

BOARD OF ZONING APPEALS DIVISION I

February 06, 2024

Case Number: 2024UV1001
Property Address: 5914 and 5920 East Stop 11 Road (approximate address)
Location: Franklin Township, Council District #25
Petitioner: Epple LLC, by Andrew Wert
Current Zoning: C-3
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for outdoor operations associated with a fitness center (not permitted).
Current Land Use: Commercial
Staff Recommendations: Staff recommends **denial** of this request.
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this request.

PETITION OVERVIEW

- The property at 5920 East Stop 11 Road currently functions as a multitenant commercial center housing several businesses including a salon, several restaurants, and a fitness center within the tenant space furthest to the west. This petition would seek to allow for placement of a fenced outdoor area of approximately 3600 square feet to the west of the existing property to allow for outdoor operations of the currently existing fitness center. The outdoor area would include a fitness ramp structure for exercise and be screened by a 6-foot tall chain link fence with PVC black coating and with 3-point “sail” shade structures above the workout area.
- This property is currently zoned C-3 (Neighborhood Commercial District) which is designed for an extensive range of retail sales and personal, professional, and business services. It does not allow for businesses that require the outdoor display, sale, or storage of merchandise; or require outdoor operations.

- The Marion County Land Use Plan Pattern Book defines this area as a Community Commercial site for low-intensity commercial and office uses servicing nearby neighborhoods. Although the Pattern Book does explicitly mention outdoor display of merchandise as a disallowed use, it is the determination of staff that this would not necessarily be inclusive of all outdoor operations.
- Similarly, the commitments associated with rezone petition 2006ZON864 indicate that outdoor storage is disallowed at this property. Since ‘outdoor operations’ have been determined to be a distinct category from outdoor storage, grant of this variance request would not also require a modification of the previous rezoning petition.
- The proposed outdoor area is to be used for cardiovascular training, weightlifting training, weight loss programs, personal trainings, powerlifting training, and agility and speed training. It is anticipated to be open 24 hours a day and would not utilize any outdoor loudspeakers.
- Outdoor operations are limited to more intense commercial zonings to reduce noise pollution and to ensure properties with less intense commercial zonings can successfully limit the scope of their services to the best interests of nearby residential properties. The proposed outdoor expansion would potentially have ill effects related to added noise, access to the dumpster within the rear yard, and a reduction in on-site parking.
- In addition to the potential negative externalities mentioned above, no undue hardship exists at this subject site that wouldn’t allow for feasible placement of alternate uses (i.e., continuing as accessory parking, indoor recreation through a building expansion, or other uses allowed by-right within C-3 zoning). For this reason, staff is opposed to the granting of this variance request.

GENERAL INFORMATION

Existing Zoning	C-3	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	North: Suburban Neighborhood
South:	D-6 / C-3	South: Community Commercial
East:	D-3	East: Suburban Neighborhood
West:	D-6	West: Suburban Neighborhood
Thoroughfare Plan		
Stop 11 Road	Secondary Arterial	Existing ROW: 141’ Prop ROW: 90’
Arlington Avenue	Primary Collector	Existing ROW: 136’ Prop ROW: 106’
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	

Site Plan	12/04/2023
Site Plan (Amended)	N/A
Elevations	12/04/2023
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	12/04/2023
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Community Commercial Working typology for this site. This typology provides for low-intensity commercial and offices uses that serve nearby neighborhoods.
- Within Offices, Retailing, and Personal or Professional Services land uses in the Community Commercial typology, outdoor display of merchandise is not recommended when adjacent to residential uses or a Living typology.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

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

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

2017MOD023, Modification of Commitments and to terminate Commitment Three of 2004-ZON-115, as modified by Commitment One of 2006-APP-864 and Commitment Three of 2006-ZON-864, and to Modify the Site Plan accordingly (requires one street connection between the subject site and the D-6 zoned parcel to the west), **approved**.

2017PLT067, Approval of a Subdivision Plat, to be known as Arlington Commons Commercial Subdivision, dividing 5.63 acres into three lots, **approved**.

2008APP104, Approval to modify commitments, related to petitions 2004-ZON-115 and 2006-ZON-864, to modify Commitment One, Letter P to provide for the operation of a store such as a Kids Kloser store on the property which sells new and lightly used children’s clothing, toys and other goods (previous commitment prohibited all second-hand stores), **approved**.

2006APP864, Approval to modify the legal descriptions for the commitments, related to 2005-ZON-115, to include the entire parcel subject to the rezoning request, 2006-ZON-864, and to modify Commitment Number Three as follows: “There shall be at least one (1) internal street connection between the development on the subject C-3 parcel and the D-6 development proposed to West of the site.” (previous commitment required two internal street connections), **approved**.

2006ZON864, rezoning of 0.98 acres to the C-3 classification, **approved**.

2004ZON118, rezoning of 42.6 acres to the D-6II classification, **denied**.

2004ZON115, rezoning of 7.9 acres from I-2-S to the C-3 classification, **approved**.

95-Z-213, rezoning of 131.92 acres to the I-2-S classification, **approved**.

ZONING HISTORY – VICINITY

2016ZON071; 8051 S Arlington Avenue (southeast of site), Rezoning of 57.73 acres from the D-A district to the D-4 classification, **approved**.

2012ZON030; 7910 S Arlington Avenue (north of site), Rezoning of 8.25 acres, from the D-6 District, to the D-5 classification to provide for residential uses, **approved**.

2012PLT008; 7910 S Arlington Avenue (north of site), Approval of a Subdivision Plat to be known as Pine Lake, dividing 8.25 acres into 30 lots, **approved**.

2009VAC009; 5930 Edelle Drive (north of site), VACATION of all lots, rights-of-way, easements, and setback lines created by Pine Lake Subdivision, as recorded as Instrument # 2009-0011608, and the



Department of Metropolitan Development
Division of Planning
Current Planning

Declaration of Covenants, Conditions, and Restrictions for Pine Lake Subdivision, recorded as Instrument # 2009-0011607, **approved.**

2008PLT001; 7910 Arlington Avenue (north of site), Approval of a Subdivision Plat to be known as Pine Lake, dividing 8.25 acres into 56 lots, **approved.**

2004ZON114; 5716 E Stop 11 Road (northwest of site), Rezoning of 31.2 acres from the I-2-A district to the D-6 classification, **approved.**

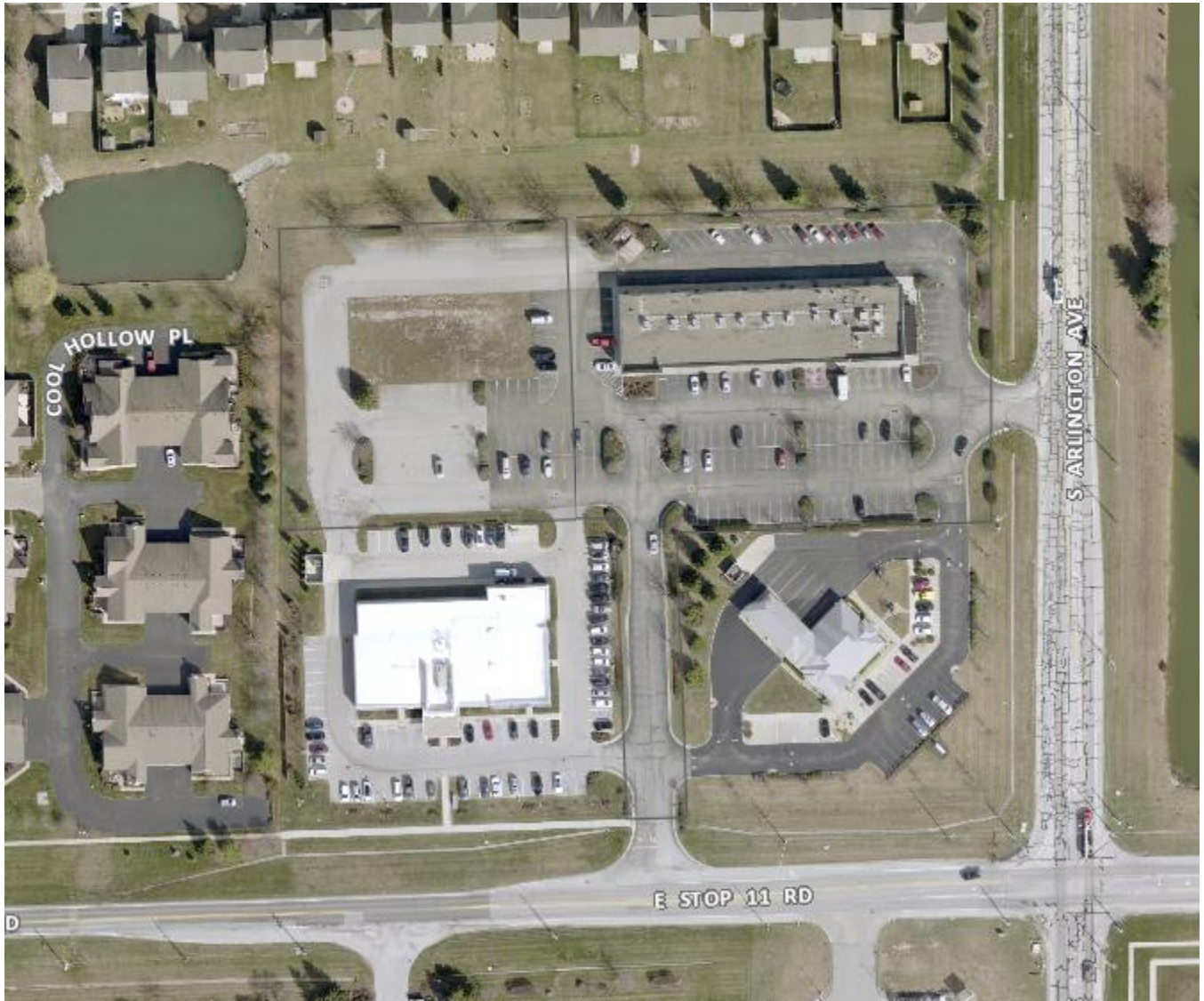
98-Z-260; 5815 E Stop 11 Road (south of site), Rezoning of 16.88 acres to the D-6 classification, **approved.**

92-Z-140; 8050 S Arlington Avenue (south of site), Rezoning of 20.08 acres to the C-3 classification, **approved.**

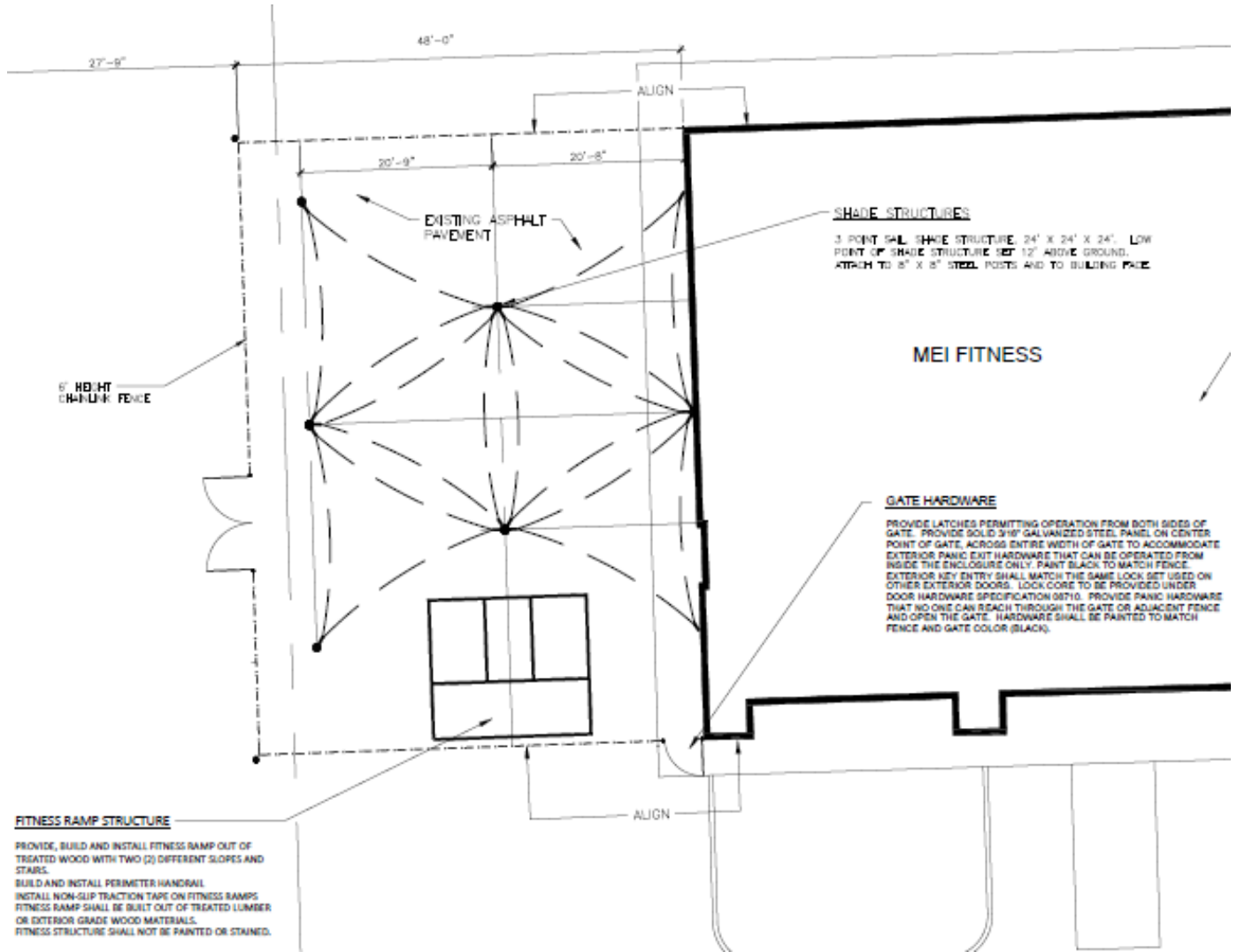
91-P-53; 6220 E Stop 11 Road (east of site), Approval of a Subdivision Plat to be known as Southern Lake Estates, dividing 20.551 acres into 41 lots, **approved.**

EXHIBITS

2024UV1001 ; Aerial Map



2024UV1001 ; Site Plan



2024UV1001 ; Plan of Operation

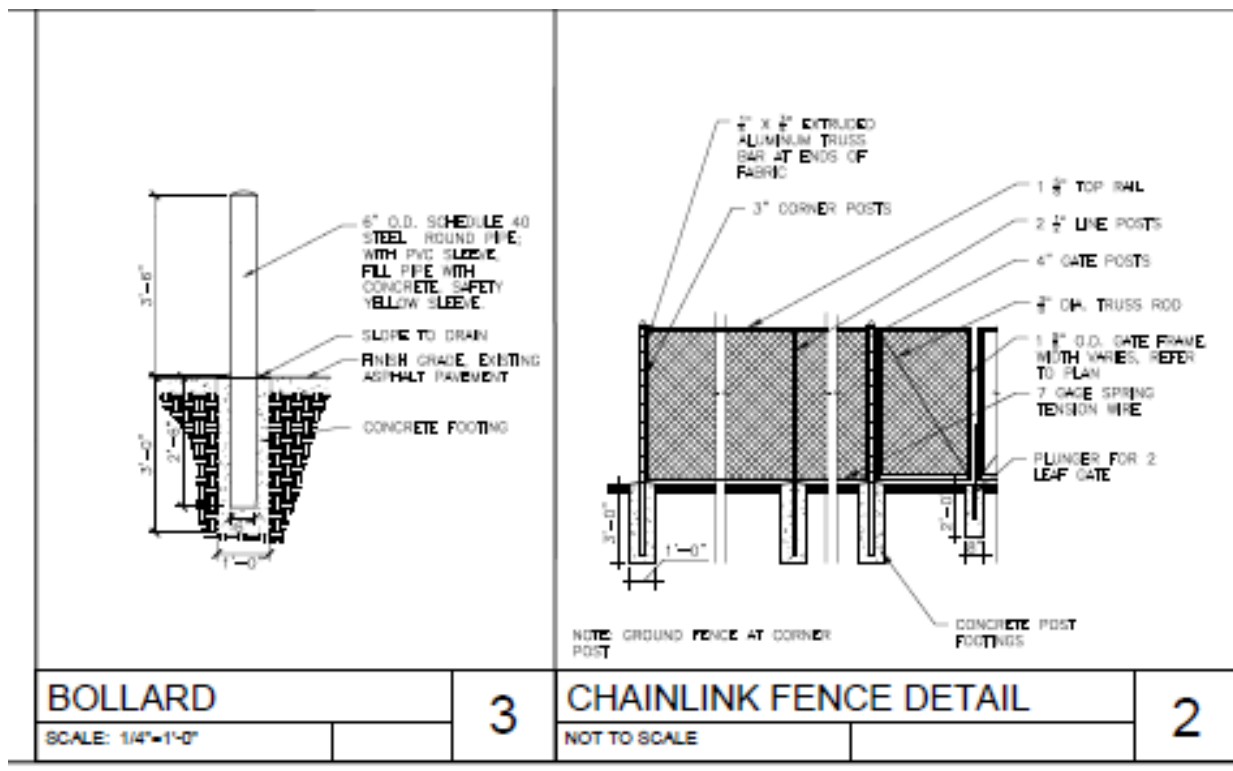
MEI Fitness is owned by Mel Rivera. They currently have five locations throughout the metro area. The Southport facility opened in 2018. MEI is open 7 day a week, 24 hours per day.

The facility on Stop 11 Road is located in a commercial center that also includes Chicago’s Pizza, Red Line Frozen Treats, and a salon. MEI is proposing an outdoor fitness area adjacent to the west end of the present facility. The 48’ by 75’ area would be enclosed by a six foot tall chain link fence with PVC black coating. PVC slats interwoven in the fence will provide additional screening. Three-point sails attached to posts and the building will cover the fitness area.

This expansion will require removal of 14 parking spaces. The zoning ordinance requires 44 spaces for the current building and there will be 108 spaces remaining after the proposed removal.

MEI Fitness is requesting approval of a Variance of Use to allow this expansion. The C-3 zoning district does not permit “outdoor operations”. This is an incidental expansion intended to add a workout option for the existing client base.

2024UV1001 ; Fence Detail





2024UV1001 ; Findings of Fact

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE
the proposal is an ancillary use to the existing fitness facility.

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
the proposed outdoor fitness area will not change the character or use of the property as it is associated with the existing fitness facility.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE
outdoor exercise has proven benefits. The existing fitness center is a permitted use in the C3 zoning district.

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
there are community benefits to outdoor exercise. The proposal is an extension of the permitted use currently operating at this location.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE
the Land Use Element identifies this area as Community Commercial which recommends no outdoor display of merchandise when adjacent to residential. There will be no merchandise displayed at this location. Other aspects recommended for Community Commercial are already in place.

2024UV1001 ; Pictures



Photo 1: Existing Multitenant Commercial Center Viewed from the South



Photo 2: Proposed Location of Outdoor Operations Viewed from the South

2024UV1001 ; Pictures (continued)



Photo 3: Looking North from Proposed Location



Photo 4: Looking West from Proposed Location