

STAFF REPORT

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

Case Number: 2023-DV3-046
Address: 6415 East 82nd Street (approximate address)
Location: Lawrence Township, Council District #3
Zoning: C-4 /C-S
Petitioner: Baldwin Capital Partners, LLC, by Timothy E. Ochs
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through that faces a public right-of-way greater than 30-foot wide (not permitted) with five parking spaces provided (six required).

This petition was automatically continued from the December 19, 2023, hearing, to the January 16, 2024, hearing, at the request of City County Councilor Daniel Boots.

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4 Community Commercial

SURROUNDING ZONING AND LAND USE

North - C-4 Community Commercial
South - C-S Commercial office and warehouse mix
East - C-4 Community Commercial
West - C-4 Community Commercial

COMPREHENSIVE PLAN The Comprehensive plan recommends heavy commercial uses for the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petitioner proposes to demolish and replace the existing structure, with a quick service oil change facility designed with a drive-through that faces a public right-of-way greater than 30-foot wide, and with only five parking spaces.

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- ◇ The proposed oil change facility with a drive-through that faces a public right-of-way is a design component of the petitioner that is proposing the development, and not reflective of any difficulty requirement or difficulty imposed on the site, as the site was previously developed with and can still be developed with C-4 uses that are Ordinance compliant without the need for any variances. There is nothing in the Ordinance that requires this site to be developed with a drive through, or a drive through with the specific petitioner’s design. The desire to do so is a matter of choice by the petitioner.
- ◇ The petitioner’s findings of fact indicate that the practical difficulty in the use of the property does in fact result from the narrow width of the lot that prevents a drive though from the side. An oil change facility can be provided without a drive through and with the doors on the east side of the facility, as they would face an internal drive. There is nothing in the Ordinance that requires this site to be developed with a drive through, or with the specific petitioner’s design. The desire to do so is a matter of choice by the petitioner.
- ◇ Staff believes that since this is new construction, and not limited by an existing building or topographical features, that the design of the new construction should relate to the site in meeting the Ordinance standards.
- ◇ The purpose of required off-street parking spaces regulations is to promote public safety by alleviating on-site and off-site traffic congestion from the operation of a facility that has insufficient parking for employees and customers.
- ◇ With the lack of the required parking spaces and the proximity of the final component facing a public right-of-way, traffic at this site is likely to result in congestion and vehicular conflict.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed design of the facility or development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. This site would consist of new construction that could be designed to meet the terms of the Ordinance, but the petitioner has decided not to follow the Ordinance for their specific design. Therefore, Staff does recommend denial of the request as proposed.

GENERAL INFORMATION

THOROUGHFARE PLAN	This section of East 82 nd Street is classified on the Official Thoroughfare Plan as a primary arterial with a 150-foot existing and proposed right-of-way.
SITE PLAN	File-dated November 8, 2023
FINDINGS OF FACT	File-dated November 8, 2023

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ZONING HISTORY

2013-UV1-012; 6445 East 82nd Street (east of site), requested a variance of use of the Commercial Zoning Ordinance to provide for an automotive glass, installation, replacement, and repair company, **granted**.

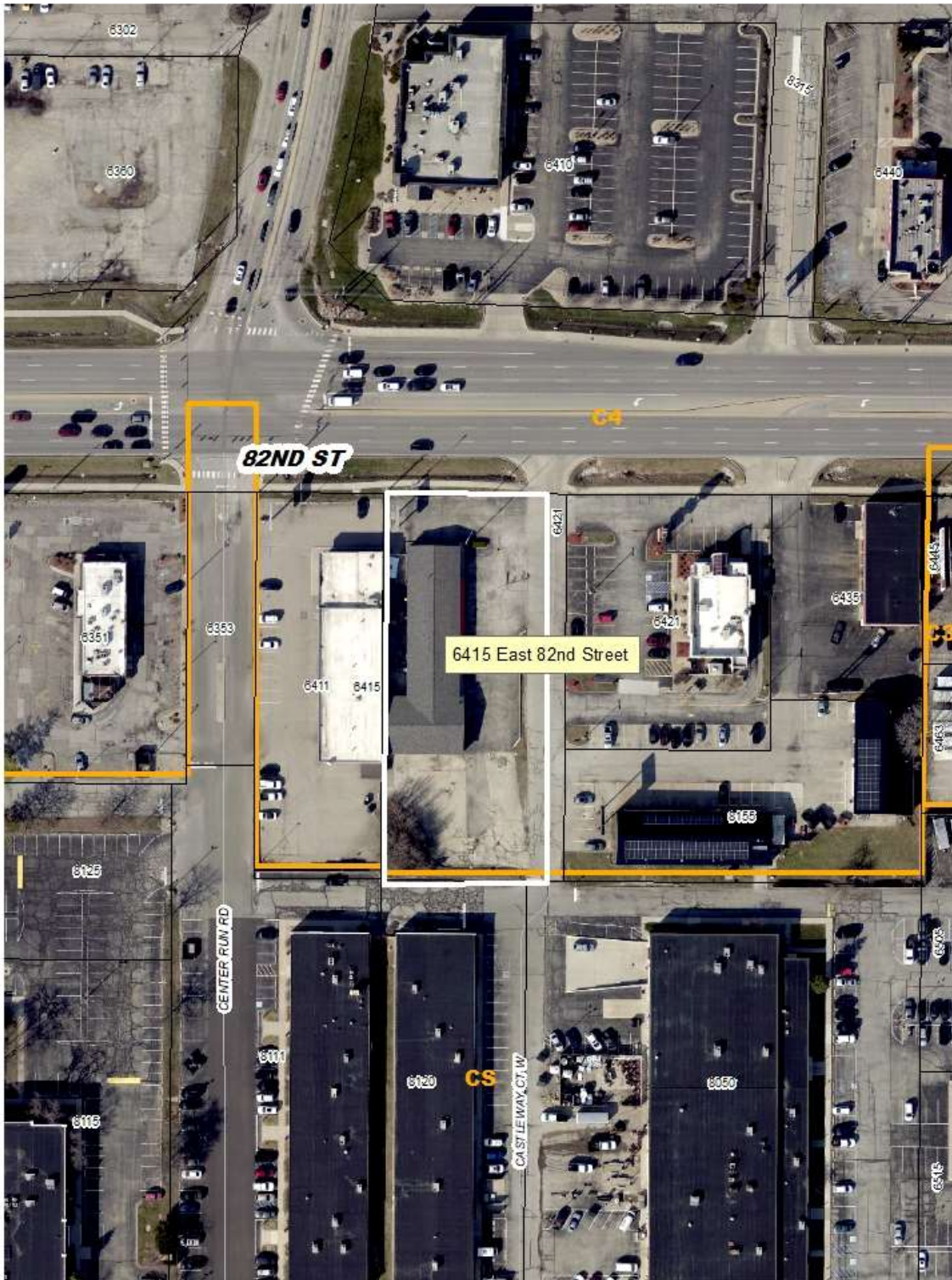
2001-ZON-817; 6081 East 82nd St (south and west of site); requested the rezoning of 122 acres from C-3, C-4, C-7, and I-2-S to C-S to provide for the development of an office-commercial-industrial business park, **approved**.

84-HOV-2; 6411 East 82nd Street (west of site), requested a variance of development standards to provide for an existing pole sign to be relocated within an integrated center, **granted**.

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2023-DV3-046: Location Map



2023-DV3-046: Photographs



View of subject site, existing building to be demolished, looking south from East 82nd Street.



View of subject site, east side of existing building to be demolished, looking southwest



View of adjacent community commercial to the north.



View of adjacent integrated commercial center to the east, looking south.



View of adjacent community commercial to the west, looking southeast.



View of adjacent commercial office and warehouse mix to the south.