



METROPOLITAN DEVELOPMENT COMMISSION

February 19, 2025

Case Number:	2024-ZON-050
Property Address:	3739 North Kitley Avenue
Location:	Warren Township, Council District #9
Petitioner:	Patrium LLC, by Luis Gomez
Current Zoning:	D-3 (TOD)
Request:	Rezoning of 1.22 acres from the D-3 (TOD) district to the C-7 (TOD) classification to provide for a commercial contractor.
Current Land Use:	Undeveloped
Staff Recommendations:	Denial
Staff Reviewer:	Marleny Iraheta, Senior Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 19, 2025, METROPOLITAN DEVELOPMENT COMMISSION

This petition was appealed by the petitioner and continued for cause from the January 2, 2025 hearing to the February 19, 2025 hearing at the request of the petitioner.

As proposed, staff continues to **recommend denial**.

Staff **would recommend approval of the rezoning** 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 40-foot transitional yard shall be proposed along the southern property boundary and a 30-foot transitional yard shall be proposed along the eastern property boundary that abuts the protected district.
2. The proposed building shall be relocated to the southwest corner of the side adjacent to the 40-foot transitional yard.
3. All development standards of the C-7 district shall be met.
4. A final landscape plan shall be submitted for Administrative Approval prior to the issuance of an Improvement Location Permit that shows all landscape requirements to be met in addition to the increased transitional yards as requested by staff and that increased evergreen landscaping be installed in the transitional yards.



ADDENDUM FOR JANUARY 2, 2025, METROPOLITAN DEVELOPMENT COMMISSION

This petition was heard by the Hearing Examiner on December 12, 2024. 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.

ADDENDUM FOR DECEMBER 12, 2024 HEARING EXAMINER

This petition was continued from the November 14, 2024 hearing to the December 12, 2024 hearing at the request of the staff due to the petitioner's absence at the hearing. If the petitioner fails to attend the next hearing, then staff will request that the petition be dismissed by the Hearing Examiner.

As proposed, staff continues to **recommend denial**.

Staff **would recommend approval of the rezoning** 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 40-foot transitional yard shall be proposed along the southern property boundary and a 30-foot transitional yard shall be proposed along the eastern property boundary that abuts the protected district.
2. The proposed building shall be relocated to the southwest corner of the site adjacent to the 40-foot transitional yard.
3. All development standards of the C-7 district shall be met.
4. A final landscape plan shall be submitted for Administrative Approval prior to the issuance of an Improvement Location Permit that shows all landscape requirements to be met in addition to the increased transitional yards as requested by staff and that increased evergreen landscaping be installed in the transitional yards.

ADDENDUM FOR NOVEMBER 14, 2024 HEARING EXAMINER

This petition was continued from the October 24, 2024 hearing to the November 14, 2024 hearing at the request of the petitioner. As suggested by the Hearing Examiner on September 12th, a site plan was submitted to staff for review on October 24, 2024. As proposed, staff would continue to recommend denial.

Staff still has concerns with the commercial use encroaching closer to the dwellings than currently exists. However, if the transitional yards were increased to 40 feet on the south side and 30 feet on the east site, with the office building relocated to the southwest portion of the site adjacent to a 40-foot south transitional yard to act as a buffer from the outdoor storage that would be relocated along the northern portion of the site, then the request could be supportable.

Staff would not support any variances for the proposed C-7 zoning district which means all development standards such as lighting, landscaping including Green Factor, and transparency requirements would need to be met.

Staff **would recommend approval of the rezoning** 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 40-foot transitional yard shall be proposed along the southern property boundary and a 30-foot transitional yard shall be proposed along the eastern property boundary that abuts the protected district.
2. The proposed building shall be relocated to the southwest corner of the side adjacent to the 40-foot transitional yard.
3. All development standards of the C-7 district shall be met.
4. A final landscape plan shall be submitted for Administrative Approval prior to the issuance of an Improvement Location Permit that shows all landscape requirements to be met in addition to the increased transitional yards as requested by staff and that increased evergreen landscaping be installed in the transitional yards.

ADDENDUM FOR OCTOBER 24, 2024 HEARING EXAMINER

This petition was continued from the September 12, 2024 hearing to the October 24, 2024 hearing at the request of the petitioner. No new information was provided to the case file.

ADDENDUM FOR SEPTEMBER 12, 2024 HEARING EXAMINER

This petition was continued from the August 29, 2024 hearing to the September 12, 2024 hearing at the request of the petitioner to allow additional time to work with a registered neighborhood organization.

August 29, 2024

This petition was continued from the July 11, 2024 hearing to the July 25, 2024 hearing at the request of the petitioner to provide sufficient time to meet the mailing notice requirement.

Staff did not have an objection to this first continuance request by the petitioner.

This petition was automatically continued from the July 25, 2024 hearing, to the August 29, 2024 hearing at the request of a registered neighborhood organization.

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

PETITION OVERVIEW

LAND USE

The 1.22-acre subject site is comprised of two undeveloped parcels that are bordered to the east with a single-family dwelling, zoned D-3, to the south by single-family dwellings, zoned D-3, to the west across Kitley Avenue with a concrete contractor business, zoned I-4 and I-2, and a drywall contractor business to the north, zoned C-7.



REZONING

The request would rezone the site from the D-3 (TOD) district to the C-7 (TOD) classification to provide for a commercial contractor.

The D-3 district provides for low to medium intensity residential development. Land in this district should have good thoroughfare access, be relatively flat in topography, and be afforded pedestrian linkages to community and neighborhood services and facilities (schools, parks, shopping areas, etc.). Recreational facilities developed for the neighborhood complement the treed yards on the individual lots. Predominantly single-family detached dwellings are envisioned with two-family dwellings on corner lots in this district. The D-3 district has a typical density of 2.6 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan. All public utilities and facilities must be present. Development plans, which may include the use of clustering, should incorporate, and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage, and wildlife.

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.

Staff Analysis

Staff determined that the proposed C-7 district and use of a commercial contractor would not be appropriate at this location with two of the boundaries bordering single-family dwellings that should be protected from intense uses and the zoning districts as proposed.

Additionally, the C-7 zoning district would not align with the suburban neighborhood recommendation of the Comprehensive Plan. The subject site is different from the concrete contractor to the west which is recommended for light industrial development and the drywall contractor to the north recommended for community commercial development.

There are concerns with the potential outdoor storage of materials and vehicles on site that would be permitted if rezoned. The impact of exterior lighting that would likely be installed to assist with the video surveillance is also incompatible with the area recommendation.



Instead, approval of the rezoning would be a commercial encroachment into the residential area since the site could be developed with a single-family dwelling having significant separation from the heavy commercial district to the north. This would ensure some protection from the commercial use and would not negatively affect three other residential properties that border this site.

Given the negative impact the commercial district could have on the abutting dwellings, staff is recommending denial of the request.

GENERAL INFORMATION

Existing Zoning	D-3	
Existing Land Use	Undeveloped	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Land Use
	North: C-7	Drywall Contractor Business
	South: D-3	Residential (Single-family dwelling)
	East: C-7 / D-3	Residential (Single-family dwelling)
	West: I-2 / D-3	Concrete Contractor Business
Thoroughfare Plan		
Kitley Avenue	Local Street	48-foot proposed right-of-way and 90-foot existing right-of-way.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	April 17, 2024	
Site Plan (Amended)	October 24, 2024	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	N/A	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Purple Line Transit-Oriented Development Strategic Plan (2021)

Pattern Book / Land Use Plan

- The subject site is recommended for suburban neighborhood development by the Comprehensive Plan.
- 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.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site falls within the Purple Line Transit-Oriented Development Strategic Plan (2021).
- The closest station is within a ½ mile northeast of the site at the 38th Street and Shadeland Avenue intersection.
- The station is classified as the District Center Typology that would have a dense mixed-use hub for multiple neighborhoods with tall buildings, minimum 3 stories at core with no front or side setbacks, multi-family housing with a minimum of 5 units, and with structured parking only with an active first floor.

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)

- Not Applicable to the Site.



ZONING HISTORY

Zoning History - Vicinity

2022-CZN-857A; 3766 North Kitley Avenue (west of site), Rezoning from the I-2 (TOD) and D-3(TOD) Districts to the I-4 (TOD) District, **approved**.

2022-CZN-857B; 3766 North Kitley Avenue and 6490, 6520 & 6522 Massachusetts Avenue (west of site), Rezoning to the I-2 (TOD) District, **approved**.

2022-CVR-857; 3766 North Kitley Avenue (west of site), Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for a cement batching plant (not permitted within 500 feet of a protected district), **approved**.

2022-CZN-857B; 3730, 3740 & 3766 North Kitley Avenue and 6490, 6520 & 6522 Massachusetts Avenue (west of site)

93-Z-46; 3730 North Kitley Avenue (west of site) Rezoning of 5.3 acres from the D-3 district to the I-2-S district, **approved**.

76-UV1-39; 3724 North Kitley Avenue (southwest of site), Variance of use and Development Standards to modify previous variance granted for general vehicle repair, as per plans filed, off-street parking provided, **denied**.

EXHIBITS





HEARING EXAMINER'S MEMO

MEMORANDUM OF EXAMINER'S DECISION

2024-ZON-050

3739 North Kitley Avenue

The petition requests the rezoning of 1.22 acres from the D-3 (TOD) district to the C-7 (TOD) district to provide for a commercial contractor.

Your Hearing Examiner visited the site prior to the hearing and noted residential use abutting it on the south and on the east. There are several contractor businesses west and north of the site.

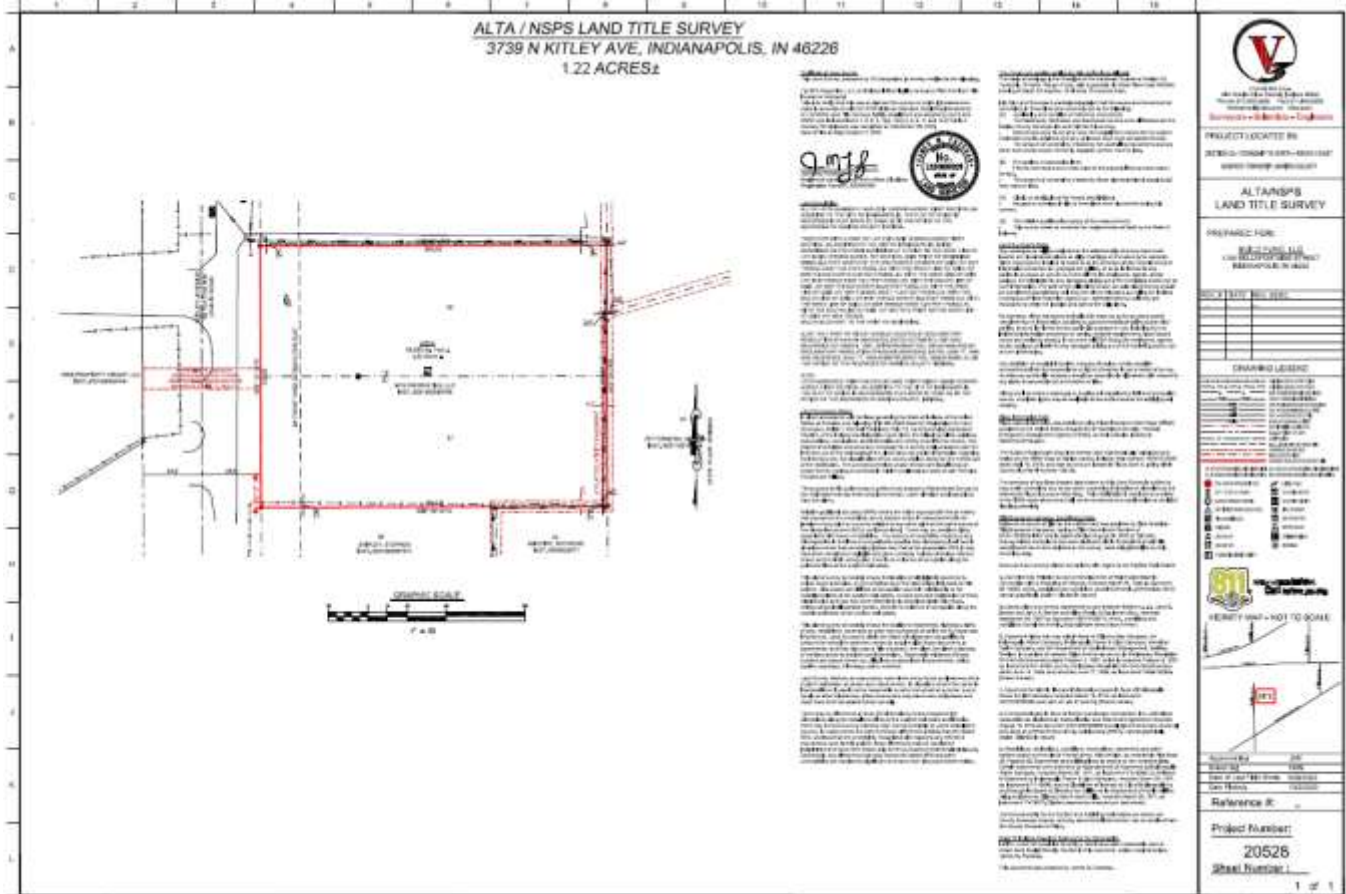
The petitioner's representative explained that he had worked with Warren Township Development Association and neighbors, and both groups supported the petition with the building being located at the northwest corner of the site. The representative questioned why staff recommended that the building be located at the southwest corner of the site with setbacks more than required by the C-7 district along the south and east property lines.

Staff stated that C-7 allows uses that typically have major outdoor storage and/or parking, and it should not be adjacent to protected districts. Although staff suggested locating the building at the southwest corner of the site and doubling the transitional yards along the south and east boundaries as a way to lessen impact on the adjacent protected districts, staff firmly opposed C-7.

In your Hearing Examiner's opinion, the requested C-7 district is not appropriate adjacent to the protected districts, and heavy commercial use is not the highest and best use of the site. Denial of this petition was recommended.

For Metropolitan Development Commission Hearing on January 2, 2025

SITE PLAN



AMENDED SITE PLAN



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Patrium LLC Plan of Operation for 3739 N. Kitley Avenue Rezoning

- **Workforce.** Indicate the number of employees or volunteers associated with the business or be gleaned from a solid business plan. Therefore, an applicant should also consider & identify the potential for growth. Do they work on-site? When do they work? How do they get to the work-site? If they drive, where do they park? What form of security is utilized?
 - ❖ 3739 N. Kitley Avenue is a vacant lot located adjacent to the Specialty Contractor (Framing and Drywall) and two (2) residential dwellings. The site at 3739 N Kitley Ave will be used in conjunction with the office space at 3749 N Kitley Ave.
 - ❖ Patrium LLC is a construction management company. The employees drive to work and are able to park in the office parking lot located at 3749 N. Kitley Avenue. The staff works on-site and sometimes off-site with varying hours, usually Monday through Saturday from 7:00 am until 6:00 pm.
 - ❖ The property is currently under audio and video surveillance, with plans to add fencing across the front of the property to enclose all four sides.

- **Clients & Customers.** Indicate who are typical customers and clients. Do they come to the site? If so, when and how many? Where do they park?
 - ❖ The site at 3739 N Kitley does not have regular visits from clients or customers; they are usually hosted at the office at 3749 N Kitley Ave.

- **Processes conducted on Site.** Describe what is actually done by the business or organization, on-site and off-site. What happens outside? What are the safety & security measures taken by the business or organization?
 - ❖ Patrium LLC is a construction management company with daily operations to include but not limited to ensuring construction projects stay on schedule, quality standards are met, safety protocols are followed, and material/equipment is at correct offsite locations. On-site duties include managing the above listed items.

- **Materials Used.** List the types of materials used for the operation. Are any hazardous materials used? Indicate the applicable safety & security measures. Shipping & Receiving. How are materials shipped or received? Size of vehicle? What time of day? Frequency?
 - ❖ Patrium LLC will be using the site at 3739 N Kitley to house and store equipment, and construction materials.

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- ❖ Materials will be shipped by various material suppliers, such as Ferguson Supply or OldCastle-Northfield. They are received by staff on site during regular business hours.
- ❖ Safety and Security measures will include audio and video surveillance 24/7.
- Waste. Indicate the types of waste generated. How is it handled? By whom? Is hazardous waste generated? Is a recycling program implemented?
 - ❖ We generate general office and light construction waste: eg. paper, food, wood trim, drywall scrap. These items will be disposed of in a dumpster that would be placed on the property at 3739 N. Kitley Ave. which would be picked up by Waste Management Inc.
 - ❖ There would not be any hazardous waste generated.
 - ❖ We do use a recycling program for any e-waste we may have.

PATRIUM



PROPOSED COMMITMENTS

STATEMENT OF COMMITMENTS

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description: 3739 N. Kitley Avenue

Land Description ALL OF LOTS NUMBER 41 AND 42 IN VERNON ACRES, FIRST SECTION, AN ADDITION TO THE CITY OF INDIANAPOLIS, THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 22, PAGE 55, IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA. TOGETHER WITH A PART OF LOT 40 IN SAID VERNON ACRES, FIRST SECTION, AN ADDITION TO THE CITY OF INDIANAPOLIS, BEING DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF LOT #40 IN VERNON ACRES, 1ST SECTION, SAID POINT OF BEGINNING BEING 48.4 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT #40; THENCE EAST 7.14 FEET PARALLEL WITH THE SOUTH LINE OF SAID LOT #40; THENCE NORTH 4.00 FEET PARALLEL WITH THE WEST LINE OF SAID LOT #40; THENCE EAST 12.1 FEET PARALLEL WITH THE SOUTH LINE OF SAID LOT #40; THENCE NORTH 34.20 FEET PARALLEL WITH THE WEST LINE OF SAID LOT #40; THENCE WEST 11.52 FEET PARALLEL WITH THE SOUTH LINE OF SAID LOT #40; THENCE NORTH 22.5 FEET PARALLEL WITH THE WEST LINE OF SAID LOT #40; THENCE WEST 7.72 FEET PARALLEL WITH THE SOUTH LINE OF SAID LOT #40 TO A POINT ON THE WEST LINE OF SAID LOT #40; THENCE SOUTH 60.70 FEET TO THE POINT OF BEGINNING. ALSO THAT PART OF KITLEY AVENUE VACATED BY DECLARATORY RESOLUTION 97-VAC-28 (AMENDED) DATED OCTOBER 2, 1997 AND RECORDED OCTOBER 3, 1997, AS INSTRUMENT NO. 1997-014495 AND BY DECLARATORY RESOLUTION 97-VAC-28 (AMENDED) DATED JUNE 17, 1998 AND RECORDED JUNE 17, 1998 AS INSTRUMENT NO. 1998-0102356, ALL IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA.
ALSO, LOTS NUMBERED THIRTY-SEVEN (37) AND THIRTY-EIGHT (38) IN VERNON ACRES, FIRST SECTION, AN ADDITION TO THE CITY OF INDIANAPOLIS,



Statement of COMMITMENTS:

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. That a 40-foot transitional yard shall be proposed along the southern property boundary and a 30-foot transitional yard shall be proposed along the eastern property boundary that abuts the protected district.

3. The proposed building shall be relocated to the southwest corner of the side adjacent to the 40-foot transitional yard.

4. All development standards of the C-7 district shall be met.

5. A final landscape plan shall be submitted for Administrative Approval prior to the issuance of an Improvement Location Permit that shows all landscape requirements to be met in addition to the increased transitional yards as requested by staff and that increased evergreen landscaping be installed in the transitional yards.

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A" which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.



Northern property boundary of the subject site looking east.



Photo of the subject site looking east.



Photo of the subject site looking east.



Southern property boundary of the subject site looking east.



Photo of the subject site street frontage looking northeast.



Photo of a single-family dwelling south of the site.



Photo of single-family dwellings southwest of the site.



Photo of the concrete contractor business looking north.



Photo of the concrete contractor business looking northwest.



Photo of the concrete contractor business to the west.



Photo of the drywall contractor business to the north.