

1 #REZ-2019-0043

2 BILL NO. Z-19-06-20

3
4 ZONING MAP ORDINANCE NO. Z- 28-19

5 AN ORDINANCE amending the City of Fort Wayne
6 Zoning Map No. H-15 (Sec. 21 of Wayne Township)

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

9
10 SECTION 1. That the area described as follows is hereby designated an I1 (Limited
11 Industrial) District under the terms of Chapter 157 Title XV of the Code of the City of Fort
12 Wayne, Indiana:

13 Part of the North Quarter of Section 29, Township 30 North, Range 12 East of the
14 Second Principal Meridian, Wayne Township in Allen County, Indiana, based on an
15 original survey by Brett R, Miller, Indiana Professional Surveyor Number 20300059
16 of Miller Land Surveying, Inc., Survey No. 19014956, dated March 1, 2019, and
being more particularly described as follows:

17 Commencing at Harrison Marker marking the Northwest corner of said Northwest
18 Quarter; thence South 02 degrees 31 minutes 00 seconds East (Indiana East State
19 Plane Coordinate System, 1983 bearing and basis of bearings to follow), a distance
20 of 2156.56 feet along the West line of said Northwest Quarter and within the right-
21 of-way of Ardmore Road to a point on the South line of an existing tract of land
22 described in Document Number 203097180 in the Office of the Recorders in Allen
23 County, Indiana; thence North 88 degrees 48 minutes 33 seconds East, a distance of
24 440.12 feet along said South line to a 5/8" steel rebar with a "Miller" identification
25 cap set at the POINT OF BEGINNING of the herein described tract; thence North 02
26 degrees 31 minutes 00 seconds West, a distance of 394.74 feet to a 5/8" steel rebar
27 with a "Miller" identification cap set on the South line of Earth Industrial Park
28 Section II as described in Plat Book 37 Page 98 in the Office of the Recorders in
29 Allen County, Indiana; thence North 88 degrees 48 minutes 05 seconds East, a
30 distance of 831.21 feet along said South line to a point on the West line of an
existing 0.5 acre tract of land as described in Document Number 2016069057 in the
Office of the Recorders in Allen County, Indiana, said point being referenced by a
5/8" steel rebar with a "Hofer-Davis" identification cap found 0.16 feet North;
thence South 02 degrees 19 minutes 42 seconds East, a distance of 394.82 feet
(394.78 feet Deed) along said West line to a point on the South line of said
Document Number 203097180, said point being referenced by a 5/8" steel rebar with

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a "Hofer-Davis" identification cap found 0.36 feet North; thence South 88 degrees 48 minutes 33 seconds West, a distance of 829.92 feet along said South line to the Point of Beginning. Containing 7.526 Acres, more or less. Subject to easements of record.

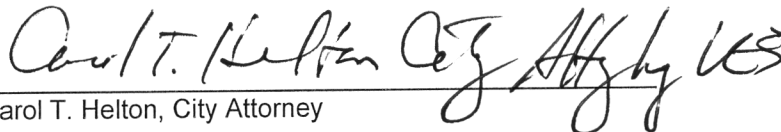
and the symbols of the City of Fort Wayne Zoning Map No. H-15 (Sec. 21 of Wayne Township), as established by Section 157.082 of Title XV of the Code of the City of Fort Wayne, Indiana is hereby changed accordingly.

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.

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


Council Member

APPROVED AS TO FORM AND LEGALITY:


Carol T. Helton, City Attorney

City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance: Zoning Map Amendment
Case Number: REZ-2019-0043
Bill Number: Z-19-06-20
Council District: 4-Jason Arp

Introduction Date: June 25, 2019

Plan Commission
Public Hearing Date: July 8, 2019 (not heard by Council)

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

Synopsis of Ordinance: To rezone approximately 7.5 acres from RP/Multiple Family Residential
to I1/Limited Industrial.

Location: 3511 Engle Road

Reason for Request: To construct a warehouse addition and stormwater detention for the
Sabert facility.

Applicant: STN Holdings, LLC

Property Owner: STN Holdings, LLC

Related Petitions: Primary Development Plan, Sabert Engle Road

Effect of Passage: Property will be rezoned to the I1/Limited Industrial zoning district,
which will allow the building expansion and detention.

Effect of Non-Passage: The property will remain zoned for residential uses only.

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant STN Realty Holdings, LLC
 Address 2288 Main Street Extension
 City Sayreville State NJ Zip 08872
 Telephone (732) 261-6438 E-mail RKarabinchak@sabert.com

Contact Person
 Contact Person Cody Ward
 Address 10060 Bent Creek Boulevard
 City Fort Wayne State IN Zip 46825
 Telephone (260) 489-8571 E-mail cody@mlswebsite.us

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 3511 Engle Rd, Fort Wayne, IN 46809
 Present Zoning RP Proposed Zoning I1 Acreage to be rezoned 7.526
 Proposed density N/A units per acre
 Township name Wayne Township section # 21
 Purpose of rezoning (attach additional page if necessary) Proposed building addition.
 Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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.

- Filing 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.

Robert Karabinchak [Signature] 6/4/19
 (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>6-4-19</u>	Receipt No. <u>130686</u>	Hearing Date <u>7-8-19</u>	Petition No. <u>REZ-2019-0043</u>
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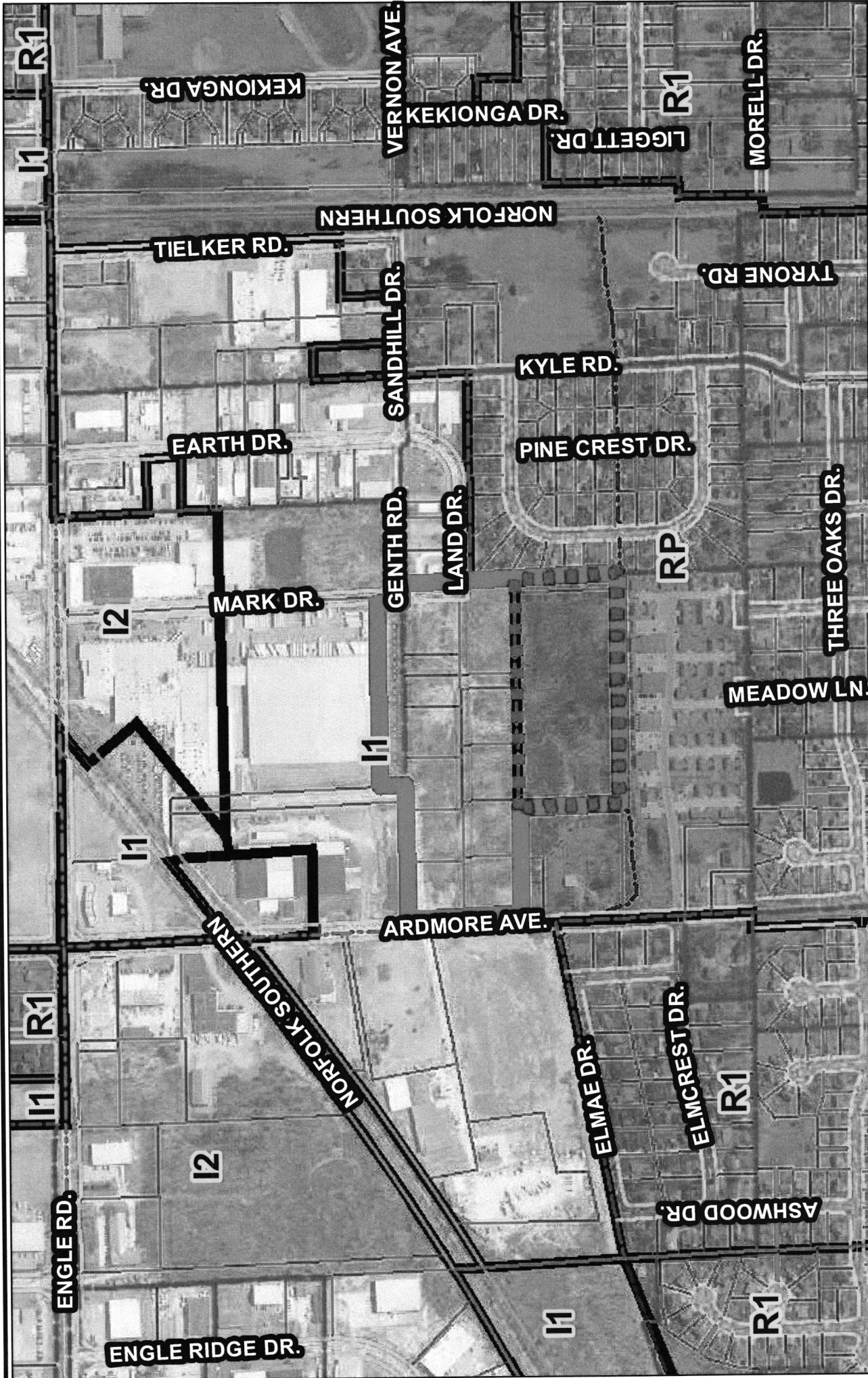
Rezoning Petition REZ-2019-0043 and Primary Development Plan PDP-2019-0036 - Sabert Engle Road



1 inch = 500 feet



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PROPOSED DR
DETENTION
BASIN

25' BUILDING SETBACK

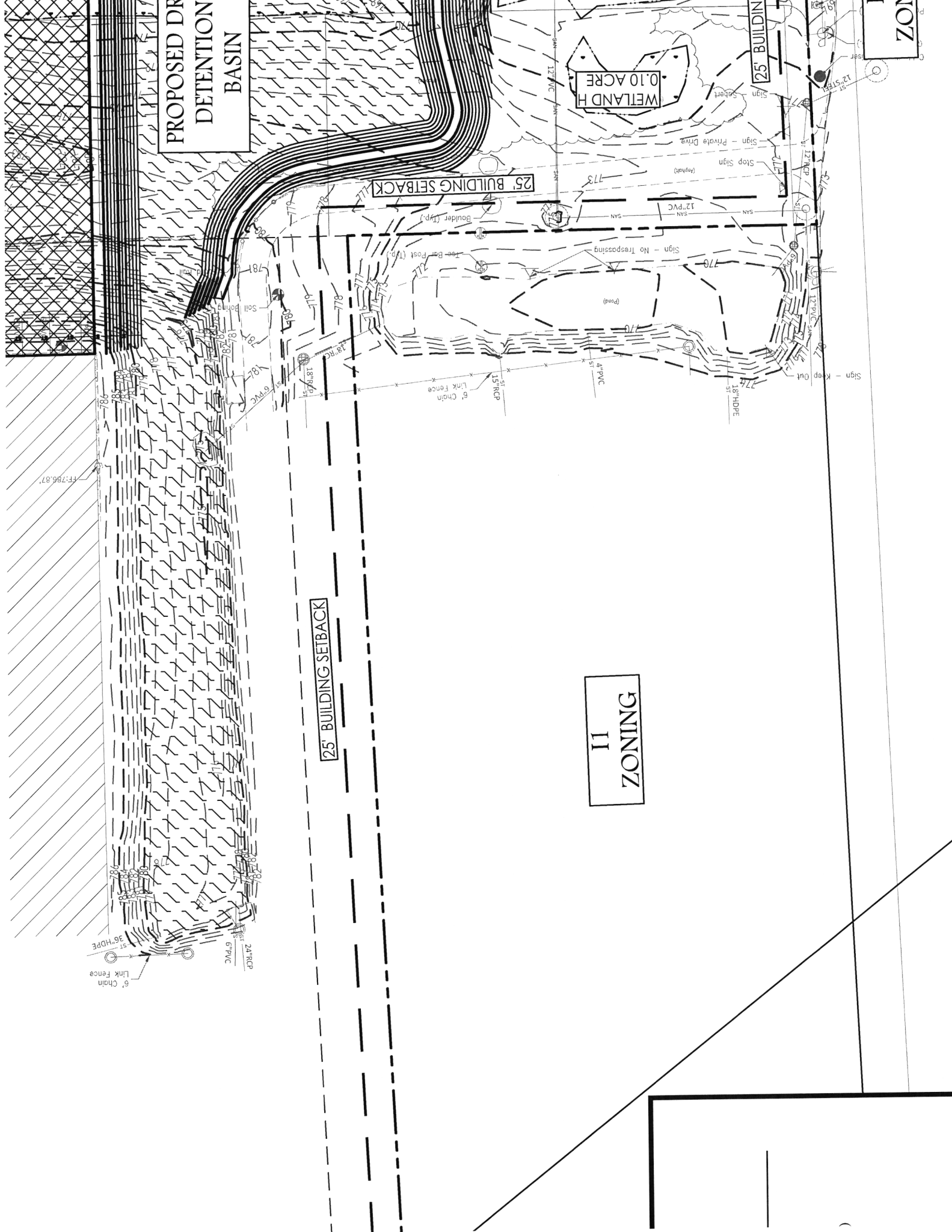
25' BUILDING SETBACK

WETLAND H
0.10 ACRE

I
ZONING

I1
ZONING

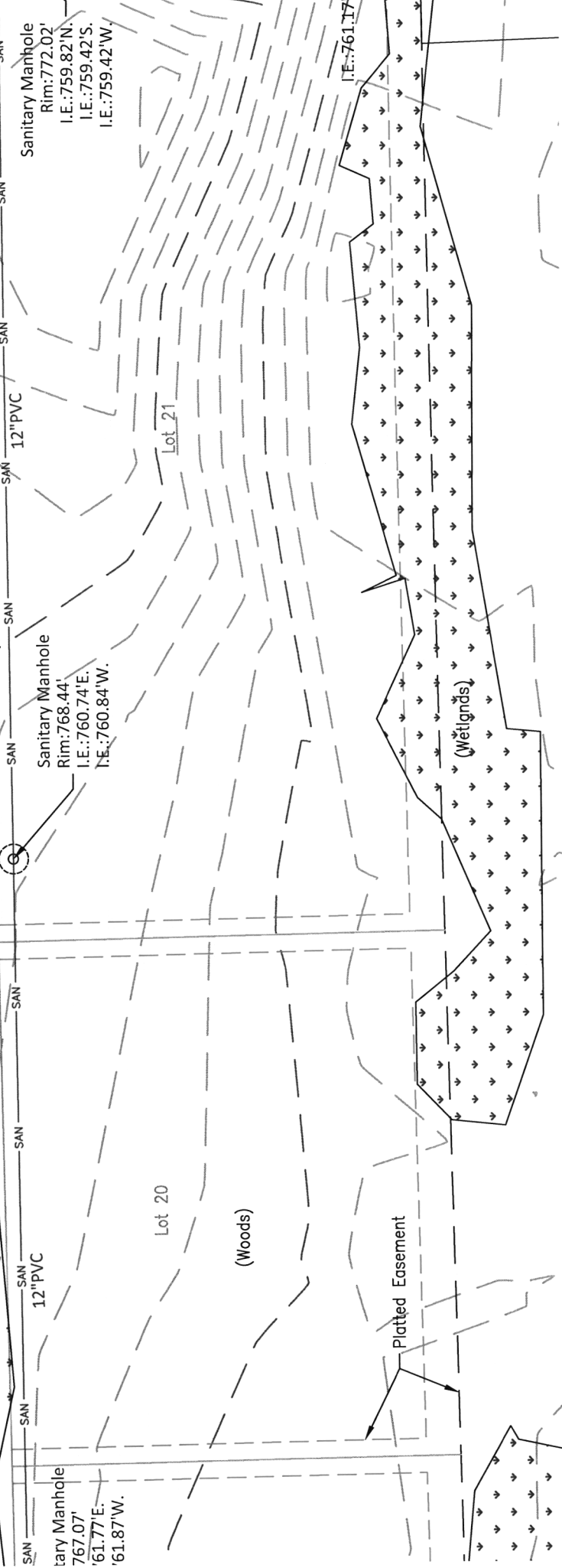
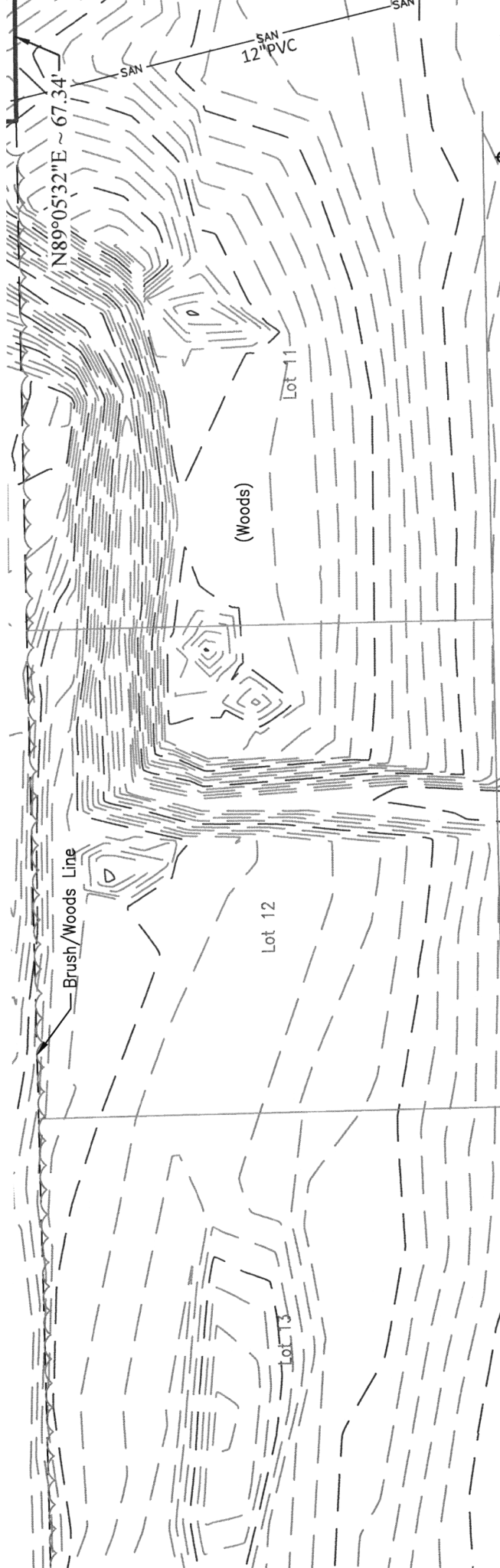
25' BUILDING SETBACK



PROPOSED BUILDING
F.F.=786
289,664 S
397'X7

PROPOSED DRY
DETENTION BASIN





N89°05'32"E ~ 67.34'

SAN
12" PVC

TBM#7778

S89°12'21"W ~ 1.41'

SAN

SAN
12" PVC

Sanitary Manhole
Rim: 772.02'
I.E.: 759.82' N.
I.E.: 759.42' S.
I.E.: 759.42' W.

I.E.: 761.17'

Brush/Woods Line

(Woods)

Lot 12

Lot 13

Vacated Land Drive

SAN

Sanitary Manhole
Rim: 768.44'
I.E.: 760.74' E.
I.E.: 760.84' W.

SAN

SAN
12" PVC

Sanitary Manhole
767.07'
61.77' E.
61.87' W.

Lot 20

(Woods)

Platted Easement

(Wetlands)

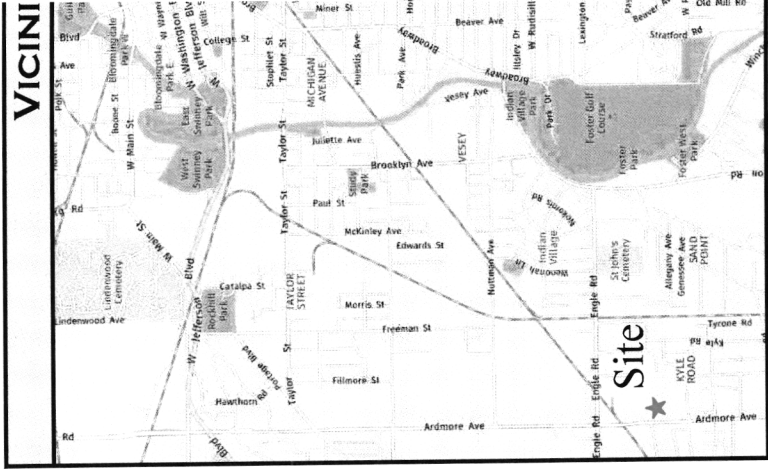
Lot 21

INVESTMENT, L.L.C. AS PARCEL III IN DOCUMENT NUMBER 2000402/1 AS SITUATED 225.0 FEET EAST OF THE WEST LINE OF THE EAST 30 ACRES OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21; THENCE NORTHERLY BY A DEFLECTION RIGHT OF 88 DEGREES 21 MINUTES 08 SECONDS (88 DEGREES 23 MINUTES, MORE OR LESS, DEED) ON A LINE PARALLEL WITH AND 225.0 FEET EAST OF THE WEST LINE OF THE SAID EAST 30 ACRES, A DISTANCE OF 596.46 FEET TO A POINT SITUATED 30.0 FEET SOUTH OF THE WESTERLY RIGHT OF 91 DEGREES 41 MINUTES 33 SECONDS PARALLEL WITH AND 30.0 FEET SOUTH OF SAID BUILDING FACE. A DISTANCE OF 698.16 FEET TO THE POINT OF BEGINNING, CONTAINING 9.535 ACRES, MORE OR LESS, OF LAND.

PARCEL 4: THE EAST 60.0 FEET OF PARCEL III, TOGETHER WITH THE EAST 60.0 FEET OF PARCEL IV AS CONVEYED FROM HARBOR INVESTMENTS, LLC TO ARDMORE PROPERTIES, LLC IN DOCUMENT NO. 203108131 IN THE OFFICE OF THE ALLEN COUNTY RECORDER, BEING A PART OF 30 ACRES OFF THE EAST SIDE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 30 NORTH, RANGE 12 EAST, ALLEN COUNTY, INDIANA, IN PARTICULAR DESCRIBED AS FOLLOWS TO-WIT:

TO ARRIVE AT THE POINT OF BEGINNING, COMMENCE ON THE NORTH LINE OF SAID QUARTER SECTION AT ITS INTERSECTION BY THE WEST LINE OF MARK DRIVE AS DEDICATED IN INSTRUMENT RECORDED IN DEED RECORD 590, PAGES 420-421; THENCE SOUTH ON THE WEST LINE OF SAID MARK DRIVE, A DISTANCE OF 531.3 FEET; THENCE WEST ON A LINE PARALLEL TO THE NORTH LINE OF SAID QUARTER SECTION BY A DEFLECTION RIGHT OF 91 DEGREES 33 MINUTES, A DISTANCE OF 698.5 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF PARCEL III AFORESAID AS COINCIDENT WITH THE SOUTHEAST CORNER OF SAID PARCEL IV AND THE POINT OF BEGINNING INITIALLY REFERRED TO, AS SITUATED 225.0 FEET EAST OF THE WEST LINE OF THE EAST 30 ACRES OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21; THENCE NORTH ALONG THE EAST LINE OF SAID PARCEL IV BY A DEFLECTION RIGHT OF 88 DEGREES 14 MINUTES, ON A LINE PARALLEL TO AND 225.0 FEET EAST OF THE WEST LINE OF THE SAID EAST 30 ACRES, A DISTANCE OF 106.3 FEET TO A MAGNETIC NAIL FOUND AT THE NORTHEAST CORNER OF SAID PARCEL IV; THENCE WEST ALONG THE NORTH LINE OF SAID PARCEL IV PARALLEL TO THE NORTH LINE OF SAID QUARTER SECTION BY A DEFLECTION LEFT OF 88 DEGREES, 14 MINUTES, A DISTANCE OF 60.03 FEET TO A #5 REBAR SET WITH FIRM 0025 CAP; THENCE SOUTH PARALLEL WITH AND 60.0 FEET NORMALLY DISTANT WEST OF SAID EAST LINE OF PARCELS III AND IV, BY A DEFLECTION LEFT OF 91 DEGREES 46 MINUTES, A DISTANCE OF 870.42 FEET, MORE OR LESS, TO A #5 REBAR SET WITH FIRM 0025 CAP ON THE SOUTH LINE OF SAID PARCEL III AS SITUATED ON THE NORTH LINE OF GENTH ROAD AS OPENED BY DEDICATION RECORDED IN PLAT BOOK 25, PAGE 1; THENCE EAST ON THE LINE AFORESAID BY A DEFLECTION LEFT OF 88 DEGREES 21 MINUTES 08 SECONDS (88 DEGREES 23 MINUTES, MORE OR LESS, DEED), A DISTANCE OF 60.03 FEET TO A #4 REBAR FOUND AT THE SOUTHEAST CORNER OF SAID PARCEL III; THENCE NORTH ALONG THE EAST LINE OF SAID PARCEL III BY A DEFLECTION LEFT OF 91 DEGREES 38 MINUTES 52 SECONDS (91 DEGREES 37 MINUTES, MORE OR LESS, DEED) A DISTANCE OF 764.0 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, SAID TO CONTAIN 1.199 ACRES.

The above Parcels 1, 2, 3 and 4 also described as PARCEL A: Begin on the North line of said quarter section at its intersection by the West line of Mark Drive; thence Southerly a distance of 1293.55 feet; thence Westerly by a deflection right of 91 degrees 24 minutes 46 seconds, a distance of 755.72; thence Northerly by a deflection right of 88 degrees 21 minutes 08 seconds, a distance of 870.42 feet; thence Westerly by a deflection left of 88 degrees 11 minutes 38 seconds, a distance of 114.57 feet; thence Northeasterly by a deflection right of 141 degrees 58 minutes 54 seconds, a distance of 690.52 feet; thence easterly by a deflection right of 38 degrees 03 minutes, a distance of 318.26 feet to the point of beginning.



This project
FIRM (Flo
dated Aug 1

Location at
lines show
Protection

- Indiana U
190417009

FACT SHEET

Case #REZ-2019-0043 Bill # Z-19-06-20 Project Start: 25 June 2019

APPLICANT:	STN Realty Holdings, LLC
REQUEST:	To rezone a portion of property from RP/Planned Residential to I1/Limited Industrial; and approve a primary development plan for a building addition and infrastructure improvements to the existing Sabert facility.
LOCATION:	The site is located on the east side of the 4400 to 4900 blocks of Ardmore Avenue, north of Tiffany Heights (Section 21 of Wayne Township).
LAND AREA:	Approximately 40.2 acres for total site Approximately 7.6 acres for rezoning
PRESENT ZONING:	I1/Limited Industrial and RP/Planned Residential
PROPOSED ZONING:	I1/Limited Industrial
COUNCIL DISTRICT:	4-Jason Arp
ASSOCIATED PROJECTS:	Primary Development Plan, Sabert
SPONSOR:	City of Fort Wayne Plan Commission

8 July 2019 Public Hearing

- One neighbor spoke at the hearing in favor.
- One neighborhood representative expressed concern over new right-of-way.
- All members were present.

15 July 2019 – Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Justin Shurley and seconded by Paul Sauerteig to return the ordinance with a Do Pass recommendation to Common Council for their final decision.

7-0 MOTION PASSED

- Connie Haas Zuber and Patrick Zaharako were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
July 19, 2019

Reviewed by:



Paul B. Blisk
Deputy Land Use Director

PROJECT SUMMARY

The petitioner requests a rezoning to the I1/Limited Industrial for a new building expansion for Sabert, a food packaging product manufacturer. Sabert currently has operations at 3511 Engle (former Mullinex buildings) and this expansion will serve as warehousing only.

The current zoning is split into two classifications: The northern portion is I1/Limited Industrial and was platted as Earth Industrial Park, Section 2 in 1975; the southern portion is being split from a residential parcel. Industrial development has been contemplated to extend south the existing development, however the internal storage needs of the business require a building that runs north-south and will extend into the residential land. Currently this property is wooded, and contains wetlands that will be mitigated. This property is in an area long-developed for industrial uses. The proposal is to expand existing operations for a company that has been investing in the Fort Wayne area. In 2018, the Plan Commission approved a new R&D and manufacturing plant for Sabert on Ardmore Road and Gulfstream Drive.

Staff can be supportive of the zoning change provided adequate screening and buffering is provided. Since the site is heavily wooded, the applicant is proposing to leave 180 feet or more of existing material between the eastern property line and the construction area, and at least the same on the southern property line. On the western property line, closest to the single family home to remain, the plan is to preserve wooded wetlands. Staff has asked the developer to commit to a contingency plan for landscaping. If too much of the wooded areas are removed or damaged, staff could require additional plantings. The Zoning Ordinance would require evergreen trees and large shrubs, within a 20-foot side buffer area. The existing mature trees, if preserved, would more effectively screen a new building, rather than new, small material.

The zoning request is compatible with the existing zoning in the area and along Engle Road and portions of Ardmore. Airport Expressway and the site is within the industrial park area identified in the Economic Development chapter of the Comprehensive Plan. The proposal can be supportive by the following goals and policies of the Plan:

LU3. Use land resources efficiently by encouraging new development, revitalization and redevelopment in areas already served by infrastructure;

LU6. Encourage carefully planned sustainable growth and coordinated development by encouraging mixed land uses.

LU6.C Encourage the conversion of vacant or underutilized properties into compatible mixed-use development areas.

LU6.D Support carefully planned, coordinated, compatible mixed-use development.

LU8. Use land resources efficiently by encouraging compact development alternatives in infill areas where utilities and other infrastructure currently exist.

The proposed site plan includes a 289,664 square foot industrial building, attached to the existing Sabert building at 3511 Engle Road. This expansion will be used solely for warehousing, so there will be no additional noise from any manufacturing operations. Approximately four additional loading doors and associated paving will be added to the north end of the expansion. Stormwater detention is being handled on the west side of the building expansion. As mentioned above, the applicant is proposing to preserve existing mature trees to use as screening and buffering and also to preserve existing forested wetlands on the site.

In March, Sabert petitioned the Common Council to vacate the right-of-way of Land Drive, which bisected the site from east to west. As part of that petition, City of Fort Wayne Transportation Engineering required new right-of-way to be dedicated on this property, for the future construction of an access drive, if deemed necessary by the City. This drive would connect Ardmore to Engle through the Earth Industrial Park. In the plan review comments, the City stated that wider right-of-way would be needed for the turn radii. A sidewalk is also required along Ardmore Avenue.

The applicant has contacted the Kyle Road Association, which includes the Scotsville Addition neighborhood, immediately adjacent in the southeast corner of the site. They also contacted the Southwest Area Partnership. Neither group had responded at the time of notebook printing.

PUBLIC HEARING SUMMARY:

Presenter: Robert Karabinchak, Sabert, presented the proposal to the Plan Commission, as outlined above.

Public Comments:

- Taylor Crane, 3422 South Cedar Crest Circle – spoke in favor of the project.
- Jackie McBride, SEAP – she met with neighbors on Cedar Crest and they had concerns about the proposed right-of-way.

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2019-0043

REQUEST: To rezone a portion of property from RP/Planned Residential to I1/Limited Industrial for a building addition and infrastructure improvements to the existing Sabert facility.

LOCATION: The site is located on the east side of the 4400 to 4900 blocks of Ardmore Avenue, north of Tiffany Heights (Section 21 of Wayne Township).

LAND AREA: Approximately 40.2 acres for total site
Approximately 7.6 acres for rezoning

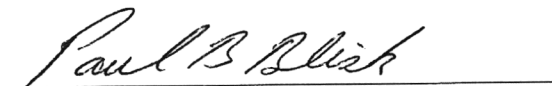
PRESENT ZONING: I1/Limited Industrial and RP/Planned Residential

PROPOSED ZONING: I1/Limited Industrial

The Plan Commission recommends that Rezoning Petition REZ-2019-0043, with a Written Commitment, be returned to Council with a “Do Pass” recommendation after considering the following:

1. Approval of the rezoning request will be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and should not establish an undesirable precedent in the area. The I1/Limited Industrial zoning will continue the precedent of industrial development in this area and along the Engle and Ardmore Avenue corridors. This proposal will provide infill development using existing infrastructure.
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 review and a Written Commitment for preservation of plant material will ensure a compatible development.
3. Approval is consistent with the preservation of property values in the area. This proposal will allow Sabert to expand their facilities in close proximity to existing services.
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 the proposed uses and adequate infrastructure is available to service the site.

These findings approved by the Fort Wayne Plan Commission on July 15, 2019.



Paul B. Blisk, AICP
Deputy Land Use Director

**Department of Planning Services
Rezoning Petition Application**

Applicant
 Applicant STN Realty Holdings, LLC
 Address 2288 Main Street Extension
 City Sayreville State NJ Zip 08872
 Telephone (732) 261-6438 E-mail RKarabinchak@sabert.com

Contact Person
 Contact Person Cody Ward
 Address 10060 Bent Creek Boulevard
 City Fort Wayne State IN Zip 46825
 Telephone (260) 489-8571 E-mail cody@miswebsite.us

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 3511 Engle Rd, Fort Wayne, IN 46809
 Present Zoning RP Proposed Zoning I1 Acreage to be rezoned 7.526
 Proposed density N/A units per acre
 Township name Wayne Township section # 21
 Purpose of rezoning (attach additional page if necessary) Proposed building addition.
 Sewer provider City of Fort Wayne Water provider City of Fort Wayne

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 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.

Robert Karabinchak [Signature] 6/4/19
 (printed name of applicant) (signature of applicant) (date)
 _____ (signature of property owner) _____ (date)
 _____ (signature of property owner) _____ (date)
 _____ (signature of property owner) _____ (date)

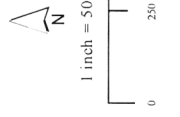
Received	Receipt No.	Hearing Date	Petition No.
6-4-19	130686	7-8-19	R22-2019-004J

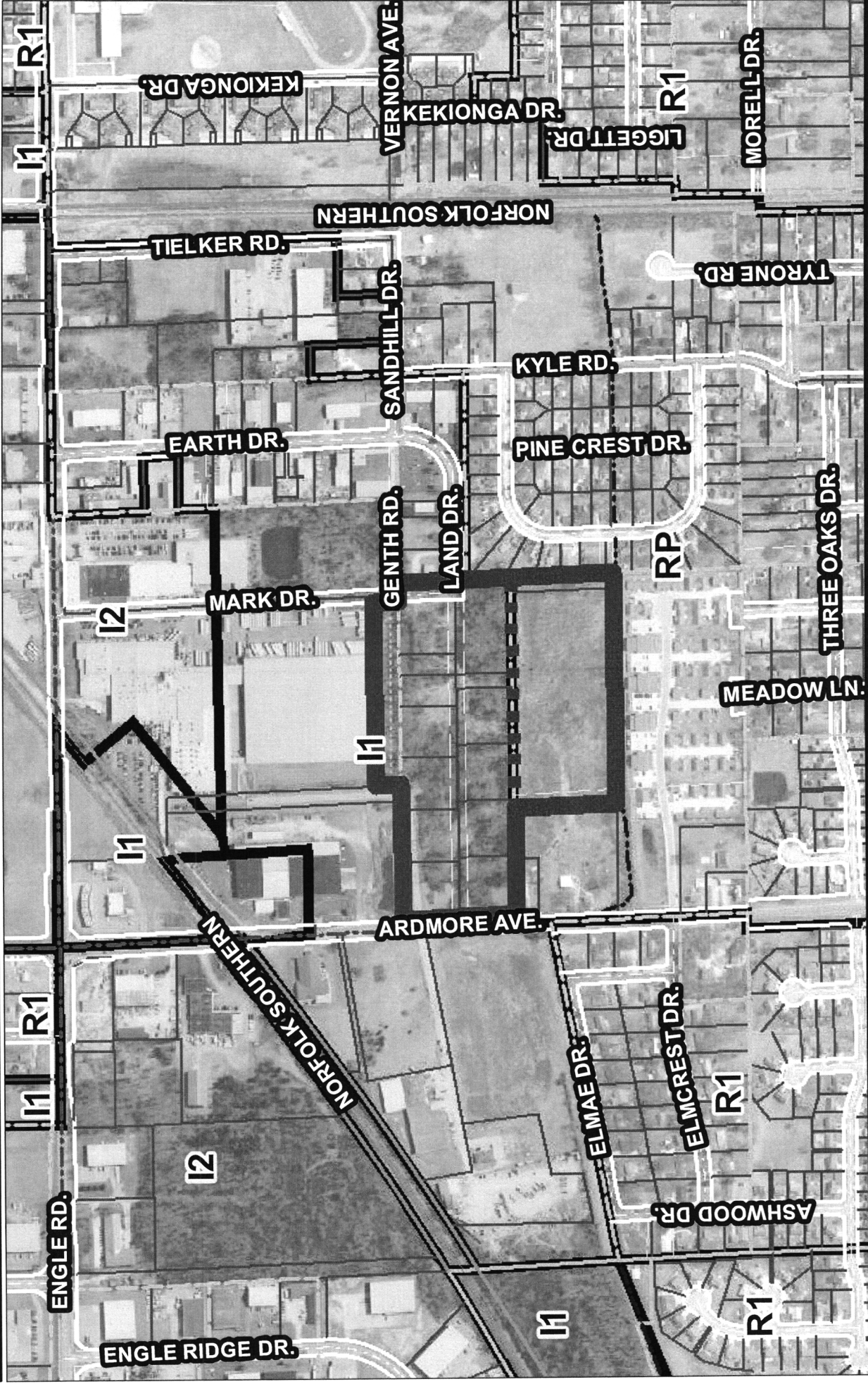


Rezoning Petition REZ-2019-0043 and Primary Development Plan PDP-2019-0036 - Sabert Engle Road

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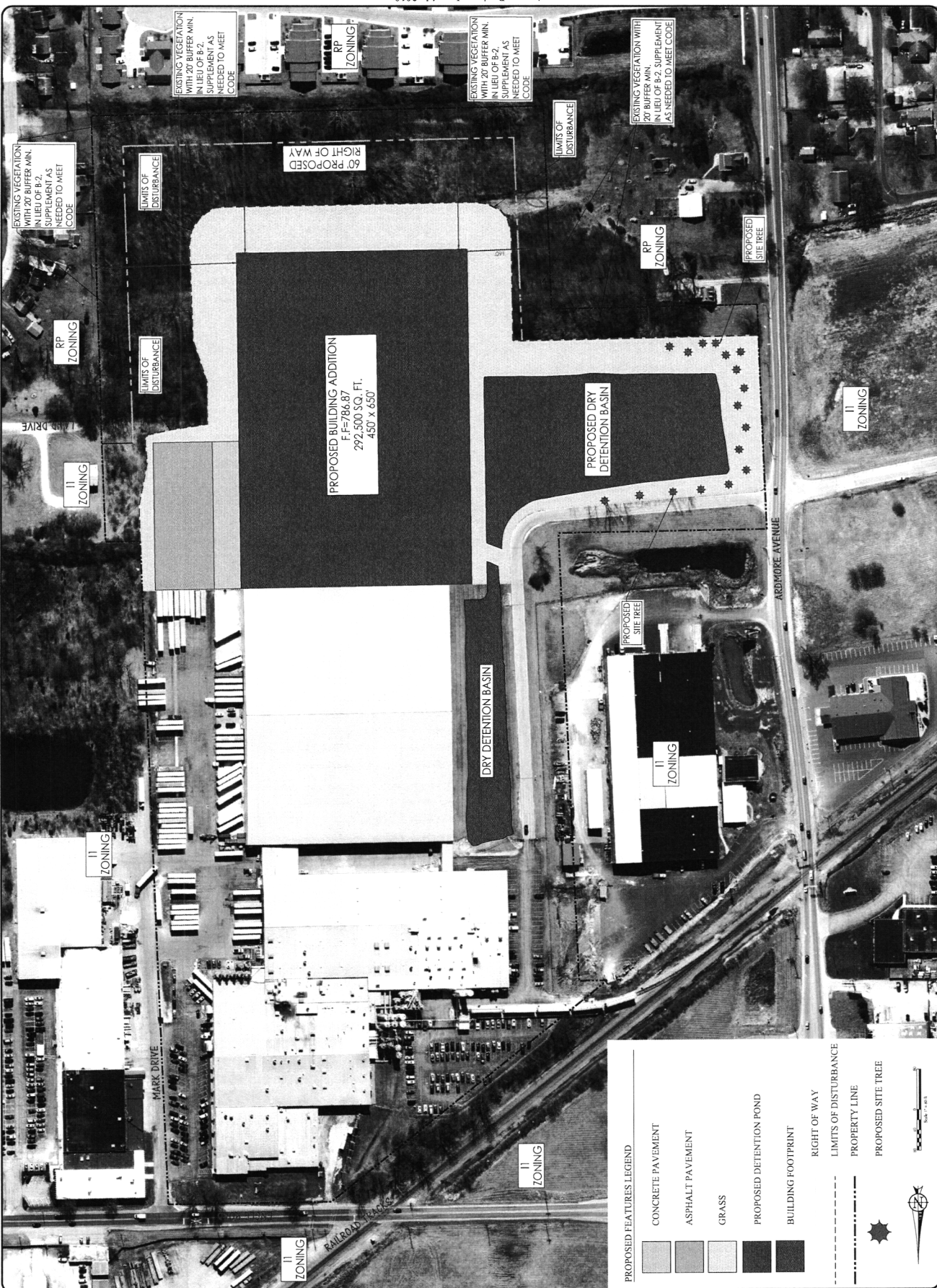




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 Date: 6/17/2019

1 inch = 500 feet
 0 250 500 Feet



PROPOSED FEATURES LEGEND

- CONCRETE PAVEMENT
- ASPHALT PAVEMENT
- GRASS
- PROPOSED DETENTION POND
- BUILDING FOOTPRINT
- RIGHT OF WAY
- LIMITS OF DISTURBANCE
- PROPERTY LINE
- PROPOSED SITE TREE

Scale: 1" = 40'

Agency Review - June 4th, 2019

<p>MS Engineering ENGINEERING TOLIN TOMORROW... TODAY</p> <p>15000 West Center Road Fort Wayne, IN 46825 Phone: (260) 483-8373 Fax: (260) 483-8373</p>	<p>Prepared For:</p> <p>Sabert 3911 Engle Road Fort Wayne, IN 46809 (260) 747-3149</p>	<p>REVISIONS:</p> <table border="1"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>										
<p>Project No. 190605</p> <p>Drawn By: CAUTIS</p> <p>Checked By: BRM/SLJ</p> <p>Project No. 190605</p>	<p>3511 Engle Road, Fort Wayne, IN 46809</p> <p>Site Improvement Plan</p> <p>Landscape Plan Alternate View</p>	<p>DATE: 06/04/19</p> <p>SCALE: AS SHOWN</p>										

PDP-3

WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT (“Commitment”) is made by STN Reality LLC (“Declarant”), and is made effective as of the date of the approval of the Rezoning Petition.

WITNESSETH:

WHEREAS, STN Reality LLC. is the owner of approximately 7.53 acres of real estate located in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit “A”; and

WHEREAS, Declarant applied for rezoning approval of REZ-2019-0043 (“Petition”) with the Fort Wayne Plan Commission, on the real estate described on attached Exhibit “A” (“Real Estate”), which Petition has been approved by the Plan Commission and City Council; and

WHEREAS, Declarant also applied for Primary Development Plan approval of PDP-2019-0036 with the Fort Wayne Plan Commission, for expansion of the Sabert operations located at 3511 Engle Road, Fort Wayne, Indiana; 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, the Plan Commission has accepted Declarant’s offer of this Commitment and its recordation with the Allen County, Indiana, Recorder’s Office upon Plan Commission’s and City Council approval of the Petition.


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. Alternate Supplemental Landscaping. Declarant has agreed to preserve as much natural plant material on the Real Estate as possible while preparing the site as necessary to complete the construction of said Primary Development Plan, PDP-2019-0036, as presented to the City of Fort Wayne Plan Commission at the rezoning hearing on 7.8.2019. The drawing presented was labeled PDP 3 dated 7.3.2019. In the event that the declarant clears more than what is shown on PDP3 dated 7.3.2019. Declarant agrees to plant new material, in the form of evergreen and deciduous trees, or trees or fencing. The amount and type of supplemental material will be reviewed by Department of Planning Services staff. In addition to PDP 3 dated 7.3.2019 we submit site plan C2.0 that shows how we are working with the city to address the relocation of the sanitary line.
2. Permits. No permits shall be issued under the Ordinance by the Zoning Administrator of City of Fort Wayne (“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.
3. Successors and Assigns. This Commitment and the restrictions set forth above shall inure to the benefit of: (a) all persons who own property comprising the Real Estate, and their successors and assigns; and (b) the Zoning Administrator and the Plan Commission, together with any successor agency having zoning jurisdiction over the Real Estate.
4. Enforcement. Any violation of this Commitment shall be deemed a violation of the Zoning Ordinance; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel enforcement of it by the Plan Commission or any enforcement official designated in the Zoning Ordinance, or any successor agency having zoning jurisdiction over the Real Estate. Pursuant to I.C. 36-7-4-1015, the Plan Commission, or any enforcement official

designated in the Zoning Ordinance, shall be entitled to all legal and equitable remedies available, including specific performance and injunctive relief, for any violation of this Commitment. The Plan Commission enforcement rights are cumulative, not exclusive.

- 5. Amendment or Termination. This Commitment may be modified or terminated in accordance with the Zoning Ordinance and I.C. 36-7-4-1015, as they may be amended from time-to-time.
- 6. Effective Date. This Commitment shall be deemed effective upon the Commitment being duly recorded in the Office of the Recorder of Allen County, Indiana.
- 7. Statutory Authority. This Commitment is pursuant to I.C. 36-7-4-1015.
- 8. Severability. Each covenant or restriction contained in any paragraph of this Commitment shall be severable and separate, and if any court shall rule that any particular restriction or covenant is unenforceable, such ruling shall not affect the enforceability of any other restriction or covenant under this Commitment, and such other restriction or covenant shall be enforced.
- 9. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

“DECLARANT”



 Robert Karabinchak
 Director of Construction
 Sabert Corp.

STATE OF INDIANA)
 COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, this 15th day of July 2019, personally appeared **Robert Karabinchak**, the **Director of Construction** of **STN Reality LLC & Sabert Corp.** and acknowledged the execution of the foregoing. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

Monica R. Rust
 Notary Public

My Commission Expires: August 3, 2023
 My County of Residence: Allen

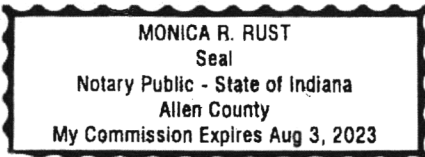


EXHIBIT "A"

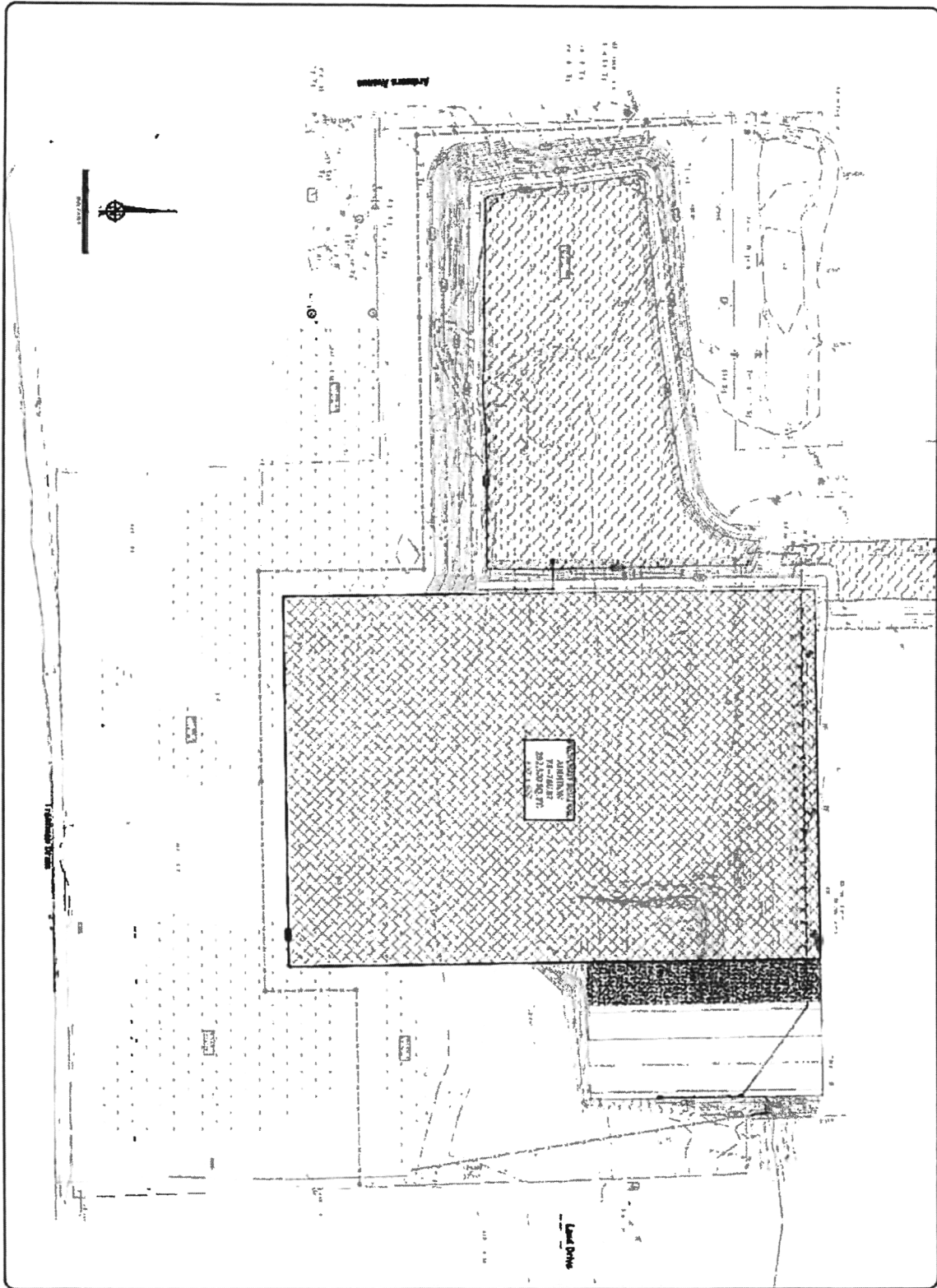
LEGAL DESCRIPTION


ADDRESSED IN LETTER

Left blank intentionally

EXHIBIT "B"

SANITARY LINE LOCATION PROPOSED



C2.0	Sabert	08/15/2018	 MLS Engineering ENGINEERS ARCHITECTS PLANNERS 3511 Engle Road, Fort Wayne, IN 46809 Phone: 317.434.4444 Fax: 317.434.4445 Email: info@mlseng.com Website: www.mlseng.com	DESIGN REVIEW CONSULTING
	3511 Engle Road, Fort Wayne, IN 46809			
	Site Improvement Plan Full Site Plan O Building Slopes			

BILL NO. Z-19-06-20

REPORT OF COMMITTEE ON REGULATIONS

July 23, 2019

Tom Freistroffer Chair

Michael Barranda Co-Chair

All Council Members

An Ordinance amending the City of Fort Wayne Zoning Map No. H-15 (Sec. 21 of Wayne Township)

To rezone approximately 7.5 acres from RP/Multiple Family Residential to L1/Limited Industrial at 3511 Engle Road

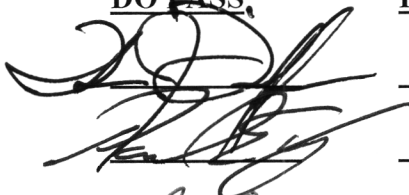
COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS,

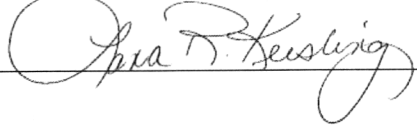
DO NOT PASS

ABSTAIN

NO REC



**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: N/A


Read the first time in full and on motion by Councilman Freistroffer.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilman Freistroffer, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ENSLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: July 23, 2019



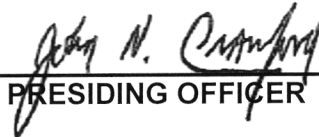
STACY A. REED, DEPUTY CITY CLERK

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

Zoning Ordinance No. Z-19-06-20 on the 23rd day of July, 2019



STACY A. REED
DEPUTY CITY CLERK



PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 24th of July 2019, at the hour of 10:00 o'clock A.M. E.S.T.



STACY A. REED, DEPUTY CITY CLERK

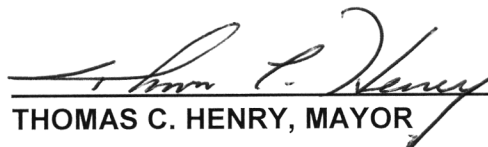
Approved and signed by me this 24TH day of JULY

2019, at the hour of 2:00 o'clock PM E.S.T.

FORT WAYNE, INDIANA
RECEIVED

JUL 25 2019

LANA R. KEESLING
CITY CLERK


THOMAS C. HENRY, MAYOR