

#REZ 2024 0029

BILL NO. Z-24-06-18

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. S-14 (Sec. 32 of Saint Joseph 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:

LEGAL DESCRIPTION:

The land is situated in the County of Allen, State of Indiana, and described as follows:

PARCELS I & II: Lots Numbered Forty-Four (44) and One Hundred Eleven (111) in Delta Heights
Addition to the City of Fort Wayne, according to the plat of said addition, excepting that part thereof
which has been heretofore conveyed to the State of Indiana for right-of-way lands and highway
purpose.

Also:

Southeast corner of Lot 43 in Delta Heights Addition to the City of Fort Wayne, according to the plat
of said addition, per Survey prepared by Donovan Engineering, Inc., 2020 Inwood Drive, Fort Wayne,
Indiana 46815 for Mike's Carwash, dated March 17, 2006.

PARCELS III-IV:

Lots Numbered 45, 46 and 110, except that part of Lots 45 and 46 appropriated for the widening of
State Street, in Delta Heights Addition to the City of Fort Wayne, as recorded in Plat Record 11, pages
84-85, in the Office of the Recorder of Allen County, Indiana

and the symbols of the City of Fort Wayne Zoning Map No. S-14 (Sec. 32 of Saint Joseph
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-2024-0029
Bill Number: Z-24-06-18
Council District: 1 – Paul Ensley

Introduction Date: June 25, 2024

Plan Commission
Public Hearing Date: July 8, 2024 (not heard by Council)

Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

Synopsis of Ordinance: To rezone 0.90 acres from C2/Limited Commercial to C3/General Commercial

Location: 4020 E State Blvd (Section 32 of Saint Joseph Township)

Reason for Request: To permit an existing carwash.

Applicant: Mike's Carwash, Inc.

Property Owner: Mike's No 2 LLC

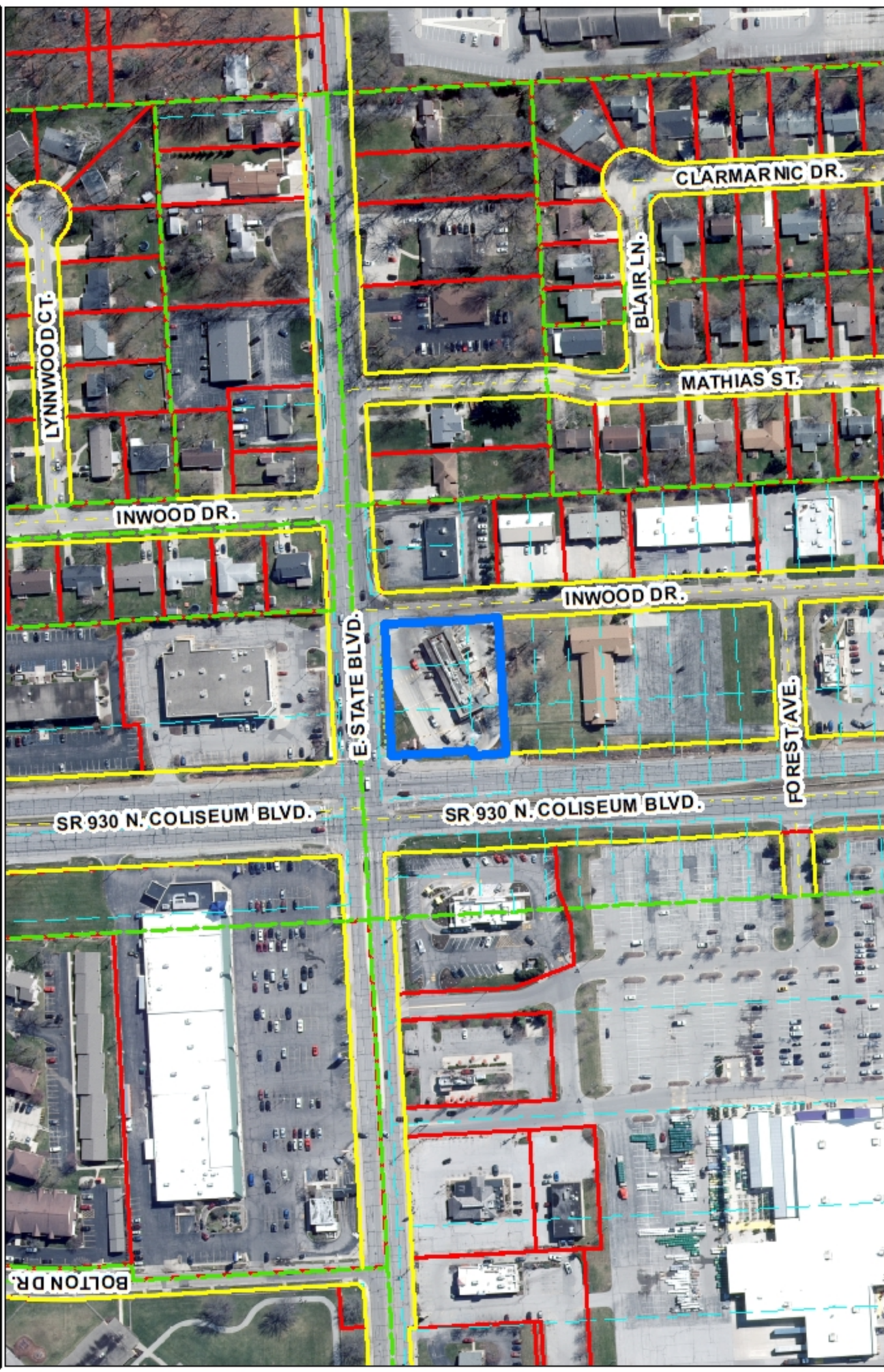
Related Petitions: None

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

Effect of Non-Passage: Property will remain zoned C2/Limited Commercial, which does not permit car washes. The site will continue with existing uses, and may be redeveloped with moderate intensity business, community, office, personal service, and limited retail uses, along with certain residential facilities.



Rezoning Petition REZ-2024-0029 - 4020 East State Boulevard Mike's Carwash



Although every effort has been made to ensure the accuracy of the information contained herein, the City of Ellettsburg, Iowa, and its officials assume no liability for any errors or omissions in this map. © 2004 North American Map Systems, Inc. North American Map Systems, Inc. State Plane, Cordoba Systems, Indiana East Photos and Contours: Spring 2009 Date: 6/17/2024

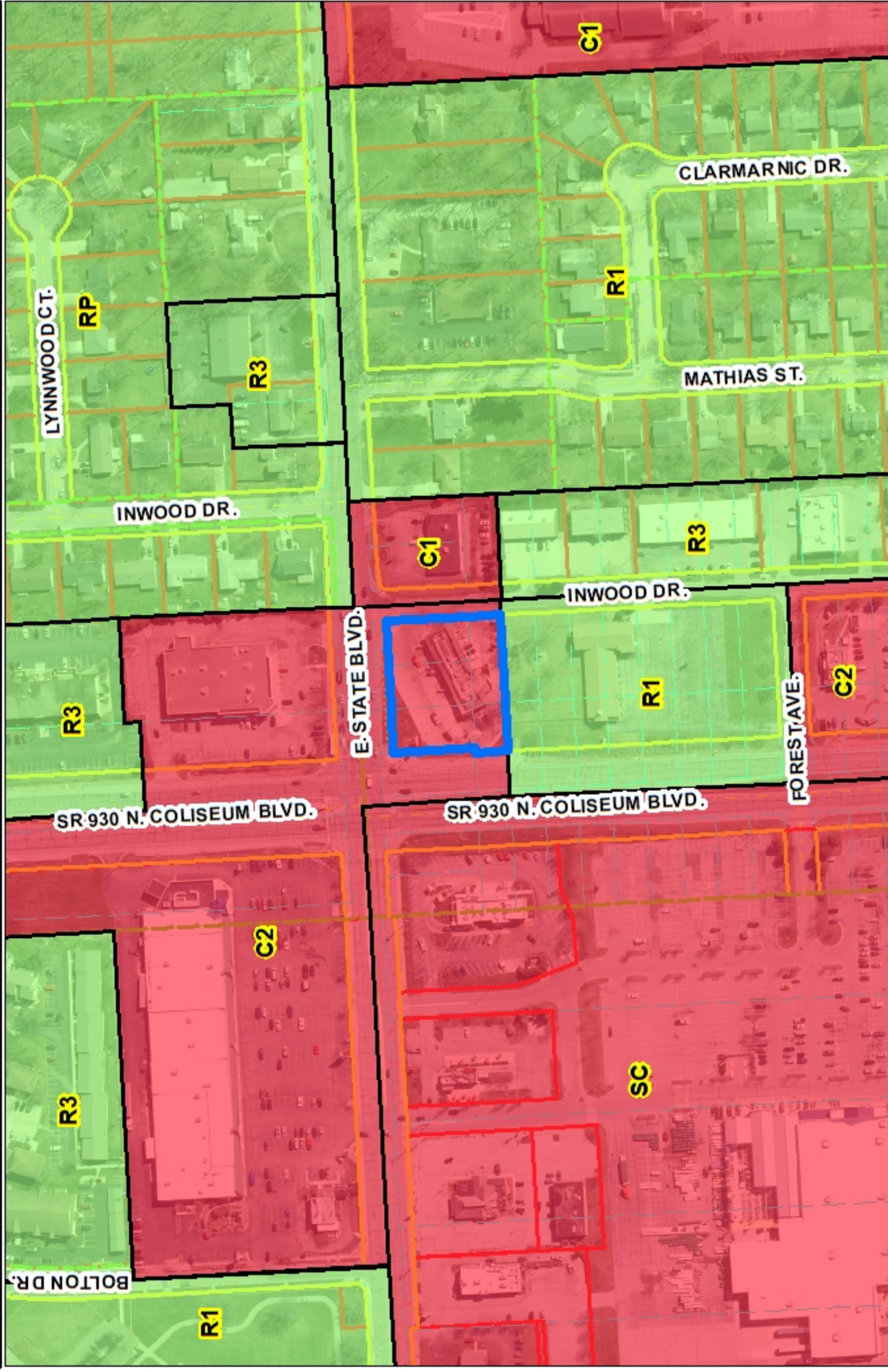


1 inch = 200 feet





Rezoning Petition REZ-2024-0029 - 4020 East State Boulevard Mike's Carwash



Although every effort has been made to ensure the accuracy of the information contained herein, the City of Allen is not responsible for any errors or omissions. The information is provided for informational purposes only and should not be used for any other purpose.

North American Datum 1983
State Plane, Central Indiana System, Indiana East
Photos and Contours: Spring 2009
Date: 6/17/2024



1 inch = 200 feet

Department of Planning Services Rezoning Petition Application

Applicant

Applicant Mike's Carwash, Inc.
Address 100 Northeast Drive
City Loveland State OH Zip 45140
Telephone (513) 677-4700 E-mail ekrieger@mikescarwash.com

Property Ownership

Property Owner Mike's No. 2, LLC
Address 100 Northeast Drive
City Loveland State OH Zip 45140
Telephone (513) 677-4700 E-mail ekrieger@mikescarwash.com

Contact Person

Contact Person Joshua C. Neal, Barrett McNaghy, LLP
Address 215 E. Berry Street
City Fort Wayne State IN Zip 46802
Telephone (260) 423-9551 E-mail jcn@barrettllaw.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 4020 E. State Boulevard Township and Section St. Joseph / Sec. 32
Present Zoning C-2 Proposed Zoning C-3 Acreage to be rezoned 0.90 Acres
Purpose of rezoning (attach additional page if necessary) The purpose of the rezoning is to bring the zoning classification in line with the existing and long standing use of the property following various revisions to the Zoning Ordinance.
Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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 (please complete attached document)

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

See attached Exhibit A

(printed name of applicant) (signature of applicant) (date)

See attached Exhibit A

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



Received	Receipt No.	Hearing Date	Petition No.
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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



Exhibit A
Rezoning Application
Signature Page

"APPLICANT"

Mike's Carwash, Inc.

By: Joe Dahm
Name: Joe I
Its: President

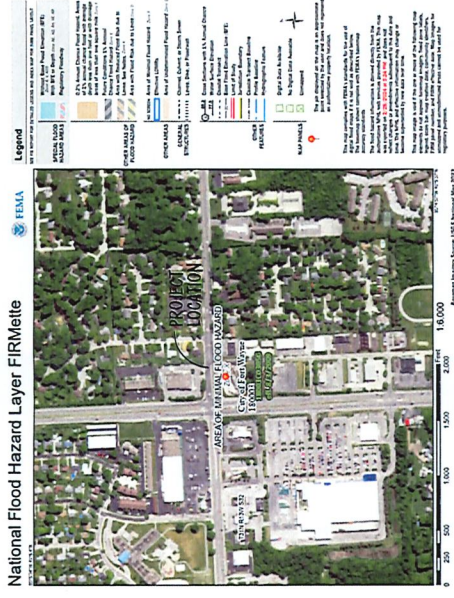
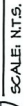
Date: June 7, 2024

"PROPERTY OWNER"

Mike's No. 2, LLC

By: Joe Dahm
Name: Joe I
Its: President

Date: June 7, 2024



Real Estate Description per Doc. No. 2008029102

PARCELS I & II:
LOTS NUMBERED FORTY-FOUR (44) AND ONE HUNDRED ELEVEN (11) IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT MYNE, ACCORDING TO THE PLAT OF SAID ADDITION, EXCEPTING THAT PART THEREOF WHICH HAS BEEN HERETOFORE CONVEYED TO THE STATE OF INDIANA FOR RIGHT-OF-WAY LANDS AND HIGHWAY PURPOSE.

ALSO:
SOUTHEAST CORNER OF LOT 43 IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE.
ACCORDING TO THE PLAT OF SAID ADDITION, PER SURVEY PREPARED BY DONOVAN ENGINEERING,
INC., 2020 INWOOD DRIVE, FORT WAYNE, INDIANA 46805 FOR MIKE'S GARWASH, DATED MARCH 17,
2006.

PARCELS III-IV:
LOTS NUMBERED 45, 46 AND 110 EXCEPT THAT PART OF LOTS 45 AND 46 APPROPRIATED FOR THE WIDENING OF STATE STREET, IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE AS RECORDED IN PLAT RECORD II, PAGES 84-85, IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA.

Professional Surveyor's Certification

THE UNDERSIGNED LAND SURVEYOR, REGISTERED UNDER THE LAWS OF THE STATE OF INDIANA, CERTIFIES THAT HE HAS A REVENUE PLAT BOOK FOR THE REAL ESTATE DEFICIED AND DESCRIBED HEREON IN THE RECORD THEREOF IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA. NO VISIBLE ENCROACHMENTS EXISTED, AS NOTED. I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS PLAT REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH ARTICLE 1, RULE 12, SECTIONS 1 THROUGH 30 OF THE INDIANA ADMINISTRATIVE CODE.

DECLARATION/CERTIFICATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY AND IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. THIS SURVEY IS VALID ONLY WITH THE SURVEYOR'S ORIGINAL OR ELECTRONIC SIGNATURE AND SEAL, FULL PAYMENT OF THE INVOICE AND COMPLETE WITH ALL PAGES OF SURVEY.

COMMISSION NUMBER: 243781

MIKE'S CARWASH
FEBRUARY 26TH, 2024
FEBRUARY 26TH, 2024
FEBRUARY 26TH, 2024
FEBRUARY 26TH, 2024

IN WITNESS WHEREOF, I HEREUNTO PLACE MY HAND
AND SEAL THIS 8TH DAY OF MARCH, 2024.

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.

Todd R. Bover, PS No. 29800007
todd@4sllc.biz

Sheet 1 of 2

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

ForeSight

EXPERIENCE. INNOVATION. RESULTS.

[illegible]

Mike's Carwash No. 2
4020 East State Boulevard, Fort Wayne, IN 46815

BOUNDARY, RETRACEMENT, SURVEY FOR:

Drawing Revisions

Commission Number

243781

Date _____

ch 8th, 2024

Title

Sheet Number

15

Legal Description of Real Estate

The land is situated in the County of Allen, State of Indiana, and described as follows:

PARCELS I & II: Lots Numbered Forty-Four (44) and One Hundred Eleven (111) in Delta Heights Addition to the City of Fort Wayne, according to the plat of said addition, excepting that part thereof which has been heretofore conveyed to the State of Indiana for right-of-way lands and highway purpose.

Also:

Southeast corner of Lot 43 in Delta Heights Addition to the City of Fort Wayne, according to the plat of said addition, per Survey prepared by Donovan Engineering, Inc., 2020 Inwood Drive, Fort Wayne, Indiana 46815 for Mike's Carwash, dated March 17, 2006.

PARCELS III-IV:

Lots Numbered 45, 46 and 110, except that part of Lots 45 and 46 appropriated for the widening of State Street, in Delta Heights Addition to the City of Fort Wayne, as recorded in Plat Record 11, pages 84-85, in the Office of the Recorder of Allen County, Indiana

Department of Planning Services Rezoning Questionnaire

When making recommendations on rezoning requests, the Plan Commission shall pay reasonable regard to the following items. Please describe how this petition satisfies the following:

- (1) The Comprehensive Plan;

See attached Exhibit B

- (2) Current conditions and the character of current structures and uses in the district;

See attached Exhibit B

- (3) The most desirable use for which the land in the district is adapted;

See attached Exhibit B

- (4) The conservation of property values throughout the jurisdiction;

See attached Exhibit B

- (5) Responsible development and growth.

See attached Exhibit B

COMPLETE FILING TO INCLUDE:

- ☒ Filing Fee
- ☒ Complete application signed by property owner*
- ☒ Legal description (in Word document format)*
- ☒ Boundary/Utility Survey*
- ☒ Rezoning Criteria *
- ☐ Written Commitment (if applicable)*

**All documents may be digital*

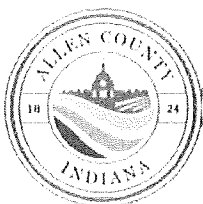


Exhibit B Zoning Criteria

When making recommendations on rezoning requests, the Plan Commission shall pay reasonable regard to the following items. Please describe how this petition satisfies the following:

(1) The Comprehensive Plan;

The instant proposal is consistent with the Comprehensive Plan in the following particulars:

- This rezoning of the subject real estate brings the longstanding use of the real estate as an automobile washing facility into compliance with the terms and conditions of the Ordinance. While originally correctly zoned when the automobile washing facility was constructed in the early 1970s, the site has since fallen out of compliance with the Ordinance as a result of various amendments to the Ordinance. Specifically, although we believe that the current C2 (Limited Commercial) zoning designation once permitted an automobile washing facility, that use is now permitted in either the C3 (General Commercial) or C4 (Intensive Commercial). The C3 district is most consistent, though, with the other surrounding and nearby zoning and uses in the area. Having the appropriate zoning in place is consistent with sound planning principles.
- The subject real estate is situated in an area that the Comprehensive Plan identifies as being suitable for infill growth and development, which makes this project compatible with Goal 1 of the Future Growth and Development Goals and Strategies. The subject real estate is particularly well suited for infill development given (a) its access to existing infrastructure; and (b) its minimal environmental constraints, such as floodplains and floodways.
- The Generalized Future Land Use maps included within the Comprehensive Plan identify the subject real estate as being located in a Community Commercial land use area. This land use category is designated for a diverse range of commercial options, including local and national retailers, entertainment uses, and automobile-related uses.
- The Land Use Compatibility Matrix included within the Comprehensive Plan identifies this project as being "Compatible" with adjacent and nearby Community Commercial uses.

(2) Current conditions and the character of current structures and uses in the district:

- The current conditions of the subject real estate include an existing automobile washing facility that has been in existence since approximately 1971. It is well

maintained and well constructed. In close proximity to the subject real estate are a variety of high intensity commercial and retail uses, including big box retailers, a McDonalds, a Walgreens, a church, and various professional office uses. No change in the existing use is contemplated in connection with this proposal; rather, the instant request merely seeks to bring the zoning in line with the existing uses of the real estate.

(3) The most desirable use for which the land in the district is adapted:

- The most desirable use of land within the district continues to be commercial uses, as noted in the Comprehensive Plan and the existence of well maintained and heavily utilized commercial structures in close proximity to the subject real estate.
- In addition, this particular stretch of East State Boulevard experiences nearly 19,000 vehicle trips per day, while traffic on Coliseum Boulevard near this intersection is estimated at nearly 23,000 trips per day. As such, this area continues to be well suited for commercial uses.
- Last, the Comprehensive Plan notes that this particular area is well suited for infill development.

(4) The conservation of property values throughout the jurisdiction:

- As indicated above, the instant proposal merely seeks to bring the zoning in line with the long-standing use of the real estate as an automobile washing facility. No change is contemplated in the use of the real estate. As such, it is not anticipated that there will be any adverse impact on the use or value of the surrounding and nearby real estate.

(5) Responsible growth and development:

- The instant proposal is consistent with the mandate for responsible growth and development in that (a) all utility and roadway infrastructure is already present at or near the subject real estate; (b) the proposal is consistent with the Comprehensive Plan's mandate for infill development on this site; (c) the proposal merely seeks to bring the zoning in line with the use of the real estate; and (d) the site has been designed, constructed, and maintained as an automobile washing facility.

FACT SHEET

Case #REZ-2024-0029

Bill # Z-24-06-18

Project Start: June 2024

PROPOSAL:	Rezoning Petition REZ-2024-0029 – Mike’s Car Wash
APPLICANT:	Mike’s Carwash, Inc.
REQUEST:	To rezone from C2/Limited Commercial to C3/General Commercial to permit an existing carwash.
LOCATION:	4020 E State Blvd (Section 32 of Saint Joseph Township)
LAND AREA:	0.90 acres
PRESENT ZONING:	C2/Limited Commercial
PROPOSED ZONING:	C3/General Commercial
COUNCIL DISTRICT:	1 – Paul Ensley
SPONSOR:	Fort Wayne Plan Commission

July 8, 2024 Public Hearing

- No one spoke in support or with concerns.
- Scott Myers was absent.

July 15, 2024 Business Meeting

Plan Commission Recommendation: DO PASS, with a Written Commitment

A motion was made by Rachel Tobin-Smith and seconded by Paul Sauerteig to return the ordinance with a Do Pass recommendation, with a written commitment, to Common Council for their final decision.

7-0 MOTION PASSED

- Scott Myers and Ryan Neumeister were absent.

Fact Sheet Prepared by:
Karen Couture, Associate Land Use Planner
July 17, 2024

PROJECT SUMMARY

The applicant wishes to rezone the property from C2/Limited Commercial to C3/General Commercial to bring an existing automobile washing facility into conformance with the zoning ordinance. The site is at the northeast corner of East State and Coliseum, an active commercial area. The applicant states the reason for the rezoning is that an automobile washing facility is not permitted in the C2/Limited Commercial zoning district according to the current Zoning Ordinance. The rezoning of this property to C3/General Commercial brings the longstanding use of the real estate as an automobile washing facility into compliance with the terms and conditions of the Ordinance. It will also allow for investing in the property and an easier permitting process. Mike's Carwash was a permitted use when constructed in the early 1970's. The zoning ordinance has since been amended, to permit automobile washing facilities in C3/General Commercial and C4/Intensive Commercial zoning districts. Other commercial users at this intersection and within the general area include retail shops, restaurants, big-box retail, pharmacy, medical office and automobile services. This request does not contemplate any change in the current use of the property.

COMPREHENSIVE PLAN REVIEW

Future Growth and Development Map, Goals, and Strategies

The project site is located within the Urban Infill Area.

- The following Goal and Strategy 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 Policy would be applicable and supportive of this request:

- **LUD Policy 5** - Enhance and preserve existing mixed urban commercial corridors through the application of Mixed Urban Corridor or other appropriate zoning classification.

Generalized Future Land Use Map

- The project site is located within the Community Commercial generalized land use category.
- Primary Land Uses in this category are high-intensity business, service and retail, and professional office and personal services.
- Properties to the north, south, east, and west are also categorized as Community Commercial.

Land Use Related Action Steps

Staff determined the following Action Step would be applicable and supportive of this proposal:

- **ED.1.1.1.** - Strategically identify and prepare land and redevelopment areas for development-ready employment sites in alignment with the Future Growth and Development map, the Generalized Future Land Use map, and the Allen County Together Economic Development Action Plan.

Compatibility Matrix

- This proposed rezoning to C3/General Commercial is compatible and encouraged in the Community Commercial Land Use category of the comprehensive plan.

Other applicable plans: none

PUBLIC HEARING SUMMARY:

Presenter: Josh Neal, representing the applicant, presented the request as outlined above.

Public Comments: None

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

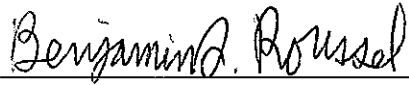
Rezoning Petition REZ-2024-0029 – Mike's Carwash

APPLICANT:	Mike's Carwash, Inc.
REQUEST:	To rezone property from C2/Limited Commercial to C3/General Commercial to permit existing carwash.
LOCATION:	4020 E State Boulevard, southeast corner of its intersection with N Coliseum Boulevard (Section 32 of St. Joseph Township)
LAND AREA:	0.90 acre
PRESENT ZONING:	C2/Limited Commercial
PROPOSED ZONING:	C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2024-0029 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 situated in an area that the Comprehensive Plan identifies the site for services serving the surrounding neighborhoods, so this rezone is considered compatible. This rezone will allow for further investment at this facility and better serve surrounding neighborhoods like Brentwood, Glenwood Park, and other northeast neighborhoods.
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 proposed rezoning petition will bring the established use of the site into compliance with the current Zoning Ordinance and will not hinder surrounding properties to develop.
3. Approval is consistent with the preservation of property values in the area. The rezoning petition will allow for better investment in a longstanding company in Fort Wayne. Investing in property may lead to modernization, curb appeal, or other benefits to surrounding properties.
4. Approval is consistent with responsible development and growth principles based on existing uses in the area. The proposal allows for reinvestment in an area just across the street from the comprehensive plan's priority investment area. Investing in an existing site is a good demonstration of infill development, rather than seeking a new site elsewhere.
5. The rezoning is consistent with the mandate for responsible growth and development in that (a) all utility and roadway infrastructure is already present at or near the subject real estate; (b) the proposal is consistent with the Comprehensive Plan's mandate for infill development on this site; (c) the proposal merely seeks to bring the zoning in line with the use of the real estate; and (d) the site has been designed, constructed, and maintained as an automobile washing facility. A written commitment will limit some C3 uses that may not be suitable specifically for this site, as this washing facility is closer to residential areas than other locations.

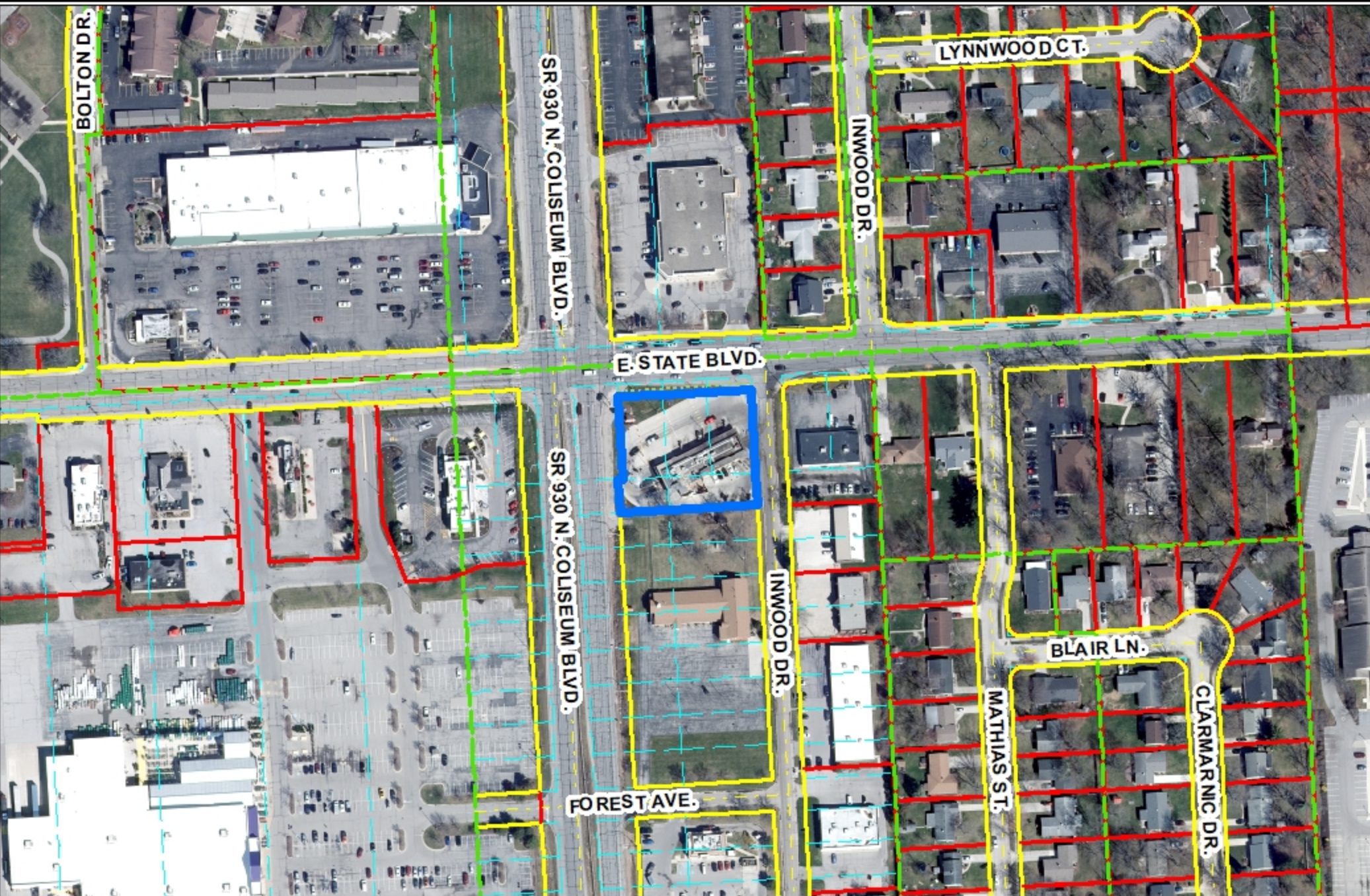
These findings approved by the Fort Wayne Plan Commission on July 15, 2024.

A handwritten signature in cursive script, reading "Benjamin J. Roussel". The signature is written in black ink and is positioned above a horizontal line.

Benjamin J. Roussel

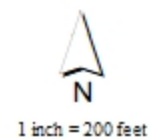
Executive Director

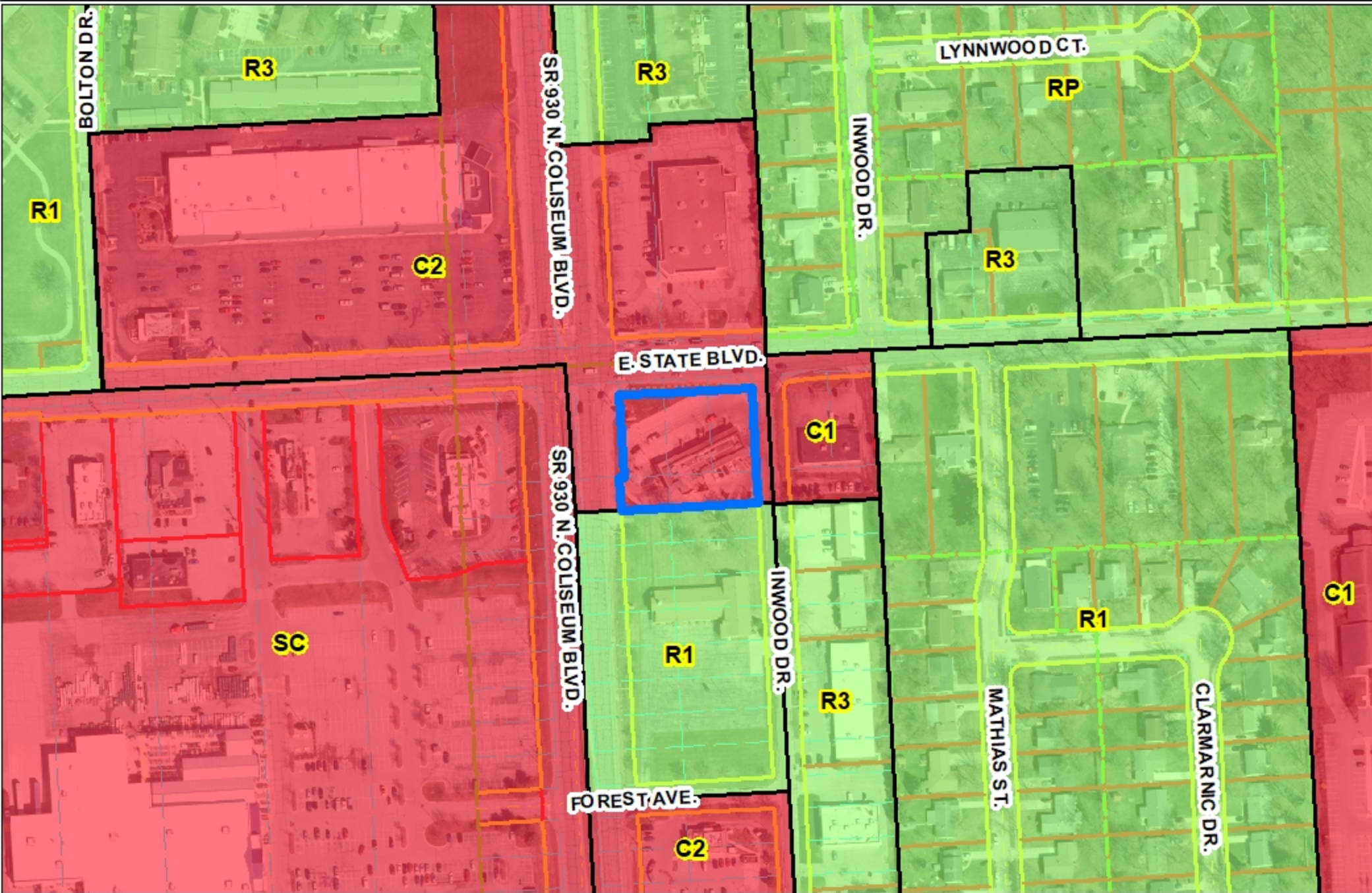
Secretary to the Commission

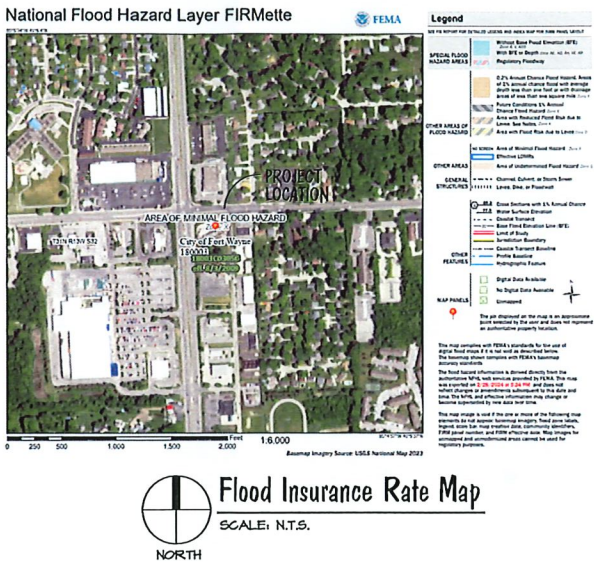
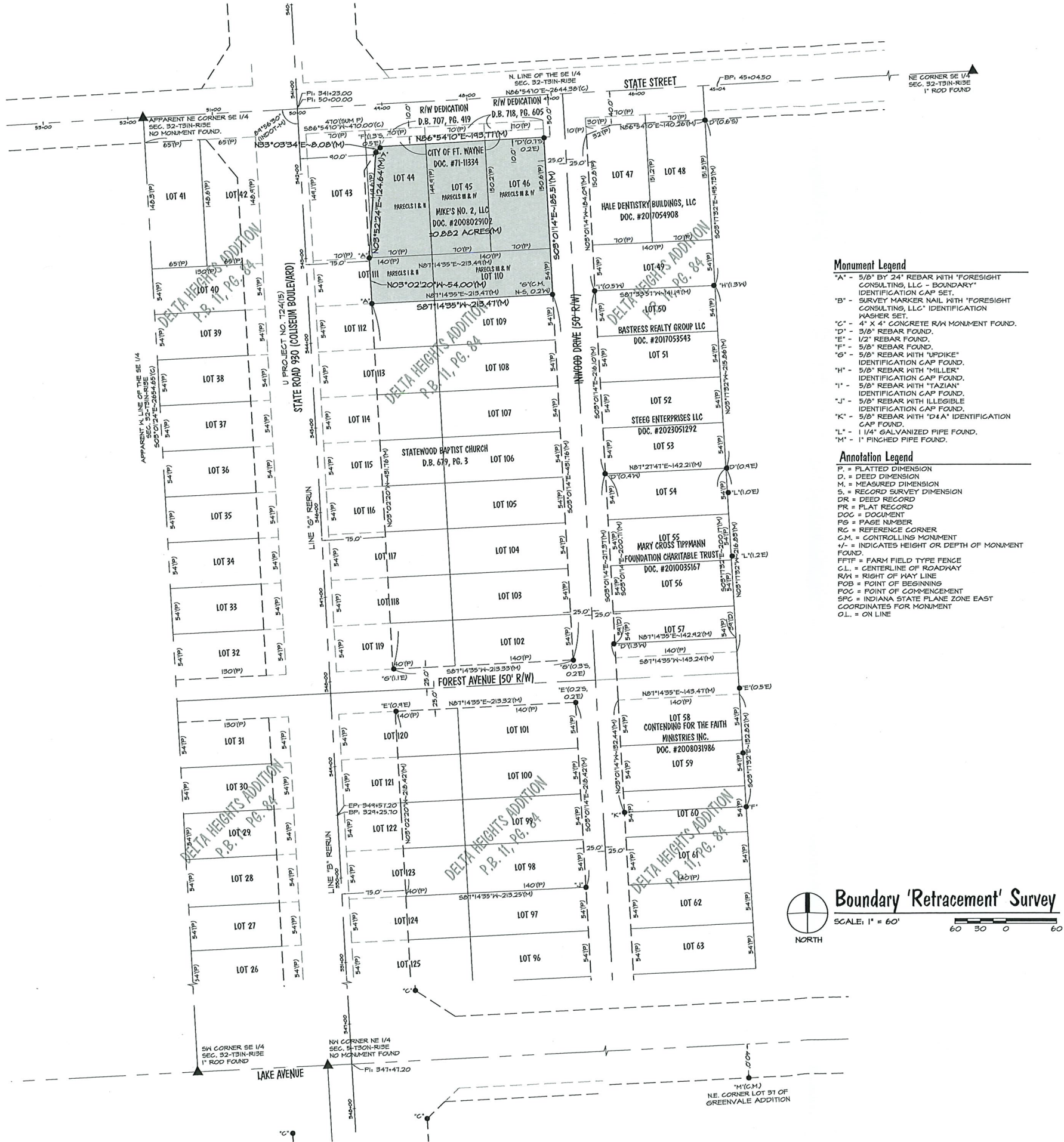


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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: 6/17/2024







Real Estate Description per Doc. No. 2008029102

PARCELS I & II:
LOTS NUMBERED FORTY-FOUR (44) AND ONE HUNDRED ELEVEN (111) IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE, ACCORDING TO THE PLAT OF SAID ADDITION, EXCEPTING THAT PART THEREOF WHICH HAS BEEN HERETOFORE CONVEYED TO THE STATE OF INDIANA FOR RIGHT-OF-WAY LANDS AND HIGHWAY PURPOSE.

ALSO:

SOUTHEAST CORNER OF LOT 43 IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE, ACCORDING TO THE PLAT OF SAID ADDITION, PER SURVEY PREPARED BY DONOVAN ENGINEERING, INC., 2020 INWOOD DRIVE, FORT WAYNE, INDIANA 46815 FOR MIKE'S CARWASH, DATED MARCH 17, 2006.

PARCELS III-IV:

LOTS NUMBERED 45, 46 AND 110, EXCEPT THAT PART OF LOTS 45 AND 46 APPROPRIATED FOR THE WIDENING OF STATE STREET, IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE, AS RECORDED IN PLAT RECORD II, PAGES 84-85, IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA.

Professional Surveyor's Certification

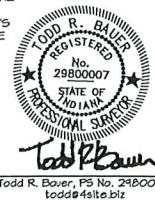
THE UNDERSIGNED LAND SURVEYOR, REGISTERED UNDER THE LAWS OF THE STATE OF INDIANA, CERTIFIES THAT HE HAS MADE A RETRACEMENT SURVEY OF THE REAL ESTATE DEPICTED AND DESCRIBED THEREON. MEASUREMENTS WERE MADE AND MONUMENTS WERE PERPETUATED AS SHOWN, IN CONFORMITY WITH THE RECORD THEREOF IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA. NO VISIBLE ENCROACHMENTS EXISTED, EXCEPT AS NOTED. I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS PLAT REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH TITLE 36, ARTICLE 1, RULE 12, SECTIONS 1 THROUGH 30 OF THE INDIANA ADMINISTRATIVE CODE.

DECLARATION/CERTIFICATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY AND IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. THIS SURVEY IS VALID ONLY WITH THE SURVEYOR'S ORIGINAL OR ELECTRONIC SIGNATURE AND SEAL, FULL PAYMENT OF THE INVOICE, AND COMPLETE WITH ALL PAGES OF SURVEY.

COMMISSION NUMBER: 243781
CLIENT: MIKE'S CARWASH
DATES OF FIELD WORK: FEBRUARY 26TH, 2024
FIELD WORK COMPLETED: FEBRUARY 26TH, 2024

IN WITNESS WHEREOF, I HERETO PLACE MY HAND AND SEAL THIS 8TH DAY OF MARCH, 2024.

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.



BOUNDARY 'RETRACEMENT' SURVEY FOR:

Mike's Carwash No. 2
4020 East State Boulevard, Fort Wayne, IN 46815

Drawing Revisions

Commission Number
243781
Date
March 8th, 2024
Title

Sheet Number
S1.1
Sheet 1 of 2

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



EXPERIENCE. INNOVATION. RESULTS.

Professional Surveyor's Report

IN ACCORDANCE WITH TITLE 865, ARTICLE 1, RULE 12, SECTIONS 1 THROUGH 30 OF THE INDIANA ADMINISTRATIVE CODE, THE FOLLOWING REPORT IS SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED ON THIS PARCEL AS A RESULT OF:

- (A) VARIANCES IN REFERENCE MONUMENTS.
(B) DISCREPANCIES IN RECORD DESCRIPTIONS AND/OR PLATS.
(C) INCONSISTENCIES IN LINES OF OCCUPATION AND/OR POSSESSION.
(D) RELATIVE POSITIONAL ACCURACY (RPA), THE ACCEPTABLE RELATIVE POSITIONAL ACCURACY FOR THE VARIOUS SURVEY CLASSIFICATIONS ARE AS FOLLOWS:
(1) URBAN SURVEYS: 0.01 FEET PLUS 50 PARTS PER MILLION.
(2) SUBURBAN SURVEYS: 0.15 FEET PLUS 100 PARTS PER MILLION.
(3) RURAL SURVEYS: 0.25 FEET PLUS 200 PARTS PER MILLION.

PROFESSIONAL SURVEYOR'S REPORT: GENERAL INFORMATION

COPYRIGHT, OWNERSHIP OF DOCUMENTS AND LIMITED REVOCABLE LICENSE FOR THE USE OF THIS PLAT OF SURVEY
THE PLAT OF SURVEY, INCLUDING, BUT NOT LIMITED, TO PLAN NOTES, SYMBOLS, LEGENDS, REPORTS, CERTIFICATIONS AND ANY RELATED PRODUCTS, IS AN ORIGINAL CREATIVE WORK PRODUCT PREPARED BY FORESIGHT CONSULTING, LLC AND IS PROTECTED UNDER THE COPYRIGHT LAWS OF THE UNITED STATES OF AMERICA. THIS ORIGINAL CREATIVE WORK PRODUCT IS THE SOLE PROPERTY OF FORESIGHT CONSULTING, LLC. NEITHER THE PLAT OF SURVEY, OR ANY INFORMATION SHOWN HEREON, SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM OR CORPORATION BEYOND THE PARTIES TO THIS CONTRACT AND EXPLICITLY REPRESENTED HEREON, FOR ANY USE OR PURPOSE WITHOUT THE EXPRESS WRITTEN PERMISSION OF FORESIGHT CONSULTING, LLC.

ADDITIONALLY, THE SURVEY, CERTIFICATION AND DECLARATIONS MADE HEREON ARE LIMITED TO THE IDENTIFIED PARTIES CONTAINED WITHIN THE SURVEY CERTIFICATION, AND REPRESENT A LIMITED REVOCABLE LICENSE FOR USE ONLY IN THE PROPOSED REAL ESTATE TRANSACTION. THESE CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS, PARTIES OR SUBSEQUENT OWNERS AND ENTITIES. THIS LICENSE FOR USE AUTOMATICALLY EXPIRES, AND IS REVOKED, NINETY (90) DAYS AFTER THE ISSUE DATE OF SURVEY DOCUMENT(S).

BOUNDARY RESOLUTION - BASIS OF THE ESTABLISHED BOUNDARY OF THE SUBJECT PARCEL
THIS SURVEY AND ASSOCIATED REPORT ARE BASED IN PART UPON THE OPINIONS FORMED IN ACCORDANCE WITH AN INDIANA LAND SURVEYOR'S RESPONSIBILITY TO CONDUCT A SURVEY IN ACCORDANCE WITH LAW OR A PRECEDENT (865 IAC 1-12-1105) OF THE INDIANA STATE BOARD OF REGISTRATION FOR LAND SURVEYORS). SINCE INDIANA HAS NO STATUTES ADDRESSING HOW TO RESOLVE BOUNDARY LINES, A SOLUTION BASED ON PRINCIPLES DERIVED FROM COMMON LAW PRECEDENT MUST BE RELIED UPON AS THE BASIS FOR A BOUNDARY RESOLUTION.

BOUNDARY LINE CONFLICTS
THE REPRESENTATION OF ANY POTENTIAL BOUNDARY LINE CONFLICTS SHOWN HEREON, EITHER BY LINES OF OCCUPATION, POSSESSION OR RECORD DESCRIPTION, DOES NOT INFER ANY RIGHT OF PROPERTY OWNERSHIP, POSSESSION OR DISTURBANCE OF EXISTING LINES OF OCCUPATION AND IMPROVEMENTS WITHIN THE AREA OF CONFLICT. THE CLIENT IS STRONGLY ADVISED TO CONSULT/RETAIN A COMPETENT REAL ESTATE ATTORNEY AND/OR TITLE COMPANY TO REVIEW THE BOUNDARY CONFLICT.

LIMITATIONS OF SURVEY INFORMATION AND SCOPE OF WORK
EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT OF SURVEY, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWINGS WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE SHOWN AT THE TIME OF MAKING THIS SURVEY, BUT THE FOLLOWING RESTRICTIVE COVENANTS, SUBDIVISIONS, ZONING OR OTHER LAND-USE REGULATIONS, AND ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

TITLE OWNERSHIP AND EASEMENT DOCUMENT REFERENCES
TITLE, OWNERSHIP AND EASEMENT DOCUMENT REFERENCES REPRESENTED ON THIS PLAT OF SURVEY ARE BASED UPON RECORD DOCUMENT RESEARCH WITHIN THE OFFICE OF THE RECORDER IN WHICH THE SURVEYED PROPERTY IS LOCATED. THE DOCUMENT REFERENCES ARE NEITHER CERTIFIED NOR WARRANTED BY THE OFFICE OF FORESIGHT CONSULTING, LLC, AND DO NOT CONSTITUTE A COMPLETE AND ACCURATE REPRESENTATION OF TITLE, OWNERSHIP AND EASEMENT ENCUMBRANCES THAT MAY EFFECT THE SUBJECT PROPERTY. THE RESEARCH PERFORMED BY FORESIGHT CONSULTING, LLC COMPLIES WITH THE LOCAL STANDARD OF CARE EXERCISED BY PROFESSIONAL SURVEYORS WITHIN THE STATE OF INDIANA, AND COMPLEMENTS OF INDIANA ADMINISTRATIVE CODE TITLE 865, ARTICLE 1, RULE 12 (COMPETENT PRACTICE OF LAND SURVEYING) SECTIONS 1 THROUGH 30.

ROADWAY RIGHT OF WAYS AND/OR EASEMENTS
ROADWAYS OR DRIVEWAYS SHOWN ON THIS PLAT OF SURVEY ARE AS FOUND ON THE GROUND DURING THE COURSE OF LAND SURVEYING FIELD OPERATIONS. THE UNDERSIGNED SURVEYOR DOES NOT REPRESENT THAT ROADWAY IS PUBLICLY MAINTAINED, THAT A DEDICATED RIGHT OF WAY EXISTS, NOR THAT THE ROADWAY HAS BENEFIT OF AN EASEMENT FOR THE USE OF ACCESSWAY BENEFITS FOR THE SUBJECT PARCEL.

VARIANCES IN DEED VS. MEASURED DIMENSIONS
THERE MAY BE VARIANCES BETWEEN THE DEED DIMENSIONS AND THE MEASURED DIMENSIONS ALONG THE ESTABLISHED BOUNDARY LINES OF THIS SURVEY. HOWEVER, THERE MAY BE FOUND SURVEY MONUMENTS NEAR, BUT NOT PRECISELY AT, SOME BOUNDARY CORNERS. WHEN THE MAGNITUDE OF THESE VARIANCES ARE LESS THAN THE RELATIVE POSITIONAL ACCURACY STATED BELOW AND ARE LESS THAN THE UNCERTAINTY IDENTIFIED FOR THE REFERENCE MONUMENTATION, THE DIFFERENCES HAVE BEEN CONSIDERED INSIGNIFICANT AND ARE SHOWN ONLY FOR THE PURPOSES OF MATHEMATICAL CLOSURE. WHEN SUCH MEASURED VARIANCES ARE GREATER THAN THE RELATIVE POSITIONAL ACCURACY AND THE UNCERTAINTY IN REFERENCE MONUMENTS, THESE VARIANCES ARE WORTHY OF DISCUSSION AND ARE ADDRESSED IN THIS REPORT.

HORIZONTAL POSITIONING METHODOLOGY
THE HORIZONTAL LOCATION OF ALL FOUND AND ESTABLISHED MONUMENTS ARE BASED UPON STANDARD SURVEYING MEASUREMENT TECHNIQUES USING A POSITIONAL SOLUTION DERIVED BY USING RTK GLOBAL POSITIONINGS (GPS) OBSERVATIONS WITHIN 5000 REPT SURVEYS USING THE INDIANA DEPARTMENT OF TRANSPORTATION "INCORS" VIRTUAL REFERENCE LAND SURVEYING NETWORK.

BASIS OF BEARING
THE BASIS OF BEARING FOR THIS SURVEY IS BASED UPON INDIANA STATE PLANE COORDINATE ZONE EAST GEODETIC GRID BEARING VALUES AS SHOWN AND REPRESENTED ON THE PLAT OF THIS SURVEY.

PROFESSIONAL SURVEYOR'S REPORT: SURVEYED PROPERTY REPORT

TITLE COMMITMENT
ONLY THE RECORD DOCUMENTS NOTED HEREON WERE PROVIDED TO, OR OBTAINED BY, THE SURVEYOR. NEITHER A TITLE COMMITMENT, TITLE SEARCH OR ABSTRACT HAVE BEEN PROVIDED FOR THE PURPOSE OF COMPLETING THIS SURVEY. MATTERS DISCLOSED WITHIN A COMPLETE AND ACCURATE TITLE COMMITMENT MAY ALTER THE BOUNDARY RESOLUTION FOR THE SUBJECT PROPERTY, AND MAY INCLUDE ADDITIONAL EASEMENTS AND ENCUMBRANCES THAT IMPACT THE USE AND ENJOYMENT OF THE REAL ESTATE. SHOULD A TITLE COMMITMENT FOR THE SURVEYED PROPERTY BE PERFORMED, THE CLIENT SHALL IMMEDIATELY NOTIFY FORESIGHT CONSULTING, LLC, AND PROVIDE THE TITLE COMMITMENT AND ASSOCIATED DOCUMENTATION FOR REVIEW AND CONSIDERATION RELATIVE TO THE IMPACT ON THE SURVEYED PROPERTY.

FLOOD HAZARD STATEMENT
THE ENTIRE SURVEYED PROPERTY LIES WITHIN ZONE "X" AS DESIGNATED ON FLOOD INSURANCE RATE MAP 18003C03055 WITH AN EFFECTIVE DATE OF AUGUST 3RD, 2004. ZONE "X" IS DEFINED AS AN AREA OF MINIMAL FLOOD HAZARD.

PURPOSE OF SURVEY
THE PURPOSE OF THIS SURVEY WAS TO RETRACE THE BOUNDARIES OF THE LANDS OF MIKE'S NO. 2, LLC AS RECORDED IN DOCUMENT NUMBER 200802102 WITHIN THE OFFICE OF RECORDER OF ALLEN COUNTY, INDIANA FOR THE PURPOSE OF FUTURE SITE IMPROVEMENTS.

REFERENCE INFORMATION UTILIZED THIS SURVEY
THE RECORDED DOCUMENTS FOR THE SURVEYED PROPERTY AND THE ADJOINING PARCELS WERE UTILIZED DURING THE COURSE OF THIS BOUNDARY SURVEY.

THE RECORDED PLAT OF DELTA HEIGHTS ADDITION AS RECORDED IN PLAT BOOK II, PAGE 84 WITHIN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA.

PREVIOUS SURVEY BY FORESIGHT CONSULTING, LLC AS COMMISSION NUMBER #11922, DATED APRIL 17TH, 2017.

INDOT RIGHT OF WAY PLANS FOR STATE ROAD 430 AS U PROJECT NO. 124(15) DATED SEPTEMBER 3RD, 1963.

AVAILABILITY AND CONDITION OF REFERENCE MONUMENTS
THE BOUNDARY LINES OF THE LANDS OF MIKE'S NO. 2, LLC AS RECORDED IN DOCUMENT NUMBER 200802102 WITHIN THE OFFICE OF RECORDER OF ALLEN COUNTY, INDIANA ARE DEPENDENT UPON THE CONTROLLING LINES AND MONUMENTS OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 31 NORTH, RANGE 13 EAST, ALLEN COUNTY, INDIANA, THE CONTROLLING LINES AND MONUMENTS OF THE PLAT OF DELTA HEIGHTS ADDITION, AND THE RIGHT OF WAY LINES OF STATE ROAD 430.

COUNTY REFERENCED 1" RODS WERE FOUND AT THE NORTHEAST AND SOUTHWEST CORNERS OF THE SOUTHEAST QUARTER OF SECTION 32, AND WERE HELD AS CONTROLLING MONUMENTS.

SEVERAL 4" X 4" CONCRETE RIGHT OF WAY MONUMENTS WERE FOUND AT RIGHT OF WAY CORNERS AROUND THE INTERSECTION OF STATE ROAD 430 AND LAKE AVENUE. THESE MONUMENTS WERE CALLED FOR ON PREVIOUS FORESIGHT SURVEY, AND WERE HELD AS CONTROLLING MONUMENTS.

THE PLAT OF DELTA HEIGHTS ADDITION DOES NOT SPECIFY THE SPECIFIC TYPE OR CHARACTERISTICS OF THE MONUMENTS SET AT THE TIME OF THE ORIGINAL SUBDIVISION OF LAND. IN ABSENCE OF ORIGINAL CONTROLLING MONUMENTS, MONUMENTS FOUND THAT CORRELATED WELL WITH RECORD DIMENSIONS, AND PHYSICAL IMPROVEMENTS, WERE USED TO ESTABLISH THE LOTS WITHIN THE PLAT OF DELTA HEIGHTS ADDITION.

A 5/8" REBAR WITH "UPDIKE" IDENTIFICATION CAP WAS FOUND NEAR THE SOUTHEAST CORNER OF THE SUBJECT PROPERTY. THIS MONUMENT CORRELATED WELL WITH PLATTED DIMENSIONS, AND WAS HELD AS A CONTROLLING MONUMENT IN THE NORTH-SOUTH DIRECTION.

A 1" PINCH PIPE WAS FOUND NEAR THE NORTHEAST CORNER OF LOT NUMBER 31 OF GREENVALE ADDITION. THIS MONUMENT APPEARED TO BE LONG STANDING AND IS CONSISTENT WITH MONUMENTS SET BY A.K. HOFER THE ORIGINAL SURVEYOR FOR THE ADDITION. THIS WAS HELD AS A CONTROLLING MONUMENT.

NUMEROUS OTHER MONUMENTS WERE FOUND DURING THE COURSE OF LAND SURVEYING FIELD OPERATIONS. THESE MONUMENTS WERE CONSIDERED WHEN ESTABLISHING THE BOUNDARY LINES OF THE SUBJECT PROPERTY AND ADJOINING PROPERTIES, AND HAVE BEEN LABELED ON SHEET 11.

Professional Surveyor's Report

DISCREPANCIES IN RECORD DESCRIPTIONS AND/OR PLATS
THE RECORD DESCRIPTION OF THE SUBJECT PROPERTY EXCEPTS OUT "THAT PART THEREOF WHICH HAS BEEN HERETOFORE CONVEYED TO THE STATE OF INDIANA FOR RIGHT-OF-WAY LANDS AND HIGHWAY PURPOSE". NO DOCUMENTS WERE FOUND CONVEYING THE TRIANGULAR PORTION OF THE RIGHT OF WAY ALONG THE WESTERN LINE OF THE SUBJECT PROPERTY AS ESTABLISHED FROM THE INDOT RIGHT OF WAY PLANS FOR STATE ROAD 430. OWNERSHIP IS SHOWN TO THE RIGHT OF WAY AS SHOWN ON THE INDOT RIGHT OF WAY PLANS THIS SURVEY. A TITLE SEARCH IS NEEDED TO ESTABLISH WHETHER OR NOT THIS RIGHT OF WAY WAS EVER CONVEYED AS A FEE SIMPLE RIGHT OF WAY TAKE.

DISCREPANCIES IN LINES OF OCCUPATION AND/OR POSSESSION
NO OTHER SIGNIFICANT DISCREPANCIES WERE FOUND IN LINES OF OCCUPATION DURING THE COURSE OF LAND SURVEYING FIELD OPERATIONS.

THEORY OF LOCATION
AS PREVIOUSLY STATED, THE BOUNDARY LINES OF THE LANDS OF MIKE'S NO. 2, LLC AS RECORDED IN DOCUMENT NUMBER 200802102 WITHIN THE OFFICE OF RECORDER OF ALLEN COUNTY, INDIANA ARE DEPENDENT UPON THE CONTROLLING LINES AND MONUMENTS OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 31 NORTH, RANGE 13 EAST, ALLEN COUNTY, INDIANA, THE CONTROLLING LINES AND MONUMENTS OF THE PLAT OF DELTA HEIGHTS ADDITION, AND THE RIGHT OF WAY LINES OF STATE ROAD 430.

THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 32 WAS ESTABLISH BY A LINE THAT ORIGINATES AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 32 AND RUNS EASTERLY TO AND THROUGH A POINT THAT IS 40' MEASURED PERPENDICULARLY TO AND NORTH OF THE AFOREMENTIONED 1 INCH PINCH PIPE FOUND NEAR THE NORTHEAST CORNER OF LOT 31 OF GREENVALE ADDITION.

THE POINT OF INTERSECTION OF LINE "B" RERUN WITH THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 32 WAS ESTABLISHED BY RECORD DIMENSIONS AND THEIR METRIC RELATIONSHIP TO EXISTING RIGHT OF WAY MONUMENTS FOUND AND THE PREVIOUSLY ESTABLISHED SOUTH LINE OF THE SOUTHEAST QUARTER.

THE CENTERLINE OF STATE ROAD 430 WAS ESTABLISHED AS A LINE BEGINNING AT THE PREVIOUSLY ESTABLISHED POINT OF INTERSECTION OF LINE "B" RERUN WITH THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 32 RUNNING NORTH THE INDOT RECORD DISTANCE NORTH, HOLDING THE INDOT ANGLE TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 32 TO THE 1" ROD FOUND AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 32 TO ESTABLISH THE BEARING FOR THIS LINE. THE RESULTING CENTERLINE CORRELATED WELL WITH THE PHYSICAL IMPROVEMENTS OF STATE ROAD 430. THE RIGHT OF WAY LINES OF STATE ROAD 430, THE EASTERLY RIGHT OF WAY LINE BEING ONE AND THE SAME AS THE WEST LINE OF THE SUBJECT PROPERTY, WERE THEN ESTABLISHED USING THE STATIONINGS AND OFFSETS IN THE RIGHT OF WAY PLANS FROM THE ESTABLISHED CENTERLINE.

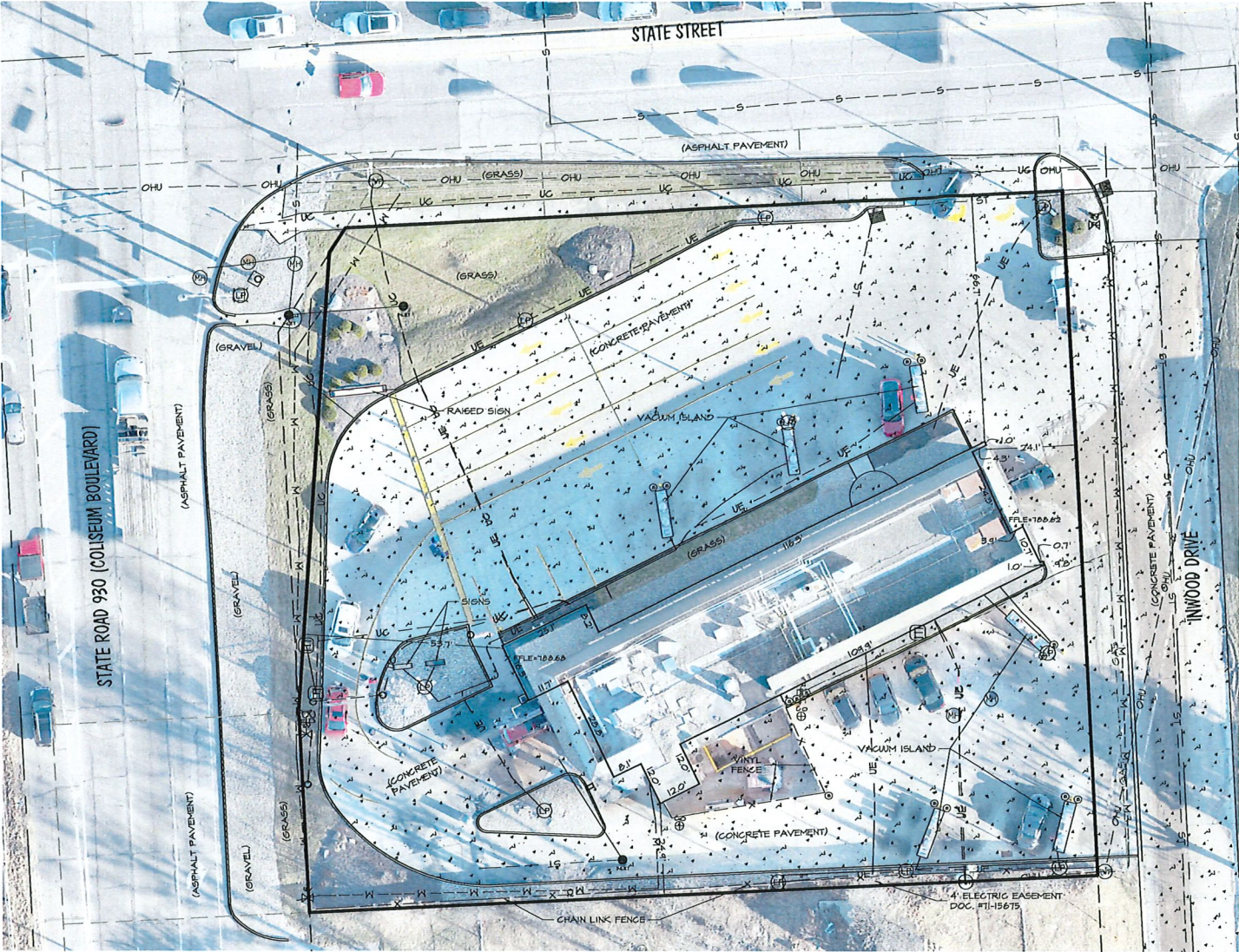
THE RIGHT OF WAY LINES OF INWOOD DRIVE, THE WESTERN RIGHT OF WAY LINE BEING ONE AND THE SAME AS THE EAST LINE OF THE SUBJECT PROPERTY, WERE ESTABLISHED USING THE CONCRETE CURBING ALONG THIS STREET.

THE NORTH LINE OF THE SOUTHEAST QUARTER WAS THEN ESTABLISHED AS A LINE BEGINNING AT THE 1" ROD FOUND AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER THROUGH A POINT THE RECORD DISTANCE SHOWN ON THE INDOT RIGHT OF WAY PLANS NORTH OF THE POINT OF INTERSECTION OF LINE "B" RERUN WITH THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 32, EXTENDING WEST THE PLATTED DISTANCE WEST FROM THE NORTHEAST CORNER OF LOT 46 IN DELTA HEIGHTS ADDITION.

THE NORTH LINE OF THE SUBJECT PROPERTY WAS THEN ESTABLISHED AS A LINE PARALLEL AND 50 FEET EQUIDISTANT SOUTH FROM THE PREVIOUSLY ESTABLISHED NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 32.

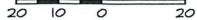
THE RIGHT OF WAY LINES OF FOREST AVENUE WERE ESTABLISHED USING THE CONCRETE CURBING ALONG THIS STREET.

THE SOUTH LINE OF THE SUBJECT PROPERTY WAS ESTABLISHED AS A LINE PARALLEL TO THE PREVIOUSLY ESTABLISHED NORTH RIGHT OF WAY LINE OF FOREST AVENUE, HOLDING THE 5/8" REBAR WITH "UPDIKE" IDENTIFICATION CAP FOUND NEAR THE SOUTHEAST CORNER OF THE SUBJECT PROPERTY FOR THE NORTH-SOUTH LOCATION.



Building & Improvements Detail

SCALE: 1" = 20'



Professional Surveyor's Certification

THE UNDERSIGNED LAND SURVEYOR, REGISTERED UNDER THE LAWS OF THE STATE OF INDIANA, CERTIFIES THAT HE HAS MADE A RETRACEMENT SURVEY OF THE REAL ESTATE DEPICTED AND DESCRIBED THEREON. MEASUREMENTS WERE MADE AND MONUMENTS WERE PERPETUATED AS SHOWN, IN CONFORMITY WITH THE RECORD THEREOF IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA. NO VISIBLE ENCUMBRANCES EXISTED, EXCEPT AS NOTED. I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS PLAT REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH TITLE 865, ARTICLE 1, RULE 12, SECTIONS 1 THROUGH 30 OF THE INDIANA ADMINISTRATIVE CODE.

DECLARATION/CERTIFICATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY AND IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. THIS SURVEY IS VALID ONLY WITH THE SURVEYOR'S ORIGINAL OR ELECTRONIC SIGNATURE AND SEAL. FULL PAYMENT OF THE INVOICE, AND COMPLETE WITH ALL PAGES OF SURVEY.

COMMISSION NUMBER: 243781
CLIENT: MIKE'S CARWASH
DATES OF FIELD WORK: FEBRUARY 26TH, 2024
FIELD WORK COMPLETED: FEBRUARY 26TH, 2024

IN WITNESS WHEREOF, I HERETO PLACE MY HAND AND SEAL THIS 8TH DAY OF MARCH, 2024.

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.



BOUNDARY 'RETRACEMENT' SURVEY FOR:

Mike's Carwash No. 2
4020 East State Boulevard, Fort Wayne, IN 46815

Drawing Revisions

Commission Number

243781

Date

March 8th, 2024

Title

Sheet Number

S1.2

Sheet 2 of 2

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



THE PLAT OF SURVEY, INCLUDING, BUT NOT LIMITED, TO PLAN NOTES, SYMBOLS, LEGENDS, REPORTS, CERTIFICATIONS AND ANY RELATED PRODUCTS, IS AN ORIGINAL CREATIVE WORK PRODUCT PREPARED BY FORESIGHT CONSULTING, LLC AND IS PROTECTED UNDER THE COPYRIGHT LAWS OF THE UNITED STATES OF AMERICA. THIS ORIGINAL CREATIVE WORK PRODUCT IS THE SOLE PROPERTY OF FORESIGHT CONSULTING, LLC. NEITHER THE PLAT OF SURVEY, OR ANY INFORMATION SHOWN HEREON, SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM OR CORPORATION BEYOND THE PARTIES TO THIS CONTRACT AND EXPLICITLY REPRESENTED HEREON, FOR ANY USE OR PURPOSE WITHOUT THE EXPRESS WRITTEN PERMISSION OF FORESIGHT CONSULTING, LLC.

ADDITIONALLY, THE SURVEY, CERTIFICATION AND DECLARATIONS MADE HEREON ARE LIMITED TO THE IDENTIFIED PARTIES CONTAINED WITHIN THE SURVEY CERTIFICATION, AND REPRESENT A LIMITED REVOCABLE LICENSE FOR USE ONLY IN THE PROPOSED REAL ESTATE TRANSACTION. THESE CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS, PARTIES OR SUBSEQUENT OWNERS AND ENTITIES. THIS LICENSE FOR USE AUTOMATICALLY EXPIRES, AND IS REVOKED, NINETY (90) DAYS AFTER THE ISSUE DATE OF SURVEY DOCUMENT(S).

Performed for:

EXPERIENCE. INNOVATION. RESULTS.

Legal Description of Real Estate

The land is situated in the County of Allen, State of Indiana, and described as follows:

PARCELS I & II: Lots Numbered Forty-Four (44) and One Hundred Eleven (111) in Delta Heights Addition to the City of Fort Wayne, according to the plat of said addition, excepting that part thereof which has been heretofore conveyed to the State of Indiana for right-of-way lands and highway purpose.

Also:

Southeast corner of Lot 43 in Delta Heights Addition to the City of Fort Wayne, according to the plat of said addition, per Survey prepared by Donovan Engineering, Inc., 2020 Inwood Drive, Fort Wayne, Indiana 46815 for Mike's Carwash, dated March 17, 2006.

PARCELS III-IV:

Lots Numbered 45, 46 and 110, except that part of Lots 45 and 46 appropriated for the widening of State Street, in Delta Heights Addition to the City of Fort Wayne, as recorded in Plat Record 11, pages 84-85, in the Office of the Recorder of Allen County, Indiana

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made this ____ day of _____, 2024 by Mike’s No. 2, LLC, an Indiana limited liability company (the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 0.90 acres of real estate located 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 a C2/Limited Commercial zoning district to a C3/General Commercial zoning district, bearing number REZ-2024-0029 (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. Automobile auction
 - b. Automobile body shop
 - c. Automobile rental
 - d. Automobile repair
 - e. Automobile restoration
 - f. Automobile sales
 - g. Gas station
 - h. Truck fueling station
2. Permitted Uses. Any use otherwise permitted in a C3/ General Commercial 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 zoning ordinance by the Zoning Administrator, or any successor agency having zoning jurisdiction over the Real Estate, 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, 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. This Commitment may be enforced by any successor commission or enforcement official having zoning jurisdiction over the Real Estate.
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(s) 2008029100.
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.

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DRAFT

“DECLARANT”

MIKE’S NO. 2, LLC, an Indiana limited liability company

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 _____, 2024, personally appeared _____, the _____ of Mike’s No. 2, LLC, an Indiana limited liability company, 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: Joshua C. Neal, Esq., Barrett McNagny LLP, 215 East Berry Street, Fort Wayne, Indiana 46802.

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. Joshua C. Neal

When Recorded, mail to: Joshua C. Neal, Barrett McNagny LLP, 215 East Berry Street, Fort Wayne, Indiana 46802.

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

PARCELS I & II:

LOTS NUMBERED FORTY-FOUR (44) AND ONE HUNDRED ELEVEN (111) IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE, ACCORDING TO THE PLAT OF SAID ADDITION, EXCEPTING THAT PART THEREOF WHICH HAS BEEN HERETOFORE CONVEYED TO THE STATE OF INDIANA FOR RIGHT-OF-WAY LANDS AND HIGHWAY PURPOSE.

ALSO:

SOUTHEAST CORNER OF LOT 43 IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE, ACCORDING TO THE PLAT OF SAID ADDITION, PER SURVEY PREPARED BY DONOVAN ENGINEERING, INC., 2020 INWOOD DRIVE, FORT WAYNE, INDIANA 46815 FOR MIKE'S CARWASH, DATED MARCH 17, 2006.

PARCELS III-IV:

LOTS NUMBERED 45, 46 AND 110, EXCEPT THAT PART OF LOTS 45 AND 46 APPROPRIATED FOR THE WIDENING OF STATE STREET, IN DELTA HEIGHTS ADDITION TO THE CITY OF FORT WAYNE, AS RECORDED IN PLAT RECORD 11, PAGES 84-85, IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY, INDIANA.

DRAFT