

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-CAP-820 / 2023-CVR-820
Address: 6640 Heron Neck Drive (*Approximate Address*)
Location: Perry Township, Council District #20
Petitioner: WTS Inc., by Michael Rabinowitch
Request: Modification of Commitments related to the approval of 2008-ZON-853 terminating Commitments Two and Three and replace them with commitments updating the regulatory site plan, elevations, renderings, and plan of operation.

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for 20-foot side and rear transitional yards (50-foot transitional yards required).

ADDENDUM FOR JUNE 15, 2023, HEARING EXAMINER

Following a presentation by the petitioner's representative, a remonstrator requested a continuance to provide time for further review of the proposal and negotiations with the petitioners. The Hearing Examiner continued the petition from the May 11, 2023 hearing to the June 15, 2023 hearing without notice.

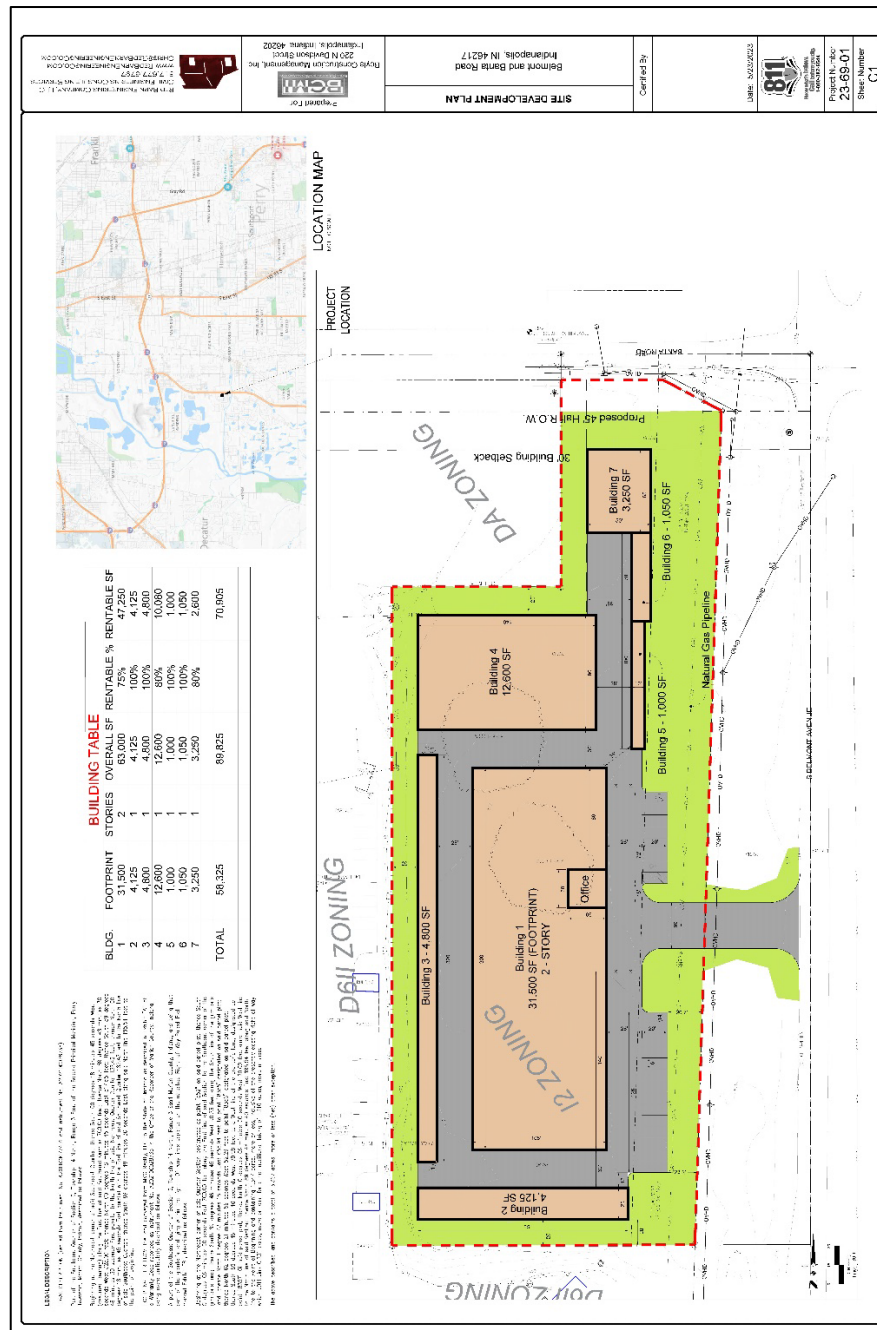
Following the May 11, 2023 hearing an updated site plan was submitted to the file. This site plan accommodates the dedication of right-of-way along Banta Road.

Further investigation of the location of the gas easement in relationship to the property lines of the subject site has been conducted. There is now agreement that the gas easement runs along the eastern edge of the site within the boundaries of the site. This easement reduces the amount of buildable area on the site, although 30 feet of the 50-foot width is also the required front setback for this site. The easement minus the area of the required setback reduces the buildable area of the site by 15,000 square feet (roughly one-third of an acre). The grant of the variance would provide for an additional 30,600 square feet of buildable area by reducing the width of the required transitional yards. This is about double the amount of buildable area lost to the easement.

The petitioner's representative has stated that the site's drainage system would be modified and the deep swale along the west border of the site would be filled. This relieves staff's concern about planting within the area of the swale.

(Continued)

STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Site Plan



(Continued)

STAFF REPORT 2023-CAP-820 / 2023-CVR-820 (Continued)

May 11, 2023 Staff Report

RECOMMENDATION

Staff **recommends denial of these requests.** However, should the Hearing Examiner decide to approve the request, staff asks that the following commitment be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A 45-foot half right-of-way shall be dedicated along the frontage of Banta Road, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

Should the variance petition be withdrawn and the site redesigned in a manner that meets the Ordinance, staff would be likely to recommend approval of the Modification of Commitments.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ Historic aerial photography indicates that the vicinity of the subject site was agricultural land until the 1980s when industrial uses began to be developed along State Route 37 to the north of the site. In 1998 the property to the west and south of the subject site was rezoned to the D-6II district to provide for multi-family residential development. By 2001 that community was built. The subject site remains undeveloped.
- ◇ The site is located on the west side of Belmont Avenue, which functions as a frontage road for SR 37. Currently, I-69, is being constructed to replace SR 37. There will not be an interchange at Banta Road, but Banta Road will pass under I-69.
- ◇ A 50-foot-wide natural gas pipeline easement runs along the Belmont Avenue frontage of the site. The easement is entirely within the right-of-way and does not affect the amount of buildable space on the subject site.

(Continued)

STAFF REPORT 2023-CAP-820 / 2023-CVR-820 (Continued)

- ◇ The Comprehensive Land Use Plan (2018) recommends Suburban Neighborhood for the site. This typology is primarily intended for single-family dwellings although neighborhood-serving retailing and offices are envisioned under certain circumstances.

MODIFICATION OF COMMITMENTS

- ◇ The site has been the subject of four zoning petitions over the last 25 years. The first two, 98-Z-17 and 2001-ZON-040, were requests for rezoning to the C-3 district. Both petitions were withdrawn. In petition 2002-ZON-152; the site was rezoned to the C-S district to provide for all C-1 and C-3 uses and a banquet facility. Finally, in petition 2008-ZON-853 / 2008-VAR-853 the site was rezoned to the I-2-S district with a companion variance of development standards to provide for the deficient screening of loading areas. However, no development has taken place on the site.
- ◇ The 2008 petitions were approved with commitments that the development would comply with the approved conceptual site plan and building elevations and would operate in accordance with the approved Plan of Operation. The approvals were for a single two-story building for the expansion of Morris Machines, which operated across Banta Road to the north.
- ◇ This petition would terminate the commitments from the 2008 petitions and replace them with new commitments for compliance with a new site plan, building elevations and renderings, and plan of operation.
- ◇ The proposed use, self-storage, is permitted in the I-2 district. This petition would limit use of the site to only self-storage and no other I-2 uses.

VARIANCES

- ◇ This petition requests variances to provide for 20-foot-wide side and rear transitional yards where 50-foot-wide transitional yards are required.
- ◇ The purpose of transitional yards is to provide a buffer between a less intense use and a more intense use. In this case, it would buffer residential uses, both single-family and multi-family dwellings, from an industrial use, the proposed self-storage units.

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STAFF REPORT 2023-CAP-820 / 2023-CVR-820 (Continued)

- ◇ A drainage ditch approximately 20 feet in width runs along the westernmost edge of the site. The landscape plan submitted with this petition shows all the westside transitional yard planting in this drainage ditch. This location is not conducive to either the proper functioning of the drainageway or to the growth, longevity, and effectiveness of the landscaping. A landscape buffer of the required width would provide space for both the drainageway and the buffer landscaping.
- ◇ The site is undeveloped, level and without impediments to development.
- ◇ Because the site can be easily developed within the constraints of the Ordinance, and development of the site as proposed would burden the surrounding users, this petition should be denied.

Wellfield Protection Secondary Zoning Districts

- ◇ A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.
- ◇ There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. The subject site is split between the South W-1 and the South W-5 wellfield protection areas.
- ◇ All development within these districts is subject to Commission approval. The filing of a site and development plan is required and subject to approval, on behalf of the Commission, by a Technically Qualified Person (TQP), unless exempted by the Ordinance.
- ◇ Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

I-2 Metro Undeveloped land

(Continued)

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SURROUNDING ZONING AND LAND USE

North	D-A, I-2	Single-family dwelling, machine shop
South	D-6II	Multi-family dwelling complex
East	D-A	I-69, undeveloped land
West	D-A, D-6II	Multi-family dwelling complex

COMPREHENSIVE LAND USE PLAN The Perry Township Comprehensive Land Use Plan (2018) recommends Suburban Neighborhood.

THOROUGHFARE PLAN Banta Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with a 71-foot existing right-of-way and a 90-foot proposed right-of-way.

Belmont Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with an existing right-of-way ranging from 70 feet to 90 feet and a 90-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT This southern portion of this site is located within the South W-1 wellfield protection district. The northern portion of this site is located within the South W-5 wellfield protection district.

STREAM PROTECTION CORRIDOR This site is not located within a Stream Protection Corridor.

ZONING HISTORY – SITE

2008-ZON-853 / 2008-VAR-853; 6640 Heron Neck Drive, requested the rezoning of 4.8 acres from the C-S district to the I-2-S district and requested a variance of development standards to provide for the deficient screening of loading areas, **approved.**

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STAFF REPORT 2023-CAP-820 / 2023-CVR-820(Continued)

2002-ZON-152; 6640 Heron Neck Drive, requested the rezoning of 4.7 acres from the D-A district to the C-S district to provide for all C-1 and C-3 uses and a banquet facility, **approved**.

2001-ZON-040; 6630 South Belmont Avenue, requested the rezoning of 4.8 acres from the D-A district to the C-3 district, **withdrawn**.

98-Z-17; 6650 South Belmont Avenue, requested the rezoning of 4.8 acres from the D-A district to the C-3 district, **withdrawn**.

ZONING HISTORY – VICINITY

2008-DV3-020; 640 South Belmont Avenue (north of site), requested a variance of development standards to provide for parking in the required yards, deficient front setback, and a patio in the right-of-way of Banta Road and in the front transitional yard, **approved**.

99-V2-53; 6640 Heron Neck Drive (west and south of site), requested a variance of development standards to legally establish a 35-foot-tall “lighthouse” as an **accessory structure**, **approved**.

98-Z-18; 6650 South Belmont Avenue (west and south of site), requested the rezoning of 38.3 acres from the D-A district to the D-6II district, **approved**.

95-V1-2; 2151 West Banta Road (west of site), requested a variance of development standards to provide for a single-family dwelling with deficient lot area and width, **approved**.

95-HSE-8; 2151 West Banta Road (north of site), requested a Special Exception for a manufactured home in a dwelling district, **approved**.

94-UV1-48; 2219 West Banta Road (west of site), requested a variance of use to provide for an accessory structure on a site without a primary structure, **approved**.

85-Z-14; 6450 South Belmont Avenue (north of site), requested the rezoning of 3.6 acres from the A-2 district to the I-2-S district, **approved**

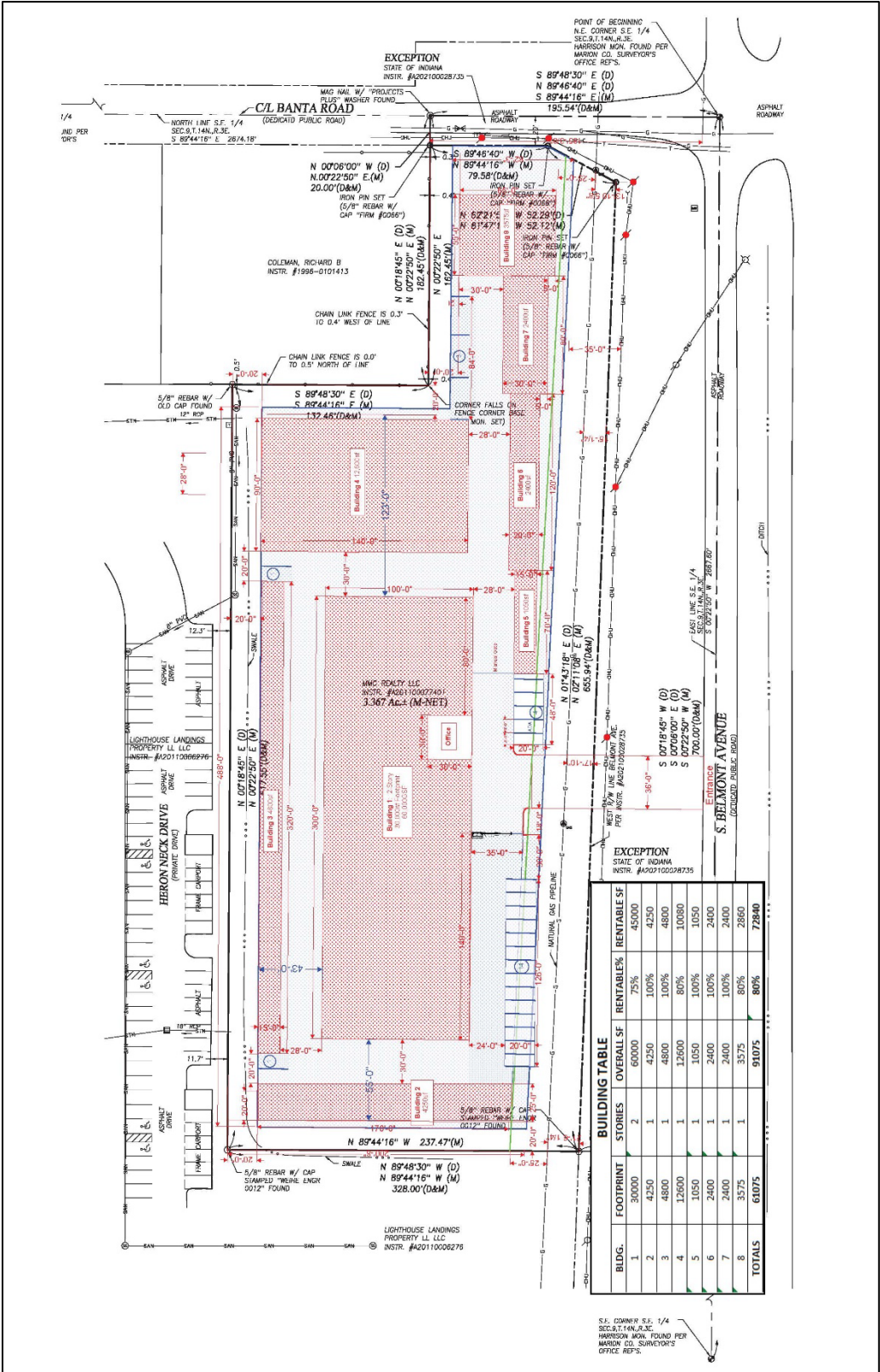
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The map displays a portion of the City of San Diego, showing various lots, streets, and proposed developments. Key features include:

- Streets:** Banta Rd, Belmont Ave, Spur Point Dr, Heron Neck Dr, Graves Light Dr, and SR 37.
- Lot Numbers:** Numerous lots are numbered, including 6410, 6411, 6412, 6413, 6414, 6415, 6416, 6417, 6418, 6419, 6420, 6421, 6422, 6423, 6424, 6425, 6426, 6427, 6428, 6429, 6430, 6431, 6432, 6433, 6434, 6435, 6436, 6437, 6438, 6439, 6440, 6441, 6442, 6443, 6444, 6445, 6446, 6447, 6448, 6449, 6450, 6451, 6452, 6453, 6454, 6455, 6456, 6457, 6458, 6459, 6460, 6461, 6462, 6463, 6464, 6465, 6466, 6467, 6468, 6469, 6470, 6471, 6472, 6473, 6474, 6475, 6476, 6477, 6478, 6479, 6480, 6481, 6482, 6483, 6484, 6485, 6486, 6487, 6488, 6489, 6490, 6491, 6492, 6493, 6494, 6495, 6496, 6497, 6498, 6499, 6500, 6501, 6502, 6503, 6504, 6505, 6506, 6507, 6508, 6509, 6510, 6511, 6512, 6513, 6514, 6515, 6516, 6517, 6518, 6519, 6520, 6521, 6522, 6523, 6524, 6525, 6526, 6527, 6528, 6529, 6530, 6531, 6532, 6533, 6534, 6535, 6536, 6537, 6538, 6539, 6540, 6541, 6542, 6543, 6544, 6545, 6546, 6547, 6548, 6549, 6550, 6551, 6552, 6553, 6554, 6555, 6556, 6557, 6558, 6559, 6560, 6561, 6562, 6563, 6564, 6565, 6566, 6567, 6568, 6569, 6570, 6571, 6572, 6573, 6574, 6575, 6576, 6577, 6578, 6579, 6580, 6581, 6582, 6583, 6584, 6585, 6586, 6587, 6588, 6589, 6590, 6591, 6592, 6593, 6594, 6595, 6596, 6597, 6598, 6599, 6600, 6601, 6602, 6603, 6604, 6605, 6606, 6607, 6608, 6609, 6610, 6611, 6612, 6613, 6614, 6615, 6616, 6617, 6618, 6619, 6620, 6621, 6622, 6623, 6624, 6625, 6626, 6627, 6628, 6629, 6630, 6631, 6632, 6633, 6634, 6635, 6636, 6637, 6638, 6639, 6640, 6641, 6642, 6643, 6644, 6645, 6646, 6647, 6648, 6649, 6650, 6651, 6652, 6653, 6654, 6655, 6656, 6657, 6658, 6659, 6660, 6661, 6662, 6663, 6664, 6665, 6666, 6667, 6668, 6669, 6670, 6671, 6672, 6673, 6674, 6675, 6676, 6677, 6678, 6679, 6680, 6681, 6682, 6683, 6684, 6685, 6686, 6687, 6688, 6689, 6690, 6691, 6692, 6693, 6694, 6695, 6696, 6697, 6698, 6699, 6700, 6701, 6702, 6703, 6704, 6705, 6706, 6707, 6708, 6709, 6710, 6711, 6712, 6713, 6714, 6715, 6716, 6717, 6718, 6719, 6720, 6721, 6722, 6723, 6724, 6725, 6726, 6727, 6728, 6729, 6730, 6731, 6732, 6733, 6734, 6735, 6736, 6737, 6738, 6739, 6740, 6741, 6742, 6743, 6744, 6745, 6746, 6747, 6748, 6749, 6750, 6751, 6752, 6753, 6754, 6755, 6756, 6757, 6758, 6759, 6760, 6761, 6762, 6763, 6764, 6765, 6766, 6767, 6768, 6769, 6770, 6771, 6772, 6773, 6774, 6775, 6776, 6777, 6778, 6779, 6780, 6781, 6782, 6783, 6784, 6785, 6786, 6787, 6788, 6789, 6790, 6791, 6792, 6793, 6794, 6795, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6805, 6806, 6807, 6808, 6809, 6810, 6811, 6812, 6813, 6814, 6815, 6816, 6817, 6818, 6819, 6820, 6821, 6822, 6823, 6824, 6825, 6826, 6827, 6828, 6829, 6830, 6831, 6832, 6833, 6834, 6835, 6836, 6837, 6838, 6839, 6840, 6841, 6842, 6843, 6844, 6845, 6846, 6847, 6848, 6849, 6850, 6851, 6852, 6853, 6854, 6855, 6856, 6857, 6858, 6859, 6860, 6861, 6862, 6863, 6864, 6865, 6866, 6867, 6868, 6869, 6870, 6871, 6872, 6873, 6874, 6875, 6876, 6877, 6878, 6879, 6880, 6881, 6882, 6883, 6884, 6885, 6886, 6887, 6888, 6889, 6890, 6891, 6892, 6893, 6894, 6895, 6896, 6897, 6898, 6899, 6900, 6901, 6902, 6903, 6904, 6905, 6906, 6907, 6908, 6909, 6910, 6911, 6912, 6913, 6914, 6915, 6916, 6917, 6918, 6919, 6920, 6921, 6922, 6923, 6924, 6925, 6926, 6927, 6928, 6929, 6930, 6931, 6932, 6933, 6934, 6935, 6936, 6937, 6938, 6939, 6940, 6941, 6942, 6943, 6944, 6945, 6946, 6947, 6948, 6949, 6950, 6951, 6952, 6953, 6954, 6955, 6956, 6957, 6958, 6959, 6960, 6961, 6962, 6963, 6964, 6965, 6966, 6967, 6968, 6969, 6970, 6971, 6972, 6973, 6974, 6975, 6976, 6977, 6978, 6979, 6980, 6981, 6982, 6983, 6984, 6985, 6986, 6987, 6988, 6989, 6990, 6991, 6992, 6993, 6994, 6995, 6996, 6997, 6998, 6999, 7000.
- Area Designations:** SU18, DA, DP, D6N, C4, I2.
- Other Labels:** 1900, 1846, 1845, 1945, 2600, 2272, 2216, 2215, 2214, 2213, 2212, 2211, 2210, 2209, 2208, 2207, 2206, 2205, 2204, 2203, 2202, 2201, 2200, 2199, 2198, 2197, 2196, 2195, 2194, 2193, 2192, 2191, 2190, 2189, 2188, 2187, 2186, 2185, 2184, 2183, 2182, 2181, 2180, 2179, 2178, 2177, 2176, 2175, 2174, 2173, 2172, 217

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STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Site Plan



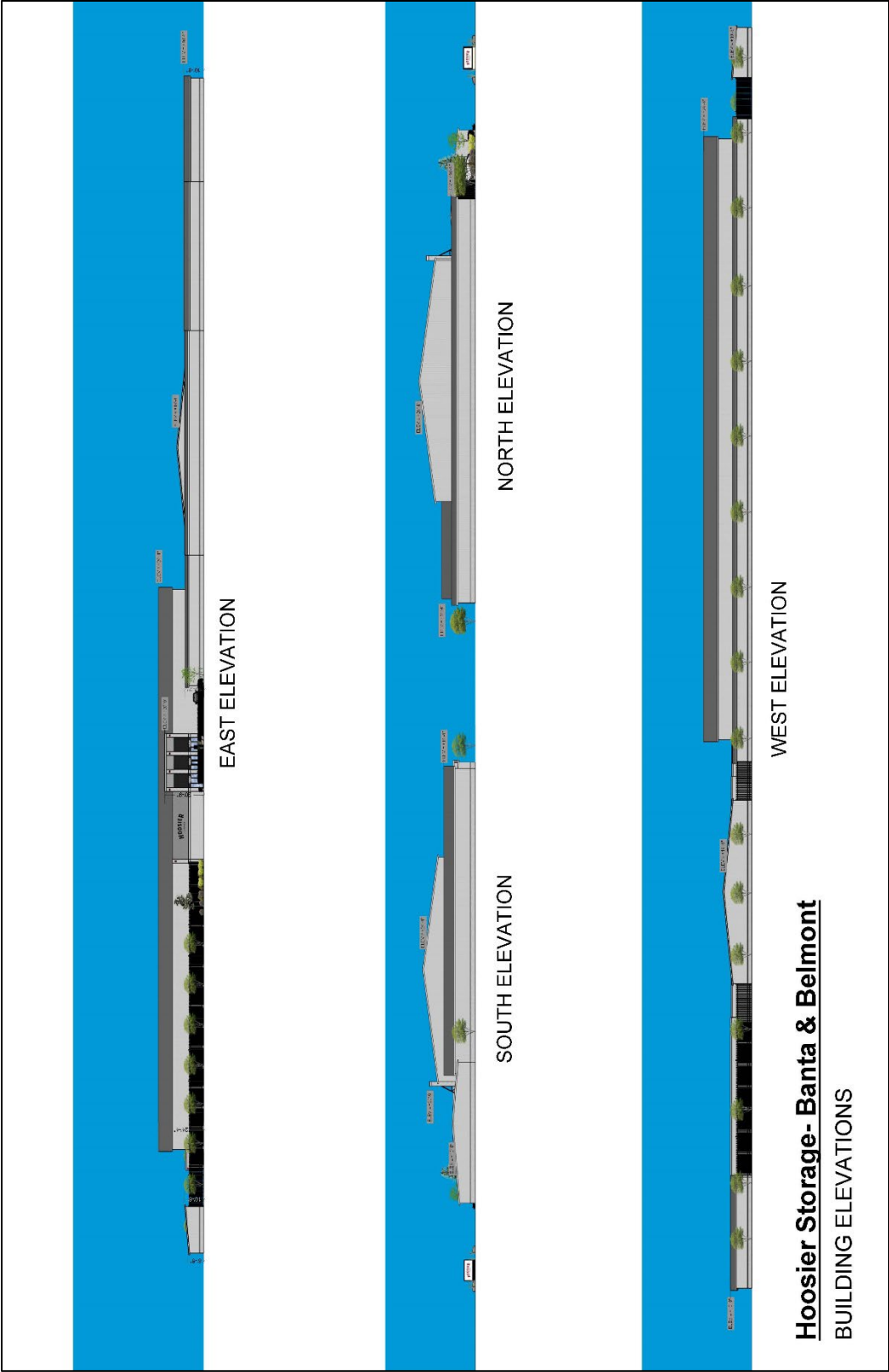
STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Aerial rendering



STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Renderings



STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Building elevations



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STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

There will be a 20' setback from the property line to the rear of the storage buildings, which essentially provides adjacent property owners an additional 20' of undisturbed area. Also, ordinance required landscape buffering will be provided.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

There will be a 20' setback from the property line to the rear of the storage buildings, which essentially provides adjacent property owners an additional 20' of undisturbed area. Also, ordinance required landscape buffering will be provided.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The parcel is narrow and "L" shaped such that development of the property is challenging without some relief from the 50' buffer requirement. Also, a gas line easement along the east frontage interferes with the ability to develop the property closer to Belmont St.

DECISION

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

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____
_____	_____

STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Proposed Plan of Operation.

HOOSIER STORAGE – 6440 HERRON NECK DR.

PLAN OF OPERATION

Project Description

The 3.37 acre undeveloped property, located within the newly established I-69 corridor, will be improved with a top of the line self-storage facility, featuring five separate buildings, with the main two story building (maximum height 24'9") located in the middle of the property with one story buildings located on the perimeter of the property. Access to the facility will be off of South Belmont Street.

Safety and Security

A management office will be located on site, which will be staffed by at least one employee during normal business hours. The facility will be fully secure with fencing, gates, security cameras and exterior lighting. Customer access to the storage units will be through a secured lift gate which will be always closed. Each customer will have their own code required to enter and leave the property. Customer access to the storage facility will be from 6:00am to 10:00pm daily. There shall be no outside storage permitted.

Hours of Operation

The management office will be open 9:30am – 6:00pm Monday through Saturday. Access to the storage facility will be from 6:00am – 10:00 pm daily.

Landscaping

Landscaping shall be provided in accordance with the Marion County Consolidated Zoning Ordinance.

STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Proposed Commitments.

**STATEMENT OF MODIFICATION OR TERMINATION
OF COVENANTS OR COMMITMENTS**

**COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR
COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN
CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION
OR SPECIAL EXCEPTION PETITION**

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

Legal Description:

See attached.

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Commitment No. 2 and Commitment No. 3 from Document No. 2009-0009799 are hereby terminated.

2. All development of the property shall be in compliance with the site plan, elevations and renderings approved by the Metropolitan Development Commission ("MDC").

All activities on the property shall be in accordance with the Plan of Operation approved by the MDC.

3. _____

4. _____

5. _____

STAFF REPORT 2023-CAP-820 / 2023-CVR-820, Photographs



Looking south across the subject site from Banta Road.



Looking east along the north edge of the site and the intersection of Banta Road with Belmont Avenue and SR 37. I-69 is under construction in the background.



Looking north across the site at the neighbor to the north.



Looking west from the site along Banta Road.



Looking west across the site at the neighbor to the northwest.



Looking north along the west edge of the site at the neighbor to the northwest.



Looking west from the site at the neighbor to the west.



Looking south across the site, showing the neighbor to the south and west.