

**BOARD OF ZONING APPEALS DIVISION I**

**December 03, 2024**

**Case Number:** 2024UV1023  
**Property Address:** 7780 Michigan Road (*approximate address*)  
**Location:** Pike Township, Council District #1  
**Petitioner:** Wagner Michigan Road LLC, by Ingris Velasquez  
**Current Zoning:** C-1 / C-3 / D-A (FW) (FF)  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a grocery store, eating establishment and event center (not permitted) utilizing the existing 55-space multitenant parking area and with no bicycle parking (required).  
**Current Land Use:** Commercial  
**Staff Recommendations:** Staff recommends **denial** of this request.  
**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

This petition was continued from the November 7<sup>th</sup> hearing to the December 3<sup>rd</sup> date to allow for sufficient time between the date of notices being mailed and the date of the hearing.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this request.

**PETITION OVERVIEW**

- The subject site is located within a multitenant commercial center currently containing uses such as auto insurance sales, a naturopathic practitioner, a massage therapy training school, and a dental office. It is bordered by office commercial uses to the south, residential uses to the east and west, and undeveloped land to the north separating it from more intense commercial uses at the 79<sup>th</sup> and Michigan intersection. The property is partially within a floodplain give its proximity to Crooked Creek, and is serviced by a bus stop to the south along Michigan.
- This variance would allow for tenant space within the commercial building to function as a grocery store with small accessory dining area and capacity for hosting of events. Each of the proposed uses (grocery stores, eating establishments, and event centers) are only allowed as accessory uses within C-1 zoning; establishing the primary use of a grocery store at this location would not be allowed by-right absent petition approval.

- 7780 Michigan Road is predominantly zoned C-1 (Office-Buffer District) to act as a buffer between uses of varying intensities and provide for a freestanding area to allow for the development of office uses and compatible office-type uses. Similarly, the site is recommended to the Office Commercial working typology by the Pattern Book and partially located within a floodway/environmentally sensitive area. The area containing the current multitenant center does not fall within the floodway and is not located within areas of the parcel zoned C-3 or D-A. The proposed uses of a grocery store, restaurant, and event center are typically found within C-3/C-4 zoning and/or areas recommended for the Community Commercial typology by the Pattern Book.
- The original submittal indicated that these uses would solely occupy Suite A of the structure (2880 square feet in size). However, updated plans provided during staff's review indicate that the use would occupy additional space to the west for a total area of approximately 5016 square feet. The multitenant center that contains this tenant space is serviced by a parking lot that currently appears to contain 55 vehicle spaces. The required amount of parking for the primary use of a grocery store with this floor area would be between 14 and 25 spaces. Staff would note that although adequate parking stalls do appear to exist directly in front of this tenant bay strictly for the grocery store use, (a) little information was provided about the scope of frequency of events at the site which could impact these totals (they would "maybe do some events to promote foods or new products"), (b) the only loading space available for weekly shipments would be a small pedestrian doorway on the rear of the building, (c) the only dumpster would be a shared one on the western portion of the property, and (d) bicycle parking does not appear to be shown on plans.
- The plan of operation and proposed floorplan provided by the applicant indicate that the business would typically be open from around 8:30 to 9:30 in the morning to around 8 to 9 at night. The business would have around 22 employees and would provide predominantly edible goods (fruits, vegetables, meats, etc.) as well as some basic home goods (baby and pet care, hygiene products, etc.). The facility would also contain a small dining area for the consumption of food prepared on-site. Any state or local regulations related to food service would also need to be met for this business to conduct legally and variance approval would not be a substitute for compliance. Finally, the plan of operation mentions the business would serve as a "community hub" that would host events and create a space for gathering (a primary use typically only allowed in C-4 zoning).
- The findings of fact provided by the applicant indicate that the proposed business would fill a vacant tenant space and would be compatible with surrounding offices uses. Staff would disagree that the proposed use of a grocery store with a small restaurant and capacity for events would match the level of intensity envisioned either by C-1 zoning or by the Office Commercial typology. Although adaptive reuse of existing commercial property is encouraged, it is only appropriate in cases where the site could feasibly support that intensity. Staff feels that the proposed uses could not feasibly be supported by a small tenant space of 5016 square feet within an office park setting given the lack of adequate loading areas. Additionally, staff notes that (a) the property is only 800 feet away from the Carniceria Durango Supermercado to the northeast that would fill a similar grocery function while being appropriately located in a C-3 zoning district and (b) no undue hardship exists that would disallow a compliant C-1 use at this property. For these reasons, staff would recommend denial of the variance request.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-1 / C-3 / D-A (FW) (FF)	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Office Commercial / Floodway	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	C-3
	South:	C-1
	East:	D-5
	West:	D-A
<b>Thoroughfare Plan</b>		
Michigan Road	Primary Arterial	100-foot right-of-way existing and 102-foot right-of-way proposed
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	Yes	
<b>Overlay</b>	Yes	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	08/26/2024	
<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>	08/28/2024	
<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 recommend the portion of this site that would contain the proposed use to the Office Commercial working typology to provide for single and multi-tenant office buildings. It is often a buffer between higher and lower intensity land uses and can facilitate establishments such as medical and dental facilities, education services, insurance and real estate offices, financial and legal services, body care salons, etc.
- The proximity of the site to the Crooked Creek also means that it has a partial recommendation of Floodway (delineated area that exhibits a great potential for property loss and damage from severe flooding or water quality degradation) and that is partially designated as being within the Environmentally Sensitive overlay. Any development of small-scale personal services should either



leave wetlands and high quality woodlands alone or include a one-for-one replacement of such features. Additionally, development should preserve or add at least 20% of the entire parcel as tree canopy or naturalized area.

**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

### ZONING HISTORY – SITE

N/A

### ZONING HISTORY – VICINITY

**2023DV2011 ; 3063 Sapphire Boulevard (east of site)**, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of single-family dwellings on each lot with a 20-foot front yard setback, a minimum main floor area of 539 square feet and an open space of 40 percent (25-foot front yard setback, 660 square foot main floor area and 60 percent open space required), **approved**.

**2014UV2007 ; 7820 Michigan Road (north of site)**, Variance of use of the Commercial Zoning Ordinance to provide for an event center, including special events, birthday parties, baptisms, etc. (not permitted), **approved**.

**2006UV2031 ; 7820 Michigan Road (north of site)**, VARIANCE OF USE of the Commercial Zoning Ordinance to provide for religious uses (not permitted), within a tenant space in the existing integrated center, **withdrawn**.

**2005UV2007 ; 7820 Michigan Road (north of site)**, provide for a nightclub in a 7,292-sq.ft. tenant space of an existing 52,900-sq.ft. commercial strip mall in C-3, **denied**.

**98-UV1-10 ; 7804 Michigan Road (north of site)**, variance of use of the Flood Control Districts Zoning Ordinance to provide for the construction of a retail shopping center, being 70 by 200 square feet, within the floodway area (not permitted), **withdrawn**.

**97-V2-12 ; 7651 Michigan Road (north of site)**, variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of 7 single-family dwellings with front setbacks of 30 feet along Michigan Road (minimum 40 feet from the proposed right-of-way of Michigan Road required which is 60 feet from the existing right-of-way), **denied**.

**94-UV3-64 ; 7804 Michigan Road (north of site)**, variance of use of the Commercial Zoning Ordinance to provide for an automobile and truck leasing/rental business in an existing commercial shopping center (not permitted), with outside storage of 15 automobiles located in the shopping center parking lot and outside storage of 6 trucks located in the rear (outside storage not permitted), **withdrawn**.

**94-UV1-12 ; 7767 Michigan Road (east of site)**, variance of use of the Dwelling Districts Subdivision Ordinance to provide for the continued operation of a vehicle sales business, **approved**.

**94-Z-42 ; 7841 Michigan Road (northeast of site)**, rezoning of 1.72 acres from D-5 to C-3, **approved**.

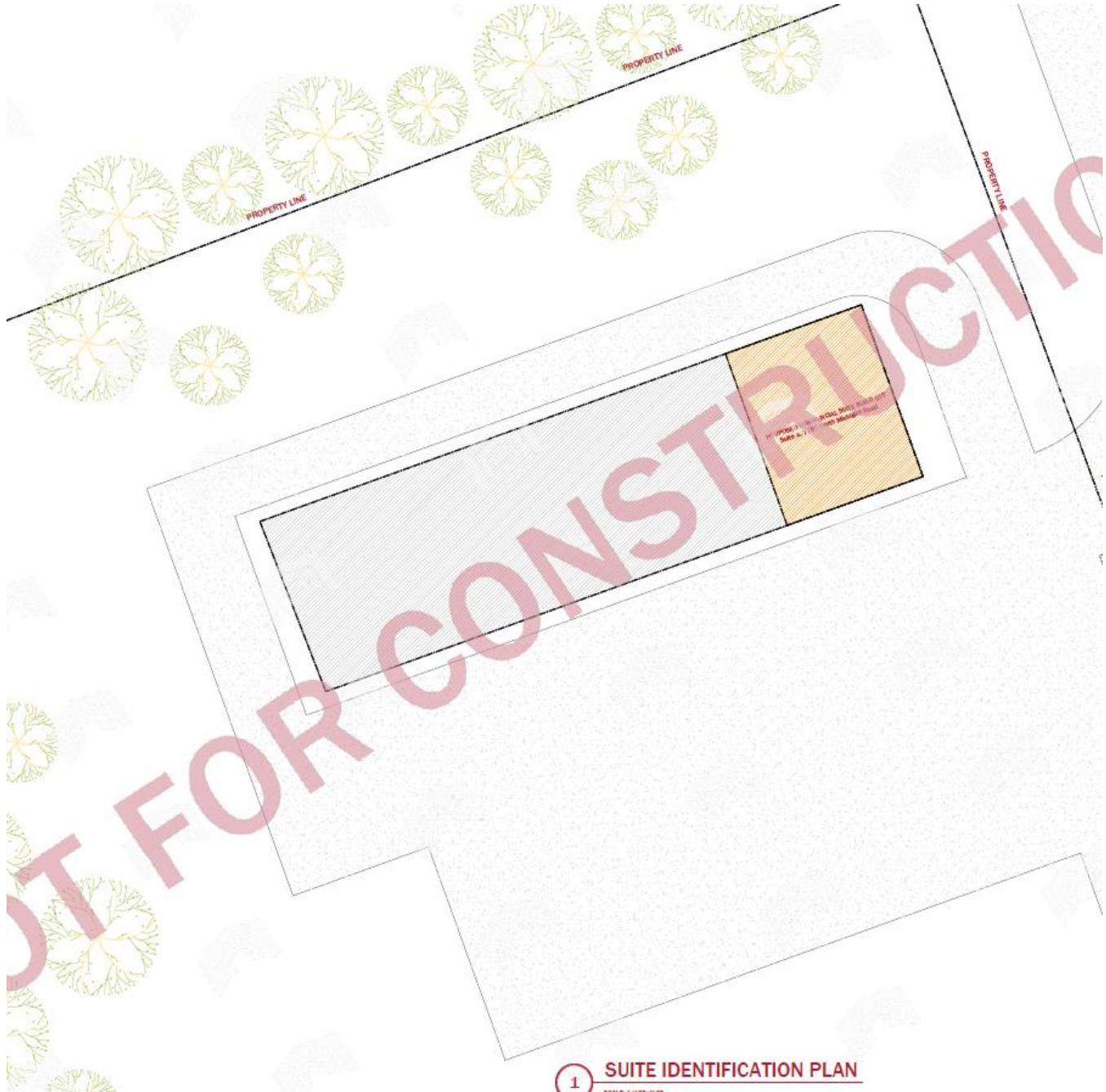
**86-Z-99 N ; 7800 Michigan Road (north of site)**, rezoning of 16 acres from A-2 to C-3, **approved**.

EXHIBITS

2024UV1023 ; Aerial Map



**2024UV1023 ; Site Plan**



(Note: size of proposed tenant space roughly 2x what's shown above: see Floor Plan on next page)





**2024UV1023 ; Plan of Operation (1 of 2; Partial)**

Despensa Familiar Supermarket LLC will be a vibrant and community-centric grocery store nestled in the heart of Indianapolis, IN. The supermarket will be meticulously designed to offer an immersive shopping experience to the diverse Hispanic population. Despensa Familiar Supermarket will offer a diverse and high-quality selection of grocery products, including fresh produce, bakery items, meats, seafood, dairy, frozen foods, and household essentials, catering specifically to the needs and preferences of the vibrant Hispanic community in Indianapolis.

At Despensa Familiar Supermarket, the mission extends beyond being a mere retail establishment. We aspire to be a community hub, fostering a sense of togetherness through collaborations with local businesses, hosting events, and creating a warm and inviting space for gatherings.

Hours of operations will be

Monday 8:30 AM – 9:30 PM

Tuesday 8:30 AM – 9:30 PM

Wednesday 8:30 AM – 9:30 PM

Thursday 8:30 AM – 9:30 PM

Friday 8:30 AM – 9:30 PM

Saturday 9:00 AM – 9:00 PM

Sunday Sunday

9:30 AM – 8:00 PM

Average numbers of employees

22 employees

## **2024UV1023 ; Plan of Operation (2 of 2; Partial)**

### **Store Layout:**

Upon entering Despensa Familiar Supermarket, customers are greeted by a well-designed layout that maximizes both convenience and cultural experience. The store is divided into various sections, each dedicated to specific product categories.

### **Here's a hypothetical breakdown of the floorplan:**

- **Fresh Produce Section:**

Located at the entrance, a colorful array of fresh fruits and vegetables welcomes customers. Displays are arranged in an appealing and accessible manner, reflecting the quality and variety of the offerings.

- **Meat Section:**

Adjacent to the produce section, the meat department features a well-organized display of fresh cuts, including those commonly used in Hispanic cooking. Experienced butchers are available to assist customers with specific requests.

- **International Delights Aisles:**

Throughout the store, aisles are dedicated to international delights, offering a wide selection of Hispanic products, spices, sauces, and other specialty items. Clear signage and displays make it easy for customers to find their desired products.

- **Dairy and Cheese Corner:**

A designated corner features a diverse assortment of Hispanic cheeses and dairy products. Refrigerated displays maintain the freshness of these products.

- **Bakery and Pastries Counter:**

The bakery section is designed to delight customers with the aroma of freshly baked traditional Hispanic bread and pastries. A visually appealing display showcases specialty cakes and desserts.

- **Canned and Packaged Goods Shelves:**

A central area is dedicated to canned and packaged goods, offering staples such as beans, rice, pasta, and other essentials. The shelves are neatly organized for easy navigation.

- **Checkout Area:**

The checkout area is strategically placed for efficient transactions. Friendly and multilingual staff members ensure a positive end to the customer's shopping experience.

### **Additional Features:**

- **Community Corner:** A designated space for community engagement, featuring local events, cultural displays, and customer testimonials.
- **Customer Seating:** A comfortable seating area provides customers with a space to relax and enjoy a quick snack or beverage.



**2024UV1023 ; Findings of Fact**

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

the grocery will serve the public's need for food and therefore will promote the public health and general welfare of the community.

Also small convenience food court (restaurant) will serve the public's need for cook food and therefore will promote the public health and general welfare serve the food clean and safe.

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 grocery will be contained within a small building, will operate during limited hours, and will involve no outside activities.

Hours of operation will be from 8:30 AM To 10:00 PM

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

the property has remained vacant for a considerable period, indicating that it is unsuited for the permitted uses.

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

it is preventing the property from providing the owner with an economic return and preventing a use that will provide a vital service to the community.

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

a small grocery store such as this one is compatible with office commercial activity.

A small attached food court (small restaurant) such at this one is compatible with office commercial activity. Office staff will have a close

Close place where they can eat

**2024UV1023 ; Photographs**



Photo 1: Subject Site viewed from South



Photo 2: Subject Site viewed from Southeast

**2024UV1023 ; Photographs (continued)**



Photo 3: Parking Area + Adjacent Property to South



Photo 4: Adjacent Property to East

**2024UV1023 ; Photographs (continued)**



Photo 5: Subject Site viewed from North



Photo 6: Rear of Building (multiple tenant bays)

**2024UV1023 ; Photographs (continued)**



Photo 7: Screening of Adjacent Property to West



Photo 8: Parking Area for Full Multitenant Center