

City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2016-0023
Bill Number: Z-16-06-26
Council District: 2-Russ Jehl

Introduction Date: June 28, 2016

Plan Commission
Public Hearing Date: July 11, 2016

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

Synopsis of Ordinance: To rezone approximately 5.84 acres of property from AR-Low Intensity Residential to R1-Single Family Residential

Location: 101 W. Dupont

Reason for Request: To use the property to provide day services for teens with autism and other special needs.

Applicant: Maple Seed Farms

Property Owner: Walter G. Fuller, LLC

Related Petitions: Special Use Request, Board of Zoning Appeals

Effect of Passage: Property will be rezoned to the R1-Single Family Residential zoning district which allows typical single family type development. It also allows the applicant to apply for a Special Use for a professional office as a transitional use.

Effect of Non-Passage: The property will remain zoned AR-Low Intensity Residential, which will not allow for a Special Use approval for a professional office. The property may continue to be used for single family housing and low intensity agriculture.

#REZ-2016-0023

BILL NO. Z-16-06-26

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. M-58 (Sec. 2 of Washington 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 an R1 (Single
Family Residential) District under the terms of Chapter 157 Title XV of the Code of the City
of Fort Wayne, Indiana:

The parcel identified as "land owned by Isadore C. Badiac and Cecil D. Badiac
containing 6.24 acres" as shown on the Plat of Limberlost Acres Addition, Section
B, according to the plat thereof, as recorded in Plat Record 25, at pages 98-99 of the
records in the Office of the Recorder of Allen County, Indiana, more particularly
described as follows:

Commencing at a point on the North line of the northeast fractional quarter of
Section 2, Township 31 North, Range 12 East, also being the centerline of the
Dupont Road, which said point is 954.62 feet West of the Northeast corner of the
said fractional Northeast quarter; thence South 25 feet to an iron; thence
Southwesterly 39.64 (central angle of 90 degrees 51 minutes 30 seconds) along a
curve concave to the Southeast, having a radius of 25 feet, to an iron and to the point
of tangency (the Long Chord of said curve bears South 45 degrees 25 minutes 45
seconds West, length of 35.62 feet); thence South 106.24 feet to an iron; thence
South 05 degrees 12 minutes 00 seconds West, 220.90 feet to an iron; thence South
113.04 feet to an iron; thence Southeasterly, 46.67 feet (central angle at 89 degrees
08 minutes 30 seconds) along a curve concave to the Northeast, having a radius of 30
feet, to an iron and to the point of tangency (the Long Chord of said curve bears
South 44 degrees 34 minutes 15 seconds East, length of 42.11 feet); thence South 89
degrees 08 minutes 30 seconds East, 520.45 feet to an iron on the West line of
Limberlost Acres Addition, Section A; thence North along the West line of said
Limberlost Acres Addition, Section A, a distance of 520 feet to a point in the north
line of the Northeast quarter of said Section 2, Township 31 North, Range 12 East,
which is 450.00 feet West of the Northeast corner of the said fractional Northeast
quarter; thence South 89 degrees 08 minutes 30 seconds West along said North line
of the said fractional Northeast quarter, a distance of 504.62 feet to the point of
beginning.

EXCEPT:

1 Part of the North half of the Northeast Quarter of Section 2, Township 31 North,
2 Range 12 East, Allen County, Indiana, more particularly described as follows:

3 Beginning at a point on the North line of said Section 2, said point being 450.0 feet
4 West of the Northeast corner of the Northeast Quarter of Section 2; thence South 01
5 degree 22 minutes 56 seconds East, a distance of 48.55 feet; thence South 89 degrees
6 14 minutes 30 seconds West, a distance of 485.27 feet; thence South 56 degrees 23
7 minutes 34 seconds West, a distance of 46.09 feet; thence North 07 degrees 47
8 minutes 38 seconds West, a distance of 51.10 feet; thence North 89 degrees 28
9 minutes 34 seconds East, a distance of 25.38 feet; thence North 01 degree 22 minutes
10 56 seconds West, a distance of 25.0 feet; thence North 89 degrees 28 minutes 34
11 seconds East, a distance of 504.62 feet to the point of beginning, containing 0.60
12 acres of land, more or less.

13 and the symbols of the City of Fort Wayne Zoning Map No. M-58 (Sec. 2 of Washington
14 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
15 Wayne, Indiana is hereby changed accordingly.

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

18 _____
19 Council Member

20 APPROVED AS TO FORM AND LEGALITY:

21 _____
22 Carol T. Helton, City Attorney
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**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant Maple Seed Farms, Inc.
 Address Attn: C. Kacsor, 101 W. Dupont Road
 City Fort Wayne State IN Zip 46825
 Telephone _____ E-mail _____

Contact Person
 Contact Person Robert C. Kruger, Esq.
 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 101 W. Dupont Road
 Present Zoning _____ Proposed Zoning R1 Acreage to be rezoned 5.844
 Proposed density N/A units per acre
 Township name Washington Township section # 2
 Purpose of rezoning (attach additional page if necessary) To allow for special use for professional offices
 Sewer provider _____ Water provider _____

Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please refer to checklist 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 \$0.65 per notice and a public notice fee of \$50.00 per Indiana code

Maple Seed Farms, Inc.

(printed name of applicant)

(signature of applicant)

(date)

Walter G. Fuller, LLC

(printed name of property owner)

(signature of property owner)

(date)

(printed name of property owner)

(signature of property owner)

(date)

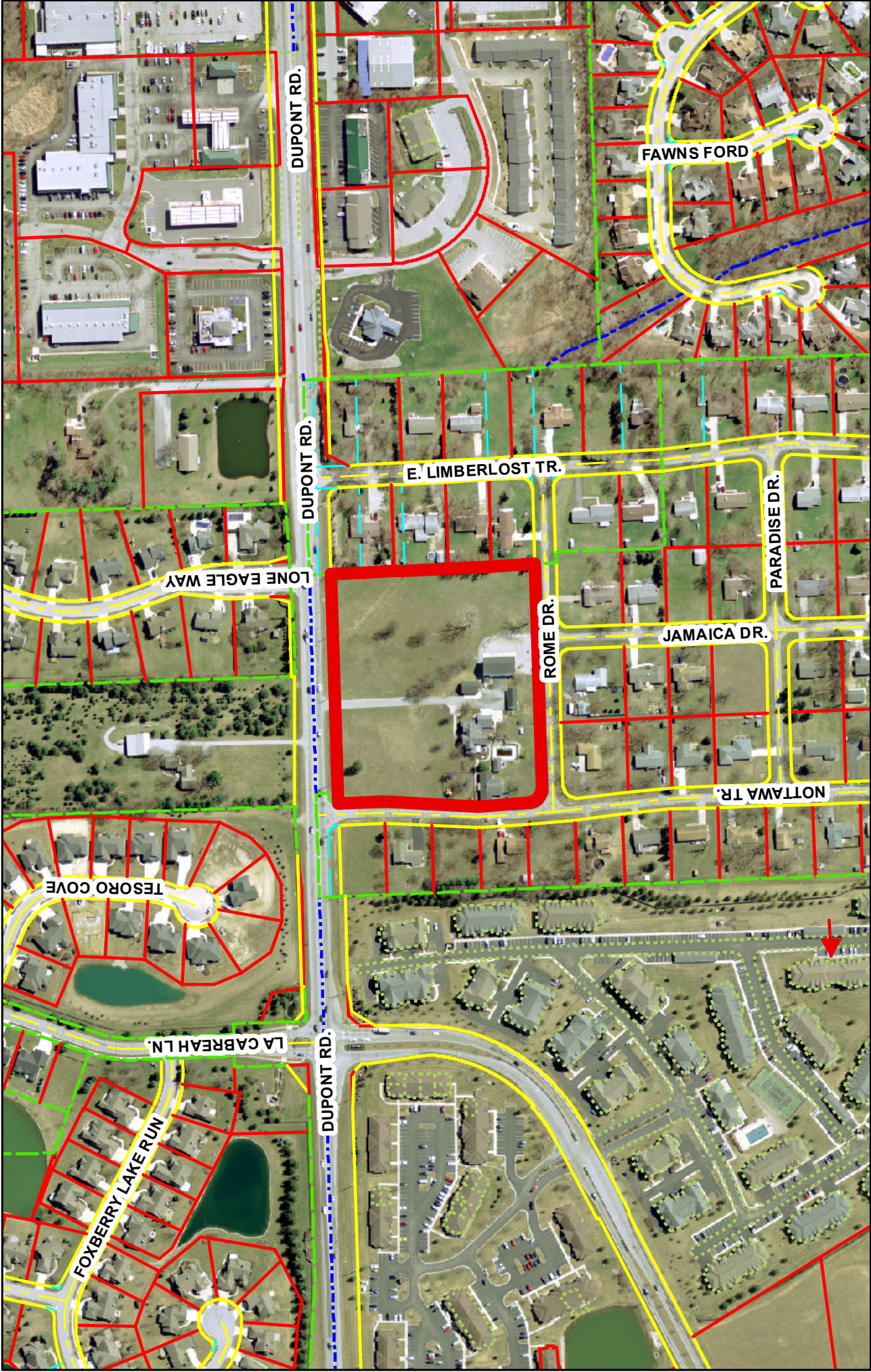
(printed name of property owner)

(signature of property owner)

(date)

Received <u>6/6/16</u>	Receipt No. <u>21037</u>	Hearing Date <u>7/11/16</u>	Petition No. <u>REZ-2016-0023</u>
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Rezoning Petition REZ-2016-0023 (101 West Dupont Road)

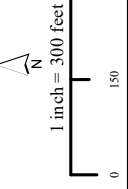


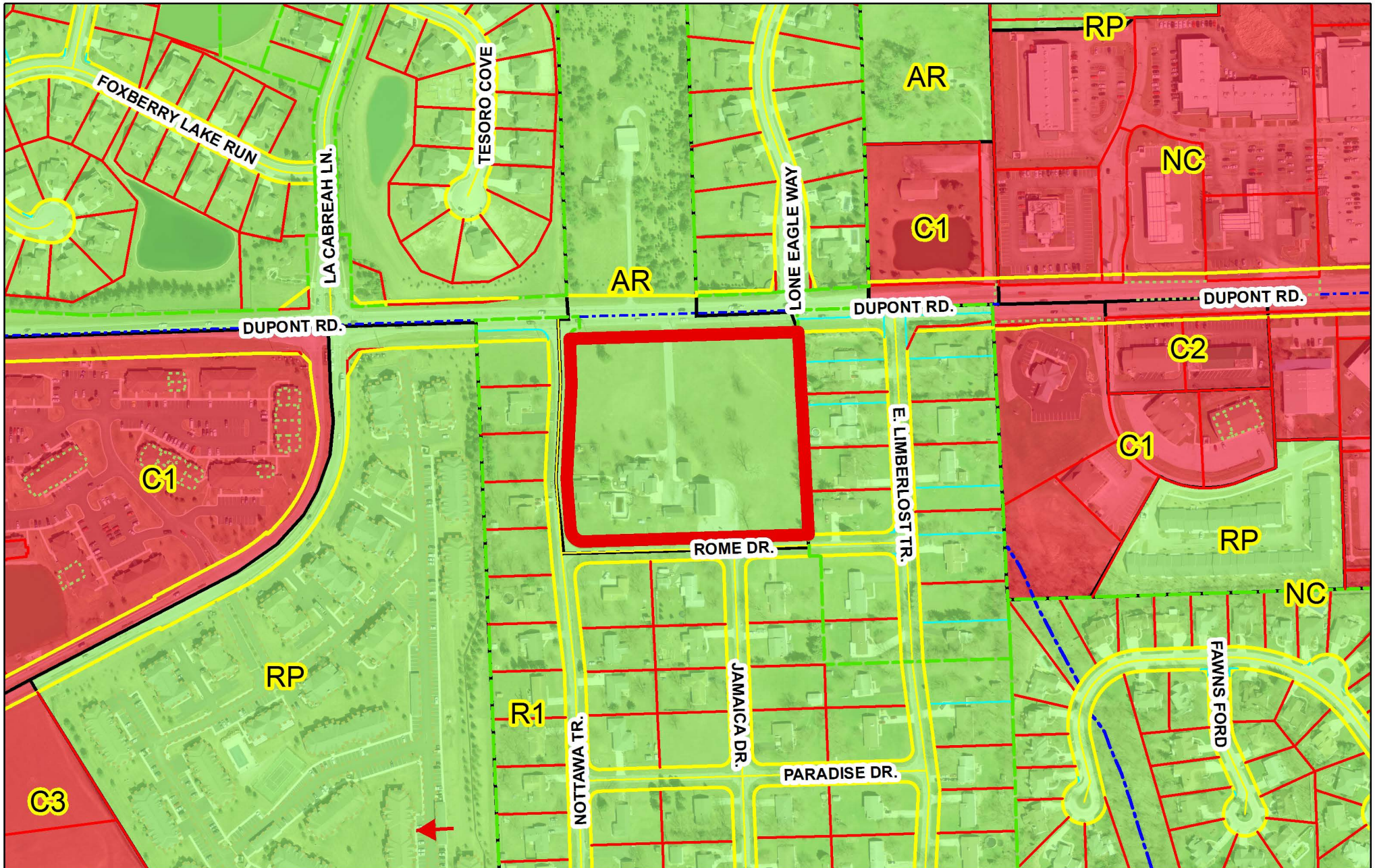
Project boundaries represented by bold colored lines are for representational purposes only.

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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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009

Date: 6/17/2016



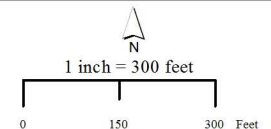


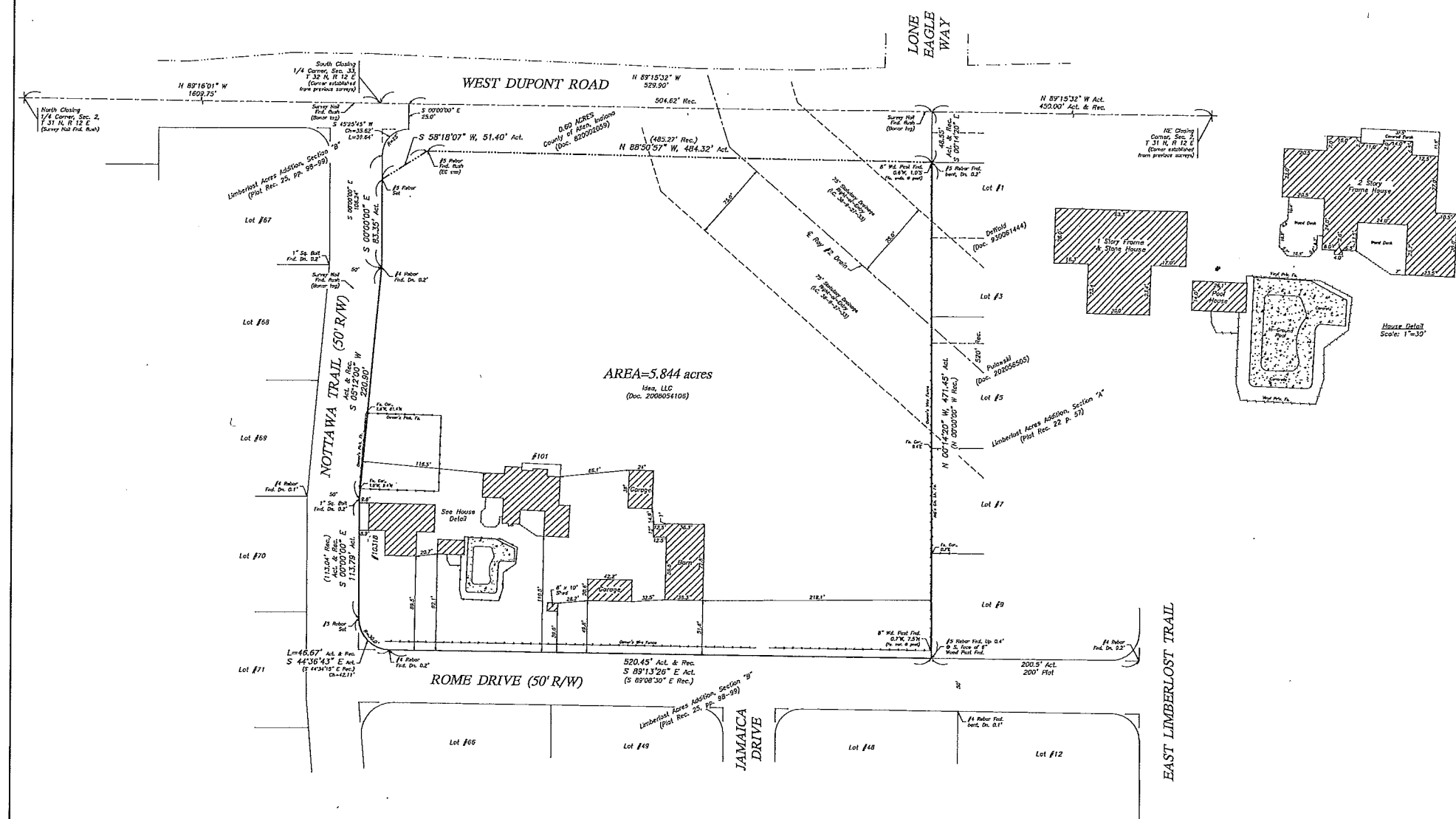
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State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009

Date: 6/17/2016





RECORD DESCRIPTION: (as described in Document Number 2008054106)

That parcel identified as "land owned by Isadore C. Badiao and Cecil D. Badiao containing 6.24 acres" as shown on the Plat of Limberlost Acres Addition, Section B, according to the plat thereof, as recorded in Plat Record 25, at pages 98-99 of the records in the Office of the Recorder of Allen County, Indiana, more particularly described as follows:

Commencing at a point on the North line of the Northeast fractional quarter of Section 2, Township 31 North, Range 12 East, also being the centerline of the Dupont Road, which said point is 954.62 feet West of the Northeast corner of the said fractional Northeast quarter; thence South 25 feet to an iron; thence Southwesterly 39.64 (central angle of 90 degrees 51 minutes 30 seconds) along a curve concave to the Southeast, having a radius of 25 feet, to an iron and to the point of tangency (the Long Chord of said curve bears South 45 degrees 23 minutes 45 seconds West, length of 35.62 feet); thence South 106.24 feet to a iron; thence South 05 degrees 12 minutes 00 seconds West, 220.90 feet to an iron; thence South 113.04 feet to an iron; thence Southeast, 46.67 feet (central angle of 89 degrees 08 minutes 30 seconds) along a curve concave to the Northeast, having a radius of 30 feet, to an iron and to the point of tangency (the Long Chord of said curve bears South 44 degrees 34 minutes 15 seconds East, length of 42.11 feet); thence South 89 degrees 08 minutes 30 seconds East, 520.45 feet to an iron on the West line of Limberlost Acres Addition, Section A; thence North along the West line of said Limberlost Acres Addition, Section A, a distance of 520 feet to a point in the North line of the Northeast quarter of said Section 2, Township 31 North, Range 12 East, which is 450.00 feet West of the Northeast corner of the said fractional Northeast quarter; thence South 89 degrees 08 minutes 30 seconds West along said North line of the said fractional Northeast quarter, a distance of 504.62 feet to the point of beginning.

EXCEPT:

Part of the North half of the Northeast Quarter of Section 2, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Beginning at a point on the North line of said Section 2, said point being 450.0 feet West of the Northeast corner of the Northeast Quarter of Section 2; thence South 01 degree 22 minutes 56 seconds East, a distance of 48.55 feet; thence South 89 degrees 14 minutes 30 seconds West, a distance of 485.27 feet; thence South 56 degrees 23 minutes 34 seconds West, a distance of 46.09 feet; thence North 07 degrees 47 minutes 38 seconds West, a distance of 51.10 feet; thence North 89 degrees 28 minutes 34 seconds East, a distance of 25.38 feet; thence North 01 degree 22 minutes 56 seconds West, a distance of 25.0 feet; thence North 89 degrees 28 minutes 34 seconds East, a distance of 504.62 feet to the point of beginning, containing 0.60 acres of land, more or less.

Last Deed of Record: Doc. 2008054106
Last Date of Fieldwork: May 13, 2016

This property appears to lie within Zone X as the description plots by scale on Flood Insurance Rate Map No. 18003C 0170G, effective August 3, 2009.

CERTIFICATE OF SURVEY

This document is a record retracement survey of real estate prepared under IAC Title 865, 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 hereon in feet. It is free from encroachments either way across boundary lines unless specifically stated herein. Corners were perpetuated as indicated.

I, John C. Sauer, 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. I further certify the above statements to be correct to the best of my information, knowledge, and belief.

John C. Sauer
Indiana Professional Land Surveyor Date: 05/16/2016



Prepared as a part of the foregoing survey.

Address: 101 West Dupont Road & 10318 Nottawa Trail, Fort Wayne, IN 46825

This survey is intended to retrace the record boundaries of a tract of real estate described in a Quit Claim Deed from Life Science Exhibits, LLC to Idea, LLC, dated November 17, 2008, and recorded in Document Number 2008054106 in the Office of the Recorder of Allen County, Indiana.

In Accordance with Title 865, Article 1.1, Chapter 12, Sec. 1 et. seq. of the Indiana Administrative Code, the following observations and opinions are submitted regarding various uncertainties in (a) reference monuments, (b) lines of occupation, (c) record descriptions, and (d) those uncertainties due to random errors in measurement ("relative positional accuracy"). There may be unwritten rights associated with these uncertainties.

REFERENCES: Copies of the following documents were reviewed in completion of this survey:

- The deeds of the subject tract and the adjoining tracts, as shown on the plat of survey.
- Allen County Surveyor's Section Corner Records.
- A Location Control Route Survey of Dupont Road by GAI Consultants, Document Number 2011031755.
- A survey of a subjuncting tract by DLZ Indiana, LLC, Document Number 2007061173.
- The plat of Limberlost Acres Addition, Section "A", Plat Record 22, page 57.
- The plat of Limberlost Acres Addition, Section "B", Plat Record 25, pages 98-99.

(A) AVAILABILITY OF REFERENCE MONUMENTS:

The existing monuments of the Public Land Survey corners were held as controlling corners and were used as the basis for this survey. The found monuments are considered by the undersigned surveyor to be "local corners" which are subject to undiscovered evidence regarding the true location of said corners. The corners of subject tract are marked as shown on the survey certificate in conformity with said survey monuments. Uncertainties based on existing monuments are not readily determinable due to the use of said local corners. The following monuments were accepted as the location of the Public Land Survey corners:

- The Northeast corner of Fractional Section 2.....No monuments found (see below).
- The North Quarter corner of Fractional Section 2.....Survey nail found as shown on the above-referenced surveys.
- The South Quarter corner of Fractional Section 33-32-12.....No monuments found (see below)

Due to a lack of found monuments, the North line of the Fractional Northeast Quarter of Section 2 was established using geometry shown on the above-referenced GAI location control route survey. Uncertainties due to variances between found controlling monuments and record distances were determined to be a maximum of 0.95 feet in any direction. Uncertainties due to variances between all found monuments and record distances were determined to be 1.0 feet in any direction.

(B) OCCUPATION AND/OR POSSESSION LINES:

Occupation and/or possession lines near the perimeter of subject tract are shown on the plat of survey with the variances from the boundary lines as established in this survey. Encroachments and/or discrepancies may be buried or otherwise obscured by natural or man-made obstructions. A picket fence from subject tract extends and lies from 1.0 feet to 1.6 feet West of a West line of subject tract, as shown on the Plat of Survey. Uncertainties based upon existing occupation and/or possession lines vary from the lines established in this survey by a maximum of 1.6 feet in the East-West direction.

(C) AMBIGUITY OF RECORD DESCRIPTIONS:

Upon review of the most current deeds of record, the base tract description does not contain any ambiguity within its record description or with the adjoining descriptions. Therefore, there are no uncertainties based upon record descriptions.

(D) RELATIVE POSITIONAL ACCURACY:

The relative positional accuracy representing the uncertainty due to random errors in measurements of the corners established in this survey is less than or equal to the specifications for a Suburban Survey (0.13 feet plus 100 ppm) as defined by IAC 865.

(E) ESTABLISHMENT OF LINES AND CORNERS:

1. The East and South lines of subject tract were established using found monuments.
2. The West lines of subject tract were established using found monuments that partially conform with record geometry.
3. The Southwest curve of subject tract at the Northeast corner of Nottawa Trail and Rome Drive was established at its record radius.
4. The North line of subject tract were established using found monuments. The Northwest line of subject tract was established at its record angle from the North line of subject tract, projecting Southwest to the West line of said subject tract.

(F) NOTES:

1. This survey is an opinion of a licensed land surveyor of the State of Indiana as to the actual location of the lines and corners outlined in the deed description. This opinion is based on logic, relevant field and research evidence, and established surveying principles. However, this opinion is subject to the interpretation of its deed description, and the boundaries of adjacent tracts may not be consistent with the boundaries of the subject tract. As a consequence, another surveyor may arrive at a different conclusion and different location of the boundaries.
2. A survey cannot resolve uncertainties in the position of the original boundaries that exist. Only courts may establish property lines. The boundaries were established from the most current recorded descriptions. An abstract or title search may reveal the existence of matters of ownership and rights of others not otherwise apparent. As of this date, no title commitment has been provided for review.
3. The flood statement hereon is for informational purposes only. Accurate determination of the flood hazard status of the property can only be made by an elevation study which is beyond the scope of this survey.
4. No attempt has been made to review or come to an opinion on the title or marketability of the title. Any appearance of an opinion on the title is unintentional.
5. Unplatted easements, setback lines, restrictive covenants, or land use regulations affecting the subject tract are shown only when documentation of such matters has been furnished by the client.
6. All documents of record and information from other public sources referred to in this survey are hereby incorporated as part of this survey as if fully set out.
7. No attempt has been made to determine the zoning status of the property. It is the responsibility of the parties involved in the real estate transaction to determine compliance with zoning regulations.
8. Any fence or other evidence of possession which varies from the written title lines may constitute adverse possession or prescriptive rights.
9. Subsurface and environmental conditions were not examined or considered as a part of this survey.
10. Any acreage shown is based on the boundaries established from the deed description and no certification is made that the land area shown on the survey is the exact acreage owned by the client.
11. Expression of distances to hundredths of a foot and angles to seconds of arc is solely to minimize errors introduced by rounding. Neither distances nor angles can be measured to the degree of precision implied by the stated units. No dimension on the survey can be interpreted to be of greater precision than the relative positional accuracy stated in Part (D) of the Surveyor's Report.
12. Since the last date of field work of this survey, conditions beyond the knowledge or control of Sauer Land Surveying, Inc., may have altered the validity and circumstances of matters shown or noted herein.
13. Declaration is made to original purchaser of the survey and is not transferable to additional institutions or subsequent owners. This survey is valid only with the surveyor's original or electronic signature and seal, full payment of invoice, and complete with all pages of survey.
14. No statement made by any employee or agent of Sauer Land Surveying, Inc., is valid unless written herein.



SCALE IN FEET:

