

1 #REZ-2019-0006

2 BILL NO. Z-19-02-16

3  
4 ZONING MAP ORDINANCE NO. Z- 3-19

5 AN ORDINANCE amending the City of Fort Wayne  
6 Zoning Map No. EE-27 (Sec. 28 of Aboite Township)

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

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

12 Part of the Southwest Quarter of the Southwest Quarter of Section 28, Township 30  
13 North, Range 11 East, more particularly described as follows:

14 BEGINNING at the intersection of the East line of said Southwest Quarter, Southwest  
15 Quarter, with the North line of Route U.S. #24; thence North along the East line of said  
16 Southwest Quarter, Southwest Quarter, a distance of 208.71 feet; thence West parallel  
17 with the South line of said Southwest Quarter, Southwest Quarter, a distance of 417.42  
18 feet; thence South parallel with the East line of said Southwest Quarter, Southwest  
19 Quarter, to the North line of said Route  
20 U.S. #24; thence East along the North line of said Route U.S. #24 to the point of  
21 beginning, containing 2 acres, more or less.

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

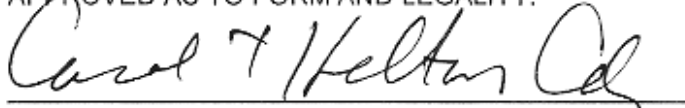
25 SECTION 2. If a written commitment is a condition of the Plan Commission's  
26 recommendation for the adoption of the rezoning, or if a written commitment is modified and  
27 approved by the Common Council as part of the zone map amendment, that written  
28 commitment is hereby approved and is hereby incorporated by reference.  
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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 LBO Investors, LLC  
 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 4211 Clubview Drive  
 City Fort Wayne State IN Zip 46804  
 Telephone 260-602-8000 E-mail smf@smfklaw.com

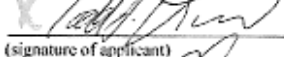
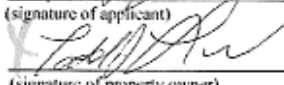
*All staff correspondence will be sent only to the designated contact person.*

**Request**  
 Allen County Planning Jurisdiction  City of Fort Wayne Planning Jurisdiction  
 Address of the property 12012 US Highway 24, Ft. Wayne, IN 46814  
 Present Zoning AR Proposed Zoning C3 Acreage to be rezoned 2.0  
 Proposed density 1 units per acre  
 Township name Aboite Township section # 28  
 Purpose of rezoning (attach additional page if necessary) To bring an existing convenience store and gas station use into conformance with the City of Fort Wayne Zoning Ordinance.  
 Sewer provider Aqua Indiana Water provider City of Fort Wayne

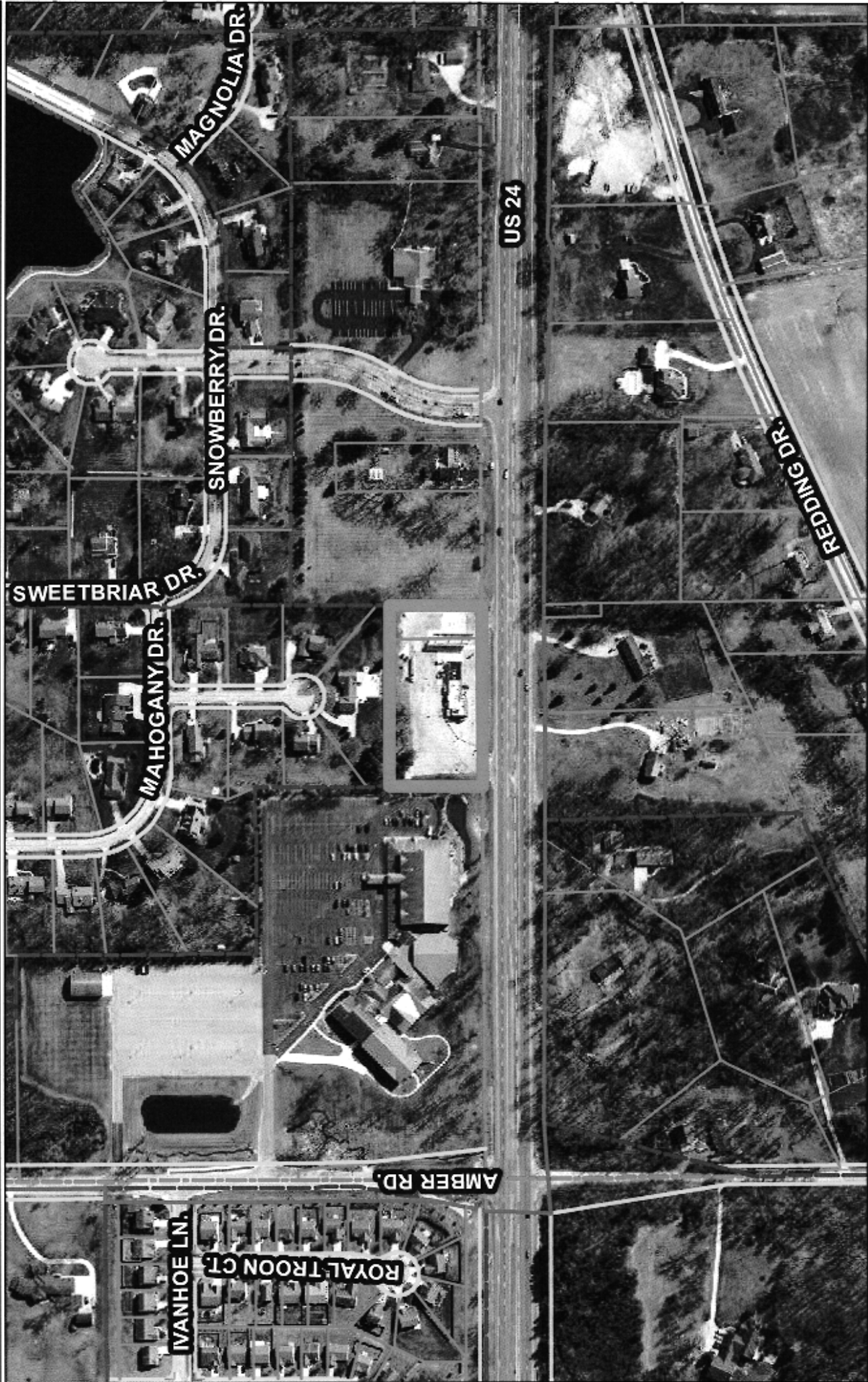
**Filing Requirements**  
*Applications will not be accepted unless the following filing requirements are submitted with this application. Please refer to checklist for applicable filing fees and plan/survey submittal requirements.*

- 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.

<u>LBO Investors, LLC by Todd J. Lassus, Member</u> (printed name of applicant)	 (signature of applicant)	<u>2/5/19</u> (date)
<u>LBO Investors, LLC by Todd J. Lassus, Member</u> (printed name of property owner)	 (signature of property owner)	<u>2/5/19</u> (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.
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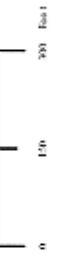


Although every reasonable effort has been employed in the compilation of this map, the County does not assume or guarantee the accuracy of the information contained herein and the County is not liable for any error or omission in this map.

North American Datum 1983  
State Plane Coordinate System, Indiana East  
Photos of © GeoEye, Inc. Spring 2009  
Date: 2/15/2019

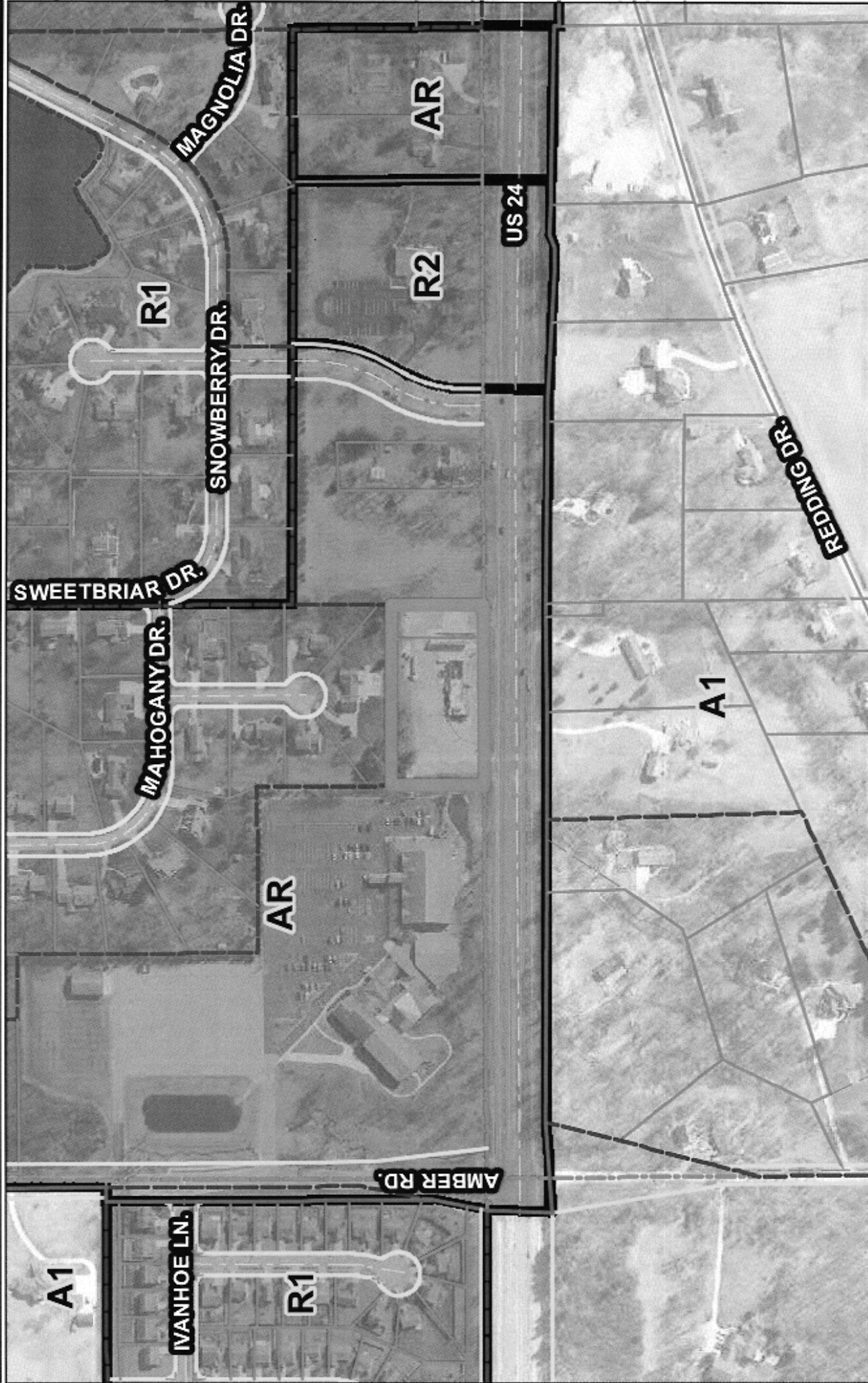


1 inch = 300 feet





Rezoning Petition REZ-2019-0006 - Lassus Hwy 24



Although street accuracy standards have been set forth in the ordinance of this map, Alter County does not warrant or guarantee the accuracy of the information contained herein and is not liable for any errors or omissions in this map.

© 2014 Board of Commissioners of the County of Alter  
 North American Datum 1983  
 Base State Coordinate System, NAD 83  
 Thomas Corporation, Inc. 2019  
 Date: 2/15/2019



1 inch = 300 Feet



## WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the \_\_ day of \_\_\_\_\_, 2019, by LBO Investors, LLC, an Indiana limited liability company ("Company").

### RECITALS

A. By virtue of that certain Deed of Personal Representative dated January 1, 1997 and recorded on March 26, 2007 as Document Number 970014809 in the Office of the Recorder of Allen County, Indiana, Company is the owner of record in fee simple of certain real estate located in Allen County, Indiana, which is legally described in the addendum attached to this Commitment as Exhibit "A" (the "Real Estate").

B. Company filed an application under Case Number REZ-2019-00\_\_ (the "Rezoning Application") to change the zoning map applicable to the Real Estate from the AR Zoning District to the C3 Zoning District.

D. Pursuant to Ind. Code § 36-7-4-1015(a)(1) 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 rezoning application (the "Approval").

E. In connection with the Rezoning Application, Company offered to make, and the Plan Commission required Company to make, a written commitment concerning the use and development of the Real Estate.

### COMMITMENT

In consideration of the Approval, Company makes the following written commitments pursuant to I.C. §36-7-4-1015(a)(1):

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.]

LBO Investors , LLC,  
an Indiana limited liability company

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

**“Company”**

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF ALLEN         )

Before me, the undersigned Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 2019, personally appeared Todd J. Lassus, as a Member of LBO Investors, 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:  
June 28, 2028

\_\_\_\_\_  
Scott M. Federoff, Notary Public  
Resident of Allen, County, Indiana

This instrument prepared by: Scott M. Federoff, SNYDER MORGAN FEDEROFF & KUCHMAY LLP, 4211 Clubview Drive, 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**

Part of the Southwest Quarter of the Southwest Quarter of Section 28, Township 30 North, Range 11 East, more particularly described as follows:

BEGINNING at the intersection of the East line of said Southwest Quarter, Southwest Quarter, with the North line of Route U.S. #24; thence North along the East line of said Southwest Quarter, Southwest Quarter, a distance of 208.71 feet; thence West parallel with the South line of said Southwest Quarter, Southwest Quarter, a distance of 417.42 feet; thence South parallel with the East line of said Southwest Quarter, Southwest Quarter, to the North line of said Route U.S. #24; thence East along the North line of said Route U.S. #24 to the point of beginning, containing 2 acres, more or less.

## FACT SHEET

Case #REZ-2019-0006 Bill # Z-19-02-16 Project Start: 5 February 2019

APPLICANT:	LBO Investors, LLC
REQUEST:	To rezone property from AR/Low Intensity Residential to C3/General Commercial to bring the existing gas station use in conformance with the Zoning Ordinance.
LOCATION:	The site is located on the north side of the 12000 block of West U.S. 24. The address of the subject property is 12012 West U.S. 24 (Section 28 of Aboite Township).
LAND AREA:	Approximately 2 acres
PRESENT ZONING:	AR/Low Intensity Residential
PROPOSED ZONING:	C3/General Commercial
COUNCIL DISTRICT:	4-Jason Arp
ASSOCIATED PROJECTS:	none
SPONSOR:	City of Fort Wayne Plan Commission

### 11 March 2019 Public Hearing

- Two residents spoke at the hearing in opposition or with concern.
- Rachel Tobin-Smith was absent.

### 18 March 2019 – Business Meeting

#### Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Rachel Tobin-Smith and seconded by Patrick Zaharako to return the ordinance with a Do Pass recommendation, with a Written Commitment, to Common Council for their final decision.

#### 6-0 MOTION PASSED

- Tom Freistroffer, Paul Sauerteig, and Judi Wire were absent.

Fact Sheet Prepared by:  
Michelle B. Wood, Senior Land Use Planner  
2 April 2019

Reviewed by:



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

## PROJECT SUMMARY

- The site is fully developed with gas pumps/canopy, convenience store, restaurant, and carwash.
- The AR/Low Intensity Residential is original zoning (A1/Agricultural under County jurisdiction).
- County zoning districts were established in 1960; the commercial building appears to have been built in 1955. At some point, prior to Lassus ownership, gas pumps were installed.
- The attached restaurant was added in 1985.
- Allen County Board of Zoning Appeals approved variances for the current Lassus station in 1986, 1987 and 1997.

The petitioner requests a rezoning from AR/Low Intensity Residential to C3/General Commercial to allow the existing use of the property to comply with the current zoning ordinance. The existing gas station, convenience store, restaurant, and carwash are located on a single lot on the north side of US 24, between Amber Road and Bittersweet Moors Drive. Surrounding uses are predominately residential. There is commercial and industrial development approximately 2/3 mile to the east, at Homestead Road, including a restaurant, tanning salon, medical office, cleaners, a motel, and an industrial chemical company. The next closest commercial development is between Liberty Mills and the I-69 interchange.

The first Board of Zoning Appeals approval for Lassus was in 1986, which allowed the use of the existing gas pumps and use of the existing commercial building. In 1986, an amendment to the approval allowed for new services islands and a canopy. In 1997, approval was granted to add a pump, expand the canopy, and add a carwash.

Unlike the other three non-conforming Lassus stations on the March agenda, the US 24 location *is* conforming, because the BZA has a granted approval through a Use Variance. The applicant has the option to go back to the BZA for any future changes or expansions. To comply as a permitted use, as listed in the ordinance, however, a minimum C2/Limited Commercial zoning is needed for the convenience store and restaurant, and a minimum C3/General Commercial zoning is needed for the gas pumps and canopy.

The petitioner seeks the allowance of the existing gas station, convenience store, carwash and restaurant, as well as C1/Professional Office and Personal Services uses. Along with the rezoning request, the petitioner has submitted a voluntary Written Commitment that will prohibit the other C3 uses and the C2 uses that would normally be permitted in C3.

The Comprehensive Plan encourages development that will not adversely affect the current conditions of an area or the character of the current structures in the area. Staff understands the desire to bring the existing use into compliance with the ordinance, with a Written Commitment. There have been commercial uses on this property since 1955, and gas pumps have been present for at least 35 years. Having appropriate zoning is preferable to some kind of a variance for many reasons, including title work, financial needs, and the ability to expand and improve the property. With the further restriction of most C3 uses and all of the C2 uses, staff is supportive of the request.

### **PUBLIC HEARING SUMMARY:**

Presenter: Scott Federoff, representing Lassus, presented the proposal to the Plan Commission, as outlined above.

### Public Comments in Opposition or with Concern:

Julie Pelican, 7220 Beechhurst Court – Her concerns are regarding the existing uses: noise, trash, dead trees, maintenance of the property.

Les Gahl, 7125 Beechhurst Court – Would rather see the property remain with the BZA approval in place. He stated that semi-trailers run overnight.

Rebuttal:

Todd Lassus committed to working with the neighbors on their concerns and to police the site to make sure semi-trailers do not park/run overnight.

## FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

### Rezoning Petition REZ-2019-0006

APPLICANT: LBO Investors, LLC  
REQUEST: To rezone property from AR/Low Intensity Residential to C3/General Commercial to bring the existing gas station use in conformance with the Zoning Ordinance.  
LOCATION: The site is located on the north side of the 12000 block of West U.S. 24. The address of the subject property is 12012 West U.S. 24 (Section 28 of Aboite Township).  
LAND AREA: Approximately 2 acres  
PRESENT ZONING: AR/Low Intensity Residential  
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2019-0006, with a Written Commitment, be returned to Council with a "Do Pass" recommendation after considering the following:

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. Commercial uses have been on the property in 1955. The purpose of the rezoning is to allow an existing use to comply with the zoning ordinance. A Written Commitment will prohibit more intensive commercial uses.
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 use on the property is existing and is not proposed to change. A proposed Written Commitment prohibiting certain uses will protect surrounding property owners from new intensive or incompatible uses.
3. Approval is consistent with the preservation of property values in the area. This proposal does not increase the intensity of the existing use, and allows for the property to be maintained, expanded and/or improved, allowing for investment when desired or necessary.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area.

These findings approved by the Fort Wayne Plan Commission on March 18, 2019.



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

**Department of Planning Services  
Rezoning Petition Application**

**Applicant**  
 Applicant LBO Investors, LLC  
 Address 1800 Magnavox Way  
 City Fort Wayne State IN Zip 46804  
 Telephone 260-436-1415 E-mail lassust@lassus.com

**Contact Person**  
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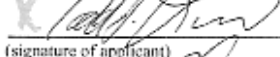
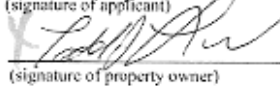
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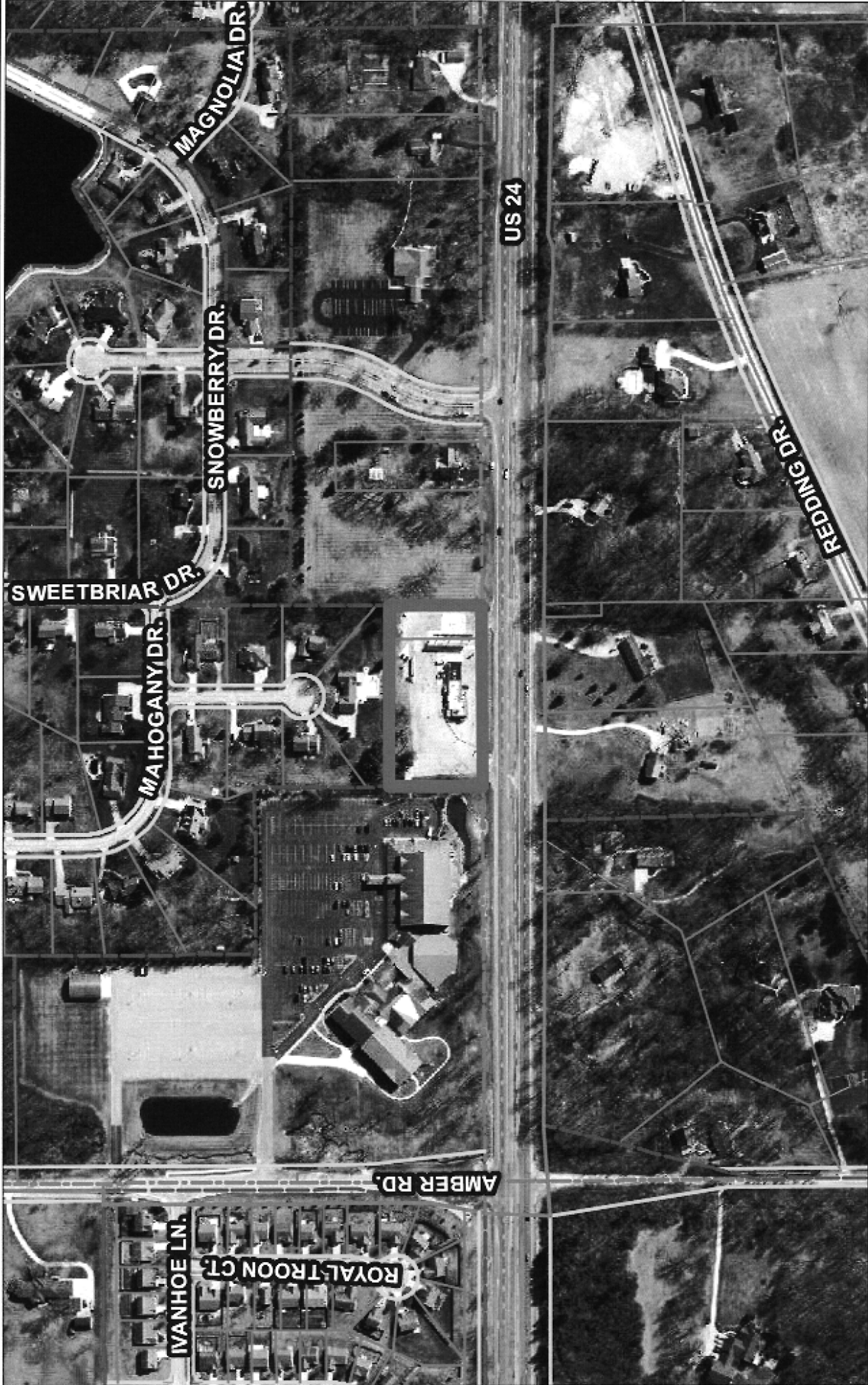
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LBO Investors, LLC by Todd J. Lassus, Member (printed name of applicant)	<u>X</u>  (signature of applicant)	<u>2/5/19</u> (date)
LBO Investors, LLC by Todd J. Lassus, Member (printed name of property owner)	<u>X</u>  (signature of property owner)	<u>2/5/19</u> (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)

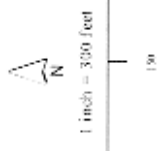
Received	Receipt No.	Hearing Date	Petition No.
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Rezoning Petition REZ-2019-0006 - Lassus Hwy 24

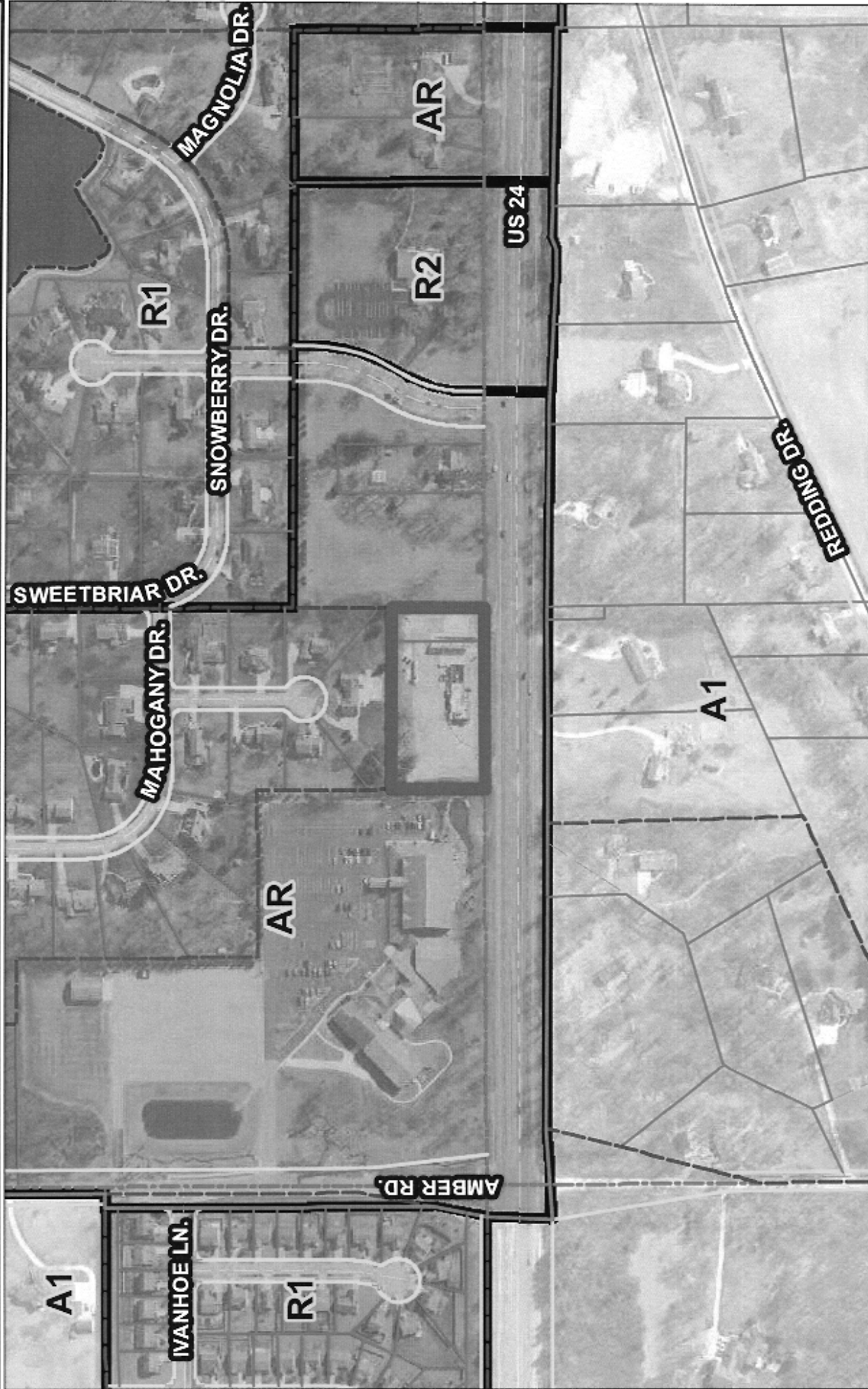


Although great accuracy standards have been applied to this compilation of the map, the City of Alton does not warrant the accuracy of the information contained herein and is not responsible for any errors or omissions in this map.  
Resubmitted by: [Name]  
Map Date: [Date]  
Map Scale: [Scale]  
Date: 3/5/2019



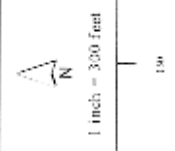


Rezoning Petition REZ-2019-0006 - Lassus Hwy 24



Although every attempt is made to ensure the accuracy of this map, the City of Redding does not warrant or guarantee the accuracy of the information contained herein and shall not be liable for any errors or omissions. The City of Redding is not responsible for any errors or omissions in this map.

City of Redding, Oregon  
 1000 Commercial Street, Redding, Oregon 97501  
 Phone: 360.756.2000, Fax: 360.756.2000  
 Email: info@redding.gov



2019015246  
RECORDED: 04/02/2019 02:37:19 PM  
ANITA MATHER  
ALLEN COUNTY RECORDER  
FORT WAYNE, IN

## WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the 1<sup>st</sup> day of April, 2019, by LBO Investors, LLC, an Indiana limited liability company ("Company").

### RECITALS

A. By virtue of that certain Deed of Personal Representative dated January 1, 1997 and recorded on March 26, 1997 as Document Number 970014809 in the Office of the Recorder of Allen County, Indiana, Company is the owner of record in fee simple of certain real estate located in Allen County, Indiana, which is legally described in the addendum attached to this Commitment as Exhibit "A" (the "Real Estate").

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E. In connection with the Rezoning Application, Company offered to make, and the Plan Commission required Company to make, a written commitment concerning the use and development of the Real Estate.

### COMMITMENT

In consideration of the Approval, Company makes the following written commitments pursuant to I.C. §36-7-4-1015(a)(1):

1. **PERMITTED USES.** All uses in the C1/Professional Office and Personal Services district under §157.212 of the Ordinance are permitted, as well as the following uses (which shall be permitted):

- a) Automobile car wash;

- b) Gas station;
- c) Propane/bottled gas sales and service as an accessory use to a gas station or convenience store;
- d) Restaurant, including drive-through; and
- e) Truck fueling station.

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)(1).

8. **PERMITS.** No permits shall be issued under the Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder. The Declarant shall deliver to the Zoning Administrator and the Plan Commission an executed and recorded copy of this Commitment.

9. ***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.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

**[SIGNATURE PAGE FOLLOWS.]**



**Exhibit "A"**  
**Legal Description of the Real Estate**

Part of the Southwest Quarter of the Southwest Quarter of Section 28, Township 30 North, Range 11 East, more particularly described as follows:

BEGINNING at the intersection of the East line of said Southwest Quarter, Southwest Quarter, with the North line of Route U.S. #24; thence North along the East line of said Southwest Quarter, Southwest Quarter, a distance of 208.71 feet; thence West parallel with the South line of said Southwest Quarter, Southwest Quarter, a distance of 417.42 feet; thence South parallel with the East line of said Southwest Quarter, Southwest Quarter, to the North line of said Route U.S. #24; thence East along the North line of said Route U.S. #24 to the point of beginning, containing 2 acres, more or less.

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-2019-0006  
Bill Number: Z-19-02-16  
Council District: 4-Jason Arp

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Introduction Date: February 26, 2018  
Plan Commission  
Public Hearing Date: March 11, 2019 (not heard by Council)  
Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

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Synopsis of Ordinance: To rezone approximately 2.0 acres of property from AR-Low Intensity Residential to C3-General Commercial.  
Location: 12012 West US 24  
Reason for Request: To rezone the property of an existing Lassus gas station and convenience store to bring the gas station use into compliance with the current zoning ordinance.  
Applicant: LBO Investors, LLC  
Property Owner: LBO Investors, LLC

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Related Petitions: none

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Effect of Passage: Property will be rezoned to the C3-General Commercial zoning district, along with a Written Commitment to prohibit other C3 uses. The rezoning will allow the existing use to conform to the ordinance.  
Effect of Non-Passage: The property will remain zoned AR-Low Intensity Residential, which does not permit new gas stations. The existing investment is non-conforming, which affects how the property can be developed or expanded in the future.

**BILL NO. Z-19-02-16**

**REPORT OF COMMITTEE ON REGULATIONS**

**April 9, 2019**

**Michael Barranda Chair**

**Tom Freistroffer Co-Chair**

**All Council Members**

An Ordinance amending the City of Fort Wayne Zoning Map No. EE-27 (Sec. 28 of Aboite Township)

To rezone approximately 2.0 acres of property from AR-Low Intensity Residential to C3-General Commercial - 12012 West US 24



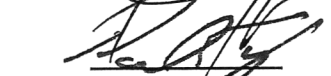



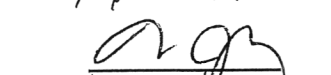
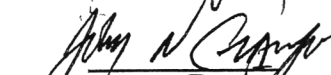

COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

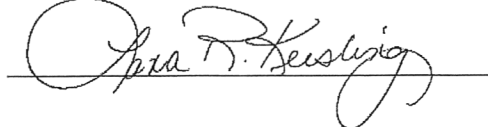
DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
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	_____	_____	_____

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date: March 11, 2019

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

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

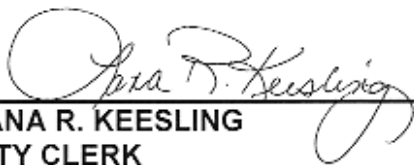
Read the third time in full and on motion by Councilman Barranda, placed on passage by the following vote:


<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 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: April 9, 2019

  
LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
Zoning Ordinance No. Z-19-02-16 on the 9th day of April, 2019

  
LANA R. KEESLING  
CITY CLERK

  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th  
of April 2019, at the hour of 9:35 o'clock A.M. E.S.T.

  
LANA R. KEESLING, CITY CLERK

Approved and signed by me this 9<sup>TH</sup> day of APRIL  
2019, at the hour of 10:30 o'clock AM E.S.T.

  
THOMAS C. HENRY, MAYOR

FORT WAYNE, INDIANA  
**RECEIVED**  
APR 10 2019  
LANA R. KEESLING  
CITY CLERK