



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

August 29, 2024

Case Number: 2024-ZON-089
Property Address: 3527 North College Avenue (Approximate Address)
Location: Center Township, Council District # 8
Petitioner: Walvan Investments, LLC, by David Gilman
Current Zoning: D-5
Request: Rezoning of 0.22 acre from the D-5 district to the D-8 district to provide for a (6-unit) small apartment use.
Current Land Use: Residential
Staff Recommendations: Approval with commitments.
Staff Reviewer: Marleny Iraheta, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends approval of the rezoning petition, 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:

1. A landscape plan shall be submitted for Administrative Approval showing the installation of ornamental trees and shrubs south of the parking area and shade trees and shrubs north of the parking area prior to the issuance of an Improvement Location Permit.
2. The installation of landscaping shall occur within one year of the approval of the petition and shall be maintained thereafter.

PETITION OVERVIEW

LAND USE

The 0.22-acre site is developed with a six-unit multi-family building. There was a previous variance, 2018-UV1-006, that approved a multi-family building with eight units on site. A more recent modification petition, 2024-MO1-002, that allowed the units to be rented but placed a limit on who could rent them and set a minimum duration of time. There were other commitments as well, but those commitments regarding the previous variance of use would no longer be applicable since the site is being rezoned. These commitments are included in this report for reference.



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Division of Planning
Current Planning**

The property is surrounded by an undeveloped lot to the north, zoned D-5, and undeveloped lot to the east, zoned D-8, two-family dwellings to the west, zoned D-5, and a single-family dwelling and

REZONING

The request would rezone the site from the D-5 district to the D-8 district to provide for a (6-unit) small apartment use.

The D-5 district is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.

The D-8 district is intended for a variety of housing formats, with a mix of small-scale multi-unit building types. This district can be used as a part of new mixed- use areas, or for infill situations in established urban areas, including medium and high-density residential recommendations of the Comprehensive Plan, and the Traditional Neighborhood, City Neighborhood, and Village or Urban Mixed-Use Typologies of the Land Use Pattern Book.

STAFF ANALYSIS

The Mapleton Fall Creek Neighborhood Land Use Plan recommends eight to 15 units per acre for the site. The existing building has a density of 27 units per acre, which would not change with the rezoning request.

The existing D-5 district does not permit a six-unit small apartment building and rezoning to the D-8 district would correct the nonconformity. Staff is supportive of rezonings that correct the land uses with the corresponding zoning districts.

Staff had concerns with the lack of landscaping at the rear of the site, which the petitioner agreed to install landscaping for approval. With there being an electrical substation to the south, ornamental trees and shrubs should be considered along the south side and shade trees and shrubs should be proposed on the north side. The installation of landscaping would provide a cooling effect at the rear of the property where much of the area is paved with concrete that increases higher temperatures and is not welcoming to residents.

Staff is recommending approval of the request subject to a landscape plan to be submitted for Administrative Approval showing a variety of trees and shrubs on the north and south sides of the rear parking area and for the installation of said landscaping to be completed within one year of the approval of the petition.

GENERAL INFORMATION

Existing Zoning	D-5		
Existing Land Use	Residential		
Comprehensive Plan	8 – 15 Residential Units per Acre		
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>	
	North:	D-5	Undeveloped
	South:	D-5	Residential (Single-family dwelling) / Electrical Substation
	East:	D-8	Undeveloped
	West:	D-5	Residential (Two-family dwellings)
Thoroughfare Plan			
College Avenue	Primary Arterial Street	78-foot existing right-of-way and 80-foot proposed right-of-way.	
Context Area	Compact		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	July 25, 2024		
Site Plan (Amended)	N/A		
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 Mapleton Fall Creek Land Use Plan (2013)

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see The Mapleton Fall Creek Land Use Plan (2013) below.

Red Line / Blue Line / Purple Line TOD Strategic Plan



- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The Mapleton Fall Creek Land Use Plan (2013) recommends 8-15 residential units per acre for this site.
- The proposed zoning district would allow for high density residential development on site, but would be an existing density of 27 units per acre.

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

2024-MO1-002; 3527 North College Avenue (subject site), Modification of Commitments related to 2018-UV1-006, to terminate Commitment Numbers One and Two, requiring sale of units to owner-occupants and prohibiting subsequent owners from renting individual units, **approved**.

2018-UV1-006; 3527 North College Avenue (subject site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a multi-family building with eight units (not permitted), with the following commitments:

- 1) Owner will only sell units and will only sell them to owner-occupants
- 2) Subsequent owners may not rent their units, approved.

28-V-112; 3527 North College Avenue (subject site), Variance to construct a seven-car garage, **granted**.

Zoning History - Vicinity

2021-ZON-115; 722 Fairfield Avenue (east of site), Rezoning of 0.2 acre from the D-5 district to the D-8 district, approved.

2020-UV1-003; 3544 Carrollton Avenue (northeast of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish a multi-family building (not permitted), **denied**.

2013-UV1-037; 3503 North College Avenue (south of site), Variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinances to provide for a parking lot, for a restaurant at 3469 N College Avenue, with zero-foot front and side yards, **approved**.

2010-UV1-018; 3503 North College Avenue (south of site), Variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinance to provide for automobile sales (not permitted), with display spaces having zero-foot front and side setbacks (10-foot setback from existing right-of-way required, 40-foot setback from proposed right-of-way required, four-foot side and 10-foot aggregate setbacks required), **denied**.

2005-LNU-010; 3466 Carrollton Avenue and 727 Fairfield Avenue (southeast of the site), Certificate of Legal Non-Conforming Use for multi-family dwellings in a D-5 District, **granted**.

2003-LNU-009; 727 Fairfield Avenue (southeast of the site), Certificate of Legal Non-Conforming Use for multi-family dwellings in a D-5 District, **denied**.

91-Z-74; 3520 N College Avenue (west of site), requests rezoning from residential district to the commercial C-3 district to allow retail sales in conformity to the comprehensive land use plan, **approved**.



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88-UV3-102; 3549 N College Avenue (north of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of community services offices, educational center and educational research offices, and three ground signs, **approved**.

87-SE2-2; 650 Fairfield Avenue (southwest of the site), Commercial Special Exception to provide for an amusement arcade with 14 machines, **denied**.

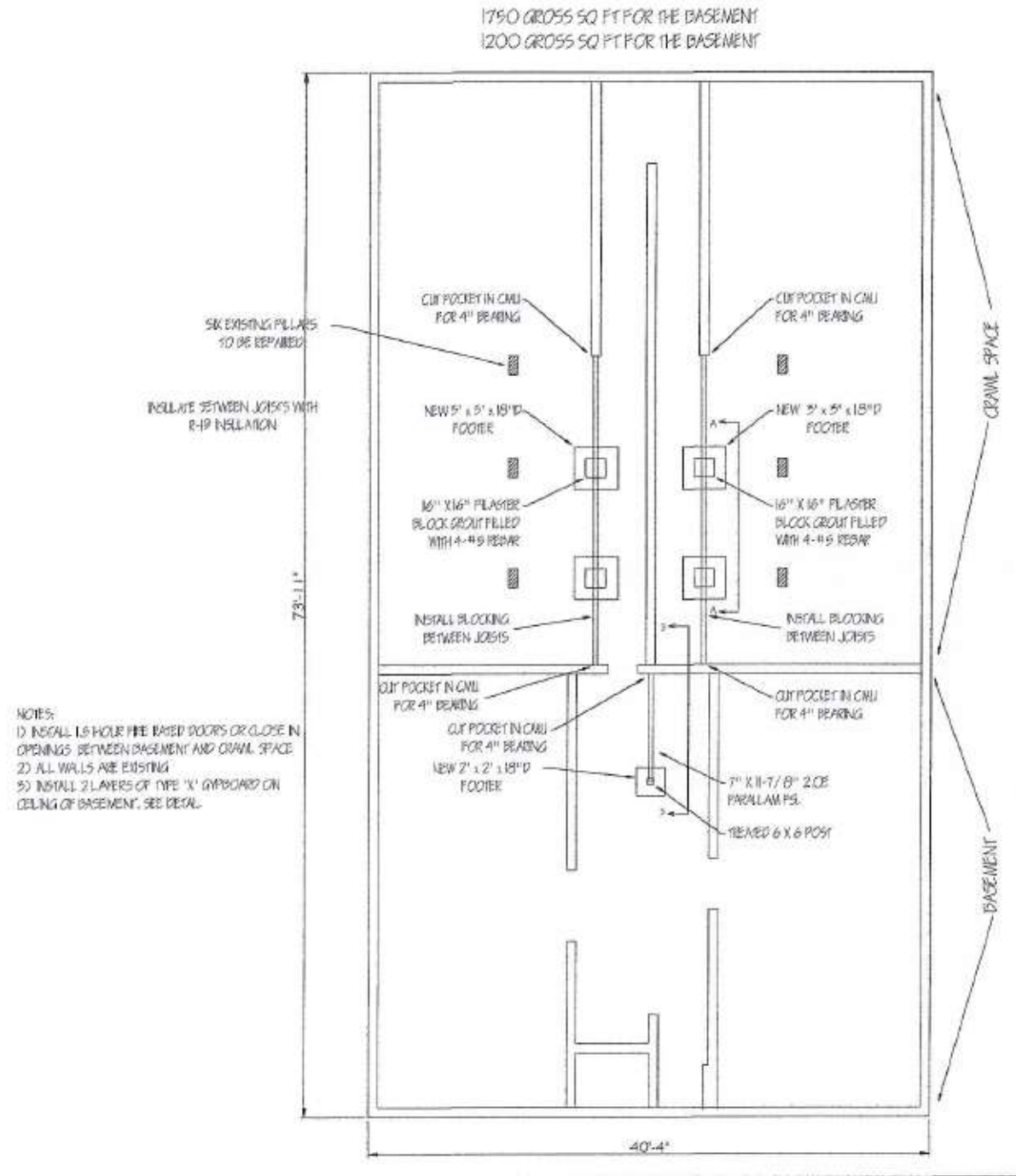
87-UV2-20; 650 Fairfield Avenue (southwest of the site), Variance of use of the Commercial Special Exception Ordinance to provide for an amusement arcade within 500 feet of a residential zoning district, **denied**.

84-UV3-124; 3502 North College Avenue (southwest of the site), Variance of use and development standards of the Commercial Zoning Ordinance to provide for the operation of a social club without sufficient parking, **denied**.

EXHIBITS

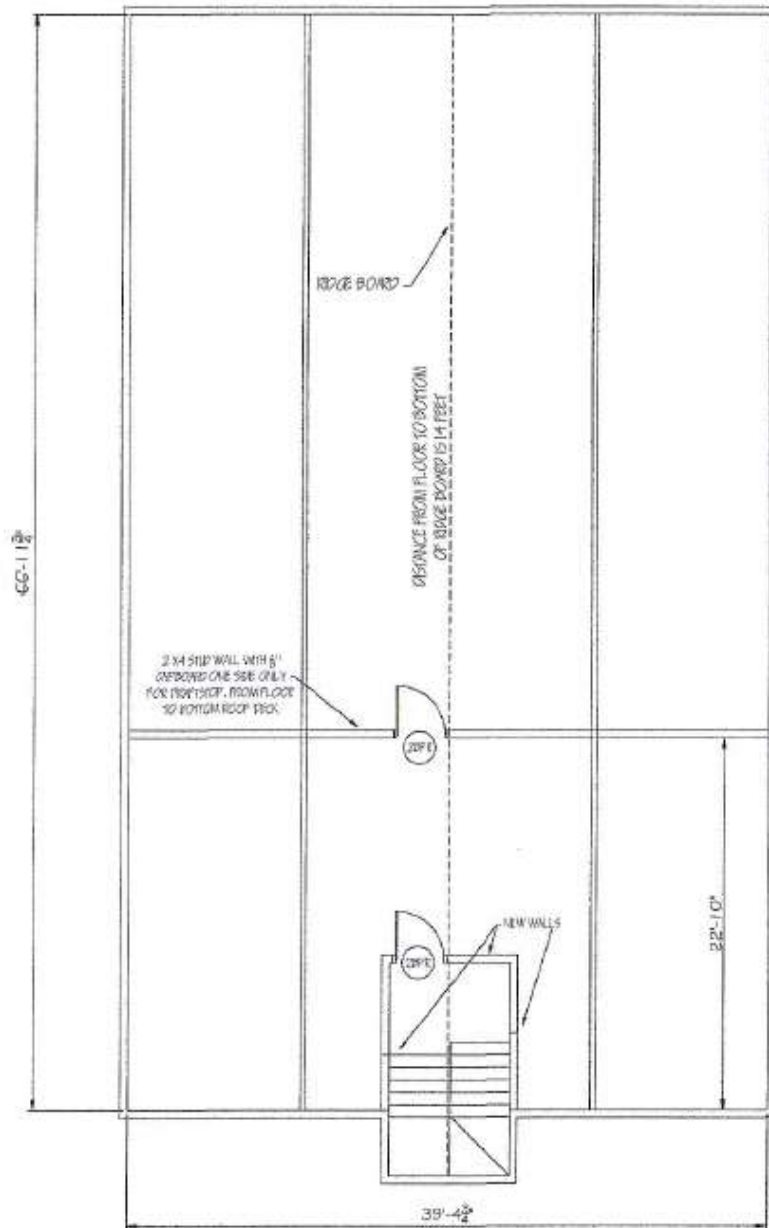


BASEMENT FLOOR PLAN



ATTIC FLOOR PLAN

ATTIC SPACE TO REMAIN AS IS (AN ATTIC) - 2800 SQ FT





Department of Metropolitan Development
Division of Planning
Current Planning

2024-MO1-002 COMMITMENTS

A202400019343

03/13/2024 08:03 AM

**FAITH KIMBROUGH
MARION COUNTY IN RECORDER**

FEE: \$ 35.00

PAGES: 3

By: DG

**N.S. COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE
IN CONNECTION WITH A VARIANCE, SPECIAL EXCEPTION OR APPROVAL GRANT.**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description:

Condominium Units 1, 2, 3, 4, 5 and 6 of the 3527 College Avenue Condominiums as recorded as Instrument Number A202100032301 under the date of March 11, 2021, in the records of the Recorder of Marion County, Indiana.

Statement of COMMITMENTS:

1. Petitioner will not become landlord or rent out units of subject property.
2. The property and/or units may not be rented for less than a 1 month term.
3. Occupying-occupants of a unit may not sublease their unit.
4. The property shall remain as condominiums recorded as Instrument Number A202100032301.
5. Petitioner shall include Commitment Nos. 1-4 on any deed related to the property.

These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the real estate. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition # 2024-MO1-002 by the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and,
2. Owners of all parcels of ground adjoining the real estate depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the

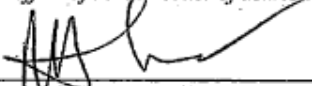
BZA's Exhibit A -- Page 1 of 3



offices of the various township assessors of the Marion County, which the current owners of record at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the COMMITMENT was made); and,

3. _____
4. _____

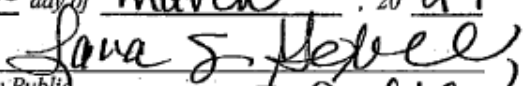
The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition # 2024-MO1-002

Signature: 
 Printed: Maninder S. Walia
 Title / Manager
 Organization
 Name: Walvan Investments, LLC

Signature: _____
 Printed: _____
 Title / _____
 Organization
 Name: _____

STATE OF INDIANA)
) SS:
 COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Maninder S. Walia, Manager of Walvan Investments, LLC, owner(s) (title / organization name) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this
11th day of March, 2024

 Notary Public
Lana S. Gobble
 Printed Name of Notary Public
 My Commission expires: 01-06-2032
 My County of residence: Marion

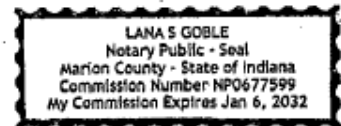




Photo of the subject site.



Photo of the southern property boundary.



Photo of the northern property boundary.



Photo of the adjacent alley to the east looking north.



Photo of the rear yard parking area.



Photo of the grass area north of the parking area and adjacent property.



Photo of the grass area south of the parking area and adjacent electrical substation.



Photo of the undeveloped property east of the alley.



Photo of the two-family dwelling south of the site.



Photo of the undeveloped lot north of the site and additional residences further north.



Photo of two-family dwellings west of the site.