

BOARD OF ZONING APPEALS DIVISION III

May 20th, 2025

Case Number: 2025-DV1-012
Property Address: 8215 US 31
Location: Perry Township, Council District #23
Petitioner: Flatlander Properties, LLC
Current Zoning: C-3 (FF)
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the renovation of an existing commercial building resulting in a front transparency of 20 percent (40 percent required).
Current Land Use: Commercial
Staff Recommendations: Staff is recommending **approval** of this variance petition.
Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

This is the first public hearing for this variance petition.

STAFF RECOMMENDATION

Staff is recommending **approval** of this variance petition.

PETITION OVERVIEW

- The petitioner is requesting a variance to permit an already constructed building to have less than the required transparency.
- This property is 0.61-acre and in the C-3 zoning district.
- This is a commercial building with three rentable spaces for small local businesses. Scrub Identity and Herculean Prepared Foods currently occupy two of them.
- The subject site has a connector front façade design, which requires 40% transparency.
- Currently, the front façade has a 20-26% transparency.
- This building was remodeled in 2022 and later discovered to have a transparency issue when applying for a third structural permit to make modifications to it.
- Staff is recommending **approval** of this variance petition. Staff believes that there may have been errors in calculation and interpretation which resulted in this standard not being flagged earlier. While the already-constructed building does not fully comply with the current standards, staff feels that the owner has operated in good faith, complying with all the standards that were noted during the initial permitting process.

GENERAL INFORMATION

Existing Zoning	C-3 (FF)	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	Surrounding Context
	North: D-3	North: Suburban Neighborhood
	South: C-4	South: Heavy Commercial
	East: D-A	East: Suburban Neighborhood
	West: C-5	West: Heavy Commercial
Thoroughfare Plan		
US 31	Primary Arterial	150 feet of right-of-way existing and 124 feet proposed.
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	3/27/2025	
Site Plan (Amended)	N/A	
Elevations	4/15/2025	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	3/27/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The 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.

Red Line / Blue Line / Purple Line TOD Strategic Plan

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- 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

ZONING HISTORY – SITE

- 2003-VAR-837: 8140 Meadow Lane
 - Variance of Use of Dwelling District Zoning Ordinance to provide for a health food store (not permitted).
 - AP
- 2006-UV1-033: 8215 US 31
 - Variance of Use of the Dwelling Districts Zoning Ordinance to provide for retail sale of alcohol (not permitted), accessory to a Health Food Store, as permitted by petition 2003-VAR-837.
 - AP
- 2008-DV1-051: 8215 US 31
 - Variance of Development Standards of the Sign Regulations to provide for a 32.34 square-foot roof-integral sign (not permitted).
 - AP
- 2014-ZON-045: 8215 US 31
 - Rezoning of 0.7 acre from the D-3 (FF) district to the C-3 (FF) classification to provide for commercial retail uses.
 - Approved

ZONING HISTORY – SURROUNDING AREA

- 2012DV2005: 8202 US 31
 - Variance of development standards of the Sign Regulations to provide for an approximately 72-square foot electronic variable message wall sign on the north façade of a building within an integrated center (not permitted) and within 175 feet of a protected district (600-foot separation from a D-3 zoned protected district required).
 - Approved
- 2014-DV2-004A: 8202 US 31
 - Variance of Development Standards of the Sign Regulations to provide for: a) two additional non-illuminated freestanding signs, for a total of three signs along the approximately 610-foot frontage of Shelby Street (maximum two signs permitted, 300 feet of frontage required per sign), b) with a 6.33-foot tall, 42-square foot freestanding sign and a five-foot tall, 18-square foot freestanding sign being located approximately 100 feet and 190 feet south of the existing 20-foot tall, 75.32-square foot freestanding sign (minimum 300 feet of separation required), c) with the 6.33-foot tall, 42-square foot freestanding sign encroaching approximately 18 feet into the existing right-of-way of Shelby Street (minimum 15-foot setback required, signs not permitted in the right-of-way), d) with the five-foot tall, 18-square foot freestanding sign encroaching approximately two feet into the right-of-way of Shelby Street (minimum 15-foot setback required, signs not permitted in the right-of-way).
 - Denied

- 2014-DV2-004B: 8202 US 31
 - Variance of Development Standards of the Sign Regulations to provide for an approximately four-foot tall, 18-square foot non-illuminated directional entrance sign (maximum height of 2.5 feet and area of six square feet permitted).
 - Approved
- 2016DV1040: 8320 US 31
 - Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a canopy, with a seven-foot front setback (10-foot setback from existing or proposed right-of-way required, whichever is greater) for an existing carwash.
 - Approved
- 2017DV2033: 8150 US 31
 - Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a restaurant, with stacking spaces in the front yard and a service unit along a front façade of a public street (not permitted along any public right-of-way exceeding 30 feet in width), to provide for a five-foot setback and landscape yard (10-foot setback, with landscaping required), and to provide for deficient transparency and to permit a mural above the main entrance to count towards transparency at the main entrance and to permit the mural and mock brick filled windows to count toward transparency along an arterial street (40% transparency within 50 feet of a public entrance or 50 feet of a public street, within three and eight feet above grade level required).
 - Approved
- 2019DV1026: 8320 US 31
 - Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an electronic variable message sign within 250 feet of the nearest protected district (600-foot separation required).
 - Approved
- 2019ZON095: 8010 US 31
 - Rezoning of 1.78 acres from the C-4 district to the C-5 district.
 - Approved

EXHIBITS

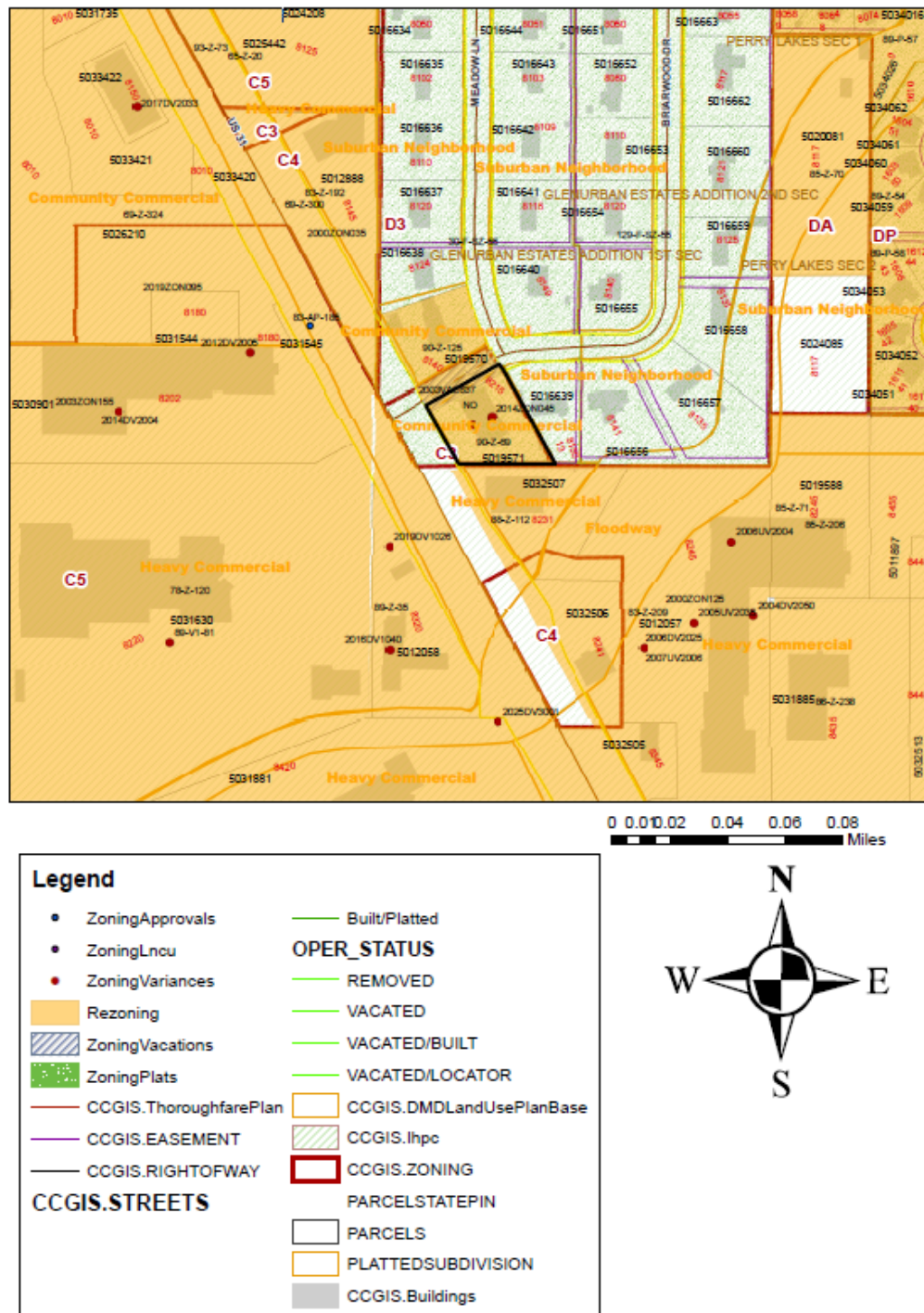


Exhibit 1: ArcGIS map of subject site and surrounding area.



Exhibit 2: Aerial of subject site and surrounding area.



Department of Metropolitan Development
Division of Planning
Current Planning

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:

Granting the transparency variance will not adversely affect public health, safety, morals, or general welfare because the variance pertains solely to the exterior transparency of the building and does not compromise the structural integrity, fire safety, or emergency access of the property. The building's design is exactly the same as the approved structural permit #STR22-03106 that went to completion card end of 2022. Additionally, the reduced transparency does not create privacy issues, encourage undesirable activities, or diminish the visual appeal of the property. The building continues to serve its intended purpose and integrates respectfully with the character of the surrounding community.

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 requested transparency variance will not substantially or negatively impact the use or value of adjacent properties. The variance applies solely to the transparency requirements of the building's exterior and does not alter the intended use or functionality of the property. The property has received several compliments based on the prior property was run down & abandoned only being used as a vehicle storage. Furthermore, the building remains visually compatible with neighboring structures and does not create a condition that would diminish property values or disrupt the character of the area. Neighboring properties retain their privacy, access to light, and sightlines, minimizing any potential adverse effects. The requested variance is intended to address an undue hardship without imposing a burden on the surrounding community.

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

The strict application of the transparency requirements presents practical difficulties due to the fact that the building is already completed based on previously approved architectural plans and structural permits. Compliance with the current transparency standards would require significant and costly alterations to the existing structure, causing undue financial hardship and potential disruption to the property's functionality. Structurally the property was also not designed to account for additional windows which could impact the entire building. There is also a small business Herculean Foods who has been unable to open their storefront because of this new finding in the process of fulfilling the ILP request that was not requested on the first two structural permits.

Exhibit 3: The submitted Findings of Fact.

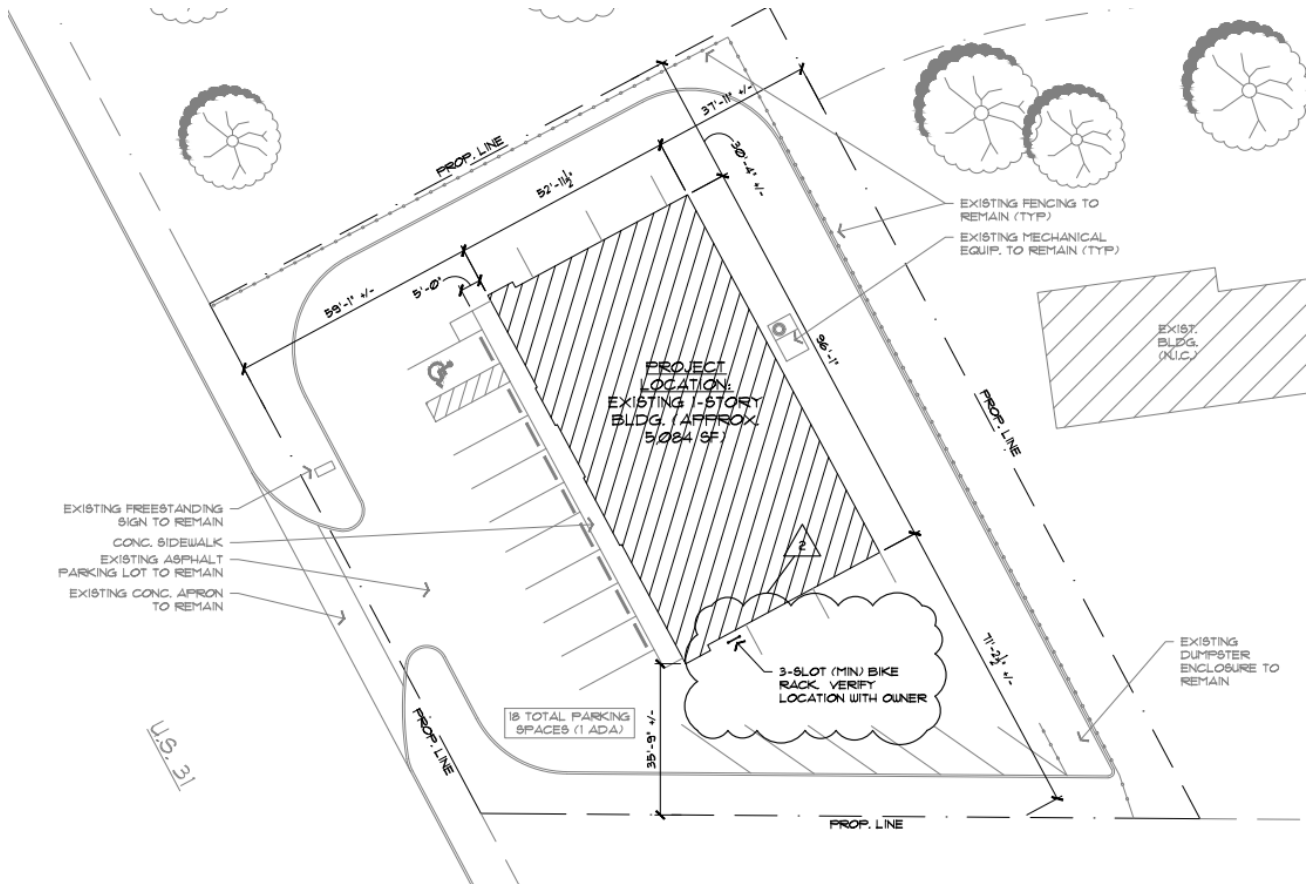


Exhibit 4: Site plan.

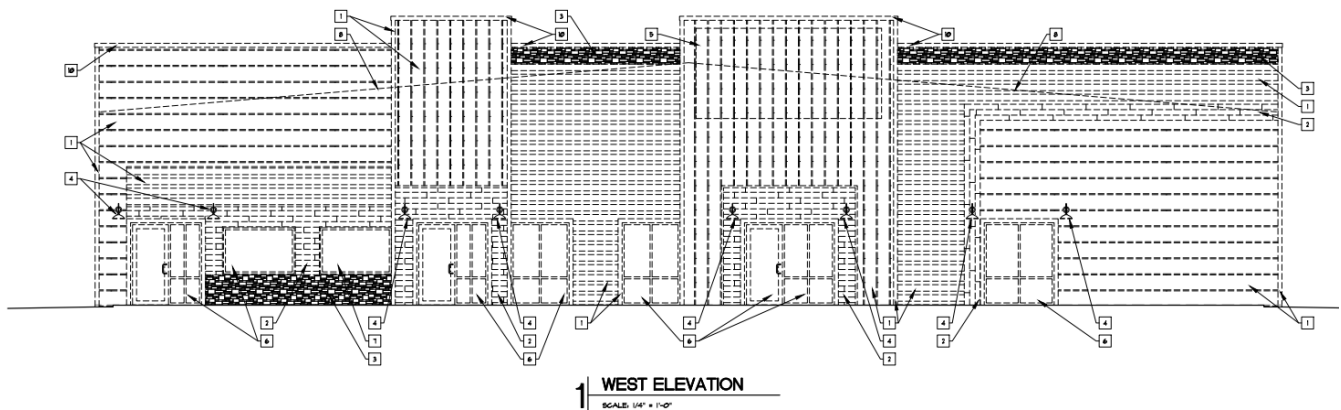


Exhibit 5: West Elevation.



Exhibit 6: The front façade of the subject site (right side).



Exhibit 7: The front façade of the subject site (left side).



Exhibit 8: Looking north up US 31.



Exhibit 9: Looking south down US 31.