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#REZ-2023-0004

BILL NO. Z-23-02-36

ZONING MAP ORDINANCE NO. Z-____

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. L-23 (Sec. 26 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 C2 (Limited Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana:

Lot Numbered 271 in Fairfield Terrace Addition, Section "B", an addition to the City of Fort Wayne, Allen County, as recorded in Plat Book 11, pages 52-53 in the Office of the Recorder of Allen County, Indiana.

and the symbols of the City of Fort Wayne Zoning Map No. L-23 (Sec. 26 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.

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3	SECTION 3. That this Ordinance shall be in full force and effect from and after its
4	passage and approval by the Mayor.
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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-2023-0004 Bill Number: Z-23-02-36

Council District: 5-Geoff Paddock

Introduction Date: February 28, 2023

Plan Commission

Public Hearing Date: March 13, 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 0.119 acres from R1/Single Family Residential

to C2/Limited Commercial

Location: 5825 Fairfield Avenue

Reason for Request: To add this parcel to the proposal for a new laundromat and tenant space.

Applicant: Humaidi Group LLC

Property Owners: Humaidi Group LLC

Related Petitions: PDP-2023-0004 – Fairfield Laundromat

Effect of Passage: Property will be rezoned to the C2/Limited Commercial zoning district,

which will allow the development of a neighborhood laundromat and

tenant space.

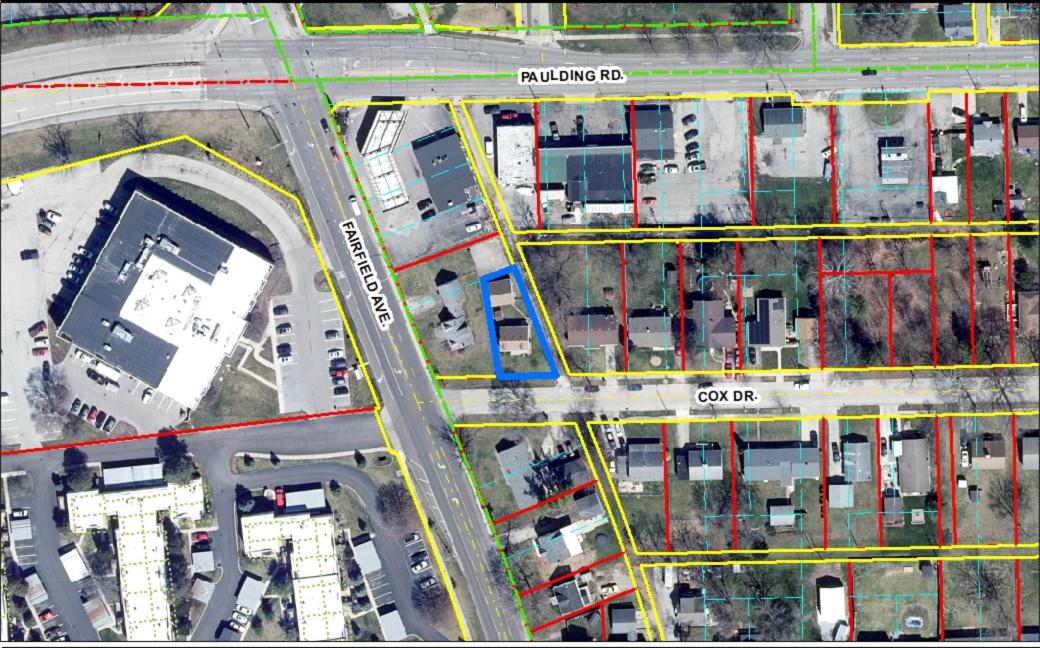
Effect of Non-Passage: The property will remain zoned R1/Single Family Residential, which

supports the existing house.



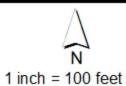
Rezoning Petition REZ-2023-0004 and Primary Development Plan PDP-2023-0004 - Fairfield Laundromat





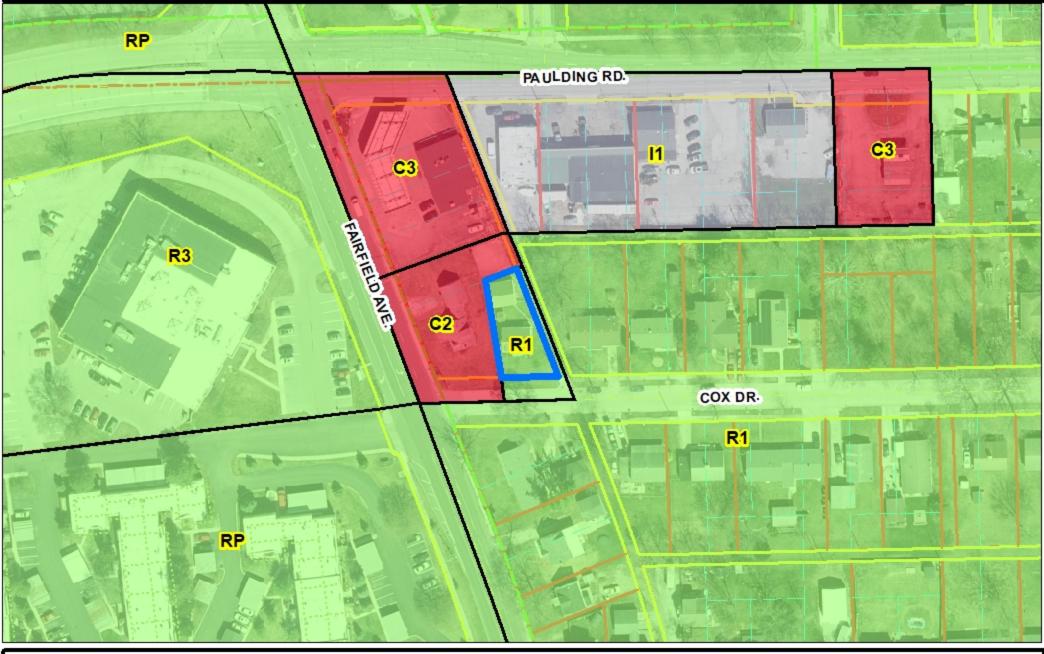
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 2004 Board of Commissioners of the County of Allen North American Datum 1983 State Plane Coordinate System, Indiana East Photos and Contours: Spring 2009 Date: 2/22/2023



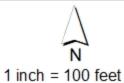
Rezoning Petition REZ-2023-0004 and Primary Development Plan PDP-2023-0004 - Fairfield Laundromat 🕵





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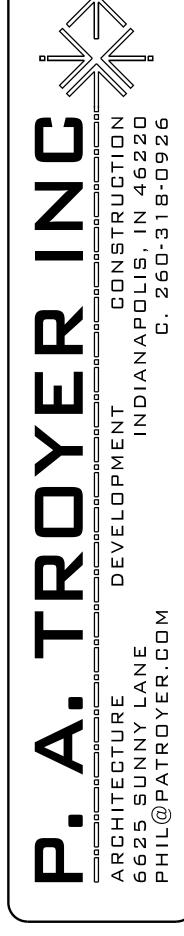




ARCHITECTURE 6625 SUNNY LANE PHIL@PATROYER.COM

1/25/23

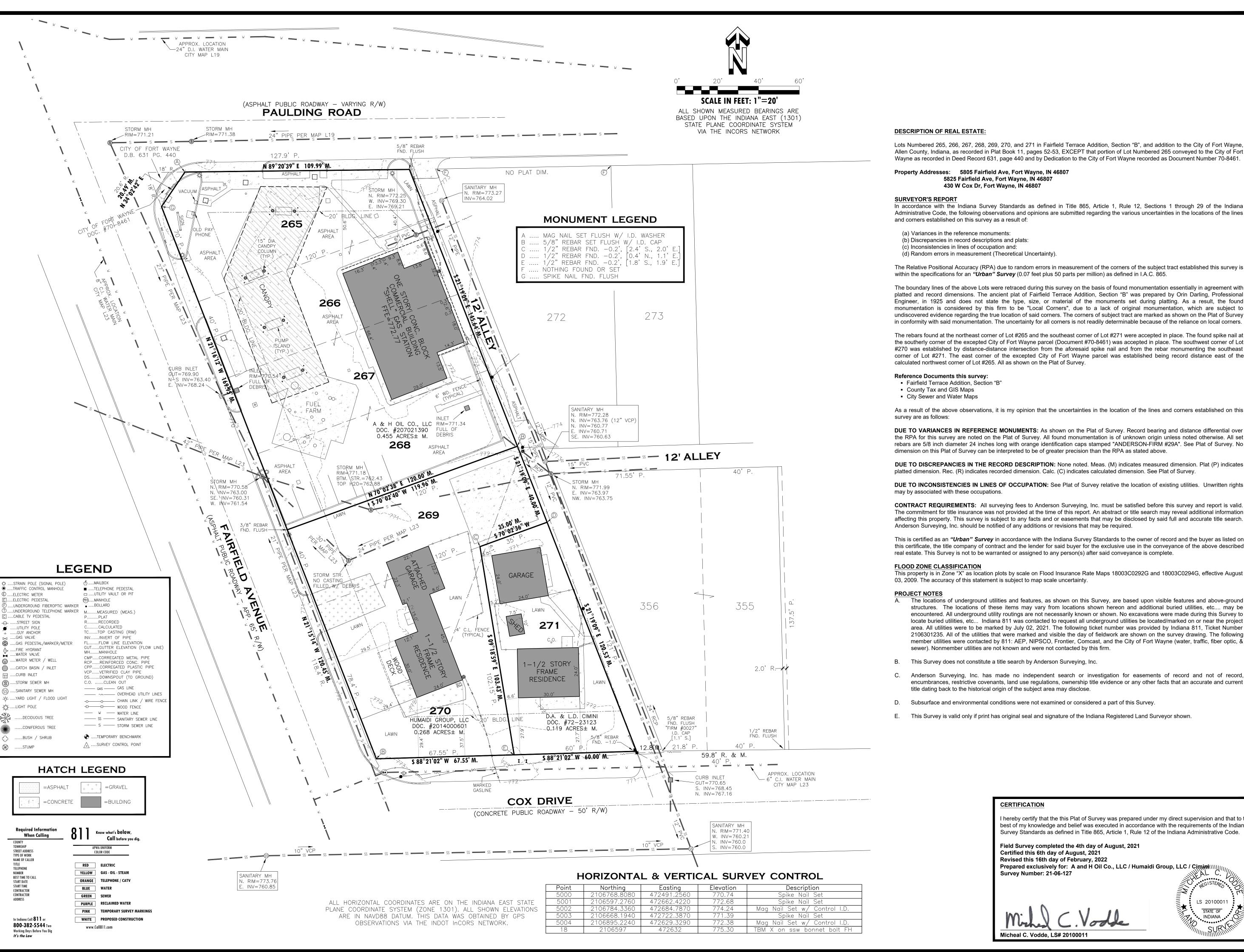
AUNDROMAT AIRFIELD AVE. @ PAULDING RD.



6/30/22 7/6/22 9/9/22 1/25/23



FAIRFILED AVE. @ PAULDING RD.



DESCRIPTION OF REAL ESTATE:

Lots Numbered 265, 266, 267, 268, 269, 270, and 271 in Fairfield Terrace Addition, Section "B", and addition to the City of Fort Wayne, Allen County, Indiana, as recorded in Plat Book 11, pages 52-53, EXCEPT that portion of Lot Numbered 265 conveyed to the City of Fort Wayne as recorded in Deed Record 631, page 440 and by Dedication to the City of Fort Wayne recorded as Document Number 70-8461.

Property Addresses: 5805 Fairfield Ave, Fort Wayne, IN 46807 5825 Fairfield Ave, Fort Wayne, IN 46807 430 W Cox Dr, Fort Wayne, IN 46807

In accordance with the Indiana Survey Standards as defined in Title 865, Article 1, Rule 12, Sections 1 through 29 of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties in the locations of the lines and corners established on this survey as a result of:

- (a) Variances in the reference monuments:
- (b) Discrepancies in record descriptions and plats: (c) Inconsistencies in lines of occupation and:
- (d) Random errors in measurement (Theoretical Uncertainty).

The Relative Positional Accuracy (RPA) due to random errors in measurement of the corners of the subject tract established this survey is within the specifications for an "Urban" Survey (0.07 feet plus 50 parts per million) as defined in I.A.C. 865.

The boundary lines of the above Lots were retraced during this survey on the basis of found monumentation essentially in agreement with platted and record dimensions. The ancient plat of Fairfield Terrace Addition, Section "B" was prepared by Orin Darling, Professional Engineer, in 1925 and does not state the type, size, or material of the monuments set during platting. As a result, the found monumentation is considered by this firm to be "Local Corners", due to a lack of original monumentation, which are subject to undiscovered evidence regarding the true location of said corners. The corners of subject tract are marked as shown on the Plat of Survey

The rebars found at the northeast corner of Lot #265 and the southeast corner of Lot #271 were accepted in place. The found spike nail at the southerly corner of the excepted City of Fort Wayne parcel (Document #70-8461) was accepted in place. The southwest corner of Lot #270 was established by distance-distance intersection from the aforesaid spike nail and from the rebar monumenting the southeast corner of Lot #271. The east corner of the excepted City of Fort Wayne parcel was established being record distance east of the calculated northwest corner of Lot #265. All as shown on the Plat of Survey.

Reference Documents this survey:

- Fairfield Terrace Addition, Section "B" County Tax and GIS Maps

City Sewer and Water Maps

As a result of the above observations, it is my opinion that the uncertainties in the location of the lines and corners established on this survey are as follows:

DUE TO VARIANCES IN REFERENCE MONUMENTS: As shown on the Plat of Survey. Record bearing and distance differential over the RPA for this survey are noted on the Plat of Survey. All found monumentation is of unknown origin unless noted otherwise. All set rebars are 5/8 inch diameter 24 inches long with orange identification caps stamped "ANDERSON-FIRM #29A". See Plat of Survey. No dimension on this Plat of Survey can be interpreted to be of greater precision than the RPA as stated above.

DUE TO DISCREPANCIES IN THE RECORD DESCRIPTION: None noted. Meas. (M) indicates measured dimension. Plat (P) indicates platted dimension. Rec. (R) indicates recorded dimension. Calc. (C) indicates calculated dimension. See Plat of Survey.

DUE TO INCONSISTENCIES IN LINES OF OCCUPATION: See Plat of Survey relative the location of existing utilities. Unwritten rights may by associated with these occupations.

CONTRACT REQUIREMENTS: All surveying fees to Anderson Surveying, Inc. must be satisfied before this survey and report is valid. The commitment for title insurance was not provided at the time of this report. An abstract or title search may reveal additional information affecting this property. This survey is subject to any facts and or easements that may be disclosed by said full and accurate title search. Anderson Surveying, Inc. should be notified of any additions or revisions that may be required.

This is certified as an "Urban" Survey in accordance with the Indiana Survey Standards to the owner of record and the buyer as listed on this certificate, the title company of contract and the lender for said buyer for the exclusive use in the conveyance of the above described real estate. This Survey is not to be warranted or assigned to any person(s) after said conveyance is complete.

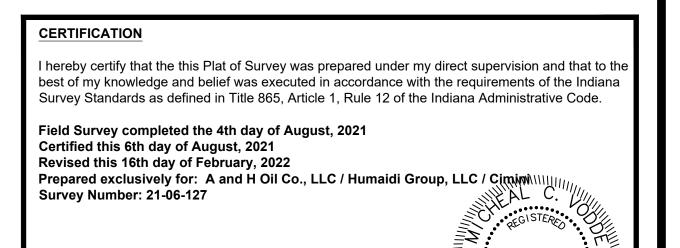
FLOOD ZONE CLASSIFICATION

This property is in Zone "X" as location plots by scale on Flood Insurance Rate Maps 18003C0292G and 18003C0294G, effective August 03, 2009. The accuracy of this statement is subject to map scale uncertainty.

PROJECT NOTES

- A. The locations of underground utilities and features, as shown on this Survey, are based upon visible features and above-ground structures. The locations of these items may vary from locations shown hereon and additional buried utilities, etc.... may be encountered. All underground utility routings are not necessarily known or shown. No excavations were made during this Survey to locate buried utilities, etc... Indiana 811 was contacted to request all underground utilities be located/marked on or near the project area. All utilities were to be marked by July 02, 2021. The following ticket number was provided by Indiana 811, Ticket Number 2106301235. All of the utilities that were marked and visible the day of fieldwork are shown on the survey drawing. The following member utilities were contacted by 811: AEP, NIPSCO, Frontier, Comcast, and the City of Fort Wayne (water, traffic, fiber optic, & sewer). Nonmember utilities are not known and were not contacted by this firm.
- This Survey does not constitute a title search by Anderson Surveying, Inc.
- C. Anderson Surveying, Inc. has made no independent search or investigation for easements of record and not of record, encumbrances, restrictive covenants, land use regulations, ownership title evidence or any other facts that an accurate and current title dating back to the historical origin of the subject area may disclose.
- Subsurface and environmental conditions were not examined or considered a part of this Survey.
- This Survey is valid only if print has original seal and signature of the Indiana Registered Land Surveyor shown.

Micheal C. Vodde, LS# 20100011



LS 20100011

STATE OF

INDIANA

S

RSO

TOP0 4 -271 in | Wayne 5825 ND 805 & 5805

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1	LOCATE ADJUSTED MANHOLE	2/16/22	EJS
NO.	REVISION:	DATE:	BY:

SCALE:	DRAWN BY:			
1" = 20'	E.J.S.			
ISSUE DATE:	CHECKED BY:			
02/16/22	M.C.V.			
SAVED FILE:				
AUG21/21-06-127 FAIRFIELD AVE/21-06-127 TOPO.c				

RETRACEMENT SURVEY Fairfield Ave. & Cox Dr. Fort Wayne, IN 46807

SURVEY NO.: 21-06-127



FACT SHEET

Case #REZ-2023-0004 Bill # Z-23-02-36 Project Start: February 2023

APPLICANT: Humaidi Group

REQUEST: Rezone property to C2/Limited Commercial to modify the

approved plans for a laundromat facility

LOCATION: 430 West Cox Drive, 75 feet east of its interaction with Fairfield

Avenue (Section 26 of Wayne Township)

LAND AREA: 0.39 acre (0.13 acre for rezoning)
PRESENT ZONING: R1/Single Family Residential
PROPOSED ZONING: C2/Limited Commercial
5 – Geoff Paddock

SPONSOR: Fort Wayne Plan Commission

April 10, 2023 Public Hearing

One resident spoke in opposition.

Tom Freistroffer was absent.

April 17, 2023 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Judi Wire and seconded by Rick Briley to return the Ordinance with a Do Pass recommendation to Common Council for their final decision.

9-0 MOTION PASSED

Fact Sheet Prepared by: Michelle B. Wood, Senior Land Use Planner May 2, 2023

PROJECT SUMMARY

The site has been historically been zoned residentially but has history of commercial uses including a barber shop approved by The Board of Zoning Appeals in 1980. A portion of the site was rezoned in 2022 to permit a laundromat.

The petitioner requests a rezoning from R1/Single Family Residential to C2/Limited Commercial to permit a laundromat. The applicant has a previously approved development plan and rezoning to construct a laundromat from 2022. The applicant has since purchased the adjacent residential home with the intent to construct a multi-tenant building including a laundromat and one additional tenant space. The rezoning application is for 430 West Cox Drive, but the development plan will encompass of both 430 West Cox Drive and 5825 Fairfield Avenue. The addition of the Cox Drive property will "square-up" the development site, and the alley will separate the commercial uses from the residential uses.

The property to be rezoned consists of a single-family home facing West Cox Drive and is a 0.13 acre parcel. The surrounding properties are residential to the east and south. The property to the north and west is owned by the applicant and is zoned to C2/Limited Commercial. The property further to the north along Fairfield Avenue is also owned by the applicant and is a gas station that was successfully rezoned in 2020, but has been a gas station for decades prior.

If at the public hearing any issues come up with any C2 uses, a written commitment may be provided to limit uses that may be deemed by the neighbors or the commission as incompatible. The applicant will need to discuss the rezoning criteria set forth in state code, but the proposal can 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;

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 proposed site plan includes a 3,196 square foot building to replace both existing structures on site. The plan shows a 2,600 square foot laundromat and a 1,700 commercial tenant space. Parking is located on the west and north side of the parcel. There are 2 points of access shown on the development plan: to the north they are showing access shared by the gas station which is also owned by the applicant. To the south they show access directly to West Cox Drive, which may used as an exit only.

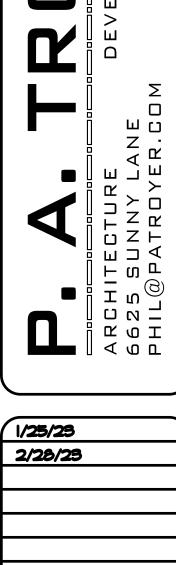
PUBLIC HEARING SUMMARY:

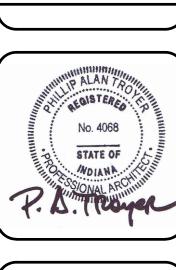
<u>Presenter</u>: Ahmed Humaidi, owner and developer, presented the request as outlined above. Mr. Humaidi stated that hours of operation will depend on the neighborhood needs. He did meet with the neighborhood president and some neighbors. He also agreed to a Written Commitment to prohibit certain commercial uses, including bar/tavern, micro-brewery, package liquor sales and animal kennels.

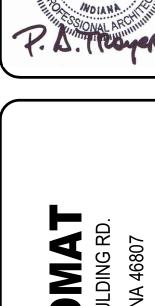
Public Comments:

Sandy Thieme, Fairfield Terrace Association – Feels this is a family neighborhood and a laundromat is not compatible. Concerned about hours, noise and traffic.









FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2023-0004

PROPOSAL:

Rezoning Petition REZ-2023-0004 Fairfield Laundromat

APPLICANT:

Humaidi Group

REQUEST:

Rezone property to C2/Limited Commercial.

LOCATION:

430 West Cox Drive, 75 feet east of its interaction with Fairfield Avenue

(Section 26 of Wayne Township)

LAND AREA:

0.39 acre (0.13 acre for rezoning)

PRESENT ZONING:

R1/Single Family Residential

PROPOSED ZONING:

C2/Limited Commercial

The Plan Commission recommends that Rezoning Petition REZ-2023-0004 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 the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The C2/Limited Commercial zoning will provide the opportunity to redevelop the site while providing additional commercial options on the south side of the city. This proposal is located within the Conceptual Development Map within the Comprehensive Plan.
- 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. Site plan and architectural review from the Plan Commission and staff will ensure a compatible development that compliments the area. The adjacent parcel was successfully rezoned in 2022 for the proposed use.
- 3. Approval is consistent with the preservation of property values in the area. This proposal will allow reinvestment into the area and is adjacent to previously approved rezoned parcels to the west and north. This additional land will allow for better vehicular circulation and parking for the proposed development. A recorded Written Commitment will protect adjacent properties from more intensive uses.
- 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. The rezoning is consistent with previously approved rezoned parcels to the west and north.

Based upon the foregoing findings, the site committee recommends approval, on April 17, 2023.

Benjamin J. Roussel

Executive Director

Secretary to the Commission

Mamin H. Koussel

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made as of this April the day of 14, 2023, by Humaidi Group (or assigned entity) an Indiana limited liability company (herein, the "Declarant"), under the following circumstances:

WITNESSETH:

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

WHEREAS, Declarant has submitted a Zoning Map Amendment Application with the City of Fort Wayne Plan Commission ("Plan Commission"), bearing number Rez-2023-0004, Pdp-2023-0004 (the "Zoning Application") and a Primary Development Plan Application (the "Development Plan Application")(the Zoning Application and the Development Plan Application are sometimes referred to herein collectively as the "Applications") with respect to its proposed development of the Real Estate; and

WHEREAS, pursuant to the Zoning Application, Declarant has requested the Real Estate be rezoned to C2 pursuant to the City of Fort Wayne Zoning Ordinance (the "Ordinance"); and

WHEREAS, Declarant, in conjunction with the Applications, has submitted this Commitment to the Plan Commission, voluntarily, pursuant to section 157.503 of the Ordinance and Indiana Code 36-7-4-1015, for the purpose of limiting certain impacts and certain uses arising from development upon the Real Estate.

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 a portion of the Real Estate.

1. Use Limitations. The Declarant agrees that the following uses shall be prohibited upon the Real Estate:

- a. Automobile sales (indoor)
- b. Bar
- c. Animal hospital (indoor)
- d. Animal Kennel (indoor)

- e. Billiard or pool hall
- f. Brewery (micro)
- g. Club, private
- h. Homeless shelter
- i. Distillery (micro)
- Package liquor store
- k. Tavern
- Treatment center
- 2. <u>Permits</u>. 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.
- 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 Declarant and its 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.
- 8. <u>Amendment or Termination</u>. Modification or amendment of this Commitment may only be made in accordance with I.C. § 36-7-4-1015, as such statute may be amended from time to time.
- 9. 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.
- 10. <u>Severability</u>. 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.

- 11. <u>Governing Law</u>. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
- 12. <u>Effective Date.</u> This Commitment shall be effective upon its recording in the Office of the Recorder of Allen County, Indiana.
 - 13. <u>Statutory Authority</u>. This Commitment is made pursuant to I.C. §36-7-4-1015(a).

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Declarant hereby agrees to all of the restrictions and covenants of this Commitment as set forth above.

DECLARANT:			
Ahmed Hunail			,
Date: 4-26-2-17	Member of	Humeide	GROUP IIL
STATE OF INDIANA)	ga.		
COUNTY OF ALLEN ')			
Before me, the undersigned, a N day of April, 2023, personally Humaidi, and acknowledged the Group IN WITNESS WHEREOF, I haseal.	e execution of the forego	oing Written Com	mitment.
My Commission Expires:	I momale	Joenker, Not	tary Public
AMANDA WOENKER Notary Public, State of Indiana Allen County Commission #NP0727856 My Commission Expires July 21, 2028 This instrumen	A resident of		County
f affirm, under the penalties for perjury Security number in this document, unles			dact each Social
Return to:			

EXHIBIT A

LEGAL DESCRIPTION:

5805 Fairfield Ave Fort Wayne IN, 46807 .