

1 **#REZ-2022-0003**

2 **BILL NO. Z-22-02-03**

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

5 **AN ORDINANCE amending the City of Fort Wayne**
6 **Zoning Map No. O-14 (Sec. 36 of Washington 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 Lots Numbered 5, 6 und 7, Block Numbered 7, Forest Park Addition to the City of
14 Fort Wayne, Indiana, according to the plat thereof, recorded in Plat Record 4, page
15 65, in the Office of the Recorder of Allen County, Indiana, EXCEPT the East 25 feet
16 of each lot thereof, appropriated for the widening of Anthony Boulevard, as recorded
17 in Plat Book 78, page 67, in the Office of the Recorder of Allen County, Indiana.

18 Subject to real estate taxes, easements, restrictions and limitations of record.

19 and the symbols of the City of Fort Wayne Zoning Map No. O-14 (Sec. 36 of Washington
20 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
21 Wayne, Indiana is hereby changed accordingly.

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
25 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-2022-0003
Bill Number: Z-22-02-03
Council District: 2 – Russ Jehl

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 0.44 acres from C2/Limited Commercial to C3/General Commercial with a Written Commitment to restrict certain uses

Location: 1501 N. Anthony

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.

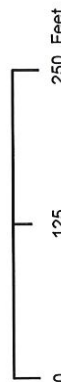
Effect of Non-Passage: The property will remain zoned for limited commercial uses. The gas station and convenience store may remain as a non-conforming use, but the owner may be limited on future maintenance, expansion, and financing resources because of the non-conforming status.



Rezoning Petition REZ-2022-0003 - 1501 North Anthony Blvd.



1 inch = 150 feet

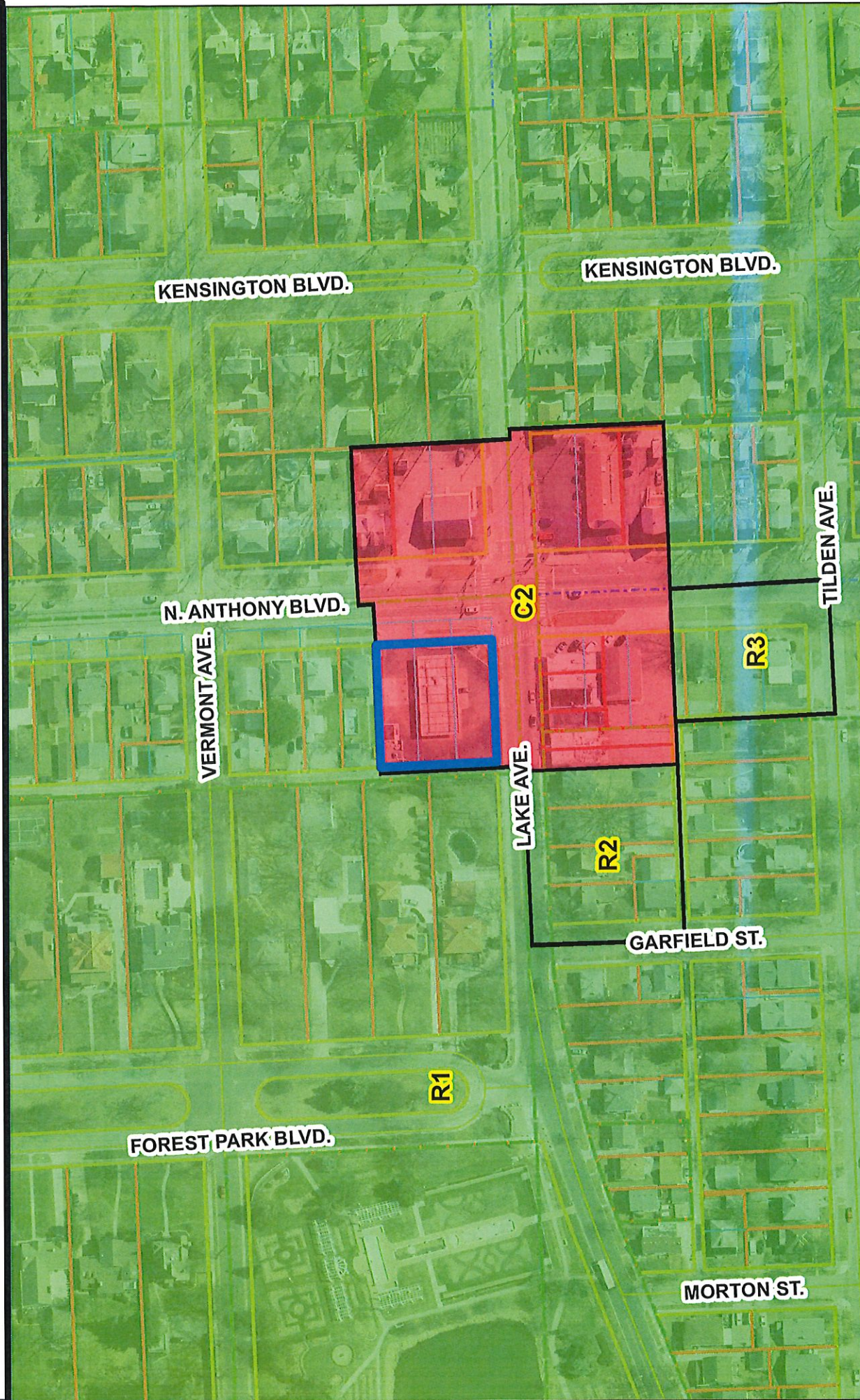


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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 1/19/2022



Rezoning Petition REZ-2022-0003 - 1501 North Anthony Blvd.



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0 125 250 Feet

1 inch = 150 feet

Department of Planning Services
Rezoning Petition Application

Applicant Onkar Oil, LLC
Address 624 East Lewis Street
City Fort Wayne State IN Zip 48802
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 48802
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 1501 North Anthony Boulevard, Fort Wayne, IN 48805
Present Zoning C2 Proposed Zoning C3 Acreage to be rezoned 0.44 acres
Proposed density (see attached site development schematic) units per acre
Township name Wayne Township section # 0363112
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 credits 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 Reasonings Only

I/We understand and agree, upon execution and submission of this application, that I/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 Ordinance and Subdivision Ordinance as well as all procedures and policies of the Allen County Planning 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 \$0.35 per notice and a public notice fee of \$50.00 per Indiana code.

Mann Onkar
(printed name of applicant) (signature of applicant) December 29, 2021
(date)

Mann Onkar
(printed name of property owner) (signature of property owner) December 29, 2021
(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.
10/30/21	139122	2/14/21	REZ-2022-0003

#206044076	Revised	22081
07/24/2006 09:48:19		3.00
REORDER		6.00
PATRICIA J CRICK		2.00
WALLEN COUNTY, IN		5.00
Receipt No.		16.00
DCFD		
DEED		
DISP		
SCSF		
Total		

Mail Tax Bills To:
1561 W. Anthony Blvd
Fort Wayne, IN 46805
46805

02.07.36.484.010.000-074
02.07.36.484.011.000-074

THIS INDENTURE WITNESSETH THAT: THORNHILL FAMILY LIMITED PARTNERSHIP, of Allen County, State of Indiana, CONVEYS AND WARRANTS TO: DPR OIL CORP., of Allen County, State of Indiana, in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Allen County, in the State of Indiana, to wit:

Lots Numbered 5, 6 and 7, Block Numbered 7, Forest Park Addition to the City of Fort Wayne, Indiana, according to the plat thereof, recorded in Plat Book 4, page 65, in the Office of the Recorder of Allen County, Indiana, EXCEPT the East 25 feet of each lot thereof, appropriated for the widening of Anthony Boulevard, as recorded in Plat Book 7B, page 67, in the Office of the Recorder of Allen County, Indiana.

(This real estate is commonly known as 1501 North Anthony Blvd., Fort Wayne, Indiana 46805)

Subject to real estate taxes, easements, restrictions and limitations of record.

IN WITNESS WHEREOF, Grantor has caused this Deed to be executed this 29th day of October, 2002.

**THORNHILL FAMILY LIMITED
PARTNERSHIP**

By: Amle Thakurhill
Its: Managing Partner

STATE OF INDIANA)
) ss:
COUNTY OF ALLEN)



BEFORE ME, a Notary Public, in and for said County and State, personally appeared **THORNTON SEAL FAMILY LIMITED PARTNERSHIP**, by **Amie Thornhill**, its President, being over the age of eighteen (18) years, and acknowledged the execution of the foregoing Deed for and on behalf of **Grain Processing, LLC**, having been duly sworn, stated that the representations herein contained are true.

WITNESS my hand and Notarial Seal this 29th day of October, 2002.

My Commission Expires:
April 24, 2008

A. Dale Bloom
A. Dale Bloom, Notary Public
A resident of Allen County, Indiana

This instrument prepared by: A. Dale Bloom, Attorney at Law, 200 E. Main St., 1000 Standard Federal Plaza, Fort Wayne, Indiana 46854-0810; Telephone: (219) 426-1300

MAIL TO: Atg Box 6845-

THE UNIVERSITY OF CHICAGO

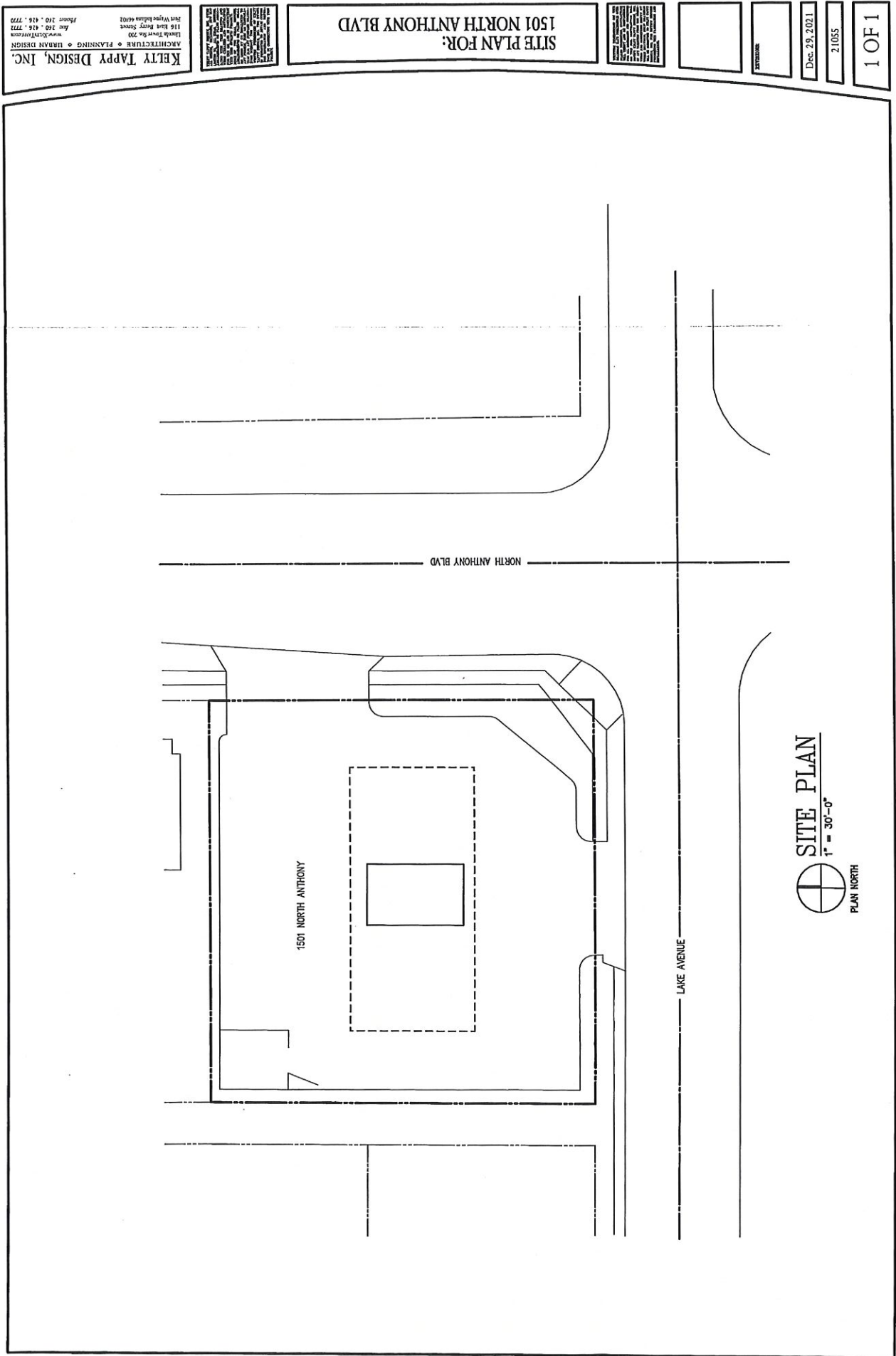
JUL 21 2006

SALES DISCLOSURE
- FORM#

AUDITOR'S OFFICE
Duly entered for taxation. Subject
to final acceptance for transfer.

1111 27 2006

Stephen H. Glavin
AUDITOR OF ALLEN COUNTY



FACT SHEET

Case #REZ-2022-0003	Bill # Z-22-02-03	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 northwest corner of the intersection of North Anthony Boulevard and Lake Avenue. The address of the subject property is 1501 North Anthony Boulevard (Section 36 of Washington Township).	
LAND AREA:	Approximately 0.44 acres	
PRESENT ZONING:	C2/Limited Commercial	
PROPOSED ZONING:	C3/General Commercial	
COUNCIL DISTRICT:	2- Russ Jehl	
SPONSOR:	City of Fort Wayne Plan Commission	

February 14, 2022 Public Hearing

- Three property owners spoke in opposition.
- Tom Freistroffer, Justin Shurley and Rachel Tobin-Smith were absent.

February 21, 2022 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

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

5-1 MOTION PASSED (Judi Wire voted Nay)

- 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:

- Historically, the site contained a single-family dwelling along Lake Avenue and a gas station at the corner of Lake Avenue and Anthony Boulevard.
- In the 1980's, the gas station expanded and built into where the single-family dwelling stood.
- 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 northwest corner of Lake Avenue and North Anthony Boulevard. The site contains a gas station canopy with a convenience kiosk underneath. In addition, a dumpster enclosure and restroom building are at the far northwest corner of the site. The site is surrounded by historic designation on all sides: the Forest Park Boulevard Historic District to the east, the North Anthony Historic District to the north, and the Fort Wayne Parks and Boulevards Historic Districts on the west and south designated for Anthony Boulevard and for Lake Avenue, respectively. Beyond the designations are commercial storefronts that have historic setbacks, a dry cleaner diagonal from the site, and Lakeside Park within walking proximity to the site. A 6-foot privacy fence separates the gas station parcel from the residential districts to the west and the north.

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 Kely presented the proposal as outlined above.

Public Comments:

Four neighbors spoke in opposition.

- Tom Overkill, Forest Park Association
- Kim Anderson, owner of 1514 North Anthony
- Joe Giant, VP of Kensington Park Association
- Sid Shipley, 1506 Forest Park Boulevard

The concerns consisted of compatibility, debris from patrons, site maintenance, lighting, hours of operation, parking, expansions, and language within the Written Commitment.

Post-Hearing: The applicants met with Plan Commission Staff and drafted a revised Written Commitment based on comments made by remonstrators at the public hearing. A truck fueling station and car wash were removed from the permitted uses.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

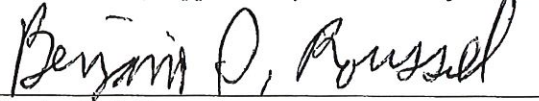
Rezoning Petition REZ-2022-0003

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 northwest corner of the intersection of North Anthony Boulevard and Lake Avenue. The address of the subject property is 1501 North Anthony Boulevard (Section 36 of Washington Township).
LAND AREA: Approximately 0.44 acres
PRESENT ZONING: C2/Limited Commercial
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2022-0003, 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 existing gas station has been established since the 1980's. 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
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 1501 North Anthony Boulevard, Fort Wayne, IN 46805
Present Zoning C2 Proposed Zoning C3 Acreage to be rezoned 0.44 acres
Proposed density (see attached site development schematic) _____ units per acre
Township name Wayne Township section # 0363112
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 checklist 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 Recordings 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 Planning Commission as those provisions, procedures and policies related to rezoning and subdivision of land are in effect at the time of the filing of this application; that the above information is true and accurate to the best of my/our knowledge; and that I/we understand that the cost of notifying the required interested persons is the rate of \$0.35 per notice and a public notice fee of \$50.00 per Indiana code.

Mann Onkar _____ December 29, 2021
(printed name of applicant) (signature of applicant) (date)
Mann Onkar _____ December 29, 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)

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

Received	Receipt No.	Hearing Date	Petition No.
12/29/21	139122	2/14/22	REZ-2022-0003



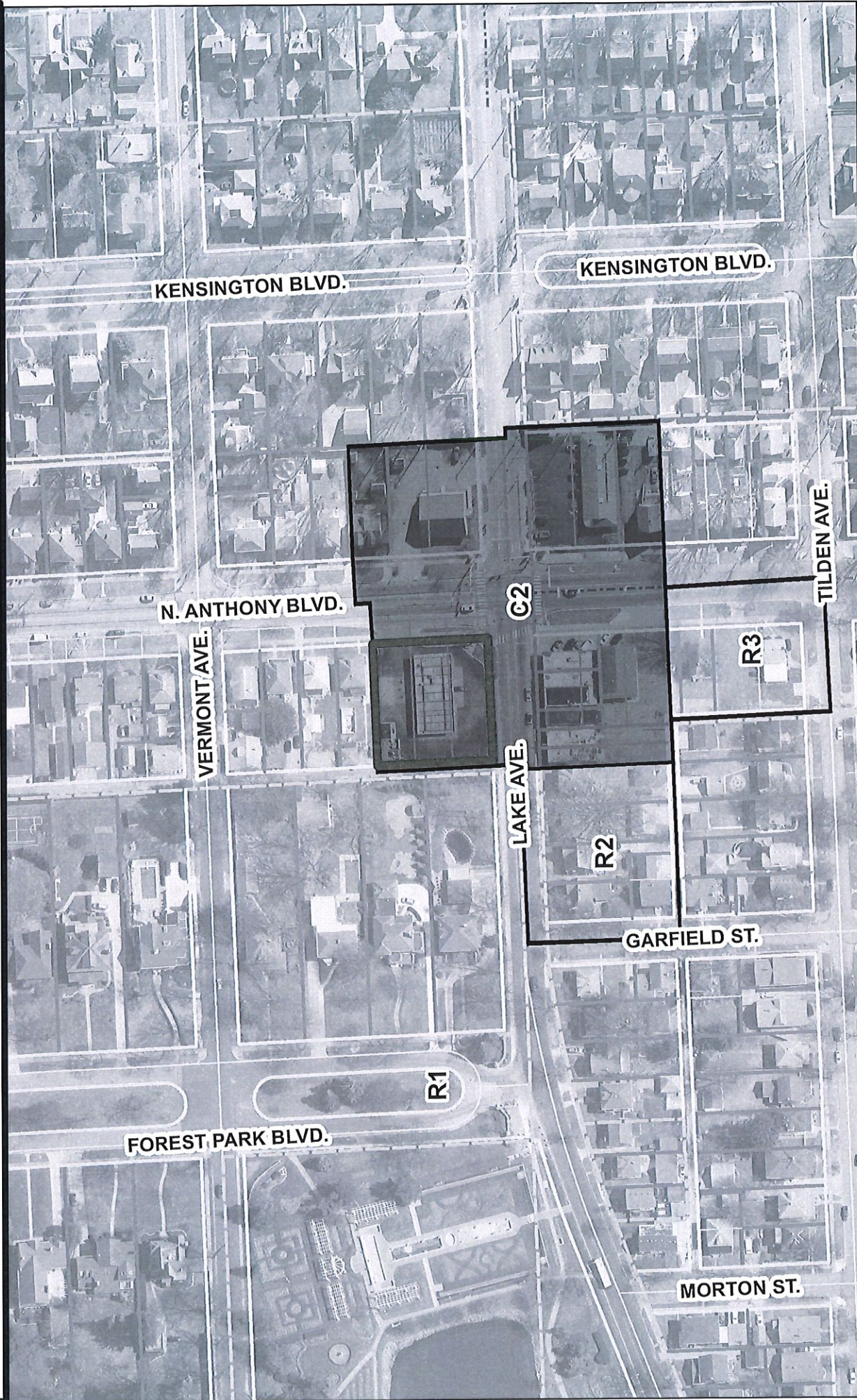
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0 125 250 Feet



1 inch = 150 feet



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1 OF 1

21055

Dec. 29, 2021

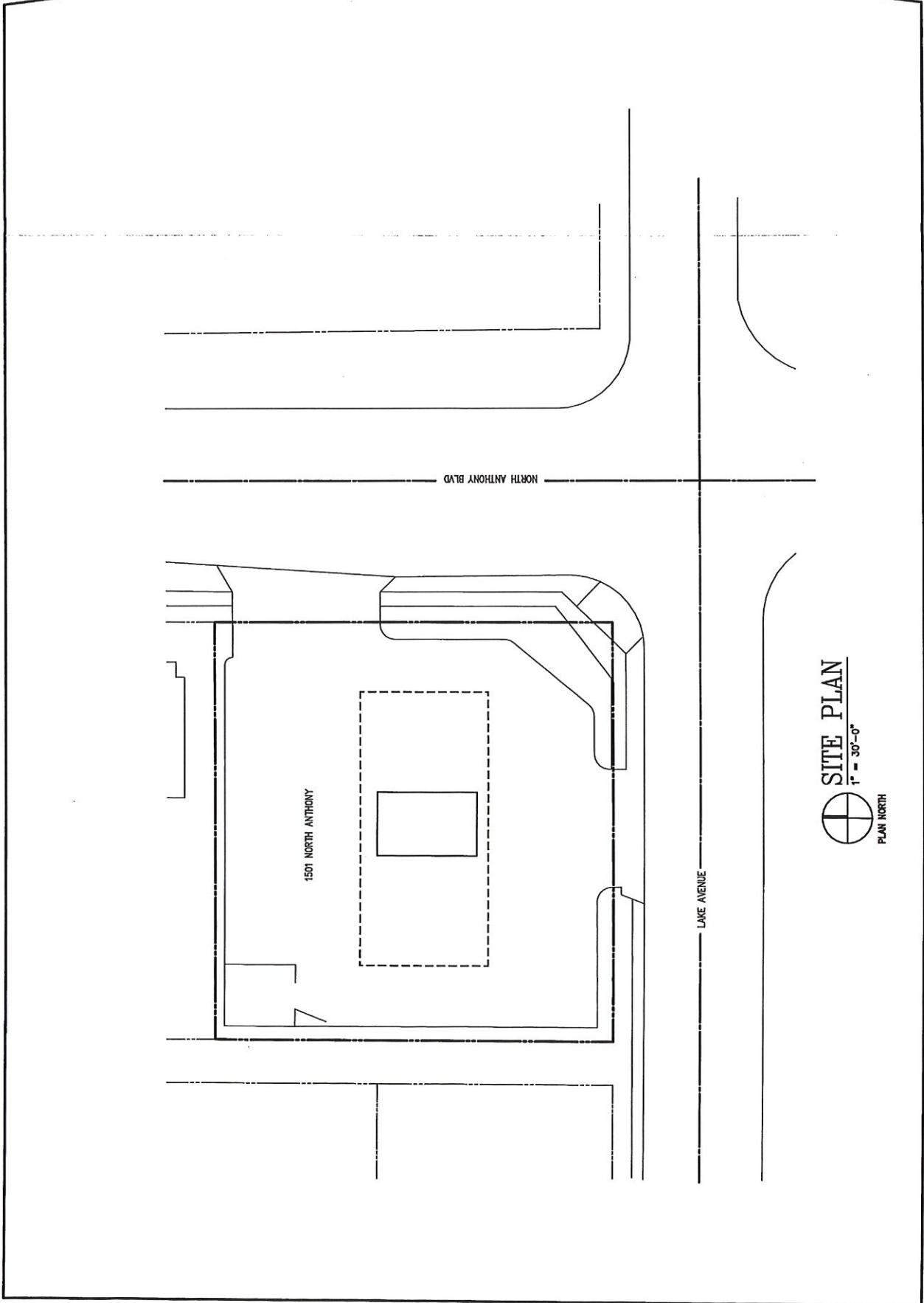
REVISIONS



SITE PLAN FOR:
1501 NORTH ANTHONY BLVD



KBLTY TAPPY DESIGN, INC.
ARCHITECTURE • PLANNING • URBAN DESIGN
116 East Berry Street
Suite 200
Westerville, OH 43081
Phone: 614.426.7773
Fax: 614.426.7773



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-2022-0003 (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) Gas station;
- b) 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

Lot Numbered 5, 6 und 7, Block Numbered 7, Forest Park Addition to the City of Fort Wayne, Indiana, according to the plat thereof, recorded in Plat Record 4, page 65, in the Office of the Recorder of Allen County, Indiana, EXCEPT the East 25 feet of each lot thereof, appropriated for the widening of Anthony Boulevard, as recorded in Plat Book 78, page 67, in the Office of the Recorder of Allen County, Indiana.

(This real estate is commonly known as 1501 North Anthony Blvd., Fort Wayne, Indiana 46805)

Subject to real estate taxes, easements, restrictions and limitations of record.