

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-020
Address: 1855 North Shadeland Avenue (*Approximate Address*)
Location: Warren Township, Council District #19
Zoning: C-4
Petitioner: MG Oil, Inc., by Pat Rooney
Request: Modification of Commitments related to 2021-ZON-105 to modify Commitment #5, to have development compliant with the site plan filed with this petition (current commitment requires compliance with a site plan dated July 17, 2021) and to modify Commitment #6 to provide for a pedestrian signal and crosswalk running north/south across Pleasant Run Parkway, South Drive (current commitment requires the crosswalk running across Shadeland Avenue).

ADDENDUM FOR DECEMBER 20, 2023, METROPOLITAN DEVELOPMENT COMMISSION

This petition was heard by the Hearing Examiner on November 16, 2023. After a full hearing, the Hearing Examiner recommended denial of the modification request. Subsequently, the petitioner filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

November 16, 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

C-4	Compact	Gas Station
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SURROUNDING ZONING AND LAND USE

North	D-4	Pleasant Run
South	D-4	Residential (Single-family dwelling)
East	D-4	Residential (Single-family dwelling)
West	C-5	Automobile Dealership

COMPREHENSIVE PLAN

The Comprehensive Plan recommends community commercial development on most of the site and office commercial along the southern property boundary.

(Continued)

STAFF REPORT 2023-MOD-020 (Continued)

- ◇ The 0.39-acre subject site is developed with a gas station and pole sign. The site abuts a single-family dwelling to the east, southeast, and south with a commercial use to the west.

MODIFICATION OF COMMITMENTS

- ◇ The grant of the request would allow for the Modification of Commitments related to 2021-ZON-105 to modify Commitment #5, to have development compliant with the site plan filed with this petition, Exhibit B, and to modify Commitment #6 to provide for a pedestrian signal and crosswalk running north/south across Pleasant Run Parkway South Drive, Exhibit C.
- ◇ Commitment #5 related to 2021-ZON-105 notes that “Construction, including, the installation of landscaping and privacy fence, shall all be done pursuant to the Site Plan prepared by Hamilton Designs last revised January 17, 2021.
- ◇ Commitment #6 related to 2021-ZON-105 notes that “A pedestrian safety island and a pedestrian-activated crossing signal shall be installed on Shadeland Avenue at the intersection of Shadeland Avenue and Pleasant Run Parkway, South Drive. The installation shall be to the standards and specifications of the Department of Public Works.”

Staff Analysis

- ◇ It is staff’s understanding that the petitioner and their representative were not clearly understanding the wording of Commitment #6 and now wish to no longer follow through with the commitment that was agreed upon and recorded for the rezone petition, 2021-ZON-105.
- ◇ When 2021-ZON-105 went through the rezoning process, the petitioner agreed to the written commitment language in the staff report.
- ◇ Because Shadeland Avenue is a six-lane road with a middle turn lane, there should be safety measures put in place. The installation of a pedestrian safety island and pedestrian-activated crossing signal on Shadeland Avenue would ensure safe pedestrian crossings could occur at this intersection.
- ◇ While it is true that no sidewalks exist at the dealership west of the subject site, that is simply due to public sidewalks being installed when new development on sites trigger the sidewalk requirement of the Zoning Ordinance. There is a section of sidewalk along the pedestrian bridge just north of Pleasant Run Parkway South Drive on the west side of Shadeland Avenue that future sidewalk installations would tie into, see Staff Exhibit 1. There are also sections of sidewalks installed on the west side of Shadeland Avenue when traveling further south toward 17th Street and north towards 21st Street.

(Continued)

STAFF REPORT 2023-MOD-020 (Continued)

◇ The Department of Public Works stated the following:

“In 2021-ZON-105, DPW requested that staff include Commitment #6 to provide for a pedestrian-activated crosswalk signal across Shadeland Ave. The purpose of this request is to mitigate the impacts of increased traffic due to the intensification of the commercial use upon rezoning from C-3 to C-4. Specifically, the anticipated increase in pedestrian traffic is concerning, due to the lack of safe pedestrian infrastructure at this location and history of pedestrian crashes nearby.

The existing convenience store measures 416 square feet, according to tax records. The proposed building is 1012 square feet, while the gas pumps stay the same. The increase in store size is expected to increase both vehicle and pedestrian traffic to the store. The existing conditions on Shadeland Avenue from 10th St to 21st St include continuous sidewalk on the east side of the street. The west side has intermittent sidewalks plus an informal network of interconnected parking lots. IndyGo Route 30 traverses Shadeland in this area with stops at 17th St and 21st St. There are signalized crosswalks at 10th St, 16th St, and 21st St, but no marked crosswalks in between. Shadeland Ave is 7 lanes wide at the Pleasant Run Parkway intersection.

Crash history: A pedestrian crash occurred at Shadeland Ave and Pleasant Run Parkway on 2/1/23, resulting in incapacitating injury. According to the police report, the pedestrian attempted to cross Shadeland from the east side to the west side and was struck by a northbound vehicle. This is the type of crash we are concerned will increase with the expansion of the convenience store.

The table below summarizes pedestrian and bicycle crashes in the vicinity of the subject convenience store within the last 10 years, as reported to the ARIES crash database.

Intersection	Pedestrian Crashes	Bicycle Crashes
21st St & Shadeland Ave	10	1
21st St & Rama Pl	1	0
Shadeland Ave & Rama Dr	4	0
Shadeland Ave & Pleasant Run Pkwy	1	0
Shadeland Ave & 16th St	1	0
Shadeland Ave & 10th St	4	2

The commitment includes a refuge island and pedestrian activated high intensity signal (HAWK), which stops traffic and allows the pedestrian to have the right of way while crossing. These are also known as Pedestrian Hybrid Beacons. The crosswalk would provide connectivity between the subject convenience store and numerous west side businesses through the network of interconnected parking lots and a striped shoulder across the Pleasant Run Bridge. A HAWK or pedestrian hybrid beacon has been shown to reduce pedestrian crashes by 69% according to [a] study [by the Federal Highway Administration].”

(Continued)

STAFF REPORT 2023-MOD-020 (Continued)

- ◇ In conclusion, staff is not supportive of the modification of commitments request since it would be in the public's best interest to have the pedestrian-activated crossing signal installed across Shadeland Avenue.

GENERAL INFORMATION

THOROUGHFARE PLAN	Shadeland Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 149-foot existing right-of-way and a 104-foot proposed right-of-way.
THOROUGHFARE PLAN	Pleasant Run Parkway South Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 70-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN	File-dated October 11, 2023.
STATEMENT OF MODIFICATION	File-dated October 11, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

2023-DV3-011; 1855 North Shadeland Avenue (subject site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 21-foot-tall pole sign (maximum height of 20 feet permitted), **granted**.

2021-ZON-105; 1855 North Shadeland Avenue (subject site), Rezoning of 0.415 acre from the C-3 district to the C-4 district, **approved**.

97-V3-92; 1855 North Shadeland Avenue (subject site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for the placement of an illuminated canopy, measuring 24 by 71 feet, with a front setback of 1 foot along Shadeland Avenue (minimum 10 feet from the proposed right-of-way required), **granted**.

93-V3-41; 1855 North Shadeland Avenue (subject site), Variance of development standards of the Sign Regulations of Marion County to permit the placement of a pole sign with gasoline pricing panels (not permitted) located 4 feet from the right-of-way of Shadeland Avenue, **denied**.

(Continued)

STAFF REPORT 2023-MOD-020 (Continued)

92-V3-62; 1855 North Shadeland Avenue (subject site), Variance of development standards of the Sign Regulations of Marion County to permit the placement of a pole identification sign 3 feet from the right-of-way of North Shadeland Avenue (15 feet required) with pricing panels (not permitted), **granted with the condition that the pole sign be located 15 feet from North Shadeland Avenue right-of-way.**

70-Z-204; 1855 North Shadeland Avenue (subject site), rezoning of 0.45 acre from the D-4 district to the C-3 district, **approved.**

70-V2-80; 1855 North Shadeland Avenue (subject site), Variance of use and setback requirements to permit construction of a gasoline station with identification and display signs, **withdrawn.**

ZONING HISTORY – VICINITY

2023-DV3-003; 1739 and 1795 North Shadeland Avenue (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an enclosed dumpster within the front yard of 18th Street (not permitted); a drive-through within 18 feet of a protected district without the required transitional yard landscaping and screening of service units (25-foot separation required, landscaping required), a stacking space within the front yard of 18th Street (not permitted) and zero-stacking spaces provided at the exit of the service unit (two stacking spaces required); a building with a 28-foot front setback from 18th street, a 12.8% front building line along 18th Street (maximum 25-foot front setback and 60% front building line required along Connector Frontage,), and a 23.9-foot front building line along Shadeland Avenue (40% front building line required along Buffer/Suburban Frontages); on a lot with deficient landscaping, **withdrawn.**

2012-HOV-015; 1752 North Shadeland Avenue (southwest of site), Variance of Development Standards of the Sign Regulations to replace the cabinet of an existing freestanding sign (original approved by 97-HOV-12), with a 10-foot front setback along Shadeland Avenue, being within 80 feet of a freestanding sign to the north and 105 feet of a freestanding sign to the south, being the seventh sign along an approximately 750-foot long integrated frontage (300 feet of separation required, 300 feet of frontage required per sign), **granted.**

2009-DV1-031; 6830 Industry Place and 6926 East 16th Street (southwest of site), Variance of Development Standards of the Sign Regulations to provide for a 26.02-foot tall, 80-square foot Pole Sign with a ten-foot front setback from the existing right-of-way of Shadeland Avenue (minimum fifteen-foot front setback required), within 105 feet of a pole sign to the north within the same integrated center (minimum 300-foot separation between signs required), **granted.**

2004-DV1-035; 1739 North Shadeland Avenue (south of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the temporary location of the required handicapped parking space in an existing asphalt driveway (not permitted) until the construction of the proposed parking area is completed, **dismissed.**

(Continued)

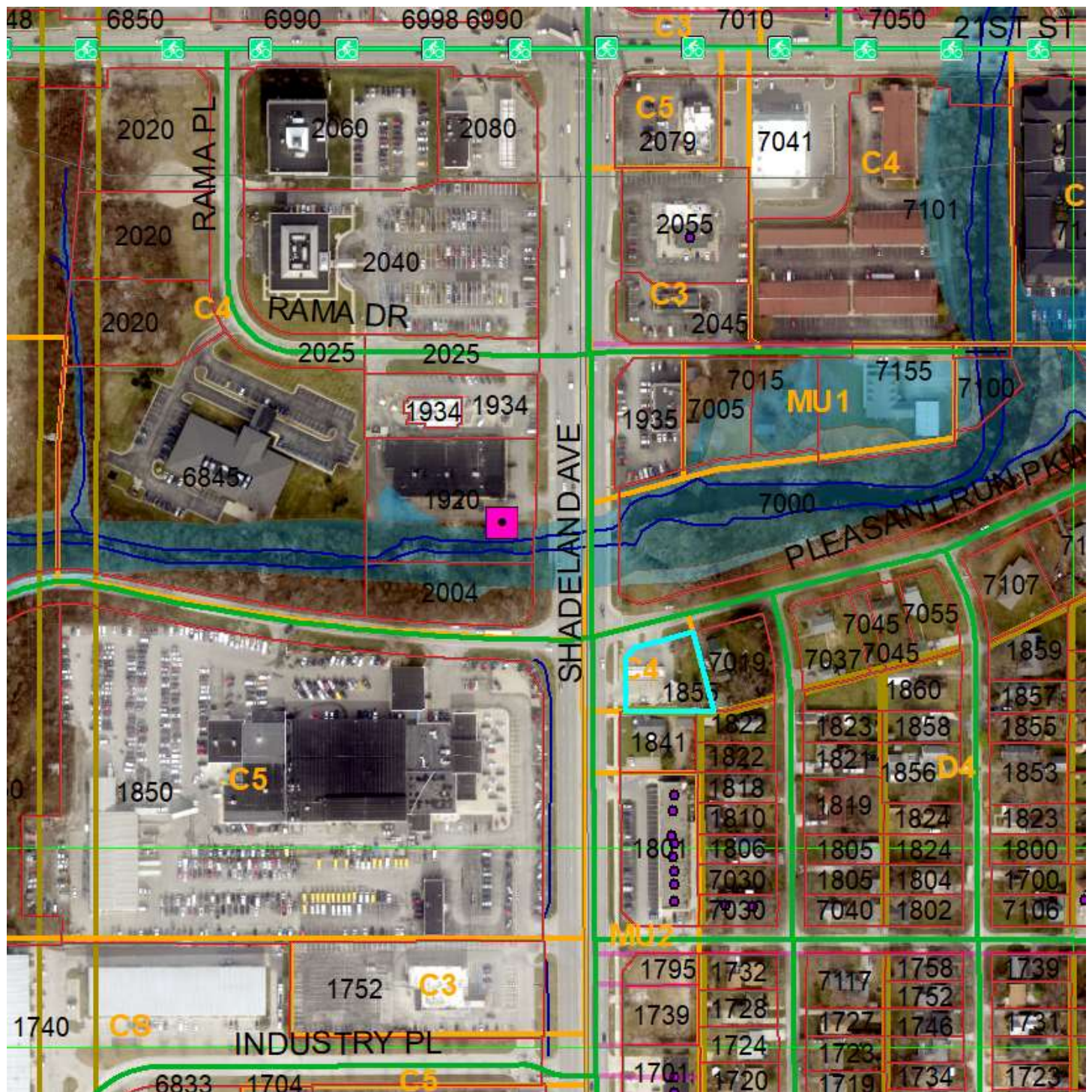
STAFF REPORT 2023-MOD-020 (Continued)

97-HOV-12; 1752 North Shadeland Avenue (southwest of site), Variance of Development Standards of the Sign Regulations to provide for a 9.5 by 21-foot sign, 40 feet in height, being located 10 feet from the right-of-way of Shadeland Avenue, in C-3, **granted**.

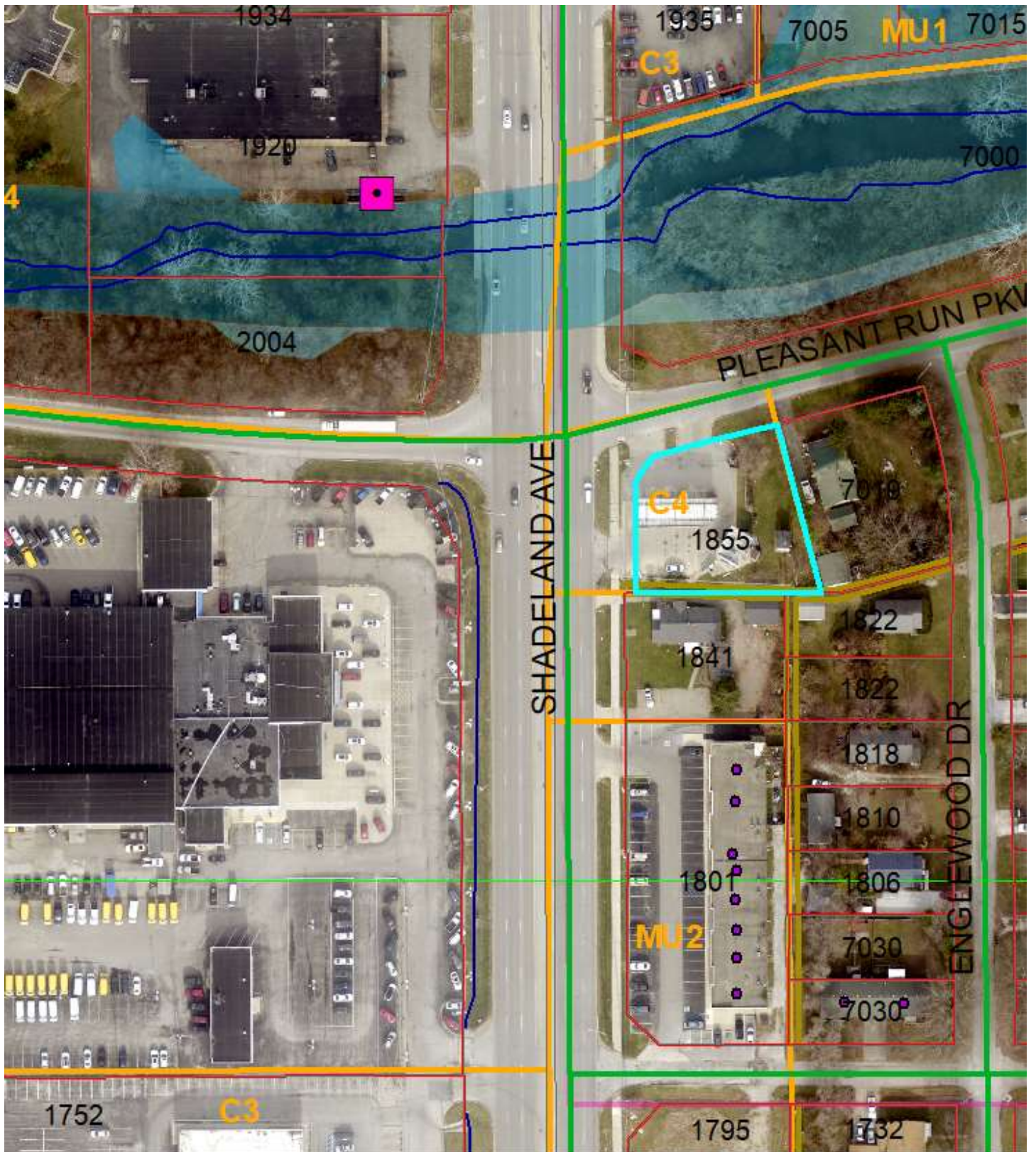
72-UV3-76; 1811 to 1815 North Shadeland Avenue (south of site), Variance of use to provide for a restaurant and retail sales in a D-4 district and a variance of development standards to provide for deficient setbacks and transitional yard, **granted**.

MI

2023-MOD-020; Aerial Map



2023-MOD-020; Aerial Map (Close-Up)



MEMORANDUM OF EXAMINER'S DECISION

2023-MOD-020

1855 N. Shadeland Avenue

The petition requests a modification of commitments for 2021-ZON-105 to allow for a revised site plan and to allow a pedestrian signal and crosswalk running north/south across Pleasant Run Parkway instead of east/west across Shadeland Avenue.

Your Hearing Examiner visited the site prior to the hearing and noted residences east and south of the site and Pleasant Run north of it. Auto related uses are west of Shadeland Avenue.

The petitioner's representative stated that the crosswalk and pedestrian signal across Shadeland Avenue are not warranted because residential development is all east of Shadeland Avenue, there are no sidewalks along Pleasant Run Parkway west of Shadeland, a drainage ditch along the west side of Shadeland is problematic for sidewalk installation, and the cost is prohibitive to this small business owner. He also stated that the intent of the 2021 commitments was misunderstood. Letters of support were presented from the Warren Township Development Association and adjacent property owners, and a petition of support from business patrons was submitted.

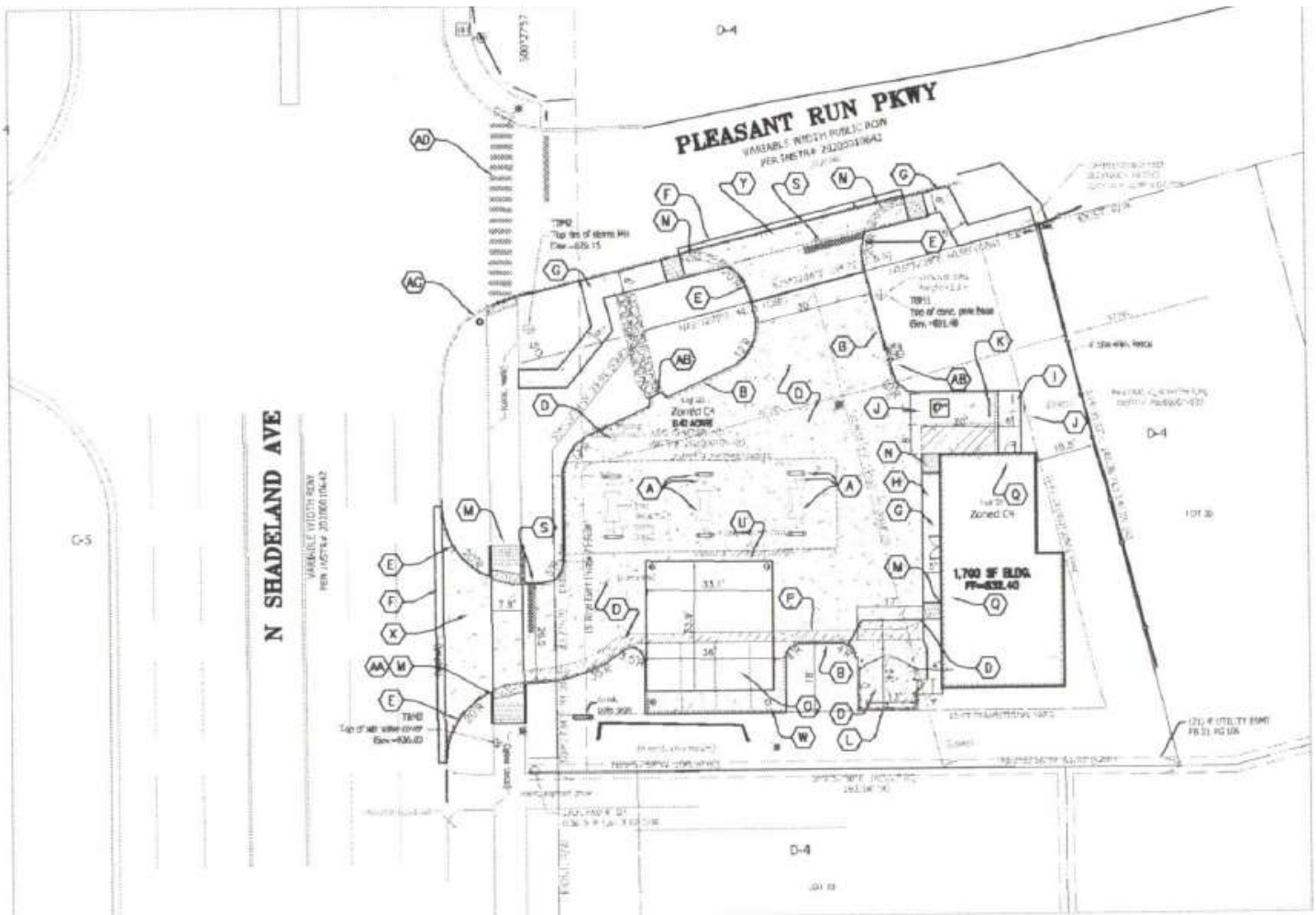
There were no remonstrators.

Staff opined that the original commitments were clearly written in the staff report, as requested by the Department of Public Works (DPW). DPW made the request due to the anticipated increase in pedestrian traffic, the lack of safe pedestrian infrastructure, and the history of pedestrian crashes nearby.

In your Hearing Examiner's opinion, there is a need for safe pedestrian infrastructure. While the proposed crosswalk and signal across Pleasant Run Parkway would be helpful, potential future redevelopment along the west side of Shadeland Avenue warrants the original commitment. Denial of this petition was recommended.

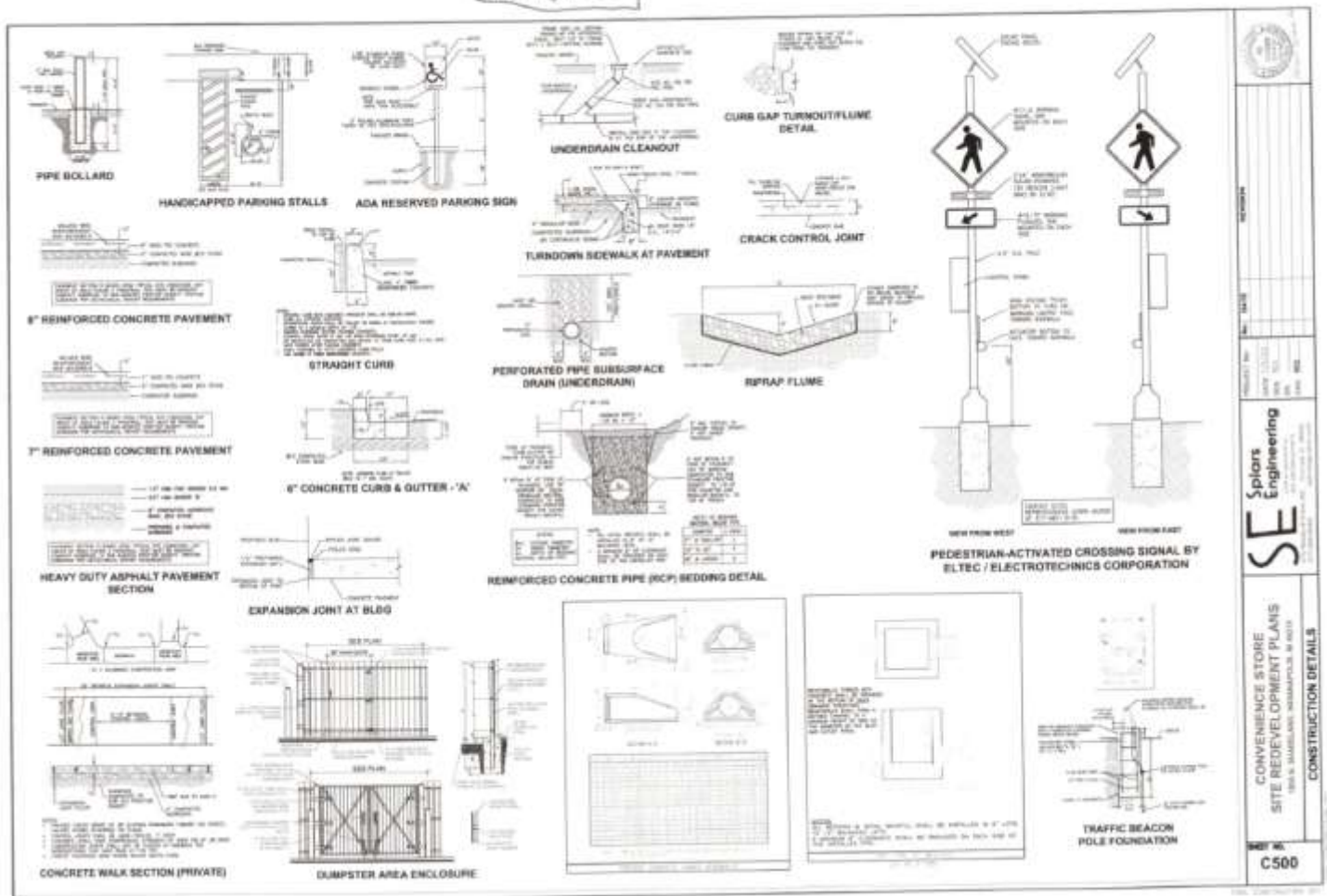
For Metropolitan Development Commission Hearing on December 20, 2023

2023-MOD-020; Site Plan (Close-up)



2023-MOD-020; Proposed Crossing Details

Exhibit C



A202200030692

03 / 11 / 2022 02:55 PM

**KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER**

FEE: \$ 35.00

PAGES: 5

By: KS

KLH

STATEMENT OF COMMITMENTS

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate commonly known as 1855 N. Shadeland Ave, Indianapolis, Indiana, being more particularly described as follows:

Legal Description: See attached Exhibit A.

Statement of COMMITMENTS:

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. Hours of operation for the Property shall be from 5 am to midnight Monday through Saturday, and 6 am to 11 pm on Sundays.
3. As part of the construction, LED lighting shall be added with lenses or covers that provide downward lighting designed to reduce light dispersion and/or glares.
4. The Owner agrees that the property will not be used for any other use except for the retail gas station and convenience store unless a formal amendment to these Commitments is approved by MDC.
5. Construction, including, the installation of landscaping and privacy fence, shall all be done pursuant to the Site Plan prepared by Hamilton Designs last revised January 17, 2021.
6. A pedestrian safety island and a pedestrian-activated crossing signal shall be installed on Shadeland Avenue at the intersection of Shadeland Avenue and Pleasant Run Parkway, South Drive. The installation shall be to the standards and specifications of the Department of Public Works

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal

MDC's Exhibit B -- page 1 of 5



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2023-MOD-020; Proposed Modified Commitments

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH VARIANCE OR SPECIAL EXCEPTION GRANT.

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of commitment(s) concerning the use and development of the parcel of real estate:

Legal Description: See attached Exhibit A.

Statement of Modification or Termination of COMMITMENTS:

5. Redevelopment and construction of the subject property will be completed pursuant to the site plan submitted with the Petition and prepared by Spiars Engineering, dated August 8, 2023, referred to as sheet C-200, and labelled as Exhibit B.
6. A crosswalk will be installed running north/south across Pleasant Run Parkway pursuant to the Site Plan prepared by Spiars Engineering, dated August 8, 2023, referred to as sheet C-200, and labelled as Exhibit B with the pedestrian traffic signal being further detailed in the construction sheet C-500 prepared by Spiars Engineering, dated July 6, 2023, and labelled as Exhibit C.

These modified COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest therein. These modified COMMITMENTS may be further modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

Modified COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Board of Zoning Appeals in petition #_____.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the

BZA's Exhibit B - - page 1 of 3

2023-MOD-020; Staff Exhibit 1



Google Streetview image of pedestrians walking on the (right) west side of Shadeland. Subject convenience store is on the (left) east side.

2023-MOD-020; Staff Exhibit 2



Photo example of a HAWK signal, aka Pedestrian Hybrid Beacon.

2023-MOD-020; Photographs



Photo of the Subject Property: 1855 North Shadeland Avenue



Location where a pedestrian safety island and pedestrian-activated crossing signal was proposed.



View of Pleasant Run Parkway South Drive looking east on the subject site's northern boundary.



View of Shadeland Avenue looking south.



View looking west towards Pleasant Run Parkway South Drive and vacant lot.



View of Shadeland Avenue looking north.