



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

March 13, 2025

Case Number: 2024-CVR-850 (Amended)
Property Address: 601 South Tibbs Avenue
Location: Wayne Township, Council District #17
Petitioner: Dave's Mechanic Shop, LLC, by David Kingen and Justin Kingen
Current Zoning: D-5
Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to allow Automobile, Motorcycle, and Light Vehicle Service or Repair in a D-5 (FF) district (not permitted) and outdoor storage of six 40-foot by eight-foot shipping containers and two commercial vehicles; a five-foot south side transitional yard (10 feet required), and a three-foot rear transitional yard (10 feet required).
Current Land Use: Dwelling / Vehicle Repair
Staff Recommendations: Approval of the variance of use, reduced setbacks, and storage of two commercial vehicles (20-foot-long trailer and 16-foot box truck), subject to the commitments noted below. Denial of the outdoor storage of six shipping containers.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner acknowledged the timely automatic continuance filed by the City County Counselor that continued the petitions from the December 19, 2024 hearing, to the January 23, 2025 hearing.

The Hearing Examiner continued these petitions from the January 23, 2025 hearing, to the February 27, 2025 hearing, at the request of staff and the petitioner's representative. Subsequently, the requested rezoning petition was withdrawn and acknowledged by the Hearing Examiner. The variance request was amended to include a use variance, which required a continuance from the February 27, 2025 hearing, to the March 13, 2024 hearing, with required notice.

STAFF RECOMMENDATION

Approval of the use variance to allow automobile, motorcycle, and light vehicles service or repair, reduction of the south side and rear transitional yards and the parking of two commercial vehicles, subject to the following commitments being reduced to writing on the Board of Zoning Appeals' Exhibit "A" form:

1. 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 / receptacles provided for the proper disposal of trash and other waste.
2. The site shall be developed in substantial compliance with the site plan file-dated February 12, 2025.

Staff recommends denial of outdoor storage of six 40-foot by eight-foot shipping containers. Staff, however, understands that that this request **will be withdrawn at the hearing**.

PETITION OVERVIEW

This 0.93-acre site, zoned D-5, is developed with a single-family dwelling and three detached garages associated with a vehicle repair business. It is surrounded by single-family dwellings to the north and south, zoned D-5; undeveloped land to the east, zoned D-5; and single-family dwellings to the west, across South Tibbs Avenue, zoned D-4.

VARIANCE OF USE

The use variance request would allow for the continued use of the site as a residential use and vehicle repair business.

The Comprehensive Plan recommends light industrial typology for the site. “These industrial uses create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials.”

Based on aerials, it appears that the car repair business began operating during 2020. A complaint was filed in October 2024, followed by an investigation that resulted in a zoning violation (VIO24-007639) that identified zoning violations including storage of inoperable vehicles, outdoor storage of vehicle parts, storage of a commercial vehicle, storage of a commercial dumpster, storage of construction materials, repair of vehicles in the D-5 district, lack of required landscaping and unpaved area.

Petitions were filed in November 2024 to address the violations.

Documents filed related to this request indicate that the owner of the business would continue to live in the dwelling while using the site for his vehicle repair business. The site plan file dated February 12, 2024, identifies the location of the dwelling and three detached garages totaling 4,389 square feet. Six eight-foot by 40-foot shipping containers are proposed at the northeast corner of the site for storage.

A six-foot tall privacy fence and eight parking spaces would be provided along the southern boundary.

Given the Comprehensive Plan recommendation of light industrial, the existing site development, and proposed privacy fence along the southern boundary, staff believes that use variance and reduced transitional yards would be supportable.

The request would also provide for the storage of two commercial vehicles, including a 20-foot-long trailer and 16-foot box truck. Staff understands that these two commercial vehicles would be parked near the garage located to the rear of the property. An updated site plan will be submitted indicating the parking location of these commercial vehicles. Because these vehicles are relatively small and an integral part of the business, staff supports this variance.

The petitioner's representative submitted a list of prohibited land uses and commitments. Presumably these documents were the result of discussions with neighborhood groups and interested parties.

Floodway / Floodway Fringe

This site has a secondary zoning classification of Floodway Fringe (FF). The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. However, this site lies within the unregulated 500-year floodway fringe.

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;
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.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-family dwelling / vehicle repair / accessory buildings	
Comprehensive Plan	Light Industrial	
Surrounding Context	Zoning	Land Use
North:	D-5	Single-family dwellings
South:	D-5	Single-family dwellings
East:	D-5	Undeveloped land
West:	D-4	Single-family dwellings
Thoroughfare Plan		
South Tibbs Avenue	Secondary Arterial	Existing 55-foot right-of-way and proposed 80-foot right-of-way.
Context Area	Compact	
Floodway / Floodway Fringe	Yes – 500-year unregulated floodplain of White River	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	November 17, 2024	
Site Plan (Amended)	February 12, 2025	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	November 17, 2024	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Comprehensive Plan recommends Light Industrial typology. “The Light Industrial typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic.”

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) 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. Below are the relevant policies related to this request:

Light Industrial Uses

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

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)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW).



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

- Identify roadways for planned expansions or new terrain roadways.
- Coordinate modal plans into a single linear network through its GIS database.

ZONING HISTORY

2024-ZON-106; 511 and 600 South Tibbs Avenue (north of site), requested rezoning of 2.33 acres from the I-2 (FF) district to the C-7 (FF) district to provide for heavy truck services and parking, **denied**.

99-UV3-105, 505 South Tibbs Avenue (north of site), requested a variance of development standards of the Commercial Zoning Ordinance and the Industrial Zoning Ordinance to legally establish a gravel parking lot for truck and trailers, associated with truck and tractor sales and a variance of use and development standards of the Industrial Zoning Ordinance to provide for truck and trailer sale, **granted**.

94-Z-16; 511 South Tibbs Avenue (north of site), requested rezoning of 2.4 acres from the D-5 district to the I-2 S districts, to provide for the construction of a small office and facility for the storage of vehicles / equipment and minimal outside storage of equipment for an environmental contracting firm, **approved**.

78-UV1-21; 505 South Tibbs Avenue (north of site), requested a variance of use to permit automobile salvage business, **granted**.

71-V1-28; 505 South Tibbs Avenue (north of site), requested a variance of use to permit a vehicle and equipment rental business, wrecking and demolition business, business offices, sanitary landfill, excavation, and the storage of used and wrecked automobiles, **granted**.

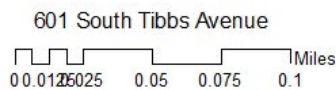
70-V3-62; 505 South Tibbs Avenue (north of site), requested a variance of development standards to permit the construction of a garage, **granted**.

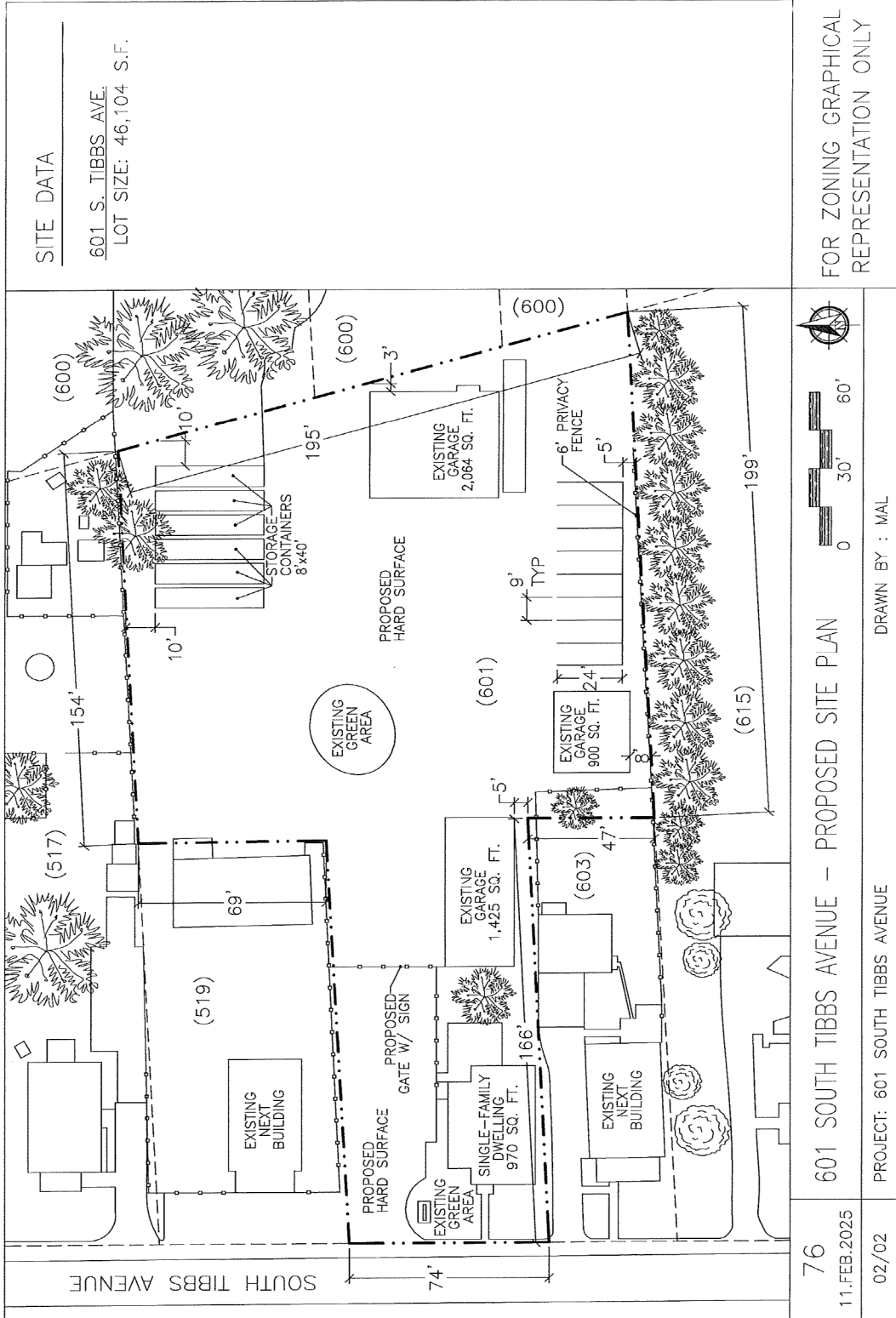
67-UV2-242; 505 South Tibbs Avenue (north of site), requested a variance of use to permit the operation of a landfill **granted (temporary)**.

EXHIBITS



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NP, Can, Esri, Japan, DEVI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NOAA, OpenStreetMap contributors, and the GIS User Community





SITE DATA
 601 S. TIBBS AVE.
 LOT SIZE: 46,104 S.F.

FOR ZONING GRAPHICAL
 REPRESENTATION ONLY



76 601 SOUTH TIBBS AVENUE – PROPOSED SITE PLAN

DRAWN BY : MAL

11.FEB.2025

PROJECT: 601 SOUTH TIBBS AVENUE

02/02

601 South Tibbs Avenue

Excluded Uses

- Auto storage / Auction
- Fueling Station
- Heliport / Helistop
- Truck Stop
- Commercial Parking Lot

601 South Tibbs Avenue
Commitments

1. A 6' privacy fence will be installed along the south property line, per the site plan on file.
2. All gravel areas will be hard surfaced with asphalt within a year of the variance petition's letter of grant date.
3. A secured automated gate will be installed within 90 days of the variance petition's letter of grant. The gate will remain closed except for when autos are entering or exiting the business.
4. All vehicle repairs will take place inside the garages on site. No outdoor repairs will be performed.
5. No lighting will be projected off of the site.
6. The existing residential structure will remain residential in nature and continue to be used as a residence. No office use will be permitted in the home.
7. The proposed shipping containers will not contain foundations nor be affixed permanently to the property in any manner.



Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

Over the past few decades this site has operated with commercial / light industrial uses. This various of use would allow the property owner to live in the residential structure while operating his small business out of the rear of the property.

The granting of this variance of use with not be injurious to the public due to the fact that the front of the property will be used residentially and the rear of the property will be used with the auto repair business.

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 use and value of the area adjacent to the property will not be adversely affected due to the fact that heavy commercial & industrial uses have existed on the site and in the area for several decades.

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

This property has been operated as a business with a residential structure on the site since the 1970s. This variance would allow for the existing business to be compliant and for the business owner and his family to live in the residential structure.

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

According to historical maps, a number of commercial uses have existed on the site dating back as far as the 1970s. This variance of use petition would legally establish those uses so that the site could continue to function as it has for over 40 years.

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

This variance of use is seeking to be granted with a companion petition to rezone the subject site to I-2 (Light Industrial) which the Marion County Pattern Book (2019) recommends. This site and several in the immediate area have contained heavy commercial uses over the years and therefore the granting of this variance of use will not interfere with the historic and existing uses in the area.

DECISION

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

Adopted this _____ day of _____, 20 ____

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 properties to the north and south of the subject site are both used and recommended for light industrial. Despite this, those properties are residentially zoned and therefore transitional yards are required. If those properties were zoned as they are recommended to be, then the requirement for the transitional yards would not exist. The structures that exist on the site predate the zoning ordinance and therefore the reduction of the required transitional yard on the east and west side of the site are necessary to bring those structures into compliance with the pending petition to rezone the property to I-2, as recommended by the Marion County Pattern Book (2019)

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 use of the area adjacent to the property will not be negatively affected as the subject site will continue to be used residentially with a small heavy commercial business operating in the rear of the property as it has done since the 1970s. The reduction of the transitional yards is necessary to bring the property into compliance with the current zoning ordinance if the companion petition to rezone the property to I-2 (as recommended) is approved.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:
The properties to the north and south of the subject site are both used and recommended for light industrial. Despite this, those properties are residentially zoned and therefore transitional yards are required. If those properties were zoned as they are recommended to be, then the requirement for the transitional yards would not exist.

DECISION

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

Adopted this _____ day of _____, 20 ____



View looking south along South Tibbs Avenue



View looking north along South Tibbs Avenue



View of site looking east across South Tibbs Avenue



View of site looking southeast across South Tibbs Avenue



View looking northeast across South Tibbs Avenue at adjacent property to the north