

BOARD OF ZONING APPEALS DIVISION I

July 7, 2026

Case Number: 2026-UV1-014
Property Address: 7711 West 10th Street (approximate address)
Location: Wayne Township, Council District #16
Petitioner: EMP Property LLC, by Abdelmonem Habib
Current Zoning: C-3
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for automobile sales and display (not permitted).
Current Land Use: Commercial
Staff Recommendations: Staff recommends **denial** of this petition.
Staff Reviewer: Michael Weigel, Principal Planner I

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of the requested variance.

PETITION OVERVIEW

7711 West 10th Street is a 1.02-acre lot that is currently zoned C-3 and is improved with a multitenant commercial structure and accessory surface parking lot. The proposal would permit the use of the property as an automobile dealership involving outdoor sales and display and the parking of cars awaiting sale in the existing parking lot. No additional structures are proposed as a part of this filing.

Per the filed Plan of Operation, the car sales use would involve 2-3 on-site employees (with 3-4 designated parking spaces) as well as space for the sales and display of up to 25 vehicles. Vehicle access would come from 10th Street to the north, and typical hours of operation would be from 8 am to 6 pm Monday through Saturday and 12 pm to 4 pm on Sundays. Per the applicant, the car sales office would be housed within the smaller existing building on the southwest of the site while a religious use would continue to operate within the larger building. The full Plan is within the Exhibits below.

The proposed use of the subject site would be an automobile sales lot, which is not a permitted use within the C-3 zoning district. The C-3 zoning district is intended for the development of an extensive range of retail sales and personal, professional and business services required to meet the demand of a fully developed residential neighborhood. This district does not allow for those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. Legal operation of a car sales lot in this district would require the granting of a Variance of Use.

Although disallowed in C-3, automobile sales is a permitted use category within the C-5 zoning district. C-5 uses are generally characterized as intense commercial uses with substantial outdoor display and sales, lighting, traffic and noise. The Ordinance indicates that these uses should be grouped on heavy commercial thoroughfares and should avoid locations adjacent to protected districts. This property is bordered by protected districts on three sides: apartment uses are located to the east and south, and athletic fields associated with a school are located to the north across 10th Street.

The lot to the west of the subject property (7115 West 10th Street) previously operated as an automobile sales lot, per the grant of the petition 2014UV2027. This petition was approved over staff's negative recommendation and was subject to six commitments. Aerial photography indicated parking of multiple vehicles at the site in the fall of 2025, but during staff's visit to the site it appeared that all vehicles had been removed from the property and the legally established, legally non-conforming use has ceased.

No variances of development standards are being sought as a part of this petition, and grant of this variance would not allow exemptions from applicable setbacks of cars awaiting sale, from any applicable noise ordinances, or for enforceable standards related to parking stall striping, to outdoor storage of junk/trash/debris and vehicle parts, or to front-yard fencing above 3.5 feet in height.

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 that include outdoor storage.

Findings of Fact provided by the applicant claim that grant of the variance would be justifiable since "the property cannot be feasibly developed for residential or retail use" due to "traffic volume, lot dimensions, and existing improvements", without additional explanation as to how the lot size and shape or placement of the current multitenant commercial structure would prevent future use for standard C-3 operations. Staff would note that this zoning district allows for 40 primary uses by-right, and previous tenants in this space appear to have included a barbershop and religious uses. Per staff's analysis, the providing Findings fail to establish an undue hardship preventing compliant use of the property for permitted uses.

Staff would also want to avoid both the introduction of potential negative externalities (such as light, noise, or vehicle congestion) for surrounding residential property to the south and east, for facilities related to the educational use to the north, and for the existing religious use occupying the property. A use of this intensity would be more appropriately sited in alternate locations near heavier commercial uses, and given the existence of alternate locations within the County for such uses and the lack of undue hardship justifying placement on this specific lot, staff recommends denial of the requested Variance of Use.

GENERAL INFORMATION

Existing Zoning	C-3	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	SU-2	North: Educational (Sports Fields)
South:	D-7	South: Residential
East:	D-7	East: Residential
West:	C-3	West: Commercial
Thoroughfare Plan		
10 th Street	Primary Arterial	85-foot existing right-of-way and 112-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	02/20/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	02/20/2026	
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

87-UV3-53, Variance of Use of the Commercial Zoning Ordinance to provide for the construction and use of a restaurant with 2 drive-through windows within 100 feet of a residential district, **denied**.

ZONING HISTORY – VICINITY

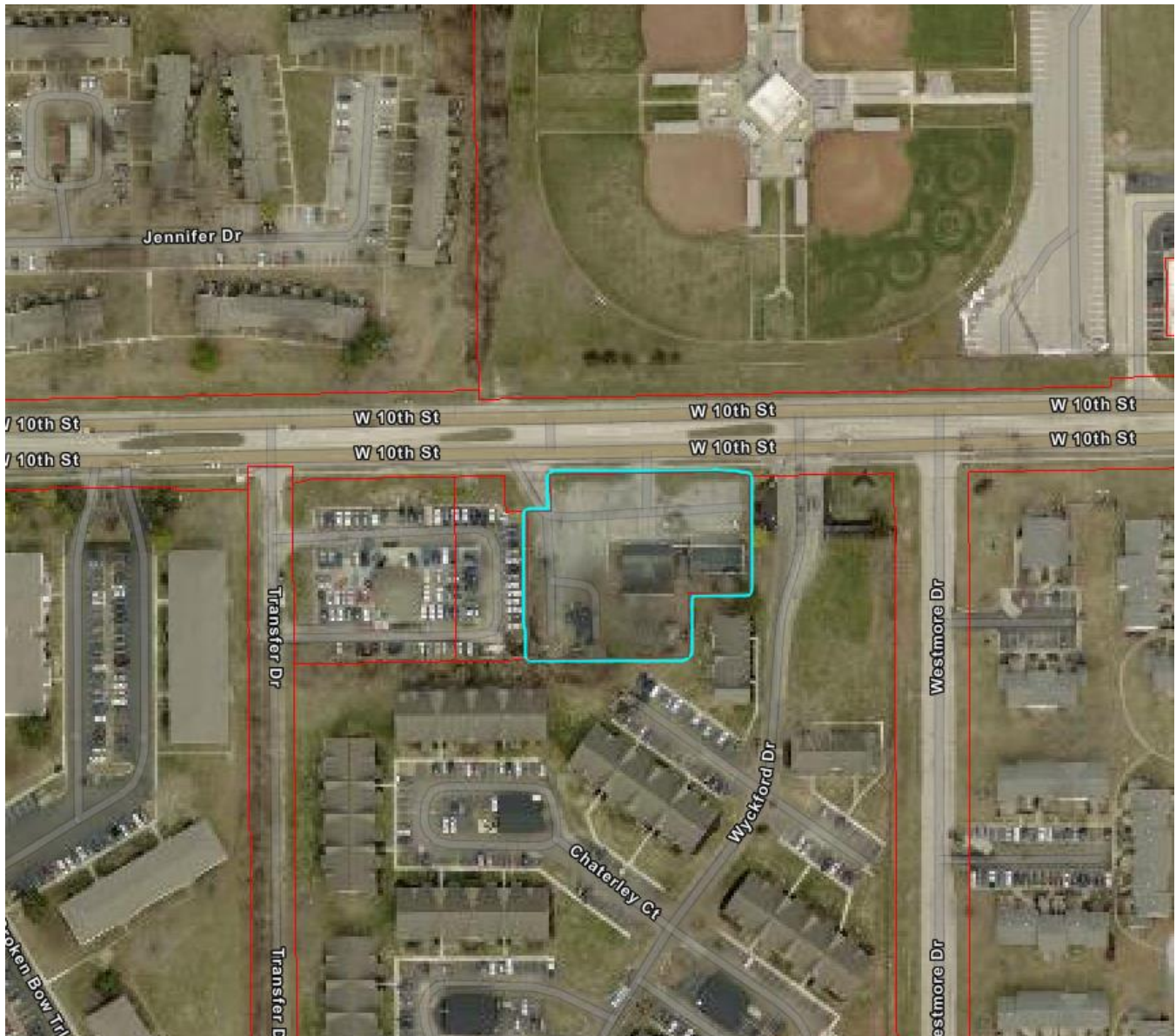
2020UV2018 ; 7875 West 10th Street (west of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an outdoor cooler (not permitted) with a three-foot side transitional side yard (20-foot side transitional yard required), **approved**.

2018UV2010 ; 7950 West 10th Street (northwest of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an automobile sales business (not permitted), **approved**.

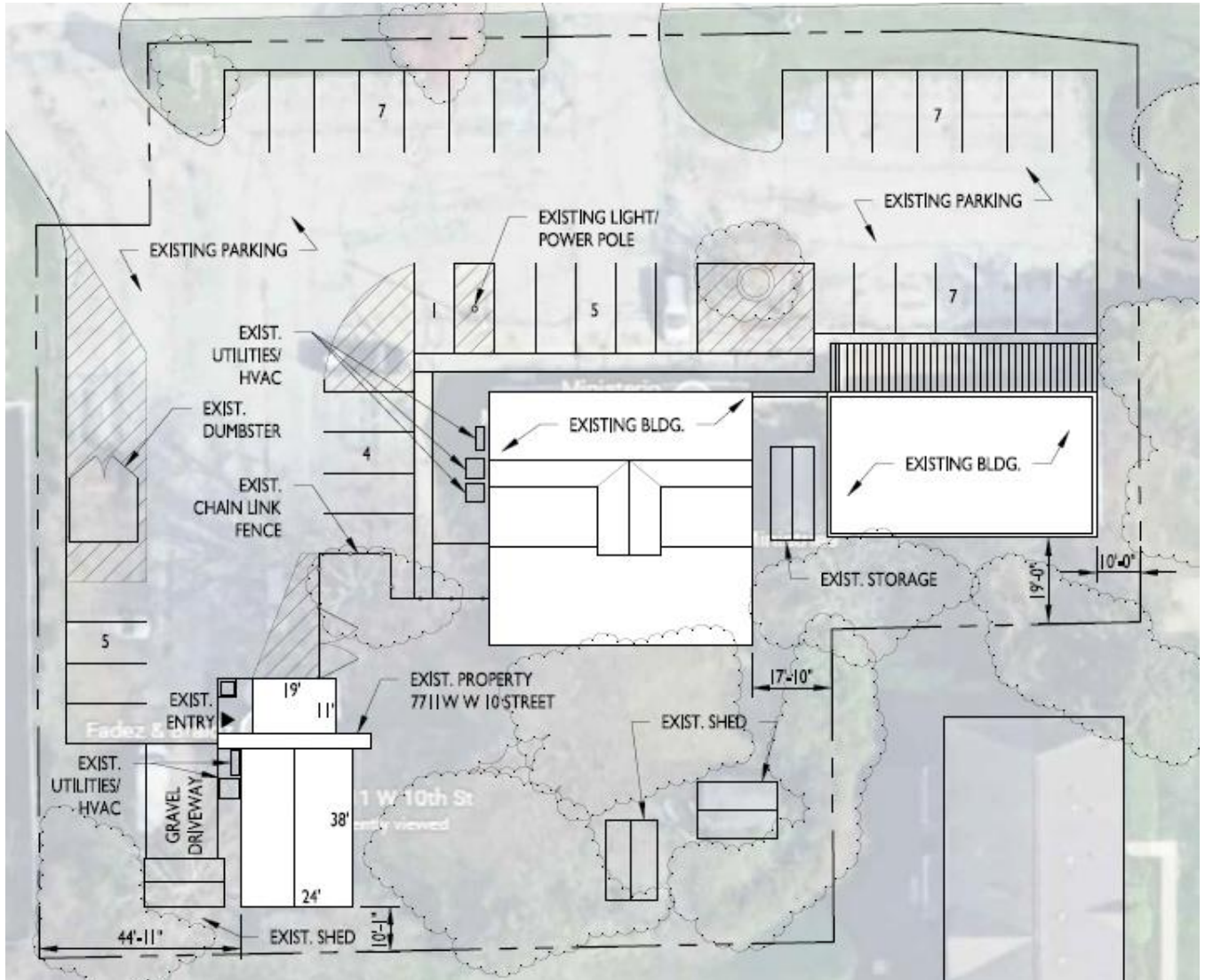
2014UV2027 ; 7115 West 10th Street (west of site), Variance of use of the Commercial Zoning Ordinance to provide for automobile sales and display (not permitted), **approved**.

EXHIBITS

2026UV1014 ; Aerial Map



2026UV1014 ; Site Plan



2026UV1014 ; 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 used car dealership will operate as a licensed retail establishment subject to Indiana Secretary of State regulation under IC 9-32-11 . All operations will comply with applicable health and safety codes.

- Specific Fact: Business Type: Small-scale retail sales of quality used automobiles. Primary activities will be sales, customer financing, and vehicle preparation (cleaning, minor reconditioning) The dealership will maintain a fully enclosed showroom/office. All customer and inventory vehicles will be contained on-site with no street parking. Operating hours will be limited to [e.g., 9 AM to 7 PM] to minimize neighborhood impact. Appropriate lighting will be installed and shielded to prevent light trespass onto adjacent properties."]
- The use will not generate noise, emissions, or traffic beyond normal commercial levels for the W. 10th Street corridor.

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

Specific Fact: The Property is located along a major arterial road (W. 10th St.) with existing commercial uses nearby. Adjacent properties include a gas station, a retail store, residential homes set back from the road]. The proposed dealership will be a professionally maintained business with landscaped areas and defined inventory display, consistent with the visual character of the corridor."]

- Used car dealerships are common commercial uses that, when properly maintained, do not negatively impact adjacent property values. This location is suitable for automotive retail given its proximity to major thoroughfares.

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

the Property was previously operated as a parbra shop and contains existing infrastructure (paved lot, concrete pads, utility connections) specifically suited for automotive-related use. Converting this property to a use permitted by right under the current zoning would require substantial and economically unfeasible modification."

- "The Property has a unique configuration [the office on the far back of the lot which give space to show vehicles' irregular shape, limited depth, direct frontage on a high-traffic arterial] that distinguishes it from surrounding parcels and makes it particularly suitable for vehicle display and sales but difficult to develop for standard retail or residential use permitted by right."]
- These physical characteristics are peculiar to this specific property and not generally applicable to other properties in the district.

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

- Under the current zoning classification, the permitted uses do not include used motor vehicle sales. However, the Property's location on a major thoroughfare, its historical use, and its physical characteristics render it unsuitable for many uses permitted by right.
- Specific Fact: "The Property cannot reasonably be developed for [residential/standard retail] use due to [traffic volume / lot dimensions / existing improvements]. Strict application of the zoning ordinance would leave the Petitioner unable to make reasonable economic use of the Property, resulting in continued vacancy and blight. The proposed dealership represents a viable, investment-backed use that will generate tax revenue and provide a local service

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

The Indianapolis Comprehensive Plan recognizes W. 10th Street as a [e.g., "commercial corridor" / "transitional area" / "mixed-use node"]. Automotive retail uses are consistent with the Plan's goals for this area, which include providing employment opportunities and services to residents while maintaining compatible relationships with adjacent neighborhoods.

- Specific Fact: The proposed use will activate a currently [vacant/underutilized] property, improve the streetscape through professional maintenance, and contribute to the economic vitality of the corridor in a manner contemplated by the Comprehensive Plan.

2026UV1014 ; Plan of Operation (Partial; 1 of 2)

2. NUMBER OF EMPLOYEES

- Owner/Manager: 1 (full-time)
- Sales Staff: 1-2 (full or part-time)
- Total On-Site Employees at Any Time: 2 to 3 persons.
- Parking: 3-4 designated employee parking spaces on-site

. SECURITY PROVISIONS

- Lighting: Energy-efficient, shielded LED lighting in parking and display areas, active from dusk until 11:00 PM for security, then on motion-sensor mode until dawn. Lighting will be directed downward to prevent light trespass.
- Surveillance: A minimum of 4-6 security cameras covering vehicle display areas, building entrances, and lot perimeters. Recording system stored on-site.
- Physical Security: All vehicles will be locked after business hours. Lot may be equipped with a perimeter fence or wheel locks for high-value vehicles at owner's discretion.
- Alarm: Monitored burglar alarm for the sales office.

4. PRESENCE OF HAZARDOUS MATERIALS (MINIMAL)

- Primary Materials: Small quantities of standard automotive fluids may be present in the engines of vehicles for sale.
- Operations-Related Materials:
 - Fuel: Only in vehicle tanks (no bulk storage).
 - Vehicle Preparation: A small inventory of non-hazardous cleaning supplies (car wash soap, wax, interior cleaner). May include minor amounts of:
 - Fluids: Oil, coolant, or windshield washer fluid for top-offs, stored in a locked cabinet in original, sealed containers.
 - Batteries: Occasionally a replacement battery, stored properly.
 - Management & Disposal: Any used fluids (e.g., from a battery change or oil top-off) will be collected in sealed containers and removed weekly by a licensed waste carrier. No repairs generating significant waste are planned.
- Spill Kit: A small, basic spill kit will be maintained.

2026UV1014 ; Plan of Operation (Partial; 2 of 2)

5. HOURS OF OPERATION

- Sales Office Open to Public:
 - Monday - Friday: 10:00 AM – 7:00 PM
 - Saturday: 10:00 AM – 5:00 PM
 - Sunday: 12:00 PM – 4:00 PM (Optional, can be adjusted)
- Vehicle Preparation / Employee Hours: 8:00 AM – 6:00 PM, Monday - Saturday.
- Closed: Major national holidays (Thanksgiving, Christmas Day, New Year's Day).

6. TRAFFIC & PARKING MANAGEMENT

- Customer/Display Parking: Space for approximately 15-25 vehicles displayed for sale, depending on lot layout.
- Customer Parking: 4-5 dedicated spaces.
- Traffic Flow: Single entrance/exit on W 10th Street. No large transport trucks will be stored overnight; vehicle delivery will occur during business hours.

7. ENVIRONMENTAL & NEIGHBORHOOD MITIGATION

- Noise: No outdoor loudspeakers. All customer test drives will adhere to posted speed limits. Vehicle preparation (vacuuming, washing) will occur during daytime hours.
- Lighting: As noted in Security, full cutoff, dark-sky compliant fixtures will be used.
- Appearance: Property will be maintained free of litter, weeds, and debris. Vehicles will be in good repair and parked in an orderly manner.
- Waste: One commercial dumpster for office waste, emptied regularly. No abandonment of parts or tires.

. COMMUNITY BENEFITS

- Provides a local source of affordable, reliable transportation.
- Creates 2-3 local jobs.
- Supports the local business corridor on W 10th Street.
- Maintains a clean, secure, and professionally operated lot that enhances the area.

2026UV1014 ; Photographs



Photo 1: Subject Site Viewed from North



Photo 2: Proposed Office Viewed from North (September 2024)

2026UV1014 ; Photographs (continued)



Photo 3: Adjacent Property to West



Photo 4: Adjacent Property to West Viewed from North (September 2024)

2026UV1014 ; Photographs (continued)



Photo 5: Adjacent Property to North



Photo 6: Adjacent Apartment Entry Point to East (June 2024)