

Board of Zoning Appeals Division I

August 4, 2026

Case Number: 2026-UV1-008

Property Address: 1852 Shelby Street (*approximate address*)

Location: Center Township, Council District #18

Petitioner: The8Forty, LLC, by Justin Kingen

Current Zoning: MU-1 (TOD)

Request: Variance of use to allow for single-family attached dwellings in the MU-1 district (not permitted) and a variance of development standards to allow for a 37.5-foot-wide lot (50-foot minimum lot width required), a 12-foot front building line (0-10 feet required), lack of a primary entrance feature on the front façade (not permitted), a front building line encompassing 42.66% of the lot width (minimum 80% required), and a trash enclosure within the 15-foot rear yard setback (not permitted).

Current Land Use: Unimproved

Staff Recommendations: Staff recommends **approval** of this petition, subject to commitments.

Staff Reviewer: Josh Levesque, Senior Planner

PETITION HISTORY

A registered neighborhood organization previously filed a timely automatic continuance from the May 12th to the June 2nd BZA I hearing. Staff previously requested—and were granted—a continuance for cause to the July 7th, 2026, hearing. The petitioner requested—and was granted—a one-month continuance to the August 4th, 2026, BZA I hearing.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition, subject to the following commitments:

- "If this Petition for Variance is granted, Petitioner commits that no Improvement Location Permit (ILP) shall be applied for or issued for the subject property until Petitioner has first submitted for and completed the applicable local structural (Class One) review through the Department of Business and Neighborhood Services, addressing the proposed single-family attached container structure, and has obtained written confirmation of any additional state-level building permits, approvals, or variances required for construction. If state and/or local permits cannot be issued or obtained, the variance would be null and void and the property would return to its base MU-1 zoning district."

PETITION OVERVIEW

- 1852 Shelby Street is an unimproved undeveloped parcel. Until summer or fall of 2022, there had been a building on this site that appeared to be commercial in nature. That building appears to

have been built sometime between 1986 and 1990. The property is currently zoned MU-1. Properties to the north and south are also zoned MU-1 while the properties to the east are zoned MU-2. Properties to the west are zoned D-5.

- The petitioner is seeking a variance of use (along with multiple development standards) to allow for the development of two 3x3 stacked container homes that will serve as market-rate single-family attached housing. Single-family attached housing is not a permitted use within the MU-1 district.
- The Ordinance defines the purpose of MU-1 as being “intended for the development of high-rise office uses and apartments intermixed, grouped in varying combinations, or provided in the same building.” Additionally, the Ordinance highlights that appropriate settings for the MU-1 district include proximity to rapid transit stops. A variance of use is intended for unique uses that are not contemplated in the ordinance or to allow for the best and highest use of land that would otherwise not be developed.
- The Comprehensive Plan’s Land Use Plan Pattern Book classifies this property as part of the Village Mixed-Use typology. This 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 the 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.
- When analyzing a land use petition, staff must consider the context of the surrounding area and look for guidance in the Comprehensive Plan. The residential building types required by MU-1 do not fit within the context of this corridor. In fact, the MU-1 definition indicates that “appropriate settings for the MU-1 district include the midtown and uptown areas of the city, very near rapid transit stops, or in the midst of high intensity regional commercial complexes.” While this site is very near to a Red Line stop, this is neither an area amid a high intensity regional commercial complex nor is it an area where high-rise residential would be appropriate. In fact, the Village Mixed-Use typology indicated that buildings should be limited to no more than 4 stories. Furthermore, as indicated above, the Village Mixed-Use typology recognizes that mixed-use does not have to occur vertically but can happen horizontally across a corridor. If a current zoning district does not fit with the area it is in, the question then, is whether, the proposed land-use petition does fit and whether it aligns with the spirit of the Comprehensive Plan.
- The petitioner’s proposed development helps the corridor to provide a variety of housing options and increases density, aligning with the Comprehensive Plan. Additionally, the stretch of Shelby Street from Beecher Street to Iowa Street also houses an auto-body shop, a butcher shop, a

barbershop, a plumbing business, and a screen printing business. These small businesses represent an existing mixed-use element and the proposed development represents an opportunity for increased traffic as well as the opportunity for further mixed-use development.

- The subject site in question has a lot width of 37.5 feet when MU-1 requires a minimum lot width of 50 feet. Staff's analysis indicates the presence of site-specific practical difficulties as a number of MU-1 standards would be difficult to meet on a lot of this size.
- Staff, however, is cognizant that the proposed structure is only a prototype and, based on conversations with the petitioner, has not yet been built in the State of Indiana. While staff is supportive of the proposed single-family attached residential use, staff wants to ensure that all safety standards are met. As such, if this petition should be granted, staff would request the following commitment:
 - If this Petition for Variance is granted, Petitioner commits that no Improvement Location Permit (ILP) shall be applied for or issued for the subject property until Petitioner has first submitted for and completed the applicable local structural (Class One) review through the Department of Business and Neighborhood Services, addressing the proposed multi-family stacked container structure, and has obtained written confirmation of any additional state-level building permits, approvals, or variances required for construction.
- Based on the difficulties the lot poses for MU-1 development, the context of the corridor, and the guidance provided the Comprehensive Plan, staff recommends **approval** of this petition, subject to the aforementioned commitments.

GENERAL INFORMATION

Existing Zoning	MU-1 (TOD)	
Existing Land Use	Undeveloped	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	Zoning	Surrounding Context
North:	MU-1	North: Residential
South:	MU-1	South: Residential
East:	MU-2	East: Residential
West:	D-5	West: Commercial/Residential
Thoroughfare Plan		
Shelby Street	Primary Arterial	65-foot existing right-of-way and 56-foot proposed right-of-way
Context Area	Context	
Floodway / Floodway Fringe	No	
Overlay	TOD	
Wellfield Protection Area	No	
Site Plan	3/16/2026	

Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	3/17/2026
Findings of Fact (Amended)	N/A
C-S/D-P Statement	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)

Pattern Book / Land Use Plan

- 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 contribute 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.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- This parcel is within the Transit Oriented Development Overlay. The parcel is less than 600 feet south of a Red Line BRT stop at Shelby Street and Pleasant Run Parkway. The 2020 Red Line TOD Strategic Plan contemplates a Walkable Neighborhood typology for this area. Typology characteristics include:
 - Mix of uses at station area and primarily residential beyond
 - Maximum of 3 stories throughout
 - No front or side setbacks at core; 0-15 ft. front setbacks and 0-20 ft. side setbacks at periphery
 - Mix of multi-family and single-family housing
 - Structured parking at the core and attractive surface parking at the periphery

Neighborhood / Area Specific Plan

- Not Applicable to the Site

Infill Housing Guidelines

- Building Elevations and Architectural Elements
 - Architectural elements contributed to the character of the neighborhood, and neighborhoods benefit by new buildings relating to and complementing the surrounding style.
 - Front entry features create “human-scale” massing elements that relate buildings to the frontages and streetscape and social spaces that activate that streetscape. They provide endless opportunities for unique design with subtle variations to building patterns but create a consistent form and scale along streets. This helps reinforce a neighborhood character by creating distinctions between the same or similar building type and creating compatible relationships between buildings of different size or type.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

98-CP-12V; 1875 Shelby Street (southeast of site), Variance of Use of the Industrial Zoning Ordinance to provide for outside operations for an automobile repair business with outdoor operations and storage of 5,439 square feet or 127% of the total gross floor area of enclosed structures and buildings, **approved subject to conditions**.

2005-VAR-828; 1831 Shelby Street (east of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for a 3,400-square-foot market with a 2.5-foot front yard setback along Shelby Street, with a 6.5-foot front yard setback along Naomi Street, with parking located 2.5 feet from the right-of-way of Shelby Street, and a dumpster and mechanical equipment located 6.5 feet from the right-of-way of Naomi Street, **approved**.



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

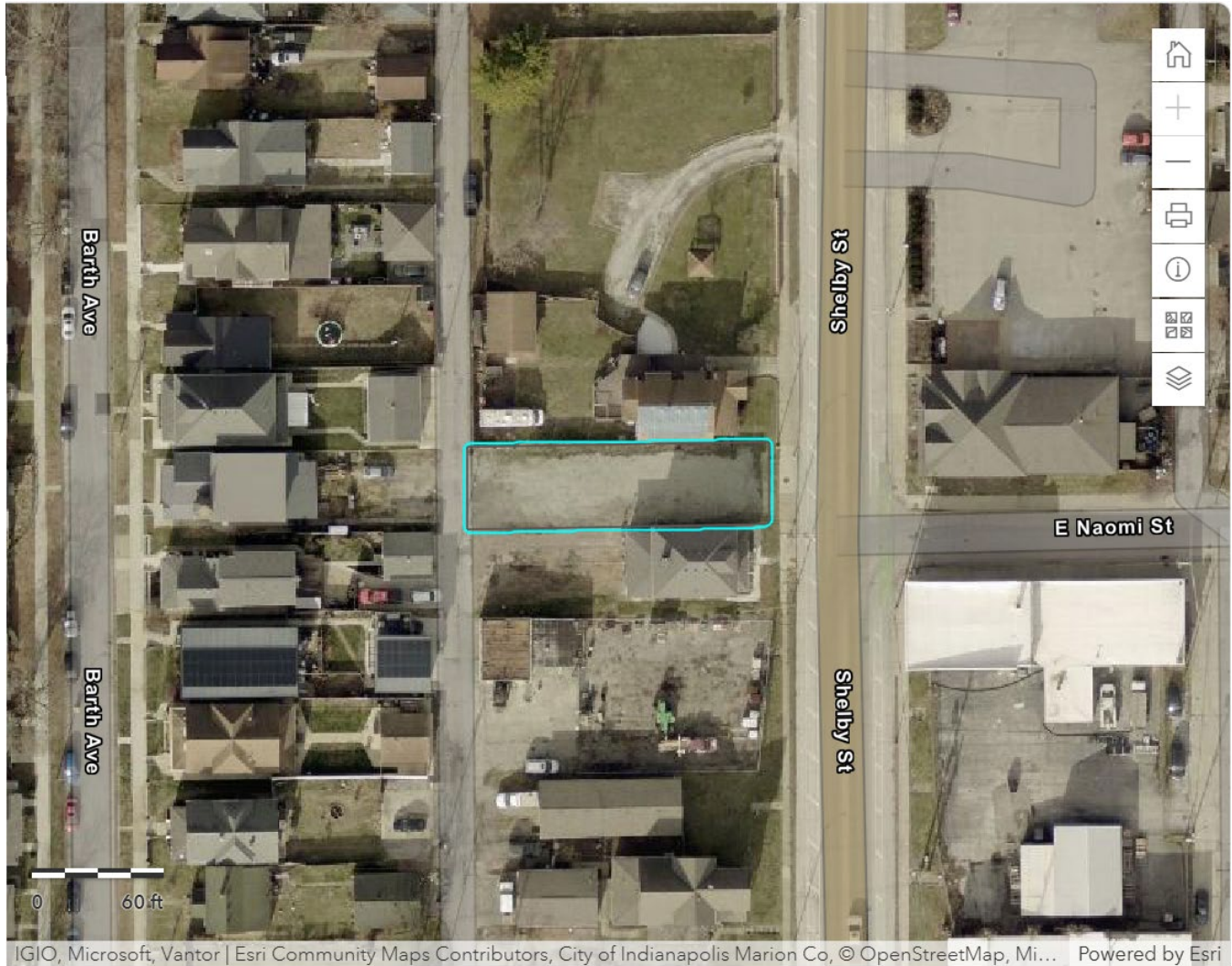
2005-ZON-828; 1831 Shelby Street (east of site), Rezone of 0.88-acre from the C-2 district to the C-3C classification to provide for a meat market, neighborhood commercial, and residential uses, **approved subject to commitments.**

2007-UV1-011; 1831 Shelby Street (east of site), Variance of Use of the Commercial Zoning Ordinance to provide for the sale of alcohol, accessory to a butcher shop, **approved subject to conditions.**

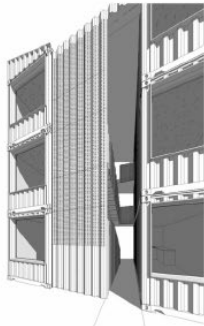
2026-ZON-038 (Pending); 1830 Shelby Street (north of site), Rezoning of 0.15-acre from the MU-1 (TOD) district to the D-5 district to provide for the construction of a duplex.

EXHIBITS

2026UV1008; Aerial Map



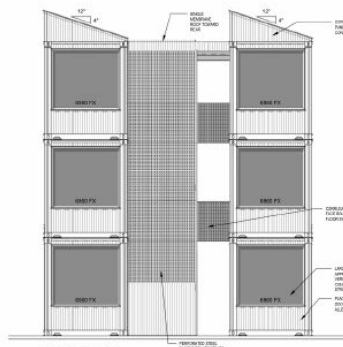
2026UV1008; Site Plan



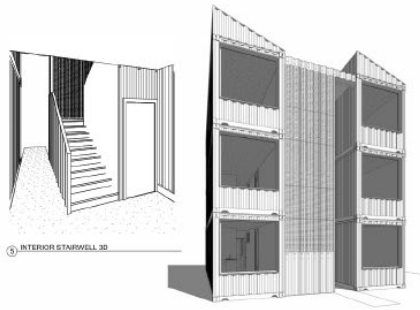
6. GROUNDLEVEL ENTRY 3D



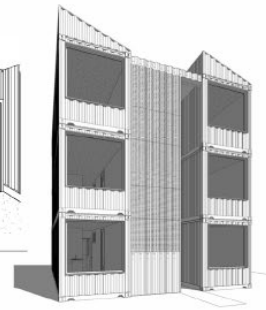
7. REAR COURTYARD 3D



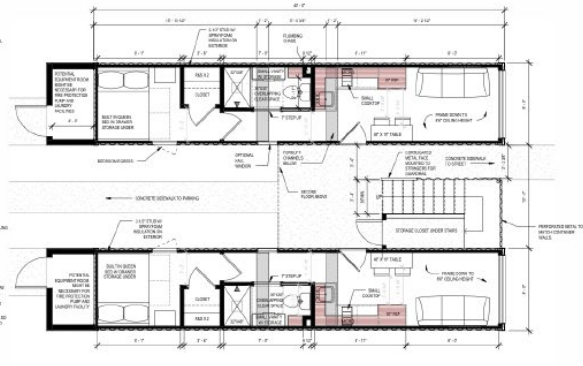
3. FRONT PROPOSED
1/4\"/>



5. INTERIOR STAIRWELL 3D



4. FRONT 3D



1. MAIN LEVEL INTERIOR FINISH PLAN
1/4\"/>



2. UPPER LEVEL FLOOR PLANS
1/4\"/>

2026UV1008; 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:

The project will be constructed in accordance with applicable building codes and of quality materials which will enhance the streetscape while also adding critically needed density in order to help achieve the goals of the community for future development in the immediate area. The project will also strive to provide housing for homeless individuals which directly improves area public health, safety, morals and general welfare of the immediate vicinity. The project does not represent a severe departure from the existing layout of the immediate area and represent a quality infill which aligns with adopted City goals and leverage considerable public investment in the form of the bus rapid transit.

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 immediate area is comprised of industrial, moderate commercial, and large single and two-family detached structures. The majority of these structures were constructed in the early 20th century. The current adopted comprehensive zoning ordinance recommends Village Mixed-Use for this portion of Shelby Street. In order for this aspirational vision to be realized, increased density is a necessity. Given the element of community participation prior to the adoption of the ordinance, the petitioner does not believe the introduction of this reasonable typology to adversely impact adjacent properties. The petitioner would note that the site is within 465 feet of a Red Line transit station.

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

The subject site was platted in 1873, prior to the adoption of Zoning in Indianapolis. Such lots are generally narrow in regard to lot width. While the zoning ordinance does provide for lot width exceptions for single-family detached lots, it provides additional exceptions for D-6II and D-7 Districts, so long as the plat specifically is intended for residential use. Indication of such use was not a common practice in the 19th Century, and the Ordinance fails to rectify the practical difficulty in non-residential districts intended to provide for residential, such as the Mixed-Use Districts, without the City's regulatory mechanism and aspirational policies, resulting in a substantial practical difficulty. The

2026UV1008; Variance of Use Findings of Fact

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The project will be constructed in accordance with applicable building codes and of quality materials which will improve the streetscape while also adding critically needed density in order to help achieve the goals of the comprehensive plan for future development in the immediate area. The project will also strive to provide housing for homeless individuals, which directly improves area public health, safety, morals and general welfare of the immediate vicinity.

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 BECAUSE

The immediate area is comprised of industrial, moderate commercial, and large single and two-family detached structures. The majority of these structures were constructed in the early 20th century. The current adopted comprehensive plan recommends Village Mixed-Use for this portion of Shelby Street. In order for this aspirational vision to be realized, increased density is a necessity. Given the element of community participation prior to the adoption of the comprehensive plan,

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The subject site was platted in 1873, prior to the introduction of zoning as a concept. Given this fact, the subject site has substandard lots, particularly in regard to lot width. Without the grant of relief in such areas from the minimum lot size, the ability to achieve adopted goals of the City and community, as defined in its comprehensive plan, are limited and the subject site is disadvantaged.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

While the site is within the Transit-Oriented Development Overlay District, it does not provide for density, multi-family oriented districts, despite the intent of traditional transit oriented development to do so. While the attached development is a multi-family development, the petitioner would posit that the national housing crisis is best addressed through the creation of attainable ownership opportunities in desirable areas, such as the subject site, being in close proximity to the Red Line.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The comprehensive plan recommends Village Mixed-Use for the subject site. This portion of Shelby Street is as having the beginnings of a healthy mixed-use corridor, with existing industrial, commercial and two-family detached structures. However, in order to achieve an enhanced corridor, and to capitalize on the substantial investment that has been made into constructing the Red Line, increased density is a bare requirement. The proposal seeks to provide the subject site with the opportunity to contribute to the corridor's growth.

2026UV1008; Photographs



Photo 1: Looking at subject site from Shelby Street

2026UV1008; Photographs (continued)



Photo 2: Close up of subject site with buildings fronting Barth Street in background

2026UV1008; Photographs (continued)



Photo 3: Looking across the street from subject site at butcher shop and Naomi Street

2026UV1008; Photographs (continued)



Photo 4: Looking south on Shelby Street

2026UV1008; Photographs (continued)



Photo 5: Looking north on Shelby Street