

**BOARD OF ZONING APPEALS DIVISION III**

**April 15<sup>th</sup>, 2025**

**Case Number:** 2025-DV3-004 (Amended)  
**Property Address:** 5930 East 82<sup>nd</sup> Street (Approximate Address)  
**Location:** Lawrence Township, Council District #4  
**Petitioner:** GMX Real Estate Group LLC, by Joseph D. Calderon  
**Current Zoning:** C-4  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with two stacking spaces within the front yard of East 82nd Street (not permitted), and 21 parking spaces (maximum nine (9) permitted).  
**Current Land Use:** Commercial  
**Staff Recommendations:** Staff recommends **approval** of this variance petition.  
**Staff Reviewer:** Kiya Mullins, Associate Planner

**PETITION HISTORY**

This is the third public hearing for this variance petition.

The second public hearing for this variance petition was continued to allow additional time for staff to discuss the variance petition with the petitioner.

The first public hearing for this variance petition was continued due to allow additional time for discussion of the petition with relevant neighborhood associations and make changes to the variance request.

**STAFF RECOMMENDATION**

Staff recommends **approval** of this variance petition.

**PETITION OVERVIEW**

- The variance petitioner is requesting two items: 1) a Development Standards Variance for two (2) stacking spaces within the front yard of East 82nd Street, and 2) to allow 21 parking spaces.
- This property is 1.046 acres in a C-4 zoning district.
- There are plans to construct a Dutch Bros coffee shop with two (2) drive-thru lanes on this property.
- This parcel was once conjoined with the parcel to the east (Krispy Kreme's current location), but in 2020, it was divided into two (2) parcels through a plat petition case 2020-PLT-103.

- In 2021, the owners of the two (2) parcels established a private, reciprocal easement agreement stating that the northern portion of the subject site's property would be non-curbed parking and shared with the Krispy Kreme located to the east.
- Stacking spaces permit customers to receive services or obtain goods in or on a motor vehicle. For a one-service unit eating establishment or food preparation location, such as Dutch Bro's, in a Metro context area, two (2) stacking spaces must be at the service unit's exit.
- These stacking spaces are not permitted in the front yard along the right-of-way, which exceeds 30 feet in width (East 82nd Street is roughly 145 feet in width). However, in this subject site, with the orientation of the building, the placement of the surrounding commercial buildings, and the easement to the north, there is no location for these stacking spaces except for the front yard.
- The petitioner has submitted a landscaping plan that will obscure the two (2) stacking spaces from view to drivers on East 82nd Street.
- The proposed development on the subject site has 21 parking spaces: two (2) stacking spaces in the south, nine (9) spaces beside the service unit (including two (2) ADA-compliant spaces), and ten (10) in the north area of the property.
- For a food preparation establishment, the maximum number of parking spaces is determined by calculating one (1) space per 100 sqft of the total floor area. The proposed Dutch Bro's building is planned to be 950 sqft in size, meaning that with the current Ordinance standards, the property can have a maximum of nine (9) off-street parking spaces.
- Due to the easement, the petitioners cannot remove the ten spaces to the north. Additionally, the ordinance requires two (2) stacking spaces, necessitating a variance.
- Staff recommends **approval** of this variance petition due to practical difficulty with the property's location next to an integrated center, the past easement to the north, and current Ordinance standards.
- With its approval will include the commitment "So long as the proposed use on the Subject Property has a maximum number of nine (9) parking spaces permitted under the City of Indianapolis Consolidated Zoning / Subdivision Ordinance (the "Zoning Ordinance"). The ten (10) parking spaces located on the north side of the Subject Property and labeled as "Shared Parking Spaces" as shown on the Site Plan attached hereto as Exhibit "A" shall be reserved for the existing Krispy Kreme use on the adjacent parcel, commonly known as 5940 East 82nd Street (Lot 1 in Castleton Square Corner) (the "Adjacent Parcel"), or any other use on the Adjacent Parcel using the existing building consisting of 3500 s.f. and having a minimum parking space requirement under the Zoning Ordinance exceeding the actual number of on-site parking spaces".

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-4	
<b>Existing Land Use</b>	Vacant	
<b>Comprehensive Plan</b>	Regional Commercial	
<b>Surrounding Context</b>	<b><u>Zoning</u></b>	<b>Surrounding Context</b>
North:	C-4	North: Regional Commercial
South:	C-3	South: Community Commercial
East:	C-4	East: Regional Commercial

West:	C-4	West: Regional Commercial
<b>Thoroughfare Plan</b>		
82 <sup>nd</sup> Street	Primary Arterial	145 feet of right-of-way existing and 134 feet proposed.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	Yes	
<b>Site Plan</b>	1/23/2025	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	1/23/2025	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	3/4/2025	
<b>Findings of Fact</b>	1/23/2025	
<b>Findings of Fact (Amended)</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book

### Pattern Book / Land Use Plan

- The Regional Commercial typology provides for general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers (pg 20).

### Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

### Neighborhood / Area Specific Plan

- Not Applicable to the Site.

### Infill Housing Guidelines

- Not Applicable to the Site.



**Department of Metropolitan Development  
Division of Planning  
Current Planning**

**Indy Moves**

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

## ZONING HISTORY

### ZONING HISTORY – SITE

- 2020-PLT-103: 6022 East 82<sup>nd</sup> Street
  - Approval of a Subdivision Plat to be known as 6022 East 82nd Street Subdivision, dividing 1.759 acres into two lots.
    - Approved
- 2021-DV3-025: 6022 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall, 71-square foot monument sign within 289 feet of an existing sign to the west and 172 feet of an existing sign to the east, being the eighth sign along the 82nd Street frontage (300-foot separation required, maximum sign area of 300 square feet per site and maximum two freestanding signs permitted).
    - Approved

### ZONING HISTORY – SURROUNDING AREA

- 2000-UV3-057: 6070 East 82<sup>nd</sup> Street
  - Auto glass replacement shop.
    - AP
- 2001-DV1-040: 6161 East 82<sup>nd</sup> Street
  - 58.5 sqft advertising sign.
    - D
- 2001-ZON-031: 6081 East 82<sup>nd</sup> Street
  - 122.13 acres from C-2, C-7 & I2S to CS office-commercial industrial business park with an emphasis on office, light warehousing and related commercial uses.
    - WD
- 2003-ZON-099: 5920 Castleway W Drive
  - To be used for adult/secondary educational purposes only.
    - AP
- 2005-DV2-053: 6110 East 82<sup>nd</sup> Street
  - Provide for a forty-foot tall, 153.75-square foot pole sign located 196.1 feet from an existing freestanding sign within an integrated center (minimum 300-foot separation required between freestanding signs in an integrated center) in C-4.
    - AP
- 2007-DV3-030: 6020 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations provide for the construction of a 56.75-foot tall, 635.82-square foot pole sign (maximum 40-foot height permitted), with a 368 square foot electronic variable message sign component or 57.8 percent of the total sign area (maximum 254-square feet or 40 percent of the total sign area permitted), being within fifteen feet of a signalized traffic intersection (minimum 125-foot separation required).
    - AP

- 2007-DV3-054: 6020 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations to provide for a 34-foot tall, 228.67-square foot pole sign with an approximately 740-foot front setback from East 82nd Street, resulting in a total sign area of 1,558.67 square feet within an integrated center (maximum 900-square feet permitted).
    - AP
- 2008-HOV-004: 6055 East 82<sup>nd</sup> Street
  - Outdoor seating variance.
    - WD
- 2010-DV2-025: 5910 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations to provide for a 22-foot tall, 148.5-square foot free-standing sign, with a 11.5-foot setback from 82nd Street (15-foot front setback required) and an 11.17-foot setback from Castleway Drive
    - Approved
- 2011-DV1-028: 6055 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations to provide for a freestanding sign 133 feet from a freestanding sign (600 feet of separation required).
    - Approved
- 2011-ZON-011: 6055 East 82<sup>nd</sup> Street
  - Rezoning of 1.52 acres, from the C-3 District, to the C-4 classification to provide for commercial uses.
    - Approved
- 2011-ZON-093: 8060 Knue Road
  - Rezoning of 4.19 acres, from the C-S District, to the C-S classification, with a modification of Commitment Two of 2001-ZON-817 (Instrument # 2001-0152908) to provide for hospital uses, including acute care services.
    - Approved
- 2012-HOV-020: 595 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Commercial Zoning Ordinance to provide for a 486-square foot outdoor seating area (not permitted).
    - Approved
- 2014-DV1-003: 6161 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations to provide for a six-foot tall (ground signs cannot exceed four feet in height, minimum clearance of nine feet required), off-site business park advertising sign located in the right-of-way of 86th Street (signs not permitted within the right-of-way, 10-foot setback from proposed right-of-way required), approximately 215 feet from an existing advertising sign to the west (1,000 feet radial separation required).
    - Approved
- 2014-DV1-037: 6130 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations to provide for a 40-foot tall, 150-square foot pylon sign within approximately 195 feet of an existing freestanding sign to the west (minimum 300 feet of separation required), with an 11.25-foot front setback (minimum 15-foot setback required).

- Approved
- 2014-DV2-046: 6161 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations to provide for a 25-foot tall, approximately 150-square foot freestanding sign, exceeding the maximum integrated center sign area, being the ninth sign along this approximately 2300-foot frontage, within 105 feet of an existing freestanding sign (maximum 900 square feet of sign area permitted, maximum seven signs permitted, minimum 300 feet of separation).
    - Approved
- 2014-DV3-027: 6081 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Sign Regulations to provide for two signs within two feet of each other (300 feet of separation required).
    - Approved
- 2022-DV3-048: 6303 East 82<sup>nd</sup> Street
  - (Amended) Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster within the front yard of Knue Road (not permitted).
    - Approved
- 2024-DV3-002: 6161 East 82<sup>nd</sup> Street
  - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).
    - Approved



EXHIBITS

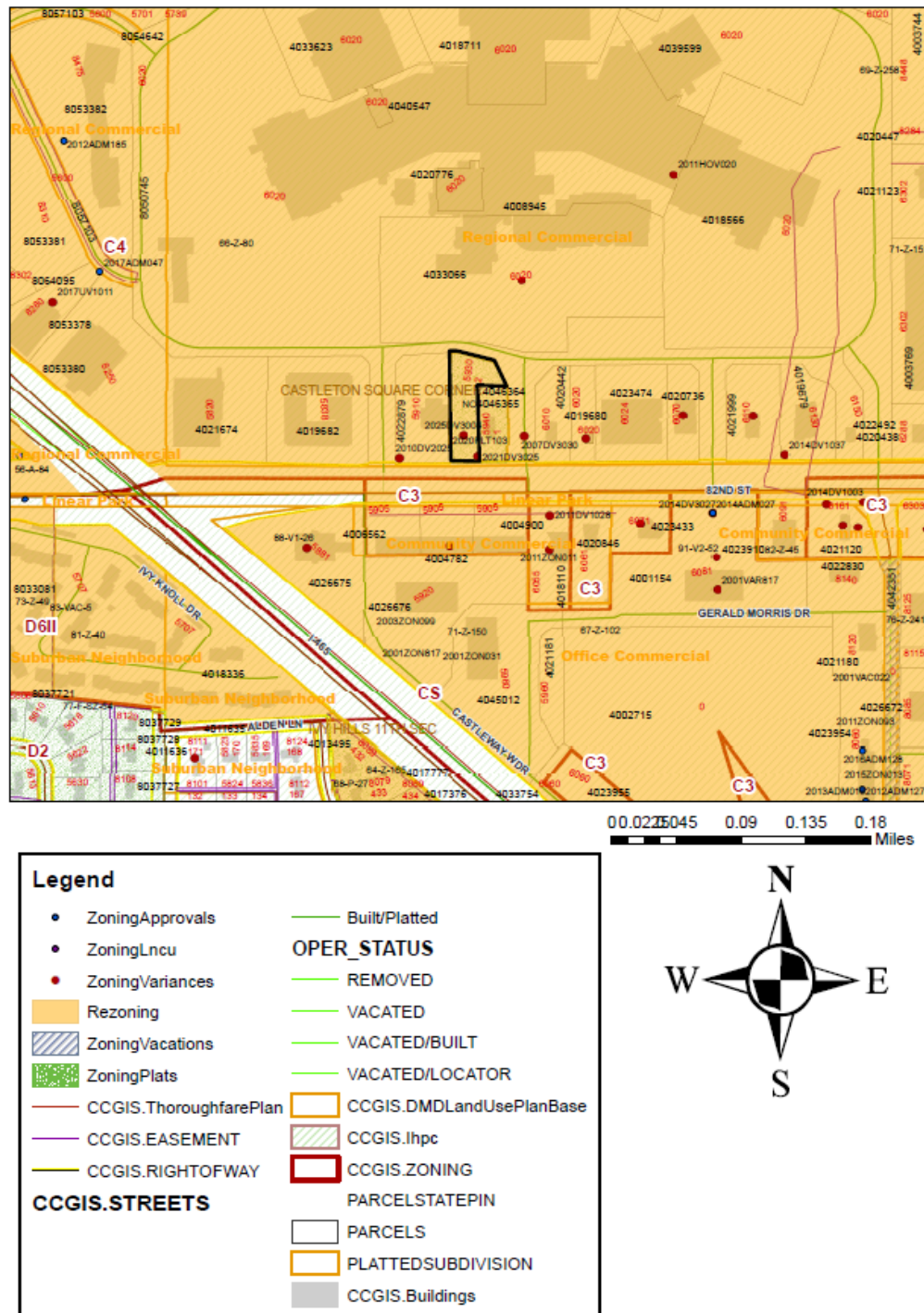


Exhibit 1: Area map of surrounding context around 5930 East 82nd Street.



**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division \_\_\_\_\_  
OF MARION COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

the two stacking spaces at the end of the pick up window would meet applicable front setbacks and will rarely be used, and the proposed sign meets the required front setback and will not be located in any clear sight triangle.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

neither the two stacking spaces in front of the building, nor the proposed sign will interfere with access or visibility to or from any adjacent property.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

the shape of the property being narrow but deep, dictates the drive through stacking, resulting in the spaces located of the pick up window being located in the front yard. The monument sign proposed is one sign on an independently owned lot and has one user.

Exhibit 2: The submitted Findings of Fact.

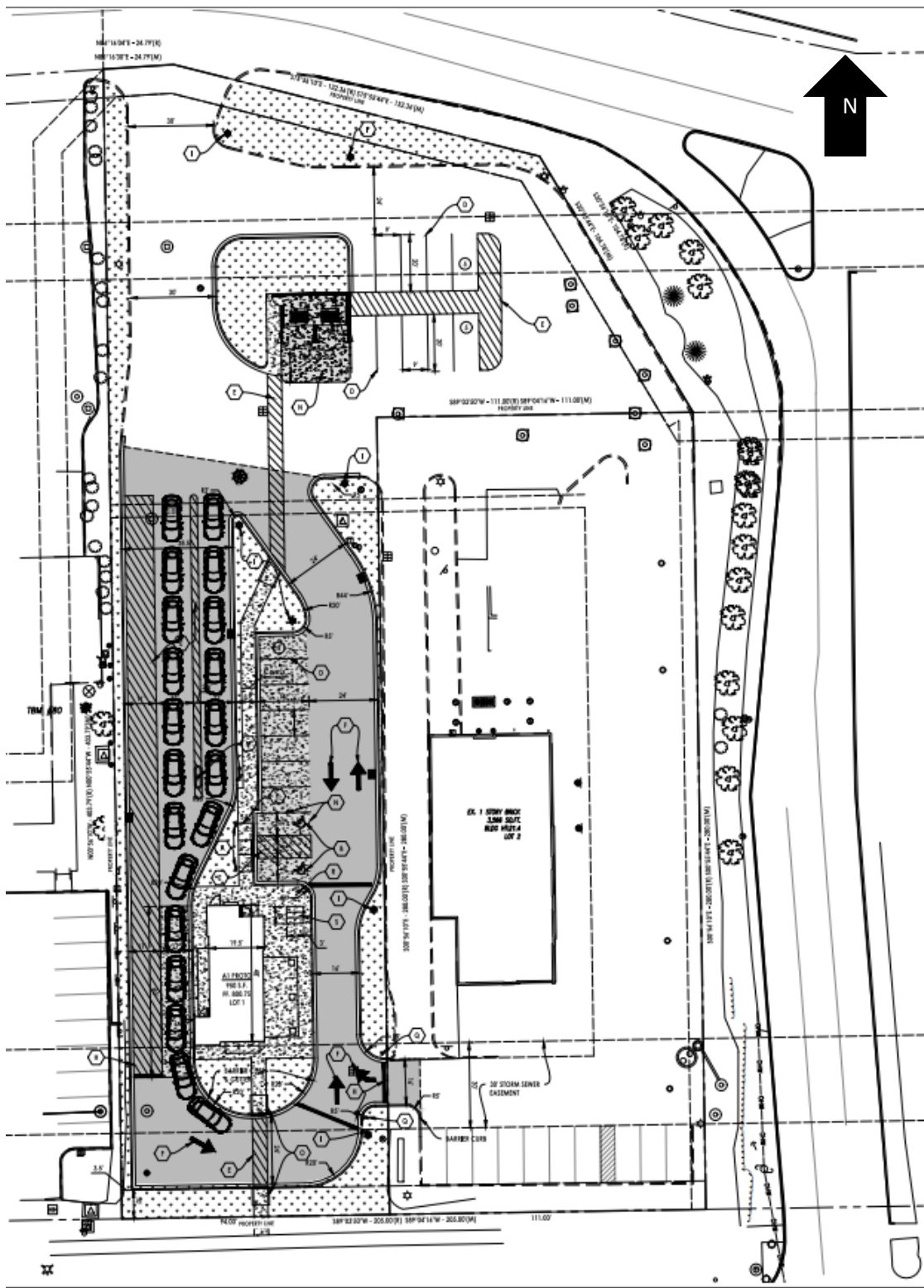


Exhibit 3: Proposed site plan.

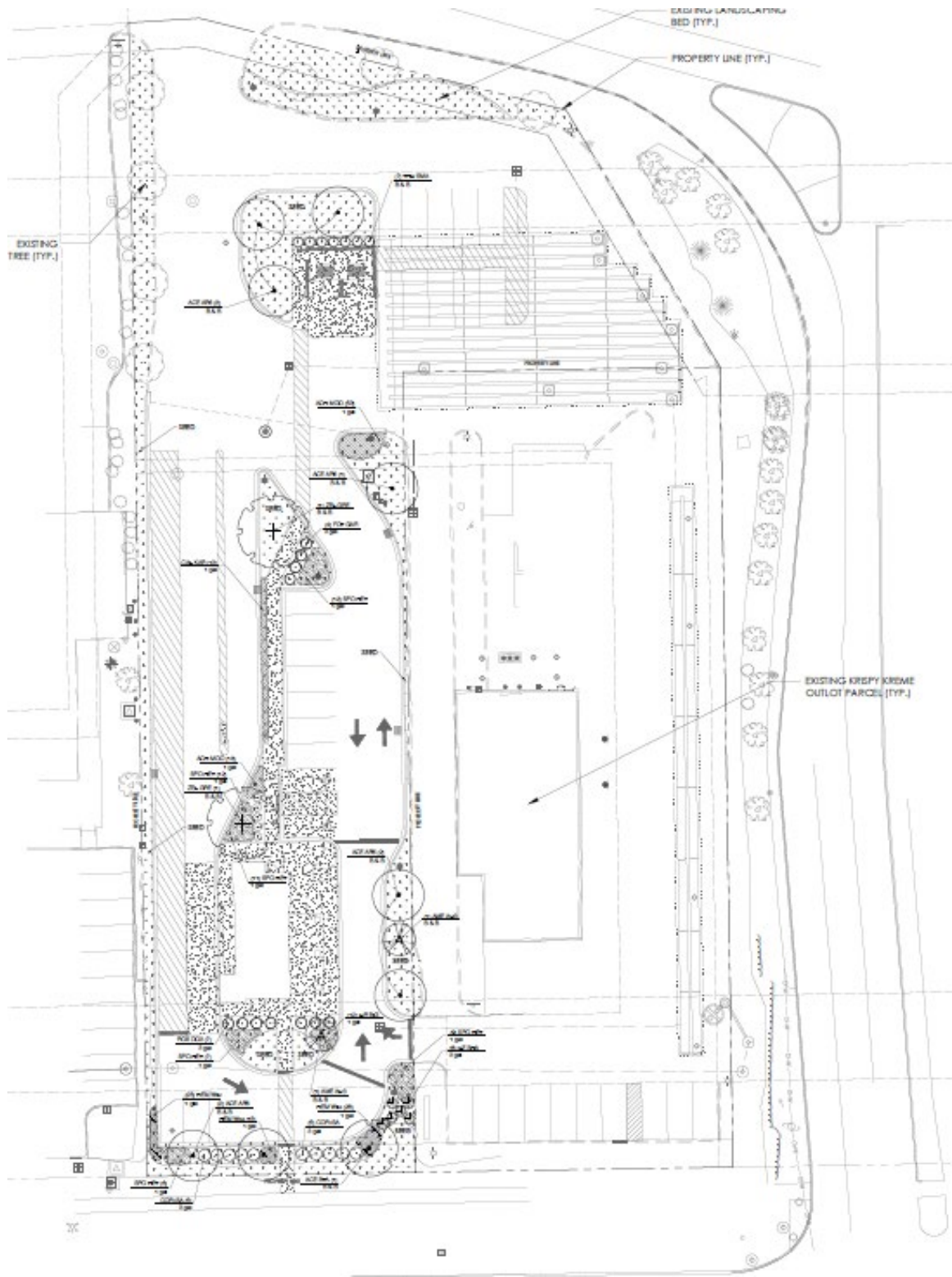


Exhibit 4: Proposed landscape plan.

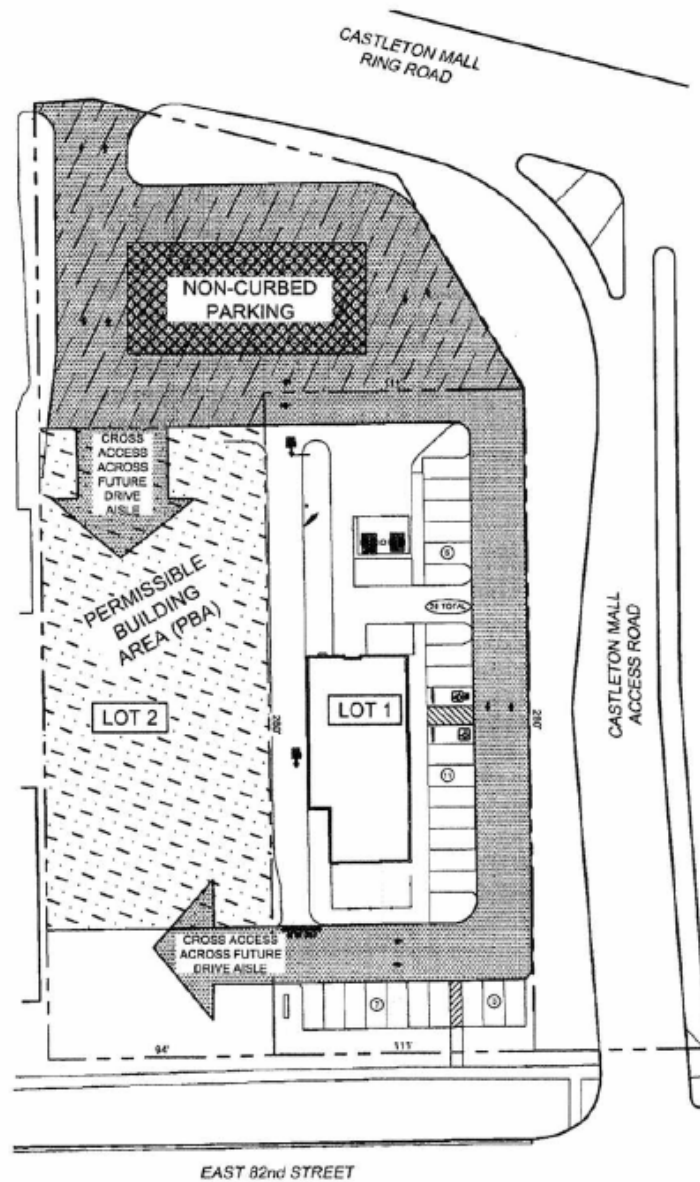


Exhibit 5: Reciprocal Easement Agreement map between the subject property and the Krispy Kreme next door.





Exhibit 6: Proposed site for the Dutch Bros looking north.



Exhibit 7: Proposed site for the Dutch Bros looking south.



Exhibit 8: Longhorn Steakhouse to the west of the subject property (sign is 185 feet from the proposed Dutch Bro's sign location).





Exhibit 9: Krispy Kreme and Castleton square sign to the east of the subject property (Krispy Kreme sign is 104 feet from the proposed Dutch Bro's sign location).





Exhibit 10: The shared non-curbed parking area looking east.



Exhibit 11: The shared non-curbed parking area looking north.



Exhibit 12: Looking east down East 82<sup>nd</sup> Street.



Exhibit 13: Looking west down East 82<sup>nd</sup> Street.





Exhibit 14: Looking across East 82<sup>nd</sup> Street.



Exhibit 15: Castleton Square behind the subject site.



Exhibit 16: Aerial of the subject site and surrounding area.