

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV2-016
Address: 37 West St. Clair Street (approximate address)
Location: Center Township, Council District #11
Zoning: CBD-3 (RC) (TOD)
Petitioner: 37 W St Clair LLC, by Paul J. Lambie
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a tattoo parlor (not permitted).

RECOMMENDATIONS

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

The grant of this variance shall be subject to the Plan of Operation, file-dated November 8, 2023.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

CBD-3 (RC) (TOD) Compact Mixed-use building

SURROUNDING ZONING AND LAND USE

North CBD-3 (RC) (TOD) Surface parking / office
South CBD-3 (RC) (TOD) Single-family attached dwellings
East CBD-3 (RC) (TOD) Single-family attached dwellings
West CBD-2 (RC) (TOD) Automobile repair

COMPREHENSIVE PLAN The Comprehensive Plan recommends Core mixed-use development.

- ◇ This 0.2-acre lot, zoned CBD-S (RC) (TOD) is currently improved with a three-story historic mixed-use building, with retail uses on the first floor and residential above. This Art Deco structure was constructed in 1925 and is listed on the *National Register of Historic Places*.
- ◇ South and east of the subject site are recently built single-family attached dwellings. Further south is Phoenix Theatre and the *Cultural Trail*. To the north is a surface parking lot with and office building. To the west, across Illinois Street, is an automobile repair business.
- ◇ The CBD-3 district is for the area surrounding the American Legion Mall extending down to the CBD-1 district. To foster the highly pedestrian environment and maximize land efficiency, vehicle accommodations are strictly limited, and surface parking is prohibited.

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STAFF REPORT 2023-UV2-016 (Continued)

The district is designed to protect the views of landmarks, monuments and plazas that are public assets, specifically views of the Soldiers and Sailors Monument, the Capitol Building, the World War Memorial Plaza, the public library, and Meridian Street. Pedestrian activity is encouraged both by the presence of pedestrian facilities like sidewalks as well as by the environment through which the pedestrian passes, such as an active grade level street front, trees, and landscaping, maintaining a sense of defined urban space that is safe and highly legible.

VARIANCE

- ◇ The first floor of this structure is used for retail uses, with most tenant spaces leased. This request would provide for the corner tenant space to be used for a tattoo parlor. This leased space is approximately 1,740-square feet in size, according to the submitted Plan of Operation. The Plan of Operation includes that maximum hours of operation would be from 9am to 10pm, daily, and that there would be three tattoo artists and one piercing professional. As required, the tattoo parlor must meet state and local health and safety standards, plus maintain a license annually.
- ◇ The Ordinance restricts tattoo parlors to only being permitted, by right, in C-4, C-5 and C-7. A Special Exception is required if within the C-3, MU-3, or MU-4 districts. Thus, tattoo parlors are typically permitted in suburban settings, adjacent to major thoroughfares, rather than in urban settings, like downtown.
- ◇ The Ordinance restricts this use in all other zones in order to provide for further scrutiny and review.
- ◇ The proposed use would not substantially affect the adjacent property values in a negative manner as it would be located within a small portion of the first floor of a long-standing mixed-use building and within a highly urbanized and walkable area of downtown. Therefore, staff recommends approval of this request, with a commitment that the grant be subject to the Plan of Operation.

REGIONAL CENTER APPROVAL

- ◇ The site is located within the Regional Center overlay district. Design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning. A Regional Center Approval petition has not been filed for this site.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Illinois 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 78 feet.

St. Clair Street is classified as a Primary Collector in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 56 feet

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STAFF REPORT 2023-UV2-016 (Continued)

TRANSIT ORIENTED
DEVELOPMENT OVERLAY

The site is located within a transit-oriented development area.

SITE PLAN

File-dated November 8, 2023.

PLAN OF OPERATION

File-dated November 8, 2023

FINDINGS OF FACT

File-dated November 8, 2023.

ZONING HISTORY – SITE

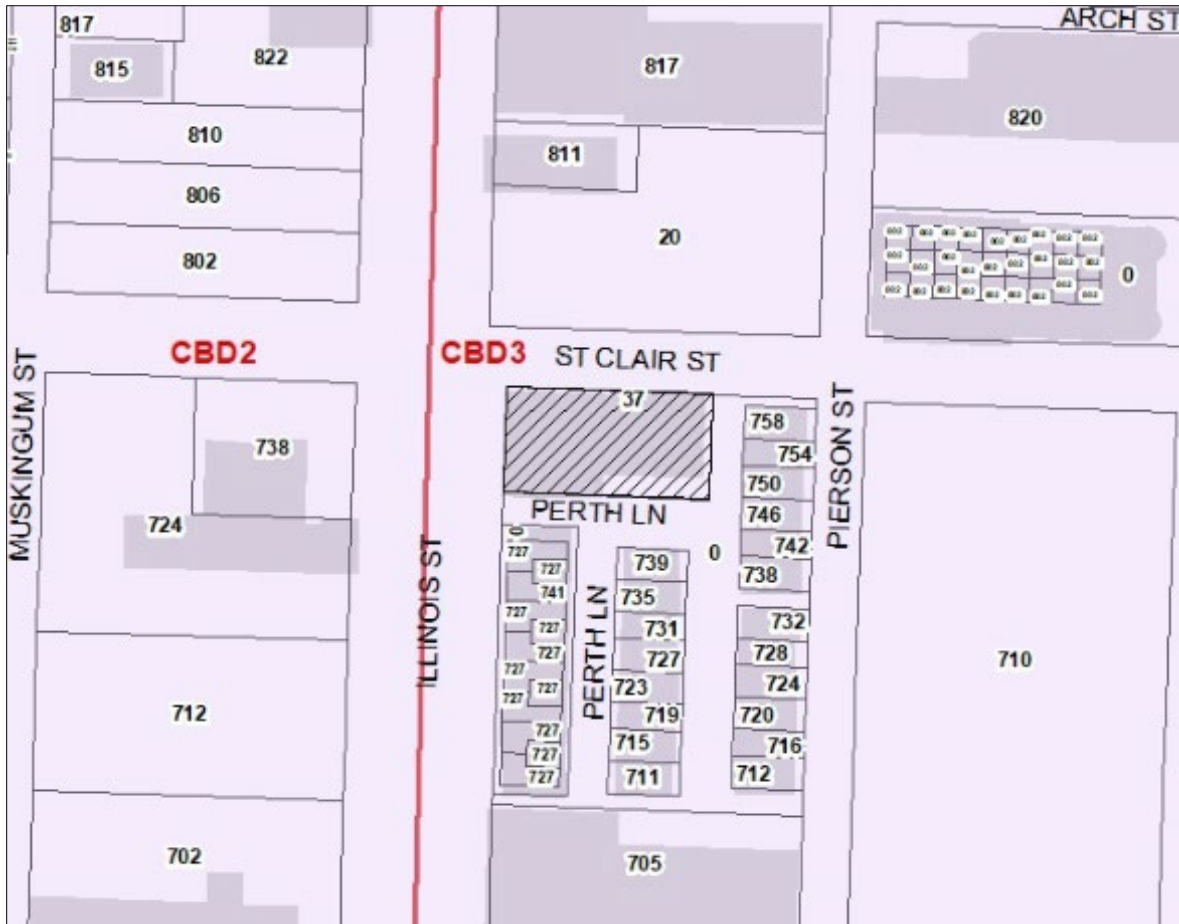
2020-REG-086; 735 North Illinois Street / 37 West St. Clair Street, requested Regional Center Approval for a mural, **approved**.

ZONING HISTORY – VICINITY

2019-REG-059; 727 North Illinois Street, requested Regional Center Approval to provide for updated elevations for a single-family attached development, **approved**.

JY

2023-UV2-016; Location Map



Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
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 facility will comply with all applicable public safety and health regulations.

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 facility will operate business hours that are similar to other commercial establishments in the area and will not be a source of loud noise or other nuisance activity.

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

the ground floor commercial space is not well suited for other uses currently permitted.

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 location of this property is along a heavily automobile trafficked arterial that makes the ground floor commercial space more suited to the type of general commercial uses more commonly found in such locations.

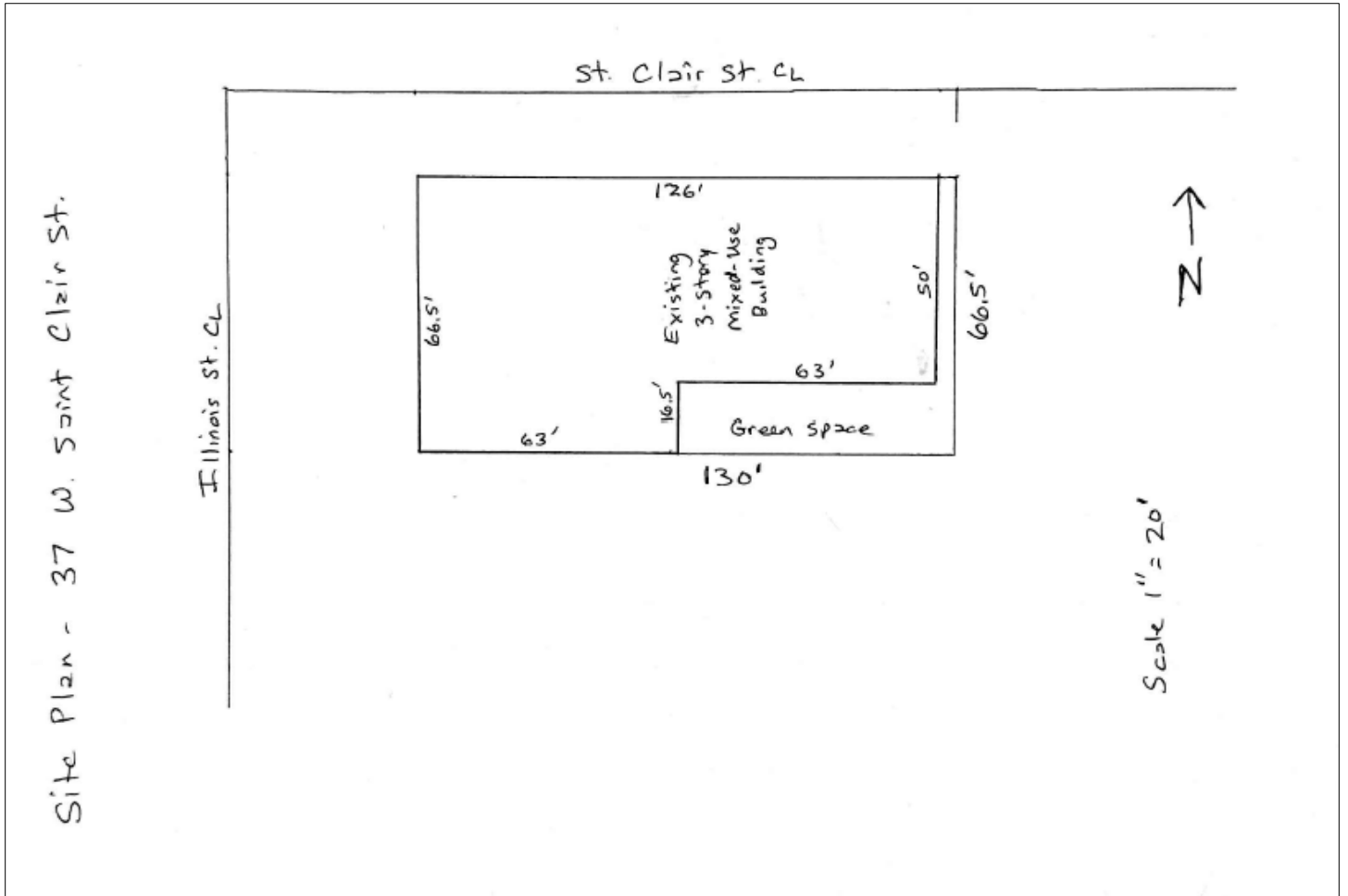
5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

the property would continue to be used for mixed-use as recommended by the Regional Center Plan.

DECISION

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

Adopted this _____ day of _____, 20 ____



Plan of Operation - 37 West Saint Clair Street

Brian Winston of 77 Art Collective respectively requests a variance of use to provide for operation of a tattoo parlor in a CBD-3 zoning district. The proposed facility would be located within a 1,740-square foot ground-floor tenant space of an existing mixed-use building located at the southeast corner of Illinois Street and Saint Clair Street. The site would comply with all applicable health and safety regulations and maintain a license from the Marion County Public Health Department prior to opening and annually thereafter.

Brian Winston is currently a licensed tattoo artist with 17 years of experience in the field. All tattoo artists and piercing professionals operating at the facility will fully comply with all health and safety regulations, including standards related to bloodborne pathogen exposure and handling of infectious waste. Mr. Winston further commits to going above and beyond the training requirements of the Indiana Occupational Safety and Health Administration (IOSHA) with the goal of this facility being viewed as the most professionally run tattoo shop in the City of Indianapolis.

Maximum Proposed Hours of Operation: 9 a.m. - 10 p.m. daily.

Maximum Number of Design Professionals Operating On Site: Three tattoo artists and one piercing professional.

2023-UV2-016; Photographs



Photos of the subject building (top); and tenant space entrance of the proposed tattoo parlor



Existing building along St. Clair Street



Existing single-family attached dwellings south of the subject site



View of Illinois Street looking south (subject site is to the left of the photo, across Illinois Street)



Views north of the site, across St. Clair Street (top); and north along Illinois Street