

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-025 / 2023-VAR-002
Address: 1002 West Hanna Avenue and 3500 Division Street (*Approximate Address*)
Location: Perry Township, Council District #20
Petitioner: Lauth Group, Inc., by Brian J. Tuohy
Request: Rezoning of 24 acres from the I-2 (FF) and D-3 (FF) districts to the I-3 (FF) district to provide for a plastic recycling facility.

A variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for development within the north and east transitional yards (100-foot transitional yard required).

ADDENDUM FOR JULY 19, 2023, METROPOLITAN DEVELOPMENT COMMISSION

The petitioner's representative has requested a **continuance from the July 19, 2023 hearing, to the August 2, 2023 hearing**. Staff would have no objection to the continuance.

This petition was heard by the Hearing Examiner on June 29, 2023. After a full hearing, the Hearing Examiner recommended denial of the rezoning and variance requests. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

The petitioner's representative has agreed to eliminate I-3 uses that would be most impactful to the surrounding land uses, provide a final report on the sound study and submit a landscaping plan for Administrator Approval prior to the issuance of an improvement location permit that would provide a buffer along the northern boundary of the site.

Staff continues to **recommend approval** of the rezoning request and the variance request subject to the following commitments reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. 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.
2. A 59.5-foot half right-of-way shall be dedicated along the frontage of West Hanna Avenue, 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).

(Continued)

STAFF REPORT 2023-ZON-025 / 2023-VAR-002 (Continued)

3. A landscape plan shall be submitted for Administrator's Approval prior to the issuance of an Improvement Location Permit that would provide for year around landscaping along the northern, eastern and southern boundaries of the site.

June 29, 2023

The Hearing Examiner continued these petitions, with notice from the April 27, 2023 hearing, to the May 11, 2023 hearing, to provide time to amend the request to add a variance of development standards.

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued these petitions from the May 11, 2023 hearing, to the June 15, 2023.

The Hearing Examiner continued these petitions from the June 15, 2023 hearing, to the June 29, 2023 hearing, at the request of the petitioner's representative.

RECOMMENDATIONS

Staff **recommends approval** of the rezoning request and the variance request, 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. 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 / receptables provided for the proper disposal of trash and other waste.
2. A 59.5-foot half right-of-way shall be dedicated along the frontage of West Hanna Avenue, 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).

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 24-acre site, zoned I-2 (FF) and D-3 (FF), is undeveloped and surround by undeveloped land to the north, zoned D-3 (FF); industrial uses to the south, across West Hanna Avenue, zoned I-3 (FF); a railroad right-oof-way to the east, zoned I-2 (FF); and industrial uses to the west, zoned I-2 (FF).

(Continued)

REZONING

- ◇ This request would rezone the site from the I-2 (FF) and the D-3 (FF)s Districts to the I-e (FF) classification. “The I-3 district is an intermediate district for industries that present moderate risks to the general public. Wherever practical, this district should be away from protected districts and buffered by intervening lighter industrial districts. Where this district abuts protected districts, setbacks are large and enclosure of activities and storage is required.”
- ◇ 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 park.
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Conditions for All Land Use Types

- 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.
- 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.

Overlays

- ◇ This site is located within an overlay, specifically the Environmentally Sensitive overlay (ES). “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”

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- ◇ The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.
- ◇ The entire site is located within the 100-year floodplain of White River

Floodway Fringe

- ◇ This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.
- ◇ The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (I-3 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.
- ◇ 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.

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◇ 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.

Department of Public Works

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5 -foot half right-of-way along West Hanna Avenue. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Site Plan

- ◇ The amended conceptual site plan, file-dated April 14, 2023, provides for two structures. Building One would be 127,000 square feet. Building Two would be 159,500 square feet.
- ◇ Employee parking would be located adjacent to the proposed buildings, with truck / trailer parking located interior to the site and at the northwest portion of the site.
- ◇ Access would be gained from West Hanna Avenue at the southwest corner of the site. Staff would note that the proposed dedication of the right-of-way along the West Hanna Avenue frontage is depicted on the plan.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for development within the north and east transitional yards, when a 100-foot transitional yard would be required.

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STAFF REPORT 2015-ZON-028 / 2023 VAR-002 (Continued)

- ◇ Staff believes that a reduced transitional yard along the northern site boundary would have minimal impact on the abutting undeveloped land that would unlikely be residentially developed in the future.
- ◇ The Ordinance provides that no setback is required from a railroad or rail spur when industrial facilities are located along a railroad or rail spur. Staff understands, however, that the petitioner and their representative wanted to assure development could occur with the transitional setback along the eastern boundary of the site.

Planning Analysis

- ◇ The request would not be consistent with the Comprehensive Plan recommendation of suburban neighborhood typology. However, given the surrounding industrial development to the west and south of this site, staff believes it would be unlikely that residential development would occur on this site.
- ◇ Staff would note that the railroad right-of-way provides an appropriate boundary and buffer between the existing and proposed industrial uses and the residential uses to the east, which would minimize the impact of the proposed industrial uses on surrounding land uses.
- ◇ Staff supports the requests primarily because of the industrial uses to the west and south, which continue west along South Hanna Avenue to South Harding Street. Furthermore, staff believes the railroad along the eastern site boundary provides an appropriate buffer from the existing residential uses and forms a strong delineation between the uses.
- ◇ As development on this site occurs, consideration and incorporation of floodplain regulations would be required. Drainage features are shown on the plan, but the location and configuration of those features may change as final plan are prepared.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

I-2 (FF) /	Undeveloped
D-3 (FF)	

SURROUNDING ZONING AND LAND USE

North -	D-8 (FF)	Undeveloped
South -	I-3 (FF)	Industrial uses
East -	I-2 (FF)	Railroad right-of-way
West -	I-2 (FF)	Industrial uses

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood typology.

Marion County Land Use Pattern Book (2019).

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STAFF REPORT 2023-ZON-027 / 2023-VAR-002 (Continued)

THOROUGHFARE PLAN	This portion of West Hanna Avenue is designated in the Marion County Thoroughfare Plan as a primary, with an existing 85-foot right-of-way and a proposed 119-foot right-of-way.
CONTEXT AREA	This site is located within the metro context area.
OVERLAY	This site is located within an environmentally sensitive area.
SITE PLAN	File-dated March 30, 2023
SITE PLAN (AMENDED)	File-dated April 14, 2023

ZONING HISTORY

2015-ZON-028; 1112 West Hanna Avenue (west of site) requested rezoning of 10 acres, from the D-3 (FF) District to the I-2-S (FF) classification to provide for an industrial rail park, **approved**.

2014-ZON-046; 3550 Division Street (west of site), requested rezoning of 3.731 acres from the D-4 (FF) District to the I-3-S (FF) classification to provide for tractor trailer storage and truck repair and service, **withdrawn**.

2013-ZON-033; 1405, 1423 and 1425 West Hanna Avenue (west of site), requested rezoning of 4.79 acres from the I-2-S (FF) and D-3 (FW) (FF) Districts, to the I-3-S (FW) (FF) classification to provide for medium industrial uses, **approved**.

2013-UV2-020; 3800 South Harding Street & 3800 Division Street (west of site), requested variance of use and development standards of the Industrial Zoning Ordinance to provide for a shingle recycling facility (not permitted), with 7,500 square feet of outdoor storage and to provide for operations within two, 7,500-square foot, three-sided buildings for shingle grinding within 90 feet of a D-3 protected district, **granted**.

2011-ZON-085; 1015, 1315 and 1335 West Hanna Avenue (west of site), requested a rezoning of 47.28 acres from the I-2-S and I-3-S Districts to the I-3-S Classification to provide for industrial uses, **approved**.

2010-ZON-038; 1405 West Hanna Avenue (west of site), requested rezoning of 1.6 acres from the D-3 (FF) District, to the I-2-S (FF) classification to provide for industrial uses, **approved**.

2009-UV2-029; 1315 West Hanna Avenue (west of site), requested variance of use and development standards of the IZO to provide for a truck washing and decal removal business, with outdoor storage 6,574 percent of the total building area, **granted**.

2008-UV1-026; 1315 West Hanna Avenue (west of site), requested variance of use and development standards of the IZO to provide for the expansion of a truck washing and decal removal operation, with outdoor storage 3,135 percent of building area, **granted**.

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STAFF REPORT 2015-ZON-028 / 2023 VAR-002 (Continued)

2006-ZON-827/2006-VAR-827; 3730 Division Street (west of site), requested rezoning of 13.27 acres from the I-3-S (FF) District to the I-4-S (FF) classification to provide for heavy industrial suburban uses, requests a special exception of the Industrial Zoning Ordinance to provide for the construction of a chemical manufacturing plant, **dismissed**.

2006-UV2-045; 1008 and 1112 West Hanna Avenue (west of site), requested variance of use and development standards of the Industrial Zoning Ordinance and the Dwelling Districts Zoning Ordinance to provide for a motor truck terminal, with temporary use of gravel in lieu of hard surfacing, **granted**.

2000-ZON-056; 4101 South Harding Street (west of site), requested rezoning of 6.1 acres from the D-3 District to the I-3-S Classification to provide for industrial uses, **approved**.

98-Z-187; 3801 South Harding Street (west of site), requested rezoning of 27.3 acres from the D-3 (FF) to I-3-S (FF) to provide for medium industrial suburban development, **granted**.

96-Z-75; 1002-1012 West Hanna Avenue (west of site), requested a rezoning of 28.38 acres from D-3 (FF) to I-2-S (FF), **approved**.

96-CP-17Z/96-CP-17V; 3950 Division Street and 1402 West Hanna Avenue (west of site), requested a rezoning 1.01 acres from D-3 (FW) to I-2-S (FW) and variance of use and development Standards of the Industrial Zoning Ordinance and Sign Regulations to provide for the operation of a fleet maintenance facility with a gravel parking area within the required front yard along Hanna Avenue and pole sign being 60-75 from a protected district, **approved**.

92-Z-51; 4309 South Harding Street (west of site), requested a rezone of 12.05 acres from I-3-S(FW)(FF) to C-7(FW)(FF) to provide for the sales and service of semi-tractors and trailers, **approved**.

93-V3-11; 3926 Division Street (west of site), requested variance of development standards of the Flood Control Districts Zoning Ordinance to provide for the construction of a 936-square foot detached garage approximately five feet below the Base Flood Elevation, **denied**.

91-UV3-34; 3850 South Harding Street (west of site), requested variance of use and development standards of the Industrial Zoning Ordinance to provide for a dry ash disposal facility without the required street frontage in I-4-S (FF), **granted**.

89-Z-90 / 89-CV-17; 1020 West Hanna Avenue (west of site), requested rezoning of 10-24 acres, being in the D-3 district to the I-3-S classification to provide for a cement storage and distribution facility with no outdoor storage of materials of products and a variance of development standards of the Industrial Zoning Ordinance to permit the construction of 80-foot-tall storage bins, **denied**.

MEMORANDUM OF EXAMINER'S DECISION

2023-ZON-025/2023-VAR-002 1002 W. Hanna Ave., 3500 Division St.

The petitions request the rezoning of 24 acres from the I-2 (FF) and D-3 (FF) districts to the I-3 (FF) district to provide for a plastic recycling facility with development within the 100 foot north and east transitional yards.

Your Hearing Examiner visited the site prior to the hearing and noted the industrial uses west and south of the site and the railroad tracks north and east of it. The residences east and north of the railroad tracks and southeast of the site were also noted.

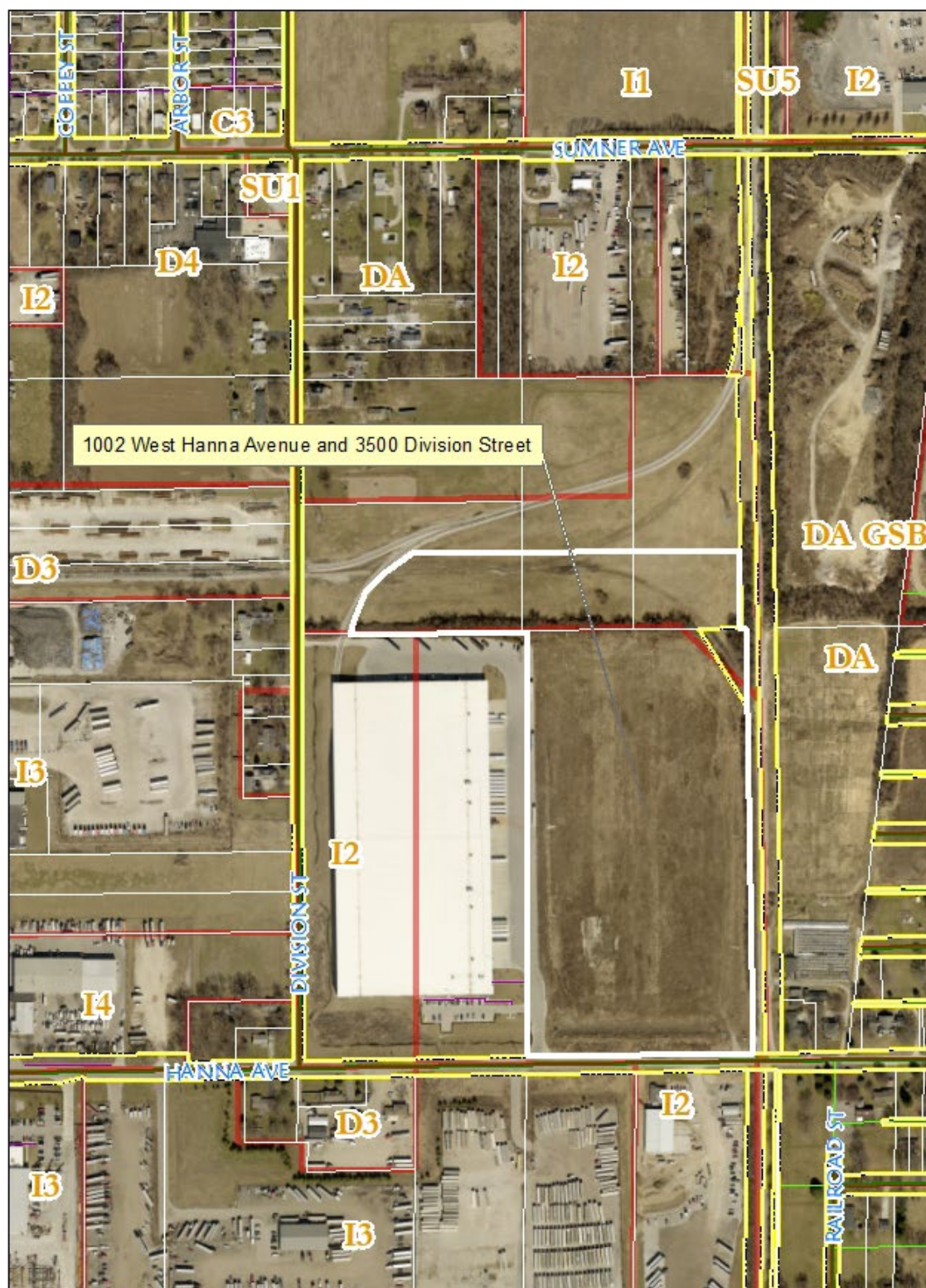
The petitioner's representative described the nature of the proposed polymer center and said that the facility would be fully enclosed and without smokestacks. Truck traffic is anticipated to not exceed 10 trips per day. A sound study completed the day prior to the hearing concluded that the sound would have no meaningful impact in the area. The petitioner's representative expressed willingness to limit permitted uses, file the finalized sound study for review by DMD, and submit details for buffering.

About 15 remonstrators appeared at the hearing, and letters of opposition were filed. The primary concerns expressed involved intensity of the use, sound, smell, operation of the use 24/7, traffic, and the uncertainty of the impact, given that the proposed facility is only the second in the country and the first one is not yet operational.

Staff stated that, although the Comp Plan recommends suburban neighborhood typology, the existing industrial uses west and south of the site warrant deviating from the Comp Plan. Staff also opined that the railroad tracks east of this site provide a strong delineation between the proposed industrial development and the residences to the east.

In your Hearing Examiner's opinion, the proposed development may be appropriate on the site; however, without commitments detailing prohibited uses and specific landscape buffer details and without adequate time to review the finalized sound study, approving these petitions is premature. Denial of these petitions was recommended.

For Metropolitan Development Commission Hearing on July 19, 2023



1002 West Hanna Avenue and 3500 Division Street



1002 West Hanna Avenue & 3500 Division Street

0 0.025 0.05 0.1 0.15 0.2 Miles

1100



View looking west along West Hanna Avenue



View looking east along West Hanna Avenue



View of site looking northeast across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site looking north across West Hanna Avenue



View of site and adjacent property looking north across West Hanna Avenue



View from site looking south across West Hanna Avenue