

## **STAFF REPORT**

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

**Case Number:** 2023-MOD-012  
**Address:** 6107 Timberland Way (*Approximate Address*)  
**Location:** Decatur Township, Council District #20  
**Zoning:** D-3  
**Petitioner:** Simone D. Ridgeway  
**Request:** Modification of the Commitments related to petition 97-Z-30 to modify Commitment #20 to allow for a privacy fence along the property boundary (current commitment limits privacy fencing to being used in conjunction with a porch, patio, deck, terrace or pool, it must be located within fifteen feet of said structure and shall not encroach into the required building setbacks).

### **RECOMMENDATION**

Staff has **no recommendation** for this request.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

- ◇ This subject site is part of the Copeland Mills Estates neighborhood that was developed in the late 1990s/early 2000s.
- ◇ The 2018 Comprehensive Land Use Plan recommends Suburban Neighborhood for the site. This typology is primarily intended for single-family dwellings.

#### **MODIFICATION OF COMMITMENTS**

- ◇ This site was part of a petition that was approved in 1997 (97-Z-30) that rezoned 69 acres from the D-A district to the D-3 district for provide for single-family residential development.
- ◇ The 1997 petition was approved with an extensive list of commitments. Some of the commitments were requested by Staff, but the majority were negotiated between the petitioner and the community. Among these community-requested commitments were

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**STAFF REPORT 2023-MOD-012 (Continued)**

restrictions on fencing greater than what was required by the Ordinance. Fences were not permitted unless used in conjunction with a porch, patio, deck, terrace or in-ground swimming pool, and then only within 15 feet of that feature and not within any required building setback.

- ◇ This petition would modify the restrictions fencing to state that privacy fencing shall be permitted in conjunction with a porch, patio, deck, terrace or in-ground swimming pool, or property boundary demarcation; and located within property boundaries. The fifteen-foot requirement and the prohibition of fencing within the building setbacks would be removed.
- ◇ This modification would only apply to 6107 Timberland Way. The commitments for the remainder of the subdivision are not affected by this petition.
- ◇ There is no indication in the record that the 1997 commitment being modified was the result of a negotiation between the petitioner and staff. Instead, it was a product of negotiations between the petitioner and the neighborhood organization without staff’s involvement. As such, staff has no recommendation on the commitment’s modification. However, staff would note that the neighborhood’s recommendation in the original petition was based on all the commitments that were submitted and on the reasonable assumption that the site would be developed and operated in accordance with those commitments.

**GENERAL INFORMATION**

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-3	Metro	Single-family dwelling
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SURROUNDING ZONING AND LAND USE

North	D-3	Single-family dwelling
South	D-3	Single-family dwelling
East	D-3	Single-family dwelling
West	D-3	Single-family dwelling

COMPREHENSIVE LAND USE PLAN    The Decatur Township Comprehensive Land Use Plan (2018) recommends Suburban Neighborhood for the site.

THOROUGHFARE PLAN                      Timberland Way is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

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## **STAFF REPORT 2023-MOD-012 (Continued)**

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.
STREAM PROTECTION CORRIDOR	This site is not located within a stream protection corridor.

## **ZONING HISTORY – SITE**

**97-Z-30; 600-6251 South High School Road**, requested the rezoning of 69 acres from the D-A district to the D-3 district, **approved**.

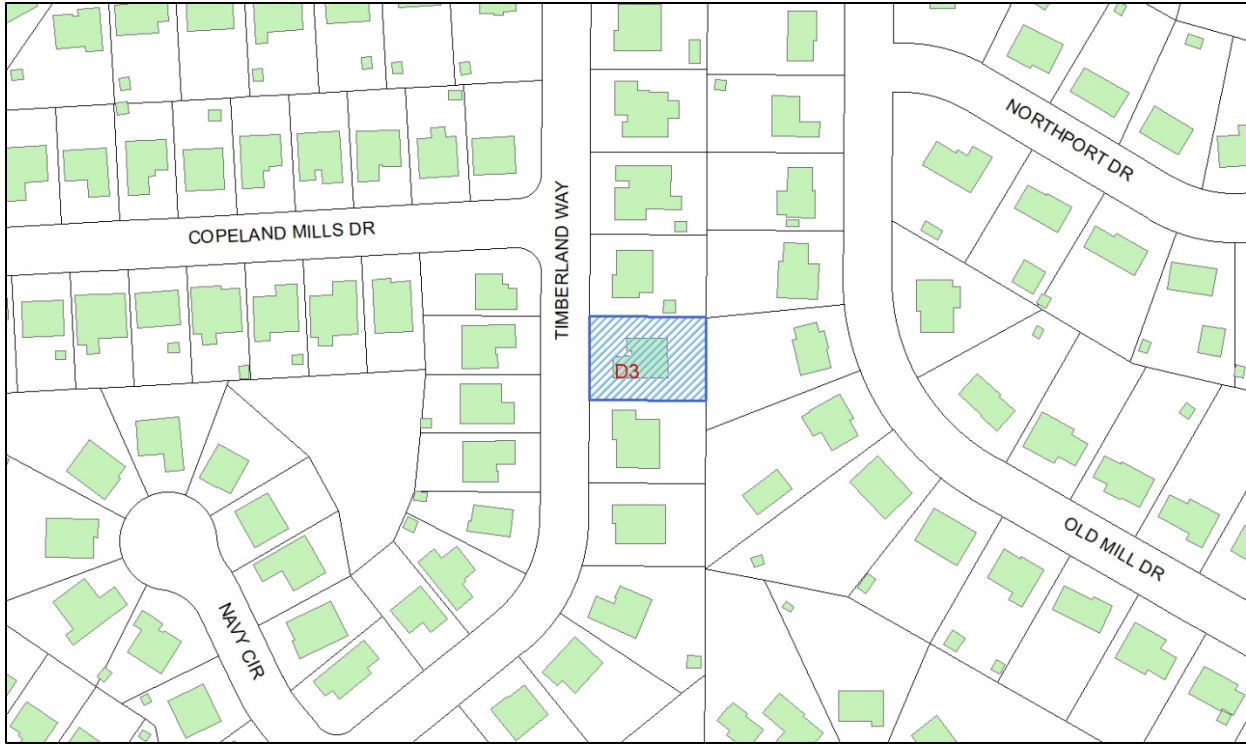
## **ZONING HISTORY – VICINITY**

**None**

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**STAFF REPORT 2023-MOD-012, Location**



**STAFF REPORT 2023-MOD-012, Aerial photograph (2022)**



## **STAFF REPORT 2023-MOD-012, Proposed commitment**

### **STATEMENT OF MODIFICATION OR TERMINATION OF COVENANTS OR COMMITMENTS**

#### **COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION OR SPECIAL EXCEPTION PETITION**

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

##### **Legal Description:**

*Lot 124 in Copeland Mills, Section Three, as per plat thereof recorded in instrument #2001-196087 in the Office of the Recorder of Marion County, Indiana.*

##### **Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:**

1. The following Statement of Commitments are requested for modification for said legal description above to ensure safe use of property:

20. Privacy fencing (stockade, shadow-box or other fencing with a sight barrier in excess of fifty [50] percent) shall not be permitted unless:
  - (a) used in conjunction with (i) a porch, (ii) a patio, deck or terrace having a horizontal area within eighteen (18) inches of grade level, or (iii) an in-ground swimming pool;
  - (b) located within fifteen (15) feet from said porch, patio, deck, terrace or swimming pool; and,
  - (c) does not encroach into any required building setback.

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20. Privacy fencing (e.g., stockade, shadow-box or other fencing with a sight barrier in excess of fifty [50] percent) shall be permitted under the following conditions:

- (a) used in conjunction with (i) a porch, (ii) a patio, deck or terrace having a horizontal area within eighteen (18) inches of grade level, (iii) an in-ground swimming pool, or (iv) property boundary demarcation;
  - (b) and located within property boundaries.
- 2. N/A
  - 3. N/A
  - 4. N/A
  - 5. N/A

These COVENANTS or COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COVENANTS or 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.

COVENANTS or COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition

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);



**STAFF REPORT 2023-MOD-012, Photographs**



Looking east at subject site.

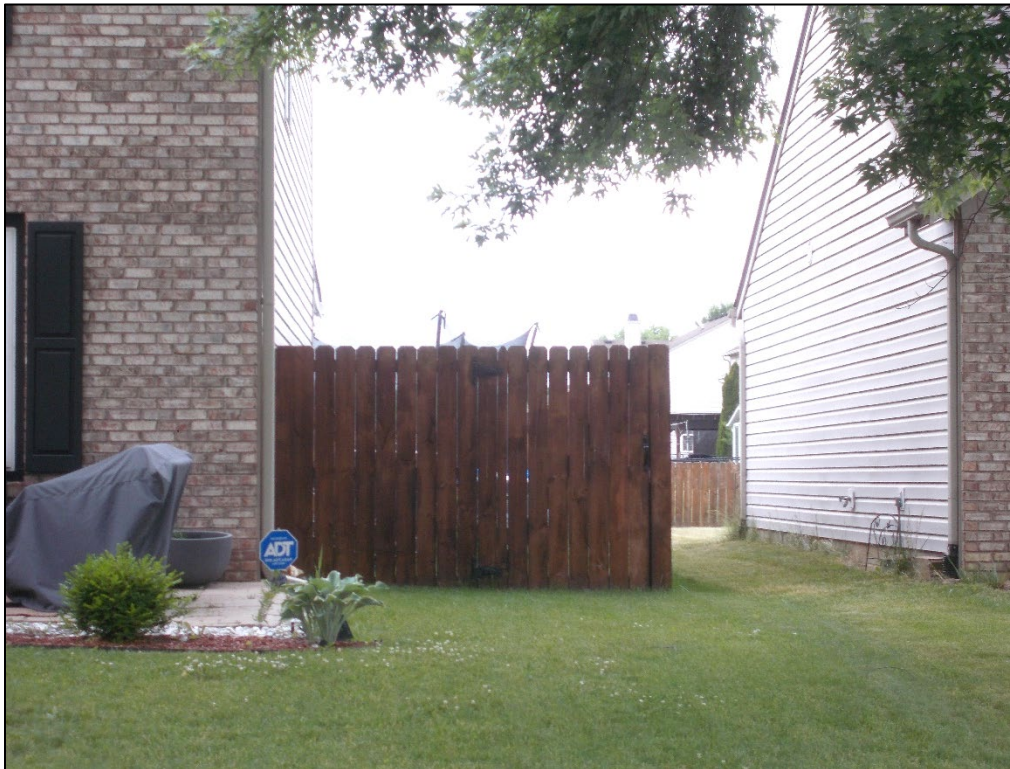


Looking east at the north side of the subject site (subject site is to the right).





Looking east at the south side of the subject site.



Nearby fences.