

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

September 25, 2025

Case Number: 2025-ZON-094
Property Address: 2505 South Arlington Avenue
Location: Warren Township, Council District #20
Petitioner: Sky Real Estate, Inc., by David Gilman
Current Zoning: C-3
Request: Rezoning of 8.264 acres from the C-3 district to the I-1 district to provide for restricted industrial uses.
Current Land Use: Undeveloped
Staff Recommendations: Denial.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

This the first hearing on this petition.

STAFF RECOMMENDATION

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

1. A 59.5 half right-of-way shall be dedicated along the frontage of South Arlington Avenue 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).
2. A tree inventory, tree assessment and preservation plan of all existing trees over 2.5 inches in diameter, shall be prepared by a certified arborist and shall be submitted for Administrator Approval prior to preliminary plat approval and / or prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) identify all heritage trees, e) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and f) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

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

PETITION OVERVIEW

This 8.264-acre site, zoned C-3, is undeveloped and surrounded by commercial uses to the north, zoned C-3; single-family dwellings to the south, zoned D-3; commercial uses to the east, zoned C-S; and undeveloped land to the west, across South Arlington Avenue, zoned C-4.

Petitions 2018-CZN-867 / 2018-CVR-867 requested rezoning to the I-2 classification to provide for truck parking and a variance of development standards to provide for a temporary gravel parking lot. Both these petitions were denied.

REZONING

The request would rezone the site to the I-1 district to provide for light industrial uses. "The I-1 district is designed for those industries that present the least risk to the public. In the I-1 district, uses carry on their entire operation within a completely enclosed building in such a manner that no nuisance factor is created or emitted outside the enclosed building. No storage of raw materials, manufactured products, or any other materials is permitted in the open space around the buildings. Loading and unloading berths are completely enclosed or shielded by solid screening. This district has strict controls on the intensity of land use providing protection of each industry from the encroachment of other industries. It is usually located adjacent to protected districts and may serve as a buffer between heavier industrial districts and business or protected districts."

The Comprehensive Plan recommends community commercial typology for the site.

As proposed, this request would not be consistent with the Comprehensive Plan recommendations. Community commercial typology is contemplated to be consistent with the C-3 (neighborhood commercial) or the C-4 (community-regional) zoning districts, depending upon the location and the surrounding land uses.

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.

Staff would note that a C-3 district abuts the site to the north and a C-4 district is adjacent to the west of the site, across South Arlington Avenue. A residential neighborhood is adjacent to the south. Staff believes that supporting encroachment of an industrial use in an area devoid of industrial districts would not be appropriate.

Staff further believes this is a classic case of spot zoning because the closest industrial district (I-3) is located over one-half mile to the southwest. Spot zoning is defined as “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners’ benefits.” Spot zoning implies a certain level of preference and in this case demonstrates the antitheses of the adopted Comprehensive Plan.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5-foot half right-of-way along South Arlington Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Tree Preservation / Heritage Tree Conservation

There are significant amounts of natural vegetation and trees located along the eastern (approximately 155 feet wide) and southern (approximately 56 feet wide) perimeter of the site. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.

All development shall be in a manner that causes the least amount of disruption to the trees.

A tree inventory, tree assessment and preservation plan of all existing trees over 2.5 inches in diameter, shall be prepared by a certified arborist and shall be submitted for Administrator Approval prior to preliminary plat approval and / or prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) identify all heritage trees, e) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and f) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.

The Ordinance defines “heritage tree” as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentukea*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)

The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location Permit (ILP) issuance date. See Exhibit A. Table 744-503-3: Replacement Trees.

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	
Existing Land Use	Undeveloped	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	C-3	Commercial uses
South:	D-3	Single-family dwellings
East:	C-S	Commercial uses
West:	C-4	Undeveloped land
Thoroughfare Plan		
South Arlington Avenue	Primary Arterial	Existing 75-foot right-of-way and proposed 119-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	N/A	
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 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.

Staff would also note that the Pattern Book recommends that light industrial land uses be “removed as a recommended land use where they would be adjacent to a living or mixed-use typology.”

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)

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:



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

- 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

2018-CZN-867 / 2018-CVR-876; 6105 Southeastern Avenue, requested rezoning of 8.264 acres from the C-3 district to the I-2 classification and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for temporary gravel parking, **denied**.

VICINITY

2016-ZON-052; 6011 Southeastern Avenue (north of site), requested rezoning of two acres from the C-3 district to the C-4 classification to provide for a gasoline station, **denied**.

2007-ZON-082; 6011 Southeastern Avenue (north of site), requested the rezoning of 0.5-acre from the D-A District to the C-3 classification, **approved**.

2016-UV1-009; 6033 Southeastern Avenue (east of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for automobile sales and display, with a parking area with a reduced setback, **granted**.

2014-ZON-022; 6300 Southeastern Avenue (east of site), requested the rezoning of 133.5 acres, being in the D-A and C-S districts, to the C-S classification to provide for an industrial use, including corporate offices, light and heavy vehicle and equipment sales and rental, light and heavy vehicle and equipment service, repair and storage facilities, new and used vehicle and equipment parts sales, service and storage, outdoor display and storage of light and heavy vehicles, equipment, machines and parts, with accessory uses and operations including, welding shops, wash bays, fuel islands, sandblast shops, painting booths, test facilities, cold storage areas, outdoor equipment and machinery test area, outdoor equipment and machinery staging area, trash compactor and old tractor storage / museum building, **approved**.

2011-ZON-056; 5900 Southeastern Avenue (north of site), requested rezoning of 18.151 acres, from the C-1 and C-4 Districts to the D-6II classification to provide for 140 cottage-style senior apartments, **withdrawn**.

2004-ZON-048; 6010 and 6020 Southeastern Avenue (north of site), requested the rezoning of 2.999 acres, being in the D-A and C-3 Districts, to the C-3 classification to provide for a dental office, **approved**.

2002-UV1-013; 6125 Southeastern Avenue (north of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for weekend live entertainment in an existing 9,960 square foot restaurant, and to legally establish a landscaping strip located within the right-of-way of Southeastern Avenue, **granted**.

95-Z-185; 6021-6029 Southeastern Avenue (north of site), requested the rezoning of 0.937 acre, being in the D-A Districts to the C-3 classification provide neighborhood commercial development, **approved**.

95-Z-6, 95-CV-2; 6105 Southeastern Avenue (east of site), requested the rezoning of 2.285 acres, being in the C-3 District, to the C-S classification to provide for mini-warehouses, in addition to an existing fence, deck, and patio store, and a Variance of Development Standards to allow access to the mini-warehouse facility from a 30-foot wide access easement, **approved and granted**.

86-UV3-115, 6101 Southeastern Avenue (north of site); requests a variance of use and development standards of the Commercial Zoning Ordinance to provide for the outdoor sales and display of lawn furniture and parking located along the existing right-of-way of Southeastern Avenue, **granted**.

85-V1-58; 2465 South Arlington Avenue (west of site), requested a variance of development standards of the Dwelling District Zoning Ordinance to provide for total accessory building space to exceed the primary residential space, **granted**.

85-UV2-78; 6030 Southeastern Avenue (north of site), requested a variance of use to provide for the outside display and sales of automobiles, **withdrawn**.

85-Z-145, 85-CV-18; 6011 Southeastern Avenue (north of site), requested the rezoning of 1 acre, being in the A-2 district to the C-7 classification to provide a commercial custom glass fabrication and installation facility, **denied**; with a variance of development standards of the Commercial Zoning Ordinance to reduce the required 40-foot transitional yard requirement to 10 feet on the western property line and 5.5 feet on the eastern property, **denied**.

77-UV2-119, 6033 Southeastern Avenue (north of site); requests a variance of use of the Commercial Zoning Ordinance to provide for retail and wholesale of fencing supplies, with outdoor storage and a pole sign, **granted**.

71-Z-113; 6201 Southeastern Avenue (north of site), requested rezoning of 5.0 acres, being in the A-2 District, to the SU-34 classification to provide for a lodge, **approved**.

EXHIBITS



2505 South Arlington Avenue

0.0125 0.025 0.05 0.075 0.1 Miles

EXHIBIT A

Heritage Tree Conservation

Removal of any Heritage Tree is prohibited unless any of the following determinations are made before removal:

1. The Administrator or the city's Urban Forester determines that the tree is dead, significantly and terminally diseased, a threat to public health or safety, or is of an undesirable or nuisance species.
2. The Director of the Department of Public Works determines that the tree interferes with the provision of public services or is a hazard to traffic.
3. The Administrator determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree.
4. The site from which the tree is removed is zoned D-A and the tree is harvested as timber or similar forestry product.

Table 744-503-3: Replacement Trees		
Size of tree removed or dead (inches)	Number of Trees to be planted to replace a Heritage Tree	Number of Trees to be planted to replace an existing tree
Over 36 DBH	15	10
25.5 to 36 DBH	11	8
13 to 25 DBH	8	6
10.5 to 12.5 DBH	6	4
8.5 to 10 DBH	5	4
6.5 to 8	3	2
4 to 6	2	2
2.5 to 3.5	1	1



View looking north along South Arlington Avenue



View looking south along South Arlington Avenue



View of site looking east across South Arlington Avenue



View of site looking east across South Arlington Avenue



View of site looking east across South Arlington Avenue



View looking across South Arlington Avenue at the adjacent dwelling to the south



View looking east into adjacent neighborhood across the intersection of South
Arlington Avenue and East Southern Avenue