

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-030 (Amended)
Address: 4613 South Harding Street (approximate address)
Location: Perry Township, Council District #20
Zoning: I-4
Petitioner: Lamar Advantage GP Company, LLC, by Derek Raymond
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of a 60-foot tall, 14-foot by 48-foot off premise advertising sign (height limited to 40 feet) with a 20-foot front setback from I-465 and 20-foot western side yard setback (60-foot front setback required along freeways, 30-foot side setback required) within 460 feet of another off-premise advertising sign (1,000-foot radial separation required), and within 460 feet, 880 feet and 1,100 feet of other off-premises signs along I-465, and within 20 feet along the centerline of an interstate exit roadway (1,500-foot separation required along I-465, 500-foot separation required from interstate ramp entries).

This petition was automatically continued at the request of a registered neighborhood organization, from the October 18, 2022 hearing, to the November 22, 2022 hearing.

RECOMMENDATIONS

Staff **recommends approval** of this request as amended.

Amended Petition: This petition was amended to withdraw the request for a digital conversion. The petition included a request to provide for a digital conversion of the off-premise advertising sign, which was an administrative mistake and should not have been included. Additional notice would not be needed, as the request would now deviate less from the Ordinance than the original notice. The request for the digital conversion is being withdrawn, and the Board will need to acknowledge the withdrawal of the digital conversion request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Metro	I-4	Undeveloped
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SURROUNDING ZONING AND LAND USE

North	I-4	Undeveloped
South	C-7	Truck or Heavy Vehicle Sales, Rental or Repair
East	I-4	Undeveloped
West	C-7	Truck Stop

(Continued)

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COMPREHENSIVE PLAN

The Comprehensive Plan recommends heavy commercial uses for the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as any off-premises sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages. Same as billboard or advertising sign.”
- ◇ The need for the variance arises from a condition peculiar to the property involved because a road expansion project along South Harding Avenue, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location on private property causing the relocation of the sign.
- ◇ The grant of the petition would also permit for the outdoor advertising sign to be located, with a 60-foot height, with a 20-foot front setback from I-465 and 20-foot western side yard setback, within 460 feet of another off-premise advertising sign, and within 460 feet, 880 feet and 1,100 feet of other off-premises signs along I-465, and within 20 feet along the centerline of an interstate exit roadway.
- ◇ The Ordinance limits outdoor advertising signs to a maximum 40-foot height, and outdoor advertising signs are not permitted radially within 1000 feet of another off-premise sign and not permitted linearly along the interstate roadway within 1500 feet of another off-premise sign.
- ◇ Staff understands that an outdoor advertising sign has existed on site since 2012 per an aerial image. Therefore, the variance request would be to establish a new location of the existing sign according to the updated standards of the Ordinance, which include some that the existing sign was not previously subject to.
- ◇ Indiana Code Section 36-7-4-918.5(a) provides:
 - (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board’s approval. A variance may be approved under this section only upon a determination in writing that:
 - (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the “practical difficulties” standard prescribed by this subdivision.

(Continued)

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- ◇ With respect to the first prong of this test, it is the opinion of staff that approval of this variance would not be injurious to the public health, safety, morals, and general welfare of the community. The sign in its current location has not caused any such injury to the community.
- ◇ With respect to the second prong, the outdoor advertising sign in its current location, has existed without any negative impact to adjacent property owners. In staff's opinion, the request to relocate the sign would not impose a significant negative impact upon adjacent properties.
- ◇ Staff finds that the third prong of the statutory test is also satisfied here, because of special circumstances and the need for flexibility mandated by a separate state statute, as explained below.
- ◇ The owner has a government imposed practical difficulty due to a road expansion project along Harding Street and the expansion of the I-465/SR-37/I-69 interchange by INDOT, which would eliminate the sign's existing location on private property causing the relocation of the sign.
- ◇ The petitioner plans to relocate the sign to the north and increase the sign height from 40 feet to 60 feet in height. This increase is due to INDOT's proposed construction of an elevated roadway adjacent to the proposed billboard location.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

(a) This section applies only to a conforming outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(b) If a conforming outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

(1) elevate the outdoor advertising sign; or

(2) relocate the outdoor advertising sign to a point within five hundred (500) feet of its prior location, if the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.

(c) Subject to subsection (f), the county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

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(d) The elevated outdoor advertising sign or outdoor advertising sign to be relocated shall be the same size as the previous outdoor advertising sign and, to the extent allowed by federal or state law, may be modified to:

(1) elevate the sign to make the entire advertising content of the sign visible; and

(2) an angle to make the entire advertising content of the sign visible.

(e) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

(f) If the county or municipality does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance under subsection (c), notwithstanding IC 8-23-20-10, the county or municipality is responsible for the payment for just and full compensation to an owner under IC 32-24.

- ◇ The current Zoning and Subdivision Ordinance does not align with state code, which should provide for a special exception to the zoning ordinance to allow for an elevation or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.
- ◇ State code notes that there should be the option to elevate the sign or relocate the sign but does not specify that both options must be granted. Since the widening of the I-465/SR-37/I-69 interchange is out of the petitioner's control, staff is supportive of the variance requests as proposed.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of South Harding Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 200-foot existing and proposed right-of-way.

SITE PLAN

File-dated September 21, 2022.

ELEVATIONS

File-dated September 20, 2022

FINDINGS OF FACT

File-dated August 23, 2022.

ZONING HISTORY

2022-UV3-019; 1245 Harding Court (south of site), requested a variance of use and development standards to provide for 50-foot tall, 14-foot by 48-foot digital off-premise advertising sign (digital off-premise sign not permitted, maximum 40-foot height permitted), within 495 feet and 885 feet of other off-premise advertising signs, **denied**.

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2021-DV1-043; 4607 South Harding Street (west of site), requested a variance of development standards to provide for the relocation and replacement of an existing 85-foot tall, 792-square foot pole sign with an 85-foot tall, 526.3-square foot pole sign along Interstate 465 and to replace an existing 40.17-foot tall, 157-square foot sign with a 30-foot tall, 130.8-square foot freestanding sign along Harding Street, **granted**.

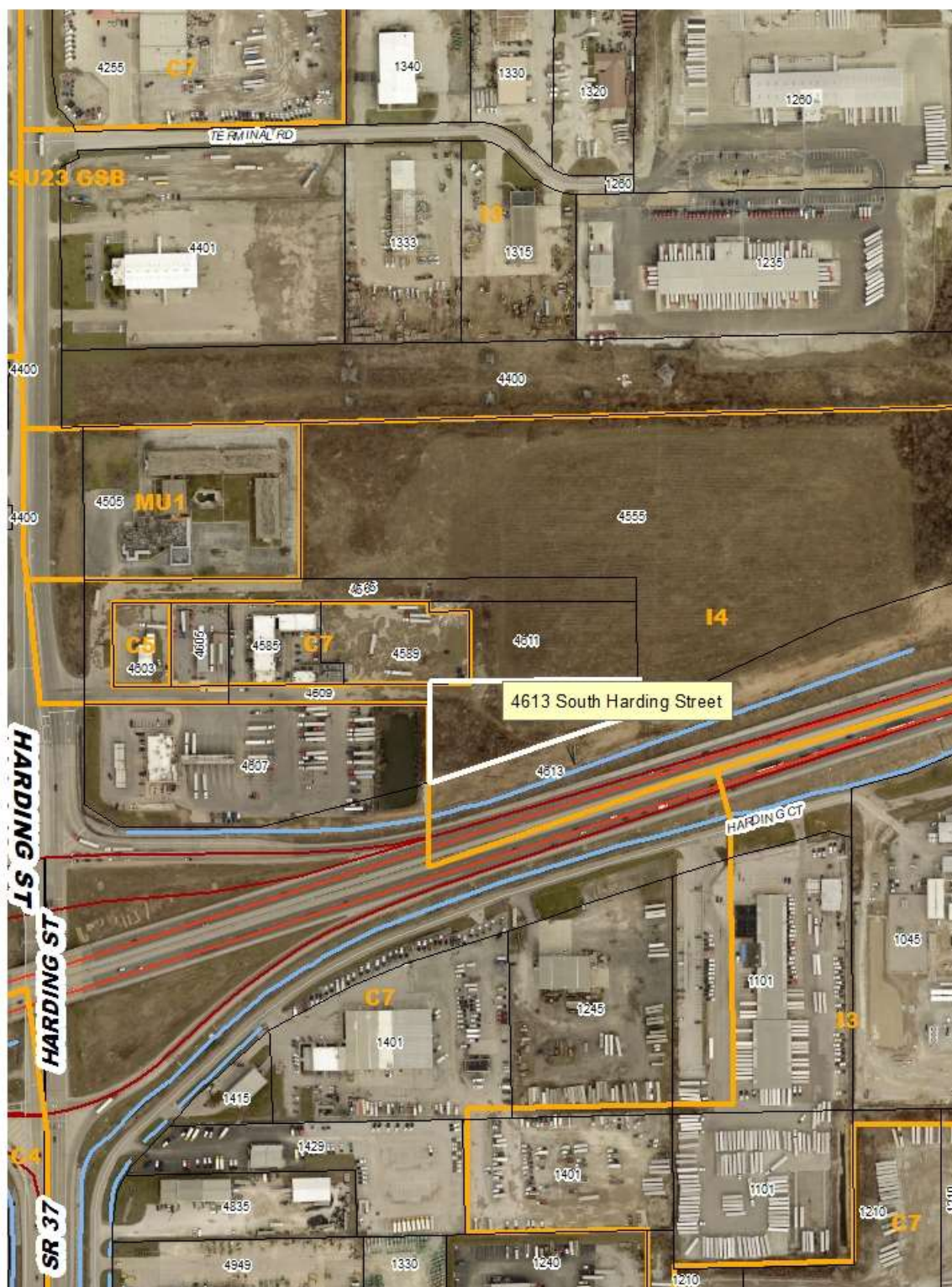
2012-CVR-813; 4585, 4600, and 4800 South Harding Street (north of site), requested a variance of use and development standards to provide for truck and truck-related sales and to provide for zero-foot side yards abutting the parcel shown as an exception (addressed as 4585 (Parcel 5028528) 4603 and 4605 South Harding Street), on the site plan submitted to the file, **granted**.

2012-CZN-813; 4585, 4600, and 4800 South Harding Street (north of site), requested the rezoning of 37.11 acres from the C-2 (FF), C-3 (FF), C-5 (FF), C-7 (FF) and I-3-S (FF) districts to the I-4-S classification to provide for a motor truck terminal, **approval**.

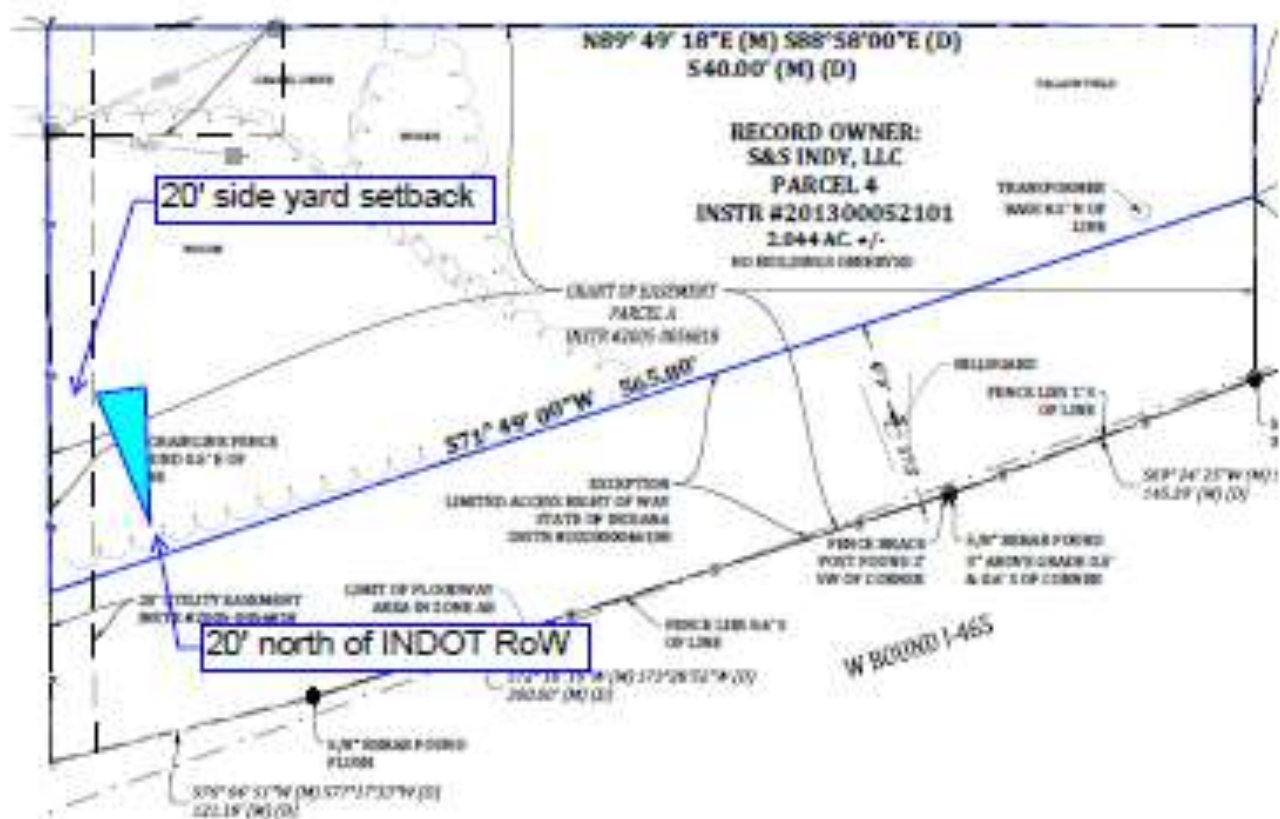
83-HOV-110; 4575 South Harding Street (east of site), requested a variance of size, setbacks, and spacing development standards of the Sign Regulations to allow the erecting of a 14 by 48-foot advertising pole sign at 60 feet from intersection right-of-way and 15 feet from a side property line, **granted**.

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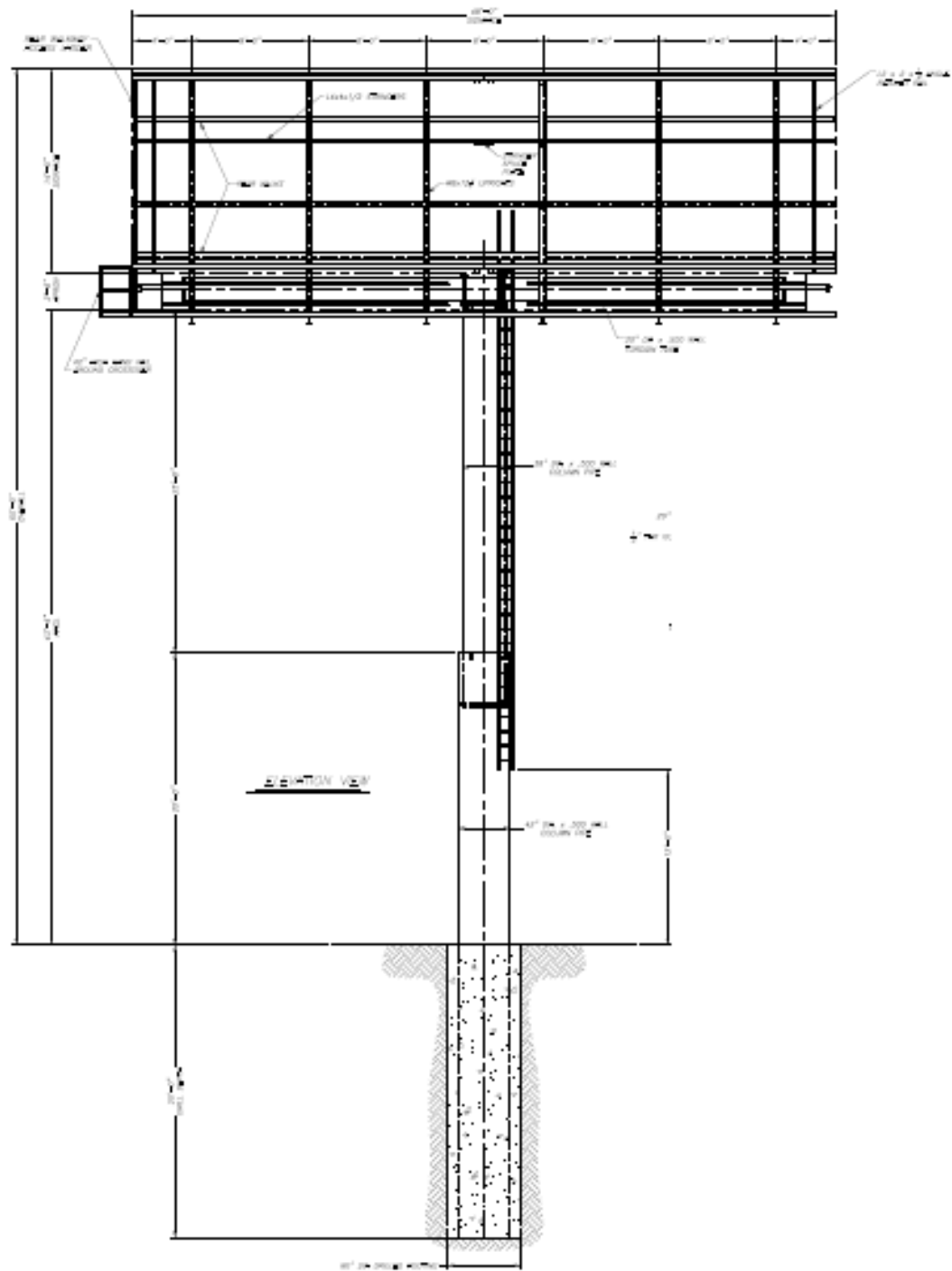
2022-UV3-030; Location Map



2022-UV3-030; Site Plan



2022-UV3-030; Proposed Elevations



2022-UV3-030; Photographs



Photo of subject site, looking north.



Photo of subject site, proposed sign relocation area, looking west.



Photo of the adjacent truck stop tp the west, looking south.



Photo of the 460 foot radial seperation of an existing billboard sign to the south.