

#1264

BILL NO. Z-11-11-04

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. R-38 (Sec. 17 of St. Joseph 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 CM2
(Limited Retail and Commercial) District under the terms of Chapter 157 Title XV of the Code
of the City of Fort Wayne, Indiana:

DESCRIPTION PER DOC. #77-00684

Part of DeRome Reserve in Section 17, Township 31 North, Range 13 East, Allen County,
Indiana, being more particularly described:

Beginning at a point located Northeast of the Southeast corner of DeRome Reserve on the
East line of said reserve 2083.62 feet; thence Northwest by deflection left of 99 degrees 24
minutes a distance of 1098.1 feet; thence Southwest by deflection left of 76 degrees zero
minutes a distance of 23.1 feet; thence West by deflection right of 50 degrees zero minutes
a distance of 1147.08 feet to the point of beginning of the tract herein described; thence
North 12 degrees zero minutes West a distance of 277.86 feet to the Northeast corner of the
tract herein described; thence North 61 degrees 30 minutes West a distance of 489.06 feet
to the center line of the St. Joe Road; thence South 37 degrees 20 minutes West along the
center line of said road a distance of 632.94 feet; thence East a distance of 870.54 feet to
the point of beginning, containing 6.30 acres of land more or less, subject to road right-of-
way over the Westerly boundary thereof.

EXCEPTING THEREFROM:

DESCRIPTION PER DOC. #87-026667

A part of DeRome Reserve in Section 17, Township 31 North, Range 13 East, Allen County,
Indiana, described as follows; Commencing at a point located 2083.62 feet Northeast of the
southeast corner on the east line of said reserve; thence Northwest by deflection left of 99
degrees 24 minutes 1098.1 feet; thence Southwest by a deflection left of 76 degrees 00
minutes 23.1 feet to the prolonged South line of the owner's land; thence West by deflection
right of 50 degrees 00 minutes 1992.48 feet along the prolonged south line and the south
line of the owner's land to the southeastern boundary of St. Joe Road and the point of
beginning of this description; thence North 37 degrees 04 minutes 10 seconds East along

said southeastern boundary 620.79 feet to the northern line of the owner's land; thence South 61 degrees 45 minutes 50 seconds East along said northern line 49.92 feet; thence South 36 degrees 57 minutes 56 seconds west 590.02 feet to the south line of the owner's land; thence South 89 degrees 44 minutes 11 seconds West along said south line 63.38 feet to the point of beginning and containing 0.694 acres more or less.

and the symbols of the City of Fort Wayne Zoning Map No. R-38 (Sec. 17 of St. Joseph Township), as established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is hereby changed accordingly.

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

Council Member

APPROVED AS TO FORM AND LEGALITY:

Carol T. Helton, City Attorney

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: 1264/11
Bill Number: Z-11-11-04
Council District: 2

Introduction Date: November 8, 2011

Plan Commission
Public Hearing Date: November 14, 2011

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

Synopsis of Ordinance: To rezone approximately 6.3 acres of property from R3-Multiple Family
Residential to CM2-Limited Retail and Commercial

Location: 6424 St. Joe Road

Reason for Request: To allow the existing American Legion Post 47 to become a bar/tavern as a
private for-profit business, open to the public.

Applicant: JL Real Estate Investments, LLC

Property Owner: The American Legion

Related Petitions: none

Effect of Passage: Property will be rezoned to CM2 – Limited Commercial and Retail, which
allow a public bar or tavern, as well all other permitted CM2 uses.

Effect of Non-Passage: The property will remain zoned R3-Multiple Family Residential and the
current uses, including the bar/lounge/restaurant, will only be permitted as
long as the American Legion occupies the building and operates as a private
club or organization.

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant JL Real Estate Investments, LLC
Address 6214 Brandenwood
City Fort Wayne State IN Zip 46835
Telephone _____ Fax _____ E-mail _____

Property Ownership
Property Owner Fort Wayne Post 47
Address 6424 Saint. Joe Rd.
City Fort Wayne State IN Zip 46835
Telephone _____ Fax _____ E-mail _____

Contact Person
Contact Person Robert C. Kruger
Address 200 E. Main St., Suite 1000
City Fort Wayne State IN Zip 46802
Telephone 426-1300 Fax 422-2722 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 6424 Saint Joe Rd.
Present Zoning R3 Proposed Zoning CM2 Acreage to be rezoned 6.3
Proposed density same units per acre
Township name St. Joseph Township section # 17
Purpose of rezoning (attach additional page if necessary) to allow operation of bar/restaurant by private for-profit business
Sewer provider City Water provider City

Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please contact staff for applicable filing fees and plan/survey submittal requirements.
☐ Applicable filing fee
☐ Applicable number of surveys showing area to be rezoned (plans must be folded)
☐ Legal Description of parcel to be rezoned
☐ Rezoning Questionnaire (original and 10 copies) County Rezoning Only

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

By: John Lewis [Signature] 10-5-11
(printed name of applicant) (signature of applicant) (date)
By: John Lewis _____
(printed name of property owner) (signature of property owner) (date)

(printed name of property owner) (signature of property owner) (date)

(printed name of property owner) (signature of property owner) (date)

Received	Receipt No.	Hearing Date	Petition No.
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P21265/11

**Department of Planning Services
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Contact Person
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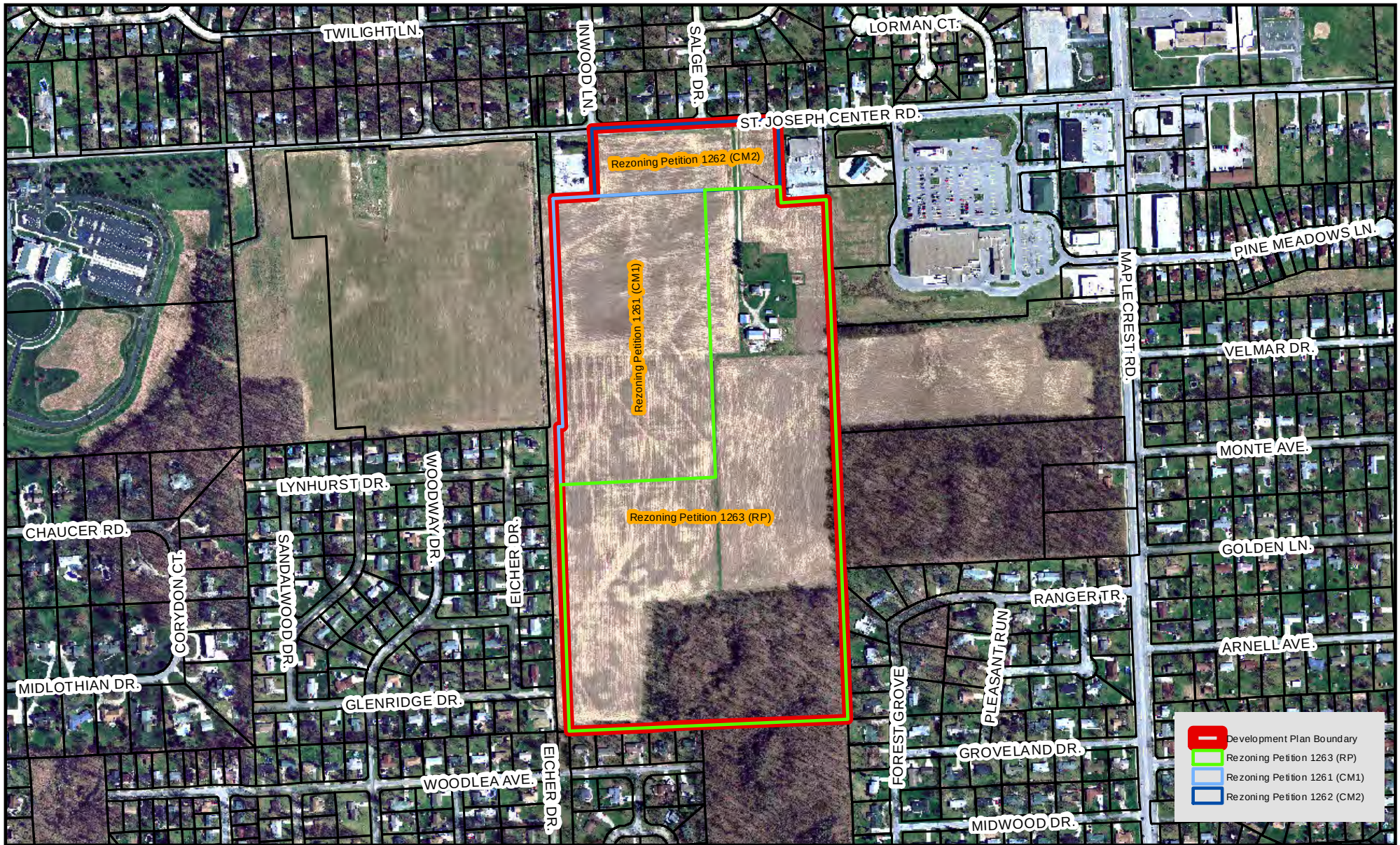
By: John Lewis (printed name of applicant) _____ (signature of applicant) _____ (date) _____
By: GARY W. PARKER (printed name of property owner) _____ (signature of property owner) _____ (date) 10-5-11

(printed name of property owner) _____ (signature of property owner) _____ (date) _____

(printed name of property owner) _____ (signature of property owner) _____ (date) _____

Received	Receipt No.	Hearing Date	Petition No.
10/5/11	166429	11/4/11	1265/11

62-2011-0040



This map is for representational purposes only - Boundaries identified by bold colored lines represent the general location of the proposed project

Rezoning Petitions 1261, 1262 and 1263 Primary Development Plan - Northeast YMCA

Printed: November 1, 2011

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North American Datum 1983

State Plane Coordinate System, Indiana East

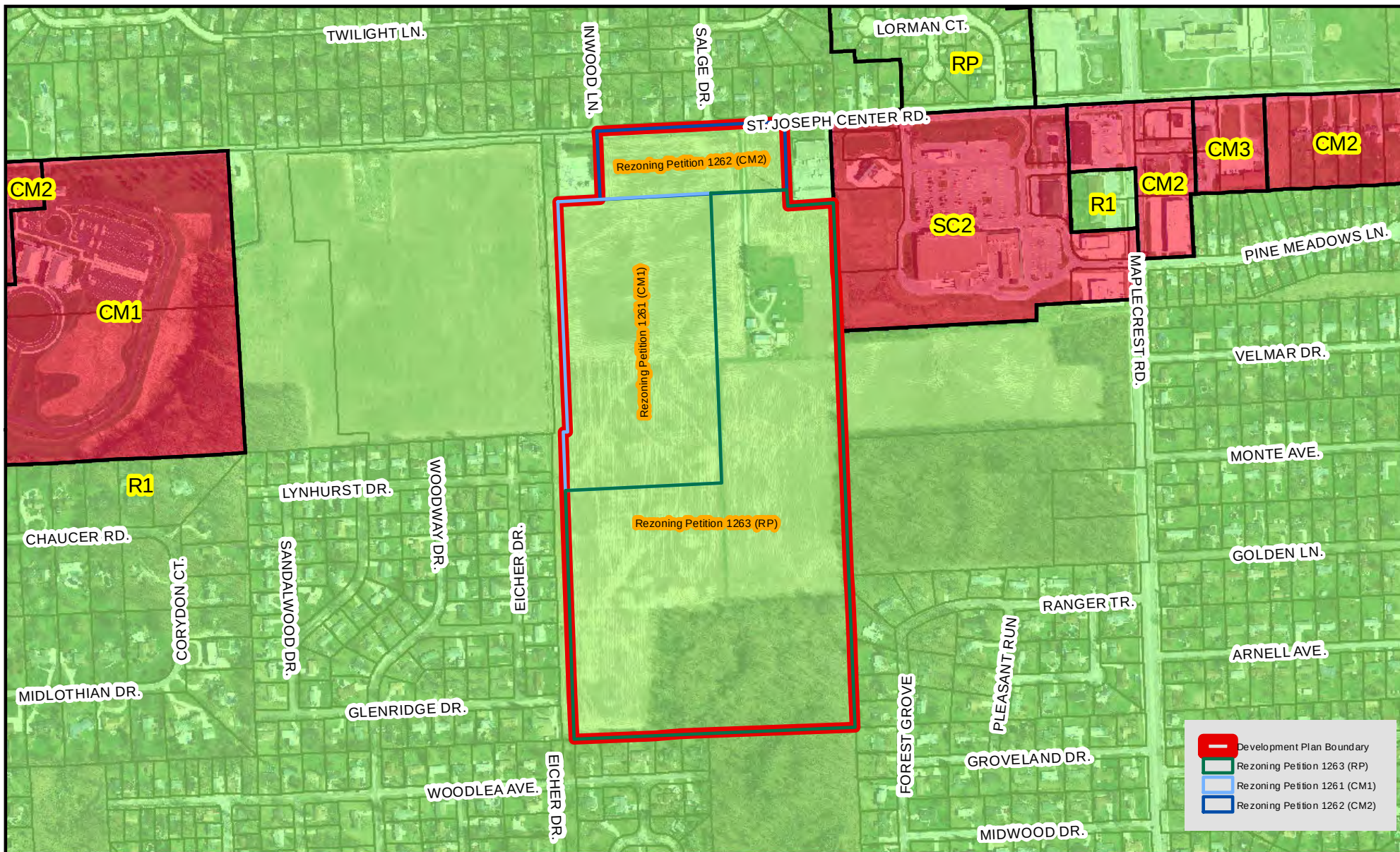
Photos: Spring 2006 / Contours: 1999

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



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Feet

Scale: 1" = 600'



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Rezoning Petitions 1261, 1262 and 1263

Primary Development Plan - Northeast YMCA

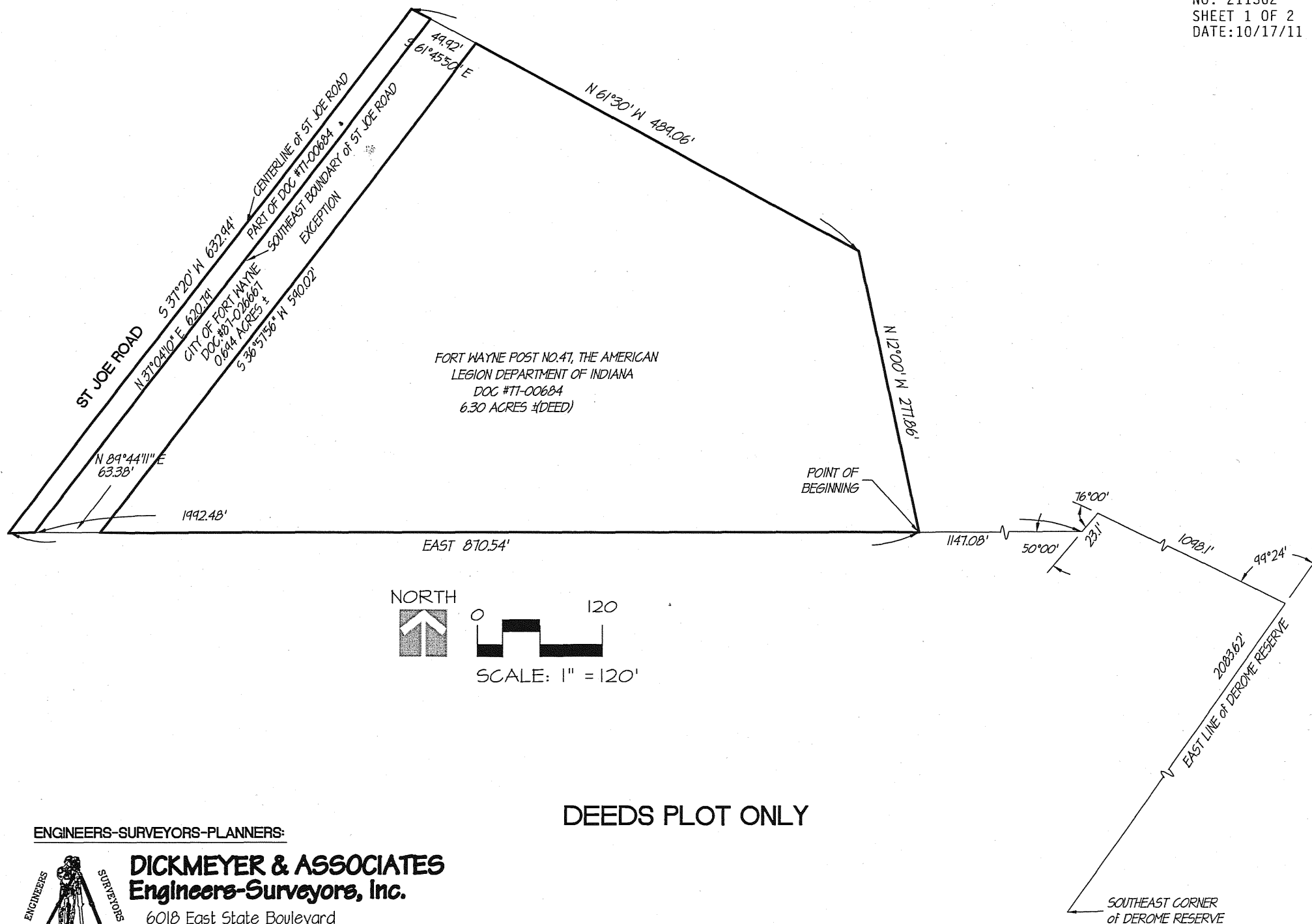
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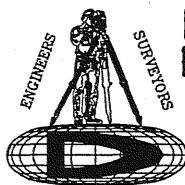
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0 600 Feet

Scale: 1" = 600'



ENGINEERS-SURVEYORS-PLANNERS:



DICKMEYER & ASSOCIATES
Engineers-Surveyors, Inc.

6018 East State Boulevard
Fort Wayne, Indiana 46815
(260) 749-0125 FAX (260) 749-0921
www.DickmeyerandAssociates.com

DEEDS PLOT ONLY

THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A
RETRACEMENT, OR ORIGINAL BOUNDARY SURVEY, A ROUTE
SURVEY OR A SURVEYOR LOCATION REPORT.

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made by JL Real Estate Investments, LLC (the "Declarant"), and is made effective as of the date of the approval of Declarant's development plan by the Fort Wayne Plan Commission ("Plan Commission").

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 5.6 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 has applied for development plan approval with the Plan Commission, bearing number 1265-11 (the "Application"), respecting the Real Estate, which Application has been conditionally approved by the Plan Commission; and

WHEREAS, Declarant has offered this Commitment, voluntarily, pursuant to Section 157.120(F)(8) of the Zoning Ordinance and Indiana Code 36-7-4-1015, for the purpose of limiting certain uses for the Real Estate; and

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

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 upon the Real Estate: operation of a bar or tavern, a billiard or pool hall, a restaurant, and/or nonprofit private club. All other commercial and industrial uses shall be prohibited.
2. Successors and Assigns. This Commitment and the restrictions set forth above shall inure to the benefit of: (a) all persons who own property comprising the Real Estate, and their successors and assigns; and (b) the Zoning Enforcement Officer of the City of Fort Wayne ("Zoning Enforcement Officer") and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate.
3. Enforcement. The Zoning Enforcement Officer and/or the Plan Commission shall have the option (but not the obligation) to enforce this Commitment, at law or in equity, in the event of a breach herein, and, in the event an enforcement action is commenced, the Zoning Enforcement Officer and/or the Plan Commission shall have the remedies allowed by the Fort Wayne Zoning Ordinance (or the ordinance governing the Real Estate at the time of the enforcement action) and I.C. 36-7-4-1014, which remedies shall be cumulative and not exclusive. A violation of this Commitment shall be deemed a violation of the Fort Wayne Zoning Ordinance, or the ordinance governing the Real Estate at the time of the violation; provided, however, that nothing herein shall be construed as giving any person the right to compel enforcement of this Commitment by

the Zoning Enforcement Officer or the Plan Commission, or any successor agency having zoning jurisdiction over the Real Estate.

4. Amendment or Termination. This Commitment may be amended or terminated in accordance with Section 157.041(F) of the Fort Wayne Zoning Ordinance upon application by an owner of the Real Estate and only with the prior written consent of all owners of the Real Estate and the Plan Commission, following a public hearing by the Plan Commission to consider any such amendment or termination. In such event, the applicant shall notify all owners of the land immediately adjacent to the Real Estate. The Plan Commission has sole discretion whether to amend or terminate this Commitment.
5. 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.
6. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

JL Real Estate Investments, 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 _____, 2011, personally appeared JL Real Estate Investments, LLC, the _____ of JL Real Estate Investments, LLC, and each acknowledged the execution of the foregoing.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.

Notary Public

My Commission Expires: _____

My County of Residence: _____

THIS INSTRUMENT prepared by Robert W. Eherenman, Attorney at Law, Atty. No. 16703-53, Haller & Colvin, P.C., 444 East Main Street, Fort Wayne, Indiana 46802.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Robert W. Eherenman

When recorded, return to: Robert W. Eherenman, Haller & Colvin, P.C. Courthouse Box No. 62, 444 East Main Street, Fort Wayne, Indiana 46802.

EXHIBIT "A"
LEGAL DESCRIPTION