



**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

July 25, 2024

**Case Number:** 2024-CZN-824 (Amended) / 2024-CVR-824

**Property Address:** 1402 Shelby Street

**Location:** Center Township, Council District #18

**Petitioner:** Carnivore Properties, LLC, by Emily Duncan and David Kingen

**Current Zoning:** MU-1 (TOD)

**Request:** Rezoning of 0.14-acres from the MU-1 (TOD) district to the C-3 (TOD) district. Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for zero off-street parking spaces (minimum 15 spaces required), to legally establish a zero-foot rear transitional yard setback, without landscaping (minimum 15-foot rear transitional yard required, and to legally establish a three-foot north side yard setback along an alley (minimum 10-foot side setback required along an alley).

**Current Land Use:** Commercial uses (vacant)

**Staff Recommendations:** Approval of the rezoning and variance requests, subject to the commitments noted below:

**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner continued these petitions from the June 27, 2024 hearing, to the July 25, 2024 hearing, at the request of staff to provide time for discussions between staff and the petitioner's representative.

**STAFF RECOMMENDATION**

Approval, subject 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. The site shall be developed in accordance with the site plan, file-dated June 3, 2024, and the Plan of Operation, file-dated May 27, 2024.
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

### REZONING

This 0.14-acre site, zoned MU-1 (TOD), is developed with a commercial building and surrounded by commercial uses to the north, zoned MU-2 (TOD); commercial uses to the south, zoned MU-1 (TOD); commercial uses to the east, across Shelby Street, zoned MU-1 (TOD); and single-family dwellings to the west, zoned D-5 (TOD).

Petition 2014-UV1-017 provided for the storage and distribution of frozen raw pet food and legally established the setbacks.

Petition 2024-UV2-003 provided for the operation of a marketing business, including graphic design and print services. The petition was withdrawn, and this rezoning was filed.

Historical maps indicate that this site was initially developed with a single-family dwelling and the current structure constructed in the early 1970's. Staff would note that these same aerial images indicate the removal of many dwellings in in this area in anticipation of Interstate 65. Additionally, several dwellings along Shelby Street were redeveloped with commercial structures during this time frame.

The request would rezone the site to the C-3 (Neighborhood Commercial) District. "The C-3 District is for the development of an extensive range of retail sales and personal, professional and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail and personal and professional service establishments. At this neighborhood scale of retail, a fine- grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters.

It does not allow those businesses that require the outdoor display, sale, or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions."

The Comprehensive Plan recommends village mixed-use typology for the site. Staff supports this request because it would align with the Plan recommendation and would be compatible with the surrounding commercial uses along this corridor. However, staff requests that approval of these requests be subject to the existing site development and Plan of Operation,

## **Overlays**

This site is also located within an overlay, specifically the Transit Oriented Development (TOD). “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”

The Transit-Oriented Development (TOD) overlay is intended for areas within walking distance of a transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area.

## **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.



**VARIANCE OF DEVELOPMENT STANDARDS**

This request would provide for zero off-street parking spaces when the Ordinance requires 15 spaces. Because the site is along both the Red Line TOD district and the protected two-way Shelby Street cycle track, that the subject site does not currently have off-street parking spaces, and that there is not sufficient area to add parking on site, staff supports the request for no off-street parking spaces.

The request would also legally establish reduced setbacks that include a zero-foot rear transitional yard setback without landscaping and a three-foot side yard setback along an alley. The Ordinance requires a minimum 15-foot rear transitional landscaped yard and a 10-foot side yard setback along the alley.

When this site was redeveloped and the current building constructed over 50 years ago, no setbacks were provided that resulted in a structure whose footprint generally followed the property boundaries. Staff believes this is a practical difficulty in meeting the current development standards and therefore, supports these setback variances.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	MU-1 (TOD)	
<b>Existing Land Use</b>	Commercial use	
<b>Comprehensive Plan</b>	Village Mixed-Use	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	MU-2 (TOD)	Commercial uses
South:	MU-2 (TOD)	Commercial uses
East:	MU-2 (TOD)	Commercial uses
West:	D-5 (TOD)	Single-family dwellings
<b>Thoroughfare Plan</b>		
Shelby Street	Primary arterial	Existing 58-foot right-of-way and proposed 56-foot right-of-way.
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	Yes – Transit Oriented Development	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	May 27, 2024	
<b>Site Plan (Amended)</b>	June 3, 2024	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	May 27, 2024	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- The Comprehensive Plan (2018) recommends village mixed-use typology. The Village Mixed-Use 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.”

### 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 – Village Mixed-Use 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.
  - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
  - Where possible, contributing historic buildings should be preserved or incorporated into new development.
- *Small-Scale Offices, Retailing, and Personal or Professional Services (defined as commercial uses with minimal outdoor operations, storage, or display on lots of less than 1.5 acres and a height of less than 35 feet.)*
  - Mixed-Use structures are preferred.
  - Automotive uses (such as gas stations and auto repair) and uses with drive-through lanes are excluded.

- Should not include outdoor display of merchandise.

### Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Red Line Transit-Oriented Development Strategic Plan (2021)
- This site is located within a ¼ mile walk of a transit stop located at the intersection of Pleasant Run Parkway South Drive and Shelby Street with a Walkable Neighborhood typology.
- Walkable Neighborhood typology are walkable areas that are primarily residential but may have a commercial node of one to two city blocks.
- Characteristics of the Walkable Neighborhood typology are:
  - Mix of uses at station with stabilized residential beyond
  - Off-street parking is discouraged and should be limited to garages

### 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

**2024-UV2-003; 1402 Shelby Street**, requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a marketing business, including graphic design and print services with zero parking spaces, **withdrawn**.

**2004-UV2-017; 1402 Shelby Street**, requested a variance of use and development standards of the commercial zoning Ordinance to provide for the storage and distribution of frozen raw pet food and to legally establish the reduced setbacks, **granted**

**2009-UV1-019, 1402 Shelby Street**, requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish a carpet, flooring and tile retail use and to provide for all C-3 uses within the existing building with zero off-street parking spaces and deficient setbacks and landscaping for the front, side and rear yards, **withdrawn**.

## VICINITY

**2011-CZN / CVR-803, 1301 Barth Avenue, (northwest of site)**, requested rezoning of 0.58 acre from the D-5 and C-5 districts to the C-S district to provide for a brewery, within an existing building, with retail sales and events and variance of development standards to provide for outdoor seating, alcohol sales and a trash enclosure within the front yard, **granted**.

**2004-LNU-013, 1354 Shelby Street, (north of site)**, requested a Certificate of Legal Non-conforming Use to legally establish a carpet, tile and vinyl commercial thrift store, **granted**.

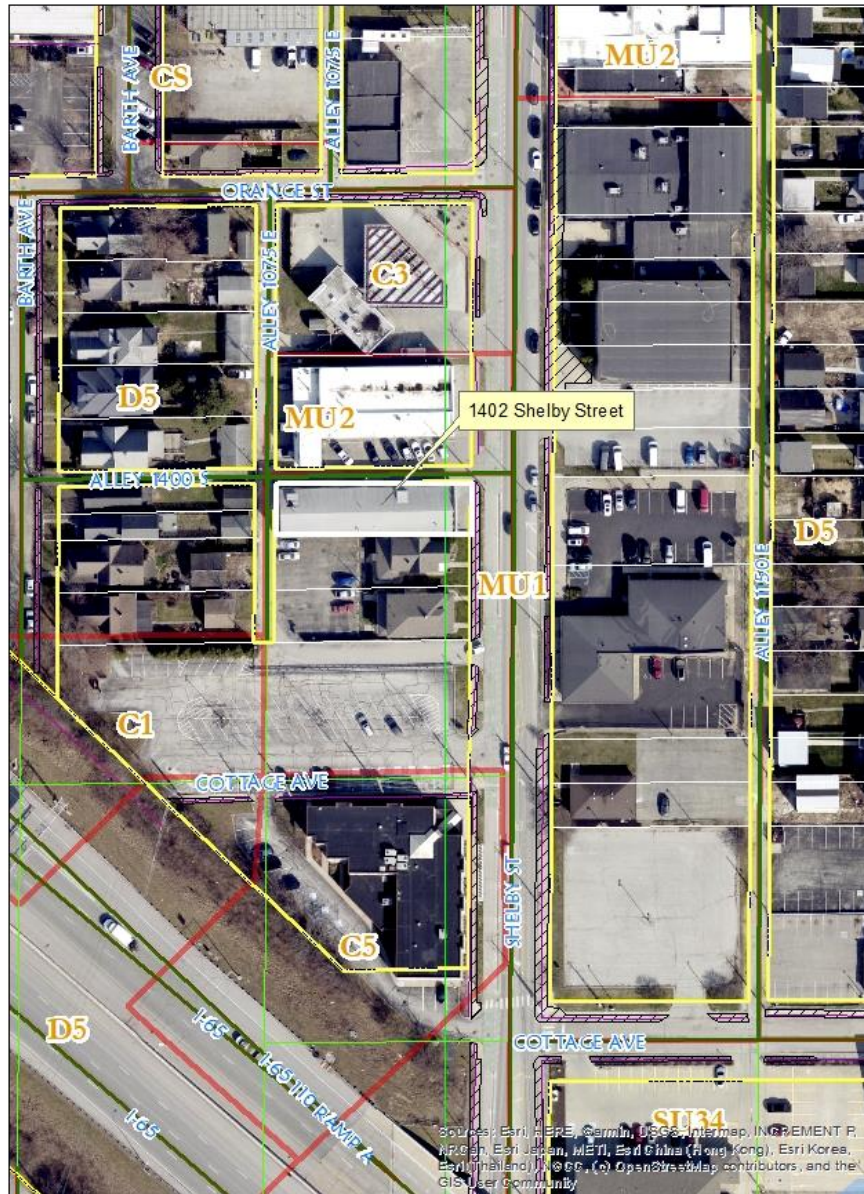
**91-V3-87, 1415 Shelby Street, (east of site)**, requested a variance of development standards of the Commercial Zoning Ordinance to provide for an addition to an existing building with a zero-foot side yard setback, **granted**.

**84-UV2-5, 1340 Shelby Street, (north of site)**, requested a variance of use of the Commercial Zoning Ordinance to provide for the continued operation of an automobile repair service with transitional yard encroachments and without minimum parking standards, **granted for 1 year**.

**84-Z-184, 1340 Shelby Street, (north of site)**, requested rezoning of 0.41 acre from the C-2 district to the C-5 district (reduced to C-3 during petition process), **approved**.

**79-Z-56, 1504 Shelby Street, (south of site)**, requested rezoning of 0.47 acre from the C-2 district to the C-5 district for commercial uses, **approved**.

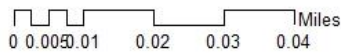
EXHIBITS



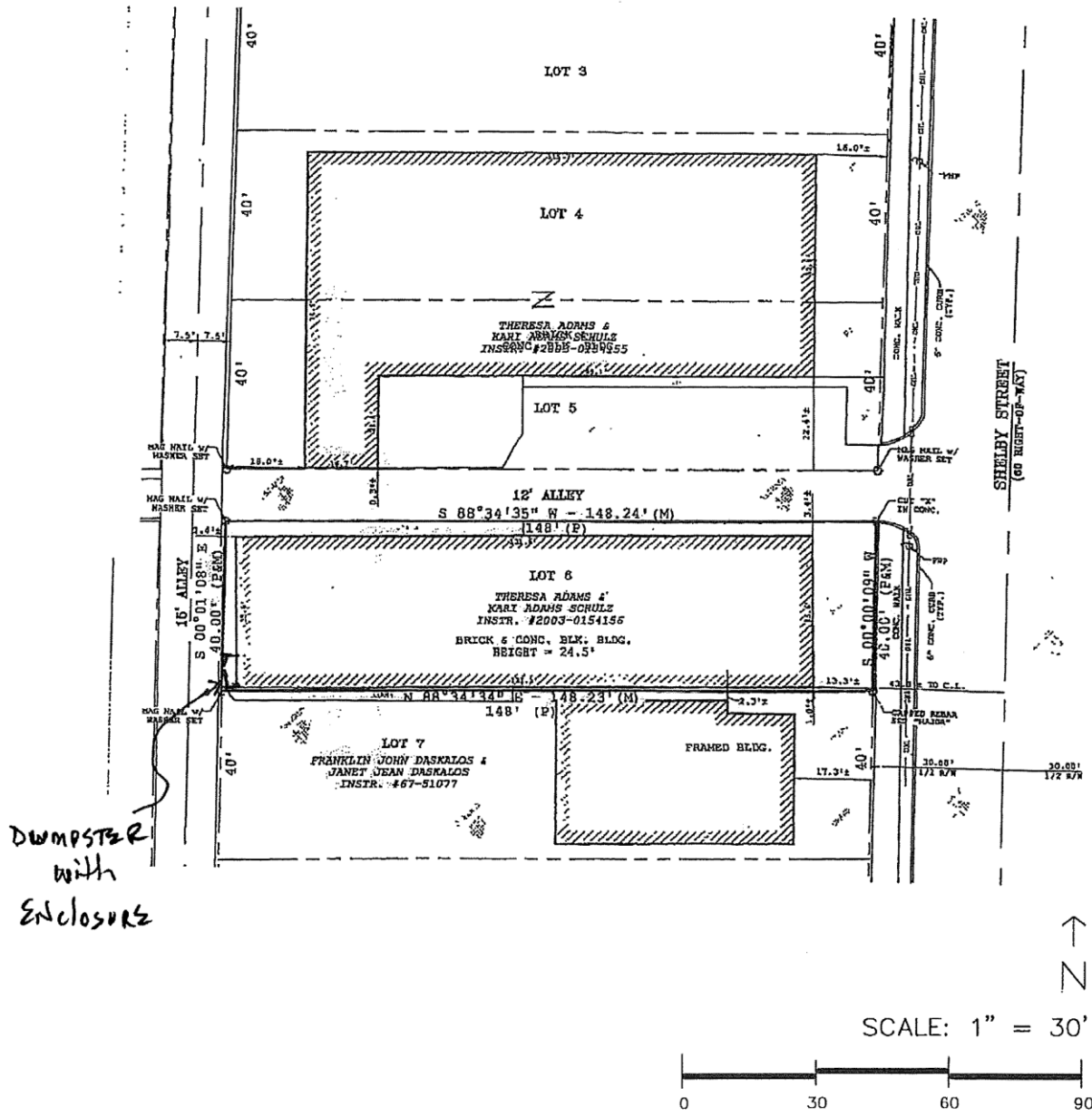
Source: Esri, AEP, Garmin, USGS, Intelmap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), Swire, (c) OpenStreetMap contributors, and the GIS User Community



1402 Shelby Street









Petition Number 2024-CVR-824

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 majority of the commercial uses in the Fountain Fletcher commercial area are not able to provide adequate on-site parking. Many of the commercial and mixed uses in the immediate vicinity of the subject property have more than the required parking on their sites and thus the public safety and general welfare of the community shall not be injured.

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 rear yard setback and transitional yard to the west shall not be reduced and if the dumpster remains in the west transitional yard it shall be enclosed per city code. The new use has less visiting customers and clients than the previous uses to this site and with the site on the Redline and on the designated bike trail, customers, clients and employees have various options to gain access to the subject site.

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

Without a reduction for the required parking, no use could occupy the subject building and site. ,  
Without a variance for the rear transitional yard; the building would need to be reduced to the west in size.  
Without a variance for the dumpster, no variance could be located on this site; in the rear yard

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plan of Operation

# MOTIFY PLAN OF OPERATION

DEFINE YOUR SPACE

## MOTIFY PLAN OF OPERATION

### Roles

**Owners:**

Primarily focused on client development and project management. Will spend a majority of time meeting with clients off site, overseeing installations, and managing contractors & vendors.

**Designer:**

Works with owner to execute on the vision of the client. Develops multiple options and iterates upon client feedback. Works with production manager to ensure the end product meets expectations.

**Production Manager:**

Oversees all in house production of deliverables. Manages materials and machines to ensure efficient and on time production before installation.

**Installer:**

Handles all installations of non-skilled trade work (electrical, carpentry, painting, etc.) Including wall graphics, artwork, signage, dimensional installs and more.

*As work load grows we intend to expand each of these roles into departments with 2-3 person teams. In this space we would see the maximum number of full-time in-house employees being 10 with the addition of contract based installers.*

### Process

The process begins with an onsite client meeting to go over the space, discuss needs and goals, and determine project scope. Following the initial site visit, the owner and designer(s) will formulate a vision with various options and create 3D visualizations for the client to envision their new space. We will continue the iteration process until we've met clients' expectations.

**Project Management:**

Once the final design is agreed upon, we will work with the client's team to manage the project. This could include necessary buildouts with their contractors or ours. We would work with vendors for the production of elements outside our capabilities and determine final installation timeline and project completion dates.

**Production:**

For elements of the project that will be produced in house the Designer will work directly with the Production Manager to determine details of materials, installation, and any necessary electrical changes. Typically, in house production will include vinyl and textile printed graphics and dimensional panels/lettering. Allowing us full control over the parts of projects that catch the most attention.

**Installation:**

Once all deliverables have been completed, and necessary construction is complete, our installer(s) will start their process. We will complete the final design elements on site and verify contractor work is up to specs. All work done on site will follow OSHA guidelines for safety. Before client turnover we will complete a walkthrough and documentation process where we take detailed photos to verify work was done to spec and show the transformation.

### Clients

We will work with a wide variety of clients and their spaces. Any space people gather is an opportunity to create experiences through great design. Some examples include but are not limited to:

- Offices
- Co-Working Spaces
- Retail
- Restaurants
- Worship Centers
- Gyms
- Schools
- Museums





Item 8.

Department of Metropolitan Development  
Division of Planning  
Current Planning

## Equipment

### Latex Ink Roll-to-Roll Printer

Printing vinyl and textile graphics for walls and displays. Up to 60" wide. With this printing type there are no waste materials produced in use aside from scrap substrate.

### UV Flatbed Printer

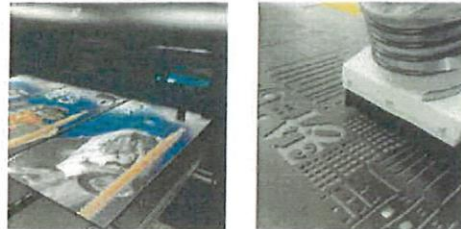
For printing directly to rigid substrates as large as 4'x8' such as plastic, wood and metal. Ink is UV cured with minimal waste.

### Vinyl Cutter

Used for cutting thin materials ink any shape. This could include custom logos or lettering, abstract wall coverings, frosted vinyl applications and more.

### Router

For cutting thick substrates up to 4'x8'x2" including wood and plastics. Used for creating custom dimensional displays and lettering.



## Local Impact

### Noise

Most of the equipment is very quiet, often being used in office/retail environments. The only exception being the vacuum table used by the router. This equipment will be housed in a separate room with insulation to shield the office space from the noise. We've used this same equipment in a multi-tenant office building with no complaints from neighbors and nothing audible on the exterior.

### Odors

There are no smells or fumes create in the printing/manufacturing processes we will use.

### Waste

The primary waste will be scrap material (mostly paper), which will be recycled when possible. Waste UV ink is combined with moisture absorber to remove solvents and can be disposed of normally once dry.

### Traffic

We expect weekly material deliveries during work hours along with shipments of deliverables from third parties a maximum of twice weekly. Clients will typically be seen on an appointment basis an average of once per day. We have one client parking spot on site with contracted parking across the street and adjacent street parking.

## Materials

### Rolled Media

- Vinyls
- Canvas
- Wallpapers

### Flat Media

- PVC
- Acrylic
- Composite Metal
- Plywood
- Laminates
- Polystyrene



## Community

Beyond the benefits of utilizing a long-standing building in Fountain square as-is, and providing ongoing employment, we look forward to being a part of the community and giving back in bigger ways as well. Fountain Square is a community based around the love of art, which is why we've chosen this area to call home. We want to benefit local artists by offering periodic open house days to invite them to make use of our equipment and tools. Going beyond that we will be giving back by donating work to locally owned small businesses that are loved by the community but in need of an update that may be out of reach. Our goal is to be a contributing member of the Fountain Square culture and community for years to come.



View looking north along Shelby Street



View looking south along Shelby Street



View of site looking west across Shelby Street



View of site looking southwest across Shelby Street



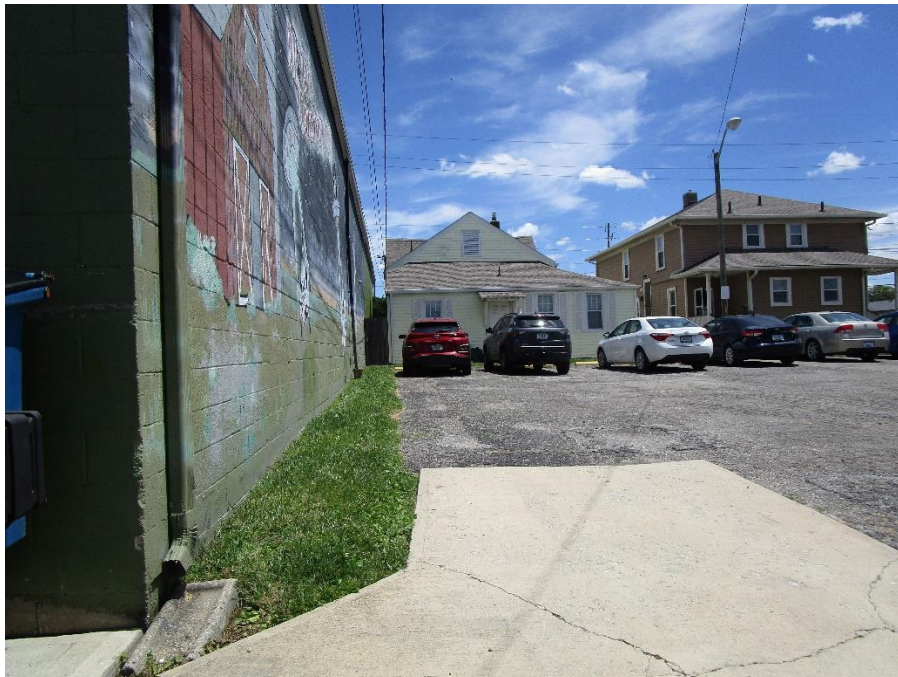
View of site frontage along Shelby Street



View looking south along north / south boundary



View looking north along north / south boundary



View of site looking east along southern boundary