

**BOARD OF ZONING APPEALS DIVISION I**

**December 3, 2024**

**Case Number:** 2024-UV1-028  
**Property Address:** 6855 East Southport Road (*approximate address*)  
**Location:** Franklin Township, Council District #25  
**Petitioner:** RPM Pizza Midwest LLC, by Mark Cummins  
**Current Zoning:** C-3  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an auto parts and supply store (not permitted).  
**Current Land Use:** Undeveloped Commercial  
**Staff Recommendations:** Staff recommends **denial** of this petition.  
**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this petition.

**PETITION OVERVIEW**

- 6855 East Southport Road is currently an undeveloped lot within a commercial context. Surrounding land uses include single-family homes to the north, multitenant commercial structures to the south and east, and an undeveloped outlot to the west. There is a pharmacy store at southeast corner of the nearest public intersection (Southport and Shelbyville) and an elementary school further to the northwest of the property.
- Permit applications were made for the placement of an automobile parts retail store at the property earlier this year. Administrative review of the dimensional standards associated with this building is required per the previous rezoning petition 75-Z-152. This review of landscaping and lighting details was completed earlier this year for the project via the administrative approval petition 2024ADM119. However, the Indianapolis Zoning Ordinance would consider the proposed use to be classified as an automotive repair use which would not be allowed within the C-3 zoning district. A variance of use would be required to legalize the proposed business.

- Although the proposed use does share some similarities with a traditional light retail establishment, staff would note that (a) the sale of automotive parts is not explicitly listed within the definition of that use category despite 34 other types of retail uses being enumerated; and (b) that “parts and supply stores” are listed as a potential use component within the definition for automobile repair uses. For this reason and given the likelihood of minor automobile work being conducted on-site by either customers or employees, staff has traditionally considered this use to be most accurately classified as an automobile repair use.
- The original site plan submitted to staff showed a compliant 20-foot setback for the primary structure but also showed that a portion of the paved parking area would partially encroach into the required northern transitional yard. An updated site plan was provided showing full compliance (see Exhibits), and an updated administrative approval would likely be needed as well prior to full permit approval. The scope of this variance would solely legalize the proposed use.
- This property is zoned C-3 (Neighborhood Commercial District) to allow 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. Similarly, the Comprehensive Plan recommends it to the Office Commercial working typology to allow for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses, and development can facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons. The Comprehensive Plan would consider automobile repair to be a heavy commercial land use not contemplated for Office Commercial contexts.
- The plan of operation provided by the applicant indicates that this facility would allow for the retail sale of accessory automobile parts including but not limited to motor oil, antifreeze, automotive light bulbs, and automotive tools. It would have 10-12 employees working between 7:30 am and 9:00 pm and would have a sales area of 3326 square feet (the remaining 4103 square feet would be comprised of stockrooms, offices, and restrooms). The property would also contain some aerosolized, combustible, and flammable hazardous materials for sale that would need to be stored and handled per Fire Code and applicable building standards.
- Findings of fact submitted by the applicant indicate that surrounding land uses would be at a similar level of intensity to the proposed use, that this lot shape would be ill-suited for alternative C-3 uses, and that the proposed use is broadly consistent with the Comprehensive Plan. Staff disagrees with each assertion. Although the placement of two separate multitenant commercial centers is unusual within an Office Commercial typology, all uses within this center are allowed within C-3 zoning whereas auto repair would not be permitted. Additionally, no information is provided explicating why alternative C-3 uses couldn't be placed on this vacant lot.
- Given the proximity of this use to residential property to the north, a commitment from the 1975 rezone indicating that development should “limit the density and use to a limit compatible with the neighborhood”, and the lack of undue hardship preventing compliant C-3 uses at this site or placement of auto repair uses at an alternate C-4 site, staff recommend denial of the use variance.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-3	
<b>Existing Land Use</b>	Undeveloped Commercial	
<b>Comprehensive Plan</b>	Office Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	North: Residential
	South:	South: Commercial
	East:	East: Commercial
	West:	West: Undeveloped Commercial
<b>Thoroughfare Plan</b>		
Southport Road	Primary Arterial	80-foot existing right-of-way and 80-foot proposed right-of-way
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	11/4/2024	
<b>Site Plan (Amended)</b>	11/21/2024	
<b>Elevations</b>	11/22/2024	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	11/4/2024	
<b>Findings of Fact (Amended)</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends this site to the Office Commercial working typology to allow for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses, and development can facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons. Heavy commercial uses are not a contemplated land use type.

**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

**2024ADM119**, Landscape Plan, Green Factor, and Photometric Plan approval for the construction a new O' Reilly Auto Part Store (7,429 square foot).

**75-Z-152**, Rezoning of 9.95 acres from the A-2 zoning district to the C-3 zoning district to allow for a neighborhood retail sales and professional services building with plans for future development in conformity with Metropolitan General Land Use Plan, **approved**.

### ZONING HISTORY – VICINITY

**2012VAR005 ; 6835 E Southport Road (east of site)**, Variance of use and development standards of the Commercial Zoning Ordinance to provide for a daycare center (not permitted) and outdoor dining (not permitted), **approved**.

**2011MOD014 ; 6835 E Southport Road (east of site)**, Modification of Commitments, related to petition 2007-ZON-003, to terminate Item Six of Prohibited C-3 Uses of Commitment Two, to eliminate the prohibition on gasoline stations, **denied**.

**2010DV3027 ; 6745 E Southport Road (west of site)**, Variance of development standards of the Commercial Zoning Ordinance to provide for the sale of alcohol within 75.6 feet of a D-A zoned protected district (100-foot separation required), **approved**.

**2008UV1034 ; 6745 E Southport Road (southeast of site)**, VARIANCE OF USE of the Dwelling Districts Zoning Ordinance to provide for a preschool (not permitted), **withdrawn**.

**2007UV3025 ; 6835 E Southport Road (south of site)**, VARIANCE OF USE of the Commercial Zoning Ordinance to provide for a veterinary care facility with overnight stay in a 3,000-square foot tenant space of an integrated center, **approved**.

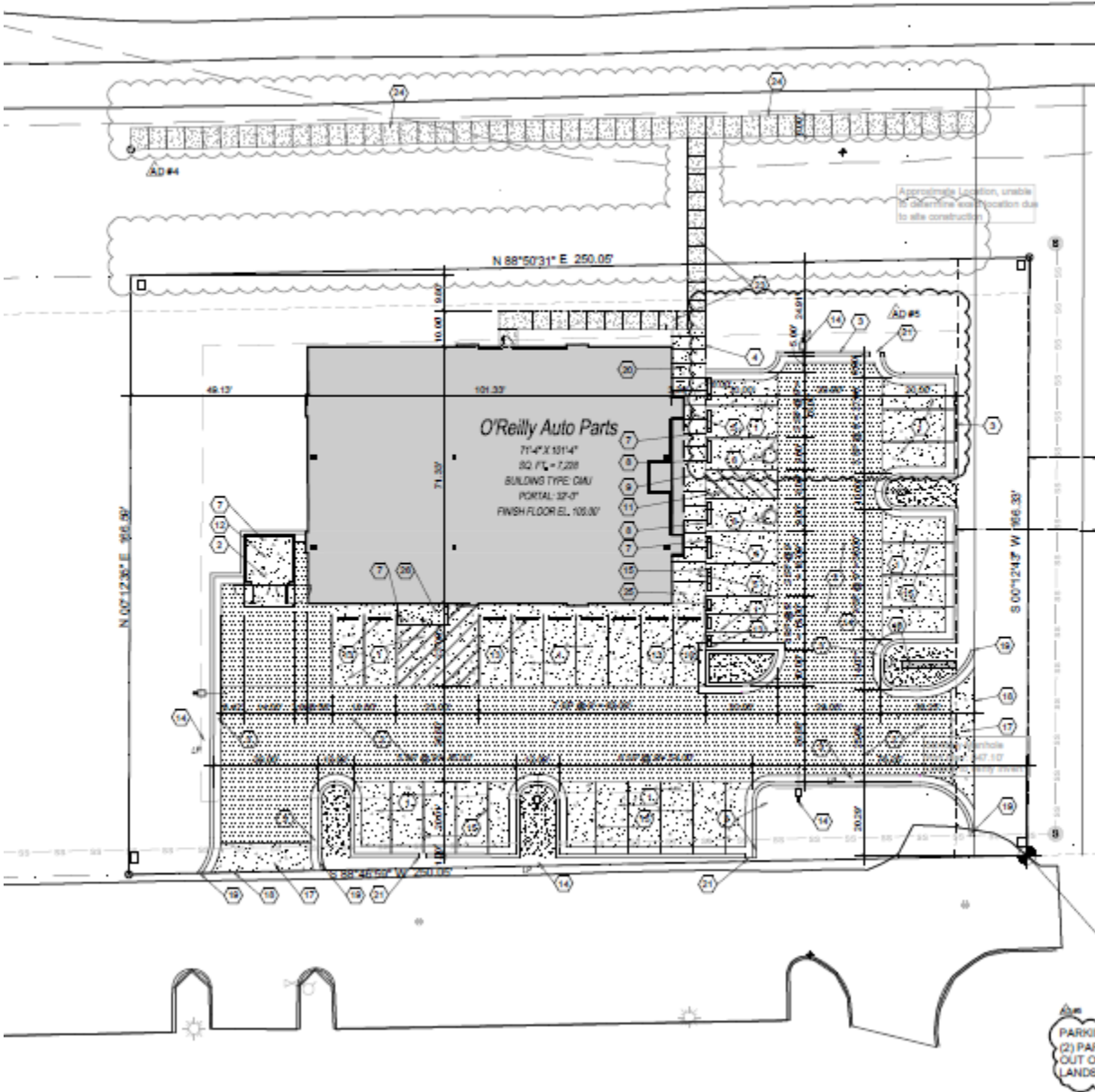
**2007DV3011 ; 6943 Five Points Road (northeast of site)**, VARIANCE OF DEVELOPMENT STANDARDS of the Dwelling Districts Zoning Ordinance to provide for storage of a commercial vehicle on site (not permitted), **denied**.

**EXHIBITS**

**2024UV1028 ; Aerial Map**



**2024UV1028 ; Preliminary Site Plan**



**2024UV1028 ; Front Elevation**



**2024UV1028 ; Plan of Operation**

The operations of the facility is to provide retail sales of automotive parts and accessories to the general public. This includes the sale of auto parts, motor oil, antifreeze, automotive light bulbs, automotive tools, etc.

The building is a single story, pre-engineered metal building with split-faced concrete masonry unit and exterior insulation finish system exterior. The building is 7,429 square feet with 3,326 s.f. in dedicated to the sales floor and the remaining area in the stockroom, office and restrooms.

Attached with this memo is the Hazardous Materials Inventory Statement and our CODE SUMMARY sheet, G1.1 indicating the building square footage and layout of the store.

The facility will have 10-12 employees, working between the hours of 7:30 am to 9:00 pm, unless otherwise stated by the city ordinances.

At this point, they do not plan to install any security cameras.





**2024UV1028 ; Findings of Fact**

**1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE**

the variance will permit the Property to be used for the retail and processional sale of automotive parts in compliance with all laws and in furtherance of the public health, safety, and general welfare of the community. Petitioner's proposed use encourages keeping cars in safe operating condition in furtherance of the health and general welfare of the community.

**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**

the owner of the immediately adjacent property is the party selling the Property to Petitioner and is supportive of Petitioner's proposed use, and Petitioner's proposed use is consistent with the commercial use of other adjacent property.

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

the amount of space available and layout of the Property make it ill-suited for other expressly permitted uses, and well suited to Petitioner's proposed use. In addition, the amount of space available, layout of the property, and existing adjacent uses make it an unlikely candidate for the current Comprehensive Plan recommendation of office commercial.

**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**

Petitioner's proposed use is much closer to the expressly permitted uses under the Property's current zoning than those of other zoning classifications. It is unclear that a variance is necessary because of Petitioner's proposed use most closely resembles the express permitted uses, so a strict application of the C-3 zoning would seem to unduly limit the use of the Property and therefore decrease its value.

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

Petitioner's proposed use is consistent with the Vision and Values element of the comprehensive plan, and does not conflict with the elements of: Transportation; Parks, Recreation and Open Space; Neighborhood & Housing Strategy; Resiliency; or any of the Specific Areas. Any interference with the Land Use element is not substantial because Petitioner's proposed use is consistent with adjacent areas and uses in the surrounding area. The adjacent Walgreens, veterinarian, dentist, and bar and grille are no more within the Land Use element's current recommendation than Petitioner's proposed use.

**2024UV1028 ; Photographs**



Photo 1: Subject Site + Adjacent Property to South



Photo 2: Adjacent Property to East

**2024UV1028 ; Photographs (continued)**



Photo 3: Adjacent Property to the Northwest



Photo 4: Adjacent Property to the Northeast

**2024UV1028 ; Photographs (continued)**



Photo 5: Adjacent Property to West



Photo 6: Adjacent Property Behind Commercial Center to South (taken October 2023)