

1 #REZ-2023-0044

2 BILL NO. Z-23-09-11 As Amended

3 ZONING MAP ORDINANCE NO. Z- 44-23

4
5 AN ORDINANCE amending the City of Fort Wayne
6 Zoning Map No. H-11 (Sec. 16 of Wayne Township)

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

8 SECTION 1. That the area described as follows is hereby designated a I2 (General Industrial)

9 District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana:

10
11 A PART OF THE NORTH WEST ¼ OF THE SOUTH WEST ¼ OF SECTION 16, TOWNSHIP 30
12 NORTH, RANGE 12 EAST AS FOLLOWS, BEGINNING AT THE WEST ¼ CORNER OF SECTION
13 16, TOWNSHIP 30 NORTH, RANGE 12 EAST RUNNING ALONG THE ¼ LINE OF SAID SECTION
14 12 - 766 CHAINS TO A STONE; THENCE SOUTH 11-60 CHAINS TO A STONE; THENCE WEST
15 12.86 CHAINS TO A STONE; ON THE WEST LINE OF SAID SECTION; THENCE NORTH 11.57
16 CHAINS ALONG THE WEST LINE OF SAID SECTION TO THE PLACE OF BEGINNING. THE
17 ABOVE DESCRIBED TRACT TO CONTAIN 14.84 ACRES. EXCEPT THAT PART THEREOF
18 CONVEYED FOR RIGHT OF WAY PURPOSES IN DOCUMENT NUMBER 70-05322.

19 and the symbols of the City of Fort Wayne Zoning Map No. H-11 (Sec. 16 of Wayne Township), as
20 established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is hereby
21 changed accordingly.

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

26 AUDITOR'S OFFICE
Duly entered for taxation. Subject
to final acceptance for transfer.

27 OCT 30 2023

28
29 AUDITOR OF ALLEN COUNTY

DocId:8996195
TX:4641477



30
31 call for P/U

1 #REZ-2023-0044

2 BILL NO. Z-23-09-11

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8 INDIANA:

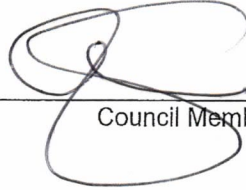
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13 TOWNSHIP 30 NORTH, RANGE 12 EAST AS FOLLOWS, BEGINNING AT
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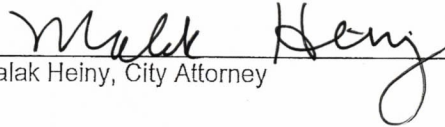
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26 recommendation for the adoption of the rezoning, or if a written commitment is modified and
27 approved by the Common Council as part of the zone map amendment, that written
28 commitment is hereby approved and is hereby incorporated by reference.
29
30

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

3
4 

5 Council Member Sharon Tucker

6 APPROVED AS TO FORM AND LEGALITY:

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8 Malak Heiny, City Attorney

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22 prepared by: Jill Heltrich

23 I affirm, under the penalties for perjury, that I have
24 taken reasonable care to redact each Social Security
25 number in this document, unless required by law.

26 Iliana Phillips

(name printed, stamped or signed w/print)

27
28
29
30

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2023-0044
Bill Number: Z-23-09-11
Council District: 5 -Geoff Paddock

Introduction Date: September 12, 2023
Plan Commission
Public Hearing Date: September 11, 2023 (not heard by Council)
Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

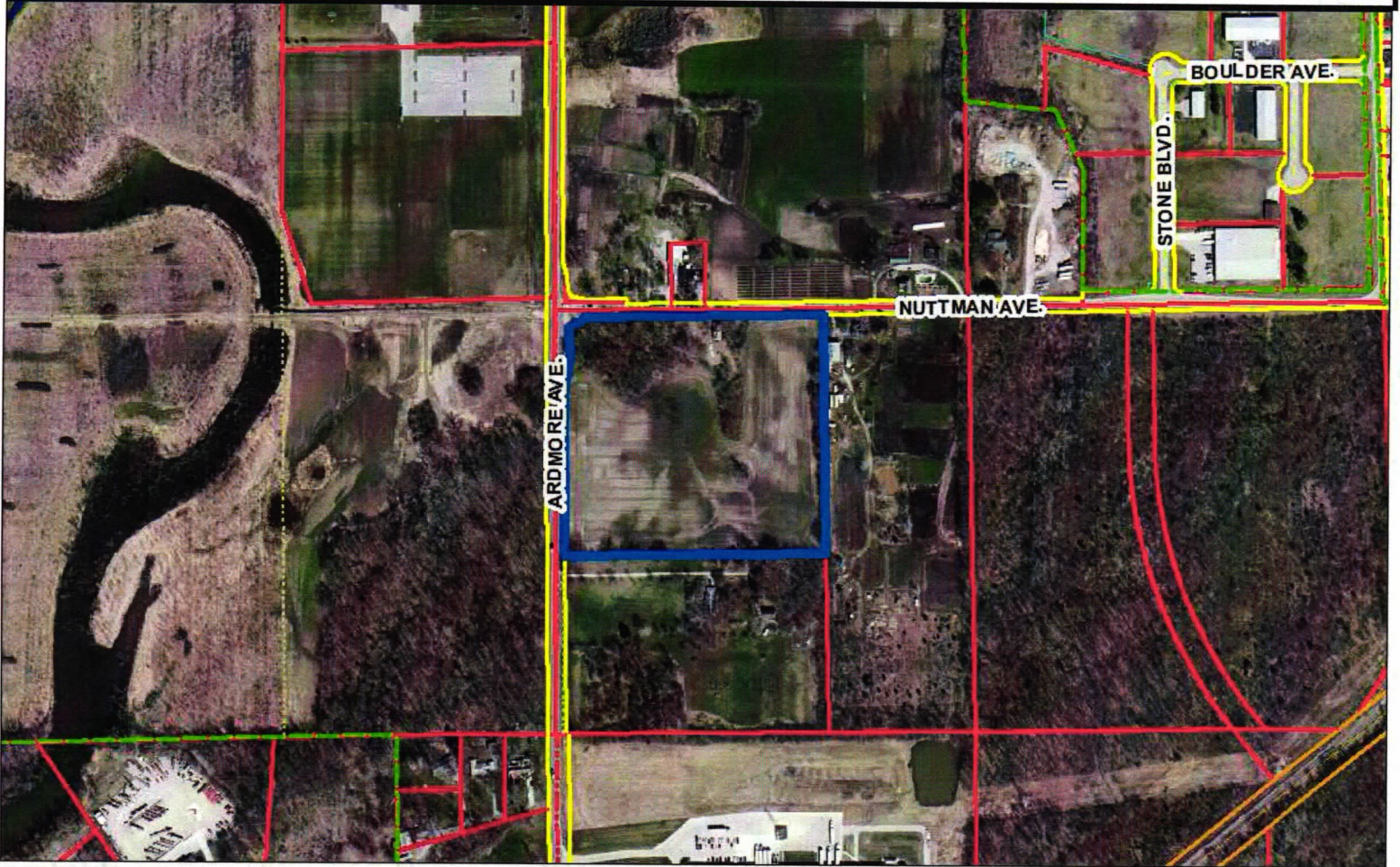
Synopsis of Ordinance: To rezone property from R1/Single Family Residential to I2/General Industrial
Location: 3633 Nuttman Avenue
Reason for Request: To allow for a machining, metal fabrication, and warehousing industrial building.
Applicant: Murray Property Management, LLC
Property Owner: Lloyd Garrett E & Marilyn J c/o Patricia Snyder

Related Petitions: Primary Development Plan – Murray Equipment Building

Effect of Passage: Property will be rezoned to the I2/General Industrial zoning district, which allows for a machining, metal fabrication, and warehousing industrial building.
Effect of Non-Passage: The property will remain zoned R1/Single Family Residential, which supports single family development.

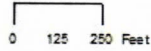


REZ-2023-0044 and PDP-2023-0034 - Murray Equipment Building



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

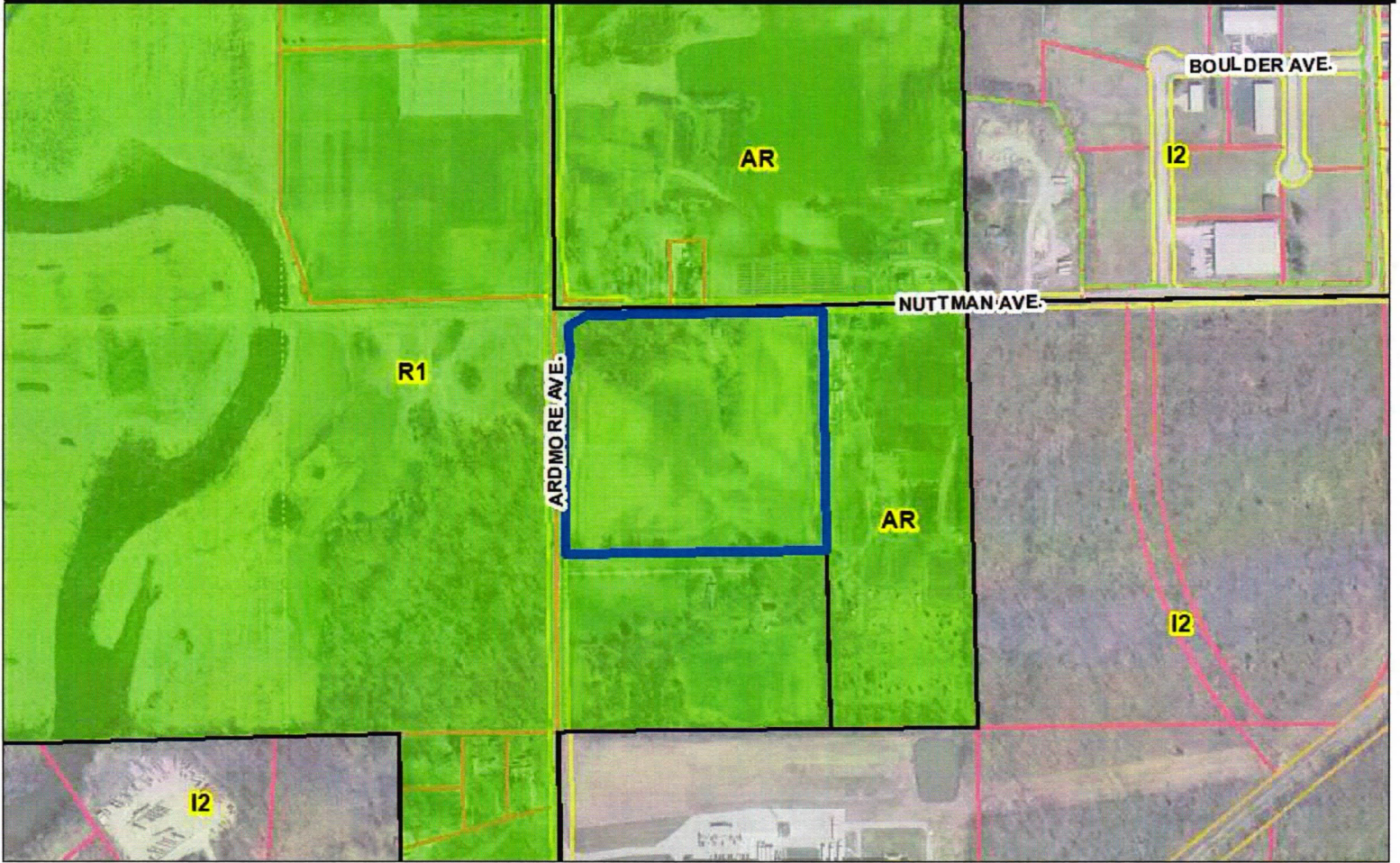
© 2004 Board of Commissioners of the County of Allen
 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 8/10/2023



1 inch = 400 feet

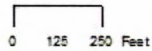


REZ-2023-0044 and PDP-2023-0034 - Murray Equipment Building



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© 2004 Board of Commissioners of the County of Allen
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 Photos and Contours: Spring 2009
 Date: 8/10/2024



1 inch = 400 feet

Department of Planning Services Rezoning Petition Application

Applicant
 Applicant Murray Property Management, LLC
 Address 2515 Charleston Place
 City Fort Wayne State IN Zip 46808
 Telephone 260-484-0382 E-mail dmurray@murrayequipment.com

Property Ownership
 Property Owner Garrett E. Lloyd Estate, Patricia Snyder, Personal Representative
 Address 1360 W. Sheckler Road
 City Columbia City State IN Zip 46725
 Telephone 260-609-2011 E-mail epsnyder1360@gmail.com

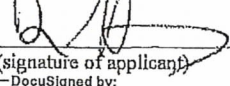
Contact Person
 Contact Person Patrick R. Hess, Beckman Lawson, LLP
 Address 201 W. Wayne St.
 City Fort Wayne State IN Zip 46802
 Telephone 260-422-0800 E-mail phess@beckmanlawson.com

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 3633 Nuttman Ave. Township and Section Wayne 16
 Present Zoning AR R1 Proposed Zoning I2 Acreage to be rezoned 14.84
 Purpose of rezoning (attach additional page if necessary) to allow for the construction of a building for machining, metal fabrication and warehousing for Murray Equipment, Inc.
 Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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

Murray Property Management, LLC (printed name of applicant)  (signature of applicant) 7/19/2023 (date)
DocuSigned by:
Garrett E. Lloyd Estate (printed name of property owner) Patricia J. Snyder (signature of property owner) 7/20/2023 (date)
DocuSigned by:



Received <u>8-1-23</u>	Receipt No. <u>143772</u>	Hearing Date <u>9-11-23</u>	Petition No. <u>REZ-2023 0044</u>
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Department of Planning Services • 200 East Berry Suite 150 • Fort Wayne, Indiana • 46802
 Phone (260) 449-7607 • Fax (260) 449-7682 • www.allencounty.us • www.cityoffortwayne.org



Rezoning Petition REZ-2023-_____ ; R1 to I2
Fort Wayne Plan Commission
September 17, 2023 Public Hearing
14.84 acres at southeast corner of Nuttman Ave. and Ardmore Ave.
Section 16, Wayne Township

Rezoning Criteria:

1. The Comprehensive Plan

The current comprehensive plan for Fort Wayne, *All In Allen: Moving Forward Together*, effective March 13, 2023 (the "Comprehensive Plan"), incorporates the policy of adjacent growth expressed in the two previous Comprehensive Plans for the jurisdiction. The subject parcel is 530 feet north of and 450 feet west of a large area currently zoned I2. Additionally, $\frac{3}{4}$ of Section 16 of Wayne Township (120 out of a total of 160 acres) where this property is located is zoned I2. The subject property is within the Urban Infill Area noted on the Future Growth and Development Map in the Comprehensive Plan (p. 53). Finally, the subject parcel is served by public sewer and water infrastructure is available, further supporting the policy of sustainable growth in area where such services are available.

2. Current conditions and the character of current structures and uses in the district

The overriding character of this area is a mixture of agricultural, residential and industrial zoning and uses, along with recreational uses to the west. The proposed zoning and use are in keeping with that character. The proposal does not seek to create a new "footprint" of industrial zoning in an area where little or no industrial zoning exists.

3. The most desirable use for which the land in the district is adapted

The area within a half mile radius of the intersection of Nuttman and Ardmore avenues features considerable industrial zoning and uses. For example, there are the Stonewall and Engle Ridge Industrial parks to the south, and various industrial developments along Freeman Street north of Nuttman Avenue, east of this site. The subject property is within a corridor of industrial zoning that projects southwest from Fort Wayne along the railroad lines to the Fort Wayne International Airport. Existing development patterns show that industrial uses are desirable on and around the subject property.

4. The conservation of property values throughout the jurisdiction

Property values throughout the jurisdiction are maintained when growth occurs in areas like this where neighboring properties are developed in a like manner, public sewer and water are available, and development plans are provided to ensure the proposed development is compatible with the area.

5. Responsible development and growth

Responsible development and growth occurs when growth is adjacent to similar uses and is served by existing utility infrastructure, as this site is. Responsible development and growth is shown when it conforms to the Comprehensive Plan, is consistent with current growth patterns, and represents the highest and best use of the property, as described in the responses to the criteria in Items 1 through 4 above.

Draft
THIS FORM HAS BEEN APPROVED BY THE INDIANA STATE BAR ASSOCIATION FOR USE BY LAWYERS ONLY. THE SELECTION OF A FORM OF INSTRUMENT, FILLING IN BLANK SPACES, STRIKING OUT PROVISIONS AND INSERTION OF SPECIAL CLAUSES, CONSTITUTES THE PRACTICE OF LAW AND SHOULD BE DONE BY A LAWYER.

Mail Tax Bill to:
528 Nuttman Avenue
Fort Wayne, Ind. 46804

159025
WARRANTY DEED 76-32244

This indenture witnesseth that Letha A. Falls, unmarried and over the full age of majority

of Allen County in the State of Indiana

Convey and warrant to Garrett E. Lloyd and Marilyn J. Lloyd, husband and wife, and each over the full age of majority,

for and in consideration of One Dollar and other good and valuable consideration the receipt whereof is hereby acknowledged, the following Real Estate in Allen County in the State of Indiana, to wit:

A part of the North West 1/4 of the South West 1/4 of Section 16, Township 30 North, Range 12 East, as follows, beginning at the West 1/2 Corner of Section 16, Township 30 North, Range 12 East running along the 1/2 line of said Section 12.766 chains to a stone; thence south 11.60 chains to a stone; thence west 12.86 chains to a stone; on the west line of said Section to the place of beginning. The above described tract to contain 14.84 acres. EXCEPT that part thereof conveyed for right of way purposes in Document Number 70-05322.

Subject to 1976 Fall taxes due and payable in November 1977, and all subsequent taxes and assessments.

1976 DEC 22 AM 9:28
ALLEN COUNTY RECORDER
James E. Roberts

State of Indiana, Allen County, ss:
Before me, the undersigned, a Notary Public in and for said County and State, this 16th day of December 1976 personally appeared:

Letha A. Falls, unmarried and over the full age of majority,

Dated this 16th Day of December 1976

Letha A. Falls Seal
Letha A. Falls

DULY ENTERED FOR TAXATION
DEC 21 1976 Seal

Jan D. Uebelacker Seal
AUDITOR OF ALLEN COUNTY

Instrument J 11,250 Seal

Notary Public seal for Julia M. Perry, Notary Public, commission expires April 7, 1979.

This instrument prepared by J. Robert Arnold, Attorney at Law

7 6 3 2 2 4 4

WRITTEN COMMITMENT

[Cross reference to: Doc No. 76-32244]

This Written Commitment ("Commitment"), dated as of the date recorded on the signature page, is made by the Estate of Garrett E. Lloyd ("Declarant").

RECITALS

A. By virtue of that certain Warranty Deed dated December 16, 1976, and recorded on December 22, 1976, as Document Number 76-32244 in the Office of the Recorder of Allen County, Indiana, Declarant is the owner in fee simple of certain real estate located in Allen County, Indiana, which is legally described in Exhibit "A" attached to this Commitment ("Real Estate").

B. Murray Property Management, LLC ("Applicant") with the consent of the Declarant petitioned the Fort Wayne Plan Commission (the "Commission") for approval of Rezoning Petition REZ 2023-0044 (the "Rezoning") to rezone the Real Estate from R1 Single Family Residential to I2 General Industrial. Simultaneously, Applicant with the consent of the Declarant applied to the Commission for approval of Primary Development Plan PDP-2023-0034 (the "Development Plan"), attached as Exhibit B, to allow a machining, metal fabrication and warehousing facility to be constructed on the Real Estate.

C. On September 18, 2023, the Commission recommended approval of the Rezoning to the Common Council of the City of Fort Wayne, Indiana ("Council"), and conditionally approved the Development Plan.

D. On _____, 2023, the Council approved the Rezoning, subject to this Commitment.

E. As part of the approval of the Rezoning, the Council required and or accepted this Commitment concerning the use and development of the Real Estate, and further, Declarant consents and agrees to the terms and restrictions contained in this Commitment.

F. Pursuant to IC 36-7-4-1015, the Commission and Council may accept or require an owner of real property to make a written commitment concerning the use or development of property as a part of a rezoning.

COMMITMENT

Declarant agrees and consents to the following written commitments which shall govern the Real Estate:

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

1.1. Secondary development plans will be submitted through the site routing review process. Applicant will contact Plan Commission staff prior to submitting for site plan routing to ensure all primary conditions have been met.

1.2. A landscape plan that meets the intent of the ordinance and the written commitment will be submitted and reviewed by staff prior to submittal of site plan routing. The applicant agrees to not remove any mature and healthy trees from the northwest corner of the property where possible. The applicant reserves the right to remove trees when:

1.2.1. Conducting routine maintenance to the existing woods.

1.2.2. Removing any unhealthy or dead trees, or any trees that represent a danger to public health and safety.

1.2.3. Removing any trees that affect any public or private utility infrastructure, including stormwater management.

1.3. A combination of mounding and landscaping will be provided in the area west of the proposed driveway entrance onto Nuttman Avenue as shown on Exhibit "B."

1.4. Increased landscaping in excess of ordinance requirements will be provided on the east side of the driveway entrance onto Nuttman Avenue as shown on Exhibit "B."

1.5. Non-invasive trees and shrubs will be utilized in landscaping.

1.6. Dumpster screening is required, to be constructed with either a wood or a vinyl fence or masonry structure and will include a gate.

1.7. All site and building lighting will use sharp cut-off type fixtures as defined by the Illuminating Engineers Society of North America (IESNA).

2. **PERMITS.** No permits shall be issued under the Ordinance by the Zoning Administrator until this Commitment is recorded in the Office of the Recorder of Allen County. The Declarant shall deliver an executed and recorded copy of this Commitment to the Zoning

Administrator and Plan Commission.

3. **BINDING EFFECT, MODIFICATION, TERMINATION.** This Commitment shall run with the Real Estate, and shall be binding upon Declarant, each subsequent owner of the Real Estate and upon each other person acquiring an interest in the Real Estate (including a leasehold interest), unless this Commitment is modified or terminated. The Recitals are incorporated by reference and are expressly made a part of this Commitment. This Commitment may be modified or terminated only by a decision of the Commission following a public hearing held by the Commission wherein notice has been given as provided by the 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.

4. **RECORDING.** Declarant shall, at Declarant' own expense, record this Commitment with the Allen County Recorder.

5. **ENFORCEMENT RIGHTS.** 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. The Plan Commission shall have complete discretion to determine whether a violation of this Commitment exists. 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. The Plan Commission shall have the discretion whether to approve or deny any proposed modification or termination of this Commitment.

6. **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.

7. **LAST DEED 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 76-32244.

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

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. ***EFFECTIVE DATE.*** This Commitment shall be effective upon the following events, whichever occurs last:

10.1. The Commission's approval of the Development Plan when same shall become a final and non-appealable zoning decision;

10.2. The Council's approval of the Rezoning; and

10.3. The recording of this Commitment in the Office of the Recorder of Allen County, Indiana.

11. ***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 noted with the signature below.

Signature Page to Follow

**DECLARANT: THE ESTATE OF GARRETT
E. LLOYD**

By: _____

Printed Name: _____

Title: Personal Representative

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned Notary Public in and for said County and State, this ____ day of _____, 2023, personally appeared _____, the Personal Representative of the Estate of Garrett E. Lloyd, the above named Declarant, and acknowledged the execution of the foregoing Commitment.

WITNESS my hand and Notarial Seal.

My Commission expires: _____
_____, Notary Public
(Printed Name)
Resident of _____ County, Indiana

This instrument prepared by: Patrick. R. Hess, 201 W. Wayne St. Ft. Wayne, IN 46802

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. Patrick R. Hess

EXHIBIT "A"
Description of the Real Estate

A part of the North West $\frac{1}{4}$ of the South West $\frac{1}{4}$ of Section 16, Township 30 North, Range 12 East, as follows, beginning at the West $\frac{1}{4}$ corner of Section 16, Township 30 North, Range 12 East running along the $\frac{1}{4}$ line of said Section 12.766 chains to a stone; thence south 11.60 chains to a stone; thence west 12.86 chains to a stone; on the west line of said Section; thence North 11.57 chains along the west line of said Section to the place of beginning. The above described tract to contain 14.84 acres. EXCEPT that part thereof conveyed for right of way purposes in Document Number 70-05322.

END OF EXHIBIT "A"

EXHIBIT B
DEVELOPMENT PLAN ON FOLLOWING PAGE

10/30/2023 10:51:58 AM
VALUED CUSTOMER
0.00
SAMANTHA

TRANSACTION # 4641477
DOCUMENT # 2023047261

ORDINANCE

RECORDING FEES: 25.00
TOTAL: 25.00
CREDIT CARD: 25.00

THANK YOU

NICOLE KEESLING
RECORDER
ALLEN COUNTY, IN

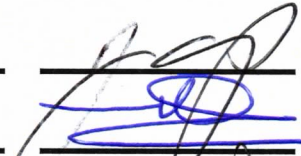

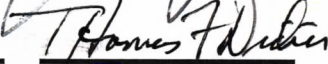






BILL NO. Z-23-09-11

**REPORT OF COMMITTEE ON REGULATIONS
October 24, 2023**

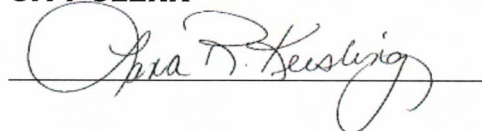
**Sharon Tucker Chair
Tom Freistroffer Co-Chair
All Council Members**

An Ordinance amending the City of Fort Wayne Zoning Map No. H-11 (Sec. 16 of Wayne Township)

To rezone property from R1/Single Family Residential to I2/General Industrial at 3633 Nuttman Avenue to allow for a machining, metal fabrication, and warehousing industrial building

<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
ARP			
CHAMBERS			
DIDIER	 Thomas F. 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: October 24, 2023




 LANA R. KEESLING, CITY CLERK

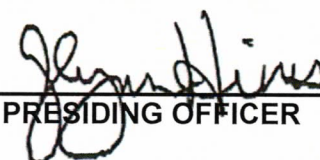
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

General Ordinance No. Z-23-09-11-AA on the 24th day of October, 2023

ATTEST:




 LANA R. KEESLING
 CITY CLERK



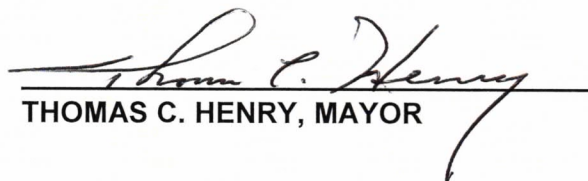
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th of October 2023, at the hour of 4:15 o'clock P.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 26th day of OCTOBER 2023, at the hour of 10:00 o'clock AM E.S.T.



 THOMAS C. HENRY, MAYOR

