

BOARD OF ZONING APPEALS DIVISION I

October 6, 2026

Case Number: 2026-UV1-024
Property Address: 5699 East 71st Street (aka 5701 East 71st Street) (approximate address)
Location: Washington Township, Council District #3
Petitioner: Ivy Way LLC, by Stoll Keenon Ogden PLLC (Jason Leuking)
Current Zoning: C-3
Request: Variance of Use of the Consolidated Zoning and Subdivision Ordinance to allow for a 200 square foot (20x10) 8-foot-tall outdoor portable storage unit (outdoor storage and operations not permitted in C-3)
Current Land Use: Commercial Strip
Staff Recommendations: Staff recommends **denial** of this petition.
Staff Reviewer: Josh Levesque, Manager

PETITION HISTORY

N/A

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 5699 East 71st Street is a parcel totaling roughly 1.8 acres. The parcel contains a restaurant strip. Parcels to the north, east, and south are zoned C-3. The parcel to the west is zoned I-2.
- The petitioner is seeking a variance to allow for a 200-square-foot (20x10) 8-foot-tall portable storage unit to remain outdoors at the rear of their property. This storage unit is intended to house various tools and materials related to the maintenance and upkeep of the property. Outdoor storage and operations are not a permitted use within C-3. Furthermore, portable storage units are only contemplated as a temporary use under the Ordinance and are limited to 30 consecutive days per calendar year.
- As defined by the Ordinance, the C-3 district is for the “development of an extensive range of retail sales and personal, professional and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size.” The Ordinance goes on to say that C-3 “does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations.”

- The Land Use Pattern Book prescribes the Community Commercial typology to this site. This typology “provides for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.” This typology calls for limits to the outdoor display merchandise.
- Both the Ordinance and the land use plan discourage outdoor operations for this site. The intent of the Ordinance is to limit higher intensity uses that often come with outdoor storage and operations. While a portable storage unit could be placed on this site for 30 days to allow, for example, tenants to move in/out, the long-term storage of this unit is not contemplated for C-3. Allowing for outdoor storage and operations would undermine the intent of C-3 as a lower intensity commercial use.
- While one may argue that a permanent portable storage container is similar to a storage shed or garage, it is important to consider what such units were designed for. A container like this is designed to either be attached to a trailer with wheels and an axle or stacked on some sort of flat bed for storage and transportation. While a shed can be stacked on a flat bed for transport, that is not the primary use it is envisioned for. In short, while the container is intended to prevent the outdoor storage of maintenance materials for the property, the allowance for the container itself would be considered outdoor storage itself as this cannot be considered an accessory structure.
- For a use variance to be granted, the Board must find that ALL of the following conditions have been met:
 - The grant will not be injurious to the public health, safety, morals, and general welfare of the community
 - The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner
 - The need for the variance arises from some condition peculiar to the property involved
 - 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
 - The grant does not interfere substantially with the comprehensive plan
- Staff will focus on two of these findings. First, the property does not have a peculiar condition that prevents it from having other forms of acceptable accessory structures for storage. While the layout of the lot and the existing buildings likely prevents the construction of a building addition for storage, a pre-fabricated shed could achieve the same purpose. Second, the strict application of the Ordinance does not prevent the indoor storage of maintenance materials. It prohibits outdoor storage in C-3, of which a permanent portable storage unit would fall under. The strict application of the Ordinance does not prevent a shed being placed on site for the storage of maintenance materials.
- Staff will also note that the cost or any other hardship incurred in moving the storage unit is a self-imposed hardship and not one stemming from the Ordinance.
- Given that outdoor storage is not compatible with either the C-3 district or the Community Commercial typology and the existence of alternative accessory structures that would allow for Ordinance compliance, staff recommends **denial** of this variance.

GENERAL INFORMATION

Existing Zoning	C-3	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-3	North: Commercial
South:	C-3	South: Commercial
East:	C-3	East: Commercial
West:	I-2	West: Industrial
Thoroughfare Plan		
71st Street	Primary Arterial	105-foot existing right-of-way and 80-foot proposed right-of-way
Hawthorn Park Drive	Local Street	50-foot existing right-of-way and 50-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	7/9/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	N/A	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book assigns this property the “Community Commercial” typology. This typology “provides for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.”

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- N/A

ZONING HISTORY

ZONING HISTORY – SITE

73-Z-242; 7002 Graham Road, Rezoning of 4.619 acres from I2S to C-3, **approved**.

2002-UV1-044; 5699 East 71st Street, Variance of Use of the Commercial Zoning Ordinance to provide for seven amusement machines and live entertainment including bands and karaoke, **approved subject to conditions**.

ZONING HISTORY – VICINITY

85-HOV-52; 5611 East 71st Street (west of site), Variance of Development Standards of the Industrial Zoning Ordinance to provide for an addition to a warehouse within the required side yard setback, with parking and loading facilities in the required front yard, and to allow a 41-foot-wide access drive, **approved subject to conditions**.

88-V3-115 (northeast of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for the erection of a rotating pole sign with product and pricing information and with setbacks of zero feet from a corner-cut right-of-way, seven feet from the right-of-way of Graham Road, and eleven feet from the right-of-way of 71st Street, **approved subject to conditions**.

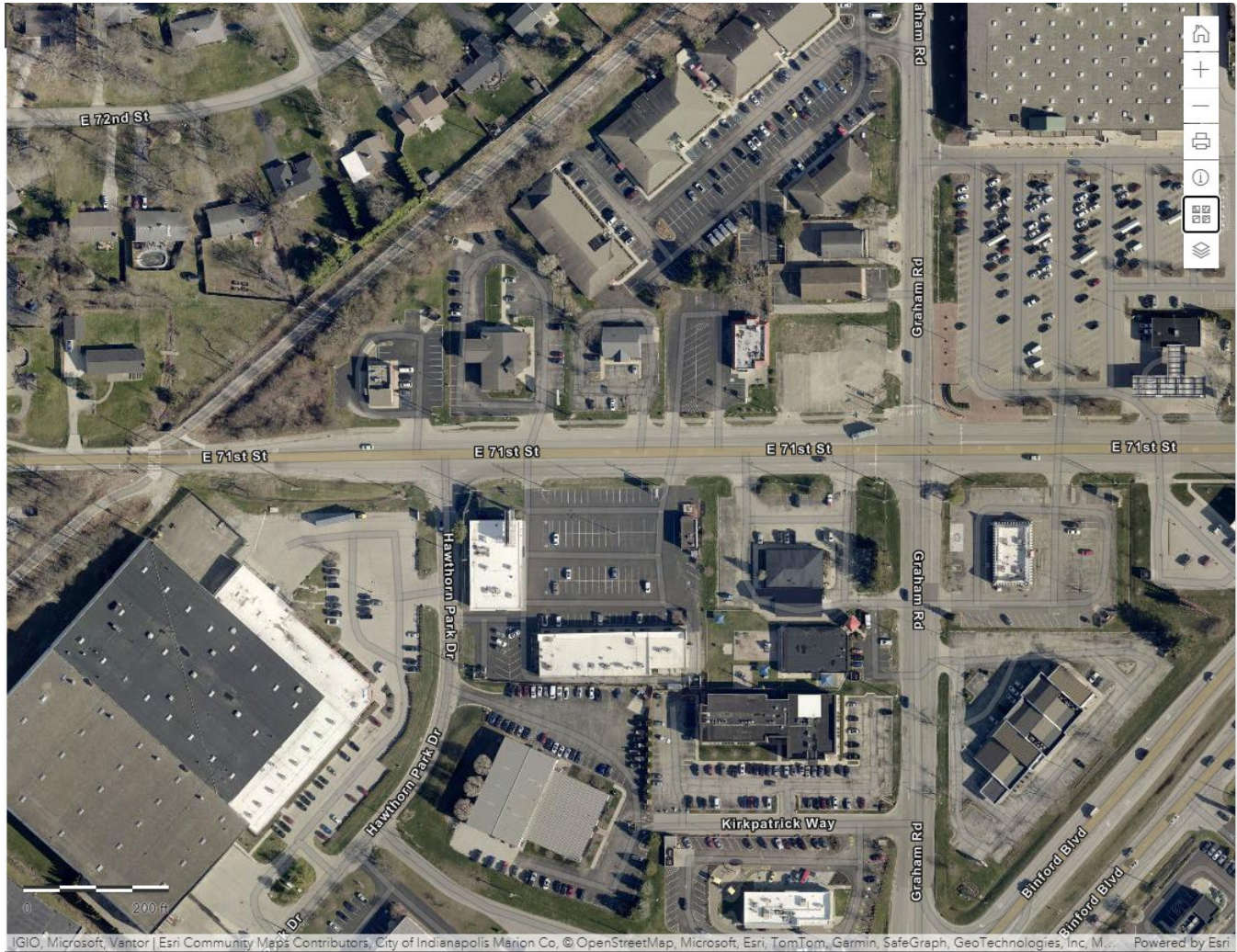


**Department of Metropolitan Development
Division of Planning
Current Planning**

2013-DV1-029; 7102 Graham Road (northeast of site), Variance of Development Standards of the Commercial Zoning Ordinance and the Sign Regulations to provide for a commercial building with retail and a fast-foot restaurant with; 1) 22 parking spaces; 2) outdoor seating; and 3) a sign with a four-foot front setback, **approved subject to conditions.**

EXHIBITS

2026UV1024; Aerial Map



2026UV1024; Findings of Fact

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The portable storage unit is located in the rear of the main building on the property, will not have any hazardous materials located therein and is secured from access by others. The unit has been on the property for several years prior to the application for a variance and has not caused any prior injuries to 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 portable storage unit is screened from view by most persons in or near the property. Storage of materials inside of the portable storage unit will assist with proper management of the property which enhances the value of adjacent properties.

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

The property is fully leased and no storage areas for the property owner are currently located inside of the buildings on the property.

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 owner will be required to transport property management materials, equipment and supplies to and from the property if the storage unit cannot remain on site. The lack of onsite storage may result in failure to properly maintain the property.

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

The Comprehensive Plan calls for this property to remain Neighborhood Commercial which is consistent with current and future uses for the site.

2026UV1024; Photographs



Photo 1: View of subject site looking in from Hawthorn Park Drive

2026UV1024; Photographs (continued)



Photo 2: View behind building. Storage unit can be seen in background.

2026UV1024; Photographs (continued)



Photo 3: View of storage container looking east. Southern (right) side of container can be seen over the fence by the neighboring property

2026UV1024; Photographs (continued)



Photo 4: Looking towards adjacent property to the south with storage container on the left. Container visible over fence.

2026UV1024; Photographs (continued)



Photo 5: Full view of storage container

2026UV1024; Photographs (continued)



Photo 6: On eastern side of parcel looking southwest at storage unit