

#REZ-2021-0033

BILL NO. Z-21-07-17

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. O-30 (Sec. 24 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 C1 (Professional Office and Personal Service) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana:

PARCEL I:

Part of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, Allen County, Indiana. more particularly described as follows:

Beginning at a point on the North line of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, Allen County, Indiana, said point being 264.2 feet West of the Northeast corner of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East; thence South 87 degrees 24.1 minutes West along the North line of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, a distance of 373.5 feet; thence South 01 degrees 40 minutes 43 seconds East and parallel to the East line of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, a distance of 175.0 feet; thence North 87 degrees 24.1 minutes East and parallel to the North line of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, a distance of 373.75 feet; thence North 01 degrees 40 minutes 43 seconds West and parallel to the East line of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, a distance of 175.0 feet to the point of beginning, containing 1.5 acres.

PARCEL II:

An easement for the purpose of Ingress and Egress for the benefit of PARCEL I, as created by easement dated December 12, 1984 and recorded March 27, 1985 as Document Number 85-7145, and Street Dedication recorded as Document Number 85-9803, over and across the following described real estate in Allen County, Indiana:

Part of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Beginning at the Northeast corner of the West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, Allen County, Indiana; thence South 87 degrees 24.1 minutes West along the North line of said Section 24, Township 31 North, Range 12 East, a distance of 1211.0 feet to a point in the East right of way line of Clinton Street (formerly Leo Road); thence Southerly along the East right of way line on a curve to the left having a radius of 1834.86 feet and a central angle of 6 degrees 37 minutes, a distance of 211.9 feet to a concrete monument marking the point of tangency of said curve; thence South 2 degrees 28 minutes East along said East right of way line of Clinton Street (formerly Leo Road), a distance of 310 feet to a point; thence North 87 degrees 32 minutes East, a distance of 214 feet to a point of curvature; thence along a curve to the right having a radius of 279.9 feet and a central angle of 30 degrees, a distance of 146.34 feet to a point; thence South 62 degrees 28 minutes East, a distance of 264.36 feet to a point; thence along a curve to the left having a radius of 25 feet and a central

1 angle of 30 degrees 07.9 minutes, a distance of 13.1 feet to a point; thence North 87 degrees
2 24.1 minutes East, a distance of 31 .6 feet; thence North and parallel to the East line of the West
3 half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, a distance of 25
4 feet to the true point of beginning; thence North 03 degrees 05.9 minutes West, a distance of
5 299.0 feet; thence North 01 degrees 40 minutes 43 seconds West, parallel to the East line of the
6 West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, a distance
7 of 193.76 feet to a point 175.0 feet South of the North line of the West half of the Southeast
8 Quarter of Section 24, Township 31 North, Range 12 East; thence South 87 degrees 24.1
9 minutes West parallel to the North line of the West half of the Southeast Quarter of Section 24,
10 Township 31 North, Range 12 East, a distance of 50.0 feet, said point being 637.95 feet West of
11 the East line of the West half of the Southeast Quarter of Section 24, Township 31 North, Range
12 12 East; thence South 01 degrees 40 minutes 43 seconds East parallel to the East line of the
13 West half of the Southeast Quarter of Section 24, Township 31 North, Range 12 East, a distance
14 of 193. 76; thence South 05 degrees 02 minutes 37 seconds East, a distance of 52.28 feet;
15 thence South 02 degrees 47 minutes 16 seconds West, a distance of 236.06 feet; thence South
16 62 degrees 28 minutes East, a distance of 21 .32 feet; thence North 87 degrees 24.1 minutes
17 East, a distance of 31.6 feet to the point of beginning.

18 and the symbols of the City of Fort Wayne Zoning Map No. O-30 (Sec. 24 of Washington
19 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort Wayne,
20 Indiana is hereby changed accordingly.

21
22 SECTION 2. If a written commitment is a condition of the Plan Commission's
23 recommendation for the adoption of the rezoning, or if a written commitment is modified and
24 approved by the Common Council as part of the zone map amendment, that written commitment
25 is hereby approved and is hereby incorporated by reference.

26
27 SECTION 3. That this Ordinance shall be in full force and effect from and after its
28 passage and approval by the Mayor.

29
30

Council Member

APPROVED AS TO FORM AND LEGALITY:



Carol T. Helton, City Attorney

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Rezoning Petition
Case Number: REZ-2021-0033
Bill Number: Z-21-07-17
Council District: 3-Tom Didier

Introduction Date: July 27, 2021

Plan Commission
Public Hearing Date: August 9, 2021 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 1.5 acres from R3/Multiple Family Residential to C1/Professional Office and Personal Services

Location: 5104 North Clinton

Reason for Request: To bring the existing use into compliance with the ordinance and allow for the construction of a playground/park.

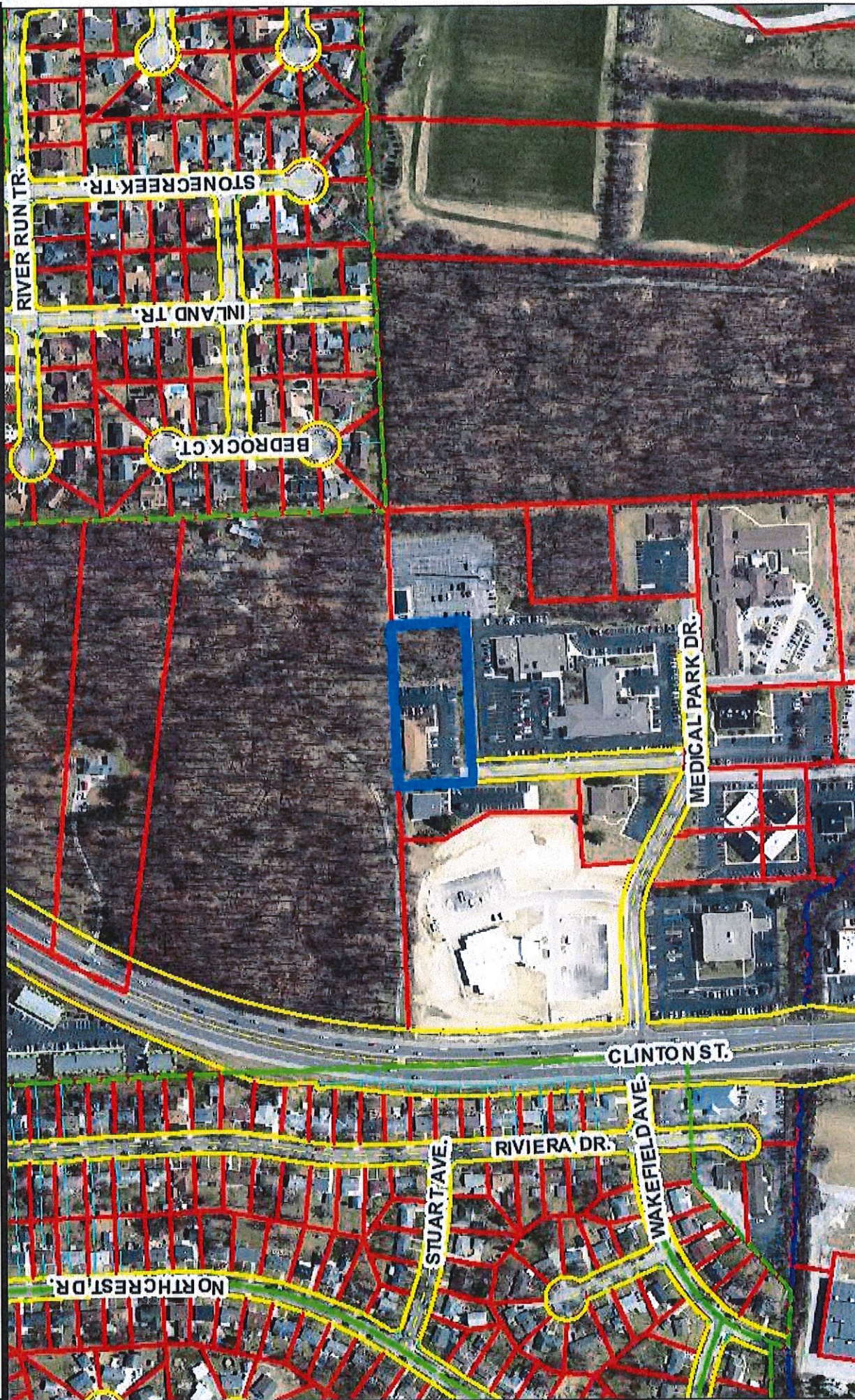
Applicant: Amani Family Services, Inc.

Property Owner: Amani Family Services, Inc.

Related Petitions: none

Effect of Passage: The property will be rezoned to allow the existing professional office as a permitted use and allow for the construction of a playground/park on the property.

Effect of Non-Passage: The property will remain zoned for multiple family residential and the office may remain as a Board of Zoning Appeals approved use, however, expansion may not occur without a new approval or rezoning.



Although some 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
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 7/19/2021



1 inch = 300 feet



REZ-2021-0033 5104 North Clinton Street



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© 2014 Board of Commissioners of the County of Allen
North American Datum 1983
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Photos and Contours: Spring 2009
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1 inch = 300 feet

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Amani Family Services, Inc.
Address 5104 North Clinton St.
City Fort Wayne State IN Zip 46825
Telephone (260)484-1414 E-mail econnolly@amanifamilyservices.org

Contact Person
Contact Person Thomas B. Trent
Address 505 E. Washington Blvd
City Fort Wayne State Indiana Zip 46802
Telephone (260) 422-6454 E-mail ttrent@rothberg.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 5104 North Clinton St.
Present Zoning R3 Proposed Zoning C1 Acreage to be rezoned 1.5
Proposed density 0.67 units per acre
Township name Washington Township section # 24
Purpose of rezoning (attach additional page if necessary) To allow the existing commercial building to be utilized as such, and to enhance the Applicant's onsite services by installing play equipment and various landscape elements in the side yard.
Sewer provider Fort Wayne Sewer Utility Water provider Fort Wayne City Utilities

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.

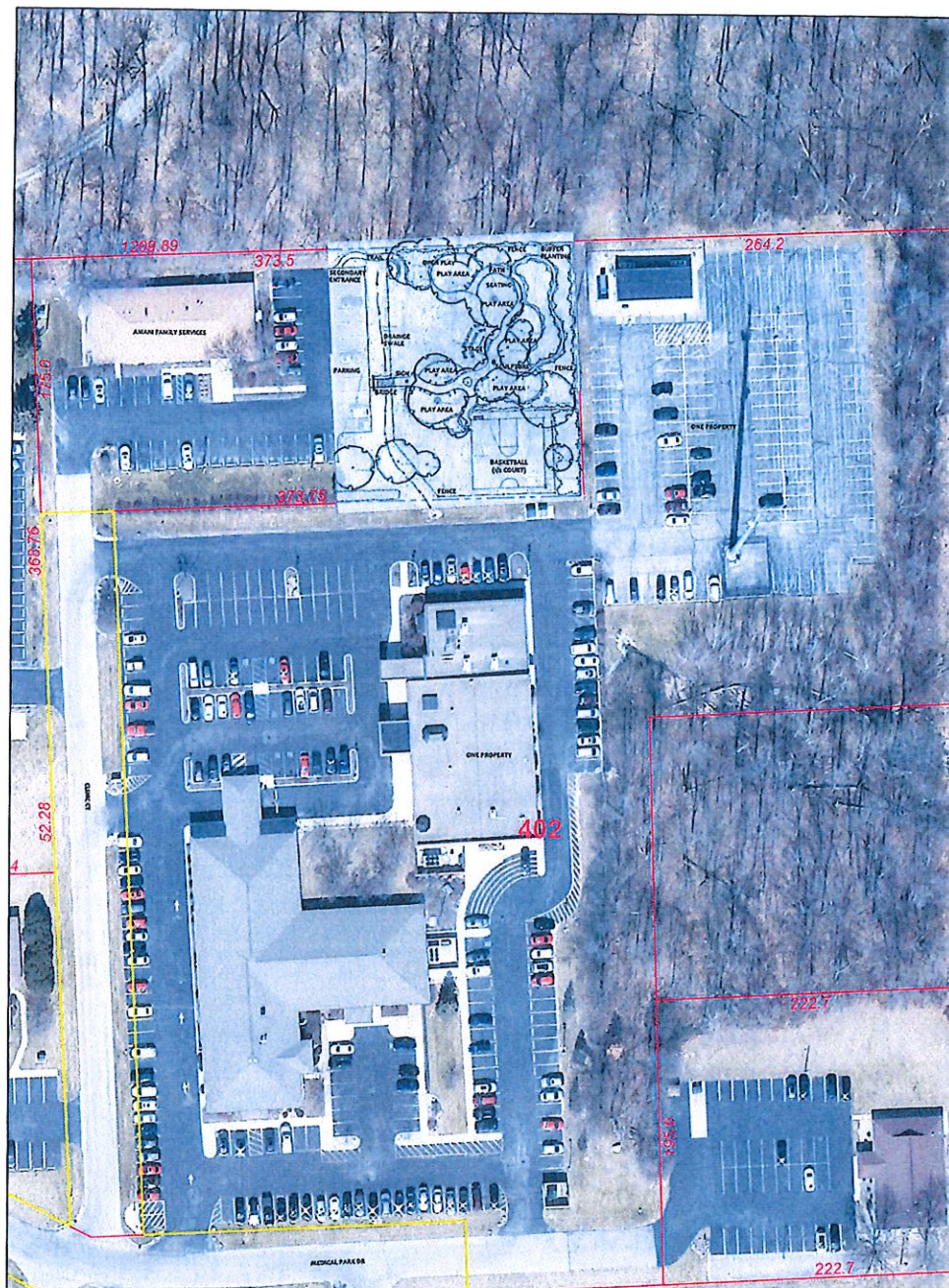
Amani Family Services, Inc. Thom A. Trent, Board Member July 6, 2021
(printed name of applicant) (signature of applicant) (date)

Amani Family Services, Inc. Thom A. Trent, Board Member July 6, 2021
(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 <u>7-6-2021</u>	Receipt No. <u>137695</u>	Hearing Date <u>8-9-2021</u>	Petition No. <u>REZ-2021-0033</u>
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Amani Family Services
NATURE PLAY & ACTIVITY PARK - CONCEPT "E"
VICINITY MAP
10.2019

CERTIFICATE OF SURVEY

1/4 Sec. SE SEC. 24 TWP. 31 RG. 12



HOFER AND DAVIS, INC.

LAND SURVEYORS
203 W. WAYNE ST. #316
FORT WAYNE, IN 46802
(219) 422-9922
FAX (219) 424-2157



MICHAEL W. DAVIS	L.S. No. 880030	
HANS C. HOFER	L.S. No. 900010	
WILLIAM S. DAVIS (RET.)	L.S. No. S-0053	L.S. No. 18114 (MICHIGAN)
CARL A. HOFER (1994)	L.S. No. 10031	P.E. No. 7122
A. K. HOFER (1948)	L.S. No. 10504	P.E. No. 72

This document is the record of a resurvey of land and real estate situated in Allen County, Indiana, made in accordance with the plat and deed record thereof on file in the Office of the Recorder of said County and State. Furthermore, this resurvey was executed wholly under the direction of the undersigned in accordance with the standards as set forth in the Indiana Administrative Code Title 865, Article 1.1, Chapter 12 as adopted by the State Board of Registration for Land Surveyors on August 16, 1991. The land below described exists in full dimension as herein noted in feet, and is free from encroachments by adjoining landowners, and contains entirely within its boundaries the structures of the buildings on it situated; all as below indicated in detail. Any exceptions or discrepancies are below noted.

Parcel I:

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PARCEL II:

An easement for the purpose of Ingress and Egress for the benefit of PARCEL I, as created by easement dated December 12, 1984 and recorded March 27, 1985 as Document Number 85-7145, and Street Dedication recorded as Document Number 85-9803, over and across the following described real estate in Allen County, Indiana:

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0608072L.wpd



OWNER/CLIENT FLP/PAWLEN
JOB NO 0608072
FIELD WORK ON Aug. 16-28, 2006
FILE NO LT2 PV FURT CARE
0 SEE SHEET 4

SCALE 1 inch = feet

FLOOD PLAIN CERTIFICATE

THIS PARCEL LIES IN ZONE X PER FIRM MAP
PANEL 105 ALLEN CO. IN EFFECTIVE 11-5-03
(SUBJECT TO MAP SCALE UNCERTAINTY)

IN WITNESS WHEREOF, I place my hand and seal
this 30th day of August 2006
Hans C. Hofer

SURVEYORS REPORT

Pursuant to the Indiana Administrative Code Title 865 Article 1.1, Chapter 12 regarding uncertainties as to the location of the property corners and boundary lines found or set by the preceding survey, and by discrepancies and/or ambiguities in the reference monuments, title documents, and evidence of occupation and possession, we hereby submit the following opinions and observations.

1. The theoretical uncertainty of the corners established by this survey due to random errors in measuring the perimeter of said tract falls within the criterion of a Urban Survey as defined by the aforesaid Indiana Administrative Code.

2. UNCERTAINTY IN THE REFERENCE MONUMENTS:

No section corners have been referenced by the Allen County Surveyors Office. This office has established the Northeast corner of the West half of the Southeast Quarter of Section 24, Washington Township at a post and axle found since 1962, which is in accordance with establishment in 1937. The plat of WOODLANDS OF RIVERSIDE recorded on July 8, 1977 in Plat Book 39 pages 78-79 also accepts this position, being the Southwest corner of the East half of the Northeast Quarter said Section. Furthermore, the North line of said West half has been established to the East right of way of Clinton Street (former Leo Road) as well since 1962. Both monuments were recovered for this survey.

Survey of Easterly and Southerly adjoiner as recorded in Document No. 205026528 by JC Sauer creates uncertainty with establishment of Section lines and by the monuments he set, all as shown on Sheet 4. Sauer divides said Section in textbook fashion as also graphically depicted on Sheet No. 4.

The Allen County Surveyor has surveyed the split of the Southeast Quarter in Survey Record "C" page 10 in 1875 and in Survey Record "D" in 1928. We feel a textbook split can only be used as a last resort when all evidence is destroyed, and no other options are available. It is our opinion the best evidence of the Section lines is the line fences found on the North and East lines of the West half of the Southeast Quarter, all as reported since 1962 in survey of the said West half of the Southeast Quarter.

#4 iron rebars were found at the Northwest, Northeast and Southeast corners of the Subject tract, in general agreement with the deed. Said pins are the type and material as used by Donovan Engineering, Inc. and Greg Roberts of Donovan Engineering, Inc., confirmed their office prepared the original tax parcel legal descriptions and surveys for Glassley Partnership (West adjoiner), Pathologists Associates, Northeast Orthopaedic Clinic, LLP (South and East adjoiner) and the Subject tract, all as indicated on Sheet No. 4.

A capped Donovan Engineering pin (FIRM 0027) was found at the Southwest corner. This corner computes approximately 1.7 feet West of the deeded position. As noted on Sheet No. 4, there are two recorded surveys of the Glassley Partnership tract, the first as recorded in Document No. 92-3737, is in accordance with the deed of record contained in Document No. 91-55802. The second is found in Document No. 92-34151 and the survey and new legal description reflects deed and actual bearings, together with deed and actual dimensions. The found monumentation along the East line of the Glassley tract are in general alignment and reflect the actual bearings cited in the second recorded survey.

These monuments, all as set by Donovan Engineering, Inc., as surveyor of the original tax parcel legal descriptions and surveys, were accepted as original corners. See survey for deed bearings and distances versus actual bearings and distances indicating uncertainty.

3. UNCERTAINTY DUE TO POSSIBLE TITLE AMBIGUITIES:

Title Commitment reviewed for this report was prepared by LAWYERS TITLE INSURANCE CORPORATION as Order No: 750602485 and effective August 7, 2006 at 8:00 a.m.

PARCEL I is as found in Warranty Deed from NORTH CLINTON FAMILY PHYSICIANS to FCFP PARTNERSHIP recorded in Document No. 93-6341.

Said legal has the North and South lines being parallel, and the East and West lines being parallel. Therefore, the North and South lines, as well as the East and

West lines must be the same length. The East and West lines are 175.0 feet, however, the North line is 373.50 feet, while the South line is 373.75 feet. Due to several deeds (Doc No.'s 87-4163 and 92-3737 being West adjoiners) having starting points 637.75 feet West of the Northeast corner of the West half of the Southeast Quarter, basic subtraction indicates the North line dimension should be 373.75 feet.

PARCEL II is as found in Document No.'s 85-7145 and 85-9803. Said legals do not form a mathematically closed figure. It would appear the course reading "thence South 02 degrees 47 minutes 16 seconds West" is in error. Again, that deed contained in Document No. 87-4163 would indicate the course to be "South 02 degrees 47 minutes 16 seconds East" Said assumption also produces a better closed figure. Said legals also are ambiguous in arriving at the point of beginning due to the second course, along a non tangent curve, with no chord bearing supplied.

In regard to SCHEDULE B - SECTION 2

ITEM 8. Surface drainage agreement that cannot be graphically depicted.

ITEM 9. Cannot be graphically depicted. Item 4 requires all utilities to be underground. See survey for overhead electric lines

ITEM 10. 14' easement as shown on Sheet No. 4. A portion of electric service lies outside of said easement.

ITEM 11. Roadway and Utility easement contained as PARCEL II aforesaid.

ITEM 12. 14' Utility easement for sewer as shown on Sheet No. 4.

ITEM 13. Street Dedication for street, sidewalk and utility purposes contained as PARCEL II. Mr. James Deathe, City of Fort Wayne Traffic Engineering, indicates the City of Fort Wayne does not recognize this as a city street.

ITEM 16. Allen County Surveyors Office records indicate no rights of way for drainage tiles, ditches, feeders or laterals.

Subject Tract Zoned R3. Building is within 25 foot rear setback requirement.

4. UNCERTAINTIES IN LINES OF OCCUPATION AND/OR POSSESSION:

North line is occupied by an old woven wire fence as reported since 1962. Said fence has been removed from approximately 5 feet West of the Northeast corner of the Subject tract to the axle found at the Northeast corner of the West half of the Southeast Quarter. East line approximate a woods line and West of an existing parking lot. South line North of an existing parking lot and South of a decorative shrub row. West line has no visible line of occupation.

To: Parkview Health System, Inc.
LandAmerica Lawyers Title

This is to certify that this map or plat and the survey on which it is based were made in accordance with the " Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005 and includes Items 1, 2, 3, 4, 6, 7(a)(b1) (c), 8, 9, 10 and 11 (a) of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Indiana, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

IN WITNESS WHEREOF, I Place my hand
and seal this 30th day of August, 2006.

Hans C. Hofer

0608072SR.wpd



FACT SHEET

Case #REZ-2021-0033		Bill # Z-21-07-17	Project Start: May 2021
APPLICANT:	Amani Family Services, Inc.		
REQUEST:	To rezone property from R3/Multiple Family Residential to C1/Professional Office and Personal Services to permit the existing office use and allow for expansion of outdoor recreation.		
LOCATION:	The address of the subject property is 5104 North Clinton Street (Section 24 of Washington Township).		
LAND AREA:	Approximately 1.5 acres		
PRESENT ZONING:	R3/Multiple Family Residential		
PROPOSED ZONING:	C1/Professional Office and Personal Services w/Written Commitment		
COUNCIL DISTRICT:	3-Tom Didier		
ASSOCIATED PROJECT:	none		

August 9, 2021 Public Hearing

- One property owner spoke at the hearing in favor.
- Tom Freistroffer, Paul Sauerteig and Justin Shurley were absent.

August 16, 2021 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Judi Wire and seconded by Don Schmidt to return the ordinance with a Do Pass recommendation with a Written Commitment to Common Council for their final decision.

6-0 MOTION PASSED

- Tom Freistroffer, Paul Sauerteig and Justin Shurley were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
September 9, 2021

PROJECT SUMMARY

SITE HISTORY:

There is an extensive history of Board of Zoning Appeals approvals on the site including the following:

- Allowance of I.D. sign in a R-3 district in 1986.
- Approval of professional office in a R-3 district in 1987.
- Approval of another professional office in a R-3 office in 1988.

STAFF DISCUSSION:

The petitioner is requesting to rezone the property to C1/Professional Office and Personal Services from R3/Single Family Residential. The property has been utilized for a number of various office uses, despite its residential zoning. Currently, Amani Family Services, Inc. is the user of the property. Previous Board of Zoning Appeals approvals are mentioned earlier in the staff report, but include both professional and medical office uses. The rezoning proposal would allow for the property to be used for professional office and personal services type uses, without the need for each proposed use to go to the Board of Zoning Appeals for approval. Amani Family Services would also like to do outdoor improvements to the site to serve children. Through staff research, the outdoor component was not included within the previous BZA approvals, so the accessory uses such as play equipment would also be permitted within the C1 district.

As mentioned, there is no development plan associated with this request and there are no additional primary structures proposed for this site at this time. Properties to the east and north of the site have been either rezoned to commercial districts or received Board of Zoning Appeals approval for non-residential uses. The area has developed over the years with primarily medical and professional office uses and associated infrastructure such as parking. The property owner has submitted a written commitment to ensure that lighting, landscaping, and other items will be adhered to on the site.

PUBLIC HEARING SUMMARY:

Presenter: Tom Trent, representing Amani Family Services, presented the proposal as outlined above.

Public Comments:

Deborah Ross, 5216 Stone Creek Trail – In support of the project. Appreciates Amani being good neighbors and would like some assurance about outdoor noise and hours of operation.

Rebuttal:

The applicant is submitting a Written Commitment to limit certain uses in the C1 district, as well as limit outdoor speaker use after 9 p.m. The outdoor recreation area will only be used for accessory uses permitted in the C1 district.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2021-0033

APPLICANT:	Amani Family Services, Inc.
REQUEST:	To rezone property from R3/Multiple Family Residential to C1/Professional Office and Personal Services to permit the existing office use and allow for expansion of outdoor recreation.
LOCATION:	The address of the subject property is 5104 North Clinton Street (Section 24 of Washington Township).
LAND AREA:	Approximately 1.5 acres
PRESENT ZONING:	R3/Multiple Family Residential
PROPOSED ZONING:	C1/Professional Office and Personal Services

The Plan Commission recommends that Rezoning Petition REZ-2021-0033 be returned to Council, with a written commitment, 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. The general area has seen a mixture of land developments from professional and medical offices to residential land uses. This proposal will provide for the development of additional office space without the need for new infrastructure improvements. This rezoning continues the trend of responsible mixed-used development. No undesirable precedent will occur due to the fact professional office uses have already occurred on the site for decades. The Comprehensive Plan supports this rezoning through the following objectives:
 - 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.
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. The property is completely developed with a quality-built office building that complements the adjacent structures.
3. Approval is consistent with the preservation of property values in the area. This proposal allows for additional office uses to expand and provide services in the northeast quadrant of Fort Wayne. No changes are proposed to the existing office building. This proposal provides the owner with surety that the existing, approved building can be reconstructed in the case of a catastrophe. Having appropriate zoning assists lenders in appraising commercial properties correctly and may aid in refinancing, if necessary. The rezoning will also allow for accessory C1 uses on the site.

4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Public right-of-way with an improved street, and public utilities are presently adjacent to the site. A written commitment will assist in prohibiting incompatible uses and commit to quality development on the site.

These findings approved by the Fort Wayne Plan Commission on August 9, 2021.

A handwritten signature in black ink, appearing to read "Kim Bowman", written over a horizontal line.

Kimberly R. Bowman, AICP
Executive Director
Secretary to the Commission

Department of Planning Services
Rezoning Petition Application

Applicant Amani Family Services, Inc.
Address 5104 North Clinton St.
City Fort Wayne State IN Zip 46825
Telephone (260)484-1414 E-mail econnolly@amanifamilyservices.org

Contact Person Thomas B. Trent
Address 505 E. Washington Blvd
City Fort Wayne State Indiana Zip 46802
Telephone (260) 422-6454 E-mail ttrent@rothberg.com

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

☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property 5104 North Clinton St.
Present Zoning R3 Proposed Zoning C1 Acreage to be rezoned 1.5
Proposed density 0.67 units per acre
Township name Washington Township section # 24
Purpose of rezoning (attach additional page if necessary) To allow the existing commercial building to be utilized as such, and to enhance the Applicant's onsite services by installing play equipment and various landscape elements in the side yard.
Sewer provider Fort Wayne Sewer Utility Water provider Fort Wayne City Utilities

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.

- Filing 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.

Amani Family Services, Inc. Thomas A. Trent, Board Member July 6, 2021
(printed name of applicant) (signature of applicant) (date)

Amani Family Services, Inc. Thomas A. Trent, Board Member July 6, 2021
(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)

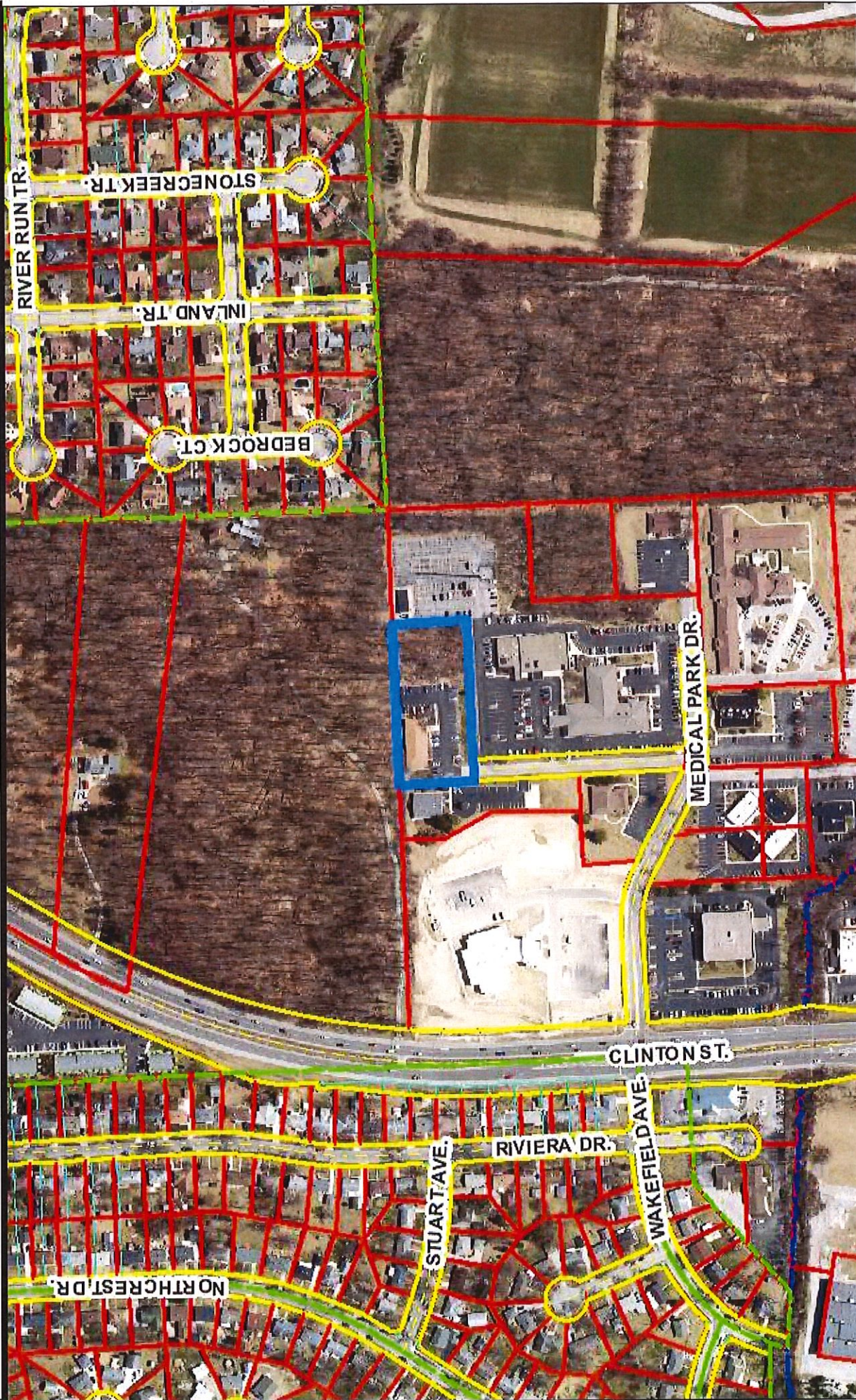
Received <u>7-6-2021</u>	Receipt No. <u>137695</u>	Hearing Date <u>8-9-2021</u>	Petition No. <u>REZ-2021-0033</u>
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Amani Family Services
NATURE PLAY & ACTIVITY PARK - CONCEPT "E"
VICINITY MAP



REZ-2021-0033 5104 North Clinton Street



© 2004 Board of Comm associates of the County of Allen
North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 7/19/2021

Although some accuracy standards have been employed in the preparation of this map, Allen County does not warrant or guarantee the accuracy of the information contained here in and disclaims any and all liability resulting from any error or omission in this map.



1 inch = 300 feet



REZ-2021-0033 5104 North Clinton Street



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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 7/19/2021



1 inch = 300 feet

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made as of this ____ day of September, 2021, Amani Family Services, Inc., an Indiana nonprofit corporation ("Declarant"), under the following circumstances:

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's Zoning Map Amendment Application, filed with the City of Fort Wayne Plan Commission (the "Plan Commission"), bearing number REZ-2021-0033 (the "Application"), respecting the Real Estate, has been approved by the City of Fort Wayne, Indiana Common Council and the Mayor of the City of Fort Wayne; and

WHEREAS, pursuant to the Application, the Real Estate has been rezoned to C1/Professional Office and Personal Service pursuant to the City of Fort Wayne Zoning Ordinance (the "Ordinance") which permits, among other things, development upon the Real Estate of certain professional office and personal service uses; and

WHEREAS, the Declarant's have submitted this Commitment, voluntarily, pursuant to section 157.503 of the Ordinance and Indiana Code 36-7-4-1015 for the purpose of limiting certain off site impacts and certain uses arising from development upon the Real Estate; and

WHEREAS, in conjunction with said Application, the Plan Commission has required the execution of this Commitment and its recordation with the Allen County, Indiana, Recorder's Office prior to the commencement of any building improvements for uses permitted pursuant to the Application.

NOW, THEREFORE, in consideration of the above and foregoing recitals, the Declarant's 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 a portion of the Real Estate.

1. Use Limitations. The following specific uses, which are otherwise allowed in the C1/Professional Office and Personal Services zoning district, shall be prohibited upon the Real Estate:

- a) Correctional services facility
- b) Fraternity House
- c) Sorority House
- d) Zoo

2. Outside Area. The recreational area outside of the building will be limited to accessory uses as permitted in the C1 zoning district, including but not limited to: play equipment, swing set, fence, arbor/ pergola, trellis, and landscape elements.

3. Lighting. Site lighting shall be of a type to minimize light pollution onto any adjacent property by utilizing full cut-off fixtures.

4. Fencing. Any new fencing installed on the site will require an Improvement Location Permit and be reviewed by the applicable reviewing agency for Zoning Ordinance requirements.

5. Noise. No public address system or exterior speakers will be utilized after 9 p.m.

6. Successors and Assigns. This Commitment and the restrictions set forth above shall inure to the benefit of all persons who own property comprising the Real Estate, their successors and assigns, and shall also inure to the benefit of the Zoning Administrator of the City of Fort Wayne and the Plan Commission. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any conveyance thereof, shall be binding upon Declarant and its successors and assigns as owners of the Real Estate.

7. Enforcement Rights. The City of 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.

8. Amendment or Termination. This Commitment may be amended or terminated upon application by an owner of the Real Estate and only with the prior written consent of all owners of the Real Estate and the Plan Commission, following a public hearing to consider said amendment or termination.

9. Remedies. In addition to any remedies that may be available at law, temporary, preliminary and permanent injunctive relief may be granted to enforce any provision of this Commitment, without the necessity of proof of actual damage, in the event of an actual breach or violation, or threatened breach or violation, of any restriction or covenant under this Commitment. Such remedies shall be cumulative and nonexclusive, and shall be afforded to any owner of property which comprises all or a portion of the Real Estate, the Zoning Administrator of the City of Fort Wayne and the Plan Commission.

10. 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.

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.

13. Effective Date. This Commitment shall be effective upon its recording in the Office of the Recorder of Allen County, Indiana.

14. Last Deed of Record. The last deed of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as Document Number _____.

15. Statutory Authority. This Commitment is made pursuant to I.C. §36-7-4-1015(a)(2).

[SIGNATURE AND EXHIBIT PAGES FOLLOW]

“DECLARANT”

AMANI FAMILY SERVICES, INC.

By: _____
Name: Ewelina Connolly
Its: Executive Director

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of _____, 2021, personally appeared Amani Family Services, Inc., an Indiana nonprofit corporation, by its Executive Director, Ewelina Connolly, as the property owner of the above-described Real Estate, and acknowledged the execution of the foregoing instrument for and on behalf of said corporation.

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 Thomas B. Trent, 505 E. Washington Blvd., 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. /s/ Thomas B. Trent

When recorded, return to: the Department of Planning Services

EXHIBIT A

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 12 EAST, ALLEN COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 12 EAST, ALLEN COUNTY, INDIANA, SAID POINT BEING 264.2 FEET WEST OF THE NORTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 12 EAST; THENCE SOUTH 87 DEGREES 24.1 MINUTES WEST ALONG THE NORTH LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 12 EAST, A DISTANCE OF 373.5 FEET; THENCE SOUTH 01 DEGREES 40 MINUTES 43 SECONDS EAST AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 12 EAST, A DISTANCE OF 175.0 FEET; THENCE NORTH 87 DEGREES 24.1 MINUTES EAST AND PARALLEL TO THE NORTH LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 12 EAST, A DISTANCE OF 373.75 FEET; THENCE NORTH 01 DEGREES 40 MINUTES 43 SECONDS WEST AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 12 EAST, A DISTANCE OF 175.0 FEET TO THE POINT OF BEGINNING, CONTAINING 1.5 ACRES.