

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-010
Address: 1102 West 16th Street and 1633 Rembrandt Street (*Approximate Address*)
Location: Center Township, Council District #11
Zoning: I-3 (W-1)
Petitioner: Michaelis Development, LLP, by Stephanie J. Truchan
Request: Modification of the Commitments related to 85-Z-8 to terminate Commitment #3, which restricted the use of the site to an industrial coating operation.

RECOMMENDATIONS

Staff has **no recommendation** for this request.

However, staff would request that approval be subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

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 / receptables provided for the proper disposal of trash and other waste.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ This 2.02-acre site, zoned I-3 (W-1) is comprised of two parcels bisected by and north / south alley and developed with industrial uses. It is surrounded by undeveloped land and a single-family dwelling to the north, zoned D-5 (W-1) and C-1 (W-1), respectively; commercial uses to the south, across West 16th Street, zoned CBDS (RC)(W-1) and C-7 (RC)(W-1); a day care facility and single-family dwelling to the east, across Montcalm Street, zoned C-7 (W-1) and C-1 (W-1), respectively; and industrial uses to the west, across Rembrandt Street, zoned C-7 (W-1) and D-5 (W-1).
- ◇ Petition 85-Z-8 rezoned the site from the C-7 district to the I-3-U (currently I-3) classification, subject to recorded commitments Instrument Number 850015242. See Exhibit A.
- ◇ Petition 2004-ZON-037 rezoned the northern portion of the site addressed as 1633 Rembrandt Street from the D-5 (W-1) district to the I-3 U (W-1) classification and petition 2004 DV3-012 provided for reduced side yard setbacks and parking / access drive within the transitional yard.

(Continued)

STAFF REPORT 2023-MOD-010 (Continued)

MODIFICATION

- ◇ This request would modify Commitments related to 85-Z-8 to terminate Commitment #3, which restricted the use of the site to an industrial coating operation.
- ◇ The commitment restricting the use to an industrial coating operation was requested by the Hearing Examiner in response to remonstrators who expressed concerns about the impact of industrial uses on the residential neighborhood. Because staff played no role in the negotiation of this subject commitment, staff would ordinarily provide no recommendation under such circumstances. Staff would note, however, that the recommendation of approval of the rezoning by the Hearing Examiner was contingent upon the commitment that limited the use to an industrial coating operation.
- ◇ The Comprehensive Plan recommends light industrial typology. “The Light Industrial typology provides for industrial, production, distribution, and repair uses conducted within enclosed structures and unlikely to create emissions of light, odor, noise, or vibrations. This typology is characterized by freestanding buildings or groups of buildings, often within industrial parks. Typical uses include warehousing, self-storage, assembly of parts, laboratories, wholesaling, and printing. Industrial or truck traffic should be separated from local/residential traffic.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods and serves as a policy guide for development or redevelopment of a site.
- ◇ The following elements of the Pattern Book apply to this site:

Light Industrial Uses

- Industrial truck traffic should not utilize local, residential streets.
- Streets internal to industrial development must feed onto an arterial street.
- Removed as a recommended land use where they would be adjacent to a living or mixed-use typology.

Heavy Commercial Uses

- Removed as a recommended land use where they would be adjacent to a living typology.

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.

(Continued)

STAFF REPORT 2023-MOD-010 (Continued)

◇ 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.

Wellfield Protection Secondary Zoning

- ◇ A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.
- ◇ There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. All development within these districts is subject to Commission approval. The filing of a site and development plan is required and subject to approval, on behalf of the Commission, by a Technically Qualified Person (TQP), unless exempted by the Ordinance.
- ◇ “Because of the risk that hazardous materials or objectionable substances pose to groundwater quality, it is recognized that the further regulation of the manufacturing of, handling, transfer, disposal, use or storage of hazardous materials or objectionable substances related to nonresidential use activities is essential in order to preserve public health and economic vitality with Marion County.”
- ◇ All uses permitted in the applicable primary zoning district shall be those uses permitted in the W-1 and W-5 zoning districts, unless otherwise prohibited by the Ordinance, and provided no other secondary zoning district prohibits the use.

(Continued)

STAFF REPORT 2023-MOD-010 (Continued)

- ◇ “No building, structure, premises or part thereof shall be altered, constructed, converted, erected, enlarged, extended, modified, or relocated except in conformity with this Section, and not until the proposed Site and Development Plan has been filed with and approved on behalf of the Commission by the Technically Qualified Person (TQP). Regulations found in Chapter 742, Article II, Section 4 shall apply to all land within the Wellfield Protection Zoning Districts. The entire site shall be subject to review by the TQP. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.”
- ◇ The subject site is located within the W-1 White River wellfield protection area and any use or development within a wellfield protection district would be subject to the Technically Qualified Person (TQP) review and approval, unless and until the property owner provides sufficient justification that the type of use, type of facility, and chemical quantity limits, independent of the land use would be exempt from the requirements for filing a development plan. Otherwise, a development plan would be required to be filed and approved on behalf of the Metropolitan Development Commission by the (TQP). Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

Procedural Note

- ◇ Staff would highly recommend that the petitioner and / or their representative contact the TQP prior to conducting any operation on this site.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

I-3 (W-1) Industrial uses

SURROUNDING ZONING AND LAND USE

North -	D-5 (W-1) / C-1 (W-1)	Undeveloped land / single-family dwelling
South -	CBDS (RC)(W-1) / C-7 (RC) (W-1)	Commercial uses
East -	C-7 (W-1) / C-1 (W-1)	Day care facility / single-family dwellings
West -	C-7 (W-1) / D-5 (W-)	Industrial uses

(Continued)

STAFF REPORT 2023-MOD-010 (Continued)

COMPREHENSIVE PLAN	The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends light industrial typology. Marion County Land Use Pattern Book (2019).
THOROUGHFARE PLAN	This portion of West 16th Street is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing-90-foot right-of-way and a proposed 78-foot right-of-way. This portion of Montcalm Street is designated in the Marion County Thoroughfare Plan as a local street, with an existing 50-foot right-of-way and a proposed 48-foot right-of-way. This portion of Rembrandt Street is designated in the Marion County Thoroughfare Plan as a primary arterial, with an existing 50-foot right-of-way and a proposed 478-foot right-of-way.
CONTEXT AREA	This site is located within the compact context area.
OVERLAY	There is no overlay for this site.
WELLFIELD PROTECTION DISTRICT	This site is located within the Wellfield Protection Secondary District, specifically the W-1 White River.

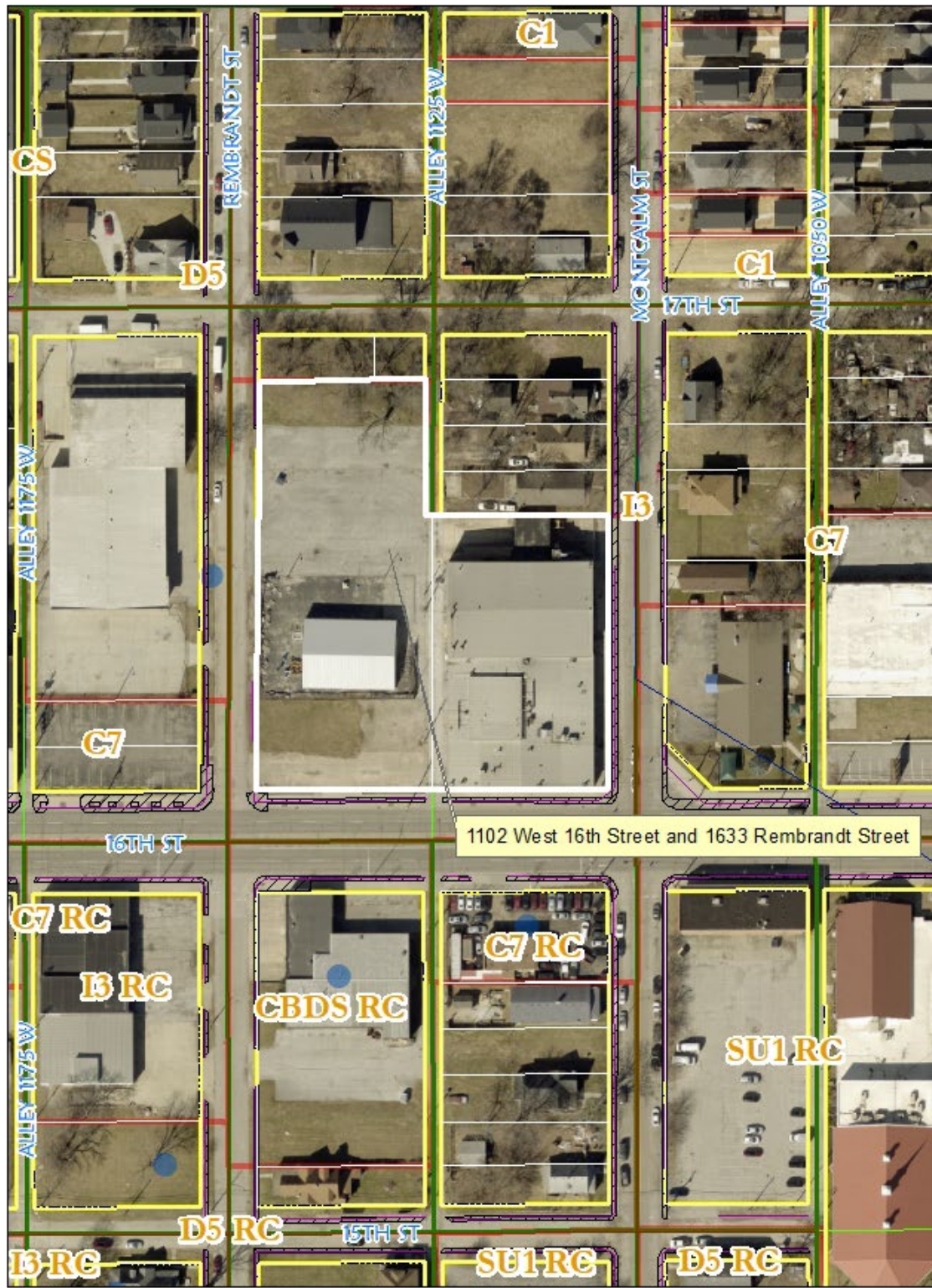
ZONING HISTORY

2004-ZON-037; 1633 Rembrandt Street, requested rezoning 0.13 acre, being in the D-5 (W-1) district, to the I-3-U (W-1) classification to provide for a construction contractor's office, **approved**.

2004-DV3-012; 1633 Rembrandt Street, requested a variance of development standards of the Industrial Zoning Ordinance to provide for a 5,225-square foot remodeling contractor's office with a 13-foot north side yard setback with parking and an access drive located within the west transitional yard, **granted**.

85-Z-8; 1102 West 16th Street, requested rezoning of 1.48 acres from the C-7 district to the I-3-U classification to provide for the reuse of the existing structure for an industrial coating shop, **approved**.

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1102 West 16th Street and 1633 Rembrandt Street



1102 West 16th Street & 1633 Rembrandt Street

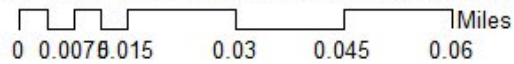


EXHIBIT A

850015242

~~EXHIBIT A~~

Jan 1-24-85
350
(2)

NOTE: Article VI, 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. 36-7-4-607

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. 36-7-4-607, 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: Lots 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, and 37 in Kothe & Lieber's Addition to the City of Indianapolis, as per plat thereof recorded in Plat Book 79, Page 29, in the office of the Recorder of Marion County, Indiana

Statement of COMMITMENTS:

1. Owner agrees that all storage of materials and/or products will be within completely enclosed buildings.
2. Owner agrees that it will not store or use toxic or hazardous materials on the subject real estate.
3. Owner agrees that it will use the subject real estate solely for the operation of an Industrial Coating Shop and uses related thereto.

RECORDED FOR RECORD
BUT NOT INDEXED
RECORDED-MARION CO.
MAR 1 3 1985

The COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. 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 85-2-8 by the City-County Council changing the zoning classification of the real estate from a C-7 zoning classifications to the I-3-U zoning classification.

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 real estate entirely located outside Marion County are not included, however. The identity of

RECORDED
MAR 1 1985
MARION COUNTY

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).

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 #85-2-8.

IN WITNESS WHEREOF, Owner has executed this instrument this 28th day of January, 1985.

NAOMI R. GALYAN

BY: DAVID H. KOSENE, ATTORNEY-
IN-FACT

David H. Kosene, Attorney-in-Fact
David H. Kosene, as attorney-in-
fact for Naomi R. Galyan

STATE OF INDIANA)
COUNTY OF MARION) SS:

#85-14427 P.O.A.

Before me, a Notary Public in and for said County and State, personally appeared David H. Kosene, attorney in fact for Naomi R. Galyan, owner of the real estate, who acknowledged the execution of the foregoing instrument for and on behalf of Naomi R. Galyan, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 28th day of January, 1985.

Signature *Julie A. Baker*

Printed Julie A. Baker

Notary Public

My Commission Expires:

May 20, 1988

County of Residence:

Hamilton

850015242

This instrument was prepared by Zeff A. Weiss, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, IN 46282.

Authorization For Zoning Petition

The undersigned, owners of the Real estate described on the attached exhibit A do, hereby grant authority to Jeff A. Weiss or assigns to act as Attorney in Fact in all necessary matters concerning the rezoning or variance on property or any part of said real estate described on attached exhibit A and acquiring of all permits necessary for purchasers specific use.

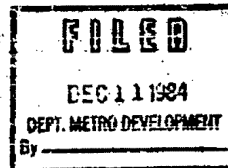
It is understood that any fees or other costs necessary in the executing of this grant of authority will not be paid by the undersigned.

Dated: 11/26/84

Julia A. Baker
witness

David H. Kosene for Naomi R. Galyan
David H. Kosene for Naomi R. Galyan- Pursuant to a limited Power of Attorney

EXHIBIT A



85-2-8

1102-06 West 16 th St.
Lots 25,26,27,28,29,30,33,34,35,36 and 37 in
Kothe & Litter's addition to the City of Indianapolis
as recorded in the Office of the Recorder, of Marion
County Indiana.



View looking east along West 16th Street



View looking west along West 16th Street



View looking north along Rembrandt Street



View looking south along Rembrandt Street



View of site looking west across Montcalm Street



View of site looking southwest across Montcalm Street



View of site looking southeast along north / south alley



View of site looking east across north / south alley



View of site looking south along north / south alley



View of site looking south



View from site looking north into adjacent land uses



View from site looking north along north / south alley



View of site looking east across Rembrandt Street



View of site looking east across Rembrandt Street



View of site looking east across Rembrandt Street



View of site looking north across West 16th Street



View of site looking north across West 16th Street