

BOARD OF ZONING APPEALS DIVISION I

July 7, 2026

Case Number: 2026-UV1-017 (Amended)
Property Address: 1215 South Girls School Road (approximate address)
Location: Wayne Township, Council District #17
Petitioner: Elite9 Investments LLC, by Bill Niemier
Current Zoning: C-3
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an existing fueling station use (not permitted).
Current Land Use: Commercial
Staff Recommendations: Staff makes **no recommendation** on the variance of use.
Staff Reviewer: Michael Weigel, Principal Planner I

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff makes **no recommendation** on the variance of use.

PETITION OVERVIEW

1215 South Girls School Road is a 2.08-acre parcel that is improved with a multi-tenant commercial center with accessory parking areas. Since 1989, the northernmost tenant space has contained a convenience store use with accessory fuel pumps placed to the west of the primary building. The property is near the western boundary of Marion County, and other tenants include a pub, salon, and restaurant. Surrounding land uses include a fire station to the west, a roofing contractor to the east, a record storage facility to the north, and undeveloped land zoned for industrial use to the south.

At the time that the fueling station began operation in 1989, the C-3 zoning district allowed for that use by-right without the need for a Variance of Use or other petition relief. However, in 2016 the Indianapolis Zoning Ordinance was amended to remove automobile fueling stations as a permitted use within C-3 (only allowed in districts with C-4 intensity or higher). This would mean that the gas station use would be considered legally non-conforming, and that a variance would only be required for an expansion or reconstruction of the non-conforming use, per 740-601 of the Ordinance.

In October of 2025, applications for two structural permits were filed with the Department of Business and Neighborhood Services related to an expansion of the fueling station use. The first permit application (STR25-05105) sought permission to reconstruct the fueling canopy after removal for a new size of 3192

square feet (the previous canopy had only been around 1400 square feet). The second application filed with DBNS (STR25-05106) sought to allow for the installation of new underground storage tanks related to the fueling station use.

Although these permits should have been placed on hold given both **(a)** the lack of an accompanying Improvement Location Permit application and **(b)** the fact that the expansion of the use within C-3 would not be allowed by-right, both structural permits were issued in October and the work to expand the fueling station area was completed over the next few months. In January of 2026, the two permits were both placed into abeyance to allow for issuance of the ILP and to address issues related to the expansion of the non-conforming use. Approval of this petition would allow for the canopy and tank additions to remain in place at the property, while denial would require their removal and restoration to previous conditions.

Ordinance also requires the addition of frontage sidewalks for new additions (inclusive of canopy additions) in an amount of 5 linear feet per 100 feet of sidewalk. The petitioner initially requested relief from this standard in addition to the Variance of Use, but after discussions with staff later agreed to have required sidewalk added along Morris Street and to withdraw that sidewalk variance from consideration. Grant of this petition would also not allow for any other deviations from applicable dimensional standards for fuel canopy construction.

The Comprehensive Plan Pattern Book recommends this property for Community Commercial uses to allow for low intensity commercial and office uses that serve nearby neighborhoods. This recommendation would be consistent with the property's current C-3 zoning designation. Neither the Pattern Book recommendation nor the site's C-3 zoning envision automobile-heavy uses as optimal.

Findings of Fact provided by the petitioner in support of the requested Use Variance allude to the recent investments that have been made into the property as a result of the issuance of structural permits. Under typical circumstances, staff would view hardships resulting from construction undertaken without proper zoning approvals in place as a self-imposed difficulty rather than being tied to any sort of hardship related to the property itself. However, in this specific instance, the hardship of having already constructed the improvements was the result of the City having already granted permission by the release of structural permits in October 2025. Given this context, staff makes **no recommendation** on the requested variance of use, with the caveat that this stance would not be precedential for future development unrelated to permits issued in error and later placed into abeyance.

GENERAL INFORMATION

Existing Zoning	C-3	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	I-2	North: Industrial
South:	I-3	South: Undeveloped
East:	I-3	East: Industrial
West:	SU-9	West: Fire Station
Thoroughfare Plan		
Girls School Road	Primary Arterial	100-foot existing right-of-way and 112-foot proposed right-of-way
Morris Street	Primary Collector	124-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	05/27/2026	
Site Plan (Amended)	06/25/2026	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	05/27/2026	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Community Commercial typology provides for low intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

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

2000UV3025, Variance of Use of the Commercial Zoning Ordinance to provide for an amusement arcade, with 19 amusement machines in a restaurant and bar (amusement arcade not permitted in C-3 District), **approved**.

90-HOV-80, Variance of Development of Standards of the Sign Regulations of Marion County to permit the placement of gasoline pricing panels on an existing pole sign, **approved**.

90-HOV-12, Variance of Development Standards of the Sign Regulations of Marion County Zoning Ordinance to permit an illuminated awning, **approved**.

75-Z-10, rezoning of 4.99 acres, being in D-6II district, to C-3 classification to provide for commercial development, **approved**.

ZONING HISTORY – VICINITY

2022DV1032 ; 7310 West Morris Street (northwest of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 1,140-square foot building addition with a twenty-foot setback from Girls School Road (60 feet from the proposed right-of-way required), **approved**.

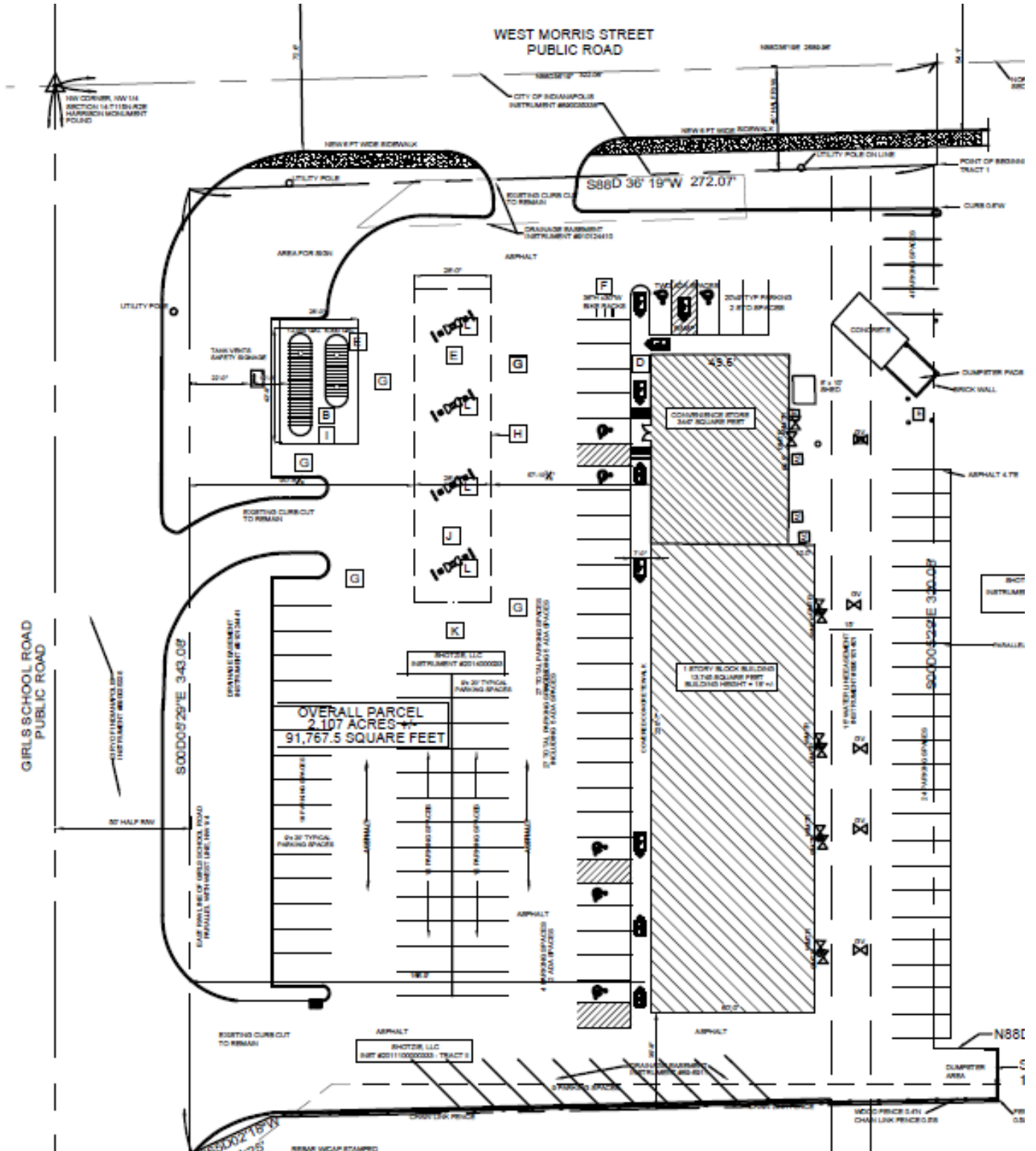
2011UV2005 ; 1013 South Girls School Road (north of site), Variance of Use of the Industrial Zoning Ordinance to provide for a medical waste treatment facility (not permitted), **approved**.

EXHIBITS

2026UV1017 ; Aerial Map



2026UV1017 ; Site Plan



2026UV1017 ; Aerial Map (zoomed; Spring 2025 showing previous canopy)



2026UV1017 ; Plan of Operation

Petitioner is not planning any further development at this property. However, Petitioner applied for and was issued two building permits from the City of Indianapolis to increase the size of the overhead canopy above the fueling pumps and to add one additional island with two fueling pumps at this property. After all work contemplated by said permits was completed, Petitioner was notified that a vehicle fueling center is no longer allowed in the C-3 zoning classification and that said permits were being placed in abeyance until Petitioner either obtained a Use Variance or rezoned this property from C-3 to C-4 zoning classification. This is why Petitioner is seeking a Use Variance to allow the vehicle fueling center that has existed on this property since 1989 to remain at this property.

2026UV1017 ; Findings of Fact (Use)

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

THIS PROPERTY HAS BEEN CONTINUOUSLY USED AS A VEHICLE FUELING CENTER SINCE 1989 AND ALLOWING SUCH USE TO CONTINUE IS CONSISTENT WITH NEARBY COMMERCIAL AND RETAIL USES.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE PETITIONER'S RECENT INVESTMENT TO IMPROVE THIS PROPERTY AND THE CONTINUED USE OF THIS PROPERTY AS A FUELING CENTER ACTUALLY INCREASES THE VALUE OF ADJACENT AND SURROUNDING PROPERTIES.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

THE USE OF THIS PROPERTY AS A VEHICLE FUELING CENTER, WHICH STARTED IN 1989, IS NOW ONLY ALLOWED IN A C-3 ZONING DISTRICT WITH A USE VARIANCE BECAUSE OF AMENDMENTS TO THE ZONING ORDINANCE MADE IN 2016.

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

THIS IS A LEGALLY EXISTING NON-CONFORMING USE (GRANDFATHERED USE) FOR WHICH PETITIONER IS REQUIRED TO OBTAIN A USE VARIANCE BECAUSE THE NUMBER OF PUMPS IS INCREASING FROM 4 TO 8. PETITIONER APPLIED FOR, AND WAS GRANTED, TWO BUILDING PERMITS AND COMPLETED THE IMPROVEMENTS BEFORE BEING TOLD IT NEEDED A USE VARIANCE BASED ON AMENDMENTS TO THE ZONING ORINANCE IN 2016.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

THE USE OF THIS PROPERTY AS A VEHICLE FUELING CENTER STARTED IN 1989 AND THIS PROPERTY HAS CONTINUOUSLY BEEN USED FOR SUCH PURPOSE SINCE 1989. THE 2016 ZONING ORDINANCE AMENDMENTS NO LONGER ALLOW THIS USE IN A C-3 ZONING DISTRICT WITHOUT A USE VARIANCE. ALLOWING SUCH USE TO CONTINUE IS CONSISTENT WITH NEARBY COMMERCIAL AND RETAIL USES.

2026UV1017 ; Photographs



Photo 1: Extended Canopy Viewed from South



Photo 2: Extended Canopy Viewed from Northwest

2026UV1017 ; Photographs (continued)



Photo 3: Existing Multitenant Commercial Building Viewed from West



Photo 4: Girls School Frontage Looking South

2026UV1017 ; Photographs (continued)



Photo 5: Morris Frontage from Northwest Corner Looking East



Photo 6: Adjacent Property + Morris Frontage to East

2026UV1017 ; Photographs (continued)



Photo 7: Adjacent Property to West



Photo 8: Adjacent Property to North (August 2025)