

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-ZON-091 (Amended)
Address: 3510 Division Street (*Approximate Address*)
Location: Perry Township, Council District #20
Petitioner: Sumner St, LLC, by Casey Cloyd
Request: Rezoning of 1.69 acres from the D-4 (FF) district to the C-S (FF) district to provide for commercial and building contractors; artisan manufacturing; light manufacturing; mini-warehouses; warehouse, wholesaling and distribution; consumer services or repair of consumer goods; financial and insurance services; hair and body care salon or service; printing services; office: business, professional or government; information, technology, R&D; Logistics R&D; retail, light general; automobile and light vehicle wash; automobile, motorcycle and light vehicle sales or rental; automotive, motorcycle and light vehicle service or repair; heavy vehicle wash; other vehicle sales, rental or repair; truck or heavy vehicle sales, rental or repair; and employee living quarters accessory to a permitted use.

ADDENDUM FOR JANUARY 26, 2023, HEARING EXAMINER

The Hearing Examiner continued this petition from the December 15, 2022 hearing, to the January 26, 2023 hearing at the request of staff and the neighborhood organization to provide time for the petitioner's representative to amend the petition and send new notice.

The petitioner's representative amended the petition rezoning from the D-4 (FF) District to the C-S (FF) District and provided a C-S Statement, file-dated December 20, 2022. Because the site is currently developed, the previously filed site plan, file-dated July 14, 2022, would remain as the site plan for the proposed C-S rezoning.

◇ The purpose of the C-S District is to:

1. Encourage:
 - a. A more creative approach in land planning.
 - b. Superior site and structural design and development.
 - c. An efficient and desirable use of open space.
2. Provide for a use of land with high functional value.
3. Assure compatibility of land uses, both within the C-S District and with adjacent areas.
4. Permit special consideration of property with outstanding feature, including, but not limited to, historical, architectural or social significance, unusual topography, landscape amenities, and other special land characteristics.
5. Provide maximum adaptability and flexibility in zoning and development controls to meet the changing and diverse needs of the metropolitan area.

(Continued)

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As proposed staff is generally supportive of the request but believes some of the proposed uses, either through definition of what would be permitted or use specific standards, would not be appropriate for this site primarily because most of the site is covered with buildings or asphalt, which leaves little space for appropriate and required buffering between more intense commercial and industrial uses and the surrounding neighborhood.

Consequently, staff **recommends approval**, subject to removal of the following uses that are proposed with this amended rezoning request: light manufacturing; mini-warehouses (self-storage facility); warehouse, wholesaling and distribution; automobile and light vehicle wash; heavy vehicle wash; other vehicle sales, rental or repair; and truck or heavy vehicle sales, rental or repair.

Staff's approval is also 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:

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.

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.

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- ◇ 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.

ADDENDUM FOR DECEMBER 15, 2022, HEARING EXAMINER

The Hearing Examiner continued this petition from the October 27, 2022 hearing, to the December 15, 2022 hearing, at the request of the petitioner's representative to provide additional time to work with staff, the neighbors and neighborhood organization.

Staff understood that an amendment to the request may be required but nothing new has been submitted. Consequently, staff requests this petition be **continued to the January 12, 2023 hearing**.

ADDENDUM FOR OCTOBER 27, 2022, HEARING EXAMINER

The Hearing Examiner continued this petition from the September 15, 2022 hearing, to the October 27, 2022 hearing, at the request of a remonstrator.

September 15, 2022

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued this petition from the August 25, 2022 hearing, to the September 29, 2022 hearing.

RECOMMENDATIONS

Staff **recommends approval** of the request, 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:

The following uses shall be prohibited:

- Dry cleaning plant / industrial laundry
- Heavy equipment sales, services or repair
- Local power generating facility
- Substations and utility distribution nodes
- Wireless communications facility
- Automobile and vehicle auction
- Automobile fueling station
- Truck stop
- Waste or recycling transfer facility
- Heavy outdoor storage
- Accessory uses: temporary outdoor display and sales,

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SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 1.69-acre site, zoned D-4 (FF) is developed various commercial and industrial buildings. It is surrounded to the north by commercial uses, across West Sumner Avenue, single-family dwellings and religious, zoned C-3 (FF), D-4 (FF) and SU-1(FF), respectively; a single-family dwelling to the south, zoned D-4 (FF); single-family dwellings to the east, across Division Street, zoned D-4 (FF) and D-A (FF), respectively; and single-family dwellings to the west, zoned D-4 (FF).
- ◇ Beginning with petition 70-V2-4 that provided for an expansion to an existing non-conforming warehouse, subsequent petitions (see Zoning History) allowed for the operation of a plumbing / heating company (including retail sales, service supplies); a commercial glass / glazing contracting business; legal establishment of a cold-storage building for the glass / glazing business; and outdoor storage of recreational and inoperable vehicles and construction equipment, and expansion of a parking lot.

REZONING

- ◇ This request would rezone the site from D-4 (FF) District to the I-2 (FF) classification to provide for multi-family development uses. "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 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."

- ◇ The Comprehensive Plan recommends Heavy Industrial typology. "The Heavy Industrial typology provides for industrial, production, distribution, and repair uses that are intense and may create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Outdoor operations and storage are common. Typical uses include food processing, milling, storage of petroleum products, recycling, welding, and concrete mixing. Industrial or truck traffic should be separated from local/residential traffic."

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- ◇ The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

Light Industrial Uses (defined as industrial uses that create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials).

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- **Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.**

Heavy Industrial Uses (defined as being located only in the Heavy Industrial District, these industrial uses create emissions of light, odor, noise, or vibrations. All uses requiring an air permit and/or wastewater permit from the Indiana Department of Environmental Management (IDEM) is considered Heavy Industrial, but not all Heavy Industrial uses necessary require an IDEM permit).

- The primary entrance should be served by an arterial street.
- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- **Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.**

Heavy Commercial Uses (defined as commercial uses that generally include outdoor operations, storage, and/or display).

- Recommended without additional conditions.

Small-Scale Offices, Retailing, and Personal or Professional Services (defined as Commercial uses with minimal outdoor operations, storage, or display on lots of less than 1.5 acres and a height of less than 35 feet.

- Should be subordinate to and serving the primary uses of production, warehousing, and offices.
- Should be adjacent to interstate interchanges if present. If no interchange is present, should be located along arterial streets at the edge of the heavy industrial typology.
- Should be located and served in such a way that the use will not interfere with industrial traffic or loading.

Overlays

- ◇ This site is also located within an overlay, specifically the Environmentally Sensitive Areas. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”

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- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ The entire site is located within the 100-year flood plain of White River.
- ◇ The Pattern Book provides guidance and recommendations related to the ES overlays that include modified and removed uses.

Modified Uses

- Small-Scale Offices, Retailing, and Personal or Professional Services - Any development impacting wetlands or high-quality woodlands should include a one-for-one replacement of such features. Additionally, development should preserve or add at least 10% of the entire parcel as tree canopy or naturalized area.

Removed Uses

- Heavy Commercial Uses
- Light Industrial Uses
- Wind or Solar Farms
- Heavy Industrial Uses

Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (I-2 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ Staff would, however, note the following uses are prohibited in the floodplain:
 - a. Jails;
 - b. Hospitals;
 - c. Assisted living facilities;
 - d. Nursing homes;
 - e. Laboratories;
 - f. Elementary, Middle or High Schools;
 - g. Daycare facilities;
 - h. Fire stations;

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- i. Emergency operation centers;
- j. Police facilities;
- k. Truck, train, or bus terminal, storage or maintenance facility;
- l. Wrecking or salvage facility;
- m. Gas, oil or propane storage facility;
- n. Industrial laundry;
- o. Hazardous waste handling or storage facility; and
- p. Other public equipment storage facilities.

Planning Analysis

- ◇ As proposed this request would be consistent with the Comprehensive Plan but in conflict with the development guidelines recommended in the Pattern Book relating to industrial uses adjacent to mixed-use or living typologies. However, the grant of variances throughout the years has resulted in the current development and use of the site and pre-dates the adoption of the Pattern Book.
- ◇ The site fronts on Division Street, with a secondary access drive along Sumner Avenue. Most of the site is covered by buildings and paving, leaving little space for any expansion.
- ◇ During a site visit, staff observed spaces for indoor storage, offices and small dwelling units. Some spaces are occupied with car and motorcycle repair operations, storage for concessions operations and storage of street vendor equipment. Otherwise, the existing buildings are vacant.
- ◇ Because of the historical use of the site and the lack of space for expansion, staff supports this request subject to the prohibition of some of the I-2 uses that would have a negative impact on the abutting and surrounding residential uses. Those uses would include:

- Dry cleaning plant / industrial laundry
- Heavy equipment sales, services of repair
- Local power generating facility
- Substations and utility distribution nodes
- Wireless communications facility
- Automobile and vehicle auction
- Automobile fueling station
- Truck stop
- Waste or recycling transfer facility
- Heavy outdoor storage
- Accessory uses: temporary outdoor display and sales

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GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-4 (FF)

Commercial / industrial uses

SURROUNDING ZONING AND LAND USE

North - C-3 / D-4 / SU-1

Commercial uses / single-family dwellings / religious uses

South - D-4

Single-family dwelling

East - D-4 / D-A

Single-family dwellings

West - D-4

Single-family dwelling

COMPREHENSIVE LAND USE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends heavy industrial typology.

THOROUGHFARE PLAN

This portion of Division Street is designated in the Marion County Thoroughfare Plan as a local street with an existing 30-foot right-of-way and a proposed 50-foot right-of-way.

This portion of Sumner Avenue is designated in the Marion County Thoroughfare Plan as a primary collector with an existing 75-foot right-of-way and a proposed 80-foot right-of-way.

CONTEXT AREA

This site is located within the metro context area.

OVERLAY

This site is located within an environmentally sensitive area (100-year floodplain of White River)

SITE PLAN

File-dated July 14, 2022

C-S STATEMENT

File-dated December 20, 2022

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ZONING HISTORY

2011-UV2-006; 3506 and 3510 Division Street and 1255 West Sumner Avenue, requested a variance of use and development standards Dwelling Districts Zoning Ordinance to provide for the outdoor storage of recreational vehicles in the front and side yards of 1255 Sumner Avenue, the outdoor storage and repair of inoperable vehicles and the outdoor storage of construction equipment and building materials; with multiple window signs; with multiple wall signs; with a trash container located in the side yard of 3506 Division Street; and with a second trash container at 1255 Sumner Avenue; with a 48-inch wood fence encroaching five feet into the front yard of 1255 Sumner Avenue, and with a 48-inch vinyl fence in the front yard of 3506 and 3510 Division Street, within the sight-distance triangle of the access drive of 3506 Division Street, and to provide for the expansion of a parking lot onto 3506 Division Street, **granted**.

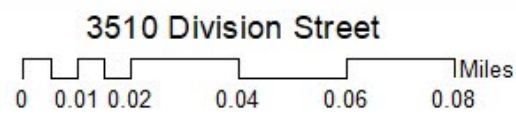
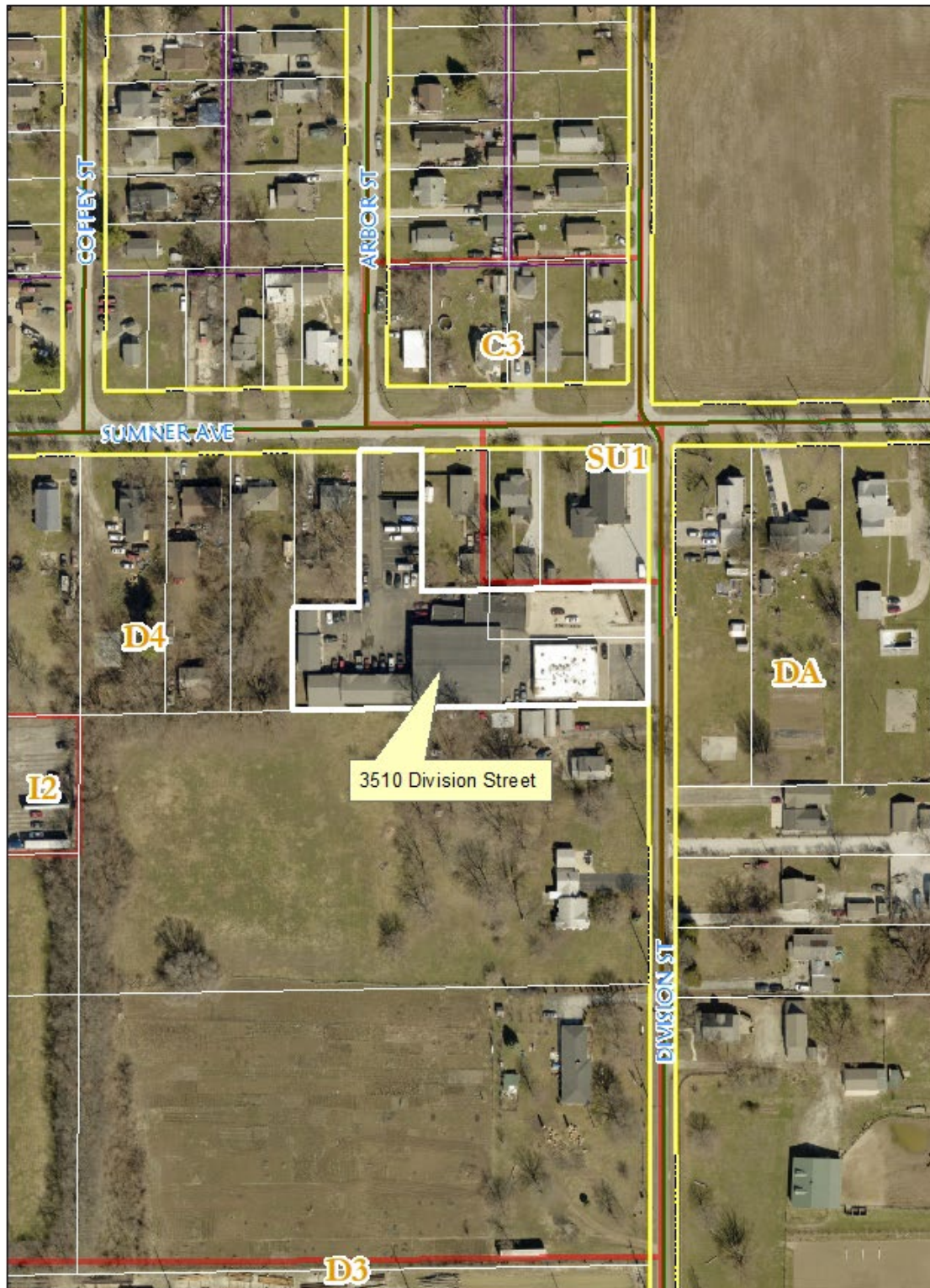
2000-UV1-046; 1255 West Sumner Avenue, requested a variance of use of the Dwelling Districts Zoning Ordinance to legally establish a 2,460 square foot cold storage building for a legally established glass contractor, in D-4 (FF), **granted**.

98-UV1-44; 1255 West Sumner Avenue, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the operation of a commercial glass and glazing contracting business, in D-4 (FF), **granted**.

78-UV3-35; 3510 South Division Street, requested a variance of use, Flood Plain and Development Standards to permit the operation of a plumbing and heating company, retail sales, service and warehouse of related business products and supplies, in D-4 (FF), **granted**.

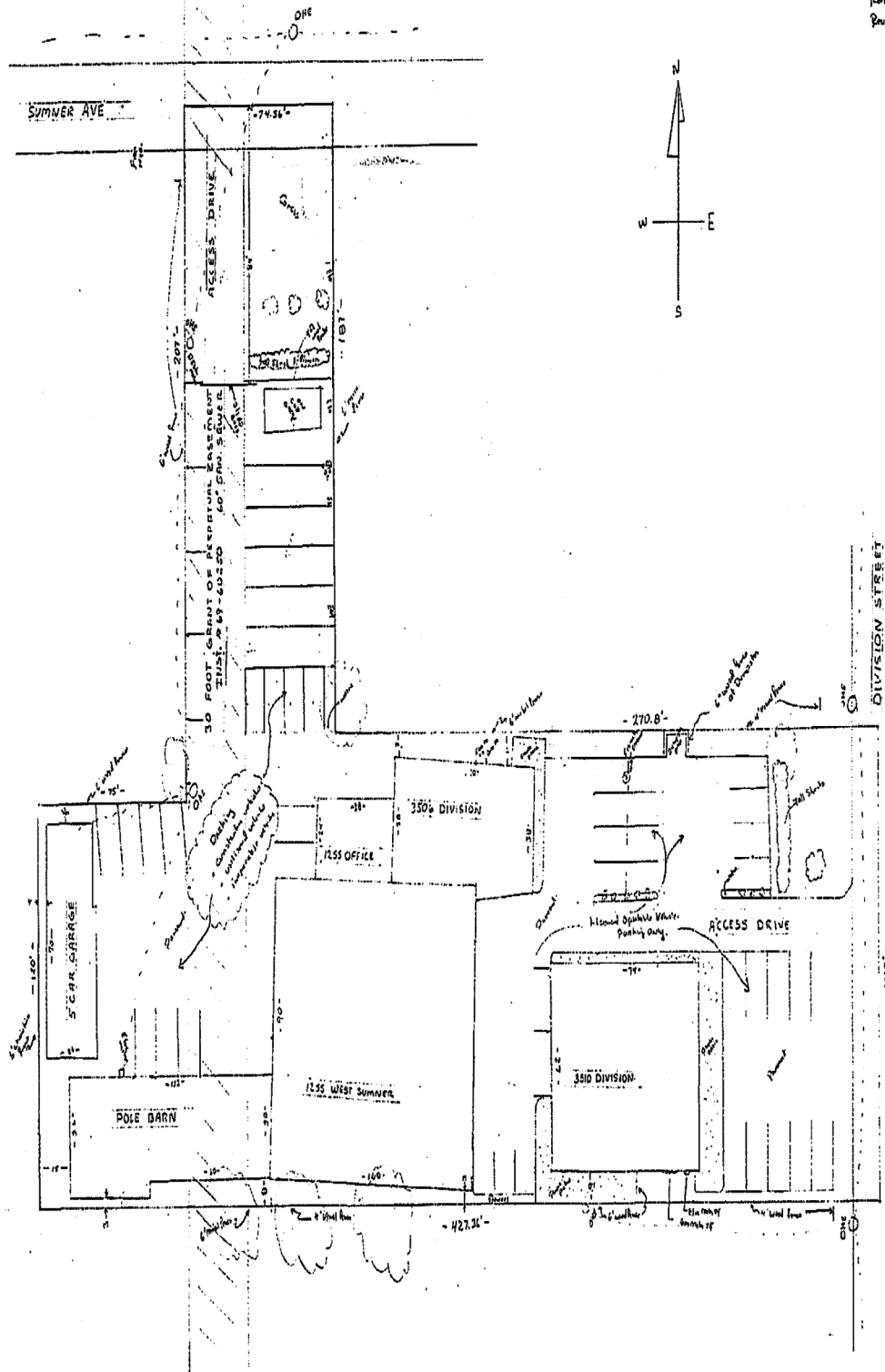
70-V2-4; 3510 South Division Street, requested a variance of use to permit the erection of an addition to the existing non-conforming sheet metal building being used as a warehouse and remove the existing garage to the west side of the lot, in D-4 (FF), **granted**.

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1255 WEST SUMMER AVE.
 3506 & 3510 SOUTH DIVISION ST.
SITE PLAN
 2/10/2011
 SCALE 1"=20'

Revised 4/19/2011
 Revised 5/6/2011
 Revised 6/10/2011



**Exhibit A
to Amended Petition**

C-S STATEMENT

Petitioner respectfully requests that the 1.69 acre site ("Site") located at the southwest corner of the intersection of South Division Street and West Sumner Avenue in Indianapolis, Indiana be rezoned to the C-S district to provide for certain limited industrial and commercial uses on the Site.

The Site is presently zoned D-4. There were prior variances on the Site for various uses: 2011-UV2-006 (RV storage and storage for vehicles being repaired); 2000-UV1-046 (cold storage facility); 98-UV1-44 (commercial glass and glazing); 78-UV3-35 (plumbing heating company with retail sales and warehousing); 70-V2-4 (building addition). Petitioner requests to replace the prior zoning and variances with the C-S Statement and site plan to be approved as a part of this rezoning and any commitments recorded in connection with this rezoning.

1. Industrial Uses

Petitioner proposes the following industrial uses on the Site:

- a. Commercial and building contractors;
- b. Artisan manufacturing;
- c. Light manufacturing;
- d. Mini-warehouses (self-storage facility); and
- e. Warehouse, wholesaling and distribution.

2. Commercial Uses

Petitioner proposes the following commercial uses on the Site:

- a. Consumer services or repair of consumer goods;
- b. Financial and insurance services;
- c. Hair and body care salon or service;
- d. Printing services;
- e. Office: business, professional or government;
- f. Information, technology, R&D;
- g. Logistics R&D;
- h. Retail, light general;
- i. Automobile and light vehicle wash;
- j. Automotive, motorcycle and light vehicle sales or rental.
- k. Automotive, motorcycle and light vehicle service or repair.

- l. Heavy vehicle wash;
- m. Other vehicle sales, rental or repair; and
- n. Truck or heavy vehicle sales, rental or repair.

3. Accessory Uses

Petitioner proposes the following accessory uses on the Site:

- a. Employee living quarters, as an accessory to any permitted use.

4. Commitments

Petitioner proposes the following commitment:

Petitioner shall make a commitment that the following described uses shall not be permitted on the site:

- a. Auctioneering and liquidating services;
- b. Dry cleaning plant or industrial laundry;
- c. Heavy equipment sales, service and/or repair;
- d. Power generating facility, local;
- e. Substations and utility distribution nodes;
- f. Wireless communication facility;
- g. Automobile storage or auction;
- h. Automobile fueling station;
- i. Truck stop;
- j. Recycling station;
- k. Waste or recycling transfer facility;
- l. Heavy outdoor storage;
- m. Outdoor display and sales, temporary;
- n. Outdoor storage and operations.



View looking north along Division Street



View looking south along Division Street



View of site looking southwest



View of site looking west



View from site looking north at adjacent religious use



View from site looking west across Division Street



View of access drive along Sumner Avenue looking west