

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

**December 11, 2025**

**Case Number:** 2025-CZN-845 / 2025-CVR-845

**Property Address:** 1032 and 1040 South East Street

**Location:** Center Township, Council District #18

**Petitioner:** 1032 1040 LLC, by David and Justin Kingen

**Current Zoning:** C-5

Rezoning of 0.34 acres from the C-5 district to the D-8 classification to provide for residential development.

**Request:**

Variance of Use and Development Standards of Consolidate Zoning and Subdivision Ordinance to provide for the construction of three townhomes containing a total of nine units across two lots (one primary building permitted per lot, each townhome unit required to be on its own platted lot), with each unit providing less than 100 square feet of main floor area (minimum 660-square-feet of main floor area required) with

- a) one three-unit townhome structure providing a three-foot corner side yard setback from I-70, a 60-foot front yard setback from East Street, a 10-foot rear yard setback and no front entry feature (eight-foot corner side setback, 15-foot rear setback, front entry required, maximum 19.9-foot front yard setback permitted);
- b) one two-unit building providing a three-foot corner side yard setback; and
- c) one four-unit building with a 35-foot front yard setback from East Street.

**Current Land Use:** Small commercial building

**Staff  
Recommendations:** Denial.

**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner continued this petition from the November 20, 2025 hearing, to the December 11, 2025 hearing, at the request of staff.

**STAFF RECOMMENDATION**

Denial.

## PETITION OVERVIEW

This 0.34-acre site, zoned C-5, is comprised of two lots with a small commercial building. It is surrounded by Interstate 70 right-of-way to the north, zoned C-5; a parking lot to the south, zoned SU-1; residential uses to the east, across South East Street, zoned C-5; and religious uses and a parking lot to the west, zoned SU-1.

## REZONING

This request would rezone the site to the D-8 district to provide for residential development. “The D-8 district is intended for a variety of housing formats, with a mix of small-scale multi-unit building types. This district can be used as a part of new mixed-use areas, or for infill situations in established urban areas, including medium and high-density residential recommendations of the Comprehensive Plan, and the Traditional Neighborhood, City Neighborhood, and Village or Urban Mixed-Use Typologies of the Land Use Pattern Book.”

The Comprehensive Plan recommends village mixed use typology for the site.

Recommended land uses in this typology include detached housing; attached housing; small-scale and large-scale multi-family housing; assisted living facilities / nursing homes; group homes; bed and breakfast; small-scale offices, retailing, and personal or professional services; small- and large-scale schools, places of worship, neighborhood serving institutions / infrastructure, and other places of assembly; small-scale parks; artisan manufacturing and food production; structured parking; and community farms / gardens.

As proposed, this request would be consistent with the Comprehensive Plan recommendations of village mixed-use but the need for six variances is a strong argument against land use intensity and over development of the site.

## Walkable Neighborhood

“To advance the Livability Principles of this Code, the D-5, D-5II, **D-8**, D9 and D-10 districts implement walkable, compact neighborhoods within a well-connected street network and block structure, using slow neighborhood streets, walkable connectors, and multi-mode thoroughfares. Access to parks and recreation, transit and neighborhood services within walking distance is important. Street trees, landscape and trees along private frontages, and an active amenity zone create comfortable walking environment and add appeal to neighborhoods. These districts require urban public and community facilities and services to be available. These districts may be used in combination to supply critical mass of residents to support nearby commercial and transit investments.”

The purpose of the Walkable Neighborhood design standards and objectives is to advance the Livability Principles of this code, and to promote walkable neighborhoods. Any exceptions to the standards in the Ordinance, or discretionary review processes related to a specific application, shall be judged against these design objectives, in addition to any other criteria in this code for the application.

## **VARIANCES OF USE AND DEVELOPMENT STANDARDS**

This proposed development would require six variances, both use and development variances.

The Ordinance permits one primary building on one lot. This proposed development would allow three townhomes consisting of nine dwelling units on two lots. Staff believes this represents an intense land use development that would not be appropriate for the neighborhood and surrounding land uses.

The Ordinance requires a minimum 660-square feet of main floor living area. As proposed the main floor would be less than 100 square feet that would be shared with an attached garage. Staff believes the required minimum square footage is directly related to quality of life for the residents.

One three-unit townhome (Units 1,2, and 3) would have a three-foot corner side yard setback from Interstate 70, a 60-foot front yard setback from East Street, a 10-foot rear yard setback and no front entry feature. The Ordinance requires an eight-foot corner side setback, a 15-foot rear setback, a maximum 19.9-foot front yard setback, and a front entry feature.

Staff believes the reduced side and rear setbacks, increased front setback and no entry feature results in over development of the site and raises safety concerns.

The two-unit building (Units 4 and 5) would have a reduced three-foot corner side yard when the Ordinance requires an eight-foot corner side yard. Staff believes this represents over development of the site.

The four-unit townhome (Units 6 through 9) would have a 35-foot front setback from East Street when the Ordinance would allow a maximum of 19.9-foot front setback. Staff believes this contributes to and supports intense land use and over development of the site.

The Pattern Book suggests that resiliency within our communities contribute to a lasting and durable quality of life and offers the following guidelines and recommendations:

“Orienting uses towards the streets and other public spaces and activating sidewalks and the ground floors of buildings through window transparency and externalized front doors increases the number of people that have their eye on our public spaces. This ultimately creates a safer pedestrian environment where people can watch out for each other, and wrong doers feel less shielded from witnesses. Neighborhood streets are not the only streets that need to be activated – while busier arterial streets are used by more people, they are often less activated. This makes them uncomfortable for pedestrians, and it means that businesses, homes, and parked cars are more vulnerable.”

Staff believes the residential development on this site would be appropriate but the need for all the variances results in a development that would not be appropriate or well-integrated into the neighborhood and surrounding and land uses.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-5	
<b>Existing Land Use</b>	Commercial building	
<b>Comprehensive Plan</b>	Village Mixed-Use	
<b>Surrounding Context</b>	<b><u>Zoning</u></b>	<b><u>Land Use</u></b>
North:	C-5	Interstate 70 right-of-way
South:	SU-1	Parking lot
East:	C-5	Multi-family dwelling / commercial building
West:	SU-1	Religious uses / parking lot
<b>Thoroughfare Plan</b>		
South East Street	Primary Arterial	Existing 86-foot right-of-way and proposed 78-foot right-of-way.
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	October 26, 2025	
<b>Site Plan (Amended)</b>	December 1, 2025	
<b>Elevations</b>	October 26, 2025	
<b>Elevations (Amended)</b>	December 1, 2025	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	October 26, 2025	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

The Comprehensive Plan recommends Village Mixed-Use typology. “The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or

horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.”

### **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:

#### *Conditions for All Land Use Types – Village Mixed-Use Typology*

- 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.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- Where possible, contributing historic buildings should be preserved or incorporated into new development.

#### *Conditions for All Housing*

- Should be within a one-quarter-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user.
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.

#### *Attached Housing*

- Recommended without additional conditions.

### **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**

The Infill Housing Guidelines were updated and approved in May 2021, with a stated goal “to help preserve neighborhood pattern and character by providing guiding principles for new construction to coexist within the context of adjacent homes, blocks, and existing neighborhoods. These guidelines provide insight into basic design concepts that shape neighborhoods, including reasons why design elements are important, recommendations for best practices, and references to plans and ordinance regulations that reinforce the importance of these concepts.”

These guidelines apply to infill development in residential areas within the Compact Context Area and include the following features:

### **Site Configuration**

- Front Setbacks
- Building Orientation
- Building Spacing
- Open Space
- Trees, Landscaping, and the Outdoors

### **Aesthetic Considerations**

- Building Massing
- Building Height
- Building Elevations and Architectural Elements

### **Additional Topics**

- Secondary Dwelling Units, Garages, and Accessory Structures
- Adapting to the Future

“As established neighborhoods experience new development, infill residential construction will provide housing options for new and existing residents. Increased population contributes positively to the local tax base, economic development, lively neighborhoods, and an interesting city. As infill construction occurs, it is important to guide development in a way that complements current neighborhoods. Each home in a neighborhood not only contributes to the existing context of adjoining houses and the block, but to the sense of place of the entire neighborhood.”

## **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.

## ZONING HISTORY

**2006-DV2-014, 1032 South East Street**, requested a variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a family restaurant with reduced front and side setback and parking, **granted**.

## VICINITY

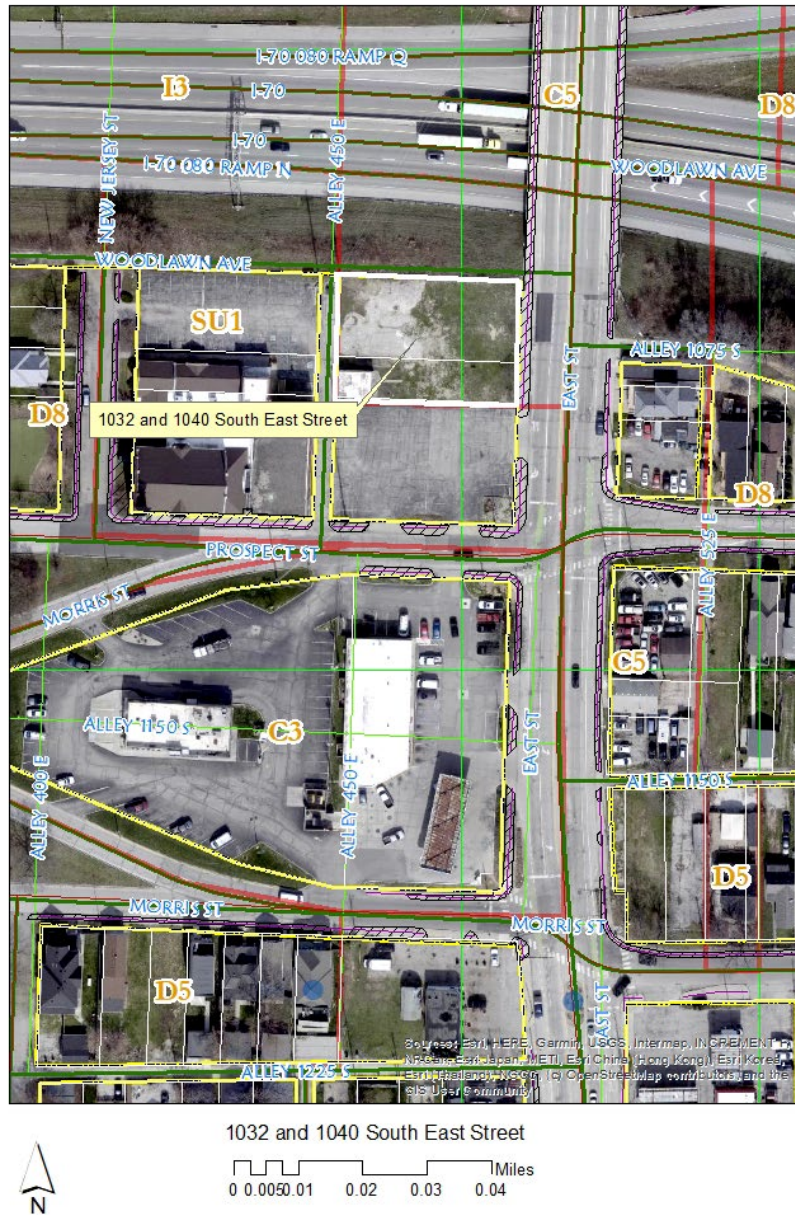
**99-Z-136; 402 East Prospect Street, 1048 South East Street and 1035 South New Jersey Street (west and south of site)**, requested rezoning of 0.8 acres from the C-5 and D-8 districts to the SU-1 classification to provide for religious uses, **approved**.

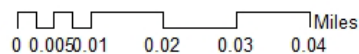
**96-Z-113; 382 East Morris Street, and 1104 South East Street (south of site)**, requested rezoning of 2.148 acres from the D-5 and D-8 districts to the C-3 classification to provide for a restaurant, gasoline station, check cashing and video store, **approved**.



EXHIBITS

Aerial Map

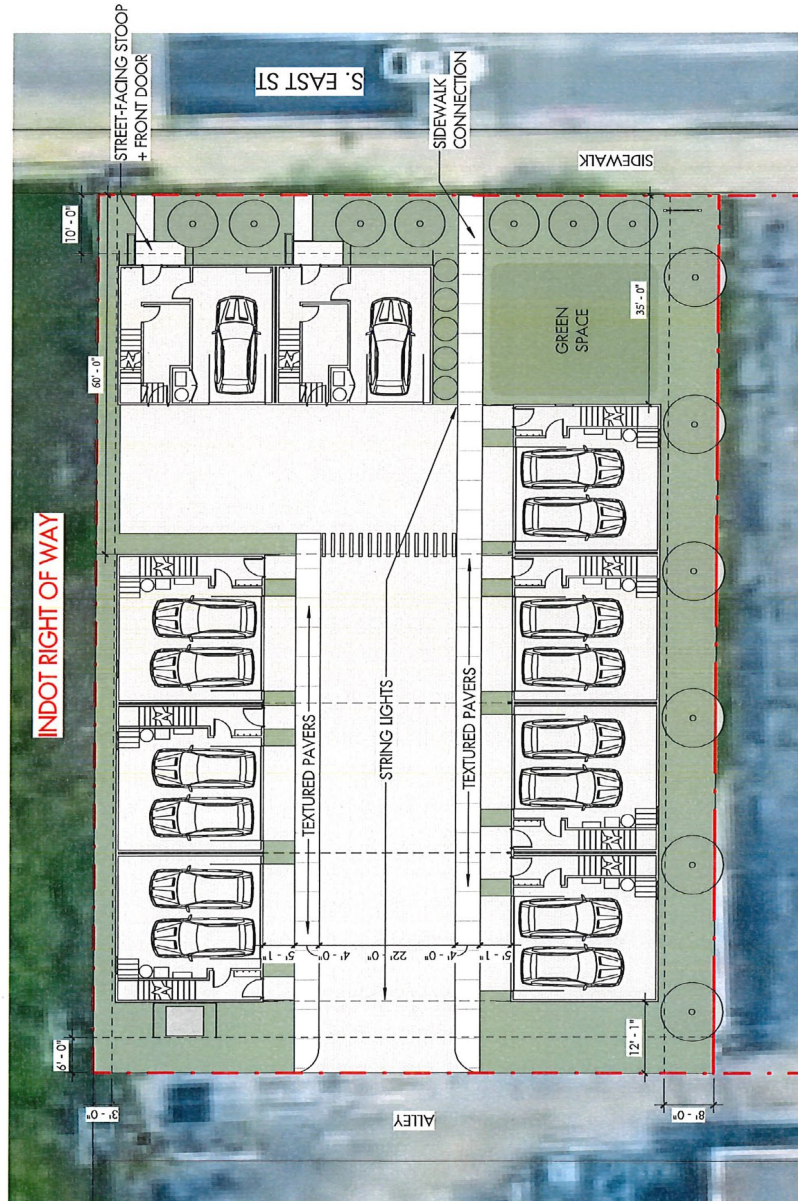


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INTERSTATE I-70

INDOT RIGHT OF WAY



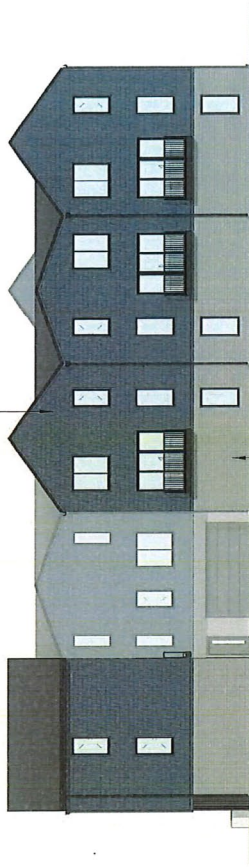
**1** SITE PLAN  
 1/16" = 1'-0"

1032 S. East St

**SITE PLAN - CONCEPTUAL DESIGN**  
 09/03/25

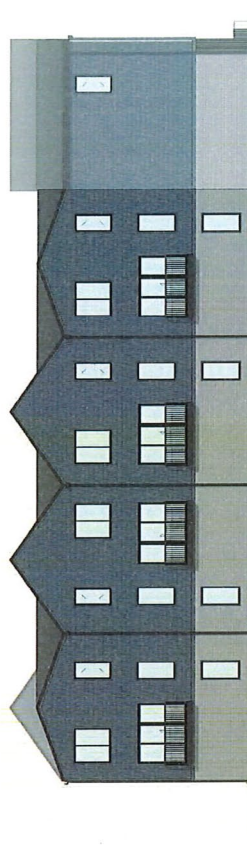
BLACKLINE

HARDIE  
SHINGLE SIDING

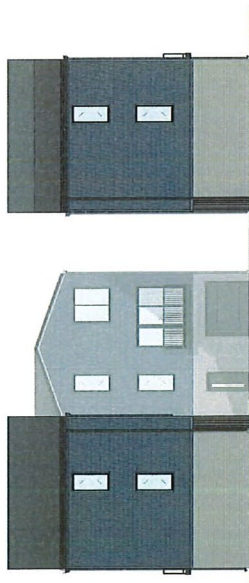


**1 North Elevation**  
 1/16" = 1'-0"

HARDIE LAP SIDING



**2 South Elevation**  
 1/16" = 1'-0"



**4 West Elevation**  
 1/16" = 1'-0"



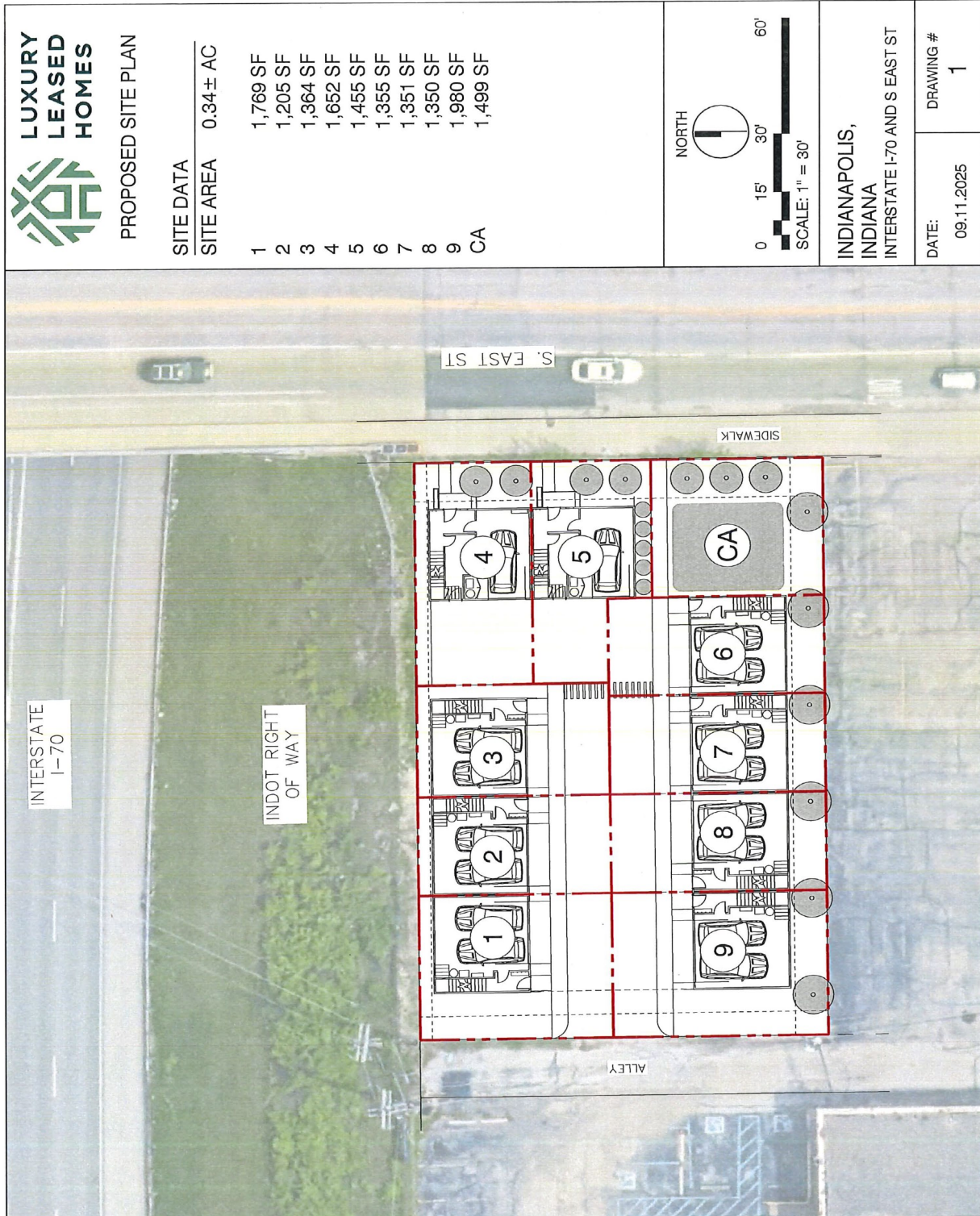
**3 S. East St Elevation**  
 1/16" = 1'-0"

1032 S. East St

EXTERIOR ELEVATIONS - CONCEPTUAL DESIGN  
 09/03/25

BLACKLINE









GLEN  
ARCH  
HOMES  
BLACKLINE





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:

There was previously a commercial structure that existed on the site with a similar northside setback as that being requested with this proposed variance petition. Also, there are several structures within this part of the Bates-Hendricks neighborhood that front along the I-70 corridor, contain similar setbacks to the highway, and that have not historically been injurious to the public health, safety, etc.

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 majority of the subject site is currently vacant, with one vacant, dilapidated commercial structure still remaining on the property, which provides no use or value to the area. The approval of the proposed variance petition would allow for the site to be redeveloped with newly constructed single-family homes which will increase the use and value of the site, the immediate vicinity, and the Bates-Hendricks neighborhood overall.

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

Even though these parcels are setback a great distance from the I-70 corridor, the northern property line of the lots does front along that thoroughfare, making it a front-yard, which requires a greater setback than that of a typical side-yard. It would be practically difficult to redevelop these lots with any type of dense residential type that fits the character of the neighborhood and would not require variances.

**DECISION**

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

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

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_





View site along South East Street looking north



View looking south along South East Street





View of abutting north / south alley looking south



View of site looking east from north /south alley



View from north / south alley looking east



View of existing building looking north





View of existing building and north / south alley looking north



View of northwest corner of site looking southeast