



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

August 29, 2024

Case Number: 2024-MOD-012

Property Address: 5943 Copeland Mills Drive

Location: Decatur Township, Council District #21

Petitioner: Ronald Holland

Current Zoning: D-3

Request: Modification of the Commitments related to petition 97-Z-30 to modify Commitment #20 to allow for a six-foot tall privacy fence with 100% opacity along the side and rear property lines (current commitment limits privacy fencing to being used in conjunction with a porch, patio, deck, terrace, or pool, it must be located within fifteen feet of said structure and shall not encroach into the required building setbacks)..

Current Land Use: Single-family dwelling

Staff Recommendations: No recommendation

Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner acknowledged the automatic continuance filed by a registered neighborhood organization that continued this petition from the July 25, 2024 hearing, to the August 29, 2024 hearing,

STAFF RECOMMENDATION

No recommendation.

PETITION OVERVIEW

This 0.25-acre site, zoned D-3 is developed with a single-family dwelling. It is surrounded by single-family dwellings to the north, south, east, and west, all zoned D-3 (Copeland Mills Estates Subdivision).

MODIFICATION

This request would modify commitments associated with petition 97-Z-30 that to allow for a six-foot tall fence with 100% opacity along the sides and rea property lines. Commitment #20 limited privacy fencing to being used in conjunction with a porch, patio, deck, terrace, or pool and located within 15 feet of said structure and not encroach into the require building setbacks. See Exhibit A.



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.

Staff would note that petitions 2007-APP-010 and 2007-APP-121 modified the commitments to provide for a similar request for many lots within this subdivision.

GENERAL INFORMATION

Existing Zoning	D-3		
Existing Land Use	Single-family dwelling / accessory structures		
Comprehensive Plan	Suburban Neighborhood		
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>	
	North:	D-3	Single-family dwelling
	South:	D-3	Single-family dwelling
	East:	D-3	Single-family dwelling
	West:	D-3	Single-family dwelling
Thoroughfare Plan			
Copeland Mills Drive	Local Street	Existing 50-foot right-of-way and proposed 50-foot right-of-way.	
Context Area	Metro		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	June 16, 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 Suburban Neighborhood typologies. The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

Pattern Book / Land Use Plan

- *Conditions for All Land Use Types – Suburban Neighborhood Typology*
 - All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
 - All development should include sidewalks along the street frontage.
 - Hydrological patterns should be preserved wherever possible.
 - Where possible, contributing historic buildings should be preserved or incorporated into new development.
 - Curvilinear streets should be used with discretion and should maintain the same general direction.
 - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

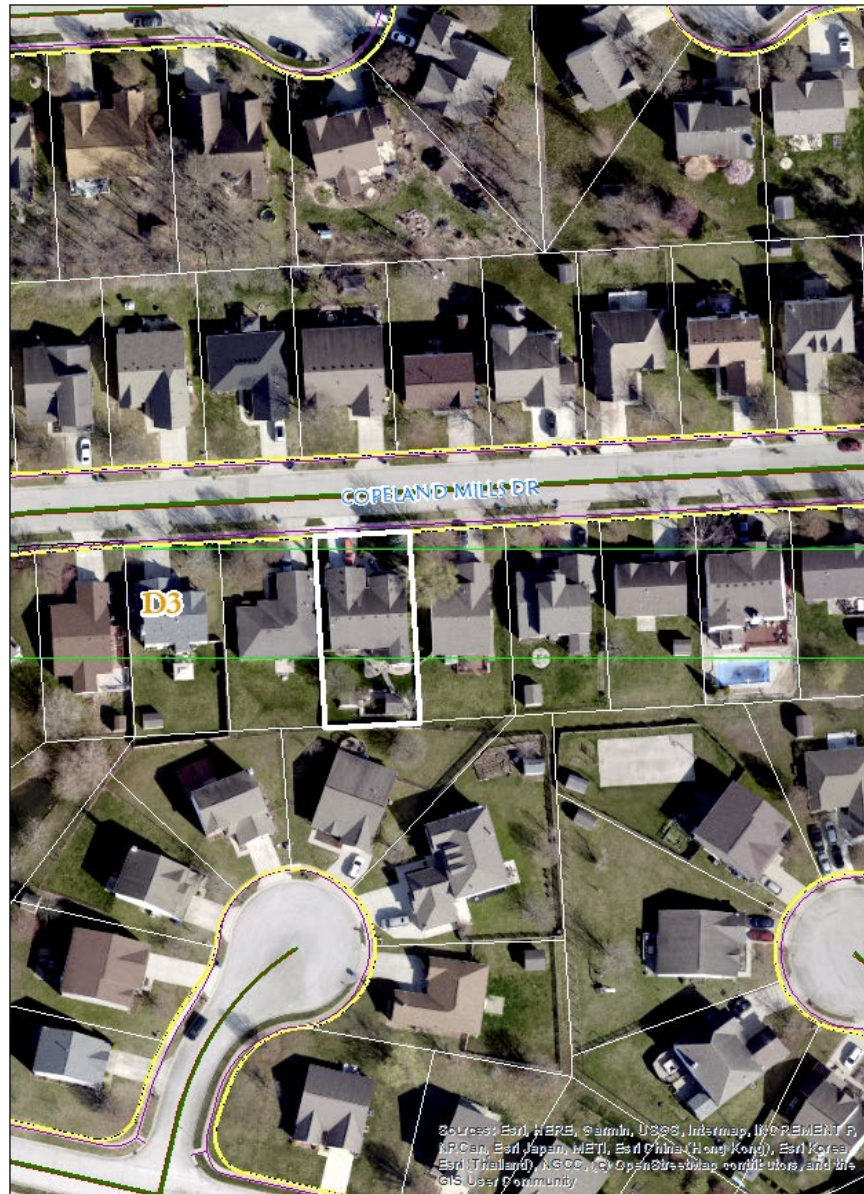
- The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”
- The following listed items describe the purpose, policies and tools:
 - Classify roadways based on their location, 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

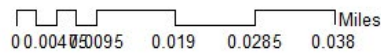
2007-APP-010; 6010, 6214, 6219, 6225 and 6136 Maple Branch Place, 6003, 6011, 6019 and 6135 Timberland Way, 6227 Copeland Mills Drive, 6133 Navy Circle, 6224 and 6229 Green Mountain Court, 6009 and 6105 Copeland Lakes Drive, 6203 Timberland Court and 6051 Copeland Mills Court, requested approval to Modify Commitments, related to 97-Z-30, to terminate Commitment Twenty for the following lots: Lots 117, 118, 119, 179, and 188 in Copeland Mills Section One and Lots 2, 5, 15, 25 and 26 in Copeland Mills Section Two and Lots 107, 128, 130, 158, 162, 163 and 167 In Copeland Mills Section Three, **approved.**

2007-APP-121; 5922 and 6117 Copeland Lakes Drive, 6045 and 6108 Copeland Mills Court, 5826, 5908, 5925, 6024, 6043 and 6055 Copeland Mills Drive, 6042, 6049, 6127, 6128, 6206 and 6220 Maple Branch Place, 6120, 6121, 6141 and 6142 Navy Circle, 6226, 6231 and 6236 Oak Limb Court, 6118 and 6124 Sleuth Circle, 6204, 6215, 6216 and 6233 Timberland Court, 6027, 6035, 6043, 6110, 6115, 6123 and 6140 Timberland Way, 6122 Trillium Woods Court, 5831, 5838, 5839, 5904, 5912, 5917 and 5918 Vets Circle, requested modification of commitments, related to 97-Z-30, to terminate Commitment Twenty for the following lots: Lots 50, 54, 64, 73, 82, 84, 120, 121, 122, 177, 178, 189 and 193 in Copeland Mills Section One and Lots 1, 3, 6, 11, 18, 19, 20, 22, 31, 34, 42, 46 and 47 in Copeland Mills Section Two and Lots 86, 97, 99, 102, 105, 108, 110, 114, 125, 126, 132, 135, 139, 141, 144, 146, 148, 169 in Copeland Mills Section Three and common areas A, B, C, D, E, F and G, **approved.**

EXHIBITS



5943 Copeland Mills Drive





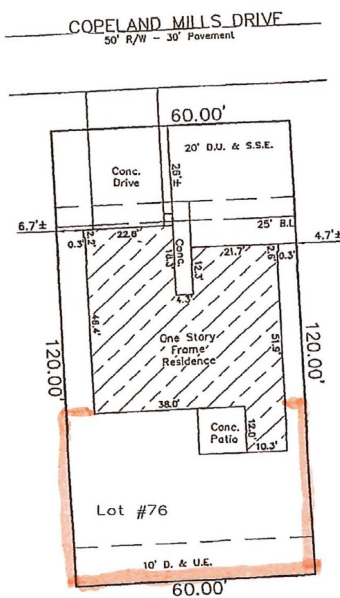
BENCHMARK LAND SERVICES, INC.

Land Surveying Civil Engineering Geotechnical Engineering • Environmental Engineering
 9855 Crosspoint Blvd., Suite 110, Indianapolis, IN 46256
 Phone (317) 841-1506 Fax (317) 841-1507

Property Description:

Lot Numbered 76 in Copeland Mills Estates, Section 1, an Addition to the City of Indianapolis, as per plat thereof, recorded as Instrument 00-105962, in the office of the Recorder of Marion County, Indiana.

Benchmark Land Services, Job No. 2-60475



This Report is Designed For Use By A Title Insurance Company With Residential Loan Policies. No Corner Markers Were Set And The Location Data Herein is Based On Limited Accuracy Measurements.

*Note: Unless Otherwise Noted, No Substantial Physical Evidence Was Observed Along Perimeter Lines Of The Subject Tract.

SURVEYOR LOCATION REPORT

LEGEND

D. & U.E. = Drainage & Utility Easement
 B.L. = Building Line

Scale: 1" = 30'
 Date: Jan. 8, 2004

Revise Date:

Drawn by:
 SW

Drawing No.
 2-60475



EXHIBIT A

97-2-30

STATEMENT OF COMMITMENTS

NOTE: The Rules of Procedure of the Metropolitan Development Commission require use of this form in recording commitments made with respect to zoning cases in accordance with I.C. 36-7-4-614 and approval cases in accordance with I.C. 36-7-4-613. Resolution No. 85-R-69, 1985 and the Rules of Procedure 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. 36-7-4-613 or I.C. 36-7-4-614, 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 legal description attached as Exhibit A.

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. Maximum density shall be 2.9 dwelling units per gross acre.
3. The real estate shall be developed in substantial compliance with the Conceptual Plan file-dated March 14, 1997, which utilizes the Cluster Option.
4. All homes shall be detached single-family dwellings. No two-family dwellings shall be permitted.
5. The minimum main floor area of a single-family dwelling, exclusive of garages and open porches, shall be:
 - (a) 1,300 square feet for a one story building located on the lots identified on the Conceptual Plan file-dated March 14, 1997, as utilizing the Cluster Option for lot size reduction;



- (b) 900 square feet for a building that is more than one story and located on the lots identified on the Conceptual Plan file-dated March 14, 1997, as utilizing the Cluster Option for lot size reduction provided that the total floor area shall be at least 1,300 square feet;
 - (c) 1,400 square feet for a one story building located on all lots not identified on the Conceptual Plan file-dated March 14, 1997, as utilizing the Cluster Option for lot size reduction; or,
 - (d) 1,000 square feet for a building higher than one story located on all lots not identified on the Conceptual Plan file-dated March 14, 1997, as utilizing the Cluster Option for lot size reduction provided that the total floor area shall be at least 1,400 square feet.
6. No mobile, modular or manufactured dwellings shall be permitted on the real estate. The use of pre-manufactured components (i.e., trusses or wall sections) shall be permitted and shall not be considered mobile, modular or manufactured.
7. All single-family dwellings shall include either a two- or three-car attached garage. No carports shall be permitted. No garage shall be permitted to be converted to living area such that the size of any garage is reduced to below the two-car attached garage minimum, unless such garage space is replaced by a new attached garage space so that the dwelling is served by a two- or three-car attached garage.
8. The front exterior of all single-family dwellings shall have a one-hundred (100) percent brick or stone veneer except for: (i) windows, (ii) doors, (iii) dormers, and (iv) two-story homes with wrap-around porches extending across the living area of the front facade and around at least one corner. All remaining exterior surfaces shall be of brick, stone, wood, vinyl siding with a minimum gauge of 0.044 inches (equal to or better than Royal Woodland, as manufactured by Royal Building Products), or hardboard siding. Aluminum siding shall be prohibited on any exterior.
9. No single-family dwellings with identical architectural designs shall be permitted on adjacent lots along the same street frontage.
10. All single-family dwellings shall include a hardsurfaced driveway of sufficient width to provide direct access to all garage doors.
11. No semi-truck, boat, mobile home, trailer or inoperative or unlicensed vehicle, shall be permitted to be stored outdoors on any lot.
12. A mandatory Homeowner's Association shall be formed which shall be responsible for the maintenance of all common areas within the subdivision.
13. No swimming, boating or skating shall be permitted in any of the common area lakes within the subdivision.
14. A restrictive covenant shall be incorporated into the final plat of the subdivision which shall prohibit outbuildings that are not approved in writing by the Homeowner's Association in accordance with rules and regulations established by the Homeowner's Association for the construction and maintenance of outbuildings. Outbuildings shall be prohibited until such time as the Homeowner's Association establishes such rules and regulations.
15. No above ground swimming pools (except for children's wading pools) shall be permitted.

16. No satellite dish larger than one (1) meter in diameter shall be permitted on any lot, provided, however, that such restriction shall be enforceable so long as it is not in violation of any applicable Federal Communications Commission regulations.
17. No dog runs shall be permitted.
18. Yard lights shall be required on all lots.
19. A uniform mailbox shall be utilized throughout the subdivision.
20. Privacy fencing (stockade, shadow-box or other fencing with a sight barrier in excess of fifty [50] percent) shall not be permitted unless:
 - (a) used in conjunction with (i) a porch, (ii) a patio, deck or terrace having a horizontal area within eighteen (18) inches of grade level, or (iii) an in-ground swimming pool;
 - (b) located within fifteen (15) feet from said porch, patio, deck, terrace or swimming pool; and,
 - (c) does not encroach into any required building setback.
21. All streets in the subdivision shall be public streets constructed to the standards of the City of Indianapolis with a minimum width for streets of twenty-six (26) feet back of curb to back of curb and a minimum radius for cul-de-sacs of forty-five (45) feet.
22. Sidewalks shall be provided along both sides of all internal streets and along High School Road. Developer shall develop a walking/hiking trail, including a small foot bridge, in the common area located at the southwestern portion of the real estate.
23. Entryway landscaping and sign(s) located at the High School Road entrance to the subdivision shall be subject to the approval of the Administrator in connection with the final platting of the real estate. Entryway sign(s) shall be of brick or stone construction.
24. Trees shall be preserved by the land developer to the greatest extent possible. The final plat shall indicate tree preservation areas in which tree removal by the land developer, home builders or home owners shall be limited to: removal of dead trees; removal of trees within the building pad area, driveway area and within ten (10) feet of the building pad area; removal of trees which represent a danger to homes; clearing of undergrowth; and removal of trees necessary to provide for utilities (including but not limited to drainage, sanitary sewer, electricity, telephone, gas, and cable). Two inventories of trees over four (4) inches in caliper located within a typical 20' by 20' area shall be prepared and submitted to the Administrator prior to final plat approval. One inventory shall be conducted in the northwest common area and one inventory shall be conducted in the southwest common area.
25. Right-of-way along High School Road shall be dedicated at the time of platting in compliance with the Thoroughfare Plan. Right-of-way for the extension of Milhouse Road shall be dedicated at the time of platting in compliance with a Milhouse Road Alignment Plan to be approved by the Department of Capital Asset Management.

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 # 97-Z-30 by the City-County Council changing the zoning classification of the real estate from a D-A zoning classification to a D-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 D-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

The undersigned hereby authorizes the Neighborhood and Development Services Division 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 # 97-Z-30.

IN WITNESS WHEREOF, owner has executed this instrument this 18th day of APRIL, 1997.



View of site looking south across Copeland Mills Drive



View looking west along Copeland Mills Drive.