



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

January 20, 2025

Case Number: 2024-ZON-110
Property Address: 6670 East 38th Street
Location: Lawrence Township, Council District #9
Petitioner: Tikal, Inc., by Mitch Sever
Current Zoning: C-3 (TOD)
Request: Rezoning of 2.37 acres from the C-3 (TOD) district to the C-7 (TOD) classification to provide for a building contractor, with outdoor storage of equipment and materials.
Current Land Use: Commercial Office
Staff Recommendations: Denial.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

This is the first public hearing on this petition.

STAFF RECOMMENDATION

Denial. If approved, staff would request that approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

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 / receptacles provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

This 2.37-acre site, zoned C-3 (TOD), is comprised of two parcels. The eastern parcel is developed with a commercial use and the remaining acreage is undeveloped. It is surrounded by railroad right-of-way and undeveloped land to the north, zoned D-4 (TOD) and SU-16 (TOD) (indoor and outdoor recreation and entertainment), respectively; commercial uses to the south, across East 38th Street, zoned C-7 (TOD); undeveloped land to the east, zoned SU-16 (TOD); and railroad right-of-way and East 38th Street right-of-way to the west, zoned D-4 (TOD).



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

There have been seven petitions dating back to 1961 through 2022, including a rezoning and variances for commercial development on the eastern parcel. See Zoning History. The most recent (2022) rezoned the site to the C-3 (TOD) district.

REZONING

The request would rezone the site to the C-7 (TOD) (High Intensity Commercial) district to provide for a building contractor and outdoor storage of equipment and materials. “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 community commercial typology for the site.

Recommended land uses in this typology include small- and large- scale offices, retailing, and personal or professional services; small- and large- scale schools, places of worship, neighborhood serving institutions / infrastructure, and other places of assembly; and small-scale parks.

This request would provide for a commercial C-7 district that is characterized as more compatible with industrial uses that include major outdoor storage and display, rather than low intensity commercial uses that serve nearby neighborhoods.

The Plan of Operation, file dated November 22, 2024, states that the site would primarily be used for storage of equipment and materials, with hours of operation Monday through Saturday from 8:00 a.m. to 8:00 p.m.

Additionally, this site is located within the Transit Oriented Development (TOD) overlay. Consequently, proposed land uses should enhance and support pedestrian experience and activities. The proposed high intense commercial use would be disruptive of the Comprehensive and TOD plans and would be wholly inappropriate for this site and surrounding land uses. The current C-3 district allows for land uses that are supportable of and contribute to the purpose and goals of the TOD overlay.

Site Plan

The initial site plan file dated September 5, 2024, provided for a 22,000-square foot building in the undeveloped area to the west of the existing building. The site plan, file dated October 11, 2024, removes the building, leaving the western portion of the site for approximately 81,000 square feet of outdoor storage, which would be consistent with the Plan of Operation.

Violations

On May 3, 2024, Violation VIO24-003753 was issued, followed by five citations (CIT24-00164, CIT24-00165, CIT24-00166, CIT24-00167 and CIT24-00168) issued on August 2, 2024.

Violations include: outdoor storage of junk, trash or debris; outdoor storage of inoperable vehicles; outdoor storage of vehicle parts; parking or storage of commercial vehicles; non-permitted use of the property for a fleet terminal; outdoor storage of commercial or industrial liquids; vehicle repair; storage of portable storage; failure to install sidewalks; parking lot in poor condition; unpaved parking lot; unstriped parking lot; no ADA parking spaces; and fence exceeding 42 inches.

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.

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 receptacles for proper disposal of trash and other waste.

GENERAL INFORMATION

Existing Zoning	C-3 (TOD)	
Existing Land Use	Commercial office / undeveloped land	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Land Use
North:	D-4 (TOD) / SU-16 (TOD)	Railroad right-of-way / undeveloped land
South:	C-7 (TOD)	Commercial uses
East:	SU-16 (TOD)	Undeveloped land
West:	D-4 (TOD)	Railroad right-of-way / East 38 th Street right-of-way
Thoroughfare Plan		
East 38 th Street	Primary arterial	Existing 92-150-foot right-of-way and proposed 88-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes. Transit-Oriented Development	
Wellfield Protection Area	No	
Site Plan	September 5, 2024	
Site Plan (Amended)	October 11, 2024	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	N/A	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Comprehensive Plan recommends Community Commercial. “The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.”

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

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 – Community Commercial Typology*
 - 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.

Red Line / Blue Line / Purple Line TOD Strategic Plan

Purple Line Transit-Oriented Development Strategic Plan (2021).

This site is located within the Transit Oriented Development Overlay.

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.

This site is located within a ½ mile walk of a transit stop located at the intersection of East 38th Street and Shadeland Avenue, with a District Center typology.

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.

Characteristics of the District Center typology are:

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

Modifications

The Pattern Book also provides guidance related to overlays and whether an overlay adds, modifies, or removes the recommended land uses within the base typology. This site lies within the Transit-Oriented Development overlay. Below are the recommended modifications within this overlay.

- There are no added uses or removed uses.
- Development of small- and large- offices, retailing, and personal or professional services and large-scale schools, places of worship, community serving institutions / infrastructure and other places of assembly “should be supportive of pedestrian activity (e.g. compact, connected to a pedestrian system, no more than one third of the frontage used for parking).
- Bollards or other vehicular barriers should be present in small-scale parks.

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)

- The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”
- The following listed items describe the purpose, policies and tools:
 - Classify roadways based on their location, purpose in the overall network and what land use they serve.
 - Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
 - Set requirements for preserving the right-of-way (ROW)
 - Identify roadways for planned expansions or new terrain roadways
 - Coordinate modal plans into a single linear network through its GIS database

ZONING HISTORY

2022-ZON-094; 6670 East 38th Street, rezoned 2.63 acres from the D-4 (TOD) and C-3 (TOD) districts to the C-3 (TOD) district to provide for neighborhood commercial development, **approved**.

2021-ZON-113; 6670 East 38th Street, requested rezoning of 2.63 acres from the D-4 and C-3 districts to the C-S classification, **withdrawn**.

97-Z-124; 6670 East 38th Street, requested rezoning of 0.51 acre from the D-4 District to the C-3 classification to provide for neighborhood commercial, **approved**.

95-UV3-18; 6670 East 38th Street, requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of an automobile body repair and paint business, with a 32-square foot pole sign, and with the bottom of the sign face having a ground clearance of six feet, **granted**.

75-UV3-102; 6670 East 38th Street, requested a variance of use and development standards to permit the sales and service of sailboats and accessories in an existing residence, with a pole sign and chain link fence, **granted**.

73-UV2-153; 6670 East 38th Street, requested a variance of use of the Dwelling Districts Zoning Ordinance to permit an existing residence to be used as a residence and show room for the sale of recliner chairs, with a setback variance and with off-street parking located in the required transitional yard, **granted**.

61-V-711; 6670 East 38th Street, requested a one-year extension of the approved temporary permit for the continued operation of an open-air auto sales lot, **granted**.

VICINITY

2009-ZON-012; 6690 East 38th Street (east of site), requested rezoning of 0.5 acre, from the D-4 District, to the SU-16 classification to provide for indoor or outdoor commercial recreation uses, **approved**.

2006-ZON-135; 6680 East 38th Street and 3828 Elizabeth Street (east of site), requested rezoning of 2.57 acres from D-4 to SU-16, **approved**.

94-Z-154 / 94-CV-22; 6729-6747 East 38th Street (east of site), requested rezoning of 0.35 acre, being in the D-3 and C-4 Districts, to the C-4 classification to provide for commercial retail uses and a variance of development standards of the Commercial Zoning Ordinance to legally establish five existing buildings, parking, maneuverability areas with reduced setbacks without landscaping, unpaved parking within the right-of-way of Elizabeth Street, outdoor display of merchandise within the required front yard and a 132-square foot pole sign with a reduced setback from East 38th Street, **approved and granted**.



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94-UV3-30; 6710 East 38th Street (east of site), requested a variance of use of the Commercial Zoning Ordinance to provide for outdoor automobile sales, rental and display, **denied**.

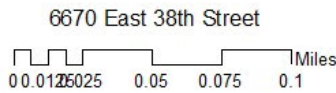
91-UV3-6; 6729 East 38th Street (east of site), requested a variance of use to permit a variety store within an existing building and a variance of development standards of the Sign Regulations to legally establish the existing sign, **granted**.

91-UV2-84; 6685 East 38th Street (west of site), requested variance of use of the Dwelling Districts Zoning Ordinance to permit an automobile repair garage within an existing building, **approved**.

84-UV2-53; 6667 East 38th Street (east of site), requested variance of use and development standards to provide for the additional use of the property for the sales and service of trucks and truck equipment, **approved**.

82-UV3-118; 6667 East 38th Street (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to permit a wrecker service with storage and motor vehicle repair, related to a motorcycle repair shop, **denied**.

EXHIBITS

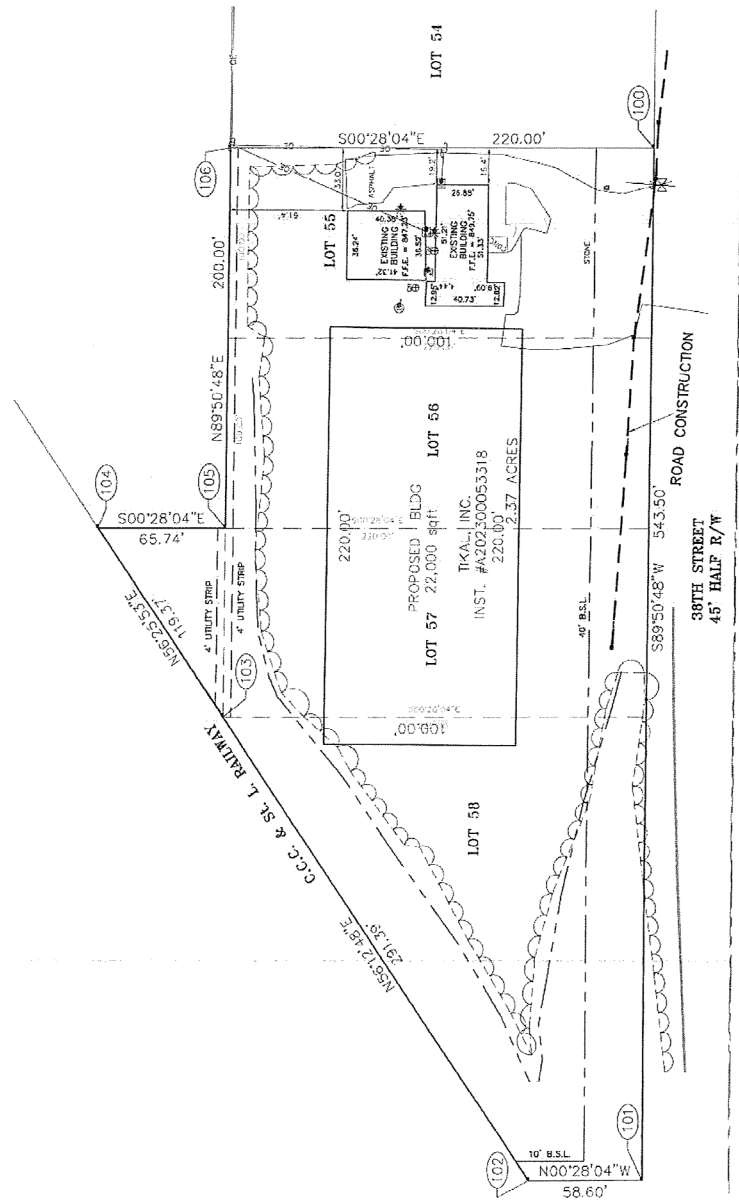


Tikal, Inc.
6670 East 38th Street

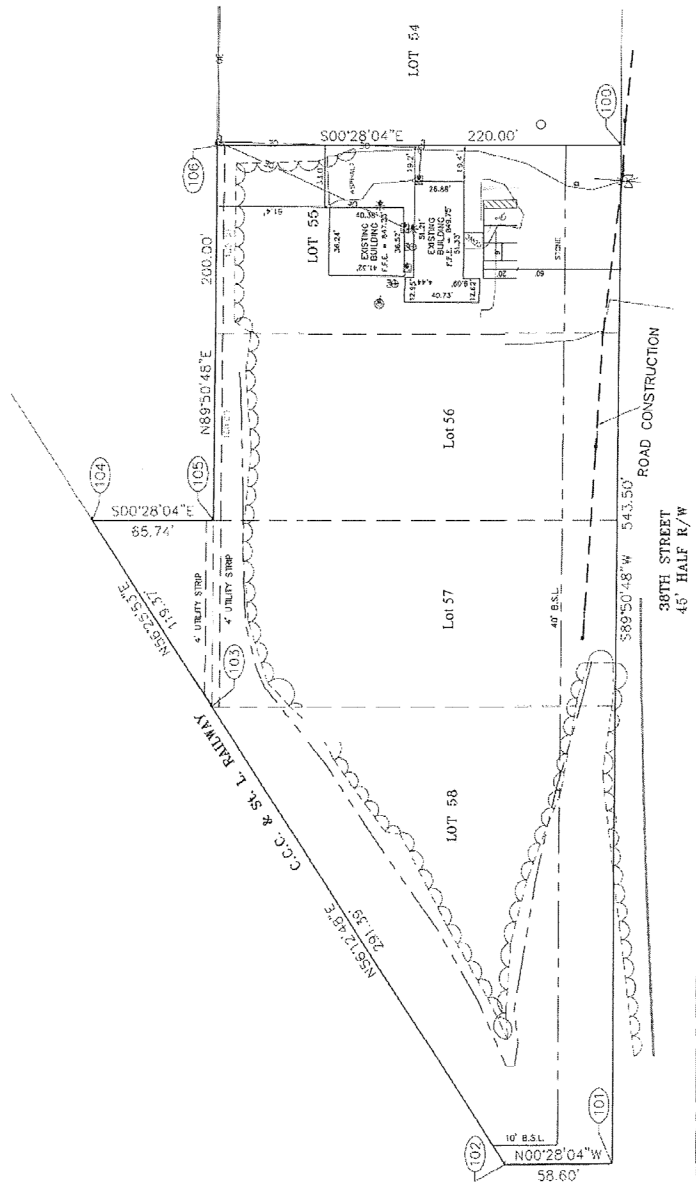
Plan of Operation

Tikal, Inc., is a multi-state builder and construction management company. It's Indianapolis headquarters are located at 5155 North Shadeland Avenue where it employ roughly 40 personnel. The intended use of the site located at 6670 East 38th Street is primarily for storage of equipment and materials. There only traffic to the site will be a maximum of 5 employees at one time. Hours of operation will be Monday through Saturday from 8:00 a.m. to 8:00 p.m.

Site Plan – September 5, 2024



Site Plan – October 11, 2024





View looking east along East 38th Street



View of site looking northwest across East 38th Street



View of site looking northwest across East 38th Street



View of adjacent property to the east looking north



View of property looking southwest across East 38th Street to the south