

**BOARD OF ZONING APPEALS DIVISION II**

**May 20, 2025**

**Case Number:** 2025-UV3-010

**Property Address:** 1302 & 1322 Columbia Avenue (approximate address)

**Location:** Center Township, Council District #13

**Petitioner:** Heath Properties LLC, by Amy Lapka

**Current Zoning:** C-4

**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a garden center with outdoor sales (not permitted) and a bar with outdoor entertainment (not permitted) with a total of 19 parking spaces (32 required), with nine spaces maintaining a zero-foot setback from and maneuvering within the right-of-way of Columbia Avenue, and a gravel parking lot at 1322 Columbia Avenue (hard surface required) with a zero-foot front yard setback from Columbia Avenue and an office trailer and outdoor seating area with a zero-foot front yard setback from 13<sup>th</sup> Street (10 feet required).

**Current Land Use:** Garden Center and active renovation/conversion to a bar

**Staff**

**Recommendations:** Recommendation of Approval

**Staff Reviewer:** Eddie Honea, Interim Current Planning Administrator

**PETITION HISTORY**

The May 20, 2025, hearing of Division III is the initial hearing of the request.

**STAFF RECOMMENDATION**

Staff recommends **approval** of the request.

**PETITION OVERVIEW**

- The subject site, zoned C-4, is currently improved with two metal fabricated commercial buildings, an on-site construction-style trailer, a dog park, outdoor seating area and various structures associated with the storage of plants for sale.
- Undeveloped lots within the D-8 and C-3 District are located east, across Columbia Avenue. An elevated segment of Interstate 70 abuts the site to the north. To the east is an AES substation, a dead-end alley, and undeveloped lots, all within the C-3 District. A towing facility, within the I-4 District, is located to the south, across 13<sup>th</sup> Street.

- The request, as proposed, would allow for the operation of a garden center with outdoor sales, a bar with indoor and outdoor seating and occasional live performances, a reduction of several setbacks and parking spaces provided, with some maneuvering into the right-of-way of Columbia Avenue and located on a gravel surface.
- The Comprehensive Plan recommends Village Mixed-Use development for the subject site.

## **VARIANCE OF USE**

- While bars and garden centers are permitted within the C-4 District, the outdoor components related to outdoor sales, storage and live entertainment are not permitted. In addition, the amount of outdoor seating, at times, may exceed that provided indoors. Such outdoor operations begin to be permitted within the C-5 District.
- The C-4 District is intended to reflect higher intense land uses associated with the community commercial plan recommendation of the Land Use Pattern Book. These Districts are intended to be applied near established neighborhoods, in appropriate contexts such as the intersection of two or more primary arterials and sufficient separation or buffering from less intense uses.
- While this site does not meet all the above conditions typically required for a favorable recommendation, Staff would note that the general area south of Interstate 70 and east of the "North Split" has historically been developed with medium to heavy industrial uses due to the railroad that runs parallel to Massachusetts Avenue.
- In addition, prior to the construction of this segment of I-70, throughout the mid 1970's, this general area was connected to an established neighborhood to the north, consisting of single-family dwellings and related community uses such as schools and churches.
- Beginning in the early 1990's, as industrial uses either closed or relocated, the area has introduced light to moderate commercial uses such as professional offices, eating establishments, fitness centers and artisan uses.
- While industrial uses remain in the general area, Staff would classify the area as a mix of various uses and intensities that has resulted in a community/cultural node as reflected by the comprehensive plan recommendation.
- Staff would also note that the site was previously home to a landscaping contractor, which is typically classified as a heavy commercial or industrial use. The request represents adaptive reuse that is reflective of both the comprehensive plan and the on-going change of use of the general area.

- For these reasons, Staff finds that the intent of several of the standards associated with the non-permitted uses are largely nullified by the confined characteristic of the general area. Therefore, Staff is recommending approval of the variances of use being requested.

## VARIANCE OF DEVELOPMENT STANDARDS

- As indicated above, the request also includes relief in the form of a parking reduction to 19 total spaces, with nine providing a zero-foot setback and maneuvering within the right-of-way and the balance being located on a gravel lot at the northernmost portion of the site.
- Given that the site is located on a dead-end street with undeveloped lots across Columbia Avenue, Staff believes that the reduction would not impose a negative impact upon adjacent properties, nor would it represent a safety hazard.
- The requirement for hard surfacing of parking areas is, in part, to mitigate the potential for negative externalities associated with dust particulate and ensuring the long-term maintenance elements such as individual space markings. Given the access-restricted nature of the site, and that the abutting Interstate is elevated, Staff believes the request to represent a negligible deviation from the request.
- Similarly, the request would also allow for the location of an office trailer and outdoor seating with a zero-foot front yard setback from 13<sup>th</sup> Street. Given that this area is entirely screened in, abuts an electric substation, and the access issues stated above, Staff also finds that these portions of the request represent minimal deviations from the intent of the Ordinance.
- Staff would also note that this request furthers the Livability Principles of the Ordinance, specifically those related to enhancing economic competitiveness, supporting existing communities, and valuing communities and neighborhoods.
- For these reasons, Staff requests that the Board approve this request in its entirety. ]

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-4	
<b>Existing Land Use</b>	Commercial – Garden Center / active renovation	
<b>Comprehensive Plan</b>	Village Mixed-Use	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	D-8	North: Interstate 70
South:	I-4	South: Towing Facility
East:	C-3 / D-8	East: Undeveloped
West:	C-3	West: Electric substation, alley, undeveloped lots
<b>Thoroughfare Plan</b>		

Columbia Avenue	Local Street	60-foot existing and proposed right-of-way
East 13 <sup>th</sup> Street	Local Street	60-foot existing and proposed right-of-way
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	April 11, 2025	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	April 11, 2025	
<b>Findings of Fact (Amended)</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Land Use Pattern Book

### Pattern Book / Land Use Plan

- The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

### 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

##### Subject Site:

**2022-ZON-127; 1302 Columbia Avenue;** requests rezoning of 0.803 acre from the I-3 District to the C-4 classification to provide for a garden center, brewery, distillery, and restaurant; **approved.**

**2018-CZN-802 / 2018-CVR-802; 1302 and 1320 Columbia Avenue;** requested rezoning of 0.81 acre from the D-8 and C-3 Districts to the I-4 classification and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish the existing building and provide for a proposed building, parking and outdoor storage area, with zero-foot front and side transitional yards without landscaping and front and side yards without landscaping; **approved and granted.**

##### Vicinity:

**2016-VAC-004; 1211 Roosevelt Avenue;** Vacation of a 16-foot wide alley, beginning at the northwest corner of Lot One of Ingram Fletcher's Subdivision of Block 3 in E.T. and S.K. Fletchers Addition to the City of Indianapolis, as recorded in Plat Book 3, Page 115 in the Office of the Recorder of Marion County, Indiana, also being at the south right-of-way line of Roosevelt Avenue; thence 140 feet to the southwest corner of said Lot One, also being at the north right-of-way line of the CCC and St. Louis Railroad, with a waiver of the assessment of benefits; **granted.**

**2016-UV1-013; 1102 and 1133 Roosevelt Avenue;** requests variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a Pre-K-12 school; **denied.**

**2014-DV1-056; 1225 Roosevelt Avenue;** requests variance of development standards of the Industrial Zoning Ordinance to provide for a 60 by 140-foot building addition, with an approximately eight-foot front setback from the private school, Roosevelt Avenue; **granted.**

**2012-SE1-001; 1256 Roosevelt Avenue;** requests Special Exception of the Industrial Zoning Ordinance to provide for a wrecker service / impound lot, with the storage of inoperable vehicles and a variance of development standards of the Industrial Zoning Ordinance to legally establish a 12-foot-tall concrete block wall in the required front yard; **granted.**



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Current Planning

**2006-AP1-001; 1310 Columbia Avenue;** requests a modification of conditions related to petition 2004-UV1-019 to modify condition two to extend temporary variance period from February 3, 2006, to February 3, 2007; **denied.**

**2004-UV1-019; 1310 Columbia Avenue;** requests variance of use and development standards of the Commercial Zoning Ordinance to provide for the storage of four commercial semi-trailers; **approved for 18 months.**

**2002-ZON-109; 1317 Columbia Avenue;** requests rezoning of 0.15-acre from the D-8 District to the C-3 classification to provide for commercial development; **approved.**

**98-SE1-3; 1102 Roosevelt Avenue;** requests Special Exception of the Industrial Zoning Ordinance to provide for 36,000 square feet of an existing 151,945 square foot building to be utilized for commercial office use; **granted.**

**96-HOV-1203 Roosevelt Avenue;** requests variance of development standards of the Industrial Zoning Ordinance to provide for an armored car facility with zero feet of public street frontage and a zero-foot side yard setback along the north and south property lines; **granted.**

**89-UV3-51; 989 Dorman Street;** requests variance of use of the Industrial Zoning Ordinance to permit outdoor storage and incidental maintenance of school buses; **granted.**

**84-VAC-18;** Vacation of parts of Lewis Street; **granted.**

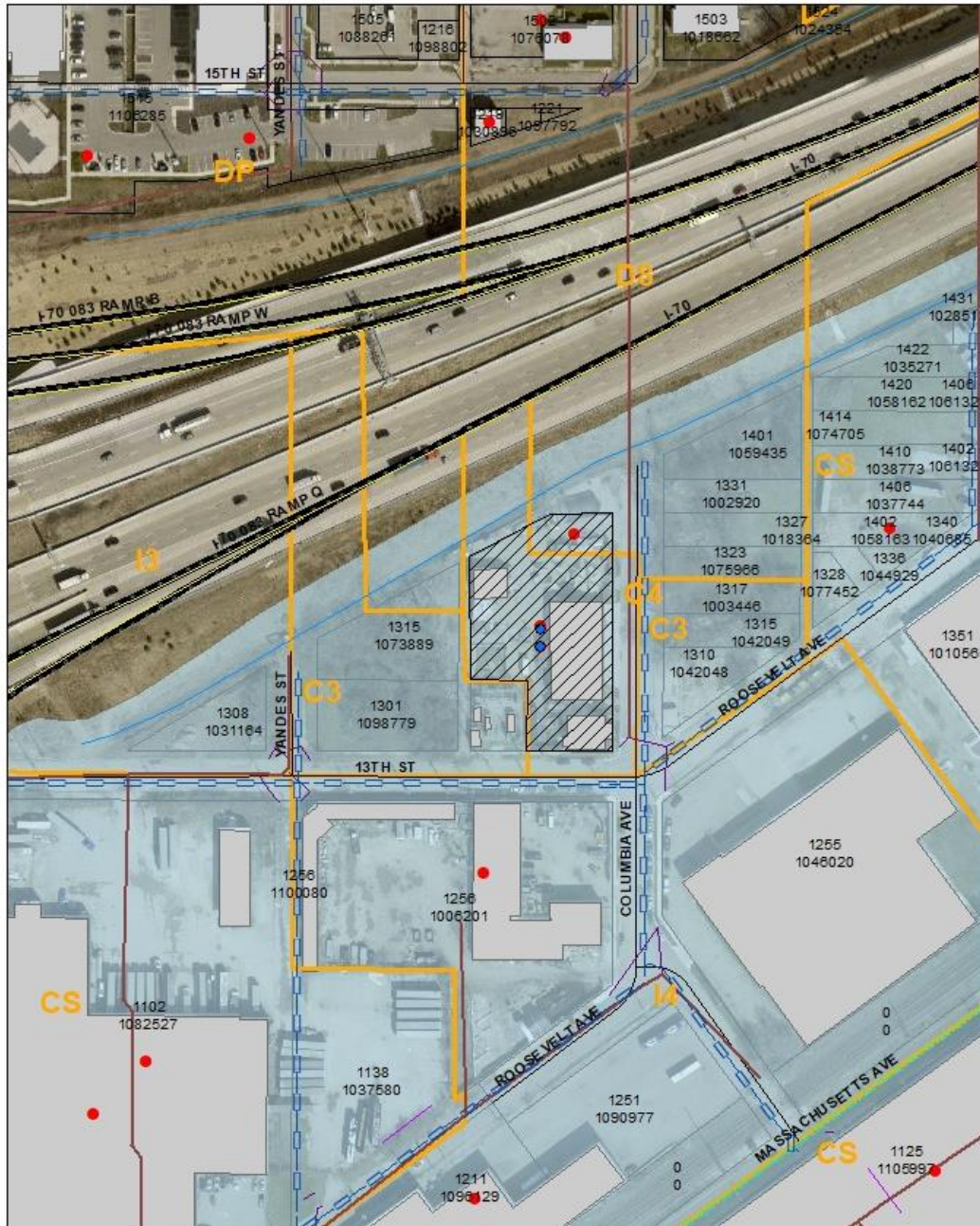
**81-VAC-5;** West of Site; Vacation of portions of Roosevelt Avenue and Yandes Street; **granted.**

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**EXHIBITS**

Exhibit A: Location Area Map



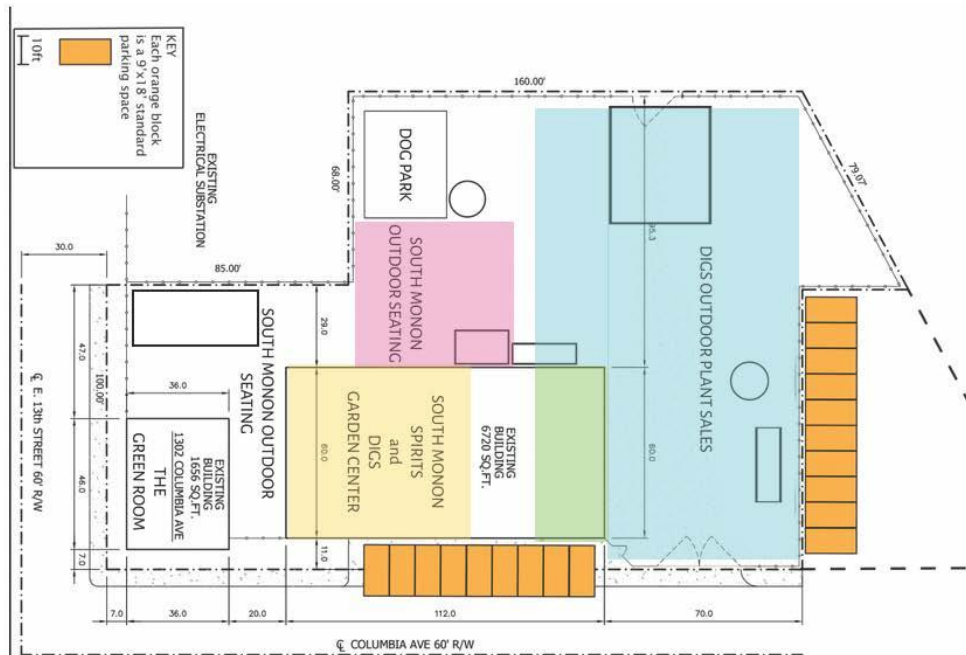
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 Miles



Exhibit B: Site Plan and Plan of Operation:

**Scaled Site Plan, 1302 Columbia**  
**Plan of Operations**

\*1322 Columbia



**OUTDOOR GARDEN CENTER, 28,000 sq ft, 3-6 Employees**

**Seasonal Hours of Operation:**

Jan-mid March: CLOSED

Mid March-Mid Nov: M-F 10am-5pm, Sa-Su 9am-7pm

Mid Nov-Dec 20: 7 days a week, 12pm-6pm \*Christmas Tree sale season

Traffic to DIGS Garden Center is light with few customers at a time, with peak hours in the morning and afternoon.

*Special events to take place 2-3 times a year, understanding that special event permitting may apply.*

**INDOOR BAR AND RESTURANT, 1,600 sq ft, 5-9 employees**

**Hours of Operation**

Sun 1pm-6pm

Mon 4pm-9pm

Tue-Wed CLOSED

Thurs 4pm-6pm

Fri 4pm-11pm

Sat 2pm-11pm

*Special events to take place 2-3 times a year, understanding that special event permitting may apply. Special events may spill out in to the exterior space.*

**SEASONAL EXTERIOR SEATING, 600 sq ft**

Seating available, weather permitting, adjacent to dog park and garden center. Not the primary seating for our bar/restaurant.





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Exhibit C: 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

Use of additional outdoor table and chairs, and outdoor plant sale retail will not pose a safety concern.

Live entertainment/music will not pose a safety concern. All current city noise ordinances will be followed.

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

Adjacent lots consist of IPS substation, interstate, and empty dead end lots.

All proposed future development around us will be of similar use, and we have the support of land owners/developers, Stenz and Becovic.

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

We are opening our bar and restaurant and would like to include occasional live entertainment, secondary outdoor seating for seasonal use,

and would like to continue to use our outdoor space for outdoor retail as we have established an outdoor garden center,

per 2022-ZON-127

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

Under C4 zoning, and through the prior acceptance of the 2022-ZON-127 petition, we have been approved for the development of a garden center, bar and restaurant. We completed that rezoning and have developed appropriately.

We would like to make the following use variances to enhance our development and make it more aligned with what our

community and neighbors want to see, as well as align with future development in the area.

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

Our development has continued as proposed in our since accepted 2022-ZON-127 petition.

DECISION

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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 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 changes proposed in this variance including parking, have been designed with public safety in mind.  
Variance of setbacks will not cause injury or restrict the safety of foot and bike traffic.  
Parking use of right-of-way will not cause a safety concern as we are located at the end of a dead end, and not a through street.

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

Adjacent lots consist of IPS substation, interstate, and empty dead end lots.  
All proposed future development around us will be of similar use, and we have the support of land owners/developers, Stenz and Becovic.

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

We are opening our bar and restaurant and in order to do so, we are required to add parking.  
Secondly, we are not able to move forward with our alcohol permit without an approved parking plan from the city.  
A reduction in the quantity of parking spots required is reasonable given the excess of existing parking and extensive future parking development slated for our area. We also have support from other developers in our area to use that parking.

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

Under C4 zoning, and through the prior acceptance of the 2022-ZON-127 petition, we have been approved for the development of a garden center, bar and restaurant. We completed that rezoning and have developed appropriately. However, we are not able to obtain our alcohol permit to open our business in Indianapolis without proof of city approval of our parking plan.  
In short, we cannot develop what we were approved to do, unless our parking plan is accepted by the city and furthermore the ATC.

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

Our development has continued as proposed in our since accepted 2022-ZON-127 petition, with the acception of proposed added parking deemed neseassry by the city and ATC for our business operation.  
We are attempting to comply with requirements we are being asked to fulfill.

DECISION

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Photos:



Photo One: Looking East Along 13<sup>th</sup> Street

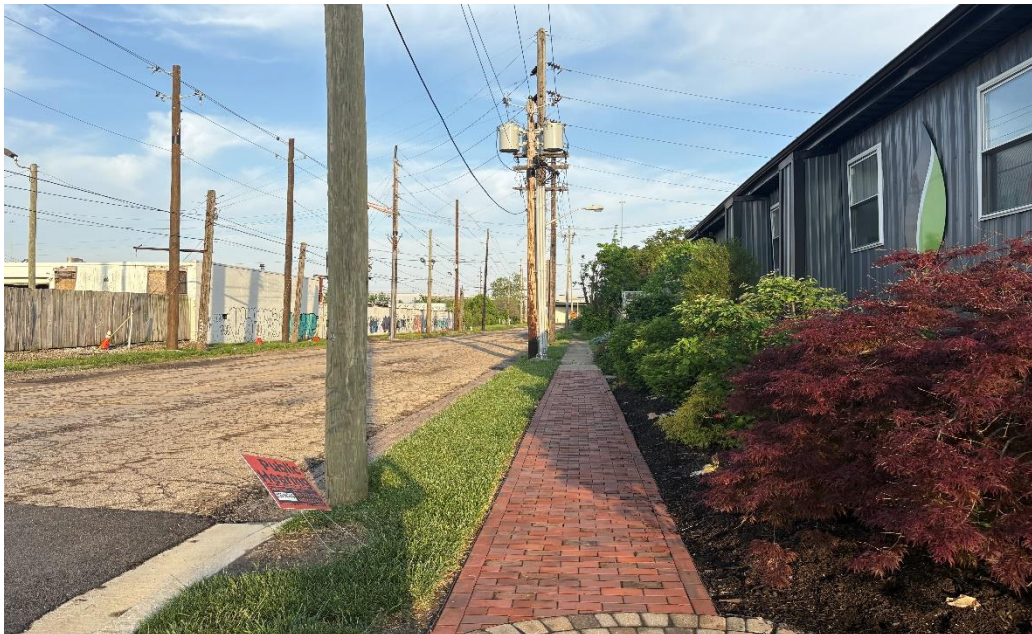


Photo Two: Looking West Along 13<sup>th</sup> Street





Photo Three: Looking South Along Columbia Avenue, Across 13<sup>th</sup> Street



Photo Four: Looking Northwest Across Intersection of Columbia Avenue and 13<sup>th</sup> Street, Towards Subject Site





Photo Five: Looking Towards Outdoor Area from Alley to the East



Photo Six: Looking West, Towards Interior Outdoor Area from Eastern Lot Line





Photo Seven: Looking West Towards Main Entry Gate to Outdoor Area



Photo Eight: Looking West Towards Proposed Gravel Lot on Northern Portion of the Site