

1 #REZ-2016-0046

2 BILL NO. Z-17-01-05

3 ZONING MAP ORDINANCE NO. Z-2-17

4 AN ORDINANCE amending the City of Fort Wayne
5 Zoning Map No. K-26 (Sec. 27 of Washington Township)

6 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
7 INDIANA:

8 SECTION 1. That the area described as follows is hereby designated a C3 (General
9 Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
10 Wayne, Indiana:

11 Parts of Lot 33 and Block "A" Trixholme Addition to the City of Fort Wayne as recorded in
12 Plat Book 17, Page 121, in the Office of the Reorder of Allen County, Indiana, in particular
described as follows, to wit:

13 Commencing at the Southeast corner of said Lot 33; thence Northerly along the East line of
14 Lot 33 and the East line of said Block "A", being also defined as the 25 foot Westerly right-
15 of-way of Sherman Boulevard, a distance of 189.6 feet to a pin set on the South corner-cut
16 right-of-way line of U.S. Highway No. 30 as widened by Project "U"-724-(22); thence
17 Northwesterly on the aforesaid right-of-way line by a deflection left of 44 degrees 59
18 minutes, a distance of 63.8 feet (North 46 degrees 10 minutes 41 seconds West, 64.06 feet
19 Grant) to the South right-of-way line of said U.S. Highway 30, also known as Coliseum
20 Boulevard, as established by said Project No. "U"-(724-22); and a Highway monument
21 found, thence Westerly along a 65- foot right-of-way line aforesaid by a deflection left of 44
22 degrees 35 minutes, a distance of 105.0 feet (South 88 degrees 58 minutes 15 seconds West,
23 105.02 feet, Grant) to a pin set; thence Southerly by a deflection left of 90 degrees 29
24 minutes, a distance of 214.4 feet; thence Westerly by a deflection right of 90 degrees 22
25 minutes, a distance of 30 feet to the West line of said Lot 33, thence Southerly along the line
26 of aforesaid by a deflection left of 90 degrees 20 minutes, a distance of 18.3 feet to the
27 Southwest corner of said Lot 33; thence Easterly by a deflection left of 89 degrees 04
28 minutes along the South line of said Lot 33, a distance of 180.0 feet to the point of
29 beginning; containing 0.794 acres of land. ALSO Lot Number 33 in the plat of Trixholme
30 Addition Section "A" to the City of Fort Wayne, in Allen County, Indiana, except the West
30 feet of the North 46.7 feet thereof.

and the symbols of the City of Fort Wayne Zoning Map No. K-26 (Sec. 27 of Washington
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
Wayne, Indiana is hereby changed accordingly.

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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:



Carol T. Helton, City Attorney

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Lassus Bros. Oil, Inc.
 Address 1800 Magnavox Way
 City Fort Wayne State IN Zip 46804
 Telephone 260-436-1415 E-mail lassust@lassus.com

Contact Person
 Contact Person Scott M. Federoff, Synder Morgan Federoff & Kuchmay LLP
 Address 200 West Main St.
 City Syracuse State IN Zip 46567
 Telephone 260-602-8000 E-mail smf@smfklaw.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 901 West Coliseum Blvd., Ft. Wayne, IN 46818
 Present Zoning C2, RP, and R1 Proposed Zoning C3 Acreage to be rezoned 1.06
 Proposed density 1 units per acre
 Township name Washington Township section # 31 North
 Purpose of rezoning (attach additional page if necessary) To allow the reconstruction of a Lassus Handy Dandy convenience store and fuel station.
 Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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

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

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

Todd J. Lassus, President [Signature] 12/5/16
 (printed name of applicant) (signature of applicant) (date)

See the attached Exhibit "A"
 (printed name of property owner) (signature of property owner) (date)

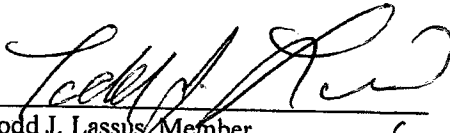
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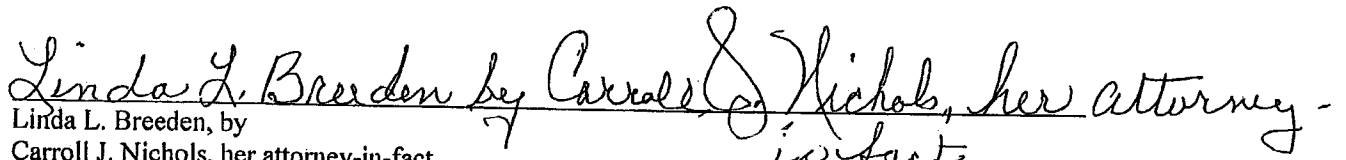
Received	Receipt No.	Hearing Date	Petition No.
12/6/16	122748	1/9/17	Rez-2016-0046

EXHIBIT "A"
Property Owners Signatures

COLISEUM & SHERMAN, LLC,
an Indiana limited liability company

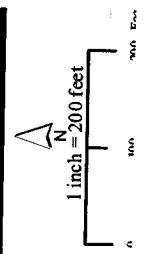
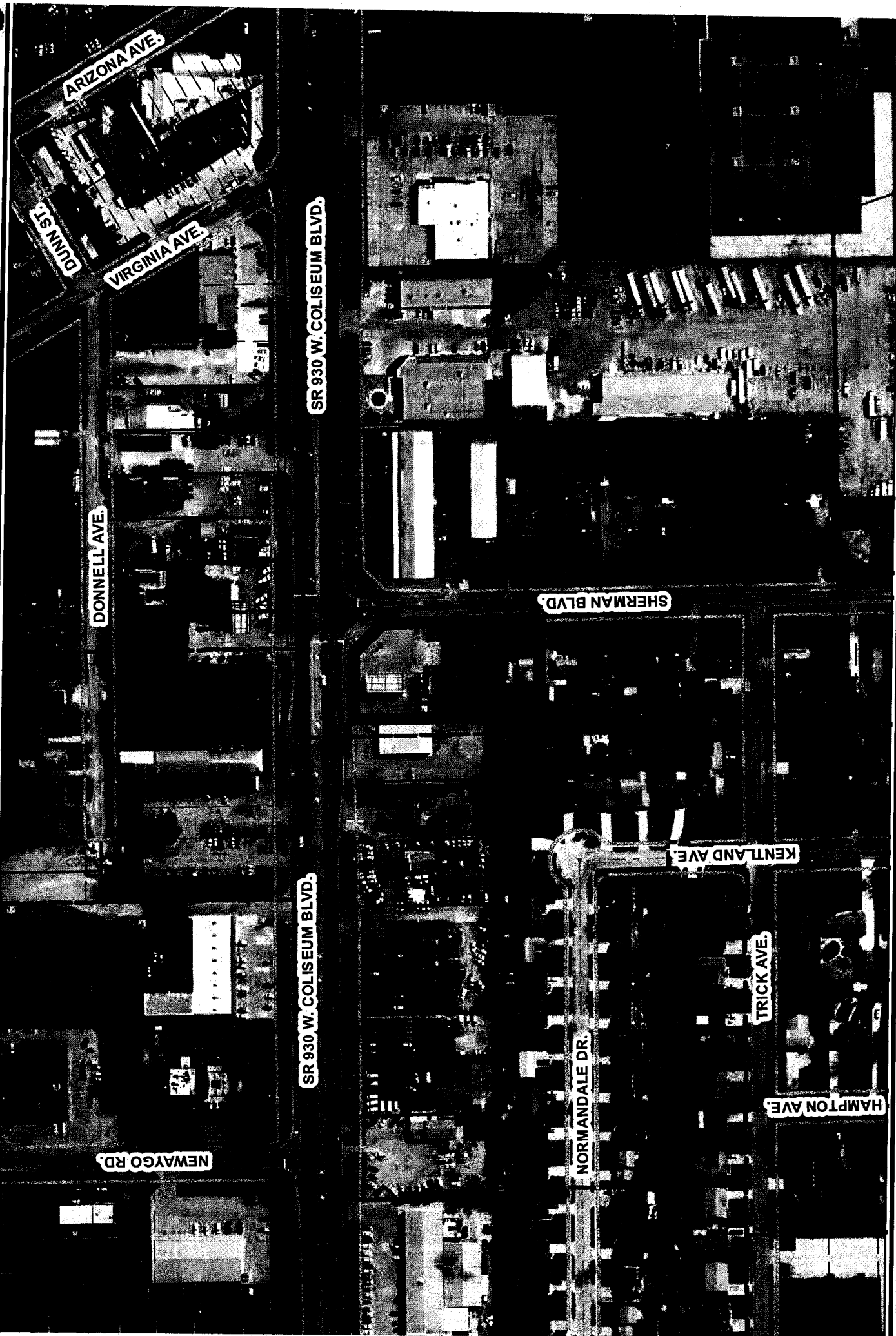
By:  Member
Todd J. Lassus, Member

Dated: December 5, 2016

 her attorney-in-fact
Linda L. Breeden, by
Carroll J. Nichols, her attorney-in-fact

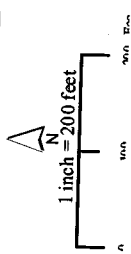
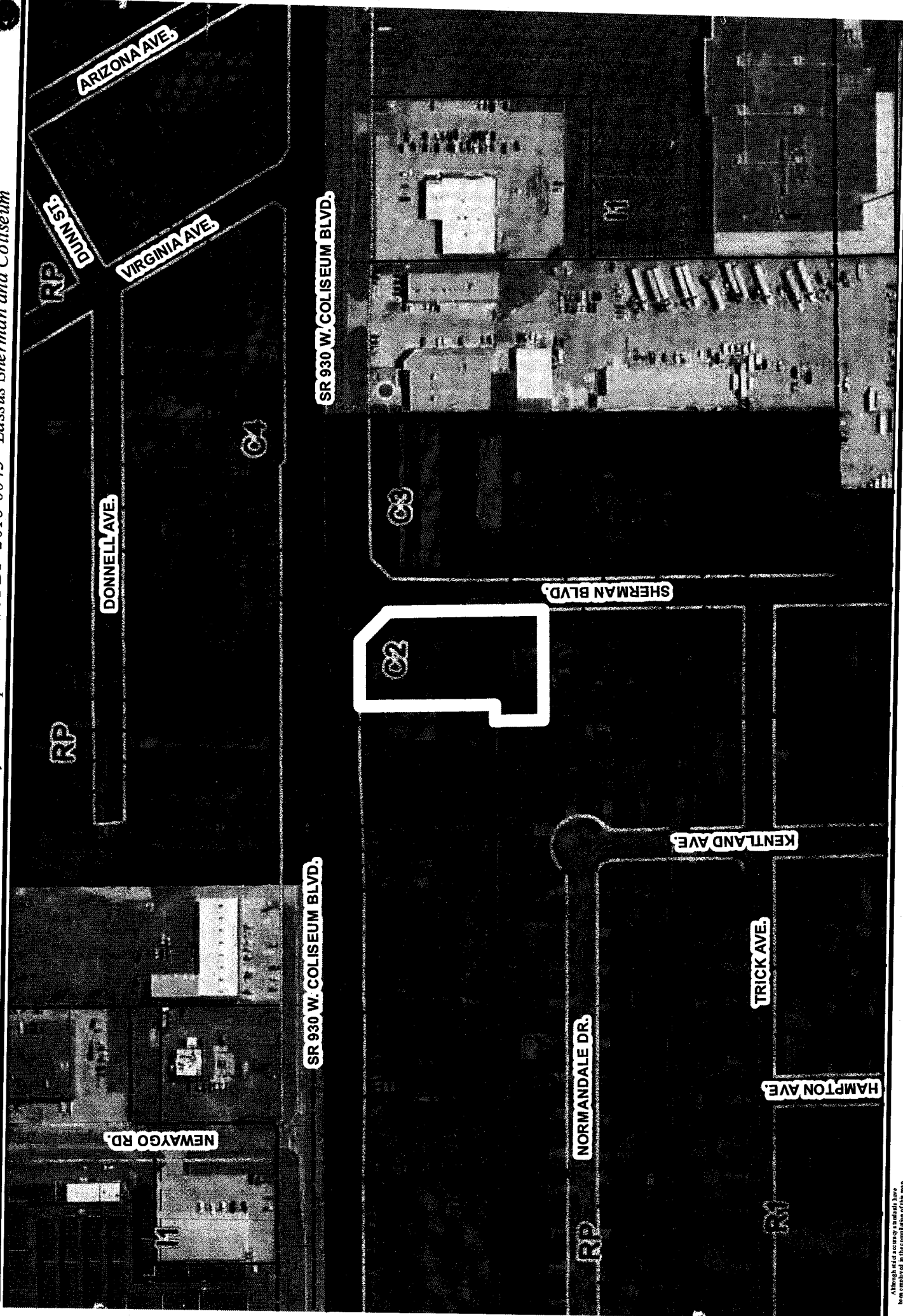
Dated: December 5, 2016

Rezoning Petition REZ-2016-0046 and Primary Development Plan PDP-2016-0043 - Lassus Sherman and Coliseum

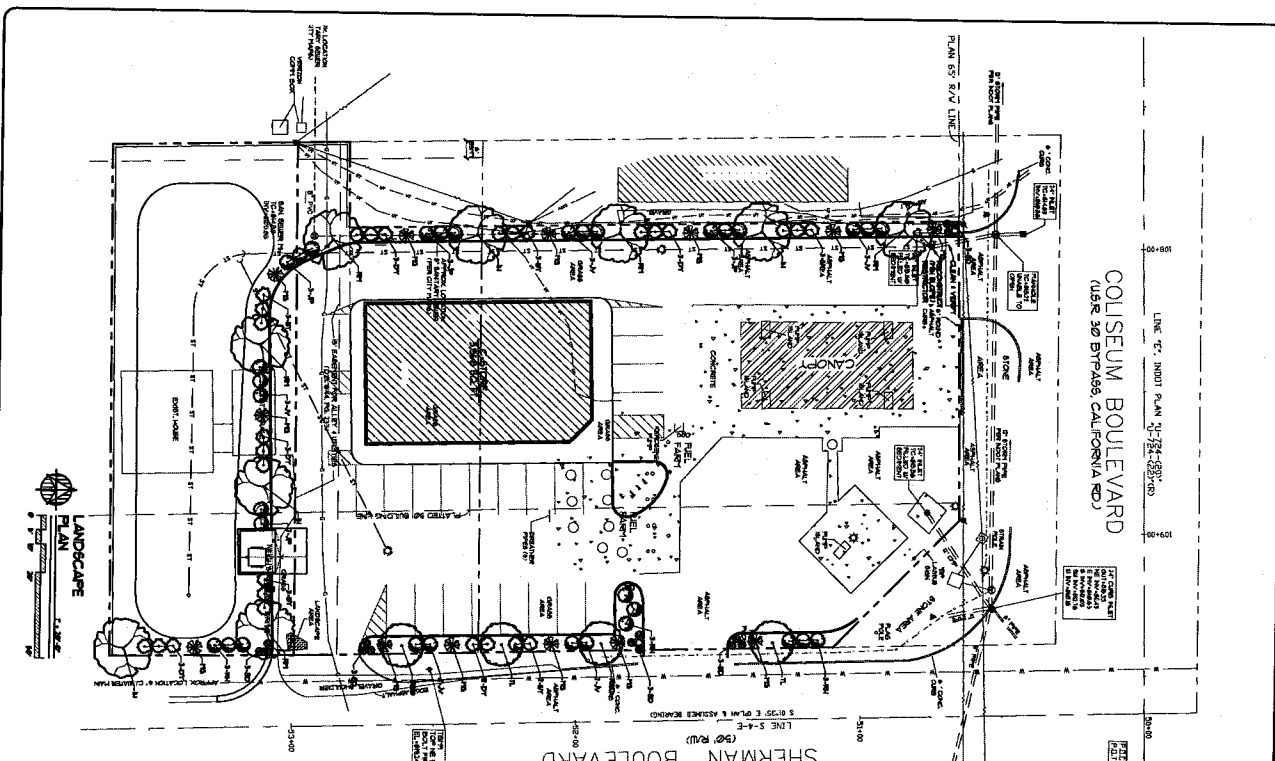


All work was done by the staff of the Planning Department of Allen County, Indiana. The accuracy of the information contained herein is not guaranteed. © 2008 Board of Commissioners of the County of Allen, North American Datum 1983. See Plane Coordinate System, Indiana East Zone and Contour, Spring 2009.

Rezoning Petition REZ-2016-0046 and Primary Development Plan PDP-2016-0043 - Lassus Sherman and Coliseum



Although every effort has been made to ensure the accuracy of the information contained herein, the County does not warrant or guarantee the accuracy of the information contained herein and does not accept any liability for any errors or omissions in this map. © 2006 Board of Commissioners of the County of Allen, North American Datum 1983. Site Plan Coliseum System, Indiana East Plaza and Coliseum Springs, 2005.



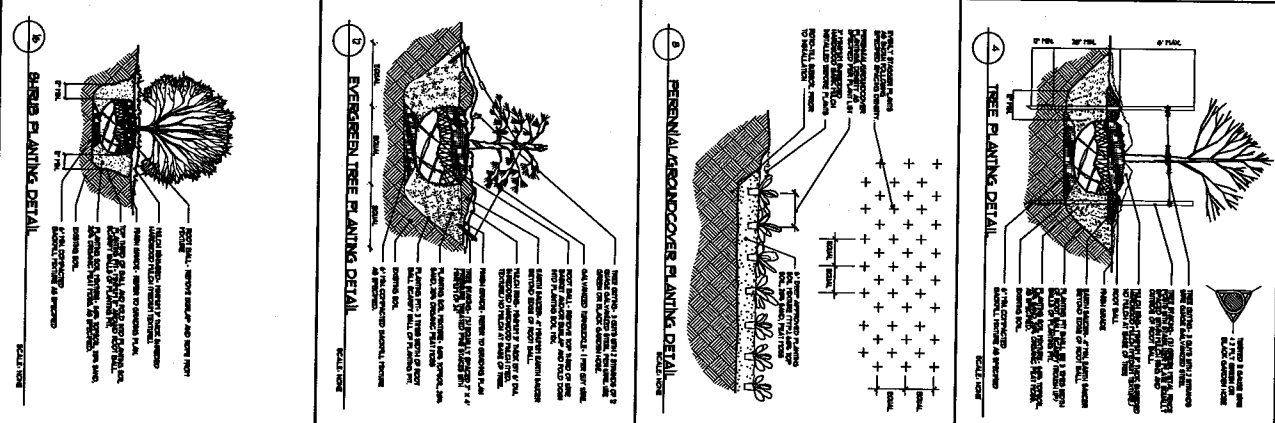
COLISEUM BOULEVARD
(USE 300 BYPASS, CALIFORNIA RD.)

PLANT MATERIAL LIST

ITEM NO.	SYMBOL	DESCRIPTION	SIZE	PLANTING	COMMENTS
1	100	SPRING BLOSSOM	12" x 12"	100	PLANTING
2	101	SPRING BLOSSOM	12" x 12"	100	PLANTING
3	102	SPRING BLOSSOM	12" x 12"	100	PLANTING
4	103	SPRING BLOSSOM	12" x 12"	100	PLANTING
5	104	SPRING BLOSSOM	12" x 12"	100	PLANTING
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7	106	SPRING BLOSSOM	12" x 12"	100	PLANTING
8	107	SPRING BLOSSOM	12" x 12"	100	PLANTING
9	108	SPRING BLOSSOM	12" x 12"	100	PLANTING
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12	111	SPRING BLOSSOM	12" x 12"	100	PLANTING
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23	122	SPRING BLOSSOM	12" x 12"	100	PLANTING
24	123	SPRING BLOSSOM	12" x 12"	100	PLANTING
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71	170	SPRING BLOSSOM	12" x 12"	100	PLANTING
72	171	SPRING BLOSSOM	12" x 12"	100	PLANTING
73	172	SPRING BLOSSOM	12" x 12"	100	PLANTING
74	173	SPRING BLOSSOM	12" x 12"	100	PLANTING
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98	197	SPRING BLOSSOM	12" x 12"	100	PLANTING
99	198	SPRING BLOSSOM	12" x 12"	100	PLANTING
100	199	SPRING BLOSSOM	12" x 12"	100	PLANTING

LANDSCAPING NOTES

1. THE LANDSCAPING CONTRACTOR SHALL FURNISH ALL MATERIALS AND LABOR NECESSARY TO COMPLETE THE LANDSCAPING WORK SHOWN ON THESE PLANS.
2. THE LANDSCAPING CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.
3. THE LANDSCAPING CONTRACTOR SHALL MAINTAIN ACCESS TO ALL UTILITIES AND STRUCTURES AT ALL TIMES.
4. THE LANDSCAPING CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
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S3

LASSUS BROS. OIL
801 WEST COLISEUM BOULEVARD
FORT WAYNE, INDIANA 46808

P. A. TROYER INC
ARCHITECTURE DEVELOPMENT CONSTRUCTION
1510 W. LUDWIG RD. FT. WAYNE, IN 46822
O. 260-489-2810 F. 260-489-6162 C. 260-318-0926

FACT SHEET

Case #REZ-2016-0046 Bill # Z-17-01-05 Project Start: 10 January 2017

APPLICANT:	Lassus Bros. Oil, Inc.
REQUEST:	To rezone property from R1/Single Family Residential, RP/Planned Residential, and C2/Limited Commercial to C3/General Commercial; and approve a primary development plan for the reconstruction of a Lassus Handy Dandy convenience store.
LOCATION:	The site is located at the southwest corner of the intersection of West Coliseum Boulevard and Sherman Boulevard. The address of the subject property is 901 West Coliseum Boulevard (Section 27 of Washington Township).
LAND AREA:	Approximately 1.06 acres
PRESENT ZONING:	R1/Single Family Residential, RP/Planned Residential, and C2/Limited Commercial
PROPOSED ZONING:	C3/General Commercial
NEIGHBORHOOD	
ASSOCIATIONS:	Community Liaison, Northwest Area Partnership
COUNCIL DISTRICT:	3-Tom Didier
ASSOCIATED PROJECTS:	Primary Development Plan, Lassus Handy Dandy
SPONSOR:	City of Fort Wayne Plan Commission

9 January 2017 Public Hearing

- No one spoke at the hearing in favor.
- Two individuals spoke at the hearing in opposition or with questions.
- All members were present.

23 January 2017 -- Business Meeting

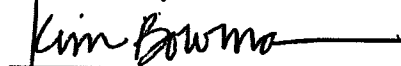
Plan Commission Recommendation: Do Pass with a Written Commitment

A motion was made by Don Schmidt and seconded by Billy Davenport to return the ordinance to Common Council for their final decision. **6-0 MOTION PASSED**

- Paul Sauerteig, Mike Bynum, and Judi Wire were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
2 February 2017

Reviewed By:



Kim Bowman, Executive Land Use Director

PROJECT SUMMARY

The petitioner requests a rezoning from R1/Single Family Residential, RP/Planned Residential and C2/Limited Commercial to C3/General Commercial to allow the reconstruction of a 3,970 square foot convenience store. The construction includes the removal of the existing convenience store, a single family home and a renovation of the existing canopy. The property has included a gas station since 1970. In 2014, the City and County approved new Zoning Ordinances that removed gas stations as permitted uses in the C2 zoning district. As part of the remodel the applicant is increasing the size of the convenience store and moving it further south which will require additional property. The additional two parcels are zoned R1 and RP and are proposed to be rezoned to C3 as well. The rezoning will bring the existing gas station and convenience store into compliance and will allow the expansion the of the convenience store, and allow for on-site stormwater management.

The property is bordered to the south by single family residential, to the west by the Women's Care Center, to the east by Sherman Boulevard and to the north by West Coliseum Boulevard. Most of the area surrounding the site is zoned for intensive commercial uses. The proposed zoning district can be supported by the Comprehensive Plan in that it will allow for the reconstruction of an existing use and provide for additional investment in the area. The commercial proposal will continue to provide for diversity in retail goods and services

Parking will be relocated to the north and east side of the new building, with new parking lot striping, pavement repair and parking islands to improve internal traffic flow. The site will be landscaped with new plantings in compliance with the Zoning Ordinance. Solid wood fencing and landscaping will be installed where adjacent to residential zoning. The applicant has not requested any waivers of the required development standards of the Zoning Ordinance.

PUBLIC HEARING SUMMARY:

Presenter:

Scott Federoff, legal counsel for Lassus, presented the proposal to the Plan Commission as outlined above. Mr. Federoff stated that the applicant will submit a Written Commitment to prohibit some commercial uses on the site. He also stated that the new convenience store, parking and landscaping will be a great improvement for the neighborhood, over what the site looks like now.

Comments in Favor:

none

Comments in Opposition or with Questions:

Jason Kentland, 4216 Kentland - Concerned about the scope of the project, hours of operation, foot traffic, fencing type, and liquor sales.

Mike Roy, President of North Franke Park Association – He did not receive a letter from the applicant. Questions why a detention basin is needed.

Rebuttal:

Mr. Federoff stated that the traffic should stay the same. Lighting will be limited on the south and west sides and modern LED lighting will be less of an impact than the current lighting. The fence will be solid- board privacy style. Stormwater detention is required by the ordinance. He stated that only one side of the street was notified by the applicant.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT


Rezoning Petition REZ-2016-0046

APPLICANT: Lassus Bros. Oil, Inc.
REQUEST: To rezone property from R1/Single Family Residential, RP/Planned Residential, and C2/Limited Commercial to C3/General Commercial for the approval of a primary development plan for the reconstruction of a Lassus Handy Dandy convenience store.
LOCATION: The site is located at the southwest corner of the intersection of West Coliseum Boulevard and Sherman Boulevard. The address of the subject property is 901 West Coliseum Boulevard (Section 27 of Washington Township).
LAND AREA: Approximately 1.06 acres
PRESENT ZONING: R1/Single Family Residential, RP/Planned Residential, and C2/Limited Commercial
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2016-0046, with an approved Written Commitment, be returned to Council with a "Do Pass" recommendation for the following reasons:

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 general area has seen the development of a diverse mixture commercial land uses. This proposal will be adding additional square footage to development while allowing the site to modernize and bring the current use into compliance with the Ordinance.
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. Site plan and architectural review from the Plan Commission and staff will ensure a compatible development that complements the commercial development in the area.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow the existing gas station to redevelop and expand to provide a more modern building and a diverse product offering.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for commercial uses and adequate infrastructure is available to service the proposed addition.

These findings approved by the Fort Wayne Plan Commission on January 23, 2017.


Kimberly R. Bowman, AICP
Executive Director
Secretary to the Commission

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Lassus Bros. Oil, Inc.
 Address 1800 Magnavox Way
 City Fort Wayne State IN Zip 46804
 Telephone 260-436-1415 E-mail lassust@lassus.com

Contact Person
 Contact Person Scott M. Federoff, Synder Morgan Federoff & Kuchmay LLP
 Address 200 West Main St.
 City Syracuse State IN Zip 46567
 Telephone 260-602-8000 E-mail smf@smfklaw.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 901 West Coliseum Blvd., Ft. Wayne, IN 46818
 Present Zoning C2, RP, and R1 Proposed Zoning C3 Acreage to be rezoned 1.06
 Proposed density 1 units per acre
 Township name Washington Township section # 31 North
 Purpose of rezoning (attach additional page if necessary) To allow the reconstruction of a Lassus Handy Dandy convenience store and fuel station.
 Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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- 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 \$9.85 per notice and a public notice fee of \$50.00 per Indiana code.

Todd J. Lassus, President [Signature] 12/5/16
 (printed name of applicant) (signature of applicant) (date)

See the attached Exhibit "A" _____
 (printed name of property owner) (signature of property owner) (date)

See the attached Exhibit "A" _____
 (printed name of property owner) (signature of property owner) (date)

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

Received <u>12/6/16</u>	Receipt No. <u>122748</u>	Hearing Date <u>1/9/17</u>	Petition No. <u>Rez-2016-0046</u>
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EXHIBIT "A"
Property Owners Signatures

COLISEUM & SHERMAN, LLC,
an Indiana limited liability company

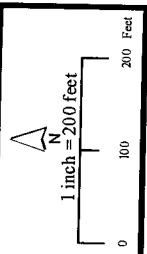
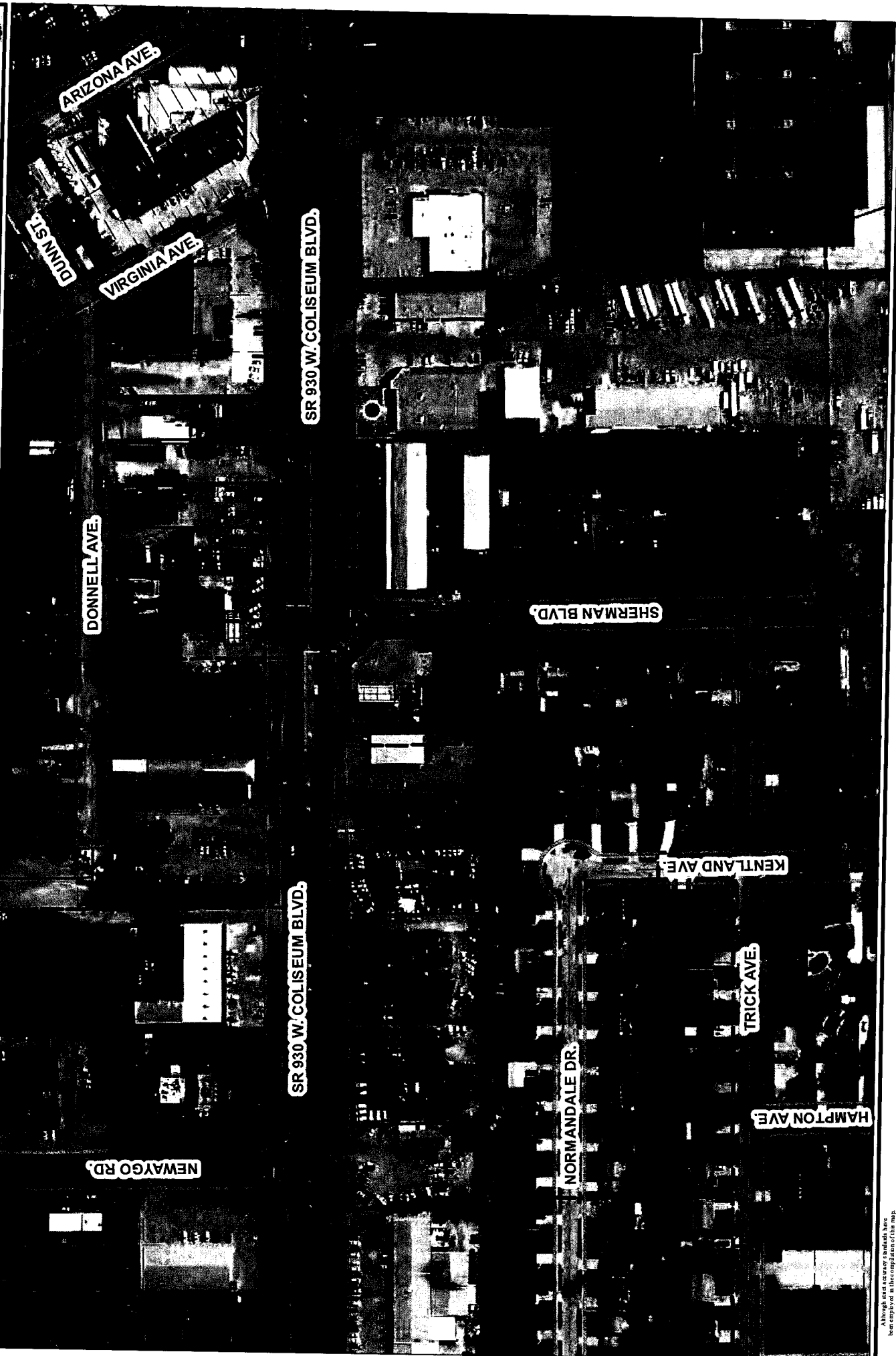
By: Todd J. Lassus Member
Todd J. Lassus, Member

Dated: December 5, 2016

Linda L. Breeden by Carroll J. Nichols, her attorney-in-fact
Linda L. Breeden, by
Carroll J. Nichols, her attorney-in-fact

Dated: December 5, 2016

Rezoning Petition REZ-2016-0046 and Primary Development Plan PDP-2016-0043 - Lassus Sherman and Coliseum



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Rezoning Petition REZ-2016-0046 and Primary Development Plan PDP-2016-0043 - Lassus Sherman and Coliseum

ARIZONA AVE.

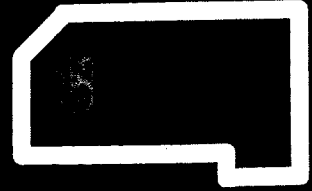
DINN ST.

VIRGINIA AVE.

SR 930 W. COLISEUM BLVD.

DONNELL AVE.

SHERMAN BLVD.



SR 930 W. COLISEUM BLVD.

KENTLAND AVE.

TRICK AVE.

NORMAN DALE DR.

HAMP TON AVE.

NEWAYGO RD.



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WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the ___ day of _____, 2017, by Coliseum & Sherman, LLC, an Indiana limited liability company ("C&S").

RECITALS

A. By virtue of those certain Warranty Deeds dated _____, 1996 and recorded on _____, 1996 as Document Number 960036316 and dated February ___, 2017 and recorded on February ___, 2017 as Document Number 2017 _____ in the Office of the Recorder of Allen County, Indiana, C&S 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" (collectively, the "Real Estate").

B. C&S filed an application under Case Number PDP-2016-0043 (the "Development Plan Application") for approval of a primary development plan for gas station/convenience store to be located on the Real Estate, and an application under Case Number REZ-2016-0046 (the "Rezoning Application") to change the zone map applicable to the Real Estate from the C2, R1, and RP Zoning Districts to the C3 Zoning District.

D. Pursuant to Ind. Code § 36-7-4-1015(a)(2) and the City of Fort Wayne Zoning Ordinance (the "Ordinance"), the Fort Wayne Plan Commission (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 Development Plan Application, C&S offered to make, and the Plan Commission required C&S to make, a written commitment concerning the use and development of the Real Estate.

COMMITMENT

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

1. **PROHIBITED USES.** The following uses shall be prohibited as a primary use upon the Real Estate as permitted in the C3/General Commercial zoning district under §157.217 and §157.218 of the Ordinance:

- a) Agricultural equipment sales;
- b) Agricultural equipment service;
- c) Agricultural supply sales;
- d) Amusement park;
- e) Animal grooming with outdoor runs;
- f) Animal Kennel or Obedience School with outdoor runs;
- g) Automobile Detailing and Trim Shop;
- h) Arcade;
- i) Arena;
- j) Auction hall;
- k) Auction service;
- l) Automobile auction
- m) Automobile body shop;
- n) Automobile repair;
- o) Automobile Sales Facility (new or used);
- p) Bar or Tavern;
- q) Batting cages;
- r) Betting or other gambling facility;
- s) Billiard or pool hall;
- t) Bingo establishment;
- u) Blood bank;
- v) Blood or plasma donor facility;
- w) Boarding/lodging house;
- x) Boat/watercraft sales;
- y) Bowling alley;
- z) Campus housing;
- aa) Clinic;
- bb) Club, private;
- cc) Coin shop;
- dd) Collection agency;
- ee) Correctional services facility;
- ff) Dating service;
- gg) Dormitory;
- hh) Entertainment facility;
- ii) Equipment service;
- jj) Exhibit hall;
- kk) Exterminator;
- ll) Feed store;
- mm) Flea market;

- nn) Fraternity house;
- oo) Garage sales;
- pp) Go-kart facility;
- qq) Golf course, miniature;
- rr) Golf driving range;
- ss) Group residential facility (large);
- tt) Group residential facility (small);
- uu) Gun sales;
- vv) Haunted house;
- ww) Homeless/emergency shelter ;
- xx) Hotel;
- yy) Landscape contracting service;
- zz) Laundromat/coin operated laundry;
- aaa) Manufactured home sales;
- bbb) Motel;
- ccc) Motor vehicle sales;
- ddd) Parking area (off-site);
- eee) Parking structure;
- fff) Pawn shop;
- ggg) Public transportation or similar public facility;
- hhh) Reception/banquet hall;
- iii) Rehabilitation facility;
- jjj) Residential facility for homeless individuals;
- kkk) Riding stable;
- lll) Shooting range (indoor);
- mmm) Stadium/racetrack;
- nnn) Treatment center;
- ooo) Truck stop;
- ppp) Warehouse/storage facility;
- qqq) Wholesale facility;
- rrr) Zipline;
- sss) Zoo.

2. ***ENFORCEMENT RIGHTS.*** The 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.

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

4. ***SUCCESSORS AND ASSIGNS.*** This Commitment and the restrictions set forth above shall inure to the benefit of: (a) all persons who own property comprising the Real Estate, and their successors and assigns; and (b) the Zoning Administrator and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate.

5. ***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.

6. ***GOVERNING LAW.*** This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

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

8. ***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.

[SIGNATURE PAGE FOLLOWS.]

Coliseum & Sherman, LLC,
an Indiana limited liability company

By: _____
Todd J. Lassus, Member

“C&S”

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public in and for said County and State, this _____ day of _____, 2017, personally appeared Todd J. Lassus, as a Member of Coliseum & Sherman, LLC, an Indiana limited liability company, and acknowledged the execution of the foregoing Written Commitment on behalf of said company.

WITNESS my hand and Notarial Seal.

My commission expires: _____, Notary Public
Resident of Allen, County, Indiana

This instrument prepared by: Scott M. Federoff, SNYDER MORGAN FEDEROFF & KUCHMAY LLP, 7217 Homestead Road, Suite B, Fort Wayne, Indiana 46804.

After recording, return to: _____.

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. Scott M. Federoff

Exhibit "A"
Legal Description of the Real Estate

Parts of Lot 33 and Block "A" TRIXHOLME ADDITION to the City of Fort Wayne as recorded in Plat Book 17, Page 121, in the Office of the Recorder of Allen County, Indiana, in particular described as follows, to-wit:

Commencing at the Southeast corner of said Lot 33; thence Northerly along the East line of Lot 33 and the East line of said Block "A", being also defined as the 25 ft. Westerly right-of-way of Sherman Boulevard, a distance of 189.6 feet to a pin set on the South corner-cut right-of-way line of U.S. Highway No. 30 as widened by Project "U"-724-(22); thence Northwesterly on the aforesaid right-of-way line by a deflection left of 44 degrees 59 minutes, a distance of 63.8 feet (North 46 degrees 10 minutes 41 seconds West, 64.06 feet Grant) to the South right-of-way line of said U.S. Highway 30, also known as Coliseum Boulevard, as established by said Project No. "U"-(724-22); and a Highway monument found, thence Westerly along a 65 ft. right-of-way line aforesaid by a deflection left of 44 degrees 35 minutes, a distance of 105.0 feet (South 88 degrees 58 minutes 15 seconds West, 105.02 feet, Grant) to a pin set; thence Southerly by a deflection left of 90 degrees 29 minutes, a distance of 214.4 feet; thence Westerly by a deflection right of 90 degrees 22 minutes, a distance of 30 feet to the West line of said Lot 33, thence Southerly along the line of aforesaid by a deflection left of 90 degrees 20 minutes, a distance of 18.3 feet to the Southwest corner of said Lot 33; thence Easterly by a deflection left of 89 degrees 04 minutes along the South line of said Lot 33, a distance of 180.0 feet to the point of beginning; containing 0.794 acres of land. ALSO Lot Number 33 in the plat of Trixholme Addition Section "A" to the City of Fort Wayne, in Allen County, Indiana except the West 30 feet of the North 46.7 feet thereof.

TOGETHER WITH

Lot Number 32 in Trixholme Addition to the City of Fort Wayne, Allen County, Indiana.

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2016-0046
Bill Number: Z-17-01-05
Council District: 3-Tom Didier

Introduction Date: January 10, 2017
Plan Commission
Public Hearing Date: January 9, 2017 (not heard by Council)
Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

Synopsis of Ordinance: To rezone approximately 1.06 acres of property from R1-Single Family Residential, RP-Planned Residential, and C2-Limited Commercial to C3-General Commercial
Location: 901 West Coliseum Boulevard
Reason for Request: To allow the expansion and improvement of the existing Lassus convenience store.
Applicant: Lassus Bros. Oil, Inc.
Property Owner: Coliseum and Sherman. LLC

Related Petitions: Primary Development Plan, Lassus Handy Dandy

Effect of Passage: Property will be rezoned to the C3-General Commercial district, which is the appropriate district for convenience stores associated with gas pumps.
Effect of Non-Passage: The main property will remain zoned C2-Limited Commercial and the existing gas station may remain as a non-conforming use. The area for the expansion is not zoned appropriately so the business would not be allowed to expand.

BILL NO. Z-17-01-05

REPORT OF COMMITTEE ON REGULATIONS

February 7, 2017

John Crawford Chair

Michael Barranda Co-Chair

All Council Members

An Ordinance amending the City of Fort Wayne Zoning Map No. K-26 (Sec. 27 of Washington Township)

Designating a C3 (General Commercial) District at part of Sherman and US Highway No. 33 (Coliseum Blvd)

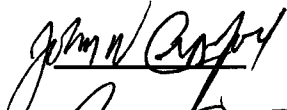
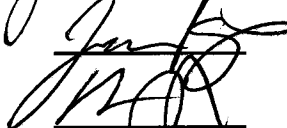

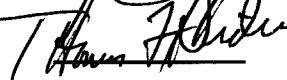
COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

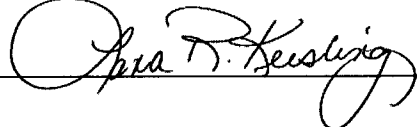
DO NOT PASS

ABSTAIN

NO REC


	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

**LANA R. KEESLING
CITY CLERK**




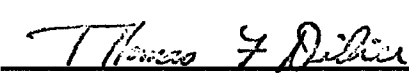
Public Hearing Date: January 9 2017
 Read the first time in full and on motion by Councilman Crawford.
 Read the second time by title and referred to the Regulations Committee.
 Read the third time in full and on motion by Councilman Crawford, placed on passage by the following vote:


<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: February 14, 2017 

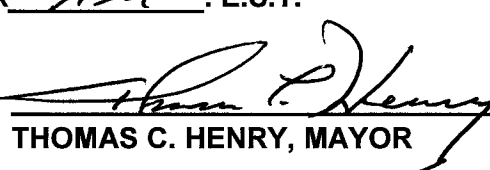
 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
 Zoning Ordinance No. Z-17-01-05 on the 14th day of February, 2017

ATTEST:
 _____
 LANA R. KEESLING
 CITY CLERK
 _____
 THOMAS F. DILICE
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th
 of February 2017, at the hour of 9:45 o'clock A.M. E.S.T.


 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 15TH day of FEBRUARY
 2017, at the hour of 10:00 O'clock AM E.S.T.


 THOMAS C. HENRY, MAYOR