

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-014
Address: 1103 South Mickley Avenue (approximate address)
Location: Wayne Township, Council District #22
Zoning: D-5 (TOD)
Petitioner: Hector O. Gomez
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for vehicle access from a front yard curb cut (exclusive vehicular access from an improved alley required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-5	Compact	Residential (Single-family dwelling)
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SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwelling)
South	D-5	Residential (Single-family dwelling)
East	D-5	Residential (Single-family dwelling)
West	D-7	Residential (Multi-family apartments)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends 5 to 8 residential units per acre development.
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- ◇ The 0.13-acre subject site is developed with a single-family dwelling and is surrounded by other residential uses in each direction. However, this property is the only one that is setback at the rear of the property.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow vehicle access from the front yard where it is not permitted.

(Continued)

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- ◇ The Ordinance was amended in April of 2016, to regulate access and connectivity for the zoning districts. This property is required to gain exclusive access from the existing improved alley, per Section 744-301 of the Ordinance. The “Access to accessory parking areas” provision states that “... if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley.” In addition, per Section 744-401 of the Ordinance. The “Access to and from parking lots and garages” provision states that “... no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line.”
- ◇ Aerial photos since 1962, indicate an existing driveway and curb cut on site. The petitioner installed a concrete driveway over an existing gravel driveway, without a permit from the Department of Business and Neighborhood Services (DBNS). When attempting to obtain a permit, DBNS determined that the abutting alley to the west of the property is an “improved” alley, and therefore access from Mickley Avenue to the subject site would not be allowed, per the Ordinance.
- ◇ Alley access where available, helps the pedestrian environment by reducing the number of new curb cuts across sidewalks and preserves valuable curbside parking, along with reducing the amount of pavement needed for driveways, which causes significant storm water runoff into city drainage systems. In this instance, the property had a driveway from Mickley Avenue that was used for the new concrete driveway. Using the existing driveway did not reduce the sidewalk access or on-street parking any further.
- ◇ The use and value of the area adjacent to the property included in the variance would not be affected in a substantially adverse manner because the site was developed with a driveway from Mickley Avenue like the other properties along this block.
- ◇ The strict application of the terms of the zoning ordinance would result in practical difficulties in the use of the property for off-street parking because the dwelling was originally built at the rear of the property which prevents alley access to the site.

GENERAL INFORMATION

THOROUGHFARE PLAN

Mickley Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN

File-dated March 8, 2023.

FINDINGS OF FACT

File-dated March 8, 2023.

(Continued)

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ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO23-000978; Creating a drive access without proper permit. Must obtain drive permit
2. VIO23-001156; Indianapolis Building Standards and Procedures 2018: Section(s) 536-201; 536-609; 536-705; 536-709. This Stop Work-Order has been issued for failure to obtain a structural permit prior to the interior and exterior remodel, new construction of a deck on 2nd sty, new siding, exchanging windows of smaller sizes on a two-story single-family dwelling. Admin fee assessed.

PREVIOUS CASES

None.

ZONING HISTORY – VICINITY

2021-DV1-052; 1122 Waldemere Avenue (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for access from Waldemere Avenue (access from alley required), **granted**.

2020-DV3-047; 408 Lindley Avenue, 1108 South Whitcomb Avenue, 5625 Henry Street, 5564 Linda Lane, 315 South Norfolk Street, 22 South Whitcomb Avenue, 124 South Worth Avenue and 314 South Biltmore Avenue (north and east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 47-foot-tall wood and metal poles for small cell wireless communications facilities, with associated equipment and antennas within the right-of-way (underground utilities only permitted after January 1, 1973.), **withdrawn**.

2010-CVR-831; 5784, 5796, and 5798 West Morris Street (south of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a three-foot front setback, without landscaping along Morris Street and to provide for a three-foot front setback, without landscaping, along Mickley Avenue (10-foot front setback, with landscaping required), and carry-out food service within 10 feet of a protected district (100-foot separation required), **granted**.

2010-DV1-020A; 1019 Whitcomb Avenue (northeast of site); Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 576-square foot garage in front of the established building line of the primary dwelling, **approved**.

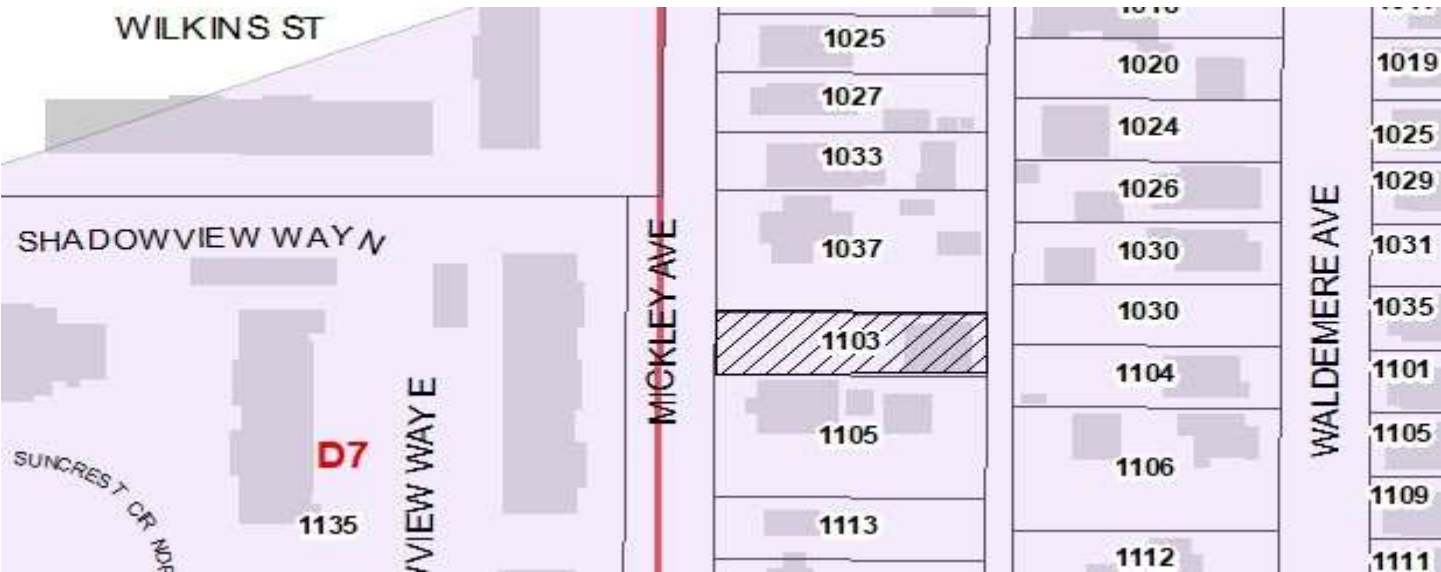
2010-DV1-020B; 1019 Whitcomb Avenue (northeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 42-inch fence within the clear sight triangle of the driveway, **denied**.

2005-LNU-029; 5784 West Morris Street (south of site), Certificate of Legal Non-Conforming Use for a single-family residence, **granted**.

90-V3-31; 5760 West Morris Street (southeast of site), Variance of development standards of the Commercial Zoning Ordinance to permit a second story addition, retaining wall, and down ramp to the underground parking area with a total of 27 parking spaces (35 parking spaces required; located within a transitional yard), **granted**.

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2023-DV1-014; Location Map



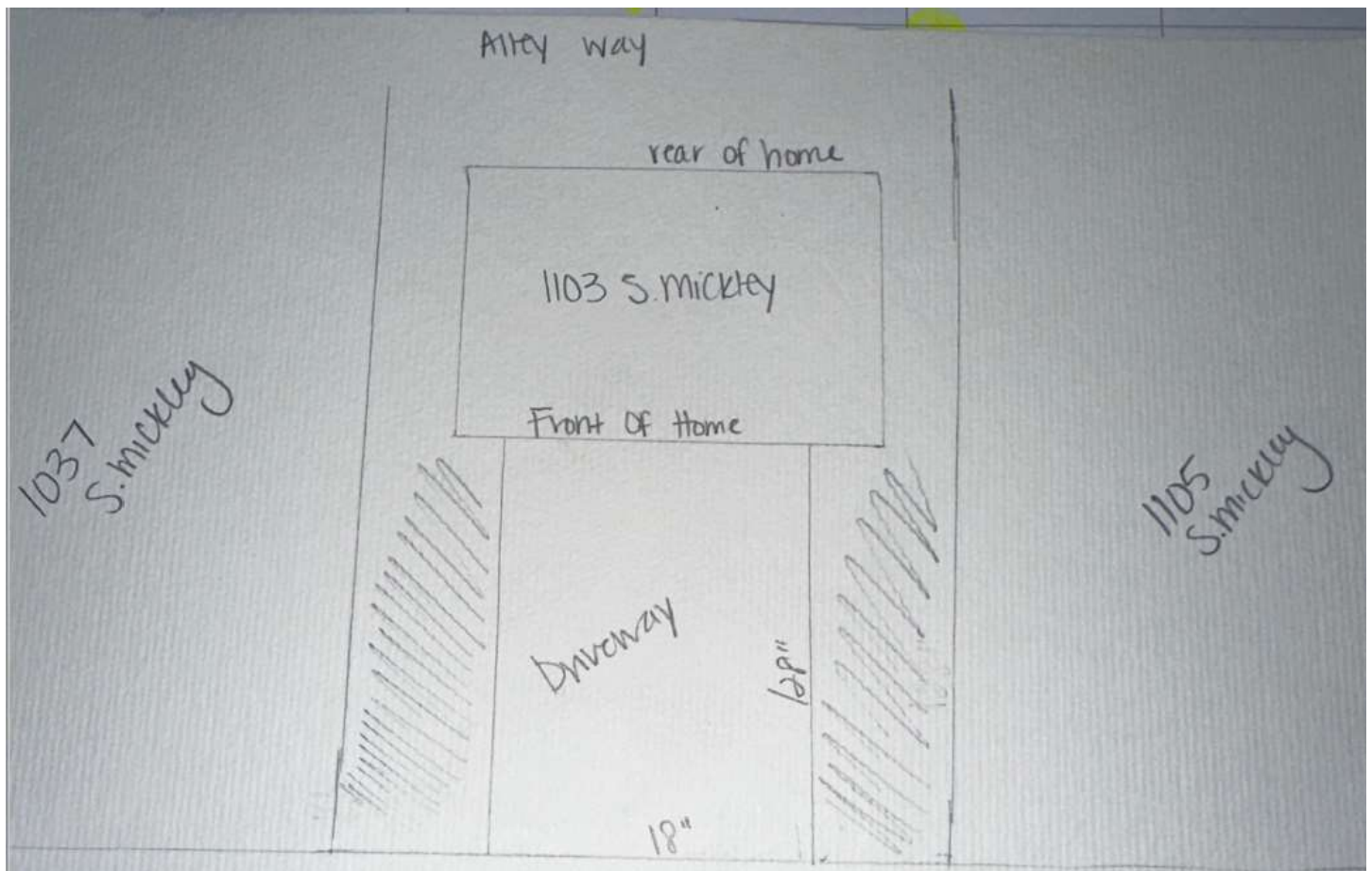
2023-DV1-014; Aerial Map



2023-DV1-014; Sanborn (1962)



2023-DV1-014; Site Plan



2023-DV1-014; Photographs



Photo of the subject site with existing curb cut, looking east.



Photo of the placement of the single-family dwelling at the rear of the property without alley access.



Photo of the adjacent property to the north, with existing curb cut and driveway, looking east.



Photo of other properties north with front driveways.



Photo of the Adjacent property to the south, with existing curb cut and driveway, looking east.