

1 **#REZ-2020-0045**

2 **BILL NO. Z-20-11-08**

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

5 **AN ORDINANCE amending the City of Fort Wayne**
6 **Zoning Map No. Q-46 (Sec. 7 of St. Joseph Township)**

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
8 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 Part of Lot Number 1 in Popp's Subdivision in the Southwest ¼ of Section 7, Township 31
13 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

14 Commencing at the Southeast corner of said Lot Number 1; thence Northeasterly along
15 the centerline of State Road Number 427, a distance of 105.7 feet to the point of
16 beginning for the tract of land herein described; thence West a distance of 548.0 feet to a
17 point on the East right-of-way line of Interstate Highway 69, said point being situated
18 110.7 feet North 21 49 minutes East along the East right-of-way line of Interstate Highway
19 Number 69 a distance of 149.5 feet to the North line of said Lot Number 1, thence East
20 along the North line of said Lot Number 1, a distance of 556.5 feet to the centerline of
21 State Road Number 427; thence Southwesterly along the centerline of said State Highway
22 Number 427, a distance of 157.0 feet to the point of beginning.

23 AND ALSO:

24 Lot Numbered 2 in Popp's Subdivision, according to the plat thereof, recorded in Plat
25 Record 12, page 2 in the Office of the Recorder, in the Southwest ¼ of Section 7, Township
26 31 North, Range 13, lying East of Interstate Highway No. 69 in St. Joseph Township, Allen
27 County, Indiana.

28 and the symbols of the City of Fort Wayne Zoning Map No. Q-46 (Sec. 7 of St. Joseph
29 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
30 Wayne, Indiana is hereby changed accordingly.

SECTION 2. If a written commitment is a condition of the Plan Commission's
recommendation for the adoption of the rezoning, or if a written commitment is modified and

1 approved by the Common Council as part of the zone map amendment, that written
2 commitment is hereby approved and is hereby incorporated by reference.

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

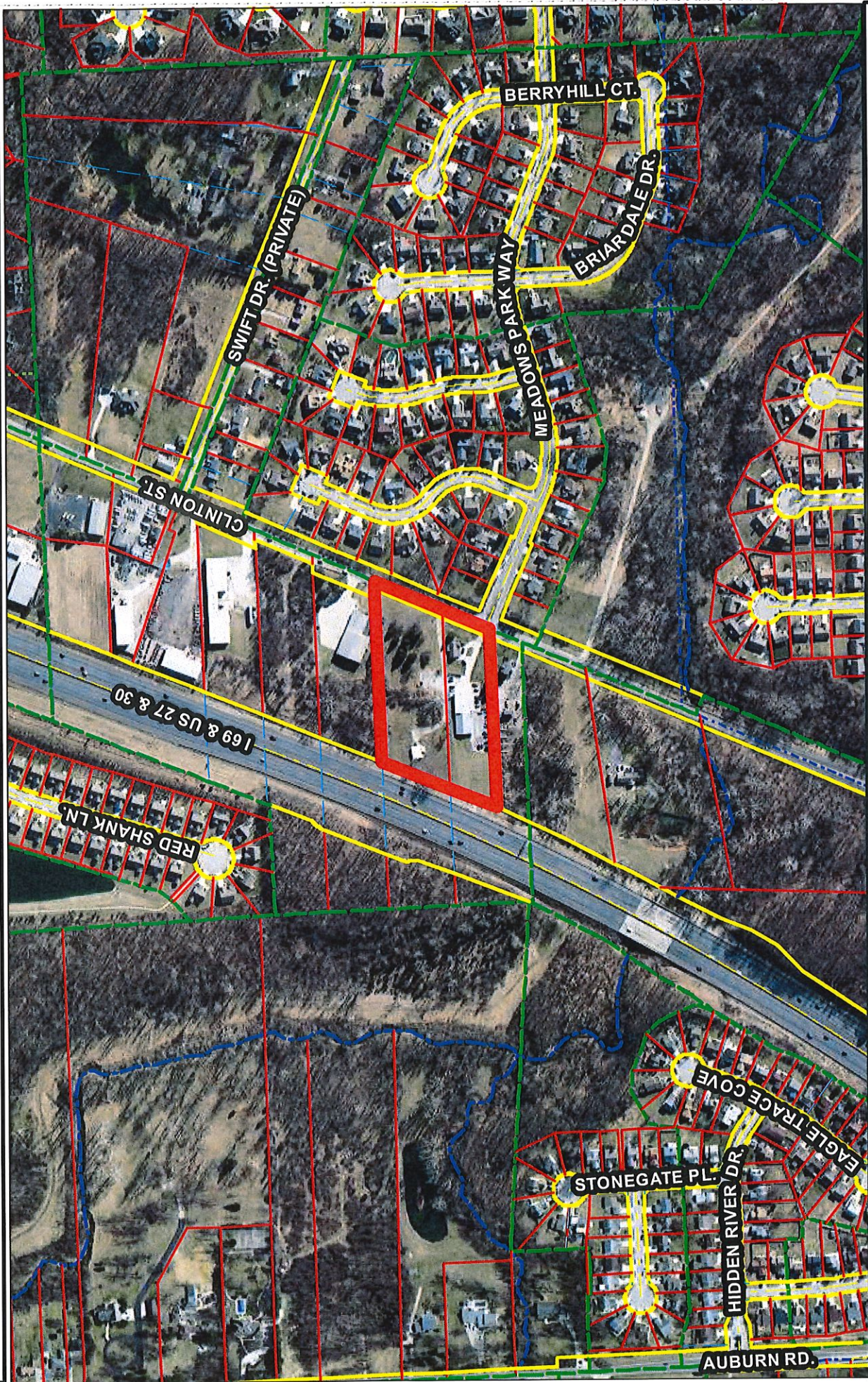
6
7
8 _____
Council Member

9
10 APPROVED AS TO FORM AND LEGALITY:

11 
12 _____
Carol T. Helton, City Attorney



Rezoning Petition REZ-2020-0045 and Primary Development Plan PDP-2020-0034 - Ed's Car Care Center Building Addition

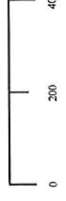


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Date: 11/16/2020

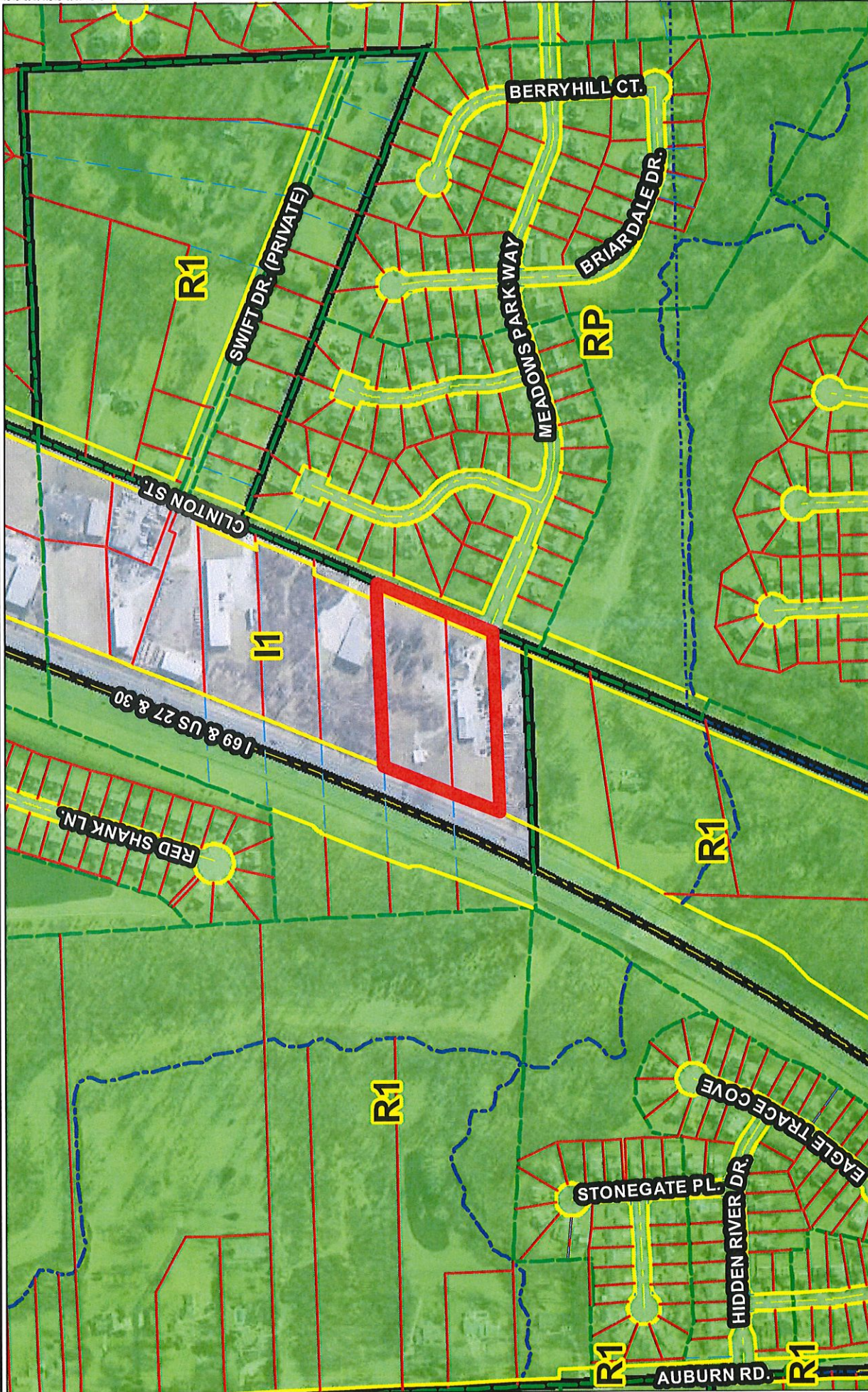


1 inch = 400 feet





Rezoning Petition REZ-2020-0045 and Primary Development Plan PDP-2020-0034 - Ed's Car Care Center Building Addition

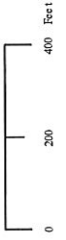


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**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Brian Ringwood, Ed's Car Care Center
Address 7811 N. Clinton Street
City Fort Wayne State Indiana Zip 46825
Telephone 260-483-5721 E-mail Brian@EdsCarCareCenter.com

Contact Person
Contact Person Derek Simon, MLS Engineering LLC
Address 10060 Bent Creek Blvd.
City Fort Wayne State Indiana Zip 46825
Telephone 260-489-8571 x2 E-mail Derek@mlswebsite.us

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

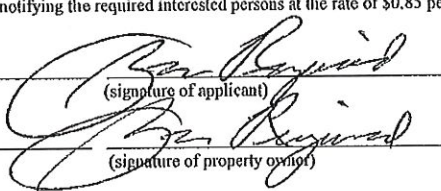
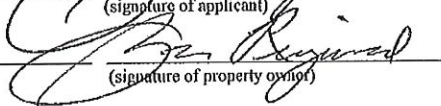
Request
☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property 7811 N. Clinton Street, Fort Wayne, IN 46825
Present Zoning I-1 Proposed Zoning C-3 Acreage to be rezoned 1.93 (Lot #1) & 3.00 (Lot #2)
Proposed density 0.61 (3 existing units / 4.93 acres) units per acre
Township name St. Joseph Township section # 7
Purpose of rezoning (attach additional page if necessary) For existing use of Lot #1 and Lot #2 (Automobile Maintenance/Repair) to be in compliance with the City of Fort Wayne zoning ordinance.

Sewer provider City of Fort Wayne Water provider City of Fort Wayne

Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please refer to checklist for applicable filing fees and plan/survey submittal requirements.

- ☒ Applicable filing fee
- ☒ Applicable number of surveys showing area to be rezoned (plans must be folded)
- ☒ Legal Description of parcel to be rezoned
- ☐ Rezoning Questionnaire (original and 10 copies) County Rezoning Only

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

Brian Ringwood		103020
(printed name of applicant)	(signature of applicant)	(date)
Brian Ringwood		103020
(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 11/3/20	Receipt No. 135700	Hearing Date 12-7-2020	Petition No. REZ-2020-0045
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City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2020-0045
Bill Number: Z-20-11-08
Council District: 2-Russ Jehl

Introduction Date: November 24, 2020

Plan Commission
Public Hearing Date: December 7, 2020 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 4.93 acres from I1/Limited Industrial to C3/General Commercial.

Location: 7811 North Clinton Street

Reason for Request: To permit a 6,300 square foot building addition and bring all the existing uses into compliance with the zoning ordinance.

Applicant: Brian Ringwood, Ed's Car Care Center

Property Owner: Brian Ringwood

Related Petitions: Site Plan Review

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which will bring all the existing auto services on the property in compliance with the zoning ordinance.

Effect of Non-Passage: The property will remain zoned I1/Limited Industrial. The current ordinance would not permit all the auto services performed at Ed's Car Care Center. The existing buildings and uses could remain, but expansion and further investment into the property with the current uses could not be approved without Board of Zoning Appeals action or rezoning to the appropriate district.

FACT SHEET

Case #REZ-2020-0045		Bill # Z-20-11-08	Project Start: November 2020
APPLICANT:	Ed's Car Care Center – Brian Ringwood		
REQUEST:	To rezone property from I1/Limited Industrial to C3/General Industrial; and approve a primary development plan for a building addition and site improvements.		
LOCATION:	The site is located on the west side of the 7800 block of North Clinton Street, west of North Pointe Ridge subdivision (Section 7 of St. Joseph Township).		
LAND AREA:	Approximately 4.9 acres		
PRESENT ZONING:	I1/Limited Industrial		
PROPOSED ZONING:	C3/General Commercial		
COUNCIL DISTRICT:	2-Russ Jehl		
ASSOCIATED PROJECT:	Primary Development Plan, Ed's Car Care Center		
SPONSOR:	City of Fort Wayne Plan Commission		

January 13, 2020 Public Hearing

- No one from the public spoke at the hearing.
- Tom Freistroffer, Justin Shurley and Rachel Tobin-Smith were absent.

January 13, 2020 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Paul Sauerteig and seconded by Judi Wire 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, Justin Shurley and Rachel Tobin-Smith were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
January 19, 2021

PROJECT SUMMARY

The applicant proposes to rezone the existing property to conform to existing uses. In addition, the applicant proposes to expand the existing business with a Primary Development Plan. While no other Plan Commission action has been petitioned on the parcel, Board of Zoning Appeals petitions include:

- VAR-2501-2001 (Increase the size of freestanding sign from 4 to 32 square feet – granted)
- VAR-1488-1987 (Expand automotive repair business – granted)
- VAR-955-1981 (Permit automotive repair business – granted)
- VAR-785-1979 (Antique Car repair business – granted)

The proposed rezone will bring the existing use (general automobile service) into conformance. Nonresidential zones flank the parcels in consideration on the north and south and likewise have nonresidential uses as of December 2020. Most of the adjacent parcels are zoned industrial or residential. Staff believes that the proposed rezone will help expand but not intensify any existing uses on the parcel. The proposed rezone will negate the need to petition the Board of Zoning Appeals if the applicant wishes to further expand the business, given the expansions meet City of Fort Wayne Zoning Ordinance standards.

A single family subdivision lies east of the parcels in consideration. Most of the zoning east of North Clinton Street between Washington Center Road and the I-469 underpass is residential. However, location is quite close in proximity to *Plan-It-Allen's* Dupont Road – Interstate-69 economic development target area (Map 2.9), making it compatible with the current Comprehensive Plan.

Due to the proximity of the expansive residential zones, staff recommends a written commitment to limit general retail uses that may not be compatible with the residential uses on the east side of North Clinton Street. The public hearing will provide an opportunity for any neighbors to comment on C3 uses that they see as not fitting the neighborhood.

The rezoning meets the *Plan-It-Allen's* goal to “support new development, revitalization, and redevelopment in areas currently served by adequate existing public municipal or private corporate sanitary sewer and water facilities” (LU3.A), making it compatible with the current Comprehensive Plan. The rezoning to C3 would also remove some of the industrial uses that are currently permitted such as distribution facilities and limited assembly/fabrication of various products.

The development plan includes a 6,300 square foot addition to the existing Ed's Car Care building. The development plan shows utilizing existing curb cuts and no alterations to the existing building. In addition to the expansion, the development plan shows 15 new parking spaces and room for a dry detention pond. Since no waivers were requested in the application, all ordinance standards should be met, including lighting being full cut-off, landscaping and buffering meet requirements, and sidewalks along the right-of-way.

PUBLIC HEARING SUMMARY:

Presenter: Brian Ringwood, Ed's Car Care, presented the proposal as outlined above. They met with North Pointe Ridge Association and received support. The new addition will allow for more cars to be stored inside while waiting on repairs.

Public Comments:

None

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2020-0045

APPLICANT:	Ed's Car Care Center – Brian Ringwood
REQUEST:	To rezone property from I1/Limited Industrial to C3/General Industrial for a building addition and site improvements.
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LAND AREA:	Approximately 4.9 acres
PRESENT ZONING:	I1/Limited Industrial
PROPOSED ZONING:	C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2020-0045, 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. The site is near similar commercial development and the proposal will provide for a live-work option. This proposal will provide infill development using existing infrastructure.
2. Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area. Site plan and architectural review from the Plan Commission and staff will ensure a compatible development that complements the neighborhood.
3. Approval is consistent with the preservation of property values in the area. This proposal will provide redevelopment in the neighborhood with a market to serve the area residents, and provide a substantial investment into the community.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for the proposed uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on January 13, 2021.



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

**Department of Planning Services
Rezoning Petition Application**

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Address 7811 N. Clinton Street
City Fort Wayne State Indiana Zip 46825
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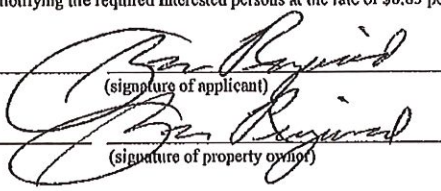
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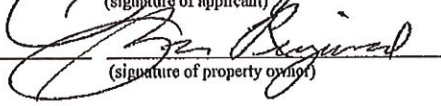
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Brian Ringwood
(printed name of applicant)  (signature of applicant) 10/30/20 (date)

Brian Ringwood
(printed name of property owner)  (signature of property owner) 10/30/20 (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.
<u>11/3/20</u>	<u>135700</u>	<u>12-7-2020</u>	<u>REZ-2020-0045</u>

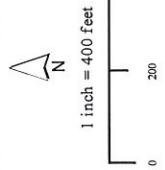


Rezoning Petition REZ-2020-0045 and Primary Development Plan PDP-2020-0034 - Ed's Car Care Center Building Addition



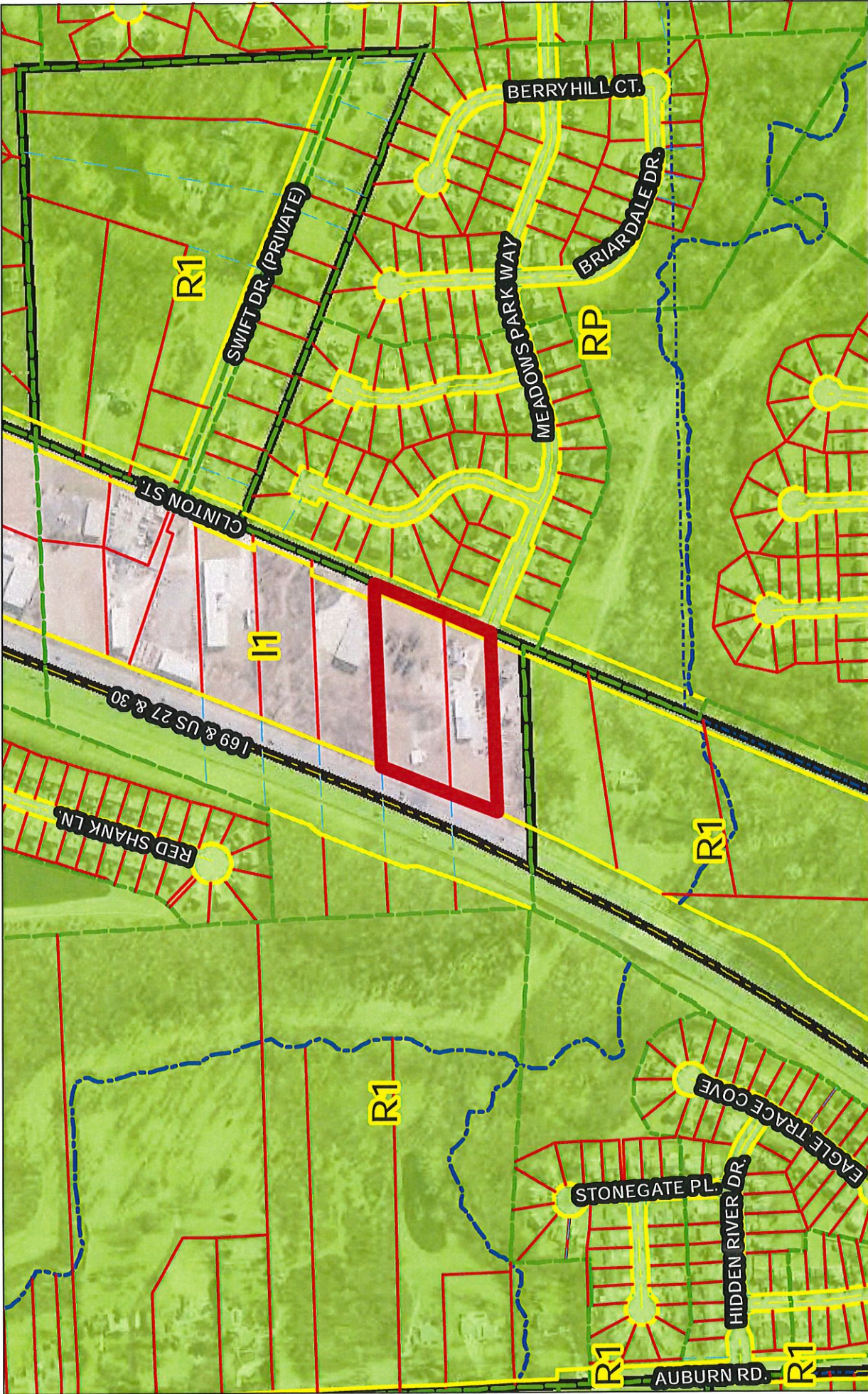
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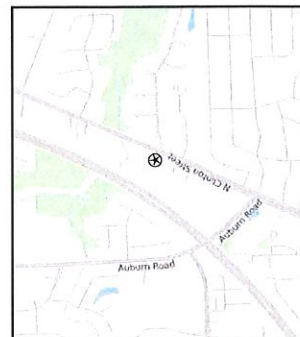
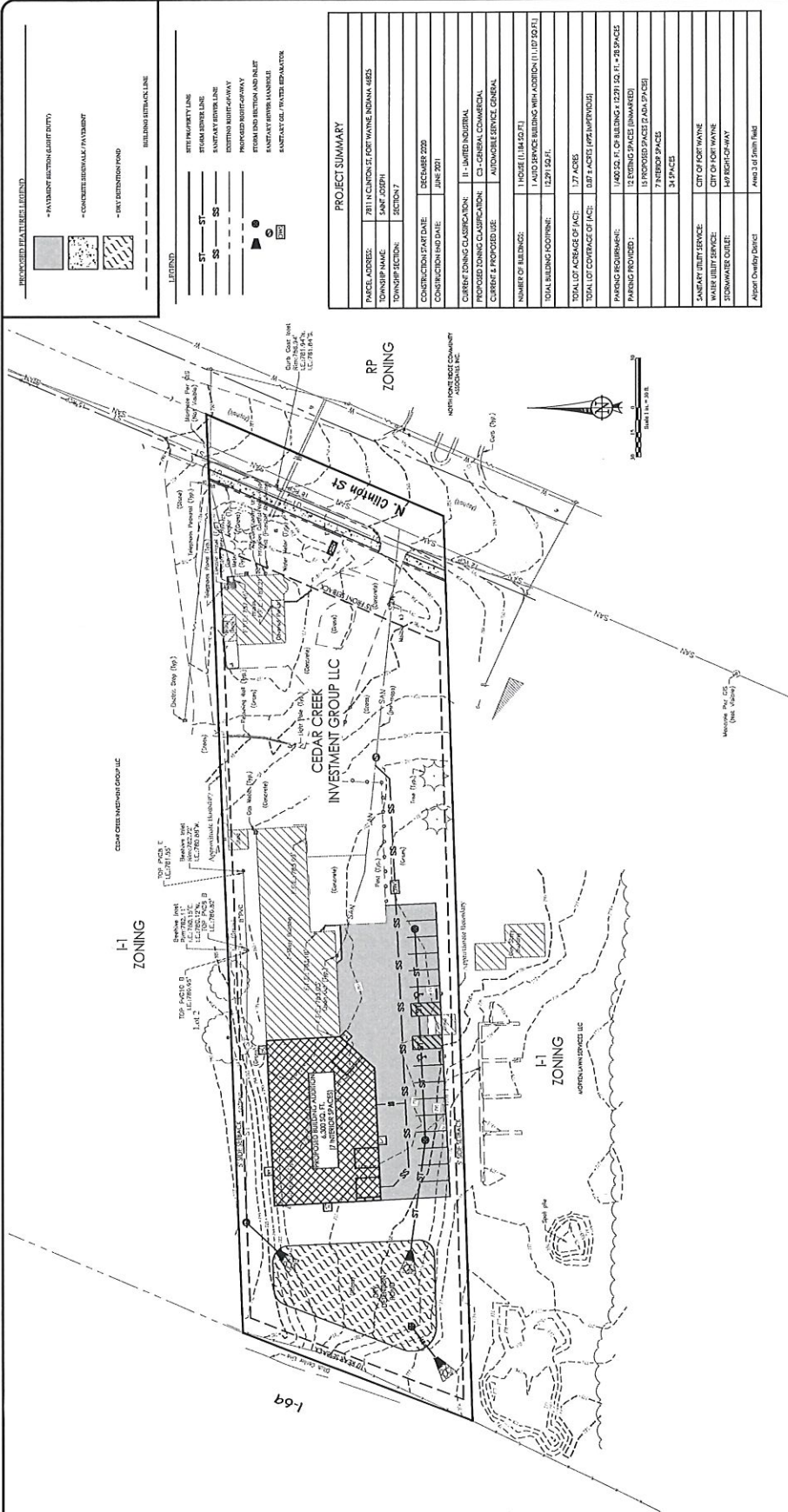


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⊗ - PROJECT SITE

⊗ = PROJECT SITE
FLOOD INSURANCE RATE MAP (FIRM)
AUGUST 3, 2007 / MAP# 18030C0186G
NOT TO SCALE

ALLEN COUNTY SOIL SURVEY MAP

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made as of this ____ day of _____, 2021, the property owner _____ ("Declarant"), under the following circumstances:

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 4.9 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-2020-0045 (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 C3/General Commercial pursuant to the City of Fort Wayne Zoning Ordinance (the "Ordinance") which permits development upon the Real Estate of certain professional office and personal service uses and limited and retail commercial 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 C3/General Commercial zoning district, shall be prohibited upon the Real Estate:

- 1) Agricultural equipment sales and service
- 2) Amusement Park
- 3) Arena
- 4) Arcade
- 5) Betting or other gambling facility
- 6) Boat/watercraft sales
- 7) Check Cashing
- 8) Correctional Services facility

- 9) Firework Sales
- 10) Homeless/emergency shelter
- 11) Gas station
- 12) Hotel
- 13) Pawn Shop
- 14) Storage Shed Sales
- 15) Truck Fueling Station
- 16) Truck Stop
- 17) Propane/bottled gas sales and service
- 18) Manufactured Home Sales
- 19) Flea Market
- 20) Zoo
- 21) Tattoo Establishment

2. Lighting. Site lighting shall be of a type to minimize light pollution onto any adjacent property by utilizing only full cut-off fixtures and be completely downward directed.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

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

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

11. 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 _____.

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

[SIGNATURE AND EXHIBIT PAGES FOLLOW]

“DECLARANT”

By: _____

Name: _____

Its: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of _____, 2021, personally appeared _____ as the property owner, and acknowledged the execution of the foregoing instrument for and on behalf of said company.

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 _____

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. _____

When recorded, return to: the Department of Planning Services

EXHIBIT A

LEGAL DESCRIPTION:

DRAFT