

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2010-DV3-030
Address: 5215 North College Avenue (*Approximate Address*)
Location: Washington Township, Council District #3
Lot Size: 0.46 acre, approximately 78' by 257'
Petitioner: Glendale Partners Inc., by Michael Rabinowitch
Request: Variance of development standards of the Commercial Zoning Ordinance to provide for a restaurant,
a) with 21 parking spaces (56 parking spaces required),
b) with a 3.5-foot south side and rear transitional setback (20-foot side and rear transitional setback required),
c) with a zero-foot north side transitional yard (20-foot side transitional yard required),
d) with a zero-foot front yard, without landscaping, being approximately 40 feet from the centerline (70-foot setback from the centerline required), and
e) with an outdoor seating area, with 32 seats (not permitted).

RECOMMENDATIONS

Staff **recommends approval** of the petition subject to the following conditions:

1. A landscape plan, indicating landscaping within the rear yard and south side yard, shall be submitted for and subject to Administrator's Approval prior to the issuance of an Improvement Location Permit. Landscaping shall be completed in accordance with said approved plan within six months of the grant of this variance and maintained at all times thereafter.
2. The existing six-foot tall fence along the northern property line shall be extended toward college Avenue to fully screen the outdoor seating. If the fence is ever removed, the petitioner shall erect a six-foot tall solid fence along the northern property boundary.
3. A parking agreement or agreements, indicating the permitted use of a minimum of thirty off-street parking spaces, shall be submitted prior to occupancy of the structure.
4. A detailed description of how the valet parking would function should also be submitted for Administrative Approval prior to occupancy of the structure.
5. The parking spaces located at the northwest corner of the site shall be removed.
6. Low-level light and signage indicating the narrow width of the drive aisle shall be provided along the north of the building.
7. A rear customer entrance shall be provided for patrons utilizing the parking area east of the building.
8. An amended site plan, indicating compliance with the above conditions, shall be submitted for and subject to Administrator's Approval prior to the issuance of an Improvement Location Permit.

(Continued)

STAFF REPORT 2010-DV3-030 (Continued)

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ The 0.46-acre site is improved with a 6,000-square foot commercial building with accessory parking. As proposed, the existing building would be used as a restaurant, with 21 parking spaces, and an outdoor seating area. The request would also legally establish a 3.5-foot south side and rear transitional yard, a zero-foot north side transitional yard, and a zero-foot front yard without landscaping.
- ◇ The site is surrounded to the north by a two-family dwelling project, and on all other sides by various commercial uses.

SETBACK ISSUES

- ◇ A previous variance, 96-CV-26, was granted to legally establish the existing setbacks. The grant was subject to the installation of speed-prevention strips (“speed bumps”) within the northern drive aisle, as well as landscaping within the rear yard setback. Furthermore, aerial photography indicates the building and parking have been in existence since as early as 1972. Legally establishing the setbacks would be supportable, subject to landscaping being installed within the rear yard setback, as per the requirements of the previous variance.

OUTDOOR SEATING

- ◇ The Commercial Zoning Ordinance requires that all uses and operations be conducted within closed buildings for this zoning classification. However, previous variances were granted for a site to the southwest, to provide for the construction and expansion of outdoor seating areas. Additionally, a variance was granted on the adjacent site to the south, 88-UV1-145, to provide for outdoor display and sales within the required front setback. The outdoor seating component of this request would be supportable, given the previous variances and the commonality of this type of outdoor use along this commercial corridor.
- ◇ A six-foot tall solid wood fence currently exists between the subject site and the residential uses to the north. The proposed fence should be extended toward College Avenue to fully screen the outdoor seating area. Additionally, if the fence would ever be removed, the petitioner should replace it with a six-foot tall solid fence along the northern property line.

PARKING ISSUES

- ◇ The petitioner has indicated that off-site parking agreements have been arranged, including ten spaces located at 710 East 52nd Street, and 20 spaces that would be used for valet parking three blocks from the site at 1002 East 52nd Street. These spaces would be available after 6:00 p.m. With the inclusion of these spaces, the site would have access to a total of 51 parking spaces. Additionally, the general area is pedestrian-oriented and this use would likely draw customers from the immediate neighborhood. Therefore, providing for a restaurant with deficient parking would be supportable.

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STAFF REPORT 2010-DV3-030 (Continued)

- ◇ Recorded, written agreements for the off-site parking should be provided. Additionally, a description of how the valet parking would function should also be submitted for Administrative Approval. The valet parking service should not interfere with the functionality of on-site parking, the use of the sidewalk, or with the use of the dwellings to the north.
- ◇ The amended site plan file-dated August 3, 2010 indicates twenty-two on-site parking spaces. The proposed space located in the northwest corner of the site would cause safety concerns, as maneuvering in and out of the space would interfere with use of the drive aisle. This parking space should be removed.
- ◇ The drive aisle north of the building is not wide enough for two vehicles to pass, causing safety concerns related to accessing the parking east of the building. As this is the only means of accessing the parking located behind the building, measures should be taken to mitigate these safety concerns. Appropriately sized and located signage and low-level lighting should be provided to caution drivers of the deficient aisle. Additionally, a customer entrance should be provided at the rear of the building to deter pedestrian use of the drive aisle.

WELLFIELD PROTECTION

- ◇ The site is located within the Fall Creek Wellhead Protection Area (W-5), one of seven (7) wellfields within Marion County.
- ◇ The Wellfield Protection Zoning Ordinance was adopted in 1995, to protect the drinking water supply within Marion County by preventing potential ground water contaminants associated with human activity from interfering with each community public water supply systems' ability to produce drinking water that meets all applicable federal primary drinking water standards after undergoing conventional ground water treatment.
- ◇ This Ordinance establishes land use regulations that “apply to all land within the Wellfield Protection Zoning Districts, with the exceptions of single-and multi-family residential land uses.” This site, while being located in the WHPA5, would be subject to the regulations including, but not limited to, approval of the proposed site and development plan by a technically qualified person.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-3 (W-5) Vacant commercial building

SURROUNDING ZONING AND LAND USE

North -	D-5 (W-5)	Two-family dwelling project
South -	C-3 (W-5)	Commercial
East -	D-5 (W-5)	Commercial
West -	C-3 (W-5)/ D-5 (W-5)	Commercial

(Continued)

STAFF REPORT 2010-DV3-030 (Continued)

NEIGHBORHOOD PLANNING AREA	The site is located within the boundaries of the Meridian Kessler Subarea Plan which designates the site for business/commercial development.
THOROUGHFARE PLAN	The Official Thoroughfare Plan indicates that College Avenue is a primary arterial with a 90-foot right-of-way existing and a 90-foot right-of-way proposed.
PARKING	21 parking spaces proposed, 51 parking spaces required.
SITE PLAN	File-dated July 20, 2010
FINDINGS OF FACT	File-dated July 19, 2010

ZONING HISTORY

96-Z-96/96-CV-26; 5215 North College Avenue (subject site), rezone from D-5 (W-5) and C-3 (W-5) to C-3 (W-5) to provide for the continued commercial use including the operation of an existing video store, and a Variance of Development Standards of the Commercial Zoning Ordinance to provide for the continued operation of a commercial use, with a 3.5-foot transitional side and rear yard setback, and a zero-foot north side transitional yard, parking within the required front yard, as well as the side and rear transitional yards, and without landscaping along North College Avenue, **approved**.

2010-CZN/CVR-802; 5212 North College Avenue (west of site), rezone from D-5 (W-5) to C-3 (W-5) to legally establish an accessory parking lot, and a Variance of Development Standards of the Commercial Zoning Ordinance to legally establish a zero-foot north transitional yard containing parking and an eleven-foot tall fence (minimum 20-foot transitional yard, with landscaping required, maximum 10-foot tall fence permitted), with a six-foot fence within the clear-sight triangle of College Avenue, with a five-foot front yard along a portion of College Avenue, and with a zero-foot west transitional yard, **pending**.

2007-DV3-018; 5164 and 5170 North College Avenue (southwest of site), requests a Variance of Development Standards of the Commercial Zoning Ordinance to provide for the construction of a 24-seat, 500-square foot outdoor seating area, with a zero-foot front setback, located 5.3 feet within the right-of-way of North College Avenue, with zero off-street parking spaces, in C-3 (W-5), **granted**.

2006-DV1-025, 5164-5166 North College Avenue (southwest of the site), requested a variance of development standards of the Commercial Zoning Ordinance to provide for the expansion of a sidewalk café, with a 1,011.85 square foot canopy structure with a zero-foot front yard setback, and located five feet into the right-of-way of North College Avenue, with five off-street parking spaces, in C-3 (W-5), **granted**.

2004-DV1-012, 5164-5170 North College Avenue (southwest of the site), requested a variance of development standards of the Commercial Zoning Ordinance to provide for a restaurant with a twelve-seat sidewalk café, and five off-street parking spaces, in C-3 (W-5), **granted**.

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STAFF REPORT 2010-DV3-030 (Continued)

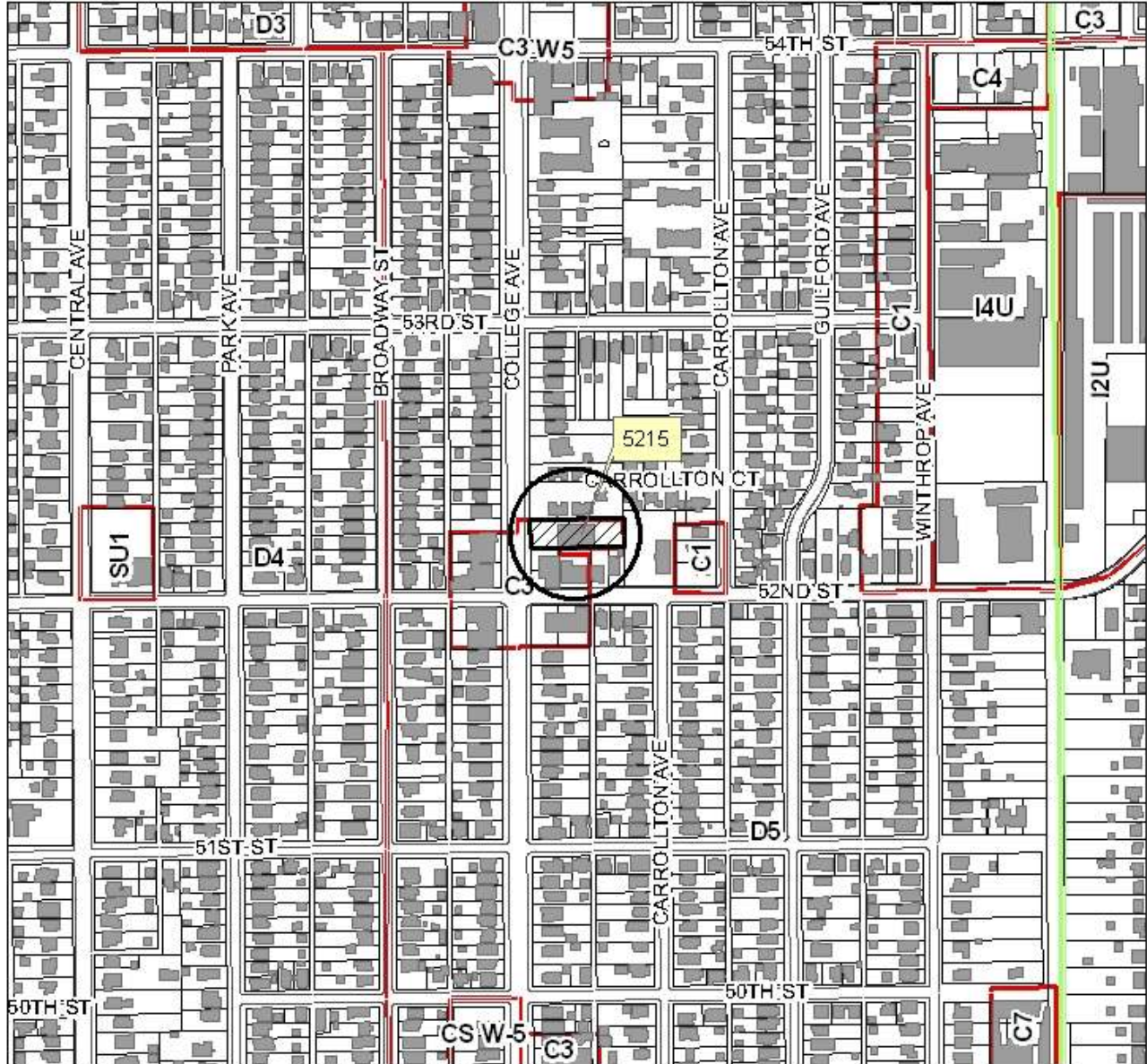
91-UV1-26, 5162-5172 College Avenue (southwest of site), requested variance of use of the Commercial Zoning Ordinance to provide for a carry-out restaurant located within 100 feet of a protected district, in C-3, **granted**.

88-UV1-145, 5209 College Avenue (south of site), requested variance of development standards of the Commercial Zoning Ordinance to provide for the outdoor display and sales of antiques within the required front setback at 8.2 feet from the right-of-way of College Avenue, in C-3 (W-5), **granted**.

MRM

2010-DV3-030

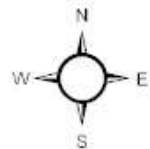
5215 North College Avenue



July 26, 2010

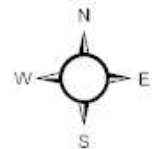
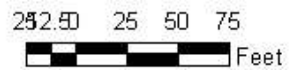
Produced By: The GIS Section

Data Source: The City of Indianapolis
Geographic Information Systems



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2010-DV3-030 5215 North College Avenue



July 26, 2010

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Thank you for reporting staff's preliminary comments on this petition. I conveyed those comments to the petitioner and they have worked very hard to make further revisions and accommodations to mitigate staff's concerns.

1. **Parking.** In order to mitigate staff's concerns regarding parking:
 - a. Petitioner is submitting a revised site plan showing the outdoor seating pad reduced in size to create one additional parking space, so a total of 22 spaces will be provided;
 - b. The petitioner has received verbal approval from the neighboring property owner to the southeast at 710 E. 52nd Street (Arcraft Upholstery) to have exclusive use of 10 off-street parking spaces after its business closes at 6:00 p.m.;
 - c. The petitioner has received a commitment from Faeber's Bee Windows, owner of property located at 1002 E. 52nd Street, just three blocks away, for exclusive use of at least 20 spaces to receive valet parked cars from 6:00 p.m. to business close. Employees will also be required to park at this location.

2. **Lighting/Signage for Driveway.** You indicated that staff had concerns over the driveway from the front to back parking areas. We have confirmed that there is existing lighting on the north side of the building which, when in operation, is sufficient to light the driveway, without burdening the neighboring property owner to the north. In addition, the petitioner will place appropriate signage properly cautioning drivers that the driveway is one lane.

3. **Direct Customer Access From Back Parking Lot.** You expressed staff's concerns for customers parking in the back parking lot and having to walk along the driveway to enter the restaurant through the front door. Staff's suggestion was to place a customer entrance in the back of the building. I have confirmed, and I believe the interior floor plan that we submitted shows, that there will be a customer entrance at the northeast corner of the building. A new entrance is being cut at considerable expense.

We hope that these additional steps satisfy staff's concerns.

Also, we appeared before the July 27, 2010, Meridian Kessler Neighborhood Association Land Use Committee and have received that committee's recommendation of support.

If you have any questions, please do not hesitate to call or send me an email.



CITY OF INDIANAPOLIS
STEPHEN GOLDSMITH
MAYOR

June 28, 1996

Mr. Thomas Michael Quinn
Clark, Quinn, Moses & Clark
One Indiana Square, Suite 2200
Indianapolis, Indiana 46204-2011

Re: 96-CV-26 (96-Z-96); Glendale Partners
5215 North College Avenue; Washington Township

To whom it may concern:

This is official notification that the Metropolitan Development Commission, at its regular meeting on June 19, 1996 approved your petition for a variance of development standards of the Commercial Zoning Ordinance to provide for the continued operation of a commercial use with: a 3.5 transitional side and rear yard setback and a zero foot transitional side yard along the north property line; parking within the required front yard as well as the side and rear transitional yard; and without landscaping along North College Avenue.

The City-County Council, on June 24, 1996, adopted rezoning ordinance 96-Z-96 to the C-3 District Classification.

The Metropolitan Development Commission granted this variance subject, to rezoning petition 96-Z-96, the site plan, file-dated April 11, 1996 and the following conditions:

1. Speed-prevention strips ("speed bumps") shall be maintained on the drive located along the northern lot line.
2. A landscape plan for the rear yard, indicating spacing, species and size of the landscape elements, shall be submitted for and subject to the Administrator's Approval prior to the issuance of an Improvement Location Permit. Landscaping shall be completed in accordance with the said approved plan within 6 months of the grant of this variance and maintained at all times thereafter.

An Improvement Location Permit shall be obtained prior to construction.

The Findings of Fact are of record in the office of the Commission, and under its Rules of Procedure, a completion affidavit showing compliance with the approved plan is to be filed with the Commission within thirty (30) days after completion.

Sincerely,

J. June Dugan
Administrator

Enclosure

JJD:vlv

DEPARTMENT OF METROPOLITAN DEVELOPMENT
NEIGHBORHOOD AND DEVELOPMENT SERVICES DIVISION
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