



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

December 12, 2024

Case Number: 2024-MOD-018
Property Address: 2345 Enterprise Park Place
Location: Center Township, Council District #8
Petitioner: JVS Transport, LLC, by David Gilman
Current Zoning: C-S
Request: Modification of Commitments, related to 2003-ZON-840, to modify Commitment Number Two (Attachment "B") Numbers Three and Five, to provide for the outdoor storage and display of heavy equipment on Lots Five, Six, and Seven (current commitment prohibits outdoor storage and display of heavy equipment)
Current Land Use: Industrial Park
Staff Recommendations: Denial
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued this petition from the November 14, 2024 hearing, to the December 12, 2024 hearing, at the request of the petitioner's representative. No new information has been submitted to the file.

STAFF RECOMMENDATION

Denial. If approved, staff would request that approval be 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. Final site plan and elevations shall be submitted for Administrator Approval prior to the issuance of an Improvement Location Permit (ILP).
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 / receptables provided for the proper disposal of trash and other waste.
3. The existing asphalt path along Enterprise Park Place frontage shall be removed and replaced with a concrete sidewalk in accordance with the standards of the Department of Public Works.
4. Outdoor display area shall be paved and striped prior to any placement of outdoor storage or display.

PETITION OVERVIEW

This 6.868-acre site, zoned C-S, is comprised of three lots that are included in a 44.464-acre industrial park. It is surrounded by industrial uses to the north, east and west, zoned C-S and a railroad right-of-way to the south, zoned I-3.

Petitions 2004-ZON-840 / 2004-PLT-840 rezoned the site to provide for an industrial park with limited commercial and industrial uses permitted at specific locations and a subdivision plat dividing the site into five blocks.

Petition 2020-MOD-015 modified commitments Three, Five and Six of 2003-ZON-840 to provide for a trucking company headquarters and fleet terminal with the repair and servicing of vehicles.

Modification

This request would modify commitments associated with the 2004 rezoning that would modify Commitment Number Two (Attachment “B”) and Numbers Three and Five to provide for the outdoor storage and display of heavy equipment on Lots Five, Six, and Seven. See Exhibit A and B.

The Comprehensive Plan recommends light industrial described as industrial uses that create minimal emissions of light, odor, noise, or vibrations. Examples include warehousing and logistics facilities. These land uses do not use, store, produce, emit, or transport hazardous materials.

As proposed, this request would not be consistent with the light industrial recommendation because all industrial uses are conducted within enclosed structures within this typology. The site plan, file dated October 11, 2024, provides for outdoor display on Lots Five and Six.

The permitted I-1-U uses on Lots Five and Six at the time of the 2003 rezoning did not include outdoor storage and the Commitments prohibited outdoor storage on Lot Seven. See Exhibit C.

When the site was developed approximately 20 years ago expectations were established that would provide for quality development within the industrial park. Tenants within this industrial park, as well as surrounding neighbors, contemplated that those standards would be maintained, and development would occur that would be consistent with and controlled by the commitments.

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.

GENERAL INFORMATION

Existing Zoning	C-S	
Existing Land Use	Industrial uses	
Comprehensive Plan	Light Industrial	
Surrounding Context	<u>Zoning</u>	<u>Land Use</u>
	North:	C-S Industrial uses
	South:	I-3 Railroad right-of-way
	East:	C-S Industrial uses
	West:	C-S Industrial uses
Thoroughfare Plan		
South Sherman Drive	Local Street	Existing 70-foot right-of-way and proposed 48-foot right-of-way.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	October 11, 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 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.”

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:
- *Light Industrial Uses – Light Industrial Typology*
 - 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.

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

2020-MOD-015; 2345 Enterprise Park Place, requested modification of Commitments Three, Five and Six of 2003-ZON-840 with respect to use exclusions, to provide for a trucking company headquarters and fleet terminal with the repair and servicing of vehicles (I-1, I-3 and I-4 uses, with exclusions permitted, respectively), **approved**.

2015-MOD-008; 2365 Enterprise Park Place, requested modification of commitments to modify Commitment One of Petition 2003-ZON-840, as modified by 2007-APP-151 and 2010-MOD-013 to provide for I-1U and I-2-U uses on Lot 3 of Block E (C-3 uses permitted), **approved**.

2010-MOD-013; 2330, 2345 and 2355 Enterprise Park Place and 2501 Enterprise Park Drive, requested a modification of Commitments, related to petition 2007-APP-151 and 2003-ZON-840: to modify Item Two (2) of Attachment "B" of Commitment One of Instrument Number 2007-0171217 of 2007-APP-151 to permit I-1 and I-2 uses on Lots 4, 5, 6 and 7 (2345 and 2355 Enterprise Park Place) of Block "E" (previous commitment permitted only C-4 uses) and to permit outside storage of materials on those lots, subject to Administrative Approval, to terminate Commitment Three of Instrument Number 2007-0171216 of 2007-APP-151 of sidewalk along Keystone Avenue (previous commitment requires sidewalk along entire Keystone frontage), to modify Items One (1) of Attachment "B" of 2003-ZON-840 (Instrument # 2004-0190699) and 2007-APP-151 (Instrument # 2007-0171217) to provide for I-1-U and C-1 uses, with no outside storage or operations, on Block "C" (Lot 2 – 2501 Enterprise Park Drive) and a portion of Block "B-2" (Lot 1 – 2330 Enterprise Drive) (previous commitment permitted C-3 uses, with exclusions), **approved**.

2007-APP-151; 2301 Enterprise Park Place, requested approval petition to modify commitments, associated with 2003-ZON-840, to replace commitments regarding permitted uses on lots four, five, six and seven, to allow for all C-4 uses, **approved**.

2003-ZON-840 / 2003-PLT-840; 2115 –2150 North Keystone Avenue, 2215-2236 North Tacoma Avenue, 2154-2222 Winter Avenue, 2219-2223 Bellis Street, 2100-2223 Greenbriar Lane, 2129-2205 Jefferson Avenue, 2162-2247 North Temple Avenue, 2218-2266 Eastern Avenue, 2205-2248 East Pruitt Street, requested rezoning of 44.464 acres, being in the D-5, I-3-U, I-4-U and SU-1 Districts, to the C-S classification to provide for an industrial park with limited C-3, C-4, C-I-D, I-1-U, I-2-U and I-3-U uses and approval of a subdivision plat to be known as Keystone Enterprise Park, Phase Two, dividing 44.464 acres into five blocks, **approved**.



Department of Metropolitan Development
Division of Planning
Current Planning

2002-ZON-837 / 2003-PLT-837, 2311 North Temple Avenue (north of subject site), requested rezoning of 36.109 acres from D-5 and SU-1 to C-S to provide for a mixed use industrial park, including light industrial, retail and hospitality uses, and requested plat approval of an industrial park to be known as Keystone Enterprise Park, Phase I, a replat of Lots 1-6 in Wilder's Subdivision, all Lots in Arthur V. Brown's Oak Hill Subdivision, all Lots in Hillside Terrace, et al, dividing 36.109 acres into four blocks, **approved.**

2345 Enterprise Park Place

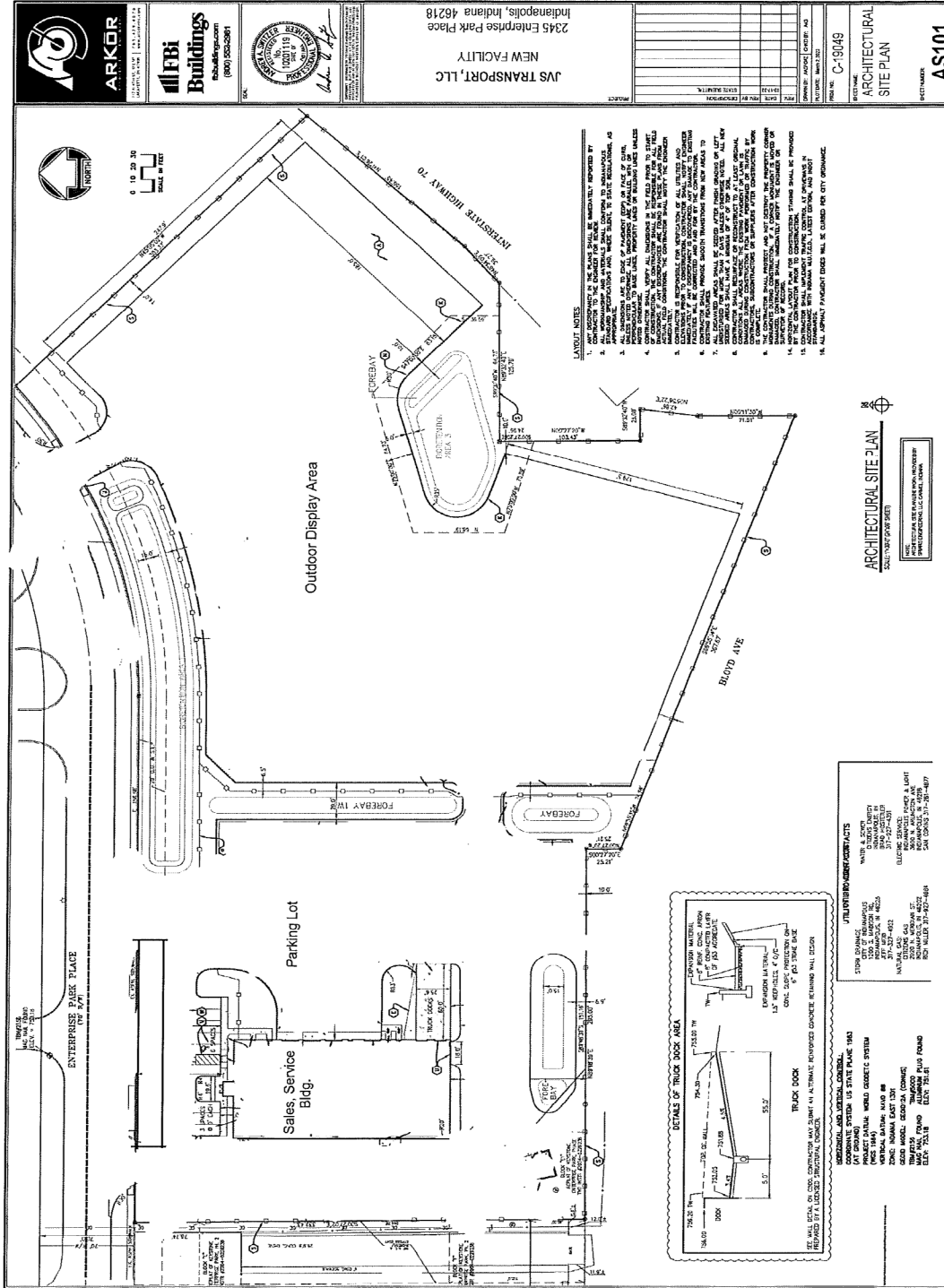


EXHIBIT A

MS

RECEIVED FOR RECORD

2003 DEC 10 AM 10:37

WALTER W. STEIN
 MARION COUNTY RECORDER

STATEMENT OF COMMITMENTS

2003-0262005
 2003-ZON-840

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 #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: (insert here or attach)

From Indianapolis Union RR right of way North 775'
 and Hillside Avenue East to Keystone Way.

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. Please see Attachment "B"
3. _____
4. _____
5. _____

FILED
 AUG 01 2003
 DEPT METRO DEVELOPMENT
 BY _____

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 #2003-ZON-840 by the City-County Council changing the zoning classification of the real estate from a D-5, I-3 zoning classification to a C-S zoning classification; or I-4-U and SU-1
- (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 _____ 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
4. _____

The undersigned hereby authorizes the Division of Planning 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 # 2003-ZON-840.

IN WITNESS WHEREOF, owner has executed this instrument this 1st day of August, 2003.

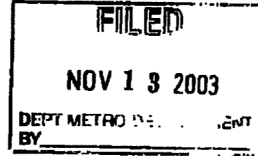
Signature: Margaret Lawrence Banning Signature: _____
 Printed: Margaret Lawrence Banning Printed: _____
 STATE OF INDIANA)
) SS:
 COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared _____, owner(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
1 day of August, 2009
[Signature]
 Notary Public
Tom H. Hays
 Printed Name of Notary Public
 My Commission expires: 8-29-2009
 My County of residence: Marion

This instrument was prepared by Margaret Banning
 MDC's Exhibit B -- page 3

ATTACHMENT "B"
 Revised 11/12/03



A C-S zoning classification is desired for this industrial, commercial and office park. The following uses and exclusions are proposed.

For all lots the following exclusions:

- 1) For lots 1, 2, 3 & 4, C-3 classification with the following exclusions:
 - A.5. – Drinking Place (Bar or Tavern)
 - A.7. – Emergency Shelter
 - A.15. – Liquor Store (Package)
 - A.19. – Temporary Seasonal Retail Sales
- 2) For lot 4, also a C-4 classification excluding everything but A.14. (hotel, motel or tourist court)
- 3) For lots 5 & 6, I-1-U classification with the following exclusions*:
 - A.1. – Agricultural Uses
 - A.20. – Wireless Communication Facility
- 4) For lots 17, 18, 19 and Outlots A & B, I-2-U classification with the following exclusions*:
 - A.1. (I-1-U) – Agricultural Uses
 - A.2. – Antennae or support structures, unless accessory to the primary use.
 - A.20. (I-1-U) – Wireless Communication Facility
- 5) For lot 7 and the Thompson Piping property, I-3-U classification with the following exclusions*:
 - A.1. (I-1-U) – Agricultural Uses
 - A.2. (I-2-U) – Antennae or support structures, unless accessory to the primary use.
 - A.5. – Electric Transmission & Distribution
 - A.6. – Electroplating Operations
 - A.9. – Manufacture, Assembly or Repair of:
 - e. – colors, dyes, lacquers, paints, varnishes and other coating
 - p. – natural gas transmission and distribution
 - A.10. – Motor Truck Terminals
 - A.11. – Power Plant; Electric, Steam, Thermal
 - A.12. – Propane Gas Storage
 - A.16. – Sand Blasting
 - A.18. – Storage of Heavy Equipment
 - A.20. (I-1-U) – Wireless Communication Facility

- 6) For lots 8, 9, 10 & the Mid-State Chemical property, I-4-U classification including all uses permitted by Special Exception, with the following exclusions*:

- A.1. (I-1-U) – Agricultural Uses
- A.2. (I-2-U) – Antennae or support structures, unless accessory to the primary use.
- A.5. – Electric Transmission & Distribution
- A.6. – Electroplating Operations
- A.9. – Manufacture, Assembly or Repair of:
 - e. – colors, dyes, lacquers, paints, varnishes and other coating
 - p. – natural gas transmission and distribution
- A.10. – Motor Truck Terminals
- A.11. – Power Plant; Electric, Steam, Thermal
- A.12. – Propane Gas Storage
- A.16. – Sand Blasting
- A.18. – Storage of Heavy Equipment
- A.20. (I-1-U) – Wireless Communication Facility

- 7) 11 through 15, I-3-U classification with the following exclusions*:

- A.1. (I-1-U) – Agricultural Uses
- A.2. (I-2-U) – Antennae or support structures, unless accessory to the primary use.
- A.5. – Electric Transmission & Distribution
- A.6. – Electroplating Operations
- A.9. – Manufacture, Assembly or Repair of:
 - e. – colors, dyes, lacquers, paints, varnishes and other coating
 - p. – natural gas transmission and distribution
- A.10. – Motor Truck Terminals
- A.11. – Power Plant; Electric, Steam, Thermal
- A.12. – Propane Gas Storage
- A.16. – Sand Blasting
- A.18. – Storage of Heavy Equipment
- A.20. (I-1-U) – Wireless Communication Facility

*For all lots designated with an industrial classification, in order to maximize flexibility there could also be an overlay of all C-ID classifications except for the following:

- A.1. – Auctioneering Service.
- A.2. – Automobile Storage
- A.3. – Automobile (Car) Wash
- A.4. – Boat Dealer
- A.6. – Bus or Truck Maintenance, Rustproofing or Washes
- A.12. – Farm Equipment
- A.13. – Fireworks Display Service
- A.14. – Fuel Dealers
- A.16. – Industrial Laundry or Dry Cleaning Plant
- A.17. – Linen Supply

-
- A.19. – Photofinishing Laboratory**
 - A.20. – Recreational Vehicle Dealer**
 - A.23. - Taxidermy**
 - A.24. – Temporary Seasonal Retail Sales**
 - A.28. – Other Uses Similar and Comparable in Character to the Above Excluded Uses.**

EXHIBIT B

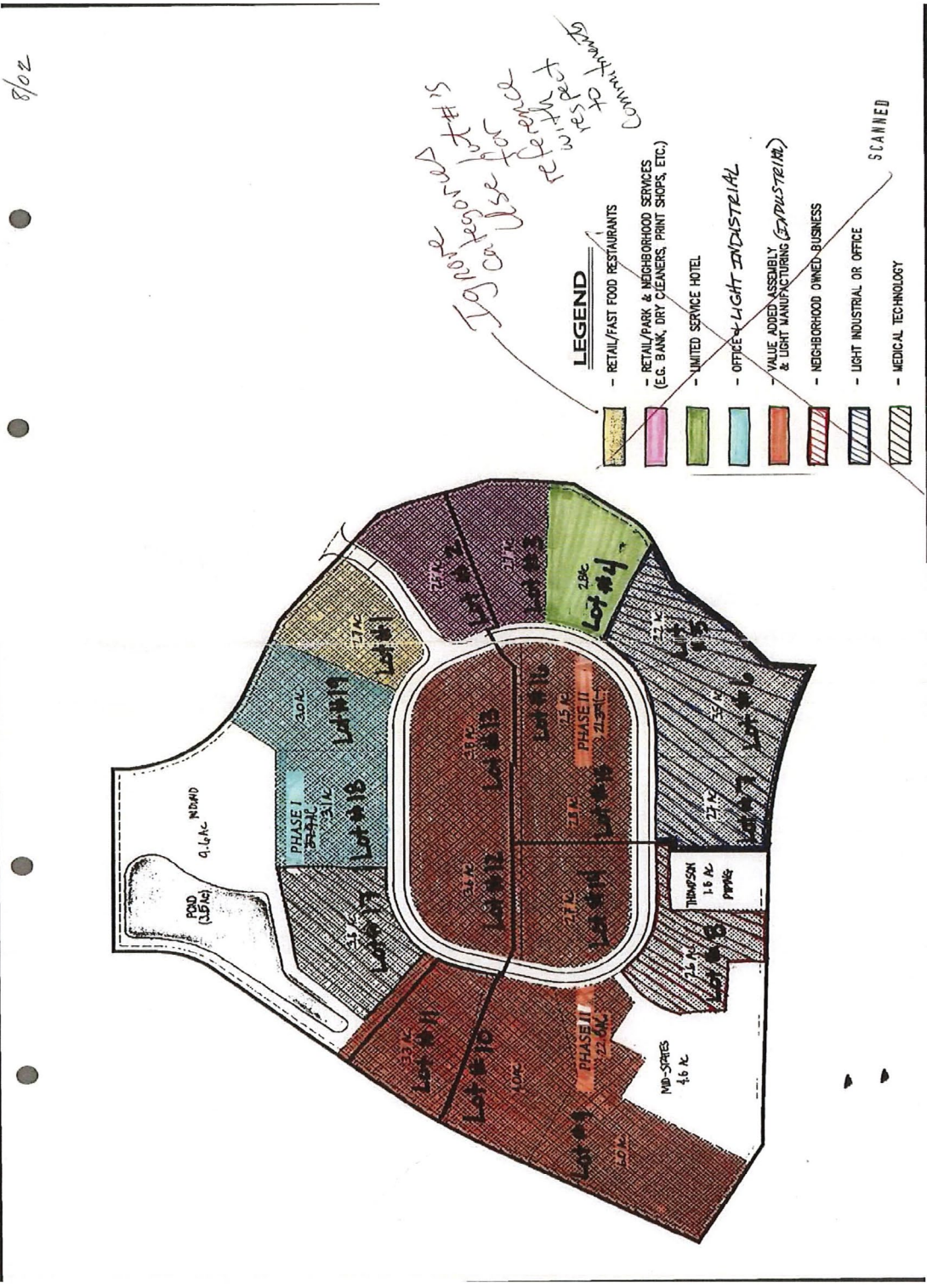


EXHIBIT C

Chapter 733 Industrial Districts Zoning Ordinance – City of Indianapolis

Sec. 733-201. I-1-S and I-1-U uses.

(a) Permitted I-1-S and I-1-U uses. The following uses shall be permitted in the I-1-S and I-1-U Districts. All permitted uses located in an I-1-S District shall conform to the I-1-S development standards (section 733-202(a)) and I-1-S performance standards (section 733-202(b)). All permitted uses in an I-1-U District shall conform to the I-1-U development standards (section 733-206(a)), and I-1-U performance standards (section 733-206(b)).

- (1) Agricultural uses, buildings and structures, including associated dwelling structures.
- (2) Data processing or analysis.
- (3) Day care center, subject to all state and local requirements for the location and operation of such facility.
- (4) Dental laboratory (excluding clinic or dental office for individual examinations/treatment).
- (5) Distribution operation (completely enclosed within a building).
- (6) Engineering or research laboratories.
- (7) Engraving (nonretail).
- (8) Heliports - landing pads and stations for helicopters (helistop); vertical take-off helipads for helicopter aircraft, as regulated in section 733-200(a)(6) (including facilities for maintenance of helicopters and accessory uses therefor).
- (9) Industrial schools or training facilities.
- (10) Manufacture, assembly or repair of:
 - a. Appliances, light portable household.
 - b. Clocks, watches.
 - c. Cloth products (from finished cloth - including any type of apparel, curtains, towels, bedding. This entry does not include carpet or rug manufacturing).
 - d. Jewelry.
 - e. Leather products (from finished leather).
 - f. Light component parts of products.
 - g. Optical, ophthalmic goods.
 - h. Phonograph, tape, compact disc, or other audio or video products or equipment.
 - i. Photographic equipment.
 - j. Premanufactured parts, subassemblies, or components.
 - k. Recording instruments.
- (11) Mini-warehouses - self-storage facility.
- (12) Offices, in conjunction with a permitted industrial use, attached or detached, and including service facilities for employees or guests. Provided any service facilities shall be wholly within a building and shall have no exterior signs.
- (13) Outdoor advertising signs, subject to Chapter 734 of this Code.
- (14) Railroad or other mass transportation rights-of-way and trackage, including railroad passenger station, off-street turnaround, layover areas for transit vehicles, shelter

Chapter 733 Industrial Districts Zoning Ordinance – City of Indianapolis

stations and off-street parking facilities, provided such uses (except operating rights-of-way) do not extend within twenty (20) feet of a protected district boundary.

- (15) Warehousing (completely enclosed within a building).
- (16) Wholesaling, any type.
- (17) Temporary structures incidental to the development of land or to the erection of structures, provided such temporary structures shall be removed at the termination of development or construction, subject to the additional requirements of section 733-211(d).
- (18) Accessory utility structures or facilities.
- (19) Accessory recreation facilities, indoor or outdoor, provided primarily for the convenience and use of employees of a specific industry or an industrial area as a whole.
- (20) Wireless communication facility, as defined in, and subject to the additional regulations of, Chapter 735, Article IX of this Code.



View looking east along Enterprise Park Place



View of site looking southwest along eastern boundary



View of site looking west



View of site looking west



View of site looking west



View of site looking west



View of site looking west



View of site looking west



View of site looking west across Enterprise Park Place



View of site looking southwest across Enterprise Park Place



View looking east along Enterprise Park Place



View looking west along Enterprise Park Place



View of sites within the industrial park



View of sites within the industrial park



View of sites within the industrial park



View of sites within the industrial park



View of sites within the industrial park



View of sites within the industrial park



View of sites within the industrial park



View of sites within the industrial park



View of sites within the industrial park