

**BOARD OF ZONING APPEALS DIVISION III**

**December 16, 2025**

**Case Number:** 2025-DV3-029

**Property Address:** 8600 Madison Avenue (approximate address)

**Location:** Perry Township, Council District #23

**Petitioner:** Francis Michael Laux, by Justin and David Kingen

**Current Zoning:** C-3 / C-1 (TOD)

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a building encroaching 35 feet within a Category Two Stream Protection Corridor and a parking area within an easement (encroachment of stream protection corridors and easements not permitted).

**Current Land Use:** Vacant

**Staff Recommendations:** Staff **recommends approval** of this petition

**Staff Reviewer:** Noah Stern, Senior Planner

**PETITION HISTORY**

- This petition was continued to the October 21, 2025 BZA Division III hearing.
- The petition was continued to the November 25, 2025 Division III hearing.
- The petition was continued to the December 16, 2025 Division III hearing.

**STAFF RECOMMENDATION**

- Staff **recommends approval** of this petition

**PETITION OVERVIEW**

- The revised site plan indicates that the proposed building would be encroaching into a Category Two Stream Protection Corridor by approximately 10 feet, as opposed to the originally requested 35-foot encroachment. Therefore, the request is now for a 10-foot encroachment into a Category Two Stream Protection Corridor and a parking area within an easement (encroachment of stream protection corridors and easements not permitted).
- The subject site is primarily zoned C-3, with a small sliver zoned C-1 at the north end of the site. The site is located directly north of Fountain Creek, which is a Category Two Stream, per the Ordinance, and is also located within a large utility easement that runs in a southwest direction from Madison Avenue through the property (shown in site plan below).

- With this site containing both a large utility easement, and a 50-foot stream protection corridor, the portion of the site that is buildable without variances is significantly reduced. Staff generally is not in support of any development within platted easements, since the parties that have rights to that easement are able to alter / remove said development if desired. The proposed site plan indicates that none of the building and only the parking area would be located within the easement. Staff believes that if any development is to be within the easement, non-vertical developments such as parking areas are far less inhibiting and obstructing than vertical structures. Staff would also note that the petitioner has provided an indication from the relevant utility company that the company does not have an issue with the proposed parking area being located within the easement. This has eased Staff's concerns and Staff finds that this will decrease the chances of future conflict between the relevant parties. Further, Staff would note that there are similar parking areas and a game court located within this easement nearby to the subject site and, therefore, Staff does not find this development to be out of context nor without precedent. Therefore, Staff is not opposed to the parking area being located within this easement.
- Staff had concerns about the originally proposed 35-foot encroachment into the Stream Protection Corridor. The petitioner has revised the proposal to be much closer to compliance with the 50-foot buffer than initially proposed. Staff finds the revised 40-foot distance from the top of bank to the proposed building to be far more reasonable and that this revision would have far less impact on the stream than the original plans. Likewise, Staff's concerns have been further eased by the submitted landscape plan that would provide additional buffer and support for the stream. Additionally, Staff does find there to be a degree of practical difficulty for being able to meet the 50-foot standard given the presence of the utility easement on the other side of the property. Therefore, Staff is not opposed to the 10-foot encroachment into the Stream Protection Corridor.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-3 / C-1 (TOD)	
<b>Existing Land Use</b>	Vacant	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b><u>Zoning</u></b>	<b>Surrounding Context</b>
North:	C-1	North: Commercial
South:	C-3	South: Commercial
East:	C-3	East: Multi-family residential
West:	C-7	West: Multi-family residential
<b>Thoroughfare Plan</b>		
Madison Avenue	Secondary Arterial	85 feet of right-of-way existing and 112 feet proposed
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	Yes, Transit-Oriented Development Overlay	
<b>Wellfield Protection Area</b>	No	

Site Plan	8/12/25
Site Plan (Amended)	11/26/26
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	11/26/25
Findings of Fact	N/A
Findings of Fact (Amended)	8/12/25

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Community Commercial typology for this site.

### Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site is located within the Red Line TOD overlay, however the Red Line ultimately did not end up servicing this portion of Madison Avenue and therefore the Madison Avenue and County Line Road Station mentioned in the 2020 Red Line Strategic Plan that was to be located less the ¼ mile from the subject site was not built.

### 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



Department of Metropolitan Development  
Division of Planning  
Current Planning

**ZONING HISTORY – SITE**

**2024DV3030**, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a commercial building with a 15 percent front building line width (40 percent required), **approved**.

**98-Z-40, 8602 Madison Avenue**; rezone from C-1 to C-3, **approved**.

**ZONING HISTORY – VICINITY**

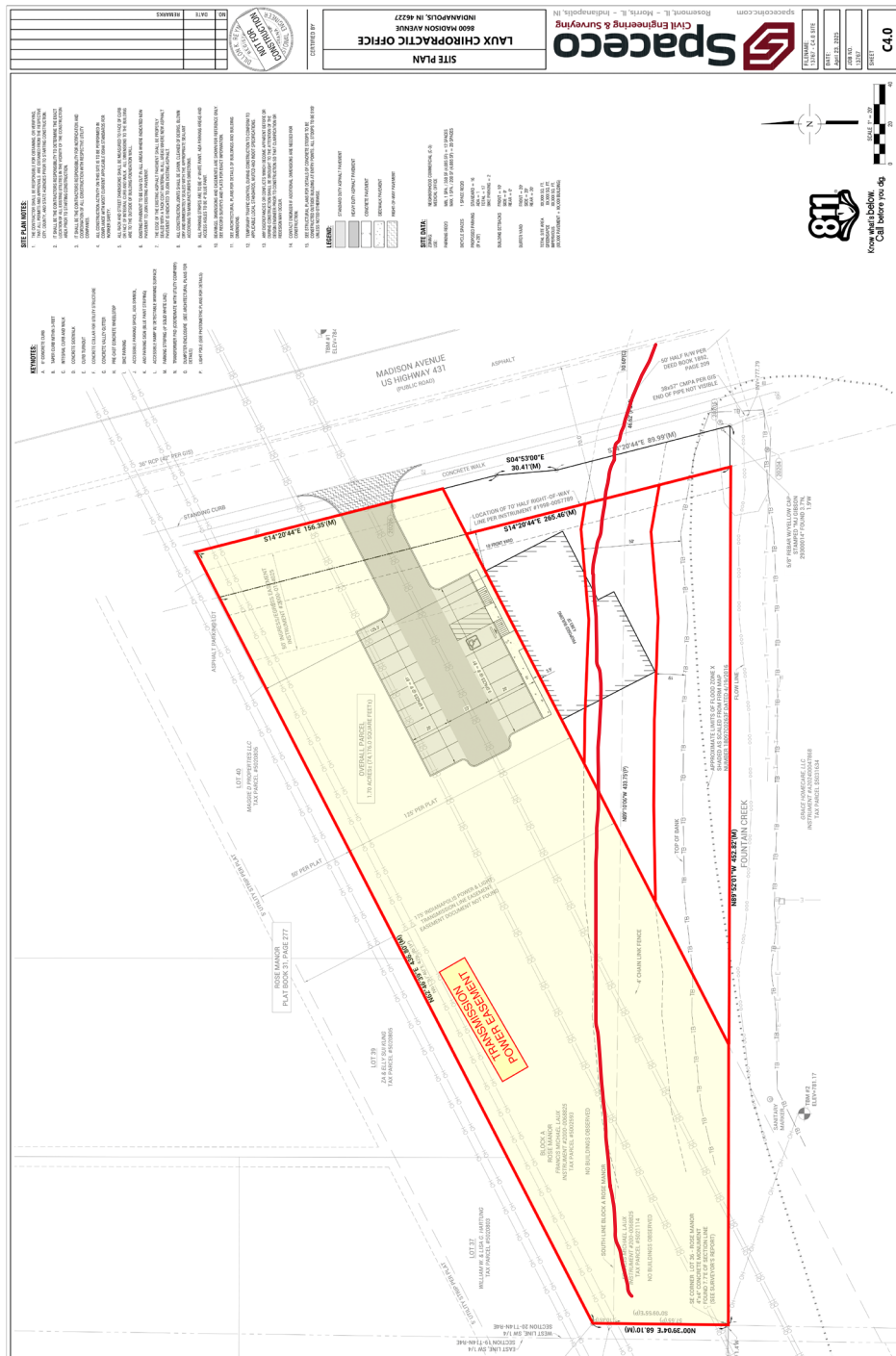
**2000UV1014; 8610 Madison Avenue (north of site)**, variance of use to provide for a hair and beauty salon in an existing single-family dwelling (not permitted), **approved, subject to conditions**.

**99-Z-30; 8610 Madison Avenue (north of site)**, rezone from D-3 to C-1, **approved**.

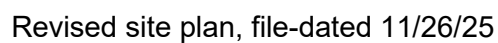
EXHIBITS



Aerial Photo

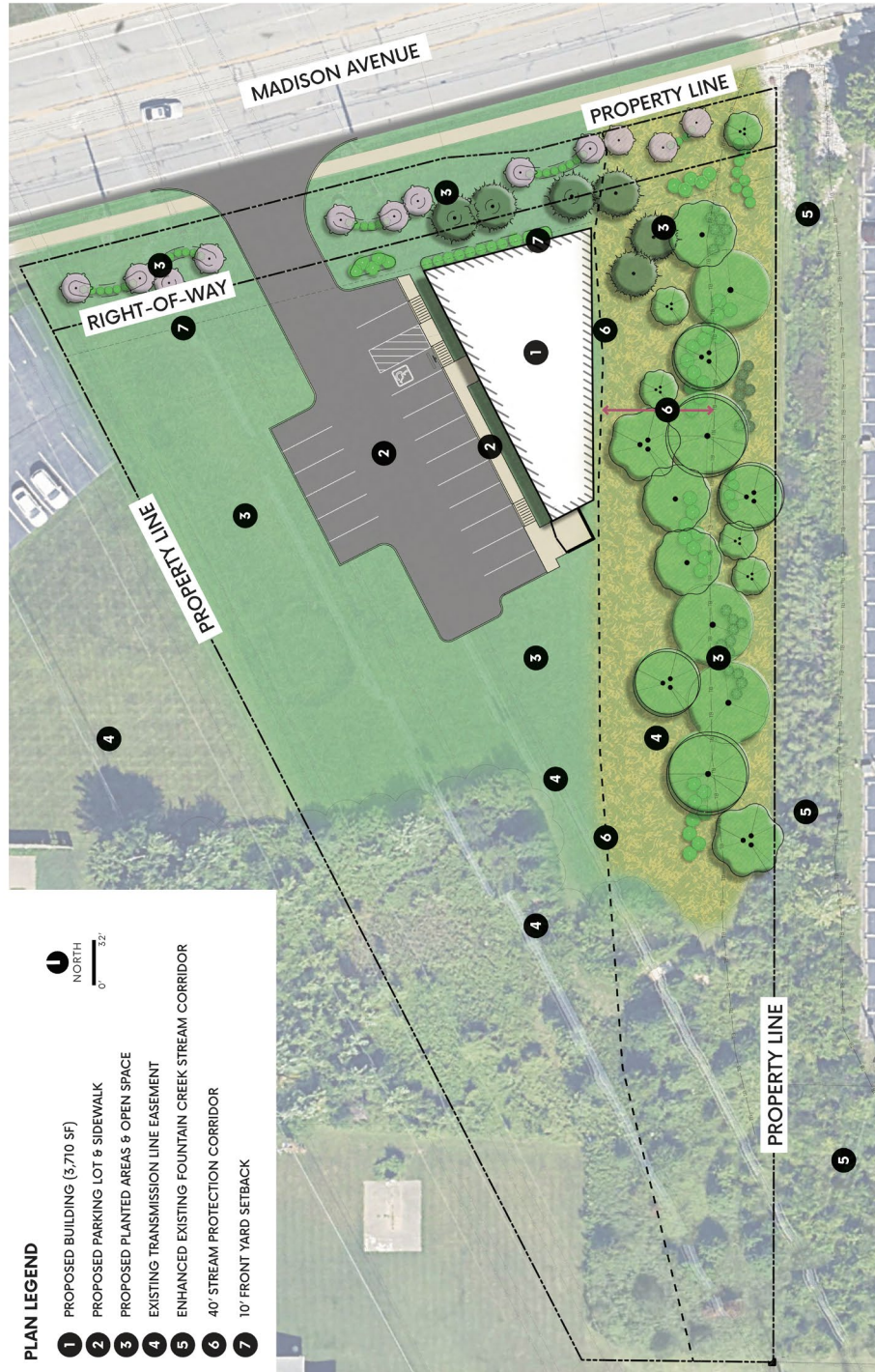


Site plan with the Stream Protection Corridor indicated in red, file-dated 8/12/25





Revised site plan with the Stream Protection Corridor indicated in green and the easement in orange, file-dated 11/26/25





Landscape plan, file-date 11/26/25



Subject site in the background looking south



Looking north up Madison Ave with the Fountain Creek in the foreground



Looking west viewing the utility power lines



Looking north with Fountain Creek in the foreground



Looking west at the adjacent property south of the subject site