

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-118
Address: 5181 North High School Road (*Approximate Address*)
Location: Pike Township, Council District #10 (#5 Beginning 2024)
Petitioner: Abdulateef O. Aregbe
Request: Rezoning of 1.98 acres from the D-A (FW) (FF) and D-6 districts to the D-6 (FW) (FF) district to provide for a residential triplex.

ADDENDUM FOR FEBRUARY 15, 2024, HEARING EXAMINER

The Hearing Examiner continued this petition from the January 11, 2024 hearing, to the February 15, 2024 hearing, to provide additional time for required notice at the request of staff.

A registered neighborhood organization filed an automatic that would **continue this petition from the February 15, 2024 hearing, to the March 14, 2024 hearing**. This would require acknowledgement from the Hearing Examiner.

January 11, 2024

RECOMMENDATIONS

Staff **recommends approval** of this request, 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. A 40-foot half right-of-way along the North High School Road frontage and 40-foot half right-of-way along West 52nd Street frontage shall be dedicated 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).
2. 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.
3. The existing dwelling shall remain and shall not be demolished or expanded. Conversion to a residential triplex shall be limited to the interior of the existing dwelling.
4. The existing accessory structure shall not be converted to living space.

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SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 1.98-acre site, zoned D-A (FW) (FF), is developed with a single-family dwelling surrounded by single-family dwellings to the north, across West 52nd Street, zoned D-P; multi-family dwellings to the south zoned D-6 (FW) (FF); a single-family dwelling to the east, zoned D-A (FW) (FF); and a single-family dwelling to the west, across North High School Road, zoned D-2 (FW) (FF).
- ◇ Petition 2005-UV1-007 provided for a transitional residential facility for young males, ages, 18-24, within an existing building; for a two-year period commencing upon the beginning of the operation.

REZONING

- ◇ This request would rezone the site from the D-A (FW) (FF) District to the D-6 (FW) (FF) classification to provide for a residential triplex. “The D-6 district provides for medium intensity residential development of a variety of housing types: multifamily dwellings, triplex, fourplex, two-family and single-family attached dwellings. The district is intended for developments in suburban areas well served by major thoroughfares, sanitary sewers, and school and park facilities. In its application, the district need not be directly associated with more intense land uses such as commercial or industrial areas. The development pattern envisioned is one of trees lining curving drives with the ample open space provided for in the district affording a wide variety of on-site recreational facilities. The D-6 district has a typical density of 6 to 9 units per gross acre. This district fulfills the medium density residential recommendation of the Comprehensive General Land Use Plan. Development plans should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site conditions, including vegetation, topography, drainage and wildlife.”
- ◇ The Comprehensive Plan recommends rural or estate neighborhood typology. “The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.”
- ◇ 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 Pattern Book recommends detached housing, working farms, group homes, bed and breakfast and wind / solar farms in this typology.

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Overlays

- ◇ This site is also located within an overlay, specifically the Environmentally Sensitive Areas (ES) Overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ The northern portion of the site is located within the floodway and floodplain of Falcon Creek.

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 40-foot half right-of-way along North High School Road frontage and a 40-foot half right-of-way along the West 52nd Street frontage. These dedications would also be consistent with the Marion County Thoroughfare Plan.

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

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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.

Floodway / Floodway Fringe (Falcon Creek)

- ◇ This site has a secondary zoning classification of a Floodway (FW) and Floodway Fringe (FF). The Floodway (FW) is the channel of a river or stream and those portions of the floodplains adjoin the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream. The Floodway Fringe (FF) is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The purpose of the floodway district is to guide development in areas identified as a floodway. The Indiana Department of Natural Resources (IDNR) exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (D-6 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

Stream Protection Corridor

- ◇ A stream protection corridor consists of a strip of land, extending along both sides of all streams, with measurements taken from the top of the bank on either side. The width of the corridor is based upon whether the stream is designated as a Category One or Category Two. Category One streams have a corridor width of 60 feet in the compact context area and 100 feet in the metro context area. Category Two streams have a corridor width of 25 feet in the compact context area and 50 feet in the metro context area.
- ◇ The vegetative target for the Stream Protection Corridor is a variety of mature, native riparian tree and shrub species that can provide shade, leaf litter, woody debris, and erosion protection to the stream, along with appropriate plantings necessary for effective stream bank stabilization.
- ◇ The Stream Protection Corridor is defined as:

“A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir, and where alteration is strictly limited. Functionally, stream protection corridors provide erosion control, improve water quality (lower sedimentation and contaminant removal) offer flood water storage, provide habitat, and improve aesthetic value.”

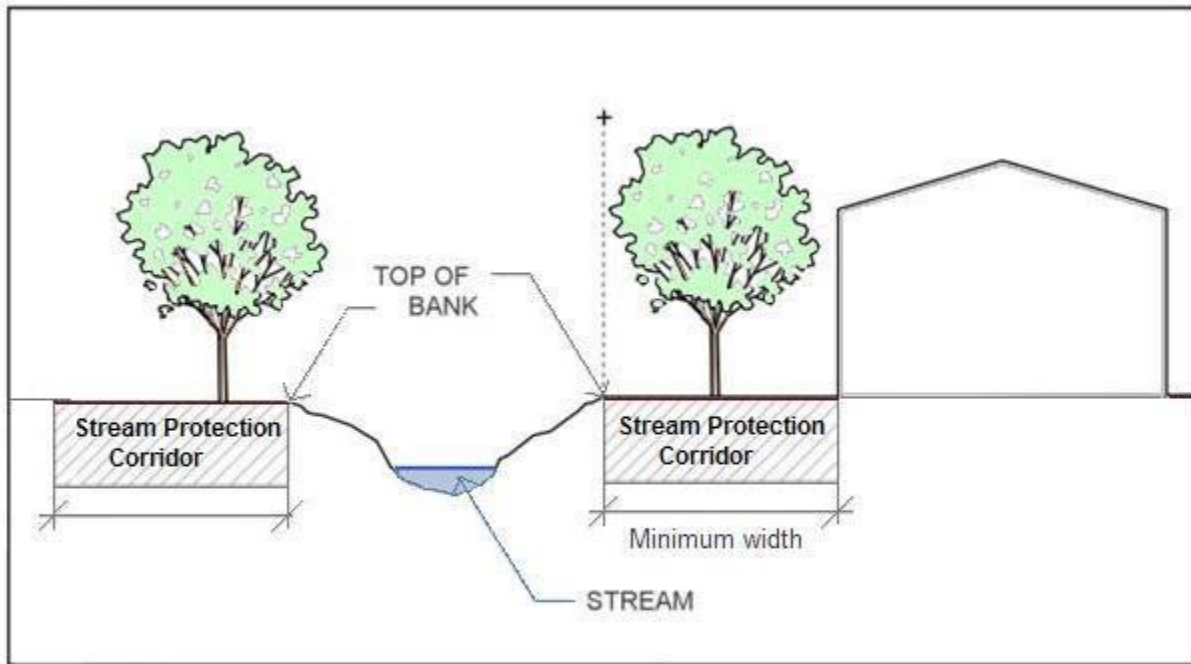
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- ◇ Stream is defined as “a surface watercourse with a well-defined bed and bank, either natural or artificial that confines and conducts continuous or periodic flowing water.”
- ◇ Stream Bank is defined as “the sloping land that contains the stream channel and the normal flows of the stream.”
- ◇ Stream Channel is defined as “part of a watercourse that contains an intermittent or perennial base flow of groundwater origin.”
- ◇ There are two types of categories of Streams: Category One Streams and Category Two Streams. Category One Stream is defined as: “A perennial stream that flows in a well-defined channel throughout most of the year under normal climatic conditions. Some may dry up during drought periods or due to excessive upstream uses. Aquatic organism such as some fish are normally present and easily found in these streams. The Category One Streams are listed in Table 744-205-2: Category One Streams.”
- ◇ A Category Two Stream is defined as: “An intermittent stream that flows in a well-defined channel during wet seasons of the year but not necessarily for the entire year. These streams generally exhibit signs of water velocity sufficient to move soil, material, litter, and fine debris. Aquatic organisms, such as fish, are often difficult to find or not present at all in these streams. These streams are identified on the United States Geological Survey (USGS) topographic maps and on the Department of Natural Resources Conservation Service (NRCS) soils maps.”
- ◇ There are 34 Category One streams listed in the Ordinance. The stream protection corridor is a strip of land on both sides of the stream whose width varies according to whether it is within the Compact or Metro Context Area and whether it is a Category One or Category Two Stream.
- ◇ Falcon Creek lies within the Metro Context Area and is located along the northern portion of the site. It is designated as a Category Two stream requiring a 50-foot-wide stream protection corridor on both sides of the stream, as measured parallel from the top of the bank. Top of the bank is not defined by the Ordinance, other than by Diagram UU, Stream Protection Corridor Cross-section, as shown below.

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Stream Protection Corridor

Planning Analysis

- ◇ The request would not be consistent with the Comprehensive Plan recommendation of rural or estate neighborhood typology. However, staff understands that the existing dwelling would remain and would be converted into a three-family residential structure (triplex). Because the footprint of the dwelling would not change, the impact on the surrounding residential development would be minimal.
- ◇ This rezoning would result in density of 1.74 units per acre. The abutting development to the south, comprised of one duplex, 12 triplexes and three fourplexes, has a density of 4.5 units per acre. In other words, the resulting increased density of this request would be compatible with residential development in the area.
- ◇ The site is also developed with an approximately 26-foot by 42-foot accessory building. This structure should remain an accessory structure and should not be converted to a dwelling or living quarters.
- ◇ Access to the site is gained from a drive along North High School Road and a drive along West 52nd Street. During the site visit, staff observed that the access on West 52nd Street includes a bridge over Falcon Creek. This bridge is in a state of disrepair, which should be repaired or removed. If removed, the driveway should be closed to mitigate safety concerns.

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GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-A (FW) Single-family dwelling
(FF)

SURROUNDING ZONING AND LAND USE

North - D-P (FW) Single-family dwelling
(FF)

South - D-6 (FW) Multi-family dwellings
(FF)

East - D-A (FW) Single-family dwelling
(FF)

West - D-8 (FW) Single-family dwellings
(FF)

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends rural or estate neighborhood typology.

Marion County Land Use Pattern Book (2019).

THOROUGHFARE PLAN

This portion of North High School Road is designated in the Marion County Thoroughfare Plan as a primary collector, with an existing variable 40-foot and 70-foot right-of-way and a proposed 80-foot right-of-way.

This portion of West 52nd Street is designated in the Marion County Thoroughfare Plan as a primary collector, with an existing variable 48-foot right-of-way and a proposed 80-foot right-of-way.

CONTEXT AREA

This site is located within the metro context area.

OVERLAY

This site is located within the Environmental Sensitive Area

ZONING HISTORY

2005-UV1-007; 5181 North High School Road, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a transitional residential facility for young males, ages 18-24, within an existing 1,950-square foot building, **granted**.

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VICINITY

96-257 / 96-DP-26; 5801 West 52nd Street (east of site), requested rezoning of 34.5 acres, being in the D-A (FF)(FW) Districts, to the D-P (FF)(FW) classification to provide for single-family residential development at a density of 2.9 units per acers, **approved**.

96-CP-23Z / 96-DP-7; 5950 West 52nd Street (east of site), requested rezoning of 40 acres, being in the D-A and SU-43 Districts, to the DP classification to provide for single-family residential development at a density of 3.97 units per acre, **approved**.

92-Z-149; 5412 North High School Road (north of site), requested rezoning of 0.5739 acre, being in the D-6II District to the SU-2 classification to provide for a school, **approved**.

90-Z-19; 5401 North High School Road (north of site), requested rezoning of 17.6 acres, being in the A-2 District, to the SU-2 classification to provide for a school, **approved**.

88-Z-84 / 88-CV-11; 4701 North High School Road (south of site), requested rezoning of 57.69 acres, being in the A-2 District, to the D-5 classification to provide for single-family residential development and a variance of development standards of the Dwelling Districts Zoning Districts to provide for a zero-foot lot line on one side of the residence with 10-foot side clearance on the other side, **approved and granted**.

86-Z-209; 5590 North High School Road (north of site), requested rezoning of 51.05 acres, being in the D-P District, to the D-6II classification to provide for condominiums, **approved**.

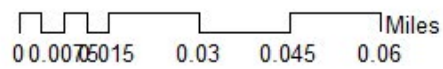
81-Z-73; 5011 North High School Road (south of site), requested rezoning of 11.0 acres from the A-2 District to the D-6 classification to provide for a maximum of 16 four-unit condominium development, **approved**.

76-Z-59; 5200 North High School Road (north of site), requested rezoning of 18.38 acres, being in the D-P, SU-43 and A-2 Districts, to the SU-18 classification to provide for an electrical substation, **approved**.

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5181 North High School Road





View looking north along North High School Road



View looking south along North High School Road



View looking east along West 52nd Street



View looking west along West 52nd Street



View of site looking south across West 52nd Street



View of site looking south across West 52nd Street



View of site looking south across West 52nd Street



View from site looking north at intersection of North High School Road and West 52nd Street



View of site looking east



View from site looking southeast