

1 **#REZ-2023-0004**

2 **BILL NO. Z-23-02-36**

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5 **ZONING MAP ORDINANCE NO. Z-_____**

6 **AN ORDINANCE amending the City of Fort Wayne**
7 **Zoning Map No. L-23 (Sec. 26 of Wayne Township)**

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

10 SECTION 1. That the area described as follows is hereby designated a C2 (Limited
11 Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
12 Wayne, Indiana:

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

16 and the symbols of the City of Fort Wayne Zoning Map No. L-23 (Sec. 26 of Wayne
17 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
18 Wayne, Indiana is hereby changed accordingly.

19
20 SECTION 2. If a written commitment is a condition of the Plan Commission's
21 recommendation for the adoption of the rezoning, or if a written commitment is modified and
22 approved by the Common Council as part of the zone map amendment, that written
23 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.

5 _____
6 Council Member

7 APPROVED AS TO FORM AND LEGALITY:

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9 _____
10 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.

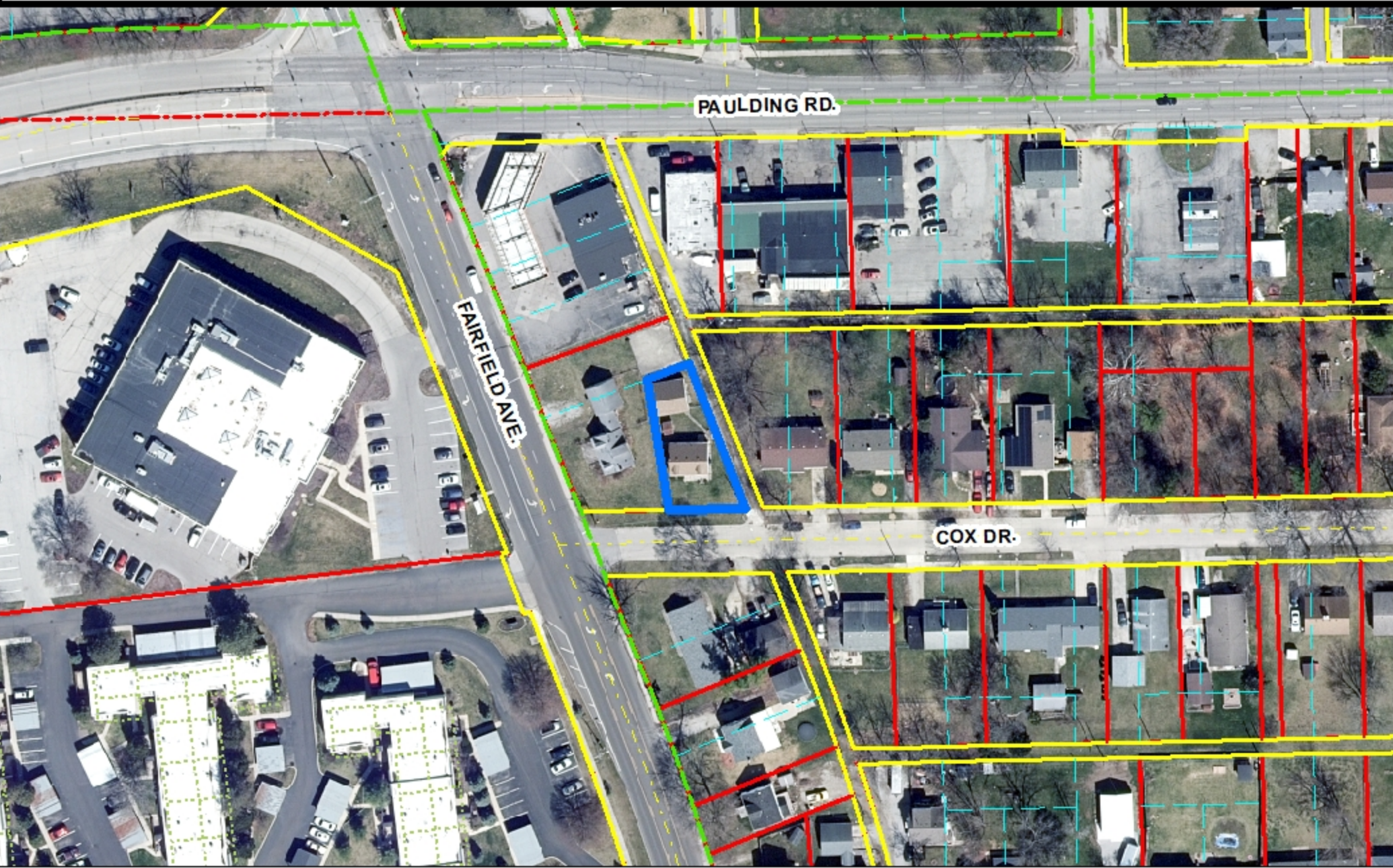
Applicant: Humaidi Group LLC

Property Owners: Humaidi Group LLC

Related Petitions: PDP-2023-0004 – Fairfield Laundromat

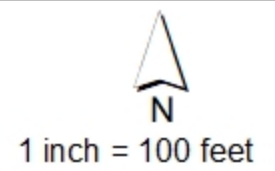
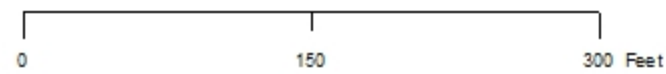
Effect of Passage: Property will be rezoned to the C2/Limited Commercial zoning district, which will allow the development of a neighborhood laundromat and tenant space.

Effect of Non-Passage: The property will remain zoned R1/Single Family Residential, which supports the existing house.



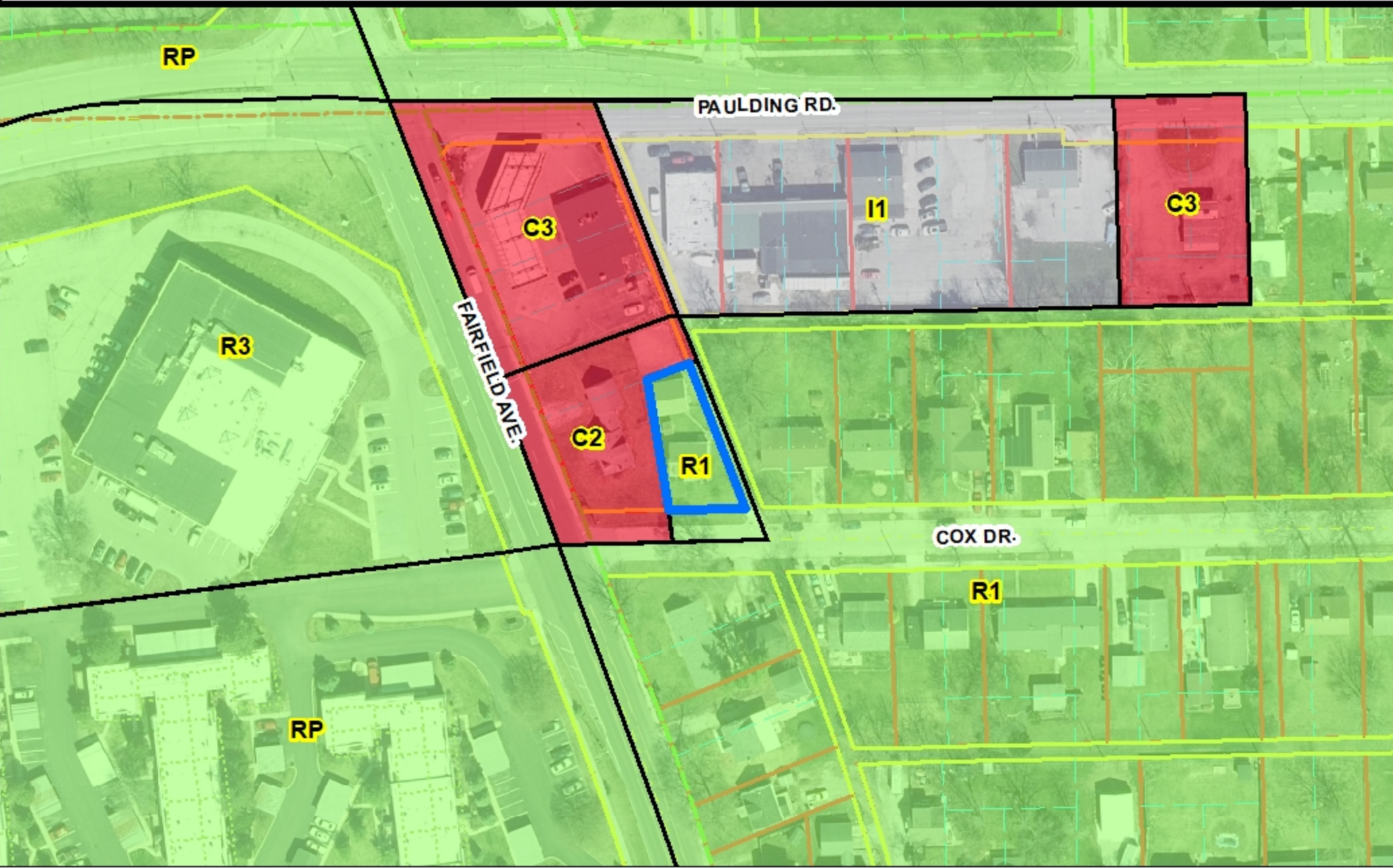
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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



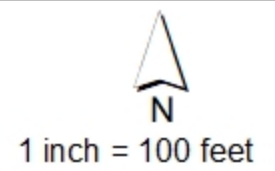
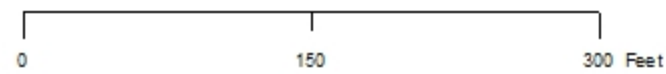


Rezoning Petition REZ-2023-0004 and Primary Development Plan PDP-2023-0004 - Fairfield Laundromat



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North American Datum 1983
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COLOR
SITE PLAN
SCALE: 1"=20'-0"

LAUNDROMAT
FAIRFIELD AVE. @ PAULDING RD.
FORT WAYNE, INDIANA 46807

1/25/25

P. A. TROYER INC
ARCHITECTURE DEVELOPMENT CONSTRUCTION
6625 SUNNY LANE INDIANAPOLIS, IN 46220
PHIL@PATROYER.COM C. 260-318-0926

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 intersection 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				
COUNCIL DISTRICT:	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.

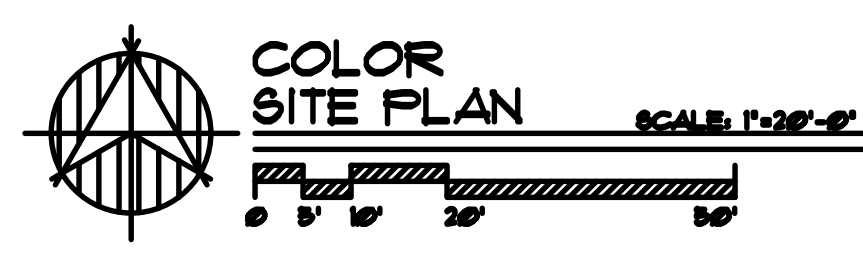
The proposed site plan includes a 3,196 square foot building to replace both existing structures on site. The plan shows a 2,600 square foot laundromat and a 1,700 commercial tenant space. Parking is located on the west and north side of the parcel. There are 2 points of access shown on the development 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.

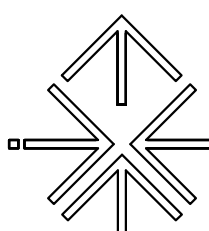
PUBLIC HEARING SUMMARY:

Presenter: 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:

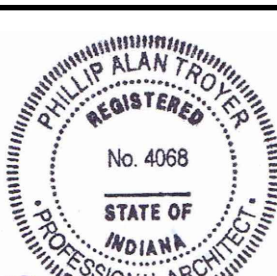
Sandy Thieme, Fairfield Terrace Association – Feels this is a family neighborhood and a laundromat is not compatible. Concerned about hours, noise and traffic.





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1/25/23
2/28/23



P. A. Troyer

LAUNDROMAT
FAIRFIELD AVE. @ PAULDING RD.
FORT WAYNE, INDIANA 46807

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

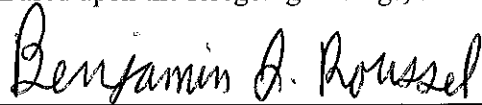
Rezoning Petition REZ-2023-0004

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

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)
- j. Package liquor store
- k. Tavern
- l. Treatment center

2. 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.

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. Amendment or Termination. 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. 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.

11. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

12. Effective Date. This Commitment shall be effective upon its recording in the Office of the Recorder of Allen County, Indiana.

13. Statutory Authority. 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 Humaidi
Ahmed Humaidi

Date: 4-26-2023

Member of Humaidi Group LLC

STATE OF INDIANA)
COUNTY OF ALLEN) SS:

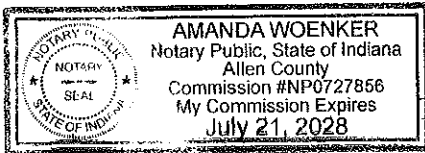
Before me, the undersigned, a Notary Public in and for said County and State, this 26 day of April, 2023, personally appeared Ahmed Humaidi, an Authorized Member of Humaidi Group, and acknowledged the execution of the foregoing Written Commitment.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

July 21, 2028

Amanda Woenker
Amanda Woenker, Notary Public
A resident of Allen County



This instrument prepared by _____

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. _____

Return to:

EXHIBIT A

LEGAL DESCRIPTION:

5805 Fairfield Ave
Fort Wayne IN, 46807

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