

## STAFF REPORT

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

**Case Number:** 2022-UV1-009 (rehearing)  
**Address:** 8930 West Washington Street (approximate address)  
**Location:** Wayne Township, Council District #22  
**Zoning:** C-4 (FW)  
**Petitioner:** S&S Center, LLC, by Silvia Miller  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the continuation of automobile and motorcycle sales (not permitted).

#### **ADDENDUM FOR SEPTEMBER 5, 2023**

On August 2, 2022, the petitioner requested the petition be continued due to the lack of a full Board, having only three Board members present. Several remonstrators were also present that objected to the continuance, as the petition had already been continued two times previously by the petitioner for three months total, from May 10, 2022, to August 2, 2022.

The Board of Zoning Appeals, Division One, did not make a motion to continue the petition, so it was heard, and subsequently, the Board voted 0-3 to deny the original petition. Upon denial, the petitioner filed a Judicial Review, requesting a rehearing due to only having three board members present.

On May 25, 2023, an Agreed Motion to Remand was filed with the Court, allowing for the petition to have a rehearing to give the petitioner the opportunity to bring this matter before the current Board, with the goal of having more Board members present to achieve a more equitable determination.

This petition was originally scheduled for rehearing on August 1, 2023. The petitioner having a conflict with that date, filed an automatic continuance, continuing the rehearing of the petition from the August 1, 2023, hearing, to the September 5, 2023, hearing.

No new information has been submitted to the file. Therefore, **Staff continues to recommend denial** of this petition.

#### **ADDENDUM FOR AUGUST 2, 2022**

This petition was continued for cause at the request of the petitioner, for two months from the June 7, 2022 hearing, to the August 2, 2022 hearing.

No additional information has been submitted to the file for Staff to consider. Therefore, Staff **continues to recommend denial** of this request.

(Continued)

## **STAFF REPORT 2022-UV1-009 (Continued)**

### **ADDENDUM FOR JUNE 7, 2022**

This petition was continued for cause at the request of the petitioner, from the May 10, 2022 hearing, to the June 7, 2022 hearing.

The petitioner has notified Staff that they are in the process of obtaining new representation, and will be requesting a two-month continuance. If all parties involved, including remonstrators, are in agreement with the two-month continuance request, then Staff will not object. Otherwise, Staff will only support a one month continuance. If additional time is still needed, then Staff will recommend the petition be withdrawn, and refiled after the additional time has been obtained.

**May 10, 2022**

### **RECOMMENDATIONS**

Staff **recommends denial** of this petition.

### **SUMMARY OF ISSUES**

#### **LAND USE**

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

C-4	Automobile and motorcycle sales
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##### **SURROUNDING ZONING AND LAND USE**

North -	D-5	Undeveloped / Single-family dwellings
South -	SU-46	Undeveloped
East -	C-4	Commercial restaurant
West -	C-4	Automobile repair

COMPREHENSIVE PLAN	The Comprehensive Plan recommends community commercial uses, with an overlay of environmentally sensitive area for the northern portion of the lot.
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- ◇ A previous petition (2017-UV3-001), requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for automobile and motorcycle sales. That petition was granted, subject to 16 commitments, including limiting the use to four years.
- ◇ This requested petition, if approved, would be subject to 12 commitments, removing the four-year limit, and allowing the sales indefinitely.

(Continued)

## **STAFF REPORT 2022-UV1-009 (Continued)**

### **VARIANCE OF USE**

- ◇ This request would provide for automobile and motorcycle sales, all C-5 uses, within an area associated with neighborhood commercial and residential development, with D-5, C-4 and SU-46 zoning. A C-5 use at this location would represent a deviation from the Comprehensive Land Use Plan recommendation of community commercial uses.
- ◇ Retail automobile and motorcycle sales are generally considered a high-intensity commercial use, along with go-cart raceways, tractor sales, outdoor flea markets, and newspaper printing and publishing. The C-5 zoning classification is intended for uses that often tend to have extensive outdoor display and activity, bright lighting and noise; characteristics that negatively affect lesser zoned districts.
- ◇ The proposed uses would require extensive outdoor storage of product, materials and equipment, which runs counter to the intent of the C-4 District. Staff believes that this request, if approved, would detract from a streetscape that is already overburdened with a number of existing businesses possessing poorly maintained outdoor storage.
- ◇ The two adjacent parcels to the west of this petition site have previously been granted variances for heavy commercial (C-5) uses related to automotive sales and body shop repair (86-UV2-6) (83-UV1-1).
- ◇ Staff has concerns that recommending approval of the variance request would continue the encroachment of heavy commercial and C-5 use conversions towards the residential portion of the Bridgeport neighborhood to the north and east.
- ◇ There is no hardship associated with this property that necessitates a grant of this variance. It is currently zoned C-4 and can be utilized for C-4 uses without the benefit of a variance of use.

### **GENERAL INFORMATION**

THOROUGHFARE PLAN	This portion of West Washington Street is indicated in the Official Thoroughfare Plan as a primary arterial, with a 165-foot existing and proposed right-of-way.
SITE PLAN	File-dated March 23, 2022.
FINDINGS OF FACT	File-dated February 28, 2022.

(Continued)

## **STAFF REPORT 2022-UV1-009 (Continued)**

### **ZONING HISTORY**

**2017-UV3-001; 8930 West Washington Street (subject site)**, requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for automobile, motorcycle and light vehicle sales and rental, **granted, subject to commitments limiting the use to four years**

**2016-UV1-026; 8639 West Washington Street (east of site)**, requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the rental and leasing of vans, **granted.**

**2009-ZON-023; 8647 and 8653 West Washington Street**; requests rezoning of 1.371 acres from the "A" District to the C-3 classification to provide for community-regional commercial uses; **approved.**

**2006-UV2-034; 8704 West Washington Street**; requests variance of use of the CZO to legally establish an existing single-family dwelling with deficient setbacks; **granted.**

**96-UV1-40; 9012 West Washington (west of site)**, requested a variance of use of the Commercial Zoning Ordinance to provide for a 25 by 75-foot addition for an existing automobile body shop, repair, paint and rebuilding shop, permitted by petition 83-UV1-1 (automobile body paint and rebuilding not permitted in a C-4 District, **dismissed.**

**86-UV2-6; 9002 West Washington Street (west of site)**, requested a variance of use of the Commercial Zoning Ordinance to provide for the outside display and sales of automobiles, **granted.**

**83-UV1-1; 9012 West Washington Street (subject site)**, requests a variance of use and development standards of the Commercial Zoning Ordinance to permit the use of an existing garage as an automobile body shop with a side and rear addition, **granted.**

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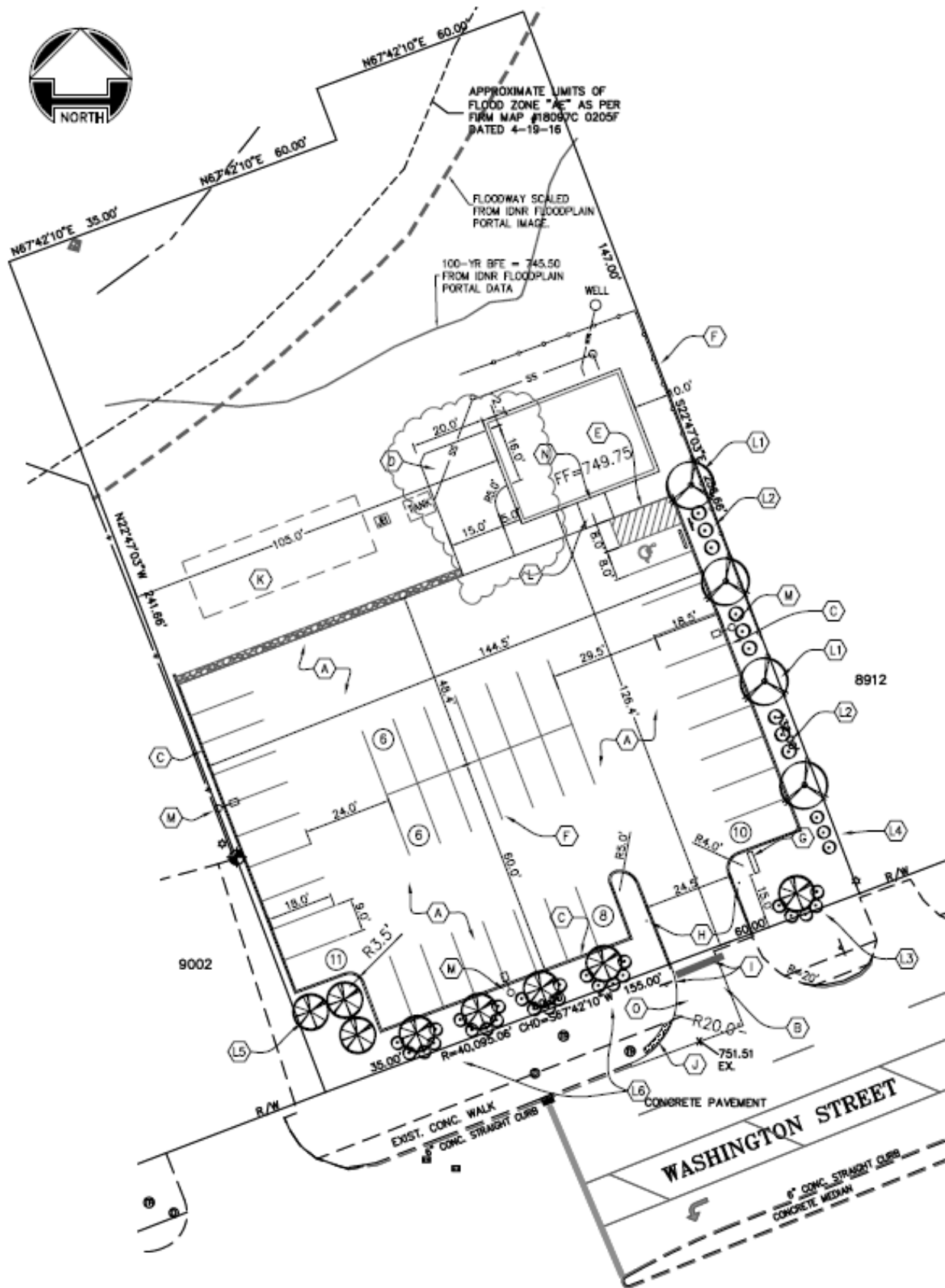
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**STAFF REPORT 2022-UV1-009 (Continued)**

**2022-UV1-009: Location Map**

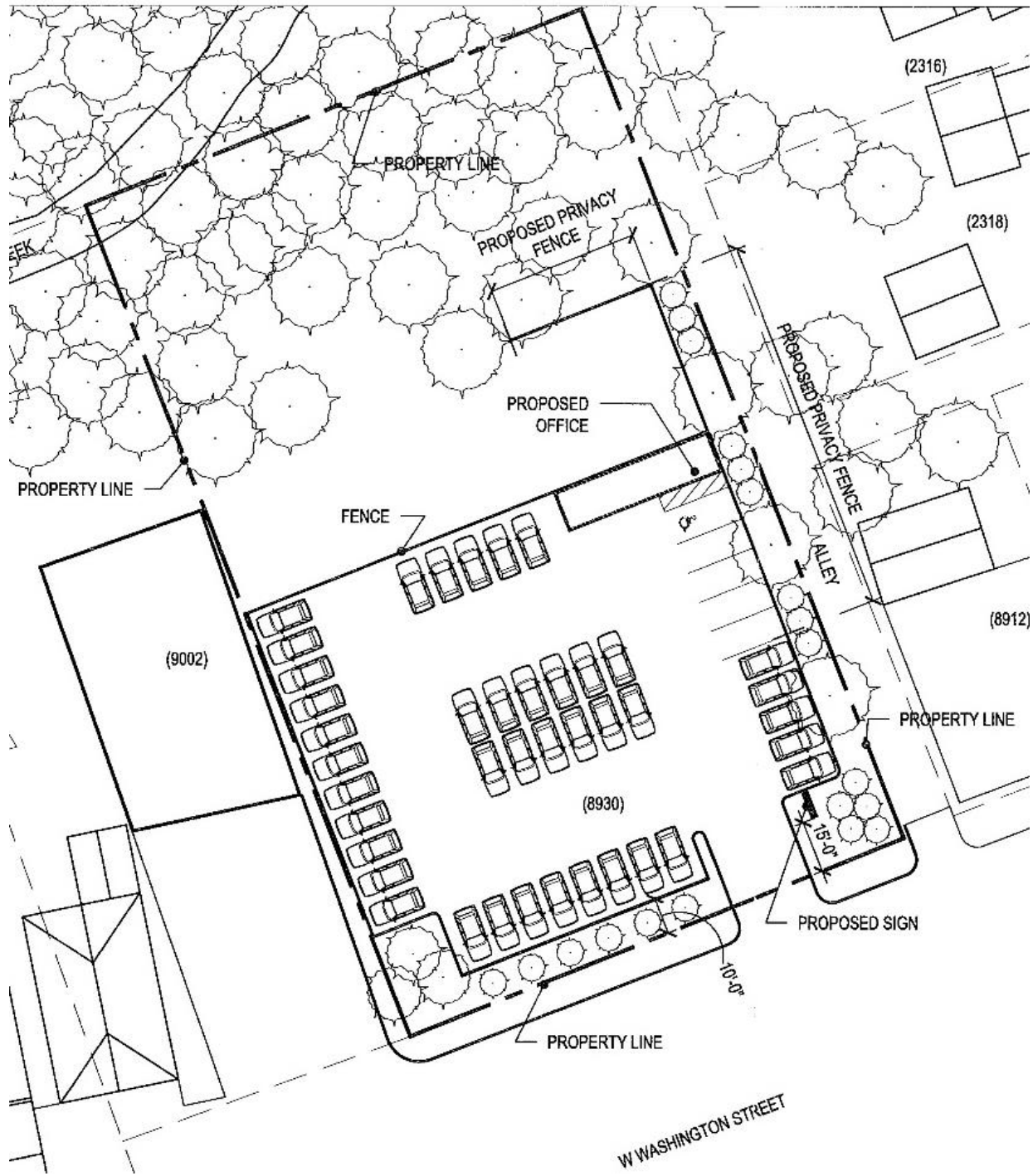


# 2022-UV1-009: Proposed Site Plan





**2017-UV3-001: Previous 2017 Approved Site Plan**



**PLAN OF OPERATION**

Employees: Two (2)

Music No outside noise on the site.

Maintenance: No work on any vehicle on the site

Hours of Operation: 9 am to 7 pm Monday thru Saturday

Signs/ Promotions: No temporary signs, no banners, no streamers

Lighting: Any exterior lighting shall be affixed to the building and will not project light onto any protected district. No free-standing pole lights shall be erected.

Litter/ weeds: Shall be picked and removed from the site within twenty four (24) hours



## **2022-UV1-009; Proposed Commitments**

### **ATTACHMENT D**

Petitioner agrees to the following commitments:

1. No "buy here, pay here" operation shall be permitted on the premises
2. No banners or string lights shall be permitted. There shall be only outside lighting for security purposes.
3. No junk, wrecked or inoperable vehicles or storage of auto parts shall be permitted to be stored on the subject real estate at any time.
4. There shall be no major vehicle repair on the subject real estate.
5. Business hours shall be no longer than 9 AM to 7 PM, Monday through Saturday
6. Only one free standing sign shall be permitted on the property. No electronic variable message sign (EVMS) component shall be permitted.
7. All lighting shall be of the shielded type.
8. There shall be no vending machines located on the outside of the building.
9. The maximum number of vehicles will be 40 cars (only).
10. Landscaping will be professionally maintained including plants, shrubs and trees to be replaced expeditiously if/when they die.
11. Privacy fencing shall be maintained including the eastern exposure of the property.
12. A secure entrance gate/chain arrangement shall be installed and kept in good working order.

## **2017-UV3-001: Previous 2017 Approved Commitments**

### ATTACHMENT "D"

Petitioner agrees to the following commitments:

1. No "buy here, pay here" operation shall be permitted on the premises
2. No banners or string lights shall be permitted. There shall be only outside lighting for security purposes.
3. No junk, wrecked or inoperable vehicles or storage of auto parts shall be permitted to be stored on the subject real estate at any time.
4. There shall be no major vehicle repair on the subject real estate.
5. Business hours shall be no longer than 9 AM to 7 PM, Monday through Saturday.
6. Any dumpster utilized in the operation shall be enclosed per code. Pick up or emptying of the dumpster shall occur only between the hours of 8 AM and 5 PM.
7. Only one free standing sign shall be permitted on the property. No electronic variable message sign (EVMS) component shall be permitted.
8. All lighting shall be of the shielded type.
9. There shall be no vending machines located on the outside of the building.
10. The privacy fence as depicted on the site plan along the northeast part of the property shall be installed prior to the operation of this facility.
11. The maximum number of vehicles will be 40 cars (only) with an age no greater than 12 years.
12. Landscaping will be professionally maintained including plants, shrubs and trees to be replaced expeditiously if/when they die.
13. Privacy fencing shall be maintained including the eastern exposure of the property.
14. A secure entrance gate/chain arrangement shall be installed and kept in good working order.
15. Bridgeport Neighborhood Alliance endorsement of this improvement to 8930 West Washington Street is subject to Department of Metropolitan Development variance and ATTACHMENT D approval.
16. The Variance shall be for a period of four (4) years. The four (4) year time shall commence upon the issuance of the auto dealership license issued by the State of Indiana, Bureau of Motor Vehicles. The petitioner shall file a copy of the license with the Department of Metropolitan Development within ten (10) days of the license being issued.

**2022-UV1-009: Photographs**



subject site looking north



Subject site existing frontage landscaping per 2017 commitments, however dead and not replaced.





Adjacent single-family dwellings to the north and east of site, looking east



Adjacent commercial restaurant to the east of site, looking north



Adjacent undeveloped airport related uses to the south of site



Adjacent automotive repair commercial use to the west of site, looking north.