

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-051
Address: 3127 West Washington Street (approximate address)
Location: Wayne Township, Council District #16
Zoning: C-4 (TOD)
Petitioner: RSM Oil, Inc, by Sarah M. Dillinger
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of retail building along a Connector Frontage, with:

- a) A 32-front setback from Washington Street (maximum 25-foot setback permitted),
- b) A building comprising 44% of the building line (60 percent building line width required),
- c) 16 parking spaces provided (maximum 13 parking spaces permitted),
- d) No bicycle parking spaces provided (three spaces required), and
- e) Deficient landscaping (frontage and interior parking area landscaping, and conformity with green factor required).

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	C-4	Automotive Fueling Station / Undeveloped
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SURROUNDING ZONING AND LAND USE

North	D-P	Mixed-Use development
South	D-5 / I-3	Single-Family residential
East	C-4	Commercial retail
West	C-5	Undeveloped

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Village Mixed Use for the site. With an overlay for the Blue Line Transit Oriented Development, and the Near West Neighborhood Plan Critical Area #8.

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VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would provide for the construction of a freestanding commercial building with a 32-foot front setback from Washington Street, where a maximum 25-foot front setback is required.
- ◇ The Ordinance requires a maximum setback for commercial uses to limit the distance of primary structures from sidewalks and pedestrian rights-of-way, and to dissuade a larger amount of parking in the front yard, which has negative connotations. This design standard of the Transit Oriented Design (TOD) Overlay is vital to ensuring an appropriate pedestrian-oriented streetscape along approved bus rapid transit lines.
- ◇ The request to provide for the construction of a freestanding commercial building with a 32-foot front setback from Washington Street, is self-imposed by the pre-determined partial development and encroachment of the site with the adjacent automotive fueling station building, canopy and sign. If the site was planned to be developed separately, then the automotive fueling station operations should have been limited to the eastern parcel.
- ◇ Since this is new construction, the building could be designed to be smaller or developed in terms of the Ordinance development standards. The desire for a specific sized building for a specific use is not a practical difficulty imposed by the site or Ordinance but is in fact a self-imposed difficulty. The petitioner has presented no practical difficulty other than the sign location that prevents the building from meeting the maximum setback. As such, there is no limitation that would prevent the sign from being relocated to allow the proposed building to meet the required maximum 25-foot front setback. If the proposed use is predicated by the size and engineering of the proposed building, then a larger site without size constraints should be considered.
- ◇ The request to provide for the construction of a freestanding commercial building with a building comprising 44% of the building line, instead of the required 60% of the building line, is self-imposed by the pre-determined development and building size and encroachment on the site with the adjacent automotive fueling station building, canopy and sign. If the site was planned to be developed separately, then the automotive fueling station operations should have been limited to the eastern parcel.
- ◇ The request would increase on-site parking to 16 spaces, where a maximum of 13 spaces would be permitted. Given that the proposed business is pedestrian oriented, and the subject site is on a proposed bus rapid transit line, typical users would not need the extra parking spaces. The reduction of the extra three spaces could also provide additional room to redesign the site and eliminate several of the other requested variances. Therefore, a deviation from the 13 maximum parking spaces requirement would not be supportable, as there is no practical difficulty, that would prevent the site from providing the 13 maximum parking spaces, other than a self-imposed practical difficulty of over-development of the site.
- ◇ No practical difficulty was submitted to the file as to why the required three bicycle parking spaces could not be provided.

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- ◇ Since this is new construction, the site could be designed to provide for the required landscaping, and conformity with the green factor. There is not practical difficulty with the site that prevents this development standard from being met, as the proposed use could be designed to be smaller or developed in terms of the Ordinance development standards. The desire for a specific sized building for a specific use is not a practical difficulty imposed by the site or Ordinance but is a self-imposed difficulty. Because of the site's prominent location along West Washington Street, no waiver of landscaping should be allowed in Staff's opinion.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. The request for five variances would indicate the proposal is an overdevelopment of the site, needing the multiple variances to avoid meeting the required development standards. The proposed development would consist of new construction that could be designed to meet the terms of the Ordinance.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because the site could still be developed for C-4 uses without the need for variances. For this reason, staff is recommending denial of the request as submitted.

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of West Washington Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with an 81-foot existing right-of-way and an 88-foot proposed right-of-way.
SITE PLAN (Amended)	File-dated October 3, 2022.
FINDINGS OF FACT	File-dated September 19, 2022.

ZONING HISTORY

87-UV2-113; 3127 West Washington Street (subject site), requested a variance of use to provide for the construction and use of a restaurant with drive-through and carry-out service located within 100 feet of a residential district, **granted**.

2013-ZON-065; 3000 West Washington Street (north of site), requested the rezoning of 115 acres from the D-P district to the D-P classification to provide for the following permitted uses; breweries, with accessory tasting rooms, indoor-outdoor event centers, student housing and urban farming, generally with respect to the re-use of historic buildings within the Cultural Village Section of the Central Greens Planned Unit Development, **approved**.

2010-DV2-009; 3234 West Washington Street (west of site), requested a variance of development standards to provide for an adult entertainment business consisting of retail sale of adult films and lingerie and live adult entertainment including modeling, located approximately 305 feet from a D-P District, **denied**.

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2009-DV2-012; 2945 West Washington Street (east of site), requested a variance of development standards to legally establish an automobile display with a zero-foot front setback, being within the required front setback, **granted**.

2009-DV2-031; 3255 West Washington Street (west of site), requested a variance of development standards to legally establish a freestanding identification sign with a three-foot front setback, **granted**.

2007-ZON-134; 3000 West Washington Street (north of site), requested the rezoning of 149.49 acres from SU-9, PK-1, HD-1, and HD-2 to D-P to provide for a mixed-use redevelopment of an existing state hospital complex, **approved**.

2004-ZON-041; 3205-3223 West Washington Street (west of site), requested the rezoning of 1.68 acres from C-4 and I-3-U to C-5, **approved**.

2000-DV2-026; 3021 West Washington (east of site), requested a variance of development standards to provide for the construction of an 8,000 square foot retail store with a front yard setback of eight feet, and a 12-foot by 14-foot dumpster pad, with a rear transitional yard of 3.75 feet, and 28 off-street parking spaces with a non-standard aisle width, with maneuvering in a space encroaching three feet into the transitional rear yard, **granted**.

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2022-DV1-051; Location Map



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2022-DV1-051; Photographs



Subject site looking southwest.



Subject site, adjacent existing automotive fueling station encroaching onto undeveloped parcel, looking southwest.



Subject site, undeveloped portion for proposed building location with increased front setback, looking south.



Adjacent commercial use to the east of site, looking south



Adjacent undeveloped and commercial use to the west of site, looking south



Adjacent single-family dwellings to the south.