

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

May 28, 2026

**Case Number:** 2026-CAP-811 / 2026-CVR-811  
**Property Address:** 1258 Windsor Street  
**Location:** Center Township, Council District #13  
**Petitioner:** Indianapolis Film Project, by Justin Kingen  
**Current Zoning:** MU-2 (FF)

**Request:** Modification of Commitments associated with 2018-MOD-008, relative to the subject site, to terminate all commitments, and to replace them with updated commitments for the existing use on the site and new commitments to provide for a proposed pocket park, with pedestrian features. The proposed commitments include restrictions for signage, façade and material guidance, and use of site as a theatre, family friendly restaurant and a gathering or event space.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for an outdoor seating area without the required fence, wall or similar barrier between the outdoor seating area and the right-of-way (a fence, wall or similar barrier required), and encroachment of outdoor seating and park amenities within the clear-sight triangle (not permitted).

**Current Land Use:** Commercial uses

**Staff Recommendations:** No recommendation of the modification and approval of the variances.

**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

This is the first hearing for these petitions.

**STAFF RECOMMENDATION**

Staff has no recommendation on the modification.

Staff recommends approval of the variances, subject to substantial compliance with the site plan file dated May 18, 2026, and the issuance of an Encroachment License. If the Encroachment License is not issued, the requested variances are no longer supported by staff.

## PETITION OVERVIEW

This 0.81-acre site, zoned MU-2 (FF), is developed with commercial uses. It is surrounded by a park to the north, across Commerce Avenue and Nowland Avenue, zoned PK-1 (FF); a single-family dwelling to the south, zoned D-8 (FF); single-family dwellings and a library to the east, across Windsor Street, zoned MU-1 (FF) and SU-37 (FF), respectively; and commercial uses to the west, zoned MU-2 (FF).

Petition 2018-MOD-008 modified the site plan and commitments related to 2017-CZN-816 / 2017-CVR-816.

## MODIFICATION

The request would modify commitments associated with 2018-MOD-008 (See Exhibit A), relative to the subject site, to terminate all commitments, and to replace them with updated commitments for the existing use on the site and new commitments to provide for a proposed pocket park, with pedestrian features.

The request would include commitments that would include restrictions for signage, façade and material guidance, and use of site as a theatre, family friendly restaurant and a gathering or event space.

The commitments were originally the result of negotiation between the petitioner and the neighborhood. Because staff played no role in the negotiation of these subject commitments, staff would ordinarily provide no recommendation under such circumstances. Staff would note, however, that the neighborhood organization negotiated in good faith with the petitioner during the petition process, and their agreement was contingent upon all commitments being included with the rezoning petition.

Staff would note that signage would be subject to the Sign Regulations. Additionally, the termination of the 2018 commitments would also terminate the 2018 Plan of Operation.

## VARIANCES OF DEVELOPMENT STANDARDS

The request would provide for an outdoor seating area without the required fence, wall or similar barrier between the outdoor seating area and the right-of-way and encroachment of outdoor seating and park amenities into the clear-sight triangle.

The Ordinance requires a fence, wall or similar barrier between the seating area and the right-of-way of at least three feet in height. Staff believes that due to visibility, the three-foot tall barrier could have a negative impact on the safety of pedestrians and vehicles.

The Ordinance prohibits obstructions from being “erected, placed, planted or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5 feet and eight feet above grade level of the adjoining right-of-way within a clear sight triangular area.”

Given the configuration of the site and the convergence of four streets, staff believes that relief from this provision would be supportable because the proposed amenities within this pocket park would be available to the public. Furthermore, due to rights-of-way, this area has few features that limit visibility.

## GENERAL INFORMATION

<b>Existing Zoning</b>	MU-2 (FF)	
<b>Existing Land Use</b>	Commercial uses	
<b>Comprehensive Plan</b>	Village Mixed-Use	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	PK-1 (FF)	Park
South:	D-8 (FF)	Single-family dwelling
East:	MU-1 (FF) / SU-7(FF)	Single-family dwelling / Library
West:	MU-2 (FF)	Commercial uses
<b>Thoroughfare Plan</b>		
Windsor Street	Local Street	Existing 40-foot right-of-way and proposed 48-foot right-of-way.
Commerce Avenue	Primary Arterial	Existing 46-foot right-of-way and proposed 78-foot right-of-way
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	Yes - 500-year unregulated floodplain of Pogues Run	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	March 5, 2026	
<b>Site Plan (Amended)</b>	May 18, 2026	
<b>Elevations</b>	March 5, 2026	
<b>Elevations (Amended)</b>	May 18, 2026	
<b>Landscape Plan</b>	May 18, 2026	
<b>Findings of Fact</b>	March 5, 2026	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

The Comprehensive Plan recommends Village Mixed-Use typology. “The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to

promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.”

### **Pattern Book / Land Use Plan**

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) 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.

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 – Community Commercial Typology*

- 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.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- Where possible, contributing historic buildings should be preserved or incorporated into new development.

### **Red Line / Blue Line / Purple Line TOD Strategic Plan**

Not Applicable to the Site.

### **Neighborhood / Area Specific Plan**

Not Applicable to the Site.

### **Infill Housing Guidelines**

Not Applicable to the Site.

### **Indy Moves**

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

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW).
- Identify roadways for planned expansions or new terrain roadways.
- Coordinate modal plans into a single linear network through its GIS database.

## ZONING HISTORY

**2018-MOD-008; 1625, 1631 and 1637 Nowland Avenue; 1701 and 1705 Commerce Avenue and 1248 and 1254 Windsor Street (1258-parcel)**, requested modification of the Site Plan and Commitments for 2017-CZN-816 / 2017-CVR-816 to Modify Commitment One requiring adherence to the Site plan file-dated September 27, 2017 and the Plan of Operation file-dated August 31, 2017 to provide for an amended site plan and eliminate renovation of the 14,000 square foot existing building, **approved**.

**2017-CZN-816 / 2017-CVR-816 / 2017-CVC-816; 1625, 1631 and 1637 Nowland Avenue; 1701 and 1705 Commerce Avenue and 1248 and 1254 Windsor Street (1258-parcel)**, requested rezoning of 1.07 acres from the SU-1, D-8 and MU-1 districts to the MU-2 classification to provide for a community theater and a restaurant and bar and a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an independent film house/theater and single-family dwellings at 1625, 1631 and 1637 Nowland Avenues, with 36 parking, and a zero-foot east front setback and front transitional setback along Windsor Street and six-foot front transitional setback along State Avenue and to provide for illuminated pylon / ground signs, with deficient front setbacks along Commerce and Nowland Avenues, and vacation of the first north-south alley, west of Windsor Street, **approved and granted**.

**2007-AP3-002; 1258 Windsor Street**, requested administrative appeal of the Administrator's determination that an on-site soup kitchen is a reasonable related accessory use to a religious use, **withdrawn**.

**99-Z-158; 1248, 1252, 1254 Windsor Street**, requested rezoning of 0.4 acre from the D-8 and C-2 Districts to the SU-1 classification to provide for religious uses, **approved**.

## VICINITY

**2004-ZON-087; 1601-1737 Massachusetts Avenue (north of site)**, requested rezoning of 2.9 acres from the I-4 U District to the SU-9 classification to provide for a work release correctional facility, **denied**.

**97-HOV-85; 1801 Nowland Avenue (north of site)**, requests a variance of development standards of the Sign Regulations to provide for the placement of a four-foot tall nine-square foot sign, **granted**.

**96-AP1-4; 1801 Nowland Avenue (east of site)**, requested modification of conditions related to petition 86-UV1-46 to modify condition #3 to provide for two double-faced signs, **withdrawn**.

**95-Z-197 (905-CV-34) 1338 and 1344 Commerce Avenue (north of site)**, requested rezoning of 0.23 acre from the C-e District to the C-ID classification, and a variance of development standards to permit construction of a building with a reduce front setback and side transitional yard, an access drive within 15 feet of a protected district and a gravel storage area, **approved and granted**

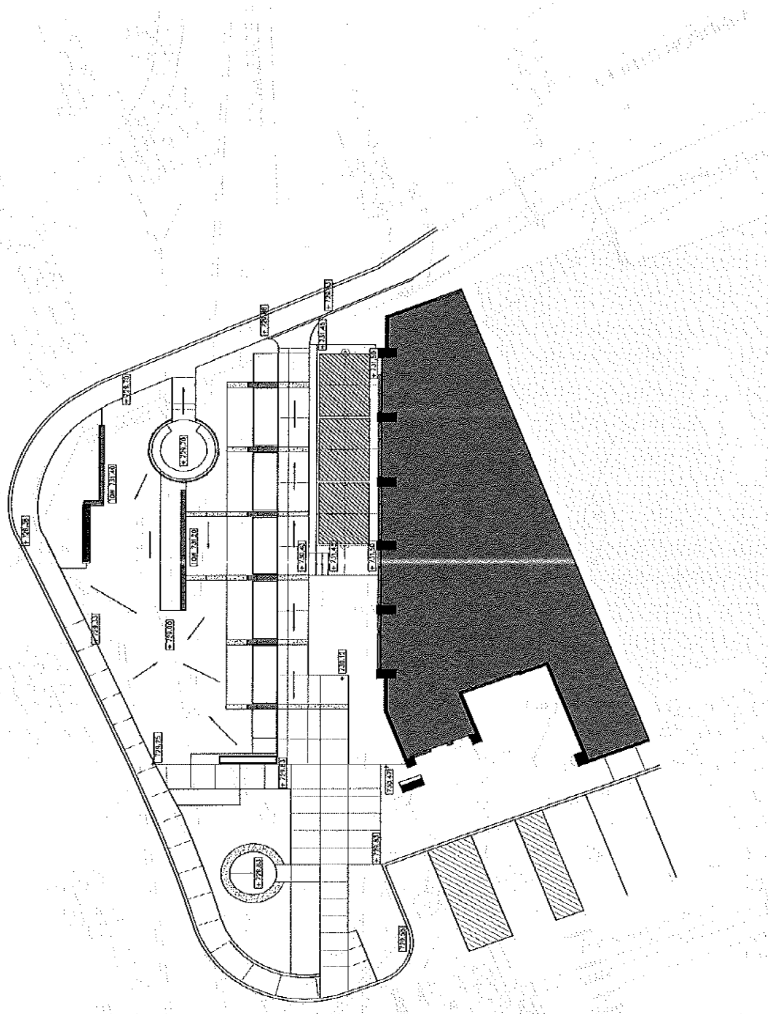


Department of Metropolitan Development  
Division of Planning  
Current Planning

**86-UV1-46; 1801 Nowland Avenue (east of site)**, requested a variance of use of the Dwelling Districts Zoning Ordinance and the Sign Regulations to provide for construction of a parking lot to serve an existing library and for a double-faced ground sign, **granted**.







DATE: 03/01/26

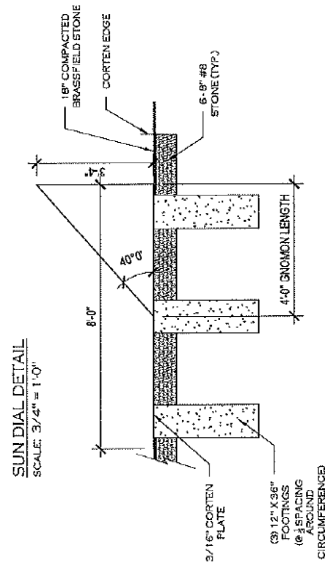
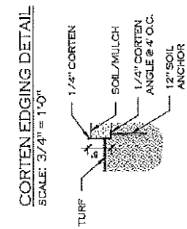
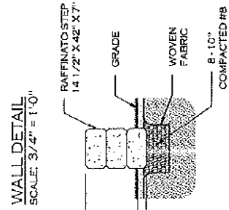
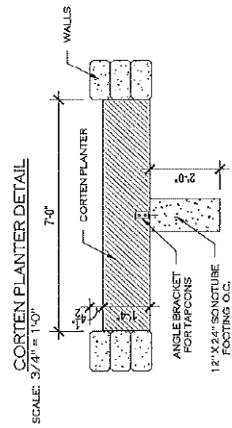
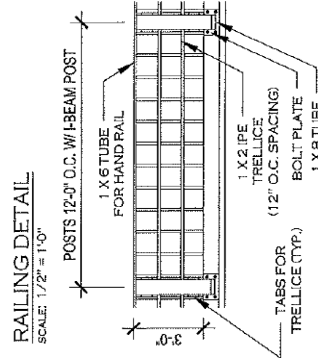
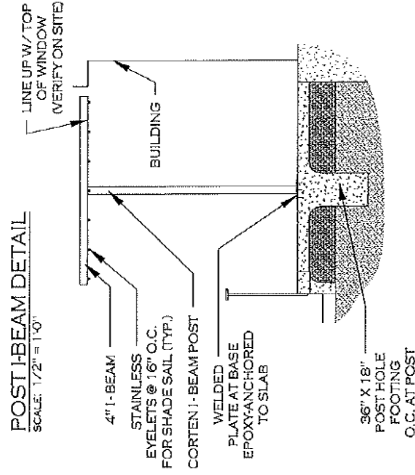
A2.0



• SCALE: 1/8" = 1'-0" •

KAN KAN PLAZA CONCEPT  
**DRAINAGE PLAN**  
DESIGNED BY ADAM GARVEY





DATE: 03/01/26

D1.0

KAN KAN PLAZA CONCEPT  
 DETAILS  
 DESIGNED BY ADAM GARVEY

EXHIBIT A

A201800110027 *ka*

10/29/2018 10:25 AM  
KATHERINE SWEENEY BELL  
MARION COUNTY IN RECORDER  
FEE: \$ 40.00  
PAGES: 20  
By: SC

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:** See Attached Legal Description

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

To allow for the Modification of the Site Plan and Commitments for 2017-CZN-816 / 2017-CVR-816 to Modify Commitment One of Instrument #2018-00034909, requiring adherence to the Site Plan file-dated September 27, 2017 and the Plan of Operation file-dated August 31, 2017 to provide for an amended site plan and eliminate renovation of the 14,000 square foot existing building (attached is the new commitment (#29) on Exhibit A along with the updated Exhibits B & C).

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

2018-MOD-006.

These COMMITMENTS may be enforced jointly or severally by:

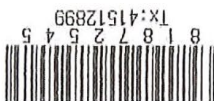
1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were 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

*MDC's Exhibit C -- page 1 of 3*

Metropolitan Development

OCT 18 2018

Division of Planning



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);

These COVENANTS may be enforced by the Metropolitan Development Commission.

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Covenant or Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of modification and/or termination of Covenant(s) or Commitment(s) of petition # 2018-MOD-006 by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this 10<sup>th</sup> day of OCTOBER, 2018.

Signature: [Signature]  
 Printed: EDWARD BATTISTA  
 Title /  
 Organization  
 Name: Windsor Arts, LLC

Signature: [Signature]  
 Printed: SAM B SUTPHIN  
 Title /  
 Organization  
 Name: Windsor Arts LLC

STATE OF INDIANA        )  
   ) SS:  
 COUNTY OF MARION        )

*Before me, a Notary Public in and for said County and State, personally appeared EDWARD BATTISTA & SAM B. SUTPHIN (MEMBERS / WINDSOR ARTS 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 10<sup>th</sup> day of OCTOBER, 2018

[Signature]  
 Notary Public

Printed Name of Notary Public



MDC's Exhibit C -- page 2 of 3  
 Metropolitan Development

OCT 16 2018

Division of Planning

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. -Justin Kingen

*This instrument was prepared by Justin Kingen*

This modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 19<sup>th</sup> day of SEPTEMBER, 2015.

  
Secretary, Metropolitan Development Commission

2018-MOD-006  
EXHIBIT A

ATTACHMENT "D"

1. Petitioner commits to the site plan file dated JUNE 21, 2018, and the Plan of Operation filed dated JULY 19, 2018.
2. Petitioner commits to support The Windsor Park Neighborhood Association, Inc. (WPNA) in any future effort to develop a residential permit parking system on area right-of-ways, within two (2) city blocks of the subject site.
3. Petitioner commits to work with the Department of Public Works, the Indianapolis Public Library, the Windsor Park Neighborhood Association, Inc. and other partners to cause adjoining rights-of-way to be improved with new crosswalks, parking stall striping and other similar markings, within the right of way.
4. The egress signage (directional sign) in the parking lot, fronting on Windsor Street will prohibit traffic from exiting onto Windsor Street. A sign (directional sign) located outside the right-of-way on Windsor Street will ask theatre patrons to park in the theatre parking lot; or on specifically designated streets; but not along Windsor Street.
5. Preparations/ arrangements/ and/ or easements will be made/ provided for emergency vehicle access through the alleys.
6. There will be no development, structure or permanent improvements on the to-be-vacated right-of-way on the north side of the existing building--; other than bike-racks, externally-lighted signage and landscape lighting, all subject to review and comment by the Windsor Park Neighborhood Association, Inc.
7. No freestanding, internally illuminated signs shall exist on the subject properties. All free standing signs may have light projected onto them, as long as the lighting is not directly oriented towards a dwelling unit.
8. Petitioner agrees to a landscape plan featuring low native plantings (supported by a maintenance agreement), and to a lighting plan, both subject to review and comment by the Windsor Park Neighborhood Association, Inc. and tied to the right-of-way vacation.
9. There will be no pole signage erected on the site.
10. There will be bike racks provided on the site for a minimum of thirty five (35) bicycles.
11. In an effort to minimize traffic through the neighborhood, the theatre's web site and related marketing materials will direct patrons to Brookside Avenue and

Metropolitan Development

OCT 16 2018

Division of Planning

Massachusetts Avenue as the recommended and preferred vehicular access route to the theatre, restaurant and artisan shops.

12. Those portions of the alley not vacated under these petitions and contiguous to the subject lots of these petitions, shall be improved with hard surface prior to the official grand opening of the theatre.
13. Any contracted trash pick-up shall be between the hours of 7 am and 8 pm.
14. All of the intended uses for the renovated structures at 1625, 1629 and 1637 Nowland Avenue shall be cultural or artisan in nature and complementary to the uses at 1258 Windsor Street.
15. The maximum size of the free standing sign at 1258 Windsor Street shall be six (6) feet in height, with no more than forty eight (48) square feet in surface, per side. The maximum size of the free standing signs at 1625, 1629 and 1637 Nowland Avenue shall be four feet in height.
16. At 1258 Windsor Street, Petitioner agrees to commit to three theatres with no more than three hundred (300) seats; a family friendly restaurant with a separate bar area; and an event/gathering space.
17. Petitioner agrees to a capacity of restaurant/patio/bar/event space at one hundred and fifty (150) patrons; including the patio.
18. Regarding the building façade and materials proposed for some of the former window openings, petitioner proposes to fit these areas with decorative aluminum plates--- cut, bent and profiled to lend interesting shadow lines to the exterior. The color palette would be chosen from a series of subdued earth tones, subject to review and comment by the Windsor Park Neighborhood Association, Inc.
19. On the grounds of the theatre, the retail areas, and on the patio, petitioner agrees to prohibit the use of outdoor speakers; public address technology and live entertainment.
20. Petitioner commits that if the primary use is discontinued for more than two years, the subsequent use will require approval from the appropriate Board, Commission, Council, or authorized agency with the City of Indianapolis.
21. Petitioner commits to use the property at 1258 Windsor Avenue for theatres, family friendly restaurant, bar and gathering/event space.
22. Petitioner commits to use the three commercial structures at 1625, 1631 and 1635 Nowland Avenue for neighborhood friendly and culturally appropriate artisan businesses; such as a café, bakery, artisan food and beverage, artisan

Metropolitan Development

OCT 16 2018

Division of Planning

- manufacturing and small market. Outdoor storage and alcohol sales will not be permitted on these three properties.
23. Petitioner commits to submitting to the Windsor Park Neighborhood Association, Inc. for review and comment, the Parking and egress plan
  24. Petitioner commits to submit information to the Windsor Park Neighborhood Association, Inc. for review and comment, information related to commitments 1 through 23, and to complete exterior building modifications, the landscaping and buffering improvements, parking improvements, and sign improvements prior to the grand opening of businesses at the subject property.
  25. Petitioner commits that the special events space, included in this request shall be restricted to one room with a seating capacity of twenty four (24) persons.
  26. Petitioner commits to recording an easement through the parking lot that shall be a minimum of fifteen (15) feet in width and shall commence from the turn of the existing north/south alley that turns to the west and proceeds to No. State Street, and the easement shall continue to the entrance to the parking lot on Nowland Avenue. The purpose of this recorded easement is to provide alternate means of access to and from the rear property line of the property owners from 1201 State Street to 1233 State Street and from 1202 Windsor Street to 1248 Windsor Street at all times in perpetuity.
  27. Petitioner agrees to restrict the number of free standing signs on the subject properties to four (4) with one each at 1258 Windsor Street, and one each at 1625, 1631 and 1637 Nowland Avenue.
  28. The bar, listed as a use, shall operate subordinate to the restaurant included as a use in the 1258 Windsor Street building and shall not operate as an independent bar at any future date.
  29. Petitioner commits to using the same or similar quality materials for the construction of the proposed building as presented to the Windsor Park Neighborhood Association. The documentation of the materials used will be filed with the City of Indianapolis as part of this petition.

Metropolitan Development

OCT 16 2018

Division of Planning

ATTACHMENT "E":

Excluded uses:

1. Bar/ Tavern as primary use
2. Laundromat
3. Liquor Store
4. Methadone clinic or treatment center
5. Check cashing facility
6. Mortuary
7. Light manufacturing (other than artisan manufacturing)
8. Animal care, boarding, vet services
9. Substation and/or utility distribution facility
10. Wireless communication tower
11. Outdoor advertising sign/ billboard
12. Drive thru facility
13. Group home
14. Lodge or fraternal club

Indoor Recreation & Entertainment

15. Amusement Arcade
16. Bowling Alleys
17. Billiard Parlor
18. Ballroom
19. Bathhouse
20. Bingo Establishment
21. Dancing
22. Firing (Gun) Range
23. Gymnasium
24. Instruction in Baseball
25. Instruction in Basketball
26. Instruction in Gymnastics
27. Miniature Golf
28. Ice or Roller Skating Rink
29. Substation & Utility Distribution
30. Commercial Parking Garage or Commercial Parking Lot as Primary Use
31. Transit Center
32. Transportation Facilities & Accessories
33. Game Courts
34. Portable Storage
35. Recycling Distribution Point

Metropolitan Development

OCT 16 2018

Division of Planning

7.23.18

2018-MOD-006  
EXHIBIT B

## Plan of Operation

Windsor Arts LLC  
Windsor Park Theatre and Artisan Shops

### Buildings

1. The primary structure of the Windsor Arts development will be located at 1258 Windsor Street. After demolishing the existing 3 story structure, a newly constructed 2 story building will contain a community movie theater with 3 screens and seating capacity for up to 300 patrons in total; also included in the building will be a 3,500 SF family restaurant with an attached bar area; upstairs there will be a small room that is used for a special events/meeting area.
2. Three (3) freestanding retail/commercial structures at 1625, 1631 and 1635 Nowland Avenue will contain approximately nine hundred to one thousand square feet (900-1,000 SF) of boutique artisan shops; catering specifically to arts-oriented neighborhood services and/or maker spaces.

### Regular Hours of Operation

1. Theater / Restaurant: 10AM-11PM, seven (7) days a week
2. Artisan shops: 7AM-7 pm, Sundays thru Thursdays; 7am-11PM, Fridays, Saturdays and holidays.

### Parking

1. Theater/Restaurant/Artisan shops: Petitioner has agreed to provide a minimum of fifty nine (59) off-street parking spaces, on-site.
2. Fourteen (14) contiguous on-street parking spaces will be available in front of the property along Windsor Street and Nowland Avenue.
3. Petitioner has a letter of agreement with Teagen Development to utilize up to 10 spaces in the parking lot of the Circle City Industrial Complex, 1125 Commerce Avenue.
4. Petitioner has a letter of agreement with Riley Area Development Corporation to lease up to six parking spaces for theatre employees at 1417 Commerce Avenue. Metropolitan Development

OCT 16 2018

7.19.18

Division of Planning



**Proposed Modification – March 5, 2026**

**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:** See attached legal description

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

1. Petitioner seeks to modify previously approved commitments associated with 2018-ZON-068, as recorded in Instrument No. 2018-00110027, and to replace the prior commitments in their entirety with the Updated Commitments for 1258 Windsor Street, dated January 22, 2026, which are incorporated herein by reference.
2. The updated commitments reflect current site conditions and proposed improvements associated with the installation of a pocket park area including seating, pedestrian features, buffering/safety elements, lighting, and signage.

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 \_\_\_\_\_.

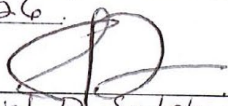
These COMMITMENTS may be enforced jointly or severally by:

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);
3. \_\_\_\_\_
4. \_\_\_\_\_

These COVENANTS may be enforced by the Metropolitan Development Commission.

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

IN WITNESS WHEREOF, owner has executed this instrument this 23<sup>rd</sup> day of February, 2026.

Signature:   
 Printed: Samuel B. Sutphin  
 Title / Executive Director

Signature: \_\_\_\_\_  
 Printed: \_\_\_\_\_  
 Title / \_\_\_\_\_

Organization \_\_\_\_\_  
 Name: Indianapolis Film Project, Inc.

Organization \_\_\_\_\_  
 Name: \_\_\_\_\_

STATE OF INDIANA        )  
   ) SS:  
 COUNTY OF MARION        )

*Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ 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  
23rd day of February, 20 26

\_\_\_\_\_  
 Notary Public  
Victor MacDonald  
 Printed Name of Notary Public  
 My Commission expires: 08-06-2031  
 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. -Justin Kingen

This instrument was prepared by Justin Kingen

This modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
 Secretary, Metropolitan Development Commission

### **1258 Windsor Street (Kan-Kan) – Commitments**

1. Petitioner commits to the site plan file dated \_\_\_\_\_, and the Plan of Operation filed dated \_\_\_\_\_.
2. Petitioner commits to support The Windsor Park Neighborhood Association, Inc. (WPNA) in any future effort to develop a residential permit parking system on area right-of-ways, within two (2) city blocks of the subject site.
3. Petitioner commits to work with the Department of Public Works, the Indianapolis Public Library, the Windsor Park Neighborhood Association, Inc. and other partners to cause adjoining rights-of-way to be improved with new crosswalks, parking stall striping and other similar markings, within the right of way.
4. The egress signage (directional sign) in the parking lot, fronting on Windsor Street will prohibit traffic from exiting onto Windsor Street. A sign (directional sign) located outside the right-of-way on Windsor Street will ask theatre patrons to park in the theatre parking lot; or on specifically designated streets; but not along Windsor Street.
5. Preparations/ arrangements/ and/ or easements will be made/ provided for emergency vehicle access through the alleys.
6. Improvements within the vacated right-of-way may include patio/hardscape, seating, planters/landscaping, pedestrian features, buffering/safety elements, lighting, and signage, substantially consistent with the approved Site Plan. Plans may be provided to WPNA for review and comment prior to installation.
7. There will be no pole signage erected on the site.
8. There will be bike racks provided on the site for a minimum of thirty-five (35) bicycles.
9. In an effort to minimize traffic through the neighborhood, the theatre's web site and related marketing materials will direct patrons to Brookside Avenue and Massachusetts Avenue as the recommended and preferred vehicular access route to the theatre, restaurant and artisan shops.
10. Those portions of the alley not vacated under these petitions and contiguous to the subject lots of these petitions, shall be improved with hard surface prior to the official grand opening of the theatre.
11. Any contracted trash pick-up shall be between the hours of 7 am and 8 pm.

12. All of the intended uses for the renovated structures at 1625, 1629 and 1637 Nowland Avenue shall be cultural or artisan in nature and complementary to the uses at 1258 Windsor Street.
13. The maximum size of the free standing sign at 1258 Windsor Street shall be six (6) feet in height, with no more than forty eight (48) square feet in surface, per side. The maximum size of the free standing signs at 1625, 1629 and 1637 Nowland Avenue shall be four feet in height.
14. Petitioner agrees to a capacity of restaurant/patio/bar/event space at one hundred and fifty (150) patrons, including the patio.
15. Regarding the building façade and materials proposed for some of the former window openings, petitioner proposes to fit these areas with decorative aluminum plates--- cut, bent and profiled to lend interesting shadow lines to the exterior. The color palette would be chosen from a series of subdued earth tones, subject to review and comment by the Windsor Park Neighborhood Association, Inc.
16. Petitioner commits that if the primary use is discontinued for more than two years, the subsequent use will require approval from the appropriate Board, Commission, Council, or authorized agency with the City of Indianapolis.
17. Petitioner commits to use the property at 1258 Windsor Avenue for theatres, family friendly restaurant, bar and gathering/event space.
18. Petitioner commits to use the three commercial structures at 1625, 1631 and 1635 Nowland Avenue for neighborhood friendly and culturally appropriate artisan businesses; such as a café, bakery, artisan food and beverage, artisan manufacturing and small market. Outdoor storage and alcohol sales will not be permitted on these three properties.
19. Petitioner commits to submitting to the Windsor Park Neighborhood Association, Inc. for review and comment, the Parking and egress plan
20. Petitioner commits to submit information to the Windsor Park Neighborhood Association, Inc. for review and comment, information related to commitments 1 through 23, and to complete exterior building modifications, the landscaping and buffering improvements, parking improvements, and sign improvements prior to the grand opening of businesses at the subject property.
21. Petitioner commits to recording an easement through the parking lot that shall be a minimum of fifteen (15) feet in width and shall commence from the turn of the existing north/south alley that turns to the west and proceeds to No. State Street, and the easement shall continue to the entrance to the parking lot on Nowland Avenue. The purpose of this recorded easement is to provide alternate means of

access to and from the rear property line of the property owners from 1201 State Street to 1233 State Street and from 1202 Windsor Street to 1248 Windsor Street at all times in perpetuity.

22. Petitioner agrees to restrict the number of free standing signs on the subject properties to four (4) with one each at 1258 Windsor Street, and one each at 1625, 1631 and 1637 Nowland Avenue.

ATTACHMENT "E":

Excluded uses:

1. Bar/ Tavern as primary use
2. Laundromat
3. Liquor Store
4. Methadone clinic or treatment center
5. Check cashing facility
6. Mortuary
7. Light manufacturing (other than artisan manufacturing)
8. Animal care, boarding, vet services
9. Substation and/or utility distribution facility
10. Wireless communication tower
11. Outdoor advertising sign/ billboard
12. Drive thru facility
13. Group home
14. Lodge or fraternal club

Indoor Recreation & Entertainment

15. Amusement Arcade
16. Bowling Alleys
17. Billiard Parlor
18. Ballroom
19. Bathhouse
20. Bingo Establishment
21. Dancing
22. Firing (Gun) Range
23. Gymnasium
24. Instruction in Baseball
25. Instruction in Basketball
26. Instruction in Gymnastics
27. Miniature Golf

28. Ice or Roller-Skating Rink
29. Substation & Utility Distribution
30. Commercial Parking Garage or Commercial Parking Lot as Primary Use
31. Transit Center
32. Transportation Facilities & Accessories
33. Game Courts
34. Portable Storage
35. Recycling Distribution Point



Petition Number \_\_\_\_\_

METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division \_\_\_\_\_  
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The addition of a park along this thoroughfare is a continuation of the linear park that currently exists along the north side of Commerce Avenue, and therefore, does not introduce a new land use. The existing improvements are intended to improve the quality of life of nearby residents and visitors to this noteworthy gateway into the Windsor Park neighborhood. The types of improvements are similar to those provided by parks generally, and are intended to provide a place to rest and relax for pedestrians. The proximity of such structures to a public right-of-way is common for parks and a benefit for the intended and potential users.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The request does not propose a new land use typology to this portion of the corridor and is intended to represent an effort to improve the quality of life of nearby residents and visitors.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

While the Ordinance permits parks in all districts, it does not afford the same leniency to siting that it affords to non-residential outdoor seating areas, even though they are intended to provide similar amenities. The Ordinance also provides for a maximum setback of 20 feet for all structures, where this may be more appropriate for primary buildings, but certainly does not contemplate restrictive siting of community infrastructure. The proposed improvements do not impede the Department of Public Works clear sight triangle, and the sites location along a curvilinear road imposes a significant challenge for a corner lot to comply with that of the Zoning Ordinance.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



View of site looking southwest across intersection of Commerce Avenue and Windsor Street



View of site looking west along Windsor Street



View of site looking southeast



View of site looking south along Windsor Street



View of site looking east



View of site looking north along Windsor Street



View of site looking west across Windsor Street



View looking northwest along Commerce Avenue