

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

**May 29, 2024**

**Case Number:** 2025-MOD-004  
**Property Address:** 9100 and 9402 East 21<sup>st</sup> Street  
**Location:** Warren Township, Council District #14  
**Petitioner:** VAF Lawrence, LLC, by Jamilah Mintze  
**Current Zoning:** C-1 / C-4

**Request:** Modification of Commitments related to 99-Z-39 to terminate all commitments, which related to: 1. the requirement of a boulevard entrance to be developed from 21<sup>st</sup> Street and taper into a single roadway approximately 100 feet north of the right-of-way of 21<sup>st</sup> Street; 2. the requirement of a landscape plan to be submitted for approval by the Administrator and to the Far Eastside Neighborhood Association; 3. the prohibition of pole signs, off-site advertising signs, and wireless communication facilities; 4. that requirement that office buildings shall appear to be residential and no taller than two stories in height; 5. that the owner shall use best efforts to reduce light pollution onto adjacent properties; 6. that 75% of the structures shall feature brick exteriors or exterior finish insulation system and no vinyl exterior shall be used as the primary exterior material; and 7. that the petitioner shall dedicate 60 feet of right-of-way north of the centerline of 21<sup>st</sup> Street..

**Current Land Use:** Undeveloped

**Staff Recommendations:** No recommendation related to commitments one through six. Denial of the termination of Commitment Number Seven and subject to the commitments noted below.

**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner acknowledged the timely automatic continuance filed a registered neighborhood organization that continued this request from the April 24, 2025 hearing, to the May 29, 2025 hearing.

**STAFF RECOMMENDATION**

No recommendation related to Commitments One through Six.

Denial of Commitment Number Seven. If approved, staff would request that approval be subject to compliance with the Plan of Operation, file dated April 8, 2025, and the following commitments being reduced to writing on the Commission's Exhibit "C" forms at least five business days prior to the MDC hearing:

1. A 59.5 foot half right-of-way shall be dedicated along the frontage of East 21<sup>st</sup> Street as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
2. An east bound left-turn lane at the proposed western driveway along East 21<sup>st</sup> Street and a west bound right-turn lane at the eastern drive along East 21<sup>st</sup> Street shall be installed in accordance with the DPW standards and prior to the opening and operation of the proposed use.
3. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.
4. A technical assessment shall be conducted prior to the issuance of an Improvement Location Permit to provide for a wetlands delineation to determine the type and quality and how the area could be preserved and integrated into the development as an amenity.
5. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.

## PETITION OVERVIEW

This 31.927-acre site, zoned C-1 and C-4, is comprised of two undeveloped parcels. It is surrounded by Interstate 70 right-of-way to the north, zoned C-4; single-family dwellings to the south, across East 21<sup>st</sup> Street, zoned D-3; multi-family dwellings to the east, zoned D-6; and multi-family dwellings to the west, zoned D-6ll.

Petition 99-Z-39 rezoned this site to the C1 district to provide for commercial office-buffer development.

## **MODIFICATION**

The request would modify commitments related to 99-Z-39 terminating all commitments, which related to: 1. the requirement of a boulevard entrance to be developed from 21<sup>st</sup> Street and taper into a single roadway approximately 100 feet north of the right-of-way of 21<sup>st</sup> Street; 2. the requirement of a landscape plan to be submitted for approval by the Administrator and to the Far Eastside Neighborhood Association; 3. the prohibition of pole signs, off-site advertising signs, and wireless communication facilities; 4. that requirement that office buildings shall appear to be residential and no taller than two stories in height; 5. that the owner shall use best efforts to reduce light pollution onto adjacent properties; 6. that 75% of the structures shall feature brick exteriors or exterior finish insulation system and no vinyl exterior shall be used as the primary exterior material; and 7. that the petitioner shall dedicate 60 feet of right-of-way north of the centerline of 21<sup>st</sup> Street.

## **Department of Public Works**

The Department of Public Works (DPW), Traffic Engineering Section, has requested the dedication and conveyance of a 59.5-foot half right-of-way along East 21<sup>st</sup> Street. This dedication would also be consistent with the Marion County Thoroughfare Plan.

The DPW has also requested the installation of an east bound left-turn lane at the proposed western driveway and a west bound right-turn lane at the eastern drive.

## **Tree Preservation / Heritage Tree Conservation**

There are significant amounts of natural vegetation and trees located on the northern portion and the perimeter of the site. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.

All development shall be in a manner that causes the least amount of disruption to the trees.

A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to preliminary plat approval and prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.

The Ordinance defines “heritage tree” as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentukea*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)

The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location Permit (ILP) issuance date. See Exhibit B, Table 744-503-3: Replacement Trees.

### **Wetland Preservation**

The aerial indicates possible wetlands located along the southern and northern boundaries of the site.

The Environmental Protection Agency defines wetlands “as areas where water covers the soil or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season. Water saturation (hydrology) largely determines how the soil develops and the types of plant and animal communities living in and on the soil. Wetlands may support both aquatic and terrestrial species. The prolonged presence of water creates conditions that favor the growth of specially adapted plants (hydrophytes) and promote the development of characteristic wetland (hydric) soils.”

The State of Indiana defines wetlands as “areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include: (1) swamps; (2) marshes; (3) bogs; and (4) similar areas.”

Staff believes that a technical assessment that would include a wetlands delineation would determine the type and quality of the wetland based on the presence or absence of wetlands characteristics, as determined with the *Wetlands Delineation Manual, Technical Report Y-81-1* of the United States Army Corps of Engineers.

If approved, staff would recommend that 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:

A technical assessment shall be conducted prior to the issuance of an Improvement Location Permit to provide for a wetlands delineation to determine the type and quality and how the area could be preserved and integrated into the development as an amenity.



The Wetland Report, file dated June 2024, provided the following summary and conclusions: See Exhibit C.

- Four (4) wetlands present, including one (1) PEM, one (1) PFO, and two (2) wetland complexes.
- Two of these wetlands, a PFO (W-HLA-004) and PFO/PEM complex (W-HLA-003), were determined to be provisionally jurisdictional WOTUS.
- One (1) perennial stream, an UNT to Morris Ditch, crosses the Project Study Area
- No floodplains were mapped within the Project Study Area.

### **Environmental Public Nuisances**

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

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

Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

## Planning Analysis

This request would modify commitments for the Rezoning Petition 99-Z-39 (See Exhibit “A”) by terminating all the commitments related to this rezoning petition. Commitment Numbers One through Six were originally the result of negotiation between the petitioner and remonstrators during the 1999 rezoning process. Because staff played no role in the negotiation of these subject commitments, staff would ordinarily provide no recommendation under such circumstances. Staff would note, however, that the neighborhood organization(s) 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.

Commitment Number Seven, however, that required dedication of a 60-foot half right-of-way along East 21<sup>st</sup> Street, was requested by the city (Department of Capital Asset Management). Additionally, the access drive along East 21<sup>st</sup> Street was required to comply with City standards.

Because The Marion County Thoroughfare Plan recommends a 119-foot right-of-way along East 21<sup>st</sup> Street, staff does not support terminating Commitment Number Seven as it relates to the dedication of right-of-way but would accept and request a commitment that would require dedication of the 59.5-foot half right-of-way along East 21<sup>st</sup> Street in accordance with the Thoroughfare Plan.

Staff is also requesting additional commitments related to traffic infrastructure improvements, a tree inventory / assessment / preservation plan, wetlands delineation and site maintenance.

Because this site is undeveloped, staff believes that required development standards should be met and variances from those standards would not be necessary.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-1 / C-4	
<b>Existing Land Use</b>	Undeveloped	
<b>Comprehensive Plan</b>	Suburban Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	C-4	Interstate 70 right-of-way
South:	D-3	Single-family dwellings
East:	D-6	Multi-family dwellings
West:	D-6II	Multi-family dwellings
<b>Thoroughfare Plan</b>		
East 21 <sup>st</sup> Street	Primary arterial	Existing 70-foot right-of-way and proposed 119-foot right-of-way
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	

<b>Wellfield Protection Area</b>	No
<b>Site Plan</b>	March 18, 2025
<b>Site Plan (Amended)</b>	N/A
<b>Elevations</b>	March 18, 2025
<b>Elevations (Amended)</b>	N/A
<b>Landscape Plan</b>	April 8, 2025
<b>Findings of Fact</b>	N/A
<b>Findings of Fact (Amended)</b>	N/A
<b>C-S/D-P Statement</b>	N/A

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

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 one to five 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.”

- *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.

### Pattern Book / Land Use Plan

Not Applicable to the Site

### Red Line / Blue Line / Purple Line TOD Strategic Plan

Not Applicable to the Site.

### Neighborhood / Area Specific Plan

Not Applicable to the Site.

### Infill Housing Guidelines

Not Applicable to the Site.

### Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW)
- Identify roadways for planned expansions or new terrain roadways
- Coordinate modal plans into a single linear network through its GIS database

## ZONING HISTORY

**2022-ZON-135; 9100 and 9402 East 21<sup>st</sup> Street**, requested rezoning of 30.46 acres from the C-1 and C-4 districts to the D-8 district to provide for a single-family detached residential development, **withdrawn**.

**2008-ZON-089 / 2008 VAR-008; 9100 and 9300 East 21<sup>st</sup> Street**, requested rezoning of 30.93 acres from the C-1 and C-4 districts, to the C-S classification to provide for indoor and outdoor commercial recreation uses, C-1 uses and C-4 uses and a variance of development standards to provide for a recreational use with 90,000 square feet of gross floor area and 495,000 square feet of site area accessible to the public with 885 off-street parking spaces, **withdrawn**.

**99-Z-39; 9150 East 21<sup>st</sup> Street**, requested rezoning of 20.0 acres, being in the D-6II district to the C-1 classification to provide for commercial office-buffer development, **approved**.

**96-V3-86; 2301 North Post Road**, requested a variance of development standards of the Sign Regulations to provide for the placement of an advertising sign being the fourth advertising sign within a one-mile distance, located 1,010 feet from the intersection of Post Road and Interstate 70, with dimensions being 10 feet by 6 inches by 36 feet, **granted**.

**69-Z-211; Post Road and East 21<sup>st</sup> Street**, requested rezoning of 46.67 acres, being in the A-2 and D-4 district to the D-6II classification to provide for the construction of apartments, **approved**.

## VICINITY

**84-Z-213; 9401 East 25<sup>th</sup> Street (south of site)**, rezoned 27.17 acres from the A-2 and D-4 districts to the SU-1 classification to provide for religious uses, **approved**.

**84-HOV-37; 2330 North Post Road (west of site)**, requested a variance of development standards of the Sign Regulations to allow for the erection of a 14-foot by 48-foot sign at 60 feet from the interstate right-of-way and within 1,000 feet of an entrance ramp, **granted**.

**84-HOV-36; 2242 North Post Road (west of site)**, requested a variance of the development standards of the sign Regulations to allow the erection of a 14-foot by 48-foot advertising sign 60 feet from the interstate right-of-way and within 1,500 feet of an exit ramp, **granted**.

**61-Z-34; Post Road and East 21<sup>st</sup> Street (west of site)**, requested rezoning of 38.04 acres, being in the A-2 district, to the B-2 classification to permit the construction of a regional shopping center, **approved**.



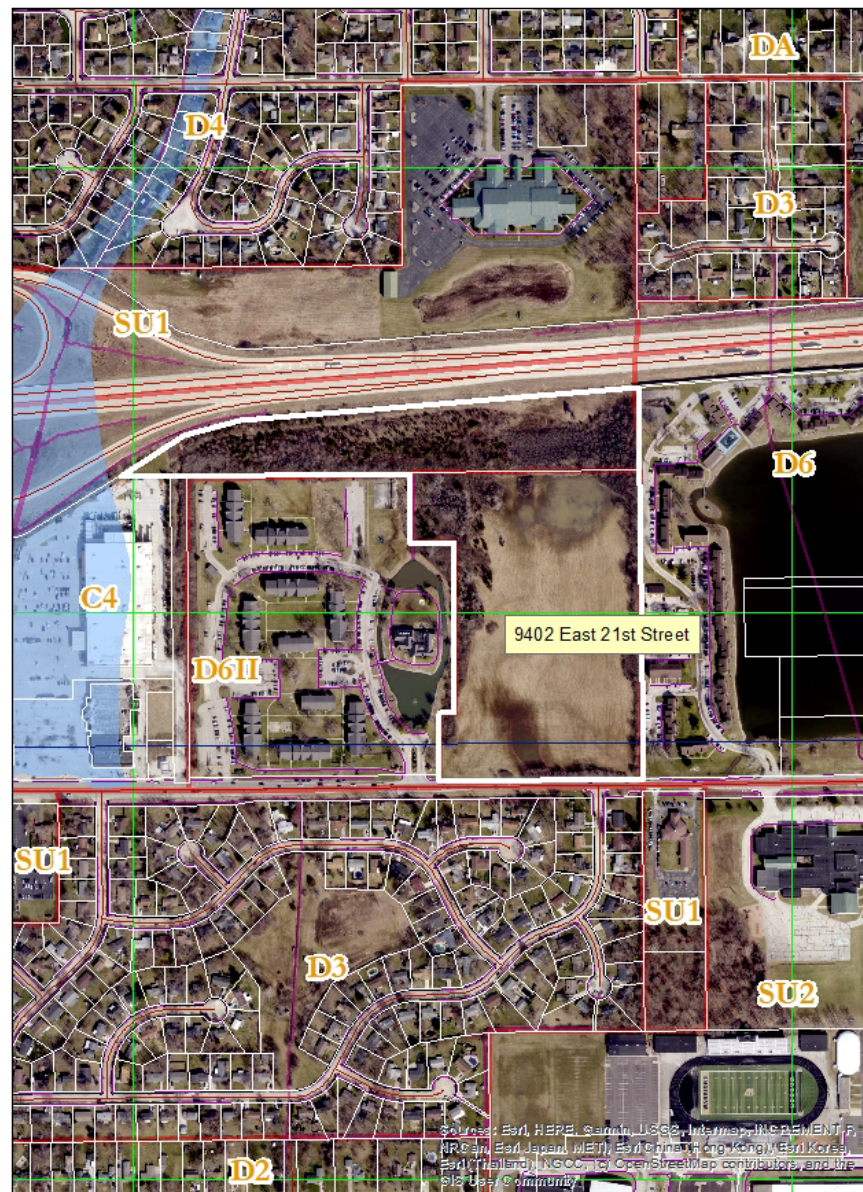
Department of Metropolitan Development  
Division of Planning  
Current Planning

**61-Z-33; Post Road and East 21<sup>st</sup> Street (west of site)**, requested rezoning of 1.1 acre, being in the A-2 district to the B-4 classification to provide for a gasoline service station, **approved**.

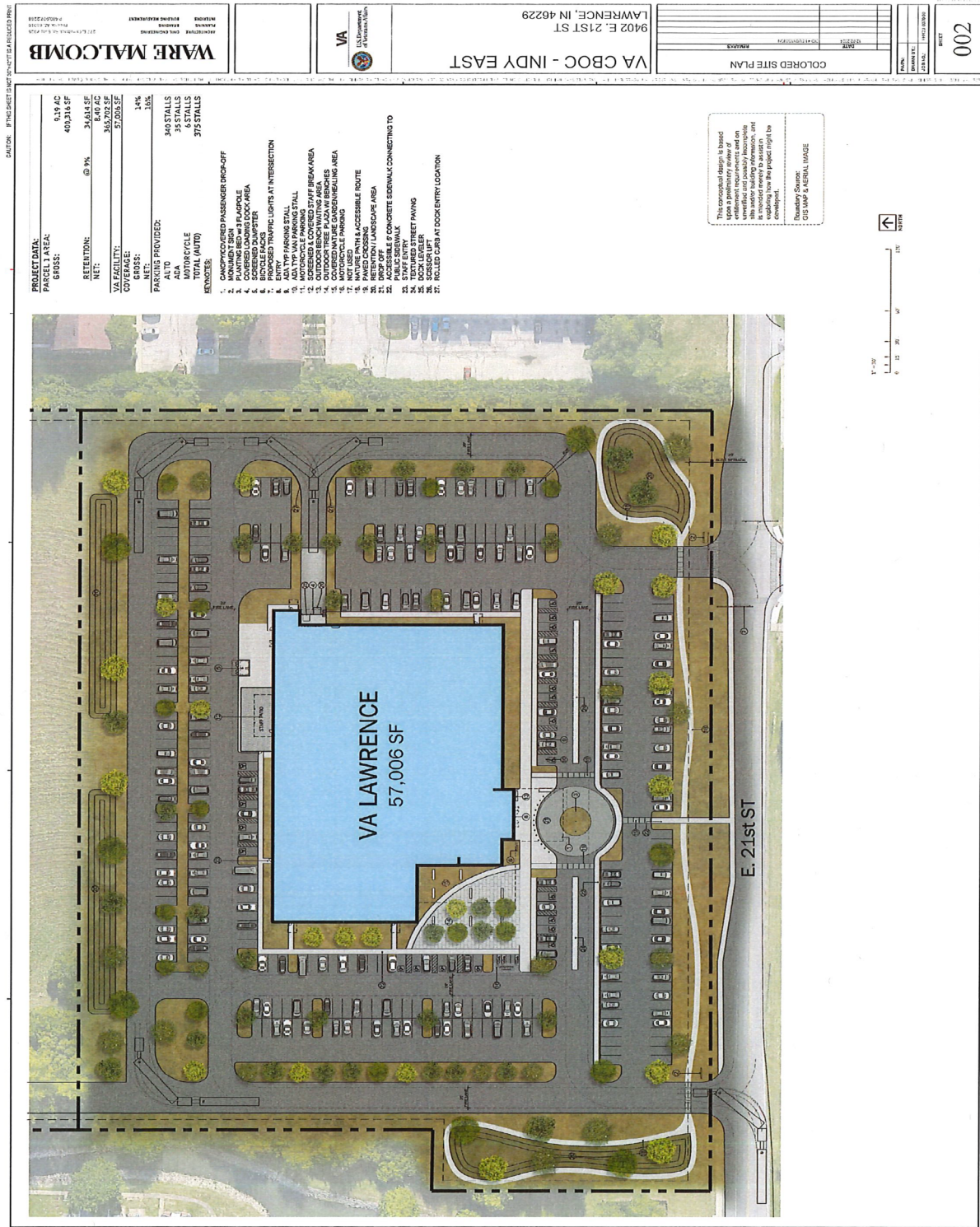
**61-Z-32 and 61-Z-33; Post Road and East 21<sup>st</sup> Street (west of site)**, requested rezoning of 33.55 acres from the A-2 district to the R-3 classification to provide for single-family dwellings, **approved**.



EXHIBITS









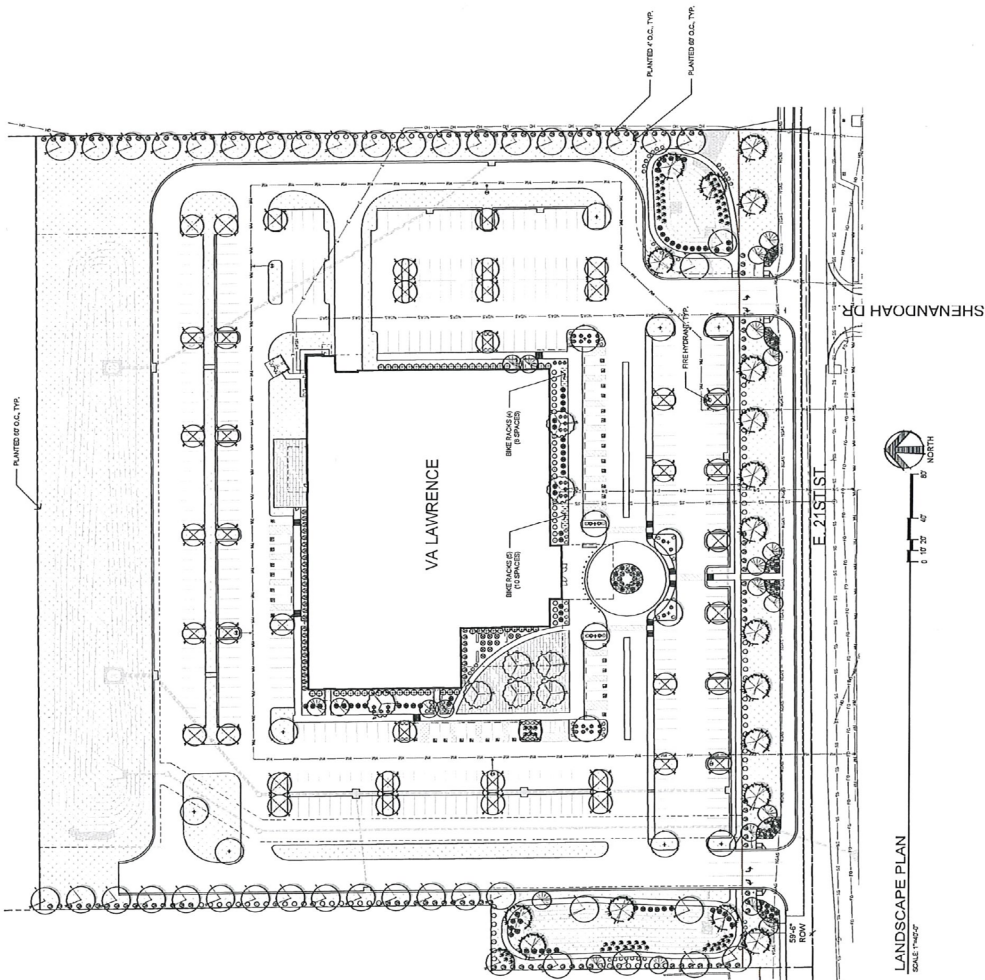
LANDSCAPE IMPROVEMENTS  
VA Indianapolis  
69402 E. 21st St. Indianapolis, Indiana 46229



Landscape Plan

L1.0

202

[illegible]





This conceptual design is based upon a preliminary review of a different requirements and is not intended to be used in exploring how the project might be developed. Site plan shown is for illustrative purposes only and does not necessarily reflect municipal code compliance. All colors shown are for representative purposes only. Refer to existing conditions for actual color verification.



ENTRY / DRCP OFF  
 VA CLINIC - LAWRENCE, INDIANA  
 9402 EAST 21ST ST, INDIANAPOLIS, IN 46229 - PHX23-007D-00

WARE MALCOMB

04.25.2024

PAGE  
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**KEYNOTES**

- |   |  |   |                     |
|---|--|---|---------------------|
| 1 | CLEAR ANODIZED ALUMINUM STOREFRONT GLAZING | 4 | CHANNEL BEAM CANOPY |
| 2 | THIN BRICK VENEER                          | 5 | ACI CANOPY          |
| 3 | NICHHA FIBER CEMENT PANELS                 | 6 | STEEL TUBE CANOPY   |

This conceptual design is based upon a preliminary reviewed entitlement requirements and on uncertainties and possibly inaccurate site and/or building information, and is intended merely to assist in evaluating how the project might be developed. Site plan shown is for illustration purposes only and does not necessarily reflect municipal requirements. All dimensions and materials are approximate and subject to change without material without notice for actual color verification.



EXTERIOR ELEVATIONS  
 VA CLINIC - LAWRENCE, INDIANA  
 9402 EAST 21ST ST. INDIANAPOLIS, IN 46229 - PHX23-0070-00

**WARE MALCOMB**





VA Outpatient Clinic  
Indianapolis, IN

VAF LAWRENCE LLC

### EXHIBIT 3: PLAN OF OPERATION

**OVERVIEW:** The Department of Veterans Affairs (“VA”) has signed a 20-Year Lease (the “Lease”) for a medical outpatient clinic at 9402 E. 21<sup>st</sup> Street, Indianapolis, IN 46229 (the “Property”). VA will be the Tenant, and VAF Lawrence LLC (“VAF”) will be the Landlord. As Tenant, VA will be in charge of staffing the facility and providing outpatient care to Veterans and their families. As Landlord, VAF will be in charge of developing the building on the current vacant land site at the Property and managing the building per the terms of the gross Lease, meaning Landlord is in charge of initiating and paying utility accounts, cleaning the building, maintaining a clean, landscaped site and keeping the building systems functional and operational.

Plan of Operation		
Category	Statement	Responsible Party
Workforce	The construction of the VA’s medical outpatient clinic is expected to create 450 construction roles	VAF: all of the construction roles will be hired by and/or contracted with by HITT Contracting, VAF’s general contractor for the project
Workforce	The clinic is expected to staff 100 full-time employees consisting of administrative and medical professionals, once operational	VA: all of the clinic staff will be hired by VA
Clients and Customers	The clinic is expected to see approximately 170 Veterans (and select family members who qualify for VA healthcare benefits) on a daily basis	VA and VAF: VA, as Tenant, will be in charge of providing the medical care and related operations. VAF will be in charge of making sure the building’s systems are operating properly so that VA can fulfill its mission of providing healthcare to the area’s Veterans
Processes Conducted Onsite	Provide Veterans and their families with outpatient medical care, including the	VA and their hired staff



VA Outpatient Clinic  
Indianapolis, IN

VAF LAWRENCE LLC

	following specialty services: primary care, mental health, optometry, audiology and related laboratory services	
Materials Used	Standard medical outpatient operations	VA, and their hired staff
Shipping & Receiving	<ul style="list-style-type: none"> <li>On a daily basis, FEDEX, UPS, mail (box trucks) – a handful a day</li> <li>Occasionally (monthly or less often), tractor trailers</li> </ul>	VA, and their hired staff will receive and process shipments to the facility
Waste	Construction waste will be disposed of and/or recycled per City, County and State standards and guidelines	VAF
Waste	Once operational, typical and medical waste will be handled and/or recycled per City, County and State standards and guidelines	VA will prepare medical waste for disposal by placing it in biohazardous containers. VAF will see to the proper disposal of typical and medical waste (including recycling) per City, County and State standards and guidelines

**EXHIBIT A**

99-2-39

99-0089186

**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. 36-7-4-613 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 attached hereto

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:

- (a) the adoption of rezoning petition # 99-Z-39 by the City-County Council changing the zoning classification of the real estate from a \_\_\_\_\_ zoning classification to a C-1 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-1 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. \_\_\_\_\_

The undersigned hereby authorizes the Division of Neighborhood 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 # 99-Z-39.

IN WITNESS WHEREOF, Stephen P. Hokanson owner has executed this instrument this 15 day of April, 19 99.

Signature: Stephen P. Hokanson Signature: \_\_\_\_\_  
Printed: Stephen P. Hokanson Printed: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Stephen P. Hokanson, 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  
15th day of April, 19 99  
Nancy L. Watson  
Notary Public  
Nancy L. Watson  
Printed Name of Notary Public  
My Commission expires: 10-15-06  
My County of residence: Marion

This instrument was prepared by Mary E. Solada, Bingham Summers Welsh & Spilman, 10 West Market, Suite 2700  
Indianapolis, Indiana 46204  
MDC's Exhibit B - - page 2

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.

EXHIBIT B

CASE 99-Z-39  
9150 East 21<sup>st</sup> Street

COMMITMENTS

1. Petitioner shall cause a boulevard entrance to be developed from 21<sup>st</sup> Street which shall taper into a single roadway approximately 100 feet north of the right-of-way line of 21<sup>st</sup> Street.
2. Petitioner shall present a landscape plan for approval by the Administrator of the Division of Neighborhood and Development Services and to the Far Eastside Neighborhood Association (FENA) for review.
3. No pole sign or off-site advertising signs shall be erected on the subject property or cell/broadcast towers or structure(s).
4. The office buildings to be developed on this subject property shall be residential in appearance and shall feature not greater than two stories, although due to peaked roof lines, may reach or exceed the 35 foot height limitation allowed in the C1 district.
5. Petitioner shall use best efforts to minimize spillover of site lighting onto adjoining properties.
6. At least 75% of the structures to be developed on the subject property shall feature primarily brick exteriors or exterior finish insulation system. No vinyl shall be used as a primary exterior material.
7. Petitioner shall upon request of Department of Capital Asset Management (DCAM) dedicate 60 feet of right-of-way north of the centerline of 21<sup>st</sup> Street. The driveway from 21<sup>st</sup> Street to the subject property shall conform to DCAM standards.

## EXHIBIT B

### Heritage Tree Conservation

Removal of any Heritage Tree is prohibited unless any of the following determinations are made before removal:

1. The Administrator or the city's Urban Forester determines that the tree is dead, significantly and terminally diseased, a threat to public health or safety, or is of an undesirable or nuisance species.
2. The Director of the Department of Public Works determines that the tree interferes with the provision of public services or is a hazard to traffic.
3. The Administrator determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree.
4. The site from which the tree is removed is zoned D-A and the tree is harvested as timber or similar forestry product.

<b>Table 744-503-3: Replacement Trees</b>		
<b>Size of tree removed or dead (inches)</b>	<b>Number of Trees to be planted to replace a Heritage Tree</b>	<b>Number of Trees to be planted to replace an existing tree</b>
Over 36 DBH	15	10
25.5 to 36 DBH	11	8
13 to 25 DBH	8	6
10.5 to 12.5 DBH	6	4
8.5 to 10 DBH	5	4
6.5 to 8	3	2
4 to 6	2	2
2.5 to 3.5	1	1

## EXHIBIT C

### 3.2 Field Delineation

#### 3.2.1 Site Description

The general habitat survey conducted within the Study Area identified seven (7) land cover classifications (Table 2), including Grassland/Herbaceous, Woodlot/Hedgerow, Palustrine Forested Wetland, Palustrine Emergent Wetland, Developed, Palustrine Scrub-Shrub Wetland, and Riverine (**Figure 6; Appendix A**).

**TABLE 2. LAND COVER CLASSIFICATIONS AND DESCRIPTIONS IN THE STUDY AREA**

Vegetation Community Type	Description	Approximate Acreage Within the Project Study Area	Percentage of Project Study Area
Grassland / Herbaceous	Large field that is minimally maintained. Evidence of some mowing given the lack of emergent shrubs within the field; areas with some mowing, generally located on roadside edges. Dominant species included: tall fescue ( <i>Schedonorus arundinaceus</i> ), poison ivy ( <i>Toxicodendron radicans</i> ), Japanese honeysuckle ( <i>Lonicera japonica</i> ), with distinct patches of large hop trefoil ( <i>Trifolium aureum</i> ), zigzag clover ( <i>Trifolium medium</i> ), and crownvetch ( <i>Securigera varia</i> ). Aside from these dominate species, the field has a variety of other native and non-native species.	13.79	44.9%
Woodlot / Hedgerow	Trees and shrubs between properties often signifying the property line and/or small woodland stands (<35 acres) between developed/maintained lands. Within the study area there are distinct areas composed solely of large trees with a shrub understory (e.g., south and east boundaries), dominated by black oak ( <i>Quercus velutina</i> ), box elder ( <i>Acer negundo</i> ), silver maple ( <i>A. saccharinum</i> ), sugar maple ( <i>A. saccharum</i> ), hackberry ( <i>Celtis occidentalis</i> ), pignut hickory ( <i>Carya glabra</i> ), and shagbark hickory ( <i>C. ovata</i> ). However, much of the site is covered dense shrubs (western and southeastern boundaries), significantly gray dogwood ( <i>Cornus racemosa</i> ), eastern red cedar ( <i>Juniperus virginiana</i> ), bush honeysuckle ( <i>Lonicera</i> sp.), and red mulberry ( <i>Morus rubra</i> ). Along the northern section, large saplings and shrub predominate (same species) with an understory of poison ivy.	8.77	28.6%

<b>Vegetation Community Type</b>	<b>Description</b>	<b>Approximate Acreage Within the Project Study Area</b>	<b>Percentage of Project Study Area</b>
Palustrine Forested Wetland (PFO)	Wetlands dominated by either large or sapling trees. There are four PFO components across three wetlands within the Study Area, dominated by either red maple ( <i>A. rubrum</i> ) and slippery elm ( <i>Ulmus rubra</i> ), cottonwood ( <i>Populus deltoides</i> ), or slippery elm and white ash ( <i>Fraxinus americana</i> ). The maple-elm and ash-elm wetlands had a very dense canopy, open water, and very little to no herbaceous plants. By contrast, the two cottonwood PFOs had more open canopy resulting in a more diverse understory of shrubs and herbaceous species along the edges of open water, including gray dogwood, sandbar willow ( <i>Salix interior</i> ), poison ivy, bald spikerush ( <i>Eleocharis erythropoda</i> ), Indian hemp ( <i>Apocynum cannabinum</i> ), and rufous bulrush ( <i>Scirpus pendulus</i> ).	4.77	15.5%
Palustrine Emergent Wetland (PEM)	Wetland dominated by herbaceous species. There are five PEM components across three wetlands within the Study Area. Three PEMs within the main field are dominated by Indian hemp, troublesome sedge ( <i>Carex molesta</i> ), Gray's sedge ( <i>C. grayi</i> ), rufous bulrush, foxtail barley ( <i>Hordeum jubatum</i> ), and purple loosestrife ( <i>Lythrum salicaria</i> ). On the northern boundary, the PEMs are different with taller vegetation and less diversity with Indian hemp, tall ironweed ( <i>Vernonia gigantea</i> ), and cattail ( <i>Typha</i> sp.)	2.91	9.5%
Developed	Maintained lawn located on the southwest corner of the Study Area, serves as the approach to the field. Also, a portion of the Study Area north of a commercial area on the westernmost edge is also classified as Developed.	0.38	1.2%
Palustrine Scrub-Shrub Wetland (PSS)	Wetland dominated by woody shrub species. There is one PSS wetland component within one wetland within the Study Area, dominated by dense bush honeysuckle, gray dogwood, poison ivy, sapling white ash, with minor amounts of native herbaceous species.	0.06	<0.01%
Riverine	One perennial stream and its associated vegetation in the bed and bank.	0.02	<0.01%
<b>Totals</b>		<b>30.70</b>	<b>100%</b>





View looking west along East 21<sup>st</sup> Street



View looking west along East 21<sup>st</sup> Street





View of site looking northeast across East 21<sup>st</sup> Street



View of site looking north across East 21<sup>st</sup> Street





View looking north across East 21<sup>st</sup> Street



View of site looking north across East 21<sup>st</sup> Street



View of site looking northwest across intersection of East 21<sup>st</sup> Street / Shenandoah Drive