

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-007
Address: 4650 East Southport Road (*Approximate Address*)
Location: Perry Township, Council District #24
Zoning: C-S (FF) (FW)
Petitioner: HD Entertainment, LLC d/b/a Combat Ops Entertainment - Indy, by Joseph D. Calderon
Request: Modification of Commitments related to 97-CP-23Z to modify Commitment 2.(d)(4) of Attachment C to prohibit billiard parlors, bathhouses, firing (gun) ranges, ice/roller skating rinks, bowling alleys, and bingo establishments (unless operated for charitable purposes) and allow all other Indoor Recreation & Entertainment uses.

RECOMMENDATION

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

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This subject site is the westernmost portion of a retail center stretching along Southport Road between I-65 and Emerson Avenue. It was constructed and opened in 2001/2002. The neighborhood to the north predates the retail center, having been built in the early 1990s.
- ◇ The 2018 Comprehensive Land Use Plan recommends Regional Commercial for the majority of the site. This typology provides general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. The Land Use Plan also recommends a linear park that would run along the northern edge of the site. This linear park would roughly parallel Little Buck Creek and link Emerson Avenue to White River.

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STAFF REPORT 2023-MOD-007 (Continued)

MODIFICATION OF COMMITMENTS

- ◇ This site was part of a petition that was approved in 1997 (97-CP-23Z) that rezoned 60 acres from the D-A district to the C-S district for provide for C-5 and C-6 uses with exceptions. The C-S district was established to encourage a more creative approach in land and to provide for adaptability and flexibility in zoning and development.
- ◇ The 1997 petition was approved with an extensive list of commitments. Some of the 2004 commitments were requested by Staff, but the majority were negotiated between the petitioner and the neighborhood. Among these neighborhood-requested commitments were further restrictions on permitted land uses, including a restriction on “Indoor Recreational Uses, including shooting gallery, range, gun/rifle firing range, bowling alley, skating or roller rink, bath house or bingo establishment.”
- ◇ This petition would modify the restriction on Indoor Recreation Uses to state: “The following Indoor Recreation & Entertainment Uses, as defined/described in the City of Indianapolis Consolidated Zoning/Subdivision Ordinance shall be prohibited:
 - (a) Billiard parlor
 - (b) Bathhouse
 - (c) Firing (gun) range
 - (d) Ice/roller skating rink
 - (e) Bowling alley
 - (f) Bingo establishment (unless operated for charitable purpose)All other Indoor Recreation & Entertainment Uses shall be permitted.”
- ◇ This modification would replace the restriction on all Indoor Recreational Uses with a restriction on only the six Indoor Recreation & Entertainment Uses listed above. All of the other commitments from the 1997 petition would remain in effect.
- ◇ This modification would only apply to the western portion of retail center. The commitments for the remainder of the retail center are not affected by this petition.
- ◇ There is no indication in the record that the 1997 commitment being modified was the result of a negotiation between the petitioner and staff. Instead, it was a product of negotiations between the petitioner and the neighborhood organization without staff’s involvement. As such, staff has no recommendation on the commitment’s modification. However, staff would note that the neighborhood’s recommendation in the original petition was based on all the commitments that were submitted and on the reasonable assumption that the site would be developed and operated in accordance with those commitments.

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STAFF REPORT 2023-MOD-007 (Continued)

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE
C-S Metro Retail center

SURROUNDING ZONING AND LAND USE
North C-S, D-3 Undeveloped land, single-family dwellings
Southwest C-4 I-65, Motel
East C-S Retail center

COMPREHENSIVE LAND USE PLAN The Perry Township Comprehensive Land Use Plan (2018) recommends Regional Commercial for the bulk of the site. It recommends Floodway for the floodway of Little Buck Creek and Linear Park for the northern edge of the site.

THOROUGHFARE PLAN Interstate 65 is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Freeway. The Plan does not recommend a proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE Small portions of the northern edge of this site is located within the floodway and floodway fringe of Little Buck Creek.

WELLFIELD PROTECTION DISTRICT This site is not located within a wellfield protection district.

STREAM PROTECTION CORRIDOR The northwestern portion of this site is located within the Stream Protection Corridor of Little Buck Creek.

ZONING HISTORY – SITE

2027-DV1-035; 4650 East Southport Road, requested a variance of development standards to provide for a sign with excessive area, **approved**.

97-CP-23Z; 6720 – 6902 South Emerson Avenue, requested the rezoning of 60 acres from the D-A district to the C-S district to provide for C-5 and C-6 uses with exceptions, **approved**.

95-Z-234; 4452 Southport Terrace, requested the rezoning of 25.4 acres from the D-A district to the D-6II district, **withdrawn or denied**.

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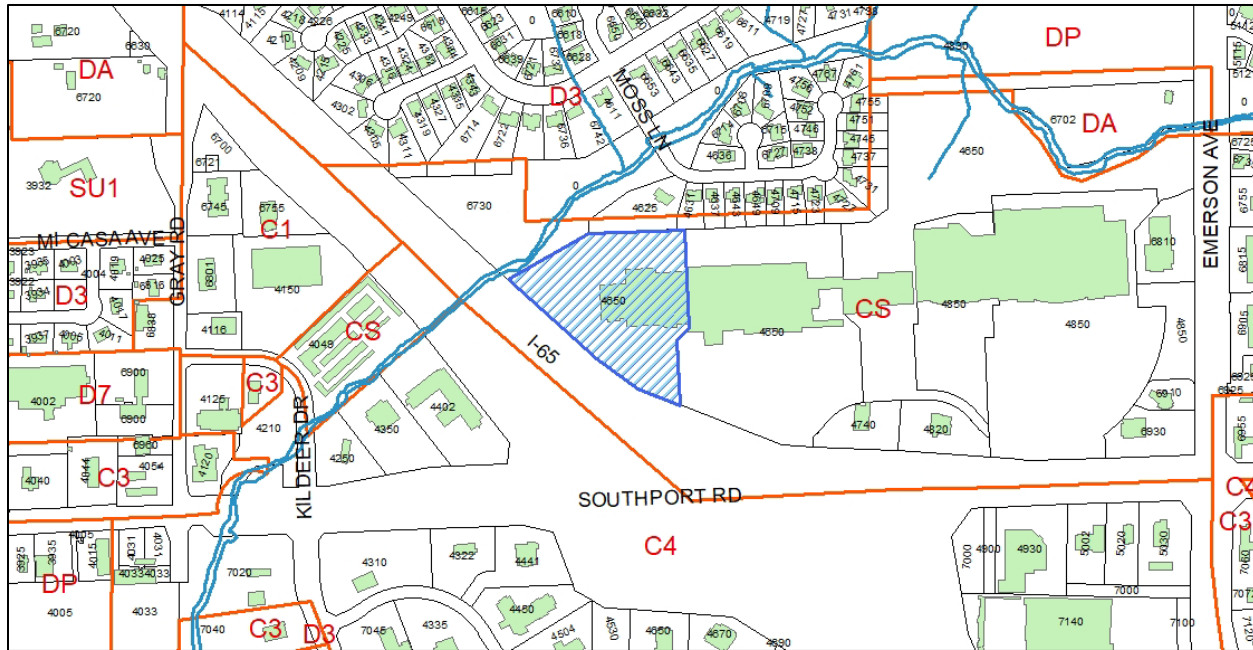
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ZONING HISTORY – VICINITY

87-Z-244; 6651 Gray Road (north of site), requested the rezoning of 82 acres from the A-2 district to the D-3 district, **approved**.

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STAFF REPORT 2023-MOD-007, Location



STAFF REPORT 2023-MOD-007, Aerial photograph (2022)



STAFF REPORT 2023-MOD-007, Proposed commitment

STATEMENT OF MODIFICATION OR TERMINATION OF COVENANTS OR COMMITMENTS

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

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

Legal Description: See Exhibit "A" Attached Hereto and Incorporated By Reference (the "Subject Property").

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Attachment "C", Section 2.(d)(4) of the Statement of Commitments recorded in Instrument No. 1997-118550 in the Office of the Recorder of Marion County, Indiana, is hereby modified to read as follows:

"The following Indoor Recreation & Entertainment Uses, as defined/described in the City of Indianapolis Consolidated Zoning/Subdivision Ordinance shall be prohibited:

- (a) billiard parlor
- (b) bathhouse
- (c) firing (gun) range
- (d) ice/roller skating rink
- (e) bowling alley
- (f) bingo establishment (unless operated for charitable purpose)

All other Indoor Recreation & Entertainment Uses shall be permitted.

STAFF REPORT 2023-MOD-007, Photographs



Looking north across the subject site at the existing commercial building.



Looking north along the site's west property line showing I-65 to the west (left).



Looking east along the north edge of the subject site showing the back of the retail building and the buffer area between the site and the neighbors to the north.



Looking north at the buffer between the subject site and the neighbor to the north.