



**METROPOLITAN DEVELOPMENT COMMISSION
2024 HEARING EXAMINER**

February 29, 2024

Case Number: 2024-ZON-001
Property Address: 7110 and 7112 US 31
Location: Perry Township, Council District #22
Petitioner: J & A Homes, Inc. and Jiries Ishak, by David Gilman
Current Zoning: D-A and C-1
Request: Rezoning of 3.04 acres from the D-A and C-1 districts to the C-3 district to provide for neighborhood commercial uses
Current Land Use: Residential and undeveloped land
Staff Recommendations: Approval
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued this petition from the February 15, 2024 hearing, to the February 29, 2024 hearing, to provide additional time for discussions between the petitioner's representative and the surrounding neighbors. The continuance was requested by the petitioner's representative.

February 15, 2024

STAFF RECOMMENDATION

Approval, subject to the following commitment subject being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

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.

PETITION OVERVIEW

This 3.04-acre site, is comprised of three parcels, two of which are developed with single-family dwellings and zoned D-A. The third parcel is undeveloped and zoned C-1. The site is surrounded by commercial office uses to the north, zoned C-1, multi-family residential uses to the south, zoned C-1; single-family dwellings to the east, across US 31, zoned D-3 and C-1; and religious uses and a single-family dwelling to the west, zoned SU-1 and DA, respectively.

Rezoning

This request would rezone three contiguous lots from the D-A and C-1 districts to the C-3 district (Neighborhood Commercial District). "The C-3 District is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale, or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions."

As proposed, this request would be consistent with the Comprehensive Plan recommendation of community commercial typology. The C-3 or C-4 district would generally be contemplated as acceptable uses within this typology depending upon the surrounding land uses.

Because of the of the residential uses to the west and south and the religious uses to the north, the less intense C-3 district would be more appropriate and supportable at this location. Furthermore, the required development standards would minimize the impact of the commercial uses on the adjacent land uses to the north, south and west. In other words, staff would not support any variances from the required development standards for the C-3 district.

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-A and C-1	
Existing Land Use	Single-family dwellings / undeveloped	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Land Use
	North: C-1	Office use (converted dwelling)
	South: C-1	Multi-family dwellings
	East: D-3 / C-1	Single-family dwellings / commercial office use (converted dwelling)
	West: D-A / SU-1	Single-family dwelling / religious uses
Thoroughfare Plan		
US 31	The Marion County Thoroughfare Plan (2019)	This portion of US 31 is designated as a primary arterial with an existing 150-foot right-of-way and a proposed 124-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	N/A	
Site Plan (Amended)	N/A	
Elevations	N/A	
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 Community Commercial. The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

Pattern Book / Land Use Plan

- The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods, and serves as a policy guide for development or redevelopment of a site.
- The following elements of the Pattern Book apply to this site:

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.

Large-Scale Offices, Retailing, and Personal or Professional Services (defined as Commercial uses with minimal outdoor operations, storage, or display on lots of more than 1.5 acres and a height of more than 35 feet.)

- Should be located along an arterial street.
- Outdoor display of merchandise should be limited.
- If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
- If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
- Should be no larger than 25 acres with 125,000 square feet of floor space and no more than three out lots.”



- 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

2017-ZON-014; 7110 and 7020 US 31 South, requested rezoning of three acres, from the D-A and C-1 Districts to the C-S classification to provide for C-1 uses and a self-storage facility, **withdrawn**.

2005-ZON-026; 7110 US 31 South, requested rezoning of 1.026 acres from the D-A District to the C-1 classification to provide for office commercial uses, **approved**.

VICINITY

2005 DV1-019; 7007 U.S. 31 South, requested a variance of development standards of the Commercial Zoning Ordinance to provide for a 378-square foot off-premises advertising sign on the south façade of an existing one-sided off-premises advertising sign located 112 feet from a protected district (off-premises advertising signs not permitted with 300 feet of a protected District), **approved**.

2002-ZON-052; 7117 US 31 South (east of site), requested rezoning of 0.519 acres, from the D-3 District to the C-1 classification to provide for an office, **approved**.

2002-ZON-034; 7030 South East Street (north of site), requested the rezoning of 2.093 acres from the D-A District to the SU-1 Classification to provide for religious uses., **approved**.

2001-ZON-018, 7013 and 7015 U.S. 31 South (east of site), requested rezoning of 1.12 acres from the D-3 District to the C-3 classification to provide for neighborhood commercial uses, **approved**.

99-CP-14Z; 7301 US 31 South (south of site), requested rezoning of 0.225 acre, being in the D-3 District to the C-4 classification to provide for the expansion of a department store facility, **approved**.

99-V2-087; 7301 US 31 South (south of site), requested a variance of development standard of the Commercial Zoning Ordinance to provide for an addition 22,039 square feet of outdoor display and sale of merchandise, exceeding permitted square footage, **granted**.

97-UV3-23; 6950 U.S. 31 South (north of site), requested a variance of use of the Commercial Zoning Ordinance to provide for the expansion of an existing veterinary hospital, **granted**.

94-Z-115; 7119 US 31 South (east of site), requested rezoning of 1.0 acre from the D-3 District to the C-1 classification to provide for office use, **approved**.

93-UV2-45, 6950 U.S. 31 South (north of site), requested a variance of use and development standards to provide for the construction of a model home viewing center with an interior access drive 9.64 feet from the west property line (minimum 15-foot setback required), **granted**.

93-Z-89, 6950 U.S. 31 South (north of site), requested a rezoning from the D-A District to the C-1 classification for commercial office use, **approved**.



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89-Z-173, 7104 U.S. 31 South (north of site), requested a rezoning of 1.46 acres to the C-1 classification to provide for office uses, **approved**.

89-Z-81; 7210 US 31 South (south of site), requested rezoning of 4.08 acres, being in the A-2 District to the C-3 classification, to provide for retail sales, **approved**.

89-Z-3; 7219 US 31 South (south of site), requested rezoning of 0.56 acre, being in the D-3 District, to the C-1 classification, to provide for office uses, **approved**.

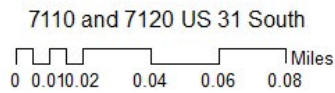
86-UV1-17; 7218 US 31 South (east of site), requested a variance of use to provide for office use, **granted**.

83-Z-133, 6950 U.S. 31 South (north of site), requested the rezoning of 1.01 acres, from the D-5 District, to the C-1 classification to provide for commercial development, **approved**.

82-UV2-125, 6950 U.S. 31 South (north of site), requested a variance of use for the construction of and use of a veterinary hospital, **granted**.

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EXHIBITS





View looking north across US 31



View looking northeast across US 31



View of site looking southeast across South East Street from adjacent property to the north



View of site (addressed as 7110 US 31) looking west across US 31



View of site (addressed as 7110 US 31-undeveloped) looking west across US 31



View of site (addressed as 7112) looking west across US 31