

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-111
Address: 9950 East 42nd Street (Approximate Address)
Location: Lawrence Township, Council District #14
Petitioner: Jugaad, LLC, by David Retherford
Request: Rezoning of 0.92 acre from the C-3 district to the C-4 district to provide for the renovation/replacement of a gas station and convenience store.

RECOMMENDATIONS

Staff **recommends approval** of the rezoning petition, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. A 40-foot half right-of-way shall be dedicated along the frontage of 42nd Street, 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).
2. Two of the existing driveways shall be permanently closed by adding a sidewalk connecting to the existing sidewalk segments as well as a grass strip abutting the new sidewalk segment closest to the street. The new sidewalk connection and grass strip shall be installed within one (1) year of the adoption of 2023-ZON-111.

SUMMARY OF ISSUES

LAND USE

- ◇ The 0.92-acre subject site is developed with an automobile fueling station and convenience store that was constructed between 1966 and 1972 per historical aerial images. At the time, the use was permitted in the C-3 district but was later removed from the list of permitted uses in 2016 with the adoption of Indianapolis-Marion County Consolidated Zoning and Subdivision Ordinance.
- ◇ The site is bordered to the north and west by an undeveloped lot, zoned C-3, to the east by a single-family dwelling, zoned C-3, and to the south by a vacant laundromat, zoned C-3.

REZONING

- ◇ The request would rezone the property from the C-3 district to the C-4 district to allow for the construction of a canopy associated with the automobile fueling station and would include the construction of a new convenience store.

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- ◇ The site is zoned C-3, which is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.
- ◇ The C-4 District is designed to provide 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. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.
- ◇ The Comprehensive Plan recommends community commercial development for the southern portion of the site. The Community Commercial typology provides for low intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.
- ◇ The site has historically been used as an automobile fueling station since at least 1972 according to historic aerial images.

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 40-foot half right-of-way along 42nd Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.
- ◇ DPW has also requested that two of the driveways be eliminated and replaced with a sidewalk and grass strip to be closest to the street to increase walkability. This could allow for additional parking if needed.
- ◇ The petitioner provided five different truck routes, to which DPW determined the elimination of Entrances B and C, as shown on the Truck Route Site Plan in the report, would be most appropriate. The two drives to remain would be Entrances A and D to prevent fewer accidents when leaving the site by being furthest from the intersection.

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Staff Analysis

- ◇ The rezoning request would allow for the continued operation of an automobile fueling station on a correctly zoned C-4 district since it was constructed and operated in the C-3 district when it was permitted prior to the 2016 adopted Zoning Ordinance changes.
- ◇ Because the C-4 district would not negatively affect the surrounding existing properties and would align with the community commercial recommendation of the Comprehensive Plan, staff is supportive of the request subject to two commitments for the right-of-way dedication and driveway removal and replacement with sidewalks and grass.
- ◇ Staff notified the applicant that the canopy would need to meet the ten-foot front setback requirement of the Ordinance so they should keep that in mind with finalizing their plans. Otherwise, they would need to seek a variance of development standards.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-3	Metro	Commercial (Fuel station)
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SURROUNDING ZONING AND LAND USE

North	C-3	Undeveloped
South	C-3	Commercial (Vacant Laundromat)
East	C-3	Residential (Single-family dwelling)
West	C-3	Undeveloped

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development.

THOROUGHFARE PLAN

42nd Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector street, with a 67-foot existing right-of-way and an 80-foot proposed right-of-way.

THOROUGHFARE PLAN

Mitthoefer Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a secondary arterial street, with a 70-foot existing right-of-way and an 80-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 November 15, 2023.

TRUCK ROUTE SITE PLAN

File-dated December 18, 2023.

(Continued)

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ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

87-UV1-12; 9950 East 42nd Street (subject site), Variance of use of the Commercial Zoning Ordinance to provide for the use of an existing building for an automobile muffler shop, **withdrawn**.

ZONING HISTORY – VICINITY

2018-ZON-078; 10002 East 42nd Street (east of site), Rezoning of 6.10 acres from the SU-1 district to the C-3 classification, **approved**.

2008-ZON-850; 4352 North Mitthoefer Road (north of site), Rezoning of 10.11 acres, from the SU-1 District, to the SU-2 classification to provide for educational uses, **approved**.

2002-ZON-104; 10023 East 42nd Street (southeast of site), Rezoning of 0.71 acres, being in the D-7 District, to the C-3 classification to provide for a gas station and convenience store, **approved**.

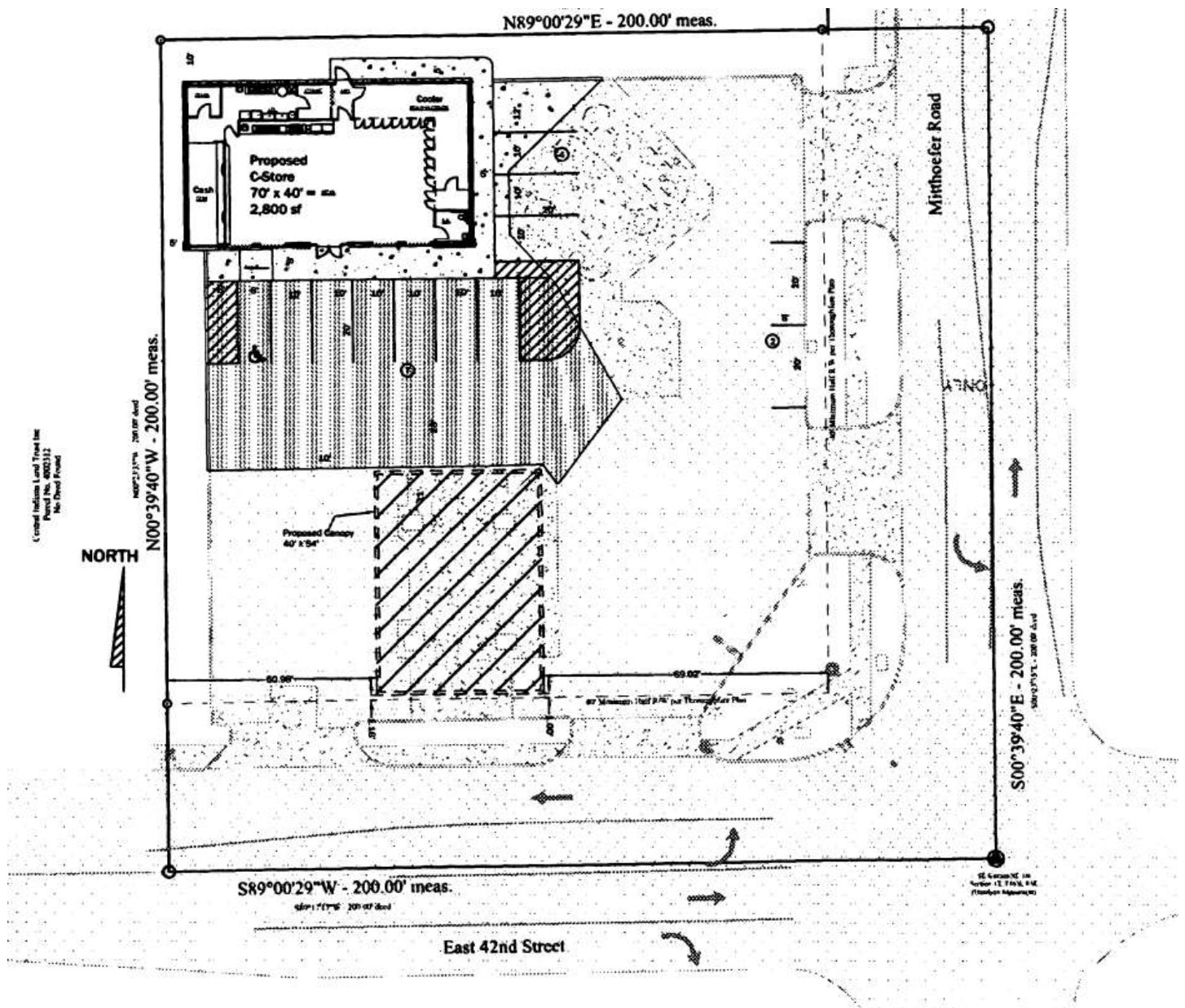
98-Z-102; 4352 North Mitthoefer Road (north of site), Rezoning of 10.11 acres from SU2 to SU-1 to provide for a church, and associated day care and school, **approved**.

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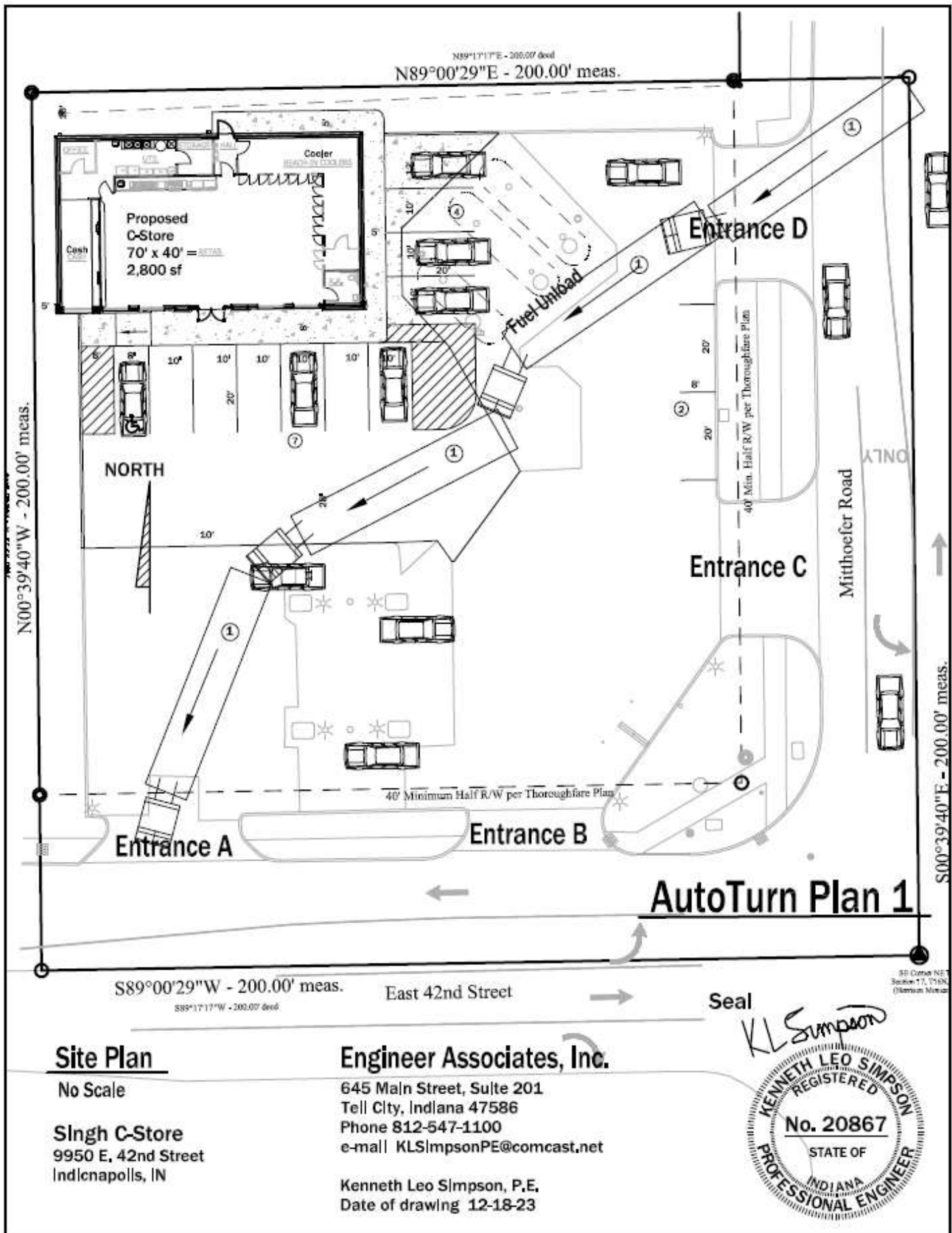
2023-ZON-111; Location Map



2023-ZON-111; Proposed Site Plan



2023-ZON-111; Truck Route Site Plan



2023-ZON-111; Photographs



Photo of the Subject Property: **9950 East 42nd Street**



Photo of the two entrances on 42nd Street.



Photo of the two entrances on Mitthoeffer Road.



Photo of the proposed location of the new convenience store closer to the northern property boundary.



Photo of the two drives to be removed per DPW's request.



Photo of the fuel station southeast of the site.



Photo of the vacant commercial building south of the site.



Photo of the adjacent bus station west of the site and undeveloped parcel north of it.