



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

April 11, 2024

Case Number: 2024-ZON-027
Property Address: 1101 and 1117 South Sherman Drive
Location: Center Township, Council District #19
Petitioner: Liberty Commercial Investors, LLC, by Donald W. Fisher
Current Zoning: D-5 and C-3
Request: Rezoning of 0.68-acre from the D-5 and C-3 districts to the C-5 district to provide for automobile sales.
Current Land Use: Automobile sales / vacant property
Staff Recommendations: Denial, subject to the commitments noted below, if approved:
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

This is the first public hearing on this petition.

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. A 40-foot half right-of-way shall be dedicated along the frontages of South Sherman Drive and East Prospect 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

Rezoning

This 0.68-acre site, zoned D-5 and C-3, is comprised of two parcels. The northern parcel is developed with a used car sales business and the southern parcel is vacant. It is surrounded by industrial uses to the north, across Prospect Street, zoned I-4; industrial uses to the east, zoned C-S; commercial uses to the west, across South Sherman Drive, zoned C-5; and a single-family dwelling to the south, zoned D-5. Petition 90-UV1-39 provided for open air automobile sales on the northern parcel of this site. Petition 64-V-308 granted the use of the site (northern parcel) for a gasoline service station with reduced yards and signage. Subsequently, petition 2012-ZON-012 rezoned the northern parcel to the C-3 district to provide for commercial retail uses.

The request would rezone both parcels to the C-5 (General Commercial) District. “The C-5 District is designed to provide areas for those retail sales and service functions whose operations are typically characterized by automobiles, outdoor display, or sales of merchandise; by major repair of motor vehicles; by outdoor commercial amusement and recreational activities; or by activities or operations conducted in buildings or structures not completely enclosed. The types of uses found in this district tend to be outdoor functions, brightly lit, noisy, etc. Therefore, to provide a location where such uses can operate in harmony with the vicinity, the C-5 district should be located on select heavy commercial thoroughfares and should avoid locating adjacent to protected districts.”

The Comprehensive Plan recommends community commercial typology for the northern parcel and suburban neighborhood typology for the southern parcel.

As proposed, this request would not be consistent with either of the Comprehensive Plan recommendations. Community commercial typology is contemplated to be consistent with the C-3 (neighborhood commercial) or the C-4 (community-regional) zoning districts, depending upon the location and the surrounding land uses. The suburban neighborhood typology is comprised primarily of single-family dwellings with a variety of neighborhood serving commercial businesses.

Not factoring in permitted accessory uses, approximately 62 primary uses would be permitted. Staff believes the request should be limited to neighborhood serving uses, rather than permitting uses that would not be appropriate for this site, would be detrimental to the surrounding land uses, particularly the residential neighborhood to the south and would allow for further commercial encroachment into the residential neighborhood.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 40-foot half right-of-way along South Sherman Drive and East Prospect 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.

GENERAL INFORMATION

Existing Zoning	C-3 / D-5	
Existing Land Use	Automobile vehicle sales / vacant land	
Comprehensive Plan	Community Commercial / Suburban Neighborhood	
Surrounding Context	Zoning	Land Use
North:	I-4	Industrial uses
South:	D-5	Single-family dwelling
East:	C-S	Single-family dwelling
West:	C-5	Commercial uses

Thoroughfare Plan		
South Sherman Drive	Primary arterial	Existing 50-foot right-of-way and proposed 80-foot right-of-way.
East Prospect Street	Primary arterial	Existing 60-foot right-of-way and proposed 80-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	N/A	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
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 Community Commercial (northern parcel) and Suburban Neighborhood (southern parcel) typologies. “The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.”
- “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 park.”

Pattern Book / Land Use Plan

- *Conditions for All Land Use Types – Community Commercial 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.
- *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.)*
 - Outdoor display of merchandise should be limited.
 - If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
 - Should be located along an arterial or collector street.
 - If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
- *Conditions for All Land Use Types – Suburban Neighborhood 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.
 - Hydrological patterns should be preserved wherever possible.
 - Where possible, contributing historic buildings should be preserved or incorporated into new development.
 - Curvilinear streets should be used with discretion and should maintain the same general direction.
 - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- *Conditions for All Housing*
 - A mix of housing types is encouraged.
 - Developments of more than 30 housing units must have access to at least one arterial street of 3 or more continuous travel lanes between the intersections of two intersecting arterial streets.
 - Should be within a one-quarter-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user.
 - Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.

- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.
 - Developments with densities higher than 5 dwelling units per acre should have design character compatible with adjacent properties. Density intensification should be incremental with higher density housing types located closer to frequent transit lines, greenways or parks.
- *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.)*
 - If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
 - Should be located at the intersections of arterial streets and should be no closer than one mile to another commercial node with one acre or more of commercial uses except as reuse of a historic building.
 - Should be limited to an aggregate of 3.5 acres per intersection, with no one corner having more than 1.5 acres.
 - Should be limited to areas and parcels with adequate space for required screening and buffering.
 - Automotive uses (such as gas stations and auto repair) and uses requiring a distance of separation of greater than 20 feet under the zoning ordinance (such as liquor stores, adult uses, and drive-through lanes) are excluded.
 - Should not include outdoor display of merchandise.

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

2012-ZON-012; 1101 South Sherman Drive, requested rezoning of 0.27-acres, from the D-5 District, to the C-3 classification to provide for commercial retail uses, **approved**.

90-UV1-30; 1101 South Sherman Drive, requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to permit open air automobile sales, **granted**.

64-UV1-39; 1101 South Sherman Drive, requested a variance of use and development standards to provide for a gasoline service station with reduced yards and signage, **granted**.

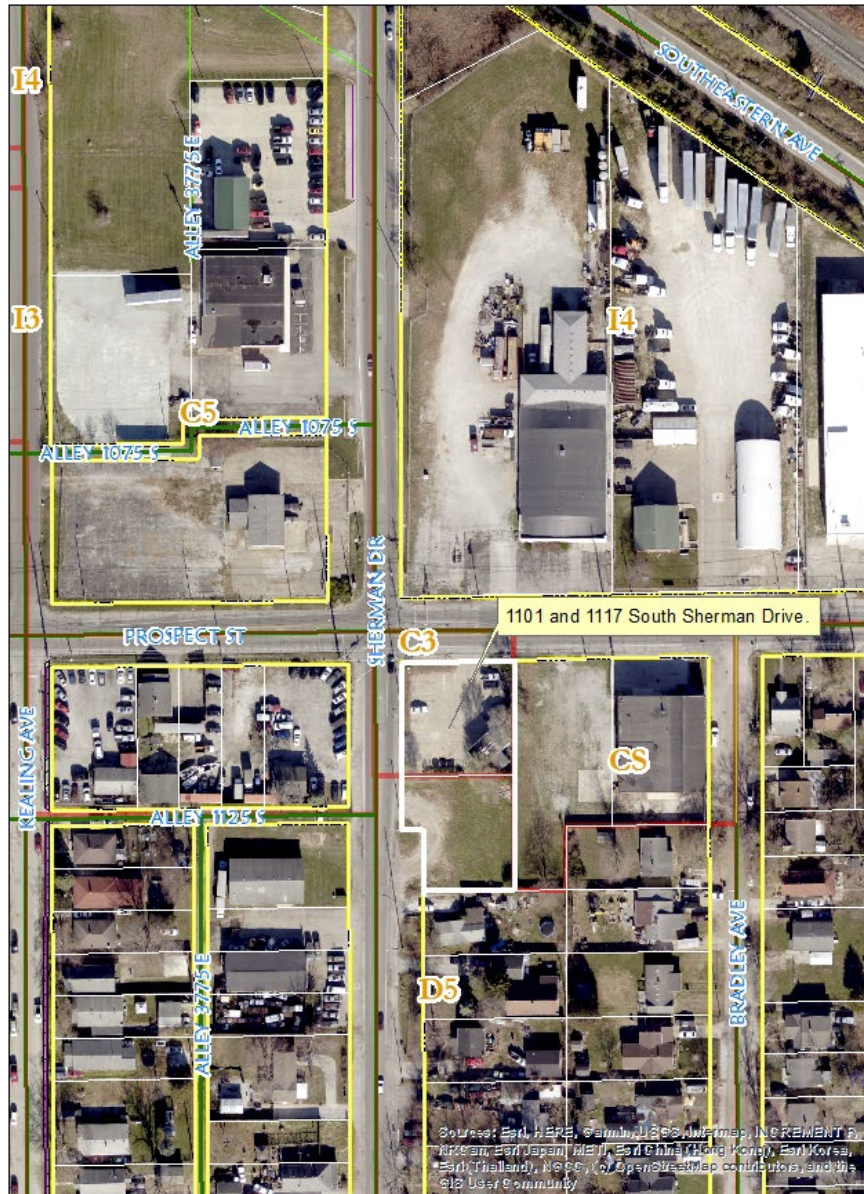
VICINITY

2018-CZN-833 / 2018-CVR-833; 3833 East Prospect Street, requested rezoning of 0.96 acre from the D-5 district to the C-S classification to provide for I-2 uses and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish zero-foot front transitional, front, side transitional and side setbacks, without landscaping, **approved and granted**.

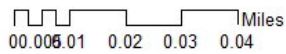
81-UV1-101; 3831-38-33 Prospect Street (east of site), requested a variance of use and development standards to permit the operation of an office for a scavenger service, with truck storage and inside truck and equipment repair, **granted**.

69-V2-192; 3833 Prospect Street (east of site), requested a variance of use and setback requirement to permit an addition to the existing building for warehouse use, **granted**.

EXHIBITS



1101 and 1117 South Sherman Drive





View looking north along South Sherman drive



View looking south along South Sherman Drive



View looking west along East Prospect Street



View looking east along East Prospect Street



View of site looking south across East Prospect Street



View of site looking south across East Prospect Street



View of site looking east across South Sherman Drive



View of site looking east across South Sherman Drive



View of site looking east across South Sherman Drive

Enter any photographs or site plans