

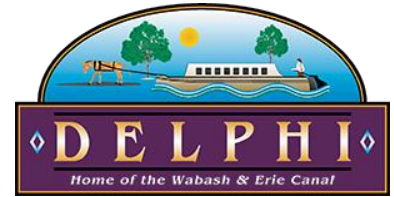
BZA Agenda

City of Delphi Board of Zoning Appeals

Date: February 18, 2025 **Time:** 6:00pm

Location: Delphi City Building, 201 S Union Street, 2nd Floor, Delphi, IN 46923

Livestreamed on Delphi Indiana You Tube Channel <http://www.youtube.com/@delphiindiana491>



1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Meeting Minutes

- a. **Minutes** November 20, 2023

5. Agenda Consideration *(any changes?)*

6. Old Business *(none)*

7. New Business – Public Hearing

Docket BZA25-01-UV The petitioner is requesting approval of a variance of use to allow a carwash on the site of a proposed future gas station. The property is located at 2053 N US 421, is zoned General Business (GB), and contains 5.167 acres. The petitioner is Family Express Corporation.

- a. Presentation by Petitioner.
- b. Staff Report.
- c. Public Comment.
- d. Closing remarks by Petitioner.
- e. Discussion by BZA.
- f. Call for Motion, Further Discussion, Vote

8. New Business from the Floor

9. Announcements

10. Adjourn

The City of Delphi acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretive service, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services, and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service, and/or meeting. To make arrangements, please contact the City at (765) 564-2097.

BZA Staff Report BZA25-01-UV

City of Delphi Board of Zoning Appeals

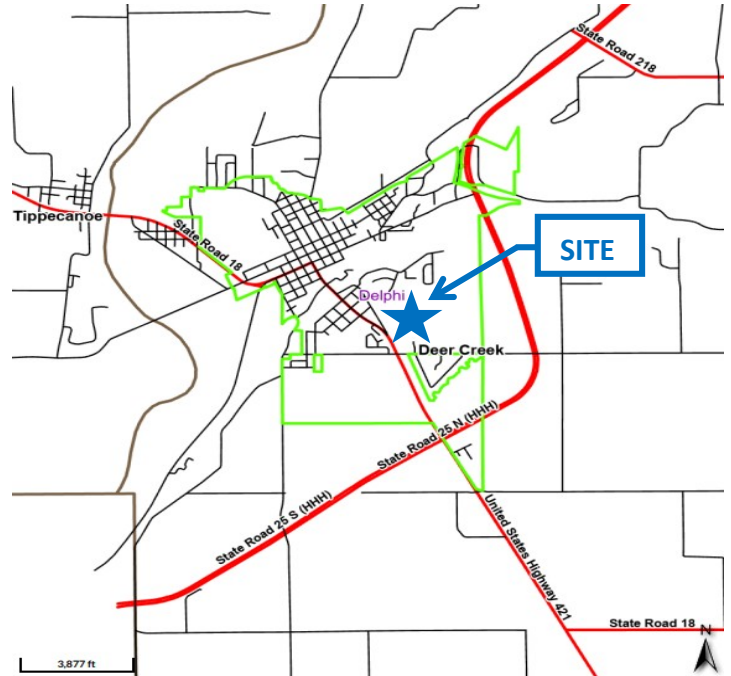


Petition Request

The petitioner is requesting approval of a Variance of Use to allow a car wash as an accessory use on the site of a proposed future gas station. The property is located at 2053 N US 421, is zoned General Business (GB), and contains 5.167 acres. The petitioner is Pete Andreou with Family Express Corporation and the property owner is MGH Delphi Holdings LLC.

The proposed future development will include a fueling station, convenience store, self-service pet wash station, and the proposed car wash.

The Legal Description states that Family Express intends to purchase approximately 5.167 acres of a 10.7 acre parcel of land. The following images depict the entire parcel of land (outlined in blue) and the section Family Express intends to purchase (outlined in red).

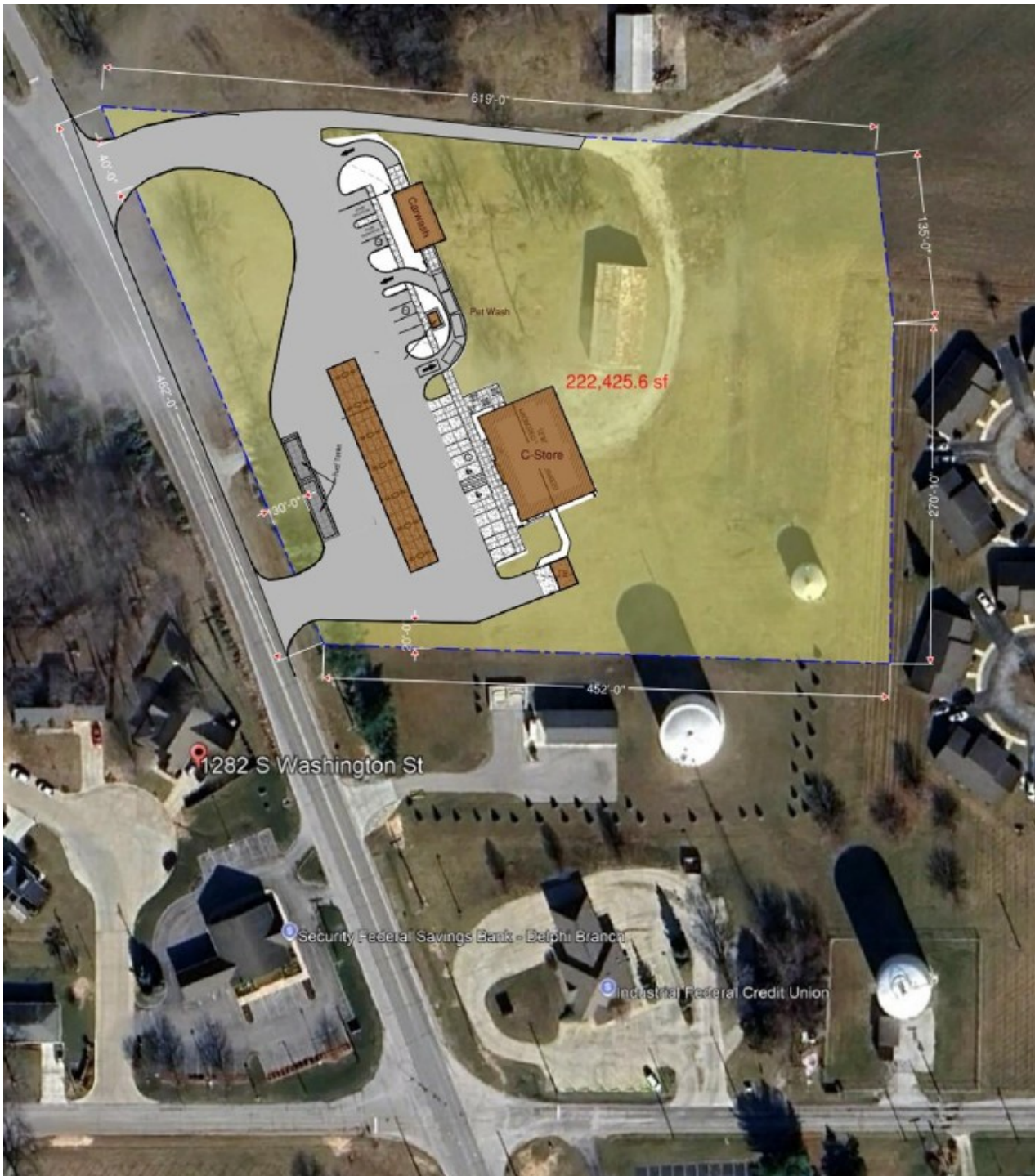


Property History

According to the submitted aerial images, there appears to be one existing structure on the 5.167-acre portion of the property. The project site is surrounded by vacant residential (R1) zoned land to the north, residential (R1) and commercial (GB) zoned land to the south, residential (R1) and vacant zoned land to the east, and residential (R1) and commercial (LB) zoned land to the west.

Proposed Development

The proposed layout showing the accessory structure car wash in relation to the convenience store, fueling station, and self-service pet wash station is shown below:



Additional Information

The General Business (GB) zoning district allows the future proposed uses of convenience store, fueling station, and self-service pet wash. However, this district does not permit a car wash as a primary use or an accessory use. In order to accommodate an accessory car wash, the petitioner has the following options:

1. Apply for a Variance of Use to consider the accessory car wash on a site-specific basis.
2. Rezone the property to Local Business (LB) and request a Special Exception to allow the accessory car wash.
3. Rezone the property to Light Industrial (I1) or Heavy Industrial (I2) where an accessory car wash would be permitted by right.

The preferred approach is for the applicant to request a Variance of Use. A Variance of Use is permission granted by the BZA in accordance with IC 36-7-4-918.4 to allow a specific use that is not otherwise permitted in a zoning district. Per the Indiana Code, when considering a variance of use, the BZA shall find that the Standards for Evaluating a Variance of Use have all been satisfied. This method for considering the use allows the BZA to examine the proposed use on a case-by-case basis and ensure that site-specific standards and conditions can be met.

Public Comment

Staff received comment from one area resident who is against the development of a fueling station and convenience store. They cite a loss of privacy, the additional noise and chaos it would bring to the area, as well as the proliferation of gas stations in general. Sidewalks should be required on the site if it is developed. (The full comment is attached to this staff report.)

Standards for Evaluating a Variance of Use

Per the IC 36-7-4-918.4 and the Unified Development Ordinance (UDO), all five of the following criteria must be met before the BZA can grant a Variance of Use request from the development standards of the ordinance. The criteria and the applicant's responses are as follows:

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

- Applicant Response: Each Family Express car wash is designed to comply with all environmental and zoning regulations, including proper wastewater management measures. Additionally, Family Express provides a clean, safe, and welcoming facility that will provide employment opportunities in the local community and enhance convenience for the community without negatively impacting the surrounding properties.
- Staff Response: The GB zoning district permits convenience stores, fueling stations, and pet washes; car washes are not permitted (Chapter 2—B.6.c.). Uses found in the GB zoning district should provide various businesses that offer a mix of goods and services to the community and those who travel through the area. With an emphasis on travel, it does not appear that an accessory car wash would have a negative impact on the GB district and its intent.

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...

- Applicant Response: The convenience store, fueling stations, and pet washes are already permitted uses in this zoning district. The addition of a car wash at the least preserve, if not enhance, property values in the surrounding area. Family Express has a track record of success and a reputation for constructing and operating well-designed, well-built, and well-maintained convenience stores with fueling stations. Family Express is a family-owned business exclusively based in Indiana and approaching its 50th year of operation and has been awarded "Convenience Store Chain of the Year," among countless other awards and accolades.
- Staff Response: The use and value of the area adjacent to the property will not be affected. Although car washes are not permitted uses in the GB zoning district, if approved, the car wash would be classified as an accessory use. The UDO permits accessory structures in all districts, providing the development standards have been met. The property's primary structure is the convenience store and fueling station. Per the UDO, an accessory structure shall be ancillary and complementary to the use of the primary structure; car washes are a common accessory to contemporary convenience stores/fueling stations. The proposed accessory structure will be located on the same property and appears to observe the GB zoning district lot standards, minimizing the aesthetic disruption of the area's character. As stated above, the surrounding LB zoning districts either permit each of the proposed Family Express uses or are allowable special exception uses.

The need for the variance arises from some condition peculiar to the property involved because...

- Applicant Response: The subject property is zoned appropriately to accommodate Family Express' plans to operate a convenience store, fueling station, and pet wash; however, a car wash, although a common feature widely accepted as a complementary service for such operations, is not included as a permitted use in the GB zoning district. The addition of a car wash for Family Express' development will be a great addition to the City of Delphi, which currently lack a car wash of this caliber.
- Staff Response: While car washes are not permitted in the GB zoning district, they are customarily found in connection as an accessory use with the primary structure and use of a convenience store/fueling station. A car wash would also serve a secondary purpose for the convenience store/fueling station's primary use. Additionally, drawings of the proposed car wash depict the structure as subordinate to the area and extent of the convenience store/fueling station. As many fueling stations feature car washes, allowing it as an accessory use would contribute to the comfort, convenience, or necessity for patrons of Family Express.

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

- Applicant Response: Family Express is under contract to purchase the subject property, which agreement is subject upon Family Express' intended use, which includes a convenience store, fueling stations, car wash, and pet wash. Without any of these components, the proposed development will not be sustainable on the subject property and the land will continue to remain vacant and undeveloped. Omitting a car wash would limit Family Express' ability to meet its customers' demand for a one-stop shop experience, and it would be a disservice to the community to omit such a service, especially because the community is in need of a high-quality car wash service like the one offered by Family Express. Integrating a car wash would provide a complete, convenient service offering for the community.
- Staff Response: Car washes have become common place accessory uses with the development of fueling stations. While the allowance of a car wash exclusively on this site would be problematic, a smaller, accessory use would be in coordination with the overall primary use of the site. Furthermore, it would be impractical to require up-zoning the site to a more intense district just to accommodate an accessory use.

The approval does not interfere substantially with the Delphi Comprehensive Plan because...

- Applicant Response: A car wash is a complementary service that enhances the use of a convenience store with a fueling station, which are already permitted uses for the subject property. Incorporating a car wash aligns with the intended purpose of the GB zoning designation already assigned to this property.
- Staff Response: The Delphi Comprehensive Plan classifies the parcel's future land use as Mixed Use (Delphi Comprehensive Plan, Page 33). Mixed Use is defined as land used or designated for designed developments that include a mix of land uses, such as commercial, residential, and office. In addition to R1 zoning, LB and GB commercial zoning districts currently exist along this portion of US Hwy 421. Permitting the car wash as an accessory use appears to be ancillary along this corridor. The surrounding LB zoning districts either permit each of the proposed Family Express uses or are allowable special exception uses, so the request is in context with the Comprehensive Plan.

Staff Recommendation

Staff recommends that the BZA approve the Variance of Use with the following conditions:

1. The approval is only for the car wash as an accessory use exclusively for this applicant. (It is not transferable to another applicant.)
2. The site plan shall substantially conform to the plan presented.
3. All development standards for the site shall be met.
4. All necessary permits for accessing US 421 are coordinated and obtained.

BZA Application

This application is being submitted for (check all that apply):

- Special Exception Variance
 Variance of Use Use Classification
 Appeal

For Office Use Only	
File #	BZA25-01-UV Fee \$1,110
Filing	2025-01-03 TAC NA
Hearing/Meeting	2025-02-18
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied <input type="checkbox"/> w/ conditions

Applicant Info

Name FAMILY EXPRESS CORPORATION	
Street Address 213 S. State Rd 49	
City, State, Zip Valparaiso, IN 46383	
Primary Contact Person regarding this petition Pete Andreou	
Phone 219-462-0144; Ext. 1401	E-Mail pandreou@familyexpress.com
Other Contact Name	E-Mail

Property Owner

Name MGH DELPHI HOLDINGS LLC	
Street Address 300 Centerville Rd Ste 204 W	
City, State, Zip WARWICK, RI 02886	
Phone 765-437-9468	E-Mail neal.herr@acrepro.com jason@jmarshall-law.com
Applicant is (circle one): <u>sole owner</u> Joint Owner Tenant Agent Other (specify)	

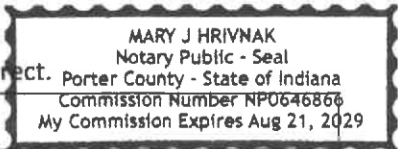
Premises Affected

Parcel ID or Alternate ID Number 08-06-29-037-008.000-007				
Actual/approximate address or location from major streets 2053 N US Hwy 421, Delphi, IN 46923				
Subdivision N/A			Lot Number(s) N/A	
Total Acreage 5.167		Flood Zone on Site? N/A		
Zoning of Subject Property General Business (GB/B-1)		Use of Subject Property Currently vacant		
Proposed Land Use Convenience store with fueling stations, car wash, and pet wash				
Zoning of Adjacent Properties	North: R-1 (U-1)	South: R-1 (U-1) & GB (B-1)	East: R-1 (U-1)	West: R-1 (U-1) & GB (B-1)
Land Use of Adjacent Properties	North: Vacant	South: Res & Biz	East: Res & Vacant	West: Res & Biz

Notarization

The above information and attached exhibits, to my knowledge and belief, are true and correct.

Signature of Applicant	FAMILY EXPRESS CORPORATION By: <i>[Signature]</i>			
Notary Public's Name (printed)	Mary J. Hrivnak	Signature of Notary	<i>[Signature]</i>	
My Commission Expires State County	Aug 21, 2029, IN, Porter	Subscribed and sworn to before me this	2 nd	day of January, 2025.



NARRATIVE

Family Express' BZA Application for a Variance of Use to include a car wash in the development of the subject property is supported by its track record of success. The proposed development includes a state-of-the-art Convenience Store with fueling stations, a full-service Car Wash, and a self-service Pet Wash station – all maintained and operated by Family Express. A copy of the site plan is included with the BZA Application, for your reference, which further illustrates the location of the various components of the project.

Family Express Corporation is focused on developing high quality convenience stores, offering best-in-class service, and providing features benefiting our customers and the communities in which we operate. We are a family-owned business exclusively based in Indiana and are approaching our 50th year of operation. We currently have 81 stores in Central and Northern Indiana with an aggressive growth plan. Our geography allows our Centralized Bakery and Distribution Center logistics to achieve daily transportation efficiencies, resulting in unsurpassed freshness for perishables.

Among other accolades and awards for its demonstrated excellence, Family Express has been recognized as the best local convenience store in Indiana by Delish in 2019, awarded the prestigious “Convenience Store Chain of the Year” award in North America in 2015, recently awarded the 2024 “Tech Innovation Award” for developing a new loyalty app, and has received the "Business Award" for its support of clean, domestic fuels that support the Hoosier economy and national energy security – to name a few.

Family Express operates state-of-the-art convenience stores that are, to a great extent, a restaurant. Our proprietary Hot Food Service offering prepared fresh on-site offers a variety of breakfast options, along with lunch, and dinner delights ranging from barbeque ribs, to the much talked about thin crust “low carb” pizza. In tandem with our convenience store, a Family Express full-service Car Wash will be an amenity for local residents that offers plethora of benefits, ranging from simplicity of service of a one-stop shop, to providing discounts for fuel and other offers through carwash purchases.

Family Express is under contract to purchase the subject property, which agreement is subject upon Family Express' intended use, which includes a convenience store, fueling stations, car wash, and pet wash. A car wash is not identified in the GB zoning district for the subject property; however, Family Express' intended use for a convenience store, fueling stations, and pet wash are already permitted uses in this zoning district. Without all of these components, the proposed development will not be sustainable on the subject property and the land will continue to remain vacant and undeveloped. Omitting a car wash would limit Family Express' ability to meet its customers' demand for a one-stop shop experience, and it would be a disservice to the community to omit such a service, especially because the community is in need of a high-quality car wash service like the one offered by Family Express. Integrating a car wash would provide a complete, convenient service offering for the community.

As noted above, Family Express has a proven track record of success and a reputation for constructing and operating well-designed, well-built, and well-maintained convenience stores, fueling stations, and car washes exclusively throughout the State of Indiana. If approved, Family Express will be dedicated to bringing the same level of attention, detail, and customer service to the City of Delphi.

Attachment D: Standards for Evaluating a Variance of Use

Use the following form or attach a separate sheet(s) to explain the Variance of Use request. The BZA's decision shall be based upon how each of the following statutory requirements is justified in the request.

Petition Information

Describe the proposed use of the property (type of use, hours of operation, access, necessary construction, employees, etc.):

Convenience store with fueling stations, car wash, and pet wash. Hours of operation vary by site and location, but will generally be between 4:00 AM - 12:00 AM, seven (7) days per week. The total number of employees also varies by site and location but is expected to be approximately 15. Construction is expected to commence in Q4 - 2025 with planned operations to commence Q1 - 2026.

Standards for Evaluation

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

Each Family Express car wash is designed to comply with all environmental and zoning regulations, including proper wastewater management measures. Additionally, Family Express provides a clean, safe, and welcoming facility that will provide employment opportunities in the local community and enhance convenience for the community without negatively impacting the surrounding properties.

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

The convenience store, fueling stations, and pet washes are already permitted uses in this zoning district. The addition of a car wash at the least preserve, if not enhance, property values in the surrounding area. Family Express has a track record of success and a reputation for constructing and operating well-designed, well-built, and well-maintained convenience stores with fueling stations. Family Express is a family-owned business exclusively based in Indiana and approaching its 50th year of operation and has been awarded "Convenience Store Chain of the Year, among countless other awards and accolades.

3. The need for the Variance of Use arises from a condition peculiar to the property involved, and is more clearly described as...

The subject property is zoned appropriately to accommodate Family Express' plans to operate a convenience store, fueling station, and pet wash; however, a car wash, although a common feature widely accepted as a complementary service for such operations, is not included as a permitted use in the GB zoning district. The addition of a car wash for Family Express' development will be a great addition to the City of Delphi, which currently lacking a car wash of this caliber.

4. 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, and is more clearly described as...

Family Express is under contract to purchase the subject property, which agreement is subject upon Family Express' intended use, which includes a convenience store, fueling stations, car wash, and pet wash. Without any of these components, the proposed development will not be sustainable on the subject property and the land will continue to remain vacant and undeveloped. Omitting a car wash would limit Family Express' ability to meet its customers' demand for a one-stop shop experience, and it would be a disservice to the community to omit such a service, especially because the community is in need of a high-quality car wash service like the one offered by Family Express. Integrating a car wash would provide a complete, convenient service offering for the community.

5. The Comprehensive Plan describes this area as...

Commercial - General Business

The approval does not interfere substantially with the Comprehensive Plan because...

A car wash is a complementary service that enhance the use of a convenience store with a fueling station, which are already permitted uses for the subject property. Incorporating a car wash aligns with the intended purpose of the GB zoning designation already assigned to this property.

I have reviewed all of the applicable development standards for this district and for this particular use.

YES - All of the standards will be met.

UNSURE - At this time, I am unsure if all of the standards will be met. Applicable variances may be requested under a separate application at a later date.

NO - the following standards cannot be met, and variances have been requested as part of this application: