

BOARD OF ZONING APPEALS DIVISION III

March 18th, 2025

Case Number: 2025-DV3-004 (Amended)
Property Address: 5930 East 82nd Street (Approximate Address)
Location: Lawrence Township, Council District #4
Petitioner: GMX Real Estate Group LLC, by Joseph D. Calderon
Current Zoning: C-4
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with two stacking spaces within the front yard of East 82nd Street (not permitted), and 21 parking spaces (maximum nine (9) permitted).
Current Land Use: Commercial
Staff Recommendations: Staff recommends **denial** of this variance petition.
Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

This is the second public hearing for this variance petition.

The first public hearing for this variance petition was continued due to allow additional time for discussion of the petition with relevant neighborhood associations and make changes to the variance request.

STAFF RECOMMENDATION

Staff recommends denial of this variance petition.

PETITION OVERVIEW

- This variance petitioner is requesting two items: 1) a Development Standards Variance for two (2) staking spaces within the front yard of East 82nd Street, and 2) a Development Standards Variance to allow 21 parking spaces.
- This property is 1.046 acres in a C-4 zoning district.
- There are plans to construct a Dutch Bros coffee shop with two (2) drive thru lanes on this property.
- This parcel was once conjoined with the parcel to the east (Krispy Kreme's current location), but in 2020, it was split into two (2) parcels through a plat petition case 2020-PLT-103.
- In 2021, the owners of the two (2) parcels established a private, reciprocal easement agreement, stating that the northern portion of the subject site's property would be non-curbed parking and

shared with the Krispy Kreme located to the east. This was not a commitment required or requested by the City.

- Stacking spaces permit customers to receive services or obtain goods in or on a motor vehicle. For a one-service unit eating establishment or food preparation location, such as Dutch Bro's, in a Metro context area, two (2) stacking spaces are required to be at the exit of the service unit.
- These stacking spaces are not permitted in the front yard along the right-of-way, which exceeds 30 feet in width. East 82nd Street is roughly 145 feet in width.
- The proposed development on the subject site has 21 parking spaces: two (2) stacking spaces in the south, nine (9) spaces beside the service unit (including two (2) ADA-compliant spaces), and ten (10) in the north area of the property.
- For a food preparation establishment, the maximum number of parking spaces is determined by calculating one (1) space per 100 sqft of the total floor area. The proposed Dutch Bro's building is planned to be 950 sqft in size, meaning that with the current Ordinance standards, the property can have a maximum of nine (9) off-street parking spaces.
- We are aware that ten of these spaces are to be shared with the adjacent property, two (2) are for the stacking spaces, and two (2) for ADA compliance. However, this still leaves seven spaces that are not permitted nor required to have on the property. These spaces are unnecessary because Dutch Bro's is primarily a drive-thru business, and the shared parking area to the north will provide parking locations for those who do take advantage of the outdoor seating area.
- An argument can be made that employees would be the primary purpose of these seven (7) spaces, but it must be kept in mind that this property shares a space with a mall with a large amount of parking and/or the ten that are planned to be shared with Krispy Kreme can be used since the business already has a large amount of parking on their property due to their larger size.
- Staff recommends **denial** of this variance petition. The 21 spaces are over the maximum number of spaces permitted by the Ordinance despite the agreement with Krispy Kreme, which may not always be a neighboring business to the proposed Dutch Bro's.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Vacant	
Comprehensive Plan	Regional Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-4	North: Regional Commercial
South:	C-3	South: Community Commercial
East:	C-4	East: Regional Commercial
West:	C-4	West: Regional Commercial
Thoroughfare Plan		
82 nd Street	Primary Arterial	145 feet of right-of-way existing and 134 feet proposed.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	

Wellfield Protection Area	Yes
Site Plan	1/23/2025
Site Plan (Amended)	N/A
Elevations	1/23/2025
Elevations (Amended)	N/A
Landscape Plan	3/4/2025
Findings of Fact	1/23/2025
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Regional Commercial typology provides for general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers (pg 20).

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)

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

- 2020-PLT-103: 6022 East 82nd Street
 - Approval of a Subdivision Plat to be known as 6022 East 82nd Street Subdivision, dividing 1.759 acres into two lots.
 - Approved
- 2021-DV3-025: 6022 East 82nd Street
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall, 71-square foot monument sign within 289 feet of an existing sign to the west and 172 feet of an existing sign to the east, being the eighth sign along the 82nd Street frontage (300-foot separation required, maximum sign area of 300 square feet per site and maximum two freestanding signs permitted).
 - Approved

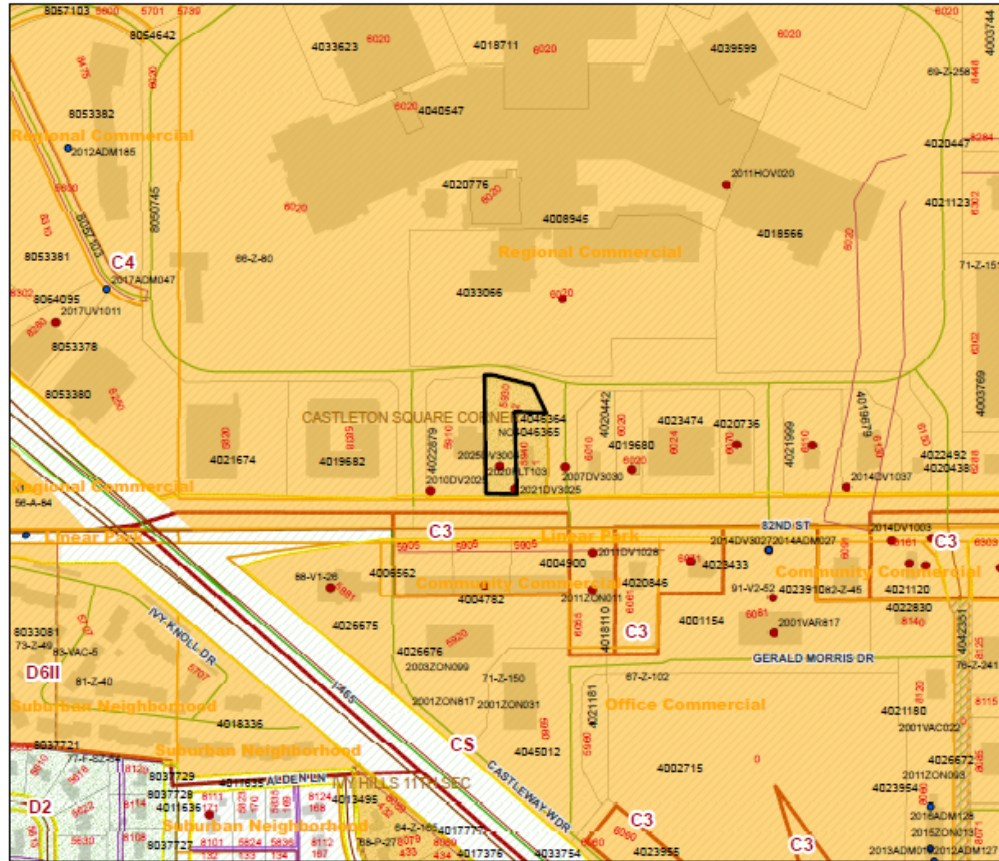
ZONING HISTORY – SURROUNDING AREA

- 2000-UV3-057: 6070 East 82nd Street
 - Auto glass replacement shop.
 - AP
- 2001-DV1-040: 6161 East 82nd Street
 - 58.5 sqft advertising sign.
 - D
- 2001-ZON-031: 6081 East 82nd Street
 - 122.13 acres from C-2, C-7 & I2S to CS office-commercial industrial business park with an emphasis on office, light warehousing and related commercial uses.
 - WD
- 2003-ZON-099: 5920 Castleway W Drive
 - To be used for adult/secondary educational purposes only.
 - AP
- 2005-DV2-053: 6110 East 82nd Street
 - Provide for a forty-foot tall, 153.75-square foot pole sign located 196.1 feet from an existing freestanding sign within an integrated center (minimum 300-foot separation required between freestanding signs in an integrated center) in C-4.
 - AP
- 2007-DV3-030: 6020 East 82nd Street
 - Variance of Development Standards of the Sign Regulations provide for the construction of a 56.75-foot tall, 635.82-square foot pole sign (maximum 40-foot height permitted), with a 368 square foot electronic variable message sign component or 57.8 percent of the total sign area (maximum 254-square feet or 40 percent of the total sign area permitted), being within fifteen feet of a signalized traffic intersection (minimum 125-foot separation required).
 - AP

- 2007-DV3-054: 6020 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 34-foot tall, 228.67-square foot pole sign with an approximately 740-foot front setback from East 82nd Street, resulting in a total sign area of 1,558.67 square feet within an integrated center (maximum 900-square feet permitted).
 - AP
- 2008-HOV-004: 6055 East 82nd Street
 - Outdoor seating variance.
 - WD
- 2010-DV2-025: 5910 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 22-foot tall, 148.5-square foot free-standing sign, with a 11.5-foot setback from 82nd Street (15-foot front setback required) and an 11.17-foot setback from Castleway Drive
 - Approved
- 2011-DV1-028: 6055 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a freestanding sign 133 feet from a freestanding sign (600 feet of separation required).
 - Approved
- 2011-ZON-011: 6055 East 82nd Street
 - Rezoning of 1.52 acres, from the C-3 District, to the C-4 classification to provide for commercial uses.
 - Approved
- 2011-ZON-093: 8060 Knue Road
 - Rezoning of 4.19 acres, from the C-S District, to the C-S classification, with a modification of Commitment Two of 2001-ZON-817 (Instrument # 2001-0152908) to provide for hospital uses, including acute care services.
 - Approved
- 2012-HOV-020: 595 East 82nd Street
 - Variance of Development Standards of the Commercial Zoning Ordinance to provide for a 486-square foot outdoor seating area (not permitted).
 - Approved
- 2014-DV1-003: 6161 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a six-foot tall (ground signs cannot exceed four feet in height, minimum clearance of nine feet required), off-site business park advertising sign located in the right-of-way of 86th Street (signs not permitted within the right-of-way, 10-foot setback from proposed right-of-way required), approximately 215 feet from an existing advertising sign to the west (1,000 feet radial separation required).
 - Approved
- 2014-DV1-037: 6130 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 40-foot tall, 150-square foot pylon sign within approximately 195 feet of an existing freestanding sign to the west (minimum 300 feet of separation required), with an 11.25-foot front setback (minimum 15-foot setback required).

- Approved
- 2014-DV2-046: 6161 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for a 25-foot tall, approximately 150-square foot freestanding sign, exceeding the maximum integrated center sign area, being the ninth sign along this approximately 2300-foot frontage, within 105 feet of an existing freestanding sign (maximum 900 square feet of sign area permitted, maximum seven signs permitted, minimum 300 feet of separation).
 - Approved
- 2014-DV3-027: 6081 East 82nd Street
 - Variance of Development Standards of the Sign Regulations to provide for two signs within two feet of each other (300 feet of separation required).
 - Approved
- 2022-DV3-048: 6303 East 82nd Street
 - (Amended) Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster within the front yard of Knue Road (not permitted).
 - Approved
- 2024-DV3-002: 6161 East 82nd Street
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).
 - Approved

EXHIBITS



00.0215045 0.09 0.135 0.18 Miles

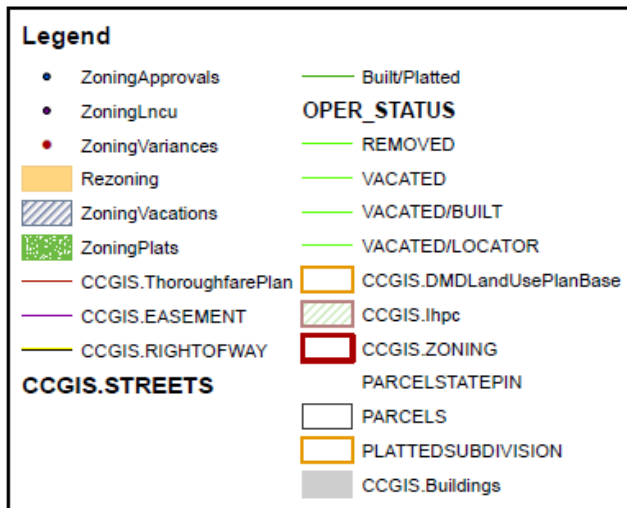


Exhibit 1: Area map of surrounding context around 5930 East 82nd Street.



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 two stacking spaces at the end of the pick up window would meet applicable front setbacks and will rarely be used, and the proposed sign meets the required front setback and will not be located in any clear sight triangle.

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:

neither the two stacking spaces in front of the building, nor the proposed sign will interfere with access or visibility to or from any adjacent property.

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

the shape of the property being narrow but deep, dictates the drive through stacking, resulting in the spaces located of the pick up window being located in the front yard. The monument sign proposed is one sign on an independently owned lot and has one user.

Exhibit 2: The submitted Findings of Fact.

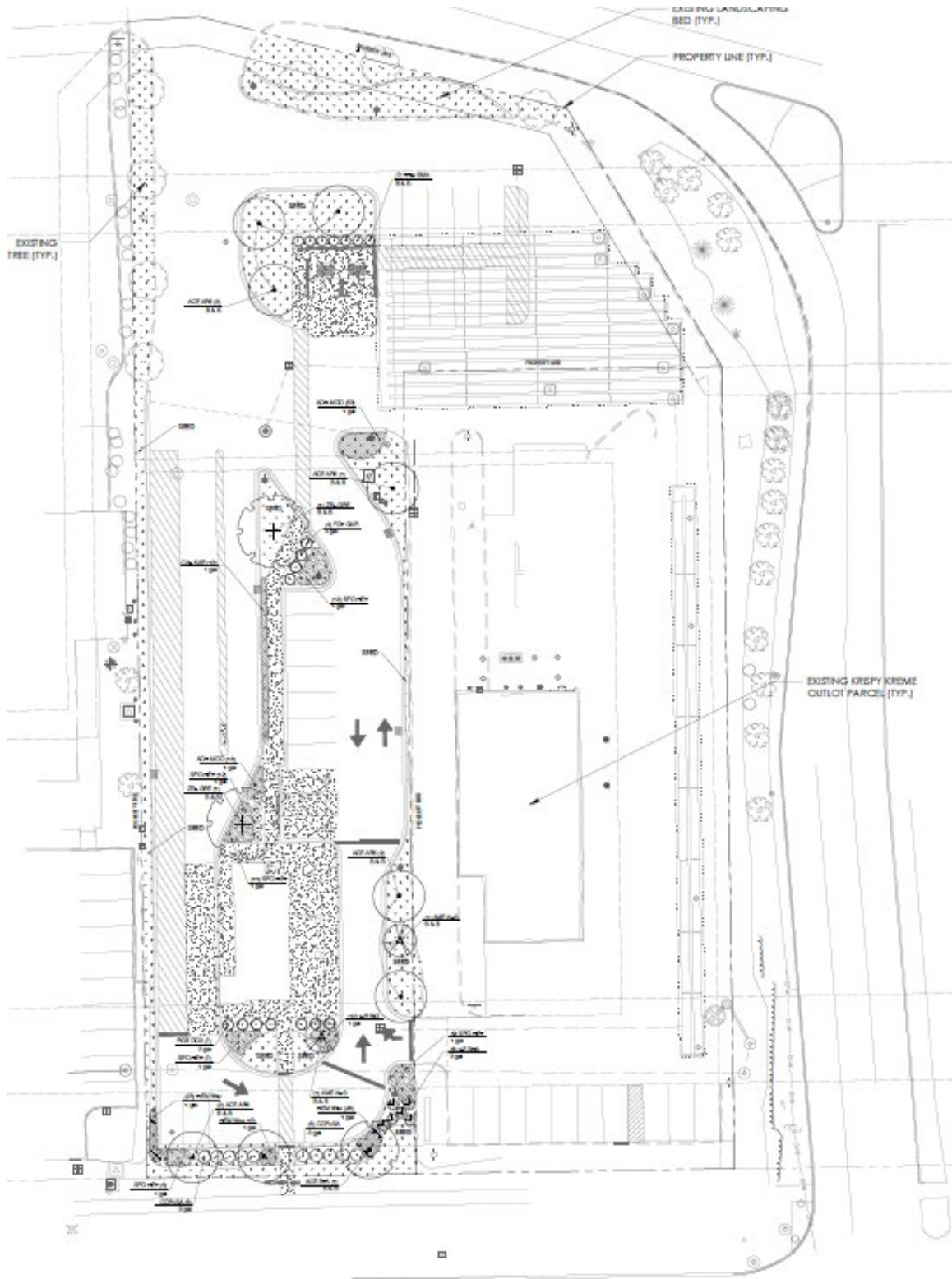
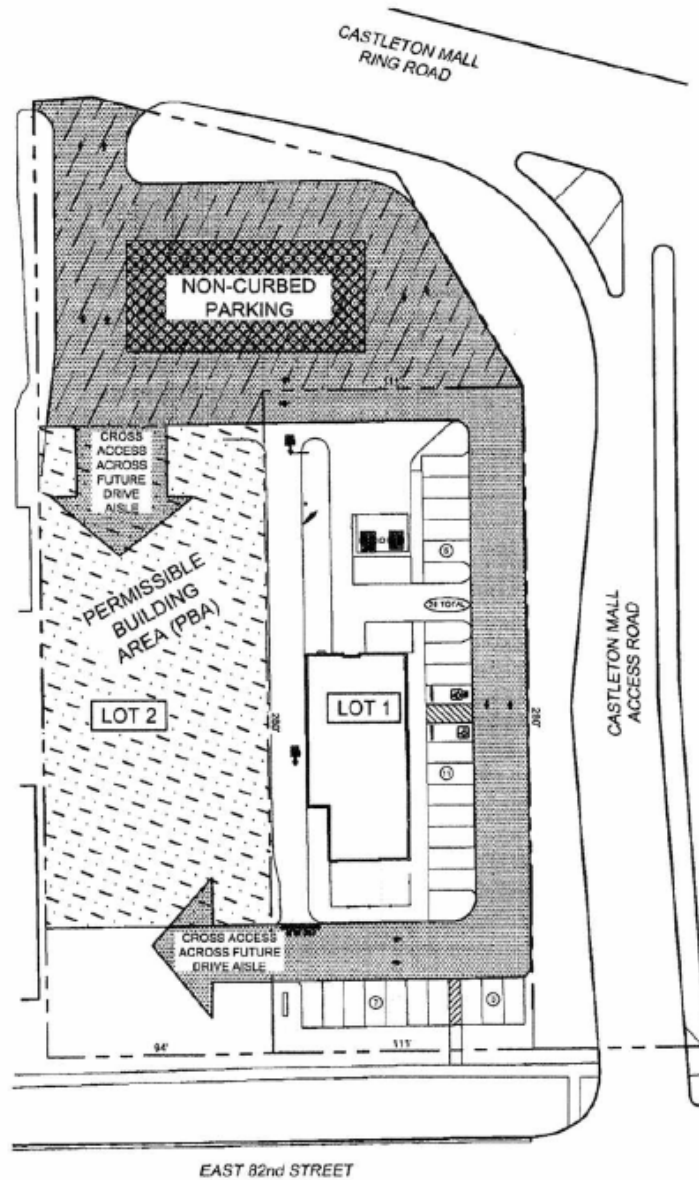


Exhibit 4: Proposed landscape plan.



-  CROSS ACCESS
-  PERMISSIBLE BUILDING AREA
-  PROTECTED TRUCK DELIVERY AREA
-  NON-CURBED PARKING, PER MUNICIPAL APPROVAL

Exhibit 5: Reciprocal Easement Agreement map between the subject property and the Krispy Kreme next door.



Exhibit 6: Proposed site for the Dutch Bros looking north.



Exhibit 7: Proposed site for the Dutch Bros looking south.



Exhibit 8: Longhorn Steakhouse to the west of the subject property (sign is 185 feet from the proposed Dutch Bro's sign location).



Exhibit 9: Krispy Kreme and Castleton square sign to the east of the subject property (Krispy Kreme sign is 104 feet from the proposed Dutch Bro's sign location).



Exhibit 10: The shared non-curbed parking area looking east.



Exhibit 11: The shared non-curbed parking area looking north.



Exhibit 12: Looking east down East 82nd Street.



Exhibit 13: Looking west down East 82nd Street.



Exhibit 14: Looking across East 82nd Street.



Exhibit 15: Castleton Square behind the subject site.



Exhibit 16: Aerial of the subject site and surrounding area.