



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

November 21, 2024

Case Number: 2024-ZON-106
Property Address: 511 and 600 South Tibbs Avenue
Location: Wayne Township, Council District #17
Petitioner: Insight Engineering, Inc., by Donald W. Fisher
Current Zoning: 1-2 (FF)
Request: Rezoning of 2.33 acres from the I-2 (FF) district to the C-7 (FF) district to provide for heavy truck services and parking.,
Current Land Use: Industrial Uses
Staff Recommendations: Denial.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued this petition from the September 26, 2024 hearing to the October 24, 2024 hearing, at the request the petitioner's representative.

The Hearing Examiner acknowledged a timely automatic continuance filed by a registered neighborhood organization that continued this petition from the October 24, 2024 hearing, to the November 21, 2024 hearing.

STAFF RECOMMENDATION

Denial. If approved staff would request that approval be 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. Final site plan and elevations shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).
2. A 44-foot half right-of-way shall be dedicated along the frontage of South Tibbs 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).

Additionally, staff is requesting the dedication of a 20-foot-wide right-of-way along the southern boundary of the site beginning at the South Tibbs Avenue right-of-way and continuing east for approximately 302 feet to provide for the future construction of the Eagle Creek Greenways Trail (See Exhibit A). 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.

3. 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 / receptables provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

This 2.33-acre site, zoned I-2 (FF), is comprised of two parcels developed with outdoor storage of trucks and trailers. It is surrounded by heavy commercial uses to the north, zoned C-7 (FF); a single-family dwelling to the south, zoned D-5; outdoor storage to the east, zoned I-3 (FF); and an outdoor movie theatre to the west, across South Tibbs Avenue, zoned D-A (FF).

Petition 94-Z-16 rezoned the site to the I-2-S district to provide for construction of a small office and facility for the storage of vehicles / equipment and minimal outside storage of equipment for an environmental contracting firm.

This site is the subject of a violation (VIO12-00084) issued on January 5, 2023, followed by many citations and subsequent legal action (LGL24-00246 and LGL24-00244) filed on May 1, 2024 for outdoor storage of junk, outdoor storage of vehicle parts, use of the property in violation of the Zoning Ordinance and failure to comply with development standards.

The request would rezone the site to the C-7 (High intensity commercial) district. "The C-7 District is designed to provide specific areas for commercial uses which have unusually incompatible features relative to other commercial uses, such as major outdoor storage or display of sizeable merchandise and the outdoor parking and storage of trucks, materials, or equipment essential to the operation of these uses. Many of these uses generally are not visited by customers, but rather involve service operations from headquarters with some on-site fabrication of parts. The nature of operation or appearance are more compatible with industrial than retail commercial activities. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares and near interstate freeways, but not in close association with those commercial activities involving shopping goods, professional services, restaurants, food merchandising, and the like. **Due to the intensity of uses, location of this district should never be adjacent to protected districts.**"

The Comprehensive Plan recommends light industrial typology for the western portion of the site and park for eastern portion of the site, including the second parcel.



**Department of Metropolitan Development
Division of Planning
Current Planning**

Light industrial uses create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials. Additionally, operations occur within enclosed buildings to minimize impact on surrounding land uses.

As proposed, this request would not be consistent with either of the Comprehensive Plan recommendations of light industrial or park.

The light industrial typology is contemplated to be the I-1 and I-2 districts, which are not permitted within 500 feet of a protected district and with limitations on outdoor storage. Outdoor storage and operations are limited to 25% of the total gross area of enclosed buildings. There is a residential neighborhood abutting the site to the south and across South Tibbs Avenue to the west.

The Plan recommendation for park would provide for the planned Eagle Creek Greenway Trail proposed to run along the southern boundary of this site. Staff is, therefore, requesting a 20-foot dedication of right-of-way for construction of the greenway, 10-foot landscaped buffer and a privacy fence.

Staff would note that the required transitional side yard setback, as the site is zoned, is 30 feet but aerials show zero transitional side yard setback along the southern boundary. Except for an approximately 28-foot wide hard-surfaced apron at the entrance gate, the site appears to be unpaved. The Ordinance requires that parking areas be developed with a durable and dust-free surface.

The C-7 district is a heavy commercial land use, with unlimited outdoor storage and a 20-foot transitional side yard setback, would be detrimental to the residential neighborhood to the south and west. Furthermore, it is in direct conflict with the Pattern Book guidelines and recommendations.

The request is for heavy truck services and parking. Because no information has been submitted that details this use, how the business would operate (Plan of Operation) and site development (site plan), staff believes the request would be impactful and negatively impact surrounding land uses, particularly the nearby residential uses.

Staff believes the existing I-2 district developed in accordance with the Ordinance and the Comprehensive Plan recommendation of light industrial is appropriate. Any more intense commercial or industrial uses would not be appropriate or supportable.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 44-foot half right-of-way along South Tibbs Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

The Department of Public Works, Trails and Greenways Section, has requested the dedication and conveyance of a 20-foot-wide right-of-way along the southern boundary beginning at the right-of-way of South Tibbs Avenue to the east approximately 302 feet, which would provide space for connection to the Eagle Creek Trail that is planned to enter the site along the southern boundary. Additionally, a 10-foot landscaped area would be provided along the northern edge of the trail, with a wooden privacy fence to provide a buffer for the trail. This dedication would also be consistent with the Greenways Master Plan.

Floodway / Floodway Fringe

This site has a secondary zoning classification of Floodway Fringe (FF). The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. However, this site lies within the unregulated 500-year floodway fringe.

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
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.

GENERAL INFORMATION

Existing Zoning	I-2 (FF)	
Existing Land Use	Truck and trailer storage	
Comprehensive Plan	Light Industrial typology / Park	
Surrounding Context	Zoning	Land Use
	North: C-7 (FF)	Heavy commercial uses
	South: D-5 (FF)	Single-family dwelling
	East: I-3 (FF)	Industrial uses
	West: D-A (FF)	Outdoor drive-in theatre
Thoroughfare Plan		
South Tibbs Avenue	Primary arterial	Existing 48-foot right-of-way and proposed 88-foot right-of-way.
Context Area	Compact	
Floodway / Floodway Fringe	Yes. 500-year unregulated floodplain	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	N/A	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	N/A	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Light Industrial typology. The light industrial typology provides for industrial uses, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic.

- Although “park” is not defined in the Pattern Book, staff believes that a “linear park” would be applicable. “This land use category is intended for public or private property designated for active or passive recreation and is primarily used for the passage of people or wildlife. Examples are greenways, parkways, trails, off-street paths, and conservation areas.”

Pattern Book / Land Use Plan

- The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.
- The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:
- *Light Industrial Uses*
 - Industrial truck traffic should not utilize local, residential streets.
 - Streets internal to industrial development must feed onto an arterial street.
 - Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.
- *Heavy Commercial Uses*
 - Removed as a recommended land use where they would be adjacent to a living typology.

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 Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”
- The following listed items describe the purpose, policies and tools:
 - Classify roadways based on their location, purpose in the overall network and what land use they serve.
 - Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
 - Set requirements for preserving the right-of-way (ROW)
 - Identify roadways for planned expansions or new terrain roadways
 - Coordinate modal plans into a single linear network through its GIS database
- Indy Greenways Full Circle Master Plan – Part One (2014). Part One deals with completing the existing planned system and addresses improvements and repairs to the existing system.
 - Eagle Creek Greenway (21.2 miles) links to northwest Indianapolis, Zionsville, Eagle Creek Park, Speedway and downtown via Little Eagle Creek
 - This greenway connects to Farm Heritage Trail in Zionsville, 86th / 82nd Street Commercial Connector, Northtown Trail, B & O Trail, P & E Trail (Speedway) and White River Greenway

ZONING HISTORY

94-Z-16; 511 South Tibbs Avenue, requested rezoning of 2.4 acres from the D-5 district to the I-2 S districts, to provide for the construction of a small office and facility for the storage of vehicles / equipment and minimal outside storage of equipment for an environmental contracting firm, **approved**.

VICINITY

99-UV3-105, 505 South Tibbs Avenue (north of site), requested a variance of development standards of the Commercial Zoning Ordinance and the Industrial Zoning Ordinance to legally establish a gravel parking lot for truck and trailers, associated with truck and tractor sales and a variance of use and development standards of the Industrial Zoning Ordinance to provide for truck and trailer sale, **granted**.

78-UV1-21; 505 South Tibbs Avenue (north of site), requested a variance of use to permit automobile salvage business, **granted**.

71-V1-28; 505 South Tibbs Avenue (north of site), requested a variance of use to permit a vehicle and equipment rental business, wrecking and demolition business, business offices, sanitary landfill, excavation, and the storage of used and wrecked automobiles, **granted**.

70-V3-62; 505 South Tibbs Avenue (north of site), requested a variance of development standards to permit the construction of a garage, **granted**.

67-UV2-242; 505 South Tibbs Avenue (north of site), requested a variance of use to permit the operation of a landfill **granted (temporary)**.

EXHIBITS



511 and 600 South Tibbs Avenue

0 0.0125 0.025 0.05 0.075 0.1 Miles

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NP, Swis, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community.

EXHIBIT A – ROW DEDICATION

2204 Tibbs Truck Service, 511 S Tibbs Ave



10/17/2024

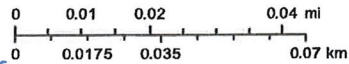
- Parcel
- Streets
- Easement

////// TIBBS R/W $\approx 138' \times 24' = 3,312 \text{ SF} = 0.076 \text{ ACRES}$

XXXXXX TRAIL DEDICATION
 $\approx 20' \times 302' = 6,040 \text{ SF} = 0.139 \text{ ACRES}$

TOTAL = 0.215 ACRES

1:1,440



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

DWF
 11/12/24



View looking south along South Tibbs Avenue



View looking north along South Tibbs Avenue



View of site looking southeast across South Tibbs Avenue



View of site looking west at entrance



View of site looking northeast



View looking northeast across South Tibbs Avenue at adjacent property to the north



View from site looking northwest across South Tibbs Avenue



View from site looking west across South Tibbs Avenue



View from site looking southwest across South Tibbs Avenue