

#REZ-2021-0006

BILL NO. Z-21-02-13

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. V-38 (Sec. 15 of Saint 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 an R3 (Multiple Family Residential) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana:

Part of the East 2 acres of the South 15 acres of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana; thence North along the East line of the W ½ of the SW ¼ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 40.0 feet to the POINT OF BEGINNING; thence continuing North along the West ½ of the SW ¼ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 432.9 feet to the Southeast corner of Lot 41 in Jonathon Oaks, Section I; thence West with a deflection angle to the left of 89 degrees 57 minutes (88 degrees 13 minutes 30 seconds, recorded) along the South line of Lot 40 and Lot 41 in Jonathon Oaks Section I and the South line of Lot 53 in Jonathon Oaks, Section II, a distance of 191.0 feet to the Northeast corner of a tract of land conveyed to Fort Wayne Community Schools as recorded in Document 79-09956; thence South with a deflection angle to the left of 91 degrees 33 minutes along the East line of the Fort Wayne Community Schools tract a distance of 436.5 feet to a point 40 ft. North on the South line of the W ½ of the SW ¼ of Section 15-31-13; thence East with a deflection angle to the left of 89 degrees 33 minutes parallel with the South line of the W ½ of the SW ¼ of Section 15-31-13 a distance of to the Point of Beginning 1.848 acres, excepting therefrom the South 30 feet taken for road right of way.

and the symbols of the City of Fort Wayne Zoning Map No. V-38 (Sec. 15 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. If a written commitment is a condition of the Plan Commission's recommendation for the adoption of the rezoning, or if a written commitment is modified and approved by the Common Council as part of the zone map amendment, that written commitment is hereby approved and is hereby incorporated by reference.

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

7 APPROVED AS TO FORM AND LEGALITY:

8 
9 _____
10 Carol T. Helton, 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-2021-0006
Bill Number: Z-21-02-13
Council District: 1 – Paul Ensley

Introduction Date: February 23, 2021

Plan Commission
Public Hearing Date: March 8, 2021 (not heard by Council)

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

Synopsis of Ordinance: To rezone 1.8 acres from R1/Single Family Residential to R3/Multiple Family
Residential

Location: 6641 St. Joe Center Road (north of)

Reason for Request: To allow for a residential townhome development with 10 duplex units
and 2 single units.

Applicant: Envision US, LLC

Property Owner: Christopher Cammack

Related Petitions: Primary Development Plan, Cottages of St. Joe Center

Effect of Passage: Property will be rezoned to the R3/Multiple Family Residential zoning
district, which will allow the construction of multiple attached
townhomes.

Effect of Non-Passage: The property will remain zoned for single family residential uses and may
redevelop as such.

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Envision US, LLC
Address P.O. Box 85022
City Fort Wayne State IN Zip 46885
Telephone 260-452-6005 E-mail chris@cammackstates.com

Contact Person
Contact Person Thomas M. Niezer
Address 215 East Berry Street
City Fort Wayne State IN Zip 46802
Telephone 260-423-8898 E-mail tmn@barrettllaw.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 TBD / 6641 St. Joe Center Road
Present Zoning R-1 Proposed Zoning R-3 Acreage to be rezoned 1.848
Proposed density N/A units per acre
Township name St. Joseph Township section # 15
Purpose of rezoning (attach additional page if necessary) To provide for rezoning and primary development plan for multi-family residential housing; known as the Cottages of St. Joe Center Road.
Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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 \$0.85 per notice and a public notice fee of \$50.00 per Indiana code.

See attached Exhibit "A"

_____ (printed name of applicant)	_____ (signature of applicant)	_____ (date)
_____ (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>2-2-2021</u>	Receipt No. <u>136080</u>	Hearing Date <u>3-8-2021</u>	Petition No. <u>REZ-2021-0006</u>
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EXHIBIT A

Signature Page

ENVISION US, LLC
Applicant and Owner

By:

Chris C.
Christopher Cammack, Manager

February 2, 2021
Date



Thomas M. Niezer
(260) 423-8898
tmn@barrettlaw.com

February 2, 2021

Via Hand Delivery

City of Fort Wayne - Allen County
Department of Planning Services
Attn: Michelle Wood, Senior Land Use Planner
200 East Berry Street, Suite 150
Fort Wayne, IN 46802

Re: Cottages of St. Joe Center Road

Dear Michelle:

This office represents Envision US, LLC the owner of 1.848 acres at 6641 St. Joe Center Road.

Enclosed with this letter are the following:

1. Rezoning Application to rezone the entirety of the property from its existing R-1 classification to R-3, multi-family;
2. Primary Development Plan Application for 1.594 acres of the subject parcel;
3. Waiver Application;
4. Filing fee checks for the Rezoning Application, Primary Development Plan Application, and Waiver Application.

The purposed Cottages project contemplates a series of twelve two-story townhomes being developed on the subject parcel. I am enclosing an elevation drawing of the design of the townhomes together with the proposed First and Second Floor plans of the buildings. These documents are schematic at this time and do not represent the final design or layout. We will have more information on these documents for you at the public hearing.

Our Client while rezoning the existing residence at 6641 St. Joe Center Road, is not including that property within the scope of the primary development plan. Our client anticipates this site eventually being redeveloped and incorporated into the existing primary development plan as a Phase II of the project at a later date.

The waiver application is necessary as a result of the narrow configuration of the subject parcel. Notwithstanding, the waiver request, if accepted, will not interfere with adequate buffering and screening of the development from the adjacent properties and will not result in adequate access, parking, and lighting standards being met for the property.



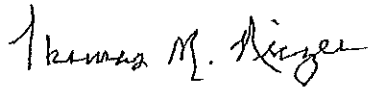
St. Joe Center Road continues to witness an increase in traffic volume. Rezoning the subject parcel to R-3 is compatible to the adjacent land use of Fort Wayne Community Schools to the west, as well as the commercial rezoning of a whole host of properties to the South of St. Joe Center Road. The development will serve as an adequate buffer for the surrounding land uses.

Our client utilizes an outside management firm for the management of its properties. More information as to the management and leasing of the townhomes, together with background on Envision and its prior work within the Fort Wayne community will be made available at the public hearing. Notwithstanding, the Cottages development does represent a project that will be well constructed and maintained consistent with other properties in the surrounding area. The development will not incorporate or utilize IRC §42, Low-Income Housing Credit and its rent structure will be market based.

Should you have any questions, please do not hesitate to call. I look forward to working with you or the staff member eventually assigned to these applications. I am,

Very truly yours,

BARRETT MCNAGNY LLP



Thomas M. Niezer

TMN:pas/2865944
Enclosures

Cc: Charles Cammack (*via e-mail*)
Gregory Roberts, L.S. (*via e-mail*)



Rezoning Petition REZ-2021-0006 and Primary Development Plan PDP-2021-0006 - Cottages of St. Joe Center

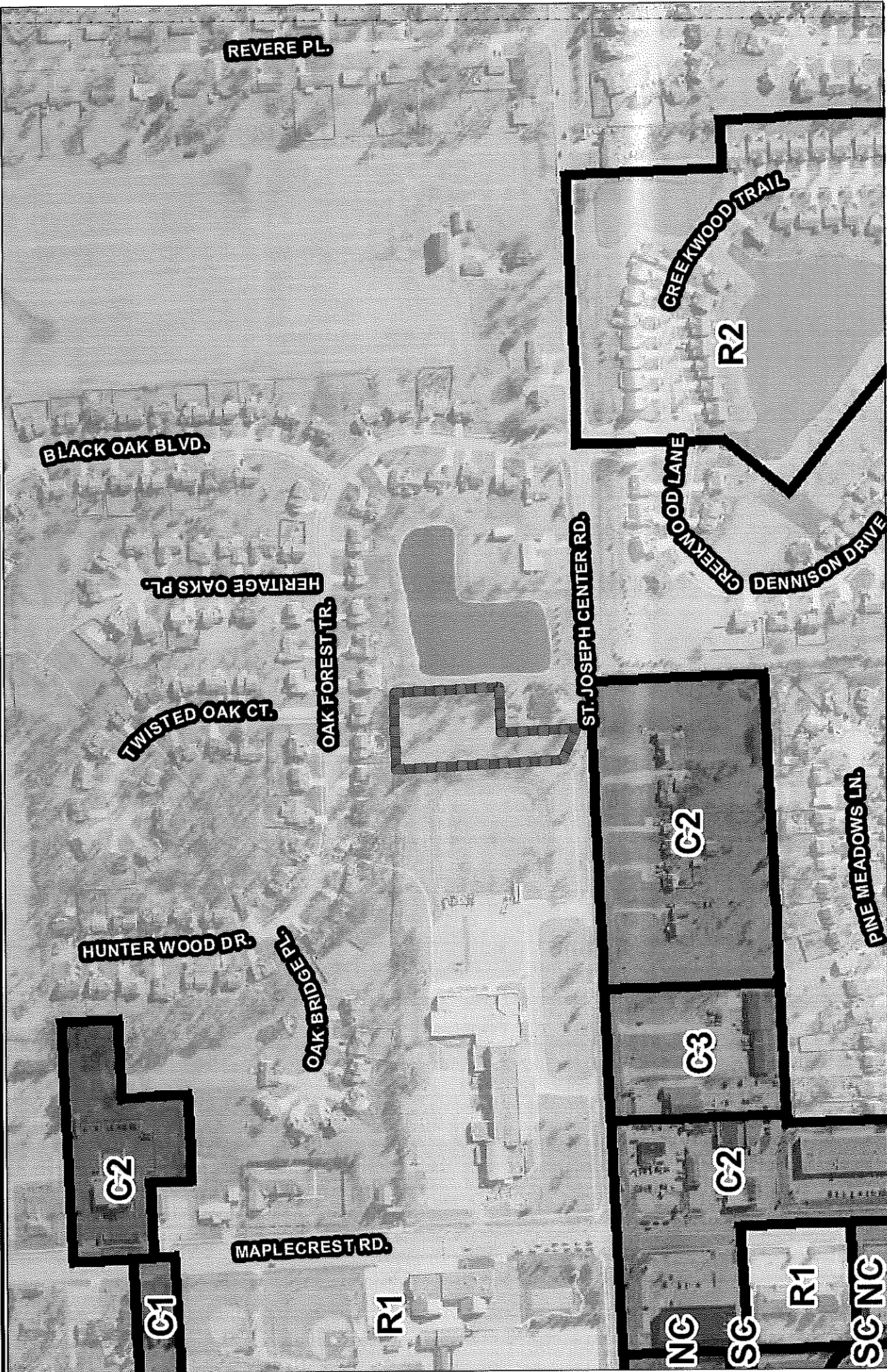


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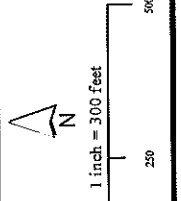
1 inch = 300 feet





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Map of the County of Allen, Indiana
State Plane Coordinate System, Indiana East
Photo and Contour: Spring 2009
Date: 2/1/2021



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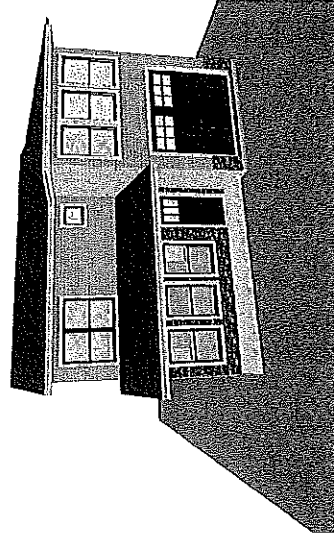
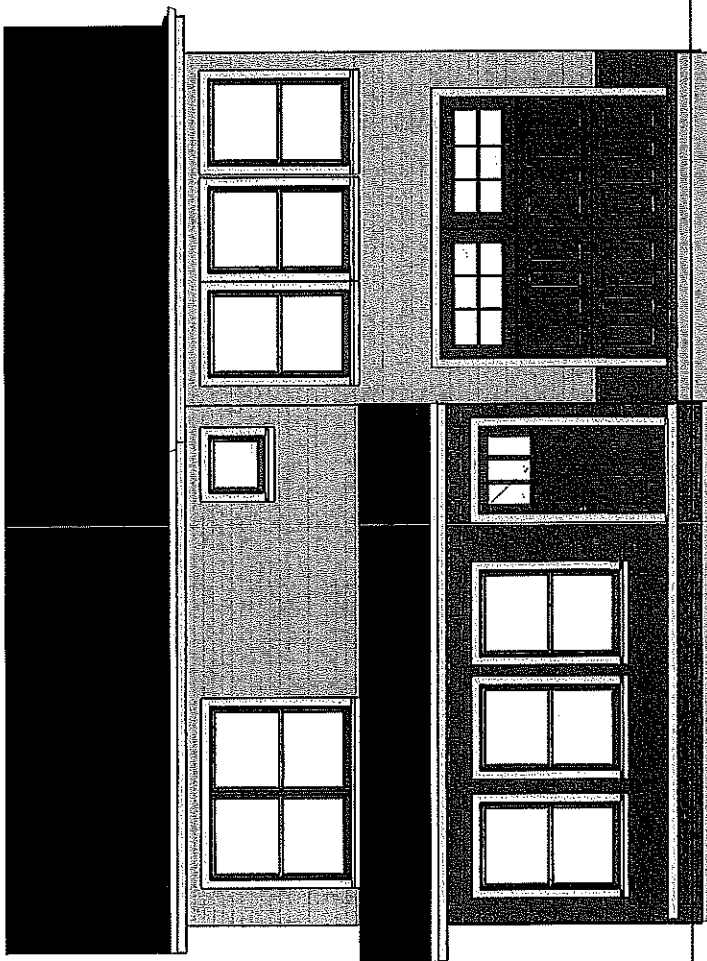
Part of the East 2 acres of the South 15 acres of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana; thence North along the East line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 40.0 feet to the POINT OF BEGINNING; thence continuing North along the West $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 432.9 feet to the Southeast corner of Lot 41 in Jonathon Oaks, Section I; thence West with a deflection angle to the left of 89 degrees 57 minutes (88 degrees 13 minutes 30 seconds, recorded) along the South line of Lot 40 and Lot 41 in Jonathon Oaks Section I and the South line of Lot 53 in Jonathon Oaks, Section II, a distance of 191.0 feet to the Northeast corner of a tract of land conveyed to Fort Wayne Community Schools as recorded in Document 79-09956; thence South with a deflection angle to the left of 91 degrees 33 minutes along the East line of the Fort Wayne Community Schools tract a distance of 436.5 feet to a point 40 ft. North on the South line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13; thence East with a deflection angle to the left of 89 degrees 33 minutes parallel with the South line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 a distance of to the point of beginning 1.848 acres, excepting therefrom the South 30 feet taken for road right of way.

PRELIMINARY DEVELOPMENT PLAN DESCRIPTION

Part of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County Indiana; thence North 02 degrees 55 minutes 25 seconds West (INDOT GPS datum and basis for this description) along the East line of the West Half of the Southwest Quarter of Section 15 a distance of 170.7 feet to the POINT OF BEGINNING; thence North 02 degrees 55 minutes 25 seconds West along the East line of the West Half of the Southwest Quarter of Section 15 and along the West line of Block "E" in Jonathon Oaks Section I (Plat Cabinet A, page 74) a distance of 301.68 feet to the Southwest corner of Lot Number 42 in Jonathon Oaks Section I; thence South 89 degrees 05 minutes 36 seconds West along the South line of Jonathon Oaks section I and Jonathon Oaks section II a distance of 191.23 feet; thence South 04 degrees 26 minutes 01 seconds East along the East line of a tract of land conveyed to Fort Wayne Community Schools a distance of 403.48 feet to a point on the North right of way line of St. Joe Center Road; thence South 66 degrees 43 minutes 58 seconds East (South 65 degrees 54 minutes 44 seconds East, recorded) along said right of way line a distance of 80.0 feet; thence North 87 degrees 19 minutes 27 seconds East along said right of way line a distance of 25.69 feet; thence North 02 degrees 55 minutes 24 seconds West a distance of 110.0 feet; thence North 73 degrees 18 minutes East a distance of 85.46 feet to the point of beginning containing 1.594 Acres.



SQUARE FOOTAGE

GENERAL NOTES:

1. THESE PLANS ACT AS A GUIDE FOR CONSTRUCTION. THE CONTRACTOR SHALL VERIFY ALL COMPONENTS IN CONSTRUCTION DRAWINGS BEFORE ERECTING BUILDING INCLUDING, BUT NOT LIMITED TO, ALL DIMENSIONS, WALL HEIGHTS, ELECTRICAL, PLUMBING COMPONENTS, HEATING UNITS, ETC. ANY MODIFICATION TO THE ABOVE MENTIONED CONSTRUCTION DRAWINGS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. CHANGES OTHERWISE THE DESIGNER WILL NOT BE LIABLE FOR MODIFICATION OR COST.
2. FINISH GRADE ON EXTERIOR ELEVATIONS ARE SCHEMATIC ONLY. BUILDER TO VERIFY EXISTING GRADE AT JOBSITE.
3. ALL INTERIOR WALLS TO BE 2x4 UNLESS OTHERWISE NOTED.

SUMMIT CITY DESIGN, LLC
RESIDENTIAL & COMMERCIAL DESIGN

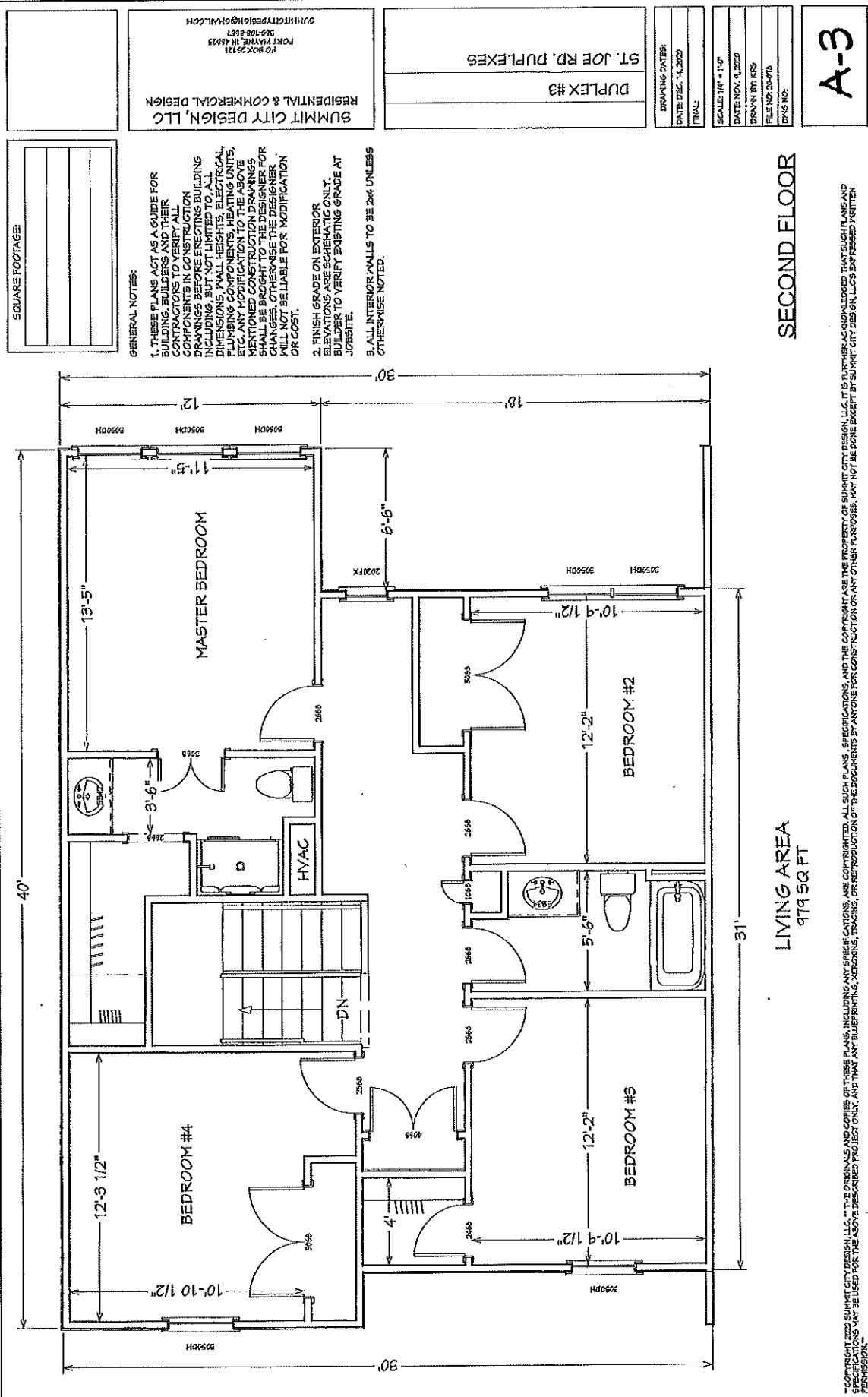
PO BOX 25121
FORT WORTH, TX 76165
954-703-4451
SUMMITCITYDESIGN@GMAIL.COM

DUPLEX #3
671 JOE RD, DUPLEXES

DRAWING DATE:
DATE DEC. 14, 2020
FINAL
SCALE: 1/4" = 1'-0"
DATE NOV. 1, 2020
DRAWN BY: KSS
FILE NO: 2007B
DWG NO:

A-1

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DRAWING DATES:
DATE: DEC. 14, 2020
FINAL:

SCALE: 1/4" = 1'-0"
DATE: NOV. 9, 2020
DRAWN BY: KRS
FILE NO: 23-070

DUPLEX #3

T. JOE RD, DUPLEXES

SUMMIT CITY DESIGN, LLC
RESIDENTIAL & COMMERCIAL DESIGN

PO BOX 25121
FORT WAYNE, IN 46825
940-708-6661
SUMMITCITYDESIGN@GMAIL.COM

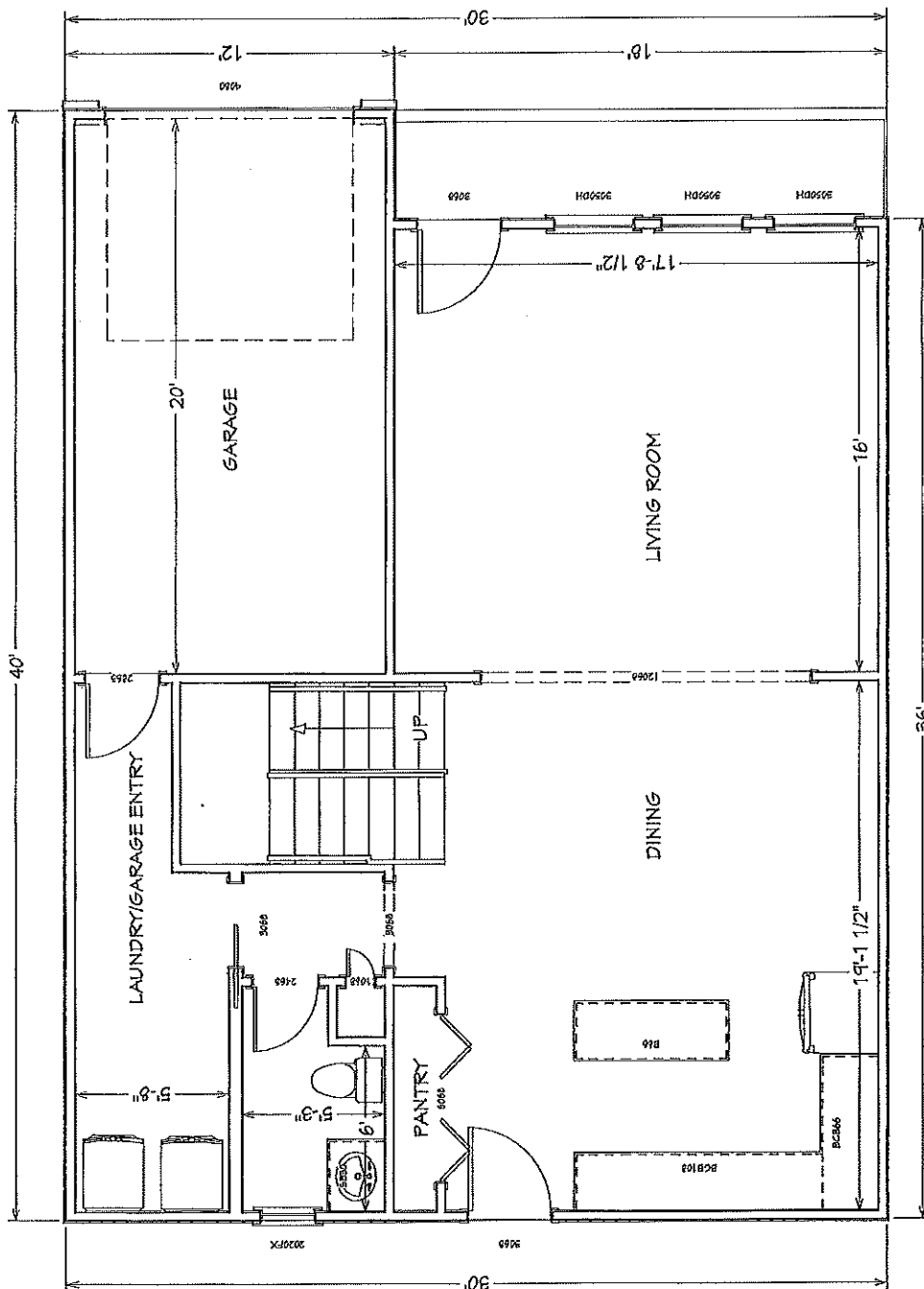
GENERAL NOTES:

THESE PLANS ACT AS A GUIDE FOR THE BUILDING DEPARTMENT. THE BUILDING DEPARTMENT DOES NOT GUARANTEE THE ACCURACY OF THE PLANS. CONTRACTORS TO VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO CONSTRUCTION. THE DESIGNER SHALL NOT BE LIABLE FOR MODIFICATION OR COST.

2. FINISH GRADE ON EXTERIOR ELEVATIONS ARE SCHEMATIC ONLY. BUILDERS TO VERIFY EXISTING GRADE AT BOUNDARY.

3. ALL INTERIOR WALLS TO BE 2x4 UNLESS OTHERWISE NOTED.

SQUARE FOOTAGE



FACT SHEET

Case #REZ-2021-0006		Bill # Z-21-02-13	Project Start: February 2021
APPLICANT:	Envision US, LLC		
REQUEST:	To rezone property from R1/Single Family Residential to R3/Multiple Family Residential; and approve a primary development plan for a 12-unit multiple family residential complex, including waiver requests for building setbacks.		
LOCATION:	The site is located on the north side of the 6600 block of St. Joe Center Road. The site lies to the east of St. Joseph Central School, and south and west of Jonathon Oaks Subdivision (Section 15 of St. Joseph Township).		
LAND AREA:	Approximately 1.9 acres for rezoning Approximately 1.6 acres for development		
PRESENT ZONING:	R1/Single Family Residential		
PROPOSED ZONING:	R3/Multiple Family Residential		
COUNCIL DISTRICT:	1-Paul Ensley		
ASSOCIATED PROJECT:	Primary Development Plan, Cottages of St. Joe Center Road		
SPONSOR:	City of Fort Wayne Plan Commission		

March 8, 2021 Public Hearing

- Three property owners spoke at the hearing with concerns, questions, or in opposition.
- Ryan Neumeister, Justin Shurley and Rachel Tobin-Smith were absent.

March 15, 2021 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Don Schmidt and seconded by Patrick Zaharako to return the ordinance with a Do Pass recommendation with a written commitment to Common Council for their final decision.

6-0 MOTION PASSED

- Ryan Neumeister, Paul Sauerteig, and Rachel Tobin-Smith were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
April 5, 2021

PROJECT SUMMARY

SITE HISTORY

- The property has historically been a metes and bounds single family residential property.
- In 2013, a rezoning petition to RP/Planned Residential was proposed for a 6-unit multiple family residential development. The rezoning request received a Do Pass recommendation from the Plan Commission but was denied by City Council.

STAFF DISCUSSION

The petitioner originally requested a rezoning from R1/Single Family Residential to R3/Multiple Family Residential to allow the construction of a seven-building, 12-unit multiple family residential development. Following the public hearing and discussions with representatives from the Jonathon Oaks neighborhood, the plan was reduced to 10 units in seven buildings: four duplex buildings and two stand-alone homes.

The proposed rezoning parcel is located on the north side of St. Joe Center Road, between St. Joe Central Elementary School and Section I of Jonathon Oaks subdivision. The parcel is occupied by a single family home that will remain. The zoning proposal covers the entire property, but the home site is excluded from the development plan submittal. The adjacent parcels surrounding the site to the north, south and east are developed with subdivisions or metes and bounds residential, and St. Joe Central Elementary School borders the entire west property line. The C2 zoning to the south is over the metes and bounds parcels, which have yet to develop with commercial uses.

The proposed zoning district can be supported by the Comprehensive Plan in that it will offer infill development and investment in the area. The residential proposal will place additional living options within close proximity to goods and retail services, and well as medical services. The comprehensive plan supports this development through the following objectives:

- LU1.** Encourage carefully planned growth by utilizing the conceptual development map as part of the community's land use decision-making process;
- LU3.** Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
- LU5.** Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing connectivity;
- LU8.** Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.

The development proposes seven separate structures for a total of 10 units. Two structures are proposed as stand-alone single family units and four structures are duplexes. All of the units have attached garages and driveway space for parking. The applicant has submitted building elevations and proposed floorplan for a typical unit. The Zoning Ordinance minimum building size is 950 square feet. The single access to the site will be from St. Joe Center Road. An internal sidewalk will connect to the recently installed public sidewalk along St. Joe Center Road, which also connects to St. Joe Elementary School. Stormwater detention will be provided along the entry drive at the southwest corner of the site. Due to the site having multiple units on a single parcel adjacent to residential zoning districts, screening is required between the complex and the adjacent neighborhood. Code B-3 consists of a 6-foot tall solid fence with trees planted every 30 feet; within a 25-foot width. The approved development plan includes privacy fencing and trees along the east, north and west property lines, meeting the ordinance requirement. The applicant would like to save as many existing trees along the east property line as they can.

The applicant is proposing a freestanding monument sign along St. Joe Center Road. The sign shall not exceed 8 feet in height and 50 square feet in area.

Two waivers of setback standards are being requested for the development. The interior building separation on the eastern units will be reduced to 15 feet (from 25) and the southernmost unit will be 11 feet from the existing single family home parcel. The exterior setbacks on the north and east property lines will be met, while the western edge will have a reduction from 30 feet to 25 feet, adjacent to the school.

The applicant submitted a voluntary written commitment that was revised through the public hearing process. The commitment limits the building height to 35 feet (all residential districts are allowed 40 feet), and the units are capped at a total of 10 for the site. The revised landscape and screening plan is also tied to the written commitment, which will run with the land, not the property owner.

Here are the items that were modified from the original submittal as a result of the public hearing, comments from reviewing agencies and neighbors:

- Total units reduced from 12 to 10.
- Perimeter setback increased adjacent to neighborhood.
- Landscaping and fencing included to meet the ordinance and address comments from the school.
- Increased turn-around which accommodates emergency vehicles.
- Internal sidewalk added on the private drive to connect to public walk.
- Decreased density at northern end of project.

PUBLIC HEARING SUMMARY:

Presenter: Thomas Niezer, Barrett McNagny, representing Envision US, presented the proposal as outlined above.

Public Comments:

Betty Forehand, 6227 Twisted Oak Court – Concerns include number of units, fire access, garbage pickup, sidewalks, screening, light pollution, too much happening in the space allowed.

Steve Bohan, 6606 Oak Forest Trail – Concerns include landscape screening, drainage, waivers, and too much in the space allowed.

Eugene Daley, 6523 Oak Mill Place – Concerns include property values, waivers, pond liability, drainage, traffic safety, developers are too young/new, spot zoning.

Rebuttal: Tom Niezer

Offered to meet with the neighborhood before the hearing but the offer was not accepted. The property is adjacent to a school, commercial zoning and near a commercially developed intersection. The property will not redevelop as a single family use. A transitional use like a duplex project is an appropriate redevelopment type. They are willing to restrict the number of units and the height, add landscaping and will reconsider the waiver requests.

Post-Hearing: The applicants met with representatives from the neighborhood and submitted a revised plan and written commitment, with the changes listed above.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2021-0006

APPLICANT:	Envision US, LLC
REQUEST:	To rezone property from R1/Single Family Residential to R3/Multiple Family Residential for a primary development plan for a 12-unit multiple family residential complex.
LOCATION:	The site is located on the north side of the 6600 block of St. Joe Center Road. The site lies to the east of St. Joseph Central School, and south and west of Jonathon Oaks Subdivision (Section 15 of St. Joseph Township).
LAND AREA:	Approximately 1.9 acres for rezoning Approximately 1.6 acres for development
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	R3/Multiple Family Residential

The Site Committee returns Rezoning Petition REZ-2021-0006 with a Written Commitment to Common Council, with a recommendation of "Do Pass" for the reasons stated below:

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 general area has seen a mixture of land developments from commercial to single-family residential land uses. This proposal will provide infill development using existing infrastructure. The comprehensive plan supports this development through the following objectives:

 - LU1. Encourage carefully planned growth by utilizing the conceptual development map as part of the community's land use decision-making process;
 - LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
 - LU5. Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing connectivity;
 - LU8. Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.
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. Site plan and architectural review from the Plan Commission and staff will ensure a compatible development that complements the neighborhood.
3. Approval is consistent with the preservation of property values in the area. This proposal provides another housing choice for residents who choose to age in place in the northeast community. The proposed residential development provides a buffer between the single family residential uses and the commercial and other non-residential uses to the west and south.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for residential uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on March 15, 2021.



Kimberly R. Bowman, AICP
Executive Director
Secretary to the Commission



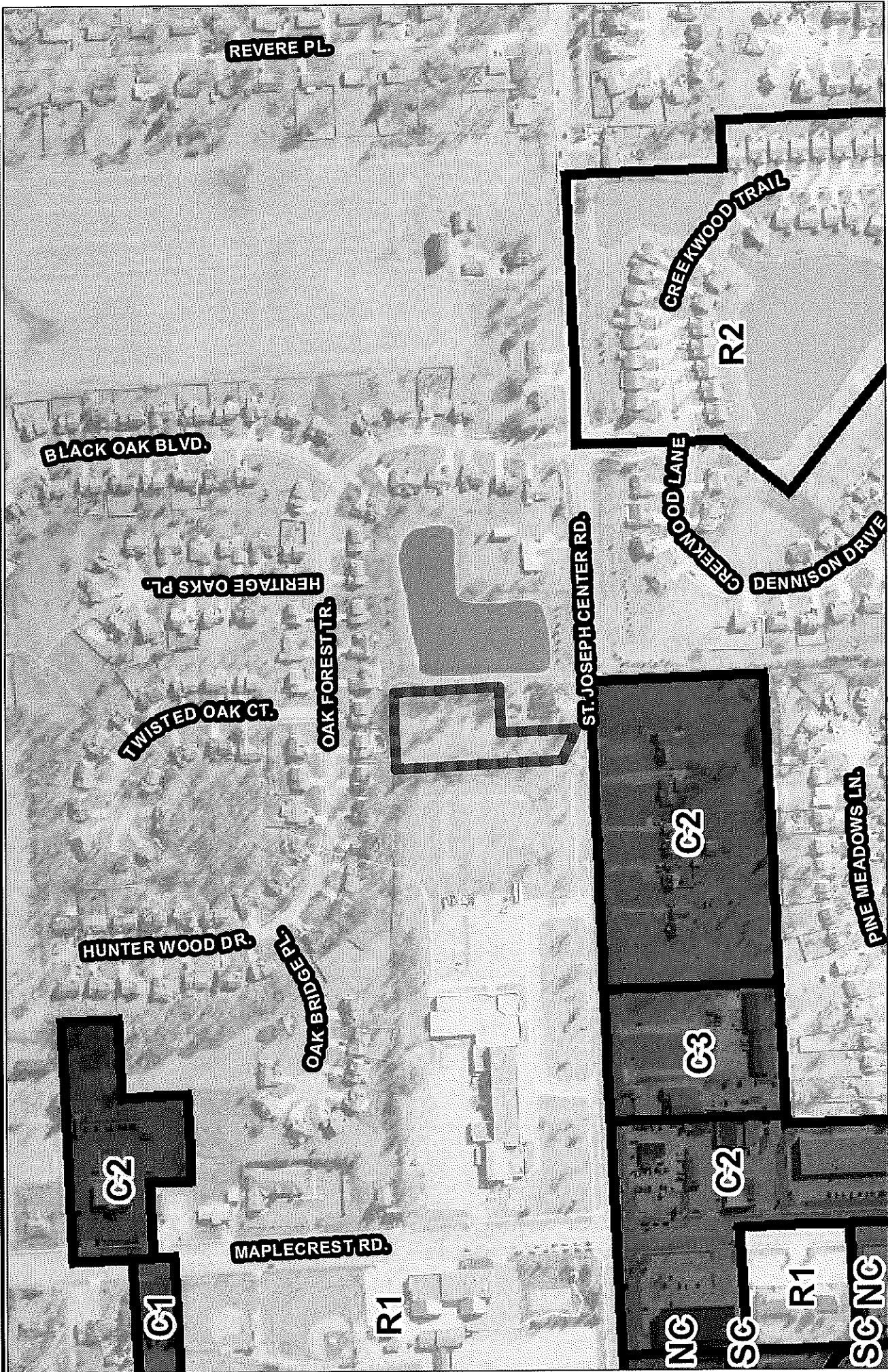
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 Date: 2/11/2021

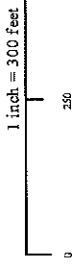
1 inch = 300 feet



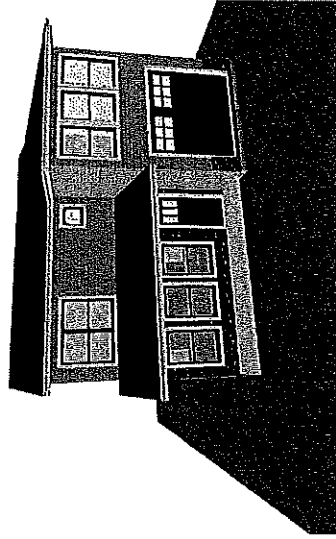
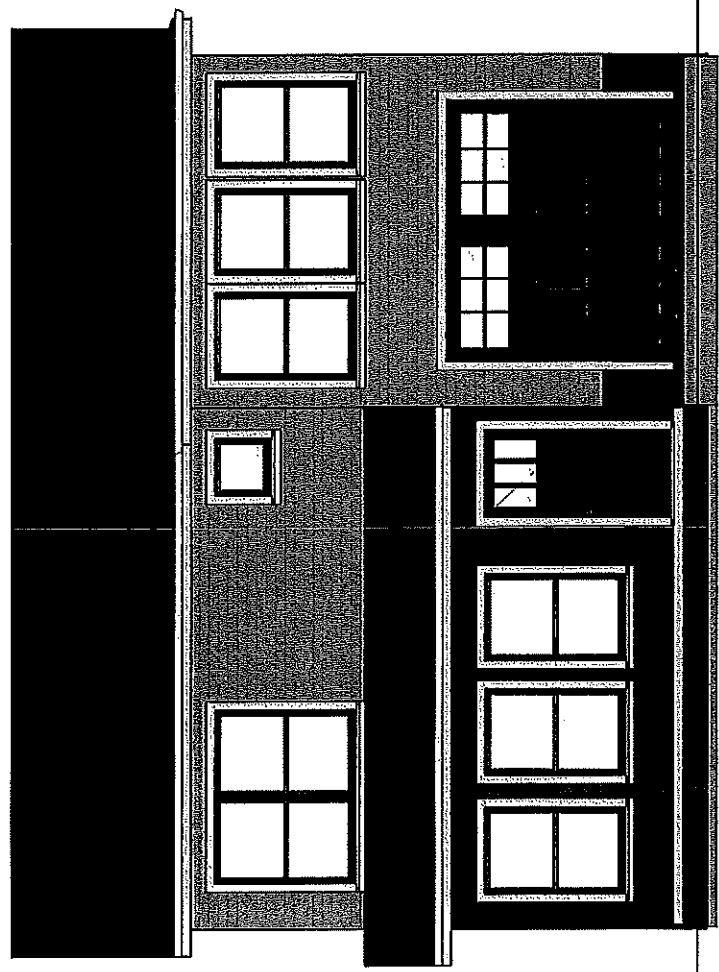
Rezoning Petition REZ-2021-0006 and Primary Development Plan PDP-2021-0006 - Cottages of St. Joe Center



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(1) JAMES PATRICK HENNINGSEN, INC., ALL WORKS REQUIRED
OF THE COUNTY AND STATE OF COLORADO SPECIFICALLY DEVELOPMENT PLAN 230C



SQUARE FOOTAGE:

GENERAL NOTES:

1. THESE PLANS ACT AS A GUIDE FOR BUILDING. BUILDERS AND THEIR CONTRACTORS TO VERIFY ALL COMPONENTS IN CONSTRUCTION DRAWINGS BEFORE ERECTING BUILDING INCLUDING, BUT NOT LIMITED TO, ALL DIMENSIONS, WALL HEIGHTS, ELECTRICAL, PLUMBING COMPONENTS, HEATING UNITS, ETC. THE DESIGNER SHALL BE RESPONSIBLE FOR ANY CHANGES TO THE PLANS. THE DESIGNER SHALL BE BROUGHT TO THE DESIGNER FOR CHANGES, OTHERWISE THE DESIGNER WILL NOT BE LIABLE FOR MODIFICATION OR COST.
2. FINISH GRADE ON EXTERIOR BUILDINGS ARE SCHEMATIC ONLY. BUILDERS TO VERIFY EXISTING GRADE AT JOBSITE.
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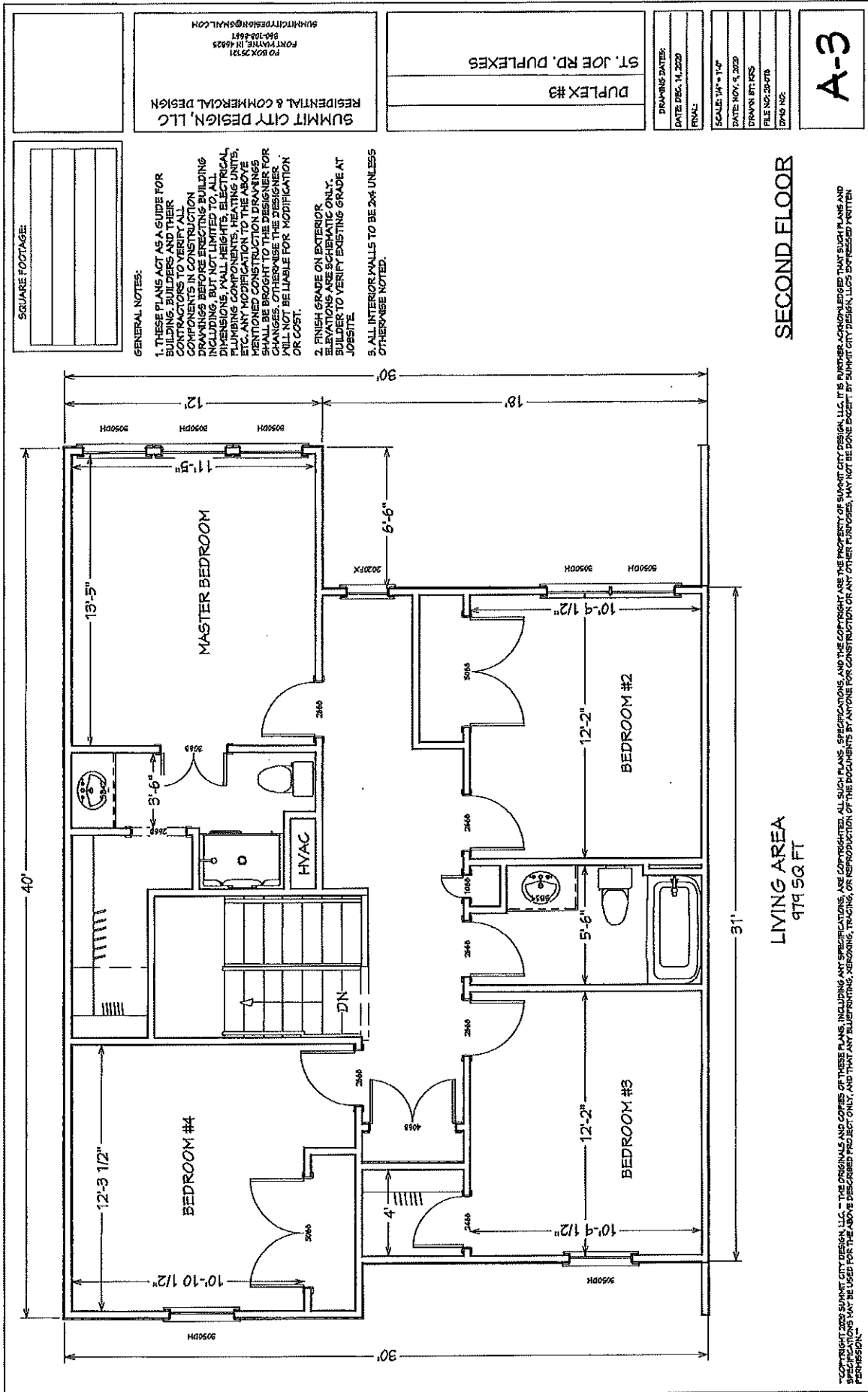
SUMMIT CITY DESIGN, LLC
RESIDENTIAL & COMMERCIAL DESIGN
70 BOX 25121
FORT WAYNE, IN 46835
940-703-4181
SUMMITCITYDESIGN@GMAIL.COM

DUPLEX #3
ST. JOE RD. DUPLEXES

DESIGNING DATE:
DATE: DEC. 14, 2020
FINAL:
SCALE: 1/4" = 1'-0"
DATE: NOV. 9, 2020
DESIGNER: JRS
FILE NO: 20-075
DWG NO:

A-1

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**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Envision US, LLC
Address P.O. Box 85022
City Fort Wayne State IN Zip 46885
Telephone 260-452-6005 E-mail chris@cammackestates.com

Contact Person
Contact Person Thomas M. Niezer
Address 215 East Berry Street
City Fort Wayne State IN Zip 46802
Telephone 260-423-8898 E-mail tmn@barrettllaw.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 TBD / 6641 St. Joe Center Road
Present Zoning R-1 Proposed Zoning R-3 Acreage to be rezoned 1.848
Proposed density N/A units per acre
Township name St. Joseph Township section # 15
Purpose of rezoning (attach additional page if necessary) To provide for rezoning and primary development plan for multi-family residential housing; known as the Cottages of St. Joe Center Road.
Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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 \$0.85 per notice and a public notice fee of \$50.00 per Indiana code.

See attached Exhibit "A"

_____ (printed name of applicant)	_____ (signature of applicant)	_____ (date)
_____ (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>2-2-2021</u>	Receipt No. <u>136080</u>	Hearing Date <u>3-8-2021</u>	Petition No. <u>REZ-2021-0006</u>
-----------------------------	------------------------------	---------------------------------	--------------------------------------

EXHIBIT A

Signature Page

ENVISION US, LLC
Applicant and Owner

By:

Chris C.
Christopher Cammack, Manager

February 2, 2021
Date

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made this ____ day of March, 2021 by Envision US, LLC, (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 1.848 acres of real estate located on Saint Joe Center Road 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 R1/Single Family Residential to a R3/Multiple Family Residential zoning district, bearing number REZ-2021-0006 (the "Petition"), which Petition has been approved by the City of Fort Wayne Plan Commission (the "Plan Commission (the "Plan Commission") and City Council; and

WHEREAS, contemporaneously with the Petition, Declarant submitted a primary development plan application for development of the Real Estate bearing number PDP-2021-0006 (the "PDP"), which PDP has also been approved by the Plan Commission; 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 Petition and PDP, 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 Petition and PDP by the Plan Commission and approval of the Petition by Fort Wayne Common 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 use shall be prohibited upon the Real Estate:
 - a. Fraternity or sorority house;
 - b. Off-site campus housing;
 - c. Group residential facility; and
 - d. Two family dwelling
2. Building Height. No structure shall exceed thirty-five feet (35') in height and be designed with no more than two stories of building construction above ground level.

3. Units. The maximum number of dwelling units upon the Real Estate within the confines of the PDP shall be 10.
4. Landscape and Buffer Plan. Declarant shall install and landscape and buffering plan consistent with the PDP, which is attached hereto as Exhibit "B" (the "Buffer and Landscape Plan"). The Buffer and Landscape Plan shall, at time of installation, conform with the terms and provisions of the City of Fort Wayne Zoning Ordinance and shall be installed and planted no later than issuance of the initial certificate of completion for the first dwelling unit constructed upon the Real Estate. Declarant shall use all commercially reasonable efforts to maintain and, as necessary, replace, the elements and materials which comprise the Buffer and Landscape Plan.
5. Permits. No permits shall be issued under the Ordinance by the Zoning Administrator 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.
6. 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 or the Board of Zoning Appeals (the "BZA"), as applicable, following a public hearing held by the Plan Commission or BZA wherein notice has been given as provided by the Plan Commission's and BZA's rules of procedure.
7. 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.
8. 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, the BZA, 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, the BZA, 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, the BZA, or any enforcement official designated in the zoning ordinance are cumulative, not exclusive.
9. 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.

10. 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 2020053425.
11. 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.
12. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
13. 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”

ENVISION US, LLC

By: _____
Printed Name: Christopher Cammack
Title: Manager

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of March ___, 2021, personally appeared Christopher Cammack, the Manager of Envision US, LLC. and 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 Thomas M. Niezer, Esq., Barrett McNagny LLP, 215 East Berry Street, Fort Wayne, IN 46802, Attorney ID 11274-02

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. Thomas M. Niezer, Esq.

When Recorded, mail to: Thomas M. Niezer, Esq., 215 East Berry Street, Fort Wayne, IN 46802

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

Part of the East 2 acres of the South 15 acres of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana; thence North along the East line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 40.0 feet to the POINT OF BEGINNING; thence continuing North along the West $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 432.9 feet to the Southeast corner of Lot 41 in Jonathon Oaks, Section I; thence West with a deflection angle to the left of 89 degrees 57 minutes (88 degrees 13 minutes 30 seconds, recorded) along the South line of Lot 40 and Lot 41 in Jonathon Oaks Section I and the South line of Lot 53 in Jonathon Oaks, Section II, a distance of 191.0 feet to the Northeast corner of a tract of land conveyed to Fort Wayne Community Schools as recorded in Document 79-09956; thence South with a deflection angle to the left of 91 degrees 33 minutes along the East line of the Fort Wayne Community Schools tract a distance of 436.5 feet to a point 40 ft. North on the South line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13; thence East with a deflection angle to the left of 89 degrees 33 minutes parallel with the South line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 a distance of to the point of beginning 1.848 acres, excepting therefrom the South 30 feet taken for road right of way.

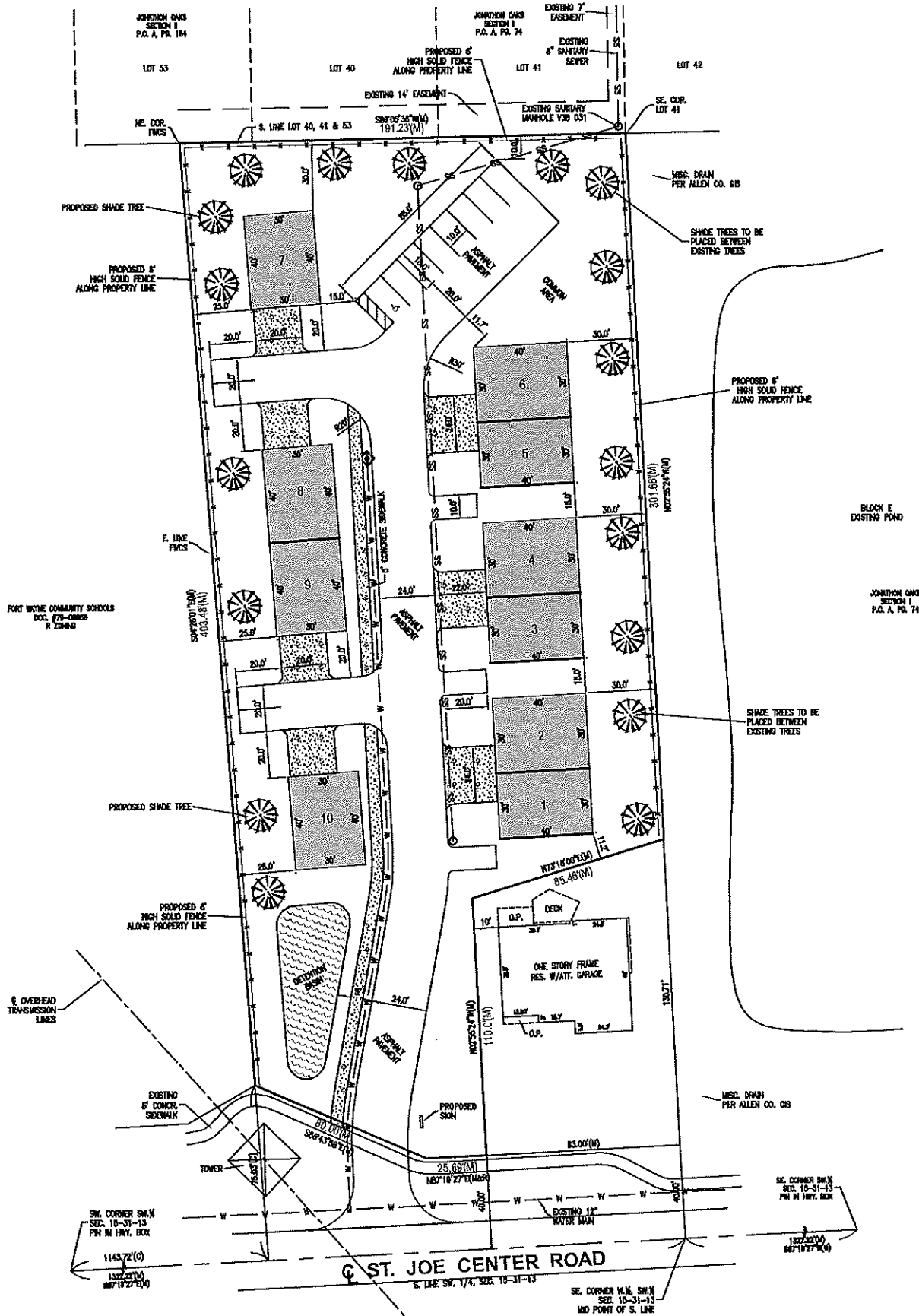
PRELIMINARY DEVELOPMENT PLAN DESCRIPTION

Part of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County Indiana; thence North 02 degrees 55 minutes 25 seconds West (INDOT GPS datum and basis for this description) along the East line of the West Half of the Southwest Quarter of Section 15 a distance of 170.7 feet to the POINT OF BEGINNING; thence North 02 degrees 55 minutes 25 seconds West along the East line of the West Half of the Southwest Quarter of Section 15 and along the West line of Block "E" in Jonathon Oaks Section I (Plat Cabinet A, page 74) a distance of 301.68 feet to the Southwest corner of Lot Number 42 in Jonathon Oaks Section I; thence South 89 degrees 05 minutes 36 seconds West along the South line of Jonathon Oaks section I and Jonathon Oaks section II a distance of 191.23 feet; thence South 04 degrees 26 minutes 01 seconds East along the East line of a tract of land conveyed to Fort Wayne Community Schools a distance of 403.48 feet to a point on the North right of way line of St. Joe Center Road; thence South 66 degrees 43 minutes 58 seconds East (South 65 degrees 54 minutes 44 seconds East, recorded) along said right of way line a distance of 80.0 feet; thence North 87 degrees 19 minutes 27 seconds East along said right

of way line a distance of 25.69 feet; thence North 02 degrees 55 minutes 24 seconds West a distance of 110.0 feet; thence North 73 degrees 18 minutes East a distance of 85.46 feet to the point of beginning containing 1.594 Acres.

EXHIBIT B



FACT SHEET

Case #REZ-2021-0006		Bill # Z-21-02-13	Project Start: February 2021
APPLICANT:	Envision US, LLC		
REQUEST:	To rezone property from R1/Single Family Residential to R3/Multiple Family Residential; and approve a primary development plan for a 12-unit multiple family residential complex, including waiver requests for building setbacks.		
LOCATION:	The site is located on the north side of the 6600 block of St. Joe Center Road. The site lies to the east of St. Joseph Central School, and south and west of Jonathon Oaks Subdivision (Section 15 of St. Joseph Township).		
LAND AREA:	Approximately 1.9 acres for rezoning Approximately 1.6 acres for development		
PRESENT ZONING:	R1/Single Family Residential		
PROPOSED ZONING:	R3/Multiple Family Residential		
COUNCIL DISTRICT:	1-Paul Ensley		
ASSOCIATED PROJECT:	Primary Development Plan, Cottages of St. Joe Center Road		
SPONSOR:	City of Fort Wayne Plan Commission		

March 8, 2021 Public Hearing

- Three property owners spoke at the hearing with concerns, questions, or in opposition.
- Ryan Neumeister, Justin Shurley and Rachel Tobin-Smith were absent.

March 15, 2021 Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Don Schmidt and seconded by Patrick Zaharako to return the ordinance with a Do Pass recommendation with a written commitment to Common Council for their final decision.

6-0 MOTION PASSED

- Ryan Neumeister, Paul Sauerteig, and Rachel Tobin-Smith were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
April 5, 2021

PROJECT SUMMARY

SITE HISTORY

- The property has historically been a metes and bounds single family residential property.
- In 2013, a rezoning petition to RP/Planned Residential was proposed for a 6-unit multiple family residential development. The rezoning request received a Do Pass recommendation from the Plan Commission but was denied by City Council.

STAFF DISCUSSION

The petitioner originally requested a rezoning from R1/Single Family Residential to R3/Multiple Family Residential to allow the construction of a seven-building, 12-unit multiple family residential development. Following the public hearing and discussions with representatives from the Jonathon Oaks neighborhood, the plan was reduced to 10 units in seven buildings: four duplex buildings and two stand-alone homes.

The proposed rezoning parcel is located on the north side of St. Joe Center Road, between St. Joe Central Elementary School and Section I of Jonathon Oaks subdivision. The parcel is occupied by a single family home that will remain. The zoning proposal covers the entire property, but the home site is excluded from the development plan submittal. The adjacent parcels surrounding the site to the north, south and east are developed with subdivisions or metes and bounds residential, and St. Joe Central Elementary School borders the entire west property line. The C2 zoning to the south is over the metes and bounds parcels, which have yet to develop with commercial uses.

The proposed zoning district can be supported by the Comprehensive Plan in that it will offer infill development and investment in the area. The residential proposal will place additional living options within close proximity to goods and retail services, and well as medical services. The comprehensive plan supports this development through the following objectives:

- LU1.** Encourage carefully planned growth by utilizing the conceptual development map as part of the community's land use decision-making process;
- LU3.** Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
- LU5.** Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing connectivity;
- LU8.** Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.

The development proposes seven separate structures for a total of 10 units. Two structures are proposed as stand-alone single family units and four structures are duplexes. All of the units have attached garages and driveway space for parking. The applicant has submitted building elevations and proposed floorplan for a typical unit. The Zoning Ordinance minimum building size is 950 square feet. The single access to the site will be from St. Joe Center Road. An internal sidewalk will connect to the recently installed public sidewalk along St. Joe Center Road, which also connects to St. Joe Elementary School. Stormwater detention will be provided along the entry drive at the southwest corner of the site. Due to the site having multiple units on a single parcel adjacent to residential zoning districts, screening is required between the complex and the adjacent neighborhood. Code B-3 consists of a 6-foot tall solid fence with trees planted every 30 feet; within a 25-foot width. The approved development plan includes privacy fencing and trees along the east, north and west property lines, meeting the ordinance requirement. The applicant would like to save as many existing trees along the east property line as they can.

The applicant is proposing a freestanding monument sign along St. Joe Center Road. The sign shall not exceed 8 feet in height and 50 square feet in area.

Two waivers of setback standards are being requested for the development. The interior building separation on the eastern units will be reduced to 15 feet (from 25) and the southernmost unit will be 11 feet from the existing single family home parcel. The exterior setbacks on the north and east property lines will be met, while the western edge will have a reduction from 30 feet to 25 feet, adjacent to the school.

The applicant submitted a voluntary written commitment that was revised through the public hearing process. The commitment limits the building height to 35 feet (all residential districts are allowed 40 feet), and the units are capped at a total of 10 for the site. The revised landscape and screening plan is also tied to the written commitment, which will run with the land, not the property owner.

Here are the items that were modified from the original submittal as a result of the public hearing, comments from reviewing agencies and neighbors:

- Total units reduced from 12 to 10.
- Perimeter setback increased adjacent to neighborhood.
- Landscaping and fencing included to meet the ordinance and address comments from the school.
- Increased turn-around which accommodates emergency vehicles.
- Internal sidewalk added on the private drive to connect to public walk.
- Decreased density at northern end of project.

PUBLIC HEARING SUMMARY:

Presenter: Thomas Niezer, Barrett McNagny, representing Envision US, presented the proposal as outlined above.

Public Comments:

Betty Forehand, 6227 Twisted Oak Court – Concerns include number of units, fire access, garbage pickup, sidewalks, screening, light pollution, too much happening in the space allowed.

Steve Bohan, 6606 Oak Forest Trail – Concerns include landscape screening, drainage, waivers, and too much in the space allowed.

Eugene Daley, 6523 Oak Mill Place – Concerns include property values, waivers, pond liability, drainage, traffic safety, developers are too young/new, spot zoning.

Rebuttal: Tom Niezer

Offered to meet with the neighborhood before the hearing but the offer was not accepted. The property is adjacent to a school, commercial zoning and near a commercially developed intersection. The property will not redevelop as a single family use. A transitional use like a duplex project is an appropriate redevelopment type. They are willing to restrict the number of units and the height, add landscaping and will reconsider the waiver requests.

Post-Hearing: The applicants met with representatives from the neighborhood and submitted a revised plan and written commitment, with the changes listed above.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2021-0006

APPLICANT:	Envision US, LLC
REQUEST:	To rezone property from R1/Single Family Residential to R3/Multiple Family Residential for a primary development plan for a 12-unit multiple family residential complex.
LOCATION:	The site is located on the north side of the 6600 block of St. Joe Center Road. The site lies to the east of St. Joseph Central School, and south and west of Jonathon Oaks Subdivision (Section 15 of St. Joseph Township).
LAND AREA:	Approximately 1.9 acres for rezoning Approximately 1.6 acres for development
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	R3/Multiple Family Residential

The Site Committee returns Rezoning Petition REZ-2021-0006 with a Written Commitment to Common Council, with a recommendation of "Do Pass" for the reasons stated below:

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 general area has seen a mixture of land developments from commercial to single-family residential land uses. This proposal will provide infill development using existing infrastructure. The comprehensive plan supports this development through the following objectives:
 - LU1. Encourage carefully planned growth by utilizing the conceptual development map as part of the community's land use decision-making process;
 - LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;
 - LU5. Encourage sustainable growth and quality development, revitalization and redevelopment by increasing and enhancing connectivity;
 - LU8. Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.
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. Site plan and architectural review from the Plan Commission and staff will ensure a compatible development that complements the neighborhood.
3. Approval is consistent with the preservation of property values in the area. This proposal provides another housing choice for residents who choose to age in place in the northeast community. The proposed residential development provides a buffer between the single family residential uses and the commercial and other non-residential uses to the west and south.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Review by City engineering departments indicates that the site can be developed for residential uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on March 15, 2021.



Kimberly R. Bowman, AICP
Executive Director
Secretary to the Commission



Rezoning Petition REZ-2021-0006 and Primary Development Plan PDP-2021-0006 - Cottages of St. Joe Center



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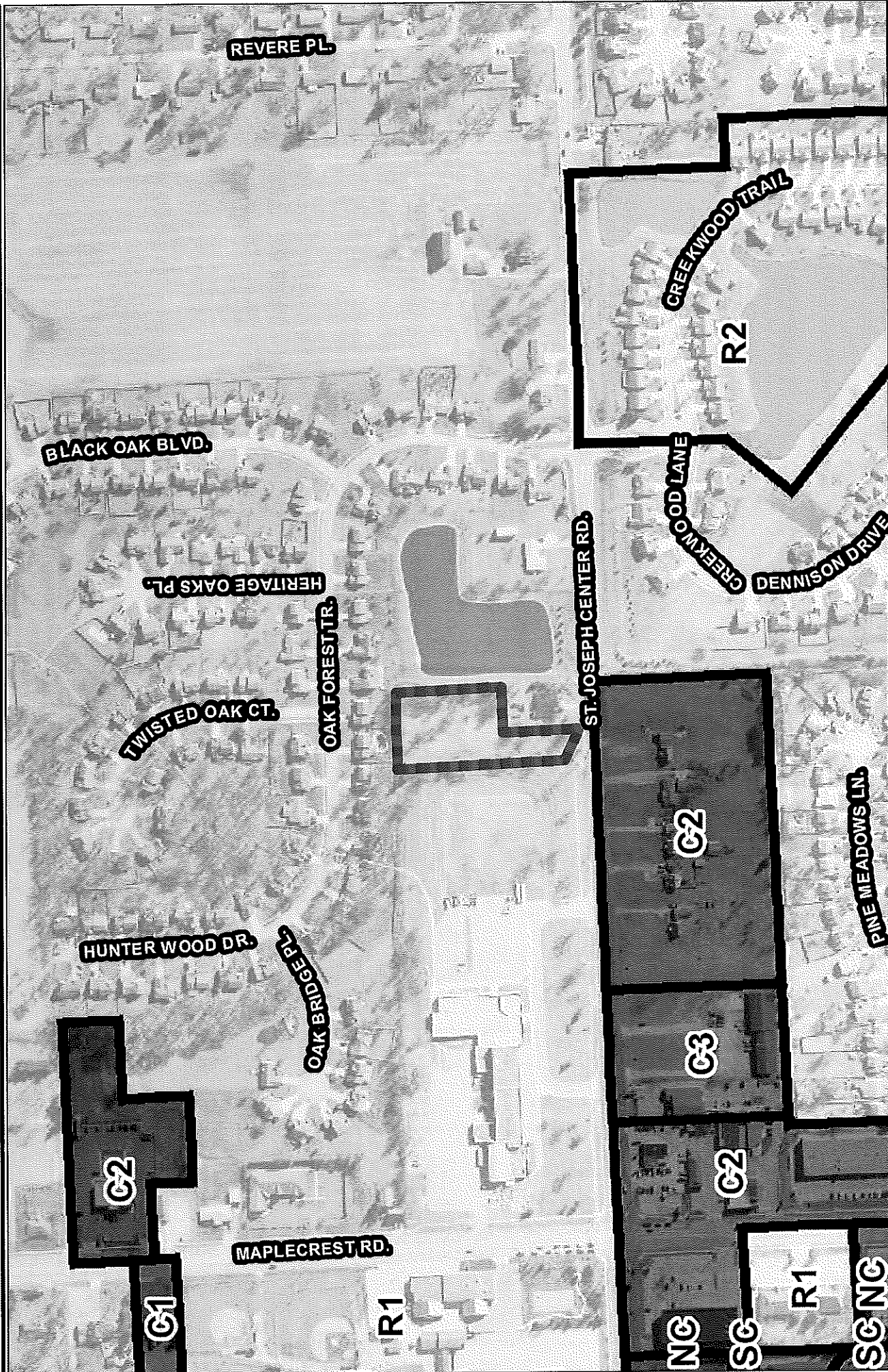
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Photo and Contours Spring 2009
Date: 2/11/2021



1 inch = 300 feet
0 250 500 Feet

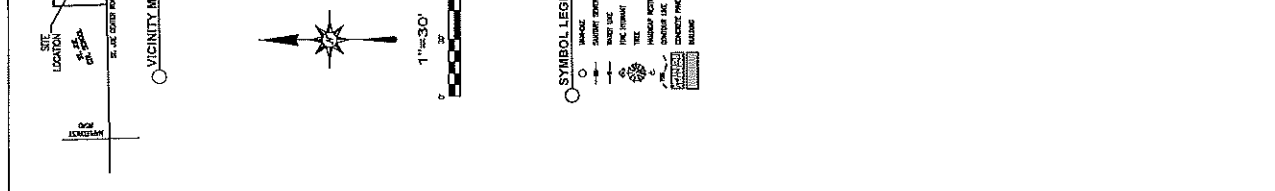


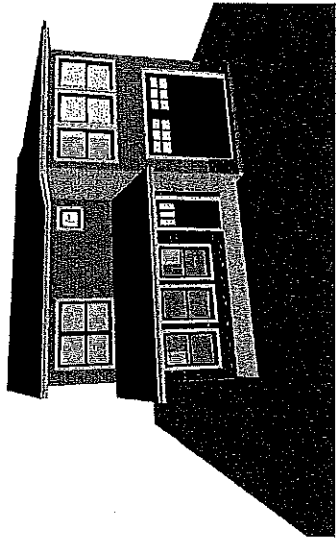
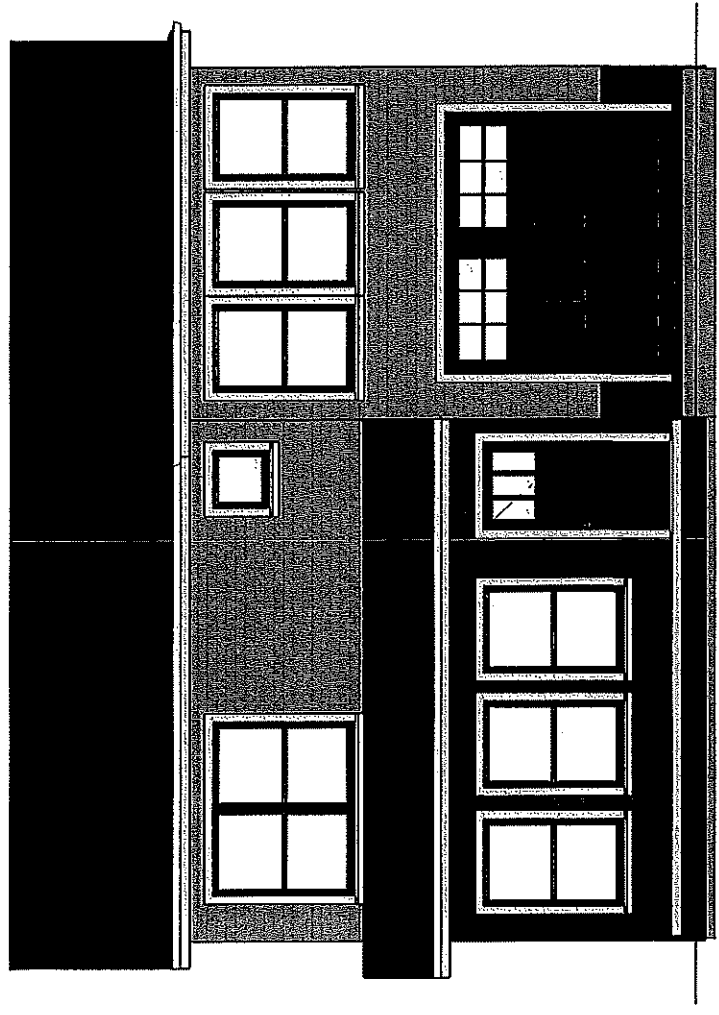
Rezoning Petition REZ-2021-0006 and Primary Development Plan PDP-2021-0006 - Cottages of St. Joe Center



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North American Datum 1983
State Plane Coordinate System, Indiana East
Photos and Contours: Spring 2009
Date: 2/11/2021

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SQUARE FOOTAGE

GENERAL NOTES:

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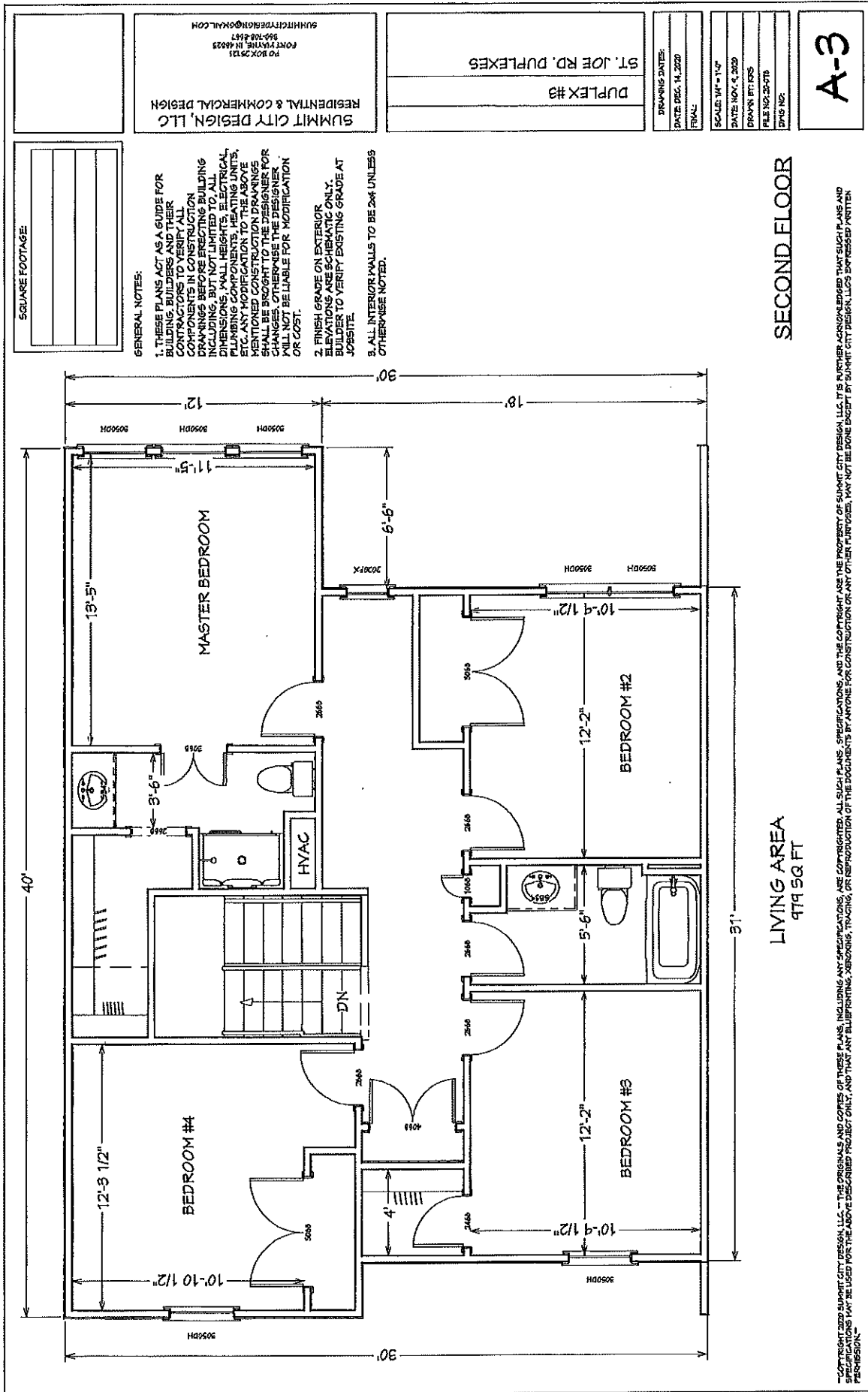
SUMMIT CITY DESIGN, LLC
RESIDENTIAL & COMMERCIAL DESIGN
FORT WAYNE, IN 46825
PO BOX 25121
94-101-188
SUMMITCITYDESIGN@GMAIL.COM

DUPLEX #3
ST. JOE RD. DUPLEXES

DRAWING DATES
DATE: DEC. 14, 2020
FINAL
SCALE: 1/4" = 1'-0"
DATE: NOV. 9, 2020
DESIGN: EIT, JCS
FILE NO: 20-079
DWG NO:

A-1

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**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Envision US, LLC
Address P.O. Box 85022
City Fort Wayne State IN Zip 46885
Telephone 260-452-6005 E-mail chris@cammackstates.com

Contact Person
Contact Person Thomas M. Niezer
Address 215 East Berry Street
City Fort Wayne State IN Zip 46802
Telephone 260-423-8898 E-mail tmn@barrettllaw.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 TBD / 6641 St. Joe Center Road
Present Zoning R-1 Proposed Zoning R-3 Acreage to be rezoned 1.848
Proposed density N/A units per acre
Township name St. Joseph Township section # 15
Purpose of rezoning (attach additional page if necessary) To provide for rezoning and primary development plan for multi-family residential housing; known as the Cottages of St. Joe Center Road.
Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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 \$0.85 per notice and a public notice fee of \$50.00 per Indiana code.

See attached Exhibit "A"

_____ (printed name of applicant)	_____ (signature of applicant)	_____ (date)
_____ (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>2-2-2021</u>	Receipt No. <u>136080</u>	Hearing Date <u>3-8-2021</u>	Petition No. <u>REZ-2021-0006</u>
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EXHIBIT A

Signature Page

ENVISION US, LLC
Applicant and Owner

By:

Chris C.
Christopher Cammack, Manager

February 2, 2021
Date

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made this ____ day of March, 2021 by Envision US, LLC, (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 1.848 acres of real estate located on Saint Joe Center Road 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 R1/Single Family Residential to a R3/Multiple Family Residential zoning district, bearing number REZ-2021-0006 (the "Petition"), which Petition has been approved by the City of Fort Wayne Plan Commission (the "Plan Commission" (the "Plan Commission") and City Council; and

WHEREAS, contemporaneously with the Petition, Declarant submitted a primary development plan application for development of the Real Estate bearing number PDP-2021-0006 (the "PDP"), which PDP has also been approved by the Plan Commission; 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 Petition and PDP, 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 Petition and PDP by the Plan Commission and approval of the Petition by Fort Wayne Common 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 use shall be prohibited upon the Real Estate:
 - a. Fraternity or sorority house;
 - b. Off-site campus housing;
 - c. Group residential facility; and
 - d. Two family dwelling

2. Building Height. No structure shall exceed thirty-five feet (35') in height and be designed with no more than two stories of building construction above ground level.

3. Units. The maximum number of dwelling units upon the Real Estate within the confines of the PDP shall be 10.
4. Landscape and Buffer Plan. Declarant shall install and landscape and buffering plan consistent with the PDP, which is attached hereto as Exhibit "B" (the "Buffer and Landscape Plan"). The Buffer and Landscape Plan shall, at time of installation, conform with the terms and provisions of the City of Fort Wayne Zoning Ordinance and shall be installed and planted no later than issuance of the initial certificate of completion for the first dwelling unit constructed upon the Real Estate. Declarant shall use all commercially reasonable efforts to maintain and, as necessary, replace, the elements and materials which comprise the Buffer and Landscape Plan.
5. Permits. No permits shall be issued under the Ordinance by the Zoning Administrator 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.
6. 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 or the Board of Zoning Appeals (the "BZA"), as applicable, following a public hearing held by the Plan Commission or BZA wherein notice has been given as provided by the Plan Commission's and BZA's rules of procedure.
7. 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.
8. 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, the BZA, 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, the BZA, 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, the BZA, or any enforcement official designated in the zoning ordinance are cumulative, not exclusive.
9. 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.

10. 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 2020053425.
11. 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.
12. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.
13. 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"

ENVISION US, LLC

By: _____
Printed Name: Christopher Cammack
Title: Manager

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this ____ day of March ___, 2021, personally appeared Christopher Cammack, the Manager of Envision US, LLC. and 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 Thomas M. Niezer, Esq., Barrett McNagny LLP, 215 East Berry Street, Fort Wayne, IN 46802, Attorney ID 11274-02

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. Thomas M. Niezer, Esq.

When Recorded, mail to: Thomas M. Niezer, Esq., 215 East Berry Street, Fort Wayne, IN 46802

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

Part of the East 2 acres of the South 15 acres of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana; thence North along the East line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 40.0 feet to the POINT OF BEGINNING; thence continuing North along the West $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 and the West line Block "E" of Jonathon Oaks, Section I a distance of 432.9 feet to the Southeast corner of Lot 41 in Jonathon Oaks, Section I; thence West with a deflection angle to the left of 89 degrees 57 minutes (88 degrees 13 minutes 30 seconds, recorded) along the South line of Lot 40 and Lot 41 in Jonathon Oaks Section I and the South line of Lot 53 in Jonathon Oaks, Section II, a distance of 191.0 feet to the Northeast corner of a tract of land conveyed to Fort Wayne Community Schools as recorded in Document 79-09956; thence South with a deflection angle to the left of 91 degrees 33 minutes along the East line of the Fort Wayne Community Schools tract a distance of 436.5 feet to a point 40 ft. North on the South line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13; thence East with a deflection angle to the left of 89 degrees 33 minutes parallel with the South line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 15-31-13 a distance of to the point of beginning 1.848 acres, excepting therefrom the South 30 feet taken for road right of way.

PRELIMINARY DEVELOPMENT PLAN DESCRIPTION

Part of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 15, Township 31 North, Range 13 East, Allen County Indiana; thence North 02 degrees 55 minutes 25 seconds West (INDOT GPS datum and basis for this description) along the East line of the West Half of the Southwest Quarter of Section 15 a distance of 170.7 feet to the POINT OF BEGINNING; thence North 02 degrees 55 minutes 25 seconds West along the East line of the West Half of the Southwest Quarter of Section 15 and along the West line of Block "E" in Jonathon Oaks Section I (Plat Cabinet A, page 74) a distance of 301.68 feet to the Southwest corner of Lot Number 42 in Jonathon Oaks Section I; thence South 89 degrees 05 minutes 36 seconds West along the South line of Jonathon Oaks section I and Jonathon Oaks section II a distance of 191.23 feet; thence South 04 degrees 26 minutes 01 seconds East along the East line of a tract of land conveyed to Fort Wayne Community Schools a distance of 403.48 feet to a point on the North right of way line of St. Joe Center Road; thence South 66 degrees 43 minutes 58 seconds East (South 65 degrees 54 minutes 44 seconds East, recorded) along said right of way line a distance of 80.0 feet; thence North 87 degrees 19 minutes 27 seconds East along said right

of way line a distance of 25.69 feet; thence North 02 degrees 55 minutes 24 seconds West a distance of 110.0 feet; thence North 73 degrees 18 minutes East a distance of 85.46 feet to the point of beginning containing 1.594 Acres.

~~C~~ ST. JOE CENTER ROAD

