

## STAFF REPORT

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

**Case Number:** 2023-ZON-002  
**Address:** 3401 North Emerson Avenue (*Approximate Address*)  
**Location:** Warren Township, Council District #13  
**Petitioner:** M & T Investors, Inc., by Raymond A. Basile  
**Request:** Rezoning of 0.63 acres from the C-3 district to the C-5 district to provide for automobile sales.

### **RECOMMENDATION**

Staff **recommends denial** of this request. However, should this petition be approved, staff requests that it 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. A 57-foot half right-of-way shall be dedicated along the frontage of Emerson Avenue, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
2. A sidewalk meeting the standards of the Ordinance shall be constructed along the 34<sup>th</sup> Street frontage prior to occupation of the site. The sidewalk should accommodate a waiting pad at the bus stop located along this frontage.
3. A multi-use path meeting the standards of the Department of Public Works shall be constructed along the Emerson Avenue frontage.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation.

#### **LAND USE**

- ◇ The subject site was originally developed with three single-family dwellings. Those buildings were demolished and a commercial building was constructed after the approval of a variance of use for a gasoline station in 1966. Aerial photography from 1972 shows gas stations on the northeast, northwest and southwest corners of the

(Continued)

## **STAFF REPORT 2023-ZON-002 (Continued)**

intersection of Emerson Avenue and 34<sup>th</sup> Street. The building on the site was used for many years for automobile repair following the approval of a variance for car repair in 1990.

- ◇ The 2018 Comprehensive Land Use Plan recommends Community Commercial for the site. This typology envisions low-intensity commercial and office uses that serve the nearby neighborhoods. Automobile sales are not appropriate to the Community Commercial typology due to the traffic, outdoor display and storage, visual clutter and noise generated by car lots.
- ◇ The Indy Moves Plan, adopted into the Indianapolis-Marion County Comprehensive Plan in 2018, recommends a multi-use path along Emerson Avenue. A multi-use path provides for a walking/biking facility separated from vehicular traffic.
- ◇ IndyGo route #2 runs along 34<sup>th</sup> Street in front of the subject site. A bus stop is located on the 34<sup>th</sup> Street frontage of the site.
- ◇ The site abuts single-family dwellings to the north and east. The dwelling to the east is completely unscreened and unbuffered from the subject site. The dwelling to the north has some screening from the subject site, but in the months when there are no leaves on the trees and shrubs, the subject site is very visible from this dwelling.
- ◇ Across the street from the subject site is a retirement community.

## **ZONING**

- ◇ This petition would rezone the subject site to the C-5 district. This zoning district provides for a wide range of commercial uses, many that are heavy traffic generators or involve outdoor display and sales. The petitioner has indicated that he intends to use the site for automobile sales. The petitioner has also indicated that there are C-5 uses that he would commit to excluding. They are:
  - Emergency shelter
  - Substance abuse treatment facility
  - Mortuary
  - Tattoo parlor
  - Adult entertainment business
  - Bar or tavern
  - Night club or cabaret
  - Firearms sales
  - Fireworks sales

(Continued)

## **STAFF REPORT 2023-ZON-002 (Continued)**

- Pawn shop
  - Liquor store
  - Recycling station
- ◇ However, seven of the twelve uses on this list would not be permitted under the Ordinance anyway due to minimum separation requirements, so their inclusion on the list above is redundant. The redundant exclusions are substance abuse treatment center, tattoo parlor, adult entertainment business, bar or tavern, nightclub or cabaret, liquor store, and recycling collection point,
- ◇ This site has been the subject of two prior land use petitions that would have provided for automobile sales. These petitions were filed in 1985 and 1988 and both were denied by the Board of Zoning Appeals.
- ◇ The site does not now comply with certain development standards of the Ordinance. Notably there is no sidewalk along the 34<sup>th</sup> Street frontage nor is there front yard landscaping on either frontage or transitional yard landscaping along the east boundary. The site plan submitted with this petition shows a sidewalk to be installed along 34<sup>th</sup> Street.
- ◇ As the requested district would not be responsive to the Comprehensive Land Use Plan and would be too intense a land use abutting and across the street from residential areas, staff recommends denial of the petition.

## **GENERAL INFORMATION**

### **EXISTING ZONING, CONTEXT AREA, AND LAND USE**

C-3	Compact	Vacant gas station (pumps removed) and automobile repair shop
-----	---------	---

### **SURROUNDING ZONING AND LAND USE**

North	D-4	Single-family dwelling
South	D-P	Multi-family retirement complex
East	D-4	Single-family dwelling
West	C-3	Gas station

COMPREHENSIVE LAND USE PLAN	The Warren Township Comprehensive Plan (2018) recommends Community Commercial.
-----------------------------	--

(Continued)

## **STAFF REPORT 2023-ZON-002 (Continued)**

### **THOROUGHFARE PLAN**

Emerson Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with a 100-foot existing right-of-way and a 114-foot proposed right-of-way.

34<sup>th</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 90-foot existing right-of-way and a 48-foot proposed right-of-way.

### **FLOODWAY / FLOODWAY FRINGE**

This site is not located within a floodway or floodway fringe.

### **STREAM PROTECTION CORRIDOR**

This site is not located within a stream protection corridor.

### **WELLFIELD PROTECTION DISTRICT**

This site is not located within a wellfield protection district.

## **ZONING HISTORY – SITE**

**2015-ZON-098; 3401 North Emerson Avenue**, requested the rezoning of 0.63 acre from the D-4 district to the C-3 district, **approved**.

**90-UV2-132; 3401 North Emerson Avenue**, requested a variance of use to provide for automobile repair, **approved**.

**88-UV2-110; 3401 North Emerson Avenue**, requested a variance of use to provide for automobile sales and repair, **denied**.

**85-UV2-123b; 3401 North Emerson Avenue**, requested a variance of use to provide for an automobile wash, **approved**.

**85-UV2-132a; 3401 North Emerson Avenue**, requested a variance of use to provide for automobile sales, **denied**.

**83-UV3-34; 3401 North Emerson Avenue**, requested a variance of use to provide for the sale automobile parts and accessories and to legally establish a restaurant, **approved**.

(Continued)

## **STAFF REPORT 2023-ZON-002 (Continued)**

**79-UV1-104; 3401 North Emerson Avenue**, requested a variance of use to provide for ice cream and variety store, **approved**.

**66-V2-53; 3401 North Emerson Avenue**, requested a variance of use and development standards to provide for a gas station, **approved**.

**65-V-173; 3401 North Emerson Avenue**, requested a variance of use and development standards to provide for a gas station, **approved**.

## **ZONING HISTORY – VICINITY**

**2006-ZON-186, DP-26; 3347 North Emerson Avenue (south of site)**, requested the rezoning of 8.2 acres from the C-S district to the D-P district to provide for 90 senior apartments, **approved**.

**2004-ZON-047; 3420 North Emerson Avenue (northwest of site)**, requested the rezoning of 0.53 acre from the D-5 district to the C-3C district, **approved**.

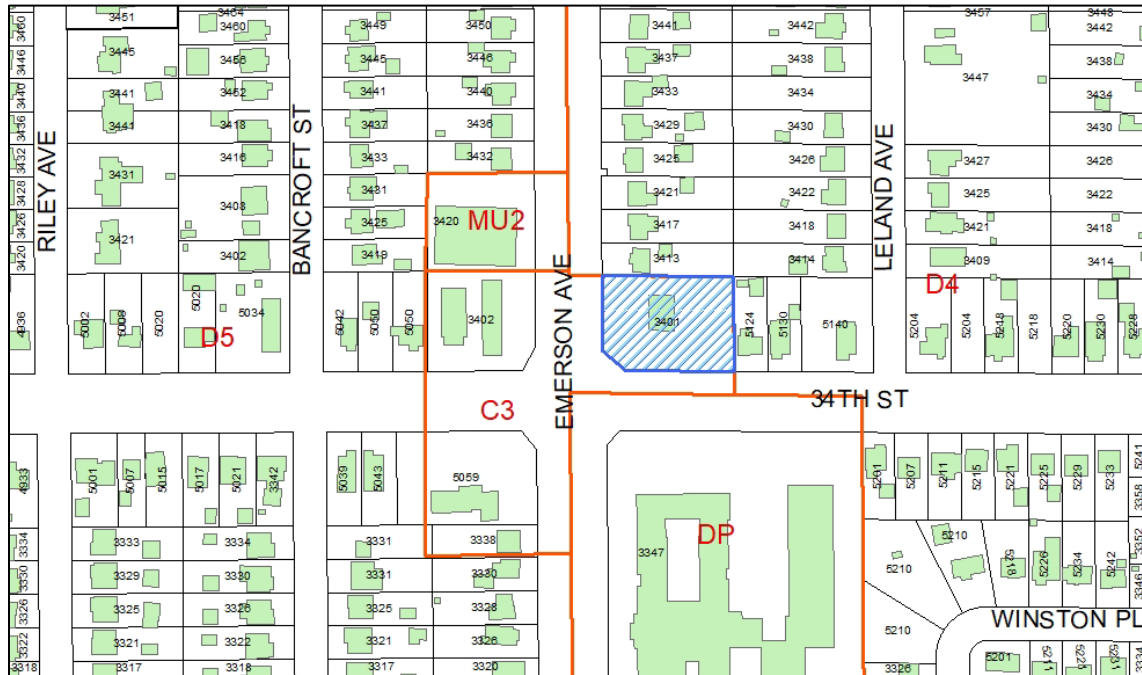
**93-Z-185; 3333 North Emerson Avenue (south of site)**, requested the rezoning of eight acres from the D-4 district to the C-S district to provide for a multi-purpose service center, **approved**.

**90-UV2-132; 5061 East 34<sup>th</sup> Street (southwest of site)**, requested a variance of use to provide for a tire service center, **approved**.

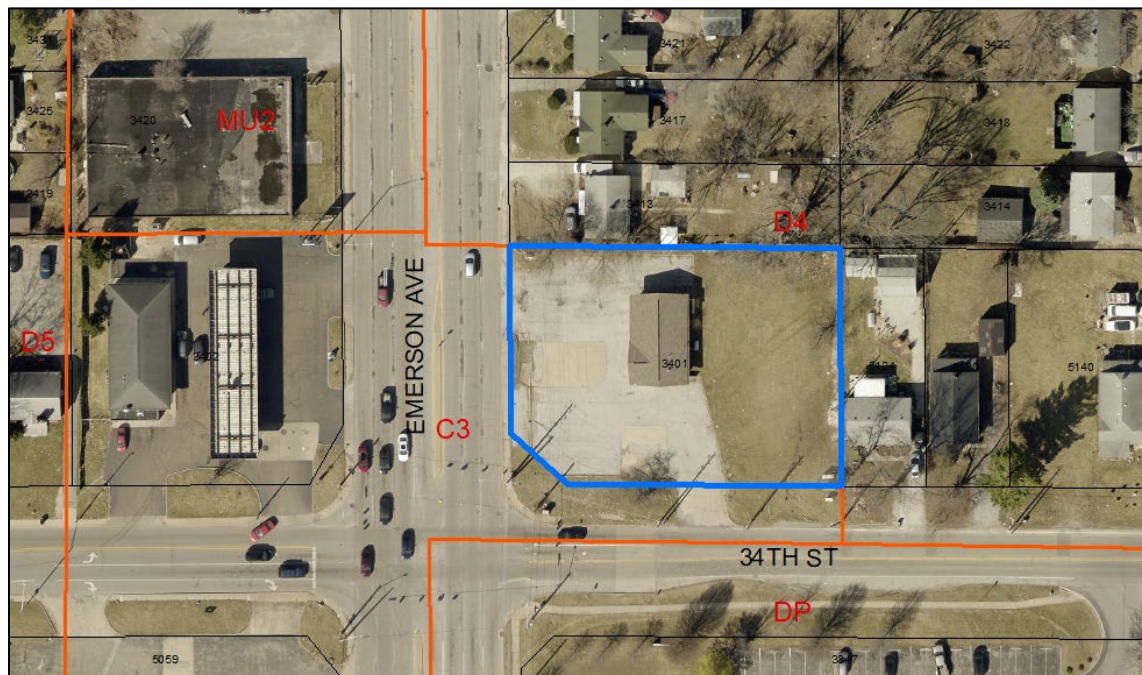
klh

\*\*\*\*\*

## STAFF REPORT 2023-ZON-002, Location



## STAFF REPORT 2023-ZON-002, Aerial photograph (2022)



## **STAFF REPORT 2023-ZON-002, Description of proposal**

### **METROPOLITAN DEVELOPMENT COMMISSION HEARING EXAMINER METROPOLITAN BOARD OF ZONING APPEALS OF MARION COUNTY, INDIANA**

#### **Detailed Description of Proposal Petition for Rezoning to C-5 at 3401 N. Emerson Avenue**

**Proposed Use:** The proposed plan of operation 3401 N. Emerson Avenue is a small used car and truck retail dealership.

**Workforce:** It is anticipated that the total workforce will be three or four full-time employees.

**Hours and Dates of Operation:** The business will not open earlier than 8:00 a.m. and will close on or before 9:00 p.m. The business will be open Monday through Saturday.

**Improvements:** The existing building on the site will be utilized as the business office. It is anticipated that the building will be cosmetically renovated both on the interior and exterior, and any necessary repairs and maintenance will be undertaken before the business opens.

**Landscaping and Lighting:** Landscaping and lighting improvements will be made to meet or exceed the current minimum standards imposed by the applicable Indianapolis zoning ordinance.

**Limitations of Future Uses:** The petitioner has filed contemporaneously with its petition a Statement of Commitments by which petition commits that the real estate will not be used in the future for any of the identified but otherwise permitted C-5 uses identified therein, which uses are generally most likely to be deemed objectionable by neighbors.

**Support:** Petitioner has provided with the petition a letter of support from a directly adjacent neighbor. Petitioner has received no negative responses or feedback from other neighbors. Petitioner has also contacted Mr. Keith Graves, the City County Councilor for this district and reports that Mr. Graves supports this petition. A letter of support from Mr. Graves is filed contemporaneously with this letter.

**Impact on Neighboring Properties:** Approval of the C-5 zoning and the opening of the small used automobile dealership will have minimal to no negative impact on adjacent and neighboring property owners. The proposed use will not generate, store or utilize hazardous or dangerous chemicals. The business will not generate a significant amount of retail traffic and thus will not materially impact the travel patterns in the area. Approval of the petition will allow the petitioner to return an income-generating tenant to the premises, which will allow petitioner to perform the necessary cosmetic, lighting and landscaping upgrades. It will also result in more regular property cleaning and landscaping maintenance. Moreover, because there will be no additional paving work performed, there would be no additional drainage impact on the neighbors or neighborhood. Finally, because the petitioner has committed to not using the real estate for many of the potentially most objectionable uses permitted on a C-5 zoned property, there will be no adverse impact either on the use or value of the neighboring properties.

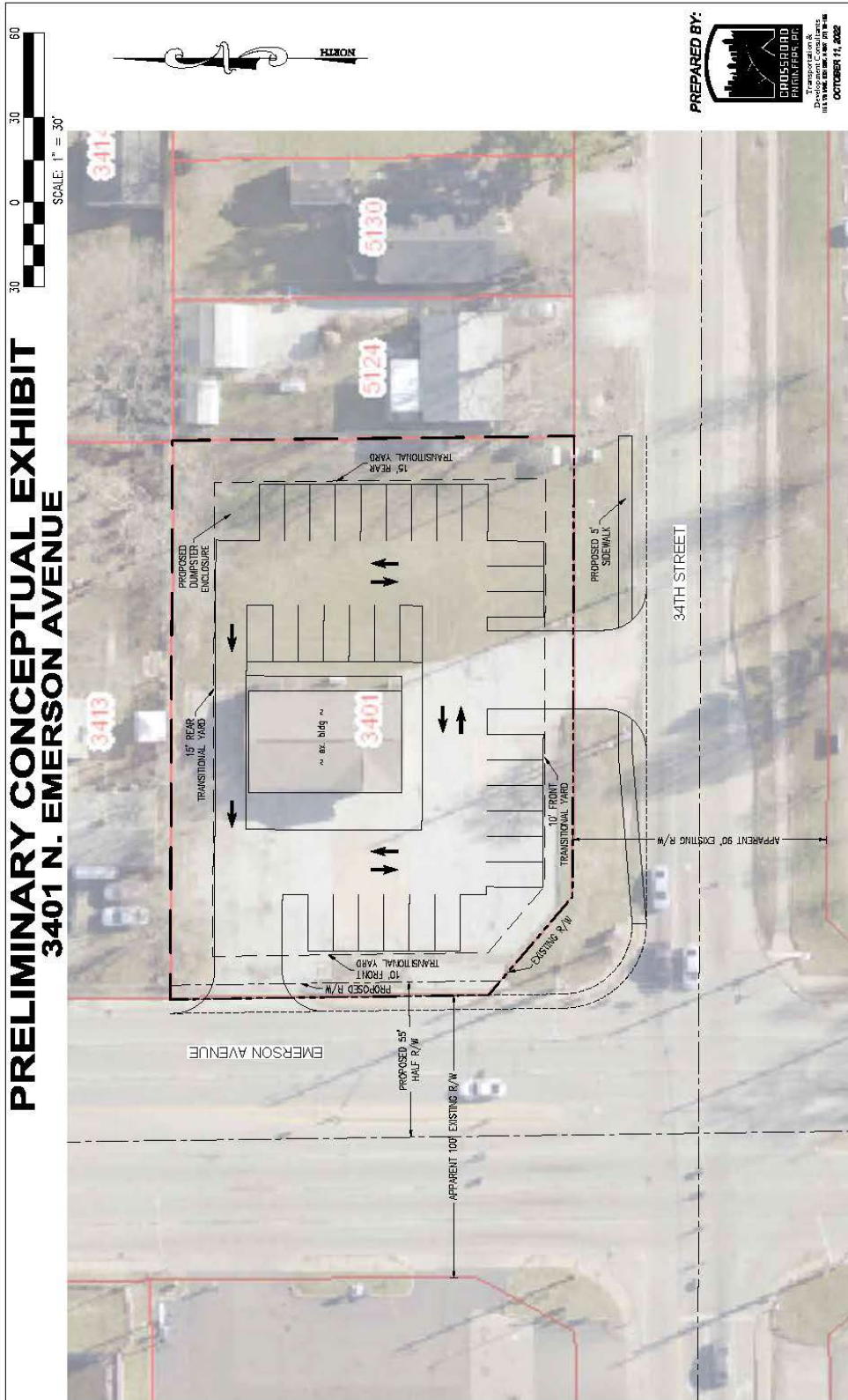
**Comprehensive Plan:** The comprehensive plan for the City of Indianapolis calls for a Community Commercial use on the subject property, which includes “low-intensity commercial and office uses that serve nearby neighborhoods.” In this case, the petition is filed to permit the operation of a small used automobile operation that will employ only approximately three individuals and include approximately thirty (30) vehicles on the site. As stated above, this is a very low intensity use that will have minimal to no impact on daily traffic patterns in the area and will simply allow the use of the existing building and parking lot, thereby generating withholding and sales tax contributions from the site.

Moreover, the proposed use is consistent with the existing businesses in the area. There are several similarly-sized automobile dealerships approximately 1 mile to the east. At the corner of 34<sup>th</sup> Street and Emerson Avenue, there is currently a gas station (3402 N. Emerson) and tire shop (5061 E. 34<sup>th</sup> Street). Permitting the operation of a used car dealership will not introduce a new or offensive use to the area.



**STAFF REPORT 2023-ZON-002, Site Plan**

**PRELIMINARY CONCEPTUAL EXHIBIT  
3401 N. EMERSON AVENUE**



**STAFF REPORT 2023-ZON-002, Photographs**



Looking northeast across the subject site from the intersection of Emerson Avenue and 34<sup>th</sup> Street.



Looking north across the western portion of the subject site.





Looking north across the eastern portion of the site.



Looking northeast across the eastern portion of the site to the neighbors to the east.





Looking east along the 34<sup>th</sup> Street frontage.



Looking west along the 34<sup>th</sup> Street frontage.





Looking south across 34<sup>th</sup> Street at the neighbor to the south.



Looking southwest across the intersection of Emerson Avenue and 34<sup>th</sup> Street at the neighbors to the southwest.



Looking west across Emerson Avenue at the neighbor to the west.



Looking northwest across Emerson Avenue at the neighbors to the northeast.