

**BOARD OF ZONING APPEALS DIVISION II**

**October 10, 2023**

**Case Number:** 2023-DV2-024  
**Property Address:** 2507 Willowbrook Parkway (approximate address)  
**Location:** Washington Township, Council District #9  
**Petitioner:** DAST 2 LLC, by Joseph Lese  
**Current Zoning:** C-3 (W-1) (FF)  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a 10-foot tall decorative perimeter fence (maximum fence height of 3.5-feet within front yards, and six-feet within side and rear yards).  
**Current Land Use:** Commercial  
**Staff Recommendations:** Staff recommends approval of this request  
**Recommended Motion:** Motion to approve petition 2023-DV2-024  
**Staff Reviewer:** Noah Stern, Associate Planner

**PETITION HISTORY**

**ADDENDUM FOR OCTOBER 10, 2023**

This petition was continued from the September 12, 2023 BZA II hearing at the request of the petitioner.

**STAFF RECOMMENDATION**

Staff **recommends approval** of this request.

- Staff requests that the petition be granted approval subject to the site plan and elevations submitted.

**PETITION OVERVIEW**

- This request would provide for the erection of a perimeter fence ranging from 6-8 feet in height (maximum fence height of 3.5-feet within front yards, and six-feet within side and rear yards).
- The site consists of a newly constructed water drainage basin, a parking lot, an access drive, and an undeveloped area where a future building and parking lot have been proposed. The total area of the site is 4.20 acres.

- The fence design (depicted below) would consist of a 6-foot-tall, semi-private fence around the northern portion of the site (demarcated on the site plan as just to the north of the access drive) with partially transparent panels, while the northern portion of the would consist of an 8-foot-tall privacy fence in alignment with an existing chain link fence along the southern property line of the subject site. The access drive is to have an automatic sliding gate system, restricting access from the Pennwood Drive right-of-way.
- The subject site is part of a larger lot that has four different frontages, being 46<sup>th</sup> Street, Pennwood Drive, Forum Circle, and Willowbrook Parkway. Therefore, with much of the lot considered front yard, the petitioner's ability to erect the side and rear yard maximum fence height of 6-feet is significantly impeded.
- The portion of the site abutting Forum Circle is located within the Floodway Fringe (FF). While development within the Floodway Fringe is permitted, this portion of the site will be improved with a stormwater detention basin to mitigate any potential future storm overflow. This basin, as proposed, will be fenced in with a decorative six-foot metal slotted panel fence. Having the retention basin instead of a primary building would disallow the erection of a fence beyond 3.5-foot tall along Willowbrook Parkway and Forum Circle. However, Staff believes it would be in the interest of public safety to allow a fence of this height to ensure this basin does not become littered or inappropriately accessed by the public after severe weather storms.
- The overall fence installation is intended to provide adequate security to personnel and vehicles on site. While Staff is generally hesitant to support variances regarding fence height, Staff believes that there is substantial practical difficulty associated with the site. Therefore, Staff is not opposed to the variance request for increased fence height around the subject property.

## GENERAL INFORMATION

|                                   |  |                            |
|-----------------------------------|--|----------------------------|
| <b>Existing Zoning</b>            | C-3 (W-1) (FF)   |                            |
| <b>Existing Land Use</b>          | Commercial   |                            |
| <b>Comprehensive Plan</b>         | Office Commercial  |                            |
| <b>Surrounding Context</b>        | <b>Zoning</b>  | <b>Surrounding Context</b> |
| North:                            | C-3  | North: Commercial          |
| South:                            | C-3  | South: Commercial          |
| East:                             | C-3  | East: Commercial           |
| West:                             | C-3  | West: Commercial           |
| <b>Thoroughfare Plan</b>          |  |                            |
| Willowbrook Parkway               | Local Street<br>Existing ROW: 80 feet<br>Proposed ROW: 48 feet |                            |
| <b>Context Area</b>               | Compact  |                            |
| <b>Floodway / Floodway Fringe</b> | Yes  |                            |
| <b>Overlay</b>                    | No   |                            |

|                                   |         |
|-----------------------------------|---------|
| <b>Wellfield Protection Area</b>  | Yes     |
| <b>Site Plan</b>                  | 8/15/23 |
| <b>Site Plan (Amended)</b>        | N/A     |
| <b>Elevations</b>                 | 8/4/23  |
| <b>Elevations (Amended)</b>       | N/A     |
| <b>Landscape Plan</b>             | N/A     |
| <b>Findings of Fact</b>           | 8/4/23  |
| <b>Findings of Fact (Amended)</b> | 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 recommends Office Commercial for this site.
- The Office Commercial typology provides for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses. Office commercial development can range from a small freestanding office to a major employment center. This typology is intended to facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons.

### 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)

- Not Applicable to the Site.

## ZONING HISTORY

### ZONING HISTORY – SITE

N/A

### ZONING HISTORY – VICINITY

**84-Z-88; 4601 North Keystone Avenue (south of site)**, requests rezoning of 0.88 acres, being in the D-5 district, to the C-5 classification, to provide for the operation of an automobile sales lot, **approved**.

**86-UV3-18; 4755 Kingsway Drive (north of site)**, variance of use of the Commercial Zoning Ordinance to provide for a day nursery in an existing office building, **approved**.

**89-Z-16; 2424 E 46<sup>th</sup> Street (south of site)**, requests the rezoning of 0.80 acres, being in the D-5 district, to the C-2 classification to conform with the Keystone Avenue Corridor Plan adopted August 1986, **approved**.

**91-Z-100; 4610 N Keystone Avenue (west of site)**, rezoning of 0.8 acres, being in the C-1 District, to the C-3 for classification for commercial development, **approved**.

**93-Z-177; 2502 E 46<sup>th</sup> Street (south of site)**, requests the rezoning of 1.38 acres, being in the D-5 district, to the C-2 classification to provide for commercial office uses, **approved**.

**95-UV2-46; 4599 Allisonville Road (east of site)**, requests a variance of use of the Commercial Zoning Ordinance to provide for an outdoor automobile sales/display and indoor automobile repair operation (not permitted), **approved**.

**2000ZON868; 2902 E 46<sup>th</sup> Street (east of site)**, rezoning of 8.59 acres from C-4, to C-S to provide for neighborhood retail uses and warehousing, **approved**.

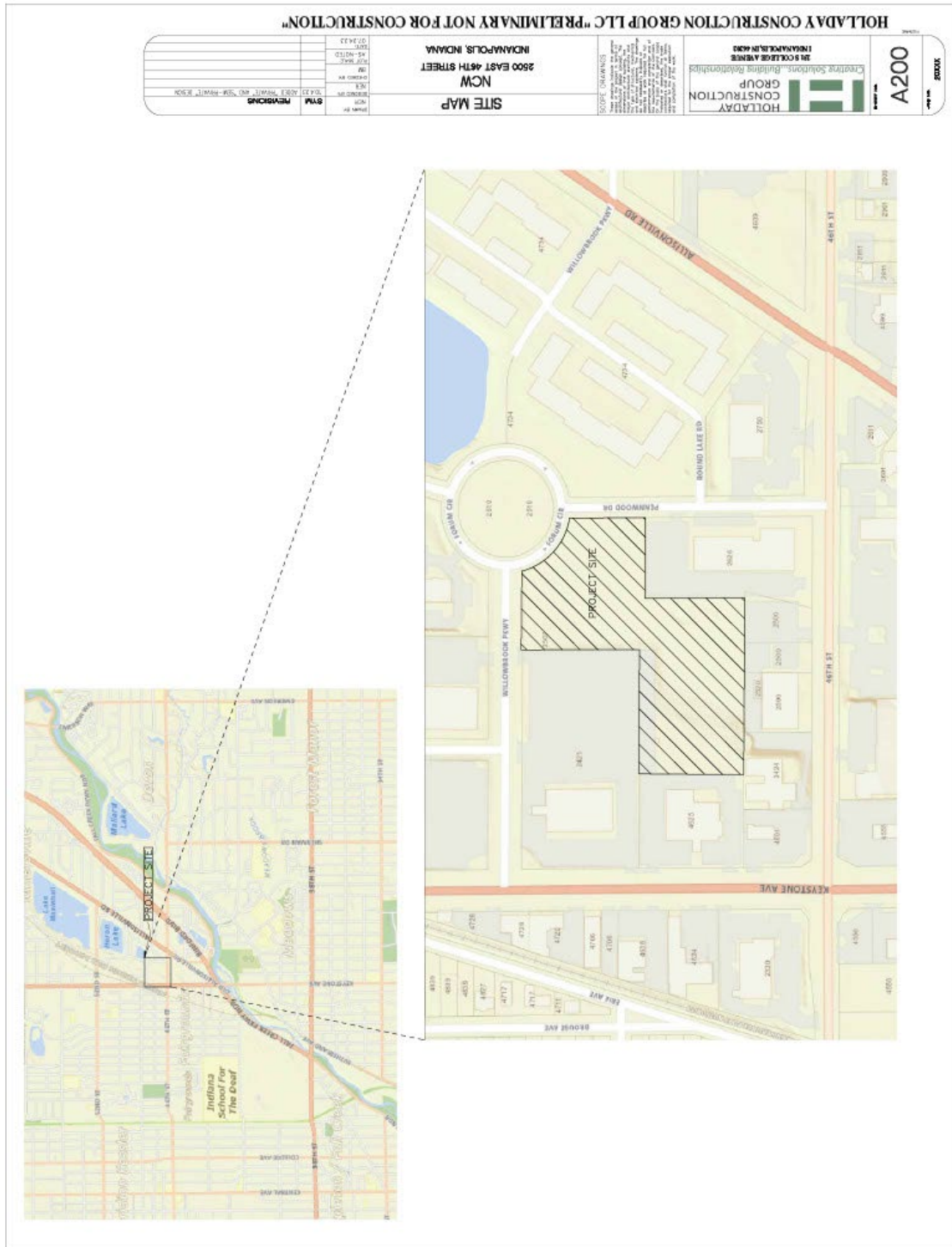
**2002UV3025; 2508 Willowbrook Parkway (west of site)**, variance of use of the Commercial Zoning Ordinance to provide for a homeless terminal care facility (not permitted), **approved**.

**2004ZON015; 2325 and 2327 E 46<sup>th</sup> Street (south of site)**, Rezoning of 1.4 acres, being in the I-1-s (W-1) District, to the C-5 (W-1) classification to provide for a retail store, **approved**.

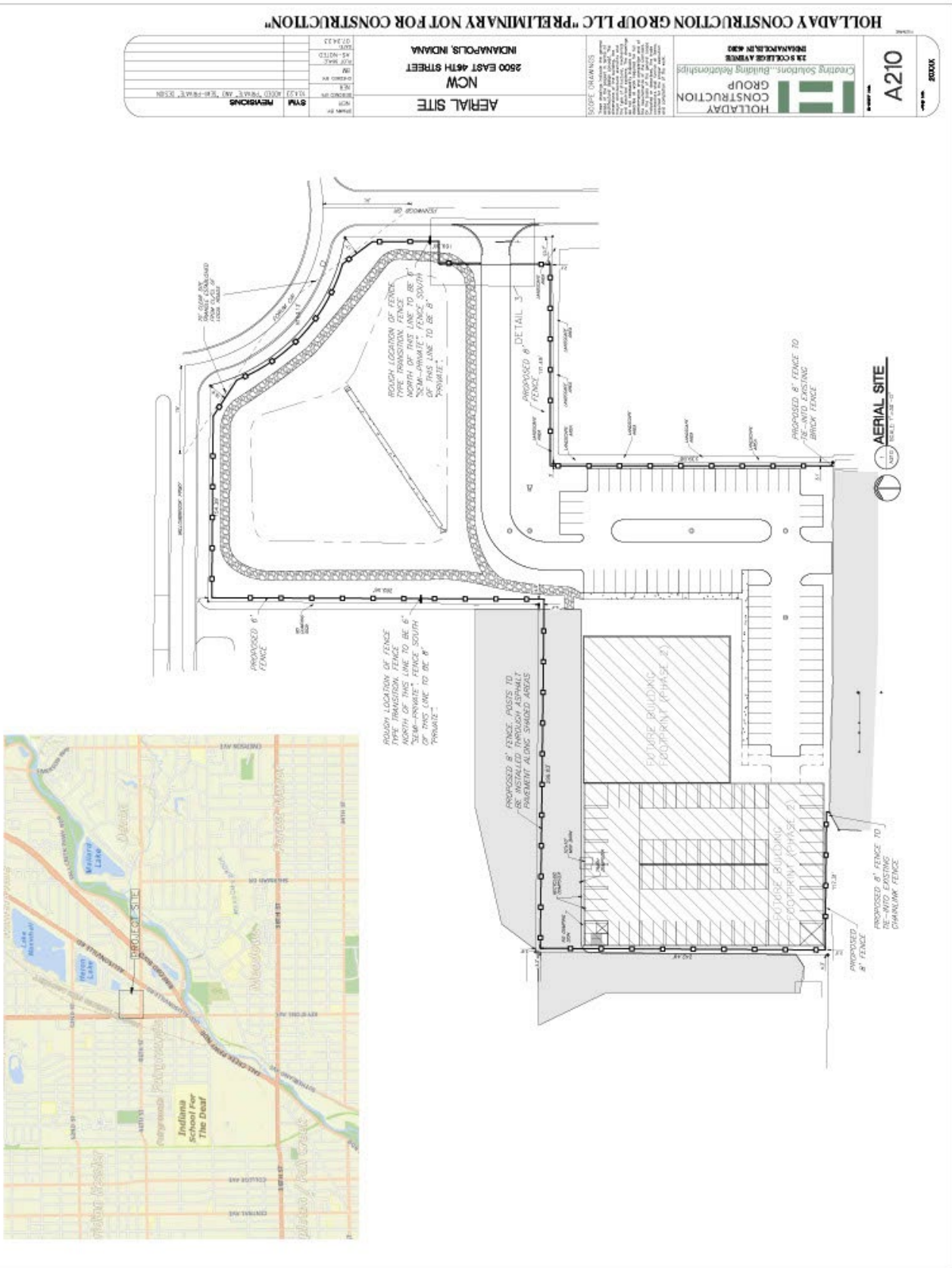
**2008ZON052; 4760 Pennwood Drive (north of site)**, rezoning of 4 acres, from the C-3 (W-1) (W-5) District, to the D-6II (W-1) (W-5) classification to provide for multi-family residential uses, **approved**.

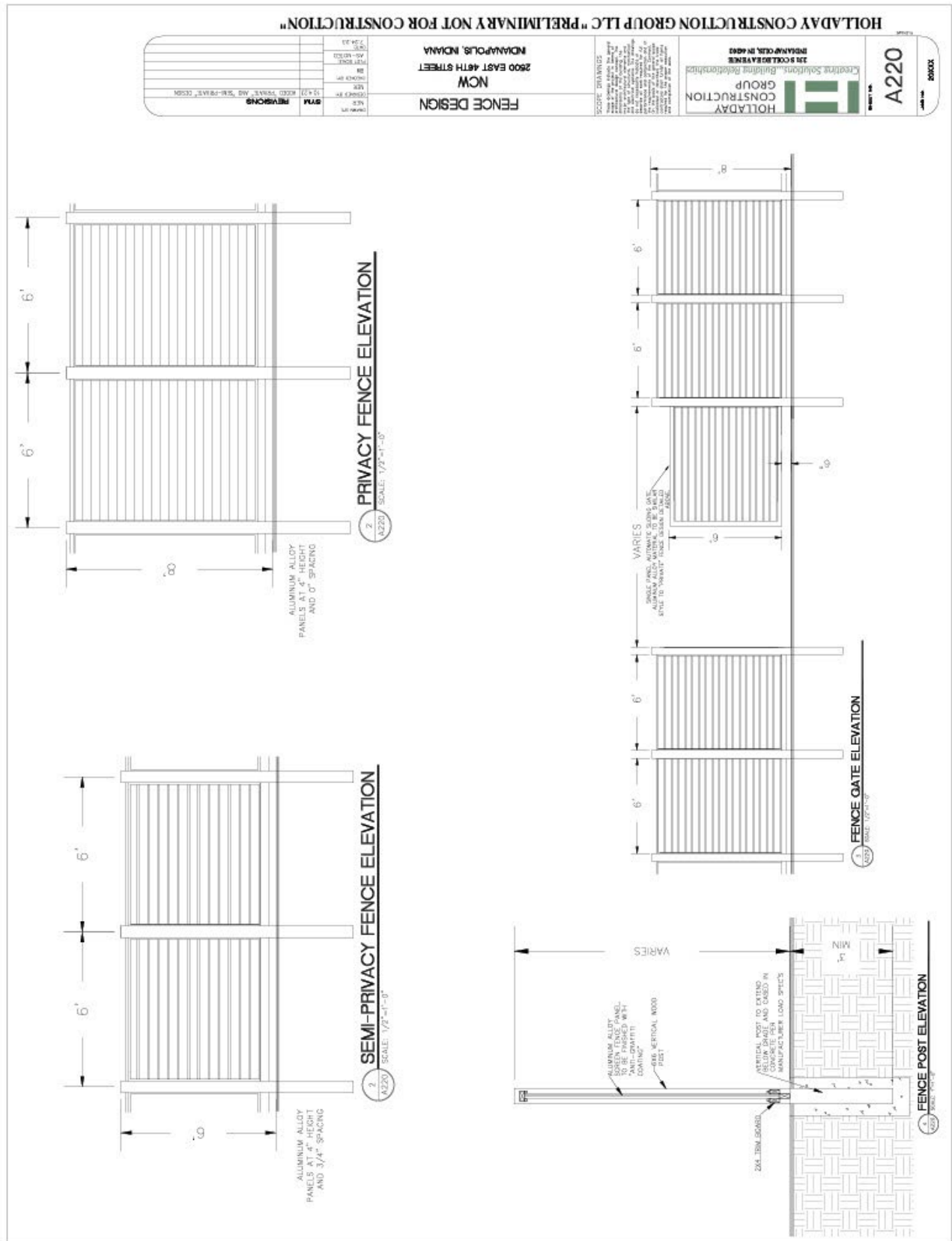
**2018ZON133; 2511 E 46<sup>th</sup> Street (south of site)**, Rezoning of 8.5 acres from the C-3 (W-1) and C-5 (W-1) districts to the D-7 (W-1) classification to provide for approximately 135 multi-family units within existing and new building, **approved**.

EXHIBITS













Petition Number \_\_\_\_\_

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division \_\_\_\_\_  
OF MARION COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

the site location provides a protected campus for the land owner and is in an area of low impact with respect to surrounding commercial properties, as well as a flood zone which will not be altered as part of the project. Public health is not impacted by the fence, safety is improved, and the morals and general welfare are not affected by the public due to its location.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

the property improvements will bring welcome improvements to an underdeveloped and neglected commercial campus. The adjacent property areas will not be negatively impacted by the addition of the fence but rather improved with additional construction activity. The use of the adjacent properties will not be affected by the addition of this fence.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The nature of the business operation requires campus security and protection from crime, and if the owners were limited to what is dictated by the ordinance, the security would be defeated quickly. Also, it prevents the property owner from property damage either by people or vehicles. Also, it protects the property owner and its employees from damage which could otherwise be caused to equipment, belongings, and property development by the general public via foot and/or vehicular traffic.

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**DECISION**

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

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\_\_\_\_\_





















