

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

January 9, 2025

Case Number: 2024-ZON-136
Property Address: 10635 Indian Creek Road South
Location: Franklin Township, Council District #25
Petitioner: Gurudwara Shaheedan, Inc., by Joseph D. Calderon
Current Zoning: D-A (FF) (FW)
Request: Rezoning of 7.544 acres from the D-A (FF) (FW) district to the SU-1 (FF) (FW) to provide for religious uses.
Current Land Use: Accessory building / Agricultural uses
Staff Recommendations: Approval, subject to the commitments noted below:
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner acknowledged a timely automatic continuance file by a remonstrator that continued this petition from the December 12, 2024 hearing, to the January 9, 2025 hearing.

STAFF RECOMMENDATION

Approval, 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. A 40-foot half right-of-way shall be dedicated along the frontage of Indian Creek Road South, 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).
2. 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 / receptacles provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

This 7.544-acre site, zoned D-A (FF) (FW), is developed with an accessory building and agricultural uses. It is surrounded to the north, across Indian Creek Drive South, by a school campus and a single-family dwelling, zoned SU-2 and D-2, respectively; agricultural uses to the south, zoned D-A (FF) (FW); an accessory building to the east, zoned D-A (FF) (FW); and a single-family dwelling and agricultural uses to the west, zoned D-A and D-S (FF) (FW), respectively.

REZONING

The request would rezone the site from the D-A (FF) (FW) district to the SU-1 (FF) (FW) district to provide for religious uses.

The Comprehensive Plan recommends rural or estate neighborhood typology for the site.

Religious uses are generally considered compatible with residential development if they are designed and developed properly to address issues such as parking, hours of operation, outdoor activities, signs, setbacks, lighting and landscaping. A religious use at this location would be compatible with the surrounding development. As required for all Special Use (SU) districts, "no building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed Site and Development Plan and landscape plan have been filed with and approved on behalf of the Commission by the Administrator or approved by the Commission."

The standard of review for Administrator Approval for the SU-1 district would be the C-1 development standards.

Site Plan

The unscaled site plan, file dated November 13, 2024, depicts a 45,000 square-foot building and 175 parking spaces.

The minimum number of parking spaces for religious uses is one per four seats in the place of worship or one per 1,000 square feet of total floor area, whichever is greater. There is no maximum number of parking spaces.

Because the site is generally undeveloped, staff would not support any variances of development standards, including encroachment into the stream protection corridor.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 40-foot half right-of-way along Indian Creek Road South. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Overlays

This site is also located within an overlay, specifically the Environmentally Sensitive Areas (ES) Overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”

The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.

The southern portion of this site is located within the floodplain of Wildcat Brook.

Floodway / Floodway Fringe

This site has a secondary zoning classification of a Floodway (FW) and Floodway Fringe (FF). The Floodway (FW) is the channel of a river or stream and those portions of the floodplains adjoin the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream. The Floodway Fringe (FF) is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.

The purpose of the floodway district is to guide development in areas identified as a floodway. The Indiana Department of Natural Resources (IDNR) exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1.

The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (SU-1 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

Wildcat Brook bisects this site and impacts the southern portion of the site.

Stream Protection Corridor

A stream protection corridor consists of a strip of land, extending along both sides of all streams, with measurements taken from the top of the bank on either side. The width of the corridor is based upon whether the stream is designated as a Category One or Category Two. Category One streams have a corridor width of 60 feet in the compact context area and 100 feet in the metro context area. Category Two streams have a corridor width of 25 feet in the compact context area and 50 feet in the metro context area.

The vegetative target for the Stream Protection Corridor is a variety of mature, native riparian tree and shrub species that can provide shade, leaf litter, woody debris, and erosion protection to the stream, along with appropriate plantings necessary for effective stream bank stabilization.

The Stream Protection Corridor is defined as:

“A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir, and where alteration is strictly limited. Functionally, stream protection corridors provide erosion control, improve water quality (lower sedimentation and contaminant removal) offer flood water storage, provide habitat, and improve aesthetic value.”

Stream is defined as “a surface watercourse with a well-defined bed and bank, either natural or artificial that confines and conducts continuous or periodic flowing water.”

Stream Bank is defined as “the sloping land that contains the stream channel and the normal flows of the stream.”

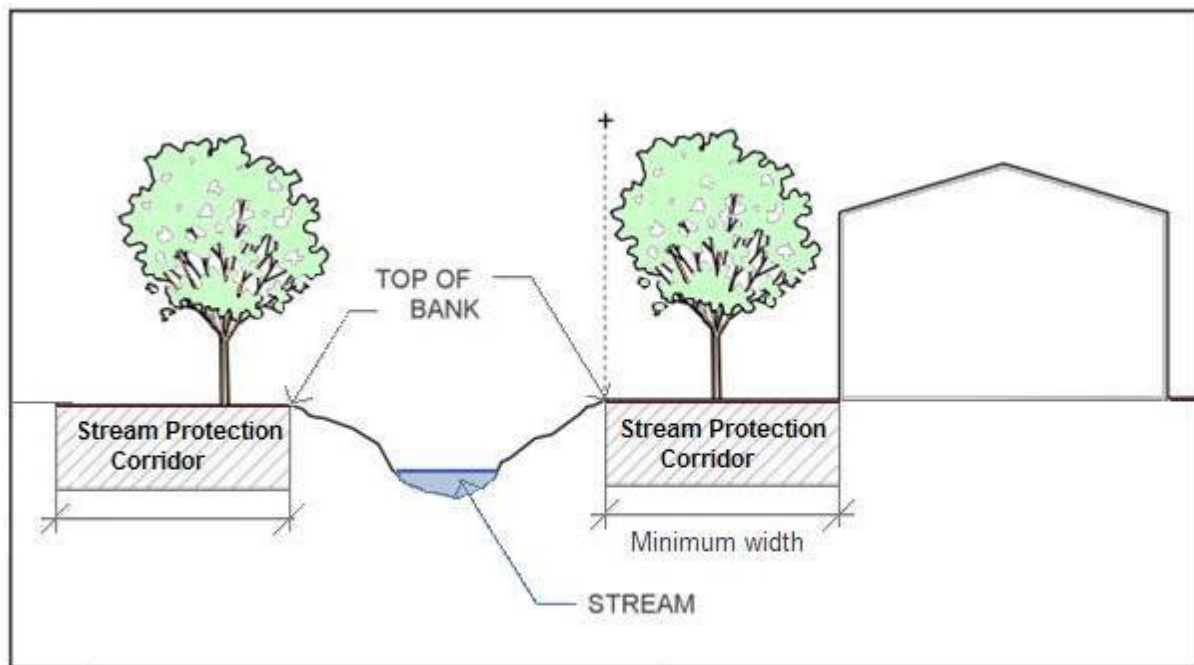
Stream Channel is defined as “part of a watercourse that contains an intermittent or perennial base flow of groundwater origin.”

There are two types of categories of Streams: Category One Streams and Category Two Streams. Category One Stream is defined as: “A perennial stream that flows in a well-defined channel throughout most of the year under normal climatic conditions. Some may dry up during drought periods or due to excessive upstream uses. Aquatic organism such as some fish are normally present and easily found in these streams. The Category One Streams are listed in Table 744-205-2: Category One Streams.”

A Category Two Stream is defined as: “An intermittent stream that flows in a well-defined channel during wet seasons of the year but not necessarily for the entire year. These streams generally exhibit signs of water velocity sufficient to move soil, material, litter, and fine debris. Aquatic organisms, such as fish, are often difficult to find or not present at all in these streams. These streams are identified on the United States Geological Survey (USGS) topographic maps and on the Department of Natural Resources Conservation Service (NRCS) soils maps.”

There are 34 Category One streams listed in the Ordinance. The stream protection corridor is a strip of land on both sides of the stream whose width varies according to whether it is within the Compact or Metro Context Area and whether it is a Category One or Category Two Stream.

Wildcat Brook lies within the Metro Context Area and is located along the southern portion of the site. It is designated as a Category Two stream requiring a 50-foot-wide stream protection corridor on both sides of the stream, as measured parallel from the top of the bank. Top of the bank is not defined by the Ordinance, other than by Diagram UU, Stream Protection Corridor Cross-section, as shown below.



Stream Protection Corridor

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	D-A (FF) (FW)	
Existing Land Use	Agricultural uses / Accessory building	
Comprehensive Plan	Rural or Estate Neighborhood typology	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
	North: SU-2 / D-2	School / single-family dwelling
	South: D-A (FF) (FW)	Agricultural uses
	East: D-A (FF) (FW)	Accessory building
	West: D-A (FF) (FW) / D-S (FF) (FW)	Single-family dwelling / agricultural uses
Thoroughfare Plan		
Indian Creek Road Drive South	Primary Collector	Existing 30-foot right-of-way and proposed 80-foot right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	Yes. Wildcat Brook	
Overlay	Yes. Environmentally Sensitive Areas	
Wellfield Protection Area	No	
Site Plan	November 13, 2024	
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 Rural or Estate Neighborhood typology. “The Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.”

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:

- *Recommended Land uses – Rural / Estate Neighborhood Typology*
 - Detached housing, working farms, group homes, bed / breakfast and wind / solar farms.
- *Modified Uses – Environmentally Sensitive Areas (ES)*
 - Modified uses – detached housing, group homes and bed / breakfast
 - Removed uses – working farms and wind / solar farms

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

ZONING HISTORY

2022-CZN-843 / 2022-CVR-843 / 2022-CPL-843; 10505 Indian Creek Road South (west of site), requested rezoning of 23.665 acres from the D-A (FF) district to the D-S (FF) district, a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for six single-family detached lots with frontage on a private drive (public street frontage required), and approval of a Subdivision Plat to be known as Six Brothers Subdivision, dividing 23.665 acres into six lots, **approved and granted**

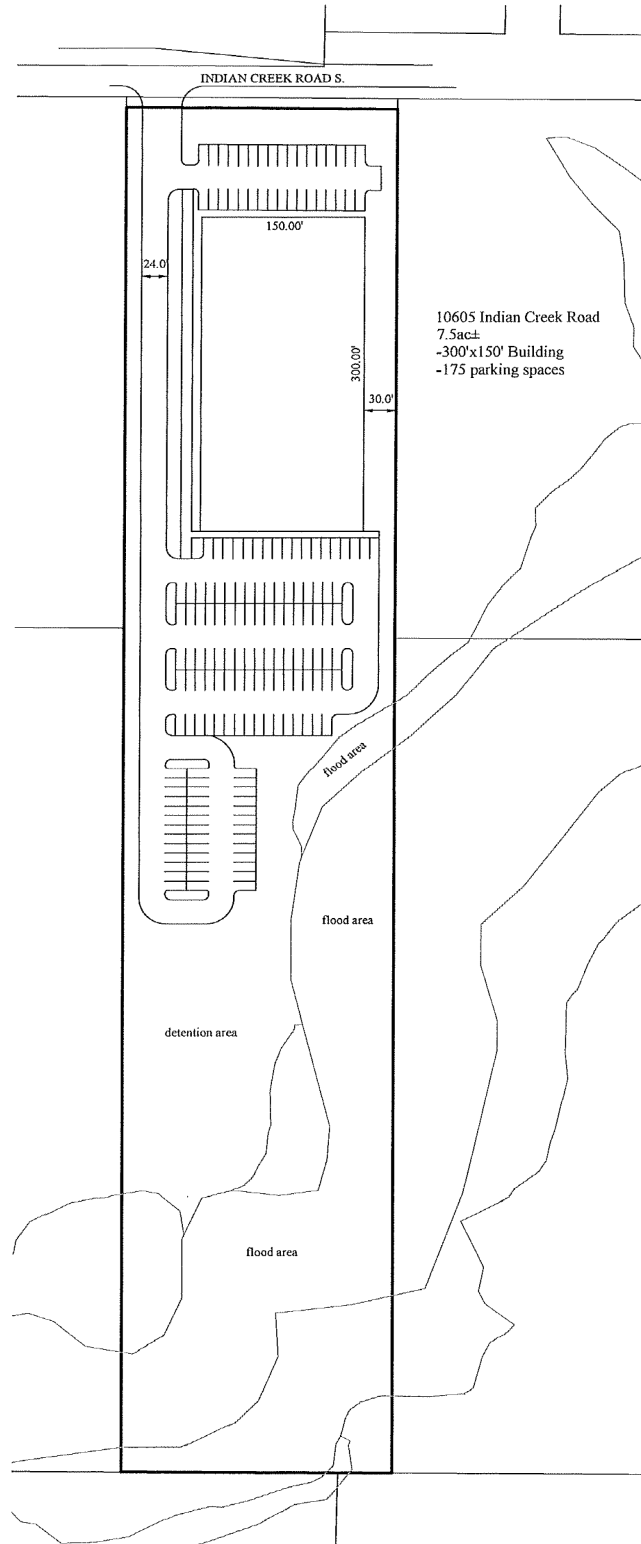
2020-ZON-045, 10000 Indian Creek Road South (west of site), requested rezoning from the D-A district to the D-4 classification, **approved**.

2005-ZON-174, 10505 East Edgewood Avenue (north of site), requested rezoning from the D-A district to the SU-2 classification to provide for construction of a middle school, **approved**.

EXHIBITS



10635 Indian Creek South





View looking east along Indian Creek Road South



View looking west along Indian Creek Road South



View of site looking south across Indian Creek Road South



View of site looking southeast across Indian Creek Road South



View of site looking southeast across Indian Creek Road South



View of site looking southwest across Indian Creek Road South