

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-SE2-001
Address: 2400 Roosevelt Avenue (approximate address)
Location: Center Township, Council District #17
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Michelle Noppenberger
Request: Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 and SR-37 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no taller than 70-foot tall (maximum height of 40 feet permitted), within 220 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), with a six-foot front setback from I-70 (60-foot front setback required), and being located within 130 feet from protected districts (300-foot separation from protected districts required).

RECOMMENDATIONS

Staff **recommends approval** of the Special Exception request.

Staff **recommends denial** of the Variance of Development Standards request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

| | | |
|---------|-----|-----------------------|
| Compact | I-3 | Commercial Contractor |
|---------|-----|-----------------------|

SURROUNDING ZONING AND LAND USE

| | | |
|-------|------------|--|
| North | D-5 | Single-family residential / Interstate I-70 |
| South | D-5 / I-3 | Single-family residential / Undeveloped |
| East | I-3 | Commercial contractor / Industrial uses |
| West | D-5 / SU-1 | Single-family residential / Religious uses / Interstate I-70 |

COMPREHENSIVE PLAN The Comprehensive Plan recommends light industrial uses for the site.

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SPEICAL EXCEPTION

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as “A sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages.”
- ◇ The need for the special exception arises from a condition peculiar to the property involved because a road expansion project included West Thompson Road, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location at 1720 W. Thompson Road on private property causing the relocation of the sign.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

(a) As used in this section, “market area” means a point within the same county as the prior location of an outdoor advertising sign.

(b) This section applies only to an outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(c) If an outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

- (1) elevate a conforming outdoor advertising sign; or*
- (2) relocate a conforming or nonconforming outdoor advertising sign to a point within the market area, if the new location of the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.*

(d) If within one (1) year of an action being field under IC 32-34, an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and IC 8-23-20.5, if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter, Notwithstanding subsections (d) and (g), if a conforming outdoor advertising sign cannot be elevated or relocated within the market area, the removal or relocation of the conforming outdoor advertising sign constitutes a total taking of a real property interest, including the sign structure, and the owner must be compensated under section 27 of this chapter.

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(e) The county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

(f) The elevated outdoor advertising sign or outdoor advertising sign to be relocated, to the extent allowed by federal or state law, may be modified:

(1) to elevate the sign to make the entire advertising content of the sign visible; and

(2) to an angle to make the entire advertising content of the sign visible; and

(3) in size or material type, at the expense of:

(A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or

(B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.

(g) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under IC 32-34, the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana Department of transportation that a project has been planned that may impact the outdoor advertising sign.

(i) If the agency fails to provide notice required by subsection (h) within (12) twelve months of an action being filed against an owner under IC 32-24, the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under IC 32-23-1-8.

- ◇ The current Zoning and Subdivision Ordinance does align with state code, which provides for a special exception to the zoning ordinance to allow for an elevation or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.
- ◇ The owner has a government imposed practical difficulty due to a road expansion project that includes the sign's current location at 1720 W. Thompson Road, and the expansion of I-69 by INDOT, which would eliminate the sign's existing location on private property causing the relocation of the sign.
- ◇ State code notes that there should be the option to elevate the sign or relocate the sign but does not specify that both options must be granted. Since the widening of SR-37/I-69 is out of the petitioner's control, staff is supportive of the special exception request as proposed.

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VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petitioner has requested variances of development standards to allow for an increase in permitted sign height from 40 feet to 70 feet in height, to be within 220 feet from the centerline of an interstate exit roadway where a 500-foot separation is required from interstate ramp entries, to have a six-foot front setback from I-70 where a 60-foot front setback is required, and to be located within 130 feet from protected districts where a 300-foot separation from protected districts is required.
- ◇ The request for the increase in height from 40 feet to 70 feet is a result of Interstate I-70 road deck being 20 feet above ground level. With the sign being permitted at 20 feet above the road deck, the request would provide for an additional 30 feet, resulting in a request to provide for a sign 50 feet above the road surface of Interstate I-70. No practical difficulty has been presented as to why the additional 10 feet in sign height is needed. Therefore, Staff recommends denial of the request as proposed to increase the sign height from 40 feet to 70 feet.
- ◇ The petitioner has requested a variance to allow for the outdoor advertising sign location to be reduced from the required 500-foot separation to a 220-foot separation from the centerline of an interstate exit roadway. Outdoor advertising signs are not permitted within 500 feet from entrance or exit roadways, as they would cause those signs that are permitted and legal to become less effective and reduces their value.
- ◇ The petitioner has requested a variance to allow for a 6-foot setback from Interstate 70, where a 60-foot setback is required. Providing for a reduced setback from Interstate 70 would not be supportable, as it would increase the intensity of the off-premise advertising sign by locating closer to motorists that would be distracted by the content. Additionally, it would bring the activities on the site closer to adjacent properties, without adequate buffering.
- ◇ The site, at approximately 175 feet at its widest from Interstate 70, could accommodate the required setback. Therefore, no peculiar condition exists on site for staff to be supportive of these requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, this is a self-imposed difficulty since the newly constructed/installed signs could be developed to meet the Ordinance standards by right without the need for variances.
- ◇ The Ordinance has been constructed to limit these signs near protected districts, because of their brightness and aesthetic impact. In this case, a D-5 District is located approximately 130 feet to the south, and a SU-1 District and D-5 District are located approximately 260 feet to the north. Due to the width and size of the lot, the sign could be located to meet the required 300-foot separation from the adjacent protected districts.
- ◇ The requested decreased separation from the protected districts would degrade the quality of life in the area. The proposed sign has no physical barriers that limit the view of the sign from the nearby protected districts. There is no reason that a sign that meets the Sign Ordinance could not be used, along with alternative communication methods.

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- ◇ No peculiar condition exists on site for staff to be supportive of these variance of development standards requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, the requested variances of development standards are a self-imposed difficulty since the newly constructed/relocated sign could be developed to meet the Ordinance standards by right without the need for the requested variance of development standards. The need to provide for a 70-foot tall sign, within 220 feet from the centerline of an interstate exit roadway, with a six-foot front setback from I-70, and to be located within 130 feet from protected districts, is self-imposed by the desire to attract the attention of a larger number of vehicles, thus increasing the amount of driver distractions and negative impact on adjacent properties.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Roosevelt Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

This portion of I-70 is classified in the Official Thoroughfare Plan for Marion County, Indiana as a freeway, with a 340-foot to 480-foot existing right-of-way.

SITE PLAN

File-dated September 11, 2023.

ELEVATIONS

File-dated September 11, 2023.

FINDINGS OF FACT

File-dated September 11, 2023.

ZONING HISTORY

2022-UV2-010; 2400 Roosevelt Avenue (subject site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 70-foot tall, 14-foot by 48-foot digital off-premise advertising sign, with an eight-foot setback from Interstate 70, within Interstate 465, within 100 feet of a protected district, adjacent to an exit roadway and to allow for digital messages to display for minimum of eight seconds, **withdrawn**.

83-Z-69; 2408 Roosevelt Avenue (subject site), requested the rezoning of 3.53 acres, being in the D-5 and C-3 districts, to I-3-U classification to provide for the Rural/I-70 Industrial Park Phase II Urban Renewal Plan, **approved**.

98-Z-210; 2411 Roosevelt Avenue and 18 other addresses (south of site), requested the rezoning of 6.6 acres, being in the D-5 and C-3 Districts, to the I-3 classification to provide for medium industrial uses, **approved**.

87-HOV-109; 2503 Bloyd Avenue (northeast of site), requested a variance of development standards to provide for the development of the subject site without the required public street frontage, **granted**.

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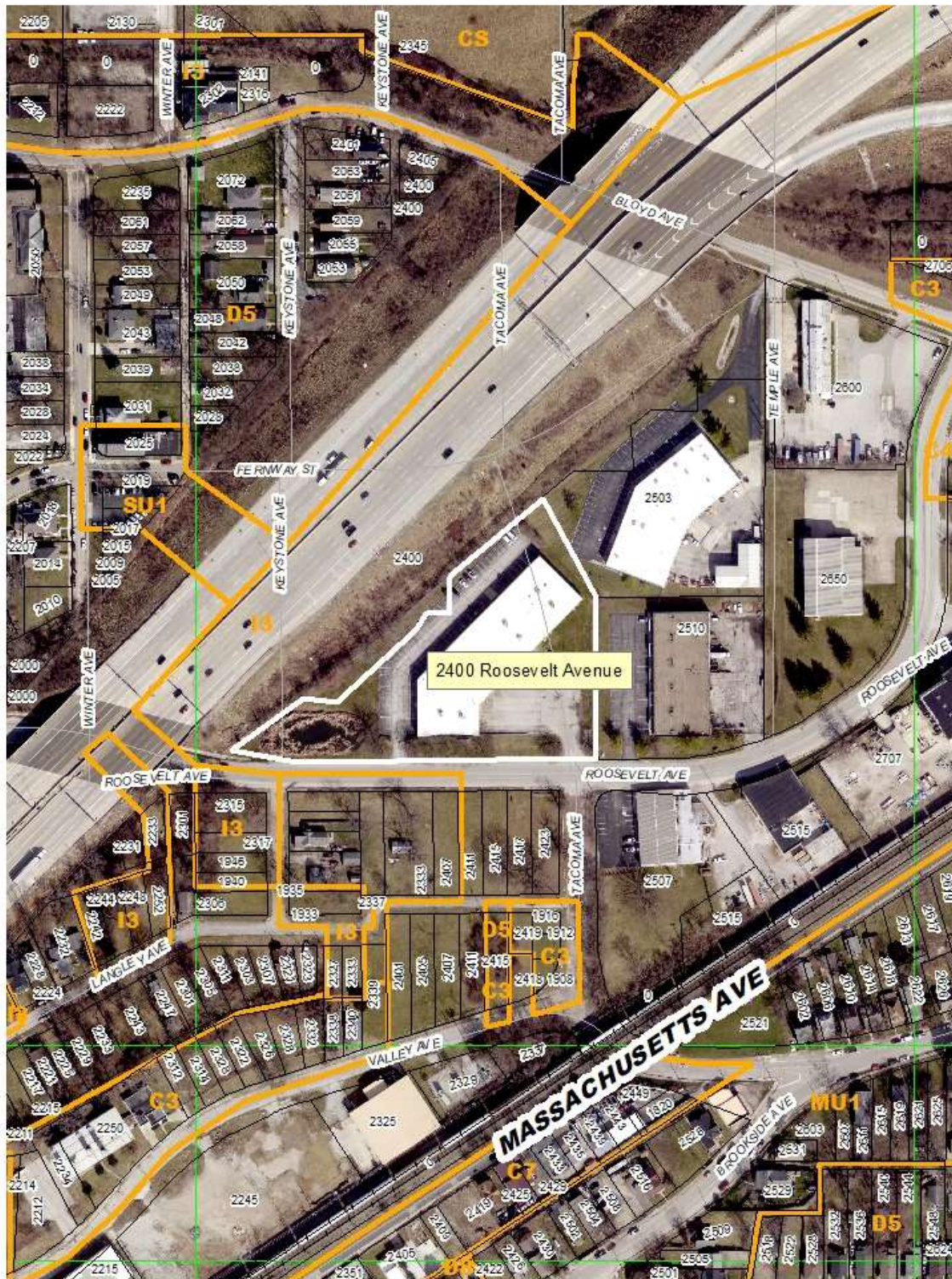
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86-HOV-29; 2502 Roosevelt Avenue (east of site), requested a variance of development standards to provide for the development of the subject site without the required public street frontage, **granted**.

84-HOV-66; 2507 Roosevelt Avenue (south of site), requested a variance of development standards to provide for an additional to an existing manufacturing facility within the required front yard setback with no landscaping in the front yard, and with loading maneuvering encroaching into the right-of-way, **granted**.

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2023-SE2-001: Location Map



2023-SE2-001; Site Plan



2023-SE2-001; Photographs



Photo of subject site, looking northwest.



Photo of subject site, proposed sign relocation area, looking north.



Photo of subject site, proposed sign relocation area, looking west.



Photo of adjacent Interstate I-70 elevation, looking north



Photo of adjacent protected district to the south.



Photo of adjacent commercial contractor use to the east, looking north.