

## STAFF REPORT

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

**Case Number:** 2023-DV1-059 (Amended)  
**Address:** 3835 East 96<sup>th</sup> Street (approximate address)  
**Location:** Washington Township, Council District #3  
**Zoning:** C-S  
**Petitioner:** 96<sup>th</sup> Street Retail Partners LLC, by Mike Timko, P.E.  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a convenience market with seven percent transparency on the western façade (minimum 40 percent transparency required on facades with a public entry).

This petition was automatically continued from the December 5, 2023, hearing, to the January 2, 2024, hearing, at the request of a registered neighborhood organization.

### **RECOMMENDATIONS**

Staff **recommends approval** of this petition.

### **SUMMARY OF ISSUES**

#### **LAND USE**

##### **EXISTING ZONING AND LAND USE**

C-S	Vacant Restaurant
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##### **SURROUNDING ZONING AND LAND USE**

North -	Hamilton County	Automobile Sales
South -	C-S	Integrated Commercial Center
East -	C-S	Integrated Commercial Center
West -	C-S	Commercial Restaurant

COMPREHENSIVE PLAN	The Comprehensive Plan recommends community commercial uses for the site.
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### **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to the transparency requirement for facades with pedestrian access is intended to promote safety, by ensuring an adequate surface area of transparent materials, so that activity within a building can be surveilled by public safety.

(Continued)

## **STAFF REPORT 2023-DV1-059 (Continued)**

- ◇ The primary entrance of the proposed structure, along the eastern façade facing towards the fueling stations, is Ordinance compliant in providing the required transparency.
- ◇ The variance request would be for a secondary entry along the western facade, that would provide transparencies of 7%.
- ◇ While Staff is hesitant to recommend approval of such variations, Staff would note that a majority of the area adjacent to the western façade is associated with bathrooms, limiting the amount of public window transparency. The primary and public retail area is adjacent to the eastern façade and has ample windows, therefore, Staff believes that the convenience markets design meets the intent of the Ordinance.

## **GENERAL INFORMATION**

THOROUGHFARE PLAN	This section of East 96 <sup>th</sup> Street is classified on the Official Thoroughfare Plan as a primary arterial with a 56-foot existing and proposed half right-of-way.
SITE PLAN	File-dated October 10, 2023
ELEVATIONS	File-dated October 10, 2023
FINDINGS OF FACT	File-dated October 10, 2023

## **ZONING HISTORY**

**2020-MOD-008; 9450 Counselors Row (west of site)**, requested the modification of commitments of 80-Z-91A to modify Commitment #11 to provide for building signs, directional signs, identification signs, monument signs and pylon signs, **approved**.

**2017-DV1-028; 2450 Counselors Row (west of site)**, requested a variance of development standards to provide for increased building height and increased setbacks, **granted**.

**2004-DV1-047; 3737 East 96<sup>th</sup> Street (west of site)**, requested a variance of Development Standards of the Commercial Zoning Ordinance to provide for a bank with two drive-through lanes with five stacking spaces before the final component of each service unit, **denied**.

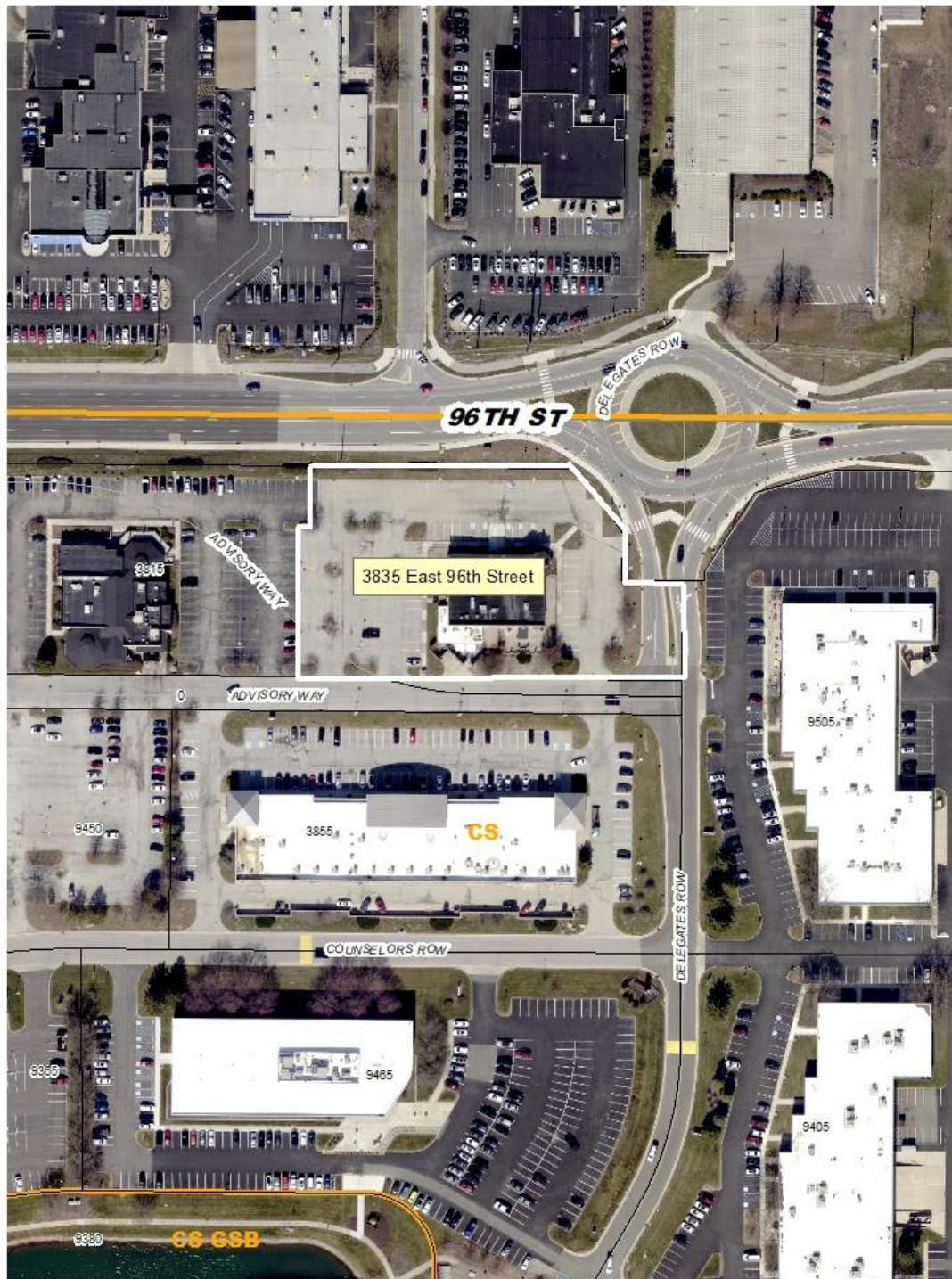
**80-Z-91A; 3801 East 96<sup>th</sup> Street (includes subject site)**, requested the rezoning of 187 acres from the SU-23 and A-2 (GSB) districts to the C-S classification for commercial and industrial uses with gravel, sand and borrow operations, **approved**.

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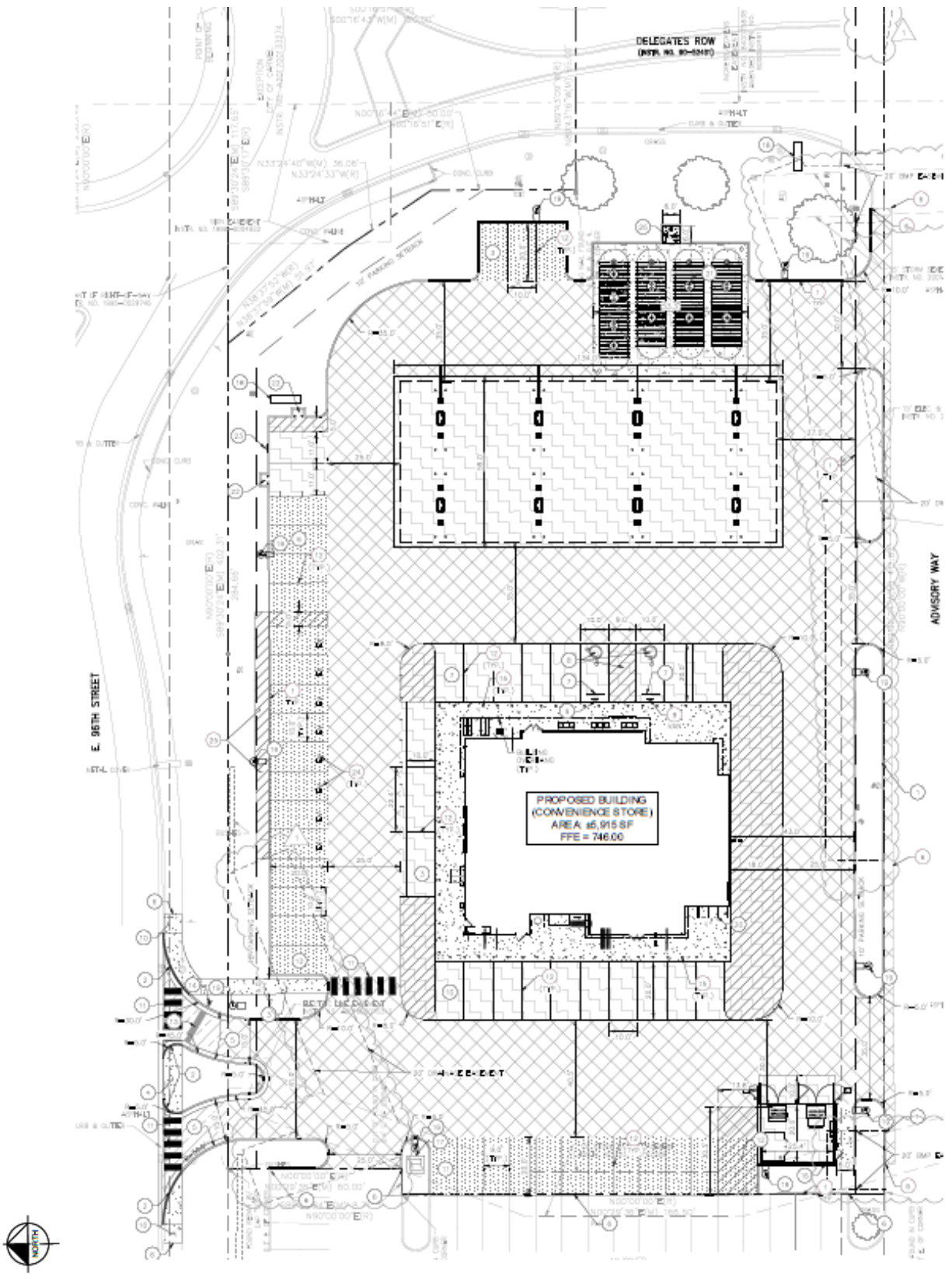
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**STAFF REPORT 2023-DV1-059 (Continued)**

**2023-DV1-059: Location Map**

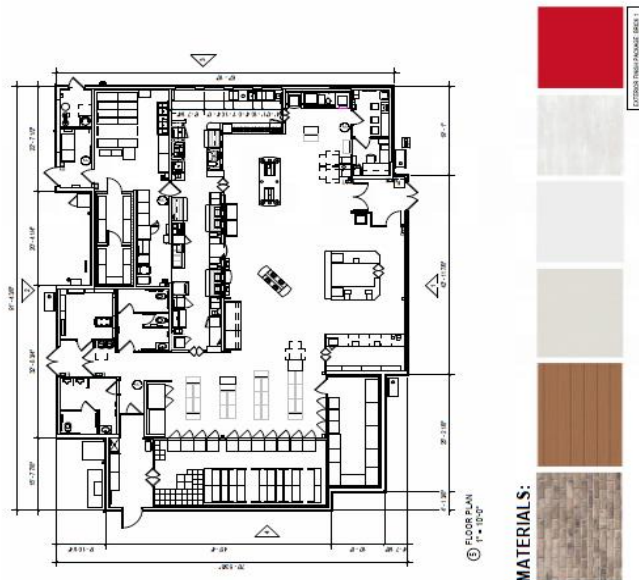
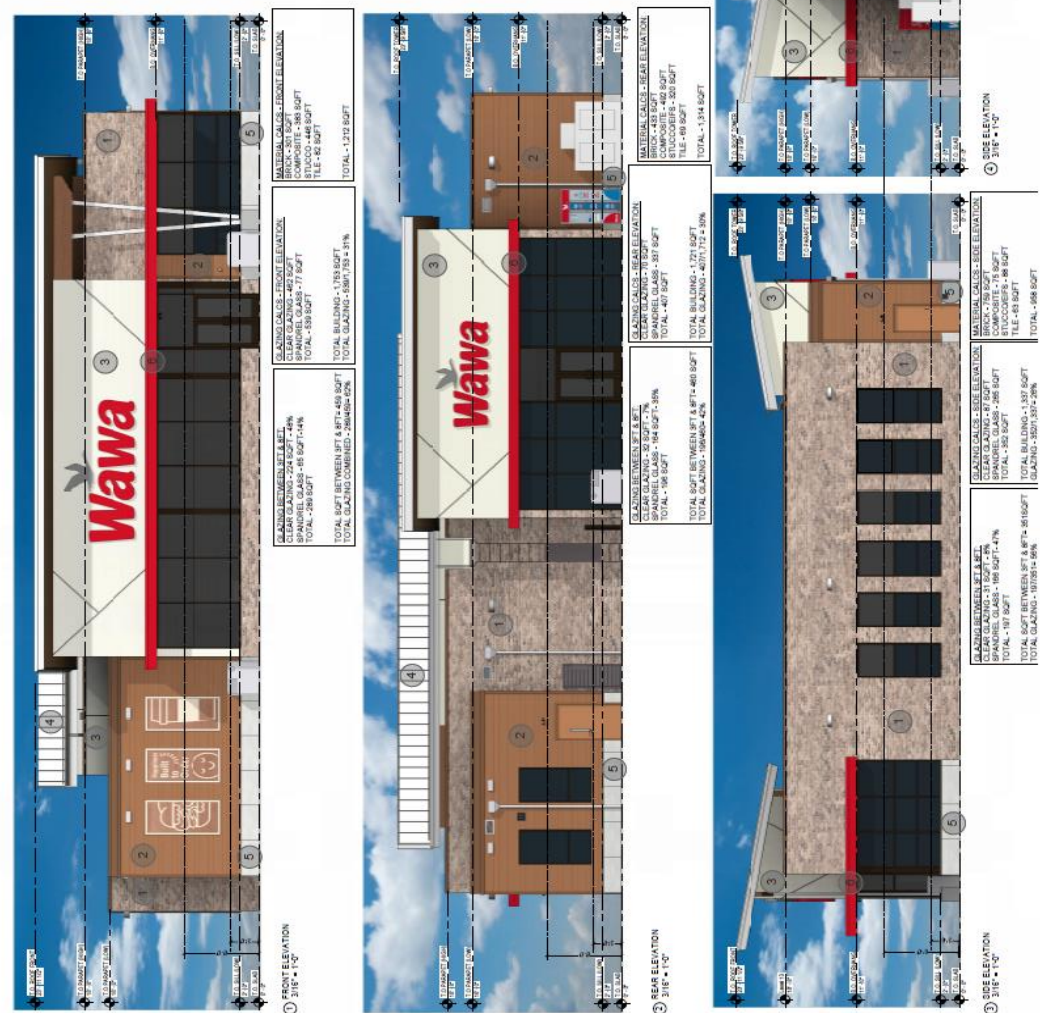


2023-DV1-059: Site Plan





## 2023-DV1-059: Transparency Elevation



**2023-DV1-059: Photographs**



View of subject site, existing building to be demolished, looking southeast.



View of adjacent integrated commercial center to the east.





View of adjacent integrated commercial center to the south.



View of adjacent commercial restaurant to the west.