

BILL NO. Z-14-03-16 (AS AMENDED)

ZONING MAP ORDINANCE NO. Z- 20-14

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. DD-27 (Sec. 28 of Aboite 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 an IN2
(General Industrial) District under the terms of Chapter 157 Title XV of the Code of the City
of Fort Wayne, Indiana:

Part of the South Half of the Southeast Quarter of Section 28, Township 30 North,
Range 11 East of the Second Principal Meridian, Aboite Township in Allen County, Indiana,
more particularly described as follows:

Commencing at an Iron Pin at the Northeast corner of the South Half of said Southeast
Quarter; thence South 00 degrees 31 minutes 41 seconds East, (state plane bearing and
basis of bearings to follow), a distance of 63.64 feet (68.0' Deed) along the East line of
the South Half of said Southeast Quarter and within the right-of-way of Homestead
Road to the North line of an existing tract described in Document Number 2009064953
in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 36
minutes 01 seconds West, a distance of 35.00 feet along said North line to a 5/8" steel
rebar set on the West right-of-way line of said Homestead Road, said point also being
the POINT OF BEGINNING of the herein described tract; thence South 00 degrees 31
minutes 41 seconds East, a distance of 460.00 feet along said West right-of-way line
and parallel with the East line of the South Half of said Southeast Quarter to a 5/8"
steel rebar set on the South line of said existing tract described in Document Number
2009064953; thence South 89 degrees 36 minutes 01 seconds West, a distance of
449.08 feet along said South line to a 5/8" steel rebar set on the West line of said
existing tract, also being a East line of Pine Hollow, Section I, as recorded in Plat Book
46, pages 139-143 in the Office of the Recorder of Allen County, Indiana; thence North
00 degrees 31 minutes 30 seconds West, a distance of 460.00 feet along said West and
East line to a 5/8" steel rebar set on the North line of said existing tract also being a
South line of The Dells of Bittersweet, Section IV, as recorded in Plat Cabinet "A", pages
30 in the Office of the Recorder of Allen County, Indiana; thence North 89 degrees 36
minutes 01 seconds East, a distance of 449.06 feet along said North and South line to
the Point of Beginning. Containing 4.74 acres more or less. Subject to easements of
record.

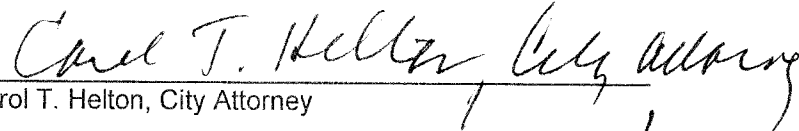

and the symbols of the City of Fort Wayne Zoning Map No. DD-27 (Sec. 28 of Aboite
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
Wayne, Indiana is hereby changed accordingly.

SECTION 2. That the zoning change approved herein is contingent upon the
property executing and recording the written commitment which is attached to this ordinance
and by reference made part of.

1 SECTION 2. That this Ordinance shall be in full force and effect from and after its
2 passage and approval by the Mayor.

3 
4 Thomas A. Anderson
Council Member

5 APPROVED AS TO FORM AND LEGALITY:

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7 Carol T. Helton, City Attorney
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by 

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2014-0027
Bill Number: Z-14-03-16
Council District: 4 – Mitch Harper

Introduction Date: March 25, 2014

Plan Commission
Public Hearing Date: April 7, 2014

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

Synopsis of Ordinance: To rezone approximately 4.74 acres of property from IN1-Limited Industrial
to IN2-General Industrial

Location: 7114 Homestead Road

Reason for Request: To bring the current uses into compliance with the zoning ordinance.

Applicant: WES Limited, Inc.

Property Owner: WES Limited, Inc.

Related Petitions: Primary Development Plan, Wayne Chemical Building Addition

Effect of Passage: Property will be rezoned to IN2-General Industrial to allow the current use of
processing cleaning products and the company will be able to expand.

Effect of Non-Passage: The property will remain zoned IN1-Light Industrial and the existing use will
be non-conforming and will not be able to expand on the property.

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Wayne Chemical, Inc.
 Address 7114 Homestead Road
 City Fort Wayne State IN Zip 46814
 Telephone 260.432.1120 Fax 260.432.1473 E-mail bspindler@waynechemical.com

Property Ownership
 Property Owner WES Ltd., Inc.
 Address 7114 Homestead Road
 City Fort Wayne State IN Zip 46814
 Telephone 260.432.1120 Fax 260.432.1473 E-mail bspindler@waynechemical.com

Contact Person
 Contact Person James A. Federoff & Scott M. Federoff, Carson Boxberger LLP
 Address 301 W. Jefferson Boulevard, Suite 200
 City Fort Wayne State IN Zip 46802
 Telephone 260.423.9411 Fax 260.423.4329 E-mail jfederoff@carsonboxberger.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 7114 Homestead Road
 Present Zoning IN1 Proposed Zoning IN2 Acreage to be rezoned 4.74
 Proposed density 1 units per acre
 Township name Aboite Township section # 28
 Purpose of rezoning (attach additional page if necessary) To allow expansion of the existing Wayne Chemical operation, which became a legal non-conforming use when the property was annexed into the City of Fort Wayne.
 Sewer provider Aqua Indiana Water provider Private Well

Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please contact staff for applicable filing fees and plan/survey submittal requirements.
 Applicable filing fee
 Applicable number of surveys showing area to be rezoned (plans must be folded)
 Legal Description of parcel to be rezoned
 Rezoning Questionnaire (original and 10 copies) County Rezoning Only

I/we understand and agree, upon execution and submission of this application, that I am/we are the owner(s) of more than 50 percent of the property described in this application; that I/we agree to abide by all provisions of the Allen County Zoning and Subdivision Control Ordinance as well as all procedures and policies of the Allen County Plan Commission as those provisions, procedures and policies related to the handling and disposition of this application; that the above information is true and accurate to the best of my/our knowledge; and that I/we agree to pay Allen County the cost of notifying the required interested persons at the rate of \$0.85 per notice and a public notice fee of \$50.00 per Indiana code.

Wayne Chemical, Inc., W.E. Spindler 2/ 26 /2014
 (printed name of applicant) (signature of applicant) (date)
 by: William E. Spindler, President
 WES Ltd., Inc., W.E. Spindler 2/ 26 /2014
 (printed name of property owner) (signature of property owner) (date)
 by: William E. Spindler, President
 (printed name of property owner) (signature of property owner) (date)
 (printed name of property owner) (signature of property owner) (date)

Received	Receipt No.	Hearing Date	Petition No.
3/4/14	114191	4/7/14	Rec-2014-0027



Rezoning Petition REZ-2014-0027 and Primary Development Plan - Wayne Chemical



Project boundaries represented by bold colored lines are for representational purposes only.

© 2014 Board of Commissioners of the County of Allen
North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009

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.

Date: 3/14/2014



1 inch = 300 feet





Project boundaries represented by bold colored lines are for representational purposes only.

© 2004 Board of Commissioners of the County of Allen
 North Carolina
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009

Although this document's graphics have been prepared with care, the County of Allen 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.

WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the 14th day of May, 2014, by WES Ltd., Inc., an Indiana corporation ("WES").

RECITALS

A. By virtue of that certain Warranty Deed dated December 17, 2009 and recorded on December 22, 2009 as Document Number 2009064953 in the Office of the Recorder of Allen County, Indiana, WES is the owner of record in fee simple of certain real estate located in Allen County, Indiana, which is legally described in the addendum attached to this Commitment as Exhibit "A" (the "Real Estate").

B. WES filed an application for approval of a primary development plan (the "Development Plan Application") to accommodate an expansion of the existing improvements located on the Real Estate, and a petition under Case Number REZ-2014-0027 (the "Rezoning Petition") to change the zone map applicable to the Real Estate from the IN1 Zoning District to the IN2 Zoning District.

C. The version of the City of Fort Wayne Zoning Ordinance that was in effect when both the Rezoning Petition and the Development Plan Application were filed by WES (the "Prior Ordinance"), was restated in its entirety (the "Restated Ordinance"), effective April 3, 2014. In the Restated Ordinance, both the nomenclature of the zoning districts and the permitted uses in those districts were substantially modified.

D. Pursuant to Ind. Code § 36-7-4-1015(a)(2) and the Restated Ordinance, the Plan Commission may require an owner of real property to make a written commitment concerning the use or development of the real property as part of an application for approval a development plan.

E. In connection with the approval of the Development Plan Application (the "Approval"), WES offered to make, and the City of Fort Wayne Plan Commission (the "Plan Commission") required WES to make, a written commitment concerning the use and development of the Real Estate.

COMMITMENT

In consideration of the Approval, WES makes the following written commitments pursuant to I.C. §36-7-4-1015(a)(2):

1. **USE RESTRICTIONS.** Notwithstanding the provisions set forth in Section 157.223(B) of the Restated Ordinance for permitted uses in an I2, General Industrial Zoning District, the permitted uses for the Real Estate shall be only the specific industrial uses and the general commercial uses described in the attached Exhibit "B".

2. **BUFFER AREAS.** Attached to this Commitment as Exhibit "C" and incorporated by reference in it, is a copy of a landscape and buffer plan that was submitted to the Plan Commission in connection with the public hearing on the Development Plan Application (the "Buffer Plan"). On the Buffer Plan there are identified two areas along the West 30 feet and the North 30 feet of the Real Estate, which are designated by dashed lines labeled "30' Landscape Buffer" (collectively, the "Buffer Areas"). WES commits to not remove any trees and other existing vegetation in the Buffer Areas, for the purpose of satisfying the Code 4 buffer requirements under the Prior Ordinance.

3. **BINDING EFFECT.** This Commitment shall run with the Real Estate, and shall be binding upon WES, and WES's respective successors in title and assigns.

4. **ENFORCEMENT RIGHTS.** The City of Fort Wayne Zoning Administrator (the "Zoning Administrator") and the Plan Commission each shall have the option (but not the obligation) to enforce this Commitment, at law or in equity, in the event of a breach of an obligation in this Commitment; and in the event such an enforcement action is commenced, the Zoning Administrator or the Plan Commission (as applicable) shall have the remedies allowed by the Ordinance (or the ordinance governing the Real Estate at the time of the enforcement action) and I.C. §36-7-4-1015, which remedies shall be cumulative and not exclusive. A violation of this Commitment shall be deemed a violation of the Ordinance, or the ordinance governing the Real Estate 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 Zoning Administrator or the Plan Commission, or any successor agency having zoning jurisdiction over the Real Estate.

5. **EFFECTIVE DATE.** This Commitment shall be effective upon its recording in the Office of the Recorder of Allen County, Indiana.

6. **STATUTORY AUTHORITY.** This Commitment is made pursuant to I.C. §36-7-4-1015(a)(2).

7. **MODIFICATION AND TERMINATION.** Modification and termination of this Commitment may only be made in accordance I.C. §36-7-4-1015, as such statute may be amended from time-to-time.

WES Ltd., Inc.,
an Indiana corporation

By: William E. Spindler
William E. Spindler, President

“WES”

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

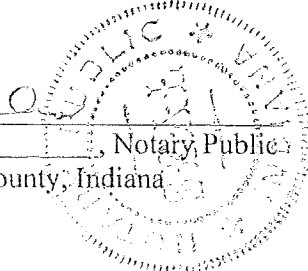
Before me, the undersigned Notary Public in and for said County and State, this 14th day of May, 2014, personally appeared William E. Spindler, as President of WES Ltd., Inc., an Indiana corporation, and acknowledged the execution of the foregoing Written Commitment on behalf of said company.

WITNESS my hand and Notarial Seal.

My commission expires:

April 7th 2017

Thomas A. Ellis
Thomas A. Ellis, Notary Public
Resident of Allen, County, Indiana



This instrument prepared by: James A. Federoff, CARSON BOXBERGER LLP, 301 West Jefferson Boulevard, Suite 200, Fort Wayne, Indiana 46802.

After recording, return to: Carson Boxberger Box.

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. James A. Federoff

Exhibit "A"

Legal Description of the Real Estate

Part of the South Half of the Southeast Quarters of Section 28, Township 30 North, Range 11 East of the Second Principal Meridian, Aboite Township in Allen County, Indiana, more particularly described as follows:

Commencing at an Iron Pin at the Northeast corner of the South Half of said Southeast Quarter; thence South 00 degrees 31 minutes 41 seconds East, (state plane bearing and basis of bearings to follow), a distance of 63.64 feet (68.0' Deed) along the East line of the South Half of said Southeast Quarter and within the right-of-way of Homestead Road to the North line of an existing tract described in Document Number 2009064953 in the Office of the Recorder of Allen County, Indiana; thence South 89 degrees 36 minutes 01 seconds West, a distance of 35.00 feet along said North line to a 5/8" steel rebar set on the West right-of-way line of said Homestead Road, said point also being the POINT OF BEGINNING of the herein described tract; thence South 00 degrees 31 minutes 41 seconds East, a distance of 460.00 feet along said West right-of-way line and parallel with the East line of the South Half of said Southeast Quarter to a 5/8" steel rebar set on the South line of said existing tract described in Document Number 2009064953; thence South 89 degrees 36 minutes 01 seconds West, a distance of 449.08 feet along said South line to a 5/8" steel rebar set on the West line of said existing tract, also being a East line of Pine Hollow, Section I, as recorded in Plat Book 46, pages 139-143 in the Office of the Recorder of Allen County, Indiana; thence North 00 degrees 31 minutes 30 seconds West, a distance of 460.00 feet along said West and East line to a 5/8" steel rebar set on the North line of said existing tract also being a South line of The Dells of Bittersweet, Section IV, as recorded in Plat Cabinet "A", pages 30 in the Office of the Recorder of Allen County, Indiana; thence North 89 degrees 36 minutes 01 seconds East, a distance of 449.06 feet along said North and South line to the Point of Beginning. Containing 4.74 acres more or less. Subject to easements of record.

Exhibit "B"

Permitted Uses of the Real Estate

1. *Specific Permitted Uses:*

- 1.1. Accessory building, structure, or use.
- 1.2. Air freight service.
- 1.3. Apparel fabrication and processing.
- 1.4. Bakery.
- 1.5. Bioscience development/research testing.
- 1.6. Brewery (micro).
- 1.7. Compounding of: chemicals, cleaning supplies, cosmetics, and pharmaceuticals.
- 1.8. Contractor (construction, excavation, landscape).
- 1.9. Crematory.
- 1.10. Distribution facility for: batteries, beer, building materials, electrical parts, food, janitorial supplies, lubrication, machines, medical supplies, oil, paint, petroleum products, pipe, plumbing fixtures, soft drinks, steel, tires (new), truck bodies, vending machines, and windows.
- 1.11. Equipment supply facility for: air purification, electrical, electric wire and cable, fire protection, food service, heating, ventilation, or air conditioning, industrial, maintenance, mechanical, medical, power transmission, radio/communication, restaurant, telecommunication, trade show exhibit, truck, water softening/purification, and welding.
- 1.12. Freight service.
- 1.13. Furniture production.
- 1.14. Group residential facility (small).
- 1.15. Group residential facility (large).¹
- 1.16. Laboratory (testing).
- 1.17. Lathe/screw machine products.
- 1.18. Limited assembly and fabrication of: bio-medical/orthopedic products, communication and computation equipment, computers and electronics, computer hardware products, industrial controls, medical devices, optical instruments,

¹ A group residential facility (large) is a special use, not a permitted use, if it is adjacent to a residential district.

- orthopedic devices, scientific and precision instruments, service industry machines, and specialty equipment,
- 1.19. Machine design facility
 - 1.20. Machine tool shop.
 - 1.21. Maintenance/repair facility.
 - 1.22. Medical device technology.
 - 1.23. Printing facility.
 - 1.24. Printing press.
 - 1.25. Processing facility for: lumber, metal (anodizing, buffing, galvanizing, plating, polishing), raw materials, and timber.
 - 1.26. Product research and development.
 - 1.27. Recycling processing facility.
 - 1.28. Refurbishing facility (household items).
 - 1.29. Research and development facility.
 - 1.30. Residential facility for homeless individuals.
 - 1.31. Technology use or service.
 - 1.32. Tool and die facility.
 - 1.33. Utility facility (private)
 - 1.34. Vehicle technology (advanced).
 - 1.35. Welding service.
 - 1.36. Warehouse/storage facility.
 - 1.37. Wholesale facility.
 - 1.38. Wind energy conversion system (micro).²
 - 1.39. Wind energy conversion system (standard).³
 - 1.40. Woodworking/carpentry.

2. *Commercial Use Categories*

- 2.1. Animal service (indoor).
- 2.2. Automobile service, general (excluding gas station).
- 2.3. Automobile service, limited.

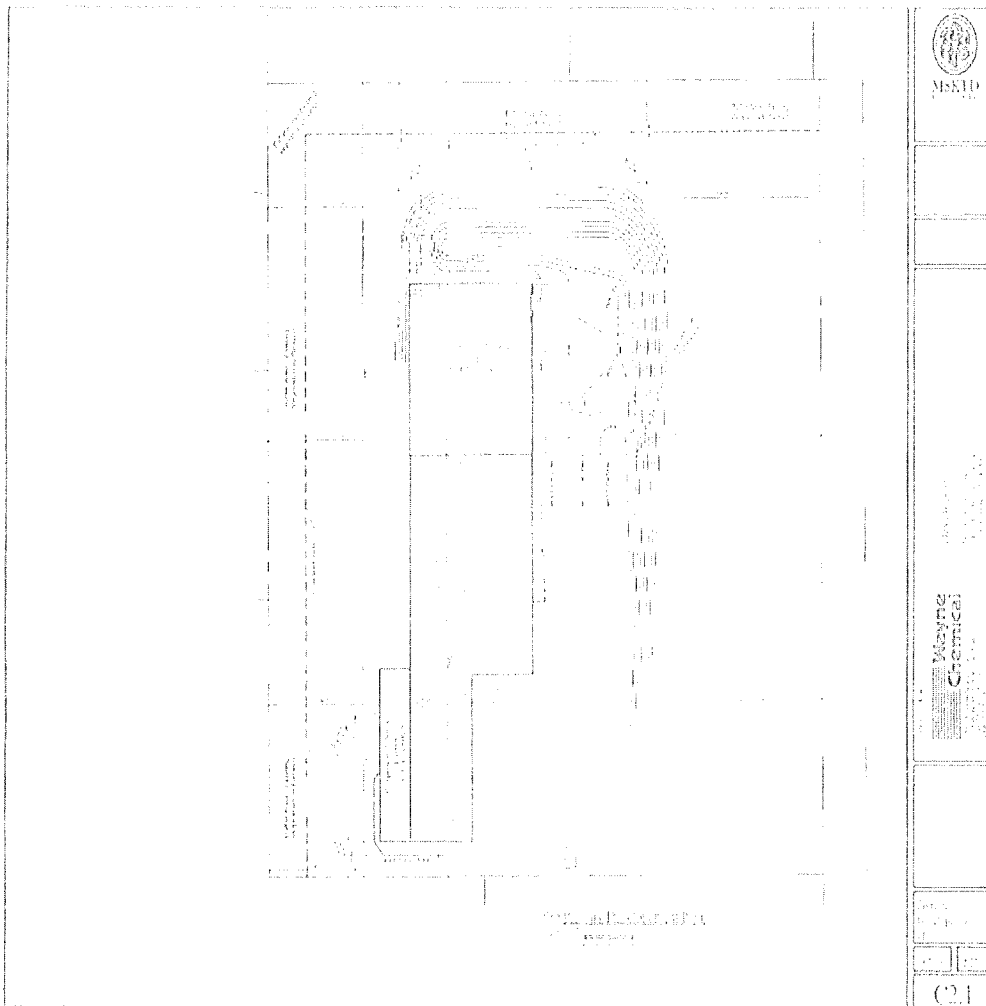
² A wind energy conversion system (micro) is a special use, not a permitted use, if it is on land adjacent to a residential district, or if it involves the erection of an additional micro system or systems.

³ A wind energy conversion system (standard) is a special use, not a permitted use, if it is on land of under two acres, or on land adjacent to a residential district.

- 2.4. Clothing.
- 2.5. Community facility.
- 2.6. Electronics.
- 2.7. Food and beverage service.
- 2.8. Instruction/training/education.
- 2.9. Medical facility or office.
- 2.10. Personal service.
- 2.11. Professional office/business service.
- 2.12. Recreation, general.
- 2.13. Recreation/tourism, limited.
- 2.14. Residential facility, general.
- 2.15. Retail, limited.
- 2.16. Studio.
- 2.17. Universally permitted use.

Exhibit "C"

Buffer Plan



Public Hearing Date, if applicable 4-7-14

Read the first time in full and on motion by Councilman Tom Didier
Read the second time by title and referred to the Requisitions Committee
Committee. Read the third time in full and on motion by Councilman
Didier, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>
BENDER	_____	_____	_____	<u>✓</u>
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAFF	<u>✓</u>	_____	_____	_____
SMITH	<u>✓</u>	_____	_____	_____

DATED: 5-13-14 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. Z-20-14 on the 13th day of
May, 2014

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

Robert A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 16th day
of May, 2014, at the hour of 4:20 o'clock PM. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 19th day of May
2014, at the hour of 10:30 o'clock AM. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. Z-14-03-16

REPORT OF COMMITTEE ON REGULATIONS

MAY 13, 2014

*Tom Didier, Chair
Mitch Harper, Co-Chair
All Council Members*

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. DD-27 (Sec. 28 of Aboite Township). The location is 7114 Homestead Road. **COMMITTEE ON REGULATIONS HAVE HAD SAID** Ordinance under consideration and beg leave to report back to the Common Council that said ordinance

As Amended

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<i>Tom Didier</i>	_____	_____	_____
<i>Mitch Harper</i>	_____	_____	_____
<i>Tom Stewart</i>	_____	_____	_____
<i>Alvin Casper</i>	_____	_____	_____
<i>Bob Ehlert</i>	_____	_____	_____
<i>John J. ...</i>	_____	_____	_____
<i>Neil ...</i>	_____	_____	_____
<i>Bob ...</i>	_____	_____	_____
_____	_____	_____	_____

**SANDRA E. KENNEDY
CITY CLERK**