ZIONSVILLE
FOR ALL THE RIGHT REASONS

MEETING AGENDA- ZIONSVILLE BOARD OF ZONING APPEALS FEBRUARY 5, 2020

The meeting of the Zionsville Board of Zoning Appeals has been scheduled for Wednesday, February 5, 2020 at 6:30 p.m. in the Zionsville Town Hall Council Chamber, 1100 West Oak Street, Zionsville, Indiana.

The following items are scheduled for consideration:

I. Pledge of Allegiance

II. Attendance

III. Election of Officers

IV. Approval of the November 26, 2019 & December 10, 2019 Meeting Minutes

V. Continuance Requests

VI. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2019-38-SE	T. Ball	325 S 1100 East	**Continued from December 10, 2019 to the February 5, 2020 Meeting** Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG).

VII. New Business

Docket Number	Name	Address of Project	Item to be considered
2019-39-AP	R. Mallur	4651 Kettering Place	Petition for Administrative Appeal of staff's determination of the compliance of the Façade Variety Code as defined in the Hampshire subdivision Commitments in the Urban Single-Family Residential Zoning District (R-SF-2).
2019-40-DSV	G. Judd	602 S 900 East	Petition for Development Standards Variance in order to allow an addition to an existing accessory structure to: 1) Exceed the allowable accessory square footage & height in an Agricultural Zoning District (AG).

2019-41-DSV	D. Buibish	1135 S 900 East	Petition for Development Standards Variance in order to allow a lot split of 10 acres, into two 5+/- acre lots, in which: 1) the lots will not meet the Lot Width to Depth Ratio of 3:1 2) one lot will have an accessory structure(s) which exceed the height of the primary structure in the Low-Density Single-Family Residential Zoning District (R1).
2020-01-DSV	R. Myers	11690 Sycamore Street	Petition for Development Standards variance in order to provide for the construction of a detached garage which: 1) Exceeds the allowable accessory square footage in the Urban Single-Family Residential Zoning District (R-SF-2).
2020-02-DSV	J. Moosey	4554 Summersong Road	Petition for Development Standards variance in order to provide for the construction of a deck and patio with: 1) Reduced rear yard and building line setbacks in the Urban Single-Family Residential Zoning District (R-SF-2).
2020-03-DSV	Appaloosa Crossing	3201 S US 421	Petition for Development Standards variance in order to provide for the development of a commercial center which: 1) Deviates from the required width of foundation plantings; and 2) Deviates from the required additional six (6) foot wide strip for landscaping around a parking area in the Rural Professional Business Zoning District, Rural General Business Zoning District and the Rural Michigan Road Overlay (PB, GB & MRO).

VIII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
2019-32-DSV	C. Longenberger	8250 E 100 South	Status of Commitments
2019-22-SE	Hopwood Cellars Winery	2055 S US 421	Status of Commitments
2018-19-DSV	Wildwood Designs	2720 S 875 East	Status of Commitments
2017-11-DSV	Fischer Homes	Ansley Park	Status of Amended Plat

Upon request, the Town of Zionsville will provide auxiliary aids and services. Please provide advance notification to the Technology Department, assistance@zionsville-in.gov or 317-873-1577, to ensure the proper accommodations are made prior to the meeting.

Please note that a quorum of the Zionsville Town Council may be in attendance at the meeting.

Respectfully Submitted:
Wayne DeLong AICP, CPM
Town of Zionsville
Director of Planning and Economic Development

ZIONSVILLE
FOR ALL THE RIGHT REASONS

Petition Number:	2019-38-SE
Subject Site Address:	325 S 1100 East, Zionsville
Petitioner:	Ramon and Julie VanSickle
Representative:	Tim Ball
Request:	Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG).
Current Zoning:	Agricultural Zoning District (AG)
Current Land Use:	Vacant Land
Approximate Acreage:	2.5 acres
Zoning History:	Consolidated into the Town of Zionsville's jurisdiction in 2010. 2019-33-Z Approved rezone from Rural Airport (AZ) to Agricultural (AG) Zoning District
Exhibits:	Exhibit 1 – Staff Report Exhibit 2 – Aerial / Location Map Exhibit 3 – Petitioner's Proposed Site Plan Exhibit 4 – Petitioner's Survey Exhibit 5 – Petitioner's Letter dated January 27, 2020 Exhibit 6- Rescinding of Remonstrance (Letter dated January 27, 2020) Exhibit 7- Zoning Commitments Exhibit 8 – Petitioner's Proposed Findings of Fact
Staff Presenter:	Wayne DeLong, AICP, CPM

PETITION HISTORY

This petition received an initial public hearing at the December 10, 2019 Board of Zoning Appeals meeting. At the meeting, Interested Parties presented concerns regarding potential negative impacts to the area, which, per Interested Parties, have the potential to occur as a result of the granting of the Special Exception. At the meeting, the petition was continued to the February 5, 2020 meeting of the Board of Zoning Appeals to allow the Petitioner additional time to meet with Interested Parties and design professionals regarding the petition. As of this writing, the Petitioner has been in communication with Interested Parties and a surveyor regarding the petition and intends to present a signed drainage easement between the petitioner and the adjoining neighbor to the north allowing the continued drainage unto the petitioner's property. Additionally, the Petitioner received a signed letter from the adjoiner to the north rescinding his remonstrance and offering his consent to the petition request (See Exhibit 6).

Further, the December 10, 2019 Board of Zoning Appeals meeting included significant dialog regarding the presence of the Indianapolis Executive Airport Authority and its proximity to the subject site. The Petitioner has submitted a letter to the filed dated January 27, 2020 for the Board of Zoning Appeals further consideration on the topics presented by the Hamilton County Airport Authority (See Exhibit 5).

PROPERTY HISTORY

The approximate two and a half (2.5) acres associated with this petition has historically been utilized for agricultural purposes. Additionally, it was part of a petition for the rezone of 5.22 acres from Rural Airport (AZ) to the Agricultural (AG) Zoning District (2019-33-Z). The petition was given a favorable recommendation to Town Council at the September 16, 2019, Plan Commission meeting followed by the rezone approval and adoption of ordinance #2019-21 from the Town Council on October 7, 2019 (subject to written commitments).

ANALYSIS

Based on the applicant's interest in constructing a single-family dwelling on acreage zoned AG, the applicant is required to request a Special Exception. The purpose of the AG agricultural district is to encourage agricultural operations while allowing for limited residential development. In the opinion of Staff, the Petition represents a limited presence of residential development in the AG district as the proposed improvements are contemplated to be located within the existing tillable acreage between two established single-family residences. Further, as proposed the parcel would enjoy approximately 300 feet of lot width and a depth of approximately 350 feet. Given the proposed lot configuration, the selected location for the contemplated single-family residence is not atypical for parcels with substantial depth.

RIGHT TO FARM / PROXIMITY TO AIRPORT

As stated in the Zoning Ordinance, the Applicant for a Special Exception acknowledges and/or agrees that agricultural uses are permitted in the surrounding area, no agricultural or agri-business operation in the area shall be or become a nuisance, and to not object to the continuation of any such agricultural or agri-business operation in the surrounding area as long

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as such operation does not constitute a nuisance. This acknowledgement will be required to be reduced to writing as a part of the Petition process.

And, while the north-south runway (in its current configuration) of the Indianapolis Executive Airport is within approximately 0.3 mile of the subject site, the Zoning Ordinance does not require any special notice or restrictions associated with the proposed dwelling's proximity to the facility. It is mentioned here in this report only as a courtesy to the Petitioner. Further, Indiana Code stipulates regulatory standards, in specific cases, related to noise sensitive construction and height limitations (by example) per Sections 8-21-10-2 and 8-21-10-3. For additional information on this topic, the Petitioner should contact the Indiana Department of Transportation, Airport Section.

PROCEDURAL – CONSIDERATION OF A SPECIAL EXCEPTION PETITION SEEKING APPROVAL FOR THE LOCATION OF A DWELLING IN THE AGRICULTURAL DISTRICT

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Special Exception requests as provided for by the Zionsville Zoning Ordinance. A Special Exception may be approved only upon written determination that:

(a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

(b) The proposed use will not injure or adversely affect the adjacent area or property values therein; and

(c) the proposed use will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

STAFF RECOMMENDATION

Staff recommends approval of the Special Exception Petition included in Docket #2019-38-SE, subject to execution of the Right-to-Farm acknowledgement (as required by Ordinance).

RECOMMENDATION MOTION

I move that Docket #2019-38-SE T. Ball Special Exception Petition in the Agricultural District for the property located at 325 S 1100 East be (Approved as presented / Approved based upon the staff report and the proposed findings / Denied / Continued).

(If Approved, it shall be required that the Petitioner execute the Right-to-Farm acknowledgement documentation)

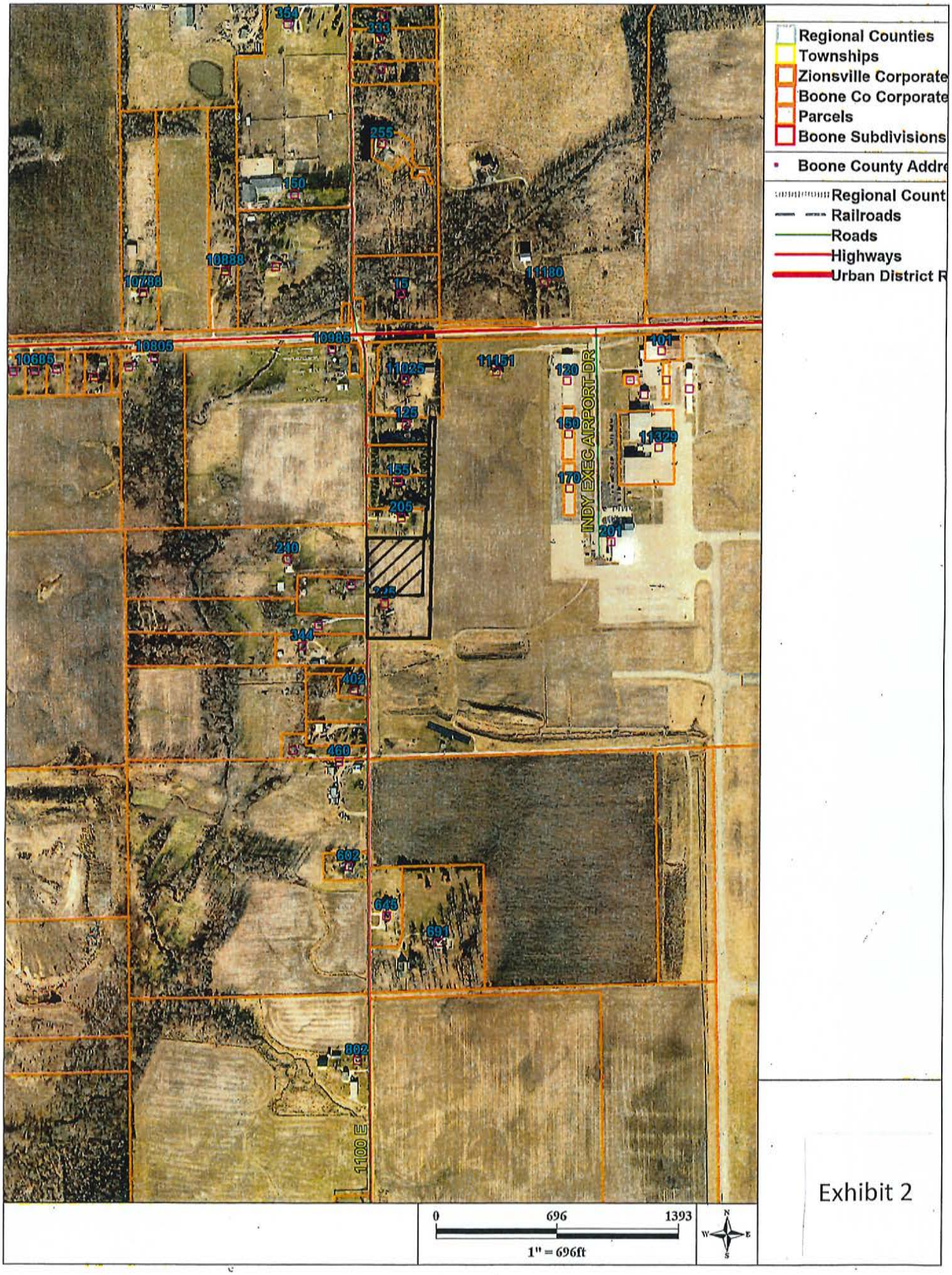

Regional Counties
Townships
Zionsville Corporate
Boone Co Corporate
Parcels
Boone Subdivisions
Boone County Addr
Regional Count
Railroads
Roads
Highways
Urban District R
INDY EXEC AIRPORT DR
1100 E
0
696
1393
1" = 696ft
N
W
E
S

Exhibit 2

Area Search Results For
40.036996, -86.259672

BOONE

Feature 6b of Regional Counties layer	
Feature Name	BOONE

UNION

Feature 9 of Townships layer	
TAG	UNION

Zionsville Rural Service District

Feature 0 of Zionsville Corporate Limits layer	
Feature Name	Zionsville Rural Service
Year	

Zionsville Rural Service District

Feature 1 of Boone Co Corporate Limits layer	
Feature Name	Zionsville Rural Service

District 1

Feature 4 of Town Council Districts layer	
District	District 1

72042

Feature 623 of Flood Hazard BC 2013 layer	
FLD_AR_ID	72042
FLD_ZONE	X
FLOODWAY	
SFHA_TF	F
STATIC_BFE	-9999.00
V_DATUM	
DEPTH	-9999.00
LEN_UNIT	
VELOCITY	-9999.00
VEL_UNIT	
BFE_REVERT	-9999.00
DEP_REVERT	-9999.00
SOURCE_CIT	FIRM1
AR_REVERT	

AZ AG NOW

Feature 1 of Zoning layer	
Feature Name	AZ
Special	No
Notes	

VANSICKLE RAMON L & JULIA A

Feature 26846 of Parcels layer	
tag	UN1955
newpin	0
oldpin	0100754003
stpin	06-08-01-000-009.001-016
tract	22
site	325 S 1100 E
acreage	5.2199997902
name	VANSICKLE RAMON L
add1	11025 E SR 32
add2	
add3	ZIONSVILLE, IN 46077
leg1	PT NW 1-18-2E 5.22A
leg2	
leg3	
trn1	
trn2	
trn3	
trn4	
avalue	139700.0000000000
pvalue	0.0000000000
subdiv	

Zionsville Corporate Li
Feature Name:
Zionsville Rural Serv

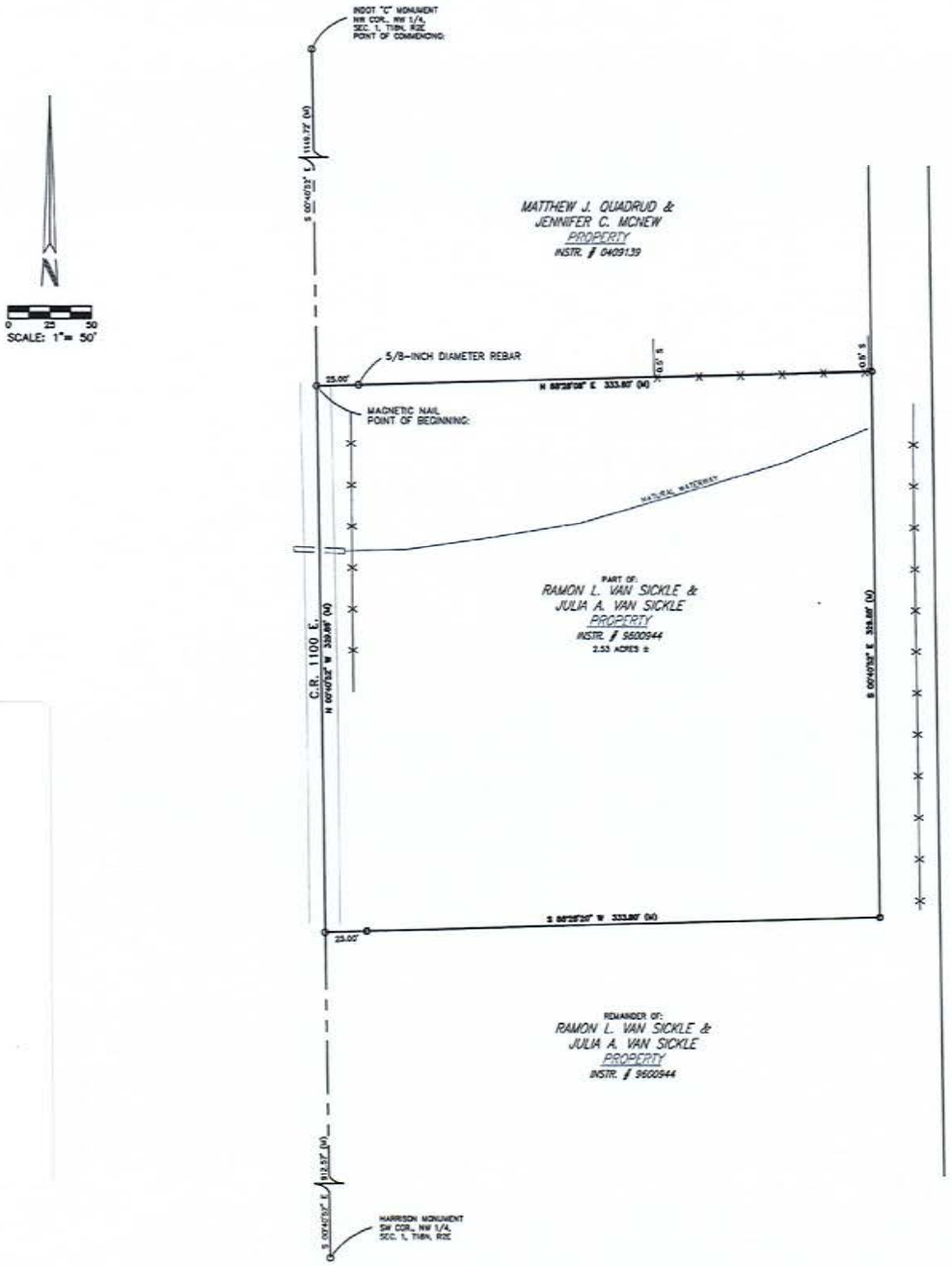
Parcels
Urban District R
Roads
Highways
PH02CADExpor

0 307 614
1" = 307ft

N W E S

Exhibit 3

Exhibit 4



LEGEND

AS APPLICABLE

- 5/8-inch REBAR w/ CAP STAMPED "HAUSE PLS20600040"
- MAGNETIC NAIL w/ WASHER STAMPED "HAUSE PLS20600040"
- UTILITY POLE
- TELEPHONE PEDESTAL
- WELL
- LIGHT POLE
- AIR CONDITIONER
- PRIVACY FENCE
- 4 FOOT FARM FENCE
- CLEAN OUT
- GUY WIRE
- ELECTRIC METER/BOX
- GAS ENTRANCE
- SANITARY MANHOLE
- TREE
- (D) DEED BEARING AND DISTANCE
- (M) MEASURED BEARING AND DISTANCE
- WATER VALVE
- FIRE HYDRANT
- STORM MANHOLE
- BEEHIVE INLET
- CURB INLET
- BOLLARD
- SATELLITE DISH
- FENCE POST

NOTES:

1.) All physical improvements hereon are shown as they were located in the field on January 14, 2020.

2.) This Document contains Two (2) Pages, both are required for this to be a Survey.

Copyright © House Surveying and Engineering, LLC. All rights reserved. No part of this drawing may be reproduced by photocopying, recording or by any other means, or stored, processed or transmitted in or by any computer or other systems without the prior written permission of the surveyor. Copies of this plan without a dated and blue signature are not valid.

105 N. MERIDIAN ST.
LEBANON, IN 46052
PHONE: (765) 482-5141
INFO@HAUSESURVEYINGANDENGINEERING.COM

A SERVICE DISABLED VETERAN OWNED SMALL BUSINESS

No.	Date	Revisions

DRAWN BY: JEH
CHECKED BY: WEJ
DATE: 01/28/2020
SCALE: 1" = 50'

ORIGINAL SURVEY

TIM BALL – RAMON VAN SICKLE
PT. NW 1/4, SEC. 1, T18N, R2E,
EAGLE TOWNSHIP, BOONE CO., IN

SHEET NO. 1
OF 2 SHEETS

PROJECT NO. 19S819

CERTIFICATE OF SURVEY

I, the undersigned, hereby certify that this survey and the associated surveyor's report were executed under my supervision and to the best of my knowledge, information, and belief were performed in accordance with the current Indiana Minimum Survey Standards, 865 IAC 1-12, for the type of survey as indicated herein, on the following described real estate:

CUT OFF TRACT LAND DESCRIPTION: (PART OF INSTR. # 9600944)

A part of the Northwest Quarter of Section 1, Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana being that 2.53 acre parcel surveyed by Jonathan E. Hause, P.S. 20600040 and shown on a plat of survey certified on January 28, 2020 as Hause Surveying and Engineering Job Number 19S819 (all monuments herein referenced are as set or found on the aforesaid Hause Survey), being more particularly described as follows:

Commencing at an INDOT "B" Monument found marking the Northwest corner of the Northwest Quarter of said Section 1; thence South 00 degrees 40 minutes 52 seconds East 1149.72 feet along the West line of the Northwest Quarter of said Section 1 to the Southwest described corner of the Quadrud Parcel recorded in Instrument Number 0409139, in the Office of the Recorder of Boone County, Indiana, and a found magnetic nail, said point being the Point of Beginning of this description; thence North 88 degrees 28 minutes 08 seconds East 333.80 feet along the Southern described line of said Quadrud Parcel to the Southeast corner thereof and a 5/8-inch diameter rebar with blue plastic cap stamped "HAUSE PLS20600040" (hereafter called capped rebar); thence South 00 degrees 40 minutes 52 seconds East 329.88 feet along the Southern extension of the Eastern described line of said Quadrud Parcel to a capped rebar; thence South 88 degrees 28 minutes 20 seconds West 333.80 feet to the West line of the Northwest Quarter of said Section 1, said point being witnessed by a capped rebar bearing North 88 degrees 28 minutes 20 seconds East 25.00 feet; thence North 00 degrees 40 minutes 52 seconds West 329.86 feet along the West line of the Northwest Quarter of said Section 1 to the Point of Beginning.

Containing 2.53 acres, more or less, and being subject to all Legal Highways, Rights-of-way and Easements of Record.

I further certify that points were found or set at the locations on the subject real estate, as shown, and that this survey correctly shows the location of all visible easements of which the undersigned has been advised, and all visible encroachments, if any, across the established survey lines.

CERTIFIED January 28, 2020

Jonathan E. Hause, P.L.S.
Professional Land Surveyor
Indiana No. LS20600040

JONATHAN E. HAUSE REGISTERED No. 20600040 STATE OF INDIANA LAND SURVEYOR

SURVEYOR'S REPORT

In accordance with Title 865, Article 1, Rule 12, of the Indiana Administrative Code (formerly Title 864, Article 1.1, Chapter 13), establishing minimum standards for the practice of land surveying in Indiana, currently in effect, the following observations and opinions are submitted regarding the various uncertainties in the location of the lines and corners established on this survey as a result of:

a) Variances in the reference monuments;
b) Discrepancies in record descriptions and plats;
c) Inconsistencies in lines of occupation;
d) Random Errors in Measurement (Relative Positional Accuracy):

The purpose of this survey was to create and monument a tract out of the Van Sickle Parcel described in Instrument Number 9600944 recorded in the Office of the Recorder of Boone County, Indiana, per instructions from the client.

The survey was controlled by the following monuments:
1.) An INDOT "C" Monument was found marking the Northwest corner of the Northwest Quarter of Section 1, T18N, R2E. This monument was set by the Indiana Department of Transportation in the location of their opinion of the position of the Original Corner. Uncertainty in this monument - 0.50 feet.
2.) A Harrison Monument was found marking the Southwest corner of the Northwest Quarter of Section 1, T18N, R2E. This monument was set by the Boone County Surveyor's Office in the location of their opinion of the position of the Original Corner. Uncertainty in this monument - 0.50 feet
3.) The monuments called for as found or set on a Survey by Mr. Cary Dodge, P.L.S. S-0288, dated August 4, 1994, Anderson and Associates Job # 940715. Uncertainty in these monuments - 0.50 feet.
4.) The monuments called for as found or set on a Survey I performed dated June 4, 2013, Hause Surveying and Engineering Job Number 13S145. Uncertainty in these monuments - none.

The basis of bearings for this survey is based upon GPS Observations made on May 8, 2013 (prior Survey), with the West line of the Northwest Quarter of said Section 1, bearing South 00 degrees 40 minutes 52 seconds East.

There are no discrepancies in record descriptions and plats.

Inconsistencies in lines of occupation are as follow:
1.) A fence was found to extend up to 0.50 feet South of the North line of the Subject Tract.

As a result of the above observations, it is my opinion that the uncertainties in locations of the lines and corners established on this survey are as follows:

a) Variance in reference monuments: As Noted Above
b) Discrepancies in record descriptions and plats: Negligible
c) Inconsistencies in lines of occupation: As Noted Above
d) Relative Positional Accuracy (RPA) of the corners of the subject tract established by this survey is within the specifications of a suburban survey (+/- 0.13 feet plus 100 parts per million) as defined in I.A.C. 865.

Exhibit 4

105 N. MERIDIAN ST.
LEBANON, IN 46052
PHONE: (765) 482-5141
INFO@HAUSESURVEYINGANDENGINEERING.COM

A SERVICE DISABLED VETERAN OWNED SMALL BUSINESS

HAUSE SURVEYING & ENGINEERING

No.	Date	Revisions

DRAWN BY: JEH
CHECKED BY: WEJ
DATE: 01/28/2020
SCALE: 1" = 50'

ORIGINAL SURVEY

TIM BALL - RAMON VAN SICKLE
PT. NW 1/4, SEC. 1, T18N, R2E,
EAGLE TOWNSHIP, BOONE CO., IN

SHEET NO. 2 OF 2 SHEETS

PROJECT NO. 19S819

MELISSA RHODES GARRARD
ATTORNEY AT LAW, P.C.

RECEIVED
JAN 27 2020
TOWN OF ZIONSVILLE

January 27, 2020

Via E-mail

Chrissy Koenig
Planner I - Petitions
Department of Planning & Economic Development
Town of Zionsville
1100 West Oak Street
Zionsville, Indiana 46077

Re: Petition 2019-38-SE Pending Before the Board of Zoning Appeals for the Town of Zionsville (the "Petition")

Dear Chrissy:

At the December 10, 2019, Board of Zoning Appeals hearing on the above-referenced Petition, I referenced a newly constructed house which is located at 1331 South 1100 East. The residence on that property has been constructed in the last two years. This residence is located in the airport's statutorily defined "noise sensitive" area (the Van Sickle/Ball parcel which is the subject of the current Petition is NOT in the statutorily defined noise sensitive area). The residence at 1331 South 1100 East is also located in the AG-Agricultural District and required a Special Exception to build a house on that lot. It is Petitioner's position that it is arbitrary and capricious to treat the instant Petition differently from that similarly situated petition (Petition No. 2017-45-DSV) considered just two years ago.

Further to the arguments I presented at the December 10, 2019, Board of Zoning Appeals meeting, I am submitting the file for Petition No. 2017-45-DSV for the Board's further consideration. Please submit this letter as well as the attached file for Petition No. 2017-45-DSV to the members with your staff packet.

You will note that Petition No. 2017-45-DSV required not only a Special Exception, but also a Variance. The instant Petition requires only a Special Exception (no Variance is requested). The Airport Authority also submitted a letter of remonstrance in opposition to Petition No. 2017-45-DSV. That letter notes that since the house that was the subject of Petition 2017-45-DSV was in the statutorily defined noise sensitive area, the construction of that house would require a permit from INDOT (which that petitioner apparently received since the house has already been constructed). Further, the Hamilton County Airport Authority makes a point of noting that "[t]he Airport Authority has done nothing to change the restrictions imposed upon surrounding landowners," and "this letter does not change any potential use of land near the Airport, but is provided to you to help you understand existing State law." However, unlike the case in Petition No. 2017-45-DSV, "chang[ing] the restrictions imposed upon surrounding landowners" and "chang[ing] the potential use of land near the Airport" is PRECISELY what the Hamilton County Aviation Authority has sought to achieve by way of its remonstrance to the instant Petition (since the notification of state permitting procedures is NOT an issue in this case).

The Hamilton County Aviation Authority's letter was referenced in Mr. DeLong in giving his Staff Report on Petition No. 2017-45-DSV. However, the Board of Zoning Appeals was apparently not significantly concerned by it as there was no substantive discussion other than the acknowledgment of its receipt. The request for Special Exception in Petition No. 2017-45-DSV was approved unanimously by the Board of Zoning Appeals on December 12, 2017. Mr. Jones actually seconded the motion for the approval of that Special Exception.

Thank you for your consideration.

Regards,

Melissa R. Garrard

Melissa R. Garrard

POST OFFICE BOX 478 • LEBANON, INDIANA 46052
TELEPHONE 765.482.4000 • E-MAIL mgarrard@tds.net

Exhibit 5

RECEIVED
JAN 27 2020
TOWN OF ZIONSVILLE

#2017-44-SE R. CAMPINS

DEC 12 2017
TOWN OF ZIONSVILLE

HAMILTON COUNTY
AIRPORT AUTHORITY

December 12, 2017

Dear Mr. Campins, Mr. Rieder, and Ms. Rieder:

As the owner of the Indianapolis Executive Airport, the Hamilton County Airport Authority is providing notice of two State laws which restrict the use of privately owned land near the airport. Both statutes require a permit issued by the Indiana Department of Transportation ("INDOT"). These statutes have been in place for over thirty years and have been binding on surrounding landowners. The Airport Authority has done nothing to change the restrictions imposed upon surrounding landowners. These laws are State laws and apply to land around any public use airport in the State. Therefore, this letter does not change any potential use of land near the Airport, but is provided to you to help understand the existing State law.

The two statutes are found in Indiana Code 8-21-10-2 and 8-21-10-3. The types of restrictions which require a permit are generally described as follows:

> Indiana Code 8-21-10-3(a). This statute requires a permit for the construction of a building or structure within twenty thousand (20,000) feet of any part of the airport runway. This restriction extends one hundred (100) feet from the runway for each one (1) foot of elevation of the structure. No building or structure can be erected in this Area without a permit issued by the aviation section of the Indiana Department of Transportation.
>
> The other restriction which requires a permit from INDOT is for the construction of a building to be used for a noise sensitive purpose.
>
> > "Noise sensitive purpose" is defined in Indiana Code 8-21-10-2 as "the use of a building or structure as a residence, school, church, child care facility, medical facility, retirement home, or nursing home."
>
> The area of the restriction of a noise sensitive purpose is an area 3,000 feet wide, or one thousand five hundred (1,500) feet on either side, of the extension of the centerline of the airport runway. This restriction extends six thousand seventy-two (6,072) feet, or 1.15 miles from the boundary of the airport.

Exhibit 5

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JAN 27 2020
TOWN OF ZIONSVILLE

RECEIVED
DEC 12 2017
TOWN OF ZIONSVILLE

See Indiana Code 8-21-10-3(c). This permit must be issued before construction begins and recorded in the Boone County Recorder's Office.

The Airport's most recent Airport Layout Plan ("ALP"), which should assist you in determining how the restrictions imposed by the above State laws may affect the future use of your land, is included within the Airport Layout Plan chapter of the Airport's most recent Master Plan at the Hamilton County Auditor's Office.

This information is provided to surrounding landowners so they are on notice of the types of restrictions which State law places upon land near an airport. If you have further questions, feel free to contact our Airport Director, Mr. Brad Cozza, at the Indianapolis Executive Airport located at 11329 East State Road 32, Zionsville, IN 46077, or by telephone at (317) 385-3015.

Very truly yours,

William H. Frye

William H. Frye, President
Hamilton County Airport Authority

Exhibit 5

RECEIVED
JAN 27 2020
TOWN OF ZIONSVILLE

Petition No.: 2017-45-DSV
R. CAMPINS

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because:

   The increased lot width to depth ratio will not be a problem as this new high value home will sit farther back from the road and not impact visibility for motorists and pedestrians. It will still have great street frontage visibility and will in fact benefit surrounding neighbors with the design and increased value.

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

   The increased lot width to depth ration will not affect adjacent properties. It will only increase the property values and the high value custom home will have a positive affect for the surrounding neighbors with its country design.

3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

   Within the context of this site, and a large parcel to be come from an even larger family tract, the strict application of the terms of the zoning ordinance with respect to the increased lot width to depth ration represents an unnecessary hardship. There would be no other way for our daughter and her family to build on the acreage behind ours.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this 12 day of DECEMBER, 2017

Exhibit 5

(5)
25.00
RAMIRO CAMPIS

RECEIVED
JAN 27 2020
TOWN OF ZIONSVILLE

2018002338 MISC $25.00
03/21/2018 11:12:06A 5 PGS
Nicole K. (Nikki) Baldwin
Boone County Recorder IN
Recorded as Presented

ZIONSVILLE BOARD OF ZONING APPEALS
PETITION #2017-45-DSV

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE VOLUNTARILY MADE IN CONNECTION WITH DEVELOPMENT STANDARDS VARIANCE APPROVALS

In accordance with IND. CODE § 36-7-4-918.5, RAMIRO CAMPINS (hereinafter referenced as "Owner") represents and warrants that Owner is the owner of certain real estate located in the Town of Zionsville, Boone County, Indiana, which real estate is described in Exhibit "A" attached hereto (the "Real Estate") and is commonly known as 1331 S 1100 East, Zionsville, Indiana. Owner further represents and warrants that Owner has the authority to, and does hereby voluntarily make, the following **COMMITMENTS** concerning the use and development of the Real Estate, including any portion thereof.

STATEMENT OF COMMITMENTS

Owner voluntarily agrees and commits that the approval by the Zionsville Board of Zoning Appeals of a petition docketed as Docket No. 2017-45-DSV, requesting approval of a development standards variance in order to provide for a new single family home on a lot which 1) Deviates from the required 3:1 lot width to depth ratio in an Agricultural Zoning District (AG), is conditioned on the following:

> 1. The Owner commits there will be no further division of the subject site, unless accomplished in accordance with the Town's Major Subdivision standards found in the Subdivision Control Ordinance.

The **COMMITMENTS** contained herein shall be effective as of December 12, 2017, when the Zionsville Board of Zoning Appeals approved the petition docketed as Docket No. 2017-45-DSV and shall continue in effect until modified or terminated in conformance with the requirements herein and/or applicable statutory standards.

These **COMMITMENTS** shall be promptly executed and recorded by Owner in the Office of the Boone County Recorder, Boone County, Indiana, within ninety (90) days after the Board of Zoning Appeals approved the petition for a Development Standards Variance in Docket No. 2017-45-DSV and shall, as of December 12, 2017, be considered a covenant running with the land described herein as the Real Estate, including any portion thereof.

These **COMMITMENTS** shall be binding on Owner, subsequent owners of the Real Estate or any portion thereof, and on any and all other persons or entities acquiring an interest in any portion of the Real Estate (hereinafter collectively "Owners"). Owner shall have an affirmative duty to inform any

Exhibit 5

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third parties with whom Owner negotiates for a possible sale, lease, assignment, mortgage, or transfer of the Real Estate, or any portion thereof, of the existence of these **COMMITMENTS** recognizing the right to industrial use and occupancy. In the event any sale, lease, assignment, mortgage, or transfer occurs, Owner shall ensure that a copy of these **COMMITMENTS** is incorporated into any such written agreement with the third party. If Owner fails to comply with the terms of this paragraph and the third party fails to perform and/or comply with these **COMMITMENTS**, the Town of Zionsville shall be entitled to recover from Owner and from each such third party, jointly and/or severally, any and all damages which arise from this failure and shall also be entitled to injunctive relief to terminate any non-compliance herewith.

These **COMMITMENTS** may be modified or terminated by a decision of the Zionsville Board of Zoning Appeals made after a public hearing for which proper notice is given, including hearings for other land uses or zoning approvals involving the Real Estate or any portion thereof.

These **COMMITMENTS** may be enforced, jointly and/or severally, by the Town of Zionsville Board of Zoning Appeals, the Director of Planning for the Town of Zionsville (or a position created for the Town of Zionsville which is analogous thereto), the Town (including any successor city or municipality), and/or owners of any parcel of ground adjoining or adjacent to the Real Estate. Owner and all Owners shall be obligated hereunder to indemnify the Town of Zionsville Board of Zoning Appeals and the Town (including a successor city or municipality), and to hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or Owners' obligations under the terms and conditions of these **COMMITMENTS**. Throughout these **COMMITMENTS** any reference to "Town" or "Town of Zionsville" shall also include any successor city, municipality, or other governmental body having land use, planning, and/or zoning jurisdiction over the Real Estate.

In the event it becomes necessary to enforce these **COMMITMENTS** in a court of competent jurisdiction, and Owner and/or any subsequent Owners of the Real Estate are found to be in violation of these **COMMITMENTS,** all such violators shall pay all reasonable costs and expenses the Town and the Town's Board of Zoning Appeals and other authorized representative(s) incur in the enforcement of these **COMMITMENTS,** including reasonable attorney fees, expert witness fees, and court costs.

Owner and all subsequent Owners of all or a portion of the Real Estate shall be obligated hereunder, jointly and/or severally, to indemnify the Town of Zionsville Board of Zoning Appeals and/or the Town and hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any and all liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or owners obligations hereunder and/or to comply with the terms and conditions of these **COMMITMENTS.**

Any controversy arising under or in relation to these **COMMITMENTS** shall be litigated

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exclusively in the applicable state courts of Indiana without regard to conflicts of law principles. Owner irrevocably consents, for himself and all subsequent Owners, to service, jurisdiction, and venue in such state courts for any and all such litigation and hereby waives any other venue to which Owner or subsequent Owners might be entitled by virtue of domicile, habitual residence, or otherwise.

Owner shall be responsible, at Owner's expense, for recording these **COMMITMENTS** in the Office of the Recorder of Boone County, Indiana, within sixty (60) days after final approval of the Zionsville Board of Zoning Appeals of Docket Number 2017-45-DSV, and shall promptly provide the Planning Department of the Town of Zionsville with a copy of such recording as a condition precedent for the Development Standards Variance approved in said docket to be applicable to the Real Estate and issuance of any Improvement Location Permit, Building Permit, and/or Certificate of Occupancy for the Real Estate. The **COMMITMENTS** shall be considered a covenant running with the Real Estate, including any portion thereof.

The undersigned, by executing these **COMMITMENTS**, represents and warrants that at the time of executing this document, Ramiro Campins is the sole owner of the Real Estate, that execution of these **COMMITMENTS** is being voluntarily undertaken and requires no authorization of a third party, and that these **COMMITMENTS** shall be binding upon the undersigned as to all the particulars herein and shall be considered a **COVENANT** running with the land described herein as the Real Estate, including any portion thereof. By affirming his signature below to these **COMMITMENTS**, the undersigned further represents and warrants that he has full capacity and authority to execute these **COMMITMENTS**.

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IN WITNESS WHEREOF, Ramiro Campins, as the sole owner of the Real Estate, has executed these **COMMITMENTS** this 16 day of MARCH, 2018.

OWNER: RAMIRO CAMPINS

Printed: RAMIRO CAMPINS

OFFICIAL SEAL
CHRISTINE I. KOENIG
NOTARY PUBLIC - INDIANA
BOONE COUNTY
My Comm. Expires June 14, 2022

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State, personally appeared RAMIRO CAMPINS, as owner of the Real Estate described above, who acknowledged voluntarily executing the foregoing instrument and who, having been duly sworn, stated that any and all representations therein contained are true.

Witness my hand and Notarial Seal this 16 day of MARCH, 2018.

Signature

Printed CHRISTINE I. KOENIG
Notary Public

My Commission Expires: 6-14-2022

County of Residence: BOONE

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

Name:

Instrument prepared by: RAMIRO CAMPINS

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Exhibit A

PARCEL 1

Part of the Southwest Quarter of the Northwest Quarter of Section 12, Township 18 North, Range 2 East of the Second Principal Meridian, situated in Union Township, Boone County, Indiana, being more particularly described as follows:

*Commencing at a Harrison Monument at the Southwest corner of the Southwest Quarter of the Northwest Quarter of said Section 12; thence North 00 degrees 00 minutes 00 seconds East (assumed basis of bearings) along the West line of said Quarter Quarter 741.00 feet to a Mag Nail with washer marked "Firm #0066" and the **POINT OF BEGINNING** of this description; thence continuing North 00 degrees 00 minutes 00 seconds East along the West line of said Quarter Quarter Section 50.00 feet to a Mag Nail with washer marked "Firm #0066"; thence North 90 degrees 00 minutes 00 seconds East 372.31 feet to a 5/8 inch diameter rebar with red cap marked "Firm #0066" (hereinafter referred to as rebar); thence North 00 degrees 00 minutes 00 seconds East parallel with the West line of said Quarter Quarter 234.00 feet to a rebar; thence North 90 degrees 00 minutes 00 seconds East 522.51 feet to a rebar; thence South 00 degrees 00 minutes 00 seconds West parallel with the West line of said Quarter Quarter 284.00 feet to a rebar; thence South 90 degrees 00 minutes 00 seconds West 894.82 feet to the Point of Beginning, containing 3.834 acres, more or less.*

Subject to the right of way of County Road 1100 East.

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Morical Thank you.

Drake I recommend, if that's your motion, that that also be subject to counsel drafting appropriate findings of fact for your consideration.

Wolff I'm amenable to that.

Morical Great. Thank you. Is there a second?

Jones Second.

Morical All those in favor, please say aye.

All Aye.

Morical Any opposed? Motion passes. Thank you very much. Thank you, Mr. Collier. Okay, the next item on our agenda is new business. Docket #2017-44-SE, R. Campins. Please approach the podium, and state your name and address for the record.

Rieder My name is Ashley Rieder, and my husband Chad Rieder, and we currently live at 16046 Bounds Court in Noblesville. We're representing my father, Ramiro Campins.

Morical Okay, great. So, you're interested in building, this is kind of a family setup.

Rieder So, the story is, my uncle originally purchased 30 acres of land. After he passed away, my aunt sold off 7 of those acres. So, my family still has 23 acres. We are asking to build a home out there that currently my parents reside on, and my brother now resides in my grandparents' house on the property. In the next two Dockets, we have the special exception of new residential building in an Agricultural Zoning District, and then also deviating from the required 3 to 1 lot width to depth ratio.

Morical Okay. Thank you. And, have you read the staff report?

Rieder Yes.

Morical And, in the staff report on your design standards variance, the staff recommended that a condition that there wouldn't be any further subdivision, or division of the site unless accomplished in accordance with the Town's major subdivision standards.

Rieder Yes.

Morical Are you amenable to that?

Rieder Yes.

Morical Okay. Thank you. Any further questions for the petitioner?

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Evinger Have they been informed or have they received a copy of the Hamilton County Airport Authority letter?

Rieder Yes, we received that today.

Evinger Okay.

Morical Good. Thank you for mentioning that. Any further questions for the petitioner? Hearing none, are there any remonstrators here tonight? Seeing none, Wayne, may we have the staff report, please?

DeLong Thank you. Covering the variance and then the special exception petitions that are in front of you, if you're looking to combine these Dockets, we really need to talk about the variance petition first. This would help the situation to establish the lot in question. Currently, the parcel that's in front of you is comprised of the two tracts, and totaling 13.226 acres, and in that configuration, one parcel has 0 feet of frontage. The other parcel has 100 feet of frontage. And, this request, per the variance, the road frontage would be split in half. So, each parcel would enjoy 50 feet of road frontage, therefore reducing the non-conformity that exists today where you have one parcel with 0 feet of frontage. Staff sees that as a very large benefit to the homeowner as well as the community to have a dedicated road frontage for each parcel that's out there, eventually potentially hosting a new dwelling. And, so the special exception that's in front of you this evening is dealing with the consumption of agricultural land, and the staff's charge and the ordinance charge in addressing that request and the site of the home is the northern portion of the property. The smaller tract that you see on Exhibit 5, and that site of the home allows the acreage to still be utilized for agricultural purposes, pushes the home, if you will, up closer to the tree line, which naturally would not be farmed as it's a stand of trees currently. In conclusion, staff is supportive of the variance request, and certainly appreciated the acknowledgement of the staff condition and also the letter that came in from the airport authority. Certainly, the staff report speaks to the proximity of this property to the airport. Airports are always looking to protect their own perimeter fence, and in this particular case, we have an airport that is 35,000 plane movements a year, on average, and is one of the busiest in the state. Certainly would only anticipate that changing and intensifying over the years to come. Again, staff is supportive of the variance petition as filed, except for the condition as noted, and supportive of the special exception. I'd be happy to answer any questions.

Morical Thank you, Wayne. Any questions for staff? Hearing none, I would entertain a motion. And, we've got two items in front of us. We can deal with each one separately.

Wolff What was the, I'm sorry. I'm looking for the record here. On the staff report, what was the condition that we discussed? Right to farm, but there was something else mentioned.

Morical It is right above the right to farm paragraph in the design standards variance report.

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Wolff — It was the further subdivision. Perfect. Okay, I'd like to make a motion on #2017-44-SE. Can we start with that one? Okay, perfect. I move that Docket #2017-44-SE, special exception petition, in the Agricultural District for the property located at 1331 South 1100 East be, approved based on the staff report and the proposed findings as presented.

Morical — Thank you. Is there a second?

Jones — Second.

Morical — We may want to also include the note about the requirement, and the petitioner, you guys are good with executing the right to farm acknowledgement? Yes? Okay, thank you. So, would you be amenable to--

Wolff — --I'm amenable to that.

Morical — Okay. Can we have a second?

Jones — Second.

Morical — All those in favor please say aye.

All — Aye.

Morical — Any opposed? Motion carries. Okay, now on to the next item.

Wolff — I would make a motion that Docket #2017-45-DSV, design standards variance petition in order to provide for a new single-family home at 1331 South 1100 East, on a lot which deviates from the required 3 to 1 lot width to depth ratio in the Agricultural Zoning District be approved based on the findings and based on the staff report as presented, with the condition that the petitioner agrees to no further subdivide that lot.

Morical — Would you be amenable to amending that to say "no further subdivision of the site unless accomplished in accordance with the Town's major subdivision standards"?

Wolff — I'm amenable.

Morical — Thank you. Is there a second?

Mundy — Second.

Morical — All those in favor, please say aye.

All — Aye.

Morical — Motion carries. Okay. Thank you. The next item on the agenda is Docket #2017-46-DSV, S. Singer. Please approach the podium, and state your name and address for the record.

Exhibit 5

MELISSA RHODES GARRARD
ATTORNEY AT LAW, P.C.

January 27, 2020

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Via E-mail

Chrissy Koenig
Planner I - Petitions
Department of Planning & Economic Development
Town of Zionsville
1100 West Oak Street
Zionsville, Indiana 46077

Re: Petition 2019-38-SE Pending Before the Board of Zoning Appeals for the Town of Zionsville (the "Petition")

Dear Chrissy:

You will recall that I appeared at the December 10, 2019, Board of Zoning Appeals hearing on the above-referenced Petition.

This letter will confirm that I have reached a mutually satisfactory agreement with the Petitioner (Mr. Ball) with respect to the drainage matters I referenced. Therefore, I hereby consent to the relief sought by the Petition and withdraw my previous remonstrance..

Thank you for your consideration.

Regards,

Matthew Quanrud

POST OFFICE BOX 478 • LEBANON, INDIANA 46052
TELEPHONE 765.482.4000 • E-MAIL mgarrard@tds.net

Exhibit 6

WRITTEN COMMITMENTS CONCERNING THE USE OF REAL ESTATE

WHEREAS, pursuant to Ind. Code § 36-7-4-608, et seq., Ramon L. Van Sickle and Julia A. Van Sickle (collectively, "Owner") have applied for a zone map change affecting that certain real property located in the Union Township, Boone County, Indiana, more particularly described on Exhibit A attached hereto and incorporated by reference herein (the "Real Estate"); and

WHEREAS, Owner desires to make certain commitments in connection with such application;

NOW THEREFORE, in accordance with Ind. Code § 36-7-4-1015(a)(1), the Owner of the Real Estate, hereby makes the following commitments ("Commitments") concerning the Real Estate:

1. All prospective and current Owners of the Real Estate (or any part thereof) are hereby put on notice that the Board of Commissioners of Boone County have established an AZ-Airport Zone Classification and that the Indianapolis Executive Airport has been zoned to that classification, as set out in Ordinance Number 2004-11 adopted August 23, 2004. The AZ-Airport Zone designation allows The Hamilton County Board of Aviation Commissioners, or another operating airport authority, to conduct airport-related activities, including the building and maintenance of hangars, and the taking off and landing of planes, as permitted in the definition of the AZ-Airport Zone Classification, subject to any limitations or restricting commitments agreed to by the Hamilton County Airport Authority, the owners of Indianapolis Executive Airport. The airport is allowed, as a matter of right, to own, operate and conduct its business as defined in the AZ-Airport Zone Classification, and all prospective and current Owners of the Real Estate (or any part thereof) are urged to examine the AZ-Airport Zone Classification so to understand the extent of the airport's ability to operate now and in the future.

2. The Owner acknowledges for itself, its heirs, its successors, and its assigns that the Real Estate may experience significant levels of aircraft operations, and the Owner is erecting a building designed for a noise sensitive use upon the Real Estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations.

3. Further, the Owner, and all successors in title to the Real Estate (or any part thereof) acknowledge their understanding of Ind. Code § 32-30-6-10 (or as it may be recodified) which limits the circumstances under which a public use airport operation may be a nuisance in order to reduce the potential for the state to lose the benefits to the state's air transportation system that are provided by public use airports. Specifically, a public use airport operation or any of the operation's appurtenances may not become a private or public nuisance by any changed condition in the vicinity of the locality that occurs after the public use airport operation operates continuously on the locality for more than one (1) year if the following conditions are met: (1) The public use airport operation was not a nuisance at the time when the operation began operating at that locality; (2) The public use airport operation is operated in accordance with the rules of the Indiana department of transportation, aeronautics section; and (3) There is no significant change in the hours of the operation of the public use airport operation.

4. These Commitments shall run with the land, be binding upon the Owner of the Real Estate and subsequent owners of the Real Estate. These Commitments may only be modified or terminated by a decision of the Zionsville Plan Commission.

Exhibit 7

IN WITNESS WHEREOF, the Owner has executed these Written Commitments Concerning the of Real Estate this 10 day of OCTOBER, 2019.

Ramon L. Van Sickle

Ramon L Van Sickle

Julia A. Van Sickle

Julia A. Van Sickle

STATE OF INDIANA)
)SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State, personally appeared Ramon L. Van Sickle and Julia A. Van Sickle who acknowledged execution of the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 10 day of OCTOBER, 2019.

Christine I. Koenig

Notary Public CHRISTINE I. KOENIG

My Commission Expires: 6-14-2022
My County of Residence: BOONE

I affirm, under the penalty of perjury, that I have taken reasonable care to redact each Social Security number in this document.

Melissa R. Garrard

This instrument prepared by MELISSA R. GARRARD, Attorney at Law, P.O. Box 478, Lebanon, Indiana 46052

OFFICIAL SEAL
CHRISTINE I. KOENIG
NOTARY PUBLIC - INDIANA
BOONE COUNTY
My Comm. Expires June 14, 2022

Exhibit 7

Petition No.: 2019-38-SE
T. BALL

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR SPECIAL EXCEPTION

FINDINGS OF FACT

1. The proposed use **(will / will not)** be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

   The proposed special exception will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.

2. The proposed use **(will / will not)** injure or adversely affect the adjacent area or property values therein; and

   The proposed special exception will not injure or adversely affect the adjacent area or property values. We plan to follow the rules & development standards of the Town of Zionsville.

3. The proposed use **(will / will not)** will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.

   The proposed special exception will be consistent with the character of the District and should increase the value of the surrounding homes.

DECISION

It is therefore the decision of this body that this SPECIAL EXCEPTION petition is APPROVED/DENIED.

Adopted this _____ day of _____, 20____.

_____ _____ _____

_____ _____

Exhibit 8

ZIONSVILLE
FOR ALL THE RIGHT REASONS

Petition Number:	2019-40-DSV
Subject Site Address:	602 S 900 East
Petitioner:	Gene & Lorna Judd
Representative:	Gregg Linder
Request:	Petition for Development Standards Variance in order to allow an addition to an existing accessory structure to: 1) Exceed the allowable accessory square footage in an Agricultural Zoning District (AG).
Current Zoning:	Rural Agricultural Zoning District (AG)
Current Land Use:	Residential
Approximate Acreage:	62.36 acres
Zoning History:	This parcel was consolidated into the Town of Zionsville's jurisdiction in 2010. No prior petitions are known.
Exhibits:	Exhibit 1- Staff Report Exhibit 2 - Aerial Location Map Exhibit 3 – Petitioners Narrative Exhibit 4 – Petitioners Site Plan Exhibit 5 – Petitioners Exhibit Exhibit 6 - Petitioner's proposed Findings of Fact
Staff Presenter:	Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition will receive a public hearing at the February 5, 2020, Board of Zoning Appeals meeting.

PROPERTY HISTORY

This property is comprised of 62.36 acres and is presently improved with a single-family dwelling and accessory structures/uses. The acreage associated with this petition has historically been utilized for residential purposes under the Boone County Area Planning jurisdiction. In 2010 the area was consolidated into Zionsville's jurisdiction. As of the writing of this report, Staff is not aware of any prior approvals being considered and granted by the Boone County Area Plan Commission or Board of Zoning Appeals related to this property.

VARIANCE REQUEST – ACCESSORY SQUARE FOOTAGE EXCEEDING PRIMARY

The parcel is currently improved with a 9,747 square foot single family dwelling (the primary structure) as well as 7,726 square feet of roofed accessory structures. The parcel is currently utilized for residential purposes and accessory buildings and uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 9,747 square feet
2. Existing and proposed accessory uses total 15,406 square feet, inclusive of:
   a) A 1,596 square foot older barn
   b) A 2,400 square foot barn
   c) A 288 covered barn porch
   d) A 770 square foot covered barn porch
   e) A 720 square foot covered barn porch
   f) A 696 square foot attached garage
   g) A 192 square foot covered primary porch
   h) A 120 square foot covered primary porch
   i) A 692 square foot covered primary patio
   j) A 252 square foot covered primary deck
   k) Proposed Barn addition (2 floors) 7200 square feet
   l) Proposed Barn addition covered porch 480 square feet

The Petitioner is requesting a development standards variance to allow their total roofed accessory square footage (inclusive of detached outbuildings as well as the attached accessory garage, porches and covered deck areas) to exceed that of their existing primary square footage by approximately 5,659 square feet. As described in the petitioner's narrative, the proposed addition to the existing barn would be one-story and utilize a subterranean walkout basement, reducing the visual impact of the structure within the surrounding landscape. Additionally, the additions location sits 600'+ and 1,000'+ from either road frontage and is tucked into a wooded are on the petitioner's property out of site from adjoining parcels. A variance for height would not be required as the proposed outbuilding would be subordinate in height to the primary.

By Ordinance, properties in the Agricultural AG (Rural) District are permitted by right to be improved with Accessory Structures which exceed the 1) height, 2) area, 3) bulk extent, and 4) purpose to the Primary Structure IF the property is at least 20 acres in size AND is classified as a Farm. Although the

subject site is well above 20 acres in size, making it by definition a farm, the requested addition is not for farm purposes and therefore a variance must be sought for the roofed accessory square footage to exceed the primary. The Ordinance limits accessory uses in a manner which maintains the presence of accessory uses, as accessory (as to not dominate the use of the property and become Primary use of the property). Specific to the current improvements, securing a 1) variance to allow the roofed accessory square footage to exceed the primary square footage by approximately 5,659 square feet, is necessary. In this case, a variance of development standards is requested as per the scope of anticipated additions to be made to the existing accessory structure, the Petitioner is requesting this existing accessory structure be allowed to be added on to with approximately 7,200 square feet (2 floors) as well as a covered porch area of approximately 480 square feet, as well, be maintained).

As a part of the review process, Staff examines the established development pattern found in the immediate area to the subject site, in an attempt to identify similarly situated properties enjoying similar deviations. While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds several development configurations which are not supported by the current Zoning Ordinance (example: flag lots, percentages of accessory buildings, heights of accessory buildings, non-conforming uses, and lots with reduced road frontage). In this particular case and while requested improvement and resulting development pattern is atypical, the property (and its topography) is as well atypical. While there is a limited presence of residential parcels in the area, the parcel is largely surrounded by large open parcels (farms, a golf course to the North and East, and a wooded undeveloped parcel to the West). As the Petitioner is proposing a subterranean improvement located well away from adjoining parcels and road frontage, the overall resulting height of the accessory structure is subordinate to the proposed primary structure, and barring any concerns of the neighbors being made of record during the disposition of the Petitioner's request, Staff is supportive of the request. If the overall accessory uses were above grade, Staff would modify its support for the petition.

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

(c) the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property.

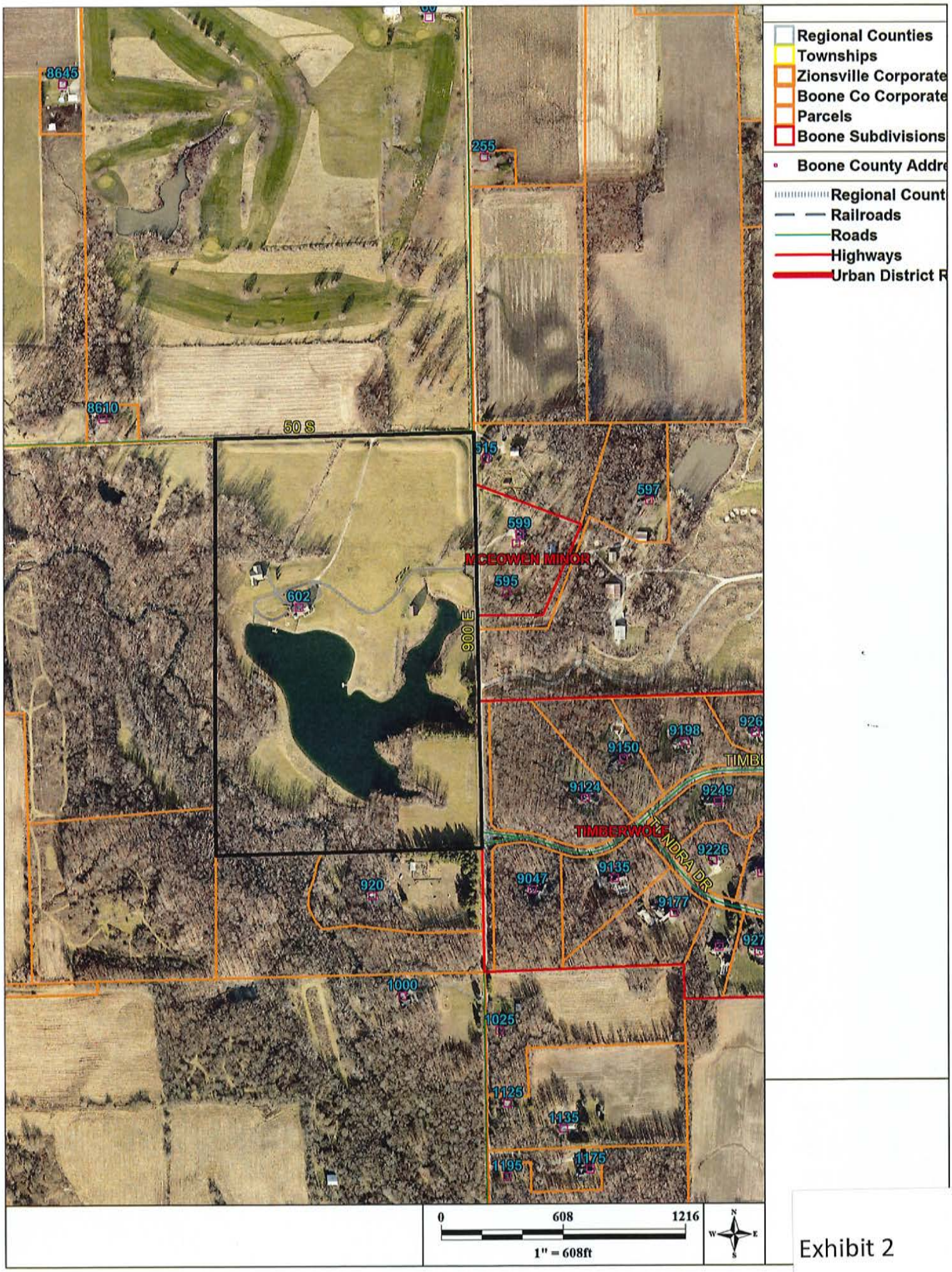
Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

STAFF RECOMMENDATIONS

Staff is supportive of the Development Standards Variance petition included in Docket # 2019-40-DSV, (based on the submitted conceptual site plan and renderings), as filed.

RECOMMENDATION MOTION

I move that Docket # 2019-40-DSV Development Standards Variance in order to allow an addition to an existing accessory structure to: 1) Exceed the allowable accessory square footage, in an Agricultural Zoning District (AG), for the property located at 602 S 900 East be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.


Regional Counties
Townships
Zionsville Corporate
Boone Co Corporate
Parcels
Boone Subdivisions
Boone County Addre
Regional Count
Railroads
Roads
Highways
Urban District R
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8610
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Exhibit 2

Gene and Lorna Judd
602 S. 900 E
Zionsville, IN 46077

RE: Public Hearing Notice - Outbuilding addition to existing structure

To Whom It May Concern:

This packet contains a few documents (Notice of Public Hearing and an overview of the proposed addition) regarding the subject property. The intent of providing this information is to assist in better understanding the request.

The variance of development standards is being requested to add an addition to an existing structure of a barn. The proposed addition requires a variance to the current standards from the city of Zionsville, this is why you are being notified of this request. The requested addition will be located on the back side of the current structure and will not be visible from the road. The set back of the existing structure is approximately a quarter of a mile off the county road and is located on 62 plus acres (see attached area view of the proposed addition). The proposed addition is a single level structure with a full below-grade basement. The design of the addition will match the existing structure and will have all the same design elements and features.

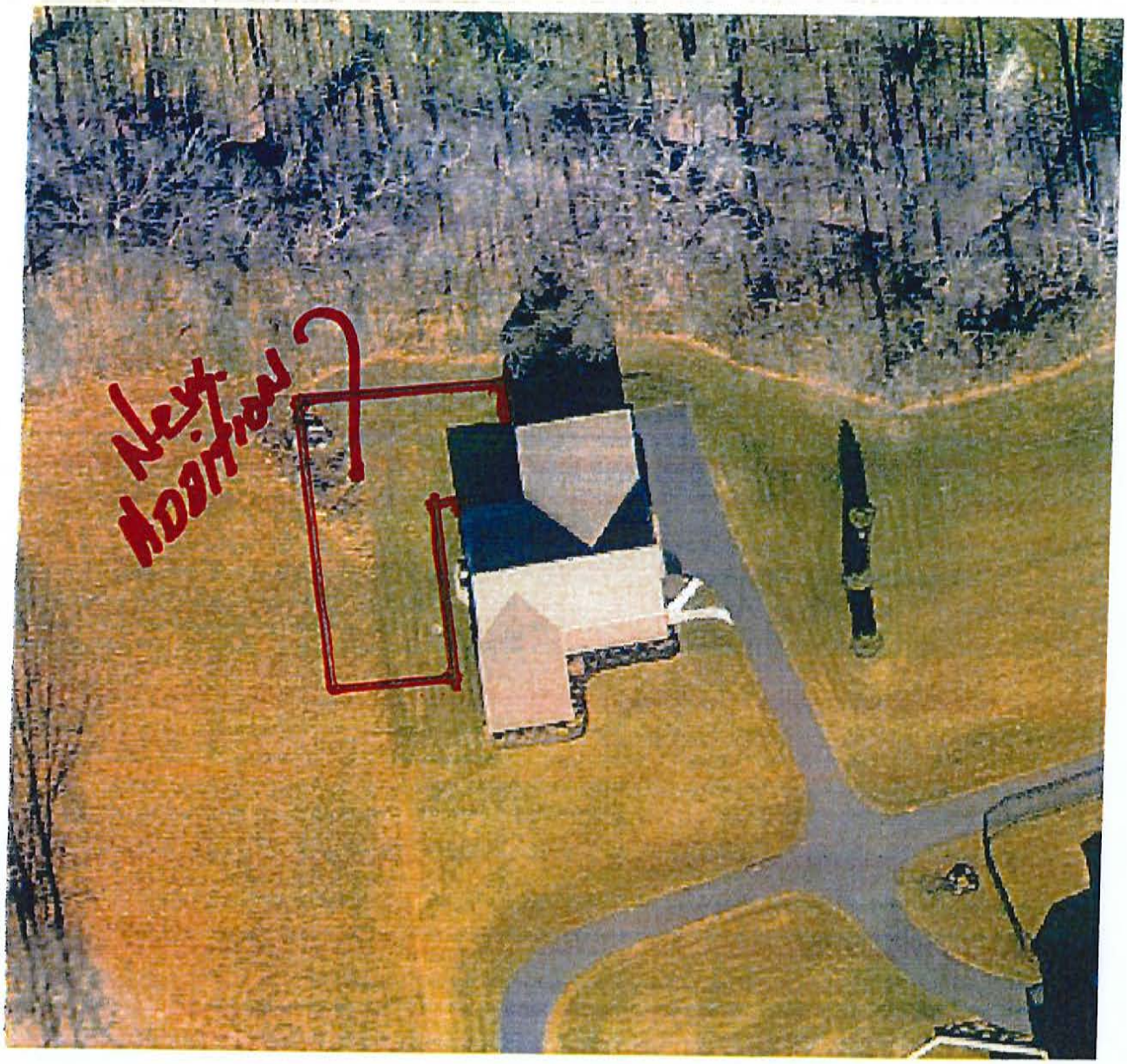
If you should have any questions or concerns please contact Gregg Linder at 317-606-0261 or gregg.linder@gmail.com, or you can contact me (Gene) at your convenience.

Much appreciation for your support

Regards,

Gene and Lorna Judd

Exhibit 3



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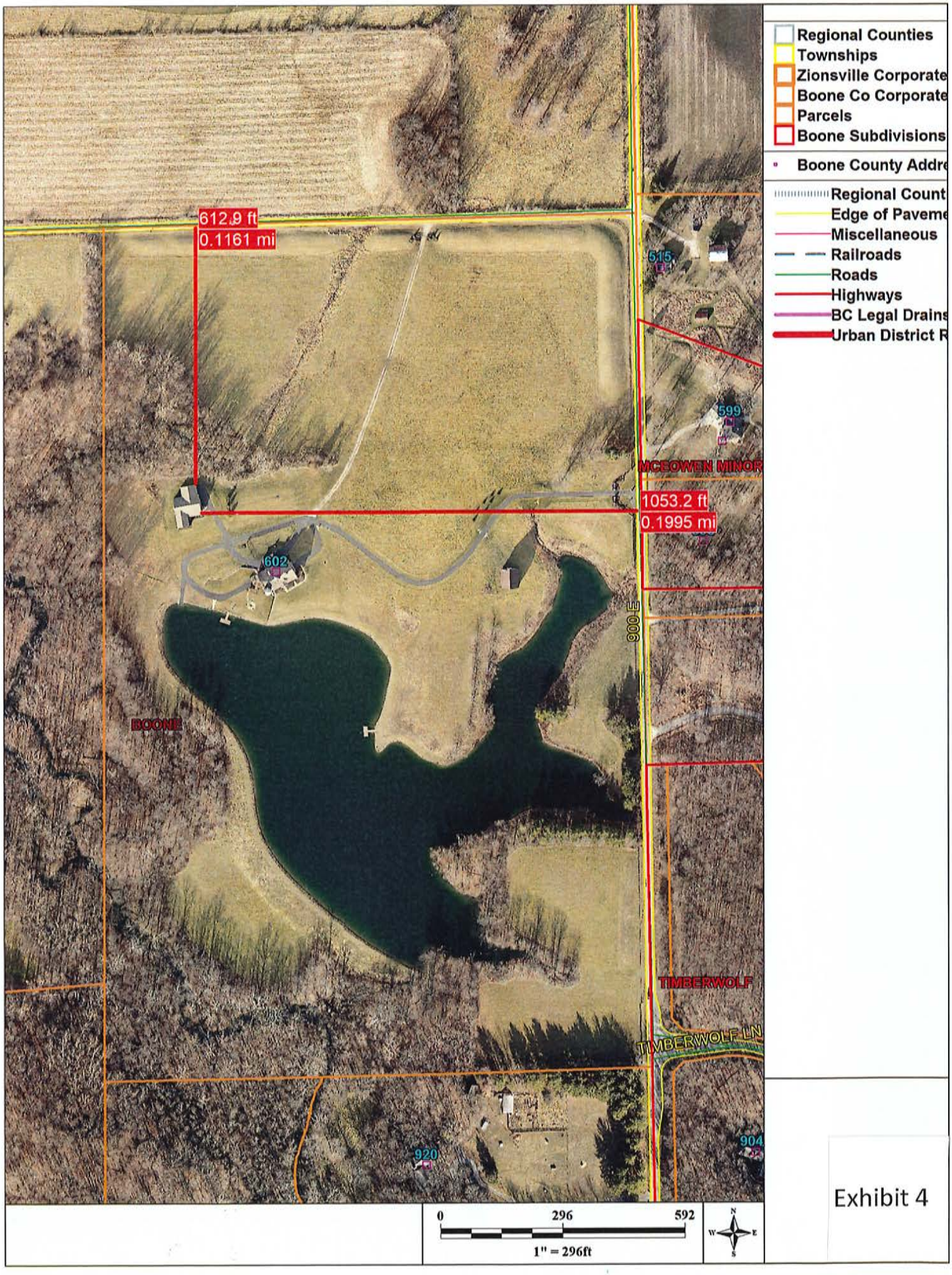
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Townships
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Boone Co Corporate
Parcels
Boone Subdivisions
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Regional Count
Edge of Paveme
Miscellaneous
Railroads
Roads
Highways
BC Legal Drains
Urban District R
612.9 ft
0.1161 mi
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MCEOWEN MINOR
1053.2 ft
0.1995 mi
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BOONE
TIMBERWOLF
TIMBERWOLF LN
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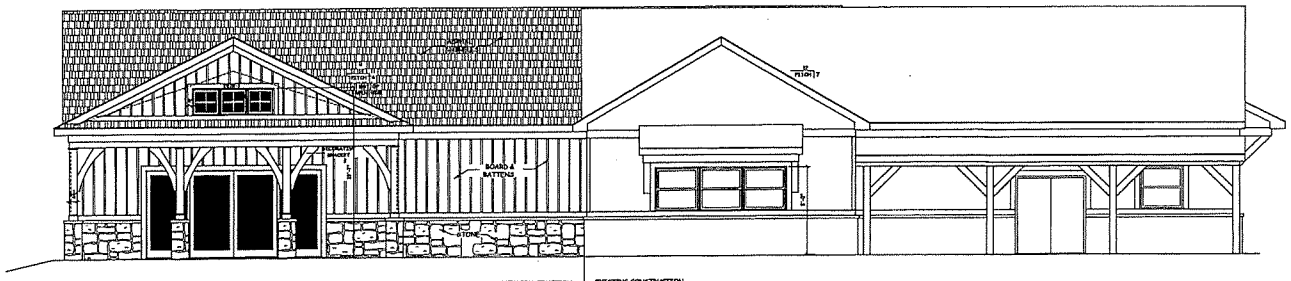
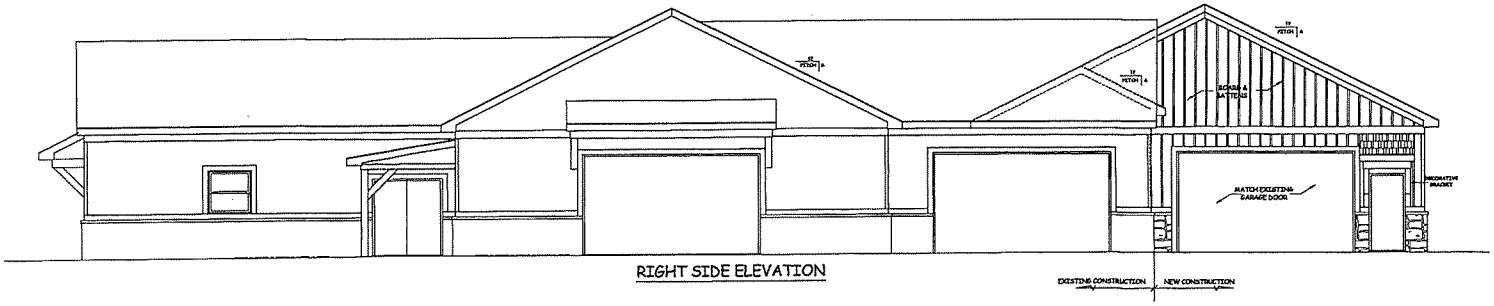
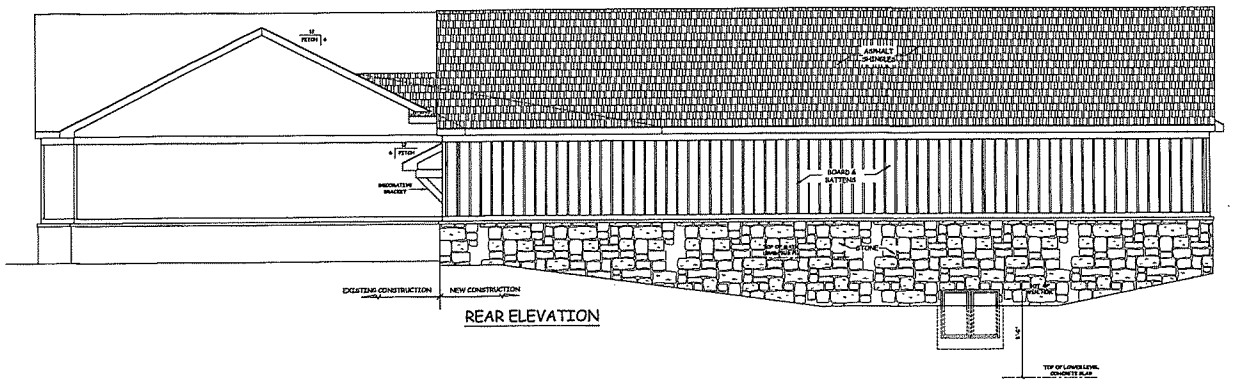
Exhibit 4



FRONT ELEVATION



RIGHT SIDE ELEVATION



REAR ELEVATION

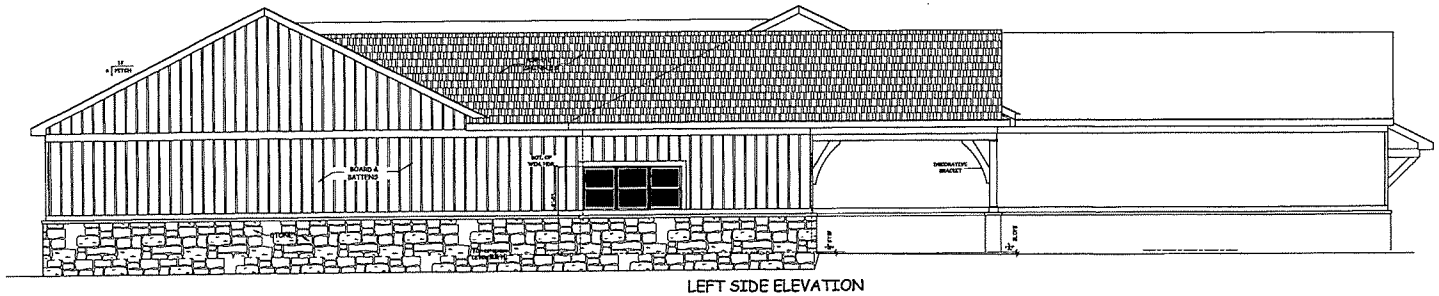
ELEVATIONS SCALE: 1/4"=1'-0"

DESIGNED BY:
H.G. McCULLOUGH DESIGNERS, Inc.

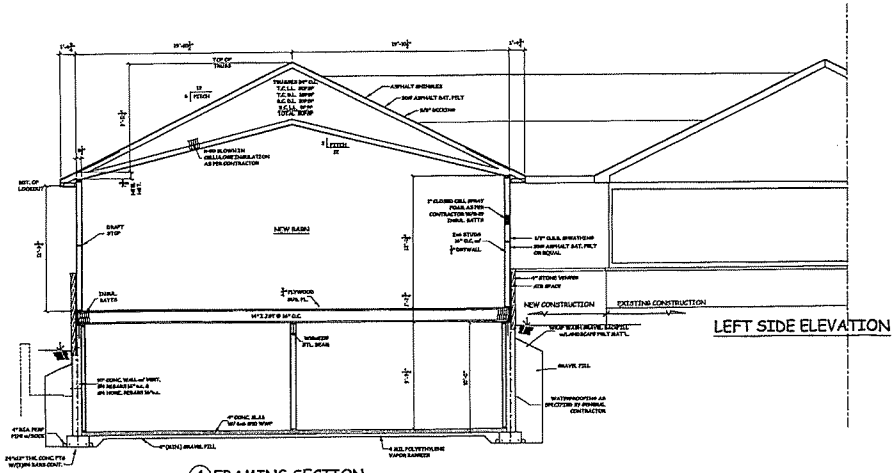
Designed for:
Gene and Lorna Judd

SHEET NUMBER
5

Exhibit 5



LEFT SIDE ELEVATION



LEFT SIDE ELEVATION

① FRAMING SECTION

DESIGNED BY:
H.G. McCULLOUGH DESIGNERS, Inc.

Designed for:
Gene and Lorna Judd

SHEET NUMBER
07

ELEVATIONS SCALE: 1/4"=1'-0"

Exhibit 5

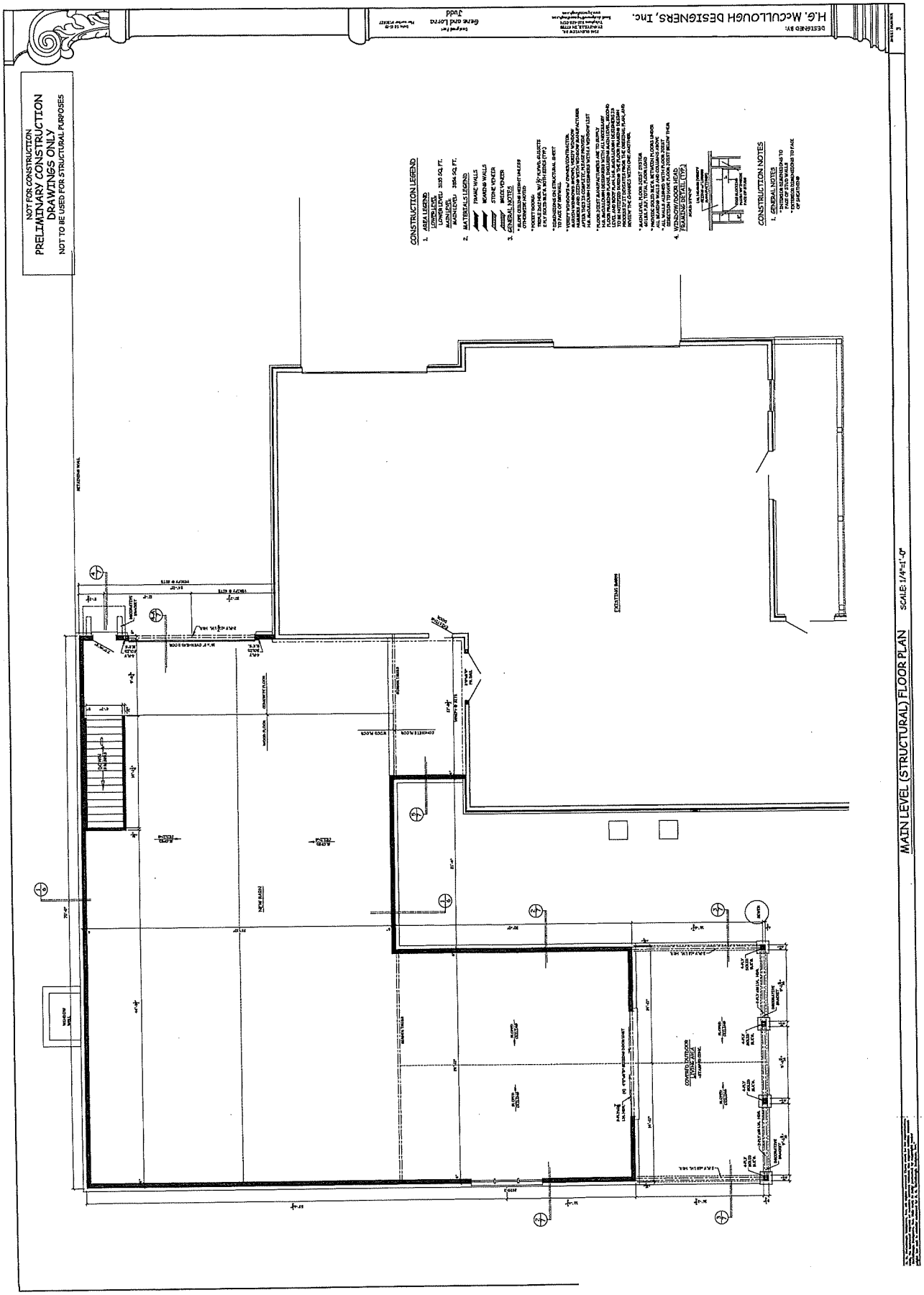
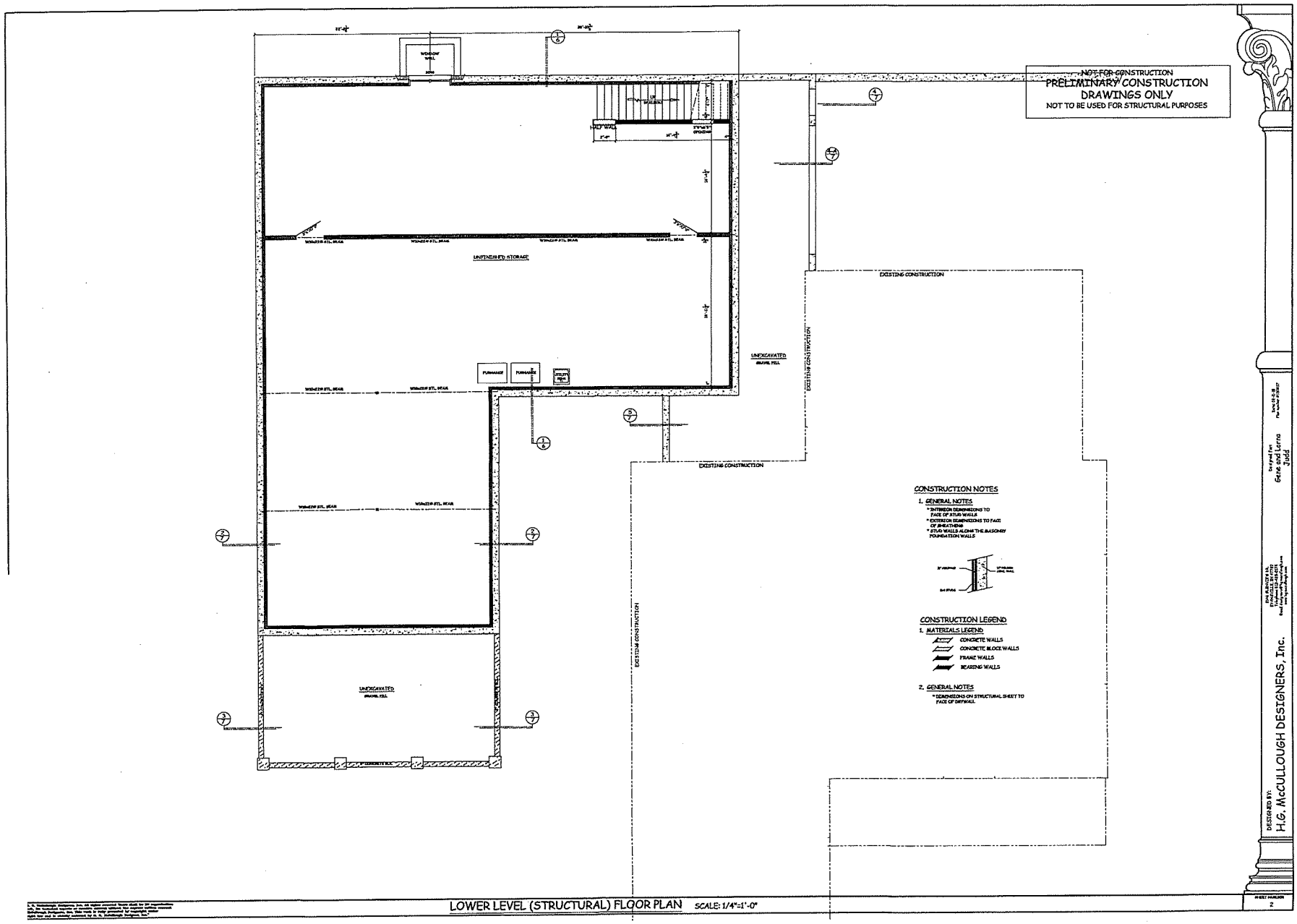

NOT FOR CONSTRUCTION
PRELIMINARY CONSTRUCTION
DRAWINGS ONLY
NOT TO BE USED FOR STRUCTURAL PURPOSES
CONSTRUCTION LEGEND
CONSTRUCTION NOTES
MAIN LEVEL (STRUCTURAL) FLOOR PLAN
SCALE: 1/4"=1'-0"
H.G. McCULLOUGH DESIGNERS, Inc.

Exhibit 5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PRELIMINARY CONSTRUCTION DRAWINGS ONLY
NOT TO BE USED FOR STRUCTURAL PURPOSES
WINDOW WELL
HALF WALL
UNFINISHED STORAGE
WINDOW STL. BEAM
FURNACE
UTILITY SINK
UNEXCAVATED
GRAVEL FILL
EXISTING CONSTRUCTION
CONCRETE BLOCK
CONSTRUCTION NOTES
1. GENERAL NOTES
* INTERIOR DIMENSIONS TO FACE OF STUD WALLS
* EXTERIOR DIMENSIONS TO FACE OF SHEATHING
* STUD WALLS ALONG THE MASONRY FOUNDATION WALLS
CONSTRUCTION LEGEND
1. MATERIALS LEGEND
CONCRETE WALLS
CONCRETE BLOCK WALLS
FRAME WALLS
BEARING WALLS
2. GENERAL NOTES
* DIMENSIONS ON STRUCTURAL SHEET TO FACE OF DRYWALL
DESIGNED BY:
H.G. McCULLOUGH DESIGNERS, Inc.
Designed for
Gene and Lorna Judd
LOWER LEVEL (STRUCTURAL) FLOOR PLAN
SCALE: 1/4"=1'-0"

Exhibit 5

Petition No.: 2019-40-DSV
G. JUDD

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant **(will / will not)** be injurious to the public health, safety, morals, and general welfare of the community because:
   - This request will not be injurious to the public health, safety, moral and general welfare of the community because the request is in a rural area, sets on 62 acres and the set back is approx. a quarter of a mile off the main county road. The proposed addition will not have any impact on any adjacent homeowners or the general community. In addition, this addition will provide additional tax base for the community.

2. The use or value of the area adjacent to the property included in the variance **(will / will not)** be affected in a substantially adverse manner because:
   - The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the requested for the addition sets on a 62-acre plot of land and will not be visible from the county road. There is a large ravine on the west side of the proposed location that cannot be developed and has a tree line and small ravine on the north side of the proposed site for the addition.
   - The current use of the property agricultural that currently approx. 40 of the 62 acres are being farmed. It also has a home/residence and a few outbuilding (barns) the proposed addition will add additional value to the property. The proposed addition will be of the same design and standards of the current structure.

3. Strict application of the terms of the zoning ordinance **(will / will not)** result in unnecessary hardships in the use of the property because:
   - Strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property because the terms of the zoning will not change the use of the current property will be the same as the current use. However, if the variance is not approved it will result in limiting the ability to use the addition for serval hobbies that I started with my father when I was a child. In addition, it will limit the ability to store additional equipment, tools and vehicles that help maintain the property and related farming of approx. 40 acres.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 20____.

_____ _____ _____

_____ _____

Exhibit 6

ZIONSVILLE
FOR ALL THE RIGHT REASONS

Petition Number:	2019-41-DSV
Subject Site Address:	1135 S 900 East
Petitioner:	David & Anne Marie Buibish
Representative:	David & Anne Marie Buibish
Request:	Petition for Development Standards Variance in order to allow a lot split of 10 acres, into two 5+/- acre lots, in which: 1) the lots will not meet the Lot Width to Depth Ratio of 3:1 2) one lot will have an accessory structure(s) which exceed the height of the primary structure in the Low-Density Single-Family Residential Zoning District (R1).
Current Zoning:	Rural Low-Density Single-Family Residential Zoning District (R1)
Current Land Use:	Residential
Approximate Acreage:	10 acres
Zoning History:	This parcel was consolidated into the Town of Zionsville's jurisdiction in 2010. No prior petitions are known.
Exhibits:	Exhibit 1- Staff Report Exhibit 2 - Aerial Location Map Exhibit 3 – Petitioners Narrative Exhibit 4 – Petitioners Site Plan Exhibit 5 – Petitioners Exhibit Exhibit 6 - Petitioner's proposed Findings of Fact
Staff Presenter:	Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition will receive a public hearing at the February 5, 2020, Board of Zoning Appeals meeting.

PROPERTY HISTORY

This property is comprised of ten (10) acres and is presently improved with two (2) single-family dwellings and accessory structures/uses. The acreage associated with this petition has historically been utilized for residential and farming purposes under the Boone County Area Planning jurisdiction. In 2010 the area was consolidated into Zionsville's jurisdiction. As of the writing of this report, Staff is not aware of any prior approvals being considered and granted by the Boone County Area Plan Commission or Board of Zoning Appeals related to this property.

ANALYSIS

The site is currently improved with both a 3,024 square foot single-family dwelling (occupied for single-family dwelling use) and a 1,456 square foot single-family dwelling. By Ordinance, the second, smaller single-family dwelling is considered a legal non-conforming use as only one primary use is permitted per building site. The parcel is currently utilized for residential purposes and accessory uses. As per the narrative within the petition application, the Petitioners have purchased the property with intensions of splitting the lot into two parcels and adding a pole barn to the southern lot which includes an existing 3,024 square foot single-family dwelling as well as an existing 400 square foot barn.

VARIANCE REQUEST – 3:1 LOT WIDTH TO DEPTH RATIO

As proposed, the first lot including an existing single-family dwelling and a detached accessory structure is contemplated to be approximately 5 acres with roughly 150 feet of frontage on a public street. The split will create a second lot including an existing single-family dwelling contemplated to be approximately 5 acres with roughly 120 feet of frontage on a public street. The need for the variance arises as the contemplated configurations of the parcels deviate from minimum standards found in the Zoning Ordinance related to lot depth to width ratio (requested ratio is in excess of 8:1 on both lots). While this is the case, the contemplated development pattern is not atypical for the immediate area (adjacent property to the south enjoys 63 feet of minimum lot width and a depth in excess of 560 feet, ratio in excess of 8:1). Additionally, the contemplated split follows an existing divided entry drive shared with a second single-family dwelling on the property. Further, the action of splitting the parcel will bring the residential improvements of the proposed second lot into conformity as the parcel is currently viewed as a legal non-conforming lot. With the above information in mind, Staff is supportive of the variance from the required lot width to depth ratio request as filed.

Barring any concerns of the neighbors being made of record during the disposition of the Petitioner's request, Staff would not oppose the request to approve a variance to allow a lot split of which will not meet the Lot Width to Depth Ratio of 3:1, as proposed.

VARIANCE REQUEST – ACCESSORY HEIGHT EXCEEDING PRIMARY

The Petitioners have intensions of adding a pole barn, not exceed 20'-0" in height, to the southern lot behind (and to the East of) their existing dwelling. By Ordinance, properties in the R-1 (Rural) District are permitted by right to be improved with accessory structures which exceed the 1) height, 2) area, 3) bulk

extent, and 4) purpose to the primary structure IF the property is at least 20 acres in size AND is classified as a Farm. As the subject site is not 20 acres in size, and the dwelling is a single-story structure (with walkout basement), a variance must be sought for the height of the accessory to exceed the primary.

While the exact size of the proposed accessory is unknown at this time, the Petitioners are aware of the Ordinance standards and acknowledge that a variance for accessory square footage to exceed the primary is not anticipated to be required in order to facilitate the construction of the contemplated pole barn.

While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds several development configurations which are not supported by the current Zoning Ordinance (example: flag lots, percentages of accessory buildings, heights of accessory buildings, non-conforming uses, and lots with reduced road frontage). While the development pattern is atypical, Staff is supportive of the request based 1) that the placement of the improvements, being east/behind the home, will be no less than 425 feet from the public way (which reduces the ability to discern the difference between the variation of heights of the two structures) and 2) that if the primary structure had two floors above grade, the variance would likely not be necessary.

Barring any concerns of the neighbors being made of record during the disposition of the Petitioner's request, Staff would not oppose the request to approve a variance to allow an accessory structure(s) which exceed the height of the primary structure, as proposed.

PROCEDURAL – VARIANCE TO DEVIATE FROM STANDARDS

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

(c) the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

STAFF RECOMMENDATIONS

Staff recommends approval of the design standards variance included in Docket #2019-41-DSV, as filed.

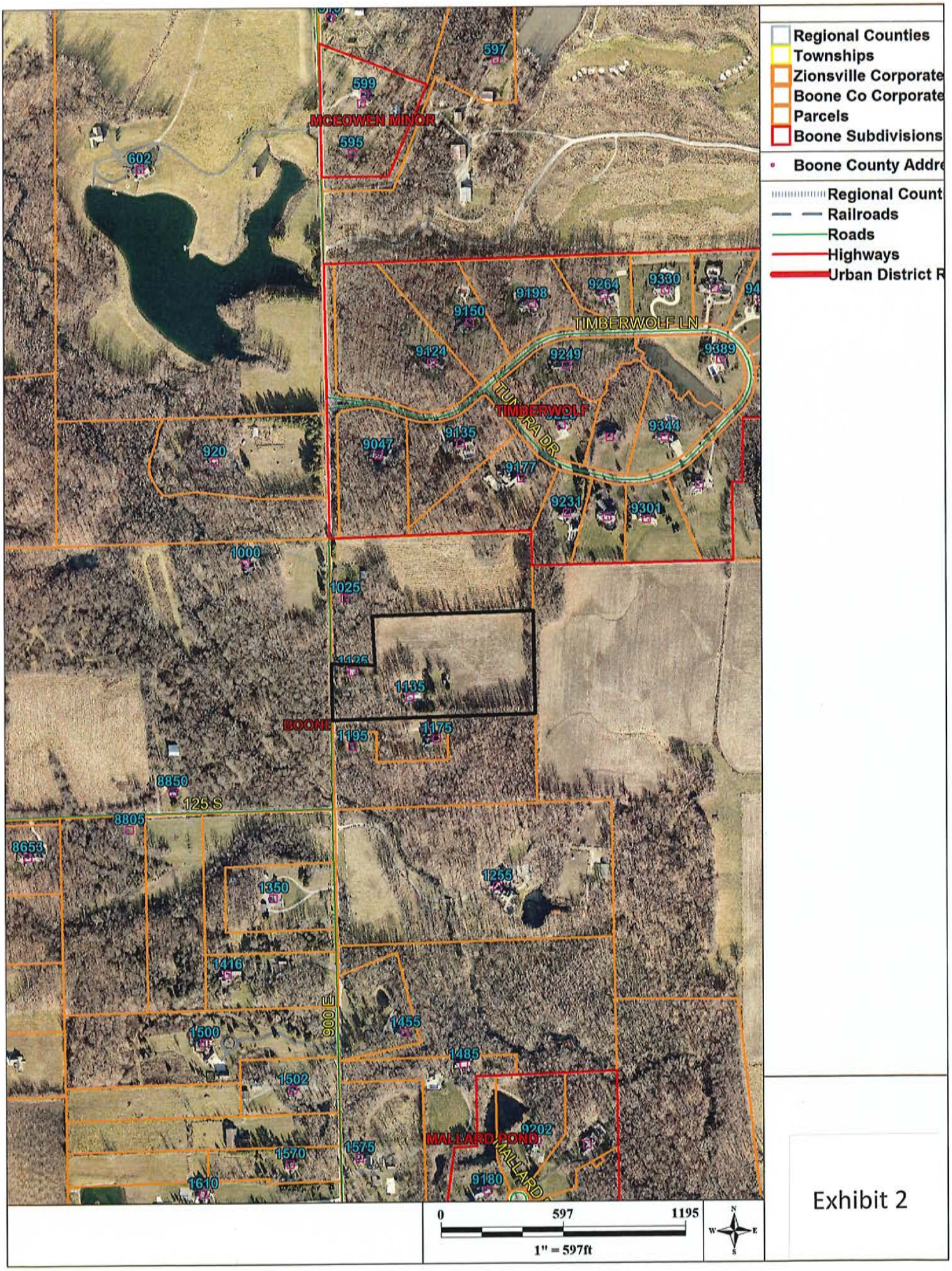
RECOMMENDATION MOTION

I move that Docket # 2019-41-DSV Development Standards Variance in order to allow a lot split of 10 acres, into two 5+/- acre lots, in which 1) the lots will not meet the Lot Width to Depth Ratio of 3:1 and 2) one lot will have an accessory structure(s) which exceed the height of the primary structure in the

Rural Low-Density Single-Family Residential Zoning District (R1), be (Approved, based on the finding and based upon staff report and presentation / Denied / Continued).

PROCEDURAL NOTE

Division of the parcel into two (2) tracts (lots), as currently contemplated, will not require action of the Plan Commission due to the contemplated division complying with the exempt standards of the Definition of Subdivision in the Rural District.


Regional Counties
Townships
Zionsville Corporate
Boone Co Corporate
Parcels
Boone Subdivisions
Boone County Addre
Regional Count
Railroads
Roads
Highways
Urban District R
MCEOWEN MINOR
TIMBERWOLF LN
TIMBERWOLF
TUNDRA DR
BOONE
125 S
900 E
MALLARD POND
MALLARD
597
599
595
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8850
8805
8653
1350
1255
1416
1500
1455
1485
1502
9202
1570
1575
1610
9180
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597
1195
1" = 597ft
N
W
E
S

Exhibit 2

Hello neighbor,

My name is Anne-Marie Buibish. My husband, Dave, and I recently purchased the home and 10 acre parcel at 1135 S 900 E, Zionsville. This home was built by Frank and Danna Gordon in 1964.

In order to improve the property and bring it into conformance, we are requesting 2 variances from the Zionsville Board of Zoning Appeals -

1) depth to width ratio (3:1) – we plan on splitting this 10 acre parcel into two +/- 5 acre parcels. The current parcel is non-conforming in that two homes are on the same parcel. This variance brings both parcels into conformance.
2) Barn height to exceed primary structure – we are planning to add a pole barn/garage to the east of the house, which would be taller than the home, but not to exceed 20 feet in height.

We appreciate your support in this request. If you have any questions or concerns, please contact me at 260-693-7930.

Thank you!

Anne-Marie Buibish

Exhibit 3

1025
1125
1135
1175
1195
Regional Counties
Townships
Zionsville Corporate
Boone Co Corporate
Parcels
Boone Subdivisions
Boone County Addre
Regional Count
Edge of Paveme
Miscellaneous
Railroads
Roads
Highways
BC Legal Drains
Urban District R
0
142
285
1" = 142ft
N
W
E
S

Exhibit 4

Exhibit 5

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant **(will / will not)** be injurious to the public health, safety, morals, and general welfare of the community because:

2.
The grant will not be injurious to the public health, safety, morals, and general welfare of the community because the parcels will continue to be used as primary residences.

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

3.
The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the parcels will continue to be used as primary residences.

3. Strict application of the terms of the zoning ordinance **(will / will not)** result in unnecessary hardships in the use of the property because:

1) the existing lot shape was defined before current depth to width ratio
2) the current lot is in nonconforming, since it has 2 primary residences
3) maintenance of 10 acres is difficult. Machinery size (combine, planter) unable to gain access to land due to width or access lane, terrain, and overhead wire.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 20____.

_____ _____ _____

_____ _____ _____

Exhibit 6

ZIONSVILLE
FOR ALL THE RIGHT REASONS

Petition Number: 2020-03-DSV

Project Address: Approximately 10901 E. C.R. 300 South (146th Street) and U.S. 421

Project Name: Appaloosa Crossing - Shops

Petitioner: Harris FLP

Representative: Matthew Price, Attorney for Petitioner
Dentons Bingham Greenebaum LLP

Request: Petition for Development Standards Variance in order to provide for the development of a commercial center which:
1) Deviates from the required width of foundation plantings; and
2) Deviates from the required additional six (6) foot wide strip for landscaping around a parking area in the Rural General Business Zoning District and the Rural Michigan Road Overlay (GB & MRO).

Current Land Use: Unimproved - farmed field

Approximate Acreage: 3.40± Acres (identified as "Shops" Lot on pending Plat) within the 57.53± Acres of the to-be-platted integrated center, Appaloosa Crossing. The requested Variances are only applicable to the 3.40± acre subject site, not the entire integrated center.

Zoning History: 07-EA-16-839 (2008 Rezoning): While under the jurisdiction of Boone County, the property was rezoned from the R-1 Residential Zoning Classification to the GB General Business (44.25± Acres) and PB Professional Business (13.28± Acres) Zoning Classifications with Commitments *(Approved).*

2016-45-CA: Commitment Amendment to permit an automobile fuel station/service station with a convenience store *(Approved)*.

2019-44-CA: Commitment Amendment to permit a liquor store, single-family dwellings, major residential subdivision, more than two (2) fast food restaurants, fast food restaurants to be adjacent to each other, a reduction in the side building setbacks to 30 feet (applicable only to the south property line of the southernmost outlot), a reduced number of water features along U.S. 421 to one (1), modifications to the main access drive off U.S. 421, increased number of outlots along U.S. 421 and 146th Street to eight (8), and five (5) respectively, placement of a monument sign on either the north or south side of the primary U.S. 421 Entrance, a right-in only access from C.R. 300 South (146th Street) west of the main entrance off C.R. 300 South *(Approved)*.

2019-45-Z: Zoning Change to rezone approximately 1.5 acres from the Rural (PB) Professional Business Zoning District to the Rural (GB) General Business Zoning District to allow for additional retail/commercial opportunities *(Approved)*.

Exhibits:
Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Petitioner's Narrative
Exhibit 4 – Proposed Building Rendering
Exhibit 5 – Proposed Landscape Plan

Exhibit 6 – Petitioner's Proposed Findings of Fact (One for each Variance request)

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition will receive a public hearing at the February 5, 2020, Board of Zoning Appeals meeting. Four other Petitions regarding Appaloosa Crossing have been filed with the Planning Department; three of the Petitions are scheduled to be heard by the Plan Commission at their February 18, 2020 hearing:

- 2020-01-PP Primary Plat of Appaloosa Crossing (Pending Plan Commission Hearing)
- 2020-02-SP Secondary Plat of Appaloosa Crossing (Administrative Approval - Hearing not required)
- 2020-03-DP Development Plan Approval of Shops (Pending Plan Commission Hearing)
- 2020-04-CA Commitment Amendment to relocate a pond/water feature along U.S. 421 frontage (Pending Plan Commission Hearing)

PROPERTY LOCATION, ZONING CLASSIFICATION & PROJECT DESCRIPTION

The subject site is generally located 250 feet south of C.R. 300 South (aka 146th Street) on the east side of U.S. 421. The subject site is 3.40± acres and is a portion of the 57.53± acres to be developed as the Appaloosa Crossing integrated center. The subject site is bordered on the north by another undeveloped outlot of Appaloosa Crossing; on the east by an internal road of Appaloosa Crossing; on the south by a primary entry into Appaloosa Crossing; and on the west by U.S. 421. The site is zoned Rural General Business Zoning District and is within the Rural Michigan Road Overlay (GB & MRO).

The Petitioner proposes to construct a multi-tenant, retail building of approximately 23,000 square feet with related parking areas. This will be the first building within the Appaloosa Crossing integrated center. Vehicular access to the subject site will be from U.S. 421 and C.R. 300 South via internal private streets; no curb cut directly onto the subject site from U.S. 421 is proposed. Pedestrian maneuverability on site will include sidewalks along the front façade of the proposed building. A 12-foot-wide recreation path along U.S. 421 will parallel the building, but no connectivity from the building to the recreation path is shown on the submitted Landscape Plan.

ANALYSIS - VARIANCE REQUESTS

The subject site is within the Rural Michigan Road Overlay (§194.079(C) and is, therefore, required to meet the development standards of the Overlay. The Petitioner requests the following two variances of development standards from the Overlay, both related to landscaping:

1. **Variance of Foundation Plantings (§194.079(C)(15)(b)2.):** This development standard requires "Foundation plantings shall be included along all sides of any building. The minimum width of the planting area shall be five feet; except that, when adjoining a parking area located in the front yard adjoining U.S. Highway 421, the minimum width shall be ten feet." The Petitioner requests that no foundation plantings be required along the front building façade (the façade facing U.S. 421).

   From the Petitioner's Variance Narrative (Exhibit 3), "A commercial building of this sort is often designed with an awning-type front building façade (providing cover from the elements for patrons, while also limiting the viability of foundation plantings because they would have limited exposure to light and rain), with a sidewalk and individual points of pedestrian customer access into each of the tenant spaces under that 'awning.' The design for the Retail Shops, incorporating the awning feature, does not include sufficient space to also accommodate foundation plantings adjacent to the building front."

   If the Petitioner's Variance Request is granted, the result would be no foundation plantings along the front building façade (facing U. S. Highway 421). The Petitioner's building design does include an awning

feature along the front facade which is unique and would shield the area from sunlight and rain (Exhibit 3). The long-term survival of foundation plantings in this area, under the awning, would be problematic. Additionally, the proposed design of tenant spaces in the building include glass walls on the front façade extending down to grade level. To place foundation plantings where required would result in the backs and root areas of the plants to be visible from the interior of the tenant spaces. The Petitioner is proposing to relocate the landscaping which would have been used as foundation plantings to the eastern portion of the subject site along the interior access drive of the integrated center.

With these items in mind and presuming the retail shops are constructed substantially in the manor of the building rendering presented (Exhibit 4), Staff is supportive of the requested Development Standards Variance for the removal of the required foundation plantings along the front of the building with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5). Absent the presence of the awning features, Staff would re-evaluate its support of the request.

2. **Variance of Parking Lot Perimeter Plantings (§194.079(C)(15)(c)5.b.):** This development standard requires "Where parking areas are located in the front yard, with frontage directly on U.S. Highway 421, a six-foot wide perimeter planting area shall be provided along the front and sides of those areas." The Petitioner requests that the six-foot wide perimeter planting area not be required.

   In addition to the six-foot wide Parking Lot Perimeter Planting area, another landscaping requirement of the Rural Michigan Road Overlay applicable to this subject site is "there shall be a 30-foot wide landscaping buffer within the front yard of all lots with frontage on U.S. Highway 421." The Zoning Ordinance states the six-foot wide Parking Lot Perimeter Planting area be "in addition to the landscape buffer." The result of these two abutting landscaping requirements is a 36-foot wide landscaping area be established between the parking area and the subject site's property line.

   If the Petitioner's Variance Request is granted, the result would be a 30-foot wide landscaping buffer within the front yard of the subject site. The Petitioner is proposing to relocate the landscaping which would have been placed within the six-foot wide perimeter planting area to the eastern portion of the subject site along the interior access drive of the integrated center.

With this in mind, Staff is supportive of the requested Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION SEEKING APPROVAL

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

(c) The strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property*:*

Proposed Findings of Fact from the Petitioner for each requested Variance are attached for the Board of Zoning Appeal's consideration (Exhibit 6).

STAFF RECOMMENDATIONS

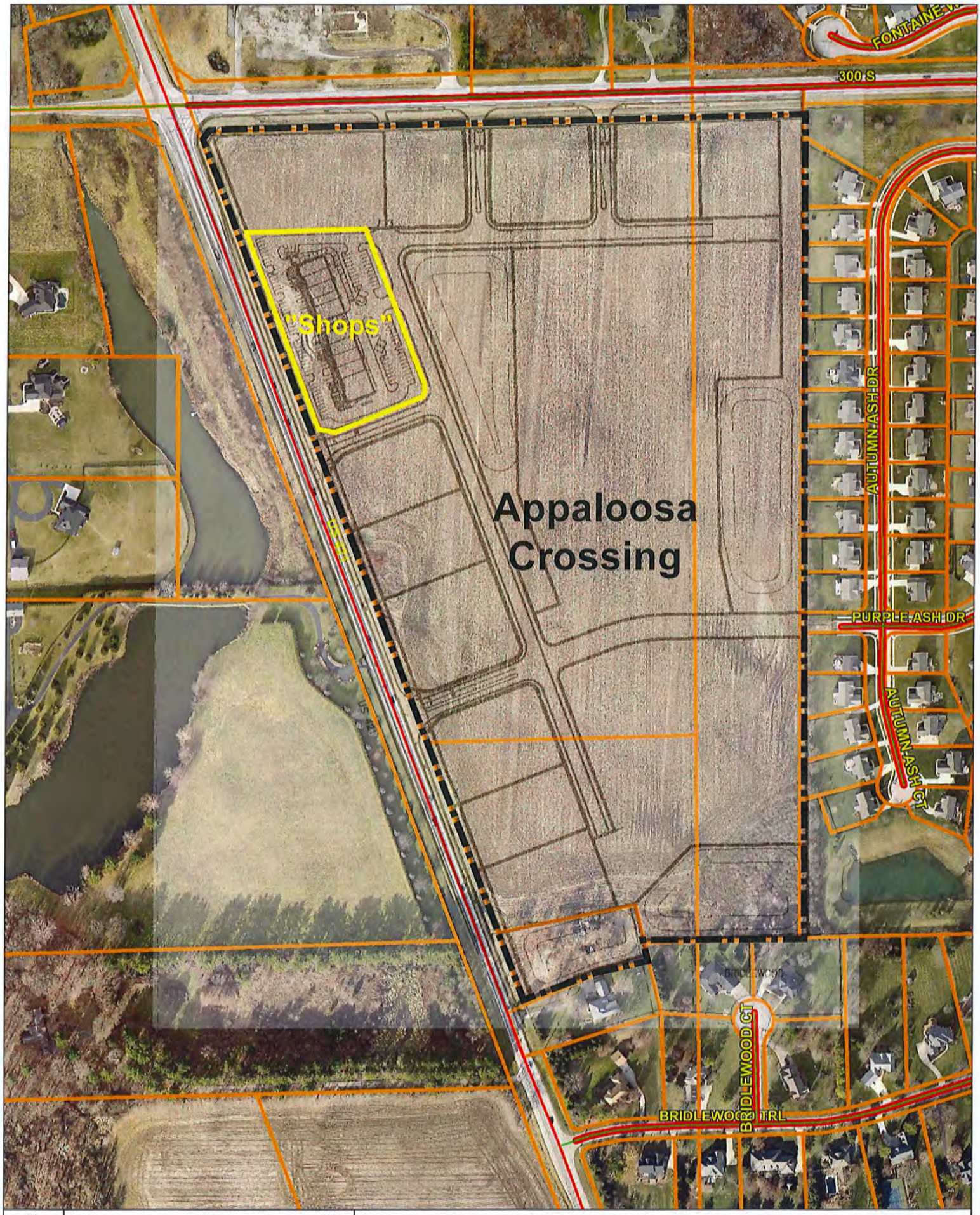
Variance Request #1: **Variance of Foundation Plantings -** Staff recommends approval of the requested Development Standards Variance for the removal of the required foundation plantings along the front of the building, with the building to be constructed substantially in the manor of the building renderings presented, with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

Variance Request #2: **Variance of Parking Lot Perimeter Plantings -** Staff recommends approval of the requested Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

RECOMMENDATION MOTIONS

I move that Docket #2020-03-DSV, Variance Request #1 being a Development Standards Variance for the removal of the required foundation plantings along the front of the building, with the building to be constructed substantially in the manor of the building renderings presented and with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5), be (Approved as filed, based upon the findings of fact and subject to the proposed Commitments / Denied / Continued) as presented.

I move that Docket #2020-03-DSV, Variance Request #2 being a Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2019-35-DSV (Exhibit 5), be (Approved as filed, based upon the findings of fact and subject to the proposed Commitments / Denied / Continued) as presented.



N W E S

0 300 600

1" = 300ft

Appaloosa Crossing - "Shops" Location - Exhibit 2

APPALOOSA CROSSING
ZIONSVILLE

VARIANCE NARRATIVE
2020-03-DSV

Harris FLP is requesting a variance of development standards to provide for development of a Retail Shops building within the Appaloosa Crossing development site, specifically located immediately south of the corner outlot near the southeast corner of U.S. 421 (Michigan Road) and 300 South (146th Street).

Because the Retail Shops outlot will consist of a multi-tenant building, with an awning and multiple tenant entry points in front, with drive-thru windows on the sides, and loading in the rear, it is impractical or impossible to provide the otherwise-required 10-foot wide foundation plantings around the front perimeter of the building. A commercial building of this sort is often designed with an awning-type front building façade (providing cover from the elements for patrons, while also limiting the viability of foundation plantings because they would have limited exposure to light and rain), with a sidewalk and individual points of pedestrian customer access into each of the tenant spaces under that "awning." The design for the Retail Shops, incorporating the awning feature, does not include sufficient space to also accommodate foundation plantings adjacent to the building front. The overall landscaping plan further mitigates the degree of the variance requested by including plantings along the sidewalk fronting the building, allowing for these plantings to provide greenery while not being located in the shade below an attractive awning feature.

An extensive landscaping area, however, will be provided in the rear portion of this outlot, along an interior access drive. Plus, the U.S. 421 (Michigan Road) overlay requires an extensive landscaping width (30-feet) along the road frontage.

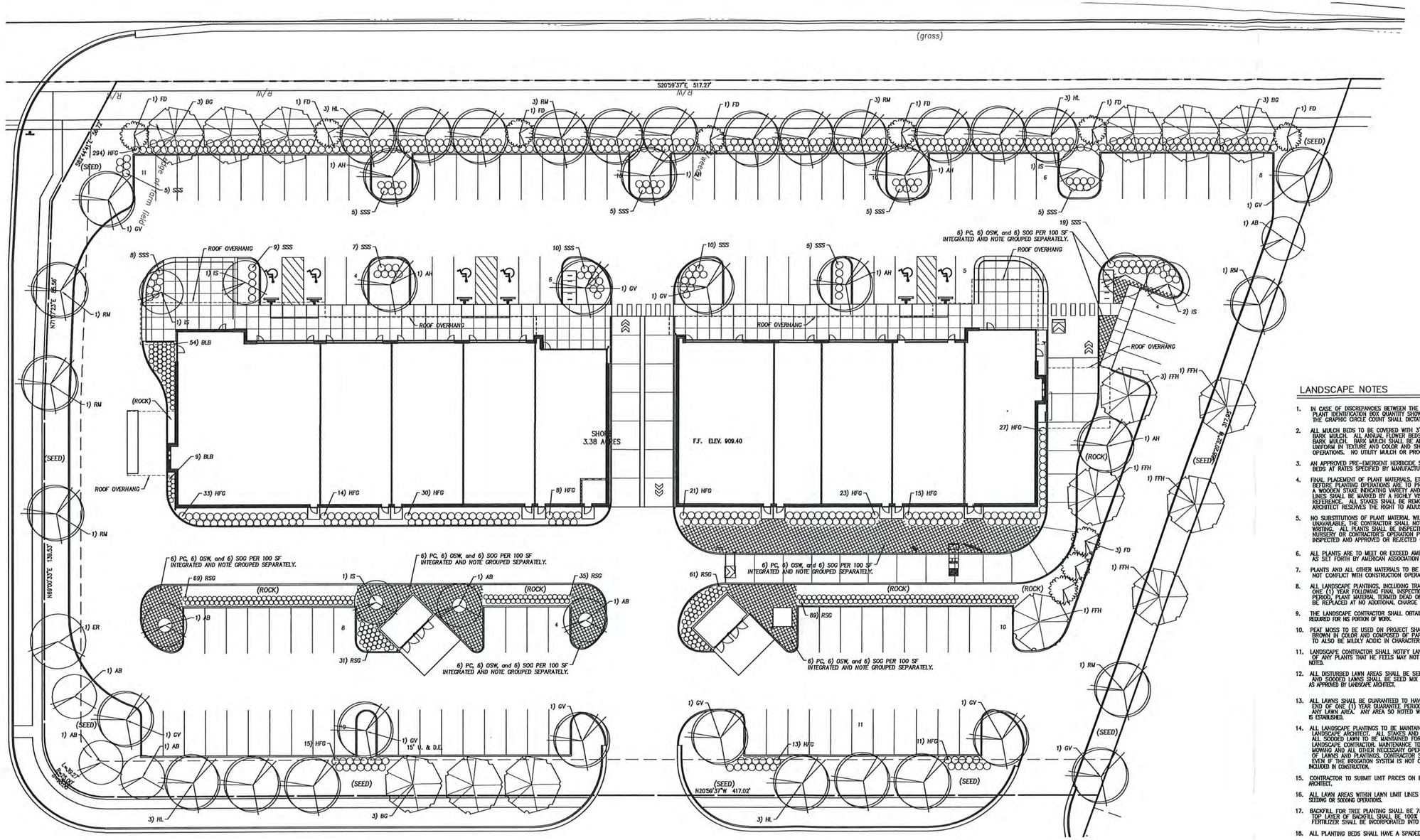
Additionally, given the extensive 30-foot wide landscaping buffer to be provided along the Michigan Road frontage as required by the U.S. 421 (Michigan Road) corridor overlay district, the otherwise-required 6-foot wide parking lot perimeter planting strip would be superfluous. Within the context of this already-required 30-foot wide landscaping space along the road frontage, such an additional and modest (6-foot) planting strip would not be noticeable or beneficial, and would only result in a hardship on the outlot, resulting in a smaller and less desirable building.

146TH & MICHIGAN SHOPS

CONCEPTUAL DESIGN

ZIONSVILLE 12/11/2019

Exhibit 4



LANDSCAPE NOTES

1. IN CASE OF DISCREPANCIES BETWEEN THE PLAN AND PLANT LIST, THE PLAN SHALL DICTATE. IF PLANT IDENTIFICATION BOX QUANTITY SHOWN ON PLAN DEFFERS FROM GRAPHIC PLANT CIRCLE COUNT, THE GRAPHIC CIRCLE COUNT SHALL DICTATE. IF IN QUESTION, CONTACT THE LANDSCAPE ARCHITECT.
2. ALL MULCH BEDS TO BE COVERED WITH 3" THICK LAYER OF SHREDDED HARDWOOD BARK MULCH. ALL ANNUAL FLOWER BEDS SHALL BE COVERED WITH 2" SHREDDED HARDWOOD BARK MULCH. BARK MULCH SHALL BE APPROVED BY LANDSCAPE ARCHITECT AND SHALL BE UNIFORM IN TEXTURE AND COLOR AND SHALL BE OBTAINED FROM SAWMILL OR LUMBERING OPERATIONS. NO UTILITY MULCH OR PROCESSED TREE TRIMMINGS WILL BE ALLOWED.
3. AN APPROVED PRE-EMERGENT HERBICIDE SHALL BE APPLIED IN ALL PLANTING AND FLOWER BEDS AT RATES SPECIFIED BY MANUFACTURER FOR EACH VARIETY OF PLANT.
4. FINAL PLACEMENT OF PLANT MATERIALS, ETC. SHALL BE APPROVED BY LANDSCAPE ARCHITECT BEFORE PLANTING OPERATIONS ARE TO PROCEED. ALL TREE LOCATIONS SHALL BE MARKED WITH A WOODEN STAKE INDICATING VARIETY AND SIZE OF TREE. ALL GROUND COVER AND MULCH BED LINES SHALL BE MARKED BY A HIGHLY VISIBLE PAINT LINE WITH OCCASIONAL WOOD STAKES FOR REFERENCE. ALL STAKES SHALL BE REMOVED FOLLOWING PLANTINGS OPERATIONS. LANDSCAPE ARCHITECT RESERVES THE RIGHT TO ADJUST PLANT LOCATIONS ON SITE.
5. NO SUBSTITUTIONS OF PLANT MATERIAL WILL BE ALLOWED. IF PLANTS ARE SHOWN TO BE UNAVAILABLE, THE CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT PRIOR TO BID DATE IN WRITING. ALL PLANTS SHALL BE INSPECTED AND TAGGED WITH PROJECT IDENTIFICATION AT NURSERY OR CONTRACTOR'S OPERATION PRIOR TO MOVING TO JOB SITE. PLANTS MAY ALSO BE INSPECTED AND APPROVED OR REJECTED ON THE JOB SITE.
6. ALL PLANTS ARE TO MEET OR EXCEED AMERICAN STANDARDS FOR NURSERY STOCK, 1996 EDITION, AS SET FORTH BY AMERICAN ASSOCIATION OF NURSERYMEN.
7. PLANTS AND ALL OTHER MATERIALS TO BE STORED ON SITE WILL BE PLACED WHERE THEY WILL NOT CONFLICT WITH CONSTRUCTION OPERATIONS AND AS DIRECTED BY OWNER.
8. ALL LANDSCAPE PLANTINGS, INCLUDING TRANSPLANTS, SHALL BE GUARANTEED FOR A PERIOD OF ONE (1) YEAR FOLLOWING FINAL INSPECTION BY LANDSCAPE ARCHITECT. AT THE END OF THIS PERIOD, PLANT MATERIAL TERMED DEAD OR UNSATISFACTORY BY LANDSCAPE ARCHITECT SHALL BE REPLACED AT NO ADDITIONAL CHARGE BY THE LANDSCAPE CONTRACTOR.
9. THE LANDSCAPE CONTRACTOR SHALL OBTAIN AND PAY FOR ALL PERMITS AND FEES THAT MAY BE REQUIRED FOR HIS PORTION OF WORK.
10. PEAT MOSS TO BE USED ON PROJECT SHALL BE A DOMESTIC OR IMPORTED MATERIAL, CHOCOLATE BROWN IN COLOR AND COMPOSED OF PARTIALLY DECOMPOSED VEGETABLE MATERIAL. PEAT MOSS TO ALSO BE MILDLY ACIDIC IN CHARACTER AND SHALL MEET APPROVAL OF LANDSCAPE ARCHITECT.
11. LANDSCAPE CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT IN WRITING PRIOR TO BID DATE OF ANY PLANTS THAT HE FEELS MAY NOT SURVIVE TRANSPLANTING OPERATIONS OR IN LOCATIONS NOTED.
12. ALL DISTURBED LAWN AREAS SHALL BE SEEDED OR SODDED AS DIRECTED BY OWNER. SEEDED AND SODDED LAWNS SHALL BE SEED MIX "D" FROM INDIANA STATE HIGHWAY SPECIFICATION OR AS APPROVED BY LANDSCAPE ARCHITECT.
13. ALL LAWNS SHALL BE GUARANTEED TO HAVE A FULL UNIFORM STAND OF ACCEPTABLE GRASS AT END OF ONE (1) YEAR GUARANTEE PERIOD WITH NO BARE SPOTS COMPRISING MORE THAN 2% OF ANY LAWN AREA. ANY AREA SO NOTED WILL BE SEEDED UNTIL AN ACCEPTABLE STAND OF GRASS IS ESTABLISHED.
14. ALL LANDSCAPE PLANTINGS TO BE MAINTAINED FOR A PERIOD UNTIL FINAL INSPECTION BY THE LANDSCAPE ARCHITECT. ALL STAKES AND GUY WIRES MUST BE REMOVED WITHIN ONE YEAR. ALL SODDED LAWN TO BE MAINTAINED FOR A PERIOD UNTIL FINAL INSPECTION BY THE LANDSCAPE CONTRACTOR. MAINTENANCE TO INCLUDE WATERING, WEEDING, CULTIVATING, MULCHING, MOWING AND ALL OTHER NECESSARY OPERATIONS REQUIRED FOR PROPER ESTABLISHMENT OF LAWNS AND PLANTINGS. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL WATERING, EVEN IF THE IRRIGATION SYSTEM IS NOT OPERATIONAL AT THE TIME OF PLANTING OR IS NOTED INCLUDED IN CONSTRUCTION.
15. CONTRACTOR TO SUBMIT UNIT PRICES ON EVERY TYPE OF WORK AS REQUESTED BY LANDSCAPE ARCHITECT.
16. ALL LAWN AREAS WITHIN LAWN LIMIT LINES TO RECEIVE 6" MINIMUM APPROVED TOPSOIL PRIOR TO SEEDING OR SODDING OPERATIONS.
17. BACKFILL FOR TREE PLANTING SHALL BE 75% APPROVED TOPSOIL AND 25% APPROVED PLANTERS MIX. TOP LAYER OF BACKFILL SHALL BE 100% EXISTING TOPSOIL A 5-10-5 ANALYSIS SLOW RELEASE FERTILIZER SHALL BE INCORPORATED INTO BACKFILL AT APPROVED RATES.
18. ALL PLANTING BEDS SHALL HAVE A SPADED EDGE TO A DEPTH EQUAL TO SPECIFIED MULCH THICKNESS.

Ornamental Trees & Shade Trees

Key	Type	Name	Size	Height	Width	Exposure	Notes
BG	Shade Tree	Nyssa sylvatica / Black Gum	2.5"	30-50 ft	20-30 ft	Full sun to part shade	Salt tolerant / Attracts birds
HL	Shade Tree	Gleditsia triacanthos f. inermis / Skyline / Honey Locust	2.5"	35-45 ft	25-35 ft	Full sun	Salt tolerant
GV	Shade Tree	Zelkova serrata / Green Vase	2.5"	60-80 ft	40-50 ft	Full sun	Should be used on island / Salt tolerant
FFH	Shade Tree	Carpinus betulus / Franz Fontaine Hornbeam	2.5"	30-40 ft	20-30 ft	Full sun to part shade	Should be used on island / Poor salt tolerance
RM	Shade Tree	Acer rubrum / Red Maple	3.5"	40-70 ft	30-50 ft	Full sun / part sun	Can be damaged by road salt
FD	Ornamental Tree	Cornus florida / Flowering Dogwood	1.5-2"	15-30 ft	15-30 ft	Full sun to part shade	Not salt tolerant / Attracts birds & butterflies
AH	Ornamental Tree	Carpinus caroliniana / American Hornbeam	1.5-2"	20-35 ft	20-35 ft	Part sun to full shade	Salt tolerant / Attracts birds
AB	Ornamental Tree	Amelanchier x grandiflora / Autumn Brilliance / Apple Serviceberry	1.5-2"	15-25 ft	15-25 ft	Full sun to part shade	Salt tolerant / Attracts birds
ER	Ornamental Tree	Cercis canadensis / Eastern Redbud	1.5-2"	20-30 ft	25-35 ft	Full sun to part shade	Poor salt tolerance / Attracts butterflies
IS	Ornamental Tree	Syringa reticulata / Ivory Silk	1.5-2"	20-25 ft	15-20 ft	Full sun to part shade	Tolerates road salt / Attracts butterflies & hummingbirds

Ornamental Shrubs & Grasses

Key	Type	Name	Size	Height	Width	Spacing	Exposure	Notes
HFG	Grass	Pennisetum alopecuroides / Hamelin / Fountain Grass	2 G	1.5-2.5 ft	1.5-2.5 ft	3'	Full sun to part shade	Cold / Attracts birds / Deer resistant / Drought tolerant
BLB	Grass	Schizachyrium scoparium / Little Bluestem / Blue Paradise	2 G	2 ft	1 2 ft	2'	Full sun	Deep roots / Tolerates drought, salt, & dry soil
RSG	Grass	Panicum virgatum / Red Switch Grass / Cheyenne Sky	2 G	3 ft	1.5-2 ft	2'	Full sun	Deep fibrous roots / Attracts birds / Salt tolerant / Drought tolerant / Tolerates dry & wet soil
SSS	Ornamental Shrub	Spiraea Dannzam / Snow Storm	2 G	3 ft	3.5 ft	5'	Full sun	Salt tolerant / Attracts butterflies

Gravel Area Plugs

Key	Type	Name	Size	Height	Width	Spacing	Exposure	Notes
PC	Flowering Perennial	Coreopsis palmata / Plains Coreopsis	2.5-3in sq plug	1.5-2.5 ft	1-1.5 ft	3 ft	Full sun	Low salt tolerance / Needs extra care at establishment / Attracts butterflies
OSW	Flowering Perennial	Tradescantia ohiensis / Ohio Spiderwort	2.5-3in sq plug	2-3 ft	1.5-2.5 ft	3 ft	Full sun to part shade	Not salt tolerant
SOG	Grass	Bouteloua curtipendula / Side-Oats Grama	2.5-3in sq plug	1.5-2.5 ft	1.5-2 ft	3 ft	Full sun	Salt tolerant / Attracts birds

NOTE: LANDSCAPE ROCK WHERE NOTED SHALL BE DECORATIVE IN A STYLE AND COLOR SELECTED BY ARCHITECT.

Exhibit 5

REVISIONS		
DATE		DESCRIPTION
01/27/20	1	TOWN OF ZIONSVILLE COMMENTS

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7661 N PERIMETER ROAD
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Suite 142
Carmel, IN 46032
Ph: (317) 697-0180
www.snellingeng.com

GREGORY S. SNELLING REGISTERED No. 19600417 STATE OF INDIANA PROFESSIONAL ENGINEER

APPALOOSA CROSSING SHOPS
U.S. 421 AND C.R. 300 SOUTH
ZIONSVILLE, INDIANA

LANDSCAPE PLAN

DRAWN: GSS
CHECKED: GSS
SCALE: SEE PLAN
DATE: 01/27/20
SHEET: C501

Petition No.: 2020-03-DSV (Variance #1 - Foundation Plantings)

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant **(will / will not)** be injurious to the public health, safety, morals and general welfare of the community because:

   The reduction in foundation plantings will not impact the public health and safety, and will promote a site development scenario with significant landscaping otherwise provided, which will benefit the general welfare of the community and the aesthetic character of the subject site.

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

   The reduction in foundation plantings will be unnoticeable and immaterial to the properties adjacent to this commercial development. The subject outlot(s) are oriented toward the U.S. 421 (Michigan Road) frontage, which is a heavily-traveled transportation corridor. Additionally, the deviation will not be visually noticeable due to the significant landscaping otherwise required within the Michigan Road corridor overlay, further benefiting the use and value of the area adjacent.

3. Strict application of the terms of the zoning ordinance **(will / will not)** result in unnecessary hardships in the use of the property because:

   Within the context of this development proposal, located within the Michigan Road corridor overlay, the requirement for foundation plantings underneath awnings along a multi-tenant commercial building, necessitates such a deviation because such plantings would detract from the architectural theme for the structure and result in such plantings being obscured by the awnings, compromising the health of the plantings and the aesthetic value of such plantings. Therefore, the strict application of the terms of the ordinance, within the context of this specific development scenario, represents an unnecessary hardship in the use of the property.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this_____ day of _____, 2020.

_____ _____

_____ _____

_____

20778215

Exhibit 6A

Petition No.: 2020-03-DSV (Variance #2 - Perimeter Planting Strip)

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (**will / <u>will not</u>**) be injurious to the public health, safety, morals and general welfare of the community because:

   The reduction in parking lot perimeter landscaping will not impact the public health and safety, and will promote a site development scenario with significant landscaping otherwise provided, which will benefit the general welfare of the community and the aesthetic character of the subject site.

2. The use and value of the area adjacent to the property included in the variance (**will / <u>will not</u>**) be affected in a substantially adverse manner because:

   The reduction in parking lot perimeter landscaping will be unnoticeable and immaterial to the properties adjacent to this commercial development. The subject outlot is oriented toward the U.S. 421 (Michigan Road) frontage, which is a heavily-traveled transportation corridor. Additionally, the deviation will not be visually noticeable due to the significant landscaping otherwise required within the Michigan Road corridor overlay, further benefiting the use and value of the area adjacent.

3. Strict application of the terms of the zoning ordinance (**<u>will</u> / will not**) result in unnecessary hardships in the use of the property because:

   Within the context of this development proposal, located within the Michigan Road corridor overlay, parking lot perimeter landscaping necessitates a deviation. The Michigan Road corridor overlay requires significant landscaping above and beyond the typical commercial development scenario. Therefore, the strict application of the terms of the ordinance, within the context of this specific development scenario, represents an unnecessary hardship in the use of the property.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this_____ day of_____, 2020.

_____ _____

_____ _____

_____

20778218

Exhibit 6B