



**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

March 14, 2024

**Case Number:** 2023-CZN-869 / 2023-CAP-869  
**Property Address:** 4105 and 4151 East 96th Street (Approximate Addresses)  
**Location:** Washington Township, Council District #4  
**Petitioner:** 96th Street Developers, LLC, by Joseph D. Calderon  
**Current Zoning:** C-S (FW) (FF)

**Request:** Rezoning of 30.64 acres from the C-S (FW) (FF) district to the C-S (FW) (FF) district to provide for the following uses: Commercial and Building Contractor, Offices, Light Manufacturing, Artisan Manufacturing, Recycling Station, Research and Development, Warehousing, Wholesaling and Distribution (including showroom with retail), Consumer Services, repair of Consumer Goods, Medical or Dental Office, Center or Clinic, Hair and Body Care Salon or Service, Financial and Insurance Services, Eating Establishment or Food Preparation, including brewery, distillery or tap room, Indoor Recreation/Entertainment, Retail, Light and Heavy General, Automobile Fueling Station, Automobile, Motorcycle, and Light Vehicle Service, Sales or Repair, Automobile and Light Vehicle Wash, Hotel or Motel, Food Trucks, Vocational, Technical or Industrial School or Training Facility, Day Care Center or Nursery School and other Accessory Uses.

Modification of Commitments related to 85-Z-128 and 98-Z-76 to terminate all existing commitments related to these two rezoning petitions.

**Current Land Use:** Commercial and Industrial

**Staff Recommendations:** Denial

**Staff Reviewer:** Marleny Iraheta, Senior Planner

**PETITION HISTORY**

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

This petition was continued for cause from the February 29, 2024 hearing to the March 14, 2024 hearing at the request of the petitioner.

**STAFF RECOMMENDATION**

Staff recommends **denial** of the rezoning.



Staff **would recommend approval** if the Automobile, Motorcycle, and Light Vehicle Service, Sales, or Repair uses were removed from the request and an updated C-S statement were submitted noting this change.

The petitioner eliminated Automobile Fueling Station, Automobile and Light Vehicle Wash, Food Trucks and Recycling Station uses in the amended C-S Statement, therefore, these uses would need to be **withdrawn from the request**.

Staff determined that the Modification request was not necessary since this C-S district is essentially a new C-S request that would not be related to the previous rezoning petitions 85-Z-128 and 98-Z-76. The **modification petition can be withdrawn**.

## PETITION OVERVIEW

### LAND USE

Historic aerial photography indicates that the subject site was used agriculturally until the mid-1980s when the first phase of the main building on site was constructed. The remainder of the main building was constructed in 1999/2000. The restaurant building was constructed in 2005/2006.

The 2018 Comprehensive Land Use Plan recommends Office Commercial for the site. This typology envisions all scales of office development, as well as personal services.

### ZONING

This petition requests a rezoning from the C-S district to the C-S district to provide for a variety of uses which includes Commercial and Building Contractor, Offices, Light Manufacturing, Artisan Manufacturing, Recycling Station, Research and Development, Warehousing, Wholesaling and Distribution (including showroom with retail), Consumer Services, repair of Consumer Goods, Medical or Dental Office, Center or Clinic, Hair and Body Care Salon or Service, Financial and Insurance Services, Eating Establishment or Food Preparation, including brewery, distillery or tap room, Indoor Recreation/Entertainment, Retail, Light and Heavy General, Automobile Fueling Station, Automobile, Motorcycle, and Light Vehicle Service, Sales or Repair, Automobile and Light Vehicle Wash, Hotel or Motel, Food Trucks, Vocational, Technical or Industrial School or Training Facility, Day Care Center or Nursery School and other Accessory Uses.

The Special Commercial district (C-S) is established for the following purposes:

1. To encourage:
  - i. A more creative approach in land planning.
  - ii. Superior site and structural design and development.
  - iii. An efficient and desirable use of open space.
2. To provide for a use of land with high functional value.
3. To assure compatibility of land uses, both within the C-S district and with adjacent areas.
4. To permit special consideration of property with outstanding features, including, but not limited to, historical, architectural or social significance, unusual topography, landscape amenities, and other special land characteristics.



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5. To provide maximum adaptability and flexibility in zoning and development controls to meet the changing and diverse needs of the metropolitan area.

The C-S District is designed to permit, within a single zoning district, multi-use commercial complexes or land use combinations of commercial and noncommercial uses, or single-use commercial projects. The primary objective of this district is to encourage development which achieves a high degree of excellence in planning, design or function, and can be intermixed, grouped or otherwise uniquely located with maximum cohesiveness and compatibility. The district provides flexibility and procedural economy by permitting the broadest range of land use choices within a single district, while maintaining adequate land use controls. The C-S District can include high-rise or low-rise developments, can be applied to large or small land areas appropriately located throughout the metropolitan area, and can be useful in areas of urban renewal or redevelopment.

Development site plans should incorporate and promote environmental considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage and wildlife.

#### **STAFF ANALYSIS**

The site was previously approved for offices; warehousing; shipping and receiving; commercial and building contractors; assembly/modification; retail and wholesale sales with showroom; training and technology center; and conference/meeting rooms.

This new C-S development statement would supersede the previous C-S rezoning cases. Therefore, the modification request is not required based on staff's determination.

The subject site was recently subdivided into three lots per 2023-PLT-104 ahead of the proposed C-S development. It consisted of two outlots, Lot 2 and 3, along the 96<sup>th</sup> Street frontage and Lot 1 being the remaining portion of the site that includes two access drives, drainage easement at the northeast corner of the site and the southern three buildings with associated parking areas.

In staff's opinion the proposed uses would not be substantially different in intensity than the previous permitted uses except for the auto-related uses. It is due to the proposed automobile related uses on site that staff is recommending denial of the request.

In working with staff, the petitioner removed some of the proposed uses from the original C-S Statement to the amend C-S Statement, which eliminated Automobile Fueling Station, Automobile and Light Vehicle Wash and Food Trucks from the permitted uses in Lots 2 and 3 in addition to the removal of a Recycling Station in Lot 1. Therefore, these uses would need to be officially withdrawn from the request.

However, the Automobile, Motorcycle, and Light Vehicle Service, Sales or Repair uses would still be propose as permitted used in all proposed lots, which would not align with the job generating uses that are otherwise proposed with this development. Instead, land would be dedicated for the storage of vehicles whether for sale or waiting for services/repairs which would not be the highest and best use of the site.



It is an area surrounded by auto related uses, but that is primarily due to Hamilton County placing their least favorable uses at the City's border.

The proposed development would have multiple uses proposed that could be located here without the need for these auto-related services.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-S	
<b>Existing Land Use</b>	Commercial and Industrial	
<b>Comprehensive Plan</b>	Office Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	Hamilton County	Automotive Services
South:	C-S / D-7	Offices / Multi-family dwellings
East:	C-S / D-7	Office / Multi-family dwellings
West:	C-S	Offices / Commercial
<b>Thoroughfare Plan</b>		
96 <sup>th</sup> Street	Primary Arterial	87-foot existing right-of-way with 102-foot proposed right-of-way.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	Yes	
<b>Overlay</b>	Yes	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	December 27, 2023	
<b>Site Plan (Amended)</b>	February 16, 2024.	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	N/A	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	February 16, 2024.	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book (2019)

**Pattern Book / Land Use Plan**

- The Comprehensive Plan recommends office commercial development for the majority of the site with the eastern property boundary being recommended as a floodway.
- The Floodway category delineates areas that exhibit a great potential for property loss and damage from severe flooding, or for water quality degradation. No development should occur within the floodway. Nonconforming uses currently within a floodway should not be expanded or altered.
- The Office Commercial typology provides for single and multi-tenant office buildings. It is often a buffer between higher intensity land uses and lower intensity land uses. Office commercial development can range from a small freestanding office to a major employment center. This typology is intended to facilitate establishments such as medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons.
- **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.
  - Master-planned developments in excess of 2 acres should include pedestrian amenities for passive and active recreation internal to the development. Large-Scale Offices Pedestrian connections between buildings should be provided. Street connections to perimeter roads should be provided
- **Large-Scale Offices**
  - Pedestrian connections between buildings should be provided.
  - Street connections to perimeter roads should be provided.
- **Small-Scale Offices, Retailing, and Personal or Professional Services**
  - Appropriate as a primary use only in major employment centers.
  - Outdoor display of merchandise should be limited.
  - If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
  - Should be located along an arterial or collector street.
  - 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.
- The site falls within an environmentally sensitive overlay, specifically the 100-year flood plain, which removes large-scale offices. However, with the site already being fully developed except for the outlots along the street frontage, there isn't any woodlands, wetlands, or other natural features to be preserved. The development of the site would simply have to meet the flood plain regulations.

#### 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)

- Not Applicable to the Site.

## ZONING HISTORY

### ZONING HISTORY – SITE

**2023-PLT-104; 4105 and 4151 East 96th Street** (subject site), Approval of a Subdivision Plat to be known as East 96th Street Development, dividing 28.569 acres into three lots, **approved**.

**2021-MOD-006; 4151 East 96<sup>th</sup> Street** (subject site), Modification of the site plan and Commitment Four of 98-Z-76 to provide for the expansion of the western warehouse building (development shall be substantially compliant with the site plan file-dated April 9, 1998), **approved**.

**2020-ZON-080; 4105 and 4151 East 96th Street** (subject site), Rezoning of 28.6 acres from the C-S (FF) district to the C-S (FF) district to provide for offices; warehousing; shipping and receiving; commercial and building contractors; assembly/modification; retail and wholesale sales with showroom; training and technology center; and conference/meeting rooms, **withdrawn**.

**2018-CZN-861 / 2018-CAP-861; 4151 East 96th Street** (subject site), Rezoning of 28.6 acres from the C-S district to the C-S district to add the sales, rental and repair of light vehicles, and mini-warehouses to the list of approved uses from 98-Z-76, and a modification of commitments to legally establish two signs and to provide for a third sign with a height of ten feet, **withdrawn**.

**2018-UV1-004; 4151 East 96th Street** (subject site), Variance of use to provide for the parking of vehicles for a temporary period, **approved**.

**99-V1-20; 4151 East 96th Street** (subject site), Variance of use to provide for building construction in a floodway, **approved**.

**98-Z-76; 4301 East 96th Street** (subject site), Rezoning of 19.7 acres from the C-S district to the C-S district to provide for retail sales, training center, offices, and warehousing, **approved**.

**86-V3-20; 4301 East 96th Street** (subject site), Variance of development standards of the Commercial Zoning Ordinance to provide for the expansion of an office-warehouse with paved parking and loading area located at 10 feet from the rear property line (15 feet required), **granted**.

**85-Z-128A; 4301 East 96th Street** (subject site), Rezoning of 102 acres from the A-2 district to the C-S district to provide for warehousing, distribution, offices, and multi-family dwellings, **approved**.

### ZONING HISTORY – VICINITY

**2011-ZON-003; 9265 Counselors Row, 9229 Delegates Row, 3665, 3750, 3850, 3939, and 3950 Priority Way, South Drive and 9190 Priority Way, West Drive** (south of site), Rezoning of 49.5 acres from the C-S district to the C-S district to add educational uses to those permitted by 80-Z-91A, **approved**.



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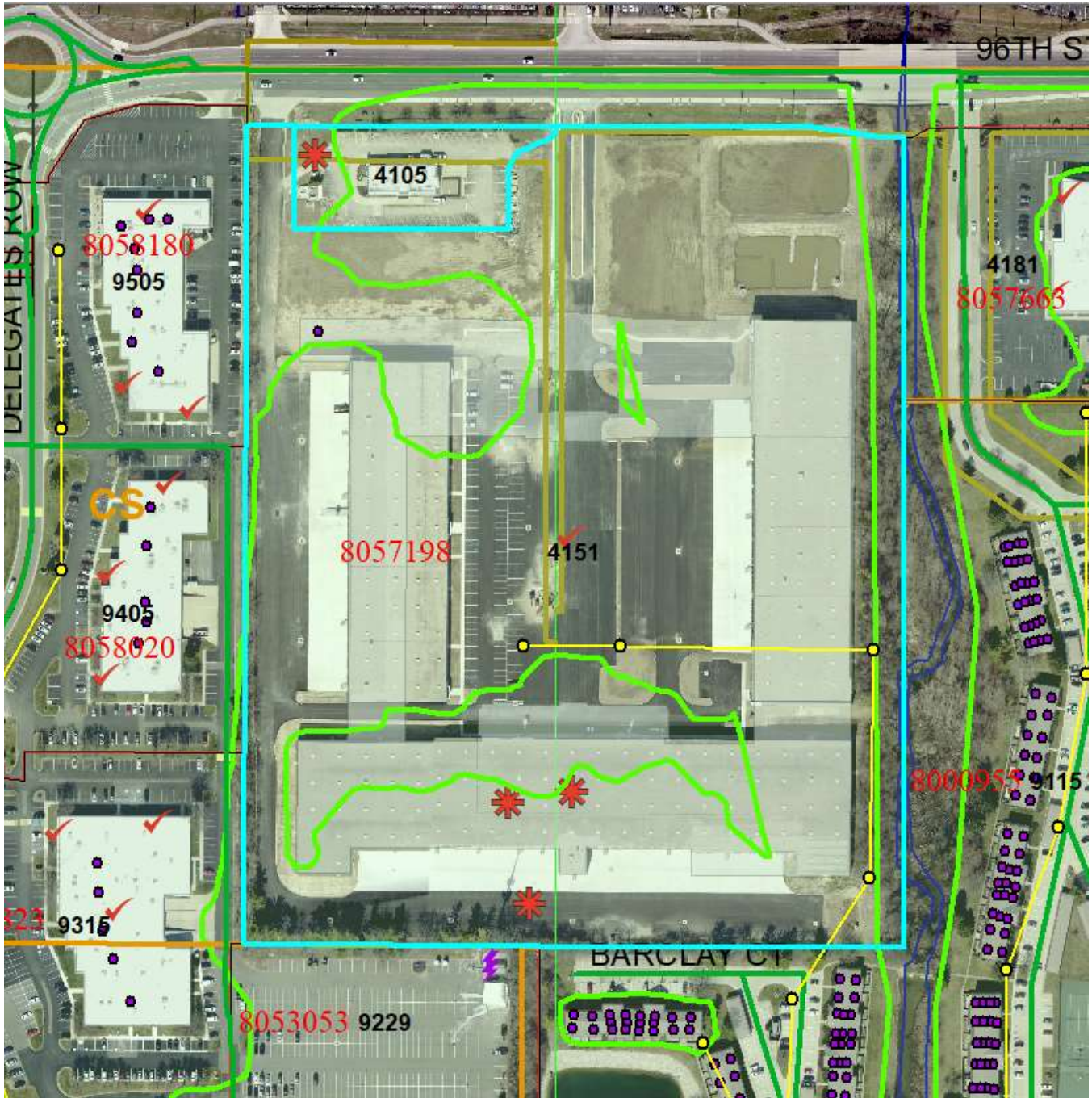
**85-Z-128B; 4301 East 96th Street** (east and south of site), Rezoning of 68 acres from the A-2 district to the D-7 district, **approved.**

**80-Z-91A; 3801 East 96<sup>th</sup> Street** (west and south of site), Rezoning of 187.10 acres, being in A-2, SU-23, and GSB secondary districts, to C-S classification to provide for the construction and operation of an office, commercial, industrial research, light industrial, and service complex, **approved.**

**80-Z-91B; 9650 North River Road** (south of site), Rezoning of 61.14 acres, being in A-2, SU-23, and GSB Secondary districts to total GSB Secondary classification to relocate gravel-sand-borrow operation, **approved.**

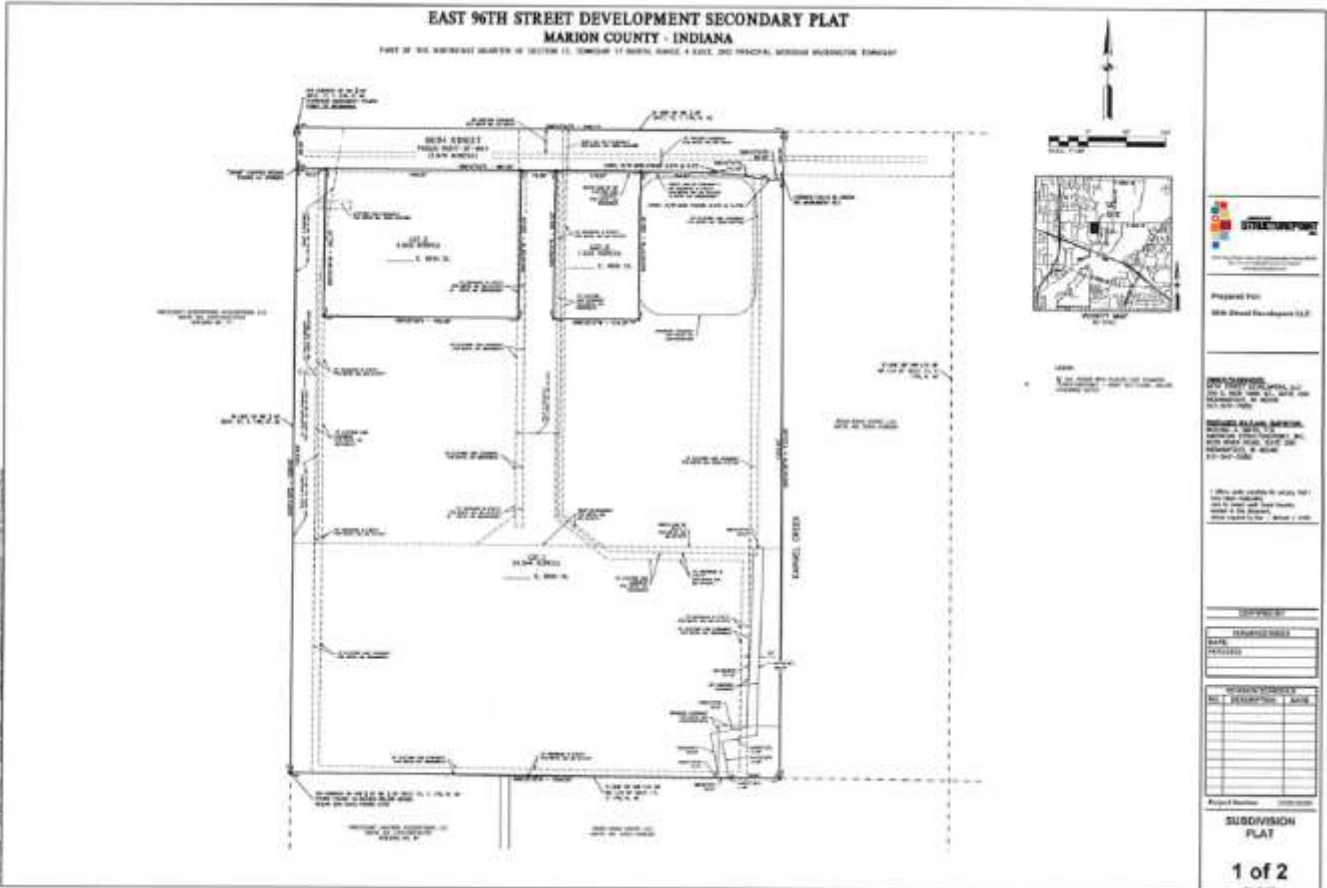


EXHIBITS



Concept Plan







### C-S Development Statement

Introduction: Petitioner, 96<sup>th</sup> Street Developers, LLC, seek to rezone approximately 30.64 acres of property commonly known as 4105 and 4151 East 96<sup>th</sup> Street (the “Subject Property”) as shown on the Concept Plan attached as Exhibit “A” in order to facilitate redevelopment of the Subject Property for commercial and industrial uses. In addition to the Concept Plan, Petitioner has also prepared a proposed plat of the Subject Property, dividing the Subject Property into three (3) lots, as shown on the attached Exhibit “B” (the “Plat”).

Zoning: The Subject Property is currently zoned C-S, as more particularly described in rezoning petitions 85-Z-128 and 98-Z-76, which permitted certain commercial and industrial uses, with the 1998 case filed to permit the headquarters for HH Gregg. Petitioner acquired the Subject Property in 2021 and has removed the former HH Gregg showroom buildings and the former Steak N Shake restaurant building, and has renovated three (3) existing industrial buildings. Petitioner propose to rezone the Subject Property from C-S to C-S to reflect continuing redevelopment efforts, which contemplate both commercial and industrial uses.

Proposed Permitted Primary Uses of Lot 1, as shown on the Plat, shall be as follows, as described in the City of Indianapolis Consolidated Zoning/Subdivision Ordinance in effect as of May 8, 2023 (the “Zoning Ordinance”):

- a) Commercial and Building Contractor
- b) Offices (Business, Professional or Government)
- c) Light Manufacturing, Artisan Manufacturing
- d) Automobile, Motorcycle, and Light Vehicle Service, Sales or Repair
- e) All Research and Development
- f) Warehousing, Wholesaling, Distribution (including showroom with retail)
- g) Consumer Services, repair of Consumer Goods
- h) Vocational, technical or industrial school or training facility

The following proposed permitted primary uses of Lots 2 or 3 shall be as follows:

- a) Medical or Dental Office, Center, or Clinic
- b) Hair and Body Care Salon or Service
- c) Financial and Insurance Services
- d) Consumer Services, repair of Consumer Goods
- e) Offices (Business, Professional or Government)
- f) Eating Establishment or Food Preparation, including brewery, distillery, tap room

- g) Indoor Recreation/Entertainment
- h) Retail, Light and Heavy General
- i) Automobile, Motorcycle, and Light Vehicle Service, Sales or Repair
- j) Hotel, Motel
- k) Day Care Center, Nursery School

Permitted Accessory Uses of the Subject Property shall include the following:

- 1) Wireless Communication Facilities
- 2) Game Courts
- 3) Outdoor Storage (limited to Lot 1 only, to a maximum of twenty-five percent (25%) of total square footage of all buildings on Lot 1)
- 4) Outdoor Display and Sales, Temporary
- 5) Outdoor Seating or Patio
- 6) Renewable Energy Facility, Solar, Geothermal or Wind
- 7) Satellite Dish Antenna
- 8) Sign(s)
- 9) Temporary Construction Yard, Office, or Equipment Storage
- 10) Temporary Outdoor Event (no more than fifteen (15) consecutive days in any sixty (60) day period)
- 11) Vending Machines/Self-Serve Kiosk (outside)
- 12) Sidewalk Café/Food Trucks
- 13) Walk-up Window
- 14) Drive Through

Development Standards:

Petitioner hereby incorporates the Lot and Building Dimensions for properties in the C-S zoning district set forth in Chapter 744; Art. II, Section 01.C, Table 744-201-3 of the Zoning Ordinance, except that there shall be no maximum setback from proposed right of way required with respect to the existing buildings on Lot 1.

Landscaping plans are not yet fully developed for Lots 2 and 3. Prior to obtaining an improvement location permit for a new building, a detailed landscaping plan, consistent with that required for commercial uses set forth in Ch. 744, Art. V of the Zoning Ordinance, shall be submitted for

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Administrator's Approval. Off-street parking shall conform to the requirements set forth in Ch. 744, Art. IV of the Zoning Ordinance.

Signs:

The following sign types shall be permitted for Lots 2 and 3:

- 1) Monument (Business identification) Sign not to exceed twelve (12) feet in height and no more than one (1) for each lot
- 2) Ground (Business identification) Sign, in lieu of a monument sign, and no more than one (1) for each lot
- 3) Wall Signs, Awning, Canopy and Window Signs
- 4) Incidental, Temporary, and Other Signs as would otherwise be permitted in a commercial zoning district

Phasing of Development:

The project may be developed as generally shown on the conceptual site plan submitted with the C-S Rezoning Petition and this C-S Development Statement (the "Concept Plan"); provided, however, prior to applying for an Improvement Location Permit for a new building/development of a lot, a final site and development plan, consistent with the standards contained in this C-S Statement, shall be tendered for Administrators Approval.



Photo of the proposed Lot 3.



Photo of the proposed Lot 2.





North end of Building 2.



West building façade of Building 2 looking east.





Photo of Building 1 looking south.



Rear view of Building 1 looking east along the southern property boundary.



Photo of Building 3.



Rear view of Building 3 looking south.