

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-ZON-071 (Amended) / 2022-VAR-011
Address: 7820 West Washington Street (*Approximate Addresses*)
Location: Wayne Township, Council District #22
Petitioner: Paige Darline Jensen
Request: Rezoning of 0.53 acre from the D-A and C-5 districts to the C-5 district to provide for commercial uses.

A variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a truck rental facility (not permitted) and an eight-foot tall privacy fence (maximum six-foot tall fence permitted).

ADDENDUM FOR FEBRUARY 9, 2023, HEARING EXAMINER

The Hearing Examiner continued the rezoning petition from the December 1, 2022 hearing, to the February 9, 2023 hearing, at the request of the petitioner to provide time to amend the petition and file a petition for variances use and development standards.

When the rezoning petition was initially filed, the request was a rezoning from the D-A and C-5 districts to the C-7 classification. Staff recommended denial of this request. This request has been amended to rezone the site to the C-5 classification, with a variance of use to provide for a truck rental facility and an eight-foot-tall privacy fence.

Because of the historical use of the site, staff supports rezoning to the C-5 classification but has concerns with many of the permitted uses in this district. Many of the permitted uses would not be appropriate due to the size and configuration of the site and would require variances of development standards, which staff would not support. There are some uses that would not be appropriate because of a negative and detrimental impact on the surrounding area. Consequently, staff would request that these uses be prohibited if the rezoning would be approved.

Additionally, staff requested that a land survey be provided because it appeared that existing uses had encroached onto the abutting properties. The requested survey has not been submitted to the office.

Because of the grant of previous variances that allowed automobile repair, staff **recommends approval** of the rezoning to the C-5 classification, 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:

The Plan of Operation, file-dated December 9, 2022, limits use of the site to vehicle detailing, small vehicle repairs, tire changes and U-Haul rental.

(Continued)

STAFF REPORT 2022-ZON-071 (Amended) / 2022-VAR-011 (Continued)

1. A site plan shall be submitted for Administrator Approval depicting an accurate site boundary, required setbacks, and location of outdoor storage, within 60 days following final approval of the rezoning request. Additionally, the site shall be brought into zoning compliance and all zoning violations corrected by June 1, 2023.
2. Use of the site shall be in accordance with the Plan of Operation, file-dated December 9, 2022.
3. The following uses shall be prohibited:

Daily emergency shelter
Business, art, or other post-secondary proprietary school
Public safety facility or Post Office
Vocational, technical or industrial school or training facility
Hospital
Plasma (Blood) Center
Substance Abuse Treatment Facility
Check Cashing or Validation Service
Mortuary, Funeral Home
Outdoor Advertising off-premises
Printing Services
Tattoo Parlor
Adult Entertainment Business
Bar or Tavern
Indoor Recreation and Entertainment
Indoor Spectator Venue
Night Club or Cabaret
Outdoor Recreation and Entertainment
Logistics R and D
Adult Entertainment Business: Retail
Department Store
Firearm Sales
On-going Fireworks sales,
Liquor Store
Pawn shop
Heavy General retail
Local Power Generating Facility
Substations and Utility Distribution
Wireless Communications
Automobile and Light Vehicle Wash
Automobile Fueling Station
Automobile, Motorcycle, and Light Vehicle Sales or Rental
Commercial parking lot
Commercial parking garage
Transit Center
Recycling Station

(Continued)

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Accessory Uses

On-going Outdoor display and Sales
Outdoor Storage and Operations
Pick-up Station for Dry Cleaning or Laundry
Recycling Collection Point
Swimming Pool or Hot Tub
Ground Transportation and Accessories
Outside Vending Machine or Self-serve Kiosk

Staff **recommends denial** of the variance of use for a truck rental facility and the variance of development standards for an eight-foot-tall privacy fence.

VARIANCE OF USE AND DEVELOPMENT STANDARDS

The petitioner has requested that a truck rental facility be a permitted use on this site. Staff understands this use has been operating for many years but has been unable to confirm when this rental operation began without the required variances.

This proposed use would be permitted in the C-7, I-3 and I-4 districts. Consequently, staff believes it would not be appropriate to support this request, given the Comprehensive Plan recommendation of suburban neighborhood typology. Supporting a high intense and industrial use on this site would be detrimental to the surrounding land uses.

The request would also provide for an eight-foot-tall privacy fence. The Ordinance permits a six-foot-tall fence and staff believes that height would adequately provide for both security and visual screening. Tall privacy fences are characteristic of industrial uses and would not be acceptable for this site. Additionally, the petitioner has not provided documentation that trespassing has been or is currently problem.

ADDENDUM FOR DECEMBER 1, 2022, HEARING EXAMINER

On her own motion, the Hearing Examiner continued this petition from the September 29, 2022 hearing, to the December 1, 2022 hearing, to provide additional time to amend the request.

The petitioner submitted an incomplete rezoning petition and a variance of use and development standards on November 14, 2022. Staff has been assisting the petitioner in an effort to complete the filing, set it for hearing and send new notice. Consequently, staff would request a **continuance to the January 12, 2023 hearing**.

ADDENDUM FOR SEPTEMBER 29, 2022, HEARING EXAMINER

The Hearing Examiner continued this petition from the August 11, 2022 hearing, to the September 29, 2022 hearing, at the petitioner's request to provide time to engage the services of legal counsel.

The petitioner has indicated that the petition would be amended to the C-5 district but no documents or information has been submitted by the petitioner or their representative.

(Continued)

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ADDENDUM FOR AUGUST 11, 2022, HEARING EXAMINER

The Hearing Examiner continued this petition from the July 28, 2022 hearing, to the August 11, 2022 hearing, because the petitioner failed to appear at the hearing.

The petitioner has not responded to staff's attempts to contact her. If no response is received and the petitioner fails to appear at the hearing, staff will request that this petition be dismissed due to lack of prosecution.

July 28, 2022

The Hearing Examiner acknowledged a timely automatic continuance filed by a remonstrator that continued this petition from the June 23, 2022 hearing, to the July 28, 2022 hearing.

RECOMMENDATIONS

Staff **recommends denial** of the request. Staff would, however, support a rezoning to the C-5 District.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 0.56-acre site, zoned D-A and C-5, is comprised of two parcels that are developed with a commercial building. The small western parcel (0.08 acre) is zoned C-5 and the larger eastern parcel (0.45 acre) is zoned D-A. It is surrounded by railroad right-of-way to the north, zoned C-5; undeveloped land to the south, across West Washington Street, zoned SU-46 (Airport); railroad right-of-way to the east, zoned I-3; and undeveloped land to the west, zoned C-5.
- ◇ Petition 48-V-65 allowed for a variance of use to repair automobile radiators. Petitions 72-UV1-101 and 74-UV1-140 provided for building additions, minor automobile repairs (including air conditioners), sales of supplies and variances for setbacks.

(Continued)

REZONING

- ◇ This request would rezone the site to the C-7 classification (high intensity commercial district) to provide commercial uses. “The C-7 District is designed to provide specific areas for commercial uses which have unusually incompatible features relative to other commercial uses, such as major outdoor storage or display of sizeable merchandise and the outdoor parking and storage of trucks, materials or equipment essential to the operation of these uses. Many of these uses generally are not visited by customers, but rather involve service operations from headquarters with some on-site fabrication of parts. The nature of operation or appearance are more compatible with industrial than retail commercial activities. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares and near interstate freeways, but not in close association with those commercial activities involving shopping goods, professional services, restaurants, food merchandising, and the like. Due to the intensity of uses, location of this district should never be adjacent to protected districts.”
- ◇ The Comprehensive Plan recommends Suburban Neighborhood typology. “The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well connected and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.”
- ◇ 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

- 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.
 - Hydrological patterns should be preserved wherever possible.
 - Curvilinear streets should be used with discretion and should maintain the same general direction.
 - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- ◇ The Pattern Book does not provide any guidance related to the rezoning request because recommended commercial uses in this typology are limited to small scale, offices, retailing, and personal or professional services. In fact, the guidelines exclude automotive uses as a recommended land use.

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Violations (VIO22-003344 / VEH22-222509)

- ◇ VIO22-003344 - A letter, dated May 12, 2022, from the Department of Business and Neighborhood Services notified the property owner and operators of the on-site businesses and identified 11 zoning violations related to the current operations at this site. Three violations relate to the existing signs on the property; one violation for the presence of junk, trash or debris; three violations relate to outdoor storage; three violations relate to the use of the property; and one violation relates to failure to comply with the development standards of the D-A district.
- ◇ VEH22-000509 – A letter, dated May 12, 2022, from the Department of Business and Neighborhood Services notified the property owner and operators of the on-site businesses of a violation related to the storage, maintenance or keeping of any inoperable vehicles outdoors on private property.
- ◇ There are earlier investigations / violations during 2005 related to signage.

Planning Analysis

- ◇ This request would not be consistent with the Comprehensive Plan recommendation of suburban neighborhood. The 1965 variance of use, however, was granted for repair of automobile radiators. Subsequent variances provided for an expansion of automobile repair and sales of supplies.
- ◇ Following the expansion of automobile repairs, additional services have been added to include vehicle rental, automobile detailing and towing services. All of which are not permitted by the variances or the zoning district or consistent with the Comprehensive Plan recommendation. According to Google Maps, truck / vehicle rental was offered as early as 2007. It is not clear when automobile detailing and towing became services that are now available at this location.
- ◇ Towing operations are included in the definition of a wrecking or salvage facility defined as: “A service in which towing or emergency services are provided to disabled automotive vehicles or equipment. The definition includes activities such as junk or salvage storage or operation; vehicles wrecking and salvage operation; shredder; and vehicle storage (wrecked or inoperable).”
- ◇ Staff believes that a towing service is too intense for this site, given the Plan recommendation and the obvious encroachment of this business into the abutting properties to the west, north and east.
- ◇ Staff would note that towing services would not be a permitted use with the proposed C-7 rezoning. This use is only permitted as a special exception in the I-4 district. Consequently, if this rezoning would be approved, the towing operation would require relocation to an appropriate site.
- ◇ Because of the variances and historical use of the site, staff would support rezoning to the C-5 District but that would not permit the current vehicle / truck rental business or the towing operation. Furthermore, it would appear from aerials depicting encroachment onto abutting properties and photographs from the property inspection that the number of existing uses on this approximately half acre site exceeds the ability of the site to appropriately accommodate for the existing land use without negatively impacting surrounding land uses.

(Continued)

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- ◇ For all these reasons, staff recommends denial of the proposed C-7 district but would support rezoning to the C-5 district.
- ◇ If approved, staff would request a commitment requiring submittal of a site plan for Administrator Approval depicting an accurate site boundary, required setbacks, and location of outdoor storage, within 60 days following final approval of the rezoning request. Additionally, the site shall be brought into zoning compliance and all zoning violations corrected by December 31, 2022.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-A / C-5

Commercial uses

SURROUNDING ZONING AND LAND USE

North - C-5

Railroad right-of-way

South - SU-46

Undeveloped land

East - I-3

Railroad right-of-way

West - C-5

Undeveloped land

COMPREHENSIVE LAND USE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood typology.

THOROUGHFARE PLAN

This portion of West Washington Street is designated in the Marion County Thoroughfare Plan as a local street with an existing 98-foot right-of-way and a proposed 102-foot right-of-way.

CONTEXT AREA

This site is located within the metro context area.

OVERLAY

This site is not located within an overlay

PLAN OF OPERATION

File-dated December 9, 2022

FINDINGS OF FACT

File-dated November 30, 2022 and December 7, 2022

ZONING HISTORY

48-V-65; 7818 West Washington Street, requested a variance of use to utilize the existing structure for repair of auto radiators, **granted**.

72-UV1-101; 7818 West Washington Street, requested a variance of use and transitional yard requirement to permit erection of an addition to existing commercial building, with partial off-street parking provided, **granted**.

(Continued)

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74-UV1-140, 78918 West Washington Street, requested a variance of use to erect an addition to the commercial buildings for minor auto repairs, including air conditioners; a variance of development standards for setbacks; and sales of supplies, **granted**.

VICINITY

2017-MOD-017; 7828 West Washington Street (west of site), requested Modification of the site plan and commitments for 2005-ZON-853, as modified by 2015-MOD-016 to terminate Commitment Two of 2015-MOD-016 and to modify Commitment Two of 2005-ZON-853, to substitute the proposed eastern climate-controlled self-storage buildings for storage buildings without climate control, as shown on the site plan dated October 25, 2017, **approved**.

2015-MOD-016; 7828 West Washington Street (west of site), requested modification of commitments and the site plan for 2005-ZON-853, to modify Commitment Two referencing the C-S statement file-dated November 21, 2005, in order to provide for a revised site plan and C-S statement for two, two-story, 57,400-square foot climate-controlled storage buildings and a tree sales area (permits one, 31,250-square foot climate controlled building, five mini-warehouses buildings, containing 60,154 square feet and a tree sales area, **approved**.

2005-ZON-853 / 2005-VAC-853; 7828 West Washington Street and 1943 and 1950 Brewer Road (west of site), requested rezoning of 4.796 acres, being in the D-3 District, to the CS classification to provide for self-storage business and a vacation of Brewer Road from West Washington Street, north to the railroad, **approved**.

2014-ZON-037; 7910 and 7920 West Washington Street (west of site), requested rezoning of 6.2 acres from the C-S District to the C-S classification to provide for a self-storage facility and the uses approved by 2007-ZON-100 (C-1, C-2 and C-4 uses, a school, and a daycare), **approved**.

99-Z-215; 7936 and 7910 West Washington Street (west of site), requested rezoning of 6.36 acres, being in the C-5 and D-A Districts, to the C-S classification to provide for outdoor display and sales of manufactured homes, and permitted C-5 uses, **approved**.

96-Z-20; 7824 West Washington Street (west of site), requested rezoning of 1.0 acre, being in the D-3 District, to the C-5 classification to provide for commercial development, **approved**.

95-UV2-27; 7936 West Washington Street (west of site), requested a variance of use of the Commercial Zoning Ordinance to permit operation of a manufacture homes sales business, with outdoor display and storage of manufactured homes, **granted**.

91-Z-23; 7936 West Washington Street (west of site), requested a rezoning of 2.111 acres from the D-A District to the C-5 classification to provide for commercial use, **approved**.

90-Z-222; 7893 West Washington Street (south of site), requested rezoning of 1.56 acres, being in the D-3 District, to the C-7 classification to provide for an office for mobile home sales, **approved**.

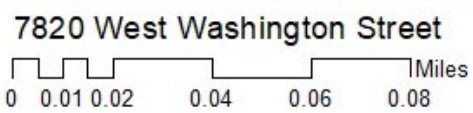
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87-Z-75, 7901 West Washington Street, (west of site), requested rezoning from the D-3 District to the C-5 classification, **approved**.

83-UV2-11; 7910 West Washington Street (west of site), requested requesting a variance of use to permit an addition to an owner/manage residence quarters/office for a motel, **granted**.

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Plan of Operation

The plan of operation that we will be running a vehicle detailing, small vehicle repairs, tire changes, and U-Haul rental. Customers will drop off their vehicle. The vehicles will either be in the building getting worked on, or behind the fence if it gets approved awaiting to get serviced. All waste or hazardous products will be properly disposed. Fluids and oils will be disposed at AutoZone through their recycling program. All vehicles and U-Haul equipment will be locked and clean to make sure customers have a good safe experience. The U-Haul franchise is to rent trucks and equipment for customers moving. U-Haul does not have any hazard waste. Typically, the U-Haul customers take their vehicles with them. If the customers do decide to leave their vehicles, there is parking spots available. All our customers are treated fairly, kindly, and with respect. The operations will be open 9:00 a.m. to 5:00 p.m. Monday through Fridays, Saturdays till 12:00 p.m., and will be closed on Sundays. The operation should not have any effect on the adjacent properties.

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
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

If approved u-haul will be the safest way for the community to move their belongings with clean, safe trucks, and equipment.

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

This U-haul business will not have no effect on the adjacent properties. The trucks and equipment are properly maintained, monitored, locked, and cleaned. Should not pose a threat to the community or adjacent properties.

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

The variance is needed to properly rent u-hauls trucks and equipment for the state of Indiana.

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 grant of the variance will not interfere with the adjacent properties, one side is railroad track on a hillside, the other side is a storage facility which their customers often use this u-haul facility for their moving needs.

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

It would be of a great loss to the u-haul customers and the adjacent storage facility in the community if this location was to have to close.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____

Metropolitan Development Dec 07 2022 Division of Planning

Petition Number _____

**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:

If the eight foot fence gets approved it will be safer for the publics well-being, because the cars in the process of getting fixed will be behind the fence so they are not exposed to the public to get hurt on.

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 fence will be a new build and will be fully maintained and checked monthly for damage. All repairs will be performed in a timely manner to prevent any affect to the adjacent property. We will keep up all landscaping for all sides of the fence to ensure cleanliness on the side of the adjacent property so they will not have added maintence. There will be no adverse affect to the property adjacent.

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

The proposition is to build a privacy fence to secure property and prevent trespassing. The inclusion of the fence will prevent the adjacent property from view of the damaged vehicles and create a secure envioment effectively for both properties.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____

Metropolitan Development
Nov 30 2022
Division of Planning



View looking east along West Washington Street



View looking west along West Washington Street



View of site looking northeast across West Washington Street



View of site looking north across West Washington Street



View of site looking north across West Washington Street



View of site looking north across West Washington Street