

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-001
Address: 6340 Rockville Road (*Approximate Address*)
Location: Wayne Township, Council District #15
Zoning: C-4
Petitioner: Shiloh Holdings, LLC, by Joseph D. Calderon
Request: Modification of Commitments related to 2004-VAR-844 to terminate all commitments associated with Lots 5 and 6.

ADDENDUM FOR APRIL 5, 2023, METROPOLITAN DEVELOPMENT COMMISSION

This petition was heard by the Hearing Examiner on March 9, 2023. After a full hearing, the Hearing Examiner recommended approval of the petition. The Hearing Examiner's decision was appealed by a remonstrator and set for hearing by the Metropolitan Development Commission on April 5, 2023. The Hearing Examiner's memorandum can be found below.

MDC Hearing Examiner Memo
Hearing Examiner Hearing date: March 9, 2023
MDC Hearing date : April 5, 2023

Case Number: 2023-MOD-001
Address: 6340 Rockville Road (*Approximate Address*)
Location: Wayne Township, Council District #15
Zoning: C-4
Petitioner: Shiloh Holdings, LLC, by Joseph D. Calderon
Request: Modification of Commitments related to 2004-VAR-844 to terminate all commitments associated with Lots 5 and 6. \

The original 2004 request was for:

| | |
|---------------------|---|
| Case Number: | 2004-ZON-844/2004-VAR-844 |
| Address: | 6340 Rockville Road (Approximate Addresses) |
| Location: | Wayne Township, Councilmanic District # 13 |
| Lot Size: | 1.26 acres |
| Petitioner: | Celia Lazaro |
| Rezoning | Rezone 1.26 acres, being in the C-4 District, to the C-S classification to provide for commercial development with C-1, C-2, and some C-3 permitted uses. |
| Request: | |
| Variance | Variance of Development Standards of the Commercial Zoning |
| Request: | Ordinance to provide for a ten-foot north transitional yard (minimum fifteen-foot transitional yard required.) |

The original 2004 request covered Lots 5, 6 and 9. See attached Exhibit A. Initially, Staff recommended denial, but after Petitioner and neighbors negotiated a list of commitments, attached, and Petitioner agreed to larger yard setback for the building, staff recommended approval and the petition was approved for construction of a one story building on Lot 9 subject to the commitments. The building was never built and the lots are vacant.

Staff had no recommendation on this Petition because it was not involved in negotiating the 2004 commitments.

Issue: Petitioner contends the commitments only covered Lot 9. Remonstrators, some of which were personally involved in negotiating the commitments, contend the commitments covered all three lots.

Neighborhood organization opposed via letter. Councilors Jared Evans (District 22) and Jessica McCormick (District 15) opposed via letter.

Petitioner's position: It does not make sense that the commitments would bind Lots 5 and 6. Commitments 1 – 11 only apply to the proposed building on Lot 9. Note petitioner glosses over commitment 5 (hours of operation) that could equally apply to Lots 5 and 6. As to Commitment 12 (prohibit drive through), Petitioner contends that is not relevant because in 2004 there was an oil change facility on Lot 6. Note commitment 13 (restricting outdoor seating) could also apply to Lots 5 and 6. Petitioner also points to a recent zoning map (attached) that still shows Lots 5 and 6 still zoned C-4

Remonstrators position: The Commitments were meant to apply to the entire site and negotiated in good faith. They point to the fact that the subject 1.26 acreage includes all three lots. They also note that the development plan (attached) shows that Lots 5 and 6 include some parking for the proposed building and Lot 5 would provide ingress and egress to the proposed building. The only specific objection to termination voiced at the hearing was if the covenants were terminated there could possibly be a drive through on Lot 5 or 6 aggravating traffic.

Recommendation: I recommended the petition be granted and the commitments terminated as to Lots 5 and 6, the main reason being that if the commitments were applied to Lots 5 and 6, noting else could be built there, the commitments being for a *single* building. Also,

leaving the commitments on Lot 9 would serve the basic purpose of mitigating the effect of the commercial building on the residential neighbors.

Lots 5 and 6 front Rockville Road in a C-4 commercial area. Note that in 2004 while this was under discussion, there was an oil change facility operating on Lot 6, but the building is no longer there.

Whether or not Lots 5 and 6 are C-S or C-4 was not an issue at the hearing. It appears all three lots were rezoned to C-S and would remain so if the commitments were terminated.

March 16, 2023

Respectfully submitted,

/s/ James G. Holland

James G. Holland, Alternate Hearing Examiner

PLAT MAP

ROCKVILLE, MARYLAND

ROCKVILLE PIKE

ROCKVILLE ROAD

LOT 9

LOT 8

LOT 7

LOT 6

LOT 5

LOT 4

LOT 3

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ATTACHMENT "C"

METROPOLITAN DEVELOPMENT

Petitioner commits to the following:

1. To construct a one story commercial building that shall not exceed thirty (30) feet in height.
2. To prepare a Drainage Plan for approval by the City of Indianapolis, Department of Public Works, City of Indianapolis that demonstrates on site retention of water on the site. Such drainage plan shall be shown to a representative(s) of the Merrimac Place residents and of the Rockville, High School & Girls School Roads Neighborhood Association, Inc. for review and comment at least twenty (20) days prior to submission to the city.
3. To prepare a Landscape Plan for Administrator's Approval by the City of Indianapolis, Department of Metropolitan Development that demonstrates significant on site landscaping, with special attention to the area to the west of the proposed commercial building facing the residential area to the west. Such landscape plan shall attempt to shield any lights from exiting autos onto residential properties to the west. Such landscape plan shall be shown to a representative(s) of the Merrimac Place residents and of the Rockville, High School & Girls School Roads Neighborhood Association, Inc. for the review and comment at least ten (10) days prior to submission to the city.
4. To construct a commercial building constructed of brick material with a pitched roof and shingles, with elevation subject to Administrator's Approval.
5. To restrict all tenants to hours of operation of not earlier than six (6) am and not later than eleven (11) pm.
6. To work with the property owner to the north to install appropriate screening utilizing a wooden fence. Such fence shall be no greater than six (6) feet in height.
7. To control light spillage by placing shields on all exterior lights so as to prohibit light from projecting onto any adjoining properties.
8. To construct the north wall of the commercial building of brick material with the only openings to be for emergency access doors and windows.
9. To prohibit signage along Merrimac Place.
10. To construct the dumpster enclosure with masonry material with the exterior to match the façade of the commercial building and with wooden gates oriented to the west.
11. To restrict all wall signs to the south façade of the commercial building only.
12. To prohibit the use of any drive-thru facility on the property.
13. To restrict outdoor seating to benches to allow patrons of the particular facility offering food or beverage to sit outdoors.

2/25/05

Shiloh Holdings Zoning Map



At the Hearing Examiner hearing, the text of the 2003-ZON / VAR-844 staff report was a point of consideration. That staff report can be found starting on the next page.

(Continued)

STAFF REPORT 2023-MOD-001 (Continued)

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2004-ZON-844/2004-VAR-844
Address: 6340 Rockville Road (Approximate Addresses)
Location: Wayne Township, Councilmanic District # 13
Lot Size: 1.26 acres
Petitioner: Celia Lazaro
Rezoning: Rezone 1.26 acres, being in the C-4 District, to the C-S classification to
Request: provide for commercial development with C-1, C-2, and some C-3 permitted uses.

Variance: Variance of Development Standards of the Commercial Zoning
Request: Ordinance to provide for a ten-foot north transitional yard (minimum fifteen-foot transitional yard required.)

ADDENDUM FOR NOVEMBER 9, 2004

This petition was continued, at the request of the petitioner, from the **October 14, 2004** hearing to the **November 9, 2004** hearing. The petitioner has submitted a number of commitments, file-dated October 14, 2004, limiting the proposed use, and has removed the C-2 zoning district from the rezoning request. The resulting rezoning request is both less intense than the previous request, as well as the current C-4 district. Staff is therefore **recommending approval** of the rezoning request. However, the variance request has not been modified, and staff continues to **recommend denial** of the variance request.

RECOMMENDATIONS

Staff **recommends denial** of the rezoning petition.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This petition would, if approved, rezone 1.26 acres from the C-4, or Community-Regional District, to the C-S classification to provide for a variety of uses. Currently, the site is improved on its southern section with an existing auto repair store. The site is roughly L-shaped, with frontage on both Rockville Road and Merrimac Place. The portion of the site fronting on Merrimac Place is unimproved.

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STAFF REPORT 2023-MOD-001 (Continued)

STAFF REPORT 2004-ZON-844/2004-ZON-844 (Continued)

- ◇ The Comprehensive Plan recommends very low density residential development, or zero to two dwelling units per acre, on the northern section of the subject site. The Plan recommends office buffer uses on the southern section of the site, which has been developed with a retail commercial use.

REZONING REQUEST

- ◇ The C-S zoning classification provides for a variety of uses that typically are not permitted in a single zoning classification. This classification provides for and encourages more creative use of site design and proposed uses, and ensures compatibility with surrounding land uses. Some examples of uses within the C-S classification are mixed-use developments, which provide for both residential uses and retail/commercial/office uses; office/industrial research parks; and complexes which house multifamily, hotel, retail, and/or office uses.
- ◇ The proposed uses at the subject site are indicated as a combination of C-1, C-2, and some C-3 uses. Currently, the subject site could accommodate a wide variety of commercial uses, however, given a portion of the site's proximity to residential uses, it is unlikely that it would develop in a commercially intense manner. The portion of the site fronting Rockville Road has already been developed with a use that is permitted within the C-3 and C-4 zoning districts.
- ◇ C-1 uses are typically office-based uses, with some office-related retail. C-3 uses also include a range of retail uses, restaurants, and some renting and repair uses. Certain uses that are permitted within C-3 districts must also apply for a Special Exception. Such uses include tattoo and massage parlors. These uses are also restricted with respect to location; they may not locate within five hundred feet of protected districts, including dwelling districts. Taverns and similar establishments may not locate within 100 feet of a protected district. The northern section of the subject site is immediately adjacent to a protected district. Therefore, the uses are limited by their location.
- ◇ In addition, the request for C-2 uses is inappropriate at this location. The C-2 zoning classification is typically used in older, established, urban neighborhoods that are characterized by a long-standing mix of uses, such as apartments over stores. The classification also provides for high-rise office and apartment buildings. It is a highly specialized zoning classification intended for application in certain areas that are not characterized by suburban development.

VARIANCE REQUEST

- ◇ The site plan submitted with the variance petition, file-dated September 9, 2004, indicates that a building, measuring 11,907 square feet, would be built on the subject site. The use of that building is not indicated.

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STAFF REPORT 2023-MOD-001 (Continued)

STAFF REPORT 2004-ZON-844/2004-ZON-844 (Continued)

- ◇ Because the subject site is immediately adjacent to a dwelling district to the north, a transitional yard, at least fifteen feet wide, is required. A reduction to a ten-foot transitional yard has been requested. Transitional yards are required to buffer less-intense uses from more-intense uses. A ten-foot transitional yard would not be adequate to shield commercial or office uses from the dwelling immediately adjacent to the north.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE C-4 Commercial/undeveloped

SURROUNDING ZONING AND LAND USE

| | | |
|--------|---------|------------------------------|
| North- | D-2 | Residential |
| South- | C-4 | Commercial |
| East- | C-4/D-2 | Commercial/Residential/I-465 |
| West- | D-2/C-5 | Commercial/Residential |

COMPREHENSIVE GENERAL LAND USE PLAN

Recommends very low density residential development, or zero to two dwelling units per acre, in the northern section, and office commercial in the southern section.

THOROUGHFARE PLAN

The Official Thoroughfare Plan identifies this portion of Rockville Road as having a 140-foot right of way existing and proposed.

SITE PLAN

File-dated September 9, 2004

FINDINGS OF FACT

File-dated September 9, 2004

ZONING HISTORY

None

CBH

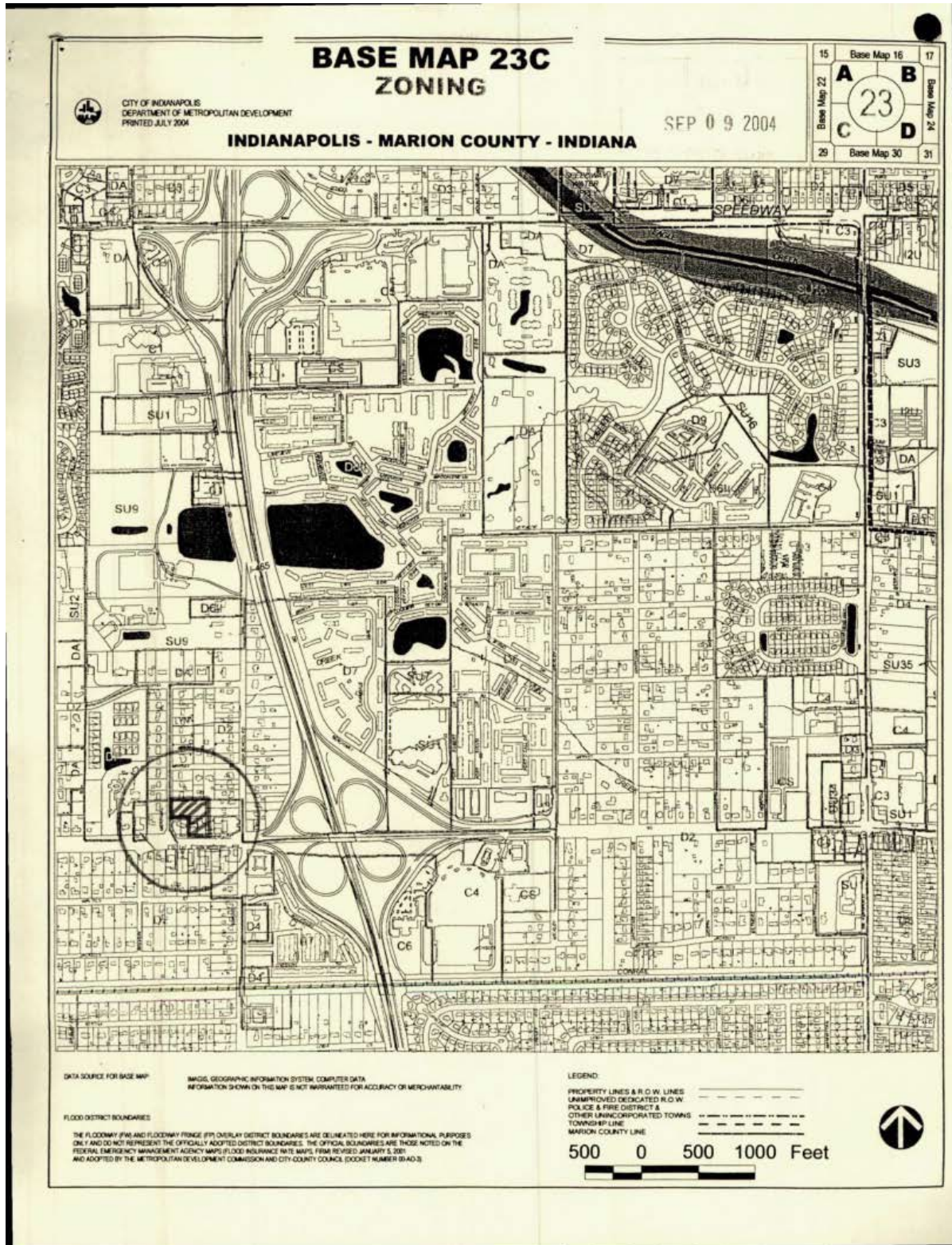
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STAFF REPORT 2023-MOD-001 (Continued)



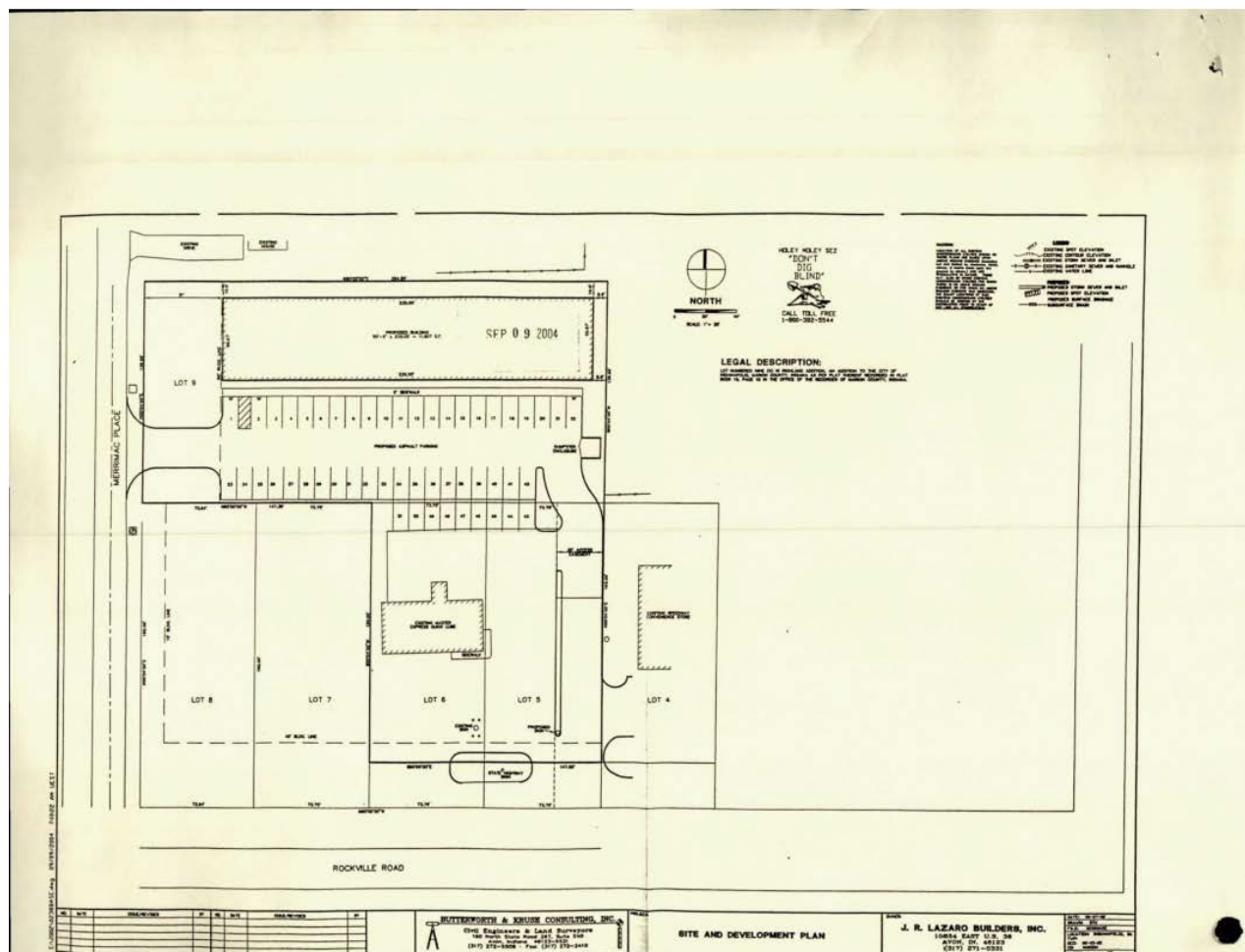
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STAFF REPORT 2023-MOD-001 (Continued)



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STAFF REPORT 2023-MOD-001 (Continued)



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STAFF REPORT 2023-MOD-001 (Continued)

Staff Report for the March 9, 2023 Hearing Examiner hearing

A valid Automatic Continuance was received from a registered neighborhood organization, the Rockville Road, High School Road, Girls School Road Neighborhood Association, continuing this petition from the February 9, 2023 hearing to the March 9, 2023 hearing.

RECOMMENDATION

Staff has **no recommendation** for this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ Historic aerial photography indicates that the subject site was undeveloped until the late 1950s/early 1960s when a commercial building was erected on the site. That building stood until the mid-1990s when an oil-change facility was constructed on the site. That building stood until 2014/2015 when it was demolished. Since that time only the parking lot associated with the oil change facility remains on the site. The parking lot appears to be used for truck parking.
- ◇ The 2018 Comprehensive Land Use Plan recommends Community Commercial for the site. This typology envisions low-intensity commercial and office uses that serve the nearby neighborhoods.
- ◇ The site has been the subject of two recent land use petitions. In 2022 the site and parcels to the north and west were part of a companion petition that would have rezoned 0.09 acre from the C-S district to the C-4 district and provided for variances of development standards for a car wash with stacking spaces in the front yard and without an exclusive bypass aisle. In 2018, the site and parcels to the north and west were the subject of a rezoning request that would have rezoned two acres from the C-S and C-4 districts to the C-S district to provide for MU-1 and C-3 uses. Both petitions were withdrawn.

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STAFF REPORT 2023-MOD-001 (Continued)

MODIFICATION OF COMMITMENTS

- ◇ This site was part of a companion rezoning and variance petition filed in 2004. That petition included both the subject site and four parcels to the north and west. The 2004 petition rezoned the north portion of that subject site and included commitments for the entire site. The purpose of the 2004 zoning petition was to provide for an office and retail center on the northern portion of that site with direct access to Rockville Road through the subject site of this petition. The 2004 petition was approved with 14 commitments. The 2004 commitments, location map and site plan can be found below.

- ◇ This petition would eliminate all 14 commitments associated with the 2004 petition for the current subject site only. The site would continue to be zoned C-4 and any redevelopment would have to meet the development standards associated with the C-4 zoning district. The commitments would continue to apply to the other parcels subject to the 2004 petition.

- ◇ There is no indication in the record that the 2004 commitments were the result of a negotiation between the petitioner and staff. Instead, they were a product of negotiations between the petitioner and the neighborhood organization without staff's involvement. As such, staff has no recommendation on the commitment's modification. However, staff would note that the neighborhood's recommendation in the original petition was based on all the commitments that were submitted and on the reasonable assumption that the site would be developed in accordance with those commitments.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

| | | |
|-----|-------|-------------|
| C-4 | Metro | Parking lot |
|-----|-------|-------------|

SURROUNDING ZONING AND LAND USE

| | | |
|-------|-----|------------------------|
| North | C-S | Undeveloped land |
| South | C-4 | Commercial center |
| East | C-4 | Billboard, gas station |
| West | C-4 | Vacant commercial lot |

| | |
|-----------------------------|--|
| COMPREHENSIVE LAND USE PLAN | The Wayne Township Comprehensive Land Use Plan (2018) recommends Community Commercial. |
|-----------------------------|--|

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STAFF REPORT 2023-MOD-001 (Continued)

THOROUGHFARE PLAN

Rockville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial with an existing right of way ranging from 125 feet to 133 feet and a 112-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

ZONING HISTORY – SITE

2022-CZN-832 / 2022-CVR-832; 6340 & 6380 Rockville Road, requested the rezoning of 0.09 acre from the C-S district to the C-4 district and variances of development standards to provide for a car wash with stacking spaces in the front yard and without an exclusive bypass aisle, **withdrawn**.

2018-ZON-086; 6340 & 6380 Rockville Road, requested the rezoning of two acres from the C-S and C-4 districts to the C-S district to provide for MU-1 and C-3 uses, **withdrawn**.

2004-ZON-844 / 2004-VAR-844; 6340 Rockville Road, requested rezoning of 1.26 acres from the C-4 District to the C-S classification to provide for commercial development with C-1, C-2 and some C-3 permitted uses and variances of development standards to provide for a reduced north transitional yard, a dumpster located in front of the building line and without a loading dock, **approved**.

ZONING HISTORY – VICINITY

2018-UV3-031; 6345 Rockville Road (south of site), requested a variance of use to provide for a security courier and delivery service in a C-4 district, **approved**.

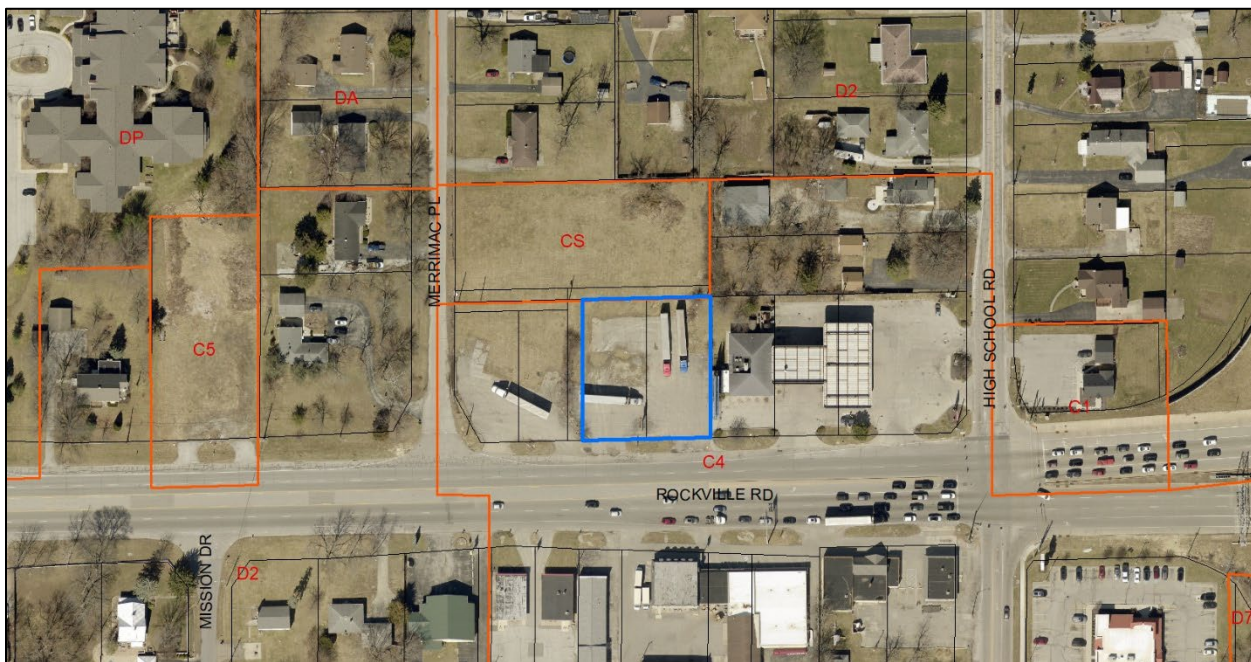
2011-UV3-005; 6345 Rockville Road (south of site), requested a variance of use to provide for a tattoo parlor within 500 feet of a Protected District, **denied**.

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STAFF REPORT 2023-MOD-001, Location



STAFF REPORT 2023-MOD-001, Aerial photograph (2022)



STAFF REPORT 2023-MOD-001, Commitments from 2004-VAR-844

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ATTACHMENT "C"

METROPOLITAN DEVELOPMENT

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6. To work with the property owner to the north to install appropriate screening utilizing a wooden fence. Such fence shall be no greater than six (6) feet in height.
7. To control light spillage by placing shields on all exterior lights so as to prohibit light from projecting onto any adjoining properties.
8. To construct the north wall of the commercial building of brick material with the only openings to be for emergency access doors and windows.
9. To prohibit signage along Merrimac Place.
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11. To restrict all wall signs to the south façade of the commercial building only.
12. To prohibit the use of any drive-thru facility on the property.
13. To restrict outdoor seating to benches to allow patrons of the particular facility offering food or beverage to sit outdoors.

2/25/05

STAFF REPORT 2023-MOD-001, Location map from 2004-VAR-844



[illegible]

STAFF REPORT 2023-MOD-001, Photographs



Looking northeast across the subject site.



Looking east along Rockville Road at the neighbor to the east.



Looking west along Rockville Road from the site.



Looking southeast across Rockville Road at the neighbors to the south.