

METROPOLITAN DEVELOPMENT COMMISSION

May 21, 2025

Case Number: 2025-CZN-809 / 2025-CVR-809 (Amended)

Property Address: 8800 East Raymond Street (Approximate Address)

Location: Warren Township, Council District #20

Petitioner: Alexander Construction and Landscape, by David Retherford

Current Zoning: C-5

Request: Rezoning of 4.37 acres from the C-5 district to the I-2 district to provide for a commercial and building contractor's business.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for outdoor storage and operations comprising of 225% of the total gross floor area of enclosed buildings (maximum 25% permitted), to provide for a gravel parking and storage area, (not permitted), with a 52-foot front transitional yard (minimum 100-foot front transitional yard required), with a 30-foot east side transitional yard (minimum 50-foot side transitional yard required), with a 10-foot north rear yard (minimum 30-foot rear yard required), to permit for outdoor loading and unloading of equipment and material 30 feet from a protected district (minimum 500 feet required), and to allow a six-foot tall aluminum fence with masonry columns in the front yard (maximum 3.5-foot tall fence permitted in the front yard).

Current Land Use: Undeveloped

Staff Recommendations: Denial

Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

ADDENDUM FOR MAY 21, 2025, METROPOLITAN DEVELOPMENT COMMISSION

This petition was heard by the Hearing Examiner on April 24, 2025. The request was amended to increase the east transitional yard and separation from a protected district to 30 feet and the variance for interior and exterior landscaping was withdrawn. After a full hearing, the Hearing Examiner recommended denial of the request. Subsequently, the petitioner filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

April 24, 2025

This petition was automatically continued from the February 27, 2025, hearing to the March 27, 2025, hearing at the request of a registered neighborhood organization.

This petition was continued for cause from the March 27, 2025, hearing to the April 10, 2025, hearing at the request of the petitioner.

After a hearing, but before a recommendation was made by the Hearing Examiner, this petition was continued for cause from the April 10, 2025, hearing to the April 24, 2025, hearing at the request of the petitioner. The petitioner submitted a revised site plan on April 15, 2025, which is below. The site plan, and discussions with the petitioner, have clarified the intent of the request and how the Ordinance would regulate the proposed use and development plan. First, the parking area is confined to only the area from Raymond Street to the proposed paved parking lot, with three regular spaces, and one handicap-accessible space. Interior landscaping that covers 9% of the lot is required when 15 or more parking spaces are required; therefore, this variance may be withdrawn. Secondly, the site plan identifies two specific locations of outdoor equipment storage. The remainder of the unimproved portion of the lot would be for vehicle maneuvering and "minor storage area". Thirdly, the east side transitional yard would be 30 feet, and landscaped. Finally, the site plan identifies Phase one and Phase two of development of the site. Staff believes that while this greatly assists in clarifying the request and reduces the initial impacts that was originally proposed, the recommendation should remain as denial. The use could have potential negative impacts of this use upon the established neighborhood and the Comprehensive Plan. |

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

If approved against staff's recommendation, approval shall 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. A 59.5-foot half right-of-way shall be dedicated along the frontage of Raymond 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 4.37-acre subject site is an undeveloped commercially zoned parcel. It is bordered to the west by undeveloped land, zoned C-5, to the north by an industrial property, zoned I-2, to the east by a residential use, zoned D-A, and to the south across Raymond Street by single-family dwellings, zoned D-A.

REZONE

The request would rezone the property from the C-5 district to the I-2 district to provide for a commercial and building contractor's business with potential other businesses permitted in the I-2 district.

The C-5 District is designed to provide areas for those retail sales and service functions whose operations are typically characterized by automobiles, outdoor display, or sales of merchandise; by major repair of

motor vehicles; by outdoor commercial amusement and recreational activities; or by activities or operations conducted in buildings or structures not completely enclosed. The types of uses found in this district tend to be outdoor functions, brightly lit, noisy, etc. Therefore, to provide a location where such uses can operate in harmony with the vicinity, the C-5 district should be located on select heavy commercial thoroughfares and should avoid locating adjacent to protected districts.

The I-2 district is for those industries that present minimal risk and typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, etc.) that extend beyond the lot lines. Outdoor operations and storage are completely screened if adjacent to protected districts and are limited throughout the district to a percentage of the total operation. Wherever possible, this district is located between a protected district and a heavier industrial area to serve as a buffer. For application to the older industrial districts within the central city, standards specifically accommodate the use of shallow industrial lots.

VARIANCE OF DEVELOPMENT STANDARDS

The request includes multiple variances for development standards.

The request would provide for outdoor storage and operations comprising of 225% of the total gross floor area of enclosed buildings. Per Table 743-306-2, the C-5 district only permits outdoor storage of inoperable vehicles awaiting repair which is further limited to 25% of the total gross floor area of enclosed buildings. The proposal would far exceed the 25% limitation of the Ordinance to a point that can be seen as excessive.

The request would provide for a gravel parking and storage area, which is not permitted. According to the Ordinance, for all uses other than Agricultural, Animal Related, and Food Production uses located in the D-A zoning district, parking lots shall provide a durable and dust free surface through one of the following means:

1. The parking lot shall be paved with bricks or concrete; or
2. The parking lot shall be improved with a compacted aggregate base and surfaced with an asphaltic pavement; or
3. The parking lot shall be improved with a compacted aggregate base and surfaced with permeable pavers or permeable pavement approved by the city as appropriate for the type and intensity of the proposed use and for the climate of the city.
4. A gravel surface may be used for a period not exceeding one year after the commencement of the use for which the parking areas is provided, where ground or weather conditions are not immediately suitable for permanent surfacing required by the Zoning Ordinance.
5. For single-family detached dwellings, parking and drive surface may consist of a compacted aggregate base and gravel surface with a distinct edge boundary to retain the gravel.

The request would have deficient transitional yards and a deficient rear yard. As proposed there would be a 52-foot front transitional yard where a minimum 100-foot front transitional yard is required), a 15-foot east side transitional yard where a minimum 50-foot side transitional yard is required, and a 10-

foot north rear yard where a minimum 30-foot rear yard is required for the I-2 district in the Metro Context Area per Table 744-201-6 of the Ordinance.

The request would not provide the minimum 9% of lot coverage with landscaping required for interior and exterior landscaping needed on site.

The request would reduce the minimum 500-foot separation requirement for storage being higher than the screening to permit for outdoor loading, unloading, and storage of equipment and material from a protected district in the Metro Context Area to 15 feet.

Lastly the request would allow a six-foot tall aluminum fence with masonry columns in the front yard where a maximum 3.5-foot-tall fence is permitted in the front yard.

DEPARTMENT OF PUBLIC WORKS

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5-foot half right-of-way along Raymond Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

STAFF ANALYSIS

The submitted Findings of Fact note that the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the site because “the presence of the overhead power line easement impacts a significant portion of the site...”. While it is true that a transmission easement crosses the site, the current C-5 district has significantly reduced transitional yard requirements with a variety of uses permitted by right that likely would not require variances.

The Findings of Fact note that “not requiring the paving of the fenced outdoor area shown on the site plan reasonably presents a risk of occasional dust, but the Petitioner has committed to either using a surface material that does not create dust (such as asphalt regrind) or to regularly treating of the areas being disturbed as reasonably necessary to control the dust.” It is apparent that the business owner is aware of the issues with gravel parking areas and rather than meeting the standards to prevent dust and debris from getting into the air, they wish to save on the cost while putting the health and welfare of the community at risk.

The Findings of Fact note that the use or value of the area adjacent to the property will not be affected in a substantially adverse manner because “the huge parcel that abuts the entire North line of the site was recently rezoned I-2-S, but it was previously zoned C-5 and has been utilized as a high intensity auction for decades without creating any adverse impact”. However, they failed to mention that the property to the north is recommended for heavy commercial development and is solely accessed on Brookville Road which is a heavily commercial and industrial primary arterial street.

The C-5 district permits the use of a commercial and building contractor but does not allow for the excessive outdoor storage that would be proposed with the request. Outdoor storage and operations is

defined as an outdoor area used for long-term deposit (more than 24 hours) of any goods, material, merchandise, vehicles, junk as an accessory use to and associated with a primary use on the property.

The request for multiple variances to even allow the proposed development is proof that the site is not large enough for the I-2 district proposal.

It was determined that the proposal would be inappropriate at this location within proximity to single-family dwellings, school, and church. The Ordinance is in place to prevent these intense uses from being located within proximity to protected districts and when located nearby the regulations ensure adequate buffering is provided. The variances requested in this proposal would undermine this standard of protection provided by the Ordinance.

Furthermore, the I-2 district would not align with the Comprehensive Plan recommendation of suburban neighborhood development which is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities which the proposed commercial business contractor would not be, nor would other uses permitted in the I-2 district.

For these reasons, staff is recommending denial of the requests.

GENERAL INFORMATION

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|-----------------------------------|--|---|
| Existing Zoning | C-5 | |
| Existing Land Use | Undeveloped | |
| Comprehensive Plan | Suburban Neighborhood | |
| Surrounding Context | <u>Zoning</u> | <u>Land Use</u> |
| | North: I-2 | Industrial |
| | South: D-A | Residential (Single-family dwellings) |
| | East: D-A | Residential |
| | West: C-5 | Undeveloped |
| Thoroughfare Plan | | |
| Raymond Street | Primary Arterial Street | 119-foot proposed right-of-way and 50-foot existing right-of-way. |
| Context Area | Metro | |
| Floodway / Floodway Fringe | No | |
| Overlay | No | |
| Wellfield Protection Area | No | |
| Site Plan | January 15, 2025; revised April 15, 2025 | |
| Site Plan (Amended) | N/A | |
| Elevations | N/A | |
| Elevations (Amended) | N/A | |
| Landscape Plan | N/A | |
| Findings of Fact | January 10, 2025; revised April 10, 2025 | |

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| Findings of Fact (Amended) | N/A |
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| C-S/D-P Statement | N/A |
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COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Indy Moves Transportation Integration Plan (2018)

Pattern Book / Land Use Plan

- The Comprehensive Plan recommends suburban neighborhood development.
- The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- **Conditions for All Land Use Types**
 - All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
 - All development should include sidewalks along the street frontage.
 - Hydrological patterns should be preserved wherever possible.
 - Curvilinear streets should be used with discretion and should maintain the same general direction.
 - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- **Small-Scale Offices, Retailing, and Personal or Professional Services**
 - If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
 - Should be located at the intersections of arterial streets and should be no closer than one mile to another commercial node with one acre or more of commercial uses except as reuse of a historic building.
 - Should be limited to an aggregate of 3.5 acres per intersection, with no one corner having more than 1.5 acres.
 - Should be limited to areas and parcels with adequate space for required screening and buffering.

- Automotive uses (such as gas stations and auto repair) and uses requiring a distance of separation of greater than 20 feet under the zoning ordinance (such as liquor stores, adult uses, and drive-through lanes) are excluded. Should not include outdoor display of merchandise.
- The proposed I-2 district and associated businesses would not align with the Comprehensive Plan recommendation. |

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 Indy Moves Transportation Integration Plan (2018), more specifically the IndyMoves PedalIndy 2018 plan proposes an on-street bike lane along Raymond Street from Southeastern Avenue to Mitthoeffer Road. |

ZONING HISTORY

Zoning History – Site

95-Z-199B; 8601 Brookville Road (subject site), Rezoning 100.0 acres from C-5 and D-A to C-5 to provide for an automobile auction, **approved**.

Zoning History – Vicinity

2022-ZON-019; 8405 and 8635 Brookville Road (north of site), Rezoning of 108.53 acres from the C-4 and C-5 districts to the I-2 district, **approved**.

2000-ZON-818; 8856 East Raymond Street (southeast of site), Rezoning of one acre from SU-1, to D-S, to provide for construction of one single-family dwelling, with a two car attached garage, **approved**.

93-Z-12; 8401 East Raymond Street (southwest of site), Rezoning of 46.0 acres, being in the PK-1 District, to the SU-2 classification to provide for construction of a middle school, **approved**.

85-Z-64; 8989 East Raymond Street (southeast of site), Rezoning of 6.59 acres, from C-3 and A-2 to SU-1, to provide for a religious use, **approved**.

82-Z-82; 8502 East Raymond Street (west of site), Rezoning of 22.42 acres, being in the A-2 District, to the SU-7 classification for a home and treatment center for adolescent alcoholics, **withdrawn**.

63-Z-41; (southeast of site) Rezoning from the A-2 district to the B-2 classification to allow for retail stores and offices to be constructed, **approved**.

EXHIBITS



MEMORANDUM OF EXAMINER'S DECISION

2025-CZN-809/2025-CVR-809(amended)

8800 E. Raymond Street

The petitions requests the rezoning of 4.37 acres from the C-5 district to the I-2 district to provide for a commercial and building contractor's business, with numerous variances of development standards to increase the percentage of outdoor storage and operations, reduce transitional and rear yards, allow gravel parking and storage areas, and reduce the setback for outdoor loading and unloading.

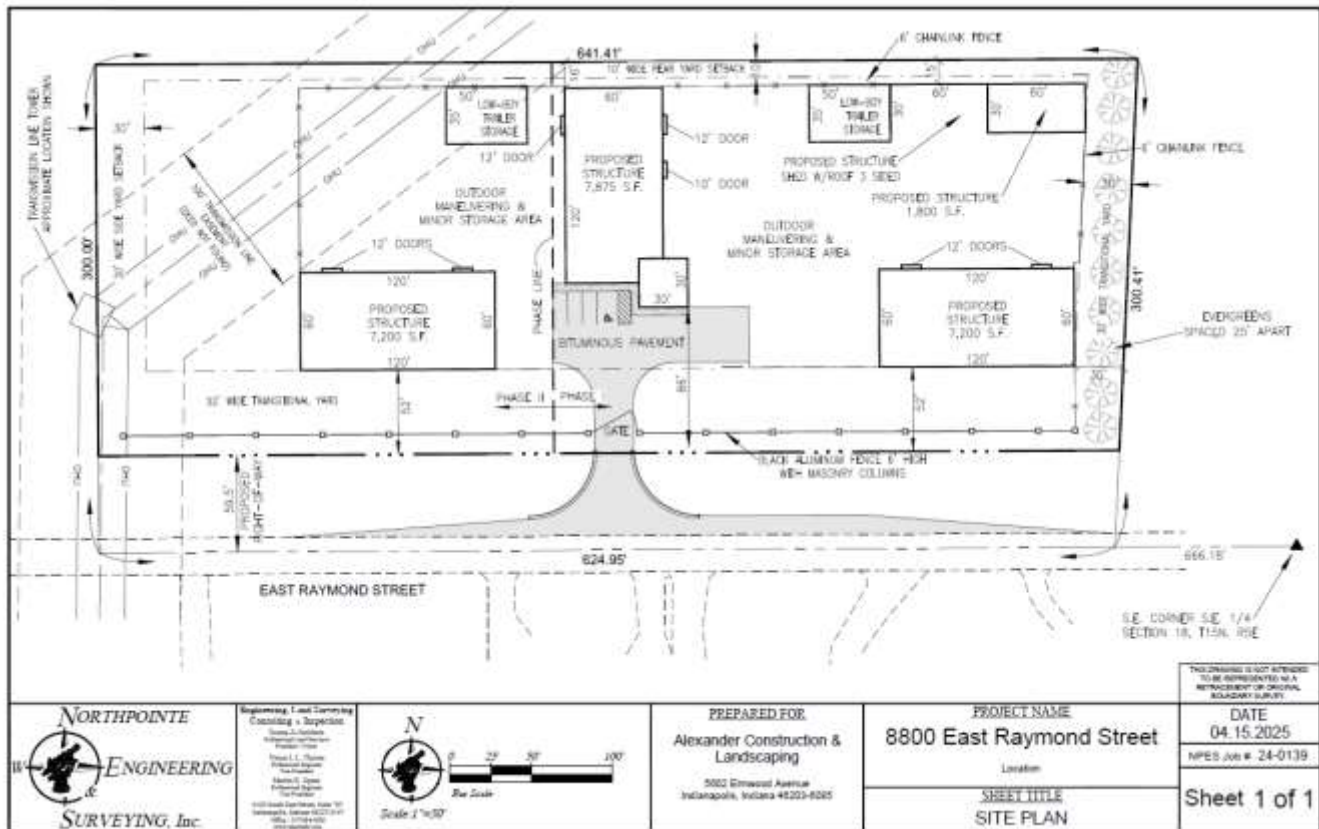
Your Hearing Examiner visited the undeveloped site prior to the hearing and noted residential uses east and south of it. An industrial use is north of the site, and an undeveloped property zoned C-5 is west of it.

The petitioner's representative explained that the petitioner has outgrown his current location. A revised site plan was submitted that removed one variance request and amended several other requests. The representative stated that the residents in the area supported the petitions because they did not want residential development, and letters of support were presented. A letter of support was also submitted from Warren Township Development Association, and its president spoke in support. Petitioner has agreed to 22 commitments.

Staff stated that the revised site plan addressed some of its concerns; however, the requested I-2 district should not be allowed adjacent to a protected district, particularly if the development standards put in place to protect the district are not being met. Staff suggested that the current C-5 district allowed a number of viable uses of the site.

In your Hearing Examiner's opinion, the requested I-2 district is inappropriate for this site and is not compatible with adjacent residential areas. The plethora of variances requested indicates that the proposed development is an over-intensification of the site. Denial of these petitions was recommended.

For Metropolitan Development Commission Hearing on May 21, 2025



Revised Site Plan





Statement of Commitments – 2024-CZN-809 and 2024-CVR-809
8800 E. Raymond Street
4-23-2025

1. The only primary use permitted on the site shall be as the operational headquarters of a Contractor, and no other uses permitted on I-2 zoned property shall be permitted.
2. No vehicular connection shall be permitted between the subject property and the abutting property to the North which would allow traffic from said property to North to access Raymond Street.
3. All outdoor lighting fixtures shall be shielded so that the light is directed primarily down at all times, with glare screens added if necessary to prevent a direct line of site to the bulb from any residence to the south or east of the site.
4. Any lighting which is placed on a pole shall not exceed forty feet in height, and the light emitted shall be directed inwards onto the site or down only.
5. No material shall be stored outdoors on the site (stored is defined as longer than 72 hours without being moved offsite, and outdoors shall be defined as anywhere not either inside a building or under the roof of the proposed lean-to buildings).
6. No equipment shall be stored outdoors on the site (using the same definition as the preceding Commitment) with the exception that a maximum of two low-boy type trailers used to haul equipment may be stored outdoors along the North edge of the fenced outdoor yard. However, if the west portion of the site is developed in the future for an expansion; and that development contains a fenced outdoor yard as roughly indicated on the Site Plan, then the outdoor storage of a maximum of two additional low boy type trailers shall also be permitted along the North edge of that separate area.
7. With the exception of the limited outdoor storage of trailers as described in the preceding Commitment, the fenced outdoor yard is to be used only for maneuvering and loading and unloading purposes of equipment and material at the beginning and end of each workday, and the parking of employee vehicles during the workday.
8. Any dumpster on the site will only be serviced between 7 AM and 7 PM, and only on weekdays, with the exception of the occasional need due to inclement weather
9. No loading dock shall be permitted.
10. No Communication Antennae shall be permitted.
11. There shall be no sign installed other than a simple sign along the frontage (not to exceed four feet in height containing the four digit address numbers; and a possible business identification sign located on the south facing wall of the office building visible through the entrance.
12. The portion of the east side of the outdoor storage yard which is not screened by a building shall be fenced with a black vinyl coated chain link fence not less than six feet in height.

13. The 15' transitional yard/setback along the east side of the outdoor storage yard shall be landscaped to include a row of evergreen trees not less than 5 feet tall at the time of planting, and not less than 25 feet apart along the entire length of the outdoor yard (including the backs of the buildings), in order to buffer the storage yard and the backs of the buildings to benefit the property to the East.
14. The portion of the Raymond Street frontage which is east of the east edge of the powerline easement, and is also not part of the entrance, shall be buffered before the proposed use of the site by the petitioner commences, via the installation of a six foot tall black aluminum wrought iron style fence with masonry columns. This same area shall also be buffered via mounding not less than five feet in height (other than narrow gaps required for drainage purposes (if any)), plus a mix of deciduous and evergreen trees and shrubs and grasses similar to the conceptual rendering for this area attached hereto as Exhibit A.
15. At the time the site is initially developed, the mound located near or within the powerline easement shall be removed or flattened so it does not impact drainage; and also at least the portion of the right of way along the North side of Raymond which is also located within the powerline easement shall be cleared and cleaned up. At the same time a drainage swale or ditch shall also be installed just North of Raymond through this same area if required by DPW drainage; and this disturbed area shall be graded and seeded so it can also be mowed.
16. If the outdoor yard is not covered with asphalt regrind or similar material which does not generate significant dust, then the outdoor fenced area shall be regularly treated with dust preventer or similar material which will prevent dust from travelling outside of the boundaries of the subject property due to the maneuvering of equipment and/or the permitted loading and unloading activities on the site.
17. With the exception of the work necessary to comply with the preceding Commitment, the existing trees within the power line easement shall generally not be removed as a part of the development of the east portion of the site unless required to comply with drainage standards. At the time the west portion of the site is developed, the existing trees and brush within fifteen (15) feet of the west line shall not be removed, subject to the rights of removal of same held by the owner of the powerline easement.
18. The maximum building height on the site shall be 35 feet.
19. The South facing wall of the office building visible via the entry drive shall include a stone wainscotting not less than 3 foot tall at the bottom of said wall, similar in appearance to the rendering attached as Exhibit B.
20. The remaining buildings on the Site shall be similar in design to the rendering attached as Exhibit C, including a wainscotting of a different color not less than 3 feet tall along the bottom.
21. The approval of the variance is subject to the Site Plan dated 4/15/2025 which was approved at the hearing.

22. A 59.5-foot half right-of-way shall be dedicated along the frontage of Raymond 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 Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA
PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT
Table 743-306-2, Outdoor fenced yard ratio**

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: The parking/storage of construction equipment and related vehicles within a fenced area which is significantly larger than what would otherwise be permitted given the size of the proposed enclosed buildings does not present a reasonable risk of such injury due to the small size of the site, the screening provided by the proposed building locations, and the high quality of the appearance and level of buffering proposed along the Raymond Street frontage.

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 huge parcel that extends South abuts the entire North line of the site was recently rezoned I-2-S, but it was previously zoned C-5 and has been utilized as a high intensity auto auction for decades without creating any such adverse impact. To the East are two group homes on large heavily wooded D-A zoned parcels which were developed and are owned by the same property owner who is selling the subject property, and they do not object to the proposed variances being granted. To the West is remaining property zoned C-5, and it is also separated from the subject property by the overhead power line easement with a tower and lines. To the South across Raymond Street are single family homes, which are sufficiently protected by the combination of the relative low intensity of the proposed "contractor" uses, and the Petitioner's commitments, especially as compared to what would have been permitted by the existing C-5 zoning on this site.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The presence of the overhead power line easement impacts a significant portion of the site; and since buildings cannot be built within that area the restrictions imposed by the utility company owning those rights impacts the ability of the petitioner to add accessible buildings to store equipment indoors to better comply with the storage yard ratio. In addition, the types of equipment used by the Petitioner, and the low trailers used to haul it, need sufficient room to maneuver on the site to access the buildings and turn around, so a huge percentage of the fenced area included in the calculation of the ratio is actually just maneuvering area and occasional loading and unloading area.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____ 202 5

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA
PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT**

Table 743-306-2, Outdoor fenced yard ratio

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: The parking/storage of construction equipment and related vehicles within a fenced area which is significantly larger than what would otherwise be permitted given the size of the proposed enclosed buildings does not present a reasonable risk of such injury due to the small size of the site, the screening provided by the proposed building locations, and the high quality of the appearance and level of buffering proposed along the Raymond Street frontage.

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 huge parcel that extends South abuts the entire North line of the site was recently rezoned I-2-S, but it was previously zoned C-5 and has been utilized as a high intensity auto auction for decades without creating any such adverse impact. To the East are two group homes on large heavily wooded D-A zoned parcels which were developed and are owned by the same property owner who is selling the subject property, and they do not object to the proposed variances being granted. To the West is remaining property zoned C-5, and it is also separated from the subject property by the overhead power line easement with a tower and lines. To the South across Raymond Street are single family homes, which are sufficiently protected by the combination of the relative low intensity of the proposed "contractor" uses, and the Petitioner's commitments, especially as compared to what would have been permitted by the existing C-5 zoning on this site.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The presence of the overhead power line easement impacts a significant portion of the site; and since buildings cannot be built within that area the restrictions imposed by the utility company owning those rights impacts the ability of the petitioner to add accessible buildings to store equipment indoors to better comply with the storage yard ratio. In addition, the types of equipment used by the Petitioner, and the low trailers used to haul it, need sufficient room to maneuver on the site to access the buildings and turn around, so a huge percentage of the fenced area included in the calculation of the ratio is actually just maneuvering area and occasional loading and unloading area.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____ 202 5

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA
PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT
Unpaved Surface of Fenced Outdoor Area**

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Not requiring the paving of the fenced outdoor area shown on the Site plan reasonably presents a risk of occasional dust, but the Petitioner has committed to either using a surface material that does not create dust (such as asphalt reground) or to regularly treating of the areas being disturbed as reasonably necessary to control the dust.

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 huge parcel that abuts the entire North line of the site was recently rezoned I-2-S, but it was previously zoned C-5 and has been utilized as a high intensity auto auction for decades without creating any such adverse impact. To the East are two group homes on large heavily wooded D-A zoned parcels which were developed and are owned by the same property owner who is selling the subject property, and they do not object to the proposed variances being granted. To the West is remaining property which is heavily wooded, but is zoned C-5, and this property is separated from the subject property by the pre-existing 100' wide overhead power line easement and the tower with lines. To the South across Raymond Street are single family homes on large lots, but the Petitioner's commitments when combined with the low intensity manner in which the site will actually be used will not likely create such substantial adverse impact, especially when compared to what could have been developed on this site per the pre-existing C-5 zoning.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The types of equipment used by the Petitioner, and the low trailers used to haul it, would almost certainly damage the surface of the outdoor storage area unless it is covered with a loose material that allows the necessary sharp turns needed to access the buildings or turn around on the site.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____ 202 5

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA
PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT**

744-06 (C) and (D) & 744-08 (C) – landscaping to the north, east and west

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Approving less landscaping than required by the ordinance in the North, west and east yards presents no reasonable risk of such injury as the existing uses to the north are already more intense, the existing trees and screening are being preserved along the east line, the property to west is heavily wooded and the 100' wide power line easement running along the west not only creates separation but would prevent the planting of any trees, and extra screening, landscaping and fencing is proposed along the visible portion of the site, which is along Raymond Street.

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 huge parcel that extends South abuts the entire North line of the site was recently rezoned I-2-S, but it was previously zoned C-5 and has been utilized as a high intensity auto auction for decades without creating any such adverse impact. To the East are two group homes on large heavily wooded D-A zoned parcels which were developed and are owned by the same property owner who is selling the subject property, and they do not object to the proposed variances being granted. To the West is remaining property zoned C-5, and it is also separated from the subject property by the overhead power line easement. To the South across Raymond Street are single family homes, but the landscaping, decorative fencing and mounding proposed along the South line will exceed the requirements of the ordinance, and as a result the impact on those properties will likely end up being less than what would have been permitted by the existing C-5 zoning on this site.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The presence of the overhead power line easement impacts a significant portion of the site. Not only does it restrict the developable area significantly, the restrictions on trees and landscaping imposed by the utility company owning the rights to the easement would legally prevent the Petitioner from complying with most of the landscape ordinance within the west portion of the site. The properties to the east and west are owned by the same property owner, and they support the grant.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____ 202 5

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Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA
PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT
744-201-6 – reduced setbacks and transitional yards**

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Approving narrower setbacks and yards along the North, east and South lines presents no reasonable risk of such injury as the existing uses to the north are already more intense, the existing trees and screening are being preserved along the east line, and the Petitioner has committed to install decorative fencing, mounding and landscaping in the south transitional yard which exceeds the requirements in the ordinance.

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 huge parcel that extends South abuts the entire North line of the site was recently rezoned I-2-S, but it was previously zoned C-5 and has been utilized as a high intensity auto auction for decades. To the East are two group homes on large heavily wooded D-A zoned parcels which were developed and are owned by the same property owner who is selling the subject property, and they support the proposed variances being granted. To the West is remaining property zoned C-5, and the setback and transitional yard significantly exceeds the requirements per the ordinance due to the impact of the overhead power line and easement. To the South across Raymond Street are single family homes, but the landscaping, decorative fencing and mounding proposed along the South line will exceed the requirements of the ordinance, and as a result the impact on those properties will likely end up being less than what would have been permitted by the existing C-5 zoning on this site.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The presence of the overhead power line easement impacts a significant portion of the site. In addition, the entire site is not very deep, which makes designing a contractor's facility with sufficient room for buildings and maneuvering areas difficult without reducing the north and south setbacks/transitional yards as proposed.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____ 202 5

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Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA
PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT**

Table 743-306-2 - outdoor loading and unloading, and minimal outdoor parking/storage, within 500 feet of Protected District

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: As restricted by the Petitioner's Commitments, the grant presents no reasonable risk of such injury, especially in comparison to what would be permitted by the pre-existing C-5 zoning on the subject property.

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 parcels to the North and West are not affected, as the only Protected Districts are to the East and South. However, the fact that the prior uses of the auto auction to the north is relevant to determining that this area is not as likely to be sensitive to a reduction in the 500 foot rule as proposed here. To the East are two group homes on large heavily wooded D-A zoned parcels which were developed and are owned by the same property owner who is selling the subject property, and they support the proposed variance being granted. To the South across Raymond Street are single family homes on large lots, but the Petitioner's detailed and protective commitments when combined with the low intensity manner in which the site will actually be used will not likely create such substantial adverse impact, especially when compared to what could have been developed on this site per the pre-existing C-5 zoning of this site.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: The site simply could not be used for any industrial use involving outdoor activities without such a variance, and the pre-existing C-5 zoning on this site, the C-5 zoning on the property to the West, and the recent rezoning of the property to the north from C-5 to I-2-S have an unique impact on the subject site. The proposal to reduce these specific difficulties via the specific limited and restricted proposal set forth by the Petitioner is a reasonable solution.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____ 202 5

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Eastern property boundary of the subject site where the pole sign is located.



Photo of the subject site street frontage.



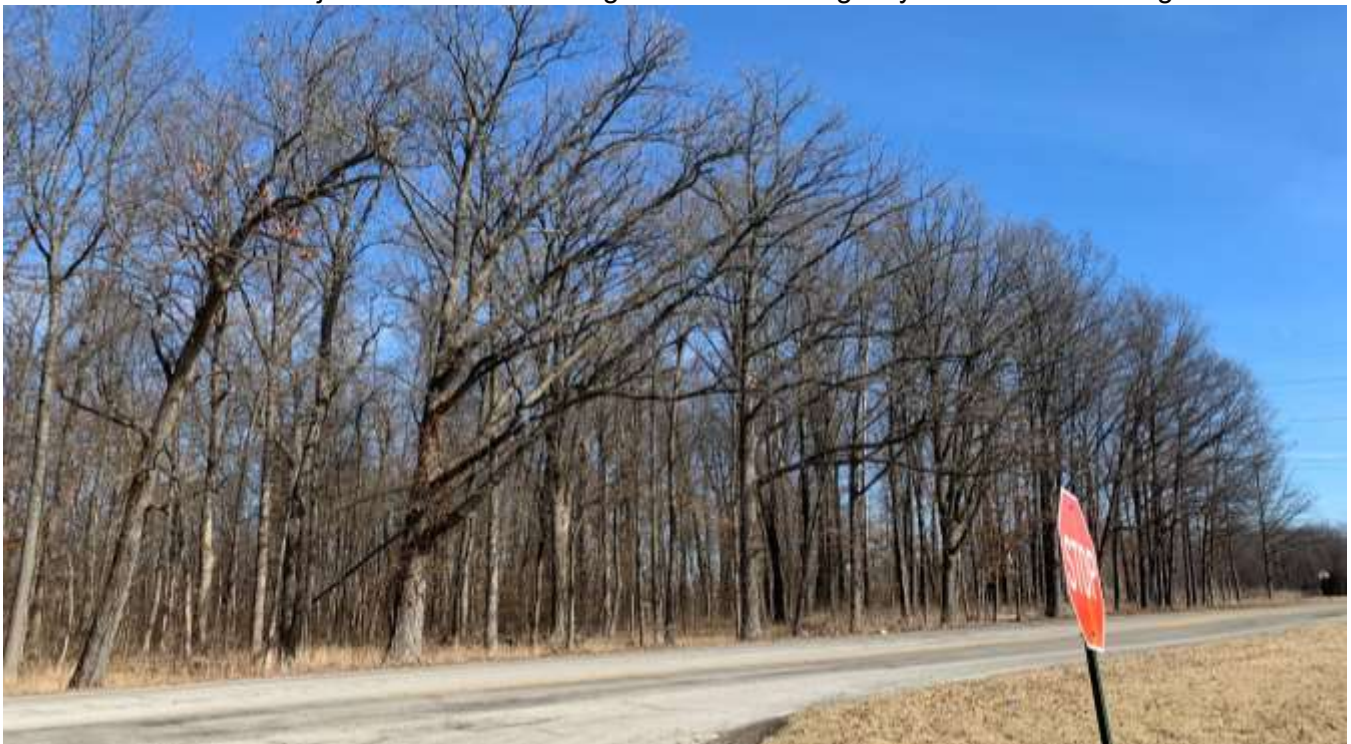
Photo of the subject site street frontage.



Photo of the western property boundary of the subject site with the transmission line easement.



Photo of the subject site's street frontage on the left along Raymond Street looking east.



Undeveloped land west of the subject site.



Photo of the single-family dwellings south of the subject site.



Photo of the single-family dwellings south of the subject site.



Photo of the property east of the subject site. |