

#REZ-2022-0020
BILL NO. Z-22-05-24

ZONING MAP ORDINANCE NO. Z-_____

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. BB-02 (Sec. 10 of Aboite)**

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

SECTION 1. That the area described as follows is hereby designated a C2 (Limited
Retail) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
Wayne, Indiana:

Part of a tract described in Document Number 910024737):

Part of the Northeast Quarter of Section 10, Township 30 North, Range 11 East, Allen County,
Indiana, based on an original survey by Joseph R. Herendeen, Indiana Professional Surveyor
Number 20900190 of Sauer Land Surveying, Inc., Survey No. 140-169, dated April 28, 2022,
and being more particularly described as follows, to-wit:

Commencing at the North Quarter corner of said Section 10, being marked by a cast iron
monument; thence North 89 degrees 41 minutes 27 seconds East (GPS grid bearing and basis of
all bearings in this description), on and along the North line of said Northeast Quarter, being
within the right-of-way of Illinois Road (State Road #14), a distance of 874.08 feet to the
Northeast corner of a 9.95 acre base tract of real estate described in a deed to Aboite United
Methodist Church in Document Number 910024737 in the Office of the Recorder of Allen
County, Indiana; thence South 00 degrees 13 minutes 11 seconds East, on and along the East line
of said 9.95 acre tract, a distance of 60.00 feet to a #5 rebar at the point of intersection of said
East line with the South right-of-way line of said Illinois Road (State Road #14), as described in
a deed to the State of Indiana in Document Number 930070576 in the Office of said Recorder,
this being the true point of beginning; thence South 00 degrees 13 minutes 11 seconds East,
continuing on and along said East line, a distance of 240.00 feet to a #5 rebar; thence South 89
degrees 41 minutes 27 seconds West and parallel with the North line of said Northeast Quarter, a
distance of 222.17 feet to a #5 rebar; thence North 00 degrees 18 minutes 33 seconds West, a
distance of 60.00 feet to a #5 rebar; thence South 89 degrees 41 minutes 27 seconds West and
parallel with the North line of said Northeast Quarter, a distance of 75.00 feet to a #5 rebar;
thence North 00 degrees 18 minutes 33 seconds West, a distance of 165.00 feet to a #5 rebar on
the South right-of-way line of said Illinois Road (State Road #14); thence North 89 degrees 41
minutes 27 seconds East, on and along said South right-of-way line, a distance of 87.54 feet to a
#5 rebar; thence North 00 degrees 18 minutes 33 seconds West, continuing on and along said
South right-of-way line, a distance of 15.00 feet to a #5 rebar; thence North 89 degrees 41
minutes 27 seconds East, continuing on and along said South right-of-way line, a distance of
210.00 feet to the true point of beginning, containing 1.505 acres of land, and subject to all
easements of record.

1 and the symbols of the City of Fort Wayne Zoning Map No. BB-02 (Sec. 10 of Aboite
2 Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
3 Wayne, Indiana is hereby changed accordingly.
4

5 SECTION 2. If a written commitment is a condition of the Plan Commission's
6 recommendation for the adoption of the rezoning, or if a written commitment is modified and
7 approved by the Common Council as part of the zone map amendment, that written
8 commitment is hereby approved and is hereby incorporated by reference.
9

10 SECTION 3. That this Ordinance shall be in full force and effect from and after its
11 passage and approval by the Mayor.
12

13 _____
14 Council Member

15 APPROVED AS TO FORM AND LEGALITY:

16 _____
17 Malak Heiny, City Attorney
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City of Fort Wayne Common Council

DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2022-0020
Bill Number: Z-22-05-24
Council District: 4 – Jason Arp

Introduction Date: May 24, 2022

Plan Commission
Public Hearing Date: June 13, 2022 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 1.5 acres from AR/Low Intensity Residential to C2/Limited Commercial

Location: 9925 Illinois Road

Reason for Request: To allow for a multi-tenant retail building.

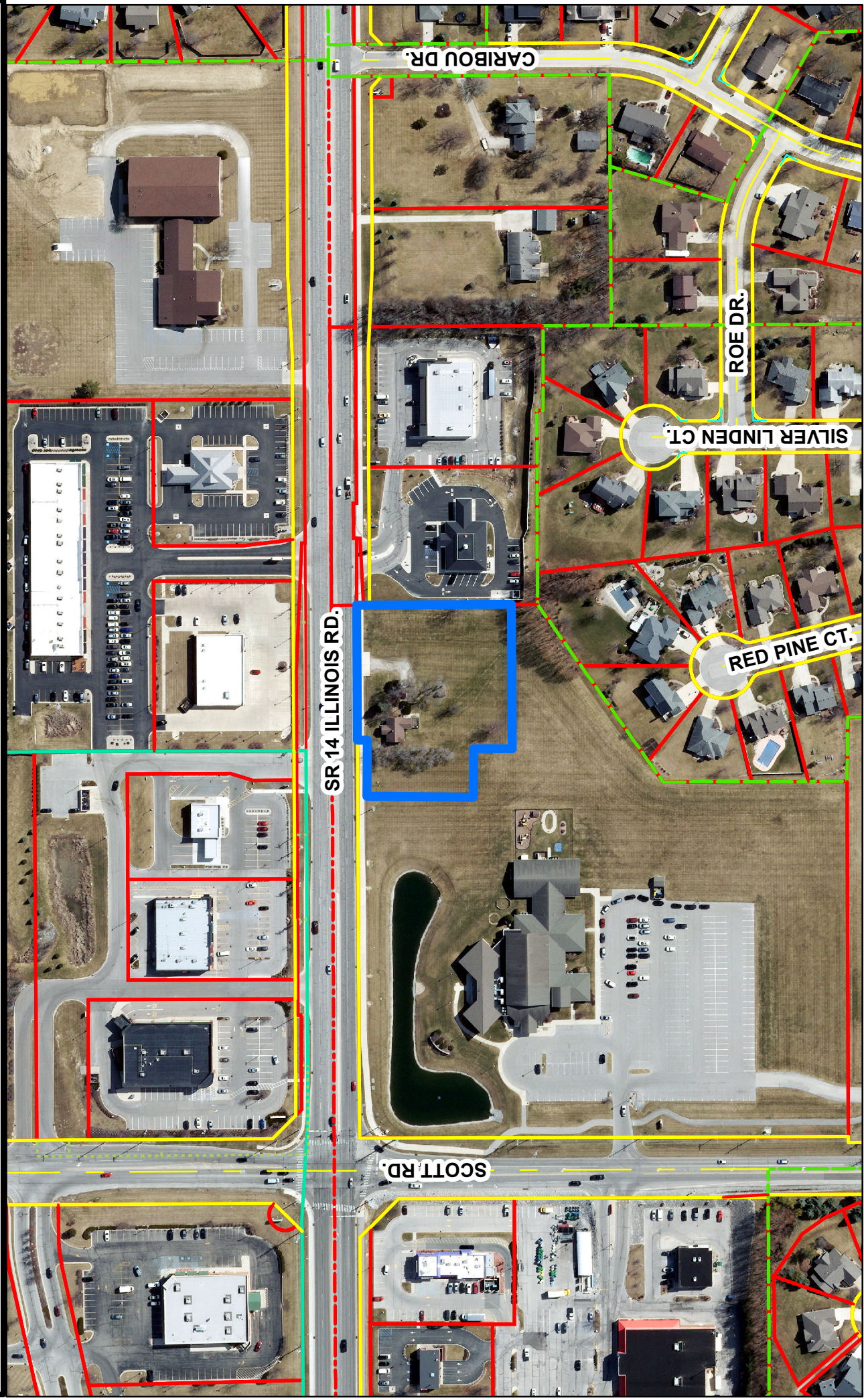
Applicant: Newberry Real Estate, LLC

Property Owners: Newberry Real Estate, LLC

Related Petitions: Primary Development Plan, 9925 Illinois Road Commercial

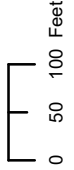
Effect of Passage: Property will be rezoned to the C2/Limited Commercial zoning district, which will allow for a variety of retail and limited commercial services.

Effect of Non-Passage: The property will remain zoned for residential and low intensity agricultural uses. The property was formally part of the Sonrise Church property and is situated between the church and commercial/retail development.



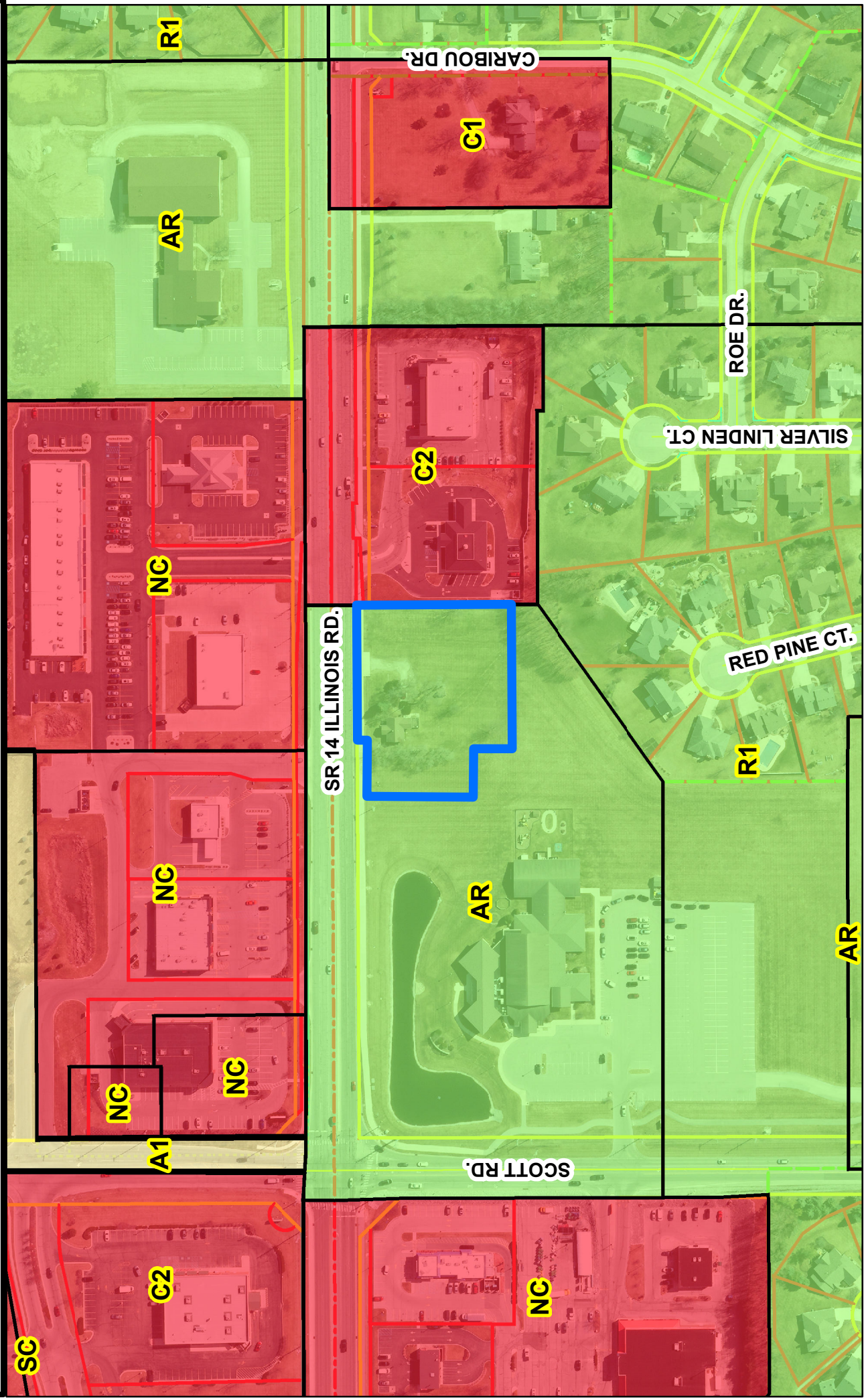
Although strict accuracy standards have been employed in the compilation of this map, Allen County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission in this map.

© 2004 Board of Commissioners of the County of Allen
 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 5/16/2022



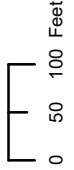
1 inch = 200 feet

REZ-2022-0020 and PDP-2022-0008 - 9925 W SR 14



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© 2004 Board of Commissioners of the County of Allen
 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos and Contours: Spring 2009
 Date: 5/16/2022



1 inch = 200 feet

**Department of Planning Services
Rezoning Petition Application**

Applicant
Applicant Newberry Real Estate, LLC
Address 1971 Lunenburg Drive
City Westfield State Indiana Zip 46074
Telephone 312-961-3021 E-mail mrykovich@nbrellc.com

Contact Person
Contact Person Mark Rykovich
Address 1971 Lunenburg Drive
City Westfield State Indiana Zip 46074
Telephone 312-961-3021 E-mail mrykovich@nbrellc.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 10125 Illinois Rd, Fort Wayne, IN
Present Zoning AR Proposed Zoning C2 Acreage to be rezoned 1.5
Proposed density 1 commercial multi-tenant building units per acre
Township name Aboite Township section # 0123011
Purpose of rezoning (attach additional page if necessary) see attached

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.

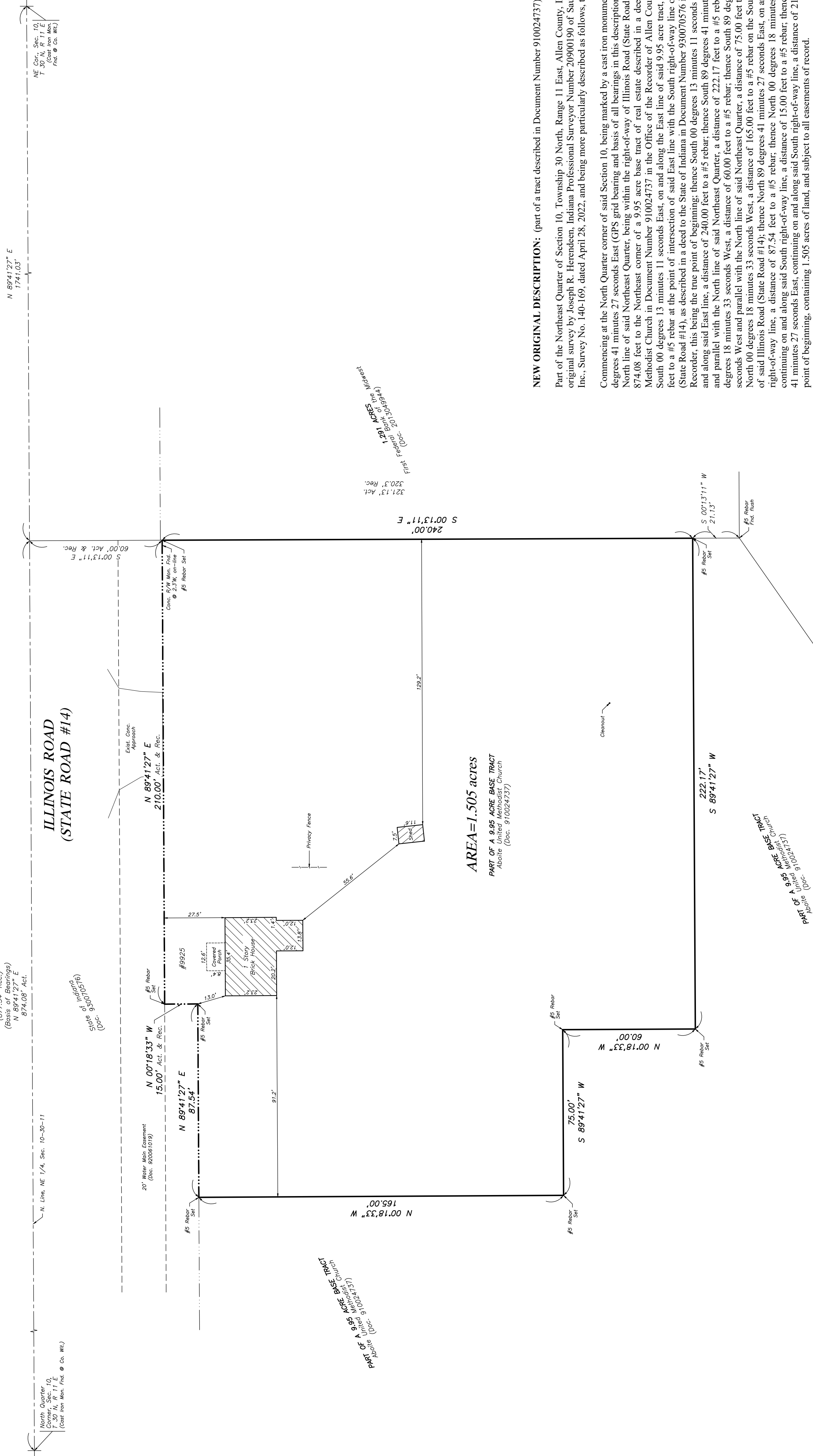
- ☐ Applicable filing fee
- ☐ Applicable number of surveys showing area to be rezoned (plans must be folded)
- ☐ Legal Description of parcel to be rezoned
- ☐ Rezoning Questionnaire (original and 10 copies) County Rezoning Only

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.

Mark J. Rykovich [Signature] 3/30/2022
(printed name of applicant) (signature of applicant) (date)
Joseph W Clark [Signature] 4/4/2022
(printed name of property owner) (signature of property owner) (date)
(printed name of property owner) (signature of property owner) (date)
(printed name of property owner) (signature of property owner) (date)

Received	Receipt No.	Hearing Date	Petition No.
<u>5-3-22</u>	<u>140121</u>	<u>6-13-22</u>	<u>RET-2022-0029</u>

PLAT OF ORIGINAL SURVEY



SURVEYOR'S REPORT

Prepared as a part of the foregoing survey.

Address: 9925 Illinois Road (State Road #14), Fort Wayne, IN 46814

This survey is intended to create a new tax parcel lying entirely within the remainder of the record boundaries of a tract of real estate described in a Warranty Deed from Louis P. Gallucci, Peter F. Gallucci, Frank L. Gallucci, Jr., and Sandra M. Wardell, to Aboite United Methodist Church, dated June 17, 1991, and recorded in Document Number 910024737 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) the existence of 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 survey of the 9.95 acre base tract by Col & Dickmeyer, Inc., Document Number 910032847.
- A survey of an East adjoining tract by Donovan Engineering, Inc., Document Number 2013049944.

(A) AVAILABILITY OF REFERENCE MONUMENTS:

The following monuments were accepted and held as controlling monuments at the following locations:

- The North Quarter corner of Section 10, Allen County, Indiana, County witnessed east from monument found.
- The Northeast corner of Section 10, Allen County, Indiana, County witnessed east from monument found.
- The North line of the Northeast Quarter of Section 10 was established by using the above-referenced monuments. Uncertainties due to variances between found controlling monuments and record distances were determined to be a maximum of 3.46 feet in the East-West direction and 0.83 feet in the North-South direction. Uncertainties due to variances between all found monuments and record distances were determined to be 3.46 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 base line of the subject tract. The following monuments and descriptions are hereby accepted and held as controlling monuments or man-made obstructions. There are no observable uncertainties in occupation and/or possession lines.

(C) AMBIGUITY OF RECORD DESCRIPTIONS:

Upon review of the most current deeds of record, the base tract description does not contain any ambiguity with any of 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 Urban Survey (0.07 feet plus 50 ppm) as defined by IAC 865.

(E) ESTABLISHMENT OF LINES AND CORNERS:

- The East line of subject tract was established on and along the West line of the 1.291 acre First Federal tract, using record geometry and found monuments at the Northeast corner of Section 10 and the Southeast corner of said 1.291 acre tract.
- The most Easterly North line of subject tract was established parallel with and 60 feet normally distant Southwestward from the North line of the Northeast Quarter, at its record distance from the above-established East line of subject tract.
- The most Northerly West line of subject tract was established at right angles from the above-established most Easterly North line of subject tract, at its record distance.
- The remaining North line of subject tract was established parallel with and 75 feet normally distant Southwestward from the West line of the Northeast Quarter.
- The remaining lines of subject tract were established at the direction of the client.

(F) NOTES:

- 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.
- 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 be conducted to determine the ownership and rights of others not otherwise apparent. As of this date, no title commitment has been provided for review.
- The flood statement herein 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.
- 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.
- 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.
- 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.
- 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.
- Any fence or other evidence of possession which varies from the written title lines may constitute adverse possession or prescriptive rights.
- Subsurface and environmental conditions were not examined or considered as a part of this survey.
- 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.
- 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 survey.
- Since the last date of fieldwork 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.
- 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.
- No statement made by any employee or agent of Sauer Land Surveying, Inc., is valid unless written herein.

Last Deed of Record: Doc: 910024737
Last Date of Fieldwork: April 28, 2022

This property appears to lie within Zone X as the description plots by scale on Flood Insurance Rate Map Numbered 18031C 0266G, effective August 3, 2009.

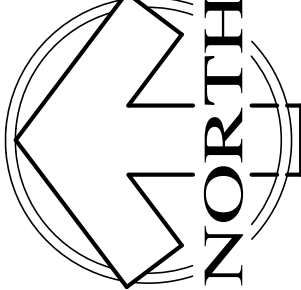
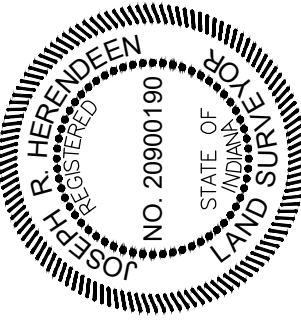
CERTIFICATE OF SURVEY

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 mapping in accordance with the record on file in the Office of the Recorder of Allen County, Indiana. The survey was conducted by Joseph R. Herenden, Indiana Professional Surveyor Number 20900190 of Sauer Land Surveying, Inc., Survey No. 140-169, dated April 28, 2022, and being more particularly described as follows, to-wit:

boundary lines unless specifically stated hereon. Corners were perpetuated as indicated.

I, Joseph R. Herenden, affirm, under the penalties for perjury, that I have taken reasonable care to reduce 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.

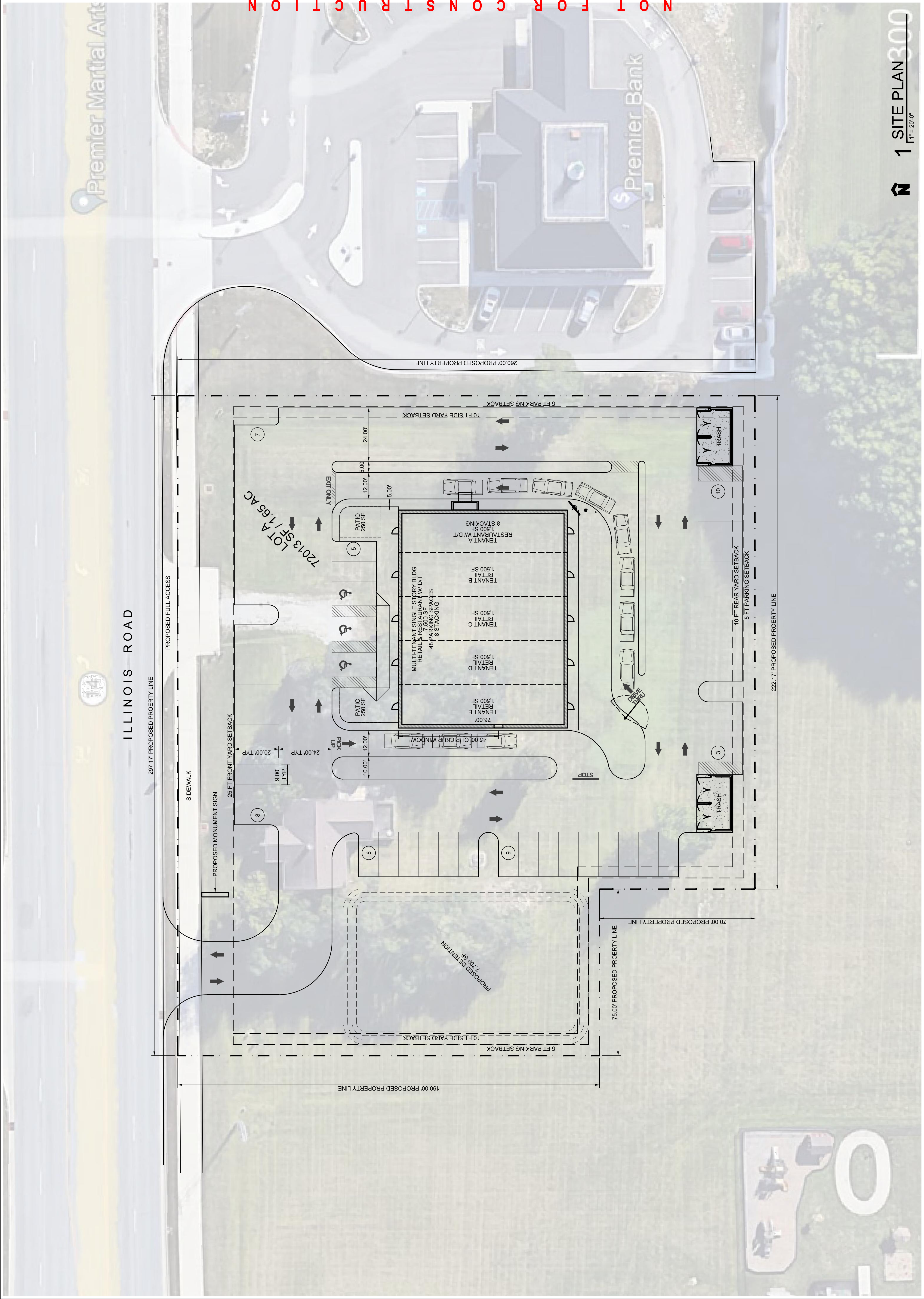
Joseph R. Herenden Date: 04/28/2022
Indiana Professional Surveyor



SCALE IN FEET:
0 30 60

Revisions:		For: Aboite United Methodist Church	
Drawn By:	JRH	By:	Sauer Land Surveying, Inc.
Checked By:	RNP		14033 ILLINOIS ROAD, SUITE C FORT WAYNE, IN 46814 TEL: 260/469-3300 / FAX: 260/469-3301
Scale:	1" = 30'	Job No.	140-169
Date:	April 28, 2022		

IAC 865 Survey & Surveyor's Report
Part of the Northeast Quarter of Section 10,
Township 30 North, Range 11 East, Allen County, Indiana.



1 SITE PLAN 300
1" = 20'-0"

V5

SITE PLAN

SHEET TITLE & NUMBER

Project Number: 21-XXX		Drawn By: ES	Approved By: ES	Date
No.	Issue			
SITE PLAN V1 & V2		09-27-2021		
SITE PLAN V3 & 4		02-04-2022		
SITE PLAN V5		04-27-2022		

CLIENT REVIEW

ARCHITECT
DXU ARCHITECTS
CONSULTANTS
412 S. Wells Street • 2nd Floor • Chicago • IL • 60607
P: 312.955.9334 • K: 312.955.9335 • E: info@dxuarch.com

LICENSE EXPIRES ON:
DATE OF SIGNATURE:
SEAL

CLIENT
NEWBERRY REAL ESTATE

PROJECT
RESTAURANT DEVELOPMENT
NEAR 10125 ILLINOIS RD
FORT WAYNE, IN

MUNICIPAL APPROVAL STAMP



1 SOUTH ELEVATION

1/8" = 1'-0"

CLIENT

NBRE

RETAIL DEVELOPMENT - ILLINOIS RD, FORT WAYNE, IN

PRELIMINARY FRONT ELEVATION

DATE

03-24-2022

SHEET NO.

DXU

ARCHITECTS

412 S. Wells Street • 2nd Floor • Chicago • IL • 60607
P: 312.955.0334 • d x u a r c h . c o m

EE-3