



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

December 12, 2024

Case Number: 2024-ZON-100 (Amended)
Property Address: 3550 Division Street
Location: Perry Township, Council District #22
Petitioner: KM International, Inc., by David Gilman
Current Zoning: D-4
Request: Rezoning of 5.09 Acres from the D-4 district to the D-6 district to provide for residential development.
Current Land Use: Single-family dwelling
Staff Recommendations: Denial.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner acknowledged a timely automatic continuance filed by a registered neighborhood organization that continued this petition from the September 12, 2024 hearing, to the October 10, 2024 hearing.

The Hearing Examiner acknowledged a timely automatic continuance filed by the petitioner's representative that continued this petition from the October 10, 2024 hearing, to the November 14, 2024 hearing.

The Hearing Examiner continued this petition from the November 14, 2024 hearing, to the December 12, 2024 hearing, to provide time to amend the request and send new notice.

STAFF RECOMMENDATION

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

1. A 25-foot half right-of-way shall be dedicated along the frontage of Division Street, 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. 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 / receptacles provided for the proper disposal of trash and other waste.

PETITION OVERVIEW

This 5.09-acre site, zoned D-4, is developed a single-family dwelling. It is surrounded by residential uses to the north, zoned D-4; industrial uses to the south, zoned D-3; single-family dwellings to the east, across Division Street, zoned D-A; and industrial uses to the west, zoned D-4.

REZONING

The request would rezone the site from the D-4 district to the D-6 district to provide for multi-family residential uses. “The D-6 district provides for medium intensity residential development of a variety of housing types: multifamily dwellings, triplex, fourplex, two-family and single-family attached dwellings. The district is intended for developments in suburban areas well served by major thoroughfares, sanitary sewers, and school and park facilities. In its application, the district need not be directly associated with more intense land uses such as commercial or industrial areas. The development pattern envisioned is one of trees lining curving drives with the ample open space provided for in the district affording a wide variety of on-site recreational facilities. The D-6 district has a typical density of 6 to 9 units per gross acre. This district fulfills the medium density residential recommendation of the Comprehensive General Land Use Plan.

Development plans should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site conditions, including vegetation, topography, drainage and wildlife.”

The Comprehensive Plan recommends heavy industrial typology for the site.

As proposed, this request would not be consistent with the Comprehensive Plan recommendation. Residential uses are not a recommended use for this typology but generally include light and heavy industrial uses.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 25-foot half right-of-way along Division Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

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.

Planning Analysis

The initial rezoning request was for light industrial uses to provide for truck / trailer parking and repair. However, it was discovered that Division Street (a local street) has 11,000-pound gross weight limit that would not support that use.

During the site visit on August 25, 2024, staff observed a semi-truck and trailers parked on the site. Subsequently, staff discovered zoning violations related to this use dating back to 2017. Citations were paid in April of this year, but the prohibited parking has continued and not been removed.

Staff does not support the request for multi-family residential development on this site because it is not consistent with the Comprehensive Plan recommendation of heavy industrial or The Pattern Book development guidelines. Furthermore, residential uses would not be appropriate given the surrounding land uses that include industrial uses abutting the site to the south and west.

GENERAL INFORMATION

Existing Zoning	D-4		
Existing Land Use	Single-family dwelling		
Comprehensive Plan	Heavy Industrial		
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>	
	North:	D-4	Single-family dwellings
	South:	D-3	Industrial uses
	East:	D-A	Single-family dwelling
	West:	D-4	Industrial uses
Thoroughfare Plan			
Division Street	Local Street	Existing 30-foot right-of-way and proposed 50-foot right-of-way.	
Context Area	Metro		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	October 25, 2024		
Site Plan (Amended)	November 1, 2024		
Elevations	N/A		
Elevations (Amended)	October 25, 2024		
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 heavy industrial typology. “The Heavy Industrial typology provides for industrial, production, distribution, and repair uses that are intense and may create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Outdoor operations and storage are common. Typical uses include food processing, milling, storage of petroleum products, recycling, welding, and concrete mixing. Industrial or truck traffic should be separated from local/residential traffic.”

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.

The following uses are those uses recommended in the heavy industrial typology: light industrial uses, heavy industrial uses, heavy commercial uses, small-scale offices, retailing, and personal or professional services, and wind or solar farms.

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

2014-ZON-046; 3550 Division Street, requested rezoning of 3.731 acres from the D-4 (FF) district to the I-3-S (FF) classification to provide for tractor-trailer storage and truck repair and service, **withdrawn**.

VICINITY

2006-UV2-033 (A)(B); 3520 Division Street (north of site), requested (A) a variance of use of the Dwelling Districts Zoning Ordinance to legally establish two single-family dwellings on the same lot, **denied**; and (B) a variance of development standards of the Dwelling districts Zoning Ordinance to provide for the construction of a detached garage resulting excess accessory building area and excess square footage of the total living area of the primary dwelling, **granted**.

83-UV2-59; 3527 South Harding Street (west of site); requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued use of a mobile home on the property, **granted**.

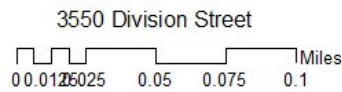
78-UV3-35; 3510 South Division Street (north of site), requested a variance of use, Flood Plain and Development Standards to permit the operation of a plumbing and heating company, retail sales, service and warehouse of related business products and supplies, in D-4 (FF), **granted**.

70-V2-4; 3510 South Division Street (north of site), requested a variance of use to permit the erection of an addition to the existing non-conforming sheet metal building being used as a warehouse and remove the existing garage to the west side of the lot, in D-4 (FF), **granted**.

EXHIBITS



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View of site looking west across Division Street



View of site looking west across Division Street



View of site looking west across Division Street



View of site looking west across Division Street



View of site looking west across Division Street



View of site looking west across Division Street



View looking northwest across intersection of Division Street and Sumner Avenue



View looking southwest across intersection of Division Street and Hanna Avenue