

BOARD OF ZONING APPEALS DIVISION III

April 15, 2025

Case Number: 2025-DV3-008

Property Address: 5101 East Thompson Road (*approximate address*)

Location: Franklin Township, Council District #24

Petitioner: BT Indianapolis LLC, by Michael Timko

Current Zoning: C-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an automobile fueling station and convenience store with facade transparency as low as zero percent (40 percent required), a drive-through without a bypass lane (required), and overall deficient site landscaping.

Current Land Use: Vacant Commercial

Staff Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 5101 East Thompson Road is currently an approximately 7.5-acre parcel near the intersection of Thompson Road and Emerson Avenue. The parcel is currently developed with a vacant retail structure to the south and paved parking areas to the north. It is also a part of the Emerson Plaza shopping center and is bordered by additional commercial uses to the north and east, residences to the west, and a garden center to the south.
- The plat petition 2024-PLT-009 was approved last year to divide this existing parcel into four (4) separate lots to allow for new commercial development (see “Development for Lots 1-3” within the Exhibits below). The northernmost three lots were designed for multitenant commercial use, fast food restaurant with drive-through, and automobile wash facility. A separate variance petition 2024-DV1-027 was also approved last year related to the northernmost three (3) lots.

- The scope of this variance petition would be limited solely to the development proposed for Lot 4 (address not yet assigned). The currently proposed development would allow for placement of a fueling station and convenience store at this site which would include both 10 accessory fuel pumps under a fuel pump canopy as well as placement of stacking spaces along the northern façade. The proposed drive through (referred to as a “fly-thru” within the submitted Plan of Operation) would not include an order box for placement of on-site orders and would only be utilized by patrons that had previously placed a food order remotely. The business would employ 40 employees, would be open 24 hours a day, and would receive deliveries 1-2 times a day.
- As proposed, this site layout would require the approval of three (3) separate variances of development standards: (a) the proposed rear façade containing a public pedestrian entrance does not provide for transparent materials on either side of the doorway; (b) the proposed drive through does not contain a dedicated bypass aisle; and (c) the proposed landscape plan does not meet Green Factor checklist standards, and it is unclear if requirements for interior landscaping within parking areas or for transitional yard landscaping would be fulfilled either. Submitted plans do not show bicycle parking, but the applicant has indicated this will be added.
- This property is zoned C-4 (Community-Regional District) to allow for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. Typical uses might include home improvement stores, department stores, and theaters. Similarly, the Comprehensive Plan Pattern Book recommends this site to the Regional Commercial working typology to allow for general commercial and office uses with thoroughfare access and pedestrian connection between businesses that serve a significant portion of the county.
- Regulations on building transparency within the Ordinance exist to ensure both public safety and visibility for emergency responders as well as to allow for activation of facades that contain public pedestrian entrances. While the proposed front façade to the west would meet the 40% standard required for C-4 zoning, the rear entrance along the eastern façade wouldn’t contain any transparency at all (other than the doorway itself which would not count toward the required 40%). Findings submitted by the applicant indicate that they would be unable to meet this standard due to the placement of private bathroom and office areas on either side of the rear doorway and that that one of the two public entry points would comply. Staff would note that the design choice to place sensitive areas such as bathrooms near the rear doorway would qualify as a self-imposed practical difficulty instead of a site-specific hardship.
- The Ordinance also requires a bypass lane for drive throughs within the Metro context to allow for egress by motorists in cases of emergencies or car breakdowns. Applicant findings noted that the proposed “fly-thru” differs from standard drive throughs given the lack of an order box service unit and claimed that a bypass lane would result in the loss of required parking spaces. Staff notes that the proposed use would only require provision of 25 parking spaces and that the current site layout shows 61 parking spaces (well above the required minimum). It appears to staff that adequate flexibility would exist to both include both the required bypass aisle as well as all required parking spaces, and do not feel the submitted Findings present a practical difficulty.

- Finally, the Ordinance places minimum requirements for placement of landscaping for new development to foster aesthetically pleasing, environmentally beneficial, and sustainable development. In 2016, the Green Factor requirement was added to ensure that each new development site is developed in a sustainable manner with resilient native plantings and for additional flexibility in the type and placement of landscaping elements. Although the existence of overhead power lines along the western property line does create some limitation on the placement of shade trees, staff would still note that the proposed score of 0.15 would meet neither the 0.30 required for previously undeveloped lots or the 0.22 required for land with previous commercial development (an exception for redevelopment of this nature already written into Ordinance). Staff would also disagree that the existence of surrounding properties with lower overall Green Factor scores would qualify as a site-specific practical difficulty preventing the drafting of a landscaping plan that meets Green Factor requirements as well as standards for interior and transitional yard landscaping.
- During the petition review process, staff reached out to the applicant about the concerns outlined above as well as potential pedestrian safety concerns that could result from the internal pathway that would cross over the proposed “fly-thru” lane. The applicant indicated to staff that they planned to add additional landscaped on the northwest and northeast corners of the building as well as along the northern edge of a slightly expanded drive-thru lane. Since that response and amended plans were not provided prior to the publication deadline of this report, staff would be unable to consider those changes in full without additional time facilitated by a continuance to the May hearing date (the petitioner was not amenable to allowing for additional discussion time).
- Staff does not feel the site layout provided for initial review represents an approximation of ordinance requirements or intent and feels that flexibility could exist to amend plans in a manner that would reduce or remove the need for these variances. In particular, the amount of paved area vs. landscaped area shown on plans (resulting in a deficient Green Factor score) does not advance quality of life principles found within Ordinance that would lead to a reduction in urban heat island effects and are an important piece of climate resiliency efforts. Though the surrounding land uses have historically been placed within a heavily paved context, the Green Factor requirements take previous land use context into account and broader contexts cannot change unless the permitting and petition process reinforce existing rules. Given the lack of practical difficulty presented and the importance of these regulations, staff recommends denial of this petition based on plans submitted prior to new information and publishing deadlines.

GENERAL INFORMATION

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

West:	D-A	West: Residential
Thoroughfare Plan		
Emerson Avenue	Primary Arterial	100-foot existing right-of-way and 112-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	02/26/2025	
Site Plan (Amended)	N/A	
Elevations	02/26/2025	
Elevations (Amended)	N/A	
Landscape Plan	02/26/2025	
Findings of Fact	02/26/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Regional Commercial working typology for provide for general commercial and office uses that serve a significant portion of the county rather than just surrounding homes. Uses are typically in large freestanding buildings or integrated centers and should provide pedestrian connection between buildings.

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

2024DV1027, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of two drive-throughs and stacking spaces within the front yard of Thompson Road (not permitted) and without required bypass aisles, deficient compliance with various landscaping standards, and 64 parking spaces accessory to a restaurant use (maximum 25 spaces permitted for proposed square footage), **approved**.

2024PLT009, Approval of a Subdivision plat to be known as BT Indianapolis, dividing 7.527 acres into four lots, with a waiver of the sidewalk requirement, **approved**.

91-UV1-41, variance of use of the Commercial Zoning Ordinance to permit an expansion of a garden shop resulting in 9,370 square feet (200 square feet permitted) and a variance of development standards to permit a reduction in the number of required parking spaces from 409 to 356, **approved**.

ZONING HISTORY –VICINITY

2020DV2053B ; 5255 E Thompson Road (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to permit exit stacking spaces in the front yard of Thompson Road (not permitted), **approved**.

95-HOV-23 ; 5095 E Thompson Road (northwest of site), variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a drug store with a drive-through customer service window located on the west side of the building, being 87.92 feet from a residential zoning district (drive-through service units not permitted on the side or rear of a building and not permitted less than 100 feet from a protected district), **approved**.

94-HOV-130 ; 5079 E Thompson Road (west of site), variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a drug store with a drive-through customer service window located on the south side of the building being 49 feet from a residential zoning district (drive-through service units not permitted on the side or rear of a building and not permitted less than 100 feet from a protected district), **approved**.

88-UV2-122 ; 5130 E Thompson Road (north of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for a restaurant drive-through window within 100 feet of a residential district and within the required front yard (seventy-feet required), **denied**.

87-UV3-101 ; 4925 S Emerson Avenue (north of site), variance of use of the Commercial Zoning Ordinance to provide for a restaurant with drive-through and carry-out service within 100 feet of a residential zoning district, **withdrawn**.

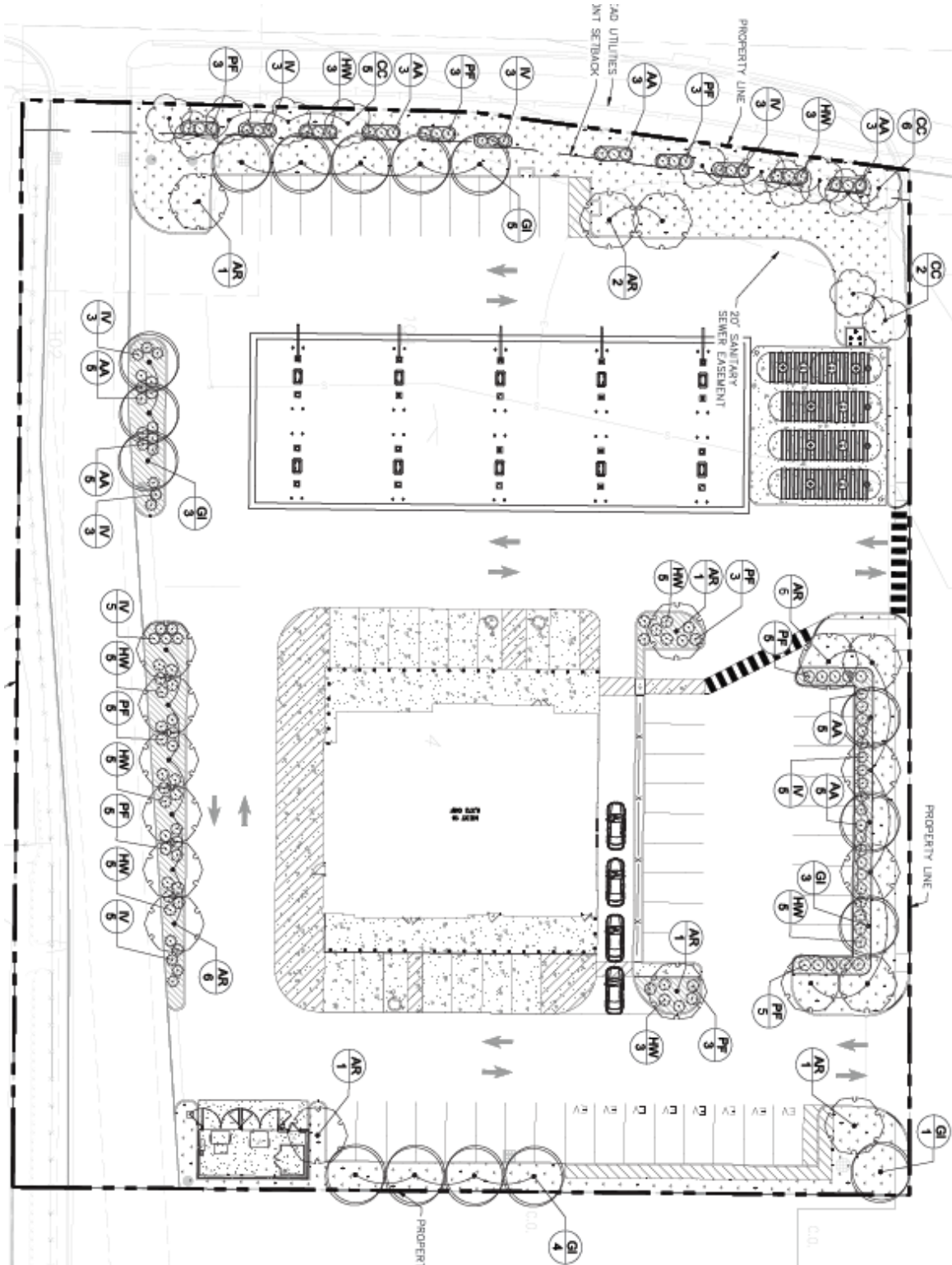
EXHIBITS

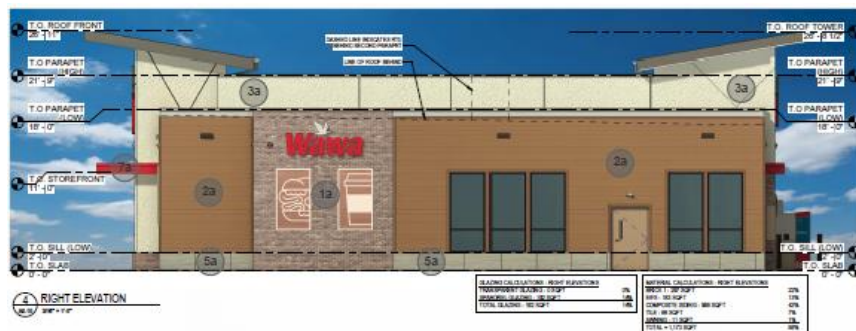
2025DV3008 ; Aerial Map



Note: scope of variance approval would solely include the southern half of the subject site (Lot 4 as created by 2024PLT009, area comprising the retail building to be demolished)

2025DV3008 ; Site & Landscape Plan





2025DV3008 ; Plan of Operation



February 24, 2025

RE: *Wawa 5101 East Thompson Road, Variance Petition*

Plan of Operation

The proposed Wawa is a convenience store and fuel station. The specific site is proposed to have an approximately 6,300 square foot convenience store and ten fuel pumps. The convenience store floor plan is made up of approximately 3,300 square feet of retail, restrooms, and self-service, 1,300 square feet of food preparation space, and the remainder being office and storage space. This store is also proposed to have a "fly-thru", which is a mobile order only drive-thru pickup window. The food component of a Wawa typically sees a higher output than a traditional fuel station convenience store, which is why the site is designed in such a way that provides convenience to customers that are not purchasing fuel to navigate the site and enter the building. The peak hours of Wawa sales generally follow that of the surrounding traffic pattern as many of the customers visit Wawa out of its convenience in their daily commute route.

A typical Wawa employs approximately 40 employees over three shifts. The store is open 24 hours a day. The relatively high number of employees is due to the food demand as well as Wawa's exceptionally high standards for cleanliness and security both inside and outside the building. Wawa prides itself on being the preferred location for customers to stop whether it's in the middle of the lunch hour or middle of the night.

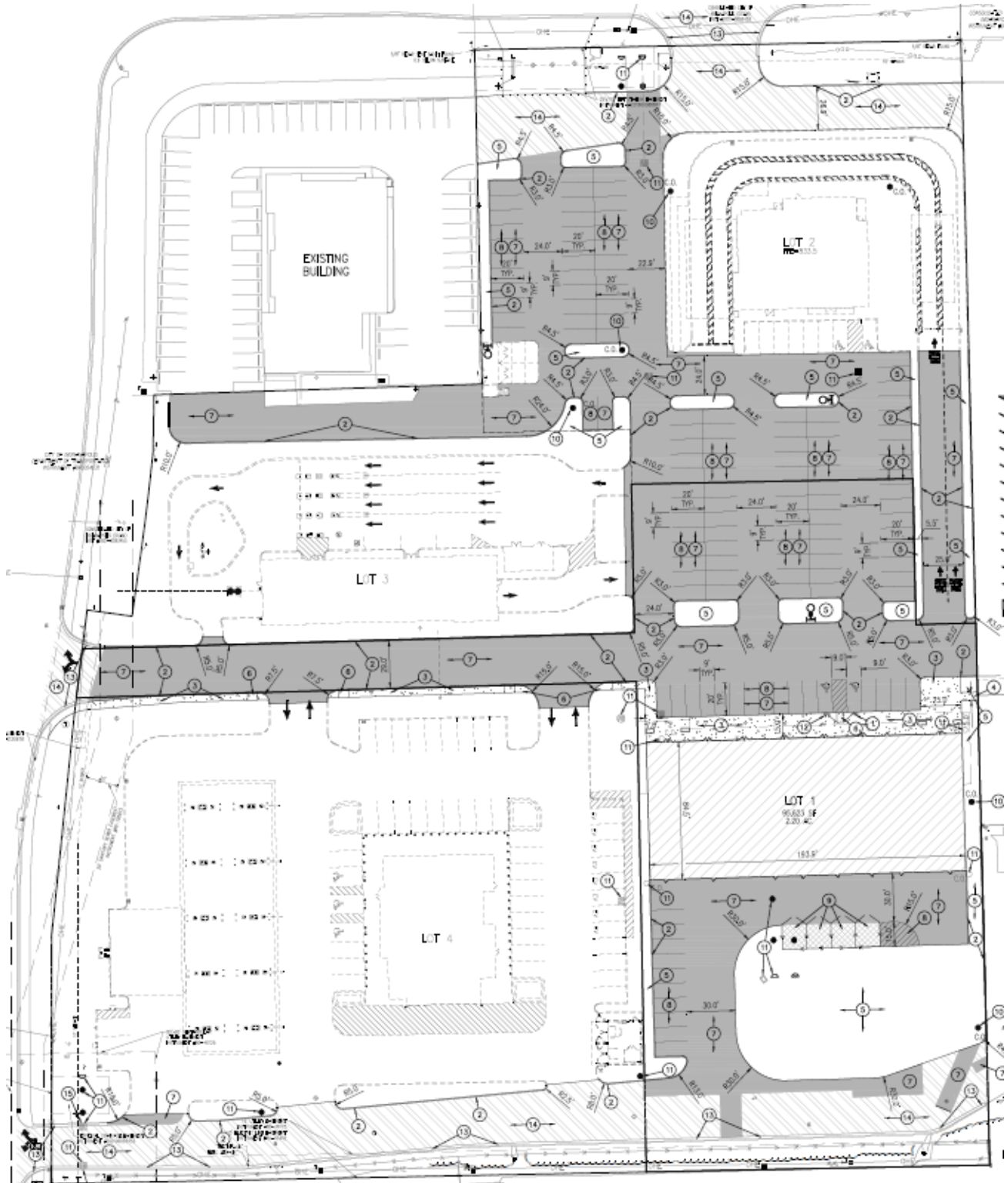
Due to the exceptional standards of food production, deliveries are made 1-2 times per day to ensure fresh food products are being sold. These deliveries are prohibited during peak hours. There is a designated loading zone reserved for these deliveries so that the impact to the function of the site is minimized. A dumpster enclosure is provided as a part of the site design. This has been placed in a location that is least visible from the public right of way, but still convenient for Wawa employees and the waste management provider to utilize. Naturally as a part of the proposed use, there are proposed fuel storage tanks. All tanks are underground and double-walled. Wawa utilizes quality tank materials and monitoring systems to ensure safe containment of the fuel.

Wawa is new to the Indiana market but is excited to be a partner in the communities that they look to serve. Their reputation and customer following in other regions of the country speak for itself.

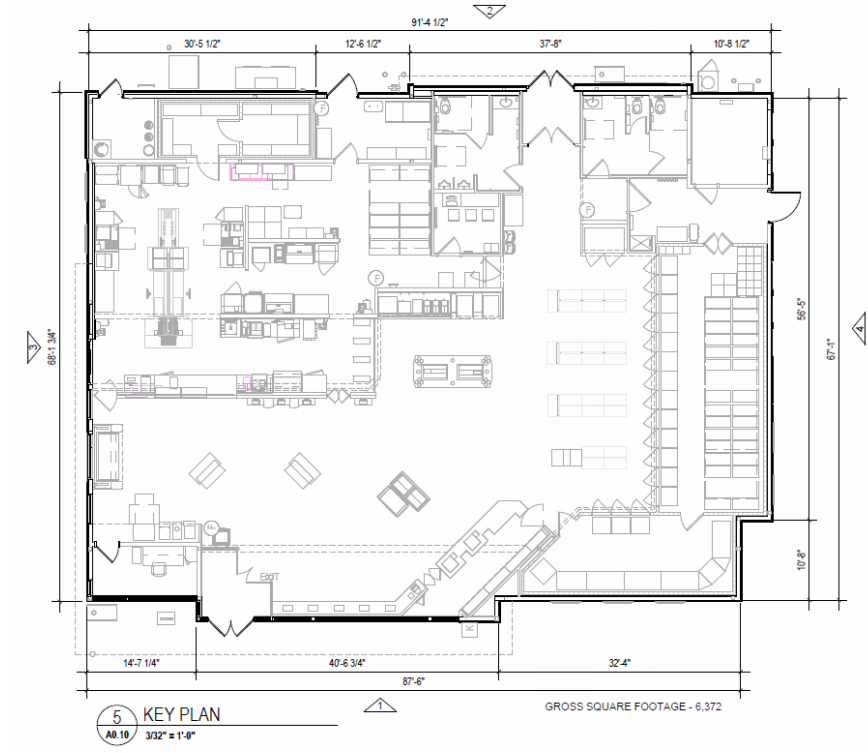
Please contact me at (317) 218-9566 or mike.timko@kimley-horn.com should you have any questions for further comments.

Sincerely,
Mike Timko, P.E.

2025DV3008 ; Development for Lots 1-3 (approved via 2024DV1027)



2025DV3008 ; Floorplan



2025DV3008 ; Findings of Fact (Bypass Aisle)

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

The petition request to not provide a bypass lane for a "drive-thru" is based on the unique model of "drive-thru" being proposed. The proposed drive-thru is for mobile order pickups only. There is not an order point. Customers are notified via the mobile app when their order is ready and to proceed to the pickup window. This model limits the amount of stacking experienced during the food pickup process. This difference from a traditional drive-thru eliminates the safety concerns and need for additional circulation of a bypass lane that is required of traditional drive-thru's.

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:

A drive-thru bypass lane would not be of benefit to surrounding properties. The additional parking spaces that can be provided in lieu of the bypass lane, will be beneficial to the surrounding properties as the overall development.

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

The bypass lane will not be of benefit to customers and could create confusion for traffic circulating the site. The bypass lane would use valuable space that could be better utilized for parking spaces that will ensure adequate parking is available on site.

2025DV3008 ; Findings of Fact (Landscape/Green Factor)

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

The reduction in landscaping will not be detrimental to the community because landscaping is still being provided on all four sides of the site and within the green spaces internal to the parking lot. The landscaping proposed as a part of this project is a significant upgrade from the existing condition.

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:

The surrounding properties have far less landscaping than what is being proposed for this project. The other lots of the overall development received variance approval for a greater reduction in landscaping than what is being proposed.

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

This property is unique in that it has overhead power lines and a sanitary sewer main running along the frontage of the property. Those existing conditions greatly hinder our ability to install landscaping, specifically trees that carry a higher green factor multiplier.

2025DV3008 ; Findings of Fact (Transparency)

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

The intention of the variance request is to prevent visibility into sensitive areas of the building such as restrooms, mechanical rooms, and kitchen. Opaque glass is being proposed for portions of the facade to prevent viewing sensitive areas of the building that would otherwise be potentially injurious to the public health, safety, morals, and general welfare of the community should fully transparent windows be provided per code.

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:

The intention of the code will still be met. A granting of this standards variance would not result in any noticeable changes from street level as the same percentage of the facade would still be glass, but a portion of that glass would be opaque. By providing an equivalent visual appearance as required by code, adjacent value of the area will not be negatively impacted.

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

The significant transparency requirements on the building facades would result in the placement of transparent glass that would allow viewing into sensitive areas of the building such as restrooms and storage rooms. This difficulty is unique because the end user utilizes both sides of the convenience store for public entry. The fuel users have their traditional, convenient entry point, but there is also a second public entry point that is convenient for users that are not purchasing fuel.

2025DV3008 ; Photographs



Photo 1: Subject Property Viewed from North



Photo 2: Subject Site Viewed from Northwest

2025DV3008 ; Photographs (continued)



Photo 3: Subject Site Viewed from West



Photo 4: Subject Site Viewed from Southwest

2025DV3008 ; Photographs (continued)



Photo 5: Adjacent Property to North



Photo 6: Adjacent Property to Northwest

2025DV3008 ; Photographs (continued)



Photo 7: Adjacent Property to West



Photo 8: Adjacent Property to Southwest

2025DV3008 ; Photographs (continued)



Photo 9: Adjacent Property to South



Photo 10: Adjacent Property to Southeast