

#REZ-2023-0018

BILL NO. Z-23-06-01

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. Q-07 (Sec. 18 of Adams 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:

RECORD DESCRIPTION: (as described in Document Number 2022050437)

Lots Numbered 170, 171, 172, 173, 174, and 175 in Pennsylvania Place, an Addition to the City
of Fort Wayne, according to the recorded plat thereof, recorded in Plat Book 7, pages 14-15, in
the office of the Recorder of Allen County, Indiana.

EXCEPTING THEREFROM: A part of Lot 175 in Pennsylvania Place Addition, a subdivision in
the City of Fort Wayne the plat of which subdivision is recorded in Plat Book 7, pages 14-15 in
the Office of the Recorder of Allen County, Indiana and being in the Northeast Quarter of
Section 18, Township 30 North, Range 13 East, described as follows: Beginning at the Southeast
corner of said Lot 175, thence South 89 degrees 39 minutes 30 seconds West 20.37 feet along the
South line of said Lot 175; thence North 38 degrees 49 minutes 41 seconds East 32.44 feet to the
East line of said Lot 175; thence South 00 degrees 05 minutes 06 seconds East 25.15 feet along
said East line to the point of beginning, said in previous deeds to contain 0.006 acres (256 square
feet), more or less.

and the symbols of the City of Fort Wayne Zoning Map No. Q-07 (Sec. 18 of Adams
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.

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

Council Member

APPROVED AS TO FORM AND LEGALITY:

Malak Heiny, City Attorney

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2023-0018
Bill Number: Z-23-06-01
Council District: 6-Sharon Tucker

Introduction Date: June 6, 2023

Plan Commission
Public Hearing Date: June 12, 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 0.76 acres from C2/Limited Commercial to C3/General Commercial with a Written Commitment to limit uses.

Location: 3418 Wayne Trace

Reason for Request: To allow for the use of the existing business as a food product importer/wholesaler

Applicant: Hanifah Amin

Property Owner: Hanifah Amin

Related Petitions: none

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which permits wholes facilities. A Written Commitment is offered to limit more intensive uses in the C3 district.

Effect of Non-Passage: The property will remain zoned C2/Limited Commercial and may redevelop with a variety of commercial and office uses.

Department of Planning Services Rezoning Petition Application

Applicant

Applicant Hanifah Amin
Address 5125 Standish Drive
City Fort Wayne State IN Zip 46806
Telephone 786-556-8295 E-mail hannymta@gmail.com

Property Ownership

Property Owner Abu Hanifah LLC
Address 5125 Standish Drive
City Fort Wayne State IN Zip 46806
Telephone 7865568295 E-mail hannymta@gmail.com

Contact Person

Contact Person Hanifah Amin
Address 5125 Standish Drive
City Fort Wayne State IN Zip 46806
Telephone 786-556-8295 E-mail hannymta@gmail.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 383418 Wayne Trace Township and Section Adam 18
Present Zoning C2 Proposed Zoning C3 Acreage to be rezoned 0.76
Purpose of rezoning (attach additional page if necessary) is to allow for wholesaling

Sewer provider City Utilities Water provider City utilities

Filing Checklist

Applications will not be accepted unless the following filing requirements are submitted with this application.

- ☐ Filing fee \$1000.00
- ☐ Surveys showing area to be rezoned
- ☐ Legal Description of parcel to be rezoned
- ☐ Rezoning Criteria (see attached checklist)

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 Fort Wayne and Allen County Plan Commissions 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

Hanifah Amin
(printed name of applicant)

Hanifah Amin
(signature of applicant)

04/28/2023
(date)

Hanifah Amin
(printed name of property owner)

Hanifah Amin
(signature of property owner)

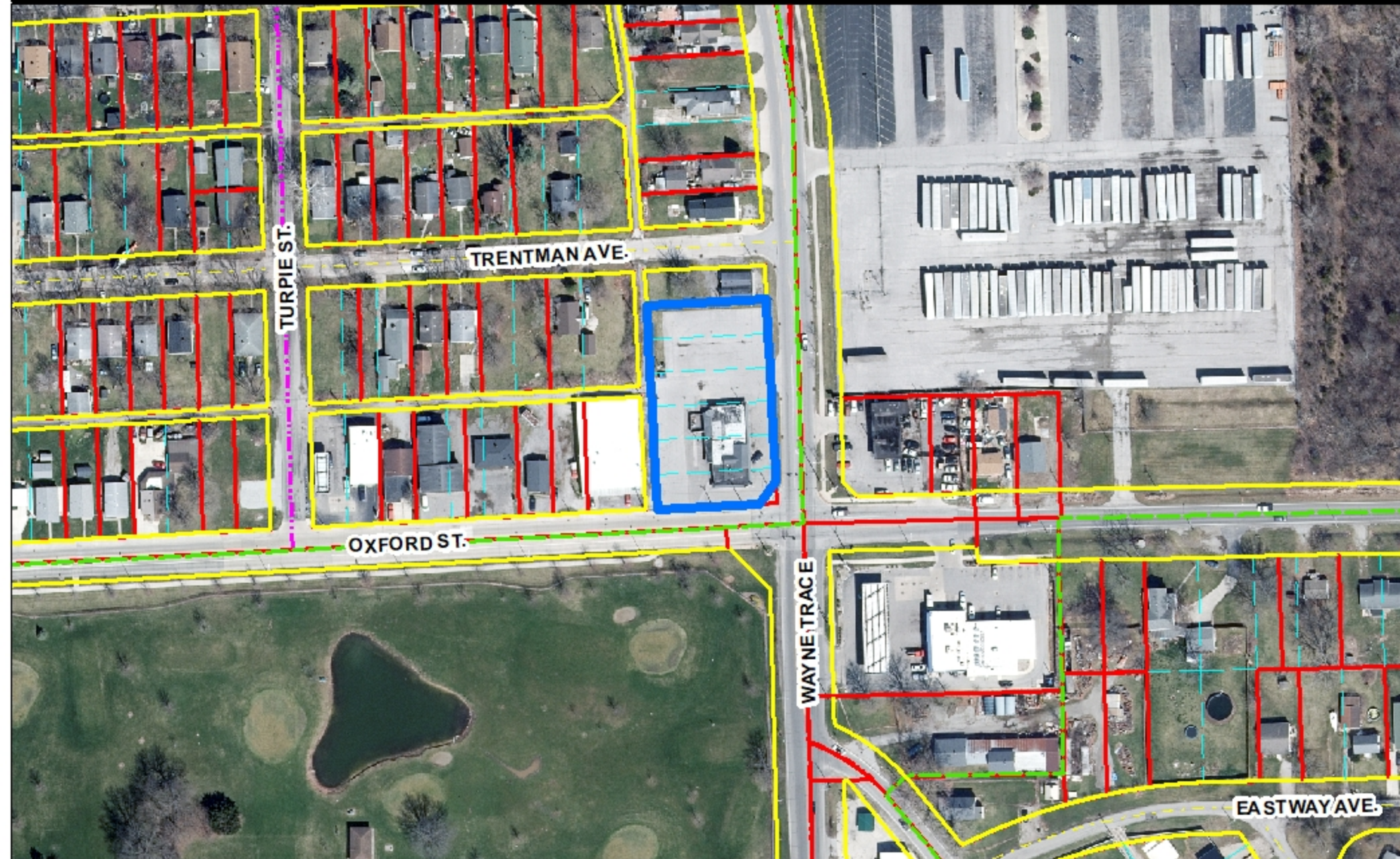
04/28/2023
(date)



Received	Receipt No.	Hearing Date	Petition No.
4-28-23	38426711	6-12-23	REZ-2023-0018

Department of Planning Services • 200 East Berry Suite 150 • Fort Wayne, Indiana • 46802
Phone (260) 449-7607 • Fax (260) 449-7682 • www.allencounty.us • www.cityoffortwayne.org





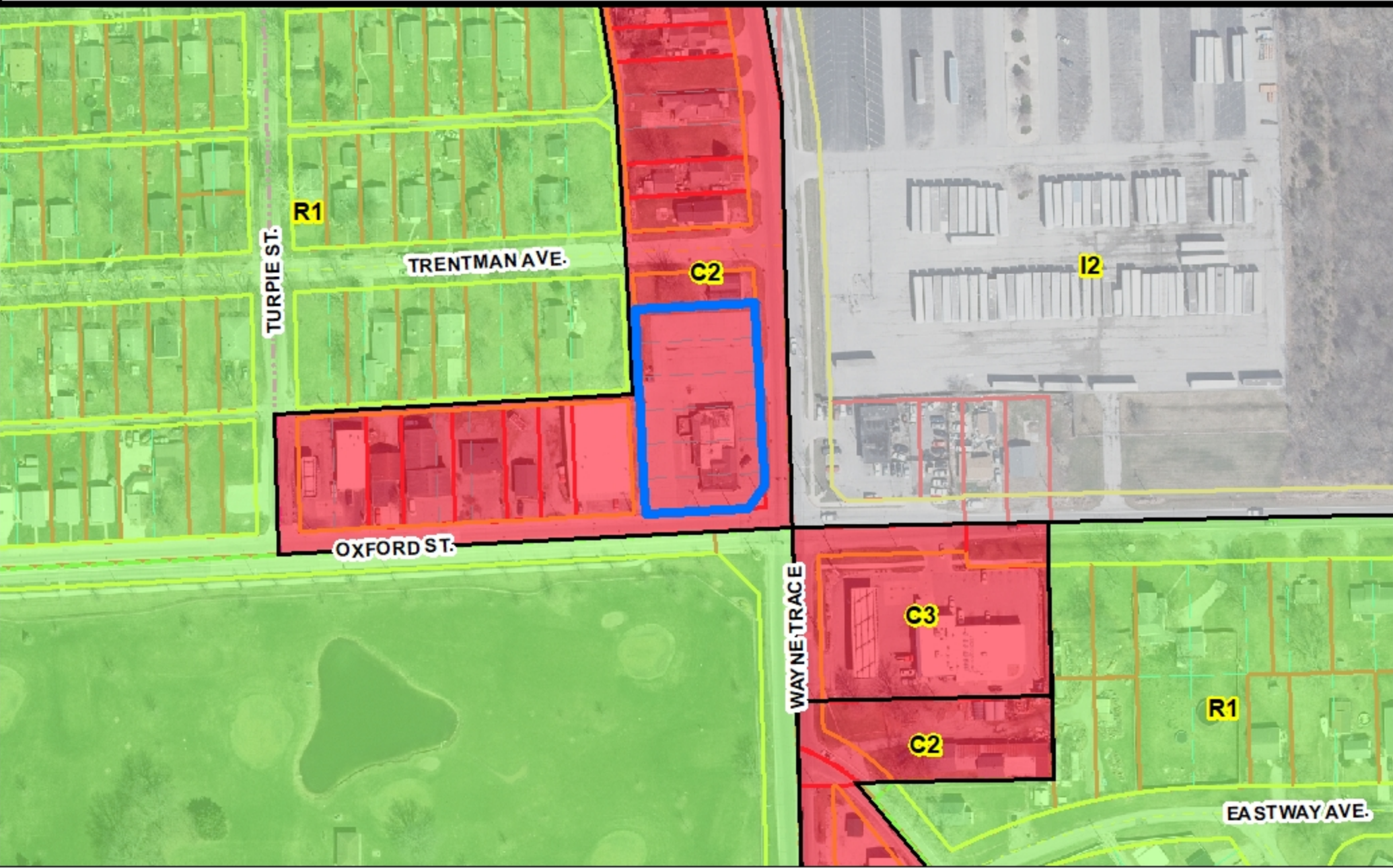
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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: 5/16/2023

0 50 100 Feet

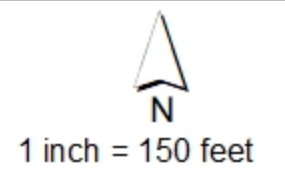
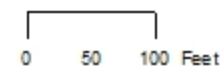


1 inch = 150 feet



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.

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WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made this ____ day of _____, 2023 by _____, an Indiana nonprofit corporation (the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 0.76 acres of real estate located on 3418 Wayne Trace in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit “A” (the “Real Estate”); and

WHEREAS, Declarant submitted a rezoning petition with respect to the Real Estate to rezone the Real Estate from C2/Limited Commercial zoning district to a C3/General Commercial zoning district, bearing number REZ-2023-0018 (the “Petition”), which Petition has been approved by the City of Fort Wayne Plan Commission (the “Plan Commission”) and the Fort Wayne Common Council (“City Council”); and

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

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

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

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

- 1) Automobile accessory store
- 2) Automobile auction
- 3) Automobile body shop
- 4) Automobile detailing or trim shop
- 5) Automobile maintenance (quick service)
- 6) Automobile rental
- 7) Automobile repair
- 8) Automobile restoration
- 9) Automobile rustproofing

- 10) Automobile sales
- 11) Automobile washing facility
- 12) Motor vehicle auction
- 13) Motor vehicle rental
- 14) Motor vehicle repair
- 15) Motor vehicle sales
- 16) Truck fueling station
- 17) Truck stop

2. Permitted Uses. Any use otherwise permitted in a C3 zoning district pursuant to the Ordinance which is not expressly prohibited pursuant to Section 1 above shall be a permitted use upon the Real Estate.
3. Permits. No permits shall be issued under the Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder. The Declarant shall deliver to the Zoning Administrator and the Plan Commission an executed and recorded copy of this Commitment.
4. Binding Effect, Modification, and Termination. This Commitment shall run with the Real Estate, and shall be binding upon the Declarant and each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless this Commitment is modified or terminated. The recitals are incorporated herein by reference and are expressly made a part of this Commitment. This Commitment may be modified or terminated only by a decision of the Plan Commission, 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.
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 2022050437.
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”

By: _____

Printed Name:

Title:

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of _____, 2023, personally appeared _____ and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

Notary Public

My Commission Expires: _____

My County of Residence: _____

THIS INSTRUMENT prepared by _____

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.

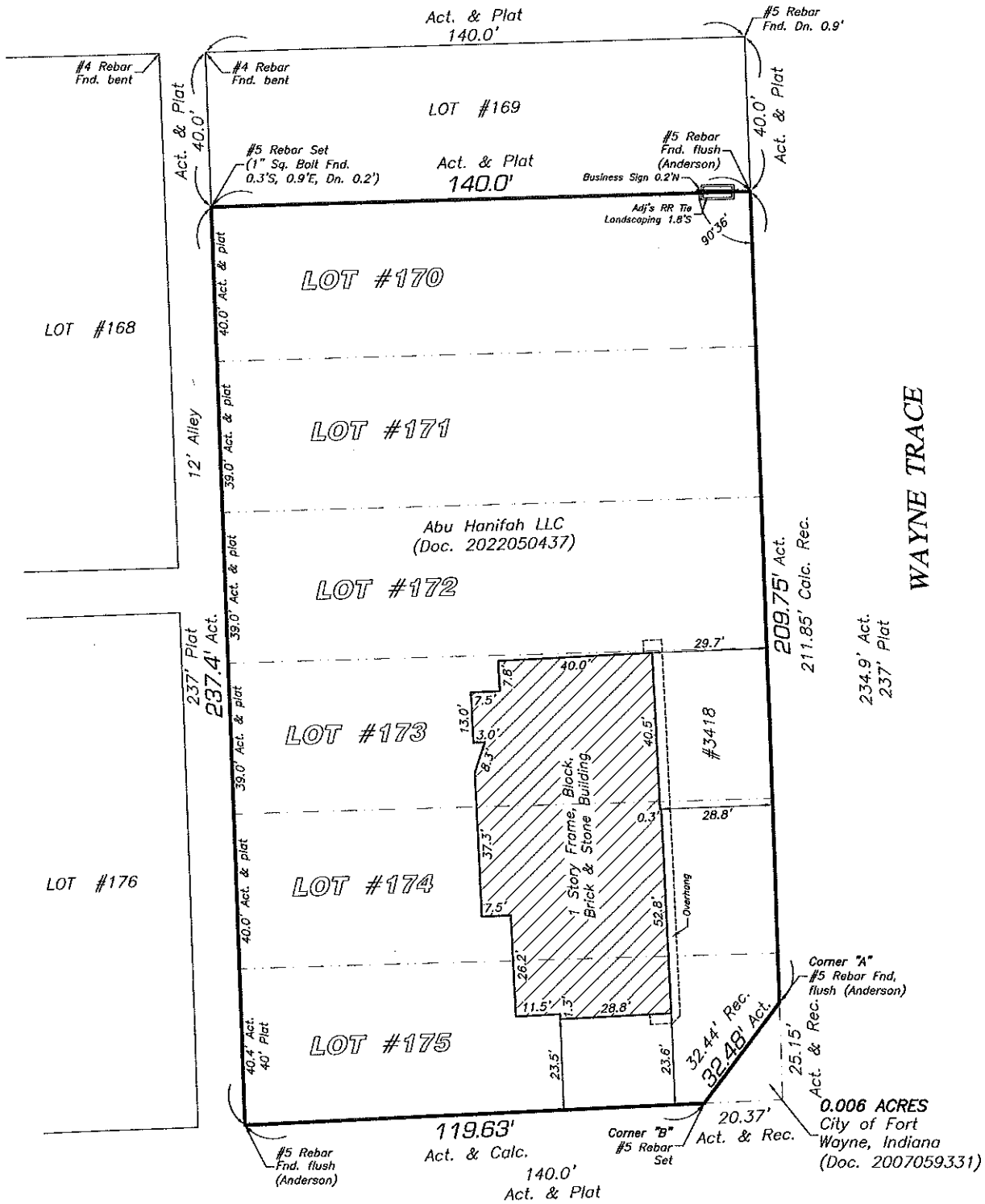
EXHIBIT “A”

LEGAL DESCRIPTION OF REAL ESTATE

PLAT OF SURVEY

1" = 40'

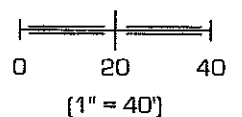
TRENTMAN AVENUE (50' R/W)



WAYNE TRACE



SCALE IN FEET:



Sauer Land Surveying, Inc.

Joseph R. Herendeen, PS, Co-Principal Indiana Firm Number 048
Wade N. Hacker, Co-Principal
Brian W. Jacquay, PS
John C. Sauer, PS - retired

14033 Illinois Road, Suite C
Fort Wayne, IN 46814
TEL 260/469-3300 FAX 260/469-3301
Toll Free: 877-625-1037
www.sauersurveying.com

CERTIFICATE OF SURVEY

This document is a record retracement survey of real estate prepared under IAC 885 Rule 12 in conformity with established practices of surveying and made in accordance with the records on file in the Office of the Recorder of Allen County, Indiana. The land described exists in full dimensions as shown hereon in feet. It is free from visible encroachments either way across boundary lines unless specifically stated below. Corners were perpetuated as indicated.

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This property appears to lie within Zone X as the description plots by scale on Flood Insurance Rate Map No. 18003C 0315G, effective August 3, 2009.

Reason for Request to Rezone

The property 3418 Wayne Trace Fort Wayne, IN, 46806 is currently owned by Abu Hanifah LLC. Current zone is C2 and requesting to rezone for C3. Abu Hanifah LLC is a wholesaler for food products to the groceries around the Fort Wayne and also to some other states. We import food products from Myanmar. We are also planning to increase the business by importing from few other Asian countries such Thailand, Malaysia and Vietnam. We are participating in increasing the food resources in Allen County by providing variety foods for countries.

Yours sincere,


Hanifah Amin

Managing Director of Abu Hanifah LLC

Date: 04/28/2023