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#REZ-2023-0018

BILL NO. Z-23-06-01

ZONING MAP ORDINANCE NO. Z-23-23

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. Q-07 (Sec. 18 of Adams Township)**

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

SECTION 1. That the area described as follows is hereby designated a C3 (General
Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
Wayne, Indiana:

RECORD DESCRIPTION: (as described in Document Number 2022050437)

Lots Numbered 170, 171, 172, 173, 174, and 175 in Pennsylvania Place, an Addition to the City
of Fort Wayne, according to the recorded plat thereof, recorded in Plat Book 7, pages 14-15, in
the office of the Recorder of Allen County, Indiana.

EXCEPTING THEREFROM: A part of Lot 175 in Pennsylvania Place Addition, a subdivision in
the City of Fort Wayne the plat of which subdivision is recorded in Plat Book 7, pages 14-15 in
the Office of the Recorder of Allen County, Indiana and being in the Northeast Quarter of
Section 18, Township 30 North, Range 13 East, described as follows: Beginning at the Southeast
corner of said Lot 175, thence South 89 degrees 39 minutes 30 seconds West 20.37 feet along the
South line of said Lot 175; thence North 38 degrees 49 minutes 41 seconds East 32.44 feet to the
East line of said Lot 175; thence South 00 degrees 05 minutes 06 seconds East 25.15 feet along
said East line to the point of beginning, said in previous deeds to contain 0.006 acres (256 square
feet), more or less.

and the symbols of the City of Fort Wayne Zoning Map No. Q-07 (Sec. 18 of Adams
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.

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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-2023-0018
Bill Number: Z-23-06-01
Council District: 6-Sharon Tucker

Introduction Date: June 6, 2023
Plan Commission
Public Hearing Date: June 12, 2023 (not heard by Council)
Next Council Action: Ordinance will return to Council after recommendation by the
Plan Commission

Synopsis of Ordinance: To rezone approximately 0.76 acres from C2/Limited Commercial to
C3/General Commercial with a Written Commitment to limit uses.
Location: 3418 Wayne Trace
Reason for Request: To allow for the use of the existing business as a food product
importer/wholesaler
Applicant: Hanifah Amin
Property Owner: Hanifah Amin

Related Petitions: none

Effect of Passage: Property will be rezoned to the C3/General Commercial zoning district,
which permits wholes facilities. A Written Commitment is offered to
limit more intensive uses in the C3 district.
Effect of Non-Passage: The property will remain zoned C2/Limited Commercial and may
redevelop with a variety of commercial and office uses.

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Hanifah Amin
 Address 5125 Standish Drive
 City Fort Wayne State IN Zip 46806
 Telephone 786-556-8295 E-mail hannymta@gmail.com

Property Ownership
 Property Owner Abu Hanifah LLC
 Address 5125 Standish Drive
 City Fort Wayne State IN Zip 46806
 Telephone 7865568295 E-mail hannymta@gmail.com

Contact Person
 Contact Person Hanifah Amin
 Address 5125 Standish Drive
 City Fort Wayne State IN Zip 46806
 Telephone 786-556-8295 E-mail hannymta@gmail.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 383418 Wayne tree Township and Section Adam 18
 Present Zoning C2 Proposed Zoning C3 Acreage to be rezoned 0.76
 Purpose of rezoning (attach additional page if necessary) is to allow for wholesaling

Sewer provider City Utilities Water provider City utilities

Filing Checklist

Applications will not be accepted unless the following filing requirements are submitted with this application.

- Filing fee \$1000.00
- Surveys showing area to be rezoned
- Legal Description of parcel to be rezoned
- Rezoning Criteria (see attached checklist)

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 Fort Wayne and Allen County Plan Commissions 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

Hanifah Amin
 (printed name of applicant)

Hanifah Amin
 (signature of applicant)

04/28/2023
 (date)

Hanifah Amin
 (printed name of property owner)

Hanifah Amin
 (signature of property owner)

04/28/2023
 (date)



Received	Receipt No.	Hearing Date	Petition No.
4-28-23	38426711	6-12-23	REZ-2023-0018





Rezoning Petition REZ-2023-0018 - 3418 Wayne Trace



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 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 5/16/2023

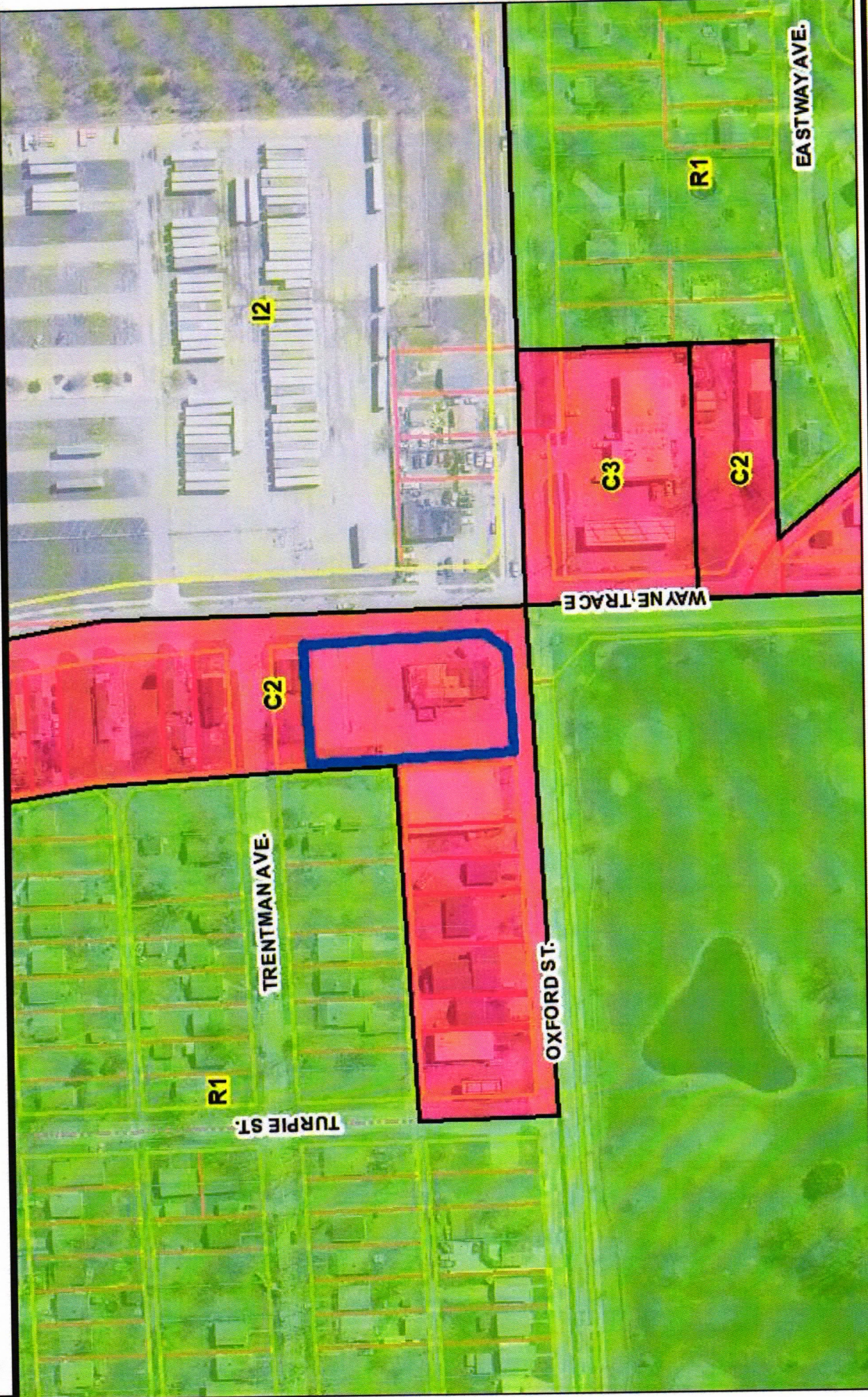
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.



1 inch = 150 feet



Rezoning Petition REZ-2023-0018 - 3418 Wayne Trace



1 inch = 150 feet



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 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 5/16/2023

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WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made this ___ day of _____, 2023 by _____, an Indiana nonprofit corporation (the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 0.76 acres of real estate located on 3418 Wayne Trace in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit “A” (the “Real Estate”); and

WHEREAS, Declarant submitted a rezoning petition with respect to the Real Estate to rezone the Real Estate from C2/Limited Commercial zoning district to a C3/General Commercial zoning district, bearing number REZ-2023-0018 (the “Petition”), which Petition has been approved by the City of Fort Wayne Plan Commission (the “Plan Commission”) and the Fort Wayne Common Council (“City Council”); and

WHEREAS, Declarant has offered this Commitment, voluntarily, pursuant to Indiana Code 36-7-4-1015, for the purpose of limiting certain uses for the Real Estate; and

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

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarant hereby impresses upon the Real Estate certain restrictions and covenants which shall run with the Real Estate and be binding upon Declarant and all future owners of the Real Estate, and all lessees of all or any portion of the Real Estate.

1. Prohibited Uses. Subject to the terms and conditions herein contained, the following uses shall be prohibited upon the Real Estate:

- 1) Automobile accessory store
- 2) Automobile auction
- 3) Automobile body shop
- 4) Automobile detailing or trim shop
- 5) Automobile maintenance (quick service)
- 6) Automobile rental
- 7) Automobile repair
- 8) Automobile restoration
- 9) Automobile rustproofing

- 10) Automobile sales
- 11) Automobile washing facility
- 12) Motor vehicle auction
- 13) Motor vehicle rental
- 14) Motor vehicle repair
- 15) Motor vehicle sales
- 16) Truck fueling station
- 17) Truck stop

2. Permitted Uses. Any use otherwise permitted in a C3 zoning district pursuant to the Ordinance which is not expressly prohibited pursuant to Section 1 above shall be a permitted use upon the Real Estate.
3. Permits. No permits shall be issued under the Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder. The Declarant shall deliver to the Zoning Administrator and the Plan Commission an executed and recorded copy of this Commitment.
4. Binding Effect, Modification, and Termination. This Commitment shall run with the Real Estate, and shall be binding upon the Declarant and each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless this Commitment is modified or terminated. The recitals are incorporated herein by reference and are expressly made a part of this Commitment. This Commitment may be modified or terminated only by a decision of the Plan Commission, as applicable, following a public hearing held by the Plan Commission wherein notice has been given as provided by the Plan Commission's rules of procedure. The Plan Commission shall have the discretion whether to approve or deny any proposed modification or termination of this Commitment.
5. Recording. Declarant or Applicant shall, at Declarant's or Applicant's expense, record this Commitment with the Allen County Recorder and shall provide two copies of the recorded Commitment to the Zoning Administrator.
6. Enforcement. Any violation of this Commitment shall be deemed a violation of the zoning ordinance in effect at the time of the violation; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel enforcement of it by the Plan Commission or any enforcement official designated in the zoning ordinance, or any successor agency having zoning jurisdiction over the Real Estate. Pursuant to I.C. §36-7-4-1015, the Plan Commission or any enforcement official designated in the zoning ordinance, shall be entitled to all legal and equitable remedies available, including specific performance and injunctive relief, for any violation of this Commitment. The enforcement rights of the Plan Commission or any enforcement official designated in the zoning ordinance are cumulative, not exclusive.

7. Authority to Sign. The person signing this Commitment in a representative capacity on behalf of Declarant warrants and represents that: (a) the person has the actual authority and power to so sign, and to bind the respective entity to the provisions of this Commitment; and (b) all corporate or other entity action necessary for the making of this Commitment has been duly taken.
8. Last Deeds of Record. The most recent deed of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as Document Number 2022050437.
9. Severability. Each covenant or restriction contained in any paragraph of this Commitment shall be severable and separate, and if any court shall rule that any particular restriction or covenant is unenforceable, such ruling shall not affect the enforceability of any other restriction or covenant under this Commitment, and such other restriction or covenant shall be enforced.
10. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
11. Effective Date. The effective date (“Effective Date”) of this Commitment shall be the date of its recordation with the Office of the Recorder of Allen County, Indiana.

"DECLARANT"

By: _____

Printed Name:

Title:

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ___ day of _____, 2023, personally appeared _____ and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

Notary Public

My Commission Expires: _____

My County of Residence: _____

THIS INSTRUMENT prepared by _____

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.

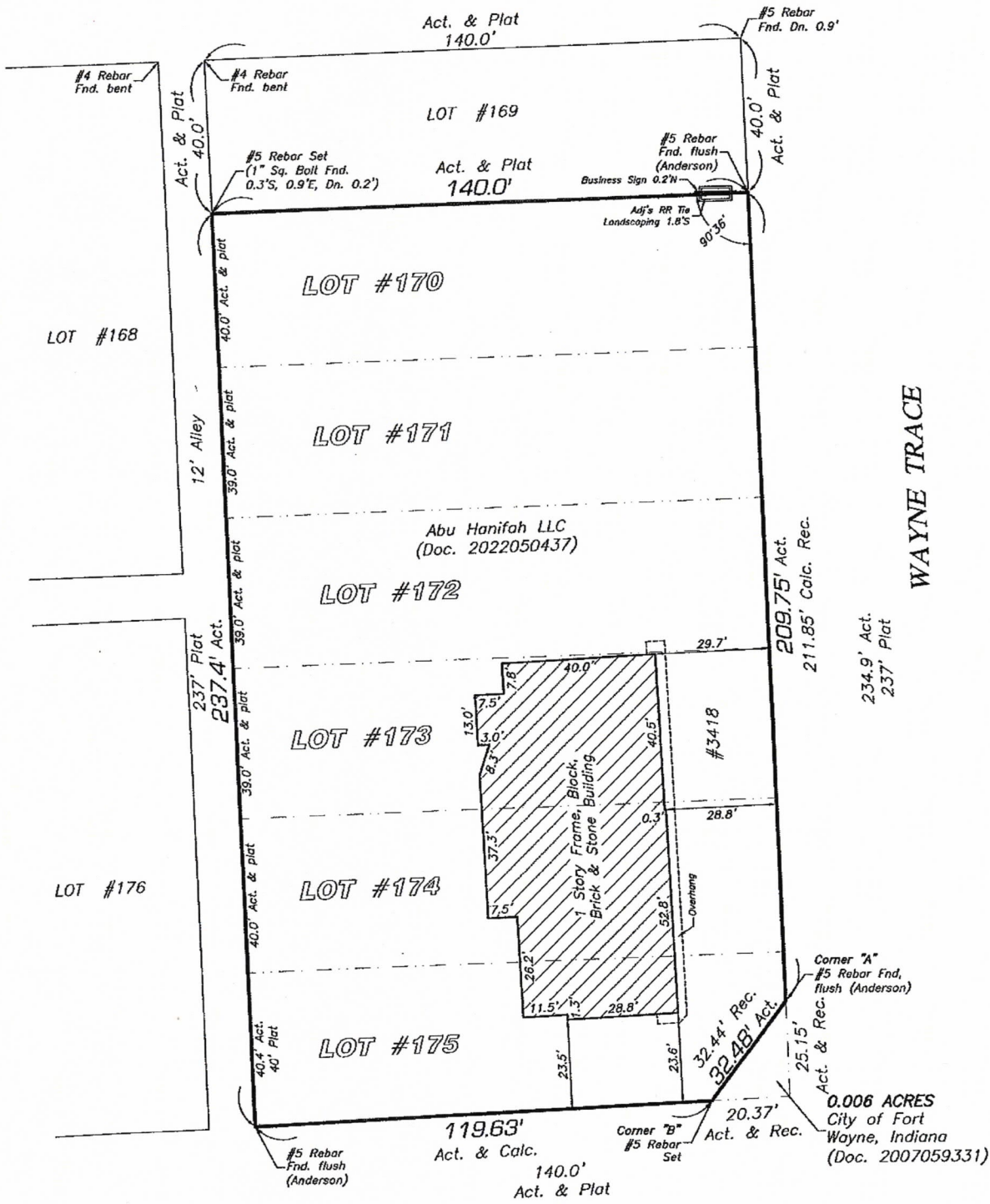
EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

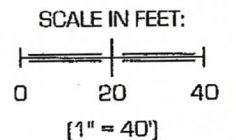
PLAT OF SURVEY

1" = 40'

TRENTMAN AVENUE (50' R/W)



OXFORD STREET (50' R/W)



Sauer Land Surveying, Inc.

Joseph R. Herendeen, PS, Co-Principal Indiana Firm Number 048
Wade N. Hacker, Co-Principal
Brian W. Jacquay, PS
John C. Sauer, PS - retired

14033 Illinois Road, Suite C
Fort Wayne, IN 46814
TEL 260/469-3300 FAX 260/469-3301
Toll Free: 877-625-1037
www.sauersurveying.com

CERTIFICATE OF SURVEY

This document is a record retracement survey of real estate prepared under IAC 865 Rule 12 in conformity with established practices of surveying and made in accordance with the records on file in the Office of the Recorder of Allen County, Indiana. The land described exists in full dimensions as shown hereon in feet. It is free from visible encroachments either way across boundary lines unless specifically stated below. Corners were perpetuated as indicated.

RECORD DESCRIPTION: (as described in Document Number 2022050437)

Lots Numbered 170, 171, 172, 173, 174, and 175 in Pennsylvania Place, an Addition to the City of Fort Wayne, according to the recorded plat thereof, recorded in Plat Book 7, pages 14-15, in the office of the Recorder of Allen County, Indiana.

EXCEPTING THEREFROM: A part of Lot 175 in Pennsylvania Place Addition, a subdivision in the City of Fort Wayne the plat of which subdivision is recorded in Plat Book 7, pages 14-15 in the Office of the Recorder of Allen County, Indiana and being in the Northeast Quarter of Section 18, Township 30 North, Range 13 East, described as follows: Beginning at the Southeast corner of said Lot 175, thence South 89 degrees 39 minutes 30 seconds West 20.37 feet along the South line of said Lot 175; thence North 38 degrees 49 minutes 41 seconds East 32.44 feet to the East line of said Lot 175; thence South 00 degrees 05 minutes 06 seconds East 25.15 feet along said East line to the point of beginning, said in previous deeds to contain 0.006 acres (256 square feet), more or less.

This property appears to lie within Zone X as the description plots by scale on Flood Insurance Rate Map No. 18003C 0315G, effective August 3, 2009.

Reason for Request to Rezone

The property 3418 Wayne Trace Fort Wayne, IN, 46806 is currently owned by Abu Hanifah LLC. Current zone is C2 and requesting to rezone for C3. Abu Hanifah LLC is a wholesaler for food products to the groceries around the Fort Wayne and also to some other states. We import food products from Myanmar. We are also planning to increase the business by importing from few other Asian countries such Thailand, Malaysia and Vietnam. We are participating in increasing the food resources in Allen County by providing variety foods for countries.

Yours sincere,



Hanifah Amin

Managing Director of Abu Hanifah LLC

Date: 04/28/2023

FACT SHEET

Case #REZ-2023-0018	Bill # Z-23-06-01	Project Start: April 2023
PROPOSAL:	Rezoning Petition REZ-2023-0018 – 3418 Wayne Trace	
APPLICANT:	Hanifah Amin	
REQUEST:	Rezone property from C2/Limited Commercial to C3/General Commercial for a wholesale facility within the existing building.	
LOCATION:	3418 Wayne Trace, northwest corner of its intersection of Oxford Street (Section 18 of Adams Township)	
LAND AREA:	0.76 acres	
PRESENT ZONING:	C2/Limited Commercial	
PROPOSED ZONING:	C3/General Commercial	
COUNCIL DISTRICT:	6 – Sharon Tucker	
SPONSOR:	Fort Wayne Plan Commission	

June 12, 2023 Public Hearing

- No one spoke in opposition.
- All Plan Commission members were present.

June 26, 2023 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Paul Sauerteig and seconded by Judi Wire to return the Ordinance with a Do Pass recommendation and a written commitment to Common Council for their final decision.

8-0 MOTION PASSED

- Tom Freistroffer was absent

Fact Sheet Prepared by:
Karen Couture, Associate Land Use Planner
July 18, 2023

PROJECT SUMMARY

- The site was platted as lots 170-175 in Pennsylvania Place subdivision in 1913.
- The site appears to have had a single building since the late 1930s according to historical imagery.

The applicant petitioned to rezone the site from C2/Limited Commercial to C3/General Commercial to allow a wholesale facility. The property is on the northwest corner of Wayne Trace and Oxford Street. To the north and west, are zoning districts C2/Limited Commercial and R1/Single Family Residential, and are developed with a mixture of commercial and residential uses. To the east is I2/General Industrial, currently used as car sales and truck storage. Across Oxford Street to the south, is R1/Single Family Residential containing McMillen Park, and C3/General Commercial, developed with a gas station.

The existing building, which has been historically used as a liquor store and tavern, fronts Wayne Trace, which is an urban collector street. The structure is currently vacant, and the applicant intends to remodel to enable the use as a warehouse for wholesale facility for food product. Use of the existing structure allows this rezoning petition to be presented without requiring a primary development plan. A site plan and Certificate of Use will be required, to assure the new use and site will meet all development standards of the zoning ordinance. The applicant has executed and recorded a written commitment limiting the uses in regards to the rezoning. The written commitment was available for review at the business meeting.

COMPREHENSIVE PLAN REVIEW

Future Growth and Development Map, Goals, and Strategies

- The project site is located within the Priority Investment Area.
- The following Goals and Strategies would be applicable:
LUD1 - Encourage compatible infill development and redevelopment in the Urban Infill and Priority Investment Areas.

Overall Land Use Policies

- The following Land Use Policies would be applicable and supportive of this request:
LUP7 – Encourage compatible adaptive reuse of vacant, obsolete, or underutilized nonresidential buildings.

Generalized Future Land Use Map

- The project site is located within the Neighborhood Commercial generalized land use category. The primary uses in this category are Low-to Moderate Intensity Business, Service, and Retail. Adjacent properties are a mixture of Traditional Neighborhood, Production Center, and Open Space.

Land Use Related Action Steps

- Staff determined the following Action Step would be applicable and supportive of this proposal:
ED.2.1.4 - Encourage additional investment in mixed-use and urban residential development in and around downtown Fort Wayne, along urban corridors leading to and from downtown, and in Town Centers.

Compatibility Matrix

- This proposed use would fall into C3/General Commercial which is considered potentially compatible with the Traditional Neighborhood, Production Center, and Open Space.

Other applicable plans: Southeast Strategy - 2021

- Community & Pride - Zoning Classifications should be compatible with existing land uses and development patterns in developed areas

Based on review of the Comprehensive Plan, the proposal could be compatible with adjacent development and should not create an undesirable precedent. Surrounding zoning is mixed, with moderate intensity commercial and low intensity industrial uses. Use of a written commitment to limit intensive commercial and outdoor uses will avoid any impact on adjacent residential or park uses. The historical use is commercial and most recently a bar. Use as a wholesale facility should create less activity and noise than the previous use.

The applicant submitted the following information related to the rezoning criteria set forth in state code:

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: *There won't be any undesirable precedent in the area and will be in substantial compliance with the All in Allen 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: *There won't be any changes to the current conditions in the area or to the character of the structures and uses.*
3. Approval is consistent with the preservation of property values in the area: *There will be nothing effecting the values of the property in the area as we are just using the area as a wholesale building.*
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area: *We will be taking responsibility in developing and growth principles and we are going to use the building and the lot for our business as a wholesale.*

PUBLIC HEARING SUMMARY:

Presenter: The property owner Hanifah Amin presented the request as outlined above.

Public Comments:

None

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

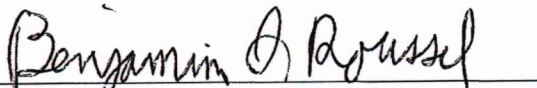
Rezoning Petition REZ-2023-0018

APPLICANT: Hanifah Amin
REQUEST: Rezone property from C2/Limited Commercial to C3/General Commercial for a wholesale facility within the existing building.
LOCATION: 3418 Wayne Trace, northwest corner of its intersection of Oxford Street (Section 18 of Adams Township)
LAND AREA: 0.76 acre
PRESENT ZONING: C2/Limited Commercial
PROPOSED ZONING: C3/General Commercial

The Plan Commission recommends that Rezoning Petition REZ-2023-0018 be returned to Council, with a “Do Pass” recommendation, with a written commitment, 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 C3/General Commercial zoning will provide the opportunity to redevelop the site to its desired use. The Comprehensive Plan categorizes this property as Neighborhood Commercial.
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. The property is adjacent to C2/Limited Commercial on the north and west, I2/General Industrial to the east, and C3/General Commercial zoning directly to the southeast. The existing building was constructed as a commercial structure.
3. Approval is consistent with the preservation of property values in the area. The site has historically been a commercial use. The surrounding area has already been developed.
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. The rezoning is consistent with adjacent commercial zoning.

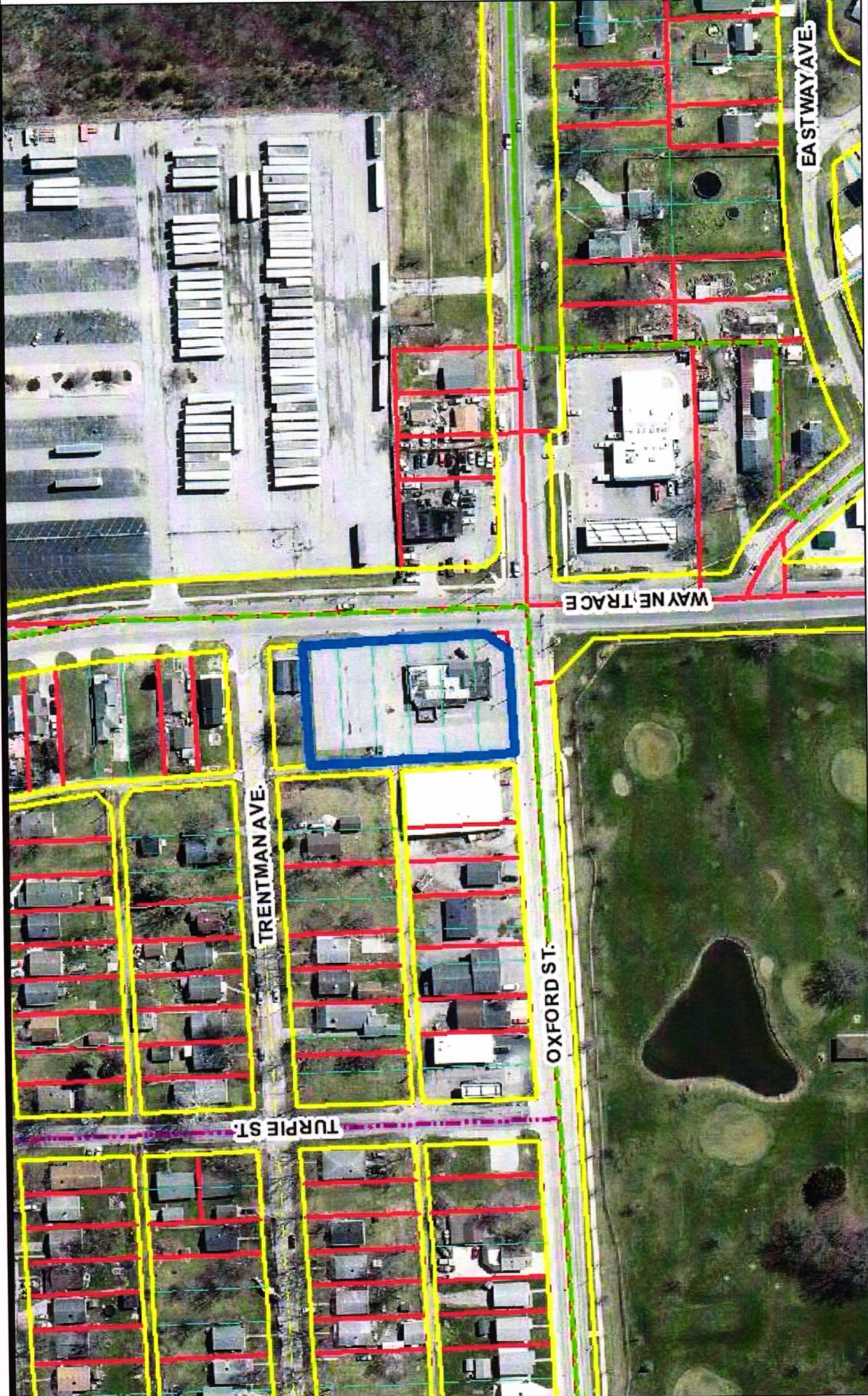
These findings approved by the Fort Wayne Plan Commission on June 26, 2023.



Benjamin J. Roussel
Executive Director
Secretary to the Commission



Rezoning Petition REZ-2023-0018 - 3418 Wayne Trace



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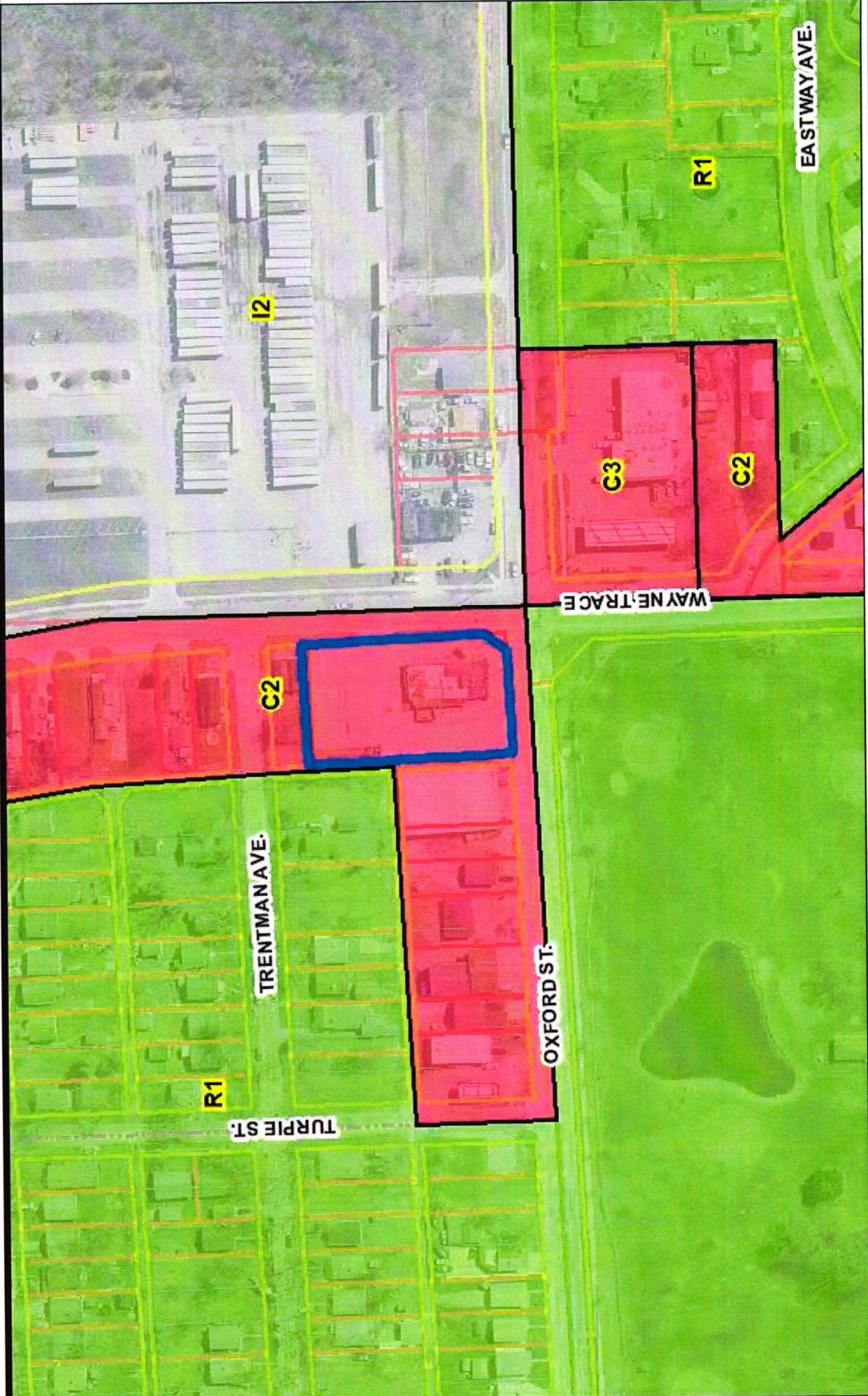
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 Date: 5/16/2023



1 inch = 150 feet

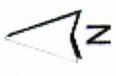
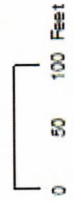


Rezoning Petition REZ-2023-0018 - 3418 Wayne Trace



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1 inch = 150 feet

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made this 12 day of June, 2023 by Abu Hanifah LLC, an Indiana nonprofit corporation (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 0.76 acres of real estate located on 3418 Wayne Trace in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit "A" (the "Real Estate"); and

WHEREAS, Declarant submitted a rezoning petition with respect to the Real Estate to rezone the Real Estate from C2/Limited Commercial zoning district to a C3/General Commercial zoning district, bearing number REZ-2023-0018 (the "Petition"), which Petition has been approved by the City of Fort Wayne Plan Commission (the "Plan Commission (the "Plan Commission") and the Fort Wayne Common Council ("City Council"); and

WHEREAS, Declarant has offered this Commitment, voluntarily, pursuant to Indiana Code 36-7-4-1015, for the purpose of limiting certain uses for the Real Estate; and

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

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarant hereby impresses upon the Real Estate certain restrictions and covenants which shall run with the Real Estate and be binding upon Declarant and all future owners of the Real Estate, and all lessees of all or any portion of the Real Estate.

1. **Prohibited Uses.** Subject to the terms and conditions herein contained, the following uses shall be prohibited upon the Real Estate:

- 1) Automobile accessory store
- 2) Automobile auction
- 3) Automobile body shop
- 4) Automobile detailing or trim shop
- 5) Automobile maintenance (quick service)
- 6) Automobile rental
- 7) Automobile repair
- 8) Automobile restoration
- 9) Automobile rustproofing

- 10) Automobile sales
- 11) Automobile washing facility
- 12) Motor vehicle auction
- 13) Motor vehicle rental
- 14) Motor vehicle repair
- 15) Motor vehicle sales
- 16) Truck fueling station
- 17) Truck stop

2. Permitted Uses. Any use otherwise permitted in a C3 zoning district pursuant to the Ordinance which is not expressly prohibited pursuant to Section 1 above shall be a permitted use upon the Real Estate.
3. Permits. No permits shall be issued under the Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder. The Declarant shall deliver to the Zoning Administrator and the Plan Commission an executed and recorded copy of this Commitment.
4. Binding Effect, Modification, and Termination. This Commitment shall run with the Real Estate, and shall be binding upon the Declarant and each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless this Commitment is modified or terminated. The recitals are incorporated herein by reference and are expressly made a part of this Commitment. This Commitment may be modified or terminated only by a decision of the Plan Commission, as applicable, following a public hearing held by the Plan Commission wherein notice has been given as provided by the Plan Commission's rules of procedure. The Plan Commission shall have the discretion whether to approve or deny any proposed modification or termination of this Commitment.
5. Recording. Declarant or Applicant shall, at Declarant's or Applicant's expense, record this Commitment with the Allen County Recorder and shall provide two copies of the recorded Commitment to the Zoning Administrator.
6. Enforcement. Any violation of this Commitment shall be deemed a violation of the zoning ordinance in effect at the time of the violation; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel enforcement of it by the Plan Commission or any enforcement official designated in the zoning ordinance, or any successor agency having zoning jurisdiction over the Real Estate. Pursuant to I.C. §36-7-4-1015, the Plan Commission or any enforcement official designated in the zoning ordinance, shall be entitled to all legal and equitable remedies available, including specific performance and injunctive relief, for any violation of this Commitment. The enforcement rights of the Plan Commission or any enforcement official designated in the zoning ordinance are cumulative, not exclusive.

7. Authority to Sign. The person signing this Commitment in a representative capacity on behalf of Declarant warrants and represents that: (a) the person has the actual authority and power to so sign, and to bind the respective entity to the provisions of this Commitment; and (b) all corporate or other entity action necessary for the making of this Commitment has been duly taken.
8. Last Deeds of Record. The most recent deed of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as Document Number 2022050437.
9. Severability. Each covenant or restriction contained in any paragraph of this Commitment shall be severable and separate, and if any court shall rule that any particular restriction or covenant is unenforceable, such ruling shall not affect the enforceability of any other restriction or covenant under this Commitment, and such other restriction or covenant shall be enforced.
10. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
11. Effective Date. The effective date ("Effective Date") of this Commitment shall be the date of its recordation with the Office of the Recorder of Allen County, Indiana.

"DECLARANT"

Abu Hariifah LLC

By: *Hanifah Amin*
Printed Name: Hanifah Amin
Title: Member

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this 12th day of June, 2023, personally appeared Hanifah Amin, member Abu Hariifah LLC and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

Jennifer L Gregory
Notary Public

My Commission Expires: _____

My County of Residence: _____



JENNIFER L GREGORY, Notary Public
Allen County, State of Indiana
Commission Number NPO640267
My Commission Expires December 3, 2028

THIS INSTRUMENT prepared by Hanifah Amin

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.

Hanifah Amin

Exhibit A

2022050437

RECORDED: 09/13/2022 03:28:49 PM

ANITA MATHER
ALLEN COUNTY RECORDER
FORT WAYNE, IN

Mail Grantees Tax Bills to:

5125 Standish Dr
Fort Wayne, IN 46806

Tax Identification No. 02-13-18-283-019,000-069
211251

CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH, That **KPC LIQUOR STORES, INC.** ("Grantor"), an Indiana corporation in good standing under the laws of the State of Indiana **CONVEYS** unto **ABU HANIFAH LLC** ("Grantee"), in consideration of Ten Dollars and No Center (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, real estate located in Allen County, Indiana, commonly known as 3418 Wayne Trace, Fort Wayne, Indiana 46806, and more particularly described as follows, to-wit:

The land referred to in this Commitment, situated in the County of Allen, State of Indiana, is described as follows: Lots Numbered 170, 171, 172, 173, 174, and 175 in Pennsylvania Place, an Addition to the City of Fort Wayne, according to the recorded plat thereof, recorded in Plat Book 7, pages 14-15, in the office of the Recorder of Allen County, Indiana.

EXCEPTING THEREFROM A part of Lot 175 in Pennsylvania Place Addition, a subdivision in the City of Fort Wayne the plat of which subdivision is recorded in Plat Book 7, pages 14-15 in the Office of the Recorder of Allen County, Indiana and being in the Northeast Quarter of Section 18, Township 30 North, Range 13 East, described as follows: Beginning at the Southeast corner of said Lot 175; thence South 89 degrees 39 minutes 30 seconds West 20.37 feet along the South line of said Lot 175; thence North 38 degrees 49 minutes 41 seconds East 32.44 feet to the East line of said Lot 175; thence South 80 degrees 05 minutes 06 seconds East 25.15 feet along said East line to the point of beginning, said in previous deeds to contain 0.006 acres (256 square feet), more or less.

Grantor does covenant with the Grantee and its assigns that Grantor will warrant and defend the Property to the said Grantee and its assigns forever against the lawful claims and demands of persons claiming by, through or under Grantor, but against none other.

METROPOLITAN TITLE OF IN, LLC
9604 COLDWATER ROAD SUITE 105
FORT WAYNE, IN 46825

211251

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Sep 13 2022 MS

NICHOLAS D. JORDAN
ALLEN COUNTY AUDITOR

RESTRICTIVE COVENANT:

As part of the consideration to Grantor for the within conveyance, the aforescribed real estate is hereby subjected to, encumbered and impressed with the following Restriction contained herein and every part of the Property shall be owned, leased, transferred, developed, improved, occupied and otherwise used in compliance herewith.

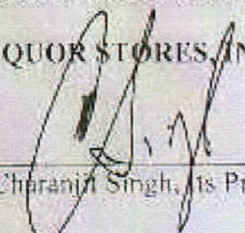
1. Use Restriction. Grantee, for itself, its tenants, successors and assigns, declares that the aforescribed real estate shall not be used for the sale, marketing, storage or advertising of petroleum fuels or distillates until the 25th anniversary of the execution of this Deed. This restriction and the remedies set forth in the "Default" paragraph 2 below, are covenants running with the land and shall be binding on all successors to title and included in any instruments affecting the title to the aforescribed real estate until the termination hereof. This Restrictive Covenant is for the benefit of KPC Liquor Stores, Inc., and its successors and assigns for the term hereof. It is expressly declared that the aforescribed real estate is useful for and may be used for other purposes beyond those enumerated above and that the restriction contained herein is not intended to prevent any other use of the aforescribed real estate which does not conflict with said restriction.

2. Default. The restrictive covenant contained herein is specifically enforceable by KPC Liquor Stores, Inc., and its successors and assigns, and KPC Liquor Stores, Inc., its successors and assigns shall be entitled to exercise all rights and remedies available at law or in equity including, without limitation, the right to seek damages, specific performance or declaratory or injunctive relief. All such rights and remedies shall be cumulative and not mutually exclusive, and shall also include the right to reasonable attorney fees. Any delay or failure to enforce any provision of the restrictive covenant contained herein shall not be construed or held to be a waiver unless specifically waived in writing. Any damages awarded to KPC Liquor Stores, Inc., its successors or assigns, pursuant to the restrictive covenant contained herein, shall constitute a lien against the aforescribed real estate.

SUBJECT TO all easements, restrictions, taxes and assessments of record.

KPC LIQUOR STORES, INC.

BY: _____

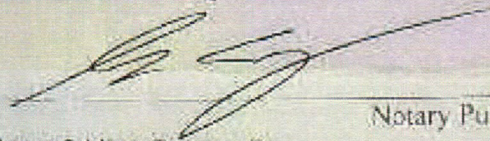

Chiranjit Singh, Its President.

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 12th day of September, 2022, personally appeared **Charanjit Singh**, known to me to be the **President of KPC Liquor Stores, Inc.**, and acknowledged the execution of the foregoing Deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

1/3/2030



Notary Public

Resident of Allen County, IN



STUART EDDY Notary Public
Allen County, State of Indiana
Commission Number NP0738256
My Commission Expires January 3, 2030

This instrument prepared by Stephen J. Harants, MILLER & HARANTS, 618 Professional Park Drive, New Haven, IN 46774; Attorney No. 17989-55

I affirm under the penalties for perjury that I have taken reasonable care to reflect each Social Security number in this document, unless required by law. *Stephan J. Harants*

BILL NO. Z-23-06-01

REPORT OF COMMITTEE ON REGULATIONS

July 25, 2023

Sharon Tucker Chair

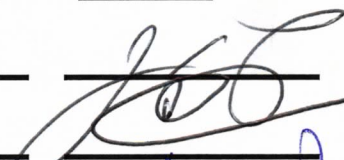
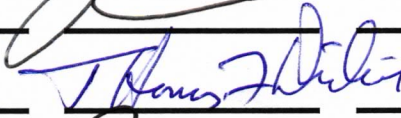
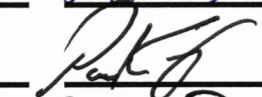

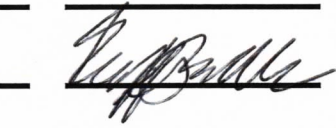
Tom Freistroffer Co-Chair

All Council Members

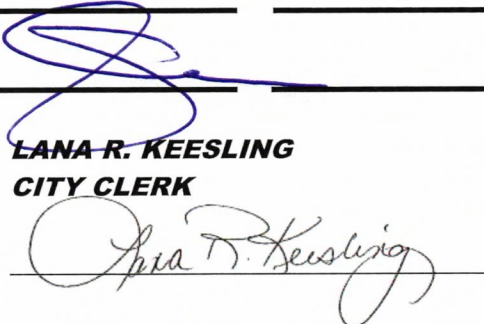
An Ordinance amending the City of Fort Wayne Zoning Map No. Q-07 (Sec. 18 of Adams Township)

To rezone approximately 0.76 acres from C2/Limited Commercial to C3/General Commercial with a Written Commitment to limit uses at 3418 Wayne Trace to allow for the use of the existing business as a food product importer/wholesaler

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: N/A

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

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilperson Tucker, 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


DATED: July 25, 2023




 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
 General Ordinance No. Z-23-06-01 on the 25th day of July, 2023

ATTEST:



 LANA R. KEESLING
 CITY CLERK



 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th
 of July 2023, at the hour of 9:30 o'clock A.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 26th day of JULY 2023, at the
 hour of 11:00 o'clock AM E.S.T.



 THOMAS C. HENRY, MAYOR

