

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

July 11, 2024

**Case Number:** 2024-MOD-006

**Property Address:** 8100 Southeastern Avenue

**Location:** Franklin Township Council District #20

**Petitioner:** Circle City Property Group, Inc., by William T. Neimier

**Current Zoning:** D-P

Modification of Commitments and Site Plan related to 98-Z-63 and 2006-APP-150 to modify:

**Request:**

- a) Commitment 45 to alter the approved site plan to provide for a 10,500-square-foot commercial building;
- b) Commitment 71 to provide for a 10,500 square-foot commercial building (maximum 10,000 square-foot commercial building permitted);
- c) Commitment 75 provide for a flat roof on said proposed 10,500 square-foot commercial building (required only pitched, shingle-roofed structures)

**Current Land Use:** Undeveloped land

**Staff Recommendations:** No recommendation, but subject to the commitment noted below.

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

**PETITION HISTORY**

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued this petition from the June 13, 2024 hearing, to the July 11, 2024 hearing.

**STAFF RECOMMENDATION**

No recommendation, but subject to the following commitment being reduced to writing on the Commission's Exhibit "C" form 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.

## PETITION OVERVIEW

This 7.471-acre site, zoned D-P, is undeveloped and surrounded by single-family dwellings to the north, zoned D-P; single-family dwellings to the south, across Southeastern Avenue, zoned D-3; undeveloped land to the east, zoned C-4; and a U. S. Postal facility to the west, across Wildwood Farms Boulevard, zoned D-P.

Petitions 98-Z-63, 2006-APP-150, 2022-MOD-001, and 2022-MOD-017 provided for commercial development, identified the number of buildings and their square footage, identified the number of signs, identified the access drives and provided a landscape buffer.

## MODIFICATION

This request would modify commitments and site plan related to 98-Z-63 and 2006-APP-150. The commitments related to the square footage of the buildings and pitched / shingled roofs were originally the result of negotiation between the petitioner and remonstrators during the 1998 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. See Exhibits A through Exhibit D.

As this site is developed, staff would note that provisions related to building transparency and location of drive through lanes should be considered to avoid the need to request variances of development standards as the site is developed.

## 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.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-P	
<b>Existing Land Use</b>	Undeveloped	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b><u>Zoning</u></b>	<b><u>Land Use</u></b>
	North:	D-P Single-family dwellings
	South:	D-3 Single-family dwellings
	East:	C-4 Undeveloped land
	West:	D-P U.S. Postal facility
<b>Thoroughfare Plan</b>		
Southeastern Avenue	Primary Collector	Existing 100-foot right-of-way and proposed 80-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>	April 22, 2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	N/A	

<b>Findings of Fact (Amended)</b>	N/A
<b>C-S/D-P Statement</b>	April 22, 2024 (Modification)

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Comprehensive Plan recommends Community Commercial typology. “The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.”

**Pattern Book / Land Use Plan**

The Comprehensive Plan consists of two components that include the Pattern Book and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

- *Conditions for All Land Use Types – Community Commercial Typology*
  - 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.
- *Large-Scale Offices, Retailing, and Personal or Professional Services (defined as Commercial uses with minimal outdoor operations, storage, or display on lots of more than 1.5 acres and a height of more than 35 feet.)*
  - Should be located along an arterial or collector street.
  - Outdoor display of merchandise should be limited.
  - If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended
  - If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.
  - Should be no larger than 25 acres with 125,000 square feet of floor space and no more than three out lots.

### 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 describes 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-MOD-017; 8100 Southeastern Avenue**, requested modification of commitment and site plan related to 98-Z-63, 2006-APP-150, and 2022-MOD-001 to modify a) Commitment 45 to provide for an amended site plan with one 20,000-square foot building (previous commitment required conformance with the previously approved site plan with two 10,000-square foot buildings); b) Commitment 71 to allow a commercial building to exceed 10,000 square feet (not permitted); and c) Commitment 75 to allow for non-pitched, non-shingled roofs (pitched, shingled roofs required), **approved**.

**2022-MOD-001, 8100 Southeastern Avenue (amended)**, requested modification of commitments and site plan related to 98-Z-63 and 2006-APP-150 to modify: a) Commitment 45 to alter the approved site plan to allow for construction of four commercial buildings; b) Commitment 61 to allow four monument signs (two integrated signs permitted), **approved**.

**2006-APP-150; 8110 Southeastern Avenue**, requested approval of a modification of the site plan related to 96-Z-63 to provide for the construction of three commercial buildings, parking and interior access drive and approval to modify commitments related to 98-A-63 to modify Commitment 65 to require a 20-foot landscaping buffer along the boundary between the commercial center and the residential portions of the development, **approved**.

**98-Z-63; 8002 Southeastern Avenue (includes site)**, requested a rezoning of 184.9 acres from D-A and SU-43 to D-P, for residential development, **approved**.

## VICINITY

**2021-ZON-109; 8150 Southeastern Avenue (east of site)**, requested rezoning of 24.426 acres from the C-4 district to the D-7 district, **withdrawn**.

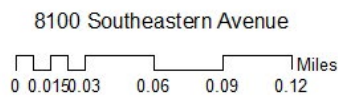
**2003-ZON-064; 8250 Southeastern Avenue (east of site)**, requested rezoning 24 acres from D-7 to C-4 to provide for commercial uses, **approved**.

**72-Z-28; 8102 Southeastern Avenue (adjacent to the south)**, requested a rezoning of 18.85 acres from A-2 to C-4, **approved**

**72-Z-27; 8100 Southeastern Avenue (adjacent to the south)**, requested a rezoning of 0.69 acre, from C-3 to C-4, **approved**.



EXHIBITS



## EXHIBIT A – 98-Z-63 Commitments

*Wildwood Farms  
Commitments*

34. There shall be no above ground pools permitted
35. There shall be no carports permitted within the development.
36. No side gravel drives shall be permitted for any single family home.
37. All mailboxes within the development shall be constructed of uniform design, materials and colors.
38. The trees located within the community common area will be preserved to the greatest extent possible. Appropriate protection measures will be taken during construction.
39. At a maximum, seventy-foot (70') half right-of-way shall be dedicated along the entire frontage of both Southeastern and Troy Avenues upon request by the DCAM.
40. Any out building shall match the dwelling in color and style and shall have shingled, pitched roofs. No metal accessory buildings shall be constructed.
41. The condominiums shall be constructed as one-story units or townhouse type units.
42. The developer agrees to erect up to 1000 linear feet of fence to address the concerns regarding the wooded area at the northeast corner of the development at a location within that area as specified / requested by the Franklin Township Civic League within one year of the completion of the first home in the development.
43. Any fencing placed on the perimeter residential properties shall be of like style and height. Such fencing shall be either black vinyl-coated chain link or white vinyl clad.
44. The condominium area shall be limited to a maximum of six living unit per acre and shall be confined to the area depicted on the site plan file dated May 20, 1998.
45. The final site and development plan for the condominium area shall be subject to the review and approval of the Administrator of the Division of Neighborhood and Development Services and shall be submitted at the same time for review by the Franklin Township Civic League.
46. Along the northern border of the site, adjacent to Troy Avenue and excluding the wooded park area, a landscape area a minimum of ten feet (10') in width shall be installed to include a mix of evergreen (not to include white pine trees) and deciduous trees. Said trees shall be planted a maximum of 30 feet on center and shall be a minimum of 6 feet in height and a minimum of 2 1/2 inch caliper, respectively, at the time of planting and shall be installed at the time of site preparation for this section
47. All landscaping materials shall be taken from the City's "Recommend Tree and Landscaping List for Marion County

Metropolitan Development  
Jan 04 2022  
Division of Planning



*Willowood Farms  
Commitments*

48. The final landscape plan shall be subject to the review and approval of the Administrator of the Division of Neighborhood and Development Services and shall be submitted at the same time for review by the Franklin Township Civic League.

49. All landscaping shall be maintained at all times after planting and the Homeowners Associations shall be responsible for replacement of dead or diseased landscaping.

50. The boulevard connecting Troy and Southeastern Avenues shall be lined with trees as depicted on the attached site plan. Said tree lined boulevard shall be the responsibility of the Homeowners Association.

51. The owner/developer shall make every effort to preserve trees on site, outside the park area to the extent that they are located two feet outside the areas needed for streets, drainage, drives, building pads and infrastructure.

*Commercial Commitments*

52. All buildings shall have all finished facades with the front exterior being primarily brick, stone or masonry with additional architectural components of glass, wood, stucco or other materials. This brick, stone or masonry treatment would compose an approximate minimum of eighty percent (80%) of the facade, excluding windows, doors and other architectural elements. There shall be no concrete block construction utilized. The other facades shall be finished masonry product. Final building plan elevations and site plan shall be submitted for review by the Franklin Township Civic League prior to submission to the City of Indianapolis for permits.

53. No building shall be greater than two-stories in height with second story space used primarily for office and storage use. There shall be no retail use above the first floor.

54. No building shall have its rear elevation oriented to Southeastern Avenue.

55. Building setbacks shall be established using the minimums specified in the C-3 Development Standards portion the Commercial Zoning Ordinance.

56. Business hours of operation shall be limited to the hours of 6:00 a.m. to 12:00 midnight, unless otherwise approved by the FTCL. (This would not preclude someone from working in his or her office outside the normal operating hours.)

57. Trash pick up and business deliveries shall be limited to the hours between 5:00 am and 12:00 midnight.

58. The commercial development shall have access from the interior street system, which also serves the residential development.

59. The commercial development shall be constructed with sidewalks connecting to

*Wildwood Farms  
 Commitments*

the residential portion on the development.

60. Paving for lighting shall be down to a road light poles beyond the property lines and the commercial development.
61. The commercial sites shall be developed as two integrated centers with one integrated freestanding identification sign to serve each center. Integrated center signs shall be limited to twenty-five feet (25') in height. The developer shall develop and submit for approval of the Administrator a sign program for the commercial development. At the same time sign plans are submitted to the City, plans also shall be submitted to Franklin Township Civic League for review and comment. There shall be no roof or neon signs permitted. Signs shall be constructed with brick or masonry bases or other support components. Wall signs for individual businesses shall comply with the Sign Regulations of Marion County with no variance from development standards.
62. Any liquor license shall be limited to a sit down restaurant for beer and wine only (which does not provide carry out service and which provides seating area for persons under twenty-one years of age). If more than one liquor license is requested or if a three way liquor license is requested or a restaurant with carry out service is requested or proposed, the application may be submitted for approval only after the proposed user has met with the representatives of the Franklin Township Civic League and received their approval to apply for said license.
63. There shall be no development of fast food restaurants. Any drive through facility for a food related service or restaurant must first be approved by the Franklin Township Civic League prior to applying for an Improvement Location Permit.
64. The landscaping plan for the commercial area shall include interior and perimeter landscaping of the parking areas. The final landscaping plan shall be submitted to the Administrator of the Division of Neighborhood and Development Services for review and approval and shall be submitted for review at the same time to the FTCL.
65. There shall be a twenty foot (20') landscaping buffer established and maintained along the boundaries between the commercial centers and the single family and condominium residential portions of the proposed development. Landscaping shall include a mix of deciduous, evergreen and ornamental trees, planted at the time of site preparation.
66. A landscaping buffer a minimum of ten feet (10') in width shall be established and maintained along the entire Southeastern Avenue frontage. Landscaping shall include a mix of deciduous, evergreen and ornamental trees, planted at the time of site preparation being a minimum of 2 1/2 caliper inches in size, 6 feet in height, and 1 1/2 caliper inches in size, respectively. A minimum of ten trees shall be planted on each side of the boulevard, along the Southeastern frontage. Said landscape buffer shall be installed prior to the construction of any homes within the residential portion of the project.



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 #2006-APP-150

IN WITNESS WHEREOF, owner has executed this instrument this 31 day of October, 2007.

X Signature: Thomas A Grant Signature: \_\_\_\_\_  
 Printed: THOMAS A GRANT Printed: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared THOMAS A GRANT, 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  
31 day of October, 2007  
David Gilman  
 Notary Public  
DAVID GILMAN  
 Printed Name of Notary Public  
 My Commission expires: 7-14-09  
 My County of residence: HENDRICKS

|| | | | |

**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, 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;
  - (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 C  
REZONING COMMITMENTS  
FOR  
2006-APP-150

1. A sidewalk shall be constructed along Southeastern Avenue.
2. Sidewalks shall be installed from Southeastern Avenue to the commercial uses.
3. Deciduous overstory trees shall be planted 20 feet on-center, with a minimum size of three (3) inch caliber six inches above grade.
4. A landscape plan shall be submitted for Administrator's Approval, prior to the issuance of Improvement location permit. The landscape plan shall indicate size, species and placement of landscaping. Trees planted shall not include pear, crabapple or blue spruce variety.
5. A six foot solid wall fence shall be installed along the north property boundary, with all landscaping to be placed on the north side of the fence.
6. A 70 foot half right-of-way shall be dedicated along Southeastern Avenue as per the request of the department of Public Work Transportation Section (DPW). 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 DPW has requested that the right-of-way be granted within 60 day of approval.

**Exhibit C - 2022-MOD-001 Commitments**

**A202200041943**

**04/07/2022 01:36 PM**  
**KATHERINE SWEENEY BELL**  
**MARION COUNTY IN RECORDER**  
**FEE: \$ 35.00**  
**PAGES: 8**  
**By: DG**

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

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

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

**Legal Description:** SEE ATTACHED.

**Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:**

1. Petitioner agrees to obtain a Heritage tree inventory report from a certified arborist. This report shall be submitted for Administrator Approval prior to any site preparation activities on this property. This report shall show the location and characterization of Heritage trees on this property and state if any of these trees will be impacted.
2. Commitment No. 45 under 98-Z-63/98-DP-10, as amended under 2006-APP-150, recorded as Instrument No. 2007-0177106, is hereby amended such that the Amended Site Plan, filed in these proceedings on February 18, 2022, a copy of which is attached hereto and incorporated herein, is hereby approved and development of this property shall be substantially consistent therewith including the approximate size and location of the four proposed commercial buildings.
3. Commitment No. 61 under 98-Z-63/98-DP-10, as amended under 2006-APP-150, recorded as Instrument No. 2007-0177106, is hereby amended such that four monument signs, in the approximate locations shown on the attached Amended Site Plan and as shown on the attached sign diagram are allowed, instead of two integrated center signs.
4. \_\_\_\_\_

*MDC's Exhibit C -- page 1 of 8*



8

5. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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-001.

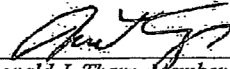
These COMMITMENTS may be enforced jointly or severally by:

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. \_\_\_\_\_
4. \_\_\_\_\_

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-001 by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this 15<sup>th</sup> day of March, 2022.

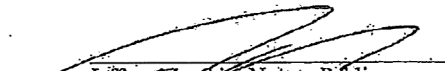
Signature:   
 Printed: Donald J. Tharp, Member  
 Title /  
 Organization  
 Name: ONRA, L.L.C.

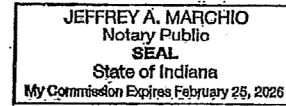
Signature: \_\_\_\_\_  
 Printed: \_\_\_\_\_  
 Title /  
 Organization  
 Name: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Donald J. Tharp, a Member of ONRA, L.L.C., an authorized agent of owner 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 15<sup>th</sup> day of March, 2022.

  
 Jeffrey Marchio, Notary Public  
 Commission Expires: 2-25-2026

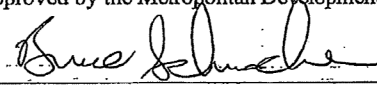


County of Residence: Marion Commission No.: 710850

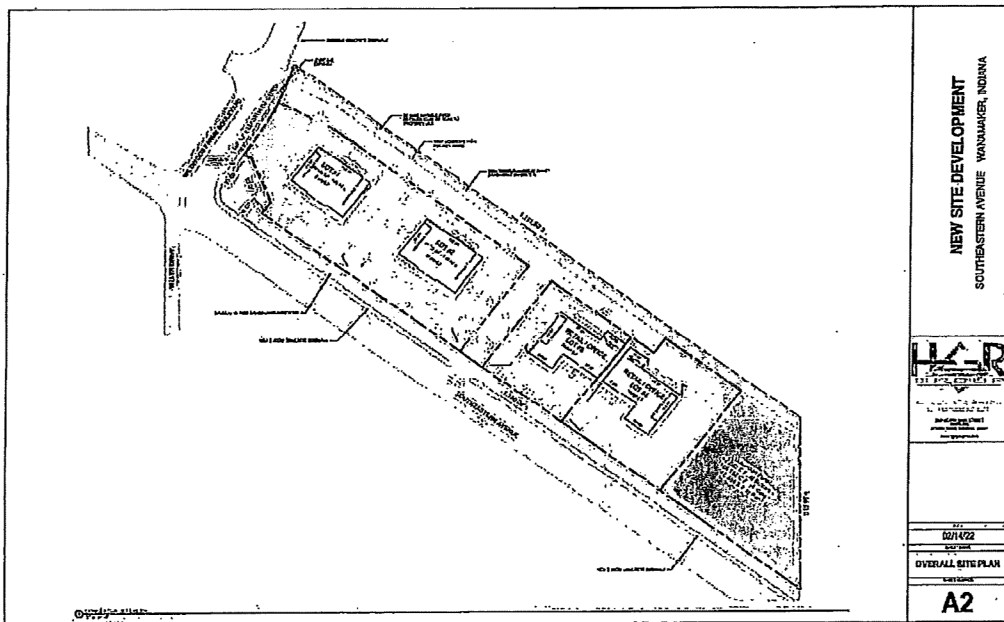
I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law. /s/ William T. Niemier

This instrument was prepared by William T. Niemier, Attorney at Law, 6910 N. Shadeland Avenue, Suite 200, Indpls, IN 46220 317-459-3878.

This modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 6th day of April, 2022.

  
 Vice Secretary, Metropolitan Development Commission  
 Bruce Schumacher


**AMENDED SITE PLAN**





MDC's Exhibit C -- page 8 of 8

DESIGN, RE-BRANDING, FABRICATION, INSTALLATION. Check us out on the web: [E.S.T.-Signs.com](http://E.S.T.-Signs.com)



**2576**  
**DOLLAR TREE**

**BILL SPECIFICATIONS**  
 CHANGED FROM 24" x 36" x 1/2"  
 ADDRESS - White wood 17' tall mounted  
 American wood background with letters  
 White 100% LED Backlit  
 Re-use bottom structure support frame

**INSTALLATION / OBSERVATION**  
 10/15/2022  
 Current color: white  
 Contact to view: provided 10/15/2022 and

**INVOICE NO** XXXXXX

**CLIENT** [Redacted]

**LOCATION** [Redacted]

**DATE** 10/20/22

**SCALE** 1/2" = 1'

**BLK PATH**

MONUMENT SIGN DIAGRAM

**Exhibit D - 2022-MOD-017 Commitments**

**A202200123823**

**11/16/2022 04:00 PM**  
**KATHERINE SWEENEY BELL**  
**MARION COUNTY IN RECORDER**  
**FEE: \$ 35.00**  
**PAGES: 6**  
**By: JN**

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

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

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

**Legal Description:** SBE ATTACHED LEGAL DESCRIPTION

**Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:**

1. Petitioner's Site Plan dated 5.18.22 and filed on 9.14.22 is APPROVED as required by Commitment 45 in 98-Z-63/98-DP-10, which commitments are recorded as Instrument Number 202200041943, including three commercial buildings.
2. Commitment No. 71 in 98-Z-63/98-DP-10 is modified to allow one 20,000 square foot commercial building.
3. Commitment No. 75 in 98-Z-63/98-DP-10 is modified to allow flat roofs on the commercial buildings instead of primarily pitched, shingled roofs.
4. Petitioner agrees to install only three (not four as previously approved) monument signs at this property.
- 5.



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-017.

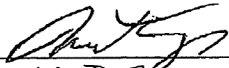
These COMMITMENTS may be enforced jointly or severally by:

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. \_\_\_\_\_
4. \_\_\_\_\_

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-017 by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this 10<sup>th</sup> day of November, 2022.

Signature:   
 Printed: Donald J. Tharp  
 Title: Member  
 Organization Name: ONRA, L.L.C.

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 Donald J. Tharp, a Member of ONRA, L.L.C. 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.

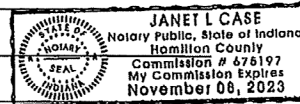
Witness my hand and Notarial Seal this 10<sup>th</sup> day of November, 2022.

*Janet L Case*  
 Notary Public

Printed Name of Notary Public  
 Janet L Case

My Commission expires: 11-08-23

My County of residence: Hamilton



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.

This instrument was prepared by William T. Niemier, Attorney at Law, 6910 N. Shadeland Avenue, Suite 200, Indianapolis, IN 46220.

This modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 16<sup>th</sup> day of November, 2022.

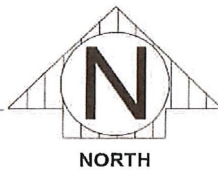
*Brigid Robinson*  
 Acting Secretary, Metropolitan Development Commission  
~~*Bruce Schumacher*~~  
*Brigid Robinson*



**DOLLAR TREE - WANAMAKER, INDIANA**  
 8100 SOUTHEASTERN AVENUE, INDIANAPOLIS, INDIANA



① CONCEPTUAL SITE PLAN  
 1" = 160'-0"



03/21/2024



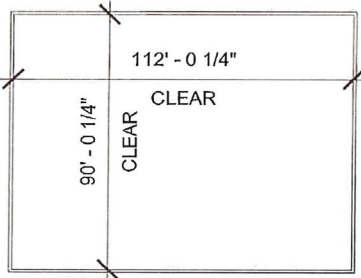
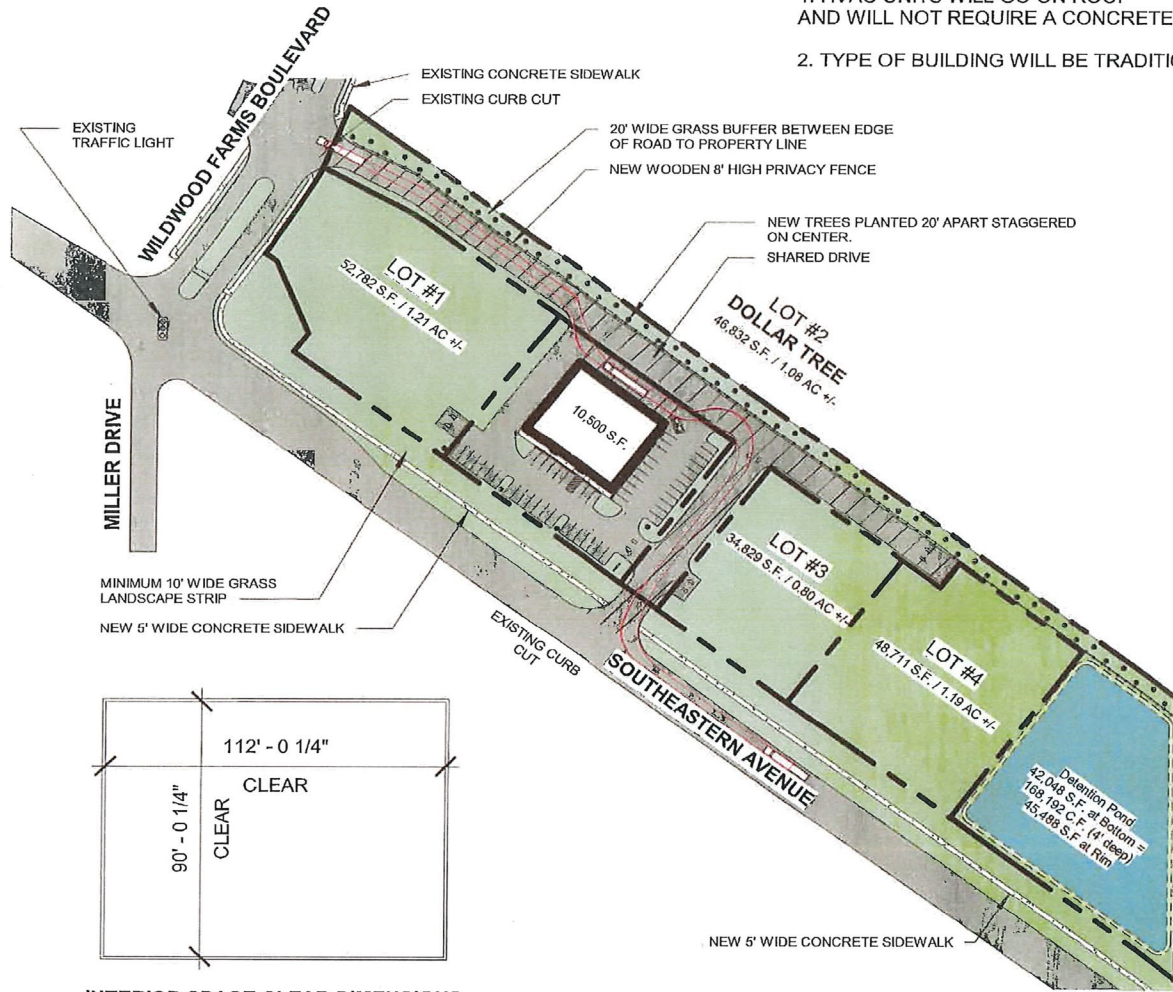


# DOLLAR TREE - WANAMAKER, INDIANA

8100 SOUTHEASTERN AVENUE, INDIANAPOLIS, INDIANA

**NOTES:**

1. HVAC UNITS WILL GO ON ROOF AND WILL NOT REQUIRE A CONCRETE PAD.
2. TYPE OF BUILDING WILL BE TRADITIONAL.



**INTERIOR SPACE CLEAR DIMENSIONS**

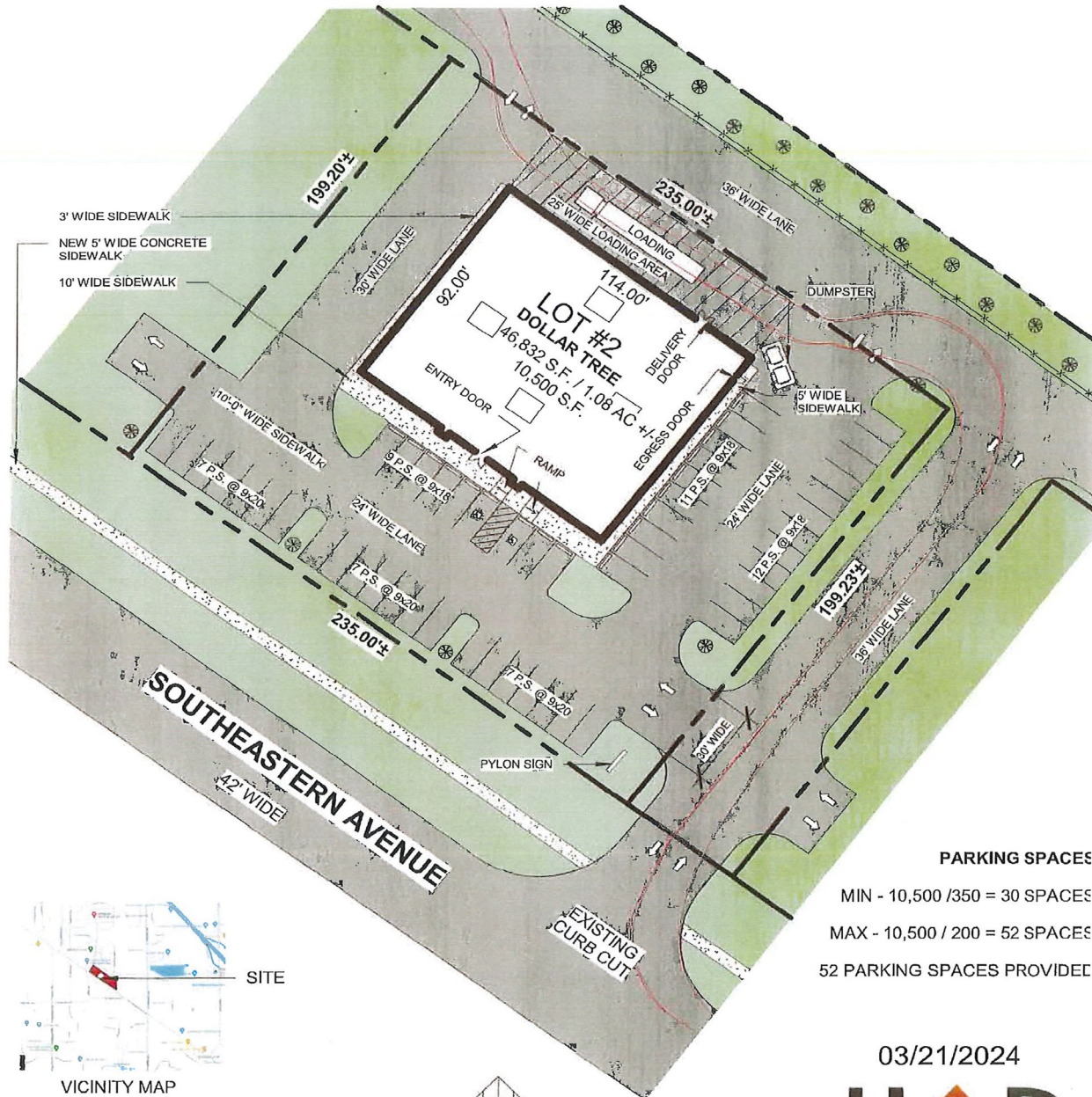
① CONCEPTUAL SITE PLAN  
 1" = 160'-0"



03/21/2024

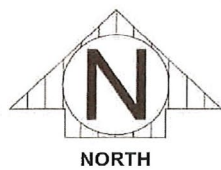


**DOLLAR TREE - WANAMAKER, INDIANA**  
 8100 SOUTHEASTERN AVENUE, INDIANAPOLIS, INDIANA



**PARKING SPACES**  
 MIN - 10,500 / 350 = 30 SPACES  
 MAX - 10,500 / 200 = 52 SPACES  
 52 PARKING SPACES PROVIDED

① CONCEPTUAL SITE PLAN  
 1" = 50'-0"







View looking east along Southeastern Avenue



View looking west along Southeastern Avenue



View looking west along Southeastern Avenue



View from site looking north across Wildwood Farms Boulevard





View of site looking east



View of western portion of site looking south





View of site looking north across Southeastern Avenue



View of site looking north across Southeastern Avenue





View of site looking north across Southeastern Avenue



View of eastern portion of site looking north across Southeastern Avenue





View of eastern portion of site looking north across Southeastern Avenue



View of eastern portion of site looking north across Southeastern Avenue