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#REZ 2025 0003

BILL NO. Z-25-01-19

ZONING MAP ORDINANCE NO. Z- 8-25

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. I-66 (Sec. 31 of Perry 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 C2 (Limited Commercial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana:

Part of the Northwest Quarter of Section 31, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Beginning at a point on the North line of Section 31, Township 32 North, Range 12 East, Allen County, Indiana, said point being South 89 degrees 45 minutes East, a distance of 797 feet from the Northwest corner of Section 31-32-12; thence continuing South 89 degrees 45 minutes East along the North line of Section 31-32-12 a distance of 486.5 feet; thence South 03 degrees 00 minutes West, a distance of 220 feet; thence North 89 degrees 45 minutes West, a distance of 200.0 feet; thence South 03 degrees 00 minutes West a distance of 500 feet; thence North 89 degrees 45 minutes West, a distance of 233.3 feet; thence North 26 degrees 46 minutes West, a distance of 75.5 feet; thence North 01 degrees 37 minutes East, a distance of 652.1 feet to the point of beginning, containing 5.57 acres, more or less.

Excepting therefrom:

Parts of the Northwest Quarter of Section 31, Township 32 North, Range 12 East in Allen County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of Section 31, Township 32 North, Range 12 East, in Allen County, Indiana; thence East along the North line of the Northwest Quarter of Section 31, Township 32 North, Range 12 East, a distance of 1083.5 feet; thence Southwesterly with a deflection angle to the right of 92 degrees 45 minutes, a distance of 513.2 feet to the true point of beginning of the herein described real estate; thence Westerly with a deflection angle to the right of 88 degrees 37 minutes 30 seconds a distance of 100 feet; thence Southwesterly with a deflection to the left of 88

1 degrees 24 minutes a distance of 209.2; thence Easterly with a deflection angle to the left
2 of 92 degrees 43 minutes 30 seconds a distance of 100 feet; thence Northeasterly with an
3 angle to the left of 87 degrees 15 minutes a distance of 206.8 feet to the point of
beginning, containing 0.477 acres.

4 Parcel II:

5 Tract A:

6 Beginning at a point on the North line of Section 31, Township 32 North, Range 12 East,
7 Allen County, Indiana, said point being South 89 degrees 45 minutes East, a distance of
8 1083.5 feet from the Northwest corner of Section 31, Township 32 North, Range 12 East;
9 thence continuing South 89 degrees 45 minutes East, along the North line of Section 31,
10 Township 32 North, Range 12 East, a distance of 200.0 feet; thence South 03 degrees 00
minutes West, a distance of 720.0 feet; thence North 89 degrees 45 minutes West, a
distance of 200.0 feet; thence North 03 degrees 00 minutes East, a distance of 720.0 feet
to the point of beginning, containing 3.31 acres, more or less.

11 Excepting therefrom the following described real estate: Beginning at a point on the
12 North line of Section 31, Township 32 North, Range 12 East, Allen County, Indiana, said
13 point being South 89 degrees 45 minutes East, a distance of 1083.5 feet from the
14 Northwest corner of Section 31, Township 32 North, Range 12 East; thence continuing
15 South 89 degrees 45 minutes East along the North line of Section 31, Township 32 North,
16 Range 12 East a distance of 200.0 feet; thence South 03 degrees 00 minutes West a
distance of 220.0 feet; thence North 89 degrees 45 minutes West a distance of 200.0 feet;
thence North 03 degrees 00 minutes East a distance of 220.0 feet to the point of
beginning containing 1.01 acres, more or less. The net acreage for the above described
real estate is 2.30 acres.

17 Together with a 40-foot ingress and egress easement, more particularly described as
18 follows:

19 Beginning at a point on the North line of Section 31, Township 32 North, Range 12 East,
20 Allen County, Indiana, said point being South 89 degrees 45 minutes East, a distance of
21 1283.5 feet from the Northwest corner of Section 31, Township 32 North, Range 12 East;
22 thence continuing South 89 degrees 45 minutes East along the North line of the Section
31, Township 32 North, Range 12 East a distance of 40.0 feet; thence South 03 degrees
00 minutes West, a distance of 720.00 feet; thence North 89 degrees 45 minutes West a
23 distance of 40.0 feet; thence North 03 degrees 00 minute East, a distance of 720.0 feet to
the point of beginning, containing 0.66 acres, more or less.

24 Tract B:

25 Parts of the Northwest Quarter of Section 31, Township 32 North, Range 12 East in Allen
26 County, Indiana, more particularly described as follows:

27 Commencing at the Northwest corner of the Northwest Quarter of Section 31, Township
28 32 North, Range 12 East, in Allen County, Indiana; thence East along the North line of
29
30

1 the Northwest Quarter of Section 31, Township 32 North, Range 12 East a distance of
2 1083.5 feet; thence Southwesterly with a deflection angle to the right of 92 degrees 45
3 minutes, a distance of 513.2 feet to the true point of beginning of the herein described
4 real estate; thence Westerly with a deflection angle to the right of 88 degrees 37 minutes
5 30 seconds a distance of 100 feet; thence Southwesterly with a deflection angle to the left
6 of 88 degrees 24 minutes a distance of 209.2 feet; thence Easterly with a deflection angle
7 to the left of 92 degrees 43 minutes 30 seconds a distance of 100 feet; thence
8 Northeasterly with a deflection angle to the left of 87 degrees 15 minutes a distance of
9 206.8 feet to the point of beginning, containing 0.477 acres.


10 and the symbols of the City of Fort Wayne Zoning Map No. I-66 (Sec. 31 of Perry Township), as
11 established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is
12 hereby changed accordingly.

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

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

19 
20 _____
21 Council Member

22 APPROVED AS TO FORM AND LEGALITY:

23 
24 _____
25 Malak Heiny, City Attorney

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

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2025-0003
Bill Number: Z-25-01-19
Council District: 3 -Nathan Hartman

Introduction Date: January 28, 2025

Plan Commission
Public Hearing Date: February 10, 2025 (not heard by Council)

Next Council Action: Ordinance will return to Council after recommendation by the
Plan Commission

Synopsis of Ordinance: To rezone 7.73 acres from AR/Low Intensity Residential to C2/Limited
Commercial with a written commitment to restrict uses

Location: 3217 Carroll Road

Reason for Request: To permit the existing reception hall and allow for a micro-distillery in the
existing building.

Applicant: Copper Forge Distilling, LLC

Property Owner: 2Mics, LLC

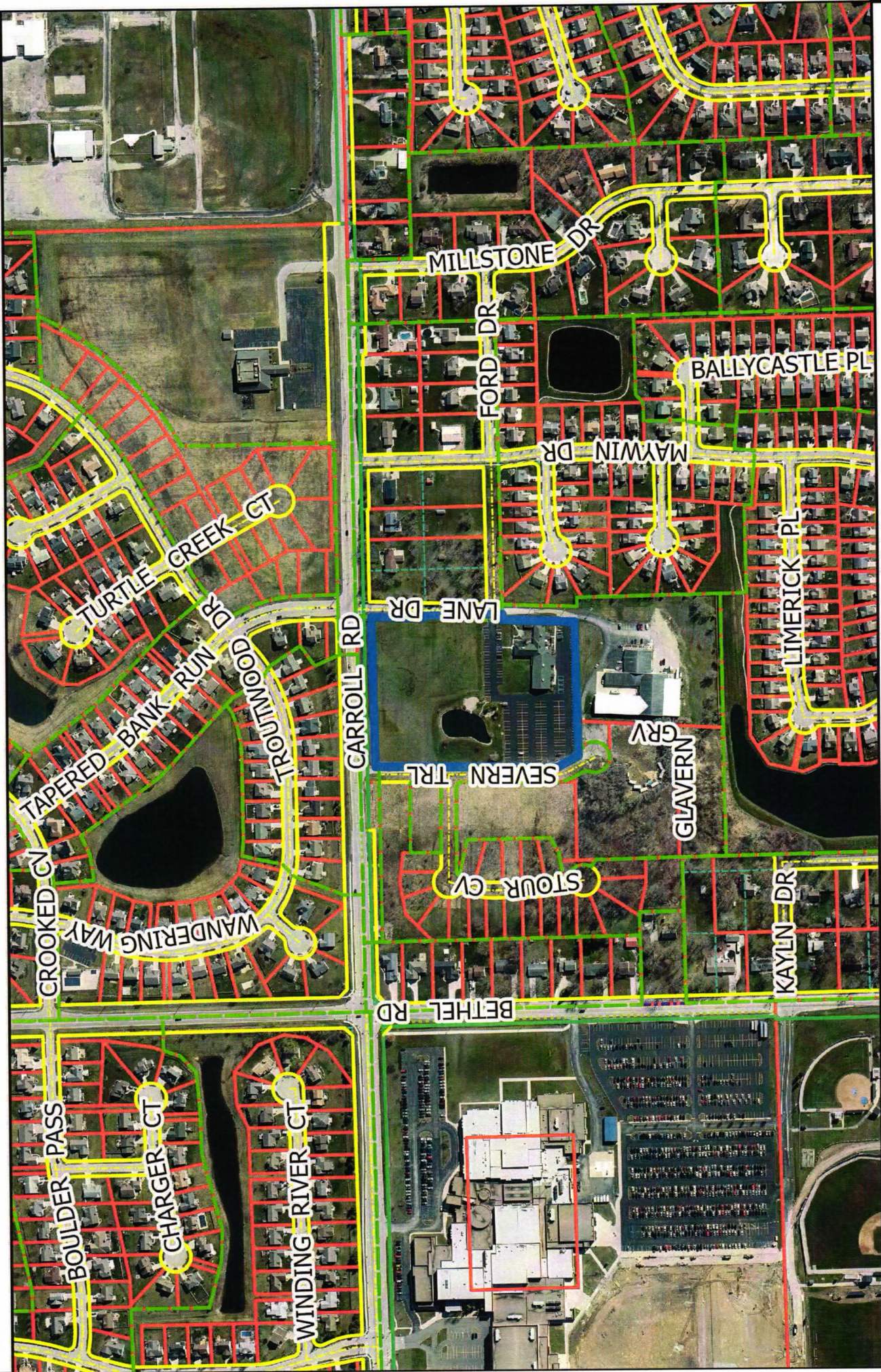
Related Petitions: none

Effect of Passage: Property will be rezoned to the C2/Limited Commercial zoning district,
which will bring the existing reception hall into compliance (currently
operating under a variance). The zoning will also allow the building to
include a micro-distillery.

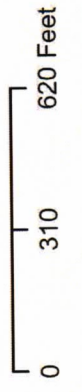
Effect of Non-Passage: The property will remain zoned AR and the reception hall can operate
under the existing variance approval, however the uses cannot be
expanded without a new approval.



Rezoning Petition REZ-2025-0003 - 3127 Carroll Road

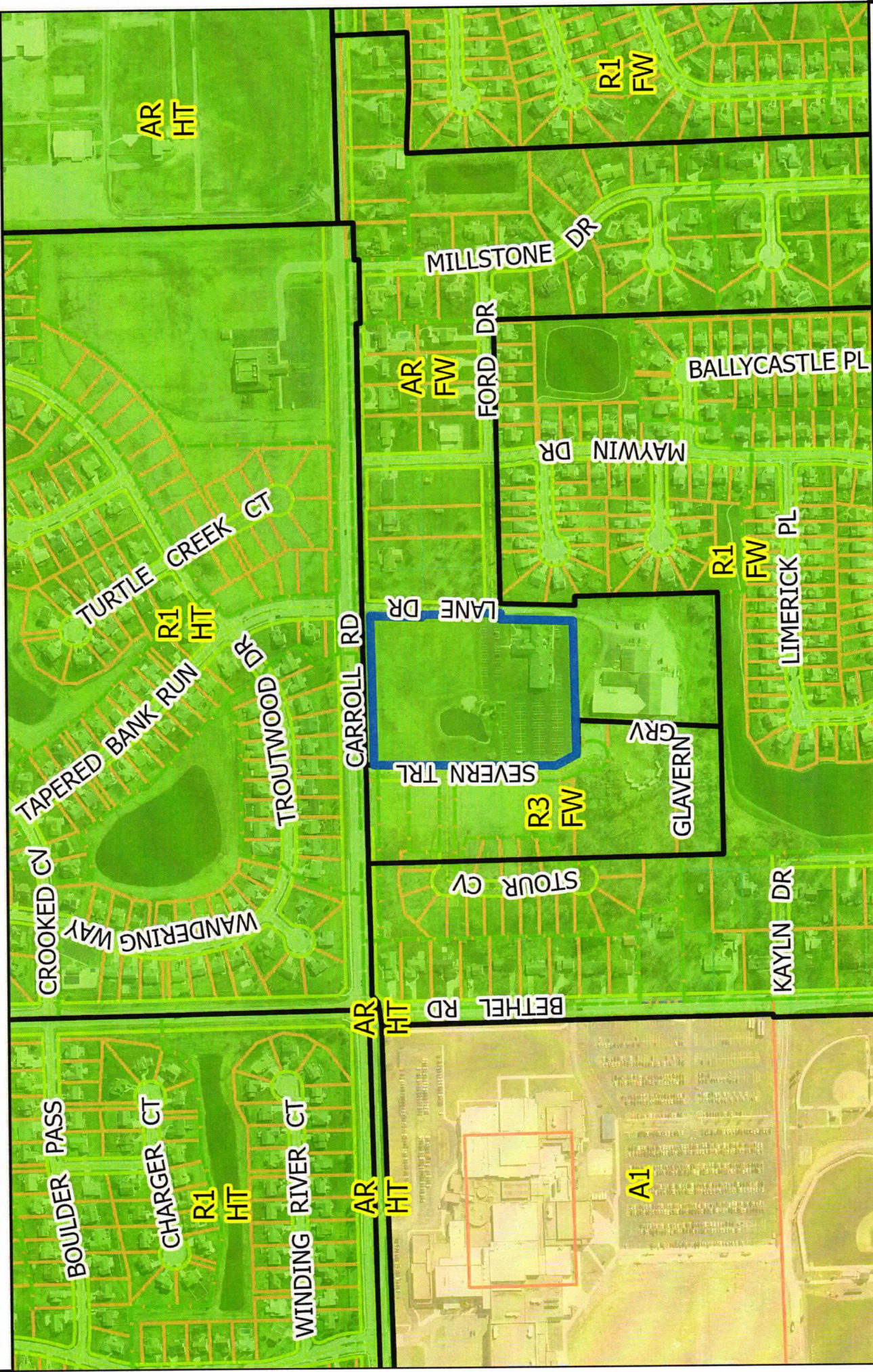


Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the aerial imagery, boundary lines and distances nor shall liability resulting from their use or omission in this map.
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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 11/15/2025





Rezoning Petition REZ-2025-0003 - 3127 Carroll Road



Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information shown hereon and disclaims any liability resulting from any errors or omissions 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: 1/15/2025

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made this ____ day of _____, 2025 by 2MICS, LLC, an Indiana limited liability company (the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 7.73 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 zoning district to a C2/Limited Commercial zoning district, bearing number REZ-2025-_____ (the “Application”) which 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

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.** **Except for the Permitted Uses specifically allowed in Paragraph 2 below, and those uses permitted in residential zoning districts and** subject to the terms and conditions herein contained, the following uses shall be prohibited upon the Real Estate:
 - 1) C2 Limited Commercial Specific Permitted Uses listed in Section 157.213(C) of the Fort Wayne Zoning Ordinance; and
 - 2) All C2 Limited Commercial Special Uses listed in Section 157.213 (D) of the Fort Wayne Zoning ordinance.

2. **Permitted Uses.** **The following uses shall be permitted on the Real Estate:**
 - 1) Any use permitted in a C1/Professional Office and Personal Services zoning district; and
 - 2) **The following specific uses permitted in a C2/Limited Commercial zoning district: **Banquet Hall/Reception Hall, Distillery (Micro), Brewery (Micro), Restaurant (excluding drive-through), and Bar/Tavern.****

3. **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.

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, 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.
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. This Commitment may be enforced by any successor commission or enforcement official having zoning jurisdiction over the Real Estate.
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 202400712.

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.

[signature page follows]

“DECLARANT”

2MICS, LLC

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 _____, 2025, personally appeared _____, _____ of 2MICS, LLC, and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

Notary Public
Printed Name: _____
County of Residence: _____

This instrument prepared by: Robert C. Kruger, Esq., BURT, BLEE, DIXON, SUTTON & BLOOM, LLP, 200 E. Main St., Ste. 1000, Fort Wayne, IN 46802; (260) 426-1300

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. Robert C. Kruger

Return to: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

[insert legal description]

Property Address: 3127 Carroll Road, Fort Wayne, IN 46818

Department of Planning Services Rezoning Petition Application

Applicant
 Applicant Copper Forge Distilling, LLC
 Address 4834 Jean Drive
 City Fort Wayne State IN Zip 46825
 Telephone _____ E-mail _____

Property Ownership
 Property Owner 2MICS, LLC
 Address 3217 Carroll Road
 City Fort Wayne State IN Zip 46818
 Telephone _____ E-mail _____

Contact Person
 Contact Person Robert C. Kruger
 Address 200 E. Main Street, Suite 1000
 City fort Wayne State IN Zip 46802
 Telephone 260-426-1300 E-mail rkruger@burtblee.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 3217 Carroll Road 3127 Township and Section Perry; Sec. 31
 Present Zoning AR Proposed Zoning C2 Acreage to be rezoned 7.73
 Purpose of rezoning (attach additional page if necessary) To bring use of property as reception hall into compliance with current ordinance and to allow for use of the site as a distillery (micro) by an existing local business currently operating at another location
 Sewer provider Fort Wayne Water provider 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 (please complete attached document)

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

Signed by: Kenn Scribner 1/6/2025
 By: Kenn Scribner, Member (printed name of applicant) _____ (signature of applicant) _____ (date)

By: Christine Leto, Authorized Representative _____ (signature of property owner) _____ (date)
 (printed name of property owner)



Received	Receipt No.	Hearing Date	Petition No.
1-7-25	146900	2-10-24	RE2-2025-0003

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



FACT SHEET

Case # REZ-2025-0003

Bill # Z-25-01-19

Project Start: January 2025

APPLICANT: Copper Forge Distilling, LLC
REQUEST: To rezone property from AR/Low Intensity Residential to C2/Limited Commercial to permit existing reception hall and to allow a micro distillery.
LOCATION: 3127 Carrol Road, south of its intersection with Tapered Bank Run (Section 31 of Perry Township)
LAND AREA: 7.73 acres
PRESENT ZONING: AR/Low Intensity Residential
PROPOSED ZONING: C2/Limited Commercial
COUNCIL DISTRICT: 3 -Nathan Hartman
SPONSOR: Fort Wayne Plan Commission

February 10, 2025 Public Hearing

- No one spoke in support or opposition.
- Amos Norman was absent.

February 17, 2025 Business Meeting

Plan Commission Recommendation: DO PASS, with a Written Commitment

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

8-0 MOTION PASSED

- Karen Richards was absent.

Fact Sheet Prepared by:
Karen Couture, Associate Land Use Planner
February 26, 2025

PROJECT SUMMARY

This rezoning petition includes one primary structure with about 12,000 square feet, a two-acre parking lot, and a pond. Formerly, the building was Shiloh Reception Hall, with Board of Zoning Appeals approval dating back to the early 1970's. The property was annexed into the City of Fort Wayne in 2006. AR/Low-Intensity Residential is considered a "holdover" district, which is used as a transitional district from the A1/Agricultural district in unincorporated Allen County.

While nonresidential uses like Carroll High School and the Allen County Fairgrounds are within a quarter mile of the site, the closest commercial zoning is a mile east at the intersection with SR 3. To encourage better compatibility to surrounding residential properties, the applicant provided a written commitment that limits uses to C1/Professional Office and Personal Services uses, and adds banquet hall, distillery, brewery, and restaurant. The applicant did not include other provisions in the written commitment, but provisions in the zoning ordinance like residential impact mitigation, screening and buffering, and enhanced setbacks around residential zoning districts can allow for compatibility if the applicant chooses to further improve the site. The applicant notes in the rezoning questionnaire that the site was used for similar purposes for nearly fifty years and does not anticipate additions to the building footprint or parking in the future.

COMPREHENSIVE PLAN REVIEW

Future Growth and Development Map, Goals, and Strategies

The project site is located within the Urban Infill Area.

- The following Goal and Strategy 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 Policy would be applicable and supportive of this request:

- **LUD Policy 2** Promote complete neighborhoods through sustainable development, preservation, and growth by encouraging and enhancing mixed use neighborhood areas.
- **LUD Policy 5** - Enhance and preserve existing mixed urban commercial corridors through the application of Mixed Urban Corridor or other appropriate zoning classification.
- **LUD Policy 7** Encourage compatible adaptive reuse of vacant, obsolete, or underutilized nonresidential buildings.

Generalized Future Land Use Map

- The project site is located within the Suburban Residential generalized land use category.
- The only Primary Land Use contemplated in this category is Single-Family Detached Residential
- Civic, cultural, and education facilities are considered secondary land uses.
- Several uses along Carroll Road, like the north barns for Allen County Highway Department, the Allen County Fairgrounds, and the Somerset multiple family complex are not considered in the suburban residential future land use district, but co-exist with surrounding residential uses, as the reception hall has for 50 years.

Land Use Related Action Steps

Staff determined the following Action Step would be applicable and supportive of this proposal:

- **ED.1.1.1.** - Strategically identify and prepare land and redevelopment areas for development-ready employment sites in alignment with the Future Growth and Development map, the Generalized Future Land Use map, and the Allen County Together Economic Development Action Plan.

Compatibility Matrix

- **This proposed rezoning to C2/Limited Commercial is potentially compatible, with additional considerations. The applicant provided a written commitment, limiting most uses to C1/Professional Offices and Personal Services, which is a compatible zoning district to the Suburban Residential classification.**

Staff has received no remonstrance against the proposal.

Below are five items the Plan Commission shall pay reasonable regard to set forth by State Code when reviewing rezoning applications. The applicant submitted answers to the questionnaire following this report.

1. The Comprehensive Plan;
2. Current conditions and the character of current structures and uses in the district;
3. The most desirable use for which the land in the district is adapted;
4. The conservation of property values throughout the jurisdiction;
5. Responsible development and growth.

PUBLIC HEARING SUMMARY:

Presenter: Rob Kruger, representing the applicant, presented the request as outlined above.

Public Comments: None

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

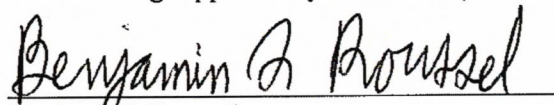
Rezoning Petition REZ-2025-0003 – 3127 Carroll Road

APPLICANT: Copper Forge Distilling, LLC
REQUEST: To rezone property from AR/Low Intensity Residential to C2/Limited Commercial to permit existing reception hall and to allow a micro distillery.
LOCATION: 3127 Carroll Road, south of its intersection with Tapered Bank Run (Section 31 of Perry Township)
LAND AREA: 7.73 acres
PRESENT ZONING: AR/Low Intensity Residential
PROPOSED ZONING: C2/Limited Commercial

The Plan Commission recommends that Rezoning Petition REZ-2025-0003 be returned to Council, with a “Do Pass with a written commitment” recommendation after considering the following:

1. Approval of the rezoning request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The petition includes a written commitment to limit incompatible retail uses that are otherwise permitted in the C2/Limited Commercial district. The rezoning petition will provide an amenity that is close in proximity to residential areas, which is a land use goal in 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. The structure was used commercially since the early 1970’s as a reception hall, so the operations were analogous to a commercial zone for decades. Approval will continue a similar use. Residential mitigation impact and landscape standards can mitigate compatibility concerns if the site further develops in the future.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow reinvestment into the area and is adjacent to developed commercial property. The new zoning gives the property owner flexibility to invest in the property commercially.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. The site is served by adequate parking and is a functionally commercial building. What was once a country reception hall is now between platted subdivisions and a multiple family complex. Redeveloping the site as a distillery and gathering space demonstrates responsible infill development, and the petition provides a community space that may be lacking for surrounding subdivisions.

These findings approved by the Fort Wayne Plan Commission on February 17, 2025.



Benjamin J. Roussel
Executive Director
Secretary to the Commission

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made this ____ day of _____, 2025 by 2MICS, LLC, an Indiana limited liability company (the “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 7.73 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 zoning district to a C2/Limited Commercial zoning district, bearing number REZ-2025-_____ (the “Application”) which 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

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. Permitted Uses. **The following uses shall be permitted on the Real Estate:**

- 1) Any use permitted in a C1/Professional Office and Personal Services zoning district; and
- 2) **The following specific uses permitted in a C2/Limited Commercial zoning district: **Banquet Hall/Reception Hall, Distillery (Micro), Brewery (Micro), Restaurant (excluding drive-through), and Bar/Tavern.****

All other C2/Limited Commercial permitted uses not mentioned in this Section 1 shall be prohibited.

2. 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.
3. 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.

4. 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.
5. 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.
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 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 202400712.
8. 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.

9. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
10. 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.

[signature page follows]

“DECLARANT”

2MICS, LLC

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 _____, 2025, personally appeared _____, _____ of 2MICS, LLC, and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

Notary Public
Printed Name: _____
County of Residence: _____

This instrument prepared by: Robert C. Kruger, Esq., BURT, BLEE, DIXON, SUTTON & BLOOM, LLP, 200 E. Main St., Ste. 1000, Fort Wayne, IN 46802; (260) 426-1300

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. Robert C. Kruger

Return to: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

[insert legal description]

Property Address: 3127 Carroll Road, Fort Wayne, IN 46818

REPORT OF COMMITTEE ON REGULATIONS

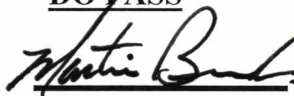
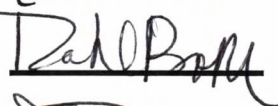







March 4, 2025

Michelle Chambers Chair
Thomas Freistroffer Co-Chair
All Council Members

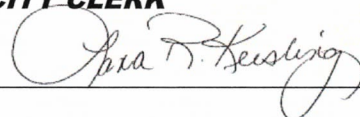
An Ordinance amending the City of Fort Wayne Zoning Map No. I-66 (Sec. 31 of Perry Township)

To rezone 7.73 acres from AR/Low Intensity Residential to C2/Limited Commercial with a written commitment to restrict uses at 3217 Carroll Road, to permit the existing reception hall and allow for a micro-distillery in the existing building

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

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

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MYERS	<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"/>

Stacy Reed

DATED: March 11, 2025

STACY REED, DEPUTY CITY CLERK

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

Zoning Ordinance No. Z-25-01-19 on the 11th day of March, 2025

ATTEST:

Stacy Reed

Presiding Officer

STACY REED
DEPUTY CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th of March 2025, at the hour of 2:20 o'clock P.M. E.S.T.

Stacy Reed

STACY REED, DEPUTY CITY CLERK

Approved and signed by me this 13th day of March 2025, at the hour of 1:51 o'clock P.M. E.S.T.

SHARON TUCKER, MAYOR

