

1 **#REZ-2021-0068**

2 **BILL NO. Z-22-01-07**

3
4 **ZONING MAP ORDINANCE NO. Z-4-22**

5 **AN ORDINANCE amending the City of Fort Wayne**
6 **Zoning Map No. A-02 (Sec. 11 of Aboite Township)**

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

10 SECTION 1. That the area described as follows is hereby designated a C1
11 (Professional Office and Personal Services) District under the terms of Chapter 157 Title XV
12 of the Code of the City of Fort Wayne, Indiana:

13 Lot Number 1 on the Plat of Centaur Acres, a Subdivision in the North half of Section 11,
14 Township 30 North, Range 11 East, in Allen County, Indiana, in accordance with the plat
15 thereof, recorded in Plat Record 24, pages 101-102 and Amended and Restated as
16 Document Number 2009056323 in the Office of the Recorder of Allen County, Indiana.

17 Excepting therefrom that part sold off to the State of Indiana by Warranty Deed recorded
18 June 30, 2007 as Document Number 2007036729 and recorded December 13, 2007 as
19 Document Number 2007068212 more fully described as follows:

20 A part of Lot 1 in Centaur Acres, an addition to the City of Fort Wayne, Indiana, the plat of
21 which is recorded in Plat Book 24, page 101, in the Office of the Recorder of Allen County,
22 Indiana, and being that part of the grantors' land lying with the right-of-way lines depicted
23 on the Right-of-Way Parcel Plat marked as Exhibit "B", described as follows: Beginning at
24 the northwest corner of said lot; thence South 89 degrees 49 minutes 46 seconds East
25 346.00 feet along the north line of said lot to the northeast corner of said lot; thence South
26 1 degree 01 minutes 13 seconds West 19.06 feet along the east line of said lot to point
27 "2065" designated on said parcel plat; thence North 89 degrees 49 minutes 46 seconds
28 West 77.74 feet to point "2064" designated on said parcel plat; thence South 87 degrees 18
29 minutes 30 seconds West 65.70 feet to point "2063" designated on said parcel plat; thence
30 North 89 degrees 49 minutes 46 seconds West 202.49 feet to the west line of said lot;
thence North 0 degrees 29 minutes 55 seconds East 22.34 feet along said west line to the
point of beginning and containing 7,364 square feet, more or less.

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

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Wayne, Indiana is hereby changed accordingly.

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

2022010505

RECORDED: 02/23/2022 10:45:31 AM

**ANITA MATHER
ALLEN COUNTY RECORDER
FORT WAYNE, IN**

Tax ID. No: 02-11-11-201-001.000.075

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (this "Commitment") is made effective as of 22nd day of February, 2022, by **Barbara A. Browne** ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner, by virtue of a deed recorded as Instrument No. 960062826 of the records of the Recorder's Office of Allen County, Indiana, of certain real estate commonly known as 1114 E. Goldspur Drive, Fort Wayne, Indiana (the "Real Estate"), which Real Estate is more particularly described in **Exhibit "A"**, attached hereto; and

WHEREAS, Declarant filed a Primary Development Plan Application numbered PDP-2021-0049, which Primary Development Plan included a C1 Rezoning Petition Application numbered REZ-2021-0068 (the C1 Rezoning Petition Application numbered REZ-2021-0068, as part of the overall Primary Development Plan, is hereinafter referred to as the "Application"), which Application has been approved by the Fort Wayne Plan Commission (the "Plan Commission") and the Fort Wayne Common Council (the "City Council"); and

WHEREAS, pursuant to the Application, the Real Estate has been rezoned "C1 Professional Office and Personal Services" pursuant to the Fort Wayne Zoning Ordinance effective as of October 10, 2019 (the "Ordinance"); and

WHEREAS, Declarant has submitted this Commitment, voluntarily, pursuant to the Ordinance and I.C. 36-7-4-1015 for the purpose of limiting certain off site impacts and certain permitted uses arising from the development of the Real Estate; and

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

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 all or any portion of the Real Estate, and all lessees of all or any portion of the Real Estate.

1. **Use Restrictions.** Notwithstanding the provisions set forth in Sections 157.212(B) and 157.212(C) of the Ordinance, which describe the specific permitted uses and special uses in a C1 Professional Office and Personal Services District (the "C1 District"), the Real Estate may not be used for the purposes and uses described in the attached **Exhibit "B"**.

2. **Primary Development Plan.** Notwithstanding anything contained in the Application to the contrary, Declarant hereby covenants as follows: (a) that the size of the building set forth in the Primary Development Plan shall not exceed Eight Thousand, Five Hundred (8,500) square feet; (b) that

the number of parking spaces on the Real Estate, as part of any future development of the Real Estate, shall be limited to sixty (60); and (c) that Declarant, or her successors, if and when the Primary Development Plan is implemented, shall install, or cause to be installed, a total of three (3) lanes on Goldspur Drive (consisting of two (2) northbound lanes and one (1) southbound lane), in the general area set forth on the site plan attached hereto as **Exhibit "C"**, subject to the applicable requirements of the City of Fort Wayne's Traffic Engineering and Stormwater Engineering departments. Items (a) - (c) herein are collectively referred to as the "Plan Covenants". For avoidance of doubt, the Plan Covenants are not intended to (and do not) amend the Application.

3. **Required Building Materials.** Except with respect to any existing improvement or structure set forth on Declarant's Primary Development Plan, materials selected for any building or addition located upon the Real Estate shall be durable and honestly expressed. The choice of material should be guided by functional and aesthetic concerns, free of gimmicks or faux finishes. A given material should read clearly and expressively and not try to mask its identity.

Building materials that will be encouraged for any new building or addition located upon the Real Estate shall include:

- Steel/aluminum curtain wall
- Concrete
- Precast concrete/finished concrete masonry units
- Stone
- Brick
- Glass, tinted and clear

Building materials that are inappropriate for any new building or addition located upon the Real Estate shall include:

- Exposed plywood or exposed wood
- Corrugated or pre-engineered metals
- Unfinished concrete masonry units
- Gypsum wall panels
- Plastics

4. **Hours of Operation.** Businesses will be allowed to operate in the ordinary course during the hours of 6:30 a.m. – 9:00 p.m., Monday – Friday, and 8:00 a.m. – 5:00 p.m., Saturday. To be found in violation of this covenant, any party seeking enforcement must demonstrate a pattern of non-compliance. Isolated incidents of non-compliance shall not be considered a violation of this Commitment.

5. **Permits.** No permits shall be issued under the City of Fort Wayne Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder and a recorded and executed copy of the Commitment is delivered to the Zoning Administrator.

6. **Successors and Assigns.** This Commitment and the restrictions and limitations set forth herein shall be binding upon Declarant, and her successors and assigns, and shall also inure to the benefit of the Zoning Administrator of Fort Wayne (the "Zoning Administrator") and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any conveyance thereof, shall be binding upon Declarant and her successors and assigns as owners of the Real Estate, and

shall have an initial term of twenty-five (25) years, with successive terms of ten (10) years each unless terminated pursuant to the provisions of Section 7 below.

7. **Enforcement.** Any violation of this Commitment shall be deemed a violation of the Ordinance. Pursuant to I.C. 36-7-4-1015, the Plan Commission, or any enforcement official designated by the Ordinance, shall be entitled to enforce this Commitment, at law or in equity, in the event of any breach of the obligations contained herein; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel the enforcement of this Commitment by the Plan Commission or any enforcement official designated by the Ordinance, or any successor agency having zoning jurisdiction over the Real Estate. The Plan Commission, or any enforcement official designated by the Ordinance, shall have the remedies provided for in the Ordinance, or the ordinance covering 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.

8. **Modification and Termination.** This Commitment may be amended or terminated upon application by any persons who own the Real Estate, or any portion thereof, and only with the prior written consent of the Plan Commission, following a public hearing to consider said amendment or termination. This Commitment shall not be amended or terminated unless, after the public hearing, the Plan Commission makes the following determinations as part of its consent: (i) implementation of the amendment or termination will not be injurious to the public health, safety and general welfare of the owners of real property in Centaur Acres subdivision, and (ii) the use and value of the real property adjacent to the Real Estate will not be affected in a substantially adverse manner by implementation of the amendment or termination.

9. **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 in Centaur Acres subdivision, the Zoning Administrator of the City of Fort Wayne and the Plan Commission. As a condition precedent to the bringing of any lawsuit or initiating any action for temporary, preliminary and permanent injunctive relief as provided herein, the party desiring to bring said action shall first provide Declarant, or the then existing owner(s) of the Real Estate, thirty (30) days prior written notice of the breach or violation, or threatened breach or violation, of the terms, restrictions or covenants of this Commitment.

10. **Effective Date.** This Commitment shall be effective upon being duly recorded in the Office of the Recorder of Allen County, Indiana.

11. **Statutory Authority.** This Commitment is made by Owner and Applicant pursuant to I.C. 36-7-4-1015.

12. **Governing Law.** This Commitment, including the restrictions and covenants contained herein, shall be governed by the laws of the State of Indiana.

13. **Counterparts.** This Commitment may be executed in multiple counterparts, and transmitted via email or facsimile, each of which shall be deemed an original and all of which together shall constitute one instrument.

14. **Affirmation Regarding William A. Browne.** Declarant hereby represents and warrants that William F. Browne III died on the 18th day of January, 2021, at which time Declarant was fully vested in the fee simple interest of the Real Estate.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant hereby agrees to all of the restrictions and covenants of this Commitment as set forth above.

DECLARANT:

Date: Feb. 7, 2022

Barbara A. Browne
Barbara A. Browne

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this 7th day of February, 2022, personally appeared Barbara A. Browne, and acknowledged the execution of the foregoing Written Commitment.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

Michelle L. Birk
_____, Notary Public
A resident of _____ County



MICHELLE L. BIRK, Notary Public
Whitley County, State of Indiana
Commission Number 685166
My Commission Expires: May 26, 2024

This instrument prepared by Thomas B. Trent, Attorney at Law

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. *Thomas B. Trent*

Return to:

RLW Box

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

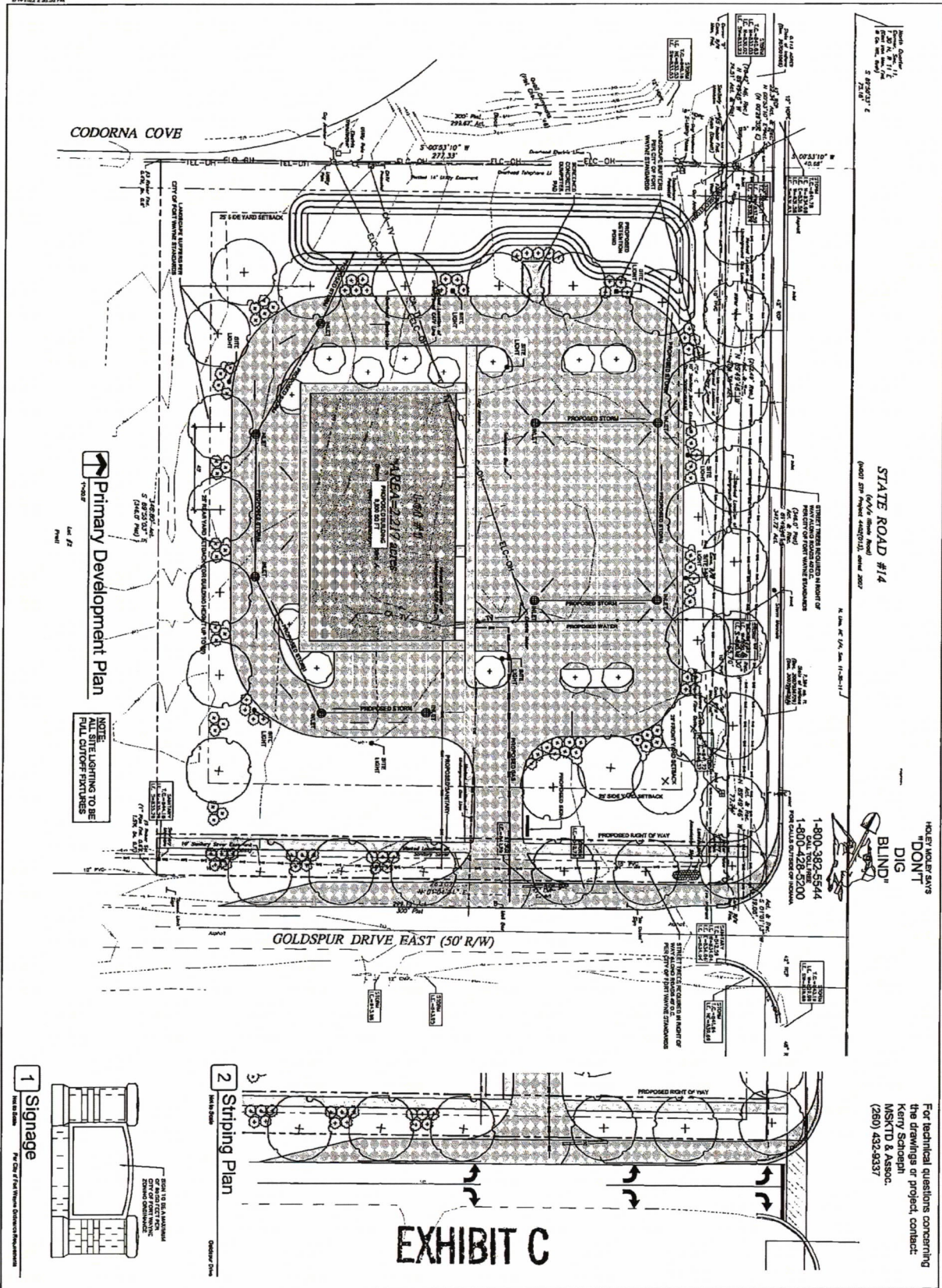
Lot Number 1 on the Plat of Centaur Acres, a Subdivision in the North half of Section 11, Township 30 North, Range 11 East, in Allen County, Indiana, in accordance with the plat thereof, recorded in Plat Record 24, pages 101-102 and Amended and Restated as Document Number 2009056323 in the Office of the Recorder of Allen County, Indiana.

Excepting therefrom that part sold off to the State of Indiana by Warranty Deed recorded June 30, 2007 as Document Number 2007036729 and recorded December 13, 2007 as Document Number 2007068212 more fully described as follows:

A part of Lot 1 in Centaur Acres, an addition to the City of Fort Wayne, Indiana, the plat of which is recorded in Plat Book 24, page 101, in the Office of the Recorder of Allen County, Indiana, and being that part of the grantors' land lying within the right-of-way lines depicted on the attached Right-of-Way Parcel Plat marked as Exhibit "B", described as follows: Beginning at the northwest corner of said lot; thence South 89 degrees 49 minutes 46 seconds East 346.00 feet (105.461 meters) along the north line of said lot to the northeast corner of said lot; thence South 1 degree 01 minutes 13 seconds West 19.06 feet (5.809 meters) along the east line of said lot to point "2065" designated on said parcel plat; thence North 89 degrees 49 minutes 46 seconds West 77.74 feet (23.695 meters) to point "2064" designated on said parcel plat; thence South 87 degrees 18 minutes 30 seconds West 65.70 feet (20.025 meters) to point "2063" designated on said parcel plat; thence North 89 degrees 49 minutes 46 seconds West 202.49 feet (61.719 meters) to the west line of said lot; thence North 0 degrees 29 minutes 55 seconds East 22.34 feet (6.809 meters) along said west line to the point of beginning and containing 7,364 square feet (684.10 square meters), more or less.

EXHIBIT B

1. Auction service
2. Blood or plasma donor facility
3. Broadcast studio
4. Campus housing
5. Correctional services facility
6. Dormitory
7. Driving instruction
8. Employment agency
9. Fire station
10. Fraternity house
11. Funeral home
12. Group residential facility (large)
13. Homeless/emergency shelter
14. Hospital
15. Multiple family complex
16. Park area (off-site)
17. Radio station
18. Religious institution/school
19. Residential facility for homeless individuals
20. School
21. Sorority house
22. Television station
23. Townhouse complex
24. Zoo
25. Commercial communication tower



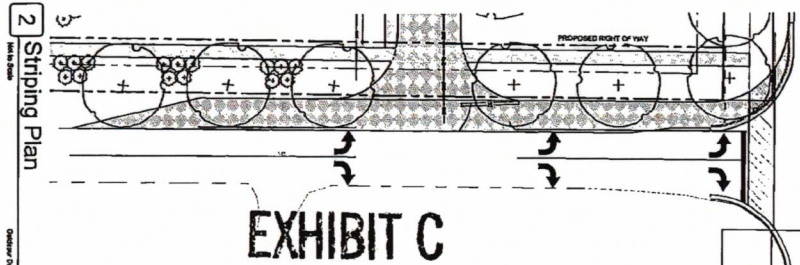
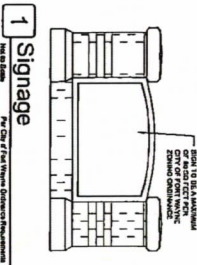
Plan Number: 1114
 Project Name: 1114 Goldspur Dr.
 Date: 02/21/17
 Scale: AS SHOWN

STATE ROAD #14
 (6664 State Road)
 (Road 200 Project 44202013, dated 2007)

HOLEY MOLE SAWS
 "DON'T
 DIG
 BLIND!"
 1-800-382-5544
 CALL TODAY!
 1-800-726-5200

For technical questions concerning
 the drawings or project, contact:
 Kerry Schmitt
 MSKTD & Assoc.
 (260) 452-9337

EXHIBIT C



C4-1

PROJECT NUMBER: C4-1
 PROJECT NAME: Primary Development Plan
 DATE: 02/21/17
 CITY: Fort Wayne, IN 46804
 COUNTY: Allen

A Project for:
1114 Goldspur Dr.
 Fort Wayne, IN, 46804

Developer:
 Barbara Browne
 1114 Goldspur Dr.
 Fort Wayne, IN, 46804

MSKTD & Associates
 Professional | Engineering | Survey | Design
 1114 Goldspur Dr.
 Fort Wayne, IN 46804
 (260) 452-9337
 www.msktd.com

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (this “Commitment”) is made this 7th day of February, 2022, by **Barbara A. Browne** (“Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner, by virtue of a deed recorded as Instrument No. _____ of the records of the Recorder’s Office of Allen County, Indiana, of certain real estate commonly known as 1114 E. Goldspur Drive, Fort Wayne, Indiana (the “Real Estate”), which Real Estate is more particularly described in **Exhibit “A-”**, attached hereto; and

WHEREAS, Declarant filed a Primary Development Plan Application numbered PDP-2021-0049, which Primary Development Plan included a C1 Rezoning Petition Application numbered REZ-2021-0068 (the C1 Rezoning Petition Application numbered REZ-2021-0068, as part of the overall Primary Development Plan, is hereinafter referred to as the “Application”), which Application has been approved by the Fort Wayne Plan Commission (the “Plan Commission”) and the Fort Wayne Common Council (the “City Council”); and

WHEREAS, pursuant to the Application, the Real Estate has been rezoned “C1 Professional Office and Personal Services” pursuant to the Fort Wayne Zoning Ordinance effective as of October 10, 2019 (the “Ordinance”); and

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1. **Use Restrictions.** Notwithstanding the provisions set forth in Sections 157.212(B) and 157.212(C) of the Ordinance, which describe the specific permitted uses and special uses in a C1 Professional Office and Personal Services District (the “C1 District”), the Real Estate may not be used for the purposes and uses described in the attached **Exhibit “B”**.

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3.4. Hours of Operation. Businesses will be allowed to operate in the ordinary course during the hours of 6:30 a.m. – 9:00 p.m., Monday – Friday, and 8:00 a.m. – 5:00 p.m., Saturday. To be found in violation of this covenant, any party seeking enforcement must demonstrate a pattern of non-compliance. Isolated incidents of non-compliance shall not be considered a violation of this Commitment.

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5.6. Successors and Assigns. This Commitment and the restrictions and limitations set forth herein shall be binding upon Declarant, and her successors and assigns, and shall also inure to the benefit of the Zoning Administrator of Fort Wayne (the "Zoning Administrator") and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any conveyance thereof, shall be binding upon Declarant and her successors and assigns as owners of the Real Estate, and

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~~7~~8. **Modification and Termination.** This Commitment may be amended or terminated upon application by any persons who own the Real Estate, or any portion thereof, and only with the prior written consent of the Plan Commission, following a public hearing to consider said amendment or termination. This Commitment shall not be amended or terminated unless, after the public hearing, the Plan Commission makes the following determinations as part of its consent: (i) implementation of the amendment or termination will not be injurious to the public health, safety and general welfare of the owners of real property in Centaur Acres subdivision, and (ii) the use and value of the real property adjacent to the Real Estate will not be affected in a substantially adverse manner by implementation of the amendment or termination.

~~8~~9. **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 in Centaur Acres subdivision, the Zoning Administrator of the City of Fort Wayne and the Plan Commission. As a condition precedent to the bringing of any lawsuit or initiating any action for temporary, preliminary and permanent injunctive relief as provided herein, the party desiring to bring said action shall first provide Declarant, or the then existing owner(s) of the Real Estate, thirty (30) days prior written notice of the breach or violation, or threatened breach or violation, of the terms, restrictions or covenants of this Commitment.

~~9~~10. **Effective Date.** This Commitment shall be effective upon being duly recorded in the Office of the Recorder of Allen County, Indiana.

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~~13~~-14. **Affirmation Regarding William A. Browne.** Declarant hereby represents and warrants that William F. Browne III died on the 18th day of January, 2021, at which time Declarant was fully vested in the fee simple interest of the Real Estate.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant hereby agrees to all of the restrictions and covenants of this Commitment as set forth above.

DECLARANT:

Date: _____

Barbara A. Browne

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of February, 2022, personally appeared Barbara A. Browne, and acknowledged the execution of the foregoing Written Commitment.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

_____, Notary Public
A resident of _____ County

This instrument prepared by Thomas B. Trent, Attorney at Law

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. *Thomas B. Trent*

Return to:

RLW Box

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

Lot Number 1 on the Plat of Centaur Acres, a Subdivision in the North half of Section 11, Township 30 North, Range 11 East, in Allen County, Indiana, in accordance with the plat thereof, recorded in Plat Record 24, pages 101-102 and Amended and Restated as Document Number 2009056323 in the Office of the Recorder of Allen County, Indiana.

Excepting therefrom that part sold off to the State of Indiana by Warranty Deed recorded June 30, 2007 as Document Number 2007036729 and recorded December 13, 2007 as Document Number 2007068212 more fully described as follows:

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EXHIBIT B

1. Auction service
2. Blood or plasma donor facility
3. Broadcast studio
4. Campus housing
5. Correctional services facility
6. Dormitory
7. Driving instruction
8. Employment agency
9. Fire station
10. Fraternity house
11. Funeral home
12. Group residential facility (large)
13. Homeless/emergency shelter
14. Hospital
15. Multiple family complex
16. Park area (off-site)
17. Radio station
18. Religious institution/school
19. Residential facility for homeless individuals
20. School
21. Sorority house
22. Television station
23. Townhouse complex
24. Zoo
25. Commercial communication tower

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2021-0068
Bill Number: Z-22-01-07
Council District: 4-Jason Arp

Introduction Date: January 11, 2022
Plan Commission
Public Hearing Date: January 10, 2022 (not heard by Council)
Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

Synopsis of Ordinance: To rezone approximately 2.2 acres from AR/Low Intensity to C1/Professional Office and Personal Services.
Location: 1114 East Goldspur Drive, south side of Illinois Road/SR 14
Reason for Request: To allow a single-building office development.
Applicant: Barbara A. Browne
Property Owner: Barbara A. Browne

Related Petitions: Primary Development Plan, Browne Project

Effect of Passage: Property will be rezoned to the C1/Professional Office and Personal Services zoning district, which will permit a planned professional office development.

Effect of Non-Passage: The property will remain zoned AR/Low Intensity Residential and will continue to allow single residential tracts and low intensity agricultural uses.

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Barbara A. Browne
 Address 1114 Goldspur Drive E.
 City Fort Wayne State IN Zip 46804
 Telephone 260-750-3998 E-mail bbrowne@comcast.net

Contact Person
 Contact Person Tom Trent
 Address 505 E. Washington Blvd.
 City Fort Wayne State IN Zip 46802
 Telephone 260-422-9454 E-mail ttrent@rothberg.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 1114 Goldspur Drive E, Fort Wayne, IN 46804
 Present Zoning R-1 Proposed Zoning C-1 Acreage to be rezoned 2.217
 Proposed density 1 units per acre
 Township name Aboite Township section # 11
 Purpose of rezoning (attach additional page if necessary) To facilitate emerging commercial development along Hwy 14/Illinois Road corridor between Hadley and Scott Roads
 Sewer provider Aqua Indiana Water provider City of Fort Wayne

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

- Applicable filing fee
- Applicable number of surveys showing area to be rezoned (plans must be folded)
- Legal Description of parcel to be rezoned (See attached)
- 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.

Barbara A. Browne Barbara A. Browne 12-7-2021
 (printed name of applicant) (signature of applicant) (date)

Barbara A. Browne Barbara A. Browne 12-7-2021
 (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>12/7/21</u>	Receipt No. <u>139051</u>	Hearing Date <u>1-10-2022</u>	Petition No. <u>REZ-2021-0068</u>
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**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Barbara A. Browne
 Address 1114 Goldspur Drive E.
 City Fort Wayne State IN Zip 46804
 Telephone 260-750-3998 E-mail bbrowne@comcast.net

Contact Person
 Contact Person Tom Trent
 Address 505 E. Washington Blvd.
 City Fort Wayne State IN Zip 46802
 Telephone 260-422-9454 E-mail ttrent@rothberg.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 1114 Goldspur Drive E, Fort Wayne, IN 46804
 Present Zoning R-1 Proposed Zoning C-1 Acreage to be rezoned 2.217
 Proposed density 1 units per acre
 Township name Aboite Township section # 11
 Purpose of rezoning (attach additional page if necessary) To facilitate emerging commercial development along Hwy 14/Illinois Road corridor between Hadley and Scott Roads
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Barbara A. Browne *Barbara A. Browne* 12-7-2021
 (printed name of applicant) (signature of applicant) (date)
 Barbara A. Browne *Barbara A. Browne* 12-7-2021
 (printed name of property owner) (signature of property owner) (date)
 _____ (signature of property owner) _____ (date)
 (printed name of property owner) (signature of property owner) (date)

Received	Receipt No.	Hearing Date	Petition No.
12/7/21	139051	1-10-2022	REZ-2021-0068

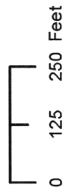


REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



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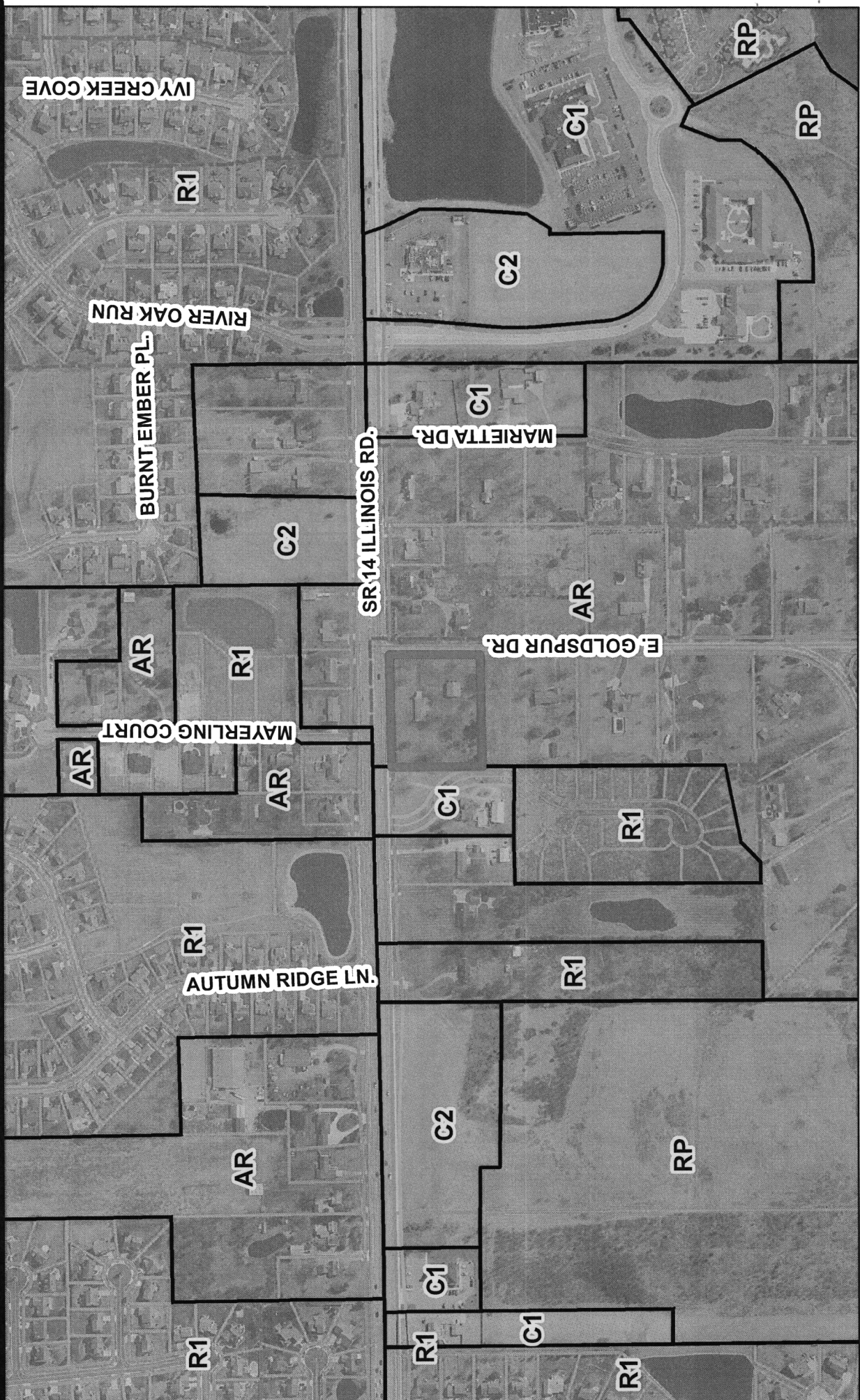
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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 12/30/2021



1 inch = 400 feet

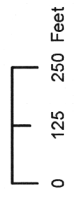


REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



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1 inch = 400 feet

FACT SHEET

Case #REZ-2021-0068 Bill # Z-22-01-07 Project Start: January 2022	
APPLICANT:	Barbara A. Browne
REQUEST:	To rezone property from AR/Low Intensity Residential to C1/Professional Office and Personal Services; to approve a primary development plan for new commercial structure; and to vacate the real estate platted as Lot 1 of Centaur Acres, including vacation of building lines and associated covenants for the real estate.
LOCATION:	The site is located on the south side of West State Road 14 (Illinois Road) and on the west side of East Goldspur Drive. The address of the subject property is 1114 East Goldspur Drive (Section 11 of Aboite Township).
LAND AREA:	Approximately 2.2 acres
PRESENT ZONING:	AR/Low Intensity Residential
PROPOSED ZONING:	C1/Professional Office and Personal Services
COUNCIL DISTRICT:	4-Jason Arp
ASSOCIATED PROJECT:	Primary Development Plan, Browne Project
SPONSOR:	City of Fort Wayne Plan Commission

January 10, 2022 Public Hearing

- No one from the public spoke at the hearing.
- Justin Shurley and Patrick Zaharako were absent.

January 24, 2022 Business Meeting

- Plan Commission Recommendation: **DO PASS with Written Commitment**
- A motion was made by Don Schmidt and seconded by Rachel Tobin-Smith to return the ordinance with a Do Pass recommendation with a Written Commitment to Common Council for their final decision.
- **5-0 MOTION PASSED**
- Tom Freistroffer, Justin Shurley, Ryan Neumeister, and Paul Sauerteig were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
January 27, 2022

PROJECT SUMMARY

- The plat of Centaur Acres was recorded in 1958.
- According to property records, the house was built in the late 1950s.

The approximately 2.2 acre property is proposed to be rezoned to C1/Professional Office and Personal Services for a single commercial building. The current zoning of the site is AR/Low Intensity Residential, and there have been no recent rezoning petitions on the subject property. The real estate is part of a plat of Centaur Acres (Lot 1), and has been used residentially for decades. The plat of Centaur Acres was recorded in 1958, prior to most of the development of Aboite Township. In addition to the rezoning and primary development plan, a plat vacation is proposed to remove the platted lots and covenants associated with the plat.

The immediate area is a mixture of retail, office, and residential development of varying densities. A number of underused properties along the State Road 14/Illinois Road corridor have redeveloped with the infrastructure improvements done to the roadway in recent years. Now, over 26,000 vehicles per day traverse State Road 14/Illinois Road along this site. Recent developments in proximity to the site and along this corridor include: Prairie Landing commercial outlots (zoned C2 in 2019), Parkview Inverness (zoned C1 in 2019), Shigs in Pit/Indiana Physical Therapy (zoned C2 in 2019), and Quail Commons Office (zoned C1 in 2019). A C1 zoning request for Schoolhouse Lofts was recently heard by the Plan Commission and approved by Council. Large platted and metes and bounds residential parcels along State Road 14 have become increasingly undesirable for residential use as development grows and traffic increases.

The proposal could be supported by the following goals and polices of the Comprehensive Plan:

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

LU5. Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing 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.

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.

Staff recommended a written commitment for the real estate. The Written Commitment, if properly crafted, can allow professional office and personal services uses while restricting those C1 uses deemed to be incompatible, or too intensive for the site from a size or access standpoint. The Written Commitment would run with property and not just the property owner.

The project is a single 10,500 square foot commercial building. Parking surrounds the building and is in excess of the minimum parking standards. One vehicular access point is proposed to Goldspur Drive east, and is located near the current residential driveway location. A detention basin is proposed on the west side of the site near Quail Commons. The landscape plan around the perimeter of the site and the landscaping islands in the parking lot meet the intent of the Zoning Ordinance. A lighting plan has not been submitted, but the Zoning Ordinance has standards requiring full cut-off fixtures. Signage will meet the standards of the Zoning Ordinance. The site will install pedestrian facilities along all public streets that do not have them today, and

also provide an internal connection from the building to the sidewalk/trail network. No waiver of development standard is requested with the primary development plan.

PUBLIC HEARING SUMMARY:

Presenter: Tom Trent presented the request to Plan Commission as outlined above.

Public Comments in Favor:

Matt Branning, 8511 Illinois Road – Supports the rezoning. Many changes along the corridor since the road was widened in 2010. Feels like decel lanes would also help.

Pat Browne, 2015 Edenton Drive – The property is no longer suitable for residential uses, there is no barrier from the noise and traffic on Illinois Road.

Public Comments in Opposition or with Concern:

Robert Aplin, representing Centaur Acres – Main themes of opposition: lighting, runoff, infrastructure, and safety of ingress/egress on Goldspur. They do not believe the road can handle the traffic and would rather see the entrance on SR 14. Requesting a traffic study. They will discuss the Written Commitment with Tom Trent, but at the time of the hearing they are generally opposed.

Steve Mauldin, President of Falls of Beaver Creek – Has similar concerns as he does to the Schoolhouse Lofts project. He has spoken to other neighborhood presidents along SR 14 and none are in favor. There is vacant land in town that can be used. Do not add development to SR 14; they moved to the southwest to avoid the hustle and bustle of Fort Wayne.

Kelly Borne, 9117 Goldspur – There is only one entrance to the subdivision, concerns about traffic backing up on SR 14 because of Shigs n Pit. Numerous other vacant properties on SR 14 they could develop. The owner did not try to sell the property residentially.

John Nicholson, 8707 Goldspur Drive – How tall is building? Believes people will overshoot the office entrance and drive through their neighborhood.

Paul Lisee, 1424 Goldspur Drive – Believes she could easily sell the house for residential use.

Closing Comments:

The building will be a maximum of 40 feet, which is the same height restriction for single family residential. Office uses should not add significantly to the traffic on SR 14.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

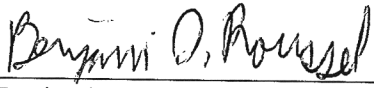
Rezoning Petition REZ-2021-0068

APPLICANT: Barbara A. Browne
REQUEST: To rezone property from AR/Low Intensity Residential to C1/Professional Office and Personal Services; to approve a primary development plan for new commercial structure; and to vacate the real estate platted as Lot 1 of Centaur Acres, including vacation of building lines and associated covenants for the real estate.
LOCATION: The site is located on the south side of West State Road 14 (Illinois Road) and on the west side of East Goldspur Drive. The address of the subject property is 1114 East Goldspur Drive (Section 11 of Aboite Township).
LAND AREA: Approximately 2.2 acres
PRESENT ZONING: AR/Low Intensity Residential
PROPOSED ZONING: C1/Professional Office and Personal Services

The Plan Commission recommends that Rezoning Petition REZ-2021-0068 be returned to Council, with a written commitment, 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/Professional Office and Personal Services zoning will provide the opportunity to redevelop the aging structure on the site while providing additional office opportunities in the Southwest quadrant of the City. This proposal is located within the Conceptual Development Map within the Comprehensive Plan.
LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
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.
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 area.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow reinvestment into the property. The site will be upgraded with modern infrastructure including reconstruction of a portion of Goldspur and new sidewalks. Landscape materials to screen and buffer is also required throughout the site.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments will ensure the required infrastructure is provided to the site.

These findings approved by the Fort Wayne Plan Commission on January 24, 2022.

A handwritten signature in cursive script that reads "Benjamin J. Roussel". The signature is written in dark ink and is positioned above a horizontal line.

Benjamin J. Roussel
Executive Director
Secretary to the Commission

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Barbara A. Browne
 Address 1114 Goldspur Drive E.
 City Fort Wayne State IN Zip 46804
 Telephone 260-750-3998 E-mail bbrowne@comcast.net

Contact Person
 Contact Person Tom Trent
 Address 505 E. Washington Blvd.
 City Fort Wayne State IN Zip 46802
 Telephone 260-422-9454 E-mail ttrent@rothberg.com

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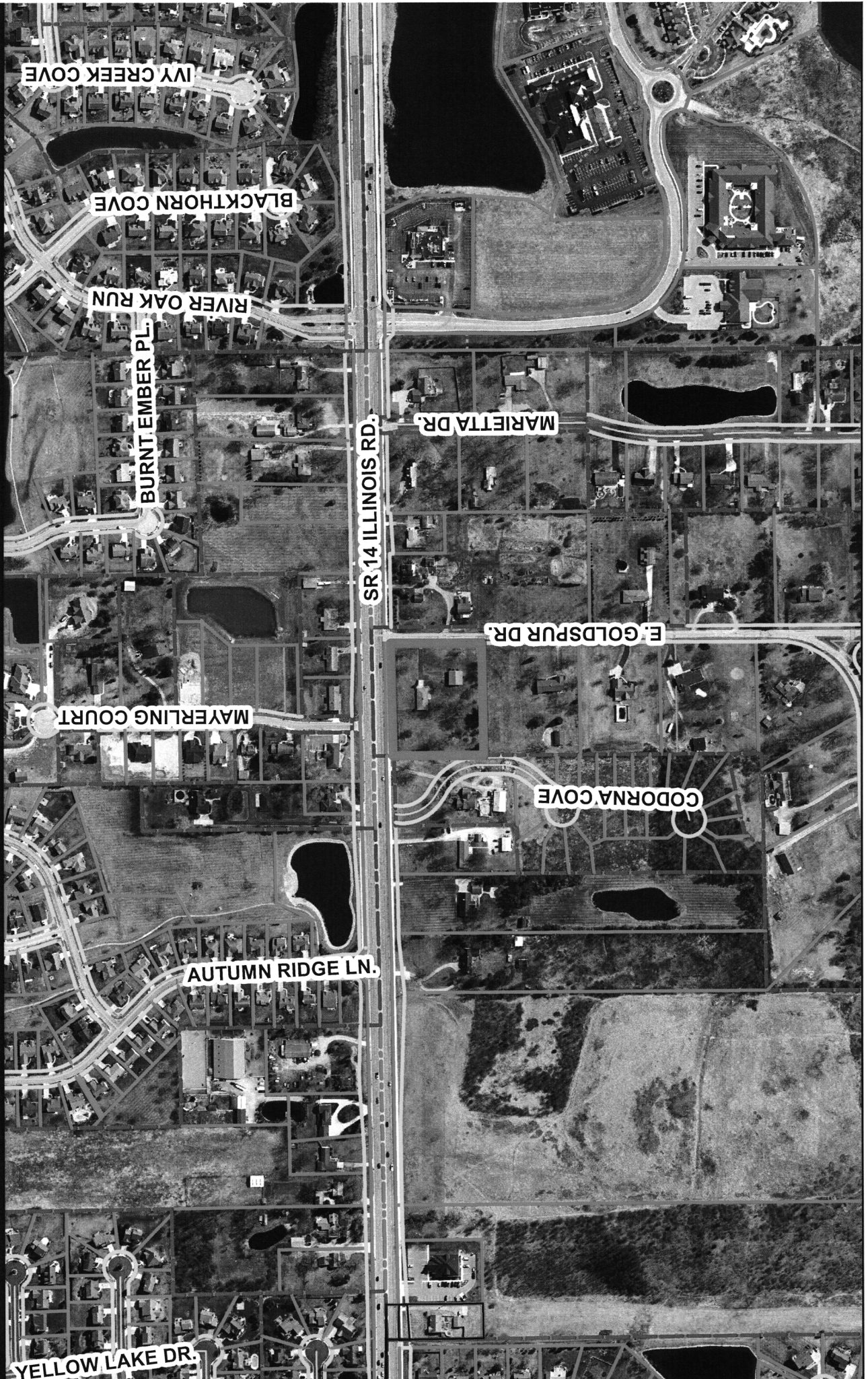
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Barbara A. Browne *Barbara A. Browne* 12-7-2021
 (printed name of applicant) (signature of applicant) (date)
 Barbara A. Browne *Barbara A. Browne* 12-7-2021
 (printed name of property owner) (signature of property owner) (date)
 _____ (signature of property owner) _____ (date)
 _____ (signature of property owner) _____ (date)

Received	Receipt No.	Hearing Date	Petition No.
12/7/21	139051	1-10-2022	REZ-2021-0068



REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



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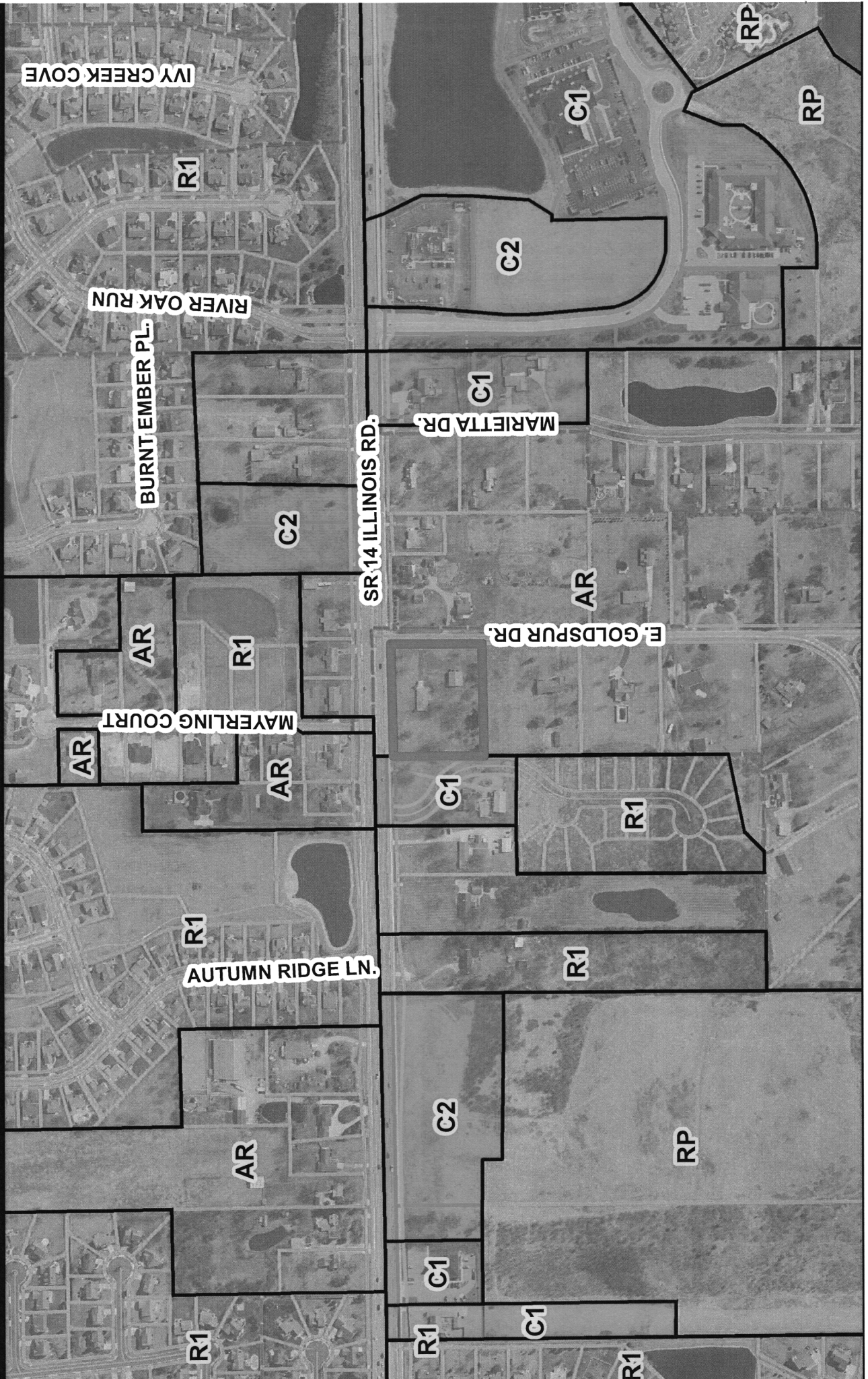
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Photos and Contours: Spring 2009
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1 inch = 400 feet



REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



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WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (this “Commitment”) is made this ___ day of January, 2022, by **Barbara A. Browne** (“Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner, by virtue of a deed recorded as Instrument No. _____ of the records of the Recorder’s Office of Allen County, Indiana, of certain real estate commonly known as 1114 E. Goldspur Drive, Fort Wayne, Indiana (the “Real Estate”), which Real Estate is more particularly described in **Exhibit A**, attached hereto; and

WHEREAS, Declarant filed a Primary Development Plan Application numbered PDP-2021-0049, which Primary Development Plan included a C1 Rezoning Petition Application numbered REZ-2021-0068 (the C1 Rezoning Petition Application numbered REZ-2021-0068, as part of the overall Primary Development Plan, is hereinafter referred to as the “Application”), which Application has been approved by the Fort Wayne Plan Commission (the “Plan Commission”) and the Fort Wayne Common Council (the “City Council”); and

WHEREAS, pursuant to the Application, the Real Estate has been rezoned “C1 Professional Office and Personal Services” pursuant to the Fort Wayne Zoning Ordinance effective as of October 10, 2019 (the “Ordinance”); and

WHEREAS, Declarant has submitted this Commitment, voluntarily, pursuant to the Ordinance and I.C. 36-7-4-1015 for the purpose of limiting certain off site impacts and certain permitted uses arising from the development of the Real Estate; and

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

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 all or any portion of the Real Estate, and all lessees of all or any portion of the Real Estate.

1. **Use Restrictions.** Notwithstanding the provisions set forth in Sections 157.212(B) and 157.212(C) of the Ordinance, which describe the specific permitted uses and special uses in a C1 Professional Office and Personal Services District (the “C1 District”), the Real Estate may not be used for the purposes and uses described in the attached **Exhibit “B”**.

2. **Required Building Materials.** Except with respect to any existing improvement or structure set forth on Declarant’s Primary Development Plan, materials selected for any building or addition located upon the Real Estate shall be durable and honestly expressed. The choice of material

should be guided by functional and aesthetic concerns, free of gimmicks or faux finishes. A given material should read clearly and expressively and not try to mask its identity.

Building materials that will be encouraged for any new building or addition located upon the Real Estate shall include:

- Steel/aluminum curtain wall
- Concrete
- Precast concrete/finished concrete masonry units
- Stone
- Brick
- Glass, tinted and clear

Building materials that are inappropriate for any new building or addition located upon the Real Estate shall include:

- Exposed plywood or exposed wood
- Corrugated or pre-engineered metals
- Unfinished concrete masonry units
- Gypsum wall panels
- Plastics

3. **Hours of Operation.** Businesses will be allowed to operate in the ordinary course during the hours of 6:30 a.m. – 9:00 p.m., Monday – Friday, and 8:00 a.m. – 5:00 p.m., Saturday. To be found in violation of this covenant, any party seeking enforcement must demonstrate a pattern of non-compliance. Isolated incidents of non-compliance shall not be considered a violation of this Commitment.

4. **Permits.** No permits shall be issued under the City of Fort Wayne Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder and a recorded and executed copy of the Commitment is delivered to the Zoning Administrator.

5. **Successors and Assigns.** This Commitment and the restrictions and limitations set forth herein shall be binding upon Declarant, and her successors and assigns, and shall also inure to the benefit of the Zoning Administrator of Fort Wayne (the “Zoning Administrator”) and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any conveyance thereof, shall be binding upon Declarant and her successors and assigns as owners of the Real Estate, and shall have an initial term of twenty-five (25) years, with successive terms of ten (10) years each unless terminated pursuant to the provisions of Section 7 below.

6. **Enforcement.** Any violation of this Commitment shall be deemed a violation of the Ordinance. Pursuant to I.C. 36-7-4-1015, the Plan Commission, or any enforcement official designated by the Ordinance, shall be entitled to enforce this Commitment, at law or in equity, in the event of any breach of the obligations contained herein; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel the enforcement of this Commitment by the Plan Commission or any enforcement official designated by the Ordinance, or any successor agency having zoning jurisdiction over the Real Estate. The Plan Commission, or any enforcement official designated by the Ordinance, shall have the remedies provided for in the Ordinance, or the ordinance covering 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.

7. **Modification and Termination.** This Commitment may be amended or terminated upon application by any persons who own the Real Estate, or any portion thereof, and only with the prior written consent of the Plan Commission, following a public hearing to consider said amendment or termination. This Commitment shall not be amended or terminated unless, after the public hearing, the Plan Commission makes the following determinations as part of its consent: (i) implementation of the amendment or termination will not be injurious to the public health, safety and general welfare of the owners of real property in Centaur Acres subdivision, and (ii) the use and value of the real property adjacent to the Real Estate will not be affected in a substantially adverse manner by implementation of the amendment or termination.

8. **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 in Centaur Acres subdivision, the Zoning Administrator of the City of Fort Wayne and the Plan Commission. As a condition precedent to the bringing of any lawsuit or initiating any action for temporary, preliminary and permanent injunctive relief as provided herein, the party desiring to bring said action shall first provide Declarant, or the then existing owner(s) of the Real Estate, thirty (30) days prior written notice of the breach or violation, or threatened breach or violation, of the terms, restrictions or covenants of this Commitment.

9. **Effective Date.** This Commitment shall be effective upon being duly recorded in the Office of the Recorder of Allen County, Indiana.

10. **Statutory Authority.** This Commitment is made by Owner and Applicant pursuant to I.C. 36-7-4-1015.

11. **Governing Law.** This Commitment, including the restrictions and covenants contained herein, shall be governed by the laws of the State of Indiana.

12. **Counterparts.** This Commitment may be executed in multiple counterparts, and transmitted via email or facsimile, each of which shall be deemed an original and all of which together shall constitute one instrument.

13. **Affirmation Regarding William A. Browne.** Declarant hereby represents and warrants that William F. Browne III died on the ___ day of _____, 20___, at which time Declarant was fully vested in the fee simple interest of the Real Estate.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant hereby agrees to all of the restrictions and covenants of this Commitment as set forth above.

DECLARANT:

Date: _____
Barbara A. Browne

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of January, 2022, personally appeared Barbara A. Browne, and acknowledged the execution of the foregoing Written Commitment.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____
_____, Notary Public
A resident of _____ County

This instrument prepared by Thomas B. Trent, Attorney at Law

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. *Thomas B. Trent*

Return to:

RLW Box

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

[Insert Legal Description]

EXHIBIT B

1. Auction service
2. Blood or plasma donor facility
3. Broadcast studio
4. Campus housing
5. Correctional services facility
6. Dormitory
7. Driving instruction
8. Employment agency
9. Fire station
10. Fraternity house
11. Funeral home
12. Group residential facility (large)
13. Homeless/emergency shelter
14. Hospital
15. Multiple family complex
16. Park area (off-site)
17. Radio station
18. Religious institution/school
19. Residential facility for homeless individuals
20. School
21. Sorority house
22. Television station
23. Townhouse complex
24. Zoo
25. Commercial communication tower

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2021-0068
Bill Number: Z-22-01-07
Council District: 4-Jason Arp

Introduction Date: January 11, 2022

Plan Commission
Public Hearing Date: January 10, 2022 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 2.2 acres from AR/Low Intensity to
C1/Professional Office and Personal Services.

Location: 1114 East Goldspur Drive, south side of Illinois Road/SR 14

Reason for Request: To allow a single-building office development.

Applicant: Barbara A. Browne

Property Owner: Barbara A. Browne

Related Petitions: Primary Development Plan, Browne Project

Effect of Passage: Property will be rezoned to the C1/Professional Office and Personal
Services zoning district, which will permit a planned professional office
development.

Effect of Non-Passage: The property will remain zoned AR/Low Intensity Residential and will
continue to allow single residential tracts and low intensity agricultural
uses.

BILL NO. Z-22-01-07

**REPORT OF COMMITTEE ON REGULATIONS
February 1, 2022**

Tom Freistroffer Chair

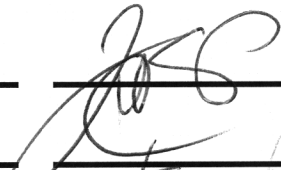
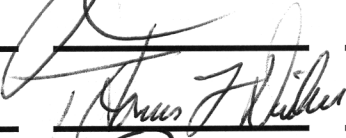

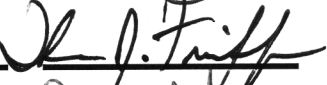
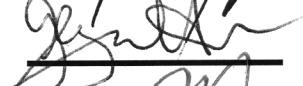



Paul Ensley Co-Chair

All Council Members

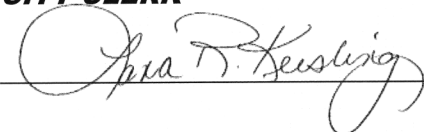
An Ordinance amending the City of Fort Wayne Zoning Map No. A-02 (Sec. 11 of Aboite Township)

To rezone approximately 2.2 acres from AR/Low Intensity to C1/Professional Office and Personal Services at 1114 East Goldspur Dr

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 10, 2022

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 type="checkbox"/>	<input checked="" 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 checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TUCKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: February 22, 2022

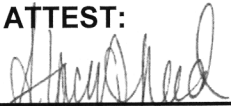


 STACY A. REED, DEPUTY CITY CLERK

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

Zoning Resolution No. Z-22-01-07AA on the 22nd day of February, 2022

ATTEST:



 STACY A. REED
 DEPUTY CITY CLERK



 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd of February 2022, at the hour of 8:45 o'clock A.M. E.S.T.



 STACY A. REED, DEPUTY CITY CLERK

Approved and signed by me this 23rd day of FEBRUARY 2022, at the hour of 11:00 o'clock AM E.S.T.

RECEIVED

FEB 23 2022

LANA R. KEESLING
CITY CLERK



 THOMAS C. HENRY, MAYOR

1 #REZ-2021-0068

2 BILL NO. Z-22-01-07

3
4 ZONING MAP ORDINANCE NO. Z-_____

5 AN ORDINANCE amending the City of Fort Wayne
6 Zoning Map No. A-02 (Sec. 11 of Aboite Township)

7
8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
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 Lot Number 1 on the Plat of Centaur Acres, a Subdivision in the North half of Section 11,
13 Township 30 North, Range 11 East, in Allen County, Indiana, in accordance with the plat
14 thereof, recorded in Plat Record 24, pages 101-102 and Amended and Restated as
Document Number 2009056323 in the Office of the Recorder of Allen County, Indiana.

15 Excepting therefrom that part sold off to the State of Indiana by Warranty Deed recorded
16 June 30, 2007 as Document Number 2007036729 and recorded December 13, 2007 as
Document Number 2007068212 more fully described as follows:

17 A part of Lot 1 in Centaur Acres, an addition to the City of Fort Wayne, Indiana, the plat of
18 which is recorded in Plat Book 24, page 101, in the Office of the Recorder of Allen County,
19 Indiana, and being that part of the grantors' land lying with the right-of-way lines depicted
20 on the Right-of-Way Parcel Plat marked as Exhibit "B", described as follows: Beginning at
21 the northwest corner of said lot; thence South 89 degrees 49 minutes 46 seconds East
346.00 feet along the north line of said lot to the northeast corner of said lot; thence South
22 1 degree 01 minutes 13 seconds West 19.06 feet along the east line of said lot to point
"2065" designated on said parcel plat; thence North 89 degrees 49 minutes 46 seconds
23 West 77.74 feet to point "2064" designated on said parcel plat; thence South 87 degrees 18
minutes 30 seconds West 65.70 feet to point "2063" designated on said parcel plat; thence
24 North 89 degrees 49 minutes 46 seconds West 202.49 feet to the west line of said lot;
thence North 0 degrees 29 minutes 55 seconds East 22.34 feet along said west line to the
point of beginning and containing 7,364 square feet, more or less.

25
26 and the symbols of the City of Fort Wayne Zoning Map No. A-02 (Sec. 11 of Aboite
27 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
28
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Wayne, Indiana is hereby changed accordingly.

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 Barbara A. Browne
 Address 1114 Goldspur Drive E.
 City Fort Wayne State IN Zip 46804
 Telephone 260-750-3998 E-mail bbrowne@comcast.net

Contact Person
 Contact Person Tom Trent
 Address 505 E. Washington Blvd.
 City Fort Wayne State IN Zip 46802
 Telephone 260-422-9454 E-mail ttrent@rothberg.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 1114 Goldspur Drive E, Fort Wayne, IN 46804
 Present Zoning R-1 Proposed Zoning C-1 Acreage to be rezoned 2.217
 Proposed density 1 units per acre
 Township name Aboite Township section # 11
 Purpose of rezoning (attach additional page if necessary) To facilitate emerging commercial development along Hwy 14/Illinois Road corridor between Hadley and Scott Roads
 Sewer provider Aqua Indiana Water provider City of Fort Wayne

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

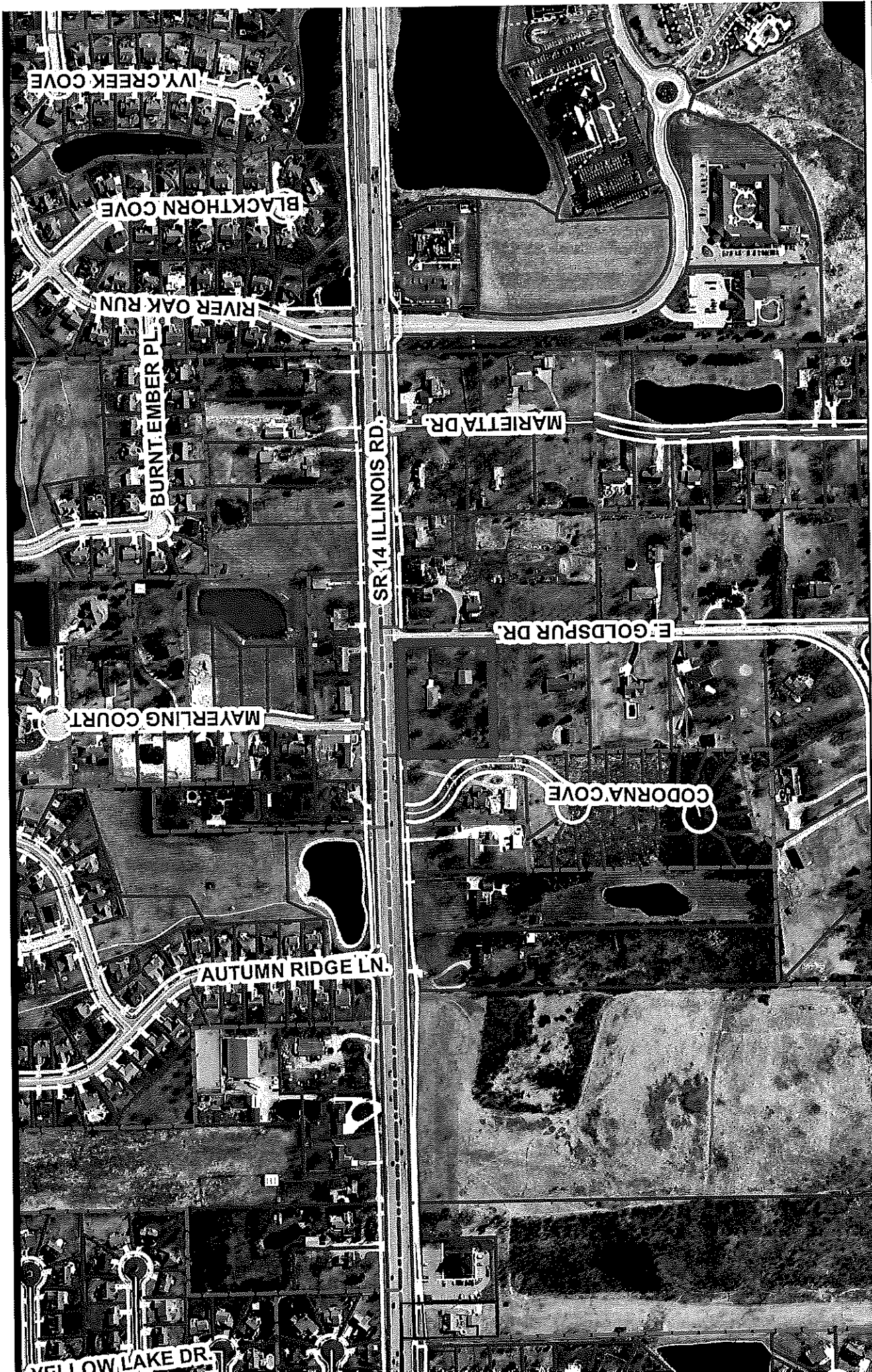
- Applicable filing fee
- Applicable number of surveys showing area to be rezoned (plans must be folded)
- Legal Description of parcel to be rezoned (See attached)
- Rezoning Questionnaire (original and 10 copies) County Rezoning Only

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.

Barbara A. Browne (printed name of applicant)	<u>Barbara A. Browne</u> (signature of applicant)	<u>12-7-2021</u> (date)
Barbara A. Browne (printed name of property owner)	<u>Barbara A. Browne</u> (signature of property owner)	<u>12-7-2021</u> (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)

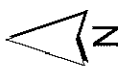
Received <u>12/7/21</u>	Receipt No. <u>139051</u>	Hearing Date <u>1-10-2022</u>	Petition No. <u>REZ-2021-0068</u>
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REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



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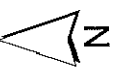
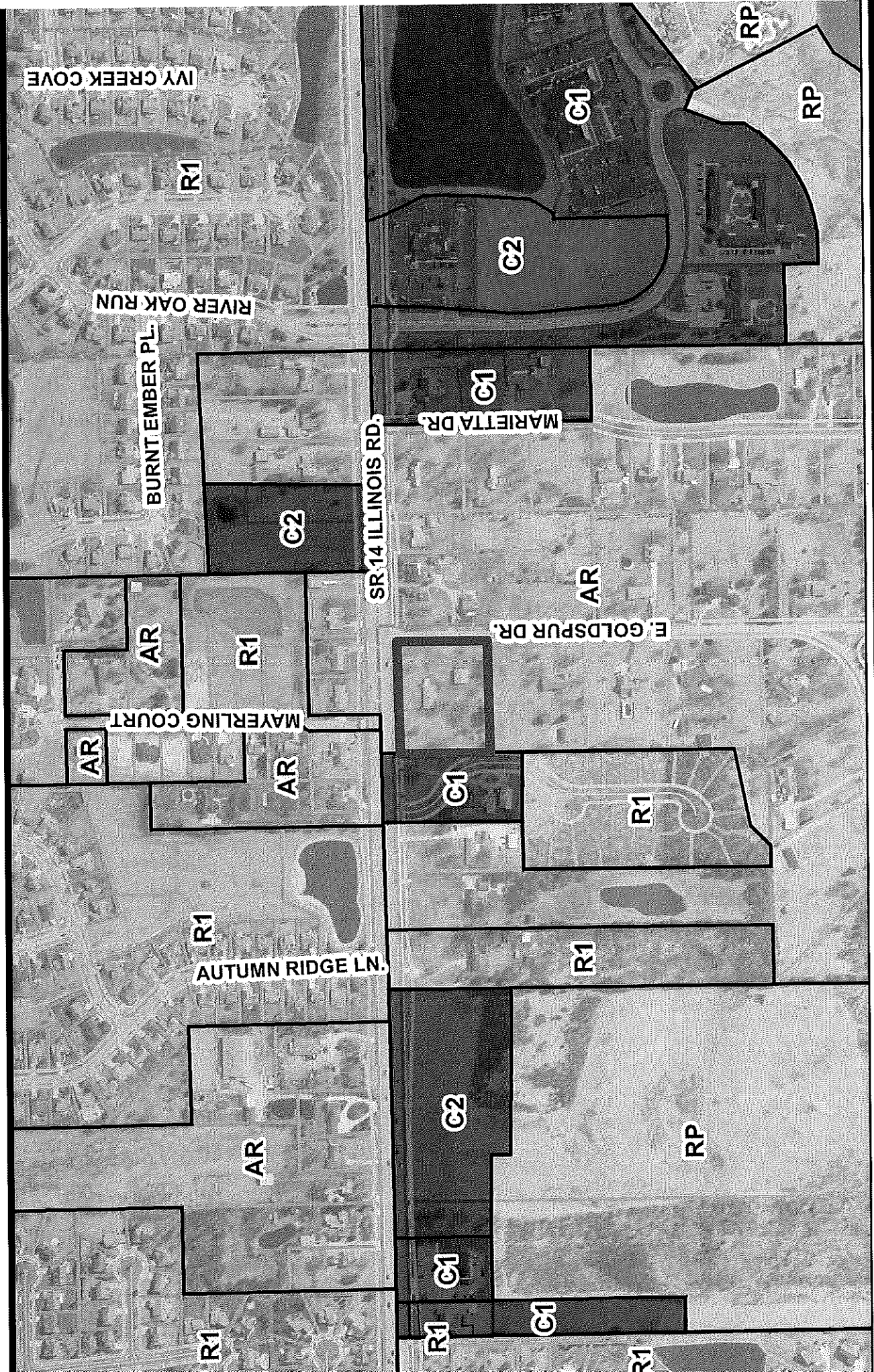
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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 12/30/2021



1 inch = 400 feet



REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



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FACT SHEET

Case #REZ-2021-0068		Bill # Z-22-01-07	Project Start: January 2022
APPLICANT:	Barbara A. Browne		
REQUEST:	To rezone property from AR/Low Intensity Residential to C1/Professional Office and Personal Services; to approve a primary development plan for new commercial structure; and to vacate the real estate platted as Lot 1 of Centaur Acres, including vacation of building lines and associated covenants for the real estate.		
LOCATION:	The site is located on the south side of West State Road 14 (Illinois Road) and on the west side of East Goldspur Drive. The address of the subject property is 1114 East Goldspur Drive (Section 11 of Aboite Township).		
LAND AREA:	Approximately 2.2 acres		
PRESENT ZONING:	AR/Low Intensity Residential		
PROPOSED ZONING:	C1/Professional Office and Personal Services		
COUNCIL DISTRICT:	4-Jason Arp		
ASSOCIATED PROJECT:	Primary Development Plan, Browne Project		
SPONSOR:	City of Fort Wayne Plan Commission		

January 10, 2022 Public Hearing

- No one from the public spoke at the hearing.
- Justin Shurley and Patrick Zaharako were absent.

January 24, 2022 Business Meeting

- Plan Commission Recommendation: **DO PASS with Written Commitment**
- A motion was made by Don Schmidt and seconded by Rachel Tobin-Smith to return the ordinance with a Do Pass recommendation with a Written Commitment to Common Council for their final decision.
- **5-0 MOTION PASSED**
- Tom Freistroffer, Justin Shurley, Ryan Neumeister, and Paul Sauerteig were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
January 27, 2022

PROJECT SUMMARY

- The plat of Centaur Acres was recorded in 1958.
- According to property records, the house was built in the late 1950s.

The approximately 2.2 acre property is proposed to be rezoned to C1/Professional Office and Personal Services for a single commercial building. The current zoning of the site is AR/Low Intensity Residential, and there have been no recent rezoning petitions on the subject property. The real estate is part of a plat of Centaur Acres (Lot 1), and has been used residentially for decades. The plat of Centaur Acres was recorded in 1958, prior to most of the development of Aboite Township. In addition to the rezoning and primary development plan, a plat vacation is proposed to remove the platted lots and covenants associated with the plat.

The immediate area is a mixture of retail, office, and residential development of varying densities. A number of underused properties along the State Road 14/Illinois Road corridor have redeveloped with the infrastructure improvements done to the roadway in recent years. Now, over 26,000 vehicles per day traverse State Road 14/Illinois Road along this site. Recent developments in proximity to the site and along this corridor include: Prairie Landing commercial outlots (zoned C2 in 2019), Parkview Inverness (zoned C1 in 2019), Shigs in Pit/Indiana Physical Therapy (zoned C2 in 2019), and Quail Commons Office (zoned C1 in 2019). A C1 zoning request for Schoolhouse Lofts was recently heard by the Plan Commission and approved by Council. Large platted and metes and bounds residential parcels along State Road 14 have become increasingly undesirable for residential use as development grows and traffic increases.

The proposal could be supported by the following goals and polices of the Comprehensive Plan:

- LU3.** Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
- LU5.** Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing 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.
- 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.

Staff recommended a written commitment for the real estate. The Written Commitment, if properly crafted, can allow professional office and personal services uses while restricting those C1 uses deemed to be incompatible, or too intensive for the site from a size or access standpoint. The Written Commitment would run with property and not just the property owner.

The project is a single 10,500 square foot commercial building. Parking surrounds the building and is in excess of the minimum parking standards. One vehicular access point is proposed to Goldspur Drive east, and is located near the current residential driveway location. A detention basin is proposed on the west side of the site near Quail Commons. The landscape plan around the perimeter of the site and the landscaping islands in the parking lot meet the intent of the Zoning Ordinance. A lighting plan has not been submitted, but the Zoning Ordinance has standards requiring full cut-off fixtures. Signage will meet the standards of the Zoning Ordinance. The site will install pedestrian facilities along all public streets that do not have them today, and

also provide an internal connection from the building to the sidewalk/trail network. No waiver of development standard is requested with the primary development plan.

PUBLIC HEARING SUMMARY:

Presenter: Tom Trent presented the request to Plan Commission as outlined above.

Public Comments in Favor:

Matt Branning, 8511 Illinois Road – Supports the rezoning. Many changes along the corridor since the road was widened in 2010. Feels like decel lanes would also help.

Pat Browne, 2015 Edenton Drive – The property is no longer suitable for residential uses, there is no barrier from the noise and traffic on Illinois Road.

Public Comments in Opposition or with Concern:

Robert Aplin, representing Centaur Acres – Main themes of opposition: lighting, runoff, infrastructure, and safety of ingress/egress on Goldspur. They do not believe the road can handle the traffic and would rather see the entrance on SR 14. Requesting a traffic study. They will discuss the Written Commitment with Tom Trent, but at the time of the hearing they are generally opposed.

Steve Mauldin, President of Falls of Beaver Creek – Has similar concerns as he does to the Schoolhouse Lofts project. He has spoken to other neighborhood presidents along SR 14 and none are in favor. There is vacant land in town that can be used. Do not add development to SR 14; they moved to the southwest to avoid the hustle and bustle of Fort Wayne.

Kelly Borne, 9117 Goldspur – There is only one entrance to the subdivision, concerns about traffic backing up on SR 14 because of Shigs n Pit. Numerous other vacant properties on SR 14 they could develop. The owner did not try to sell the property residentially.

John Nicholson, 8707 Goldspur Drive – How tall is building? Believes people will overshoot the office entrance and drive through their neighborhood.

Paul Lisec, 1424 Goldspur Drive – Believes she could easily sell the house for residential use.

Closing Comments:

The building will be a maximum of 40 feet, which is the same height restriction for single family residential. Office uses should not add significantly to the traffic on SR 14.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

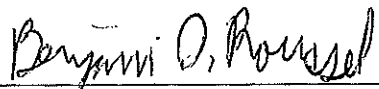
Rezoning Petition REZ-2021-0068

APPLICANT: Barbara A. Browne
REQUEST: To rezone property from AR/Low Intensity Residential to C1/Professional Office and Personal Services; to approve a primary development plan for new commercial structure; and to vacate the real estate platted as Lot 1 of Centaur Acres, including vacation of building lines and associated covenants for the real estate.
LOCATION: The site is located on the south side of West State Road 14 (Illinois Road) and on the west side of East Goldspur Drive. The address of the subject property is 1114 East Goldspur Drive (Section 11 of Aboite Township).
LAND AREA: Approximately 2.2 acres
PRESENT ZONING: AR/Low Intensity Residential
PROPOSED ZONING: C1/Professional Office and Personal Services

The Plan Commission recommends that Rezoning Petition REZ-2021-0068 be returned to Council, with a written commitment, 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/Professional Office and Personal Services zoning will provide the opportunity to redevelop the aging structure on the site while providing additional office opportunities in the Southwest quadrant of the City. This proposal is located within the Conceptual Development Map within the Comprehensive Plan.
LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
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.
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 area.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow reinvestment into the property. The site will be upgraded with modern infrastructure including reconstruction of a portion of Goldspur and new sidewalks. Landscape materials to screen and buffer is also required throughout the site.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments will ensure the required infrastructure is provided to the site.

These findings approved by the Fort Wayne Plan Commission on January 24, 2022.

A handwritten signature in cursive script that reads "Benjamin J. Roussel". The signature is written in black ink and is positioned above a horizontal line.

Benjamin J. Roussel
Executive Director
Secretary to the Commission

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Barbara A. Browne
 Address 1114 Goldspur Drive E.
 City Fort Wayne State IN Zip 46804
 Telephone 260-750-3998 E-mail bbrowne@comcast.net

Contact Person
 Contact Person Tom Trent
 Address 505 E. Washington Blvd.
 City Fort Wayne State IN Zip 46802
 Telephone 260-422-9454 E-mail ttrent@rothberg.com

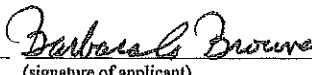
All staff correspondence will be sent only to the designated contact person.

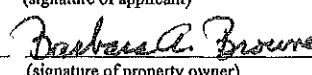
Request
 Allen County Planning Jurisdiction City of Fort Wayne Planning Jurisdiction
 Address of the property 1114 Goldspur Drive E, Fort Wayne, IN 46804
 Present Zoning R-1 Proposed Zoning C-1 Acreage to be rezoned 2.217
 Proposed density 1 units per acre
 Township name Aboite Township section # 11
 Purpose of rezoning (attach additional page if necessary) To facilitate emerging commercial development along Hwy 14/Illinois Road corridor between Hadley and Scott Roads
 Sewer provider Aqua Indiana Water provider City of Fort Wayne

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

- Applicable filing fee
- Applicable number of surveys showing area to be rezoned (plans must be folded)
- Legal Description of parcel to be rezoned (See attached)
- 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.

Barbara A. Browne  12-7-2021
 (printed name of applicant) (signature of applicant) (date)

Barbara A. Browne  12-7-2021
 (printed name of property owner) (signature of property owner) (date)

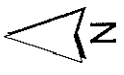
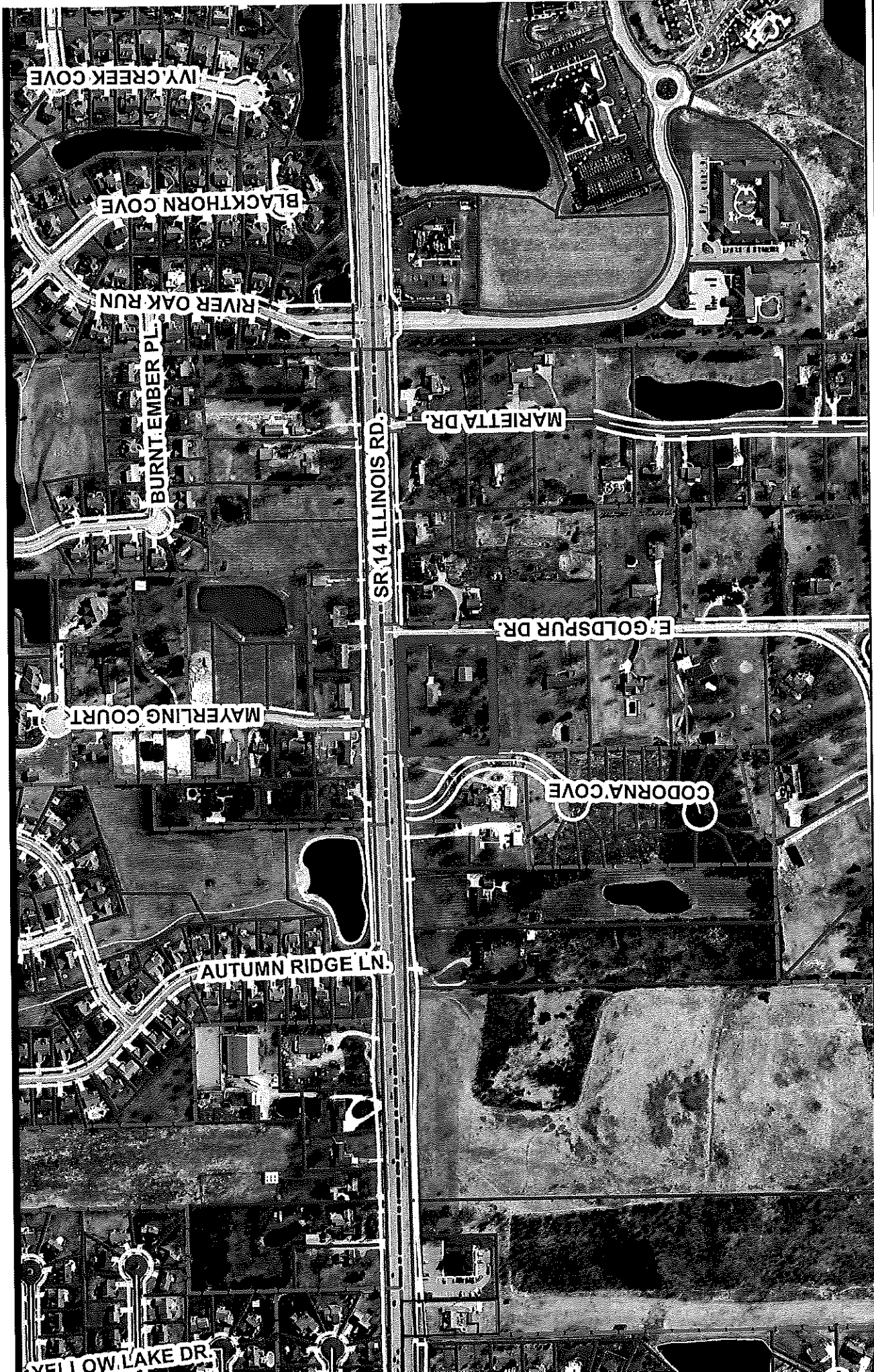
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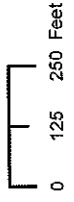
Received	Receipt No.	Hearing Date	Petition No.
12/7/21	139051	1-10-2022	REZ-2021-0068



REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



1 inch = 400 feet

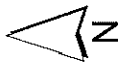
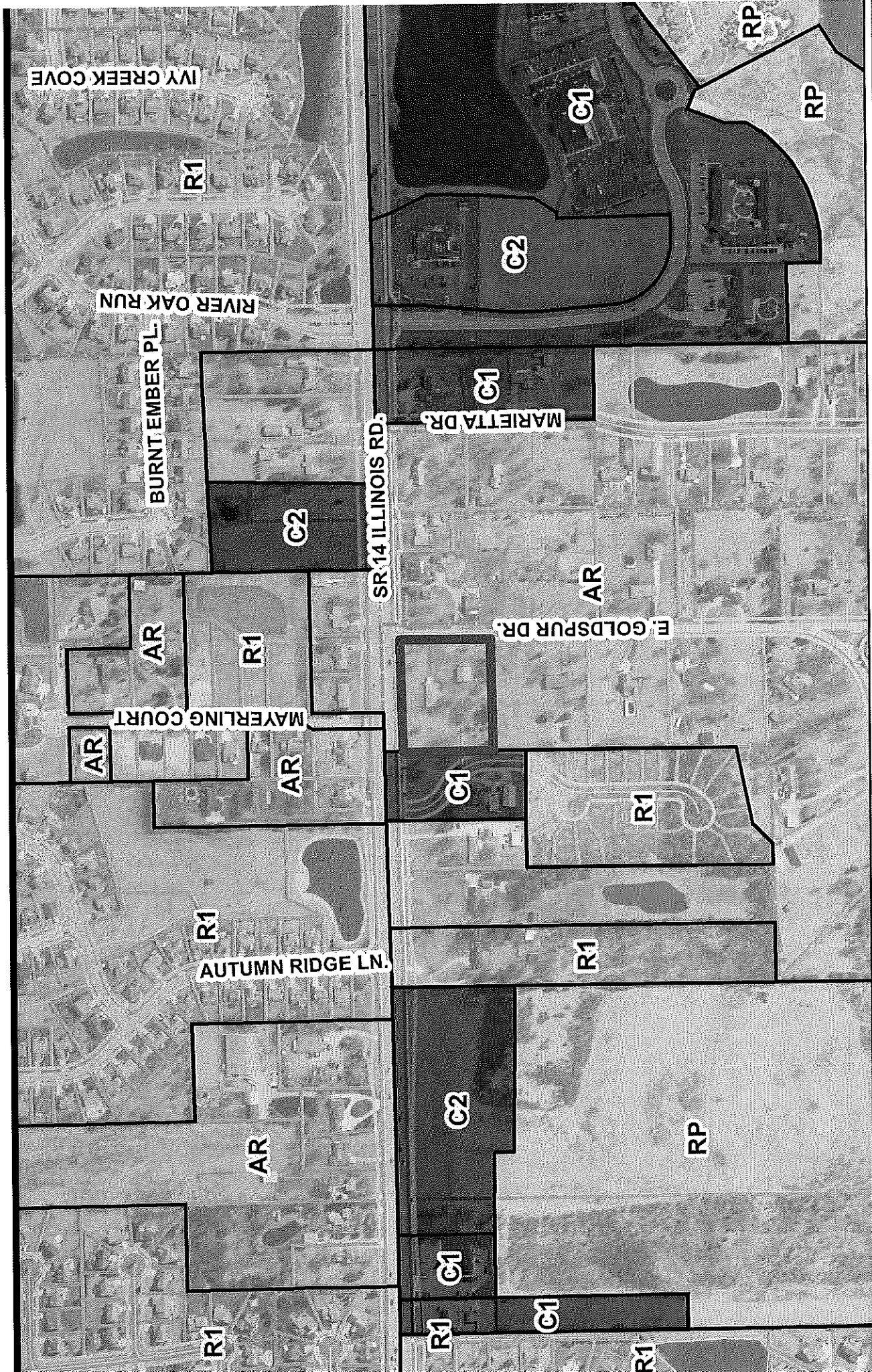


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Photos and Contours: Spring 2009
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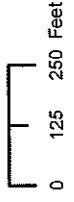
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REZ-2021-0069, PDP-2021-0049, and VPLT-2021-0007 Centaur Acres Lot 1



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WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (this “Commitment”) is made this ___ day of January, 2022, by **Barbara A. Browne** (“Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner, by virtue of a deed recorded as Instrument No. _____ of the records of the Recorder’s Office of Allen County, Indiana, of certain real estate commonly known as 1114 E. Goldspur Drive, Fort Wayne, Indiana (the “Real Estate”), which Real Estate is more particularly described in **Exhibit A**, attached hereto; and

WHEREAS, Declarant filed a Primary Development Plan Application numbered PDP-2021-0049, which Primary Development Plan included a C1 Rezoning Petition Application numbered REZ-2021-0068 (the C1 Rezoning Petition Application numbered REZ-2021-0068, as part of the overall Primary Development Plan, is hereinafter referred to as the “Application”), which Application has been approved by the Fort Wayne Plan Commission (the “Plan Commission”) and the Fort Wayne Common Council (the “City Council”); and

WHEREAS, pursuant to the Application, the Real Estate has been rezoned “C1 Professional Office and Personal Services” pursuant to the Fort Wayne Zoning Ordinance effective as of October 10, 2019 (the “Ordinance”); and

WHEREAS, Declarant has submitted this Commitment, voluntarily, pursuant to the Ordinance and I.C. 36-7-4-1015 for the purpose of limiting certain off site impacts and certain permitted uses arising from the development of the Real Estate; and

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

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 all or any portion of the Real Estate, and all lessees of all or any portion of the Real Estate.

1. **Use Restrictions**. Notwithstanding the provisions set forth in Sections 157.212(B) and 157.212(C) of the Ordinance, which describe the specific permitted uses and special uses in a C1 Professional Office and Personal Services District (the “C1 District”), the Real Estate may not be used for the purposes and uses described in the attached **Exhibit “B”**.

2. **Required Building Materials**. Except with respect to any existing improvement or structure set forth on Declarant’s Primary Development Plan, materials selected for any building or addition located upon the Real Estate shall be durable and honestly expressed. The choice of material

should be guided by functional and aesthetic concerns, free of gimmicks or faux finishes. A given material should read clearly and expressively and not try to mask its identity.

Building materials that will be encouraged for any new building or addition located upon the Real Estate shall include:

- Steel/aluminum curtain wall
- Concrete
- Precast concrete/finished concrete masonry units
- Stone
- Brick
- Glass, tinted and clear

Building materials that are inappropriate for any new building or addition located upon the Real Estate shall include:

- Exposed plywood or exposed wood
- Corrugated or pre-engineered metals
- Unfinished concrete masonry units
- Gypsum wall panels
- Plastics

3. **Hours of Operation.** Businesses will be allowed to operate in the ordinary course during the hours of 6:30 a.m. – 9:00 p.m., Monday – Friday, and 8:00 a.m. – 5:00 p.m., Saturday. To be found in violation of this covenant, any party seeking enforcement must demonstrate a pattern of non-compliance. Isolated incidents of non-compliance shall not be considered a violation of this Commitment.

4. **Permits.** No permits shall be issued under the City of Fort Wayne Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder and a recorded and executed copy of the Commitment is delivered to the Zoning Administrator.

5. **Successors and Assigns.** This Commitment and the restrictions and limitations set forth herein shall be binding upon Declarant, and her successors and assigns, and shall also inure to the benefit of the Zoning Administrator of Fort Wayne (the “Zoning Administrator”) and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any conveyance thereof, shall be binding upon Declarant and her successors and assigns as owners of the Real Estate, and shall have an initial term of twenty-five (25) years, with successive terms of ten (10) years each unless terminated pursuant to the provisions of Section 7 below.

6. **Enforcement.** Any violation of this Commitment shall be deemed a violation of the Ordinance. Pursuant to I.C. 36-7-4-1015, the Plan Commission, or any enforcement official designated by the Ordinance, shall be entitled to enforce this Commitment, at law or in equity, in the event of any breach of the obligations contained herein; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel the enforcement of this Commitment by the Plan Commission or any enforcement official designated by the Ordinance, or any successor agency having zoning jurisdiction over the Real Estate. The Plan Commission, or any enforcement official designated by the Ordinance, shall have the remedies provided for in the Ordinance, or the ordinance covering 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.

7. **Modification and Termination.** This Commitment may be amended or terminated upon application by any persons who own the Real Estate, or any portion thereof, and only with the prior written consent of the Plan Commission, following a public hearing to consider said amendment or termination. This Commitment shall not be amended or terminated unless, after the public hearing, the Plan Commission makes the following determinations as part of its consent: (i) implementation of the amendment or termination will not be injurious to the public health, safety and general welfare of the owners of real property in Centaur Acres subdivision, and (ii) the use and value of the real property adjacent to the Real Estate will not be affected in a substantially adverse manner by implementation of the amendment or termination.

8. **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 in Centaur Acres subdivision, the Zoning Administrator of the City of Fort Wayne and the Plan Commission. As a condition precedent to the bringing of any lawsuit or initiating any action for temporary, preliminary and permanent injunctive relief as provided herein, the party desiring to bring said action shall first provide Declarant, or the then existing owner(s) of the Real Estate, thirty (30) days prior written notice of the breach or violation, or threatened breach or violation, of the terms, restrictions or covenants of this Commitment.

9. **Effective Date.** This Commitment shall be effective upon being duly recorded in the Office of the Recorder of Allen County, Indiana.

10. **Statutory Authority.** This Commitment is made by Owner and Applicant pursuant to I.C. 36-7-4-1015.

11. **Governing Law.** This Commitment, including the restrictions and covenants contained herein, shall be governed by the laws of the State of Indiana.

12. **Counterparts.** This Commitment may be executed in multiple counterparts, and transmitted via email or facsimile, each of which shall be deemed an original and all of which together shall constitute one instrument.

13. **Affirmation Regarding William A. Browne.** Declarant hereby represents and warrants that William F. Browne III died on the ___ day of _____, 20___, at which time Declarant was fully vested in the fee simple interest of the Real Estate.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant hereby agrees to all of the restrictions and covenants of this Commitment as set forth above.

DECLARANT:

Date: _____
Barbara A. Browne

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of January, 2022, personally appeared Barbara A. Browne, and acknowledged the execution of the foregoing Written Commitment.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____
_____, Notary Public
A resident of _____ County

This instrument prepared by Thomas B. Trent, Attorney at Law

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. *Thomas B. Trent*

Return to:

RLW Box

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

[Insert Legal Description]

EXHIBIT B

1. Auction service
2. Blood or plasma donor facility
3. Broadcast studio
4. Campus housing
5. Correctional services facility
6. Dormitory
7. Driving instruction
8. Employment agency
9. Fire station
10. Fraternity house
11. Funeral home
12. Group residential facility (large)
13. Homeless/emergency shelter
14. Hospital
15. Multiple family complex
16. Park area (off-site)
17. Radio station
18. Religious institution/school
19. Residential facility for homeless individuals
20. School
21. Sorority house
22. Television station
23. Townhouse complex
24. Zoo
25. Commercial communication tower

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2021-0068
Bill Number: Z-22-01-07
Council District: 4-Jason Arp

Introduction Date: January 11, 2022

Plan Commission
Public Hearing Date: January 10, 2022 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 2.2 acres from AR/Low Intensity to C1/Professional Office and Personal Services.

Location: 1114 East Goldspur Drive, south side of Illinois Road/SR 14

Reason for Request: To allow a single-building office development.

Applicant: Barbara A. Browne

Property Owner: Barbara A. Browne

Related Petitions: Primary Development Plan, Browne Project

Effect of Passage: Property will be rezoned to the C1/Professional Office and Personal Services zoning district, which will permit a planned professional office development.

Effect of Non-Passage: The property will remain zoned AR/Low Intensity Residential and will continue to allow single residential tracts and low intensity agricultural uses.