

1 **#REZ-2022-0056**

2 **BILL NO. Z-22-11-17**

3 **ZONING MAP ORDINANCE NO. Z- 4-23**

4 **AN ORDINANCE amending the City of Fort Wayne**
5 **Zoning Map No. U-30 (Sec. 21 of Saint Joseph Township)**

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

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

11 **PARCEL I:**

12 Part of the East Half of the Southeast Quarter of Section 21, Township 31 North, Range 13
13 East, Allen County, Indiana, more particularly described as follows, to-wit: BEGINNING on
14 the West line of said East Half, at a point situated 785.0 feet South of the intersection of
15 said West line with the South line, produced Westward, of the Plat of Bohde Grove Addition,
16 Section "C", as recorded in Plat Record 27, page 70, in the Office of the Recorder of Allen
17 County, Indiana; thence South, on and along said West line, 130.6 feet (recorded 130 feet)
18 to a survey pipe found; thence East, by an interior angle of 90 degrees 00 minutes, a
19 distance of 320.0 feet to a survey pipe found; thence North, by an interior angle of 90
20 degrees 00 minutes and parallel to said West line, 121.2 feet (recorded 105 feet) to the
21 centerline of Bullerman Ditch; thence Westerly, by a deflection angle left of 78 degrees 51
22 minutes on and along said ditch centerline, being also the South line of Lot Number 79 in
23 Bohde Grove Addition, Section "F", as recorded in Plat Record 30, page 13, in the Office of
24 the Recorder of Allen County, Indiana, a distance of 8.5 feet to the Southwest corner of said
25 Lot Number 79; thence Westerly by a deflection angle left of 7 degrees 06 minutes,
26 continuing along said ditch centerline, being also the South line of Lots Numbered 78 and 77
27 in said Bohde Grove Addition. Section "F", a distance of 312.4 feet to said West line; thence
28 South, by an interior angle of 85 degrees 57 minutes on and along said West line, 14.4 feet

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to the Point of Beginning.


and the symbols of the City of Fort Wayne Zoning Map No. U-30 (Sec. 21 of Saint Joseph 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-2022-0056
Bill Number: Z-22-11-17
Council District: 1 – Paul Ensley

Introduction Date: November 22, 2022

Plan Commission
Public Hearing Date: December 12, 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 0.86 acres from RP/Planned Residential to
C1/Professional Offices and Personal Services with a Written
Commitment to limit certain uses.

Location: 4601 Maplecrest Road

Reason for Request: To align with the historical and current uses of the property

Applicant: True Velocity, LLC

Property Owner: True Velocity, LLC

Related Petitions: none

Effect of Passage: Property will be rezoned to the C1/Professional Office and Personal
Services zoning district, which is the appropriate district for the historical
and proposed nonresidential uses

Effect of Non-Passage: The property will remain zoned RP/Planned Residential and the existing
uses may remain under the Board of Zoning Appeals approval, but future
development and financing may be hindered

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant True Velocity, LLC
 Address 1827 Woodland Crossing
 City Fort Wayne State IN Zip 46825
 Telephone 260-804-8865 E-mail truevelocityllc@gmail.com

Contact Person
 Contact Person Patrick R. Hess, Beckman Lawson, LLP
 Address 201 W. Wayne St.
 City Fort Wayne State IN Zip 46802
 Telephone 260-422-0800 E-mail phess@beckmanlawson.com

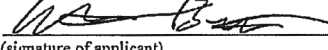
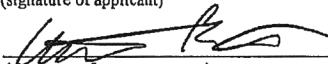
All staff correspondence will be sent only to the designated contact person.

Request
 Allen County Planning Jurisdiction City of Fort Wayne Planning Jurisdiction
 Address of the property 4601 Maplecrest Road
 Present Zoning RP Proposed Zoning C1 Acreage to be rezoned 0.86
 Proposed density N/A units per acre
 Township name St. Joseph Township section # 8
 Purpose of rezoning (attach additional page if necessary) To align zoning with historical use of property. (with written commitment)
 Sewer provider City Water provider City

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

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

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

<u>True Velocity, LLC</u> (printed name of applicant)	 (signature of applicant)	<u>11-1-22</u> (date)
<u>True Velocity, LLC</u> (printed name of property owner)	 (signature of property owner)	<u>11-1-22</u> (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)

Received <u>11/1/22</u>	Receipt No. <u>141919</u>	Hearing Date <u>12.12.22</u>	Petition No. <u>REZ 2022-0050</u>
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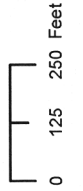


Rezoning Petition REZ-2022-0056 - 4601 Maplecrest Road



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

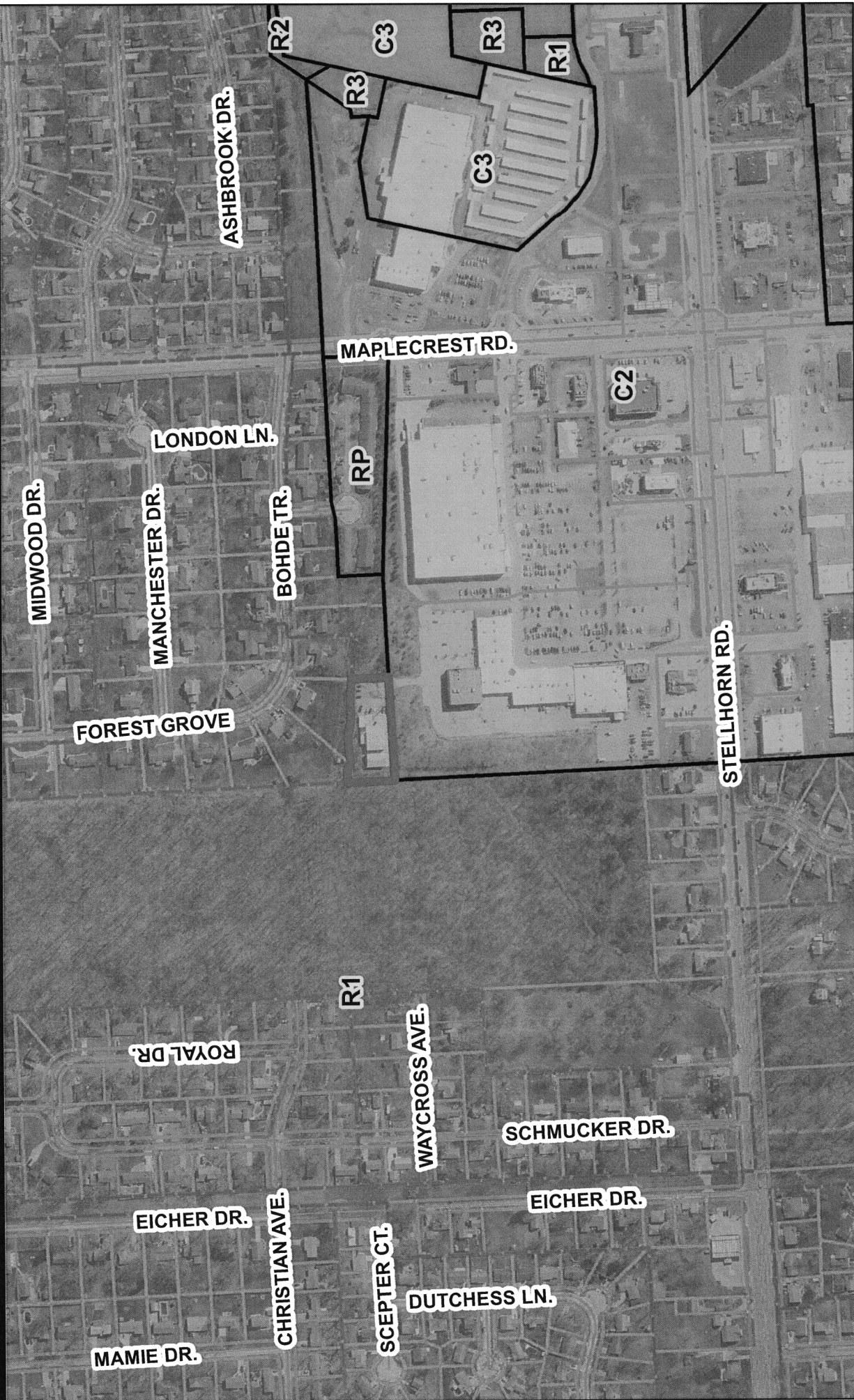
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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 11/16/2022



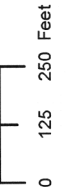
1 inch = 400 feet



Rezoning Petition REZ-2022-0056 - 4601 Maplecrest Road



1 inch = 400 feet



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 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 11/16/2022

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REZONING FACT SHEET

Petition #REZ-2022-0056 Z-22-11-17 Project Start: November 2022

APPLICANT:	True Velocity, LLC
REQUEST:	Rezone property from R1/Single Family Residential to C1/Professional Office and Personal Services to align zoning with historical use of the property.
LOCATION:	4601 Maplecrest Road, behind the Northwood Shopping Center (Section 21 of St Joseph Township)
LAND AREA:	0.86 acres
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	C1/Professional Office and Personal Services
COUNCIL DISTRICT:	1-Paul Ensley
SPONSOR:	City of Fort Wayne Plan Commission

December 12, 2022 Public Hearing

- No one from the public spoke at the public hearing.
- Ryan Neumeister was absent.

December 19, 2022 Business Meeting

- Plan Commission Recommendation: **DO PASS w/Written Commitment**
- A motion was made by Paul Sauerteig and seconded by Patrick Zaharako to return the ordinance with a Do Pass recommendation to Common Council for their final decision.
- **7-0 MOTION PASSED**
- Tom Freistroffer and Rachel Tobin Smith were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
January 5, 2023

PROJECT SUMMARY

SITE HISTORY:

- The site contains two commercial buildings and a commercial communications tower.
- The site has historically been used for commercial purposes since 1975 through several Board of Zoning Appeals approvals.

STAFF DISCUSSION:

The applicant is requesting to rezone property from RP/Planned Residential to C1/Professional Office and Personal Services to align zoning with historical use of the property. In 1975 the Board of Zoning Appeals approved a variance allowing an office and storage facility for a small electrical contracting business on this site. Historically, the property has continued to be used for commercial uses for over four decades. The property is located on the behind the northwest corner of Northwood Plaza Shopping Center, which in this location is along a 5-lane urban minor arterial. The applicant is not proposing any improvements of the existing structures so a development plan was not required. Given its location, access and proximity to the shopping center, this property is not appropriate for single family housing. Being in the correct district for the use can aid in future improvements and add value to the property, as well as ensure commercial development standards for future expansion or redevelopment. The C1 district is often used as a buffer between residential neighborhoods and commercial developments. Additionally, the applicant is proposing a written Commitment to restrict certain permitted uses and special uses that could be considered more intensive, such as drive-through uses and recreation facilities, and also higher-density uses such as multiple family residential, campus housing/dormitories, and group residential facilities, among other uses (list attached).

PUBLIC HEARING SUMMARY:

Presenter: Pat Hess, representing the applicant, presented the project to the Plan Commission, as outlined above. A written commitment has been submitted that limits more intensive uses in the district. A neighborhood meeting was held with one neighbor in attendance and no issues were cited.

Public Hearing Comments:

none

BECKMAN LAWSON, LLP
DRAFT #1
FOR DISCUSSION PURPOSES ONLY
By: Patrick R. Hess, Esq.
Date: November 1, 2022

WRITTEN COMMITMENT

[Cross Reference to: Doc. No. 2022028020]

This Written Commitment ("Commitment"), dated as of the date recorded on the signature page, is made by True Velocity LLC, an Indiana limited liability company, with a mailing address of 1827 Woodland Crossing, Fort Wayne, IN 46825 ("Owner").

RECITALS

A. By virtue of a Warranty Deed dated April 20, 2022, and recorded May 23, 2022, as Document Number 2022028020 Allen County, Indiana, Owner is the owner in fee simple of certain real estate located in Allen County, Indiana, a portion of which is legally described as follows: See attached Exhibit "A." Commonly known as 4601 Maplecrest Road, Fort Wayne, IN 46835. PIN 02-08-21-478-001.000-072. Located in Section 8 of St. Joseph Township in Allen County, Indiana ("Real Estate").

B. On August 18, 2022, after a public hearing, Owner received a recommendation from the Fort Wayne Plan Commission ("Plan Commission") to the Common Council of the City of Fort Wayne ("City Council") for the passage of a rezoning of the Real Estate from RP (Planned Residential) to C1 (Professional Office and Personal Services) provided the Owner establish this Commitment restricting certain permitted uses in the C1 district.

C. On _____, 2022 the City Council approved the rezoning of the Real Estate to C1 subject to this Commitment.

D. Pursuant to IC 36-7-4-1015, the Plan Commission or the City Council may require or permit an owner of real property to make a written commitment concerning the use or development of the real property as part of the adoption of a rezoning proposal.

COMMITMENT

Owner consents to the following written commitments which shall govern the Real Estate:

1. **STATEMENT OF COMMITMENTS.** The Owner shall abide by the following commitments:

1.1. The following shall not be permitted on the Real Estate:

- 1.1.1. Assisted living facility;
- 1.1.2. Bank that utilizes drive-thru facilities;
- 1.1.3. Bed and breakfast;
- 1.1.4. Blood bank;
- 1.1.5. Blood or plasma donor facility;
- 1.1.6. Boarding house;
- 1.1.7. Campus housing (off-site);
- 1.1.8. Child care home (Class I or II);
- 1.1.9. Community garden;
- 1.1.10. Correctional services facility;
- 1.1.11. Dormitory;
- 1.1.12. Drive Through Facility;
- 1.1.13. Fraternity house;
- 1.1.14. Funeral home;
- 1.1.15. Group residential facility (large);

- 1.1.16. Group residential facility (small);
- 1.1.17. Homeless shelter;
- 1.1.18. Hospice care center;
- 1.1.19. Hospital;
- 1.1.20. Live-work unit;
- 1.1.21. Model unit;
- 1.1.22. Multiple family complex;
- 1.1.23. Multiple family dwelling;
- 1.1.24. Museum;
- 1.1.25. Nursing home;
- 1.1.26. Parking area (off-site);
- 1.1.27. Residential dwelling unit;
- 1.1.28. Residential facility for homeless individuals (up to 8);
- 1.1.29. Retirement facility;
- 1.1.30. Sorority house;
- 1.1.31. Surgery center;
- 1.1.32. Townhouse complex;
- 1.1.33. Treatment center;
- 1.1.34. Wind energy conversion system (micro); and
- 1.1.35. Zoo.

1.2. The following special uses in the C-1 district according to the Fort Wayne Zoning Ordinance shall not be permitted on the Real Estate;

- 1.2.1. Automatic teller machine (ATM) (stand-alone);
- 1.2.2. Club, private;
- 1.2.3. Group residential facility (large) (if adjacent to a residential district);
- 1.2.4. Homeless shelter (if adjacent to a residential district, or accessor to a religious institution);
- 1.2.5. Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards);
- 1.2.6. Parking area (as a primary use; a special use shall not be required for a universally permitted off-site parking area);
- 1.2.7. Recreation use, outdoor (athletic field, riding stable, swim club, tennis club);
- 1.2.8. Religious institution or non-public school illuminated athletic field(s);
- 1.2.9. Residential facility for a court-ordered re-entry program;
- 1.2.10. Residential facility for homeless individuals (for up to eight (8) individuals, if adjacent to a residential district);
- 1.2.11. Wind energy conversion system, standard (or more than one (1) micro system); and
- 1.2.12. Wind energy conversion system, micro (on land adjacent to a residential district).

2. **BINDING EFFECT, MODIFICATION, TERMINATION.** This Commitment shall run with the Real Estate, and shall be binding upon Owner, and Owners successors and assigns, unless this Commitment is modified or terminated. The Recitals are incorporated herein by reference and are expressly made a part of this Commitment. Except as otherwise provided herein, this Commitment may be modified or terminated only by a decision of the Plan Commission following a public hearing held by the Plan Commission wherein notice has been given as provided by the Plan Commission's rules of procedure.

3. **RECORDING.** Owner shall, at its own expense, record this Commitment with the Allen County Recorder and shall provide a copy of the recorded Commitment to the Allen County Zoning Administrator.

4. **ENFORCEMENT.** Pursuant to I.C. 36-7-4-1015(d) and (e), the Plan Commission shall be entitled to all legal and equitable remedies available by such statute for the violation of this Commitment.

5. **GOVERNING LAW.** This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

6. **SEVERABILITY.** Each covenant or restriction contained in any paragraph of this Commitment shall be severable and separate, and if any court shall rule that any particular restriction or covenant is unenforceable, such ruling shall not affect the enforceability of any other restriction or covenant under this Commitment, and such other restriction or covenant shall be enforced.

7. **EFFECTIVE DATE.** This Commitment shall be effective upon the recording of this commitment in the Office of the Recorder of Allen County, Indiana;

8. **STATUTORY AUTHORITY.** This Commitment is made pursuant to IC 36-7-4-1015.

IN WITNESS WHEREOF, the undersigned has caused this Commitment to be executed the day and year first written above.

**TRUE VELOCITY LLC
OWNER**

Signature

Print

Position with Company (if applicable)

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2022 personally appeared _____ and acknowledged the execution of the foregoing instrument. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

_____, Notary Public
A Resident of _____ County, Indiana

This instrument prepared by Patrick R. Hess, Attorney at Law, Beckman Lawson, LLP, 201 West Wayne Street, Fort Wayne, Indiana, 46802.

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.
Patrick R. Hess

EXHIBIT A

Description of the Real Estate

PARCEL I:

Part of the East Half of the Southeast Quarter of Section 21, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows, to-wit:

BEGINNING on the West line of said East Half, at a point situated 785.0 feet South of the intersection of said West line with the South line, produced Westward, of the Plat of Bohde Grove Addition, Section "C", as recorded in Plat Record 27, page 70, in the Office of the Recorder of Allen County, Indiana; thence South, on and along said West line, 130.6 feet (recorded 130 feet) to a survey pipe found; thence East, by an interior angle of 90 degrees 00 minutes, a distance of 320.0 feet to a survey pipe found; thence North, by an interior angle of 90 degrees 00 minutes and parallel to said West line, 121.2 feet (recorded 105 feet) to the centerline of Bullerman Ditch; thence Westerly, by a deflection angle left of 78 degrees 51 minutes on and along said ditch centerline, being also the South line of Lot Number 79 in Bohde Grove Addition, Section "F", as recorded in Plat Record 30, page 13, in the Office of the Recorder of Allen County, Indiana, a distance of 8.5 feet to the Southwest corner of said Lot Number 79; thence Westerly by a deflection angle left of 7 degrees 06 minutes, continuing along said ditch centerline, being also the South line of Lots Numbered 78 and 77 in said Bohde Grove Addition, Section "F", a distance of 312.4 feet to said West line; thence South, by an interior angle of 85 degrees 57 minutes on and along said West line, 14.4 feet to the Point of Beginning.

PARCEL II:

A non-exclusive easement for purpose of Ingress and egress for the benefit of Parcel I as created by Grant of Easement, Acceptance Thereof and Release of Prior Easement dated June 10, 1974 and recorded June 14, 1974 as Document Number 74-13404 over and across the following described real estate in Allen County, Indiana:

A part of the East Half of the Southeast Quarter of Section 21 Township 31 North, Range 13 East, Allen County, Indiana, described as follows:

COMMENCING at the Southeast corner of said Half Quarter Section; thence North 00 degrees 14 minutes West (assumed) along the East line of said Half Quarter Section 633.00 feet; thence South 89 degrees 46 minutes West, 40.00 feet to the West right-of-way of Maplecrest Road and the Point of Beginning of a centerline description of a 30.00 foot ingress and egress easement; thence continuing South 89 degrees 46 minutes West, 120.43 feet; thence North 00 degrees 14 minutes West, 306.00 feet; thence South 89 degrees 46 minutes West, 271.00 feet; thence North 64 degrees 14 minutes West, 107.00 feet; thence North 85 degrees 30 minutes West, 52.00 feet; thence South 74 degrees 30 minutes West, 125.00 feet; thence South 39 degrees 30 minutes West, 85.00 feet; thence South 89 degrees 36 minutes West, 256.48 feet; thence North 00 degrees 00 minutes East 145.00 feet to the Southeast property corner of Puritan Utilities, Inc.

END OF EXHIBIT "A"

BILL NO. Z-22-11-17

**REPORT OF COMMITTEE ON REGULATIONS
January 10, 2023**

Tom Freistroffer Chair

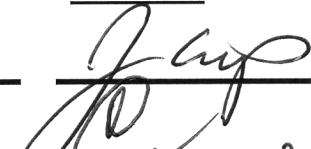
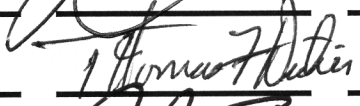


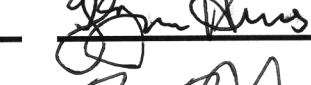
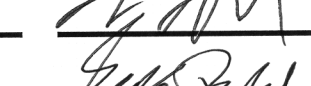

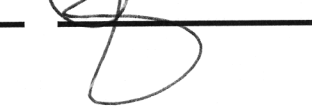
Sharon Tucker Co-Chair

All Council Members

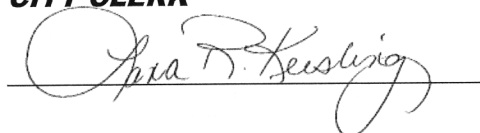
An Ordinance amending the City of Fort Wayne Zoning Map No. U-30 (Sec. 21 of Saint Joseph Township)

To rezone approximately 0.86 acres from RP/Planned Residential to C1/Professional Offices and Personal Services with a Written Commitment to limit certain uses at 4601 Maplecrest Road

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: December 12, 2022

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

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TUCKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: January 10, 2023



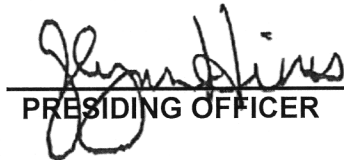
 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Zoning Ordinance No. Z-22-11-17 on the 10th day of January, 2023

ATTEST:



 LANA R. KEESLING
 CITY CLERK



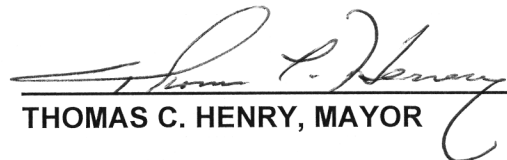
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th of January 2023, at the hour of 2:40 o'clock P.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 12th day of JANUARY 2023, at the hour of 8:00 o'clock AM E.S.T.



 THOMAS C. HENRY, MAYOR

