

The regular meeting of the Board of Zoning Appeals of the City of Hammond was held on Tuesday, April 30, 2024 at 6:00 p.m., Council Chambers, 2nd Floor, Hammond City Hall, 5925 Calumet Avenue, Hammond, IN 46320, and via www.Zoom.us

Kathleen Hill called the meeting to order at 6:03 p.m. Ms. Hill led the reciting of the Pledge of Allegiance.

PRESENT

Cynthia Jasso (IP)
Roger Brock (IP)
William Hutton (IP)
Victor Lopez (IP)
Kathleen Hill (IP)

ABSENT

ALSO PRESENT

Brian L. Poland, AICP
Director of City Planner

Tom Novak
Assistant City Planner

Shannon Morris-Smith
BZA Secretary

Dave Westland
BZA Attorney

PRESENT: FOUR (5)

ABSENT: ZERO (0)

QUORUM

APPROVAL OF MINUTES

Chairperson Hill called for a motion to table the minutes for February 27, 2024. Mr. Hutton so moved, seconded by Mr. Brock. Roll call vote. Roger Brock/yes, William Hutton/yes, Cynthia Jasso/yes, Victor Lopez/yes, Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion passed.

Chairperson Hill called for a motion to approve the minutes for April 2, 2024. Ms. Jasso so moved, seconded by Mr. Lopez. Roll call vote. Roger Brock/yes, William Hutton/yes, Cynthia Jasso/yes, Victor Lopez/yes, Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion passed.

OLD BUSINESS

There was none.

NEW BUSINESS

Chairperson Hill stated the two petitions were related and asked the Board if both cases could be read at one time, and voted on separately. There was a consensus from the Board.

Z-24-05A Petition of NH Vegas, LLC for a developmental variance from zoning ordinance T/S 10.20 to allow a height up to 66' under in a C-4 Zoning District located at 930 Marina Drive in the City of Hammond

Z-24-05B Petition of NH Vegas, LLC for a developmental variance from zoning ordinance 10.31 to allow a front yard setback of 20' in a C-4 Zoning District located at 930 Marina Drive in the City of Hammond

Chairperson Hill asked the secretary if the notification requirements had been met. Ms. Morris-Smith stated "Yes".

Don Torrenge, Torrenge Engineering, 907 Ridge Road, Munster, IN 46321, and Dan Tursman, NH Vegas, Inc., 3595 N Hobart Road, Hobart, IN 46342, represented the petitioner. Mr. Torrenge stated there was a proposed site plan and an architectural rendering of the height of the building. The C-4 General Commercial District allowed a maximum 40' for any building. The proposed hotel was higher. The petitioner requested a variance from 40' up to 66' to build the hotel.

Mr. Torrenge further stated in addition, the property was challenged because there was a large Commonwealth Edison easement that was 125' wide that runs along the side of the toll road on the back of the property. The 25' required setback in a C-4 General Commercial District would overlap 5' onto a 10' NIPSCO easement. The petitioner requested a variance from the 25' setback to a 20' setback.

Mr. Torrenge commented that the property was located in the northwest corner of Hammond. The area was building up nicely and would be a good fit to the casino nearby.

Mr. Poland stated for the record the building height was 65' 7.5". Mr. Poland asked how often were there deviations from the height dimension in the field. Mr. Torrenge stated there was always a slight deviation. In this case, the petitioner asked for a little more to meet the height variance requirement. There was further discussion on why there was a recommendation to raise the height to 66' to allow for potential construction deviations

that could occur. There was further discussion on various possible deviation occurrences.

Mr. Poland asked if the utility companies were notified during construction. Mr. Tursman stated the company would hire a surveyor to stake out the corners of the property. A part of the process would be to verify the utilities are located where they should be according to the plan. Mr. Tursman stated there would be special care taken during construction utilizing the equipment to make sure the proper clearances are maintained. There was discussion regarding similar projects in the same area that needed special care.

Mr. Novak stated on the backside of the building where the NIPSCO and Commonwealth Edison easement was located the NIPSCO overhead line was more than 10' away from the building. The frontside of the building the 20' setback ends right before the utility easement. This utility easement was for an underground AT&T line.

Mr. Torrenge discussed the positioning of the building and the 20' setback. There is a 10' wide by 5' deep entrance out towards Marina Drive. This was closer to 25' to the property line. Mr. Poland asked what was the percentage of the encroachment. Mr. Novak stated the façade of the furthest eastern wall was 6% of the total façade. Mr. Poland asked if the reduction was recognized because of a small portion of the building. Mr. Novak stated "Yes".

Mr. Hutton asked how many rooms were on a three (3) floor hotel. Mr. Tursmans stated in this case the restrictions on the frontage and setbacks the footprint has been restricted, which leads to requiring the additional height. Mr. Torrenge stated the math would be sixty (60) rooms. There were one hundred two (102) given for five (5) floors. Mr. Hutton asked if there was enough parking space for one hundred two (102) rooms. Mr. Poland stated "Yes".

Mr. Torrenge and Mr. Tursman concluded their presentation.

Chairperson Hill asked if there were any questions from the Board. There were none.

Chairperson Hill opened the floor for public comments. There were none.

Chairperson Hill closed the floor for public comments.

Chairperson Hill asked if there were any additional questions from the Board members. There were none.

Chairperson Hill asked for staff to read the staff report recommendations (Z-24-05A), however it is included in its entirety.

Zoning Citation

Title X C-4 General Commercial District Section 10.20 Height Regulations
No building shall exceed 40 feet (12.19 meters) or three (3) stories in height.

Background

NH Vegas, Inc, corporate owner of the Luke's Oil and LiqGo franchises based in Hobart, IN, is the petitioner and current owner of the subject property. They are under contract, contingent on approval of this and another developmental variance, to sell the property to be developed with a Towneplace Suites by Marriott hotel. The subject property currently hosts the shuttered Luke's gas station and car wash, which is to be demolished. The replacement Luke's station sits on the neighboring parcel to the north.

On 02/20/2024 under Case No. CP-24-01, the Plan Commission approved subdivision of the parent parcel known as 850 Indianapolis Blvd. in order to split off 930 Marina Dr. Subject parcel is 1.968 acres or approximately 85,726 SF.

The subject property (Parcel/Tax ID #: 45-02-01-126-017.000-023) is zoned C-4 General Commercial District, which allows hotels as a permitted use under T/S 10.10(10). The site borders the Marina PUD District Development to its east. The C-4 District continues to its south with a large stormwater retention basin and Wal-Mart. To its west and north is land zoned I-2 Manufacturing District. To its west is the I-90 Indiana Toll Road and the IN-IL State Line. To its north across Indianapolis Blvd/US Route 41 is Norfolk Southern's rail yard.

Petition

The petitioner is requesting relief from the height maximum of 40' and 3-stories in a C-Commercial District. That is, an increase of 26' up to 66' and an increase of 3-stories to 5-stories.

Current plans show a peak parapet height of 65' 7 ½" in two locations. However, to accommodate for margin of error and/or minor adjustments, petitioner requests relief for up to 66'.

Analysis

The building's 1st floor footprint is under 24,000 SF. Parallel and adjacent to the full length of the west property line are two major utility easements which prevent building development – the westernmost 100' to Commonwealth Edison and adjacent to it 20' to NIPSCO. The NIPSCO easement ends 3' from the west edge of hotel. These overhead high-tension power lines cross over the entirety of proposed parking lot to the west of the hotel. The developer of the Towneplace Suites by Marriott hotel has chosen to build taller to accommodate the 102 rooms for guests and 112 parking spaces for guests and employees. 22% (approximately 18,800 SF) of the 85,726 SF site will include open space, exceeding the 10% landscape coverage requirement for C-4 Districts. A plant schedule is yet to be provided but will be reviewed by City Staff prior to permit issuance.

While the maximum height of the building is 66' in two places, the various parapet walls that reach heights from 59' to 66' tall represent a minority of the façade of the building. The roof decking where any occupiable space ends tops out at 57'. Current plans show large channel letter signs to be installed above the roof decking line on parapet walls. City Staff will review all signage proposed on-site to ensure compliance before permit issuance.

The surrounding area is a mix of transportation corridors and shopping center developments. A strong, highly visible presence from adjacent I-90 provides a new anchor to the overall Marina District development. No Indiana residences exist within 3,000' (over ½ mile). Increased height should have no negative impact on residents nor businesses. To compare, the Ross Dress for Less-anchored strip mall approximately 1,000' to the southeast (1101-13 5th Ave.) has a height up to 43'.

The petitioner is concurrently requesting a developmental variance for front (east) yard setback from 25' to 20' along Marina Drive (see Case No. Z-24-05(B)).

Reviews and Approvals

City Planning staff has reviewed preliminary materials provided by the petitioner.

Fire safety and fire safety equipment maintenance details have not been disclosed by NH Vegas, LLC. nor Marriott but are forthcoming. Marriott operates a number of hotels in Hammond and each have passed their Hammond Fire Department inspections.

There were no objections concerning the developmental variance from the Building Commissioner, Chief Fire Inspector, City Engineer, Director of the Hammond

Department of Environmental Management (HDEM), nor Superintendent of Wastewater Management at the Hammond Sanitary District (HSD).

STANDARDS FOR GRANTING A DEVELOPMENTAL VARIANCE

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and the 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 zoning ordinance will result in practical difficulties in the use of the property.

Recommendation

Staff has reviewed the petitioner's request and recommends that the BZA grant the developmental variance should the Board feel the petitioner has met the standards, subject to:

- 1.) **Approval of developmental variance Case No. Z-24-05(B); and**
- 2.) **The final technical review of site and civil plans, including signage, by City Staff.**

Mr. Novak concluded the reading of the recommendation section of the staff report.

Chairperson Hill asked if there were any questions from the Board members.

Chairperson Hill asked if there were any other additions or amendments to the findings of facts. There were none.

FINDINGS OF FACT

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**
 - a.) The development will comply with all applicable fire and building code regulations, including ADA compliance, subject to final review by the City Building and Fire Departments and by the State via a Construction Design Release (CDR).
 - b.) The petitioner will comply with all other applicable provisions in Zoning Ordinance, including applicable provisions of Title X C-4 General Commercial District, Title XXI Signs, and Title XXII Fences and Landscaping.
 - c.) The building is outside the major utility easements and will not be in conflict with the overhead high-tension power lines.
 - d.) No Indiana residences exist within 3,000' linear feet (over ½ mile) of subject parcel.

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.**
 - a.) Other businesses, each situated 150' or more distant to the north and east, should not be negatively impacted by the height of building nor its effect on sunlight coverage.
 - b.) The proposed 66' tall building will be the tallest commercial building in the Marina District area by 23'.
 - c.) The various parapets increase building height to a range of 59' to 66' with the 66' peak happening in two places, representing a minority of the façade of the building.
 - d.) The property has sat vacated with a shuttered commercial building on it for three (3) years and fronts along a relatively new commercial/shopping center development, thus carefully planned development of this unused land would increase its property tax valuation and the aesthetics of the overall Marina District development.
3. **The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**
 - a.) The site's 85,726 SF size and the 120' wide utility easements on the west end of site pose practical difficulties in constructing a shorter building on a sub-24,000 SF 1st floor building footprint.

Chairperson Hill asked for a motion to adopt the staff report as presented by staff and to adopt the Finding of Fact into the record (Z-24-05A). Mr. Brock so moved, seconded by Ms. Jasso. Roll call vote. Cynthia Jasso/yes, Victor Lopez/yes, Roger Brock/yes, William Hutton/yes, Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion passed.

Chairperson Hill asked for a motion to approve the developmental variance subject to the two (2) conditions in the staff report (Z-24-05A). Mr. Brock so moved, seconded by Mr. Lopez. Roll call vote. Cynthia Jasso/yes, Victor Lopez/yes, Roger Brock/yes, William Hutton/yes, Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion passed.

Chairperson Hill asked if there were any additional questions from the Board members. There were none.

Chairperson Hill asked for staff to read the staff report recommendations (Z-24-05B), however it is included in its entirety.

Zoning Citation

Title X C-4 General Commercial District Section 10.31 Yard Requirements (A) Front Yard:

There shall be a front yard between the building line and the front property line of 25 feet (7.62 meters).

Background

NH Vegas, Inc, corporate owner of the Luke's Oil and LiqGo franchises based in Hobart, IN, is the petitioner and current owner of the subject property. They are under contract, contingent on approval of this and another developmental variance, to sell the property to be developed with an up to 66' tall, 5-story, 102-room Towneplace Suites by Marriott hotel. The subject property currently hosts the shuttered Luke's gas station and car wash, which is to be demolished. The replacement Luke's station sits on the neighboring parcel to the north.

On 02/20/2024 under Case No. CP-24-01, the Plan Commission approved subdivision of the parent parcel known as 850 Indianapolis Blvd. in order to split off 930 Marina Dr. Subject parcel is 1.968 acres or approximately 85,726 SF.

The subject property (Parcel/Tax ID #: 45-02-01-126-017.000-023) is zoned C-4 General Commercial District, which allows hotels as a permitted use under T/S 10.10(10). The site borders the Marina PUD District Development to its east. The C-4 District continues to its south with a large stormwater retention basin and Wal-Mart. To its west and north is land zoned I-2 Manufacturing District. To its west is the I-90 Indiana Toll Road and the IN-IL State Line. To its north across Indianapolis Blvd/US Route 41 is Norfolk Southern's rail yard.

Petition

The petitioner is requesting relief from the primary building front yard setback minimum of 25' in a C-4 Commercial District. That is, a decrease of 5' to 20' from east property line to hotel.

Analysis

The front yard of this property fronts along Marina Drive, a private access road servicing the Marina District development. The porte-cochère (vehicle drive-up) and main entrance to the check-in counter will face north. On the east end of the building a 10' wide, 14' 9" tall, 1-story vestibule providing card-controlled customer access to a stairwell will encroach into the front yard setback by 5'. The rest of the east-facing walls of the hotel building will meet the 25' minimum setback. The easternmost wall of the

hotel, upon which the vestibule attaches, accounts for 2,470 SF of façade. The vestibule's east wall accounts for 146.67 SF, or 5.94% of that 2,470 SF façade total.

Parallel and adjacent to the full length of the west property line are two major utility easements which prevent building development – the westernmost 100' to Commonwealth Edison and adjacent to it 20' to NIPSCO. NIPSCO easement ends 3' from west edge of hotel. These overhead high-tension power lines cross over the entirety of proposed parking lot to the west of the hotel.

No drive aisle or vehicle access will exist within the 20' setback. A single concrete walkway for customers to access vehicles in the parking lot will lead from the aforementioned vestibule. The entirety of the other open space will be landscaped with vegetation, e.g. lawn, exceeding perimeter landscape requirements. 22% (approximately 18,800 SF) of the 85,726 SF site will include open space, exceeding the 10% landscape coverage requirement for C-4 Districts. A plant schedule is yet to be provided but will be reviewed by City Staff prior to final permit approval.

Within the entirety of this 20' front yard setback exists a 20' wide utility easement for AT&T, which runs parallel and adjacent to the east property line and to Marina Drive.

The surrounding area is a mix of transportation corridors and shopping center developments.

The petitioner is concurrently requesting a developmental variance for maximum building height from 40' to 66' and from 3-stories to 5-stories (see Case No. Z-24-05(A)).

Reviews and Approvals

City Planning staff has reviewed preliminary materials provided by the petitioner.

There were no objections concerning the developmental variance from the Building Commissioner, Chief Fire Inspector, City Engineer, Director of the Hammond Department of Environmental Management (HDEM), nor Superintendent of Wastewater Management at the Hammond Sanitary District (HSD).

STANDARDS FOR GRANTING A DEVELOPMENTAL VARIANCE

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and the 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 zoning ordinance will result in practical difficulties in the use of the property.

Recommendation

Staff has reviewed the petitioner's request and recommends that the BZA grant the developmental variance should the Board feel the petitioner has met the standards, subject to:

- 1.) **Approval of developmental variance Case No. Z-24-05(A);**
- 2.) **Continued compliance with the terms of the 20' wide utility easement which runs parallel and adjacent to the east property line and to Marina Drive; and**
- 3.) **The final technical review of site and civil plans, including a plant schedule, by City Staff.**

Mr. Novak concluded the reading of the recommendation section of the staff report.

Chairperson Hill asked if there were any questions from the Board members.

Chairperson Hill asked if there were any other additions or amendments to the findings of facts. There were none.

FINDINGS OF FACT

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**
 - a.) The development will comply with all applicable fire and building code regulations, and location of vestibule required for ADA compliance, subject to final review by the City Building and Fire Departments and by the State via a Construction Design Release.
 - b.) Emergency access to all building and entrances and exits are not impeded nor is traffic flow for customers, employees, and vendors.
 - c.) The only encroachment into the standard front yard setback is a vestibule; the vestibule's east wall accounts for 146.67 SF, or 5.94%, of the total 2,470 SF of façade comprising the east wall to which the vestibule is attached.
 - d.) The petitioner will comply with all other applicable provisions in Zoning Ordinance, including applicable provisions of Title X C-4 General Commercial District, Title XXI Signs, and Title XXII Fences and Landscaping.
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.**
 - a.) Major Commonwealth Edison and NIPSCO utility easements cover the westernmost 120' of the property, preventing further building setback into the

- b.) parking lot to the west of the proposed hotel; full access to easements preserved by proposed site plan.
 - c.) Access to adjacent properties and traffic flow on Marina Drive will not be impeded.
 - d.) The property has sat vacated with a shuttered commercial building on it for 3 years and fronts along a relatively new commercial/shopping center development, thus carefully planned development of this unused land would increase its property tax valuation and the aesthetics of the overall Marina District development.
- 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**
- a.) The 120' wide utility easements on the west end of site pose practical difficulties in constructing a building set over west enough on-site to comply with the 25' setback.

Chairperson Hill asked for a motion to adopt the staff report with the three (3) conditions and to adopt the Finding of Fact into the record (Z-24-05B). Mr. Brock so moved, seconded by Ms. Jasso. Roll call vote. Cynthia Jasso/yes, Victor Lopez/yes, Roger Brock/yes, William Hutton/yes, Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion passed.

Chairperson Hill asked for a motion to approve the developmental variance subject to the three (3) conditions in the staff report (Z-24-05B). Ms. Jasso so moved, seconded by Mr. Brock. Roll call vote. Cynthia Jasso/yes, Victor Lopez/yes, Roger Brock/yes, William Hutton/yes, Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion passed.

COMMISSIONER COMMENTS

There were none.

STAFF COMMENTS

Mr. Poland stated there would be a May 29, 2024 meeting. The meeting date would be on May 29, 2024 due to the Memorial Day holiday and a scheduled change in the meeting date by the Board.

PUBLIC COMMENTS

There were none.

ADJOURNMENT

Chairperson Hill adjourned the meeting at 6:29 p.m.

PREPARED BY:

Shannon Morris-Smith
Secretary to the Board of Zoning Appeals

APPROVED BY THE BOARD OF ZONING APPEALS:

Kathleen Hill
Chairperson

Date Approved: 5/29/24