

1 **#REZ-2022-0004**

2 **BILL NO. Z-22-02-04**

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

5 **AN ORDINANCE amending the City of Fort Wayne**
6 **Zoning Map No. P-06 (Sec. 6 of Adams Township)**

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

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

13 The North 105 feet of lots Numbered 13 and 14 in Chute and Prince's Addition to the City of
14 Fort Wayne Indiana.

15 and

16 A part or Section 6, Township 30 North, Range 13 East, commencing at a point where
17 Walton Avenue Intersects the Wabash and Erie Canal, thence running south along the East
18 line Walton Avenue to the North line of Wayne Street; thence East along the North line of
19 Wayne Street 120 feet; thence North on a line parallel with the East line of Walton Avenue
20 to the Wabash and Erie Canal; thence West along said Wabash and Erie Canal to the place of
21 beginning, being in the City of Fort Wayne, Allen County, Indiana, and being real estate
22 located at the Northeast corner of the intersection of Wayne Street and Anthony Boulevard,
23 Fort Wayne, Indiana.

24 and the symbols of the City of Fort Wayne Zoning Map No. P-06 (Sec. 6 of Adams
25 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
26 Wayne, Indiana is hereby changed accordingly.

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

1
2 SECTION 3. That this Ordinance shall be in full force and effect from and after its
3 passage and approval by the Mayor.
4

5 _____
6 Council Member

7 APPROVED AS TO FORM AND LEGALITY:
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9 
10 _____
11 Carol T. Helton, City Attorney
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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-2022-0004
Bill Number: Z-22-02-04
Council District: 5 – Geoff Paddock

Introduction Date: February 8, 2022

Plan Commission
Public Hearing Date: February 14, 2022 (not heard by Council)

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

Synopsis of Ordinance: To rezone 0.67 acres from C2/Limited Commercial to C3/General Commercial with a Written Commitment to restrict certain uses

Location: 1803 E. Wayne

Reason for Request: To bring an existing gas station and convenience store into compliance with the zoning ordinance.

Applicant: Onkar Oil, LLC

Property Owner: Onkar Oil, LLC

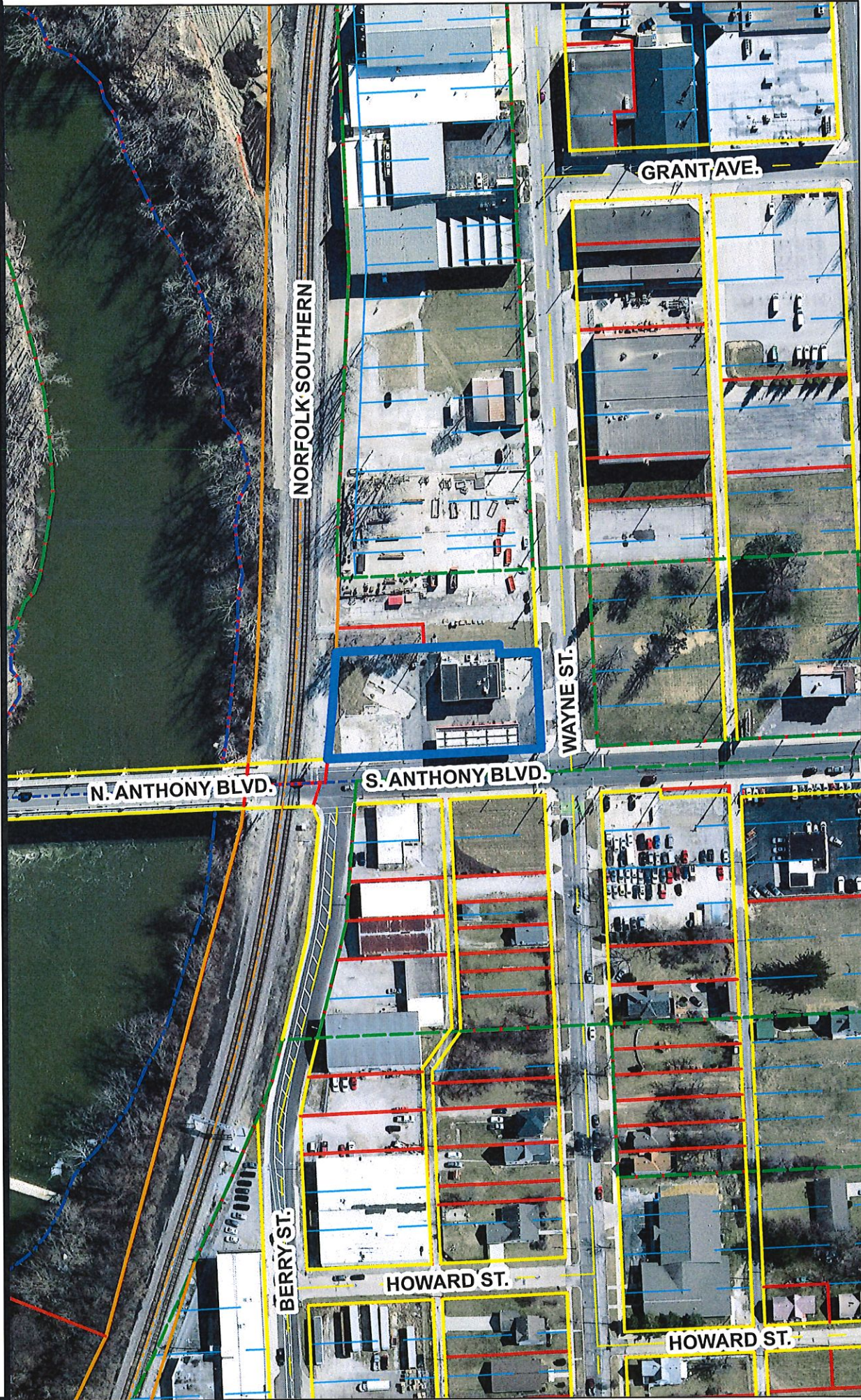
Related Petitions: none

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which will allow the existing use as a permitted use by right. A recorded Written Commitment on the property will restrict all C3 uses except those on site currently and those permitted in the C2/Limited Commercial district.

Effect of Non-Passage: The property will remain zoned for limited commercial uses. The gas station and convenience store may remain as a non-conforming use, but the owner may be limited on future maintenance, expansion, and financing resources because of the non-conforming status.



Rezoning Petition REZ-2022-0004 - 1803 East Wayne Street



1 inch = 150 feet

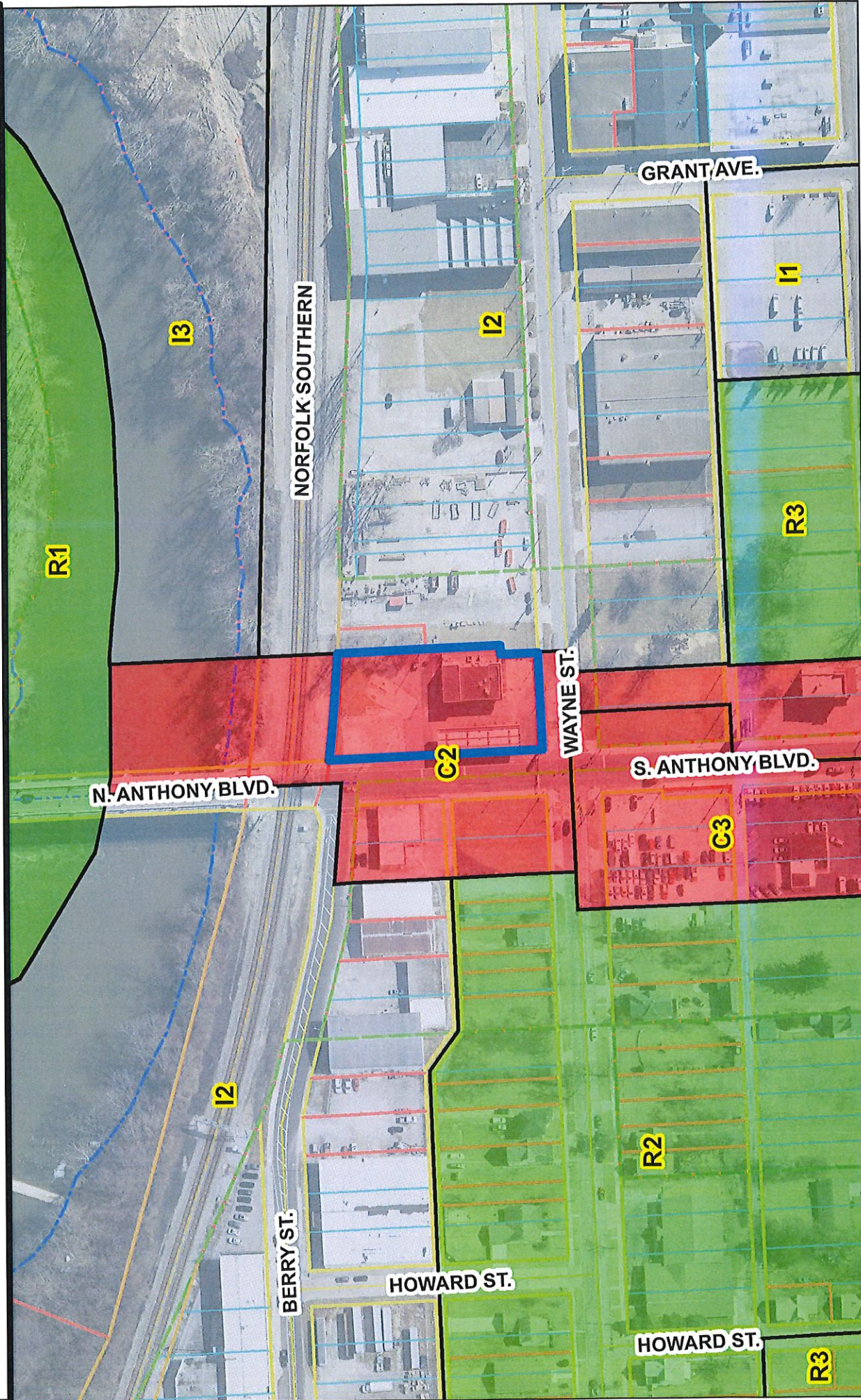


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

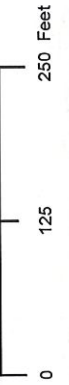
© 2004 Board of Commissioners of the County of Allen
North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 1/19/2022



Rezoning Petition REZ-2022-0004 - 1803 East Wayne Street



1 inch = 150 feet



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Photos and Contours: Spring 2009
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Department of Planning Services
Rezoning Petition Application

Applicant Onkar Oil, LLC
Address 624 East Lewis Street
City Fort Wayne State IN Zip 46802
Telephone 260-452-7728 E-mail _____

Contact Person Kelly Tappy Design, Inc. (Matt Kelly)
Address 116 East Berry Street, Suite 700
City Fort Wayne State IN Zip 46802
Telephone 260-426-7770 E-mail matt@kellytappy.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 1803 East Wayne Street, Fort Wayne, IN 46803
Present Zoning C2 Proposed Zoning C3 Acreage to be rezoned 0.67 acres
Proposed density (see attached site development schematic) _____ units per acre
Township name Wayne Township section # 0063013
Purpose of rezoning (attach additional page if necessary) Purpose of re-zoning is to
accomplish zoning consistent with current use.

Sewer provider Fort Wayne Water provider Fort Wayne

*Applications will not be accepted unless the following filing requirements are submitted with this application.
Please refer to checklists for applicable filing fees and plan/survey submission requirements.*

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

I/we understand and agree, upon execution and submission of this application, that I and 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 Planning Commission; that I/we agree to pay Allen County the cost of notifying the required interested persons of the rezoning at the rate of \$50.00 per Indiana code; and that I/we agree to pay Allen County the cost of notifying the required interested persons of the rezoning at the rate of \$50.00 per Indiana code.

Mann Onkar
(printed name of applicant) [Signature] December 29, 2021
(signature of applicant) (date)
Mann Onkar
(printed name of property owner) [Signature] December 29, 2021
(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.
12/30/21	139174	2/14/22	REZ-2022-0004

E. WISALE

2020001281
RECORDED: 01/09/2020 11:29:21 AM
ANITA MATHER
ALLEN COUNTY RECORDER
FORT WAYNE, IN



8 6 7 9 7 8
Tx: 4402302

STATE OF INDIANA)
COUNTY OF ALLEN)
LASSUS BROS. OIL, INC.,)
Plaintiff,)
vs.)
THE HEIRS and DEVISEES OF HENRIETTA)
LASSUS including AUGUST J. LASSUS, ELMER)
E. LASSUS, WILLIAM F. LASSUS, VELMA)
CENTILVRE, DOROTHY MARTIN, RITA)
YARNELLE, NORMA HURST, and the following)
specifically named persons and entities: VELMA)
CENTILVRE TRUST, DIANE LASSUS, DAVE)
LASSUS, DOROTHY MARTIN, RITA YARNELLE,)
JIM HURST, and JOHN DOE and JANE DOE, as the)
Husband or Wife, Widow or Widower by reason of their)
relationship to an Heir or Devisee of HENRIETTA)
LASSUS and all persons claiming an interest in said)
Properties.)
Defendants.)

IN THE ALLEN CIRCUIT COURT
CAUSE NO. 02C01-9907-CT-978

ORDER QUIETING
TITLE TO
REAL ESTATE

AUDITOR'S OFFICE
has reviewed this document
to find evidence for fraud.

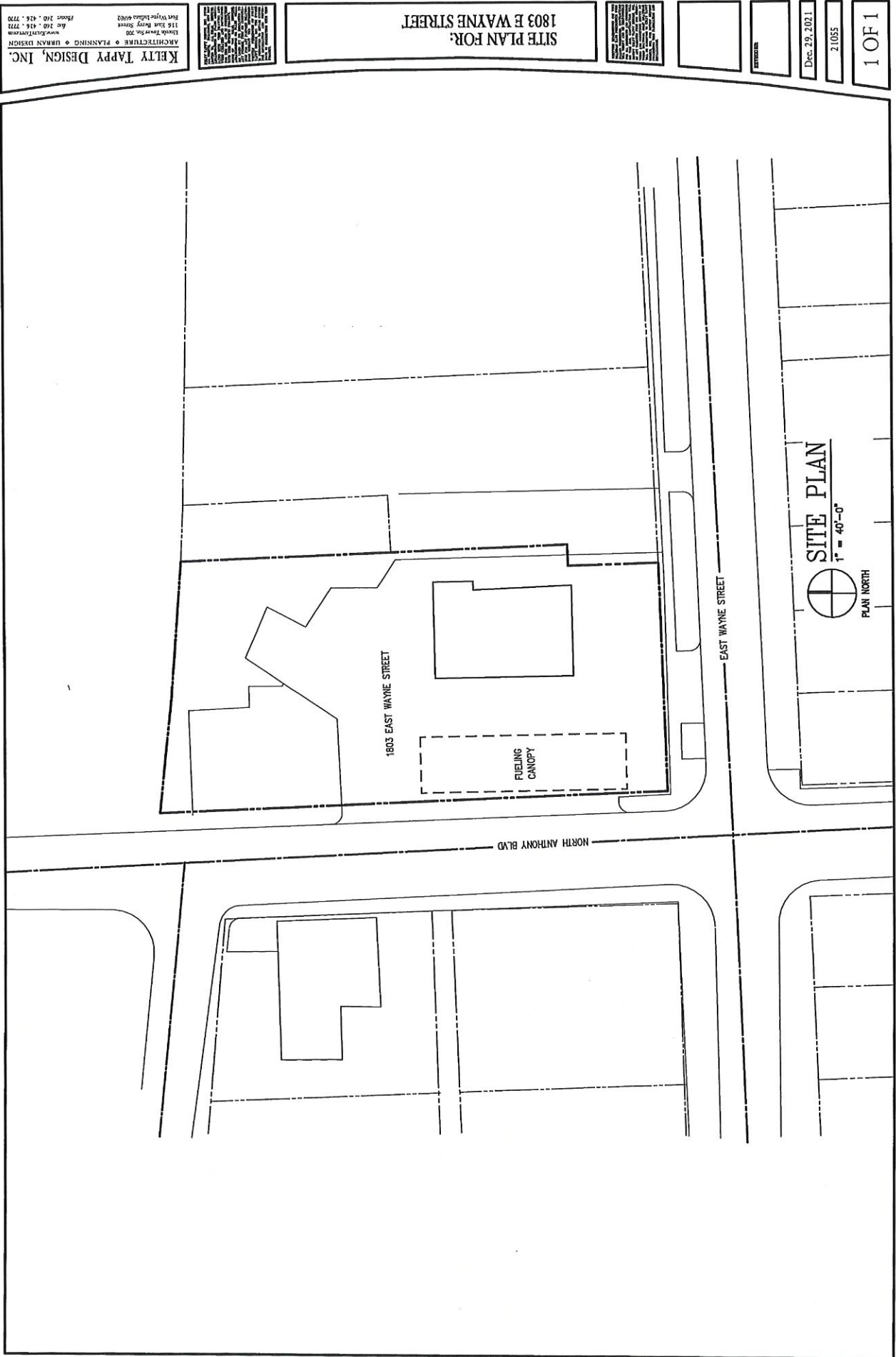
FEB 12 2002

ALLEN COUNTY

Comes now Plaintiff, by counsel, and shows proof of service upon all of the within named Defendants either by the Clerk's service and return or by publication of notice to all Heirs and Devisees of Henrietta Lassus, and all other persons whosoever by publication of notice of these proceeding in the News-Sentinel, the last publication being dated August 9, 1999; and it appearing that all other Defendants have failed to appear or answer (except Dave Lassus, a/k/a David W. Lassus, personally and as Personal Representative of the Estate of William F. Lassus, and Diane Lassus all of whom by attorney Vincent J. Heiny have stipulated to the relief prayed for by Plaintiff) herein are now called and defaulted.

01 18167
AUDITORS NUMBER

Wayne 41-0067-1003



SITE PLAN
1" = 40'-0"
PLAN NORTH

1 OF 1

21055

Dec. 29, 2021

REVISIONS

1803 E WAYNE STREET

SITE PLAN FOR:

KELTY TAPPY DESIGN, INC.

ARCHITECTURE & PLANNING & URBAN DESIGN
116 East Main Street
Fort Wayne, Indiana 46802
Phone: 210-426-7770
Fax: 210-426-7772
www.ktdesign.com

FACT SHEET

Case #REZ-2022-0004		Bill # Z-22-02-04	Project Start: January 2022
APPLICANT:	Onkar Oil, LLC		
REQUEST:	To rezone property from C2/Limited Commercial to C3/General Commercial to bring the existing gas station use in conformance with the Zoning Ordinance.		
LOCATION:	The site is located at the northeast corner of the intersection of North Anthony Boulevard and East Wayne Street. The address of the subject property is 1803 East Wayne Street (Section 6 of Wayne Township).		
LAND AREA:	Approximately 0.7 acres		
PRESENT ZONING:	C2/Limited Commercial		
PROPOSED ZONING:	C3/General Commercial		
COUNCIL DISTRICT:	5- Geoff Paddock		
SPONSOR:	City of Fort Wayne Plan Commission		

February 14, 2022 Public Hearing

- No one spoke in opposition.
- Tom Freistroffer, Justin Shurley and Rachel Tobin-Smith were absent.

February 21, 2021 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Judi Wire 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.

5-0 MOTION PASSED

- Paul Sauerteig, Justin Shurley and Rachel Tobin-Smith were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
March 8, 2022

PROJECT SUMMARY

SITE HISTORY:

- The site developed as nonresidential since historic imagery was taken in 1938.
- Site used to house a garage that was razed between 2012 and 2015.
- The gas station canopy was replaced between 2011 and 2015.
- A zoning ordinance amendment limited gas stations to a special use in the C2/Limited Commercial zoning district. The amendment became effective on April 7, 2014.
- City Council proposed and approved a zoning ordinance amendment to remove gas stations as a special use in the C2 district, which became effective on April 22, 2019.

STAFF DISCUSSION:

The applicant, Onkar Oil, LLC, is seeking to rezone this gas station site from C2/Limited Commercial to C3/General Commercial. The site is at the northeast corner of South Anthony Boulevard and East Wayne Street. The site is also south of the railroad crossing with the Norfolk Southern railroad, which is an active railroad. Overall, the vicinity is primarily nonresidential with a mixture of both commercial and industrial uses. Some residential properties lie around the site, but most of the residential development is north of the railroad, beyond the Maumee River. Recent improvements include a new gas station canopy and the demolition of an on-site brick garage building in the mid 2010's. Because of the demolition, the northern half of the site does not have a structure but contains paving.

Given the freshness of the initiative to reduce the number of zoning districts where a gas station is permitted, staff would only recommend approval if a voluntary written commitment is submitted. Until the Zoning Ordinance Amendment in 2014, a gas station was a permitted use in the C2 zoning district. Today, gas stations in the C2 district that existed prior to 2014 became nonconforming. The petitioner seeks the allowance of the existing gas station, and the ability to maintain, expand and improve as allowed for a permitted use. Along with the rezoning request, the petitioner has agreed to submit a voluntary Written Commitment governing uses on the property. If approved, all but four C3 /General Commercial uses would be prohibited, as recommended by staff. Those new C3 uses proposed to be permitted are:

- (1) Automobile car wash
- (2) Gas station
- (3) Propane/bottled gas sales and service as an accessory to a gas station or convenience store
- (4) Truck fueling station

The Comprehensive Plan encourages development that will not adversely affect the current conditions of an area or the character of the current structures in the area. This proposal does not include any request to change or increase the intensity of the existing use. Staff is not opposed to bringing the existing use into compliance with the ordinance, with the written commitment.

An additional benefit of rezoning to a C3 zoning district is that this zoning district has greater setbacks for development adjacent to residential zoning districts. For instance, the rear yard setback for a building adjacent to a residential district in a C3 district is 40', while the same setback in a C2 district is 25'. If a gas station were to expand in the future, the applicant will either need to adhere to the larger setback or file a petition with either the Plan Commission or Board of Zoning Appeals.

PUBLIC HEARING SUMMARY:

Presenter: Matt Keltz presented the proposal as outlined above.

Public Comments:

No one spoke in opposition

Post-Hearing: The applicants met with Plan Commission Staff and drafted a revised Written Commitment. A truck fueling station was removed from the permitted uses.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

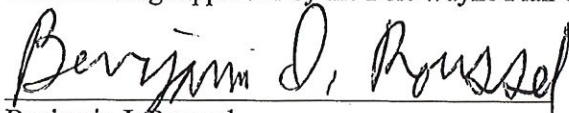
Rezoning Petition REZ-2022-0004

APPLICANT:	Onkar Oil, LLC
REQUEST:	To rezone property from C2/Limited Commercial to C3/General Commercial to bring the existing gas station use in conformance with the Zoning Ordinance.
LOCATION:	The site is located at the northeast corner of the intersection of North Anthony Boulevard and East Wayne Street. The address of the subject property is 1803 East Wayne Street (Section 6 of Wayne Township).
LAND AREA:	Approximately 0.7 acres
PRESENT ZONING:	C2/Limited Commercial
PROPOSED ZONING:	C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2022-0004, 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 City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The site was developed non-residentially and has remained commercial for decades. The purpose of the rezoning is to allow an existing use to comply with the zoning ordinance.
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 use on the property is existing and is not proposed to change. A proposed Written Commitment prohibiting all but existing C3 uses will protect surrounding property owners from new intensive or incompatible uses.
3. Approval is consistent with the preservation of property values in the area. This proposal does not increase the intensity of the existing use, and allows for the property to be maintained, expanded and/or improved. Further investment when desired or necessary will fall within the constraints of the General Commercial (C3) zoning district.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area.

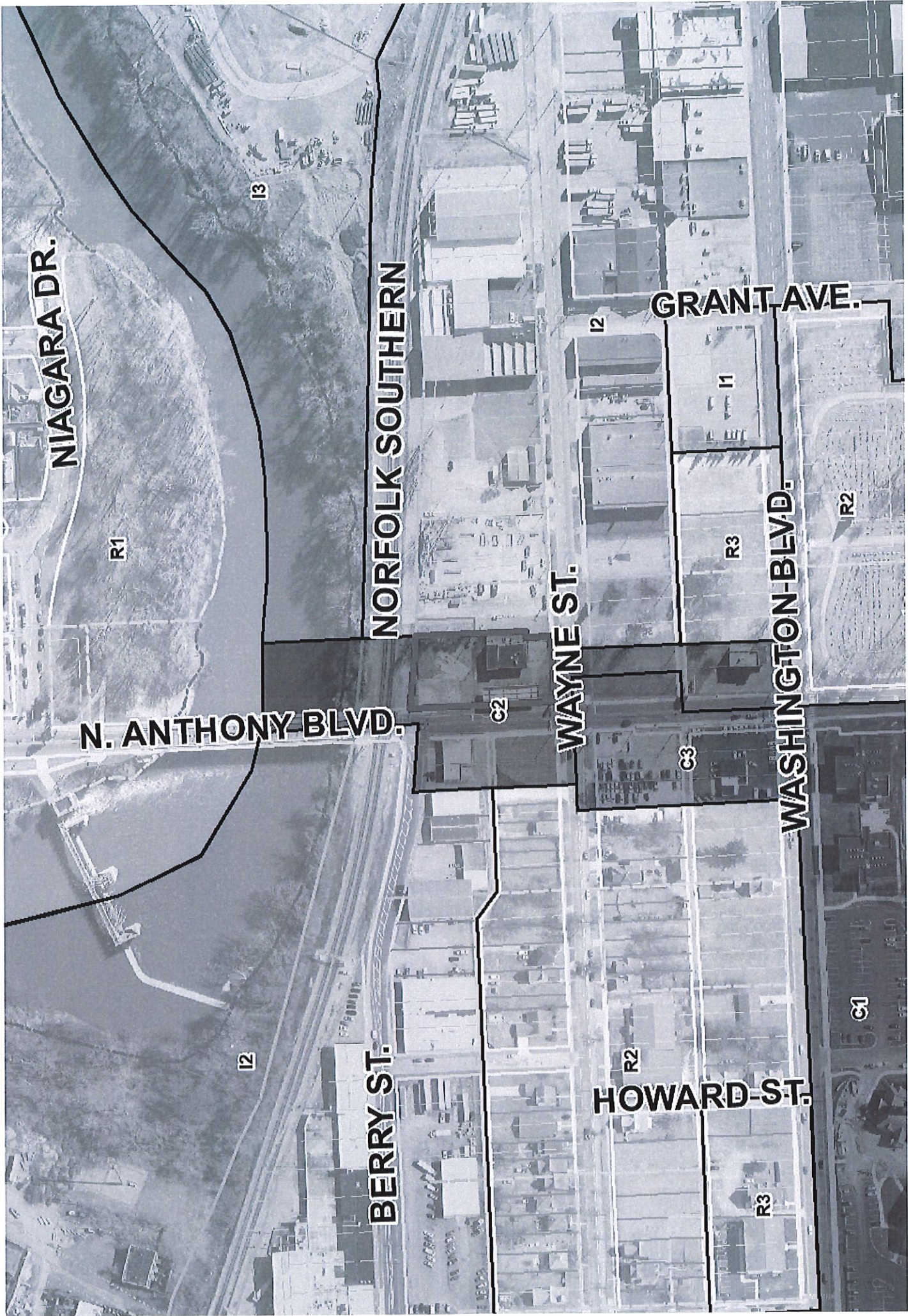
These findings approved by the Fort Wayne Plan Commission on February 21, 2022.

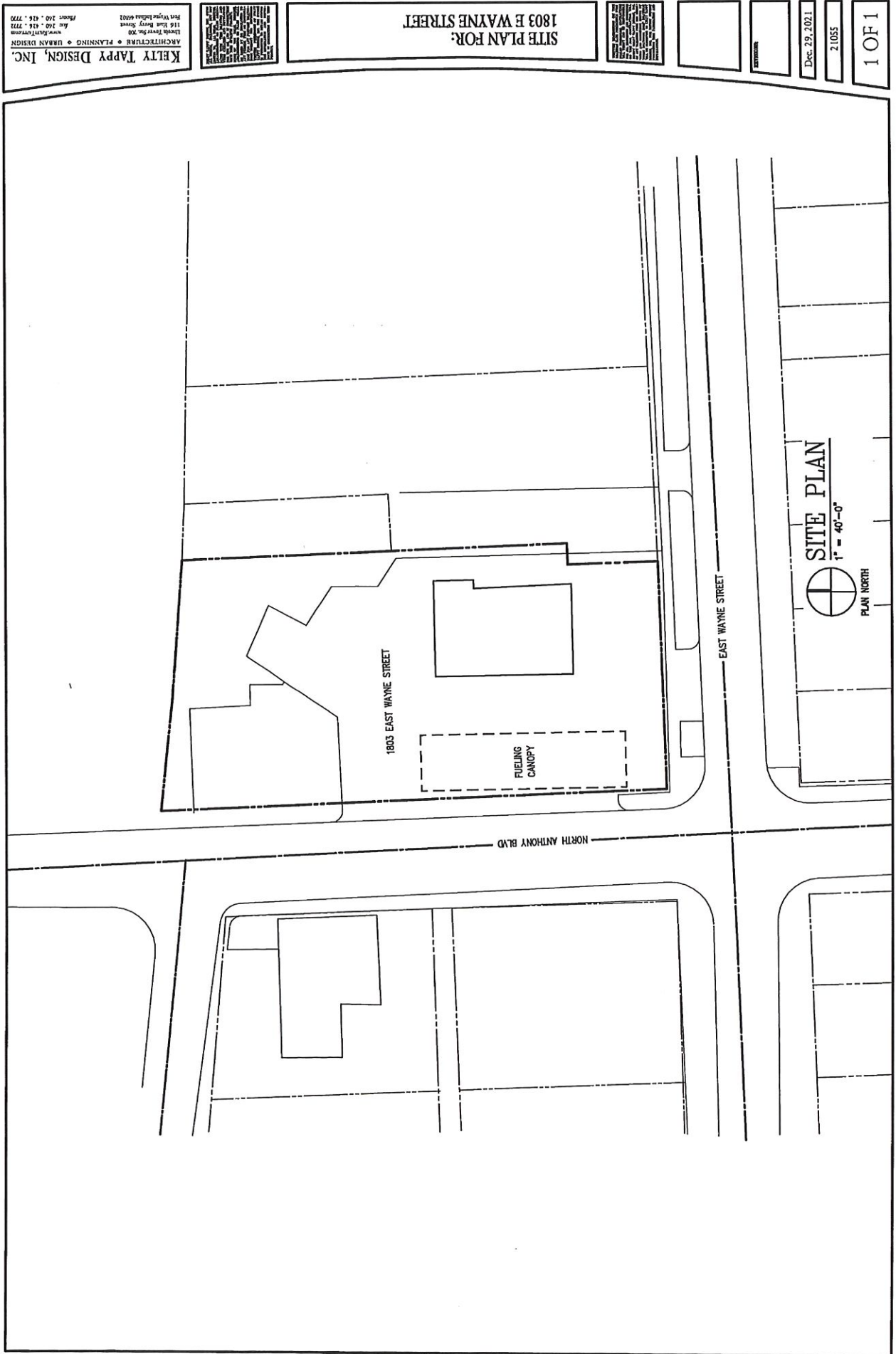


Benjamin J. Roussel
Executive Director
Secretary to the Commission

Department of Planning Services • 200 East Berry Street • Suite 150 • Fort Wayne, Indiana • 46802
Phone (260) 449-7607 • Fax (260) 449-7682 • www.allencounty.us/pls







WRITTEN COMMITMENT

This Written Commitment (this “Commitment”) is made effective as of the 21st day of February, 2022, by the Fort Wayne Plan Commission (“Plan Commission”).

RECITALS

A. By virtue of that certain Deed of Personal Representative dated **(date)** and recorded on **(date)** as Document Number **(document number)** in the Office of the Recorder of Allen County, Indiana, Company 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”).

B. Onkar Oil, LLC (“Company”) filed an application under Case Number REZ-2022-0004 (the “Rezoning Application”) to change the zoning map applicable to the Real Estate from the C2 Zoning District 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 Plan Commission is imposing this 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 Plan Commission imposed a written commitment concerning the use and development of the Real Estate.

COMMITMENT

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

1. **PERMITTED USES.** All uses in the C2/Limited Commercial zoning district §157.217 of the Ordinance are permitted, as well as the following uses (which shall be permitted):

- a) Automobile car wash;
- b) Gas station;
- c) Propane/bottled gas sales and service as an accessory use to a gas station;

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. **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. **STATUTORY AUTHORITY.** This Commitment is made pursuant to I.C. §36-7-4-1015(a)(2).

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.

[SIGNATURE PAGE FOLLOWS.]

City of Fort Wayne Plan Commission

By: _____
Benjamin J. Roussel, Secretary to the Plan Commission

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public in and for said County and State, this _____ day of _____, 2022, personally appeared Benjamin J. Roussel, as Secretary to the Plan Commission, and acknowledged the execution of the foregoing Written Commitment on behalf of the Plan Commission.

WITNESS my hand and Notarial Seal.

My commission expires:
July 21, 2028

Amanda Woenker, Notary Public
Resident of Allen, County, Indiana

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. Nathan W. Schall

Exhibit "A"
Legal Description of the Real Estate

The North 105 feet of lots Numbered I3 and 14 in Chute and Prince's Addition to the City of Fort Wayne Indiana.

and

A part or Section 6, Township 30 North, Range 13 East, commencing at a point where Walton Avenue Intersects the Wabash and Erie Canal, thence running south along the East line Walton Avenue to the North line of Wayne Street; thence East along the North line of Wayne Street 120 feet; thence North on a line parallel with the East line of Walton Avenue to the Wabash and Erie Canal; thence West along said Wabash and Erie Canal to the place of beginning, being in the City of Fort Wayne, Allen County, Indiana, and being real estate located at the Northeast corner of the intersection of Wayne Street and Anthony Boulevard, Fort Wayne, Indiana.