



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

June 13, 2024

Case Number: 2023-ZON-106 (Amended) / 2024-VAR-004 (Amended)
Property Address: 2620 and 2710 Wicker Road
Location: Perry Township, Council District #20
Petitioner: Reid Litwack, by Joseph D. Calderon
Current Zoning: D-A (W-1)
Rezoning of 6.30 acres from the D-A (W-1) district to the I-1 (W-1) district to provide for an industrial business park.
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for outdoor storage without the required separation from a protected district (500 feet of separation required).
Current Land Use: Single-family dwelling / agricultural uses
Staff Recommendations: Denial.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued this petition from the December 14, 2023 hearing, to the January 25, 2024 hearing, at the request of staff to provide time for further discussions with the petitioner and possibly provide new notice.

The Hearing Examiner continued the petition from the January 25, 2024, hearing, to the February 29, 2024 hearing, to provide time for the petitioner's representative to submit an amended petition and send new notice.

The Hearing Examiner continued these petitions from the February 29, 2024 hearing, to the April 25, 2024 hearing, at the request of the petitioner's representative to provide additional time to reconsider the request and send new notice.

The Hearing Examiner continued these petitions from the April 25, 2024 hearing, to the June 13, 2024 hearing, with notice, at the request of staff to provide additional time to amend the request and send new notice.

This request has been amended, with the last amendment requesting a "Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a commercial parking lot in the C-4 district." This request will need to be **withdrawn**.

STAFF RECOMMENDATION

Denial. If approved, staff would request that approval be 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. Final site plan and elevations shall be submitted for Administrator Approval 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

Rezoning

This 6.39-acre site, zoned D-A (W-1), is comprised of three parcels. It is developed with a single-family dwelling and surrounded by undeveloped land to the north, zoned D-A (W-1); undeveloped land to the south, across Wicker Road, zoned D-A (W-1); Interstate 69 right-of-way to the east, zoned D-A (W-1); and a single-family dwelling to the west, zoned D-2 (W-1).

The request would rezone all the parcels to the I-1 (Light Industrial) District typology. "The Light Industrial typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic."

The Comprehensive Plan recommends suburban neighborhood typology for this site.

Even though the construction of I-69 has impacted those adjacent land uses along the route, staff believes the Comprehensive Plan recommendation of suburban neighborhood typology is supportable. This site does not have direct access to I-69 and the surrounding area is generally residential.

As proposed this request would rezone the site to provide for light industrial uses consisting of two buildings (33,000 square feet and 20,000 square feet), outdoor storage and parking lots.

The proposed use would not be consistent with the Plan recommendation of suburban neighborhood. Furthermore, the Pattern Book recommends removal of industrial uses when it is adjacent to a living typology and the Ordinance states that activities occur within enclosed structures.

Additionally, staff is also concerned with the introduction of industrial uses into a wellfield.



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 in W-1 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.

Staff would note the following uses are prohibited in the floodplain:

- a. Jails;
- b. Hospitals;
- c. Assisted living facilities;

- d. Nursing homes;
- e. Laboratories;
- f. Elementary, Middle or High Schools;
- g. Daycare facilities;
- h. Fire stations;
- i. Emergency operation centers;
- j. Police facilities;
- k. Truck, train, or bus terminal, storage or maintenance facility;
- l. Wrecking or salvage facility;
- m. Gas, oil or propane storage facility;
- n. Industrial laundry;
- o. Hazardous waste handling or storage facility; and
- p. Other public equipment storage facilities.

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 outdoor storage without the required 500-foot separation from protected districts.

The Ordinance prohibits outside operations in the I-1 district and does not permit outdoor storage within 500 feet of a protected district. The Ordinance also limits the amount of outdoor storage to 25% of the total gross floor area of enclosed buildings.

If approved and based on the site plan, file-dated May 16, 2024, the total square footage of the outdoor storage would be 13,250 square feet and located at the northern and central areas of the site.

The purpose of the separation is to minimize the adverse impact on and provide a buffer between more intense uses and residential neighborhoods and living typologies.

The amended site plan provides for a 50-foot side and rear transitional yard and a 100-foot front transitional yard in accordance with the Ordinance. However, the reduction of the required 500-foot separation between outdoor storage and protected districts would not be appropriate or acceptable. It would not provide the protection contemplated by the Ordinance.

GENERAL INFORMATION

Existing Zoning	D-A (W-1)	
Existing Land Use	Single-family dwelling / agricultural uses	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Land Use
	North: D-A (W-1)	Agricultural uses
	South: D-A (W-1)	Vacant land
	East: D-A (W-1)	Interstate 69 right-of-way
	West: D-2(W-1)	Single-family dwelling
Thoroughfare Plan		
Wicker Road	Primary Collector	existing 100-foot right-of-way and a proposed 90-foot right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	Yes	
Site Plan	November 11, 2023	
Site Plan (Amended)	May 16, 2024	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	

Findings of Fact	February 1, 2024
Findings of Fact (Amended)	May 16, 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 1 to 5 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 parks.”

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include the Pattern Book 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:

Light Industrial Uses (described as industrial uses that create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials.)

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

Recommended land uses in the suburban neighborhood typology include, detached housing, attached housing, multi-family housing, assisted living facility / nursing homes, group homes, bed/breakfast, small-scale office / retailing / personal or professional services, small-scale schools, / places of worship / neighborhood-serving institutions or infrastructure / other places of assembly, large-scale schools, / places of worship / neighborhood-serving institutions or infrastructure / other places of assembly, small-scale parks, and community farms / gardens.

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 describes 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

2007-UV2-002; 2605 Wicker Road (south of site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for a day care center with outdoor play area encroaching into the transitional yards; parking spaces within the transitional yard; and trash container located in the front yard, **withdrawn**.

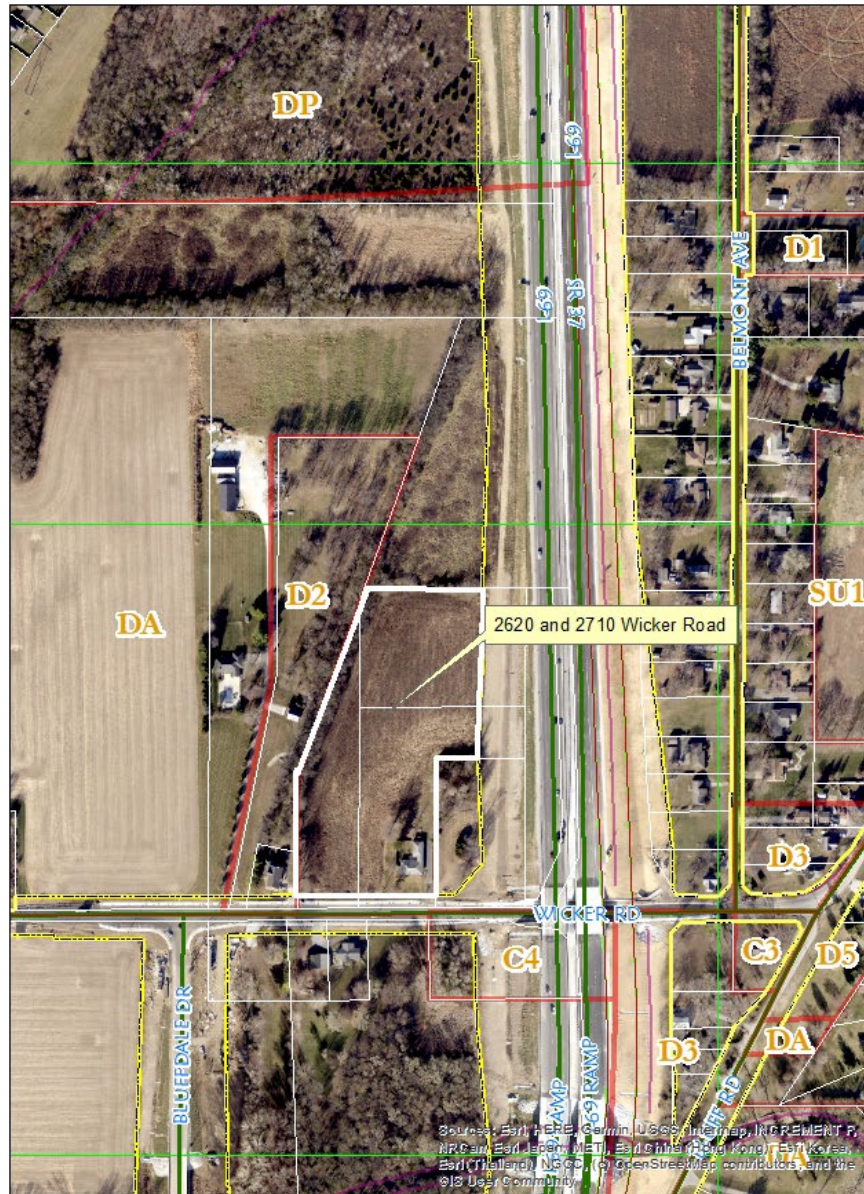
99-V1-74; 2602 Wicker Road (east of site), requested a variance of development standards of the Dwelling districts Zoning Ordinance to provide for the construction of a detached garage exceeding the permitted size of the main floor area of the primary residence and total accessory uses, **granted**.

98-UV3-45; 2550 Wicker Road (east of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for a telecommunications facility, with a 150-foot tall monopole, **denied**.

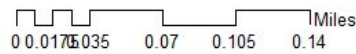
88-Z-102; 2780 Wicker Road (west of site), requested rezoning of 5.50 acres, being in the A-2 district to the D-2 classification, to provide for single-family residential development, **approved**.

71-Z-7; 2605 Wicker Road (south of site), requested rezoning of 1.76 acres, being in the A-2 district to the C-4 classification to provide for a gasoline service station, **approved**.

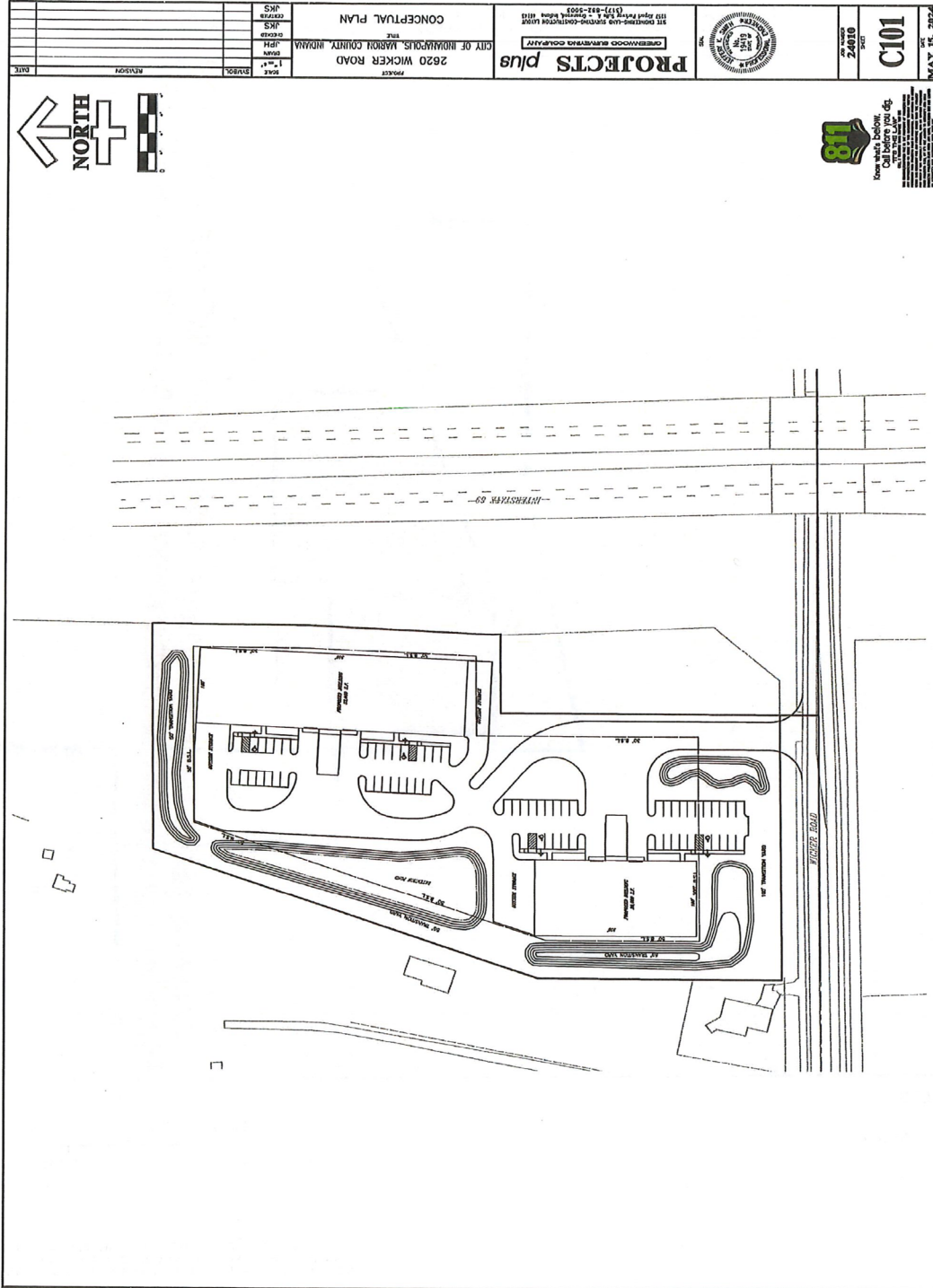
EXHIBITS



2620 and 2710 Wicker Road



Source: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Beijing), Esri Korea, Esri (The Netherlands), Sweco, (c) OpenStreetMap contributors, and the
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DATE	REVISION	SCALE	PROJECT	PROJECT #	PROJECT NAME	CITY OF INDIANAPOLIS, MARION COUNTY, INDIANA	DESIGNED BY	DRAWN BY	CHECKED BY	DATE
		1" = 100'	2620 WICKER ROAD		CONCEPTUAL PLAN					

PROJECTS plus
 1111 West Park Ave. • Greenwood, Indiana 46143
 (317) 842-5553
 GREENWOOD SERVICE COMPANY



811
 See what's below.
 Call before you dig.
 1-800-4-A-SHIELD

2010
 2010
C101
 MAY 15, 2012



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

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

the outside storage will be fully screened with a fence and landscaping, will be located out of the clear site triangle and will thus not be injurious to the public health, safety or general welfare.

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:

there will be adequate transitional yard buffering for the west and north adjoiners, and the outside storage will be completely screened with a fence and landscaping. The outside storage will not interfere with access or visibility to or from any adjoining property.

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

the subject property does not have sufficient width due to I-69 right-of-way to meet the 500 foot outside storage separation requirement.

DECISION

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

Adopted this _____ day of _____, 20 ____



View looking west along Wicker Road



View looking east along Wicker Road



View of site looking east along Wicker Road



View of site looking northeast across Wicker Road



View of site looking north across Wicker Road



View of adjacent property to the west looking northwest across Wicker Road