BOARD OF ZONING APPEALS DIVISION I — November 10, 2026

Case Number:	2026-UV1-022
Property Address:	3441 West Washington Street
Location:	Wayne Township, Council District #17
Petitioner:	Jesus Ivan Ibarra Tamayo
Current Zoning:	I-3 (FW) (TOD)
Request:	Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an Automobile, Motorcycle and Light Vehicle Sales or Rental facility (not permitted).
Current Land Use:	Automobile, Motorcycle and light Vehicle Repair
Staff Recommendations:	Denial.
Staff Reviewer:	Kathleen Blackham, Senior Planner

PETITION HISTORY

The Board of Zoning Appeals continued this petition, with notice, from the September 1, 2026 hearing, to the October 6, 2026 hearing, due to deficient notice.

After a full hearing on October 6, 2026, the Board of Zoning Appeals continued this petition from the October 6, 2026 hearing to the November 10, 2026 hearing, due to an indecisive vote.

STAFF RECOMMENDATION

Staff strongly recommends denial. If approved, staff would request that approval be subject to the following commitments being reduced to writing on the BZA's Exhibit "A" form prior to the issuance of the letter of grant:

1. The grant of this variance to provide for operation of an automobile, motorcycle and light vehicles sales or rental shall be limited to the petitioner.
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 / receptables provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

LAND USE

This 0.76-acre site is comprised of three (3) parcels and developed with a commercial building and associated parking areas. It is surrounded by the public right-of-way of West Washington Street and commercial uses to the north, zoned C-5; railroad right-of-way to the south, zoned I-3; an auto repair business to the east, zoned I-3; and Big Eagle Creek to the west, zoned I-3 and D-5.

Petition 2025-ZON-126 requested rezoning to the C-5 district but the request was withdrawn.

VARIANCE OF USE

This request would provide for the operation of an automobile, motorcycle and light vehicle sales or rental facility, which is not permitted in the I-3 district.

Variance of Use Criteria Analysis

The petitioner seeks a variance of use to allow automobile, motorcycle and light vehicle sales or rental facility property zoned I-3, the petitioner must demonstrate compliance with the variance criteria under Indiana Code 36-7-4-918.4, including but not limited to:

- That the approval will not be injurious to public health, safety, morals, or general welfare;
- That the use and value of adjacent property will not be substantially adversely affected;
- That the need for the variance arises from conditions unique to the property;
- That the strict application of the ordinance results in unnecessary hardship;
- That the variance does not interfere substantially with the comprehensive plan.

Public Health, Safety, Morals, and General Welfare

- The introduction of automobile, motorcycle and light vehicle sales or rental on this property would compromise and negatively impact the purpose and current construction of Transit-Oriented Development (TOD) Blue Line that would also negatively impact the public health, safety, morals and general welfare of the community.

Adjacent Property Impacts

- Additional vehicular operations in this area would detrimentally impact the Big Eagle Creek corridor and increase safety and environmental concerns of pedestrians and customers in the area. The TOD overlay limits automobile dealerships to lots no larger than 0.50 acres.

Uniqueness of the Property

- Permitted vehicular operations currently exist on the property. There is nothing unique about the property that would prohibit other permitted uses, rather than allowing the proposed use.

Unnecessary Hardship

- The current I-3 district permits 45 uses and 23 accessory uses. Staff finds that the use options under the current zoning eliminates an unnecessary hardship in the use of the property.

Comprehensive Plan

- This proposed use for vehicular sales does not align with Plan recommendation of community commercial. The proposed use is only permitted in C-5 or C-7 districts, which are more intense and detrimental to surrounding land uses.

Overlays

This site is also located within an overlay, specifically the Transit Oriented Development (TOD). "Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology."

The Transit-Oriented Development (TOD) overlay is intended for areas within walking distance of a transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area. As such, there are certain limitations on uses within this overlay that would negatively impact the purpose to promote pedestrian connectivity. See Exhibit A that limits the proposed use on lots no larger than 0.5-acre.

Stream Protection Corridor

A stream protection corridor consists of a strip of land, extending along both sides of all streams, with measurements taken from the top of the bank on either side. The width of the corridor is based upon whether the stream is designated as a Category One or Category Two. Category One streams have a corridor width of 60 feet in the compact context area and 100 feet in the metro context area. Category Two streams have a corridor width of 25 feet in the compact context area and 50 feet in the metro context area.

Construction projects over one (1) acre are subject to the requirements of the Environmental Protection Agency (EPA) General Permit and Indiana Department of Environmental Management (IDEM) Construction Stormwater General Permit (CSGP).

The vegetative target for the Stream Protection Corridor is a variety of mature, native riparian tree and shrub species that can provide shade, leaf litter, woody debris, and erosion protection to the stream, along with appropriate plantings necessary for effective stream bank stabilization.

The Stream Protection Corridor is defined as:

> "A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir, and where alteration is strictly limited. Functionally, stream protection corridors provide erosion control, improve water quality (lower sedimentation and contaminant removal) offer flood water storage, provide habitat, and improve aesthetic value."

Stream is defined as "a surface watercourse with a well-defined bed and bank, either natural or artificial that confines and conducts continuous or periodic flowing water."

Stream Bank is defined as "the sloping land that contains the stream channel and the normal flows of the stream."

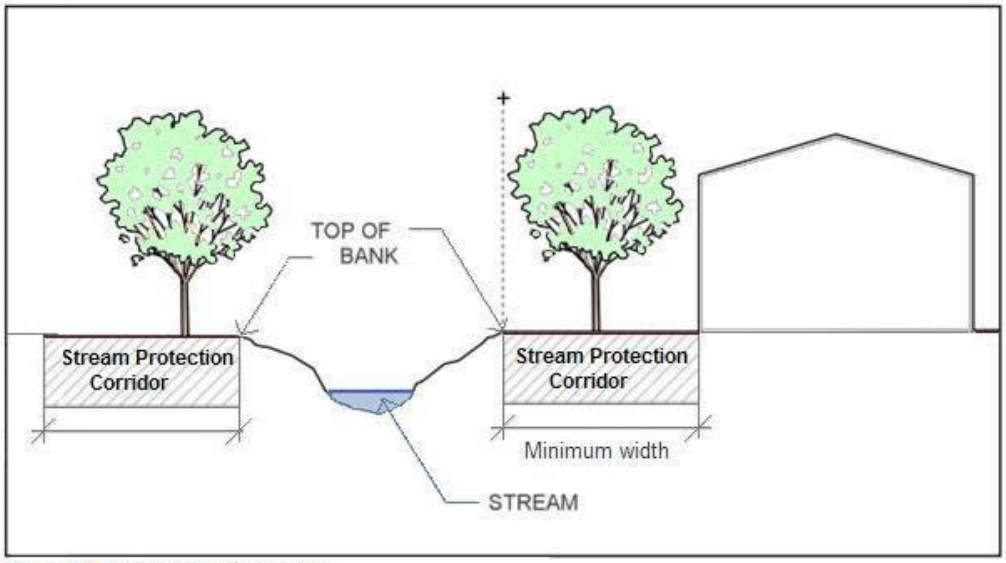
Stream Channel is defined as "part of a watercourse that contains an intermittent or perennial base flow of groundwater origin."

There are two types of categories of Streams: Category One Streams and Category Two Streams. Category One Stream is defined as: "A perennial stream that flows in a well-defined channel throughout most of the year under normal climatic conditions. Some may dry up during drought periods or due to excessive upstream uses. Aquatic organism such as some fish are normally present and easily found in these streams. The Category One Streams are listed in Table 744-205-2: Category One Streams."

A Category Two Stream is defined as: "An intermittent stream that flows in a well-defined channel during wet seasons of the year but not necessarily for the entire year. These streams generally exhibit signs of water velocity sufficient to move soil, material, litter, and fine debris. Aquatic organisms, such as fish, are often difficult to find or not present at all in these streams. These streams are identified on the United States Geological Survey (USGS) topographic maps and on the Department of Natural Resources Conservation Service (NRCS) soils maps."

There are 34 Category One streams listed in the Ordinance. The stream protection corridor is a strip of land on both sides of the stream whose width varies according to whether it is within the Compact or Metro Context Area and whether it is a Category One or Category Two Stream.

As a Category One Stream within the Compact Context Area, Big Eagle Creek is required to have a 60-foot stream protection corridor on both sides of the stream, as measured parallel from the top of the bank. Top of the bank is not defined by the Ordinance, other than by Diagram UU, Stream Protection Corridor Cross-section, as shown below.



Stream Protection Corridor

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 receptables for proper disposal of trash and other waste.

Planning Analysis

The site falls within the Transit Oriented Development (TOD) Secondary District which is intended to coordinate more compact, walkable, and urban development patterns with public investment in the transit system. These development patterns ensure that walking and biking are viable options for short trips and transit is a priority for longer trips. Development patterns and site designs that prioritize automobile travel undermine these public and private investments. This district follows the policies and principles of the comprehensive plan, the transit-oriented development strategic plans, and the Livability Principles in this code, and has the following specific design objectives:

1. Place a wide range of housing types within walking distance of commercial centers and transit stops or stations, and at a critical mass that supports these places.
2. Create connections through many different modes of transportation between neighborhoods and places for commercial services and employment.
3. Provide a concentration of many different and small-scale uses with a fine-grained pattern that integrates and transitions well with the neighborhoods they support.
4. Ensure human-scale design that prioritizes relationships of sites and buildings to the streetscapes.

The Ordinance notes that Automobile, Motorcycle, and Light Vehicle Sales or Rental use in its typical form as well as other vehicular related uses when concentrated in areas have a detrimental effect on the intent and design objectives of the Transit Oriented Development Secondary District. Where these uses are enabled by the primary zoning district, they shall be further limited in the TOD Secondary District as stated in Table 742- 707-2 Location and Limitation of Specific Uses.

To allow for general commercial uses to be permitted on site, staff would support a rezoning to the C-3 district which would align with the Community Commercial Uses recommendation of the West Washington Street Corridor Plan (2012).

Staff finds that the proposed use variance at this location within the newly proposed (under construction) Blue Line Bus Rapid Transit Corridor would be counterintuitive to the purpose of the Transit Oriented Secondary District which promotes walkable development with a variety of services for the community.

One final item to note is that the dumpster on site would need to be enclosed per the Ordinance standards that provides for walls on three sides with a fourth side consisting of a gate to service the trash container.

Staff finds that the viability of the Transit Oriented Development Secondary District and overall success of the Blue Line Transit-Oriented Development Strategic Plan (2024) proposed along Washington Street is directly affected by how the City promotes the highest and best use of the small percentage of valuable land at its disposal.

Opportunities to promote safe and walkable neighborhoods, smart economic growth, and job generating uses along these heavily established corridors are far and few between.

For all these reasons, **staff strongly recommends denial** of this request.

GENERAL INFORMATION

Existing Zoning	I-3 (FW)	
Existing Land Use	Automotive repair	
Comprehensive Plan	Community Commercial / Park	
Surrounding Context	**Zoning**	**Surrounding Context**
North:	C-5	Automobile used car dealer
South:	I-3 (FW)	Railroad right-of-way
East:	I-3	Automobile repair shop
West:	I-3 (FW)	Big Eagle Creek
Thoroughfare Plan		
West Washington Street	Primary Arterial	Existing 73-foot right-of-way and proposed 88-foot right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	Yes – Big Eagle Creek	
Overlay	Yes – Transit Oriented Development (TOD)	
Wellfield Protection Area	No	
Site Plan	July 17, 2026	
Site Plan (Amended)	August 4, 2026	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	June 22, 2026	
Findings of Fact (Amended)	September 1, 2026	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

Not Applicable to the Site.

Pattern Book / Land Use Plan

Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

Blue Line Transit-Oriented Development Strategic Plan (2024).

This site is located within a ½ mile from the proposed Holt Road and Washington Street station to the west and proposed Central Greens Boulevard station to the east.

The Community Center station typology to the west recommends the following:

- A dense mixed-use neighborhood center
- Minimum of 2 stories at core
- No front or side setbacks at core; 0-10 ft. front setbacks and 0-10 ft. side setbacks at the periphery
- Multi-family housing with a minimum of 3 units
- Structured parking at the core and attractive surface parking at the periphery

This typology would have varying types of commercial developments, from large strip centers to shopping malls, along arterial corridors. Development opportunities vary from redevelopment into mixed-use, walkable patterns to multi-family residential infill development.

The District Center station typology to the east recommends the following:

- A dense mixed-use hub for multiple neighborhoods with tall buildings
- Minimum of 3 stories at core with no front or side setbacks
- Multi-family housing with a minimum of 5 units
- Structured parking only with active first floor

District Center stations are located at the center of regionally significant districts with several blocks of retail or office at their core. Development opportunities include infill and redevelopment, dense residential, employment near transit stations, neighborhood retail and a focus on walkability and placemaking.

Neighborhood / Area Specific Plan

West Washington Street Corridor Plan (2012) recommends Community Commercial Uses along the eastern two-thirds of the site and Park development on the western third.

The Community Commercial Uses land use category is for low-intensity retail commercial and office uses, which serve a predominantly residential market adjacent to or very near, the location of the use. The uses in this land use category are designed to fulfill a broad range of retail, personal, professional and business services and are either freestanding or part of a small integrated center typically anchored by a grocery store. These centers contain no, or extremely limited, outdoor display of merchandise. Generally, these uses are consistent with the following characteristics:

- Maximum Gross Floor Area: 125,000 square feet
- Maximum Acreage: 25 acres
- Service Area Radius: 2 miles
- Location: On an arterial or at the intersection of an arterial with a collector.
- Maximum out lots: 3

The Park land use category consists of public or private property designated for active and/or passive recreational amenities. It also includes publicly and privately held conservation and preservation areas.

The plan anticipated that the future needs of the pedestrian will reverse the proliferation of automotive uses and continue to increase the need for transit and pedestrian connections to transit facilities.

For the West Washington Street corridor, Bus Rapid Transit is proposed for the length of West Washington Street, connecting from downtown to the airport.

Infill Housing Guidelines

Not Applicable to the Site.

Indy Moves
(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

Indy Moves Transportation Integration Plan (2018) proposes a Complete Streets Upgrade of an off-street multi-use path along Washington Street from Eagle Creek to Koehne Street.

Right-of-way dedication would ensure that these projects would be possible to complete.

ZONING HISTORY

2025-ZON-126; 3441 West Washington Street, requested rezoning of 0.76-acre from the I-3 (FW) (TOD) district to the C-5 (FW) (TOD), **withdrawn.**

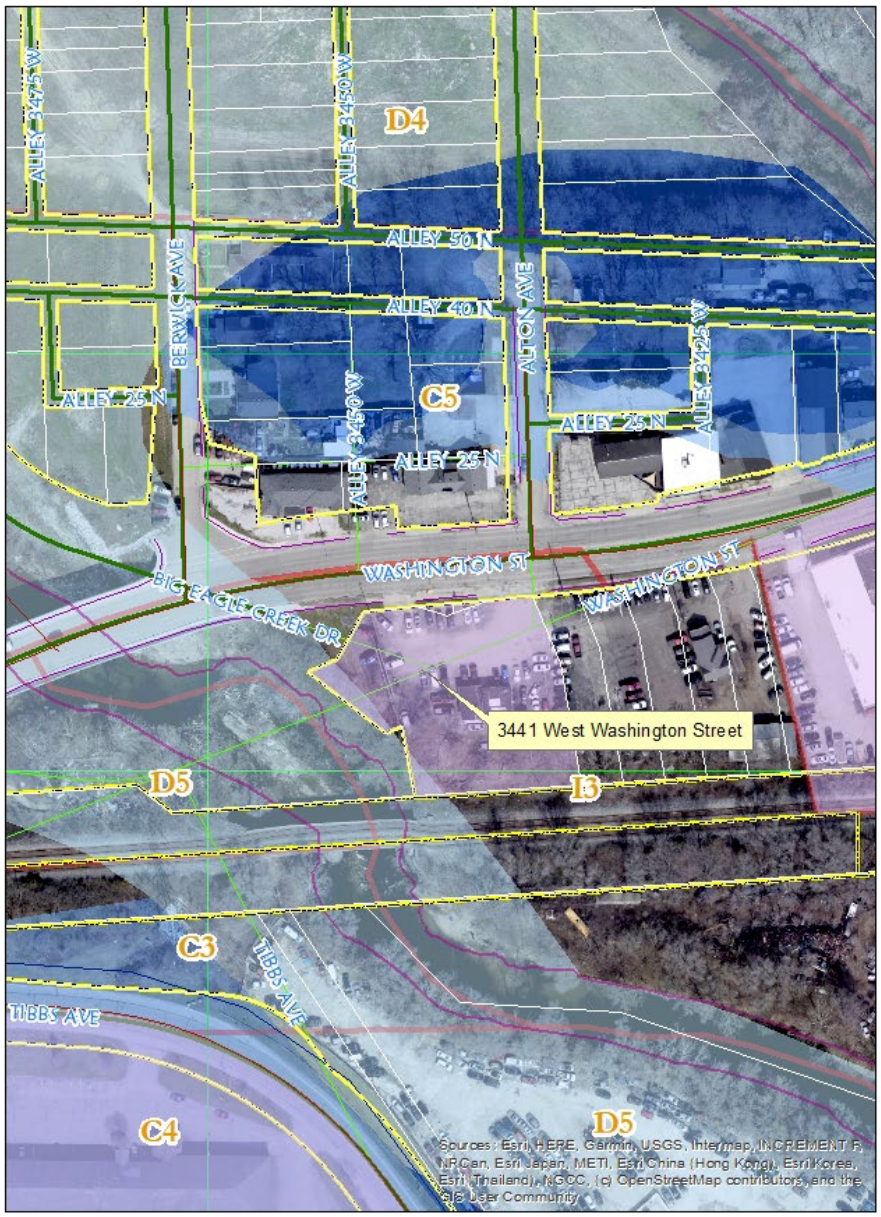
VICINITY

2004-ZON-164; 3409-3415 West Washington Street (east of site), requested rezoning of 1.2 acres, being in the I-3-U District, to the C-5 classification to provide for commercial uses, **approved.**

93-UV1-31; 3421- 3429 West Washington Street (east of site), requested a variance of Use of the Industrial Zoning Ordinance to provide for the expansion of an existing automobile sales lot with parking in the front yard (10% permitted only), **granted.**

90-UV1-91; 3241 West Washington Street (east of site), requested a variance of Use and Development Standards to permit the outdoor display and sales of automobiles with parking in the front yard, **granted.**

EXHIBITS



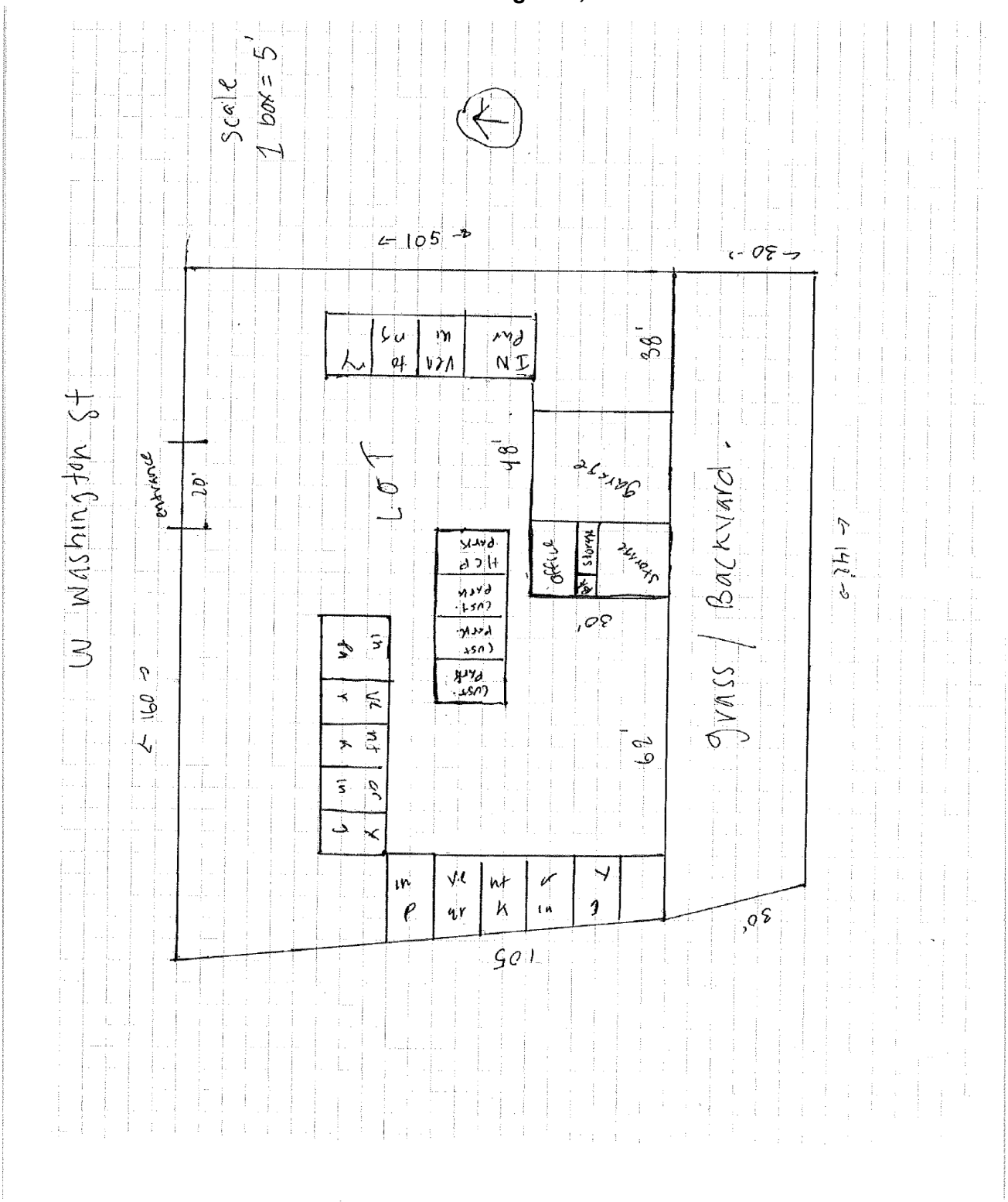
3441 West Washington Street

N

0 0.005 0.01 0.02 0.03 0.04 Miles

Department of Metropolitan Development
Division of Planning
Current Planning

Site Plan - August 4, 2026



DEPARTMENT OF METROPOLITAN DEVELOPMENT
DIVISION OF PLANNING | CURRENT PLANNING

Department of Metropolitan Development
Division of Planning
Current Planning

Plan of Operation – August 4, 2026

1. Daily Opening

- Unlock office and lot.
- Walk the lot and inspect all vehicles.
- Make sure keys are accounted for.
- Start and move vehicles if needed.
- Check fuel levels and battery condition.
- Clean windshields and interiors.
- Turn on computers, internet, and printer.
- Review appointments and leads.

2. Vehicle Acquisition

- Buy from dealer auctions.
- Purchase from private sellers.
- Accept trade-ins.
- Inspect every vehicle before buying.
- Estimate repair costs before purchasing.

3. Reconditioning

- Mechanical inspection.
- Oil change and fluids.
- Safety inspection.
- Detail inside and out.
- Repair cosmetic issues.
- Professional photos after detailing.

4. Pricing

- Research market value.
- Include repair costs and transport.
- Set asking price.
- Determine selling price.
- Update pricing every few weeks if necessary.

5. Marketing

- Post on Facebook Marketplace.
- Use Instagram and TikTok.
- Take high-quality photos and videos.
- Respond to inquiries quickly.

6. Sales Process

- Greet customer.
- Learn customer's budget.
- Walk around vehicle.
- Test drive.
- Explain financing (if offered).
- Complete paperwork.
- Deliver vehicle clean and with a full tank if possible.

EXHIBIT A

TABLE 742-207-2 Location and Limitation of Specific Uses

Automobile, Motorcycle, and Light Vehicle Sales or Rental	• Within 600’ of a Transit Station and on Pedestrian Frontages—Prohibited • Where otherwise permitted—Limited to lots no larger than 0.5 acres.

DMD INDY
DEPARTMENT OF METROPOLITAN DEVELOPMENT
DIVISION OF PLANNING | CURRENT PLANNING

Department of Metropolitan Development
Division of Planning
Current Planning

FINDINGS OF FACT – September 1, 2026

Petition Number 2026-UV1-022

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
See Attchments

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
See attqcnment

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

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
See Attrchment

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

DECISION

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

Adopted this _____ day of _____, 20 ____

_____ _____
_____ _____
_____

Vof-use.frm 2/23/10

The proposed dealership is consistent with the property's existing commercial character.

A professionally operated used-car dealership is a legitimate commercial activity that can be opera without creating a threat to public health or safety.

- Vehicles will be parked in designated areas rather than obstructing streets, sidewalks, driveways, or neighboring properties.
- The property will be maintained, kept clean, and free
- Customer and employee traffic will enter and exit through established access points.
- Business hours can be controlled to minimize noise and disturbance to surrounding propertie
- Proper lighting can be used for security without unnecessarily shining onto neighboring properties.
- The operation can actually improve the condition and appearance of the property if it replace an underutilized or deteriorated use.

2. Impact on adjacent properties

The dealership will operate entirely within the subject property.

- Vehicles will not be stored on neighboring property.
- No customer parking will be directed onto neighboring properties.
- The property will be maintained and kept orderly.
- No excessive noise, outdoor repair work, or nuisance activity is proposed.
- Lighting will be designed to minimize spillover onto adjacent properties.
- Signage will be professional and appropriately sized.
- The dealership will maintain adequate circulation for customers and emergency vehicles.
- The proposed use will not substantially change the character or value of neighboring properties.
- If appropriate, landscaping, fencing, screening, or other conditions can be offered to further protect adjacent property owners.

3. Uniqueness / conditions peculiar to the property

- The property's location along a major roadway makes it particularly suitable for automobile-related commercial activity.
- Existing access to the property can accommodate customer and vehicle traffic.
- The surrounding development already contains commercial, automotive, or other nonresident uses
- The property's existing improvements and investment make it particularly suited for the proposed dealership.

4. Unnecessary hardship

Significant personal/family investment has already been made into the property.

Money has already been invested into improvements, buildings, parking, equipment, or preparin the site.

The requested variance is the minimum relief necessary to make reasonable use of the property

5. Comprehensive Plan

The proposed dealership is consistent with the property's existing commercial character.

- The property is located in an area where commercial activity is already established.
- The proposed use would put an existing property to productive economic use.
- The dealership would provide employment and generate economic activity.
- The proposal would maintain the property's existing commercial character rather than introducing an incompatible use.
- The proposed operation can be designed to respect surrounding residential or commercial uses.
- The request does not require changing the overall character of the neighborhood.



View of site looking south across West Washington Street



View of site looking southwest across West Washington Street



View looking southwest at the wooded area along Big Eagle Creek abutting western boundary of site



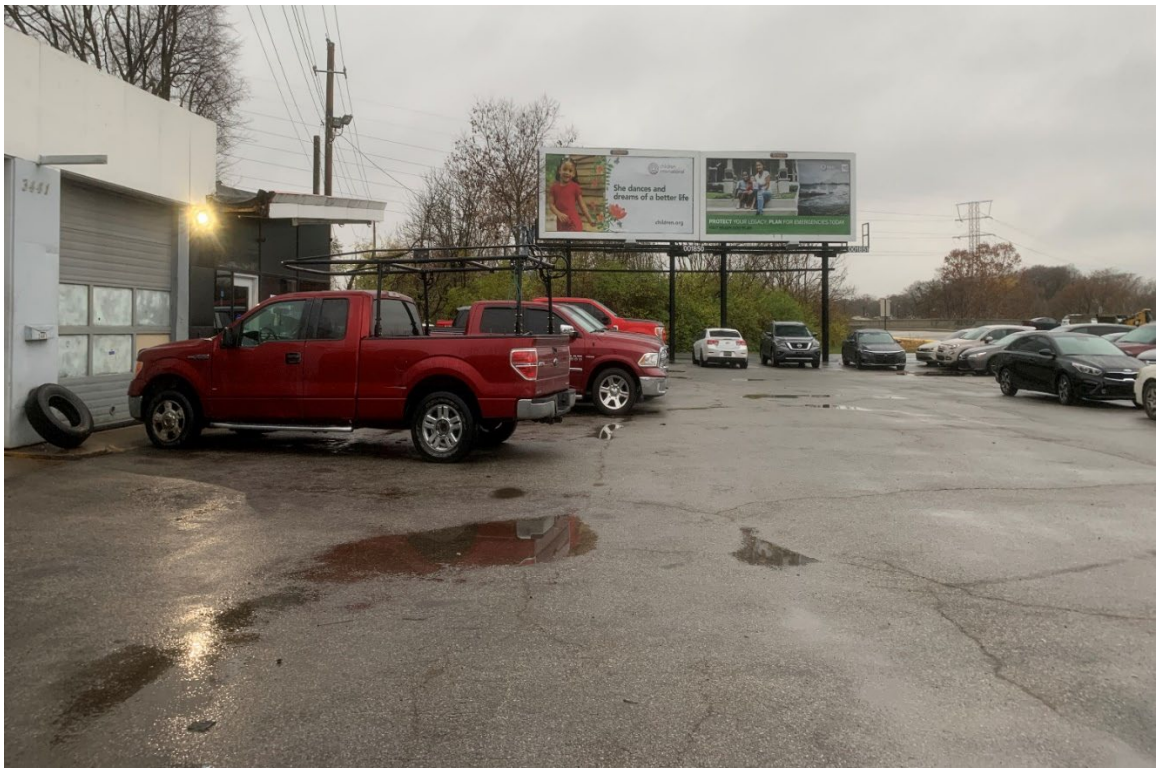
View of adjacent repair shop east of the site looking southeast across West Washington Street



View of used car dealer looking northeast across West Washington Street



View of rear yard of site looking north



View of site looking west along West Washington Street frontage



View of site looking south along western side yard



View looking west along West Washington Street