

1 #REZ-2019-0007

2 BILL NO. Z-19-02-17

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

5 AN ORDINANCE amending the City of Fort Wayne
6 Zoning Map No. CC-02 (Sec. 10 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 PARCEL I:

13 Part of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen
14 County, Indiana, more particularly described as follows:

15 Commencing at a 5/8-inch iron pin found marking the Northeast corner of the Northwest
16 Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana; thence
17 Westerly along the North line of the NW 1/4 of said Section 10, a distance of 760.0 feet;
18 thence Southerly with a deflection angle to the left of 90 degrees 00 minutes a distance of
19 55.0 feet to a 5/8-inch iron pin set at the true point of beginning, said point being on the
20 proposed Southerly right of way line of State Road #14; thence Easterly with deflection
21 angle to the left of 90 degrees 00 minutes along said proposed right of way line, a distance of
22 290.0 feet to a 5/8-inch iron pin set; thence Southerly with a deflection angle to the right of
23 90 degrees 00 minutes, a distance of 190.0 feet to a 5/8-inch iron pin set; thence Westerly
24 with a deflection angle to the right of 90 degrees 00 minutes, a distance of 290.0 feet to a
25 5/8-inch iron pin set; thence Northerly with a deflection angle to the right of 90 degrees 00
26 minutes, a distance of 190.0 feet to the point of beginning, containing 1.265 acres (55,100
27 square feet).

28 PARCEL II:

29 Part of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen
30 County, Indiana, and more particularly described as follows:

Commencing at a 5/8-inch iron pin found marking the Northeast corner of the Northwest
Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana; thence
Westerly along the North line of the NW 1/4 of Sec. 10, a distance of 760.1 feet; thence
Southerly with a deflection angle to the left of 90 degrees 06 minutes 31 seconds, a distance
of 55.0 feet to a point on the Southerly right of way line of State Road #14 and the true point
of beginning; thence Westerly with a deflection angle to the right of 90 degrees 06 minutes
31 seconds along the South right of way line of State Road #14, a distance of 28.01 feet;
thence South with a deflection angle to the left of 90 degrees 06 minutes 31 seconds a

1 distance of 170.0 feet; thence Southeasterly with a deflection angle to the left of 48 degrees
2 55 minutes 45 seconds a distance of 30.51 feet; thence East with a deflection angle to the left
3 of 40 degrees 57 minutes 44 seconds a distance of 5.01 feet; thence North with a deflection
4 angle to the left of 90 degrees 06 minutes 31 seconds a distance of 190.0 feet to the point of
5 beginning, containing 0.117 acres.

6 The above described real estate is the same as the following described:

7 A parcel of land located in the Northwest Quarter of Section 10, Township 30 North, Range
8 11 East, Allen County, Indiana, and more particularly described as follows:

9 Commencing at the North Quarter corner of Section 10, Township 30 North, Range 11 East,
10 as marked by a P.K. Nail; thence North 89 degrees 56 minutes 09 seconds West (bearing
11 based on adjacent plat of Westchester Glens) along the North line of the NW 1/4 of Sec. 10-
12 30-11, a distance of 760.00 feet; thence South 00 degrees 03 minutes 09 seconds West, a
13 distance of 55.00 feet to the true point of beginning, said point being the Northwest corner of
14 the real estate conveyed to Lassus Bros. Oil. Co. in the deed recorded in Document
15 #970058991 in the Office of the Recorder of Allen County, Indiana; thence North 89 degrees
16 56 minutes 09 seconds west along the South right of way line of State Road #14, a distance
17 of 28.00 feet; thence South 00 degrees 03 minutes 51 seconds West, a distance of 170.00
18 feet; thence South 48 degrees 55 minutes 36 seconds East, a distance of 30.48 feet; thence
19 South 89 degrees 56 minutes 09 seconds East, a distance of 5.00 feet to the Southwest corner
20 of said Lassus Bros. tract; thence South 89 degrees 56 minutes 09 seconds East along the
21 South line of said Lassus Bros. tract, a distance of 290.00 feet to the Southeast corner
22 thereof; thence North 00 degrees 03 minutes 51 seconds East along the East line of said
23 Lassus Bros. tract, a distance of 190.00 feet to the Northwest corner thereof; thence North 89
24 degrees 56 minutes 09 seconds West along the North line of said Lassus Bros. tract, a
25 distance of 290.00 feet to the point of beginning, containing 1.382 acres.

26 and the symbols of the City of Fort Wayne Zoning Map No. CC-02 (Sec. 10 Aboite
27 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
28 Wayne, Indiana is hereby changed accordingly.

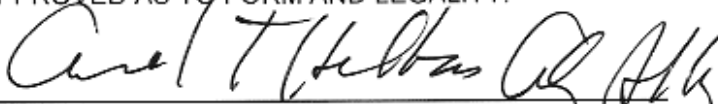
29 SECTION 2. If a written commitment is a condition of the Plan Commission's
30 recommendation for the adoption of the rezoning, or if a written commitment is modified and
approved by the Common Council as part of the zone map amendment, that written
commitment is hereby approved and is hereby incorporated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


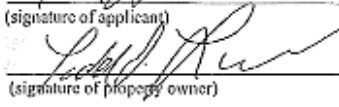
All staff correspondence will be sent only to the designated contact person.

Request
 Allen County Planning Jurisdiction City of Fort Wayne Planning Jurisdiction
 Address of the property 10225 Illinois Road, Ft. Wayne, IN 46814
 Present Zoning NC Proposed Zoning C3 Acreage to be rezoned 1.38
 Proposed density 1 units per acre
 Township name Aboite Township section # 10
 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.

JTG Realty, by Todd J. Lassus, Member (printed name of applicant)	 (signature of applicant)	<u>2/5/19</u> (date)
JTG Realty, by Todd J. Lassus, Member (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.
<u>2/5/19</u>	<u>129409</u>	<u>3/11/19</u>	<u>REZ-2019-0007</u>



Rezoning Petition REZ-2019-0008 - Lassus Maplecrest



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 disclaims any and all liability resulting from any error or omission in this map.
North American Datum 1983
State Plane Coordinate System, Indiana East
Printed at Columbus, Indiana Spring 2019
Scale: 21132807



1 inch = 3000 feet





Rezoning Petition REZ-2019-0008 - Lassus Maplecrest



Although other agencies' studies have been employed in the site plan of this map, the City does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any use or reliance on this map.

© 2004 Board of Commissioners of the City of Allen
 Southwestern Bell Telephone Company
 State Plane Coordinate System, NAD 83
 Point of Contingency: 48° 21' 00" N
 Date: 2/10/2019

WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the ___ day of _____, 2019, by JTG Realty, LLC, an Indiana limited liability company ("Company").

RECITALS

A. By virtue of that certain Corporate Deed dated March 26, 2003 and recorded on April 15, 2003 as Document Number 203038105 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 NC 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.]

JTG Realty, 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 JTG Realty, 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

PARCEL I:

Part of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana, more particularly described as follows:

Commencing at a 5/8-inch iron pin found marking the Northeast corner of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana; thence Westerly along the North line of the NW 1/4 of said Section 10, a distance of 760.0 feet; thence Southerly with a deflection angle to the left of 90 degrees 00 minutes a distance of 55.0 feet to a 5/8-inch iron pin set at the true point of beginning, said point being on the proposed Southerly right of way line of State Road #14; thence Easterly with deflection angle to the left of 90 degrees 00 minutes along said proposed right of way line, a distance of 290.0 feet to a 5/8-inch iron pin set; thence Southerly with a deflection angle to the right of 90 degrees 00 minutes, a distance of 190.0 feet to a 5/8-inch iron pin set; thence Westerly with a deflection angle to the right of 90 degrees 00 minutes, a distance of 290.0 feet to a 5/8-inch iron pin set; thence Northerly with a deflection angle to the right of 90 degrees 00 minutes, a distance of 190.0 feet to the point of beginning, containing 1.265 acres (55,100 square feet).

PARCEL II:

Part of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana, and more particularly described as follows:

Commencing at a 5/8-inch iron pin found marking the Northeast corner of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana; thence Westerly along the North line of the NW 1/4 of Sec. 10, a distance of 760.1 feet; thence Southerly with a deflection angle to the left of 90 degrees 06 minutes 31 seconds, a distance of 55.0 feet to a point on the Southerly right of way line of State Road #14 and the true point of beginning; thence Westerly with a deflection angle to the right of 90 degrees 06 minutes 31 seconds along the South right of way line of State Road #14, a distance of 28.01 feet; thence South with a deflection angle to the left of 90 degrees 06 minutes 31 seconds a distance of 170.0 feet; thence Southeasterly with a deflection angle to the left of 48 degrees 55 minutes 45 seconds a distance of 30.51 feet; thence East with a deflection angle to the left of 40 degrees 57 minutes 44 seconds a distance of 5.01 feet; thence North with a deflection angle to the left of 90 degrees 06 minutes 31 seconds a distance of 190.0 feet to the point of beginning, containing 0.117 acres.

The above described real estate is the same as the following described:

A parcel of land located in the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana, and more particularly described as follows:

Commencing at the North Quarter corner of Section 10, Township 30 North, Range 11 East, as marked by a P.K. Nail; thence North 89 degrees 56 minutes 09 seconds West (bearing based on adjacent plat of Westchester Glens) along the North line of the NW 1/4 of Sec. 10-30-11, a distance of 760.00 feet; thence South 00 degrees 03 minutes 09 seconds West, a distance of 55.00 feet to the true point of beginning, said point being the Northwest corner of the real estate conveyed to Lassus Bros. Oil. Co. in the deed recorded in Document #970058991 in the Office of the Recorder of Allen County, Indiana; thence North 89 degrees 56 minutes 09 seconds west along the South right of way line of State Road #14, a distance of 28.00 feet; thence South 00 degrees 03 minutes 51 seconds West, a distance of 170.00 feet; thence South 48 degrees 55 minutes 36 seconds East, a distance of 30.48 feet; thence South 89 degrees 56 minutes 09 seconds East, a distance of 5.00 feet to the Southwest corner of said Lassus Bros. tract; thence South 89 degrees 56 minutes 09 seconds East along the South line of said Lassus Bros. tract, a distance of 290.00 feet to the Southeast corner thereof; thence North 00 degrees 03 minutes 51 seconds East along the East line of said Lassus Bros. tract, a distance of 190.00 feet to the Northwest corner thereof; thence North 89 degrees 56 minutes 09 seconds West along the North line of said Lassus Bros. tract, a distance of 290.00 feet to the point of beginning, containing 1.382 acres.

FACT SHEET

Case #REZ-2019-0007 Bill # Z-19-02-17 Project Start: 5 February 2019

APPLICANT:	JTG Realty, LLC
REQUEST:	To rezone property from NC/Neighborhood Center to C3/General Commercial to bring the existing gas station use in conformance with the Zoning Ordinance.
LOCATION:	The site is located on the south side of the 10200 block of West State Road 14 (Illinois Road). The address of the subject property is 10225 West State Road 14 (Illinois Road) (Section 10 of Aboite Township).
LAND AREA:	Approximately 1.4 acres
PRESENT ZONING:	NC/Neighborhood Center
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

- No one spoke at the hearing in support or opposition.
- Rachel Tobin-Smith was absent.

18 March 2019 – Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Justin Shurley and seconded by Don Schmidt 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 petitioner requests a rezoning from NC/Neighborhood Center 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, and carwash are located within Shops at Scott, a shopping center at the southwest corner of State Road 14 and Scott Road. Other uses include: Burger King, Do-It-Best, QuickStop Oil Change, and a variety of other restaurants and offices. Chestnut Plaza, including Kroger, the Kroger gas station, McDonald's, Wells Fargo, and Walgreens, is located to the north, across SR 14. Shorewood Shops, another retail development, is located at the northeast corner of SR 14 and Scott Road. In 1997, when the Primary Development Plan for Shops at Scott (which included the Lassus site) was approved, the zoning ordinance permitted the gas station use in the C2A/Neighborhood Shopping Center (equivalent to NC/Neighborhood Center today). The 2014 zoning ordinance amendment removed gas stations from the NC district. The only option to bring existing gas station use into full compliance with the ordinance is legislatively, as a rezoning to C3/General Commercial, as proposed, or to C4/Intensive Commercial, or I3/Intensive Industrial.

The petitioner seeks the allowance of the existing gas station, and the ability to maintain, expand and improve as allowed for a permitted use. When Shops at Scott was proposed, the gas station use was included and reviewed and the Primary Development Plan was approved by the Allen County Plan Commission.

Along with the rezoning request, the petitioner has submitted a voluntary Written Commitment governing uses on the property. All C3/General Commercial uses, except those already present on the site, will be prohibited.

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 is not opposed to bringing the existing use into compliance with the ordinance, with a Written Commitment. The area is intensely developed with a variety of retail and services. There are some proposed uses, however, that could affect the character of the area by increasing the intensity of activity, and allowing for more outdoor display and storage. Staff suggests looking more closely at prohibiting those types of uses.

The comprehensive plan supports 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.

PUBLIC HEARING SUMMARY:

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

No Public Comments

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

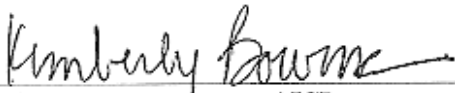
Rezoning Petition REZ-2019-0007

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LOCATION: The site is located on the south side of the 10200 block of West State Road 14 (Illinois Road). The address of the subject property is 10225 West State Road 14 (Illinois Road) (Section 10 of Aboite Township).
LAND AREA: Approximately 1.4 acres
PRESENT ZONING: NC/Neighborhood Center
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2019-0007, 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. The State Road 14 and Scott Road intersection is intensely developed with retail, offices and other services. The purpose of the rezoning is to allow an existing use to comply with the zoning ordinance. The Plan Commission determined that this is an appropriate use with the 1997 approvals.
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. Earlier review of a development plan has resulted in a planned, quality-built neighborhood center. 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 JTG Realty, 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

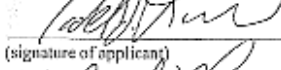
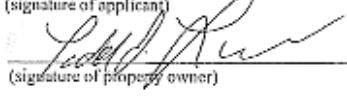
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 Sewer provider Aqua Indiana Water provider City of Fort Wayne

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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 Rezonings 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.

JTG Realty, by Todd J. Lassus, Member (printed name of applicant)	 (signature of applicant)	<u>2/5/19</u> (date)
JTG Realty, by Todd J. Lassus, Member (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)

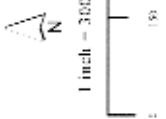
Received <u>2/5/19</u>	Receipt No. <u>129409</u>	Hearing Date <u>3/11/19</u>	Petition No. <u>REZ-2019-0007</u>
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All map data was using standard data here verified in the city's office of the map. As the city does not have a separate for accuracy of the information contained herein and therefore any and all liability regarding this map shall be the responsibility of the user.

©2008, Source of Information of the City of Allen
North American Map Co. Inc. 1987
State Plane Coordinate System, NAD 83
Photos and Graphics: Source 2008

Date: 2/14/2019



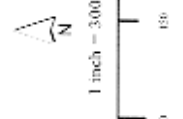
1 inch = 300 Feet



Rezoning Petition REZ-2019-0008 - Lassus Maplecrest



Although zoning boundaries are shown on this map, they are not guaranteed. The City of Chicago does not warrant the accuracy of this information. For more information, please contact the City of Chicago Planning Department at 311-307-3000. Any error or omission in this map is the responsibility of the City of Chicago. North Avenue District, 15th Street, Chicago, Illinois 60604. Date: 2/13/2019



2019015245
RECORDED: 04/02/2019 02:37:16 PM
ANITA MATHER
ALLEN COUNTY RECORDER
FORT WAYNE, IN

WRITTEN COMMITMENT

This Written Commitment (this "Commitment") is made effective as of the 1st day of April, 2019, by JTG Realty, LLC, an Indiana limited liability company ("Company").

RECITALS

A. By virtue of that certain Corporate Deed dated March 26, 2003 and recorded on April 15, 2003 as Document Number 203038105 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-2019-0007 (the "Rezoning Application") to change the zoning map applicable to the Real Estate from the NC 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. **PERMITTED/PROHIBITED USES.** All uses normally permitted in the C3/General Commercial zoning district under §157.216 of the Ordinance that are not permitted uses in the NC/Neighborhood Center under §157.214 of the Ordinance (all of which shall remain permitted) shall be prohibited except for the following (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; and
- d) 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.]

JTG Realty, LLC,
an Indiana limited liability company

By: LB Master Holdings, LLC,
an Indiana limited liability company,
its Sole Member

By: Todd J. Lassus
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 1st day of April, 2019, personally appeared Todd J. Lassus, as a Member of LB Master Holdings, LLC, an Indiana limited liability company, as the Sole Member of JTG Realty, 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, 2026

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



This instrument prepared by and after recording return to: Scott M. Federoff, SNYDER MORGAN FEDEROFF & KUCHMAY LLP, 4211 Clubview Drive, Fort Wayne, Indiana 46804.

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

PARCEL I:

Part of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana, more particularly described as follows:

Commencing at a 5/8-inch iron pin found marking the Northeast corner of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana; thence Westerly along the North line of the NW 1/4 of said Section 10, a distance of 760.0 feet; thence Southerly with a deflection angle to the left of 90 degrees 00 minutes a distance of 55.0 feet to a 5/8-inch iron pin set at the true point of beginning, said point being on the proposed Southerly right of way line of State Road #14; thence Easterly with deflection angle to the left of 90 degrees 00 minutes along said proposed right of way line, a distance of 290.0 feet to a 5/8-inch iron pin set; thence Southerly with a deflection angle to the right of 90 degrees 00 minutes, a distance of 190.0 feet to a 5/8-inch iron pin set; thence Westerly with a deflection angle to the right of 90 degrees 00 minutes, a distance of 290.0 feet to a 5/8-inch iron pin set; thence Northerly with a deflection angle to the right of 90 degrees 00 minutes, a distance of 190.0 feet to the point of beginning, containing 1.265 acres (55,100 square feet).

PARCEL II:

Part of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana, and more particularly described as follows:

Commencing at a 5/8-inch iron pin found marking the Northeast corner of the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana; thence Westerly along the North line of the NW 1/4 of Sec. 10, a distance of 760.1 feet; thence Southerly with a deflection angle to the left of 90 degrees 06 minutes 31 seconds, a distance of 55.0 feet to a point on the Southerly right of way line of State Road #14 and the true point of beginning; thence Westerly with a deflection angle to the right of 90 degrees 06 minutes 31 seconds along the South right of way line of State Road #14, a distance of 28.01 feet; thence South with a deflection angle to the left of 90 degrees 06 minutes 31 seconds a distance of 170.0 feet; thence Southeasterly with a deflection angle to the left of 48 degrees 55 minutes 45 seconds a distance of 30.51 feet; thence East with a deflection angle to the left of 40 degrees 57 minutes 44 seconds a distance of 5.01 feet; thence North with a deflection angle to the left of 90 degrees 06 minutes 31 seconds a distance of 190.0 feet to the point of beginning, containing 0.117 acres.

The above described real estate is the same as the following described:

A parcel of land located in the Northwest Quarter of Section 10, Township 30 North, Range 11 East, Allen County, Indiana, and more particularly described as follows:

Commencing at the North Quarter corner of Section 10, Township 30 North, Range 11 East, as marked by a P.K. Nail; thence North 89 degrees 56 minutes 09 seconds West (bearing based on adjacent plat of Westchester Glens) along the North line of the NW 1/4 of Sec. 10-30-11, a distance of 760.00 feet; thence South 00 degrees 03 minutes 09 seconds West, a distance of 55.00 feet to the true point of beginning, said point being the Northwest corner of the real estate conveyed to Lassus Bros. Oil. Co. in the deed recorded in Document #970058991 in the Office of the Recorder of Allen County, Indiana; thence North 89 degrees 56 minutes 09 seconds west along the South right of way line of State Road #14, a distance of 28.00 feet; thence South 00 degrees 03 minutes 51 seconds West, a distance of 170.00 feet; thence South 48 degrees 55 minutes 36 seconds East, a distance of 30.48 feet; thence South 89 degrees 56 minutes 09 seconds East, a distance of 5.00 feet to the Southwest corner of said Lassus Bros. tract; thence South 89 degrees 56 minutes 09 seconds East along the South line of said Lassus Bros. tract, a distance of 290.00 feet to the Southeast corner thereof; thence North 00 degrees 03 minutes 51 seconds East along the East line of said Lassus Bros. tract, a distance of 190.00 feet to the Northwest corner thereof; thence North 89 degrees 56 minutes 09 seconds West along the North line of said Lassus Bros. tract, a distance of 290.00 feet to the point of beginning, containing 1.382 acres.

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2019-0007
Bill Number: Z-19-02-17
Council District: 4-Jason Arp

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

Synopsis of Ordinance: To rezone approximately 1.38 acres of property from NC-Neighborhood
Center to C3-General Commercial.

Location: 10225 Illinois Road

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: JTG Realty, LLC

Property Owner: JTG Realty, LLC

Related Petitions: none

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 NC-Neighborhood Center, 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-19-02-17

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. CC-02 (Sec. 10 of Aboite Township)

To rezone approximately 1.38 acres of property from NC-Neighborhood Center to C3-General Commercial - 10225 Illinois Road

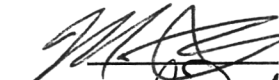




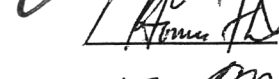
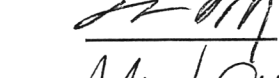
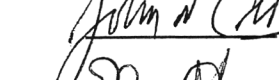

COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

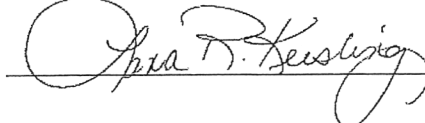
DO NOT PASS

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-19-02-17 on the 9th day of April, 2019



LANA R. KEESLING
CITY CLERK



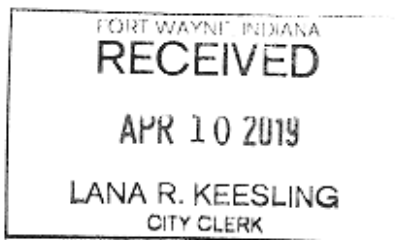
PRESIDING OFFICER

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 9th day of APRIL 2019, at the hour of 10:30 o'clock AM E.S.T.





THOMAS C. HENRY, MAYOR