



METROPOLITAN DEVELOPMENT COMMISSION **May 23, 2024**
HEARING EXAMINER

Case Number: 2024-CZN-816 / 2024-CVR-816

Property Address: 9521 Haver Way (approximate address)

Location: Washington Township, Council District #2

Petitioner: McDonald’s USA, LLC, by Timothy Ochs

Current Zoning: C-3, C-4 and C-S
Rezoning of 1.777 acres from the C-3, C-4 and C-S districts to the C-3 district.

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a trash enclosure within the front yard of Keystone Avenue (not permitted), restaurant drive through service units, without screening, located on a façade adjacent to a public right-of-way that exceeds 30 feet in width and off-street stacking spaces located within a front yard along a public right-of-way that exceeds 30 feet in width (not permitted), 48 parking spaces (maximum of 40 spaces permitted)..

Current Land Use: Undeveloped

Staff Recommendations: Approval of the rezoning. Split recommendation for the variances..

Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff **recommends approval** of the rezoning request.

Staff **recommends approval** of the restaurant drive through service units located on a façade adjacent to a public right-of-way that exceeds 30 feet in width and off-street stacking spaces located within a front yard along a public right-of-way that exceeds 30 feet in width.

Staff **recommends denial** of the drive-through services without screening, dumpster in the front yard, and excessive parking request.

PETITION OVERVIEW

LAND USE

The 1.777-acres subject site is currently shown as right-of-way property owned by the City of Carmel for the roundabout development that no longer requires this land area. The site is in the process of being



established as a parcel within the Indianapolis-Marion County jurisdiction. It consists of undeveloped land that is split zoned C-3, C-4 and C-S.

The site is surrounded by commercial development in each direction zoned C-4, C-5, and C-S with an auto dealership being north of the site in Hamilton County.

ZONING

The request would rezone the site from the C-3, C-4 and C-S district to the C-3 district to allow for a restaurant on site.

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.

The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.

The C-3 District is for the development of an extensive range of retail sales and personal, professional and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.



VARIANCE OF DEVELOPMENT STANDARDS

Per Table 744-402-1: Required Parking Table, eating establishments are required to have a minimum of one parking space per 150 square feet and can have a maximum of one parking space per 100 square feet.

Based on the proposed 4,050 square foot building, a minimum of 27 parking spaces are required and a maximum of 40 parking spaces are permitted.

The original site plan noted 48 parking spaces proposed, but an amended site plan eliminated eight parking spaces and notes a total of 40 parking spaces which would not require the parking variance.

Additionally, the original site plan noted the dumpster to be within the front yard of Keystone Avenue, but the amended site plan shows the relocation of the dumpster to be in line with the eastern building façade of the primary building which would no longer be in the front yard. Therefore, the variance for the dumpster in the front yard would not be required.

Drive-through facilities are only permitted in the C-3, C-4, C-5, C-7, and MU-1 districts and must meet the requirements of Section 744-406. A drive-through use-specific standard requires that “in all instances, service units shall be screened from all public rights-of-way that exceed 30 feet in width regardless of proximity”.

The site has two front yards facing 96th Street and Keystone Avenue and two side yards facing Haver Way and along the southern property boundary. A landscape plan was provided which shows that landscaping will be proposed along both street frontages. Therefore, the variance to not have screening is not necessary. However, the required landscaping will need to be met, which will be verified at the time of permitting.

Staff Analysis

The rezoning request would be consistent with the community commercial recommendation of the Comprehensive Plan and the development of the surrounding area that consists of a variety of commercial businesses.

The petitioner submitted and amended site plan that relocated the dumpster outside of the front yard and eliminated the excessive parking originally proposed. Therefore, these two variances should be withdrawn by the petitioner since they are no longer needed per the amended site plan.

The variance for no screening of the drive through service units was included in case landscaping was not proposed. However, a landscape plan was submitted to the case file that would provide screening along the two street frontages. When permits are filed, the required landscaping will be confirmed to meet the standards of the Ordinance. Specifically, the required front yard landscaping and screening would only be relevant along 96th Street and Keystone Avenue since Haver Way is a private street and is considered a side yard to the west. Staff would not support screening that would not meet the Ordinance requirements.



Staff determined that there is a practical difficulty of the site due to the two street frontages, which would not allow for drive-through units to be facing the right-of-way or for stacking spaces to be located in the front yard of Keystone Avenue. However, considering that traffic at the northeast corner of the property would be heading east or south onto the ramp, the drive-through unit and stacking spaces would be visually obstructed due to the proposed landscaping. Furthermore, the headlights of the vehicles in the drive-through would not be facing direct oncoming traffic.

For these reasons, staff is supportive of the rezoning request and variance associated with the drive-through units and stacking spaces.

GENERAL INFORMATION

Existing Zoning	C-3, C-4 and C-S	
Existing Land Use	Undeveloped	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Land Use
	North: Hamilton County	Commercial
	South: C-5	Commercial
	East: C-4	Commercial
	West: C-5 / C-S	Commercial
Thoroughfare Plan		
96 th Street	Primary Arterial Street	55-foot approximate half right-of-way and 119-foot proposed right-of-way
Keystone Avenue	Primary Arterial Street	270-foot existing right-of-way and 124-foot proposed right-of-way.
Haver Way	Private Street	Not included in the Thoroughfare Plan.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	March 8, 2024	
Site Plan (Amended)	May 1, 2024	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	March 8, 2024	
Findings of Fact	March 8, 2024	
Findings of Fact (Amended)	May 16, 2024	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)

Pattern Book / Land Use Plan

- The Comprehensive Plan recommends community commercial development for this site.
- The Community Commercial typology provides for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

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

2003-ZON-158; 9520 Haver Way (subject site and southwest of site), Rezoning of 1.83 acres from the C-3 district, to the C-S classification to provide for automobile rental (passenger) / cleaning facility, limited to C-3 uses, and a job printing facility and a caterer, **approved**.

94-Z-88; 3131 East 96th Street (subject site), Rezoning of 1.058 acres, being in the C-3 District, to the C-4 classification to provide for an existing gasoline service station with four bay service areas and an attached car wash, **approved**.

94-CV-12; 3131 East 96th Street (subject site), Variance of development standards of the Sign Regulations and Commercial Zoning Ordinance to provide for the placement of a 52.6 square foot ground sign (maximum 20 square feet permitted) 6.42 feet in height (maximum 4 feet permitted), with a logo/identification panel (not permitted), and a 187.1 square foot pole sign with pricing panels (not permitted), **granted**.

Zoning History – Vicinity

2021-ZON-118; 3003 and 3009 East 96th Street (west of site), Rezoning of 1.34 acres from the C-1 district to the C-5 district, **approved**.

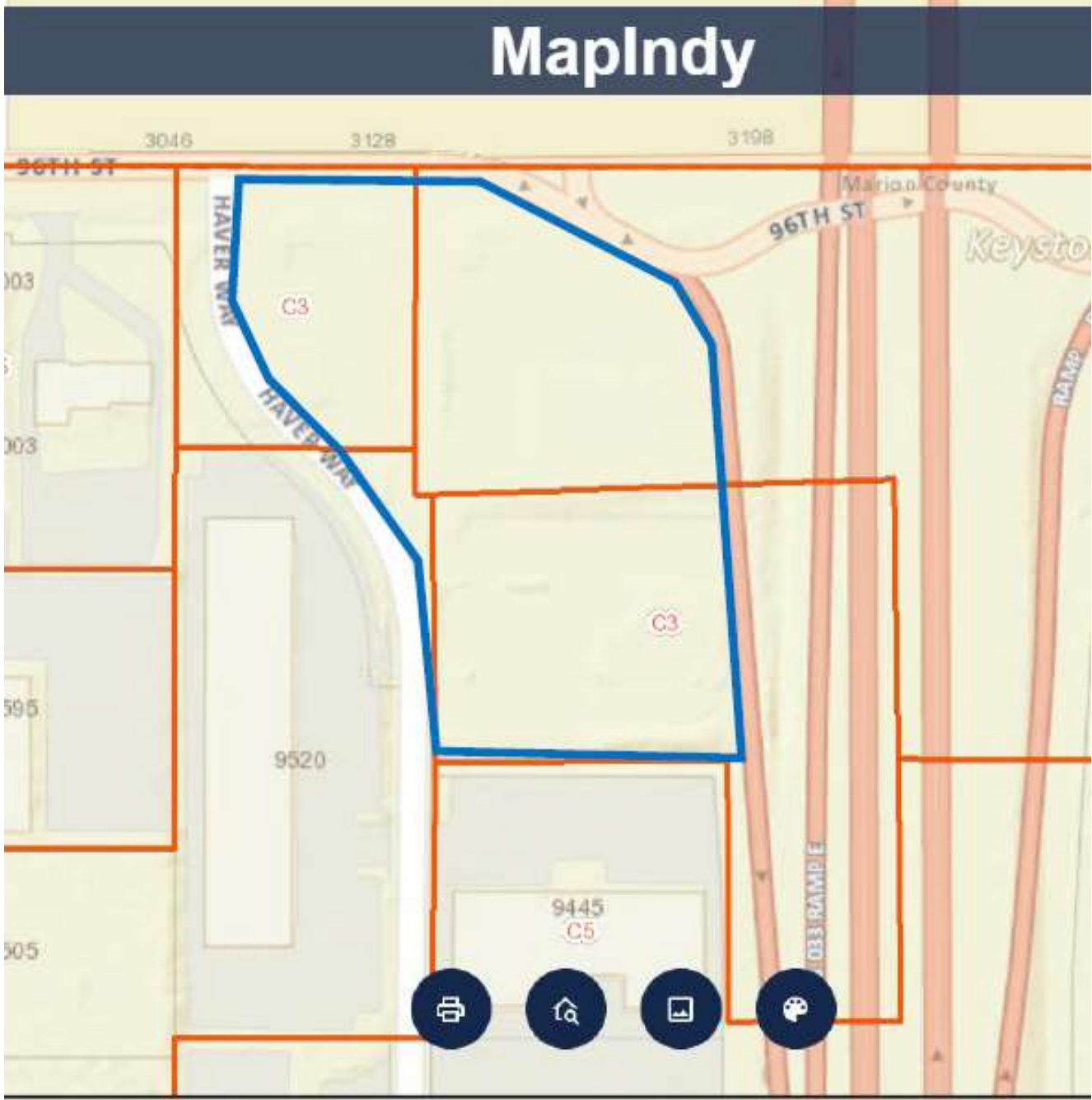
2014-ZON-018; 3009 East 96th Street (west of site), Rezoning of 0.67 acre, from the C-1 District to the C-5 classification to provide for automobile sales, **withdrawn**.

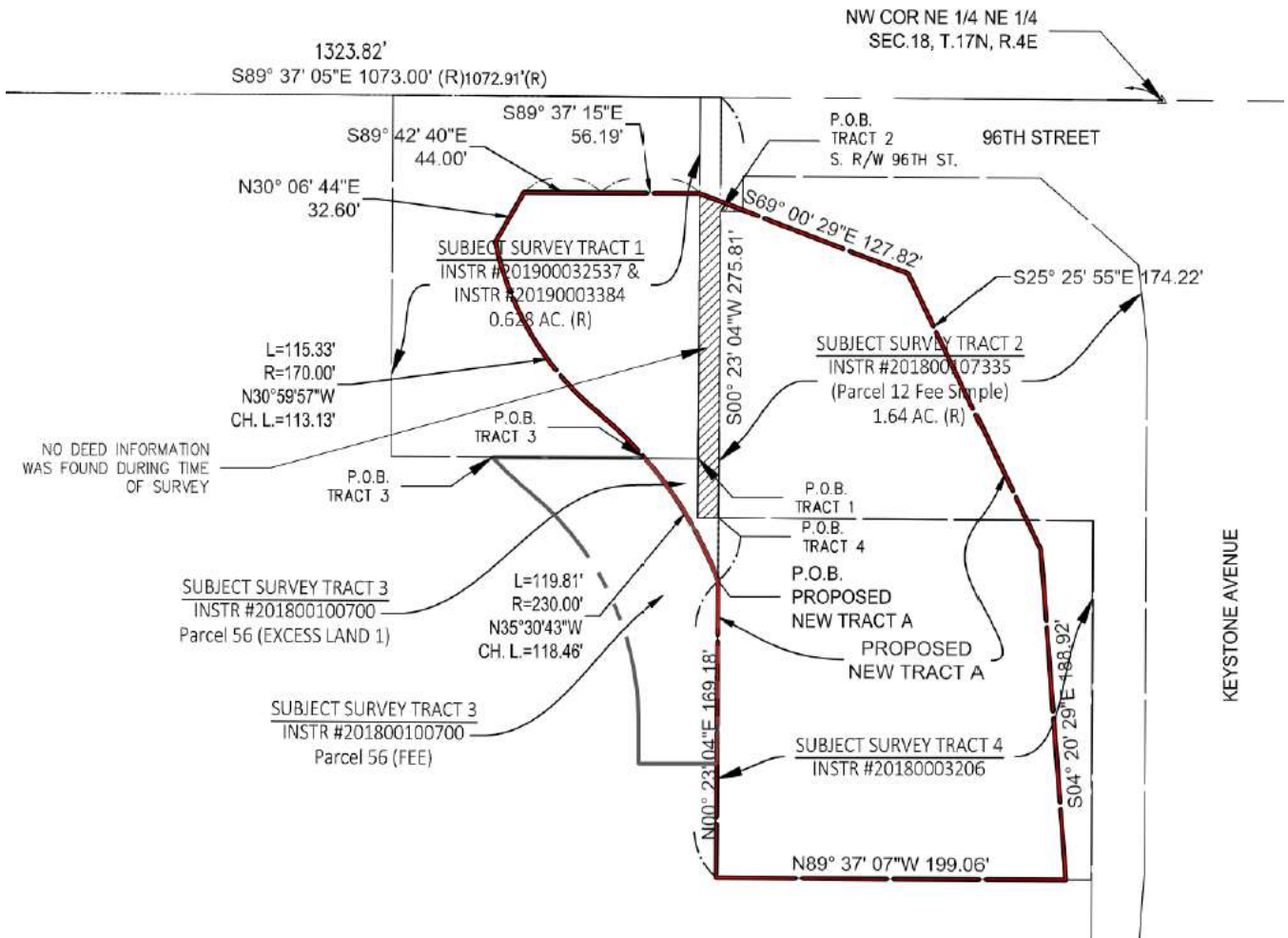
99-CP-15Z; 9415 Whitley Drive (southwest of site), rezoning 0.93 acre from the C-S to C-S classification to provide for a 10, 200 square foot office building, **approved**.

99-Z-174; 9445 Haver Way (south of site), Rezoning of 0.94 acre from C-3 to C-5 to provide for general commercial uses, including automobile sales and display, **approved**.

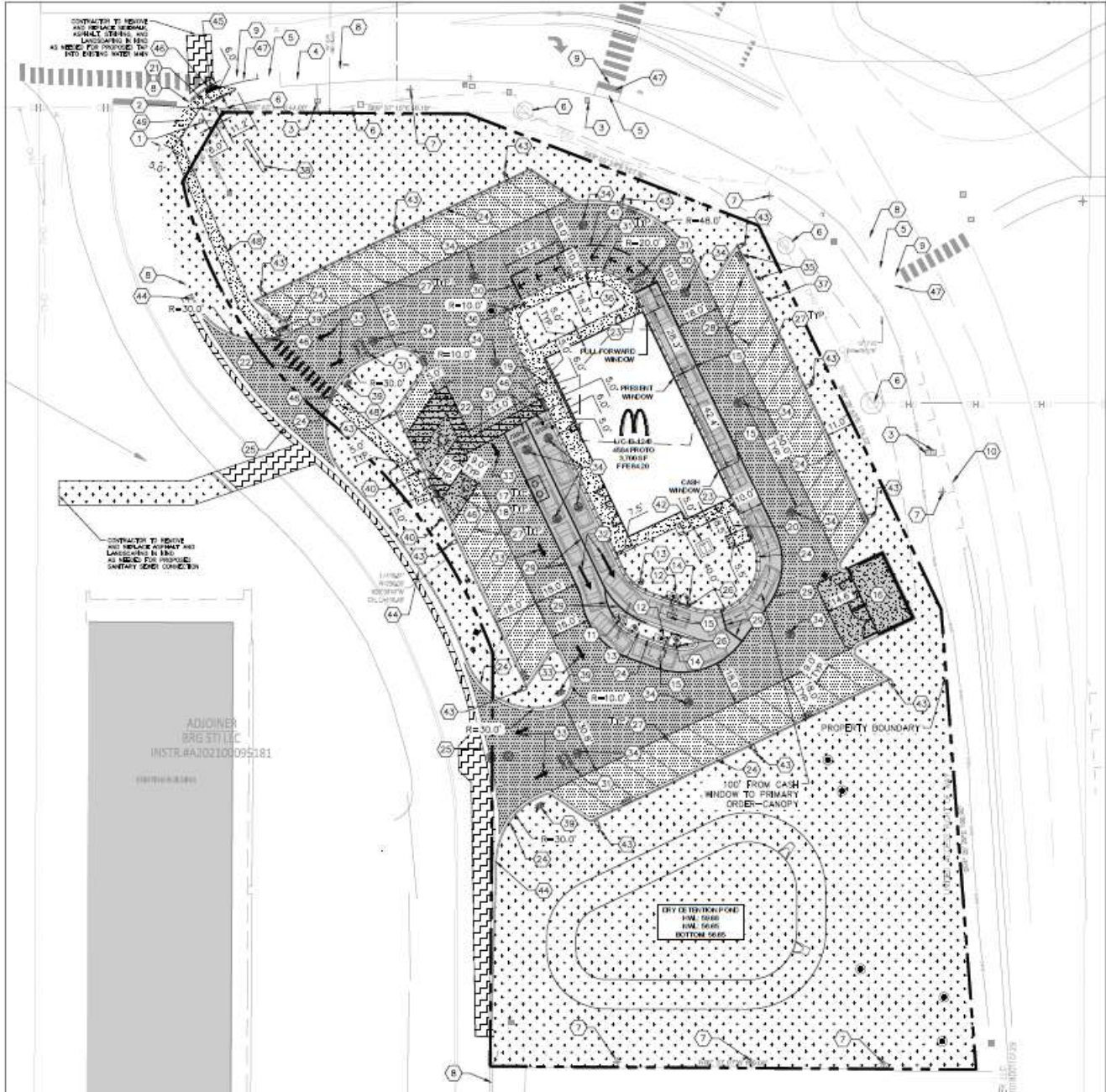
89-Z-117; 9410 Whitley Drive (southwest of site), Rezoning of 10.267 acres, being in the C-1 District, to the C-S classification, to provide for the construction of self-storage mini-warehouses, **approved**.

EXHIBITS

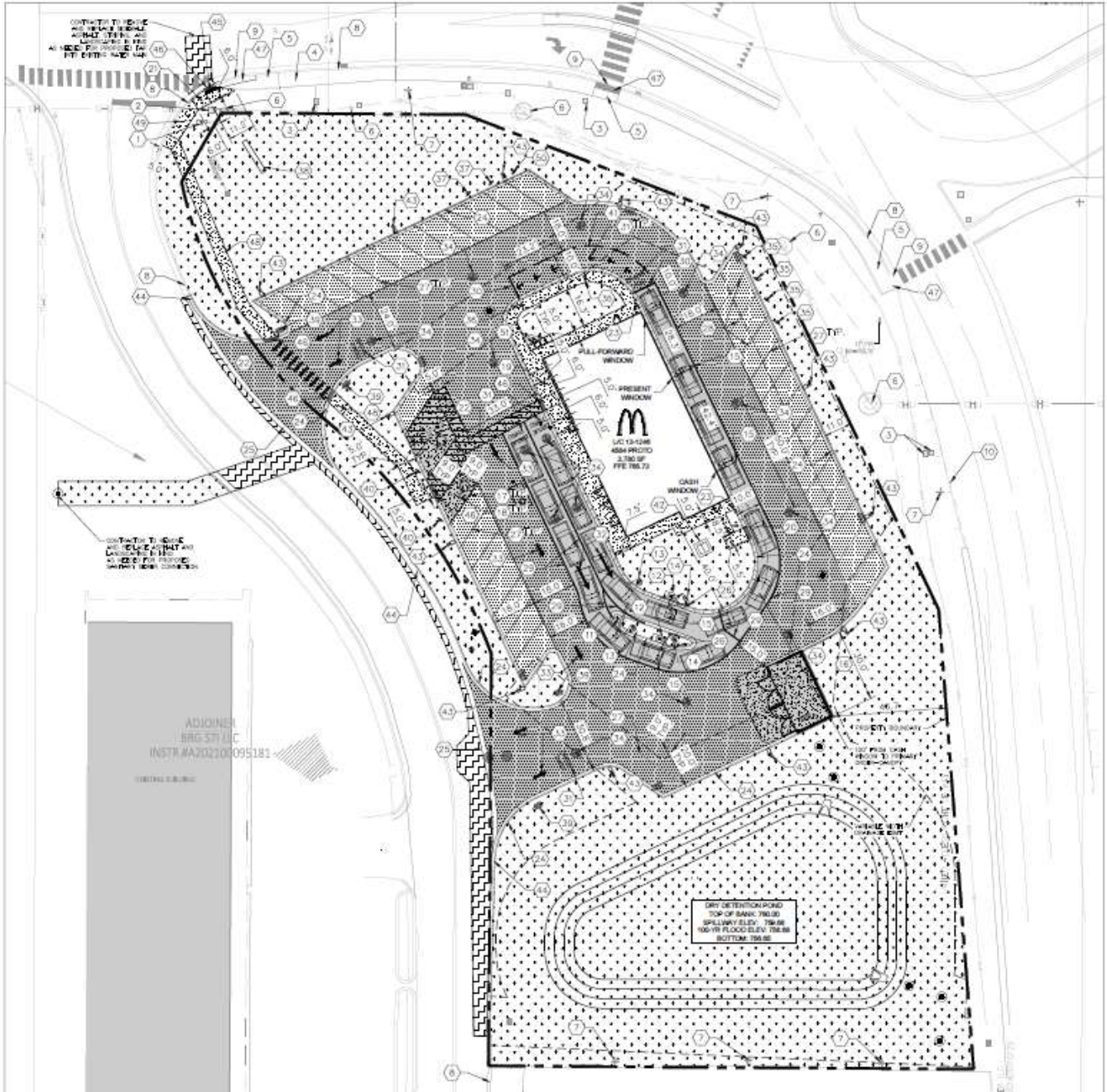




SITE PLAN



AMENDED SITE PLAN





FINDINGS OF FACT

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division [redacted]
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 presence of the service unit facing the southwest intersection of Keystone and 96th St., and the presence of stacking spaces facing this intersection and facing Haver Way, will not have a negative impact on the public since the site has been well-designed to mitigate any potential impacts:

- 1) There are no drive-through components on 96th St.; instead these are focused on Haver Way, the adjacent undeveloped lot, and the Keystone/96th St. interchange. Also, at this point Keystone is elevated and therefore there will not be a direct view from Keystone to the service unit.
- 2) The flow of drive-through and other traffic has been well-designed and will not have any negative impacts on traffic either on- or off-site.
- 3) The drive-through components are set back substantially from the adjacent traffic lanes and screened by landscape buffering.

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 site is surrounded by commercial uses of similar intensity as the proposed use, with zoning of C5 and CS (a strip mall), and a heavily-traveled four-lane divided arterial (Keystone Ave.) These uses will not be negatively impacted by the proposed use.

The site design helps to minimize any potential impacts to the extent possible as described above, by:

- the drive-through design/orientation,
- the well-designed traffic flow for drive-through and other traffic, and
- the setbacks and landscaping.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The site is valuable because of its location at the intersection of two Primary Arterials (Keystone and 96th) and a local street (Haver Way.) However this means it is surrounded by public right-of-way on three sides.

The space required for the the drive-through and its stacking spaces requires it to wrap around the building on three sides.

The site design helps to minimize any potential impacts to the extent possible as described above, particularly by avoiding any drive-through component facing 96th Street and instead focusing it on Haver Way, the adjacent undeveloped lot, and the Keystone/96th interchange.



AMENDED FINDINGS OF FACT

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 requested variance will not have a negative impact on the public since the site has been well-designed to mitigate any potential impacts:

- 1) There are no drive-through components on 96th St.; they are focused on Haver Way, the adjacent undeveloped lot, and the Keystone/96th St. interchange, where Keystone is elevated and there will be no direct view.
- b) The flow of drive-through and other traffic has been well-designed and will not have any negative impacts on traffic either on- or off-site.
- c) The drive-through components are set back substantially from the adjacent traffic lanes and screened by landscape buffering.

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 site is surrounded by commercial uses of similar intensity as the proposed use, with zoning of C5 and CS (a strip mall), and a heavily-traveled four-lane divided arterial (Keystone Ave.) These uses will not be negatively impacted by the proposed use.

The site design helps to minimize any potential impacts to the extent possible, as described above, by:

- a) the drive-through design/orientation, b) the well-designed traffic flow for drive-through and other traffic; and c) the setbacks and landscaping.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The site is valuable because of its location at the intersection of two Primary Arterials (Keystone and 96th) and a local street (Haver Way.) However this means it is surrounded by public right-of-way on three sides.

The space required for the the drive-through and its stacking spaces requires it to wrap around the building on three sides.

The site design helps to minimize any potential impacts to the extent possible as described above, particularly by avoiding any drive-through component facing 96th Street and instead focusing it on Haver Way, the adjacent undeveloped lot, and the Keystone/96th interchange.



Photo of the subject site looking east northeast from Haver Way.



Photo of the subject site looking east from Haver Way.



Photo of the subject site looking southeast from across Haver Way.



Photo of the eastern property boundary and adjacent interstate ramp.



Photo of the northern property boundary looking south from 96th Street.



Photo of the northern property boundary looking southeast from 96th Street.



Photo of the interstate ramp east of the site.



Photo of the roundabout and interstate ramp entrance northeast of the site.



Photo of the commercial building south of the site.



Photo of the commercial shopping strip west of the site.



Photo of the commercial shopping strip west of the site.



Photo of the commercial property west of the site.



Photo of the auto dealership north of the site across 96th Street in Hamilton County.