

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-063 (2nd Amended)
Address: 3855 & 3955 North Emerson Avenue, 5035 East 39th Street and 5070 Roselawn Avenue (*Approximate Addresses*)
Location: Lawrence and Washington Townships, Council Districts #9 and #13
Petitioner: Harmony Park Apartments / Emerson Park Apartments, LLC, by David Kingen
Request: Rezoning of 9.19 acres from the D-3 (TOD), D-4 (TOD), D-6 (TOD) and C-3 (TOD) districts to the D-8 (TOD) district to provide for a multi-family development.

The Hearing Examiner continued this petition from the July 27, 2023 hearing, to the August 10, 2023 hearing, at the request of staff to provide additional time for required notice related to the amended request.

The Hearing Examiner continued the petition, with notice, from the August 10, 2023 hearing, to the September 14, 2023 hearing, at the request of staff and the petitioner's representative.

RECOMMENDATIONS

Staff **recommends approval** of this request, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.
2. Site plans, landscaping plans and elevations shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 9.19-acre site, D-3 (TOD), D-4 (TOD), D-6 (TOD) and C-3 (TOD), is comprised of four non-contiguous parcels developed with vacant multi-family dwellings. It is surrounded by single-family dwellings and religious uses to the north, zoned D-3 (TOD), D-4 (TOD) and SU-1 (TOD), respectively; single-family dwellings, park, and commercial uses to the south, zoned D-3 (TOD), D-4 (TOD), PK-1 (TOD) and C-3 (TOD), respectively; single-family dwellings to the east, zoned, D-4 (TOD), respectively; and multi-family dwellings, park, single-family dwellings and commercial uses to the west, D-6 (TOD), PK-1 (TOD); D-3 (TOD) and C-3 (TOD), respectively.

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REZONING

- ◇ This request would rezone the site from the D-3 (TOD), D-4 (TOD), D-6 (TOD) and C-3 (TOD) districts to the D-8 (TOD) district to provide for a multi-family development. “The D-8 district is intended for a variety of housing formats, with a mix of small-scale multi-unit building types. This district can be used as a part of new mixed-use areas, or for infill situations in established urban areas, including medium and high-density residential recommendations of the Comprehensive Plan, and the Traditional Neighborhood, City Neighborhood, and Village or Urban Mixed-Use Typologies of the Land Use Pattern Book.”
- ◇ The Comprehensive Plan recommends suburban neighborhood typology. “The Suburban Neighborhood typology is predominantly made up of single-family housing, but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well connected and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.

Conditions for All Housing

- A mix of housing types is encouraged.
- Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user.
- Primary structures should be no more than one and a half times the height of other adjacent primary structures.
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.

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Multifamily Housing (defined as small-scale multifamily housing Single or multiple buildings each with five or more legally complete dwelling units in a development of less than two acres and at a height of less than 40 feet and large-scale multifamily housing Single or multiple buildings each with five or more legally complete dwelling units in a development of more than two acres and at a height greater than 40 feet).

- Should be located along arterial or collector streets, parks, or greenways.
- Parking should be either behind or interior to the development.
- Individual building height, massing, and footprint should gradually transition from adjacent developments. Specifically, buildings located adjacent to existing residential developments should be no more than one and a half times the height and no more than twice the average footprint of the existing adjacent residential buildings

Overlays

- ◇ This site is also located within an overlay, specifically the Transit Oriented Development (TOD). “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 Transit-Oriented Development (TOD) overlay is intended for areas within walking distance of a transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area.
- ◇ This site is located within a ¼ mile walk of a proposed transit stop located at the intersection of East 38th Street and Emerson Avenue, with a District Center typology.
- ◇ District Center stations are located at the center of regionally significant districts with several blocks of retail or office at their core. Development opportunities include infill and redevelopment, dense residential, employment near transit stations, neighborhood retail and a focus on walkability and placemaking.
- ◇ Characteristics of the District Center typology are:
 - A dense mixed-use hub for multiple neighborhoods with tall buildings
 - Minimum of 3 stories at core with no front or side setbacks
 - Multi-family housing with a minimum of 5 units
 - Structured parking only with active first floor

Infill Housing Guidelines

- ◇ The Infill Housing Guidelines were updated and approved in May 2021, with a stated goal “to help preserve neighborhood pattern and character by providing guiding principles for new construction to coexist within the context of adjacent homes, blocks, and existing neighborhoods. These guidelines provide insight into basic design concepts that shape neighborhoods, including reasons why design elements are important, recommendations for best practices, and references to plans and ordinance regulations that reinforce the importance of these concepts.”

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- ◇ These guidelines apply to infill development in residential areas within the Compact Context Area and include the following features:

Site Configuration

- Front Setbacks
- Building Orientation
- Building Spacing
- Open Space
- Trees, Landscaping, and the Outdoors

Aesthetic Considerations

- Building Massing
- Building Height
- Building Elevations and Architectural Elements

Additional Topics

- Secondary Dwelling Units, Garages, and Accessory Structures
- Adapting to the Future

- ◇ “As established neighborhoods experience new development, infill residential construction will provide housing options for new and existing residents. Increased population contributes positively to the local tax base, economic development, lively neighborhoods, and an interesting city. As infill construction occurs, it is important to guide development in a way that complements current neighborhoods. Each home in a neighborhood not only contributes to the existing context of adjoining houses and the block, but to the sense of place of the entire neighborhood.”

Environmental Public Nuisances

- ◇ The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.
- ◇ All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.
- ◇ Environmental public nuisance means:
 1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;

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2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
 3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
 4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.
- ◇ Staff would request a commitment that emphasizes the importance of maintaining the sites in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

Planning Analysis

- ◇ The request would be consistent with the Comprehensive Plan recommendation of suburban neighborhood typology and compatible with residential redevelopment occurring in the immediate area. This request would also be supportive of the Purple Line TOD plan recommendations.
- ◇ All four of these sites were developed with multi-family dwellings between 1960 and 1979. During the intervening years the site have been abandoned and are in a state of disrepair. Staff understands that the buildings would be renovated and become available for occupancy.
- ◇ During the site visit staff observed some of the buildings had been damaged by fire and may require substantial reconstruction. If some of the buildings would be demolished, staff would request that site plans, along with elevations be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP). Staff would also request that elevations of all the structures be submitted for Administrator Approval prior to the issuance of an ILP.
- ◇ As development on these sites occur, recommendations of the Pattern Book should be considered, as well as compliance with the Ordinance to mitigate negative impacts on surrounding residential development. In other words, development standards variances, if necessary, should be minimal and based on practical difficulty in the use of the property, rather than desires of the developer.
- ◇ For all these reasons, staff recommends approval of the rezoning request, subject to the requested commitments.

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GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-3 (TOD)	Multi-family dwellings (vacant)
D-4 (TOD),	
D-6 (TOD)	
C-3 (TOD)	

SURROUNDING ZONING AND LAND USE

North -	D-3 (TOD) D-4 (TOD), SU-1(TOD)	Single-family dwellings/ park / religious uses
South -	D-3 (TOD) D-4 (TOD), PK-1(TOD) C-3(TOD)	Single-family dwellings / park / commercial uses
East -	D-4 (TOD)	Single-family dwelling
West -	D-6 (TOD), PK-1(TOD) D-3 (TOD) C-3(TOD)	Multi- / single-family dwellings / park / commercial uses

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood typology.

Marion County Land Use Pattern Book (2019).

The Purple Line Transit Oriented Development Strategic Plan (2021).

Infill Housing Guidelines (2021)

THOROUGHFARE PLAN

This portion of North Emerson Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial with an existing 100-foot right-of-way and a proposed 88-foot right-of-way.

This portion of East 39th Street is designated in the Marion County Thoroughfare Plan as a local street with an existing 150-foot right-of-way and a proposed 48-foot right-of-way.

This portion of Roselawn Avenue is designated in the Marion County Thoroughfare Plan as a local street with an existing 50-foot right-of-way and a proposed 48-foot right-of-way.

CONTEXT AREA

This site is located within the compact context area.

OVERLAY

This site is located within the Transit Oriented Development (TOD) overlay

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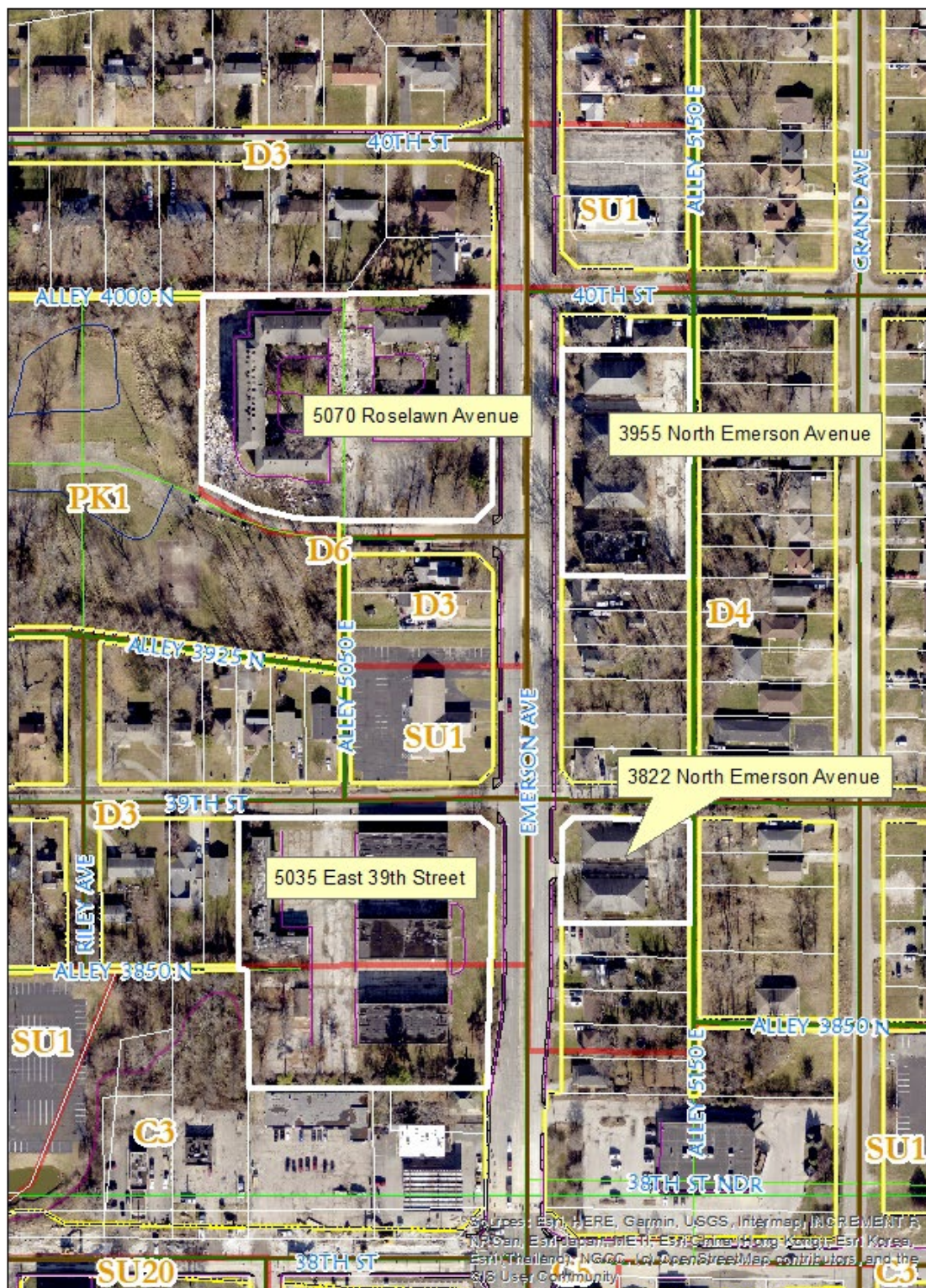
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ZONING HISTORY

81-Z-35; 5102 East 38th Street (south of site), requested rezoning of 1.05 acres, being the D-4 district, to the C-3 classification to provide for construction of new service station improvement, **approved.**

69-Z-154; 505 East 38th Street (south of site), requested rezoning of 2.52 acres, being in the SU-1 district to the C-3 classification to provide for the construction of a new neighborhood shopping center, **approved.**

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3855 and 3955 North Emerson Avenue, 5035 East 39th Street and 5070 Roselawn Avenue



View looking south along South Emerson Avenue



View looking north along North Emerson Avenue



View looking east along East 39th Street



View looking west along East 39th Street



View of site (3955 North Emerson Avenue) looking west across North Emerson Avenue



View of site (3955 North Emerson Avenue) looking south



View of site (3955 North Emerson Avenue) looking south



View of site (3955 North Emerson Avenue) looking south



View of site (3955 North Emerson Avenue) looking southwest



View of site (5035 East 39th Street) looking southeast



View from site (5035 East 39th Street) looking northeast across East 39th Street



View of site (3955 North Emerson Avenue) looking east across North Emerson Avenue



View of site (3955 North Emerson Avenue) looking east across North Emerson Avenue



View of site (3955 North Emerson Avenue) looking north



View of site (3955 North Emerson Avenue) looking southeast



View of site (3955 North Emerson Avenue) looking northeast



View of site (3955 North Emerson Avenue) looking east



View of site (3955 North Emerson Avenue) looking west



View of site (3855 North Emerson Avenue) looking northeast across North Emerson Avenue



View of site (3855 North Emerson Avenue) looking south across East 39th Street



View of site (3855 North Emerson Avenue) looking south across East 39th Street



View looking west along Roselawn Avenue



View looking east along Roselawn Avenue



View of site (5060 Roselawn Avenue) looking northeast



View of site (5060 Roselawn Avenue) looking northwest



View of site (5060 Roselawn Avenue) looking west



View of site (5060 Roselawn Avenue) looking west



View of site (5060 Roselawn Avenue) looking northwest



View of site (5060 Roselawn Avenue) looking west



View of site (5060 Roselawn Avenue) looking northeast



View of site (5060 Roselawn Avenue) looking north



View looking west into Roselawn Park



View of site (5060 Roselawn Avenue) looking north across Roselawn Avenue



View of site (5060 Roselawn Avenue) looking north across Roselawn Avenue