

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-ZON-004
Address: 5680 Eden Village Drive (*Approximate Addresses*)
Location: Pike Township, Council District #8
Petitioner: Olanrewaju Ahmeed Azeez
Request: Rezoning of 1.55 acres from the C-S district to the D-6 district to allow for a single-family attached residential development.

The Hearing Examiner acknowledged the automatic continuance filed by the petitioner that continued this petition from the February 23, 2023 hearing, to the March 23, 2023 hearing,

The Hearing Examiner continued this petition from the March 23, 2023 hearing, to the April 27, 2023, hearing, and to the May 25, 2023 hearing at the request of staff.

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued this petition from the May 25, 2023 hearing, to the June 29, 2023 hearing.

The Hearing Examiner continued this petition from the June 29, 2023 hearing, to the August 24, 2023 hearing, to the September 28, 2023 hearing, and to the October 26, hearing, at the request of staff.

RECOMMENDATIONS

Staff **recommends approval** of the request, 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. 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 site plan and elevations shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).
3. A sidewalk shall be installed along the West 57th Street right-of-way that abuts this site and along the frontage of Eden Village Drive prior to occupancy of any of the dwelling units.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 1.55-acre site, zoned C-S, is undeveloped and surrounded by single-family dwellings to the north, undeveloped land to the south and multi-family dwellings to the east, across Eden Village Drive, all zoned C-S; and single-family dwellings to the west, zoned D-P.

(Continued)

STAFF REPORT 2023-ZON-004 (Continued)

- ◇ Petition 89-Z-158 rezoned seven acres, including this site, to the C-S district for professional office and low-intensity commercial development.

REZONING

- ◇ This request would rezone the site from the C-S District to the D-6 classification to provide for multi-family development uses. “The D-6 district provides for medium intensity residential development of a variety of housing types: multifamily dwellings, triplex, fourplex, two-family and single-family attached dwellings. The district is intended for developments in suburban areas well served by major thoroughfares, sanitary sewers, and school and park facilities. In its application, the district need not be directly associated with more intense land uses such as commercial or industrial areas. The development pattern envisioned is one of trees lining curving drives with the ample open space provided for in the district affording a wide variety of on-site recreational facilities. The D-6 district has a typical density of 6 to 9 units per gross acre. This district fulfills the medium density residential recommendation of the Comprehensive General Land Use Plan. Development plans should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site conditions, including vegetation, topography, drainage and wildlife.”
- ◇ 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.
- ◇ 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

(Continued)

STAFF REPORT 2023-ZON-004 (Continued)

Conditions for All Housing

- A mix of housing types is encouraged.
- Developments of more than 30 housing units must have access to at least one arterial street of 3 or more continuous travel lanes between the intersections of two intersecting arterial streets.
- Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user
- Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.
- Developments with densities higher than 5 dwelling units per acre should have design character compatible with adjacent properties. Density intensification should be incremental with higher density housing types located closer to frequent transit lines, greenways or parks.

Attached Housing (defined as duplexes, triplexes, quads, townhouses, row houses, stacked flats, and other, similar legally-complete dwellings joined by common walls and typically with each unit on its own lot or part of a condominium.

- Duplexes should be located on corner lots, with entrances located on different sides of the lot or otherwise interspersed with detached housing.
- Duplexes should be architecturally harmonious with adjacent housing.
- Townhomes should be organized around intersections of neighborhood collector streets, greenways, parks or public squares, or neighborhood-serving retail.

Multi-family Housing (defined as single or multiple buildings each with five or more legally complete dwelling units in a development of less than two acres and at a height of less than 40 feet).

- Should be located along arterial or collector streets, parks, or greenways.
- Parking should be either behind or interior to the development.
- Individual building height, massing, and footprint should gradually transition from adjacent developments. Specifically, buildings located adjacent to existing residential developments should be no more than one and a half times the height and no more than twice the average footprint of the existing adjacent residential buildings.

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.

(Continued)

STAFF REPORT 2023-ZON-004 (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.

Site Plan

- ◇ The original request was for six to 14 townhomes, but the petitioner has been exploring denser options. A site plan file-dated April 26, 2023, provided for the two 12-unit multi-family buildings, with access drives along the West 57th Street unimproved right-of-way and along Eden Village Drive. Approximately 40 parking spaces are proposed.
- ◇ The amended conceptual site plan, file dated May 10, 2023, was submitted that depicted a large emergency vehicle and a wider access drive along West 57th Street from 31.4 feet to 32.1 feet. Otherwise, the conceptual plans are the same.
- ◇ Obviously, access along West 57th Street would not be possible unless the petitioner constructed the missing portion of West 57th Street in compliance with the Department of Public Works standards for public streets.
- ◇ Each three-story building would be approximately 34 feet tall and consist of 12 dwelling units for a total of 24 units, resulting in a density of 15.48 units per acre.
- ◇ As proposed, variances for development standards would be necessary that would include, but not limited to, the required 30-foot perimeter yard along the southern boundary and possibly the required 0.40 ratio for the maximum floor area and the 1.80 ratio for the minimum livability space. Because this is an undeveloped site with few constraints, staff would be hesitant to support any requested variances.

(Continued)

STAFF REPORT 2023-ZON-004 (Continued)

Planning Analysis

- ◇ As proposed, the request would generally be consistent with the Comprehensive Plan recommendation of suburban neighborhood.
- ◇ The density would exceed the typical density of a D-6 district but would be consistent with the multi-family dwellings adjacent to the east that has a density of 14.7 units per acre and the multi-family development south of this site with a density of 35.7 units per acre.
- ◇ Commitments associated with the 1989 rezoning required construction of West 57th Street between Georgetown Road and the residential development to the west. The original developer, however, was unable to construct the entire length, leaving an approximately 311-foot long unimproved portion abutting this site along the north property line. See Exhibit A.
- ◇ Petition 2002-ZON-072 included a commitment that required contribution of “a reasonable portion of the funds” for the construction of the remaining portions of West 57th Street (See Exhibit B). Staff believes it would not be appropriate for the current petitioner to be responsible for construction of the street because this undeveloped portion of West 57th Street should have been constructed by previous development projects. Alternatively, staff would request that a sidewalk be installed within the existing unimproved right-of-way of West 57th Street along the north property line. This would, however, eliminate any drive access within this unimproved right-of-way and vacation of this right-of-way would not be appropriate or supported by staff.
- ◇ Staff supports the requested rezoning but would request that the final site plan and building elevations be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).
- ◇ It should be noted that the commitments associated with the 1989 rezoning also required that the “site plans, development plans and elevations” be mailed to Pike Township Residents Association for notice purposes.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-S	Undeveloped
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SURROUNDING ZONING AND LAND USE

North -	C-S	Single-family dwellings
South -	C-S	Undeveloped land
East -	C-S	Multi-family dwellings
West -	D-P	Single-family dwellings

COMPREHENSIVE LAND USE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood typology.
(Continued)

STAFF REPORT 2023-ZON-004 (Continued)

THOROUGHFARE PLAN	This portion of Eden Village Drive is designated in the Marion County Thoroughfare Plan as a local street with an existing 68-foot right-of-way and a proposed 50-foot right-of-way.
CONTEXT AREA	This site is located within the metro context area.
OVERLAY	This site is not located within and overlay.
SITE PLAN / ELEVATIONS	April 26, 2023
SITE PLAN / ELEVATIONS (AMENDED)	May 10, 2023

ZONING HISTORY

89-Z-189; 5710 Georgetown Road (includes this site), requested rezoning 23.5 acres, being the SU-3 and D-6II Districts to the C-S classification to provide for a mixed-use commercial development including all C-2 uses, retail convenience / service establishments, personal service establishments, post office, professional services establishments, mini-warehouses, miniature golf and an indoor commercial amusement / recreation facility, **approved**.

VICINITY

2017-CAP-821 / 2017-CVR-821; 4940 West 56th Street (south of site), requested a modification of Commitments to terminate all commitments related to 89-Z-158, 95-Z-201 and 2008-APP-071 and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 60-foot-tall assisted living facility and to provide for 20% transparency **approved and granted**.

2008-ZON-838 / 2006-VAR-838; 4900 West 56th Street (included subject site), requested rezoning of 0.83 acre, being in the C-S District to the C-S classification to provide for C-3 uses and the sale of auto parts and accessories, and a variance of development standards of the Commercial Zoning Ordinance to provide for reduced side setbacks to the west, east and north, **denied**.

2008-APP-071; 5620 Eden Village Drive (east of site), requested approval of a modification of the site plan related to petition 95-Z-201 to provide for a bank with a drive through and modification commitments numbers two, four, five, ten, and fifteen, **approved**.

2002-ZON-072, 5665 Eden Village Drive (east of site), requested rezoning of 3.40 acres, being in the C-S District to the C-S classification to provide for multi-family residential development, **approved**.

(Continued)

STAFF REPORT 2023-ZON-004 (Continued)

95-Z-201; 4902 West 56th Street (east of site), requested rezoning of 3.12 acres, being in the C-S District, to the C-S classification to provide for C-1 uses, gymnasium and tennis facilities, mini-warehouses, drinking places, and eating places, hotel, not exceeding two stories and limited C-3 uses, **approved**.

89-Z-158; 4950 West 56th Street (included site), requested rezoning of 7.0 acres being in the D-2 and SU-3 Districts, to the C-S classification to provide for professional office and low-intensity commercial development, **approved**.

88-Z-265; 5150 West 56th Street (west of site), requested rezoning of 21.43 acres, being in the A-2, SU-3 and SU-43 district, to the D-6II classification to provide for multi-family residential development, **approved**.

88-Z-264 / 88-DP-9; 5150 West 56th Street (FW/FP) (west of site), requested rezoning of 39.41 acres, being the A-2, D-6II, and SU-43 Districts to the D-P classification to provide for zero lot line single-family and two-family residential development, **approved**.

88-Z-44; 5802 Georgetown Road (east of site), requested rezoning of 23.6 acres, being in the SU-3 District to the D-7 classification to provide for multi-family residential development, **approved**.

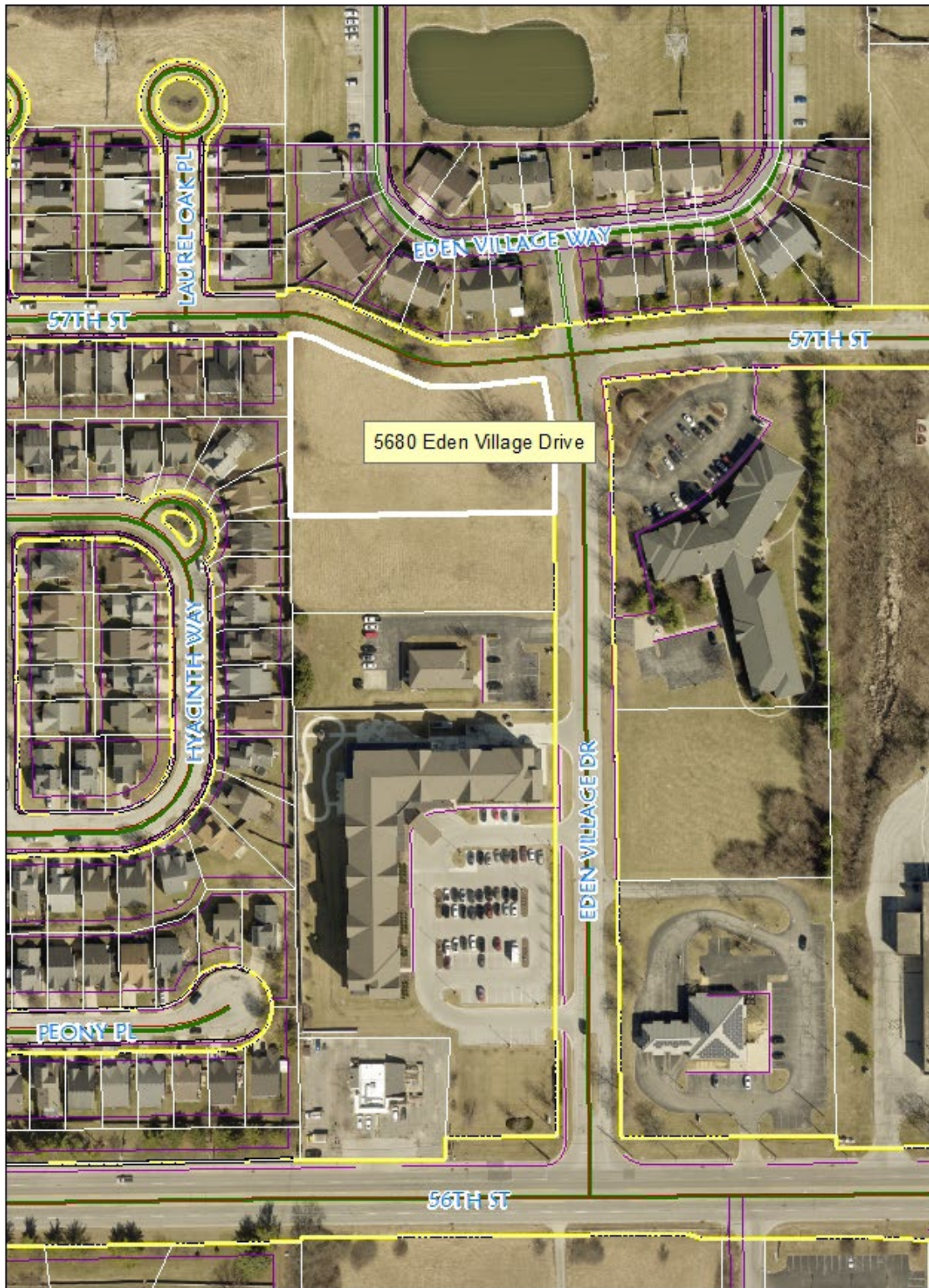
87-Z-178 / 87-CV-22; 5660 Georgetown Road (east of site), requested rezoning of 15.0 acres to the C-3 classification to provide for a community shopping center, **approved**.

86-UV3-79; 5050 West 56th Street (west of site), requested a variance of use of the Commercial Zoning Ordinance to provide for a building addition to an existing restaurant and tavern, **granted**.

83-Z-152; 4950 Georgetown Road (east of site), requested the rezoning of 13.7 acres, being the D-P District to the C-3 classification to provide for retail use, **approved**.

77-Z-320; 4900 West 56th Street (east of site), requested rezoning of 86.51 acres, being in the SU-8 and A-2 District, to the SU-9 classification to provide for a golf course, **approved**.

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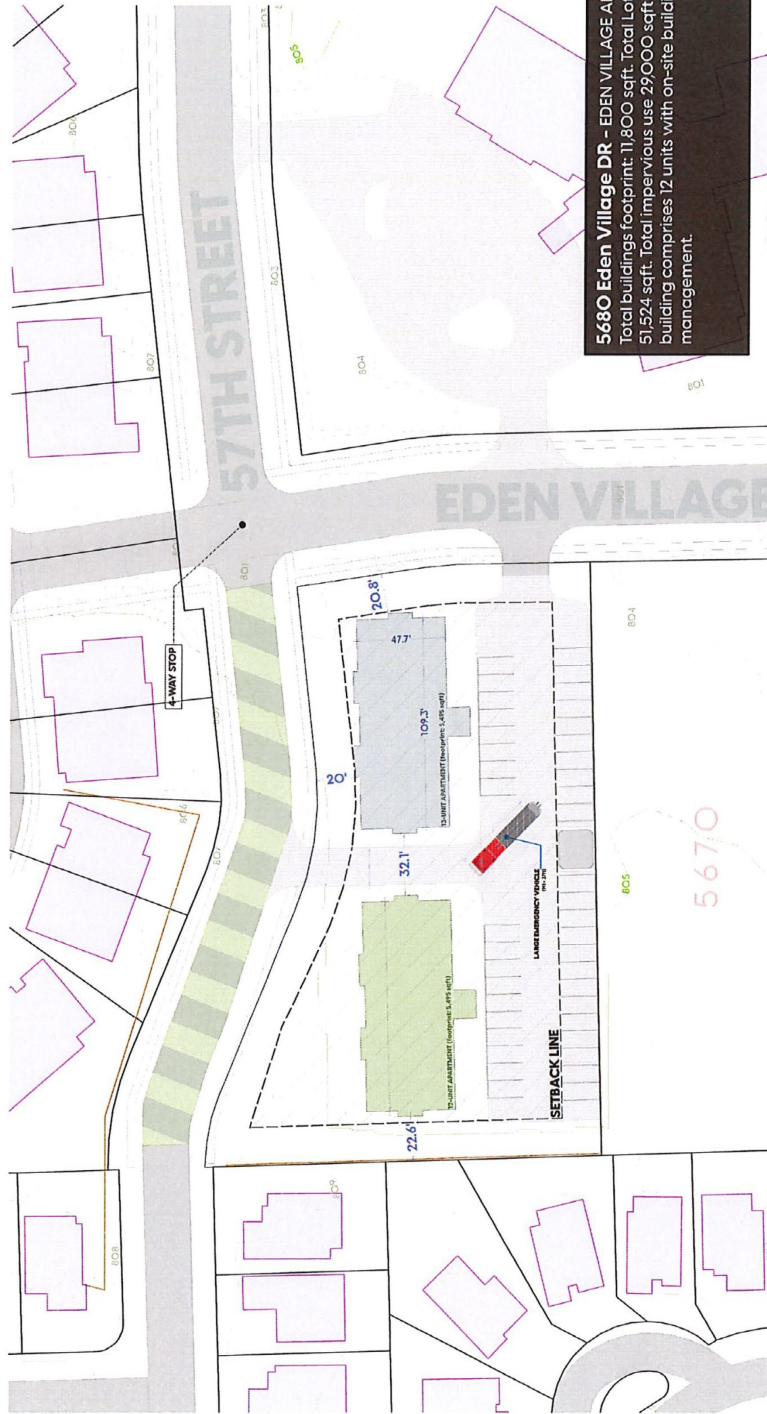


5680 Eden Village Drive

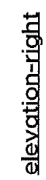
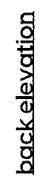
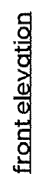


5680 Eden Village Drive

0 0.01 0.02 0.04 0.06 0.08 Miles



5680 Eden Village Dr - EDEN VILLAGE APARTMENTS
 Total buildings footprint: 11,800 sqft. Total Lot size:
 51,524 sqft. Total impervious use 29,000 sqft (56%). Each
 building comprises 12 units with on-site building
 management.





EDEN VILLAGE APARTMENTS

Depicted here is a very general view of the buildings (without design cues or a final roofline). This has been done with intention, to offer flexibility to the interested parties. We suggest a typical muted color palette not dissimilar to the nearby residential units. Further, if a gable/hip roof system is desired, we may add it to continue compliance with neighborhood standards.



BUILDING DIMENSIONS

Each building comprises three levels above grade with a maximum height of about 34 feet, width of 120 feet and dept of 50 feet and is surrounded by both structured and unstructured landscaping for water retention and to maintain neighborhood standards.



AERIAL VIEW OF BUILDINGS ON LOT

As seen from this aerial view, the buildings face south toward the parking lot. Though the design allows for a similar appearance from the front or back and is in keeping with the neighborhood standards for "frontage" (even on a corner lot). It also follows that the neighbors across the street also face away from the newly-formed 57th Street throughfare.

EXHIBIT A
89-Z-189 COMMITMENTS

900002670 1300 0300

NOTE: Article VI, Section 3(b) of the rules of the Metropolitan Development Commission requires use of this form in recording commitments made with respect to zoning and approval cases in accordance with I.C. 36-7-4-607, Resolution No. 85-R-69, 1985, of the Metropolitan Development Commission requires the owner to make Commitment #1.

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. 36-7-4-607, 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:

See Exhibit "A"

RECORDED FOR RECORD
90 JUN -9 PM 3:05
MARION COUNTY RECORDS

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. SEE ATTACHED EXHIBIT "B"

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 persons 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 # 89-2-189 by the City-County Council changing the zoning classification of the real estate from a SU-3 zoning classification to a C-2 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 _____ 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 or 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. _____

The undersigned hereby authorizes the Division of Development Services 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 # 89-2-189.

IN WITNESS WHEREOF, owner has executed this instrument this _____ day of _____, 1999.

Signature _____ (Seal) Signature _____ (Seal)

Printed _____ Printed By: Ronald K. Fisher, President

STATE OF INDIANA)
COUNTY OF MARION) 89:

Before me, a Notary Public in and for said County and State, personally appeared Ronald K. Fisher, President, owner(s) 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 2nd day
of November, 1982

Signature Nancy M. Owens
Printed NANCY M. OWENS
County of Residence Maricopa

My Commission expires:

March 5, 1990

This instrument was prepared by John H. Van Duren

5271A/JB

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, color, religion, ancestry, national origin, handicap or sex 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, color, religion, ancestry, national origin, handicap or sex.

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.

5271/jh

000002670

Part of the Southeast Quarter of Section 6, Township 10 North,
Range 3 East in Marion County, Indiana, being more particularly
described as follows:

Commencing at the Southeast corner of said Southeast Quarter
of Section 6; thence North 89° 42' 48" West along the South line
of said Southeast Quarter a distance of 1417.82 feet; thence
North 03° 43' 26" East 45.00 feet to the North 45.00 foot right
of way line of West 56th Street; thence North 89° 42' 48" West
along said Right of Way line and parallel with the South line of
said Southeast Quarter a distance of 1090.55 feet to the East
line a Parcel conveyed to Patterson, Johnston, Speth and
McDonough by a Quitclaim Deed recorded as Instrument No. 66-47923
in the Office of the Recorder of Marion County; thence North 02°
52' 41" East along the East line of said Parcel a distance of
141.35 feet; thence North 89° 42' 48" West along the North line
of said Parcel a distance of 179.72 feet to the West line of said
Southeast Quarter; thence North 00° 05' 48" West along the West
line of said Southeast Quarter a distance of 379.98 feet, to the
Point of Beginning of this description said point being the
Northwest corner of Parcel II; thence North 00° 05' 48" West
along the West line of said Southeast Quarter a distance of
1138.85 feet to the Southwest corner of the Briarwoods Apartments
recorded as Instrument No. 73-80413 in the Office of the Recorder
of Marion County, said point being South 00° 05' 48" East 953.78
feet from the Northwest corner of said Southeast Quarter of
Section 6; thence South 89° 50' 26" East along the south line of
said Briarwoods Apartments and parallel with the North line of
said Southeast Quarter a distance of 685.00 feet to the Southeast
corner of said Briarwoods Apartments, said point also being on
the West line of Parcel IV; thence South 00° 05' 48" East along
the West line of Parcel IV and parallel with the West line of
said Southeast Quarter a distance of 365.48 feet to the Southwest
corner of Parcel IV; thence South 89° 42' 48" East along the
South line of Parcel IV and parallel with the South line of said
Southeast Quarter a distance of 677.82 feet to the West Right of
Way line of Georgetown Road per Metropolitan Transit Authority
Plans for Project No. CP67-10A; thence South 05° 18' 31" East
along said West Right of Way line of Georgetown Road a distance
of 381.04 feet to the Northeast corner of Parcel I; thence South 89°
42' 48" West along the North line of Parcel I and parallel with
the South line of said Southeast Quarter a distance of 787.98 feet
to the Northwest corner of Parcel I; thence South 00° 05' 48" East
along the West line of Parcel I and parallel with the West line
of said Southeast Quarter a distance of 395.65 feet to the
Northeast corner of Parcel II; thence North 89° 42' 48" West
along the North line of Parcel II and parallel with the South
line of said Southeast Quarter a distance of 629.46 feet to the
Northwest corner of Parcel II, said point being the Point of
Beginning; containing in all 23.468 acres, more or less; subject
to highways, right of way and easements.

EXHIBIT "A"

20277670

EXHIBIT "D"

ZONING COMMITMENTS

Wishard Park Development Corp.
Docket No. 89-2-189

1. Final site plans, development plans and elevations for the development of any site shall be subject to the review and approval of the Administrator of the Division of Development Services ("Administrator"). Upon submission to the Administrator of any final site plans, development plans and elevations as required hereby, copies thereof shall be mailed, First Class United States Mail, to the Pike Township Residents Association at the address then on file for notice purposes in the Office of the Department of Metropolitan Development.

2. Landscape plans for each site proposed for development shall be submitted for approval by the Administrator prior to application for an improvement location permit with respect to such site. Such landscape plans shall include perimeter landscape treatment, including mounding and screening on the north perimeter of Area 1 (subject to any requirements of Indianapolis Power & Light Company or its successor or assigns) and screening in Area 3 for the residential development to the west.

3. Areas 1, 2 and 3 shall each be developed as separate integrated Areas for purposes of signage and internal access. A sign program (not to include incidental site development, leasing or for-sale signs) shall be developed and submitted for approval by the Administrator for each Area.

4. A roadway intended for dedication to the public shall be constructed within Areas 1 and 3 as shown on the site plan (the southern boundary of Area 2 ends at the northern boundary of the proposed road). Unless otherwise approved by Indianapolis Department of Transportation, such roadway shall have a right of way of 70 feet within Areas 1 and 3 tapering into a 50 foot right of way in the western portion of Area 3.

5. No billboard advertising signs (as defined by the applicable Sign Ordinance) shall be permitted to be constructed upon the real estate.

6. No "Adult Entertainment Business" as defined by Section 11-2 of the Adult Entertainment Business Ordinance (or any successor ordinance), shall be permitted upon the real estate.

7. No package liquor stores shall be permitted upon the real estate.

8. Dumpsters shall be contained within enclosures or otherwise screened from view.

300004670

EXHIBIT B
2002-ZON-072 COMMITMENTS

12/09/2002 11:41 317-327-7883

CITY OF INPLS DMD

PAGE 01/04

Legal Description Missing
At Time Of Recording.

MCR

STATEMENT OF COMMITMENTS

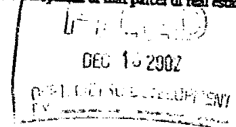
5451+5461

Eden Village Dr

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. 36-7-4-613 or I.C. 36-7-4-614, 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: (insert here or attach)



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. See Exhibit B
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.

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ATTACHMENT "A"

OPEN OCCUPANCY AND EQUAL EMPLOYMENT OPPORTUNITY COMMITMENT

- (a) The owner covenants that he shall not discriminate against any person on the basis of race, color, religion, ancestry, national origin, handicap or sex 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 covenants 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, color, religion, ancestry, national origin, handicap or sex.

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 B

1. The petitioner shall financially contribute towards the construction of the remaining portion of East 57th Street, in the amount to be determined by a formula developed by Department of Public Works (DPW). That contribution shall be conveyed to the DPW within (30) days of receipt of a written notice from DPW to convey said financial contribution.
2. Development shall be in accordance with the presented site plan file-dated 5-15-02.
3. Building shall be a maximum of 2-stories in height, completely comprised of a brick facade with a gable roof.
4. Sidewalks shall be provided along 57th Street extending to the eastern property line and along Eden Village Drive extending to the southern property line.
5. ANEPA shall contribute a reasonable portion of funds for the construction of 57th Street, from Eden Village Drive westward connecting with the existing 57th Street, based upon their pro-rata portion of land in the development.



View looking north along Eden Village Drive



View looking south along Eden Village Drive



View looking east along West 57th Street



View looking west at unimproved portion of West 57th Street



View of site looking west across Eden Village Drive at access drive



View of site looking west across Eden Village Drive



View looking west across Eden Village Drive at adjacent property to the south of site



View looking north across West 57th Street at adjacent development to the north



View from site looking south at adjacent multi-family development