



# Staff Report BZA20-003-UV

## Performance Powersports of Indiana Use Variance

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**Docket BZA20-003-UV Performance Powersports of Indiana Use Variance.** The petitioner is requesting approval of a use variance for a golf cart and UTV retail within the Local Business (LB) zoning classification as well as outdoor sales and displays. Subject site is located at 3 S. Main St in Whitestown. The property owner is Indy Pro Graphix, and the petitioner is Performance Powersports of Indiana.



### Scope of Project

The scope of the project is to utilize the existing building at 3 S Main Street for retail sales of Golf Carts, UTVs, and other products of Performance Powersports. The building would include an indoor show room for all the products as well as outdoor sales and displays during non-winter months along the north side of the building. General hours of operation during non-winter months are 10am-5pm and during peak sales months (March- July) could extent to 8pm. Customers will have access off of Main Street and customer parking off Pierce. This site will be contained on property and not use Whitestown public parking area for sales and displays.

## Unified Development Ordinance

**Section 2.4:** Golf cart and UTV retail sales is not a use listed within Business Development areas of the Whitestown Unified Development Ordinance.

Retail Sales, Service & Repair						
Animal Sales and Services, Household Pets	10	NP	NP	L	L	NP
Animal Sales and Services, All Others	11	NP	NP	NP	L	NP
Food Sales or Market	12	L	NP	L	L	NP
Kennel, Small	13	L-SE	NP	NP	L-SE	NP
Pawn Shop	14	L-SE	NP	L	NP	NP
Retail Sales, Service & Repair, Outdoor	15	L-SE	NP	NP	L	NP
Retail Sales, Service & Repair, Special Handling		NP	NP	NP	L-SE	NP
Retail Sales, Service & Repair, All Others		L	L	L	L	L
Vehicle/Equipment Sales, Service & Repair						
Automobile Services, Light	16	L	NP	NP	L	NP
Automobile Services, Heavy	17	NP	NP	NP	L-SE	NP
Auto/Motorcycle/Boat/Light Truck Sales or Rentals	18	NP	NP	NP	L	NP

**Outdoor sales and displays are also not permitted**

### Petitioner Request

The petitioner requests a use variance to allow Golf cart and UTV retail sales within the LB zoning district as well as a variance to allow for outdoor sales and display within the LB zoning district. This will be located within the current building at 3 South Main Street.



## Decision Criteria

Per the Zoning Ordinance, *Section X.C.5.a(3)* the Board of Zoning Appeals shall use the following three decision criteria, consistent with the requirements of the Indiana Code IC 36-7-4-918.5, when taking action on all variance requests:

1. The variances will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use or value of the area adjacent to the property included in the variances will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Ordinance will continue the unusual and unnecessary hardship as applied to the property for which the variances are sought.

## Staff Recommendation

Staff recommends approval of the use variance to allow Golf cart and UTV retail sales within the LB zoning district as well as a variance to allow for outdoor sales and display within the LB zoning classification based on the below findings of facts, staff report, and presentation:

1. The approval of the use variance will not be injurious to the public health, safety, morals and general welfare of the community because: proposed variances do not negatively impact welfare and safety of community, similar uses are allowed within the district;
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: variances will not change the nature and character of the property or proposed area. This area is already designed for local businesses and retail sales.
3. The need for the variance does arise from some condition peculiar to the property involved: the size, shape, and location of the property is such that retail sale is the appropriate use and golf cart and UTV retail sale is appropriate.
4. The strict application of the terms of the zoning ordinance will result in unusual and unnecessary hardship as applied to the property for which the variances are sought because: similar uses are allowed within the area, UDO does not specifically list out golf carts and UTVs as allowable retail sales. Without variance business will not be able to locate within Whitestown.
5. The approval does not interfere substantially with the comprehensive plan: the comprehensive plan considers this area to be for retail sales with similar uses, it is simply a manner that UDO does not currently allow golf cart and UTV retail sales, but that use is consistent with the comprehensive plan.