

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

August 13, 2026

Case Number: 2026-MOD-004
Address: 8133 East 96th Street (approximate addresses)
Location: Lawrence Township, Council District #4
Zoning: C-4
Petitioner: French Associates LLC, by Ashley Wallis
Request: Modification of Commitments related to 95-Z-55 (1995-0116318), to modify Commitment #2, to permit development that is consistent and generally in conformance with the submitted site plan, file-dated August 2, 2025 (current commitment limits development to site plan file dated August 22, 1995).
Staff Recommendations: Approval
Current Land Use: Vacant commercial building
Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was continued from the June 25, 2026, hearing, to the August 13, 2026 hearing, so that legal notice requirements can be met.

STAFF RECOMMENDATION

Staff recommends **approval** of the request.

PETITION OVERVIEW

LAND USE

This 1.55-acre site is comprised of a vacant commercial building on a parcel zoned C-4. The site is surrounded by commercial uses, all zoned C-4 in Marion County.

This site was included in petition 95-Z-55 that rezoned 49.60 acres from the C-6 and I-2-S districts to the C-4 district to provide for office and commercial uses.

Petition 95-Z-55 was subject to commitments. Commitment #2 required “the site shall be developed in substantial compliance with the site plan, file dated August 22, 1995.”

MODIFICATION

The request would modify Commitment #2 and the site plan file-dated August 22, 1995, related to 95-Z-55, to allow for the proposed development and the associated site plan file-dated August 2, 2025.

STAFF ANALYSIS

Staff is supportive of the modification because it would allow for development in line with the context of the surrounding area.

GENERAL INFORMATION

Existing Zoning	C-4		
Existing Land Use	Vacant Commercial Building		
Comprehensive Plan	Regional Commercial		
Overlay	N/A		
Surrounding Context		Zoning	Surrounding Context
	North:	Hamilton County	Commercial
	South:	C-4	Commercial
	East:	C-4	Commercial
	West:	C-4	Commercial
Thoroughfare Plan			
	East 96 th Street	Local Street	48-foot existing and proposed right-of-way.
Context Area	Metro		
Floodway / Floodway Fringe	N/A		
Wellfield Protection Area	N/A		
Site Plan	August 7, 2025		
Elevations	N/A		
Landscape Plan	N/A		
Commitments	April 27, 2026		
Findings of Fact	N/A		
C-S / D-P Statement	N/A		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

Marion County Land Use Plan Pattern Book.

Pattern Book / Land Use Plan

The Marion County Land Use Plan Pattern Book recommends this site to the Regional Commercial working typology for provide for general commercial and office uses that serve a significant portion of the county rather than just surrounding homes. Uses are typically in large freestanding buildings or integrated centers and should provide pedestrian connection between buildings.

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)

Not Applicable to the Site.

ZONING HISTORY

2026-DV3-004; 8133 East 96th Street (subject site) Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an automobile fueling station and convenience store with deficient facade transparency, per plans submitted, **granted**.

2025-CPL-861 / 2025-CVR-861; 9425 Hague Road (west of site), Approval of a Subdivision Plat, to be known as Waffle House Addition, dividing 1.65 acres into two lots, and a Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of a restaurant with 32 parking spaces, **approved**.

1995-Z-55; 8377 East 96th Street (includes subject site); Rezone 36.82 acres from I-2-S to the C-4 District, **approved**.

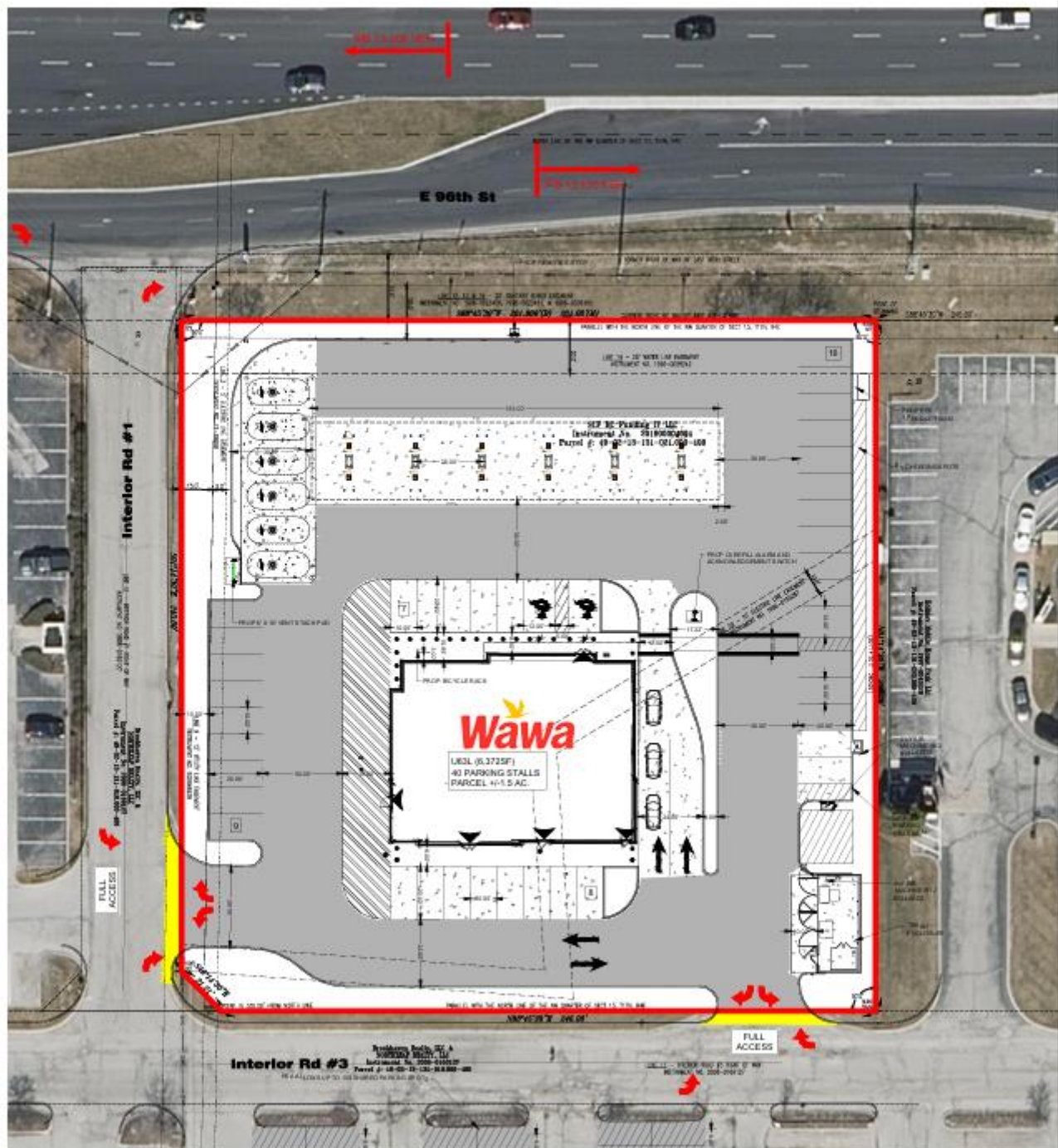
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EXHIBITS

LOCATION MAP



PROPOSED SITE PLAN - FILE DATED AUGUST 2, 2025



PROPOSED COMMITMENTS

STATEMENT OF MODIFICATION OR TERMINATION OF COVENANTS OR COMMITMENTS

COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION OR SPECIAL EXCEPTION PETITION

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

Legal Description:

The Land referred to herein below is situated in the County of Marion, State of Indiana, and is described as follows:

Part of the Northwest Quarter of Section 13, Township 17 North, Range 4 East located in Lawrence Township, Marion County, Indiana, being bounded as follows:

Commencing the Northeast corner of the Northwest Quarter of Section 13, Township 17 North, Range 4 East; thence South 88 degrees 45 minutes 30 seconds West (assumed bearing) 12.41 feet along the North line of said Northwest quarter; thence South 01 degree 29 minutes 09 seconds East 54.07 feet to the point of curvature of curve to the right, said point of curvature being North 88 degrees 30 minutes 51 seconds East 697.50 feet from the radius point of said curve; thence Southerly 15.93 feet along said curve to a point being 70.00 feet (measured perpendicular in a Southerly direction) from the North line of said Northwest quarter, said point being North 89 degrees 49 minutes 22 seconds East 697.50 feet from the radius point of said curve; thence South 88 degrees 45 minutes 30 seconds West 245.00 feet parallel with the North line of said Northwest quarter to the point of beginning of this description; thence South 88 degrees 45 minutes 30 seconds West 261.900 feet parallel with the North line of said Northwest quarter; thence South 01 degree 14 minutes 30 seconds East 245.00 feet perpendicular to the North line of said Northwest quarter; thence South 46 degrees 14 minutes 30 seconds East 21.21 feet to a point being 330.00 feet (measured perpendicular in a Southerly direction) from the North line of said Northwest quarter; thence North 88 degrees 45 minutes 30 seconds East 246.00 feet parallel with the North line of said Northwest quarter to a point being South 01 degree 14 minutes 30 seconds East (perpendicular to the North line of said Northwest quarter) of the point of beginning; thence North 01 degree 14 minutes 30 second West 260.00 feet perpendicular to the North line of said Northwest quarter to the point of beginning.

The property described above is one and the same as contained in First American Title Insurance Company's Commitment No. NCS-1286466-PHIL, dated November 21, 2025. Prior Instrument Reference: Instrument Number A201900064914

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Modify commitment number 2 in the Statement of Commitments recorded as Instrument 1995-0116318 at the Office of the Recorder of Marion County, Indiana; original commitments; to permit the development consistent and generally in conformance with the submitted site plan. The site plan is dated August 7, 2025.

2. _____

ORIGINAL COMMITMENTS

COMMITMENTS

NOTE: Article VII, Section 3(b) of the rules of the Metropolitan Development Commission requires use of this form in recording Commitments made with respect to zoning and approval cases in accordance with I.C. 36-7-4-605. Resolution No. 85-R-69, 1985 and Article III, Section 4 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. 36-7-4-605, 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: SET OUT IN ATTACHMENT "B" HERETO

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 shall be developed in substantial conformance with the site plan, file dated August 22, 1995, a copy of which is attached hereto as Attachment "C".
3. All public roadway improvements required by the Memorandum of August 16, 1995, from Maurice Geisendorff shall be completed prior to the opening of any business, a copy of which is attached hereto as Attachment "D".
4. All semi-trucks shall be required to enter and exit the subject real estate by way of 96th Street, Hague Road or Castlegate Drive. Except as otherwise permitted in paragraph 5, no such traffic shall be permitted to access Village Way.
5. Construction traffic shall not be permitted on Village Way except for the completion of the east end of the thru-street proposed from Castlegate Drive to Village Way, and any road utility or landscaping improvements to be made to Village Way.
6. The site shall be developed in accordance with the transportation-related commitments outlined in the memorandum from the Department of Capital Asset Management (DCAM) to the Department of Metropolitan Development (DMD), dated August 16, 1995, authored by Maurice Geisendorff and directed to Maury Plambeck. However, per the request of DCAM and the Town of Fishers the following provisions shall amend the corresponding provisions of the August 16, 1995 memorandum:

II.a. the median shall be designed to provide access at the signalized intersection/entrance to the site (shown as Meijer Drive on site plan)

IV.a. the signal shall also be at no cost to the Town of Fishers.

However, owner shall dedicate up to 55' from the centerline of Hague Road where necessary and up to 70' from the centerline of East 96th Street to the appropriate governmental entities. All final details shall be subject to DCAM approval.

7. Site drainage and erosion shall be in conformance with the requirements of the DCAM, as outlined in the memorandum from DCAM to DMD, dated August 7, 1995, a copy of which is attached hereto as Attachment "E".

8. A final landscaping plan shall be submitted for Administrator's review and approval prior to obtaining an Improvement Location Permit. The landscaping plan shall indicate the location, species and number of trees and shrubs proposed at time of planting, as well as the dimensions of proposed berms. The landscaping on the site may be phased, but landscaping for each individual site shall be installed prior to opening of any individual business within each phase. Landscaping shall be maintained and replaced at all times after installation when necessary.

9. A lighting plan shall be submitted for review prior to obtaining any Improvement Location Permits. The plan shall be designed to achieve an average measurement of zero foot-candles generated by artificial light from the property along the east property line except as otherwise reasonably required for public safety.

10. The building elevations for the Meijer store including the 13 foot wall shall be submitted for Administrator's review and approval prior to obtaining an Improvement Location Permit for their facility. The exterior shall be a brick facade similar to the Meijer store located in Carmel, Indiana. The mechanical equipment to be located on the roof of the Meijer store shall be located so that it is not visible from Village Way. A parapet wall, at least three (3') feet in height shall be installed along the east and south roof line of the Meijer store. The decibel level of the roof top HVAC units, as measured from the east side of Village Way, will be no higher than the existing ambient levels along the east side of Village Way.

11. Outside speakers (not including speakers for gas stations, restaurants and drugstores) shall be expressly prohibited, however, speakers shall be permitted inside of the garden center structure. Those garden center speakers shall be directed away from the residential development on Village Way. The decibel level of the speakers, as measured from the east side of Village Way, will be no higher than the existing ambient levels along the east side of Village Way.

12. A sign program for the entire site shall be submitted for Administrator's review and approval prior to obtaining an Improvement Location Permit for any signs. Separate sign programs may be submitted for the C-4 and the C-1 sites. Each of the C-4 and C-1 sites shall be considered an integrated center. For the C-4 site, only incidental and directional signs (freestanding or wall types permitted) shall be permitted to be oriented toward Village Way. There shall be no business identification or advertising signs on the east side of the Meijer building.

13. There shall be a six foot (6') landscape mound installed along the west side of Village Way behind the proposed Meijer store. Said mound shall be landscaped per the landscape plan reviewed by the Administrator as referred to in paragraph 8 above.

14. Outside sale of motor vehicles shall be prohibited.

15. All construction and/or reconfiguration of confirmed wetland, if any, shall be prohibited during the water fowl migratory season.

16. Outside unenclosed storage shall only be permitted in front of the Meijer store.

17. The access to Village Way shall be limited to ingress only and shall not be opened for vehicular traffic until the opening of the Meijer store. If requested by DCAM, owners shall install a traffic signal at the access point on Village Way. The southwest corner of the Village Way entrance shall be terraced and landscaped per the landscape plans to be approved.

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

COMMITMENTS contained in this instrument shall be effective upon the adoption of rezoning petition #95-2-54 by the City-County Council changing the zoning classification of the real estate from a C-6/I-2-S zoning classification to a C-4 zoning classification and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the C-4 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; and
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 the 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); and
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).

The undersigned hereby authorizes the Division of Development Services of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition #95-2-54.

IN WITNESS WHEREOF, owner has executed this instrument this 11 day of Sept, 1995.

Signature Kevin McKesson Signature _____

BY: Printed Kevin McKesson Printed _____
AUTHORIZED AGENT

Glendale Partners at Fairfield Crossing, LLC

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

Before me, a Notary Public, in and for said County and State,
personally appeared Karin D. McKasson agent (s) 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 11th day of SEPT.

Signature Thomas Michael Quinn

Printed Thomas Michael Quinn

County of Residence:
Hamilton

My Commission Expires:
12-6-95

This instrument prepared by Thomas Michael Quinn, Attorney at Law
tmq\doc\bm04.com

PHOTOS



Subject site, existing building to be demolished, looking southeast.



Subject site, existing building to be demolished, looking southeast.



Adjacent commercial to the west of subject site.



Adjacent commercial to the east of subject site.