

#REZ-2025-0038

BILL NO. Z-25-07-21

ZONING MAP ORDINANCE NO. Z-_____

AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. M42 (Sec 14 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 C2/Limited Commercial District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana:

LEGAL DESCRIPTION

Remainder Parcel Description:

This description, prepared by Justin W. Hoffman, Indiana Professional Surveyor, License Number LS21000228 and employed by Brooks Construction Company, Inc., was created as part of Job No. 2473-0020, on December 13, 2024 being a description of the remainder portion of a tract of land conveyed to Colonial Heights, LLC by Document Number 2007058557. All recorded documents in this description being recorded in the Office of the Recorder of Allen County, Indiana:

A part of the North Half of the South Half of the Northeast Quarter of Section 14, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said Section 14, being marked by an INDOT Type B monument; thence South 02 degrees 03 minutes 30 seconds East (geodetic bearing and basis for all bearings in this description), on and along the East line of said Northeast Quarter, a distance of 1341.15 feet; thence South 88 degrees 20 minutes 52 seconds West, a distance of 75.60 feet to a point on the West Right-of-way line of Coldwater Road, also being the Northeast corner of a 2.381 acre tract of land conveyed to the City of Fort Wayne by Document Number 2021081046; thence South 02 degrees 07 minutes 08 seconds East, on and along said West Right-of-way line and on and along the East line of said 2.381 acre tract, a distance of 87.78 feet to the Southeast corner of said 2.381 acre tract, being the Point of Beginning and marked by a 5/8-inch diameter rebar with an identification cap stamped "BROOKS 1ST FIRM #0143" (hereinafter called "Brooks cap"); thence continuing on and along the Southerly and Easterly lines of said 2.381 acre tract the following four (4) courses and distances:

North 73 degrees 13 minutes 42 seconds West, a distance of 56.24 feet to a Brooks cap; thence South 88 degrees 20 minutes 52 seconds West, a distance of 448.49 feet to a Brooks cap; thence on and along the arc of a tangent curve to the left, an arc distance of 270.39 feet to a Brooks cap, said curve having a radius of 171.00 feet, and a

1
2 chord having a bearing of South 43 degrees 02 minutes 57 seconds West and a distance
3 of 243.09 feet; thence South 02 degrees 14 minutes 59 seconds East, a distance of 418.68
4 feet to the South line of the North Half of the South Half of said Northeast Quarter, being
5 marked by a Brooks cap; thence North 88 degrees 23 minutes 19 seconds East, on and
6 along said South line, a distance of 653.11 feet to a point on the West Right-of-way line of
7 Coldwater Road, said point being marked by a 1.5-inch diameter pinched pipe; thence on
8 and along the West Right-of-way line of Coldwater Road the following three (3) courses
9 and distances:

10 North 01 degrees 58 minutes 11 seconds West, a distance of 15.40 feet; thence
11 North 88 degrees 01 minutes 49 seconds East, a distance of 20.00 feet; thence North 02
12 degrees 07 minutes 08 seconds West, a distance of 558.64 feet to the Point of Beginning
13 containing 8.987 acre of land, more or less, being subject to and/or together with all
14 easements and rights-of-way of record.

15
16 and the symbols of the City of Fort Wayne Zoning Map No. M42 (Sec. 14 of Washington Township),
17 as established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is
18 hereby changed accordingly.

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

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

25
26 _____
27 Council Member

28 APPROVED AS TO FORM AND LEGALITY:

29 _____
30 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-2025-0038
Bill Number: Z-25-07-21
Council District: 3 – Nathan Hartman

Introduction Date: July 22, 2025

Plan Commission
Public Hearing Date: August 11, 2025 (not heard by Council)

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

Synopsis of Ordinance: To rezone 8.9 acres from C1/Professional Office and Personal Services to C2/Limited Commercial

Location: Southwest corner of Oakbrook Parkway and Coldwater Roads (Section 14 of Washington Township)

Reason for Request: To permit a multiple structure retail development with outlets

Applicant: R & P Realty Trust, LLC

Property Owner: Colonial Heights LLC

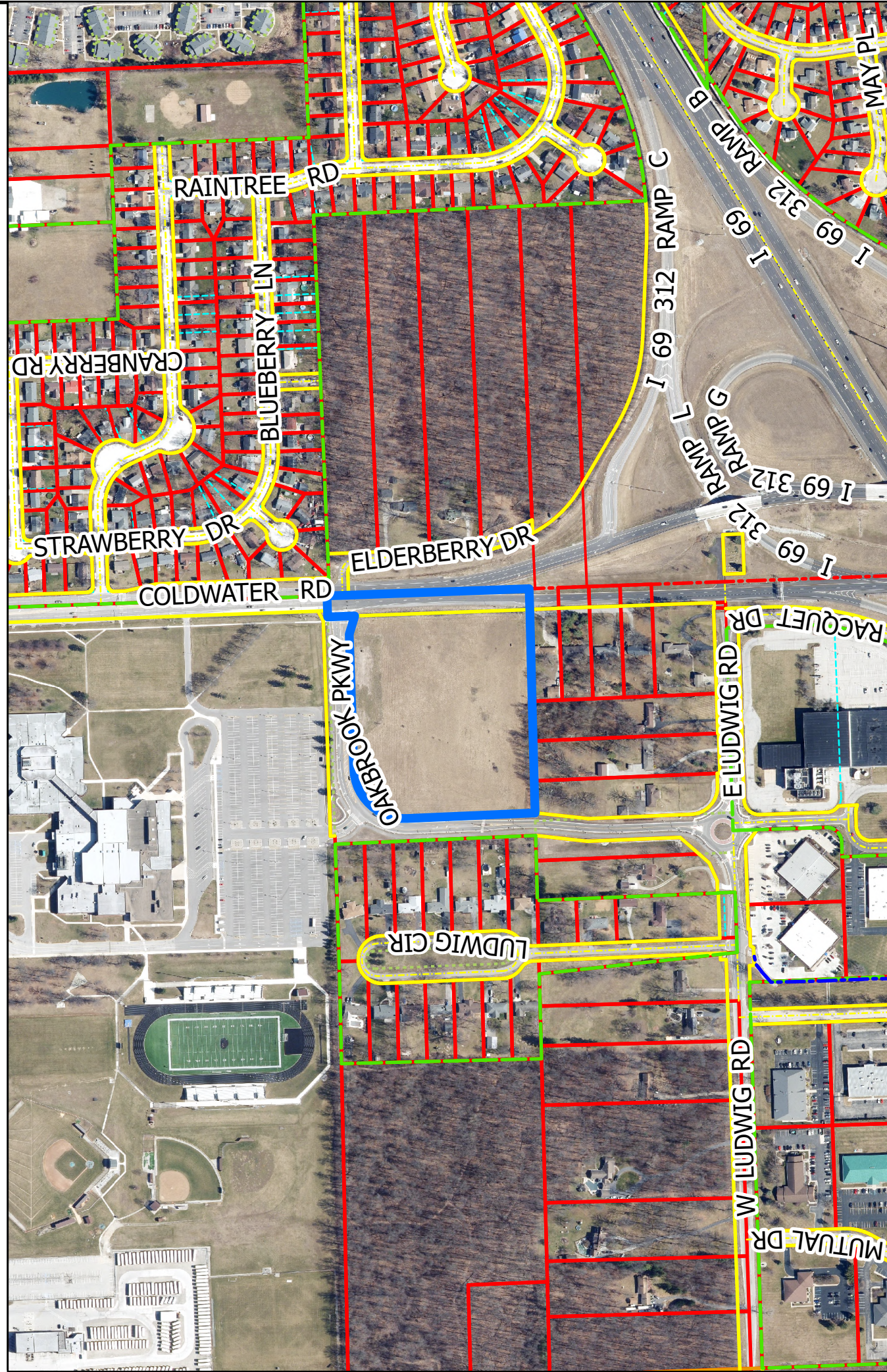
Related Petitions: Primary Development Plan – Coldwater Commons

Effect of Passage: Property will be rezoned to the C2/Limited Commercial zoning district, which would permit a retail commercial development.

Effect of Non-Passage: Property will remain zoned C1/Professional Office and Personal Services, which does not permit retail commercial development. The site may be developed with professional offices, personal services, community, and similar low intensity nonresidential uses, along with certain residential facilities, and similar uses.

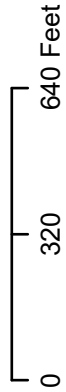


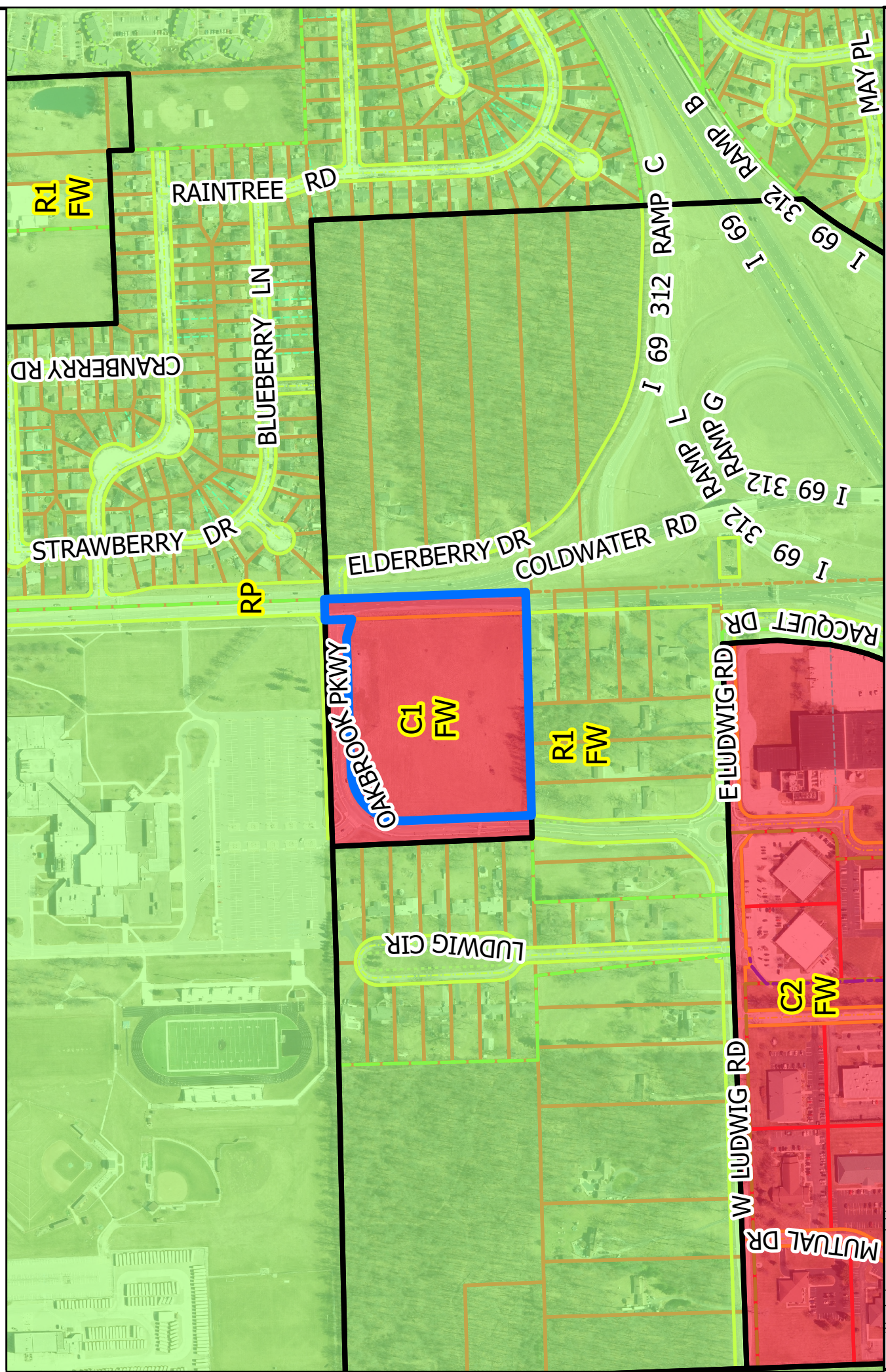
Rezoning Petition REZ-2025-0038 and Primary Development Plan PDP-2025-0025 - Coldwater Commons

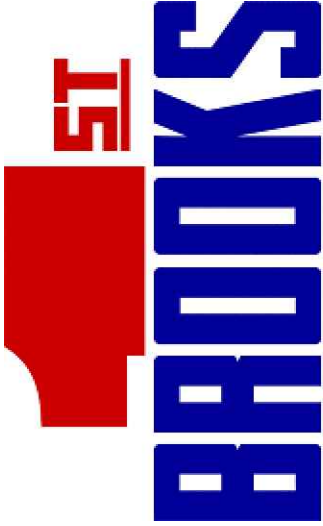


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 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: 7/9/2025

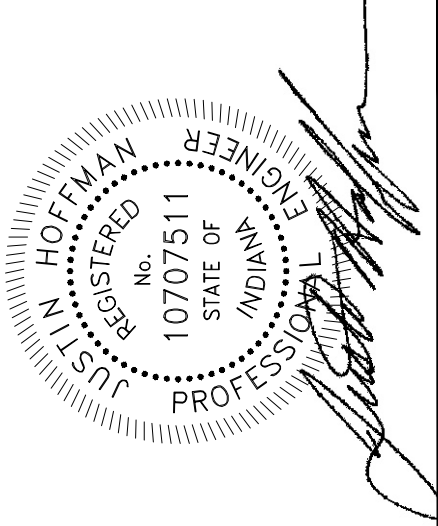






6525 ARDMORE AVE, FORT WAYNE,
IN 46809 (260)478-1990

The concepts, designs, plans details and specifications as shown on and within this document are the sole property of Brooks Construction Company, Inc. and were created, developed and presented for use on this specific project. None of the concepts, ideas, designs, plans, details or specifications shall be used or dissemination of any data herein may be made without the express written permission of Brooks Construction Company, Inc.



EXISTING CONDITIONS LEGEND

- LIGHT POLE
- GUY ANCHOR
- COMMUNICATION PEDESTAL
- COMMUNICATION WARNING
- COMMUNICATION VAULT
- STORM INLET
- FIRE HYDRANT
- SIGN (AS NOTED)
- MAILBOX
- DECIDUOUS TREE
- FENCE POST
- SOIL BORING LOCATION
- EXISTING OVERHEAD
- EXISTING FIBER
- EXISTING TELEPHONE
- EXISTING SANITARY
- EXISTING WATER
- EXISTING STORM
- EXISTING BOARD FENCE
- EXISTING WIRE FENCE
- EXISTING CONTOUR
- EXISTING WOODS LINE
- ASPHALT PAVEMENT
- STONE DRIVE

 PROPOSED MANHOLE PROPOSED FIRE HYDRANT PROPOSED STORM INLET PROPOSED PARKING LOT LIGHT PROPOSED TREE (SPECIES TBD) PROPOSED $\varnothing$ SANITARY MAIN PROPOSED $\varnothing$ WATER MAIN PROPOSED STORM PROPOSED $\varnothing$ SOLID FENCE ASPHALT PAVEMENT CONCRETE

Coldwater Commons

Location:

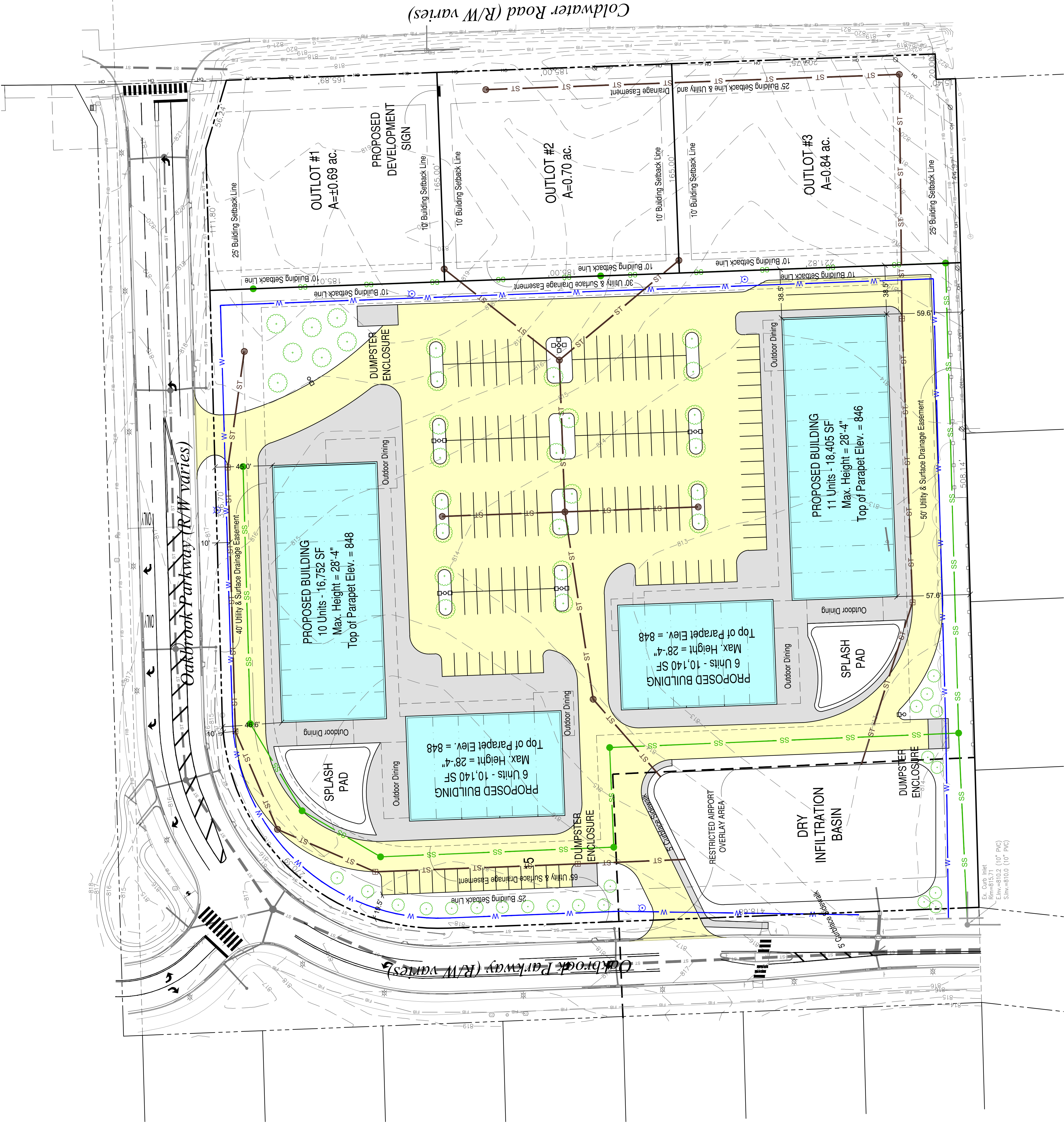
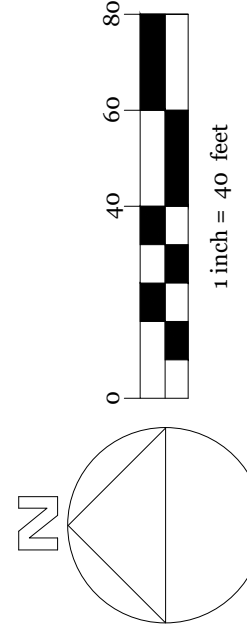
Coldwater Road, Fort Wayne, Indiana
4525 E 82nd St
Indianapolis, IN 46250
Warsler Realty Group, c/o Rob Warsler
(317) 590-8534

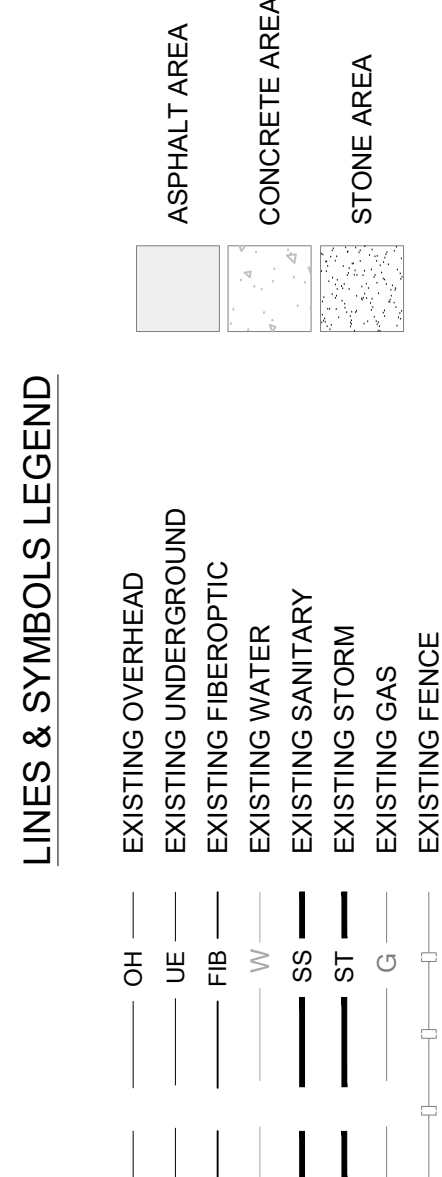
Developer:

JOB NUMBER:	752012
DRAWN BY:	DLM
CHECKED BY:	JWH
SCALE:	As Shown
DATE:	06/30/2025
REVISION:	
DATE:	

TITLE:
Primary Development
Plan
SHEET:

C-1.0

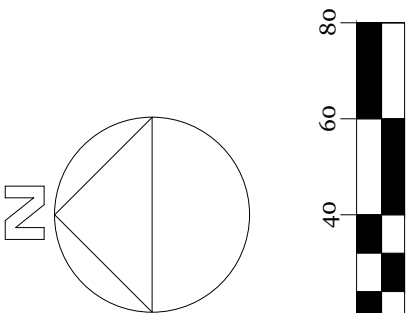




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— OH —	— AIR CONDITIONER —	TP	TRANSFORMER	ASPHALT AREA
— UE —	(CV) IRRIGATION CONTROL VALVE	EP	ELECTRIC PANEL	CONCRETE AREA
— FIB —	✕ WATER VALVE	EB	ELECTRIC UTILITY BOX	STONE AREA
W EXISTING WATER	PD POST INDICATOR VALVE	PSB	COMMUNICATION PEDESTAL	
SS EXISTING STORM	• FIRE HYDRANT	PTD	PEDESTAL (UNKNOWN SERVICE)	
ST EXISTING STORM	(G) GAS METER	S	SANITARY SEWER MANHOLE	
G EXISTING GAS	(M) ELECTRIC METER	CS	CLEANOUT	
EXISTING FENCE				
EXISTING CONTOUR				

⊕	STORM SEWER INLET	◐	BENCHMARK
DS	DOWNSPOUT	B	BOLLARD
Ø	POWERUTILITY POLE	△	WARNING MARKER
←	GUY ANCHOR	MB	MAILBOX
⊙	LIGHT POLE	•	DECIDUOUS TREE
⊠	SIGN (AS NOTED)	•	DECIDUOUS SHRUB
⊙	SOIL BORING LOCATION	⊙	TREE STUMP



Coldwater Road, Fort Wayne, Indiana 46825

Colonial Heights, LLC
10104 Woodland Plaza Cove
Fort Wayne, Indiana 46825

Surveyed for:

Location:

JOB NUMBER:	2473-0020
DRAWN BY:	JWH
CHECKED BY:	JWH
SCALE:	As Shown
DATE:	12/16/2024
REVISION	DATE

TITLE: Survey Detail

SHEET:

Department of Planning Services Rezoning Petition Application

Applicant

Applicant R & P REALTY TRUST LLC
Address 11650 OLIO RD, STE 1000-358
City FISHERS State INDIANA Zip 46037
Telephone 317-590-8534 E-mail rob.warstler@warstlerrealty.com

Property Ownership

Property Owner COLONIAL HEIGHTS LLC
Address 10104 WOODLAND PLAZA COVE
City FORT WAYNE State INDIANA Zip 46825
Telephone 260-750-1522 E-mail aratazian@yahoo.com

Contact Person

Contact Person MICHAEL J. HOFFMAN and PETER G. MALLERS of BEERS MALLERS LLP
Address 110 WEST BERRY STREET, SUITE 1100
City FORT WAYNE State INDIANA Zip 46802
Telephone 260-426-9706 E-mail mjhoffman@beersmallers.com / pgmallers@beersmallers.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 6901 COLDWATER ROAD Township and Section WASHINGTON / 07
Present Zoning C1 Proposed Zoning C2 Acreage to be rezoned 8.987
Purpose of rezoning (attach additional page if necessary) TO PERMIT A HIGH-END RETAIL / RESTAURANT DEVELOPMENT; INCLUDING THREE OUTLOTS FOR FUTURE RETAIL DEVELOPMENT
Sewer provider CITY Water provider CITY

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

R & P REALTY TRUST LLC by:

(printed name of applicant)

Robert B. Warstler

Robert B. Warstler (Jun 26, 2025 14:05 EDT)

06/26/25

(date)

COLONIAL HEIGHTS LLC by:

(printed name of property owner)

Ara Z. Tazian

Ara Z. Tazian (Jun 27, 2025 11:26 EDT)

Jun 27, 2025

(date)



Received	Receipt No.	Hearing Date	Petition No.
<u>7-1-25</u>	<u>147846</u>	<u>8-11-25</u>	<u>RE2-2025-0030</u>

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



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;

According to the Comprehensive Plan, the 6901 Coldwater Road property falls within an "Urban Infill Area" (see Comprehensive Plan, pg 55). Infill development is said to be "desirable" because it strengthens established neighborhoods and leverages existing infrastructure, and bolsters activity in established communities and neighborhoods (see Comprehensive Plan, pgs 54-55). In pursuit of this goal, the Comprehensive Plan encourages "[e]xploring new zoning classifications" (see Comprehensive Plan, pgs 60). Although the Comprehensive Plan suggests that that this particular property was anticipated to have a "Traditional Neighborhood" use in the future (see Comprehensive Plan, pgs 68), it is believed that the proposed rezoning from C1 to C2 is not necessarily incompatible with the Comprehensive Plan, particularly in light of the desirability of the infill development (see Comprehensive Plan, pgs 54-55), and the various anticipated future land uses for the surrounding properties, which include "Institutional" to the north, "Business and Office Park" to the south, and "Airport" to the west (see Comprehensive Plan, pgs 68).

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

The property has been vacant and undeveloped for many years, and is bordered on the south and west by residential properties and on the east, across Coldwater Road, by largely undeveloped land with a few residences located within it. However, the property is also adjacent to Northrop High School (to the north), and is in close proximity to various commercial properties (C2 property less than 1,500 ft to the north and C2 property less than 1,000 ft to the south) and major office developments to the south. The property is also in close proximity to the Smith Field Airport (less than 2,000 ft to the west).

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

The property is currently zoned C1, and appears to be well-adapted for commercial use. It is believed that the intended use, upon approval of the requested rezoning to C2, would also qualify as a highly desirable use for the property, as the intended development would involve a high-end restaurant/retail use, which would serve needs of the community and would include enhanced architecture and landscaping in attempt to promote compatibility with the surrounding residential and school properties.

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

The intended development would involve a high-end restaurant/retail use, and would include enhanced architecture and landscaping. It is believed that the effect, if any, of this development on the values of the surrounding properties would be a positive one. It is not believed that this development would have any negative impact on the values of the surrounding properties, or of any other properties throughout the jurisdiction. We've communicated with the superintendent and other senior officials at Fort Wayne Community Schools, who have expressed their support for the project.

(5) Responsible development and growth.

The subject property is located within a largely-developed area that has well established and adequate infrastructure for the development of this site. To the extent that additional utilities, street improvements, and other infrastructure are necessary, Developer will provide for the same. It is believed that this property can lend itself to the sort of upscale commercial development that is desirable, that will enhance the area and community in general, and that may be made possible upon the approval of the requested rezoning from C1 to C2.

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*



WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made this ____ day of _____, 2025, by and between R & P REALTY TRUST LLC, an Indiana limited liability company, ("Declarant") and COLONIAL HEIGHTS, LLC, an Indiana limited liability company ("Owner").

WITNESSETH:

WHEREAS, Owner is the owner of approximately 8.987 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 and Owner submitted a rezoning petition with respect to the Real Estate to rezone the Real Estate from C1 Professional Office and Personal Services to C2 Limited Commercial, bearing number REZ-2025-____ (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 and Owner have offered this Commitment, voluntarily, pursuant to Ind. 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 the 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.

WHEREAS, Declarant and Owner submitted a Primary Development Plan Petition with respect to the Real Estate to approve a primary commercial development plan, bearing number PDP-2025-____ (the "Petition"), which Petition has been approved by the Fort Wayne Plan Commission, (the "Plan Commission"); and

WHEREAS, Pursuant to I.C. §36-7-4-1402(b) and §157.301(4)(a)(i) the Plan Commission may approve the plan subject to conditions if the conditions are reasonably necessary to satisfy those development requirements; and

WHEREAS, Declarant and Owner have offered this Commitment, voluntarily, pursuant to Ind. Code §36-7-4-1015, for the purpose of memorializing the Plan Commission conditions of approval concerning the Real Estate; and

WHEREAS, in conjunction with the Petition, the Plan Commission has accepted the offer of this Commitment and its recordation with the Allen County, Indiana, Recorder's Office.

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarant and Owner hereby impress upon the Real Estate certain restrictions and covenants which shall run with the Real Estate and be binding upon Declarant and Owner 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:

- Adoption Service
- Adult Care Center
- Adult Care Home
- Advertising
- Air Conditioning Sales
- Animal Rooming
- Animal Hospital
- Animal Kennel
- Animal Obedience School
- Animal Service (indoor)
- Answering Service
- Antique Shop
- Arcade
- Assisted Living Facility
- Auction Service
- Automobile Rental (indoor)
- Automobile Sales (indoor)
- Bait Sales
- Barber/Beauty School
- Beauty Shop
- Bed and Breakfast
- Billiard or Pool Hall
- Bingo Establishment
- Blood Bank
- Blood / Plasma Donor Facility
- Boarding/Lodging House
- Bookkeeping Service
- Bowling Alley
- Catalog Showroom
- Caterer
- Child Care Home (Class I or II)
- Clinic
- Collection Agency
- Communication Center
- Community Facility
- Community Garden (incl. outdoor)
- Consignment Shop
- Consulting Service
- Copy or Duplicating Service
- Correctional Services Facility
- Counseling Service

- Customer Service Facility
- Dance Instruction
- Data Processing Facility
- Data Storage Facility
- Dating Service
- Department Store
- Diaper Service Facility
- Driving Instruction
- Flea Market
- Foundation Office
- Fraternity House
- Funeral Home
- Graphic Design Service
- Group Residential Facility Large (2)
- Group Residential Facility Small
- Gymnastics Instruction
- Heating Sales
- Hobby Shop
- Homeless/Emergency Shelter
- Hospice Care Center
- Hospital
- Laboratory
- Land Surveyor
- Laundromat
- Library
- Live-Work Unit
- Marketing Agency
- Medical Training
- Model Unit
- Motel
- Multiple Family Complex
- Multiple Family Dwelling
- Museum
- Music/Recording Studio
- Neighborhood Facility
- Nursing Home
- Park or Recreation Area
- Parking Area Off-Site
- Parking Area
- Parking Structure
- Planner

- Podiatrist
- Pottery Sales
- Public Transportation Facility
- Radio Station
- Religious Institution/School Field
- Rental and/or Leasing Store
- Residential Dwelling Unit Religious
- Residential Facility (general)
- Residential Facility (limited)
- Residential Facility for Homeless Individuals
- Retirement Facility
- School
- Security Service
- Sign Sales Store
- Skating Rink
- Sleep Disorder Facility
- Social Service Agency
- Sorority House
- Surgery Center
- Swim Club
- Swimming Pool/Hot Tub Sales
- Tattoo Establishment
- Taxi Service
- Telephone Sales and Service
- Television Station
- Tennis Club
- Theater
- Townhouse Complex
- Treatment Center
- Tutoring Service
- Variety Store
- Veterinary Clinic
- Wedding Consultant
- Weight Loss Service
- Wind Energy Conversion System (micro)
- Window Sales
- Zoo

2. Permitted Uses. Any use otherwise permitted in a C2 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. Conditions of Approval. C2 primary building setbacks as set forth by the Ordinance shall govern all development on the Real Estate, including parking areas.
4. 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 and/or Owner shall deliver to the Zoning Administrator and the Plan Commission an executed and recorded copy of this Commitment.
5. Binding Effect, Modification, and Termination. This Commitment shall run with the Real Estate, and shall be binding upon the Declarant and Owner 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. This Commitment may be modified or terminated by the Plan Commission making findings of fact that the proposed modification or termination is required because: (a) there is a substantial change in circumstances from the time of the original Commitment; (b) the proposed modification or termination is in substantial compliance with the Comprehensive Plan; (c) the proposed modification or termination is consistent with the Plan Commission's prior approval; and (d) the application of the terms of the original Commitment would cause an unnecessary hardship absent the modification or termination. Further, pursuant to I.C. §36-7-4-1015(b)(4), this Commitment shall automatically terminate if: (i) the zoning district or classification applicable to the Real Estate is changed; or (ii) if the land use to which this Commitment relates is changed.
6. Recording. Declarant shall, at Declarant's expense, record this Commitment with the Allen County Recorder and shall provide two (2) copies of the recorded Commitment to the Zoning Administrator.
7. 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.
8. Authority to Sign. The person(s) signing this Commitment in a representative capacity on behalf of Declarant and Owner 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.

9. 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 No. _____ on _____.
10. 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.
11. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
12. 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"

R & P REALTY TRUST LLC

By: _____
Robert B. Warstler, Member

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of _____, 2025, personally appeared R & P REALTY TRUST LLC by Robert B. Warstler, Member, and acknowledged the execution of the foregoing. IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public

“OWNER”

COLONIAL HEIGHTS, LLC

By: _____
Ara Tazian, Manager

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of _____, 2025, personally appeared COLONIAL HEIGHTS, LLC by Ara Tazian, Manager, and acknowledged the execution of the foregoing. IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public

This instrument prepared by: Michael J. Hoffman, Esq. (#33860-02), Beers Mallers, LLP
110 West Berry Street, Suite 1100, Fort Wayne, Indiana 46802
3FP1489/57640-24000/June 18, 2025

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. MICHAEL J. HOFFMAN

EXHIBIT "A"
LEGAL DESCRIPTION OF REAL ESTATE

Remainder Parcel Description:

This description, prepared by Justin W. Hoffman, Indiana Professional Surveyor, License Number LS21000228 and employed by Brooks Construction Company, Inc., was created as part of Job No. 2473-0020, on December 13, 2024 being a description of the remainder portion of a tract of land conveyed to Colonial Heights, LLC by Document Number 2007058557. All recorded documents in this description being recorded in the Office of the Recorder of Allen County, Indiana:

A part of the North Half of the South Half of the Northeast Quarter of Section 14, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said Section 14, being marked by an INDOT Type B monument; thence South 02 degrees 03 minutes 30 seconds East (geodetic bearing and basis for all bearings in this description), on and along the East line of said Northeast Quarter, a distance of 1341.15 feet; thence South 88 degrees 20 minutes 52 seconds West, a distance of 75.60 feet to a point on the West Right-of-way line of Coldwater Road, also being the Northeast corner of a 2.381 acre tract of land conveyed to the City of Fort Wayne by Document Number 2021081046; thence South 02 degrees 07 minutes 08 seconds East, on and along said West Right-of-way line and on and along the East line of said 2.381 acre tract, a distance of 87.78 feet to the Southeast corner of said 2.381 acre tract, being the Point of Beginning and marked by a 5/8-inch diameter rebar with an identification cap stamped "BROOKS 1ST FIRM #0143" (hereinafter called "Brooks cap"); thence continuing on and along the Southerly and Easterly lines of said 2.381 acre tract the following four (4) courses and distances:

North 73 degrees 13 minutes 42 seconds West, a distance of 56.24 feet to a Brooks cap; thence South 88 degrees 20 minutes 52 seconds West, a distance of 448.49 feet to a Brooks cap; thence on and along the arc of a tangent curve to the left, an arc distance of 270.39 feet to a Brooks cap, said curve having a radius of 171.00 feet, and a chord having a bearing of South 43 degrees 02 minutes 57 seconds West and a distance of 243.09 feet; thence South 02 degrees 14 minutes 59 seconds East, a distance of 418.68 feet to the South line of the North Half of the South Half of said Northeast Quarter, being marked by a Brooks cap; thence North 88 degrees 23 minutes 19 seconds East, on and along said South line, a distance of 653.11 feet to a point on the West Right-of-way line of Coldwater Road, said point being marked by a 1.5-inch diameter pinched pipe; thence on and along the West Right-of-way line of Coldwater Road the following three (3) courses and distances:

North 01 degrees 58 minutes 11 seconds West, a distance of 15.40 feet; thence North 88 degrees 01 minutes 49 seconds East, a distance of 20.00 feet; thence North 02 degrees 07 minutes 08 seconds West, a distance of 558.64 feet to the Point of Beginning containing 8.987 acre of land, more or less, being subject to and/or together with all easements and rights-of-way of record.