



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

December 12, 2024

Case Number: 2024-CZN-844 (Amended) / 2024-CVR-844 (Amended)
Property Address: 1366 West County Line Road
Location: Perry Township, Council District #22
Petitioner: Eugene Gradient, Deborah Roush, Janet Massey and Jenny Perry, by David Gilman
Current Zoning: D-A
Rezoning of 3.77 acres from the D-A (W-5) district to the D-3 (W-5) district to provide for two single-family detached dwellings.
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for Parcel II, with a lot width of 30 feet (minimum lot width of 70 feet required), and to allow for on-site sewage disposal systems for both lots (connection to public utilities required)
Current Land Use: Undeveloped land
Staff Recommendations: Approval, subject to the commitment noted below:
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued these petitions from the November 21, 2024 hearing, to the December 12, 2024 hearing, to provide additional time for discussions with the petitioner's representative related to the zoning request and to amend the request and provide new notice.

STAFF RECOMMENDATION

Approval, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and 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) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) 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.

PETITION OVERVIEW

This 3.77-acre site, zoned D-A (W-5), is comprised of two undeveloped lots. It is surrounded by single-family dwellings to the north, zoned D-3 (W-5); commercial uses to the south, across West County Line Road (Johnson County); residential uses to the east, zoned D-3 (W-5); a single-family dwelling and undeveloped and to the west, zoned D-A (W-5).

REZONING

The request would rezone the site from the D-A (W-5) district to the D-3 (W-5) district to provide for two single-family dwellings. “The D-3 district provides for low or medium intensity residential development. Land in this district should have good thoroughfare access, be relatively flat in topography, and be afforded pedestrian linkages to community and neighborhood services and facilities (schools, parks, shopping areas, etc.). Recreational facilities developed for the neighborhood complement the treed yards on the individual lots. Predominantly single-family detached dwellings are envisioned with two-family dwellings on corner lots in this district. The D-3 district has a typical density of 2.6 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan. All public utilities and facilities must be present. Development plans, which may include the use of clustering, should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage and wildlife.”

The Comprehensive Plan recommends suburban neighborhood typology for the site.

As proposed, this request would be consistent with the Plan recommendation and compatible with the surrounding residential area.

VARIANCE OF DEVELOPMENT STANDARDS

This request would provide for a 30-foot lot width for Parcel II when the Ordinance requires 70 feet. Because these parcels were previously created by deed, staff believes the deviation would be acceptable and would have minimal impact on surrounding land uses.

The second variance request would allow for on-site sewage disposal systems (septic systems) for each of the lots. The petitioner’s representative submitted documents related the soils testing for septic systems on December 4, 2024, indicating that septic systems would be possible on this site.

Consequently, staff would support this variance request, subject to final approval by the Marion County Department of Health.

Tree Preservation / Heritage Tree Conservation

There are significant amounts of natural vegetation and trees located on the entire 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 prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and 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) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) 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.

WELLFIELD PROTECTION SECONDARY ZONING

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. 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.



“Because of the risk that hazardous materials or objectionable substances pose to groundwater quality, it is recognized that the further regulation of the manufacturing of, handling, transfer, disposal, use or storage of hazardous materials or objectionable substances related to nonresidential use activities is essential in order to preserve public health and economic vitality with Marion County.”

All uses permitted in the applicable primary zoning district shall be those uses permitted in the W-1 and W-5 zoning districts, unless otherwise prohibited by the Ordinance, and provided no other secondary zoning district prohibits the use.

“No building, structure, premises or part thereof shall be altered, constructed, converted, erected, enlarged, extended, modified, or relocated except in conformity with this Section, and not until the proposed Site and Development Plan has been filed with and approved on behalf of the Commission by the Technically Qualified Person (TQP). Regulations found in Chapter 742, Article II, Section 4 shall apply to all land within the Wellfield Protection Zoning Districts. The entire site shall be subject to review by the TQP. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.”

The subject site is located within W-5 South wellfield protection area and any use or development within a wellfield protection district would be subject to the Technically Qualified Person (TQP) review and approval, unless and until the property owner provides sufficient justification that the type of use, type of facility, and chemical quantity limits, independent of the land use would be exempt from the requirements for filing a development plan. Otherwise, a development plan would be required to be filed and approved on behalf of the Metropolitan Development Commission by the (TQP). 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	D-A (W-5)	
Existing Land Use	Undeveloped land	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Land Use
	North:	D-3 (W-5) Single-family dwellings
	South:	Johnson County Commercial uses
	East:	D-3 (W-5) Single-family dwellings
	West:	D-A (W-5) Single-family dwelling / undeveloped land
Thoroughfare Plan		
West County Line Road	Primary Arterial	Existing 120-foot right-of-way and proposed 119-foot right-of-way.
Context Area	Metro	

Floodway / Floodway Fringe	No
Overlay	No
Wellfield Protection Area	Yes.
Site Plan	N/A
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	October 24, 2024
Findings of Fact (Amended)	November 18, 2024
C-S/D-P Statement	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Comprehensive Plan recommends suburban neighborhood typology. “The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of one to five dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.”

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 – Suburban Neighborhood 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.
- Hydrological patterns should be preserved wherever possible.
- Curvilinear streets should be used with discretion and should maintain the same general direction.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.

Conditions for All Housing

- A mix of housing types is encouraged.
- Developments of more than 30 housing units must have access to at least one arterial street of three or more continuous travel lanes between the intersections of two intersecting arterial streets.
- Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user.
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.
- Developments with densities higher than 5 dwelling units per acre should have design character compatible with adjacent properties. Density intensification should be incremental with higher density housing types located closer to frequent transit lines, greenways or parks.

Detached Housing (Refers to detached single-family homes. While this type of housing may include a secondary dwelling unit (such as a mother-in-law suite or carriage house), the secondary dwelling unit is usually smaller than the primary home and the entire property is under a single ownership.

- The house should extend beyond the front of the garage.
- Lots should be no more than 1.5 times the size (larger or smaller) of adjacent/surrounding lots, except in cases where lots abut existing residential lots of one acre or more in size. In those cases, lots should be no smaller than 10,000 square feet and no larger than 1.5 times the size of the abutting lot.

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)

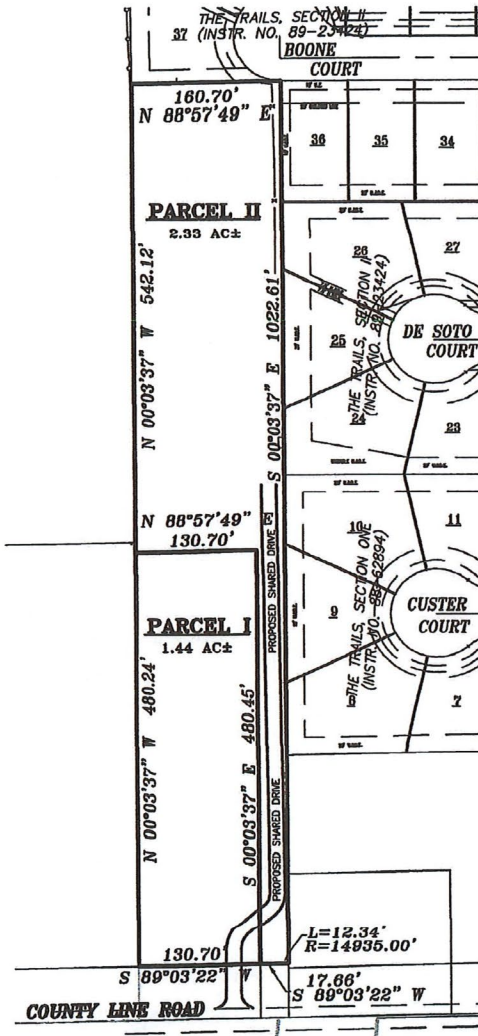
- The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”
- The following listed items describe the purpose, policies and tools:
 - Classify roadways based on their location, 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

87-Z-171; 1329 West County Line Road (east of site), requested rezoning of 19.5 acres being in the A-2 district to the D-3 classification to provide for single-family residences, **approved**.

EXHIBIT "B"
1300 W. COUNTY LINE ROAD
2 PARCEL REZONE



SCALE : 1" = 150'



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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

AMENDED

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

The site will have a shared drive to lessen any impact on the traffic on County Line Road, there is excellent drainage on the subject parcels
The on-site sewage disposal systems will have the approval of the Marion County Health Department

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 site is heavily wooded and will be developed with 2 single family homes. The proposed use is compatible with the rural estate development pattern along the northside of County Line Road.

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

The parcels were created decades ago and both have unusual topographic conditions that allow for limited building areas. The variances are necessary to provide access to these buildable areas and maintain the current configuration of the property lines. There is no public sanitary sewer immediately available to the subject parcels.

DECISION

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

Adopted this _____ day of _____, 20 ____

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 west along West County Line Road



View looking east along West County Line Road