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#REZ-2022-0068

BILL NO. Z-23-01-01

ZONING MAP ORDINANCE NO. Z-

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. N-19 (Sec. 24 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:

Lots Numbered 98, 99, 100, 101 and 102 in Southview Addition to the City of Fort Wayne according to the plat thereof recorded in Plat Record II, page 79 in the Office of the Recorder of Allen County, Indiana.

AND ALSO:

Part of Lots Numbered 103, 104, 105, 106, and 107 in Southview Addition to the City of Fort Wayne, Allen County, Indiana, as recorded in Book Number 11, page 79, in the Allen County Recorder's Office, said property is more particularly described as follows: Beginning at the intersection of the Northerly line of Paulding Road (70.03 feet wide) with the Easterly line of Lafayette Street (35 feet wide); thence Northward along said Easterly line of Lafayette Street 114.29 feet to a point in the Northwest corner of said Lot 103; thence Eastward 195.45 feet along the Northerly line of said Lots 103, 104, 105, 106, and 107 to a point in the Northeast corner of Lot I 07; thence Southward along the East line of Lot 107 (said line also being the West line of Lot 108, Southview Addition) 115.68 feet to a point in the North line of Paulding Road (said point being 40 feet North as measured at right angles from the Southerly line of Section 24, Township 30 North, Range 12 East, Allen County, Indiana); thence Westward along the Northerly line of Paulding Road 195.06 feet to the point of beginning.

and the symbols of the City of Fort Wayne Zoning Map No. N-19 (Sec. 24 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

1	commitment is hereby approved and is hereby incorporated by reference.
2	
3	SECTION 3. That this Ordinance shall be in full force and effect from and after its
4	passage and approval by the Mayor.
5	O
6	Council Member
7	APPROVED AS TO FORM AND LEGALITY:
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9	Malak Heiny, City Attorney
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City of Fort Wayne Common Council **DIGEST SHEET**

Department of Planning Services

Title of Ordinance: Zoning Map Amendment

Case Number: REZ-2022-0068 Bill Number: Z-23-01-01

Council District: 6-Sharon Tucker

Introduction Date: January 10, 2023

Plan Commission

Public Hearing Date: January 9, 2023 (not heard by Council)

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

Plan Commission

Synopsis of Ordinance: To rezone approximately 1.05 acres from I1/Limited Industrial to

C3/General Commercial with a Written Commitment.

Location: 411 East Paulding and 412 Southview Avenue

Reason for Request: To bring the existing convenience store and gas station into compliance

with the zoning ordinance and allow for improvement or expansion.

Applicant: Solar Petroleum, LLC

Property Owner: Solar Petroleum, LLC

Related Petitions: none

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district,

with a written commitment to restrict all C3 uses except those permitted

in C2, and to allow for the existing gas station use.

Effect of Non-Passage: The property will remain zoned I1/Limited Industrial. A gas station is

not a permitted use in I1, however, industrial uses are.

Department of Planning Services Rezoning Petition Application

	Applicant Solar Petroleum, LL	С		
ant	Address 624 McKinney Avenu	е	A # 100 10 10 10 10 10 10 10 10 10 10 10 10	
Applicant	City Fort Wayne	State IN	Zip 46806	
	City Fort Wayne Telephone 337-532-0000	E-mail mo@purecc	m.com	
Contact Person	Contact Person Scott M. Federal Address 4211 Clubview Drive City Fort Wayne Telephone 260-602-8000 All staff correspond	State IN E-mail smf@smfklav		
	☐ Allen County Planning Jurise	diction City of For	rt Wayne Planning Jurisdiction 412 Southview Avenue, Ft. Way	
	Present Zoning 11 Propos	. 1 7: C3	1 047	
_	Proposed density 1	ed Zoning	Acreage to be rezoned	
Request	Township name Wayne		units per acre Township section # ⁷⁴	
Rec	Purpose of rezoning (attach additi			
	convenience store and gas st	ation use and adjace	ent lot, which will be combined into	
	for the renovation of the gas	station and convenie	nce store, into conformance with th	
	Sewer provider City of Fort Way	ne Water j	providerCity 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 Rezonings Only			
property de Ordinance a to the handi I/we agree t	scribed in this application; that I/we agree as well as all procedures and policies of the ing and disposition of this application; that t	to abide by all provisions of Allen County Plan Commission he above information is true at required interested persons at	am/we are the owner(s) of more than 50 percent of the f the Allen County Zoning and Subdivision Control on as those provisions, procedures and policies related and accurate to the best of my/our knowledge; and that the rate of \$0.85 per notice and a public notice fee of	
Solar Petroleum, LLC		Mochalin	11/15/2022	
•	ne of applicant)	(signature of applicant)	(date)	
	etroleum, LLC	(signature of properly owne	11/15/2022 (date)	
printed name of property owner) A & M Enterprise LLC		Ma Clocyla-	11/15/2022	
printed name of property owner)		(signature of property owner		
printed nan	ne of property owner)	(signature of property owner	(date)	
12/2	HAND INDICATED	Hearing Date	RFZ-2022-0068	

Legal Description of the Property to be Rezoned

Lots Numbered 98, 99, 100, 101 and 102 in Southview Addition to the City of Fort Wayne according to the plat thereof recorded in Plat Record II, page 79 in the Office of the Recorder of Allen County, Indiana.

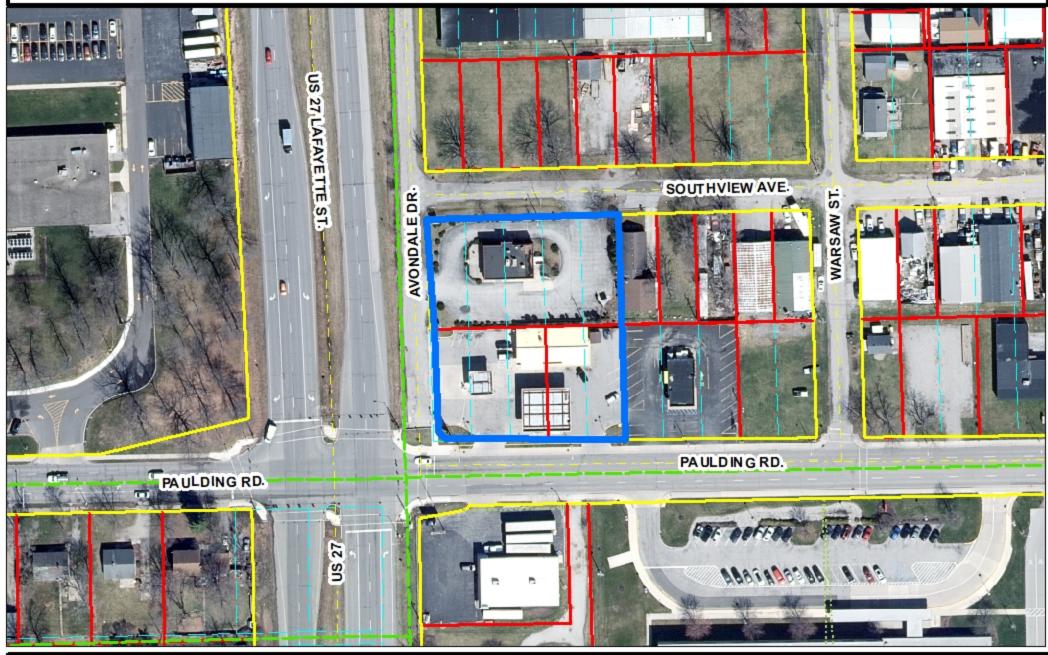
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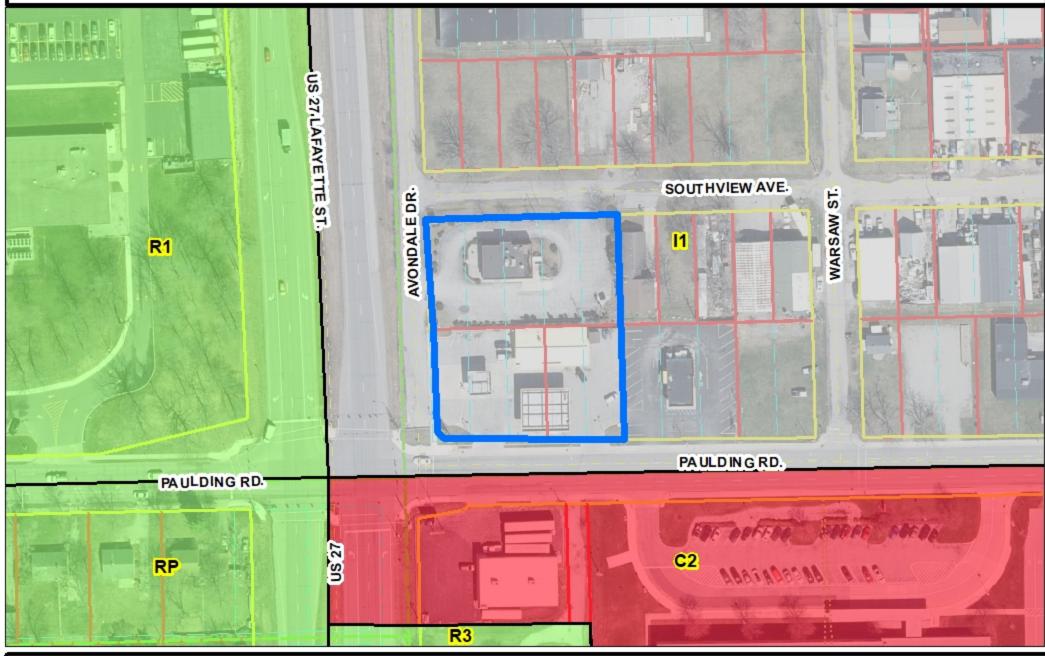
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all hisbility resulting from any error or omission in this map.

© 2004 Board of Commissioners of the County of Allen North American Datum 1983 State Plane Coordinate System, Indiana East Photos and Contours: Spring 2009 Date: 12/21/2022



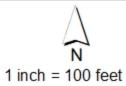






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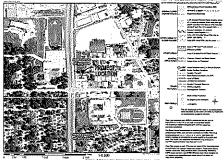
© 2004 Board of Commissioners of the County of Allen North American Datum 1983 State Plane Coordinate System, Indiana East Photos and Contours: Spring 2009 Date: 12/21/2022

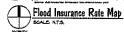












Real Estate Description per Doc. No. 2021021342 COTS MUNICIPAL AS, 41, 100, 101 AND 102 IN SOUTHWEN ADDITION TO THE CITY OF FORT PLAYNE ACCORDING TO THE PLAY THEREOF RECORDED IN PLAY THEREOF RECORDED IN PLAY THEREOF ALLOW COUNTY, INDIAND THE PLAY THE COT ALLOW COUNTY, INDIAND THE PLAY THE COT ALLOW COUNTY, INDIAND THE PLAY THE P

Professional Surveyor's Certification

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BOUNDARY 'RETRACEMENT' SURVEY FOR 8 South 412 Southriew. Southriew.

7ots Drawing Revisions

Commission Number 223515

Date November 28th, 2022 Title

Sheet Number

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Professional Surveyor's Report

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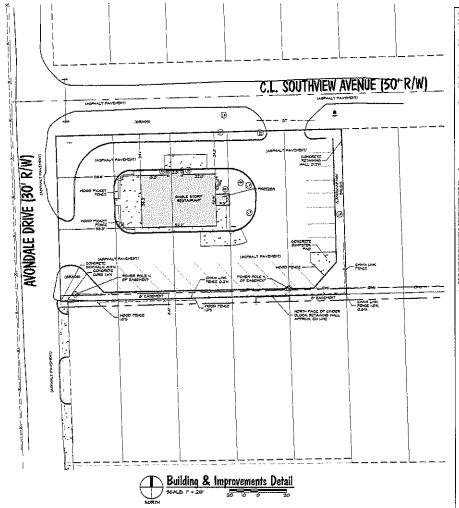
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Professional Surveyor's Certification

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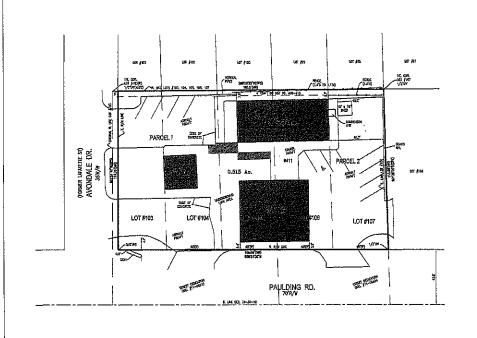
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South South 412 South view Sto7 Drawing Revisions

Commission Number 223515 Date

November 28th, 2022 Title

Sheet Number



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OLEGAL DESCRIPTION:

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TITLE

2021 DONOVAN SURVEYING, INC.

3521 Lake Averue, Suite 2 Fort Wayne, Indiana 4680S Office 260,424,7418 Fax 250,424,1918 www.denovarr-eng.com

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REVISIONS

ALTA/NSPS LAND TITLE SURVEY

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WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the _____ day of February, 2022, by Solar Petroleum, LLC, an Indiana limited liability company and A & M Enterprise LLC, an Indiana limited liability company (collectively, "Company").

RECITALS

- A. By virtue of that certain Limited Warranty Deed dated December 17, 2021 and recorded on December 20, 2021 as Document Number 2021087568 in the Office of the Recorder of Allen County, Indiana, and that certain Corporate Warranty Deed dated March 26, 2021 and recorded on March 30, 2021 as Document Number 2021021342 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" (collectively, the "Real Estate").
- B. Company filed an application under Case Number REZ-2022— (the "Rezoning Application") to change the zoning map applicable to the Real Estate from the I1 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 Fort Wayne Plan Commission (the "Plan Commission") may require an owner of real property to make a 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, Company offered to make, and the Plan Commission required Company to make, a written commitment concerning the use and development of the Real Estate.

COMMITMENT

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

1. **PERMITTED/PROHIBITED USES.** All uses normally permitted in the C3/General Commercial zoning district under §157.216 of the Ordinance that are not permitted

uses in the C2/Limited Commercial under §157.213 of the Ordinance (all of which shall remain permitted) shall be prohibited except for the following (which shall be permitted):

- a) Automobile car wash;
- b) Gas station;
- c) Propane/bottled gas sales and service as an accessory use to a gas station or convenience store; and
- d) Truck fueling 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. **STATUTORY AUTHORITY.** This Commitment is made pursuant to I.C. §36-7-4-1015(a)(1).

- 8. **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.
- 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.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]
[SIGNATURE PAGE FOLLOWS.]

Solar Petroleum, LLC an Indiana limited liability company

	E	ву:	
		Mohammad Abdela	lghaffar, Member
			"Company"
STATE OF INDIANA)) SS:		
COUNTY OF ALLEN)		
Before me, the undersign of February, 2022, personally Petroleum, LLC, an Indiana lim foregoing Written Commitment	appeared Molited liability p	artnership, and acknowled	as the Member of Solar
WITNESS my hand and	Notarial Seal.		
My commission expires:			, Notary Public
	_	Resident of	, County, Indiana

A & M Enterprise LLC an Indiana limited liability company

	By:	
	Mohammad Abdelalghaffar, Member	
	"Company"	
STATE OF INDIANA)	S:	
COUNTY OF ALLEN)		
Before me, the undersigned Notary Public in and for said County and State, this day of February, 2022, personally appeared Mohammad Abdelalghaffar, as the Member of A & M Enterprise LLC, an Indiana limited liability partnership, and acknowledged the execution of the foregoing Written Commitment on behalf of said company. WITNESS my hand and Notarial Seal.		
My commission expires:	, Notary Public	
	Resident of, County, Indiana	

This instrument prepared by and after recording return to: Scott M. Federoff, SNYDER MORGAN FEDEROFF & KUCHMAY LLP, 4211 Clubview Drive, Fort Wayne, Indiana 46804.

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. Scott M. Federoff

Exhibit "A" Legal Description of the Real Estate

Lots Numbered 98, 99, 100, 101 and 102 in Southview Addition to the City of Fort Wayne according to the plat thereof recorded in Plat Record II, page 79 in the Office of the Recorder of Allen County, Indiana.

AND ALSO:

Part of Lots Numbered 103, 104, 105, 106, and 107 in Southview Addition to the City of Fort Wayne, Allen County, Indiana, as recorded in Book Number 11, page 79, in the Allen County Recorder's Office, said property is more particularly described as follows:

Beginning at the intersection of the Northerly line of Paulding Road (70.03 feet wide) with the Easterly line of Lafayette Street (35 feet wide); thence Northward along said Easterly line of Lafayette Street 114.29 feet to a point in the Northwest corner of said Lot 103; thence Eastward 195.45 feet along the Northerly line of said Lots 103, 104, 105, 106, and 107 to a point in the Northeast corner of Lot 107; thence Southward along the East line of Lot 107 (said line also being the West line of Lot 108, Southview Addition) 115.68 feet to a point in the North line of Paulding Road (said point being 40 feet North as measured at right angles from the Southerly line of Section 24, Township 30 North, Range 12 East, Allen County, Indiana); thence Westward along the Northerly line of Paulding Road 195.06 feet to the point of beginning.