



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

July 11, 2024

Case Number: 2024-ZON-057
Property Address: 1709 East 38th Street (approximate address)
Location: Center Township, Council District #8
Petitioner: Francis Olanipekun, by Oluwaseun Famosinpe
Current Zoning: SU-1 (TOD)
Request: Rezoning of 2.32 acres from the SU-1 (TOD) district to the C-4 (TOD) district to provide for commercial uses including an event hall.
Current Land Use: Vacant Buildings
Staff Recommendations: Denial
Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

However, if the petition were to be approved against staff's recommendation approval shall be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 28-foot half right-of-way shall be dedicated along the frontage of Orchard Street, 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).

PETITION OVERVIEW

LAND USE

The 2.32-acre subject site is developed with two vacant buildings and associated parking lot. The site is surrounded to the north by a mixed-use building, zoned MU-2, day care center, zoned C-4, and single-



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

family dwellings, zoned D-5, to the east of the site, a single-family dwelling, zoned D-5, and an industrial use, zoned I-2, to the south, and an industrial use west, zoned I-2.

REZONING

This petition would rezone the property from the SU-1- (TOD) district to the C-4 (TOD) district to provide for commercial uses including an event hall.

The SU-1 classification only permits religious uses.

The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.

DEPARTMENT OF PUBLIC WORKS

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 28-foot half right-of-way along Orchard Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Staff Analysis

The site is zoned SU-1, which is only intended for religious uses where the proposed C-4 district would allow for a variety of new uses that staff determined would be too intense next to the single-family dwellings east and south of the site that should be protected.

In staff's opinion, rezoning of the entire site to the C-4 district would not be compatible with the Village Mixed-Use or Light Industrial recommendations of the Comprehensive Plan. Instead, staff would be more supportive of a C-3 rezoning that would allow for neighborhood commercial businesses that could align with the Village Mixed-Use recommendation of the Comprehensive Plan if the intent would be to include other commercial uses on site.

However, based on the Plan of Operation submitted to the case file, staff has reason to believe the primary use of the site would be for the event hall since other commercial uses were not specified in the Plan of Operation. Although not specified in the Plan of Operation, the application form submitted noted that the site would "be uses as social events center to accommodate activities such as seminars, workshops, weddings, birthday events, talk shows, and general social gatherings".

The Plan of Operation notes that comprehensive fencing would be installed along the perimeter of the building to enhance security and confine all vehicle parking, but the site plan did not note the proposed location of said fence, fence height or fence type. These details are important to ensure that the fence regulations of the Zoning Ordinance are followed.



Staff relayed the C-3 rezoning option to the petitioner as a compromise but did not receive any comments from the petitioner regarding this alternative.

Staff determined that the proposed event hall would not be supportable. There were concerns regarding additional noise, lighting, and traffic that would be generated with the proposal near the single-family dwellings which would negatively impact the quality of life of the residents.

The previous religious use of the site allowed for many vehicles on site, but the hours of operation for a church are typically limited to the weekend and possible evenings for services. Traffic is typically not generated in great volume throughout the week or even into such late hours as proposed for this intended use.

Lastly, the petitioner was notified that the parking space dimensions would need to meet the Ordinance standards of 9 feet by 20 feet for a total 180 square-foot area or any other configuration that would meet the minimum 9-foot width and 180 square foot parking space requirement. If this is not met, the petitioner will need to request a variance for deficient parking stall sizes to be addressed.

For these reasons staff is recommending denial of the request.

GENERAL INFORMATION

Existing Zoning	SU-1 (TOD)	
Existing Land Use	Vacant Buildings	
Comprehensive Plan	Village Mixed-Use and Light Industrial	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
	North: MU-2	Mixed-Use Building
	South: D- 5 / I-2	Residential (Single-family dwelling) / Industrial
	East: C- 3 / D-5	Day Care Center / Residential (Single-family dwellings)
	West: I-2	Industrial
Thoroughfare Plan		
38 th Street	Primary Arterial Street	88-foot proposed right-of-way and 120-foot existing right-of-way.
Orchard Street	Primary Arterial Street	56-foot proposed right-of-way and 51-foot existing right-of-way.
Trumbull Street	Local Street	48-foot proposed right-of-way and 50-foot existing right-of-way.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	June 4, 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 i

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Purple Line Transit-Oriented Development Strategic Plan (2021)
- Indy Moves Transportation Integration Plan (2018)

Pattern Book / Land Use Plan

- The subject site is recommended for village mixed-use development for the majority of the site and a slight section along the eastern property boundary is recommended for light industrial development.
- 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.
- The Light Industrial typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic.
- An event center and higher intense commercial uses that would be permitted in the proposed C-4 district would not align with the Comprehensive Plan recommendations.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The site falls within the Purple Line Transit-Oriented Development Strategic Plan (2021)
- The closest station to the site is at the intersection of 38th Street and Orchard Avenue, which is the northeast corner of the site and falls within ¼ mile of this station.

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 subject site falls within the Indy Moves Transportation Integration Plan (2018).
- An off-street multi-use path is proposed along 38th Street from Sutherland Avenue to Post Road.



ZONING HISTORY

Zoning History – Site

2005-ZON-091; 1709 East 38th Street (subject site), Rezoning of 2.24 acres, being in the I-2-U (W-1) District, to the SU-1 (W-1) classification to legally establish and provide for the expansion of religious uses, **approved**.

89-Z-225; 1703 East 38th Street (subject site), Rezoning of 2.0 acres, being in the D-5 district, to the I-2-U classification, to provide for a warehouse and office, **approved**.

87-VAC-52; 3750 Orchard Street (subject site), Vacation of 1st alley south of East 38th Street from the west right-of-way line of Orchard Street to West and South Westerly to the North right-of-way line of Trumbull Street, **approved**.

Zoning History – Vicinity

2013-ZON-078; 1720 East 38th Street (north of site), Rezoning of 1.52 acres from the C-4 (W-1) districts to the C-3C (W-1) classification to provide for mixed-use development, including multi-family residential and commercial uses, **approved**.

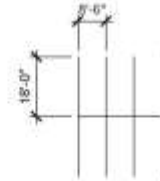
2000-UV1-004; 1703 East 38th Street (west of site), Variance of use of the Industrial Zoning Ordinance to provide for a religious use, with associates accessory counseling and programming activities for the community (not permitted), **granted**.

97-Z-39; 1845 East 39th Street (east of site), Rezoning of 0.029 acres, being in the D-5 District, to the C-3 classification to conform zoning to the existing commercial use, **approved**.

96-Z-176; 1701 East 38th Street, 3743-3755 North Sutherland Avenue, and 3721-3739 North Schofield Avenue (west and south of site), Rezoning of 1.65 acres, being in the D-5 District, to the I-2-U classification to provide for I-2-S industrial uses, **approved**.

EXHIBITS





2 TYPICAL PARKING SPACE DIMS
 SCALE: 1/32" = 1'-0"

1 SITE PLAN
 SCALE: 1/64" = 1'-0"

N

Plan of Operation - K-Arise Investment LLC

Operating Hours

- **Weekdays (Monday to Friday)**
 - Premises open at 8:00 AM.
 - Premises close at 10:00 PM.
- **Weekends (Saturday and Sunday)**
 - The premises open at 10:00 AM.
 - Premises close at 2:00 AM the following day.

Security and Safety Measures

- **Fencing**
 - Comprehensive fencing will be installed around the perimeter of the building to enhance security and delineate the property boundary.
- **Lighting**
 - The entire premises, including parking areas and walkways, will be well-lit to always ensure visibility and safety, especially during evening and late-night hours.
- **Parking Management**
 - All vehicle parking will be confined within the fenced premises to maintain order and prevent any overflow onto neighboring properties or streets.
 - Clear signage will be placed to guide guests to designated parking areas.
- **Loitering Prevention**
 - Measures will be taken to discourage loitering of both vehicles and individuals outside the building premises.
 - Regular monitoring by security personnel will be enforced during operational hours.

Event Management and Operations

- **Safety Protocols**
 - Regular safety drills and checks will be conducted to ensure all safety protocols are up-to-date and effective.
- **Noise Control**
 - Soundproofing measures will be implemented to minimize noise disruption to the surrounding community, especially during late-night operations.
- **Waste Management**

- Efficient waste disposal systems will be in place to handle event-related refuse and recycling, ensuring cleanliness and environmental responsibility.

Community Engagement and Compliance

- **Local Laws and Ordinances**

- Operations will adhere strictly to local zoning laws, noise ordinances, and all applicable regulations.

- **Community Feedback**

- A system for receiving and addressing community feedback will be established to maintain good relations with neighboring residents and businesses.

This plan of operation is designed to ensure that K-Arise Investment LLC operates within the legal framework provided by the city of Indianapolis and maintains a safe, secure, and neighborly environment



Photo of the subject site looking west across Orchard Avenue.



Photo of the subject site looking south across Orchard Avenue.



Photo of the subject site looking north from Trumbull Street.



Photo of the southern property boundary looking north.



Photo of the southern property boundary of the subject site looking northwest.



Photo of an undeveloped industrial lot south of Trumbull Street.



Photo of a single-family dwelling south of Trumbull Street.



Photo of single-family dwellings east of Orchard Avenue.



Photo of a day care center east of the site.



Photo of multi-family dwellings north of the site.



Photo of a commercial building contractor business west of the site.