

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

February 27, 2025

Case Number:	2024-ZON-131
Property Address:	5820 South Emerson Avenue
Location:	Perry Township, Council District #24
Petitioner:	IN Indianapolis Emerson, LLC, by Joseph D. Calderon
Current Zoning:	C-1, C-3, and D-A
Request:	Rezoning of 21.23 acres from the C-1, C-3, and D-A districts to the D-5II district to provide for townhome and duplex development.
Current Land Use:	Undeveloped land
Staff Recommendations:	Approval, subject to the commitments noted below:
Staff Reviewer:	Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued this petition from the December 12, 2024 hearing, to the January 9, 2025 hearing, and to the January 23, 2025 hearing, at staff's request, to provide time for the petitioner's representative to submit additional information requested by staff.

The Hearing Examiner acknowledged a timely automatic continuance filed by a registered neighborhood organization that continued this petition from the January 23, 2025 hearing, to the February 27, 2025 hearing;

STAFF RECOMMENDATION

Approval, 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. Final site plan, landscape plan and elevations shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit.
2. A minimum 43-foot half right-of-way shall be dedicated along the frontage of East Edgewood Avenue, including abutting the parcel to the west of the site, 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).
3. 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.

4. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.
5. Additional DPW commitments installed prior to occupation of any of the dwelling units:
 - A. Install a passing blister at the easternmost access drive along East Edgewood Avenue.
 - B. Sidewalks and ADA-compliant curb ramps shall be installed along both frontages, including extension of perpendicular ramps to the northwest corner of East Edgewood Avenue and South Emerson Avenue intersection to facilitate pedestrian crossing.
 - C. Install continental crosswalk markings to the north leg and west leg of East Edgewood Avenue and south Emerson Avenue.
 - D. Modify the existing curb ramps on the northeast corner and southwest corner of East Edgewood Avenue and South Emerson Avenue to receive the north and west leg crossings.
 - E. Install an ADA-compliant bus boarding pad along the South Emerson Avenue frontage. Such pad shall be paved and eight feet perpendicular to the curb by 5 feet parallel to the curb (may include sidewalk area).
 - F. Install pedestrian heads and push buttons at the northeast, northwest and southwest corners of the intersection to accommodate the north leg and west leg crossings. DPW's approved signal contractor shall be required. DPW will provide the timings.
 - G. Install 5-section head for the east bound and west bound to allow for protected / permitted phasing. DPW's approved signal contractor shall be required. DPW will provide timings.
 - H. Install a south bound right-turn lane on South Emerson Avenue at East Edgewood Avenue with a 300-foot-long length, plus taper within the right-of-way and in accordance with DPW standards.

PETITION OVERVIEW

This 21.23-acre site, zoned D-A, C-1, and C-3 is comprised of four parcels. It is undeveloped and surrounded by single-family dwellings, a retention pond and undeveloped land to the north, zoned D-3, D-A and C-1, respectively; single-family dwellings, to the south, across East Edgewood Avenue, zoned D-A; undeveloped land to the east, zoned C-3; and a single-family dwelling to the west, zoned D-A.

Petitions 2022-CZN-872 / 2022-CVR-872 requested rezoning of 21.232 acres from the D-A, C-1 and C-3 districts to the D-6 district to provide for single-family attached dwellings (townhomes) and multi-family residential development and a variance of development standards to provide for a building height of 49.5 feet and a minimum livability ratio of 1.33. These petitions were denied.



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

Petitions 2021-ZON-125 / 2022-VAR-001 requested rezoning of 19.82 acres from the D-A, C-1 and C-3 districts to the D-6 classification to provide for multi-family residential development and variance of the development standards to provide for multi-family development with a building height of 56 feet and a minimum livability ratio of 0.51. These petitions were withdrawn.

Petitions 2006-ZON-133 and 2006-ZON-134 rezoned the central portion of the site to the C-1 District and the frontages along South Emerson Avenue and East Edgewood Avenue to the C-3 District.

REZONING

This request would rezone the site to the D-5II classification to provide 44 duplexes / attached garages, 36 duplexes / no garages, and 146 townhomes. "The D-5II district is intended for small-lot housing formats, primarily for small, detached houses, but also including a mix of small-scale multi-unit building types. This district can be used for new, walkable suburban neighborhoods or for infill situations in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood or Traditional Neighborhood Typologies of the Land Use Pattern Book."

"To advance the Livability Principles of this Code, the D-5, D-5II, D-8, D9 and D-10 districts implement walkable, compact neighborhoods within a well-connected street network and block structure, using slow neighborhood streets, walkable connectors, and multi-mode thoroughfares. Access to parks and recreation, transit and neighborhood services within walking distance is important. Street trees, landscape and trees along private frontages, and an active amenity zone create comfortable walking environment and add appeal to neighborhoods. These districts require urban public and community facilities and services to be available. These districts may be used in combination to supply critical mass of residents to support nearby commercial and transit investments."

The Comprehensive Plan recommends Suburban Neighborhood for a majority of the site and Office Commercial for southeast corner of the site.

Traffic Impact Study (TIS)

A Traffic Impact Study, file-dated January 10, 2022, was conducted for the previous petitions and remains valid for this petition because the overall number of units would be reduced from 332 to 226.

The parameter used to evaluate traffic operation conditions is referred to as the level-of-service (LOS). There are six LOS (A through F) categories, which relate to driving conditions from best to worst, respectively. LOS directly relates to driver discomfort, frustration, fuel consumption and lost travel time. Traffic operating conditions at intersections are considered to be acceptable if found to operate at LOS D or better.

Capacity analysis occurs for four different scenarios. Scenario One is based on existing conditions. Scenario Two is based on 2023 forecasted (full build-out). Scenario Three is based on 2033 no-build conditions, reflecting additional background growth. Scenario Four is based on the 2033 build conditions, with the proposed development.

The study analyzed the portion of the site proposed for residential development and the four commercial out parcels (zoned C-3), which would generate a total of approximately 433 and 520 trips during the weekday morning and afternoon peak hours, respectively.

Below are the recommended improvements surrounding the Edgewood Avenue and Emerson Avenue intersection related to the proposed development.

- Install a southbound right-turn lane on Emerson Avenue
- Add left-turn arrows and implement protected-plus-permitted phasing for the eastbound and westbound approaches
- Adjust signal timings to account for the new phasing

It was also recommended that the City plan for a future northbound right-turn lane on Emerson Avenue, perhaps in conjunction with the development of the southeast quadrant of the intersection.

The study noted failing conditions during the P.M. peak period at the Edgewood Avenue and Shelbyville Road intersection located to the east of this site. It was recommended that the City consider the installation of traffic signals or a round-about, independent of the proposed development.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 43-foot half right-of-way along East Edgewood Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Staff would note that the right-of-way along this portion East Edgewood Avenue varies from 37 feet to 140 feet. Consequently, only those portions of the frontage where a 43-foot right-of-way does not exist would be required to be dedicated. Additionally, the right-of-way dedication should continue along the abutting property to the west for approximately 150 feet.

The DPW has requested the additional following traffic and pedestrian infrastructure improvements:

1. Install a passing blister at the easternmost access drive along East Edgewood Avenue.
2. Sidewalks and ADA-compliant curb ramps shall be installed along both frontages, including extension of perpendicular ramps to the northwest corner of East Edgewood Avenue and South Emerson Avenue intersection to facilitate pedestrian crossing. The sidewalk along the East Edgewood Avenue frontage shall connect to the sidewalk to the west of this site.
3. Install continental crosswalk markings to the north leg and west leg of East Edgewood Avenue and south Emerson Avenue.
4. Modify the existing curb ramps on the northeast corner and southwest corner of East Edgewood Avenue and South Emerson Avenue to receive the north and west leg crossings.

5. Install an ADA-compliant bus boarding pad along the South Emerson Avenue frontage. Such pad shall be paved eight feet perpendicular to the curb by 5 feet parallel to the curb (may include sidewalk area).
6. Install pedestrian heads and push buttons at the northeast, northwest and southwest corners of the intersection to accommodate the north leg and west leg crossings. DPW's approved signal contractor shall be required. DPW will provide the timings.
7. Install 5-section head for the east bound and west bound to allow for protected / permitted phasing. DPW's approved signal contractor shall be required. DPW will provide timings.
8. Install a south bound right-turn lane on South Emerson Avenue at East Edgewood Avenue with a 300-foot-long length, plus taper within the right-of-way and in accordance with DPW standards.

Tree Preservation / Heritage Tree Conservation

There are significant amounts of natural vegetation and trees located scattered throughout the site. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.

All development shall be in a manner that causes the least amount of disruption to the trees. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.

The Ordinance defines "heritage tree" as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentukea*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)

The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location issuance date. See Exhibit A, Table 744-503-3: Replacement Trees.

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.

Planning Analysis

As proposed this request would generally be consistent with the Comprehensive Plan recommendation of suburban neighborhood typology. The density for this proposed development would be 10.65 units per acre. Staff would note that this rezoning is part of a larger site that includes a C-3 district along the South Emerson Avenue frontage that would remain commercial and be developed at some future date.

This density exceeds the recommended density for the suburban neighborhood typology, but the Pattern Book recommends a higher density if the development is within a quarter mile of a frequent transit line, greenway, or park. IndyGo Route 16 serves this site and the DPW is requesting a bus boarding pad along the South Emerson Avenue frontage. Consequently, staff believes the increased density would be acceptable, with the infrastructure improvements requested by the Department of Public Works.



Due to the visibility and the need to comply with the Green Factor, staff is requesting that a landscape plan and building elevations be submitted for Administrator Approval prior to the issuance of an Improvement Location.

GENERAL INFORMATION

Existing Zoning	D-A / C-1 / C-3	
Existing Land Use	Undeveloped	
Comprehensive Plan	Suburban Neighborhood / Office Commercial	
Surrounding Context	Zoning	Land Use
North:	D-3 / C-1 / C-3	Single-family dwellings / retention pond / undeveloped
South:	D-A	Single-family dwellings
East:	C-3	Undeveloped
West:	D-A	Single-family dwelling
Thoroughfare Plan		
East Edgewood Avenue	Primary arterial	Existing 37-140-foot right-of-way and proposed 80-foot right-of-way.
South Emerson Avenue	Primary Arterial I	Existing 140-foot right-of-way and proposed 86-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	October 28, 2024	
Site Plan (Amended)	January 9, 2025	
Elevations	January 9, 2025	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	N/A	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Comprehensive Plan recommends Suburban Neighborhood for most of the site. “The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.”

The Comprehensive Plan recommends Office Commercial for southeast corner of the 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.”

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:

Conditions for All Land Use Types

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- Hydrological patterns should be preserved wherever possible.
- Curvilinear streets should be used with discretion and should maintain the same general direction.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.

Conditions for All Housing

- A mix of housing types is encouraged.
- Developments of more than 30 housing units must have access to at least one arterial street of three or more continuous travel lanes between the intersections of two intersecting arterial streets.
- Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user.
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.
- Developments with densities higher than five dwelling units per acre should have design character compatible with adjacent properties. Density intensification should be incremental with higher density housing types located closer to frequent transit lines, greenways or parks.

Attached Housing (defined as duplexes, triplexes, quads, townhouses, row houses, stacked flats, and other, similar legally-complete dwellings joined by common walls and typically with each unit on its own lot or part of a condominium).

- Duplexes should be located on corner lots, with entrances located on different sides of the lot or otherwise interspersed with detached housing.
- Duplexes should be architecturally harmonious with adjacent housing.
- Townhomes should be organized around intersections of neighborhood collector streets, greenways, parks or public squares, or neighborhood-serving retail.

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

ZONING HISTORY

2022-CZN-872 / 2022-CVR-872; 4822 East Edgewood Avenue and 5820 South Emerson Avenue, rezoning of 21.232 acres from the D-A, C-1 and C-3 districts to the D-6 district to provide for single-family attached dwellings (townhomes) and multi-family residential development and a variance of development standards to provide for a building height of 49.5 feet, **denied**.

2021-ZON-125 / 2022-VAR-001; 4822 East Edgewood Avenue and 5820 South Emerson Avenue, requested rezoning of 19.92 acres from the D-A, C-1 and C-3 districts to the D-6 district to provide for multi-family residential development and a variance of development standards to provide for a building height of 56 feet and a minimum livability ratio of 0.51, **withdrawn**.

2006-ZON-133; 5820 South Emerson Avenue; requested rezoning of 11.027 acres from D-A to C-3 and C-1 to provide for neighborhood commercial uses and office uses, **approved**.

2006-ZON-134; 5820 South Emerson Avenue, rezoning of 4.698 acres from D-A to C-1 to provide for office uses, **approved**.

VICINITY

2004-ZON-049; 5800 South Emerson Avenue (north of site), rezoning of 1.997 acres from D-A to C-1 to provide for office uses, **approved**

2002-UV1-004; 5800 South Emerson Avenue (north of site), variance of use to provide for the construction of a single-family dwelling, with an attached recording studio in D-A, **granted**.

2002-ZON-012; 5935 South Emerson Avenue (east of site), rezoning of 5.23 acres from D-A to C-S to provide for all C-1 uses and limited C-3 uses, **approved**.

2005-APP-002; 5905-5935 South Emerson Avenue (east of site), modification of commitments and site plan to provide for construction of a 12,600-square foot building that does not fit within the footprint indicated on the approved site plan from 2000-ZON-012, **approved**.

2005-ZON-857/2005-APP-857/2005-VAR-857; 5901-5935 South Emerson Avenue (east of site), rezoning of 6.556 acres from D-A to C-S to provide for expansion of an office/commercial center with C-1 uses, limited C-3 uses, and a fitness center; a variance of development standards to provide for a second freestanding identification sign with inadequate street frontage and sign separation; a modification of commitments to provide for additional signage, **approved**.

2005-ZON-215; 5640 South Emerson Avenue (north of site), rezoning of 2.087 acres from D-A to C-1 to provide for office uses, **approved**.

2004-ZON-078; 5500 and 5640 South Emerson Avenue (north of site), rezoning of 25.539 acres from D-P and D-A to D-P to provide for the construction of townhouses and two-family dwellings with a total of 104 units, and a density of 4.10 units per acre, **approved**.



Department of Metropolitan Development
Division of Planning
Current Planning

95-Z-183; 5728 South Emerson Avenue (west of site), rezoning of 0.407 acre from D-A to D-3 to provide for single-family residential development, **approved**.

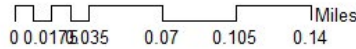
95-Z-73; 4684 East Edgewood Avenue (west of site), rezoning of 11.38 acres from D-A to D-3 to provide for single-family residential development, **approved**.

95-Z-35; 4784 East Edgewood Avenue (west of site), rezoning of 19.99 acres from D-A to D-3 to provide for single-family residential development, **approved**.

EXHIBITS



5820 South Emerson Avenue



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, for OpenStreetMap contributors, and the GIS User Community









View looking south along South Emerson Avenue



View looking north along South Emerson Avenue



View looking east along East Edgewood Avenue



View looking west along East Edgewood Avenue



View looking west along East Edgewood Avenue



View of site looking west across South Emerson Avenue



View of site looking west across South Emerson Avenue



View of site looking southwest across South Emerson Avenue



View of site looking northwest across East Edgewood Avenue



View of site looking north across East Edgewood Avenue



View of site looking northeast across East Edgewood Avenue