

1 #REZ-2022-0014
2 BILL NO. Z-22-04-10

3 ZONING MAP ORDINANCE NO. Z-_____

4 AN ORDINANCE amending the City of Fort Wayne
5 Zoning Map No. L-10 (Sec. 2 of Wayne Township)

6
7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

8 SECTION 1. That the area described as follows is hereby designated a UC (Urban
9 Corridor) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne,
10 Indiana:

11 Lot Number 4 and the East 10 feet of Lot Number 5 in Langohr's Addition to the City of Fort
12 Wayne, in Allen County, Indiana, according to the recorded plat thereof, as recorded in Deed
13 Record 98, page 316.

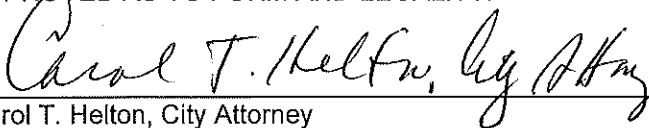
14 and the symbols of the City of Fort Wayne Zoning Map No. L-10 (Sec. 2 of Wayne Township), as
15 established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is
16 hereby changed accordingly.

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

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

23 _____
Council Member

24 APPROVED AS TO FORM AND LEGALITY:

25 
26 Carol T. Helton, City Attorney

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Ordinance Amendment
Case Number: REZ-2022-0014
Bill Number: Z-22-04-10
Council District: 5-Geoff Paddock

Introduction Date: April 12, 2022

Plan Commission
Public Hearing Date: April 11, 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 0.20 acres from R2/Two Family Residential to UC/Urban Corridor

Location: 420-422 West 4th Street

Reason for Request: To rehabilitate the existing triplex into a four-unit apartment building and convert the garage into a 600 s.f. commercial storage unit.

Applicant: Wahli Enterprises, LLC

Property Owner: Ben Wahli

Related Petitions: none

Effect of Passage: Rezoning of the property will allow for multiple residential units and allow for the commercial storage unit. The development pattern and setbacks of the existing building fit more appropriately in the UC zoning district.

Effect of Non-Passage: The current zoning district allows only two residential units and would not allow the conversion of the garage. The existing use and building do not follow the current zoning district.

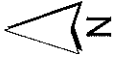
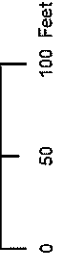


Rezoning Petition REZ-2022-0014 - 420/422 West 4th Street



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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 3/1/2022



1 inch = 100 feet

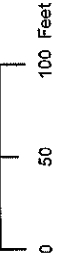


Rezoning Petition REZ-2022-0014 - 420/422 West 4th Street



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Date: 3/11/2022



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Allen County Treasurer
\$1,000

Department of Planning Services
Rezoning Petition Application

Applicant
Applicant Wahli Enterprises LLC
Address 1131 Wilt Street
City Fort Wayne State IN Zip 46802
Telephone 260 760-4631 E-mail benwahli@yahoo.com

Contact Person
Contact Person Ben Wahli
Address 1131 Wilt Street
City Fort Wayne State IN Zip 46802
Telephone 260 760-4631 E-mail benwahli@yahoo.com

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

Request
☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property 420-422 W 4th Street
Present Zoning R2 Proposed Zoning UC Acreage to be rezoned 0.19
Proposed density 5 units per acre
Township name Wayne Township section # 074
Purpose of rezoning (attach additional page if necessary) Rehab triplex into a 4 unit apartment building and convert garage to a commercial storage unit (600 SQ) onsite.
416 W 4th Street is UC zoned.
Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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

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

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

Ben Wahli
(printed name of applicant)

(signature of applicant)

(date)

Ben Wahli
(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.
3/1/22	139556	4/11/2022	REZ-2022-0014

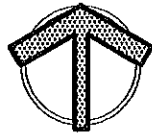


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BOUNDARY RETRACEMENT SURVEY

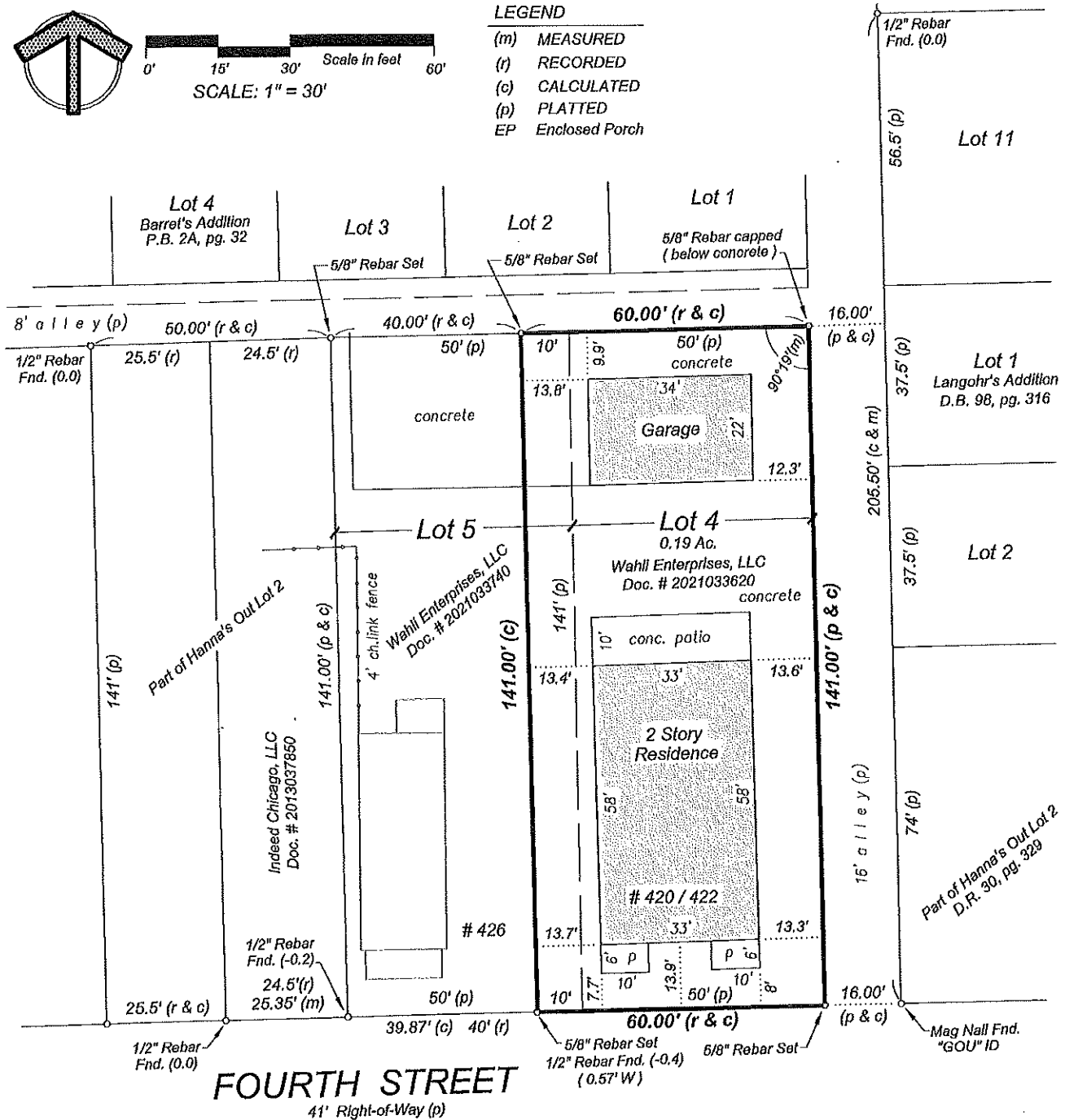
Lot 4 and E. 10' Lot 5 - Langohr's Addition
420 & 422 W. Fourth Street, Fort Wayne, IN 46808



0' 15' 30' 60'
Scale in feet
SCALE: 1" = 30'

LEGEND

(m) MEASURED
(r) RECORDED
(c) CALCULATED
(p) PLATTED
EP Enclosed Porch



For the exclusive use of: Wahli Enterprises, LLC

Date: February 22, 2022

Job No.: 20220041

SHEET 1 OF 2



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PH (260) 424-5362 FAX (260) 424-4916

SURVEYOR'S REPORT

Lot 4 and E. 10' Lot 5 - Langohr's Addition
420 & 422 W. Fourth Street, Fort Wayne, IN 46808

LEGAL DESCRIPTION - Doc. # 2021033620

Lot Number 4 and the East 10 feet of Lot Number 5 in Langohr's Addition to the City of Fort Wayne, in Allen County, Indiana, according to the recorded plat thereof, as recorded in Deed Record 98, page 316.

SURVEYOR'S REPORT

This report and the accompanying survey plat have been prepared in accordance with Title 865, Article 1, Rule 12, Sec 1-29 and all amendments thereto of the Indiana Administrative Code, which establishes the minimum standards for the practice of land surveying.

Monuments set are 5/8 inch round by 24 inch long steel rebars with yellow plastic caps stamped "GOU LS29500017", and set flush with the ground surface.

Monuments found are noted with an above (x.x) or below (-x.x) ground surface dimension.

This purpose for this survey is to "retrace" the boundary of the real estate described hereon.

THEORY OF LOCATION:

The lines and corners for this survey were established as depicted on the survey drawing and per information shown on the plat of Langohr's Addition.

The uncertainty in the lines and corners found or established by this survey are as follows:

(A) Availability and condition of reference monuments:

Monuments found are described and depicted on the survey drawing.

Uncertainty created by the location of the monuments found or set on the subject property due to variations in reference monuments (monuments found on the subject property and on adjacent properties) is the difference between "measured" and "platted" or "recorded" angular or distance measurements as depicted on the survey drawing.

The maximum uncertainty for this survey is 0.85 feet.

(B) Occupation or possession lines:

No uncertainty was created by visible occupation or possession lines.

(C) Clarity or ambiguity of the record description and or adjoiner's descriptions:

No uncertainty was created by the above mentioned documents.

(D) This survey falls under the classification of a "Suburban" survey. The acceptable relative positional precision (random errors in measurements) = 0.13 feet (40 millimeters) plus 100 parts per million as specified in Section 7 of said Rule 12.

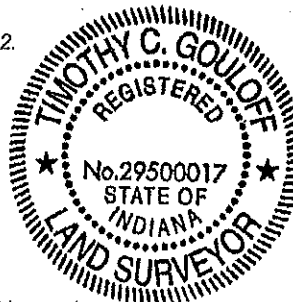
SURVEYOR'S CERTIFICATION

This survey was performed by, or under the responsible direction of the undersigned registered land surveyor and to the best of said registered land surveyor's knowledge and belief, said survey was executed according to the applicable survey requirements of 865 IAC-1-12-1 thru 29.

Field work for this survey was performed on February 18, 2022.

DATED THIS 22nd DAY OF February, 2022.

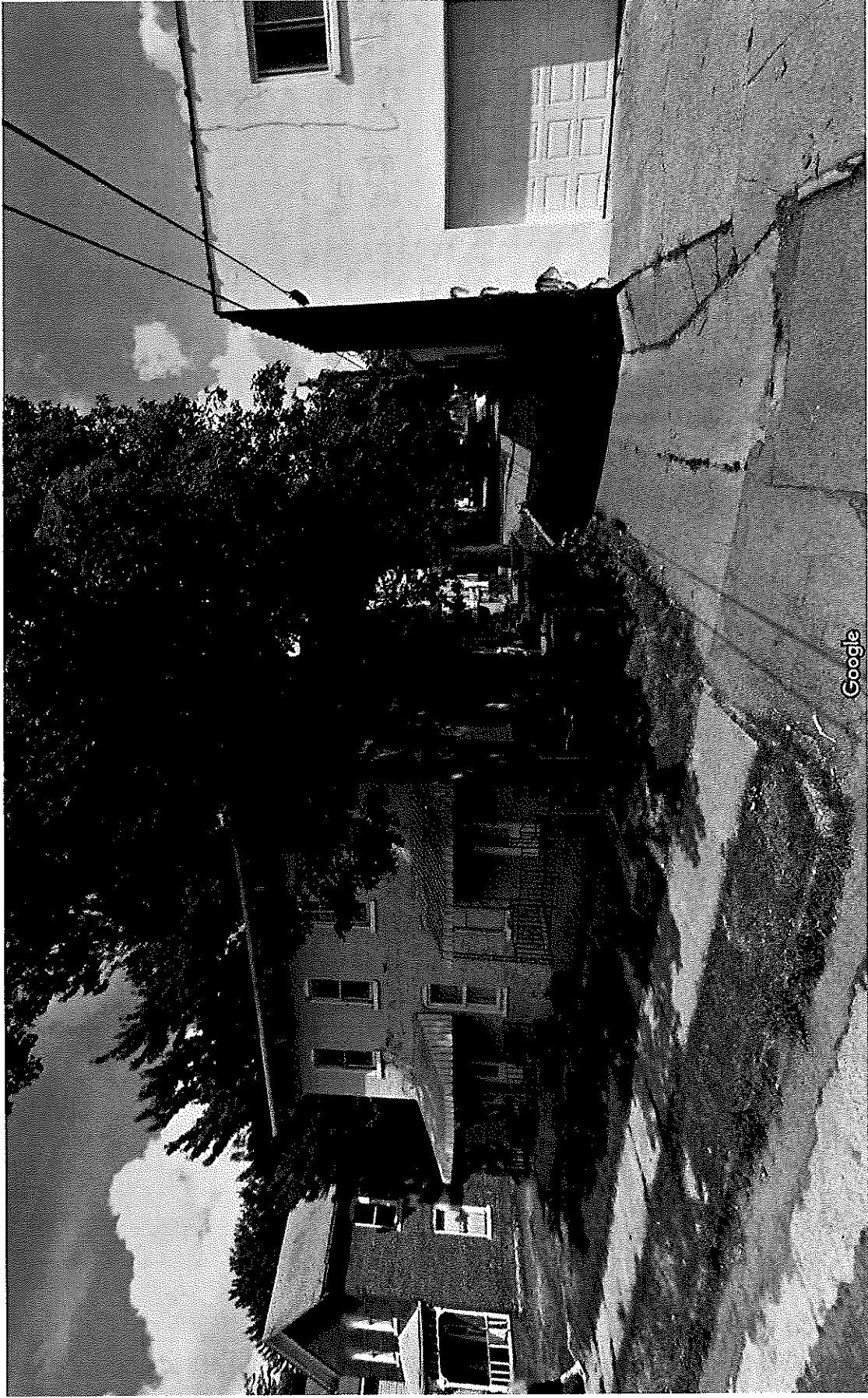
Timothy C. Gouloff, R.L.S. 29500017



"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."
Timothy C. Gouloff

Job No.: 20220041

SHEET 2 OF 2



FACT SHEET

Case #REZ-2022-0014		Bill # Z-22-04-10	Project Start: April 2022
APPLICANT:	Wahli Enterprises, LLC		
REQUEST:	To rezone the property from R2/Two Family Residential to UC/Urban Corridor		
LOCATION:	The addresses of the subject property are 420 and 422 West 4 th Street (Section 2 of Wayne Township).		
LAND AREA:	Approximately 0.2 acre		
PRESENT ZONING:	R2/Two Family Residential		
PROPOSED ZONING:	UC/Urban Corridor		
COUNCIL DISTRICT:	5-Geoff Paddock		
ASSOCIATED PROJECT:	None		
SPONSOR:	City of Fort Wayne Plan Commission		

April 11, 2022 Public Hearing

- One member of the public spoke at the hearing in support.
- Two members of the public spoke at the hearing with concerns.
- Two letters of support were received.
- Ryan Neumeister was absent.

April 18, 2022 Business Meeting

- Plan Commission Recommendation: **DO PASS w/Written Commitment**
- A motion was made by Rachel Tobin-Smith and seconded by Paul Sauerteig to return the ordinance with a Do Pass recommendation with a Written Commitment to Common Council for their final decision.
- **8-0 MOTION PASSED**
- Ryan Neumeister was absent.

Fact Sheet Prepared by:
Michelle Byrd Wood, Senior Land Use Planner
April 28, 2022

PROJECT SUMMARY

- The site has hosted a historic multiple family structure and a newer accessory structure in the back.
- No rezoning or Board of Zoning Appeals history was found for the site.

The applicant, Wahli Enterprises, is seeking a rezoning petition from R2 to UC. Today, the site is between predominantly nonresidential uses to the east on the Wells Street Corridor and residential uses to the west along West 4th Street. The site contains about 0.2 acres with a multiple family building and an accessory structure that can be accessed off an alley. The applicant would like to rehabilitate a multiple family building, which is not permitted in the R2 district. A UC zoning classification would permit a multiple family building. While the intent and permitted uses of the Urban Corridor does not exactly fit into the built environment of 4th Street (a brick non-arterial street with residential structures), staff believes a written commitment limiting uses to residential, professional offices, and personal services, will not set an undesirable commercial precedent for West 4th Street.

PUBLIC HEARING SUMMARY:

Presenter: Ben Wahli, property owner, presented the request to Plan Commission as outlined above.

Public Comments:

Dennis Kruse, Mallard Cove Lane – Owns three nearby properties and is in support of the proposal.
Gerald Hoy and Erika Hoy, 421 5th Street – Expressed concerns over parking in the area.

Letters of Support:

Wells Business Corridor
Bloomingdale Neighborhood

Rebuttal:

10 parking spaces have been provided for the four units, which is in excess of the zoning ordinance minimum of 4 spaces.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2022-0014

APPLICANT: Wahli Enterprises, LLC
REQUEST: To rezone the property from R2/Two Family Residential to UC/Urban Corridor
LOCATION: The addresses of the subject property are 420 and 422 West 4th Street (Section 2 of Wayne Township).
LAND AREA: Approximately 0.2 acre
PRESENT ZONING: R2/Two Family Residential
PROPOSED ZONING: UC/Urban Corridor

The Site Committee recommends that Rezoning Petition REZ-2022-0014 be returned to Council, with a Written Commitment, with a "Do Pass" recommendation after considering the following:

1. Approval of the request will be in compliance with Allen County-Fort Wayne Comprehensive Plan and should not establish an undesirable precedent in the area. The Comprehensive Plan supports this rezoning through the following objectives:
 - LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
 - LU5. Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing connectivity;
 - LU5.C Encourage development proposals that provide neighborhood commercial, civic, institutional and other similar uses, designed to allow adequate access for pedestrians and bicycles, in close proximity to housing.
 - LU6. Encourage carefully planned sustainable growth and coordinated development by encouraging mixed land uses.
 - LU6.C Encourage the conversion of vacant or underutilized properties into compatible mixed-use development areas.
 - LU6.D Support carefully planned, coordinated, compatible mixed-use development.
 - LU8. Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.
2. Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area. The proposed rezone can provide a transition between the nonresidential uses of Wells Street and the residential uses of 4th Street. A written commitment limiting incompatible uses will ensure future uses are site appropriate.
3. Approval is consistent with the preservation of property values in the area. Approval of the proposed rezoning will allow both rehabilitation and new private investment consistent with the ongoing redevelopment of the riverfront area the Bloomingdale neighborhood.
4. Approval is consistent with responsible development and growth principles based on existing uses, contextual design, and infrastructure in the area.

These findings approved by the Fort Wayne Plan Commission on April 18, 2022.



Benjamin J. Roussel
Executive Director
Secretary to the Commission



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0 50 100 Feet

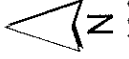
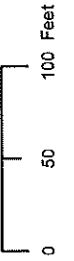


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Allen County Treasurer
\$1,000

Department of Planning Services
Rezoning Petition Application

Applicant
Applicant Wahli Enterprises LLC
Address 1131 Wilt Street
City Fort Wayne State IN Zip 46802
Telephone 260 760-4631 E-mail benwahli@yahoo.com

Contact Person
Contact Person Ben Wahli
Address 1131 Wilt Street
City Fort Wayne State IN Zip 46802
Telephone 260 760-4631 E-mail benwahli@yahoo.com

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

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Address of the property 420-422 W 4th Street
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- ☐ Legal Description of parcel to be rezoned
- ☐ Rezoning Questionnaire (original and 10 copies) County Rezonings Only

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Ben Wahli
(printed name of applicant) Ben Wahli 2/28/22
(signature of applicant) (date)

Ben Wahli
(printed name of property owner) Ben Wahli 2/28/22
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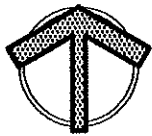
Received <u>3/1/22</u>	Receipt No. <u>139556</u>	Hearing Date <u>4/11/2022</u>	Petition No. <u>REZ-2022-0014</u>
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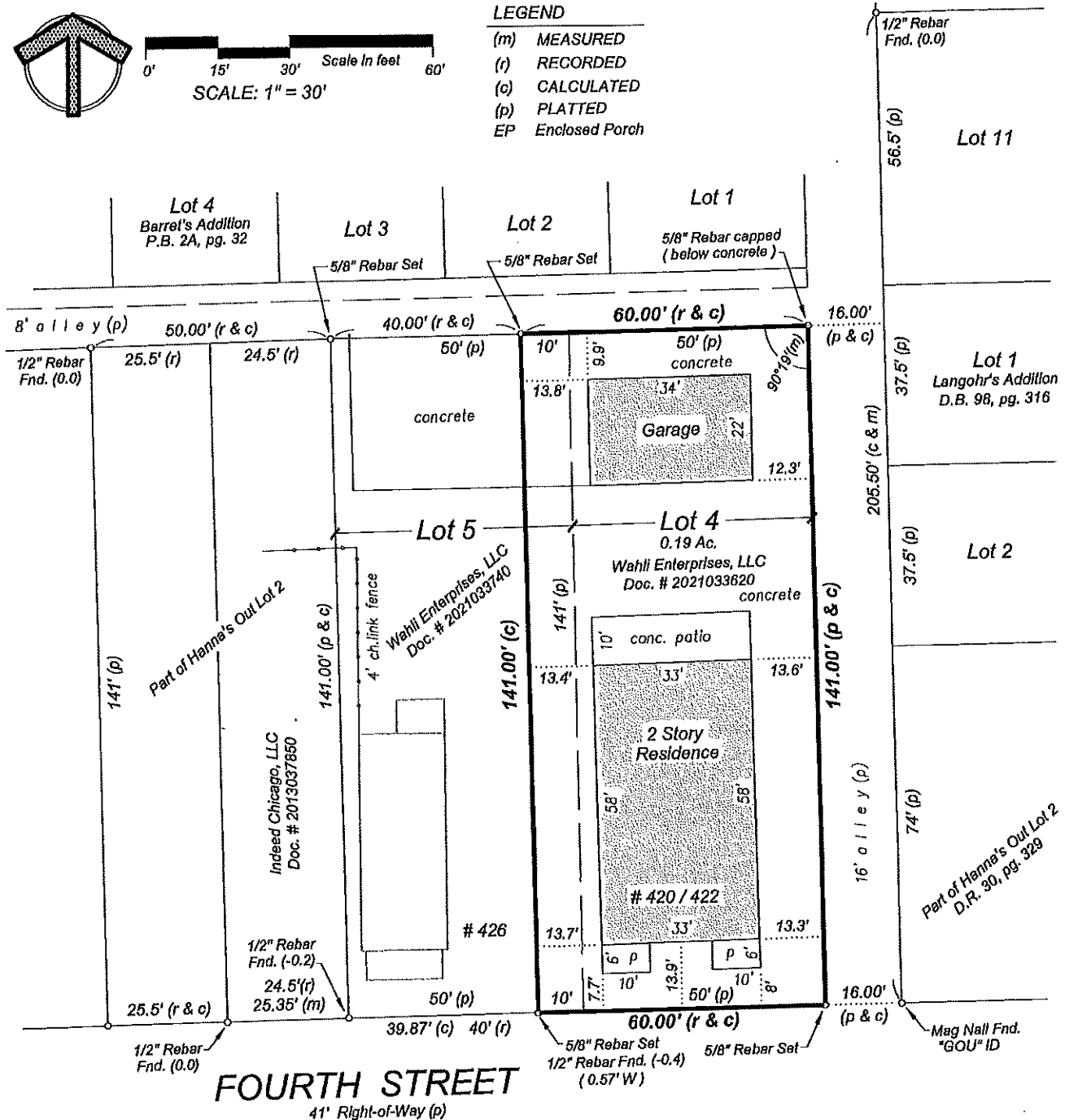
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SCALE: 1" = 30'

LEGEND

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(r) RECORDED
(c) CALCULATED
(p) PLATTED
EP Enclosed Porch



For the exclusive use of: Wahli Enterprises, LLC

Date: February 22, 2022

Job No.: 20220041

SHEET 1 OF 2



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1133 BROADWAY FORT WAYNE, IN 46802
PH (260) 424-5362 FAX (260) 424-4916

SURVEYOR'S REPORT
Lot 4 and E. 10' Lot 5 - Langohr's Addition
420 & 422 W. Fourth Street, Fort Wayne, IN 46808

LEGAL DESCRIPTION - Doc. # 2021033620

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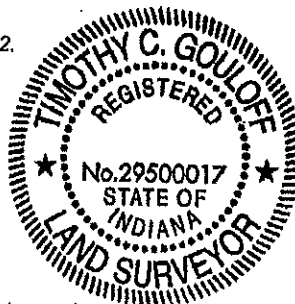
SURVEYOR'S CERTIFICATION

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Field work for this survey was performed on February 18, 2022.

DATED THIS 22nd DAY OF February, 2022.

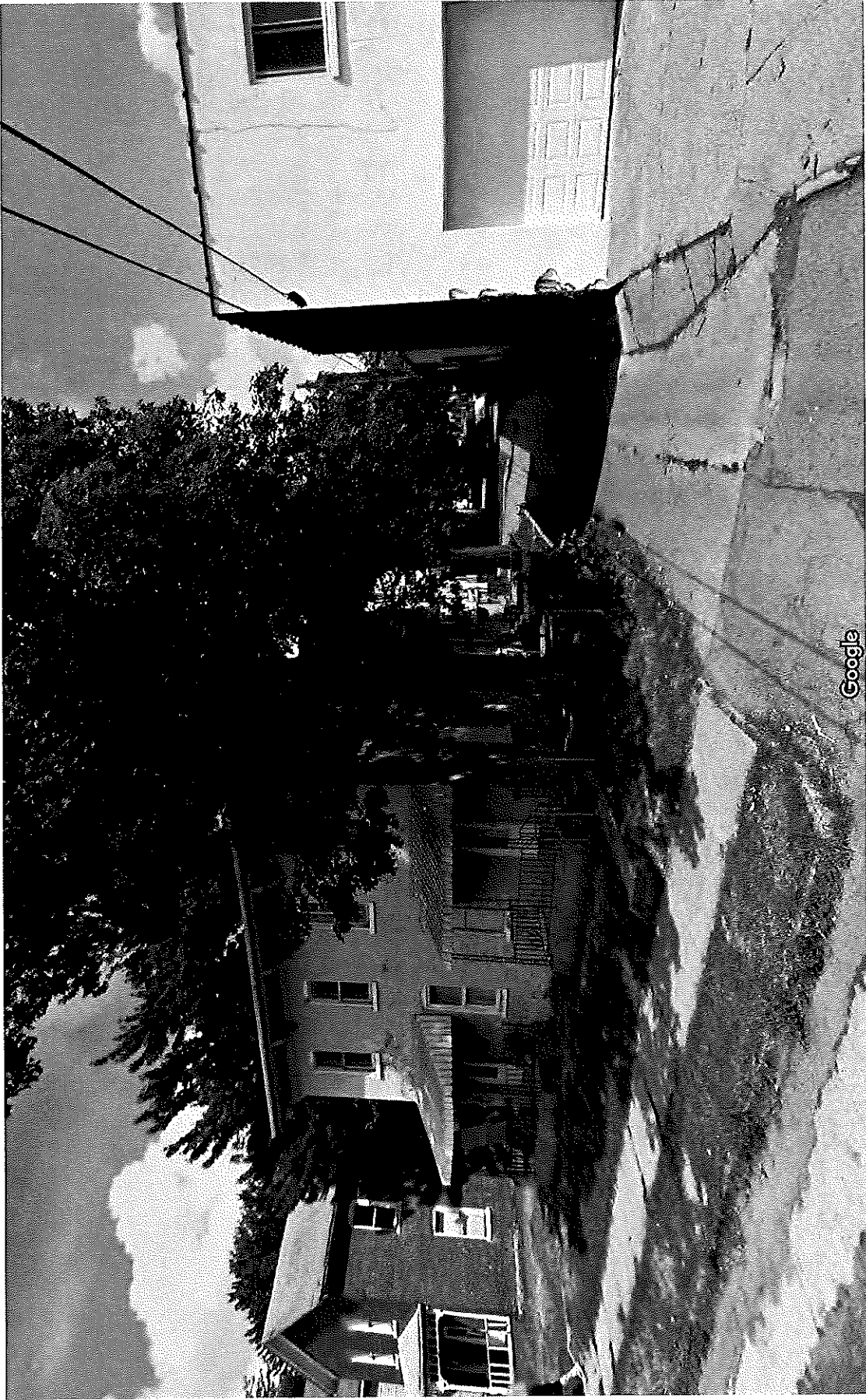
Timothy C. Gouloff, R.L.S. 29500017



"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."
Timothy C. Gouloff

Job No.: 20220041

SHEET 2 OF 2



Google

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made this day of , 2022 by Wahli Enterprises (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 0.19 acres of real estate located at 420 West 4th Street in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit "A" (the "Real Estate"); and

WHEREAS, Declarant submitted a rezoning petition with respect to the Real Estate to rezone the Real Estate from R2/Two-Family Residential to UC/Urban Corridor (the "Petition"), which Petition has been approved by the City of Fort Wayne Plan Commission (the "Plan Commission" (the "Plan Commission") and City Council; and

WHEREAS, Declarant has offered this Commitment, voluntarily, pursuant to Indiana Code 36-7-4-1015, for the purpose of limiting certain uses for the Real Estate; and

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

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

- I. **Prohibited Uses**. Subject to the terms and conditions herein contained, the following uses shall be prohibited upon the Real Estate:

- | | |
|--|---------------------------------------|
| A. Adult care center | N. Bowling alley |
| B. Adult care home | O. Cigarette/tobacco/cigar store |
| C. Animal Hospital (indoor) | P. Convenience store |
| D. Animal Kennel (indoor) | Q. Correctional services facility |
| E. Arcade | R. Department store |
| F. Automobile accessory store (indoor) | S. Farmers market (with outdoor uses) |
| G. Automobile rental (indoor) | T. Fireworks sales (indoor) |
| H. Automobile sales (indoor) | U. Flea market (indoor) |
| I. Bar or tavern | V. Fruit and/or vegetable store |
| J. Billiard or pool hall | W. Funeral home |
| K. Bingo establishment | X. Grocery store or supermarket |
| L. Blood bank | |
| M. Blood or plasma donor facility | |

Y. Hardware store
Z. Hospital
AA. Laundromat
BB. Meat or fish market
CC. Nursing home
DD. Package liquor store

EE. Public transportation
facility
FF. Rehabilitation facility
GG. Riding stable
HH. Skating rink
II. Swim club (indoor)

2. Permitted Uses. Any use otherwise permitted in the UC zoning district pursuant to the Ordinance which is not expressly prohibited pursuant to Section 1 above shall be a permitted use upon the Real Estate.
3. 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.
4. Binding Effect, Modification, and Termination. This Commitment shall run with the Real Estate, and shall be binding upon the Declarant and each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless this Commitment is modified or terminated. The recitals are incorporated herein by reference and are expressly made a part of this Commitment. This Commitment may be modified or terminated only by a decision of the Plan Commission following a public hearing held by the Plan Commission wherein notice has been given as provided by the Plan Commission's rules of procedure.
5. Recording. Declarant or Applicant shall, at Declarant's or Applicant's expense, record this Commitment with the Allen County Recorder and shall provide two copies of the recorded Commitment to the Zoning Administrator.
6. Enforcement. Any violation of this Commitment shall be deemed a violation of the zoning ordinance in effect 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 Plan Commission, or any enforcement official designated in the zoning ordinance, or any successor agency having zoning jurisdiction over the Real Estate. Pursuant to I.C. §36-7-4-1015, the Plan Commission, or any enforcement official designated in the zoning ordinance, shall be entitled to all legal and equitable remedies available, including specific performance and injunctive relief, for any violation of this Commitment. The enforcement rights of the Plan Commission, or any enforcement official designated in the zoning ordinance are cumulative, not exclusive.
7. Authority to Sign. The person signing this Commitment in a representative capacity on behalf of Declarant warrants and represents that: (a) the person has the actual authority and power to so sign, and to bind the respective entity to the provisions of this Commitment; and (b) all corporate or other entity action necessary for the making of this Commitment has been duly taken.

8. Last Deeds of Record. The most recent deed of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as **Document Number 2021033620**.
9. 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.
10. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
11. Effective Date. The effective date ("Effective Date") of this Commitment shall be the date of its recordation with the Office of the Recorder of Allen County, Indiana.

[Signature page follows.]

“DECLARANT”

WAHLI ENTERPRISES, LLC

By: _____
Printed Name: Ben Wahli
Title: President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of _____, 2021 personally appeared _____, president of Wahli Enterprises and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

Notary Public

My Commission Expires: _____

My County of Residence: _____

THIS INSTRUMENT prepared by Nathan Schall, Department of Planning Services, 200 East Berry Street, Suite 150, Fort Wayne, Indiana 46801.

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 Schall

When Recorded, mail to: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

Lot 4 & E 10' Lot 5 Langohrs Addition