

#1304

BILL NO. Z-13-01-17

ZONING MAP ORDINANCE NO. Z-_____

AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. J-30 (Sec. 22 of Washington Township)

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
INDIANA:

SECTION 1. That the area described as follows is hereby designated a IN3 (Heavy
Industrial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
Wayne, Indiana:

Part of the 17 acre tract lying immediately East of, and adjoining the West 35 acres,
exclusive of the Right-of-way of the Grand Rapids and Indiana Railroad, of the Southwest
Quarter of Section 22, Township 31 North, Range 12 East in Allen County, Indiana, and
more particularly described as follows, to-wit:

Beginning at a point in the South line of the said Southwest Quarter of said Section, said
point being the centerline of Indiana Highway 324 as now established, and also being 617.05
feet East of the East Right-of-way line of the G.R. and I. Railroad; thence East on said
centerline of said Highway, 242 feet; thence North on the East line of the aforesaid 17 acre
tract, a distance of 900 feet; thence West parallel with the centerline of said Indiana
Highway 324, 242 feet; thence South 900 feet to the place of beginning, containing 5.00
acres, excepting the South 50 feet thereof which is occupied by said Highway 324. (Deed
Record 546, page 223). Said parcel contains a net area of 4.722 acres, more or less, of land.

EXCEPTING THEREFROM THE FOLLOWING:

A part of the 17 acre tract lying immediately East of and adjoining the West 35 acres,
exclusive of the Right-of-way of the Grand Rapids and Indiana Railroad, of the Southwest
Quarter of Section 22, Township 31 North, Range 12 East in Allen County, Indiana, as
recorded in Document Number 201047748, in the Office of the Recorder of Allen County,
Indiana, described as follows:

Beginning 631.30 feet East and 50 feet North of the Southwest corner of Section 22,
Township 31 North, Range 12 East in Allen County, Indiana, also being the North Right-of-
way line of Coliseum Boulevard West, US Number 30 and the East Right-of-way line of
Investment Drive as it now exists, said point being the Point of Beginning of the following:
thence, Northerly a distance of 350 feet on and along the East Right-of-way line of
Investment Drive, thence Easterly as distance of 10 feet parallel to the North Right-so-way
line of Coliseum Boulevard West, thence Southerly a distance of 325 feet parallel to the East
Right-of-way line of Investment Drive; thence Southeasterly a distance of 35.355 feet to a
point on the North Right-of-way line of Coliseum Boulevard West; thence Westerly a
distance of 35 feet on and along the North Right-of-way line of Coliseum Boulevard West to
the Point of Beginning, containing 3,812.5 square feet or 0.087522 acres, more or less.

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2 and the symbols of the City of Fort Wayne Zoning Map No. J-30 (Sec. 22 of Washington
3 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
4 Wayne, Indiana is hereby changed accordingly.

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6 SECTION 2. That this Ordinance shall be in full force and effect from and after its
7 passage and approval by the Mayor.

8 _____
Council Member

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10 APPROVED AS TO FORM AND LEGALITY:

11 _____
12 Carol T. Helton, City Attorney
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City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: 1304/13
Bill Number: Z-13-01-17
Council District: 3 – Tom Didier

Introduction Date: January 22, 2013

Plan Commission
Public Hearing Date: February 11, 2013

Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

Synopsis of Ordinance: To rezone approximately 4.72 acres of property from IN2-General Industrial to IN3-Heavy Industrial with a Written Commitment

Location: 2222 West Coliseum Boulevard

Reason for Request: To allow the existing business to come into compliance with the zoning ordinance for the outdoor storage portion of the recycling processing facility.

Applicant: Hoosier Metal Recycling Company, Inc.

Property Owner: KDH Realty, Inc.

Related Petitions: none

Effect of Passage: Property will be rezoned to IN3-Heavy Industrial, which allows for outdoor storage with a recycling processing facility.

Effect of Non-Passage: The property will remain zoned IN2-General Industrial; the recycling processing facility is permitted, but the outdoor storage will need to be removed.

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Hoosier Metal Recycling Company, Inc.
Address 2222 W. Coliseum Blvd., Suite B
City Fort Wayne State IN Zip 46808-3661
Telephone _____ Fax _____ E-mail _____

Property Ownership
Property Owner KDH Realty, Inc.
Address 2222 W. Coliseum Blvd., Suite B
City Fort Wayne State IN Zip 46808-3661
Telephone _____ Fax _____ E-mail _____

Contact Person
Contact Person Joshua C. Neal / Barrett & McNagny LLP
Address 215 East Berry Street
City Fort Wayne State IN Zip 46802
Telephone 260-423-9551 Fax 260-423-8920 E-mail jcn@barrettllaw.com

All staff correspondence will be sent only to the designated contact person.

Request
☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property 2222 West Coliseum Boulevard
Present Zoning IN-2 Proposed Zoning IN-3 Acreage to be rezoned 4.722
Proposed density _____ units per acre
Township name Washington Township section # 73
Purpose of rezoning (attach additional page if necessary) To permit the operation of a recycling processing facility with outdoor storage
Sewer provider City of Fort Wayne Water provider City of Fort Wayne

Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please contact staff for applicable filing fees and plan/survey submittal requirements.
☐ Applicable filing fee
☐ Applicable number of surveys showing area to be rezoned (plans must be folded)
☐ Legal Description of parcel to be rezoned
☐ Rezoning Questionnaire (original and 10 copies) County Rezoning Only

I/we understand and agree, upon execution and submission of this application, that I am/we are the owner(s) of more than 50 percent of the property described in this application; that I/we agree to abide by all provisions of the Allen County Zoning and Subdivision Control Ordinance as well as all procedures and policies of the Allen County Plan Commission as those provisions, procedures and policies related to the handling and disposition of this application; that the above information is true and accurate to the best of my/our knowledge; and that I/we agree to pay Allen County the cost of notifying the required interested persons at the rate of \$0.85 per notice and a public notice fee of \$50.00 per Indiana code.

see Exhibit "A"
(printed name of applicant) _____ (signature of applicant) _____ (date) _____
see Exhibit "A"
(printed name of property owner) _____ (signature of property owner) _____ (date) _____
see Exhibit "A"
(printed name of property owner) _____ (signature of property owner) _____ (date) _____
see Exhibit "A"
(printed name of property owner) _____ (signature of property owner) _____ (date) _____

Received	Receipt No.	Hearing Date	Petition No.
12/28/12	110495	2/14/13	

Rez - 2013 - 0004

EXHIBIT "A"

"APPLICANT"

HOOSIER METAL RECYCLING COMPANY, INC.

By: [Signature]
Printed Name: _____
Its: _____



STATE OF INDIANA)
)SS:
COUNTY OF ALLEN)

Before me, a notary public, in and for said County and State, personally appeared Kurt Henry, the President of Hoosier Metal Recycling Company, Inc., who acknowledged the execution of the foregoing Rezoning Petition Application, and who, having been duly sworn, under the penalties of perjury, stated that the facts and the matters therein set forth are true and correct.

Witness my hand and notarial seal this 28 date of December, 2012.

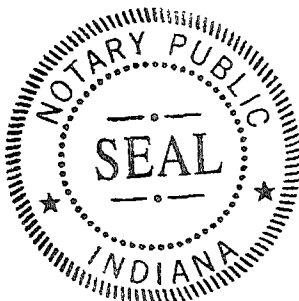
My commission expires: 8/9/17

[Signature]
Robert C. Kruger, Notary Public
County of residence: Allen

"OWNER"

KDH REALTY, INC.

By: [Signature]
Printed Name: _____
Its: _____



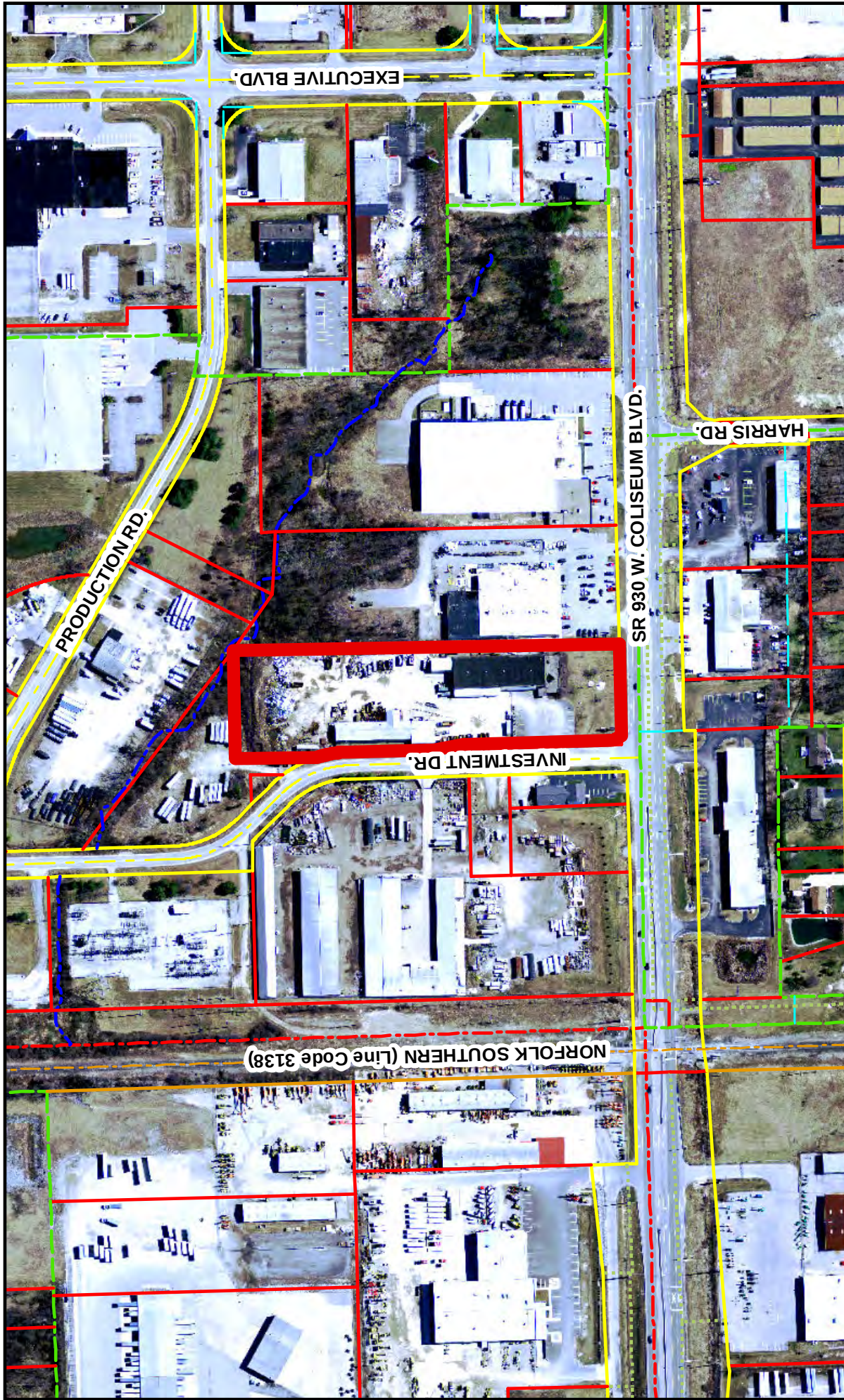
STATE OF INDIANA)
)SS:
COUNTY OF ALLEN)

Before me, a notary public, in and for said County and State, personally appeared Kurt Henry, the President of KDH Realty, Inc., who acknowledged the execution of the foregoing Rezoning Petition Application, and who, having been duly sworn, under the penalties of perjury, stated that the facts and the matters therein set forth are true and correct.

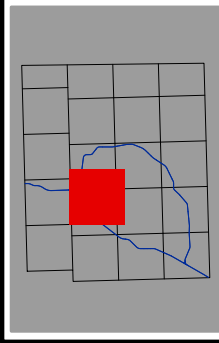
Witness my hand and notarial seal this 28th date of ~~July, 2009~~ December, 2012

My commission expires: 8/9/17

[Signature]
Robert C. Kruger, Notary Public
County of residence: Allen

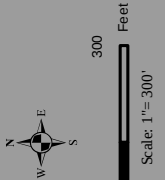


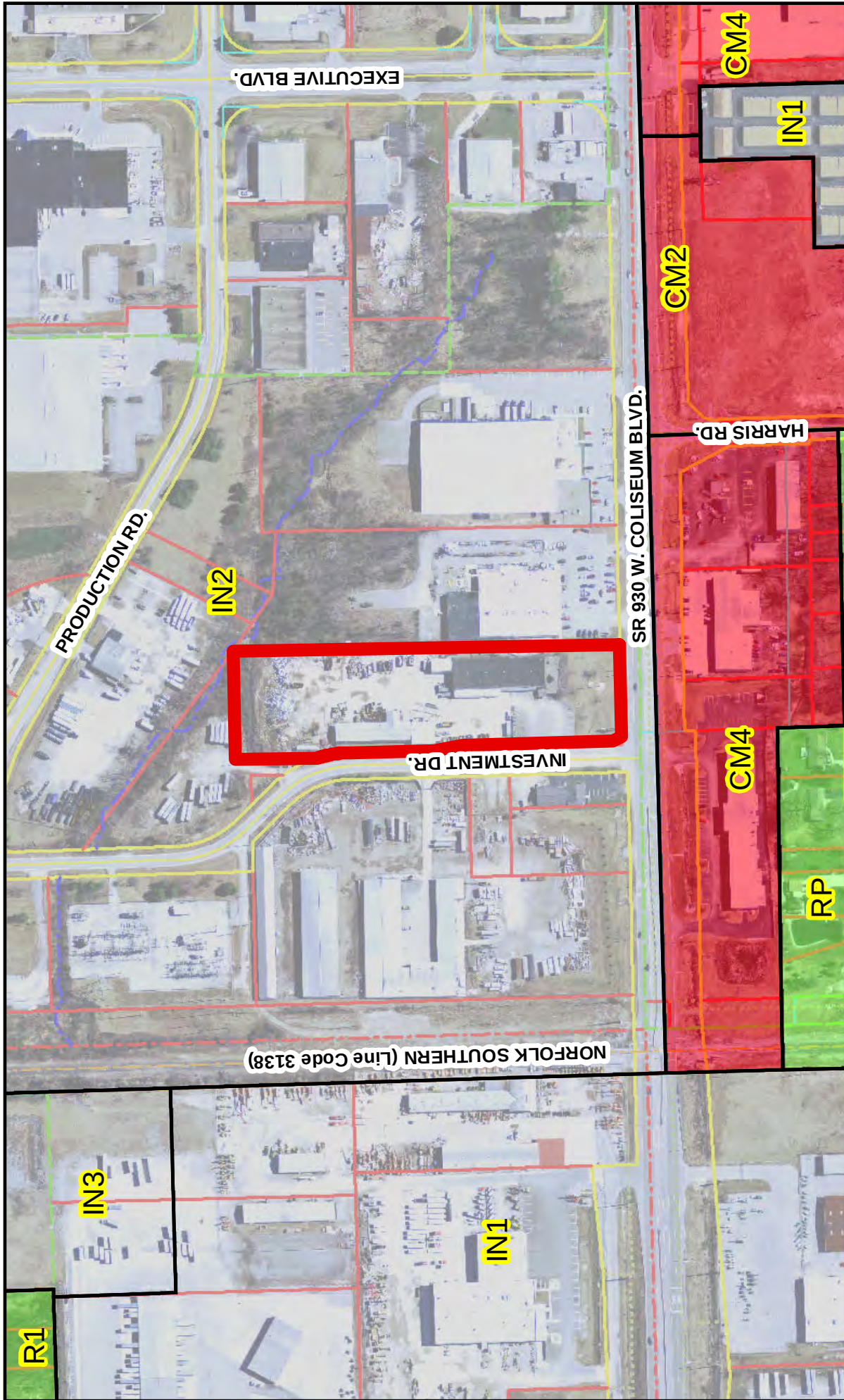
This map is for representational purposes only - Boundaries identified by bold colored lines represent the general location of the proposed project



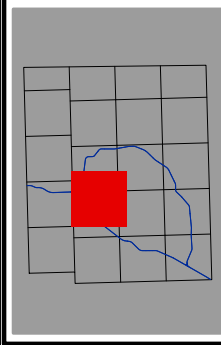
Rezoning Petition 1304/13

Printed: January 14, 2013
 © 2004 Board of Commissioners of the County of Allen
 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos: Spring 2006 / Contours: 1999
 Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.





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Rezoning Petition 1304/13

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0 300 Feet
 Scale: 1" = 300'

Joshua C. Neal
Direct 260-423-8935
jcn@barrettlaw.com

January 4, 2013

Via First Class Mail

Michelle Wood, RLA
Senior Land Use Planner
Department of Planning Services
200 East Main Street, Suite 150
Fort Wayne, Indiana 46802

Re: Written Commitment / KDH Realty, Inc.

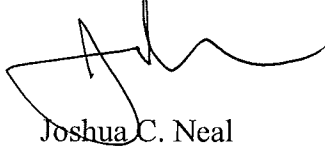
Dear Michelle:

In connection with the Rezoning Petition Application we filed December 28, 2012 with your office, please find enclosed a draft of the proposed Written Commitment.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

BARRETT & McNAGNY LLP



Joshua C. Neal

JCN:ahc:1000978
enclosure

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made as of this ____ day of January, 2013, by KDH REALTY, INC., an Indiana corporation ("Declarant"), under the following circumstances.

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate located in Allen County, Indiana, commonly known as 2222 West Coliseum Boulevard, Fort Wayne, Indiana, the legal description of which is attached hereto as Exhibit "A" (the "Real Estate");

WHEREAS, on February 11, 2013, the Fort Wayne City Plan Commission (the "Plan Commission") conducted a public hearing on Declarant's Petition for a Zoning Map Amendment (the "Petition"), respecting the Real Estate;

WHEREAS, Under IND. CODE §36-7-4-614, the Plan Commission may permit or require the owner of real property who has filed a petition for a zoning map amendment to make a commitment concerning the use or development of the real estate; and

WHEREAS, to induce the support of the Plan Commission as to the Petition, and to further induce the Plan Commission and the Fort Wayne City Common Council (the "Common Council") to approve the Petition, Declarant is willing to make this Commitment concerning the use and development of the Real Estate, and further, Declarant consents and agrees to the terms and restrictions contained in this Commitment.

NOW, THEREFORE, in consideration of the Plan Commission recommending approval of the Petition and the Common Council and the Mayor for the City of Fort Wayne, Indiana taking such action to amend the zoning map to change the zoning on the Real Estate from IN-2 to IN-3, Declarant hereby makes the following written commitments:

1. Limited Uses of the Real Estate. The Real Estate may be used only for (i) a recycling processing facility, including outdoor storage; and (ii) any and all uses permitted in the IN-2 (General Industrial) zoning district, as governed by Chapter 157 of the City of Fort Wayne Code, as amended.

2. Binding Effect. This Commitment shall run with the Real Estate and shall be binding upon the Declarant, subsequent owners or anyone acquiring any interest in the Real Estate, and their respective successors and assigns.

3. Enforcement Rights. The Plan Commission shall be entitled to all legal and equitable remedies available (including specific performance and injunctive relief) for violation of this Commitment.

4. Amendment. Amendment of this Commitment may be made by the Declarant or the then-existing owner(s) of the Real Estate in accordance with the Indiana Statutes and the City of Fort Wayne, Indiana Zoning Ordinance, as amended from time to time.

5. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

6. Effective Date. This Commitment shall be effective upon the following events:

- a. The Plan Commission's approval of the Petition shall become a final and non-appealable amendment to the zoning map of the City of Fort Wayne, Indiana; and
- b. This Commitment is duly recorded in the Office of the Recorder of Allen County, Indiana;

7. Statutory Authority. This Commitment is made pursuant to IC 36-7-4-614.

[THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

"DECLARANT"

KDH REALTY, INC.

By: _____
Kurt Henry, President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this _____ day of January, 2013, appeared KDH Realty, Inc., by and through Kurt Henry, its President, and acknowledged the execution of the foregoing.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

_____, Notary Public

My Commission Expires: _____

My County of Residence: _____

THIS INSTRUMENT prepared by Joshua C. Neal, Attorney at Law, Atty. No. 23697-02, Barrett & McNagny LLP, 215 East Berry Street, Fort Wayne, Indiana 46802.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Joshua C. Neal.

When Recorded, Return To: Joshua C. Neal, Barrett & McNagny LLP, Courthouse Box No. 3, 215 East Berry Street, Fort Wayne, Indiana 46802.