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**STAFF REPORT**

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**CASE NUMBER:** PC 2023-05  
**CASE NAME:** TKC Properties Site Development

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**GENERAL INFORMATION**

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Applicant: TKC Properties, LLC  
6910 N. Shadelend Ave.  
Indianapolis, IN 46220  
(317) 459-3878

Agent: William Niemier w/ Tharp Investments  
6910 N. Shadeland Ave.  
Indianapolis, IN 46220  
(317) 284-5527

Property Owner: James Alverson, Sr  
1113 S County Rd 850 W  
Greensburg, IN 47240

Acreage: 1.62 Acres  
Zoning District: RB- Roadside Business & Highway Corridor Overlay  
Current Land Use: Vacant Assembly Structure

**PROPERTY DESCRIPTION**

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This property address is 8839 S US 31, Edinburgh, Indiana 46124, and the adjacent parcel to the south without an address; described as follows: S S33 T11 R5 and S 1/2 S33 T11 R5 of Johnson County, Indiana.

(Parcel Numbers 41-12-33-043-058.001-002 & 41-12-33-043-058.000-002)

**SURROUNDING ZONING:**

**SURROUNDING LAND USE:**

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North: RB- Roadside Business  
South: RB- Roadside Business  
East: R3- Residential  
West: PG- Parks and Greenbelt

Retail Sales- Dollar Store  
Retail Sales- Bob-O-Link  
One- & Two-Family Dwelling  
Agricultural (across US-31)

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## **DOCUMENTATION REQUIREMENTS, LEGAL AND PUBLIC NOTIFICATIONS**

Petitioner has satisfied all documentation requirements, legal and public notifications specified in the Town of Edinburgh Plan Commission Application Packet.

Remonstrator from the earlier hearing has reached an agreement with the purchaser on the site access issues that were raised with the previous site plan.

The petitioner has made notification as if for the initial hearing due to not having a specific time frame when the commission tabled the hearing.

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## **CASE DESCRIPTION**

This case comes before the Plan Commission as established in Division 3, §156.132 which requires approval by the Plan Commission for “any proposed or revised development plan or structure or structural alteration in the U.S. 31 and S.R. 252 Corridor Overlay Zone Districts”.

The board is to consider a petition by TKC Properties, LLC, for the development of this site which will include a new 10,431 square foot commercial retail sales building and surrounding parking areas along with access driveway connections to the adjacent US-31. NOTE: a second future structure is illustrated on the current undeveloped lot.

Petitioner is requesting the Plan Commission to consider and approve its proposed development plans as submitted and waive requirements of the Town Subdivision Control Ordinance as follows:

**ITEM #1: Division 2. District Regulations.**

Division 2, §156.037 to allow a 71-foot-deep front yard where a 75-foot-deep front yard is required.

**ITEM #2: Division 3. Highway Corridor Overlay District.**

Division 3, §156.133 (2) to allow exterior metal siding where exterior metal walls are prohibited.

**ITEM #3: Division 3. Highway Corridor Overlay District.**

Division 3, §156.133 (2) to allow EIFS as an exterior finish where building facades are permitted to be masonry and glass or products approved by the Edinburgh Plan Commission or its duly appointed or designated representative.

**ITEM #4: Division 3. Highway Corridor Overlay District.**

Division 3, §156.135 (2) a. to allow for limited landscaping in the greenbelt and for private parking where the Greenbelt is to be suitably landscaped and otherwise unoccupied and where mounding and other innovative treatments are especially encouraged.

**ITEM #5: Division 3. Highway Corridor Overlay District.**

Division 3, §156.135 (2) b. to allow for no landscaping adjacent to the free-standing structure where a planting area equal to an area measuring five (5) feet in depth by the width of the front of the building shall be installed at the front of the building and a planting area equal to an area five (5) feet in depth by the remaining sides of the building shall be installed on all other sides of the building is required.

**CONSIDERATIONS**

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Plan Commission should review the following criteria when considering this petition and prior to issuing approval for the development of this site.

**ITEM #1- Division 2, §156.037** the adjacent properties in the Road-side Business District have an average building setback of 49.4'. The minimum setback is 21'. The greatest building setback is 64'. Of the 75 feet required, 30 feet is in the Greenbelt, and 5 feet is in the planting. This provides 40 feet for a front sidewalk, parking, and a drive. Decreasing the front building setback makes it more difficult. Angled parking and a one-way drive may be necessary to comply with the Greenbelt requirements.

The proposed project will demolish the existing building and construct the new building essentially in the same location.

The required 75' front yard was intended to set a new standard for the community. As the Comprehensive Plan states, where do we see our town in 2026?

It is possible to change the design of the structure to provide an additional four (4) feet of front yard?

If yes, then the hardship of compliance has not been identified.

If no, what extra measure has the proponent offered to mitigate the lack of a compliant front yard?

The fact that the existing conditions are improving and that the requested setback is greater than the average, which is the reason for footnote #2 of Table 2 – District Standards, “Building Lines. Where 25% or more of the lots in a block frontage are occupied by building, the average setback of the buildings determines the location of the building setback line.”

**ITEM #2- Division 3, §156.133 (2)** to allow exterior metal siding where exterior metal walls are prohibited.

This design standard has been routinely granted a variance. The most recent examples are Storage Express, O'Reilly Auto Parts, and Centra Credit Union.

If the Plan Commission would consider making incremental steps, then might I suggest that this project require a masonry product on the south elevation. The south elevation will be noticed by motorists traveling north on US-31 even before they see the front elevation (west elevation).

**ITEM #3- Division 3, §156.133 (2)** to allow EIFS as an exterior finish where building facades are permitted to be masonry and glass or products approved by the Edinburgh Plan Commission or its duly appointed or designated representative.

This design standard has been routinely granted a variance. The most recent examples are: Storage Express, O'Reilly Auto Parts, and Centra Credit Union.

If the Plan Commission would consider making incremental steps, then might I suggest that this project require a masonry product on the south elevation. The south elevation will be noticed by motorists traveling north on US-31 even before they see the front elevation (west elevation).

**ITEM #4- Division 3, §156.135 (2) a.** to allow for limited landscaping in the greenbelt and for private parking where the Greenbelt is to be suitably landscaped and otherwise unoccupied and where mounding and other innovative treatments are especially encouraged.

Consider Section 156.135 (2) a which states: The Greenbelt shall be suitably landscaped and shall be otherwise unoccupied except for steps, walks, terraces, driveways, lighting standards, and other similar structures, but excluding private parking areas. Mounding and other innovative treatments are to be especially encouraged in this area.

By constructing a two-sided parking drive, the Greenbelt (including the Interior Greenbelt) have been completely eliminated in front of the structure. This is a part of the Comprehensive Plan that was to establish the importance of open space and lawns and trees. The high cost of development and land values, it is difficult to make the commitment to space. One that so far has routinely been granted a variance. This condition is similar to the existing condition of the parcel.

**ITEM #5- Division 3, §156.135 (2) b.** to allow for no landscaping adjacent to the free-standing structure where a planting area equal to an area measuring five (5) feet in depth by the width of the front of the building shall be installed at the front of the building.

Consider Section 156.135 (2) b which states: A planting area equal to an area measuring five (5) feet in depth by the width of the front of the building shall be installed at the front of the building. A planting area equal to an area five (5) feet in depth by the remaining sides of the building shall be installed on all other sides of the building.

To the developer, the greatest use of the land outside of the building is for customer parking. This development has accomplished that. The question is can the development of the parking lot give back an area of five (5) feet by the length of the perimeter of the building to landscaping?

If no, is this site too small?

If yes, can the reconfiguration of the parking lot allow for the required 5 feet deep planting area?

If yes, what is the hardship to compliance with our setback requirement?

## STAFF ANALYSIS

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ITEM #1: As submitted, a variance would be acceptable to maintain harmony in the district. I recommend **approval** of the variance request.

ITEM #2: As submitted, a variance would be acceptable to maintain harmony in the district. Without documentation of a hardship, my recommendation is to **approve with conditions** the variance and **permit** a masonry product on 50% of the south elevation.

ITEM #3: As submitted, a variance would be acceptable to maintain harmony in the district. Without documentation of a hardship, my recommendation is to **approve with conditions** the variance and **permit** an EIFS product on the remaining 50% of the south elevation.

ITEM #4: As submitted, a variance would be acceptable to maintain harmony in the district. I recommend **approval** of the variance request.

ITEM #5: As submitted, a variance would not be acceptable to maintain harmony in the district- planting areas next to the buildings have not provided. Without documentation of a hardship, my recommendation is to **deny** the variance request.

## STAFF RECOMMENDATIONS

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Based on these findings of fact, staff recommends the Plan Commission **grant a waiver** of the requirements of the Town Subdivision Control Ordinance for the following variances:

**ITEM #1- Division 2, §156.037- Front Yard Depth**

**ITEM #4- Division 3, §156.135 (2) a- Greenbelt Landscaping**

Based on these findings of fact, staff recommends the Plan Commission **deny a waiver** of the requirements of the Town Subdivision Control Ordinance for the following variances:

**ITEM #5- Division 3, §156.135 (2) b- Planting Adjacent to Free-Standing Buildings**

Based on these findings of fact, staff recommends the Plan Commission **grant a waiver with conditions** of the requirements of the Town Subdivision Control Ordinance for the following variances:

**ITEM #2- Division 5, §156.133 (2)- Prohibition of Exterior Metal Walls** with the condition that the south elevation be at least 50% covered in a masonry product.

**ITEM #3- Division 3, §156.133 (2)- Prohibition of Exterior Metal Walls** with the condition that the remainder of the south elevation be covered with an EIFS product.

In addition to the conditions noted above, the following conditions are suggested for all waivers granted:

1. That the project be compliant with all other developmental standards established in the Edinburgh Zoning Ordinances for development within the Highway Corridor Overlay District for which a waiver is not specifically granted.
2. That this decision is null and void should the Petitioner fail to develop the project within three (3) years of the date of the Plan Commission Findings of Fact.
3. That all aspects of this project development be compliant with all applicable Building Codes adopted by the State of Indiana for construction of Commercial Buildings, and all applicable developmental requirements of the Edinburgh Zoning Ordinances, and the Town of Edinburgh Utility Department's standard practices,
4. That prior to commencement of any site development on the subject parcel, the Developer shall submit construction plans to the Indiana Department of Homeland Security for approval and the acquisition of a Construction Design Release and to the Edinburgh Building & Zoning Official for plan review, approval and issuance of a local construction permit by the Edinburgh Planning Department.
5. That this decision is only granted to this Petitioner, and any waiver of requirements granted shall not be transferable to any other development of this property not directly associated with this plan submittal.

Respectfully Submitted,

Robert Overton  
Building Commissioner  
Town of Edinburgh