

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

July 11, 2024

Case Number: 2024-ZON-060
Property Address: 2401 West Morris Street
Location: Wayne Township, Council District #17
Petitioner: Amy Lapka
Current Zoning: D-5 (FF) and C-4 (FF)
Request: Rezoning of 3.99 acres from the D-5 (FF) and C-4 (FF) districts to the C-7 (FF) to provide for a landscaping business.
Current Land Use: Garden center / vacant land
Staff Recommendations: Denial
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued this petition from the June 13, 2024 hearing, to the July 11, 2024 hearing.

STAFF RECOMMENDATION

Denial. If approved, staff would request that approval be 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. Development of the site shall be in substantial compliance with the site plan and landscape plan, file-dated May 8, 2024.
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 / receptables provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

This 3.99-acre site, zoned D-5 (FF) and C-4 (FF), is comprised of nine contiguous parcels. It is surrounded by vacant land to the north, across West Morris Street, zoned D-5II and single-family dwellings, zoned C-4; industrial uses to the south, across Lambert Street, zoned I-3 (FF); single-family dwellings to the east, zoned C-4 and D-5 (FF); and industrial uses to the west, zoned D-5 (FF).

REZONING

The request would rezone all nine parcels to the C-7 (High Intensity Commercial) District. “The C-7 District is designed to provide specific areas for commercial uses which have unusually incompatible features relative to other commercial uses, such as major outdoor storage or display of sizeable merchandise and the outdoor parking and storage of trucks, materials or equipment essential to the operation of these uses. Many of these uses generally are not visited by customers, but rather involve service operations from headquarters with some on-site fabrication of parts. The nature of operation or appearance are more compatible with industrial than retail commercial activities. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares and near interstate freeways, but not in close association with those commercial activities involving shopping goods, professional services, restaurants, food merchandising, and the like. **Due to the intensity of uses, location of this district should never be adjacent to protected districts.**”

The West Indianapolis Neighborhood Land Use Plan recommends five to eight dwelling units per acre, with a recommended D-5 zoning district.

As proposed, this request would not be consistent with the West Indianapolis Neighborhood Land Use Plan that recommends residential development.

Project Description / Plan of Operation

The proposed use is described as a landscape construction and maintenance company that would operate a small garden center. Hours of operation would be Monday through Friday from 5:30 a.m. to 9:00 p.m. Snow removal operations could occur during the night. Weekend hours for the Garden Center would be from 8:00 am. to 6:00 p.m.

The information provided stated vehicles and equipment on site would include approximately 40 trucks, 15 trailers, six pieces of equipment used for loading and various smaller equipment. The largest types of equipment would include a skid steer, a backhoe, a medium-sized tele-handler, landscape trailers and landscape trucks. Most of the equipment and vehicles would be stored inside the proposed pole barn and mechanics building but some parking would occur outdoors.

Site Plan

The site plan provides for a 2,450-square foot retail store with a parking lot consisting of 27 parking spaces fronting on West Morris Street. Existing buildings south of the retail store would remain and two new buildings, including the mechanics shop (5,280 square feet) and storage building (9,000 square feet), along with a fueling pad, is proposed along the western portion of the site. Fourteen storage bins consisting of stone, rip rap, mulch, cobble stone, soil and boulders would be located along the eastern portion of the site in proximity of residential uses.

Site access would be gained from West Morris Street and West Lambert Street. Perimeter landscaping would be installed along West Morris Street and along the eastern boundary. Staff would also note that a sidewalk along West Morris Street and West Lambert Street would be required.

Greenhouses appear on this site in the 1991 aerial. Earlier aerials depict a building at the northeast corner of the site, but the site has remained D-5, without any variances for commercial uses.

The C-7 district is a high intense commercial land use, with unlimited outdoor storage that would be detrimental to the residential neighborhood to the east. This site has historically been used as a small-scale seasonal garden shop, but the proposed use would be a commercial intensification that would be operating year around.

The introduction of trucks, large equipment and outdoor storage on much of the site would not be appropriate because of the negative impact to the residential area north (zoned D-5II in 2023) and east of the site. Furthermore, the Ordinance states that the proposed district should not be adjacent to protected districts.

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-5 (FF) and C-4 (FF)		
Existing Land Use	Garden Center / vacant land		
Comprehensive Plan	Five to eight dwelling units per acre		
Surrounding Context	Zoning	Land Use	
	North:	D-5II / C-4	Vacant land / single-family dwellings
	South:	I-3 (FF)	Industrial uses
	East:	C-4 / D-5 (FF)	Single-family dwellings
	West:	D-5 (FF)	Industrial uses
Thoroughfare Plan			
West Morris Street	Primary Arterial	Existing 60-foot right-of-way and proposed 78-foot right-of-way.	
Lambert Street	Local Street	Existing 40-foot right-of-way and proposed 48-foot right-of-way.	
Context Area	Compact		
Floodway / Floodway Fringe	Floodway Fringe (unregulated 500-year floodplain)		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	May 8, 2024		
Site Plan (Amended)	N/A		
Elevations	N/A		
Elevations (Amended)	N/A		
Landscape Plan	May 8, 2024		
Findings of Fact	N/A		
Findings of Fact (Amended)	N/A		
C-S/D-P Statement	N/A		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Not Applicable to the Site.

Pattern Book / Land Use Plan

- Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The West Indianapolis Neighborhood Land Use Plan (2011) recommends residential development at five to eight units per acre. Further described as “[I]n suburban and rural areas this is a common multi-family density and typically the highest density single-family category in suburban areas. In urban areas, it is common for both single-family and multi-family development. Development at this density is appropriate along bus corridors but should not take place in proximity of planned light rail transit stops.”
- This Neighborhood Plan recommends the D-5 district.

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 describes 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

ZONING HISTORY

2023-CZN-843 / 2023-CPL-843; 2302 West Morris (north of site), requested rezoning of 0.706 acre from the C-S district to the D-5II district to provide for six single-family dwellings and approval of a Subdivision Plat to be known as Oden Ross Park, subdividing 3.4 acres into six lots and two blocks, **approved**.

2005-PLT-005, 2435 West Wilkins Street (north of site), requested approval of a plat to be known as WIDC Wilkins Street New Addition, dividing 1.78 acres into six lots, **approved**.

97-Z-158, 2450 West Morris Street (west of site), requested rezoning of 12.693 acres from the D-5 and C-7 district to the C-S district, **approved**.

95-UV2-5, 2331 West Morris Street (east of site), requested a variance of use to provide for construction of a 400-square foot detached garage for an existing single-family dwelling in the C-4 district, **granted**.

95-Z-19, 2530 West Morris Street (west of site), requested rezoning of 8.575 acres from the C-S district to the D-5 district, **granted**.

91-Z-173, 2530 West Morris Street (west of site), requested rezoning of 10.75 acres from the D-5 and C-4 district to the C-S district, **approved**.

87-UV1-81 / 87-SE1-8; 2545 West Morris Street (west of site), requested a use and special exception of the Commercial Special Exception Ordinance to provide for an amusement arcade within an existing building and located within 500 feet of a residential district, **granted**.

83-UV3-88, 1101 South Tremont Street (north of site), requested a variance of use to provide for the continued use of an existing garage for storage of two church buses, **granted**.

73-VAC-25, vacation of the first alley north of West Morris Street from the east property line of Tremont Street to a point 176 feet to the east, **approved**.

57-V-137; 2545 West Morris Street (west of site), requested a variance of use and development standards to provide for the construction of an addition to an existing bowling alley, **granted**.

Proposal Description

2401 W. Morris Street

Petitioner, Amy Lapka, via Heath Outdoor LLC and Hurst Properties, proposes to use the following parcels for commercial use for their landscaping company. Please see maps and layouts of our proposed plan for building on the site.

Our plan of operation is as follows:

We are a landscape construction and maintenance company and also operate a small garden center. Most of our landscape work is done on customers properties and the Morris street property is mostly used for storage of materials, equipment and vehicles. Our garden center is open to the public as a retail store and is mostly frequented by homeowners in the spring and fall. During the night, our property is secured with the exception of evening where we have to operate at night for snow removal. The majority of the loading and unloading work done at the Morris street property, other than the garden center and some mechanic work, is done between the hours of 7am and 9am and between 5pm and 7pm. It is mostly quiet during the remainder of the day. We will have office workers onsite that will park in the main parking lot. Those staff include sales and design, operations directors, project managers, accounting, administrative support and human resources. It includes approximately 15 staff members at one time in our busy season.

Our mechanics are the first to show up in the morning, typically around 5:30 am M-F. The last crew is typically closing up shop around 8:30-9 pm M-F in the summer months. Landscaping is only done when there is light available so very little work happens outside of daylight hours. The garden center does operate on the weekends between the hours of 8 am and 6 pm. The retail building we are planning to build on the north part of the property will include meeting space for our team. However, we are a company that likes to connect with and share our spaces with the community. We also plan to open that meeting space, as we have done successfully at our other properties, to neighborhood and community groups for free use.

VEHICLES and EQUIPMENT

The majority of our equipment and vehicles will be stored inside the proposed pole barn and mechanics building. However, they will be used during the day for loading landscaping materials and will be left outside as needed when space is taken up inside for projects. We have just under 40 trucks, 15 trailers, 6 pieces of equipment used for loading and various smaller equipment. The largest types of equipment are a skid steer, a backhoe, a medium sized tele-handler, landscape trailers and landscape trucks.

OUTDOOR STORAGE

The location of outdoor storage of landscape materials is marked on the plan attached. We store various types of decorative and construction gravel, decorative boulders, various types of mulch, garden and topsoil, and ice melting salt for snow removal.



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

Heath Outdoor also owns all adjacent residential properties, listed below, for office use.

2335 West Morris parcel 9015978

2331 West Morris parcel 9023574

1211 South Tremont parcels 9015972 & 9015973

1220 South Tremont parcels 9046254 & 9015974



View looking west along West Morris Street



View looking east along West Morris Street



View from site looking east



View of site looking south



View of site looking south across West Morris Street



View of adjacent use to the west looking south across West Morris Street



View looking east along Lambert Street



View of site looking north across abutting parking area at the southwest corner of the site



View of south access drive into site looking north across Lambert Street



View of site looking north across Lambert Street



View of eastern boundary of site looking north across Lambert Street



View from site looking south across Lambert Street