

METROPOLITAN DEVELOPMENT COMMISSION

October 7, 2026

Case Number: 2026-CZN-828 / 2026-CVR-828

Property Address: 1170 Kentucky Avenue

Location: Center Township, Council District #18

Petitioner: KM23 Property, LLC, by Justin Kingen

Current Zoning: C-1 (FF)

Request: Rezoning of 1.569 acres, from the C-1 (FF) district to the C-4 (FF) district to provide for commercial uses.
Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a commercial and building contractor.

Current Land Use: Commercial uses

Staff Recommendations: Approval of the rezoning request and special exception.

Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued these petitions from the June 25, 2026 hearing, to the August 13, 2026 hearing, at the request of the petitioner's representative for additional time to meet with the neighborhood.

On August 13, 2026, the Hearing Examiner recommended approval of the rezoning and forwarded 2026-CZN-828 to the Metropolitan Development Commission for their hearing on September 2, 2026, and approved the Special Exception to provide for a commercial and building contractor.

Subsequently, the petitioner's representative requested that the Plan of Operation be amended to clarify permitted uses, number of employees, and hours of operation of the site. As a result of this request, the Metropolitan Development Commission continued petition 2026-CZN-828 and set the matter for a hearing on October 7, 2026.

The updated Plan of Operation (Exhibit A), file-dated September 24, 2026, confirms uses that include a commercial contractor and C-4 uses, except those excluded uses (Exhibit B) negotiated with the neighborhood organization, which are included in the proposed commitments.

The update also clarifies that the maximum number of employees relates specifically to the commercial and building contractor and not to future tenants.

The hours of operation clarifies hours that are open to the public, while allowing flexibility for access by the tenants of the building.

Staff continues to recommend approval of the rezoning, subject to the Plan of Operation, file-dated September 24, 2026, and the following commitments.

STAFF RECOMMENDATION

Staff recommends approval of the rezoning, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" form at least three days prior to the MDC hearing:

1. 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.
2. Operations on this site shall be in accordance with the Plan of Operation, dated September 24, 2026.

PETITION OVERVIEW

This 1.569-acre site, zoned C-1 (FF), is developed with a vacant commercial building and associated parking lot. It is surrounded by commercial uses to the north, zoned C-1 (FF); parking lot / outdoor storage to the south, zoned I-3 (FF); commercial uses to the east, across Kentucky Avenue, zoned C-7 (FF); and industrial uses to the west, zoned I-3 (FF).

REZONING

The request would rezone the site to the C-4 Community-Regional district to provide for a commercial and building contractor. "The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified."

The Comprehensive Plan recommends community commercial typology for the site.

Recommended land uses in this typology include small- and large- scale offices, retailing, and personal or professional services; small- and large- scale schools, places of worship, neighborhood serving institutions / infrastructure, and other places of assembly; and small-scale parks.

As proposed, this request would not generally align with the Plan recommendation. However, the community commercial typology is contemplated to be consistent with the C-3 (neighborhood commercial) or the C-4 (community-regional) zoning districts, depending upon the location and the surrounding land uses.

Because this site is surrounded by heavy commercial and industrial uses, staff believes that a C-4 would be supportable.

Staff would note that the abutting property to the south (Parcel #1017456 - approximately 1.57 acres) is under the same ownership as this site and zoned I-3. This site is currently used for outdoor storage and parking.

Plan of Operation – See Exhibit A

The Plan of Operation states that the use of the site would be for a commercial contractor that specializes in building contracting including, but not limited to concrete, carpentry / millwork, earthwork and construction management.

There would be a maximum of 40 employees on site at any given time.

Hours of operation would be Monday through Friday from 6:00 a.m. to 6:00 p.m., with emergency projects as required.

The existing building (approximately 11,283 square-feet) and parking lot with approximately 57 parking spaces would serve as the headquarters for the business. Building renovation and site upgrades are anticipated.

Floodway / Floodway Fringe – White River

This site has a secondary zoning classification of a Floodway (FW) and Floodway Fringe (FF). The Floodway (FW) is the channel of a river or stream and those portions of the floodplains adjoin the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream. The Floodway Fringe (FF) 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 purpose of the floodway district is to guide development in areas identified as a floodway. The Indiana Department of Natural Resources (IDNR) exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1.

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 (C-4 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance and all other applicable City Ordinances.

The entire site is located within the unregulated 500-year floodplain of White River to the east of the site.

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.

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.

SPECIAL EXCEPTION

The Ordinance requires the grant of a special exception in the C-4 district for a commercial and building contractor.

A Special Exception may be granted following public hearing of the petition and only upon the Board's determination that:

- 1.The proposed use meets the definition of that use in Chapter 740, Article II.
- 2.The proposed use will not injure or adversely affect the adjacent area or property values in that area.
- 3.The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property.

- 4.The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County.
- 5.The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located.
- 6.The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located.
- 7.The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use.

The Board may impose reasonable restrictions or conditions in connection with the grant of any Special Exception, including restrictions and conditions that are more restrictive than the applicable development standards, to ensure compliance with the standards above. All such conditions shall be imposed by the Board to ensure compliance with standards above. Such conditions may include any reasonable site, development, operational and performance standards, requirements and restrictions. The grant of the Special Exception may be for a limited period of time, as specified by the Board.

The grant of such Special Exception shall be conditioned upon conformance all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located, except as specifically modified by the grant of the Special Exception.

As proposed and described in the petition submittal documents, the use would meet the definition of a commercial and building contractor and would not adversely affect adjacent properties or interfere with the surrounding land uses, that consist of heavy commercial and industrial uses. Consequently, the proposed use would be compatible with the existing character of the surrounding land uses in the area.

For these reasons staff supports Special Exception request.

GENERAL INFORMATION

Existing Zoning	C-1 (FF)	
Existing Land Use	Commercial uses (vacant)	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
North:	C-1	Commercial uses (vacant)
South:	I-3	Paved parking
East:	C-7	Commercial uses
West:	I-3	Industrial uses
Thoroughfare Plan		
Kentucky Avenue	Primary Arterial	Existing 140-foot right-of-way and proposed 88-foot right-of-way.
Context Area	Compact	

Floodway / Floodway Fringe	Yes – 500-year unregulated floodplain of White River
Overlay	No
Wellfield Protection Area	No
Site Plan	April 22, 2026
Site Plan (Amended)	N/A
Elevations	April 22, 2026
Elevations (Amended)	N/A
Landscape Plan	April 22, 2026
Findings of Fact	May 1, 2026
Findings of Fact (Amended)	N/A
C-S/D-P Statement	Plan of Operation, dated April 21, 2026

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

The Comprehensive Plan recommends Community Commercial. 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.

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

- *Conditions for All Land Use Types – Community Commercial 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.

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

2024-ZON-012; 1170 Kentucky Avenue, requested rezoning of Rezoning of 1.38 acres from the C-1 district to the I-3 district to provide for industrial uses, **withdrawn**.

99-NC-44; 1170-1180 Kentucky Avenue, requested a Certificate of Legal Non-Conforming Use for development standards to include side yard and rear yard setbacks of zero feet, approved.

99-V1-134; 1170 Kentucky Avenue, a variance of development standards of the Commercial Zoning Ordinance to legally establish an existing building, and to provide for a 5,700 square foot, two-story addition, having a zero rear yard setback (minimum 10 feet required), **granted**.

93-AP-118; 1170 Kentucky Avenue; requested Regional Center Approval to remove all INB identification signs from site and install one (1) 3-foot by 3-foot single-faced wall sign with 18-inch nonilluminated letters on the south elevation; install (1) 24-inch by 24-inch single-faced wall sign at the south elevation entry; and, install two (2) 5-foot by 5-foot single-faced walls, on each, on the east and west elevations, respectively. The two existing directional signs will remain and be refaced with the "NBD Bank" logo, **approved**.

81-V3-136; 1170 Kentucky Avenue, requested a variance of Sign Regulations Ordinance, 71-AO-4, as amended, to provide for new standardized signage replacing existing signage, **granted**.

76-UV3-54; 1170 Kentucky Avenue, requested a variance of use of the Industrial Zoning Ordinance to provide for a bank drive through and canopy, and a parking lot, **granted**.

72-Z-102; 1170 Kentucky Avenue, requested rezoning of 1.45 acres from I-3-U to C-1 to provide for a branch bank and service center, **approved**.

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



1170 Kentucky Avenue

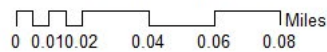


EXHIBIT A
Updated Plan of Operation – September 24, 2026

1170 Kentucky Avenue – Plan of Operation

- Use:
 - Commercial Contractor
 - Specializes in building contracting including, but not limited to: concrete; carpentry & millwork; earthwork; and construction management.
 - Upon completion of the proposed building and site improvements, a portion of the building not utilized for the Commercial Contractor use may be leased to tenants for any use permitted within the C-4 zoning district, excluding those uses specifically excluded from the subject site under Commitment #4 of the Statement of Commitments.
- Staff:
 - Maximum of 40 employees on site at any given time for the Commercial Contractor use
- Hours of Operation:
 - Open to the Public: Monday through Friday, 6AM-6PM
 - Internal Office/Business Use: Evenings, weekends, and all other hours outside of those listed above, for use by the Commercial Contractor and tenants only; not open to the public during these times
- Building:
 - Existing 11,283-square foot industrial building
- Safety & Security Measures:
 - The existing building has security cameras, an alarm system, and lighting elements.
- Materials Used:

- Materials to include general typical construction materials such as lumbar, concrete, nails, drywall, sheetrock etc. (Commercial Contractor)
- Shipping, Receiving & Storage:
 - Deliveries will be made via box-truck and use existing service areas.
- Waste:
 - Commercial dumpsters will be sited and screened in accordance with the requirements of the zoning ordinance.
- Parking:
 - There are 57 parking spaces (54 regular spaces, 3 ADA)

April 21, 2026

1170 Kentucky Avenue – Plan of Operation

- Use:
 - Commercial Contractor - Schuck Corporation
 - Specializes in building contracting including, but not limited to: concrete; carpentry & millwork; earthwork; and construction management.
- Staff:
 - Maximum of 40 employees on site at any given time
- Hours of Operation:
 - Monday through Friday: 6AM-6PM
 - Emergency projects as necessary
- Building:
 - Existing 11,283-square foot industrial building
 - Surface parking lot
- Clients & Customers:
 - Use open to the general public, typically by appointment
- Safety & Security Measures:
 - The existing building has security cameras, an alarm system, and lighting elements.
- Materials Used:
 - Materials to include general typical construction materials such as lumbar, concrete, nails, drywall, sheetrock etc.

4.21.2026

- Shipping, Receiving & Storage:
 - Deliveries will be made via box-truck and use existing service areas.
- Waste:
 - Commercial dumpsters will be sited and screened in accordance with the requirements of the zoning ordinance
- Parking:
 - There are 57 parking spaces (54 regular spaces, 3 ADA)

EXHIBIT B
Number 4 - Excluded Uses

STATEMENT OF COMMITMENTS

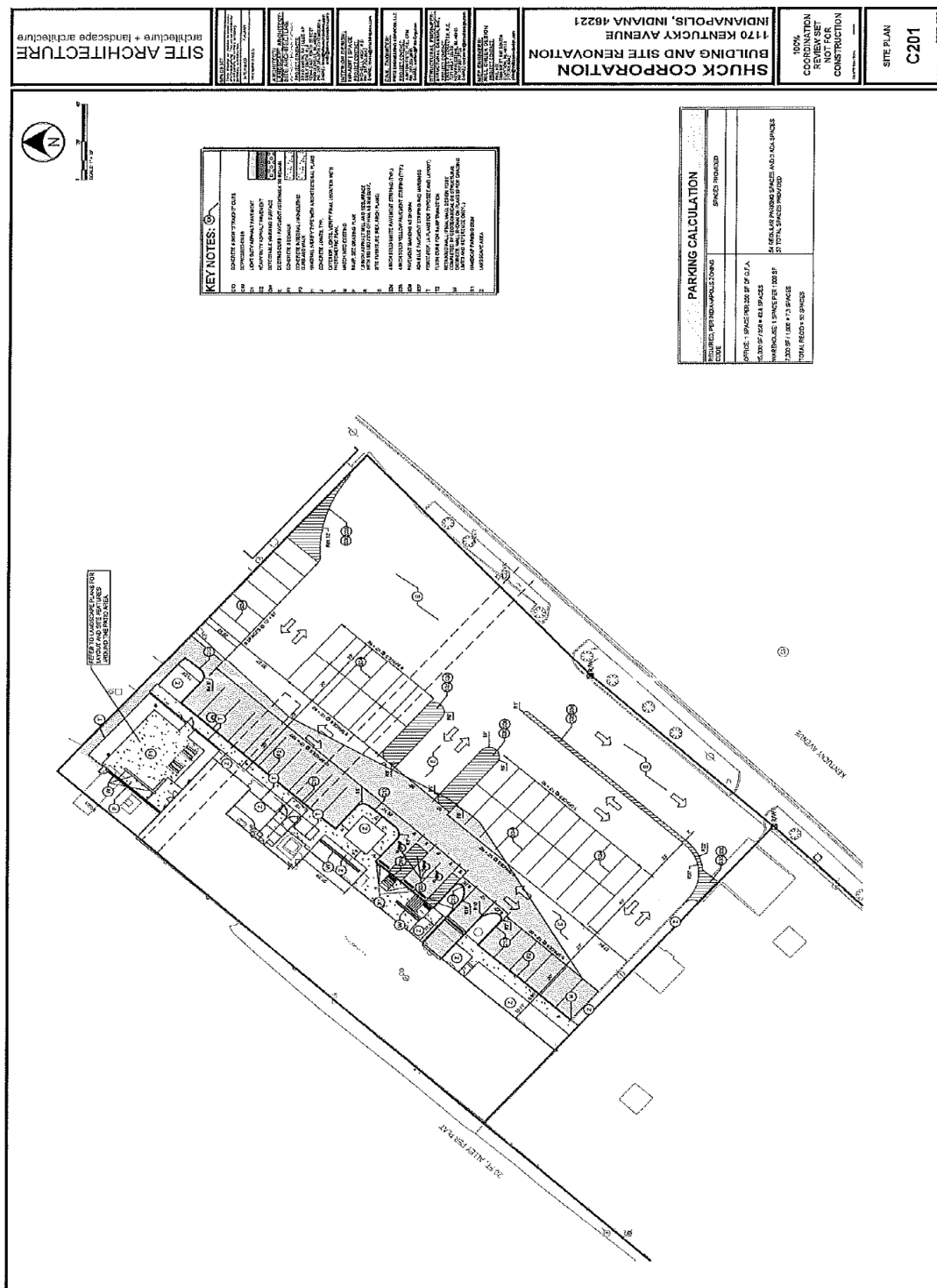
**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

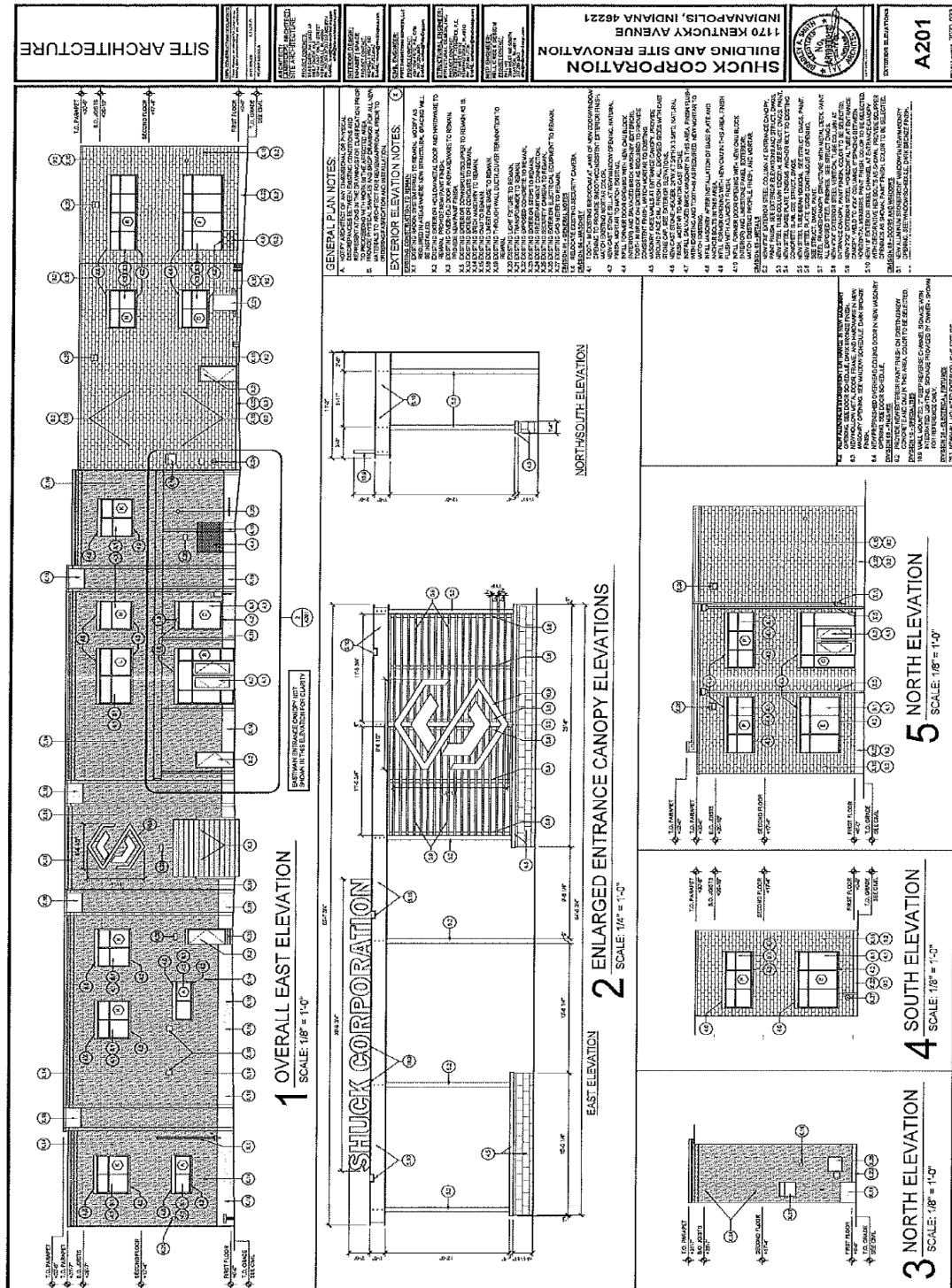
In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

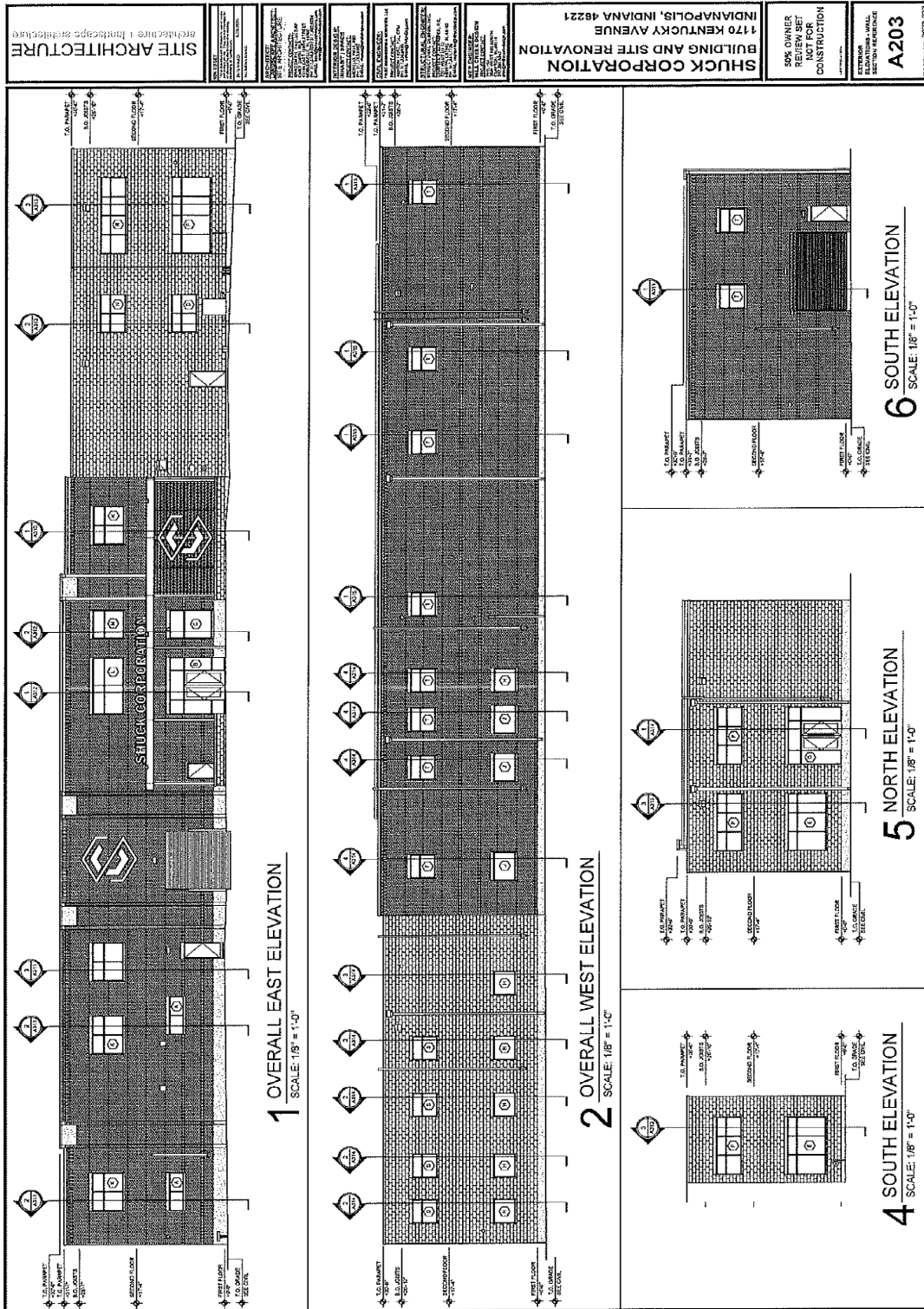
Legal Description: 1170 Kentucky Avenue (See attached legal description)

Statement of COMMITMENTS:

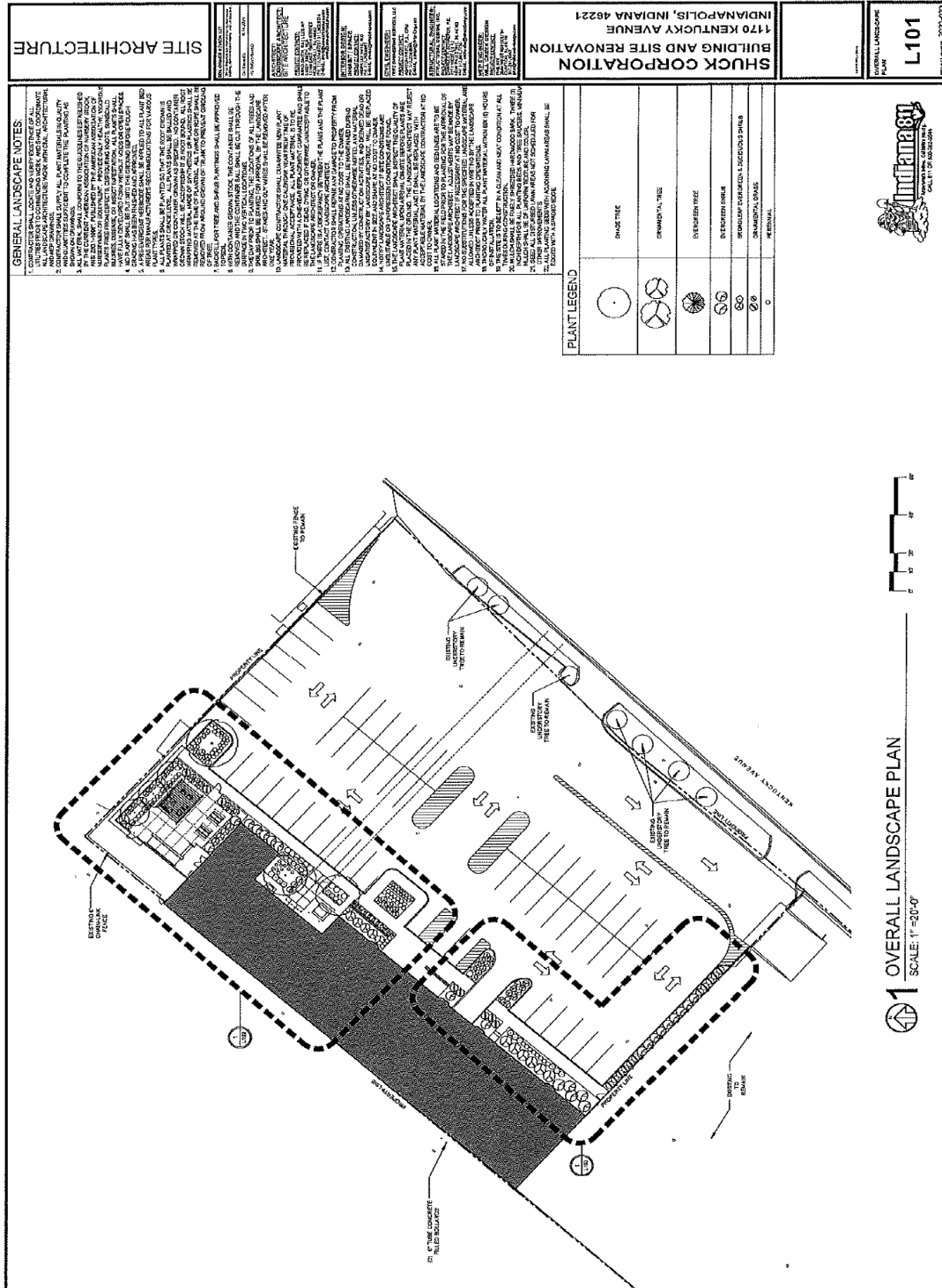
1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. The site and improved areas within 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. Operations on this site shall be in accordance with the Plan of Operation, dated September 24, 2026.
4. To exclude the following C-4 uses from the subject site: Emergency shelter, daily; Club or lodge; Schools: Elementary, Middle or High School; Medical or dental laboratories; Plasma (blood) center; Methadone clinic or treatment facility; Substance abuse treatment facility; Adult entertainment business; Adult entertainment business: retail; Firearm sales; Fireworks sales, on-going; Liquor store; Check cashing or validation service; Pawn shop; Tattoo parlor; Gas station; Convenience store; Automobile and light vehicle wash; Automobile, motorcycle and light vehicle service or repair; Substation and utility distribution nodes; Wireless communication facility; Transit center; Power generating facility, local; Recycling station; Recycling collection point; Satellite dish antenna; Parking garage, commercial; Outdoor display and sales, on-going; Outdoor advertising off-premise sign; Mortuary or funeral home; Garden as a primary use; Information technology R&D; and Logistics R&D.







[illegible]



Petition Number _____

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

**PETITION FOR SPECIAL EXCEPTION
FINDINGS OF FACT**

1. The proposed use meets the definition of that use in Chapter 740, Article II because
The current owner and operator at the subject site is a professional building contractor within the constr.
and is actively engaged in providing services, materials and labor from the remote subject site to other s
work orders and contractual agreements.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that
area because
The bulk of the immediate area is zoned I 3, C 7 and I 4, all of which permit the proposed use as well as
that may be characterized by more impactful externalities.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of
adjoining property because
The immediate areas are improved with either industrial or campus style developments, all of which prov
yards. The proposed improvements would not represent a deviation from this well developed industrial a
aesthetic.

4. The proposed use will be compatible with the character of the district, land use authorized therein
and the Comprehensive Plan for Marion County because
The land use recommendation of community commercial would not be harmed or negatively impacted a
for the continued operation of a long standing business and not represent an overall change of use or int
to rezone to the C 4 District would be supported by this plan designation.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the
zoning district in which it is located because
The proposed site plan is in conformity with all of the development standards.

6. The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located because
None of the performance standards are being sought relief from, and the use would otherwise be in conformance with applicable use specific standards.

7. The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use because
The proposed use meets all other applicable use specific standards, including the requirement to fulfill the

DECISION

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

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



View looking east along West Morris Street



View looking east across intersection of West Morris Street and Kentucky Avenue



View of site looking southeast from adjacent property to the north



View of site looking east from north / south alley along the western boundary



View of site looking east from north / south alley along the western boundary



View of site looking east from north / south alley along the western boundary



View of site looking east from north / south alley along the western boundary



View of site looking west across Kentucky Avenue



View of site looking west across Kentucky Avenue



View of site looking west across Kentucky Avenue



View of site and adjacent property to the north looking northwest across Kentucky Avenue



View from site south along Kentucky Avenue



View from site looking northwest



View from site looking north



View from site looking northeast across Kentucky Avenue



View from site looking east across Kentucky Avenue



View from site looking southeast along Kentucky Avenue