

Seeking a Better Outcome at 86th & Haverstick

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<http://noraindy.org/seeking-a-better-outcome-at-86th-haverstick/>

The northeast corner of 86th St and Haverstick Rd is approved for commercial development. The question is, what form will the development take? The currently approved development will result in near-clear cutting of the ~13-acre property to build a big box retail store and townhomes, with a large parking lot fronting 86th St. A lower-impact development option was recently defeated. This alternative included a two-story building fronting 86th St with a mix of office and commercial use that would have saved a significant portion of trees and drainage areas. Now, the community may have a chance to revisit the question of which development is preferred.

This is a choice between two developments, two tree removal outcomes, and their ultimate impact on the community. One development project is approved, and the developer has repeatedly stated they are committed to building. At the March 12 Indianapolis City-County Council meeting, Councilor **Colleen Fanning** plans to call-down the zoning case at the direct request of the **Nora-Northside Community Council (NCC)**, and with the support of the **Nora Alliance**.

The NCC and Nora Alliance seek to achieve a better outcome, giving the neighborhood and Nora community a lower-impact development. Because of the case's complexity, we present the details of Haverstick's zoning history below to help Nora residents to better understand the facts of the matter, why preserving the property as parkland is not an available option, what a "call-down" is, and why this case is being called-down for review.

Kite and Alexander Projects Side-by-Side



**KITE PROJECT
(APPROVED DEVELOPMENT)**

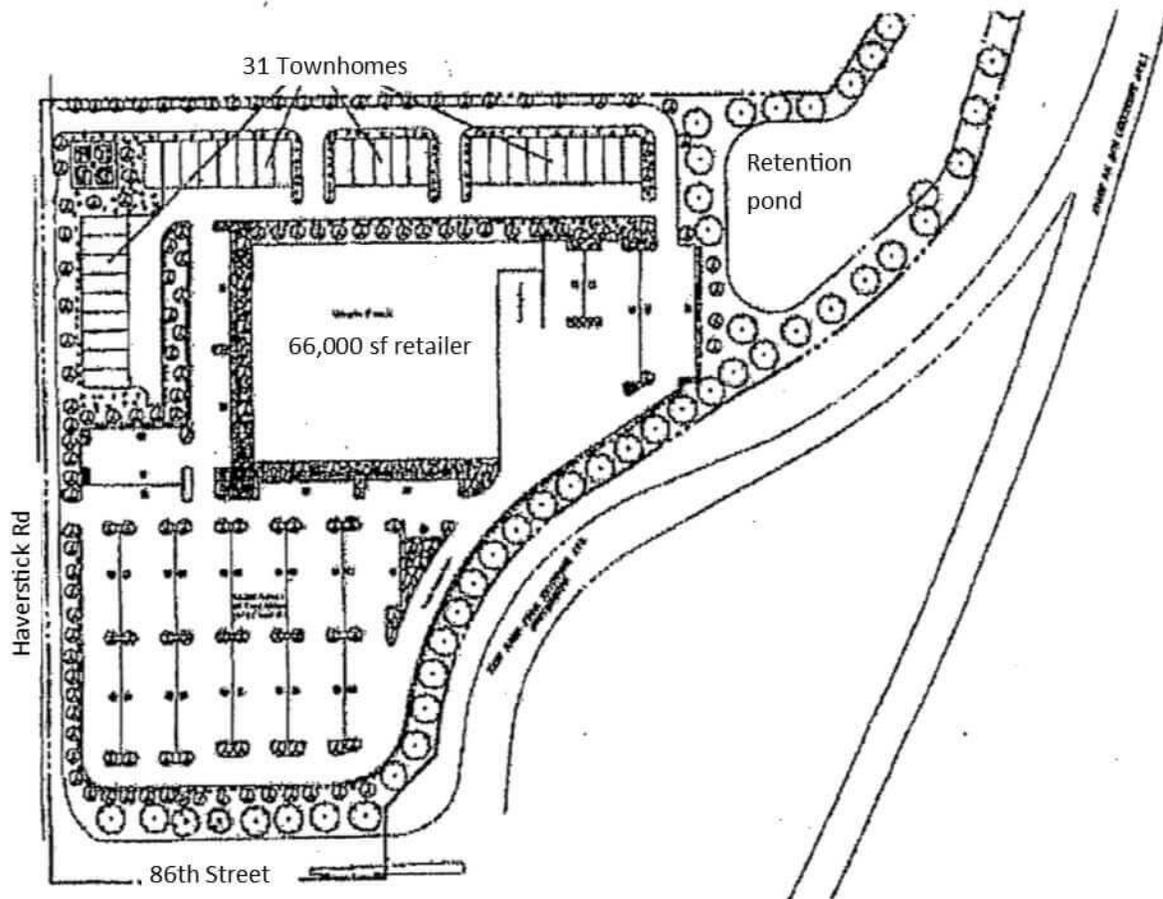


**ALEXANDER PROJECT
(PROPOSED ALTERNATIVE)**

The property in question is made up of the heavily wooded parcels located on the northeast corner of Haverstick Rd and 86th St, one block west of Keystone Ave. The approved and still valid Kite project and proposed Alexander project (highlighted areas indicate Phase 1 & 2) are shown side-by-side for comparison.

Current Zoning Designation – The Kite Project

The property carries a D-P (“planned unit development district”) zoning designation granted in 2005 (zoning case [2005-ZON-034-DP12](#)), which authorizes, among other things, a 66,000 square foot big-box store (e.g., grocery), a near-clear cutting of trees (27 to remain), 1.2-acre surface detention pond, expansive surface parking, and 31 townhomes. We refer to this as the “Kite project” for ease of discussion.



The essential fact of this case is that the Kite project is the legally approved development of the property. While members of the Nora community fought a protracted legal battle with the City of Indianapolis to revoke or modify this zoning in 2005, they were summarily unsuccessful. There is no remaining legal leverage with which to fight the current zoning designation. Deputy Mayor Jeff Bennett and Department of Metropolitan Development (DMD) Director Emily Mack have independently confirmed that there is no legal recourse for Nora to prevent Green Indy, LLC from developing the Kite project.

The developer indicates he intends to build the Kite project. The process of filing paperwork to obtain permits for the Kite project has begun.

Proposed Case – The Alexander Project

In 2017, as an alternative to the Kite project, Green Indy proposed the “Alexander project” seeking to rezone the property from D-P to MU-3 (mixed-use 3) (zoning case [2016-ZON-020](#)). The MU-3 designation provides for compact uses, urban design with buildings located relatively close to the street in a pedestrian-friendly manner, and de-emphasized on-site parking. The Alexander project divided the site into two phases. Site plans were submitted for Phase 1. It has a smaller building footprint relocated to the front of the property on 86th St, less intense use (home accessory store, restaurant, and office space), and has larger intended tree preservation areas on the north side of the parking area than the Kite project. Importantly, it removes the 1.3-acre surface detention pond and instead proposes a detention system under the parking area, thus preserving the wooded slopes on the northeast side of the property.





Green Indy presented the Alexander project to the Nora Northside Community Council (NCC) Board of Directors for review and input. They also presented their plan to the Driftwood Hills neighborhood and the Nora Alliance. The NCC, in support of the Driftwood Hills neighborhood, opposed the proposal (the vote was 9-2 with two abstentions). DMD planning staff recommended the plan be denied. On October 4, 2017, the rezoning petition was subsequently denied by the MDC (2016-ZON-020; the vote was 5-3).

The Alexander project's submitted development plan did not include details for Phase 2 for the north section of the property, though it did indicate that this section would remain subject to the development standards and plans of the existing (Kite project) D-P zoning (31 townhome units). A primary point of opposition was the lack of commitments for Phase 2 ensuring the vital residential component that would provide a much-needed buffer between the commercial development to the south and the single-family residential neighborhood to the north. The [2005 Indianapolis Comprehensive Plan](#) identifies that this Critical Area is under development pressure from commercial expansion.

The “Call-Down”

With the denial of the Alexander project, Green Indy began preparing to develop the previously approved Kite project.

A clerical error by City planning staff, certifying the wrong portion/version of the Alexander Project now requires recertification, which will come before the full City-County Council on March 12. The need for recertification allows for the District Councilor, Colleen Fanning, to call-down the Alexander project in a final attempt to re-open negotiations between Green Indy and

the Nora community. With its 66,000-sq ft big-box store, expansive frontage parking lot, and near clear-cutting of the site, the NCC and Nora Alliance view the Kite project as the least desirable development scenario. Therefore these organizations support the call-down as an opportunity for a better outcome.

The NCC and Nora Alliance Position

The NCC and Nora Alliance hope the Alexander project can be renegotiated in good faith to give the neighborhood and community a lower-impact development option while saving a significant portion of trees and drainage areas. Should efforts at re-negotiation with the developer be thwarted, the neighborhood will be powerless to prevent the Kite project.

Re-opening negotiations through the call-down process is an established legal process in which the City-County Council lawyer is the mediator. The NCC and Nora Alliance believe this is the responsible course of action given this privately held parcel has in-place zoning and an unwavering expectation that development will occur on the site. The choice is between two potential developments. The developer's intent to build is evident. The process of filing paperwork to obtain permits for the Kite project has begun.

Objectives of mediated negotiations through the call-down process include the following:

- A firm, written commitment by the developer for the northern part (Phase 2) of the property for low- or medium-density residential development only (the 2005 Comprehensive Plan recommends residential development at 1.75-3.5 units per acre for these parcels)
- Preserve as many of the area's trees as possible, including large trees
- Prioritize drainage through keeping natural and existing drainage mechanisms intact while adding underground stormwater storage
- Minimize traffic impact and emphasize public safety through safe pedestrian crossings, improved infrastructure, stoplight timing, etc
- Enhance or secure adjacent property values with the highest quality development possible
- Potentially shrink the footprint of the structure, thus reducing the parking lot pavement

Alexander Project Tree Preservation Commitments

The [Nora Community Survey](#) (2015) ranks "neighborhood character, defined by mature trees" as one of Nora's greatest assets (second only to the Monon Trail).

The Alexander project is held to the same tree preservation plan as the Kite project. Those commitments specify: "All non-invasive trees greater than ten caliper inches in diameter, which are healthy and disease free, as determined by an arborist shall be saved, or if removed shall be mitigated by the planting of trees at a ratio of one to one between the caliper inches of trees removed and the total caliper inches of trees replanted, either on site or in the immediate vicinity, to complement the greater community."

With its smaller footprint and underground detention basin, the proposed Alexander project has the potential to preserve significantly more trees on-site than the Kite project.

An Unfortunate Decision – Why Didn't the Comprehensive Plan Protect This Property?

The Indianapolis Comprehensive Plan, adopted in 2005, defines several “Critical Areas” in Washington Township, including specifically the property in question. The Comprehensive Plan intended to protect this corner from commercial development (it recommends residential). The full Comprehensive Plan recommendations for this property are available on the Nora Alliance website, [Critical Area 2](#).

The Metropolitan Development Commission (MDC) evaluates new development proposals against several measures, only one of the measures is the Comprehensive Plan. In 2005, the MDC approved the Kite project. That approval ran counter to the Comprehensive Plan, DMD planning staff recommendations, and will of the neighborhood. It was then that, to the chagrin of our community, Nora lost the battle to protect the property in question. After the Kite Project approval, members of the Nora community fought a protracted legal battle with Indianapolis to revoke or modify this zoning. They were summarily unsuccessful. There is no remaining legal leverage with which to fight the current zoning designation.

Driftwood Hills Neighbors Position

Complicating this case is that some residents of Driftwood Hills, the neighborhood immediately adjacent to the parcel, are opposing the call-down process. Driftwood Hills residents were included in an early discussion of the call-down process and, together with the NCC and Nora Alliance, agreed to that course of action. Subsequently, they have decided to oppose the call-down. This group of neighbors seeks to negotiate directly with Green Indy outside of the call-down process. They have retained outside counsel for such purposes (Russell Sipes).

Site History – A Suburban Successional Woodland

The ecological process by which an ecosystem changes and develops over time is known as succession. [Aerial photos from 1937 to present day](#) show the changes from open woodland, to suburban residential and special use, to early successional woodland.

The 1941 aerial photo shows the site as open woodland surrounded by agricultural use. This 1941 imagery depicts many individual trees, some of which reportedly remain as old large trees on the property. The eastern edges of the property are mostly clear of trees (development site outline Phase 1 & 2 is highlighted).



By 1956, the property and surrounding neighborhood were developed as suburban residential lots. By 1979, the central parcel was largely cleared and developed with a lodge and associated parking. The 2002 aerial photo shows the site at its most developed, with homes, pools, lodge, and parking lot, while the eastern edges become more naturalized with newer trees.



Between 2003 and 2008, the site changed ownership and structures were cleared for future development. From 2008 to present, the site has undergone early succession with volunteer vegetation moving into the area, creating a 13-acre wooded corner with a mix of young, dense trees (which may or may not include invasive species) mixed with older trees. It is reported to contain several large (300+-year-old) trees that survived through the property's historical development.

As evidenced by the aerial photography, the currently wooded site has undergone various stages of suburban and special use development over the past 66+ years. While it is not a patch of untouched old-growth forest, the woods and large trees are of value and worth preserving to the greatest extent possible. Forests and greenspace add significant value to the Nora community. Unfortunately, however, preserving the site as parkland is not an available option.

What About “Save Haverstick Woods”?

Further complicating the call-down of the Alexander project, the Indiana Forest Alliance (IFA), coined the name “Haverstick Woods” and launched a campaign to “Save Haverstick Woods.” The IFA has taken a stand of **active opposition** to development on the site, preferring preservation of the site as parkland. While the intentions of the IFA are admirable, they disregard the existing D-P zoning designation and the developer’s stated intent to develop the Kite project in lieu of the Alexander project.

Ignoring the reality of the existing approved commercial zoning is perilous to our community. The Kite project is widely regarded as the worst case scenario for saving the trees. Instead of supporting a renegotiation of the Alexander project through the call-down process, the IFA prefers to preserve this urban forest to “absorbing flood runoff, and buffering noise and heat, a woods where people can walk their dogs and let the kids play.” This is simply not an option given the facts of the case as we know them.

Ironically, in this case, the IFA advocating “Save Haverstick Woods” would almost assuredly guarantee its destruction if successful in preventing the call-down. “IFA’s lobbying the Council to defeat the Alexander project could very well be instrumental in that devastation,” says Ruth Hayes, president of the NCC, “NCC supports modifications of and approval by the Council to the Alexander project in order to save as many trees and as much of the environment as possible. It is shocking that, perhaps without understanding the zoning issues, IFA has stepped in to derail the only hope we have to save at least some of the woods. It’s difficult to understand why IFA would want that to be their legacy in our community.”

Seeking a Better Outcome

The NCC has requested the Alexander project be called-down for hearing before the City-County Council, with the expectation that the developer agrees to negotiate modifications of the original Alexander petition and development plans. Councilor Colleen Fanning is doing her job representing the interests of the neighborhood association on record. The Nora Alliance supports the request to reopen proceedings of the Alexander project. Together, we seek to achieve a better outcome to give the neighborhood and Nora community a lower-impact development option while saving a significant portion of trees and drainage areas.