

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-MOD-021
Address: 10 South Mickley Avenue (*Approximate Address*)
Location: Wayne Township, Council District #15 (#16 Beginning 2024)
Zoning: C-4
Petitioner: Zach Wilkinson
Request: Modification of Commitments related to 90-Z-48 to terminate Commitment #2.C, which restricts the permitted uses of the subject site to C-1 uses, to provide for a gas station.

RECOMMENDATIONS

Staff has **no recommendation** of this request. If approved, staff requests that the approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

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 / receptables provided for the proper disposal of trash and other waste.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 1.40-acre site, zoned C-4, is developed with a one-story commercial building and associated parking lot. It is surrounded by commercial uses to the north across Rockville Road, zoned D-6 and C-3; commercial uses (hotel) to the south, zoned C-S; single-family dwellings to the east, across South Mickley Avenue, zoned D-2; and commercial uses (funeral home) to the west, zoned C-4.
- ◇ Petition 90-Z-48 rezoned this site from the D-2 district to the C-4 classification to provide for retail commercial uses.

MODIFICATION

- ◇ This request would modify commitments related to 90-Z-48 to terminate Commitment #2C, that limited the uses on this site to C-1 uses, to provide for a gas station.

(Continued)

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- ◇ The Comprehensive Plan recommends regional commercial typology. “The Regional Commercial typology provides for general commercial, and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

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.

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

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;

(Continued)

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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

- ◇ This request would modify commitments for the rezoning Petition 90-Z-048 (See Exhibit "A") that limited uses to the C-1 district at the easternmost 150 feet of the out lot at the corner of Rockville and Mickley Avenue. Based on review of the file, it appears that this commitment was originally the result of negotiation between the petitioner and remonstrators during the 1990 rezoning process. Because staff played no role in the negotiation of this subject commitment, staff would ordinarily provide no recommendation under such circumstances. Staff would note, however, that the remonstrators 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.
- ◇ The request would be consistent with the Comprehensive Plan recommendation of regional typology and compatible with the commercial development to the north, south and west. Staff would note, however, that The Pattern Book discourages outdoor operations, storage or display adjacent to living (residential) typologies.
- ◇ Staff would also note that a multi-use path is planned along the Rockville Road frontage.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-4 Commercial uses (vacant)

SURROUNDING ZONING AND LAND USE

North -	D-6 / C-3	Commercial uses
South -	C-S	Commercial uses
East -	D-2	Vacant land / single-family dwelling
West -	C-4	Commercial uses

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends regional commercial typology.
Marion County Land Use Pattern Book (2019).

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THOROUGHFARE PLAN	This portion of South Mickley Avenue is designated in the Marion County Thoroughfare Plan as a local street, with an existing 45-foot right-of-way and a proposed 50-foot right-of-way. This portion of Rockville Road is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 218-foot right-of-way and a proposed 112-foot right-of-way.
CONTEXT AREA	This site is located within the metro context area.
OVERLAY	There is no overlay for this site.
SITE PLAN	File-dated December 1, 2023
PLAN OF OPERATION	File-dated December 1, 2023

ZONING HISTORY

99-Z-48; 5805 Rockville Road, requested rezoning of 19.65 acres, being in the D-2 district to the C-4 classification to provide for the development of retail commercial uses, **approved**.

VICINITY

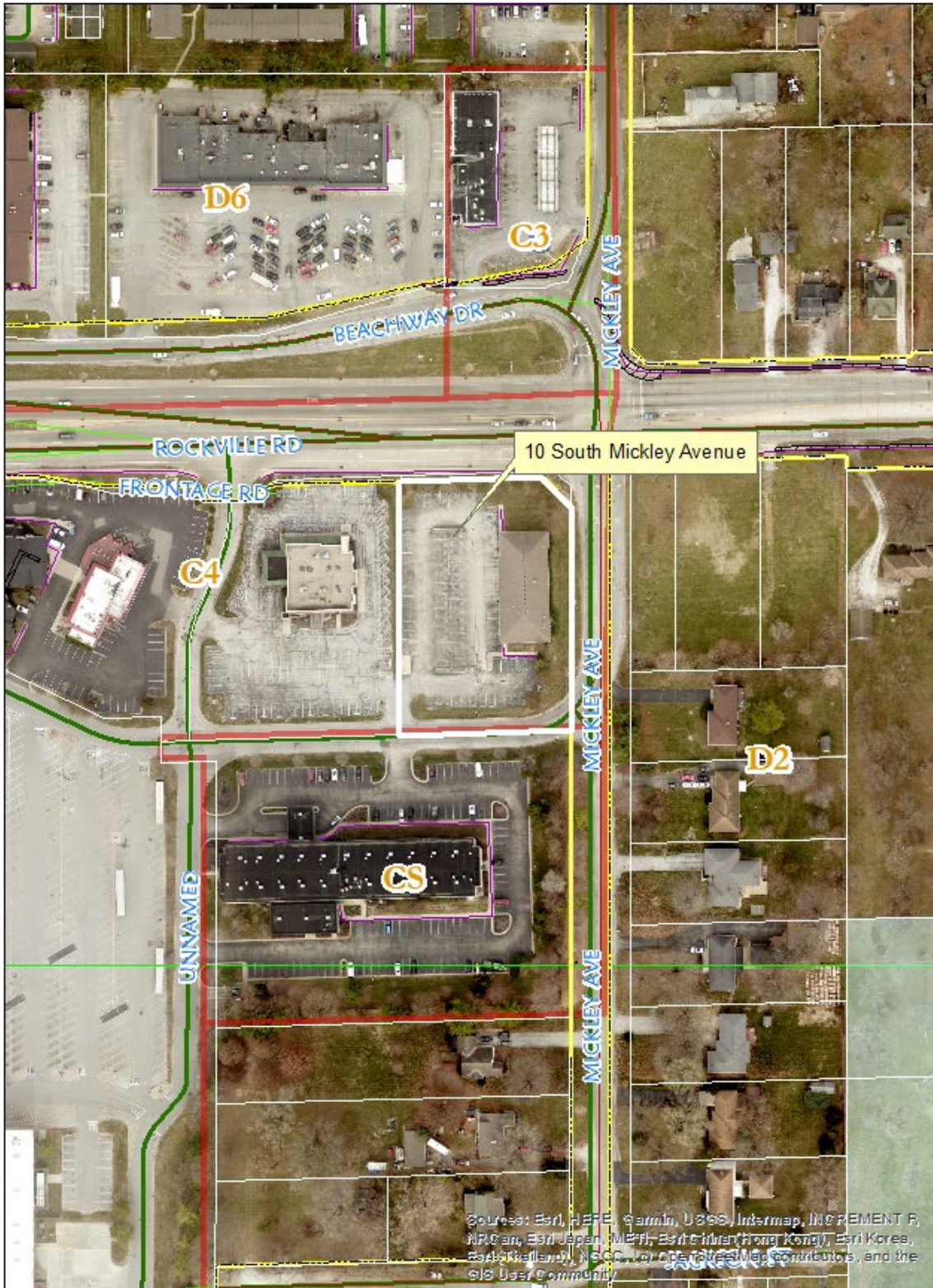
99-Z-91; 52 South Mickley Avenue (south of site), requested rezoning of 3.21 acres from the C-1 classification to the C-S classification to provide for development of hotel, **approved**.

97-Z-22; 40 South Mickley Avenue (south of site), requested a rezoning of 3.21 acres from the C-1 District to the C-6 classification to provide for construction of a 96-unit hotel facility with an outdoor pool, a courtyard and 112 parking spaces, **withdrawn**.

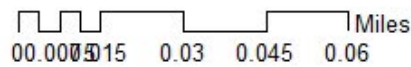
90-Z-47, 52 South Mickley Avenue (south of site), requested rezoning of 3.28 acres from the D-2 and D-7 Districts, to the C-1 classification to provide for office-buffer development, **approved**.

90-Z-40; 5851 Rockville Road (west of site), requested rezoning of 6.16 acres from the D-2 and D-7 Districts, to the C-6 classification to provide for highway oriented lodging, **approved**.

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10 South Mickley Avenue





Plan of Operation

Mickley Avenue Convenience Store

10 South Mickley Avenue, Indianapolis, IN 46112

Goal

- Our goal is to repurpose the abandoned building into a fueling station and convenience store.
- The property offers an ideal location for travelers looking to refuel, whether it is a short rest from travel on I-465 or a first stop after arriving from the Indianapolis International Airport.

Workforce

- There will be multiple employment opportunities offered.
- Multiple day shift employees throughout the week, as well as night shift.
- All employees are onsite ensuring continuous operation for the fuel station and convenience store.

Clients & Customers

- Our clients and customers consist of travelers along I-465 and Rockville Road.
- Many of these travelers are guests of lodging in the immediate area, such as the Holiday Inn and Wingate.
- Other possible customers include commuters to nearby businesses, such as Sam's Club, and local area residents.

Safety & Security

- The security of our employees and customers are a top priority.
- Employee training is given for any circumstance.
- Security surveillance of the property and store.
- Emergency fuel shut off.

Waste Prevention

- As a fuel station, the main concern for waste is gasoline and diesel runoff.
- During site planning, appropriate steps are taken to adhere to stormwater quality standards.
- The existing stormwater system will be modified to include a stormwater quality structure, which will remove petroleum runoff and other debris from entering the city stormwater system.

Other Considerations

- The location offers easy circulation of traffic for customers and fuel delivery trucks with two access points onto Rockville Road.
- Ample parking is offered for customers and employees.
- Existing infrastructure and mature landscaping presents a great opportunity for investment and support.



EXHIBIT A

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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 Legal Description Attached as Exhibit A.

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. Uses

- A. The use of the central portion of the C-4 tract shall be limited to the development of a Sam's Wholesale Club. Initial development will be approximately 110,000 square feet with future expansion of up to an additional 30,000 square feet.
- B. The use of the outlots located along Rockville Road shall be limited so as to prohibit any: Class 1 Regulated Commercial Uses as set forth in the Commercial Special Exception Ordinance, 76-AO-2, as amended; Adult Entertainment Businesses as set forth in the Adult Entertainment Business Zoning Ordinance, 84-AO-4; liquor store, tavern or bar (defined as any establishment which derives 65% or more of its gross sales value from the sale of liquor); or head shops.
- C. The use of the eastern most one-hundred and fifty (150) feet of the outlot at the corner of Rockville Road and Mickley Avenue shall be limited to C-1 uses.

3. Development Standards

- A. Petitioner shall provide transitional yard landscaping and screening in compliance with the following:
 - 1) A transitional yard shall be provided south of the Sam's Wholesale Club of not less than twenty (20) feet.
 - 2) A transitional yard shall be provided along the east side of the Sam's Wholesale Club building of not less than fifty (50) feet in depth.
 - 3) Landscaping within the above described transitional yards shall be subject to Administrator's Approval.
- B. Petitioner shall limit access along Rockville Road to one right-turn-in/right-turn-out drive for the overall center, subject to final approval by the Department of Transportation.
- C. Petitioner shall redevelop the access approach along Mickley Avenue in substantial compliance with the Preliminary Lining Plan

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dated May 1, 1990, subject to final approval by the Department of Transportation, in such a manner as to discourage commercial traffic from entering the remaining residential area along Mickley Avenue and Jackson Street.

- D. All buildings shall be constructed with a finished facade of masonry, synthetic stucco or wood.
- E. The developer anticipates the utilization of one integrated center pole sign to provide the primary identification for the entire center. However, due to the unique mixture of uses anticipated to locate in this project, the developer wishes to reserve the right to file a variance of development standards for the development of an overall sign program without the need to modify these commitments.
- F. Wall signs shall be limited to individual letters and/or logos. There shall be no signs located on the south facade of the Sam's Wholesale Club building.
- G. This parcel shall be developed as an integrated center with the two parcels which are subject to the companion commercial zoning petitions 90-Z-49 and 90-Z-47, subject to the conditions of Commitment 3E above.
- H. There shall be no more than two outlets developed in the C-4 parcel, however, such limitation shall not be construed to prohibit the development of two separate buildings or users on each outlet sharing common entrance or exit drives and site facilities. Access to the outlets shall be limited to the internal service drives.
- I. Development of the eastern most one-hundred and fifty (150) of the outlet at the corner of Rockville Road and Mickley Avenue shall not include parking between a building and the right-of-way of Mickley Avenue. This commitment does not prohibit the development of an internal driveway to service a bank drive-up window, as such use may be developed on this portion of the outlet.
- J. Petitioner shall reserve a fifty (50) foot strip of land along the northwestern property line for the future upgrading of the interstate interchange. No buildings shall be placed within this portion of the site.
- K. Petitioner agrees to comply with the requests of the Department of Transportation as set forth in paragraphs 1, 5, 6, 7 and 8 of Memorandum dated May 2, 1990 from John P. Willen to Elizabeth Williams, as those terms may be amended from time to time by agreement between the developer and the Department of Transportation.

4. Neighbor-Related Commitments

- A. At its own expense, the owner/developer shall, upon construction of the proposed Sam's Wholesale Club building, extend water and sanitary sewer lines east along Jackson Street to the northwest corner of the residential lot commonly known as 5787 West Jackson Street and legally described in attached Exhibit B.
- B. The owner/developer shall not relocate any of the existing homes from the subject property or from any residential lot subsequently acquired by the owner/developer and having frontage on Mickley Avenue or Jackson Street to any property within the area bounded by Rockville Road, Lynhurst Drive, the Conrail tracks and Mickley Avenue.

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 by reference. These COMMITMENTS may be modified or terminated by a decision of the

90-Z-48

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L. VALANZA (KOSERE) COMM. C-4

DEPT. METRO DEVELOPMENT

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 #90-2-48 by the City-County Council changing the zoning classification of the real estate from a D-2 & D-7 zoning classification to a C-4 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 C-4 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 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); and
- 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);
- 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 #90-2-48.

IN WITNESS WHEREOF, owner has executed this instrument this 4th day of June, 1990.

By: Rockville Road Associates
Signature [Signature] (Seal) Signature _____ (Seal)
Printed C. A. Ross Printed _____

90-2-48

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared G. A. Kosene, General Partner, 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 4th day of June, 1970.

Signature Angela C. Quinn
Printed Angela C. Quinn
County of Residence Boone

My Commission expires:
September 25, 1992

This instrument was prepared by Harry F. McNaught, Jr., Attorney-at-Law, Baker & Daniels, 300 North Meridian Street, Suite 2700, Indianapolis, Indiana 46204.

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90-2-48
INDIANA (NOTARY) COMMISSION



View from site parking lot looking northeast across Rockville Road



View from site parking lot looking north across Rockville Road



View from site looking east



View from site looking south



View from site looking southwest



View from site looking west



View existing building proposed for redevelopment of a convenience store



View of site looking east



View from site looking northwest



View from site looking north