



JOHNSON COUNTY

Department of Planning & Zoning
86 West Court Street
Franklin, Indiana 46131

Phone: (317) 346-4350
www.co.johnson.in.us

MEETING AGENDA

Johnson County Advisory Plan Commission
September 27th, 2021, 6:00 PM
Public Auditorium, West Annex Building
86 West Court Street, Franklin, Indiana

CALL TO ORDER

ROLL CALL

APPROVAL of MINUTES

Approval of minutes from the August 23rd, 2021 meeting.

PUBLIC HEARINGS

-CONTINUED HEARINGS- None.

-NEW HEARINGS -

W-10-21. Bryan Johnson Waiver. 1068 S. State Road 135.....Page 3

Waivers of the Johnson County Subdivision Control Ordinance to allow for a two-lot Roadside Subdivision where the lot will be six acres (new lots created via the Roadside Subdivision process must have an area of exactly two acres).

OLD BUSINESS None.

NEW BUSINESS

Discussion on three minor zoning ordinance text amendmentsPage 11

REPORTS and RECOMMENDATIONS

None.

ADJOURNMENT

The next meeting of the Johnson County Advisory Plan Commission is scheduled for October 25th, 2021 at 6:00 PM in the public auditorium of the Courthouse West Annex Building.

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Staff Report

CASE NUMBER: W-10-21
ADDRESS: 1068 S State Road 135
Section 26, Township 12, Range 3
PETITIONER: Bryan Johnson

REQUEST

Waivers of the Johnson County Subdivision Control Ordinance to allow for a two-lot Roadside Subdivision where the lot will be six acres (new lots created via the Roadside Subdivision process must have an area of exactly two acres).

STAFF RECOMMENDATION

Staff recommends **approval** of these requests.

PROPERTY DESCRIPTION

This approximately 40 acre-acre site is zoned A-1 (Agricultural) and is improved with one single-family dwelling, detached garage, pool, silo, and six other accessory structures. The site also has a pond, wooded areas, and tillable land.

The site is surrounded by parcels of varying sizes and configurations ranging from 2.43 acres to 65.59 acres. Some are used agriculturally while other are used residentially and are improved with single-family dwellings. All are zoned A-1.

WAIVER REQUEST

This waiver request, if approved, would allow for the subsequent split, via the Roadside Subdivision process, of the subject approximately 40-acre parent lot into two lots. The newly-created lot would be approximately 6 acres in size and the remaining parent tract would be approximately 35.34 acres in size.

The Roadside Subdivision process requires newly-created lots to be exactly two acres in area. The two-acre *minimum* ensures that a new lot has enough area - but no more than is necessary - to accommodate a septic system. The two-acre *maximum* is intended to minimize, to the extent possible, non-agricultural encroachments into agricultural areas. Of the 6 acres of the proposed 6 acre tract, approximately 1.8 acres are wooded making it less desirable to develop and less favorable for farming. Approximately 3 acres of the proposed 6 acre tract is in the flood zone, making it unbuildable and leaving an approximate 3 acres on the proposed tract to develop.

The location of the current residential structures on the northeastern portion of the parent parcel and the wooded areas of the site create a natural divide between the tillable land on the eastern portion of the parcel and the tillable areas on the southern portion of the site where 6 acre tract is proposed. A majority of the surrounding residential parcels are over 2 acres in size, with many of them being approximately 5 acres.

The waiver requested represents a minor deviation from the two-acre requirement and allows the proposed property to be aligned with the development in the area.

Additionally, the petitioner is requesting a Roadside Subdivision resulting in two lots overall, whereas the regulations would allow up to three new 2-acre tracts of land, four overall. The staff would regard the low-density residential development proposed here to be appropriate.

Staff would like to note the remaining tract of land will be 35 acres in size. Under the current subdivision control ordinance, this tract of land will not be eligible for any further division of land unless the Plan Commission approves a future waiver request.

The staff recommends approval of this waiver request.

FINDINGS OF FACT, STAFF ANALYSIS

The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to nearby property;

Staff Analysis: Grant of the waiver would create one new buildable lot, which would not negatively impact public safety, health or welfare.

The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not applicable generally to other properties;

Staff Analysis: The subject lot will be logically divided based on the current characteristics of the site and the proposed residential development will fit in with the development patterns of the area.

Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if this Ordinance is strictly adhered to;

Staff Analysis: The subject lot will be logically divided based on the current characteristics of the site, including tree coverage, tillable land, and floodways. The proposed residential development will fit in with the development patterns of the area.

The waiver will not, in any manner, contravene provisions of the Zoning Ordinance, Comprehensive Plan, or Official Map, as interpreted by the Commission.

Staff Analysis: This area is more suited for rural residential use, as indicated by the several small parcels that are predominantly single-family dwelling uses. These waivers will not go against the intent of the Comprehensive Plan of preserving agricultural land.

GENERAL INFORMATION

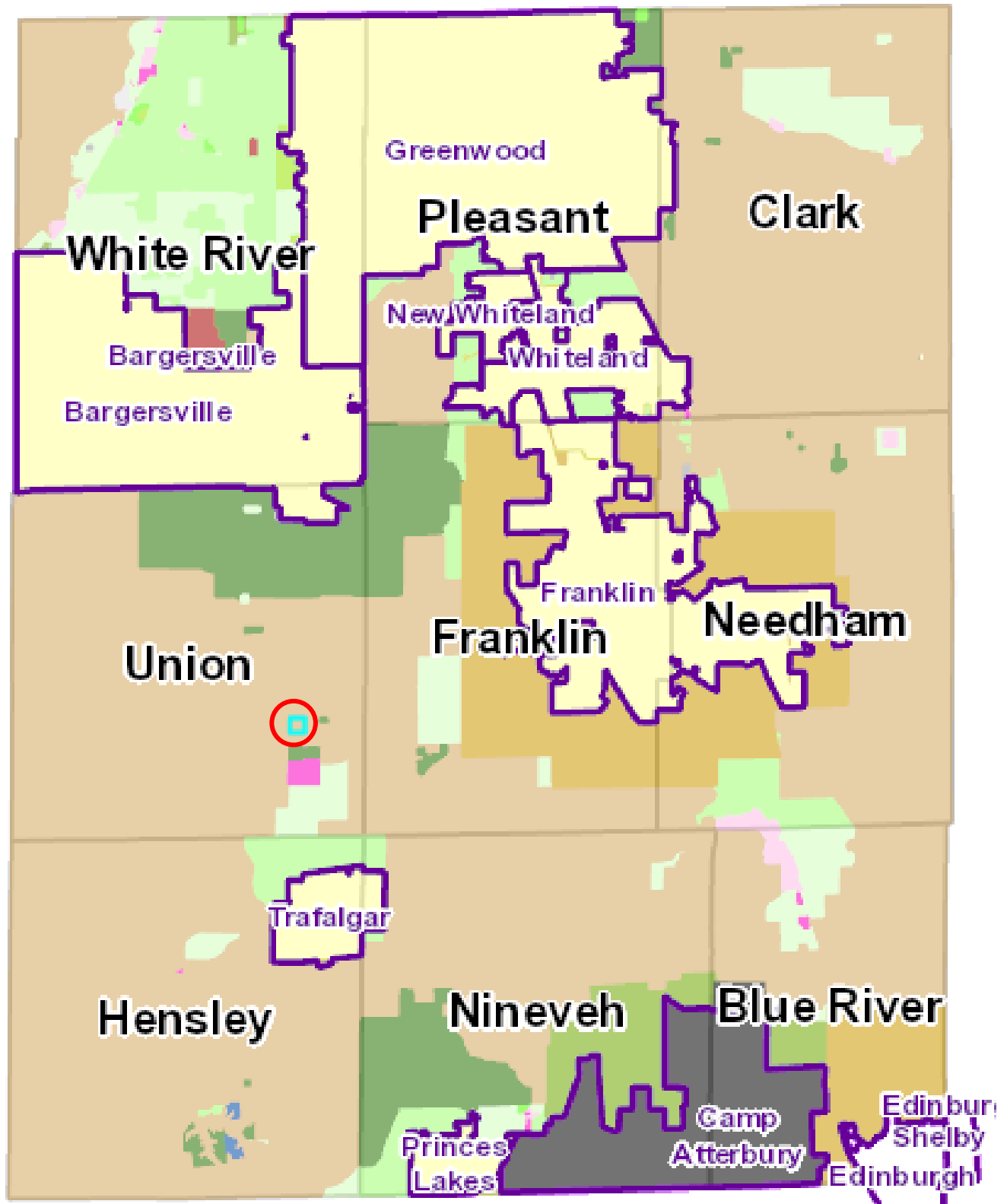
Applicant: Bryan Johnson
613 Walnut Woods Dr
Greenwood, IN 46142

Owner: Carol Johnson
1068 S State Road 135
Franklin, IN 46131

Current Zoning: A-1 (Agricultural)
Existing Land Use: Single Family Dwelling & Agricultural
Future Land Use: Agricultural

-RLS

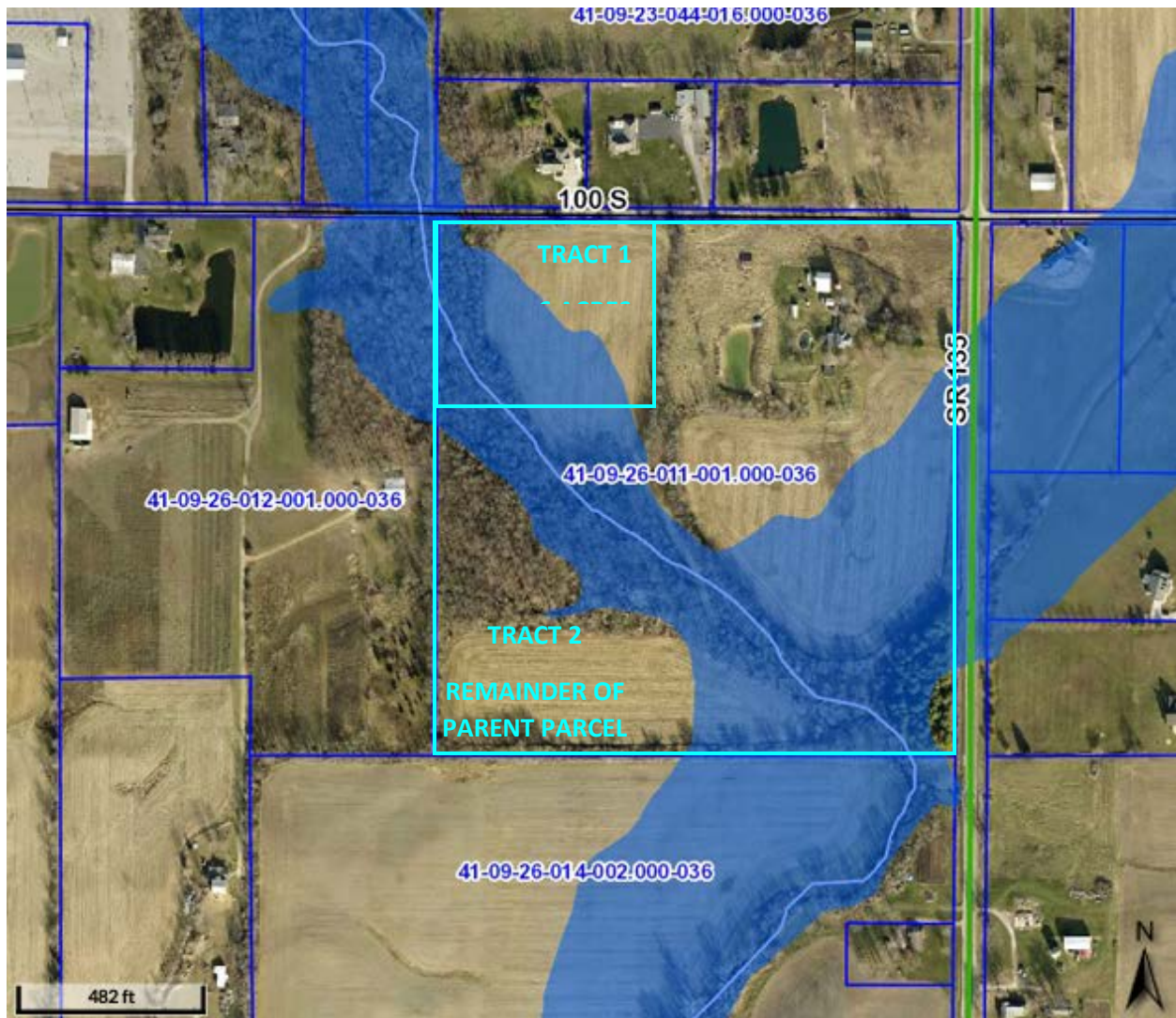
W-10-21 Base Map



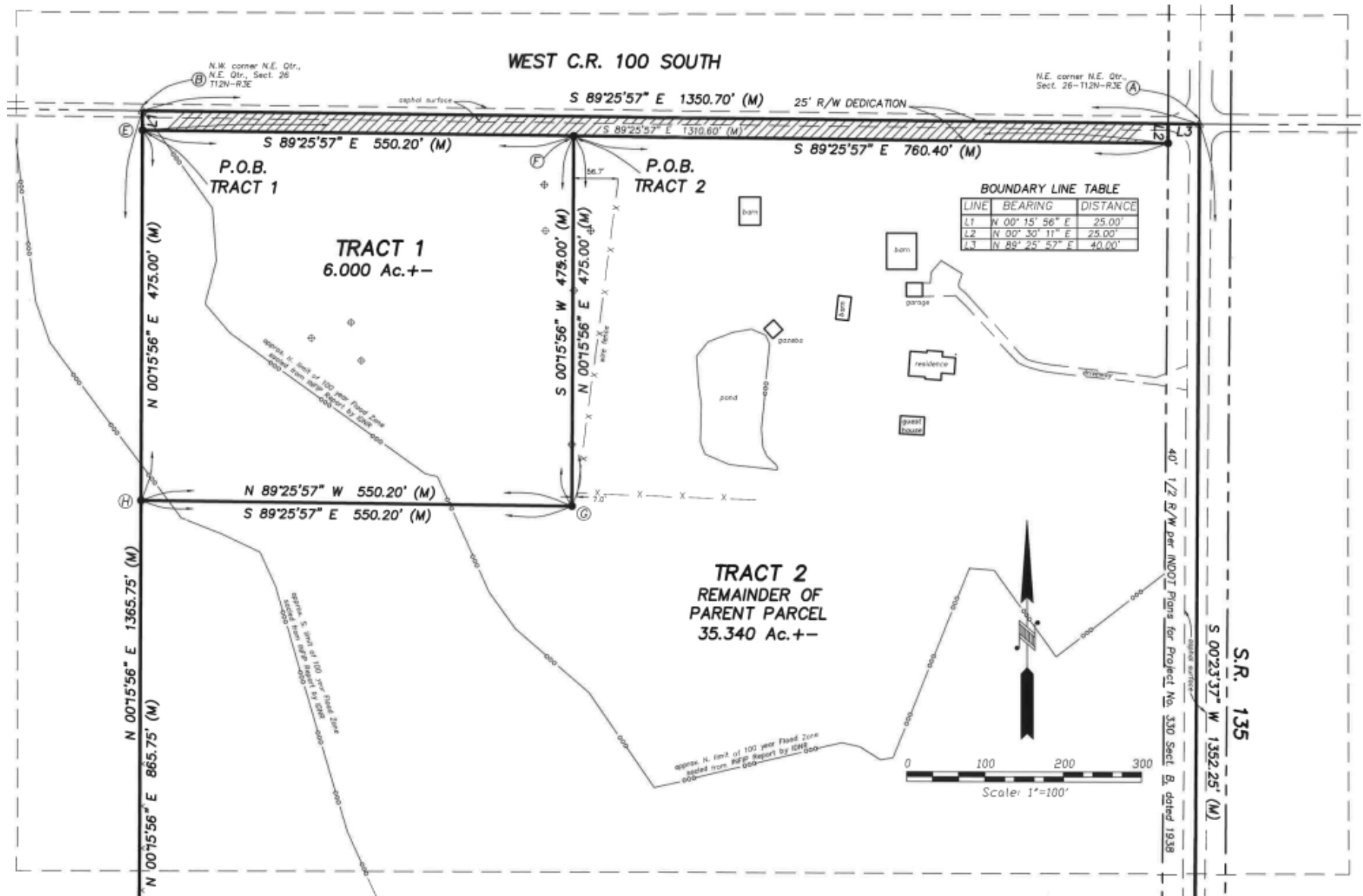
W-10-21 Base Map II



W-10-21 Flood Zone



W-10-21 Proposed Roadside Subdivision



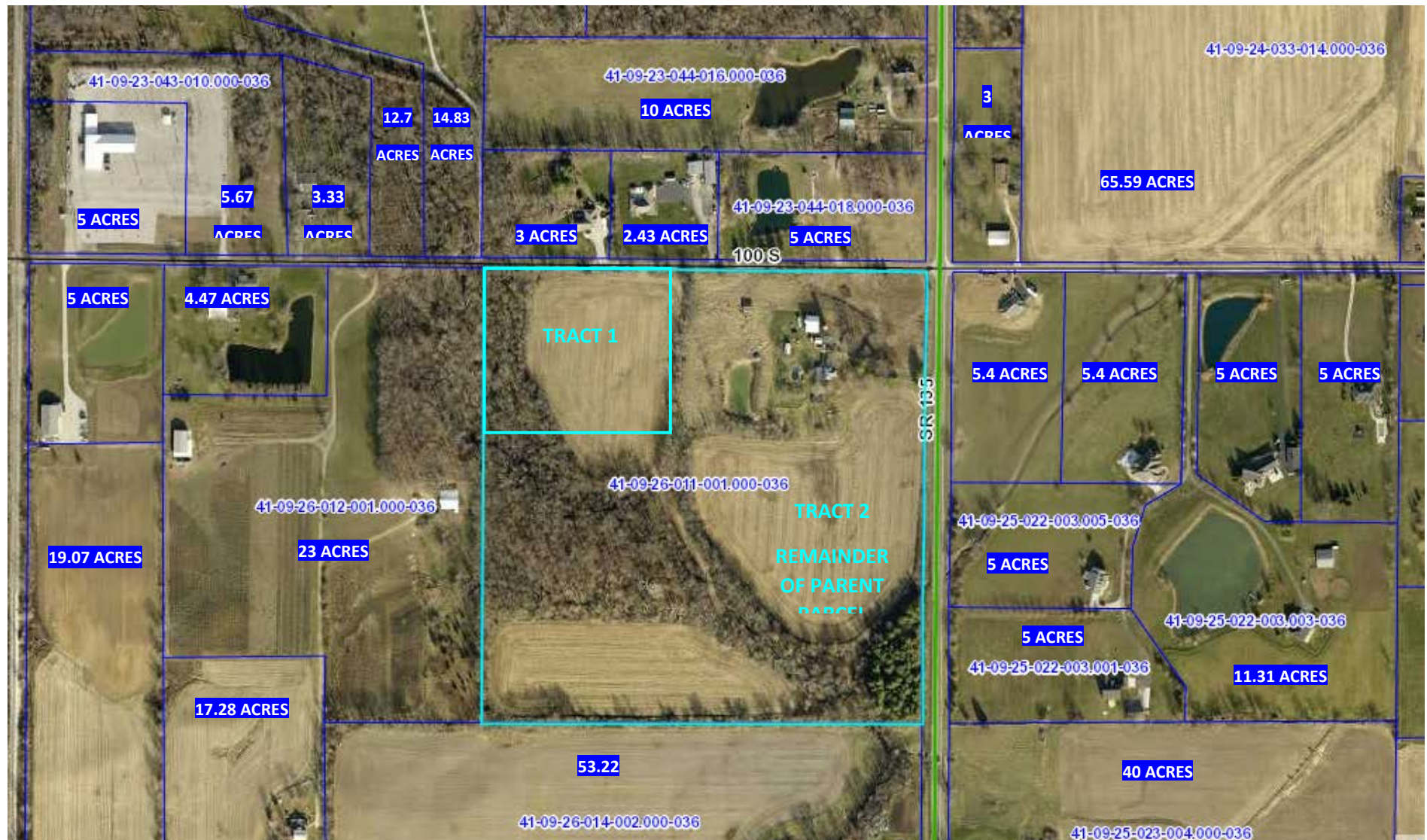
W-10-21 PETITIONER FINDINGS OF FACT

FINDINGS OF FACT – SUBDIVISION CONTROL WAIVER

PLAN COMMISSION

1. The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to nearby property.
A single-family residence is proposed to be constructed on the proposed 6 acre parcel, which is consistent with parcels to the East and West and South of the parent parcel. Final grading will allow runoff to follow existing patterns which are in a general Southwest direction.
2. The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not applicable generally to other properties.
The original intent of the subdivider was to split off three 2 acre parcels at the N.W. corner of the parent parcel for Mr. Johnson (Contact Person). It is likely that 2 or 3
It is likely that 2 or 3 acre parcels could not be developed due to soil conditions and the proximity of the Special Flood Hazard Zone A. Mr. Johnson's mother (subdivider)
wishes to convey 6 acres to Mr. Johnson to construct a residence. The limiting soil conditions and Flood Zone restrict the placement of the septic field within the preferred 6
acre parcel. The placement of the septic on the eastern most parcel would require the residence to be built on 2 adjoining parcels if the road side subdivision was required.
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if this Ordinance is strictly adhered to.
The original intent of the subdivider was to split off three 2 acre parcels at the N.W. corner of the parent parcel
for Mr. Johnson (contact person). It is likely that 2 of the 3 acre parcels could not be developed due to soil conditions
and the proximity of the Special Flood Hazard Zone A. Mr. Johnson's mother (the subdivider) wishes to convey 6 acres to Mr. Johnson to
construct a residence. The limiting soil conditions and Flood Zone restrict the placement of the septic field within the preferred 6 acre area.
4. The waiver will not, in any manner, contravene provisions of the Zoning Ordinance, Comprehensive Plan, or Official Map, as interpreted by the Commission.
The proposed 6 acre parcel will meet the required road frontage requirement, depth-to-width ratio, and
use restriction for parcels in the A-1 Zoning District.

W-10-21 AREA OF SURROUNDING PARCELS



Zoning Ordinance Text Amendments

Staff has three minor zoning ordinance amendments that they would like to discuss at the September Plan Commission. If warranted, they will prepare the amendments for public hearing at the October Plan Commissioner meeting. A brief description of each change is described below.

1. Recreational Vehicle:

The zoning ordinance states a “Recreational vehicles shall not be occupied in any location other than an approved recreational vehicle park.” [6-101-6 G] Planning and Zoning receive about 10 or so complaints a year of someone living in an RV on private property throughout the County. These are typically on properties that already developed with a single-family dwelling. However, it can be challenging to site a violation. “Occupied” can be interpreted in various ways. When Staff reaches out to property owners, they simply state *“we will hang out in there occasionally to watch TV. But no one is cooking food or using the bathroom.”* Staff discussed the ordinance and enforcement with Plan Commission Attorney. Stephen Watson made a good point that *“the use of the term “occupied” in this case is arguably ambiguous, and as such is subject to being interpreted in favor of the property owner’s free use of its property, particularly if the property owner challenges a violation notice. Consequently, a cautious approach would be to not issue a violation notice unless there is evidence of overnight occupancy of the RV(s).”* His recommendation is that Staff could present the ambiguity to the Plan Commission and proposed a text amendment change.

Proposed text amendment would potentially read as: “Recreational vehicles shall not be **used for overnight use** ~~occupied~~ in any location other than an approved recreational vehicle park”

2. Accessory Structures

Accessory structures (detached garages, barns, sheds) are not allowed in a defined front yard of a dwelling. To simply explain it, an accessory structure cannot be closer to the road than the house. This applies to all zoning districts. It is difficult for agricultural and rural residential zoning districts. In 2019, there were seven variance petitions filed towards this standard, eight petitions in 2020, and six so far for 2021. All for property zoned A-1 or R-R. The proposed language below would allow barns, detached garages, and other accessory structures to be built in front of houses in agricultural and rural areas, under certain conditions.

Proposed text amendment would potentially read as: “Accessory structures shall not be permitted in any front yard and shall adhere to front, side, and rear setback requirements. **However, in the A-1 and RR Districts, detached accessory structures may be located in the front yard, provided the subject lot has a minimum area of two acres, and the accessory structure(s) has a minimum front setback of 100 feet.”**

3. Non-permitted uses

The Zoning Ordinance does not have language that specifically states that a property may only be used for listed permitted and special exception uses. This could be used as a legal argument in a zoning violation. The Plan Commission Attorney has recommended that such language be added to the zoning ordinance. Other jurisdiction's zoning ordinance has language that addresses this in the document.

Proposed text amendment would potentially read as:

“Determination of Land Uses Not Listed in this Ordinance Uses herein are listed as “Permitted” or “Special Exceptions.” Those uses not listed are prohibited; provided, however, it is recognized that this Ordinance may require interpretation to assign all possible uses to individual districts or zones. Therefore, any use which is not specifically set forth in this Ordinance shall be reviewed by the Planning Director for consistency with the intent set forth in each district or zone and for compatibility with use characteristics typical of uses permitted within those districts or zones. Based upon this review, the Planning Director shall determine the appropriate district or zone for any use which is not specifically set forth herein. In case of disagreement with the determination of the Planning Director in assigning a use to an appropriate district or zone, any aggrieved party may file an appeal with the Board of Zoning Appeals pursuant to the provisions of Sec. _____ – Board of Zoning Appeals of this Ordinance.”