

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

September 26, 2024

Case Number:	2024-ZON-040
Property Address:	6000, 6012, 6020, 6180 and 6206 East 46th Street
Location:	Lawrence Township, Council District #9
Petitioner:	Indianapolis RE Management LLC, and 600-B East 46th Street, by Emily Duncan and David Kingen
Current Zoning:	C-3 (FF) and C-4 (FF)
Request:	Rezoning of 35.8 acres from the C-3 (FF) and C-4 (FF) districts to the MU-2 (FF) district.
Current Land Use:	Vacant commercial property
Staff Recommendations:	Approval, subject to the commitments noted below.
Staff Reviewer:	Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued this petition from the June 27, 2024 hearing, to the July 25, 2024 hearing, to the August 29, 2024 hearing, and to the September 26, 2024 hearing, at staff's request, to provide additional time for the petitioner's representative to provide additional information and details regarding this request, including a Traffic Impact Study (TIS).

STAFF RECOMMENDATION

Approval, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. Final site plan, building elevations, landscape plan and a pedestrian connection system / amenities plan shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP). The pedestrian connection system / amenities plan shall include connectivity (and coordination with IndyGo) to any and all of the bus stops along the perimeter of the site.
2. A 51-foot half right-of-way shall be dedicated along the frontage of East 46th Street, 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).
3. Upon request by the DPW the property owner shall construct a west bound, right turn lane at the west access drive along East 46th Street, in accordance with the regulations and standards

of the DPW. Such infrastructure improvement shall be completed prior to occupation of any structure on the site.

4. Sidewalks within the right-of-way that are disturbed during construction shall be reconstructed with a buffer between the sidewalk and curbs and shall be depicted on the site plan submitted for Administrator Approval.
5. 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.

PETITION OVERVIEW

This 35.8-acre site, zoned C-3 (FF) and C-4 (FF), is comprised of six parcels and developed with a vacant commercial strip center and associated parking. It is surrounded by educational uses to the north, zoned SU-2; multi-family dwellings and religious uses to the south, zoned D-7 and SU-1, respectively; single-family dwellings to the east, zoned D-3; and multi-family dwellings and religious uses to the west, across North Arlington Avenue, zoned D-7 and SU-1, respectively.

Rezoning

The request would rezone all parcels to the MU-2 (Walkable Neighborhood) (FF) District that is intended to create compact, walkable places at a variety of scales and intensity, appropriate to their contexts. These districts advance their Livability Principles of this code, further the mixed-use intent of the Comp Plan and rely on a connected network of slow or multi-modal streets, and a fine grain of human-scale buildings that line and activate the streetscapes.

“The purpose of the MU-2 district is to meet the daily needs for surrounding neighborhoods and include small social spaces that serve as neighborhood gathering places. The district includes primarily neighborhood-serving businesses and institutions, including a wide range of small-scale retail and service uses that typically do not draw customers from beyond the adjacent neighborhoods, and employment, institutional and residential uses that complement the compact, walkable development pattern. The MU-2 District is implemented as a small node or on busy corridors in the Traditional Neighborhood or City Neighborhood Typologies of the Land Use Pattern Book, or as a Village Mixed Use Typology. The typical size of a district is from 2 to 20 acres (1 to 4 blocks) but depends on the context and what integrates best into surrounding neighborhoods and complimentary zoning districts.”

The Comprehensive Plan recommends community commercial typology for the site.

As proposed, the rezoning would generally be consistent with the Plan recommendation of community commercial but would include residential uses that would support the proposed commercial uses.

Conceptual Site Plan

Mixed-use buildings (commercial / residential) are proposed along North Arlington Avenue, with entertainment amenities to the east of these buildings, along with parking associated with the uses.

Apartments and townhomes are proposed in the central portion of the site and fronting on East 46th Street, with public spaces along the eastern portion of the site.

Because the site plan and uses are conceptual with few details, staff would request a commitment that final site plans, landscaping plans and building elevations be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).

Site access would be gained from an existing drive along North Arlington Avenue and two existing drives along East 46th Street.

Traffic Impact Study (TIS)

The parameter used to evaluate traffic operation conditions is referred to as the level-of-service (LOS). There are six LOS (A through F) categories, which relate to driving conditions from best to worst, respectively. LOS directly relates to driver discomfort, frustration, fuel consumption and lost travel time. Traffic operating conditions at intersections are considered to be acceptable if found to operate at LOS D or better.

Based upon staff's request for a Traffic Impact Study (TIS), a preliminary Trip Generation Analysis, file-dated July 12, 2024, was submitted. Based upon very preliminary information the Department of Public Works (DPW) staff felt the proposed site would have less traffic than the original shopping center but requested pedestrian and bus connectivity around and through the site. See Exhibit A.

The TIS, file-dated September 9, 2024, was based upon 32 townhomes community recreation center, a business hotel, a daycare center, four food trucks and 51,000 square feet of retail. See Exhibit B.

Intersections that were studied included: North Arlington Avenue at the Driveway, East 46th Street at Arlington Avenue, East 46th Street at West Driveway and East 46th Street at East Driveway.

Capacity analysis occurred for three different scenarios. Scenario One was based on the existing traffic volumes. Scenario Two was based on 2028 Devington Plaza Shopping Center and Scenario Three was based on the 2028 Devington Plaza Mixed-use Development.

Recommended Improvements:

- Scenario One (Existing Conditions) – The westbound pedestrian indication for the south cross walk at East 46th Street should be relocated on a separate pole at the southwest corner to improve visibility and retiming the traffic signal would improve operations.

- Scenario Two (Devington Plaza Shopping Center – Three driveways should be one lane in and two lanes out with stop sign control for the driveways).
 - A northbound right turn lane is recommended at the North Arlington Avenue Driveway.
 - Retiming the traffic signal would improve operations at the East 46th Street and North Arlington Avenue intersection.
 - A westbound right turn lane is recommended at East 46th Street and West Driveway.
 - No changes are recommended at East 46th Street and East Driveway.
- Scenario Three (Devington Plaza Mixed-Use Development – Three driveways should be one lane in and two lanes out with stop sign control for the driveways).
 - No changes are recommended at the North Arlington Avenue Driveway
 - Retiming the traffic signal would improve operations at East 46th Street and Arlington Avenue intersection.
 - A westbound right turn lane is recommended at East 46th Street and West Driveway.
 - No changes are recommended at East 46th Street and the East Driveway.

It was concluded that traffic in the study area should not be unreasonable delayed due to the construction of the mixed-use development and that the mixed-use development would generate less daily and PM peak hour traffic than the shopping center it would replace.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 51-foot half right-of-way along East 46th Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Floodway Fringe

This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway. The floodway fringe is located along the eastern portion of the site.

The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (MU-2 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

Environmental Public Nuisances

The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

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.

Planning Analysis

As proposed staff supports the rezoning request to the MU-2 district, despite the Comprehensive Plan recommendation of community commercial.

Staff believes the Plan recommendation of community commercial was generally supportive of the existing shopping center use but believes the introduction of residential and entertainment uses as elements of mixed-use redevelopment of this site would bring activity to support the proposed commercial uses. Additionally, proposed uses would expand services to the surrounding residential land uses to the east, west and south.



Because this site is located at the intersection of two primary arterials, staff believes a strong pedestrian connection to the perimeter of the site should be provided. Staff also believes this project should provide a strong pedestrian connection system throughout the site, along with pedestrian amenities (benches, lighting, trash containers, etc.). Staff would also request that landscaping be enhanced that would exceed the minimum Ordinance requirements, along with providing green spaces throughout the site.

This redevelopment project is conceptual at this time and full build out would likely be phased over many years. Staff would anticipate that as development moves forward that the architectural character of the buildings would be harmonious and compatible throughout the site, as well as surrounding development. Staff would also encourage that a sign program be developed in the early stages to maintain sign consistency throughout the site as development occurs.

Administrator Approval should be required as development occurs that would include site plans, landscaping plans, photometric plans and building elevations. Staff would also request Administrator Approval for a pedestrian / amenity plan.

GENERAL INFORMATION

Existing Zoning	C-3 (FF) / C-4 (FF)	
Existing Land Use	Vacant commercial uses / parking lot	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	SU-2	School
South:	D-7 / SU-1	Multi-family dwellings / religious uses
East:	D-3	Single-family dwellings
West:	SU-1 / D-7	Religious uses / multi-family dwellings
Thoroughfare Plan		
North Arlington Avenue	Primary arterial	Existing 90-foot right-of-way and proposed 102-foot right-of-way.
East 46th Street	Primary arterial	Existing 90-foot right-of-way and proposed 102-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	Yes, unregulated 500-year floodplain	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	May 27, 2024	
Site Plan (Amended)	August 8, 2024	
Elevations	N/A	
Elevations (Amended)	N/A	

Landscape Plan	N/A
Findings of Fact	N/A
Findings of Fact (Amended)	N/A
C-S/D-P Statement	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Community Commercial provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

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

- Outdoor display of merchandise should be limited.
- If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
- Should be located along an arterial or collector street.
- 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.

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

2002-ZON-807 / 2002-VAR-807; 4825 North Arlington Avenue (north of site), requested rezoning of 23.572 acres from the D-3 district to the SU-2 classification to legally establish educational uses and a variance of use and development standards of the Sign Regulations to provide for a 23-foot-tall, 156-square-foot pylon sign, with 36 square feet devoted to an electronic variable message board located 110 feet from a protected district, **approved and granted**.

90-UV3-44; 6010 East 46th Street (south of site), requested a variance of use of the Commercial Zoning Ordinance to provide for the rental of six panel trucks, **granted**.

88-UV3-135; 4570 North Arlington Avenue (south of site), requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the conversion of a single-family residence into a real estate office, **denied**.

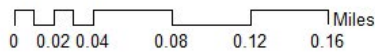
86-V1-135; 5930 Laurel Hall Drive (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a garage addition to a single-family residence located at 3 feet, 8 inches from the side property line (7 feet required), **denied**.

60-V-12; 4825 North Arlington Avenue (north of site), requested a variance of use to provide for a school, **granted**.

EXHIBITS



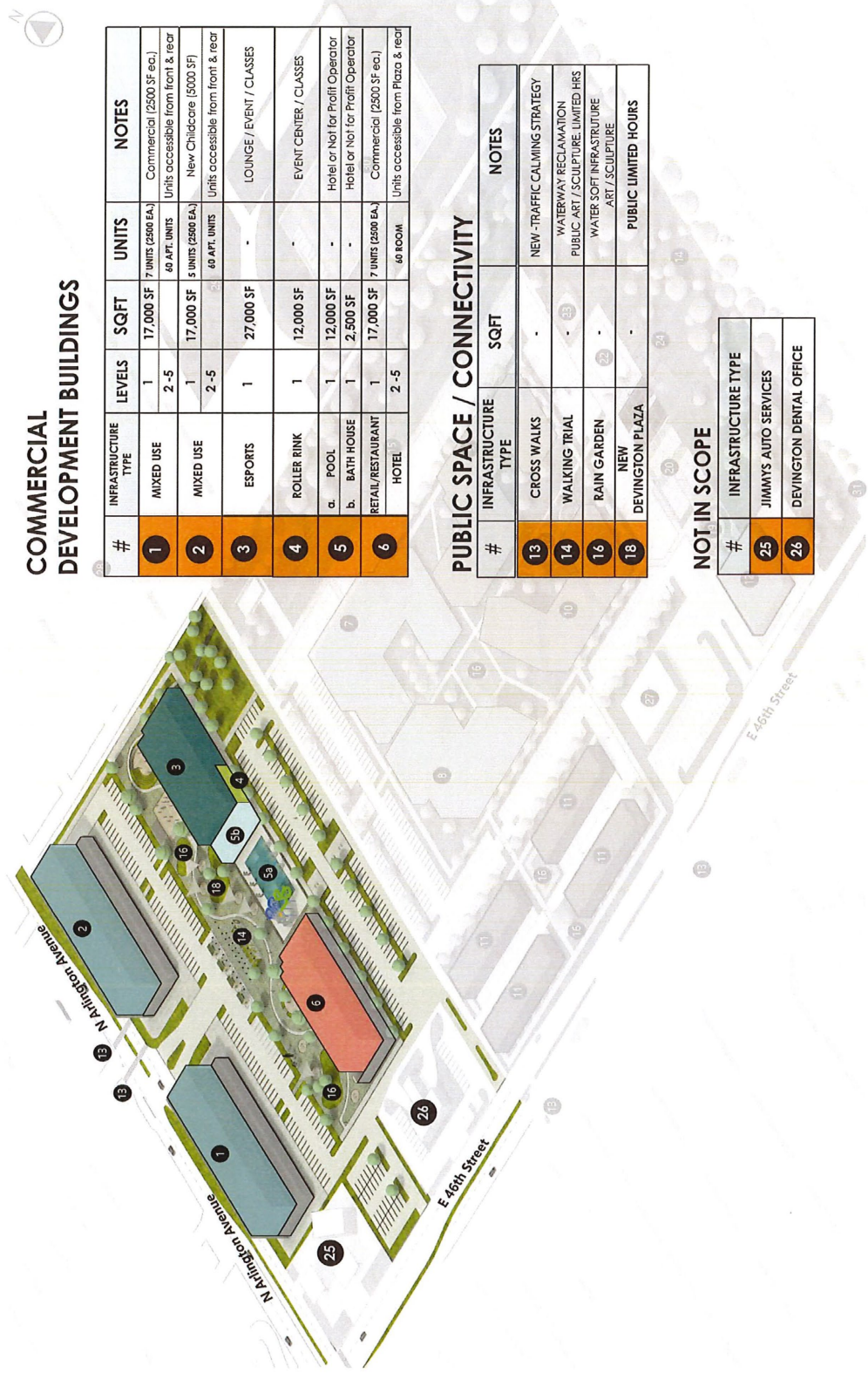
6000, 6012, 6020, 6180 and 6206 East 46th Street



#DESTINATION DEVINGTON



COMMERCIAL / COMMUNITY PLAZA



COMMERCIAL DEVELOPMENT BUILDINGS

#	INFRASTRUCTURE TYPE	LEVELS	SQFT	UNITS	NOTES
1	MIXED USE	1 2-5	17,000 SF	7 UNITS (2500 EA.) 60 APT. UNITS	Commercial (2500 SF ea.) Units accessible from front & rear
2	MIXED USE	1 2-5	17,000 SF	5 UNITS (2500 EA.) 60 APT. UNITS	New, Childcare (5000 SF) Units accessible from front & rear
3	ESPORTS	1	27,000 SF	-	LOUNGE / EVENT / CLASSES
4	ROLLER RINK	1	12,000 SF	-	EVENT CENTER / CLASSES
5	a. POOL b. BATH HOUSE	1	12,000 SF 2,500 SF	- -	Hotel or Not for Profit Operator Hotel or Not for Profit Operator
6	RETAIL/RESTAURANT HOTEL	1 2-5	17,000 SF	7 UNITS (2500 EA.) 60 ROOM	Commercial (2500 SF ea.) Units accessible from Plaza & rear

PUBLIC SPACE / CONNECTIVITY

#	INFRASTRUCTURE TYPE	SQFT	NOTES
13	CROSS WALKS	-	NEW - TRAFFIC CALMING STRATEGY
14	WALKING TRIAL	-	WATERWAY RECLAMATION PUBLIC ART / SCULPTURE, LIMITED HRS
16	RAIN GARDEN	-	WATER SOFT INFRASTRUCTURE ART / SCULPTURE
18	NEW DEVINGTON PLAZA	-	PUBLIC LIMITED HOURS

NOT IN SCOPE

#	INFRASTRUCTURE TYPE
25	JIMMY'S AUTO SERVICES
26	DEVINGTON DENTAL OFFICE

HOUSING & AMENITIES

COMMERCIAL DEVELOPMENT BUILDINGS

#	INFRASTRUCTURE TYPE	LEVELS	SQFT	UNITS
7	APARTMENTS	FIVE	N/A	100 UNITS
8	APARTMENTS	FIVE	N/A	100 UNITS
9	APARTMENTS (TAX CREDIT)	FOUR	N/A	100 UNITS
10	APARTMENTS (TAX CREDIT)	FOUR	N/A	100 UNITS
11	TOWN HOMES (8)	TWO	8,320 SF	
12	FUTURE DEVELOPMENT	ONE	8,500 SF	

NOT IN SCOPE

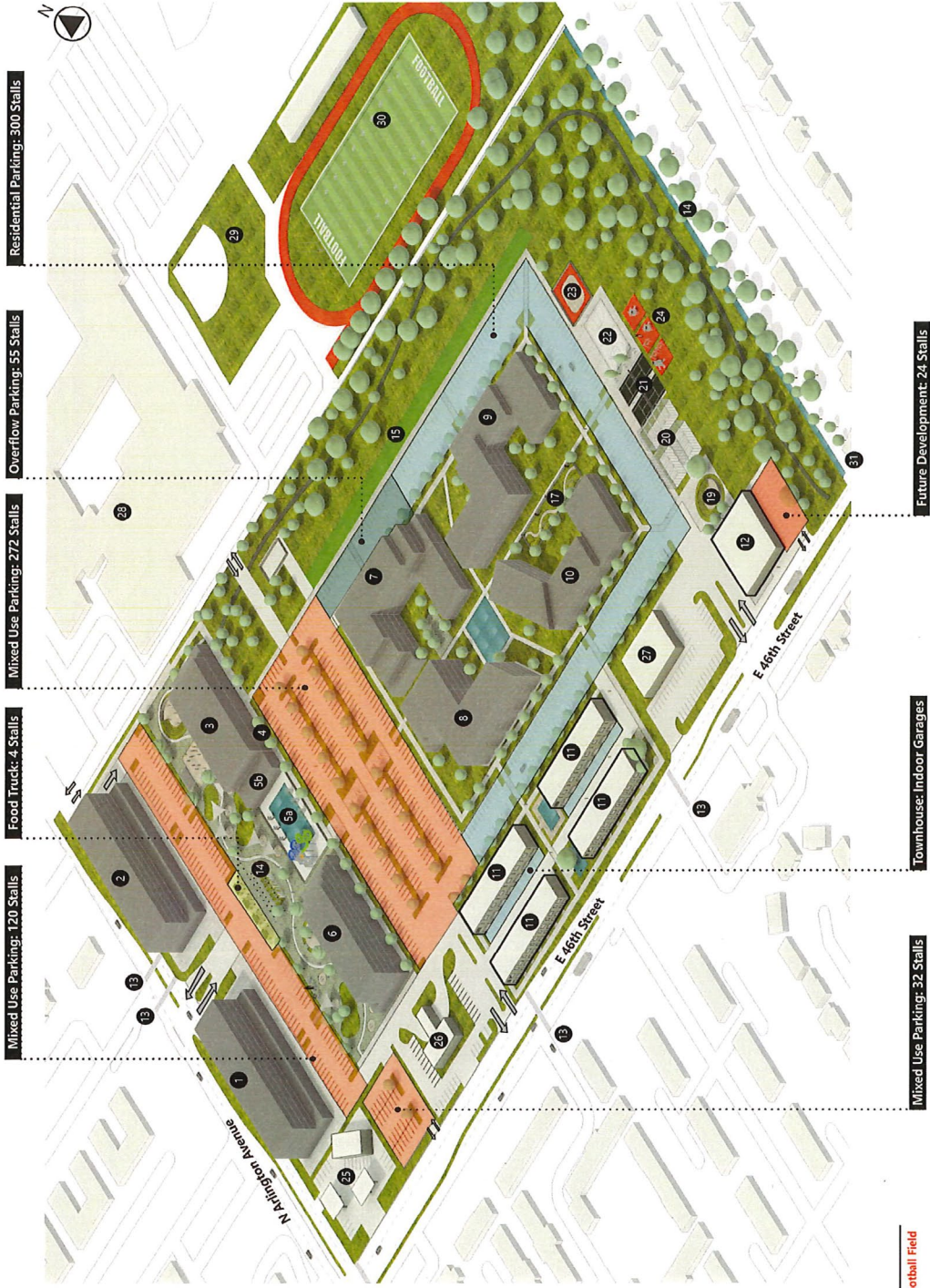
#	INFRASTRUCTURE TYPE
25	JIMMYS AUTO SERVICES
27	AUTO ZONE PARTS
28	ARLINGTON MIDDLE SCHOOL
29	ARLINGTON FOOTBALL FIELD
30	ARLINGTON BASEBALL FIELD
31	DEVON CREEK

PUBLIC SPACE / CONNECTIVITY

#	INFRASTRUCTURE TYPE	NOTES
13	CROSSWALK	
14	WALKING TRAIL	PUBLIC LIMITED HOURS
15	WATER RETENTION SYSTEM	
16	RAIN GARDEN	
17	PLAY GROUND	PRIVATE (RESIDENT ONLY)
19	AMPHITHEATER	PUBLIC LIMITED HOURS
20	COMMUNITY GARDEN	PUBLIC LIMITED HOURS
21	TENNIS COURTS	PUBLIC LIMITED HOURS
22	BASKETBALL COURT	PUBLIC LIMITED HOURS
23	DOG PARK	PUBLIC LIMITED HOURS
24	PLAY GROUND	PUBLIC LIMITED HOURS



#DESTINATION DEVINGTON MASTERPLAN - PARKING



PARKING SCHEDULE

Tag	Function	Level	Square Footage or Units	Min Off-Street Vehicle Parking Spaces Required	Max Off-Street Vehicle Parking Spaces Permitted	Proposed Off-Street Vehicle Parking Spaces	Location (Refer to drawing)
1	Commercial (All retail sales uses)	1	17,000	49 (1 per 350 sf if under 200,000 sf)	85 (1 per 200 sf)	49	Mixed Use Parking
1	Market Rental Housing (Multifamily dwellings 5 or more)	2,3,4,5	60	45 0.75 (if over 3 stories)	None	45	Mixed Use Parking
2	Commercial (All retail sales uses)	1	10,000	29 (1 per 350 sf if under 200,000 sf)	50 (1 per 200 sf)	29	Mixed Use Parking
2	Daycare (Daycare Center or Nursery School)	1	7,000	18 (1 per 400 sf)	35 (1 per 200 sf)	18	Mixed Use Parking
2	Market Rental Housing (Multifamily dwellings 5 or more)	2,3,4,5	60	45 0.75 (if over 3 stories)	None	45	Mixed Use Parking
3	ESports (Community Center)	1,2	33,000	83 (1 per 400 sf)	165 (1 per 200 sf)	83	Mixed Use Parking
4	Rollerskating (Indoor recreation & Entertainment)	1	5,000	13 (1 per 400 sf)	25 (1 per 250 sf)	13	Mixed Use Parking
5	Swimming Pool (Recreational Facility)	1	14,500	36 (1 per 400 sf)	72.5 (1 per 250 sf)	36	Mixed Use Parking
6	Commercial (All retail sales uses)	1	17,000	49 (1 per 350 sf if under 200,000 sf)	85 (1 per 200 sf)	49	Mixed Use Parking
6	Hotel (Lodging - Hotel)	2,3,4,5	60	60 (1 per guest room)	90 (1.5 per guest room)	60	Mixed Use Parking
				424	608	424	Mixed Use Parking (120-32-272)
7	Market Rental Housing (Multifamily dwellings 5 or more)	1,2,3,4,5	100	75 0.75 (if over 3 stories)	None	75	Residential Parking
8	Market Rental Housing (Multifamily dwellings 5 or more)	1,2,3,4,5	100	75 0.75 (if over 3 stories)	None	75	Residential Parking
9	Tax Credit Housing (Multifamily dwellings 5 or more)	1,2,3,4	100	75 0.75 (if over 3 stories)	None	75	Residential Parking
10	Tax Credit Housing (Multifamily dwellings 5 or more)	1,2,3,4	100	75 0.75 (if over 3 stories)	None	75	Residential Parking
				300	-	300	Residential Parking (300)
11	Townhouses (Single family Attached Dwellings)	1,2	8	8 (1 per dwelling Unit)	None	8	Indoor Garage
12	Future Development (Office)	1	8,500	24 (1 per 350 sf)	43 (1 per 200 sf)	24	Future Development Parking
				24	43	24	

EXHIBIT A



*1 Cor. 10:31
 ...whatever you do,
 do it all for the glory of God.*

Clark Katz
 Principal
 Skysoar Capital Partners, LLC
 400 Rella Blvd, Suite 100
 Montebello, NY, 10901

July 11, 2024

Re: Trip Generation Comparison
 Devington Plaza
 6000 East 46th Street
 Indianapolis, Indiana 46226
 Yarger Engineering Job Number: 20240702

Dear Mr. Katz;

Per your request, we have estimated the trips generated by Devington Plaza, before as a shopping center, and after as mixed-use. As can be seen in the tables below, the before case had more daily and afternoon traffic. Since many businesses in shopping centers are typically not open in the morning peak periods between 7:00 and 9:00 AM, the morning before traffic is lower than the after case with the mixed-uses, which includes uses with more balanced traffic through-out the day. The second and third tables contain the individual land uses.

Trip Generation Before and After Comparison			
Land Use	Daily	AM Street Peak	PM Street Peak
Before – Shopping Center	12,801	368	1,063
After – Mixed-Use	7,880	491	681

The second and third tables contain the individual land uses.

Trip Generation Before - Shopping Center						
Land Use	ITE Code	Size	Units	Daily	AM Street Peak	PM Street Peak
Shopping Center	820	178	KSFT	10,519	239	856
Liquor Store	899	1.5	KSFT	161	1	60
Gas with Convenience Market, 2 – 4 KSFT	945	8	Fueling Positions	2,121	128	147
Total				12,801	368	1,063

Mr. Katz
 July 11, 2024
 Page 2

Trip Generation Mixed-Use						
Land Use	ITE Code	Size	Units	Daily	AM Street Peak	PM Street Peak
Townhomes	215	32	Dwelling Units	193	11	15
Mid-Rise Apartments	221	520	Dwelling Units	2,434	217	203
Business Hotel	312	38	Rooms	326	25	25
Community Center	495	60	KSFT	1,150	73	95
Day Care	565	7	KSFT	333	77	78
Shopping Plaza Without Supermarket	821	51	KSFT	3,444	88	265
Total				7,880	491	681

The Esports, roller skating rink, and pool were calculated using the recreational community center as the closest fit for the land use in the ITE Trip Generation Manual.

If you have any questions or comments, please call me at (317) 475-1100. You may also email me at bwyarger@yargerengineering.com.

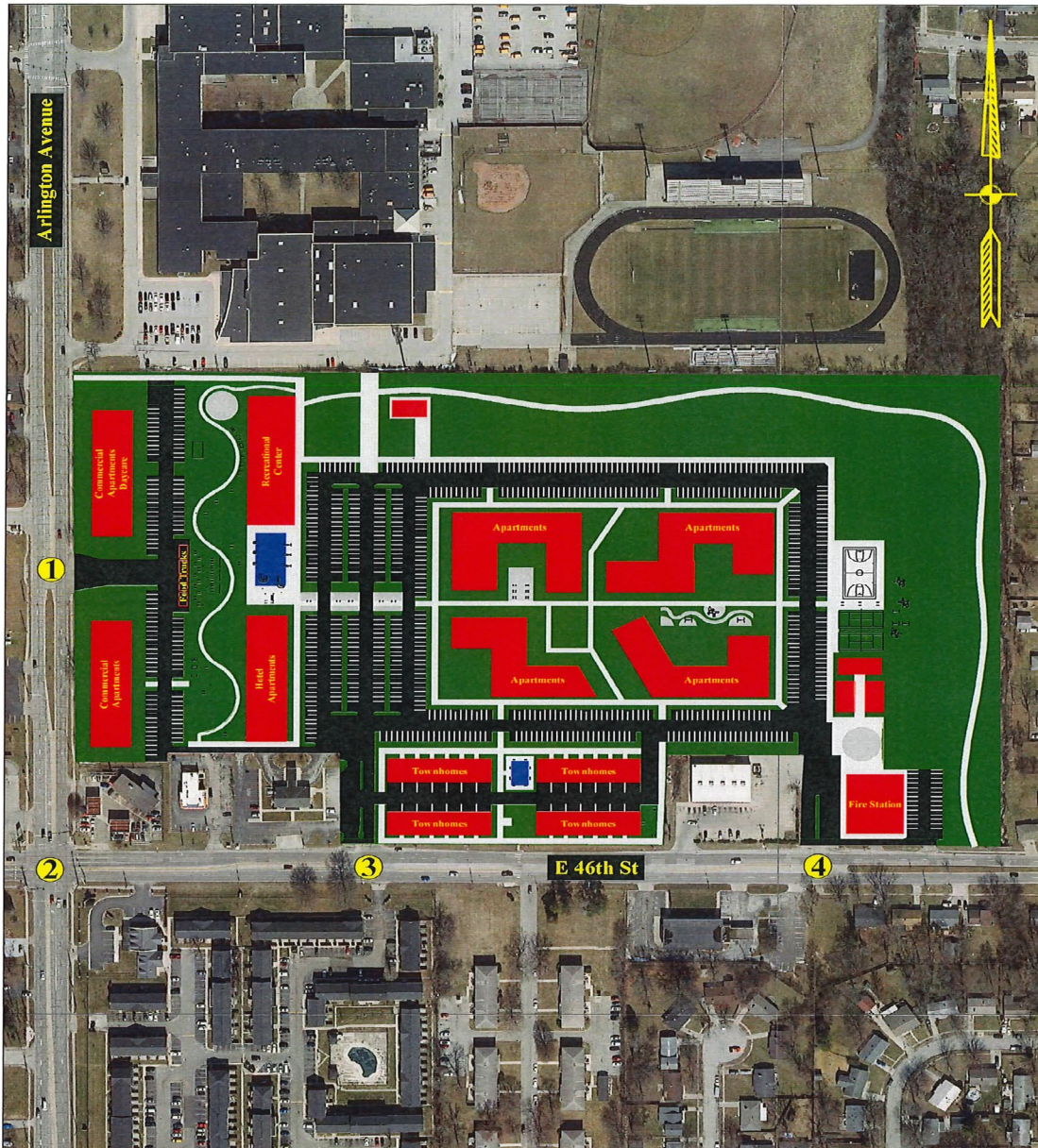


Sincerely,
 Yarger Engineering, Inc.

Bradley W. Yarger
 Bradley William Yarger, P.E.
 President

BWY/bwy

EXHIBIT B





View looking north along North Arlington Avenue



View looking east along East 46th Street



View looking west along East 46th Street



View of site looking north



View of site looking east along existing structure



View of site looking north



View from site looking east at adjacent property



View of site looking southeast



View of site looking east



View from site looking south



View from site looking south



From site looking west along southern boundary



View from site looking west across North Arlington Avenue



View from site looking northwest across North Arlington Avenue