

1 #REZ-2020-0051

2 BILL NO. Z-21-01-06

3
4 ZONING MAP ORDINANCE NO. Z- 8-21

5 AN ORDINANCE amending the City of Fort Wayne
6 Zoning Map No. N-58 (Sec. 01 of Washington Township)

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

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

11 Lot 2, Jacob H. Feichter's Subdivision in Section 1, Washington Township, Allen County, Indiana as
12 recorded in Plat Record 14B, page 76 in the Office of the Allen County Recorder, Feichter's
Subdivision, more specifically described as follows:

13 Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 1,
14 Township 31 North, Range 23 East; thence North on an assumed bearing, 416.9 feet to a Railroad tie
15 anchor post set in concrete; thence South 87 degrees 6 minutes East, 581.4 feet to a Railroad tie
16 anchor post situated on the West right-of-way line of U.S. Highway #27; thence South 29 degrees 51
minutes West, on and along said West right-of-way line, 297.4 feet to an iron pin on the centerline of
Old Coldwater Road; thence South 32 degrees 17 minutes West on and along the centerline of said
Coldwater Road, 168.5 feet; thence South 89 degrees 7 minutes West, 319.3 feet to the place of
beginning containing 4.29 acres more or less and subject to all legal highway.

17 and the symbols of the City of Fort Wayne Zoning Map No. N-58 (Sec. 01 of Washington
18 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort Wayne,
19 Indiana is hereby changed accordingly.

20 SECTION 2. If a written commitment is a condition of the Plan Commission's
21 recommendation for the adoption of the rezoning, or if a written commitment is modified and
22 approved by the Common Council as part of the zone map amendment, that written commitment
23 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 Hugh Johnston - Fort Wayne Storage, LLC
 Address 10050 Bent Creek Boulevard
 City Fort Wayne State Indiana Zip 46825
 Telephone (260) 414-2718 E-mail bfleming@rcidevelops.com (Brian Fleming)

Contact Person
 Contact Person Graham Lewis, MLS Engineering
 Address 10060 Bent Creek Boulevard
 City Fort Wayne State Indiana Zip 46825
 Telephone 260-489-8571 E-mail graham@mlswebsite.us

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 9727 Coldwater Road
 Present Zoning AR Proposed Zoning C3 Acreage to be rezoned 4.00 acres
 Proposed density N/A units per acre
 Township name Washington Township section # 1
 Purpose of rezoning (attach additional page if necessary) _____
The petition for rezoning is for a proposed primary development plan to construct a
93,000 sq. ft. climate controlled self-storage (warehouse) building on this property.
 Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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

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

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

Hugh Johnston [Signature] 11/30/20
 (printed name of applicant) (signature of applicant) (date)
Hugh Johnston [Signature] 11/30/20
 (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.



Rezoning Petition REZ-2020-0051 and Primary Development Plan PDP-2020-0041 Till Road Storage - pkt



Although any easements needed to be included in the completion of this map, Albia County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omissions in this map.

© 2001 Board of Commissioners of the County of Albia
 North American Survey (NAS)
 State Plane Coordinate System, NAD 83, Zone 16E
 Photo: Aerial Imagery, Spring 2004
 Date: 12/27/2020

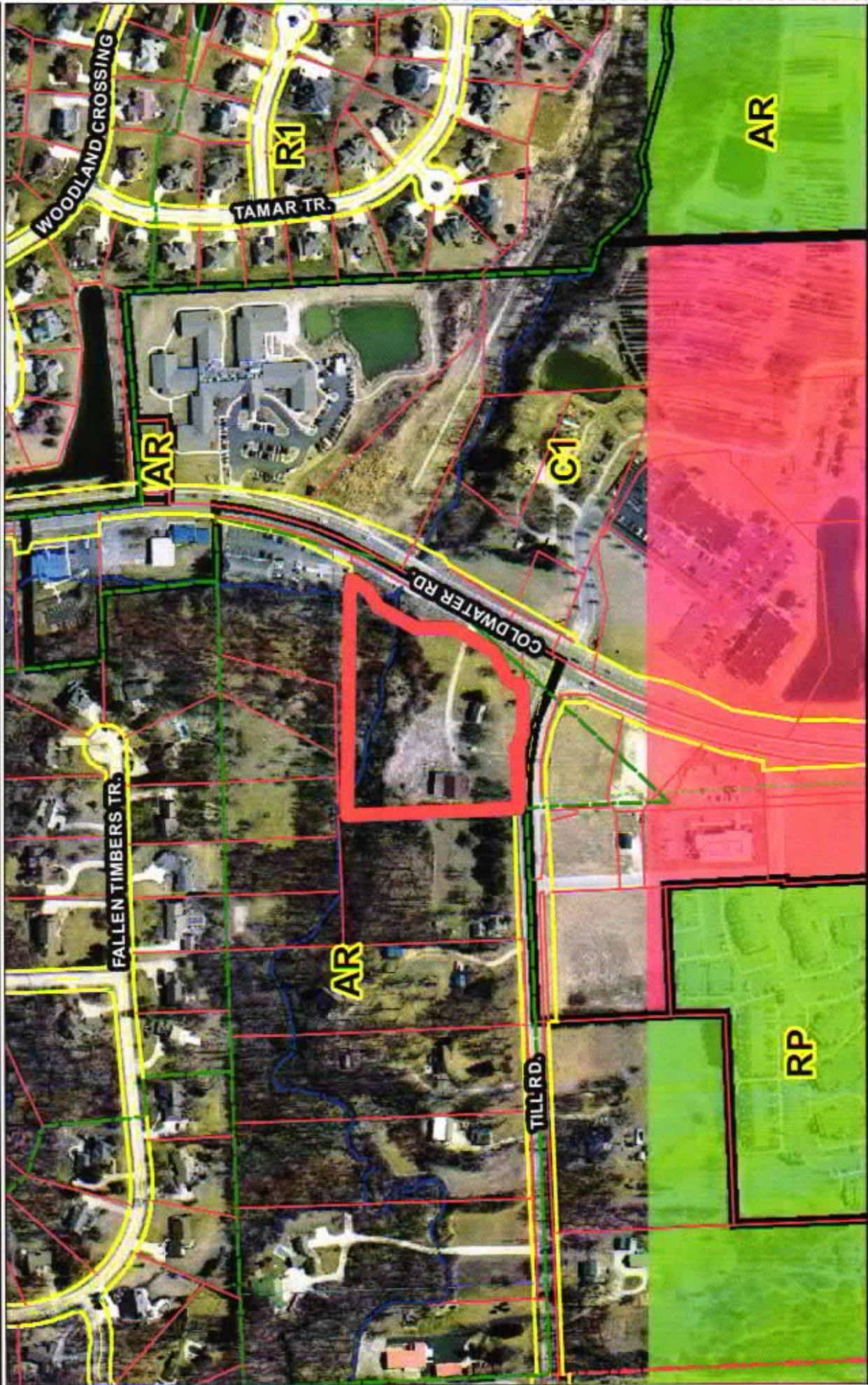


1 inch = 300 feet





Rezoning Petition REZ-2020-0051 and Primary Development Plan PDP-2020-0041 Till Road Storage - pkt



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1 inch = 300 feet



Max. Height = 40'



View from Coldwater Road looking NorthEast at corner



12.16.20

Max. Height = 40'



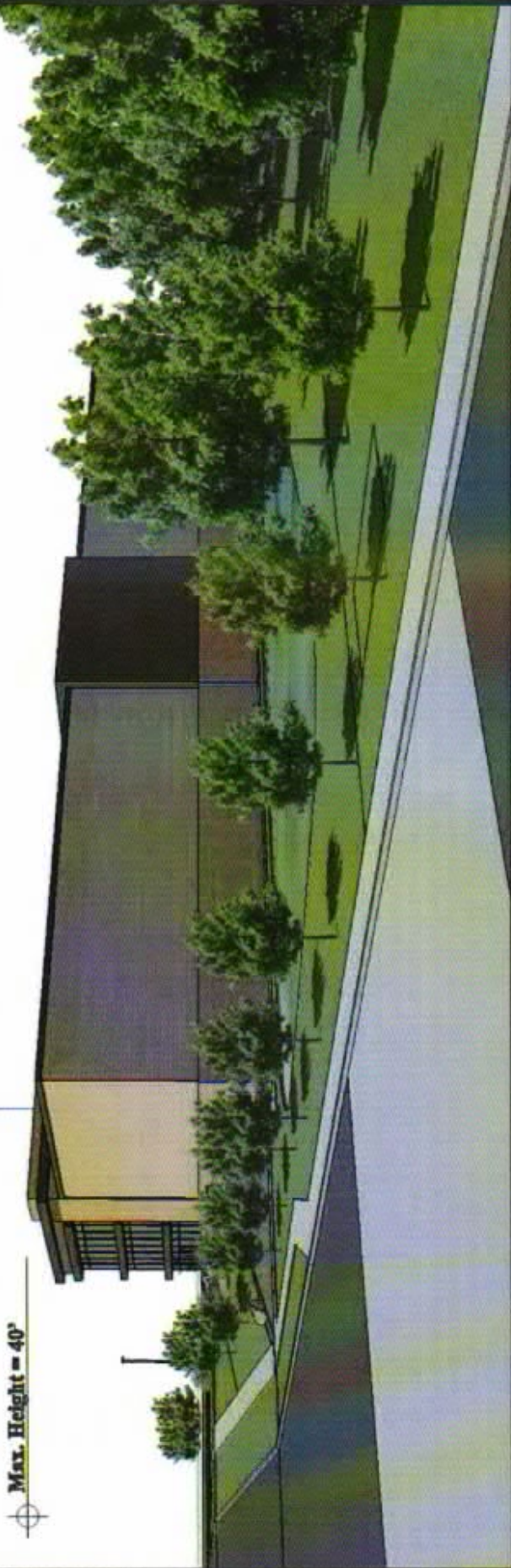
View from Coldwater Road looking East



FORT WAYNE
STORAGE

12.16.20

Max. Height = 40'



View from Coldwater Road looking South



12.16.20

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2020-0051
Bill Number: Z-21-01-06
Council District: 3 – Tom Didier

Introduction Date: January 26, 2021
Plan Commission
Public Hearing Date: January 13, 2021 (not heard by Council)
Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

Synopsis of Ordinance: To rezone property from AR/Low Intensity Residential to C3/General Commercial
Location: Northwest corner of Till Road and Coldwater Road
Reason for Request: To construct a 93,000 square foot self-storage facility.
Applicant: Fort Wayne Storage, LLC
Property Owner: Hugh and Mary Johnston

Related Petitions: Primary Development Plan, Fort Wayne Storage, Till Road

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district, which will allow for an indoor storage facility.
Effect of Non-Passage: The property is currently zoned AR and may develop with low intensity residential and agricultural uses.

FACT SHEET

Case #REZ-2020-0051 Bill # Z-21-01-06 Project Start: December 2020	
APPLICANT:	Fort Wayne Storage, LLC – Hugh Johnston
REQUEST:	To rezone property from AR/Low Intensity Residential to C3/General Commercial; and approve a primary development plan for a 93,000 square foot self-storage facility.
LOCATION:	The site is located at the northwest corner of the intersection of East Till Road and Coldwater Road (Section 1 of Washington Township).
LAND AREA:	Approximately 4 acres
PRESENT ZONING:	AR/Low Intensity Residential
PROPOSED ZONING:	C3/General Commercial
COUNCIL DISTRICT:	3-Tom Didier
ASSOCIATED PROJECT:	Primary Development Plan, Fort Wayne Storage – Till Road
SPONSOR:	City of Fort Wayne Plan Commission

January 13, 2020 Public Hearing

- Six property owners spoke at the hearing with concerns, questions, or in opposition.
- Tom Freistroffer, Justin Shurley and Rachel Tobin-Smith were absent.

January 13, 2020 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

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

6-0 MOTION PASSED

- Tom Freistroffer, Justin Shurley and Rachel Tobin-Smith were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
February 4, 2021

PROJECT SUMMARY

- The property was originally a metes and bounds residential with accessory buildings.
- In 1972 the site was converted to a retail plant nursery with Board of Zoning Appeals approval.

The petitioner is requesting a rezoning to C3/General Commercial to allow for a new self-storage development. The site is currently developed with a converted house and large accessory building but is not occupied with a use. The site is currently zoned AR/Low Intensity Residential. Residential uses exist to the north of the property (Fallen Timbers) and also to the west of the site (metes and bounds residential). A variety of uses have developed around the intersection of Till Road and Coldwater Road including Waterstone Office buildings to the east and the Timberlin and Mike Thomas Realtors office development to the south. Additionally, to the northeast there is an assisted living facility and to the southwest is an apartment development. Additional commercial developments line the west side of Coldwater Road to the north and are approved with Board approval.

The petitioner requests a rezoning from AR/Low Intensity Residential to C3/General Commercial to permit construction of a single building self-storage facility. As properties transition from residential to other districts, well-designed and contained self-storage facilities can make for a buffer between remaining residential and busy thoroughfares. The 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.

The proposed site plan consists of includes a two-story (three-story in the rear) self -storage building totaling 93,000 square feet. The site plan shows the building in the middle of site. There is floodway located along the north side of the site and the proposed building is located outside of the limits of the floodplain.

The facility is proposed to be 40 feet tall which is within the requirements of the C3 zoning district for height. Stormwater detention is located at the northeast side of the site and will discharge in accordance with the Stormwater Engineering Department standards. Access is proposed via a single entrance to the site from Till Road. Parking will be adjacent to the south side of the building and will mee the minimum required spaces of the Ordinance. Sidewalks are proposed along the properties Till and Coldwater Road frontages.

The applicant has submitted architectural elevations showing the proposed facility. The elevations show an attractive facility that will be compatible to adjacent commercial and residential uses. These elevations are attached to this staff report.

Landscaping and screening is proposed and will be the requirements of the Ordinance.

The applicant has agreed to submit a written commitment restricting certain land uses from the C3 zoning district. No waivers of development design standards are being proposed with this development request.

PUBLIC HEARING SUMMARY:

Presenter: Josh Neal, Barrett McNagny, representing Fort Wayne Storage, presented the proposal as outlined above. Mr. Neal stated that all access to storage units takes place inside the building, so no activity will take place outside. The applicant agreed to a Written Commitment that allows only C1/Professional Office and Personal Service uses, plus the storage facility. No other C2 or C3 uses will be permitted on the site.

Public Comments:

Melissa Dunning, representing Fallen Timbers neighborhood – Concerns include natural resources, crime, lights, noise, property values, and high-intensity use.

Don Stevens, President of Stone Cove Villas – Feels this is the entrance to his neighborhood (Dawson's Creek). Not compatible with residential and high class office uses.

Frank Schmidt, 627 East Till Road – C3 is too drastic, would like a written commitment. Questions whether area can handle more traffic.

Charlene Bredemeyer, 613 East Till Road – Concerns include nature, wildlife, building height, the Beckett's Run. Building is attractive but too tall.

Carol Craig, 610 Fallen Timbers Trail – Because of the ravine, the tree stand at the top of the bank is narrow.

Kurt Hegerfeld, 10032 St. Clair's Retreat – Moved to this area because of nature. Building is too big, concerned about noise and lights.

Rebuttal: Josh Neal, Barrett McNagny

The building and site design is compatible with area businesses, with similar materials to Mike Thomas headquarters and Waterstone office park. Self-storage is a good, low intensity buffer between residential and other uses. Less intensive and fewer trips than an office. The Written Commitment will restrict all C3 and C2 uses except for self-storage. Storm drainage will be detained and released to the Beckett's Run. The site topography falls off from west to east, and the building will be set on the low side. The building foundation is about 15 feet below the west property line grade.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

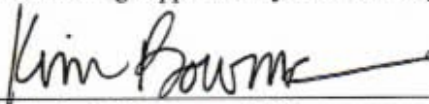
Rezoning Petition REZ-2020-0051

APPLICANT: Fort Wayne Storage, LLC – Hugh Johnston
REQUEST: To rezone property from AR/Low Intensity Residential to C3/General Commercial for a 93,000 square foot self-storage facility.
LOCATION: The site is located at the northwest corner of the intersection of East Till Road and Coldwater Road (Section 1 of Washington Township).
LAND AREA: Approximately 4 acres
PRESENT ZONING: AR/Low Intensity Residential
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2020-0051, 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 the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The site is near similar commercial development and the proposal will provide more service options for the surrounding neighborhoods. This proposal will provide infill development using existing infrastructure.
2. Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area. Site plan and architectural review from the Plan Commission and staff will ensure a compatible development that complements the neighborhood.
3. Approval is consistent with the preservation of property values in the area. This proposal will provide redevelopment in the neighborhood with a market to serve the area residents, and provide a substantial investment into the community.
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 13, 2021.



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

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Primary Development Plan PDP-2020-0041, Till Road Storage

APPLICANT: Fort Wayne Storage, LLC – Hugh Johnston
REQUEST: To approve a primary development plan for a 93,000 square foot self-storage facility.
LOCATION: The site is located at the northwest corner of the intersection of East Till Road and Coldwater Road (Section 1 of Washington Township).
LAND AREA: Approximately 4 acres
PRESENT ZONING: AR/Low Intensity Residential
PROPOSED ZONING: C3/General Commercial

Pursuant to I.C. 36-7-4-1405, the Commission shall review a development plan to determine if the development plan:

- (1) is consistent with the comprehensive plan; and
- (2) satisfies the development requirements specified in the zoning ordinance under sections 1402 and 1403 of I.C. 36-7-4.

The Plan Commission finds that the proposed development satisfies the following stated Objectives of the Fort Wayne Comprehensive Plan:

- (1) **LU3.** Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
- (2) **LU5.B** Encourage development proposals that enhance area connectivity.
LU5.C Encourage development proposals that provide neighborhood commercial, civic, institutional and other similar uses, designed to allow adequate access for pedestrians and bicycles, in close proximity to housing.
- (3) **LU6.** Encourage carefully planned sustainable growth and coordinated development by encouraging mixed land uses.
- (4) **LU6.C** Encourage the conversion of vacant or underutilized properties into compatible mixed-use development areas.
- (5) **LU6.D** Support carefully planned, coordinated, compatible mixed-use development.
- (6) **LU8.** Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.
- (7) **LU10.C** Encourage infill or redevelopment of existing nonresidential single-use developments with compatible housing and retail uses where appropriate.
- (8) **LU10.E** Encourage infill development and redevelopment which is compatible with the character of existing development, including historic features.

The project site is within the conceptual development map growth area and is currently served by public infrastructure. The Till and Coldwater Road intersection is developed with a mixture of office, commercial and multiple family residential land uses. This development is consistent with other land uses in the area.

§157.301(4)(a)(i) states that:

After public hearing on the Primary Development Plan, the Commission shall approve or deny the application. The Commission shall approve the Primary Development Plan if it determines that the application meets the development requirements of the applicable zoning district. Pursuant to I.C. 36-7-4-1402 and 1403, the Fort Wayne Zoning Ordinance sets forth the development requirements that must be satisfied before the Commission may approve a development plan.

The Plan Commission finds that the Primary Development Plan of Till Road Storage meets the following development requirements as set forth in §157.404:

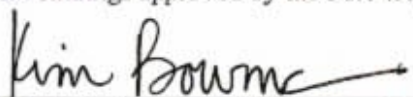
- (1) §157.404(D) Access
- (2) §157.404(E) Airport Overlay Districts
- (3) §157.404(G) Easements
- (4) §157.404(H) Floodplain
- (5) §157.404(I) Landscape Standards
- (6) §157.404(K) Natural Site Features
- (7) §157.404(M) Parking
- (8) §157.404(N) Pedestrian Circulation
- (9) §157.404(O) Residential impact mitigation
- (10) §157.404(P) Sanitary Sewer
- (11) §157.404(J) Signs
- (12) §157.404(R) Site Lighting
- (13) §157.404(S) Storm Drainage
- (14) §157.404(T) Street Lighting
- (15) §157.404(U) Vehicle Circulation and Streets
- (16) §157.404(V) Water
- (17) §157.404(W) Zoning District Standards

Pursuant to I.C. 36-7-4-1406 and §157.301(4)(c), the Commission shall make written findings concerning each decision to approve or disapprove a development plan. Pursuant to I.C. 36-7-4-1402(b)(4) and §157.301(4)(a)(i) the Commission may approve the plan subject to conditions if the conditions are reasonably necessary to satisfy those development requirements.

Based on the Findings of Fact, the Plan Commission approves the Primary Development Plan of Till Road Storage, subject to the following conditions:

1. Approval of Rezoning Petition REZ-2020-0051, with a Written Commitment, will be received by Common Council.
2. Primary approval will be received from all review agencies prior to submittal of the secondary development plan.
3. The secondary development plan will be reviewed through the Site Plan Review process.
4. A site lighting plan will be submitted subject to staff review and approval and will include location, height, and cut sheets for all fixtures.
5. Any dumpster screening will be constructed with either a wood or a vinyl fence or masonry structure and will include a gate.
6. Signage will meet the standards of the Zoning Ordinance.
7. The applicant voluntarily submitted a written commitment. The applicant agreed to restrict all C3 uses with the exception of those required to permit the proposed storage facility. The applicant also agreed to restrict all C2 uses that are not permitted in the C1 district. The written commitment will allow all C1 uses.

These findings approved by the Fort Wayne Plan Commission on January 13, 2021.



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

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Hugh Johnston - Fort Wayne Storage, LLC
 Address 10050 Bent Creek Boulevard
 City Fort Wayne State Indiana Zip 46825
 Telephone (260) 414-2718 E-mail bflaming@rcidevelops.com (Brian Fleming)

Contact Person
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 Purpose of rezoning (attach additional page if necessary) _____
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Hugh Johnston _____ [Signature] 11/30/20
 (printed name of applicant) (signature of applicant) (date)
 Hugh Johnston _____ [Signature] 11/30/20
 (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.



Rezoning Petition REZ-2020-0051 and Primary Development Plan PDP-2020-0041 Till Road Storage - pkt



Although this preliminary analysis has been prepared in the completion of this report, it is not intended to be used as a guarantee of any results. The information contained herein is for informational purposes only and does not constitute an offer of insurance or any other financial product. © 2020 The American Property Insurance Association. North Carolina, October 1, 2020. State of North Carolina, Raleigh, NC. Written and Revised, Spring 2020. Page 12 of 20.



1 inch = 300 feet





Rezoning Petition REZ-2020-0051 and Primary Development Plan PDP-2020-0041 Till Road Storage - pkt



Although unnecessary, students have been employed in the acquisition of this map.

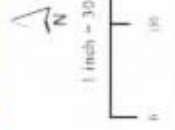
Allen County does not warrant or provide any accuracy of the information contained herein and shall not be liable for any errors or omissions in this map.

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State Plane Coordinate System, NAD83 Data

MapScale: 1:25,000

Date: 12/14/2020



Max. Height = 40'



View from Coldwater Road looking NorthEast at corner



FORT WAYNE
STORAGE

12.16.20

Max. Height = 40'



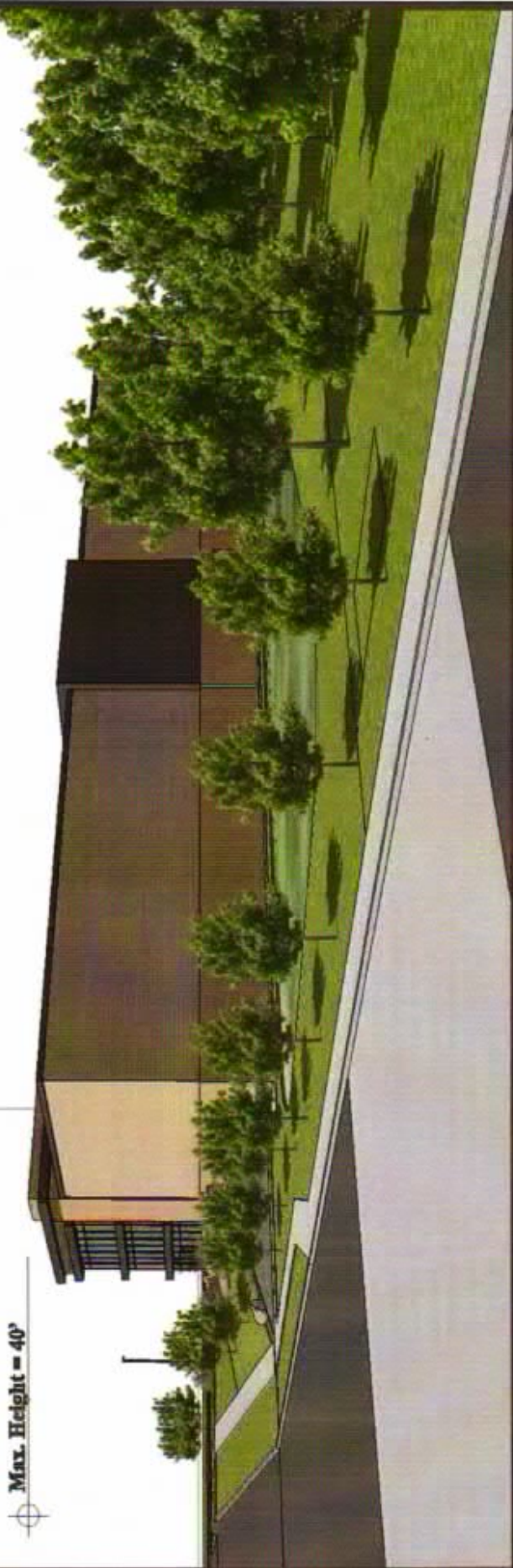
View from Coldwater Road looking East



FORT WAYNE
STORAGE

12.16.20

Max. Height = 40'



View from Coldwater Road looking South



12.16.20

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made as of this ___ day of _____, 2021, by HUGH W. JOHNSTON, SR., and MARY E. JOHNSTON, husband and wife (collectively, “Owners”), and FORT WAYNE STORAGE, LLC (herein the, “Declarant”), under the following circumstances:

WITNESSETH:

WHEREAS, Owners are the owners of record in fee simple of certain real estate located in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit “A” (herein, the “Real Estate”); and

WHEREAS, Declarant has submitted a Zoning Map Amendment Application with the City of Fort Wayne Plan Commission (“Plan Commission”), bearing number REZ-2020-0051 (the “Zoning Application”) and a Primary Development Plan Application (the “Development Plan Application”)(the Zoning Application and the Development Plan Application are sometimes referred to herein collectively as the “Applications”) with respect to its proposed development of the Real Estate; and

WHEREAS, pursuant to the Zoning Application, Declarant has requested the Real Estate be rezoned to C-3 pursuant to the City of Fort Wayne Zoning Ordinance (the “Ordinance”); and

WHEREAS, Declarant and Owners, in conjunction with the Applications, have submitted this written commitment to the Plan Commission, voluntarily, pursuant to section 157.503 of the Ordinance and Indiana Code 36-7-4-1015, for the purpose of limiting certain off site impacts and certain uses arising from development upon the Real Estate.

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarant and Owners hereby impress upon the Real Estate certain restrictions and covenants which shall run with the Real Estate and be binding upon Owners, Declarant and all future owners of the Real Estate, and all lessees of all or a portion of the Real Estate.

1. Use Limitations. All uses that are permitted as a matter of right in the C-2 (Limited Commercial) and C-3 (General Commercial) zoning districts pursuant to Sections 157.213 and 157.216 of the Ordinance, respectively, that are not also permitted as a matter of right in the C-1 (Professional Office and Personal Services) zoning district pursuant to Section 157.212 of the Ordinance shall be prohibited, except for a warehouse / storage facility. Notwithstanding anything contained herein to the contrary, and for purposes of the avoidance of doubt, all uses that are

permitted as a matter of right in the C-1 (Professional Office and Personal Services) zoning district pursuant to Section 157.212 of the Ordinance shall continue to be permitted uses on the Real Estate.

2. 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.

3. Successors and Assigns. This Commitment and the restrictions set forth above shall inure to the benefit of all persons who own property comprising the Real Estate, their successors and assigns, and shall also inure to the benefit of the Zoning Administrator of the City of Fort Wayne and the Plan Commission. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any conveyance thereof, shall be binding upon Owners, Declarant and their successors and assigns as owners of the Real Estate.

4. Enforcement Rights. The City of Fort Wayne Zoning Administrator (the "Zoning Administrator") and the Plan Commission each shall have the option (but not the obligation) to enforce this Commitment, at law or in equity, in the event of a breach of an obligation in this Commitment; and in the event such an enforcement action is commenced, the Zoning Administrator or the Plan Commission (as applicable) shall have the remedies allowed by the Ordinance (or the ordinance governing the Real Estate at the time of the enforcement action) and I.C. §36-7-4-1015, which remedies shall be cumulative and not exclusive. A violation of this Commitment shall be deemed a violation of the Ordinance, or the ordinance governing the Real Estate at the time of the violation; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel enforcement of it by the Zoning Administrator or the Plan Commission, or any successor agency having zoning jurisdiction over the Real Estate.

5. Amendment or Termination. Modification or amendment of this Commitment may only be made in accordance with I.C. § 36-7-4-1015, as such statute may be amended from time to time.

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

7. 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.

8. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

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

10. Statutory Authority. This Commitment is made pursuant to I.C. §36-7-4-1015(a).

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

EXHIBIT "A"

Lot 2, Jacob H. Feichter's Subdivision in Section 1, Washington Township, Allen County, Indiana as recorded in Plat Record 14B, page 76 in the Office of the Allen County Recorder, Feichter's Subdivision, more specifically described as follows: Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 1, Township 31 North, Range 23 East; thence North on an assumed bearing, 416.9 feet to a Railroad tie anchor post set in concrete; thence South 87 degrees 6 minutes East, 581.4 feet to a Railroad tie anchor post situated on the West right-of-way line of U.S. Highway #27; thence South 29 degrees 51 minutes West, on and along said West right-of-way line, 297.4 feet to an iron pin on the centerline of Old Coldwater Road; thence South 32 degrees 17 minutes West on and along the centerline of said Coldwater Road, 168.5 feet; thence South 89 degrees 7 minutes West, 319.3 feet to the place of beginning containing 4.29 acres more or less and subject to all legal highways.

REPORT OF COMMITTEE ON REGULATIONS
February 9, 2021

Tom Freistroffer Chair

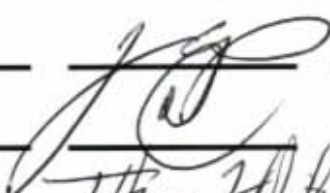


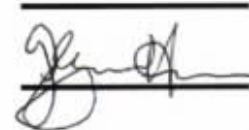

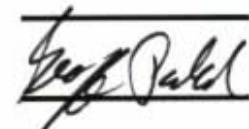
Geoff Paddock Co-Chair

All Council Members

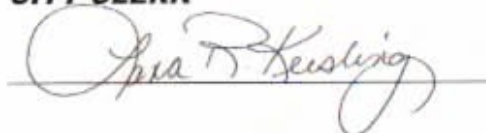
An Ordinance amending the City of Fort Wayne Zoning Map No. N-58 (Sec. 01 of Washington Township)

Rezone property from AR/Low Intensity Residential to C3/General Commercial at the northwest corner of Till Road and Coldwater Rd

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

<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
ARP			
CHAMBERS			
DIDIER			
ENSLEY			
FREISTROFFER			
HINES			
JEHL			
PADDOCK			
TUCKER			

LANA R. KEESLING
CITY CLERK



Public Hearing Date: January 13, 2021


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

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

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

DATED: February 9, 2021


LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
Zoning Ordinance No. Z-21-01-06 on the 9th day of February, 2021

ATTEST:


LANA R. KEESLING
CITY CLERK


PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th
of February 2021, at the hour of 9:50 o'clock A.M. E.S.T.


LANA R. KEESLING, CITY CLERK

Approved and signed by me this 10TH day of FEBRUARY
2021, at the hour of 10:30 o'clock AM E.S.T.


THOMAS C. HENRY, MAYOR

