

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CZN-803 / 2023-CVR-803 (Amended)
Address: 3601 North Kitley Avenue and 6535 Massachusetts Avenue
(Approximate Addresses)
Location: Warren Township, Council Districts #13
Petitioner: Diego Diaz Huijon, by Joseph D. Calderon
Request: Rezoning of 7.9 acres from the D-3 district to the C-S district to legally establish a commercial building contractor with outside storage, accessory uses related to the building contractor and two single-family dwellings with residential accessory uses.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a front building setback of 338 feet from Massachusetts Avenue (65-foot maximum permitted) and outside storage with a zero-foot setback from the east and west property lines (10-foot transitional yard/side yard required).

ADDENDUM FOR DECEMBER 14, 2023, HEARING EXAMINER

This companion petition was continued from the November 16, 2023, hearing to the December 14, 2023, hearing, due to inadequate legal notice. As of this writing, no new information has been submitted to the file.

NOVEMBER 16, 2023, HEARING EXAMINER

RECOMMENDATION

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 tree preservation plan shall be submitted for Administrator's Approval, prior to the issuance of any Improvement Location Permit for this site. The plan shall include an inventory of existing trees and show how they relate to any proposed development. Any new development on the site shall preserve trees to the extent possible.

(Continued)

STAFF REPORT 2023-CZN-803 / 2023-CVR-803 (Continued)

2. A site and development plan shall be required to obtain Administrator's Approval for use of 6535 Massachusetts Avenue, prior to the issuance of any Improvement Location Permit.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ The site is four abutting parcels. The north parcel is undeveloped. The middle and south parcels are developed with two single-family dwellings, other structures, and a large storage yard for a contracting business. The dwellings date to the 1940s or early 1950s. The storage yard was established in 2017 in apparent violation of the Ordinance. The west parcel, which is the largest parcel at 4.9 acres, is used as a parking area. The requested uses, two, single-family dwellings and a fence contractor, are currently located only on the middle and south parcels.
- ◇ The Comprehensive Land Use Plan for Warren Township recommends the site for Suburban Neighborhood, which primarily provides for single-family residential development.
- ◇ This portion of Kitley Avenue is not a public right-of-way. It is unpaved and serves the subject site and five other parcels.

ZONING

- ◇ The site is currently zoned D-3, which is a zoning district that primarily provides for single-family dwellings.
- ◇ The request is for rezoning to the C-S district to provide for I-1 uses, two single-family dwellings and a fence contractor, with use of the large property to the west that would be subject to the review of a site and development plan through Administrator's Approval. This district provides for flexibility in land uses while maintaining adequate development controls. Petitioners must submit a customized list of permitted uses but must also submit a site plan.
- ◇ The request would not comply with the Comprehensive Land Use Plan. However, surrounding zoning districts, and uses include a wide mix of intensity, including single-family dwellings to outdoor storage of building materials. By requiring a review process for site and development plans, controls are placed on expansion of more intensive uses, therefore, staff recommends approval of this petition.

(Continued)

STAFF REPORT 2023-CZN-803 / 2023-CVR-803 (Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Variances of development standards are requested to provide for:
 - A front setback of the building of 338 feet from Massachusetts Avenue where a maximum of 65 feet is permitted
 - Outside storage with no setbacks from the east and west property lines where ten-foot
 - transitional yards/side yards are required.

- ◇ Among other reasons, front setbacks are limited in order to create a lively and inviting streetscape and pedestrian experience. Because the developed parcels (middle and south parcels) are located 150 feet from a public street, the buildings on the middle and south parcels have a physical difficulty in meeting the requirement of the Ordinance.

- ◇ Transitional yards are buffer areas between uses of different intensities. They are located on the more-intense land use.

- ◇ In the case of this petition, a commercial zoning district would be sandwiched between dwelling districts to the east and west. The site plan indicates that the storage area would extend up to the property line to the east and the access road will run along the property line to the west. The site to the east, zoned residentially, is used for a commercial purpose, although in apparent violation of the Ordinance. The parcels to the west are zoned SU-1 and D-3, and used as a religious use, a single-family dwelling, and a Union Hall. North of the site is zoned D-3 and used residentially and south of the site is zoned I-2 and used for light industrial uses.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-3	Compact	Single-family dwelling / fence contractor / parking area
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SURROUNDING ZONING AND LAND USE

North	D-3	Single-family dwelling / 4-bay garage / undeveloped land
South	I-2 / SU-1	Religious use / Light industrial
East	D-3	Paving and excavating contractor
West	D-3	Union Hall / Single-family dwelling / undeveloped land

COMPREHENSIVE LAND USE PLAN The Warren Township Comprehensive Land Use Plan (2018) recommends Suburban Neighborhood.

(Continued)

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THOROUGHFARE PLAN	This portion of Kitley Avenue is a private street. As such, it is not classified in the Official Thoroughfare Plan for Marion County, Indiana.
FLOODWAY / FLOODWAY FRINGE	This site is not located within a floodway or floodway fringe.
WELLFIELD PROTECTION DISTRICT	This site is not located within a wellfield protection district.
STREAM PROTECTION CORRIDOR	This site is not located within a stream protection corridor.
SITE PLANS	File-dated October 10, 2023
FINDINGS OF FACT	File-dated October 10, 2023

ZONING HISTORY – SITE

None

ZONING HISTORY - VICINITY

2022-CZN-857B; 3766 North Kitley Avenue and 6490, 6520 & 6522 Massachusetts Avenue (northwest of site), requested the rezoning of 8.3 acres from the I-2 (TOD) and D-3 (TOD) districts to the I-2 (TOD) district, **approved**.

2022-CZN-857A / 2022-CVR-857; 3766 North Kitley Avenue (northwest of site), requested the rezoning of 6.6 acres from the I-2 (TOD) district to the I-4 (TOD) district and a variance of use to provide for a cement batching plant within 500 feet of a protected district, **approved**.

2019-ZON-002; 3525 North Kitley Avenue (south of site), requested the rezoning of 4.9 acres from the D-3 district to the I-2 district, **approved**.

2018-UV1-041; 3525 North Kitley Avenue (south of site), requested a variance of use to provide for outdoor storage, outdoor storage of commercial vehicles and an accessory building larger and taller than the primary structure, **withdrawn**.

2018-UV1-038; 6629 Massachusetts Avenue (east of site), requested a variance of use to provide for outdoor storage and outdoor storage of commercial vehicles, **denied**.

(Continued)

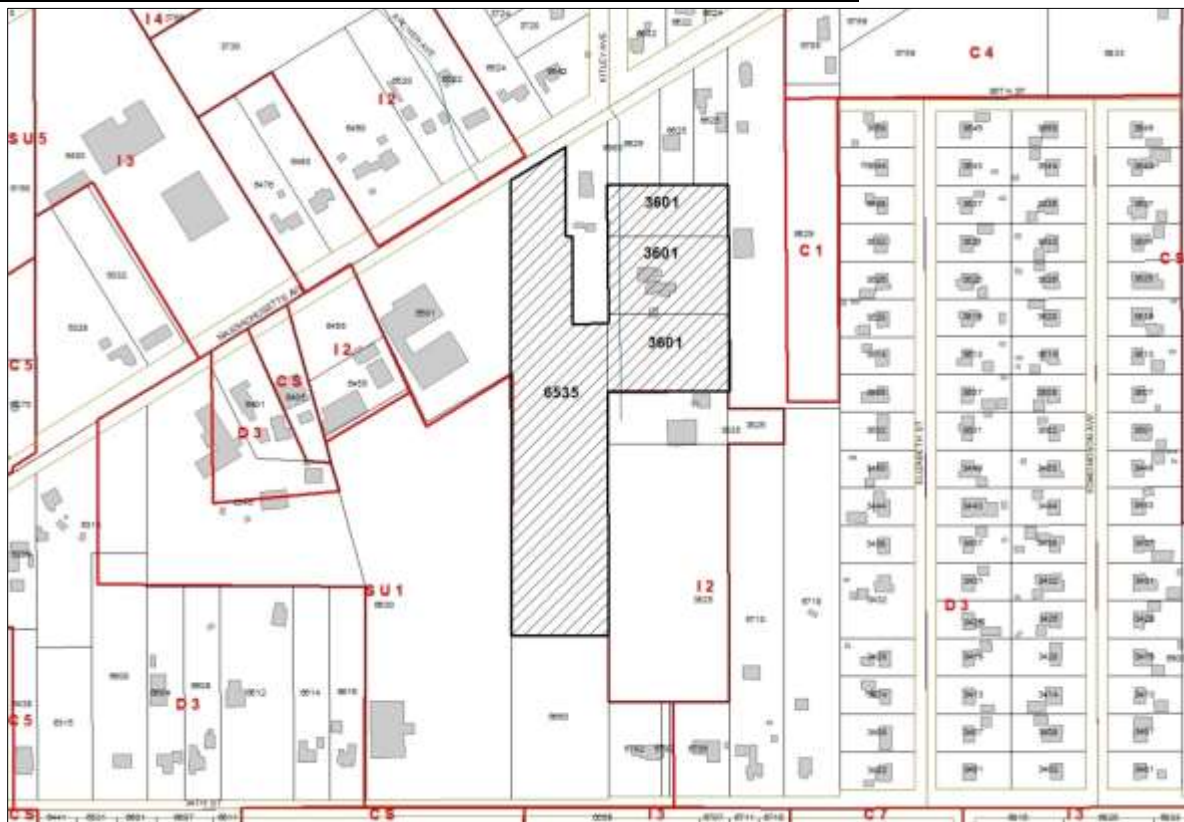
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93-UV2-109; 6629 Massachusetts Avenue (north of site), requested a variance of use to provide of a welding business in a dwelling district, **denied**.

83-V2-21; 6580 Massachusetts Avenue (northwest of site), requested a variance of development standards to provide for an accessory structure larger than the primary structure, **denied**.

klh / JY

STAFF REPORT 2023-CZN-803 / 2023-CVR-803, Location map



Aerial Photography (2022)



STAFF REPORT 2023-CZN-803 / 2023-CVR-803, Development Statement

C-S Development Statement

Introduction: Petitioner and Owner, Diego Diaz Huijon, seek to rezone approximately 3 acres of property commonly known as 3601 North Kitley Avenue and approximately 5.01 acres of property commonly known as 6535 Massachusetts Avenue (collectively, the "Subject Property"), as shown on the Concept Plan in order to legally establish the existing use of the Subject Property as both a residence and a contractor's operation, whereby Petitioner may continue operating his company, Timber Ridge Fence Company. For purposes of providing clarity to this rezoning proposal, the fence company operates solely on 3601 North Kitley Avenue, and 6535 Massachusetts Avenue is only used as an accessory parking area. Expansion of the contracting operation onto the 6535 Massachusetts Avenue property may only occur following submittal of a new site plan for Administrator's Approval as described below in "Phasing of Development".

Zoning: The Subject Property is currently zoned D-3, as more particularly set forth in the City of Indianapolis Consolidated Zoning and Subdivision Ordinance ("Zoning Ordinance").

Permitted Uses. Proposed Permitted Primary Uses of the Subject Property as described and defined in Chapter 743, Art II, Table 743-1 in the Zoning Ordinance shall be as follows:

- 1) Commercial/Building Contractor, including fence company
- 2) Two (2) single family residences

Permitted Accessory Uses of the Subject Property shall include all accessory uses permitted in the I-1 zoning district, for the existing Contractor's use of the Subject Property; and all accessory uses permitted in the D-3 zoning district, for the existing residential use of the Subject Property.

Development Standards: Petitioner hereby incorporates the Lot and Building Dimensions for properties in the C-S zoning district set forth in Chapter 744; Art. II, Section 01.C, Table 744-201-3 of the Zoning Ordinance. Petitioner is filing a variance of development standards seeking relief from the maximum setback requirements from Kitley Avenue as well as a variance from the limitations on the amount of outside storage.

Landscaping plans are not yet fully developed as the site has not been fully engineered or site planned; however, the landscaping plans for each building or project phase shall be consistent with the Concept Plan tendered for Administrative Approval prior to obtaining an Improvement Location Permit.

Signs: The following sign types shall be permitted on the Subject Property:

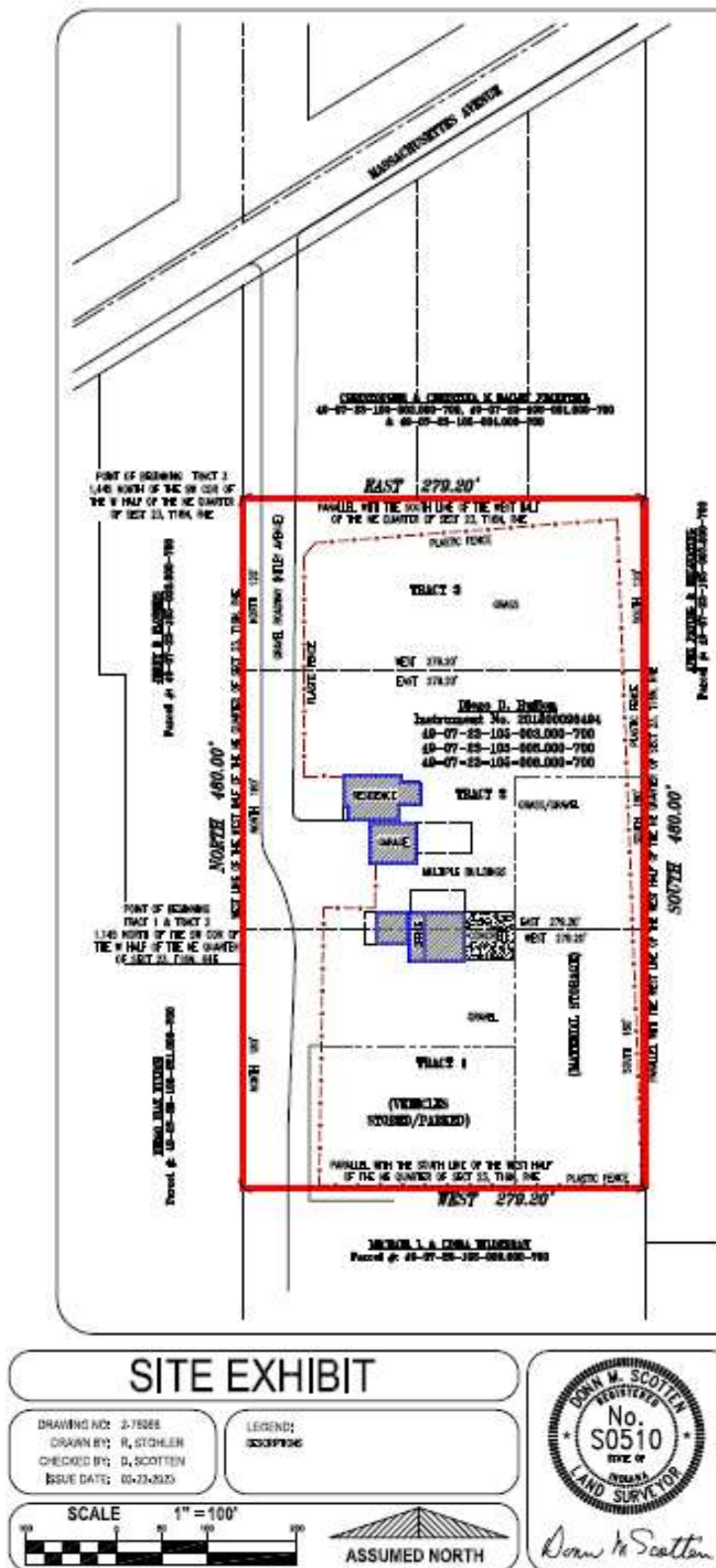
- 1) One (1) Ground Sign, not to exceed 32 square feet and non-illuminated at the entrance to the Subject Property
- 2) Incidental, Temporary, and Other Signs as would otherwise be permitted in a industrial zoning district

All signs shall meet the requirements for signs otherwise located in an Industrial zoning district.

Phasing of Development:

The Subject Property may be used as generally shown on the site plan submitted with the C-S Rezoning Petition and this C-S Development Statement (the "Existing Plan"); provided, however, prior to applying for an Improvement Location Permit required in conjunction with any new development or redevelopment of the Subject Property, a final site and development plan, consistent with the standards contained in this C-S Statement, shall be tendered for Administrator's Approval.

STAFF REPORT 2023-CZN-803 / 2023-CVR-803, Site Plan



STAFF REPORT 2023-CZN-803 / 2023-CVR-803, Findings of Fact

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 operation is a small scale family business located on property which is secluded and adjacent to other commercial/industrial uses, is self-contained, and is not a high traffic generator.

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:

there is industrial zoning use to the immediate south of the existing operation, another industrial use adjoining to the east, and significant separation of the proposed use from any residential use.

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

the C-S zoning district, as a planned district, also has certain strict development standards, which are inconsistent with the notion that a C-S designation may have industrial use including outside storage of materials. None of the parcels, which have been previously developed and used, have street frontage on Riley Avenue or are within 85 feet of Massachusetts Avenue.

DECISION

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

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____
_____	_____

STAFF REPORT 2023-CZN-802 / 2023-CVR-803, Photographs



Looking south across the subject site.



Looking northwest across the site. I-465 is in the background.



Looking northeast across the subject site.



Looking north across site and Minnesota Street to the neighbor to the north.



Looking northeast across the subject site.



Looking north across site and Minnesota Street to the neighbor to the north.



Looking northeast across the subject site.



Looking north across site and Minnesota Street to the neighbor to the north.