

BOARD OF ZONING APPEALS DIVISION I

May 14, 2024

Case Number: 2024-UV2-003 (Amended)
Property Address: 1402 Shelby Street (approximate address)
Location: Center Township, Council District #18
Petitioner: Carnivore Properties LLC, by Theodore Lane Skeeters II
Current Zoning: MU-1 (TOD)
Request: 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 (not permitted) with zero parking spaces (13 parking spaces required).
Current Land Use: Commercial
Staff Recommendations: Staff recommends denial of this petition
Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

ADDENDUM FOR MAY 14, 2024 BZA DIVISION I HEARING

- This petition was continued and transferred from the April 9, 2024 Division II hearing to the May 14, 2024 BZA Division I hearing per the petitioner’s request.

STAFF RECOMMENDATION

- Staff recommends denial of this petition

PETITION OVERVIEW

- This petition would provide for the operation of a marketing business, including graphic design and print services (not permitted) with zero parking spaces (13 parking spaces required).
- Staff is unopposed to the proposed uses for the subject site, being a marketing business with graphic design and print services. Given that 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 is unopposed to the request for reduced off-street parking spaces.
- However, Staff does wish this to be filed as a rezoning petition, to give the site a more appropriate zoning classification for the proposed use and the surrounding context. With the MU-1 zoning district

prohibiting the vast majority of primary commercial uses, almost any proposed commercial use would require a variance. To eliminate the need for future issues and/or variances, Staff requests that the site be rezoned to a less restrictive zoning classification, preferably C-3.

- Staff communicated to the petitioner that Staff would be in support of a rezoning filing and a transfer of filing fees. The petitioner did not wish to refile as a rezoning, wishing to complete the process on a shorter timeline. Given that the petition is still filed as a use variance as opposed to a rezoning, Staff is opposed to the petition and continues to request that it be refiled as a rezoning petition.

GENERAL INFORMATION

Existing Zoning	MU-1 (TOD)	
Existing Land Use	Commercial	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	Zoning	Surrounding Context
	North: MU-2 (TOD)	North: Commercial
	South: MU-1 (TOD)	South: Residential
	East: MU-1 (TOD)	East: Commercial
	West: D-5 (TOD)	West: Single-family residential
Thoroughfare Plan		
Shelby Street	Primary Arterial	62 feet of right-of-way existing and 56 feet proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	2/12/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	2/12/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Red Line TOD Strategic Plan

- Indy Moves Transportation Integration Plan (2018)

Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Village Mixed-Use typology for this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site is approximately ¼ mile from the Fountain Square TOD station, classified as a district center typology. The district center typology is characterized by a dense mixed-use hub, minimum of 3 stories at core with no front or side setbacks, a mix of housing types, and little to no surface parking lots at the core.
- Additionally, the subject site is approximately ¼ mile from the Pleasant Run TOD station, classified as a walkable neighborhood typology. The walkable neighborhood typology is characterized by a mix of uses at station area surrounded by mostly residential, no front or side setbacks at the core, and a mix of housing types.

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 subject site is located along the Shelby Street two-way protected cycle track that connects to the Cultural Trail to the north, and to the Pleasant Run Greenway to the south.
- DPW has noted that a future project is in the design stage to improve the protection buffer of the two-way cycle track by removing underutilized on-street parking spaces.

ZONING HISTORY

ZONING HISTORY – SITE

2014UV1017; Variance of use of the Commercial Zoning Ordinance to provide for the storage and distribution of frozen raw pet food (not permitted), **approved.**

2009UV1019; VARIANCE OF USE AND DEVELOPMENT STANDARDS of the Commercial Zoning Ordinance to: legally establish a commercial carpet, flooring and tile retail use (not permitted), provide for all C-3 uses (not permitted) within the existing building, legally establish zero off-street parking spaces (minimum seventeen off-street parking spaces required), legally establish a 4,788-square foot building with a 43.3-foot front setback from the centerline of Shelby Street (minimum 70-foot front setback from centerline required), with a one-foot south side setback and a 3.4-foot north side setback (minimum ten-foot side setbacks required), and with a 2.4-foot rear setback (minimum ten-foot rear setback required), legally establish zero landscaping in the required front, side and rear yards (landscaping required), **withdrawn.**

ZONING HISTORY – VICINITY

2023ZON051; 1354 Shelby Street (north of site), Rezoning of 0.30 acre from the MU-1 (TOD) district to the MU-2 (TOD) district to provide for retail commercial uses, **approved.**

2021UV1014; 1336 Shelby Street (north of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an eight-foot by 20-foot shipping container for retail pop-up shops and an eight-foot by 40-foot shipping container for a retail store with a zero-foot north side setback (retail sales permitted only as an accessory use, 10-foot side yard setback required), resulting in four less parking spaces (six existing spaces; 10 parking spaces required), **approved.**

2020ZON084; 1325 Shelby Street (north of site), Rezoning of 0.08 acre from the MU-1 district to the MU-2 district, **approved.**

2019CZN/CVR843; 1315 Shelby Street (north of site), Rezoning of 0.30 acre from the MU-1 district to the MU-2 district. Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a yoga studio (not permitted) and to provide for four substandard parking spaces partially within the right-of-way of Orange Street (not permitted – 46 spaces required). **approved.**

2018ZON034; 1035 Sanders Street (north of site), Rezoning of 1.249 acres from the C-S district to the C-S classification to provide for up to 54 Multi-family residential units, Offices up to 5,000 square feet; Public exhibition and performance of art or live drama/music; Public instructional activities in the arts; Studio use for creation/production of the arts; and Retail uses up to 5,000 square feet, **approved.**

2015DV2023; 1403 Barth Avenue (west of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 280-square foot detached garage, with a one-foot south side setback and a five-foot north side setback, resulting in a six-foot aggregate side setback (minimum four-



Department of Metropolitan Development
Division of Planning
Current Planning

foot side and ten-foot aggregate side setbacks required), and with an open space of 59.9% (65% required), **approved**.

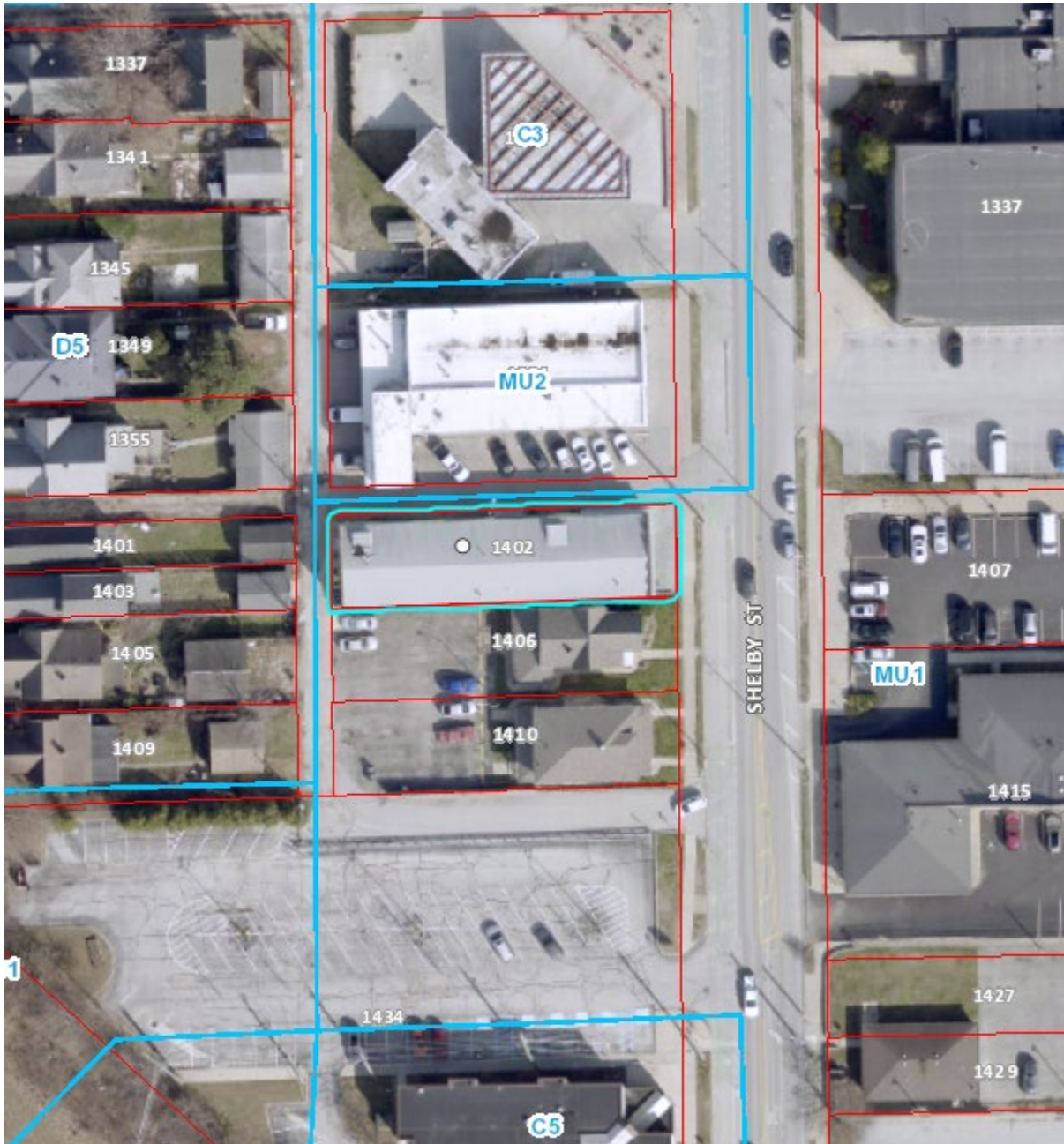
2011CZN/CVR803; 1301 Barth Avenue (north of site), Rezoning of 0.58 acre from the D-5 and C-5 Districts to the C-S classification to provide for an 11,000-square foot brewery, with package liquor sales, a tasting room, brewery tours, special events and outdoor seating. Variance of development standards of the Commercial Zoning Ordinance: to provide for outdoor seating (not permitted), to provide for alcohol sales, within approximately 79 feet of the D-5 protected district to the south (100-foot separation from building required) and to provide for a trash container and enclosure with a 3.5-foot front setback from Barth Avenue, in front of the established front building line (trash enclosures not permitted within the required 10-foot front yard or in front of the established front building line). **approved**.

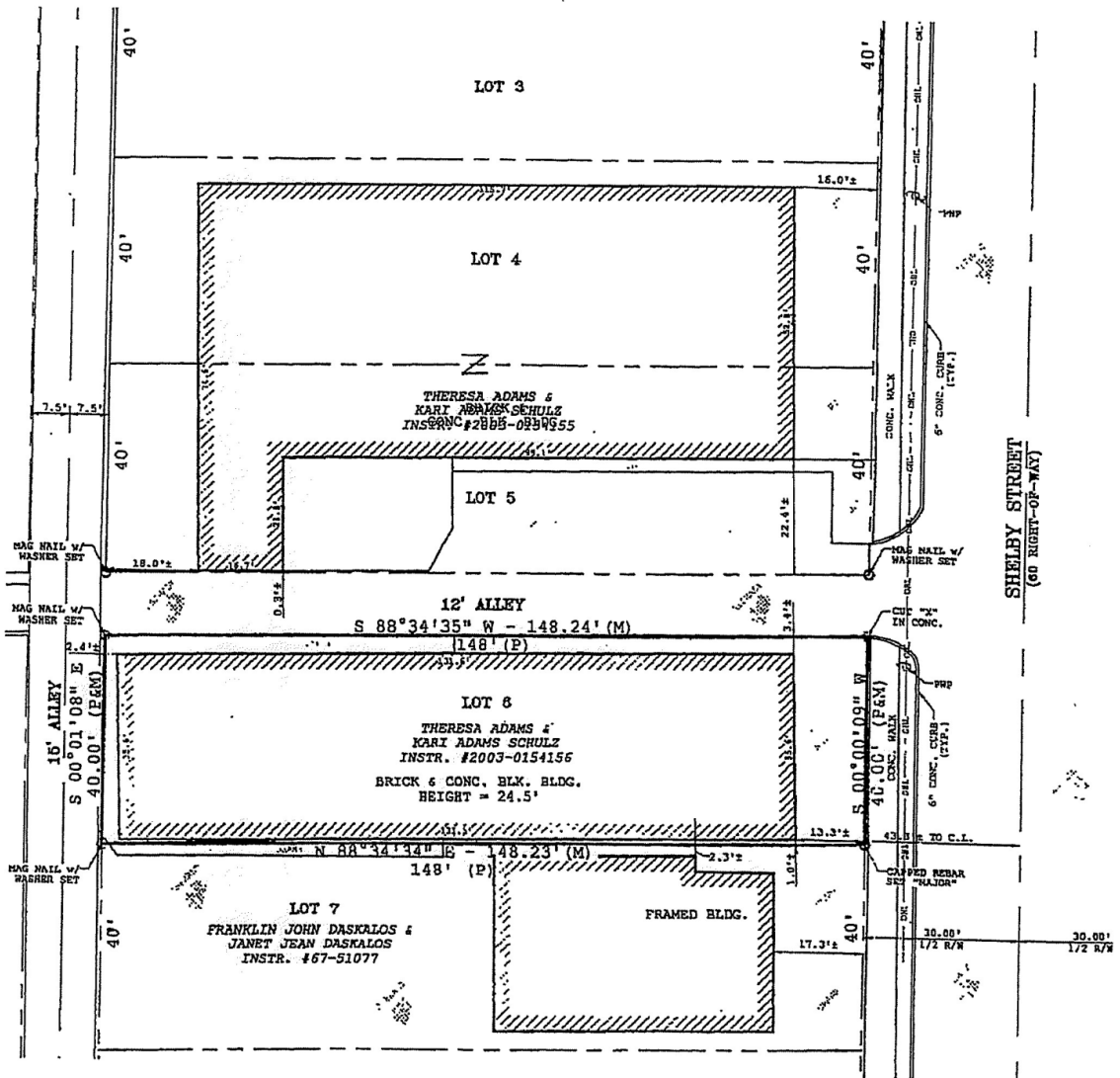
97-Z-101; 1017-1027 East Morris Street (north of site), rezoning of 2.63 acres from the I-3-U and D-5 Districts to the C-3 classification to provide for commercial uses, **approved**.

96-Z-38/96-CV-16; 1425 Barth Avenue (south of site), rezoning from the D-5 district to the C-1 classification. Variance of development standards of the Commercial Zoning Ordinance to provide for a six foot wide transitional yard along the northern border property line (minimum 15 feet required), off-street parking spaces within the transitional yard (not permitted), and 9 by 18 parking spaces (parking spaces dimensions under 180 square feet not permitted), **approved**.

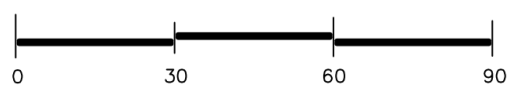
79-Z-56; 1504 Shelby Street (south of site), rezoning of 0.47 acres from the C-2 district to the C-5 district for commercial uses, **approved**.

EXHIBITS





SCALE: 1" = 30'





Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The proposed use will decrease the amount of commercial traffic compared to the existing use as a distribution center. There will be no impact on the neighboring properties or public with regard to health, safety or the enjoyment of their property. The production portion of the proposed use will create any unwanted noise or odors. By continuing the commercial use of this property the community will benefit by maintaining job opportunities and nearby businesses will benefit from the employees continued use.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE

The proposed use does not require any changes to the exterior of the property with the exception of signage. Ownership has required that the original building facade be maintained with no changes. Shipping/receiving and employee traffic is expected to be lower than the current use. The community highly values it's existing history and culture and the proposed use of this property will not make any changes to that.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The property is zoned for residential/office use that would be difficult to accommodate considering the type of structure. The structure is an open floor plan industrial building with multiple dock doors and a storefront. The original use was as a flooring showroom and warehouse. There is also very limited parking available nearby which would make other uses difficult. The proposed use requires limited office space but the open floorplan is ideal for a showroom and the warehouse space will allow production use as well.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The property has operated with a variance since 2014 and the prior use also did not conform to the zoning standards. The use of this property in a commercial capacity similar to the proposed use has continued for at least 50 years. The structure as it is right now is not suitable for the zoned use without significant investment. Furthermore, changes that allow for zoned use may change the historic and unique character of this building in Fountain Square. Ownership and petitioner are committed to maintaining the character of the structure.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The petitioner's proposed use is categorized as Artisan Manufacturing and is allowed under the property's current zoning designation in circumstances when the building has been vacant for 5 years. The comprehensive plan designates the property as Village Mixed Use and the proposed use will meet the goal of strengthening the historic town center of Fountain Square by allowing use of the structure as it exists. Further the proposed use will offer services that the community does not currently have.

DECISION

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

Adopted this _____ day of _____, 20 ____

MOTIFY PLAN OF OPERATION

DEFINE YOUR SPACE

Roles

Owner:

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.

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

Process

Design:

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:

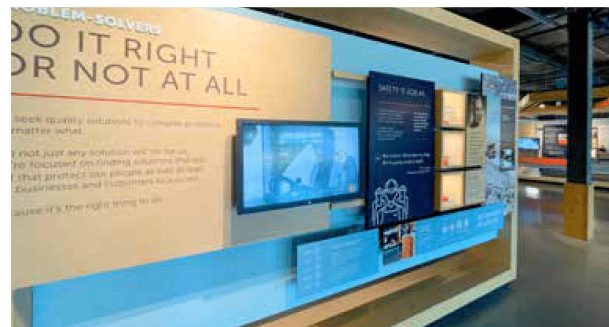
Once the final design is agreed upon, we will work with the client's team to manage the project. This could include necessary buildouts with their contractors or ours. We would work with vendors for the production of elements outside our capabilities and determine final installation timeline and project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



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

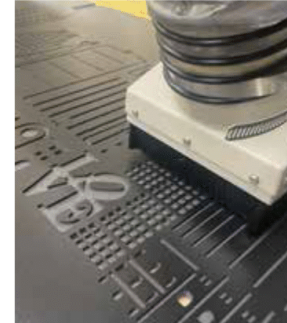
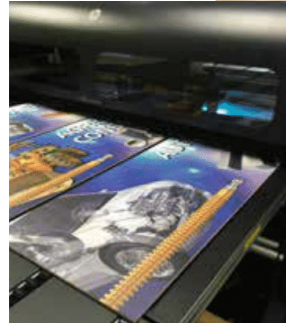
For printing directly to rigid substrates as large as 4'x8' such as plastic, wood and metal. Ink is UV cured with minimal waste.

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.



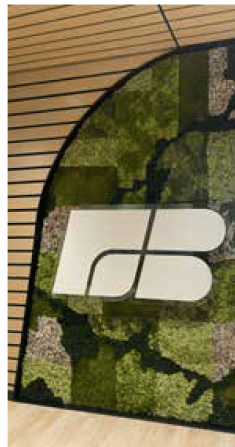
Materials

Rolled Media

- Vinyls
- Canvas
- Wallpapers

Flat Media

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



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.

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.





