

Agenda Item #2

Case Number	BZNA-0033-2019 BZNA-0034-2019 BZNA-0046-2019	Property Size	7.84 AC
Address	0 S. 8 th St.	Zoning	I-2
Owner	Robert Frash	Reviewer	David Hirschle
Applicant	Miller Surveying (Nathan Althouse)	BZA Meeting	September 9, 2019

Requested Actions:

UDO § 10.0.7 and 8.D.2.D.: Board to consider a Conditional Use to allow "Parking as a Principal Use" in the I-2 (Heavy Industrial) zoning district.

UDO § 10.0.7.C.: Board to consider a Variance of Development Standards to allow "Parking as a Principal Use" to be established without a legal encumbrance instrument.

UDO § 12.0.5.D.2.: Board to consider a Variance of Development Standards to allow construction of a fence in lieu of required perimeter parking lot landscaping.

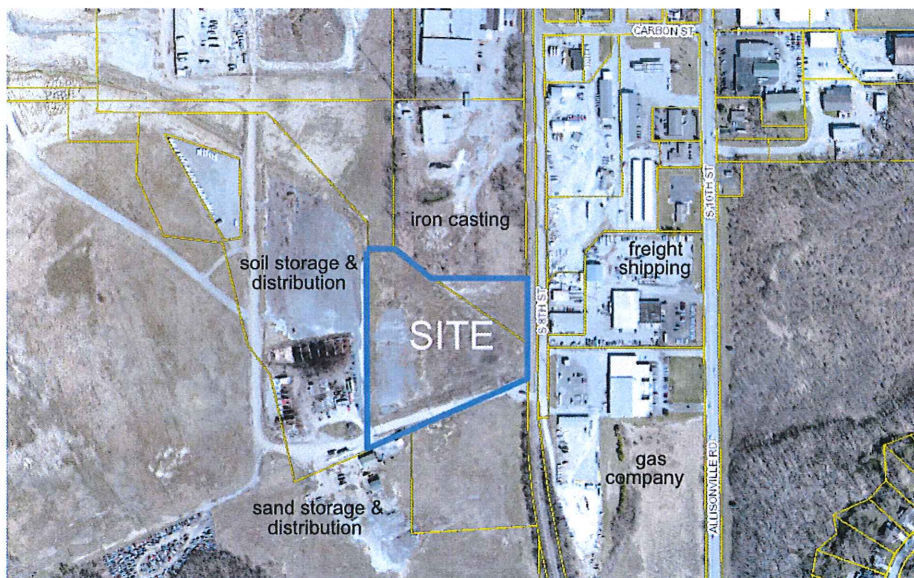
UDO § 10.0.4.D.1.: Board to consider a Variance of Development Standards to allow a parking area without curbing.

Recommendation:

Deny the Conditional Use. See Findings of Facts for Denial beginning on page 5.

Table of Contents:

1. Staff Report
2. Aerial Map
3. Applicant-submitted application materials
4. "Parking as a Principal Use" UDO language
5. Contextual zoning
6. Remonstrance letters (6A & 6B)
7. Site photographs (7A & 7B)
8. Site wells



BACKGROUND and PROPOSED USE

The 7.84-acre site is located on the west side of South 8th Street, about ¼ mile south of Carbon Street. The site is made up of two parcels. A triangular 1-acre parcel in the northeast portion of the site is within the City's Corporate Limits, while the larger parcel to its southeast is not located within the City of Noblesville, but has its northeastern and eastern property lines contiguous to the City's Corporate Limits. The eastern property line runs along the centerline of 8th Street, meaning that the Nickel Plate Railroad runs through the extreme eastern side of the site. The property is zoned I-2 (Heavy Industrial), and uses such as iron casting and freight shipping surround the site, with Tiffany Garden Supply operating west of the site.

Aerial photographs indicate that this flat site has been vacant land since 2011. From 2007 to 2011, a single mobile home or storage trailer is seen on the site in aerial photographs. The years 1998 to 2005 feature an apparent automobile salvage use at the site, with 2006 indicating only the primary structure associated with that prior salvage use, all of the vehicles having been removed. From 1956 to the early 1990s, up to one-half of the site (the western half) is seen covered by water confined to deep depressions or excavations in the land.

The proposed use for the parcel is for the temporary parking of 18-wheel tractor-trailer combinations. The proposed use is not for long-term storage of these vehicles, but as a stopping point for those drivers who have come to the end of their legally-allowed driving time for the day, as well as weekend storage for vehicles whose drivers have the weekend off. From the applicant's description, attached to this report: "Approximately 100 trucks are expected to be accommodated at the property." The applicant is very specific that drivers are not to stay with their trucks while they are on site, so there is no proposal to construct restroom facilities. The site is proposed to be paved (but not curbed), fenced and gated with key pad entry, kept under 24-hour video surveillance, and lighted to "make everything clearly visible during night time." The use as proposed is considered to be "Parking as a Principal Use," listed by the UDO as a Conditional Use in the I-2 district, with a specific Section devoted to this unique use in Article 10, Off-Street Parking and Loading, included as Exhibit 4 (pages 27 and 28 of this staff report).

Note that the applicant proposes to retain a 50-foot strip off of the southern side of the 7.84 acres as an accessway to property to the west. There is no indication that the 50 feet is to be added to the property to the south, also owned by the petitioner. However, a lot of 50 feet in width is not permitted in the I-2 district, so the strip WILL need to be added to the southern adjacent property through the subdivision process. Note also that there is a proposed ingress and egress easement shown by the hatched area across the railroad right-of-way. The Hoosier Heritage Port Authority controls this right-of-way along the eastern side of the site. Staff can find no existing access easement for this purpose, even though traffic has used this pathway for decades. The applicant approached the Hoosier Heritage Port Authority at its July 29, 2019 meeting seeking approval for the easement and was granted this approval by a vote of 3-2.

Along with the Conditional Use request, development standards variances are sought to delete the requirement to provide a legal encumbrance document (Variance 1), to allow construction of a fence in lieu of ordinance-required perimeter parking lot landscaping (Variance 2), and to allow a parking area to remain uncurbed (Variance 3).

Variance 1: A close reading of Section 7 (see Exhibit 4 (page 27)) will reveal that a legal encumbrance document is required that ties the parking to the use(s) it is proposed to serve. Think of overflow parking for a church where needed additional parking area is proposed on a separate, adjacent, vacant lot. In this example, parking becomes the principal use of the vacant lot and the UDO would require an encumbrance document linking the parking with the church for a definite time period. The applicant seeks a variance from the UDO Section requiring the legal encumbrance document, as the proposed use is intended solely as parking of tractor-trailer combinations, and is not intended to serve any other use.

Variance 2: The UDO requires, along the eastern side of the parking area, a 20-foot-wide landscaping strip with two staggered canopy trees per 100 lineal feet and 33 staggered deciduous or evergreen shrubs of a minimum 24 inches in height at planting per 100 lineal feet. Along the northern, western, and southern sides of the parking area, the UDO requires a 10-foot-wide landscaping strip with the same landscaping as described above. The applicant proposes to erect, in place of the landscaping, a chain link fence with incorporated slats, similar to that shown on page 26 of this staff report. In initial discussions, Denise Aschleman informed the applicant that, by itself, a chain link fence with slats would not be sufficient as screening.

Variance 3: The UDO states, "Parking and driveway areas shall be paved with asphalt or constructed of concrete or permeable pavement and be curbed with rigid or roll-type curb. As an alternative to continuous curb, wheel stops or strategic breaks in the barrier curb shall be provided in order to allow for drainage into LID stormwater BMPs" (LID = Low-Impact Development; BMP = Best Management Practices). The petitioner proposes to pave the parking area with asphalt, but to leave it uncurbed.

PLANNING ANALYSIS

Location of proposed use: From an urban planning standpoint, a best practice is to reduce the number of miles that heavy truck traffic travels on local roads, and to site facilities serving heavy truck traffic as close as possible to the highway system it travels. Reasons for this revolve around logic and economy, but also so that truck traffic does not pass through areas of lower-intensity development such as commercial and residential areas. UDO 6.L.2.E., Non-Residential Subdivisions and Developments, states, "Truck Routes shall be established so as to prevent industrial traffic from encroaching into adjacent residential areas." The counter-argument is that, because of the property's location, ANY traffic that would visit the site would HAVE to use 8th Street. This is true, but there ARE permitted Heavy Industrial uses that typically do not have

as much heavy truck traffic as the proposed use. Examples include mobile home sales, kennels, and towing yards.

Thoroughfare Plan: The City's Thoroughfare Plan classifies 8th Street as a Local Street. Despite the fact that heavy truck traffic has used 8th Street for decades in the past, it is not a Primary Arterial, Secondary Arterial, or even a Collector Street. It is a Local Street, flanked by residences from Walnut Street to just north of Carbon Street. An approval would route heavy truck traffic through residential areas.

Operational characteristics: The operational characteristics of the proposed use are vague and open to question. The primary concern centers on the intention that the drivers are to park their trucks and then leave the property. The applicant's description states, "The property will only be used to park the trucks and trailers. It is not for any stay of the drivers . . ." It is unclear where the drivers are to go, how they will get there, and how their leaving of the property will be guaranteed. Since many trucks have sleeping cabs, it seems likely that drivers WILL stay with their trucks. If the Conditional Use is approved, there is real potential for problems to arise immediately that cannot be resolved through enforcement (see Police Department letter, Exhibit 6A (pages 30-32)).

Soil Gas Monitoring and Methane Venting: In addition to the subject site, the applicant also owns the former Staton Landfill property to the west. That property is subject to quarterly subsurface methane monitoring to determine if landfill gas is migrating off-site. Since 2015, methane exceedances above the 5% Lower Explosive Level have resulted in corrective action to install wells that vent landfill gas to the atmosphere. These are shown as "VW-01" through "VW-05" on the attached "Site Details" map (page 37 of this staff report) from Loughheed Engineering. Note that a venting well (VW-04) and three soil gas monitoring wells (Gas-02, Gas-03, and Gas-06) are located in the northern portion of the subject site.

Staff became aware that the subject site was part of an area studied in a Due Diligence Research document prepared by Keramida (an environmental firm in Indianapolis) in 2015. Staff asked Keramida to review the proposed truck parking use for the subject site, and to discuss the project with IDEM. The most pertinent part of their analysis is presented in quotes in the following three paragraphs:

"As previously indicated, the Site is currently covered with stone, thus the surface is pervious. The proposed project indicates the Site improvements include the construction of an asphalt paved parking lot. The storm water retention pond is included in the proposed work in order to accommodate the drainage associated with the change in the surface of the Site from pervious to impervious. The proposed change in the surface of the Site may impact the migration of the landfill gas from the former Staton Landfill.

Factors that can affect the migration of landfill gas include the type of groundcover (pervious/impervious) and moisture. The existing relatively permeable material allows the

landfill gas to migrate up and vent to the atmosphere. If the cover is not very permeable, then the gas will tend to migrate horizontally underground. Likewise, if there is an area that is more permeable, the landfill gas will migrate through that area as it will follow the path of least resistance.

Keramida had informal discussions with IDEM regarding the proposed project. IDEM indicated that the former landfill is now a clean fill site and thus is not regulated by IDEM. The current methane monitoring requirements are not required per landfill regulations, but rather for the protection of human health and the environment. IDEM agreed that the proposed project could affect landfill gas migration; however, the proposed use is considered to be acceptable."

Structural integrity of 8th Street: It is the Noblesville Department of Engineering's considered opinion that 8th Street, south of Carbon Street, does not have the capacity to handle an additional 100 heavy trucks per day. The applicant points out that the site will see the heaviest truck parking on the weekends, "as on the week days the trucks are mostly on the roads." The uncertainty of the trips-per-day figure results in concern over the structural integrity of this portion of 8th Street.

Sanitary conditions: Because it seems almost certain that at least some drivers will stay with their trucks while parked, issues of waste disposal come into play, both material waste and human waste. Dumpsters for refuse have not been addressed, and the applicant's narrative includes the assertion that "There will be no need of any restrooms to be constructed. Anyhow, a portable restroom will be kept over there."

CONDITIONAL USE FINDINGS

AGENDA ITEM #2:

A Conditional Use request may be approved only upon a determination in writing that the following nine (9) standards are met (see Indiana Code §36-7-4-918.2). The BZA may impose reasonable conditions if an approval motion is made. The bold text below each numbered standard represents staff's explanation as to how the standard has or has not been met.

1. The proposed Conditional Use is, in fact, a conditional use established within the specific zoning district involved.

This standard has been met. Pursuant to UDO § 10.0.7 and 8.D.2.D., Parking as a Principal Use is a Conditional Use in the I-2 (Heavy Industrial) zoning district.

2. The proposed Conditional Use will be harmonious with and in accordance with the general objectives or with any specific objective of the City's Comprehensive Plan and the Unified Development Ordinance.

The proposed industrial use is not completely harmonious with the Comprehensive Plan. The site is currently made up of two separate lots. The triangular 1-acre lot at the northeastern

corner of the site is shown as "Commercial" on the Comprehensive Plan's Future Land Use Map, while the remainder of the site is shown as "Industrial."

3. The proposed Conditional Use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area.

It is unclear whether this standard will be met. The overall appearance, subject to what happens with the requested variance to allow the fence, will most likely be appropriate for the general vicinity. If operated as proposed, the use will most likely not change the general character of its Industrial vicinity.

4. The proposed Conditional Use will not be hazardous or disturbing to existing neighboring uses. Considering the application in total at present, it cannot be said that this standard will be met. The Planning Department has concerns with the location of the proposed use relative to its intensity of use. The UDO states specifically that "Truck routes shall be established so as to prevent industrial traffic from encroaching into adjacent residential areas." Much of the truck traffic coming from Conner Street will utilize 8th Street to get to the site, travelling through residential uses for many blocks along the way (see Exhibit 5 (page 29)). Staff also has concerns with the health/sanitary aspects of the use. The single portable restroom proposed will most likely not be sufficient for the number of drivers anticipated. It has further concerns regarding lighting, which can probably be handled with imposed conditions. However, the greatest number of the concerns are well expressed in letters from the Noblesville Police Department and the Engineering Department (see Exhibits 6A and 6B (pages 30-34)).
5. The proposed Conditional Use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

Overall, Staff believes that Standard #5 has NOT been met, based on the following:

Highway: State Roads 32 and 37 are the closest highways.

Streets: The letter from the Engineering Department states, "8th Street does not have the capacity to accommodate an additional 100 trucks per day." The portion of 8th Street south of Carbon Street is not built to the same standards as 8th Street north of Carbon, so the increased heavy truck traffic over the long term is the reason for this comment.

Police and fire protection: The needs for police and fire protection CAN be met by existing agencies, BUT see the letter (Exhibit 6A (pages 30-32)) from the Deputy Police Chief regarding difficulties in rendering service.

Drainage structures: A detention area is proposed west of the paved area. The sufficiency of this detention would be reviewed during a subsequent Technical Advisory Committee meeting.

Refuse disposal: This has not been addressed by the applicant, possibly because it is not intended that the drivers will stay on the property after parking. There can be no assurance of this, however, and it is believed that refuse accumulation will be the result.

Water and sewer: Water and sewer will not service the property. If it could be guaranteed that drivers would exit the property after parking, this would not be a problem. However, since this cannot be verified or enforced, it is believed that there will eventually be problems related to human waste elimination.

Schools: Not applicable in this case.

6. The proposed Conditional Use will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.

It is not certain that this standard has been met. The structural makeup of 8th Street south of Carbon Street does not match that of 8th Street north of Carbon. There is an assertion by the Engineering Department that the less robust construction of 8th Street south of Carbon will not hold up over time to the heavy truck traffic proposed. Thus there is uncertainty whether future public expenditures for road construction will be needed.

7. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

It is not certain that this standard has been met. Idling trucks are recognized as a significant source of localized pollution. Argonne National Laboratory estimates that rest-period idling results in the emission of about 11 million tons of carbon dioxide, 55,000 tons of nitrogen oxides, and 400 tons of particulate matter annually in the U.S. A heavy-duty diesel truck engine can burn one gallon of diesel for every hour the engine idles. According to the American Trucking Association, burning a gallon of diesel fuel at idle "puts as much as 2.5 times the amount of ozone elements in the air as a gallon burned on the road" (Environmental Protection Agency). In many states and locales, truck idling is prohibited for periods longer than a few minutes. Electrified parking spaces can provide electrical power and cab heating or air conditioning while trucks are parked at spaces equipped with the technology. Without imposing such a condition, an approval of the Conditional Use would mean that Noblesville's nearest residential areas can expect an increase in localized pollution.

8. The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

It appears that this standard will be met. It does not appear that traffic on surrounding thoroughfares will be disrupted. There are no intersecting streets and the proposal is to record a widened easement for easier truck turning movements into the site.

9. The proposed Conditional Use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

This standard has been met. There do not appear to be any significant natural, scenic or historic features of major importance located on the subject property.

VARIANCE OF DEVELOPMENT STANDARDS FINDINGS

AGENDA ITEM #2:

A Variance of Development Standards may be approved only upon a determination in writing that the following three (3) conditions are met (see Indiana Code § 36-7-4-918.5). The BZA may impose reasonable conditions as part of its approval. The bold text below each numbered standard represents staff's explanation as to how the standard has or has not been met.

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

Variance 1 (legal encumbrance instrument): IF the Conditional Use is approved, there would not appear to be any adverse effects on public health, safety, morals, and general welfare by not having in place a document requiring the parking to serve one or more primary uses on other properties.

Variance 2 (fence in lieu of required perimeter landscaping): IF the Conditional Use is approved, there would not appear to be any adverse effects on public health, safety, morals, and general welfare by installation of a fence instead of landscaping.

Variance 3 (parking area curbing): IF the Conditional Use is approved, there would not appear to be any adverse effects on public health, safety, morals, and general welfare by allowing the parking area to remain uncurbed.

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:

Variance 1 (legal encumbrance instrument): IF the Conditional Use is approved, there would not appear to be any adverse effects on the use and value of adjacent property by not having in place a document requiring the parking to serve one or more primary uses on other properties.

Variance 2 (fence in lieu of required perimeter landscaping): IF the Conditional Use is approved, there would not appear to be any adverse effects on the use and value of adjacent property by installation of a fence instead of landscaping.

Variance 3 (parking area curbing): IF the Conditional Use is approved, there would not appear to be any adverse effects on the use and value of adjacent property by allowing the parking area to remain uncurbed.

3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

Variance 1 (legal encumbrance instrument): Strict application of the terms of the zoning ordinance would require the proposed use to include a document binding the parking on the site to "all individual primary uses to be served, including the location, use, and number of parking spaces required for each such use." Staff does NOT believe that this poses an

unnecessary hardship if applied to the property. In other words, we believe such a hardship is necessary and intended. The UDO was written to clearly require "Parking as a Primary Use" to serve other primary uses (see Exhibit 4 (pages 27-28)). In summary, we believe this standard has not been met.

Variance 2 (fence in lieu of required perimeter landscaping): Strict application of the terms of the zoning ordinance would require installation of staggered rows of trees and shrubs. This screening would not provide the security obviously sought with the proposed fence, imposing practical difficulties in use of the property as proposed. We believe this standard has been met, but will request that conditions be placed on any approval motion.

Variance 3 (parking area curbing): Strict application of the terms of the zoning ordinance would require installation of perimeter curbing (or wheel stops where stormwater BMPs are located). This would cost more money, of course, but would not cause an unnecessary hardship in the use of the property. The curbing may even have safety considerations, given the proximity of the detention area to the west. We believe this standard has not been met.

RECOMMENDATIONS

AGENDA ITEM #2:

We **STRONGLY** recommend DENIAL of the requested Conditional Use based on failure to meet Findings of Fact #2, #4, #5, #6, and #7 below:

1. Is in fact a conditional use established within the specific zoning district involved;
2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the City's Comprehensive Plan and the Unified Development Ordinance;
3. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area;
4. Will not be hazardous or disturbing to existing neighboring uses;
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
6. Will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community;
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

IF a motion to approve the Conditional Use is made, Staff recommends that the following conditions be attached:

1. Platting of the properties which are the subjects of this application, plus the southern adjacent property (Instrument No. 2018039863), will be initiated within three months of Conditional Use approval, and will specifically show the ingress/egress easement indicated on the Miller Surveying site plan for Job Number B38224 dated 4-15-19, and also an ingress/egress easement over property currently serving as the asphalted access drive to property to the west of this site.
2. Lighting of a minimum of one (1) footcandle shall be provided throughout the parking area utilizing fully-shielded lighting of no more than 3000 degrees Kelvin.
3. Methane venting wells VW-04 and MW-21A, soil gas monitoring wells Gas-06, Gas-03, and Gas-02, and any other such wells on the property shall be cordoned off and clearly marked prior to construction activity. In the event that the proposed construction will impact existing wells, the wells must be properly abandoned and replaced through submittal and approval by IDEM.
4. In the event of transfer of ownership of this property from its current owner, any change in the required quarterly methane gas sampling responsibility shall be approved through IDEM, with a copy of IDEM's decision being provided to the City's Department of Planning and Development.
5. Due to the absence of restroom facilities and trash disposal facilities, drivers parking trucks shall not inhabit the property during the truck's parked period. Evidence of violation of this condition shall require the re-hearing for approval, approval with conditions, or denial of the Conditional Use before the Board.
6. Access to the interior of the site shall be provided by the property owner upon request of the Noblesville Police, Planning, or Engineering Departments.
7. The entire property shall be placed under CCTV video surveillance for 24 hours per day, 365 days per year for as long as the proposed use operates. Camera placement shall not only be on the perimeter facing in, but in central locations facing out.
8. This specific Conditional Use approval is for a period of two (2) years, at the end of which time the applicant must re-apply for re-hearing for approval, approval with conditions, or denial of the Conditional Use before the Board.
9. As recommended by the Noblesville Police Department, the applicant shall cause to be completed a CPTED (Crime Prevention Through Environmental Design) analysis by a firm of the City's choosing. Such analysis shall be completed before an Improvement Location Permit is issued for the site. The applicant shall pay for this analysis and implement the recommendations put forth in the analysis. The Director of Planning shall have authority to waive any specific recommendation put forth in the analysis.

10. Portable restroom facilities ("port-o-lets") shall not be placed on the property.

11. The truck turning angle at the entrance from 8th Street is to be limited to a maximum of one hundred twenty (120) degrees.

We recommend DENIAL of Variance 1 (legal encumbrance instrument) based upon failure to meet Finding of Fact #3, below:

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; and
3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

IF a motion is made to approve Variance 1, Staff recommends that the following conditions be attached:

1. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
2. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

We recommend APPROVAL of Variance 2 (fence in lieu of required perimeter landscaping) based the following Findings of Fact:

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; and
3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

With the following specific conditions:

1. The fencing solution shall consist of an opaque material no more than eight (8) feet in height (the 8 feet being a UDO requirement), with chain link fence with vinyl slats specifically prohibited.
2. Razor wire, if utilized, shall not be installed above the top of the fence.
3. Landscaping along only the proposed eastern property line shall meet ordinance requirements as described above, while landscaping along all other sides shall delete the shrubbery requirement and consist of two (2) evergreen trees per every one hundred 100 feet of fence length.

4. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
5. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

We recommend DENIAL of Variance 3 (parking area curbing) based upon failure to meet Finding of Fact #3, below:

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; and
3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

IF a motion is made to approve Variance 3, Staff recommends that the following conditions be attached:

1. Wheel stops intended for tractor-trailer combinations shall be placed along the western boundary of the paved area directly opposite the full length of the detention area.
2. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.
3. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.