

## STAFF REPORT

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-UV3-020  
**Address:** 3465 Newhart Street and 5200 Sandhurst Drive (approximate address)  
**Location:** Perry Township, Council District #20  
**Zoning:** D-A (FF)  
**Petitioner:** Thomas Loudermilk  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping business with the outdoor storage of trucks, equipment, and materials (not permitted).

#### October 17, 2023

This petition was continued from the September 19, 2023 hearing to the October 17, 2023 hearing due to an indecisive vote by the Board of Zoning Appeals.

No new information has been provided. Staff continues to recommend denial of the petition.

#### September 19, 2023

#### RECOMMENDATIONS

Staff **recommends denial** of this request.

#### SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

#### **LAND USE**

##### EXISTING ZONING AND LAND USE

D-A	Metro	Single-family residential / agriculture
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##### SURROUNDING ZONING AND LAND USE

North	D-A	Single-family residential
South	D-A	Single-family residential
East	D-A	Single-family residential
West	D-A	Single-family residential

##### LAND USE PLAN

The Comprehensive Plan recommends Suburban Neighborhood development, with a 100-year flood overlay.

- ◇ The subject site contains the dwelling and accessory structures to the south on Newhart Street and the farmland on Sandhurst Drive to the north. The site is within the Sunshine Gardens Subdivision and Neighborhood east of the White River.

(Continued)

## **STAFF REPORT 2023-UV3-020 (Continued)**

### **VARIANCE OF USE**

- ◇ This request is for a variance of use to provide for the operation of a landscaping business with the outdoor storage of trucks, equipment, and materials, which is not permitted in the D-A district.
- ◇ The subject site has been used for residential and agriculture uses for several years, which are both permitted by the D-A zoning. Equipment for farming uses is permitted to be on site as part of the farming operations and are not part of the variance request.
- ◇ The subject variance would permit a landscaping business including storing and hauling dirt, gravel, and building materials as shown in the site visit photos. The current operation, which has an active violation, includes outdoor storage of much of these items. These uses are permitted only in heavy commercial districts or industrial districts. Staff believes these are inappropriate uses for the D-A district, and they do not meet the comprehensive plan recommendation; therefore, staff is recommending denial of the request.
- ◇ Staff would note that the plan of operation is primarily descriptive of the agricultural use and is not comprehensive. Commercial trucks and materials are a recent addition to the site as evidenced in the exhibits below, and has continued to increase in intensity. While some of the equipment may be dual use for the farm use and contractor use, staff believes the primary use of the equipment is for the landscaping contractor, and are, therefore, not permitted.

### **GENERAL INFORMATION**

#### **THOROUGHFARE PLAN**

Newhart Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

Sandhurst Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

#### **SITE PLAN**

File-dated August 7, 2023

#### **PLAN OF OPERATION**

File-dated August 7, 2023

#### **FINDINGS OF FACT**

File-dated August 7, 2023

### **ZONING HISTORY – SITE**

**PREVIOUS CASES:** None

(Continued)

## **STAFF REPORT 2023-UV3-020 (Continued)**

**EXISTING VIOLATIONS:** **VIO22-001940**, the following violations were issued on March 22, 2022:

Failure to obtain an Improvement Location Permit for an accessory structure exceeding 200 square feet,

Failure to comply with use-specific standards and development standards for the D-A zoning district (parking areas in front yards shall be paved; the parking of vehicles on grass in the front yard is prohibited),

The following uses in a zoning district (D-A), when the provisions of which do not specifically permit such a use:

Conduct of an activity not permitted as a primary or accessory use (Landscape service/construction contractor is not permitted in the D-A district, Gravel Guy, Excavation and More, LLC),

The outdoor storage of junk, trash, or debris (construction materials, logs, scrap wood, pipes, and miscellaneous items throughout the property),

The outdoor storage of inoperable vehicles or vehicle parts (tractor tool attachments, vehicle jack, excavator bucket, and miscellaneous vehicle parts throughout property),

The storage of commercial vehicles (trailer with a cargo holder more than 12 feet in length),

The parking or storage of a commercial vehicle (vehicle designed to be used as a flat-bed truck, tractor, steam roller, or dump truck),

## **ZONING HISTORY – VICINITY**

**2000-UV1-030, 5330 Sandhurst Drive**, variance of use to permit auto sales and display, **withdrawn**.

**93-V1-29, 3420 West Byrkit Street**, variance to permit an addition to an existing dwelling at a floor elevation of less than two feet above the base flood elevation, **approved**.

**96-UV3-82, 5031 Sandhurst Drive**, variance to legally establish the continued placement of a mobile home dwelling unit as a second dwelling on one lot with a side setback of 1.5 feet, to legally establish a single-family dwelling with a side yard of 3.2 feet, to legally establish a detached garage, measuring 22.6 by 27.8 feet, with a side setback of 0.5 foot, and to legally establish two detached sheds with a side setback of zero feet, **approved**.

**91-UV3-29, 5031 Sandhurst Drive**, variance to permit the placement of a mobile home in addition to an existing single-family residence, **denied**.

**2002-UV3-034, 5100 Sandhurst Drive**, variance to provide for a graphic and decal business for vehicles in an existing pole barn, **approved**.

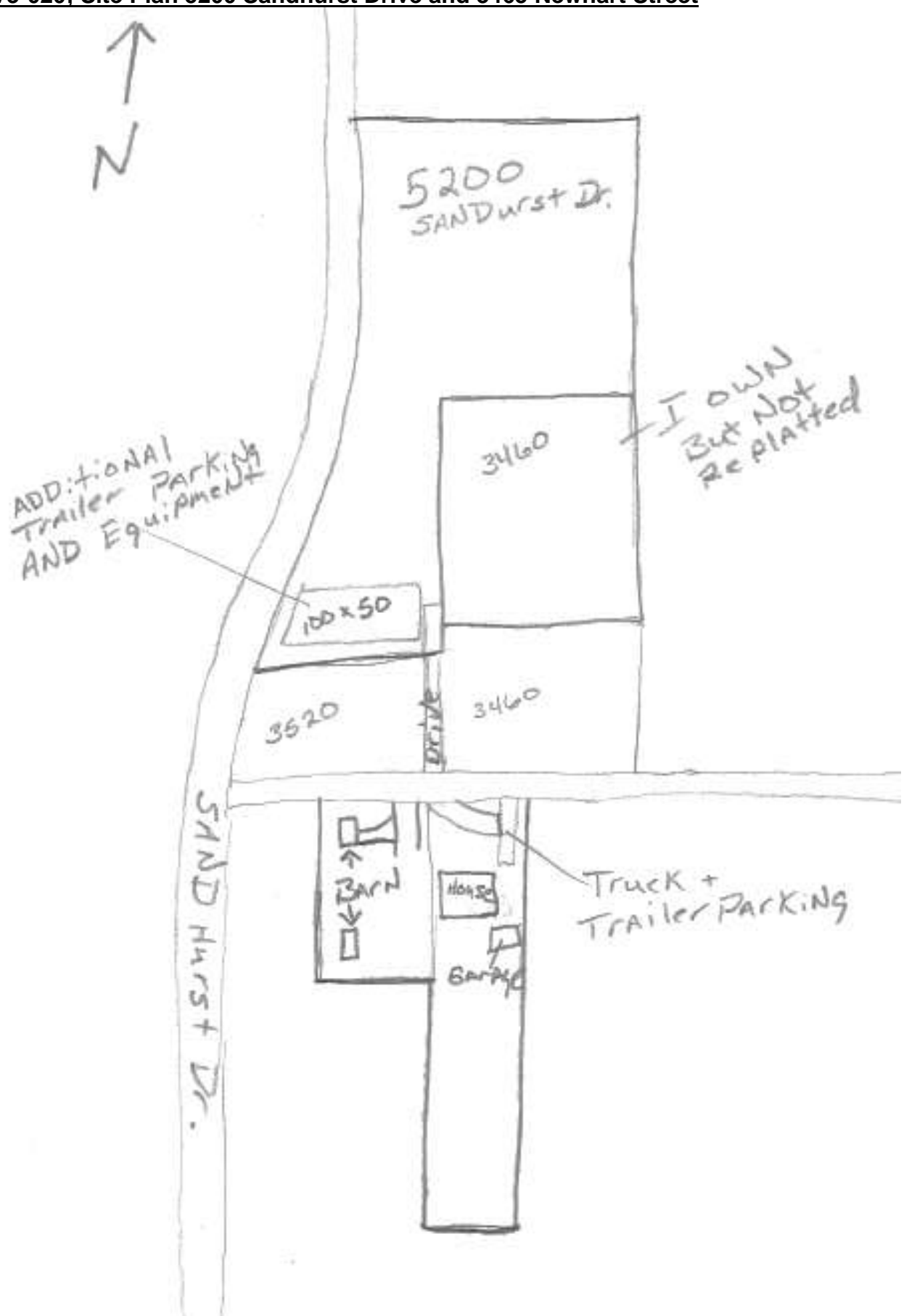
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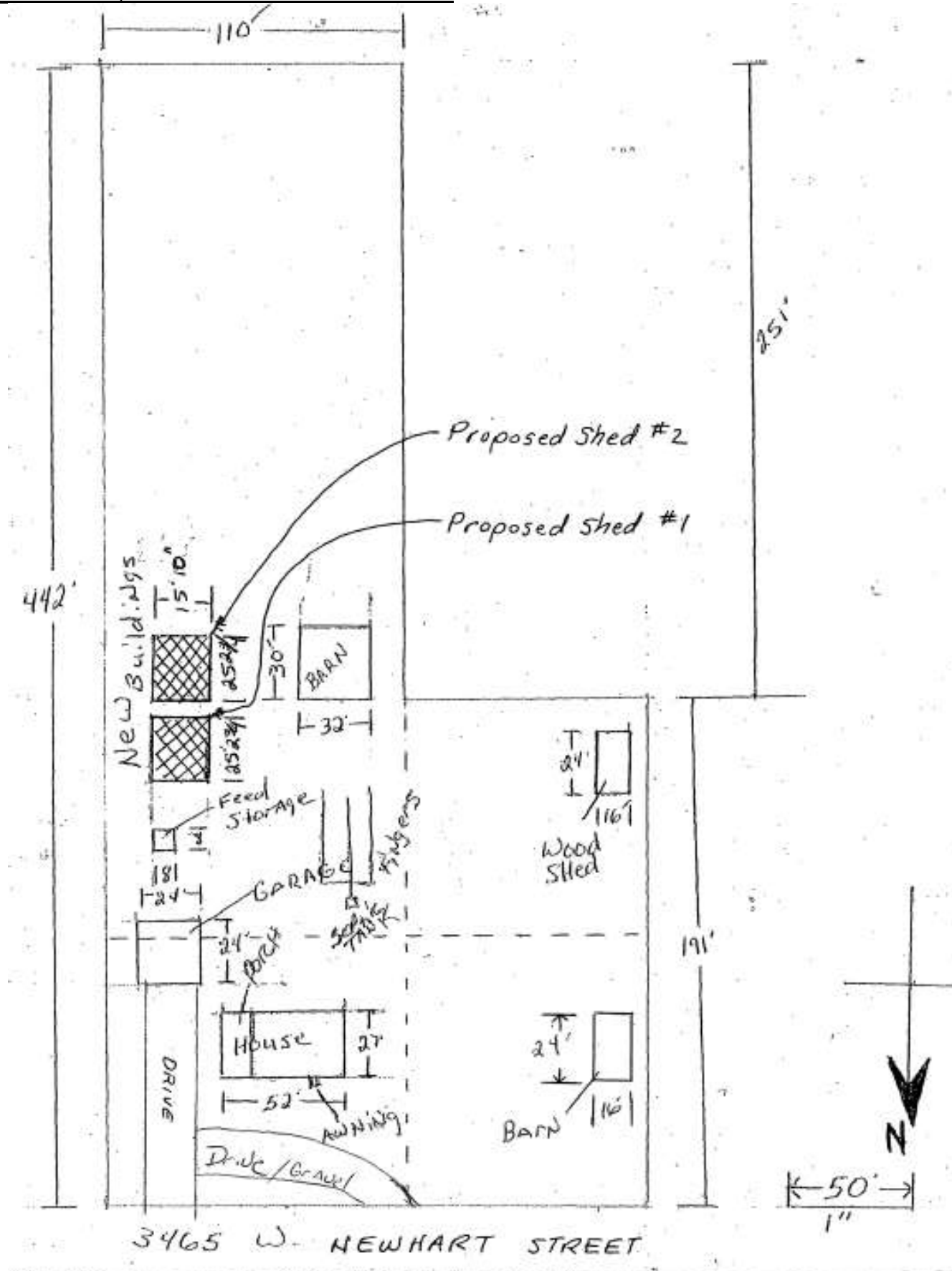


2023-UV3-020; Site Plan 5200 Sandhurst Drive and 3465 Newhart Street





2023-UV3-020; Site Plan 3465 Newhart Street



## **2023-UV3-020; Plan of Operation**

3465 West Newhart Street and 5200 Sandhurst Drive

### **Plan of Operation**

The trucks on this property are flat bed and dump bed trucks, which are larger than permitted on residential properties. The trucks are used for a farm and landscaping business to haul materials. These trucks and trailers are also used to haul tractors, which are larger and heavier than typical residential vehicles.

The farm grows corn, tomatoes, pumpkins, mums, beans, cucumbers, gourds, and other products. Straw is also transported to the site for farm use and for livestock.

Each product requires a different type of trailer to transport, flat-bed trucks for straw, etc. and dump bed trucks for corn for livestock, trailer for tractor transport.

Trucks and trailers, landscape trailers, and equipment/materials are to be parked on the same property as the owner's house. These vehicles have been operating at this site for 43 years. The variance is needed to continue operation.

All maintenance for trucks and trailers is done off-site at the vehicle dealership.

**2023-UV3-020; Findings of Fact**

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division III \_\_\_\_\_  
OF MARION COUNTY, INDIANA**

**PETITION FOR VARIANCE OF USE**

**FINDINGS OF FACT**

**1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE**

The land is use for agriculture, and all equipment are used for agricultural and commercial purposes.

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**2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE**

The variance is for parking of trucks and trailers for landscaping equipment and materials

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**3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE**

The equipment for the subject variance is larger than permitted in the D-A district, but is directly related to the agriculture use. The trucks are used to transport products to farmers' markets.

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**4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE**

The operation of the agricultural use includes transporting produce to markets. The transport vehicles are stored on the same site as the agricultural use. The size of the agricultural business requires larger equipment than permitted for D-A

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**5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE**

The parking of trucks, trailers, and equipment is for use on agricultural land that is zoned D-A

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**2023-UV3-020; Photographs (taken September 5, 2023)**



Farm field viewed from Sandhurst Drive, looking east



Site viewed from Sandhurst Drive, looking east. Proposed storage area.



Site viewed from Sandhurst Drive, looking east. Proposed Storage Area





Site viewed from Sandhurst Drive, looking east. Proposed storage area.



Site viewed from Sandhurst Drive, looking east. Proposed storage area.



Site viewed from Sandhurst Drive, looking east, Google Street View from 2011





Site viewed from Sandhurst Drive, looking east, Google Street View from 2019



Site viewed from Newhart Street, looking north



Site viewed from Newhart Street looking north Google Street View 2011





Site viewed from Newhart Street looking north Google Street View 2019



Site viewed from Newhart Street, looking south



Site viewed from Newhart Street, looking south





Site viewed from Newhart Street, looking south. Driveway trailer storage



Subject site driveway Google Street View August 2007



Subject site driveway Google Street View September 2011





Subject site driveway Google Street View May 2019



Aerial 2016



Aerial 2023