenue (south of site), requested approval of a Subdivision Plat, to be known as Woodspring Suites, subdividing 5.376 acres into four lots, **approved**.

2000-ZON-112; 4701 Kentucky Avenue, requested a rezoning of 7.35 acres, being in the D-3 District, to the C-S classification, to provide for an integrated center with a hotel, restaurants, and C-1 uses, **approved**.

97-UV2-101; 4245 Kentucky Avenue, requested a variance of use of the Dwelling Districts Zoning Ordinance to legally establish an administrative office use within an existing single-family residence (not permitted) and the placement of a pylon sign being 4 by 7.66 feet and 5.08 feet in height (pylon sign not permitted), **denied**.

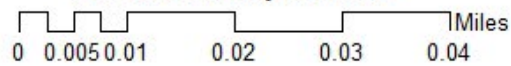
87-UV1-73; 4209 Kentucky Avenue, requested a variance of use of the Dwelling Districts Zoning Ordinance and a variance of development standards of the Sign Regulations for commercial archery, with a ground sign and wall sign, **denied**.

81-Z-21; 4353 Kentucky Avenue, requested a rezoning of 3.8 acres from A-2 to C-3 to provide for a florist shop, **withdrawn**.

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4375 Kentucky Avenue





View looking north along Kentucky Avenue



View looking south along Kentucky Avenue



View of site looking southeast



View from site looking northwest at adjacent dwelling



View of site south along eastern boundary



View of site looking southwest



View of site looking south at adjacent land uses



View of site looking north along eastern boundary



View from rear of site looking northwest



View from site looking north along southern boundary



View from site looking south



View of shoebox lighting fixture



View looking north along northern boundary