



Staff Report BZA22-003-VA

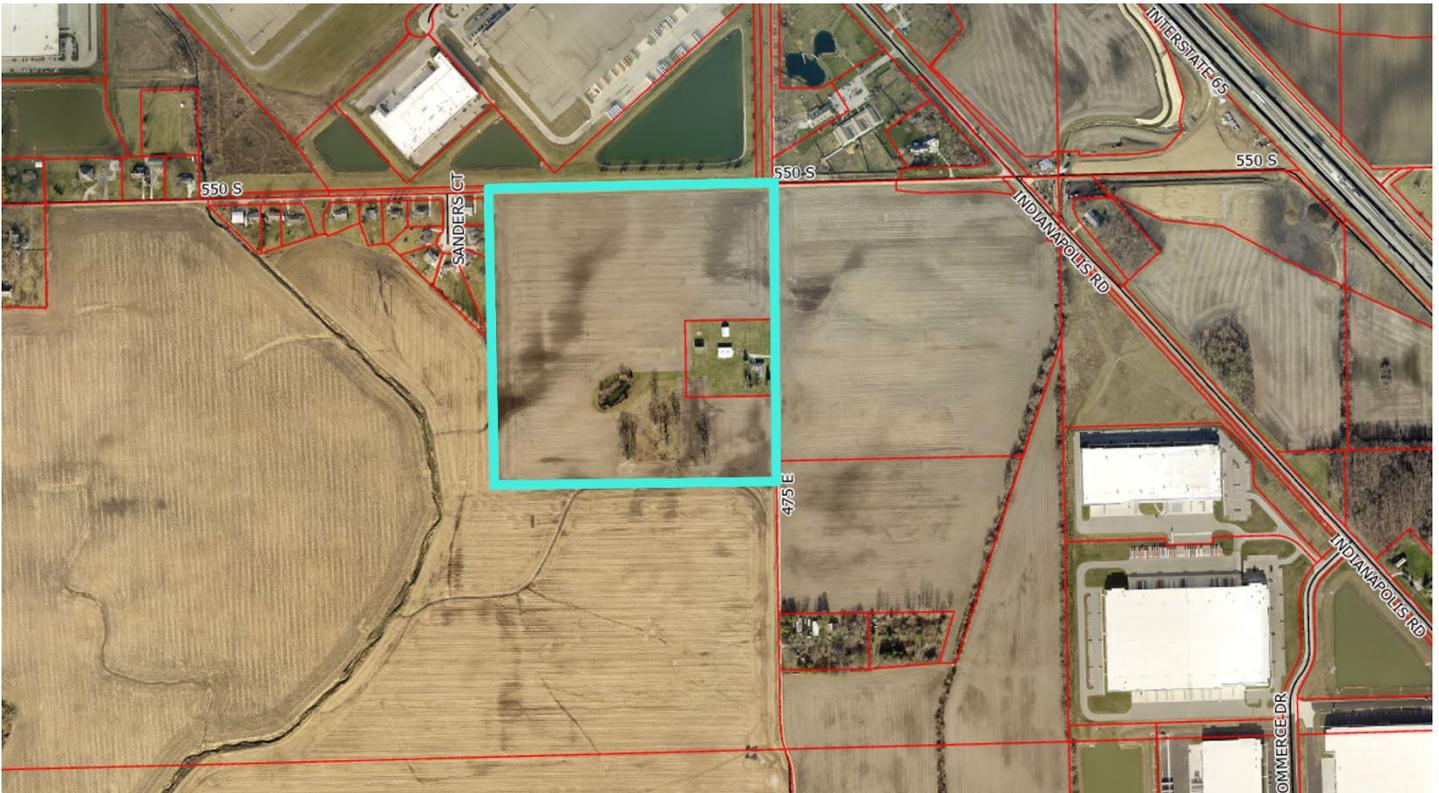
Giles Building 1 Loading Berths Variance

Meeting Date: February 3, 2022

Docket BZA21-003-VA Giles Building 1 Loading Berths Variance. The applicant is requesting a Variance to permit loading berths on a façade of a building that is facing a public right of way. The site in question is located at the southwest corner of the intersection of CR 550 S and CR 475 E in Whitestown. The applicant is Park 130 Partners II, LLC. by Faegre Drinker Biddle & Reath on behalf of Zeller-401 LRH Restructured, LLC et all, the owner.

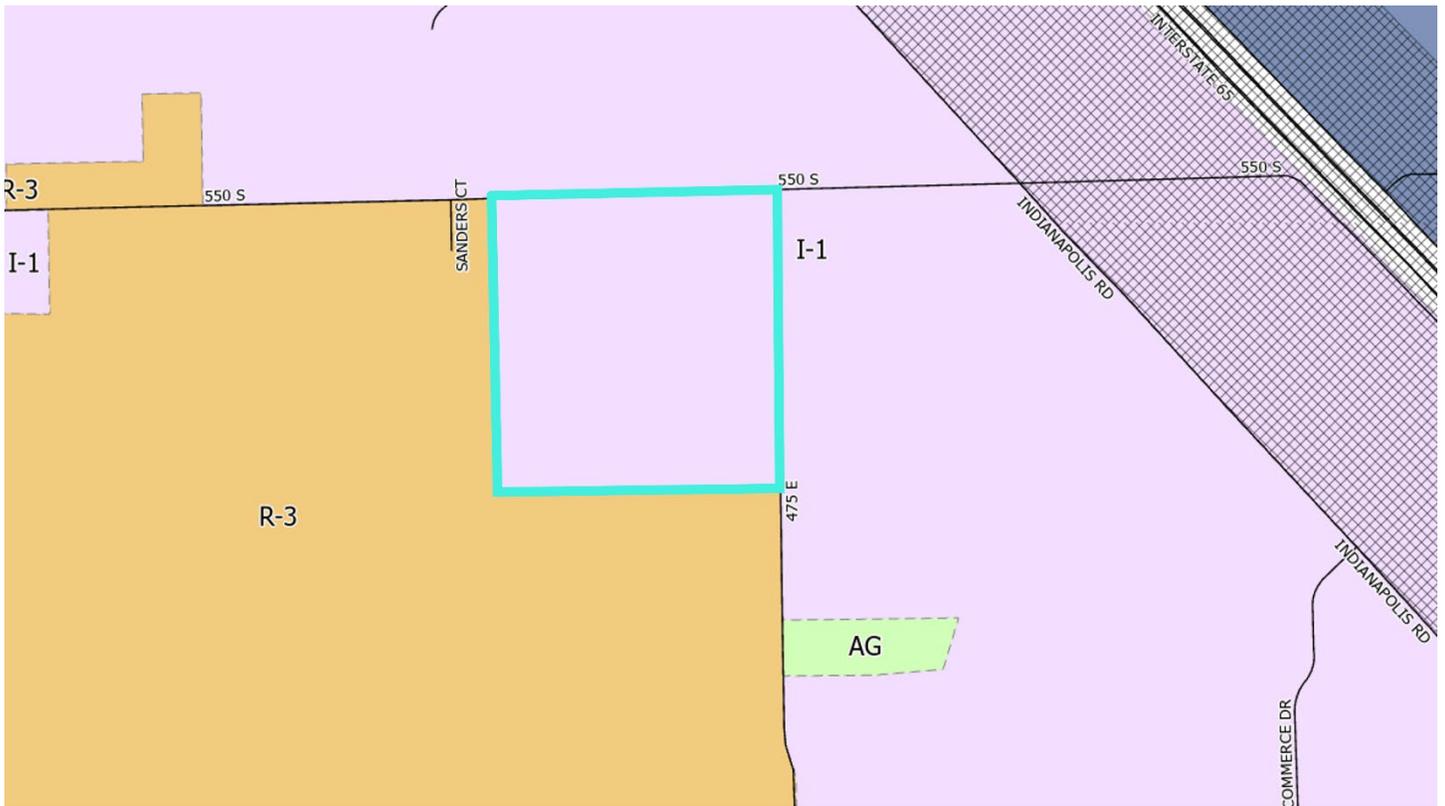
Site Location

The site in question is located between the Perry Industrial Park to the north and Park 130 development to the south. The site is located at the intersection of CR 550 S and CR 475 E. The site is currently composed of two parcels that will be combined. The surrounding area is characterized by industrial, residential, and agriculture uses.



Zoning

The site in question is zoned I-1, a light industry zone. The I-1 district “is established to accommodate light industrial uses in which all operations, including storage of materials would be confined within a building, and would include warehousing operations.” Permitted uses include nursing homes, parking lots, manufacturing fabricating and assembly, and wholesale trade and storage amongst others.



Unified Development Ordinance

Under Section 7.3 Loading Berths outlines the requirements for loading berths and semi-trailer requirements. The UDO states, "Loading berths are prohibited on building facades facing public streets. They should be located on the rear of the building when possible."

By definition, loading berths are "The off-street area required for vehicles receiving or distributing material or merchandise."

Proposed Development

The applicant is requesting a variance to permit loading berths on a façade of a building that is facing a public right of way. The applicant has submitted for a Concept and Development Plan Review to the Whitestown Plan Commission to approve the building and associated parking.

The submitted materials and staff review indicate the following:

- The proposed structure is approximately 220,230 square feet building footprint;
- Loading berths for semi-trucks are proposed on the east and west sides of the building;
 - The east side of the building faces on CR 475 E; and,
 - The north side of the building faces CR 550 S.
- The west side of the site contains floodplain.

Decision Criteria

Per the Unified Development Ordinance Section 11.14 F. 2. 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 approval will not be injurious to the public health, safety, morals, and general welfare of the

community.

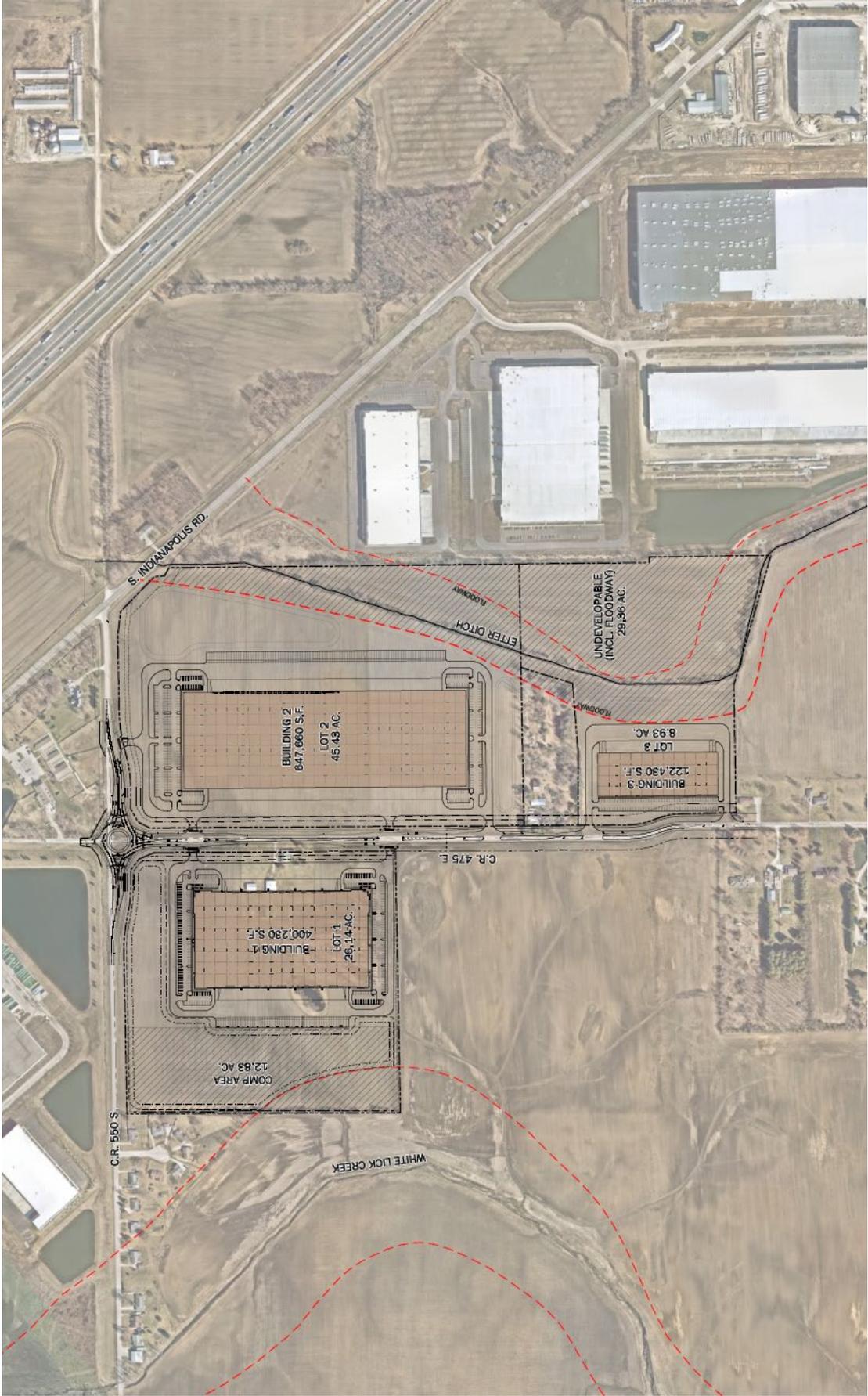
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Ordinance will result in Practical difficulties in the use of the property.

Staff Recommendation

Staff recommends the Variance be approved with the following finding of facts:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:
Approval of the variance will not be injurious to the public health, safety, morals, and general welfare because loading berths are commonly found throughout existing and future industrial developments. The site in question will be facing a similar use and other loading berths; any light or noise from semi-trucks will directed to a similar use across the street.
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 because:
The use or value of the surrounding area will not be negatively affected if the variance is approved because the area is generally industrial in nature and the building across the street has also applied for a variance for the same matter. Given the current and future use of CR 475 E, the Town's preference is that loading berths would face CR 475 E instead of CR 500 S.
3. The strict application of the terms of the Ordinance will result in practical difficulties as applied to the property for which the variance is sought because:
The ordinance's prohibition on loading berths facing a public right of way did not take into account corner lots. Corner lots have two sides with right of way and many light industrial use buildings are designed and require loading berths on opposite sides od the structure.

Materials Submitted by the Applicant



Standards for Evaluation

1. The variance will not be injurious to the public health, safety, morals, and general welfare of the community because...

the loading berths will face each other across CR 475 E and avoid facing CR 550 S as the new main thoroughfare into the Project from I-65. There are no residences or other landowners situated along CR 475 E as this area is fully taken by Buildings 1 and 2 of the Project. The area to the west of Building 1 consists of a nearly 13 acre detention area buffering the residences to the west of Building 1 and so would not be affected by these loading berths. The residences access their subdivision via CR 550 S and so will not see any loading berths fronting this public road when traversing it to their subdivision.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because...

the buildings' loading berths will face each other across County Road 475 E. While there are users and owners along CR 550 S as well as increased expected traffic from the new interchange with I-65, the loading berths will not face this public street at all.

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 variance is sought because...

White Lick Creek on west side of Building 1 and Etter Legal Drain on the east side of Building 2 significantly narrow the parcels to require that the buildings be oriented in north-south manner rather than an east-west orientation, thereby requiring that the loading berths are sited along the longer north-south axis of the buildings.