

#REZ-2022-0010

BILL NO. Z-22-03-07

ZONING MAP ORDINANCE NO. Z-_____

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

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
INDIANA:

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

Lot Numbers 36 through 45 in Poplar Ridge Second Section Addition, according to
the plat thereof, recorded in Plat Record 22, Page 140, in the Office of the Recorder
of Allen County, Indiana.

Together with the right of way of Rewill Drive lying between lots 38-39, 42-43, and
44-45.

Together with the right of way deeded to the State of Indiana and proposed to be
vacated and further described in Bertsch – Frank & Associates survey project
number 20299.100 dated 02/02/2022.

All total containing 4.94 acres more or less.

and the symbols of the City of Fort Wayne Zoning Map No. D-06 (Sec. 6 of Wayne
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
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
approved by the Common Council as part of the zone map amendment, that written
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.

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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-2022-0010
Bill Number: Z-22-03-07
Council District: 4-Jason Arp

Introduction Date: March 8, 2022

Plan Commission
Public Hearing Date: March 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 approximately 5 acres from R1/Single Family Residential to C3/General Commercial.

Location: Lots 36-45 of The Polar Ridge Addition, at the southern end of Rewill Drive.

Reason for Request: To allow for a new Bob Rohrman dealership and an outlot for future commercial development.

Applicants: Rohrman Family Realty, LP, Menard, Inc., City of Fort Wayne Redevelopment Commission and Board of Works

Property Owners: Rohrman Family Realty, LP, Menard, Inc., City of Fort Wayne Redevelopment Commission and Board of Works

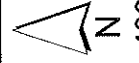
Related Petitions: Primary Development Plan, Rohrman New Toyota Dealership

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district which will allow for the expansion of the Rohrman auto dealership complex, and future commercial development.

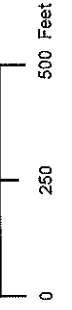
Effect of Non-Passage: The property will remain zoned R1/Single Family Residential and will continue to be limited to single family residential uses.



REZ-2022-0010 and PDP-2022-0003 - Bob Rohrman and Plat Vacation VPLT-2022-0001

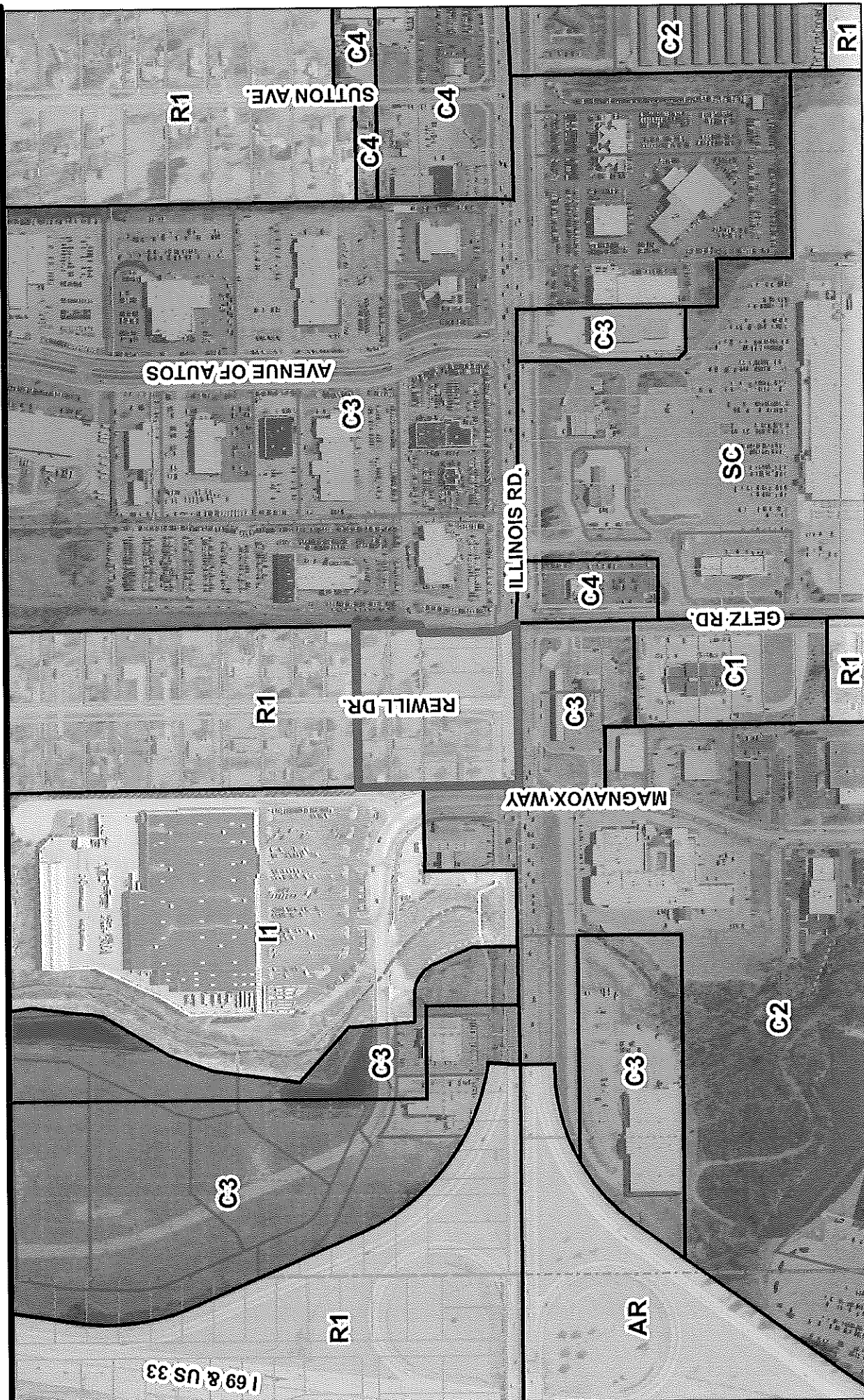


1 inch = 400 feet



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Photos and Contours Spring 2009
Date: 2/28/2022

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0 250 500 Feet

1 inch = 400 feet

Department of Planning Services
Rezoning Petition Application

Applicant
Address
City State Zip
Telephone E-mail

Contact Person
Address
City State Zip
Telephone E-mail

☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property
Present Zoning Proposed Zoning Acreage to be rezoned
Proposed density units per acre
Township name Township section #
Purpose of rezoning (attach additional page if necessary)
See attached Exhibit B.

Sewer provider Water provider

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 Rezoning 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 Ordinances 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 \$2.50 per notice and a public notice fee of \$50.00 per public notice.

See attached Exhibit C.
(printed name of applicant) (signature of applicant) (date)

See attached Exhibit C.
(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. <u> </u>	Filing Date <u> </u>	Petition No. <u> </u>
2-1-22	139354	3-14-22	REZ-2022-0010

EXHIBIT A
REZONING APPLICATION PETITION
APPLICANT NAME AND ADDRESS

Rohrman Family Realty, LP
3900 South Street
Lafayette, IN 47905

Menard, Inc.
4777 Menard Drive
Eau Claire, WI 54703

City of Fort Wayne Redevelopment Commission
200 East Berry Street
Suite 320
Fort Wayne, IN 46802

City of Fort Wayne by and through its Board of Public Works
200 East Berry Street
Suite 210
Fort Wayne, IN 46802

EXHIBIT B
REZONING PETITION
PURPOSE FOR PROPOSED VACATION

To allow for commercial development of the lots owned by Robrman and Menard and in connection with the construction of a new roadway running east and west connecting Grand National Drive to another newly constructed roadway that is believed to be named Getz Road Extended.

EXHIBIT C
REZONING APPLICATION
SIGNATURE PAGE

"APPLICANT & PROPERTY OWNER"

ROHRMAN FAMILY REALTY, LP

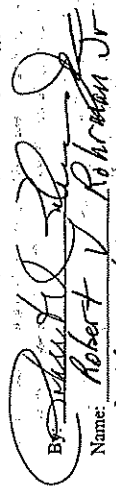
By: 
Name: Robert J. Rohrman Jr.
Its: Member

EXHIBIT C
REZONING APPLICATION
SIGNATURE PAGE

"APPLICANT & PROPERTY OWNER"

MENARD, INC.

By: 
Name: Theron J. Berg
Its: Real Estate Manager

EXHIBIT C
REZONING APPLICATION
SIGNATURE PAGE

"APPLICANT & PROPERTY OWNER"

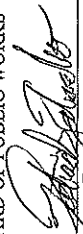
CITY OF FORT WAYNE
REDEVELOPMENT COMMISSION

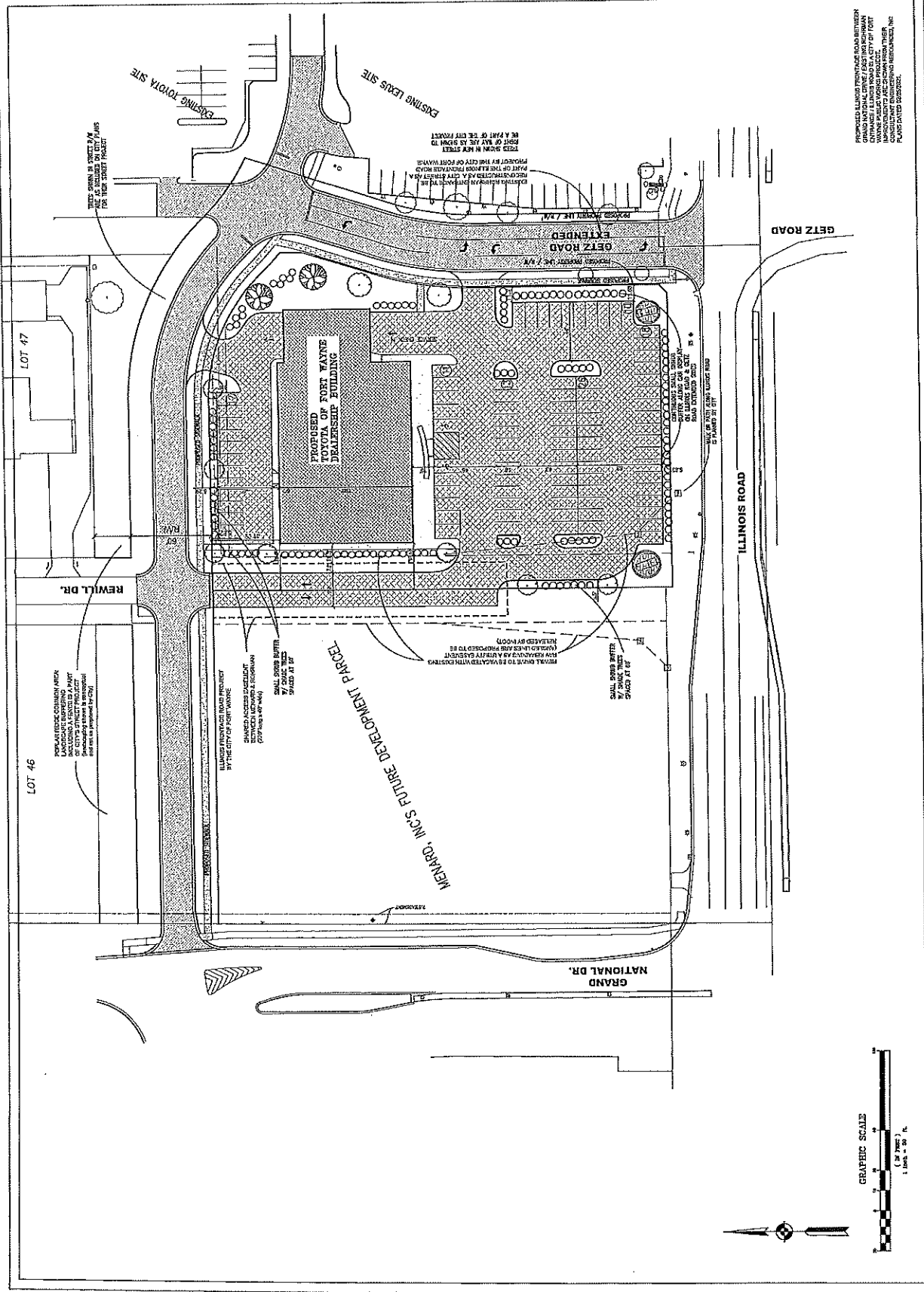
By: 
Jonathan Leist, Director

EXHIBIT C
REZONING APPLICATION
SIGNATURE PAGE

"APPLICANT & PROPERTY OWNER"

THE CITY OF FORT WAYNE
BY AND THROUGH ITS
BOARD OF PUBLIC WORKS

By: 
Name: Patrick Zaharano
Its: City Engineer





Barrett McNagny
ATTORNEYS AT LAW

Mark H. Bains
(260) 423-8902
mhb@barrettlaw.com

February 1, 2022

Via Hand Delivery

Allen County Department of Planning Services
Attn: Michelle Wood, Senior Planner
Suite 150 Citizen Square
200 E. Berry Street
Fort Wayne, IN 46802

Re: Poplar Ridge // Rewill Drive // Rohrman Family Realty, L.P. // Menard, Inc.

Dear Michelle:

As you are aware, Barrett McNagny, LLP serves as legal counsel to Rohrman Family Realty, L.P. ("Rohrman") with respect to a project involving real estate owned by Rohrman as well as additional, adjoining real estate owned by Menard, Inc. ("Menard"), the City of Fort Wayne Redevelopment Commission ("Redevelopment"), and the City of Fort Wayne (the "City"). The enclosed applications are being filed on behalf of Rohrman, Menard, Redevelopment, and the City by its Board of Public Works ("Public Works").

Enclosed please find the following:

1. Vacation Petition Application (vacating Lots 36-45 from the Poplar Ridge Second Addition Plat recorded on December 14, 1955 at Plat Record 22, Page 140 in the Allen County Recorder's Office, including the platted easements located within said portion of the Poplar Ridge Plat, the Declaration of Restrictive Covenants & Dedication of Public Frontage Road recorded on March 13, 1990 as Document Number 90-009633 (the "Poplar Ridge Restrictive Covenants");
2. Rezoning Petition Application the real estate currently known as Lots 36-45 of Poplar Ridge from R1 to C3;
3. Development Plan and Plat Application for the Rohrman property;
4. The various surveys, plans, legal descriptions, etc. required for each of the above-referenced Applications; and
5. Filing Fees totaling \$2,500.00.

The project giving rise to the enclosed applications began with an agreement dating back to August 3, 2021 (the "Development Agreement") entered into by Rohrman, Menard, Redevelopment, and Public Works, and NEI Rentals, LLC, which previously owned Lot 45 in Poplar Ridge. If the necessary approvals are obtained, the project will result in a new roadway constructed through what is now Lot 44 and Lot 45 of Poplar Ridge, connecting Grand National Drive and what will



be known as Getz Extended (which is currently a private entrance drive east of the Rohrman parcel). The result of the project will leave Rohrman and Menard parcels available for commercial development and will address the safety concerns with the Rewill Drive access cut by providing the residents of Poplar Ridge with access to two traffic signal-controlled intersections – one at Grand National and Illinois and another at Getz Extended and Illinois.

For its development parcel, Rohrman is submitting a primary development plan for a new Toyota of Fort Wayne dealership. The dealership, if approved, will be 16,178 square feet, containing a showroom, offices, and service check in bays. Vehicles being serviced will be taken the separate service area in the current Toyota facility that is northeast of the Rohrman parcel.

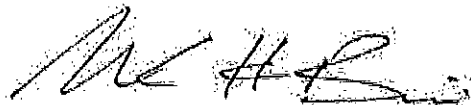
Rohrman, Menard, and the City have had extensive discussions about the project with the Board of the Poplar Ridge HOA (the "Poplar Ridge Board"). The Poplar Ridge Board has been consulted with by the City concerning the design of the new roadways and the buffer north of the same and with Rohrman with respect to its site plan. Rohrman hosted a neighborhood meeting with the Poplar Ridge HOA and other Poplar Ridge lot owners and has had numerous discussions with the Poplar Ridge Board about the project and its site design. Additionally, the Poplar Ridge Board has shared its thoughts on incompatible commercial uses with Rohrman and Menard. The result of the same is Rohrman and Menard's agreement to a written commitment that will be submitted in advance of the public hearing restricting some commercial uses and also addressing concerns by the City about delivery truck parking on the new roadways (which will be prohibited in the written commitment). Finally, Rohrman and Menard have cooperated with the Poplar Ridge Board by providing votes in favor of an amendment to the Poplar Ridge Restrictive Covenants aimed at preventing any future commercial development north of the new roadway and the buffer to the north of the same.

Also being filed with the City of Fort Wayne contemporaneously with the filing of the enclosed applications is a Vacation Petition seeking the vacation of a portion of Rewill Drive (south of the new roadway running east and west between that roadway and Illinois Road) along with the several platted easements contained within Lots 36-45. The only platted easement that will remain following the vacation will be a platted easement running along the west of the Menard parcel, which contains utility improvements within the same. Replacing Rewill Drive, if its vacation is approved, will be a private access drive owned by Rohrman and Menard, which will be the subject of a mutual access easement agreement. All of this is consistent with the terms of the Development Agreement entered into by Rohrman, Menard, Redevelopment, and Public Works.

Should you have any questions or concerns regarding the foregoing or need anything further from me with respect to the enclosed applications, please contact me. Additionally, should your department see the need for any additional filings with respect to the development, please do not hesitate to contact me.

Sincerely,

BARRETT McNAGNY, LLP

A handwritten signature in black ink, appearing to read 'Mark H. Bains', with a stylized flourish at the end.

Mark H. Bains

MHB:kec:3158263 (54779-01)

Enclosures

cc: Thomas M. Niezer
Rick Rohrman
Mark Battista
Kevin McDermit
Patrick Zaharako
Theron Berg
Timothy Enyeart
Andy Eckert
Lawrence Shine

FACT SHEET

Case #REZ-2022-0010 Bill # Z-22-03-07 Project Start: March 2022	
APPLICANTS:	Rohrman Family Realty, LP; Menard, Inc.; City of Fort Wayne Redevelopment Commission; and the City of Fort Wayne Board of Public Works
REQUEST:	To rezone property from R1/Single Family Residential to C3/General Commercial for a primary development plan for a new commercial development, including a car dealership and associated streets and infrastructure.
LOCATION:	The site is located on the north side of Illinois Road, east of Grand National Drive and west of Lexus of Fort Wayne and Fort Wayne Toyota. A portion of the 1000 block of Rewill Drive is also included (Section 6 of Wayne Township).
LAND AREA:	Approximately 5.0 acres for the overall site
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	C3/General Commercial
COUNCIL DISTRICT:	4-Jason Arp
ASSOCIATED PROJECTS:	Primary Development Plan, Bob Rohrman Toyota Dealership VROW-2022-0002 Vacation of a portion of Rewill Drive
SPONSOR:	City of Fort Wayne Plan Commission

March 14, 2022 Public Hearing

- One resident spoke at the hearing with concerns.
- One letter of No Opposition was received
- Connie Haas Zuber, Paul Sauerteig, and Judi Wire were absent.

March 21, 2022 Business Meeting

- Plan Commission Recommendation: **DO PASS w/Written Commitment**
- A motion was made by Don Schmidt and seconded by Ryan Neumeister to return the ordinance with a Do Pass recommendation and a Written Commitment to Common Council for their final decision.
- **7-0 MOTION PASSED**
- Tom Freistroffer and Paul Sauerteig were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
April 7, 2022

PROJECT SUMMARY

- The plat of Poplar Ridge Addition was recorded in 1953.
- Homes on lots 36-43 have been razed over the years.

The approximately 5-acre property is proposed to be rezoned to C3/General Commercial for a new automobile dealership and an additional commercial outlet. The current zoning of the site is R1/Single Family Residential and there have been no recent rezoning petitions on the subject property. The real estate is part of a plat of Poplar Ridge Addition and no rezoning changes have been proposed for the subject property. The plat of Poplar Ridge Addition was recorded in 1953, prior to development of Interstate 69 and commercial development along Illinois Road. In addition to the rezoning and primary development plan, a plat vacation was approved to remove the platted lots and covenants associated with Lots 36-45 of the plat, which are owned by the applicants. A right-of-way vacation of a portion of Rewill Drive is being considered by City Council.

Since the platting of Poplar Ridge Addition, the residential area has become surrounded with commercial uses. The Illinois Road corridor has become a general commercial corridor with big box stores, auto-related uses, and hospitality/restaurant uses. Intersection improvements were recently installed to the west at Illinois Road and Grand National Drive. INDOT also recently made improvements to the I-69/Illinois Road interchange to the west of the site. The subject property is the last remaining residential zoning with frontage on Illinois Road from I-69 to Hillegas Road. According to the most recently available traffic maps, over 36,000 vehicles per day traverse Illinois Road along this site. Residentially zoned platted parcels along this portion of Illinois Road have become increasingly undesirable for residential use as commercial development grows and traffic continues to increase.

The proposal could be supported by the following goals and policies of the Comprehensive Plan:

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.

The development team has met with the Poplar Ridge Board to discuss the project and collaborate on a written commitment to guide the future commercial development. The written commitment would run with property and not just the property owner.

The project includes two outlots for development. The known user on the east outlot is a new car dealership facility for Bob Rohrman Toyota. The west parcel is proposed as future development. The primary impact is a new street layout. Rewill Drive is proposed to be vacated within the development boundaries. A near east/west drive is proposed to connect the existing portion of Rewill Drive to Grand National Drive (to the west) and what is labeled as Getz Road Extended (to the east). The proposal allows for the residents of Rewill Drive to access two signalized intersections at Getz Road. The area north of the new east/west drive will be common area for the screening and buffering between the commercial development to the south and the

remainder of Poplar Ridge to the north. Pedestrian facilities are proposed surrounding the development. The Zoning Ordinance's typical lighting, landscaping, and signage standards will apply. The applicant has been in communication with the Poplar Ridge Association regarding their proposed design. No waiver of development standard is requested with the primary development plan.

PUBLIC HEARING SUMMARY:

Presenter: Mark Bains, Barrett McNagny, and Kevin McDermitt, engineer, presented the proposal as outlined above. The project began with the needed infrastructure improvements for Rewill Drive, Getz Road and Grand National Drive. Including the new east-west roadway, there will be approximately 90 feet between the commercial development and the southern end of the Poplar Ridge neighborhood. The City will be installing a 6-foot high privacy fence all along the southern edge of the subdivision. This site will on be drop-off for Rohrman services – there will be no service performed on this site, and no dumpsters.

Public Comments:

- Andy Eckert, President of Poplar Ridge Association– Supports the project but has concerns over the rezoning of the Menards parcel. They did sign a letter of “No Opposition” for the project.

Post Hearing Comments:

Staff and the applicant's representative spoke with Mr. Eckert following the public hearing and business meeting and he maintains No Opposition, on behalf of the neighborhood.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

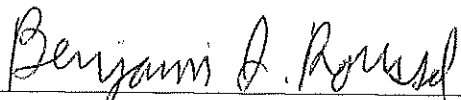
Rezoning Petition REZ-2022-0010

APPLICANTS: Rohrman Family Realty, LP; Menard, Inc.; City of Fort Wayne Redevelopment Commission; and the City of Fort Wayne Board of Public Works
REQUEST: To rezone property from R1/Single Family Residential to C3/General Commercial
LOCATION: The site is located on the north side of Illinois Road, east of Grand National Drive and west of Lexus of Fort Wayne and Fort Wayne Toyota. A portion of the 1000 block of Rewill Drive is also included (See file for specific location)(Section 6 of Wayne Township).
LAND AREA: Approximately 5.0 acres for the overall site
PRESENT ZONING: R1/Single Family Residential
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2022-0010, 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 is along an existing commercial arterial corridor, near an interchange with Interstate 69. Similar automobile uses are prevalent along Illinois Road. The proposal could be supported by the following goals and policies of the Comprehensive Plan:
 - 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. A proposed Written Commitment prohibiting non-compatible 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 will allow reinvestment into the property. The site will be upgraded with modern infrastructure including reconstruction of vehicular streets and new sidewalks. Landscape materials to screen and buffer is also required throughout the site.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments will ensure the required infrastructure is provided to the site.

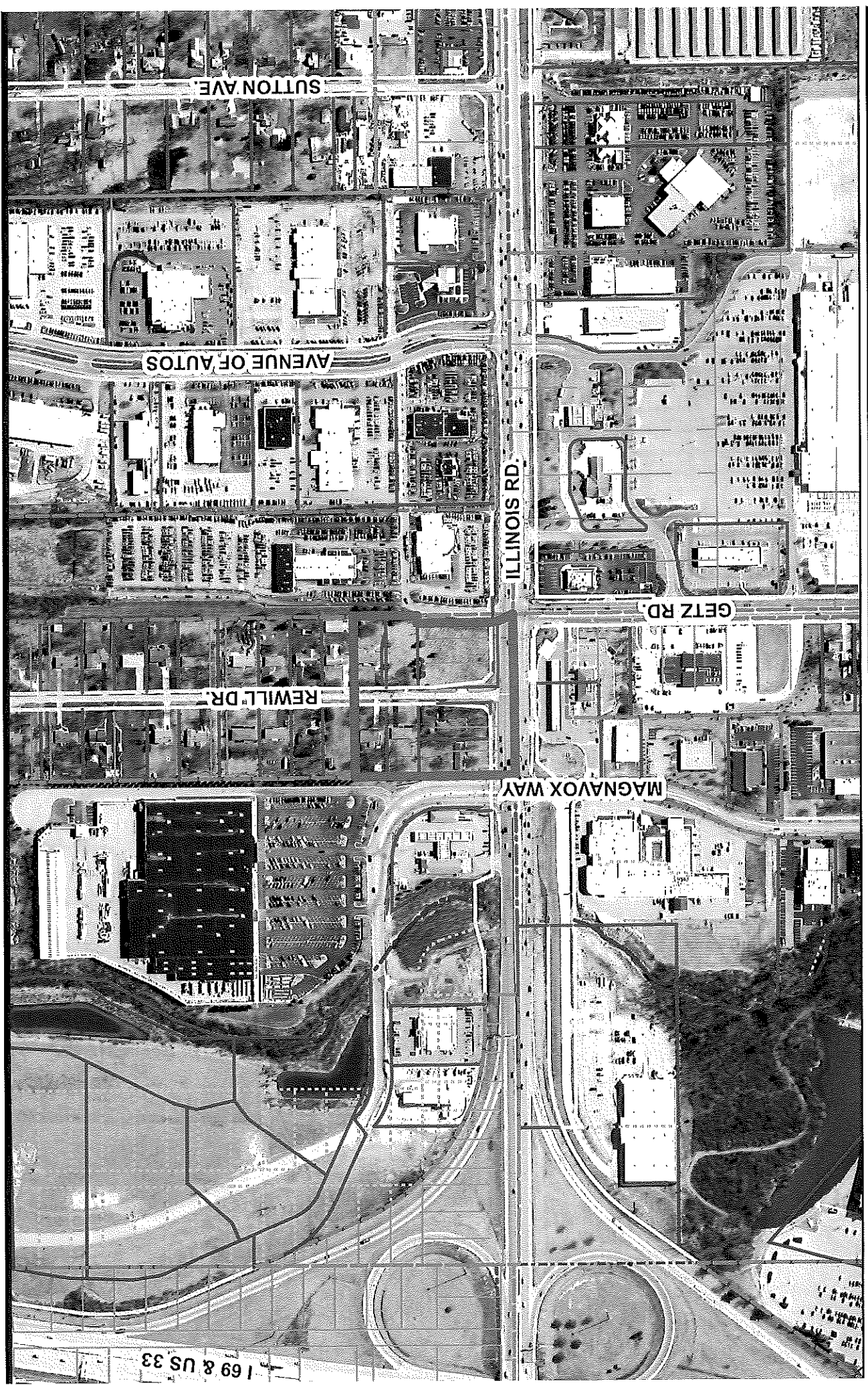
These findings approved by the Fort Wayne Plan Commission on March 21, 2022.

A handwritten signature in cursive script, reading "Benjamin J. Roussel", written in black ink. The signature is positioned above a horizontal line.

Benjamin J. Roussel

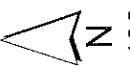
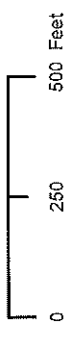
Executive Director

Secretary to the Commission

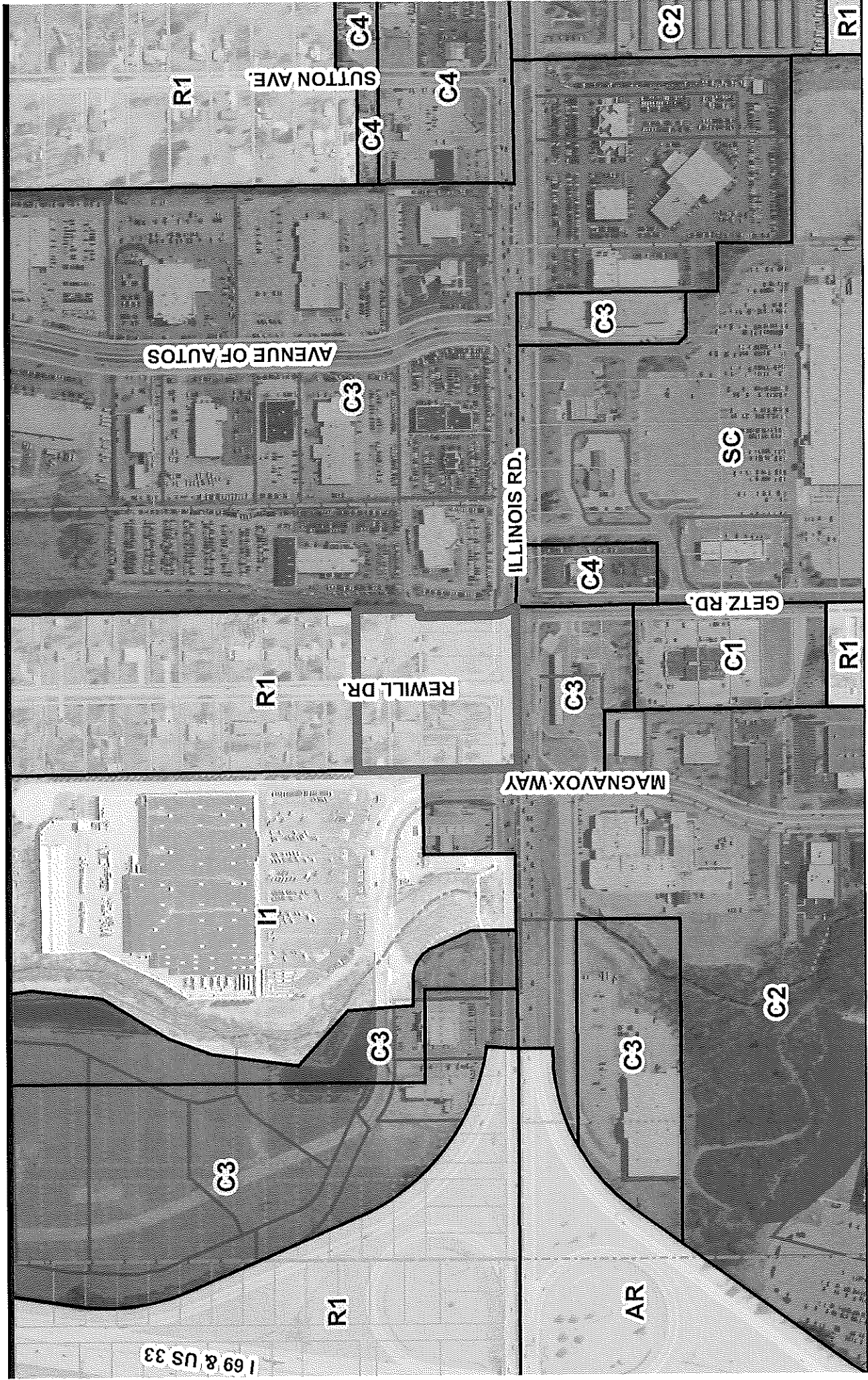


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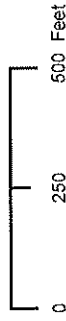


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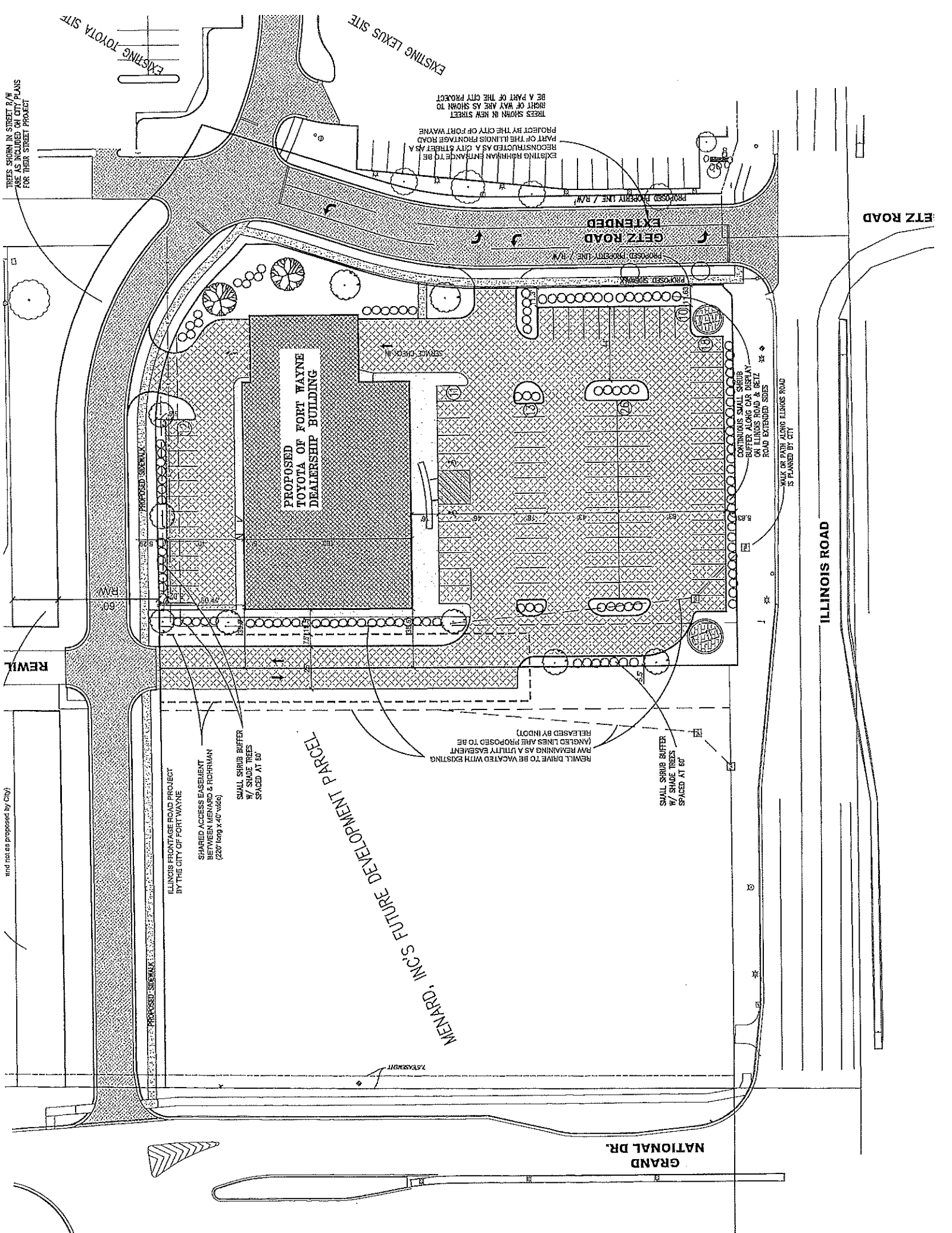


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TREES SHOWN IN STREET R/W ARE AS INCLUDED ON CITY PLANS FOR THEIR STREET PROJECT

TREES SHOWN IN NEW STREET RIGHT OF WAY ARE AS SHOWN TO BE A PART OF THE CITY PROJECT

EXISTING ROBINMAN ENTRANCE TO BE RECONSTRUCTED AS A CITY STREET AS A PART OF THE ILLINOIS FRONTAGE ROAD PROJECT BY THE CITY OF FORT WAYNE

PROPOSED SIDEWALK
PROPOSED PROPERTY LINE / R/W
ETZ ROAD
EXTENDED

CONTINUOUS SMALL SHRUB BUFFER ALONG CAR DISPLAY ON ILLINOIS ROAD & ETZ ROAD EXTENDED SIDES

WALK ON PARK ALONG ILLINOIS ROAD IS PLANNED BY CITY

ILLINOIS ROAD

ETZ ROAD

REWILL

and not as proposed by City

ILLINOIS FRONTAGE ROAD PROJECT BY THE CITY OF FORT WAYNE

SHARED ACCESS EASEMENT BETWEEN MENARD & ROBINMAN (220' long x 40' wide)

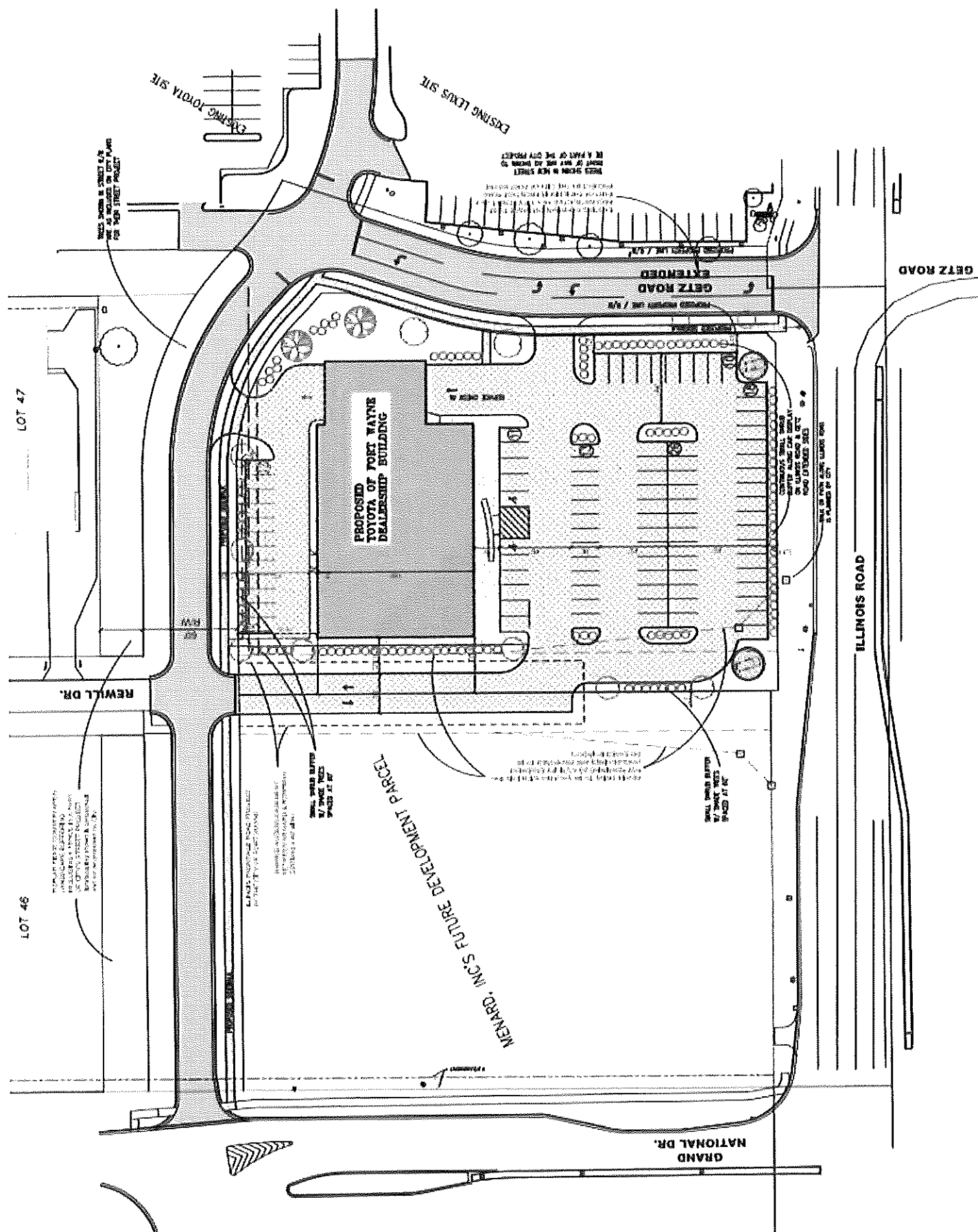
SMALL SHRUB BUFFER W/ SHADE TREES SPACED AT 60'

MENARD, INC'S FUTURE DEVELOPMENT PARCEL

REWILL DRIVE TO BE VACATED WITH EXISTING (ANGLED LINES ARE PROPOSED TO BE RELEASED BY INDOT)

SMALL SHRUB BUFFER W/ SHADE TREES SPACED AT 60'

GRAND NATIONAL DR.



WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made as of this ____ day of _____, 2022, by **Rohrman Family Realty, L.P.** ("Rohrman") and **Menard, Inc.** ("Menard") (Rohrman and Menard are referred to collectively as the "Declarants"), under the following circumstances:

WITNESSETH:

WHEREAS, Rohrman is the fee simple owner of real estate located in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit "A" (herein, the "Rohrman Real Estate");

WHEREAS, Menard is the fee simple owner of real estate contiguous to the Rohrman Real Estate located in Fort Wayne, Allen County, Indiana, the legal description of which is attached as Exhibit "B" (herein, the "Menard Real Estate") (the "Rohrman Real Estate and the Menard Real Estate are referred to collectively as the "Real Estate");

WHEREAS, Declarants have submitted a Zoning Map Amendment Application with the City of Fort Wayne Plan Commission ("Plan Commission"), bearing number REZ-2022-0010 (the "Zoning Application"), a Vacation Petition Application, bearing number VLPT-2022-0001 (the "Vacation Application"), both of which respect the Rohrman Real Estate and Menard Real Estate;

WHEREAS, Rohrman has also submitted a Primary Development Plan Application with the Plan Commission bearing number PDP-2022-0003 (the "Development Plan Application") with respect to the Rohrman Real Estate;

WHEREAS, pursuant to the Zoning Application, Declarants have requested the Real Estate be rezoned to C-3 pursuant to the City of Fort Wayne zoning ordinance (the "Ordinance");

WHEREAS, Declarants, in conjunction with the Zoning Application and the Development Plan Application, voluntarily submit the Commitment, 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 of the Real Estate, and requests that this Commitment be considered as part of the Zoning Application.

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarants hereby impress upon the Real Estate certain restrictions and covenants which shall run with the Real Estate and be binding upon Declarants 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 C-3 zoning district, shall be prohibited upon the Real Estate:

- i. Animal grooming;
- ii. Animal hospital;
- iii. Animal kennel;
- iv. Animal obedience school;
- v. Billiard or pool hall;
- vi. Club private;
- vii. Vet clinic;
- viii. Any bar, tavern, restaurant, or other establishment whose annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds fifty percent (50%) of the gross revenue of such business; provided, the foregoing use restriction shall not preclude the operation of restaurants of the type operated under the trade names "Applebee's", "Buffalo Wild Wings", "Chili's", Ruby Tuesday", and "TGI Friday's" or similar business; and
- ix. Child and day care centers.

2. Prohibition of Roadway Parking. The parking of delivery or other semi and heavy deliver trucks shall be prohibited on the roadway connecting Grand National Drive to Getz Extended.

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 Declarants and their 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 or as otherwise allowed pursuant to the terms of the Ordinance. Written

notice of the public hearing shall be given by the applicant for said amendment or termination to the association president of record with the City of Fort Wayne Plan Commission for Poplar Ridge Association, Inc., with said notice being mailed no later than the date application is made to the Plan Commission for said amendment or termination.

6. Permits. No permits shall be issued under the 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, the Board and the Plan Commission.

7. 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.

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

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

"MENARD"

Menard, Inc.

By: _____

Name: _____

Its: _____

STATE OF Wisconsin)
) SS:
COUNTY OF Eau Claire)

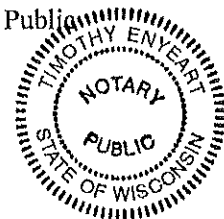
Before me, the undersigned, a Notary Public, in and for said County and State, this 15
day of March, 2022, personally appeared Theron J. Berg, the Real Estate Mgr. of
Menard, Inc., a Wisconsin corporation, and acknowledged the execution of the foregoing.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

Timothy Enyeart
Timothy Enyeart, Notary Public

My Commission Expires: is permanent

My County of Residence: Dunn County, WI



THIS INSTRUMENT prepared by Mark H. Bains, Esq., Barrett McNagny LLP, 215 East Berry Street, Fort Wayne, Indiana 46802.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Mark H. Bains

When recorded, return to: Mark H. Bains, Barrett McNagny LLP, 215 East Berry Street, Fort Wayne, Indiana 46802.

"ROHRMAN"

Rohrman Family Realty, L.P.

By: [Signature]

Name: Robert V. Rohrman Jr.

Its: President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this 15 day of March, 2022, personally appeared Robert V. Rohrman Jr., the President of Rohrman Family Realty, L.P., an Indiana limited partnership, and acknowledged the execution of the foregoing.

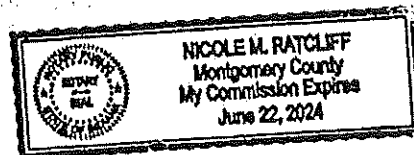
In witness whereof, I have hereunto subscribed my name and affixed my official seal.

[Signature]

Nicole Ratcliff, Notary Public

My Commission Expires: 6-22-24

My County of Residence: Montgomery



Amended and Restated Dedication and Declaration of Protective Restrictions, Covenants, Limitations, Easements, and Approvals Appended to as Part of the Dedication and Plat of Poplar Ridge

March 9, 2022

Via Hand Delivery

City of Fort Wayne Department of Planning Services
Attn: Michelle Wood, Senior Planner
Suite 150 Citizen Square
200 E. Berry Street
Fort Wayne, IN 46802

Re: Poplar Ridge Plat and Restrictive Covenant Vacation // Rezoning and Primary Development Plan // Rewill Drive Vacation

Dear Ms. Wood:

On behalf of the Board of the Poplar Ridge Association, Inc. (the "Poplar Ridge HOA"), please allow this letter to serve as a statement of no objection to the below-referenced project and the below-referenced applications that have been filed by the Rohrman Family Realty, L.P. ("Rohrman"), Menard, Inc. ("Menard"), and the City of Fort Wayne Redevelopment Commission (the "Redevelopment Commission").

Poplar Ridge Addition, Second Section, is a platted residential subdivision located in the City of Fort Wayne, north of Illinois Road and west of the Avenue of Autos, as reflected in the plat thereof recorded May 23, 1956, at Book 22, Page 140 in the Office of the Recorder of Allen County, Indiana (the "Plat"). Rohrman owns the entirety or a portion of Lots 39-41 and 43 within the Plat (the "Rohrman Lots"). Menard owns Lots 36-38 and 42 within the Plat (the "Menard Lots").

In connection with a project involving the City of Fort Wayne's Board of Public Works (the "City") and the Redevelopment Commission, which will result in a new roadway connecting Grand National Drive and what will become Getz Road Extended, Rohrman and Menard have filed the following applications:

1. A petition to vacate the Rohrman Lots and the Menard Lots from the Plat as well as vacate the Poplar Ridge Restrictive Covenants that encumber those lots within the Plat;
2. A rezoning application, rezoning the Rohrman Lots and the Menard Lots to C-3;
3. A primary development plan for the Rohrman Lots; and
4. A petition to vacate a portion of Rewill Drive.

A rendering showing the proposed new roadway and the planned development on the Rohrman Lots was filed with the applications.

In consideration of the agreement from Rohrman and Menard to the Written Commitment and in consideration of the design concessions related to the new roadway by Rohrman, Menard, the City, and the Redevelopment Commission, the Poplar Ridge HOA has no objection to the above-referenced vacation petitions, rezoning application, and primary development plan.

Thank you for your attention to this matter and please call with any questions.

Sincerely,

Andrew J. Eckert (President/Treasurer)

Zachary Hotes (Vice President) [Signature] (Secretary)

(Signed by all Poplar Ridge HOA Board Members)

cc: Thomas M. Niezer, Esq.

Mark H. Bains, Esq.

Rick Rohrman

Mark Battista

Kevin McDermitt

Patrick Zaharako

Theron Berg

Tyler Edwards

From: Theron Berg
Sent: Tuesday, March 8, 2022 3:06 PM
To: 'theeckert4@comcast.net' <theeckert4@comcast.net>
Cc: Timothy Enyeart <tenyeart@menard-inc.com>
Subject: RE: Poplar Ridge/Menards

Yes, I will ask the future purchaser to communicate with Poplar Ridge. No problem. I will also get Mark Bains to finalize the paperwork. Menards also needs to convey the buffer strip to Poplar Ridge. I will be asking Tim Enyeart who works here at Menards to work with you on that. I think the City wants it done sooner rather than later.

From: theeckert4@comcast.net <theeckert4@comcast.net>
Sent: Monday, March 7, 2022 2:12 PM
To: Theron Berg <tberg@menard-inc.com>
Subject: Re: Poplar Ridge/Menards

This email originated from outside of the company.

Theron,

The vacation/rezoning draft that Mark Bains provided is sufficient and the confirmation to voting "Yes" to our HOA's is appreciated. As far as you stating once again that our concerns of a drive-thru ordering area NOT being a concern due to the 200 foot distance between the Menards commercial property and the south property line of residential lot 46, is very odd because only a few days ago you stated that you understood that even though lot 46 is a vacant lot, it is still residential and has the potential to be built upon which would make that 200' less than 100' between Commercial and Residential properties.

We are trying to keep this moving forward, so if you are not willing to agree to the drive-thru stipulation, can we ask that you at least agree to ask the potential developer to approach Poplar Ridge so that we can communicate with them during the planning stage to feel confident that we can be good neighbors? This once again, would be very important to us knowing that the future development plan would not have a Public Hearing if it is within the C-3 guidelines and setbacks and therefore no chance for us to communicate.

Thank you,
Andy Eckert
(Poplar Ridge President)

Zip

Barrett McNagny, LLP

Zip 46802

mhb@barrettllaw.com

be sent only to the designated contact person.

☒ City of Fort Wayne Planning Jurisdiction

C3 Acreage to be rezoned

units per acre

Township section # 06

if necessary)

Water provider City of Fort Wayne

ing filing requirements are submitted with this application.
and plan/survey submittal requirements.

area to be rezoned (plans must be folded)

id

pies) County Rezoning Only

plication, that I am/we are the owner(s) of more than 50 percent of the
all provisions of the Allen County Zoning and Subdivision Control
Plan Commission as those provisions, procedures and policies related
brmation is true and accurate to the best of my/our knowledge; and that
erested persons at the rate of \$0.85 per notice and a public notice fee of

of applicant)

(date)

of property owner)

(date)

of property owner)

(date)

of property owner)

(date)

ing Date

Petition No.

-22

PEZ-2022-0010

LICANT NAME AND ADDRESS

nt Commission

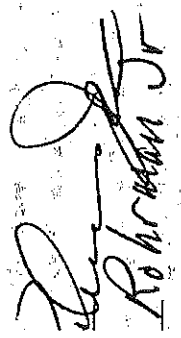
its Board of Public Works

ment of the lots owned by Rohrman and Menard and in
of a new roadway running east and west connecting Grand
onstructed roadway that is believed to be named Getz Road

EXHIBIT C
REZONING APPLICATION
SIGNATURE PAGE

OWNER"

, LP


Robert J. Brown Jr.

REZONING APPLICATION
SIGNATURE PAGE

"OWNER"





OWNER"

ION

2 _____

OWNER,"

4

February 1, 2022

Via Hand Delivery

Allen County Department of Planning Services
Attn: Michelle Wood, Senior Planner
Suite 150 Citizen Square
200 E. Berry Street
Fort Wayne, IN 46802

Re: Poplar Ridge // Rewill Drive // Rohrman Family Realty, L.P. // Menard, Inc.

Dear Michelle:

As you are aware, Barrett McNagny, LLP serves as legal counsel to Rohrman Family Realty, L.P. ("Rohrman") with respect to a project involving real estate owned by Rohrman as well as additional, adjoining real estate owned by Menard, Inc. ("Menard"), the City of Fort Wayne Redevelopment Commission ("Redevelopment"), and the City of Fort Wayne (the "City"). The enclosed applications are being filed on behalf of Rohrman, Menard, Redevelopment, and the City by its Board of Public Works ("Public Works").

Enclosed please find the following:

1. Vacation Petition Application (vacating Lots 36-45 from the Poplar Ridge Second Addition Plat recorded on December 14, 1955 at Plat Record 22, Page 140 in the Allen County Recorder's Office, including the platted easements located within said portion of the Poplar Ridge Plat, the Declaration of Restrictive Covenants & Dedication of Public Frontage Road recorded on March 13, 1990 as Document Number 90-009633 (the "Poplar Ridge Restrictive Covenants");
2. Rezoning Petition Application the real estate currently known as Lots 36-45 of Poplar Ridge from R1 to C3;
3. Development Plan and Plat Application for the Rohrman property;
4. The various surveys, plans, legal descriptions, etc. required for each of the above-referenced Applications; and
5. Filing Fees totaling \$2,500.00.

The project giving rise to the enclosed applications began with an agreement dating back to August 3, 2021 (the "Development Agreement") entered into by Rohrman, Menard, Redevelopment, and Public Works, and NEI Rentals, LLC, which previously owned Lot 45 in Poplar Ridge. If the necessary approvals are obtained, the project will result in a new roadway constructed through what is now Lot 44 and Lot 45 of Poplar Ridge, connecting Grand National Drive and what will

be known as Getz Extended (which is currently a private entrance drive east of the Rohrman parcel). The result of the project will leave Rohrman and Menard parcels available for commercial development and will address the safety concerns with the Rewill Drive access cut by providing the residents of Poplar Ridge with access to two traffic signal-controlled intersections – one at Grand National and Illinois and another at Getz Extended and Illinois.

For its development parcel, Rohrman is submitting a primary development plan for a new Toyota of Fort Wayne dealership. The dealership, if approved, will be 16,178 square feet, containing a showroom, offices, and service check in bays. Vehicles being serviced will be taken the separate service area in the current Toyota facility that is northeast of the Rohrman parcel.

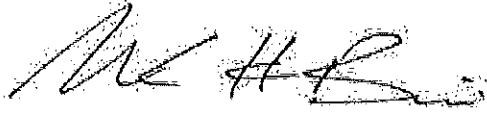
Rohrman, Menard, and the City have had extensive discussions about the project with the Board of the Poplar Ridge HOA (the “Poplar Ridge Board”). The Poplar Ridge Board has been consulted with by the City concerning the design of the new roadways and the buffer north of the same and with Rohrman with respect to its site plan. Rohrman hosted a neighborhood meeting with the Poplar Ridge HOA and other Poplar Ridge lot owners and has had numerous discussions with the Poplar Ridge Board about the project and its site design. Additionally, the Poplar Ridge Board has shared its thoughts on incompatible commercial uses with Rohrman and Menard. The result of the same is Rohrman and Menard’s agreement to a written commitment that will be submitted in advance of the public hearing restricting some commercial uses and also addressing concerns by the City about delivery truck parking on the new roadways (which will be prohibited in the written commitment). Finally, Rohrman and Menard have cooperated with the Poplar Ridge Board by providing votes in favor of an amendment to the Poplar Ridge Restrictive Covenants aimed at preventing any future commercial development north of the new roadway and the buffer to the north of the same.

Also being filed with the City of Fort Wayne contemporaneously with the filing of the enclosed applications is a Vacation Petition seeking the vacation of a portion of Rewill Drive (south of the new roadway running east and west between that roadway and Illinois Road) along with the several platted easements contained within Lots 36-45. The only platted easement that will remain following the vacation will be a platted easement running along the west of the Menard parcel, which contains utility improvements within the same. Replacing Rewill Drive, if its vacation is approved, will be a private access drive owned by Rohrman and Menard, which will be the subject of a mutual access easement agreement. All of this is consistent with the terms of the Development Agreement entered into by Rohrman, Menard, Redevelopment, and Public Works.

Should you have any questions or concerns regarding the foregoing or need anything further from me with respect to the enclosed applications, please contact me. Additionally, should your department see the need for any additional filings with respect to the development, please do not hesitate to contact me.

Sincerely,

BARRETT McNAGNY, LLP

A handwritten signature in dark ink, appearing to read 'Mark H. Bains', with a stylized, cursive script.

Mark H. Bains

MHB:kec:3158263 (54779-01)

Enclosures

cc: Thomas M. Niezer
Rick Rohrman
Mark Battista
Kevin McDermitt
Patrick Zaharako
Theron Berg
Timothy Enyeart
Andy Eckert
Lawrence Shine