



**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

**May 29, 2025**

**Case Number:** 2025-CZN-820 / 2025-CVR-820

**Property Address:** 4221 North Emerson Avenue (Approximate Address)

**Location:** Lawrence Township, Council District #9

**Petitioner:** Spivey Properties, LLC, by David Gilman

**Current Zoning:** D-2

**Request:** Rezoning of 0.789-acre from the D-2 and C-3 districts to the C-3 district to provide for neighborhood commercial uses.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a zero-foot setback for a surface parking lot along Emerson Avenue, without on-site landscaping (minimum ten-foot setback required), (a minimum of ten feet of landscaping required, with three shrubs per 25 feet of street frontage required and one tree per 35 feet of street frontage required), without interior landscaping for the parking lot (minimum landscaping consisting of 6% of all uncovered vehicle area required).

**Current Land Use:** Commercial

**Staff Recommendations:** Approval with a commitment.

**Staff Reviewer:** Marleny Iraheta, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff **recommends approval** of the rezoning 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 56-foot half right-of-way shall be dedicated along the frontage of Emerson Avenue, 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).

## **PETITION OVERVIEW**

### **LAND USE**

The 0.789-acre subject site is developed with a commercial shopping strip and associated parking lot. It is surrounded by single-family dwellings north and east, zoned D-2, a gas station and convenience store to the south, zoned C-3, and a school to the west, zoned SU-2.

### **REZONING**

The request would rezone the site from the D-2 district to the C-3 district to allow for commercial uses.

The D-2 district is intended for use in suburban areas. Ample yards, trees and passive open spaces easily serving each individual lot are envisioned for this district. The D-2 district has a typical density of 1.9 units per gross acre. Two-family dwellings are permitted on corner lots in this district. This district fulfills the lowest density recommendation of the Comprehensive General Land Use Plan. Public water and sewer facilities must be present. Development plans, which may include the use of clustering, 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 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 insignificant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters.

### **VARIANCE OF DEVELOPMENT STANDARDS**

The grant of the variance request would allow for existing site conditions to be legally established in the proposed C-3 zoning district to include a zero-foot setback for a surface parking lot along Emerson Avenue without on-site landscaping. The Ordinance requires a ten-foot front setback with landscaping that includes three shrubs per 25 feet of street frontage and one tree per 35 feet of street frontage. The request would also allow for no interior landscaping for the parking lot where it would have required minimum landscaping consisting of 6% of all uncovered vehicle area.

### **DEPARTMENT OF PUBLIC WORKS**

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 56-foot half right-of-way along Emerson Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

## STAFF ANALYSIS

According to aerial images, the site has been developed with the commercial shopping strip since 1972.

Staff is supportive of the rezoning request that would align the use of the site with the correct zoning district. The C-3 zoning and existing uses on site would align with the community commercial development recommendation of the Comprehensive Plan.

The variance requests are due to existing conditions on site which staff determined could remain since there are no proposed changes to the site layout.

Staff would note that there is an existing dumpster on site that is unenclosed and located on the west side of the primary building and within the front yard. The dumpster should be relocated outside of the front yard and should be enclosed on all sides. If this is not corrected, then this would be a zoning violation.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-2	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	D-2	Residential (Single-family dwelling)
South:	C-3	Commercial
East:	D-2	Residential (Single-family dwelling)
West:	SU-2	School
<b>Thoroughfare Plan</b>		
Emerson Avenue	Primary Arterial Street	112-foot proposed right-of-way and 105-foot exiting right-of-way.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	April 28, 2025	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	April 14, 2025	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Indy Moves Transportation Integration Plan (2018)

### Pattern Book / Land Use Plan

- The Comprehensive Plan recommends community commercial development of the site.
- 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.
- **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.
- **Small-Scale Offices, Retailing, and Personal or Professional Services**
  - Outdoor display of merchandise should be limited.
  - If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
  - Should be located along an arterial or collector street.
  - 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.
- The request would align with the community commercial recommendation of the Comprehensive Plan.

### 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 site falls within the Indy Moves Transportation Integration Plan (2018).
- An off-street multi-use path is located along Emerson Avenue from 30<sup>th</sup> Street to 46<sup>th</sup> Street. Complete streets upgrades are proposed.

## ZONING HISTORY

### Zoning History – Site

**64-Z-46; Southeast corner of North Emerson Avenue and Davon Drive** (subject site), Rezoning of 0.78 acre, being in R-3 district, to B-2 classification to provide for the construction and operation of an office building and personal service shops, **denied**.

### Zoning History – Vicinity

**2003-ZON-050; 5050 East 42<sup>nd</sup> Street** (west of site), Rezone 10.49 acres from D-2 to SU-2 to provide for educational uses, **granted**.

**88-V3-132; 4201 North Emerson Avenue** (south of site), Variance of development standards of the Sign Regulations to provide for two canopy signs with a setback of fifty-six feet (seventy feet required), **granted**.

**79-Z-151; Various Addresses** (south of site), Rezoning of variance parcels to a variety of zoning districts to rezone parcels of land by map designation, to indicate the particular use classification of certain parcels zoned in the Special use classification and to correct mapping errors on parcels of land by map designation, **approved**.

**79-V3-114; 4201 North Emerson Avenue** (south of site), Variance of development standards to provide for a canopy for a convenience store and gasoline filling station, **granted**.

**61-Z-136; 300 West Gimber Street** (west of site), Rezoning of 1.004 acres, being in U2-H1-A4 district, to U4-H1-A4 classification to permit light industry, **approved**.





1972 Aerial Photo





# SITE PLAN

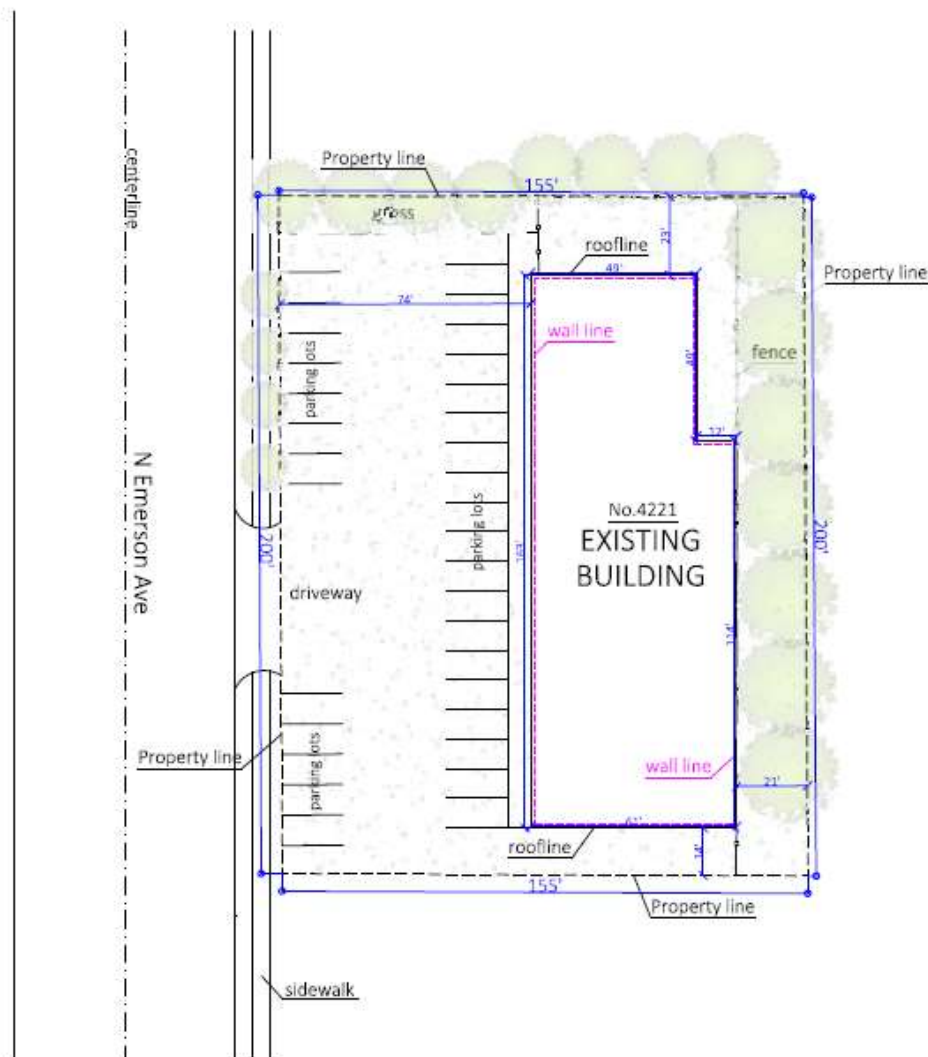
4221 N Emerson Ave

Indianapolis, IN 46226

Parcel ID:49-07-15-107-001.000-400

Lot area: 0.79 Acres

Paper Size: 11"x17"



## Disclaimer

This is not a legal survey, nor is it intended to be a replacement for a legal survey.  
 These measurements are approximate and are for illustrative purposes only.  
 This work product represents only professional knowledge of the facts, subjects or knowledge and should not be relied upon or being legally authoritative for the precise location of any structure, object or boundary.

Petition Number \_\_\_\_\_

METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division \_\_\_\_\_  
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The site has landscape shrubs and greenspace to buffer the street frontage between the sidewalk and the parking lot.

The site was developed without the street frontage and interior landscape areas since 1971.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The site has landscape shrubs and trees to buffer the residential uses to the north and along the street frontage.

The site was developed without the street frontage and interior landscape areas since 1971.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The parking area was established in 1971 to support the multiple tenants in the commercial center. The parking is needed for the success of the businesses and there are adequate landscape plantings to buffer the street and the parking lot.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_



Photo of the subject site.



Photo of the street frontage of the site looking north.





Photo of the outdoor play area for the day care center.



Photo of the day care center tenant.





Photo of the middle tenants of the commercial strip center.



Photo of the rear tenant at the far south of the site.



Photo of the southern building façade and southern property boundary.



Photo of a dumpster on site that needs to be enclosed and relocated from the front yard.





Photo of the gas station and convenience store south of the site.



Photo of a single-family dwelling east of the site.



Photo of a single-family dwelling north of the site.



Photo of the school west of the site behind the tree line.