

## STAFF REPORT

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-ZON-001 (Amended)  
**Address:** 5970 Southeastern Avenue (*Approximate Address*)  
**Location:** Warren Township, Council District #18  
**Petitioner:** Manjinder Kaur Kahlon by Landman Beatty, Lawyers  
**Request:** Rezoning of 0.93 acres from the D-2 district to the C-4 district to provide for a gas station/convenience store.

The Hearing Examiner acknowledged an automatic continuance that continued this petition from the February 9, 2023 hearing, to the March 9, 2023 hearing, by a registered neighborhood organization.

### **RECOMMENDATIONS**

Staff **recommends denial** of the request.

If approved staff would request that approval be 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. A 59.5-foot half right-of-way shall be dedicated along the frontage of South Arlington Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
2. 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 / receptables provided for the proper disposal of trash and other waste.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE ISSUES**

- ◇ This 0.93-acre site, zoned D-2 is undeveloped and surrounded single-family dwellings to the north and west, zoned D-2; residential and commercial uses to the east, across South Arlington Avenue, zoned D-2 and C-3, respectively; and commercial uses to the south across Southeastern Avenue, zoned C-4.

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## STAFF REPORT 2023-ZON-001 (Continued)

### REZONING

- ◇ This request would rezone the site from the D-2 District to the C-4 (Regional Commercial) classification to provide for a gas station / convenience store. “The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.”
- ◇ The Comprehensive Plan recommends Rural or Estate Neighborhood typology. “The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.”
- ◇ The Comprehensive Plan consists of two components that include the Pattern Book and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.
- ◇ The Pattern Book serves as a policy guide as development occurs. There are limited recommended uses for the rural or estate neighborhood typology that include detached housing, working farms, group homes, bed / breakfast and wind / solar farms. **No commercial uses are recommended for this typology.**

### Site Plan

- ◇ The site plan, file-dated January 6, 2023, provides for six service areas under a canopy that fronts on Southeastern Avenue and South Arlington Avenue. A 2,500-square-foot convenience store would be located on the northern portion of the site, adjacent to residential development.
- ◇ Access would be gained from South Arlington Avenue and Southeastern Avenue. A total of ten parking spaces would be provided. A six-foot tall wood privacy fence is proposed along portions of the west, north and east sides of the property to mitigate the impact of the proposed development.
- ◇ Proposed development of the site would not be possible without development standard variances. Specifically, the proposed building encroaches into the required 20-foot east transitional yard by 13.76 feet and the trash enclosure is in the front yard, which is prohibited. Additionally, the requested dedication of right-of-way along South Arlington Avenue by the Department of Public Works could impact the location of the canopy and fuel pumps. No variances have been requested.

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## **STAFF REPORT 2023-ZON-001 (Continued)**

- ◇ The purpose of the transitional yard setback requirement is to provide a buffer between land uses, when one land use is more intense and more impactful. Without the required transitional yard setbacks, the impact of the proposed use upon the less intense uses, such as the residential neighborhood uses to the west, north and east would be detrimental and injurious to the overall community.

### **Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5-foot half right-of-way along South Arlington Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

- ◇ If approved, staff would request the following commitment:

A 59.5-foot half right-of-way shall be dedicated along the frontage of South Arlington Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

### **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;
  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;

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## **STAFF REPORT 2023-ZON-001 (Continued)**

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.

◇ If approved staff would request the following commitment:

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 / receptables provided for the proper disposal of trash and other waste.

### **Planning Analysis**

- ◇ As proposed, this request would not be consistent with the Plan recommendation of very low-density residential development and would represent intense regional commercial encroachment within a solidly residential neighborhood to the west, north and east.
- ◇ A gas station / convenient store would be objectionable in such proximity to residential uses due to the nature of the use (noise, trash, lighting), with primarily outdoor operations 24 hours per day, 365 days per year. Providing a gas station, especially with a 24-hour convenience store would be detrimental to the stability of the adjacent residential uses and could potentially lead to an inappropriate transformation from a residential neighborhood to commercial uses.
- ◇ Furthermore, staff believes the need for variances is a strong indication that the site is over developed and cannot appropriately accommodate such an intense commercial use that would result in a detrimental impact on the adjacent residential land uses and the surrounding community.

## **GENERAL INFORMATION**

### **EXISTING ZONING AND LAND USE**

D-2 / C-3

Undeveloped

### **SURROUNDING ZONING AND LAND USE**

North - D-2

Single-family dwellings

South - C-4

Commercial uses

East - D-2

Single-family dwellings

West - D-2

Single-family dwellings

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## **STAFF REPORT 2023-ZON-001 (Continued)**

### COMPREHENSIVE LAND USE PLAN

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

### THOROUGHFARE PLAN

This portion of Southeastern Avenue is designated in the Marion County Thoroughfare Plan as a secondary arterial with an existing 100-foot right-of-way and a proposed 102-foot right-of-way.

This portion of South Arlington Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial with an existing 50-foot right-of-way and a proposed 119-foot right-of-way.

### CONTEXT AREA

This site is located within the metro context area.

### OVERLAY

This site is not located within an overlay

### SITE PLAN

File-dated January 6, 2023

## **ZONING HISTORY**

**94-UV3-97; 5990 Southeastern Avenue**, requested a variance of use of the Commercial Zoning Ordinance to legally establish an existing open-air, used automobile sales operation, previously approved temporarily by petition 91-UV3-103, granted., **granted**.

**91-UV3-103; 5990 Southeastern Avenue**, requested a variance of use of the Commercial Zoning Ordinance to permit the continued operation of an open-air automobile sales business, **granted for a temporary period until September 24, 1993**.

**85-UV3-38**, requested a variance of use of the Commercial Zoning Ordinance to legally establish the outdoor display and sale of automobiles, **granted for a temporary period, until May 28, 1988**.

## **VICINITY**

**2022-ZON-025; 2345 South Arlington (east of site)**, requested rezoning of five acres from the D-A district to the C-7 district to provide for a commercial contracting business, **withdrawn**.

**2020-ZON-071; 6002 Southeastern Avenue (east of site)**, requested rezoning of 0.70 acre from the C-3 district to the C-4 district, **withdrawn**.

**2016-ZON-052; 6011 Southeastern Ave (south of site)**, requested rezoning of two acres from the C-3 district to the C-4 district, **denied**.

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**STAFF REPORT 2023-ZON-001 (Continued)**

**2007-ZON-082; 6011 Southeastern Avenue (south of site)**, requested rezoning of 0.5 acre from the D-A district to the C-3 district, **approved**.

**2004-ZON-048; 6010 and 6020 (east of site)**, requested the rezoning of three acres from the D-A and C-3 districts to the C-3 district, **approved**.

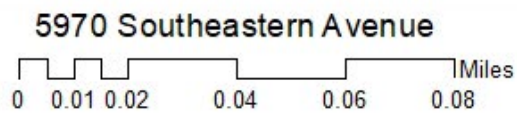
**95-UV1-81; 6020 Southeastern Avenue (south of site)**, requested a variance of use to provide for an office in a dwelling district, **approved**.

**85-Z-145; 6011 Southeastern Avenue (south of site)**, requested a rezoning of one acre from the A-2 district to the C-7 classification, **withdrawn**.

**85-UV2-78; 6030 Southeastern Avenue (south of site)**, requested a variance of use to provide for the display and sales of automobiles in a dwelling district, **withdrawn**.

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OVERALL SITE AREA = 27,965 SF / 0.64+/- AC.  
PROPOSED BUILDING = 2,500 SF.  
EXISTING ZONING = C3 / D2  
FRONT SETBACK (SOUTHEASTERN AVE.) = 10 FEET  
FRONT SETBACK (ARLINGTON AVE.) = 10 FEET  
SIDE AND REAR SETBACK = 20 FEET TRANSITIONAL YARD  
MINIMUM REQUIRED PARKING = 1 P.S./250 SF = 10 SPACES  
PROPOSED PARKING = 10 SPACES  
CONVENTIONAL = 9 SPACES  
AT BUILDING = 3 SPACES  
AT FUEL STATION = 6 SPACES  
ACCESSIBLE = 1 SPACE

BILL G. KIMBLEY, CIVIL ENGINEER, LLC 1550 McMillan Circle Nashville, Indiana 46122 (317) 641-7913 <a href="mailto:gpkimbley@bgl.com">gpkimbley@bgl.com</a>	CONCEPTUAL SITE PLAN	DIMENSIONS: 1" = 1'-0" DATE: 11/14/2022 FILE: 21-02-1071 DRAWN BY: MKT	65970 SOUTHEASTERN AVENUE INDIANAPOLIS, INDIANA	1" = 1'-0" DATE: 11/14/2022 FILE: 21-02-1071 DRAWN BY: MKT	BY: _____	DATE: 11-18-2022	SHEET 1 OF 1	JOB#: 22-008





View looking east along Southeastern Avenue



View looking south along South Arlington Avenue





View looking north along South Arlington Avenue



View looking south along South Arlington Avenue





View of site looking west across South Arlington Avenue



View from site looking south across Southeastern Avenue





View from site looking east



View from site looking north at adjacent residential uses





View looking northwest at adjacent residential uses



View from site looking west at adjacent residential uses





View from site looking southwest across Southeastern Avenue