

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-012
Address: 1735 West Edgewood Avenue (approximate address)
Location: Perry Township, Council District #20
Zoning: I-3 (FF)
Petitioner: GND Property Inc., by Pat Rooney
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a truck terminal (prohibited in Floodway Fringe District) and parking area with 53-foot front yard setback from Edgewood Avenue and a six-foot east side yard setback (60-foot front yard setback required, 30-foot side yard setback required) and deficient landscaping.

RECOMMENDATIONS

Staff **recommends denial** of the petition as proposed.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

I-3	Truck Terminal
-----	----------------

SURROUNDING ZONING AND LAND USE

North -	I-3	Truck Terminal
South -	C-7	Commercial Contractor
East -	I-2	Commercial Contractor
West -	C-S	Truck Repair Facility

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Office Commercial uses for the site with an Environmentally Sensitive overlay that matches the flood plain area.
--------------------	--

VARIANCE OF USE

- ◇ This request would provide for the operation of a truck terminal in a Floodway Fringe District.
- ◇ The Comprehensive Plan recommends the Office Commercial typology for the site. "The Office Commercial typology provides for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses. Office commercial development can range from a small freestanding office to a major employment center. This typology is intended to 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.

(Continued)

STAFF REPORT 2023-UV3-012 (Continued)

- ◇ This site is also located within an overlay, specifically the Environmentally Sensitive Areas. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. In this case it would be for the floodway fringe. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ While the proposed use is allowed in the I-3 zoning district, the Ordinance gives clear direction that the development of this property should not include specific uses within the floodway fringe in order to prevent contaminants from leaking into waterways and negatively impacting adjacent properties downstream. To exacerbate this, the site has already been used as a truck terminal with gravel parking areas where surface paving is required.

Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (I-3 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ Staff would note the following uses are prohibited in the floodplain:
 - a. Jails;
 - b. Hospitals;
 - c. Assisted living facilities;
 - d. Nursing homes;
 - e. Laboratories;
 - f. Elementary, Middle or High Schools;
 - g. Daycare facilities;
 - h. Fire stations;
 - i. Emergency operation centers;
 - j. Police facilities;
 - k. Truck, train, or bus terminal, storage or maintenance facility;**
 - l. Wrecking or salvage facility;
 - m. Gas, oil or propane storage facility;
 - n. Industrial laundry;
 - o. Hazardous waste handling or storage facility; and
 - p. Other public equipment storage facilities.

(Continued)

STAFF REPORT 2023-UV3-012 (Continued)

- ◇ As proposed, the request would not be consistent with the Comprehensive Plan recommendation of office commercial.
- ◇ Because of the location within the floodplain of Little Buck Creek, the requested use would be detrimental and could negatively impact surrounding land uses and the water quality of Little Buck Creek.
- ◇ There is no practical difficulty that would prevent the site from being developed with permitted uses within the floodway. Therefore, Staff does not support the requested use for this site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a parking area with a 53-foot front yard setback from Edgewood Avenue and a six-foot east side yard setback, with deficient landscaping
- ◇ The requested variance of development standards for reduced setbacks would allow for a larger truck terminal area to be located within the flood plain. As the use is not permitted, the associated variances should not be permitted as well, as they would only intensify the unpermitted use. There is no practical reason as to why the required landscaping can not be provided, again, other than to maximize the covered surface area for truck terminal parking
- ◇ This variance of development standards request is the result of the petitioner's failure to obtain a permit prior to illegally using the site as a truck terminal with the requested reduced setbacks. Had the petitioner inquired about a permit prior to initiating the use on the site, they would have been notified of the deficient setbacks, and the parking area could have been placed appropriately without the need for a variance. Therefore, Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence, to discourage such practices.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Edgewood Avenue is indicated as a primary arterial on the Official Thoroughfare Plan, with a 32 to 46-foot existing right-of-way and an 80-foot proposed right-of-way. Lakehaven Lane is a private street and is not indicated on the Official Thoroughfare Plan.
FLOODWAY / FLOODWAY FRINGE	The southern 2/3rds portion of this site falls within the floodway fringe of Little Buck Creek
SITE PLAN	File-dated May 8, 2023
FINDINGS OF FACT	File-dated May 8, 2023

(Continued)

STAFF REPORT 2023-UV3-012 (Continued)

ZONING HISTORY

2021-ZON-086; 1735 West Edgewood Avenue (subject site), requested the rezoning of 2.29 acres from 1-2 (FF) to I-3 (FF), **granted**.

2017-DV2-013; 6020 Lakehaven Lane (west of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an industrial building, with a 32-foot east front setback, **granted**.

2015-ZON-074; 1615 West Edgewood Avenue (east of site), requested the rezoning of 1.45 acres from the D-A (W-1) (FF) district to the C-4 (W-1) (FF) classification to provide for a 10,000-square foot building for a haunted house, **approved**.

2013-ZON-055; 1739 West Edgewood Avenue (west of site), requested the rezoning of four acres from the D-A (FF)(W-1) district to the C-S (FF)(W-1) classification to provide for office use, warehouse use, a distribution facility, with a retail component, all I-2-S uses, and limited I-3-S uses, **approved**.

2009-ZON-067, 6020 Lakehaven Lane and 1951 West Edgewood Avenue (west of site), requested rezoning of 3.06 acres, from the I-2-S (W-1) (FF) and C-S (W-1) (FF) districts to the I-3-S (W-1) (FF) classification to provide for medium-intensity industrial uses, **approved**.

2008-UV2-008; 1735 Edgewood Avenue (subject site), requested a variance of use and development standards of the Industrial Zoning Ordinance to provide for the rental of recreational vehicles, with a 528-square foot office-trailer, and with a 22,275-square foot, gravel outdoor storage area, being approximately 4,200 percent of the total area of enclosed buildings, with outdoor storage of recreational vehicles exceeding the height of the surrounding fence within approximately 250 feet of a protected district, **withdrawn**.

2007-ZON-828 and 2007-VAR-828; 1846 West Banta Road and 6215 Lakehaven Lane (south of site), requested rezoning of 15.20 acres from D-A (FF)(W-1) and I-2-S (FF)(W-1) to I-2-S (FF) (W-1), and variance of use and development standards of the IZO to provide for outdoor storage and rental of large construction equipment, such as cranes and lifts, on a lot without direct access to a public street, with 364,755 square feet of outdoor storage for construction equipment or 2,399 percent of the total gross floor area of enclosed buildings, and outdoor storage of construction equipment with a height exceeding ten feet, **approved**.

2006-ZON-042; 6111 Lakehaven Lane (south of site), requested the rezoning of 2.95 acres, being in the C-S (FF)(W-1) District, to the I-2-S (FF)(W-1) classification to provide for light industrial suburban uses, **approved**.

2002-ZON-038; 1735 West Edgewood Avenue (subject site), requested the rezoning of 4.6 acres from D-A (FF)(W-1) to I-2-S (FF)(W-1) to provide for light industrial uses, **granted**.

72-Z-162; 1735 West Edgewood Avenue (subject site), requested the rezoning of 27.735 acres from A-2 to C-S to provide for campground facilities, **granted**.

STAFF REPORT 2023-UV3-012 (Continued)

2023-UV3-012; Location Map



2023-UV3-012; Site Plan



2023-UV3-012; Photographs



Subject site looking south from West Edgewood Avenue



Subject site looking east from Lakehaven Lane



Subject site looking north.



Adjacent truck repair facility to the west, looking south.



Adjacent commercial contractor to the east, looking south.



Adjacent commercial contractor to the south, looking east.