

BOARD OF ZONING APPEALS DIVISION I

October 1, 2024

Case Number: 2024-DV1-017
Property Address: 2715 and 2719 Madison Avenue
Location: Center Township, Council District #18
Petitioner: TGA SC Global Indy I LP, by Jay Ingrassia
Current Zoning: C-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot tall wooden privacy fence and a six-foot tall chain link privacy fence within the front yards of Madison Avenue and East Street (maximum fence height of five feet permitted) with the chain link fence along East Street being topped with barbed wire (prohibited, chain link fences not permitted within the front yard) and encroaching within the clear sight triangle of the driveways along East Street (not permitted).

Current Land Use: Self-Storage Facility

Staff

Recommendations: Approval, subject to a commitment

Staff Reviewer: Eddie Honea, Principal Planner II, Interim Administrator

PETITION HISTORY

This case was initially scheduled for hearing on July 2, 2024. It was continued, for cause, by agreement between Staff and the petitioner, in order to further discuss specifics of the filing.

At the August 6, 2024 hearing, Staff requested a continuance in order to make an amendment to the address on the notice. The petitioner subsequently amended the petition to clarify that the barbed wire portion of the fence is only along East Street. Staff continues to recommend denial of the request.

At the September 3, 2024, the petitioner requested a continuance at the recommendation of the Board in order to further engage with Staff and interested parties to reach a resolution.

On September 20th and 24th, the petitioner submitted revised site plans depicted different portions of the site depicting the following changes: a substantial portion of the fencing along Madison Avenue will be five-foot tall aluminum decorative fencing; the fence and gates along East Street will be relocated to the west, behind the established tree line and replaced with vinyl coated chain link fence; the barbed wire will be removed. This would eliminate the need for variances for barbed wire and clear sight triangle encroachment. These plans are available below, within the Exhibits portion of the Staff Report. Staff believes these changes to be a reasonable compromise and represent a substantial improvement to existing site conditions. Therefore, Staff **recommends approval** of the request, subject to the site plans referenced above.

STAFF RECOMMENDATION

Staff recommends denial of the request.

PETITION OVERVIEW

- This petition would allow for the installation of a six-foot tall decorative fence along the frontage of Madison Avenue, and a six-foot tall chain link fence along the East Street frontage. It would also legally establish an existing six-foot tall chain link fences along the side lot lines, but within the front yard of the subject site.
- At the time of filing, the fence along East Street was improved with barbed wire. The petitioner has verbally indicated this may be removed. Should this still be the intent, the petitioner should verbally withdraw this portion of the request.
- Chain link fencing is not permitted within the front yards of Commercial, Industrial or Mixed-Use Districts in order to promote an enhanced streetscape. In addition, non-chain link fencing tends to be more difficult to scale, remove or otherwise breach which has the effect of enhancing site security.
- The C-5 District, due to the intensity of uses permitted and typical application in areas with significant separation from protected districts and less intense land uses, allows for five-foot tall fencing within front yards. Fence height limitations within front yards are intended to promote aesthetic streetscapes and prevent their “canyonization”
- The clear sight triangle is an area along rights-of-way intersections or driveways where structures or landscaping between 2.5-feet and eight-feet tall are not permitted to be located. This clearance is intended to preserve lines of sight in order to reduce the potential for vehicle, pedestrian and cyclists collisions.
- Barbed or Razor wire is prohibited in all districts and applications with the exception of: enclosing livestock or agricultural uses; public safety facilities; or correctional or penal institutions. This prohibition is intended to enhance streetscapes and the injury or maiming of the public.
- The fence along East Street is comprised of a six-foot tall chain link fence and an electric sliding access gate. Staff believes that this fence can be modified or replaced with a compliant five-foot tall decorative fence that would comply with Ordinance standards. Staff would note that the properties directly across East Street include a High School (Providence Cristo Rey High School) and a public park (Columbia Park). In Staffs opinion, the location of a non-compliant fence, particularly one improved with barbed wire, in close proximity to these land uses is wholly inappropriate.

- Existing six-foot tall chain link fences are located along the northern and southern lot lines, but forward of the primary building, therefore are located within the front yard of the property. The subject site contains two out lots, being 2711 and 2719 Madison Avenues. If these were developed, this portion of the fence request would become compliant. These fences also abut other C-5 zoned properties. While Staff is not opposed to this portion of the request, for these reasons, given the scope of the petition in its entirety, Staff recommends denial.
- As proposed, the mid to southern portion of the subject site along Madison Avenue would be improved with a six-foot tall decorative fence. In Staff's opinion, a five-foot-tall fence would provide the same degree of site security and that an appropriate practical difficulty is not present warranting a favorable Staff recommendation.
- The subject site was originally improved as a large format retail building (K-Mart) and automobile fueling station. The automobile fueling station has since be demolished and remediated for redevelopment. In 2016 a use variance was filed to allow for an indoor self-storage facility for personal property, including recreational vehicles. It was expressly conveyed to Staff in that filing that outdoor storage and operations would not be provided. Staff recommended approval of that request largely due to this exclusion. The request was approved by the Board of Zoning Appeals on January 17, 2017.
- In 2022 another use variance was filed to allow for the existing self-storage facility in addition to the outdoor covered storage of recreational vehicles. Staff strongly opposed the request given the reasoning of support for the 2016 filing. While outdoor operations are permitted in the C-5 District, outdoor storage is only permitted for vehicles awaiting repair. General outdoor storage, which includes the type of storage permitted by the grant of 2022-UV1-036, is only permitted within the C-7 and Industrial District. Staff would note that these are the same districts that permit self-storage facilities by-right.
- Six-foot tall fences are only permitted by-right within the front yards of C-7, I-3 and I-4 Districts. This is due to the generally enhanced intensity and significant separation from less intense land uses. Staff is concerned about the growing intensity and development pattern of the subject site, particularly by variance grant, and that the site effectively operates at an intensity that is comparable to C-7, I-3 and I-4 uses. In addition, Staff would note that the site is recommended for Community Commercial, which is indicative of C-3 and C-4 zoning. Therefore, Staff believes the property to be over zoned in comparison to its comprehensive plan recommendation.

GENERAL INFORMATION

Existing Zoning	C-5	
Existing Land Use	Self-Storage Facility	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	C-5 /D-8	North: Office Building and Single-family dwellings
South:	C-5	South: Automotive Repair
East:	SU-2	East: School
West:	C-5	West: Retail & Non-profit
Thoroughfare Plan		
	Madison Avenue East Street	Local Street Local Street
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	April 23, 2024	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	April 23, 2024	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Land Use Pattern Book

Pattern Book / Land Use Plan

- 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.

- While the request is a development standard and the Land Use Pattern book generally provides guidance on land use, Staff would note that one of the conditions for Large-Scale retailing and Services is that outdoor display should be limited. Given that, in Staff's opinion, the request is primarily driven by the non-permitted outdoor storage, that the request is in direct conflict with the plan recommendation. |

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

Subject Site:

2022-UV1-036; 2711, 2715 and 2719 Madison Avenue; requested Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a self-storage facility in an existing retail building (not permitted) with the outdoor covered storage of recreational vehicles, boats, and other vehicles (only storage of inoperable vehicles awaiting repair permitted); **approved**

2019-MO3-002; 2711 Madison Avenue (subject site), requested a Modification of Commitments of 2016-UV3-017 to extend the time limitation for Commitment Two until April 1, 2020, **denied.**

2016-UV3-017; 2715 Madison Avenue (subject site), requested a Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of the existing retail building into an indoor self-storage facility, including indoor boat/RV storage, **approved (subject to Plan of Operation).**



Department of Metropolitan Development
Division of Planning
Current Planning

2001-ZON-059; 2715 Madison Avenue, requested a rezoning of 10.337 from D-8 and C-5 district, **approved (with commitments)**.

2001-UV1-005; 2715 Madison Avenue, requested a Variance of use of the Dwelling Districts Zoning Ordinance to provide for a 7,396 square foot addition and a 28,804 square foot addition to an existing commercial building, **approved (with conditions)**.

70-V3-32; 2715 Madison Avenue, requested a Variance of use and setback requirements of the Dwelling Districts Ordinance to permit the erection and operation of a K-mort department store, with patio shop, outside sales, pole sign and signs on the building, **approved**.

Vicinity:

2021-UV1-033, 2726 Madison Avenue, requested a Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a collection center/warehouse and to provide for a 3,840-square-foot building with zero percent transparency on the west facade, without west and south transitional yards, without landscaping and without sidewalks, **approved**.

2018-DV1-044; 2729 Madison Avenue, requested a Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an automobile repair shop, with storage of operable vehicles and equipment equal to 48% of the gross floor area and to legally establish zero-foot side and rear setbacks, with a handicapped space with deficient width and a three-foot front setback, **approved**.

2017-ZON-010; 2829 Madison Avenue, requested the rezoning of 4.8 acres from the D-10 district to the C-4 classification to provide for commercial uses, **approved**.

2016-UV3-017; 2715 Madison Avenue, requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of the existing retail building into an indoor self-storage facility, including indoor boat/RV storage, **granted**.

2014-CZN-828 / 2014-CVR-828; 2829 Madison Avenue, requested the rezoning of 4.48 acres from the C-5 District to the D-10 classification to provide for four, three-story multi-family buildings, with 144 units and a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a multi-family development, with a floor area ratio of 0.7036 and an open space ratio of 1.067; **approved and granted**.

2002-HOV-026; 2640 Madison Avenue, requested a variance of development standards of the Commercial Zoning Ordinance to provide for a trash dumpster located within the required front yard, **granted**.



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Current Planning

2001-UV1-005; 2715 Madison Avenue, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a 7,396-square foot addition and a 28,804-square foot addition to an existing commercial building, **granted**.

2001-ZON-059; 2715 Madison Avenue, requested the rezoning of 10.337 acres from C-5 and D-8 to C-5, **approved**.

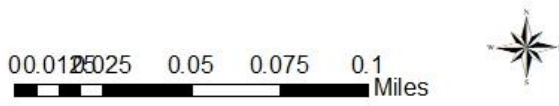
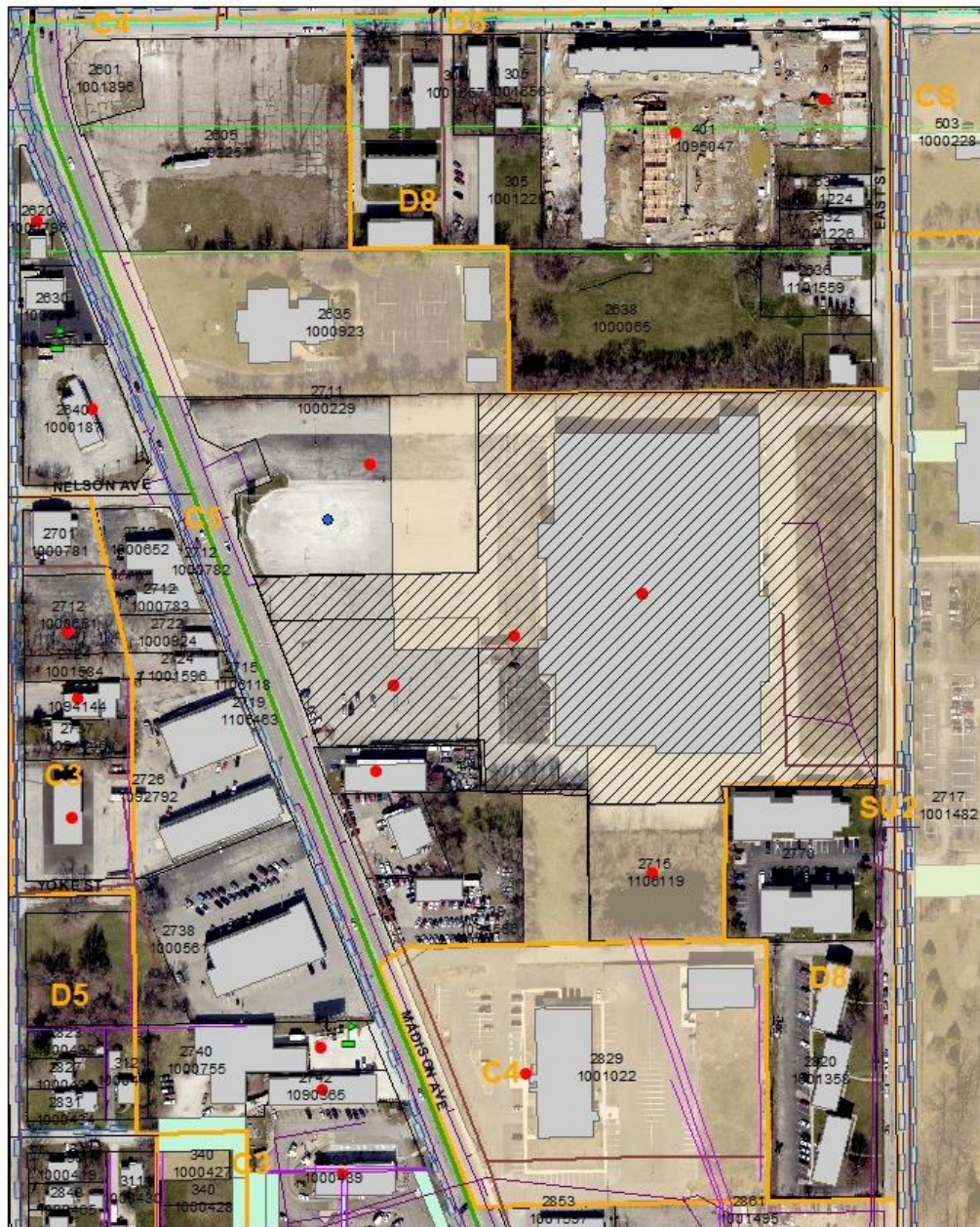
94-UV1-17; 2715 Brill Road, requested a variance of use to expand a parking lot for an adult entertainment business, **granted**.

85-UV2-32; 2735 Brill Road, requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for the removal of an existing residence and construction of a 1,256-square foot addition to an existing garage to be used for the storage of commercial vehicles both inside and outside; **granted**.

83-UV1-107; 2740 Madison Avenue, requested a variance of use of the Commercial Zoning Ordinance and of the Dwelling Districts Zoning Ordinance to allow the outside display of merchandise in the required front yard of an existing retail furniture store and off-street parking on a portion of the subject property; **granted**.

79-UV1-105; 2652 Brill Road, requested a variance of use to provide for an automobile machine shop; **granted**.

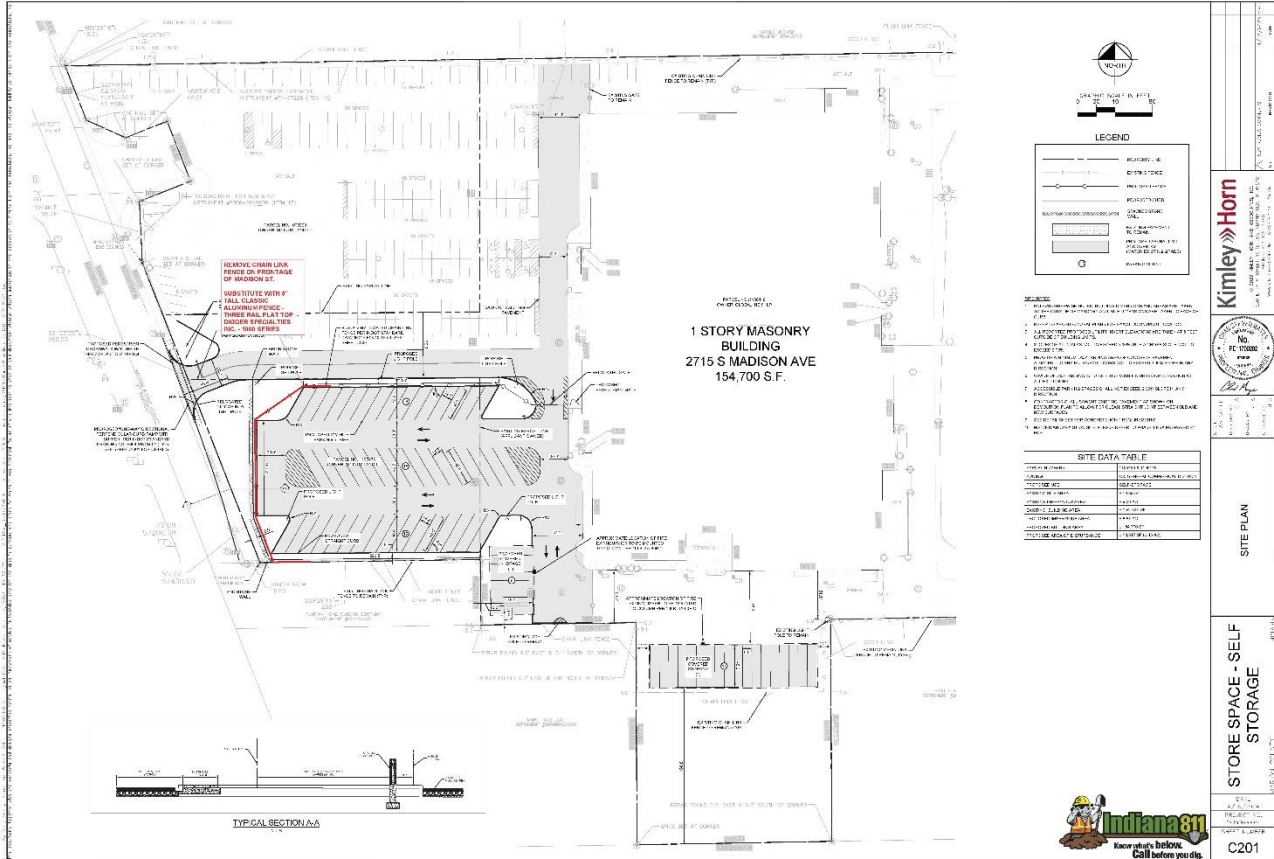
EXHIBITS



Original Site Plan:



Revised Site Plan September 24





Department of Metropolitan Development
Division of Planning
Current Planning

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:

The gate and fence will be within the property limits and will not interfere with regular public operations.

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:

Use will be self-contained and has pre-existed for multiple years without any issues.

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

The gate and fence proposed to be approved in the variance were installed prior to the current management. Having to modify them to comply with code would represent a significant detriment to operations of the facility.

DECISION

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

Adopted this _____ day of _____, 20 ____



Photo One: Looking South Along Madison Avenue



Photo Two: Area of Proposed Fencing Within Front Yard of Madison Avenue



Photo Three: Primary Building, Facing East



Photo Four: Facing North Along Madison Avenue



Photo Five: Existing Fencing Within North Side Yard



Photo Six: Existing Fence Within Front Yard of East Street in Background