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202213519

FLOYD CO. IN RECORDER

LOIS ENDRIS

12/12/2022 02:58 PM

ORDINANCE NO. FCO-2022-40

ORDINANCE FOR VACATION OF PUBLIC EASEMENT IN PLAT #1498⁶

WHEREAS, the Floyd County Board of Commissioners desires to vacate a certain public easement pursuant to Indiana Code 36-7-3-12; and

WHEREAS, a petition was filed by Richard Chism, requesting the vacation of a public way described as follows: Said Petition is hereby incorporated by reference; and

WHEREAS, a public hearing was held on December 6, 2022, after proper statutory notice was given; and

WHEREAS, proper notice of the petition and of the place of the hearing was properly given pursuant to IC 36-7-3-12; and

WHEREAS, all utility providers have confirmed that they are not currently using the easement, have no plans to use the easement, and that they do not object to the vacation of the easement; and

WHEREAS, all property owners who have an interest in the easement have received statutory notice of the petition for vacation and notice of the hearing.

WHEREAS, the vacation shall not affect governmental right to those areas designated as floodways, flood plains, and/or flooding ponding areas; and

WHEREAS, The Stormwater Board has reviewed the Petition for Vacation and has approved the vacation of the easement respecting the stormwater board's interest in this matter; and

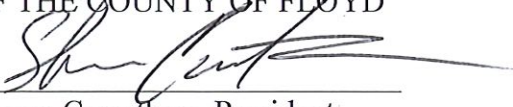
WHEREAS, this ordinance vacating the described property herein in Floyd County, Indiana, shall be in full force and effect from and after the passage by the Floyd County Board of Commissioners.

NOW THEREFORE BE IT ORDAINED, that the Floyd County Board of Commissioners, Floyd County, Indiana hereby vacates the public way as described in Exhibit "A".

FURTHER, the clerk of the legislative body shall furnish a copy of each vacation ordinance to the county recorder for recording and to the county auditor pursuant to IC 36-7-3-12(e).

DULY PASSED AND ADOPTED this 6th day of December, 2022, by the Floyd County Board of Commissioners.

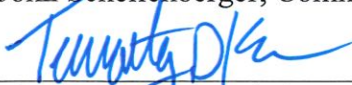
BOARD OF COMMISSIONERS
OF THE COUNTY OF FLOYD



Shawn Carruthers, President



John Schellenberger, Commissioner



Tim Kamet, Commissioner

ATTEST:



Jacqueline Wenning, County Auditor

Exhibit A

Petition to Vacate a partially recorded Easement. The address is 850 Lafollette Station Dr, Floyds Knobs, IN 47119. The easement to be vacated and the replacement easement are shown on the attached plat.

Richard Chism, hereby request the following vacation of a public way. Richard Chism states that the request meets the requirement under Indiana State Statute for the request of the vacation.

1. That they are owners of real estate situated in Floyd County, Indiana abutting a segment of the public way which is described in Exhibit A attached.
2. That need for the vacation of a public way described and depicted in legal description: The easement requested to be released is the 20' Drainage & Utility Easement shown on Plat 1198. This easement was shown on the plat prior to construction but was not property recorded. This easement was intended for a future stormwater pipe but, ultimately, not used and replaced with the 20' easement recorded by instrument 202020336. Both easements are shown on the attached plat and identified in the Surveyor's Report therein.
3. All abutting land owners have been notified via certified mail as presented in to the County Commissioners Office prior to the scheduled public hearing.

Petitioners request the vacation of unimproved public way described herein pursuant to Indiana Code 36-7-3-12.

I affirm under penalties provided for perjury that the foregoing representation are true and correct.

Richard Chism *Richard N Chism*

STATE OF Kentucky

COUNTY OF Meade

Before the undersigned a Notary Public, in and for said County and State, this 17th day of October, 2022, personally came the above signed acknowledged the execution of the foregoing agreement.

County of Residence

Meade

Kristen Cundiff
Notary Public
Kristen Cundiff



Printed

My Commission Expires:

State of Indiana)
COUNTY OF Floyd) SS:

Before the undersigned a Notary Public, in and for said County and State, this 1st day of December, 2022, personally came the above-named Board of Commissioners of Floyd County, Indiana, and acknowledged the execution of the foregoing Ordinance.

In Witness Whereof, I have hereunto subscribed my name and Notarial Seal.

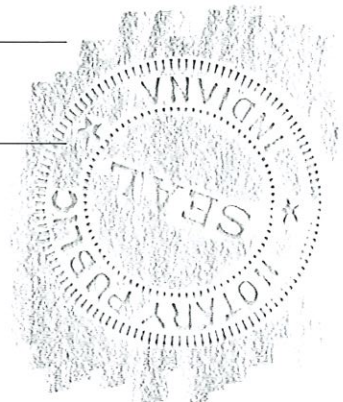
County of Residence:
Floyd

Suzanna Worrall
Notary Public

Suzanna Worrall
Printed

My Commission Expires:

Sept. 2023



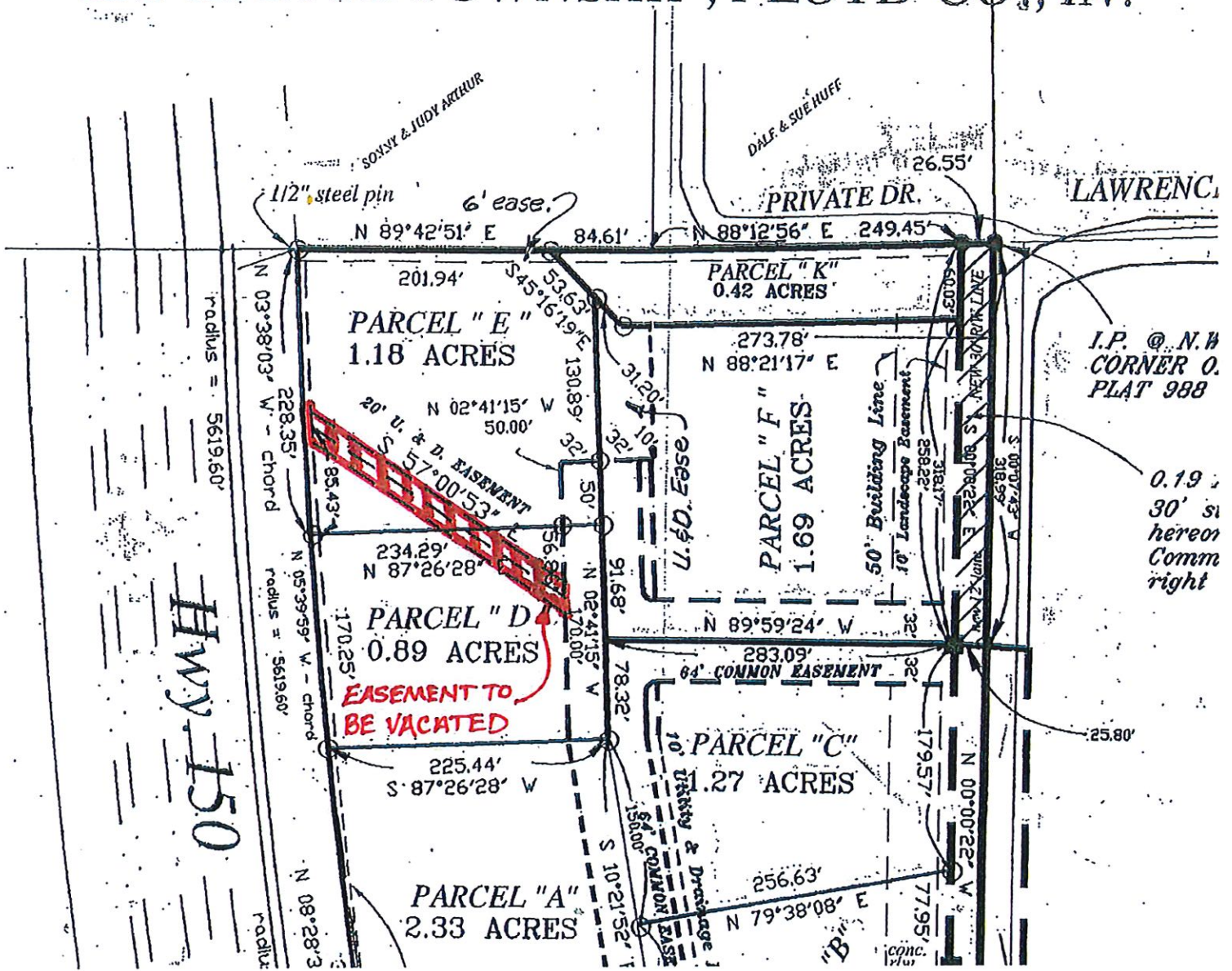
I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

BY: [Signature]
Richard Fox

PREPARED BY: RICHARD R. FOX, ATTORNEY AT LAW, 409 BANK STREET,
NEW ALBANY, IN 47150

La FOLLETTE STATION TOWNE CENTRE PLAT # 1198

LAFAYETTE TOWNSHIP, FLOYD CO., IN.



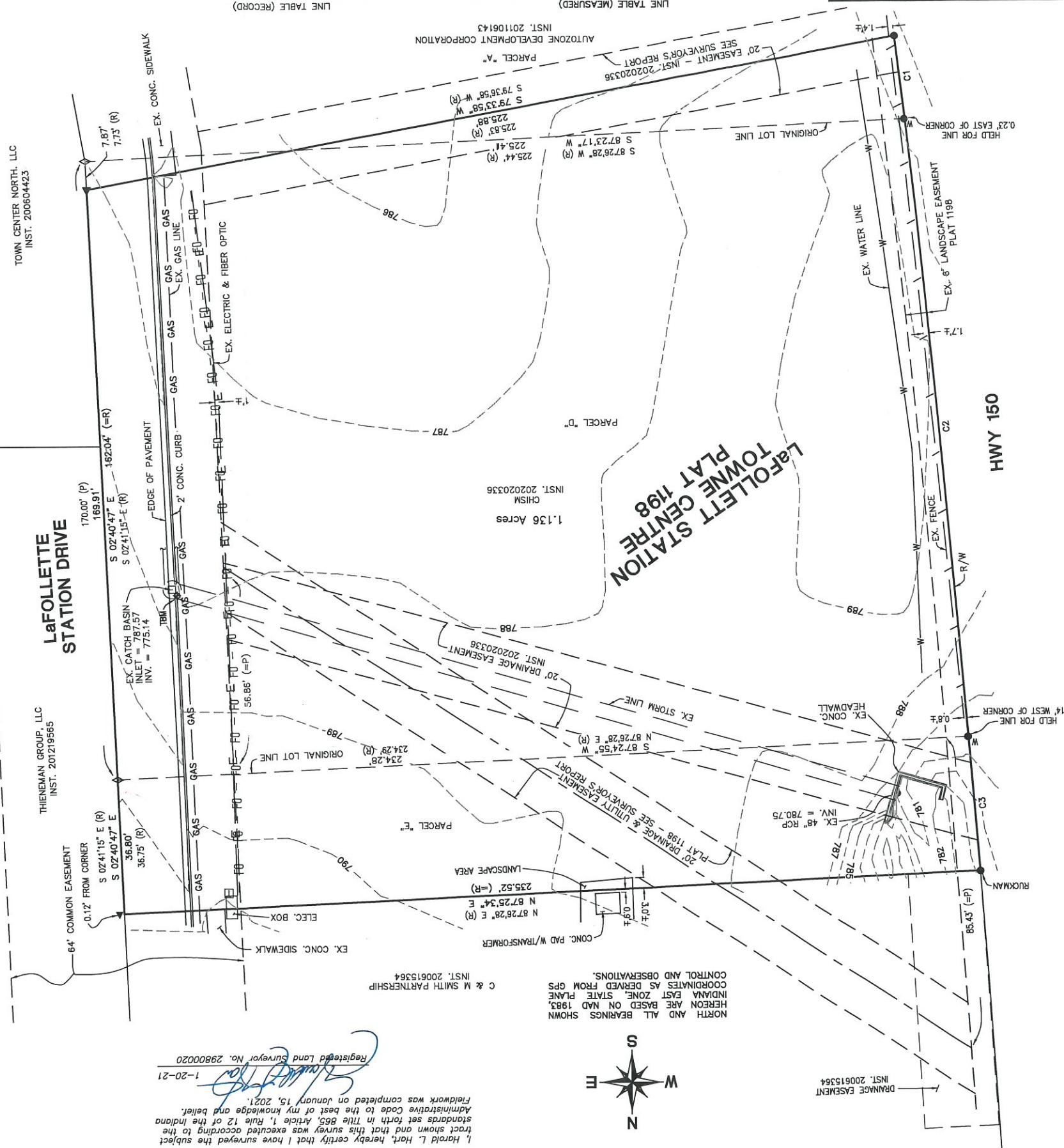
EASEMENT TO BE VACATED

All of the 20-foot wide Utility and Drainage Easement situated upon Parcel "D" and Parcel "E" of LaFollette Station Towne Centre, Lafayette Township, Floyd County Indiana as recorded on Plat 1198.

NOTE: THIS DRAWING IS INTENDED TO BE PLOTTED IN COLOR. IF THE HSE LOGO APPEARS IN BLACK AND WHITE, IT IS PLOTTED INCORRECTLY. DISCARD AND OBTAIN AN ACCURATE DRAWING.

LINE TABLE (MEASURED)	
C3	36.87' S 79°36'58" W
C2	170.27' S 61°19'50" N 04°36'56" W
C1	22.93' S 61°19'50" N 06°39'03" W
CURVE ARC LENGTH RADIUS CHORD BEARING CHORD LENGTH	
C3	5619.60' N 04°36'40" W 36.77'
C2	N/A
C1	N/A

LINE TABLE (RECORD)	
C3	36.87' S 79°36'58" W
C2	170.27' S 61°19'50" N 04°36'56" W
C1	22.93' S 61°19'50" N 06°39'03" W
CURVE ARC LENGTH RADIUS CHORD BEARING CHORD LENGTH	
C3	5619.60' N 04°36'40" W 36.77'
C2	N/A
C1	N/A



NORTH AND ALL BEARINGS SHOWN HEREON ARE BASED ON NAD 1983, INDIANA EAST ZONE STATE PLANE COORDINATES AS DERIVED FROM GPS CONTROL AND OBSERVATIONS.



I, Harold L. Hart, hereby certify that I have surveyed the subject tract shown and that this survey was executed according to the fact shown and that this survey is in accordance with the Indiana Administrative Code to the best of my knowledge and belief. Fieldwork was completed on January 15, 2021.

Registered Land Surveyor No. 29800020
1-20-21

SURVEYOR'S REPORT

In accordance with the Indiana Survey Standards as defined in Title 865, Article 1, Rule 12 of the Indiana Administrative Code, the following observations and opinions are submitted with reference to the uncertainties in the locations of the lines and corners established or re-established on this survey as a result of:

A. Availability and condition of reference monuments.
 B. Occupation or possession lines.
 C. Clarity or ambiguity of the record description used and/or adjointer's description, and.
 D. The relative positional accuracy of the measurements.

The relative positional accuracy of the measurements taken while conducting this survey is within the specifications for an "Urban" class survey (0.07 feet; plus 50 parts per million) as defined by IAC 865.

This is a Retracement Survey of a tract of land described in Instrument 202020356, Solid tract is part of Parcels "A", "D" and "E" of LaFollette Station, Towne Centre as recorded in Plat 1198, which was surveyed/platted by David Ruckman. All of the dead reference monuments described in said instrument were recovered. The two Willmott pins were found at the corners of Parcel "D", but varied 0.14' up to 0.23' feet off the right-of-way line of Highway 150 when holding the Ruckman pin and the magnetic reading found marking the northeast corner of the subject property. The magnetic record dimension on Plat 1198 is to be replaced by the one shown on this survey as described in said instrument. This survey is unaware of any official action or ordinance that released/vacated the platted easement by statute; therefore, the platted easement may still exist. The replacement easement is described to be 201.02 feet in length. This easement has been extended to said western line of the 64-foot wide common area. Therefore, the replacement easement is described to be 201.02 feet in length. This additional language stating there is a new 20 foot easement along the south line of the subject property that replaces the original platted easement along the south line of Parcel "D". The record plat does not indicate or show there was ever an easement along the south line of Parcel "D". Also, based upon the language contained in the Autozone deed was reviewed and no easement language was found to substantiate the creation of this easement on their property. (As a result, the question becomes how can this easement be created when the southern legal counsel previously conveyed to different titleholders?) This surveyor recommends legal counsel review the findings discovered during this survey to determine if there are any title issues.

As a result of the above observation, it is my opinion that the uncertainties in the locations of the lines and corners established on this survey are as follows:
 Due to availability and condition of reference monuments: 0 feet up to 0.23 feet ±.
 Due to occupation or possession lines: 0.8 feet up to 1.7 feet ± as a result of fencing along the west line of the subject property. Also, the landscape area along the north line extends over the line by 3.0 feet ±.
 Due to clarity or ambiguity of the record description used and/or adjointer's description: A scrivener's error was discovered in the deed for C & M Smith. Their southern line is described to be 234.29 feet in length, when in fact that is the dimension reported along the line dividing Parcels "D" and "E". The dimension should have been 235.52 feet.

These standard symbols will be found in the drawing unless otherwise noted.

- ▲ MAG. NAIL SET OVER MAGNETIC MONUMENT FOUND OVER DEED REFERENCED MONUMENT
- STEEL PIN AND CAP FOUND (DEED)
- EX. WATER METER
- EX. TELEPHONE PEDESTAL
- ◇ MAGNETIC READING LOCATED AT ORIGINAL LOT CORNER - PLAT 1198
- (R) RECORD BEARING AND/OR DISTANCE
- (=R) EQUAL TO RECORD BEARING AND/OR DISTANCE
- (P) RECORD PLAT DIMENSION
- (=P) EQUAL TO PLAT BEARING AND/OR DISTANCE

TBM, BACK OF CURB AT THE NORTHWEST CORNER OF EXISTING CATCH BASIN. - NAVD 88 DATUM
 ELEV. = 788.09

NOTES
 THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF A CURRENT TITLE OPINION OR TITLE WORK. HEREOF, THE SUBJECT PROPERTY MAY BE SUBJECT TO RESTRICTIONS, EASEMENTS, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE. ALSO, THE UNDERSIGNED IS NOT RESPONSIBLE FOR THE INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OR ANY OTHER MATTERS SURVEYED.
 THE WORD "CERTIFY" AS SHOWN AND USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS OF THE SURVEY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED.
 MONUMENTS SET OR RECOVERED THIS SURVEY ARE WITHIN 0.3' OF GROUND SURFACE UNLESS OTHERWISE NOTED.
 DOCUMENTS REFERRED TO BY DEED DRAWER (D.D.), DEED BOOK (D.B.) AND/OR INSTRUMENT (INST.), ARE RECORDED ON FILE AT THE FLOYD COUNTY, INDIANA RECORDER'S OFFICE.
 PRIOR TO ANY SITE EXCAVATION, CONTACT INDIANA UNDERGROUND OR THE APPROPRIATE UTILITY COMPANY FOR THE LOCATION OF THEIR UTILITIES MAY VARY FROM THE LOCATIONS SHOWN, ALSO, OTHER UTILITIES MAY VARY FROM THE LOCATIONS SHOWN, ALSO, OTHER UTILITIES MAY EXIST, WHICH WERE NOT MARKED AND NOT SHOWN ON

- LEGEND**
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CLIENT:
 RICHARD N. CHISM

TITLE HOLDER:
 RICHARD N. CHISM

RETRACEMENT AND TOPOGRAPHIC SURVEY OF A 1.136 ACRE TRACT OF LAND BEING A PART OF PARCELS "A", "D", AND "E" OF LaFOLLETTE STATION TOWNE CENTRE.



958 WATER STREET, CHARLESTOWN, IN • PHONE: 812-256-7781

FILE NO. PLAT 1198
 DRAWING NO. 21-01
 SCALE: 1" = 20'
 CHECKED: H.L.H.
 DRAWN: H.L.H.
 DATE: 1-20-21



SHEET NO. 1 OF 1
 JOB No. 21-01