

1 #REZ-2021-0015

2 BILL NO. Z-21-05-08

3  
4 ZONING MAP ORDINANCE NO. Z-14-21

5 AN ORDINANCE amending the City of Fort Wayne  
6 Zoning Map No. R-14 (Sec. 32 of Saint Joseph 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 C2 (Limited  
10 Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort  
11 Wayne, Indiana:

12 Lot Numbered 21 of Delta Heights as recorded in Plat Book 11B, Page 84, in the Office of  
13 the Recorder of Allen County, Indiana.

14 and the symbols of the City of Fort Wayne Zoning Map No. R-14 (Sec. 32 of Saint Joseph  
15 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort  
16 Wayne, Indiana is hereby changed accordingly.

17  
18 SECTION 2. If a written commitment is a condition of the Plan Commission's  
19 recommendation for the adoption of the rezoning, or if a written commitment is modified and  
20 approved by the Common Council as part of the zone map amendment, that written  
21 commitment is hereby approved and is hereby incorporated by reference.

22

23

24

25

26

27

28


29

30

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

3  
4   
5 Council Member

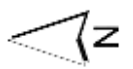
6 APPROVED AS TO FORM AND LEGALITY:

7   
8 Carol T. Helton, City Attorney

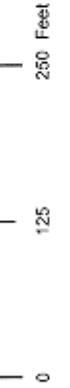
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30



REZ-2021-0015 1841 North Coliseum Boulevard



1 inch = 150 feet



© 2004 Board of Commissioners of the County of Allen  
North American Datum 1983  
State Plane Coordinate System, Indiana East  
Procs and Contours Spring 2009  
Date: 5/14/2021

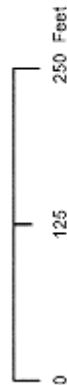
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.



REZ-2021-0015 1841 North Coliseum Boulevard

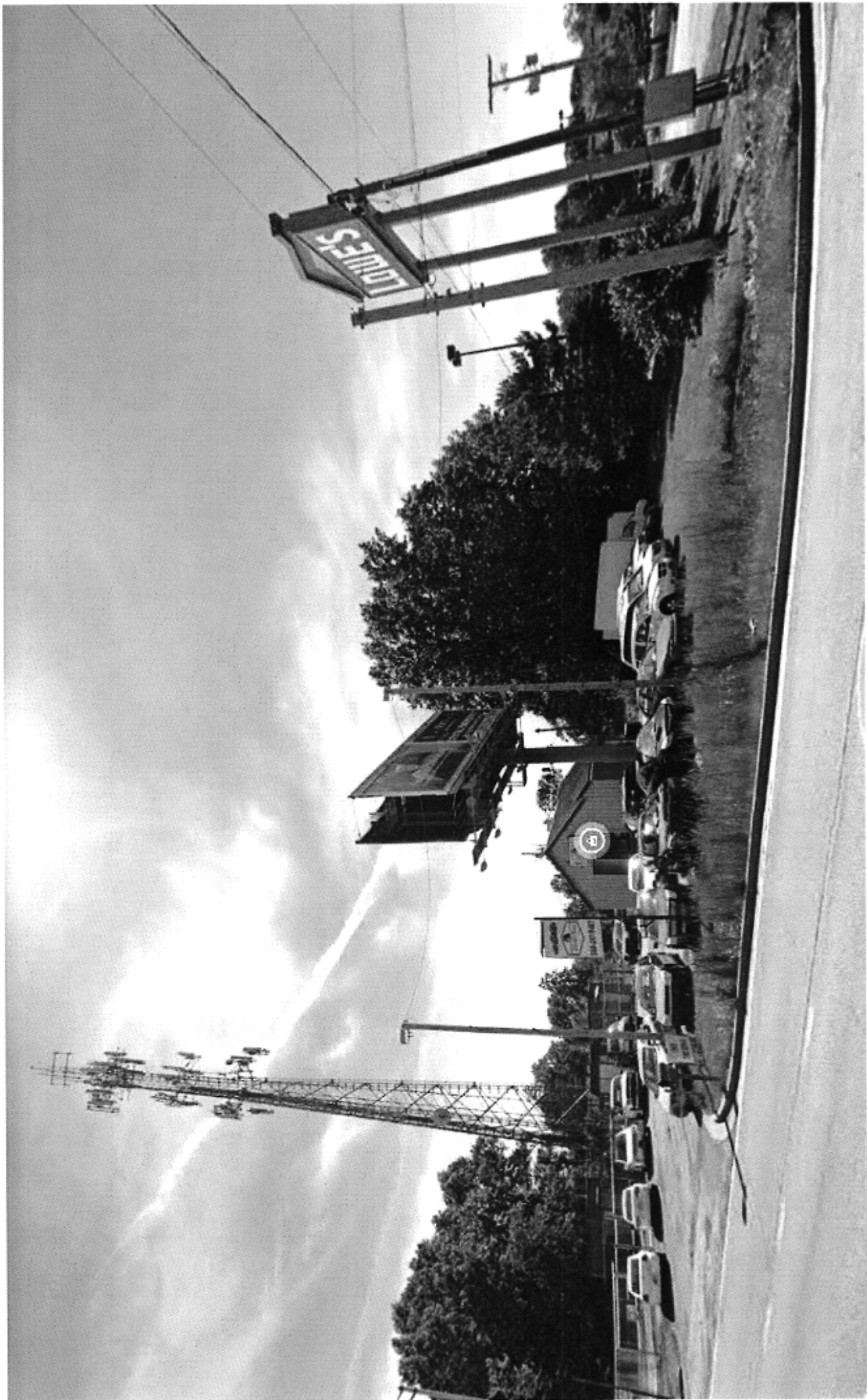


1 inch = 150 feet



© 2004 Board of Commissioners of the County of Allen  
 North American Datum 1983  
 State Plane Coordinate System, Indiana East  
 Photos and Contours: Spring 2009  
 Date: 5/14/2021

Although strict accuracy standards have been employed in the completion of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.



**Department of Planning Services  
Rezoning Petition Application**

**Applicant**  
 Applicant Pony Express Investments LLC  
 Address PO Box 8169  
 City Fort Wayne State Indiana Zip 46898-8169  
 Telephone 2604102974 E-mail houndbj@aol.com

**Contact Person**  
 Contact Person Kelli A Kline  
 Address 15918 Cascade Bluff Court  
 City Fort Wayne State IN Zip 46845  
 Telephone 2604102974 E-mail kelliprtygrl@gmail


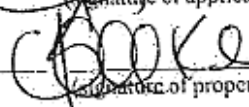
*All staff correspondence will be sent only to the designated contact person.*

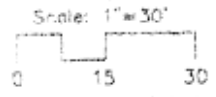
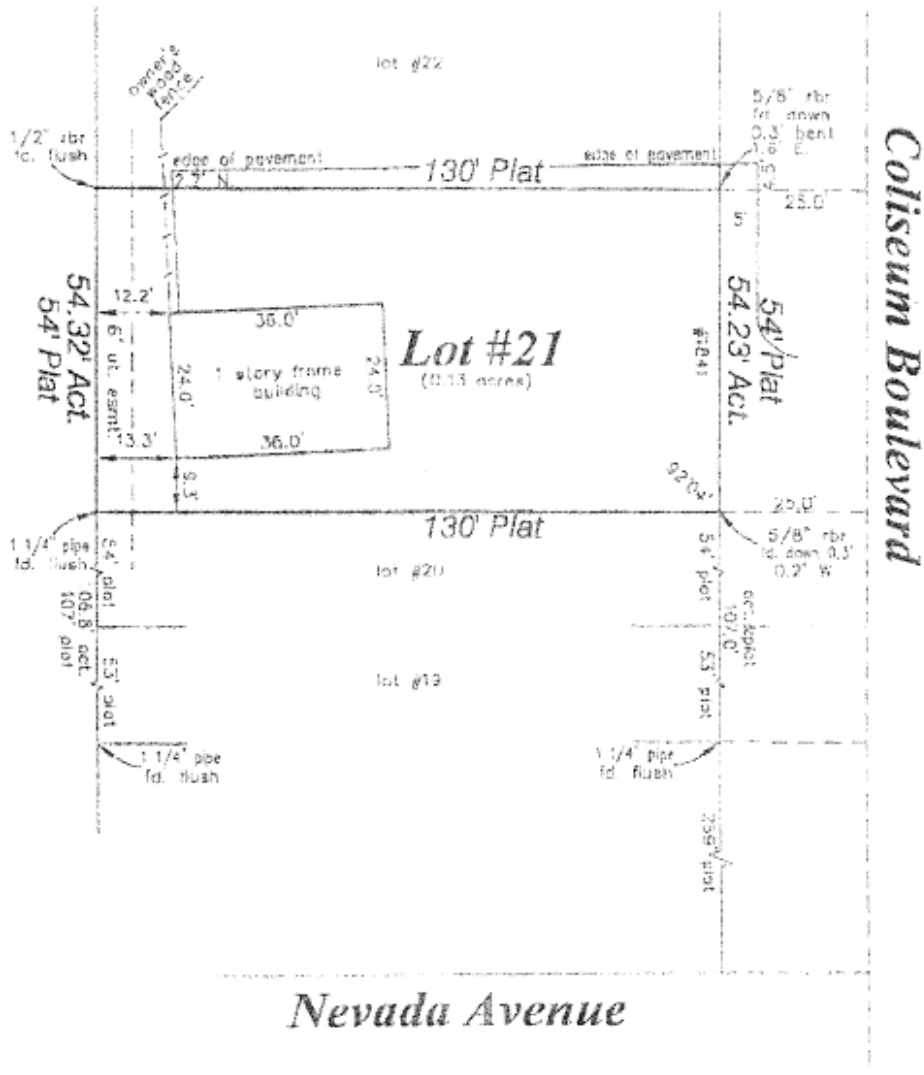
**Request**  
 Allen County Planning Jurisdiction  City of Fort Wayne Planning Jurisdiction  
 Address of the property 1841 North Coliseum Blvd  
 Present Zoning R-1 Proposed Zoning C-2 Acreage to be rezoned .2  
 Proposed density \_\_\_\_\_ units per acre  
 Township name \_\_\_\_\_ Township section # \_\_\_\_\_  
 Purpose of rezoning (attach additional page if necessary) \_\_\_\_\_  
the property and building has been used as a used car lot and auto repair service for 40 years and the new owners wish to have a permanent classification.  
 Sewer provider city 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 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.

Pony Express Investments LLC, Kelli Kline manager  
 \_\_\_\_\_ (printed name of applicant)  \_\_\_\_\_ (date) 9-8-2020  
 \_\_\_\_\_ (printed name of property owner)  \_\_\_\_\_ (date) \_\_\_\_\_  
 Pony Express Investments LLC, Kelli Kline manager \_\_\_\_\_ (date) 9-8-2020



Fieldwork completed on May 10, 2005.  
 This property is in Zone X as the description  
 plots by scale on Flood Insurance Rate Map No.  
 1800300150 F, effective November 5, 2003.  
 SURVEY NO. M5-0028-045  
 SURVEYED FOR: Pakizehjam, Fakrolzaman  
 DATE: May 24, 2005

*Sam L Faust*

SAM L. FAUST  
 REGISTERED LAND SURVEYOR NO. S0540



ENGINEERS / LAND SURVEYORS / CONSTRUCTION MANAGEMENT

*DELTA HEIGHTS LOT 21*

**LEGAL DESCRIPTION**

DELTA HEIGHTS LOT 21

City of Fort Wayne Common Council  
**DIGEST SHEET**

---

**Department of Planning Services**

Title of Ordinance: Zoning Map Amendment  
Case Number: REZ-2021-0015  
Bill Number: Z-21-05-08  
Council District: 1 – Paul Ensley

---

Introduction Date: May 25, 2021

Plan Commission  
Public Hearing Date: June 7, 2021 (not heard by Council)

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

---

Synopsis of Ordinance: To rezone 0.16 acres from R1/Single Family Residential to C2/Limited Commercial

Location: 1841 N. Coliseum Boulevard

Reason for Request: To bring an existing commercial building into compliance with the zoning ordinance.

Applicant: Pony Express Investments, LLC

Property Owner: Pony Express Investments, LLC

---

Related Petitions: none

---

Effect of Passage: Property will be rezoned to the C2/Limited Commercial zoning district, which will allow the restoration of the existing commercial building and allow for commercial uses on the site.

Effect of Non-Passage: The property will remain zoned for single family residential uses and may redevelop as such, or a Board of Zoning Appeals approval would be needed for a commercial use. The site has been used commercially for over 35 years.

## FACT SHEET

Case #REZ-2021-0015		Bill # Z-21-05-08	Project Start: May 2021
APPLICANT:	Pony Express Investments LLC		
REQUEST:	To rezone property from R1/Single Family Residential to C2/Limited Commercial		
LOCATION:	The address of the subject property is 1841 North Coliseum Blvd. (Section 32 of St. Joseph Township).		
LAND AREA:	Approximately 0.2 acre		
PRESENT ZONING:	R1/Single Family Residential		
PROPOSED ZONING:	C2/Limited Commercial w/Written Commitment		
COUNCIL DISTRICT:	1-Paul Ensley		
ASSOCIATED PROJECT:	none		
SPONSOR:	City of Fort Wayne Plan Commission		

### June 14, 2021 Public Hearing

- One property owner spoke at the hearing with concerns.
- Ryan Neumeister and Justin Shurley were absent.

### June 21, 2021 Business Meeting

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

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

#### 7-0 MOTION PASSED

- Ryan Neumeister and Justin Shurley were absent.

Fact Sheet Prepared by:  
Michelle B. Wood, Senior Land Use Planner  
July 2, 2021

## PROJECT SUMMARY

### SITE HISTORY:

- The commercial structure was built on the site in 1957 according to the property record card.

### STAFF DISCUSSION:

The petitioner requests to rezone from R1/Single Family Residential to C2/Limited Commercial to allow the existing commercial structure to be utilized as such. The most recent use of the property was car sales, and it appears that commercial uses have been occurring since at the least the 1980's. The car sales have been abandoned, the site purchased by the current applicant, and remodeling has been taking place. Besides it's relatively small size, one constraint of this parcel has been the lack of public sewer. The applicant now has a contract with the City of Fort Wayne to install sewer. The intent is to lease the newly renovated building for an office or light commercial business. The site currently appears able to accommodate about 8 to 10 parking spaces. The proposed zoning would no longer allow for outdoor car sales, but would allow the flexibility to use the site for more size appropriate commercial uses. The site is no longer conducive to residential use, considering the size and location on Coliseum Boulevard. The property immediately north is owned by Lowes and contains a billboard. The property immediately south is owned by Pinnacle Towers and contains communication utilities.

The applicant has signed a voluntary Written Commitment to restrict more intensive and/or auto related uses from the C2/Limited Commercial district, while still allowing for flexibility to lease the space.

### PUBLIC HEARING SUMMARY:

Presenter: Chuck Downey, property owner, presented the proposal as outlined above.

### Public Comments:

none

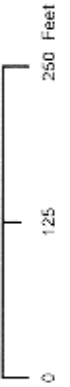


REZ-2021-0015 1841 North Coliseum Boulevard

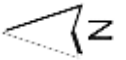


Although strict accuracy standards have been employed in the compilation of this map, Alameda County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 2004 Board of Commissioners of the County of Alameda  
North American Datum 1983  
State Plane Coordinate System, Indiana East  
Photos and Contours: Spring 2009  
Date: 5/14/2021



1 inch = 150 feet



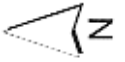


REZ-2021-0015 1841 North Coliseum Boulevard

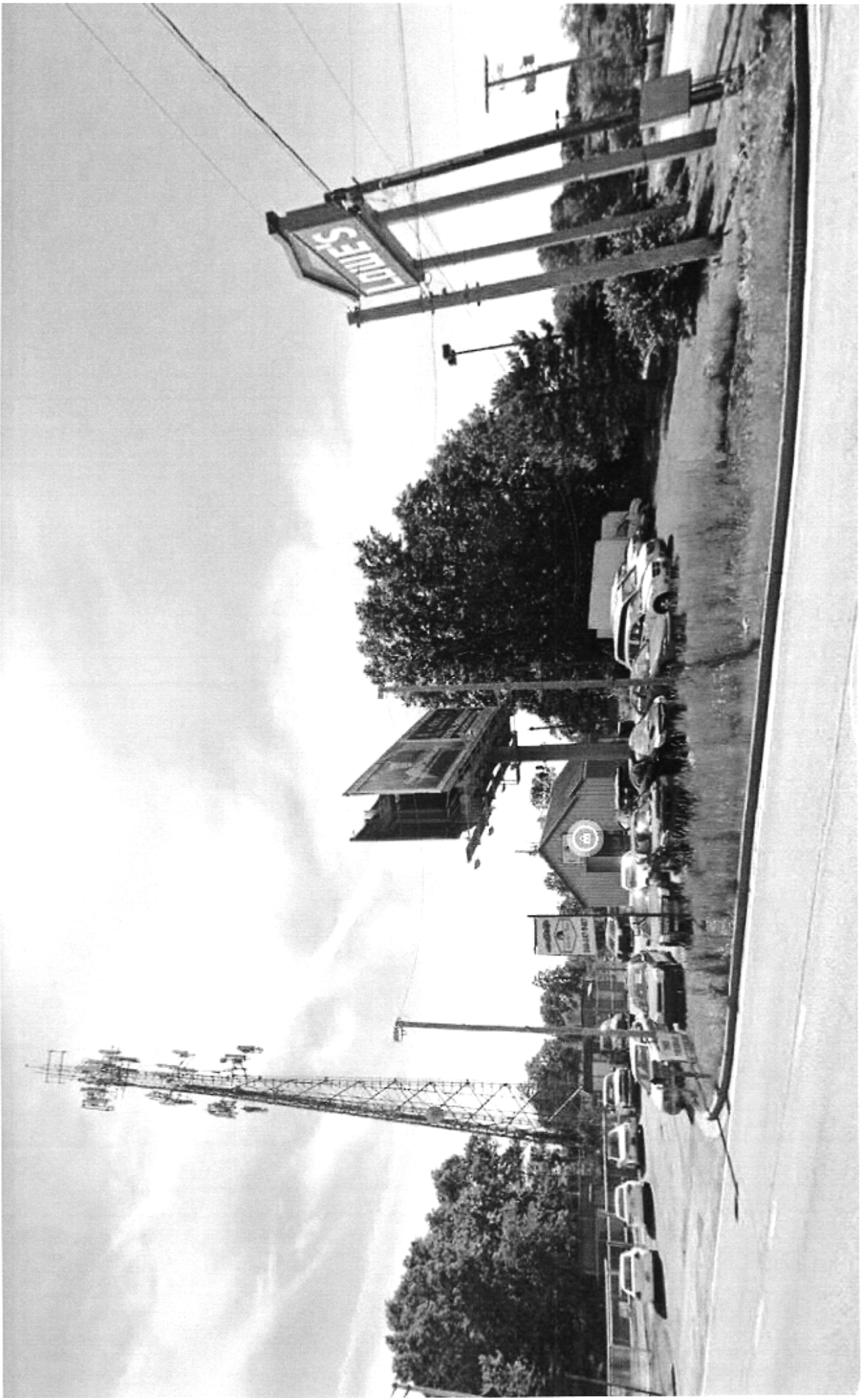


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 2004 Board of Commissioners of the County of Allen  
 North American Datum 1983  
 State Plane Coordinate System, Indiana East  
 Photos and Contours: Spring 2009  
 Date: 5/14/2021



1 inch = 150 feet



## WRITTEN COMMITMENT

**THIS WRITTEN COMMITMENT** (“Commitment”) is made this \_\_\_ day of \_\_\_\_\_, 2021 by Pony Express Investments, LLC, an Indiana domestic limited liability company (the “Declarant”).

### WITNESSETH:

**WHEREAS**, Declarant is the owner of approximately 0.2 acres of real estate located at 1841 North Coliseum Boulevard 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 R1/Single Family Residential to a C2/Limited Commercial zoning district, bearing number REZ-2021-0015 (the “Petition”), which Petition has been approved by the City of Fort Wayne Plan Commission (the “Plan Commission”) and 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) Assisted living facility
- 2) Banquet hall
- 3) Bar
- 4) Bed and breakfast
- 5) Billiard or pool hall
- 6) Bingo establishment
- 7) Blood bank
- 8) Blood or plasma donor facility
- 9) Boarding house
- 10) Bowling alley
- 11) Brewery
- 12) Campus housing
- 13) Department store

- 14) Dinner theater
- 15) Dormitory
- 16) Entertainment facility
- 17) Fraternity house
- 18) Funeral home
- 19) Supermarket
- 20) Group residential facility (large)
- 21) Group residential facility (small)
- 22) Homeless shelter <sup>(1)</sup>
- 23) Hospice care center
- 24) Hospital
- 25) Hot tub sales
- 26) Hotel
- 27) Live-work unit
- 28) Motel
- 29) Multiple family complex
- 30) Multiple family dwelling
- 31) Nursing home
- 32) Parking area
- 33) Parking area (off-site)
- 34) Parking structure
- 35) Public transportation facility
- 36) Reception hall
- 37) Rescue mission
- 38) Residential facility for homeless individuals (up to 8)
- 39) Restaurant, including drive-through
- 40) Retirement facility
- 41) Skating rink
- 42) Sorority house
- 43) Swim club
- 44) Tavern
- 45) Taxi service
- 46) Tennis club
- 47) Theater
- 48) Tire sales
- 49) Townhouse complex
- 50) Zoo

2. Permitted Uses. Any use otherwise permitted in a C2 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. 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.

4. 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 following a public hearing held by the Plan Commission wherein notice has been given as provided by the Plan Commission's rules of procedure.
5. 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.
6. 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, 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, 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, or any enforcement official designated in the zoning ordinance are cumulative, not exclusive.
7. 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.
8. 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 2017041729.
9. 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.
10. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
11. 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.]

“DECLARANT”

PONY EXPRESS INVESTMENTS, LLC,  
an Indiana domestic limited liability company

By: \_\_\_\_\_

Printed Name: Kelli Kline

Title: Manager

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF ALLEN        )

Before me, the undersigned, a Notary Public, in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 2021 personally appeared \_\_\_\_\_, manager of Pony Express Investments, LLC 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 Michelle Wood, Department of Planning Services, 200 East Berry Street, Suite 150, Fort Wayne, Indiana 46801.

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. Michelle B. Wood.

**When Recorded, mail to:** Pony Express Investments, P.O. Box 8169, Fort Wayne, Indiana 46898-8169.

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF REAL ESTATE**

Lot Numbered 21 of Delta Heights as recorded in Plat Book 11B, Page 84, in the Office of the Recorder of Allen County, Indiana.

**Department of Planning Services  
Rezoning Petition Application**

**Applicant**  
 Applicant Pony Express Investments LLC  
 Address PO Box 8169  
 City Fort Wayne State Indiana Zip 46898-8169  
 Telephone 2604102974 E-mail houndbj@aol.com

**Contact Person**  
 Contact Person Kelli A Kline  
 Address 15918 Cascade Bluff Court  
 City Fort Wayne State IN Zip 46845  
 Telephone 2604102974 E-mail kelliprtygrl@gmail

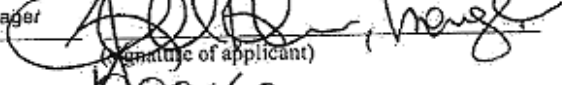

*All staff correspondence will be sent only to the designated contact person.*

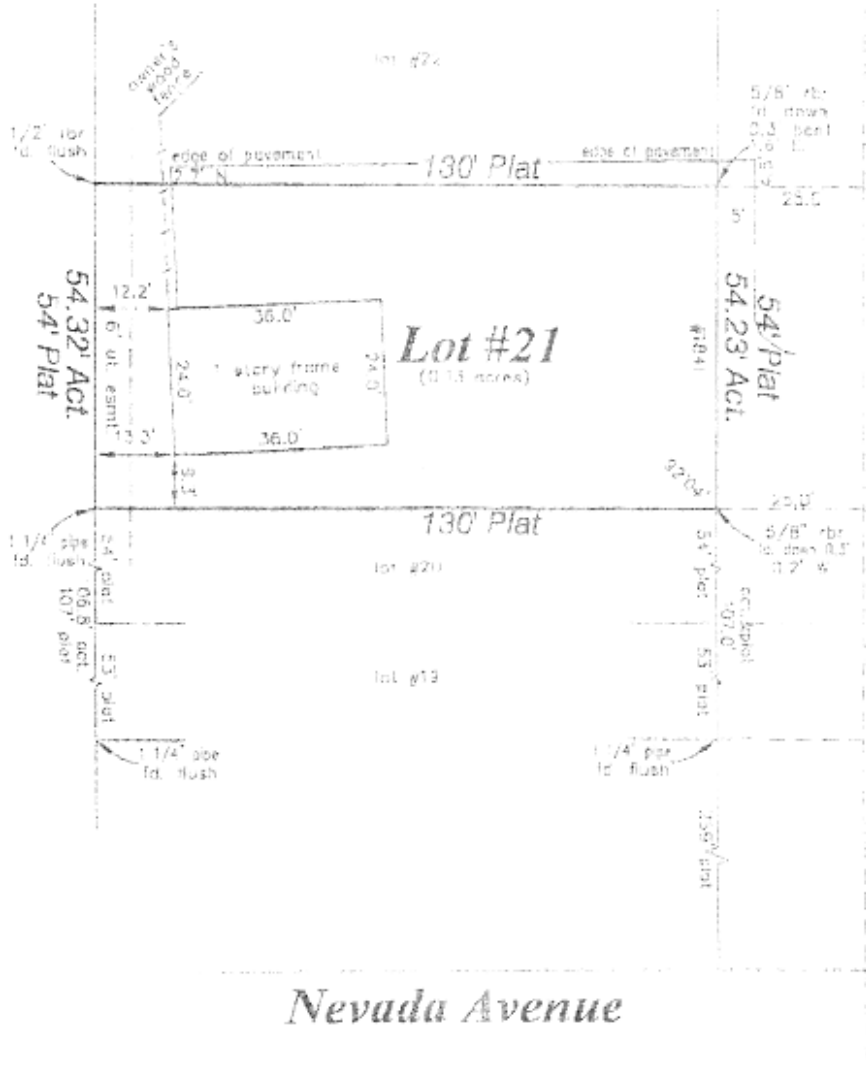
**Request**  
 Allen County Planning Jurisdiction  City of Fort Wayne Planning Jurisdiction  
 Address of the property 1841 North Coliseum Blvd  
 Present Zoning R-1 Proposed Zoning C-2 Acreage to be rezoned .2  
 Proposed density \_\_\_\_\_ units per acre  
 Township name \_\_\_\_\_ Township section # \_\_\_\_\_  
 Purpose of rezoning (attach additional page if necessary) \_\_\_\_\_  
the property and building has been used as a used car lot and auto repair service for 40 years and the new owners wish to have a permanent classification.  
 Sewer provider city 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 Rezoning Only

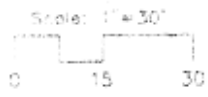
I/We understand and agree, upon execution and submission of this application, that I am/we are the owner(s) of more than 50 percent of the property described in this application; that I/we agree to abide by all provisions of the Allen County Zoning and Subdivision Control Ordinance as well as all procedures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

Pony Express Investments LLC, Kelli Kline manager  
 (printed name of applicant)  9-8-2020  
 (signature of applicant) (date)  
 \_\_\_\_\_  
 (printed name of property owner)  \_\_\_\_\_  
 (signature of property owner) (date)  
 Pony Express Investments LLC, Kelli Kline manager 9-8-2020



Coliseum Boulevard

Nevada Avenue



Fieldwork completed on May 10, 2005.  
 This property is in Zone X as the description  
 plots by scale on Flood Insurance Rate Map No  
 1800300150 F, effective November 5, 2003.  
 SURVEY NO. M5-0028-045  
 SURVEYED FOR: Pakizehjam, Fakrolizaman  
 DATE: May 24, 2005

*Sam L Faust*  
 SAM L. FAUST  
 REGISTERED LAND SURVEYOR NO. 50540



ENGINEERS / LAND SURVEYORS / CONSTRUCTION MANAGEMENT

*DELTA HEIGHTS LOT 21*

LEGAL DESCRIPTION

DELTA HEIGHTS LOT 21

**BILL NO. Z-21-05-08**

**REPORT OF COMMITTEE ON REGULATIONS**

**July 6, 2021**


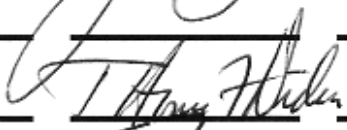


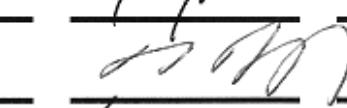

***Geoff Paddock Chair***

***Tom Freistroffer Co-Chair***

***All Council Members***

An Ordinance amending the City of Fort Wayne Zoning Map No. R-14 (Sec. 32 of Saint Joseph Township) - To rezone 0.16 acres from R1/Single Family Residential to C2/Limited Commercial at 1841 N. Coliseum Blvd

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: June 7, 2021

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 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 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: July 13, 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-21-05-08 on the 13th day of July, 2021

ATTEST:

  
LANA R. KEESLING  
CITY CLERK

  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th  
of July 2021, at the hour of 10:30 o'clock A.M. E.S.T.

  
LANA R. KEESLING, CITY CLERK

Approved and signed by me this 14<sup>th</sup> day of JULY 2021, at the  
hour of 1:00 o'clock PM E.S.T.

  
THOMAS C. HENRY, MAYOR

