

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV2-008
Address: 3802 East 10th Street (approximate address)
Location: Center Township, Council District #12
Zoning: C-4
Petitioner: Jabbo Investments LLC, by Joseph D. Calderon
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of an automobile fueling station and laundromat with zero percent building transparency on the façade facing 10th Street and a maximum light level of 20.2 (average of 16.2) foot-candles under the fueling station canopy (40% façade transparency required, maximum average light level of 4.5 foot-candles permitted).

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-4	Compact	Automobile Repair
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SURROUNDING ZONING AND LAND USE

North	D-5 / I-4	Single-family Dwellings
South	C-4	Retail and Tire Service
East	C-4	Single-family Dwellings
West	I-4	Railroad Tracks, Automobile Repair

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Village Mixed-Use development.

- ◇ This 0.66-acre lot, zoned C-4, is currently improved with two commercial structures and an accessory storage structure related to an automobile repair facility, and associated surface parking.
- ◇ North of the subject site are single-family dwellings, within the I-4 and D-5 Districts. To the east are single-family dwellings within the C-4 District. Directly to the East is an elevated railroad track, beyond which are automobile related uses, within the I-4 District. To the south are retail and tire services businesses, within the C-4 District.

(Continued)

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VARIANCE

- ◇ As proposed, the request would allow for the demolition of all existing structures on the site, and the construction of a two-tenant bay commercial building. The northern tenant bay would be occupied by a laundromat facility, and the southern bay occupied by a convenience market. An automobile fueling station would occupy the western portion of the site.
- ◇ The Ordinance provides an exception to Lighting Standards of the Ordinance, that allows Staff to administratively waive this Standard so long as an applicant can provide documentation that an alternate lighting plan is consistent with recommended lighting levels outlined in the Illuminating Engineers Society of North America (IESNA) Lighting Handbook. The petitioner has provided this information and verified that the proposed lighting is consistent with lighting levels associated with automobile fueling stations. Therefore, this portion of the request may be withdrawn, and merely requires the acknowledgement of the Board.
- ◇ The Ordinance requires that all new buildings constructed within the Commercial Districts that have a façade or side of a primary building located within 50 feet of a local, collector, or arterial thoroughfare provide 40% of the wall surface area between three and eight feet above grade be composed of glass or other transparent materials.
- ◇ The southern elevation of the proposed building would be located within 19 feet of the right-of-way of East 10th Street, which is a primary arterial. As proposed, this side of the building would have zero-percent transparency.
- ◇ The transparency requirements of the Ordinance are intended to implement principles of Crime Prevention Through Environmental Design (CPTED), which aim to deter crime through design implementations during new builds or substantial remodels. Specifically, this requirement is aimed at improving sight lines to increase visibility of both activity within and outside the building. It is also intended to allow emergency responders to have increased surveillance of the interior of buildings during emergency call responses.
- ◇ Given that the request proposes construction of a new building, Staff believes that a complete waiver of the transparency request to be wholly inappropriate. It is Staff's position that the interior plans of the building could be redesigned, or the use of the tenant bays swapped in order to provide some degree of transparency, if not the meet the requirement in its entirety. In addition, Staff is concerned that future reuse of the building would continue without this transparency along a major commercial corridor. For these reasons, Staff recommends denial of the request.

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GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of East 10 th Street is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 80 feet.
SITE PLAN	File-dated April 6, 2023.
ELEVATIONS	File-dated April 6, 2023
FINDINGS OF FACT	File-dated April 6, 2023.

ZONING HISTORY – SITE

98-NC-54; 3812 East 10th Street; requests Certificate of Legal Non-Conforming Use to legally establish the operation of an Automobile Sales Lot in a C-4 District; **issued.**

ZONING HISTORY – VICINITY

2005-HOV-012; 3701 East 10th Street; requests variance of use of the Commercial Zoning Ordinance to legally establish a 948.7-square foot single-family dwelling with a 42.5-square foot concrete stoop, and an 80-square foot wood deck; **granted.**

99-Z-205; 3702 East 10th Street; requests rezoning of 0.26 acres, from the I-4-U to C-3, to provide for commercial uses; **granted.**

99-UV1-152; 3627 East 10th Street; requests a variance of use of the Industrial Zoning Ordinance to legally establish the continued display and sales of automobiles; **granted.**

95-HOV-88; 3616 East 10th Street; requests variance of development standards of the Commercial Zoning Ordinance to legally establish an enclosed trash dumpster with a three-foot setback from the north property line; **granted.**

94-UV2-1; 3726 East 10th Street; requests variance of use of the Industrial Zoning Ordinance to provide for the continued display and sales of automobiles; **granted.**

90-UV2-91; 3726 East 10th Street; requests variance of use to provide for the continued outdoor display and sale of automobiles; **granted (temporary).**

87-UV2-96; 3726 East 10th Street; requests variance of use to provide for the continued display and sale of automobiles; **granted (temporary).**

82-UV2-33; 3726 East 10th Street; requests variance of use to provide for the continued outdoor display and sale of automobiles; **granted (temporary).**

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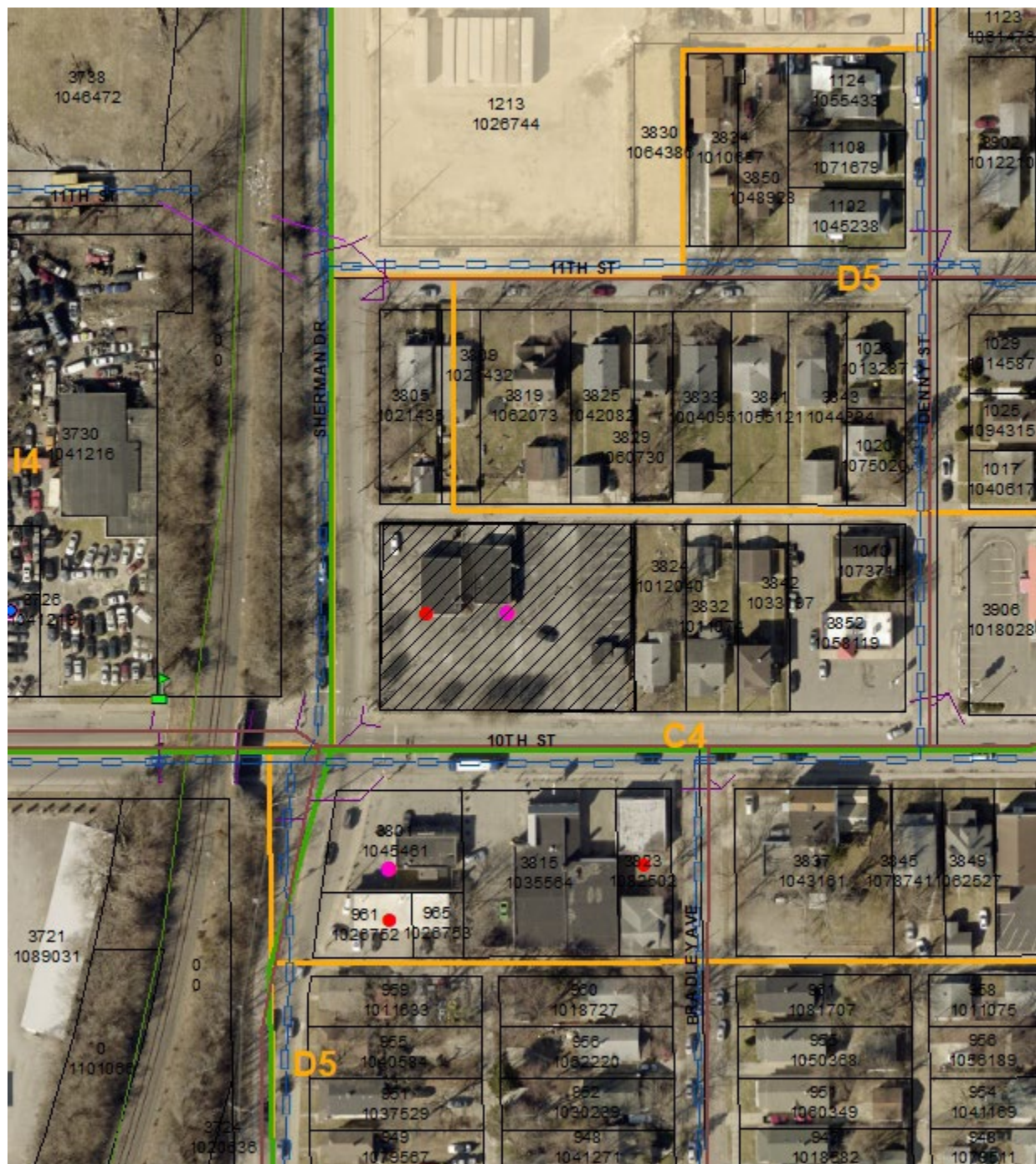
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74-UV3-141; 3726 East 10th Street; requests variance of use to provide for the continued outdoor display and sale of automobiles; **granted (temporary).**

72-UV2-68; 3726 East 10th Street; requests variance of use to provide for the continued outdoor display and sale of automobiles; **granted (temporary).**

EDH

2023-DV2-008; Location Map



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

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
the lighting under the canopy is designed to provide safety and security, and there is adequate transparency near the public entrance to the proposed store.

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 lighting levels at the property line will meet the maximum foot candle requirements. The lack of transparency on the side or rear elevations will not change access to the store by any adjoining property, and will actually promote safety.

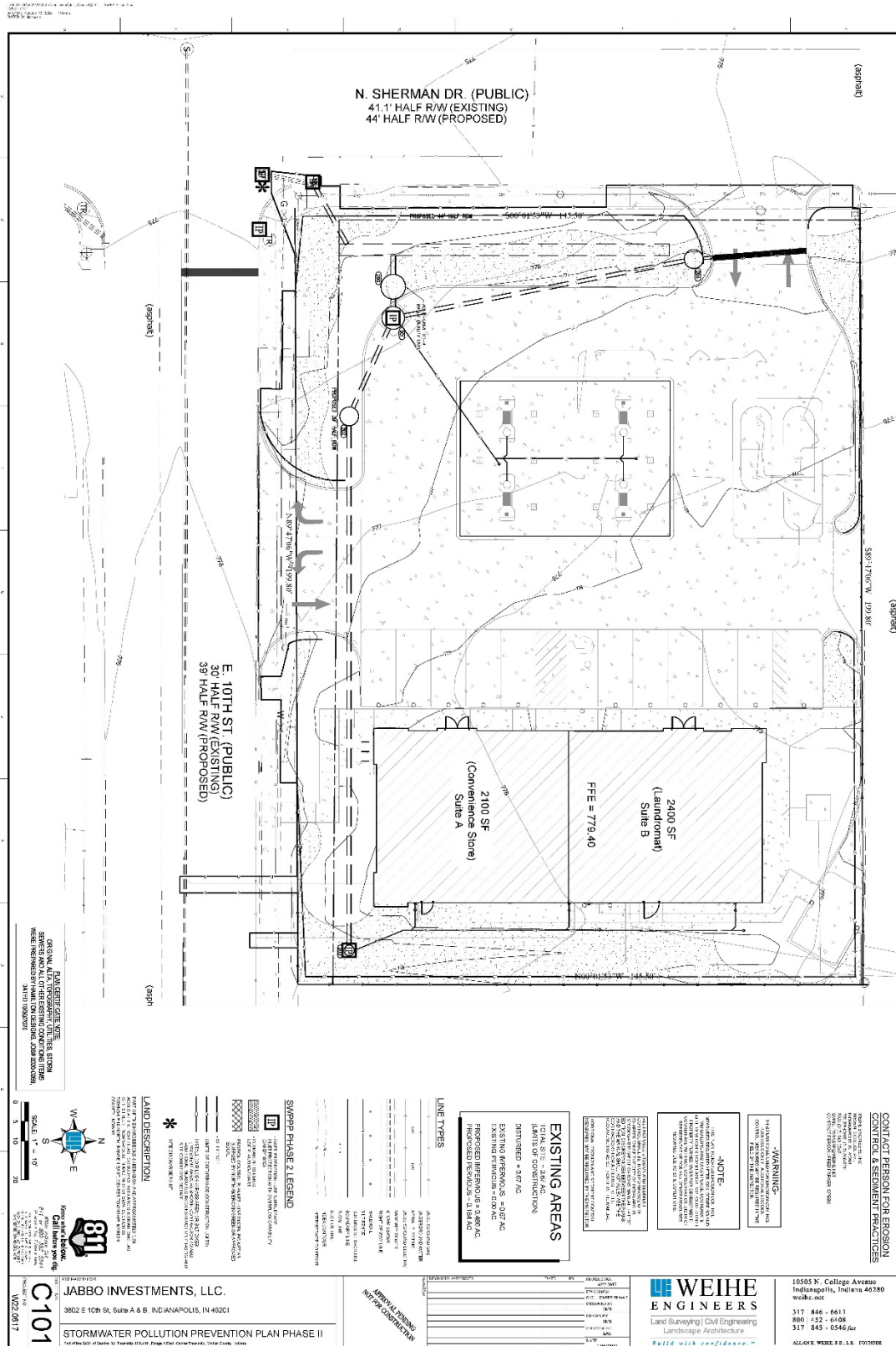
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:
The lighting under the canopy should maintain a level of illumination necessary to assure safety for customers and store employees, and should be excluded from the parking area calculation. The transparency requirement is not practical for certain use types that rely on equipment or inventory to be placed on the perimeter of a building storefront. In this case, cooler locations are a significant reason for the variance.

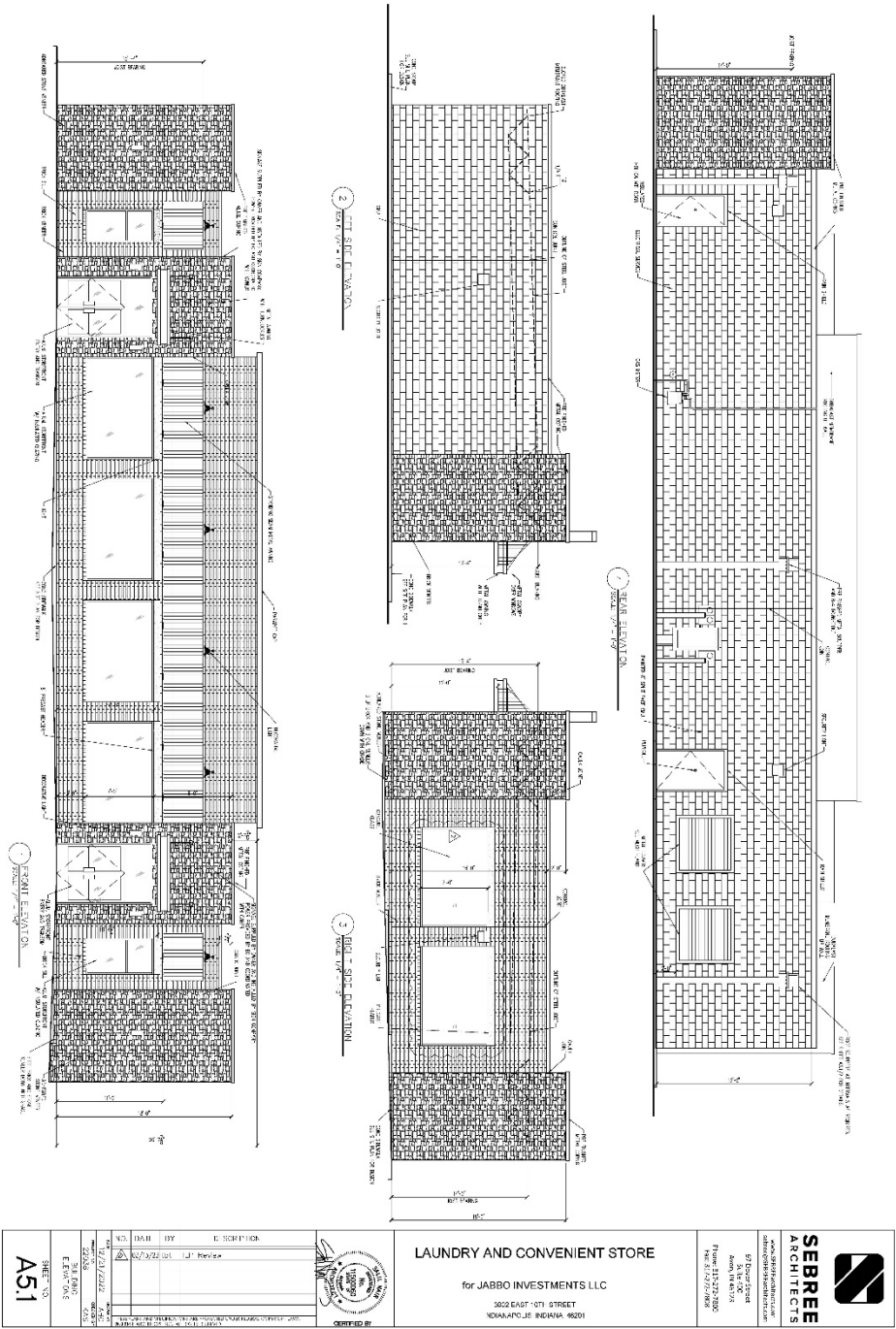
DECISION

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

Adopted this _____ day of _____, 20 ____

2023-DV2-008; Site Plan – File-dated April 6, 2023





2023-DV2-008; Photographs



Photo One: Looking East along 10th Street.



Photo Two: Looking South across 10th Street



Photo Three: Facing Southwest Along 10th Street.



Photo Four: Looking South Along Sherman Drive.



Photo Five: Primary Buildings Located on Sbject Site.



Photo Six: Looking South Along Sherman Drive.