

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2019-0011
Bill Number: Z-19-03-12
Council District: 4-Jason Arp

Introduction Date: March 26, 2018

Plan Commission
Public Hearing Date: April 8, 2019 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 1.54 acres of property from C2/Limited Commercial to C3/General Commercial

Location: 5809 Illinois Road

Reason for Request: To rezone property to bring the existing Hires Auto sales and service into compliance with the zoning ordinance.

Applicant: O'Daniel Family, LLC

Property Owner: O'Daniel Family, LLC

Related Petitions: none

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which will bring the existing automotive uses into compliance with the ordinance.

Effect of Non-Passage: The property will remain zoned C2/Limited Commercial, which does not permit some of the automotive uses currently provided on the property. Some uses are non-conforming, and without the zoning change, issues could arise with future expansion, financing and title work.

1 **#REZ-2019-0011**

2 **BILL NO. Z-19-03-12**

3
4 **ZONING MAP ORDINANCE NO. Z-_____**

5 **AN ORDINANCE amending the City of Fort Wayne**
6 **Zoning Map No. E-02 (Sec. 7 of Wayne Township)**

7
8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
INDIANA:

9 SECTION 1. That the area described as follows is hereby designated a C3 (General
10 Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
11 Wayne, Indiana:

12 RECORD DESCRIPTION: (as described in Document Number 2010047770)

13 As described in document #880042357

14 Lot Numbered 2 in Pavey's Subdivision to Fort Wayne, according to the plat thereof,
15 recorded in Plat Record 14 page 124, in the Office of the Recorder, Allen County,
Indiana. except that part taken for highway purposes.

16 TOGETHER with (#91 0020131)

17 A part of Lot #3 in Pavey's Subdivision to Section 7, Township 30 North, Range 12
18 East, as recorded in Plat Rook 14 page 124 in the Allen County Recorder's Office and
19 more particularly described as follows, to wit:

20 Commencing at the intersection of the East line of Lot #3 in said Pavey's Subdivision
21 and the South right-of-way line of Illinois Road; thence South 0 degrees 19 minutes 58
22 seconds East (assumed bearing) along said East line a distance of 145.0 feet to the Point
23 of BEGINNING. BEGINNING at the above described point; thence continuing South 0
24 degrees 19 minutes 58 seconds East on the last described line a distance of 320.96 feet to
25 a point located 100.0 feet North of the Southeast corner of said Lot; thence North 45
26 degrees 19 minutes 58 seconds West a distance of 33.94 feet; thence North 0 degrees 19
27 minutes 58 seconds West and parallel to said East line a distance of 239.36 feet; thence
28 North 22 degrees 17 minutes 14 seconds East a distance of 62.4 feet to the Point of
29 BEGINNING, containing 0.154 acres of land more or less.

30 EXCEPTING (#910020126)

 The South 100 feet of Lot #2 in Pavey's Subdivision to the City of Fort Wayne as
 recorded in Plat Record 14, page 124, in the Office of the Recorder of Allen County,
Indiana.

1 ALSO EXCEPTING (#950002068)

2 A part of Lot #2 in Pavey's Subdivision to Section 7, Township 30 North, Range 12
3 East, as recorded in Plat Book 14, Page 124, in the Allen County Recorder's Office, and
4 more particularly described as follows:

5 Beginning at the intersection of the West line of Lot #2 in said Pavey's Subdivision and
6 the South right-of-way line of Illinois Road; thence North 89°52'32" East (assumed
7 bearing) along said south right-of-way line a distance of 30.0 feet; thence South 0°13'58"
8 East parallel to the West line of said Lot a distance of 40.0 feet; thence South 6°01'21"
9 West a distance of 45.17 feet; thence South 22°17'14" West a distance of 65.0 feet to a
10 point on said West line; thence North 0°19'58" West along said West line a distance of
11 145.0 feet to the point of beginning. Containing 0.073 acres, more or less.

12 and the symbols of the City of Fort Wayne Zoning Map No. E-02 (Sec. 7 of Wayne
13 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
14 Wayne, Indiana is hereby changed accordingly.

15 SECTION 2. If a written commitment is a condition of the Plan Commission's
16 recommendation for the adoption of the rezoning, or if a written commitment is modified and
17 approved by the Common Council as part of the zone map amendment, that written
18 commitment is hereby approved and is hereby incorporated by reference.

19 SECTION 3. That this Ordinance shall be in full force and effect from and after its
20 passage and approval by the Mayor.

21 _____
22 Council Member

23 APPROVED AS TO FORM AND LEGALITY:

24 _____
25 Carol T. Helton, City Attorney
26
27
28
29
30

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant O'Daniel Family, LLC
Address 5611 Illinois Road
City Fort Wayne State IN Zip 46804
Telephone (260) 435-5300 E-mail rodaniel@odanielauto.com

Contact Person
Contact Person Stephen L. Fink, Esq., Barnes & Thornburg LLP
Address 888 S. Harrison Street, Suite 600
City Fort Wayne State IN Zip 46802
Telephone (260) 425-4664 E-mail sfink@btlaw.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 5809 Illinois Road, Fort Wayne, IN 46804
Present Zoning C2 Proposed Zoning C3 Acreage to be rezoned 1.538
Proposed density N/A units per acre
Township name Wayne Township section # 7
Purpose of rezoning (attach additional page if necessary) See attached.

Sewer provider Fort Wayne Water provider Fort Wayne

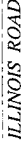
Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please refer to checklist for applicable filing fees and plan/survey submittal requirements.
☐ Applicable filing fee
☐ Applicable number of surveys showing area to be rezoned (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.

<u>RANDY O'DANIEL</u> (printed name of applicant)	<u>[Signature]</u> (signature of applicant)	<u>3/4/19</u> (date)
<u>RANDY O'DANIEL</u> (printed name of property owner)	<u>[Signature]</u> (signature of property owner)	<u>3/4/19</u> (date)
<u>O'DANIEL FAMILY, LLC</u> (printed name of property owner)	<u>[Signature]</u> (signature of property owner)	<u> </u> (date)
<u> </u> (printed name of property owner)	<u> </u> (signature of property owner)	<u> </u> (date)

Received <u>3-5-19</u>	Receipt No. <u>129586</u>	Hearing Date <u>4-8-19</u>	Petition No. <u>RCZ-2019-0011</u>
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ILLINOIS ROAD



Address: 5809 Illinois Road, Fort Wayne, IN 46804

In Accordance with Title 865, Article 1.1, Chapter 12, Sec. 1 et. seq. of the Indiana Administrative Code, the following observations and opinions are submitted regarding various uncertainties in (a) reference monuments, (b) lines of occupation, (c) record descriptions, and (d) those uncertainties due to random errors in measurement ("relative positional accuracy"). There may be unwritten rights associated with these uncertainties.

-The deeds of the subject tract and the adjoining tracts, as shown on the plat of survey.

-A survey of the East adjoining tract by Sauer Land Surveying, Inc., Survey No. 065-141 "B", dated

The following monuments were accepted and held as controlling monuments at the following locations:

-The Northeast corner of subject tract.....#4 rebar found.

- The Southeast corner of Lot Number 2..... 1 inch diameter pipe found.

Uncertainties due to variances between found controlling monuments and record distances were determined to be a maximum of 1.42

Occupation and/or possession lines near the perimeter of subject tract are shown on the plat of survey with the variances from the boundary lines as established in this survey. Encroachments and/or discrepancies may be buried or otherwise obscured by natural or man-made obstructions. There are no observable uncertainties in occupation and/or possession lines.

Upon review of the most current deeds of record, the base tract description does not contain any ambiguity with any of the adjoining descriptions. Therefore, there are no uncertainties based upon record descriptions.

The relative positional accuracy representing the uncertainty due to random errors in measurements of the corners established in this survey is less than or equal to the specifications for an Urban Survey (0.07 feet plus 50 ppm) as defined by IAC 865.

[illegible]

(F) NOTES:

1. This survey is an opinion of a licensed land surveyor of the State of Indiana as to the actual location of the lines and corners outlined in the deed description. This opinion is based on logic, relevant field and research evidence, and established surveying principles. However, this opinion is subject to the interpretation of its deed description, and the boundaries of adjacent tracts may not be consistent with the boundaries of subject tract. As a consequence, another surveyor may arrive at different conclusions resulting in a different location of the boundaries.

2. A survey cannot resolve uncertainties in the position of the original boundaries that exist. Only courts may establish property lines. The boundaries were established from the most current recorded intentions. An abstract or title search may reveal the existence

3. The flood statement hereon is for informational purposes only; Accurate determination of the flood hazard status of the property

4. No attempt has been made to review or come to an opinion on the title or marketability of the title. Any appearance of an opinion

5. Unplatted easements, setback lines, restrictive covenants, or land use regulations affecting the subject tract are shown only when

6. All documents of record and information from other public sources referred to in the survey are hereby incorporated as part of this

7. No attempt has been made to determine the zoning status of the property. It is the responsibility of the parties involved in the real

8. Any fence or other evidence of possession which varies from the written title lines may constitute adverse possession or

9. Subsurface and environmental conditions were not examined or considered as a part of this survey.

10. Any acreage shown is based on the boundaries established from the deed description and no certification is made that the land area shown on the statement is the same as shown on ground but that applicant

11. Expression of distances to hundredths of a foot and angles to seconds of arc is solely to minimize errors introduced by roundings.

17 Since the last date of field work of this survey conditions beyond the knowledge or control of Sater Land Surveying Inc., may

13. Declaration is made to original purchaser of the survey and is not transferable to additional institutions or subsequent owners. This

14. No statement made by any employee or agent of Sauer Land Surveying, Inc., is valid unless written herein.

Last Deed of Record: Dec. 201004/770
 Date of Recording: Dec. 13, 2015

This property appears to lie within Zone X as the description plots by scale

This document is a record retracement survey of real estate prepared under IAC Title 865, Article 1, Rule 12 and in conformity with established practices of surveying and made in accordance with the record on file in the Office of the Recorder of Allen County, Indiana. The land described exists in full dimensions as shown hereon in feet. It is free from encroachments either way across boundary lines unless specifically stated hereon. Corners were perpetuated as indicated.

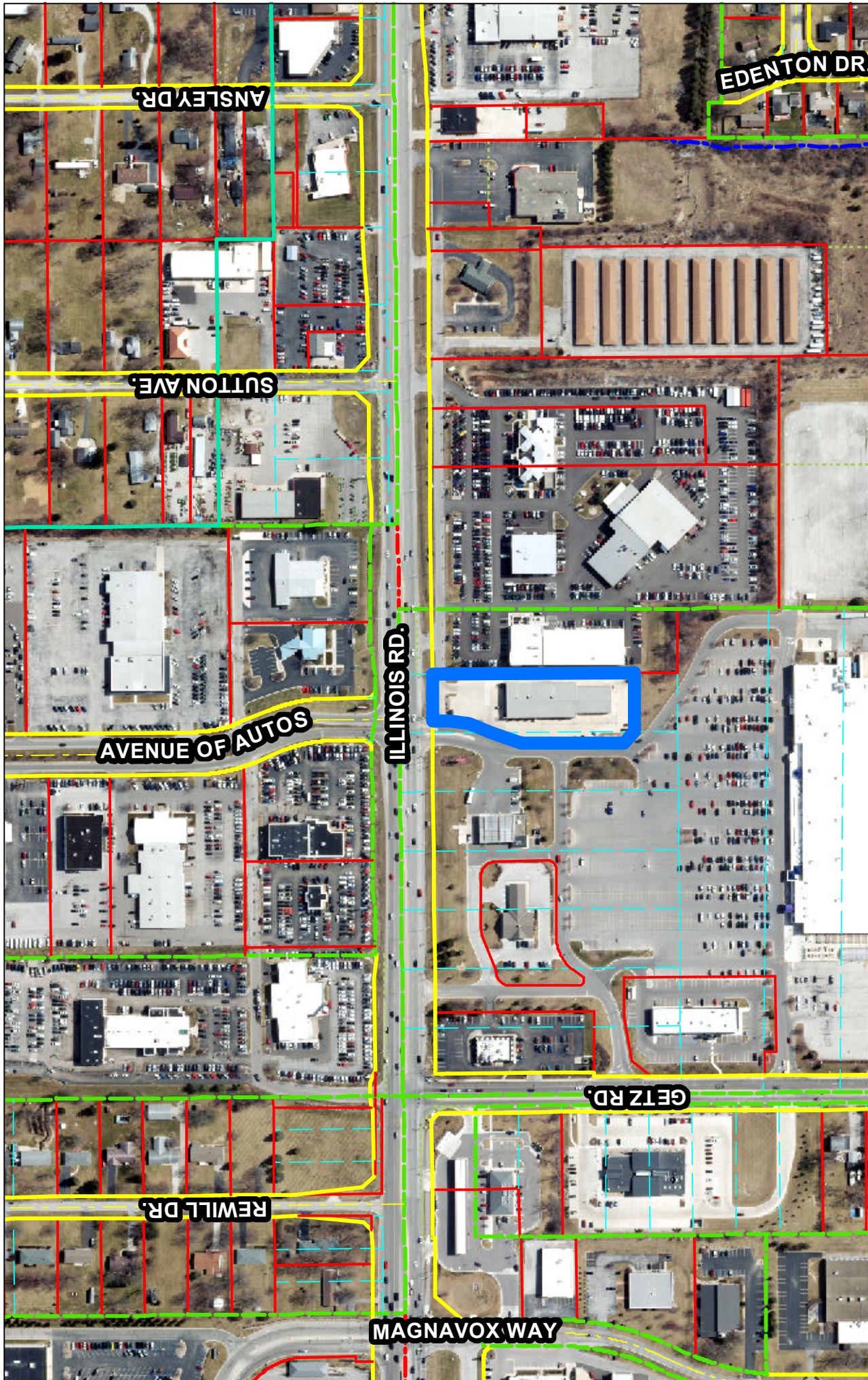
John C. Sauer, affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this

22

Indiana Professional Land Surveyor

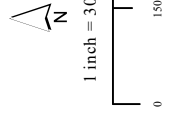


IAC 865 Survey and Surveyor's Report Part of Lots Numbered 2 & 3 in Pavey's Subdivision to Fort Wayne, Allen County, Indiana	Revisions:	For: Bauerle 5809, LLC / O'Daniel Family, LLC
	By: Sauter Land Surveying, Inc. 14033 ILLINOIS ROAD, SUITE C FORT WAYNE, IN 46814 TEL: 260/469-3300 / FAX: 260/469-3301	Drawn By: JCS Checked By: JCS Scale: 1" = 30' Job No. 113-137 Date: June 18, 2015



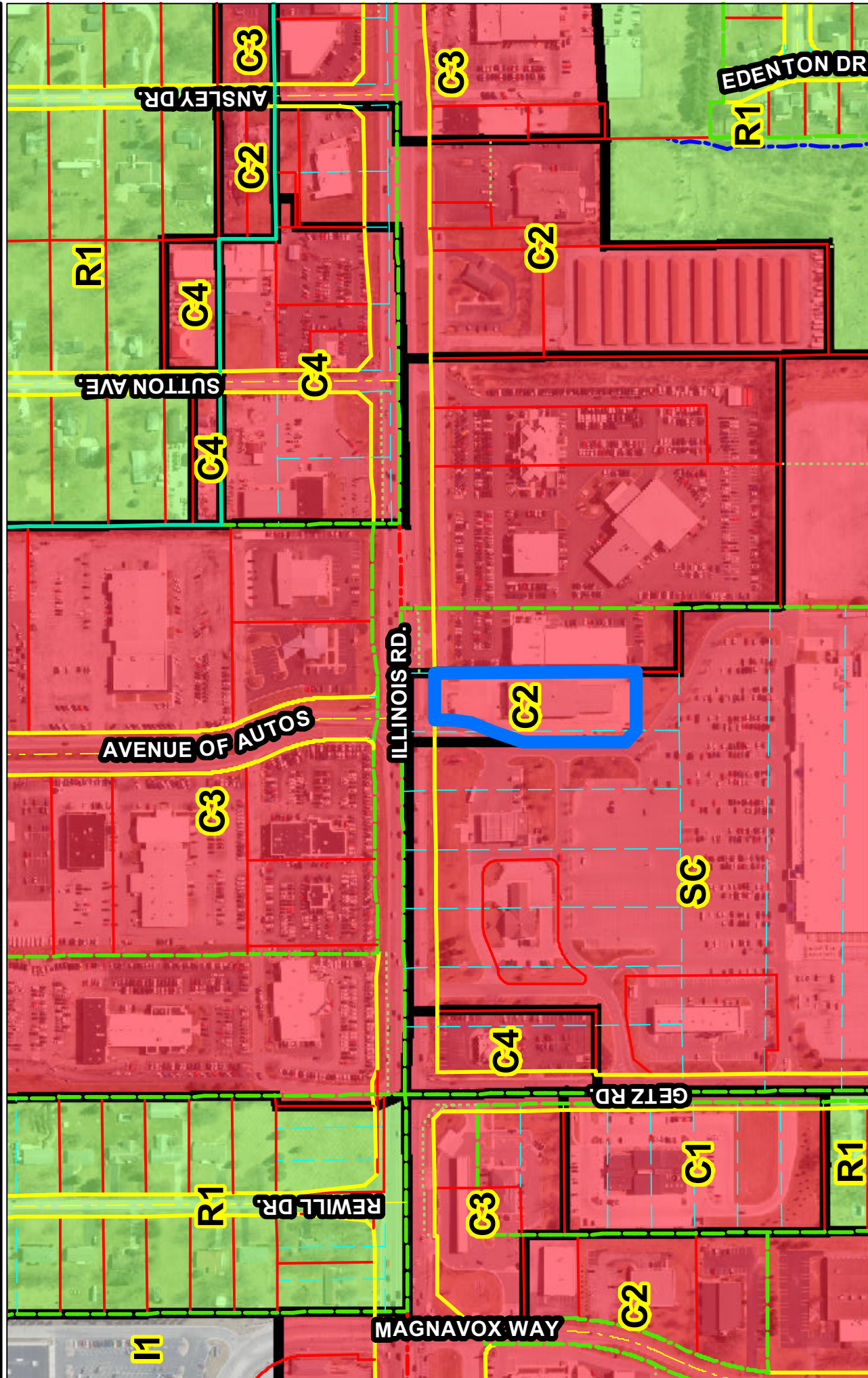
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 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 3/20/2019





Rezoning Petition REZ-2019-0011 (5809 Illinois Road)



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1 inch = 300 feet

