

VROW-2023-0007

BILL NO. G-23-12-06

GENERAL ORDINANCE NO. G-_____

**AN ORDINANCE amending the Thoroughfare
Plan of the City Comprehensive ("Master")
Plan by vacating public right-of-way.**

WHEREAS, a petition to vacate public right-of-way within the City of Fort Wayne, Indiana, (as more specifically described below) was duly filed with the City Clerk of the City of Fort Wayne, Indiana; and

WHEREAS, Common Council of the City of Fort Wayne, Indiana, duly held a public hearing and approved said petition, as provided in I.C. 36-7-3-12.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the petition filed herein to vacate a public right-of-way within the City of Fort Wayne, Indiana, more specifically described as follows, to-wit:

The entirety of Scotswolde Drive, located between Lots 6 through 8 and Lots 9 through 11 of Woodlawn Park Addition, as recorded in Plat Book 28A, page 33, in the Office of the Recorder of Allen County, Indiana.

Note: The above described portion of Randall Street, after vacation shall be subject to a utility, drainage and access easement.

and which vacating amends the Thoroughfare Plan of the City Comprehensive ("Master") Plan and is hereby approved in all respects.

1
2 SECTION 2. That this Ordinance shall be in full force and effect from and after
3 its passage, any and all necessary approval by the Mayor.
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5 _____
6 COUNCILMEMBER
7

8 APPROVED AS TO FORM AND LEGALITY:
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10 _____
11 Malak Heiny, City Attorney
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City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Right of Way Vacation
Case Number: VROW-2023-0007
Bill Number: G-23-12-06
Council District: 3 – Tom Didier

Introduction Date: December 12, 2023

Public Hearing Date: January 9, 2023 to be heard by Council

Next Council Action: Ordinance will return to Council after recommendation by reviewing agencies.

Synopsis of Ordinance: To vacate the remaining right-of-way of Scotswolde Drive.

Location: West of Goshen Road, to the western terminus of Scotswolde Drive.

Reason for Request: To allow for combination of properties, and future development.

Applicant: Dave Baldwin

Property Owners: Dave Baldwin

Related Petitions: none

Effect of Passage: The vacation of the right-of-way will allow for existing parcels to be combined and aid in redevelopment of the property. An access easement has been prepared to grant access to the neighbors to the south should they need additional access.

Effect of Non-Passage: The right of way will remain as platted. The applicant owns the property on both sides of the right-of-way.

CITY OF FORT WAYNE

Vacation Petition

City Clerk / Suite 110 / Citizens Square Building / 200 East Berry Street / Fort Wayne IN 46802 / 260.427.1221

I/We do hereby petition to vacate the following:

_____ Easement

☒ Public Right of Way (street or alley)

More particularly described as follows:

SCOTSWOLDE DRIVE (PICTURE ATTACHED)

(Please Attach a Legal Description of the property requested to be vacated, along with a survey or other acceptable drawing showing the property.)

DEED BOOK NUMBER: _____ **PAGE(S) NUMBER(S):** _____ (This information can be obtained from the Allen County Recorder's Office on the 2nd Floor, City-County Building, One Main Street, Fort Wayne, IN)

The reasons for the proposed vacation are as follows:

1. SCOTSWOLDE DRIVE IS RARELY TRAVELED EXCEPT FOR THE USE OF OUR BUSINESS, BEST DEAL AUTO SALES & OUR CUSTOMERS.

2. WE OWN 6 OF 9 LOTS ON SCOTSWOLDE DRIVE.

3. WE HAVE MAINTAINED SCOTSWOLDE DRIVE AND THE R-O-W SINCE 2004.

4. WE WOULD LIKE TO MAKE IMPROVEMENTS & MAINTAIN USE OF THE R-O-W NECESSARY FOR CURRENT AND FUTURE IMPROVMENTS.

5. WE OWN ROUGHLY 364' OF THE 464' OF ROAD FRONTAGE ON SCOTSWOLDE DRIVE.

(If additional space is needed please attach separate page.)

The applicant on an attached sheet must also provide the names and addresses of all adjacent property owner(s). The information on that sheet must be as follows:

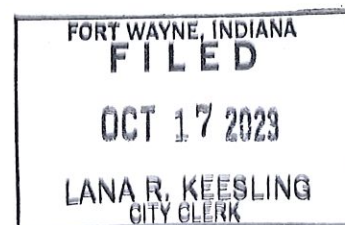
Property owner(s) Name(s); Street Address; City; State; Zip Code; Phone Number with Area Code.

Applicant's name(s) if different from property owner(s):

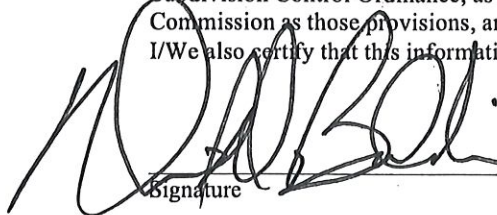
Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: _____



I/We, your petitioners, file this petition pursuant to the authority granted in Indiana Code, and provisions of local ordinance. I/We agree to abide by all provisions of the For Wayne Zoning Ordinance and/or Subdivision Control Ordinance, as well as all procedures and policies of the Fort Wayne City Plan Commission as those provisions, and policies relate to the handling and disposition of this petition. I/We also certify that this information is true and accurate to the best of my/our knowledge.



DAVID D. BALDWIN

Printed Name

10/06/23
Date

13442 TONKEL ROAD

Address

FORT WAYNE, IN 46808

City/State/Zip

Signature

Printed Name

Date

Address

City/State/Zip

If additional space is needed for signatures please attach a separate page.

Agent's Name (Print Legibly): _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

NOTICE:

- Legal Description is to be the area to be vacated and must be complete and accurate. If necessary a licensed surveyor's legal description may be required.
- Applicant is hereby informed that in the case of a utility being located in a public way or easement, the applicant may be required to bear the cost of relocation, or of providing a replacement easement or easement's as needed.

For Office Use Only:

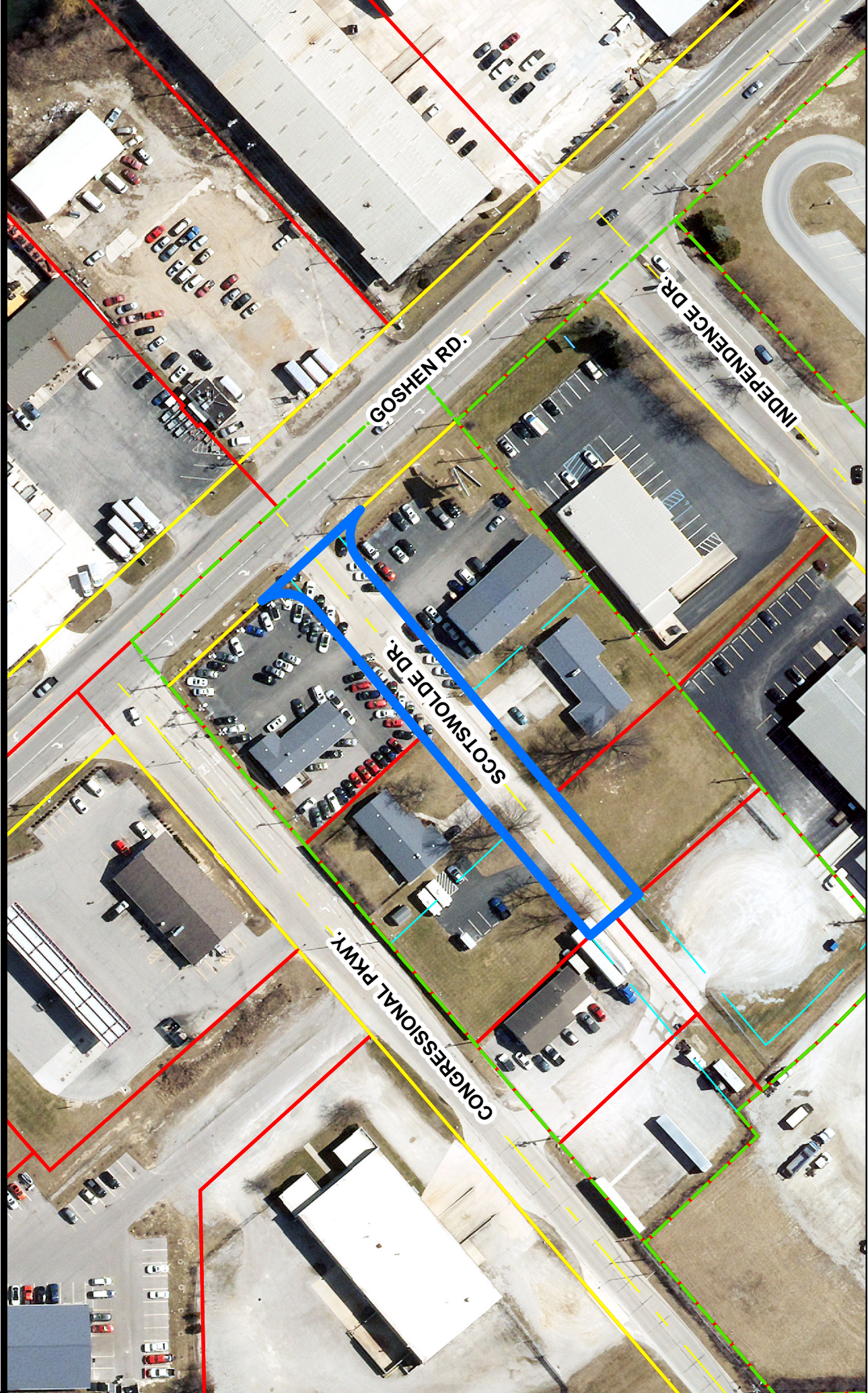
Receipt #: _____

Date Filed: _____

Map #: _____

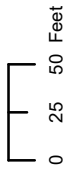
Reference #: _____

Vacation of Right of Way VROW-2022-0007 Scotswolde Drive



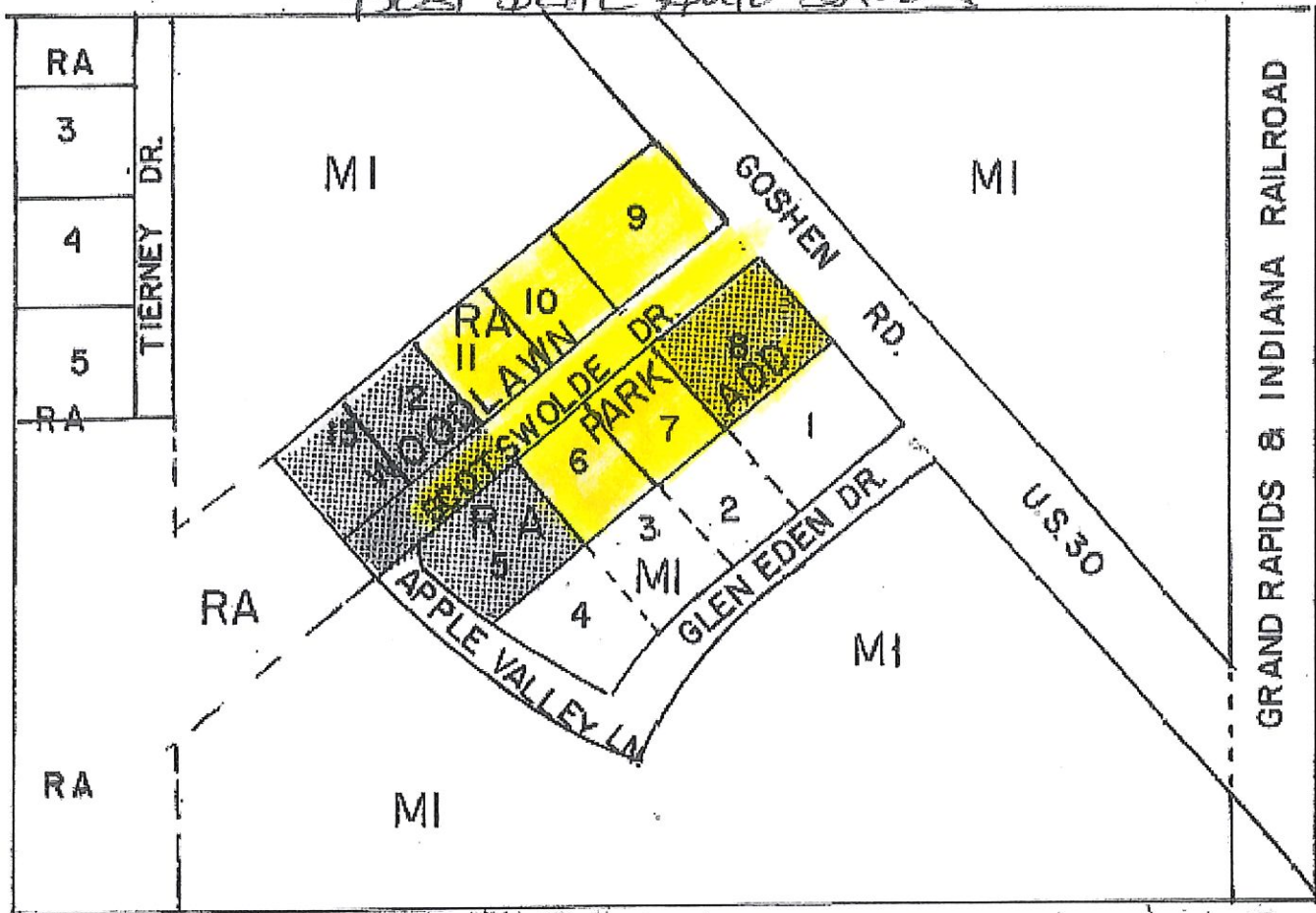
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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: 5/13/2022



1 inch = 100 feet

Highlighted Area Owned
 BY DAVID & SUSAN BAEDEWIN
 BEST DEAL AUTO SALES



LOTS TO BE VACATED 5-8-12-13

MAP NO DD 13

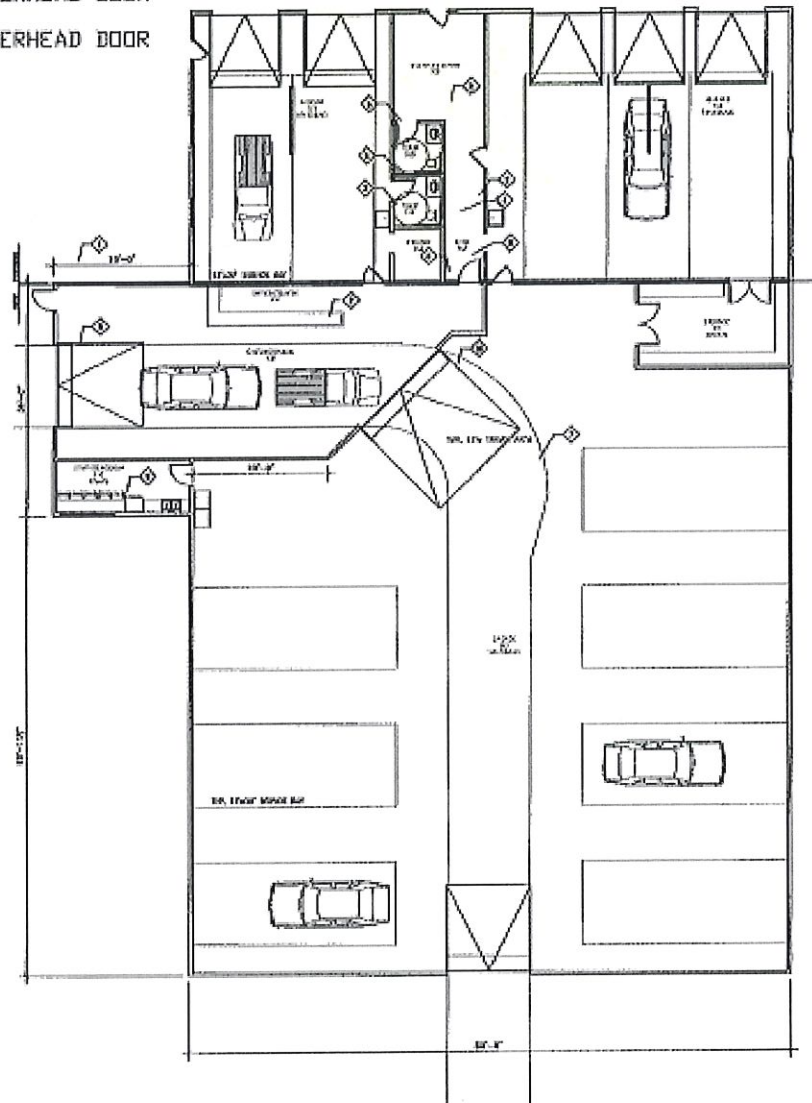
G-77-09-24

BY M.F.C. 9-14-77

FLOOR PLAN KEYNOTES:

- 1 SETBACK VARIANCE
- 2 RELOCATE SERVICE COUNTER
- 3 RELOCATE STAFF TOILET
- 4 RELOCATE WATER HEATER
- 5 RELOCATE LT.
- 6 RELOCATE GUEST BATH DOOR
- 7 NEGOTIATE TURN INSIDE?
- 8 RELOCATE BREAK ROOM
- 9 12' OVERHEAD DOOR
- 10 16' OVERHEAD DOOR

Addresses are
2515-2527-2601
Scotsdale Dr
Fort Wayne IN
46808



FLOOR PLAN 1A

SCALE: 1/16" = 1'-0"

BEST DEAL AUTO SALES SERVICE CENTER

~~2515-2527-2601~~ SCOTSDALE AVE



CROSS ACCESS AGREEMENT

This Cross Access Agreement is made this 25th day of Aug, 2023, ("Effective Date") by and between, Dave Baldwin & Nermin Besirovic and _____ ("Grantors"), by their respective authorized agents, being the owners of two separate parcels of real estate located at 2526 & 2612 Scotswood Dr, Fort Wayne, Indiana, as described and illustrated on attached **EXHIBIT A**, and at _____, Fort Wayne, Indiana, as more particularly described and illustrated on attached **EXHIBIT B**, in Allen County, Indiana, which exhibits are attached hereto and incorporated herein by reference ("Real Estate"), with the last deeds of record shown as document numbers _____ and _____, respectively, do hereby establish a mutual cross access easement for access and storm drainage purposes over, in, across, and upon the Real Estate, as defined and limited by the Cross Access Easement Agreement ("Cross Access Agreement").

Grantor(s) do hereby grant, establish and convey unto each other, their successors in Interest and assigns, and their invitees and all public and quasi-public parties, including by way of Illustration and not by way of limitation, emergency vehicles, school vehicles, public or private utilities, a perpetual, nonexclusive right and mutual easement for storm drainage facilities, and for ingress and egress to and from the Real Estate over, in, across, and upon the Real Estate to the following public roadways: _____

Grantor(s) expressly agree and covenant that this Cross Access Easement has not been accepted by the City of Fort Wayne, Indiana as a part of its public road system for maintenance or for other purpose, and that the initial construction of the Cross Access Easement shall be the responsibility of Grantors. Thereafter, the maintenance of the Cross Access Easement and all costs associated with such maintenance shall be shared equally by the Grantors. Maintenance shall be undertaken whenever necessary to maintain the cross access drive in good operating condition.

Prior to the implementation of any maintenance or repairs of the driveway which is the subject matter of this Cross Access Easement, the Grantors or any successor parcel owners shall consult with one another and agree to a plan for the maintenance or repairs, including the cost of such maintenance or repairs. Once agreement is reached, the Grantors or any successor owners of the Real Estate shall undertake the responsibility of implementing the agreed upon plan and shall provide the costs of such maintenance. In the event of any of the responsible parties hereto shall fail or refuse to pay their proportionate part of the cost of maintaining or repairing the cross access drive, the entire amount of the cost may be advanced and paid by the other parties, and any party making such payment shall have a lien upon the real estate of the party upon which payment is owing. In addition, the party who owes the unpaid maintenance or improvement costs shall also be responsible for interest on the unpaid amount at the rate of eight percent (8%) per annum and shall be responsible for payment of all attorney fees and collection costs incurred by the party seeking repayment.

Grantors agree that there is no requirement for any landscaping, landscape fixtures, or other separation between the parcels. At no time shall any landscaping, landscaping fixtures, or other separation be installed on either parcel so as to obstruct or impede the use of the cross access drive.

This Cross Access Easement shall run with the Real Estate and shall be deemed to be a part of every contract or transaction for the sale of any portion or the entirety of the Real Estate, and this Cross Access Easement shall be binding upon and be to the benefit of the owner or owners of the Real Estate and the owners of the lot(s) created on the Real Estate.

The terms of this Cross Access Easement may be enforced by the Grantors and successors in interest and assigns including and owners of lot(s) created on the Real Estate.

Grantor(s) expressly agree and covenant that this Cross Access Easement is not an offer of public dedication and further agree and covenant that the Fort Wayne Zoning Administrator, the Fort Wayne Plan Commission, and the City of Fort Wayne shall never be obligated to accept a public

dedication of this Cross Access Easement and shall never be obligated to supervise, maintain, or repair the Cross Access Easement.

Insert Exhibit "A", Exhibit "B", and so forth (plans, profile drawing or drawings) after this page but prior to final signature pages. Mark the documents as: Exhibit "A", "Exhibit "B", and so forth.

(Remainder of this page intentionally left blank.)

In WITNESS WHEREOF, the Grantors have executed this Cross Access Easement as of the Effective Date.

Nermin Besirovic
Property Owner

Address 2612 Scotswood Dr
Fl. Wayne IN 46808

Property Owner

Address _____

IN WITNESS WHEREOF, Grantor has executed this instrument this 25 day of August
2017 2023

Owner

By: *[Signature]*
Its: *[Signature]*

STATE OF Indiana, COUNTY OF Allen SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 25 day of August, 2023 personally appeared Nermin Besirovic + Dave Baldwin the _____ of _____, who acknowledged the execution of the foregoing easement to be his voluntary act and the voluntary act of the Grantor herein, who, being duly sworn, stated that any representations contained herein are true. In witness whereof, I have hereunto subscribed my name and affixed my official seal.



My Commission Expires 9/20/2023
Resident of Allen County, Indiana

Signature *Marissa Brown*
Printed Name Marissa Brown

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. _____

When recorded send to: City of Fort Wayne, Transportation Administration box.