

BOARD OF ZONING APPEALS DIVISION III

January 20, 2026

Case Number: 2025-DV3-029

Property Address: 8600 Madison Avenue (approximate address)

Location: Perry Township, Council District #23

Petitioner: Francis Michael Laux, by Justin and David Kingen

Current Zoning: C-3 / C-1 (TOD)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a building encroaching 35 feet within a Category Two Stream Protection Corridor and a parking area within an easement (encroachment of stream protection corridors and easements not permitted).

Current Land Use: Vacant

Staff Recommendations: Staff **recommends approval** of this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- This petition was continued to the October 21, 2025 BZA Division III hearing.
- The petition was continued to the November 25, 2025 Division III hearing.
- The petition was continued to the December 16, 2025 Division III hearing.
- The petition was continued to the January 20, 2026 hearing due to lack of quorum.

STAFF RECOMMENDATION

- Staff **recommends approval** of this petition

PETITION OVERVIEW

- The revised site plan indicates that the proposed building would be encroaching into a Category Two Stream Protection Corridor by approximately 10 feet, as opposed to the originally requested 35-foot encroachment. Therefore, the request is now for a 10-foot encroachment into a Category Two Stream Protection Corridor and a parking area within an easement (encroachment of stream protection corridors and easements not permitted).
- The subject site is primarily zoned C-3, with a small sliver zoned C-1 at the north end of the site. The site is located directly north of Fountain Creek, which is a Category Two Stream, per the Ordinance, and is also located within a large utility easement that runs in a southwest direction from Madison Avenue through the property (shown in site plan below).

- With this site containing both a large utility easement, and a 50-foot stream protection corridor, the portion of the site that is buildable without variances is significantly reduced. Staff generally is not in support of any development within platted easements, since the parties that have rights to that easement are able to alter / remove said development if desired. The proposed site plan indicates that none of the building and only the parking area would be located within the easement. Staff believes that if any development is to be within the easement, non-vertical developments such as parking areas are far less inhibiting and obstructing than vertical structures. Staff would also note that the petitioner has provided an indication from the relevant utility company that the company does not have an issue with the proposed parking area being located within the easement. This has eased Staff's concerns and Staff finds that this will decrease the chances of future conflict between the relevant parties. Further, Staff would note that there are similar parking areas and a game court located within this easement nearby to the subject site and, therefore, Staff does not find this development to be out of context nor without precedent. Therefore, Staff is not opposed to the parking area being located within this easement.
- Staff had concerns about the originally proposed 35-foot encroachment into the Stream Protection Corridor. The petitioner has revised the proposal to be much closer to compliance with the 50-foot buffer than initially proposed. Staff finds the revised 40-foot distance from the top of bank to the proposed building to be far more reasonable and that this revision would have far less impact on the stream than the original plans. Likewise, Staff's concerns have been further eased by the submitted landscape plan that would provide additional buffer and support for the stream. Additionally, Staff does find there to be a degree of practical difficulty for being able to meet the 50-foot standard given the presence of the utility easement on the other side of the property. Therefore, Staff is not opposed to the 10-foot encroachment into the Stream Protection Corridor.

GENERAL INFORMATION

Existing Zoning	C-3 / C-1 (TOD)	
Existing Land Use	Vacant	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-1	North: Commercial
South:	C-3	South: Commercial
East:	C-3	East: Multi-family residential
West:	C-7	West: Multi-family residential
Thoroughfare Plan		
Madison Avenue	Secondary Arterial	85 feet of right-of-way existing and 112 feet proposed
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes, Transit-Oriented Development Overlay	

Wellfield Protection Area	No
Site Plan	8/12/25
Site Plan (Amended)	11/26/26
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	11/26/25
Findings of Fact	N/A
Findings of Fact (Amended)	8/12/25

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Community Commercial typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site is located within the Red Line TOD overlay, however the Red Line ultimately did not end up servicing this portion of Madison Avenue and therefore the Madison Avenue and County Line Road Station mentioned in the 2020 Red Line Strategic Plan that was to be located less the ¼ mile from the subject site was not built.

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 – SITE

2024DV3030, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a commercial building with a 15 percent front building line width (40 percent required), **approved**.

98-Z-40, 8602 Madison Avenue; rezone from C-1 to C-3, **approved**.

ZONING HISTORY – VICINITY

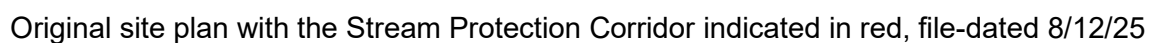
2000UV1014; 8610 Madison Avenue (north of site), variance of use to provide for a hair and beauty salon in an existing single-family dwelling (not permitted), **approved, subject to conditions**.

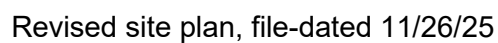
99-Z-30; 8610 Madison Avenue (north of site), rezone from D-3 to C-1, **approved**.

EXHIBITS



Aerial Photo







Revised site plan with the Stream Protection Corridor indicated in green and the easement in orange, file-dated 11/26/25





Landscape plan, file-date 11/26/25

December 4, 2025

Frank Laux
2508 East Stop 11 Road
Indianapolis, IN 46227

Re: Consent to Encroach Upon AES Indiana Transmission Line Easement No.
5149 in the vicinity of 8600 Madison Avenue in Perry Township,
Indianapolis, Indiana. ("Property")

Mr. Laux:

This letter ("Letter Agreement") is in response to a request on behalf of Frank Laux, 2508 East Stop 11 Road, Indianapolis, IN (hereinafter referred to as "Owner") by Daric Gordon of Spaceco Inc., 2850 Priority Way South Drive, Suite 110, Indianapolis, Indiana, for permission to encroach upon the above-referenced easement located in Marion County, Indiana, ("Easement") with parking lot per proposed construction plans provided by Spaceco Inc.

Pursuant to law, Indianapolis Power & Light Company d/b/a AES Indiana, (hereinafter called "AES Indiana") has been granted an Easement for the distribution and transmission of electric energy at the above-referenced location, with Owner reserving all use and enjoyment of the Property not inconsistent with AES Indiana's Easement. The purpose of this Letter Agreement is to specify the extent to which AES Indiana will consider the use of the Easement as not being an interference with or an obstruction of AES Indiana's rights upon the Property, and to set forth the conditions under which the use will not interfere with or obstruct AES Indiana's rights, thereby providing both parties with a written understanding of their respective rights.

In consideration of compliance with the following terms and conditions, AES Indiana agrees not to object to encroachment on the Easement with Parking Lot as shown on the drawings titled "8600 Madison Avenue – Site Plan & Landscape Plan (11.26.25)", as revised on November 26, 2025, prepared by Spaceco Inc., so long as the following conditions are met:

1. The use of the Property for the purpose described above shall not interfere with the use and enjoyment of the Easement by AES Indiana. Owner reserves all rights under the Easement to use and enjoy the Property in any manner not inconsistent with AES Indiana's use.

2. A minimum clearance of twenty feet (20') or that as specified by the Occupational Safety and Health Act, whichever distance is greater, shall be maintained from the electric line conductors by the Owner's personnel and equipment, agents, employees, contractors, invitees, successors and assigns while performing any work activities on or near the Easement. Limited exceptions to reduce this clearance may be granted upon submission to AES Indiana of a detailed work plan complying with current OSHA regulations.

3. The Owner or its successors and assigns shall provide and install, at its expense, any devices and structures deemed reasonably necessary by AES Indiana to protect the electrical facilities that are presently or may in the future be located on the Easement.

4. AES Indiana shall be given the opportunity to study and approve any modifications of this encroachment, as shown on the drawing previously submitted to AES Indiana, before their construction, taking into consideration the electric facilities that are now or may in the future be located on the Easement.

5. The Owner or its successors and assigns will indemnify, hold harmless and defend AES Indiana, its officers, employees, successors and assigns against any claims, demands, actions and causes of action because of any injury, damage or loss to the person or property of AES Indiana, the Owner or any other persons or parties, that result from the use of the Easement, or the use of the Easement by the Owner's employees, agents, contractors, invitees, successors and assigns conducted in furtherance of this Letter Agreement.

6. The Owner or its successors and assigns shall reimburse AES Indiana for any costs, expenses and damages or cost of necessary relocation of any of AES Indiana's facilities on the Easement, including possible future underground transmission lines, arising as a result of the Owner's use of the Easement.

7. The Owner or its successors and assigns will notify AES Indiana's Load Dispatcher at (317) 261-8628 twenty-four (24) hours prior to beginning any work on the Easement.

8. No vegetation landscaping may be done on the Easement without prior review by AES Indiana. All vegetation landscaping within the Easement, even that conforming to any guidelines posted by AES Indiana, is placed at Owner's risk. Any vegetation landscaping within the Easement that is damaged or removed by AES Indiana while enjoying its granted Easement rights will not be replaced by AES Indiana.

9. Owner is knowledgeable of, and accepts the potential for electrostatic discharges (i.e. "nuisance shocks") to occur under or otherwise in the vicinity of high voltage power lines.



Department of Metropolitan Development
Division of Planning
Current Planning

This Letter Agreement shall not be construed as a release or waiver of any rights of AES Indiana or the Owner in the Easement. Further, this Letter Agreement shall inure to the benefit of the heirs, devisees, grantees, successors and assigns of each of the parties hereto.

Any use of the Property which is inconsistent with the terms of the Letter Agreement or the Easement, or any failure to comply with the conditions of the Letter Agreement or the Easement shall constitute a breach, with either party having the right to seek all remedies available in law or equity.

This Letter Agreement and the Easement constitute the entire agreement between Owner and AES Indiana. The Letter Agreement shall become effective only after the acceptance of these terms and conditions by endorsement by Owner and return of this Letter Agreement to the attention of Zachary L. Sharp, Manager – Transmission Engineering, AES, 1900 Dryden Road, Moraine, Ohio 45439.

Each of the parties hereto represents to the other by execution of this Letter Agreement that the person executing it is duly authorized to do so.

AES INDIANA

By: _____
Norberto Corredor Diaz
Sr. Director
T&D & Generation Engineering & Asset Management

ACCEPTED this _____ day of _____, 20____.

Owner

By: _____

Frank Laux
Owner



Subject site in the background looking south



Looking north up Madison Ave with the Fountain Creek in the foreground



Looking west viewing the utility power lines



Looking north with Fountain Creek in the foreground



Looking west at the adjacent property south of the subject site