





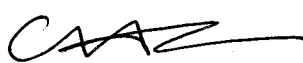
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commitment is hereby approved and is hereby incorporated by reference.

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 Indian River Transport Co.  
 Address 2580 Executive Road  
 City Winter Haven State Florida Zip 33884  
 Telephone 883-324-2430 E-mail \_\_\_\_\_

**Contact Person**  
 Contact Person Joshua C. Neal, Esq.  
 Address 215 East Berry Street  
 City Fort Wayne State IN Zip 46802  
 Telephone 260-423-8935 E-mail jon@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 4760 Block of Goshen Road  
 Present Zoning R-1 Proposed Zoning I-2 Acreage to be rezoned 0.57  
 Proposed density \_\_\_\_\_ units per acre  
 Township name Washington Township section # 17  
 Purpose of rezoning (attach additional page if necessary) to provide for development as a truck terminal including office space, dispatch and wash bays  
 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 filed)
- 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 \$0.25 per notice and a public notice fee of \$50.00 per Indiana code.

See Exhibit "A" John Harned \_\_\_\_\_  
 (printed name of applicant) (signature of applicant) (date)

See Exhibit "A" \_\_\_\_\_  
 (printed name of property owner) (signature of property owner) (date)

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

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

Received	Project No.	Hearing Date	Petition No.
7-8-17	127757	8/14/17	PE2-2017-0031

Exhibit "A"

Date: 7-5, 2017

INDIAN RIVER TRANSPORT CO.

By: John Hamed

Exhibit "A"

Date: 7/5 2017

Marie Irving  
Marie Irving

Jacques Melchi  
Jacques Melchi



July 5, 2017

**Via Hand Delivery**

Michelle Wood, RLA  
Senior Land Use Planner  
Department of Planning Services  
200 East Berry Street, Suite 150  
Fort Wayne, Indiana 46802

**Re: Indian River Transport Co. // Rezoning Petition and Primary Development Plan Application for Goshen Road Truck Terminal**

Dear Michelle:

As you will recall, this law firm serves as counsel to Indian River Transport Co. ("Indian River") in connection with its proposed rezoning and development of approximately 9.57 acres of land located at the 4700 Block of Goshen Road, Fort Wayne, Indiana (the "Real Estate"). Indian River is proposing to develop the Real Estate in connection with a proposed truck terminal to service its fleet of food-grade tank carriers.

In this regard, please find enclosed with this letter the following documents:

1. A Rezoning Petition requesting to rezone the Real Estate from its current R-1 designation to an I-2 designation.
2. A Primary Development Plan Application for development of a new truck terminal, including office space, dispatch facility and wash bays.
3. Two (2) copies of the site plan.
4. A check made payable to the "Allen County Treasurer" in the amount of Five Hundred and No/100 Dollars (\$500.00) representing the filing fee for the rezoning petition.
5. A check made payable to the "Allen County Treasurer" in the amount of Seven Hundred and No/100 Dollars (\$700.00) representing the filing fee for the primary industrial development plan.

In an effort to supplement the above and the enclosed, I would respectfully offer the following additional information:

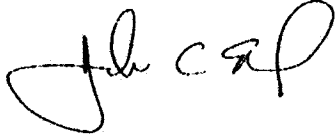


- Indian River is a privately held Florida corporation that provides interstate, intrastate and even international transportation of bulk food-grade commodities. The company currently has terminal locations in California and New Mexico but provides transportation services throughout the Midwest United States.
- Founded in 1974, the company has grown to become one of the industry's largest and most respected food-grade carriers, with its primary products transported including fruit juices and dairy products. Indian River is the 2013 recipient of Great West Casualty Company's Platinum Award, which is a safety award given based on crash data collected per million miles and is the highest recognition given to Great West Casualty Company's 675 carriers from across the country. In addition, Indian River has also been recognized as Kosher Certified as a result of its clean and safe food handling procedures.
- Indian River's proposed use is to temporarily store approximately fifty (50) semi-trucks and trailers at the Real Estate. The vehicles will be cleaned thoroughly on site before being dispatched to another location. The proposed building improvements will include cleaning facilities, together with corresponding office space and employee break rooms. However, it is currently anticipated that only truck cleaning will occur on site with little or no other significant vehicle maintenance occurring at the Real Estate.
- Indian River, through an affiliated entity, is under agreement to purchase the Real Estate from the current property owners, Marla Irving and Jacque Melchi, which agreement is contingent upon Indian River's ability to successfully rezone the Real Estate to accommodate its intended use as a truck terminal.
- The Real Estate is currently vacant and undeveloped; however, it is immediately adjacent to the Edgewood Industrial Park and to an existing truck terminal operated by USF Holland. The real estate located immediately east of the Real Estate is currently zoned I-2. The instant proposal is consistent with the use and approvals for the immediately adjoining and nearby uses located on this particular stretch of Goshen Road.
- At this time, no waivers of development standards or variances are being requested in connection with this project.
- Last, I note that Donovan Engineering is currently finalizing its survey of the Real Estate and will be delivering copies of the same to your attention later this week.

Thank you in advance for you and your staff's attention to the enclosed materials. It is our understanding that the applications will be heard by the City of Fort Wayne Plan Commission at a public hearing scheduled for 6:00 p.m. on August 14<sup>th</sup>, 2017, in Room 35 of Citizen's Square. Should you have any questions or need any additional information concerning this project prior to that time, please do not hesitate to contact the undersigned.

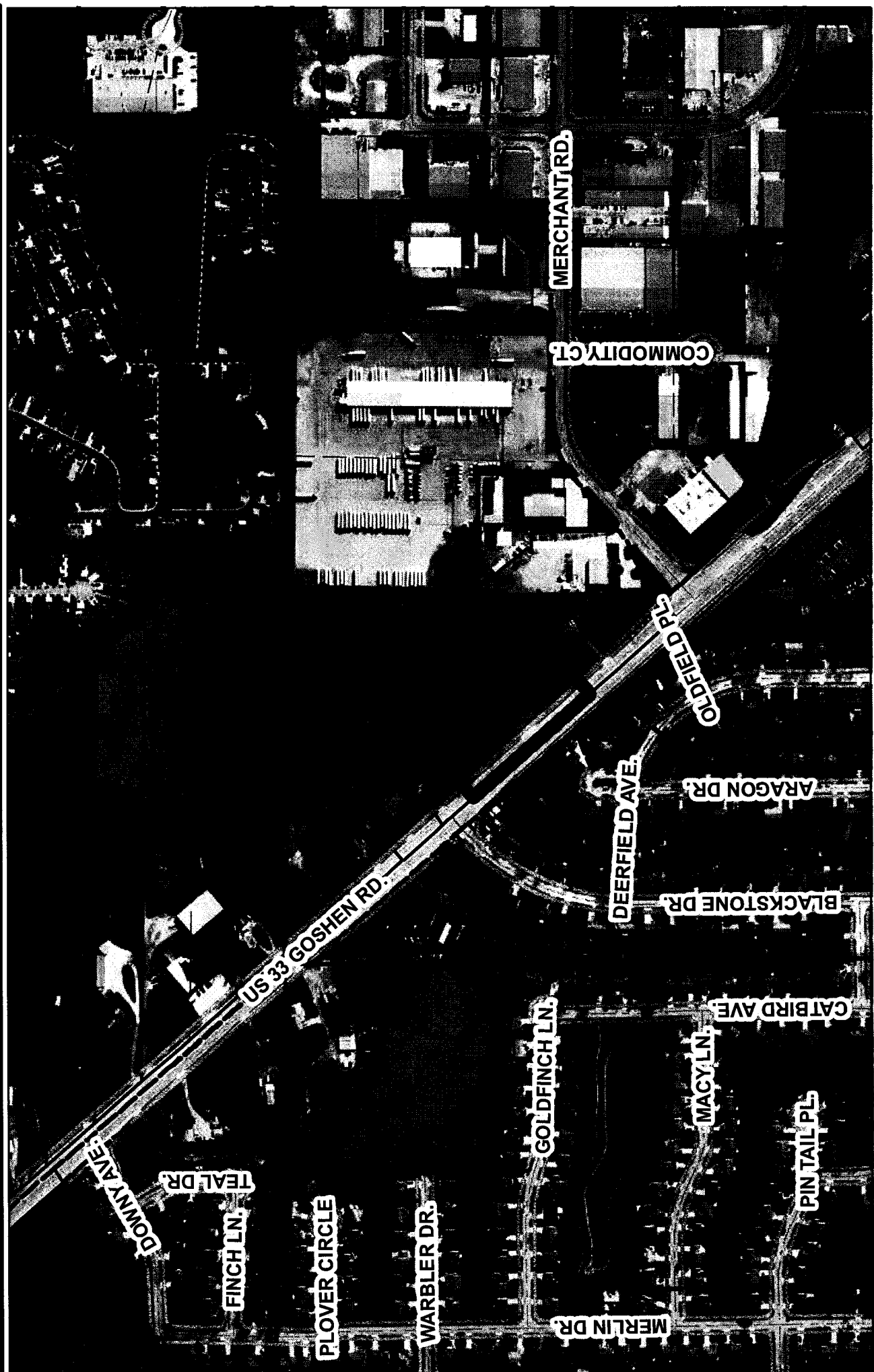
Sincerely,

BARRETT McNAGNY LLP

A handwritten signature in black ink, appearing to read "J.C. Neal". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Joshua C. Neal  
JCN:1851470  
Enclosures

Cc: Indian River Transport Co. (letter only)



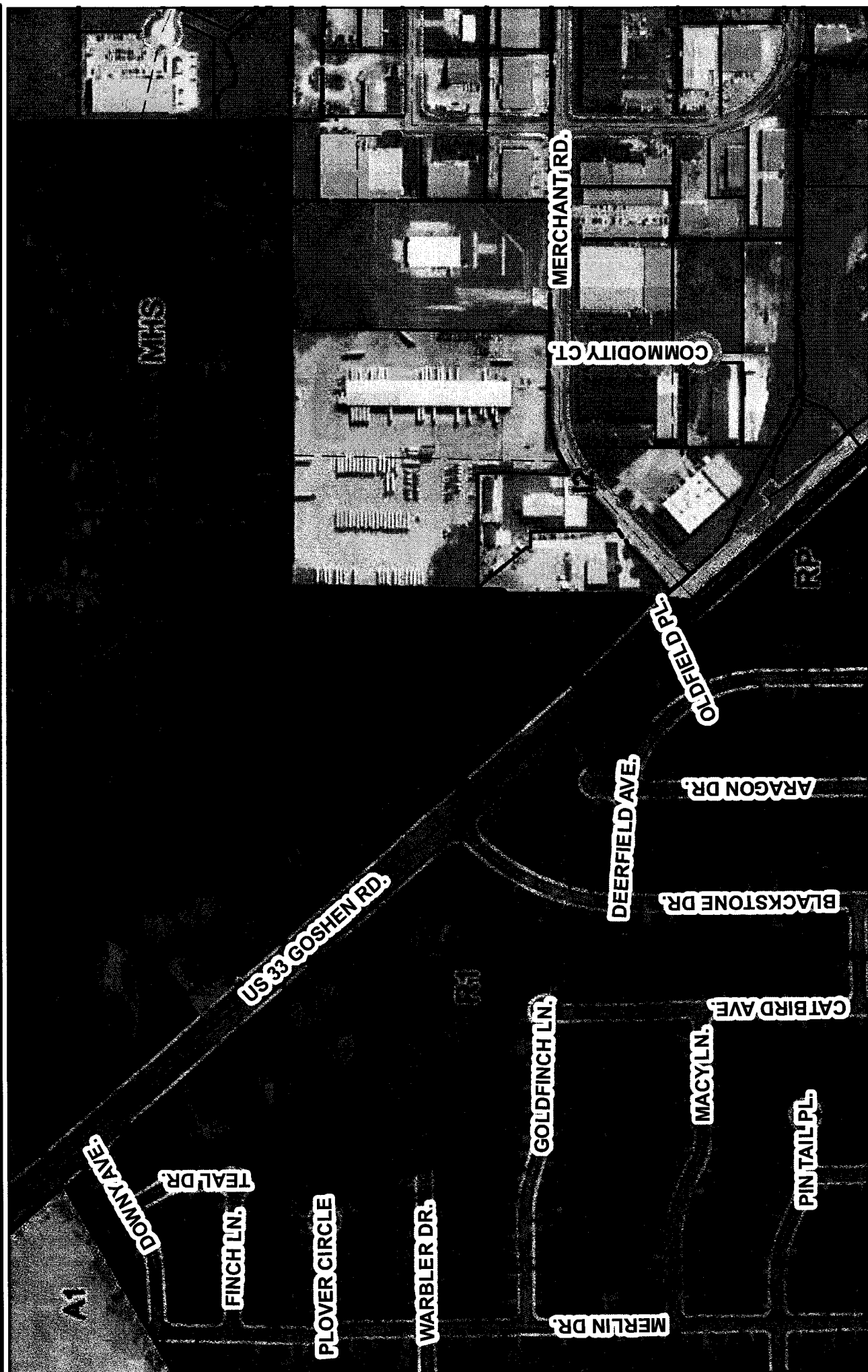
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State Plane Coordinate System, Indiana East  
Photos and Contours: Spring 2009  
Date: 7/25/2017



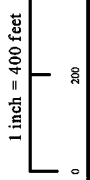
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Rezoning Petition REZ-2017-0031 and Primary Development Plan PDP-2017-0027 - Indian River Trucking



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## FACT SHEET

Case #	REZ-2017-0031	Bill #	Z-17-08-02	Project Start:	8 August 2017
PROPOSALS:	Rezoning Petition REZ-2017-0031 and Primary Development Plan PDP-2017-0027, Indian River Transport Truck Terminal				
APPLICANT:	Indian River Transport Co.				
REQUEST:	To rezone property from R1/Single Family Residential to I2/General Industrial; and approve a primary development plan for a truck terminal facility, including offices and wash bays.				
LOCATION:	The site is located on the north and east sides of the 4700 block of U.S. 33/Goshen Road, and lies to the north and east of Edgewood Park subdivision, and to the west of Edgewood Industrial Park (Section 17 of Washington Township).				
LAND AREA:	Approximately 9.6 acres				
PRESENT ZONING:	R1/Single Family Residential				
PROPOSED ZONING:	I2/General Industrial				
COUNCIL DISTRICT:	3-Tom Didier				
ASSOCIATED PROJECTS:	Primary Development Plan, Indian River Trucking				
SPONSOR:	City of Fort Wayne Plan Commission				

### 14 August 2017 Public Hearing

- No one spoke at the hearing in favor.
- 12 individuals spoke at the hearing in opposition.
- One letter was received by owner of 4632 Goshen Road in opposition.
- Mike Bynum was absent.
- Staff recommended Do Pass w/Written Commitment

### 21 August 2017 – Business Meeting

#### Plan Commission Recommendation: Do Pass w/ 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.

#### 6-1 MOTION PASSED Judi Wire voted nay.

- Paul Sauerteig and Mike Bynum were absent.

Fact Sheet Prepared by:  
Michelle B. Wood, Senior Land Use Planner  
8 September 2017

Reviewed by:

  
\_\_\_\_\_  
Kimberly R. Bowman  
Executive Land Use Director

## PROJECT SUMMARY

The petitioner requests a rezoning from R1/Single Family Residential to I2/General Industrial to allow for a new trucking facility for Indian River Transport. The property lies on the east side of Goshen Road, adjacent to the western boundary of Edgewood Industrial Park. The Goshen Road corridor has been developed with a mixture of uses. The east side of the corridor (north of Washington Center Road) has seen industrial uses, a gas station, cell tower, and metes and bounds residential properties. Just to the north of the site, there are also metes and bounds residential properties that have received Board of Zoning Appeals approvals for various commercial uses such as warehousing, retail businesses, and towing services. While business uses do occur at the intersection of Goshen Road and West Washington Center Road, residential uses are prominent on the west side of the Goshen Road corridor. A church also lies along the west side of Goshen Road, as does a residential property with BZA approvals for various auto related uses.

Nearly a decade ago, the Indiana Department of Transportation improved Goshen Road in this area, to include two lanes of traffic in each direction and a center turn lane. Sidewalks were also installed at that time. With the road improvements, INDOT installed a commercial access cut to this nearly ten-acre site which would provide for more intensive development than the current use. As mentioned, the site is adjacent to the Edgewood Industrial Park, which is zoned I2/General Industrial. The immediate neighbor is also a trucking facility. Edgewood Industrial Park has public streets which funnel traffic out to Goshen Road, and easterly towards Huguenard Road.

The I2 zoning district permits the proposed trucking terminal and washing bays associated with the Indian River Transport proposal. The I2 district also permits a number of other manufacturing, general automobile, and general retail service uses. The applicant may consider limiting some of the I2 uses which may not be compatible with the general area and the adjacent metes and bounds residential properties.

With consideration of a written commitment, the comprehensive plan could support this development through the following objectives:

- LU1.** Encourage carefully planned growth by utilizing the conceptual development map as part of the community's land use decision-making process;
- LU3.** Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
- LU8.** Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.

The primary development plan proposed one 77' x 116' building on the site, to house offices and interior wash bays. The site will utilize the existing 45' wide access point to Goshen Road, which does include a center turn lane. The center turn lane will allow left turn movements safely into the site. The structure will also have accessory automobile parking for employees. An asphalt paving area for parking of the Indian River Transport vehicles and trailers is proposed to the north of the building. The plan proposes lighting with cut-off fixtures with glare guards. The freestanding pole light height proposed is 30', which is permitted as long as the poles are not within 50' of a residential district. All lighting exceeds the required setback from residential zoning.

Landscaping is required along the edges of the property which are adjacent to residential zoning. Because the site is currently wooded, the applicant is proposing preservation of the existing wooded areas as the required screen. The Zoning Ordinance allows this as an alternate landscape plan, which the Plan Commission may approve. The proposed buffer ranges from 30 feet wide to 75 feet wide, depending on the location. The applicant also agreed to install a six-foot high (minimum) solid board fence on the inside of the tree buffer to further block headlights, especially in the winter months. The fence will also prevent additional trees from

being removed. The buffer area is critical for this development to be compatible with adjacent properties, so a commitment to the landscape buffer is an item listed in the proposed commitment.

**PUBLIC HEARING SUMMARY:**

Presenter: Josh Neal, attorney, represented the applicant and presented the proposal to the Plan Commission as outlined above. Mr. Neal stated that there will be no lodging, food or fueling at this location. Food-grade semi-trailers are dropped off to be sanitized within the building. The doors to the wash bay will be closed during operation. Estimated truck trips to this facility are 20 to 25 per day. US 33 is a state highway, built to handle such truck traffic and this property is an example of adjacent growth, which is encouraged by the Comprehensive Plan.

Comments in Favor:

None

Questions or Comments in Opposition:

Phillip Graves, 4830 Goshen Road – Safety, doesn't know their hiring practices. Assumes they have a lot of turn-over for their drivers. Still has questions about the site engineering.

Catina Babler, 6310 Aragon Drive – Concerned about nature, accidents on US 33, noise.

Sandra Otis, 5119 Goldfinch Lane – Represents Northbrook, 147 signatures in opposition, agrees with other speakers.

Mark Vorndran, 6226 Catbird Avenue – Opposed.

Bill Warren, 4906 Goshen Road – US 33 is not adequate for this use, concerned about wildlife in the woods.

Will Babcock, 4727 Foxgrove Avenue – Traffic concerns on US 33.

Steven Pipenger, 5017 Goldfinch Lane – Traffic and runoff concerns.

Amy Warren, 4906 Goshen Road – Concerns about bus pick-up, what kind of people are truck drivers?

Kelley Young, 4816 Goshen Road – She works from home, concerned about loss of trees.

Peter Alderice, 5026 Goldfinch Lane – Agrees with other speakers, difficult to turn left out of his subdivision.

Diane Crider, 5322 Goldfinch Lane – Stormwater concerns, entrance is not adequate.

Teresa Brousseau, 6311 Blackstone Drive – Located between two homes, safety on US 33.

## FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

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### Rezoning Petition REZ-2017-0031

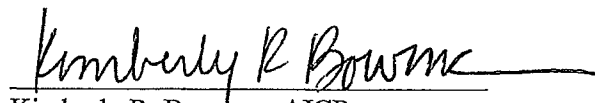
APPLICANT: Indian River Transport Co.  
REQUEST: To rezone property from R1/Single Family Residential to I2/General Industrial; and approve a primary development plan for a truck terminal facility, including offices and wash bays.  
LOCATION: The site is located on the north and east sides of the 4700 block of U.S. 33/Goshen Road, and lies to the north and east of Edgewood Park subdivision, and to the west of Edgewood Industrial Park (Section 17 of Washington Township).  
LAND AREA: Approximately 9.6 acres  
PRESENT ZONING: R1/Single Family Residential  
PROPOSED ZONING: I2/General Industrial

---

**The Plan Commission recommends that Rezoning Petition REZ-2017-0031 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 City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The general area surrounding the site is a mixture of industrial, commercial, and residential uses. The Comprehensive Plan supports the rezoning proposal in the following ways: **LU1.** Encourage carefully planned growth by utilizing the conceptual development map as part of the community’s land use decision-making process; **LU3.** Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure; **LU8.** Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist. The applicant has proposed a written commitment which will further prohibit uses that my normally be utilized in the I2 zoning district.
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 Goshen Road corridor has seen a variety of uses. The primary development plan proposed to leave a substantial buffer of existing vegetation which will buffer adjacent residential properties. The site is immediately adjacent to a similar trucking use.
3. Approval is consistent with the preservation of property values in the area. This proposal is consistent with surrounding zoning classifications and the mixed use character of the Goshen Road corridor. As mentioned, the plan will effectively screen and buffer the proposed use from adjacent residential properties. The site is also adjacent to an I2 zoned industrial park.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. This proposal is to allow development on an underused site, which already includes a nonresidential access point, and utilities.

These findings approved by the Fort Wayne Plan Commission on August 21, 2017.

A handwritten signature in cursive script that reads "Kimberly R. Bowman". The signature is written in black ink and is positioned above a horizontal line.

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

**Department of Planning Services  
Rezoning Petition Application**

**Applicant**  
 Applicant Indian River Transport Co.  
 Address 2580 Executive Road  
 City Winter Haven State Florida Zip 33884  
 Telephone 863-324-2430 E-mail \_\_\_\_\_

**Contact Person**  
 Contact Person Joshua C. Neal, Esq.  
 Address 215 East Berry Street  
 City Fort Wayne State IN Zip 46802  
 Telephone 260-423-8935 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  
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 Present Zoning R-1 Proposed Zoning I-2 Acreage to be rezoned 9.57  
 Proposed density \_\_\_\_\_ units per acre  
 Township name Washington Township section # 17  
 Purpose of rezoning (attach additional page if necessary) to provide for development as a truck terminal including office space, dispatch and wash bays  
 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 checklists 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 \$0.25 per notice and a public notice fee of \$50.00 per Indiana code.

See Exhibit "A" \_\_\_\_\_  
 (printed name of applicant) (signature of applicant) (date)  
 See Exhibit "A" \_\_\_\_\_  
 (printed name of property owner) (signature of property owner) (date)  
 \_\_\_\_\_  
 (printed name of property owner) (signature of property owner) (date)  
 \_\_\_\_\_  
 (printed name of property owner) (signature of property owner) (date)

Received <u>7-5-17</u>	Receipt No. <u>124457</u>	Hearing Date <u>8/14/17</u>	Petition No. <u>REZ-2017-0031</u>
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**Exhibit "A"**

Date: 7-5, 2017

INDIAN RIVER TRANSPORT CO.

By: John Hamed

**Exhibit "A"**

Date: 7/5, 2017

*Marla Irving*  
Marla Irving

*Jacque Melchi*  
Jacque Melchi

July 5, 2017

*Via Hand Delivery*

Michelle Wood, RLA  
Senior Land Use Planner  
Department of Planning Services  
200 East Berry Street, Suite 150  
Fort Wayne, Indiana 46802

**Re: Indian River Transport Co. // Rezoning Petition and Primary Development Plan Application for Goshen Road Truck Terminal**

Dear Michelle:

As you will recall, this law firm serves as counsel to Indian River Transport Co. ("Indian River") in connection with its proposed rezoning and development of approximately 9.57 acres of land located at the 4700 Block of Goshen Road, Fort Wayne, Indiana (the "Real Estate"). Indian River is proposing to develop the Real Estate in connection with a proposed truck terminal to service its fleet of food-grade tank carriers.

In this regard, please find enclosed with this letter the following documents:

1. A Rezoning Petition requesting to rezone the Real Estate from its current R-1 designation to an I-2 designation.
2. A Primary Development Plan Application for development of a new truck terminal, including office space, dispatch facility and wash bays.
3. Two (2) copies of the site plan.
4. A check made payable to the "Allen County Treasurer" in the amount of Five Hundred and No/100 Dollars (\$500.00) representing the filing fee for the rezoning petition.
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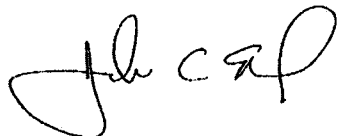
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- Indian River is a privately held Florida corporation that provides interstate, intrastate and even international transportation of bulk food-grade commodities. The company currently has terminal locations in California and New Mexico but provides transportation services throughout the Midwest United States.
- Founded in 1974, the company has grown to become one of the industry's largest and most respected food-grade carriers, with its primary products transported including fruit juices and dairy products. Indian River is the 2013 recipient of Great West Casualty Company's Platinum Award, which is a safety award given based on crash data collected per million miles and is the highest recognition given to Great West Casualty Company's 675 carriers from across the country. In addition, Indian River has also been recognized as Kosher Certified as a result of its clean and safe food handling procedures.
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- Last, I note that Donovan Engineering is currently finalizing its survey of the Real Estate and will be delivering copies of the same to your attention later this week.

Thank you in advance for you and your staff's attention to the enclosed materials. It is our understanding that the applications will be heard by the City of Fort Wayne Plan Commission at a public hearing scheduled for 6:00 p.m. on August 14<sup>th</sup>, 2017, in Room 35 of Citizen's Square. Should you have any questions or need any additional information concerning this project prior to that time, please do not hesitate to contact the undersigned.

Sincerely,

BARRETT McNAGNY LLP

A handwritten signature in black ink, appearing to read "Josh C Neal". The signature is written in a cursive, flowing style.

Joshua C. Neal

JCN:1851470

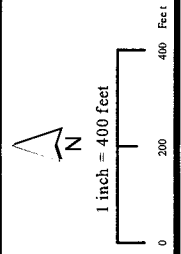
Enclosures

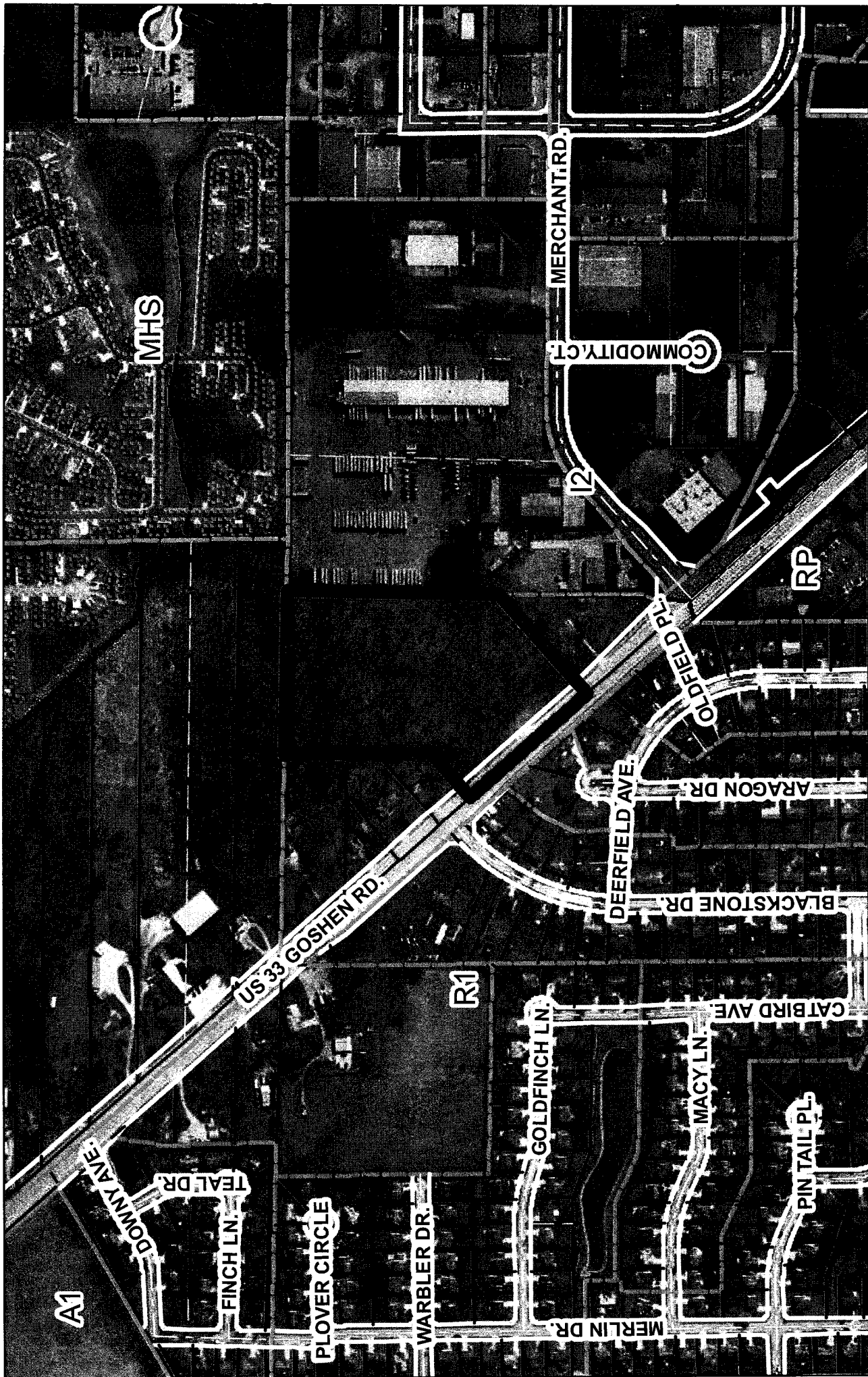
Cc: Indian River Transport Co. (letter only)



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 Date: 7/24/17



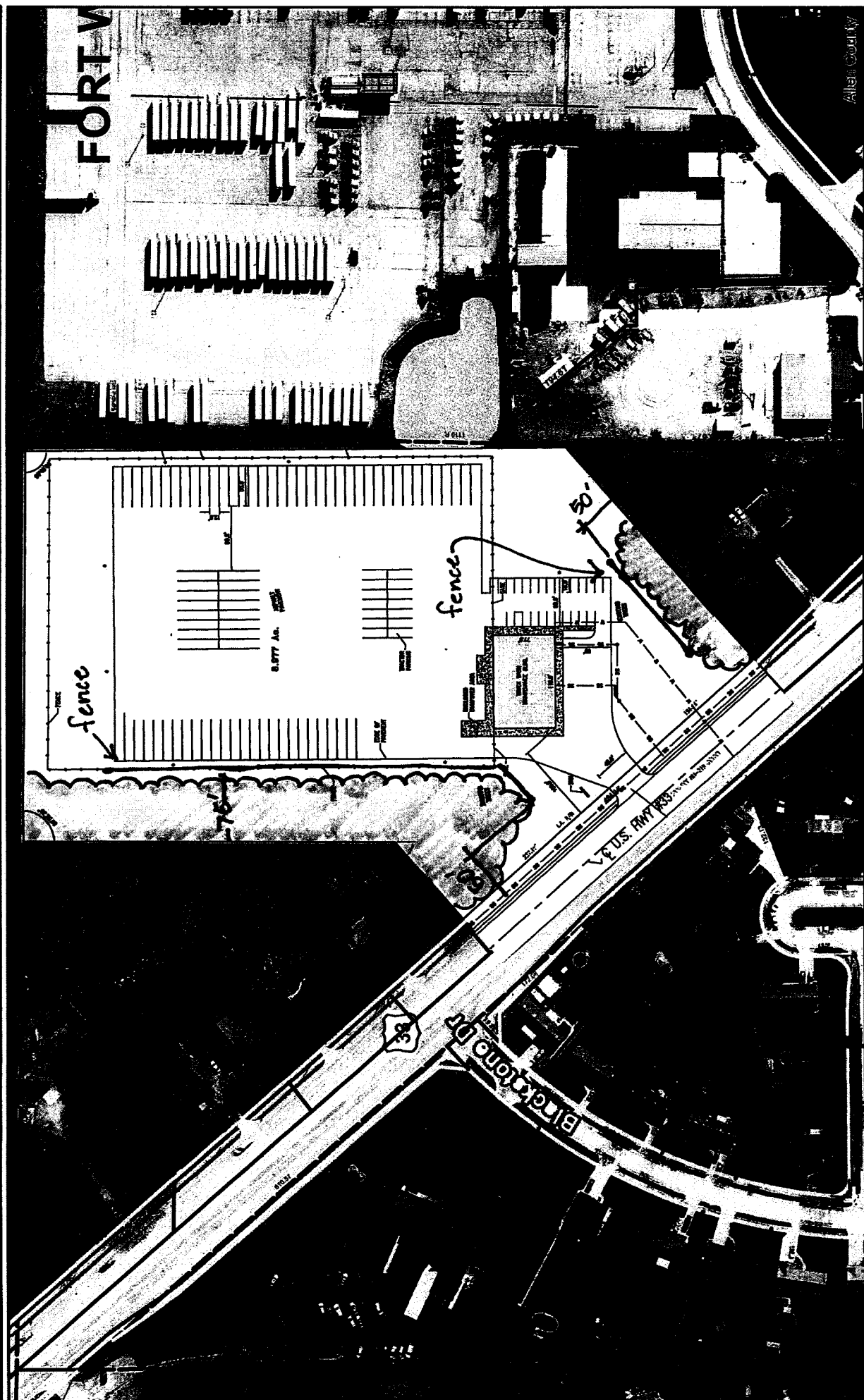


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 Project and Contour # Spring 2019  
 Date: 7/23/17



Map Title



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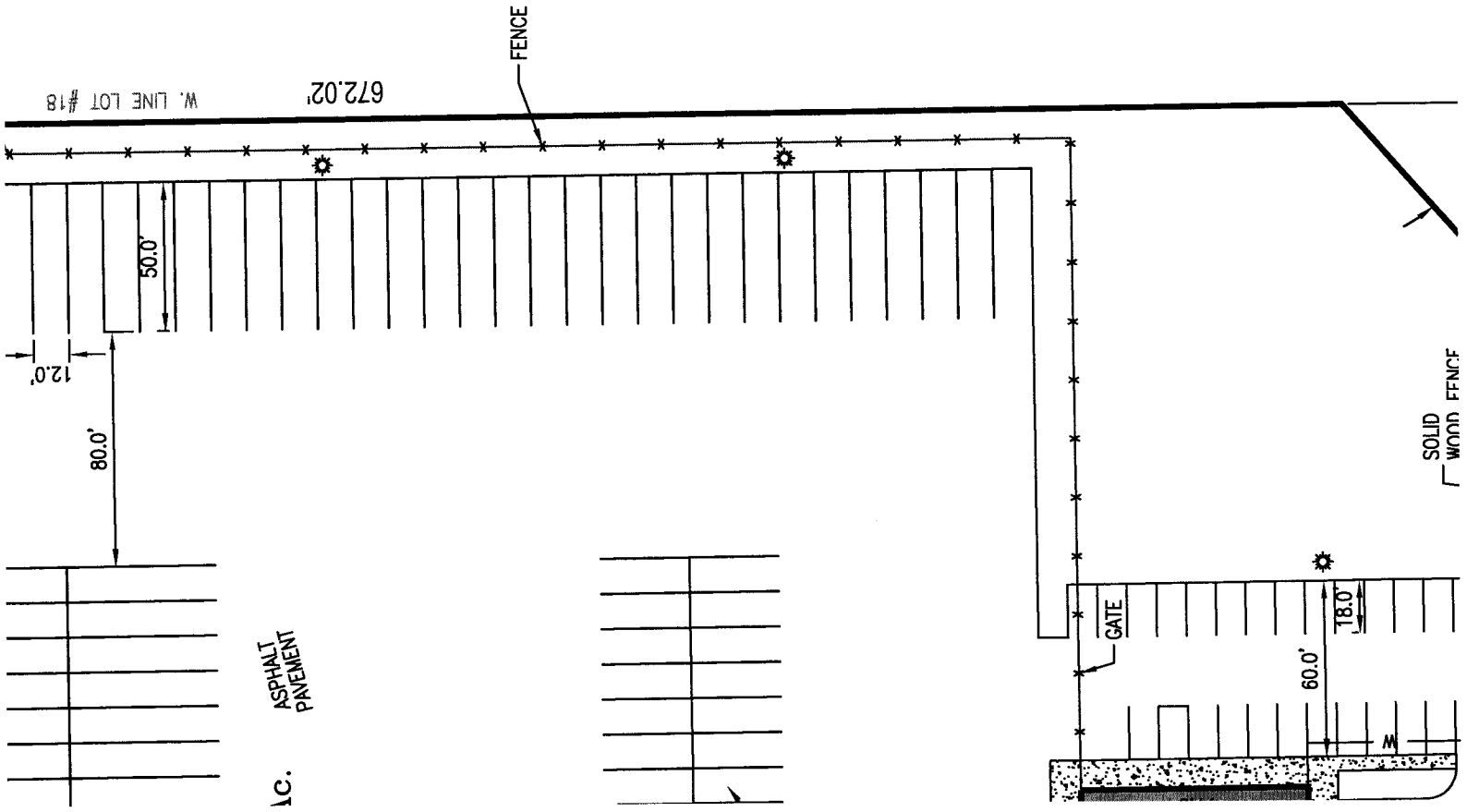
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 North American Datum 1983  
 State Plane Coordinate System, Indiana East



Date: 8/21/2017 1" = 167'

LOT #18  
EDGEWOOD  
INDUSTRIAL  
PARK BLOCK "C"

USF HOLLAND INC.  
DOC. #80-2657-0019



## **WRITTEN COMMITMENT**

**THIS WRITTEN COMMITMENT** (“Commitment”) is made as of this \_\_\_\_ day of \_\_\_\_, 2017, by **MARLA IRVING AND JACQUE MELCHI** (herein collectively, “Owner”) and **INDIAN RIVER TRANSPORT, INC.** (herein the, “Declarant”), under the following circumstances:

### **WITNESSETH:**

**WHEREAS**, Owner is the fee simple owner of approximately 9.6 acres of real estate located in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit “A” (herein, the “Real Estate”); and

**WHEREAS**, Declarant has submitted a Zoning Map Amendment Application with the City of Fort Wayne Plan Commission (“Plan Commission”), bearing number REZ-2017-0031 (the “Zoning Application”) and has also submitted a Primary Development Plan Application with the Plan Commission bearing number PDP-2017-0047 (the “Development Plan Application”), both applications with respect to the Real Estate; and

**WHEREAS**, pursuant to the Zoning Application, Declarant, with Owner’s consent, has requested the Real Estate be rezoned to I-2 pursuant to the City of Fort Wayne zoning ordinance (the “Ordinance”) which permits development upon the Real Estate of certain industrial uses; and

**WHEREAS**, Declarant and Owner, pursuant to Indiana Code 36-7-4-1015, have voluntarily submitted this Commitment.

**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 all future owners of the Real Estate, and all lessees of all or a portion of the Real Estate.

1. Use Limitations. The following specific uses, which are otherwise allowed in the I-2 zoning district, shall be prohibited upon the Real Estate:

- a. Animal service (outdoor);
- b. Automobile service, general;
- c. Boat dry dock facility;
- d. Community facility;
- e. Food and beverage service;
- f. Brewery;
- g. Correctional services facility;

- h. Crematory;
- i. Group residential facility (small);
- j. Group residential facility (large);
- k. Homeless / emergency shelter;
- l. Junkyard (indoor);
- m. Processing facility for:
  - i. Animals;
  - ii. Animal products;
  - iii. Lumber;
  - iv. Metal (anodizing, buffing, galvanizing, plating, polishing);
- n. Railroad spur;
- o. Recreation, general;
- p. Recreation / tourism, limited;
- q. Residential facility, general;
- r. Residential facility for homeless individuals;
- s. Retail, limited;
- t. Retail/service, general;
- u. Sales yard for building materials, lumber, sand, gravel, stone;
- v. Salvage yard (indoor);
- w. Truck stop;
- x. Wind energy conversion system (micro); and
- y. Wind energy conversion system (standard).

2. Landscaping and Buffering. A buffer and landscape area shall be maintained along the west and southeast boundaries of the Real Estate, as depicted on the development plan for the Real Estate approved by the Plan Commission (the "Buffer and Landscape Area"), a copy of which is attached hereto and incorporated herein by reference as Exhibit "B".

3. Lighting. All pole and parking lot lighting upon the Real Estate shall be restricted to a height of no greater than thirty feet (30'). All pole, parking lot, and building mounted lighting shall utilize sharp cut-off fixtures as defined by the Illuminating Engineers Society of North America and otherwise be of a type to minimize light pollution onto any adjacent residential property.

4. Screening of Trash Receptacles. Outside storage of trash and /or trash receptacles must be visually screened on three sides with a wood or vinyl fence or masonry structure no less than eight (8) feet in height, with a gate enclosure on the fourth side.

5. Successors and Assigns. This Commitment and the restrictions set forth above shall inure to the benefit of all persons who own property comprising the Real Estate, their successors and assigns, and shall also inure to the benefit of the Zoning Administrator of the City of Fort Wayne and the Plan Commission. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any

conveyance thereof, shall be binding upon Declarant and its successors and assigns as owners of the Real Estate.

6. 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.

7. Amendment or Termination. This Commitment may be amended or terminated upon application by an owner of the Real Estate and only with the prior written consent of all owners of the Real Estate and the Plan Commission, following a public hearing to consider said amendment or termination.

8. Remedies. In addition to any remedies that may be available at law, temporary, preliminary and permanent injunctive relief may be granted to enforce any provision of this Commitment, without the necessity of proof of actual damage, in the event of an actual breach or violation, or threatened breach or violation, of any restriction or covenant under this Commitment. Such remedies shall be cumulative and nonexclusive, and shall be afforded to any owner of property which comprises all or a portion of the Real Estate, the Zoning Administrator of the City of Fort Wayne and the Plan Commission.

9. Attorney Fees. In the event any action is brought to enforce the terms and conditions of this Commitment, the prevailing party shall be awarded its costs and reasonable attorney fees.

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



“OWNER”

\_\_\_\_\_  
Marla Irving

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF ALLEN     )

Before me, the undersigned, a Notary Public, in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared Marla Irving 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: \_\_\_\_\_

\_\_\_\_\_  
Jacque Melchi

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF ALLEN        )

Before me, the undersigned, a Notary Public, in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared Jacque Melchi 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 of 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, return to: Joshua C. Neal, Barrett McNagny LLP, 215 East Berry Street, Fort Wayne, Indiana 46802.**

**EXHIBIT A**

**Parcel No. 02-07-17-326-006.000-073 (Goshen Road Real Estate)**

**Legal Description**

Part of the Southwest Quarter of Section 17, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of the Southwest Quarter of Section 17, Township 31 North, Range 12 East, Allen County, Indiana; thence North 90 degrees 00 minutes West (assumed bearing and basis for this description) along the North line of the Southwest Quarter of Section 17 a distance of 165.0 feet to the POINT OF BEGINNING, said point being the Northwest corner of Lot Number 18 in Edgewood Industrial Park, Block "C" as recorded in the Recorder's Office of Allen County, Indiana; thence North 90 degrees 00 minutes West along the North line of the Southwest Quarter of Section 17 a distance of 483.1 feet; thence South 00 degrees 07 minutes 30 seconds West a distance of 462.4 feet (462.0 feet, recorded); thence South 48 degrees 51 minutes 30 seconds West a distance of 126.89 feet to a point on the Northeasterly right of way line of U.S. Highway No. 33; thence South 41 degrees 56 minutes 20 seconds East along said right of way line a distance of 484.44 feet; thence North 48 degrees 09 minutes 54 seconds East a distance of 351.27 feet to a point on the West line of Lot "C"; thence North 00 degrees 40 minutes 06 seconds West along the West line of Lot "C" a distance of 672.02 feet to the point of beginning, containing 8.977 acres.

**EXHIBIT "B"**

**[INSERT APPROVED SITE PLAN]**

**City of Fort Wayne Common Council**  
**DIGEST SHEET**

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**Department of Planning Services**

Title of Ordinance:       Zoning Map Amendment  
Case Number:            REZ-2017-0031  
Bill Number:             Z-17-08-02  
Council District:         3-Tom Didier

---

Introduction Date:        August 8, 2017

Plan Commission  
Public Hearing Date:      August 14, 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 9.57 acres of property from R1-Single Family  
Residential to I2-General Industrial

Location:                 4700 block of Goshen Road

Reason for Request:      To allow development of the property for a truck washing/sanitation facility.

Applicant:                Indian River Transport Co.

Property Owners:         Marla Irving and Jacque Melchi

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Related Petitions:        none

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Effect of Passage:        Property will be rezoned to the I2-General Industrial zoning district for  
the purpose of constructing a truck washing and sanitation facility for the  
Indian River Transport Co.

Effect of Non-Passage:    The site will remain zoned residential and may be developed with single  
family residential uses. Trucking depots or accessory uses are not permitted  
in R1-Single Family Zoning.

**BILL NO. Z-17-08-02**

**REPORT OF COMMITTEE ON REGULATIONS**

**September 12, 2017**

**Michael Barranda Chair**

**John Crawford Co-Chair**

**All Council Members**

An Ordinance amending the City of Fort Wayne Zoning Map No. F-38 (Sec. 17 of Washington Township)



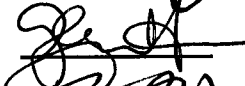
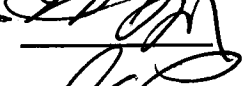
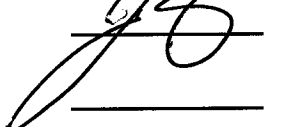
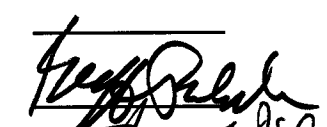
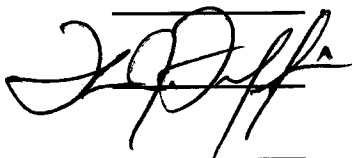

**COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

DO PASS


DO NOT PASS

ABSTAIN

NO REC

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

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date: 08/14/17


Read the first time in full and on motion by Councilman Barranda.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilman Barranda, 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DIDIER	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: September 12, 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-17-08-02 on the 12th day of September, 2017

ATTEST:

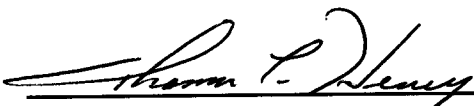
  
 \_\_\_\_\_  
 LANA R. KEESLING  
 CITY CLERK

  
 \_\_\_\_\_  
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th  
 of September 2017, at the hour of 10:00 o'clock A.M. E.S.T.

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 14<sup>TH</sup> day of SEPTEMBER  
 2017, at the hour of 4:00 O'clock PM E.S.T.

  
 \_\_\_\_\_  
 THOMAS C. HENRY, MAYOR

1 commitment is hereby approved and is hereby incorporated by reference.

2  
3 SECTION 3. That this Ordinance shall be in full force and effect from and after its  
4 passage and approval by the Mayor.

5 \_\_\_\_\_  
6 Council Member

7 APPROVED AS TO FORM AND LEGALITY:

8 \_\_\_\_\_  
9 Carol T. Helton, City Attorney

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**Department of Planning Services  
Rezoning Petition Application**

**Applicant**  
 Applicant Indian River Transport Co.  
 Address 2580 Executive Road  
 City Winter Haven State Florida Zip 33884  
 Telephone 863-324-2430 E-mail \_\_\_\_\_

**Contact Person**  
 Contact Person Joshua C. Neal, Esq.  
 Address 215 East Berry Street  
 City Fort Wayne State IN Zip 46802  
 Telephone 260-423-8935 E-mail jcn@barrettlaw.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 4700 Block of Goshen Road  
 Present Zoning R-1 Proposed Zoning I-2 Acreage to be rezoned 9.57  
 Proposed density \_\_\_\_\_ units per acre  
 Township name Washington Township section # 17  
 Purpose of rezoning (attach additional page if necessary) to provide for development as a truck terminal including office space, dispatch and wash bays  
 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.

See Exhibit "A" \_\_\_\_\_  
 (printed name of applicant) (signature of applicant) (date)  
 See Exhibit "A" \_\_\_\_\_  
 (printed name of property owner) (signature of property owner) (date)  
 \_\_\_\_\_  
 (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.
7-5-17	124457	8/14/17	PE2-2017-0031

**Exhibit "A"**

Date: 7-5, 2017

INDIAN RIVER TRANSPORT CO.

By: John Hamed

**Exhibit "A"**

Date: 7/5, 2017

Marla Irving  
Marla Irving

Jacque Melchi  
Jacque Melchi

July 5, 2017

**Via Hand Delivery**

Michelle Wood, RLA  
Senior Land Use Planner  
Department of Planning Services  
200 East Berry Street, Suite 150  
Fort Wayne, Indiana 46802

**Re: Indian River Transport Co. // Rezoning Petition and Primary Development Plan Application for Goshen Road Truck Terminal**

Dear Michelle:

As you will recall, this law firm serves as counsel to Indian River Transport Co. (“Indian River”) in connection with its proposed rezoning and development of approximately 9.57 acres of land located at the 4700 Block of Goshen Road, Fort Wayne, Indiana (the “Real Estate”). Indian River is proposing to develop the Real Estate in connection with a proposed truck terminal to service its fleet of food-grade tank carriers.

In this regard, please find enclosed with this letter the following documents:

1. A Rezoning Petition requesting to rezone the Real Estate from its current R-1 designation to an I-2 designation.
2. A Primary Development Plan Application for development of a new truck terminal, including office space, dispatch facility and wash bays.
3. Two (2) copies of the site plan.
4. A check made payable to the “Allen County Treasurer” in the amount of Five Hundred and No/100 Dollars (\$500.00) representing the filing fee for the rezoning petition.
5. A check made payable to the “Allen County Treasurer” in the amount of Seven Hundred and No/100 Dollars (\$700.00) representing the filing fee for the primary industrial development plan.

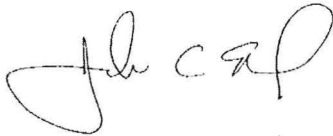
In an effort to supplement the above and the enclosed, I would respectfully offer the following additional information:

- Indian River is a privately held Florida corporation that provides interstate, intrastate and even international transportation of bulk food-grade commodities. The company currently has terminal locations in California and New Mexico but provides transportation services throughout the Midwest United States.
- Founded in 1974, the company has grown to become one of the industry's largest and most respected food-grade carriers, with its primary products transported including fruit juices and dairy products. Indian River is the 2013 recipient of Great West Casualty Company's Platinum Award, which is a safety award given based on crash data collected per million miles and is the highest recognition given to Great West Casualty Company's 675 carriers from across the country. In addition, Indian River has also been recognized as Kosher Certified as a result of its clean and safe food handling procedures.
- Indian River's proposed use is to temporarily store approximately fifty (50) semi-trucks and trailers at the Real Estate. The vehicles will be cleaned thoroughly on site before being dispatched to another location. The proposed building improvements will include cleaning facilities, together with corresponding office space and employee break rooms. However, it is currently anticipated that only truck cleaning will occur on site with little or no other significant vehicle maintenance occurring at the Real Estate.
- Indian River, through an affiliated entity, is under agreement to purchase the Real Estate from the current property owners, Marla Irving and Jacque Melchi, which agreement is contingent upon Indian River's ability to successfully rezone the Real Estate to accommodate its intended use as a truck terminal.
- The Real Estate is currently vacant and undeveloped; however, it is immediately adjacent to the Edgewood Industrial Park and to an existing truck terminal operated by USF Holland. The real estate located immediately east of the Real Estate is currently zoned I-2. The instant proposal is consistent with the use and approvals for the immediately adjoining and nearby uses located on this particular stretch of Goshen Road.
- At this time, no waivers of development standards or variances are being requested in connection with this project.
- Last, I note that Donovan Engineering is currently finalizing its survey of the Real Estate and will be delivering copies of the same to your attention later this week.

Thank you in advance for you and your staff's attention to the enclosed materials. It is our understanding that the applications will be heard by the City of Fort Wayne Plan Commission at a public hearing scheduled for 6:00 p.m. on August 14<sup>th</sup>, 2017, in Room 35 of Citizen's Square. Should you have any questions or need any additional information concerning this project prior to that time, please do not hesitate to contact the undersigned.

Sincerely,

BARRETT McNAGNY LLP

A handwritten signature in black ink, appearing to read "J.C. Neal". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Joshua C. Neal

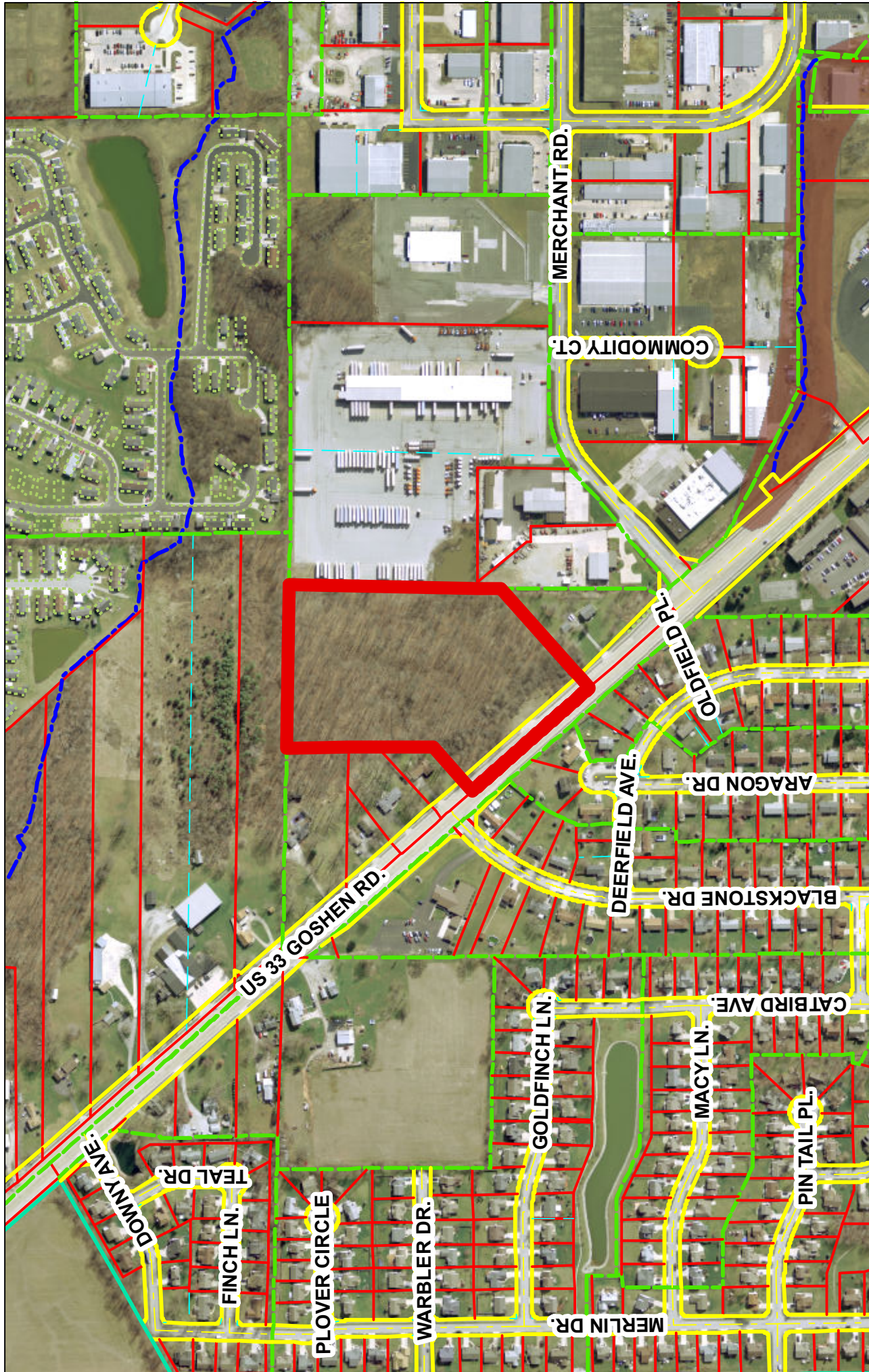
JCN:1851470

Enclosures

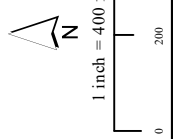
Cc: Indian River Transport Co. (letter only)



Rezoning Petition REZ-2017-0031 and Primary Development Plan PDP-2017-0027 - Indian River Trucking

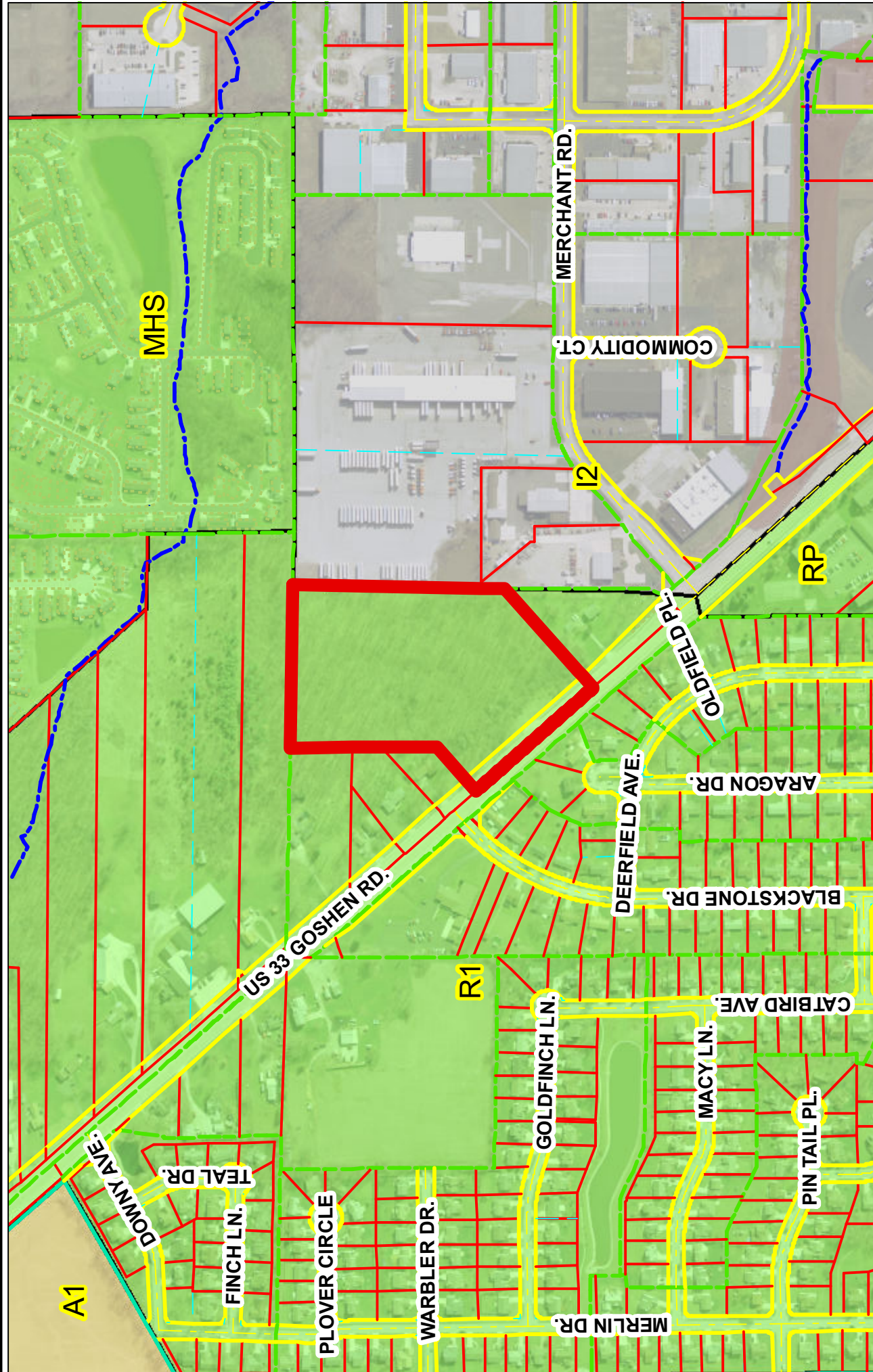


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.  
© 2004 Board of Commissioners of the County of Allen  
North American Datum 1983  
State Plane Coordinate System, Indiana East  
Photos and Contours: Spring 2009  
Page 4 of 5



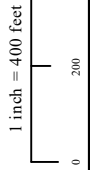


Rezoning Petition REZ-2017-0031 and Primary Development Plan PDP-2017-0027 - Indian River Trucking



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 North American Datum 1983  
 State Plane Coordinate System, Indiana East  
 Photos and Contours: Spring 2009  
 Page 4 of 5



City of Fort Wayne Common Council  
**DIGEST SHEET**

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**Department of Planning Services**

Title of Ordinance: Zoning Map Amendment  
Case Number: REZ-2017-0031  
Bill Number: Z-17-08-02  
Council District: 3-Tom Didier

---

Introduction Date: August 8, 2017

Plan Commission  
Public Hearing Date: August 14, 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 9.57 acres of property from R1-Single Family  
Residential to I2-General Industrial

Location: 4700 block of Goshen Road

Reason for Request: To allow development of the property for a truck washing/sanitation facility.

Applicant: Indian River Transport Co.

Property Owners: Marla Irving and Jacque Melchi

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Related Petitions: none

---

Effect of Passage: Property will be rezoned to the I2-General Industrial zoning district for  
the purpose of constructing a truck washing and sanitation facility for the  
Indian River Transport Co.

Effect of Non-Passage: The site will remain zoned residential and may be developed with single  
family residential uses. Trucking depots or accessory uses are not permitted  
in R1-Single Family Zoning.