

1 #REZ-2020-0053

2 BILL NO. Z-21-01-08

3
4 ZONING MAP ORDINANCE NO. Z- 6-21

5 AN ORDINANCE amending the City of Fort Wayne
6 Zoning Map No. H-07 (Sec. 16 of Wayne 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 an AR (Low
9 Intensity Residential) District under the terms of Chapter 157 Title XV of the Code of the City of
10 Fort Wayne, Indiana:

11 Part of the Northwest Quarter of Section 16, Township 30 North, Range 12 East, Allen County,
12 Indiana, more particularly described as follows:

13 Beginning at a Harrison monument marking the Southwest corner of the Northwest Quarter of
14 Section 16, Township 30 North, Range 12 East, Allen County, Indiana; thence North 00 degrees
15 38 minutes 23 seconds West (based on recorded bearing, INDOT INCORS datum and basis for
16 this description) along the West line of the Northwest Quarter of Section 16 a distance of 1012.32
17 feet, said point being 1660.36 feet South of a 1-inch plug marking the Northwest corner of the
18 Northwest Quarter of Section; thence North 89 degrees 21 minutes 37 seconds East 35.00 feet
19 to the East right-of-way line of Ardmore Avenue; thence North 00 degrees 38 minutes 23
20 seconds West along said right-of-way line a distance of 660.0 feet; thence North 23 degrees 35
21 minutes 16 seconds East along said right-of-way line a distance of 109.66 feet, to a point 80.0
22 feet East of the West line of the Northwest Quarter of Section 16; thence North 00 degrees 38
23 minutes 23 seconds West along said right-of-way line a distance of 655.0 feet; thence North 63
24 degrees 34 minutes 41 seconds East along said right-of-way line a distance of 161.08 feet;
25 thence North 49 degrees 47 minutes 03 seconds East along said right-of-way line a distance of
26 149.16 feet to a point on the South right-of-way line of Covington Road, said point being 80.00
27 feet South of the North line of the Northwest Quarter of Section 16; thence North 89 degrees 20
28 minutes 38 seconds East parallel to the North line of the Northwest Quarter of Section 16 and
29 along said right-of-way line a distance of 310.00 feet; thence North 82 degrees 49 minutes 37
30 seconds East along said right-of-way line a distance of 352.28 feet to a point 40.00 feet South of
the North line of the Northwest Quarter of Section 16; thence North 89 degrees 20 minutes 38
seconds East a distance of 200.88 feet to a point 66.00 feet (4.0 rods) West of the East line of
the West Half of the Northwest Quarter of Section 16; thence South 01 degrees 14 minutes 37
seconds East parallel to the East line of the West Half of the Northwest Quarter of Section 16 a
distance of 619.89 feet; thence North 89 degrees 14 minutes 26 seconds East a distance of
66.00 feet to a point on the East line of the West half of the Northwest Quarter of Section 16;
thence South 01 degrees 14 minutes 37 seconds East along the East line of the West Half of the
Northwest Quarter of Section 16 a distance of 2003.49 feet to the Southeast corner of the West
Half of the Northwest Quarter of Section 16; thence South 88 degrees 56 minutes 16 seconds
West along the South line of the Northwest Quarter of Section 16 a distance of 821.15 feet;
thence North 01 degrees 03 minutes 44 seconds West a distance of 200.00 feet ; thence South
88 degrees 56 minutes 16 seconds West a distance of 108.00 feet; thence South 01 degrees 03
minutes 44 seconds East a distance of 200.00 feet to a point on the South line of the Northwest
Quarter of Section 16; thence South 88 degrees 56 minutes 16 seconds West along the South
line of the Northwest Quarter of Section 16 a distance of 365.4 feet to the point of beginning,
containing 72.3398 acres.

1 Except:

2 Part of the West 40 acres of the West Half of the Northwest Quarter of Section 16, Township 30
3 North, Range 12 East, Allen County, Indiana, particularly described as follows:

4 Commencing at the Southwest corner of the Northwest Quarter of Section 16, Township 30
5 North, Range 12 East, said commencing point also being the intersection of Ardmore Avenue
6 centerline and Nuttman Avenue centerline; thence North 00 degrees 00 minutes 00 seconds East
7 (assumed) along the West line of said Northwest Quarter of Section 16 a distance of 25.00 feet,
8 said assumed bearing of the said West line being the basis for all remaining bearings; thence
9 North 89 degrees 31 minutes 23 seconds East parallel to and 25.00 feet from the South line of
10 said Northwest Quarter of Section 16 a distance of 35.00 feet to the intersection of existing East
11 right-of-way line of Ardmore Avenue and North right-of-way line of Nuttman Avenue, said point
12 also being the point of beginning; thence North 00 degrees 00 minutes 00 seconds East parallel
13 to and 35.00 feet East of said West line along said East right-of-way line of Ardmore Avenue a
14 distance of 102.70 feet; thence South 09 degrees 07 minutes 04 seconds East a distance of
15 82.04 feet to a point 35.00 feet North of said South line; thence North 89 degrees 31 minutes 23
16 seconds East parallel to and 35 feet from the said South line a distance of 126.00 feet; thence
17 South 00 degrees 29 minutes 37 seconds East a distance of 10.00 feet to a point 25.00 feet
18 North of said South line, said point also being on the existing North right-of-way line of Nuttman
19 Avenue; thence South 89 degrees 31 minutes 23 seconds West parallel to and 25.00 feet North
20 of said South line along said North right-of-way line of Nuttman Avenue a distance of 191.35 feet
21 to the point of beginning. The intent being to provide for permanent right-of-way on the East side
22 of Ardmore Avenue and North side of Nuttman Avenue.

23 and the symbols of the City of Fort Wayne Zoning Map No. H-07 (Sec. 16 of Wayne Township),
24 as established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is
25 hereby changed accordingly.

26
27 SECTION 2. If a written commitment is a condition of the Plan Commission's
28 recommendation for the adoption of the rezoning, or if a written commitment is modified and
29 approved by the Common Council as part of the zone map amendment, that written commitment
30 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.

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Council Member

APPROVED AS TO FORM AND LEGALITY:



Carol T. Helton, City Attorney

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Joshua R. McNeal
 Address 3522 Nuttman Avenue
 City Fort Wayne State IN Zip 46802
 Telephone 260-760-6072 E-mail ecko5point9@yahoo.com

Contact Person
 Contact Person Scott M. Federoff, Snyder Morgan Federoff & Kuchmay, LLP
 Address 4211 Clubview Drive
 City Fort Wayne State IN Zip 46804
 Telephone 260-602-8000 E-mail smf@smfklaw.com

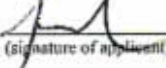
All staff correspondence will be sent only to the designated contact person.

Request
 Allen County Planning Jurisdiction City of Fort Wayne Planning Jurisdiction
 Address of the property 3522 Nuttman Avenue, Fort Wayne, IN 46802
 Present Zoning AR, MIP & R1 Proposed Zoning AR Acreage to be rezoned 74.5
 Proposed density N/A units per acre
 Township name Wayne Township section # 74
 Purpose of rezoning (attach additional page if necessary) To have consistent zoning for the entire property for agricultural use.
 Sewer provider Septic Water provider Well

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 Rezonings Only

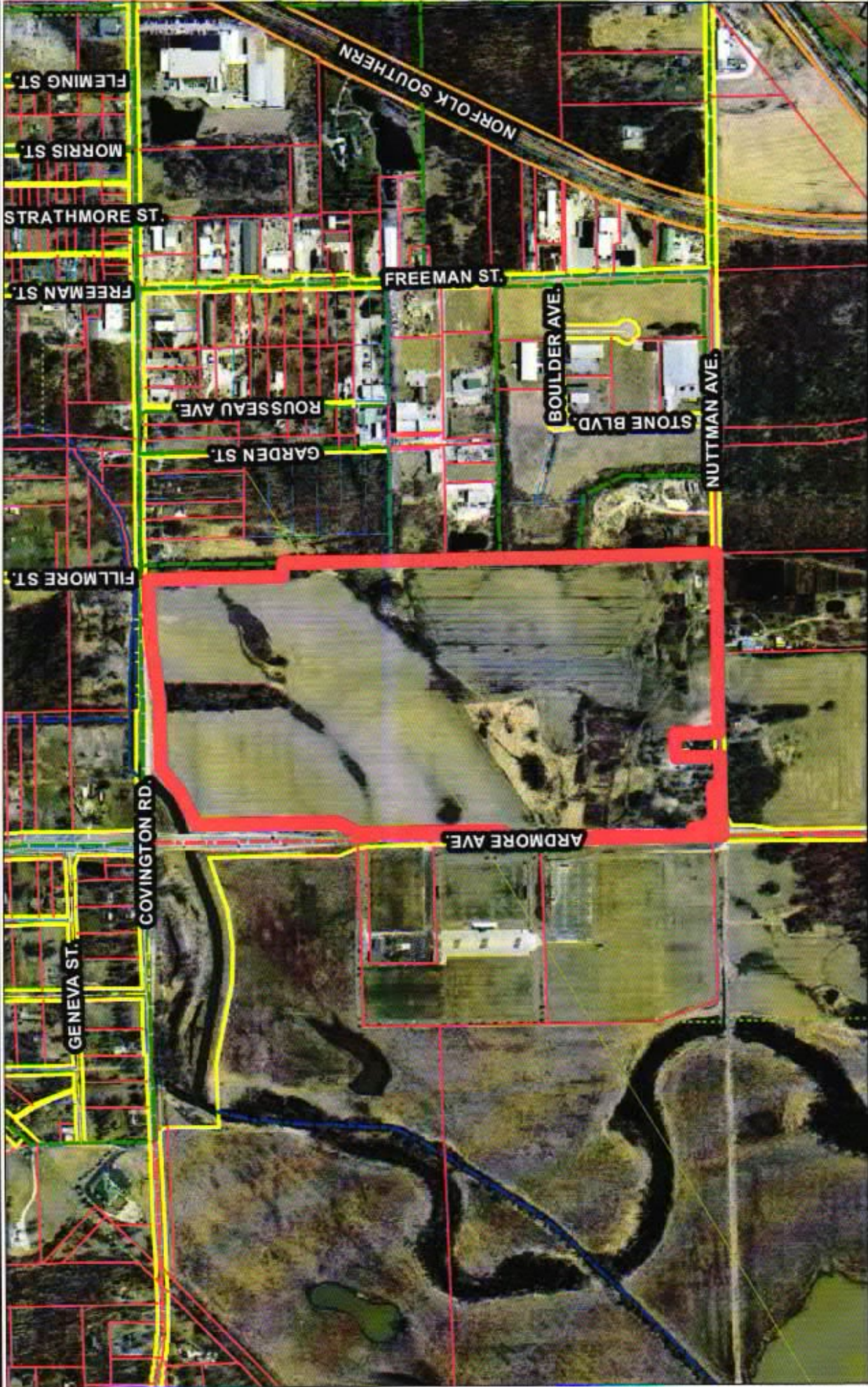
I/we understand and agree, upon execution and submission of this application, that I am/we are the owner(s) of more than 50 percent of the property described in this application; that I/we agree to abide by all provisions of the Allen County Zoning and Subdivision Control Ordinance as well as all procedures 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.

<u>Joshua R. McNeal</u> (printed name of applicant)	 (signature of applicant)	<u>11/6/2020</u> (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)

Received <u>11/9/20</u>	Receipt No. <u>135768</u>	Hearing Date	Petition No. <u>REZ-2020-0053</u>
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Rezoning Petition REZ-2020-0053 (3522 Nuttman)



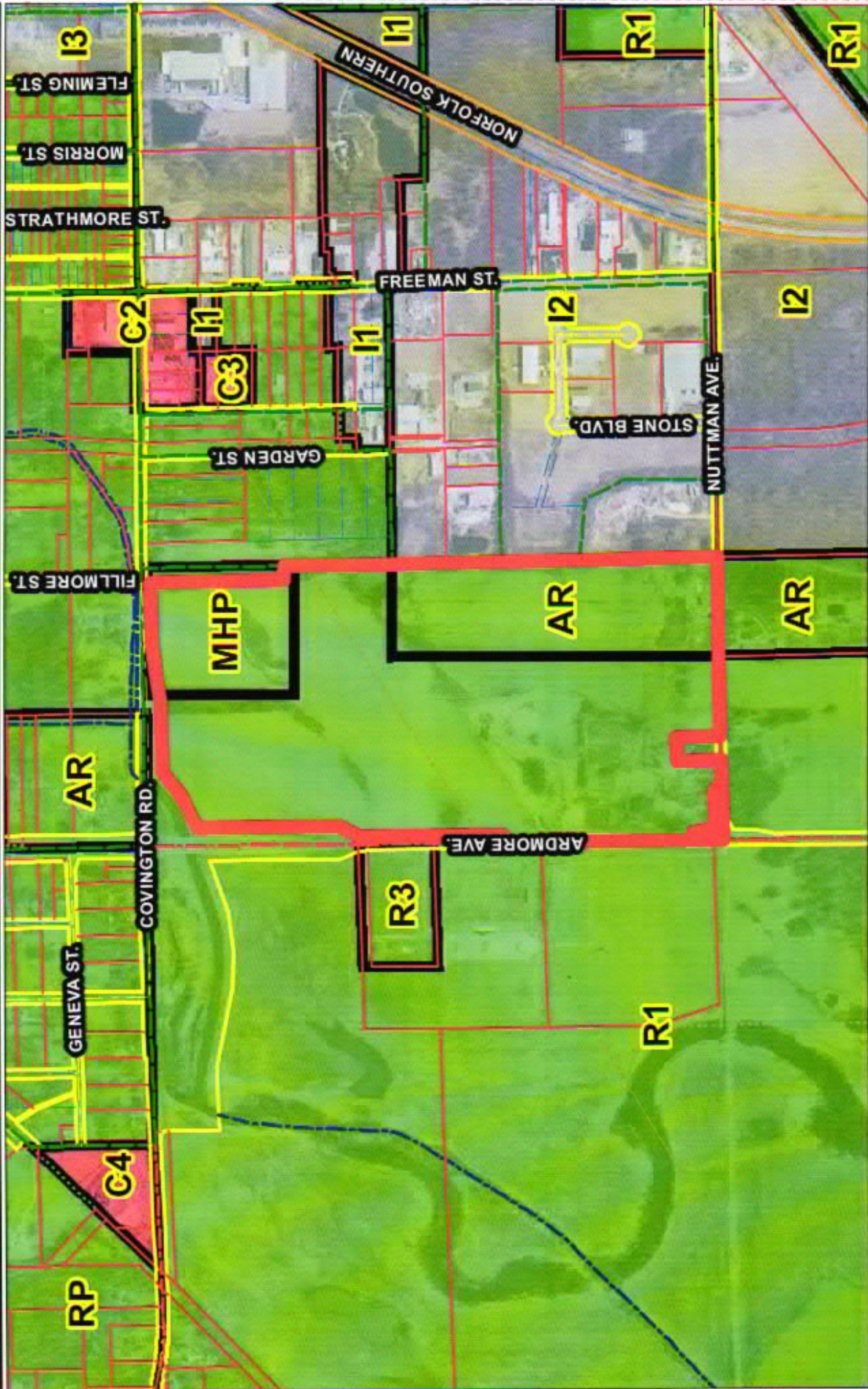
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© 2014 Board of Commissioners of the County of Adams
 North Adams, District 1083
 North Adams, District 1083
 Photo and Cartographic Spring 2009
 Date: 1/26/2020



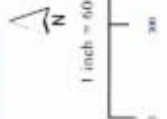


Rezoning Petition REZ-2020-0053 (3522 Nuttman)



Although not a survey, this map has been prepared in the compliance of the Georgia Surveying Act of 1967, which requires that all maps for the purpose of the subdivision of land, including the location of lots, be prepared by a licensed professional surveyor. This map was prepared by a licensed professional surveyor.

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 North American Datum 1983
 Data Source: Google Earth, 2019
 Date: 12/10/2020



City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2020-0053
Bill Number: Z-21-01-08
Council District: 5 – Geoff Paddock

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 74.5 acres from to R1/Single Family Residential and MHP/Manufactured Home Park to AR/Low Intensity Residential
Location: 3522 Nuttman Avenue
Reason for Request: To allow for the existing agricultural uses on the entire property.
Applicant: Joshua R. McNeal
Property Owner: Joshua R. McNeal

Related Petitions: none

Effect of Passage: Property will be rezoned to the AR/Low Intensity Residential zoning district, which allows residential uses as well as low intensity agricultural uses, as the property has been used for years.
Effect of Non-Passage: The property is currently zoned a mixture of AR, R1 and MHP. Most of the site is floodplain and unsuitable for planned development.

FACT SHEET

Case #REZ-2020-0053 Bill # Z-21-01-08 Project Start: December 2020	
APPLICANT:	Joshua R. McNeal
REQUEST:	To rezone property from AR/Low Intensity Residential, R1/Single Family Residential, and MHP/Manufactured Home Park to AR/Low Intensity Residential to allow for agricultural uses.
LOCATION:	The site is located on the south side of Covington Road, on the east side of Ardmore Avenue, and on the north side of Nuttman Ave. The address of the subject property is 3522 Nuttman Avenue (Section 16 of Wayne Township).
LAND AREA:	Approximately 74.5 acres
PRESENT ZONING:	AR/Low Intensity Residential, R1/Single Family Residential, and MHP/Manufactured Home Park
PROPOSED ZONING:	AR/Low Intensity Residential
COUNCIL DISTRICT:	5-Geoff Paddock
ASSOCIATED PROJECT:	none
SPONSOR:	City of Fort Wayne Plan Commission

January 13, 2020 Public Hearing

- No one from the public spoke at the public hearing.
- Tom Freistroffer, Justin Shurley and Rachel Tobin-Smith were absent.

January 13, 2020 Business Meeting

Plan Commission Recommendation: DO PASS

A motion was made by Judi Wire and seconded by Paul Sauerteig to return the ordinance with 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

- There are currently two residential structures on the property as well as several outbuildings.
- The site has historically been used for single family residential and agricultural uses.
- Floodplain covers over 2/3 of the property.

The petitioner is requesting to rezone the property zoned AR/Low Intensity Residential, R1/Single Family Residential, and MHP/Manufactured Home Park to AR/Low Intensity Residential. The area is zoned a mixture of R1/Single Planned Residential, AR/ Low Intensity Residential and Industrial. The site is located along the Junk Drain and a large area of mapped floodplain is covering the property. This greatly inhibits the ability for building and development on the property.

The applicant is requesting to be allowed the AR permitted uses on the site, which includes agricultural uses. Agricultural uses allowed in the AR district include agronomic crop production, along with the operation of any machinery or vehicles necessary for the crop production; apiculture; floriculture; forestry; horticulture; and low intensity livestock operation.

There is no associated primary development plan due to no additional buildings or development, but the applicant can further discuss the plans for the property. If there are issues with certain AR uses raised by the neighbors at the public hearing, a written commitment may be considered. Adjacent uses include: residential and agricultural (including a horse farm), industrial park, sports fields, and undeveloped, wooded industrial ground. The residential density is very low and there are no platted subdivisions in the area.

PUBLIC HEARING SUMMARY:

Presenter: Scott Federoff represented the applicant and presented the proposal as outlined above.

Public Comments:

none

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

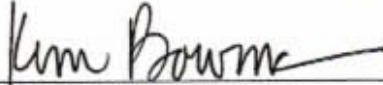
Rezoning Petition REZ-2020-0053

APPLICANT: Joshua R. McNeal
REQUEST: To rezone property from AR/Low Intensity Residential, R1/Single Family Residential, and MHP/Manufactured Home Park to AR/Low Intensity Residential to allow for agricultural uses.
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LAND AREA: Approximately 74.5 acres
PRESENT ZONING: AR/Low Intensity Residential, R1/Single Family Residential, and MHP/Manufactured Home Park
PROPOSED ZONING: AR/Low Intensity Residential

The Plan Commission recommends that Rezoning Petition REZ-2020-0053, 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 site has historically been farmed and due to the floodplain present on the site, it is suitable for further development. The highest and best use of the property would be to allow agricultural uses.
2. Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area. No new development is proposed on the site.
3. Approval is consistent with the preservation of property values in the area. Due to the floodplain on the site, further development would be extremely difficult.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. This proposal is not proposing extension of infrastructure. Public right-of-way with an improved street is adjacent to 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

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Joshua R. McNeal
 Address 3522 Nuttman Avenue
 City Fort Wayne State IN Zip 46802
 Telephone 260-760-6072 E-mail ecko5point9@yahoo.com

Contact Person
 Contact Person Scott M. Federoff, Snyder Morgan Federoff & Kuchmay, LLP
 Address 4211 Clubview Drive
 City Fort Wayne State IN Zip 46804
 Telephone 260-602-8000 E-mail smf@smfdaw.com

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


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Filing Requirements
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- 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.

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Rezoning Petition REZ-2020-0053 (3522 Nuttman)



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 1000 Mountain Drive, Suite 200
 New Market, Virginia, 22123
 Alex County, Virginia, 20109
 Date: 1/27/2020

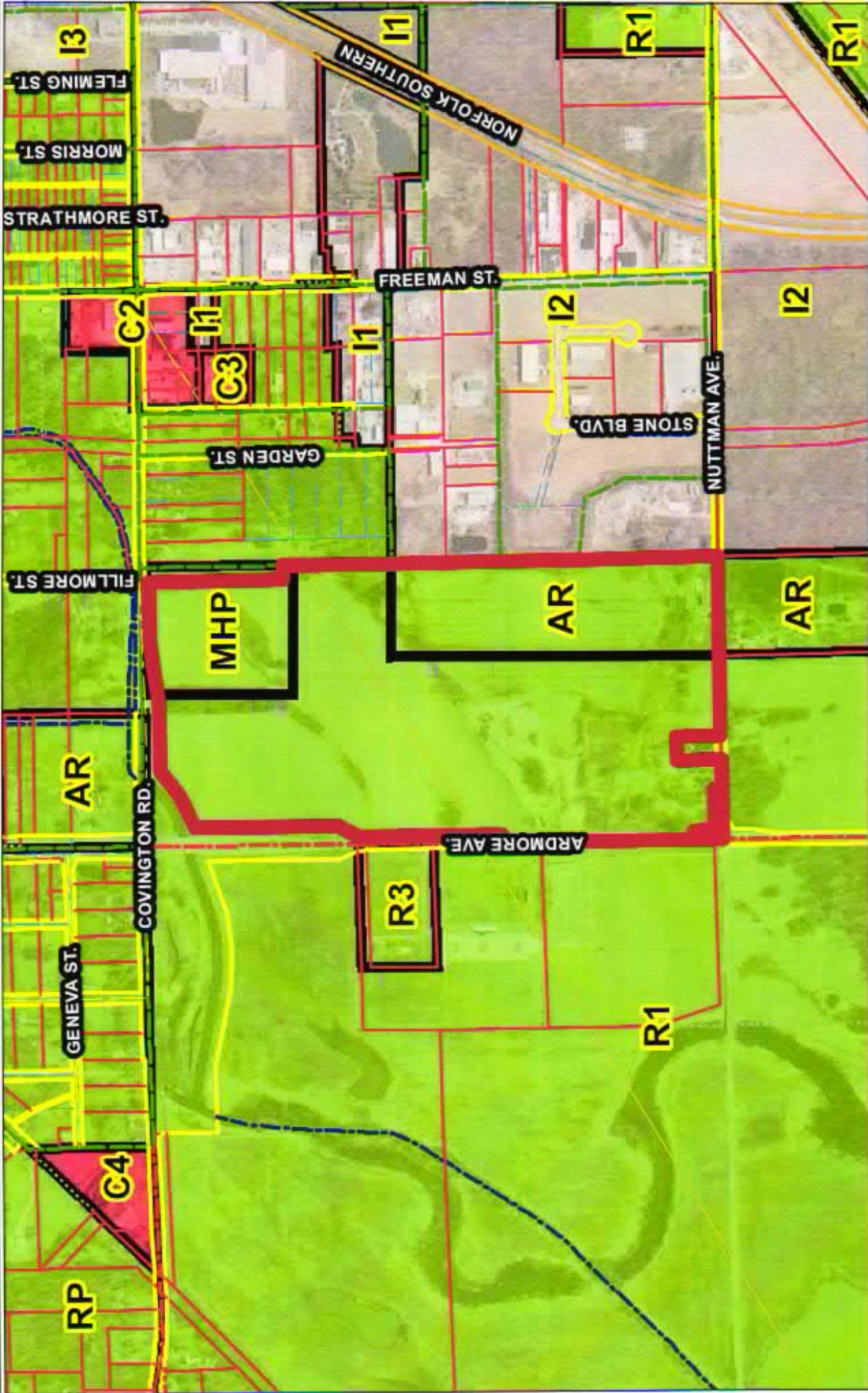


1 inch = 600 feet

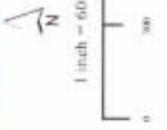




Rezoning Petition REZ-2020-0053 (3522 Nuttman)



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REPORT OF COMMITTEE ON REGULATIONS

February 9, 2021

Tom Freistroffer Chair



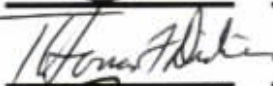

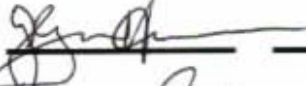

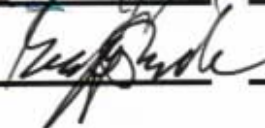
Geoff Paddock Co-Chair

All Council Members

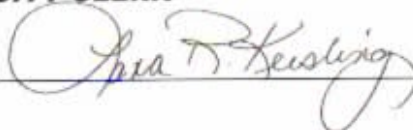
An Ordinance amending the City of Fort Wayne Zoning Map No. H-07 (Sec. 16 of Wayne Township)

To rezone 74.5 acres from R1/Single Family Residential and MHP/Manufactured Home Park to AR/Low Intensity Residential at 3522 Nuttman Avenue

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

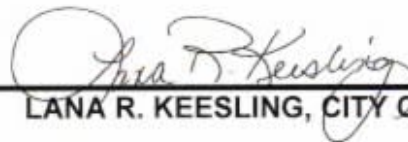
Read the first time in full and on motion by Councilperson Paddock.

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-21-01-08 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

