

STAFF REPORT

**Department of Metropolitan Development
Division of Planning
Current Planning Section**

Case Number: 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829
Address: 822-838 Eugene Street, 815-827 West 30th Street, 629 & 631 West 28th Street, and 2954 & 2709-2735 Dr. Martin Luther King Jr Street
(Approximate Address)
Location: Center Township, Council District #11
Petitioner: The NRP Group, by Russell L. Brown
Request: Modification of the plan of operation related to 2020-ZON-067 to allow for the development of 122 multi-family dwelling units and 12,160 square feet of food supply and a workforce training center, with no greater than 197 parking spaces between two sites.

Variance of use to allow for the development of 2713 and 2717 Dr. Martin Luther King Jr. Street, 629 and 631 West 28th Street to be developed in association with uses provided by 2020-ZON-067 and further amended by petition 2023-CAP-829, including multi-family development, grocery and food retail, job training and associated accessory parking

Vacation of the first alley west of Dr. Martin Luther King, Jr. Street, being 12.9 feet in width, from the south right-of-way line of 30th Street, being the northwest corner of Lot 1 of Block 1 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, south 270 feet, to the north right-of-way line of Eugene Street, with a waiver of the assessment of benefits

Vacation of the first east-west alley south of 30th Street, being 20 feet in width, from a point 125 feet south of the northeast corner of Lot 1 of Block 2 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, being the southeast corner of Lot 1 of said Block, east 120 feet to the southwest corner of Lot 4 of said Block, with a waiver of the assessment of benefits

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

Vacation of the first alley east of Dr. Martin Luther King, Jr. Street, being 12 feet in width, from the south right-of-way line of 28th Street, being the northeast corner of Lot 9 in Harland and Kessler's Northern Heights, Recorded in Plat Book 13, Page 37 in the Office of the Recorder of Marion County, Indiana, south 245.88 feet, to the southeast corner of Lot 2 of said subdivision, with a waiver of the assessment of benefits

Vacation of a portion of the first east-west alley south of 28th Street, being 12 feet in width, from a point 140.79 feet south of the northwest corner of Lot 10 of said subdivision, being the southwest corner of Lot 11, east 22.29 feet to the southeast corner of Lot 11, with a waiver of the assessment of benefits

ADDENDUM FOR JULY 19, 2023, METROPOLITAN DEVELOPMENT COMMISSION

The Metropolitan Development Commission approved petitions 2023-CAP-829 and 2023-CVR-829 at the June 21, 2023 hearing.

The Commission acknowledged the withdrawal of that portion of petition 2023-CVC-829 for the vacation of a portion of the first east-west alley south of 28th Street, being 12 feet in width, from a point 140.79 feet south of the northwest corner of Lot 10 of said subdivision, being the southwest corner of Lot 11, east 22.29 feet to the southeast corner of Lot 11.

The Commission continued the remainder of petition 2023-CVC-829 from the June 21, 2023 hearing to the July 19, 2023 hearing to provide time for an assessment of benefits to be conducted.

The required information has not yet been submitted for the assessment of benefits, so petition 2023-CVC-829 will need to be **continued to the August 2, 2023 hearing**.

June 21, 2023

At the request of the petitioners, this petition was transferred by the Hearing Examiner for initial hearing by the Metropolitan Development Commission at the June 21, 2023 hearing.

RECOMMENDATION

Staff **recommends approval of these requests**, provided that the following commitments be reduced to writing on the Commission's Exhibit "B" forms at least three days prior to certification to the City-County Council:

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

1. Administrator's Approval of the site plans shall include a livability space ratio within substantial compliance with the standards of the D-9 zoning district and shall provide either a turn-around or a connection to a public access at the west end-point of Alley 2775 N.
2. A right-of-way shall be dedicated connecting Alley 2975 N to Eugene Street and an alley shall be constructed within that right-of-way to the standards of the Department of Public Works.
3. Building elevations shall be submitted for Administrator' Approval prior to the issuance of an Improvement Location Permit for that building.

Staff **recommends denial of the waiver of benefits for Alley 825 W, Alley 2975 N, and Alley 675 W.** Staff **recommends approval of the waiver of benefits for Alley 2775 N.**

RECOMMENDED MOTION: That the Hearing Examiner finds that the proposed vacation is in the public interest; that a hearing upon the assessment of benefits be scheduled for July 19, 2023; and that the Metropolitan Development Commission confirms and ratifies the adoption of Declaratory Resolution 2023-CVC-829; subject to the rights of public utilities under IC 36-7-3-16 and to Commitments One and Two.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

LAND USE

- ◇ This petition comprises two sites along Dr. Martin Luther King, Jr. Street. In this report, the site between 30th Street and Eugene Street is referred to as the North Site. The site between 28th Street and 27th Street is referred to as the South Site.
- ◇ Dr. Martin Luther King, Jr. Street from 30th Street south to 27th Street has long been a mixed commercial, institutional and residential corridor, with dwellings becoming a larger part of the mix as one moved south. However, by the mid-1990s most of the single-family dwellings along the street had given way to either cleared lots or other uses. Behind the lots facing Dr. Martin Luther King, Jr. Street to both the east and the west are neighborhoods predominately made up of single-family dwellings.
- ◇ With the exception of the Eugene Street parcels, the United Northwest Neighborhood Plan, a segment of the Indianapolis/Marion County Comprehensive Plan, recommends Commercial Retail and Service for the three sites. This typology envisions neighborhood-serving retail establishments; personal, profession, and business services; consumer repair

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

services; restaurants and taverns. The Eugene Street parcels are recommended for single-family dwellings at a density of 3.5 to five units per acre.

MODIFICATION OF PLAN OF OPERATION

- ◇ Both sites were the subject of a 2020 petition (2020-ZON-067) that rezoned the sites to the C-S district. The C-S district is intended to provide for adaptability and flexibility within the established zoning controls by allowing a petitioner to submit an individualized list of potential land uses and a site plan for review and approval of the Metropolitan Development Commission. The site plan may fall anywhere in the range of specificity from conceptual to highly detailed. Future development on the site is expected to be substantially in compliance with the approved site plan. The 2020 petition approved the following land uses:
 - ◇ North site – 30 units of Multi-family dwellings and Grocery Store
 - ◇ South site – 57 units of Multi-family dwellings and a Vocational/Technical Training Center
- ◇ This petition proposes the following:
 - ◇ North site – 50 units of Multi-family dwellings
 - ◇ South site – 72 units of Multi-family dwellings and approximately 12,000 square feet of commercial space
- ◇ The C-S district was established in part to encourage a more creative approach to land planning and superior site and structural design and development. As such, development in C-S districts should be at least to the same level of quality, and ideally a higher level of quality, as other districts that permit the proposed uses.
- ◇ If this development was developed in the D-9 district, a Livability Space Ratio of 0.75 would be required. The Livability Space Ratio expresses the relationship between the size of the proposed structures and the amount of usable open space. The bigger the number, the more open space available for the residents of the site. Staff's rough calculations of the Livability Space Ratio for the proposed development is 0.157 on the north site and 0.015 on the south site. These numbers indicate that little useable open space will be available to those persons living in these buildings.
- ◇ The sites' Livability Space Ratios could be improved by reducing the amount of built space within the structures or reducing the amount of space dedicated to parking. As the site plans show more parking than is required by the Ordinance, a reduction in the amount of parking is likely the easiest way to make these sites more livable.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

- ◇ The proposed buildings will be taller than nearly any other buildings in their proximity site and will be located close to the right-of-way line of Dr Martin Luther King Jr Street. The buildings will be very prominent, so it's especially important that the architecture of the building be appropriate for the site, the streetscape and the pedestrian experience. As such, staff is requesting Administrator's Approval of the building elevations.

VARIANCE

- ◇ This petition includes a variance of use for four parcels that were not a part of the 2020 rezoning but have now been added to the project. The variance of use would allow for these parcels to be developed in conjunction with the rest of the subject site and under the same standards.

VACATIONS

This vacation petition would vacate four sections of right-of-way. They are:

- Alley 825 W, a north-south alley that runs from 30th Street to Eugene Street through the north site,
- Alley 2975 N, an east-west alley that runs from its T-intersection with the north-south alley described above to the point where it leaves the subject site,
- Alley 675 W, a north-south alley that runs approximately 450 feet south through the south site from 28th Street south to its dead-end, and
- A short portion of Alley 2775 N, an east-west alley south of 629 West 28th Street.
- A waiver of the Assessment of Benefits has been requested for all four rights-of-way.

The requests would allow for larger buildable sites. However, it would create several situations that are poor platting practices.

The vacation of the two alleys through the north site would create a dead-end on Alley 2975 N. The petitioner has accommodated this situation by proposing a drive within an access easement from the end-point of Alley 2975 N and Eugene Street. Staff recommends that instead of an access easement, a new right-of-way be dedicated for the new alley connection.

The vacation of the two alleys through the south site would create a dead-end on Alley 2775 N. The site plan does not propose any mitigation of this situation. Although Alley 2775 N does not appear to be in active use at this time, it does provide access to the backs of the lots at 553 to 625 West 28th Street. Many of these lots are vacant. Should they be redeveloped, the Ordinance would require that they be accessed from the alley. Creating a dead-end on Alley 2775 N makes future redevelopment more difficult. Staff recommends that the petition provide a solution for this situation such as a turn-around, or connection of the alley to their parking lot.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

After evaluation of the above considerations, staff finds that the vacation **would be in the public interest** and recommends the vacation petition be **approved with Commitments 1 and 2 above**.

ASSESSMENT OF BENEFITS

Rights-of-way are public assets. Many of them are improved either by the City or original developer and then dedicated to the City which has maintained the improvement over time. Vacation of a right-of-way transfers that public asset to a private entity. Assessment of Benefits compensates the City for the loss of that asset.

Waiver of the Assessment of Benefits allows the private entity to assume the right-of-way without compensation to the City. Staff routinely recommends denial of the waiver if there is evidence that the street or alley in the right-of-way was ever constructed. Staff will frequently recommend approval of the waiver if it appears that the right-of-way was never improved.

The two alleys within the north site are currently in place and in use. Historic aerial photography indicates that the north-south alley through the south site was constructed and in use for many years. The east-west alley through the south site does not appear to have existed within the right-of-way. As such staff **recommends denial of the waiver of benefits for Alley 825 W, Alley 2975 N, and Alley 675 W. Staff recommends approval of the waiver of benefits for Alley 2775 N.**

PROCEDURE

Neither the Division of Planning nor the Plat committee, Hearing Examiner or Metropolitan Development Commission determines how vacated right-of-way is divided. The approval of a vacation petition only eliminates the public right-of-way. The vacation approval does nothing more. A petitioner will not receive a deed or other document of conveyance after the approval of a vacation.

The general rule under Indiana case law is that when a street or highway is vacated or abandoned the title to the land reverts to the abutting property owners. This rule exists by virtue of the fact that the abutting landowner owns to the center of the street or highway subject only to an easement for the public for the use of the street or highway. *Gorby v. McEndarfer* 135 Ind.App. 74, *82, 191 N.E.2d 786, **791 (Ind.App. 1963). However, there are possible exceptions to this general rule.

After a vacation of a public right-of-way, the county assessor determines how the vacated right-of-way will be assessed for tax purposes.

Petitioners and abutters of the vacated right-of-way should consult their own attorneys for advice regarding the ownership of the vacated right-of-way.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

GENERAL DESCRIPTION:

Vacation of the first alley west of Dr. Martin Luther King, Jr. Street, being 12.9 feet in width, from the south right-of-way line of 30th Street, being the northwest corner of Lot 1 of Block 1 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, south 270 feet, to the north right-of-way line of Eugene Street,

Vacation of the first east-west alley south of 30th Street, being 20 feet in width, from a point 125 feet south of the northeast corner of Lot 1 of Block 2 of William Braden, et al, North Indianapolis Addition, Recorded in Plat Book 5, Page 23 in the Office of the Recorder of Marion County, Indiana, being the southeast corner of Lot 1 of said Block, east 120 feet to the southwest corner of Lot 4 of said Block,

Vacation of the first alley east of Dr. Martin Luther King, Jr. Street, being 12 feet in width, from the south right-of-way line of 28th Street, being the northeast corner of Lot 9 in Harland and Kessler's Northern Heights, Recorded in Plat Book 13, Page 37 in the Office of the Recorder of Marion County, Indiana, south 245.88 feet, to the southeast corner of Lot 2 of said subdivision,

Vacation of a portion of the first east-west alley south of 28th Street, being 12 feet in width, from a point 140.79 feet south of the northwest corner of Lot 10 of said subdivision, being the southwest corner of Lot 11, east 22.29 feet to the southeast corner of Lot 11.

UTILITIES AND AGENCY REPORT

Telephone:	No answer, retain easement
CEG, Gas:	No answer, retain easement
CEG, Wastewater:	No answer, retain easement
CEG, Water:	No answer, retain easement
Power:	No answer, retain easement
Cable:	Retain easement
DPR:	No answer, retain easement, if requested
DPW, TS:	No answer, retain easement

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

North Site: C-S	Compact	Vacant lots, retail center
South Site: C-S, C-3	Compact	Vacant lots, retail center

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

SURROUNDING ZONING AND LAND USE

North site:

North	C-3, C-4	Retail buildings
South	C-4, D-5	Automobile fueling station, Single-family dwellings, vacant lots
East	C-4	Automotive use, vacant lot
West	C-3, D-5	Single-family dwellings, Single-family dwelling converted to a retail use

South site:

North	C-3, D-5	Single-family dwellings, Religious use
South	MU-2	Vacant lot, Multi-family dwelling
East	D-5, SU-1	Single-family dwellings, Religious use
West	C-3, SU-6	Post Office, Health Center

COMPREHENSIVE LAND USE PLAN

North site: the United Northwest Neighborhood Plan recommends Commercial Retail and Service for a portion of the site and Residential development at 3.5 to five units per acre for the remainder of the site.

South site: the United Northwest Neighborhood Plan recommends Commercial Retail and Service.

THOROUGHFARE PLAN

Dr. Martin Luther King Jr. Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary arterial, with an existing right-of-way ranging from 78 feet to 135 feet and a proposed right-of-way ranging from 66 feet to 88 feet.

30th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with an existing right-of-way that varies from 60 to 70 feet, and a 78-foot proposed right-of-way.

Eugene Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 60-foot existing right-of-way and a 48-foot proposed right-of-way.

28th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

27th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE The north site is not located within a floodway or floodway fringe.

The south site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT The north site is not located within a wellfield protection district.

The south site is located within the White River W-5 wellfield protection district.

ZONING HISTORY – SITE

Both sites –

2020-ZON-067; 2439, 2455, 2461, 2709, 2711, 2713, 2715, 2717, 2723, 2735, 2753, 2954 Dr. ML King Jr. Street; 815, 821 and 827 West 30th Street; 822, 826, 830, 834 and 838 Eugene Street, requested the rezoning of 4.5 acres from the D-5, C-3, C-3 (W-5) and C-4 districts to the C-S and C-S (W-5) classifications to provide for multi-family residential development, a food hub/food supply, medical training, automotive training and relocation of a lodge, **approved.**

ZONING HISTORY – VICINITY

North site –

2002-DV3-048; 850, 854, & 858 Eugene Street and 19 other addresses (west of site), requested variances of development standards to provide for townhouses with deficient main floor area and deficient front yard setback, **approved.**

2001-DV1-079; 2926 Dr. Martin Luther King Jr Street (south of site), requested variances of development standards to provide for deficient transitional yard, deficient separation of a fast food restaurant from a Protected District, and a trash container in a transitional yard, **approved.**

98-UV2-65; 832 - 836 West 30th Street (north of site), requested a variance of use for off-site parking and a variance of development standards for deficient front setback, **approved.**

(Continued)

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829 (Continued)

South site –

2011-CVR-814; 2625 - 2637 Dr. Martin Luther King Jr Street (south of site), requested variances of development standards to provide for a commercial building in excess of permitted size, deficient front setbacks, without landscaping, deficient number of parking spaces, a building and trash container in a transitional yard, truck loading in a transitional yard and a sign with deficient setback and space from a protected district, **approved**.

2011-CVR-809; 551 – 611 West 27th Street (southeast of site), requested variances of development standards to provide for a building in excess of permitted height, deficient front transitional yard, deficient number of parking spaces, deficient side transitional yard, and a maintenance shed and trash container in a transitional yard, **approved**.

2007-ZON-822, 2007-CVR-822, 2007-VAC-822; 2625 Dr. Martin Luther King Jr Street and 617 East 26th Street (south of site), requested the rezoning of 1.77 acres from the C-3 and SU-1 districts to the C-3C district, variance of development standards, and an alley vacation, **withdrawn**.

2006-DV2-033; 561 West 28th Street and 23 other addresses (north of site), requested a variance of development standards to provide for deficient main floor area, **approved**.

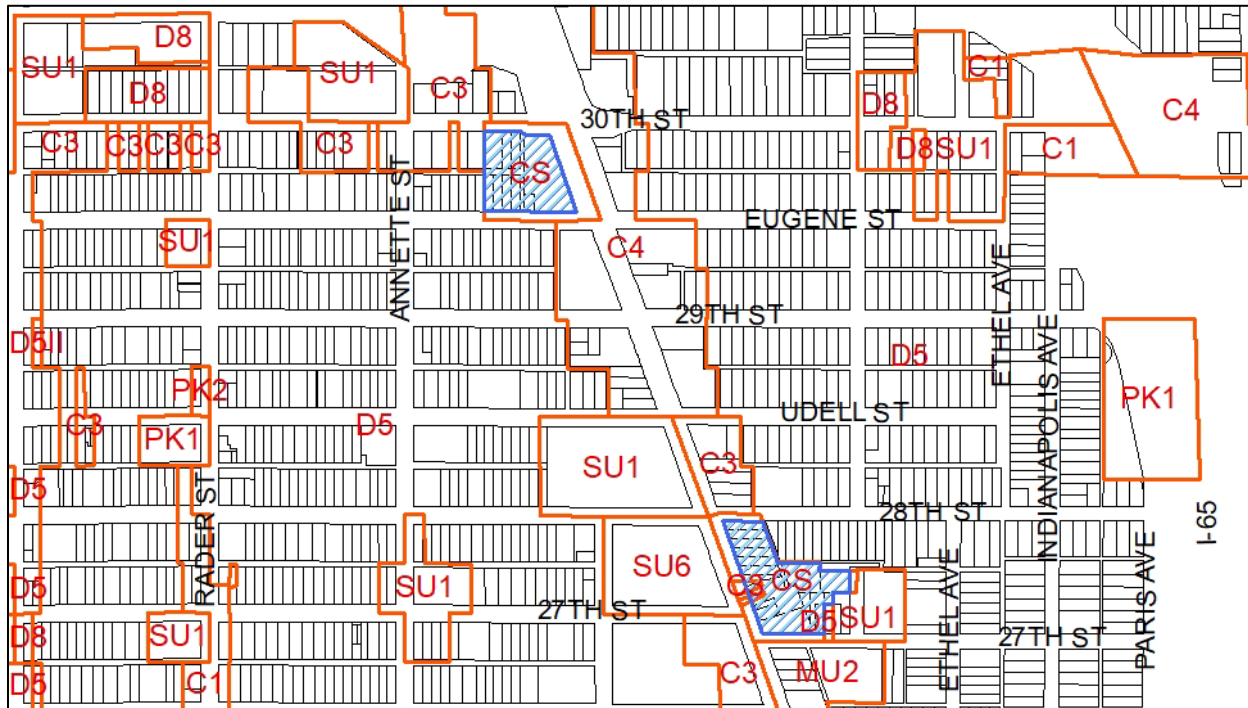
2002-DV3-048; 625 West 28th Street and 21 other addresses (north of site), requested variances of development standards to provide for townhouses with deficient main floor area and deficient front yard setback, **approved**.

2002-UV2-014; 2701 California Street (east of site), requested a variance of use to provide for a funeral home, **approved**.

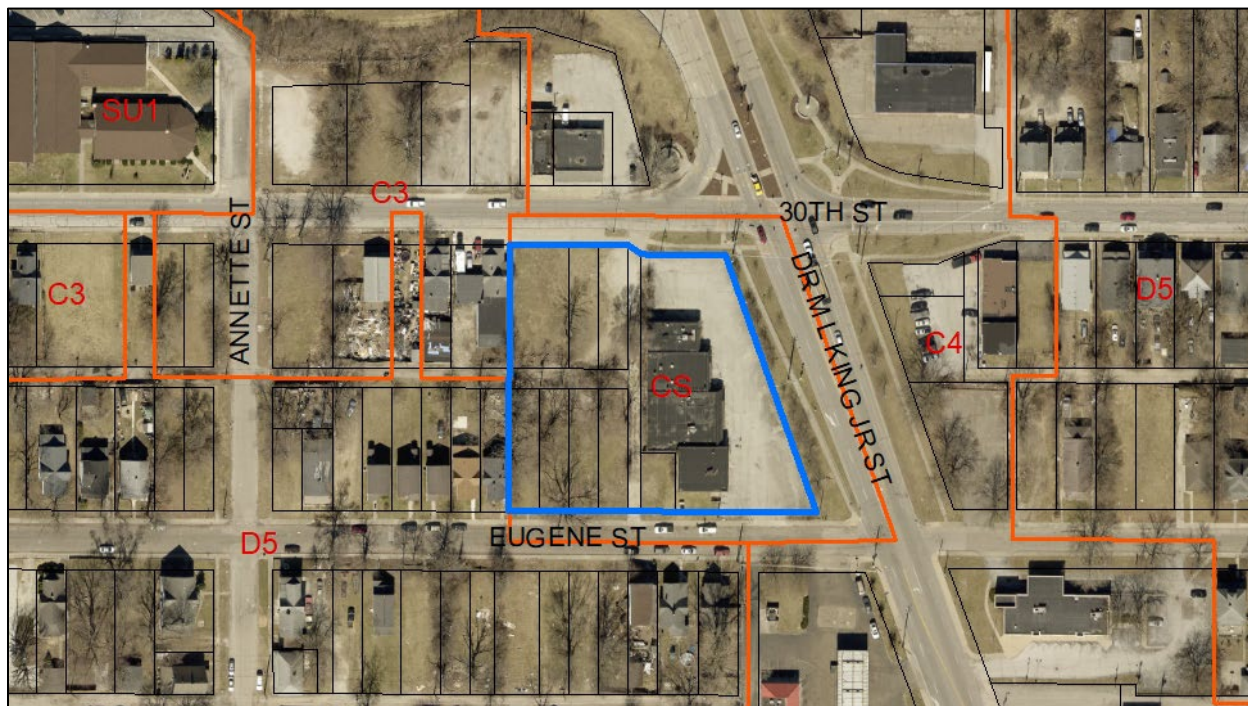
85-UV3-040; 2658 Dr. Martin Luther King Jr Street (west of site), requested a variance of use to provide for a motorcycle club, **denied**.

klh

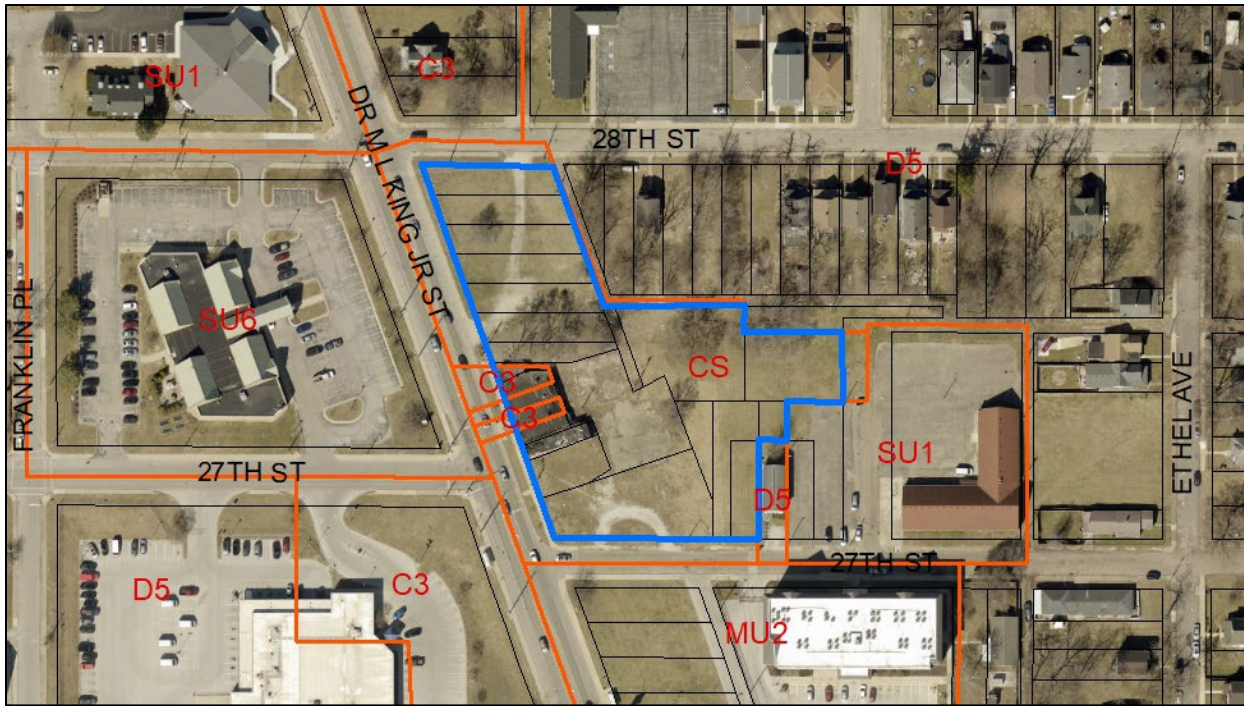
STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Locations



STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Aerial photograph (2022)



North site.



South site

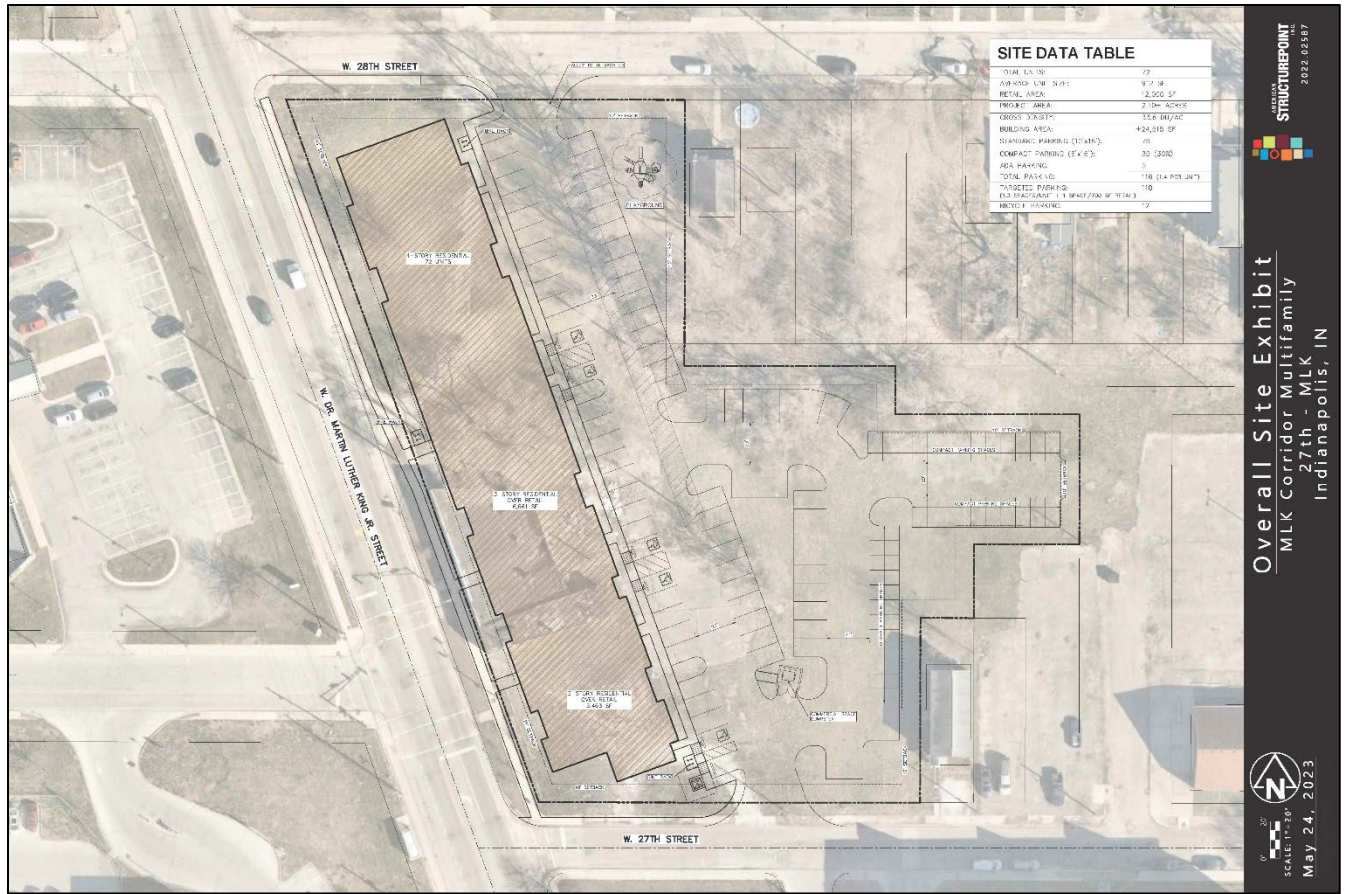
SITE DATA TABLE	
TOTAL UNITS:	50
AVERAGE UNIT SIZE:	812 SF
PROJECT AREA:	1.81± ACRES
GROSS SENSITY:	311,000 AC
BUILDING AREA:	1,533 SF
STANDARD PARKING (10'x18'):	76
ADA PARKING:	4
TOTAL PARKING:	80 (1.6 PER UNIT)
TRASH/STORAGE:	76
BICYCLE PARKING:	8

Overall Site Exhibit
MLK Corridor Multifamily
30th - MLK
Indianapolis, IN

May 24, 2023

AMERICA'S
STRUCTUREPOINT
INC.

2022.02587



South site

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Variance Findings of Fact

Petition Number _____

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 allow for the comprehensive redevelopment of the block from 28th to 27th on Dr. Martin Luther King Jr. Street with a development that is responsive to the community and provides for affordable housing options on a major thoroughfare. The five parcels which are subject to this petition are adjacent to and/or engulfed by a previously approved project. The variance will allow for development which is integrated to this previously approved project.

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 use of these five parcels in conjunction with the previously approved project will provide for a more cohesive development with adequate and necessary parking infrastructure and open space. The inclusion of these parcels will have an overall positive value to the aesthetics and functionality of the previously approved project (as modified by the companion petitions filed herewith).

3. The need for the variance arises from some condition peculiar to the property involved and the condition is not due to the general condition of the neighborhood because:

These parcels were originally not under common ownership with the properties approved for the comprehensive development and thus were largely designed around. The continued exclusion of these parcels will make those fronting on MLK largely unusable and would impact available parking for the previously approved project.

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 properties on MLK would be largely undevelopable or unusable if not folded into the proposed project. The 28th Street parcels provide for off street parking and open space necessary to support the previously approved project. If the variance is not granted, these parcels will become orphan parcels with difficulties for reuse instead of part of an overall redevelopment benefitting the community and neighborhood.

5. The grant does not interfere substantially with the Comprehensive Plan because:

The Comprehensive Plan contemplates Commercial Retail and Service. The proposed mixed use development contains a community serving grocery space as well as job readiness training for a known community partner. The multi-family development will encourage further retail and service development by increasing residential density. The parking provided on parcels included in this variance will support all users of the property, residential and commercial users.

DECISION

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

Adopted this _____ day of _____, 20 ____

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Vacation Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
PLAT COMMITTEE
HEARING EXAMINER
OF MARION COUNTY, INDIANA**

PETITION FOR VACATION OF A PUBLIC WAY, EASEMENT OR PUBLIC PLACE

FINDINGS OF FACT

1. THE PROPOSED VACATION IS IN THE PUBLIC INTEREST because:

Southern Alley - The alley exists on paper only. It is completely grown over with vegetation and provides access to no homes or business.

Upon vacation, the vacated property will be part of a parking field for a mixed use development providing services to area residences and affordable housing options.

Northern Alley - The current alley largely serves one commercial building to be replaced with an affordable housing development. The proposed development will include a reconstructed access drive off of Eugene Street to provide access to the remainder of the alley. The vacated alley way will allow for development of required parking in support of the proposed residential development.

DECISION

IT IS THEREFORE the decision of this body that this VACATION petition is APPROVED, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Proposed commitments for the variance of use

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A VARIANCE, SPECIAL EXCEPTION OR APPROVAL GRANT.

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description:

SEE ATTACHED EXHIBIT A

Statement of COMMITMENTS:

1. The variance grant shall be utilized only in a development which is developed in an integrated manner with the CS Zoned mixed use development on parcels immediately adjacent to the subject property, and in conformance with the petition originally filed as 2020-ZON-067 as modified.

These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the real estate. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition # 2021-UV1-031 the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and
2. Owners of all parcels of ground adjoining the real estate depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various township assessors of the Marion County, which the current owners of record at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the COMMITMENT was made);

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition # 2023-CMP-

STAFF REPORT 2023-CAP-829 / 2023-CVR-829 / 2023-CVC-829, Photographs



North site – view of site looking northwest from the corner of Eugene Street and Dr. Martin Luther King, Jr. Street.



North site – looking north along the north-south alley (Alley 825 W).



North site - Looking north from Eugene Street at the site of the proposed access easement and neighbor to the west.



North site – looking east along the east-west alley (Alley 2975 N) toward the subject site.



South site – looking northeast across the site from the corner of Dr. Martin Luther King, Jr. Street and 27th Street.



South site – looking northwest along the Dr Martin Luther King Jr Street frontage.



South site – looking southeast along the north-south alley (Alley 675 W) .



South site – looking west along the east-west alley (Alley 2775 N) from Ethel Avenue.