

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-014
Address: 5640 East 38th Street (approximate address)
Location: Lawrence Township, Council District #13
Zoning: SU-1 (TOD)
Petitioner: BWI LLC, by Vincent L. Smith
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of up to 50 multi-family dwelling units and independently operated social services (not permitted).

RECOMMENDATIONS

Staff **recommends approval** of the request, subject to the following commitment:

1. The property shall be rezoned to an appropriate Dwelling or Mixed-Use District prior to the issuance of an Improvement Location Permit.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

SU-1	Compact	Vacant religious use facility and associated parking lot
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SURROUNDING ZONING AND LAND USE

North	D-10	Multi-family
South	C-1 /D-4	Single-family dwellings and commercial services
East	D-5	Single-family dwellings
West	D-5	Single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Community Commercial development.
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- ◇ This 3.7-acre lot, zoned SU-1 is currently improved with a religious use facility and associated surface parking.
- ◇ North of the subject site is a multi-family development within the D-10 District. Beyond that are single-family dwellings within the D-5 District. East and west of the subject sites are single-family dwellings within the D-5 District. To the South, across 38th Street North Drive and 38th Street are single-family dwellings and small-scale commercial businesses within the D-5 and C-1 Districts, respectively.

(Continued)

STAFF REPORT 2023-UV3-014 (Continued)

- ◇ The SU-1 District is a special use classification that only allows for the operation of religious worship as a primary use and associated accessory uses. The Ordinance provides broad discretion in regard to the application of development standards, allowing the Administrator to approve plans as appropriate. This District uses the development standards of the C-1 District to guide appropriateness of such waivers.

VARIANCE

- ◇ The request, as proposed, would provide for the demolition of the existing church and the construction of three-story mixed-use development including up to 50 dwelling units and independently operated social services.
- ◇ The Comprehensive Plan recommends the development of community commercial uses. This typology is intended to provide for low-intensity commercial and office uses that serve nearby neighborhoods. Examples of such uses include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gather spaces.
- ◇ The request, being mixed-use, would be responsive to the plan recommendation and the intent of the Transit Oriented Development overlay. In addition, the increased density would aid in the implementation of the Comprehensive Plan recommendation of the nearby area. Most properties along this portion of East 38th Street are recommended for Community Commercial development. It is Staff's position that the request addresses two of the Livability Principles of the Ordinance, being promoting equitable, affordable housing and supporting existing communities.
- ◇ The request is contingent on obtaining financial incentives includes tax credits. Given the lack of certainty of obtaining these funds, Staff believes that a variance of use is appropriate. A premature rezoning of the property would result in an improper zoning classification, which may prohibit future use of the existing purpose-built religious use facility. The grant of the request would allow the applicant to demonstrate land use entitlement, a requirement of obtaining funds from various sources, including the Indiana Housing & Community Development Authority.
- ◇ However, Staff believes that full-scale redevelopment of the site would warrant a rezoning of the property to an appropriate zoning classification. Doing so ensures that appropriate development standards are enforced, prevent issues which may arise during future transaction of the property, and prevent the necessity of future land use filings for projects such as building additions, construction of new structures, and signage. While identifying an appropriate district is contingent upon finalization of plans and specific uses, the MU-2 District is a strong candidate to address the scope of the current proposal. For this reason, Staff requests that any approval be subject to a commitment that the property be rezoned prior to the issuance of an Improvement Location Permit.

(Continued)

STAFF REPORT 2023-UV3-014 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of East 10 th Street is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 80 feet.
SITE PLAN	File-dated April 11, 2023.
PLAN OF OPERATION	File-dated April 11, 2023
FINDINGS OF FACT	File-dated April 11, 2023.

ZONING HISTORY – SITE

96-Z-94; 5604-5640 East 38th Street; requests rezoning of 0.8 acre, being in the D-5 District, to the SU-1 classification to conform the zoning classification for an existing church use and to provide for additional parking; **approved.**

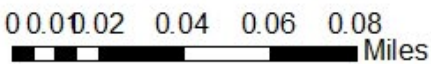
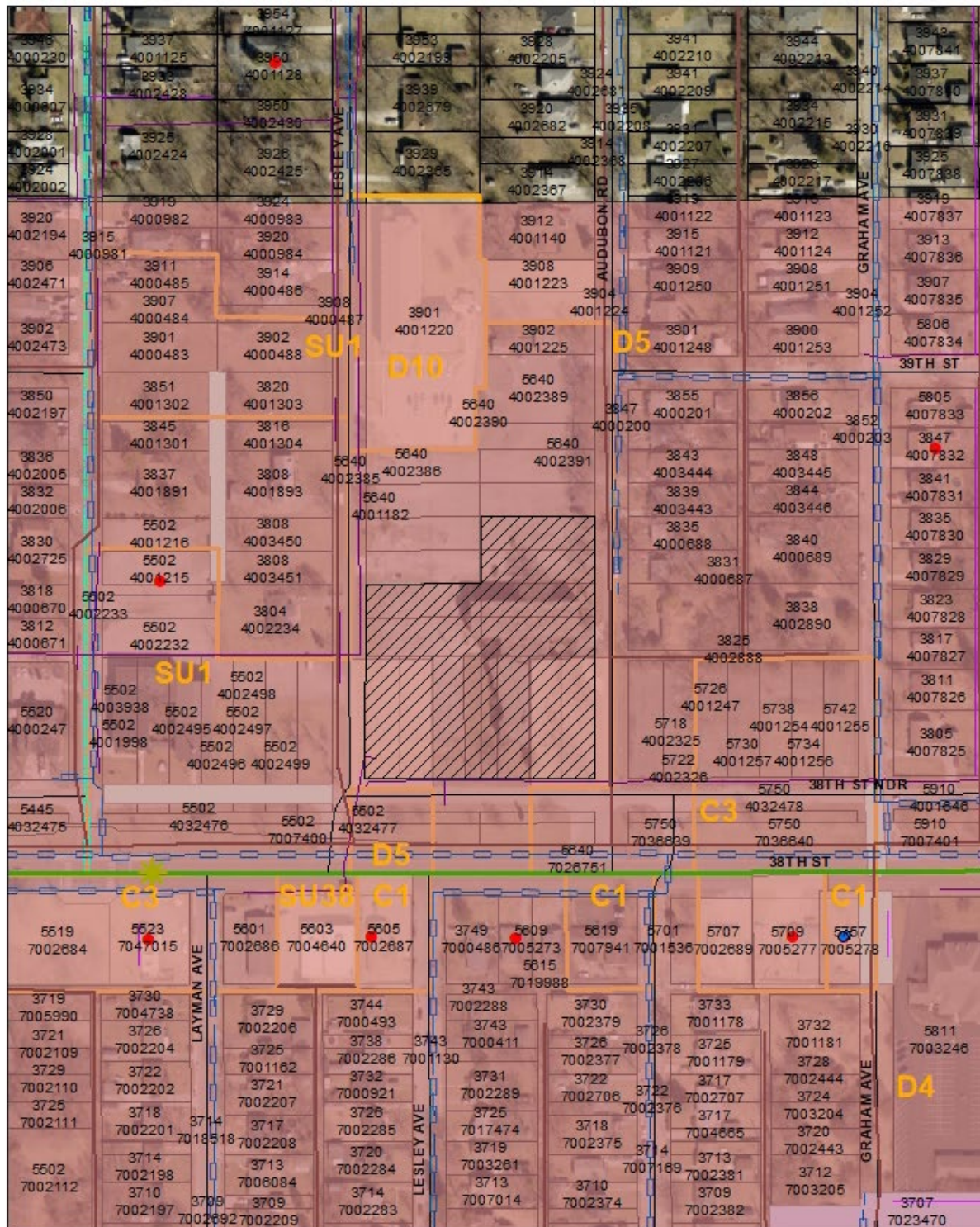
69-Z-77; 5640 East 38th Street; requests a rezone of approximately four acres from the D-5 to SU-1 to provide for church use; **approved.**

ZONING HISTORY – VICINITY

96-Z-33 / 96-CV-35; 3901 North Lesley Avenue; requests a rezone of 1.5 acres from SU-1 and D-5 to D-10 with companion variances to provide for the construction of multi-family housing; **approved.**

EDH

2023-UV3-014; Location Map



2023-UV3-014; Findings of Fact

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division III _____
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 proposed development will pose no threat to the public health, safety, morals, or 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 proposed development will not disturb the businesses and residences in the surrounding area.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE
the property is currently zoned for religious use, not allowing the mixed-use development needed in the area as part of Transit-Oriented Development

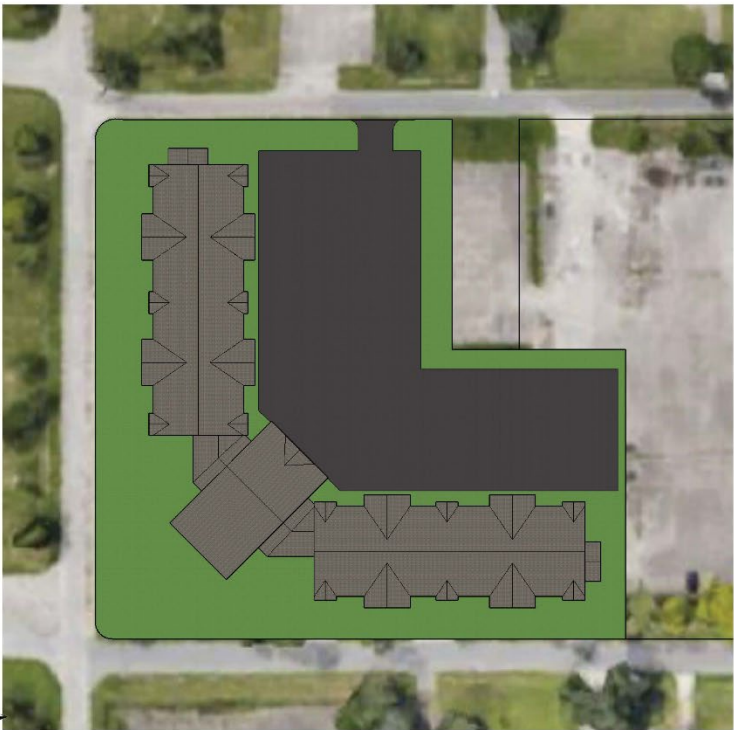
4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE
the property is currently zoned for religious use, not allowing the mixed-use development needed in the area as part of Transit-Oriented Development

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE
the proposed variance is in compliance with the comprehensive plan as amended for transit-oriented development along the Purple Line.

DECISION

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

Adopted this _____ day of _____, 20 ____





RENDERING
38th & Lesley Ave
Indianapolis, IN 46205
GUIDON

2023-UV3-014; Photographs



Photo One: Existing building, facing north.



Photo Two: Looking South across 38th Street.



Photo Three: Existing buildings eastern façade, facing west.



Photo Four: Single-family dwellings east of subject site.



Photo Five: Church parking lot north of building. Adjacent multi-family development in background.



Photo Six: Area west of subject site, facing northwest.