

BOARD OF ZONING APPEALS DIVISION III

September 15, 2026

Case Number: 2026-UV3-017
Address: 2331 Muessing Road (approximate address)
Location: Warren Township, Council District #25
Zoning: SU-9 (FF)
Petitioner: Paredes Castello LLC, by David Gilman
Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a tree service commercial contractor (not permitted) with a 56-foot wide gravel driveway (driveway limited to 30-feet in width, gravel not permitted), with a five-foot north side yard setback and a five-foot south side yard setback, (ten-foot side setbacks required).

Current Land Use: Commercial Contractor

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first hearing of this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition, subject to the following commitments:

1. The Variance grant shall be subject to the installation of a 24-foot wide asphalt driveway that will be installed from the edge of Muessing Road 50 feet into the site, no later than August 15, 2027.
2. The Variance grant shall be subject to an updated site plan to be submitted for Administrator's Approval, prior to the issuance of an Improvement Location Permit. The site plan shall show the entire site of the parcel at approximately 1,000 square foot in length, along with building and parking placements.
3. The Variance grant shall be subject to the Plan of Operation, file dated September 15, 2026

PETITION OVERVIEW

- ◇ The site was previously part of the former historic Marion County Healthcare Center grounds, that was closed in 1997. The site was rezoned to SU-9 in 1987 to accommodate that use. The purpose of the SU-9 district is to provide for buildings and grounds used by any department of town, city, township, county, state or federal government agencies.

VARIANCE OF USE

- ◇ The request would provide for the operation of a tree service contractor. A newly constructed 5,600 square foot building is planned for the site that will have five-foot north and south side setbacks, with a gravel driveway in front of it. All storage will occur inside of the planned building.

- ◇ The contractor will provide tree services off site by appointment and by referral. No customers are intended to visit the site.
- ◇ The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site. The proposed use, being a tree service contractor, would be similar to agricultural operations that are permitted in the D-A District. Therefore, the request would be a minor deviation from the Ordinance, and the impact would not be an increase in intensity.
- ◇ The use of the site for a town, city, township, county, state or federal government agencies is no longer viable as the property was sold off in 1997 from the Marion County agency that controlled it up until then. The site is now under private ownership. The site also has a very narrow lot width of 66 feet that prevents most rural or estate development that requires a minimum of 150 square feet in lot width.
- ◇ The submitted site plan is abbreviated and does not indicate the entire size of the lot. Therefore, Staff is requesting a commitment that the Variance grant shall be subject to an updated site plan to be submitted for Administrator's Approval prior to the issuance of an Improvement Location Permit. This site plan shall show the entire site of the parcel at approximately 1,000 square feet in length, along with building and parking placements.
- ◇ Staff is requesting this commitment to prevent any future expansion of the proposed use, and the use of the eastern portion of the site, as there is the presence of a 100-year flood plain, a stream protection corridor, potential Heritage Trees, and an adjacent residential protected district.
- ◇ Staff is also requesting that the Variance grant shall be subject to the submitted plan of operation file dated September 15, 2026. This plan of operation limits the intensity of the use to a smaller scale with a maximum of five work trucks, two pickup trucks with trailers, and a woodchipper in equipment, and a team of eight (8) full-time employees. Any expansion of the plan of operation or site plan will require an Approval petition and public hearing to modify the subject commitment.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The development standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks, are intended to provide for adequate separation and ventilation between structures and use areas as well as provide for a continuous pattern of development through the block.
- ◇ The site, although conducive to commercial development, is narrowly configured at 66 feet in width, and 1,000 feet in length. Strict application of the dimensional standards would significantly limit the reasonable development of this site to a lower intensity and limit the construction of commercial uses.
- ◇ The adjoining parcels to the north and south are non residential uses whose ability to access and use their parcels does not depend on additional separation, and a high level of existing property line screening already exists.

- ◇ Therefore, this reduction of the requested side setbacks would not be a significant deviation from the Ordinance or negatively impact the character of development within the surrounding area and is supportable.
- ◇ Gravel parking areas are always a cause for concern because of potential impacts upon surrounding property and public rights-of-way. Gravel parking can generate dust that can leave the site and inundate surrounding property. Furthermore, loose stones can enter the public right-of-way and become a hazard for passing vehicles and accelerate the deterioration of taxpayer funded street surfaces.
- ◇ Therefore, Staff is requesting that the Variance grant shall be subject to the installation of a 24-foot wide asphalt driveway, that will be installed from the edge of Muessing Road 50 feet into the site, no later than August 15, 2027.

GENERAL INFORMATION

Existing Zoning	SU-9	
Existing Land Use	Commercial Contractor	
Comprehensive Plan	Rural or Estate Neighborhood	
Overlay	No	
Surrounding Context	<u>Zoning</u>	Surrounding Context
	North: SU-9	Agricultural
	South: SU-9	Undeveloped
	East: D-A	Single-Family Dwellings
	West: D-A	Undeveloped / Agricultural
Thoroughfare Plan		
	Muessing Road	Local Street 50-foot existing and proposed right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	100-year on eastern edge	
Wellfield Protection Area	No	
Site Plan	July 31, 2026	
Elevations	N/A	
Commitments	Staff proposes 3 commitments	
Landscape Plan	N/A	
Findings of Fact	July 31, 2026	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends rural or estate neighborhood development.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Rural or Estate Neighborhood typology for this site. This typology provides for rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural

features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

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.

Indy Moves

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

- Not Applicable to the Site.

ZONING HISTORY

2026-UV3-001; 11011 Brookville Road (west of site), requested a Variance of Use to provide for the operation of an excavation commercial contractor, **granted**.

2021-ZON-092; 11850 Brookville Road (east of site), requested the Rezoning of 24.78 acres from the C-S (FF) district to the C-S (FF) district to provide for and legally establish religious and ministry-related uses; not-for-profit uses; addiction recovery programs, including in-patient and out-patient treatment; housing for staff, participants and former participants; accessory uses, including hair salon; boutique; coffee shop; food sales; wedding, reception and conference facility; greenhouse/nursery; training, housing and care of dogs; light manufacturing/assembly and business training; animal assisted therapy programs; fundraising operations; indoor and outdoor recreational uses; and farmer's market, in addition to the uses previously approved within the C-S district and to provide for the approval of the filed site plan, **approved**.

98-Z-70; 11850 Brookville Road (east of site), requested the Rezoning of 25 acres from the SU-9 district to the C-S district to provide for training, resident housing, offices, retirement center, conference center and an orphanage, **approved**.

87-Z-89; 11850 Brookville Road (included subject site), requested the Rezoning of 147 acres from the A-2 and C-1 districts to the SU-9 district, **approved**.

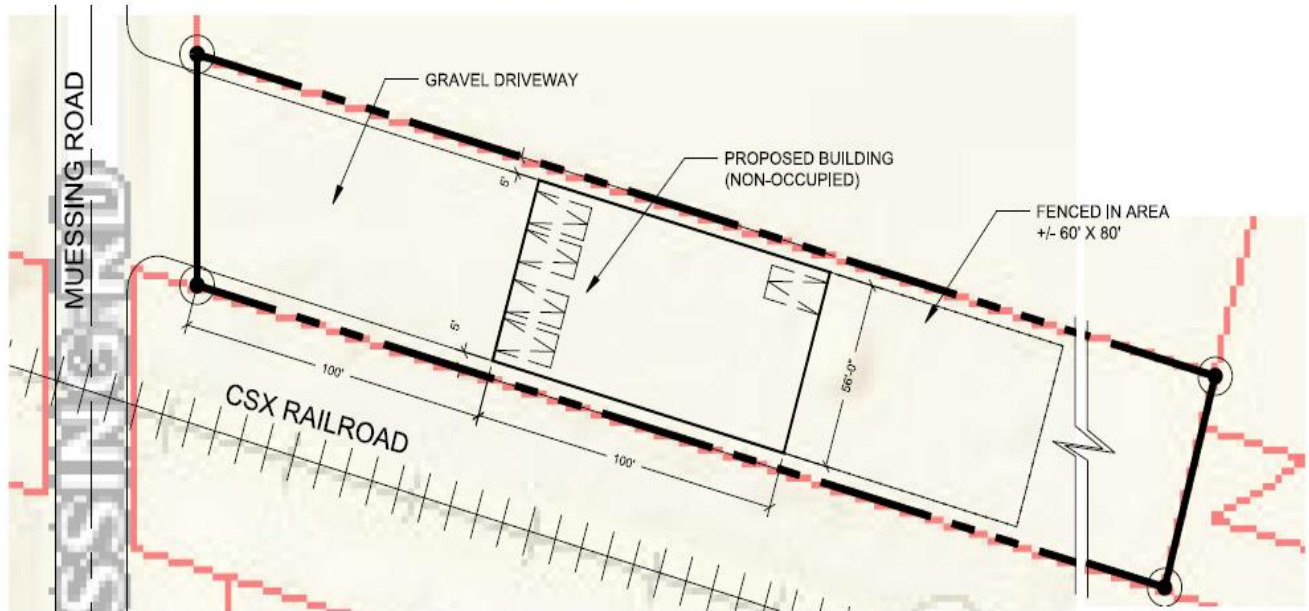
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EXHIBITS

Location Map



Site Plan - File dated July 31, 2026



Plan of Operation - file dated September 15, 2026.

Plan of Operation
2231 Muessing Road
9/15/2026

Proposed Use

The business is a small, locally owned tree-service company that provides residential and light commercial tree removal, trimming, and maintenance services. The operation maintains a modest fleet consisting of five work trucks, two pickup trucks with trailers, and a wood chipper used for on-site processing of limbs and debris.

The business functions as a typical service-oriented contractor: crews depart the site in the morning, perform scheduled work throughout the community, and return in the late afternoon to unload equipment, secure vehicles, and prepare for the next day. No retail activity occurs onsite, and customer interaction is limited to scheduling and administrative coordination. Equipment will be stored within the proposed building.

Workforce

Daily operations are performed by a team of seven (7) to eight (8) full-time employees.

Hours of Operation

The business will operate from 7am to 6pm Monday to Saturday, Closed on Sunday.

Off-Street Parking

The site will provide gravel parking for employees. There will be no public visitation to the site.

Signage

There will be no signage required.

Clients and Customers

The tree service business does not receive customers onsite. All customer interaction occurs remotely, either online, by phone, or through scheduled estimates at the customer's property. Tree service work is inherently mobile: crews travel to each job location, perform the work there, and return only to store equipment and prepare for the next day. There is no retail component, no walk-in traffic, and no reason for customers to visit the site.

Lights

Only building wall pack security lights will be used.

Shipping and Receiving

All shipping and receiving will be delivered by normal postal services.

Waste

All waste would be picked up by utilizing a private or City waste disposal service. There will be no storage of hazardous materials on site.

Findings of Fact

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The physical characteristics of the site, its location, and its existing environmental context support this type of low intensity commercial use.

Noise producing activities are minimal and will occur during normal business hours. No hazardous materials are stored on site, and the business will comply with the applicable building codes and health department regulations.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE

The site's physical characteristics, existing environmental conditions, and the tree service operational practices will limit off site impacts.

The proposed use does not involve public visitation, retail traffic, or continuous heavy truck movement, and therefore does not generate the types of noise, heat, light, vibration or glare that will impact adjacent properties.

The business primarily dispatches crews off site to perform work and the property functions more as a staging and storage area than an active work yard.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The parcel is extraordinarily narrow, approximately 66 feet wide and 1,000 feet long, a configuration that inherently limit the types of uses that can safely and reasonably occur on the property.

The property is also located directly adjacent to a busy railroad, which already generates significant noise, vibration, and visual activity.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The physical characteristics of the property make it uniquely challenging to use for any conforming purpose.

The width severely limits building placement, circulation, parking layout, and compliance with standard development requirements that assume more conventional lot proportions.

The property is further constrained by its location directly adjacent to a busy railroad corridor, which introduces noise, vibration, and visual impacts that make the site undesirable and impractical for most permitted uses.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

While the Comprehensive Plan identifies the area for future residential use, strict adherence to that recommendation is not reasonable or appropriate for this particular parcel due to its extreme physical constraints and surrounding environmental conditions.

The Plan's broader intent—to promote compatible, safe, and context appropriate development—is actually better served by allowing a low impact commercial use that aligns with the site's physical realities.

Petition Number _____

**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 subject parcel is only 66 feet wide, making the full side yard physically impossible without eliminating the functional building area. Strict application of the standard on a parcel of this width would not improve public safety or welfare; it would simply prevent any reasonable use of the property. The adjoining properties do not contain residential, pedestrian oriented, or vulnerable uses. The adjacent uses are an active railroad and an undeveloped farm field zoned for public use.

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 adjoining parcels are not residential or commercial properties whose value depends on additional separation or screening. The adjacent properties do not rely on side yard width for privacy, noise mitigation, or aesthetic protection, therefore, the reduced setback will not diminish their functionality, marketability, or long term value.

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

The parcel is only 66 feet wide, and imposing the full side yard requirement on both sides leaves an unworkably narrow building envelope. This constraint is inherent to the lot's physical dimensions and is not self created by the property owner. Because the lot's narrow width makes full compliance impractical, and because the reduced setback does not create adverse impacts on surrounding properties or the public, the request meets the standard for practical difficulty.

Photographs



Subject site driveway entrance, looking east from Muessing Road



Subject site, existing lot, parking and proposed building location, looking east



Adjacent undeveloped lot to the west



Adjacent Railroad to the south of the site, looking east.