

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-018
Address: 5524 Georgetown Road (approximate address)
Location: Pike Township, Council District #8
Zoning: C-3
Petitioner: GAT LLC, by David Kingen & Emily Duncan
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a liquor store (not permitted).

ADDENDUM

The Board of Zoning Appeals granted a continuance request by the Petitioner continuing this matter from the September 5, 2023 hearing to the October 3, 2023 hearing.

At the October 3, 2023 hearing, the Board of Zoning Appeals granted a second continuance request by the Petitioner from the October 3, 2023 hearing to the December 5, 2023 hearing. The request was made to allow time for the Petitioner to modify the previously submitted site plan.

RECOMMENDATIONS

Staff **recommends** approval of the request for the variance of use to provide for the operation of a liquor store; however, staff does not support the proposed site plan or any site plan which fails to comply with C-3 district development standards.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-3	Metro	Commercial
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SURROUNDING ZONING AND LAND USE

North	C-3	Neighborhood commercial (auto parts/drug store)
South	C-3	Neighborhood commercial (restaurant)
East	C-3	Neighborhood commercial (vacant bank)
West	C-3	Neighborhood commercial (light commercial mix / religious)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends village mixed-use development.
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- ◇ The 1-acre subject site consists of a single parcel wholly within an integrated center developed in the mid-1990's with a single commercial structure. The site was originally used as a restaurant with an accessory drive-thru. The site was converted to a liquor store in or about 2011. The use was permitted at the time the current business was established and Staff supports continuation of the legal nonconforming use.
- ◇ The subject property is abutted by commercial on all sides.
- ◇ It is now subject to three zoning violations related to an unpermitted addition of two shipping containers to the site in the area of the existing drive-thru. Each container is approximately 40' (L) x 8' (W) x 8'6" (H). The containers have been fitted with lighting and air conditioning and are accessed via a pre-existing emergency exit on the south wall of the building.

VARIANCE OF USE

- ◇ The grant of the request would provide for the operation of a liquor store in the C-3 district.
- ◇ The purpose of the C-3 district is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale, or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.
- ◇ Liquor Stores are only permitted in the C-4/5/7, MU-2/3/4, and CBD-1/2/3 districts per Table 743-1: Use Table.
- ◇ Liquor Stores shall not be located within 100' of a protected district nor within 500' of any indoor recreation & entertainment establishment that caters to, or markets itself predominately to, persons under 21-years of age. The site is located more than the minimum distance from the said protected district or use.

(Continued)

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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 building has been located here for many years and the liquor store bought the property and moved into the building in 2011. Indy rezone changed the permitted uses with Indy Rezone in 2016. The pandemic occurred in 2020 which brought on the need for expansion. The addition will be legally established in 2023 with the grant of this variance and the improvements to the site and the addition to the building will be undertaken in late 2023 or early 2024,

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 addition with the landscaping and buffering will be an upgrade of this property and thus the area adjacent will be affected in a positive manner

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

The need for the variance petition is that Indy rezone amended the permitted uses in the C3 Commercial Zoning district where liquor stores are no longer permitted in the C3 district and thus when the liquor store was expanded, thus the need for the variance.

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

Since the pandemic in 2020, liquor sales have increased and thus facilities such as the one at 5524 Georgetown Road needed more storage space; but could not do so because in 2016 Indy rezone removed the liquor store from a permitted use in the C3 Commercial Zoning District

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

The area where the liquor store will remain is in an area that recommends Community commercial uses in the Comprehensive Plan.

- ◇ Staff determined that the grant would not be injurious to the general welfare of the community. The current use has been in place since about 2011.
- ◇ The use and value of the area adjacent to the property included in the variance would not be adversely affected by the use as it is surrounded by similar light commercial uses.

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GENERAL INFORMATION

THOROUGHFARE PLAN	56th St is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 110-foot existing right-of-way and a 102-foot proposed right-of-way. Georgetown Rd is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 125-foot existing right-of-way and a 102-foot proposed right-of-way.
SITE PLAN	File-dated August 7, 2023.
FINDINGS OF FACT	File-dated August 7, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO23-002884. (April 26, 2023) Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-609; 536-705; 536-709. A Stop Work-Order has been issued for failure to obtain an electrical permit prior to installing new electrical wiring in an addition (2 steel storage containers 16'x40') attached to the back (SOUTH SIDE) of a one-story commercial building.
2. VIO23-002888. (April 26, 2023) Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-609; 536-705; 536-709. A Stop Work-Order has been issued for failure to obtain an HVAC permit prior to installing new AC unit system for refrigeration in an addition (2 steel storage containers 16'x40') as a cooler attached to the back (SOUTH SIDE) of a one-story commercial building.
3. VIO23-002890. (April 26, 2023) Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-609; 536-705; 536-709. A Stop Work-Order has been issued for failure to obtain an HVAC permit prior to installing new AC unit system for refrigeration in an addition (2 steel storage containers 16'x40') as a cooler attached to the back (SOUTH SIDE) of a one-story commercial building.

PREVIOUS CASES

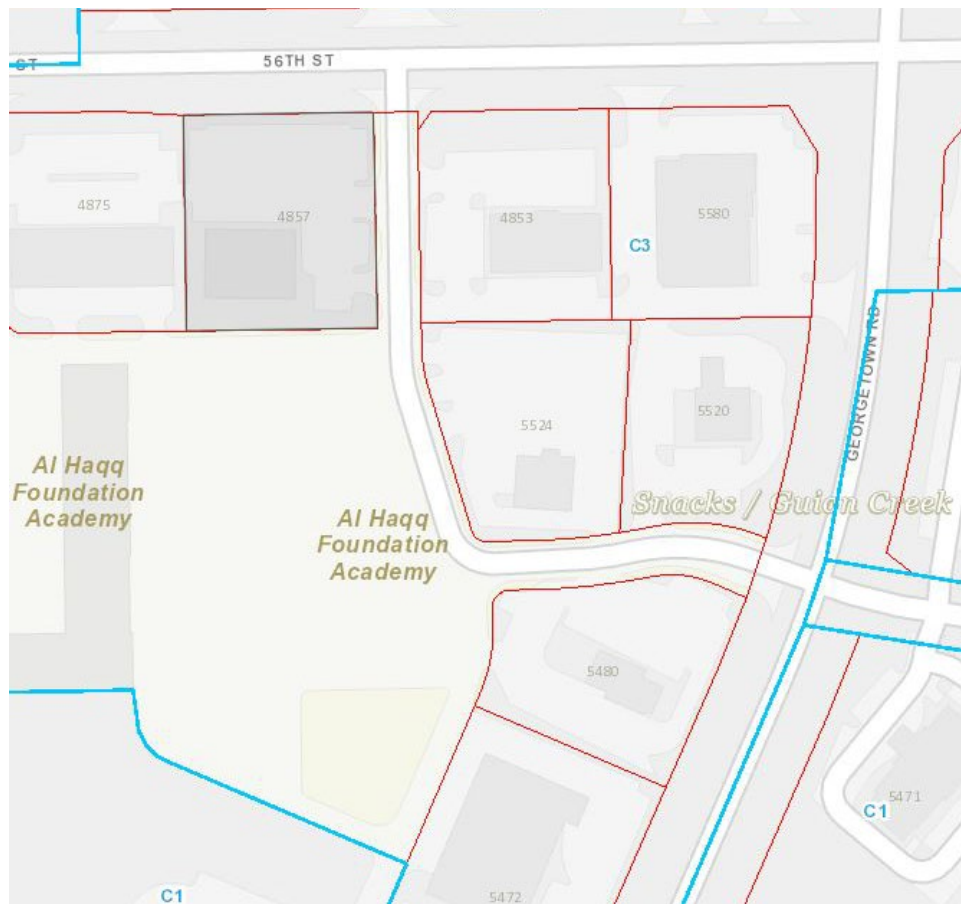
83-Z-152; 4859 West 59th St (includes subject site), Rezoning of 15.7 acres from the D-P district to the C-3 district, **granted**.

ZONING HISTORY – VICINITY

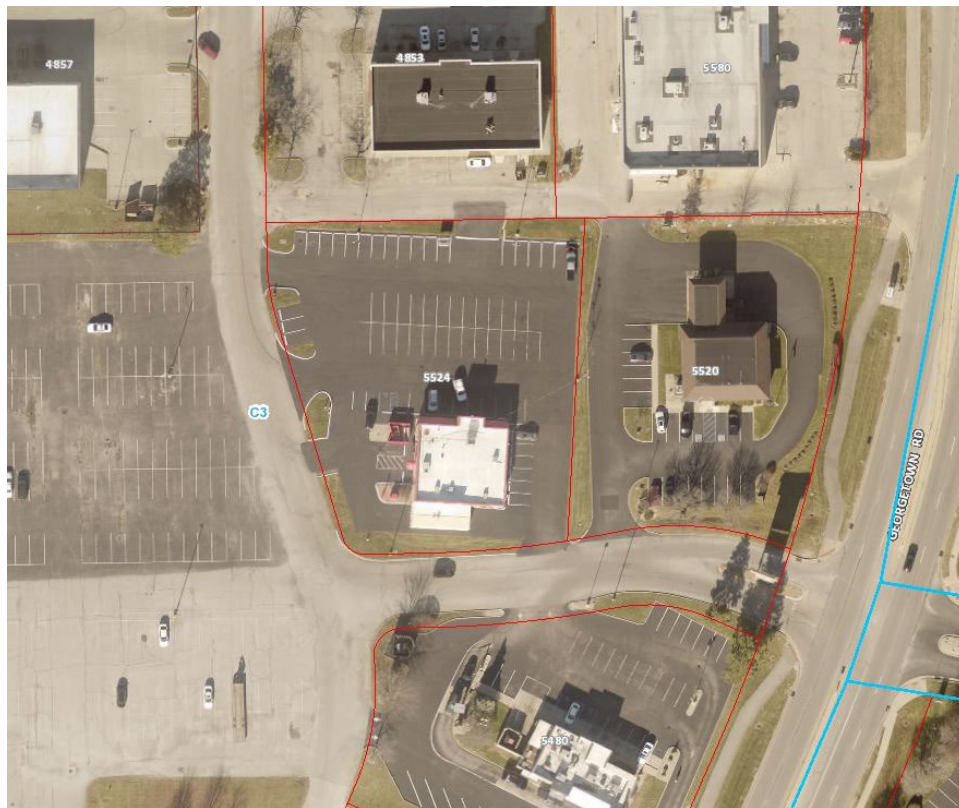
2013-UV1-004; 4853 West 56th St (north of site), Variance of use of the Commercial Zoning Ordinance to provide for an automobile parts store, **granted**.

2008-UV2-005; 4857 West 56th Street (northwest of site), Variance of use of the Commercial Zoning Ordinance to provide for an automobile parts store, **granted**.

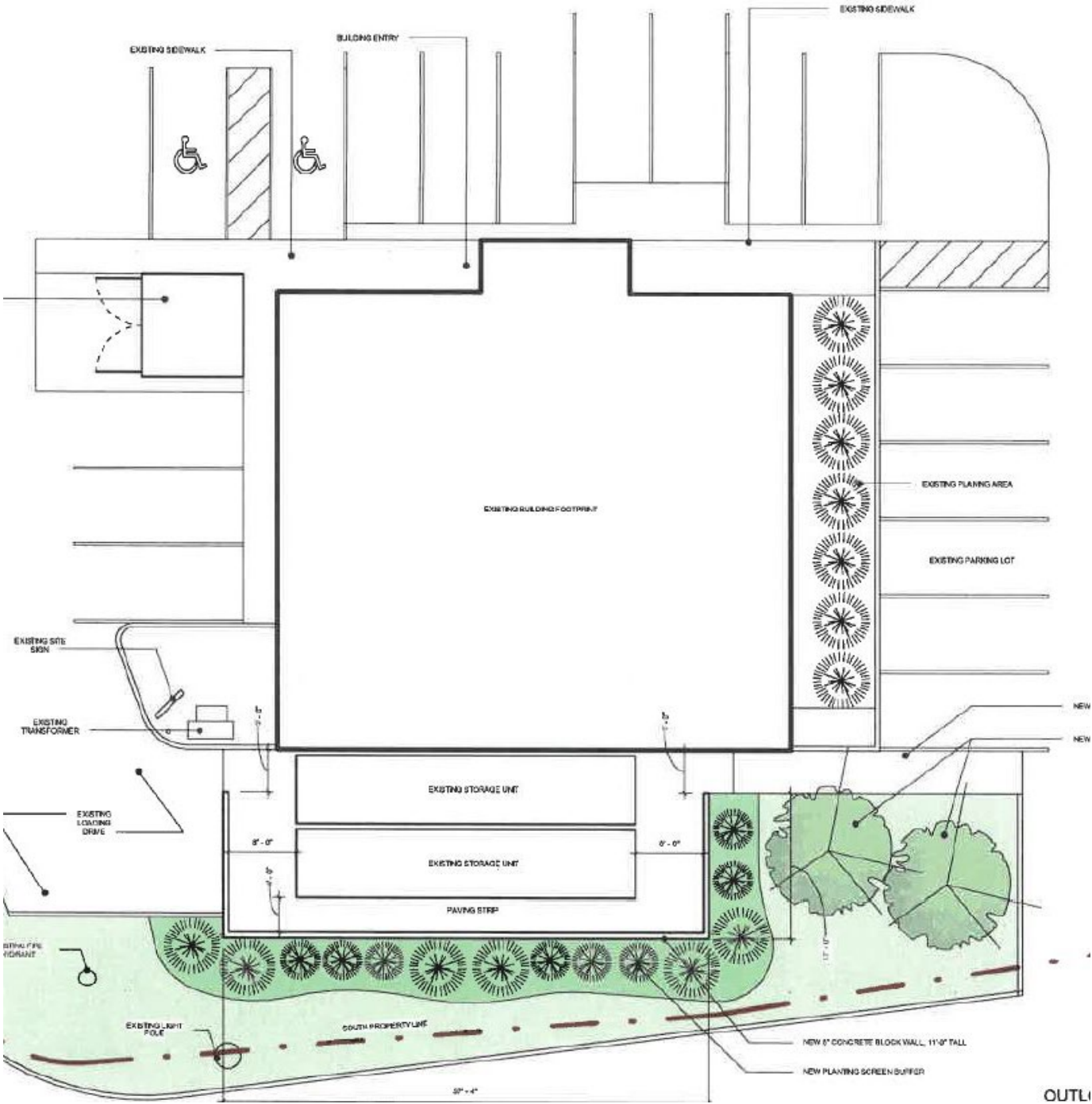
2023-UV1-018; Location Map



2023-UV1-018; Aerial Map



2023-UV1-004; Site Plan



2023-UV1-004; Photographs



Photo of the Subject Property, southwest view



Photo of the Subject Property, southeast view