

## STAFF REPORT

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-ZON-070  
**Address:** 456 South Emerson Avenue (*Approximate Address*)  
**Location:** Center Township, Council District #12  
**Petitioner:** Marjorie Armour & Shane Brothers, by David Kingen  
**Request:** Rezoning of 0.42 acre from the D-5 district to the C-4 district to provide for commercial uses.

The petitioner has requested a **continuance from the September 28, 2023 hearing to the October 26, 2023 hearing** to allow time for further discussions among the petitioner, neighborhood and staff.

The petitioner requested and was granted a continuance from the August 10, 2023 hearing to the September 28, 2023 hearing to allow time for further discussions among the petitioner, neighborhood and staff.

### **RECOMMENDATION**

Staff **recommends denial** of this request. Should the Hearing Examiner decide to approve this petition, staff requests that the approval be subject to following commitments in addition to the commitments offered by the petitioner:

1. Within six months of the grant of this petition, the east driveway and curb cut onto English Avenue shall be closed, the pavement removed, and the curb fully restored.
2. Within six months of the grant of this petition, the east driveway and curb cut onto Emerson Avenue shall be reduced in width to thirty feet, the pavement removed, and the curb fully restored.
3. Within six months of the grant of this petition, pavement shall be removed and landscaping installed to bring this site in compliance with the landscape standards of the Ordinance currently in effect.
4. No automobile body repair or auto painting shall be conducted on the site.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation.

(Continued)

## **STAFF REPORT 2023-ZON-070 (Continued)**

### **LAND USE**

- ◇ Historic aerial photography indicates that the intersection of Emerson and English avenues has long been a commercial node, dating back to at least 1950. However, it's difficult to determine when the commercial structure on the subject site, the northwest corner of the intersection, was built. It appears to have been a gasoline filling station and likely had automobile repair as an accessory use.
- ◇ Current land uses at the intersection are a gas station, automobile services, a liquor store, and a laundromat. These uses are tightly enveloped by single-family dwellings.
- ◇ The 2018 Comprehensive Land Use Plan recommends Community Commercial for the subject site. This typology provides for low-intensity commercial and office uses that serve nearby neighborhoods. Uses in the Community Commercial typology are typically those found in the C-1 and C-3 zoning districts and the least intense uses of the C-4 district.
- ◇ The abutting properties to the north and west are recommended in the Land Use Plan for the Traditional Neighborhood and Suburban Neighborhood typologies. These typologies are primarily intended for residential development.

### **ZONING**

- ◇ This petition requests a rezoning from the D-5 district to the C-4 district. The D-5 district provides for a variety of housing types, but not commercial uses. The D-5 district is a mismatch to the current and historic uses of the site. The C-4 district is designed for major business groupings, regional shopping centers and those uses that draw users from a wide area or that generate a significant amount of traffic. Typical uses permitted in the C-4 district are indoor spectator venues, night clubs, motels, firearms sales, fireworks sales, liquor stores, car washes, gas stations, and automobile repair.
- ◇ The petitioner has offered a commitment that would limit the C-4 uses on the site to automobile repair only. It is staff's opinion that auto repair is a land use that frequently creates negative impacts on surrounding properties in terms of noise, smells and visual clutter.
- ◇ When abutting Protected Districts such as dwelling districts, C-4 uses are required by the Ordinance to provide ten-foot-wide transitional yards. These yards are meant to provide for buffering and screening and must not include structures and pavement. The subject site is essentially paved from property line to property line, except for the existing building and a space behind it to the north. The Ordinance also requires landscaping along the street frontage and within the site. The site currently provides no space for landscaping.

(Continued)

**STAFF REPORT 2023-ZON-070 (Continued)**

- ◇ Three driveways serve the site, one from Emerson Avenue and two from English Avenue. The east English Avenue driveway is about 25 feet from the intersection of the two streets, which creates a hazardous situation. Staff requests that this driveway be removed by demolishing the pavement and replacing the curb.
- ◇ The north driveway on Emerson Avenue is over forty feet in width. Although currently chained off, this driveway is available for use. To promote pedestrian safety, the Ordinance restricts driveway widths to 30 feet. Staff requests that this driveway be reduced in width to bring it in line with the current Ordinance.
- ◇ Given the Land Use Plan recommendation and the site’s history as part of a commercial node at this intersection, it is staff’s opinion that a rezoning to a commercial district is warranted. However, given the very close proximity of densely-developed dwellings to the site, staff does not think that a rezoning to a district as intense as the C-4 is appropriate. If this petition was amended to the C-3 district and commitments were included concerning the removal of the east English Avenue entrance, reducing the width of the Emerson Avenue entrance, and removing pavement to create landscape bed, staff would be likely to its approval.

**GENERAL INFORMATION**

**EXISTING ZONING, CONTEXT AREA, AND LAND USE**

D-5	Compact	Automobile Repair
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**SURROUNDING ZONING AND LAND USE**

North	D-5	Single-family dwelling
South	D-5	Gas station, single-family dwelling
East	D-5	Automobile servicing, single-family dwelling
West	D-5	Single-family dwelling

COMPREHENSIVE LAND USE PLAN	The Center Township Comprehensive Plan (2018) recommends Community Commercial.
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THOROUGHFARE PLAN	Emerson Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with an 81-foot existing right-of-way and a 78-foot proposed right-of-way.
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## **STAFF REPORT 2023-ZON-070 (Continued)**

English Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with an existing right-of-way ranging from 80 feet to 125 feet and a 78-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**

**56-V-240; 456 South Emerson Avenue**, requested a variance of use to permit a gasoline filling station, **approved**.

### **ZONING HISTORY – VICINITY**

**88-HOV-67; 5055 English Avenue (south of site)**, requested a variance of development standards to provide for the inclusion of pricing information on a principal identification sign, **approved**.

**79-UV2-124; 601-609 South Emerson Avenue (southeast of site)**; requested a variance of development standards to provide for a storage space and additional parking for the existing facility and to legally establish the existing signs, **approved**.

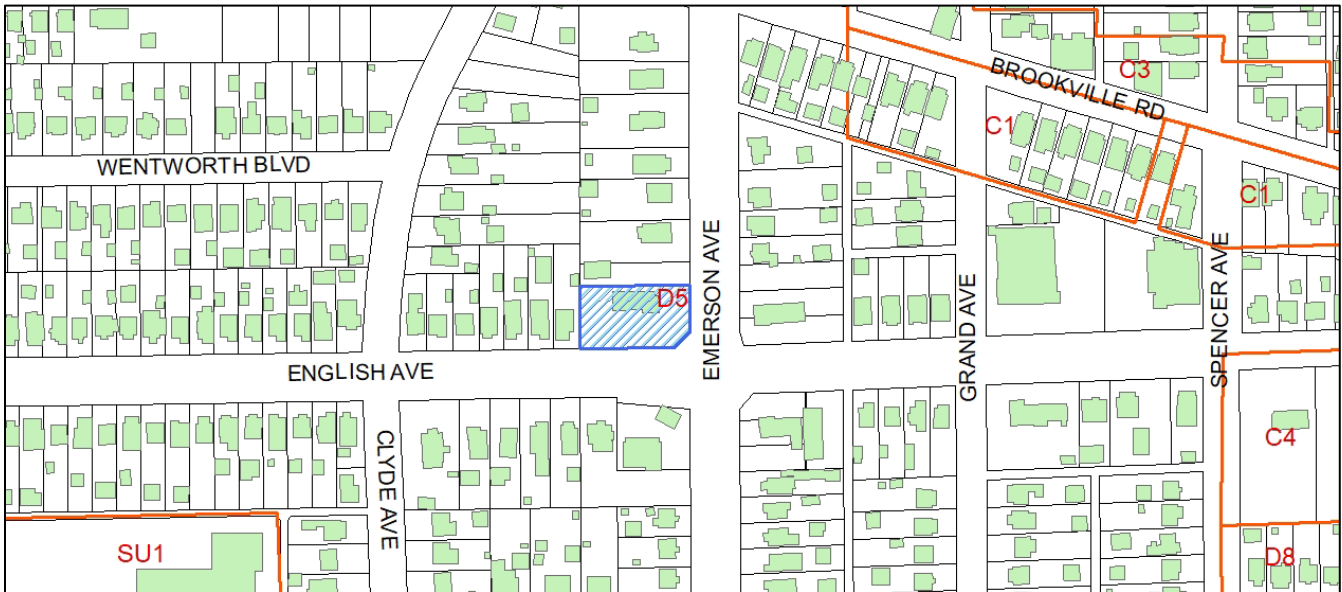
**78-UV3-104; 500 South Emerson Avenue (south of site)**, requested a variance of use and development standards to provide for a convenience store with a gas pump island, **approved**.

**68-V2-43; 601-609 South Emerson Avenue (southeast of site)**; requested a variance of use to provide for a liquor store, **approved**.

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**STAFF REPORT 2023-ZON-070, Location**



**STAFF REPORT 2023-ZON-070, Aerial photograph (2022)**



## **STAFF REPORT 2023-ZON-070, Proposed Commitments**

### **ATTACHMENT "D":**

Petitioner agrees to the following commitments:

1. Within six (6) months of the grant of this petition, the east driveway and curb cut onto English Avenue shall be closed, the pavement removed, and the curb fully restored.
2. Within six (6) months of the grant of this petition, the driveway and curb cut onto Emerson Avenue shall be reduced in width to thirty feet. The pavement removed and the curb fully restored.
3. Within six (6) months of the grant of this petition, pavement shall be removed and landscaping installed to bring this site in compliance with the landscape standards of the Ordinance currently in effect.
4. An auto repair facility providing the following services (diagnostics, tune ups, brakes, tires repair, shocks, struts, exhaust, batteries, starters, electrical, alternates) shall be the only C4 uses that shall be permitted on the subject property.
5. A hedge row will be installed and maintained along the east and south property lines. The landscaping shall be completed and maintained at all times thereafter.
6. The trash from the dumpster shall only be picked up by the refuse company between the hours of 7 am and 9 pm.
7. No alcohol sales shall be permitted on the property.
8. "No loitering" signs will be posted on the property and enforced.
9. Security cameras, utilizing the I blink system, shall be erected on the site and maintained, and shall be monitored and maintained. Footage from the recordings on the security cameras shall be retained and made available to IMPD through this system.
10. No off-site advertising signs will be permitted on the premises.
11. No banners, streamers or temporary signs will be permitted on the premises.
12. No outdoor speakers will be permitted on the premises.
13. All lighting shall be fully shielded and Illuminating & Engineering Society of North America (IESNA) full cutoff certified. Light emitted at all property lines at any height, including from signage, shall measure ten (10) lumens or less in both horizontal and vertical directions.
14. The exterior of the façade of the existing building shall be remodeled and updated.
15. A maximum of one free standing sign, either ground or pylon shall be permitted on the subject property.
16. No bath salts or drug paraphernalia, including but not limited to rolling papers, blunt wraps, pipes, screens, steel cylinders or cartridges filled with nitrous oxide, from or crackers, clips and small spoons shall be sold from or permitted on the premises.
17. A solid six-foot-tall privacy fence shall be extended further east along the north property line to a point stopping ten feet from the east property line.

9/19/23

## **STAFF REPORT 2023-ZON-070, Proposed Excluded Uses**

### **ATTACHMENT “E”:**

Petitioner commits to exclude the following uses from the site:

1. Emergency shelter
2. Nursing home
3. Club or lodge
4. Plasma Blood Center
5. Check cashing or validation service
6. Mortuary or funeral home
7. Outdoor advertising off premise sign
8. Tattoo parlor
9. Bar or tavern
10. Pawn shop
11. Substation or utility distribution node
12. Wireless communication facility
13. Parking lot
14. Parking garage
15. Transit Center



**STAFF REPORT 2023-ZON-070, Photographs**



Looking northwest at the subject site from the intersection of Emerson & English avenues.



Looking north across English Avenue at the site.





Looking north across English Avenue at the site and the neighbors to the west.



Looking west English Avenue.



Looking south across English Avenue from the site.



Looking west along English Avenue at the neighbors to the south.





Looking south along Emerson Avenue from the subject site.



Looking east across Emerson Avenue at the neighbors to the southeast.



Looking east across Emerson Avenue at the neighbors to the east.



Looking east across Emerson Avenue at the neighbor to the east.





Looking northwest across Emerson Avenue at the neighbors to the north.



Looking west across Emerson Avenue at the site and the neighbor to the north.