



Department of Metropolitan Development  
Division of Planning  
Current Planning

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

**June 12 2025**

**Case Number:** 2025-MOD-005  
**Property Address:** 7841 Michigan Road (Approximate Address)  
**Location:** Pike Township, Council District #1  
**Petitioner:** Las Palmas Supermercado, LLC, by Meghan Binkerd  
**Current Zoning:** C-3 and D-5  
**Request:** Modification of Development Statement related to petition 94-Z-42 to modify Commitment 5, to allow a grocery store (current commitment prohibits grocery or convenience stores).  
**Current Land Use:** Commercial  
**Staff Recommendations:** No Recommendation  
**Staff Reviewer:** Marleny Iraheta, Senior Planner

**PETITION HISTORY**

This petition was automatically continued from the May 15, 2025 hearing to the June 12, 2025 hearing at the request of a Registered Neighborhood Organization.

**STAFF RECOMMENDATION**

Staff has **no recommendation**.

**PETITION OVERVIEW**

**LAND USE**

The subject site is in the Augusta Heights neighborhood. The majority of the site is zoned C-3 with a small portion of the southeast corner zoned D-5. The site is bordered east and south with undeveloped parcels, zoned D-5, a gas station to the north, zoned C-3, and commercial shopping strip and laundry facility to the west, zoned C-3.

**MODIFICATION**

The request would modify the Development Statement related to petition 94-Z-42 to modify Commitment 5, which prohibits a grocery or convenience store. The modification would allow for a grocery store to be permitted on site.

## STAFF ANALYSIS

Commitment 5 of the rezoning petition, 94-Z-42, was made at the request of a Registered Neighborhood Organization. In the instance when a commitment made at the request of someone other than staff, any modification of that commitment would be up to the discretion of that party. In this instance, the Registered Neighborhood Organization would have to consider the modification request because staff takes no position on matters agree upon between the petitioner and other party.

Therefore, staff has no recommendation for this request.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-3 and D-5	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	C-3 / SU-7	Commercial (gas station)
South:	D-5	Undeveloped
East:	D-5	Undeveloped
West:	C-3	Commercial
<b>Thoroughfare Plan</b>		
Michigan Road	Primary Arterial Street	102-foot proposed right-of-way and a 120-foot existing right-of-way.
79 <sup>th</sup> Street	Secondary Arterial Street	80-foot proposed right-of-way and a 95-foot existing 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>	N/A	
<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>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)

### Pattern Book / Land Use Plan

- The Comprehensive Plan recommends community commercial development.
- 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.
- **Conditions for All Land Use Types**
  - All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
  - All development should include sidewalks along the street frontage.
- **Small-Scale Offices, Retailing, and Personal or Professional Services**
  - Outdoor display of merchandise should be limited. If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.
  - Should be located along an arterial or collector street.
  - 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.
- **Large-Scale Offices, Retailing, and Personal or Professional Services**
  - Should be located along an arterial 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 site is part of the 2015 Central Indiana Regional Bikeways Plan.
- There is an existing off-street multi-use path from 86th Street to Westfield Boulevard along Michigan Road.

## ZONING HISTORY

### Zoning History – Site

**94-Z-42 / 94-CV-8; 7879 Michigan Road** (subject site), Rezoning of 1.72 acres from the D-5 to C-3 classification and variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a retail shopping center with an interior access drive 13.8 feet from the east property line (minimum setback of 20 feet required); with parking zero feet from the east property line (minimum setback of 20 feet required); with a 6-foot landscape strip along West 79<sup>th</sup> Street (minimum 10 feet required), with a zero-foot landscape strip along Michigan Road (minimum 10 feet required) and landscaping in the public right-of-way (on-site landscaping required), **approved and granted**.

### Zoning History – Vicinity

**2014-UV2-007; 7820 Michigan Road** (west of site), Variance of Use of the Commercial Zoning Ordinance to provide for an event center, including special events, birthday parties, baptisms, etc. (not permitted), **approved**.

**2006-UV2-031; 7820 Michigan Road** (west of site), Variance of Use of the Commercial Zoning Ordinance to provide for religious uses (not permitted), within a tenant space in the existing integrated center, **withdrawn**.

**2005-UV2-007; 7820 Michigan Road** (west of site), Variance of Use and Development Standards of the Commercial Zoning ordinance to provide for a nightclub (not permitted) within an 11,307-square foot tenant space of an existing 52,900-square foot commercial strip mall with 273 off-street parking spaces (338 off street parking spaces required), **denied**.

**98-UV1-10; 7802 Michigan Road** (west of site), Variance of Use of the Flood Control Districts Zoning Ordinance to provide for the construction of a retail shopping center, being 70 by 200 feet, within the floodway area (not permitted), **approved**.

**96-UV1-65; 7820 Michigan Road (west of site)**, Variance of Use of the Commercial Zoning Ordinance to provide for 12 amusement arcade video games (maximum 4 amusement arcade games permitted) for an existing restaurant and lounge, **approved**.



7910

7911

7901

7929

SU7

79TH ST

7890

C3

7820

MICHIGAN RD

7841

7825

7825

3156

7853

7847

7841

7835

7826

7820

CROOKED CREEK PKWY

GARNET AVE



**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:**

Attached.

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

1. *Request Modification of commitment #5 rezoning petition 94-Z-42 to allow a grocery store.*  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_  
\_\_\_\_\_
5. \_\_\_\_\_  
\_\_\_\_\_

94-2-42

COMMITMENTS  
~~STATEMENTS~~

④

NOTE: Article VI, Section 3(b) of the rules of the Metropolitan Development Commission requires use of this form in recording commitments made with respect to zoning and approval cases in accordance with I.C. 36-7-4-607. Resolution No. 85-R-69, 1985 of the Metropolitan Development Commission requires the owner to make Commitment #1.

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. 36-7-4-607, 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:

Lots numbered 1, 2, 3, 4, 5, 6 and 7 in Block letter "A" in Augusta Heights, First Section, a subdivision of lands in the North Half of Section 29, Township 17 North, Range 3 East of the Second Principal Meridian, the plat of which appears of record in the Office of the Recorder of Marion County, Indiana, Plat Book 20, page 5 thereof, including vacated right-of-way for Crooked Creek Parkway West Drive adjacent to and immediately east of lots 1, 2, 3 and 4.

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. Right-of-way shall be dedicated along Michigan Road and 79th Street as indicated on the site plan, file-dated May 11, 1994 as per the request of the Department of Capital Asset Management, Transportation Section, (DCAM). 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 DCAM. The DCAM has requested that the right-of-way be granted within sixty (60) days of approval.
3. Development of the site, including landscaping, shall be in compliance with the site and landscape plans file-dated May 11, 1994. The landscape plan may be amended, subject to Administrator's approval.
4. The building shall be development with finished facades on all sides.
5. The real estate shall not be used for the following purposes: a) automotive related/motorized vehicle uses including but not limited to oil change or lubrication shops, gasoline service stations and supply stores for parts or accessories; b) drinking place (bar or tavern); c) outdoor advertising signs; d) package liquor store; e) outlet or temporary seasonal retail sales; g) outside vending machines; h) check casing service; i) coin laundry; j) tattoo parlor; k) grocery or convenience store; l) pawn shop, or m) adult entertainment. 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 persons 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.

03/20/94 01:49PM JOAN N. ROMERIL MARION CTY RECORDER RAM 12.00 PAGES: 4

Inst # 1994-0142718

94-242

COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition # 94-2-42  
 by the City-County Council changing the zoning  
 classification of the real estate from a D-5  
 zoning classification to a C-3 zoning  
 classification; or
- (b) the adoption of approval petition # \_\_\_\_\_  
 by the Metropolitan Development Commission;

and shall continue in effect for as long as the above-described  
 parcel of real estate remains zoned to the C-3 zoning  
 classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

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

The undersigned hereby authorizes the Division of Development  
 Services of the Department of Metropolitan Development to record  
 this Commitment in the office of the Recorder of Marion County,  
 Indiana, upon final approval of petition # 94-2-42.

IN WITNESS WHEREOF, owner has executed this instrument this  
14 day of June, 1994.

R.H. MARLIN, INC.

By: Charles F. Robertson  
 Charles F. Robertson, President

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF MARION )

Before me, a Notary Public in and for said County and State,  
 personally appeared R.H. Marlin, Inc., by Charles F. Robertson,  
 President, owner of the real estate who acknowledged the execution  
 of the foregoing instrument and who, having been duly sworn, stated  
 that any representation therein contained are true.

Witness my hand and Notarial Seal this 14th day of June,  
 1994.

My Commission Expires:  
8/27/97

Steven C. Robinson  
 Steven C. Robinson, Notary Public  
 Resident of Marion County, IN



Department of Metropolitan Development  
Division of Planning  
Current Planning

PIKE TOWNSHIP  
RESIDENTS' ASSOCIATION, INC.  
P.O. Box 78673, Indianapolis, IN 46278  
Mark Porteous, Chairman  
Donal Bryson, President

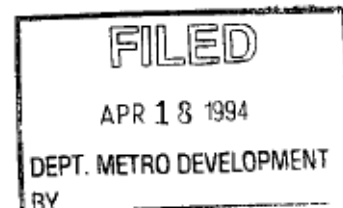
April 15, 1994

Metropolitan Development Commission  
Department of Metropolitan Development  
City County Building, Room 2122  
Indianapolis, IN 46204

Re: 7879 Michigan Road  
Petition Case #94-Z-42 and  
94-CV-8

Metropolitan Development Commission:

The Pike Township Resident's Association has considered the above referenced zoning petitions and has voted to support 94-Z-42 with the following commitments. The design and construction materials of the building will carry around to all sides of the building. In particular the back of the building would be treated the same as the front is aesthetically. The planting and tree landscaping for the site will be developed with more intense plantings than normal. We support the change to C-3 with the commitment to exclude the following uses: a) automotive related/motorized vehicle uses including but not limited to oil change or lubrication shops, gasoline service station and supply stores for parts or accessories, b) drinking place (bar or tavern), c) outdoor advertising signs, d) package liquor store, e) tobacco store, f) outlot or temporary seasonal retail sales, g) outside vending machines, h) check cashing service, i) coin laundry, j) tattoo parlor, k) grocery or convenience store, l) pawn shop, m) adult entertainment. We are supportive of the companion variance relating to eliminating an "old" right-of-way at the rear (east side) of the property. We are not supportive of the companion variance relating to decreasing the DOT required right of way and green strip location along 79th Street and Michigan Road. All property owners should be treated equally on this particular issue at this intersection.



94-Z-42





Photo of the grocery store in question looking south at 7841 Michigan Road.



Photo of the grocery store in question looking east.



Photo of the other commercial tenants looking south.



Photo of the commercial shopping strip and laundromat west of the site.



Photo of the gas station north of the subject site.