

## **STAFF REPORT**

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

**Case Number:** 2023-SE2-002A (Amended)  
**Address:** 3210 Chief Lane (approximate address)  
**Location:** Decatur Township, Council District #22  
**Zoning:** I-3  
**Petitioner:** Reagan Outdoor Advertising, by Jon Campbell  
**Request:** Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).

#### **ADDENDUM JUNE 18, 2024**

This petition was automatically continued and transferred from the June 11, 2024, BZAII hearing, to the June 18, 2024, BZAIII hearing, as a result of a second indecisive vote.

#### **ADDENDUM JUNE 11, 2024**

This petition was continued due to a lack of Board quorum from the May 21, 2024, hearing, to the June 11, 2024, hearing.

#### **ADDENDUM MAY 21, 2024**

At the March 12, 2024, hearing, the petition was split into Part A for the Special Exception, and Part B for the Variance of Development Standards.

The Part A request for a Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465, resulted in an indecisive vote of 2-2, which automatically continued the Part A portion of the petition. Due to a conflict, Part A was continued for two months to the May 21, 2024, hearing.

#### **ADDENDUM MARCH 12, 2024**

This petition was continued from the February 13, 2024, hearing, to the March 12, 2024 hearing, at the request of the Board President.

#### **February 13, 2024**

This petition was automatically continued from the December 12, 2023, hearing, to the January 9, 2024, hearing, at the request of a registered neighborhood organization. This petition was automatically continued from the January 9, 2024, hearing, to the February 13, 2024, hearing, at the request of the petitioner.

(Continued)

## **STAFF REPORT 2023-SE2-002A (Continued)**

### **RECOMMENDATIONS**

Staff **recommends approval** of the Special Exception request.

### **SUMMARY OF ISSUES**

#### **LAND USE**

##### **EXISTING ZONING AND LAND USE**

Metro	I-3	Trade Association office building
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##### **SURROUNDING ZONING AND LAND USE**

North	I-3	Manufacturing facility
South	I-3	Interstate I-70 / Undeveloped
East	D-A	Interstate I-70 / Undeveloped
West	I-3	Single-family dwelling / Manufacturing facility

COMPREHENSIVE PLAN	The Comprehensive Plan recommends office / industrial mixed-uses for the site.
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#### **SPEICAL EXCEPTION**

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as “A sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages.”
- ◇ The need for the special exception arises from a condition peculiar to the property involved because a road expansion project included South State Road 37, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location at 8900 South SR 37 on private property causing the relocation of the sign.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

*(a) As used in this section, “market area” means a point within the same county as the prior location of an outdoor advertising sign.*

*(b) This section applies only to an outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.*

*(c) If an outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:*

(Continued)

## **STAFF REPORT 2023-SE2-002A (Continued)**

- (1) elevate a conforming outdoor advertising sign; or*
- (2) relocate a conforming or nonconforming outdoor advertising sign to a point within the market area, if the new location of the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.*

*(d) If within one (1) year of an action being filed under IC 32-34, an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and IC 8-23-20.5, if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter. Notwithstanding subsections (d) and (g), if a conforming outdoor advertising sign cannot be elevated or relocated within the market area, the removal or relocation of the conforming outdoor advertising sign constitutes a total taking of a real property interest, including the sign structure, and the owner must be compensated under section 27 of this chapter.*

*(e) The county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.*

*(f) The elevated outdoor advertising sign or outdoor advertising sign to be relocated, to the extent allowed by federal or state law, may be modified:*

- (1) to elevate the sign to make the entire advertising content of the sign visible; and*
- (2) to an angle to make the entire advertising content of the sign visible; and*
- (3) in size or material type, at the expense of:*
  - (A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or*
  - (B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.*

*(g) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.*

*(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under IC 32-34, the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana Department of transportation that a project has been planned that may impact the outdoor advertising sign.*

*(i) If the agency fails to provide notice required by subsection (h) within (12) twelve months of an action being filed against an owner under IC 32-24, the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under IC 32-23-1-8.*

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## **STAFF REPORT 2023-SE2-002A (Continued)**

- ◇ The current Zoning and Subdivision Ordinance does align with state code, which provides for a special exception to the zoning ordinance to allow for either an elevation increase or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.

### **GENERAL INFORMATION**

#### THOROUGHFARE PLAN

This portion of Chief Lane is a private drive and is not classified in the Official Thoroughfare Plan for Marion County, Indiana.

This portion of Rand Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with an approximate 56-foot existing right-of-way.

#### SITE PLAN

File-dated October 25, 2023.

#### FINDINGS OF FACT

File-dated October 25, 2023.

### **ZONING HISTORY**

**2014-UV2-006; 5925 Stockberger Place (north of site)**, requested a variance of use of the Industrial Zoning Ordinance to provide for a Compressed Natural Gas (CNG) Fueling Station as a primary public use, **granted**.

**99-V1-84, 5925 Stockberger Place (east of site)**; Requesting a variance of use and development standards of the Industrial Zoning Ordinance to provide for an equipment rental facility with outdoor storage, **granted**.

**88-HOV-43; 3150 Rand Road (north of site)**, requested a variance of development standards to provide for the development of a warehouse without frontage on a public street, **granted**.

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**2023-SE2-002A; Location Map**



## 2023-SE2-002A; Site Plan



**2023-SE2-002A; Photographs**



Photo of subject site, proposed sign location, looking northwest.



Adjacent manufacturing facility to the north of the site.



Adjacent manufacturing facility to the west of the site.



Adjacent I-70 interstate and undeveloped protected district to the east.