

BOARD OF ZONING APPEALS DIVISION I

March 5, 2024

Case Number: 2024-MO1-002
Property Address: 3527 North College Avenue (approximate address)
Location: Center Township, Council District #8
Petitioner: Walvan Investments LLC, by John Cross
Current Zoning: D-5
Request: Modification of Commitments related to 2018-UV1-006, to terminate Commitment Numbers One and Two, requiring sale of units to owner-occupants and prohibiting subsequent owners from renting individual units.
Current Land Use: Residential
Staff Recommendations: Staff has no recommendation for this petition
Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- This is the first public hearing for this petition.

STAFF RECOMMENDATION

- Staff has no recommendation for this petition.

PETITION OVERVIEW

- This petition would terminate Commitments #1 and #2 from 2018-UV1-006, which read as:
 - 1) Owner will only sell units and will only sell them to owner-occupants
 - 2) Subsequent owners may not rent their units
- These commitments were originally agreed upon by the petitioner of 2018UV1006 and interested neighborhood groups, with Staff not playing a part in the crafting of that language.
- The petitioner of this petition is now seeking to terminate those commitments and has been in deliberation with registered neighborhood organizations on reaching new commitments for the property, with Staff not playing a part in these discussions either. While Staff is broadly supportive of the use of multi-family residential units on the subject site, Staff does not seek to require residential units be limited to either renter-occupied only or owner-occupied only, nor does Staff seek to set restrictions on the duration that residential units can be occupied by any one person or family. Therefore, Staff does not have a recommendation for this request.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Residential	
Comprehensive Plan	8-15 Residential Units per Acre	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Vacant
	South:	South: Single-Family Residential
	East:	East: Vacant
	West:	West: Two-Family Residential
Thoroughfare Plan		
North College Avenue	Primary Arterial	80-foot right-of-way existing and 78-foot proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	1/26/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/26/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Mapleton Fall Creek Neighborhood Land Use Plan

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan below

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan



- The Mapleton Fall Creek Land Use Plan recommends 8-15 residential units per acre for this site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

2018UV1006, requested a variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a multi-family building with 8 units, with the following commitments:

- 1) Owner will only sell units and will only sell them to owner-occupants
- 2) Subsequent owners may not rent their units, **approved**.

ZONING HISTORY – VICINITY

2021ZON115; 722 Fairfield Avenue (east of site), Rezoning of 0.2 acre from the D-5 district to the D-8 district, **approved**.

2020UV1003; 3544 Carrollton Avenue (east of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to legally establish a multi-family building (not permitted), **denied**.

2013UV1037; 3503 N College Avenue (south of site), requested a variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinances to provide for a parking lot, for a restaurant at 3469 N College Avenue, with zero-foot front and side yards, **approved**.

2010UV1018; 3503 N College Avenue (south of site), Variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinance to provide for automobile sales (not permitted), with display spaces having zero-foot front and side setbacks (10-foot setback from existing right-of-way required, 40-foot setback from proposed right-of-way required, four-foot side and 10-foot aggregate setbacks required), **denied**.

91-Z-74; 3520 N College Avenue (west of site), requests rezoning from residential district to the commercial C-3 district to allow retail sales in conformity to the comprehensive land use plan, **approved**.

88-UV3-102; 3549 N College Avenue (north of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of community service offices, education center and educational research offices, and three ground signs, **approved**.

**COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS
CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN
CONNECTION WITH VARIANCE OR SPECIAL EXCEPTION GRANT.**

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 modification(s) or termination(s) of commitment(s) concerning the use and development of the parcel of real estate:

Legal Description: Condominium Units 1, 2, 3, 4, 5 and 6 of the 3527 College Avenue Condominiums as recorded as Instrument Number A202100032301 under the date of March 11, 2021, in the records of the Recorder of Marion County, Indiana.

Statement of Modification or Termination of COMMITMENTS:

1. The commitment that owner will only sell units and will only sell them to owner-occupants is terminated.
2. The commitment that subsequent owners may not rent their units is terminated.
- 3.
- 4.
- 5.

These modified COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest therein. These modified COMMITMENTS may be further modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

Modified COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Board of Zoning Appeals in petition # _____.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and
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. 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 at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the commitment was made); and
3. _____
4. _____
5. _____

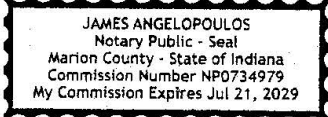
The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of modification and/or termination of commitment(s) of petition # _____ by the Metropolitan Board of Zoning Appeals.

IN WITNESS WHEREOF, owner(s) has executed this instrument this 11TH day of JANUARY, 2024.

Signature: [Handwritten Signature]
 Printed: MANINDER WALIA
 Title: MANAGER
 Organization Name: Walvan Investments LLC

Signature: _____
 Printed: _____
 Title: _____
 Organization Name: _____

STATE OF INDIANA)
) SS:
 COUNTY OF MARION)



Before me, a Notary Public in and for said County and State, personally appeared MANINDER WALIA, MANAGER OF WALVAN INVESTMENTS, LLC 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
11TH day of JANUARY, 20 24

James Angelopoulos
Notary Public

JAMES ANGELOPOULOS
Printed Name of Notary Public

My Commission expires: JULY 21, 2029

My County of residence: MARION

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. /s/ John D. Cross

This instrument was prepared by John Cross, Wootton Hoy, LLC.

This Modification and/or Termination Agreement was approved by the Metropolitan Board of Zoning Appeals on the _____ day of _____, 20_____.

Secretary, Metropolitan Board of Zoning Appeals, Division _____

STATEMENT OF INTENT

3527 N. COLLEGE AVE., INDIANAPOLIS, IN 46205

The Petitioner, Walvan Investments, LLC, owns the subject property. Petitioner rezoned the property under Case No. 2018-UV1-006. In doing so Petitioner agreed to certain commitments recorded on January 14, 2019 as Instrument No. A201900004360. Petitioner now requests to terminate the following commitments:

1. Owner will only sell units and will only sell them to owner-occupants.
2. Subsequent owners may not rent their unit.

Request:

Since rezoning the property Petitioner has attempted to sell the units at the property. Petitioner has not been able to sell any as the commitments have negatively impacted any potential buyer from purchasing the property. The property is currently vacant. The property and area will benefit if the property can be utilized by occupants, whether owners or potential renters, instead of staying vacant.

Staff recommended approval of the rezoning petition originally and did not require the commitments. Staff noted the multi-family use would be consistent with other similarly developed properties in the area. Petitioner does not believe these other comparable properties are restrained by the commitments that retrain the use and ownership of the subject property. The commitments were requested on behalf of a registered neighborhood organization. At the time Petitioner hoped they could sell the units with the commitments but that has not happened. Petitioner does not believe the units can be sold with the commitments as they have diligently attempted to and request the commitments be terminated to permit free use of the property.



