

## STAFF REPORT

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

**Case Number:** 2023-CZN-858 / 2023-CVR-858  
**Address:** 7338 Five Points Road (Approximate Address)  
**Location:** Franklin Township, Council District #25  
**Petitioner:** Narinder Sodhi, by Joseph D. Calderon  
**Request:** Rezoning of 5.45 acres from the D-A district to the D-2 district to provide for six single-family detached dwellings.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 30-foot setback from Shelbyville Road and a 25-foot setback from Five Points Road (40-foot setback from proposed right-of-way required along Shelbyville Road and 30-foot setback from Five Points Road required) and to provide for two lots with frontage on a private street (public street frontage required).

#### **ADDENDUM FOR THE DECEMBER 28, 2023, HEARING EXAMINER**

This petition was continued from the November 16, 2023 hearing, to the December 28, 2023 hearing at the request of the petitioner's representative. A revised site plan was submitted, which requires the petition to be amended and new notices to be mailed.

This petition will need to be **continued from the December 28, 2023 hearing to the January 25, 2023 hearing** with new notice. This will be the last continuance request that staff will support.

#### **November 16, 2023**

#### **ADDENDUM FOR THE NOVEMBER 16, 2023, HEARING EXAMINER**

This petition was continued **from the October 26, 2023 hearing, to the November 16, 2023 hearing** at the request of the petitioner's representative. No additional information has been provided to the case file.

#### **October 26, 2023**

#### **RECOMMENDATIONS**

Staff **recommends denial** of the variance of development standards request.

Staff **recommends denial** of the rezoning request.

(Continued)

## **STAFF REPORT 2023-CZN-858 / 2023-CVR-858 (Continued)**

If the rezoning is approved, staff would recommend approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 40-foot half right-of-way along Five Points Road and a 45-foot half right-of-way along Shelbyville Road, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

### **SUMMARY OF ISSUES**

#### **LAND USE**

- ◇ The 5.45 -acre subject site is currently developed with a single-family dwelling and accessory structures along the southern portion of the site and the northern portion is undeveloped. The site is surrounded by single-family dwellings.
- ◇ In 2021, the site received a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two lots measuring 114,686 square feet and 95,669 square feet with one lot having 215 feet of lot width, with minimum side setbacks of 25 feet, aggregate side setbacks of 40 feet and rear setbacks of 40 feet and 80% open space. The site was subsequently granted a subdivision plat approval for two lots.

#### **REZONING**

- ◇ The grant of the request would rezone the property from the D-A district to the D-2 district to allow for six single-family detached dwellings.
- ◇ The D-A district holds the agricultural lands of Marion County and provides for a variety of agricultural uses. It is intended to provide for animal and poultry husbandry, farming, cultivation of crops, dairying, pasturage, floriculture, horticulture, viticulture, apiaries, aquaculture, hydroponics, together with necessary, accompanying accessory uses, buildings, or structures for housing, packing, treating, or storing said products; or lands devoted to a soil conservation or forestry management program. A single-family dwelling is intended to be permitted as a part of such agricultural uses. A secondary provision of this district is large estate development of single-family dwellings. This district fulfills the very low-density residential classification of the Comprehensive General Land Use Plan.
- ◇ The D-2 district is intended for use in suburban areas. Ample yards, trees and passive open spaces easily serving each individual lot are envisioned for this district. The D-2 district has a typical density of 1.9 units per gross acre. Two- family dwellings are permitted on corner lots in this district. This district fulfills the lowest density recommendation of the Comprehensive General Land Use Plan. Public water and sewer facilities must be present. Development plans, which may include the use of clustering, should incorporate, and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site conditions, including vegetation, topography, drainage, and wildlife.

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## **STAFF REPORT 2023-CZN-858 / 2023-CVR-858 (Continued)**

- ◇ The Comprehensive Plan recommends rural or estate development. The Rural or Estate Neighborhood typology applies to both 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. This typology typically has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

### **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The grant of the request would allow for the development of six lots with deficient front setbacks and two lots without street frontage on a public street. Instead, frontage on a private street would be proposed.
- ◇ Per Table 744-201-1: Dimensional Standards for Districts D-A through D-5II, the proposed D-2 district requires a 40-foot front setback from the proposed right-of-way of Shelbyville Road where a 30-foot setback would be proposed and a 30-foot front setback from Five Points Road would be required and a 25-foot setback would be proposed.
- ◇ The public street frontage requirement is in place to provide direct access from a public road to a dwelling in case of an emergency, thus making it easier and quicker for emergency services to find the address in question.

### **Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, typically requests the dedication and conveyance of the proposed right-of-way consistent with the Marion County Thoroughfare Plan. The dedication would include a 40-foot half right-of-way along Five Points Road and a 45-foot half right-of-way along Shelbyville Road.
- ◇ The Department of Public Works (DPW) stated that there are plans to build a roundabout at this intersection to enhance traffic flow and reduce accidents at this location.
- ◇ Per the requested variance of development standards for reduced setbacks, it is understood that the petitioner would not have this right-of-way dedication proposed.

### **Staff Analysis**

- ◇ Staff determined that the strict application of the terms of the Zoning Ordinance would not result in practical difficulties in the use of the property because the site could continue to be used for one single-family dwelling. Furthermore, the site could be developed as previously approved with variance petition 2021-DV1-028 and plat petition 2022-PLT-043, which subdivided the property into two lots with associated development standard variances.

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## **STAFF REPORT 2023-CZN-858 / 2023-CVR-858 (Continued)**

- ◇ Staff has concerns with the proximity of the driveway to the Five Points Road and Shelbyville Road intersection which generates a high volume of vehicular traffic. The additional traffic from the proposed dwellings could be injurious to the public safety of the community since cars would have to make a quick left turn to avoid oncoming traffic from either direction during peak commute hours. Staff would recommend the driveway be located at the furthest southern point along Five Points Road.
- ◇ Staff would not support the variance for private street frontage for two of the proposed lots. It is often difficult for private infrastructure to be maintained by the surrounding property owners, which is why staff would recommend the street be built to the standards of the Department of Public Works and having it be dedicated as a public street.
- ◇ Furthermore, if the site were platted as proposed, the corner lot (Lot #1) would not be allowed to have triple street frontages and sidewalks would need to be installed along Five Points Road and Shelbyville Road. This would include the installation of a pedestrian bridge to cross over the drainage ditch located on the northern section of the site.
- ◇ Due to the desire to not meet the required front setback standards, thus preventing the right-of-way dedication as typically requested by DPW, staff is not supportive of the reduced front setback variances.
- ◇ If the necessary right-of-way were dedicated ensuring future infrastructure improvements would be possible and if the required D-2 setbacks were proposed, then staff could discuss the possibility to potentially support the number of lots that would meet the D-2 development standards.

## **GENERAL INFORMATION**

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

D-A	Metro	Residential (Single-family dwelling)
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### **SURROUNDING ZONING AND LAND USE**

North	D-A	Residential (Single-family dwelling)
South	D-3	Residential (Single-family dwellings)
East	D-P / D-A	Residential (Single-family dwellings)
West	D-A	Residential (Single-family dwelling)

### **COMPREHENSIVE PLAN**

The Comprehensive Plan recommends rural or estate neighborhood development.

### **THOROUGHFARE PLAN**

Five Points Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 40-foot existing right-of-way and an 80-foot proposed right-of-way.

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## **STAFF REPORT 2023-CZN-858 / 2023-CVR-858 (Continued)**

THOROUGHFARE PLAN	Shelbyville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 60-foot existing right-of-way and a 90-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.
SITE PLAN	File-dated September 21, 2023.
FINDINGS OF FACT	File-dated September 21, 2023.

### **ZONING HISTORY – SITE**

#### **EXISTING VIOLATIONS**

None.

#### **PREVIOUS CASES**

**2021-DV1-028 (Amended); 7338 Five Points Road** (subject site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two lots measuring 114,686 square feet and 95,669 square feet with one lot having 215 feet of lot width, with minimum side setbacks of 25 feet, aggregate side setbacks of 40 feet and rear setbacks of 40 feet and 80% open space (three acre lots, 125-foot frontage on public street, 250-foot lot width, 30-foot side setback, 75-foot aggregate side setback, 75-foot rear setback and 85% open space required), **granted**.

**2022-PLT-043; 7338 Five Points Road** (subject site), Approval of a Subdivision Plat, to be known as Clover Subdivision, dividing 5.187 acres into two lots, **granted**.

### **ZONING HISTORY – VICINITY**

**2018-MOD-015; 7120-7338 Wooden Grange Drive** (east of site), Modification of the Development Statement of 2016-ZON-068 to permit a 12-foot aggregate setback in the Villas section (13 feet required) and to replace approved Exhibit “D” under Miscellaneous, Character Exhibits with the Elevation Exhibits filed with this petition, **approved**.

**2017-PLT-033; 7008 Shelbyville Road** (east of site), Approval of a Subdivision Plat, to be known as Birchwood Park, Section One, dividing 32.3 acres, into 49 lots, **approved**.

**2016-ZON-068; 7008 Shelbyville Road** (east of site), Rezoning of 64.25 acres from the D-A district to the D-P classification to provide for a variety of single-family and two-family dwellings, **approved**.

**2004-PLT-011; 6519 Wolverine Way** (west of site), Approval of a Subdivision Plat to be known as A REPLAT OF WESTBROOK SUBDIVISION, SECTION TWO, dividing 28.39 acres into 65 lots, **approved**.

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**STAFF REPORT 2023-CZN-858 / 2023-CVR-858 (Continued)**

**99-CP-32P; 7201 Combs Road** (west of site), Approval of a Cluster Subdivision Plat to be known as Westbrook Subdivision, dividing 50.646 acres into 115 lots, **approved**.

**97-V3-99; 6835 Shelbyville Road** (northwest of site), Variance of development standards of the Sign Regulations to provide for the placement of an illuminated five by 10-foot pole sign being 14 feet in height, located 50 feet from a dwelling district, **granted**.

**76-P-06; 6814 Troon Way** (southwest of site), Approval of a preliminary plan of a subdivision plat to be known as MUIR FIELD SUBDIVISION, SECTION I, dividing 43.00 acres into 127 lots, being in the D-3 district, **approved**.

**76-P-26; 7346 Five Points Road** (south of site), **Approval of a preliminary plan of a subdivision plat to be known as** MUIR FIELD SUBDIVISION (Section 4), dividing 38.73 acres into 121 lots, being in the D-3 district, **approved**.

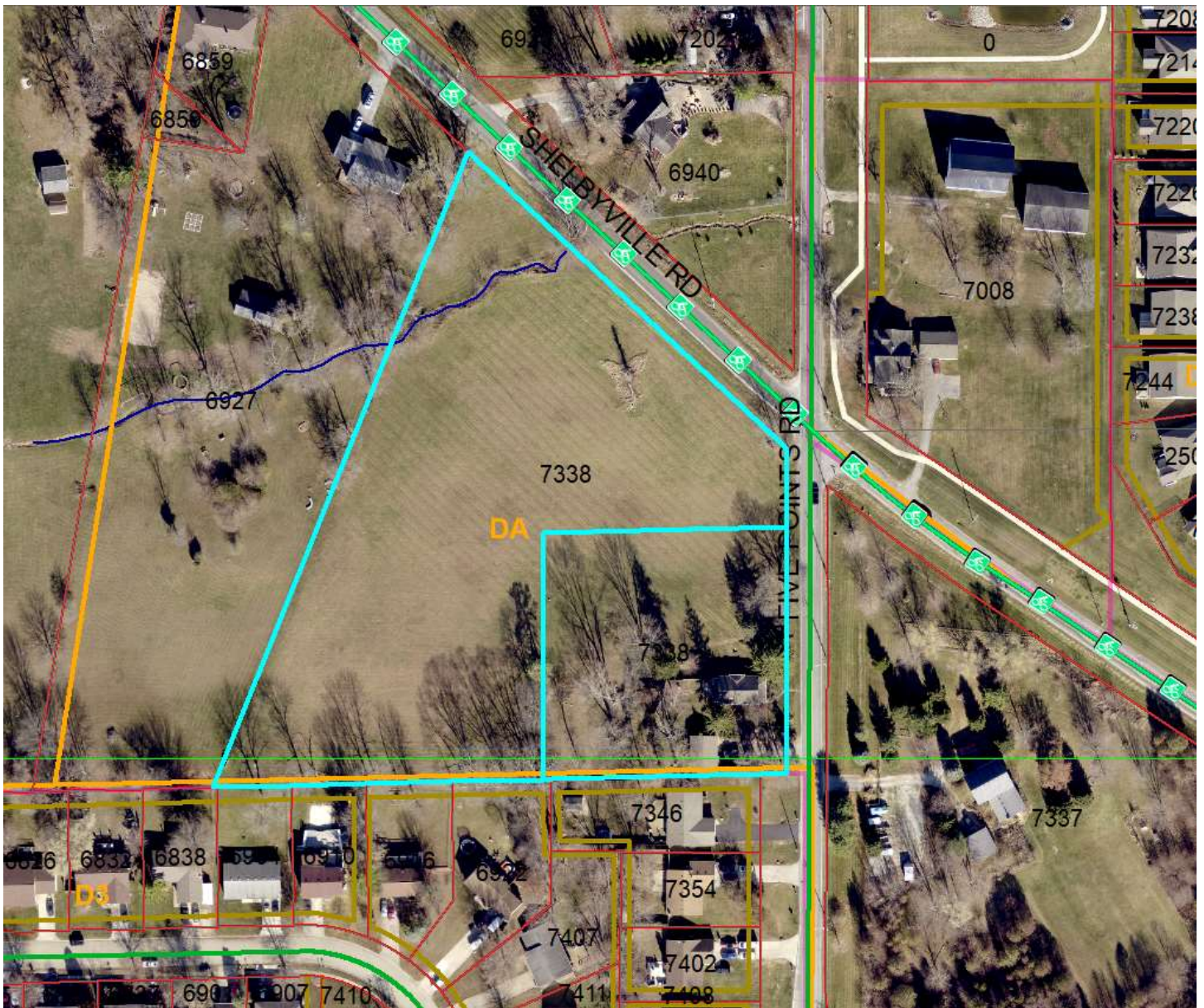
**72-Z-269; 6835 Shelbyville Road** (northwest of site), Rezoning of 10.04 acres from A-2 to SU-1, **approved**.

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**2023-CZN-858 / 2023-CVR-858; Location Map**



2023-CZN-858 / 2023-CVR-858; Site Plan





**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 development will be extremely low density and the rear of the homes will face Shelbyville Road with a high likelihood that setback requirements will be met along Shelbyville Road. None of the improvements encroaching into the required front setback will interfere with visibility from the adjoining public streets.

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 variances sought will still result in a very low density development and will not impact access of 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 ordinance applies front yard standards to "double front yards", leading to excessive setbacks for what otherwise is a secondary front, which would otherwise be a side or rear yard.

**DECISION**

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_


**2023-CZN-858 / 2023-CVR-858; Photographs**



Photo of the existing single-family dwelling and detached garage on site.



Photo of the eastern street frontage along Five Points Road looking north.





Photo of the eastern street frontage along Five Points Road looking south.



Photo of the subject site at the intersection.





Photo of the subject site northern street frontage along Shelbyville Road looking west.



Photo of the subject site northern street frontage along Shelbyville Road looking east.





Photo of the Shelbyville Road and Five Points Road intersection.



Photo of the single-family dwelling west of the site.