

AGENDA

ELKHART COUNTY BOARD OF ZONING APPEALS

JANUARY 16, 2025
9:00 A.M.

ADMINISTRATION BUILDING
MEETING ROOMS 104, 106, & 108
117 N. 2nd STREET, GOSHEN, INDIANA

Call to Order

Roll Call

Approval of Minutes of the last regular meeting of the Elkhart County Board of Zoning Appeals held on the 19th day of December 2024.

Elkhart County Zoning Ordinance and Staff Report materials are to be entered as evidence for today's hearings.

ELECTION OF OFFICERS

SPECIAL USES

9:00 A.M.

(WARNER)

- A. Petitioner: ***Glenn A. Nunemaker & Jill E. Nunemaker,*** (Page 9)
Trustees of the Glenn A. Nunemaker Living Trust
Petition: for a Special Use for a retail green house.
Location: North side of CR 46, 760 ft. West of CR 9, common address of 26131 CR 46
in Union Township, zoned A-1. SUP-0846-2024
- B. Petitioner: ***Six Span LLC*** (Page 10)
Petition: for a Special Use for truck, tractor, trailer, bus, or recreational vehicle storage
yard.
Location: Southwest corner of SR 120 & Michael Dr., 600 ft. East of CR 17, common
address of 21776 State Rd. 120 in Washington Township, zoned B-1 & R-1.
SUP-0859-2024
- C. Petitioner: ***Douglas R. Rhude & Carolee J. Rhude, Husband & Wife*** (Page 11)
Petition: for a Special Use for a home workshop/business for a gun shop.
Location: Southeast side of SR 120, 2,450 ft. Southwest of CR 17, common address of
22382 SR 120 in Concord Township, zoned R-1. SUP-0883-2024
- D. Petitioner: ***Richard R. Miller & Anna Marie Miller, Husband & Wife*** (Page 12)
Petition: for a Special Use for an agricultural use for the keeping of animals on a tract
of land containing less than 3 acres.
Location: East side of CR 35, 805 ft. South of CR 28, common address of 60704 CR 35
in Middlebury Township, zoned A-1. SUP-0889-2024

9:30 A.M (HESSER)

- E. Petitioner: ***Aurelio C. Barrera & Lucia Valle Montufar, Husband & Wife*** (Page 13)
Petition: for a Special Use for parking of a commercial vehicle.
Location: North side of CR 108, 3,335 ft. West of CR 3, common address of 29379 CR 108 in Cleveland Township, zoned A-1. SUP-0891-2024

SPECIAL USE/DEVELOPMENTAL VARIANCES

- F. Petitioner: ***Michael H. Bontrager & Kristen Diann Bontrager, Husband & Wife*** (Page 14)
Petition: for a Special Use for a home workshop/business for a construction business, for a Developmental Variance to allow for 11 outside employees (Ordinance allows 4), and for a 5 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for an accessory structure 30 ft. in height.
Location: West side of CR 41, 850 ft. South of CR 20, common address of 59155 CR 41 in Middlebury Township, zoned A-1. SUP-0890-2024

- G. Petitioner: ***Tri-County Land Trustee (Land Contract Holder) & John A. Miller & Sue Miller, Husband & Wife (Land Contract Purchasers)*** (Page 15)
Petition: for an amendment to an existing Special Use for a home workshop/business for equine supplies (commercial sewing business) to allow for a new building, for a Developmental Variance to allow for 12 outside employees, (Ordinance allows 4), and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.
Location: South side of CR 18, 2,050 ft. West of East County Line Rd., common address of 10348 CR 18 in Middlebury Township, zoned A-1. SUP-0888-2024

TABLED

- H. Petitioner: ***Lonnie Bontrager (Buyer) & Octavio Ramos (Seller)*** (Page 16)
Petition: for a Use Variance to allow for 4 dwelling units and for a 46,496 sq. ft. lot-area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for 2 existing duplexes.
Location: South side of Morgan St., 950 ft. Southeast of CR 20, common address of 28197 Morgan St. in Baugo Township, zoned R-2. UV-0843-2024

STAFF/BOARD ITEMS (time of review at the discretion of the Board of Zoning Appeals)

ADJOURNMENT

The Elkhart County Board of Zoning Appeals is meeting on Thursday, January 16, 2025, at **9:00 a.m.** in Rooms 104, 106, & 108 of the Administration Building, Goshen, Indiana. Pursuant to advice of the Indiana Public Access Counselor, general public comment will not be permitted at this public meeting on non-public hearing matters. To the extent you wish to make comment remotely during any public hearings scheduled during this public meeting, please call (574) 971-4678 to learn how to remotely submit your public comment for the public hearing. The public is encouraged to attend the meeting remotely by going to

www.elkhartcountyplanninganddevelopment.com at **9:00 a.m.** on January 16, 2025. If you have further questions regarding how to remotely attend the public meeting, please call (574) 971-4678.

<https://elkhartcountyin.webex.com/elkhartcountyin/j.php?MTID=mbb02709b73824cc9d67f2b786f288815>

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 19th DAY OF DECEMBER 2024 AT 9:00 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING
117 N. 2nd STREET, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Danielle Richards, Planner; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser

Absent: David Miller, John Gardner.

2. A motion was made and seconded (*Hesser/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 21st day of November 2024 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Miller/Cramer*) that the Board accepts the Zoning Ordinance and Staff Report materials as evidence into the record and the motion was carried with a unanimous roll call vote.

4. The application of ***Bradley D. Metzger & Laina K. Metzger, Husband & Wife*** for a Special Use for a retail greenhouse on property located on the North side of CR 46, 1,910 ft. West of SR 19, common address of 28371 CR 46 in Locke Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0824-2024*.

There were 10 neighboring property owners notified of this request.

Bradley Metzger, 28371 CR 46, Nappanee was present for this request. Mr. Metzger stated he wants to put up a small building to house a retail greenhouse. Mrs. Cramer asked if he lives on the property. Mr. Metzger stated that his parents live on site. Mr. Hesser asked if he intends to put 2 greenhouses on the property. Mr. Metzger replied that he will put one greenhouse on the property to start, but he wanted to include two on the application for future expansion.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Deb Cramer, **Seconded by** Steve Warner that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a retail greenhouse be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 11/12/2024) and as represented in the Special Use application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser.

5. The application of *Shaun D. Hilty & Frances H. Hilty, Husband & Wife* for a Special Use for a home workshop/business for a vehicle wrap and sign making business and for a 20 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing building 100 ft. from the centerline of the right-of-way on property located on the East side of SR 19, 1,400 ft. South of CR 36, common address of 64254 SR 19 in Harrison Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0811-2024*.

There were 5 neighboring property owners notified of this request.

Shaun Hilty, 64254 SR 19, Goshen, was present for this request. Mr. Hilty stated that he is looking to use his existing building for the vehicle wrap and sign making business. Mr. Hesser asked about the signs that are shown on the site plan. Mr. Auvil stated that the signs are part of the application process, and it is up to the Board to approve or deny the type and sizes of signs. Mr. Hesser then asked if most of the business is going to be by appointment. Mr. Hilty answered yes. Mr. Warner stated that the larger sign will be set back far enough from the road and will not be a hindrance to traffic.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Deb Cramer, **Seconded by** Steve Warner that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a vehicle wrap and sign making business be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 11/4/2024) and as represented in the Special Use application.

Further the motion also included a 20 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing building 100 ft. from the centerline of the right-of-way be approved with the following conditions imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).

2. The request is approved in accordance with the site plan submitted (dated 11/4/2024) and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser

6. The application of *Devon E. Miller & Kaylene L. Miller, Husband & Wife* for a Special Use for a home workshop/business for a garage door repair/installation business, and for a Developmental Variance to allow for 6 outside employees (Ordinance allows 4) on property located on the South side of CR 12, 2,450 ft. West of CR 8, common address of 13528 CR 12 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0834-2024*.

There were 12 neighboring property owners notified of this request.

Devon Miller, 13528 CR 12, Middlebury was present for this request. Mr. Miller stated that he was not aware that he needed a Special Use to run a business from his home. Mr. Hesser asked Mr. Miller if most of the work for the business will be off site. Mr. Miller stated yes. Mr. Hesser continued by asking Mr. Miller if the equipment for the business will be stored in buildings. Mr. Miller answered yes, except for large panels that will be stored along the fence until there are enough of them to take to the recycling plant. Mrs. Cramer asked about semi tractor trailers backing onto the property. Mr. Miller stated that they can turn around on the property and will not need to back in or out. Mr. Hesser then asked about the 1.5 acre of property that was sold and is no longer part of the parcel for this petition. Mr. Miller stated that he brought in the new deed excluding the 1.5 acre parcel that was sold.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Deb Cramer, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a garage door repair/installation business be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A new recorded deed is needed that is less and excepting parcel number 20-08-04-100-038.000-034.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 11/15/2024) and as represented in the Special Use application.
2. Backing in or backing out of semi tractor trailers and flatbeds from/onto CR 12 is prohibited.

Further the motion also included that a Developmental Variance to allow for 6 outside employees (Ordinance allows 4) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 11/15/2024) and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser

7. The application of *Tek-Pro Commercial Roofing LLC* for a Special Use for a contractor office & yard for a roofing business, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 6 outside employees (Ordinance allows 4) on property located on the West side of SR 19, 2,465 ft. North of CR 46, common address of 68547 SR 19 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0842-2024*.

There were 5 neighboring property owners notified of this request.

Nico Lopez, 68905 SR 19, Nappanee, was present for this request. Mr. Lopez stated that he is looking to add an attached garage to an existing single-family residence. He continued by saying the garage will be used to store materials for this business, and employees will park their vehicles on the property during work hours. Mrs. Cramer asked if the materials get delivered directly to the site. Mr. Lopez stated that is the case for most jobs, since it is a commercial roofing company. Mr. Hesser asked if the materials on this site will be stored inside the building. Mr. Lopez stated that there will be no materials stored outside. Mr. Hesser asked if Mr. Lopez lives on site. He stated no that the owner's son rents the property. Mr. Auvil stated that this is not a home workshop/business, so there is no requirement to live on premise.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Deb Cramer, **Seconded by** Steve Warner that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a contractor office & yard for a roofing business be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 11/18/2024) and as represented in the Special Use application.
2. Backing in or backing out of semi tractor trailers and flatbeds from/onto SR 19 is prohibited.

Further the motion also included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 6 outside employees (Ordinance allows 4) be approved with the following conditions imposed:

1. Variances from the developmental standards of the Development Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 11/18/2024) and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser

8. The application of *Wendell Martin & Phyllis Martin, Husband & Wife (Buyers) & Carlyle Martin & Barbara Martin, Husband & Wife (Sellers)* for an amendment to an existing Special Use for a home workshop/business for a post laminating business to allow for a new building and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on property located on the South side of CR 40, 1,640 ft. East of CR 9, common address of 25672 CR 40 in Harrison Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0841-2024*.

There were 8 neighboring property owners notified of this request.

Wendell Martin 25672 CR 40, Goshen, was present for this request. Mr. Martin stated that he wants to build a new 50' x 72' building for his laminating business. Mr. Hesser asked if there will be any outside storage. Mr. Martin stated no. Mrs. Cramer asked if Mr. Martin lives on site. He answered yes.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an amendment to an existing Special Use for a home workshop/business for a post laminating business to allow for a new building be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 11/18/2024) and as represented in the Special Use application.
2. Backing in or backing out of semi tractor trailers and flatbeds from/onto CR 40 is prohibited.

Further the motion also included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right be approved with the following conditions imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 11/18/2024) and as represented in the Developmental Variance application.

Note: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser.

9. The application of *Lonnie Bontrager (Buyer) & Octavio Ramos (Seller)* for a Use Variance to allow for 4 dwelling units and for a 46,496 sq. ft. lot-area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for 2 existing duplexes on property located on the South side of Morgan St., 950 ft. Southeast of CR 20, common address of 28197 Morgan St. in Baugo Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0843-2024*.

There were 24 neighboring property owners notified of this request.

Mr. Auvil started by saying staff did receive an appraisal and a report regarding the function of the septic. Mr. Auvil then stated his main concern is still the condition of the soils present on the property. He continued by saying that if the petitioner can get a soil scientist to report that the soil could support a new septic system for the 2 duplexes on the property, then staff would recommend approval of the Use Variance and the Developmental Variance.

Mr. Samuel Bolinger, Attorney, 803 S. Calhoun St., Fort Wayne was present representing the petitioner. Mr. Bolinger stated that Castleman Co. did a septic inspection, and the report states that the septic functions properly for the 2 duplexes. Mr. Bolinger also stated they had a structural engineer (Frost Engineering) inspect the duplexes, and they were shown to be sound. He continued by saying they would like the Board to approve the Use Variance and Developmental Variance without any further discussion. Mr. Bolinger expressed concern about finding a soil scientist this time of year. He continued that time is of the essence. Mr. Hesser expressed that the Board acknowledges the comments made from the previous hearing minutes from October 17, 2024.

Daryle Lambright, Re/Max, 2134 Elkhart Rd, Goshen was present representing the buyer, Lonnie Bontrager. Mr. Lambright stated that he agrees with everything Mr. Bolinger stated and stressed that this process needs to be expedited. He continued by saying that it is not the buyer's fault, and his buyer was not aware of any of the issues present on this property. Mr. Lambright also stated that the bank will not approve a loan for this property if it is split. He stressed the bank will only approve a loan for this property as it sits. He continued by saying that if soil samples need to be done, then the Board should approve the request with time to get the soil tested.

Jennifer Panzo-Hernandez, Cressy and Everett, 945 E. Beardsley Ave., Elkhart was present representing the seller, Octavio Ramos. Ms. Hernandez stated they did all the appropriate research on this property, and they had several conversations regarding this property with the county. She

feels that they did everything appropriately and expressed the fact that the county gave the owner permits for updating the electric. She stressed nothing was ever said about the issue of two duplexes on the one parcel.

Mr. Auvil stated for the record that there were never any permits issued to convert the single-family residence or the garage into a duplex. He continued by saying the owner came in for some remodeling permits, and that's when the issues with the property were discovered. Mr. Auvil stated that both parties had been made aware of the need for a soil scientist regarding this property. Mr. Miller then interjected that discussion had took place 60 days ago.

Mr. Bolinger came back to the podium stating that at the last meeting he believed the issue of the structural integrity of the duplexes and the functionality of the septic were the Board's main concern. He continued by stating that he did not recall any mention of a soil scientist being needed to test the soil.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated that his inclination is to table this until the next hearing date in January to give time to get everything resolved. He continued by expressing his concern that there are too many variables, and he is not comfortable approving it subject to all the outstanding variables. Mr. Auvil remarked that the only condition left to gain staff approval is that Environmental Health approve a septic permit for 2 duplexes on the property. Mr. Miller remarked that they petitioner had 60 days from the last hearing to find a soil scientist and at least get on a list to have the testing done. Mr. Auvil stated that not just the soil borings need to be done. He explained the soil tests must prove that the soil will meet the needs of the current system and/or a new septic system for the 2 duplexes. He continued to say Environmental Health will also have to sign off on the permit.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that the request for a Use Variance to allow for 4 dwelling units and for a 46,496 sq. ft. lot-area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for 2 existing duplexes be tabled until the January 16, 2025 Advisory Board of Zoning Appeals meeting to allow the petitioner to gather all pertinent information.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser

10. As a staff item, Mr. Auvil presented a request to rescind a Special Use (SUP-0355-2017) for an agri-business located at 68547 SR 19, Nappanee, IN.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Ron Norman that the Board approve the request for rescission.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser.

11. As a staff item, Mr. Auvil presented an agreement for legal services for Attorney Kolbus.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board approved the agreement for Legal Services for Attorney Kolbus.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser.

12. The meeting was adjourned at 10:06 a.m.

Respectfully submitted,

Jean Boyer, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary

BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: January 16, 2025

Transaction Number: SUP-0846-2024.

Parcel Number(s): 20-14-08-400-011.000-028.

Existing Zoning: A-1.

Petition: for a Special Use for a retail greenhouse.

Petitioner: Glenn A. Nunemaker & Jill E. Nunemaker, Trustees of the Glenn A. Nunemaker Living Trust.

Location: North side of CR 46, 760 ft. West of CR 9, in Union Township.

Site Description:

- Physical Improvement(s) – Residence and accessory structures.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- None.

Staff Analysis:

Staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A Special Use for a retail greenhouse is allowed in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 3.01-acre parcel in a low-density residential and agricultural area, and the property will remain agricultural in character.
3. The Special Use will substantially serve the public convenience and welfare by providing a local source of plants.

BZA Staff Report (Continued)

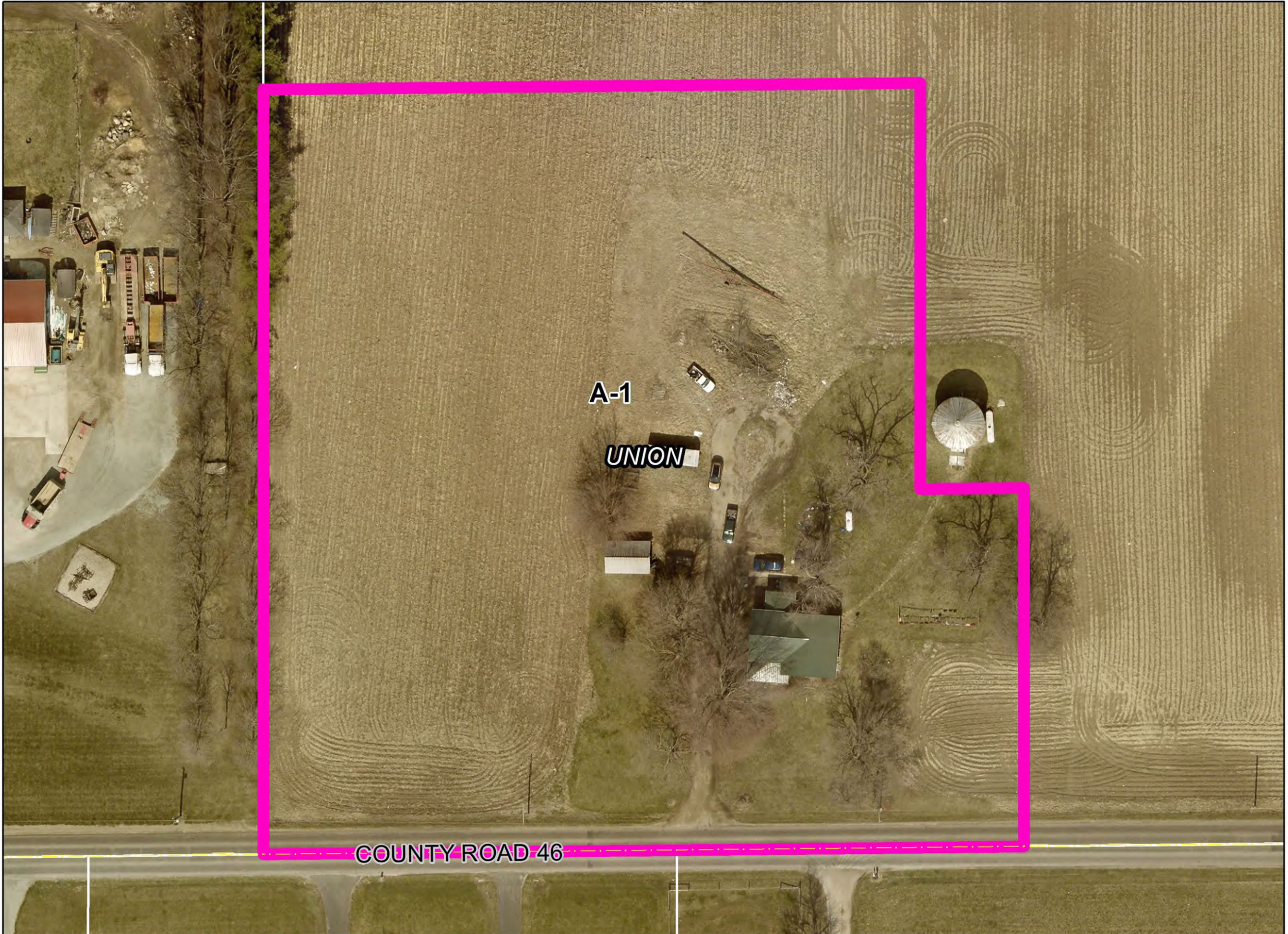
Hearing Date: January 16, 2025

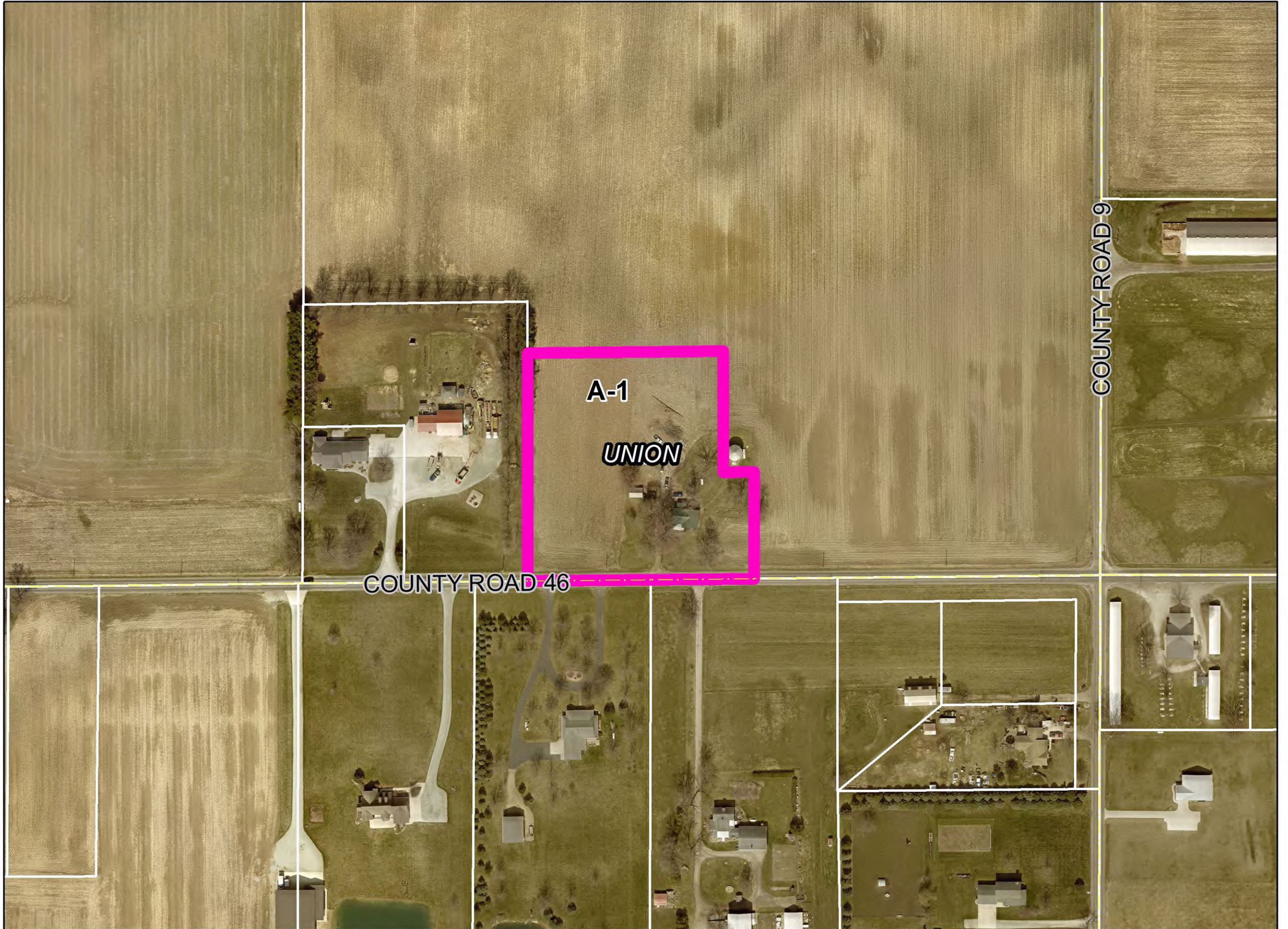
Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The request is approved in accordance with the site plan submitted on 11/20/2024 and as represented in the Special Use application.





A-1

UNION

COUNTY ROAD 46

COUNTY ROAD 9





Facing North towards subject property



Facing South



Facing East



Facing West

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

SUP-0846-2024

Special Use - Non Mobile Home

Date: 11/20/2024

Meeting Date:

January 16, 2025

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0846-2024

Description: for a Special Use for a retail greenhouse

Contacts: Applicant

Sean Nunemaker
317 Donmoyer Ave.
South Bend, IN 46614

Authorized Agent

Sean Nunemaker
317 Donmoyer Ave.
South Bend, IN 46614

Land Owner

Glenn A. Nunemaker And Jill
E. Living Trust Und 1/2 Int
26131 Cr 46
Nappanee, IN 46550

Site Address: 26131 County Road 46
Nappanee, IN 46550

Parcel Number:

20-14-08-400-011.000-028

Township: Union

Location: NORTH SIDE OF CR 46, 760 FT WEST OF CR 9

Subdivision:

Lot #

Lot Area: 3.01 Frontage: 376.00

Depth: 356.00

Zoning: A-1

NPO List:

Present Use of Property: RESIDENTIAL/AGRICULTURAL

Legal Description:

Comments: PARCEL CREATION DATE 9/6/2001

Applicant Signature:

Department Signature:

Jan. 16th

Application

Site address: 26131 Co Rd 46, Nappanee, IN 46550

Parcel number(s): 20-14-08-400-011.000-028 and 20-14-08-400-012.000-028

Current property owner

Name: Glenn Nunemaker

Address: 26131 Co Rd 46, Nappanee, IN 46550

Phone: 574-596-6628

Email: NA

Other party

Agent Buyer Land contract purchaser Lessee

Name: Sean Nunemaker

Address: 317 Donmoyer Avenue, South Bend, IN 46614

Phone: 574-354-8141

Email: seannunemaker7@gmail.com

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent:

Glenn Nunemaker

Staff Use Only

Description:

for a special use for a commercial greenhouse

Parcel creation date:

9/6/2001

Subdivision required?

Y N If yes, AS Minor Major

Residential accessory breakdown, if applicable:

Location:

N S E W corner side end of CR 46
760 ft. N S E W of CR 9

in UNION Township

Frontage:

376 FT

Depth:

356 FT.

Area:

3.01

acres

Subdivision and lot number, if applicable:

N/A

Present use:

RESIDENTIAL / AG

Special Use — Questionnaire

Name: Sean Nunemaker

1) Tell us what you want to do. Operate a small to medium sized plant nursery on the premises.

This would be an operation comparable to typical small to medium sized plant nurseries or garden centers.

2) Tell us why this activity won't hurt your neighbors or the community. No dangerous substances will be used or released due to

usage of this property. No noise, traffic, or commercial activity beyond a reasonable level will occur at a level excessive enough to disturb neighbors

due to the proposed use.

3) Is there a subdivision covenant that says you can't do this activity? [] Y [x] N

If yes, does the subdivision have an active homeowners' association? [] Y [] N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? [] Y [x] N If yes, fill out below.

Tell us what will create those things.

Tell us how you'll reduce the impact of those things on neighbors.

5) Will there be buffering (fences, trees, shrubs, mounds)? [] Y [x] N

If yes, tell us about it.

6) Does the property need well and septic? Well: [] Y [x] N Septic: [] Y [x] N

Does the property need a new septic system? [] Y [x] N

If a new septic system is needed, did the Health Department say there's enough space for it? [] Y [] N

7) Will the activity use buildings or additions? [x] Y [] N If yes, fill out below.

Building or addition 1 Existing? [x] Y [] N Size and height to the peak: 20'x14 garage. 10' height

Tell us what you'll use it for. Storage of tools and plant pots and trays

Building or addition 2 Existing? [] Y [] N Size and height to the peak:

Tell us what you'll use it for.

Building or addition 3 Existing? [] Y [] N Size and height to the peak:

Tell us what you'll use it for.

8) Does this application include animals? [] Y [x] N

If yes, tell us what kind and how many of each.

Next page ->

Special Use — Questionnaire

9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? Y N If yes, fill out below.

How many employees do you have now? Full time: 1 Part time: 0

How many employees do you want? Full time: 1 Part time: 1

How many of the employees won't live onsite? 2

What will be the days and hours of operation on this property? Wednesday through Friday 9 AM to 5 pm

Saturday 9 AM to 2 PM. By appointment only during slow seasons (Summer & Winter)

How many parking spaces do you have now? 3

How many parking spaces do you want? 8

Will there be outside storage or display areas on this property? Y N

If yes, tell us what will be stored outside or displayed. Soil used in potted nursery plants to be stored outside likely in piles at least 75' from Co Rd 46. Nursery Plant Stock that is available for sale will be displayed outside for customers.

Will there be retail sales on this property? Y N

If yes, tell us what will be sold. Nursery plant stock (potted plants, bare root plants, seeds, cuttings). Plant or garden-related merchandise such as clay or plastic pots, gardening tools, bagged mulch, etc.

Approximately how many customers (clients, guests, students, members) will be on this property per day?

10

Will there be pickups or deliveries on this property? Y N If yes, fill out below.

Tell us how often. Approximately 10 times a week.

Tell us the kind of vehicles used. Pickup truck with or without trailer and sedan car used by me to pickup or deliver nursery plants and/or supplies. Less frequently: dump truck or trailers for potting soil drop off or box trucks for wholesale plant drop offs.

Does the application include signs? Y N If yes, fill out below.

Sign 1 Dimensions (length and width). 3' x 3'

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 2 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

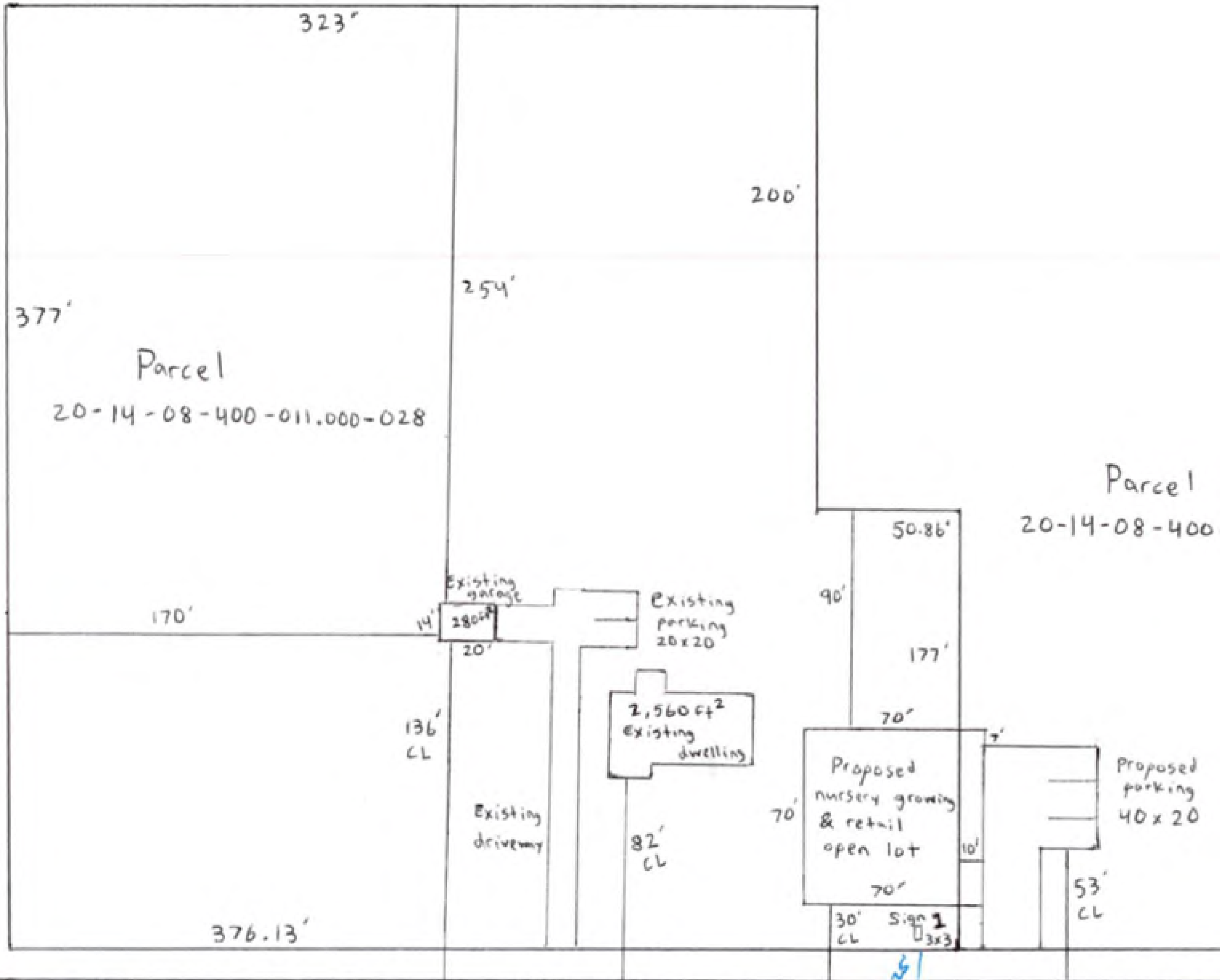
Sign 3 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

10) Tell us anything else you want us to know. My father, Glenn Nunemaker, is allowing me to operate this plant nursery on these parcels for free with no lease or purchase agreement. Thus, there are no lease or land contract documents, and I have left all those boxes unchecked.



4131 CR 46

BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: January 16, 2025

Transaction Number: SUP-0859-2024.

Parcel Number(s): 20-03-31-301-004.000-030, 20-03-31-301-005.000-030 & 20-03-31-301-006.000-030.

Existing Zoning: B-1 & R-1.

Petition: for a Special Use for a truck, tractor, trailer, bus, or recreational vehicle storage yard.

Petitioner: Six Span LLC.

Location: Southwest corner of SR 120 & Michael Dr., 600 ft. East of CR 17, in Washington Township.

Site Description:

- Physical Improvement(s) – Residences and accessory structures.
- Proposed Improvement(s) – Storage yard.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- **October 30, 1959** – The original B-1 and R-1 zoning for the subject property was established.
- **October 21, 2019** – The Board of County Commissioners approved a rezoning from B-1 and R-1 to R-1 for the east tract (PC 2019-31). The only remaining area of R-1 left after this rezoning was the southeast corner of the center tract.
- **September 25, 2024** – A complaint was filed for RV storage. The complaint was verified in October and closed in December because the appropriate applications were filed.
- **January 9, 2025** – The Plan Commission considered a zone map change from R-1 to B-1.

Staff Analysis:

Staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A Special Use for a truck, tractor, trailer, bus, or recreational vehicle storage yard is allowed in the B-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. The subject property consists of three parcels totaling 2.297 acres in a dense mixed-use area and the property will remain residential and commercial in character.
3. The Special Use will substantially serve the public convenience and welfare by allowing for a local truck, tractor, trailer, bus, or recreational vehicle storage yard.

BZA Staff Report (Continued)

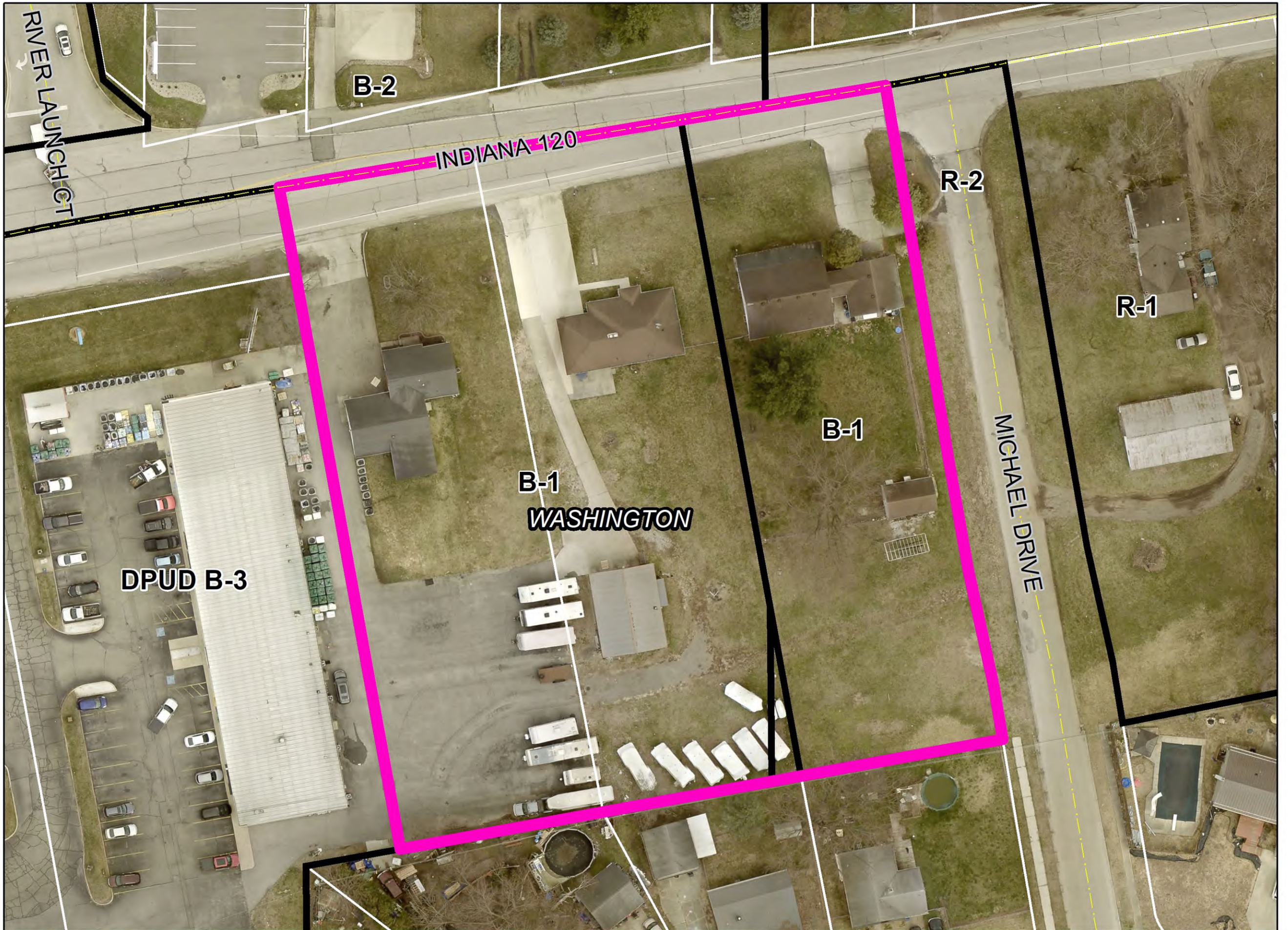
Hearing Date: January 16, 2025

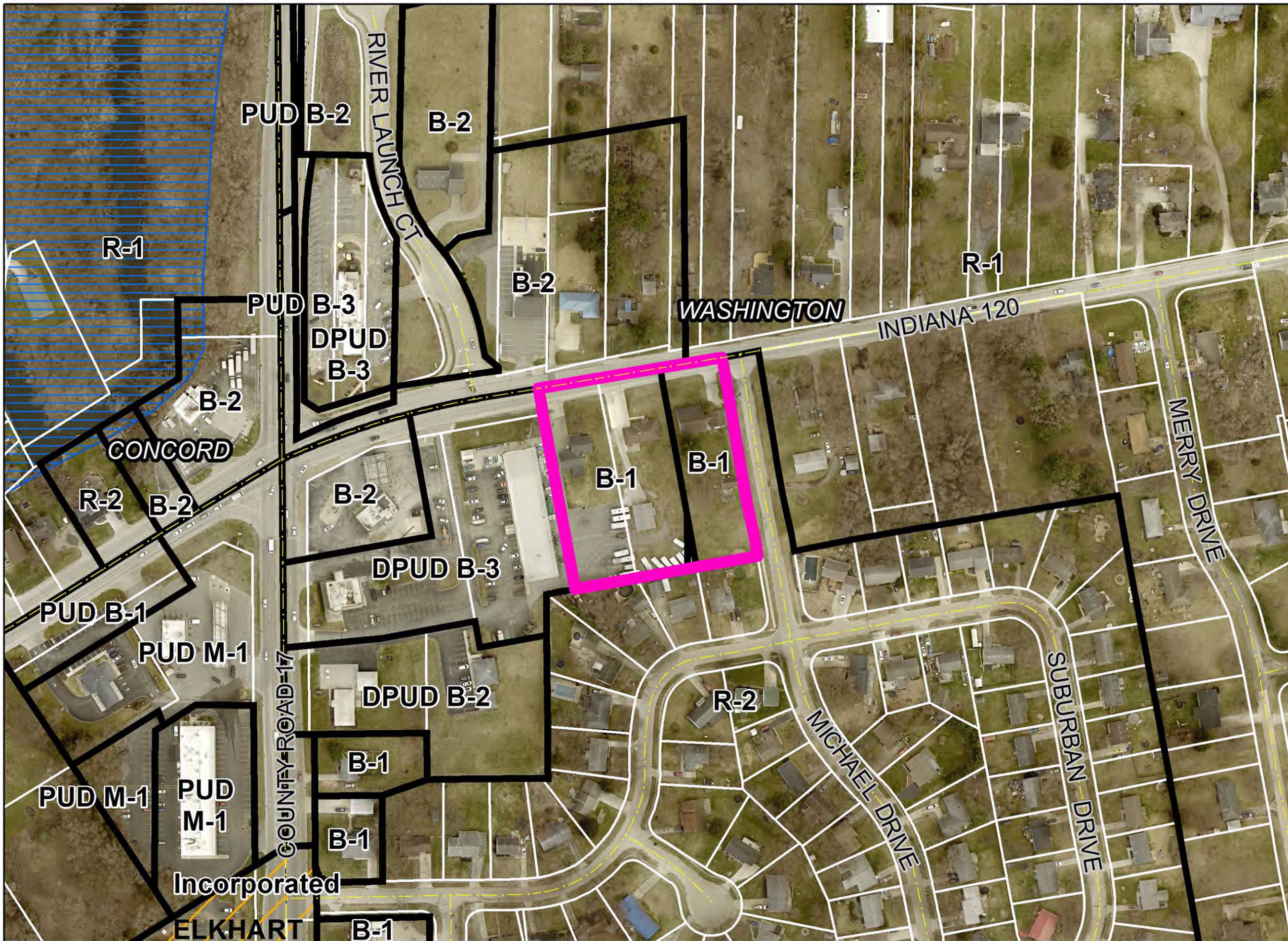
Staff recommends **APPROVAL** with the following condition(s) imposed:

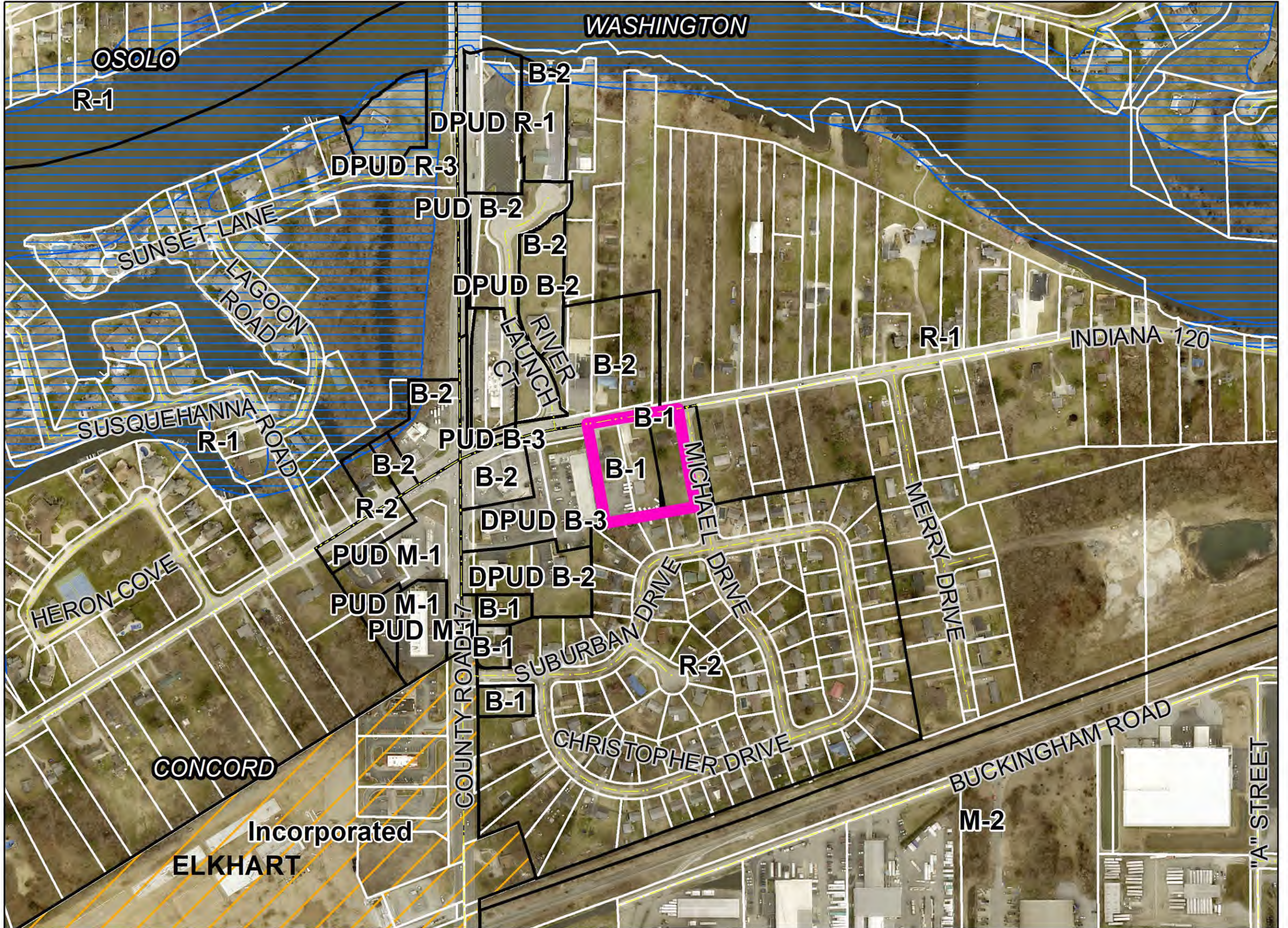
1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A revised site plan must be submitted for staff approval showing a class 1, type C, buffer label along the entire south boundary of the property.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.









Facing South toward subject property



Facing North



Facing East



Facing West

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Special Use - Non Mobile Home

SUP-0859-2024

Date: 12/02/2024

Meeting Date:

January 16, 2025

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0859-2024

Description: for a Special Use for a truck, tractor, trailer, bus, or recreation vehicle storage yard

Contacts: Applicant

Six Span Llc

217 County Road 17

Elkhart, IN 46516

Land Owner

Six Span Llc

217 County Road 17

Elkhart, IN 46516

Site Address: 21776 State Road 120
Elkhart, IN 46516

Parcel Number: 20-03-31-301-004.000-030
20-03-31-301-005.000-030
20-03-31-301-006.000-030

Township: Washington

Location: SOUTHWEST CORNER OF SR 120 & MICHAEL DR., 600 FT. EAST OF CR 17

Subdivision:

Lot #

Lot Area: 2.27 Frontage: 300.00 Depth: 330.00

Zoning: B-1, R-1

NPO List:

Present Use of Property: RESIDENTIAL

Legal Description:

Comments: SEE CODE #0703-2024 (FOR 21790 SR 120), AND CODE #0702-2024 (FOR 21776 SR 120) BOTH FOR STORING RV'S
IN PROCESS OF FILING FOR RE-ZONING B-1 TO B-2 (SEE RZ-)
ALL PARCELS CREATED 3/1/1962
3 PARCELS = 21776 SR 120, 21790 SR 120, AND 21810 SR 120, ELKHART, IN 46517
SEE RZ-0555-2019 FOR A ZONE MAP CHANGE FROM R-1/B-1 TO B-1, APPROVED 9/12/2019

Applicant Signature:

Department Signature:

Application

Site address: 21776, 21790 & 21810

Parcel number(s): 20-03-31-301-004, 005 & 006
3/1/62

Current property owner

Name: Six Span LLC

Address: 217 County Rd 17

Phone: 574-849-7286 Email: LovekeyMin@yahoo.com

Other party Agent Buyer Land contract purchaser Lessee

Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: *Michael W. Sprizel*

Staff Use Only *Self Storage*

Description: _____

Parcel creation date: *3/1/1962*

Subdivision required? Y N If yes, AS Minor Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____ ,
_____ ft. N S E W of _____ ,
in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Special Use — Questionnaire

Name: Six Span LLC

1) Tell us what you want to do. Temporary Storage Boats + RVs
On Gravel + Asphalt at the Rear of the 3 properties

2) Tell us why this activity won't hurt your neighbors or the community. The area is mixed
use of Residential, Commercial Including restaurants
retail and is fenced with Privacy fence in the Rear
Most days no Traffic and no through traffic Allowed

3) Is there a subdivision covenant that says you can't do this activity? Y N
If yes, does the subdivision have an active homeowners' association? Y N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? Y N If yes, fill out below.
Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? Y N

If yes, tell us about it. I ~~is~~ just put up Privacy fence
Along residential Property Line

6) Does the property need well and septic? Well: Y N Septic: Y N existing

Does the property need a new septic system? Y N

If a new septic system is needed, did the Health Department say there's enough space for it? Y N
N/A

7) Will the activity use buildings or additions? Y N If yes, fill out below.

Building or addition 1 Existing? Y N Size and height to the peak: N/A

Tell us what you'll use it for. _____

Building or addition 2 Existing? Y N Size and height to the peak: N/A

Tell us what you'll use it for. _____

Building or addition 3 Existing? Y N Size and height to the peak: N/A

Tell us what you'll use it for. _____

8) Does this application include animals? Y N

If yes, tell us what kind and how many of each. _____

Next page ➡

Special Use — Questionnaire

9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? Y N If yes, fill out below.

How many employees do you have now? Full time: 0 Part time: 1

How many employees do you want? Full time: 0 Part time: no additional

How many of the employees won't live onsite? n/a

What will be the days and hours of operation on this property? Intermittent parking of vehicles to be stored

How many parking spaces do you have now? 20+ or -

How many parking spaces do you want? 20+ or -

Will there be outside storage or display areas on this property? Y N

If yes, tell us what will be stored outside or displayed. Wrapped boats + RVs

Most of the boats come from Area Residents on the St. Joe

Will there be retail sales on this property? Y N

If yes, tell us what will be sold. Nothing

Approximately how many customers (clients, guests, students, members) will be on this property per day?

No more than 20 per season

Will there be pickups or deliveries on this property? Y N If yes, fill out below.

Tell us how often. n/a

Tell us the kind of vehicles used. n/a

Does the application include signs? Y N If yes, fill out below.

Sign 1 Dimensions (length and width). 3 by 4 located 21810 State Rd 120

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 2 Dimensions (length and width). n/a

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 3 Dimensions (length and width). n/a

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

10) Tell us anything else you want us to know. Boats + RV's Parked in Orderly

Manor most customeries never come to Property

Boats are parked and left by me



BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: January 16, 2025

Transaction Number: SUP-0883-2024.

Parcel Number(s): 20-02-36-452-013.000-009.

Existing Zoning: R-1.

Petition: for a Special Use for a home workshop/business for a gun shop.

Petitioner: Douglas R. Rhude & Carolee J. Rhude, Husband & Wife.

Location: Southeast side of SR 120, 2,450 ft. Southwest of CR 17, in Concord Township.

Site Description:

- Physical Improvement(s) – Residence and accessory structures.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- None.

Staff Analysis:

Staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A Special Use for a home workshop/business is allowed in the R-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 6.19-acre property in a moderately dense mixed-use area, and the property will remain residential in character.
3. The Special Use will substantially serve the public convenience and welfare by allowing for local firearms sales and services.

BZA Staff Report (Continued)

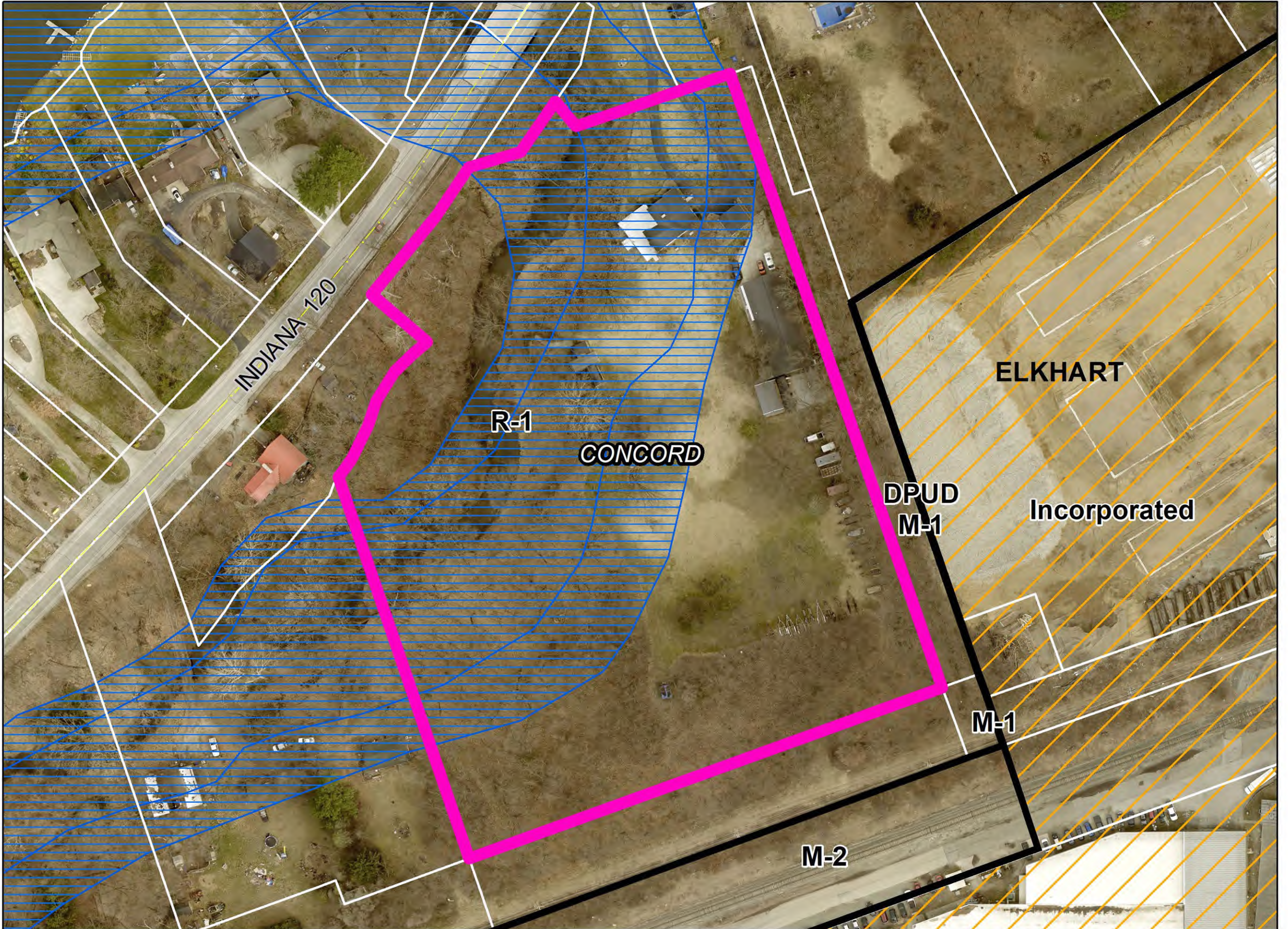
Hearing Date: January 16, 2025

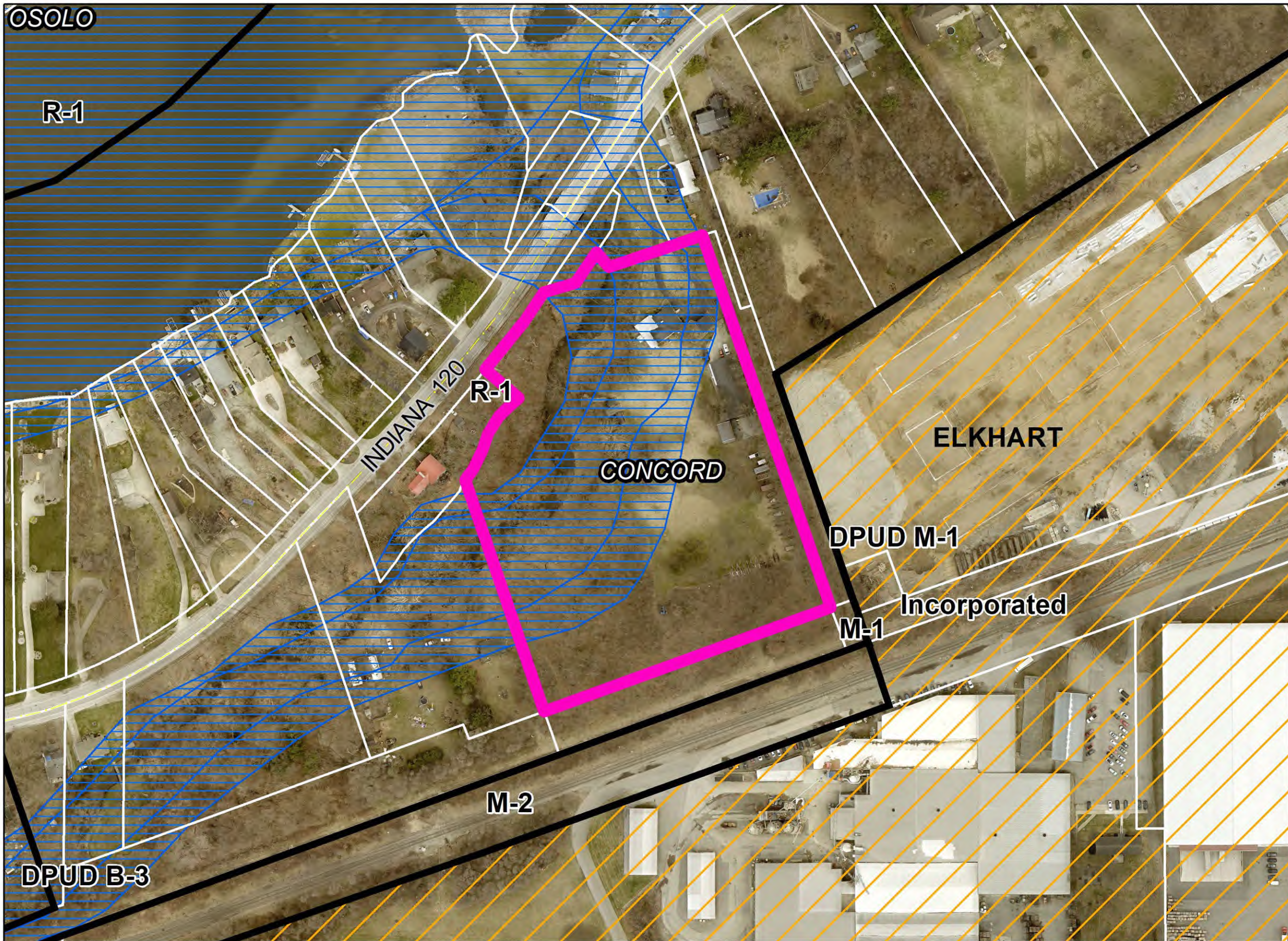
Staff recommends **APPROVAL** with the following condition(s) imposed:

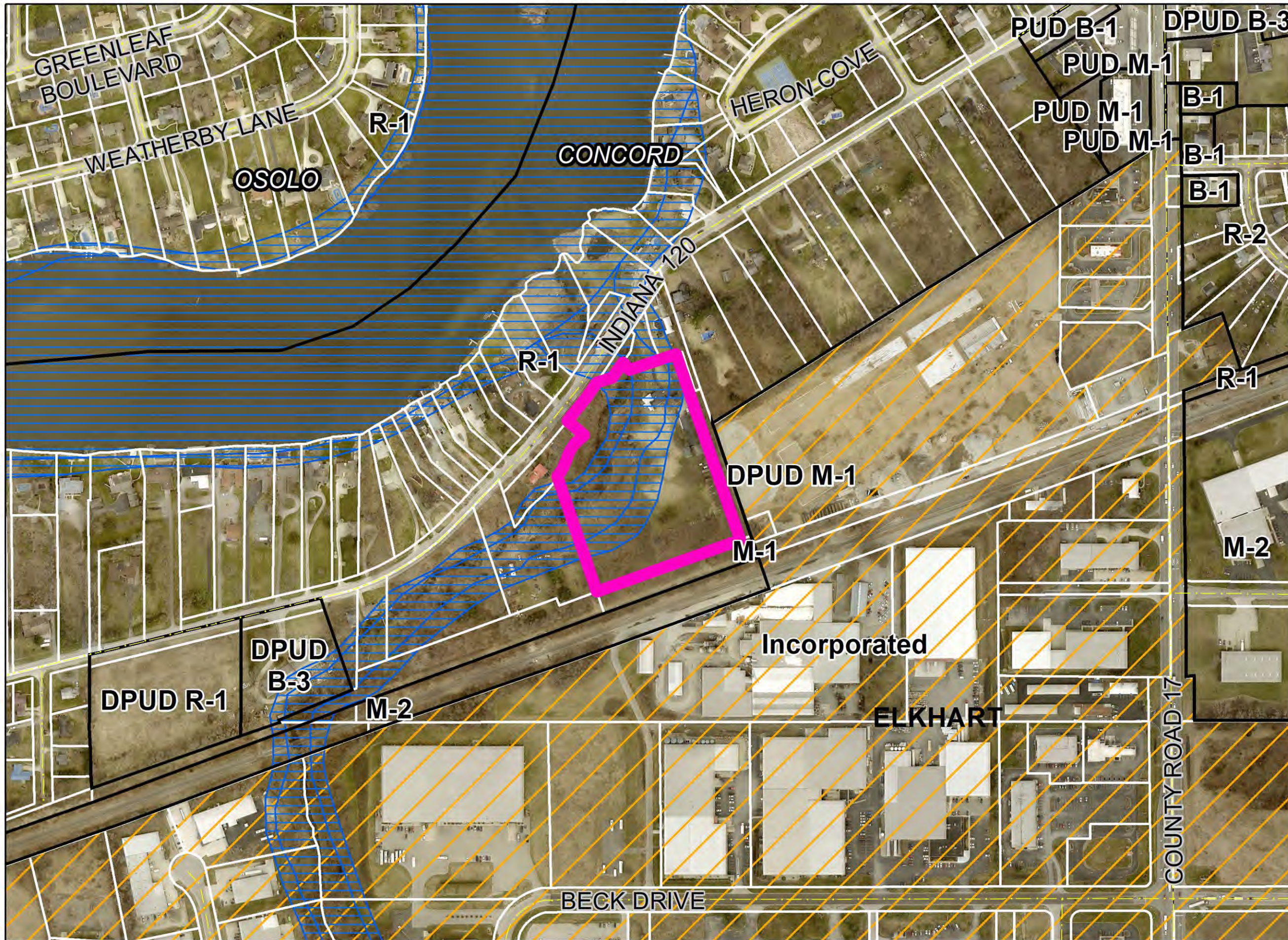
1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The request is approved in accordance with the site plan submitted on 12/16/2024 and as represented in the Special Use application.









Facing South toward subject property



Facing North



Facing East



Facing West

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Special Use - Non Mobile Home

SUP-0883-2024

Date: 12/16/2024

Meeting Date:

January 16, 2025

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0883-2024

Description: for a Special Use for a home workshop/business for a gun shop

Contacts: Applicant

Land Owner

Douglas R Rhude& Carolee J

Douglas R Rhude& Carolee J

Rhude, Husband And Wife

Rhude, Husband And Wife

22382 State Road 120

22382 State Road 120

Elkhart, IN 465165374

Elkhart, IN 465165374

Site Address: 22382 State Road 120
Elkhart, IN 46516

Parcel Number: 20-02-36-452-013.000-009

Township: Concord

Location: SOUTHEAST SIDE OF SR 120, 2450 FT WEST OF CR 17

Subdivision:

Lot #

Lot Area: 6.19 Frontage: 158.00

Depth: 399.00

Zoning: R-1

NPO List:

Present Use of Property: RESIDENTIAL DWELLING

Legal Description:

Comments: PARCEL CREATION DATE 10-1-1987
NEW SPECIAL USE FOR AN EXISTING GUN SHOP ON A RESIDENTIAL PROPERTY

Applicant Signature:

Department Signature:

Application

Site address: 22382 SR 120

Parcel number(s): 20-02-36-452-013.000-009

Current property owner

Name: Doug Rhude

Address: 22382 State Road 120, Elkhart, IN 46516T

Phone: 574-295-6440 Email: dgrd48@aol.com

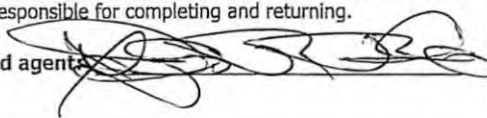
Other party Agent Buyer Land contract purchaser Lessee

Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: 

Staff Use Only

Description: Special use for a home workshop/
business to allow for existing Gun Shop.

Parcel creation date: 10-1-1987

Subdivision required? Y N If yes, AS Minor Major

Residential accessory breakdown, if applicable: _____

Location: N (S) E W corner (side) end of SR 120
2,390 ft. N S E (W) of CR 17
in Concord Township

Frontage: 158 Depth: 399 Area: 6.19 acres

Subdivision and lot number, if applicable: _____

Present use: Residential

Special Use — Questionnaire

Does this application include a business or nonprofit (church, school, other) based all or in part on this property? Y N If yes, fill out below.

How many employees do you have now? Full time: 1 Part time: 1

How many employees do you want? Full time: 1 Part time: 1

How many of the employees won't live onsite? 1

What will be the days and hours of operation on this property? M-F 9-5 Sat 9-Noon

How many parking spaces do you have now? 5 + Overflow

How many parking spaces do you want? 5 + Overflow

Will there be outside storage or display areas on this property? Y N

If yes, tell us what will be stored outside or displayed. Ammo stored in rear building.

Will there be retail sales on this property? Y N

If yes, tell us what will be sold. Guns, Ammo, Accessories

Approximately how many customers (clients, guests, students, members) will be on this property per day?
1-15

Will there be pickups or deliveries on this property? Y N If yes, fill out below.

Tell us how often. Daily

Tell us the kind of vehicles used. UPS, Fed Ex, Amazon

Does the application include signs? Y N If yes, fill out below.

Sign 1 Dimensions (length and width). 30" diameter on front of building.

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 2 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 3 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

- 3) Tell us anything else you want us to know. Been open 34 years and didn't realize I needed this permit. Have all pertinent Licenses and up to date Federal Firearm License. S.O.T. (Special Occupational Tax, Class 3 weapons) Has been inspected by Concord Fire Department. Inspected by Indiana State Police for security. House and barn have separate security systems, monitored 24/7 by Per Mar Security Systems. Color IFR Video surveillance with a 2 week loop on all sides of house and barn as well as inside of barn. 4 large lights light up front, rear and sides of barn on daylight sensors. 8 other motion sensor lights as well.

Special Use — Questionnaire

Name: Doug Rhude

1) Tell us what you want to do. Operate gun shop in pole barn

2) Tell us why this activity won't hurt your neighbors or the community. No close neighbors.
No offensive noises.

3) Is there a subdivision covenant that says you can't do this activity? Y N
If yes, does the subdivision have an active homeowners' association? Y N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? Y N If yes, fill out below.
Tell us what will create those things. Firing guns when I sight them in.

Tell us how you'll reduce the impact of those things on neighbors. Shooting range toward rear of property. Surrounded by woods and Rail Road. Not public range.

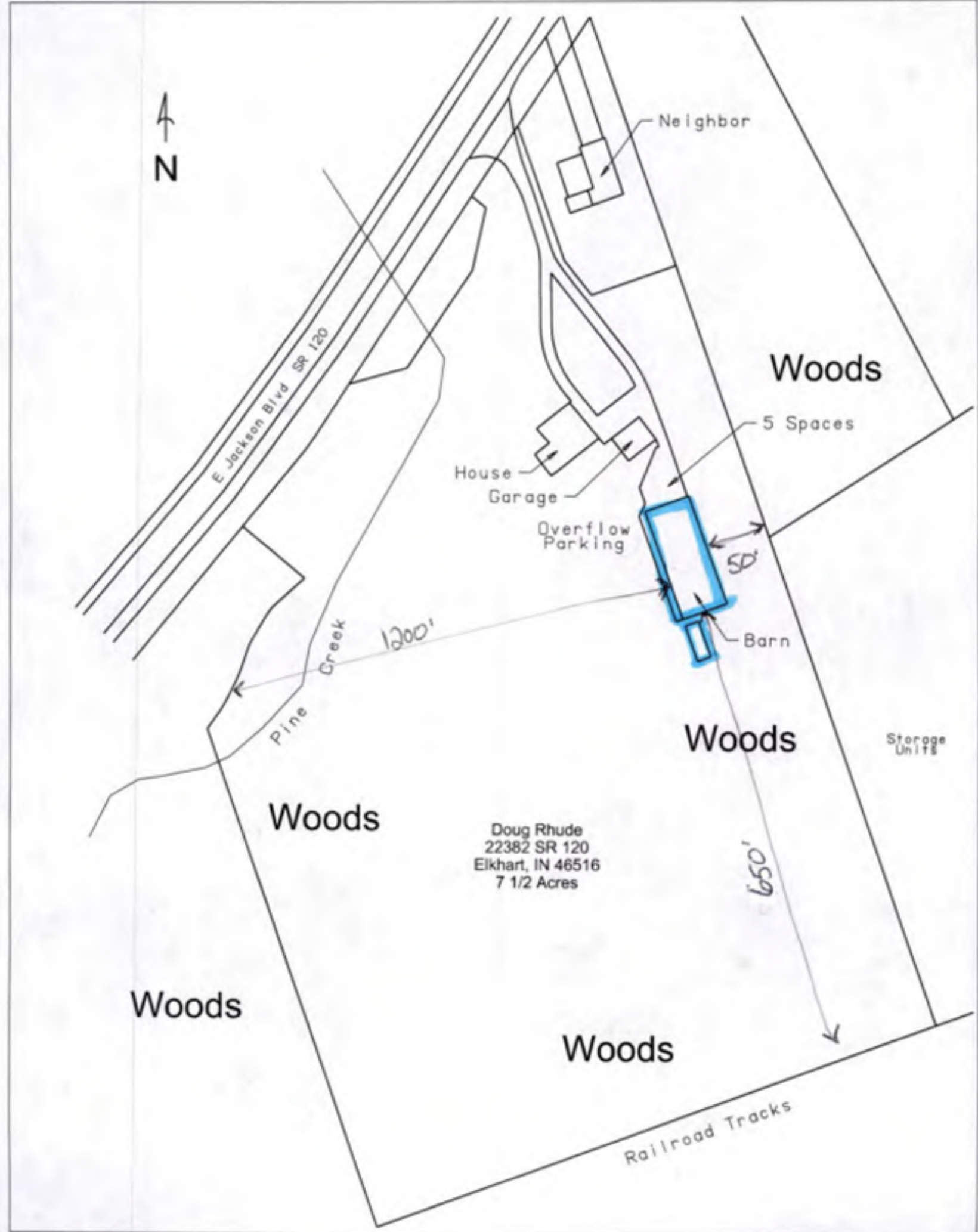
5) Will there be buffering (fences, trees, shrubs, mounds)? Y N
If yes, tell us about it. Already exists.

6) Does the property need well and septic? Well: Y N Septic: Y N
Does the property need a new septic system? Y N
If a new septic system is needed, did the Health Department say there's enough space for it? Y N

7) Will the activity use buildings or additions? Y N If yes, fill out below.
Building or addition 1 Existing? Y N Size and height to the peak: 40 x 98 x 14
Tell us what you'll use it for. Gun shop and storage.
Building or addition 2 Existing? Y N Size and height to the peak: 12 x 32 x 8
Tell us what you'll use it for. Ammo storage
Building or addition 3 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. _____

8) Does this application include animals? Y N
If yes, tell us what kind and how many of each. Family dog

Next page ➡



BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: January 16, 2025

Transaction Number: SUP-0889-2024.

Parcel Number(s): 20-08-33-300-023.000-034.

Existing Zoning: A-1.

Petition: for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres.

Petitioner: Richard R. Miller & Anna Marie Miller, Husband & Wife.

Location: East side of CR 35, 805 ft. South of CR 28, in Middlebury Township.

Site Description:

- Physical Improvement(s) – Residence and accessory structures.
- Proposed Improvement(s) – Barn and fenced pasture.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- **March 23, 2021** – The Richard & Anna Marie Secondary Plat was approved by the Planning Staff.

Staff Analysis:

Staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. The keeping of animals on a tract of land containing less than 3 acres is allowed by Special Use in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 1.84-acre parcel in a low-density residential and agricultural area, and the property will remain residential and agricultural in character.
3. The Special Use will substantially serve the public convenience and welfare by providing a hobby opportunity and local transportation.

BZA Staff Report (Continued)

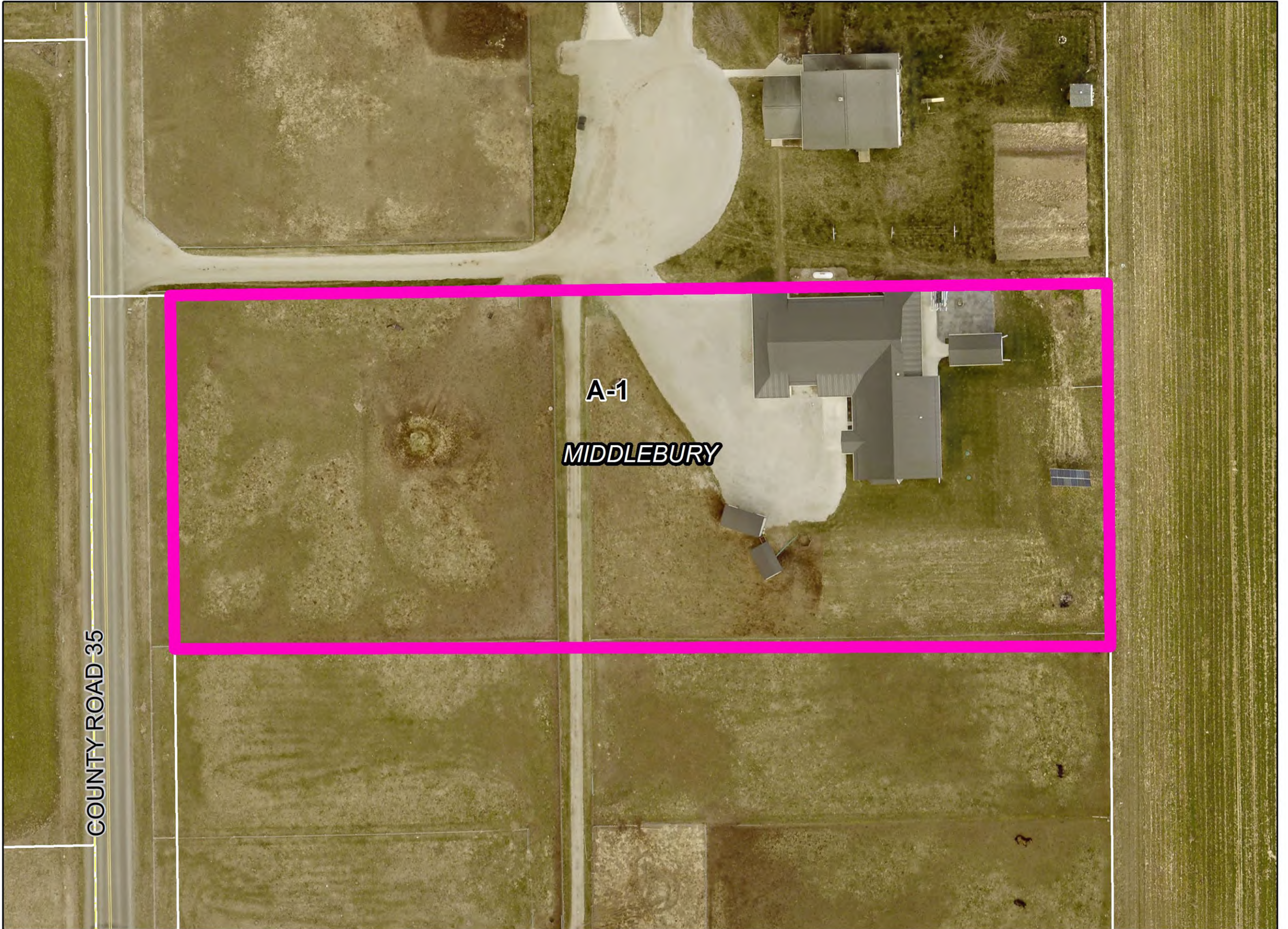
Hearing Date: January 16, 2025

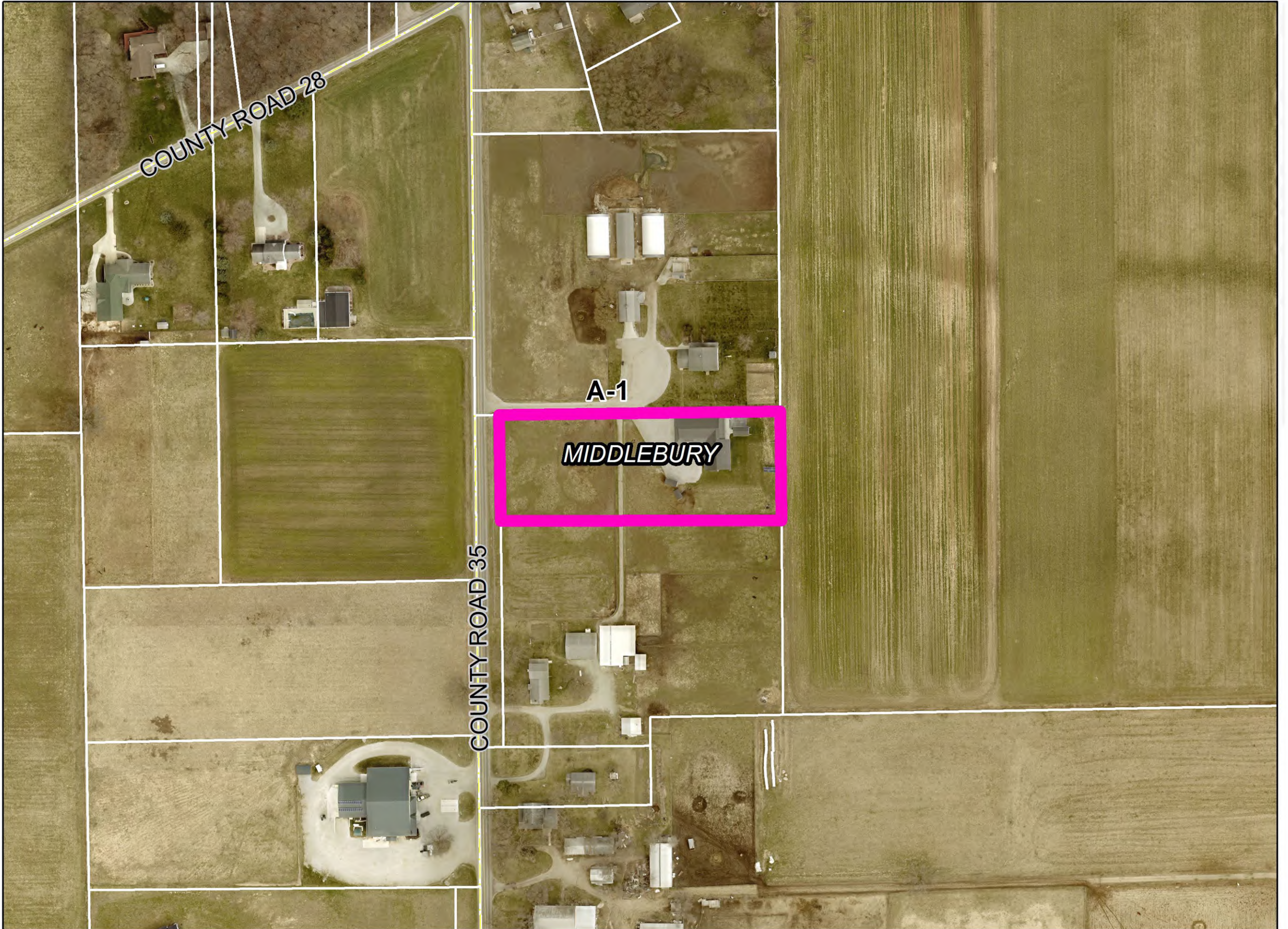
Staff recommends **APPROVAL** with the following condition(s) imposed:

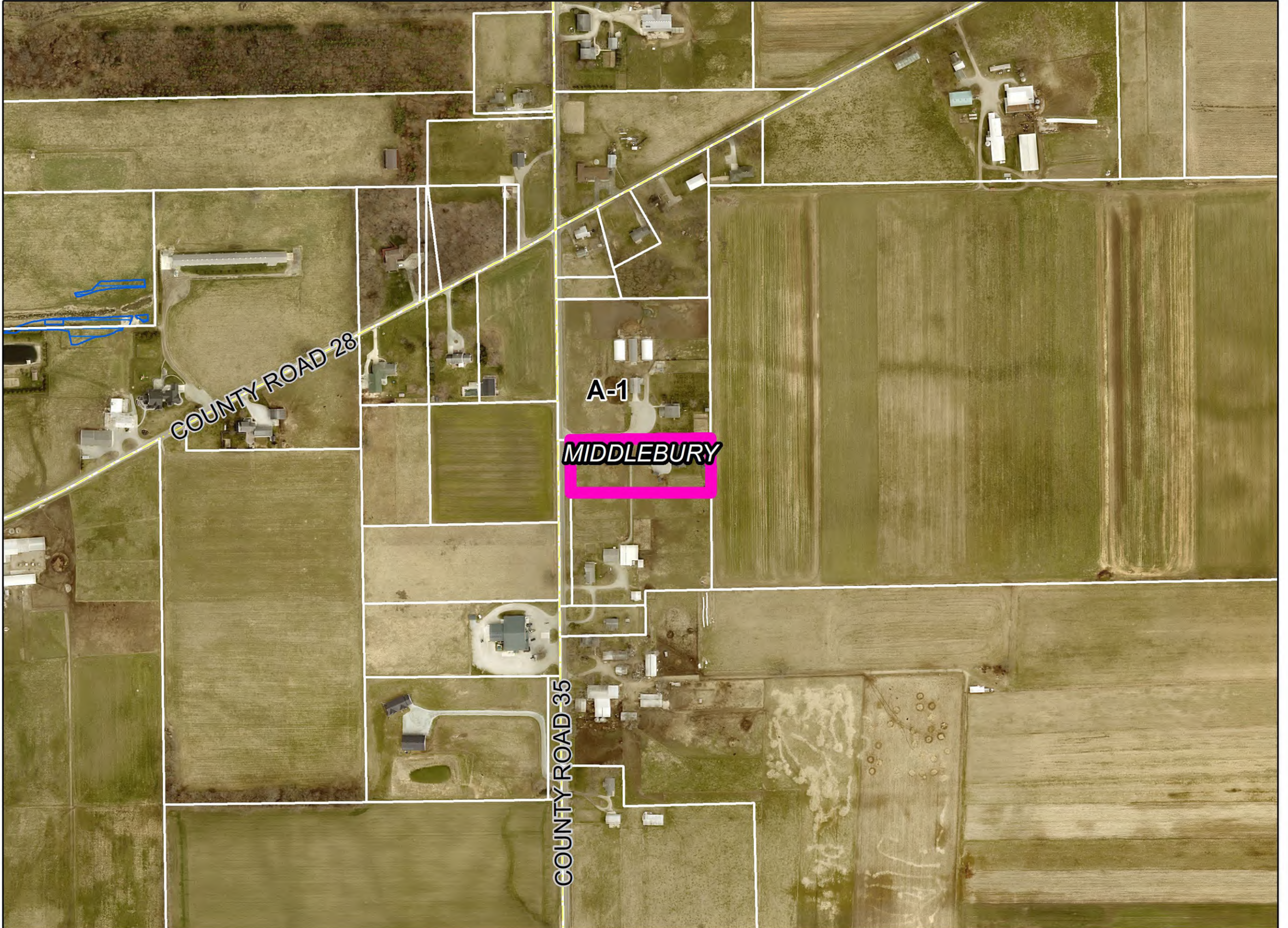
1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A recorded deed for Lot 2 is required.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The request is approved in accordance with the site plan submitted on 12/16/2024 and as represented in the Special Use application.
2. The request is limited to a maximum of four (4) adult horses at any one time.







COUNTY ROAD 28

A-1

MIDDLEBURY

COUNTY ROAD 35





Looking East towards subject property



Looking West



Looking North



Looking South

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Special Use - Non Mobile Home

SUP-0889-2024

Date: 12/16/2024 Meeting Date: January 16, 2025
Board of Zoning Appeals Public Hearing Transaction #: SUP-0889-2024

Description: for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres

Contacts: <u>Applicant</u>	<u>Authorized Agent</u>	<u>Land Owner</u>
J & L Bontrager Construction 59811 Cr 37 Middlebury, IN 46540	J & L Bontrager Construction 59811 Cr 37 Middlebury, IN 46540	Richard R & Anna Marie Miller, Husband & Wife 60704 Cr 35 Goshen, IN 465289663

Site Address: 60704 County Road 35 Goshen, IN 46528	Parcel Number: 20-08-33-300-023.000-034
--	---

Township: Middlebury
Location: East Side Of County Road 35, 805 ft South Of County Road 28

Subdivision:	Lot #
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Lot Area: 1.84	Frontage: 176.00	Depth: 463.00
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Zoning: A-1	NPO List:
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Present Use of Property: RESIDENTIAL

Legal Description:

Comments: SEE MI-0078-2021 AND MI-0202-2021
A RECORDED DEED LOT 1 MAY BE REQUIRED PER DANNY.
THERE IS NO LOT 1 DEED. THE SUPPLIED DEED IS AN OVER-DESCRIPTION.

Applicant Signature:

Department Signature:

Special Use — Questionnaire

Agent

Name: Richard Miller owner David Bontrager Jr.

1) Tell us what you want to do. We want special use to allow for up to 4 horses on property under 3 acres

2) Tell us why this activity won't hurt your neighbors or the community. We live in an area that have horses & cows on both sides of our property

3) Is there a subdivision covenant that says you can't do this activity? Y N
If yes, does the subdivision have an active homeowners' association? Y N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? Y N If yes, fill out below.
Tell us what will create those things. _____
Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? Y N
If yes, tell us about it. Fences to keep horses in

6) Does the property need well and septic? Well: Y N Septic: Y N
Does the property need a new septic system? Y N
If a new septic system is needed, did the Health Department say there's enough space for it? Y N

7) Will the activity use buildings or additions? Y N If yes, fill out below.
Building or addition 1 Existing? Y N Size and height to the peak: 15' peak 20x24
Tell us what you'll use it for. Barn will be used for Horses & Feed
Building or addition 2 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 3 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. _____

8) Does this application include animals? Y N
If yes, tell us what kind and how many of each. 4 horses at Max.

Next page ➡

Special Use — Questionnaire

9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? Y N If yes, fill out below.

How many employees do you have now? Full time: _____ Part time: _____

How many employees do you want? Full time: _____ Part time: _____

How many of the employees won't live onsite? _____

What will be the days and hours of operation on this property? N.A.

How many parking spaces do you have now? NA

How many parking spaces do you want? _____

Will there be outside storage or display areas on this property? Y N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? Y N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day?

N.A.

Will there be pickups or deliveries on this property? Y N If yes, fill out below.

Tell us how often. _____

Tell us the kind of vehicles used. _____

Does the application include signs? Y N If yes, fill out below.

Sign 1 Dimensions (length and width). NA

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 2 Dimensions (length and width). N.A.

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 3 Dimensions (length and width). NA

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

10) Tell us anything else you want us to know. there are portable horse shelters on property that will be removed and replaced with 1 20x24 pole barn

Application

Site address: 60704 CR35 Goshen IN. 46528

Parcel number(s): _____

Current property owner

Name: Richard Miller

Address: 60704 CR35 Goshen IN- 46528

Phone: _____ Email: _____

Other party

Agent Buyer Land contract purchaser Lessee

Name: J & L Bont. Const - David Bontroyer Jr.

Address: 59811 CR37 Midd. IN. 46540

Phone: 574-825-7060 Email: JL Projects @ cMailPrintNet

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent:

David Bontroyer Jr.

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? Y N If yes, AS Minor Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____

_____ ft. N S E W of _____

in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

December 16, 2024

Elkhart County Board of Zoning Appeals
VIA EMAIL: ddean@elkhartcounty.com

Re: Richard and Anna Miller Zoning Variance

To whom it may concern:

Enclosed, please find copies of the following:

1. Plat Information Recording Sheet showing the newly platted Lots 1 & 2 recorded as Instrument No. 2021-07391.
2. Legal Description for the combined Lots 1 & 2 created by Ronnie L. Justice of Advanced Land Surveying of Northern Indiana, Inc.
3. Warranty Deed from Richard R. Miller and Anna Marie Miller to Kenneth L. Mullett and Lavera S. Mullett recorded as Instrument No. 2021-11037 with the Elkhart County Recorder's Office.
4. State Form 53569 regarding property taxes for Lot 1.
5. Legal description for Lot 1 as described below.

As you can see from the enclosed items, Richard and Anna Marie owned the entirety of Lots 1 & 2 until 2021 when Lot 2 was deeded to the Mulletts. Richard and Anna Marie retained ownership of Lot 1, to which the Elkhart County Assessor's Office has assigned the parcel number of 20-08-33-300-023.000-034. I have provided a legal description for Lot 1 which mirrors the legal description currently used for Lot 2. This legal description can be used to issuing zoning permits, etc. for Lot 1. Please let me know if the information provided is sufficient. If you have any questions, feel free to contact me at (574) 533-1171.

Best,



Meghan E. Sink

Yoder Ainlay Ulmer & Buckingham

meghan.sink@ya.law

enclosures

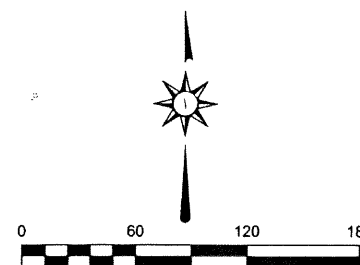
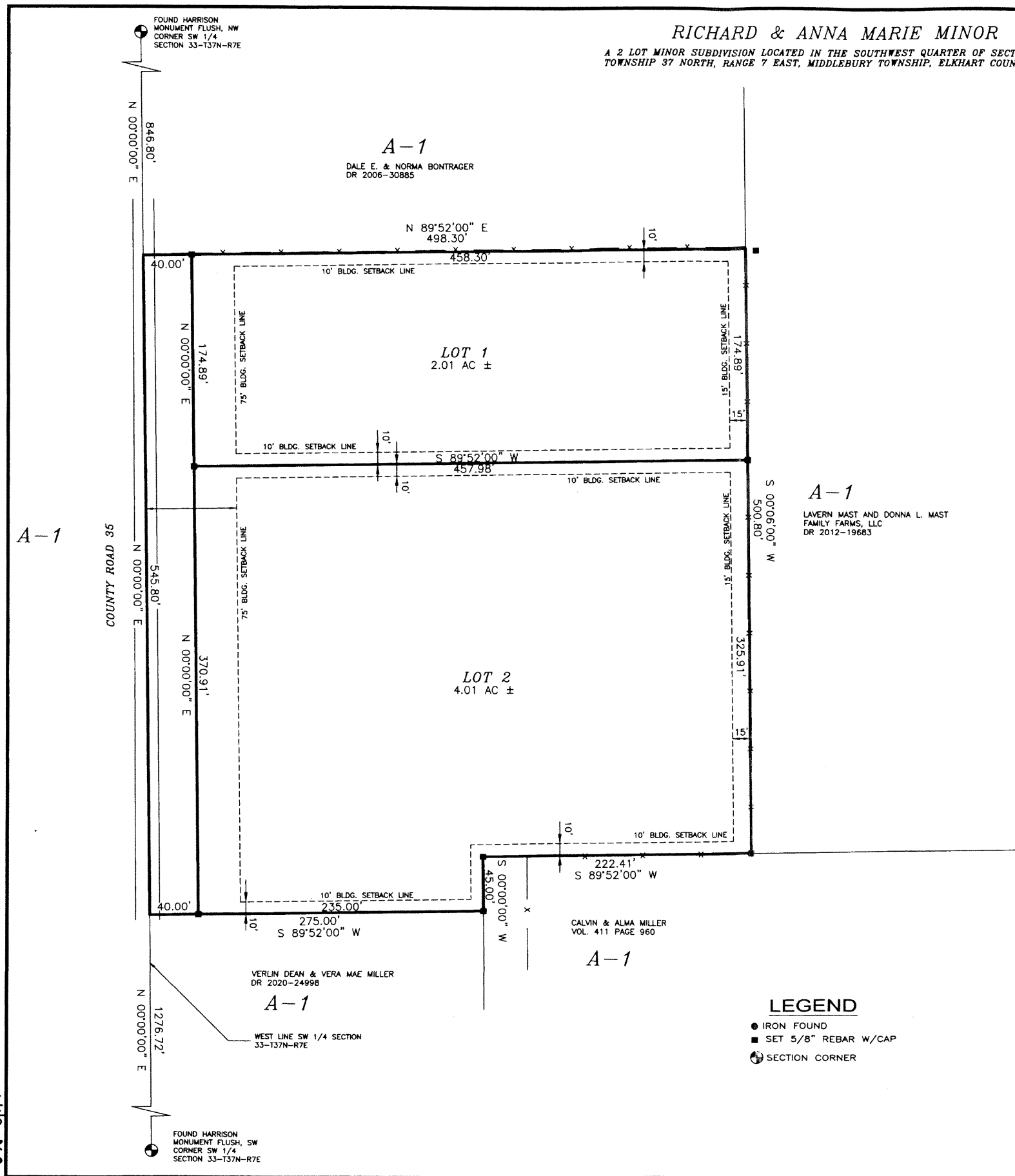
RICHARD & ANNA MARIE MINOR
 A 2 LOT MINOR SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF SECTION 33,
 TOWNSHIP 37 NORTH, RANGE 7 EAST, MIDDLEBURY TOWNSHIP, ELKHART COUNTY, INDIANA

LEGAL DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 37 NORTH, RANGE 7 EAST, MIDDLEBURY TOWNSHIP, ELKHART COUNTY, INDIANA, SURVEYED BY RONNIE L. JUSTICE, REGISTRATION NUMBER 80900004, WITH ADVANCED LAND SURVEYING OF NORTHERN INDIANA INC., AS SHOWN ON PROJECT NUMBER 210109 CERTIFIED ON JANUARY 30, 2021 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT A HARRISON MONUMENT MARKING THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 37 NORTH, RANGE 7 EAST; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 1, A DISTANCE OF 1276.72 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG SAID LINE AND BEARING, A DISTANCE OF 545.80 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO DALE E. AND NORMA BONTRAGER IN ELKHART COUNTY DEED RECORD 2006-30885; THENCE NORTH 89 DEGREES 52 MINUTES 00 SECONDS EAST, WITH THE SOUTH LINE OF SAID BONTRAGER LAND, A DISTANCE OF 498.30 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET ON THE WEST LINE OF A TRACT OF LAND CONVEYED TO LAVERN MAST AND DONNA L. MAST FAMILY FARMS, LLC; THENCE SOUTH 00 DEGREES 06 MINUTES 00 SECONDS WEST, WITH THE WEST LINE OF SAID MAST FAMILY FARMS LLC LAND, A DISTANCE OF 500.80 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET ON THE NORTH LINE OF A TRACT OF LAND CONVEYED TO CALVIN AND ALMA MILLER IN ELKHART COUNTY DEED VOLUME 411, PAGE 960; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST, WITH THE SAID MILLER LAND, A DISTANCE OF 222.41 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, WITH SAID MILLER LAND, A DISTANCE OF 45.00 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET AT THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO VERLIN DEAN AND VERA MAE MILLER IN ELKHART COUNTY DEED RECORD 2020-24998; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST, WITH THE NORTH LINE OF SAID MILLER LAND, A DISTANCE OF 275.00 FEET TO THE POINT BEGINNING OF THIS DESCRIPTION, CONTAINING 6.01 ACRES, MORE OR LESS.

NOTES:

- 1) THIS LOT WILL BE DEVELOPED TO NOT IMPEDE THE NATURAL FLOW OF STORM WATER ON THIS TRACT.
- 2) THE LAND USE IS SINGLE FAMILY RESIDENTIAL
- 3) THE CURRENT ZONING IS A-1, AGRICULTURAL
- 4) THESE LOTS WILL BE SUPPLIED BY A WELL AND SEPTIC PER ELKHART COUNTY ENVIRONMENTAL HEALTH DEPARTMENT APPROVAL
- 5) SOIL TYPES ARE:
 CnbB Coloma sand, 2 to 5% slopes, Water table depth >6.0'
 BtxB Bristol loamy sand, 2 to 5% slopes, Water table depth >6.0'
 TxbB Tyner loamy sand, 01 to 5% slopes, Water table depth >6.0'
 RopB Riddles-Oshtemo fine sandy loams, 1 to 5% slopes, water table depth >6.0'
- 6) THIS AREA IS NOT IN A FLOODPLAIN AS PER INFORMATION OBTAINED FROM COMMUNITY PANEL NUMBER 180056 0276 D, EFFECTIVE DATE OF AUGUST 2, 2011.
- 7) FINISH GRADE OF LOT TO REMAIN AS CLOSE AS POSSIBLE TO EXISTING GRADE.
- 8) THE VERTICAL DATUM FOR THIS SURVEY IS NAVD88 USING GPS EQUIPMENT AND ELKHART COUNTY GIS.
- 9) ELKHART COUNTY RESTRICTIONS ARE IN EFFECT.
- 10) DEVELOPMENT TO BE AS SOON AS POSSIBLE
- 11) SITE FLOWS TO BOYER DITCH 600'+/- TO THE NORTH
- 12) LOT 2 IS AN EXISTING SITE. NO ADDITIONAL COUNTY ROAD ACCESS IS BEING PROPOSED. THE CLEAR SIGHT DISTANCE TO THE NORTH IS GREATER THAN 700'. THE CLEAR SIGHT DISTANCE TO THE SOUTH IS 0' - 325' AND 525' - 700'+. THERE IS A HIGH SPOT TO THE SOUTH CREATING A BLIND SPOT FROM 325' TO 525' SOUTH OF THE EXISTING DRIVE.



OWNER: RICHARD R. & ANNA MARIE MILLER
 60770 COUNTY ROAD 35, GOSHEN, IN 46528

- LEGEND**
- IRON FOUND
 - SET 5/8" REBAR W/CAP
 - ⊙ SECTION CORNER

	ADVANCED LAND SURVEYING OF NORTHERN INDIANA, INC. 17120 COUNTY ROAD 46, NEW PARIS, INDIANA 46553 (574) 849-4728 RONNIE L. JUSTICE PS	
	SCALE: 1" = 60'	DRAWN BY: RLJ
DATE: 1/30/2021	APPROVED BY: RLJ	SHEET NUMBER: 1 OF 2

V140 P68

V140 P68

STATEMENT OF COMPLIANCE

THIS SUBDIVISION IS FOUND TO BE IN COMPLIANCE WITH THE ELKHART COUNTY SUBDIVISION CONTROL ORDINANCE AND THE DEDICATIONS SHOWN ON THIS PLAT ARE HEREBY APPROVED AND ACCEPTED TO THE BENEFIT OF ELKHART COUNTY THIS 18th DAY OF March 2021.

ELKHART COUNTY PLAN COMMISSION

BY: Chris Godlewski
CHRIS GODLEWSKI, PLAN DIRECTOR

RECORDED
RECEIVED FOR RECORD THIS 23rd DAY OF March 2021
AT 11:59 AM AND RECORDED IN PLAT BOOK 40 PAGE 68

Jennifer L. Doriot
JENNIFER L. DORIOT - RECORDER OF ELKHART COUNTY

2021-07391
ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
03/23/2021 11:59 AM
AS PRESENTED
\$30.00 PLAT BOOK 40 PAGE 68

AUDITOR
DULY ENTERED FOR TAXATION THIS 23rd DAY OF March 2021
Patricia A. Pickens
PATRICIA A. PICKENS - AUDITOR OF ELKHART COUNTY

DRAINAGE MAINTENANCE CERTIFICATION:

THE MAINTENANCE OF ALL DRAINAGE FACILITIES, INCLUDING CULVERTS AND SWALES SHALL BE THE RESPONSIBILITY OF EACH LOT OWNER, AND NO OWNER SHALL PERMIT, ALLOW OR CAUSE ANY OF SAID FACILITIES TO BE OBSTRUCTED OR REMOVED OR TO IN ANY WAY IMPEDE THE FLOW OF WATER ACROSS OR THROUGH SAID FACILITIES.

IN THE EVENT ANY SUCH FACILITIES BECOMES DAMAGED OR IN DISREPAIR, IT SHALL BE THE RESPONSIBILITY OF THE LOT OWNER TO REPAIR SUCH FACILITIES AT OWNER'S EXPENSE. IN THE EVENT OF OWNER'S FAILURE TO MAINTAIN SUCH DRAINAGE FACILITIES IN GOOD ORDER AND REPAIR, APPROPRIATE GOVERNMENTAL AUTHORITY OF ELKHART COUNTY, INDIANA, MAY REPAIR SUCH DRAINAGE FACILITIES AND INVOICE THE COSTS OF SUCH REPAIR TO THE LAST OWNER. ELKHART COUNTY, INDIANA, IS GRANTED AN EASEMENT ACROSS A LOT OWNER'S REAL ESTATE FOR THE PURPOSE OF REPAIRING ANY DRAINAGE FACILITIES ON SAID LOT OWNER'S REAL ESTATE. THE AMOUNT OF ANY ASSESSMENT FOR THE COSTS OF SUCH REPAIR, AS ASSESSED BY SAID GOVERNMENTAL AUTHORITY SHALL CONSTITUTE A LIEN UPON THE REAL ESTATE OF THE LOT OWNER AND AN ENCUMBRANCE UPON THE TITLE TO SAID LOT.

ELKHART COUNTY, INDIANA, IS FURTHER GRANTED A RIGHT OF ACTION FOR THE COLLECTION OF SAID INDEBTEDNESS FROM THE LOT OWNER AND FOR THE FORECLOSURE OF SAID LIEN IN THE MANNER IN WHICH MORTGAGES ARE FORECLOSED UNDER THE LAWS OF THE STATE OF INDIANA. ANY SUCH COLLECTION AND/OR FORECLOSURE ACTION SHALL BE MAINTAINED IN THE COURTS OF GENERAL JURISDICTION OF THE STATE OF INDIANA, AND SHALL BE COMMENCED IN ELKHART COUNTY, INDIANA.

THIS SURVEY IS LOCATED IN AN AREA THAT IS CURRENTLY ZONED A-1 (AGRICULTURAL). AS SUCH NORMAL AGRICULTURAL OPERATION INCLUDING THE OPERATION OF MACHINERY, THE PRIMARY PROCESSING OF AGRICULTURAL PRODUCTS, AND ALL NORMAL AGRICULTURAL OPERATIONS PERFORMED IN ACCORDANCE WITH GOOD HUSBANDRY PRACTICES ARE PERMITTED TO BE CONDUCTED ON ADJOINING PROPERTIES.

SURVEYOR'S REPORT

IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12, SECTION 1 THROUGH 29 OF THE INDIANA ADMINISTRATIVE CODE, THE FOLLOWING OBSERVATIONS AND OPINIONS ARE SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATION OF THE LINES AND CORNERS ESTABLISHED ON THIS SURVEY.

THE RELATIVE POSITIONAL ACCURACY OF THE CORNERS OF THE SUBJECT TRACT ESTABLISHED THIS SURVEY IS WITHIN THE SPECIFICATIONS FOR AN URBAN (0.26 FEET PLUS 200 PARTS PER MILLION) SURVEY. THE PURPOSE OF THIS SURVEY IS TO PERFORM A RETRACEMENT SURVEY OF A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 37 NORTH, RANGE 7 EAST, MIDDLEBURY TOWNSHIP, ELKHART COUNTY, INDIANA AND DESCRIBED IN DEED RECORD 2000-11855. THIS SURVEY IS BASED ON DEEDS OF THE SUBJECT TRACT AND ADJOINING TRACTS.

MONUMENTS: HARRISON MONUMENT SECTION CORNERS WERE FOUND AROUND THIS SECTION. THE NORTHWEST AND SOUTHWEST CORNERS WERE THE ONES USED FOR THIS SURVEY. NO MONUMENTS WERE FOUND FOR THIS TRACT OR ADJOINING TRACTS.

THERE ARE NO VARIANCES IN REFERENCE MONUMENTS.

THEORY OF LOCATION: THE ABOVE SECTION CORNER MONUMENTS AS DESCRIBED ABOVE WERE LOCATED AND USED AS BASIS FOR THIS SURVEY. THE DEED FOR THIS PROPERTY WAS DESCRIBED BY METES AND BOUNDS. THIS WAS CALCULATED BY DEED DESCRIPTION USING THE MONUMENTED WEST LINE OF SAID SOUTHWEST CORNER. FENCES AROUND THIS PARCEL WERE ALSO LOCATED AND THE LEGAL DESCRIPTION CLOSELY FOLLOWED THOSE FENCES. ADJOINING PARCELS TO THE EAST AND SOUTH WERE DESCRIBED BY ALOQUET PARTS. THE OWNER WHO HIM AND HIS FAMILY HAVE LIVED ON THIS PROPERTY FOR MANY YEARS VERIFIED THAT THESE PARCELS HAD NOT BEEN SURVEYED BUT AND THAT A LOCAL ATTORNEY HAD WRITTEN THE DEED FOR THIS PARCEL. DEED DISTANCES WERE HELD PER DEEDS.

VARIANCES IN POSSESSION LINES: FENCE ON NORTH LINE IS 1'+/- NORTH OF LINE. SOUTH AND EAST LINES ARE ON OR NEAR LINE. THERE ARE NO DISCREPANCIES IN THE RECORD DESCRIPTIONS.

BASIS OF BEARINGS IS DESIGNATED AS NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 37 NORTH, RANGE 7 EAST FROM DEED RECORD 2000-11855.

RICHARD & ANNA MARIE MINOR
A 2 LOT MINOR SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF SECTION 33,
TOWNSHIP 37 NORTH, RANGE 7 EAST, MIDDLEBURY TOWNSHIP, ELKHART COUNTY, INDIANA

DEED OF DEDICATION and OWNERS CERTIFICATION

THIS IS TO CERTIFY THAT WE, THE UNDERSIGNED, ARE THE OWNER(S) OF THE LAND DESCRIBED IN THE PLAT HEREIN, AND THAT WE HAVE CAUSED THE SAME TO BE SURVEYED AND SUBDIVIDED AS INDICATED THEREON, FOR THE USES AND PURPOSES THEREIN SET FORTH, AND DO HEREBY ACKNOWLEDGE AND ADOPT THE PLAT UNDER THE STYLE AND TITLE THEREON INDICATED.

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, AS PROPRIETORS, HAVE CAUSED THE ABOVE DESCRIBED LAND TO BE SURVEYED AND SUBDIVIDED AS SHOWN ON THE PLAT OPPOSITE, THAT SAID SUBDIVISION IS TO BE KNOWN AS RICHARD & ANNA MARIE MINOR, THAT THE LOTS ARE NUMBERED AND HAVE THEIR RESPECTIVE DIMENSIONS GIVEN IN FEET AND DECIMAL PARTS THEREOF, AND THAT THE FACILITIES INCLUDED IN SAID SUBDIVISION ARE HEREBY DEDICATED FOR PUBLIC USE.

Richard R. Miller
RICHARD R. MILLER

Anna Marie Miller
ANNA MARIE MILLER

STATE OF INDIANA)
COUNTY OF ELKHART) SS:

BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED RICHARD R. MILLER AND ANNA MARIE MILLER AND EACH SEPARATELY AND SEVERALLY ACKNOWLEDGED THE FOREGOING INSTRUMENT AS THEIR VOLUNTARY ACT AND DEED FOR THE PURPOSES HEREIN EXPRESSED.

WITNESS MY HAND AND NOTARIAL SEAL THIS 22nd DAY OF March 2021.

Thad O. Justice NOTARY

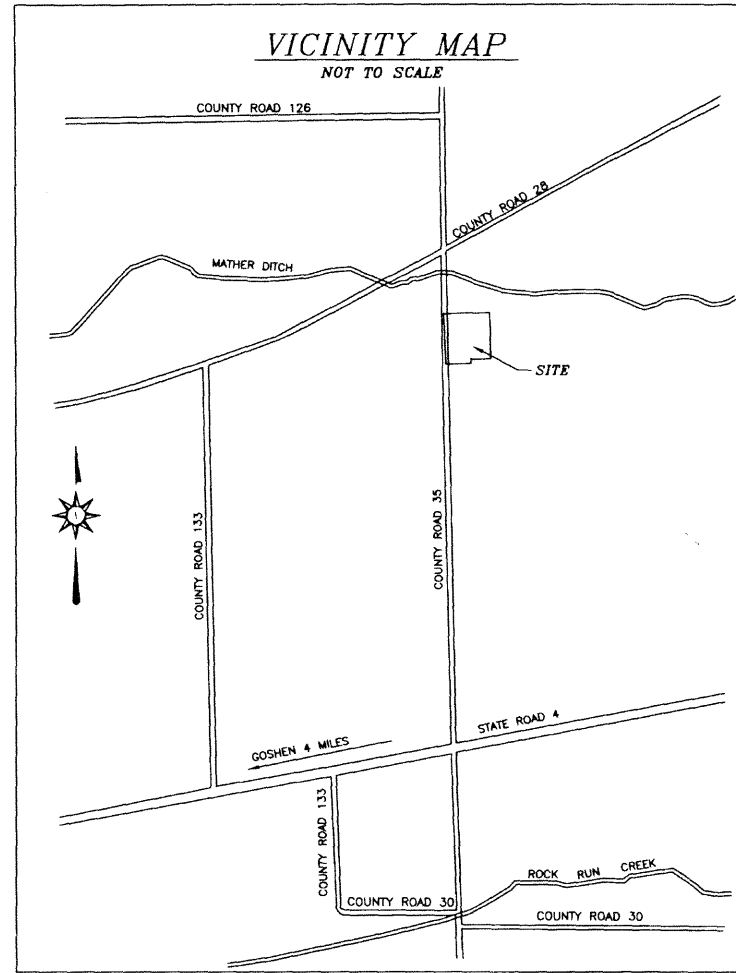
Thad O. Justice NOTARY'S PRINTED NAME

RESIDENT OF Elkhart COUNTY

MY COMMISSION EXPIRES Jan 5, 2024



Thad O. Justice
NOTARY PUBLIC STATE OF INDIANA
ELKHART COUNTY
COMMISSION NUMBER 87251
MY COMMISSION EXPIRES
JANUARY 5, 2024



I, RONNIE L. JUSTICE, AFFIRM UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

I, RONNIE L. JUSTICE, HEREBY CERTIFY THAT I AM A LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA. I CERTIFY THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12, SECTION 1 THROUGH 41 OF THE INDIANA ADMINISTRATIVE CODE, THAT ALL MONUMENTS ARE INSTALLED IN ACCORDANCE WITH THE PROVISIONS OF THE SUBDIVISION ORDINANCE OF ELKHART COUNTY, INDIANA

SIGNATURE Ronnie L. Justice
RONNIE L. JUSTICE, PS
IN REG. NO. 80900004

OWNER: RICHARD R. & ANNA MARIE MILLER
60770 COUNTY ROAD 35, GOSHEN, IN 46528

ADVANCED ADVANCED LAND SURVEYING OF NORTHERN INDIANA, INC.
17120 COUNTY ROAD 46, NEW PARIS, INDIANA 46553
(574) 849-4728
RONNIE L. JUSTICE PS

SCALE: 1" = 60'	DRAWN BY: RLJ	PROJECT NUMBER: 210109
DATE: 1/30/2021	APPROVED BY: RLJ	SHEET NUMBER: 2 OF 2



V40 p68

V40 p68

Richard Miller

33,
INDIANA

LEGAL DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 37 NORTH, RANGE 7 EAST, MIDDLEBURY TOWNSHIP, ELKHART COUNTY, INDIANA, SURVEYED BY RONNIE L. JUSTICE, REGISTRATION NUMBER 80900004, WITH ADVANCED LAND SURVEYING OF NORTHERN INDIANA INC., AS SHOWN ON PROJECT NUMBER 210109 CERTIFIED ON JANUARY 30, 2021 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A HARRISON MONUMENT MARKING THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 37 NORTH, RANGE 7 EAST; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 1, A DISTANCE OF 1276.72 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG SAID LINE AND BEARING, A DISTANCE OF 545.80 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO DALE E. AND NORMA BONTRAGER IN ELKHART COUNTY DEED RECORD 2006-30885; THENCE NORTH 89 DEGREES 52 MINUTES 00 SECONDS EAST, WITH THE SOUTH LINE OF SAID BONTRAGER LAND, A DISTANCE OF 498.30 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET ON THE WEST LINE OF A TRACT OF LAND CONVEYED TO LAVERN MAST AND DONNA L. MAST FAMILY FARMS, LLC; THENCE SOUTH 00 DEGREES 06 MINUTES 00 SECONDS WEST, WITH THE WEST LINE OF SAID MAST FAMILY FARMS LLC LAND, A DISTANCE OF 500.80 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET ON THE NORTH LINE OF A TRACT OF LAND CONVEYED TO CALVIN AND ALMA MILLER IN ELKHART COUNTY DEED VOLUME 411, PAGE 960; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST, WITH THE SAID MILLER LAND, A DISTANCE OF 222.41 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, WITH SAID MILLER LAND, A DISTANCE OF 45.00 FEET TO A REBAR WITH CAP (ALS FIRM 0135) SET AT THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO VERLIN DEAN AND VERA MAE MILLER IN ELKHART COUNTY DEED RECORD 2020-24998; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST, WITH THE NORTH LINE OF SAID MILLER LAND, A DISTANCE OF 275.00 FEET TO THE POINT BEGINNING OF THIS DESCRIPTION, CONTAINING 6.01 ACRES, MORE OR LESS.

EXHIBIT "A"

SITUATED IN ELKHART COUNTY, STATE OF INDIANA, TO-WIT:

LOT NUMBER 2 IN RICHARD & ANNA MARIE MINOR SUBDIVISION IN MIDDLEBURY TOWNSHIP, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 40, PAGE 58 AND IN INSTRUMENT NO. 2021-07391, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

PARCEL NUMBER 20-08-33-300-023.000-034	COUNTY PARCEL NUMBER 08-33-300-023-034	TAX YEAR 2023 Payable 2024	Late Payment Penalty: 5% penalty after May 10, 2024, if there is no delinquent amount; 10% penalty for previous delinquency or if payment is made after June 10, 2024
TAKING UNIT NAME 034/034 MIDDLEBURY	LEGAL DESCRIPTION RICHARD & ANN MARIE MINOR LOT 1		
PROPERTY ADDRESS 60704 COUNTY ROAD 35			

SPRING AMOUNT DUE by May 10, 2024: **\$2,328.50**



08-33-300-023-034



T153 P1

46333-92765-1
 MILLER RICHARD R & ANNA MARIE
 60704 COUNTY ROAD 35
 GOSHEN IN 46528-9663

Pay by Phone: (888) 881-9911
 Pay Online at: <https://elkhartcounty.com>

Remit Payment and Make Check Payable to:
 Elkhart County Treasurer
 P.O. Box 116
 Goshen, IN 46527

0833300023034 000000232850

COUNTY: 20 - ELKHART

FALL INSTALLMENT REMITTANCE COUPON

PARCEL NUMBER 20-08-33-300-023.000-034	COUNTY PARCEL NUMBER 08-33-300-023-034	TAX YEAR 2023 Payable 2024	Late Payment Penalty: 5% penalty after November 12, 2024, if there is no delinquent amount; 10% penalty for previous delinquency or if payment is made after December 12, 2024
TAKING UNIT NAME 034/034 MIDDLEBURY	LEGAL DESCRIPTION RICHARD & ANN MARIE MINOR LOT 1		
PROPERTY ADDRESS 60704 COUNTY ROAD 35			

FALL AMOUNT DUE by November 12, 2024: **\$2,328.50**



08-33-300-023-034

MILLER RICHARD R & ANNA MARIE
 60704 COUNTY ROAD 35
 GOSHEN IN 46528-9663

Pay by Phone: (888) 881-9911
 Pay Online at: <https://elkhartcounty.com>

Remit Payment and Make Check Payable to:
 Elkhart County Treasurer
 P.O. Box 116
 Goshen, IN 46527

0833300023034 000000232850

COUNTY: 20 - ELKHART

TAXPAYERS' COPY - KEEP FOR YOUR RECORD

PARCEL NUMBER 20-08-33-300-023.000-034	COUNTY PARCEL NUMBER 08-33-300-023-034	TAX YEAR 2023 Payable 2024	DUE DATES SPRING - May 10, 2024 FALL - November 12, 2024
TAKING UNIT NAME 034/034 MIDDLEBURY	LEGAL DESCRIPTION RICHARD & ANN MARIE MINOR LOT 1		

DATE OF STATEMENT: 04/12/2024

PROPERTY ADDRESS 60704 COUNTY ROAD 35		
PROPERTY TYPE Real Estate	TOWNSHIP MIDDLEBURY	
ACRES 1.84	LOCAL HS RATE/CREDIT 6.1240/\$302.82	BILL CODE

MILLER RICHARD R & ANNA MARIE
 60704 COUNTY ROAD 35
 GOSHEN IN 46528-9663

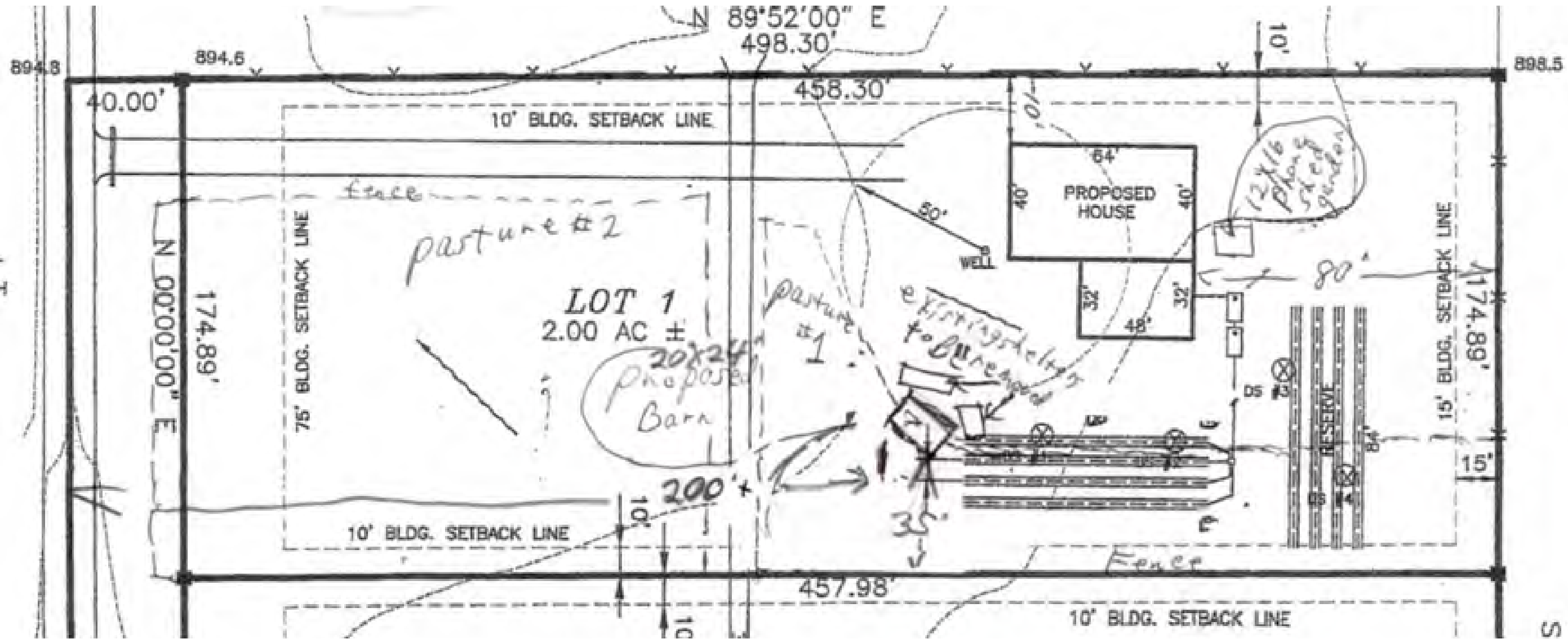
ITEMIZED CHARGES	SPRING TOTAL	FALL TOTAL
Tax	\$2,321.00	\$2,321.00
Delinquent Tax	\$0.00	\$0.00
Delinquent Penalty	\$0.00	\$0.00
Other Assessment (OA)	\$0.00	\$0.00
Delinquent OA Tax	\$0.00	\$0.00
Delinquent OA Penalty	\$0.00	\$0.00
Fees	\$0.00	\$0.00
Adjustments	\$7.50	\$7.50
Amount Due	\$2,328.50	\$2,328.50
Payment Received	\$0.00	\$0.00
Balance Due	\$2,328.50	\$2,328.50



ATTACHMENT FIVE
Lot 1 Legal Description

Situated in Elkhart County, State of Indiana, to-wit:

Lot Number 1 in Richard & Anna Marie Minor Subdivision in Middlebury Township, as per plat thereof, recorded in Plat Book 40, Page 58 and in Instrument No. 2021-07391, in the Office of the Recorder of Elkhart County, Indiana.



BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: January 16, 2025

Transaction Number: SUP-0891-2024.

Parcel Number(s): 20-01-35-251-001.000-005.

Existing Zoning: A-1.

Petition: for a Special Use for parking of a commercial vehicle.

Petitioner: Aurelio C. Barrera & Lucia Valle Montufar, Husband & Wife.

Location: North side of CR 108, 3,335 ft. West of CR 3, in Cleveland Township.

Site Description:

- Physical Improvement(s) – Residence and accessory structure.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- **March 19, 1998** – The BZA approved a special use for a cellular communication tower Specification F #31.5 (981452).
- **September 13, 2024** – A complaint for junk & debris on the property was filed (CODE-0677-2024).
- **October 21, 2024** – The Board of County Commissioners approved a zone map change from R-1 to A-1 with a condition to only allow one (1) rooster (PC-2024-22).
- **December 4, 2024** – The code enforcement case (CODE-0677-2024) was closed.

Staff Analysis:

Staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A Special Use for parking of a commercial vehicle is allowed in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 5-acre parcel in a low-density residential and agricultural area, and the property will remain residential and agricultural in character.
3. The Special Use will substantially serve the public convenience and welfare by allowing for parking and storage of a commercial vehicle.

BZA Staff Report (Continued)

Hearing Date: January 16, 2025

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

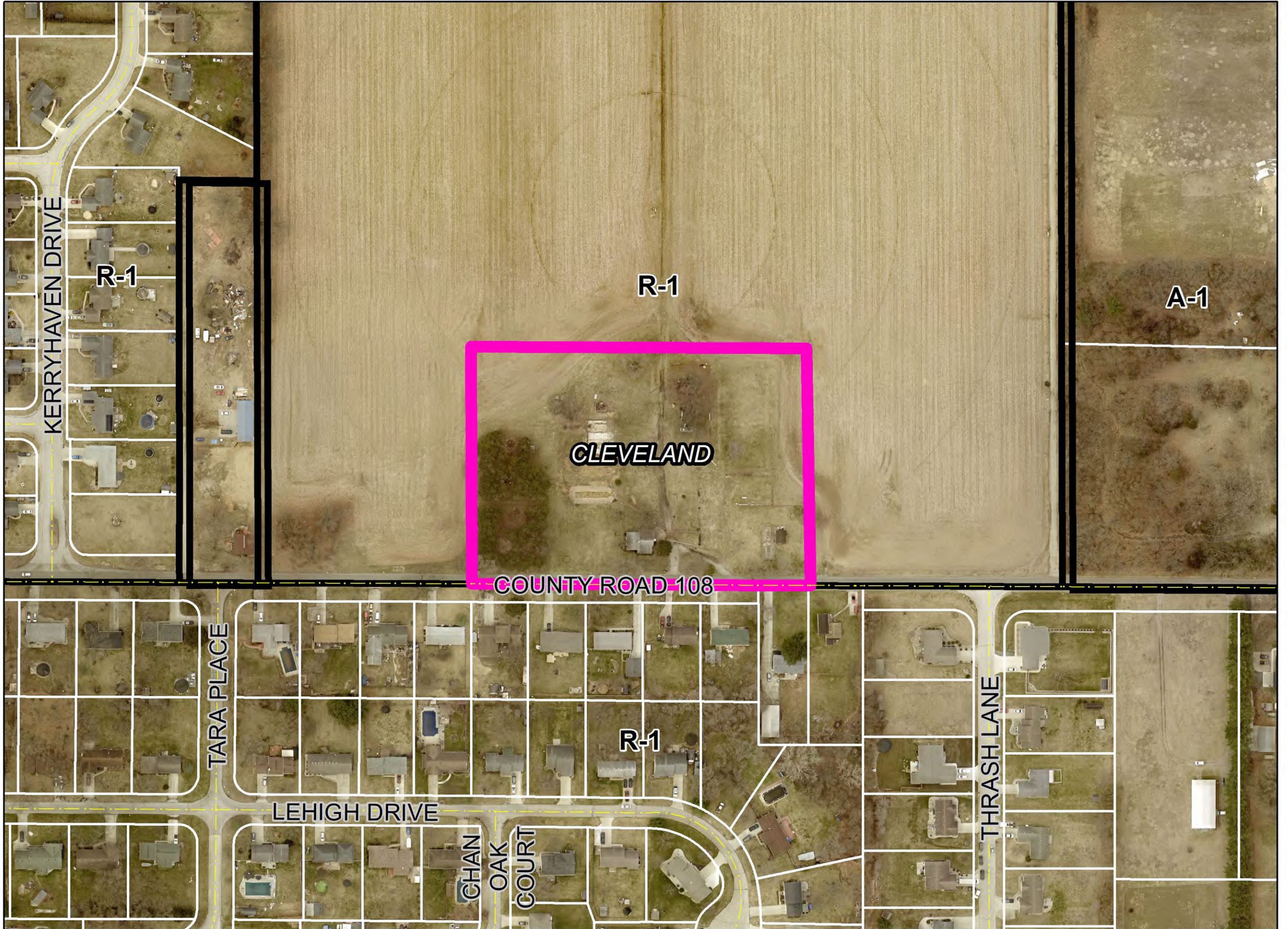
1. The request is approved in accordance with the site plan submitted on 12/16/2024 and as represented in the Special Use application.
2. The request is limited to a maximum of one (1) commercial vehicle at any one time.

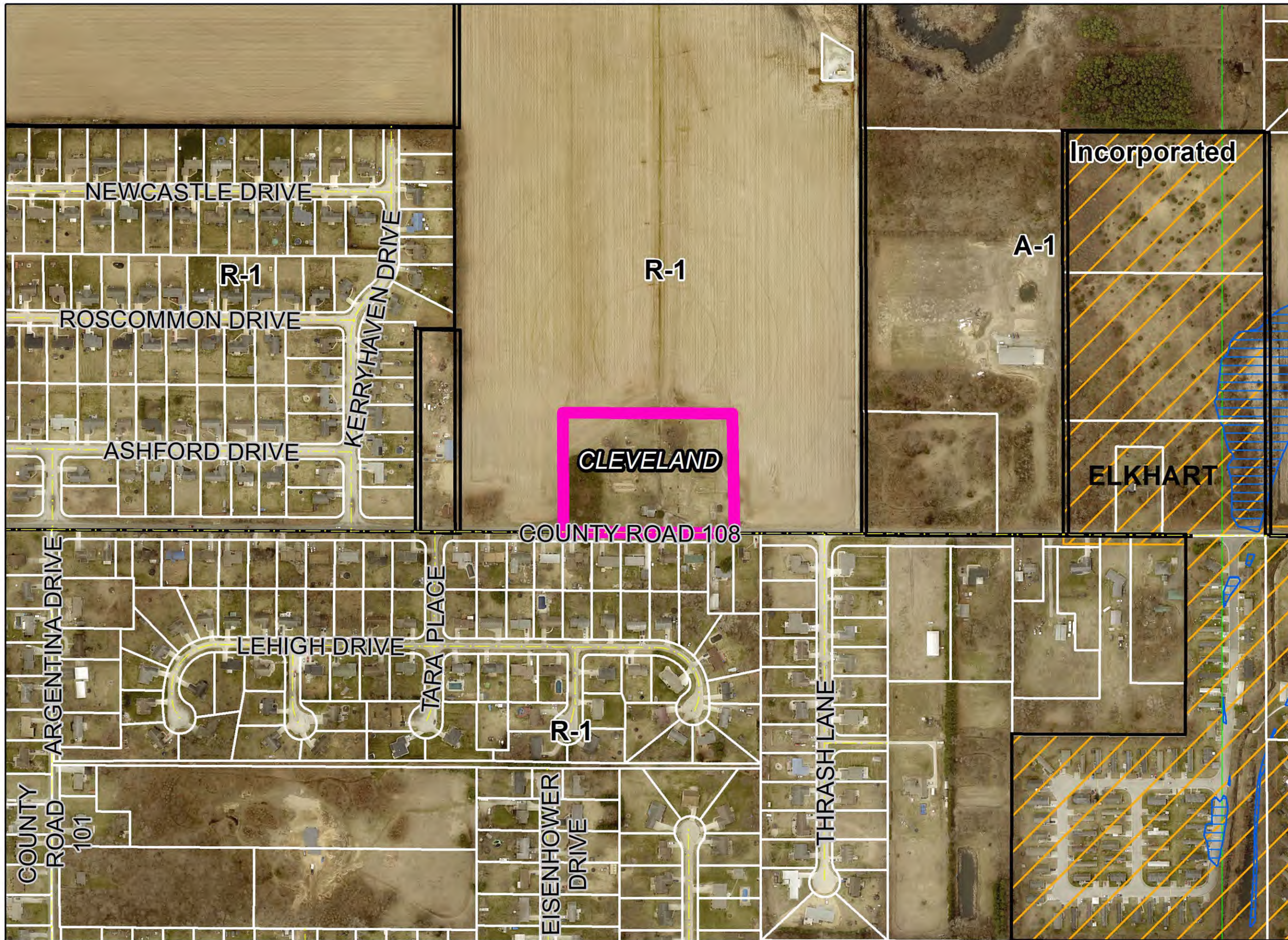
CLEVELAND

R-1

COUNTY ROAD 108









Looking North towards subject property



Facing South



Facing East



Facing West

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Special Use - Non Mobile Home

SUP-0891-2024

Date: 12/16/2024

Meeting Date:

January 16, 2025

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0891-2024

Description: for a Special Use for parking of a commercial vehicle

Contacts: Applicant

Aurelio C. Barrera & Lucia
Valle Montufar, Husband &
Wife
29379 County Road 108
Elkhart, IN 46514

Land Owner

Aurelio C. Barrera & Lucia
Valle Montufar, Husband &
Wife
29379 County Road 108
Elkhart, IN 46514

Site Address: 29379 County Road 108
Elkhart, IN 46514

Parcel Number: 20-01-35-251-001.000-005

Township: Cleveland

Location: North Side OF CR 108, 3,335 FT WEST OF CR 3

Subdivision:

Lot #

Lot Area: 5.00 Frontage: 558.00

Depth: 391.00

Zoning: A-1

NPO List:

Present Use of Property: RESIDENTIAL/AGRICULTURAL

Legal Description:

Comments: PARCEL CREATED 12/13/2012
REFER TO RZ-0518-2024 APPROVED 9/12/2024

Applicant Signature:

Department Signature:

Application

Site address: _____

Parcel number(s): _____

Current property owner

Name: Aurelio Cruz Barera Lucia Valle

Address: 29379 County Rd 108 Elkhart IN 46514

Phone: 574 606 9539 Email: Aurelio b 2019 @ gmail . com

Other party Agent Buyer Land contract purchaser Lessee

Name: Aurelio Barera Loyist: c LLC

Address: 29379 County Road 108 Elkhart IN 46514

Phone: 574 606 9539 Email: aurelio b 2014 @ gmail . com

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: [Signature]

* SEMI TRUCK.

Staff Use Only

Description: Parking for Commercial truck

Parcel creation date: 12/13/2012.

Subdivision required? Y N If yes, AS Minor Major

Residential accessory breakdown, if applicable: N/A

Location: (N) S E W corner (side) end of CR 108,
3,335 ft. (N) S E (W) of CR 3,
in _____ Township

Frontage: 558. Depth: 391 Area: .5 acres

Subdivision and lot number, if applicable: N/A

Present use: Residential

Special Use — Questionnaire

Name: Andrew Bauer

1) Tell us what you want to do. Parking of truck

2) Tell us why this activity won't hurt your neighbors or the community. By cause yes A PARKING truck

3) Is there a subdivision covenant that says you can't do this activity? Y N
If yes, does the subdivision have an active homeowners' association? Y N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? Y N If yes, fill out below.
Tell us what will create those things. Not
Tell us how you'll reduce the impact of those things on neighbors.

5) Will there be buffering (fences, trees, shrubs, mounds)? Y N
If yes, tell us about it.

6) Does the property need well and septic? Well: Y N Septic: Y N
Does the property need a new septic system? Y N
If a new septic system is needed, did the Health Department say there's enough space for it? Y N

7) Will the activity use buildings or additions? Y N If yes, fill out below.
Building or addition 1 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. YES PARKING MY EQUIPMENT TO WORK
Building or addition 2 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 3 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. _____

8) Does this application include animals? Y N
If yes, tell us what kind and how many of each.

Next page ➡

Special Use — Questionnaire

9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? Y N If yes, fill out below.

How many employees do you have now? Full time: NON Part time: _____

How many employees do you want? Full time: NON Part time: _____

How many of the employees won't live onsite? NON

What will be the days and hours of operation on this property? YES MY CALL

How many parking spaces do you have now? MACH

How many parking spaces do you want? 14 FT 8x 10 FT

Will there be outside storage or display areas on this property? Y N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? Y N

If yes, tell us what will be sold. CORN BEANS LEGUMES TOMATOES

Approximately how many customers (clients, guests, students, members) will be on this property per day?

NON CHECK

Will there be pickups or deliveries on this property? Y N If yes, fill out below.

Tell us how often. _____

Tell us the kind of vehicles used. _____

Does the application include signs? Y N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 2 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 3 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

10) Tell us anything else you want us to know. YES IF IN THE FUTURE I

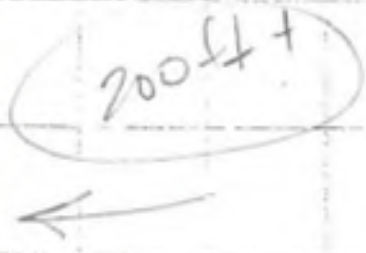
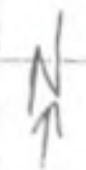
NEED EXTRA PARKING I WILL LET YOU
KNOW

553.5

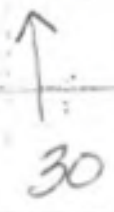
391.62

391.62

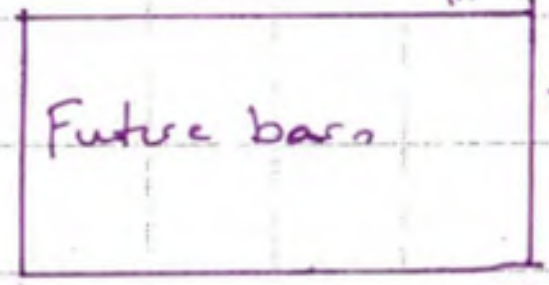
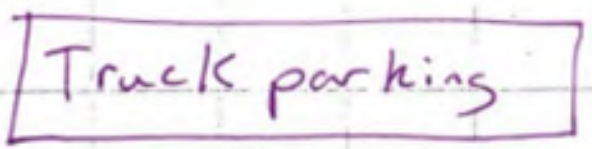
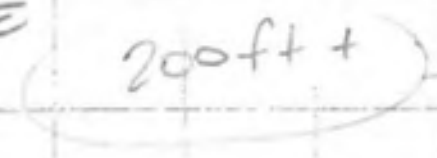
CR 108



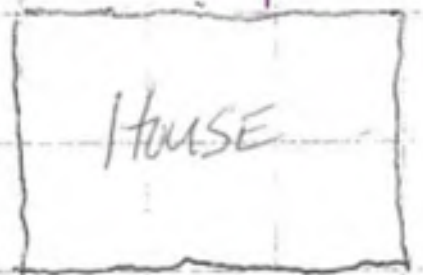
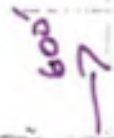
100ft



FENCE



800'



14



BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: January 16, 2025

Transaction Number: SUP-0890-2024.

Parcel Number(s): 20-08-26-126-011.000-034.

Existing Zoning: A-1.

Petition: for a Special Use for a home workshop/business for a construction business, for a Developmental Variance to allow for 11 outside employees (Ordinance allows 4), and for a 5 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for an accessory structure 30 ft. in height.

Petitioner: Michael H. Bontrager & Kristen Diann Bontrager, Husband & Wife.

Location: West side of CR 41, 850 ft. South of CR 20, in Middlebury Township.

Site Description:

- Physical Improvement(s) – Residence, agricultural structures.
- Proposed Improvement(s) – Detached accessory structure.
- Existing Land Use – Residential, Agricultural.
- Surrounding Land Use – Residential, Agricultural.

History and General Notes:

- **August 20, 2014** – Hearing Officer approved a Developmental Variance for a 3 to 1 depth-to-width ratio for the construction of a residence (00000CR 41-140717-1).

Staff Analysis:

for a Special Use for a home workshop/business for a construction business, staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A Special Use for a home workshop/business is allowed in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 3.79-acre parcel in a low density area, and the property will remain agricultural and residential in character. All work will be done off-site and will not create negative effects on the neighboring properties.
3. The Special Use will substantially serve the public convenience and welfare by providing a local construction business.

BZA Staff Report (Continued)

Hearing Date: January 16, 2025

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The request is approved in accordance with the site plan submitted (dated 12/16/2024) and as represented in the Special Use application.
2. No backing onto or off of County Road 41 with semi tractor trailers.

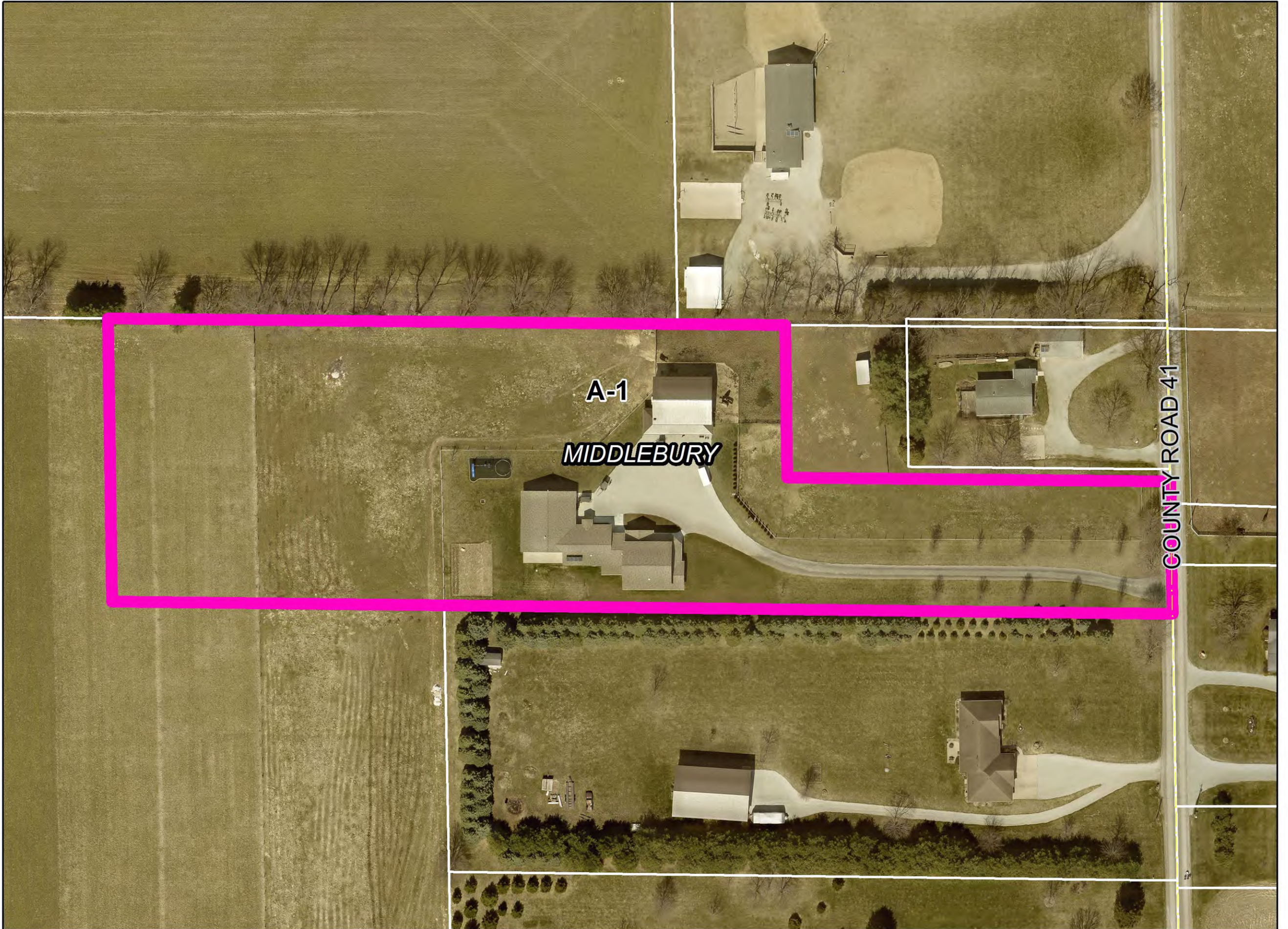
for a Developmental Variance to allow for 11 outside employees (Ordinance allows 4) and for a 5 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for an accessory structure 30 ft. in height, staff finds that:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The request is 5 ft. above what is allowed, and the structure will sit back from the line of sight of adjacent residences so as to not block their views. The extra employees will not generate enough traffic to cause issues for the neighboring properties.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 3.79-acre parcel in a residential and agricultural area, and the property will remain residential in character. This size of building is not uncommon for this area.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. Without the variance the accessory structure wouldn't be built to eliminate outside storage, and the extra employees are needed to run a successful construction business.

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. Variances from the developmental standards of the Development Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 12/16/2024) and as represented in the Developmental Variance application.

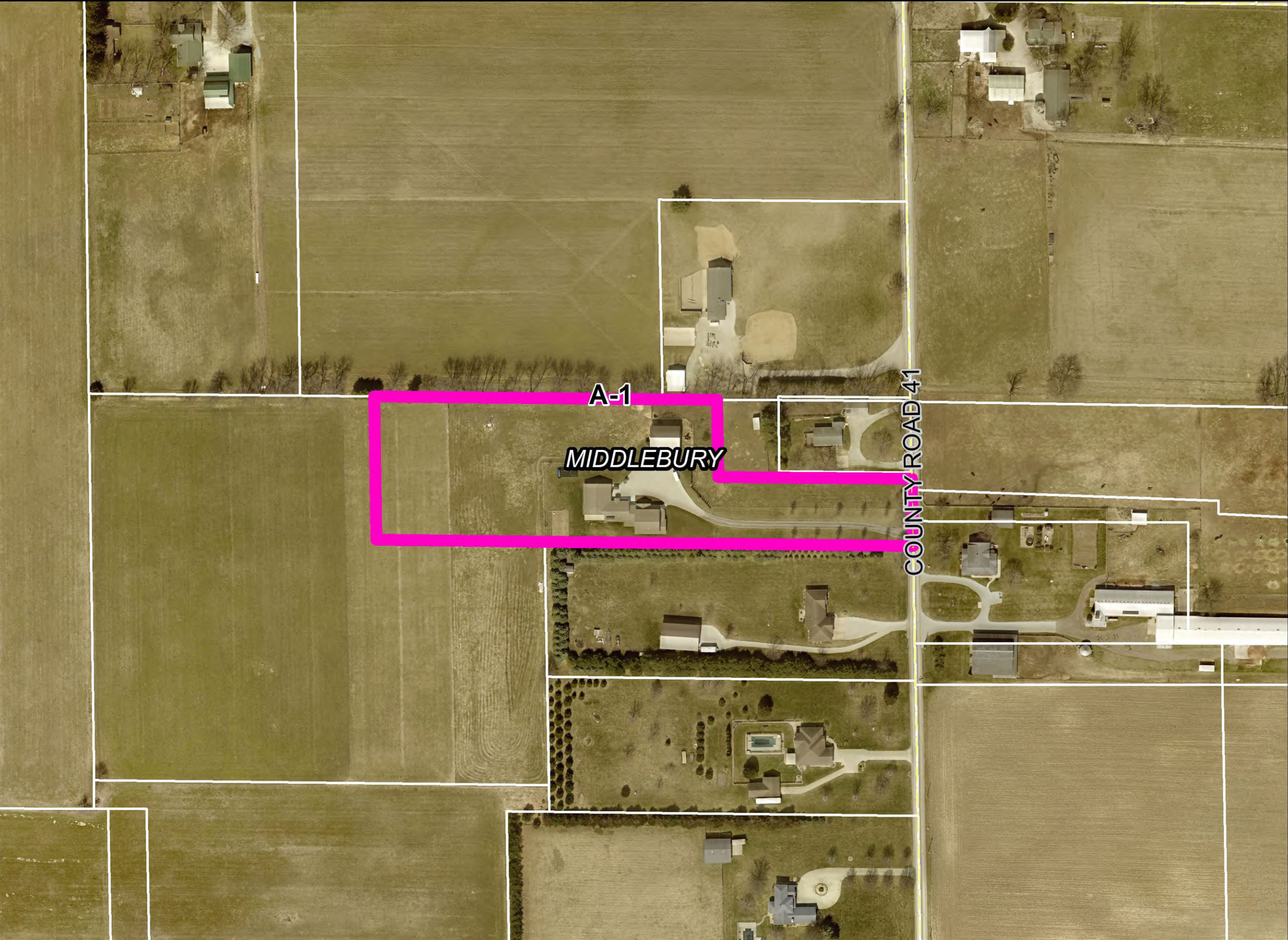
SUP-0890-2024

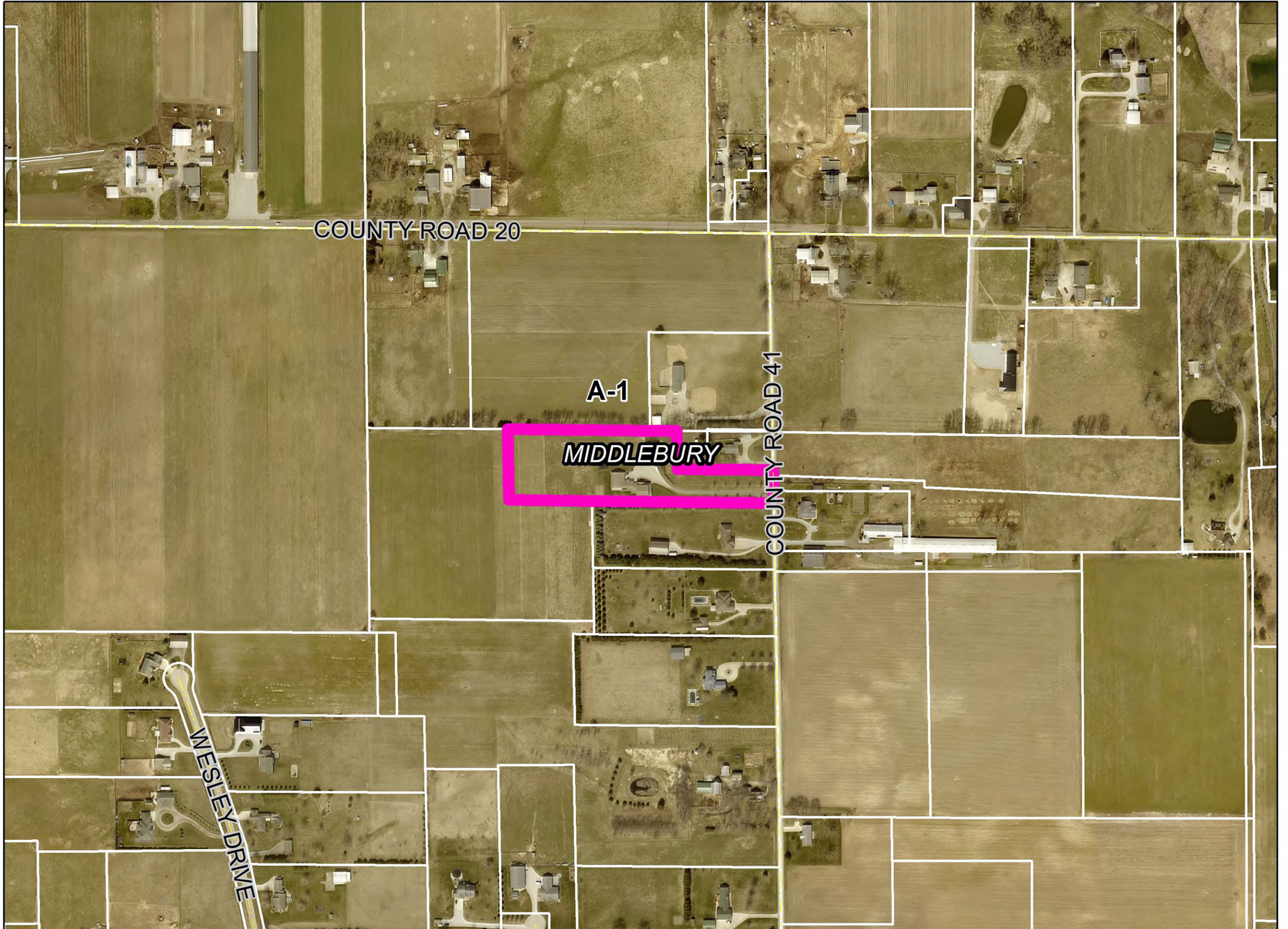


2021 Aerials

1 inch = 100 feet









Subject property, facing West



Subject property, facing Northwest



Subject property from roadway, Facing West



Facing North



Facing South



Facing East

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

SUP-0890-2024

Special Use - Non Mobile Home

Date: 12/16/2024 Meeting Date: January 16, 2025
Board of Zoning Appeals Public Hearing Transaction #: SUP-0890-2024

Description: for a Special Use for a home workshop/business for a construction business, for a Developmental Variance to allow for 11 outside employees (Ordinance allows 4), and for a 5 ft. Developmental Variance (ordinance allows 25 ft.) to allow for an accessory structure 30 ft. in height

<u>Applicant</u>	<u>Land Owner</u>
Michael H Bontrager And Kristen Diann Bontrager, Husband And Wife 59155 County Road 41 Middlebury, IN 46540	Michael H Bontrager And Kristen Diann Bontrager, Husband And Wife 59155 County Road 41 Middlebury, IN 46540

Site Address: 59155 County Road 41 Middlebury, IN 46540	Parcel Number: 20-08-26-126-011.000-034
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Township: Middlebury
Location: West Side Of County Road 41, 850 Ft South Of County Road 20

Subdivision:	Lot #
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Lot Area: 3.79	Frontage: 109.42	Depth: 872.78
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Zoning: A-1	NPO List:
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Present Use of Property: RESIDENTIAL

Legal Description:

Comments: PARCEL CREATED 11/30/2005
RESIDENCE = 4,092 SQ FT X 200% = 8,184 SQ FT, MINUS 1,440 (GARAGE) AND NEW PROPOSED BUILDING IS 5,600 SQ FT, WHICH LEAVES 1,144 SQ FT AVAILABLE FOR PERSONAL STORAGE.
SEE DV #00000CR 41-140717-1 FOR 3:1 APPROVED 8/20/2014
THE BUSINESS IS ONLY ON PARCEL 126-11 AND THE SITE PLAN IS ONLY 126-11

Applicant Signature:	Department Signature:
----------------------	-----------------------

Application

Site address: 59155 CR 41 Middlebury

Parcel number(s): 20-08-26-126-011

Current property owner

Name: Michael Bontrager

Address: 59155 CR 41 Middlebury IN

Phone: 574-612-6011 Email: hdmike@Ibyfax.com

Other party Agent Buyer Land contract purchaser Lessee

Name: MH Bontrager Construction

Address: Same as above

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: 

Staff Use Only

Description: Special use for a home workshop/business for a construction business to allow 11 employees and for a 5ft developmental variance to allow an accessory structure 30ft in height

Parcel creation date: 11/30/2005

Subdivision required? Y N If yes, AS Minor Major

Residential accessory breakdown, if applicable: Residence = 4092 SF x 200% = 8,184 minus 1,440 SF garage = 6744 SF minus proposed building 5600 SF = 1,144 SF left available

Location: N S E (W) corner (side) end of CR 41,
850 ft. N (S) E W of CR 20,
in Middlebury Township

Frontage: 109.42 Depth: 872.78 Area: 3.79 acres

Subdivision and lot number, if applicable: _____

Present use: Residential

Special Use — Questionnaire

Name: Michael Bontrager

1) Tell us what you want to do. Construction Business tools & Equipment Storage
I need 12 employees for Construction Crew
not working on-site

2) Tell us why this activity won't hurt your neighbors or the community. Only truck & trailer
traffic in the morning, no outside noise or trash
minimal outside storage

3) Is there a subdivision covenant that says you can't do this activity? Y N
If yes, does the subdivision have an active homeowners' association? Y N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? Y N If yes, fill out below.
Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? Y N
If yes, tell us about it. _____

6) Does the property need well and septic? Well: Y N Septic: Y N
Does the property need a new septic system? Y N
If a new septic system is needed, did the Health Department say there's enough space for it? Y N

7) Will the activity use buildings or additions? Y N If yes, fill out below.
Building or addition 1 Existing? Y N Size and height to the peak: 70'x80' 30' to peak

Tell us what you'll use it for. Construction Business tools & Equipment Storage

Building or addition 2 Existing? Y N Size and height to the peak: _____

Tell us what you'll use it for. _____

Building or addition 3 Existing? Y N Size and height to the peak: _____

Tell us what you'll use it for. _____

8) Does this application include animals? Y N
If yes, tell us what kind and how many of each. _____

Next page ➡

Developmental Variance — Questionnaire

Name: Michael Bontrager

1) Tell us what you want to do. Business Tools & Equipment Storage
I need 12 employees for Construction Crew
not working on-site

2) Tell us why you can't change what you're doing so you don't need a variance. Too much work on my schedule

3) Tell us why the variance won't hurt your neighbors or the community. Only Truck & trailer
traffic in the morning - no outside noise or trash
minimal outside storage

4) Does the property need well and septic? Well: Y N Septic: Y N
Does the property need a new septic system? Y N
If a new septic system is needed, did the Health Department say there's enough space for it? Y N

5) Does the application include variances to allow for buildings or additions? Y N If yes, fill out below.
Building or addition 1 Size and height to the peak: 70x80 30' to peak
Tell us what you'll use it for. Construction Equipment & tools Storage
Building or addition 2 Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 3 Size and height to the peak: _____
Tell us what you'll use it for. _____

6) Does the application include a variance for a residence on property with no road frontage? Y N
If yes, fill out below.
Is the easement existing? Y N If the easement is existing, is it recorded? Y N
Tell us who owns (will own) the land under the easement. _____
Tell us how many parcels will use the easement. _____

7) Does the application include variances for signs? Y N If yes, fill out below.
Sign 1 Dimensions (length and width): _____
Existing? Y N Double faced? Y N
Electronic message board? Y N If no, lighted? Y N
Freestanding? Y N Wall mounted? Y N
Sign 2 Dimensions (length and width): _____
Existing? Y N Double faced? Y N
Electronic message board? Y N If no, lighted? Y N
Freestanding? Y N Wall mounted? Y N
Sign 3 Dimensions (length and width): _____
Existing? Y N Double faced? Y N
Electronic message board? Y N If no, lighted? Y N
Freestanding? Y N Wall mounted? Y N

8) Does the application include a variance for parking spaces? Y N
If yes, tell us how many total there will be. _____

9) Tell us anything else you want us to know. Employees are only coming to
the Shop in the Morning then going out on Job-sites

Special Use — Questionnaire

9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? Y N If yes, fill out below.

How many employees do you have now? Full time: 11 Part time: 1

How many employees do you want? Full time: _____ Part time: _____

How many of the employees won't live onsite? 12

What will be the days and hours of operation on this property: 5 to 5:30 in the Morning & 2 to 2:30 in afternoon 5 days a week Monday thru Friday

How many parking spaces do you have now? 0

How many parking spaces do you want? 0

Will there be outside storage or display areas on this property? Y N

If yes, tell us what will be stored outside or displayed. 3- or 4 trailers

Will there be retail sales on this property? Y N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day? none

Will there be pickups or deliveries on this property? Y N If yes, fill out below.

Tell us how often. Once a wk.

Tell us the kind of vehicles used. Pick-up truck & trailer

Does the application include signs? Y N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 2 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

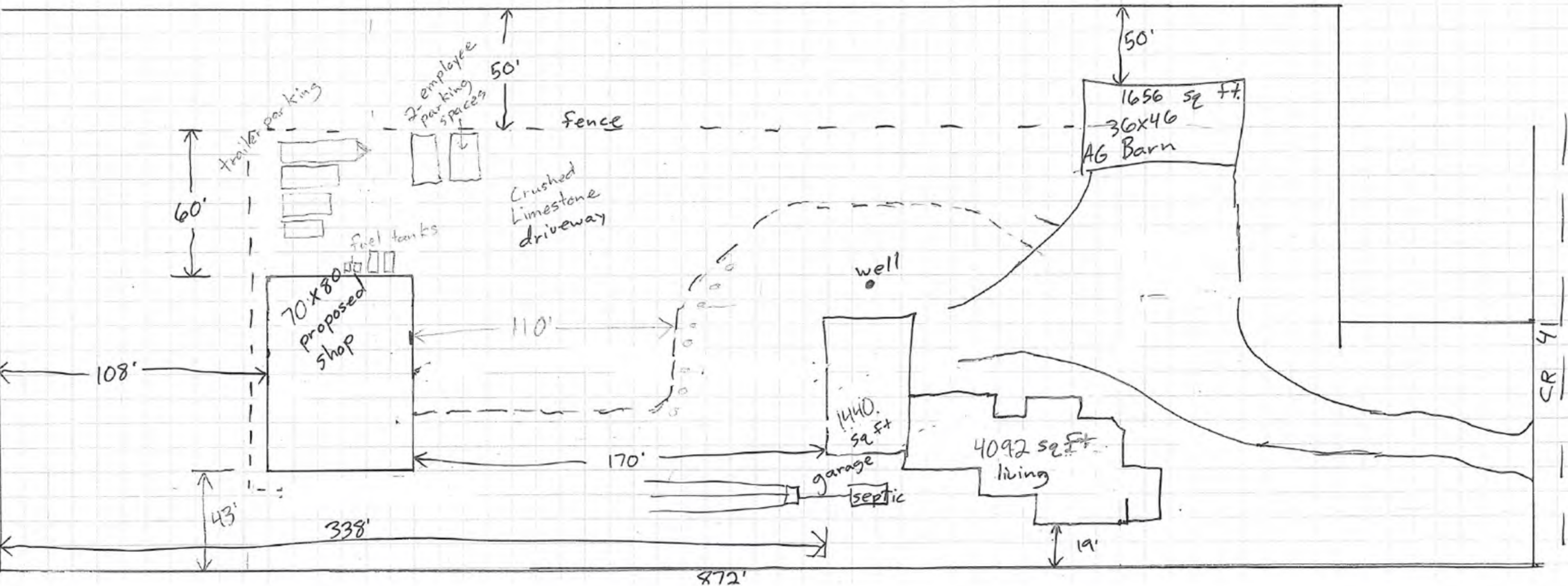
Sign 3 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

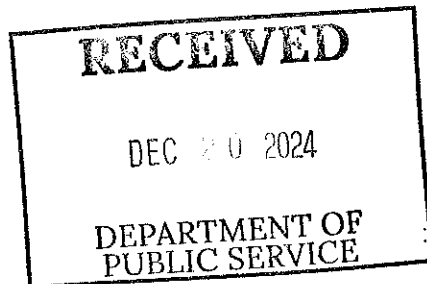
10) Tell us anything else you want us to know. Employees are only coming to the Shop in the Morning then going out on Jobsites



D Richards @ elkhardtcounty.com

I John Miller would like to withdraw
this petition SUP -0888-2024

thanks John Miller

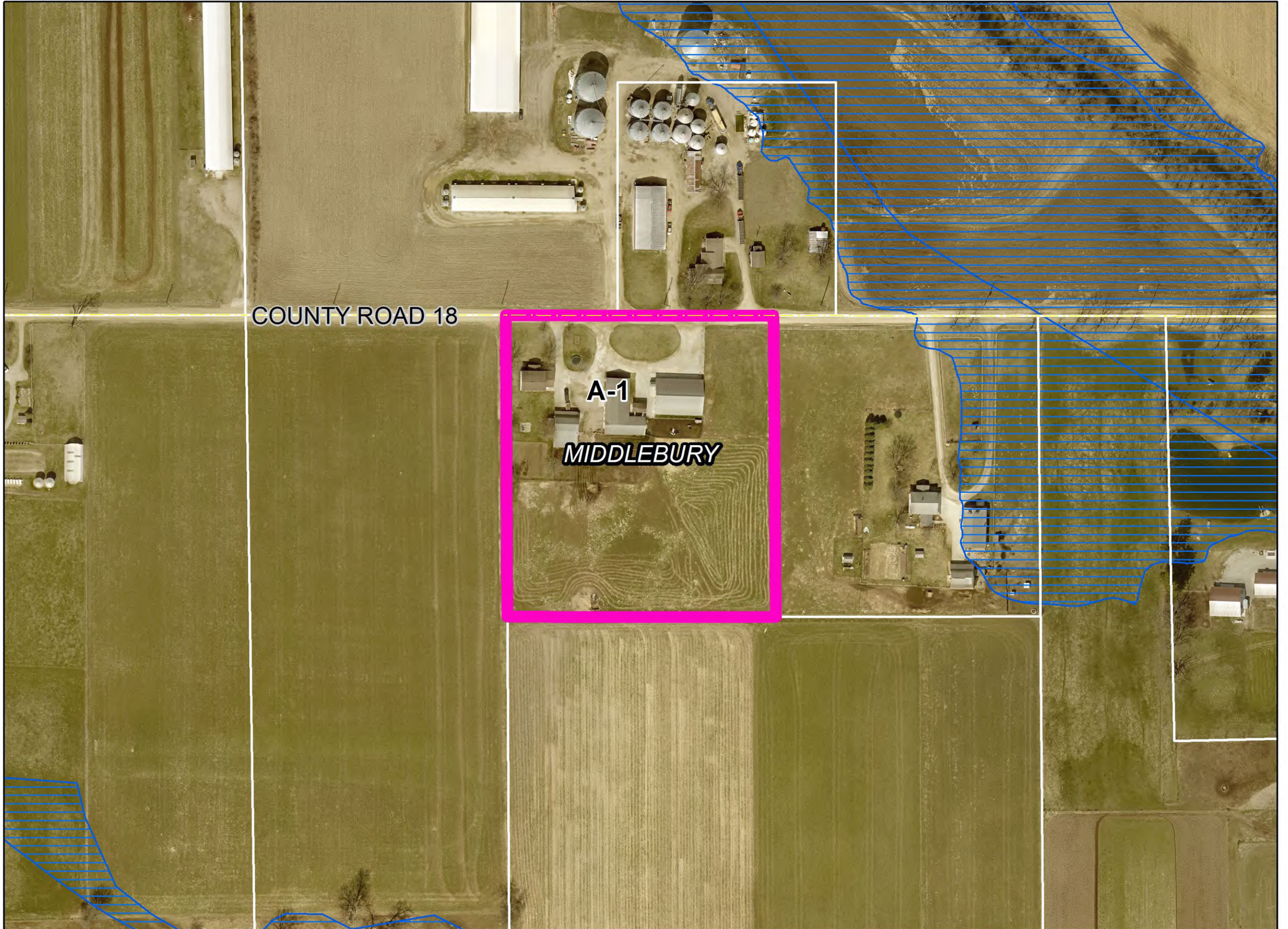


COUNTY ROAD 18

A-1

MIDDLEBURY



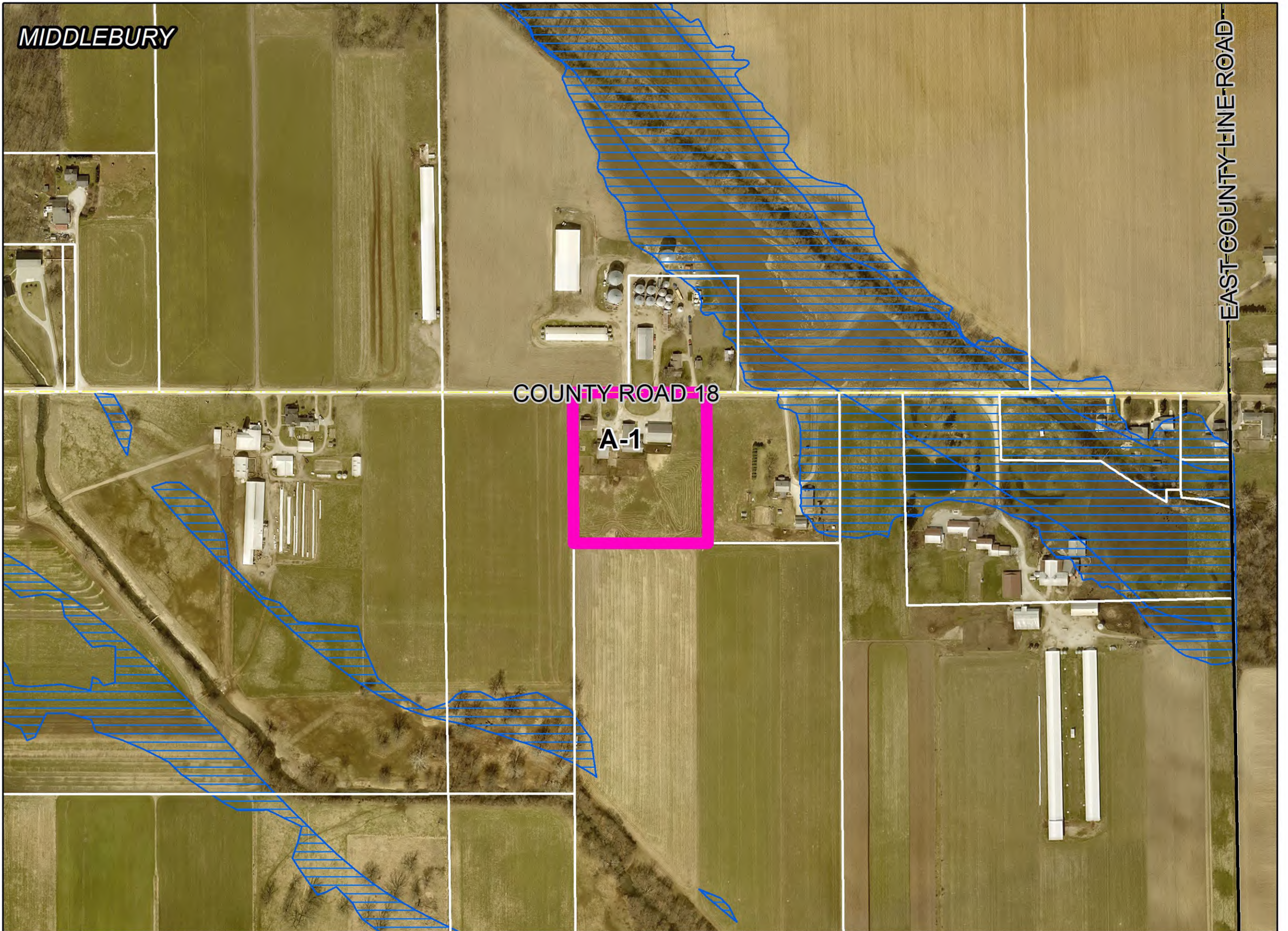


MIDDLEBURY

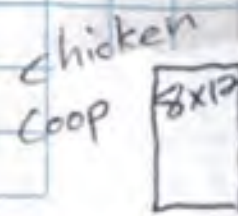
EAST-COUNTY-LINE-ROAD

COUNTY ROAD 18

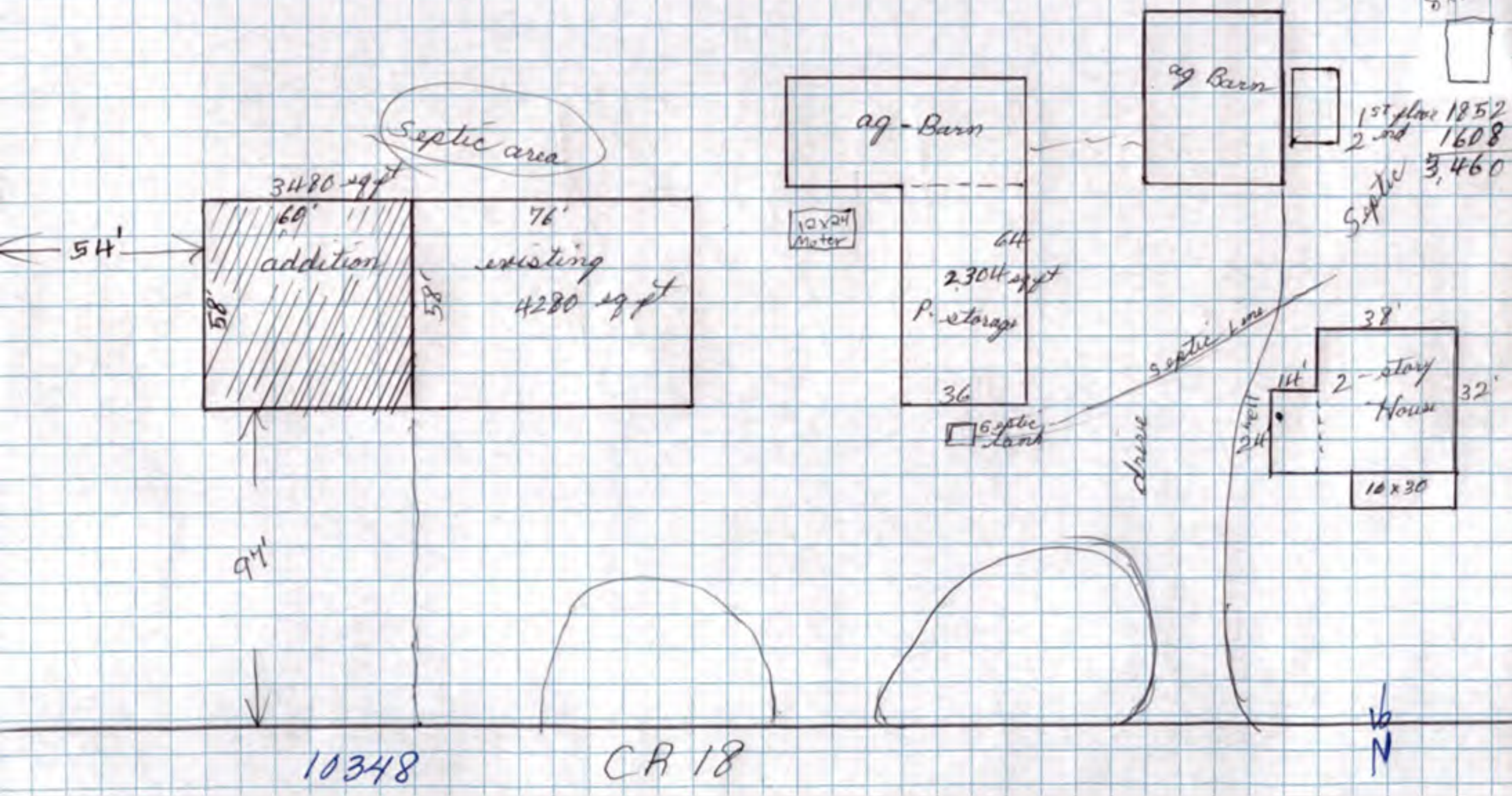
A-1



DEC 16 20



1st floor 1852
2nd 1608
Septic 3,460



10348

CR 18



BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: January 16, 2025

Transaction Number: UV-0843-2024.

Parcel Number(s): 20-05-13-478-002.000-001.

Existing Zoning: R-2.

Petition: for a Use Variance to allow for 4 dwelling units and for a 46,496 sq. ft. lot-area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for 2 existing duplexes.

Petitioner: Lonnie Bontrager (Buyer) & Octavio Ramos (Seller).

Location: South side of Morgan St., 950 ft. Southeast of CR 20, in Baugo Township.

Site Description:

- Physical Improvement(s) – Two duplexes.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential.
- Surrounding Land Use – Residential. Manufacturing.

History and General Notes:

- The house and garage were built in 1986 and 1987.
- The house and garage were illegally converted into duplexes sometime after 1998.
- **February 8, 2024** – The property owner received an electrical reconnection permit for the structures (ELEC-R-0234-2024).
- **October 17, 2024** – The BZA denied the Use Variance for 4 dwelling units, denied the Developmental Variance for lot area, but approved front and side setback Developmental Variances. The BZA also waived the 6-month waiting period to refile the denied requests.
- **December 19, 2024** – The BZA tabled this petition.

Staff Analysis:

For a Use Variance to allow for 4 (four) dwelling units, staff finds that:

1. The request will be injurious to the public health, safety, morals, and general welfare of the community. As the structures were converted without permits, it is unclear if the structures meet all the various building and environmental codes, including well and septic requirements.
2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner. This is a 0.31-acre or 13,503.6 ft² parcel in a dense residential area and the property will remain residential in character.
3. A need for the Use Variance does not arise from a condition that is peculiar to the property involved. The house and garage were converted illegally into duplexes without permits.
4. Strict enforcement of the terms of the Development Ordinance would not constitute an unnecessary hardship if applied to the subject property. The property could be restored to one single-family residence and one accessory structure. The property would be allowed to have one duplex and accessory structure with the appropriate developmental variance. Or the property owner can request city utilities run to the property and resubmit the appropriate developmental variances.
5. The Use Variance does not interfere substantially with the Elkhart County Comprehensive Plan.

Staff recommends **DENIAL**.

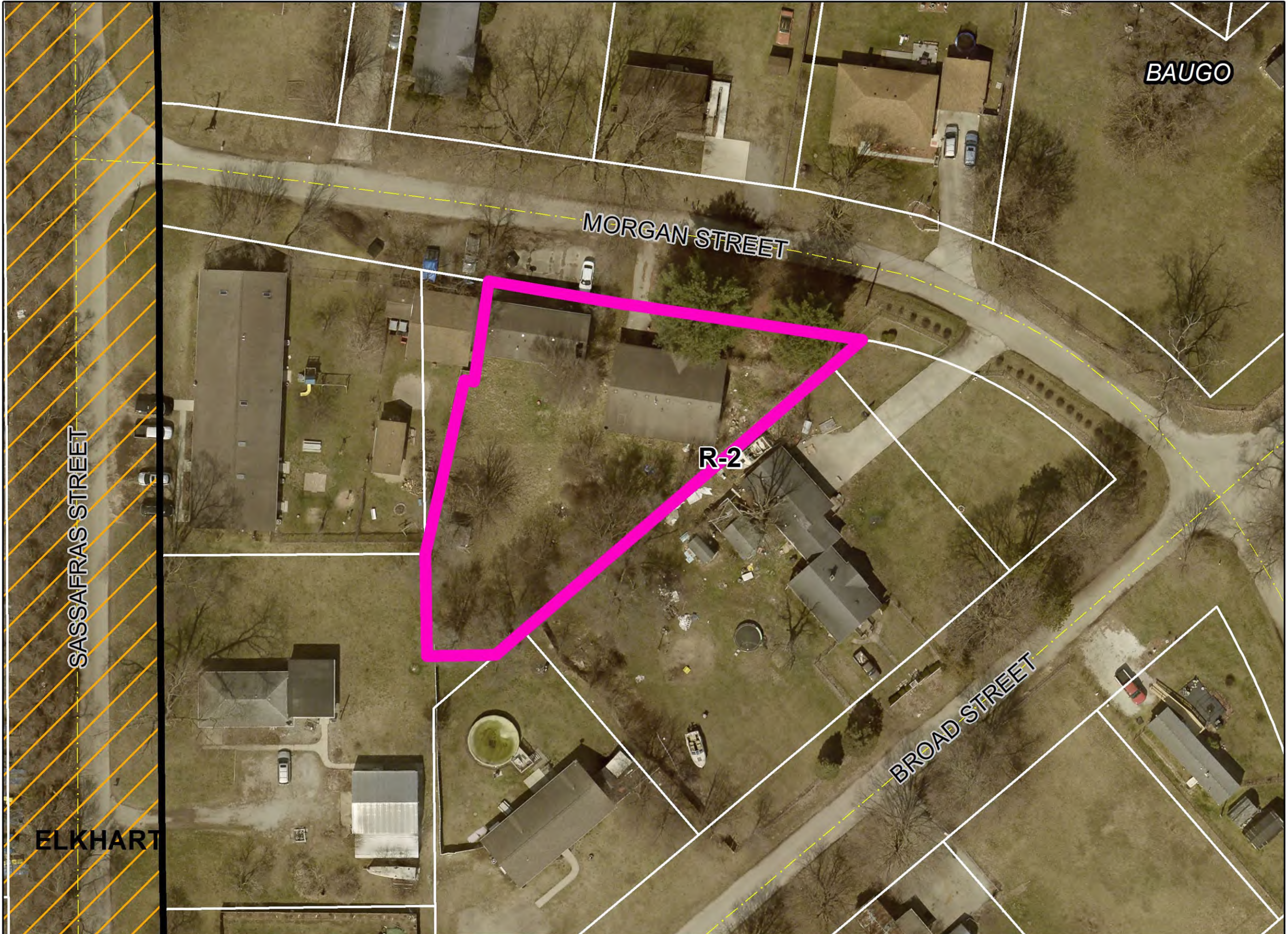
BZA Staff Report (Continued)

Hearing Date: January 16, 2025

For a 46,496 sq. ft. lot area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for two (2) existing duplexes, staff finds that:

1. Approval of the request will be injurious to public health, safety, morals, or general welfare. As the structures were converted without permits, it is unclear if the structures meet all the various building and environmental codes, including well and septic requirements.
2. Approval of the request will cause substantial adverse effects on neighboring property. This is a 0.31-acre or 13,503.6 ft² parcel in a dense residential area. Increases in density result in diminished resources, infrastructure strain, and traffic congestion.
3. Strict application of the terms of the Development Ordinance would not result in an unnecessary hardship in the use of the property. The existing structures could be converted back to a legal conforming dwelling and accessory structure.

Staff recommends **DENIAL**.



ELKHART

BAUGO

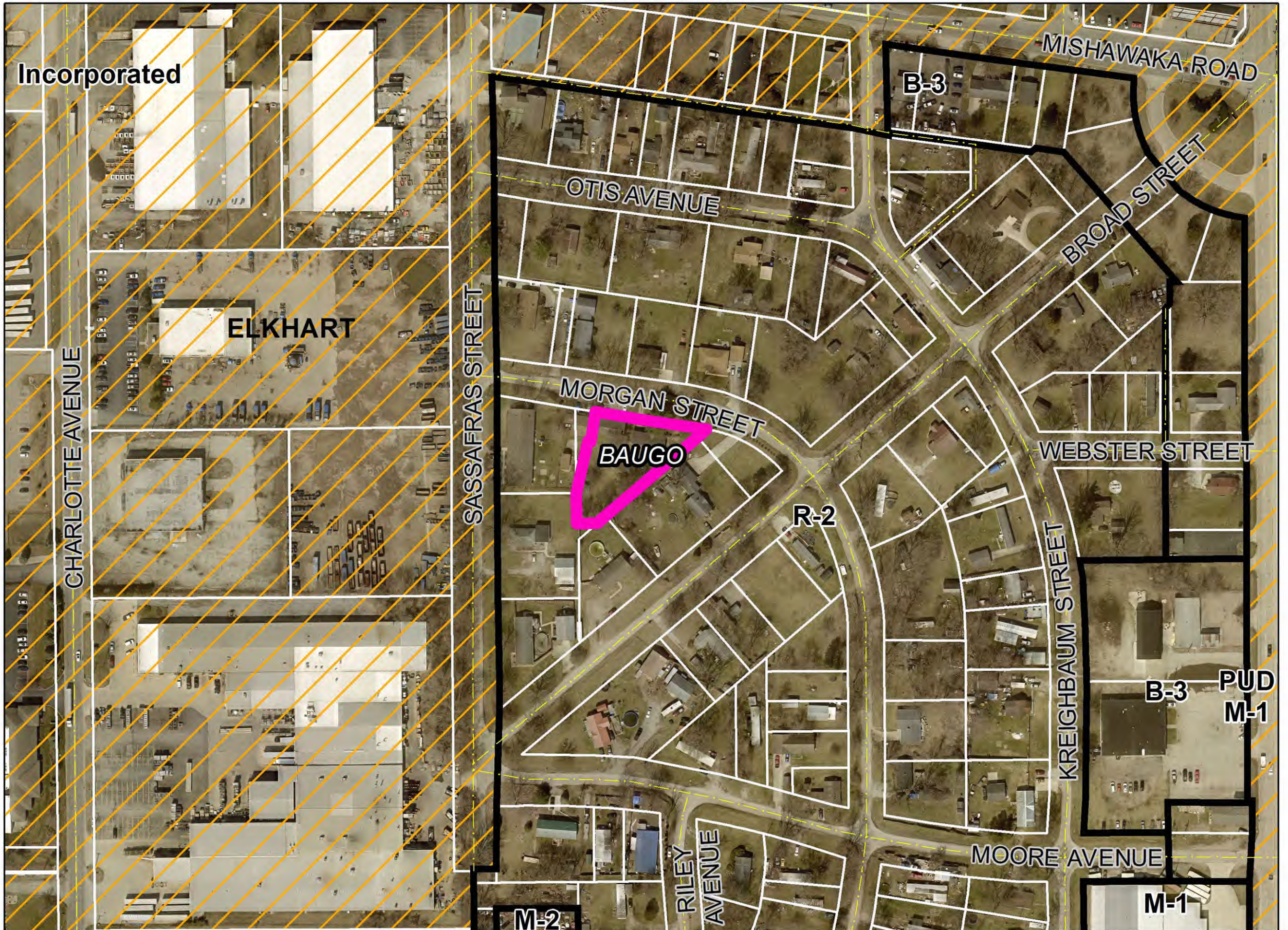
MORGAN STREET

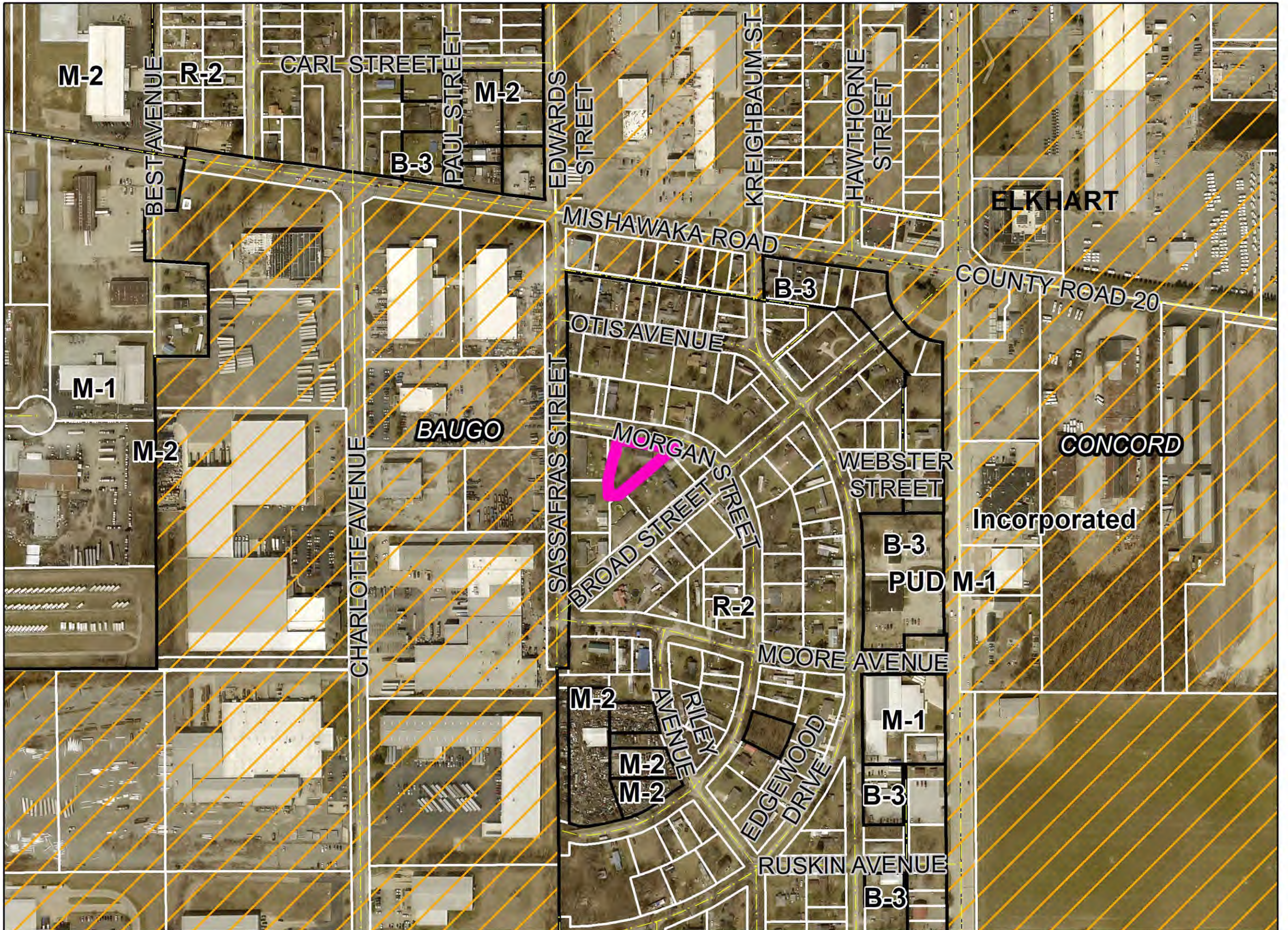
BROAD STREET

SASSAFRAS STREET

R-2









Facing South toward subject property



Facing North



Facing East



Facing West

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

UV-0843-2024

Use Variance - Use Variance

Date: 11/18/2024 Meeting Date: December 19, 2024
Board of Zoning Appeals Public Hearing Transaction #: UV-0843-2024

Description: for a Use Variance to allow for 4 (four) dwelling units

Contacts: <u>Applicant</u>	<u>Authorized Agent</u>	<u>Contract Purchaser</u>	<u>Land Owner</u>
Octavio Ramos (Seller) Po Box 399 Goshen, IN 46527	Samuel L Bolinger 803 Calhoun Street Fort Wayne, IN 46802	Lonnie Bontrager (Buyer) 3230 S 150 W Lagrange, IN 46761	Octavio Ramos (Seller) Po Box 399 Goshen, IN 46527

Site Address: 28197 Morgan St Elkhart, IN 46517	Parcel Number: 20-05-13-478-002.000-001
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Township: Baugo
Location: South Side Of Morgan St, Between Sassafra & Broad & W Of Sr 19, S Of County Road 20

Subdivision: BON-AIR VISTA	Lot # LOT 9 EX W PT & LOTS 10 & 11
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Lot Area: 0.31 Frontage: 186.00 Depth: 187.00

Zoning: R-2	NPO List:
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Present Use of Property: RESIDENTIAL

Legal Description:

Comments: PACKET WAS SENT IN VIA DPS E-MAIL. PER JASON, COPY ORIGINAL USE VARIANCE (#UV-0585-2024), WHICH WAS DENIED (FOR 4 DUPLEXES), DV FOR SETBACKS ON EXISTING DUPLEX WAS APPROVED, AND 6 MONTH WAITING PERIOD TO REFILE WAS WAIVED.
NOTES FROM ORIGINAL SUBMITTAL:
APPLICATION WAS MAILED INTO OUR OFFICE.
STAFF WILL BE ASKING FOR A REVISED SITE PLAN (NO SETBACKS AND NOT TO SCALE ON HOUSES) 8-19-2024 JB
REVISED SITE PLAN ATTACHED 9-16-2024 JB

Applicant Signature:

Department Signature:

Application

Site address: 28197 Morgan Street Lot 9

Parcel number(s): 20-05-13-478-002.000- Elkhart, IN

Current property owner 001 46517

Name: © Flavio J Ramos

Address: 28197 Morgan Street Lot 9 Elkhart, IN 46517

Phone: 574 903 8011 Email: NA

Other party Agent Buyer Land contract purchaser Lessee

Name: Lonnie Bontrager

Address: 3230 S 150 W LaGrange IN 46761

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: *Flavio Ramos*

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? Y N If yes, AS Minor Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____
_____ ft. N S E W of _____
in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Use Variance - Questionnaire

Name: 0 ctavio R Ramos

1) Tell us what you want to do. update + improved real estate.

2) Tell us why your case is different from other cases in the county so that a variance should be allowed. The real estate has been in the same condition of layout for over 38 years. This is an update of the building

3) Tell us why the variance won't hurt your neighbors or the community. The neighbors approve of it. The outcome would enhance, + as the value of the community.

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? Y N If yes, fill out below.
Tell us what will create those things. A more useful + productive piece of real estate with a value increase / taxes basis.

Tell us how you'll reduce the impact of those things on neighbors. The project is confined to real estate.

5) Will there be buffering (fences, trees, shrubs, mounds)? Y N
If yes, tell us about it. ✓

6) Does the property need well and septic? Well: Y N Septic: Y N
Does the property need a new septic system? Y N
If a new septic system is needed, did the Health Department say there's enough space for it? Y N

7) Does what you want to do include buildings or additions? Y N If yes, fill out below.
Building or addition 1 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. Rental to persons not business, just date of structures
Building or addition 2 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. See above
Building or addition 3 Existing? Y N Size and height to the peak: _____
Tell us what you'll use it for. _____

8) Is there a subdivision covenant that says you can't do this activity? Y N
If yes, does the subdivision have an active homeowners' association? Y N

9) Does this application include an accessory structure without a residence at this time? Y N
If yes, are there plans for a residence on this property? Y N If yes, fill out below.
Tell us when it will be built. The residence already exist.
Tell us the approximate size. _____

10) Does this application include animals? Y N
If yes, tell us what kind and the maximum number of each. _____

Use Variance - Questionnaire

Name: Octavio Ramos

1) Tell us what you want to do. update + improve real estate.

2) Tell us why your case is different from other cases in the county so that a variance should be allowed.

The real estate has been in the same condition of layout for over 38 years. This is an update of the build

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Tell us how you'll reduce the impact of those things on neighbors. The project is confined to real estate.

5) Will there be buffering (fences, trees, shrubs, mounds)? Y N

If yes, tell us about it. J

6) Does the property need well and septic? Well: Y N Septic: Y N

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If a new septic system is needed, did the Health Department say there's enough space for it? Y N

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Building or addition 2 Existing? Y N Size and height to the peak: _____

Tell us what you'll use it for. See above

Building or addition 3 Existing? Y N Size and height to the peak: _____

Tell us what you'll use it for. _____

Just date of structures

8) Is there a subdivision covenant that says you can't do this activity? Y N

If yes, does the subdivision have an active homeowners' association? Y N

9) Does this application include an accessory structure without a residence at this time? Y N

If yes, are there plans for a residence on this property? Y N If yes, fill out below.

Tell us when it will be built. The residence already exist.

Tell us the approximate size. _____

10) Does this application include animals? Y N

If yes, tell us what kind and the maximum number of each. _____

Use Variance — Questionnaire

11) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? Y N If yes, fill out below.

How many employees do you have now? Full time: _____ Part time: _____

How many employees do you want? Full time: _____ Part time: _____

How many of the employees won't live onsite? _____

What will be the days and hours of operation on this property? _____

How many parking spaces do you have now? _____

How many parking spaces do you want? _____

Will there be outside storage or display areas on this property? Y N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? Y N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day? _____

Will there be pickups or deliveries on this property? Y N If yes, fill out below.

Tell us how often. _____

Tell us the kind of vehicles used. _____

Does the application include signs? Y N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 2 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

Sign 3 Dimensions (length and width). _____

Existing? Y N Double faced? Y N

Electronic message board? Y N If no, lighted? Y N

Freestanding? Y N Wall mounted? Y N

12) Tell us anything else you want us to know. The height of the structures
will not increase.

BOARD OF ZONING APPEALS MEMBERS – 2025

HEARING OFFICER

Ann Prough
718 Bainbridge Drive
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574-343-9248 (cell)
Email: aprough@comcast.net
(Appointed by Plan Commission: term 1/1/25-12/31/25)

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Fax: 574-534-5445
Email: jkolbus@goshenlaw.net

HEARING OFFICER ALTERNATE

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Email: cwhiterealtor@hotmail.com
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574-294-7491 (work)
Email: rhesser@warrickandboyn.com
(Appointed by Commissioners: term 1/1/22–12/31/25)

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(Appointed by Plan Comm: term 1/1/25 - 12/31/28)

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574-971-4678 (front office)
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Email: Cramer@cramergrouppro.com
(Appointed by Commissioners: term 1/1/25 - 12/31/28)

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(Appointed by Commissioners: term 1/1/25-12/31/28)

ALTERNATE BOARD MEMBER

John Gardner
66223 Hartzler Blvd.
Goshen, IN 46526
Email: jgardner50@gmail.com
(Appointed by Commissioners: term 1/1/25 – 12/31/25)

ALTERNATE BOARD MEMBER

David Clay Miller
25845 Lake Dr.
Elkhart, IN 46514
Phone: 574-596-4835
Email: davidmiller@bhhsni.com
(Appointed by Commissioners: term 1/1/25 – 12/31/25)

***PLEASE EMAIL/CALL LAURA OR DANIELLE IN ADVANCE
IF YOU WILL NOT BE ABLE TO ATTEND A MEETING***