

BOARD OF ZONING APPEALS DIVISION II

July 9, 2024

Case Number: 2024-DV2-022

Property Address: 1950 Kessler Boulevard West Drive (approximate address)

Location: Washington Township, Council District #2

Petitioner: ASA Above The Rest LLC, by Mistie Nigh

Current Zoning: C-3

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a second drive-thru sign along a single drive lane (maximum one drive-thru sign per drive lane permitted).

Current Land Use: Commercial Multi-tenant

Staff Recommendations: Staff recommends **approval** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- The subject site contains a previously existing multitenant commercial center with accessory drive-thru as legalized by petition 2006UV1035. The site is zoned C-3 and is bordered by a vacant commercial structure to the north, Crooked Creek Elementary School to the west, a fueling station to the south, and residential uses to the east. The property is near Crooked Creek but is not within a 100-year floodplain.
- The café company tenant within this property that currently utilizes the drive-thru unit made permit applications earlier this year for new signage at the site. This application included new drive-thru signage but no proposed changes to the existing layout of the drive lane. Their application was initially held for the height of proposed secondary freestanding directional signage as well as the placement of two drive-thru signs along the same drive lane (maximum one allowed per drive lane).

- The sign permit has since been issued per revised plans reducing the height of directional signage and changing the second smaller drive-thru sign to a speaker post and canopy. This allows the property owner to have all other signs installed while this variance case progresses.
- The primary drive-thru sign (see sign M in Exhibits) serves as a menu board showing available products and was approved for construction under SGN24-00251. The sign that is the subject of this variance request (sign L in Exhibits) would not display menu items but would solely be utilized to show customer orders in progress and confirm their accuracy. However, since that sign would be used exclusively by customers utilizing the drive-thru unit and would utilize static digital display, it would be classified as a second drive-thru sign and require a variance.
- The subject property is currently zoned C-3 to allow for commercial development with a range of retail sales and personal, professional, and business services. It also falls under the jurisdiction of the Michigan Road Corridor Plan which recommends it for commercial uses.
- The Indianapolis Zoning Ordinance places limits on the number of secondary freestanding signage that can be placed within commercial areas to limit the visual clutter and confusion that could be caused by duplicate signage. Staff notes that the proposed sign is approximately 10 square feet in size and is small enough that it would typically be allowed if it adjoined the other three panels of the existing sign. The modest distance between the existing menu board and the proposed sign (less than 3ft.) provides nearly the same exposure and views as if the sign were attached or integral to the menu board. Since the proposed drive-thru sign would be limited in scope to verifying accurate orders and would provide minimal disruption for surrounding properties, staff is supportive of the variance request.

GENERAL INFORMATION

Existing Zoning	C-3		
Existing Land Use	Commercial Multi-tenant		
Comprehensive Plan	Commercial (per Michigan Road Corridor Plan)		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-3	North: Commercial
	South:	C-3	South: Community Commercial
	East:	D-2	East: Suburban Neighborhood
	West:	SU-2	West: Floodway/Community Comm
Thoroughfare Plan			
Michigan Road	Primary Arterial	118-foot right-of-way existing and 102-foot right-of-way proposed	
Kessler Boulevard WDR	Primary Arterial	109-foot right-of-way existing and 119-foot right-of-way proposed	
Context Area	Metro		
Floodway / Floodway Fringe	No		
Overlay	No		

Wellfield Protection Area	No
Site Plan	05/09/2024
Site Plan (Amended)	N/A
Elevations	05/09/2024
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	06/14/2024
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Michigan Road Corridor Plan (1998)

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan (etc.) below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The Michigan Road Corridor Plan recommends this site for C-3 zoning and for commercial uses. It also designates the site as being within Critical Area 11 and advises against encroachment of existing commercial uses at the intersection of Michigan and Kessler past Crooked Creek or into existing residential or institutional areas.

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

2006ZON129, REZONING of 0.805 acre, from the D-2 AND C-3 Districts to the C-3 classification to provide for neighborhood commercial uses, **approved**.

2006UV1035, Variance of Use of the Dwelling Districts Zoning Ordinance to provide for an integrated center with C-3 uses and a drive-through facility (not permitted). Variance of Development Standards to provide for a 300-square foot outdoor seating area for a restaurant (not permitted), with carry-out food and a drive-through within twenty feet of a protected district (minimum 100-foot separation required), provide for a dumpster enclosure with the open side facing the protected district to the east (not permitted), and to provide for seven-foot front landscape strips along Michigan Road (minimum ten-foot front landscape strips required), **approved**.

2003DV2013, variance of development standards of the Sign Regulations to provide for a second additional south façade upper-level individual-letter wall sign being 70.59 square foot in area, a second additional north façade upper-level individual-letter wall sign, being 70.59 square feet in area, and a second west façade upper-level individual wall sign, being 68.11 square feet in area (maximum one upper level building identification sign per façade, **denied**.

94-HOV-127, variance of development standards of the Sign Regulations Zoning Ordinance to provide for the relocation of a pole sign with pricing panels (price panels not permitted), being 3 feet from the new right-of-way of Kessler Boulevard and 5 feet from the new right-of-way of Michigan Road (minimum 15 feet required each), resulting from widening and other improvements to the Michigan Road and Kessler Boulevard intersection, **approved**.

ZONING HISTORY – VICINITY

2020DV2015 ; 5620 Michigan Road (southwest of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a two-foot side transitional yard, to provide for a drive-through lane less than 25 feet from a protected district, without a bypass lane and without adequate parking lot circulation (not permitted) and encroaching into the stream protection corridor (20-foot rear transitional yard and 100-foot stream protection corridor required), **denied**.

2010DV3025 ; 5675 Michigan Road (north of site), Variance of development standards of the Commercial Zoning Ordinance to provide for the sale of alcohol within 25 feet of a D-2 zoned protected district (100-foot separation required), **withdrawn**.

2008DV3021 ; 5620 Michigan Road (southwest of site), VARIANCE OF DEVELOPMENT STANDARDS of the Commercial Zoning Ordinance to: (a) provide for drive-through for a restaurant within approximately 60 feet of a protected district (not permitted), (b) with one stacking space after the final drive-through component (minimum two stacking spaces required), (c) without an exclusive bypass aisle to allow vehicles to bypass the stacking area (bypass aisle required), (d) legally establish a drive-aisle with a zero-foot front setback, without a front landscape strip along a portion of Michigan Road (minimum



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ten-foot front landscape strip required), (e) legally establish a parking space with a two-foot front setback, with a two-foot wide front landscape strip (minimum ten-foot front landscape strip required), and (f) legally establish an 18-foot wide, two-way drive aisle (minimum 24-foot wide, two-way drive aisle required), **approved.**

94-HOV-18 ; 5675 Michigan Road (north of site), variance of development standards of the Sign Regulations Zoning Ordinance to provide for the placement of a 12 square foot ground sign (maximum 1 square foot allowed), **approved.**

91-UV1-124 ; 5659 Michigan Road (south of site), variance of use of the Commercial Zoning Ordinance to permit the construction of an automatic car wash 175.0 feet from a residential zoning district (a 200.0 foot separation required), **approved.**

91-UV3-95 ; 5620 Michigan Road (southwest of site), variance of use of the Commercial Zoning Ordinance to permit the continued operation of outdoor sales of seasonal produce, **approved.**

86-Z-219 ; 5675 Michigan Road (north of site), rezoning of 1.3 acres from D-2 to the C-3 zoning classification for a 1-story restaurant and drive-through use, **approved.**

84-HOV-94 ; 5659 N Michigan Road (south of site), variance of development standards of the Sign Regulations of Marion County to provide for a pole sign identifying both the gasoline and food sales, **approved.**

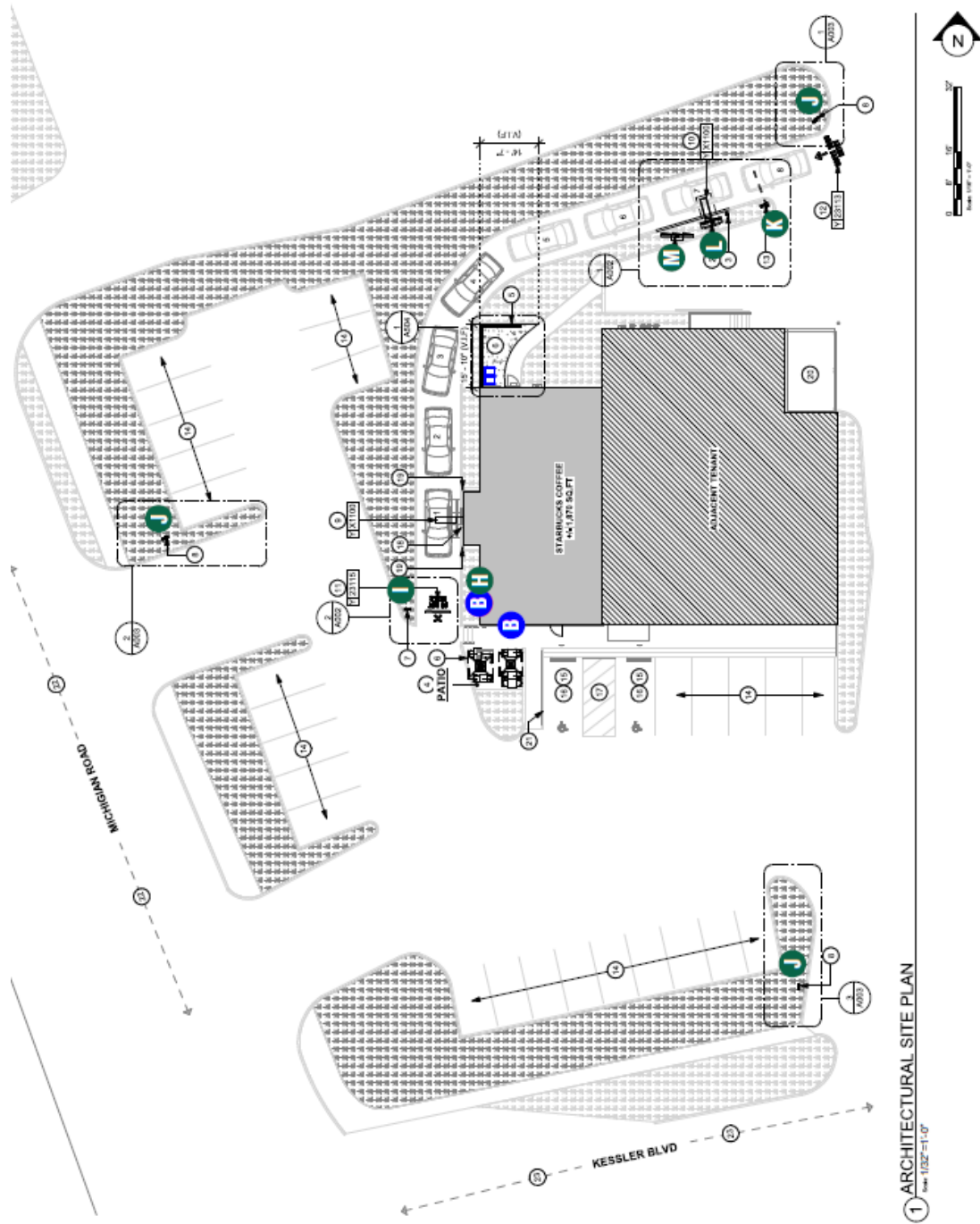
84-Z-82 ; 5686 Michigan Road (west of site), rezoning of 1.83 acres from D-3 to the SU-2 zoning classification to allow for school uses, **approved.**

EXHIBITS

2024DV2022 ; Aerial Map



2024DV2022 ; Site Plan

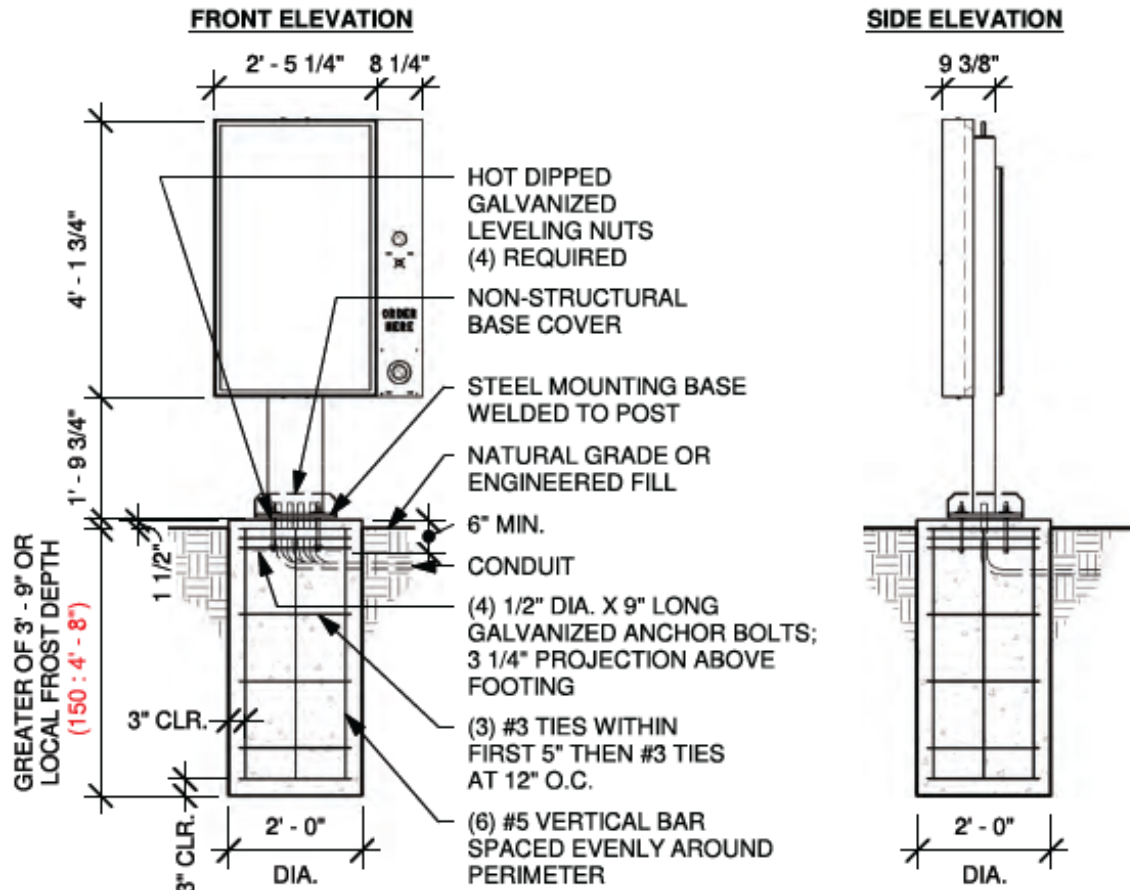


1 ARCHITECTURAL SITE PLAN
 Scale: 1/32" = 1'-0"

2024DV2022 ; Secondary Drive-Thru Sign (variance needed; Sign L on site plan)

Qty. 1

L



DT DIGITAL ORDER SCREEN POST GROUND FOOTING

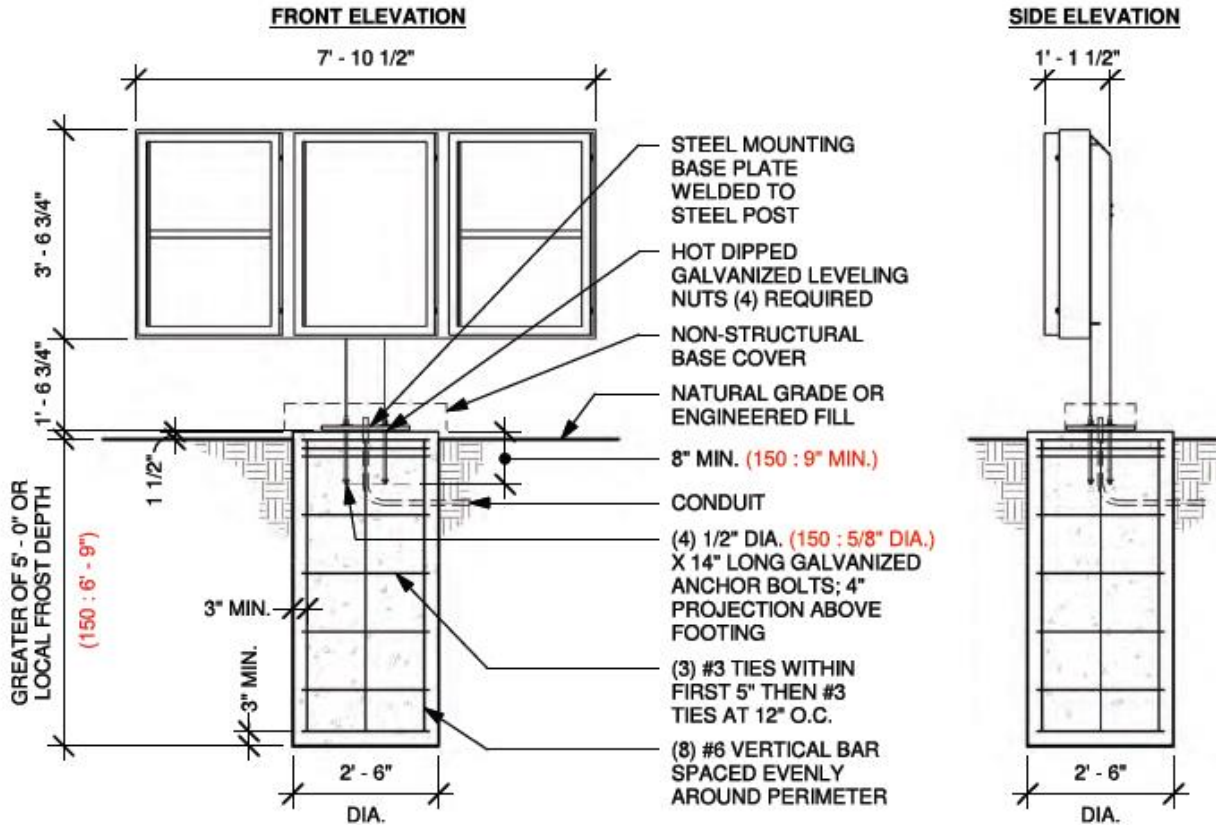
Scale: 3/8" = 1'-0"

2024DV2022 ; Primary Drive-Thru Sign (allowed by-right; Sign M on site plan)

Qty. 1



400# stainless steel





2024DV2022 ; Findings of Fact

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

This sign is a digital order screen only. Long drive thru lines can cause traffic issues and potentially traffic incidents as well, within reason a digital order screen helps to raise efficiency in the drive thru process to help minimize these potential hazards making it a positive impact for the community.

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 digital order screen cannot be seen from the back of it and can only be seen by the customer ordering, therefor, signage will not affect the use and value of the areas adjacent to the 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 digital order screen serves an important purpose as part of the drive thru process. It is imperative that customers in the drive thru are served as quickly and efficiently as possible to maximize business,ensure a positive customer experience and to prevent long drive thru lines.The digital order screen is also beneficial to customers that may have hearing impairments as they are able to see their order on the screen and correct any issues before it is prepared rather than relying solely on a speaker post. This maximize business for Starbucks and provides a good customer experience for everyone.

2024DV2022 ; Photographs



Photo 1: Subject Site viewed from South



Photo 2: Subject Site viewed from West

2024DV2022 ; Photographs (continued)



Photo 3: End of Drive Lane viewed from North



Photo 4: Drive Lane viewed from West

2024DV2022 ; Photographs (continued)



Photo 5: Drive Lane viewed from Northwest



Photo 6: Beginning of Drive Lane viewed from East

2024DV2022 ; Photographs (continued)



Photo 7: Subject Property from North



Photo 8: Adjacent Property to North

2024DV2022 ; Photographs (continued)



Photo 9: Adjacent Screening to East



Photo 10: Adjacent Property to South