

1 **#REZ-2021-0056**

2 **BILL NO. Z-21-10-09**

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

5 **AN ORDINANCE amending the City of Fort Wayne**
6 **Zoning Map No. M-10 (Sec. 2 of Wayne 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 DE
10 (Downtown Edge) District under the terms of Chapter 157 Title XV of the Code of the City of
11 Fort Wayne, Indiana:

12 The West 74 feet of Lot 139, Lot 137, and the South Half of Lot 135 in North Side Addition to
13 the City of Fort Wayne, Allen County, Indiana.

14 and the symbols of the City of Fort Wayne Zoning Map No. M-10 (Sec. 2 of Wayne
15 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
16 Wayne, Indiana is hereby changed accordingly.

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

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

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: Zoning Map Amendment
Case Number: REZ-2021-0056
Bill Number: Z-21-10-09
Council District: 5-Geoff Paddock

Introduction Date: October 26, 2021

Plan Commission
Public Hearing Date: November 8, 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 0.29 acres from I2/General Industrial to DE/Downtown Edge.

Location: 1502 to 1514 North Harrison Street

Reason for Request: To allow for modern, mixed-use development of the site.

Applicant: Harrison Street Properties, LLC

Property Owner: Harrison Street Properties, LLC

Related Petitions: none

Effect of Passage: Property will be rezoned to the DE/Downtown Edge zoning district, which will allow the property to be redeveloped in fulfillment of the Riverfront Development Implementation Framework Plan.

Effect of Non-Passage: The property will remain zoned I2/General Industrial, which allows a variety of industrial uses. Properties surrounding the subject parcels have recently been rezoned to DE/Downtown Edge.

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Council Member

APPROVED AS TO FORM AND LEGALITY:

Carol T. Helton, City Attorney

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Harrison Street Properties, LLC (South Bend Transport Services, LLC)
Address 16416 Lochner Rd
City Spencerville State IN Zip 46788
Telephone (260) 426-0444 E-mail jharding@hallercolvin.com

Contact Person
Contact Person Ara Tazian
Address 11224 Kings Xing
City Fort Wayne State IN Zip 46845
Telephone (260) 497-7875 E-mail aratazian@yahoo.com

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

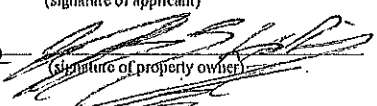
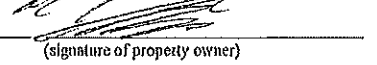
Request
☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property 1502 to 1514 N Harrison St, Fort Wayne, IN
Present Zoning I2 Proposed Zoning DE Acreage to be rezoned 0.29
Proposed density _____ units per acre
Township name Wayne Township section # 2
Purpose of rezoning (attach additional page if necessary) _____
See attached

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.

Harrison Street Properties, LLC		09/30/2021
(printed name of applicant)	(signature of applicant)	(date)
Jeffrey B. Harding		9/30/2021
(printed name of property owner)	(signature of property owner)	(date)
Ara Z Tazian, Member		09/30/2021
(printed name of property owner)	(signature of property owner)	(date)
_____	_____	_____
(printed name of property owner)	(signature of property owner)	(date)

Received 10-5-21	Receipt No. 138552	Hearing Date 11-8-2021	Petition No. REZ-2021-0056
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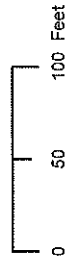


REZ-2021-0056 1502 to 1512 North Harrison St

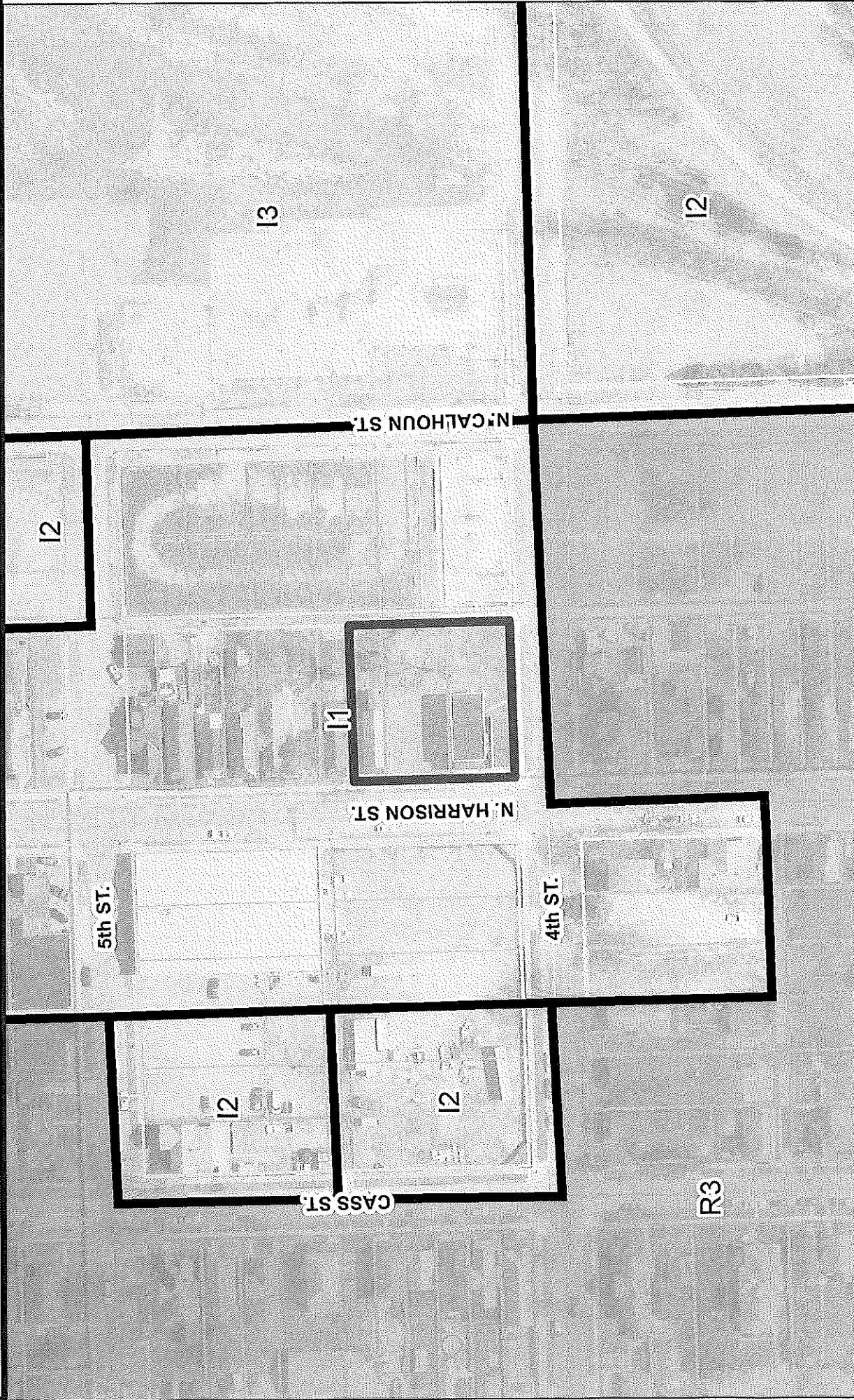


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State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 10/11/2021

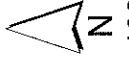


1 inch = 100 feet



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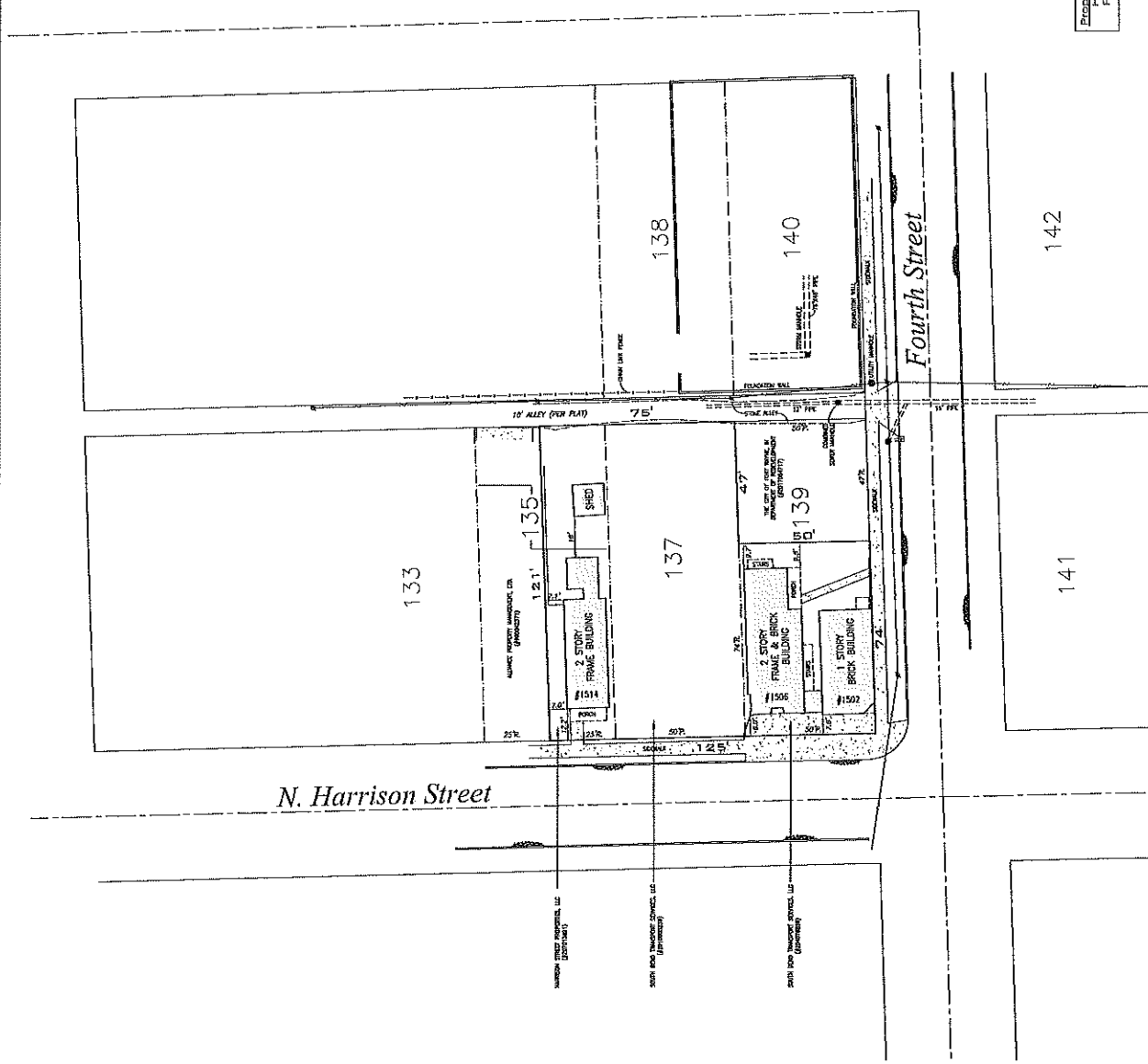
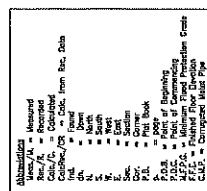
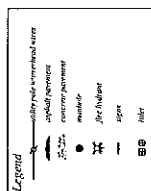
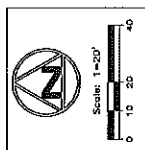
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PURPOSE OF REZONING

The Applicant is requesting rezoning to allow for modern mixed-use development of the site. Applicant plans to build a new building combining retail, office and residential uses. Applicant desires to change zoning to match and conform to the current conditions of the area whereas Downtown Edge zoning has been approved to the south, east, and north of this parcel.

LEGAL DESCRIPTION

The West 74 feet of Lot 139, Lot 137, and the South Half of Lot 135 in North Side Addition to the City of Fort Wayne, Allen County, Indiana.



Property Address:
Harrison/Fourth Streets
Fort Wayne, IN 46808

FACT SHEET

Case #REZ-2021-0056 Bill # Z-21-10-09 Project Start: October 2021	
PROPOSAL:	Rezoning Petition REZ-2021-0056
APPLICANT:	Harrison Street Properties, LLC (South Bend Transport Services, LLC)
REQUEST:	To rezone the property from I1/Limited Industrial to DE/Downtown Edge.
LOCATION:	The site is located at the northeast corner of North Harrison Street and West 4 th Street. The addresses of the subject properties are 1502-1514 North Harrison Street (Section 2 of Wayne Township).
LAND AREA:	0.29 acre
PRESENT ZONING:	I1/General Industrial
PROPOSED ZONING:	DE/Downtown Edge
COUNCIL DISTRICT:	5-Geoff Paddock
ASSOCIATED PROJECT:	Electric Works West Campus
SPONSOR:	City of Fort Wayne Plan Commission

November 8, 2021 Public Hearing

- There were no speakers from the public.
- Tom Freistroffer, Ryan Neumeister and Justin Shurley were absent.

November 15, 2021 Business Meeting

Plan Commission Recommendation: DO PASS

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

7-0 MOTION PASSED

- Tom Freistroffer and Justin Shurley were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
November 23, 2021

PROJECT SUMMARY

SITE HISTORY:

- Historically, four structures occupied the site (two residential dwellings and two commercial structures)
- A dwelling was demolished between 2008 and 2009 between the northernmost dwelling and the commercial structures.

The petitioner is requesting a rezoning from I1/Limited Industrial to DE/Downtown Edge. Historically, the site was most likely used for residential and neighborhood scale commercial. However, the site was surrounded by industrial zoning and by several buildings containing industrial uses. Recently, the initiative of Riverfront Fort Wayne has shifted the general area from various zoning districts (primarily industrial) to Downtown Edge. Essentially, the request of the petitioner is to annex the September 2021 Downtown Edge zoning request two parcels westward.

The current built environment of the site meets the intended development pattern of the Downtown Edge zoning district: historic setbacks, adequate height, and proper uses. Some development standards, like a height limit of 60 feet, may not provide the best compatibility for this specific site. Consequently, the applicant provided a written commitment limiting height to three stories and a height that is complimentary residential development (about 45 feet). In addition, staff recommends restricting some detracting uses to compliment transition between the River North site and the Bloomingdale neighborhood. The Downtown Edge zoning district also requires architectural review from the Design Review Committee and a Primary Development Plan to ensure proper design and development standards.

Overall, staff does not have issues regarding the rezoning, and the existing uses and development patterns justify the rezone. Staff believes the request meets the intent of the Comprehensive Plan and follows the path led by the City of Fort Wayne to reinvigorate downtown and the rivers.

PUBLIC HEARING SUMMARY:

Presenter: Ara Tazian presented the proposal as outlined above. A Written Commitment was offered that restricts certain uses and limits the height of buildings on the property to 45 feet, to better compliment the residential portion of the neighborhood.

Public Comments:

none

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2021-0056

APPLICANT: Harrison Street Properties, LLC (South Bend Transport Services, LLC)
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LAND AREA: 0.29 acre
PRESENT ZONING: I1/General Industrial
PROPOSED ZONING: DE/Downtown Edge

The Plan Commission recommends that Rezoning Petition REZ-2021-0056 be returned to Council, with a written commitment, with a “Do Pass” recommendation after considering the following:

1. Approval of the request will be in compliance with Allen County-Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The proposed zoning fits within the goals, policies and recommendations of the Riverfront Development Implementation Framework Plan, adopted as an amendment to the Comprehensive Plan in May 2021. 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 proposed zoning of Downtown Edge provides more appropriate uses for the area than the current Industrial zoning. A written commitment limiting height will mitigate substantially taller structures than the surrounding neighborhood.
3. Approval is consistent with the preservation of property values in the area. Approval of the proposed rezoning will allow both rehabilitation and new private investment that is consistent with the ongoing redevelopment of the riverfront area, fulfilling economic and land use development policies outlined in the comprehensive plan.
4. Approval is consistent with responsible development and growth principles based on existing uses, contextual design, and infrastructure in the area. Approval will further the goal of improved community well-being through coordinated and quality development, revitalization, and redevelopment.

These findings approved by the Fort Wayne Plan Commission on November 15th, 2021.

A handwritten signature in black ink, reading "Benjamin J. Roussel". The signature is written in a cursive style with a horizontal line underneath it.

Benjamin J. Roussel
Interim Zoning Administrator
Secretary to the Commission

Department of Planning Services
Rezoning Petition Application

Applicant
Applicant Harrison Street Properties, LLC (South Bend Transport Services, LLC)
Address 16416 Lochner Rd
City Spencerville State IN Zip 46788
Telephone (260) 426-0444 E-mail jharding@hallercolvin.com

Contact Person
Contact Person Ara Tazian
Address 11224 Kings Xing
City Fort Wayne State IN Zip 46845
Telephone (260) 497-7875 E-mail aratazian@yahoo.com

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

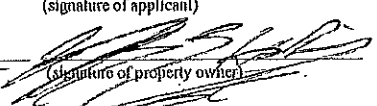
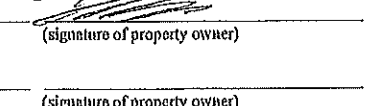
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Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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- ☒ 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.

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Ara Z Tazian, Member		09/30/2021
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Received 10-5-21	Receipt No. 138552	Hearing Date 11-8-2021	Petition No. REZ-2021-0056
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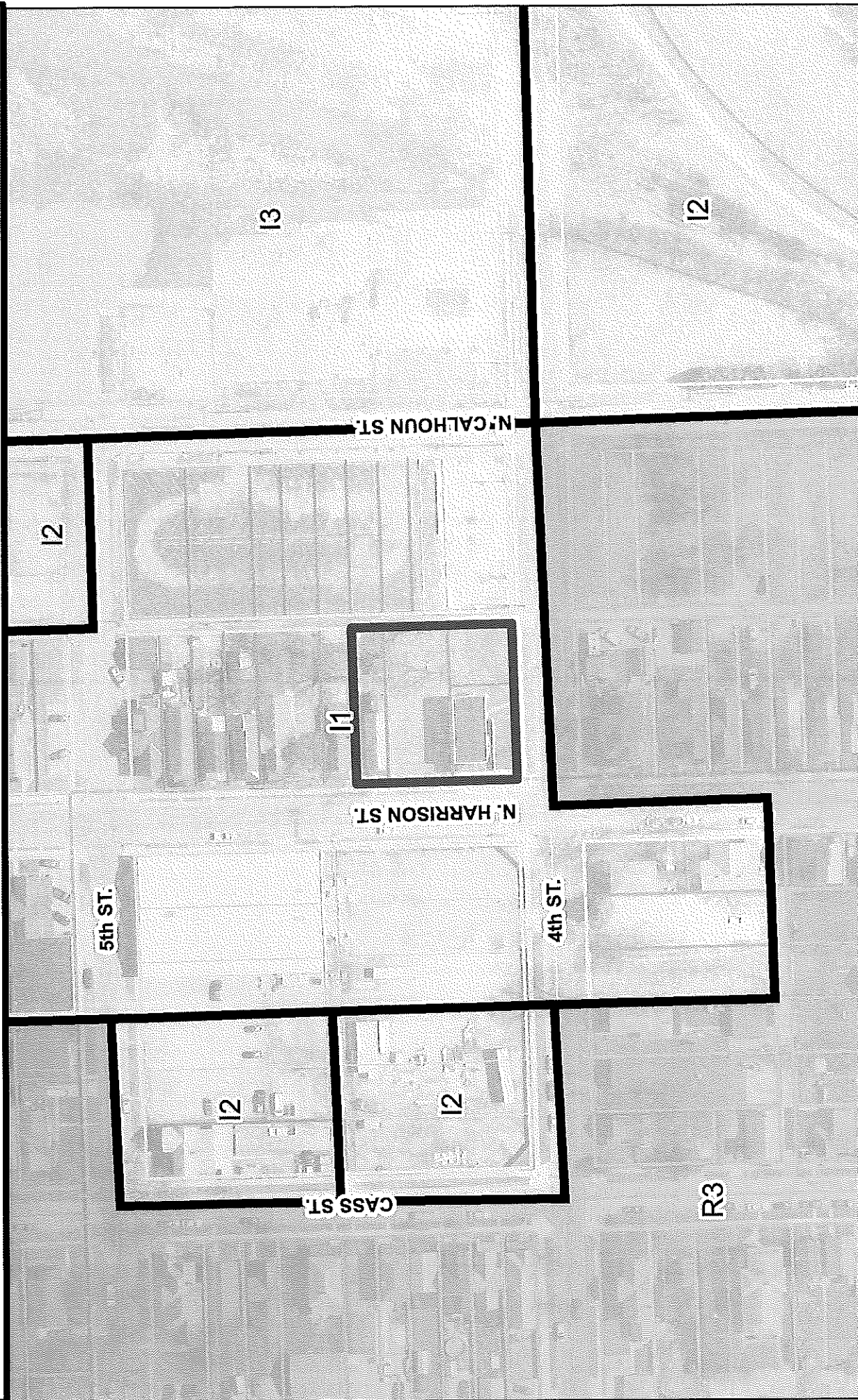
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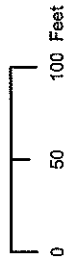
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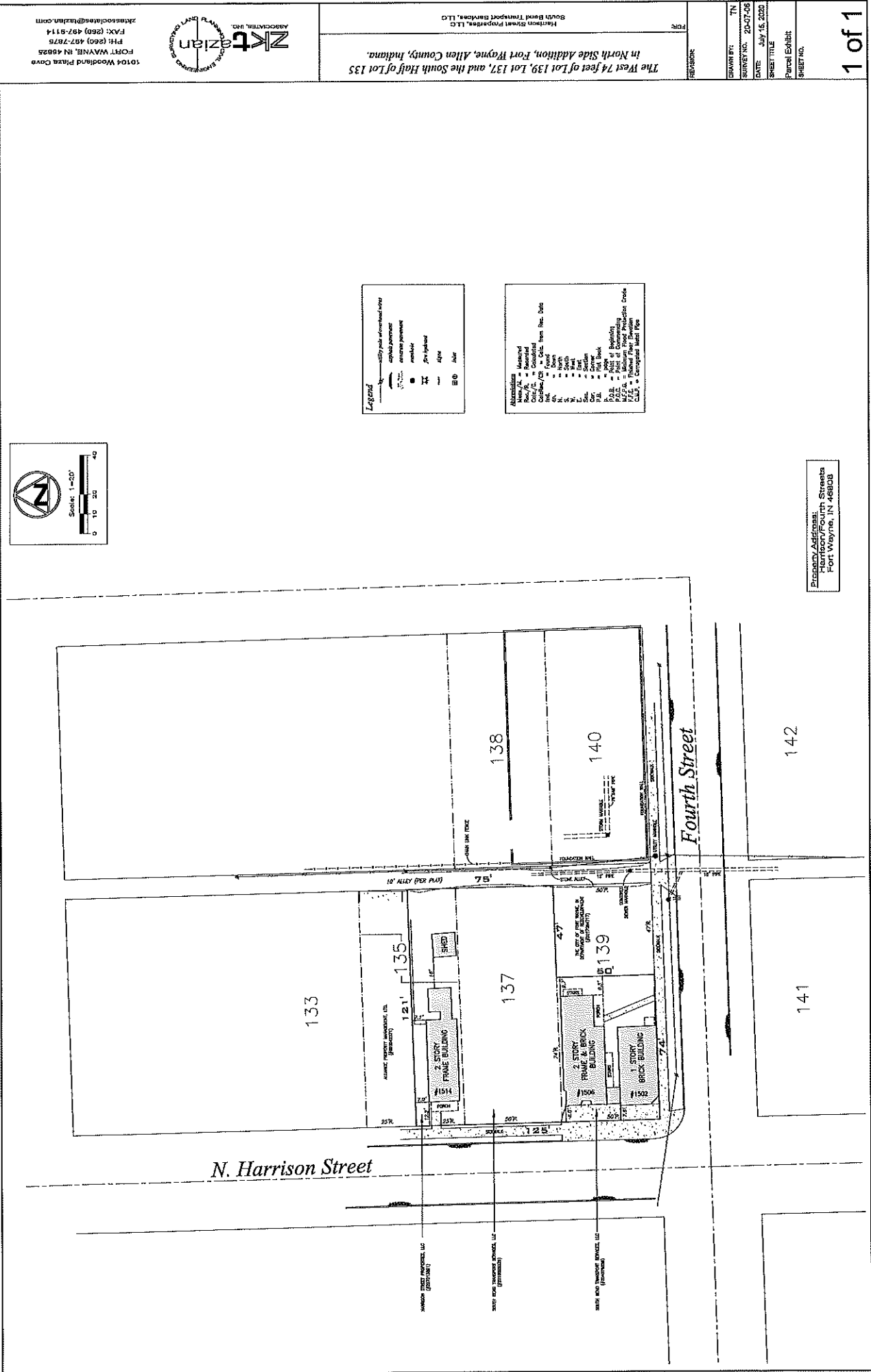


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Fort Wayne, IN 46808

The West 74 feet of Lot 139, Lot 137, and the South Half of Lot 135
in North Side Addition, Fort Wayne, Allen County, Indiana.

South Bend Transport Services, LLC



10104 Woodland Plaza Drive
FORT WAYNE, IN 46825
PH: (260) 457-7875
FAX: (260) 457-5114
zktsoc@att.net

REVISION	
DATE	JULY 15, 2020
DRAWN BY	TN
SHEET NO.	20-07-08
SHEET TITLE	Parcel Exhibit
SHEET NO.	1 of 1

Tax ID. _____

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (this "Commitment") is ____ day of _____, 2021, by **HARRISON STREET PROPERTIES, LLC**, an Indiana limited liability company ("Declarant" or "Applicant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate located in Wayne Township, Allen County, Indiana, the legal description of which is attached hereto as **Exhibit "A"**, more commonly referred to 1502-1514 N. Harrison Street, Fort Wayne, IN 46808 (the "Real Estate"); and

WHEREAS, Applicant filed a Rezoning Application on _____, 2021 (hereinafter referred to as the "Application"), which Application has been approved by the City of Fort Wayne Plan Commission (the "Plan Commission") and the Common Council of the City of Fort Wayne ("City Council"); and

WHEREAS, pursuant to the Application, the Real Estate has been rezoned "Downtown Edge" pursuant to the City of Fort Wayne Zoning Ordinance (the "Ordinance"); and

WHEREAS, Declarant has submitted this Commitment, voluntarily, pursuant to the Ordinance and I.C. 36-7-4-1015 for the purpose of limiting certain off site impacts and certain permitted uses arising from the development of the Real Estate; and

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

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

1. **Building Height Limitation.** No building or other structure shall be built on the Real Estate with more than 3 stories above ground level or a height (including parapet) that is higher than Forty-five feet (45').

2. **Use Limitations.** The following uses will be prohibited on the Real Estate:

- Blood or Plasma Donor Facility
- Cigarette/Tobacco/Cigar Store
- Correctional Services Facility
- Fireworks sales
- Rehabilitation facility
- Tattoo establishment
- Fraternity House
- Gas Station
- Homeless/Emergency Shelter
- Pawn Shop
- Residential Facility for a Court-Ordered Re-Entry Program
- Residential Facility for Homeless Individuals
- Drive-Thru Facilities

3. **Successors and Assigns.** This Commitment and the restrictions and limitations set forth herein shall be binding upon Declarant, and its successors and assigns, and shall also inure to the benefit of the Zoning Administrator of Allen County (the "Zoning Administrator") and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate. 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, and shall have an initial term of twenty-five (25) years, with successive terms of ten (10) years each unless terminated pursuant to the provisions of Section 8 below.

4. **Enforcement.** Any violation of this Commitment shall be deemed a violation of the Ordinance. Pursuant to I.C. 36-7-4-1015, the Plan Commission, or any enforcement official designated by the Ordinance, shall be entitled to enforce this Commitment, at law or in equity, in the event of any breach of the obligations contained herein; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel the enforcement of this Commitment by the Plan Commission or any enforcement official designated by the Ordinance, or any successor agency having zoning jurisdiction over the Real Estate. The Plan Commission, or any enforcement official designated by the Ordinance, shall have the remedies provided for in the Ordinance, or the ordinance covering 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.

5. **Modification and Termination.** This Commitment may be amended or terminated upon application by any persons who own the Real Estate, or any portion thereof, and only with the prior written consent of the Plan Commission, following a public hearing to consider said amendment or termination. This Commitment shall not be amended or terminated unless, after the public hearing, the Plan Commission makes the following determinations as part of its consent: (i) implementation of the amendment or termination will not be injurious to the public health, safety and general welfare of the owners of real property adjacent to the Real

Estate and (ii) the use and value of the real property adjacent to the Real Estate will not be affected in a substantially adverse manner by implementation of the 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 adjacent to the Real Estate, the Zoning Administrator of the City of Fort Wayne, and the Plan Commission. As a condition precedent to the bringing of any lawsuit or initiating any action for temporary, preliminary and permanent injunctive relief as provided herein, the party desiring to bring said action shall first provide Declarant, or the then existing owner(s) of the Real Estate, thirty (30) days prior written notice of the breach or violation, or threatened breach or violation, of the terms, restrictions or covenants of this Commitment.

7. **Acknowledgment and Effect.** Declarant acknowledges that this Commitment is the voluntary product of a negotiation/accommodation between the Applicant, the Plan Commission and property owners adjacent to the Real Estate.

8. **Effective Date.** This Commitment shall be effective upon being duly recorded in the Office of the Recorder of Allen County, Indiana.

9. **Statutory Authority.** This Commitment is made by Declarant pursuant to I.C. 36-7-4-1015.

10. **Governing Law.** This Commitment, including the restrictions and covenants contained herein, shall be governed by the laws of the State of Indiana.

11. **Permits.** No permits shall be issued under the City of Fort Wayne Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder and a recorded and executed copy of the Commitment is delivered to the Zoning Administrator.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant hereby agrees to all of the restrictions and covenants of this Commitment as set forth above.

DECLARANT/APPLICANT:

HARRISON STREET PROPERTIES, LLC

Date: _____

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, Ara Z. Tazian, as Member of Harrison Street Properties, LLC, acknowledged the execution of the foregoing Written Commitment as the voluntary and duly authorized act and deed of said company for the purposes stated therein.

Witness my hand and Notarial Seal this _____ day of _____, 2020.

My Commission Expires: _____

Signature of Notary Public

Resident of: _____

Commission Number: _____

Printed Name of Notary Public

This instrument prepared by Jeffrey B. Harding, Attorney at Law, Atty. No. 17362-71, HallerColvin, P.C., 444 East Main Street, Fort Wayne, IN 46802.

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. /s/ Jeffrey B. Harding

Return to: Jeffrey B. Harding, HallerColvin, P.C., 444 East Main Street, Fort Wayne, IN 46802

EXHIBIT A

The South Half of Lot Numbered 135, Lot Numbered 137, and the West 74 feet of Lot Numbered 139, all being in North Side Addition to the City of Fort Wayne, according to the plat thereof, recorded in Deed Record 35, Page 112 in Office of the Recorder of Allen County, Indiana.