

1 **#REZ-2022-0020**
2 **BILL NO. Z-22-05-24**

3
4 **ZONING MAP ORDINANCE NO. Z-21-22**

5 **AN ORDINANCE amending the City of Fort Wayne**
6 **Zoning Map No. BB-02 (Sec. 10 of Aboite)**

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

9 SECTION 1. That the area described as follows is hereby designated a C2 (Limited
10 Retail) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
11 Wayne, Indiana:

12 Part of a tract described in Document Number 910024737):

13 Part of the Northeast Quarter of Section 10, Township 30 North, Range 11 East, Allen County,
14 Indiana, based on an original survey by Joseph R. Herendeen, Indiana Professional Surveyor
Number 20900190 of Sauer Land Surveying, Inc., Survey No. 140-169, dated April 28, 2022,
and being more particularly described as follows, to-wit:

15 Commencing at the North Quarter corner of said Section 10, being marked by a cast iron
16 monument; thence North 89 degrees 41 minutes 27 seconds East (GPS grid bearing and basis of
17 all bearings in this description), on and along the North line of said Northeast Quarter, being
18 within the right-of-way of Illinois Road (State Road #14), a distance of 874.08 feet to the
19 Northeast corner of a 9.95 acre base tract of real estate described in a deed to Aboite United
20 Methodist Church in Document Number 910024737 in the Office of the Recorder of Allen
21 County, Indiana; thence South 00 degrees 13 minutes 11 seconds East, on and along the East line
22 of said 9.95 acre tract, a distance of 60.00 feet to a #5 rebar at the point of intersection of said
23 East line with the South right-of-way line of said Illinois Road (State Road #14), as described in
24 a deed to the State of Indiana in Document Number 930070576 in the Office of said Recorder,
25 this being the true point of beginning; thence South 00 degrees 13 minutes 11 seconds East,
26 continuing on and along said East line, a distance of 240.00 feet to a #5 rebar; thence South 89
27 degrees 41 minutes 27 seconds West and parallel with the North line of said Northeast Quarter, a
28 distance of 222.17 feet to a #5 rebar; thence North 00 degrees 18 minutes 33 seconds West, a
29 distance of 60.00 feet to a #5 rebar; thence South 89 degrees 41 minutes 27 seconds West and
30 parallel with the North line of said Northeast Quarter, a distance of 75.00 feet to a #5 rebar;
thence North 00 degrees 18 minutes 33 seconds West, a distance of 165.00 feet to a #5 rebar on
the South right-of-way line of said Illinois Road (State Road #14); thence North 89 degrees 41
minutes 27 seconds East, on and along said South right-of-way line, a distance of 87.54 feet to a
#5 rebar; thence North 00 degrees 18 minutes 33 seconds West, continuing on and along said
South right-of-way line, a distance of 15.00 feet to a #5 rebar; thence North 89 degrees 41
minutes 27 seconds East, continuing on and along said South right-of-way line, a distance of
210.00 feet to the true point of beginning, containing 1.505 acres of land, and subject to all
easements of record.

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and the symbols of the City of Fort Wayne Zoning Map No. BB-02 (Sec. 10 of Aboite Township), as established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is hereby changed accordingly.


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:



Malak Heiny, City Attorney

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2022-0020
Bill Number: Z-22-05-24
Council District: 4 – Jason Arp

Introduction Date: May 24, 2022

Plan Commission
Public Hearing Date: June 13, 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 1.5 acres from AR/Low Intensity Residential to
C2/Limited Commercial

Location: 9925 Illinois Road

Reason for Request: To allow for a multi-tenant retail building.

Applicant: Newberry Real Estate, LLC

Property Owners: Newberry Real Estate, LLC

Related Petitions: Primary Development Plan, 9925 Illinois Road Commercial

Effect of Passage: Property will be rezoned to the C2/Limited Commercial zoning district,
which will allow for a variety of retail and limited commercial services.

Effect of Non-Passage: The property will remain zoned for residential and low intensity
agricultural uses. The property was formally part of the Sunrise Church
property and is situated between the church and commercial/retail
development.

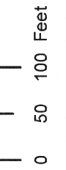


REZ-2022-0020 and PDP-2022-0008 - 9925 W SR 14



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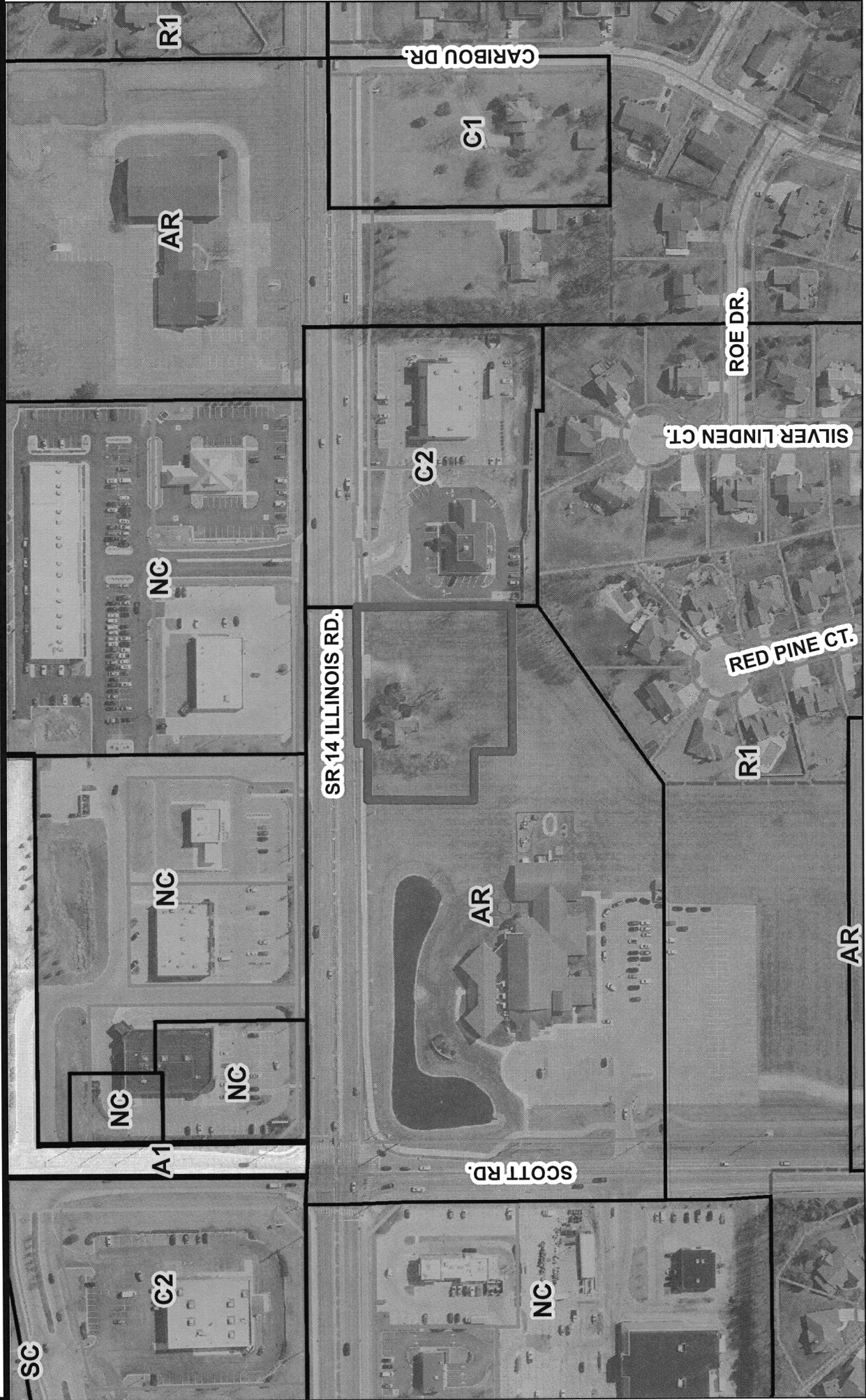
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North American Datum 1983
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Photos and Contours: Spring 2009
Date: 5/16/2022



1 inch = 200 feet

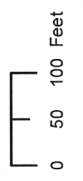


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**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Newberry Real Estate, LLC
 Address 1971 Lunenburg Drive
 City Westfield State Indiana Zip 46074
 Telephone 312-961-3021 E-mail mrykovich@nbrellc.com

Contact Person
 Contact Person Mark Rykovich
 Address 1971 Lunenburg Drive
 City Westfield State Indiana Zip 46074
 Telephone 312-961-3021 E-mail mrykovich@nbrellc.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 10125 Illinois Rd, Fort Wayne, IN
 Present Zoning AR Proposed Zoning C2 Acreage to be rezoned 1.5
 Proposed density 1 commercial multi-tenant building units per acre
 Township name Aboite Township section # 0123011
 Purpose of rezoning (attach additional page if necessary) see attached

Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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

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

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

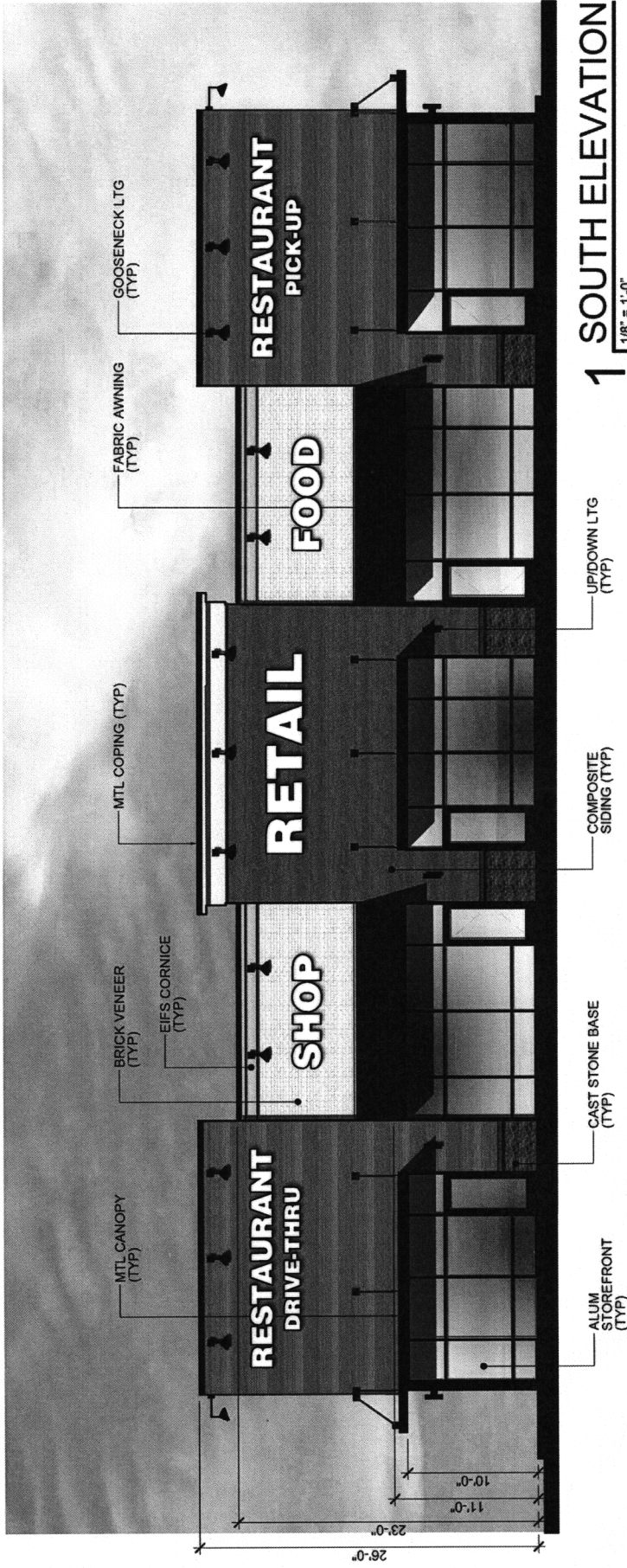
Mark J. Rykovich [Signature] 3/30/2022
 (printed name of applicant) (signature of applicant) (date)

Joseph W Clark [Signature] 4/4/2022
 (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 5-3-22	Receipt No. 140121	Hearing Date 6-13-22	Petition No. REF-2022-0020
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1 SOUTH ELEVATION
 1/8" = 1'-0"


 DATE: 03-24-2022
 SHEET NO.: EE-3
 ARCHITECTS
PHOTOGRAPHY BY: DANIEL J. GIBSON

CLIENT: NBRE
 RETAIL DEVELOPMENT - ILLINOIS RD, FORT WAYNE, IN
 PRELIMINARY FRONT ELEVATION

FACT SHEET

Case #REZ-2022-0020	Bill # Z-22-05-24	Project Start: June 2022
APPLICANT:	Newberry Real Estate, LLC	
REQUEST:	To rezone the property from AR/Low Intensity Residential to C2/Limited Commercial and a primary development plan for a multi-tenant commercial building.	
LOCATION:	9925 W SR 14, 725 feet east of its intersection with Scott Road (Section 10 of Aboite Township)	
LAND AREA:	1.51 acres	
PRESENT ZONING:	AR/Low Intensity Residential	
PRESENT ZONING:	C2/Low Intensity Commercial	
COUNCIL DISTRICT:	4- Jason Arp	
SPONSOR:	City of Fort Wayne Plan Commission	

June 13, 2022 Public Hearing

- One neighbor spoke with concerns.
- Tom Freistroffer and Don Schmidt were absent.

June 21, 2022 Business Meeting

Plan Commission Recommendation: DO PASS

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

8-0 MOTION PASSED

- Paul Sauerteig was absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
July 20, 2022

PROJECT SUMMARY

The petitioner requests a rezoning from AR/Low Intensity Residential to C2/Limited Commercial to permit a multitenant commercial building including two proposed drive-through tenants. The property consists of a single family home as well as Sunrise Church. The proposed plan is to split 1.51 acres from the Sunrise Church parent parcel for this development. The site is adjacent to NC/Neighborhood Center to the north, C2/Limited Commercial to the east, AR/Low Intensity Residential to the west, and R1/Single Family Residential to the south. The uses consist of commercial to the north and east and residential to the south.

There have been several successful rezoning petitions along Illinois Road. The property directly to the east was rezoned to C2/Limited Commercial in 2007, but was not built until 2014. The properties on the north side of Illinois Road were previously rezoned for commercial uses and developed in the early to mid 2000's. The properties to the north and to the east are similar to what is proposed with this rezoning.

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

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

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

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

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

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

The proposed site plan includes a 7,500 square foot five-unit commercial building with two potential drive through locations. Parking is located on the north and south sides of the property. 7,709 square feet of detention is proposed on the west side of the property with a drive lane to the east. Illinois Road/W SR 14 is accessed through one point on the west side of the property. No waivers are proposed with the primary development plan. The proposed dumpster meets the required setbacks and will need to be screened appropriately according to the Zoning Ordinance.

PUBLIC HEARING SUMMARY:

Presenter: Rob Kruger represents the applicant and presented the request as outlined above. Mr. Kruger stated that this proposal continues the transition to commercial along Illinois Road and that this is the highest and best use for a parcel that is no longer desirable for residential. The site plan was modified based on staff and INDOT comments and they are working with the adjacent church on buffering.

Public Comments:

Cheryl and Matt Moore, 10026 Red Pine Court – concerned about existing drainage issues. Water currently comes off the hill to the low point in their backyard.

Closing Remarks: The proposed drainage plan will handle any water coming from the applicant's property.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

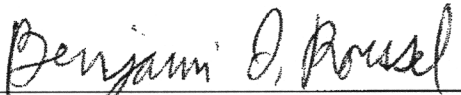
Rezoning Petition REZ-2022-0020

PROPOSAL: Rezoning Petition REZ-2022-0020 – 9925 W SR 14
APPLICANT: Newberry Real Estate, LLC
REQUEST: To rezone the property from AR/Low Intensity Residential to C2/Limited Commercial.
LOCATION: 9925 W SR 14, 725 feet east of its intersection with Scott Road (Section 10 of Aboite Township)
LAND AREA: 1.51 acres
PRESENT ZONING: AR/Low Intensity Residential
PRESENT ZONING: C2/Low Intensity Commercial

The Plan Commission recommends that Rezoning Petition REZ-2022-0020 be returned to Council, with a “Do Pass” recommendation after considering the following:

1. Approval of the rezoning request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The C2/Limited Commercial zoning will provide the opportunity to redevelop the site while providing additional commercial options in the Southwest quadrant of the City. This proposal is located within the Conceptual Development Map within the Comprehensive Plan.
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.
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 June 20, 2022.



Benjamin J. Roussel
Executive Director
Secretary to the Commission

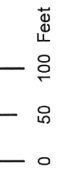


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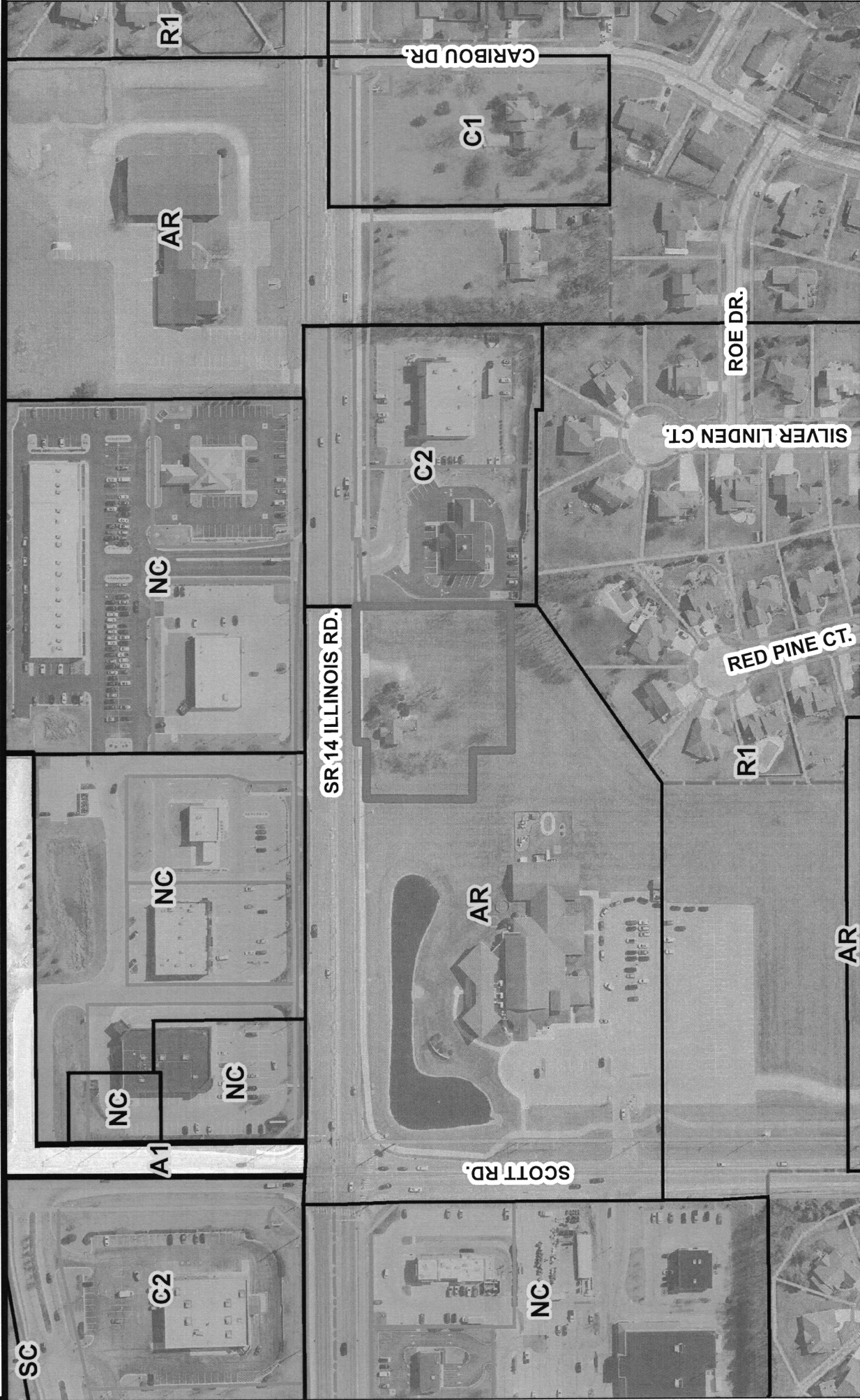
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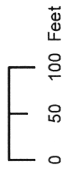


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ILLINOIS PROFESSIONAL DESIGN REGISTRATION - 194 000666 EXPIRES 4/30/2023

© DXU 2021

V5

SITE PLAN

Project Number: 21-0004
 Drawn By: ES
 Approved By: ES
 No. Issue
 Date

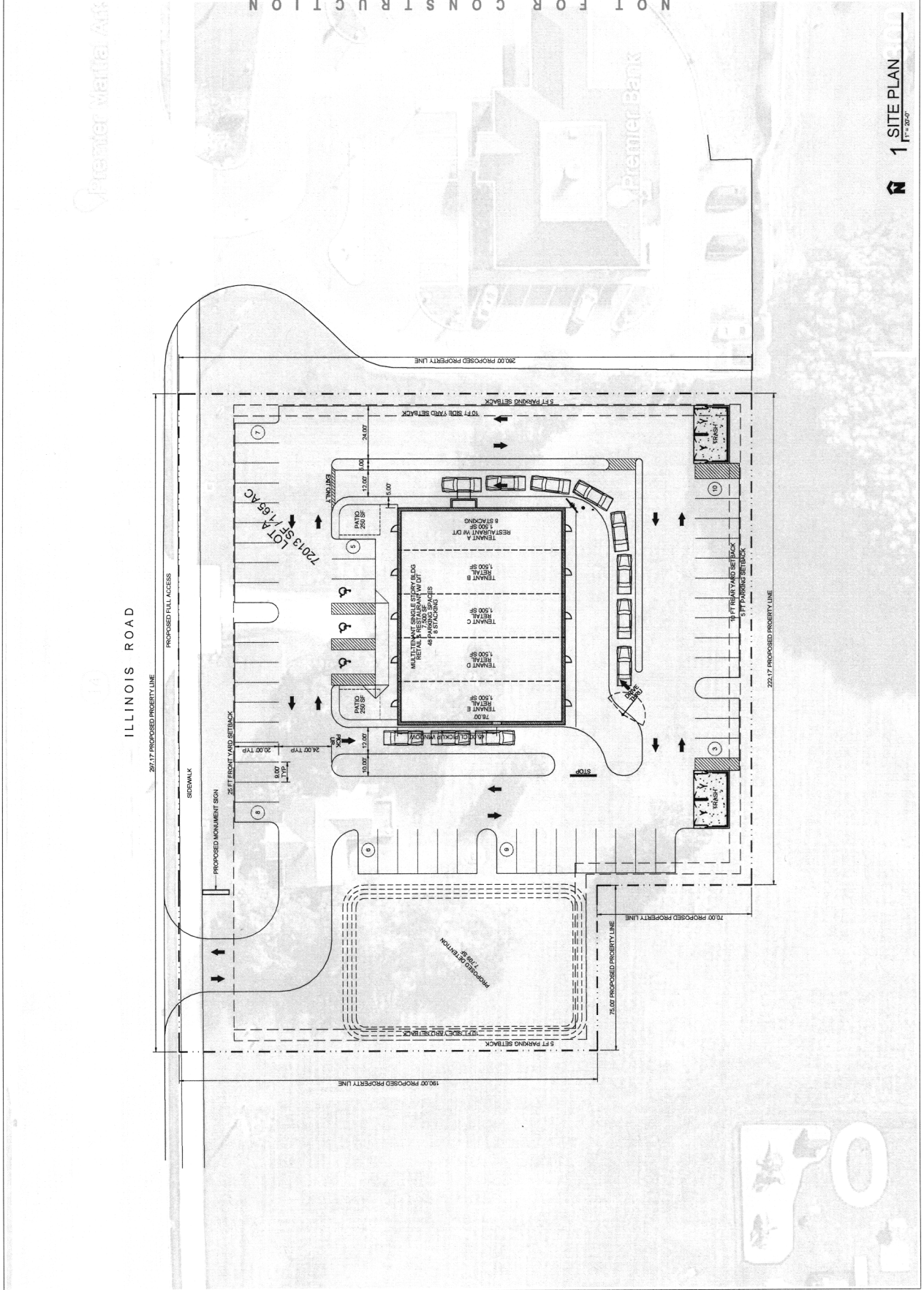
Client REVIEW

DATE OF SIGNATURE
 LICENSE BARREON

DXU ARCHITECTS

NEWBERRY REAL ESTATE
 RESTAURANT DEVELOPMENT
 NEAR 10125 ILLINOIS RD
 FORT WAYNE, IN

PLAN NO. 10125-01-01
 DATE: 08-21-2021
 SHEET NO. 1 OF 1
 SCALE: AS SHOWN





1 SOUTH ELEVATION
1/8" = 1'-0"

RETAIL DEVELOPMENT - ILLINOIS RD, FORT WAYNE, IN
PRELIMINARY FRONT ELEVATION

NBRE

CLIENT

BILL NO. Z-22-05-24

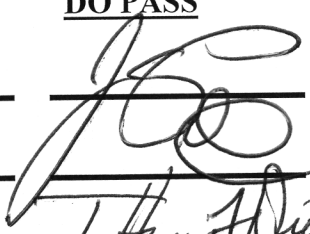
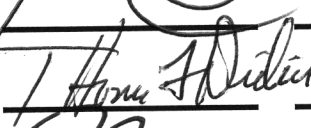
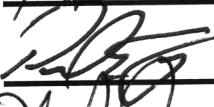
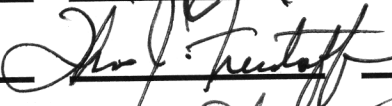
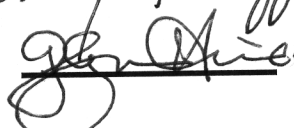
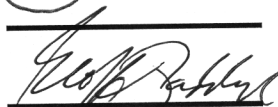

**REPORT OF COMMITTEE ON REGULATIONS
July 26, 2022**

**Paul Ensley Chair
Tom Freistroffer Co-Chair
All Council Members**

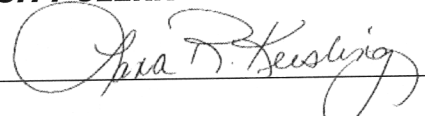
An Ordinance amending the City of Fort Wayne Zoning Map No. BB-02 (Sec. 10 of Aboite)

To rezone approximately 1.5 acres from AR/Low Intensity Residential to C2/Limited Commercial at 9925 Illinois Rd for a multi-tenant retail building

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

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

**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: June 13, 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 Ensley, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAMBERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TUCKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


DATED: July 26, 2022



 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Zoning Ordinance No. Z-22-05-24 on the 26th day of July, 2022

ATTEST:



 LANA R. KEESLING
 CITY CLERK



 PRESIDING OFFICER

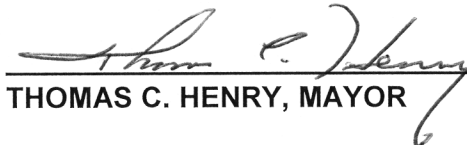
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th of July 2022, at the hour of 10:20 o'clock A.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 28TH day of JULY 2022, at the hour of 3:30 o'clock PM E.S.T.

FORT WAYNE, INDIANA
RECEIVED
 JUL 29 2022
 LANA R. KEESLING
 CITY CLERK



 THOMAS C. HENRY, MAYOR