



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

August 15, 2024

Case Number: 2024-ZON-039

Property Address: 3803, 3805, 3919, 4051, and 4233 Lafayette Road, 4262, 4266, 4270, and 4360 West 38th Street, 4702, 4750, and 4825 Century Plaza Road

Location: Pike Township, Council District #5

Petitioner: PFFO QOZB LLC, by Alex Intermill and Tyler Ochs

Current Zoning: C-4, C-5 and MU-2 (FF)

Request: Rezoning of 126.55 acres from the C-4, C-5, and MU-2 (FF) districts to the C-S (FF) district to provide for C-4 and MU-2 permitted uses, plus commercial retail, community center, athletic fields and courts, film production studios, hotels, multi-family dwellings, and educational uses.

Current Land Use: Commercial uses / vacant commercial property

Staff Recommendations: Approval, subject to the commitments noted below:

Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner acknowledged the timely automatic continuance filed by a registered neighborhood organization that continued this petition from the July 11, 2024 hearing, to the August 15, 2024 hearing.

STAFF RECOMMENDATION

Approval, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The following uses shall be prohibited: vehicle-related operations uses, firearms sales, adult entertainment, commercial / building contractors, and commercial parking lots.
2. Final site plans, enhanced landscaping plans, building elevations and a pedestrian connection system / amenities plan shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).
3. 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.

4. A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to any site preparation activity or disturbance of the site of the northernmost parcel proposed for residential development. This plan shall, at a minimum: a) indicate proposed development; b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

PETITION OVERVIEW

This 126.55-acre site, zoned C-4, C-5, and MU-2 (FF), is comprised of nineteen contiguous parcels. It is surrounded by commercial uses to the north, zoned C-4 and C-S; commercial uses to the south, across West 38th Street, zoned C-5; Interstate 65 right-of-way to the east, zoned I-1, D-P, D-A, and D-6II; and commercial uses to the south, across Lafayette Road, zoned C-5, MU-2, C-S and C-7.

REZONING

This request would zone this site to the C-S (Special Commercial District). The purpose of the C-S district is to:

- Encourage a more creative approach in land planning, superior site and structural design and development and an efficient and desirable use of open space.
- To provide for a use of land with high functional value.
- To assure compatibility of land uses, both within the C-S district and with adjacent areas.
- To permit special consideration of property with outstanding features, including, but not limited to, historical, architectural, or social significance, unusual topography, landscape amenities, and other special land characteristics.
- To provide maximum adaptability and flexibility in zoning and development controls to meet the changing and diverse needs of the metropolitan area.

“The C-S District is designed to permit, within a single zoning district, multi-use commercial complexes or land use combinations of commercial and noncommercial uses, or single-use commercial projects. The primary objective of this district is to encourage development which achieves a high degree of excellence in planning, design, or function, and can be intermixed, grouped or otherwise uniquely located with maximum cohesiveness and compatibility. The district provides flexibility and procedural economy by permitting the broadest range of land use choices within a single district, while maintaining adequate land use controls. The C-S District can include high-rise or low-rise developments, can be applied to large or small land areas appropriately located throughout the metropolitan area, and can be useful in areas of urban renewal or redevelopment.”



C-S Statement

The C-S Statement, file dated May 30, 2024, would provide for all C-4 uses, MU-2 uses, along with uses proposed in the site plan and redevelopment plan. See Exhibit A.

The goal of redevelopment of the site would be to create a “live / work / play” community comprised of residential uses, educational uses and office uses that would be supported by commercial, athletic, and entertainment venues.

Additional and more detailed information includes approximate acreage / square footage of the uses, number of units / keys, and parking counts. See Exhibit B.

Staff believes that some of the C-4 permitted uses that would not be appropriate includes vehicle-related operations uses, firearms sales, adult entertainment, commercial / building contractors, and commercial parking lots.

Conceptual Site Plan

The “full buildout development concept,” file dated May 30, 2024, would maintain the primary entrance hall and a portion of the northern wing, with new structures throughout the site to accommodate the proposed uses. See Exhibit C.

Site access would maintain the four access drives along Lafayette Road, one access drive along West 38th Street, and Century Plaza Road that currently dead ends within the site. Century Plaza Road would be extended to provide for connection to the access drive along West 38th Street, along with internal drives that would provide for vehicular circulation throughout the site and be designated as public streets. See Exhibit D (Right-of-Way).

Floodway Fringe

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

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

There is a floodway fringe of Little Eagle Creek located at the northeast corner of the site, along Interstate 65, across Century Plaza Road and the northernmost forested parcel. That area is currently undeveloped but if future development would occur, regulations related to flood control would need to be considered.

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.

Tree Preservation / Heritage Tree Conservation

The northernmost area of the site, proposed for residential development, has significant amounts of natural vegetation and trees. Due to their inherent ecological, aesthetic, and buffering qualities, the maximum number of these existing trees should be preserved on the site.

All development shall be in a manner that causes the least amount of disruption to the trees.

A tree inventory, tree assessment and preservation plan prepared by a certified arborist shall be submitted for Administrator Approval prior to any site preparation activity or disturbance of the site. This plan shall, at a minimum: a) indicate proposed development, b) delineate the location of the existing trees, c) characterize the size and species of such trees, d) indicate the wooded areas to be saved by shading or some other means of indicating tree areas to be preserved and e) identify the method of preservation (e.g. provision of snow fencing or staked straw bales at the individual tree's dripline during construction activity). All trees proposed for removal shall be indicated as such.

If any of the trees are heritage trees that would be impacted, then the Ordinance requires that the Administrator, Urban Forester or Director of Public Works determine whether the tree(s) would be preserved or removed and replaced.

The Ordinance defines “heritage tree” as a tree over 18 inches Diameter at Breast Height (DBH) and one of the Heritage tree species. Heritage tree species include: Sugar Maple (*Acer saccharum*), Shagbark Hickory (*Carya ovata*), Hackberry (*Celtis occidentalis*), Yellowwood (*Cladrastus kentukea*), American Beech (*Fagus grandifolia*), Kentucky Coffeetree (*Gymnocladus dioica*), Walnut or Butternut (*Juglans*), Tulip Poplar (*Liriodendron tulipifera*), Sweet Gum (*Liquidambar styraciflua*), Black Gum (*Nyssa sylvatica*), American Sycamore (*Platanus occidentalis*), Eastern Cottonwood (*Populus deltoides*), American Elm (*Ulmus americana*), Red Elm (*Ulmus rubra*) and any oak species (*Quercus*, all spp.)

The Ordinance also provides for replacement of heritage trees if a heritage tree is removed or dies within three years of the Improvement Location issuance date. See Exhibit D, Table 744-503-3: Replacement Trees.

Staff Recommendations

Staff generally supports this redevelopment project because it would be consistent with the Lafayette Square Area Plan recommendations of commercial retail and service, commercial office, and mixed-use. Furthermore, the C-S district would be appropriate given the site acreage, proposed uses and the goal of being a work / live / play community.

However, staff believes that some of the permitted C-4 uses would not be appropriate that would include vehicle-related operations uses, firearms sales, adult entertainment, commercial / building contractors, and commercial parking lots and would request that those uses be prohibited.

Staff also believes this project should provide a strong pedestrian connection system throughout the site, along with pedestrian amenities (benches, lighting, trash containers, etc.). Staff would also request that landscaping be enhanced that would exceed the minimum Ordinance requirements, along with providing green spaces throughout the site.



This redevelopment project is conceptual at this time and full build out would be phased over many years. Staff would anticipate that as development moves forward that the architectural character of the buildings would be harmonious and compatible throughout the site. Staff would also encourage that a sign program be developed in the early stages to maintain sign consistency throughout the site as development occurs.

Administrator Approval would be required as development occurs that would include site plans, landscaping plans, photometric plans and building elevations. Staff would also request Administrator Approval for a pedestrian / amenity plan.

GENERAL INFORMATION

Existing Zoning	C-4 / C-5 / MU-2 (FF)	
Existing Land Use	Commercial uses / vacant commercial uses	
Comprehensive Plan	Commercial retail and service / commercial office / mixed-use	
Surrounding Context	Zoning	Land Use
North:	C4 / C-S	Commercial uses
South:	C-5	Commercial uses
East:	I-1/ D-P / D-A / D-6II (FF)	Interstate 65 right-of-way
West:	C-5 / MU-2 / C-S / C-7.	Commercial uses
Thoroughfare Plan		
Lafayette Road	Primary arterial	Existing 148-foot right-of-way and proposed 134-foot right-of-way.
Century Plaza Road	Local Street	Existing 70-foot right-of-way and proposed 50-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	Yes – Little Eagle Creek	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	May 30, 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	May 30, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Not Applicable to the Site.

Pattern Book / Land Use Plan

- Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The Lafayette Square Area Plan (2010) recommends commercial retail and services (central portion of the site along Lafayette Road), commercial office (northeast portion of the site along Interstate 65) and mixed-use land uses (southern portion of the site along West 38th Street).
- Commercial Retail and Services - Retail and service businesses include neighborhood oriented, smaller scale stores and shops and larger size community and regional uses that may be in major groupings or shopping centers and that attract high traffic volumes from throughout the metropolitan area. Larger scale commercial uses usually are not compatible with residential areas. Examples are:
 - New Retail businesses such as art galleries, antique stores, grocery stores, apparel and accessory stores, artist and architect supply stores, bookstores, camera supply stores and photo developing businesses, florists, bakeries, pharmacies, card and stationery stores, hardware stores, jewelry stores, pet shops, framing services, and music stores.
 - Personal, professional, and business services such as barber and beauty shops, dry cleaners, and shoe repair businesses.
 - Repair services such as jewelry, watch and clock repair, key duplicating, typewriter repair, shoe repair and camera repair.
 - Restaurants and taverns with restrictions.
- Commercial Office - Low-intensity office uses, integrated office development and compatible office-type uses. Retail uses are not promoted in this category, unless those uses are significantly subordinate to the primary office use or the retail use exclusively serves an abundance of office uses in proximity to the retail use. Commercial Office uses can exist either as buffers between higher intensity land uses and lower intensity land uses or as major employment centers. The following uses are representative of this land use category:
 - Medical and dental facilities
 - Education services

- Insurance
 - Real estate
 - Financial institutions
 - Design firms
 - Legal services
 - Day care centers
 - Mortuaries
 - Communications studio
- **Mixed-Use** - Buildings typically two or three stories in some commercial areas with the first floor developed in commercial retail or service uses and upper floor(s) devoted to office or residential. Some examples are:
 - Multi-family housing
 - Theaters
 - Business services and professional offices
 - Restaurants and taverns • Membership organizations
 - Personal services • Repair services
 - Retail
 - Post-secondary education
 - Parking garages and lots

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

2016-ZON-053; 4233 Lafayette Road, requested rezoning of 11.25 acres from the D-A and C-4 districts to the C-4 classification, **approved**.

2008-VAR-856 / 2008-VAR-856A and 2004-VAR-856B, 3919 and 4501 Lafayette Road, requested a variance of use for an amusement arcade with up to 150- amusement machines on a lot within 100 feet of a protected district; a special exception of the Commercial Zoning Ordinance to provide for an amusement arcade with up to 150 amusement machines; an a variance of development standards of the Commercial Zoning Ordinance to provide for an amusement arcade with up to 150 amusement machines on a lot within 100 fee of a protected district, **withdrawn**.

2004 UV1-021; 3919 Lafayette Road, requested a variance of use of the Commercial Zoning Ordinance to provide for a 30,200 square-foot, 1,782 seat church in an existing commercial shopping center, **granted**.

73-Z-156; 4401 Georgetown Road, requested rezoning of 36.94 acres, being in the A-2 district to the C-4 classification to provide for a shopping center, **approved**.

70-Z-238, 4233 Lafayette Road, requested rezoning of 7.80 acres, being in the C-2 and A-2 districts to the C-4 classification not provide for a furniture store, **approved**.

VICINITY

2014-UV3-025; 4751 Century Plaza Road (north of site), requested a variance of use of the Commercial zoning Ordinance to provide for a 72-unit, multi-family complex, with three, three-story buildings, with a clubhouse building and community resource facility, **granted**.

2003-ZON-025; 3930 Georgetown Road (north of site), requested rezoning of 9.09 acres, being in he C-S (FF) (FW), C-3 (FF) (FW), C-4 (FF) (FW), and C-5 (FF) (FW) districts to the SU-1 (FF)(FW) district to provide for religious uses, **approved**.

84-Z-121; 4305 Lafayette Road (north of site), requested rezoning of 3.6 acres from the A-2 and C-4 Districts to the C-S classification to provide for the construction of mini-warehouses, including a resident manager's office, **approved**.

74-Z-194; 4700-5090 West 38th Street (south of site), requested rezoning of 76.3 acres, being in the C-S and C-1 Districts to the C-S classification to provide for an integrated commercial-industrial center, **approved**.

EXHIBITS



3803-4233 Lafayette Road, 4262-4360 West 38th Street and 4825 Century Plaza Road

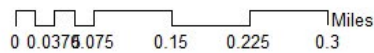


EXHIBIT A

C-S Development Statement

Former Lafayette Square Mall Property

Introduction

Petitioner, PFFO QOZB LLC owns¹ approximately 126.55 acres of real estate located generally at the site of the former Lafayette Square Mall, 3919 Lafayette Road, Indianapolis, Indiana 46254 (the “Subject Property”).

The Subject Property is improved with the former Lafayette Square Mall building and various neighboring out-lot buildings. Petitioner proposes a transformational project which will include retail, multifamily housing, hotels, senior housing, office and commercial space, a sports complex and athletic fields, a concert venue, film studios, and other uses permitted in MU-2 and C-4.

Proposed Uses

Parcels in the Subject Property are currently zoned C-4, C-5, and MU-2. The Subject Property is bordered on the northeast by Interstate 65, Lafayette Road on southwest, and 38th Street on the south. The Ivy Tech Automotive Technology Center to the north is zoned C-S and one parcel (#6006633) along the southwest boundary is zoned MU-1. The proposed C-S zoning and uses will provide the flexibility to develop the Subject Property for uses consistent with the current and surrounding zoning and will not negatively impact neighboring parcels.

As depicted in the attached Site Plan and Redevelopment Plan filed with its petition, Petitioner proposes that the Subject Property be used for any of the following permitted uses:

- 1) All C-4 uses;
- 2) All MU-2 uses; and
- 3) Uses contemplated in the Site Plan and Redevelopment Plan (to the extent not permitted in C-4 or MU-2).

Operations Plan

Petitioner desires to redevelop the Subject Property with the goal of creating “live/work/play” community that incorporates commercial, athletic, and entertainment venues. The project will be developed in phases with various partners for the residential, commercial, and other aspects of the development. Accordingly, specific projections of the number of employees, visitors, residents, etc. are not currently available. Petitioner will, of course, work with its design and engineering team and Planning Staff to ensure that adequate parking,

¹ Overseas Properties I LLC has common ownership with PFFO QOZB LLC and holds title to Parcel Nos. 6022082 and 6008244. Parcel 6002650, the former Don’s Guns property, is owned by Brenda Duety but Petitioner or a commonly-owned entity has the property under contract for purchase. Consents for Overseas Properties I LLC and Brenda Duety will be provided.

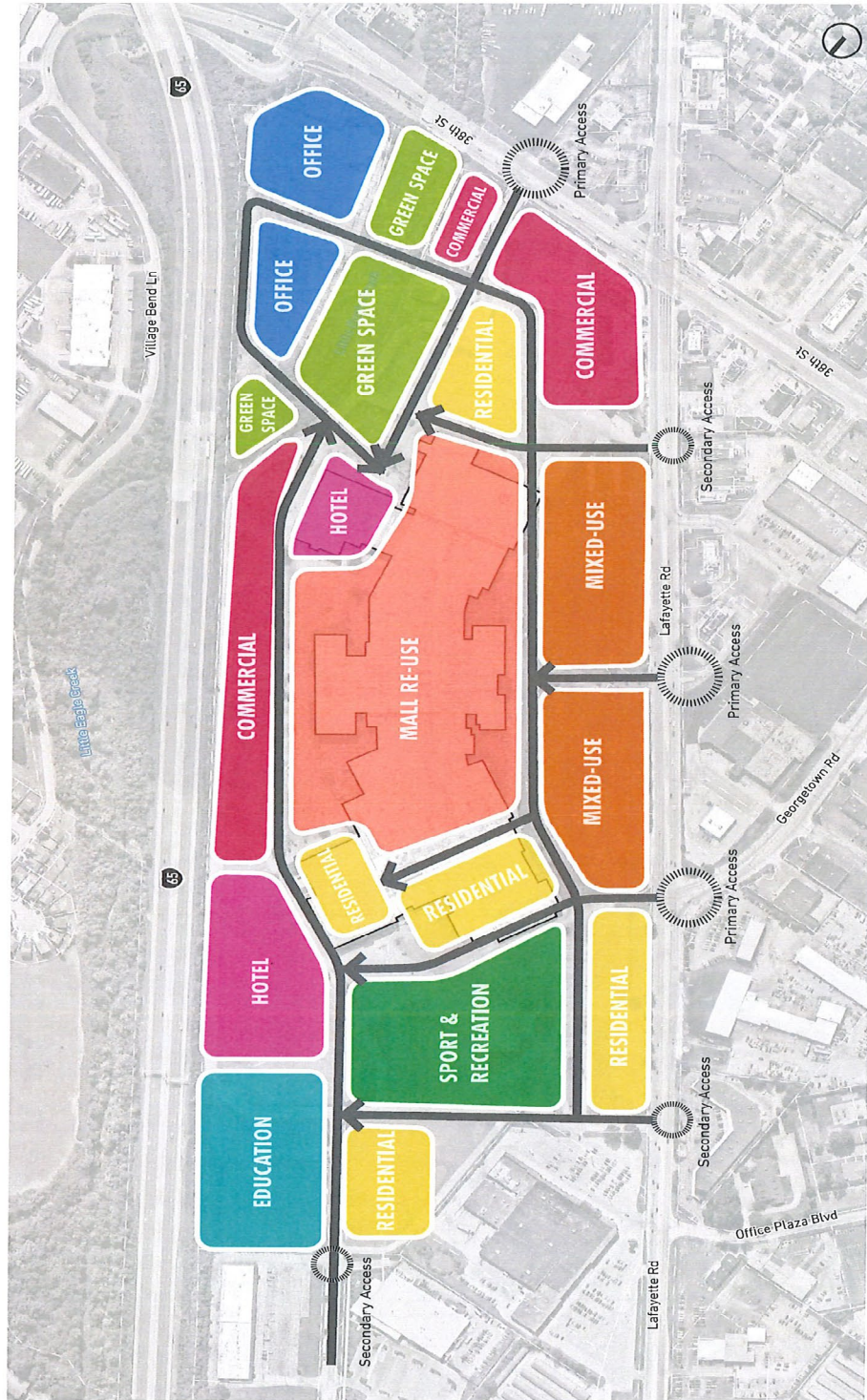
pedestrian ways, and greenspace, including preserving existing trees when possible, are incorporated to accommodate the needs of the development and tie into the existing roads and infrastructure.

Commitments

Petitioner is open to discussing potential commitments with Planning Staff through the rezoning process.

EXHIBIT B

REDEVELOPMENT PLAN FRAMEWORK



DEVELOPMENT PARCEL MAP



TAKE OFFS

SITE	ACRES	Use	Full Build (Sqft)	Units / Keys	Spaces (Required)	Spaces (Provided)
1	7.8	Community Center/Education	105,400		60	192
2	3.8	Multi-Family	154,500	138	138	167
3	6.1	Hotel	153,500	201	201	165
4	9.4	Sports & Recreation	200,200		500	212
5	1.7	Multi-Family	79,000	71	71	170
6	1.7	Multi-Family	79,000	71	71	
7	5.5	Mixed-Use Apartments	292,445	262	262	243
8	3.7	Multi-Family	175,000	159	159	489
9	23	Retail	614,621		1,537	224
10	2.6	Multi-Family	162,400	145	145	83
11	7.7	Retail	13,000		33	119
		Retail	13,000		33	163
		Retail	24,000		60	
12	1.7	Hotel	85,540	112	112	81
13	5.2	Mixed-Use Condos	323,335	262	262	579
14	1.3	Retail	6,920		17	168
15	2.4	Retail	5,100		13	55
		Retail	9,340		23	54
		Retail	4,560		12	
16	2.3	Condos	202,360	164	207	207
17	1.7	Retail	4,500		12	89
		Retail	4,500		12	
18	2.2			Stormwater and Open Space		

* Note: Takeoffs are all conceptual and would be refined with additional design and engineering

TAKE OFFS

SITE	ACRES	Use	Full Build (Sqft)	Units / Keys	Spaces (Required)	Spaces (Provided)
19	1.5	Retail	8,700		22	78
20	7.8	Corporate Office	58,800		147	166
		Corporate Office	57,100		143	100

	Total
Retail	708,736 GSF
Office	115,898 GSF
Multi-Family & Senior (Units)	783 Units
Condos (Units)	426 Units
Hotel (Keys)	313 Keys
Sports & Recreation	200,000 GSF
Parking (Required)	4,206 Spaces
Parking Provided (Surface & Garages)	3,880 Spaces
Parking Provided (Street)	- Spaces

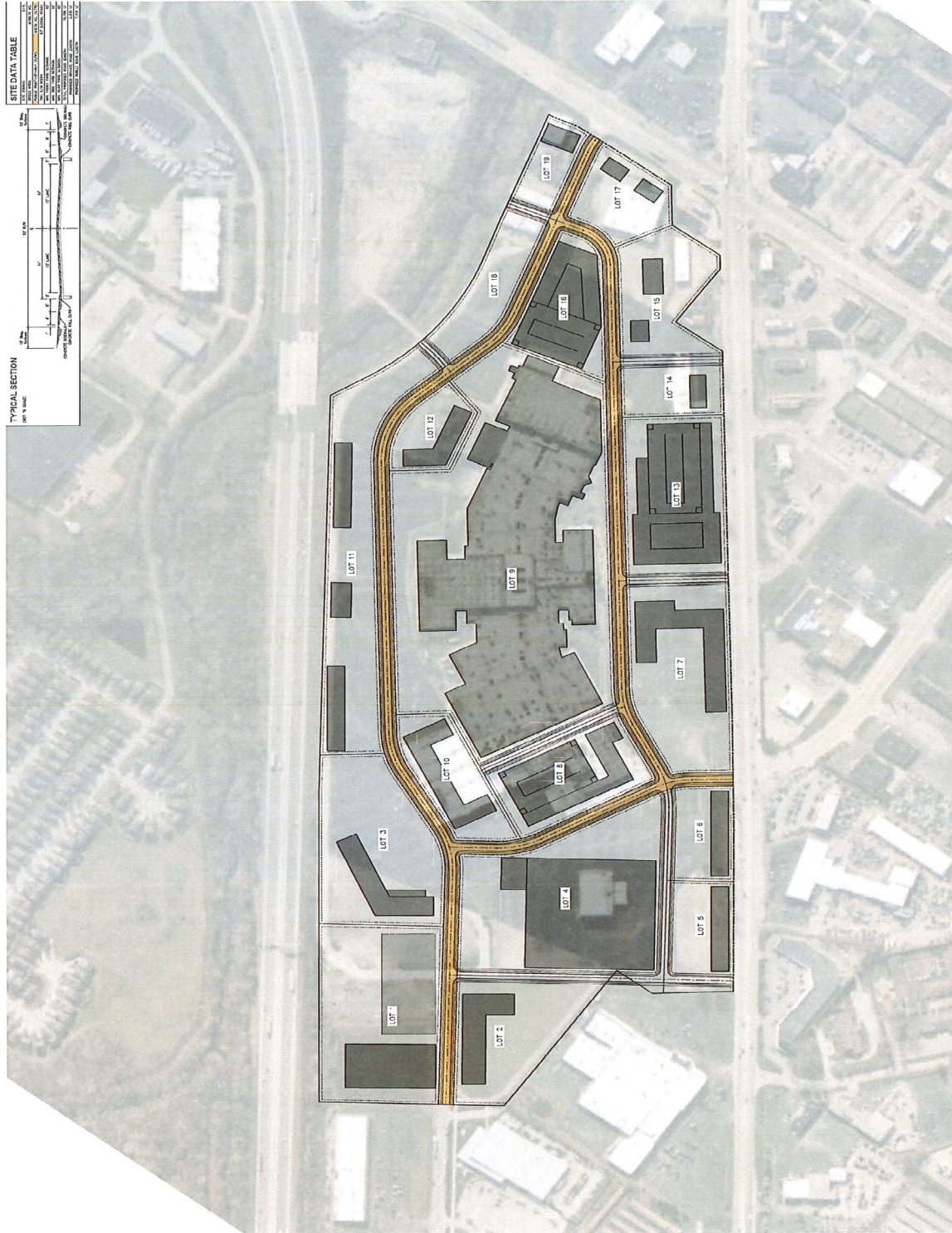
* Note: Takeoffs are all conceptual and would be refined with additional design and engineering

EXHIBIT C

FULL BUILDOUT DEVELOPMENT CONCEPT



EXHIBIT D




Structurepoint
 2024-00244

Preliminary Row Layout Exhibit
 Lafayette Square Mall Redevelopment
 3919 Lafayette Road
 Indianapolis, IN 46254



SCOTT R. SMITH
 No. 100000000
 State of Indiana
 May 17, 2024

EXHIBIT E

Heritage Tree Conservation

Removal of any Heritage Tree is prohibited unless any of the following determinations are made before removal:

1. The Administrator or the city’s Urban Forester determines that the tree is dead, significantly and terminally diseased, a threat to public health or safety, or is of an undesirable or nuisance species.
2. The Director of the Department of Public Works determines that the tree interferes with the provision of public services or is a hazard to traffic.
3. The Administrator determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree.
4. The site from which the tree is removed is zoned D-A and the tree is harvested as timber or similar forestry

Table 744-503-3: Replacement Trees		
Size of tree removed or dead (inches)	Number of Trees to be planted to replace a Heritage Tree	Number of Trees to be planted to replace an existing tree
Over 36 DBH	15	10
25.5 to 36 DBH	11	8
13 to 25 DBH	8	6
10.5 to 12.5 DBH	6	4
8.5 to 10 DBH	5	4
6.5 to 8	3	2
4 to 6	2	2
2.5 to 3.5	1	1



View looking west along West 38th Street



View of southern portion of site looking west



View of southern portion of site looking north



View of southern portion of site looking west



View of southern portion of site looking northwest



View from southern portion of site looking east



View of central portion of site looking west



View of central portion of site looking west



View of central portion of site looking south



View of central portion of site looking south



View of central portion of site looking southeast



View of central portion of site looking southeast



View looking east at main entrance along Lafayette Road



View looking west from entrance along Lafayette Road



View from site looking west across access drive along Lafayette Road



View from the northern portion of site looking northwest



View from northern portion of site looking northwest



View from northern portion of site looking north



View from northern portion of site looking north



View from northern portion of site looking south



View looking north along Century Plaza Road internal to the site



View looking south along Century Plaza Road internal to the site



View from Century Plaza Road looking west into northern portion of site



View from Century Plaza Road looking northwest (Ivy Tech)



View from northern portion of site looking northeast



View looking north along Century Plaza Road



View of northern portion of site looking northwest across Century Plaza Road