

#REZ-2023-0019

BILL NO. Z-23-06-02

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. K-46 (Sec. 10 of Washington 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:

PARCEL 1:

LOT NUMBER 87 IN MAYFIELD PLACE, AN ADDITION TO THE CITY OF FORT
WAYNE, AS RECORDED IN PLAT RECORD 16, PAGE 140 AND RE-RECORDED IN
PLAT RECORD 17, PAGE 67; EXCEPT THAT PART TAKEN FOR ROAD WIDENING
PURPOSES AS RECORDED IN DEED RECORD 584, PAGES 129-130, AND EXCEPT
THAT PART TAKEN FOR ROAD WIDENING PURPOSES AS RECORDED IN
DOCUMENT NUMBER 2007070614.

PARCEL 2:

LOT NUMBER 86 IN MAYFIELD PLACE, AN ADDITION TO THE CITY OF FORT
WAYNE, INDIANA, BEING A SUBDIVISION OF LOT 51 IN HOLLYWOOD
GARDENS AMENDED ADDITION TO THE CITY OF FORT WAYNE, INDIANA,
ACCORDING TO THE RECORDED PLAT THEREOF, IN PLAT RECORD 16, PAGE
140 AND RE-RECORDED IN PLAT RECORD 17, PAGE 67, IN THE OFFICE OF THE
RECORDER OF ALLEN COUNTY, INDIANA.

EXCEPT THEREFROM THAT PART OF THE ABOVE-DESCRIBED REAL ESTATE
CONVEYED TO THE STATE OF INDIANA BY WARRANTY DEED RECORDED
MAY 27, 2008 AS DOCUMENT NO. 2008025582 IN THE OFFICE OF THE RECORDER
OF ALLEN COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

A PART OF LOT 86 IN MAYFIELD PLACE AN ADDITION TO THE CITY OF FORT
WAYNE, INDIANA, THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 17, PAGE
67, IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, AND
BEING THAT PART OF THE GRANTOR'S LAND LYING WITHIN THE RIGHT OF
WAY LINES DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT,
MARKED EXHIBIT "B, DESCRIBED AS FOLLOWS: BEGINNING AT THE
NORTHWEST CORNER OF SAID LOT; THENCE NORTH 89 DEGREES 26 MINUTES
31 SECONDS EAST 100.02 FEET (100 FEET BY PLAT BOOK 17, PAGE 67) ALONG
THE NORTH LINE OF SAID LOT TO THE NORTHEAST CORNER OF SAID LOT;
THENCE SOUTH 1 DEGREE 49 MINUTES 40 SECONDS EAST 10.50 FEET ALONG
THE EAST LINE OF SAID LOT TO POINT "492" DESIGNATED ON SAID PARCEL

1 PLAT; THENCE SOUTH 84 DEGREES 29 MINUTES 03 SECONDS WEST 100.21 FEET
2 TO THE WEST LINE OF SAID LOT; THENCE NORTH 1 DEGREE 49 MINUTES 40
3 SECONDS WEST 19.16 FEET ALONG SAID LOT LINE TO THE POINT OF
4 BEGINNING AND CONTAINING 1,483 SQUARE FEET, MORE OR LESS.

5 and the symbols of the City of Fort Wayne Zoning Map No. K-46 (Sec. 10 of Washington
6 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
7 Wayne, Indiana is hereby changed accordingly.

8 SECTION 2. If a written commitment is a condition of the Plan Commission's
9 recommendation for the adoption of the rezoning, or if a written commitment is modified and
10 approved by the Common Council as part of the zone map amendment, that written
11 commitment is hereby approved and is hereby incorporated by reference.

12
13 SECTION 3. That this Ordinance shall be in full force and effect from and after its
14 passage and approval by the Mayor.

15
16 _____
Council Member

17 APPROVED AS TO FORM AND LEGALITY:

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19 _____
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-2023-0019
Bill Number: Z-23-06-02
Council District: 3-Tom Didier

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 0.58 acres from R1/Single Family to C3/General Commercial.

Location: 7928 Lima Road

Reason for Request: To allow for automobile sales.

Applicant: Tall Cross LLC

Property Owner: Scott Eckelbarger

Related Petitions: PDP-2023-0019 – Tall Cross Auto Sales

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which allows for outdoor automobile sales.

Effect of Non-Passage: The property will remain zoned R1/Single Family Residential, which may redevelop with residential uses.

Department of Planning Services
Rezoning Petition Application

Extra if
necessary

Applicant
Applicant Tall Cross LLC
Address 11511 Green Holly Cove
City Ft. Wayne State IN Zip 46845
Telephone 260-515-2903 E-mail ScottEck27@yahoo.com

Contact Person
Contact Person Scott B. Eckelbarger - owner
Address 11511 Green Holly Cv.
City Ft Wayne State IN Zip 46845
Telephone 260-515-2903 E-mail ScottEck27@yahoo.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 7928 Line Rd + 1625 S. Mayfield Dr
Present Zoning R1 Proposed Zoning C3 Acreage to be rezoned .58
Proposed density _____ units per acre
Township name Washington Township section # 6
Purpose of rezoning (attach additional page if necessary) _____

Sewer provider City Water provider well

Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application.
Please refer to checklist for applicable filing fees and plan/survey submittal requirements.

- ☐ Applicable filing fee
- ☐ Applicable number of surveys showing area to be rezoned (plans must be folded)
- ☐ Legal Description of parcel to be rezoned
- ☐ Rezoning Questionnaire (original and 10 copies) County 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.

Tall Cross LLC (printed name of applicant) [Signature] (signature of applicant) 5-2-23 (date)

Tall Cross LLC (printed name of property owner) [Signature] (signature of property owner) 5-2-23 (date)

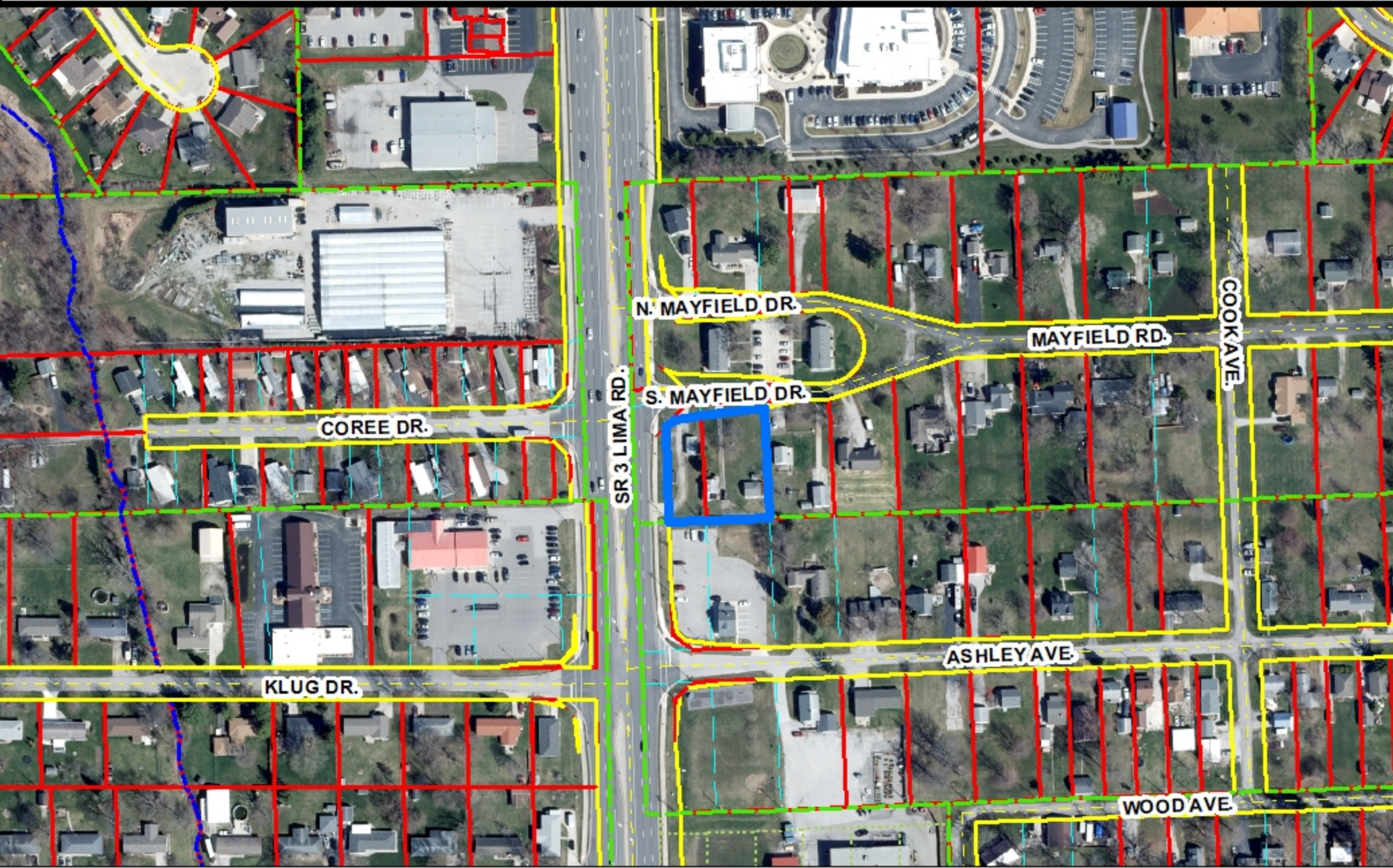
Scott B. Eckelbarger (printed name of property owner) [Signature] (signature of property owner) 5-2-23 (date)

(printed name of property owner) (signature of property owner) (date)

Received	Receipt No.	Hearing Date	Petition No.
5-1-23	143105	6-12-23	RE2-2023-0019

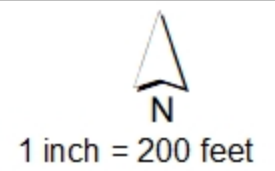
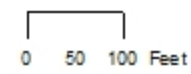


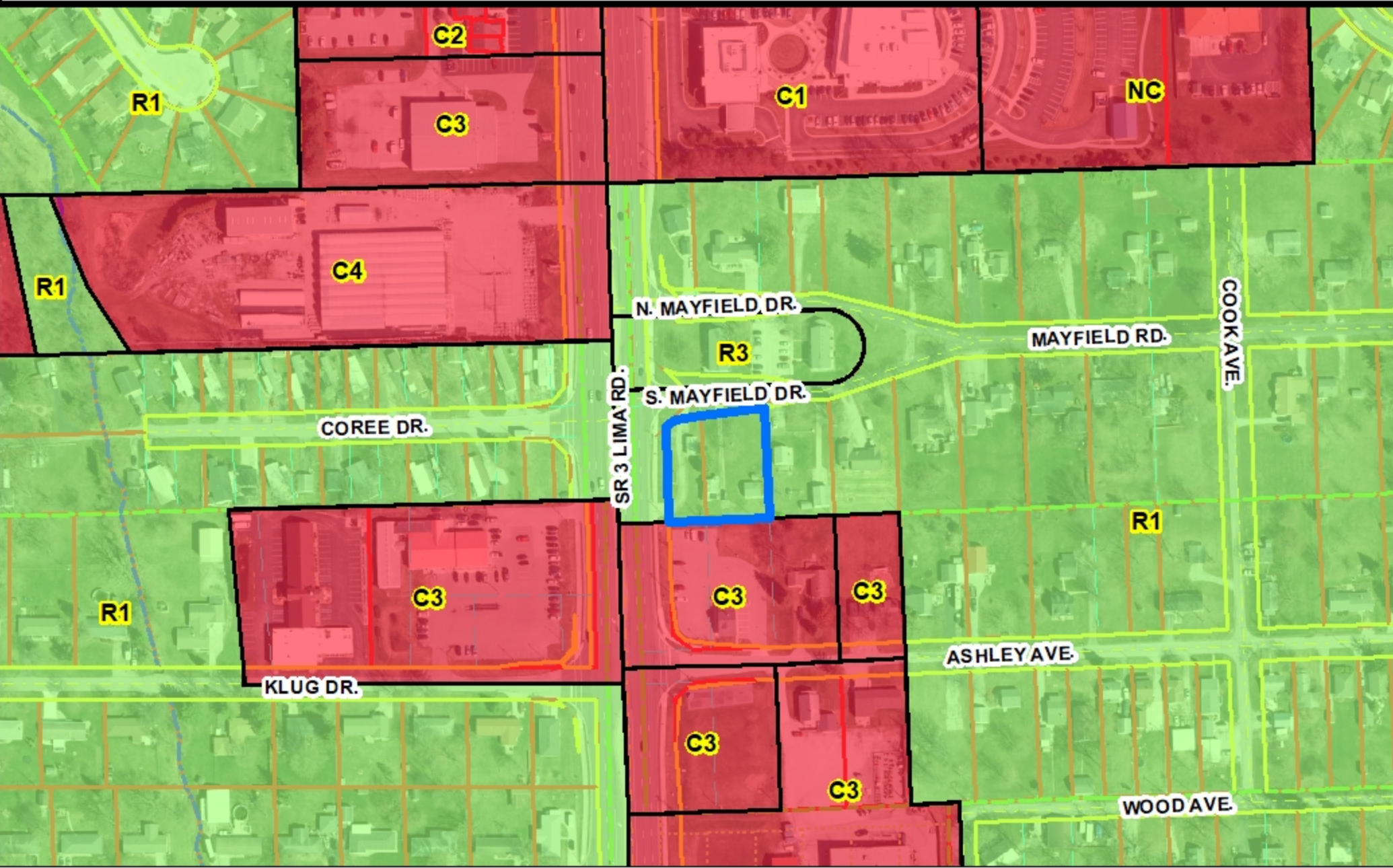
Rezoning Petition REZ-2023-0019 and Primary Development Plan PDP-2023-0019 -Tall Cross Auto Sales



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





STATE ROAD #3
PROJECT STP-237-1(004)
(PB 584 PG. 129-130)



LEGAL DESCRIPTION:

The undersigned has made a survey of the real estate located in Allen County, Indiana, as shown and described below. The description of the real estate is as follows:

PARCEL 1:

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GENERAL NOTES

- Current Zoning: "R1"
- Existing Land Use: Residential
- The project shall be serviced by the City of Fort Wayne sanitary sewer and water.
- Setbacks shall conform to City of Fort Wayne Zoning Ordinances unless the proper variances have been approved.
- Site/Building drainage shall be managed onsite with a detention basin and controlled release into the municipal sewer system.
- Proposed parking and driving areas shall be asphalt and stone aggregate.
- Parking Provided: 39 stalls.
- All landscape and lighting shall be in accordance with the City of Fort Wayne Zoning Ordinance unless the proper variances have been obtained.

LEGEND

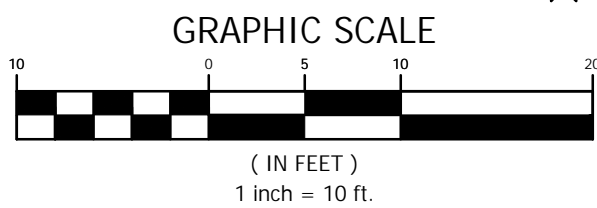
- LOT #85
- Asphalt Pavement
 - Stone Aggregate Pavement

PETITIONER
TALL OAK LLC

11511 Green Valley Court
Fort Wayne, IN 46818

SURVEYOR / ENGINEER
ABONMARCHÉ

229 W. Berry Street, Suite 100
Fort Wayne, IN 46802
T 260.218.2500



NO.	REVISION DESCRIPTION	BY	DATE
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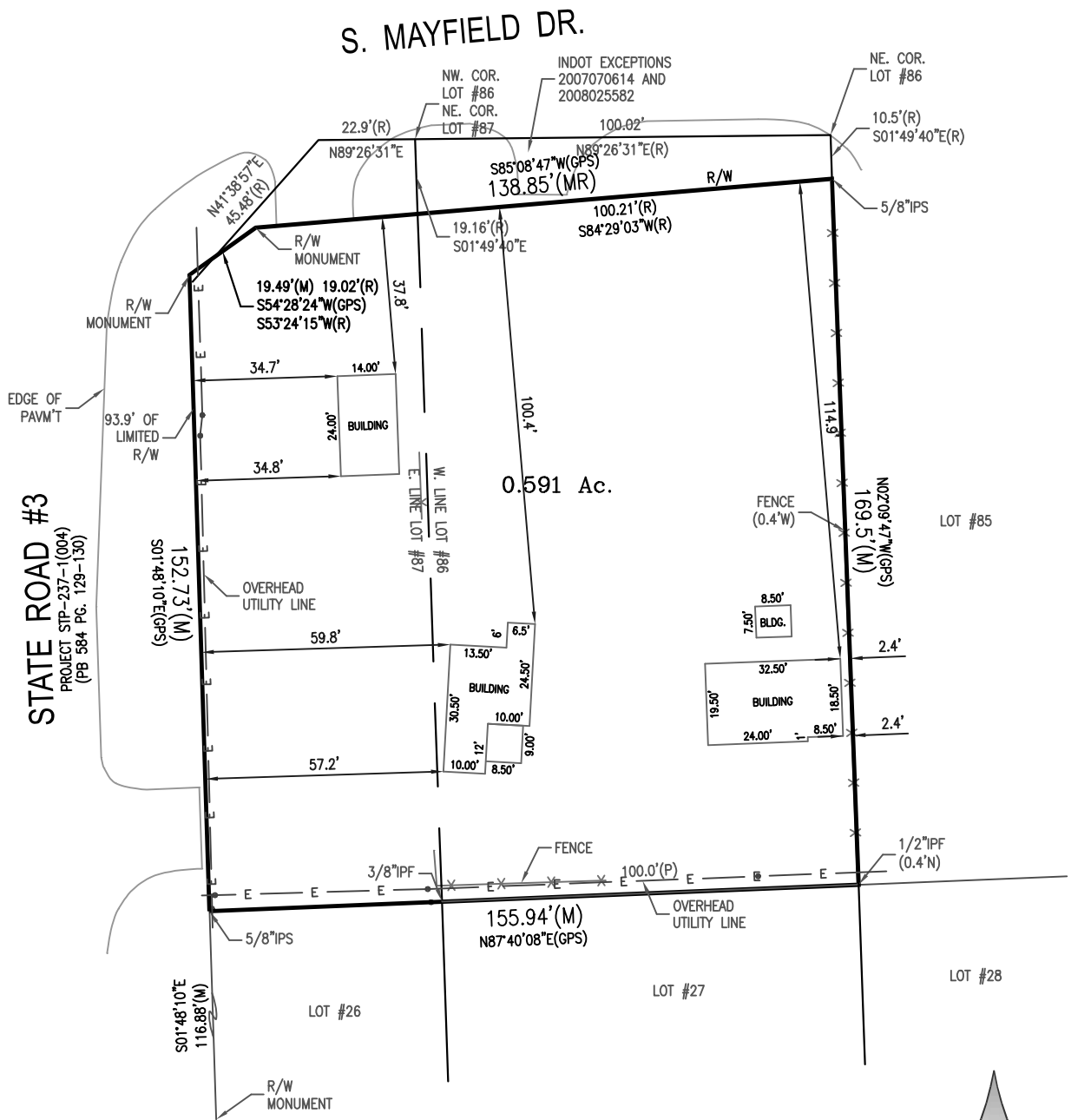
PLAT OF SURVEY

DONOVAN SURVEYING, INC.
3521 LAKE AVENUE, SUITE 2
FORT WAYNE, INDIANA 46805
260.424.7418
www.donovan-eng.com

GREGORY L. ROBERTS PLS S0548 IN

KENNETH W. HARRIS PLS 29500021 IN
MICHAEL W. HARRIS PLS 21100018 IN

The undersigned has made a survey of the real estate located in Allen County, Indiana, as shown and described below. The description of the real estate is as follows: SEE ATTACHED SHEET!



Job No.:22-5763 Date:04/07/22
Job for:MURRAY/ECKELBARGER

LEGEND

- IPF Iron Pin (Rebar) Found
- PF Pipe Found
- RRF Railroad Spike Found
- PKF P.K. Nail Found
- MNF Mag Nail Found
- MNS Mag Nail Set
- IPS 5/8" rebar set w/cap stamped "DEI FIRM #0027"
- (M) Measured (P) Platted
- (R) Recorded (C) Calculated

All monuments are at grade except as noted.
All Property line distances are recorded dimensions, except as noted. Monuments found have no documented history except as noted.

I hereby certify that this survey was completed under my direct supervision and to the best of knowledge and belief was executed according the requirements set forth in 865 IAC 1-12.

Date of latest field work: 03-28-22

GREGORY L. ROBERTS
REGISTERED
No. S0548
STATE OF INDIANA
LAND SURVEYOR

Gregory L. Roberts

SHEET 1 OF 2

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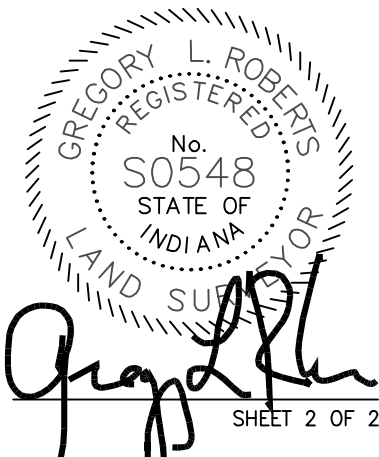
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FACT SHEET

Case #	REZ-2023-0019	Bill #	Z-23-06-02	Project Start:	May 2023
PROPOSAL:	Rezoning Petition REZ-2023-0019 and Primary Development Plan PDP-2023-0019 – Tall Cross Auto Sales				
APPLICANT:	Tall Cross LLC				
REQUEST:	Rezone property from R1/Single Family Residential to C3/General Commercial and to approve a primary development plan for a new automobile sales facility.				
LOCATION:	7928 Lima Road, southeast corner of its intersection with South Mayfield Dr (Section 10 of Washington Township)				
LAND AREA:	0.58 acre				
PRESENT ZONING:	R1/Single Family Residential				
PROPOSED ZONING:	C3/General Commercial				
COUNCIL DISTRICT:	3-Tom Didier				
SPONSOR:	City of Fort Wayne Plan Commission				

June 12, 2023 Public Hearing

- One person spoke with concerns.
- All Plan Commission members were present.

June 26, 2023 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Paul Sauerteig and seconded by Patrick Zaharako to return the ordinance with a Do Pass recommendation and a written commitment to Common Council for their final decision.

7-0 MOTION PASSED

- Tom Freistroffer was absent.
- Ryan Neumeister left early.

Fact Sheet Prepared by:
Karen Couture, Associate Land Use Planner
July 18, 2023

PROJECT SUMMARY

- The site was platted as lots 86 and 87 of Mayfield Place in 1946.
- Much of the land for lot 87 was dedicated to public right-of-way when SR 3 expanded.
- About five structures sit on the development site today.

The petitioner requests a rezoning from R1/Single Family Residential to C3/General Commercial to accommodate an automobile sales facility. Today, the site is bound to the west by SR 3 which currently has an average daily traffic count of about 42,300 motorists. Mayfield Drive is an established subdivision containing mostly singly family dwellings. A multiple family complex was constructed in the wide boulevard across from the development site. A newly constructed automobile sales facility was constructed south. This stretch of SR 3, between Cook and Dupont Roads, has a mixture of established subdivisions from the 1940's to the 1980's but has seen an increase in commercial development with institutions like Davco Cars (2015), the Fort Financial Credit Union headquarters (2020), and the Northland Shopping Center. The site is adjacent to other platted lots, and the closest home is about 11' from the property line of the development site. The site would not likely be the highest and best use as R1 given its proximity to SR 3 and the adjacent zoning. The applicant will execute a written commitment to mitigate some C3 uses, given its adjacency to the R1 zoning district.

In association with the rezoning petition, the applicant intends on modifying the existing facility by removing some buildings, repurposing other buildings, and constructing a parking lot with landscaping and storm detention. The two southernmost structures will remain with the other outbuildings being demolished. An existing sidewalk runs north and south. The Walk Fort Wayne plan identifies this site as a pedestrian generating area, so the applicant would be required to install a 5-foot sidewalk along the frontage of South Mayfield Drive also. The pavement meets all setbacks and exceeds setbacks adjacent to the residential zoning district, at about 22 feet from the property line. The applicant intends on using the existing curb cuts along South Mayfield Drive, so no new access points will be created on to State Road 3. The landscaping plan will meet all of the screening and buffering standards. Overall, the Lima Road corridor hosts several automobile sales, so the use is consistent with other uses in the area.

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

- The following Land Use Policies would be applicable and supportive of this request:
LUD Policy 6 Transform key suburban corridors over time into mixed use areas with housing, neighborhood-oriented retail, public spaces, walkable public realms, and transit service.
LUD Policy 7 Encourage compatible adaptive reuse of vacant, obsolete, or underutilized nonresidential buildings.

Generalized Future Land Use Map

- The project site is located within the Traditional Neighborhood classification. There are no primary or secondary uses in this classification that are associated with automotive uses. (Staff note: The adjacent car lots, equipment sales, and other C3 uses along Lima Road are also categorized as Traditional Neighborhood on the map.)

Land Use Related Action Steps

- The following Action Step would be applicable and supportive of this proposal:
HN.1.1.3. Encourage the development of an integrated network of sidewalks, trails, and bike routes within existing and new neighborhoods that will provide safe access to community amenities.
TM.2.1.3. Identify and prioritize active transportation gaps and encourage improved connectivity in new developments in addition to expanding transit service areas.

Compatibility Matrix

- This proposed use would fall into C3/General Commercial which is considered potentially compatible with Traditional Neighborhood. Impact mitigation can include a written commitment to limit uses, building design, enhanced landscaping, enhanced access and connectivity as trails and sidewalks, shared access points/roads, street interconnections, etc.

Other applicable plans: none

PUBLIC HEARING SUMMARY:

Presenter: Bill Etzler from Abonmarche, engineer for the project, presented the request as outlined above.

Public Comments:

Rebecca Ramos, Mayfield Drive – Concerns with landscaping, fence, and auto detailing.

Richard Beard, Mayfield Drive (email) – Concerns with traffic and no benefit to neighborhood.

Albert Forks, Mayfield Drive (email) – Concerns with dramatic and unwanted change to neighborhood.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

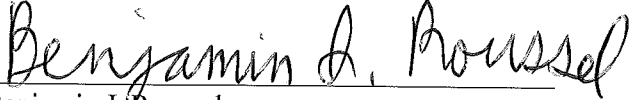
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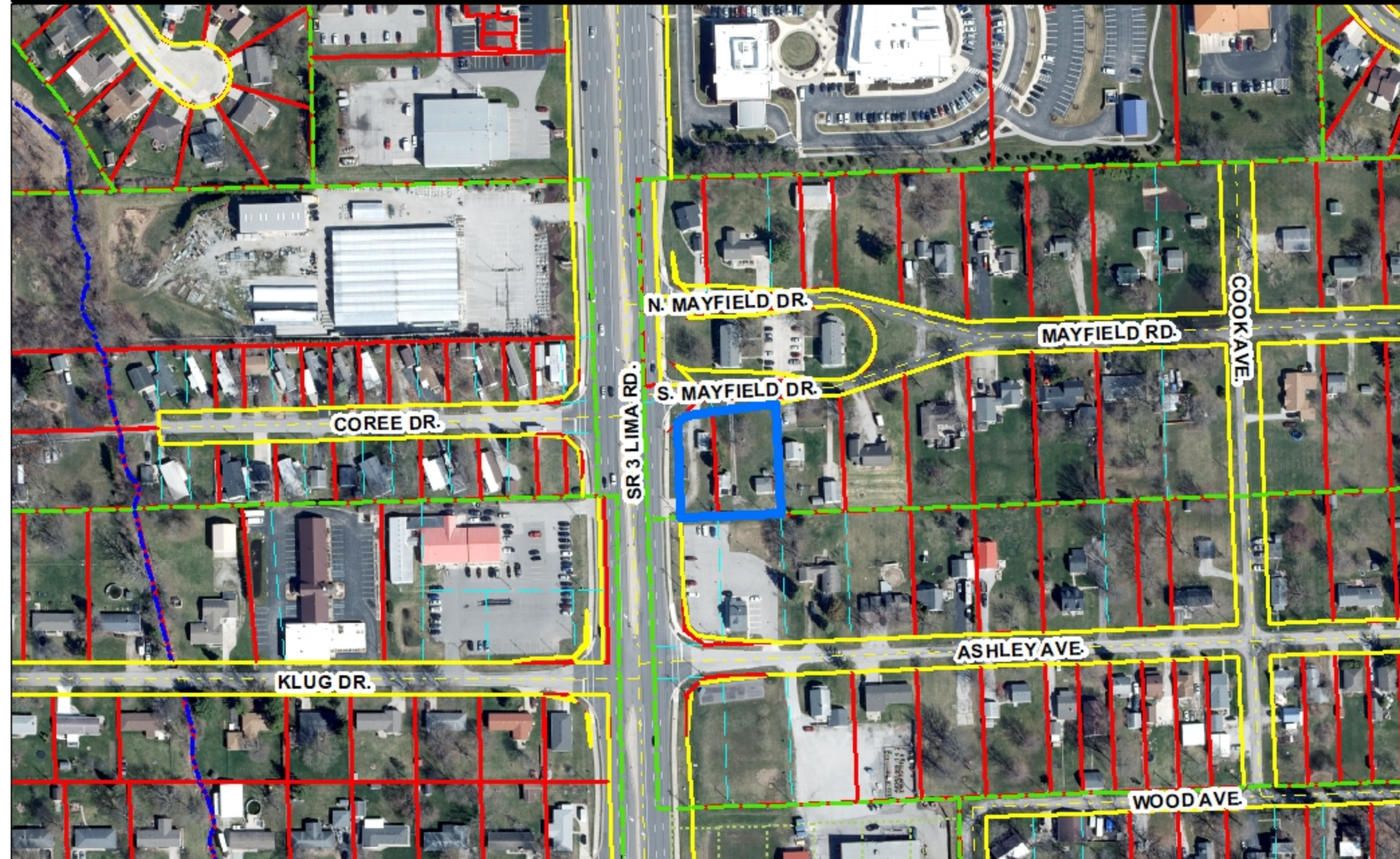
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LAND AREA: 0.58 acre
PRESENT ZONING: R1/Single Family Residential
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2023-0019 be returned to Council, with a “Do Pass” recommendation, with a written commitment, 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 site is adjacent to existing C3 zoning district. The Lima Road / SR 3 corridor hosts several automobile sales. The Comprehensive Plan encourages adaptive reuse of vacant buildings.
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. A written commitment has the intention to mitigate impact on adjacent residential properties by discouraging more intensive uses that are not conducive to residential properties. The applicant intends on eliminating dilapidated structures and install adequate buffering against existing residential lots.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow investment into a currently vacant property. The comprehensive plan identifies a C3 against a traditional neighborhood as potentially compatible with written commitment and landscaping and buffering, which the applicant has commitment to undertake.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for the proposed uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on June 26, 2023.


Benjamin J. Roussel
Executive Director
Secretary to the Commission



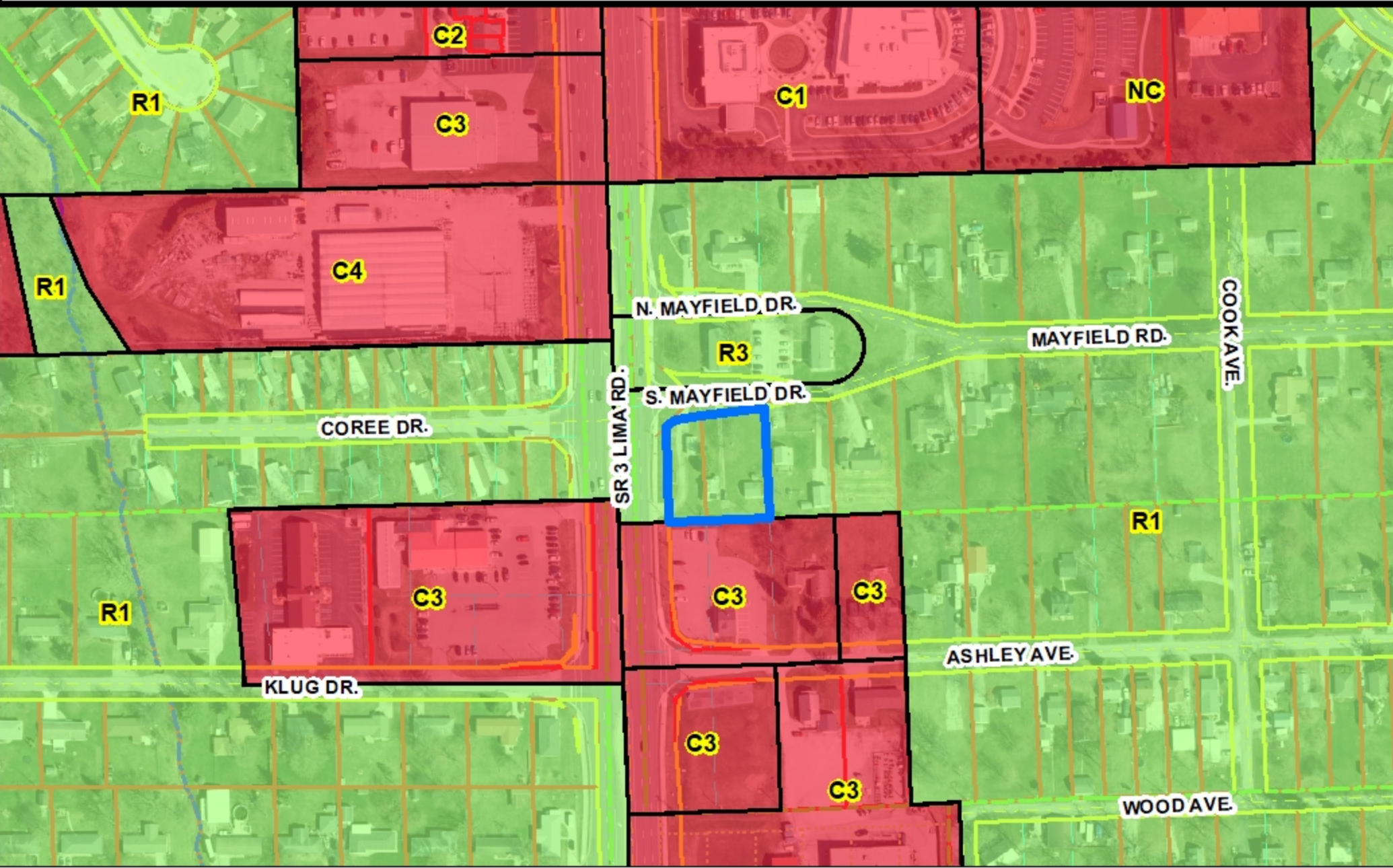
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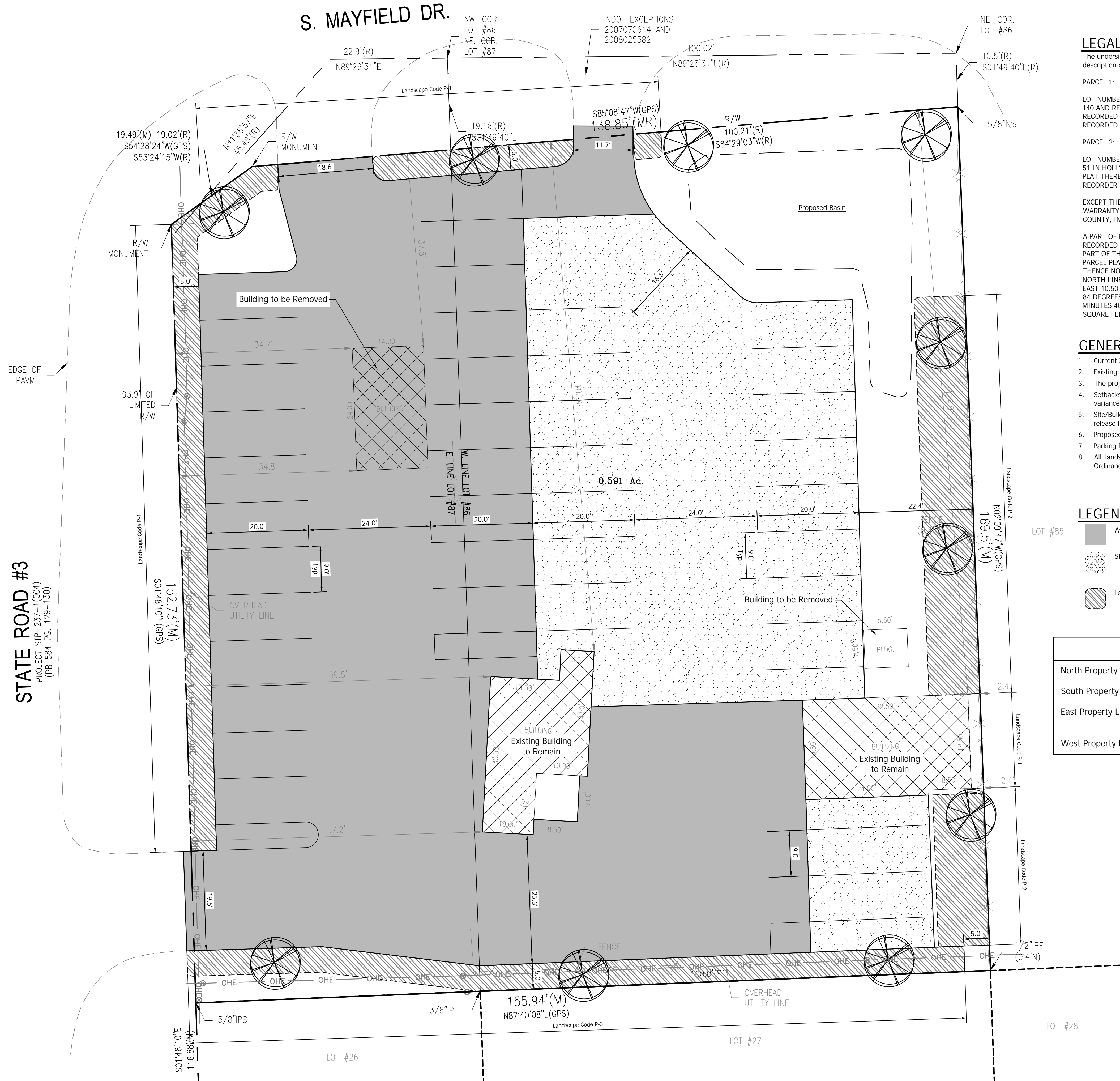
0 50 100 Feet



1 inch = 200 feet



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GENERAL NOTES

- Current Zoning: "R1"
- Existing Land Use: Residential
- The project shall be serviced by the City of Fort Wayne sanitary sewer and water.
- Setbacks shall conform to City of Fort Wayne Zoning Ordinances unless the proper variances have been approved.
- Site/Building drainage shall be managed onsite with a detention basin and controlled release into the municipal sewer system.
- Proposed parking and driving areas shall be asphalt and stone aggregate.
- Parking Provided: 39 stalls.
- All landscape and lighting shall be in accordance with the City of Fort Wayne Zoning Ordinance unless the proper variances have been obtained.

LEGEND

- LOT #85
- Asphalt Pavement
 - Stone Aggregate Pavement
 - Landscape Buffer Areas

Landscape Requirements

North Property Line	5', Parking Area Buffer Yard Code P-1
South Property Line	5', Parking Area Buffer Yard Code P-3
East Property Line	Existing Building Buffer Code B-1 10', Parking Area Buffer Yard Code P-2
West Property Line	5', Parking Area Buffer Yard Code P-1

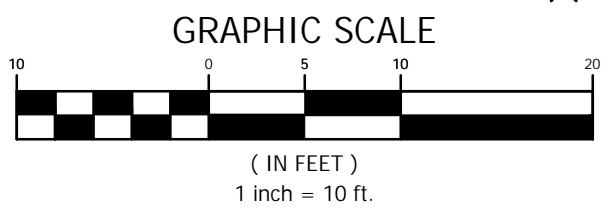
PETITIONER

TALL OAK LLC
11511 Green Valley Court
Fort Wayne, IN 46818

SURVEYOR / ENGINEER



229 W. Berry Street, Suite 100
Fort Wayne, IN 46802
T 260.218.2500



PROJECT SUMMARY

- The site was platted as lots 86 and 87 of Mayfield Place in 1946.
- Much of the land for lot 87 was dedicated to public right-of-way when SR 3 expanded.
- About five structures sit on the development site today.

The petitioner requests a rezoning from R1/Single Family Residential to C3/General Commercial to accommodate an automobile sales facility. Today, the site is bound to the west by SR 3 which currently has an average daily traffic count of about 42,300 motorists. Mayfield Drive is an established subdivision containing mostly singly family dwellings. A multiple family complex was constructed in the wide boulevard across from the development site. A newly constructed automobile sales facility was constructed south. This stretch of SR 3, between Cook and Dupont Roads, has a mixture of established subdivisions from the 1940's to the 1980's but has seen an increase in commercial development with institutions like Davco Cars (2015), the Fort Financial Credit Union headquarters (2020), and the Northland Shopping Center. The site is adjacent to other platted lots, and the closest home is about 11' from the property line of the development site. The site would not likely be the highest and best use as R1 given its proximity to SR 3 and the adjacent zoning. The applicant will execute a written commitment to mitigate some C3 uses, given its adjacency to the R1 zoning district.

In association with the rezoning petition, the applicant intends on modifying the existing facility by removing some buildings, repurposing other buildings, and constructing a parking lot with landscaping and storm detention. The two southernmost structures will remain with the other outbuildings being demolished. An existing sidewalk runs north and south. The Walk Fort Wayne plan identifies this site as a pedestrian generating area, so the applicant would be required to install a 5-foot sidewalk along the frontage of South Mayfield Drive also. The pavement meets all setbacks and exceeds setbacks adjacent to the residential zoning district, at about 22 feet from the property line. The applicant intends on using the existing curb cuts along South Mayfield Drive, so no new access points will be created on to State Road 3. The landscaping plan will meet all of the screening and buffering standards. Overall, the Lima Road corridor hosts several automobile sales, so the use is consistent with other uses in the area.

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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

- The following Land Use Policies would be applicable and supportive of this request:
LUD Policy 6 Transform key suburban corridors over time into mixed use areas with housing, neighborhood-oriented retail, public spaces, walkable public realms, and transit service.
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Generalized Future Land Use Map

- The project site is located within the Traditional Neighborhood classification. There are no primary or secondary uses in this classification that are associated with automotive uses. (Staff note: The adjacent car lots, equipment sales, and other C3 uses along Lima Road are also categorized as Traditional Neighborhood on the map.)

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- The following Action Step would be applicable and supportive of this proposal:
HN.1.1.3. Encourage the development of an integrated network of sidewalks, trails, and bike routes within existing and new neighborhoods that will provide safe access to community amenities.
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Other applicable plans: none

PUBLIC HEARING SUMMARY:

Presenter: Bill Etzler from Abonmarche, engineer for the project, presented the request as outlined above.

Public Comments:

Rebecca Ramos, Mayfield Drive – Concerns with landscaping, fence, and auto detailing.

Richard Beard, Mayfield Drive (email) – Concerns with traffic and no benefit to neighborhood.

Albert Forks, Mayfield Drive (email) – Concerns with dramatic and unwanted change to neighborhood.

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made this 26th day of June, 2023 by Tall Cross, LLC, an Indiana nonprofit corporation (the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 0.58 acres of real estate located on Lima Road 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 R1/Single-Family Residential zoning district to a C3/General Commercial zoning district, bearing number REZ-2023-0019 (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:
 - A. Agricultural equipment sales
 - B. Agricultural supply sales
 - C. Amusement park
 - D. Arcade
 - E. Arena

F. Athletic field
G. Auction hall
H. Automobile accessory store
I. Automobile auction
J. Automobile body shop
K. Automobile detailing or trim shop
L. Automobile maintenance (quick service)
M. Automobile repair
N. Automobile restoration
O. Automobile rustproofing
P. Automobile washing facility
Q. Banquet hall
R. Bar
S. Batting cages
T. Betting or other gambling facility
U. Billiard or pool hall
V. Bingo establishment
W. Blood bank
X. Blood or plasma donor facility
Y. Boat sales
Z. Bowling alley
AA. Campus housing (off-site)
BB. Check cashing
CC. Club, private
DD. Correctional services facility
EE. Country club
FF. Department store
GG. Dry cleaning store
HH. Engine repair
II. Entertainment facility
JJ. Equipment rental (limited)
KK. Equipment service
LL. Fireworks sales
MM. Fitness center
NN. Flea market
OO. Fraternity house
PP. Gas station
QQ. Go-kart facility
RR. Golf course, miniature
SS. Golf driving range
TT. Greenhouse (retail)
UU. Gun sales
VV. Haunted house
WW. Home improvement store
XX. Manufactured home sales
YY. Motor vehicle auction

ZZ. Motor vehicle rental
 AAA. Motor vehicle repair
 BBB. Package liquor store
 CCC. Parking area
 DDD. Parking area (off-site)
 EEE. Parking structure
 FFF. Plant nursery
 GGG. Propane sales
 HHH. Public transportation facility
 III. Recreation area
 JJJ. Recreation facility
 KKK. Recreation uses
 LLL. Riding stable
 MMM. Shooting range (indoor)
 NNN. Skating rink
 OOO. Sorority house
 PPP. Stadium/racetrack
 QQQ. Storage shed sales
 RRR. Swim club
 SSS. Tennis club
 TTT. Tire sales
 UUU. Towing service (with no storage yard)
 VVV. Trade show facility
 WWW. Truck fueling station
 XXX. Truck stop
 YYY. Water park
 ZZZ. Watercraft sales
 AAAA. Wind energy conversion system (micro) (1)
 BBBB. Zoo
 CCCC. Special Uses in the C3 District.

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 deeds of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as Document Number 2021063088 and Document Number 2022040823.
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”

TALL CROSS LLC,
an Indiana corporation

By: _____

Printed Name: Scott Eckelbarger

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 Scott Eckelbarger, the (title) of Tall Cross, LLC, 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 Nathan W Schall

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. Nathan W Schall

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

PARCEL 1:

LOT NUMBER 87 IN MAYFIELD PLACE, AN ADDITION TO THE CITY OF FORT WAYNE, AS RECORDED IN PLAT RECORD 16, PAGE 140 AND RE-RECORDED IN PLAT RECORD 17, PAGE 67; EXCEPT THAT PART TAKEN FOR ROAD WIDENING PURPOSES AS RECORDED IN DEED RECORD 584, PAGES 129-130, AND EXCEPT THAT PART TAKEN FOR ROAD WIDENING PURPOSES AS RECORDED IN DOCUMENT NUMBER 2007070614.

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FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

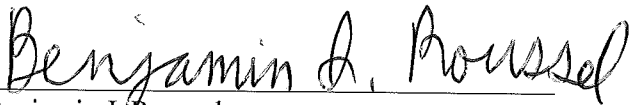
Rezoning Petition REZ-2023-0019

APPLICANT: Tall Cross LLC
REQUEST: Rezone property from R1/Single Family Residential to C3/General Commercial
LOCATION: 7928 Lima Road, southeast corner of its intersection with South Mayfield Dr (Section 10 of Washington Township)
LAND AREA: 0.58 acre
PRESENT ZONING: R1/Single Family Residential
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2023-0019 be returned to Council, with a “Do Pass” recommendation, with a written commitment, after considering the following:

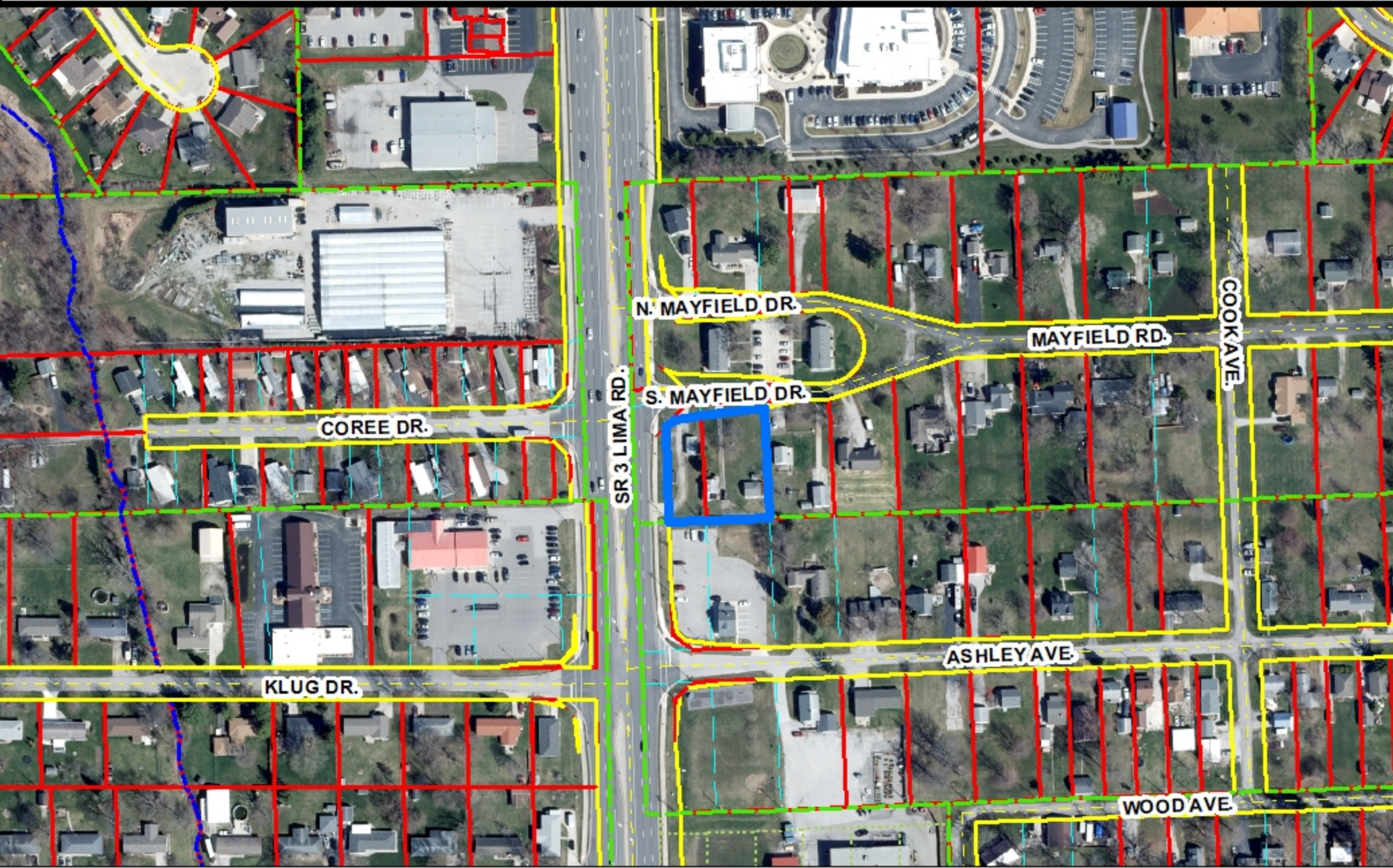
1. Approval of the rezoning request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan and should not establish an undesirable precedent in the area. The site is adjacent to existing C3 zoning district. The Lima Road / SR 3 corridor hosts several automobile sales. The Comprehensive Plan encourages adaptive reuse of vacant buildings.
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. A written commitment has the intention to mitigate impact on adjacent residential properties by discouraging more intensive uses that are not conducive to residential properties. The applicant intends on eliminating dilapidated structures and install adequate buffering against existing residential lots.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow investment into a currently vacant property. The comprehensive plan identifies a C3 against a traditional neighborhood as potentially compatible with written commitment and landscaping and buffering, which the applicant has commitment to undertake.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for the proposed uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on June 26, 2023.


Benjamin J. Roussel
Executive Director
Secretary to the Commission

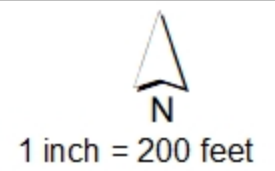
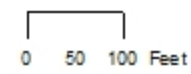


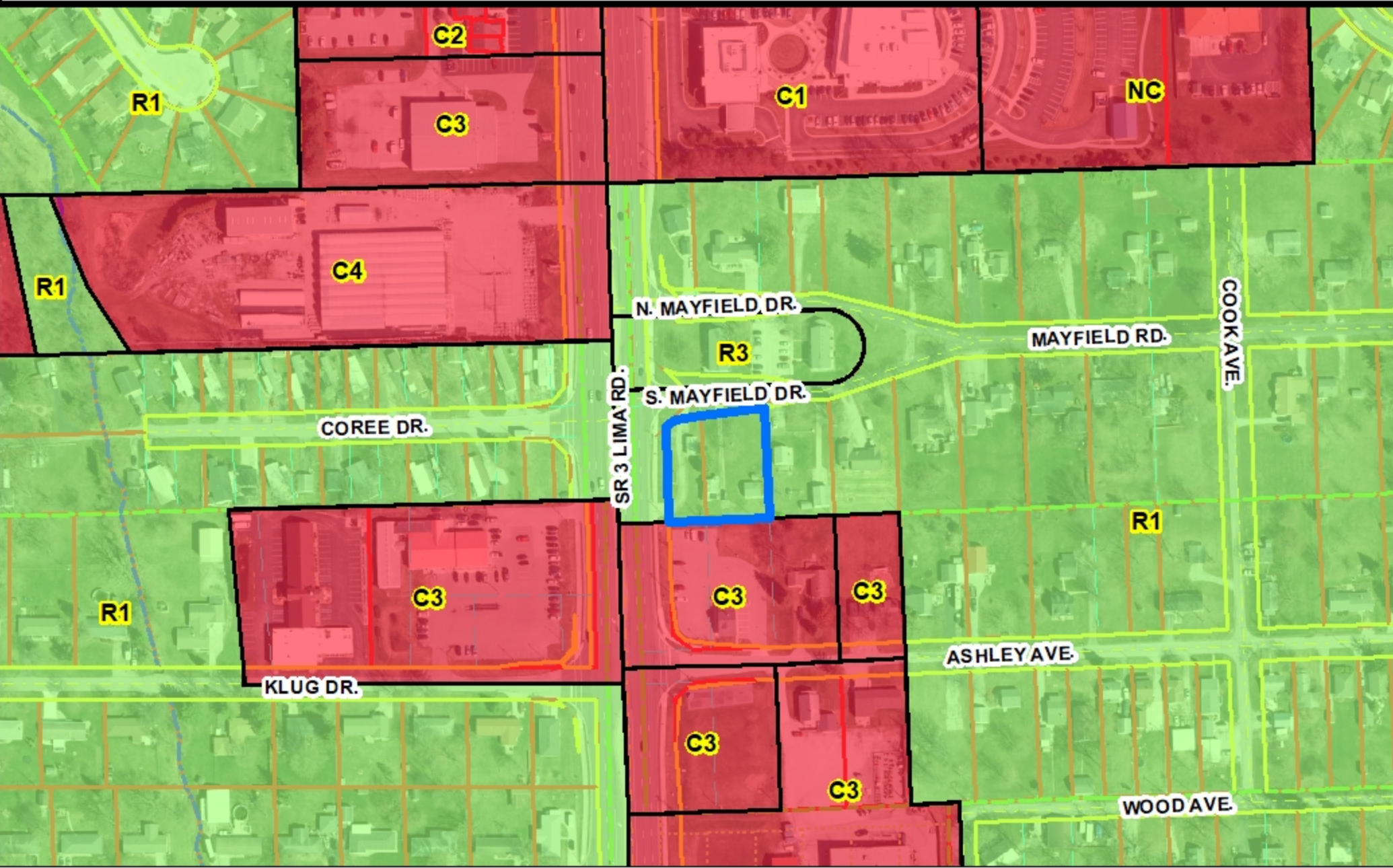
Rezoning Petition REZ-2023-0019 and Primary Development Plan PDP-2023-0019 -Tall Cross Auto Sales



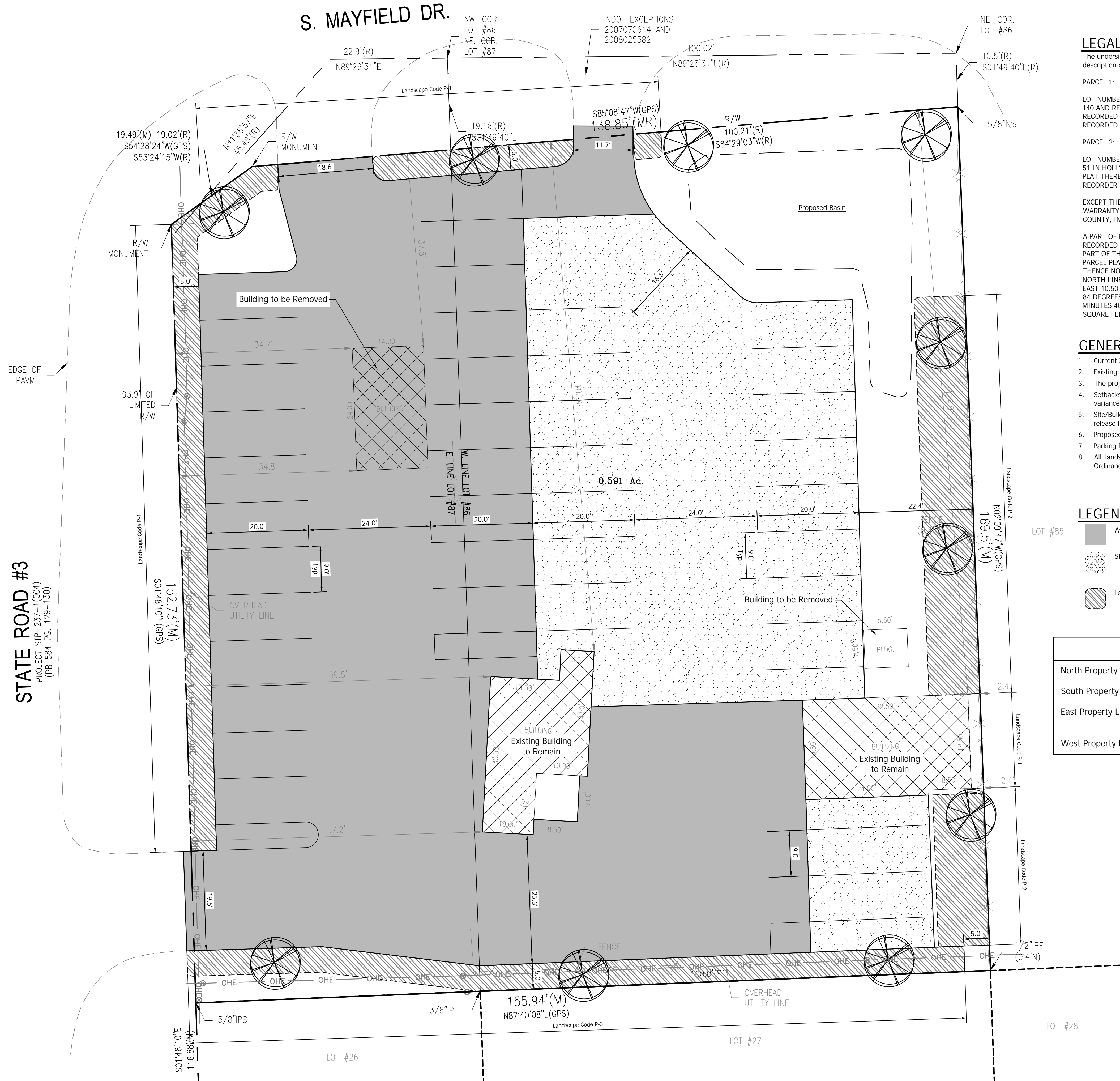
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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





STATE ROAD #3
PROJECT STP-237-1(004)
(PB 584 PG. 129-130)



LEGAL DESCRIPTION:

The undersigned has made a survey of the real estate located in Allen County, Indiana, as shown and described below. The description of the real estate is as follows:

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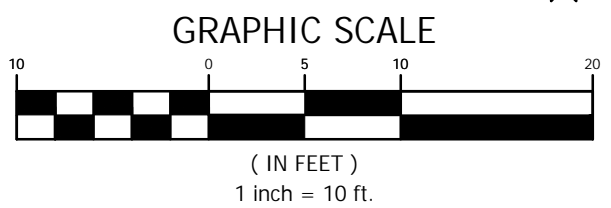
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SURVEYOR / ENGINEER

ABONMARCHÉ
229 W. Berry Street, Suite 100
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WHEREAS, Declarant submitted a rezoning petition with respect to the Real Estate to rezone the Real Estate from R1/Single-Family Residential zoning district to a C3/General Commercial zoning district, bearing number REZ-2023-0019 (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:
 - A. Agricultural equipment sales
 - B. Agricultural supply sales
 - C. Amusement park
 - D. Arcade
 - E. Arena

F. Athletic field
G. Auction hall
H. Automobile accessory store
I. Automobile auction
J. Automobile body shop
K. Automobile detailing or trim shop
L. Automobile maintenance (quick service)
M. Automobile repair
N. Automobile restoration
O. Automobile rustproofing
P. Automobile washing facility
Q. Banquet hall
R. Bar
S. Batting cages
T. Betting or other gambling facility
U. Billiard or pool hall
V. Bingo establishment
W. Blood bank
X. Blood or plasma donor facility
Y. Boat sales
Z. Bowling alley
AA. Campus housing (off-site)
BB. Check cashing
CC. Club, private
DD. Correctional services facility
EE. Country club
FF. Department store
GG. Dry cleaning store
HH. Engine repair
II. Entertainment facility
JJ. Equipment rental (limited)
KK. Equipment service
LL. Fireworks sales
MM. Fitness center
NN. Flea market
OO. Fraternity house
PP. Gas station
QQ. Go-kart facility
RR. Golf course, miniature
SS. Golf driving range
TT. Greenhouse (retail)
UU. Gun sales
VV. Haunted house
WW. Home improvement store
XX. Manufactured home sales
YY. Motor vehicle auction

ZZ. Motor vehicle rental
 AAA. Motor vehicle repair
 BBB. Package liquor store
 CCC. Parking area
 DDD. Parking area (off-site)
 EEE. Parking structure
 FFF. Plant nursery
 GGG. Propane sales
 HHH. Public transportation facility
 III. Recreation area
 JJJ. Recreation facility
 KKK. Recreation uses
 LLL. Riding stable
 MMM. Shooting range (indoor)
 NNN. Skating rink
 OOO. Sorority house
 PPP. Stadium/racetrack
 QQQ. Storage shed sales
 RRR. Swim club
 SSS. Tennis club
 TTT. Tire sales
 UUU. Towing service (with no storage yard)
 VVV. Trade show facility
 WWW. Truck fueling station
 XXX. Truck stop
 YYY. Water park
 ZZZ. Watercraft sales
 AAAA. Wind energy conversion system (micro) (1)
 BBBB. Zoo
 CCCC. Special Uses in the C3 District.

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 deeds of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as Document Number 2021063088 and Document Number 2022040823.
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”

TALL CROSS LLC,
an Indiana corporation

By: _____

Printed Name: Scott Eckelbarger

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 Scott Eckelbarger, the (title) of Tall Cross, LLC, 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 Nathan W Schall

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. Nathan W Schall

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

PARCEL 1:

LOT NUMBER 87 IN MAYFIELD PLACE, AN ADDITION TO THE CITY OF FORT WAYNE, AS RECORDED IN PLAT RECORD 16, PAGE 140 AND RE-RECORDED IN PLAT RECORD 17, PAGE 67; EXCEPT THAT PART TAKEN FOR ROAD WIDENING PURPOSES AS RECORDED IN DEED RECORD 584, PAGES 129-130, AND EXCEPT THAT PART TAKEN FOR ROAD WIDENING PURPOSES AS RECORDED IN DOCUMENT NUMBER 2007070614.

PARCEL 2:

LOT NUMBER 86 IN MAYFIELD PLACE, AN ADDITION TO THE CITY OF FORT WAYNE, INDIANA, BEING A SUBDIVISION OF LOT 51 IN HOLLYWOOD GARDENS AMENDED ADDITION TO THE CITY OF FORT WAYNE, INDIANA, ACCORDING TO THE RECORDED PLAT THEREOF, IN PLAT RECORD 16, PAGE 140 AND RE-RECORDED IN PLAT RECORD 17, PAGE 67, IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA.

EXCEPT THEREFROM THAT PART OF THE ABOVE-DESCRIBED REAL ESTATE CONVEYED TO THE STATE OF INDIANA BY WARRANTY DEED RECORDED MAY 27, 2008 AS DOCUMENT NO. 2008025582 IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PART OF LOT 86 IN MAYFIELD PLACE AN ADDITION TO THE CITY OF FORT WAYNE, INDIANA, THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 17, PAGE 67, IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA, AND BEING THAT PART OF THE GRANTOR'S LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT, MARKED EXHIBIT "B, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT; THENCE NORTH 89 DEGREES 26 MINUTES 31 SECONDS EAST 100.02 FEET (100 FEET BY PLAT BOOK 17, PAGE 67) ALONG THE NORTH LINE OF SAID LOT TO THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTH 1 DEGREE 49 MINUTES 40 SECONDS EAST 10.50 FEET ALONG THE EAST LINE OF SAID LOT TO POINT "492" DESIGNATED ON SAID PARCEL PLAT; THENCE SOUTH 84 DEGREES 29 MINUTES 03 SECONDS WEST 100.21 FEET TO THE WEST LINE OF SAID LOT; THENCE NORTH 1 DEGREE 49 MINUTES 40 SECONDS WEST 19.16 FEET ALONG SAID LOT LINE TO THE POINT OF BEGINNING AND CONTAINING 1,483 SQUARE FEET, MORE OR LESS.