

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV1-027 (Amended)
Address: 300 East Fall Creek Parkway North Drive (approximate address)
Location: Center Township, Council District #9
Zoning: C-1
Petitioner: Larry Eakle
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a storage garage with a zero-foot setback from 28th Street (10-foot setback require), and to legally establish an existing garage with a zero-foot setback from 28th Street.

ADDENDUM FOR FEBRUARY 7, 2023

This petition was previously continued from the October 4, 2022, hearing, to the December 6, 2022 hearing, and from the December 6, 2022 hearing to the February 7, 2023 hearing, both at the request of the petitioner to allow time to propose a relocation of the proposed storage garage and amend the request.

The petition was amended to reflect a new location at 300 East Fall Creek Parkway, but the new notices were never mailed by the petitioner. Therefore, the staff report has not been updated to reflect the amended request.

The petitioner has since **requested the petition be withdrawn**, so that it may be refiled at a later date. The withdrawal will need to be acknowledged by the Board.

ADDENDUM FOR DECEMBER 6, 2022

The petitioner has requested this petition **be continued to the February 7, 2023, hearing**, to allow additional time to propose a relocation of the proposed storage garage and amend the request. Staff has no objection to this request.

October 4, 2022

ADDENDUM FOR DECEMBER 6, 2022

This petition was continued from the October 4, 2022, hearing, to the December 6, 2022 hearing, at the request of the petitioner to allow time to propose a relocation of the proposed storage garage and amend the request.

The petitioner has requested this petition **be continued to the February 7, 2023, hearing**, to allow additional time to propose a relocation of the proposed storage garage and amend the request. Staff has no objection to this request.

(Continued)

STAFF REPORT 2022-UV1-027 (Continued)

October 4, 2022

This petition was automatically continued by a registered neighborhood organization from the September 6, 2022, hearing, to the October 4, 2022, hearing.

RECOMMENDATIONS

Staff **recommends denial** of this petition.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-1	Office parking lot
-----	--------------------

SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwelling
South -	C-1	Office parking lot
East -	D-5	Single-family dwelling
West -	C-1	Office parking lot

COMPREHENSIVE PLAN

The Comprehensive Plan recommends office commercial uses for the site.

With an overlay for Red Line transit-oriented development.

VARIANCE OF USE

- ◇ The Comprehensive Plan recommends Office Commercial uses for the site. The proposed use is not permitted in the C-1 District. The request for the storage garage as a primary use would be similar to what is allowed in the C-7 District.
- ◇ The C-7 district is designed to provide for specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and the outdoor parking and storage of trucks, materials, or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares where the gradual and reasonable transition from lesser commercial uses exist. Due to the intensity of the uses, the location of this district adjacent to protected districts should be avoided.
- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the proximity to adjacent single-family dwellings without adequate separation, this site would be over-developed and inappropriately expand uses towards an established residential district. The proposed use would not be consistent with the recommendations of the Comprehensive Plan and would be detrimental to the use and value of the surrounding residential uses.

(Continued)

STAFF REPORT 2022-UV1-027 (Continued)

- ◇ There are no other C-7 uses located in the area, and, contrary to this request, this site should act as a buffer, to the protected districts to the north and east. An expansion of this magnitude would not be appropriate for this site.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a hardship for the property, since the site is zoned C-1 and could be used by any number of uses permitted, by right, in the C-1 zoning classification. Any practical difficulty is self-imposed by the desire to use the site for a storage garage.
- ◇ Staff does recognize the need for accessory maintenance uses, and therefore, has recommended the relocation of the proposed storage garage to the west in the adjacent parking lot. This proposed location would be adjacent to a service alley and would have a greater separation from any affected residential uses, thereby minimizing its impact. At the time of publishing, the petitioner has not agreed to this request from Staff.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request if granted, would also provide for a six-foot fence in the front yards of New Jersey Street and 28th Street.
- ◇ The Consolidated Zoning and Subdivision Zoning Ordinance restricts the height of fences in front yards throughout the County. The Ordinance limits fence height to 3.5 feet in height in front yards. The restriction on fence height is intended to preserve sight lines for vehicles and pedestrians. Fences taller than 3.5 feet in the front yard tend to be industrial in nature and create a compound aesthetic within residential neighborhoods.
- ◇ When improperly tall fences are erected adjacent to the public right-of-way, that area becomes a less desirable place for pedestrians to travel. The propagation of excessively sized fences, therefore, can have a detrimental impact on a given street or neighborhood by discouraging neighbors from walking in areas encumbered with such fences. The fence location is on a slight rise for the roadway, compounding this effect.
- ◇ In staff's opinion, the fence should be replaced with a zoning complaint fence or reduced in height to 3.5 feet to be zoning compliant, as other nearby properties are able to be complaint with.
- ◇ Failure to consult the Ordinance before installation, and/or the cost of replacing the fence are self-imposed difficulties, and not practical difficulties imposed by the Ordinance.
- ◇ As such, staff does not believe a practical difficulty has been demonstrated that necessitates a six-foot tall fence in the front yard and recommends denial of this request.

(Continued)

STAFF REPORT 2022-UV1-027 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	<p>This portion of North New Jersey Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.</p> <p>This portion of East 28th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 35-foot existing right-of-way and a 48-foot proposed right-of-way.</p>
SITE PLAN	File-dated July 21, 2022
FINDINGS OF FACT	File-dated July 21, 2022

ZONING HISTORY

2022-UV2-003; 2802 Central Avenue (east of site), requested a variance of use to provide for a dog grooming business, **granted**.

2020-DV1-069; 412 East 28th Street (east of site), requested a variance of use and development standards to provide for a single-family dwelling with an attached garage with a 10-foot front setback, eight-foot rear setback, 47% open space and with a slight encroachment within the clear sight triangle, **granted**.

2019-ZON-019; 2916 Central Avenue (north of site), requested the rezoning of 0.12 acre from C-1 District to the D-5 classification, **approval**.

2019-ZON-023; 420 and 422 East 28th Street (west of site), requested the rezoning of 0.08 acre from the C-1 district to the D-8 classification, **approved**.

2015-ZON-097; 315 East 28th Street (west of site), requested the rezoning of 0.08 acre from the C-1 district to the D-8 classification, **approved**.

2015-CZN-838 / 2015-CVR-838 / 2015-CVC-838; 501 Fall Creek Parkway North Drive (east of site), requested the rezoning of 0.79 acre from the C-1 and C-4 districts to the C-3C district to provide for commercial and residential development, **approved**; a variance of .one mixed-use building and one apartment building, with ten-foot front setbacks along Central Avenue; two apartment buildings, with twenty-foot front setbacks along Central Avenue; a parking lot with a six-foot front setback along Central Avenue; a parking lot with ten-foot front transitional setbacks from 29th Street and Ruckle Street; with a dumpster located in front of the established front setback line along Ruckle Avenue; with 160 parking spaces; with a building height of 59 feet for the mixed-use building and one apartment building and a building height of 50 feet for two apartment buildings; and to provide for a zero-foot east side transitional yard, **granted**; and to provide for the vacation of 28th Street, from Central Avenue, to Ruckle Street, with a waiver of the assessment of benefits: the vacation of part of the north-south alley, east of Central Avenue and west of Ruckle Street, with a waiver of the assessment of benefits; and a vacation of part of the north-south alley, east of Central Avenue and west of Ruckle Street, with a waiver of the assessment of benefits, **granted**.

(Continued)

STAFF REPORT 2022-UV1-027 (Continued)

2014-ZON-054; 510 East Fall Creek Parkway, North Drive; 2819, 2821, 2825, 2829, 2837, 2841, 2845, 2917, 2925, 2927, 2931, 2935, 2941 Central Avenue and 2802, 2806, 2810, 2822, 2826, 2834, 2838 and 2844 Ruckle Street; 512 and 518 East 28th Street; 507 and 508 East 29th Street (east of site), requested a rezoning of 4.95 acres from the D-8, C-1, C-2 (FW) and C-4 districts to the C-3C (FW) and C-3C districts, **approved.**

2008-ZON-075; 2848 and 2852 North Central Avenue (north of site), requested a rezoning of 0.2388 acre, from the C-1 District, to the D-8 classification to provide for one- and two-family dwellings, **approved.**

2006-ZON-823/2006-VAR-823; 300 East Fall Creek Parkway North Drive (west of site), requested the rezoning of 2.69 acres. From the PK-1 District, to the C-1 classification to provide for an off-street parking lot, **approved.** Requested a variance of use and development standards to provide for a tavern and a family restaurant use, with a 576-square foot outdoor seating area, **granted.**

94-Z-15 / 94-CV-2; 302 East Fall Creek Parkway North Drive (includes subject site), requested the rezoning of 2.58 acres, being in the D-5 and D-7 Districts, to the C-1 classification to provide for office uses, and a variance of development standards of the Commercial Zoning Ordinance to permit the reduction of side and rear transitional yards to 10 feet, and the reduction of the front yard setback along East 28th Street to 6 feet, **approved.**

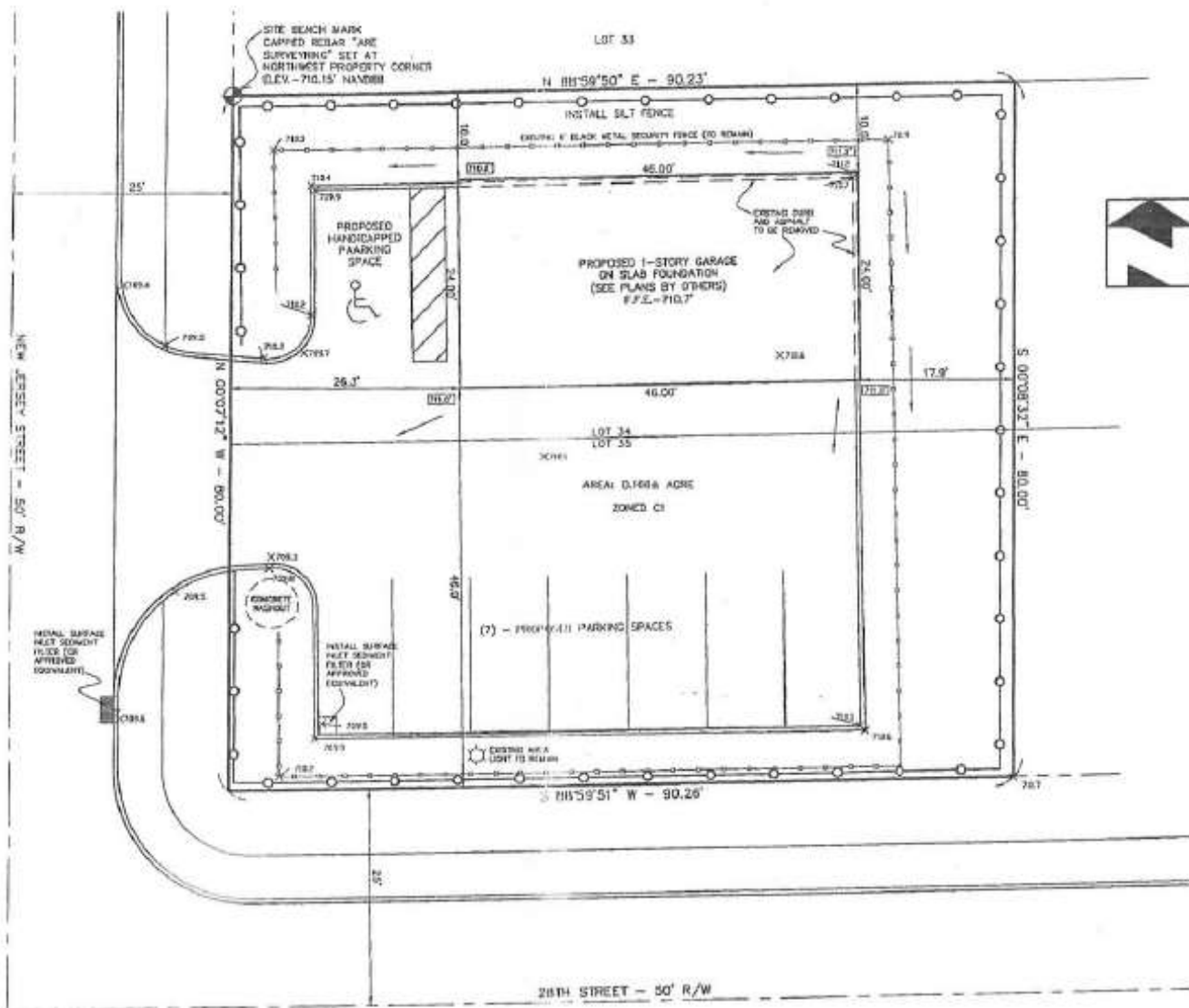
RU

STAFF REPORT 2022-UV1-027 (Continued)

2022-UV1-027; Location Map



2022-UV1-027; Site Plan



2022-UV1-027; Photographs



Subject site, looking east



Subject site, looking north



Adjacent single-family dwelling to the east of subject site, looking north.



Adjacent single-family dwelling to the north of subject site, looking east.



Adjacent parking lot to the west, where Staff proposes relocating the storage garage.



Adjacent parking lot to the south.



Adjacent office building to the southwest.