

#REZ-2023-0014

BILL NO. Z-23-04-14

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. I-02 (Sec. 9 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:

The lands of the World Baseball Academy as described in Document Number
2012066304 within the Office of the Recorder of Allen County, Indiana, being a part
of the Third Commercial Addition as recorded in Plat Book 4B, page 48 within the
Office of the Recorder of Allen County, Indiana, more particularly described as
follows, to-wit:

Commence at the southeast corner of Block E in said Third Commercial Addition;
thence South 88 Degrees 48 minutes 34 seconds west (bearings based upon Indiana
State Plane Coordinate, East Zone, Grid) along the South line of said Block E as
coincident with the north right of way of a public road known as Taylor Street, a
distance of 544.76 feet to the Easterly right of way of a public road known as
Freeman Street; thence North 0 degrees 46 minutes 01 seconds west along the
Easterly right of way of said Freeman Street, a distance of 1194.03 feet to the
Northwestern corner of the lands of The World Baseball Academy (WBA) aforesaid;
thence Northeasterly along a non-tangent circular curve to the right having a radius
of 666.20 feet, an arc distance of 171.75 feet, the chord of which bears North 81
degrees 25 minutes 45 seconds East, 171.27 feet; thence North 88 degrees 43
minutes 23 seconds East along the North line of said WBA, a distance of 369.60 feet
to the West line of vacated Morris street; thence South 01 degree 01 minutes 29
seconds East along the West line of said vacated Morris Street, a distance of 51.96
feet to the Westerly extension of the North line of lot 517 in said Third Commercial
Addition; thence north 88 degrees 41 minutes 39 seconds East along the line
aforesaid, a distance of 50.01 feet to the Northwest corner of said lot 517; thence
north 01 degree 01 minutes 26 seconds West along the Northerly extension of the
west line of said lot 517, a distance of 6.0 feet to the center of a platted alley; thence
North 88 degrees 41 minutes 39 seconds East along said centerline of said alley, a
distance of 219.99 feet to the Northwest corner of the lands of Proper Properties,
LLC,

as described in Document Number 2016069895; thence along the lands of said Proper Properties, LLC on the following four courses: South 01 degree 02 minutes 15 seconds East, a distance of 175.03 feet; thence North 88 degrees 41 minutes 47 seconds East, a distance of 46.43 feet; thence South 0 degrees 58 minutes 58 seconds East, a distance of 15.16 feet; thence North 88 degrees 41 minutes 47 seconds East, a distance of 253.57 feet to the West right of way of a public road known as Catalpa Avenue; thence South 01 degree 02 minutes 14 seconds East along said West right of way, a distance of 639.55 feet to the Southeast corner of lot 425 in said Third Commercial Addition; thence South 0 degrees 59 minutes 26 seconds East, a distance of 50.24 feet to the Northeast corner of lot 400 in said Third Commercial Addition; thence South 89 degrees 08 minutes 57 seconds West along the North line of said lot 400 as coincident with the South right of way of Culbertson Street, a distance of 39.96 feet to the Northwest corner of said lot 400; thence South 01 degree 02 minutes 15 seconds East along the West line of said lot 400, a distance of 140.00 feet to the Southwest corner thereof; thence South 88 degrees 48 minutes 34 seconds West along the South line of lots 401 through 412 inclusive of said Third Commercial Addition as coincident with the North line of a platted alley, a distance of 480.21 feet to the Southwest corner of lot 412 aforesaid as situated on the East right of way of Morris Street; thence South 88 degrees 58 minutes 31 seconds West, a distance of 50.00 feet to the east line of said Block E as coincident with the West right of way of said Morris Street; thence South 01 degree 01 minutes 29 seconds East along said West right of way, a distance of 152.14 feet to the Point of Beginning. Containing 27.014 acres of land, more or less and subject to easements and rights of way of record.

and the symbols of the City of Fort Wayne Zoning Map No. I-02 (Sec. 9 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.

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

3 _____
4 Council Member

5 APPROVED AS TO FORM AND LEGALITY:

6 _____
7 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-2023-0014
Bill Number: Z-23-04-14
Council District: 4-Jason Arp

Introduction Date: April 25, 2023

Plan Commission
Public Hearing Date: May 8, 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 26.20 acres from C2/Limited Commercial, R3/Multiple Residential and C3/General Commercial to C3/General Commercial (approximately 24 acres is already zoned C3)

Location: 1701 Freeman Street

Reason for Request: To allow for the consolidation of all property owned and used by World Baseball Academy into one zoning designation.

Applicant: World Baseball Academy Inc.

Property Owner: World Baseball Academy Inc.

Related Petitions: Primary Development Plan, World Baseball Academy

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which permits outdoor recreational uses.

Effect of Non-Passage: The property will continue to have split zoning districts, including R3/Multiple Family Residential, and C2/Limited Commercial, which do not support the World Baseball Academy – an existing use. The majority of the property is properly zoned, except for 2 acres.

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant World Baseball Academy Inc
Address 1701 Freeman Street
City Fort Wayne State Indiana Zip 46802
Telephone _____ Fax _____ E-mail _____

Property Ownership
Property Owner World Baseball Academy Inc
Address 1701 Freeman Street
City Fort Wayne State Indiana Zip 46802
Telephone _____ Fax _____ E-mail _____

Contact Person
Contact Person Caleb Kimmel
Address 1701 Freeman Street
City Fort Wayne State Indiana Zip 46802
Telephone 260-436-1507 Fax _____ E-mail Caleb@WorldBaseballAcademy.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 1701 Freeman Street
Present Zoning C3,C2,R Proposed Zoning C3 Acreage to be rezoned 27.014
Proposed density _____ units per acre
Township name Wayne Township section # 9
Purpose of rezoning (attach additional page if necessary) The purpose of rezoning is to consolidate all property owned and used by World Baseball Academy into one zoning designation to simplify permitting now and in the future as recommended by DPS.
Sewer provider City of Fort Wayne Water provider City of Fort Wayne

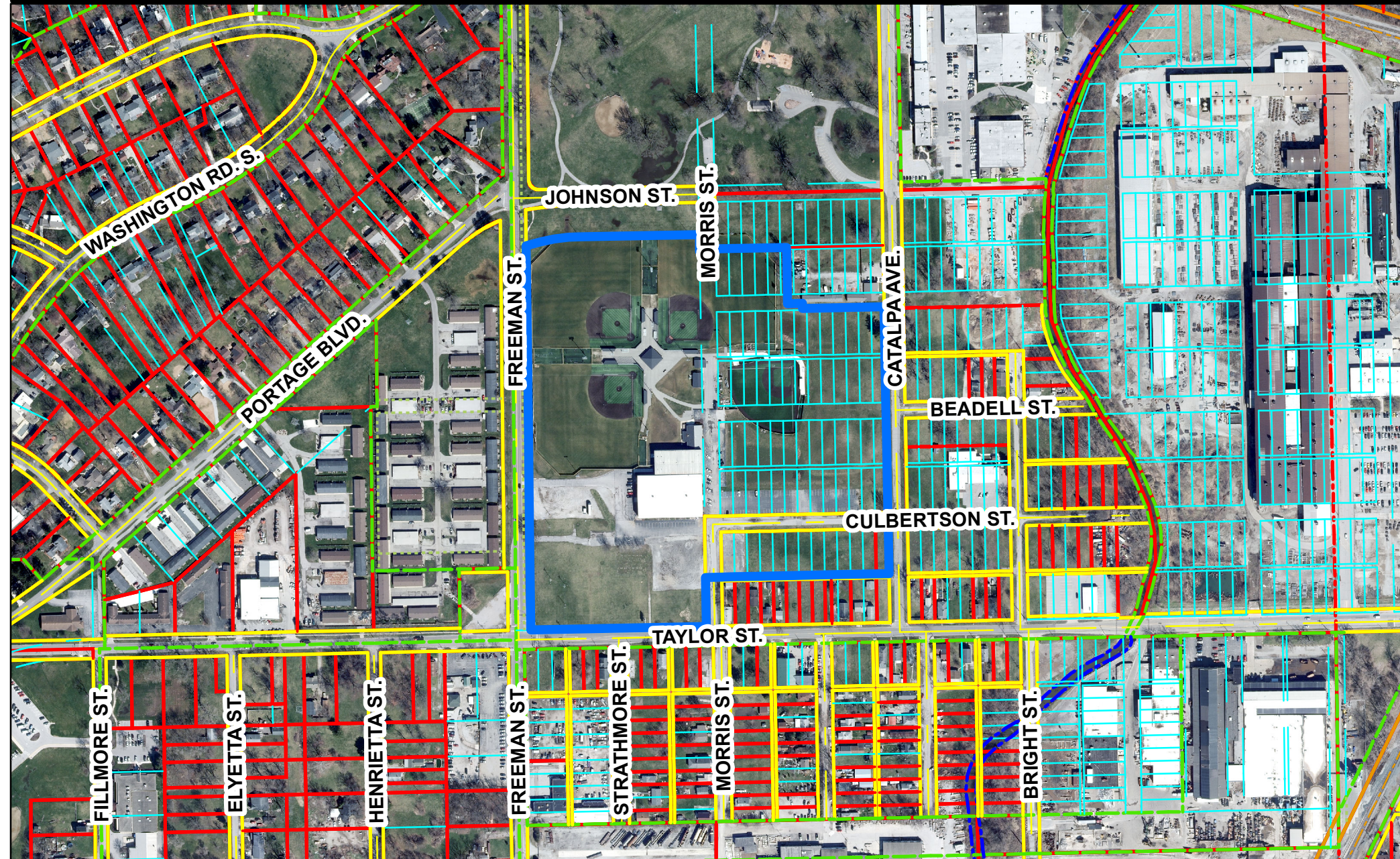
Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please contact staff for applicable filing fees and plan/survey submittal requirements.
☒ Applicable filing fee
☒ Applicable number of surveys showing area to be rezoned (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.

<u>CALEB B. KIMMEL</u> (printed name of applicant)	<u>[Signature]</u> (signature of applicant)	<u>4/3/23</u> (date)
<u>WORLD BASEBALL ACADEMY</u> (printed name of property owner)	<u>[Signature]</u> (signature of property owner)	<u>4/3/23</u> (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)

Received 4-4-23	Receipt No.	Hearing Date 5-8-23	Petition No. REZ-
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2023-0014

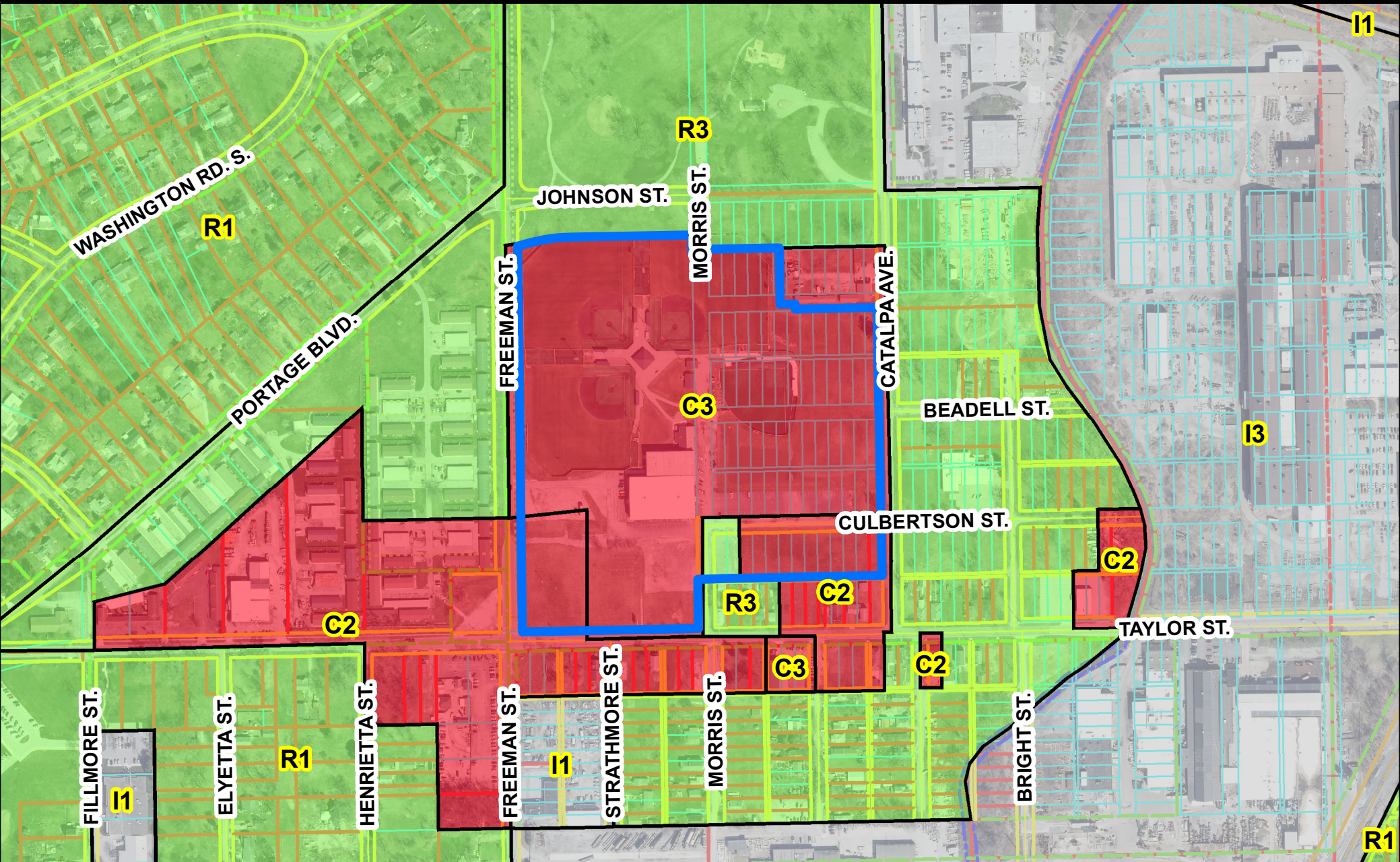


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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: 4/12/2023

0 500 1,000 Feet

N
1 inch = 400 feet



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© 2004 Board of Commissioners of the County of Allen
North American Datum 1983
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Photos and Contours: Spring 2009
Date: 4/12/2023

0 500 1,000 Feet



1 inch = 400 feet

Property Owner/Developer:



World Baseball Academy
Caleb Kimmel
caleb@worldbaseballacademy.com
1701 Freeman Street
Fort Wayne, Indiana 46802

PROJECT CIVIL ENGINEER/LAND SURVEYOR:

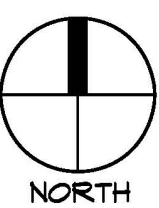
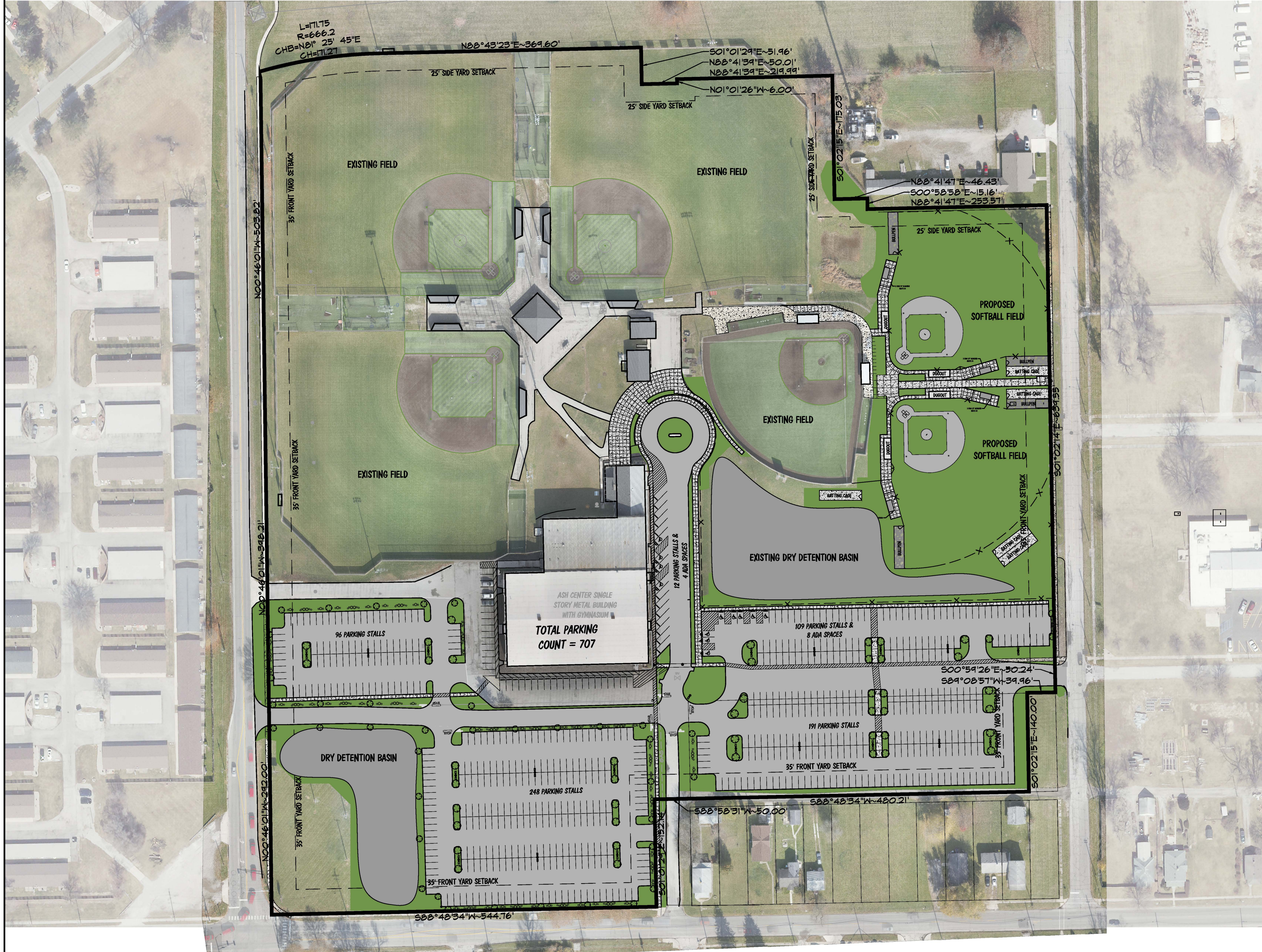


ForeSight Consulting, LLC
1910 Saint Joe Center Rd, Suite 61
Fort Wayne, Indiana 46825
260.484.9900 phone
260.484.9980 fax www.4site.biz
todd@4site.biz

Primary Development Plan For:

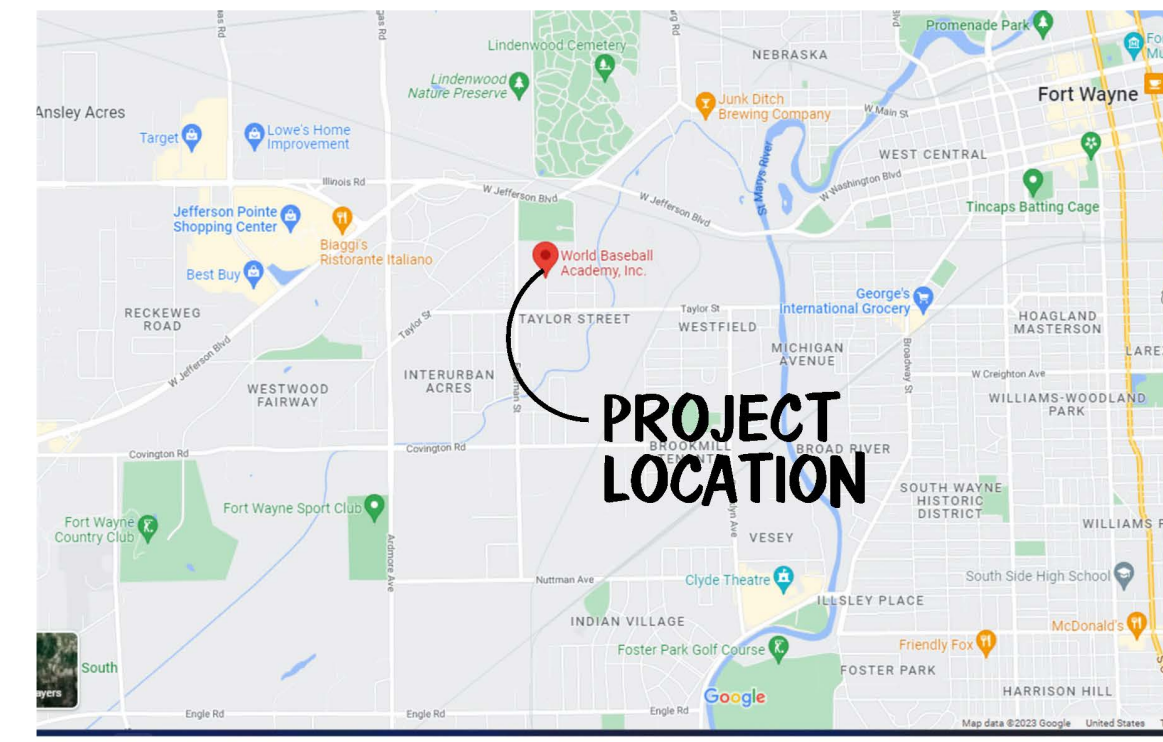
World Baseball Academy

1701 Freeman Street, Fort Wayne, Indiana 46802

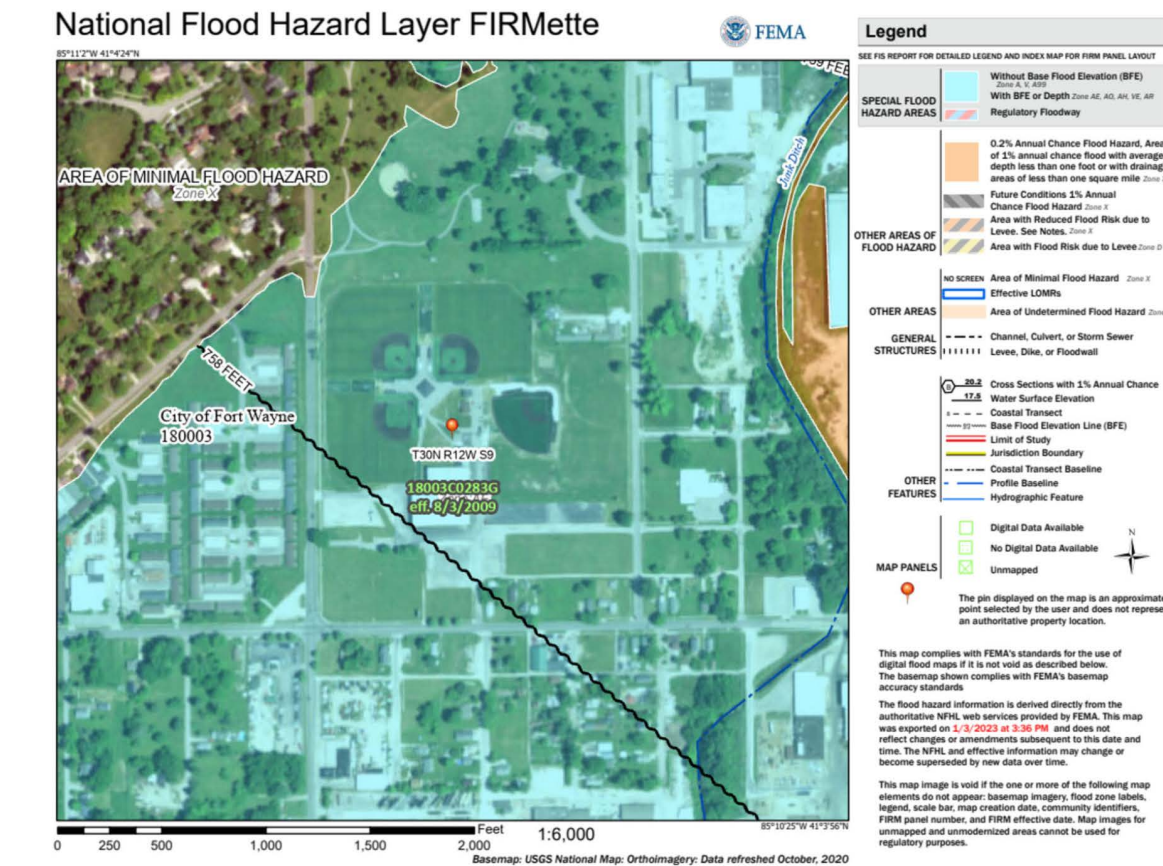


Primary Development Plan

Scale: 1" = 80'



Site Location Map
NOT TO SCALE



Flood Insurance Rate Map
SCALE: N.T.S.

Real Estate Description per Doc. No. 2022056094

THE LANDS OF THE WORLD BASEBALL ACADEMY AS DESCRIBED IN DOCUMENT NUMBER 2012066304 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, BEING A PART OF THE THIRD COMMERCIAL ADDITION AS RECORDED IN PLAT BOOK 48, PAGE 48 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCE AT THE SOUTHEAST CORNER OF BLOCK E IN SAID THIRD COMMERCIAL ADDITION; THENCE SOUTH 88 DEGREES 48 MINUTES 34 SECONDS WEST (BEARINGS BASED UPON INDIANA STATE PLANE COORDINATE, EAST ZONE, GRID) ALONG THE SOUTH LINE OF SAID BLOCK E AS COINCIDENT WITH THE NORTH RIGHT OF WAY OF A PUBLIC ROAD KNOWN AS TAYLOR STREET, A DISTANCE OF 544.76 FEET TO THE EASTERLY RIGHT OF WAY OF A PUBLIC ROAD KNOWN AS FREEMAN STREET; THENCE NORTH 0 DEGREES 46 MINUTES 01 SECONDS WEST ALONG THE EASTERLY RIGHT OF WAY OF SAID FREEMAN STREET, A DISTANCE OF 1194.03 FEET TO THE NORTHWESTERN CORNER OF THE LANDS OF THE WORLD BASEBALL ACADEMY (WBA) AFORESAID; THENCE NORTHEASTERLY ALONG A NON TANGENT CIRCULAR CURVE TO THE RIGHT HAVING A RADIUS OF 666.20 FEET, AN ARC DISTANCE OF 111.73 FEET, THE CHORD OF WHICH BEARS NORTH 81 DEGREES 25 MINUTES 48 SECONDS EAST, 111.21 FEET; THENCE NORTH 88 DEGREES 48 MINUTES 23 SECONDS EAST ALONG THE NORTH LINE OF SAID WBA, A DISTANCE OF 369.60 FEET TO THE WEST LINE OF VACATED MORRIS STREET; THENCE SOUTH 1 DEGREE 01 MINUTES 24 SECONDS EAST ALONG THE WEST LINE OF SAID VACATED MORRIS STREET, A DISTANCE OF 51.46 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 511 IN SAID THIRD COMMERCIAL ADDITION; THENCE NORTH 88 DEGREES 41 MINUTES 54 SECONDS EAST ALONG THE LINE AFORESAID, A DISTANCE OF 50.01 FEET TO THE NORTHWEST CORNER OF SAID LOT 511; THENCE NORTH 1 DEGREE 01 MINUTES 26 SECONDS WEST ALONG THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 511, A DISTANCE OF 6.00 FEET TO THE CENTER OF A PLATTED ALLEY; THENCE NORTH 88 DEGREES 41 MINUTES 34 SECONDS EAST ALONG SAID THE CENTERLINE OF SAID ALLEY, A DISTANCE OF 214.44 FEET TO THE NORTHWEST CORNER OF THE LANDS OF PROPER PROPERTIES, LLC AS DESCRIBED IN DOCUMENT NUMBER 2018064845; THENCE ALONG THE LANDS OF SAID PROPER PROPERTIES, LLC ON THE FOLLOWING FOUR COURSES: SOUTH 1 DEGREE 02 MINUTES 15 SECONDS EAST, A DISTANCE OF 175.03 FEET; THENCE NORTH 88 DEGREES 41 MINUTES 41 SECONDS EAST, A DISTANCE OF 46.43 FEET; THENCE SOUTH 0 DEGREES 58 MINUTES 58 SECONDS EAST, A DISTANCE OF 15.16 FEET; THENCE NORTH 88 DEGREES 41 MINUTES 41 SECONDS EAST, A DISTANCE OF 283.51 FEET TO THE WEST RIGHT OF WAY OF A PUBLIC ROAD KNOWN AS CATALPA AVENUE; THENCE SOUTH 1 DEGREE 02 MINUTES 14 SECONDS EAST ALONG SAID WEST RIGHT OF WAY, A DISTANCE OF 634.55 FEET TO THE SOUTHEAST CORNER OF LOT 425 IN SAID THIRD COMMERCIAL ADDITION; THENCE SOUTH 0 DEGREES 54 MINUTES 26 SECONDS EAST, A DISTANCE OF 50.24 FEET TO THE NORTHEAST CORNER OF LOT 400 IN SAID THIRD COMMERCIAL ADDITION; THENCE SOUTH 89 DEGREES 08 MINUTES 57 SECONDS WEST ALONG THE NORTH LINE OF SAID LOT 400 AS COINCIDENT WITH THE SOUTH RIGHT OF WAY OF CULBERTSON STREET, A DISTANCE OF 34.46 FEET TO THE NORTHWEST CORNER OF SAID LOT 400; THENCE SOUTH 1 DEGREE 02 MINUTES 15 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 400, A DISTANCE OF 140.00 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 88 DEGREES 48 MINUTES 34 SECONDS WEST ALONG THE SOUTH LINE OF LOTS 401 THROUGH 412 INCLUSIVE OF SAID THIRD COMMERCIAL ADDITION AS COINCIDENT WITH THE NORTH LINE OF A PLATTED ALLEY, A DISTANCE OF 480.21 FEET TO THE SOUTHWEST CORNER OF LOT 412 AFORESAID AS SITUATED ON THE EAST RIGHT OF WAY OF MORRIS STREET; THENCE SOUTH 88 DEGREES 58 MINUTES 31 SECONDS WEST, A DISTANCE OF 50.00 FEET TO THE EAST LINE OF SAID BLOCK E AS COINCIDENT WITH THE WEST RIGHT OF WAY OF SAID MORRIS STREET; THENCE SOUTH 1 DEGREE 01 MINUTES 24 SECONDS EAST ALONG SAID WEST RIGHT OF WAY, A DISTANCE OF 152.14 FEET TO THE POINT OF BEGINNING.

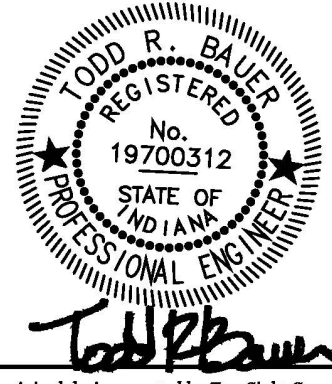
CONTAINING 27.014 ACRES OF LAND, MORE OR LESS AN SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

ForeSight Consulting, LLC

Professional Engineers & Surveyors
1910 St. Joe Center Road, Suite #61
Fort Wayne, Indiana 46825
260.484.9900 phone
260.484.9980 fax
www.4site.biz



Certification:



This is an original design created by ForeSight Consulting, LLC. The concepts, ideas, plans and details are the sole property of ForeSight Consulting, LLC. None of the concepts, ideas, plans or details shall be used by or disclosed to an person, firm or corporation for any purpose without the prior written permission of ForeSight Consulting, LLC. Written dimensions on these drawings shall have precedence over the scale dimensions. The contractor shall verify and be responsible for all dimensions and conditions on the job and ForeSight Consulting, LLC must be notified of variation from the dimensions and conditions shown on these drawings. Shop drawings shall be submitted to ForeSight Consulting, LLC for approval before construction.

Performed for:

Primary Development Plan For:

WBA Parking Improvements

1701 Freeman Street, Fort Wayne, Indiana 46802

Drawing Revisions

Commission Number
223386

Date
April 4th, 2023

Title
Primary
Development Plan
Sheet Number

PD1



Know what's below.
Call before you dig.

FACT SHEET

Case #REZ-2023-0014	Bill # Z-23-04-14	Project Start: May 2023
APPLICANT:	World Baseball Academy	
REQUEST:	Rezone property from C3/General Commercial, C2/Limited Commercial, and R2/Two Family Residential to C3/General Commercial to expand an existing outdoor recreational facility.	
LOCATION:	1701 Freeman Street, at the northeast corner of Freeman and Taylor Streets (Section 9 of Wayne Township)	
LAND AREA:	26.20 acres (4.0 acres for rezoning)	
PRESENT ZONING:	C3/General Commercial, C2/Limited Commercial, and R2/Two Family Residential	
PROPOSED ZONING:	C3/General Commercial	
COUNCIL DISTRICT:	5-Geoff Paddock	
SPONSOR:	Fort Wayne Plan Commission	

May 8, 2023 Public Hearing

- Four residents spoke at the hearing with concerns.
- Paul Sauerteig was absent.

May 15, 2023 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

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

6-1 MOTION PASSED

- Tom Freistroffer and Paul Sauerteig were absent.
- Rachel Tobin-Smith voted nay.

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

PROJECT SUMMARY

Site History:

- The property was historically residential, but changed to indoor and outdoor recreational uses in 1982 after Board of Zoning Appeals approved a Special Use (5-1982-Z) for a playing field with baseball and softball diamonds. The current C3 zoning now permits general recreation uses.
- The Board of Zoning Appeals approved a Development Standards Variance in 2016 (DSV-2016-0073) for the construction of a maximum 80-foot high athletic field light poles.

Background:

The petitioner requests a rezoning from C3/General Commercial, C2/Limited Commercial, and R2/Two Family Residential to C3/General Commercial to expand the parking for the existing outdoor recreational facility. Appropriate zoning is already in place for the existing fields and facility and the proposed fields.

The site plan includes two new softball fields, increased parking, and additional lighting. The two softball fields will be located on the northeast side of the parcel, adjacent to Catalpa Street and each will include two dugouts, a batting cage, a bullpen and new light poles. There are three additional parking lots proposed, with locations adjacent to Freeman, Taylor, and Catalpa Streets respectively. The additional parking will allow up to 707 total parking spots. Applications have been submitted for vacations of Culbertson Street and a small strip of Morris Street on the north. These vacations will allow for the larger parking lot and a private drive to the north. The applicant plans to combine the parcels once the vacations have been approved.

A private restrictive covenant is in place to guide uses on the property already developed. A new written commitment will be placed on the expanded ground, to limit similar uses.

Comprehensive Plan Review:

Future Growth and Development Map, Goals, and Strategies

- The project site is located within the Urban Infill Area.
- The following Goal would be applicable:
LUD1 - Encourage compatible infill development and redevelopment in the Urban Infill and Priority Investment Areas

Overall Land Use Policies

- Staff determined the following Land Use Policies would be applicable and supportive of this request:
LUD 2 - Promote complete neighborhoods through sustainable development, preservation, and growth by encouraging and enhancing mixed use neighborhood areas.

Generalized Future Land Use Map

- The project site is located within the Open Space generalized land use category. The primary use is Recreational Facilities. Adjacent properties are a mixture of Suburban and Traditional Neighborhoods, Mixed Residential, Production Center, and Open Space.

Land Use Related Action Steps

- Staff determined the following Action Step would be applicable and supportive of this proposal:
PE.4.1.2 - Encourage conservation design and green and low-impact development practices to protect environmentally sensitive areas.

Compatibility Matrix

- This proposed use would fall into C3/General Commercial which is considered potentially compatible with the Suburban and Traditional Neighborhoods, and other adjacent categories.

Other applicable plans: none

PUBLIC HEARING SUMMARY:

Presenter: Caleb Kimmel, CEO of World Baseball Academy, presented the request as outlined above.

Public Comments:

Mike Post, Portage Boulevard – Concerns include noise, traffic, and lighting.

Jacob Duke, Willowdale – Doesn't want more land rezoned to commercial.

Mike Lynch, Portage Boulevard – Concerned with lighting and stormwater. Appreciates the organization.

David Lupke, West Jefferson – Concerned with traffic, lighting, noise.

Closing Comments:

Mr. Kimmel stated that they do have a need for more fields but do not need to build them now. The rezoning request is only for parking. They will record a Written Commitment matching the existing restrictive covenant over the rest of the property.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

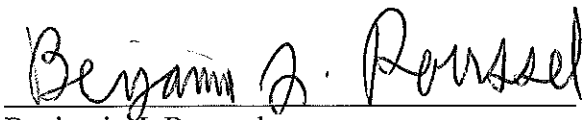
Rezoning Petition REZ-2023-0014

APPLICANT: World Baseball Academy
REQUEST: Rezone property from C3/General Commercial, C2/Limited Commercial, and R2/Two Family Residential to C3/General Commercial to expand an existing outdoor recreational facility
LOCATION: 1701 Freeman Street, at the northeast corner of Freeman and Taylor Streets (Section 9 of Wayne Township)
LAND AREA: 26.20 acres (4.0 acres for rezoning)
PRESENT ZONING: C3/General Commercial, C2/Limited Commercial, and R2/Two Family Residential
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2023-0014, 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 the City of Fort Wayne Comprehensive Plan and should not establish an undesirable precedent in the area. The C3/General Commercial zoning will provide World Baseball Academy with a larger parcel to develop two additional softball diamonds and additional lighting and parking, giving opportunity for more playable space on the property.
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 site is similar in character to many other baseball fields within the city.
3. Approval is consistent with the preservation of property values in the area. The site has historically been a baseball field. The surrounding area has already been developed.
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 adjacent residential zoning.

These findings approved by the Fort Wayne Plan Commission on May 15, 2023.



Benjamin J. Roussel
Executive Director
Secretary to the Commission

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made this 25th day of MAY, 2023 by WORLD BASEBALL ACADEMY, INC. an Indiana nonprofit corporation (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 26 acres of real estate located at 1701 FREEMAN STREET in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit "A" (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-2023-0014 (the "Zoning Application") and a Primary Development Plan Application bearing number PDP-2023-0016 (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, 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.

1. Permitted Uses. Any use permitted in a C2 zoning district pursuant to the Ordinance shall be a permitted use upon the Real Estate.
2. Permitted Uses. In addition to uses in the C2 zoning district, subject to the terms and conditions herein contained, only the following uses in the C3 zoning district shall be permitted upon the Real Estate:
 - 1) Athletic Field
 - 2) Batting Cage
 - 3) Golf Driving Range
 - 4) Recreation Facility (Indoor or Outdoor)
 - 5) Entertainment Facility (Indoor or Outdoor)

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, as applicable, following a public hearing held by the Plan Commission wherein notice has been given as provided by the Plan Commission's rules of procedure. The Plan Commission shall have the discretion whether to approve or deny any proposed modification or termination of this Commitment. The Plan Commission shall have the discretion whether to approve or deny any proposed modification or termination of this Commitment.
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 2012066304 and Document Number _____.
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.

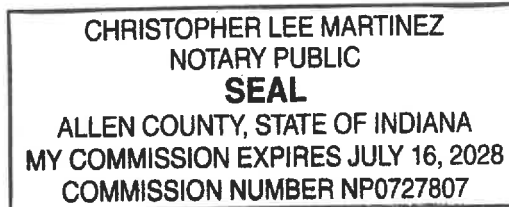
10. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
11. Effective Date. The effective date ("Effective Date") of this Commitment shall be the date of its recordation with the Office of the Recorder of Allen County, Indiana.

"DECLARANT"

WORLD BASEBALL ACADEMY, INC.
an Indiana nonprofit corporation

By: [Signature]
Printed Name: CALEB B. KIMMEL
Title: CEO

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)



Before me, the undersigned, a Notary Public, in and for said County and State, this 25th day of May, 2023, personally appeared Caleb B. Kimmel the CEO (title) of World Baseball Academy INC. and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

[Signature]
Notary Public

My Commission Expires: July 16 2028

My County of Residence: Allen

THIS INSTRUMENT prepared by [Signature]

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.

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE