

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-011 (Amended)
Address: 902 East 66th Street (approximate address)
Location: Washington Township, Council District #2
Zoning: D-4 (TOD)
Petitioner: A Ciobanu Properties LLC, by Andrea Ciobanu
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 3.5-foot-tall fence within the clear sight triangle of the intersection, with the location of automated gates within the clear sight triangle of two vehicular access drives (encroachment within clear sight triangles not permitted).

ADDENDUM FOR MAY 9, 2023

This petition was continued from the April 4, 2023 hearing to the May 9, 2023 hearing at the request of the petitioner.

The petitioner amended the request to reduce the fence height in the front yard from five feet to 3.5 feet which eliminated the variance for the fence height. This change did not alter staff's denial recommendation.

April 4, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-4	Compact	Office
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SURROUNDING ZONING AND LAND USE

North	D-4	Office
South	D-4	Residential (Single-family dwelling)
East	D-4	Religious Use
West	D-10	Residential (Multi-family apartments)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends village mixed-use development.

(Continued)

STAFF REPORT 2023-DV1-011 (Continued)

- ◇ The 0.32-acre subject site is developed with a single-family dwelling that was permitted for the conversion of the first floor as office use and second floor residential use through 94-UV1-73. The property to the north is zoned residentially but used as an office. A church is located east of the site and the properties west and south are residentially zoned and used as such.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would allow for a five-foot tall fence in the front yards of Ferguson Street and East 66th Street and within the clear sight triangle of the abutting streets when a maximum 3.5-foot-tall fence is permitted by the Ordinance in the Dwelling districts and prohibited within the clear sight triangle.
- ◇ A fence with 30% opacity or less could permit a maximum height of four feet in the front yard without a variance. The type of fence on site would allow for a four-foot maximum fence height at this location, but it would still need to be outside of the clear sight triangle.
- ◇ The request would also allow for automated gates to be located within the clear sight triangles of two vehicular access drives where they are not permitted.
- ◇ All of the variance requests are related to an open zoning violation case (VIO23-000246) that was reported regarding an existing fence and associated gates that were improperly installed. The initial submittal of a complaint to the Mayor's Action Center shows that there is a neighbor or community concern regarding the installed fence.
- ◇ Furthermore, Staff does not support variance requests that would have otherwise been prevented if proper due diligence had occurred.
- ◇ The grant of the request would be injurious to the public safety of the community because the relocation of the fence outside of the clear sight triangles while meeting the height limitations of the Ordinance would provide the best opportunity for accident prevention due to the high level of pedestrian and cyclist travel within the immediate area that does not already provide sidewalks for safe travel.
- ◇ The strict application of the terms of the Zoning Ordinance would not result in practical difficulty with the use of the site since the office and residence could still be operated on site with the restrictions of the Ordinance. A slightly shorter fence with entrance gates pushed further back on the site could prevent vehicles and people from entering the fenced area.

GENERAL INFORMATION

THOROUGHFARE PLAN

66th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 40-foot existing right-of-way and a 48-foot proposed right-of-way.

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STAFF REPORT 2023-DV1-011 (Continued)

THOROUGHFARE PLAN

Ferguson Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 43-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated February 27, 2023.

FINDINGS OF FACT

File-dated February 27, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO23-000246 (subject site) Failure to comply with use-specific standards and zoning district development standards for the D-4 district; (Table 744-510-2: - Fence height exceeding 48 inches in the front yard) and Failure to comply with use-specific standards and zoning district development standards for the D-4 district;(740-304. - No obstructions shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5ft. and 8ft. above grade level of the adjoining right-of-way within a Clear Sight Triangular Area- 5ft fence.)

PREVIOUS CASES

94-UV1-73; 902 East 66th Street (subject of site), Variance of use of the Dwelling Districts Zoning ordinance to permit the first floor of the existing structure to be used for professional offices and a variance of development standards of the Sign Regulations to legally establish an existing 15.2 square foot ground sign (maximum one square foot permitted) within the required 15-foot setback from the rights-of-way of Ferguson and 66th Street, **granted**.

88-UV3-103; 902 East 66th Street (subject of site), Variance of use of the of the Dwelling Districts Zoning ordinance to provide for an interior design studio, **withdrawn**.

83-UV1-150; 6607 Ferguson Street (subject of site), Variance of use and development standards to provide for a travel agency office, **granted**.

79-UV1-11; 6607 Ferguson Street (subject of site), Variance of use and development standards to provide for an interior design studio, **granted**.

ZONING HISTORY – VICINITY

2021-CVR-812; 6572 Cornell Avenue (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to permit a three-foot front transitional yard along 66th Street, with a wood porch and handrail encroaching into the front transitional setback and right-of-way of 66th Street, to legally establish portions of a four-foot tall and six-foot tall fence in the front yards of 66th Street and Cornell Avenue, portions of the parking lot in the front yard of 66th Street, a playground in the front yard of Cornell Avenue, portions of a parking lot in the west side transitional yard (12-foot front transitional yard, structures not permitted within the right-of-way and 10-foot side transitional yard required, maximum 3.5-foot tall fence permitted, parking and playground not permitted in the front yard), **granted**.

(Continued)

STAFF REPORT 2023-DV1-011 (Continued)

2016-UV1-008; 6556 Ferguson Street (southwest of site), Variance of use of the Commercial Zoning Ordinance to provide for a contract florist office and staging facility for special events (not permitted), **granted.**

2015-CZN-801 / 2015-CVR-801; 806, 808, 812 and 888 East 66th Street and 6616 and 6618 Ferguson Street (west of site) Rezoning of 1.34 acres from the D-4 (FF) and D-10 (FF) districts to the D-10 (FF) classification to provide for multi-family development and Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a four-story, 93-unit multi-family dwelling with 15-foot front setbacks from 66th and Ferguson Streets, with the 66th Street entryway having an 11-foot front setback (minimum 25-foot front setback required), with a 10-foot southwest side perimeter yard and zero-foot north and northwest perimeter yards (20-foot perimeter yards required), with a 1.94 floor area ratio (maximum 0.80 floor area ratio required), with a 0.18 open space ratio (minimum 0.87 open space ratio required), with a livability space ratio of 0.10 (minimum 0.49 livability space ratio required), with a major livability space ratio of zero (minimum major livability space ratio of 0.095 required), **granted.**

2015-HOV-034; 806, 808, and 812 East 66th Street and 6616 and 6618 Ferguson Street (west of site), Variance of development standards of the Flood Control Districts Zoning Ordinance to provide for one square inch of openings for every one square feet of enclosed area (one square foot of openings for every two square feet of enclosed area required), **granted.**

2014-CZN-820 / 2014-CVR-820, 806, 808, 812 and 888 East 66th Street and 6616 and 6618 Ferguson Street (west of site), Rezoning of 0.91 acre from the D-4 (FF) to the D-10 (FF) to provide for a 63-unit multi-family development, Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a four-story, 63-unit multi-family dwelling with 15-foot front setbacks from 66th and Ferguson Streets (minimum 25-foot front setback required), with 14-foot north and 12.5-foot west side perimeter yards (20-foot perimeter yards required), with a 1.80 floor area ratio (maximum 0.80 floor area ratio required), with a 0.22 open space ratio (minimum 0.87 open space ratio required), with a livability space ratio of 0.13 (minimum 0.49 livability space ratio required), with a major livability space ratio of zero (minimum major livability space ratio of 0.095 required), with two, four-foot tall freestanding signs having approximate twelve- and eleven-foot front setbacks from 66th Street and one, four-foot tall freestanding sign having an approximate nine-foot front setback from Ferguson Street (15-foot front setback required), and the Ferguson Street sign being within the clear sight triangle of the parking garage entrance (structures not permitted within the clear sight triangle). **approved and granted.**

2008-VAR-002; 6568 Cornell Avenue (southeast of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for a building with a ten-foot front setback from the existing right-of-way of Cornell Avenue (minimum twenty-foot front setback required), a building with a five-foot south side setback and parking with a zero-foot south side setback (minimum fifteen-foot south side transitional yard required), an interior drive aisle and parking with a zero-foot north side setback (minimum ten-foot north side yard required), parking with a five-foot rear transitional setback (minimum ten-foot rear transitional yard required), reduced landscaping in the required front, side and rear yards (landscaping required), deficiently-sized off-street parking spaces (minimum 180-square foot spaces required), and a 4,796-square foot, mixed-use building with 12 off-street parking spaces with reduced maneuvering area (minimum 19 off-street parking spaces required; adequate vehicular maneuvering area required), **granted.**

(Continued)

STAFF REPORT 2023-DV1-011 (Continued)

2005-UV3-025; 6568 Cornell Avenue (southeast of site), Variance of use to provide for office use in D-4, **granted.**

2004-UV3-011; 6572 Cornell Avenue (southeast of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for an art studio with an administrative office with a 3.6-foot setback from the existing right-of-way of 66th Street and a fourteen-foot setback from the existing right-of-way of Cornell Avenue, **granted.**

2001-UV3-009; 6562 Ferguson Street (southwest of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the conversion of a single-family dwelling into a three-family dwelling, **granted.**

2000-UV2-035; 930 East 66th Street (east of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an office (not permitted), within an existing single-family dwelling, and variance of development standards of the Sign Regulations to provide for a four-foot tall, 40 square foot ground sign (freestanding signs not permitted), **granted.**

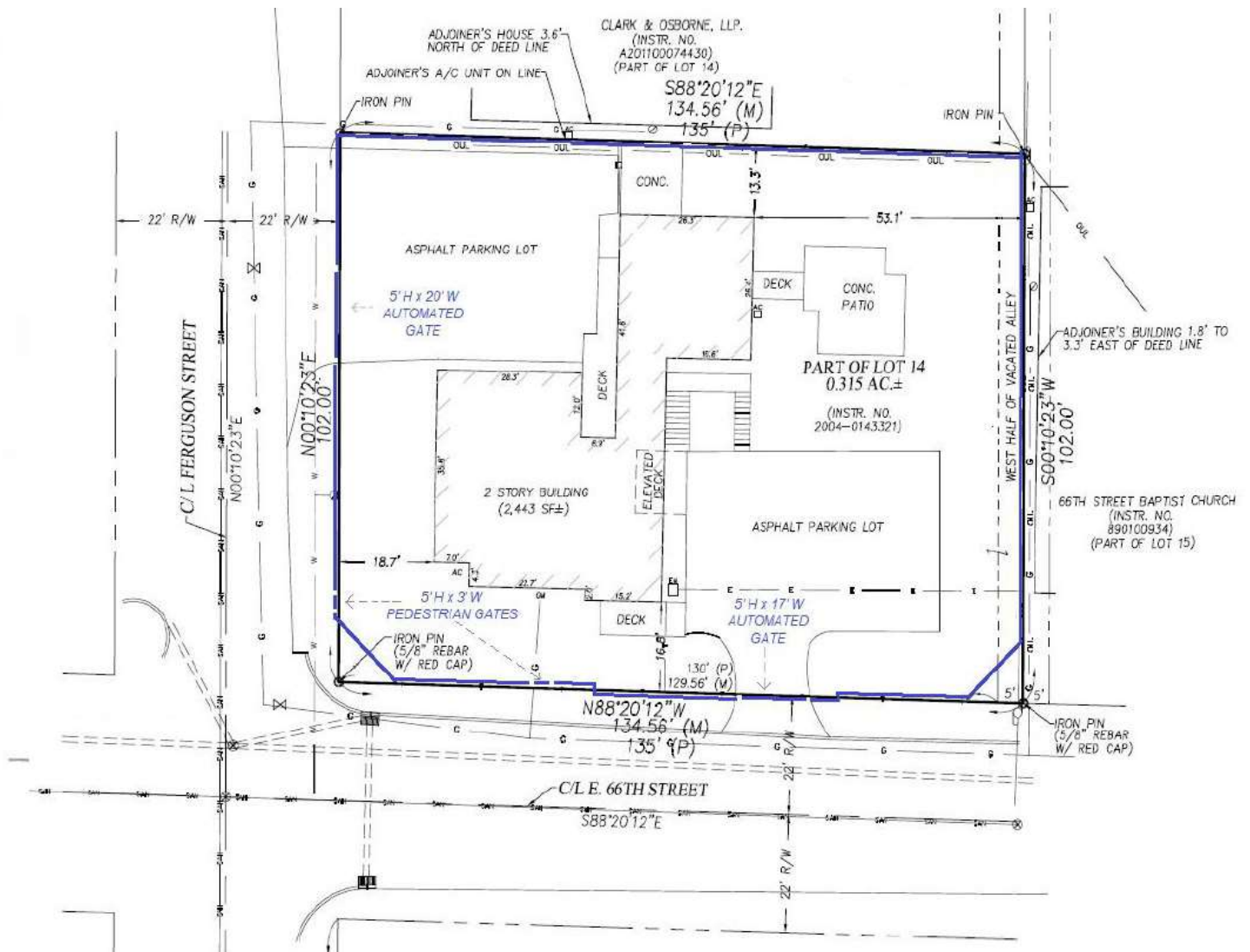
94-UV1-13; 6617 Ferguson Street (north of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the expansion of an existing tool and die manufacturer's representative business, **granted.**

93-UV1-5; 6568 Cornell Avenue (southeast of site), Variance of use to provide for a studio for the commercial development of instructional photography and video tapes in D-4, **granted.**

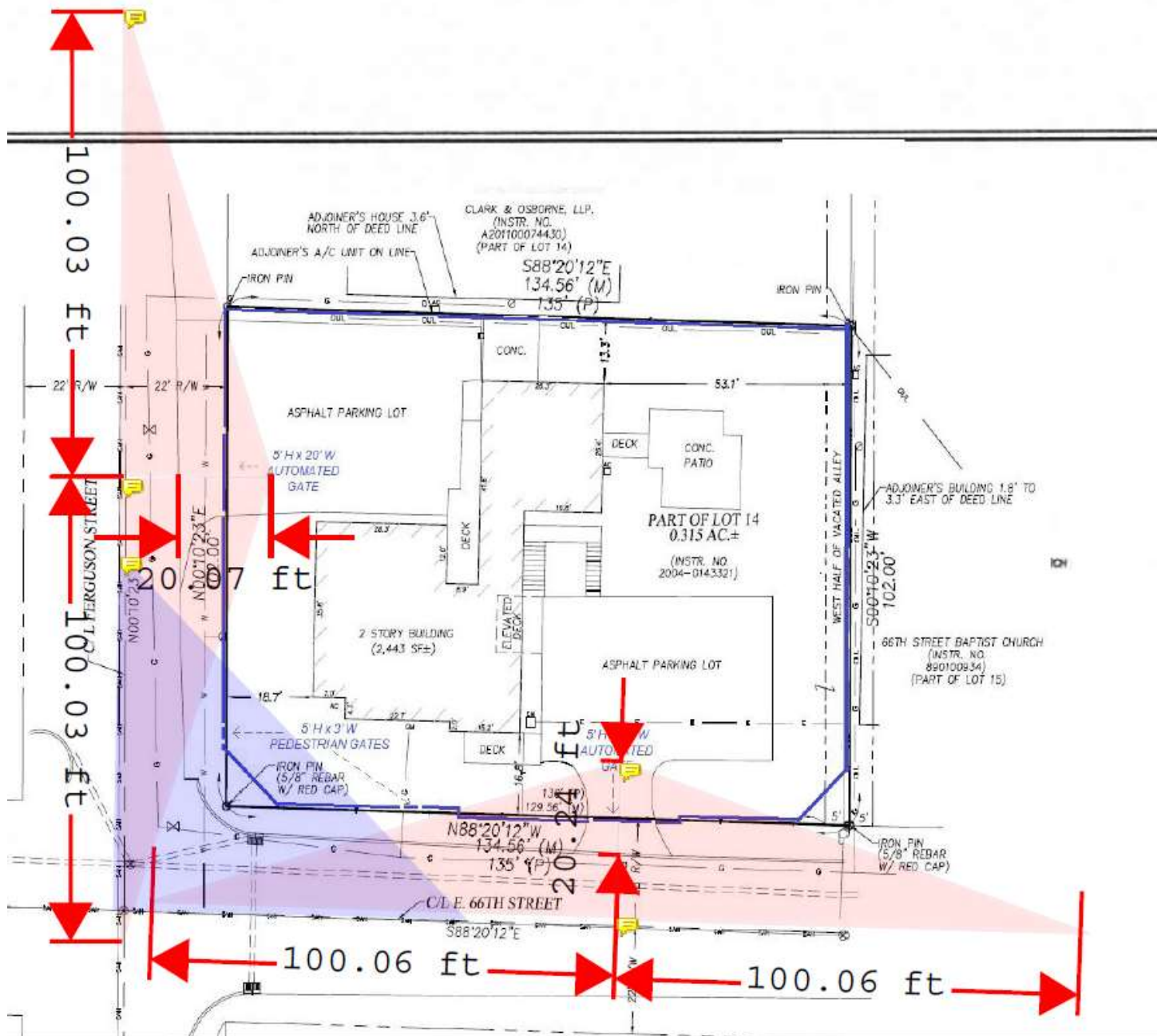
84-UV2-89; 921 East 66th Street (southeast of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for the use of the existing structure for professional offices, **granted.**

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2023-DV1-011; Site Plan



2023-DV1-011; Clear Sight Triangles



2023-DV1-011; Photographs



Photo of the Subject Property: 902 East 66th Street
Photo of the automated gate along 66th Street.



Photo of the other office on site and second parking lot.



Photo of the automated gate along Ferguson Street.



Photo of the five-foot tall fence in the front yards.



Photo of the fence in the clear sight triangle.