

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-MOD-023
Address: 5340 Senour Road (*approximate addresses*)
Location: Franklin Township, Council District #25
Zoning: D-4
Petitioner: M/I Homes of Indiana L.P., by Joseph D. Calderon
Request: Modification of Commitments related to 2021-ZON-009 to modify:

Commitment #3 to permit two-story duplex dwellings with a minimum of 1,500 square feet (previous commitment allowed for single-story duplex dwellings with lofts, with a minimum of 1,400 square feet)

Commitment #27 to update the architectural character representations to include two-story dwellings.

RECOMMENDATIONS

Staff has **no recommendation** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE ISSUES

- ◇ This 27.99-acre site, zoned D-4, is currently undergoing development as a residential subdivision. It is surrounded by residential uses (undergoing development) to the north, zoned D-4; a single-family dwelling and religious uses to the south, zoned D-A and SU-1, respectively; residential uses to the east, residential uses to the east, zoned D-1, D-3 (across Senour Road) and D-4; and agricultural uses to the west, zoned D-A and D-4.

MODIFICATIONS

- ◇ This request would modify commitments related to 2021-ZON-009 to modify Commitments #3 permit two-story duplex dwellings with a minimum of 1,500 square feet. The previous commitment allowed for single-story duplex dwellings with lofts, with a minimum of 1,400 square feet and Commitment #27 to update the architectural character representations to include two-story dwellings. See Exhibit A.

(Continued)

STAFF REPORT 2022-MOD-023 (Continued)

- ◇ The commitments related to single-story duplexes and architectural features were originally the result of negotiation between the petitioner and remonstrators during the 2021 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.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-A	Agricultural uses
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SURROUNDING ZONING AND LAND USE

North -	D-4	Residential uses
South -	D-A / SU-1	Agricultural uses / Religious uses
East -	D-1 / D-3 / D/4	Single-family dwellings
West -	D-A / D-4	Agricultural uses

COMPREHENSIVE LAND USE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends office / industrial mixed-use.
THOROUGHFARE PLAN	This portion of Senour Road is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 30-foot right-of-way and proposed 80-foot right-of-way.
CONTEXT AREA	This site is located within the metro context area.
OVERLAY	This site is located within a 100-year flood plain

ZONING HISTORY

2021-ZON-009; 5340 and 5440 Senour Road and 10351 East Thompson Road, requested Rezoning of 92 acres from the D-A and SU-1 districts to the D-4 district classification, **approved**.

VICINITY

2016-CZN-841 / 2016-CPL-841; 11011 East Thompson Road (east ops site), requested rezoning of 62 acres from the D-A (FW) (FF) district to the D-P (FW) (FF) classification to provide for single-family residential development at a density of 2.33 units per acre and approval of a Subdivision Plat to be known as Sagebrook Subdivision, dividing 61.82 acres into 144 lots, **approved**.

STAFF REPORT 2022-MOD-023 (Continued)

2009-ZON-034; 7400 Acton Road (including other various addresses) (south of site), requested rezoning of 463.544 acres from multiple zoning districts to the PK-1 classification to provide for park and recreational uses, **approved**.

2007-ZON-859; 5430 and 5440 Senour Road (south of site), requested rezoning of 13.46 acres, from the D-A District, to the SI-1 classification to provide for religious uses; rezoning of 10 acres from the D-A District to the I-2-S classification to provide for light industrial suburban uses; rezoning of 2.48 acres, from the D-A District to the D-1 classification to provide for residential uses; a variance of development standards of the Industrial Zoning Ordinance to provide for a 10-acre industrial lot with zero feet of public street frontage; variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a detached garage in front of the established front building line a detached garage resulting in excess accessory building and use area; and approval of a subdivision plan, **approved and granted**.

2006-ZON-064; 10559 East Thompson Road (north of site), requested rezoning of 3.57 acres from the SU-2 District, to the SU-9 classification to provide for the construction of a fire station, **approved**.

2005-DV2-062A and B; 5421 Senour Road (south of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance, to provide for the construction of a 23-foot-tall accessory building with a reduced north side setback, **granted**.

2003-ZON-060; 10500 East Thompson Road (north of site), requested rezoning of 422.943 acres from D-P to D-P to provide for a mixed-use development, including single-family dwellings, a golf course, and a neighborhood commercial center, **approved**.

96-Z-18; 10500 East Thompson Road (north of site), requested rezoning of 423 acres from the D-A District to the D-P classification to provide for a mixed-use development including single-family dwellings, a golf course, and a neighborhood commercial center, **approved**.

91-Z-63; 10551 East Thompson Road (north of site), requested rezoning of 30 acres from the A-2 District to the SU-2 classification to provide for a public school, **approved**.

kb

EXHIBIT A – Existing Commitments

A202100107502

08/12/2021 08:49 AM
KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER
FEE: \$ 35.00
PAGES: 16
By: AB

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 Exhibit "A" attached hereto and incorporated by reference (the "Subject Property")

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. Single Family Section. Any home constructed in this area as shown on the concept plan attached hereto as Exhibit "B" (the "Concept Plan") shall contain livable space (this term as used herein shall not include the garage or any open porch) of no less than 1900 square feet for a 1-story home, and no less than 2200 square feet for a home in excess of 1-story.
3. Duplex Section. Any duplex home constructed in this area, as shown on the Concept Plan, shall contain livable space of no less than 1400 square feet per unit on the main floor. Second story loft area is permitted up to 50% of the main floor living area. Master bedrooms to remain on the main floor.
4. New sidewalks will be constructed on the interior streets of the subdivision, not less than four feet (4') in width, and the separation between the curb and the closest edge of the sidewalk (not including corners, connections to cross streets, trails, and the like) shall not be less than three feet (3'). Sidewalks no less than 5 feet in width shall be constructed along the perimeter of the proposed subdivision along its Senour Road and Thompson Road frontages.



5. Vinyl siding shall be permitted on any exterior wall of the Duplex Section, so long as the minimum thickness of any such vinyl is .46 inches or greater. The vinyl siding shall also be textured and show a reveal pattern that simulates wood. No "dutch lap" vinyl siding is permitted. Additionally, siding on homes in the Single Family Section shall be required to have "Hardie Plank" or similar cementitious material.
6. All homes shall feature dimensional shingles and twelve inch (12") roof overhangs, measured before installation of brick or siding.
7. There will be no less than 15 feet of separation between buildings, not including roof overhangs.
8. A landscaped area of no less than 20 feet in width will be provided along the perimeter of the development fronting on Senour Road, as shown on the Concept Plan. The landscaped area shall be planted with a minimum of least 4 Evergreen trees (firs or spruces); 2 Canopy trees (one of which shall be a hardwood, 2 Ornamental trees, and 6 shrubs for every 100 lineal feet of frontage along Senour Road and Thompson Road.
9. Existing, healthy and non-invasive trees greater shown on the Concept Plan as "Tree Preservation Area" shall be reasonably preserved to the extent possible.
10. The development shall be in reasonably substantial conformance with the Concept Plan. However, the above commitment is not intended to prohibit reasonable variances from the Concept Plan, in recognition that the Preliminary Plan is a Conceptual Plan which is still subject to actual engineering after this rezoning is approved.
11. No more than 140 Single Family homes and no more than forty (40) Duplexes (80 individual units) will be permitted on the Subject Property.
12. The subdivision will have a homeowner's association ("HOA"). The HOA shall be created and controlled by the developer or its designee until the subdivision or applicable portion thereof is turned over to the homeowners in the subdivision, which shall be no later than one year after the home on the last lot in the subdivision is completed and sold to a homeowner. The HOA shall be responsible for mandatory membership, mandatory lien enforced assessments, and the collection of said assessments upon improved lots to support the HOA in, among other things, the expense of maintenance and taxes of the common areas such as retention ponds, nature areas, any interior trail, open space, perimeter landscaping, snow removal from subdivision streets to supplement city snow removal, and payment of utility expenses for interior and entry street lights. The HOA will be required to be professionally managed from a third party management company. The HOA shall make all financial records related to income and expenses of the HOA available for review upon at least five days' written request by residents of the subdivision. At the time control of the HOA is turned over to the homeowners, the Developer will provide the Franklin Township Civic League with the name, address and telephone number of the initial contact for the HOA.
13. The HOA shall have appointed from among its members (being the developer or its designee until after all the residences have been completed, unless developer otherwise elects) an Architectural Review Board or Committee (hereinafter "ARC") which shall have the power to approve or disapprove all house plans, additions or alterations thereto, together with any proposed accessory structures and or appurtenances, including but not limited to fencing, pools, pool houses, outbuildings, playground equipment, and the like. Any such approvals must be in compliance with the commitments contained in this document.
14. No outside storage of un-licensed vehicles, inoperable vehicles, RV's, trailers, boats or boat trailers shall be permitted.

15. No above ground pools shall be permitted.
16. All single-family homes shall have a landscaping package at the time of original construction to include, at a minimum, grading and seeding of the yards, and foundation plantings to include a minimum of two (2) deciduous trees planted in the front yard (one of which shall be a hardwood) not less than one and one half inch caliper, plus not less than eight (8) foundation plantings along the front elevation. The trees planted as a part of this landscaping package shall be planted within three (3) months of the completion of the home, weather and appropriate planting seasons permitting. If trees planted as part of this commitment are removed or die from other causes, said trees shall be replaced within six (6) months to bring the property into compliance with the commitments.
17. All of the homes shall have an attached garage capable of storing at least two (2) vehicles, and contain not less than 400 square feet (not including any garage area use for the furnace, water heater or similar mechanicals) and will be added as a requirement in the CCR's.
18. Site access, location, and design approval shall be required from the City of Indianapolis Department of Public Works ("DPW"), Transportation Division, prior to plat approval. It is intended to provide two entrances to Senour Road and one entrance on Thompson Road.
19. No carports shall be permitted.
20. All driveways serving each single family home shall be hard surfaced; and street front facing garages shall have a driveway which is a minimum of sixteen feet (16') in width for the entire length of the driveway.
21. Any fencing installed on the common areas of the perimeter of the development shall be uniform and consistent. Any other fencing permitted to be installed on a lot shall be limited to side and rear yards, and shall not extend any closer to the public street in front of the residence than the applicable rear corner of the residence. Any such fence shall not exceed five (5) feet in height. Chain link and wood stockade fences (solid board fences) shall not be permitted. Perimeter fencing on lots which have frontage on Southeastern Avenue shall be subject to the following conditions: (i) such fencing shall not exceed 48 inches in height; (ii) such fencing shall not exceed 50% opacity; and (iii) all such perimeter fencing shall be of the same design and contain the same materials. These fencing restrictions shall be incorporated into the CCR's, and the HOA shall be responsible for monitoring and enforcing this commitment.
22. A master drainage plan shall be designed for the development and submitted for the review and approval of the drainage division of DPW. At the same time the drainage plan is submitted to DPW, a copy of said plan shall be provided to the Franklin Township Civic League Land Use Committee for their review. Upon the request of the Franklin Township Civic League Land Use Committee, the Developer and its engineer shall appear at a monthly meeting of the Franklin Township Civic League Land Use Committee to explain and discuss the drainage plan.
23. A Preliminary Plat and a landscape plan shall also be designed and submitted as a part of the platting and permitting process. At the time each of these items are submitted, a copy shall be provided in advance to the Franklin Township Civic League Land Use Committee, for their review.
24. The landscaping installed by the Developer shall not include any white pines.
25. To insure and promote the quality appearance of the development, no two single family detached homes shall

be developed with the same house elevation, either directly next to or directly across the street from one another.

26. Each residence shall have the street number of its address permanently affixed to the front of the home in a prominent place, utilizing numbers at least four (4) inches in height.
27. The architecture of the homes shall be consistent with the character representations attached hereto as Exhibit "C".
28. Any recommended infrastructure improvements not already planned as part of improvements to Senour Road or Thompson Road and identified in the Traffic Impact Study prepared by A&F Engineering and dated April, 2021 ("TIS") shall be approved by DPW, and DPW and Petitioner shall cooperate to reach agreement as to the installation of and cost sharing for any such approved infrastructure improvement. Specifically, the development shall contribute One Hundred Sixty-Five Thousand Two Hundred and No/100 Dollars (\$165,200.00) toward the cost of a future roundabout at the intersection of Thompson Road and Southeastern Avenue (the "Improvement Project"), payable in four (4) equal installments of Forty One Thousand Three Hundred and No/100 Dollars (\$41,300.00), pursuant to an Escrow Agreement to be entered into by and among Petitioner, the Department of Business and Neighborhood Services and an unrelated third party serving as Escrow Agent. Such installment payments shall be made to the Escrow Agent, once per year commencing upon the issuance of the first model home permit and the next successive three (3) anniversaries thereafter; provided, however, no such contribution shall be required if sufficient funding has not been obtained for the Improvement Project by December 31, 2026, and any amounts previously paid shall be refunded to Petitioner. Additionally, the Petitioner shall construct a passing blister at both entrances to the development on the Subject Property for northbound through traffic on Senour Road, if there is sufficient right-of-way to do so.
29. A forty-five foot (45') half right-of-way, or so much as is needed for a forty-five foot (45') half right-of-way along the Thompson Road frontage of the Subject Property, and a forty foot (40') half right-of-way, or so much as is needed for a forty foot (40') half right-of-way along the Senour Road frontage of the Subject Property, both measured from the median of the existing right-of-way shall be dedicated (the "ROW Dedication"), to the City of Indianapolis Department of Public Works ("DPW"). Additional easements shall not be granted to third parties within the ROW Dedication area prior to acceptance of the ROW Dedication by DPW. The ROW Dedication shall be made within sixty (60) days following the adoption of 2021-ZON-009 by the City-County Council and in no event later than issuance of an Improvement Locations Permit ("ILP").
30. A technical assessment shall be conducted prior to the issuance of an ILP to provide for a wetlands delineation to determine the type and quality of wetlands and how such area(s) could be preserved and integrated into the development as an amenity.
31. A tree inventory, tree assessment and tree preservation plan (the "Tree Plan"), prepared by a certified arborist shall be submitted for Administrator's Approval prior to preliminary plat approval and in no event later than prior to any site preparation activity or disturbance of the Subject Property. The Tree Plan shall, at a minimum: a) indicate proposed development; b) delineate the location of existing trees; c) characterize the size and species of such trees; d) indicate wooded areas to be preserved by shading or some other means of indenting the tree areas to be preserved; and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the trees individual drip line during construction activity. All trees proposed for removal shall be indicated as such.
32. The proposed sanitary sewer trunk line to be installed in the right-of-way along the Subject Property's Senour Road frontage shall have sufficient capacity to serve the Allengale subdivision, and the Owner shall allow

connection to the trunk line by the Allengale subdivision; provided; however, Citizens Water shall approve any such connection.

33. The plat shall feature the required number of amenities under Chapter 741 of the Consolidated Zoning/Subdivision Ordinance. At least one of the amenities shall be the walking path shown on the Concept Plan.
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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 # 2021-ZON-009 by the City-County Council changing the zoning classification of the real estate from a D-A zoning classification to a D-4 zoning classification; or
 - (b) the adoption of approval petition # _____ by the Metropolitan Development Commission;
- and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the D-4 zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

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

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 # 2021-ZON-009.

[Signature pages follow]

EXHIBIT "B"

Concept Plan

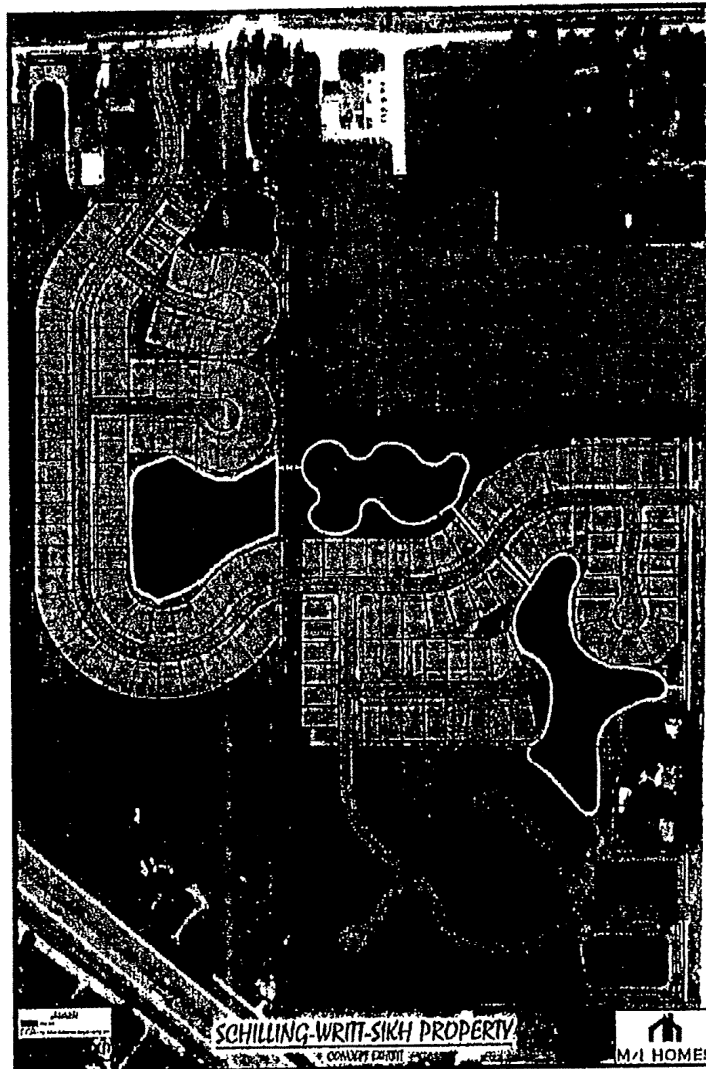


EXHIBIT "C"

Architecture

Prestige Series



Prestige Series



Paired Villas

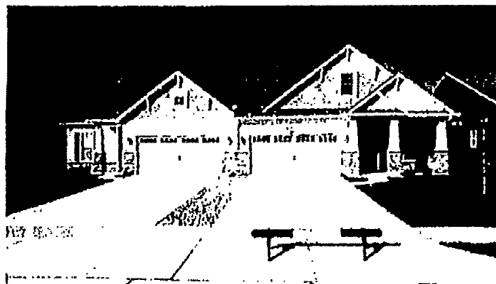


EXHIBIT B – Proposed Commitments

STATEMENT OF MODIFICATION OR TERMINATION OF COVENANTS OR COMMITMENTS

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

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

Legal Description: See Exhibit “A” Attached Hereto And Incorporated By Reference (the “Subject Property”).

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Commitment #3 in that certain Statement of Commitments recorded as Instrument No. 2021-_____ in the Office of the Recorder of Marion County, Indiana (the “Existing Commitments”), is hereby replaced in its entirety by the following:
“Duplex Section. Any duplex home constructed in this area, as shown on the Concept Plan attached hereto as Exhibit “B” shall contain livable space of no less than 1400 square feet per unit on the main floor. Second story loft area is permitted up to fifty percent (50%) of the main floor living area. Master bedrooms to remain on the main (first) floor. Any duplex home facing Aspen Wood Lane (consisting of Lots 27 A & B through Lots 48 A & B as shown on the approved Preliminary Plat from case # 2021-PLT-053) as shown on the Concept Plan attached hereto as Exhibit “B” may consist of Two (2) Story duplex homes that contain livable space of no less than 1500 square feet per unit.”
2. Exhibit “C” attached to the Existing Commitments is hereby modified by adding the character representations of the two story duplex homes as shown on the attached Exhibit “C”.

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-_____.

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-____ by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this _____ day of _____, 2023.

M/I Homes of Indiana, L.P., an
Indiana limited partnership

By: _____

Printed: _____

Title: _____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared _____, the
general partner of M/I Homes of Indiana, L.P., an Indiana limited partnership, who acknowledged the execution
of the foregoing instrument for and on behalf of said general partner of said limited partnership.

Witness my hand and Notarial Seal this

_____ day of _____, 20 _____

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. Joseph D. Calderon

This instrument was prepared by Joseph D. Calderon, Attorney-at-Law,
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204.

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

Secretary, Metropolitan Development Commission

24281073.1



SAGEBROOK WEST

Franklin Township/Indianapolis

Marion County, Indiana

Proposed Revised Architecture for Paired Homes
November 16, 2022



SAGEBROOK WEST

Current Approved Development
Plan:

135 Single Family Lots: 70' by 125'
40 Paired Villa Lots (80 Units)
Total Dwellings = 215

Total Acres = 86 Acres
Density = 2.5 DU/AC



SAGEBROOK WEST



Proposed Product change to 2
story paired homes:

SAGEBROOK WEST



Proposed Product change to 2 story paired homes:

135 Single Family Lots: 70' by 125'
24 Paired 2 story Villa Lots (48 Units)
16 Paired 1 story Villa Lots (32 Units)
Total Dwellings = 215

Single Story Paired Villas:



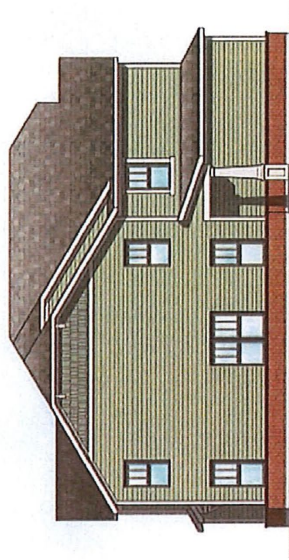
Two Story Paired Villas:



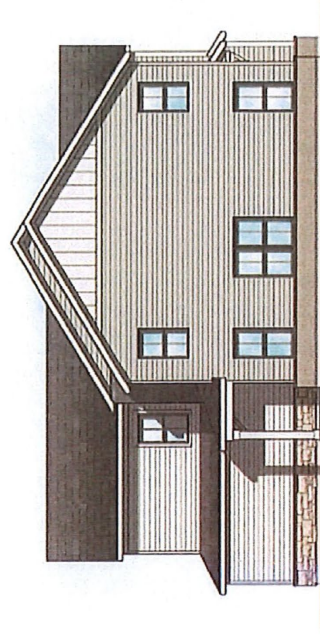
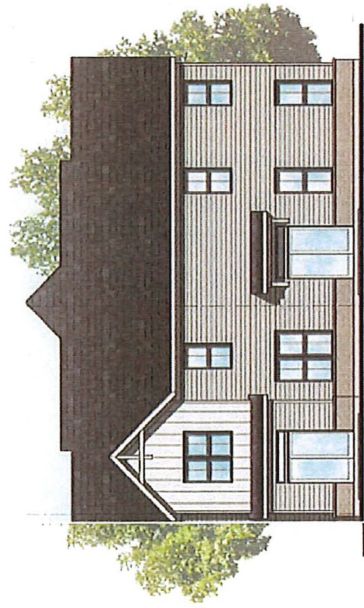
Two Story Paired Villas:



Rear Elevation
scale: 3/16" = 1'-0"



Left Elevation
scale: 3/16" = 1'-0"





View looking south along Senour Road



View looking north along Senour Road



View of site looking west across Senour Road



View of site looking west across Senour Road



View of site looking southwest



View from site looking east across Senour Road



View from site looking east across Senour Road



View of site looking south across East Thompson Road



View of site looking south across East Thompson Road