

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-CAP-822 / 2023-CVR-822
Address: 1625, 1631 and 1637 Nowland Avenue and 1258 Windsor Street
(Approximate Address)
Location: Center Township, Council District #17
Petitioner: 1625 Nowland, LLC, 1631 Nowland, LLC, Raymond Street Partners, LLC
and Indianapolis Film Project, by David Kingen
Zoning: MU-2
Requests: Modification of the Site Plan and Commitments for 2017-CZN-816 / 2017-CVR-816 as modified by 2018-MOD-006 to:

- A. Modify Commitment #1 requiring adherence to the Site plan file-dated June 21, 2018 and the Plan of Operation file-dated July 18, 2018 to provide for an amended site plan and to provide for an outdoor seating area for the serving and sales of alcohol.
- B. Terminate Commitment #18 which required certain building materials and colors for the building façade and former window openings.
- C. Modify Commitment #22 to allow the selling and serving of alcohol (previous commitment prohibited alcohol sales).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 6.75-foot tall fence with eleven-foot tall support posts surrounding an outdoor dining area (maximum 3.5-foot tall fence permitted).

The Hearing Examiner continued these petitions from the June 15, 2023 and June 29, 2023 hearings to provide for required notice.

The Hearing Examiner continued these petitions from the June 29, 2023 hearing to the July 13, 2023, at the request of staff to clarify the request.

RECOMMENDATIONS

Staff has **no recommendation** of the modification of the site plan and commitments.

Staff **recommends approval** of the variance of the development standards request.

(Continued)

STAFF REPORT 2023-CAP-822 / 2023-CVR-822 (Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 1.07-acre site, zoned MU-2 is developed with a mixed-use development. The site is surrounded by park and floodway to the north, across Commercial Avenue and Nowland Avenue, zoned PK-1 and D-8, respectively; single-family dwellings to the south, zoned D-8; single-family dwellings to the west, across State Avenue, zoned D-8; and single-family dwellings and a library to the east, across Windsor Street, zoned MU-1 and SU-37, respectively.
- ◇ Petitions 2017-CZN 816 / 2017-CVR-816 / 2017-CVC-816 provided for a community theater and commercial uses with variances of development standards. Petition 2018-MOD-006 modified the previous site plan and commitments and provided for a Plan of Operation.

MODIFICATION

- ◇ This request would modify the site plan and commitments for 2017-CZN-816 / 2017-CVR-816, as modified by 2018 MOD-006 to provide for an outdoor seating area, certain building materials and colors and allow for the sale of alcohol. See Exhibit A and Exhibit B.
- ◇ 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.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a 6.57-foot-tall fence with eleven-foot-tall support posts surrounding an outdoor dining area when the Ordinance limits the fence height to 3.5 feet.
- ◇ As proposed the fence is setback from Windsor Street and the building façade, which mitigates the impact of the height. Additionally, the fence encloses an approximately 35-foot-long dining area, with a landscape buffer, resulting in minimal impact to surrounding land uses. Staff, therefore, supports this variance.

(Continued)

STAFF REPORT 2023-CAP-822 / 2023-CVR-822 (Continued)

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

MU-2 Mixed-use

SURROUNDING ZONING AND LAND USE

North -	PK-1 / D-8	Spade Park / Pogues Run Creek
South -	D-8	Single-family dwellings
East -	SU-37 / MU-1	Library branch / single-family dwellings
West -	D-8	Single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends traditional neighborhood typology.
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THOROUGHFARE PLAN	<p>This portion of Nowland Avenue is designated in the Marion County Thoroughfare Plan as a local street, with an existing and proposed 50-foot right-of-way.</p> <p>This portion of Commerce Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing and proposed 90-foot right-of-way.</p> <p>This portion of Windsor Avenue is designated in the Marion County Thoroughfare Plan as a local street, with an existing and proposed 55-foot right-of-way.</p> <p>This portion of State Avenue is designated in the Marion County Thoroughfare Plan as a local street, with an existing 40-foot right-of-way and a proposed 45-foot right-of-way.</p>
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CONTEXT AREA	This site is located within the compact context area.
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SITE PLAN	File-dated April 14, 2023
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SITE PLAN (AMENDED)	File-dated May 19, 2023 and June 28, 2023
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FINDINGS OF FACT	File-dated May 16, 2023
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ZONING HISTORY

2018-MOD-006; 1625, 1631 and 1637 Nowland Avenue; 1701 and 1705 Commerce Avenue and 1248 and 1254 Windsor Street (1258-parcel), provided for modification of the site plan and Commitments for 2017-CZN-816 / 2017-CVR-816 to modify Commitment One requiring adherence to the site plan file-dated September 27, 2017 and the Plan of Operation file-dated August 31, 2017 to provide for an amended site plan and eliminate renovation of the 14,000 square foot existing building, **approved.**

(Continued)

STAFF REPORT 2023-CAP-822 / 2023-CVR-822 (Continued)

2017-CZN 816 / 2017-CVR-816 / 2017-CVC-816; 1625, 1631 and 1637 Nowland Avenue; 1701 and 1705 Commerce Avenue and 1248 and 1254 Windsor Street (1258-parcel), requested rezoning of 1.07 acres from the SU-1, D-8 and MU-1 districts to the MU-2 classification to provide for a community theater and a restaurant and bar; variances of development standards with reduced parking, reduced transitional yard setbacks, an illuminated pylon / ground signs, with reduced front setbacks and vacation along Commerce and Nowland Avenues; and vacation of the first north-south alley, west of Windsor Street and irregular portions of Commercial Avenue, **approved and granted**.

2007-AP3-002; 1258 Windsor Street, requested administrative appeal of the Administrator's determination that an on-site soup kitchen is a reasonable related accessory use to a religious use, **withdrawn**.

99-Z-158; 1248, 1252, 1254 Windsor Street, requested rezoning of 0.4 acre from the D-8 and C-2 Districts to the SU-1 classification to provide for religious uses, **approved**.

VICINITY

2004-ZON-087; 1601-1737 Massachusetts Avenue (north of site), requested rezoning of 2.9 acres from the I-4 U District to the SU-9 classification to provide for a work release correctional facility, **denied**.

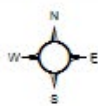
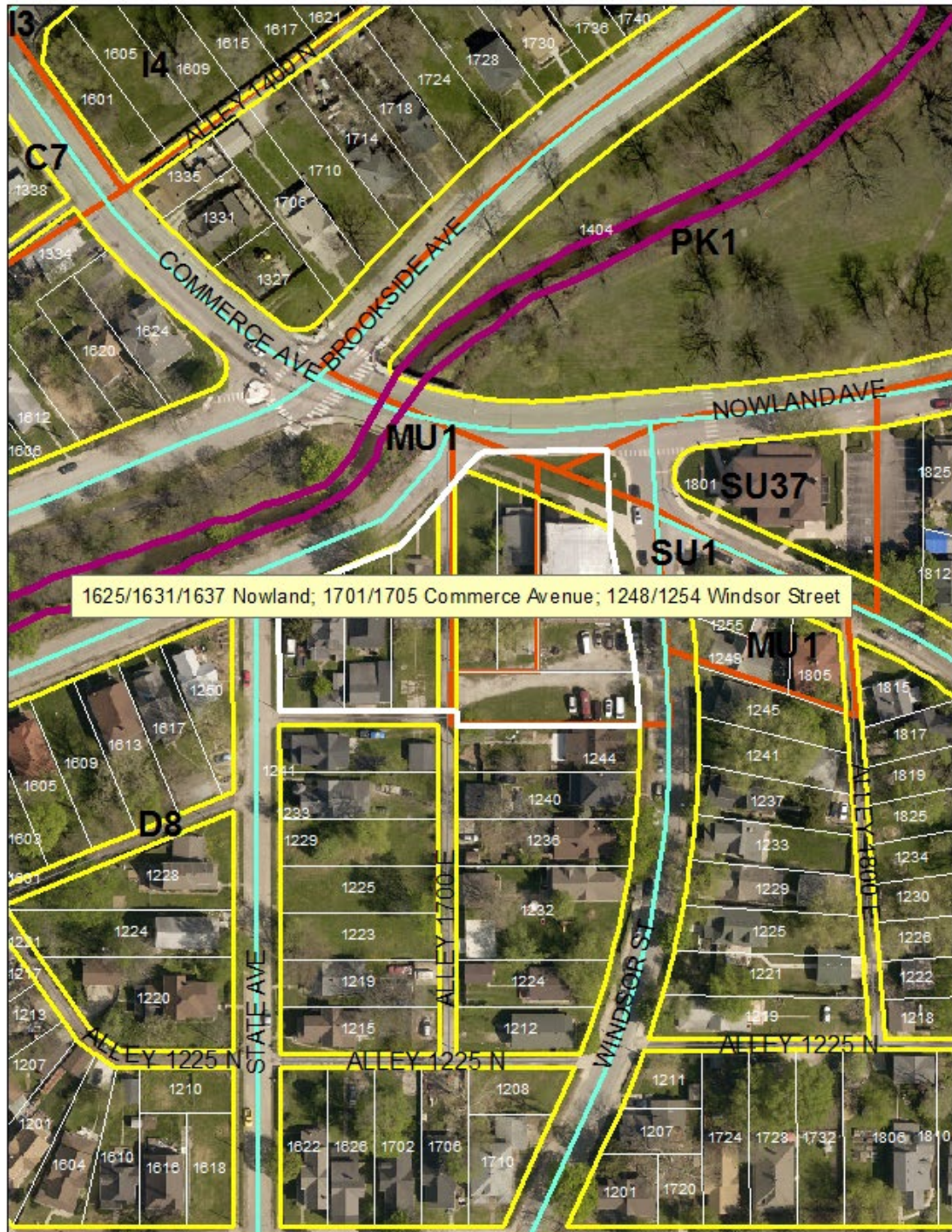
97-HOV-85; 1801 Nowland Avenue (north of site), requests a variance of development standards of the Sign Regulations to provide for the placement of a four-foot tall nine-square foot sign, **granted**.

96-AP1-4; 1801 Nowland Avenue (east of site), requested modification of conditions related to petition 86-UV1-46 to modify condition #3 to provide for two double-faced signs, **withdrawn**.

95-Z-197 (905-CV-34) 1338 and 1344 Commerce Avenue (north of site), requested rezoning of 0.23 acre from the C-e District to the C-ID classification, and a variance of development standards to permit construction of a building with a reduce front setback and side transitional yard, an access drive within 15 feet of a protected district and a gravel storage area, **approved and granted**

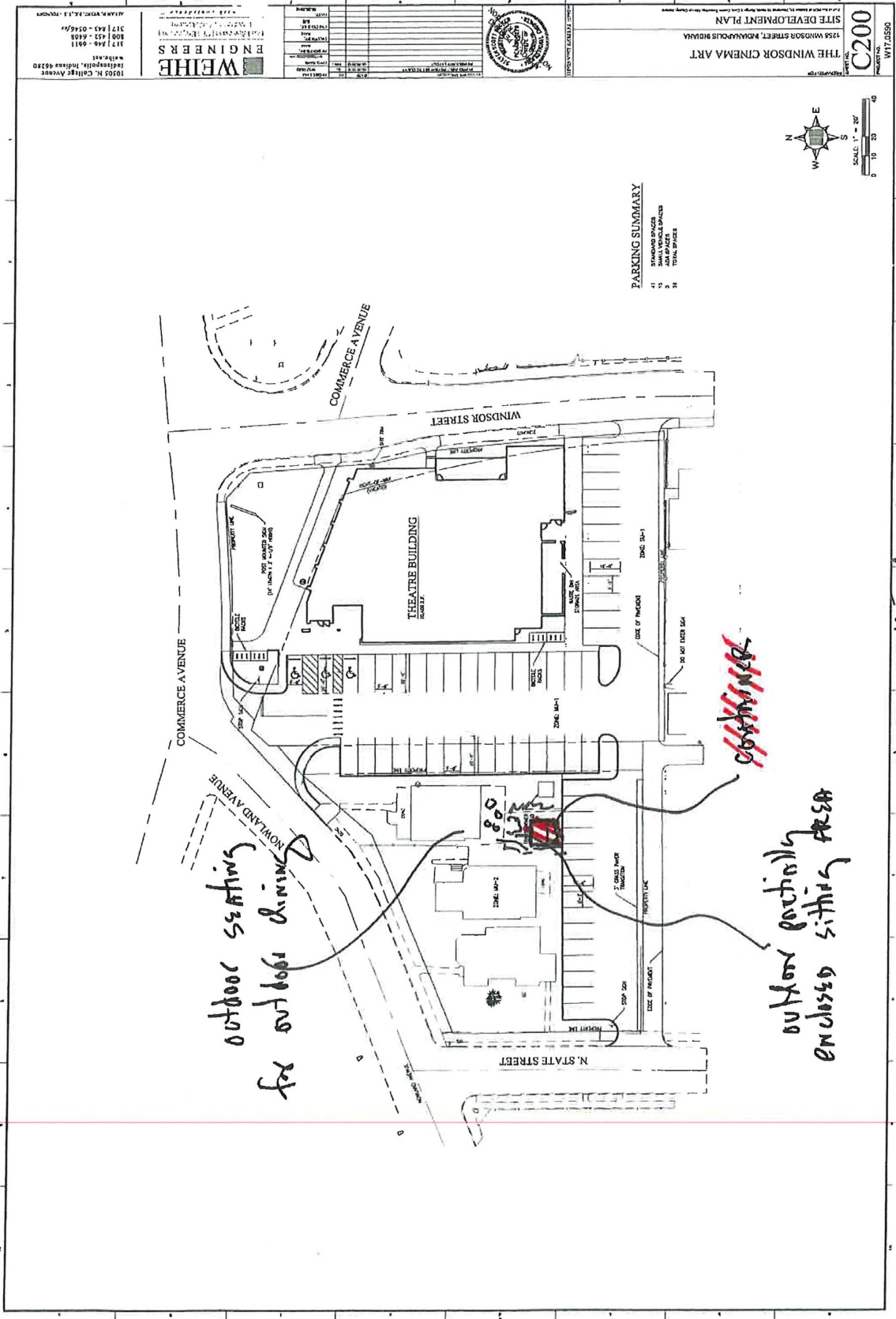
86-UV1-46; 1801 Nowland Avenue (east of site), requested a variance of use of the Dwelling Districts Zoning Ordinance and the Sign Regulations to provide for construction of a parking lot to serve an existing library and for a double-faced ground sign, **granted**.

kb



Various addresses on Nowland Avenue
Commerce Avenue and Windsor Street

0 25 50 100 150 200 250 Feet



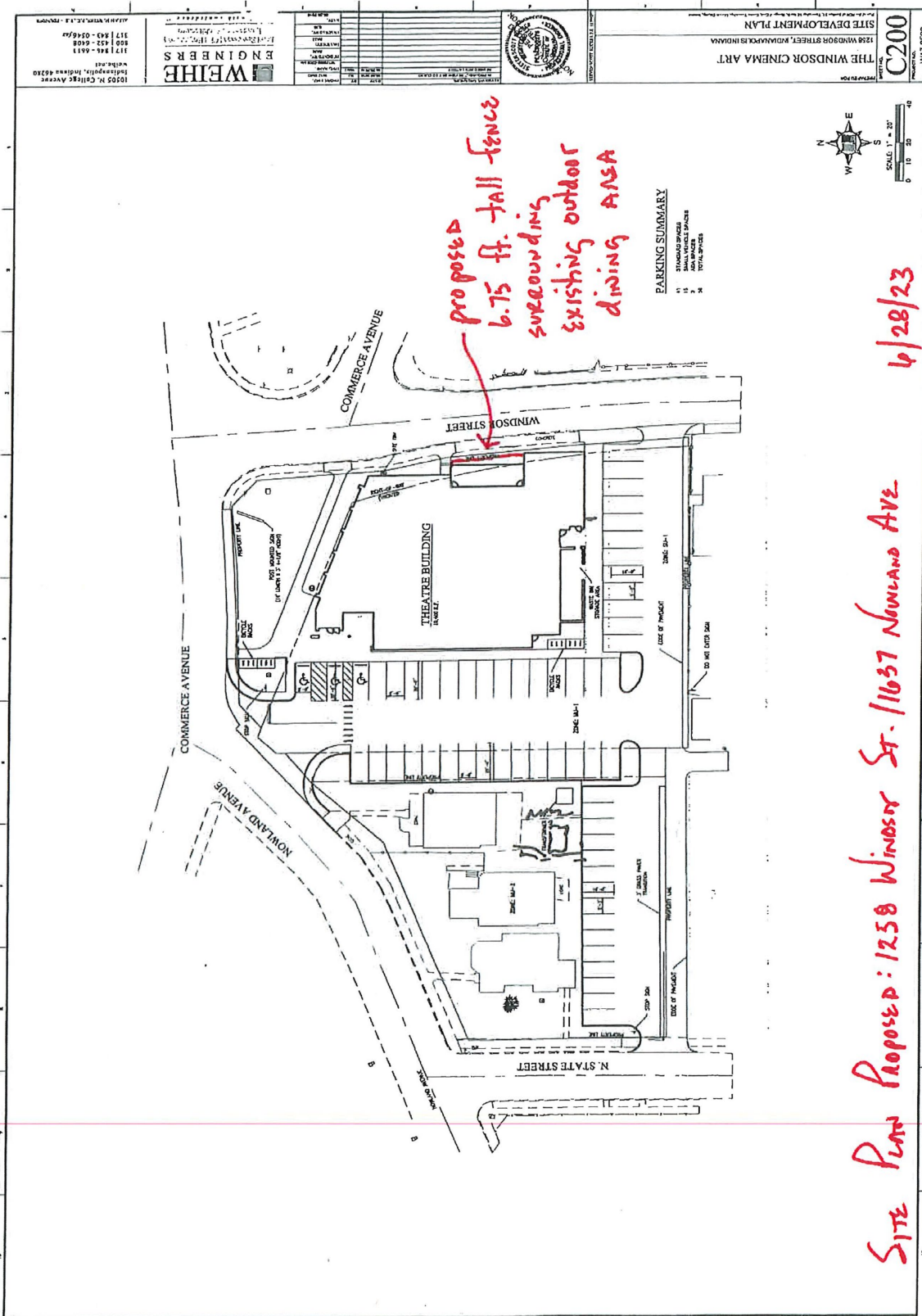


EXHIBIT A

A201800034909

04/11/2018 9:27 AM
KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER
FEE: \$ 35.00
PAGES: 11
By: MEW

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 attached) 1248, 1254 and 1258 Windsor Street; 1625, 1631 and 1637 Nowland Avenue; 1701 and 1705 Commerce Avenue.

Statement of COMMITMENTS:

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. See Attachment "D" & "E"
3. _____
4. _____
5. _____

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A" which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

MDC's Exhibit B - - page 1 of 5

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MW 11

COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition # 2017-CZN-816/ 2017-CVR-816 by the City-County Council changing the zoning classification of the real estate from a SU-1/ D-8 and MU-1 zoning classification to a MU-2 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 MU-2 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. Windsor Park Neighborhood Association, Inc.
3. 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);
4. 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
5. _____
6. _____

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 # 2017-CZN-816/ 2017-CVR-816.

Signature: [Signature]
Printed: SAM B. SWITPIN
Title / managing member
Organization Name: Raymond Street Partners, LLC

Signature: Thomas E Battista
Printed: Thomas E Battista
Title /
Organization Name: East End Properties, Partner

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared THOMAS BATTISTA, PARTNER, EDWARD BATTISTA, MEMBER/MANAGER, SAM SWITPIN, MANAGING MEMBER (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
28th day of DECEMBER, 20 17

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. NANCY G. WHITAKER

This instrument was prepared by David Kingen

Signature: _____
 Printed: _____
 Title /
 Organization
 Name: _____

[illegible]

Before me, a Notary Public in and for said County and State, personally appeared TOM BATTISTA, PARTNER, EDWARD BATTISTA, MEMBER & SAM SUTHERIN, MANAGING MEMBER (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.

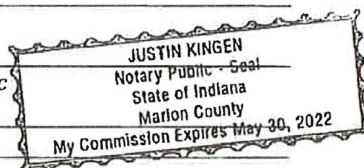
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28th day of DECEMBER, 20 17

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. NANCY G. WHITAKER

This instrument was prepared by David Kingen

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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.

ATTACHMENT "D"

1. Petitioner commits to the site plan file dated _____, and the Plan of Operation filed dated _____.
2. Petitioner commits to support The Windsor Park Neighborhood Association, Inc. (WPNA) in any future effort to develop a residential permit parking system on area right-of-ways, within two (2) city blocks of the subject site.
3. Petitioner commits to work with the Department of Public Works, the Indianapolis Public Library, the Windsor Park Neighborhood Association, Inc. and other partners to cause adjoining rights-of-way to be improved with new crosswalks, parking stall striping and other similar markings, within the right of way.
4. The egress signage (directional sign) in the parking lot, fronting on Windsor Street will prohibit traffic from exiting onto Windsor Street. A sign (directional sign) located outside the right-of-way on Windsor Street will ask theatre patrons to park in the theatre parking lot; or on specifically designated streets; but not along Windsor Street.
5. Preparations/ arrangements/ and/ or easements will be made/ provided for emergency vehicle access through the alleys.
6. There will be no development, structure or permanent improvements on the to-be-vacated right-of-way on the north side of the existing building--; other than bike-racks, externally-lighted signage and landscape lighting, all subject to review and comment by the Windsor Park Neighborhood Association, Inc.
7. No freestanding, internally illuminated signs shall exist on the subject properties. All free standing signs may have light projected onto them, as long as the lighting is not directly oriented towards a dwelling unit.
8. Petitioner agrees to a landscape plan featuring low native plantings (supported by a maintenance agreement), and to a lighting plan, both subject to review and comment by the Windsor Park Neighborhood Association, Inc. and tied to the right-of-way vacation.

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9. There will be no pole signage erected on the site.

DEC 28 2014
10. There will be bike racks provided on the site for a minimum of thirty five (35) bicycles.

Division of Planning
11. In an effort to minimize traffic through the neighborhood, the theatre's web site and related marketing materials will direct patrons to Brookside Avenue and

Massachusetts Avenue as the recommended and preferred vehicular access route to the theatre, restaurant and artisan shops.

12. Those portions of the alley not vacated under these petitions and contiguous to the subject lots of these petitions, shall be improved with hard surface prior to the official grand opening of the theatre.
13. Any contracted trash pick-up shall be between the hours of 7 am and 8 pm.
14. All of the intended uses for the renovated structures at 1625, 1629 and 1637 Nowland Avenue shall be cultural or artisan in nature and complementary to the uses at 1258 Windsor Street.
15. The maximum size of the free standing sign at 1258 Windsor Street shall be six (6) feet in height, with no more than forty eight (48) square feet in surface, per side. The maximum size of the free standing signs at 1625, 1629 and 1637 Nowland Avenue shall be four feet in height.
16. At 1258 Windsor Street, Petitioner agrees to commit to three theatres with no more than three hundred (300) seats; a family friendly restaurant with a separate bar area; and an event/gathering space.
17. Petitioner agrees to a capacity of restaurant/patio/bar/event space at one hundred and fifty (150) patrons; including the patio.
18. Regarding the building façade and materials proposed for some of the former window openings, petitioner proposes to fit these areas with decorative aluminum plates--- cut, bent and profiled to lend interesting shadow lines to the exterior. The color palette would be chosen from a series of subdued earth tones, subject to review and comment by the Windsor Park Neighborhood Association, Inc.
19. On the grounds of the theatre, the retail areas, and on the patio, petitioner agrees to prohibit the use of outdoor speakers; public address technology and live entertainment.
20. Petitioner commits that if the primary use is discontinued for more than two years, the subsequent use will require approval from the appropriate Board, Metropolitan Development Commission, Council, or authorized agency with the City of Indianapolis.
DEC 28 2018
Division of Planning
21. Petitioner commits to use the property at 1258 Windsor Avenue for theatres, family friendly restaurant, bar and gathering/event space.
22. Petitioner commits to use the three commercial structures at 1625, 1631 and 1635 Nowland Avenue for neighborhood friendly and culturally appropriate artisan businesses; such as a café, bakery, artisan food and beverage, artisan

manufacturing and small market. Outdoor storage and alcohol sales will not be permitted on these three properties.

23. Petitioner commits to submitting to the Windsor Park Neighborhood Association, Inc. for review and comment, the Parking and egress plan
24. Petitioner commits to submit information to the Windsor Park Neighborhood Association, Inc. for review and comment, information related to commitments 1 through 23, and to complete exterior building modifications, the landscaping and buffering improvements, parking improvements, and sign improvements prior to the grand opening of businesses at the subject property.
25. Petitioner commits that the special events space, included in this request shall be restricted to one room with a seating capacity of twenty four (24) persons.
26. Petitioner commits to recording an easement through the parking lot that shall be a minimum of fifteen (15) feet in width and shall commence from the turn of the existing north/south alley that turns to the west and proceeds to No. State Street, and the easement shall continue to the entrance to the parking lot on Nowland Avenue. The purpose of this recorded easement is to provide alternate means of access to and from the rear property line of the property owners from 1201 State Street to 1233 State Street and from 1202 Windsor Street to 1248 Windsor Street at all times in perpetuity.
27. Petitioner agrees to restrict the number of free standing signs on the subject properties to four (4) with one each at 1258 Windsor Street, and one each at 1625, 1631 and 1637 Nowland Avenue.
28. The bar, listed as a use, shall operate subordinate to the restaurant included as a use in the 1258 Windsor Street building and shall not operate as an independent bar at any future date

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Division of Planning

12.18.17

ATTACHMENT "E":

Excluded uses:

1. Bar/ Tavern as primary use
2. Laundromat
3. Liquor Store
4. Methadone clinic or treatment center
5. Check cashing facility
6. Mortuary
7. Light manufacturing (other than artisan manufacturing)
8. Animal care, boarding, vet services
9. Substation and/or utility distribution facility
10. Wireless communication tower
11. Outdoor advertising sign/ billboard
12. Drive thru facility
13. Group home
14. Lodge or fraternal club

Indoor Recreation & Entertainment

15. Amusement Arcade
16. Bowling Alleys
17. Billiard Parlor
18. Ballroom
19. Bathhouse
20. Bingo Establishment
21. Dancing
22. Firing (Gun) Range
23. Gymnasium
24. Instruction in Baseball
25. Instruction in Basketball
26. Instruction in Gymnastics
27. Miniature Golf
28. Ice or Roller Skating Rink

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DEC 28 2010

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29. Substation & Utility Distribution
30. Commercial Parking Garage or Commercial Parking Lot as Primary Use
31. Transit Center
32. Transportation Facilities & Accessories
33. Game Courts
34. Portable Storage
35. Recycling Distribution Point

12.18.17

EXHIBIT B

2018-MOD-006
EXHIBIT A

ATTACHMENT "D"

1. Petitioner commits to the site plan file dated JUNE 21, 2018, and the Plan of Operation filed dated JULY 19, 2018.
2. Petitioner commits to support The Windsor Park Neighborhood Association, Inc. (WPNA) in any future effort to develop a residential permit parking system on area right-of-ways, within two (2) city blocks of the subject site.
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6. There will be no development, structure or permanent improvements on the to-be-vacated right-of-way on the north side of the existing building--; other than bike-racks, externally-lighted signage and landscape lighting, all subject to review and comment by the Windsor Park Neighborhood Association, Inc.
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Massachusetts Avenue as the recommended and preferred vehicular access route to the theatre, restaurant and artisan shops.

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20. Petitioner commits that if the primary use is discontinued for more than two years, the subsequent use will require approval from the appropriate Board, Commission, Council, or authorized agency with the City of Indianapolis.
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- manufacturing and small market. Outdoor storage and alcohol sales will not be permitted on these three properties.
23. Petitioner commits to submitting to the Windsor Park Neighborhood Association, Inc. for review and comment, the Parking and egress plan
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 27. Petitioner agrees to restrict the number of free standing signs on the subject properties to four (4) with one each at 1258 Windsor Street, and one each at 1625, 1631 and 1637 Nowland Avenue.
 28. The bar, listed as a use, shall operate subordinate to the restaurant included as a use in the 1258 Windsor Street building and shall not operate as an independent bar at any future date.
 29. Petitioner commits to using the same or similar quality materials for the construction of the proposed building as presented to the Windsor Park Neighborhood Association. The documentation of the materials used will be filed with the City of Indianapolis as part of this petition.

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ATTACHMENT "E":

Excluded uses:

1. Bar/ Tavern as primary use
2. Laundromat
3. Liquor Store
4. Methadone clinic or treatment center
5. Check cashing facility
6. Mortuary
7. Light manufacturing (other than artisan manufacturing)
8. Animal care, boarding, vet services
9. Substation and/or utility distribution facility
10. Wireless communication tower
11. Outdoor advertising sign/ billboard
12. Drive thru facility
13. Group home
14. Lodge or fraternal club

Indoor Recreation & Entertainment

15. Amusement Arcade
16. Bowling Alleys
17. Billiard Parlor
18. Ballroom
19. Bathhouse
20. Bingo Establishment
21. Dancing
22. Firing (Gun) Range
23. Gymnasium
24. Instruction in Baseball
25. Instruction in Basketball
26. Instruction in Gymnastics
27. Miniature Golf
28. Ice or Roller Skating Rink
29. Substation & Utility Distribution
30. Commercial Parking Garage or Commercial Parking Lot as Primary Use
31. Transit Center
32. Transportation Facilities & Accessories
33. Game Courts
34. Portable Storage
35. Recycling Distribution Point

Metropolitan Development

OCT 16 2018

Division of Planning

Plan of Operation

Windsor Arts LLC

Windsor Park Theatre and Artisan Shops

Buildings

1. The primary structure of the Windsor Arts development will be located at 1258 Windsor Street. After demolishing the existing 3 story structure, a newly constructed 2 story building will contain a community movie theater with 3 screens and seating capacity for up to 300 patrons in total; also included in the building will be a 3,500 SF family restaurant with an attached bar area; upstairs there will be a small room that is used for a special events/meeting area.
2. Three (3) freestanding retail/commercial structures at 1625, 1631 and 1635 Nowland Avenue will contain approximately nine hundred to one thousand square feet (900-1,000 SF) of boutique artisan shops; catering specifically to arts-oriented neighborhood services and/or maker spaces.

Regular Hours of Operation

1. Theater / Restaurant: 10AM-11PM, seven (7) days a week
2. Artisan shops: 7AM-7 pm, Sundays thru Thursdays; 7am-11PM, Fridays, Saturdays and holidays.

Parking

1. Theater/Restaurant/Artisan shops: Petitioner has agreed to provide a minimum of fifty nine (59) off-street parking spaces, on-site.
2. Fourteen (14) contiguous on-street parking spaces will be available in front of the property along Windsor Street and Nowland Avenue.
3. Petitioner has a letter of agreement with Teagen Development to utilize up to 10 spaces in the parking lot of the Circle City Industrial Complex, 1125 Commerce Avenue.
4. Petitioner has a letter of agreement with Riley Area Development Corporation to lease up to six parking spaces for theatre employees at 1417 Commerce Avenue. Metropolitan Development

OCT 16 2018

7.19.18

Division of Planning

east _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT**

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE:

The small expansion of the outdoor dining area will occupy a small area of existing lawn and will allow the facility to provide greater maneuverability for the handicapped patrons and others in and around the outdoor dining area.

2. THE USE OR VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE:

Property values along Windsor Street and in and around the Windsor Park Neighborhood continue to escalate since the opening of the theatre and restaurant with bar with limited outdoor dining options. The cultural atmosphere created by this one-of-a-kind facility continues to provide the neighborhood with this attractive destination.

3. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL RESULT IN PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY BECAUSE:

With the narrowness and tight area for outdoor dining at the present, the strict application of the ordinance will continue to provide challenges in serving the public in a comfortable fashion.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ Day of _____, 20 ____



View from site looking southeast, across Nowland Avenue



View of site looking south across Nowland Avenue



View of site looking south across Nowland Avenue



View of site looking south across Nowland Avenue



View of site looking east across State Avenue



View of site looking east



View of site looking north



View of site looking north at proposed outdoor dining area



View of site looking west at proposed outdoor dining area



View of site looking northeast



View of site looking west



View of site looking east



View of site looking south



View of site looking north



View from site looking south into abutting neighborhood



View from site looking south into abutting neighborhood