

METROPOLITAN DEVELOPMENT COMMISSION

November 6, 2024

Case Number:	2024-ZON-092
Property Address:	1770 Kentucky Avenue
Location:	Center Township, Council District #18
Petitioner:	Multani Holdings, LLC, by Donald W. Fisher
Current Zoning:	I-4
Request:	Rezoning of 1.62 acres from the I-4 district to the C-5 district to provide for retail use development.
Current Land Use:	Commercial use
Staff Recommendations:	Denial
Staff Reviewer:	Kathleen Blackham, Senior Planner

PETITION HISTORY

This petition was heard by the Hearing Examiner on October 10, 2024. After a full hearing, the Hearing Examiner recommended denial of the rezoning. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

On October 25, 2024, the petitioner's representative sent an e-mail indicating that Outdoor Recreation and Entertainment; Agricultural Sciences R&D; Clean Energy R&D; and Life Sciences R&D would be excluded uses in addition to their previous commitment to exclude Automobile, Motorcycle, and Light Vehicle Sales or Rental. The elimination of these uses does little to address staff's concern for the proposed commercial intensification of the site. Staff continues to recommend denial.

The Hearing Examiner continued this petition from the September 12, 2024 hearing, to the October 10, 2024 hearing, at the request of a neighborhood organization.

STAFF RECOMMENDATION

Denial. If approved staff would request that approval be 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. Automobile, motorcycle and light vehicle sales or rental shall be prohibited. Additional prohibited uses would include outdoor recreation and entertainment, agricultural sciences R&D, clean energy R&D, and life sciences R&D.
2. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

This 1.62-acre site, zoned I-4, is comprised of three parcels developed with a liquor store and associated parking. It is surrounded by a single-family dwelling and industrial uses to the north, across Minnesota Street, zoned C-1 and I-4, respectively; industrial uses to the south, across Kentucky Avenue, zoned I-4; industrial uses to the east, across the intersection of Kentucky Avenue and Harding Street, zoned I-4; and industrial uses to the west, across Minnesota Way, zoned I-4.

Petition 91-UV3-13 provided for a liquor store. Petitions 86-UV1-17 and 83-UV1-86 provided for automobile sales.

The request would rezone both parcels to the C-5 (General Commercial) District. “The C-5 District is designed to provide areas for those retail sales and service functions whose operations are typically characterized by automobiles, outdoor display, or sales of merchandise; by major repair of motor vehicles; by outdoor commercial amusement and recreational activities; or by activities or operations conducted in buildings or structures not completely enclosed. The types of uses found in this district tend to be outdoor functions, brightly lit, noisy, etc. Therefore, to provide a location where such uses can operate in harmony with the vicinity, the C-5 district should be located on select heavy commercial thoroughfares and should avoid locating adjacent to protected districts.”

The Comprehensive Plan recommends community commercial typology for this site.

As proposed, this request would not be consistent with either of the Comprehensive Plan recommendations. Community commercial typology is contemplated to be consistent with the C-3 (neighborhood commercial) or the C-4 (community-regional) zoning districts, depending upon the location and the surrounding land uses.

The C-5 district is a more intense commercial land use that should not be located adjacent to the residential neighborhood to the north. It is staff’s understanding that the site would be developed with a fueling station / convenience store which would be objectionable in such proximity to residential uses due to the nature of the use (noise, trash, lighting), with primarily outdoor operations 24 hours per day, 365 days per year. Providing a gas station, especially with a 24-hour convenience store would be detrimental to the stability of the adjacent residential uses.

Staff would note that the petitioner has submitted commitments that would prohibit automobile, motorcycle and light vehicle sales or rental.



Environmental Public Nuisances

The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

GENERAL INFORMATION

Existing Zoning	I-4	
Existing Land Use	Commercial uses (liquor store)	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Land Use
North:	C-1 / I-4	Single-family dwelling / Industrial uses
South:	I-4	Industrial uses
East:	I-4	Industrial uses
West:	I-4	Industrial uses

Thoroughfare Plan		
Kentucky Avenue	Primary Arterial	Existing 126-foot right-of-way and proposed 88-foot right-of-way.
Minnesota Street	Local Street	Existing 60-foot right-of-way and proposed 58-foot right-of-way.
Minnesota Way	Primary Collector	Existing 90-foot right-of-way and proposed 56-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	N/A	
Site Plan (Amended)	N/A	
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

The Comprehensive Plan recommends Community Commercial typology. 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.

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

- *Conditions for All Land Use Types – Community Commercial Typology*
 - 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.
- *Large-Scale Offices, Retailing, and Personal or Professional Services (defined as Commercial uses with minimal outdoor operations, storage, or display on lots of more than 1.5 acres and a height of more than 35 feet.)*
 - Should be located along an arterial street.
 - 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.
 - Should be no larger than 25 acres with 125,000 square feet of floor space and no more than three out lots.

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)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW)
- Identify roadways for planned expansions or new terrain roadways
- Coordinate modal plans into a single linear network through its GIS database

ZONING HISTORY

91-UV3-13; 1770 Kentucky Avenue, requested a variance of use of the Industrial Zoning Ordinance to permit a liquor store within an existing building, **granted**.

86-UV2-147; 1620 Kentucky Avenue, requested a variance of use and development standards of the Industrial Zoning Ordinance to provide for the continued operation of an automobile sales lot with outside storage and display and without the required setbacks, **granted**.

83-UV1-86; 1620 Kentucky Avenue, requested a variance of use and development standards to provide for the outdoor display and sales of automobiles, **granted (three-year period)**.

VICINITY

94-UV1-106; 1555 South Reisner Street (north of site), requested a variance of use and development standards to legally establish an existing residence with an above-ground pool and a six-foot tall fence with a zero-foot setback from Minnesota Street, **granted**.

EXHIBITS

MEMORANDUM OF EXAMINER'S DECISION

2024-ZON-092

1770 Kentucky Avenue

The petition requests the rezoning of 1.62 acres from the I-4 district to the C-5 district to provide for retail uses.

Your Hearing Examiner visited the site prior to the hearing and noted that it is surrounded primarily by industrial uses.

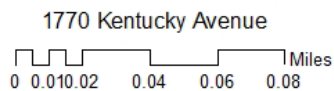
The petitioner's representative explained that the site has been used as a liquor store for over 30 years, as per a variance petition. The rezoning is being requested to allow the addition of a convenience store and storage space. The representative opined that, due to the large setbacks required by the existing I-4 district, redevelopment of the site for industrial use is unlikely. The representative also stated that the convenience store would provide a grocery option for the neighborhood.

Two remonstrators attended the hearing and expressed concerns including the selection of food and merchandise offered by the petitioner at a nearby location, the number of convenience stores in the area, and the lack of input sought from the community. A letter of remonstrance was also submitted.

Staff explained that, based on the Comp Plan recommendation of community commercial use, a C-3 or C-4 zoning district request would be more appropriate. Staff also stated that the C-5 district would allow uses too intense for the site.

In your Hearing Examiner's opinion, the requested C-5 district is not appropriate or compatible with the area and does not conform with the Comp Plan. Denial of this petition was recommended.

For Metropolitan Development Commission Hearing on November 6, 2024





View looking north along Kentucky Avenue



View looking south along Kentucky Avenue



View looking east along West Minnesota Street



View looking west along West Minnesota Street



View of site looking north



View of site looking north



View of site looking northeast



View of site looking east



View from site looking northwest across Reisner Street



View from site looking west across Minnesota Way



View of site looking west across Minnesota Way



View from site looking southeast across Kentucky Avenue



View of site looking east across Minnesota Way