

1 #REZ 2024 0048

2 BILL NO. Z-24-12-05

3  
4 ZONING MAP ORDINANCE NO. Z-4-25

5 AN ORDINANCE amending the City of Fort Wayne  
6 Zoning Map No. B-15 (Sec. 24 of Aboite Township)

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

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

12 Lot 5, Hillside Acres Addition, Amended, as recorded in Plat Record 16,  
13 page

14 and the symbols of the City of Fort Wayne Zoning Map No. B-15 (Sec. 24 of Aboite  
15 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort  
16 Wayne, Indiana is hereby changed accordingly.

17  
18 SECTION 2. If a written commitment is a condition of the Plan Commission's  
19 recommendation for the adoption of the rezoning, or if a written commitment is modified and  
20 approved by the Common Council as part of the zone map amendment, that written  
21 commitment is hereby approved and is hereby incorporated by reference.

22  
23 SECTION 3. That this Ordinance shall be in full force and effect from and after its  
24 passage and approval by the Mayor.

25 

26 Council Member

27 APPROVED AS TO FORM AND LEGALITY:

28   
29 Malak Heiny, City Attorney

30

City of Fort Wayne Common Council  
**DIGEST SHEET**

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**Department of Planning Services**

Title of Ordinance: Zoning Map Amendment  
Case Number: REZ-2024-0048  
Bill Number: Z-24-12-05  
Council District: 4 – Dr. Scott Myers

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Introduction Date: November 26, 2024  
Plan Commission  
Public Hearing Date: December 9, 2024 (not heard by Council)  
Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

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Synopsis of Ordinance: To rezone 1.01 acres from R1/Single Family Residential to C1/Professional Office and Personal Services  
Location: 4331 Cadillac Drive (Section 24 of Aboite Township)  
Reason for Request: To permit a mixed-use development with office and residential  
Applicant: JSK Hospitality, LLC  
Property Owner: Daystar Development Inc.

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Related Petitions: REZ-2024-0046, PDP-2024-0053 – JSK Hospitality

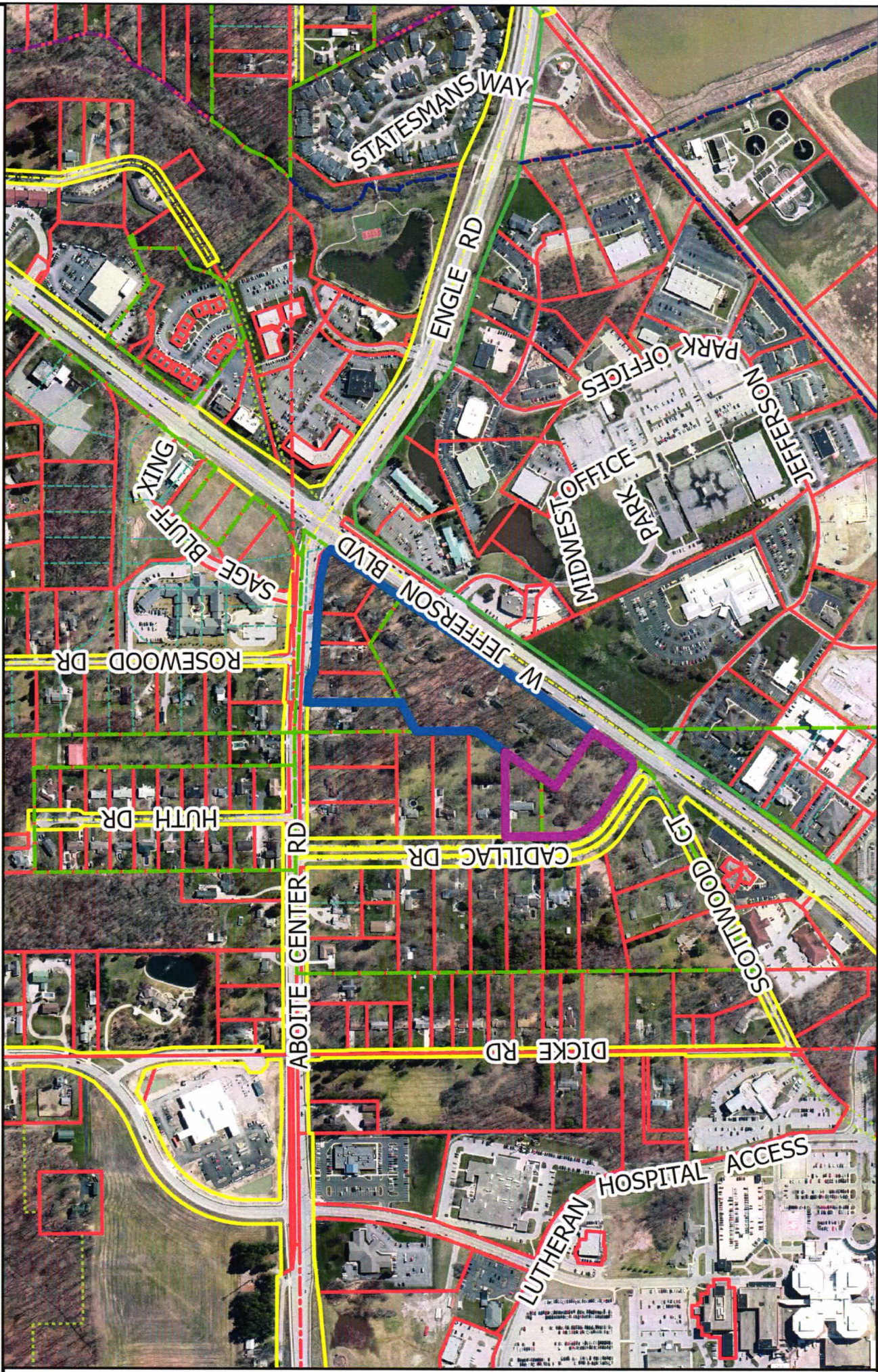
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Effect of Passage: Property will be rezoned to the C1/Professional Office and Personal Services zoning district, which permits a mixture of office and residential uses.

Effect of Non-Passage: Property will remain zoned R1/Single Family Residential and may continue with existing single family residential uses.



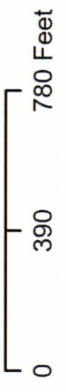
Rezoning Petition REZ-2024-0046 and Primary Development Plan PDP-2024-0053 - JSK Hospitality



-  JSK Rezone C1
-  JSK Rezone C2

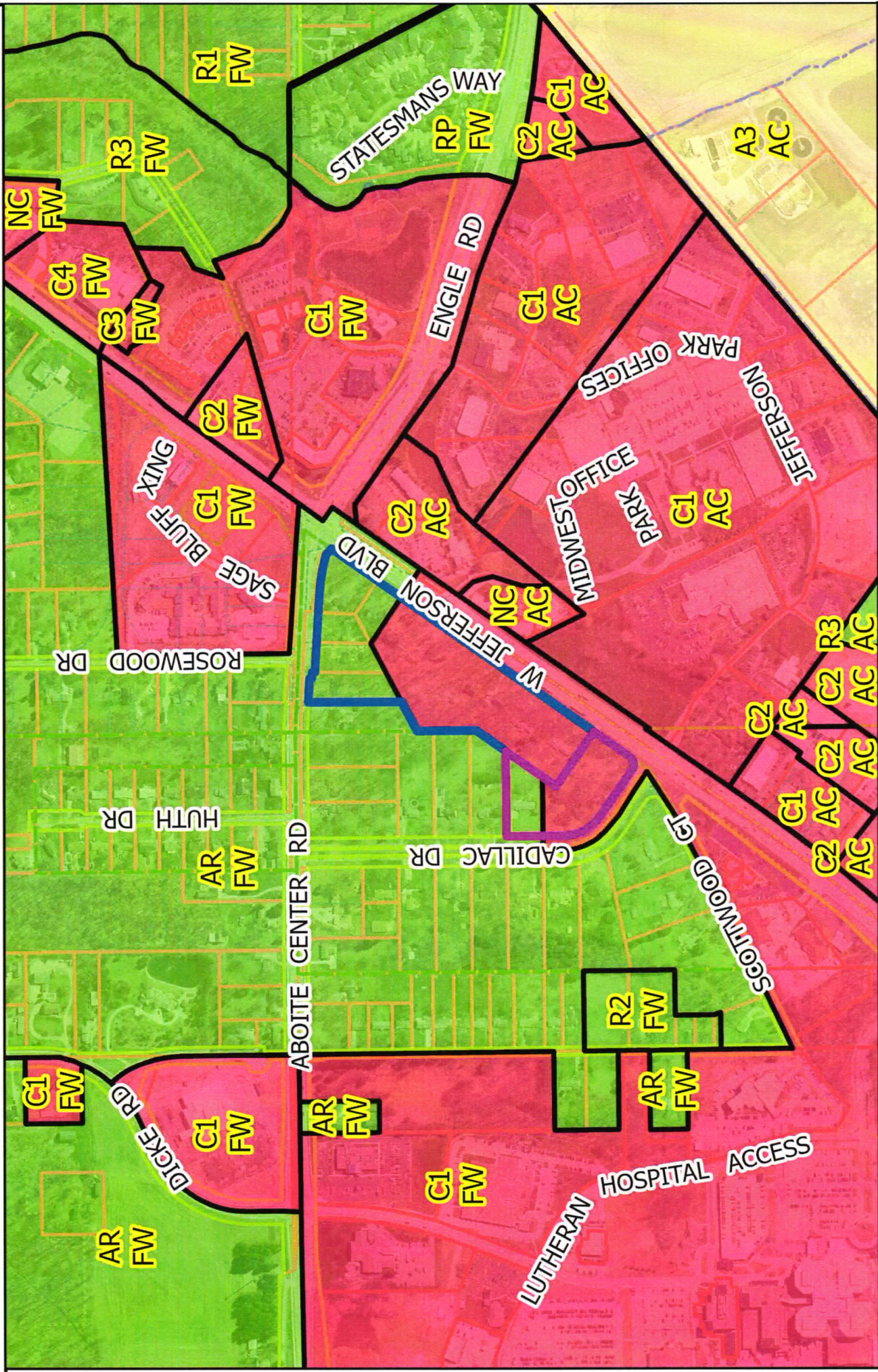
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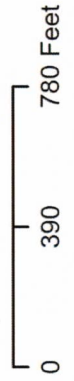
Rezoning Petition REZ-2024-0046 and Primary Development Plan PDP-2024-0053 - JSK Hospitality



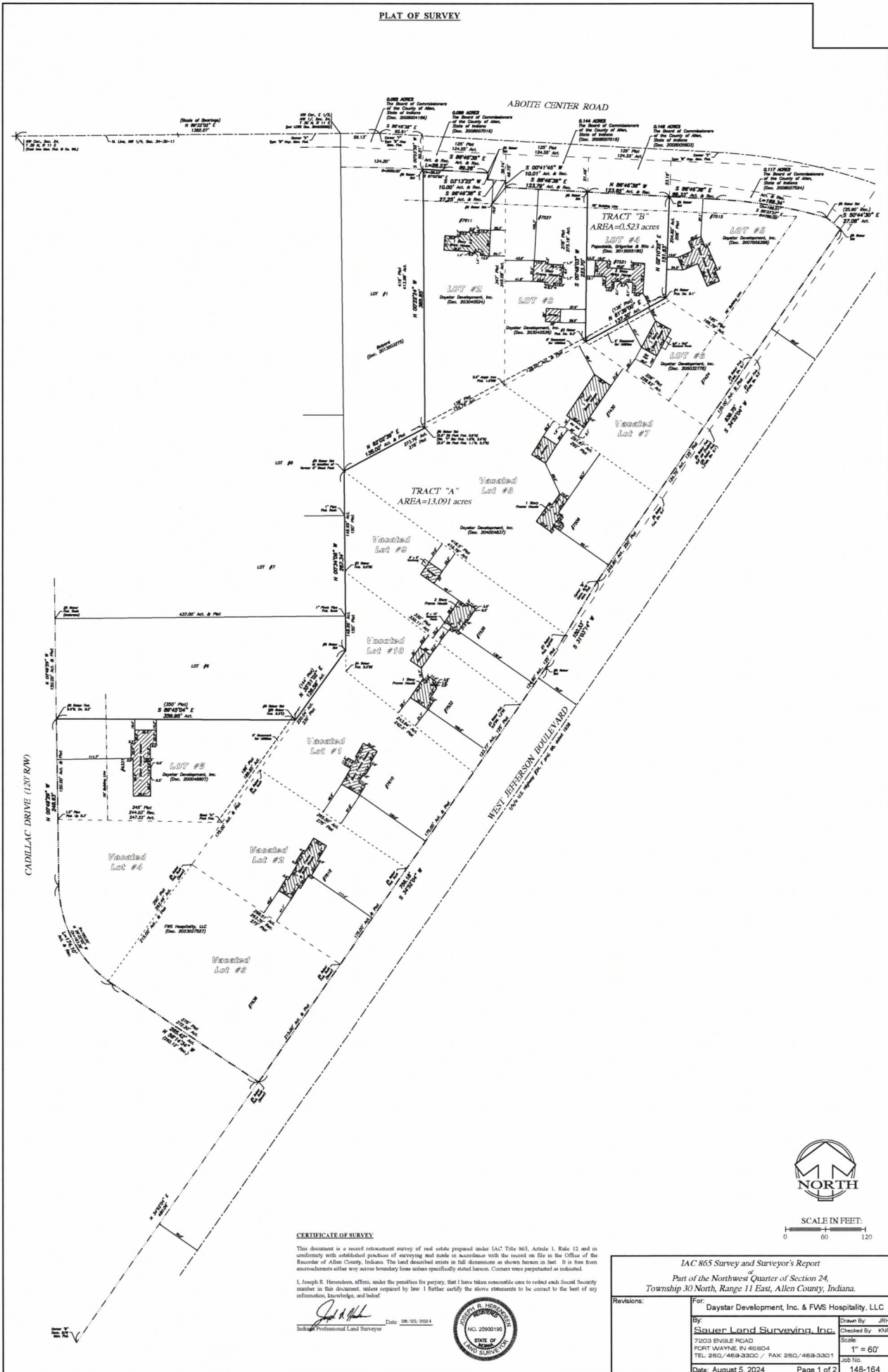
- JSK Rezone C1
- JSK Rezone C2

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PLAT OF SURVEY



CERTIFICATE OF SURVEY

This document is a record retracement survey of real estate prepared under IAC Title 365, Article 1, Rule 12 and in conformity with established practices of surveying and made in accordance with the record on file in the Office of the Recorder of Allen County, Indiana. The land described exists in full dimensions as shown herein in feet. It is free from encroachments either way across boundary lines unless specifically stated herein. Corners were perpetuated as indicated.

I, Joseph R. Herendeen, affirm, under the penalties for perjury, that I have taken reasonable care to retraced each Sound Security number in this document, unless required by law. I further certify the above statements to be correct to the best of my information, knowledge, and belief.

*Joseph R. Herendeen*  
 Date: 08/05/2024  
 Indiana Professional Land Surveyor



SCALE IN FEET:  
 0 60 120

IAC 865 Survey and Surveyor's Report	
Part of the Northwest Quarter of Section 24, Township 30 North, Range 11 East, Allen County, Indiana.	
Revisions:	For: Daystar Development, Inc. & FWS Hospitality, LLC
By: Sauer Land Surveying, Inc.	Drawn By: JRH
7003 ENGLE ROAD FORT WAYNE, IN 46804 TEL 260/469-3300 / FAX 260/469-3301	Checked By: KNP
Date: August 5, 2024	Scale: 1" = 60'
Page 1 of 2	Job No: 148-164



**AIZ ENGINEERING**  
 1220 Budson Plaza  
 Fort Wayne, IN 46825  
 260.465.7077  
 www.aiz-engineering.net

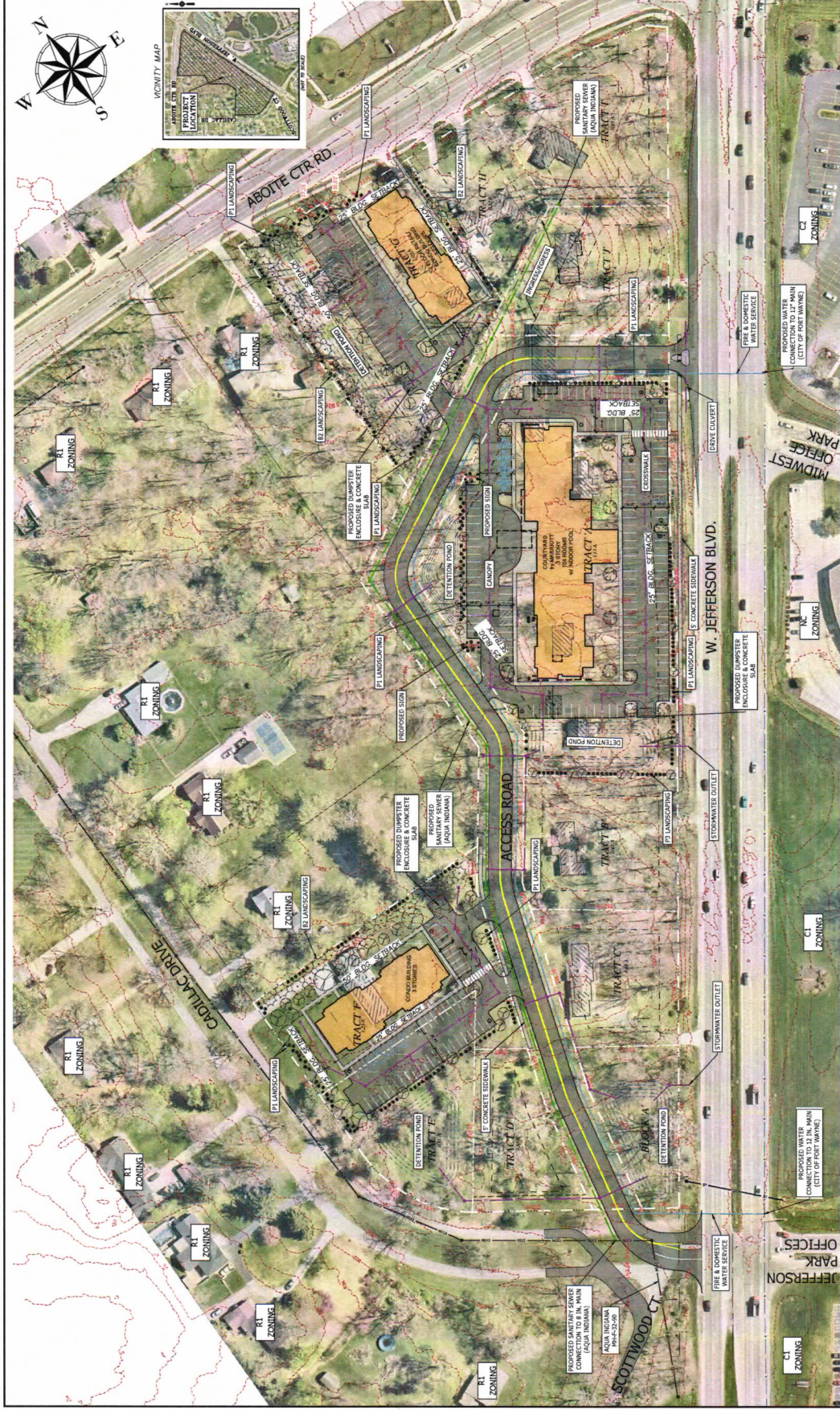
STATE OF INDIANA  
 PROFESSIONAL ENGINEER  
 MICHAEL MAUST  
 No. 91035  
 EXPIRES 12/31/2024

DATE: 11/05/2024

APPROVED BY:	KXX
DRAWN BY:	KXX
DESIGNED BY:	KXX
SUBMITTED BY:	KXX
PROJECT:	7532 W. JEFFERSON BLVD. REZONING

# PRIMARY DEVELOPMENT PLAN

PROJECT NO.	24-2020
DATE	11/05/2024
SCALE	1" = 60'
SHEET NUMBER	1 OF 3



## PRIMARY DEVELOPMENT PLAN

Scale: 1" = 60'

**GENERAL NOTE**  
 FOR EXISTING CASHEMITE TREE SURVEYING & MEASURES, SEE BOUNDARY SURVEY PERFORMED AUGUST 27TH BY SAUER LAND SURVEYING, INC.

**LEGEND**

- PROPOSED ASPHALT PAVEMENT
- PROPOSED CONCRETE PAVEMENT
- PROPOSED STORM SEWER
- EXISTING STORM SEWER
- PROPOSED SANITARY SEWER
- EXISTING SANITARY SEWER
- PROPOSED WATER LINE
- EXISTING WATER LINE
- PROPOSED DECIDUOUS TREE
- PROPOSED CONIFEROUS TREE
- PROPOSED SHRUB

**DEVELOPER**

PMS HOSPITALITY LLC  
 400 BIRCH ROAD  
 SOUTH BEND, IN 46604  
 PH: (260) 469-3300  
 CONTACT: JASON HOFFMAN  
 EMAIL: jhoffman@pms-hospitality.com

**ARCHITECT**

MAST ARCHITECTURAL SERVICES  
 1201 W. JEFFERSON BLVD  
 COOKEN, IN 46526  
 PH: (260) 469-3300  
 CONTACT: MICHAEL MAUST  
 EMAIL: michaelmaust@mastarchitects.com

**CIVIL ENGINEER**

AIZ ENGINEERING LLC  
 FT. WAYNE, IN 46825  
 CONTACT: JASON HOFFMAN  
 EMAIL: jhoffman@engineering.net

**HOTEL PARKING SUMMARY**

TOTAL PARKING REQUIRED	136 SPACES
TOTAL PARKING PROVIDED	136 SPACES
CONDO/COMMERCIAL PARKING SUMMARY	
1 SPACE PER 400 SQ FT (CONDO)	46 SPACES
1 SPACE PER 1/2 BEDROOM UNIT (COMBO)	46 SPACES
CONDO PARKING SUMMARY	
1 SPACE PER 1/2 BEDROOM UNIT (COMBO)	24 SPACES
24 UNITS	24 SPACES

**EXISTING ZONING** R1 & C1  
**PROPOSED ZONING** RESIDENTIAL  
**PROPOSED USED** 1ST FLOOR RETAIL

**ROOD INSURANCE RATE (RIR)**

ALLEN COUNTY, INDIANA INCORPORATED AREAS  
 FIRM MAP NUMBER: B10000806  
 DATED AUGUST 12, 2019

**DEVELOPER CONTACTS:**  
 SURVEYOR: SAUER LAND SURVEYING, INC.  
 ARCHITECT: MAST ARCHITECTURAL SERVICES  
 CIVIL ENGINEER: AIZ ENGINEERING LLC





Rezoning Petition REZ-2024-\_\_\_\_\_; R1 and C1 to C2  
Applicant: JSK Hospitality LLC  
Fort Wayne Plan Commission  
December 9, 2024, Public Hearing

**Rezoning Criteria:**

***1. The Comprehensive Plan***

On the Generalized Future Land Use for the Southwest Quadrant of Fort Wayne map in the All in Allen Comprehensive Plan (“Comprehensive Plan”) (p. 70), this area is designated as appropriate for Suburban Neighborhood development. The subject 13-acre parcel proposed for C2 Limited Commercial with a hotel and related development.

Goal 1.1 (p. 110) of the Comprehensive Plan encourages compact infill development and increased density.

The Future Growth and Development Map in the Comprehensive Plan (p. 55) shows this site as being “urban infill area.” It is not reserved as a low intensity residential area. Policy 1.3 encourages compatible higher density residential and mixed-use development in infill areas that are near public transit routes, employment centers, institutions, and other amenities. Policy 1.1.1 further states mixed use redevelopment opportunities on vacant or underutilized properties within Priority Investment and Urban Infill Opportunity Areas on the Future Growth and Development map are encouraged. These parcels have been listed for sale by the owners for many years.

The Land Use Compatibility Index (p. 213) shows that neighborhood commercial and community commercial is potentially compatible with adjacent single family suburban development with additional mitigation efforts, building design, landscaping and connectivity are provided. The plan meets or exceeds the landscaping requirements of the zoning ordinance. The height of the main use, the hotel, is under the maximum for the C2 (proposed) district.

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

The bulk of the development site was rezoned to C1 Professional Office and Services in the mid to late 90s but has never developed into office and personal service uses. Adjacent properties to the north and west are zoned AR Low Intensity Residential. To the south,

across West Jefferson Blvd., and to the east, the properties are zoned C2 Limited Commercial, NC Neighborhood Commercial and C1. The West Jefferson corridor has, and will continue to be, developed into commercial uses.

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

The most desirable use for the property is neighborhood and community commercial. While this subject property contains several single-family residences, they have been used as rentals for many years with the property being for sale for C1 uses. The C1 uses have yet to develop. Here, the developer proposes a comprehensive development for this whole tract along West Jefferson, instead of piece meal development as time goes by. This allows for controlled access points and comprehensive design. The mixed-use part of the development, featuring ground floor commercial with residential on the upper stories provides for a gradient of uses – with the least intense being located near existing residential, and the hotel closest to West Jefferson.

**4. *The conservation of property values throughout the jurisdiction***

This criteria applies to property values throughout the jurisdiction. Development into the highest and best use of properties supports positive property values. In fact, underutilized or underdeveloped property within the urban services area, and along major corridors like West Jefferson Boulevard tends to depress property values as a whole.

**5. *Responsible development and growth***

The proposal is compliant with the Comprehensive Plan. The development plan complies with the C2 zoning requirements, save for the lot coverage max for the hotel site. The lot coverage waiver is being sought to negate the need for a height waiver. Allowing new development along the West Jefferson corridor (Wash and Shine, Peter Franklin Jewelers, Mercedes Benz Dealership) is not something this community has shied away from when it represents quality, compatible development.

# FACT SHEET

Case #REZ-2024-0046 and REZ-2024-0048 Bills # Z-24-12-04 and Z-24-12-05  
Project Start: December 2024

APPLICANT:	JSK Hospitality, LLC
REQUEST:	To rezone property from C1/Professional Offices and Personal Services and AR/Low Intensity Residential to C1/Professional Offices and Personal Services and C2/Limited Commercial as well as to approve a primary development plan for an 11-lot commercial development including a hotel, multitenant commercial structures, and development lots with waivers to increase allowable square footage.
LOCATION:	7610 W Jefferson Blvd, southwest corner of its intersection with Engle Road (Section 24 of Aboite Township)
LAND AREA:	Rezone to C1 approximately 1.01 acres Rezone to C2/Limited Commercial approximately 11.5 acres Development Plan acreage is approximately 14.66 acres
PRESENT ZONING:	C1/Professional Offices and Personal Services and AR/Low Intensity Residential
PROPOSED ZONING:	C1/Professional Offices and Personal Services and C2/Limited Commercial
COUNCIL DISTRICT:	4 – Dr. Scott Myers
SPONSOR:	Fort Wayne Plan Commission

## December 9, 2024 Public Hearing

- Two residents spoke in support.
- Six residents spoke about concerns.
- Rachel Tobin-Smith, Paul Sauerteig, and Amos Norman were absent.

## December 16, 2024 Business Meeting

### REZ-2024-0046 (Z-24-12-04)

#### Plan Commission Recommendation: DO PASS,

A motion was made by Ryan Neumeister and seconded by Patrick Zaharako to return the ordinance with a Do Pass recommendation and a Written Commitment to Common Council for their final decision.

#### 8-1 MOTION PASSED

Karen Richards voted nay.

### REZ-2024-0048 (Z-24-12-05)

#### Plan Commission Recommendation: DO PASS,

A motion was made by Ryan Neumeister and seconded by Scott Myers to return the ordinance with a Do Pass recommendation and a Written Commitment to Common Council for their final decision.

#### 8-1 MOTION PASSED

Karen Richards voted nay.

Fact Sheet Prepared by:  
Michelle Wood, Senior Land Use Planner  
January 9, 2025

## PROJECT SUMMARY

The petitioner is requesting to rezone parcels along the north side of West Jefferson Boulevard, from about Aboite Center Road to Cadillac Drive, to develop commercially, including a new hotel and multiple family buildings, with mixed use. Today, about 2/3 of the property is zoned C1/Professional Offices and Personal Services, which permits many uses seen along West Jefferson, like banks, medical offices, and office parks. The remaining approximate 5.5 acres are zoned residentially but proposed to rezone to a commercial zoning district. This stretch of West Jefferson Boulevard has about 32,000 daily motorists, and Aboite Center Road has about 13,600 daily motorists, qualifying both as arterial streets. This means that these parcels could no longer be platted for residential use, since the ordinance prohibits any new plats from having frontage along an arterial street.

The C1/Professional Offices and Personal Services petition is located closest to the residences along Cadillac Drive. The C1 district does not permit retail, restaurants, and other uses that may contain more foot traffic. C1 is the district that is recommended to provide transition between residential districts like Cadillac Drive and the more intensive uses found along West Jefferson Boulevard. The rezoning petition for C2 affects about 11 acres, of which about 6.8 acres are already zoned commercially (C1). The remaining approximate 4.2 acres are zoned AR/Low-Intensity Residential but are at the corner of Aboite Center and West Jefferson, with the remaining 3 corners of that intersection being commercially zoned (The south side of the intersection is zoned C2 and the north sides are zoned C1).

West Jefferson Boulevard has been transitioning from residential to commercial over the past 30 years, pivoting the area to a more regional thoroughfare. The site is an artery between the core of Fort Wayne and places like I-69, Huntington, and Aboite and Lafayette Townships.

### COMPREHENSIVE PLAN REVIEW

#### Future Growth and Development Map, Goals, and Strategies

- The project site is located within the Urban Infill Area.
- The following Goal would be applicable and supportive of this request:  
**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:  
**LUD Policy 4** – Nonresidential development which is adjacent to residential neighborhoods should be limited to lower intensity neighborhood commercial uses.

#### Generalized Future Land Use Map

- The project site is located within the Suburban Neighborhood generalized land use category. The primary use in this district is single-family residential. Secondary uses include Civic and Cultural Facilities, Parks and Open Space, Religious Institutions, Schools, and Single-Family Attached Residential.

#### Overall Land Use Related Action Steps

- **LUD Goal 1** Encourage compatible infill development and redevelopment in the Urban Infill and Priority Investment Areas.
- **LUD Goal 1.2** Explore modified development review processes to facilitate compatible infill development and redevelopment proposals
- **LUD Goal 1.3** Encourage compatible higher density residential and mixed-use development in infill areas that are near public transit routes, employment centers, institutions, and other amenities

### **Compatibility Matrix**

- C1 is considered “compatible” to the suburban neighborhood future designated land use.
- C2 is considered “potentially compatible” to the suburban neighborhood future designated land use. Suggestions to improve compatibility include written commitments, building design, enhanced landscaping, enhanced access and connectivity such as trails/sidewalks, shared access points / roads, and street interconnections.

Today, the applicant is proposing to expand the original footprint of the development site and include Limited Commercial retail uses in some areas. The primary access to the site is provided by a new road that ends and terminates at West Jefferson Blvd. This development plan shows eleven tracts for development. All new development parcels have access to this road, either with direct frontage or by easement. Additional pedestrian access will be provided along West Jefferson, which is a requirement per the zoning ordinance.

Three of the parcels are showing proposed structures and related uses, like parking and landscaping. The first two are shown on Tracts F and G and are shown as three-story multiple use buildings. All are meeting the residential mitigation impact standards of being at least 50’ setback from residential structures, and as shown, no parking is shown in that setback. Rather, detention and landscaping are within that 50’ setback. The Tract F building will be zoned C1, so if the use of the building is mixed, that building will have uses that are more appointment-based and professional in nature. The Tract G building, located along Aboite Center Road, is proposed to be zoned C2, which permits retail, restaurants, and other light uses intended for foot traffic. Access to both structures are via the new access road and not from Cadillac Drive or Aboite Center Road. The hotel structure is located on Tract “A” and located in the proposed C2 district. The structure is located between the new access road and West Jefferson Boulevard, creating a through style lot. This hotel is 3-stories and will be about 68,232 square feet. The 136-car parking lot exceeds the minimum of 104 spaces (1 space per sleeping room).

There was discussion at the public hearing regarding screening and buffering. The applicant agreed to increase the required landscaping along areas adjacent to residential parcels. Fencing and street trees will be installed along the new public road between the hotel and residential lots. On the C1 parcel, 8 to 10-foot tall evergreen trees, large shrubs, and deciduous trees will be planted along with a 6-foot fence along the north side of the parking lot, adjacent to the residential lot. On the C2 parcel at Aboite Center Road, fencing and evergreen trees will be installed between the commercial lot and the residential lot.

A Written Commitment has been accepted by Plan Commission that relates the agreed-upon landscape enhancements as well as prohibited uses in the C2 district.

### **PUBLIC HEARING SUMMARY:**

Presenter: Pat Hess, Beckman Lawson, represented the request as outlined above.

#### Public Comments:

John Hoffman, representing SWAP, spoke generally in favor of the proposal, stating that the area is recognized to develop commercially and it fits the comp plan. He stated that screening and buffering should be carefully considered.

Greg Papadakis, 7521 Aboite Center Road – Spoke in favor of the request, citing the redevelopment and reinvestment in these poorly maintained properties.

Gary Hoagland, representing 4323, 4329 and 4315 Cadillac Drive – Has concerns over traffic, hours of operation and noise.

Robert Stahl and Michael Stahl, 7721 Aboite Center Road - Expressed similar concerns over traffic.

Suzanne Carr, 4315 Cadillac Drive – Concerned about school bus pickup.

Paul Lagemann, County Councilman – Would prefer to see this request wait until after the zoning ordinance amendment for building heights is approved (it is now approved).

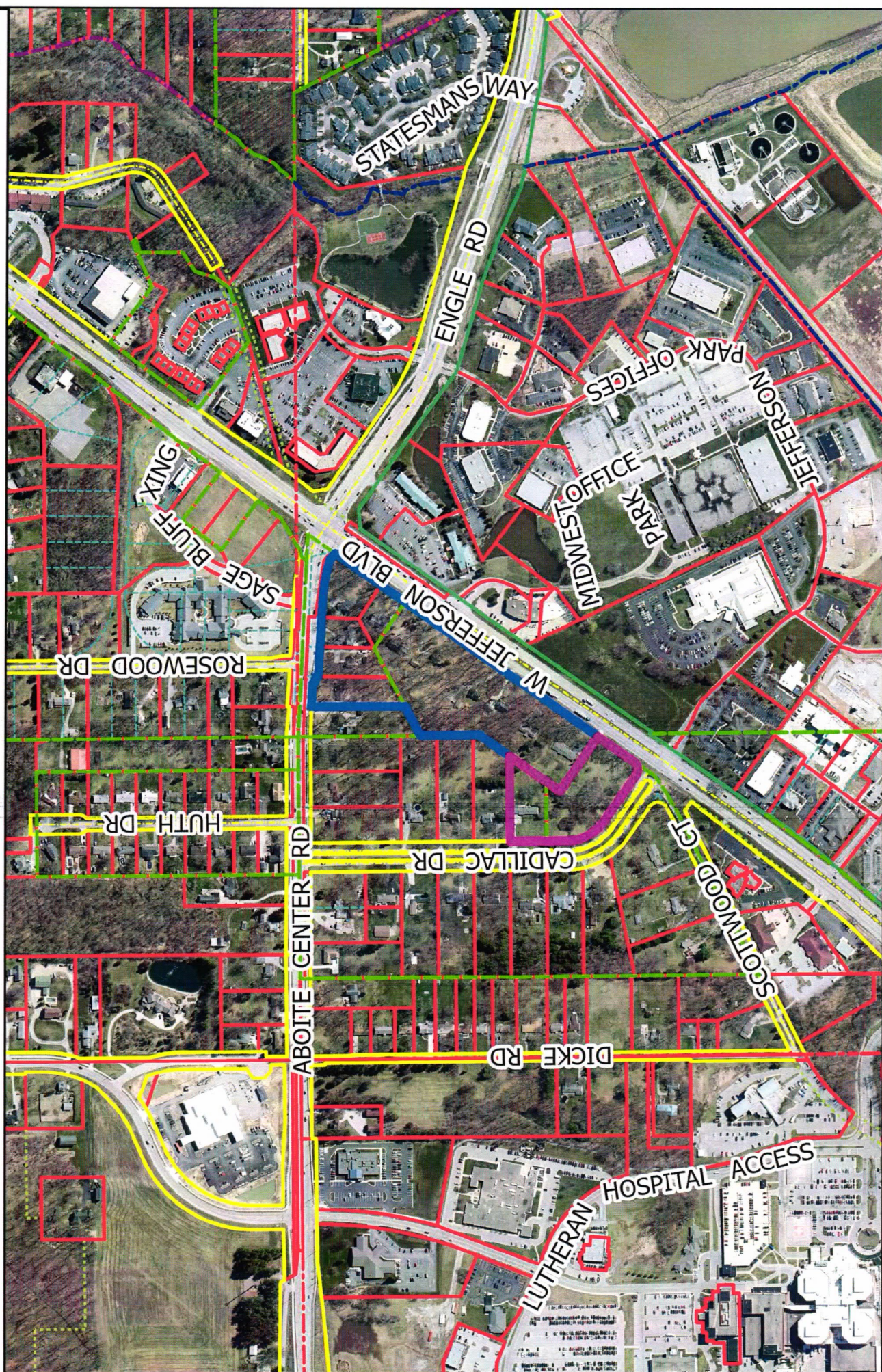
Elizabeth Roth, 4342 Cadillac Drive – Concerns include children, and proximity of development.

Closing Comments:

The hotel proposal meets current zoning ordinance height requirements. If the amendment is approved, they will still meet all zoning ordinance requirements. There is no access to Cadillac Drive. This is comprehensive planning of the entire area, not piecemeal development. The land has been zoned for office since 1997 and has not developed with offices in all that time. The proposed plan shows good planning, with improved traffic infrastructure, enhanced landscaping and responsible adherence with the zoning ordinance.



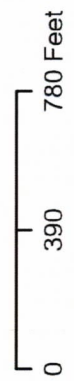
Rezoning Petition REZ-2024-0046 and Primary Development Plan PDP-2024-0053 - JSK Hospitality



-  JSK Rezone C1
-  JSK Rezone C2

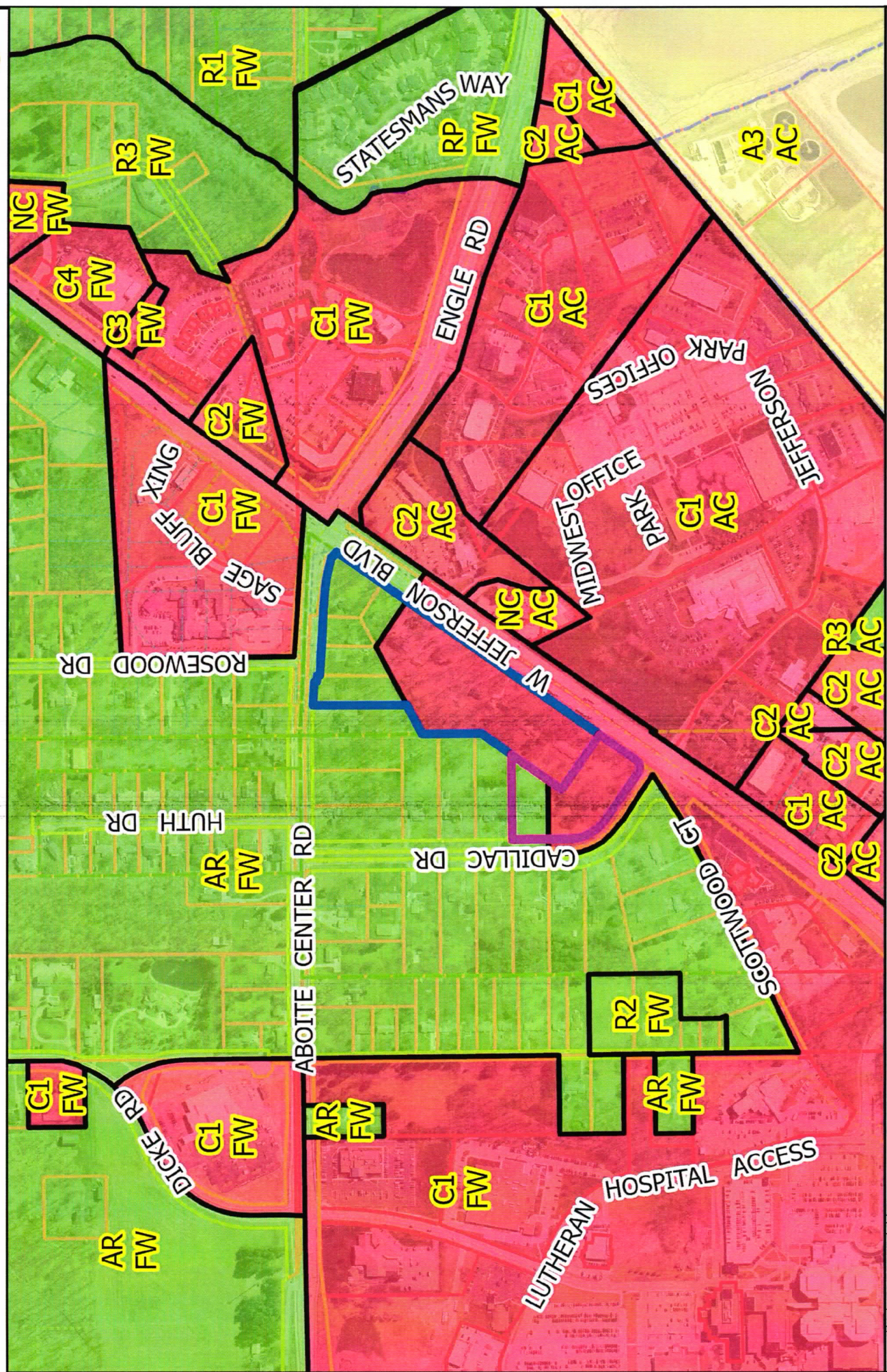
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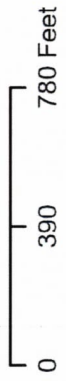
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- JSK Rezone C2



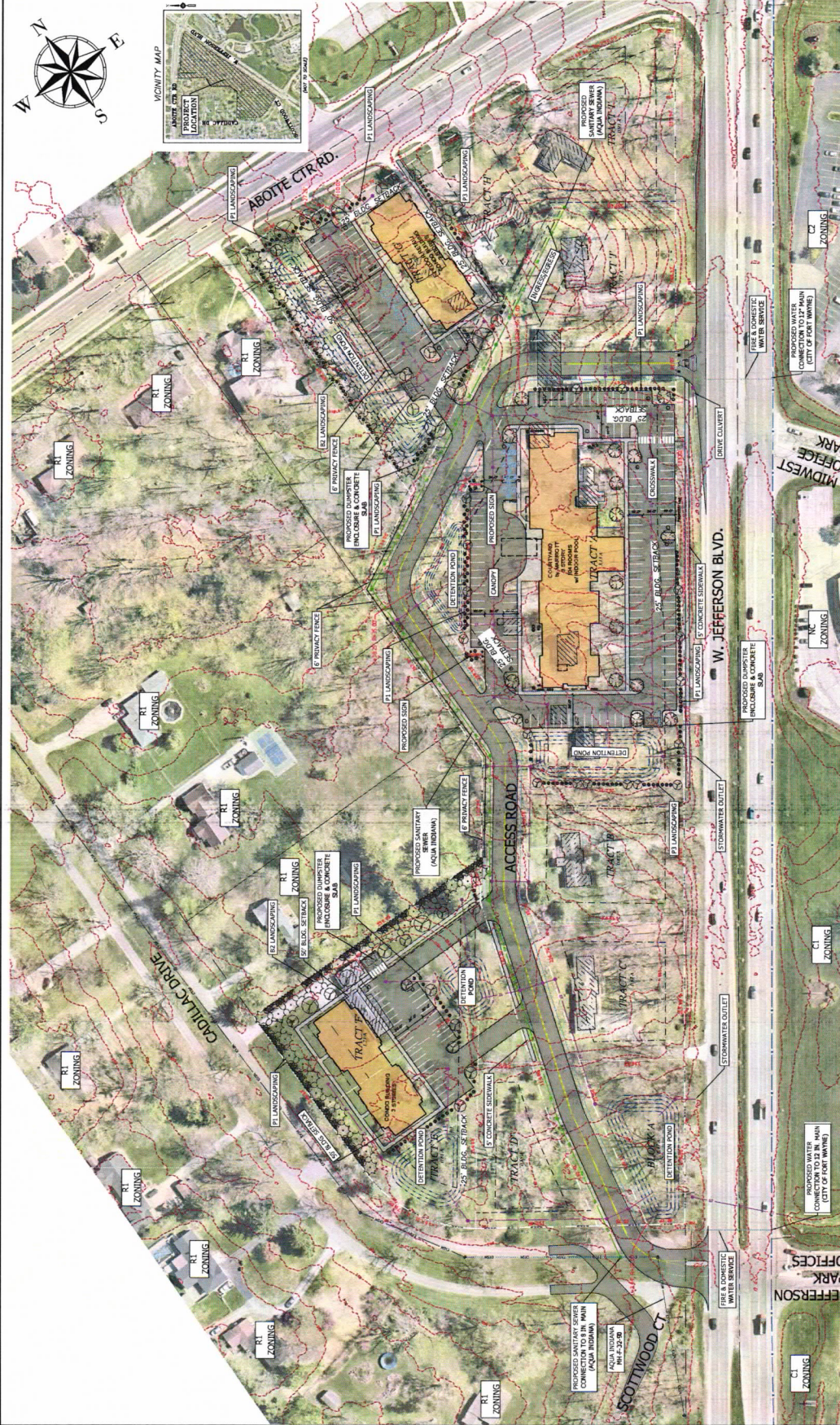
DATE: 11/09/2024  
 BY: William J. Bickel  
 PROJECT: 7532 W. JEFFERSON BLVD.  
 7532 W. JEFFERSON BLVD.  
 REZONING

AZ ENGINEERING  
 1220 Bluffton Park  
 Fort Wayne, IN 46825  
 www.az-engineering.net

DESIGNED BY:	KXX
CHECKED BY:	KXX
APPROVED BY:	KXX
DATE:	11/09/2024

PROJECT:	7532 W. JEFFERSON BLVD. REZONING
SHEET TITLE:	PRIMARY DEVELOPMENT PLAN

PROJECT NO.:	24-020
DRAWING FILE NAME:	7532 W. JEFFERSON BLVD.
SCALE:	AS SHOWN
DATE:	11/09/2024



DEVELOPER	CIVIL ENGINEER	ARCHITECT	SUBMITTER
PWS-HOSPITALITY LLC 1220 BLUFFTON PARK FORT WAYNE, IN 46825 PH: (774) 370-2784 EMAIL: pws@pws-hospitality.com	AZZ ENGINEERING LLC 1220 BLUFFTON PARK FORT WAYNE, IN 46825 PH: (774) 467-7977 EMAIL: info@azz-engineering.net	ARCHITECT HAUST ARCHITECTURAL SERVICES 7202 ENGLE ROAD COONSBURG, IN 46026 PH: (774) 327-8900 CONTACT: JOSEPH HERGENREINER	SAUER LAND SURVEYING, INC. 7202 ENGLE ROAD COONSBURG, IN 46026 PH: (260) 460-2000 CONTACT: JOSEPH HERGENREINER

HOTEL PARKING SUMMARY	CONDO/COMMERCIAL PARKING SUMMARY	CONDO PARKING SUMMARY	CONDO/COMMERCIAL UNIT (CONDO)	EXISTING ZONING	PROPOSED ZONING
HOTEL PARKING SUMMARY SLEEPING ROOMS: 194 ROOMS CONDO/COMMERCIAL PARKING SUMMARY CONDO/COMMERCIAL UNIT (CONDO): 1 SPACE PER 2.5 BEDROOM UNIT (CONDO)	CONDO/COMMERCIAL PARKING SUMMARY CONDO/COMMERCIAL UNIT (CONDO): 1 SPACE PER 2.5 BEDROOM UNIT (CONDO)	CONDO PARKING SUMMARY CONDO PARKING SUMMARY 1 SPACE PER 1-2 BEDROOM UNIT (CONDO)	CONDO/COMMERCIAL UNIT (CONDO) 1 SPACE PER 2.5 BEDROOM UNIT (CONDO)	EXISTING ZONING R1 & CI	PROPOSED ZONING CI & C2

**PRIMARY DEVELOPMENT PLAN**  
 SCALE: 1" = 60'  
 0 20 40 60 80 100 120

**LEGEND**

- PROPOSED SIGNAL PAVEMENT
- PROPOSED CONCRETE PAVEMENT
- PROPOSED STORM SEWER
- EXISTING STORM SEWER
- PROPOSED SANITARY SEWER
- EXISTING SANITARY SEWER
- EXISTING WATER LINE
- PROPOSED DECIDUOUS TREE
- PROPOSED CONIFEROUS TREE
- PROPOSED SHRUBS

**GENERAL NOTE**  
 ALL DIMENSIONS ARE IN FEET AND INCHES. SEE DIMENSIONS FOR ALL DIMENSIONS AND SPACING. SEE DIMENSIONS FOR ALL DIMENSIONS AND SPACING. SEE DIMENSIONS FOR ALL DIMENSIONS AND SPACING.

**BECKMAN LAWSON, LLP**  
**DRAFT #3, 1/9/25**  
An original has been sent to the  
collective owners for signature and  
notaries.

## **WRITTEN COMMITMENT**

**THIS WRITTEN COMMITMENT** (“Commitment”) is made this \_\_\_\_ day of \_\_\_\_\_, 2025 by Daystar Development, Inc., an Indiana corporation (“Daystar”), FWS Hospitality, LLC, an Indiana limited liability company (“FWS”) and Grigorios Papadakis and Rita J. Papadakis, husband and wife (“Papadakis”) (collectively the “Declarant”).

### **WITNESSETH:**

**WHEREAS**, Declarant is the owner of approximately 14.66 acres of real estate located 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 AR/Low Intensity Residential and C1/Professional Office and Personal Services, bearing number REZ-2024-0046 and REZ-2024-0048 (the “Petitions”), which Petitions have 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 Petitions, 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 Petitions 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, as those uses are defined in the Fort Wayne Zoning Ordinance, shall be prohibited upon the Real Estate:
  - a. Animal Kennel
  - b. Bowling alley
  - c. Club, private
  - d. Correctional services facility

- e. Homeless shelter
  - f. Reception hall
  - g. Residential facility for homeless individuals
  - h. Treatment center
  - i. Zoo
2. Permitted Uses. Any use otherwise permitted in the C2 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. Other Commitments:
- a. A 6-foot solid board fence will be installed between edge of pavement of the new public road and the adjacent residentially zoned lots. Applicant will work with City Engineering and utility providers to ensure that required amount of right-of-way and infrastructure will not conflict with screening and buffering requirements, and provide for maintenance of said fencing and landscaping.
  - b. Screening and buffering on Tract F:  
A 6-foot solid board fence will be installed along the north side of the lot, between the tract and the adjacent residential lot. Fence will meet primary setback (25') from Cadillac Drive. A 75% shrub buffer and deciduous trees will be installed on the south side of the fence. A continuous 8 to 10-foot tall (installed size) evergreen tree (or large evergreen shrub such as arborvitae) will be installed on the north side of the fence. The above described landscape plan is based on the site layout on the Primary Development Plan. Should the layout change with final engineering, landscaping will be re-evaluated by the Plan Commission with the Secondary Development Plan.
  - c. Screening and buffering on Tract G:  
A 6-foot solid board fence will be installed along the west side of the lot parking area, to be maintained as long as the adjacent lot remains residential. A continuous 8 to 10-foot tall (installed size) evergreen tree (or large evergreen shrub such as arborvitae) will be installed on the west side of the detention basin, along with a 75% shrub buffer. The above described landscape plan is based on the site layout on the Primary Development Plan. Should the layout change with final engineering, landscaping will be re-evaluated by the Plan Commission with the Secondary Development Plan.
  - d. Provision on building orientation on Tract F - building will be parallel with West Jefferson. If final engineering does not allow this orientation, documentation will be provided to Plan Commission with Secondary Development Plan.

4. Permits. No permits shall be issued under the zoning ordinance by the Zoning Administrator, or any successor agency having zoning jurisdiction over the Real Estate, 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.
5. 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, 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. This Commitment may be modified or terminated by the Plan Commission making findings of fact that the proposed modification or termination is required because: (a) there is a substantial change in circumstances from the time of the original Commitment; (b) the proposed modification or termination is in substantial compliance with the Comprehensive Plan; (c) the proposed modification or termination is consistent with the Plan Commission's prior approval; and (d) the application of the terms of the original Commitment would cause an unnecessary hardship absent the modification or termination. Further, pursuant to I.C. 36-7-4-1015(b)(4), this Commitment shall automatically terminate if: (i) the zoning district or classification applicable to the Real Estate is changed; or (ii) if the land use to which this Commitment relates is changed.
6. 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.
7. 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. This Commitment may be enforced by any successor commission or enforcement official having zoning jurisdiction over the Real Estate.
8. 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.

9. Last Deeds of Record. The most recent deeds of record for the Real Estate were recorded in the Office of the Recorder of Allen County, Indiana as Document Numbers 200046807, 2023027527, 204004837, 2050032778, 2007056298, 2012055180, 203040526, and 203040524.
10. 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.
11. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
12. 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.

**BILL NO. Z-24-12-05**

**REPORT OF COMMITTEE ON REGULATIONS**

**January 14, 2025**

***Michelle Chambers Chair***

***Thomas Freistroffer Co-Chair***

***All Council Members***

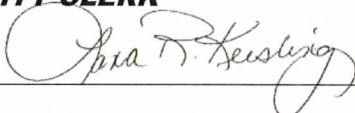
An Ordinance amending the City of Fort Wayne Zoning Map No. B-15 (Sec. 24 of Aboite Township)

*To rezone 1.01 acres from R1/Single Family Residential to C1/Professional Office and Personal Services at 4331 Cadillac Drive to permit a mixed-use development with office and residential*

**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>
<u>BENDER</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>BOOKER</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>CHAMBERS</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>ENSLEY</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>FREISTROFFER</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>HARTMAN</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>JEHL</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>MYERS</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>PADDOCK</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**LANA R. KEESLING  
CITY CLERK**

  
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**BILL NO. Z-24-12-05**

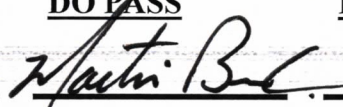



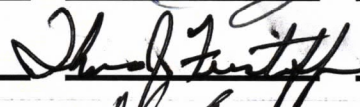

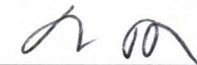
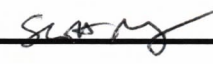
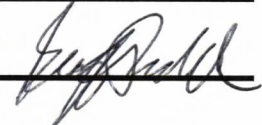
**REPORT OF COMMITTEE ON REGULATIONS  
January 28, 2025**

***Michelle Chambers Chair***  
***Thomas Freistroffer Co-Chair***  
***All Council Members***

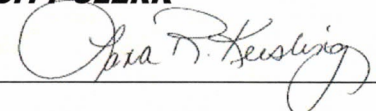
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<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
<u>BENDER</u>			
<u>BOOKER</u>			
<u>CHAMBERS</u>			
<u>ENSLEY</u>			
<u>FREISTROFFER</u>			
<u>HARTMAN</u>			
<u>JEHL</u>			
<u>MYERS</u>			
<u>PADDOCK</u>			

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date: N/A

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

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

Read the third time in full and on motion by Councilperson Chambers, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
BENDER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BOOKER	<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"/>
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"/>
HARTMAN	<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"/>
MYERS	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: January 28, 2025

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

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

Zoning Ordinance No. Z-24-12-05 on the 28th day of January, 2025

ATTEST:

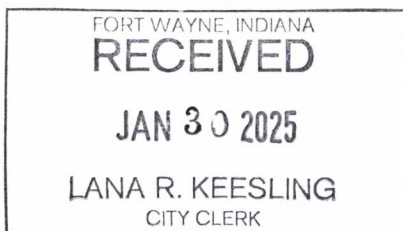
  
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 LANA R. KEESLING  
 CITY CLERK

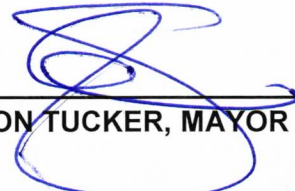
  
 \_\_\_\_\_  
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th of January 2025, at the hour of 9:40 o'clock A.M. E.S.T.

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 29<sup>th</sup> day of January 2025, at the hour of 4:57 o'clock P.M. E.S.T.



  
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 SHARON TUCKER, MAYOR