

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2019-0036
Bill Number: Z-19-06-15
Council District: 4-Jason Arp

Introduction Date: June 25, 2019

Plan Commission
Public Hearing Date: July 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 2.34 acres from R1/Single Family Residential , R3/Multiple Family Residential and C2/Limited Commercial to C3/General Commercial.

Location: 6411 through 6441 Bluffton Road

Reason for Request: To bring all parcels under one zoning district and to allow an additional restaurant and warehouse on the property.

Applicant: Colony Shoppes, LLC

Property Owner: Colony Shoppes, LLC

Related Petitions: Primary Development Plan, Colony Shoppes

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which will allow the existing uses, as well as a warehouse.

Effect of Non-Passage: The property will remain zoned residentially and commercially which allows the current uses but will not allow a new restaurant or warehouse.

#REZ-2019-0036

BILL NO. Z-19-06-15

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map Nos. J-23 and J-27 (Sec. 27 of Wayne 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 C3 (General
Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
Wayne, Indiana:

PARCEL I: DOC # 2018063516 (PREVIOUS: Doc.# 2015009561)

Lot Number 18 and the South 10 feet of Lot Number 19, in William May Addition,
Section B, as recorded in Plat Record 18, page 25, in the Office of the Recorder of
Allen County, Indiana.

PARCEL II: Doc.# 2018063515 (PREVIOUS: DOC #2013010723)

Part of Lots Number 7, 8 and 9 in Liberty Gardens Addition, Fort Wayne, Indiana,
described as follows:

Starting at the most Southerly corner of said Lot 9; thence Northwesterly 93.80 feet
along the Southerly line of said of 9 to a 5/8" rebar stake on the Easterly right of way
line of Bluffton Road; thence Northwesterly, deflecting right 24 degrees 06 minutes
23 seconds 63.91 feet along said right of way to a 5/8" rebar stake; thence
Northerly, deflecting right 24 degrees 15 minutes 15 seconds, 61.18 feet along said
right of way to a 5/8" rebar stake which shall be the place of beginning; thence
continuing Northerly, 327.62 feet along said right of way line to a 5/8" rebar stake on
the North line of said Lot Number 7; thence Southeasterly, deflecting right 131
degrees 49 minutes 00 seconds, 408.75 feet along the North line of said Lots 7, 8 and
9 to a steel post at the Northeast corner of said Lot 9; thence Southwesterly,
deflecting right 89 degrees 30 minutes 33 seconds, 73.36 feet along the East line of
said Lot 9 to a 5/8" rebar stake; thence Westerly, deflecting right 48 degrees 40
minutes 27 seconds, 256.20 feet to the place of beginning, said in previous deed to
contain 1.31 acres, more or less.

1 PARCEL III: Doc.# 2018063515 (PREVIOUS DOC #2017047976)

2 Part of Lots Number 8 and 9 in Liberty Gardens Addition, an Addition to the City of
3 Fort Wayne, Allen County, Indiana, as per plat thereof recorded in Plat Book 8, page
4 61, in the Office of the Recorder of Allen County, Indiana, described as follows:

5 Beginning at the most Southerly corner of said Lot 9; thence Northwesterly, 93.80
6 feet, along the Southerly line of said Lot 9, to the Easterly right of way line of
7 Bluffton Road; thence Northwesterly, deflecting right 24 degrees 06 minutes 23
8 seconds, 63.91 feet along said right of way line; thence Northerly, deflecting right 24
9 degrees 15 minutes 15 seconds, 61.18 feet along said right of way line; thence
10 Easterly, deflecting right 90 degrees 00 minutes 00 seconds, 256.20 feet to the
11 Easterly line of said Lot 9; thence Southwesterly, deflecting right 131 degrees 19
12 minutes 33 seconds, 242.05 feet along said Easterly line, to the place of beginning,
13 said in previous deed to contain 0.63 acres, more or less.

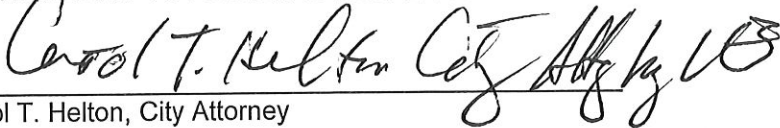
14 and the symbols of the City of Fort Wayne Zoning Map Nos. J-23 and J-27 (Sec. 27 of
15 Wayne Township), as established by Section 157.082 of Title XV of the Code of the City of
16 Fort Wayne, Indiana is hereby changed accordingly.

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

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

23 _____
Council Member

24 APPROVED AS TO FORM AND LEGALITY:

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

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant COLONY SHOPPES, LLC - CHUCK HOCKEMA
Address 10211 DUPONT CIRCLE DR W, STE A
City Fort Wayne State IN Zip 46825
Telephone 765-414-1014 E-mail CHOCKEMA@GMAIL.COM

Contact Person
Contact Person SAME AS APPLICANT
Address _____
City _____ State _____ Zip _____
Telephone _____ E-mail _____

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 6411 THROUGH 6441 BLUFFTON ROAD
Present Zoning R1, R3, C2 Proposed Zoning C3 Acreage to be rezoned 2.34
Proposed density NA units per acre
Township name WAYNE Township section # 27
Purpose of rezoning (attach additional page if necessary) For the future development of a
2 building commercial / warehouse buildings with parking & to establish
conformity of existing property use.
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

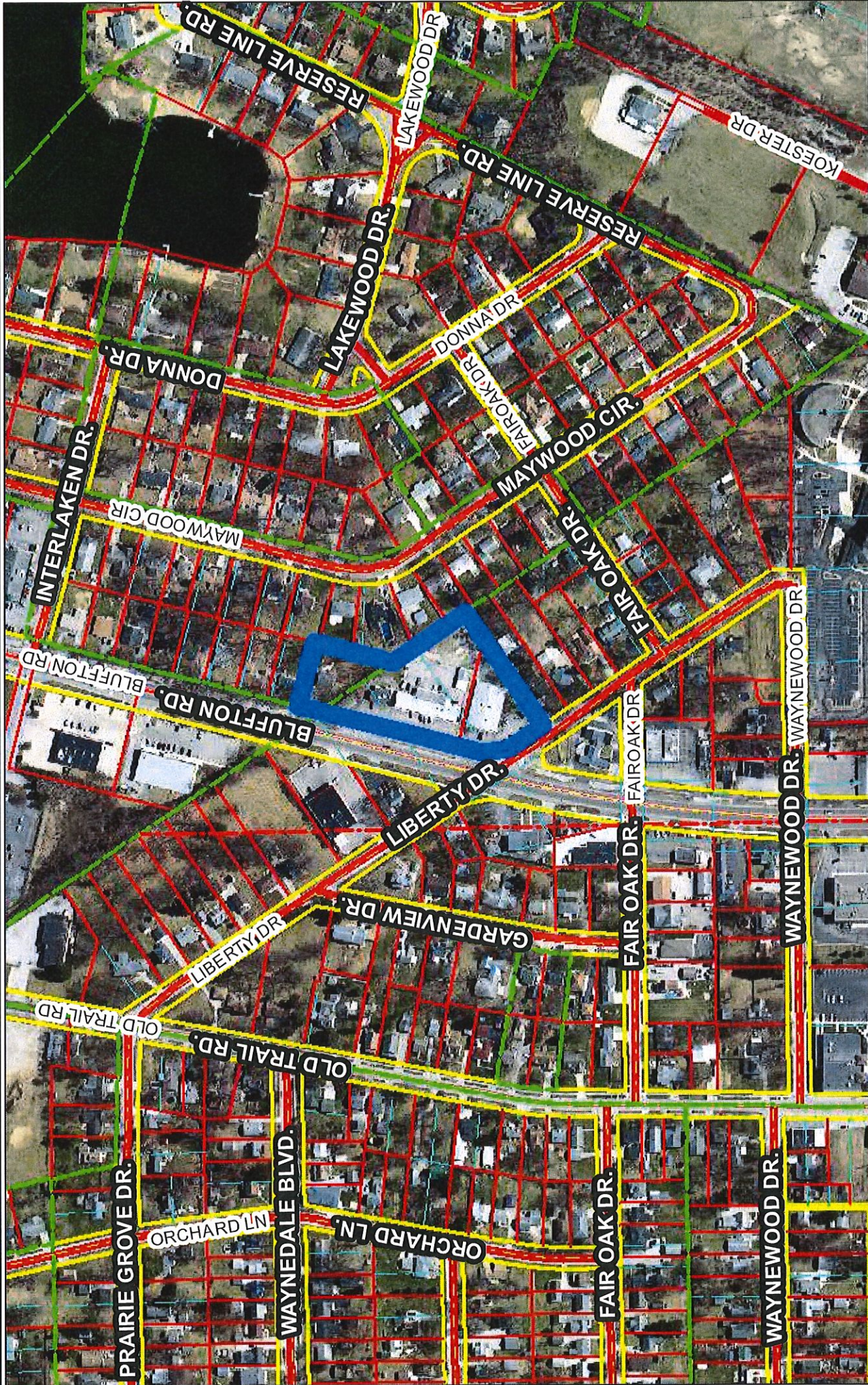
I/We understand and agree, upon execution and submission of this application, that I am/we are the owner(s) of more than 50 percent of the property described in this application; that I/we agree to abide by all provisions of the Allen County Zoning and Subdivision Control Ordinance as well as all procedures 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.

Chuck Hockema Ch H 6/3/19
(printed name of applicant) (signature of applicant) (date)
JOEL M. JOHNSON JM 6/3/19
(printed name of property owner) (signature of property owner) (date)

(printed name of property owner) (signature of property owner) (date)

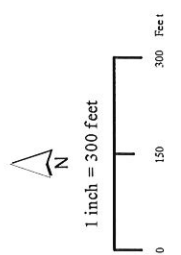
(printed name of property owner) (signature of property owner) (date)

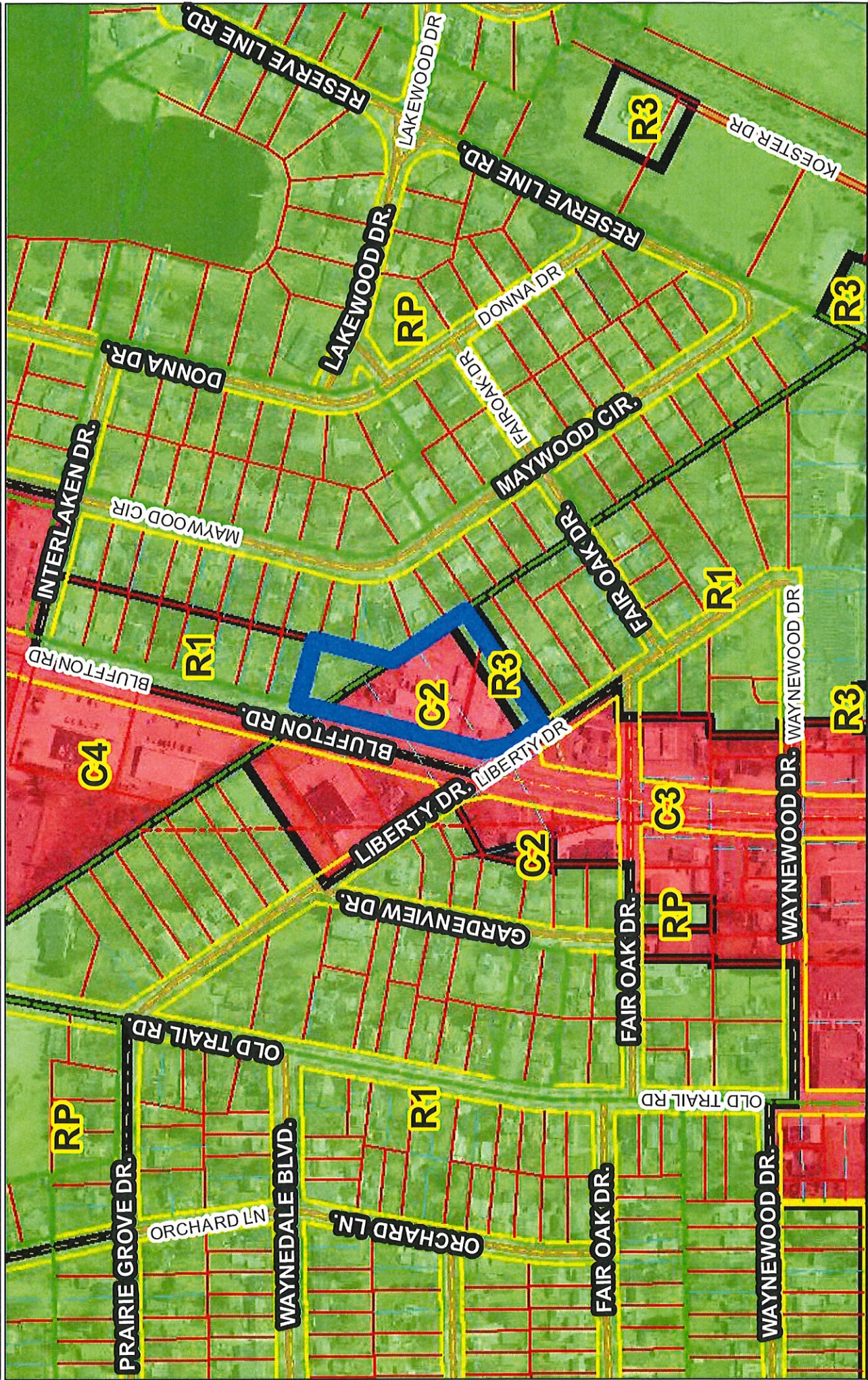
Received	Receipt No.	Hearing Date	Petition No.
6-4-2019	130711	7-8-2019	REZ-2019-0036



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.

North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 6/17/2019





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.

North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 6/17/2019

1 inch = 300 feet

0 150 300 Feet

FACT SHEET

Case #REZ-2019-0036		Bill # Z-19-06-15	Project Start: 25 June 2019
APPLICANT:	Colony Shoppes, LLC – Chuck Hockema		
REQUEST:	To rezone property from R1/Single Family Residential, R3/Multiple Family Residential, and C2/Limited Commercial to C3/General Commercial; and approve a primary development plan for two additional commercial structures at the Colony Shoppes.		
LOCATION:	The site is located on the east side of Bluffton Road, north of Liberty Drive (Section 27 of Wayne Township).		
LAND AREA:	Approximately 2.4 acres		
PRESENT ZONING:	R1/Single Family Residential, R3/Multiple Family Residential, and C2/Limited Commercial		
PROPOSED ZONING:	C3/General Commercial		
COUNCIL DISTRICT:	4-Jason Arp		
ASSOCIATED PROJECTS:	Primary Development Plan, Colony Shoppes		
SPONSOR:	City of Fort Wayne Plan Commission		

8 July 2019 Public Hearing

- Three residents spoke at the hearing in opposition or with questions.
- All members were present.

15 July 2019 – Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

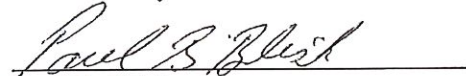
A motion was made by Paul Sauerteig and seconded by Justin Shurley to return the ordinance with a Do Pass recommendation to Common Council for their final decision.

7-0 MOTION PASSED

- Connie Haas Zuber and Patrick Zaharako were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
July 17, 2019

Reviewed by:



Paul B. Blisk
Deputy Land Use Director

PROJECT SUMMARY

SITE HISTORY

It appears that the majority of this property has been developed commercially since the 1950's. The single family house to be redeveloped was built in 1954.

STAFF DISCUSSION

Colony Shoppes is an existing retail strip center in Waynedale, just north of the Lower Huntington and Bluffton Road commercial area. It appears there have been commercial uses in various forms on the property for over 60 years. Recently a Little Caesars Pizza store and drive-through was constructed on the north end. A Family Dollar store anchors the south end of the shopping center, and a multi-tenant building lies in the center. There is a small stand-alone building (currently dog grooming) north of Little Caesars that will be demolished. North of the Colony Shoppes property is a single family house at 6411 Bluffton Road that will also be demolished so that the property can be added to the shopping center and redeveloped with a restaurant and drive-through. East of the shopping center is a single family neighborhood with single and multi-family zoning. There are a few homes to the north on Bluffton Road, but uses along the corridor are primarily commercial in nature, ranging from restaurants and shops to offices and auto parts.

The Colony Shoppes site is mostly C2/Limited Commercial, which allows the current uses. The southern parcel is zoned R1/Single Family Residential, which lies under a portion of the Family Dollar. And as mentioned, the proposal intends to add a residential parcel on the north end. The site plan includes a storage building on the east side of the site, behind the multi-tenant building, in approximately in the same location as a recently demolished building. The owner intends to rent this building for storage. Warehousing and storage requires C3/General Commercial zoning. It appears that all other uses on the site would fit within the C2/Limited Retail zoning district.

This property is in the very northern part of the recently adopted Bluffton/Lower Huntington Corridor Improvement Plan. Goal 3 of the plan is to encourage the rezoning of areas where existing and/or proposed land uses are compatible. Goal 4 encourages new development, redevelopment and property improvements that are compatible with adjacent neighborhood uses. While this property is not identified in the plan for a specific recommended zoning, the goals of the plan can still be applied to this area. Goal 4, Policy A encourages the use of the City's Commercial Façade Grant Program, and Colony Shoppes was a recipient of a façade grant a few years ago. The multi-tenant building received a fresh façade and new signage, and is featured in the plan itself. Goal 3, Policies A and B focus on zoning classifications and intensity: Encourage low intensity and neighborhood oriented uses that focus on the needs of the surrounding community and to use less intensive commercially zoned districts as a buffer between residential uses and higher intensity commercial and industrial uses. While a storage building may be a rather low intensity use, with little traffic or activity, the C3 zoning that is required could permit many commercial uses that are inappropriate adjacent to residential and do not support the policies of the Bluffton/Lower Huntington Corridor Improvement Plan.

Staff recommended that the rezoning proposal be supplemented with a Written Commitment to limit uses to those that are not compatible with the residential neighborhood or do not complement the investment that has been put into this property already. A Written Commitment could also cover such site issues as landscaping and lighting, which can aid in compatibility. Any amendment of the commitment would require approval by the Plan Commission and a public hearing.

The proposed development could be supported by the Comprehensive Plan in that it will offer redevelopment and further investment in the area.

The comprehensive plan could support this development through the following objectives:

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

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.

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

Much of the site will remain as it is today. The multi-tenant building, the Little Caesars restaurant and the Family Dollar will remain. Two buildings will be demolished: the single family house at 6411 Bluffton Road, and the dog grooming business. A third structure was recently removed behind the shopping center. Access to the center will remain the same, and the north point on Bluffton Road will serve the proposed restaurant. It appears that all zoning ordinance requirements will be met, utilizing existing privacy fencing to meet some of the landscape standards. A new trail was recently installed along Bluffton Road, and a new sidewalk is proposed to connect from the new restaurant to the trail.

PUBLIC HEARING SUMMARY:

Presenter: Kevin McDermitt, engineer, presented the proposal to the Plan Commission, as outlined above. Chuck Hockema, developer, also answered questions.

Public Comments:

- Karen Hill and Dan Hill, 6509 Liberty Drive – they would like to look at plans. They have concerns over having a buffer between their property and the development.
- Beulah Madzic – Feels Bluffton Road is very congested and there is too much development. She does not want to see the dog grooming business go away.

Rebuttal:

Chuck Hockema spoke as an investor with the owner, Dr. Joel Johnson. He stated that all fencing would be replaced or repaired as needed and buffering would meet the zoning ordinance. The new warehouse will be smaller than the buildings being replaced. The dog grooming business will remain as long as their lease on the building lasts.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

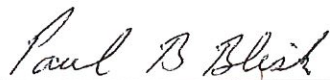
Rezoning Petition REZ-2019-0036

APPLICANT:	Colony Shoppes, LLC – Chuck Hockema
REQUEST:	To rezone property from R1/Single Family Residential, R3/Multiple Family Residential, and C2/Limited Commercial to C3/General Commercial for two additional commercial structures at the Colony Shoppes.
LOCATION:	The site is located on the east side of Bluffton Road, north of Liberty Drive (Section 27 of Wayne Township).
LAND AREA:	Approximately 2.4 acres
PRESENT ZONING:	R1/Single Family Residential, R3/Multiple Family Residential, and C2/Limited Commercial
PROPOSED ZONING:	C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2019-0036, with a Written Commitment, be returned to Council with a “Do Pass” recommendation after considering the following:

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. Colony Shoppes has invested in the property with community façade grants and continues to make improvements on the property. The use of a Written Commitment will prohibit uses that may not be compatible with existing uses in the area. 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. A voluntary Written Commitment will tailor the permitted uses which will not adversely impact the neighborhood.
3. Approval is consistent with the preservation of property values in the area. Commercial uses are prevalent in the area. The proposed site design is consistent with corridor development and meets all zoning ordinance design standards.
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 July 15, 2019.



Paul B. Blisk, AICP
Deputy Director

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant COLONY SHOPPES, LLC - CHUCK HOCKEMA
Address 10211 DUPONT CIRCLE DR W, STE A
City Fort Wayne State IN Zip 46825
Telephone 765-414-1014 E-mail CHOCKEMA@GMAIL.COM

Contact Person
Contact Person SAME AS APPLICANT
Address _____
City _____ State _____ Zip _____
Telephone _____ E-mail _____

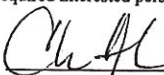
All staff correspondence will be sent only to the designated contact person.

Request
☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property 6411 THROUGH 6441 BLUFFTON ROAD
Present Zoning R1, R3, C2 Proposed Zoning C3 Acreage to be rezoned 2.34
Proposed density NA units per acre
Township name WAYNE Township section # 27
Purpose of rezoning (attach additional page if necessary) For the future development of a 2 building commercial / warehouse buildings with parking & to establish conformity of existing property use.
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>Chuck Hockema</u> (printed name of applicant)	 (signature of applicant)	<u>6/3/19</u> (date)
<u>JOEL M. JOHNSON</u> (printed name of property owner)	 (signature of property owner)	<u>6/3/19</u> (date)
_____ (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.
6-4-2019	130711	7-8-2019	REZ-2019-0036



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.

© 2004 Board of Commissioners of the County of Allen
North American Datum 1983
Shaded relief generated by Symbionics, Inc.
Photocopy of County of Allen, Texas
Date: 6/17/2019

1 inch = 300 feet

0 150 300 Feet



Rezoning Petition REZ-2019-0036 and Primary Development Plan PDP-2019-0029 - Colony Shoppes



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.

© 2004 Board of Commissioners of the County of Allen, Texas
Allen County, Texas
State Plane: NAD 83, Zone 14N
Photos and Contours: Spring 2009
Date: 6/17/2019

WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the 30th day of June, 2019, by Colony Shoppes LLC, an Indiana corporation ("Declarant").

RECITALS

A. By virtue of that certain Warranty Deed dated December 10, 2018 and recorded on December 18, 2018 as Document Number 2018063516 in the Office of the Recorder of Allen County, Indiana, the Declarant is the owner of record in fee simple of certain real estate located in Allen County, Indiana, which is legally described in the addendum attached to this Commitment as Exhibit "A" (the "Real Estate"); and by virtue of that certain Limited Liability Company Deed dated December 10, 2018 and recorded on December 18, 2018 as Document Number 2018063515 in the Office of the Recorder of Allen County, Indiana, the Declarant is the owner of record in fee simple of certain real estate located in Allen County, Indiana, which is legally described in the addendum attached to this Commitment as Exhibit "B" (the "Real Estate");

B. The Declarant filed an application under Case Number REZ-2019-0036 (the "Rezoning Application") to change the zoning map applicable to the Real Estate from the R1, R3, and C2 Zoning Districts to the C3 Zoning District.

D. Pursuant to Ind. Code § 36-7-4-1015(a)(1) and the City of Fort Wayne Zoning Ordinance (the "Ordinance"), the Fort Wayne Plan Commission (the "Plan Commission") may require an owner of real property to make a written commitment concerning the use or development of the real property as part of rezoning application (the "Approval").

E. In connection with the Rezoning Application, the Declarant offered to make, and the Plan Commission required the Declarant to make, a written commitment concerning the use and development of the Real Estate.

COMMITMENT

In consideration of the Approval, Declarant makes the following written commitments pursuant to I.C. §36-7-4-1015(a)(1):

1. ***PERMITTED/PROHIBITED USES.*** All uses normally permitted in the C3/General Commercial zoning district under §157.216 of the Ordinance that are not permitted uses in the C2/Limited Commercial under §157.213 of the Ordinance (all of which shall remain permitted) shall be prohibited except for the following (which shall be permitted):

- (1) Accessory building/structure/use
- (2) Accountant
- (3) Adoption service
- (4) Adult care center
- (5) Adult care home
- (6) Advertising
- (7) Air conditioning sales
- (8) Air conditioning service
- (9) Amusement park
- (10) Animal grooming
- (11) Animal hospital
- (12) Animal kennel
- (13) Animal obedience school
- (14) Answering service
- (15) Antique shop
- (16) Apparel and accessory store
- (17) Appraiser
- (18) Arcade
- (19) Architect
- (20) Arena
- (21) Art gallery
- (22) Art instruction
- (23) Artist material and supply store
- (24) Artist studio
- (25) Assisted living facility
- (26) Attorney
- (27) Auction service
- (28) Audiologist
- (29) Audio-visual studio
- (30) Automatic teller machine
- (31) Automobile accessory store
- (32) Bait sales
- (33) Bakery goods
- (34) Bank
- (35) Bankruptcy service
- (36) Bar or tavern
- (37) Barber shop
- (38) Barber/beauty school
- (39) Beauty shop
- (40) Bed and breakfast
- (41) Bicycle sales and repair shop
- (42) Billiard or pool hall

- (43) Bingo establishment
- (44) Blood bank
- (45) blood or plasma donor facility
- (46) Boarding/lodging house
- (47) Book store
- (48) Bookkeeping service
- (49) Bowling alley
- (50) Broker
- (51) Business training
- (52) Campus housing
- (53) Card and stationery store
- (54) Catalog showroom
- (55) Caterer
- (56) Check cashing
- (57) Child care center
- (58) Child care home (class I or II)
- (59) Chiropractor
- (60) Cigarette/tobacco/cigar store
- (61) Clinic
- (62) Clock/watch/ jewelry sales/repair
- (63) Clothing store
- (64) Club, private
- (65) Coffee shop
- (66) Coin shop
- (67) Collection agency
- (68) Community center
- (69) Community garden
- (70) Computer sales and service
- (71) Computer software store
- (72) Computer training
- (73) Confectionery/ice cream/candy store
- (74) Consignment shop
- (75) Consulting service
- (76) Consumer electronics sales/service
- (77) Convenience store
- (78) Copy or duplicating service
- (79) Correctional services facility
- (80) Cosmetic store
- (81) Costume and clothing rental
- (82) Counseling service
- (83) Country club
- (84) Craft instruction
- (85) Craft studio
- (86) Craft supply store
- (87) Credit service
- (88) Credit union
- (89) Customer service facility

- (90) Dance instruction
- (91) Data processing facility
- (92) Data storage facility
- (93) Dating service
- (94) Day care
- (95) Day spa
- (96) Delicatessen
- (97) Dentist
- (98) Department store
- (99) Diagnostic center
- (100) Dialysis center
- (101) Diaper service facility
- (102) Dinner theater
- (103) Doctor
- (104) Dormitory
- (105) Driving instruction
- (106) Drug store
- (107) Dry cleaning store
- (108) Educational institution
- (109) Embroidery
- (110) Employment agency
- (111) Engineer
- (112) Entertainment facility
- (113) Fabric shop
- (114) Finance agency
- (115) Financial planning service
- (116) Fireworks sales
- (117) Fitness center
- (118) Flea market
- (119) Floor covering store
- (120) Florist
- (121) Foundation office
- (122) Fraternity house
- (123) Fruit/vegetable store
- (124) Funeral home
- (125) Furniture store
- (126) Furrier
- (127) Gift shop
- (128) Glass cutting/glazing shop
- (129) Graphic design service
- (130) Greenhouse
- (131) Grocery store or supermarket
- (132) Group residential facility (large)
- (133) Group residential facility (small)
- (134) Gymnastics instruction
- (135) Hardware store
- (136) Haunted house

- (137) Health center
- (138) Health club
- (139) Heating sales
- (140) Hobby shop
- (141) Homeless/emergency shelter
- (142) Hospice care center
- (143) Hospital
- (144) Hotel
- (145) Insurance agency
- (146) Interior decorating store
- (147) Interior design service
- (148) Internet/web site service
- (149) Investment service
- (150) Laboratory
- (151) Land surveyor
- (152) Laundromat/coin operated laundry
- (153) Leather goods or luggage store
- (154) Legal service
- (155) Library
- (156) Live-work unit
- (157) Loan office
- (158) Marketing agency
- (159) Martial arts training
- (160) Massage therapy
- (161) Meat or fish market
- (162) Medical training
- (163) Micro or mini-brewery or brewpub
- (164) Model unit
- (165) Mortgage service
- (166) Motel
- (167) Movie and game sales and rental
- (168) Multiple family complex
- (169) Multiple family dwelling
- (170) Museum
- (171) Music instruction
- (172) Music store
- (173) Music/recording studio
- (174) Musical instrument store
- (175) Nail salon
- (176) Neighborhood facility
- (177) Nursing home
- (178) Nutrition service
- (179) Ophthalmologist
- (180) Optician
- (181) Optometrist
- (182) Package liquor store
- (183) Paint store

- (184) Park or recreation area
- (185) Parking area
- (186) Parking area (off-site)
- (187) Parking structure
- (188) Pet store
- (189) Photographic supply store
- (190) Photography training
- (191) Physical therapy facility
- (192) Picture framing facility
- (193) Planetarium
- (194) Planner
- (195) Plant nursery
- (196) Podiatrist
- (197) Pottery sales
- (198) Public transportation or similar public facility
- (199) Radio station
- (200) Real estate
- (201) Reception/banquet hall
- (202) Recreation facility
- (203) Rehabilitation facility
- (204) Religious institution/school field
- (205) Rental and/or leasing store
- (206) Residential dwelling unit
- (207) Residential facility for homeless individuals
- (208) Restaurant, including drive-through
- (209) Retirement facility
- (210) Savings and loan
- (211) School
- (212) Security service
- (213) Shoe store/shoe repair shop
- (214) Sign sales store
- (215) Skating rink
- (216) Sleep disorder facility
- (217) Social service agency
- (218) Sorority house
- (219) Sporting goods sales and rentals
- (220) Stained glass studio
- (221) Stock and bond broker
- (222) Surgery center
- (223) Swim club
- (224) Tailor/alterations service
- (225) Tanning salon
- (226) Tattoo establishment
- (227) Tax consulting
- (228) Taxi service
- (229) Telephone sales and service
- (230) Television station

- (231) Tennis club
- (232) Theater
- (233) Tire sales
- (234) Title company
- (235) Townhouse complex
- (236) Toy store
- (237) Travel agency
- (238) Treatment center
- (239) Tutoring service
- (240) Variety store
- (241) Veterinary clinic
- (242) Warehouse/storage facility
- (243) Wind energy conversion system (micro)
- (244) Wedding consultant
- (245) Weight loss service
- (246) Window sales
- (247) Yoga/pilates instruction
- (248) Zoo

2. **ENFORCEMENT RIGHTS.** The Fort Wayne Zoning Administrator (the "Zoning Administrator") and the Plan Commission each shall have the option (but not the obligation) to enforce this Commitment, at law or in equity, in the event of a breach of an obligation in this Commitment; and in the event such an enforcement action is commenced, the Zoning Administrator or the Plan Commission (as applicable) shall have the remedies allowed by the Ordinance (or the ordinance governing the Real Estate at the time of the enforcement action) and I.C. §36-7-4-1015, which remedies shall be cumulative and not exclusive. A violation of this Commitment shall be deemed a violation of the Ordinance, or the ordinance governing the Real Estate at the time of the violation; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel enforcement of it by the Zoning Administrator or the Plan Commission, or any successor agency having zoning jurisdiction over the Real Estate.

3. **EFFECTIVE DATE.** This Commitment shall be effective upon its recording in the Office of the Recorder of Allen County, Indiana.

4. **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 and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate.

5. **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.

6. **GOVERNING LAW.** This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

7. **STATUTORY AUTHORITY.** This Commitment is made pursuant to I.C. §36-7-4-1015(a)(1).

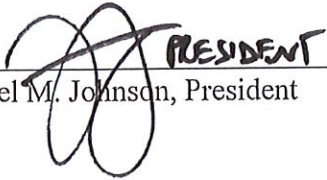
8. **PERMITS.** No permits shall be issued under the Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder. The Declarant shall deliver to the Zoning Administrator and the Plan Commission an executed and recorded copy of this Commitment.

9. **MODIFICATION AND TERMINATION.** Modification and termination of this Commitment may only be made in accordance I.C. §36-7-4-1015, as such statute may be amended from time-to-time.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

[SIGNATURE PAGE FOLLOWS.]

Colony Shoppes LLC,
an Indiana corporation

By:  PRESIDENT
Joel M. Johnson, President
"Company"

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public in and for said County and State, this 15th day of July, 2019, personally appeared Joel M. Johnson, as President of Colony Shoppes LLC, Inc., an Indiana corporation, and acknowledged the execution of the foregoing Written Commitment on behalf of said company.

WITNESS my hand and Notarial Seal.

My commission expires:


Notary Public
Resident of Allen, County, Indiana



CHERI R VERHEST, Notary Public
Allen County, State of Indiana
Commission Number 0639222
My Commission Expires: October 17, 2020

This instrument prepared by and after recording return to: Joel M. Johnson 10211 Dupont Circle Drive West, Fort Wayne, IN 46825

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

Exhibit "A"
Legal Description of the Real Estate

PARCEL I: DOC # 2018063516 (PREVIOUS: Doc.# 2015009561)

Lot Number 18 and the South 10 feet of Lot Number 19, in William May Addition, Section B, as recorded in Plat Record 18, page 25, in the Office of the Recorder of Allen County, Indiana.

Exhibit "B"
Legal Description of the Real Estate

PARCEL II: Doc.# 2018063515 (PREVIOUS: DOC #2013010723)

Part of Lots Number 7, 8 and 9 in Liberty Gardens Addition, Fort Wayne, Indiana, described as follows:

Starting at the most Southerly corner of said Lot 9; thence Northwesterly 93.80 feet along the Southerly line of said of 9 to a 5/8" rebar stake on the Easterly right of way line of Bluffton Road; thence Northwesterly, deflecting right 24 degrees 06 minutes 23 seconds 63.91 feet along said right of way to a 5/8" rebar stake; thence Northerly, deflecting right 24 degrees 15 minutes 15 seconds, 61.18 feet along said right of way to a 5/8" rebar stake which shall be the place of beginning; thence continuing Northerly, 327.62 feet along said right of way line to a 5/8" rebar stake on the North line of said Lot Number 7; thence Southeasterly, deflecting right 131 degrees 49 minutes 00 seconds, 408.75 feet along the North line of said Lots 7, 8 and 9 to a steel post at the Northeast corner of said Lot 9; thence Southwesterly, deflecting right 89 degrees 30 minutes 33 seconds, 73.36 feet along the East line of said Lot 9 to a 5/8" rebar stake; thence Westerly, deflecting right 48 degrees 40 minutes 27 seconds, 256.20 feet to the place of beginning, said in previous deed to contain 1.31 acres, more or less.

PARCEL III: Doc.# 2018063515 (PREVIOUS DOC #2017047976)

Part of Lots Number 8 and 9 in Liberty Gardens Addition, an Addition to the City of Fort Wayne, Allen County, Indiana, as per plat thereof recorded in Plat Book 8, page 61, in the Office of the Recorder of Allen County, Indiana, described as follows:

Beginning at the most Southerly corner of said Lot 9; thence Northwesterly, 93.80 feet, along the Southerly line of said Lot 9, to the Easterly right of way line of Bluffton Road; thence Northwesterly, deflecting right 24 degrees 06 minutes 23 seconds, 63.91 feet along said right of way line; thence Northerly, deflecting right 24 degrees 15 minutes 15 seconds, 61.18 feet along said right of way line; thence Easterly, deflecting right 90 degrees 00 minutes 00 seconds, 256.20 feet to the Easterly line of said Lot 9; thence Southwesterly, deflecting right 131 degrees 19 minutes 33 seconds, 242.05 feet along said Easterly line, to the place of beginning, said in previous deed to contain 0.63 acres, more or less.