

**BOARD OF ZONING APPEALS DIVISION III**

**October 15, 2024**

**Case Number:** 2024DV3024  
**Property Address:** 10220 East Washington Street (approximate address)  
**Location:** Warren Township, Council District #20  
**Petitioner:** Indy WS40 LLC, by Joseph Calderon  
**Current Zoning:** C-4 (TOD)

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive through in a front yard without an exclusive bypass aisle (stacking spaces disallowed within front yard, bypass aisle required) and within 100 feet of a transit stop (prohibited within 600 feet unless located behind building) and the construction of freestanding buildings with front yard setbacks of up to 60 feet (maximum 10-feet permitted), a front building line of 18.5 percent (80 percent required), and deficient first-story transparency on the front façade of the westernmost building (60% transparency required).

**Current Land Use:** Vacant Commercial

**Staff**

**Recommendations:** Staff recommends **denial** of this petition.

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

A timely automatic continuance request was filed by a registered neighborhood organization to continue this petition from the September 17<sup>th</sup> hearing date to the October 15<sup>th</sup> hearing date.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this petition.

**PETITION OVERVIEW**

- The subject property is currently improved with a vacant restaurant building (formerly Golden Corral) and is directly south of the Washington Square Mall. Adjacent businesses include a steakhouse to the east, a large retailer to the north, and a multitenant commercial building to the east. The site is directly to the north of a proposed Blue Line BRT stop that would be placed within Washington Street near the private access road to the west of the subject site as well as a proposed shelter for the existing Line 87. The property was replatted earlier this year to create two outlots for development of three businesses to be placed at 10220 and 10226 E Washington Street.

- In addition to that plat petition, two variances for businesses at this site have been sought and granted within the past two years. Both variances were related to TOD standards (applicable given the proximity to the proposed Blue Line stop). 2023DV3004 was granted to allow for placement of a bank, multitenant commercial structure, and medical clinic at the site with deficiencies related to (a) drive-thru access from a private road, (b) placement of surface parking and (c) placement and width of the front building lines. Additionally, 2024DV3013 was approved earlier this year to allow for the bank to have a deficient number of front entry features. Staff notes that approval of the 2023 variance was subject to a commitment that sidewalk be added along the western portion of the site prior to construction: this commitment would still be applicable regardless of the result of this variance request.
- Changes to the proposed tenant occupying the property furthest to the west would result in the need for another new variance, the third requested for this site within two years. The proposed clinic has been replaced by a proposed beverage chain serviced by a two-lane drive-through that would be predominantly placed within the front yard. Although the 2023 variance would still be applicable, this layout would require several new or amended variances: the proposed drive-through would be located within a front yard (stacking spaces disallowed within front yards) without required bypass aisle and would be within 100 feet of the proposed BRT station (600-foot separation required unless fully behind the building). Additionally, the front setback allowed would be expanded from 20 feet to 60 feet and the required front building line would be reduced from 46% to 18.5% (standards previously granted by 2023DV3004). Finally, the front façade of the building would not meet transparency requirements for TOD.
- This property is zoned C-4 to allow for the development of major business grouping and regional-size shopping centers to serve populations ranging from neighborhoods to major segments of the total metropolitan area, and the Comprehensive Plan recommends it to the Regional Commercial typology to allow for commercial and office uses to serve significant portions of the county with pedestrian connectivity. Additionally, the proximity of this site to both a proposed BRT station and bus shelter means that recommendations from the Blue Line TOD Strategic Plan would be highly relevant. This plan recommends the site for a mix of retail, entertainment, office, and residential uses with vehicle areas consolidated and placed behind buildings to allow for pedestrian orientation at the street level and to encourage transit ridership and associated economic growth.
- The findings of fact provided by the applicant indicate that: (a) the design wouldn't interfere with access to the proposed bus station; (b) the design would match nearby properties that also don't meet TOD standards; and (c) the lot shape wouldn't allow for compliant development. Staff disagrees with each of these assertions. First, the proposed design with a drive-through directly between the BRT stop location and the business would hinder both pedestrian access to the business and the larger development strategy that the Plan envisions. Second, redevelopment of any neighboring sites would also require TOD compliance (neighboring context is not a site-specific difficulty) and no adjacent properties appear to have two drive-through lanes in their front yard or an FBL that would only comprise 18.5 of the lot width. Third, both the original site plan submitted in 2023 and the current layout show buildings with both drive-through designs and FBL widths that are substantially closer to the intent of TOD design standards.

- Although placement of stacking spaces within front yards is disallowed in all zoning contexts, TOD standards take the extra step of requiring placement of drive-throughs only within rear yards if the proposed spaces would be within 600 feet of a transit station to minimize the impact of car access on neighborhood streetscapes. This layout would ignore both of those standards and place two drive lanes without a full bypass aisle in the front yard as well as the western side yard: vehicle area would wrap around both likely frontages for pedestrian entry in a manner disallowed by standard ordinance and wholly inappropriate within 100 feet of a BRT station.
- The Blue Line TOD Strategic Plan envisions that buildings within the zoning layer would be constructed both close to front property lines and with front building line widths comprising much of the parcel width. These design standards are meant to facilitate walkable streetscapes with slow traffic speeds and well-connected sidewalks serving activated streetscapes and human-scale buildings. Grant of 2023DV3004 would allow this specific property to have a front setback 20 feet from the front property line and buildings with only half the width of the lot. However, grant of this variance would relax those standards further even though no observable practical difficulty exists that would prevent the property from being developed with a compliant layout. C-4 zoning allows a broad range of commercial uses and should allow for maximum flexibility in securing a user amenable to following TOD guidelines as closely as possible.
- The front façades of buildings within TOD also have applicable design standards governing transparency, the number of front entry features, and limitations on blank wall space. The proposed front façade of this building facing Washington Street would not meet the transparency requirement of 60% of the area between 3 and 8 feet from grade (plans show approximately 42% of this façade area comprised of glass). Given this deficiency as well as the fact that the front entry would be obscured by two lanes of drive-through traffic, staff does not feel that this deviation would meet or approximate the TOD vision for vibrant, pedestrian-friendly front entryways.
- To conclude, extensive research was conducted by the Indianapolis MPO to establish that (a) consumer preference for transit access and walkable mixed-use communities exists within several Indianapolis communities (transit-dependent households, seniors with limited mobility, millennials, etc.); and (b) based on analysis of nineteen separate variables (including employment density, proximity to retail, average income, rent, and home values, etc.), this node was determined to have high TOD potential. A failure to maintain TOD design standards, especially for property so close to a proposed station, would jeopardize that potential.
- Staff does not object to the proposed primary use but does not feel that the sale of beverages would intrinsically require placement of a building and drive-through lanes so incongruous with ordinance standards; if two front-yard drive through lanes would be required to sell beverages then staff feels this site would not be a good fit for the use. The proposed design would require six variances without any observable practical difficulty (several of them extreme) and would result in auto-centric development fully antithetical to relevant ordinance and comprehensive plan guidance for TOD areas. Staff recommends denial of all proposed variances.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	Enter Zoning and Secondary Districts	
<b>Existing Land Use</b>	Vacant Commercial	
<b>Comprehensive Plan</b>	Regional Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	North: Commercial
	South:	South: Commercial
	East:	East: Commercial
	West:	West: Commercial
<b>Thoroughfare Plan</b>		
Washington Street	Primary Arterial	124-foot existing right-of-way and 124-foot proposed right-of-way
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	07/16/2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	07/16/2024	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	10/04/2024	
<b>Findings of Fact</b>	07/16/2024	
<b>Findings of Fact (Amended)</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends this site to the Regional Commercial working typology which allows for commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Pedestrian connectivity should be emphasized, and outdoor display of merchandise should be limited for the use category.

### Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Blue Line TOD Strategic Plan recommends this site for the Community Center typology which allows for a mix of retail, entertainment, office and residential uses with surface parking consolidated and placed behind buildings to allow for pedestrian orientation at the street while still supporting drive-to businesses.

### 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)

- Not Applicable to the Site.

## ZONING HISTORY

### ZONING HISTORY – SITE

**2024DV3013**, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a bank with one primary entry (two required), **approved**.

**2023DV3004**, Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of an integrated center with: a) an accessory drive through within 600 feet of a transit station with access provided by a private drive (alley access required); b) a surface parking area within the minimum 50-foot front yard setback (not permitted); c) all building maintaining a 20-foot front yard setback (maximum 10-foot setback permitted); d) and a 46% front building line (80% required), **approved**.

### ZONING HISTORY – VICINITY

**2022UV3031 ; 10435 E Washington Street (east of site)**, Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an automobile service business (not permitted on lots greater than 0.5-acres), with a 23.5-foot front building line, 4% of the building line (60% front building line required), **withdrawn**.

**2018UV2008 ; 10501 E Washington Street (east of site)**, Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a contractor with outdoor storage, **approved**.

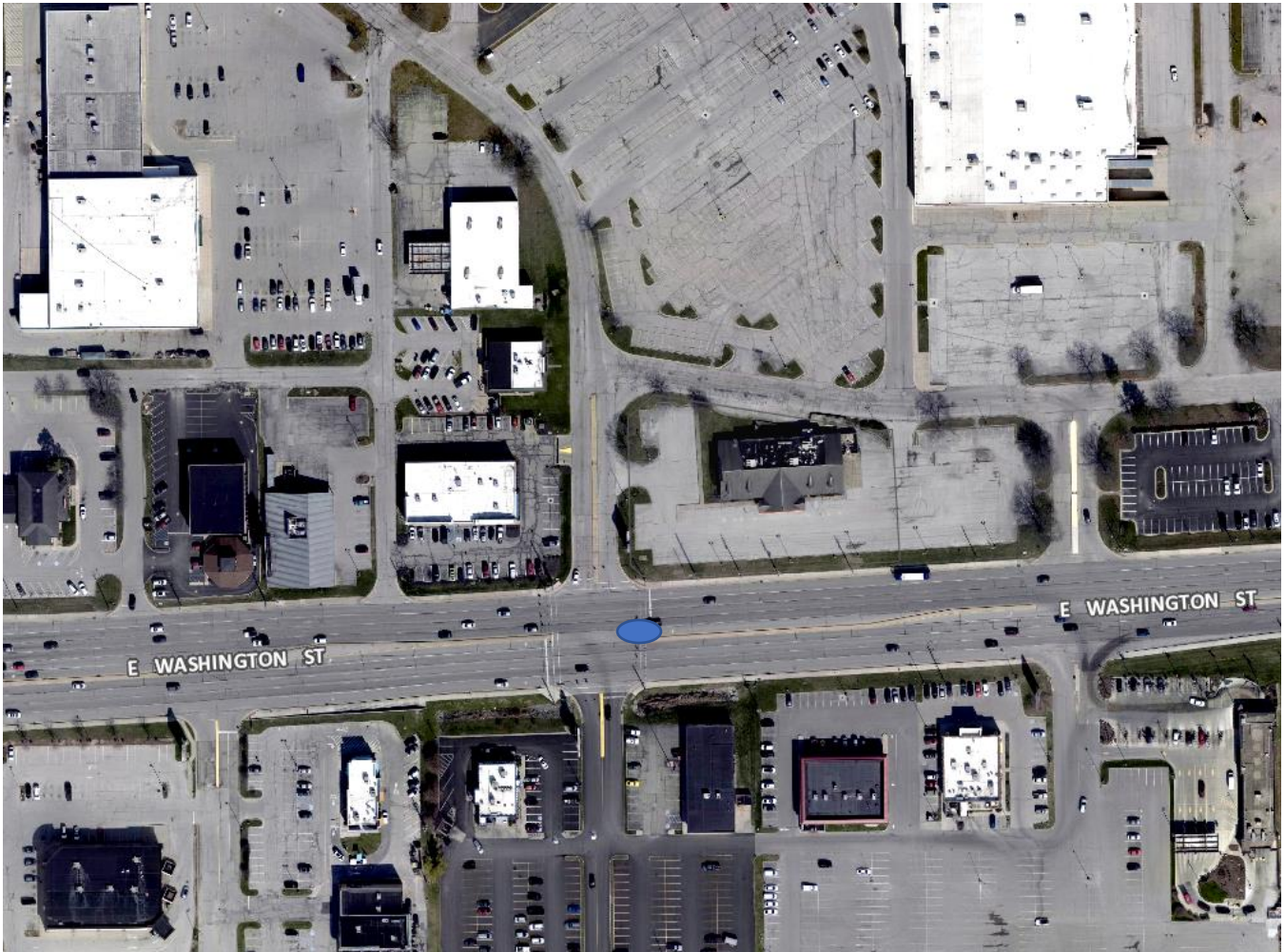
**2011UV2018 ; 10009 E Washington Street (south of site)**, Variance of use to provide for a daycare center in a 4,200-square foot tenant space, **approved**.

**2010DV2005 ; 10002 E Washington Street (west of site)**, Variance of development standards of the Sign Regulations to provide for an 18-foot tall, 42.5-square foot freestanding sign, within the sight-triangle of Mitthoefer Road and Washington Street, with a five-foot setback from Washington Street (15-foot setback from existing right-of-way required, structures cannot be within the sight triangle), **denied**.



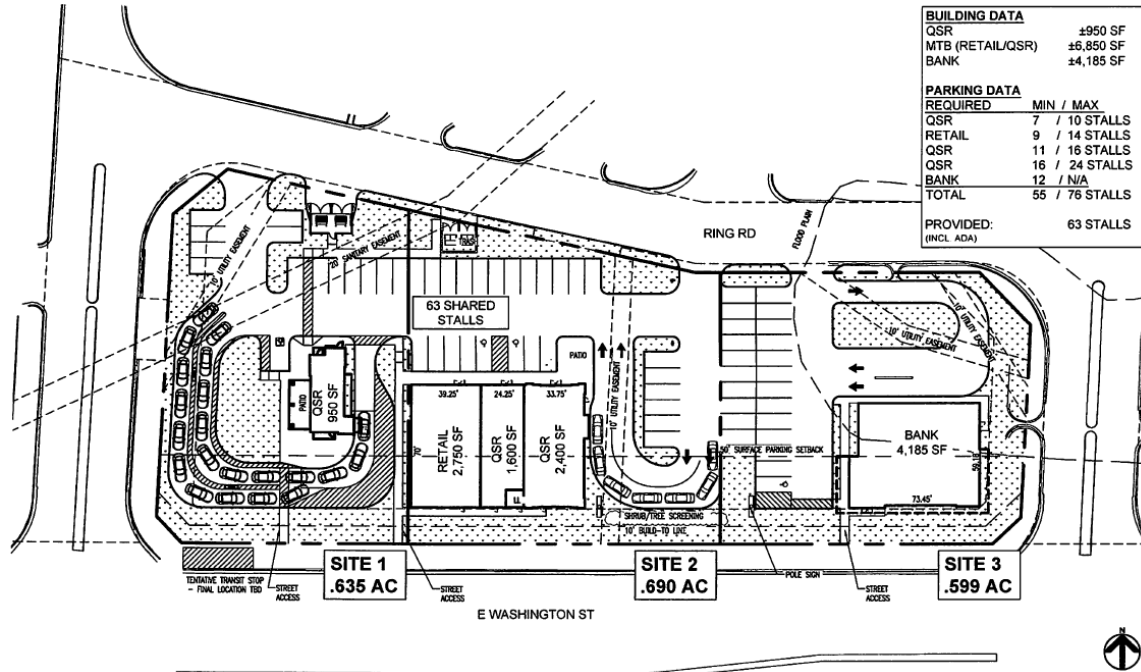
**EXHIBITS**

**2024DV3024 ; Aerial Map**

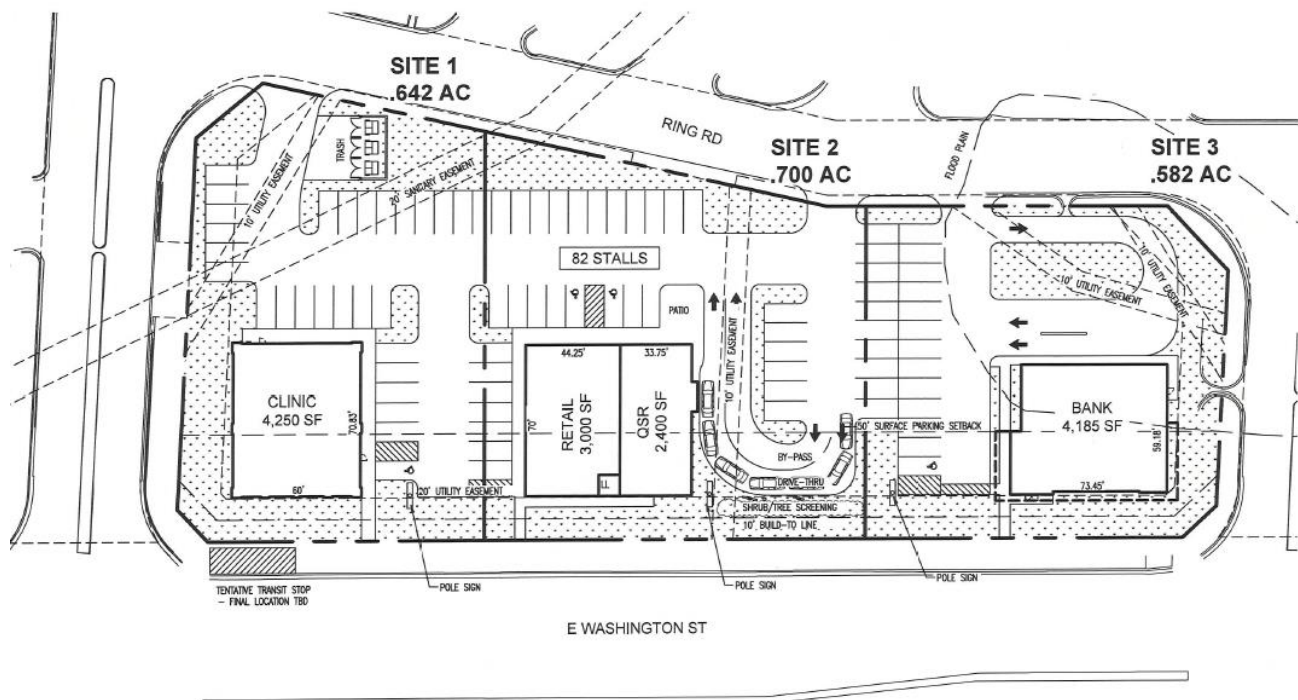


(Blue dot indicates approximate location of proposed BRT stop, additional bus shelter will be placed along N side of Washington adjacent to subject site)

**2024DV3024 ; Site Plan (Proposed)**

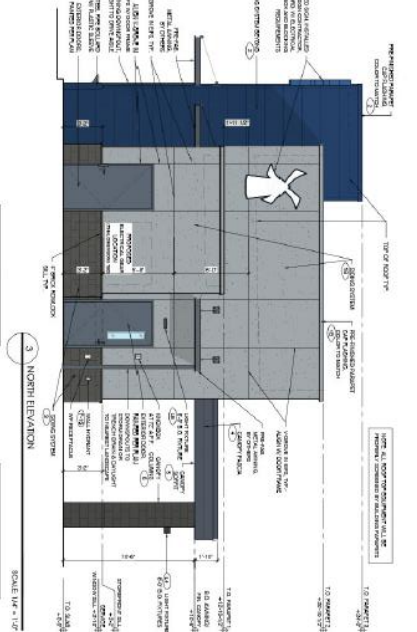
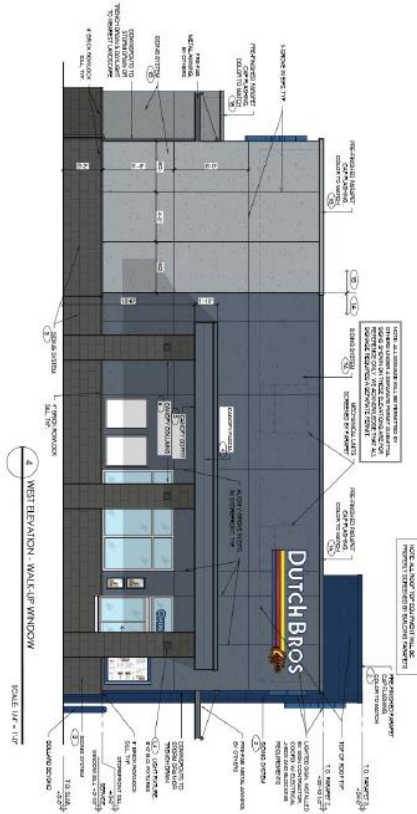
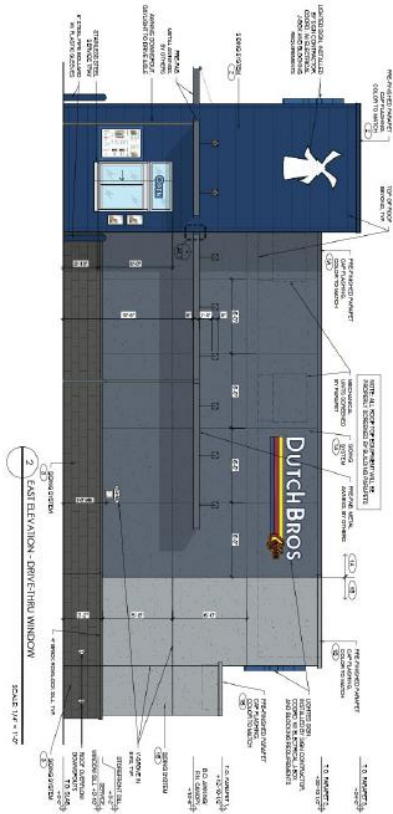


**2024DV3024 ; Site Plan (Previous Variances)**





**2024DV3024 ; Elevations**



**2024DV3024 ; Landscape Plan**





**2024DV3024 ; 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 building is part of a redevelopment that will replace a vacant building which is not only an eyesore, but which also does not meet the Transit Oriented Development Secondary District requirements. The proposed building will not interfere with any access to or from a proposed transit station.

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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:

the adjoining properties are all commercial outparcels and will be similar in character. None of the adjoining parcels meet the Transit Oriented Development Secondary District Standards, so relief from such requirements will not adversely impact adjoining properties.

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

the ordinance does not contemplate redevelopment of an existing site with historic improvements and setbacks, plus there is a 20 foot utility easement off of the front lot line that makes it impossible to comply with the front building line standard. There is no alley serving the development, just a ring road, so access to the drive through is close to what is contemplated by the Ordinance. The lot has much more width than depth, creating the need for the building width variance.

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**2024DV3024 ; Photographs**



Photo 1: Subject Site from Southwest



Photo 2: Subject Site from Southeast



**2024DV3024 ; Photographs (continued)**



Photo 3: Subject Site from West



Photo 4: Subject Site from Northwest



**2024DV3024 ; Photographs (continued)**



Photo 5: Subject Site from North



Photo 6: Ring Road from East (private road along northern portion of site)

**2024DV3024 ; Photographs (continued)**



Photo 7: Adjacent Property to South



Photo 8: Adjacent Property to North