

1 #REZ-2019-0082

2 BILL NO. Z-20-01-08

3
4 ZONING MAP ORDINANCE NO. Z-7-20

5 AN ORDINANCE amending the City of Fort Wayne
6 Zoning Map No. AA-02 (Sec. 11 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 C1
10 (Professional Office and Personal Services) District under the terms of Chapter 157 Title XV
11 of the Code of the City of Fort Wayne, Indiana:

12 Part of the Northwest Quarter of Section 11, Township 30 North, Range 11 East,
13 Allen County, Indiana, being a parcel of land surveyed by Gregory L. Roberts,
14 Professional Surveyor #80040548 and shown on a PLAT OF SURVEY certified on
15 November 20, 2019, as Donovan Engineering, Inc. Job Number 19-3869, being more
16 particularly described as follows:

17 Commencing at the Northwest corner of the Northwest Quarter of Section 11,
18 Township 30 North, Range 11 East, Allen County, Indiana; thence South 89 degrees
19 15 minutes 25 seconds East (INDOT INCORS GPS datum and basis for this
20 description) along the North line of the Northwest Quarter of Section 11 a distance
21 of 907.8 feet; thence South 00 degrees 47 minutes 35 seconds West a distance of
22 74.18 feet to a point on the South right of way line of Illinois Road, said point being
23 the POINT OF BEGINNING; thence South 00 degrees 47 minutes 35 seconds West
24 along the East line of the plat of Timberlake, Section "II" as recorded in Plat Book
25 46, pages 70-74 in the Office of the Recorder of Allen County, Indiana a distance of
26 589.87 feet to a 5/8-inch diameter iron pin; thence South 89 degrees 12 minutes 25
27 seconds East a distance of 110.0 feet to a 5/8-inch diameter iron pin; thence North 00
28 degrees 47 minutes 35 seconds East a distance of 598.04 feet to a point on the South
29 right of way line of Illinois Road; thence South 86 degrees 32 minutes 51 seconds
30 West along said right of way line a distance of 110.3 feet to the point of beginning,
containing 1.5 acres.

and the symbols of the City of Fort Wayne Zoning Map No. AA-02 (Sec. 11 of Aboite
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
Wayne, Indiana is hereby changed accordingly.

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

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


Council Member

APPROVED AS TO FORM AND LEGALITY:


Carol T. Helton, City Attorney

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant BHI Senior Living, Inc. d/b/a The Towne House
 Address 2209 St. Joe Center Road
 City Fort Wayne State IN Zip 46825
 Telephone 260-969-8000 E-mail dcarr@bhiseniorliving.org

Contact Person
 Contact Person Alison V. Podlaski, Esq.
 Address 215 East Berry Street
 City Fort Wayne State IN Zip 46802
 Telephone (260) 423-8904 E-mail avp@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 8129 Illinois Road & south thereof (PIN 02-11-11-103-002,003-075 & PL of 02-11-11-165-001,000-075)
 Present Zoning AR / RP Proposed Zoning C1 Acreage to be rezoned 1.5
 Proposed density n/a units per acre
 Township name Aboite Township section # 11
 Purpose of rezoning (attach additional page if necessary) Rezoning from AR & RP to C1 to be used by BHI as sales office for Prairie Landing development on a temporary basis, then redeveloped commercially.
 Sewer provider Aqua 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 (see attached Exhibit B)
- 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.

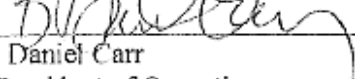
See attached Exhibit A
 (printed name of applicant) _____ (signature of applicant) _____ (date) _____
 See attached Exhibit A
 (printed name of property owner) _____ (signature of property owner) _____ (date) _____
 _____ (signature of property owner) _____ (date) _____
 _____ (signature of property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

Received	Receipt No.	Hearing Date	Petition No.
12/2/19	132793	1/13/20	REZ-2019-0082

EXHIBIT A
Signature Page

OWNER & APPLICANT:

BHI SENIOR LIVING, INC.,
an Indiana nonprofit corporation

By: 
Name: B. Daniel Carr
Its: Vice President of Operations

Date: 11/27/19

PLAT OF SURVEY

DONOVAN ENGINEERING, INC.

3521 LAKE AVENUE, SUITE 2
FORT WAYNE, INDIANA 46805
260.424.7418

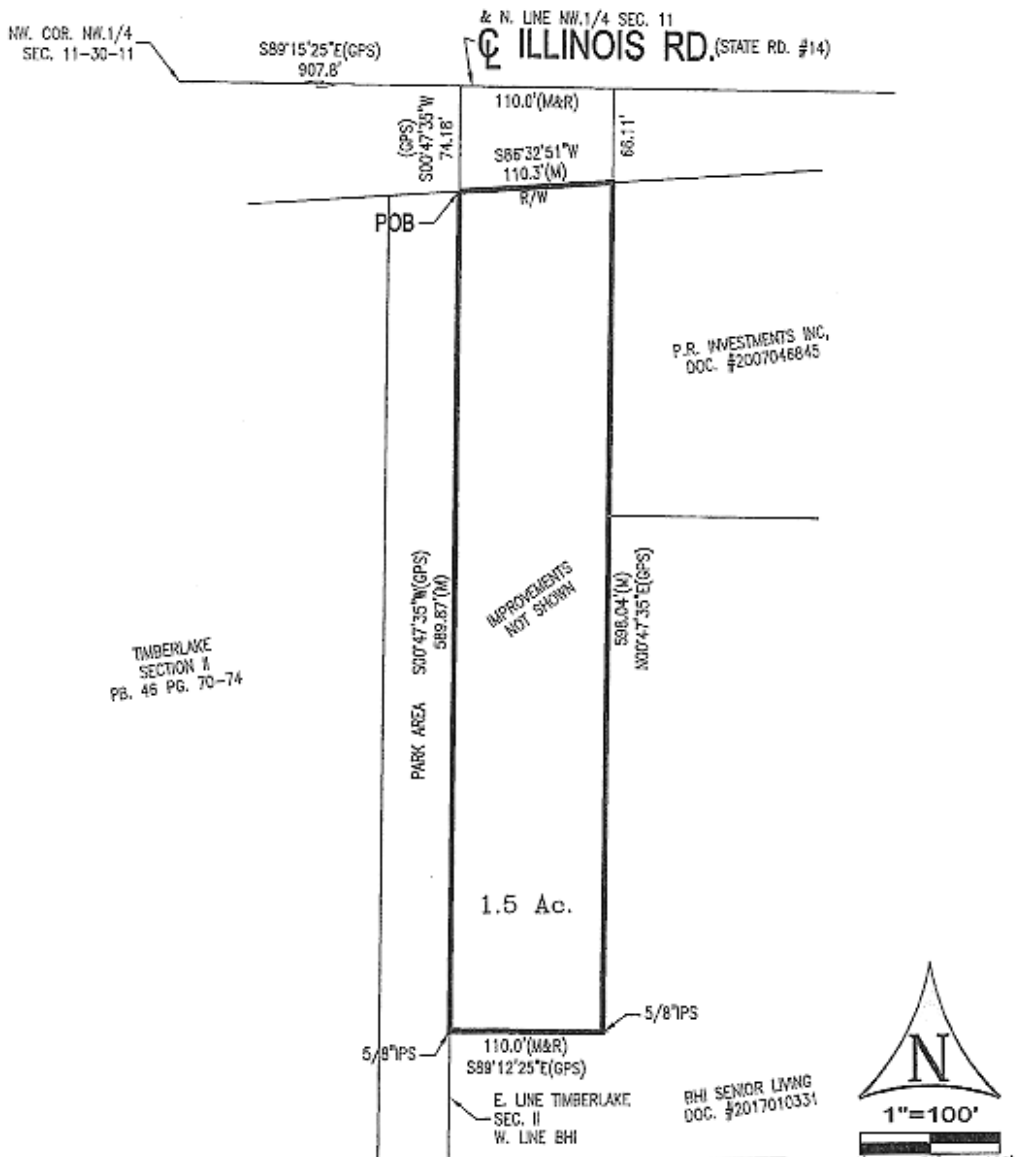
www.donovan-eng.com

GREGORY L. ROBERTS PLS S0548 IN

KENNETH W. HARRIS PLS 29500021 IN

MICHAEL W. HARRIS PLS 21100018 IN

The undersigned has made a survey of the real estate located in Allen County, Indiana, as shown and described below. The description of the real estate is as follows: SEE ATTACHED SHEET!



Job No.:
Job for: BHI - REZONING

Date: 11-20-19

LEGEND

- IPF Iron Pin (Rebar) Found
- PF Pipe Found
- RRF Railroad Spike Found
- PKF P.K. Nail Found
- MNF Mag Nail Found
- MNS Mag Nail Set
- IPS 5/8" rebar set w/cap stamped "CE FORM #0021"
- (M) Measured (P) Platted
- (R) Recorded (C) Calculated

All monuments are at grade except as noted.
All Property line distances are recorded
dimensions, except as noted. Monuments found
have no documented history except as noted.

\\D:\Data\Survey\AutoCAD\Draws & Record\6ac 11-20-19, 1.2 Ac Timberlake.dwg
11/22/2019 2:02:17 PM

I hereby certify that this survey was completed under my direct supervision and to the best of knowledge and belief was executed according to the requirements set forth in 865 IC 1-12.



PLAT OF SURVEY

DONOVAN ENGINEERING, INC.

3521 LAKE AVENUE, SUITE 2
FORT WAYNE, INDIANA 46805
260.424.7418
www.donovan-eng.com

GREGORY L. ROBERTS PLS S0546 IN

KENNETH W. HARRIS PLS 29500021 IN

MICHAEL W. HARRIS PLS 2110001B IN

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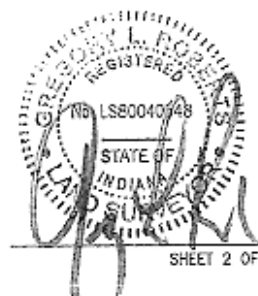
IPF	Iron Pin (Rebar) Found
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RRF	Railroad Spike Found
PKF	P.K. Nail Found
MNF	Mag Nail Found
MNS	Mag Nail Set
IFS	5/8" rebar set w/cap stamped "DE FIRM #0027"
(M)	Measured (P) Plotted
(R)	Recorded (C) Calculated

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dimensions, except as noted. Monuments found
have no documented history except as noted.

Date of latest field work:

\\C:\Data\Borg\Maps\CAD\Maps & Bounds\Sec 11-30-11, 1,3-4, Elm's Road.dwg
11/22/2019 2:02:52 PM

I hereby certify that this survey was completed under my direct supervision and to the best of knowledge and belief was executed according to the requirements set forth in B65 IC 1-12.



SHEET 2 OF 2



BarrettMcNagny

ATTORNEYS AT LAW

Alison V. Podlaski
(260) 423-8904
avp@barrettlaw.com

November 27, 2019

Via Hand Delivery

Michelle Wood
Allen County Department of Planning Services
Citizen's Square, Suite 150
Fort Wayne, Indiana 46802

Re: 9123 Illinois Road Rezoning Application

Dear Michelle:

This firm and the undersigned represents BHI Senior Living, Inc. d/b/a The Towne House (the "Applicant") with respect to its application to rezone 1.5 acres of land consisting of the property located at 9123 Illinois Road and additional land to the south thereof (the "Property"), from the current AR/Low Intensity Residential and RP/ Planned Residential zoning districts to a C1/Professional and Personal Services zoning district.

The Applicant is the owner and operator of The Towne House, a nonprofit continuing care retirement community founded in 1965, which is located on St. Joe Center Road. The Towne House provides continuing care retirement facilities with a wide range of services and amenities, and a continuum of on-site health care.

The Applicant recently rezoned the land located south and east of the Property on Illinois Road to be developed as Prairie Landing — a community serving active adults in the 55+ age range. The Applicant plans to use the existing home on the Property as a sales office in connection with the Prairie Landing development on a temporary basis, after which point the Property will be redeveloped for C1 commercial uses.

Enclosed with this letter are the following items:

1. Rezoning application form;
2. Four (4) copies of the legal description and survey of the Property;
3. A flash drive containing electronic versions of the survey and the legal description of the Property in Word format; and
4. Required filing fee for the application.



As always, we look forward to working with you and your staff and thank you in advance for your attention to the enclosed application. It is our understanding that the application will be heard by the City of Fort Wayne Plan Commission at a public hearing scheduled for 5:00 p.m. on January 13, 2020, in Room 35 of Citizens 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

Very truly yours,

BARRETT MCNAGNY, LLP



Alison V. Podlaski

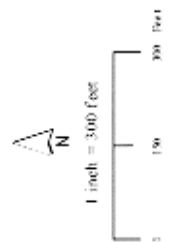
AVP/leh: 2477847

Enclosures

cc: Thomas M. Niezer
Dan Carr



Rezoning Petition REZ-2019-0082 (9123 W SR 14)



Allotment of land to be rezoned has been approved by the commission of this city.

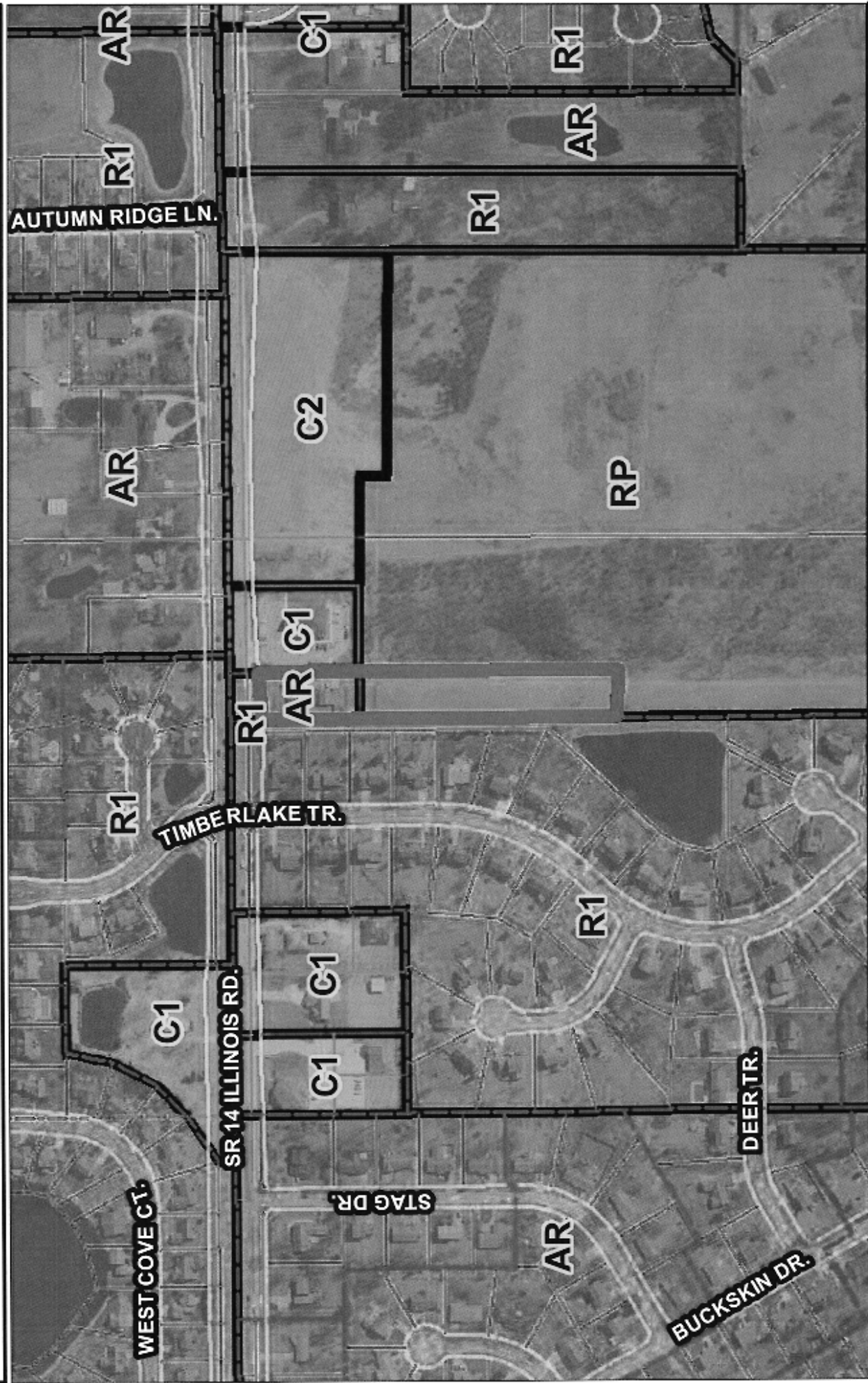
Allotment does not mean it is a public use.

Allotment of the city is not intended to be used for administrative and all other zoning forms are given or reserved to the city.

© 2014 Board of Commissioners of the County of Dallas
North American Blount, Dallas, Texas
Site Plans Coordinate Systems, Dallas, Texas
W. Howard G. Gentry, Jr., APRIL 2015
040112272015



Rezoning Petition REZ-2019-0082 (9123 W SR 14)



Although these zoning standards have been adopted in the compilation of this map, Alton County does not warrant or guarantee the accuracy of the information contained herein and does not assume any liability resulting from any errors or omissions in this map.

©2014 Board of Commissioners of the County of Alton, North Carolina (Burlington, NC)

State Plane Coordinate System, Indiana East
 Projection: UTM
 Datum: NAD 83
 Spheroid: GRS 1980
 Datum: 221210

1 inch = 300 feet

0 150 300 feet

FACT SHEET

Case #REZ-2019-0082 Bill # Z-20-01-08 Project Start: December 2019

APPLICANT:	BHI Senior Living, Inc.
REQUEST:	To rezone property from AR/Low Intensity Residential and RP/Planned Residential to C1/Professional Office and Personal Services to permit the site to be used as a sales office for Prairie Landing development on a temporary basis, then redeveloped commercially.
LOCATION:	The address of the subject property is 9123 West State Road 14 (Illinois Road), and is located east of Timberlake Section 2 (Section 11 of Aboite Township).
LAND AREA:	Approximately 1.5 acres
PRESENT ZONING:	AR/Low Intensity Residential and RP/Planned Residential
PROPOSED ZONING:	C1/Professional Office and Personal Services
COUNCIL DISTRICT:	4-Jason Arp
ASSOCIATED PROJECTS:	none
SPONSOR:	City of Fort Wayne Plan Commission

13 January 2020 Public Hearing

- No one from the public spoke at the hearing.
- Judi Wire was absent.

27 January 2020 – Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

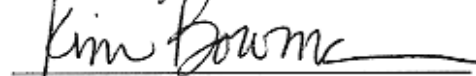
A motion was made by Paul Sauerteig and seconded by Tom Freistroffer to return the ordinance with a Do Pass recommendation and Written Commitment to Common Council for their final decision.

7-0 MOTION PASSED

- Rachel Tobin-Smith was absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
February 5, 2020

Reviewed by:



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

PROJECT SUMMARY

The petitioner, BHI Senior Living, Inc. d/b/a The Towne House is requesting a rezoning petition for a 1.5 acre tract located on State Road 14/Illinois Road, adjacent to the recently approved Prairie Landing mixed use development. This land is currently a lone metes and bounds parcel between a platted subdivision and a dentist office zoned C1. The request is to zone the parcel to C1 to allow the existing structures to be used as a temporary real estate sales office for the Prairie Landing project. After the desired time period has lapsed for use as a sales office, the applicant intends for the property to be developed with a C1/Professional Office and Personal Services use. A draft Written Commitment has been submitted that outlines the temporary use of the existing structures. According to the commitment, the existing structures may be used as desired for 18 months. If additional parking or paving is needed during this time, required permits will be sought. Otherwise, the site will be used more or less as-is, until the structures are removed and new development takes place. At that time, all requirements of the zoning ordinance will be met. The Written Commitment also restricts the following C1 permitted uses:

Adult care center	Driving instruction
Adult care home	Educational institution
Advertising	Employment agency
Answering service	Finance agency
Appraiser	Fraternity house
Assisted living facility	Funeral home
Auction service	Group residential facility (large)
Audio-visual studio	Group residential facility (small)
Bankruptcy service	Gymnastics instruction
Bed and breakfast	Homeless/emergency shelter
Blood bank	Hospital
Blood or plasma donor facility	Multiple family complex
Boarding/lodging house	Multiple family dwelling
Broker	Nursing home
Business training	Park or recreation area
Campus housing	Radio station
Catalog showroom	Religious institution/school field
Child care home (class I or II)	Residential facility for homeless individuals
Collection agency	Retirement facility
Community garden	School
Correctional services facility	Security service
Credit service	Social service agency
Customer service facility	Sorority house
Data processing facility	Tanning salon
Data storage facility	Television station
Dating service	Townhouse complex
Day care	Wind energy conversion system (micro)
Dormitory	

The Illinois Road corridor is developing with a variety of uses. Residential subdivisions have developed in Aboite Township over the years on the larger metes and bounds properties. Recently, the Plan Commission has reviewed a number of smaller metes and bounds properties with frontage on Illinois Road between Scott Road and Hadley Road for both C1 and C2 zoning. Typically, the rezoning requests include written

commitments. This property is the last metes and bounds parcel in this stretch of the corridor. Under BHI Senior Living's control will ensure that future development is compatible with the Prairie Landing Development.

The rezoning proposal can be supported by the following goals and policies of the Comprehensive Plan:

LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;

LU5.D Encourage development proposals that provide housing, designed to allow adequate pedestrian and bicycle access, in close proximity to existing neighborhood commercial, civic, institutional and other similar uses.

LU6. Encourage carefully planned sustainable growth and coordinated development by encouraging mixed land uses.

LU6.C Encourage the conversion of vacant or underutilized properties into compatible mixed-use development areas.

LU6.D Support carefully planned, coordinated, compatible mixed-use development.

LU8. Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.

PUBLIC HEARING SUMMARY:

Presenter: Alison Podlaski, Barrett McNagny, represented the applicant and presented the proposal to the Plan Commission, as outlined above.

Public Comments:

None

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2019-0082

APPLICANT: BHI Senior Living, Inc.
REQUEST: To rezone property from AR/Low Intensity Residential and RP/Planned Residential to C1/Professional Office and Personal Services to permit the site to be used as a sales office for Prairie Landing development on a temporary basis, then redeveloped commercially.
LOCATION: The address of the subject property is 9123 West State Road 14 (Illinois Road), and is located east of Timberlake Section 2 (Section 11 of Aboite Township).
LAND AREA: Approximately 1.5 acres
PRESENT ZONING: AR/Low Intensity Residential and RP/Planned Residential
PROPOSED ZONING: C1/Professional Office and Personal Services
RP/Planned Residential (REZ-2019-0041)

The Plan Commission recommends that Rezoning Petition REZ-2019-0082 with an approved 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 the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The C1 zoning, with a written commitment will continue the precedent of responsible commercial development along the Illinois Road corridor. This proposal will provide infill development using the existing infrastructure of the development.
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 parcel is adjacent to C1 zoning and the written commitment will ensure a compatible future use that complements the area.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow reinvestment into a currently underutilized property.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for the proposed uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on January 27, 2020.



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

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant BHI Senior Living, Inc. d/b/a The Towne House
 Address 2209 St. Joe Center Road
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 Telephone 260-969-8000 E-mail dcarr@bhiseniorliving.org

Contact Person
 Contact Person Alison V. Podlaski, Esq.
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See attached Exhibit A
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 (printed name of applicant)

See attached Exhibit A
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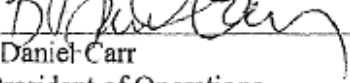
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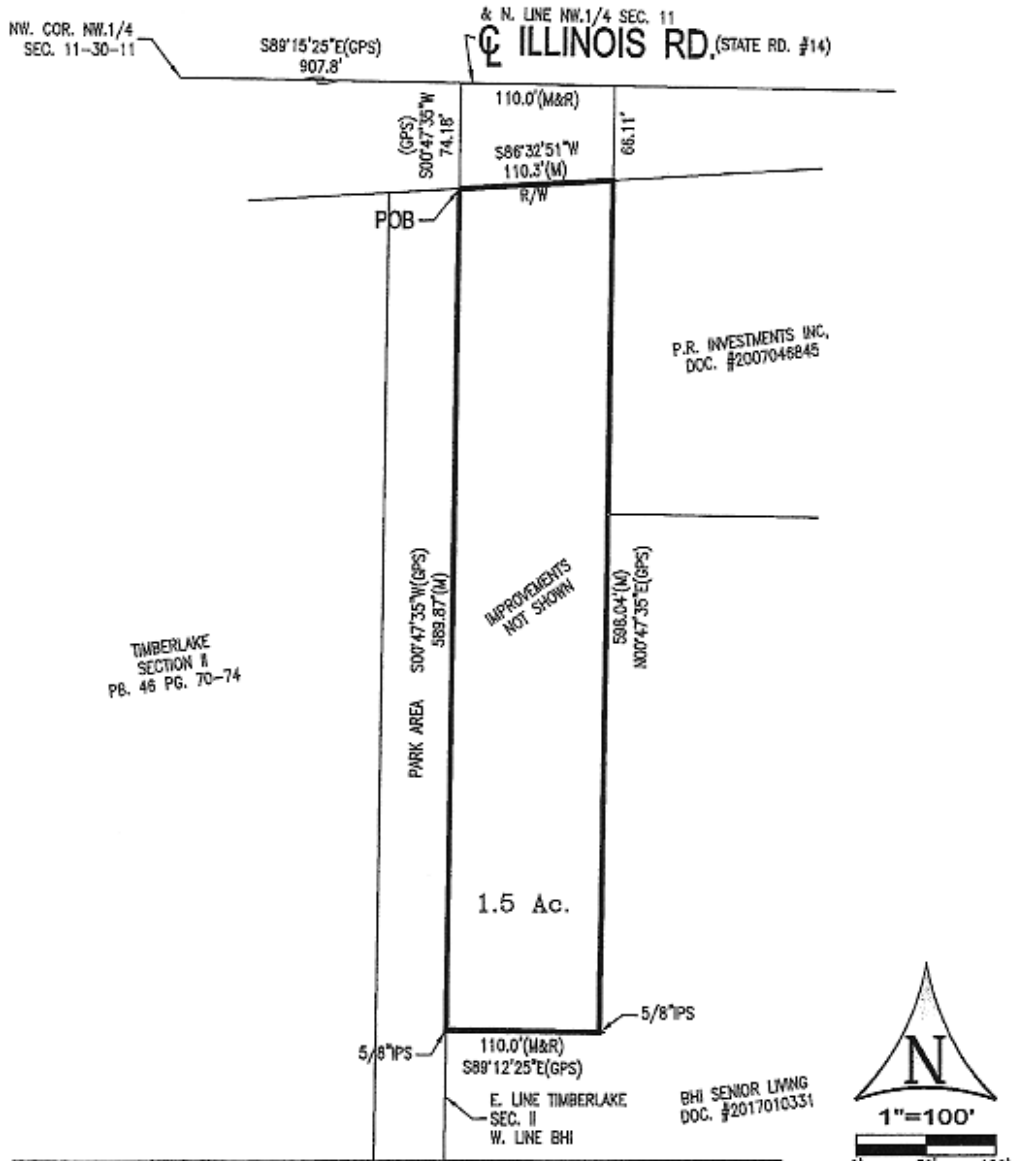
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Date of latest field work:



\\D:\Data Library\AutoCAD\Files & Reports\Sec 11-35-11, 1.5 Ac. Final Roadway.dwg
 11/22/19 9:32:01 PM

I hereby certify that this survey was completed under my direct supervision and to the best of knowledge and belief was executed according to the requirements set forth in 885 IC 1-12.

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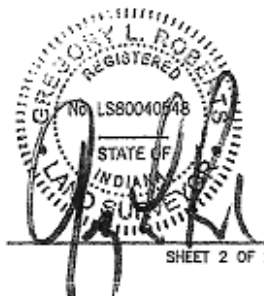
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(M)	Measured
(P)	Plotted
(R)	Recorded
(C)	Calculated

All monuments are at grade except as noted.
All Property line distances are recorded
dimensions, except as noted. Monuments found
have no documented history except as noted.

Date of latest field work:

W:\000Data Library\AutoCAD\Mapes & Bound\11-20-19, 1.5 AC, BHI's Road.dwg
11/22/2019 3:52:37PM

I hereby certify that this survey was completed under my direct supervision and to the best of knowledge and belief was executed according to the requirements set forth in 865 IC 1-12.





BarrettMcNagny
ATTORNEYS AT LAW

Alison V. Podlaski
(260) 423-8904
avp@barrettlaw.com

November 27, 2019

Via Hand Delivery

Michelle Wood
Allen County Department of Planning Services
Citizen's Square, Suite 150
Fort Wayne, Indiana 46802

Re: 9123 Illinois Road Rezoning Application

Dear Michelle:

This firm and the undersigned represents BHI Senior Living, Inc. d/b/a The Towne House (the "Applicant") with respect to its application to rezone 1.5 acres of land consisting of the property located at 9123 Illinois Road and additional land to the south thereof (the "Property"), from the current AR/Low Intensity Residential and RP/ Planned Residential zoning districts to a C1/Professional and Personal Services zoning district.

The Applicant is the owner and operator of The Towne House, a nonprofit continuing care retirement community founded in 1965, which is located on St. Joe Center Road. The Towne House provides continuing care retirement facilities with a wide range of services and amenities, and a continuum of on-site health care.

The Applicant recently rezoned the land located south and east of the Property on Illinois Road to be developed as Prairie Landing — a community serving active adults in the 55+ age range. The Applicant plans to use the existing home on the Property as a sales office in connection with the Prairie Landing development on a temporary basis, after which point the Property will be redeveloped for C1 commercial uses.

Enclosed with this letter are the following items:

1. Rezoning application form;
2. Four (4) copies of the legal description and survey of the Property;
3. A flash drive containing electronic versions of the survey and the legal description of the Property in Word format; and
4. Required filing fee for the application.



As always, we look forward to working with you and your staff and thank you in advance for your attention to the enclosed application. It is our understanding that the application will be heard by the City of Fort Wayne Plan Commission at a public hearing scheduled for 5:00 p.m. on January 13, 2020, in Room 35 of Citizens 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

Very truly yours,

BARRETT MCNAGNY, LLP



Alison V. Podlaski

AVP/leh: 2477847

Enclosures

cc: Thomas M. Niezer
Dan Carr

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made this ___ day of _____, 2020 by BHI Senior Living, Inc., an Indiana nonprofit corporation (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 1.5 acres of real estate located on Illinois Road in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit "A" (the "Real Estate"); and

WHEREAS, Declarant submitted a rezoning petition with respect to the Real Estate to rezone the Real Estate from AR/Low Intensity Residential and RP/ Planned Residential zoning districts to a C1/Professional Office and Personal Services zoning district, bearing number REZ-2020-____ (the "Petition"), which Petition has been approved by the City of Fort Wayne Plan Commission (the "Plan Commission (the "Plan Commission") and the Fort Wayne Common Council ("City Council"); and

WHEREAS, Declarant has offered this Commitment, voluntarily, pursuant to Indiana Code 36-7-4-1015, for the purpose of limiting certain uses for the Real Estate; and

WHEREAS, in conjunction with the Petition, the Plan Commission has accepted Declarant's offer of this Commitment and its recordation with the Allen County, Indiana, Recorder's Office upon approval of the Petition by the Plan Commission and City Council.

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarant hereby impresses 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 any portion of the Real Estate.

1. **Prohibited Uses.** Subject to the terms and conditions herein contained, the following uses shall be prohibited upon the Real Estate:

- 1) Adult care center
- 2) Adult care home
- 3) Advertising

- 4) Answering service
- 5) Appraiser
- 6) Assisted living facility
- 7) Auction service
- 8) Audio-visual studio
- 9) Bankruptcy service
- 10) Bed and breakfast
- 11) Blood bank
- 12) Blood or plasma donor facility
- 13) Boarding/lodging house
- 14) Broker
- 15) Business training
- 16) Campus housing
- 17) Catalog showroom
- 18) Child care home (class I or II)
- 19) Collection agency
- 20) Community garden
- 21) Correctional services facility
- 22) Credit service
- 23) Customer service facility
- 24) Data processing facility
- 25) Data storage facility
- 26) Dating service
- 27) Day care
- 28) Dormitory
- 29) Driving instruction
- 30) Educational institution
- 31) Employment agency
- 32) Finance agency
- 33) Fraternity house
- 34) Funeral home
- 35) Group residential facility (large)
- 36) Group residential facility (small)
- 37) Gymnastics instruction
- 38) Homeless/emergency shelter

- 39) Hospital
- 40) Multiple family complex
- 41) Multiple family dwelling
- 42) Nursing home
- 43) Park or recreation area
- 44) Radio station
- 45) Religious institution/school field
- 46) Residential facility for homeless individuals
- 47) Retirement facility
- 48) School
- 49) Security service
- 50) Social service agency
- 51) Sorority house
- 52) Tanning salon
- 53) Television station
- 54) Townhouse complex
- 55) Wind energy conversion system (micro)

2. Permitted Uses. Any use otherwise permitted in a C1 zoning district pursuant to the Ordinance which is not expressly prohibited pursuant to Section 1 above shall be a permitted use upon the Real Estate.
3. Temporary Use. Declarant may temporarily use the existing residential structures located upon the Real Estate as of the Effective Date (as defined hereinafter) for the purposes of a model unit and sales office without said use being subject to the zoning ordinance, permitting, and commercial access requirements for a period of no more than eighteen (18) months after the Effective Date (the "Temporary Use Period"). Notwithstanding the foregoing, Declarant shall be required to obtain necessary permits for any paving or parking lot constructed upon the Real Estate during the Temporary Use Period. With the exception of the dormancy of the Real Estate, should the use of the Real Estate change, the the Real Estate shall be brought into full compliance with the zoning ordinance, permitting, and commercial access requirements, and all other applicable requirements with respect to the use and development of the Real Estate prior to issuance of a Certificate of Compliance by the Zoning Administrator of City of Fort Wayne ("Zoning Administrator").
4. 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.

5. Binding Effect, Modification, and Termination. This Commitment shall run with the Real Estate, and shall be binding upon the Declarant and each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless this Commitment is modified or terminated. The recitals are incorporated herein by reference and are expressly made a part of this Commitment. This Commitment may be modified or terminated only by a decision of the Plan Commission ~~or the Board of Zoning Appeals (the "BZA")~~, as applicable, following a public hearing held by the Plan Commission ~~or BZA~~ wherein notice has been given as provided by the Plan Commission's ~~and BZA's~~ rules of procedure.
6. Recording. Declarant or Applicant shall, at Declarant's or Applicant's expense, record this Commitment with the Allen County Recorder and shall provide two copies of the recorded Commitment to the Zoning Administrator.
7. Enforcement. Any violation of this Commitment shall be deemed a violation of the zoning ordinance in effect 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 Plan Commission, ~~the BZA~~, or any enforcement official designated in the zoning ordinance, or any successor agency having zoning jurisdiction over the Real Estate. Pursuant to I.C. §36-7-4-1015, the Plan Commission, ~~the BZA~~, or any enforcement official designated in the zoning ordinance, shall be entitled to all legal and equitable remedies available, including specific performance and injunctive relief, for any violation of this Commitment. The enforcement rights of the Plan Commission, ~~the BZA~~, or any enforcement official designated in the zoning ordinance are cumulative, not exclusive.
8. Authority to Sign. The person signing this Commitment in a representative capacity on behalf of Declarant warrants and represents that: (a) the person has the actual authority and power to so sign, and to bind the respective entity to the provisions of this Commitment; and (b) all corporate or other entity action necessary for the making of this Commitment has been duly taken.
9. Last Deeds of Record. The most recent deed of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as Document Number 2019062769 and Document Number 2017010331.
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. The effective date ("Effective Date") of this Commitment shall be the date of its recordation with the Office of the Recorder of Allen County, Indiana.

[Signature page follows.]

Formatted: Left, Indent: Left: 0", First line: 0"

DRAFT

"DECLARANT"

BHI SENIOR LIVING, INC.,
an Indiana nonprofit corporation

By: _____
Printed Name: B. Daniel Carr
Title: Vice President of Operations

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of _____, 2020, personally appeared B. Daniel Carr, the Vice President of Operations of BHI Senior Living, Inc. 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 Alison V. Podlaski, Attorney No. 35337-02, Barrett McNagny, 215 East Berry Street, P.O. Box 2263, Fort Wayne, Indiana 46801-2263.

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. Alison V. Podlaski.

When Recorded, mail to: Alison V. Podlaski, Barrett McNagny LLP, 215 East Berry Street, P.O. Box 2263, Fort Wayne, Indiana 46801-2263.

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

Part of the Northwest Quarter of Section 11, Township 30 North, Range 11 East, Allen County, Indiana, being a parcel of land surveyed by Gregory L. Roberts, Professional Surveyor #80040548 and shown on a PLAT OF SURVEY certified on November 20, 2019, as Donovan Engineering, Inc. Job Number 19-3869, being more particularly described as follows:

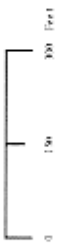
Commencing at the Northwest corner of the Northwest Quarter of Section 11, Township 30 North, Range 11 East, Allen County, Indiana; thence South 89 degrees 15 minutes 25 seconds East (INDOT INCORS GPS datum and basis for this description) along the North line of the Northwest Quarter of Section 11 a distance of 907.8 feet; thence South 00 degrees 47 minutes 35 seconds West a distance of 74.18 feet to a point on the South right of way line of Illinois Road, said point being the POINT OF BEGINNING; thence South 00 degrees 47 minutes 35 seconds West along the East line of the plat of Timberlake, Section "II" as recorded in Plat Book 46, pages 70-74 in the Office of the Recorder of Allen County, Indiana a distance of 589.87 feet to a 5/8-inch diameter iron pin; thence South 89 degrees 12 minutes 25 seconds East a distance of 110.0 feet to a 5/8-inch diameter iron pin; thence North 00 degrees 47 minutes 35 seconds East a distance of 598.04 feet to a point on the South right of way line of Illinois Road; thence South 86 degrees 32 minutes 51 seconds West along said right of way line a distance of 110.3 feet to the point of beginning, containing 1.5 acres.



Although exact accuracy standards show
were employed in the compilation of this map,
Allen County is not warranting or guaranteeing
the accuracy of the information contained herein
and is not liable for any errors or omissions, including
those caused by the user's interpretation of the map.
© 2019 by Allen County, Indiana, Department of Planning
3000 State Government Center, Indianapolis, IN 46204
Allen County, Indiana, Department of Planning
Phone: 317.435.2200 Fax: 317.435.2201
Web: allencounty.org

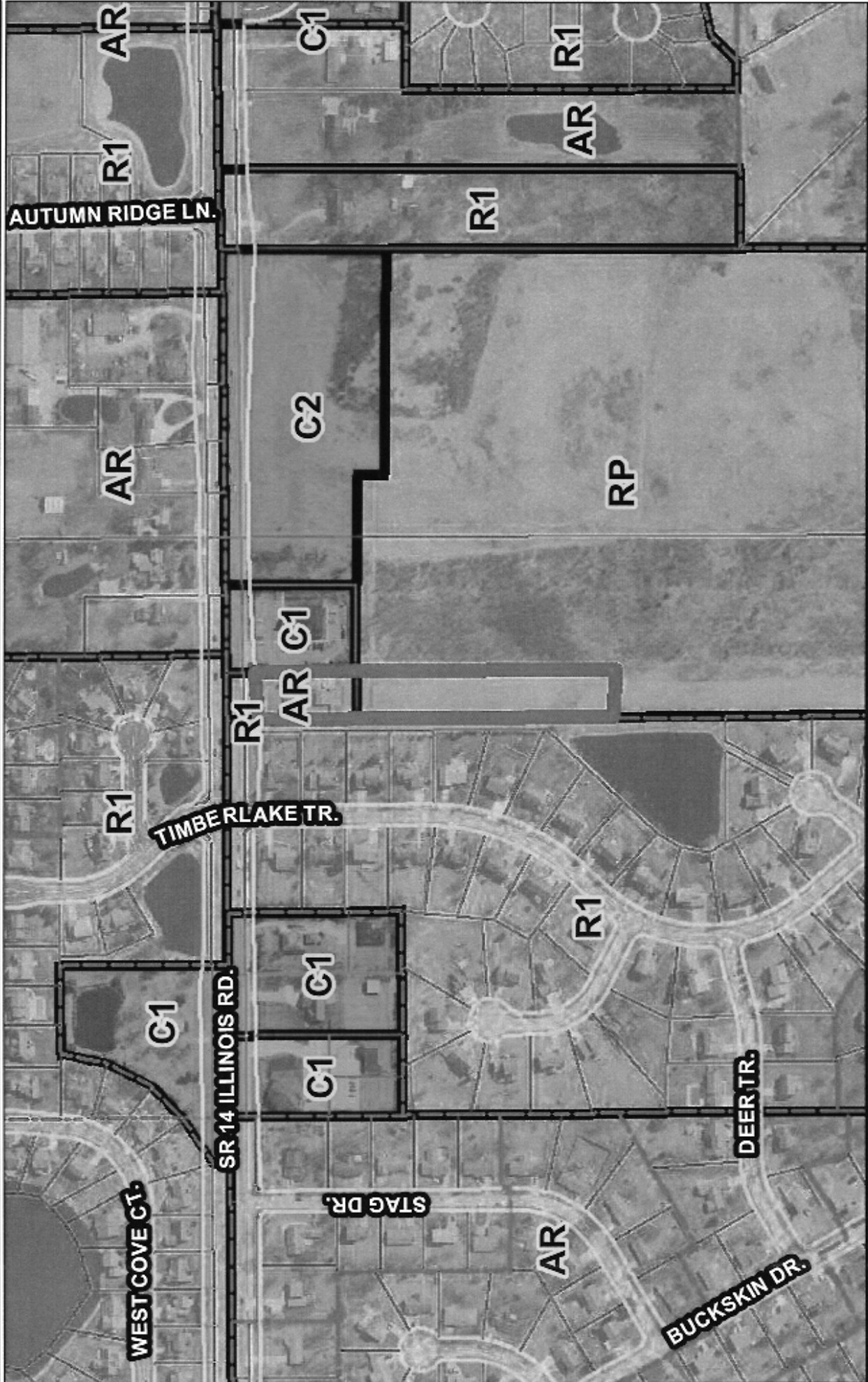


1 inch = 500 feet





Rezoning Petition REZ-2019-0082 (9123 W SR 14)



Although most agencies use this map, it has not been updated in the compliance of this map. After County Board of Commissioners meeting for the review of the information and basis and findings and affidavits including their are correct on or in this map.

© 2004 Board of Commissioners of the County of Clark, Mo.
 Map: West Coast Survey, Indiana East
 Revised/Updated: Spring 2005
 Date: 12/22/2019



1 inch = 300 feet



City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2019-0082
Bill Number: Z-20-01-08
Council District: 4-Jason Arp

Introduction Date: January 14, 2020

Plan Commission
Public Hearing Date: January 13, 2020 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 1.5 acres from AR/Low Intensity Residential
and RP/Planned Residential to C1/Professional Office and Personal
Services.

Location: 9321 West State Road 14/Illinois Road

Reason for Request: To permit a temporary real estate sales office and future office
development.

Applicant: BHI Senior Living, Inc.

Property Owner: BHI Senior Living, Inc.

Related Petitions: none

Effect of Passage: Property will be rezoned to the C1/Professional Office and Personal
Services district, which will allow the property to redevelop along with the
recently approved Prairie Landing mixed use development.

Effect of Non-Passage: The property will remain zoned AR/Low Intensity Residential and RP/
Planned Residential, which will continue to allow residential development
and low intensity agricultural uses. The property has become less
desirable for residential or agricultural uses due to its size and proximity
to other development on the SR 14 corridor.

BILL NO. Z-20-01-08

REPORT OF COMMITTEE ON REGULATIONS
February 11, 2020

Tom Freistroffer Chair


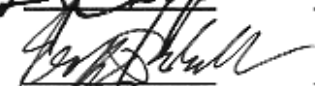
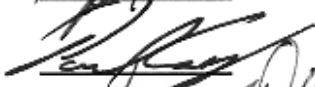
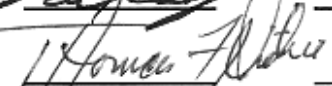

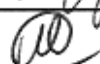
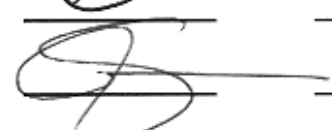
Glynn Hines Co-Chair

All Council Members

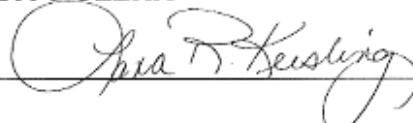
An Ordinance amending the City of Fort Wayne Zoning Map No. AA-02 (Sec. 11 of Aboite Township)

To rezone approximately 1.5 acres from AR/Low Intensity Residential and RP/Planned Residential to C1/Professional Office and Personal Services at 9321 West State Road 14/Illinois Road

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

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

LANA R. KEESLING
CITY CLERK



Public Hearing Date: January 13, 2020

Read the first time in full and on motion by Councilperson Freistroffer.

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

Read the third time in full and on motion by Councilperson Freistroffer, 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"/>
CHAMBERS	<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"/>
TUCKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: February 11, 2020


LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Zoning Ordinance No. Z-20-01-08 on the 11th day of February, 2020

ATTEST:


LANA R. KEESLING
CITY CLERK


PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th of February 2020, at the hour of 9:40 o'clock A.M. E.S.T.


LANA R. KEESLING, CITY CLERK

Approved and signed by me this 13th day of FEBRUARY 2020, at the hour of 1:00 o'clock PM E.S.T.


THOMAS C. HENRY, MAYOR

