



# Metropolitan Development Commission (October 18, 2023) Meeting Notice

## Meeting Details

Notice is hereby given that the Metropolitan Development Commission of Indianapolis-Marion County, IN, will hold public hearings on:

**Date:** Wednesday, October 18, 2023      **Time:** 1:00 PM

**Location:** Public Assembly Room, 2nd Floor, City-County Building, 200 E. Washington Street

## Business:

**Adoption of Meeting Minutes:** October 4, 2023

## Policy Resolutions:

### REAL ESTATE:

#### 1.    **2023-R-033**

Authorizes DMD to enter into agreements with the Indianapolis Metropolitan Police Department regarding K9 and Horse Patrol facilities on the grounds of the former Central State Hospital.

## Zoning Petitions:

### Special Requests

### PETITIONS OF NO APPEAL (RECOMMENDED FOR APPROVAL):

#### **2.    2023-ZON-078 | 4021 West 71st Street**

Pike Township, Council District #7  
Turner Adventures, LLC, by Rebekah Phillips

Rezoning of 0.53 acre from the C-1 district to the I-1 district to provide for a commercial contractor.

#### **3.    2023-ZON-084 | 5640 East 38th Street (3800 Block of Audubon Road)**

Lawrence Township, Council District #13  
Jeff Hasser

Rezoning of 0.47 acre from the SU-1 (TOD) district to the D-5 (TOD) district to provide for single-family detached dwellings.

#### **4.    2023-CZN-839 (Amended) | 802 South West Street**

Center Township, Council District #16  
McCarty West Associates, LLC, by Hannah Able

Rezoning of 0.25 acres from the I-4 (RC) district to the CBD-2 (RC) district to provide for multi-family dwelling uses.

**5. 2023-CAP-850 | 8545 South Emerson Avenue**

Franklin Township, Council District #25

C-S

Landmark Holdings 8601 LLC, by Tammy Rice

Modification of the approved C-S Statement, related to 2005-ZON-169, to provide for three integrated pylon signs (maximum two integrated pylon signs permitted).

**6. 2023-CZN-851 | 8333 Masters Road**

Lawrence Township, Council District #3

Wurster Construction Co., Inc., by Brian J. Tuohy

Rezoning of 2.03 acres from the C-1 and C-S districts to the I-2 district to provide for a commercial and building contractor.

**7. 2023-REG-064 | 707 East McCarty Street**

Center Township, Council District #16

I-3 (RC); D-8 (RC) (pending)

Lindsay and Patrick Mullen, by Jason Wolfe

Regional Center Approval to provide demolition of two single-family dwellings and one accessory use structure and for construction of one single-family dwelling and one accessory use structure.

**8. 2023-REG-070 | 227 and 333 West 14th Street, 323 and 335 West 15th Street, 269 and 355 West 16th Street, 1255, 1330, 1355, 1410, 1420, 1421, 1515 and 1520 North Senate Avenue, 1234, 1302, 1310, 1318, 1402, and 1420 North Capitol Avenue**

Center Township, Council District #11

CBD-S (RC)

Indiana University Health, Inc., by J. Murray Clark

Regional Center Approval to provide for overall site design approval, including a campus vehicular plan, art locations, pedestrian connections, bicycle parking locations, site lighting, and two surface parking lots, with 300 spaces.

## Petitions for Public Hearing

### PETITIONS FOR PUBLIC HEARING:

9. MODIFICATION PETITION RECOMMENDED FOR DENIAL BY THE HEARING EXAMINER, APPEAL FILED BY PETITIONER:

**2023-MOD-009 (Amended) | 4375 Kentucky Avenue**

Decatur Township, Council District #22

C-S

Five Star Oil, Inc., by Garrett E. Lawton

Modification of the Commitments related to 2019-ZON-053 to extend the deadline for the completion of all commitments to March 31, 2024 (previous commitments required completion by several dates in 2020).

10. REZONING PETITION RECOMMENDED FOR APPROVAL BY THE HEARING EXAMINER, APPEAL FILED REMONSTRATOR:

**2023-ZON-073 | 8300 Camby Road**

Decatur Township, Council District #20

Second Circle Investments, LLC, by Michael Rabinowitch

Rezoning of 2.67 acres from the C-1 district to the C-3 district to provide for neighborhood commercial uses.

11. REZONING PETITION RECOMMENDED FOR APPROVAL BY THE HEARING EXAMINER, APPEAL FILED REMONSTRATOR:

**2023-ZON-083 | 2991 East Troy Avenue**

Perry Township, Council District #21  
Timothy Agee d/b/a The Sanctuary, Inc., by Greg Ilko

Rezoning of 2.3 acres from the D-5 district to the SU-7 district to provide for a food pantry ministry.

### **Additional Business:**

\*\*The addresses of the proposals listed above are approximate and should be confirmed with the Division of Planning. Copies of the proposals are available for examination prior to the hearing by emailing [planneroncall@indy.gov](mailto:planneroncall@indy.gov). Written objections to a proposal are encouraged to be filed via email at [dmdpubliccomments@indy.gov](mailto:dmdpubliccomments@indy.gov) before the hearing and such objections will be considered. At the hearing, all interested persons will be given an opportunity to be heard in reference to the matters contained in said proposals. The hearing may be continued from time to time as may be found necessary. For accommodations needed by persons with disabilities planning to attend this public hearing, please call the Office of Disability Affairs at (317) 327-5654, at least 48 hours prior to the meeting. Department of Metropolitan Development - Current Planning Division.

Real Estate  
Development- Central State  
IMPD Horse Patrol/K9 Facilities

**METROPOLITAN DEVELOPMENT COMMISSION  
OF  
MARION COUNTY, INDIANA  
Resolution No. 2023-R-033**

WHEREAS, the Department of Metropolitan Development, ("DMD"), by authority of and pursuant to I.C. 36-7-15.1, is engaging in redevelopment activities within Marion County, specifically the Central State Project ("Project Area") on the grounds of the former Central State Hospital; and

WHEREAS, for many years, DMD has been collaborating with the Indianapolis Metropolitan Police Department (IMPD) and partners, including the Indiana Department of Natural Resources-Division of Historic Preservation and Archaeology (DNR), to co-locate IMPD's Canine (K9) and Mounted Horse Patrol (HP) units to the northwest corner of the Project Area; and

WHEREAS, the K9 unit moved to the Project Area in 2020; and the Metropolitan Development Commission (MDC) had previously authorized a funding and development agreement for relocation of the HP to the Project Area ( Resolution No. 2016-R-017), but that agreement expired on its own terms; and

WHEREAS, IMPD now has additional partners, funding, and a new plan for development of HP facilities within the Project Area directly east of the K9 facilities; and DMD desires to enter into an agreement or agreements, as necessary, to address funding and scheduling for relocation, construction, and modification of facilities as well as IMPD's responsibility for ongoing maintenance of such co-located facilities and grounds in the Project Area; and

WHEREAS, the new facilities and corresponding changes to the Project Area would be in concert with an approved development plan;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The DMD is hereby authorized by the Metropolitan Development Commission to enter into an agreement or agreements as necessary to facilitate relocation of its Horse Patrol unit on the grounds of the former Central State Hospital and to address IMPD's responsibility for ongoing maintenance of such co-located facilities and grounds in the Project Area .
2. The Director of DMD or designee is hereby authorized to execute all necessary documents related to such agreement in accordance with this Resolution and to do all acts and execute all other documents and instruments deemed necessary or appropriate by such official on behalf of the Commission so as to best accomplish the objectives set forth herein, and all actions heretofore taken by any such official toward the completion thereof are hereby ratified, confirmed and approved.

Approved as to legal form and adequacy:

By: Sheila Kinney sek  
Sheila Kinney, Asst. Corp. Counsel

Metropolitan Development Commission:

By: \_\_\_\_\_  
John J. Dillon III, President

Date: 9/26/2023

Date: \_\_\_\_\_



## STAFF REPORT

Item 9.

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-MOD-009 (Amended)  
**Address:** 4375 Kentucky Avenue (approximate address)  
**Location:** Decatur Township, Council District #22  
**Zoning:** C-S  
**Petitioner:** Five Star Oil, Inc., by Garrett E. Lawton  
**Request:** Modification of the Commitments related to 2019-ZON-053 to extend the deadline for the completion of all commitments to March 31, 2024 (previous commitments required completion by several dates in 2020).

### **ADDENDUM FOR OCTOBER 18, 2023, METROPOLITAN DEVELOPMENT COMMISSION**

This petition was heard by the Hearing Examiner on September 28, 2023. After a full hearing, the Hearing Examiner recommended denial of the rezoning. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

#### **September 28, 2023**

The Hearing Examiner continued this petition from the August 24, 2023 hearing, to the September 28, 2023 hearing, to provide time for the petitioner's representative to amend the petition and provide new notice.

The amended request extends completion time from September 30, 2023, to March 31, 2024. Staff continues to **recommend approval** of the request that would provide additional time to complete the commitments.

It is staff's understanding that the commitment requiring expansion and installation of the water line will require additional time. Staff would expect, however, that all commitments will be completed by March 31, 2024, and will not support further time extensions.

The Hearing Examiner continued this petition from the July 27, 2023 hearing, to the August 24, 2023 hearing, at the request of the petitioner's representative to provide time to amend the petition and send new notice. The amended petition has not been submitted at this time.

The Hearing Examiner continued this petition from the June 29, 2023 hearing, to the July 27, 2023 hearing, at the request of staff and the petitioner's representative to provide additional time for discussions with the Prosecutor's Office related to on-going violations.

The Hearing Examiner continued this petition from the June 15, 2023 hearing, to the June 29, 2023 hearing, at the request of the petitioner's representative.

(Continued)

**RECOMMENDATIONS**

Staff **recommends approval** of this request.

**SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

**LAND USE**

- ◇ This 0.82-acre site, zoned C-S, is developed with a fueling station and convenience store with additional tenant spaces. It is surrounded by industrial uses to the west, across Kentucky Avenue, zoned C-S; single-family dwellings to the north and east zoned D-A; and a hotel and commercial uses to the southwest, zoned C-S.
- ◇ Petitions 2019-ZON-053 / 2020-VAR-004 requested rezoning the site from the C-S District to the C-S classification to provide for a convenience store / gasoline station and C-3 uses; modification of commitments related to 2002-ZON-178; and variances to legally establish reduced setbacks. a zero-foot southwest side yard setback, an eleven-foot northeast transitional yard, a zero-foot southeast rear yard and a five-foot front yard.
- ◇ Petition 2002-ZON-178 rezoned the site to the C-S District to provide for a gas station, convenience store, hotel, and restaurant. Petition 2018-PLT-072 platted the site that separated the gasoline station / convenience store from the hotel and commercial uses. Petitions 2018-CZN-850 / 2018-CVR-850 provided for a hotel and other commercial uses adjacent to the south of this site.

**MODIFICATION**

- ◇ This request would modify commitments related to 2019-ZON-053 to extend the deadline for the completion of all commitments to September 30, 2023, when the previous commitments required completion by several dates in 2020.
- ◇ The Comprehensive Plan recommends office industrial mixed-use typology. "The Office/Industrial Mixed-Use (Business Park) typology is intended to provide for light industrial, distribution, and office uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. The typology is characterized by groups of buildings within office/warehouse parks. Examples of typical uses include warehousing, wholesaling, research and development facilities, testing and evaluation facilities, offices, education resource centers, assembly of high technology products, and conference centers. Industrial or truck traffic should be separated from local/ residential traffic in this typology."
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.

(Continued)

- ◇ The following elements of the Pattern Book apply to this site:

*Conditions for All Land Use Types*

- Master-planned developments in excess of 2 acres should include pedestrian amenities for passive and active recreation internal to the development.

*Small-Scale Retailing, and Personal or Professional Services*

- Should be subordinate to and serving the primary uses of production, warehousing, and offices.
- Should be adjacent to interstate interchanges if present. If no interchange is present, should be located along arterial streets at the edge of the business park.
- Should be located and served in such a way that the use will not interfere with industrial traffic or loading

## **Overlays**

- ◇ This site is located within an overlay, specifically the Residential Corridor Reserve (RR) overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”
- ◇ The Residential Corridor Reserve (RR) overlay is intended for areas where the residential nature of a corridor is at risk due to encroachment from other land uses. An example might be residential areas that are being overtaken by school, hospital, or corporate campuses.

## **Planning Analysis**

- ◇ As previously noted, this request amends the completion date of many of the commitments agreed upon during the 2019-ZON-053 / 2020-VAR-004 rezoning and variance process.
- ◇ An Agreed Judgement and Order (Cause Number 49D04-2206-OV-21933, file-dated November 16, 2022) enumerated those commitments that have not been satisfied and / or completed. The defendant (Five Start Oil Inc.) admitted to the allegations and agreed to comply with the commitments related to the 2019 rezoning.
- ◇ Staff would note that further extensions of the completion date will not be supported because final approval by the City-County Council was on November 16, 2020. Staff believes there has been adequate time within which to complete and comply with the required and agreed upon commitments associated with 2019-ZON-053 / 2020-VAR-004.

(Continued)

**GENERAL INFORMATION**

## EXISTING ZONING AND LAND USE

C-S	Fueling station / convenience store / commercial uses
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## SURROUNDING ZONING AND LAND USE

North -	D-A	Single-family dwelling
South -	C-S	Commercial use / hotel
East -	D-A	Single-family dwelling
West -	C-S	Industrial uses

COMPREHENSIVE PLAN      The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends office industrial mixed-use typology.

Marion County Land Use Pattern Book (2019).

THOROUGHFARE PLAN      This portion of Kentucky Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 162-foot right-of-way and a proposed 112-foot right-of-way.

CONTEXT AREA      This site is located within the metro context area.

OVERLAY      This site is located within the residential corridor reserve.

SITE PLAN      File-dated May 1, 2023

**ZONING HISTORY**

**2019-ZON-053 / 2020-VAR-004; 4375 Kentucky Avenue**, requested rezoning of 0.82 acre from the C-S district to the C-S district to provide for a convenience store and gasoline station and C-3 uses and to modify Commitments Three, Six and Seven of petition 2002-ZON-178; and a variance of development standards to legally establish reduced setbacks along the southwest side yard northeast transitional yard, southeast rear yard and a five-foot front yard, **approved and granted**.

**2013-ZON-080 / 2014-VAR-001; 4375 Kentucky Avenue**, requested rezoning of 4.79 acres from the C-S District to the C-S classification and a modification of Commitment #3 of 2002-ZON-178 to provide for a liquor store, in addition to the uses previously permitted; and a variance of development standards of the Commercial Zoning Ordinance to provide for a liquor store within 20 feet of a D-3 zoned protected district, **withdrawn**.

**2002-ZON-178; 4375 Kentucky Avenue**, requested rezone 4.79 acres from the D-A and D-3 Districts, to the C-S classification to provide for a gas station, convenience store, hotel and restaurant, **approved**.

**2000-ZON-180; 4375 Kentucky Avenue**, requested a rezoning of 4.92 acres from D-A and D-3 to C-6, to provide for commercial uses, **denied**.

(Continued)

**VICINITY**

**2018-CZN-850 /, 2019-CVR-850; 4545 Kentucky Avenue; 4251 Meadowlark Lane and 5500, 5560, 5570 and 5590 Varna Drive**, requested rezoning of 3.97 acres from C-S to C-S to provide for retail uses in addition to the uses approved by 2002-ZON-178, and to Modify Commitment Six to modify the site plan of May 2, 2003 and a variance of development standards to provide for a 46.5-foot tall hotel, with a 109-foot front setback and 20% transparency, **approved and granted**.

**2018-PLT-072; 4100 Kentucky Avenue (south of site)**, requested approval of a Subdivision Plat, to be known as Woodspring Suites, subdividing 5.376 acres into four lots, **approved**.

**2000-ZON-112; 4701 Kentucky Avenue**, requested a rezoning of 7.35 acres, being in the D-3 District, to the C-S classification, to provide for an integrated center with a hotel, restaurants, and C-1 uses, **approved**.

**97-UV2-101; 4245 Kentucky Avenue**, requested a variance of use of the Dwelling Districts Zoning Ordinance to legally establish an administrative office use within an existing single-family residence (not permitted) and the placement of a pylon sign being 4 by 7.66 feet and 5.08 feet in height (pylon sign not permitted), **denied**.

**87-UV1-73; 4209 Kentucky Avenue**, requested a variance of use of the Dwelling Districts Zoning Ordinance and a variance of development standards of the Sign Regulations for commercial archery, with a ground sign and wall sign, **denied**.

**81-Z-21; 4353 Kentucky Avenue**, requested a rezoning of 3.8 acres from A-2 to C-3 to provide for a florist shop, **withdrawn**.

kb

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**MEMORANDUM OF EXAMINER'S DECISION****2023-MOD-009 (Amended)****4375 Kentucky Avenue**

The petition requests a modification of commitments related to 2019-ZON-053 to extend the time for completion of all commitments to March 31, 2024 (previous commitments required completion by several dates in 2020).

Your Hearing Examiner visited the site in 2019 when the rezoning petition was pending, and again prior to this hearing. At both site visits, it was noted that residences remain north and east of the site.

The petitioner's representative explained that the extension of time to comply with commitments was needed primarily due to delays in extending the water line to the property to the north. The representative was recently hired to handle this petition, and did not handle the rezoning petition in 2019.

Two remonstrators attended the hearing, and there was a letter of opposition from the City-County Councillor. The Decatur Township Civic League expressed frustration with zoning commitments being ignored for about 10 years, and explained a timeline of all of the delays. Although the 2019 rezoning petition extended deadlines into 2020, none of the deadlines were met, including deadlines to submit revised site, landscape, and lighting plans, and legal action is pending by the City of Indianapolis. The property owner adjacent to the north expressed similar frustration.

Staff described its recommendation of approval as reluctant. Although extension of the water line may take time, other commitments have been ignored.

In your Hearing Examiner's opinion, the petitioner has demonstrated a complete lack of respect for the neighbor, the neighborhood association, and the recorded commitments, and has made no substantial effort to comply with any of the commitments. The deadline to comply with the commitments was about 3 years ago, yet, when this petition was originally filed, the requested completion date was September 30, 2023. Due to repeated delays by the petitioner, that date had to be delayed to March 31, 2024. Denial of this petition was recommended.

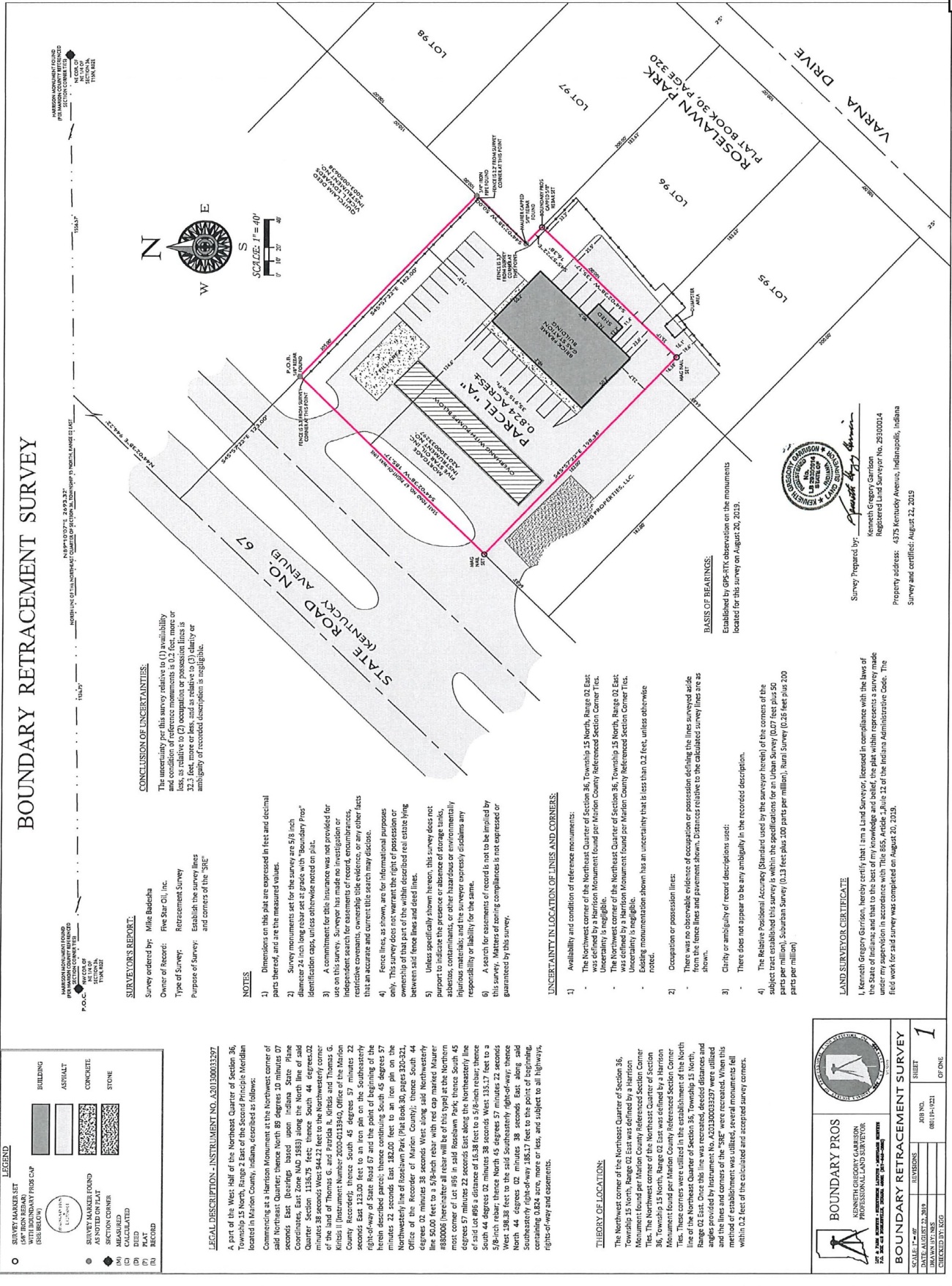
For Metropolitan Development Commission Hearing on October 18, 2023







# BOUNDARY RETRACEMENT SURVEY





**A202000138937**

**11/24/2020 03:10 PM**

**KATHERINE SWEENEY BELL**  
**MARION COUNTY IN RECORDER**

**FEE: \$ 35.00**

**PAGES: 8**

**By: GW**

## STATEMENT OF COMMITMENTS

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE  
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

**Legal Description:** Attached

**Statement of COMMITMENTS:**

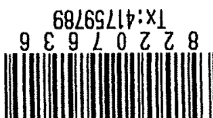
1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. All commitments related to petition 2002-ZON-178 (Instrument Number 2003-0175791) are hereby terminated and replaced by the following commitments in Exhibit A.
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A" which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

**COMMITMENTS** contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition # 2019-ZON-053 by the City-County Council changing the zoning classification of the real estate from a C-S zoning classification to a C-S zoning classification; or
- (b) the adoption of approval petition # \_\_\_\_\_ by the Metropolitan Development Commission;

MDC's Exhibit B - - page 1 of 8



and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the C-S zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);
3. Any person who is aggrieved by a violation of either of the Commitments contained in Commitment #1 (Open Occupancy and Equal Employment Opportunity Commitments); and
4. \_\_\_\_\_
5. \_\_\_\_\_

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition # 2019-ZON-053.

IN WITNESS WHEREOF, owner has executed this instrument this 5<sup>th</sup> day of October, 2020.

Signature: _____	Signature: _____
Printed: <u>MAKHAM BADESHA</u>	Printed: _____
Title / <u>MANAGER</u>	Title / _____
Organization	Organization
Name: <u>FIVE STAR OIL INC</u>	Name: _____

STATE OF INDIANA)

) SS:

COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared MAKHAM BADESHA owner(s) (title / organization name) of the real estate who acknowledged the execution of the foregoing

instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this

5<sup>th</sup> day of October, 2020

*Douglas W. Shoemaker*

Notary Public

*Douglas W. Shoemaker*

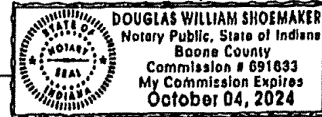
Printed Name of Notary Public

My Commission expires:

10/4/24

My County of residence:

Boone



I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law DAVID KINGEN.

This instrument was prepared by DAVID KINGEN

#### ATTACHMENT "A"

#### OPEN OCCUPANCY AND EQUAL EMPLOYMENT OPPORTUNITY COMMITMENT

- (a.) The owner commits that he shall not discriminate against any person on the basis of race, religion, color, disability, sex, sexual orientation, gender identity, familial status, national origin, ancestry, age United States military service veteran status in the sale, rental, lease or sublease, including negotiations for the sale, rental, lease or sublease, of the real estate or any portion thereof, including, but not limited to:
- (1) any building, structure, apartment, single room or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters by one or more families or a single individual;
  - (2) any building, structure or portion thereof, or any improved or unimproved land utilized or designed or intended for utilization, for business, commercial, industrial or agricultural purposes;
  - (3) any vacant or unimproved land offered for sale or lease for any purpose whatsoever.
- (b.) The owner commits that in the development, sale, rental or other disposition of the real estate or any portion thereof, neither he nor any person engaged by him to develop, sell, rent or otherwise dispose of the real estate, or portion thereof shall discriminate against any employee or applicant for employment, employed or to be employed in the development, sale, rental or other disposition of the

real estate, or portion thereof with respect to hire, tenure, conditions or privileges of employment because of race, religion, color, disability, sex, sexual orientation, gender identity, familial status, national origin, ancestry, age United States military service veteran status.

#### **EXEMPT PERSONS AND EXEMPT ACTIVITIES**

An exempt person shall mean the following:

1. With respect to commitments (a) and (b) above:
  - (a) any not-for-profit corporation or association organized exclusively for fraternal or religious purposes;
  - (b) any school, educational, charitable or religious institution owned or conducted by, or affiliated with, a church or religious institution;
  - (c) any exclusively social club, corporation or association that is not organized for profit and is not in fact open to the general public;provided that no such entity shall be exempt with respect to a housing facility owned and operated by it if such a housing facility is open to the general public;
2. With respect to commitment b, a person who employs fewer than six (6) employees within Marion County.

An exempt activity with respect only to commitment (a) shall mean the renting of rooms in a boarding house or rooming house or single-family residential unit; provided, however, the owner of the building unit actually maintains and occupies a unit or room in the building as his residence, and, at the time of the rental the owner intends to continue to so occupy the unit or room therein for an indefinite period subsequent to the rental.

## EXHIBIT A

## THE PETITIONER COMMITS TO THE FOLLOWING:

1. With the exception of the location of vent equipment/tubes, air pump equipment, and landscaping within the transitional yards, development of the site otherwise shall be subject to the site plan on file-dated February 19, 2020.
2. An amended site plan shall be simultaneously submitted for Administrator Approval and review by the Decatur Township Civic Council, showing the relocation of the venting equipment/ tubes for the underground gasoline storage tanks from the northeast transitional yard that extends from Kentucky Avenue, to the north corner of the convenience store. Relocation of this equipment shall be completed by November 1, 2020.
3. An amended site plan, which may be the same document as just mentioned, shall be simultaneously submitted for Administrator Approval and review by the Decatur Township Civic Council, that shows the removal of the air pump equipment out of the northeast transitional yard within 30 days of final approval of the rezoning request. Relocation of this equipment shall not be to any other transitional yard and shall be completed by November 1, 2020.
4. An amended site plan, which may be the same document as just mentioned, shall be simultaneously submitted for Administrator Approval and review by the Decatur Township Civic Council, that shows the landscaping along the two transitional yards that abut 4365 Kentucky Avenue and 5540 Varna Drive, respectively. This plan shall be submitted within 30 days of final approval of this zoning. The depth of the transitional yard abutting 4365 Kentucky Avenue shall be 16 feet 5 7/8 Inch, while the depth of the transitional yard abutting 5540 Varna Drive shall be 20 feet. Both landscaping plans shall include a continuous 3 feet tall mound topped with a 6 foot tall privacy fence and a double row of evergreen trees along the residents' side of the mounding. The evergreens shall be spaced far enough apart for healthy growth and close enough on center so that at maturity they will form a visual screen of the subject parcel. The fence shall have a 24 inch screen affixed along the bottom (on the side facing the subject parcel) designed to keep trash and debris from the neighbors' yards. The landscaping shall be fully installed by November 1, 2020. The landscaping shall be maintained with healthy plants at all times. Diseased and dead plants shall be removed and replaced with live plants of the same species.
5. The petitioner shall obtain an Improvement Location Permit for the rear building addition within 60 days of final approval of the rezoning.
6. The water main shall be extended to the property line shared with 4365 Kentucky Avenue and sized to eventually provide water to unserved residences along Kentucky Avenue from this site to Hanna Avenue. This extension shall be completed by November 30, 2020.
7. The petitioner shall relocate the light pole or reconfigure the access drive to eliminate the existing traffic hazard by December 31, 2020.
8. There shall be no more than three (3) tenant bays in the small retailcenter.
9. Except for the gas station, only C-3 uses will be allowed on the site with the following uses excluded:

MDC's Exhibit B -- page 5 of 8

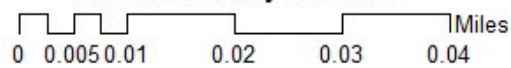
- A. Emergency Shelter, daily
  - B. Check cashing or validation service
  - C. Outdoor advertising off premise sign
  - D. Tattoo Parlor
  - E. Bar or tavern
  - F. Pawnshop
  - G. Wireless communication facility
  - H. Plasma (Blood) center
  - I. Vape shops
  - J. Bed and Breakfast facility
  - K. Laundry (coin)
  - L. Liquor sales
  - M. Garden as a primary use
  - N. Mortuary, Funeral home
10. The two additional proposed tenants shall have rights to place smaller signs under the pricing signs, on the free-standing pole sign that is off site; but is the subject of an easement granting sign rights to the petitioner.
  11. Any modifications to the exterior of the building on this site shall be designed with materials to be compatible with the hotel exterior.
  12. There shall be no outdoor storage on the subject site.
  13. No automobile repair shall occur on the premises.
  14. No trailer or tent shall be located on the property.
  15. No noxious or offensive trade, odor or activity shall occur on the subject property.
  16. No bio-hazardous materials shall be located on the site.
  17. No parking of house trailer, RV, trailer, or semi-truck or trailer shall be located on the premises; except for delivery or pick up purposes and shall not be parked on the site overnight.
  18. No vehicles shall be stored or parked on the site overnight.
  19. The hours of operation shall not exceed 7 am to 9 pm daily; except the 24-hour operation of the convenience store & gas station.
  20. All free-standing lights shall be of "shoebox" design and shall be shielded so as to prohibit any light from being projected into any protected district. The lighting Intensity shall be subject to IMPD's recommended brightness for the site.
  21. All lights mounted on the building and within the canopy, shall be shielded so as to prohibit any light from being projected onto any protected district. The lighting Intensity shall be subject to IMPD's recommended brightness for the site.
  22. No accessory uses shall be permitted on the property.
  23. At least two perimeter surveillance cameras with at least ten (10) mB upload speeds connected to IMPD's B-link system shall be installed on the subject property,
  24. At least once each season (spring, summer and fall) of each year, all walkways and driveways shall be cleaned by power washing those surfaces.

25. The development shall gain all vehicular access from only Kentucky Avenue. There shall be no vehicular access to Varna Drive.
26. Tower mounted wireless communication facilities shall be prohibited.
27. Off-site advertising sign (billboards) shall be prohibited.
28. All construction traffic shall utilize only Kentucky Avenue to access the site and have no construction traffic on Varna Drive.





4375 Kentucky Avenue







View looking north along Kentucky Avenue



View looking south along Kentucky Avenue





View of site looking southeast



View from site looking northwest at adjacent dwelling





View of site south along eastern boundary



View of site looking southwest





View of site looking south at adjacent land uses



View of site looking north along eastern boundary





View from rear of site looking northwest



View from site looking north along southern boundary





View from site looking south



View of shoebox lighting fixture



View looking north along northern boundary

## STAFF REPORT

Item 10.

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-ZON-073  
**Address:** 8300 Camby Road (*Approximate Addresses*)  
**Location:** Decatur Township, Council District #20  
**Petitioner:** Second Circle Investments, LLC, by Michael Rabinowitch  
**Request:** Rezoning of 2.67 acres from the C-1 district to the C-3 district to provide for neighborhood commercial uses.

### **ADDENDUM FOR OCTOBER 18, 2023, METROPOLITAN DEVELOPMENT COMMISSION**

This petition was heard by the Hearing Examiner on September 28, 2023. After a full hearing, the Hearing Examiner recommended denial of the rezoning. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

### **September 28, 2023**

The Hearing Examiner acknowledged a timely automatic continuance from a neighborhood organization that continued this petition from the August 24, 2023 hearing, to the September 28, 2023 hearing.

### **RECOMMENDATIONS**

Staff **recommends approval** of this request, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.
2. A 40-foot half right-of-way shall be dedicated along the frontage of Camby Road, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

(Continued)



**LAND USE**

- ◇ This 2.67-acre site, zoned C-1, is undeveloped and surrounded by commercial uses to the north, across Camby Road, zoned C-5; single-family dwellings to the south and east, zoned D-A; and commercial uses to the west, across Camby Crossing Drive (private drive) zoned C-5.
- ◇ Petition 2021-ZON-139 requested rezoning from the C-1 District to the C-7 classification to provide for a self-storage facility, which was withdrawn by the petitioner. Petition 2006-ZON-059 rezoned this site from the D-A District to the C-1 classification to provide for office buffer commercial uses.

**REZONING**

- ◇ This request would rezone the site from the C-1 District to the C-3 classification. “The C-3 District is for the development of an extensive range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail, and personal and professional service establishments. At this neighborhood scale of retail, a fine-grain of accessibility requisite for all modes of travel must be provided and maintained. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters.

It does not allow those businesses that require the outdoor display, sale or storage of merchandise; or require outdoor operations. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.”

- ◇ The Comprehensive Plan recommends suburban neighborhood typology. “The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.”
- ◇ The Comprehensive Plan consists of two components that include the Pattern Book and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

(Continued)

- ◇ The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

*Conditions for All Land Use Types*

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- Hydrological patterns should be preserved wherever possible.
- Curvilinear streets should be used with discretion and should maintain the same general direction.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.

- ◇ The following elements of the Pattern Book apply to this site:

*Conditions for All Land Use Types*

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.

*Large-Scale Offices, Retailing, and Personal or Professional Services (defined as commercial uses with minimal outdoor operations, storage, or display on lots of more than 1.5 acres and a height of more than 35 feet).*

- If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
- Should be located at the intersections of arterial streets and should be no closer than one mile to another commercial node with one acre or more of commercial uses except as reuse of a historic building.
- Should be limited to an aggregate of 3.5 acres per intersection, with no one corner having more than 1.5 acres.
- Should be limited to areas and parcels with adequate space for required screening and buffering.
- Automotive uses (such as gas stations and auto repair) and uses requiring a distance of separation of greater than 20 feet under the zoning ordinance (such as liquor stores, adult uses, and drive-through lanes) are excluded.
- Should not include outdoor display of merchandise.

(Continued)

◇ Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

- ◇ Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

### **Department of Public Works**

- ◇ The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 40-foot half right-of-way along Camby Road. This dedication would also be consistent with the Marion County Thoroughfare Plan.

### **Planning Analysis**

- ◇ The request would be generally consistent with the Comprehensive Plan recommendation of suburban neighborhood typology and The Pattern Book guidelines identified for large-scale retailing.
- ◇ Pursuant to the Ordinance, a sidewalk shall be installed along Camby Road with sidewalk connections to the site. Connections to the sidewalk along Camby Crossing Drive should also be installed as this site is developed.

(Continued)



**MEMORANDUM OF EXAMINER'S DECISION****2023-ZON-073****8300 Camby Road**

The petition requests a rezoning of 2.67 acres from the C-1 district to the C-3 district to provide for neighborhood commercial uses.

Your Hearing Examiner visited the undeveloped site prior to the hearing and noted the commercial development along Kentucky Avenue, west and north of the site. Single family residences were noted east and southeast of the site.

The petitioner's representative described the intent to construct a Dollar General on the west half of the site, with future development on the east half of the site. The representative presented an extensive list of commitments agreed to as part of meetings with the Decatur Township Civic Council, including a plethora of excluded uses, building height limit, and details about fencing, lighting, security, and access.

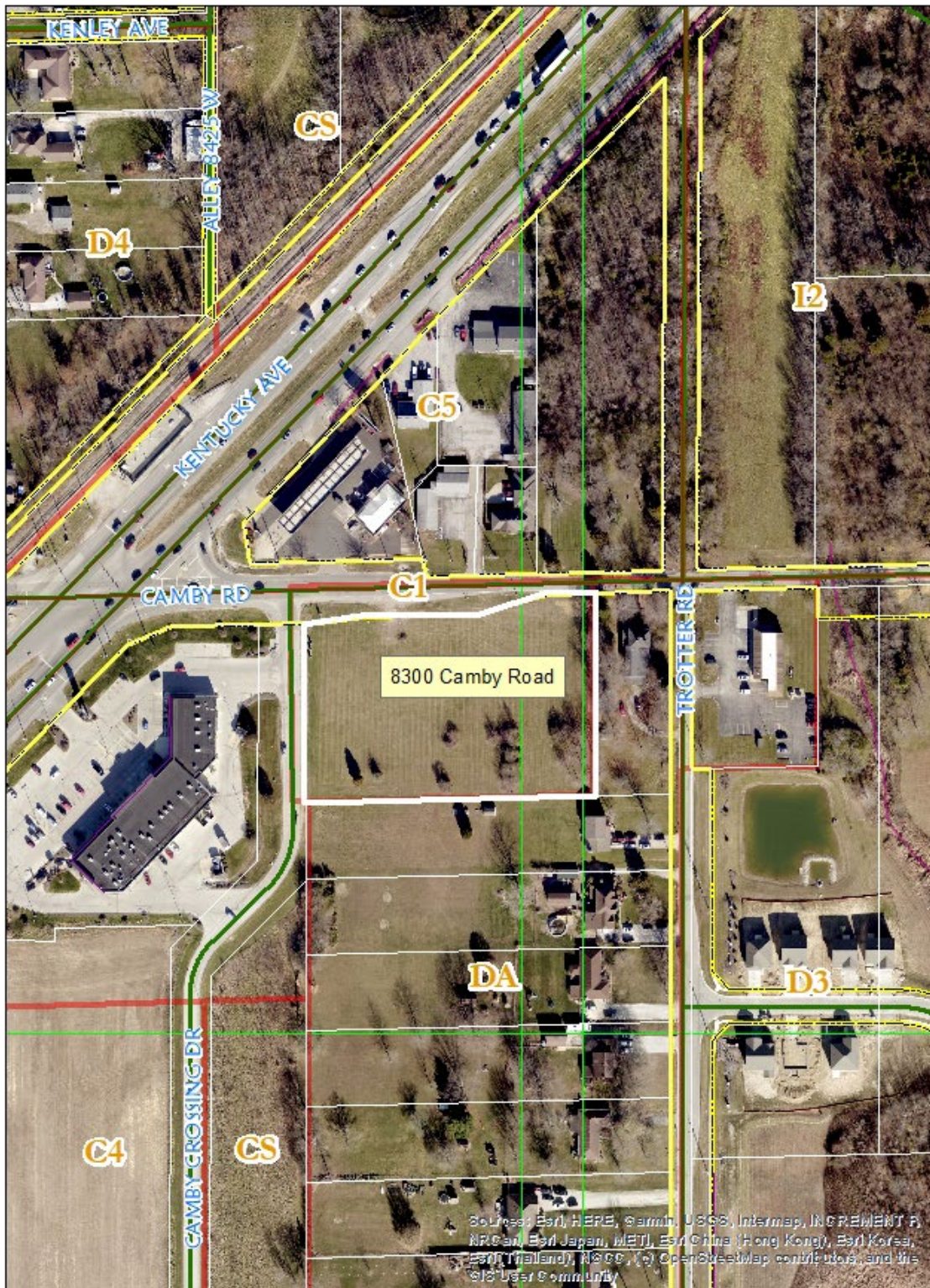
Decatur Township Civic Council remonstrated. It reiterated its requirement that the petitioner commit to be part of the IMPD B-Link and to provide a second access to the site. The Decatur Township Trustee submitted a letter stating that the Decatur Township Fire Department preferred the second access point be on Camby Crossing Drive.

Staff opined that neighborhood commercial uses permitted in C-3 conform with the Comp Plan recommendation of suburban neighborhood typology, and it emphasized the importance of pedestrian connectivity provided by sidewalks. Staff had not received a request from DPW for a second access to this site.

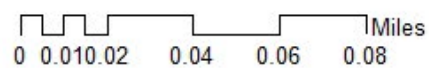
In your Hearing Examiner's opinion, the requested C-3 district is consistent with the area and conforms with the Comp Plan, and the extensive list of commitments adequately addresses concerns of the neighborhood group. Approval of this petition was recommended.

For Metropolitan Development Commission Hearing on October 18, 2023

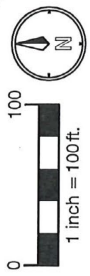




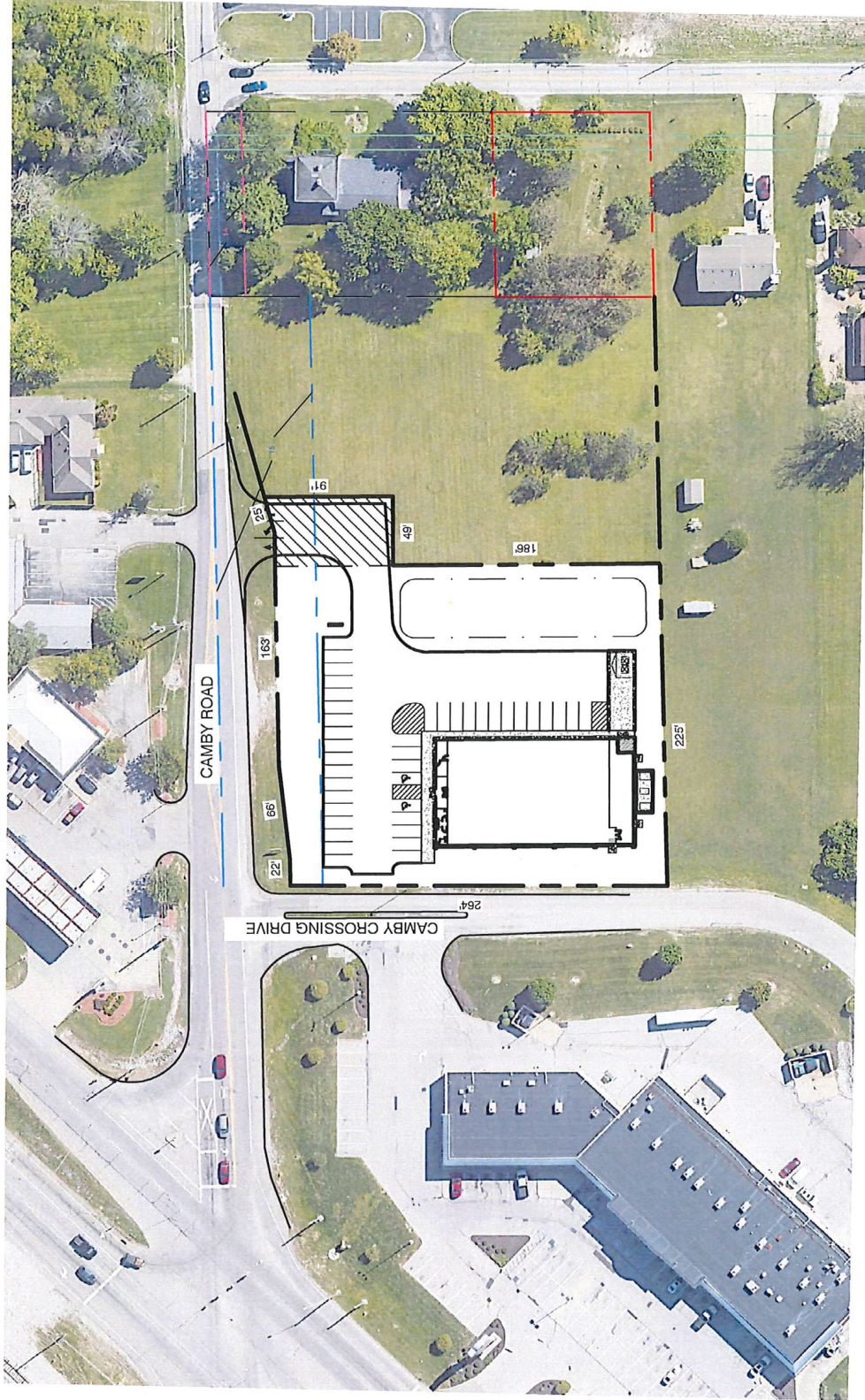
8300 Camby Road







CAMBY, IN  
06/26/2023







View looking southeast along Camby Road



View from site looking northwest at intersection of Camby Road and Kentucky Avenue





View looking north along Camby Crossing Drive



View of site looking east across Camby Crossing Drive





View of site looking east across Camby Crossing Drive



View of site looking northeast across Camby Crossing Drive





View of site looking south across Camby Road



View of site looking southeast across Camby Road





View from site looking northeast along Camby Road



View from site looking west across Camby Crossing Drive

## STAFF REPORT

Item 11.

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-ZON-083  
**Address:** 2991 East Troy Avenue (*Approximate Address*)  
**Location:** Perry Township, Council District #21  
**Petitioner:** Timothy Agee d/b/a The Sanctuary, Inc., by Greg Ilko  
**Request:** Rezoning of 2.3 acres from the D-5 district to the SU-7 district to provide for a food pantry ministry.

#### **ADDENDUM FOR OCTOBER 18, 2023, METROPOLITAN DEVELOPMENT COMMISSION**

This petition was heard by the Hearing Examiner on September 28, 2023. After a full hearing, the Hearing Examiner recommended approval of the rezoning request. Subsequently, a remonstrator filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

A plan of operation and amended commitments were submitted to the case file on October 6, 2023 at the request of the Hearing Examiner.

#### **ADDENDUM FOR THE SEPTEMBER 28, 2023, HEARING EXAMINER**

This petition was continued from the September 14, 2023 hearing, to the September 28, 2023 hearing at the request of a remonstrator to allow additional time for discussions and review the request. No additional information has been provided to the case file.

Staff continues to recommend approval subject to the commitment in the staff report.

#### **September 14, 2023**

#### **RECOMMENDATIONS**

Staff **recommends approval** of the request subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees that are 8-inch in caliper (measured 4.5 feet above ground level) or larger, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

(Continued)

**SUMMARY OF ISSUES****LAND USE**

- ◇ The 2.3-acre subject site is part of a larger 5.3-acre parcel that is currently developed with a church, associated parking lot, and accessory structures with the remainder of the site being undeveloped. The survey notes that the undeveloped portion of the site to be rezoned is located at the southwest corner of the property that fronts along Merts Drive.
- ◇ The 5.3-acre parcel is currently split zoned with the north portion being in the C-3 district and the southern portion including the 2.3-acre area in question being in the D-5 district. It is bordered by single-family dwellings to the west and south, zoned D-5 and a single-family dwelling to the north zoned C-3. The remaining southeastern portion of the 5.3-acre parcel will be undeveloped.

**REZONING**

- ◇ The request would rezone the subject site to the SU-7 district to provide for a food pantry ministry.
- ◇ The site is zoned D-5, which is intended for medium and large-lot housing formats, primarily for detached houses, but may incorporate small-scale multi-unit building types in strategic locations. This district can be used for new, walkable suburban neighborhoods or for infill situation in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood and Traditional Neighborhood Typologies of the Land Use Pattern Book.
- ◇ The SU-7 district is intended to be used for charitable institutions that would also include philanthropic and not-for-profit institutions.
- ◇ Lastly, the Comprehensive Plan recommends suburban neighborhood development for the site. The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

**Tree Preservation / Heritage Tree Conservation**

- ◇ There are significant amounts of natural vegetation and trees located on the eastern portion of the site. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.
- ◇ All development shall be in a manner that causes the least amount of disruption to the trees.

Continued)



- ◇ A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.
- ◇ If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.
- ◇ The Ordinance defines "heritage tree" as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentukea*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)
- ◇ The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location issuance date. See Staff Exhibit 1 for Table 744-503-3: Replacement Trees.

### **Staff Analysis**

- ◇ In staff's opinion, the proposed rezoning would align with the suburban neighborhood recommendation of the Comprehensive Plan because it allows for neighborhood serving institutions, which would be the case with the proposed food pantry ministry.
- ◇ The petitioner confirmed that this business would not be operated by the church on site, but if it had been operated by the church the request would have been a permitted accessory use for the church and could have rezoned the entire site to SU-1. Therefore, a separately operated charitable institution would not be seen differently by staff and is supportable.
- ◇ The final development of the site would require Administrator's Approval for being in a special use district and approval of the rezoning should be subject to a commitment for a tree preservation plan to be submitted for Administrator's Approval to ensure a significant portion of the dense wooded area remains so the existing ecosystem can continue to thrive.
- ◇ The petitioner has agreed to this commitment as noted in the submitted commitment form.

Continued)

**GENERAL INFORMATION****EXISTING ZONING AND LAND USE**

D-5	Metro	Undeveloped (Portion to be rezoned)
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**SURROUNDING ZONING AND LAND USE**

North	C-3	Residential (Single-family dwellings)/
South	D-5	Residential (Single-family dwellings)
East	D-5	Residential (Single-family dwellings)
West	D-5	Residential (Single-family dwellings)

**COMPREHENSIVE PLAN**

The Comprehensive Plan recommends suburban neighborhood development.

**THOROUGHFARE PLAN**

Troy Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 70-foot existing right-of-way and a 90-foot proposed right-of-way.

**THOROUGHFARE PLAN**

Merts Drive is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

**TRANSIT-ORIENTED DEVELOPMENT**

This site is not located within the Transit-Oriented Development Overlay.

**FLOODWAY / FLOODWAY FRINGE**

This site is not located within a floodway or floodway fringe.

**WELLFIELD PROTECTION DISTRICT**

This site is not located within a wellfield protection district.

**SURVEY**

File-dated August 10, 2023.

**PROPOSED COMMITMENT**

File-dated August 31, 2023.

**AMENDED COMMITMENTS**

File-dated October 6, 2023.

**PLAN OF OPERATION**

File-dated October 6, 2023.

**ZONING HISTORY – SITE****EXISTING VIOLATIONS**

None.

**PREVIOUS CASES**

**62-Z-35; 356 East Troy Avenue** (north portion of site), Rezoning of 7 acres being in the R-4 district, to U3-H1-A2 classifications to permit the construction of a shopping center and service shops, **approved.**

Continued)

**ZONING HISTORY – VICINITY**

**87-Z-254; 2802 East Troy Avenue** (north of site), Rezoning of 9.74 acres, being in the C-3 district, to the C-1 classification, to provide for the construction of a nursing home, **withdrawn**.

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**MEMORANDUM OF EXAMINER'S DECISION**

**2023-ZON-083**

**2991 East Troy Avenue**

The petition requests a rezoning of 2.3 acres from the D-5 district to the SU-7 district to provide for a food pantry ministry.

Your Hearing Examiner visited the undeveloped wooded site prior to the hearing and noted the church north and northeast of it, as well as residences in the area.

The petitioner's representative described the charitable institution established about 20 years ago to provide food, clothing, and other basic needs for vetted clients. The petitioner seeks to relocate from a nearby location and develop this site to better serve its clients. The petitioner's representative shared the limited hours of operation for the pantry, as well as typical hours for volunteers to be on the site and typical deliveries, and gave details about the size of the building, parking, and buffering.

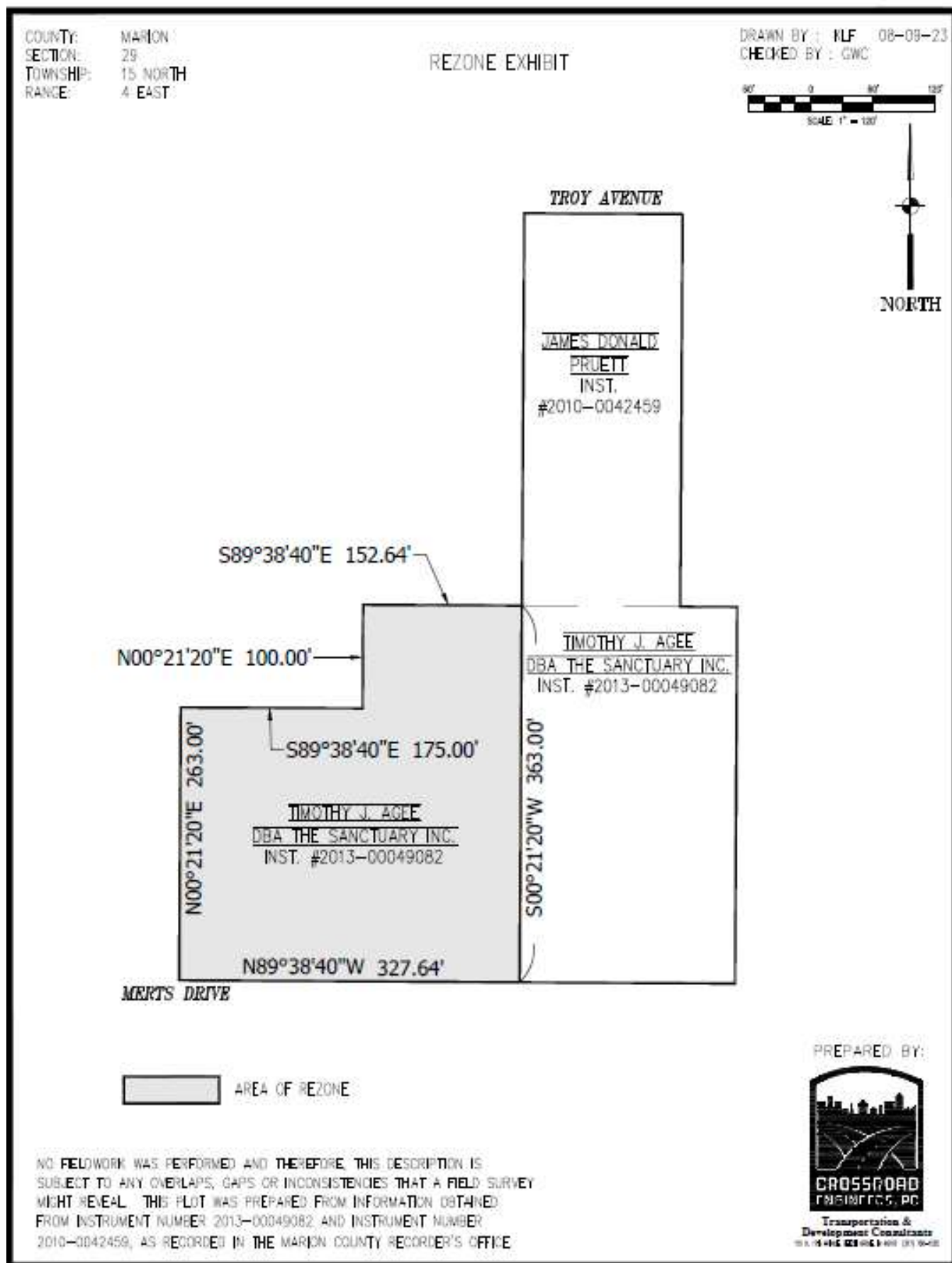
Several neighbors remonstrated and presented a petition of opposition reportedly signed by 100 people. Reasons for opposition included too much vehicular and foot traffic, too much noise, the attraction of drug users and squatters, impact on property values, and the lost use of this undeveloped site by neighbors. Remonstrators characterized this proposed use as a business.

Staff reiterated the importance of a tree inventory, assessment, and preservation plan for this site, to which the petitioner has committed. The proposed use aligns with the Comp Plan recommendation, and Administrator's Approval is required for the site because of the requested special use zoning district.

In your Hearing Examiner's opinion, the requested SU-7 district is appropriate for the area and will allow a ministry, not a business. It is also your Hearing Examiner's opinion that a plan of operation should be incorporated into the commitments, and it should include hours of operation, hours of volunteers on site, and delivery details. Approval of this petition was recommended.

For Metropolitan Development Commission Hearing on October 18, 2023





**STATEMENT OF COMMITMENTS**

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE  
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

**Legal Description:**

*A PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 15 NORTH, RANGE 4 EAST IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE WEST ALONG THE NORTH LINE OF SAID QUARTER SECTION 885.84 FEET; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID QUARTER SECTION 378.18 FEET TO THE NORTH LINE OF LOT 2 IN THAT PARTITION OF HANSING ESTATES SUBDIVISION RECORDED AS DEED RECORD 9, PAGE 562, IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA BEING THE POINT OF BEGINNING; THENCE CONTINUING SOUTH PARALLEL TO SAID EAST LINE 363 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE WEST ALONG SAID SOUTH LINE 327.64 FEET TO THE SOUTHEAST CORNER OF BARTLETT'S ADDITION, AN ADDITION IN MARION COUNTY, INDIANA, AS PER PLAT THEREOF RECORDED AS INSTRUMENT NUMBER 90-105643 IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA; THENCE NORTH ALONG THE EAST LINE OF SAID BARTLETT'S ADDITION 263 FEET; THENCE EAST 175 FEET; THENCE NORTH 100 FEET TO THE NORTH LINE OF SAID LOT 2; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 2 A DISTANCE OF 152.64 FEET TO THE POINT OF BEGINNING.*

**Statement of COMMITMENTS:**

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".

*MDC's Exhibit B - - page 1 of 5*

2. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees that are 8" in caliper (measured 4.5 feet above ground level) or larger, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

3.

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5.

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A" which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition #2023-ZON-083 by the City-County Council changing the zoning classification of the real estate from a D-5 zoning classification to a SU-7 zoning classification; or
- (b) the adoption of approval petition # \_\_\_\_\_ by the Metropolitan Development Commission;

and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the SU-7 zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

MDC's Exhibit B - - page 2 of 5



**STATEMENT OF COMMITMENTS****COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE  
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

**Legal Description:**

A Part of the East Half of the Northwest Quarter of Section 29, Township 15 North, Range 4 East in Marion County, Indiana, more particularly described as follows:

Commencing at the Northeast Corner of said Quarter Section; thence west along the North Line of said Quarter Section 885.84 feet; thence south parallel to the East Line of said Quarter Section 378.18 feet to the North Line of Lot 2 in that Partition of Hansing Estates Subdivision recorded as Deed Record 9, Page 562, in the Office of the Recorder of Marion County, Indiana being the Point of Beginning; thence continuing south parallel to said East Line 363 feet to the South Line of said Lot 2; thence west along said South Line 327.64 feet to the Southeast Corner of Bartlett's Addition, an Addition in Marion County, Indiana, as per Plat thereof recorded as Instrument Number 90-105643 in the Office of the Recorder of Marion County, Indiana; thence north along the East Line of said Bartlett's Addition 263 feet; thence east 175 feet; thence north 100 feet to the North Line of said Lot 2; thence east along the North Line of said Lot 2 a distance of 152.64 feet to the Point of Beginning.

**Statement of COMMITMENTS:**

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the

*MDC's Exhibit B - - page 1 of 9*

existing trees, c) characterize the size and species of such trees that are 8" in caliper (measured 4.5 feet above ground level) or larger, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

3. The Plan of Operation attached hereto and incorporated herein by reference as Attachment "B" shall be followed for all normal and regular business functions conducted on the property.

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A" which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition #2023-ZON-083 by the City-County Council changing the zoning classification of the real estate from a D-5 zoning classification to a SU-7 zoning classification; or
- (b) the adoption of approval petition # \_\_\_\_\_ by the Metropolitan Development Commission;

and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the SU-7 zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

- 1. The Metropolitan Development Commission;
- 2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity

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## **SERVANT'S HEART OF INDY, INC.**

### **PLAN OF OPERATION**



#### **PURPOSE**

- Servant's Heart is a local nonprofit pantry outreach focused on serving the needs of local families. Support for this outreach is comprised of civic groups, churches, corporations, and individual volunteers - all working together to lend a helping hand in our community.

#### **MISSION STATEMENT**

- To share God's abundance and demonstrate Christ's love by serving the needs of families.

#### **WORKFORCE**

- Servant's Heart of Indy, Inc. has oversight by a Board of Directors
- Local volunteers coordinate day-to-day operations
- Volunteers arrive by private modes of transportation (many are dropped-off by parent/guardian)
- On-site parking available
- 10-15 volunteers on-site during regular volunteer hours of operation:
  - Monday – Saturday: 7:00 am – 4:00 pm
- 15- 20 volunteers on-site during regular public hours of operations:
  - Thursdays: 6:30 pm – 9:00 pm
  - Saturdays: 9:00 am – 2:00 pm

#### **CLIENTS & CUSTOMERS**

- Individuals and families who, on a daily basis, cannot afford the essentials for life.
- Those families are exclusive to the areas within Marion County having the following zip codes: 46107; 46203; 46217; 46225; 46227; 46237; 46239; & 46259
- Visitors from outside the service area are allowed to shop one time

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- Specific information from 211 will be given for pantries that service the respective zip code area for that visitor
- Clients visit site directly and arrive by private modes of transportation (typically multiple families per vehicle) and occasionally by public transportation (pedestrian traffic from stops to site)
- On-site parking available
- 60-70 families anticipated on Thursdays between 6:30 pm – 9:00 pm (food distribution only)
- 100-150 families anticipated on Saturdays between 9:00 am and 2:00pm (food and warehouse items distribution)
- Clients must be checked in ½ hour prior to closing time in order to receive donations for that day

**PROCESSES CONDUCTED ON SITE**

- Facility serves as general warehousing of donated goods
- Day-to-day office/administrative tasks including, but not limited to:
  - Inventory and stocking of donations
  - Preparation of donations for distribution to Clients
  - Greeting and registering Clients
  - Ministering to specific needs of Clients (i.e., prayer, counseling, etc.)
  - Volunteer training
- Safety and Security of site maintained by:
  - Perimeter fencing and gated entrance
  - Interior and exterior camera system
  - Vetting of clients with proof of identification requested
  - Vetting of clients with proof of address within last 30 days required
    - Utility bills or first-class mail
  - Pantry card required
  - Distributions to Clients limited to twice a month per address
  - All personal information received is maintained in the strictest of confidence
- Major events (i.e., Thanksgiving Turkey Drive Thru, Christmas Thank You, Capital Campaign Dinner, misc. fundraising events) conducted off-site at Hornet Park Community Center
- No outside storage on-site

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- No meal preparations or meal distributions conducted on-site
- No production or manufacturing operations conducted on-site

#### **MATERIALS USED**

- Donated food, clothing and household items
- No hazardous materials utilized or stored on-site

#### **SHIPPING AND RECEIVING**

- Fleet vehicles including, but not limited to:
  - 14-ft box truck
  - 16-ft box truck
  - 1-ton panel van
- Monthly Donations coordinated with box trucks: 3 trips per month
- Weekly Donations coordinate with van: 2-3 trips per week
- Daily Donations coordinate with van: 1-4 trips per day
- Times of trip vary within the regular volunteer hours of operation
- No deliveries are made to off-site locations

#### **WASTE**

- Generated waste includes perishable food items, unwanted clothing, and general office waste
- On-site exterior dumpster (enclosed per zoning regulations)
  - Local waste management company contracted for pick-up
- Internal recycling storage
  - Cardboard, paper, etc. taken directly to local recycling facility

## M. Replacement Trees

In the event an Existing Tree that was given credit or a Heritage Tree is removed or dies within 3 years of the ILP issuance date, replacement trees shall be planted. The number of replacement trees that must be planted for each tree lost shall be in accordance with Table 744-503-3: Replacement Trees.

Table 744-503-3: Replacement Trees		
Size of tree removed or dead (inches)	Number of Trees to be planted to replace a Heritage Tree	Number of Trees to be planted to replace an existing tree
Over 36 DBH	15	10
25.5 to 36 DBH	11	8
13 to 25 DBH	8	6
10.5 to 12.5 DBH	6	4
8.5 to 10 DBH	5	4
6.5 to 8	3	2
4 to 6	2	2
2.5 to 3.5	1	1

In the event that the site cannot accommodate the number of replacement trees required, the Administrator may authorize an alternate location for the planting of the replacement trees within the County as close to the site as feasible.





Photo of the Subject Property: 2991 East Troy Avenue



View of the church parking lot looking south at the portion of the site not included in the request.





Photo of the undeveloped southwest portion of the subject site included in the rezone request.



View of the entire street frontage along Merts Drive in the rezone request.





Photo of the abutting single-family dwelling west of the site.



Photo of the abutting single-family dwelling east of the site.



Photo of the single-family dwelling south of the site across Merts Drive.