



BOARD OF ZONING APPEALS DIVISION I

October 1, 2024

Case Number: 2024-UV1-018
Address: 2243 Massachusetts Avenue (approximate address)
Location: Center Township, Council District #8
Zoning: C-7 / D-8
Petitioner: INCERTEC Heat Treating LLC, by John Ferrier
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a freestanding surface parking lot (not permitted) with a six-foot tall decorative fence within the front yard of Brookside Avenue (maximum height of 3.5-feet permitted).

Current Land Use: Undeveloped

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for the construction of a freestanding surface parking lot on the portion of the size zoned D-8, with a six-foot tall decorative fence within the front yard of Brookside Avenue. The lot is located mid-block within an established single-family residential neighborhood.
- ◇ The Comprehensive Plan recommends traditional neighborhood uses for the subject site which recommends a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance.



- ◇ Given the increase in intensity between the existing zoning and the proposed use, approval of this request would facilitate the intrusion of other commercial uses and parking lots into an established residential neighborhood. The request would encourage additional encroachment, in a manner violating the development norms and residential aesthetics of the street, and squarely deviating from the recommendations of the Comprehensive Plan.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-8 and could be developed as permitted by that zoning without the need for any variances. Any practical difficulty is self-imposed by the desire to use the site for the operation of a freestanding surface parking lot.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance permits a maximum fence height of 42 inches within the front yard, and six feet in the rear yard. The purpose of the height limitation is to create an open appearance along public rights-of-way, prevent blocking views at intersections, limit the negative visual impacts on adjacent properties, and prevent a canyonized effect of the streetscape.
- ◇ The height requirements are in place to limit bulk, create a consistent density and intensity, and keep the environment at a human-scale. This regulation limits the number of “walls” or abnormally tall structures that can be built to ensure neighborhood compatibility and to prevent unreasonable blockage of sunlight.
- ◇ There appears to be no other fences 6 feet tall in the vicinity that are located in an established front yard. The proposed request would initiate a new pattern of development along Brookside that would be counter to the Comprehensive plan.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the comprehensive plan and zoning ordinance without the need for the requested variances. Therefore, the Comprehensive Plan recommendation should not be disregarded, nor of the clearly residential nature of the surrounding area. For these reasons, staff recommends its denial.

GENERAL INFORMATION

Existing Zoning	C-7 / D-8	
Existing Land Use	Single Family Dwellings	
Comprehensive Plan	Village Mixed Use / Traditional Neighborhood	
Overlay	No	
Surrounding Context	Zoning	Surrounding Context
North:	I-3	Railroad Tracks / Industrial
South:	D-8	Single-family dwellings / Undeveloped
East:	SU-2	Single-family dwelling
West:	D-A	Single-family dwelling
Thoroughfare Plan		
Massachusetts Avenue	Primary Collector	40-foot existing right-of-way and 56-foot proposed right-of-way.
Brookside Avenue	Local Street	65-foot existing and proposed right-of-way



Context Area	Compact
Floodway / Floodway Fringe	No
Wellfield Protection Area	No
Site Plan	September 9, 2024
Plan of Operation	August 21, 2024
Commitments	N/A
Landscape Plan	N/A
Findings of Fact	August 21, 2024

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Village Mixed Use for the Massachusetts Avenue facing parcels, and Traditional Neighborhood for the Brookside Avenue facing parcels.

Pattern Book / Land Use Plan

- For the Massachusetts Avenue portion, the Marion County Land Use Plan Pattern Book recommends the Village Mixed-Use typology. This typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.
- For the Brookside Avenue portion, the Marion County Land Use Pattern Book recommends the Traditional Neighborhood typology. This typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

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

52-V-191; 2243 Massachusetts Avenue (subject site), requested a variance of use to provide for a heat processing business, **granted**.

56-V-498; 2243 Massachusetts Avenue (subject site), requested a variance of development standards to provide for a building addition, **granted**.

89-UV3-60; 2243 Massachusetts Avenue (subject site), requested a variance of use and development standards to provide for the construction of an addition to a heat processing business location within the required rear transitional yard, **granted**.

2006-HOV-010; 2422 Brookside Avenue (east of site), requested a variance of use to legally establish a single-family dwelling, in a C-2 (MU-1) zoning district, **granted**.

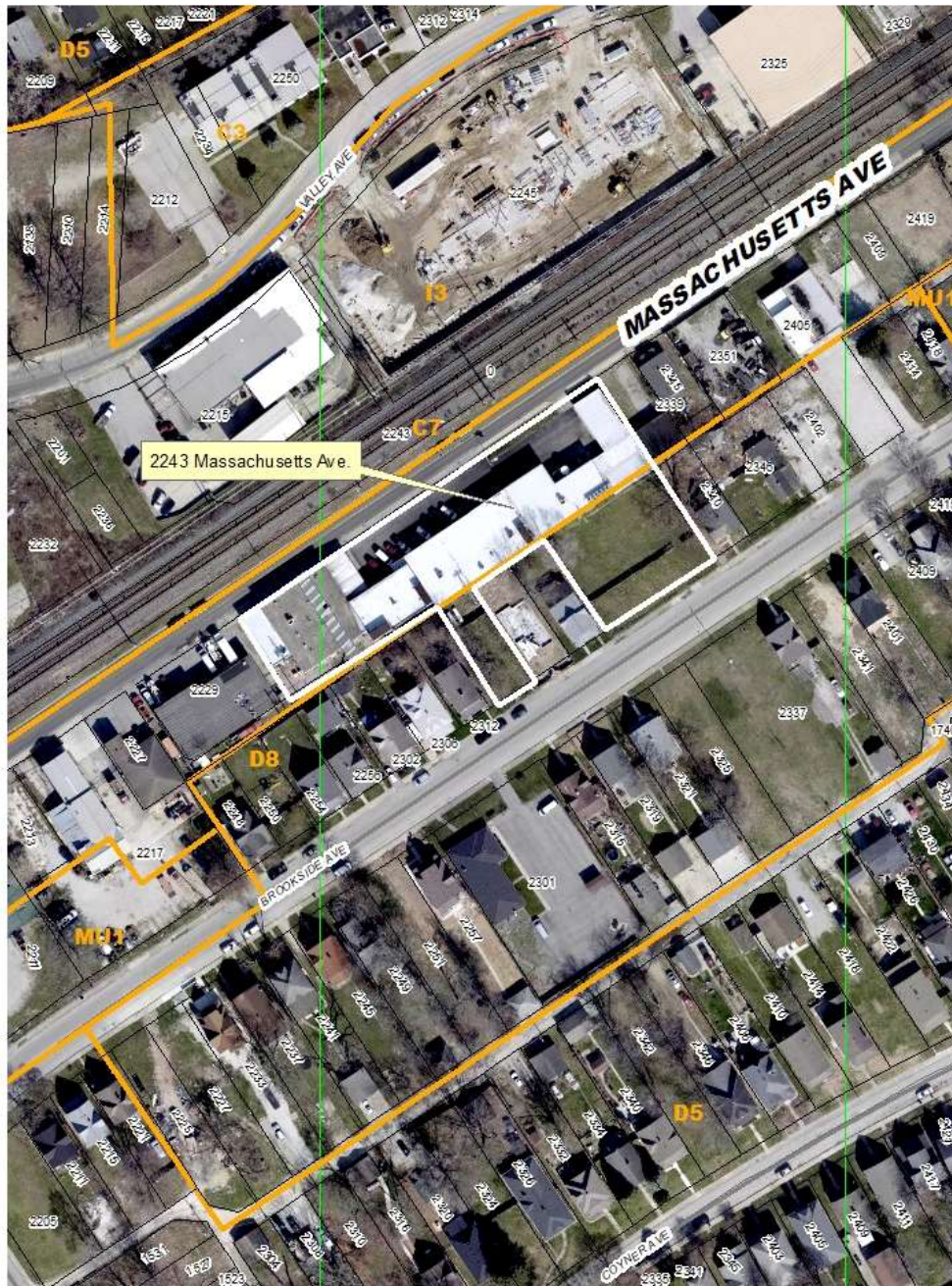
2001-DV3-059; 2346 Brookside Avenue (east of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a six-foot fence in the established front yard, **dismissed**.

2005-ZON-843 / 2005-VAR-843; 2121, 2129, and 2149 Massachusetts Avenue (west of site), requested the rezoning of 0.687 acre, being in the C-7 District, to the I-1-U classification to legally establish, and provide for the expansion of light-industrial uses, **approved**. Also requested a Variance of Development Standards of the Industrial Zoning Ordinance to provide for the construction of a 4,320-square foot building with a four-foot front yard setback and a Variance of use of the Commercial Zoning Ordinance to provide for a truck staging and maneuvering area and a dumpster enclosure accessory to a light industrial use, **granted**.

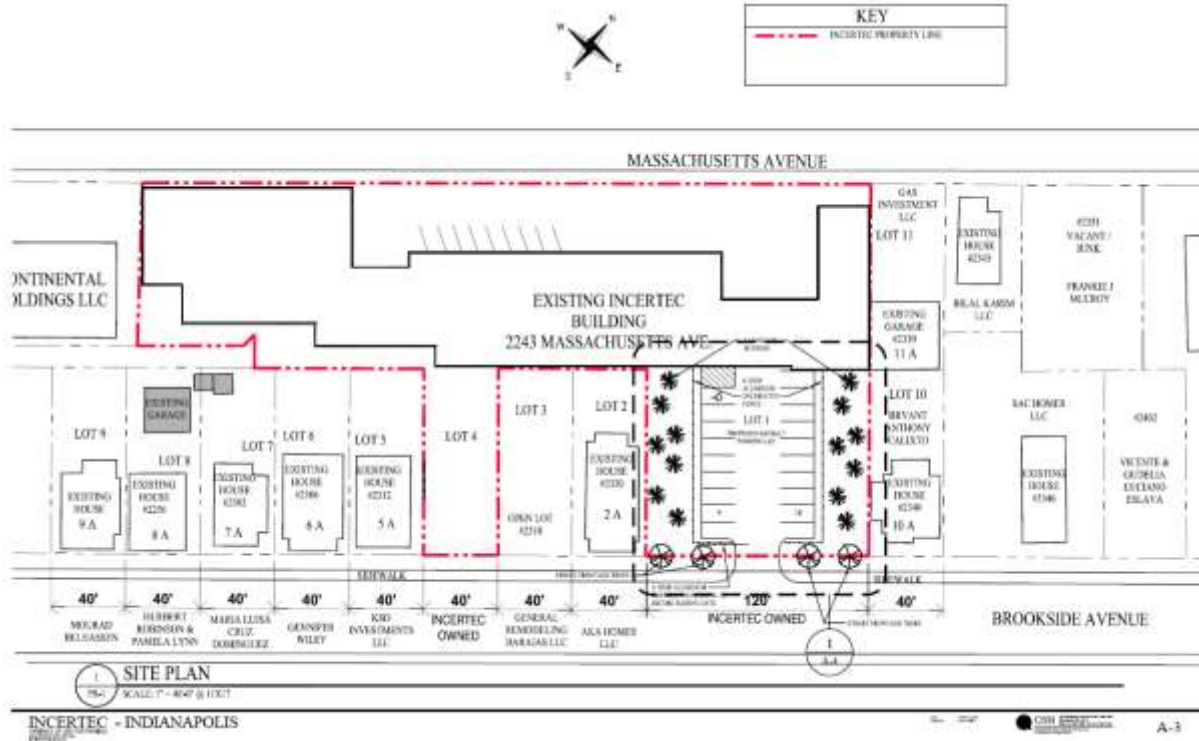
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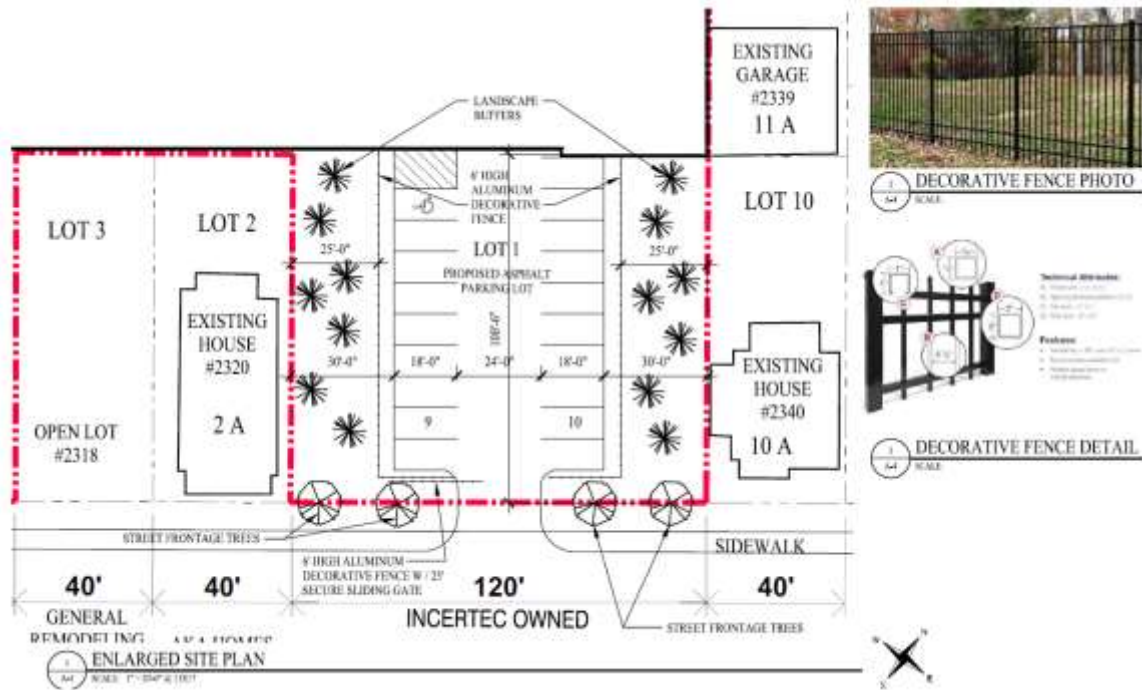
Location Map



Site Plan



Site Plan close up



Plan Of Operation

Incertec Heat Treating - Plan of Operation 7/30/2024

Company Overview:

Incertec Heat Treating was created when Incertec bought Circle City Heat Treating in January 2024. Incertec Heat Treating performs heat treatment of various metal alloys, use cryogenic freezers, and provide black oxide surface treatment.

We service about 125 different companies in the region. 90% are within the state of Indiana. Most of these companies are industrial servicing several different types of industry. However, our goal is to develop aerospace and defense customers locally in Indiana.

We enjoy a low employee turn-over with some people employed over 30 years. We offer competitive wages, and we pay the full premium on health insurance for the employee.

Operational Information:

Employees: 12

Revenue: \$2.7M in 2023

Hours of operation: 7am – 4pm

Size: about 24,000 sqft

No hazardous operations on site with the exception of our black oxide waste. This waste is removed and we are permitted to do so.

Raw Materials: We don't use any raw materials aside from the black oxide treatment.

Security: We have fire alarms and camera systems but no active security on the property.

New Proposed Parking: Parking lot will be well maintained with asphalt surface. The parking will be screened with landscaping and fully enclosed with security fencing and a sliding secure gate. The proposed parking will be for employees only and no loitering will be allowed. The proposed parking area will be monitored with security cameras.



Findings of Fact

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The proposed use is consistent with the area as the surrounding uses are a mixture of industrial and residential.

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 uses of the surrounding area are a mixture of industrial and residential and our proposed use would support the existing use on the balance of the subject parcel. The proposed parking is on a vacant portion of the parcel that currently has a perimeter chain link fence and wood fencing that are in a state of disrepair. A new perimeter fence and landscape buffer would be installed to screen the parking from neighboring properties. In addition, at the parcels southwest of the subject parcel, the industrial zoning extends to Brookside Avenue, so there is a precedent to having this use extend from Massachusetts to Brookside Avenue. There is also a business to the NE that parks in the D8 portion of their parcel.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

Currently, part of the property is zoned C-7 and a portion is zoned D-8. This peculiar situation with one parcel having two very different zoning classifications restricts the ability of the business to provide parking for employees.

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

With the parcel having two zoning designations, the existing business has no ability to expand and the residential portion of the lot is essentially non-buildable. This presents a hardship as the existing business does not have adequate parking and the restriction of parking on the D-8 portion of the site will require employees to park off-site as the business grows.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The proposed variance of use on the D-8 portion of the site is consistent with adjacent uses and uses identified in the comprehensive plan. Heavy commercial zoning exists on Massachusetts Avenue and the encroachment onto Brookside does not substantially interfere with the plan.



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division [redacted]
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 proposed use is consistent with the area as the surrounding uses are a mixture of industrial and residential. The new parking, landscaping, and fencing will improve the look of that portion of the parcel that is adjacent to the residential lots. The parking will actually improve the safety of our employees by providing off-street secure parking with security cameras and a gate with card access.

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:

The removal of the two existing fences that are in a state of disrepair and the addition of a new, 6 foot high aluminum decorative fence will improve the area. Also, quality landscape buffers will be added to screen the proposed parking. The lot will be secure, paved and well maintained and will reduce the need for our employees to park on the street.

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

Strict application of the fencing height restriction of 3.5 feet would not provide the screening and security that is needed for the employees. We believe that a 6 foot high decorative aluminum fence is reasonable for the function of the off-street parking lot.

Photographs



Subject site 2343 Massachusetts Avenue frontage, looking northeast



Subject site 2343 Massachusetts Avenue existing parkign area, looking northeast



Subject site 2343 Massachusetts Avenue rear of building, looking northeast



Subject site proposed parking lot location on Brookside Avenue, looking southwest



Existing renovated and new construction single-family dwellings adjacent to the proposed parking lot, looking southwest



Existing renovated single-family dwelling adjacent to the proposed parking lot, looking west



Existing renovated and new construction single-family dwellings across the street from proposed parking lot, looking southeast



Undeveloped parcels across the street from proposed parking lot, looking southeast