

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-MOD-009
Address: 25 Mc Lean Place (approximate address)
Location: Center Township, Council District #11
Zoning: C-S (RC)
Petitioner: Illinois Street Self Storage, LLC, by David Kingen and Emily Duncan
Request: Modification of Commitments related to 2016-CZN-842 and 2016-CVR-842 to terminate Commitments #1 and #2 on Attachment "D" which required 10,000 square feet of building space to be reserved for office/retail space/artisan food or beverage/artisan manufacturing uses and required the building be subject to elevations, file-dated 3/2/17.

ADDENDUM FOR MARCH 15, 2023, METROPOLITAN DEVELOPMENT COMMISSION

This petition was continued by request from the petitioner, from the March 1, 2023, hearing to the March 15, 2023, hearing. As of this writing, no new information has been submitted to the file.

ADDENDUM FOR MARCH 1, 2023, METROPOLITAN DEVELOPMENT COMMISSION

This petition was heard by the Hearing Examiner on February 9, 2023. On February 8, 2023, the day before the hearing, the petitioner submitted proposed commitments that would alter the original request to eliminate 10,000 square feet of reserved space for commercial uses to: retain 2,000 square feet of this space for commercial uses. The staff responded with this alternate language: "this petition, 2022-MOD-009, shall sunset, or be void upon 10 years from the date of MDC approval, or 3/1/2033. On 3/1/2033, the original commitment, per 2016-CZN-842, Attachment "D", number 1, shall be in effect". **Staff stated that, if the petitioner agreed with this alternate language, then staff could support the request.** The petitioner indicated that they would not agree with this alternate language. The Hearing Examiner, after a full hearing, recommended denial of the petition. The Hearing Examiner's memorandum is attached.

ADDENDUM FOR FEBRUARY 9, 2023, HEARING EXAMINER

This petition was continued, by request of the petitioner, from the December 15, 2022, hearing to the February 9, 2023, hearing. As of this writing, no new information has been submitted to the file.

ADDENDUM FOR DECEMBER 15, 2022, HEARING EXAMINER

This petition was continued, by request of the petitioner, from the September 29, 2022, hearing to the December 15, 2022, hearing. As of this writing, no new information has been submitted to the file.

(Continued)

STAFF REPORT 2022-MOD-009 (Continued)

ADDENDUM FOR SEPTEMBER 29, 2022, HEARING EXAMINER

After hearing testimony, this petition was continued to the September 29, 2022, hearing, due to issues with the proposed commitments. As of this writing, no new information has been submitted to the file.

SEPTEMBER 15, 2022

RECOMMENDATIONS

Staff **strongly recommends denial** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ The 1.1-acre site, rezoned to C-S (RC) by 2016-CZN-842, is improved with a three-story, self-storage building, which fronts Illinois Street and Mc Lean Place, and a separate, one-story self-storage building in the rear of the site. Along with the rezoning of the site, a variance of development standards, through 2016-CVR-842, was granted for zero-foot front setbacks, and building encroachments into the clear-sight triangle. Design approval was granted through 2017-REG-100.
- ◇ The larger, main structure is an indoor climate-controlled storage facility, with most storage units on the second and third floors. 10,000 square feet of space on the ground floor is reserved for commercial use along the Illinois Street and Mc Lean Place frontages, with storefront windows and significant visibility into the first floor. On a site visit, staff noted that the commercial space was not being used for commercial use.

REQUEST

- ◇ This request would eliminate the commitment to provide for 10,000 square feet of building space for commercial use, specifically for office, retail space, artisan food or beverage and artisan manufacturing. The rezoning request in 2016-CZN-842 specifically requested MU-1 and MU-2 uses, along with self-storage. Additionally, it would eliminate the commitment that the building elevations be subject to elevations, file-dated March 2, 2017.
- ◇ This area has been transitioning from suburban-type, vehicular-oriented development, toward urban development with less reliance on vehicles. In fact, an existing transit stop is located approximately one block to the northeast, south of the intersection of Meridian Street and 22nd Street. This transit stop did not exist when this site was approved for the existing use. Self-storage facilities, as a single use, are inherently suburban in nature, with little to no interaction with the street frontage and pedestrian experience. This petition, if approved, would go against one of the City's goals to increase transit use by substantially increasing residential development and supportive uses near existing transit stops and planned transit stops.

(Continued)

STAFF REPORT 2022-MOD-009 (Continued)

RECENT URBAN DEVELOPMENT APPROVALS

- ◇ Recently, a mixed-use development at 2163 and 2179 North Illinois Street was approved, through 2021-REG-069, for 10,000 square feet of commercial space and 80 dwelling units. That site is directly north of Mc Lean Place. Additionally, another mixed-use development was approved, through 2020-REG-006, at 2204 North Meridian Street, which is about two blocks to the northeast of the subject site. Staff has been in recent discussions with the developer of this site. The developer plans to increase the number of units and include a separate site into the development. This would require additional approvals. Additionally, two mixed-use developments approximately 3-½ blocks to the south, at 18th Street and Illinois Street, have obtained approvals for over 500 multi-family dwellings and 18,000 square feet of commercial space, through 2020-REG-074 and 2021-REG-083. One site is under construction, at 1741 North Illinois Street and the other site, at 1720-1744 North Illinois Street, received approval in Spring 2022. Finally, a mixed-use development at 1815-1835 North Meridian Street, a site that is approximately three blocks from the subject site, has received preliminary approval for a mixed-use development consisting of 166 dwellings and commercial space, along Meridian Street, through 2022-REG-041.
- ◇ The developments above would replace existing car-centric uses and unused buildings, all within steps of new transit stops. These recently approved examples provide substantial support that the vision to increase the use of transit is being recognized by developers and neighbors. In turn, these examples give reasons to reject suburban development proposals. Details of these requests are below in Zoning History.

COMPREHENSIVE PLAN / TRANSIT ORIENTED DEVELOPMENT OVERLAY

- ◇ The Center Township Comprehensive Plan recommends Medium-density mixed-use development for this site. Additionally, the site is within the Transit-Oriented Development Overlay. The medium-density mixed-use recommendation would suggest that a site has at the very least, two uses, such as multi-family dwellings and commercial retail. The commitment for 10,000 square feet would represent meeting the very basic minimum of the Plan's recommendation. In turn, eliminating this commitment, the development would not meet the Plan.
- ◇ Transit-oriented development (TOD) overlay is a new section of the Ordinance, adopted in November 2021, that provides permitted uses and development standards on sites within 1,000 feet from centerline of a Bus Rapid Transit Line. "The intent of the TOD is to coordinate more compact, walkable, and urban development patterns with public investment in the transit system. These development patterns ensure that walking and biking are viable options for short trips and transit is a priority for longer trips. Development patterns and site designs that prioritize automobile travel undermine these public and private investments."
- ◇ In addition to the development standards for sites within the TOD overlay, uses are also regulated. Mini-Warehouses (self-storage facilities) are not permitted within 600 feet of a Transit Station, or on Pedestrian Frontages. The subject site is within 400 feet of the existing Transit Station at 22nd Street and Meridian Street. Therefore, this request would represent an expansion of a use that is not permitted within the TOD overlay and staff strongly recommends denial.

(Continued)

STAFF REPORT 2022-MOD-009 (Continued)

REGIONAL CENTER OVERLAY DISTRICT

- ◇ The site is located within the Regional Center overlay district. Design of all new construction, sidewalk cafes, and signage in the Regional Center overlay district is subject to the approval of the Administrator of the Division of Planning.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-S (RC)	Self-storage facility with reserved commercial space along Illinois Street and Mc Lean Place
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SURROUNDING ZONING AND LAND USE

North -	MU-2 (RC)	Vacant Commercial (planned multi-family dwellings)
South -	C-4 (RC)	Residential
East -	C-4 (RC)	Offices
West -	C-4 (RC)	Offices

COMPREHENSIVE PLAN	The 2018 Center Township Comprehensive Plan recommends medium-density mixed-use development.
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THOROUGHFARE PLAN	This portion of Illinois Street is designated as a primary arterial on the Official Thoroughfare Plan, with a 78-foot existing and proposed right-of-way. Mc Lean Place is designated as a local street with a 48-foot existing and proposed right-of-way.
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CONTEXT AREA	This site is located in the Compact Context area
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TRANSIT-ORIENTED DEVELOPMENT	This site is located within the Transit-Oriented Development Overlay.
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URBAN DESIGN GUIDELINES	The site is located within the Urban Mixed-Use District Typology.
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ZONING HISTORY - SITE

2016-CZN-842 / 2016-CVR-842; 25 Mc Lean Place, requested a rezoning of 1.1 acres, from the C-4 (RC) (W-5) District to the C-S (RC) classification to provide for a self-storage facility, MU-1 and MU-2 uses, and a variance of development standards to provide for buildings with a zero-foot setback, zero landscaping, and building encroachments into the clear-sight triangles of the abutting streets, **approved**.

2017-REG-100; 25 Mc Lean Place; requested Regional Center Approval to provide for demolition of existing buildings and the construction of a three-story commercial building, with associated surface parking area along Illinois Street, **approved**.

(Continued)

STAFF REPORT 2022-MOD-009 (Continued)

ZONING HISTORY - VICINITY

2022-REG-041; 1815, 1819, 1827 and 1835 North Meridian Street, requested Regional Center Approval for updated plans for a proposed mixed-use development, consisting of approximately 166 multi-family dwellings, commercial and amenity space, and 44 garage parking spaces. Original design approval was granted through 2021-REG-083, **approved**.

2022-DV3-026; 1815-1835 North Meridian Street, requested a variance of development standards to provide for a 54.58-foot tall, six-story mixed-use building, with a 76.5-foot-tall parapet and an 86.5-foot-tall stair tower, with a zero-foot east transitional yard, **granted**.

2022-REG-006; 1720 – 1744 North Illinois Street and 1715 Hall Place, requested Regional Center Approval to provide for demolition of an existing retail building and construction of a mixed-use development, consisting of an eleven-story structure with approximately 308 units, 13,000 square feet of retail and commercial space, three levels of structured parking, an open-air courtyard, a pocket park and thirteen, three-story townhomes, **approved**.

2021-CZN-863 / 2021-CVR-863 / 2021-CVC-863; 1715 Hall Place and 1720-1744 North Illinois Street, requested a rezoning of 1.97 acres from the HD-1 and HD-1 (RC) districts district to the MU-1 and MU-1 (RC) district and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a zero-foot front setback along 18th Street and Illinois Street, within the clear-sight triangle of the abutting streets, and a zero-foot rear transitional yard, and a vacation of a portion of a 15-foot wide north-south alley, beginning at the south right-of-way line of 18th Street, to a point 295.25 feet to the south, **approved**.

2021-REG-083; 1815-1835 North Meridian Street, requested Regional Center Approval to provide for demolition of existing buildings and construction of a mixed-use development, consisting of approximately 115 multi-family dwellings, commercial and amenity space, and 20 surface parking spaces, **approved**.

2021-REG-069; 2163-2179 North Illinois Street, requested Regional Center Approval to provide for a mixed-use development, consisting of approximately 80 multi-family dwellings, 10,000 square feet of commercial and amenity space, and 48 surface parking spaces, **approved**.

2021-DV1-061; 2163 – 2179 North Illinois Street, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a mixed-use development with building encroachments into the abutting streets and alley rights-of-way and for 20 small vehicle parking spaces, **approved**.

2020-REG-074; 1627, 1717, 1719 and 1741 North Illinois Street, requested Regional Center Approval for a multi-family residential development, consisting of one five-story building, with approximately 247 dwelling units, 5,000 square feet of retail space, resident amenities, a small surface parking lot and a parking garage, **approved**.

2020-DV1-010; 2204 and 2220 North Meridian Street, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a sixty-foot tall, mixed-use building and a 10-foot north transitional yard, **granted**.

(Continued)

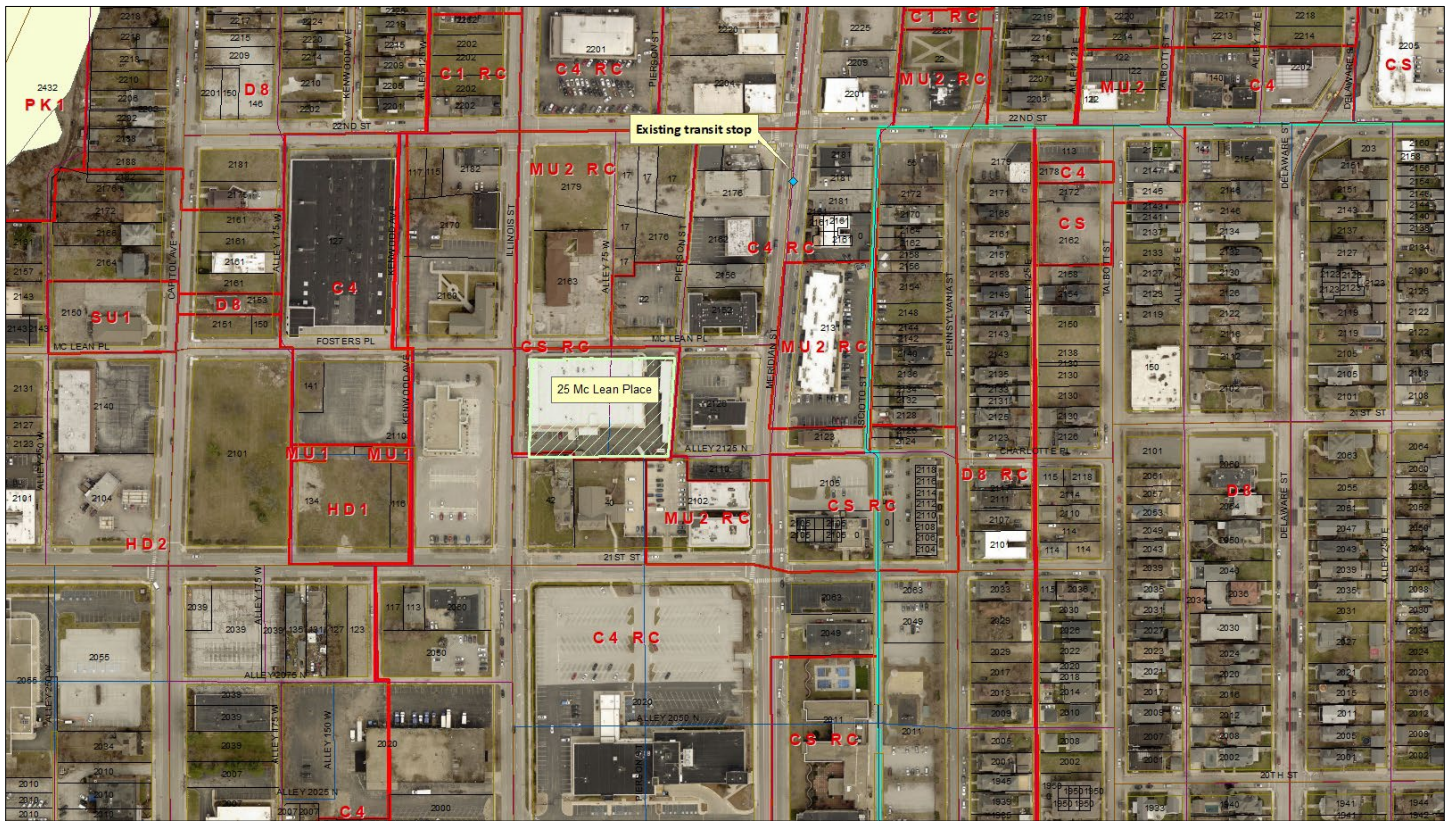
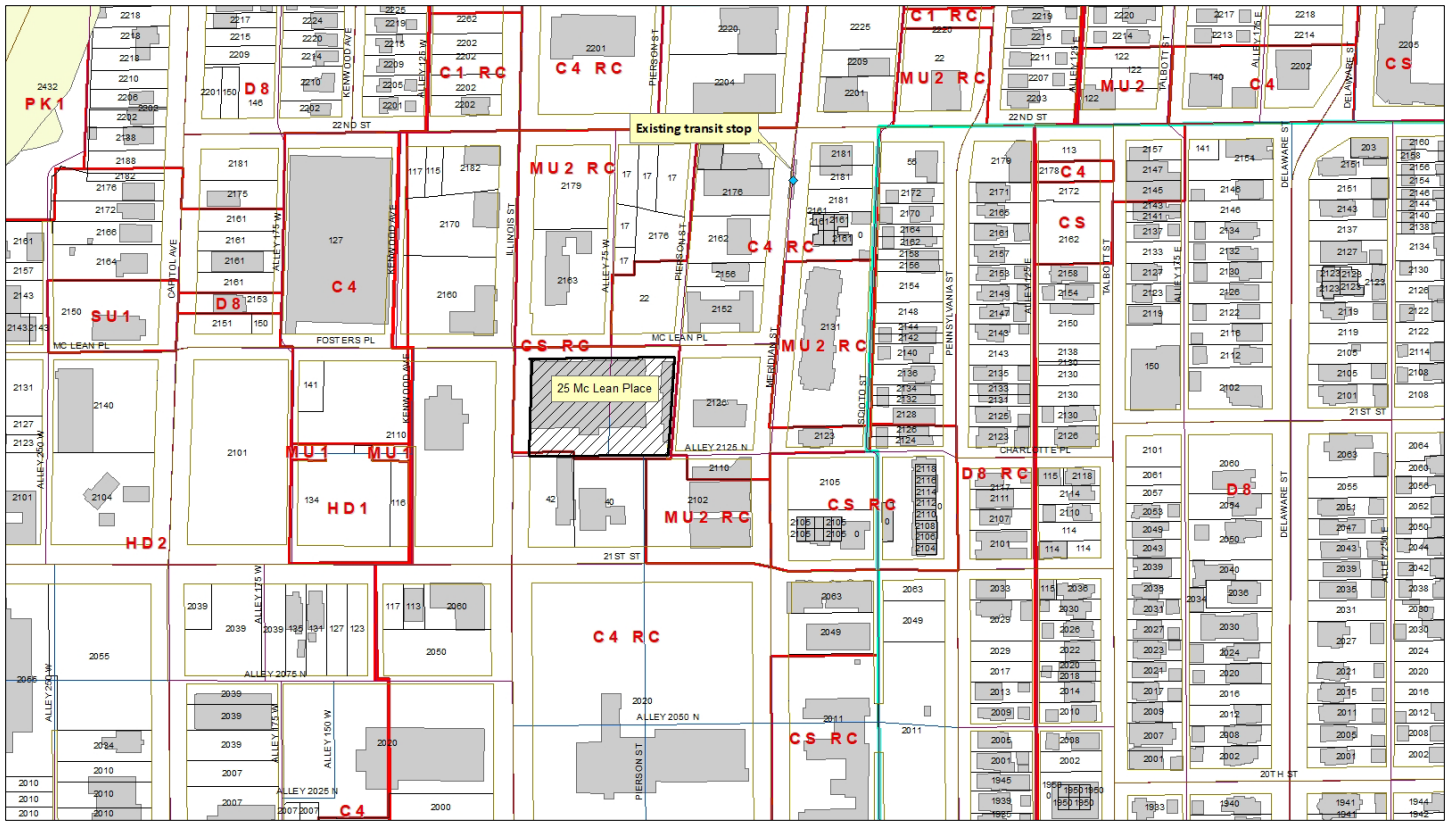
STAFF REPORT 2022-MOD-009 (Continued)

2020-REG-006; 2204 and 2220 North Meridian Street, requested Regional Center Approval to provide for demolition of existing buildings and for the construction of a mixed-use development, consisting of 112 multi-family dwellings, approximately 3,100 square feet of commercial retail space, resident amenities, a courtyard, and a parking garage, **approved**.

2020-CZN-839 / 2020-CVR-839; 1627, 1717, 1719 and 1741 North Illinois Street, requested a rezoning of 2.081 acres from the C-S (RC) and C-4 (RC) district to the MU-2 (RC) district and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 69-foot-tall building with a zero-foot front setback within the clear sight triangle of the abutting streets, **approved**.

2019-CZN-820 / 2019-CVR-820; 2163 – 2179 North Illinois Street, requested a rezoning of 1.19 acres, from the C-4 (RC) (W-5) district to the MU-2 (RC) (W-5) classification, and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a mixed-use development with a building height of 55 feet, without interior landscaping and a zero-foot front yard for a parking area, **approved**.

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STAFF REPORT 2022-MOD-009 (Continued)

Google Street Views, August 2019



Image capture: Aug 2019 © 2022 Google

Indianapolis, Indiana

Google

Street View - Aug 2019

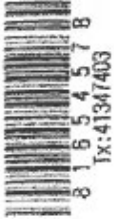


Image capture: Aug 2019 © 2022 Google

Indianapolis, Indiana

Google

Street View - Aug 2019



A201700103358

09/13/2017 9:51 AM
KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER
FEE: \$ 35.00
PAGES: 8
By: DW

STATEMENT OF COMMITMENTS

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. 36-7-4-1015, 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 attached) 25 McLean Place

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 Attachment "D" & "E"
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.

COMMITMENTS contained in this instrument shall be effective upon:

MDC's Exhibit B - - page 1 of 5

Metropolitan Development

AUG 29 2017

Division of Planning

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Jun 10 2022
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- (a) the adoption of rezoning petition # 2016-CZN-842/ 2016-CVR-842 by the City-County Council changing the zoning classification of the real estate from a C-4 (RC) (W-5) zoning classification to a C-S (RC) (W-5) 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-S (RC) (W-5) 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);
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. _____
5. _____

The undersigned hereby authorizes the Division of Planning 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 # 2016-CZN-842/ 2016-CVR-842.

IN WITNESS WHEREOF, owner has executed this instrument this 21 day of AUGUST, 2017.

Signature:

Signature: 

MDC's Exhibit B - - page 2 of 5

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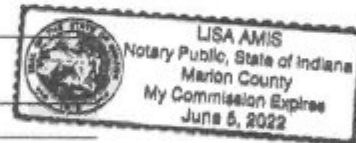
Printed: DAVID C. CRICHLAN
Title /
Organization OWNER
Name: _____

Printed: _____
Title /
Organization _____
Name: _____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared
DAVID C. CRICHLAN, owner owner(s)
(title / organization name) of the real estate who acknowledged the execution of the foregoing
instrument and who, having been duly sworn, stated that any representations therein contained are
true.

Witness my hand and Notarial Seal this
21 day of August, 20 17
Lisa Amis
Notary Public
Lisa Amis
Printed Name of Notary Public
My Commission expires: June 5, 2022
My County of residence: Marion



I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security
number in this document unless required by law. NANCY S. WHITAKER

This instrument was prepared by David Kingen

ATTACHMENT "A"

MDC's Exhibit B -- page 3 of 5

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OPEN OCCUPANCY AND EQUAL EMPLOYMENT OPPORTUNITY COMMITMENT

- (a.) The owner commits that he shall not discriminate against any person on the basis of race, religion, color, disability, sex, sexual orientation, gender identity, familial status, national origin, ancestry, age United States military service veteran status 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, religion, color, disability, sex, sexual orientation, gender identity, familial status, national origin, ancestry, age United States military service veteran status.

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;

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- (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.

MDC's Exhibit B - - page 3 of 5

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LEGAL DESCRIPTION

Lots 1-4 & 19-21 and the adjacent vacated alley in Lazarus & Pierce's Meridian Place in Plat Book 8, Page 192 Office of Marion County.

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ATTACHMENT "D"

Petitioner commits to the following

1. Petitioner shall reserve and market a minimum of 10,000 square feet, fronting on No. Illinois Street and McLean Place, for office/ retail space/ artisan food and beverage/ artisan manufacturing uses.
2. Subject to the elevations, file dated 3/2/17

8/8/17

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ATTACHMENT "E";

Petitioner commits to exclude the following uses from the site:

1. Check cashing facility
2. Night club, private club or lounge
3. Outdoor advertising, off premise sign
4. Manufacturing, Light

5/15/17

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**STATEMENT OF MODIFICATION OR TERMINATION
OF COVENANTS OR COMMITMENTS**

**COVENANTS OR COMMITMENTS CODIFYING 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: 25 McLean Place

Lots 1-4 and 19-21 and the adjacent vacated valley in Lazarus and Pierce's Meridian Place in Plat Book 8, Page 192 in the Office of the Recorder of Marion County, Indiana.

Statement of modification or termination of Covenants or Commitments:

1. Remove Attachment "D"
 - a. Petitioner shall reserve and market a minimum of 10,000 square feet, fronting on North Illinois Street and McLean Place, for office/retail space/artisan food and beverage/artisan manufacturing uses.
 - b. Subject to the elevations, file dated 3/2/17.
2. Retain Attachment "E"
 - a. Petitioner commits to exclude the following uses from the site:
 - i. Check cashing facility
 - ii. Night Club/Private Club/Lounge
 - iii. Outdoor Advertising, off premise Sign
 - iv. Manufacturing, Light

These COVENANTS or COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COVENANTS or COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

MDC's Exhibit C -- page 1 of 3

Metropolitan Development

Jun 10 2022

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COVENANTS or COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition _____.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);

These COVENANTS may be enforced by the Metropolitan Development Commission.

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

IN WITNESS WHEREOF, owner has executed this instrument this 9th day of June, 2022.

Signature: [Signature] Signature: _____
Printed: Greg O'Herron Printed: _____
Title / Owner Title / _____
Organization _____ Organization _____
Name: Illinois Street Self Storage LLC Name: _____
STATE OF INDIANA)
) SS: _____
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Greg O'Herron, owner Illinois Street Storage LLC (Owner(s) Name AND Title AND Organization Name) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this

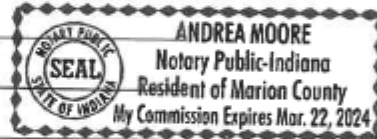
9th day of JUNE, 2022

[Signature]
Notary Public

Printed Name of Notary Public

My Commission expires: _____

My County of residence: _____



I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law. - Emily Duncan
This instrument was prepared by Emily Duncan

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

Secretary, Metropolitan Development Commission

**STATEMENT OF MODIFICATION OR TERMINATION
OF COVENANTS OR COMMITMENTS**

**COVENANTS OR COMMITMENTS CODIFYING 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: 25 McLean Place

Lots 1-4 and 19-21 and the adjacent vacated valley in Lazarus and Pierce's Meridian Place in Plat Book 8, Page 192 in the Office of the Recorder of Marion County, Indiana.

Statement of modification or termination of Covenants or Commitments:

1. Modify Attachment "D"
 - a. From: Petitioner shall reserve and market a minimum of 10,000 square feet, fronting on North Illinois Street and McLean Place, for office/retail space/artisan food and beverage/artisan manufacturing uses.
 - b. To: Petitioner shall reserve and market a minimum of 2,000 square feet, fronting on North Illinois Street for office/retail space/artisan food and beverage/artisan manufacturing uses.
2. Remove Attachment "D"
 - a. Subject to the elevations, file dated 3/2/17.
3. Retain Attachment "E"
 - a. Petitioner commits to exclude the following uses from the site:
 - i. Check Cashing Facility
 - ii. Night Club / Private Club / Lounge
 - iii. Outdoor Advertising, Off Premise Sign
 - iv. Manufacturing, Light

These COVENANTS or COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COVENANTS or COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COVENANTS or COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition #2022-MOD-009.

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);

These COVENANTS may be enforced by the Metropolitan Development Commission.

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Covenant or Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of modification and/or termination of Covenant(s) or Commitment(s) of petition #2022-MOD-009 by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this 8th day of February, 2023.

Signature: Greg O'Herron
Printed: Greg O'Herron
Title / MEMBER
Organization: ILLINOIS STREET SELF ST
Name:

Signature: _____
Printed: _____
Title /
Organization: _____
Name: _____

STATE OF INDIANA)
) SS:

COUNTY OF MARION

Before me, a Notary Public in and for said County and State, personally appeared

greg d'neven, Minor Junior Trust Self-Trust, Llc Owner(s) Name AND Title AND Organization Name) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this

7th day of February, 2023



Christine E. Greene
Notary Public

Christina E. Grennes

Printed Name of Notary Public Alvin J. Johnson

My Commission expires: 01/14/30
My County of residence: 1422-2

I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law. – Emily Duncan
This instrument was prepared by Emily Duncan

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

Secretary, Metropolitan Development Commission

MEMORANDUM OF EXAMINER'S DECISION

2022-MOD-009

25 Mc Lean Place

The petition requests a modification of commitments approved as part of 2016-CZN/CVR-842 to terminate the commitments requiring 10,000 square feet of building space in a self-storage project to be reserved for office/retail/artisan food or beverage/artisan manufacturing uses subject to the building elevations file-dated March 2, 2017.

Your Hearing Examiner visited the site in July of 2022, when the petition was originally filed. It was noted that several mixed-use projects had developed in the area, containing a combination of commercial and residential uses.

The petitioner's representative stated the reason for the termination requested was because there is not a demand for office/retail/artisan space, but there is a demand for additional self-storage space. Despite numerous requests for continuances by the petitioner to try to reach an agreement with staff, revised commitments were submitted to staff after 5 p.m. the day before the hearing. Staff reviewed the revised commitments and offered alternate language, but the petitioner stated there wasn't adequate time for review. The petitioner and several representatives from the area spoke in support of the petition, and there was a letter of support from the City-County Councillor.

A letter of opposition from the Metropolitan Planning Organization(MPO) was referenced on the record. The MPO cited the need for transit oriented uses near transit stops.

Staff described the recent mixed-use developments in the area and the new IU Health complex, which warranted commercial uses rather than self-storage. Staff explained that it was willing to support the reduction of the 10,000 square feet to 2,000 square feet for a period of 10 years, at which point the 2,000 square feet would revert to commercial use.

In your Hearing Examiner's opinion, the petitioner agreed to these commitments in good faith, as part of the approval process in 2017. Staff has proposed a reasonable alternative. Denial of this petition was recommended.

For Metropolitan Development Commission Hearing on March 1, 2023

2022-MOD-009; Photos



Views of site along Illinois Street



Views of site along Illinois Street



Views along Illinois Street



Views of north section of site, along McLean Place looking toward Meridian Street