



JOHNSON COUNTY

Department of Planning and Zoning
86 West Court Street
Courthouse Annex
Franklin, Indiana 46131

Phone: (317) 346-4350
Fax: (317) 736-4722
www.co.johnson.in.us

MEETING AGENDA

Johnson County Board of Zoning Appeals
December 20th, 2022, 7:00 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 September 27, 2022 meeting.

PUBLIC HEARINGS

-CONTINUED PETITIONS

None.

-NEW PETITIONS

V-15-22. Caleb Harbert. 5703 W. Smith Valley Road, Greenwood..... Page 3

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a design studio, contractor's office, and contractor's yard (not permitted in the R-2, Single Family Zoning District).

VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to:

- A. Waive commercial parking requirements,
- B. Waive commercial landscaping requirements, and
- C. Allow for a free standing sign not to exceed 32 square feet in area and 6 feet in height.

V-16-22. Rita Horton. Parcel east of 3590 E 250 S, Franklin Page 25

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to legally allow for 130 feet lot width on an illegally created parcel (A-1, Agriculture, zoned properties require a lot width of 208 feet).

OLD BUSINESS

None.

NEW BUSINESS

Adoption of Findings for V-14-22 DSV A and B Page 34

Approval of 2023 Board of Zoning Appeals calendar. Page 35

REPORTS AND RECOMMENDATIONS

None.

ADJOURNMENT

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STAFF REPORT

CASE NUMBER: V-15-22
ADDRESS: 5703 W Smith Valley Rd, Greenwood and the 5-acre parcel to the East
PETITIONER: Caleb Harbert

REQUEST

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a design studio, contractor's office, and contractor's yard (not permitted in the R-2, Single Family Zoning District).

VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to:

1. Waive commercial parking requirements,
2. Waive commercial landscaping requirements, and
3. Allow for a free standing sign not to exceed 32 square feet in area and 6 feet in height.

STAFF RECOMMENDATION:

Staff recommends the **denial** of the use variance request and that the Board **dismiss** development standards variances due to irrelevancy.

PROPERTY DESCRIPTION

This approximately 12-acre site is zoned R-2 (Single-Family Residential) and is located along Smith Valley Rd, east of SR 37/I-69. The property is currently improved with a dwelling, detached garage, in ground pool, and barn. The area around the barn is covered by a gravel drive and the remaining portion of the property is grass field. Trees line a majority of the eastern, western, and southern property lines.

Surrounding development consists of single-family residences to the east and west, an electric substation and single-family residences to the south, and a church and municipal water facility to the north. The adjoining property to the east has a variance to allow for indoor storage and repair of automobiles. All surrounding properties are zoned R-2. The purpose of the R-2, Single-Family Residential District is to provide for residential development at a density of 3.5 dwelling units per acre. Other uses permitted in the R-2 District include parks and playgrounds,

cemeteries, essential services, agriculture, child care services for 5 or fewer children, schools, religious institutions, and government buildings.

HISTORY

In 2016, similar use and development standard variances for this property were applied for to legally establish a lawn and landscape business the on property and to waive commercial parking and landscaping. After consideration, all portions of petition V-10-16 were denied by the Board of Zoning Appeals on July 26, 2016. The Board granted an extension until December 31, 2016 for the petitioner to bring the property into compliance with the Zoning Ordinance. Planning and Zoning records indicate that as of January 9, 2017, the property had come into compliance with the Zoning Ordinance.

VARIANCE OF USE

This Variance of Use request, if approved, would allow the subject property to be developed and used for three types of uses described as:

1. A design studio, office, and outdoor gardens;
2. A landscaping contractor office and storage with winter snow removal; and
3. An entertainment equipment rental office and storage.

A plan of operation provided by the petitioner is attached to this report as an exhibit. Per the submitted Plan of Operation, all proposed uses will be operating from 6:30 am to 10:00 pm on weekdays and 6:30 am to 9:00 pm on the weekends. It also noted that in the winter months, the snow removal operation will be 24/7 in the event of an emergency or major snowfall. 10 employees are planned for the design studio, 50 for the landscaping business, and 10 for the equipment rental business. Of the 60 employees working for the landscaping and equipment rental business, the petition noted that a majority will leave the property for the day to work offsite. The design studio operation will allow walk-ins and tours of the gardens as well as clients by appointment. No clients will be on the property for the landscaping and equipment businesses. Standard office supply deliveries are anticipated for the design studio, weekly bulk material deliveries are anticipated for the landscaping operation, and monthly equipment and standard deliveries are anticipated for the equipment operation. Residential trash bins and trash dumpsters will contain the waste.

The petitioner proposes to store mulch, rock, pallets of block/pavers/materials, and other organic manner outside on the rear portion of the property. The petitioner also proposed to store landscaping equipment such as trailers, tractors, and company vehicles outside in the same area. Long term storage of fill material and other build materials, not used for current construction on the property, is not commonly associated with residential uses and therefore requires a variance. The Johnson County Health Department expressed concerns over storage of these materials in this area stating that the property is located in a well head protection district. Potential chemicals used by the applicant and the salt used during ice and snow

removal could pollute the aquifer that feeds Indiana American & Bargersville wells. They are also concerned with introducing a commercial septic system. The Health Department cannot support the variance at this time. In addition to these concerns, a majority of the property sits within FEMA designated Flood Fringe area. The Zoning Ordinance and Stormwater Ordinance will require extra measures to be taken with development within the Flood Fringe area. Some of these restrictions may make the development unattainable.

The Future Land Use Map of the I-69 Corridor Plan recommends Mixed-Use for this property. For this area specifically ("Area 50"), the I-69 Corridor Plan states.

"Smith Valley Road is expected to experience higher traffic volumes and potential redevelopment in the areas along Mullinix Road and Smith Valley Road. Area 50 has been identified as a mixed use area to accommodate neighborhood retail for the existing residential neighborhoods surrounding this area, as well as provide mixed density residential to a variety of residential types at this interchange. As this area evolves with the construction of the interstate, it will be important to ensure any redevelopment efforts are sensitive to the existing properties in the area. Extra care must be given when reviewing any new projects to ensure their compatibility with surrounding uses. Buffering and planning will be required to mitigate potential impacts on surrounding property owners." (Page 69).

In addition, the Planning and Zoning Office and the Johnson County Health Department always prefer commercial businesses to be on city sewer as opposed to on-site waste disposal. Use of public utilities decreases the probability of groundwater/aquifer contamination by the associated commercial use. This property does not have access to public utilities and will be required to make improvements to the septic system to operate a business at this location.

Staff asserts that a design studio, landscaping office, and equipment rentals align with the ordinances' definition of a community business rather than a neighborhood business since they are primarily meant to serve the countywide market, not just the surrounding neighborhood. Additionally, the largest use proposed on the property is considered a contractor's yard, which is only permitted in Industrial zoned districts. The proposed development of two pole barns is not aligned with commercial development. Neighborhood businesses are meant to serve the convenience purposes of the surrounding residences. Staff asserts that the proposed uses, outdoor storage, and delivery are not compatible or sensitive to the existing residential properties as the appearance and traffic generated by the property are not consistent with the surrounding residences. The potential noise and appearance of the property could become a nuisance to the surrounding area.

The staff understands the convenience the variance might afford the petitioner. However, staff ultimately asserts that the use is not compatible with the Comprehensive Plan and existing land uses of the area. Staff, therefore, recommends denial of this request.

VARIANCE OF DEVELOPMENT STANDARDS – COMMERCIAL PARKING

The petitioner proposes paving six parking spots for customer and employee parking near the design studio. The remaining parking and maneuvering spaces on site are proposed to be gravel. This Variance of Development Standards request, if approved, would allow for commercial use at this location without providing all of the required number of spaces, paved surface, curbs, and stall striping requirements.

The proposed development does not meet the Findings of Fact for a Use Variance. Therefore, Staff recommends that the Board dismiss the development standards variances due to irrelevancy.

VARIANCE OF DEVELOPMENT STANDARDS – LANDSCAPING, & SIGNAGE

The site has existing trees on portions of the east, west, and south property lines which do not fully conform to the 20' landscape buffer requirement. This request, if approved, would also eliminate the landscaping requirements around the proposed parking lots. This request, if approved, would eliminate the landscaping requirements around the proposed parking lots. No landscaping is currently proposed around the parking lots.

The proposed development does not meet the Findings of Fact for a Use Variance. Therefore, Staff recommends that the Board dismiss this development standard variances due to irrelevancy.

VARIANCE OF DEVELOPMENT STANDARDS –SIGNAGE

This request, if approved, would provide for the future placement of a non-lit free standing sign near the existing home (design studio/offices), viewable from Smith Valley Rd. The sign shall not exceed 32 square feet in area or 6 feet in height. The Zoning Ordinance prohibits business/commercial signage on residentially-zoned parcels.

The proposed development does not meet the Findings of Fact for a Use Variance. Therefore, Staff recommends that the Board dismiss this development standards variance due to irrelevancy.

FINDINGS OF FACT: VARIANCE OF USE

1. The approval will be injurious to the public health, safety, morals, and general welfare of the community.

The proposed use would be inconsistent with the predominantly agricultural and residential uses in the area.

2. The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner.

The proposed use necessarily involves outdoor storage, movement of large equipment, regular large deliveries, and noise which is not compatible with the surrounding residential properties.

3. The need for the variance does not arise from some condition peculiar to the property involved.

The property is zoned and developed for residential use and may continue to be used that way.

4. The strict application of the terms of the Zoning Ordinance will not constitute an unnecessary hardship if applied to the property for which variance is sought.

The property is zoned and developed for residential use and may continue to be used that way.

5. The approval does interfere substantially with the Comprehensive Plan.

The request would be inconsistent with the land use recommendations of the Johnson County Comprehensive Plan, which recommends Mixed Use development or businesses that serve the surrounding neighborhood for this site.

GENERAL INFORMATION

Applicants: Caleb & Cassandra Harbert
5703 W Smith Valley Rd
Greenwood, IN 46142

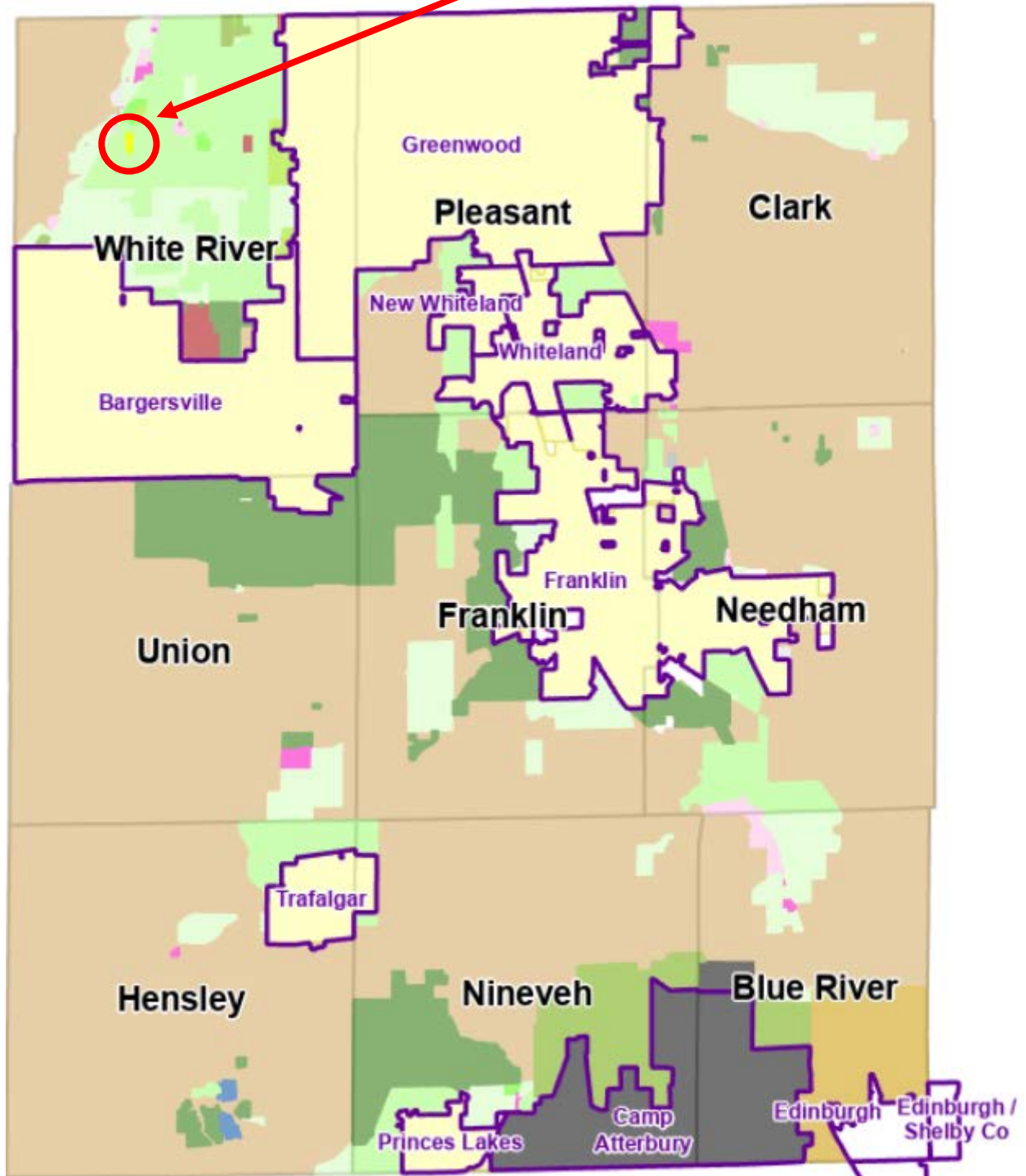
Owners: Same

Zoning: R-2 (Single-Family Residential)
Land Use: Residential
Future Land Use: Mixed-Use

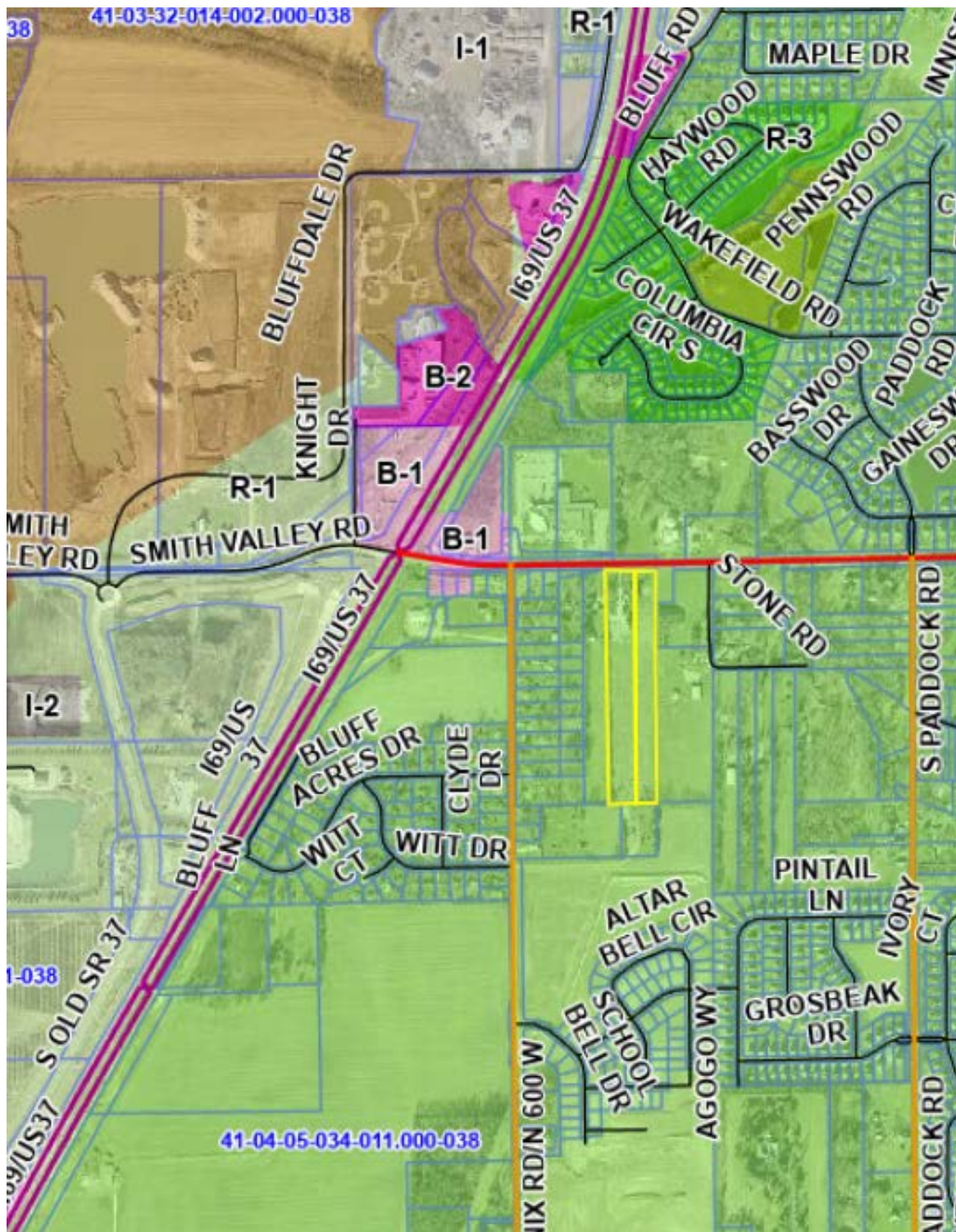
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V-15-22 BASE MAP

SUBJECT SITE

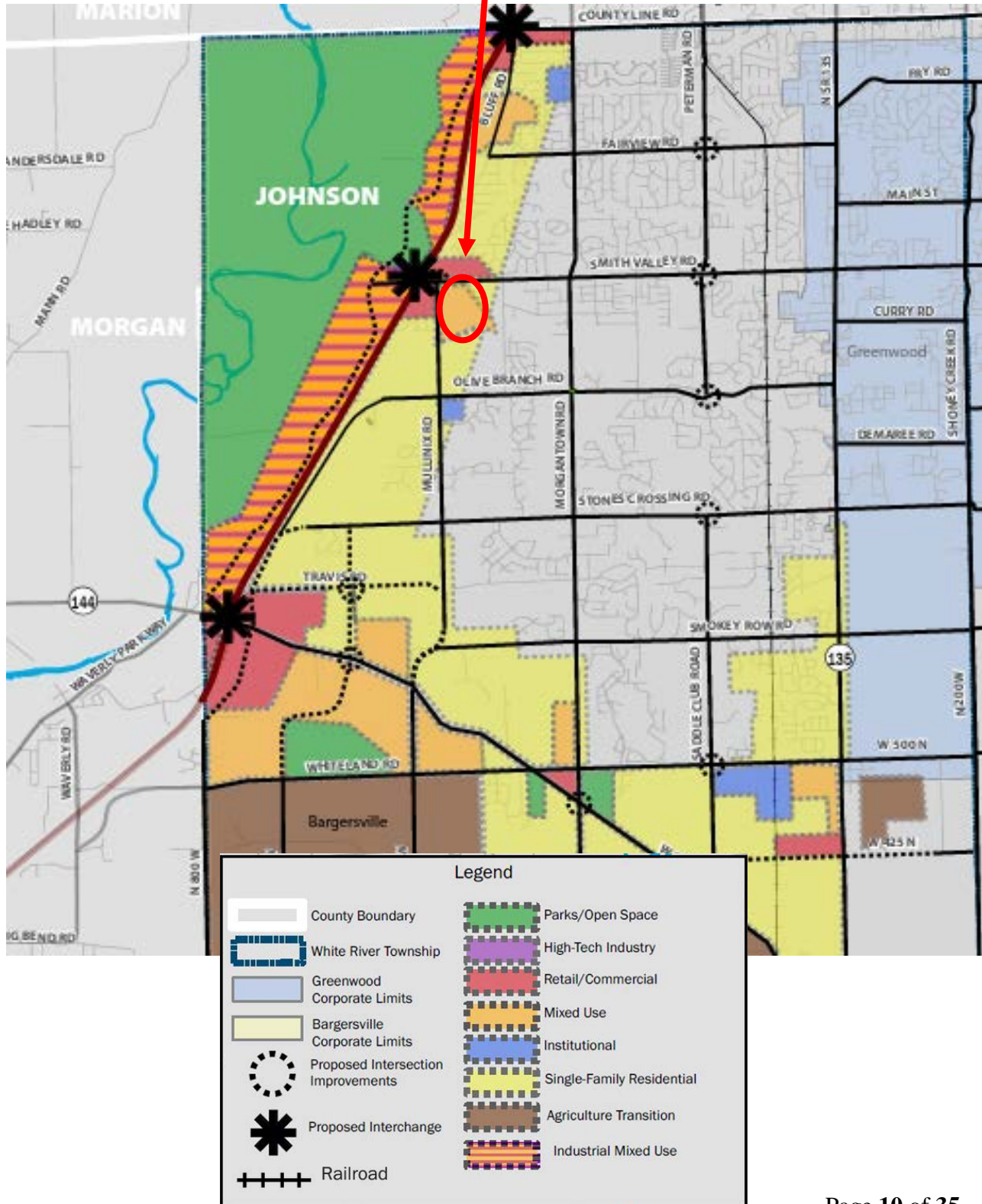


V-15-22 ZONING MAP

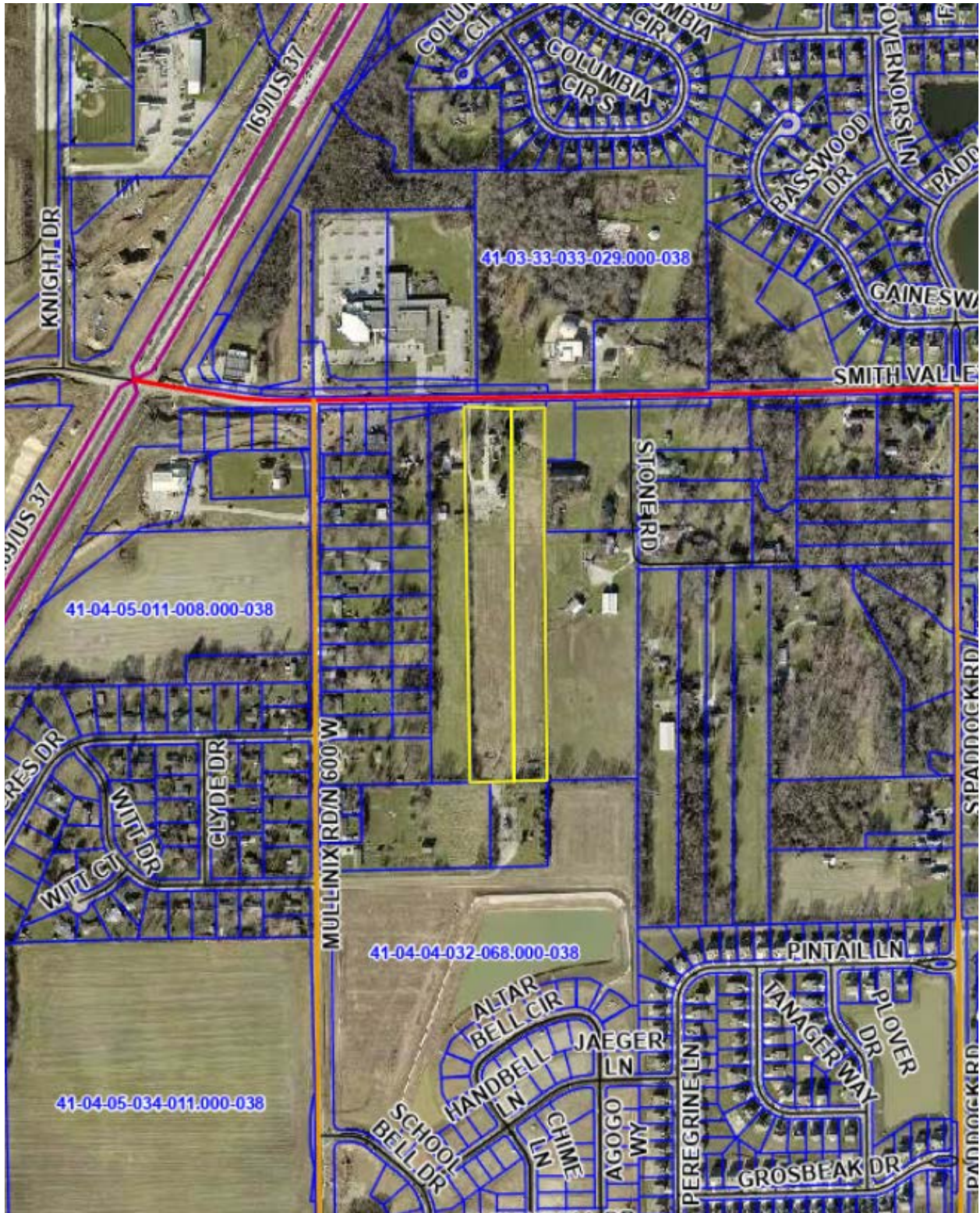


V-15-22 I-69 CORRIDOR PLAN FUTURE LAND USE MAP

SUBJECT SITE



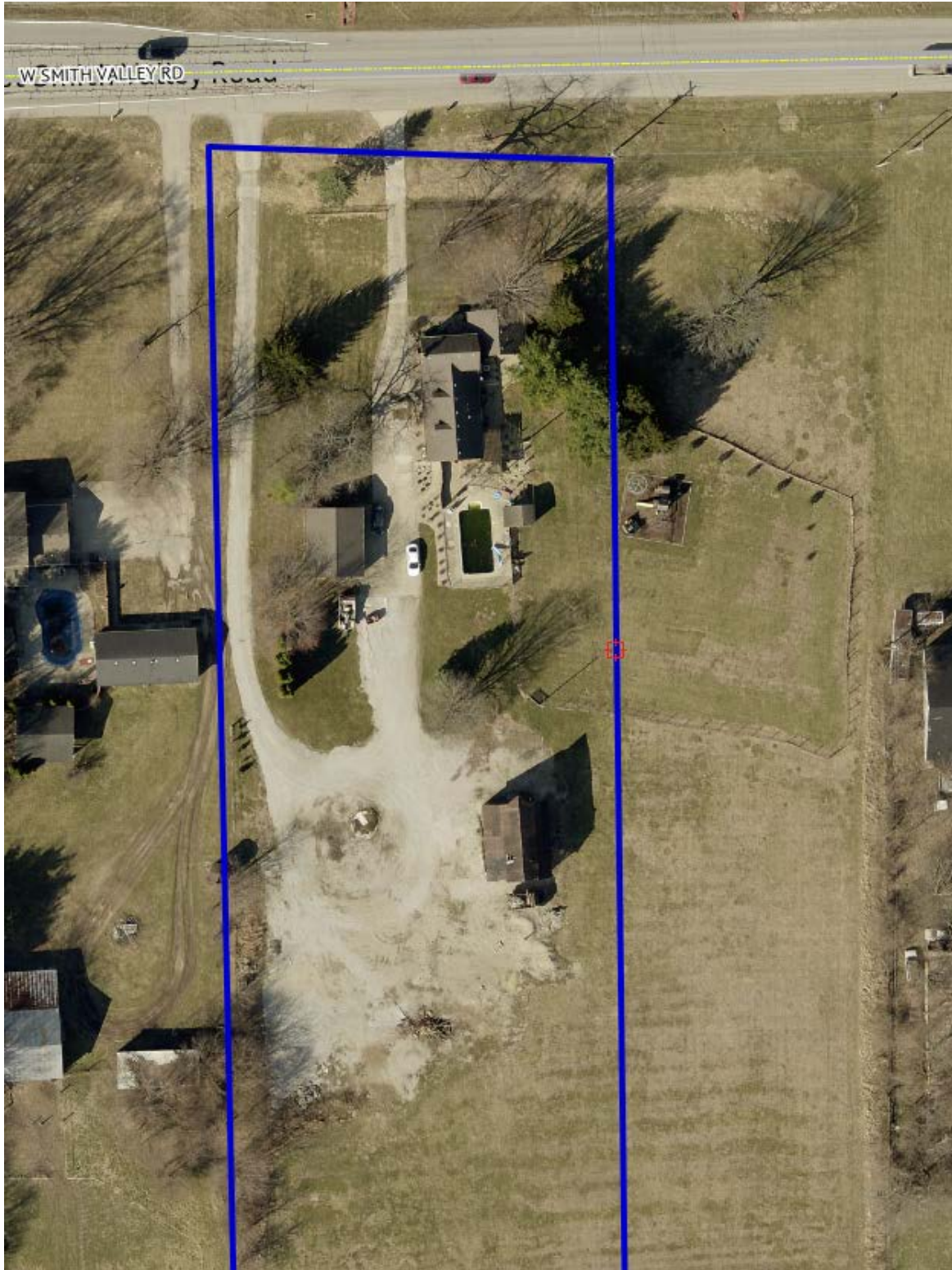
V-15-22 AERIAL MAP I



V-15-22 AERIAL MAP II



V-15-22 AERIAL MAP III



V-15-22 PLAN OF OPERATION

Description of Use: three types of uses

1. Design Studio for outdoor spaces
2. Landscape contractor office and storage, Snow removal for the winter months
3. Entertainment Equipment Rental office and storage

Hours of Operation:

1. Monday-Friday – 6:30am to 10pm and weekends 6:30a-9pm
2. Monday-Friday – 6:30am to 10pm and weekends 6:30a-9pm [In winter months: Emergency service provider so 24 hours a day before, during and after the event]
3. Monday-Friday – 6:30am to 10pm and weekends 6:30a-9pm

Number of Employees:

1. 10 employee – two of which are owners of the property
2. 50 employees – majority will leave the property for the day to work offsite on customers property
3. 10 employees – majority will leave the property for the day to work offsite on customers property

Structure(s) for use:

1. Existing home/front buildings for office and design studio
- 2/3. New 7,500-square-foot pole building, southeast corner of the property
- 2/3. New 7,500-square-foot pole building southwest portion of the property

Description of outdoor use and location:

1. Gardens and living space with landscaping and turf and gravel
2. Area between the two new structures will be used for outdoor storage, labeled on site plan. Storage of mulch, rock, pallets of block/pavers/materials, and other organic materials. Landscape equipment such as trailers, heavy equipment, tractors, Company vehicles. Salt and plows for snow removal.
3. All rental equipment stored inside the structure

Customer/clientele/patron characteristics:

1. Walk-ins and touring's of the gardens will be welcome. Clients will be by appointment. Gardens will be open 7am to 7pm and office according to hours of Operation.
2. No onsite customers or clients, contracting business where employees for the clients properties
3. No onsite customers or clients, contracting business where employees for the clients properties

Parking and parking surface:

1. Customer and employee parking near the structure, located on the site plan, will be paved surface
2. Employee parking near new structures, located on the site plan, will be gravel surface
3. Employee parking near new structures, located on the site plan, will be gravel surface

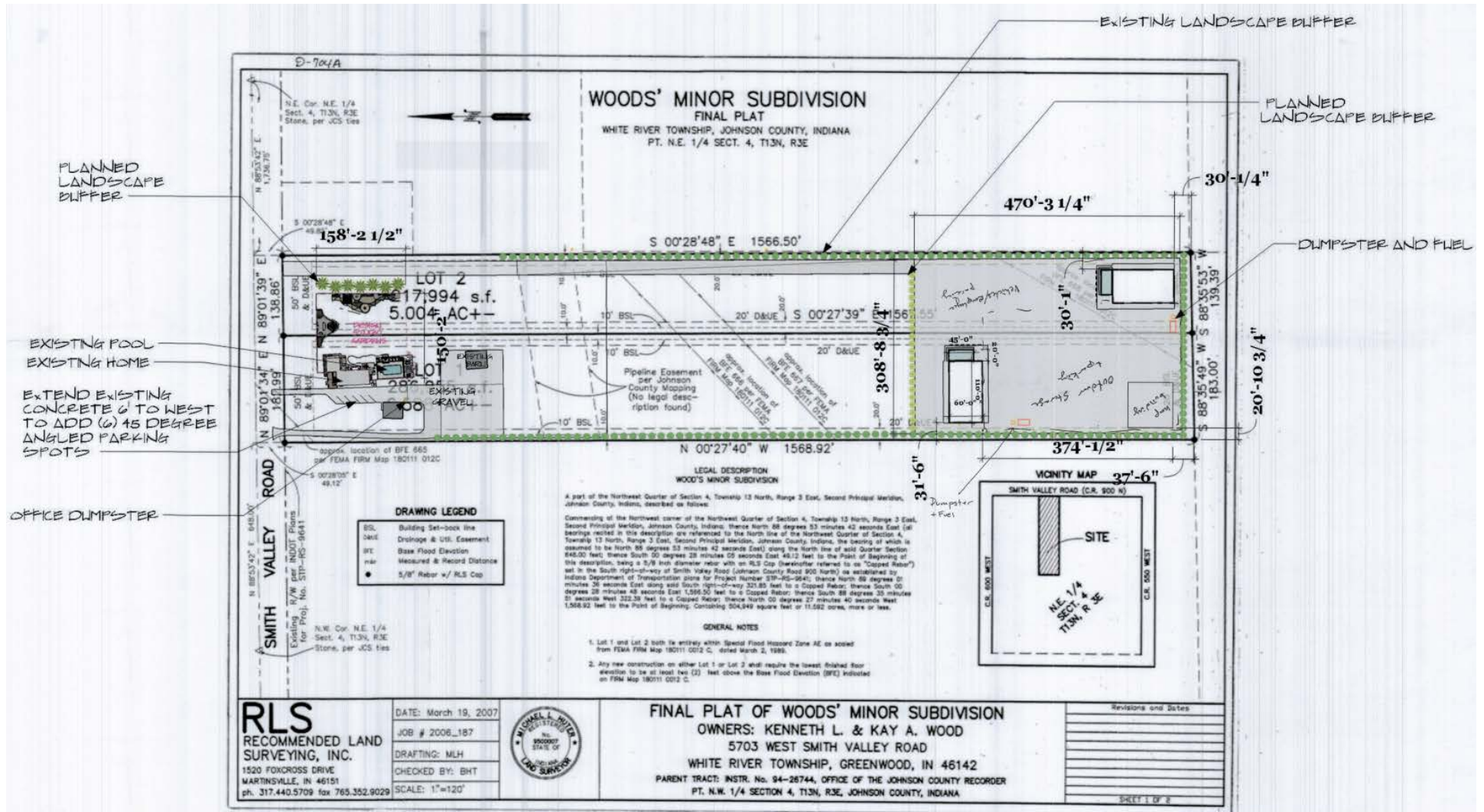
Deliveries:

1. standard deliveries of office supplies via post office, ups, FedEx, ect
2. Bulk materials estimated twice a weekh, stored in outdoor storage
3. Box Truck deliveries once a month of equipment and standard deliveries of materials you order off Amazon/online

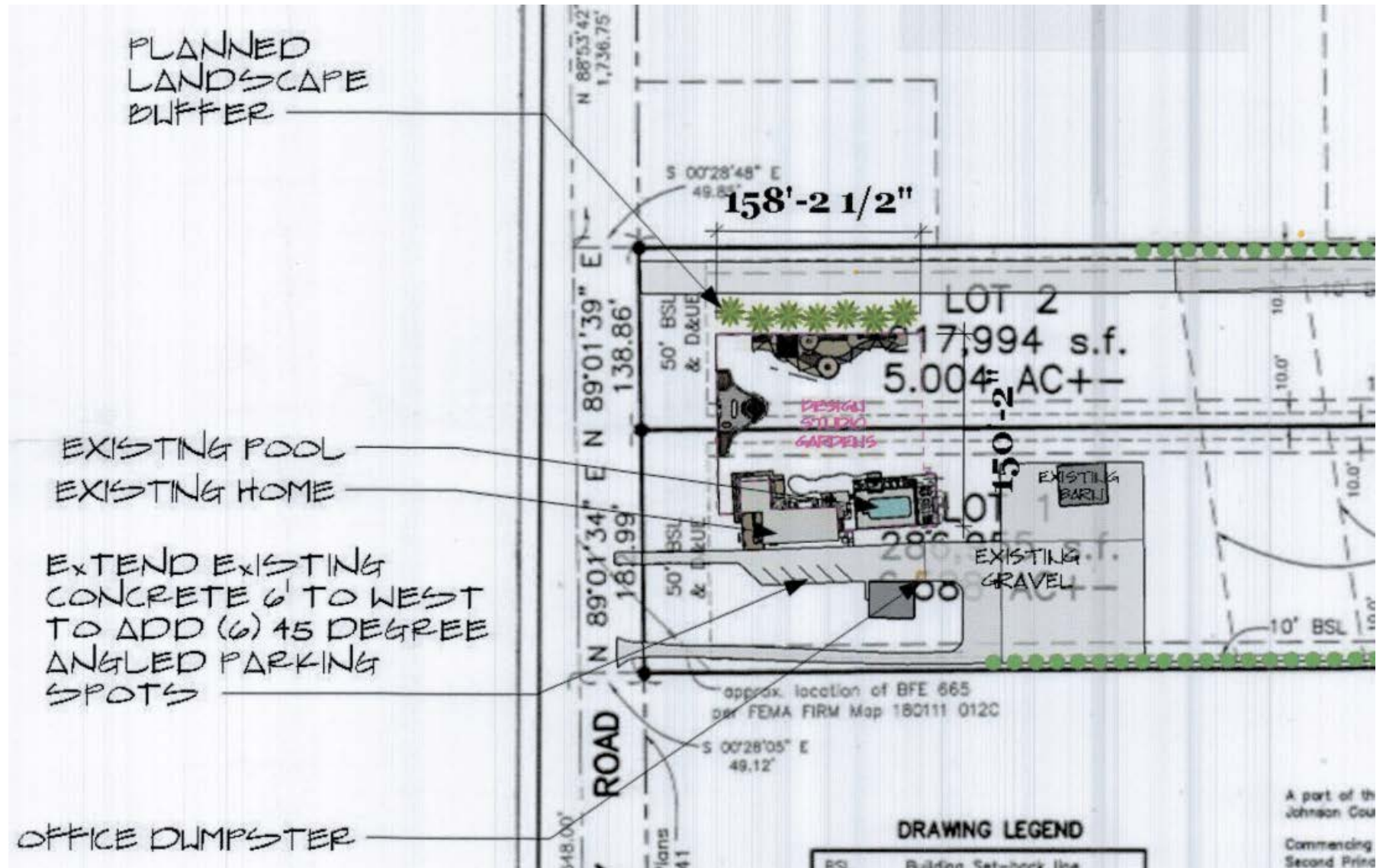
Waste:

1. Small dumpster on the property near 3 car detached garage and normal residential waster containers
2. Standard Rays Trash Dumpster
3. Standard Rays Trash Dumpster

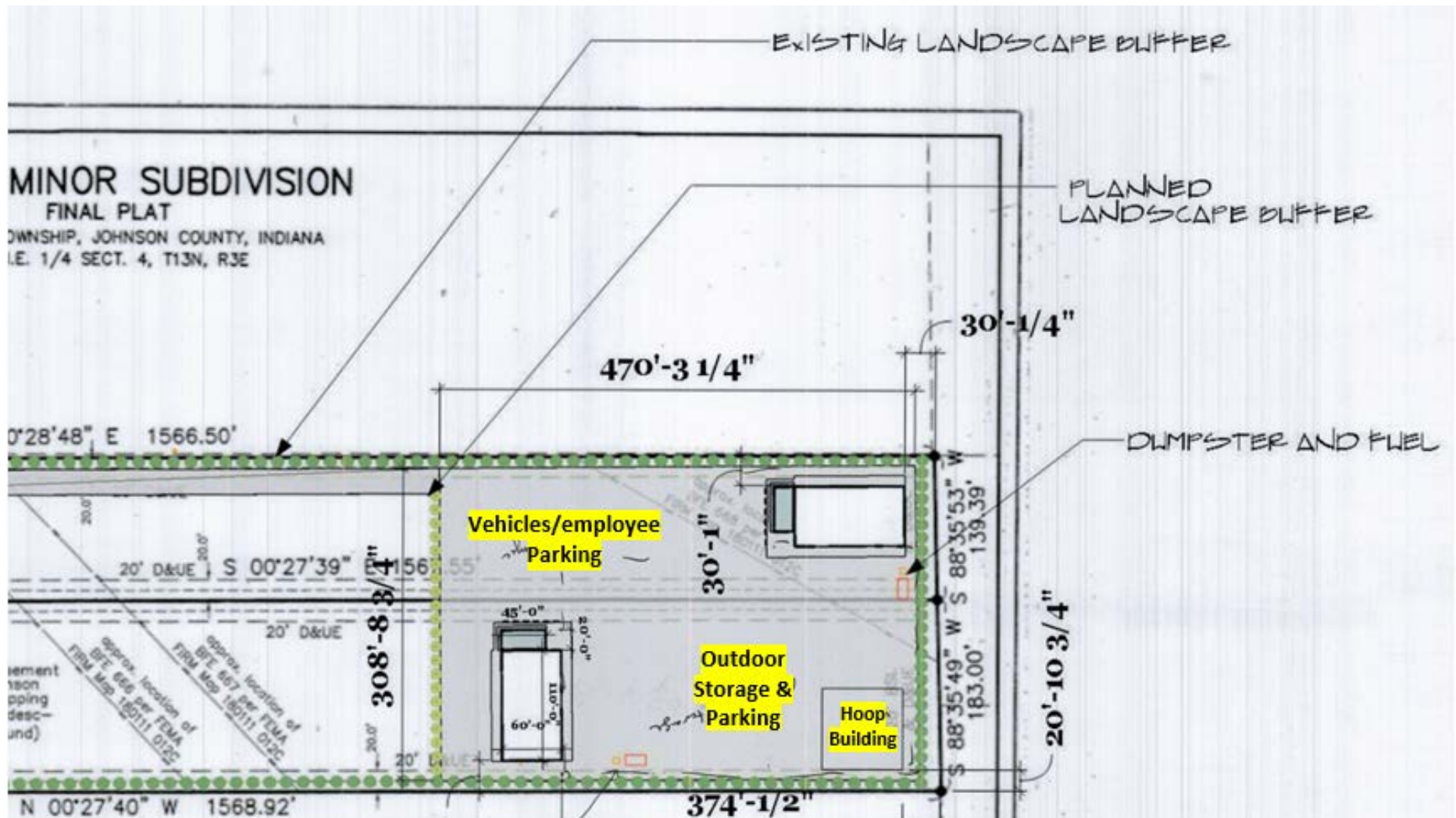
V-15-22 SITE PLAN



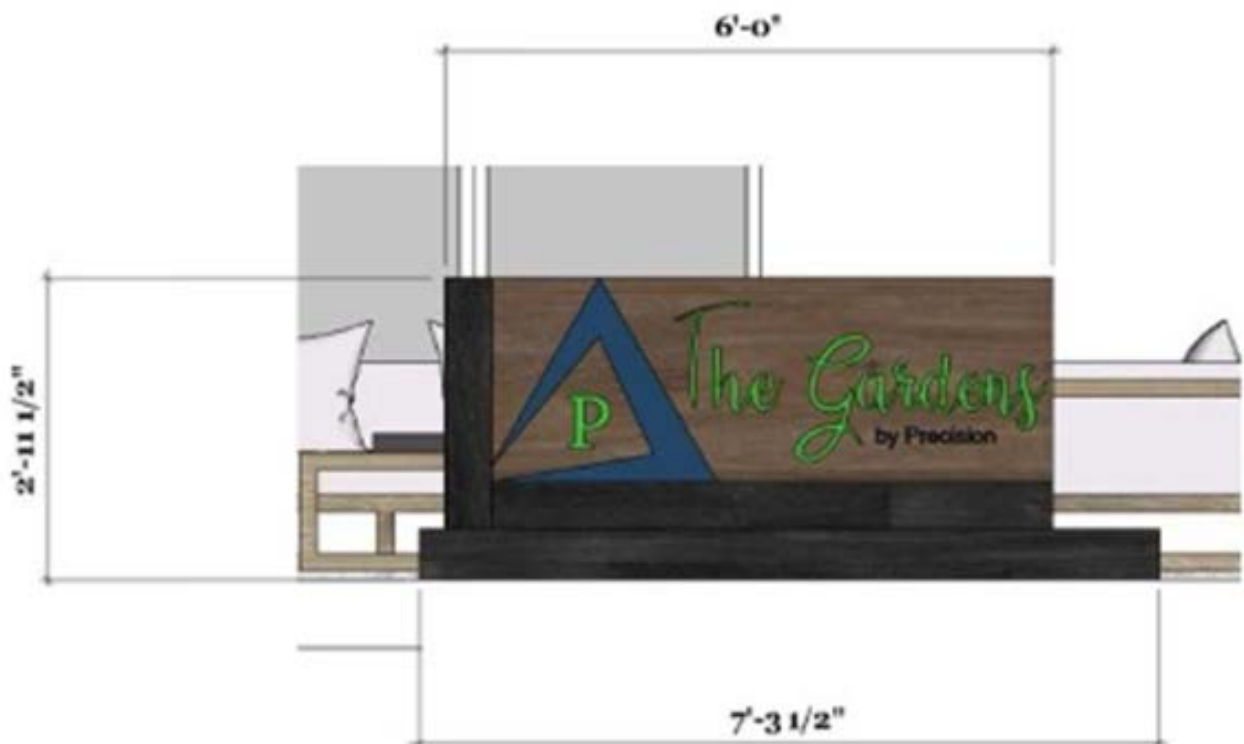
V-15-22 SITE PLAN – DESIGN STUDIO AREA



V-15-22 SITE PLAN – LANDSCAPING CONTRACTOR & ENTERTAINMENT EQUIPMENT OFFICE AND STORAGE AREA



V-15-22 PROPOSED SIGN



V-15-22 PETITIONER FINDINGS OF FACT USE VARIANCE

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community because:

With approval, the petitioner will be better set up to invest in the community and improving the petitioners' and communities'. Due to enabling the petitioner to improve and use this property, property values and the general welfare of the community will be improved. Petitioner plans to invest well over \$1,000,000 in land and building improvements. Also the petitioner's improvements will be very similar to surrounding community and have more of a farm look and utility rather than a commercial site with paved lots and curbing. Our goal of is to be able to invest and better utilize the property while we wait for the inevitable redevelopment that is coming. Since we believe in the next 5 to 10+ years the entire area will be redeveloped out we want to maintain a small business/farm/design studio look while we wait. To more suitably keep the "farm/agricultural" look in the back we will not be doing paved areas, curbs, or anything like commercial areas. The Goal is to look like a farm/deign studio operation but to obstruct even this view with trees, landscaping and natural buffer so as to not overly stand out.

Additionally, with I69 exit ramp coming to within a 100 feet or so of our property and the general commercialization of the area that the Johnson County 10 Year Comprehensive Plan proposes, we believe that this is a more appropriate look and use of the lands while we wait for a true redeveloper to come in and completely redevelop the entire area.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The entire front of the property is already tore up with I69 construction with even more work and progress coming in. All neighbors to petitioner have some version of rent or business already running through their property. To the North is **Southland Community Church** which was successful to change their zoning for the churches purpose. They just expanded their building and the parking lot and made the paved and covered/roofed area substantially larger. Southlands eastern **neighbor is a water treatment plant** for the community. The water treatment plant has a 6' or 8' fence all the way around and commercial buildings and industrial look with visible exterior storage of bulk materials throughout the year. **5759 W Smith Valley Rd** (neighbor to the west) is renting out the back barn and fields to another person to board their horses, store equipment and use the land for hire with traffic every morning and evening to maintain the horses. Also has a series of large barns and boarding facilities. This property also has a separate 1 bedroom detached apartment w/ garage. **956 Stone Rd** (neighbor to the north east) has a variance to run a used car dealership out of it and uses the property to store and sell classic vehicles. There are routinely potential buyers coming and visiting the property on weekends and random days/evenings. Also has a few larger out buildings and a home in disrepair and all improvements will look similar/better. **960 Stone Rd** (neighbor to the south east) runs a horse boarding facility and septic company. Our equipment and proposed improvements are inline with the small farm set up very similar to his property in look and feel. **971 or 975 Stone Road** (septic company neighbor) runs a lawn and landscape company out of

the barn out back. This is Hommel Lawncare. His building and set up are very similar to what we propose to do. To the south is a farmer's field/buffer area to a new massive retention pond for a neighborhood that is going in by DR Horton. Additionally also to the south, abutting our property is utility substation. This substation is visible from the north and my property and has massive utility lines run to it. Due to the already commercial nature of the petitioners neighbors along with I69's exit ramp coming within 100 feet of our property it is believed that the variance will be just a legal continuation of what the petitioner and their neighbors are already doing with their properties but without the commercial aesthetics that come with being a fully commercial/retail location.

3. The need for the variance arises from some condition peculiar to the property involved because:

Due to the commercial nature of the area and that once I69 completes large developers will become very interested in the area. Petitioners goal is to be able to best utilize and invest in the property while waiting for the right Developer to come along. Petitioner does not want to change the zoning to a more commercial zoning because Petitioner is unsure of what development or uses the developers will want in future and will then have to re-zone everything and would rather do a variance for our use until this.

4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because.

Since Petitioners goal is to be able to invest and better utilize the property while waiting for the inevitable redevelopment that is coming. And since we believe in the next 5 to 10+ years the entire area will be developed out we want to maintain a small business/farm/design studio look while we wait. Due to this, we are not pursuing an re-zoning of the land because we believe we will be bought out in the future and the new developer will have a completely different objective with the land.

5. The approval does not interfere substantially with the Comprehensive Plan because:

The 10 year Comprehensive Plan recommends the property be Retail/Commercial in the front portion and Mixed use in the back. With the I69 exit ramp coming to within a 100 feet or so of our property and the general commercialization of the area that the Johnson County 10 Year Comprehensive Plan proposes, we believe that this is a more appropriate look and use of the lands while we wait for a developer to come in and completely redevelop the entire area.

V-15-22 PETITIONER FINDINGS OF FACT DEVELOPMENT STANDARD VARIANCES

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community because:

With approval, the petitioner will be better set up to invest in the community and improving the petitioners' and communities'. Due to enabling the petitioner to improve and use this property, property values and the general welfare of the community will be improved. Petitioner plans to invest a significant amount in land and building improvements. Also the petitioner's improvements will be very similar to surrounding community and have more of a farm look and utility rather than a commercial site with paved lots and curbing. Our goal of is to be able to invest and better utilize the property while we wait for the inevitable redevelopment that is coming. Since we believe in the next 5 to 10+ years the entire area will be redeveloped out we want to maintain a small business/farm/design studio look while we wait. To more suitably keep the "farm/agricultural" look in the back we will not be doing paved areas, curbs, or anything like commercial areas. The Goal is to look like a farm/design studio operation but to obstruct even this view with trees, landscaping and natural buffer so as to not overly stand out.

Additionally, with I69 exit ramp coming to within a 100 feet or so of our property and the general commercialization of the area that the Johnson County 10 Year Comprehensive Plan proposes, we believe that this is a more appropriate look and use of the lands while we wait for a true redeveloper to come in and completely redevelop the entire area.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The entire front of the property is already tore up with I69 construction with even more work and progress coming in. All neighbors to petitioner have some version of rent or business already running through their property. To the North is **Southland Community Church** which was successful to change their zoning for the churches purpose. They just expanded their building and the parking lot and made the paved and covered/roofed area substantially larger. Southlands eastern neighbor is a **water treatment plant** for the community. The water treatment plant has a 6' or 8' fence all the way around and commercial buildings and industrial look with visible exterior storage of bulk materials throughout the year. **5759 W Smith Valley Rd** (neighbor to the west) is renting out the back barn and fields to another person to board their horses, store equipment and use the land for hire with traffic every morning and evening to maintain the horses. Also has a series of large barns and boarding facilities. This property also has a separate 1 bedroom detached apartment w/ garage. **956 Stone Rd** (neighbor to the north east) has a variance to run a used car dealership out of it and uses the property to store and sell classic vehicles. There are routinely potential buyers coming and visiting the property on weekends and random days/evenings. Also has a few larger out buildings and a home in disrepair and all improvements will look similar/better. **960 Stone Rd** (neighbor to the south east) runs a horse boarding facility and septic company. Our equipment and proposed improvements are inline with the small farm set up very similar to his property in look and feel.

971 or 975 Stone Road (septic company neighbor) runs a lawn and landscape company out of the barn out back. This is Hommel Lawncare. His building and set up are very similar to what we propose to do. To the south is a farmer's field/buffer area to a new massive retention pond for a neighborhood that is going in by DR Horton. Additionally also to the south, abutting our property is utility substation. This substation is visible from the north and my property and has massive utility lines run to it. Due to the already commercial nature of the petitioners neighbors along with I69's exit ramp coming within 100 feet of our property it is believed that the variance will be just a legal continuation of what the petitioner and their neighbors are already doing with their properties but without the commercial aesthetics that come with being a fully commercial/retail location.

3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property because:

Since Petitioners goal is to be able to invest and better utilize the property while waiting for the inevitable redevelopment that is coming. And since we believe in the next 5 to 10+ years the entire area will be developed out we want to maintain a small business/farm/design studio look while we wait. Due to this, we are not pursuing an re-zoning of the land because we believe we will be bought out in the future and the new developer will have a completely different objective with the land.

Landscaping: We don't want to have the standard landscaping buffer or plantings. This will give the property too much of a commercial feel. We want to strategically plant trees and shrubs as needed to help obstruct the view of the back but we already have over 10' of brush/trees growing up along our properties border fencing and plan to utilize this growth and some additional plantings to accomplish this. In the front, the landscaping will be continually adjusting over the years as we bring in new gardens and cycle out old.

Front/Home:

We want to use the home and garage and barn for the Office/Design Studio along with gardens along the east of the home. We will want to add some additional parking along the side of the home and slightly expand our existing driveway to better handle parking. We want this to look more farm/residential so we would want to just have either concrete or pavers for the parking area along the home and gravel in the back where we already have it for the most part. Since we are trying not to look too commercial we would not want to have curbing, asphalt or the entirety of areas paved. We would also want to have a sign out front of the home to mark our gardens/design studio.

Back/Drive Back:

In the back, we will have large pole barns with minor field office wings attached. To keep with the agricultural look we would want to keep a minor landscaping buffer with trees and light landscaping to help deflect view to our neighbors or Smith Valley. The drive to the back would have either a concrete/paver/asphalt apron meeting Smith Valley Road but after this we would want it to go into a standard driveway gravel/farm gravel drive all the way back. The parking and storage

area would be gravel as well. Outside of some areas with concrete for the buildings or storage the goal is all rock/gravel.

We would also want to have outside storage in the back to store excess equipment, materials, and generally everything required for our work.

Parking would be in the graveled areas in the back as well. We would be doing no curbing, asphalt or anything else.

We would want to have portapotties or similar facilities for use in the back gravel area as well. The area does not have sewer yet and due to this we would provide our employees temporary facilities to use before leaving for work. Since there will be future development coming that will bring along sewers, we do not want to put in a large septic system or septic field in the fields just to have to remove it in the near future.

STAFF REPORT

CASE NUMBER: V-16-22
ADDRESS: 2.39 acre parcel east of 3590 E 250 S, Franklin
Parcel 41-08-36-024-009.000-019
PETITIONER: Rita Horton

REQUEST

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to legally allow for 130 feet lot width on an illegally created parcel (A-1, Agriculture, zoned properties require a lot width of 208 feet).

STAFF RECOMMENDATION:

Staff recommends the **denial** of this variance request.

PROPERTY DESCRIPTION

This 2.38 acre property is zoned A-1 (Agricultural) and is not improved. The site is surrounded by large agricultural fields and several large residential parcels, all of which are zoned A-1.

VARIANCE OF DEVELOPMENT STANDARDS

This request, if approved, would allow the subject parcel to have a 130 foot width where 208 feet is required. This variance request is being made for a parcel that was illegally created in 2016 and is not eligible to build on. To make this lot legal, the petitioners are required to gain approval from the Board of Zoning Appeals (BZA) and the Plan Commission (PC). BZA approval is required to allow the lot to be 130 feet wide, where 208 feet is required in the A-1 zoning district. PC approval is needed to legally establish a lot that was illegally subdivided.

The 2.38-acre subject parcel was originally a part of the 36.66 acre parcel, northwest of the subject parcel. In 2015, the 36.66 acre parcel was subdivided via a Roadside Subdivision that created the three new residential parcels west of the subject parcel (see Exhibit *2015 Herron Hill Roadside Subdivision Survey*). The maximum number of new parcels that can be created via the Roadside Subdivision process is three. The Roadside Subdivision regulations are intended to provide property owners the opportunity to create tracts of land for residential development, but in a manner that minimizes encroachment of residential uses into agricultural areas. This request would not support the intent of the subdivision regulations.

After the completion of the Roadside Subdivision, the owner of the remaining tract, sold an additional 2.38 acres of land to the applicant that owned land adjacent to the property. This

tract of land was never combined with an existing parcel, hence creating a fourth parcel from the parent parcel.

To remedy the illegal split, the parcel of land can be combined with the original tract it was split from or the petitioners can complete a Replat of their Minor Platted lot to combine the 2.38 acres with their 3.16-acre lot to the east, 3590 E 250 S. However the applicant wish to legalize the parcel as a separate parcel that can be potentially sold and improved on with an additional single-family home. There is no hardship unique to this property which warrants relief from the Zoning Ordinance lot standards or the Subdivision Control Ordinance. Further, approval of this variance request could encourage other illegal subdivision that do not conform to the Zoning Ordinance or the Subdivision Control Ordinance.

Staff, therefore, recommends denial of this request.

FINDINGS OF FACT: VARIANCE OF DEVELOPMENT STANDARDS

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

The proposed lot width will not impact public health, safety, morals, or general welfare.

2. The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner.

Allowing an illegally created lot to not conform to the required lot standards would not support the intent of the Zoning Ordinance or the subdivision regulations to minimize encroachment of residential uses into agricultural areas. A

3. The strict application of the terms of the Zoning Ordinance will not result in practical difficulties in the use of the property.

There is nothing unique to this property that would have precluded it from being created in conformance to the Zoning Ordinance lot standards. The petitioner could combine the parcel to the original tract of land or to the adjacent land they own to make the subject parcel legal.

GENERAL INFORMATION

Applicants: Rita and Tony Horton
3590 E 250 S
Franklin, IN 46131

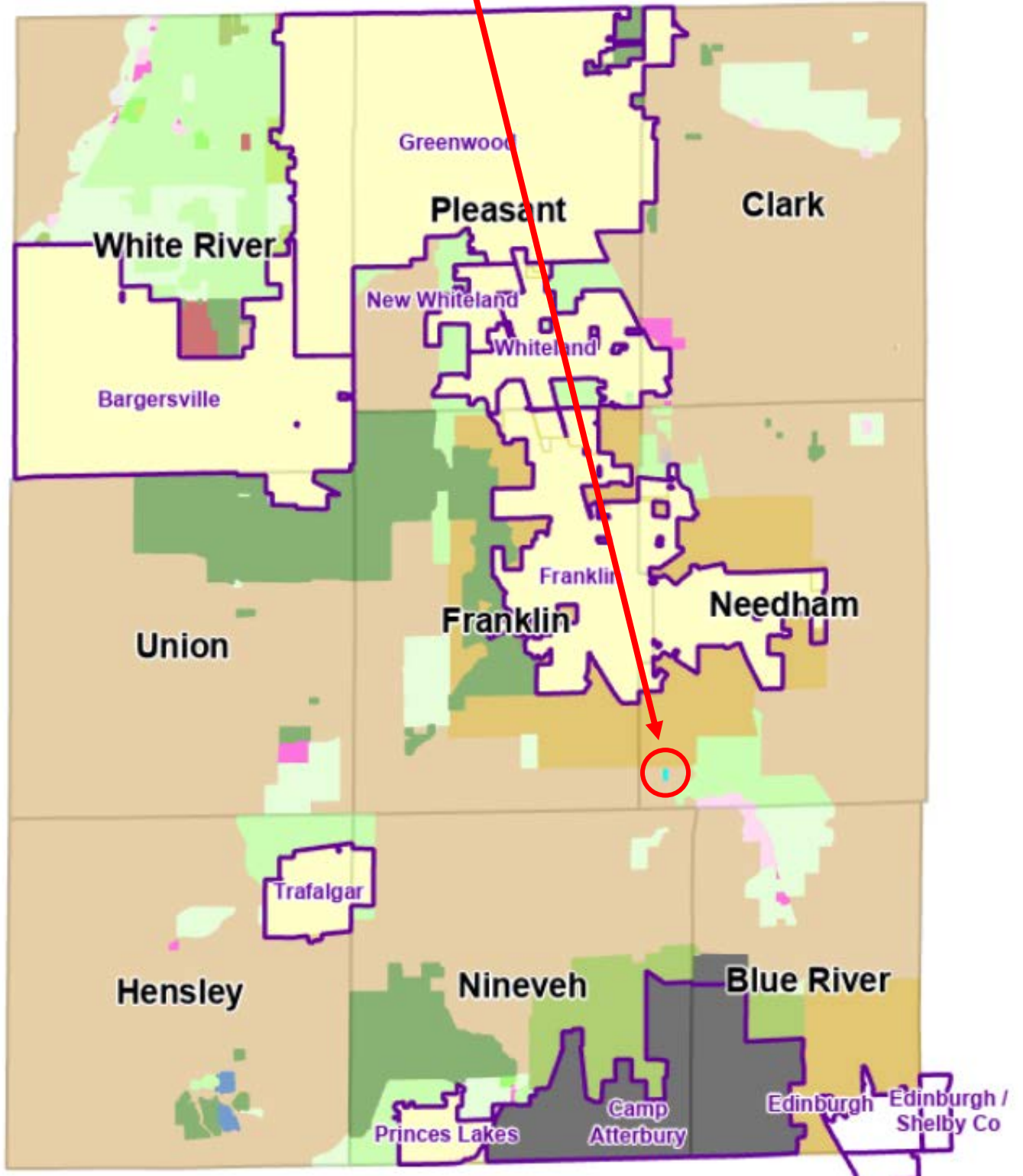
Owners: Same

Zoning: A-1 (Agricultural)
Land Use: Unimproved
Future Land Use: Rural Residential

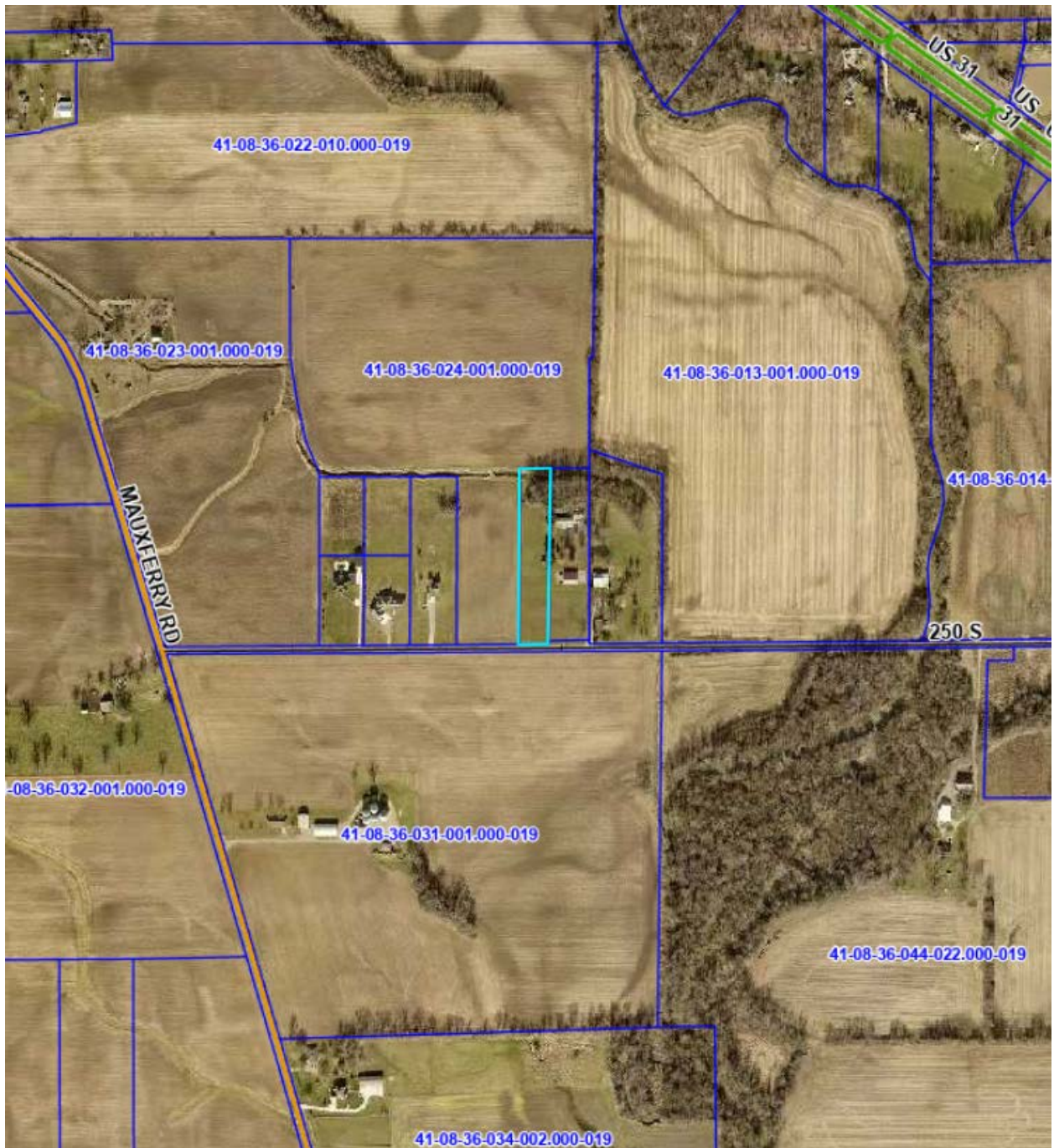
-RLS

V-16-22 BASE MAP

SUBJECT SITE



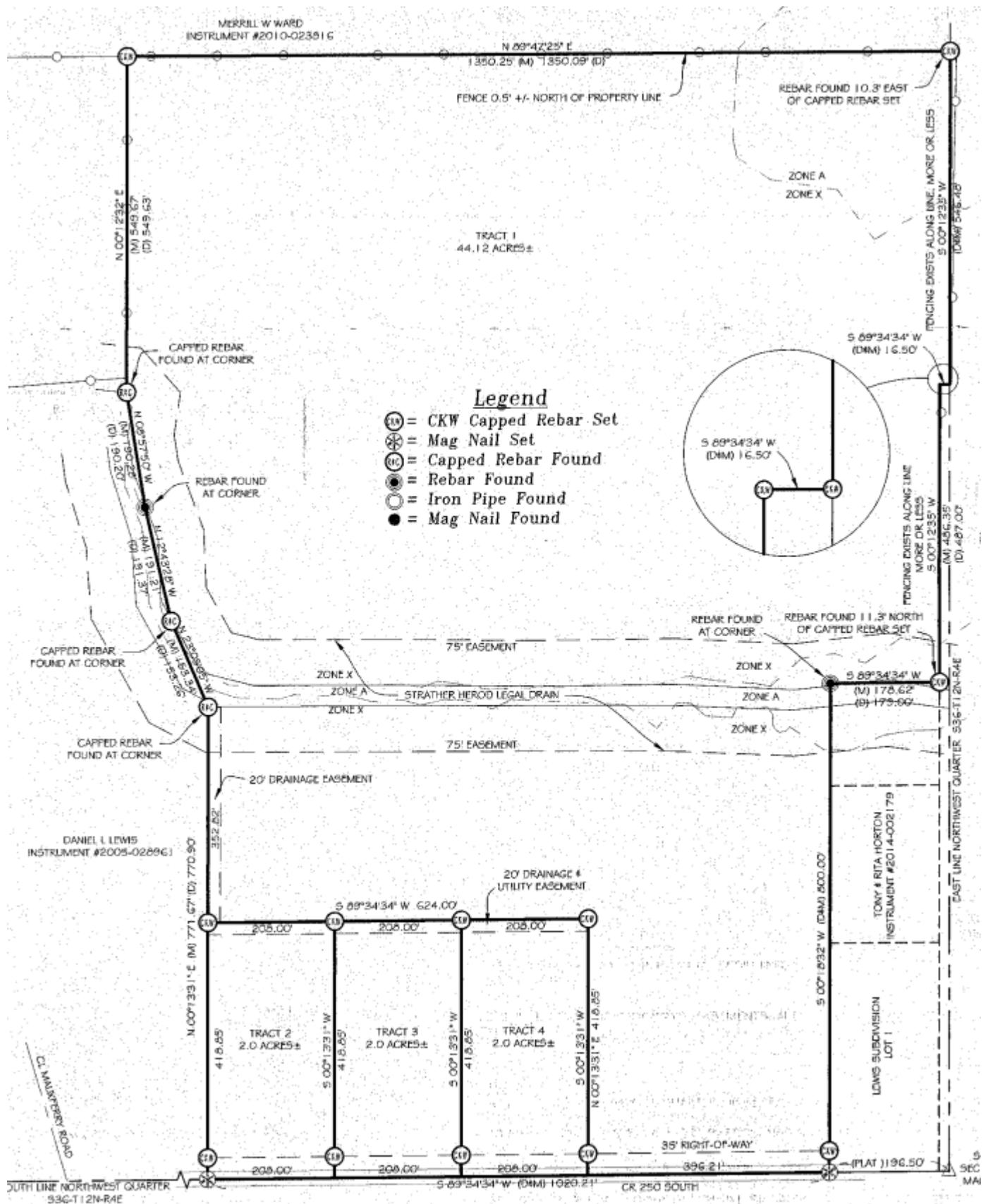
V-16-22 AERIAL MAP



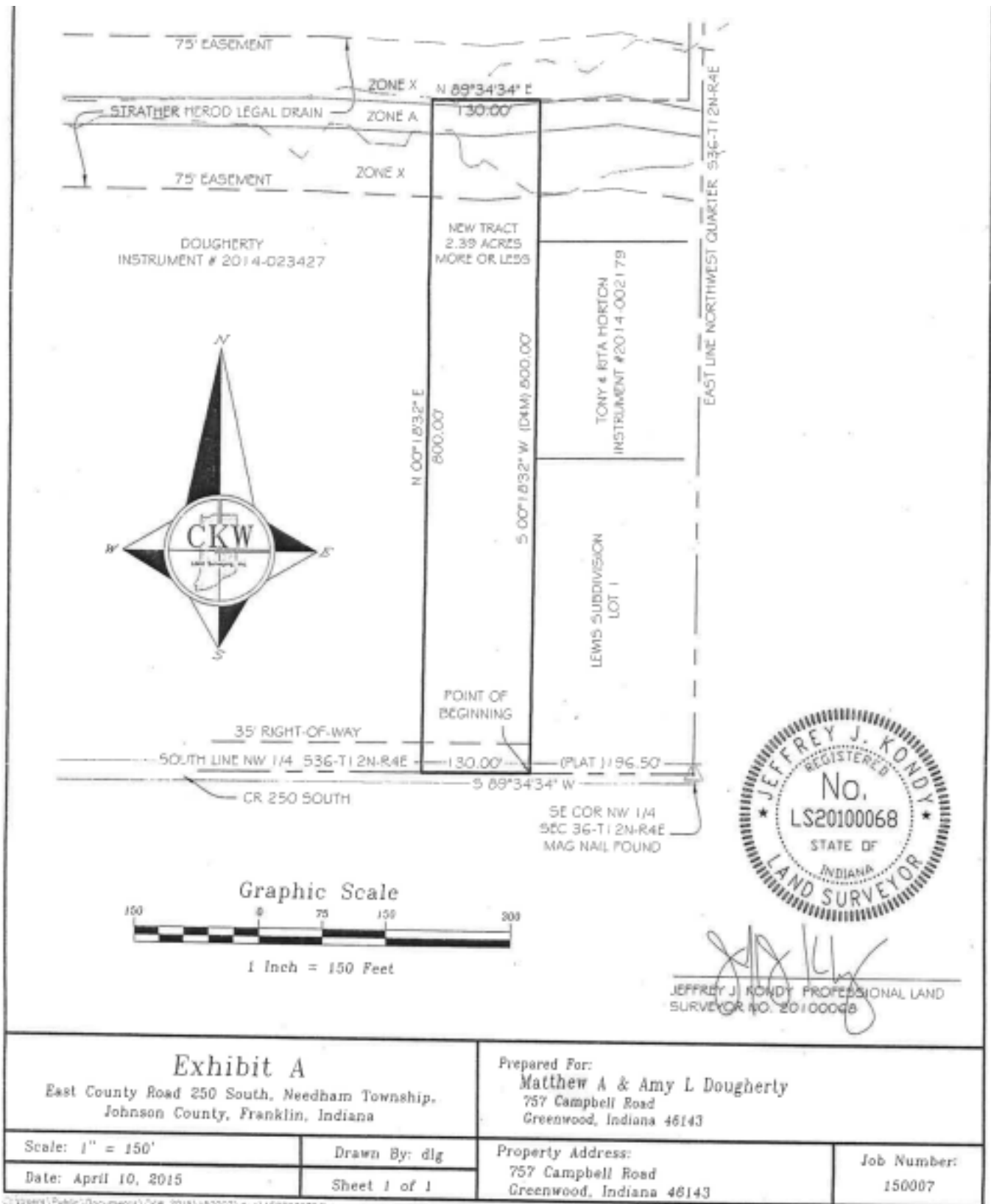
V-16-22 AERIAL MAP II



V-16-22 2015 Herron Hill Roadside Subdivision Survey



V-16-22 Survey of Subject Parcel



V-16-22 PETITIONER'S FINDINGS OF FACT

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community because:

would only be used to build a house on it.
will not interfere with traffic

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

will not decrease property values of homes nearby.
will not interfere with farming on the field next
to the property.

3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property because:

would not be able to legally build on it.

V-14-22 Findings

Findings of Fact: Variance of Development Standards, Commercial Parking, and commercial landscape requirements

1. The approval will be injurious to the public health, safety, morals, and general welfare of the community.

The proposed use would be regularly used commercial property by both employees and customers. The lack of landscaping will not provide an adequate buffer to the existing residential homes in the area. A parking lot that does not meet commercial standards could cause damages to the county roads.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The proposed gravel parking would not adversely affect the surround properties.

3. The strict application of the terms of the Zoning Ordinance will not result in practical difficulties in the use of the property.

The property does not present any difficulties that would prevent the commercial development from fulfilling the standard of a commercial parking lot and landscape. The property is large in size where the standards can be met.

**Johnson County
Board of Zoning Appeals
Calendar of Meetings for 2023**

Hearing Date	Filing Deadline	Legal Ad & Notification Deadline
January 24, 2023	December 27, 2022	January 3, 2023
February 28, 2023	January 30, 2023	February 7, 2023
March 28, 2023	February 27, 2023	March 7, 2023
April 25, 2023	March 27, 2023	April 4, 2023
May 23, 2023	April 24, 2023	May 2, 2023
June 27, 2023	May 30, 2023	June 6, 2023
July 25, 2023	June 26, 2023	July 4, 2023
August 29, 2023	July 31, 2023	August 8, 2023
September 26, 2023	August 28, 2023	September 5, 2023
October 24, 2023	September 25, 2023	October 3, 2023
November 28, 2023	October 30, 2023	November 7, 2023
December 19, 2023	November 20, 2023	November 28, 2023
January 23, 2024	December 26, 2023	January 2, 2024

Meetings start at 7:00 p.m. in the Auditorium of the Courthouse Annex, 86 West Court Street, Franklin, Indiana 46131.

All petitions must be filed with the Department of Planning and Zoning by no later than 4:00 p.m. on the due date listed above. Office hours of the Department of Planning and Zoning are from 8:00 a.m. to 4:30 p.m., Monday through Friday. Phone: (317) 346-4350 Fax: (317) 736-4722

The BZA Rules of Procedure were amended on November 26, 2013 to require that mailed, published and on-site notice for land use petitions slated for hearing by the BZA now be provided twenty-one (21) calendar days prior to a scheduled hearing. The Rules of Procedure previously required only ten calendar days' notice. Additionally, land use petitions must now be filed at least twenty-eight (28) days prior to a scheduled BZA hearing.