



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

January 23, 2025

Case Number: 2024-ZON-073 and 2024-ZON-073B
Property Address: 2155 Kessler Boulevard, West Drive
Location: Washington Township, Council District #2
Petitioner: Broadmoor Investments, LLC, Russell L. Brown
Current Zoning: SU-34 (FF)
Request: Rezoning of 6.01 acres from the SU-34 (FF) district to the D-4 (FF) district and B. Rezoning of 7.68 Acres from the SU-34 district to the D-5II district to provide for residential uses.
Current Land Use: Undeveloped land
Staff Recommendations: Denial.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner acknowledged a timely automatic continuance by a City-County Councilor that continued these petitions from the July 25, 2024 hearing, to the August 29, 2024 hearing.

The Hearing Examiner acknowledged a timely automatic continuance filed by the petitioner's representative that continued these petitions from the August 29, 2024 hearing, to the September 26, 2024 hearing.

Based upon updated information from the petitioner's representative, staff determined that a Traffic Impact Study (TIS) would be warranted. Consequently, the Hearing Examiner continued these petitions from the September 26, 2024 hearing, to the December 12, 2024 hearing, and to the January 9, 2025 hearing, to provide additional time for the TIS to be conducted, submitted to the file and reviewed by staff.

The Hearing Examiner continued these petitions from the January 9, 2025 hearing, to the January 23, 2025 hearing, at the request of the petitioner's representative.

These petitions were heard by the Hearing Examiner on January 23, 2025. After a full hearing, the Hearing Examiner recommended denial of the rezoning. Subsequently, the petitioner's representative filed an appeal of the Hearing Examiner's decision. A memorandum of her recommendation is attached.

The petitioner's representative has requested a **continuance from the February 19, 2025 hearing, to the March 5, 2025 hearing**. Staff would have no objection to the continuance and staff understands that remonstrators have been advised of the continuance and do not object.

STAFF RECOMMENDATION

Denial. If approved, staff would request that approval be subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. Final site plan and elevations shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).
2. 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.
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 59.5-foot half right-of-way shall be dedicated along the frontage of 2155 Kessler Boulevard West Drive and a 45-foot half right-of-way along the frontage of Knollton Road, 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).

PETITION OVERVIEW

This 13.69-acre site, zoned SU-34 (Club rooms, fraternal rooms / fraternity and lodge and public ballroom) (FF), is undeveloped and surrounded by a driving range to the north, zoned SU-34; single-family dwellings to the south, zoned D-S; single-family dwellings to the east, across Knollton Road, zoned D-S; and a country club to the west, zoned SU-34.

The request would rezone the southern portion of the site to the D-4 (FF) and the northern portion of the site to the D-5II district. "The D-4 district is intended for low or medium intensity single-family and two-family residential development. Land in this district needs good thoroughfare access, relatively flat topography, and nearby community and neighborhood services and facilities with pedestrian linkages. Provisions for recreational facilities serving the neighborhood within walking distance are vitally important. Trees fulfill an important cooling and drainage role for the individual lots in this district. The D-4 district has a typical density of 4.2 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan. All public utilities and facilities must be present. Development plans, which may include the use of clustering, should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site conditions, including vegetation, topography, drainage and wildlife.



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The D-5II district is intended for small-lot housing formats, primarily for small, detached houses, but also including a mix of small-scale multi-unit building types. This district can be used for new, walkable suburban neighborhoods or for infill situations in established urban areas, including both low density and medium density residential recommendations of the Comprehensive Plan, and the Suburban Neighborhood or Traditional Neighborhood Typologies of the Land Use Pattern Book.

“The D-5II district is also considered to be a walkable neighborhood whose purpose is to advance the Livability Principles of this Code, the D-5, D-5II, D-8, D9 and D-10 districts implement walkable, compact neighborhoods within a well-connected street network and block structure, using slow neighborhood streets, walkable connectors, and multi-mode thoroughfares. Access to parks and recreation, transit and neighborhood services within walking distance is important. Street trees, landscape and trees along private frontages, and an active amenity zone create comfortable walking environment and add appeal to neighborhoods. These districts require urban public and community facilities and services to be available. These districts may be used in combination to supply critical mass of residents to support nearby commercial and transit investments.”

The Comprehensive Plan recommends the non-typology land use of regional special use.

As proposed, this request would not be consistent with the Comprehensive Plan recommendation of regional special use because the recommended land use serves as a specific and stable institutional purpose for a portion of the population.

Overlays

This site is also located within an overlay, specifically the Environmentally Sensitive Areas (ES) Overlay. “Overlays are used in places where the land uses that are allowed in a typology need to be adjusted. They may be needed because an area is environmentally sensitive, near an airport, or because a certain type of development should be promoted. Overlays can add uses, remove uses, or modify the conditions that are applied to uses in a typology.”

The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.

The entire site is covered by high quality woodlands, specifically identified as Forest Alliance Woodlands.

Tree Preservation / Heritage Tree Conservation

There are significant amounts of natural vegetation and trees covering 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.



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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 issuance date. See Exhibit A, Table 744-503-3: Replacement Trees.

Floodway Fringe

This site has a secondary zoning classification of a Floodway Fringe (FF), which is the portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and lies outside of the floodway.

The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (D-4 and D-5II in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

The southeast corner of the site is located within the unregulated 500-year floodplain.

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 59.5-foot half right-of-way along Kessler Boulevard West Drive and a 45-foot half right-of-way along Knollton Road. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Traffic Impact Study (TIS)

The parameter used to evaluate traffic operation conditions is referred to as the level-of-service (LOS). There are six LOS (A through F) categories, which relate to driving conditions from best to worst, respectively. LOS directly relates to driver discomfort, frustration, fuel consumption and lost travel time. Traffic operating conditions at intersections are acceptable if found to operate at LOS D or better.

The TIS, file dated November 25, 2024, studied baseline existing conditions; impact of proposed development (trip generation, directional distribution diverted trips / site access); 2024 forecasted conditions; and 2034 forecasted conditions.

Four intersections were studied:

- Kessler Boulevard and Broadmoor Country Club
- Kessler Boulevard and West 56th Street
- Kessler Boulevard and Knollton Road
- West 56th Street and Knollton Road

Analysis was conducted for two scenarios. Scenario One – Access to the Broadmoor Country Club along Kessler Boulevard would be removed and relocated to Knollton Road access that would also serve the proposed residential development. Scenario Two – Access to the Broadmoor Country Club would remain along Kessler Boulevard and the access drive along Knollton Road would serve only the proposed residential development.

Recommendations:

- A westbound left-turn lane is recommended at the intersection of Kessler Boulevard and Knollton Road.

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.

If approved, 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

The proposed development of approximately 13.7 acres is part of a 200-acre country club development that has existed for at least 87 years. The 1937 aerial is the earliest aerial that depicts development of the golf course and club buildings.

Staff believes that the proposed residential development would not be supportable on this site that has a Comprehensive Plan recommendation of regional special use that is a land use that does not contemplate residential uses.

The density of the proposed D-4 district (approximately six acres) would be 2.5 units per acre. The density of the proposed D-5II district (approximately 7.5 acres) would be 4.6 units per acres.

Very low density (D-S) is adjacent to the site to east and south and described as “intended for suburban areas of extreme topography, areas conducive to estate development, or areas where it is desirable to permit only low-density development (such as adjacent to floodplains, aquifers, urban conservation areas, within the extended alignment of airport runways, etc.). Generous front yards with trees along roadways that follow the natural terrain of the land are envisioned for the D-S district. Estate development in a natural setting is the typical realization of the district. The D-S district provides for single-family residential lots consisting of at least one acre. A typical density for the D-S district is 0.4 units per gross acre. This district fulfills the lowest density residential classification of the Comprehensive General Land Use Plan. Development plans would likely use the cluster option when subdividing and should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage and wildlife.”



This area did not develop in a manner that would allow for this dense of housing. The proposal would also create or encourage a disjointed pattern of residential development that would not be compatible with the existing residential land uses and could have a destabilizing impact on the neighborhood.

The proposed site plan depicts an access drive along Knollton Road that could also serve as a primary entrance to the country club. There would be a detention pond and 10 attached dwellings (townhomes) north of the access drive. Development south of the access drive would include 18 attached dwellings (townhomes) and 15 detached single-family dwellings.

Street A and Street B would likely be private streets, with gates installed at the western boundary of the site and the intersection of Street A and Street B.

GENERAL INFORMATION

| | | |
|-----------------------------------|--------------------------------------|--|
| Existing Zoning | SU-34 (FF) | |
| Existing Land Use | Undeveloped | |
| Comprehensive Plan | Regional Special Use | |
| Surrounding Context | <u>Zoning</u> | <u>Land Use</u> |
| | North: | SU-34 Golf driving range |
| | South: | D-S (FF) Single-family dwellings |
| | East: | D-S (FF) Single-family dwellings |
| | West: | SU-34 Country club buildings |
| Thoroughfare Plan | | |
| Kessler Boulevard, West Drive | Primary Arterial | Existing 100-foot right-of-way and proposed 119-foot right-of-way. |
| Knollton Road | Primary Collector | Existing 60-foot right-of-way and proposed 90-foot right-of-way. |
| Context Area | Metro | |
| Floodway / Floodway Fringe | Yes, unregulated 500-year floodplain | |
| Overlay | Yes, Environmentally Sensitive | |
| Wellfield Protection Area | No | |
| Site Plan | June 20, 2024 | |
| Site Plan (Amended) | N/A | |
| Elevations | N/A | |
| Elevations (Amended) | N/A | |
| Landscape Plan | N/A | |

| | |
|-----------------------------------|-----|
| Findings of Fact | N/A |
| Findings of Fact (Amended) | N/A |
| C-S/D-P Statement | N/A |
| | |

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Comprehensive Plan recommends the non-typology land use of regional special use. This category provides for public, semi-public and private land uses that serve a specific institutional purpose for a significant portion of the county. Examples are large-scale, generally stable institutional uses such as cemeteries, hospitals, universities, high schools, government complexes, large museums, the Indiana State Fairgrounds, and the Indianapolis Motor Speedway.

The non-typology land uses are stand-alone uses that are outside the typology system due to their scale or the nature of their use.

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.”



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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

None.

EXHIBITS



2155 Kessler Boulevard West Drive

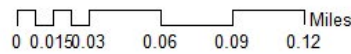


EXHIBIT A

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.

| Table 744-503-3: Replacement Trees | | |
|--|---|--|
| Size of tree removed or dead (inches) | Number of Trees to be planted to replace a Heritage Tree | Number of Trees to be planted to replace an existing tree |
| 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 |

MEMORANDUM OF EXAMINER'S DECISION

2024-ZON-073/073B

2155 Kessler Blvd, West Drive

The petitions requests the rezoning of 6.01 acres from the SU-34(FF) district to the D-4(FF) district and the rezoning of 7.68 acres from the SU-34 district to the D-5ll district to provide for residential uses.

Your Hearing Examiner visited the heavily wooded site prior to the hearing and noted the established homes on large lots along both sides of Knollton Road south and east of the site, and a subdivision with large lots south of it. Broadmoor County Club is north and west of the site.

The petitioner's representative described the proposed infill development as a way to maintain the country club, which has been in existence for over 100 years. The density would increase from south to north, and all residents would be required to have a country club membership. Because the existing access to the country club from Kessler Boulevard is not ideal, the primary access to this site, and to the country club, would be from Knollton Road. It was also suggested that the proposed development would help meet demand for housing in Washington Township, and that the proposed density is not out of character for the larger area.

More than 30 remonstrators attended the hearing, and a petition of opposition was presented with more than 50 signatures. Several remonstrators spoke, and the primary reasons of opposition were the proposed density, inconsistency of the requested zoning districts with surrounding zoning districts, access from Knollton Road, and clearing of trees.

Staff explained that, while the Comp Plan recommended regional special use because of the current zoning of SU-34, very low density residential development would be appropriate for this site. Staff expressed concern that the request would introduce a disjointed pattern of development, and that clear cutting of trees on the site would happen.



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In your Hearing Examiner's opinion, the requested zoning districts and proposed development are completely out of character with this area. While a special use needs some flexibility in order to maintain its place in a neighborhood, it should not be to the detriment of the neighborhood. Your Hearing Examiner is also concerned with the proposed access on Knollton Road, and the impact the development would have on the high quality woodlands covering the site. Denial of these petitions was recommended.

For Metropolitan Development Commission Hearing on February 19, 2025



View of site looking west across Knollton Road



View of site looking west across Knollton Road



View of site looking west across Knollton Road



View of site looking west across Knollton Road



View of site looking west across Knollton Road



View of site looking east across existing driving range



View of site looking south along drive that abuts the western site boundary



View of site looking north along drive that abuts the western site boundary