

FACT SHEET

Case #REZ-2016-0014

Bill # Z-16-04-19

Project Start: 26 April 2016

APPLICANT:	Mad Anthony Investments
REQUEST:	To rezone property for a new Shigs in Pit restaurant
LOCATION:	6250 Maplecrest Road
LAND AREA:	Approximately 2.6 acres
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	C2/Limited Commercial
NEIGHBORHOOD ASSOCIATIONS:	Community Liaison, Northeast Area Partnership, Jonathon Oaks Association
COUNCIL DISTRICT:	1-Paul Ensley
ASSOCIATED PROJECTS:	Primary Plat, Shigs in Pit Restaurant
SPONSOR:	City of Fort Wayne Plan Commission

9 May 2016 Public Hearing

- No one spoke in support at the hearing.
- One resident spoke at the hearing with concerns.
- Mike Bynum and Mike Bultemeier were absent.
- Staff recommended Do Pass with a Written Commitment

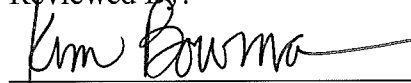
16 May 2016 – Business Meeting

Plan Commission Recommendation: Do Pass with a Written Commitment

- A motion was made by Judi Wire and seconded by Don Schmidt to return the ordinance to Common Council for their final decision. 5-0 MOTION PASSED
- Mike Bynum, Mike Bultemeier, Justin Shirley and Tom Friestroffer were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
19 May 2016

Reviewed By:



Kim Bowman, Executive Land Use Director

PROJECT SUMMARY

The site includes two homes and two outbuildings. Many variances have been granted for businesses on adjacent properties. The petitioner requests a rezoning from R1/Single Family Residential to C2/Limited Commercial for a new Shigs in Pit restaurant. Currently there is a Shigs in Pit barbeque restaurant on Fairfield Avenue, which is intended to remain. This is a sister company to Mad Anthony Brewing.

While the Maplecrest corridor is predominately zoned for residential between St. Joe Center Road and Evard Road, most of the properties surrounding this site have been in use as commercial businesses through BZA variances. The adjacent businesses include: St. Joe Vision, Parkview Physicians Group, Strasser Insurance, W.C. Borchelt Heating and Air Conditioning, Infinity Casket, Crossroads Flowers, Scherer Design, and Salon Adorned. This site does back up to two (2) lots in Jonathon Oaks subdivision and vacant land-locked parcel owned by a lot owner in Jonathon Oaks. Given the size and depth of the site, there is adequate space to provide buffering between the commercial and residential zoning. The proposal will provide a local dining option in close proximity to housing. The surrounding parcels are already used as commercial properties and having a properly zoned site will help preserve property values. The proposal can be supported by the following goals and policies of the Comprehensive Plan:

LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;

LU5. Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing connectivity;

LU5.C Encourage development proposals that provide neighborhood commercial, civic, institutional and other similar uses, designed to allow adequate access for pedestrians and bicycles, in close proximity to housing.

LU6. Encourage carefully planned sustainable growth and coordinated development by encouraging mixed land uses.

LU6.C Encourage the conversion of vacant or underutilized properties into compatible mixed-use development areas.

LU6.D Support carefully planned, coordinated, compatible mixed-use development.

LU8. Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.

The proposed site plan includes one new 5,000 square foot building, with room for expansion. Parking surrounds the building, with an outdoor eating area between the rear parking and the building. There are two access points proposed to Maplecrest Road, one as a right-in only. A detention basin is proposed on the south side of the site. The eastern portion of the property, adjacent to the Jonathon Oaks neighborhood, is not proposed to be developed at this time. The site plan meets all zoning requirements for screening and buffering.

PUBLIC HEARING SUMMARY:

Presenter:

Blaine Stuckey, president of Mad Anthony Brewing Company, and Rob Kruger, attorney, presented the request as outlined above in the project summary. A neighborhood meeting was held, most of the comments were positive. Projected hours will be from 11 a.m. to 9 or 10 p.m. There are no plans for outdoor live music, maybe just low-level speakers for the patio. They agreed to submit a Written Commitment to prohibit some uses, and provide for appropriate lighting, landscaping and maintenance.

Comments in Favor:

None

Comments of Concern:

- Tony Gibson, neighbor in Jonathon Oaks, is concerned about stormwater detention and screening.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2016-0014

APPLICANT:	Mad Anthony Brewing Investments – Jeff Neels
REQUEST:	To rezone property from R1/Single Family Residential to C2/Limited Commercial for a new location of Shigs in Pit restaurant.
LOCATION:	The proposed site is located on the east side of the 6200 block of Maplecrest Road (Section 15 of St. Joseph Township).
LAND AREA:	Approximately 2.6 acres
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	C2/Limited Commercial

The Plan Commission recommends that Rezoning Petition REZ-2016-0014, be returned to Council with a Written Commitment with a “Do Pass” recommendation for the following reasons:

1. Approval of the rezoning request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The site is near a commercial intersection and the proposal will provide a local dining option for the surrounding neighborhoods. This proposal will provide infill development using existing infrastructure.
2. Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area. Site plan and architectural review from the Plan Commission and staff will ensure a compatible development that complements the neighborhood.
3. Approval is consistent with the preservation of property values in the area. This proposal will provide redevelopment in the neighborhood with a market to serve the area residents, clean up the site, and provide a substantial investment into the community.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for the proposed uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on May 16, 2016.



Michael Bultemeier
Secretary to the Commission

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Mad Anthony Brewing Investments - Jeff Neels
Address 2002 Broadway
City Fort Wayne State Indiana Zip 46802
Telephone 260-704-6221 E-mail jeffmneels@hotmail.com

Contact Person
Contact Person MLS Engineering - Brett Miller
Address 221 Tower Drive
City Monroe State Indiana Zip 46772
Telephone 260-692-6166 E-mail brett@mlswebsite.us

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 6250 Maplecrest Road
Present Zoning R1 Proposed Zoning C2 Acreage to be rezoned 2.599 Ac
Proposed density N/A units per acre
Township name Saint Joseph Township section # 15
Purpose of rezoning (attach additional page if necessary) Construction of a new restaurant

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 refer to checklist 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.

Mad Anthony Brewing Investments - Jeff Neels

(printed name of applicant)

(signature of applicant)

(date)

Constance Eby

(printed name of property owner)

(signature of property owner)

(date)

MAD ANTHONY INVESTMENTS JEFF NEELS

(printed name of property owner)

(signature of property owner)

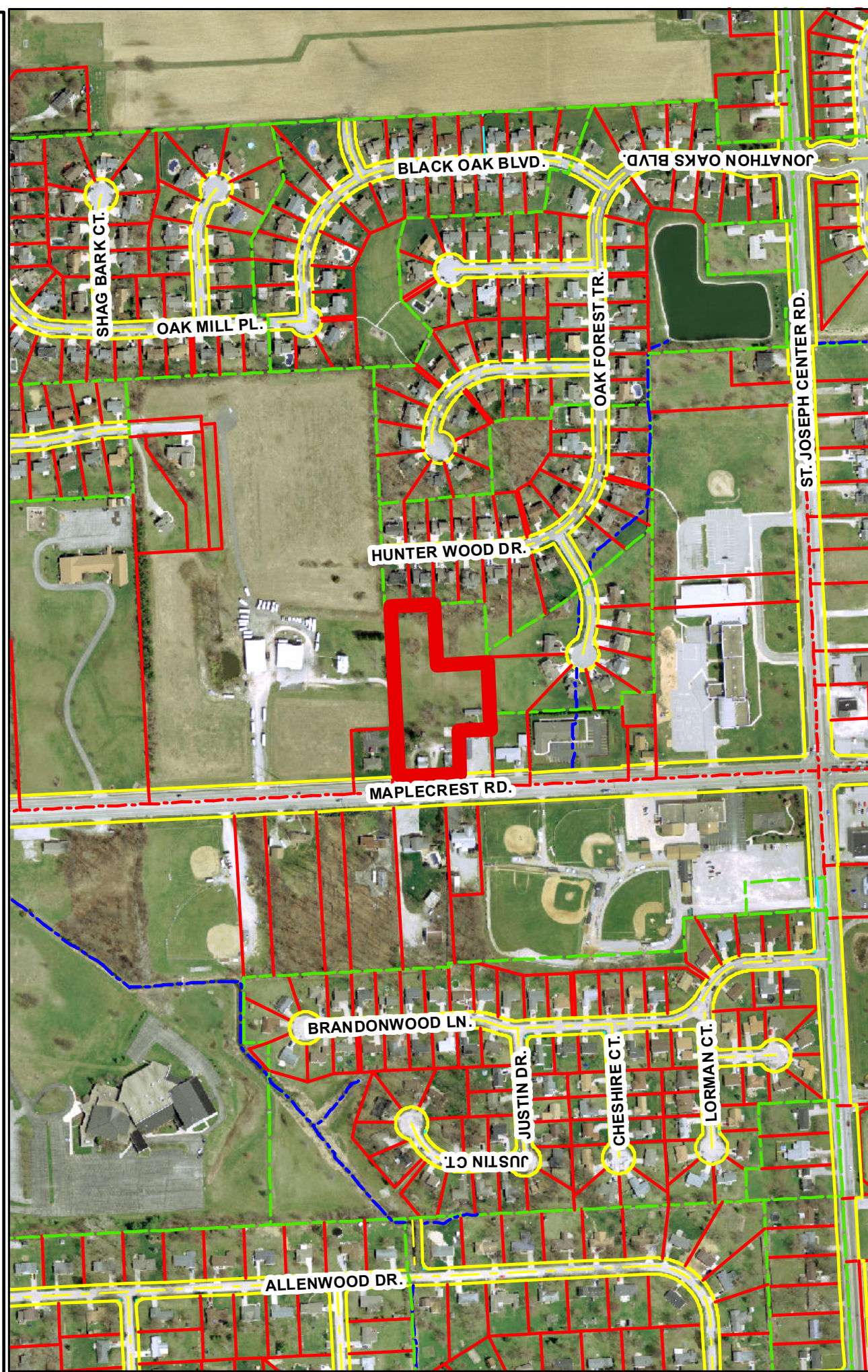
(date)

(printed name of property owner)

(signature of property owner)

(date)

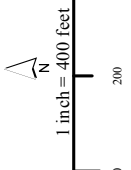
Received	Receipt No.	Hearing Date	Petition No.
<u>4/5/16</u>	<u>120437</u>	<u>5/9/16</u>	<u>REZ-2016-0014</u>



Project boundaries represented by bold colored lines are for representational purposes only.

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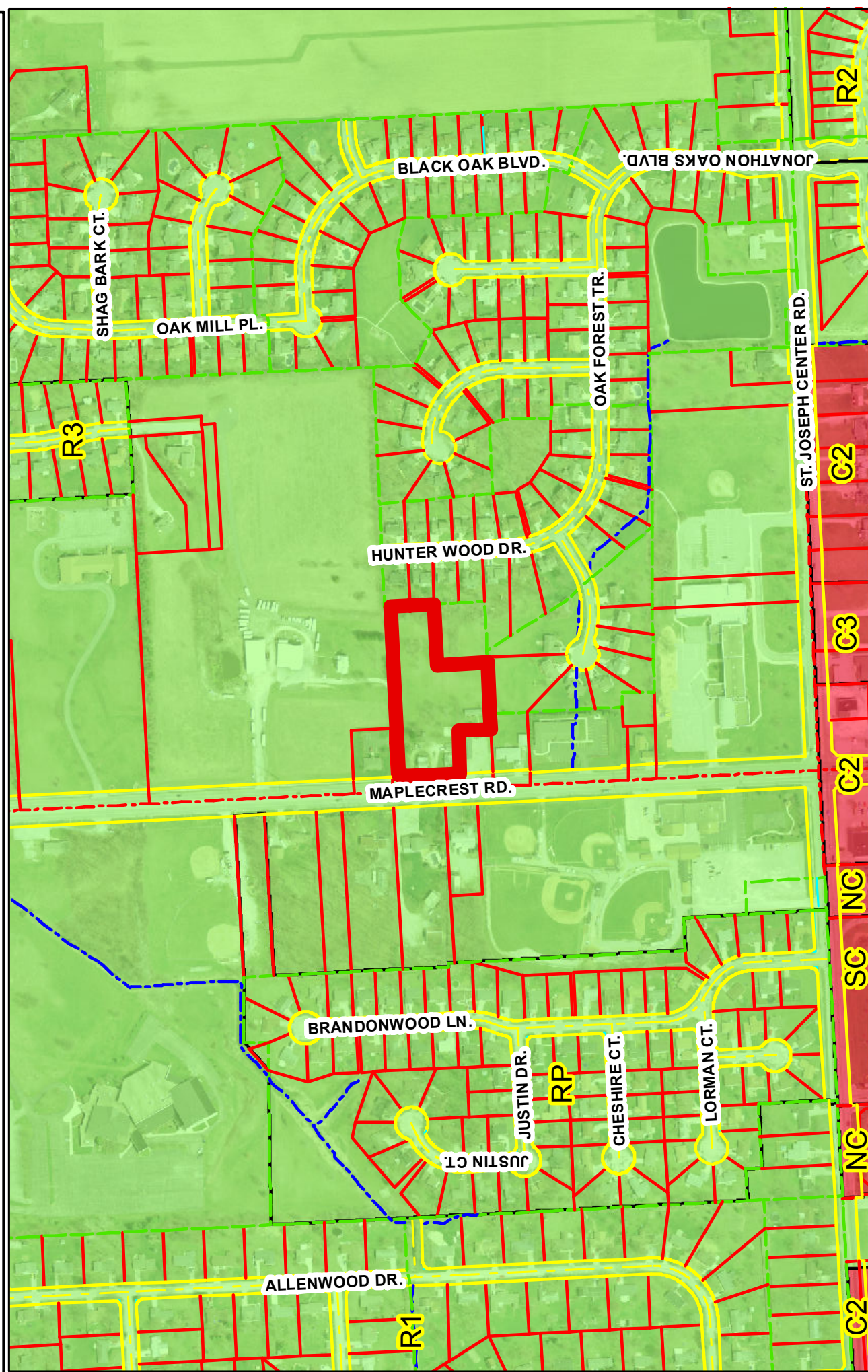
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Photos and Contours: Spring 2009



Date: 4/19/2016



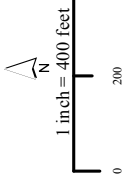
Rezoning Petition REZ-2016-0014 and Primary Development Plan - Shigs N Pit



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State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009



Date: 4/19/2016

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made by Mad Anthony Investments, LLC (the “Declarant”), and is made effective as of the date of the approval of the Rezoning Petition.

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 1.5 acres of real estate located in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit “A” (the “Real Estate ”); and

WHEREAS, Declarant has applied for rezoning approval with the Plan Commission, on the Real Estate, which Petition has been approved by the Plan Commission and City Council; and

WHEREAS, Declarant has offered this Commitment, voluntarily, pursuant to Indiana Code 36-7-4-1015, for the purpose of limiting certain uses for the Real Estate; and

WHEREAS, in conjunction with the Petition, the Plan Commission has accepted Declarant’s offer of this Commitment and its recordation with the Allen County, Indiana, Recorder’s Office upon Plan Commission’s and City Council approval of the Petition.

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarant hereby impresses upon the Real Estate certain restrictions and covenants which shall run with the Real Estate and be binding upon Declarant and all future owners of the Real Estate, and all lessees of all or any portion of the Real Estate.

1. Prohibited Uses. The following uses shall be prohibited upon the Real Estate as permitted in the C2/Limited Retail zoning district §157.213 (C) or as Special Uses in the C2/Limited Retail zoning district §157.213 (D): animal kennel, animal obedience school, automobile rental (indoor), automobile sales (indoor), automatic teller machine, billiard or pool hall, blood bank, blood or plasma donor facility, boarding/lodging house, cigarette/tobacco/cigar store, private club, correctional services facility, fireworks sales, flea market, group residential facility, haunted house, homeless/emergency shelter, hotel, laundromat, motel, public transportation facility, residential dwelling unit, residential facility for homeless individuals, treatment center, zoo, automobile maintenance (quick service), commercial communication tower, gas station, and shooting range (indoor).
2. Maintenance. The Real Estate, and any parking lot or landscaping located thereon, shall be maintained in good order and repair so as to cause the least possible amount of interference, inconvenience or annoyance to any adjacent owner of residential property. All landscaping planted and fencing installed by Declarant and/or Applicant upon the Real Estate shall be maintained, watered and fertilized by Declarant and/or Applicant pursuant to a commercially reasonable standard for similar landscaping and fencing in Allen County, Indiana and shall be replaced within a commercially reasonable time in the event of decay, disease or death of said landscaping or vandalism, casualty or other non-repairable condition to said fencing.
3. Outside Storage. Outside storage of trash and trash receptacles must be visually screened on three sides with a wood or vinyl fence or masonry structure, with a gate enclosure on the fourth

side, or located within a larger fenced area, so long as the fence is a minimum of six (6) feet in height and solid board construction.

4. Buffer Area. A buffer area will be maintained along the eastern 60 feet of the Real Estate consisting of the existing plant material. No development will take place within this buffer area.
5. Lighting. Site lighting shall be of a type to minimize light pollution onto any adjacent residential property by utilizing only full “cut-off” style lighting fixtures, as defined by the IESNA.
6. Successors and Assigns. This Commitment and the restrictions set forth above shall inure to the benefit of: (a) all persons who own property comprising the Real Estate, and their successors and assigns; and (b) the Zoning Administrator of City of Fort Wayne (“Zoning Administrator”) and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate.
7. Enforcement. Any violation of this Commitment shall be deemed a violation of the Zoning Ordinance; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel enforcement of it by the Plan Commission or any enforcement official designated in the Zoning Ordinance, or any successor agency having zoning jurisdiction over the Real Estate. Pursuant to I.C. 36-7-4-1015, the Plan Commission, or any enforcement official designated in the Zoning Ordinance, shall be entitled to all legal and equitable remedies available, including specific performance and injunctive relief, for any violation of this Commitment. The Plan Commission enforcement rights are cumulative, not exclusive.
8. Amendment or Termination. This Commitment may be modified or terminated in accordance with the Zoning Ordinance and I.C. 36-7-4-1015, as they may be amended from time-to-time.
9. Effective Date. This Commitment shall be deemed effective upon the Commitment being duly recorded in the Office of the Recorder of Allen County, Indiana.
10. Statutory Authority. This Commitment is pursuant to I.C. 36-7-4-1015.
11. Severability. Each covenant or restriction contained in any paragraph of this Commitment shall be severable and separate, and if any court shall rule that any particular restriction or covenant is unenforceable, such ruling shall not affect the enforceability of any other restriction or covenant under this Commitment, and such other restriction or covenant shall be enforced.
12. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

“DECLARANT”

MAD ANTHONY INVESTMENTS, LLC

BY: _____

Printed Name: _____

Title: _____

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this _____ day _____ of _____ 2016, personally appeared _____, the _____ of Mad Anthony Investments, LLC 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: _____

Pursuant to IC 36-2-11-15(d): 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.

Prepared by: Robert C. Kruger, 200 East Main Street, Ste. 1000, Fort Wayne, IN 46802, Atty. No. 22738-02; tele. 260-426-1300
When recorded, return to: Department of Planning Services, 200 East Berry, Suite 150, Fort Wayne, IN 46802

EXHIBIT “A”
LEGAL DESCRIPTION