

**Shelby County  
Board of Zoning Appeals**

**November 1, 2022 at 7:00 PM**

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# MEETING AGENDA

## Shelby County Board of Zoning Appeals November 1, 2022, 7:00 P.M.

### CALL TO ORDER

### ROLL CALL

### APPROVAL OF MINUTES

Minutes from the October 11, 2022 meeting.

### BUSINESS CONTINUED TO DECEMBER 13, 2022

**BZA 22-31 – PANJAB GROUP, INC.:** USE & DEVELOPMENT STANDARDS VARIANCES. Located at 6925 S Carroll Rd, Indianapolis, Moral Township.

### OLD BUSINESS

**BZA 22-27 – BRUCE METZGER:** Negative Findings of Fact

### NEW BUSINESS

**BZA 22-42 – ERIC ROBERTSON:** USE & DEVELOPMENT STANDARDS VARIANCES. Located at 11292 S 200 W, Flat Rock, Washington Township.

**BZA 22-40 – JAMES KUWAMOTO:** DEVELOPMENT STANDARDS VARIANCES. Located at 305 W Washington St, Waldron, Liberty Township.

**BZA 22-41 – STEPHANIE & STUART SHULER:** USE VARIANCE. Located west of and adjoining 296 E 1100 N, Fountaintown, Van Buren Township.

**BZA 22-45 – JOSHUA KAUFMAN:** DEVELOPMENT STANDARDS VARIANCES. Located at 4324 E SR 244, Shelbyville, Liberty Township.

**BZA 22-43 – SUNBEAM I-74, LLC / I-74 LOGISTICS PARK:** DEVELOPMENT STANDARDS VARIANCE. Located south of McGregor Road and north of the CSX Railroad, Moral Township.

**SPEEDWAY SOLAR LLC:** Approval of form of decommissioning surety bond, per the Decommissioning Plan approved by the BZA as a stipulation of case BZA 19-01 – Speedway Solar LLC, approved on March 12, 2019.

### DISCUSSION

None.

### ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **December 13, 2022** at **7:00 PM**.

**DEVELOPMENT STANDARDS VARIANCE**  
**FINDINGS OF FACT - Staff Analysis**

Applicant: \_\_\_\_\_

Case #: \_\_\_\_\_

Location: \_\_\_\_\_

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standards Variance. Using the lines provided, please explain how your request meets each of these criteria.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.

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\_\_\_\_\_



## Property Details

**Location:** 11292 S 200 W, Flat Rock, Washington Township.

**Property Size:** 0.96-acre.

**Current Land Use:** Vacant.

### Zoning Classification:

R1 (Single-Family Residential)  
*Intent:* This district is established for single-family detached, medium to large sized homes on medium to large sized lots.  
*Development Standards:* Promote low-impact development in harmony with a natural setting.

### Future Land Use per Comp Plan

**Agriculture**  
The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category; however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

### Surrounding Development

	Zoning	Land Use
North	I2	Cropland
South	I2	Cropland
East	I2	Cropland
West	A1	Cropland

# Staff Report

**Case Number:** BZA 22-42  
**Case Name:** Eric Robertson – Use & Development Standards Variances

## Request

**Variance of Use** to allow for placement of a manufactured home in the R1 (Single-Family Residential) District.

**Variances of Development Standards** to allow:

1. For a manufactured home less than 1,600 sq. ft.
2. For an accessory structure exceeding 50% the square footage of the footprint of the residence.

## Code Requirement

**UDO Section 2.13** – R1 District Intent, Permitted Uses, and Special Exception Uses

**UDO Section 2.14** – R1 District Development Standards: Minimum Dwelling Size: 1,600 sq. ft.

**UDO Section 5.07 F 1: Maximum Size:** The total square footage of all enclosed accessory structures on a lot adjoining one or more lots in the RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, or HI Districts shall not exceed fifty percent (50%) of the footprint of the primary structure.

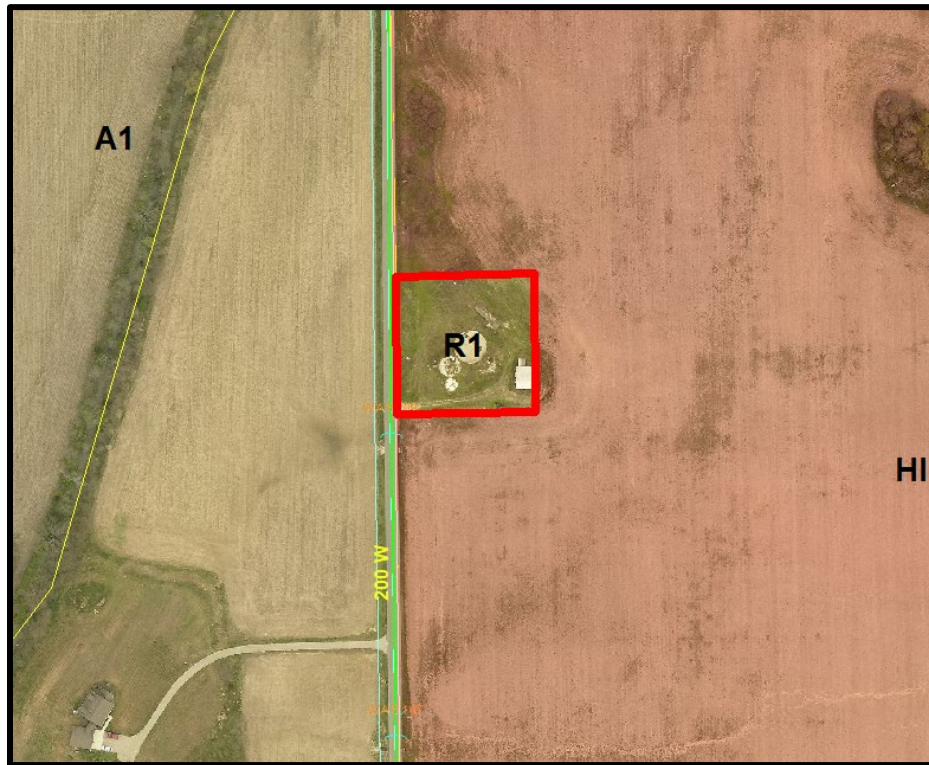
### Purpose of Requirements:

The aesthetic characteristics of manufactured homes differ from the aesthetic characteristics of modular and stick-built single-family homes. Therefore, prohibiting manufactured homes outside of manufactured and mobile home parks serves to protect the character of neighborhoods and surrounding property values. The minimum dwelling size requirement maintains aesthetic consistency between residential homes in medium to high density neighborhoods.

Limiting the size of residential accessory structures ensures that the residence remains the visual focal point of the property and discourages use of residential accessory buildings for commercial activities utilizing large trucks, large machinery, and/or large equipment.

## Property Map

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## Case Description

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- The petitioner plans to reside within a 24' x 52' (1,248 sq. ft.) manufactured home placed on the property.
- The petitioner also plans to build a 40' x 50' (2,000 sq. ft.) pole barn on the property.
- The square footage of the pole barn would equal approximately 1.6X the square footage of the footprint of the manufactured home.
- The property previously included grain silos. The property currently includes a 720 sq. ft. barn that the petitioner plans to remove.
- Heritage Aggregates LLC owns the adjacent farmland zoned HI (High Impact) and will likely expand its mining activities to this property.
- The Technical Review / Site Plan Committee has approved a Site Plan for the new construction, subject to approval of the variances.
- The UDO only permits installation of manufactured homes in mobile home or manufactured home parks. Modular homes and stick-built homes are permitted in the R1 District. Mobile homes, manufactured homes, and modular homes are constructed, in part, off-site, however building code classifies each dwelling as a different type of construction. Primary differences include:

	<b>Mobile Home</b>	<b>Manufactured Home</b>	<b>Modular Home</b>
<b>Certification</b>	Federal Manufactured Housing Construction and Safety Standards Law	Federal Mobile Home Construction and Safety Standards	State & local residential building code
<b>Dimensions</b>	At least 8-feet in width	Minimum of 23-feet in width for 60% of length	Any dimension
<b>Size</b>	Any size	Over 950 sq. ft.	Typically, larger than mobile and manufactured homes
<b>Foundation</b>	May be tied with perimeter skirting	Must be on a permanent foundation in accordance with state & local residential building code	Must be on a permanent foundation in accordance with one- & two-family building code

- Use variances expire at the time the property changes ownership. Therefore, any future owner of the property would be required to remove the manufactured home or obtain a new variance.

## Staff Analysis of Findings of Fact

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### Use Variance

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

Staff Analysis: The Technical Review Committee has approved a Site Plan for the new construction and the County will require Improvement Location, Building, Electric, Plumbing, and Septic permits prior to construction. All zoning development standards that apply to modular and stick-built homes would apply to placement of the manufactured home.

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

Staff Analysis: Placement of the manufactured home would not impact continued use of adjacent property for agricultural production or future use of adjacent property for mining purposes.

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

Staff Analysis: Future mining activities planned for adjacent property may impact the use and value of the subject property. Development of the property with a manufactured home would limit the potential reduction in property value at the time mining activities commence.

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

Staff Analysis: Future mining activities planned for adjacent property may impact the use and value of the subject property. Development of the property with a manufactured home would limit the potential reduction in property value at the time mining activities commence.

**5. State Requirement: The approval does not interfere substantially with the Comprehensive Plan.**

Staff Analysis: Placement of the manufactured home would not impact continued use of adjacent property for agricultural production.

**Development Standards Variances**

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

Staff Analysis: The Technical Review Committee has approved a Site Plan for the new construction and the County will require Improvement Location, Building, Electric, Plumbing, and Septic permits prior to construction. All zoning development standards that apply to modular and stick-built homes would apply to placement of the manufactured home.

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

Staff Analysis: Approval of the variances would not impact continued use of adjacent property for agricultural production or future use of adjacent property for mining purposes.

**3. State Requirement: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in use of the property.**

Staff Analysis: A strict application of the ordinance would not allow for development of the property for residential purposes at a lower value to limit a potential reduction in property value at the time mining activities commence on adjacent property. The smaller size of the manufactured home limits the maximum size of the proposed barn.

**Staff Recommendation**

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**APPROVAL** primarily because future mining activities planned for adjacent property may impact the use and value of the subject property. Development of the property with a manufactured home would limit the potential reduction in property value at the time mining activities commence. The smaller size of the manufactured home limits the maximum size of the proposed barn.

*Applicant/Owner Information*

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Applicant:	Eric Robertson 2740 W 1200 S Flat Rock, IN 47234	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Eric Robertson

Case #: \_\_\_\_\_

Location: \_\_\_\_\_

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standards Variance. Using the lines provided, please explain how your request meets each of these criteria.

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

NO HARM  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

NONE  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.

NONE  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:**

**General Welfare:** How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

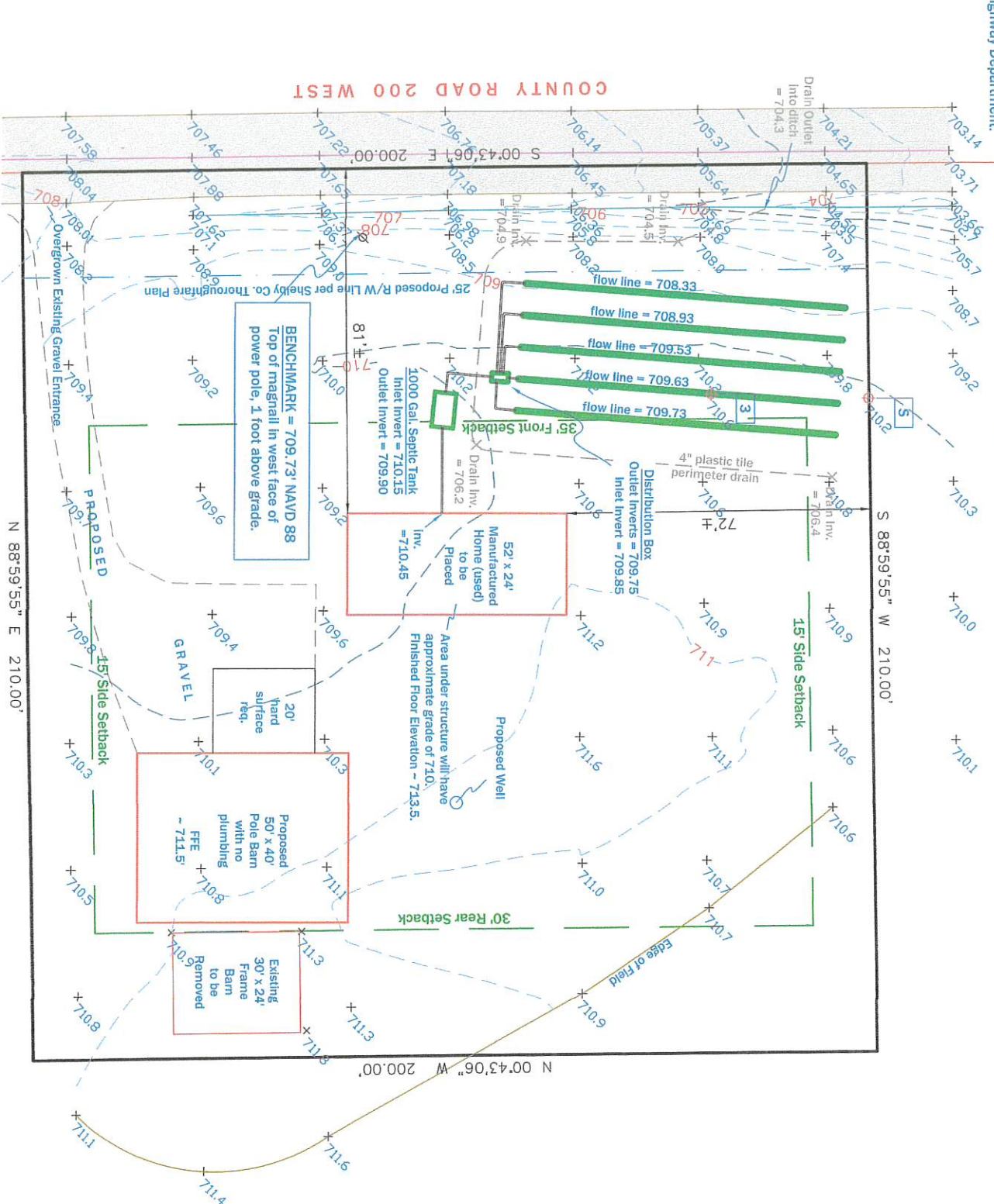
**Adjacent Property:** How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

**Practical Difficulty:** This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain (ex. of practical difficulty: topography of property, location of septic system, consistency with nearby land uses, historical use of property, etc.)

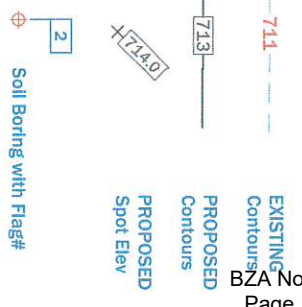
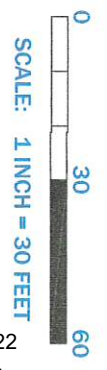


NOTE:  
 Perimeter drain outlet will require formal permission from the Shelby County Highway Department.

Subsurface Gravity System  
 Low Profile 36" Chambers by Infiltrator  
 Absorption Field Size = 1500 sq. ft.  
 (1125 sq. ft. with 25% reduction method)  
 (5) 76 foot trench lengths  
 36" trench width, 12" trench depth, 7.5' on center  
 Perimeter drain required on uphill side



**BASIS OF BEARINGS:**  
 ASSUMED DEED BEARING  
 SECTION LINE N00°43'06"W  
 VERTICAL DATUM:  
 NAVD 1988



**Required Variances**

- To allow manufactured home in the R4 District
- To allow a 1,248 sq foot primary structure (min. 1600 sq foot permitted)

## Property Details

**Location:** 305 W Washington St,  
Waldron, Liberty Township.  
Waldron Haymond Lots 5, 6, & 7.

**Property Size:** +/-0.45-acres.

**Current Land Use:** Single-Family  
Residential.

### Zoning Classification:

VR (Village Residential)

*Intent: This district is established for existing residential uses in small unincorporated towns and villages.*

*Development Standards: Flexible development standards to accommodate existing developments*

### Future Land Use per Comp Plan Suburban Residential

*This purpose of this category is for the transition of land use from agricultural and estate residential uses to low to medium-density, single-family residential subdivisions as water and sewer facilities become available.*

	Zoning	Land Use
North	VR	Single-Family Res.
South	VR	Single-Family Res.
East	VR	Single-Family Res.
West	VR	Single-Family Res.

# Staff Report

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**Case Number:** BZA 22-40  
**Case Name:** James Kuwamoto – Development  
Standards Variances

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## Request

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**Variances of Development Standards** to allow for a 1,200 sq. ft. pole barn:

1. Exceeding 50% the square footage of the footprint of the residence.
2. In the front yard.
3. Not matching the color of the house and not having a concrete floor.

## Code Requirement

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**UDO Section 5.07 F 1: Maximum Size:** *The total square footage of all enclosed accessory structures on a lot adjoining one or more lots in the RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, or HI Districts shall not exceed fifty percent (50%) of the footprint of the primary structure.*

**UDO Section 5.04 C – Placement:** *A permitted accessory structure shall not be placed in the front yard of any lot, unless placed 350 feet or greater from the front property line.*

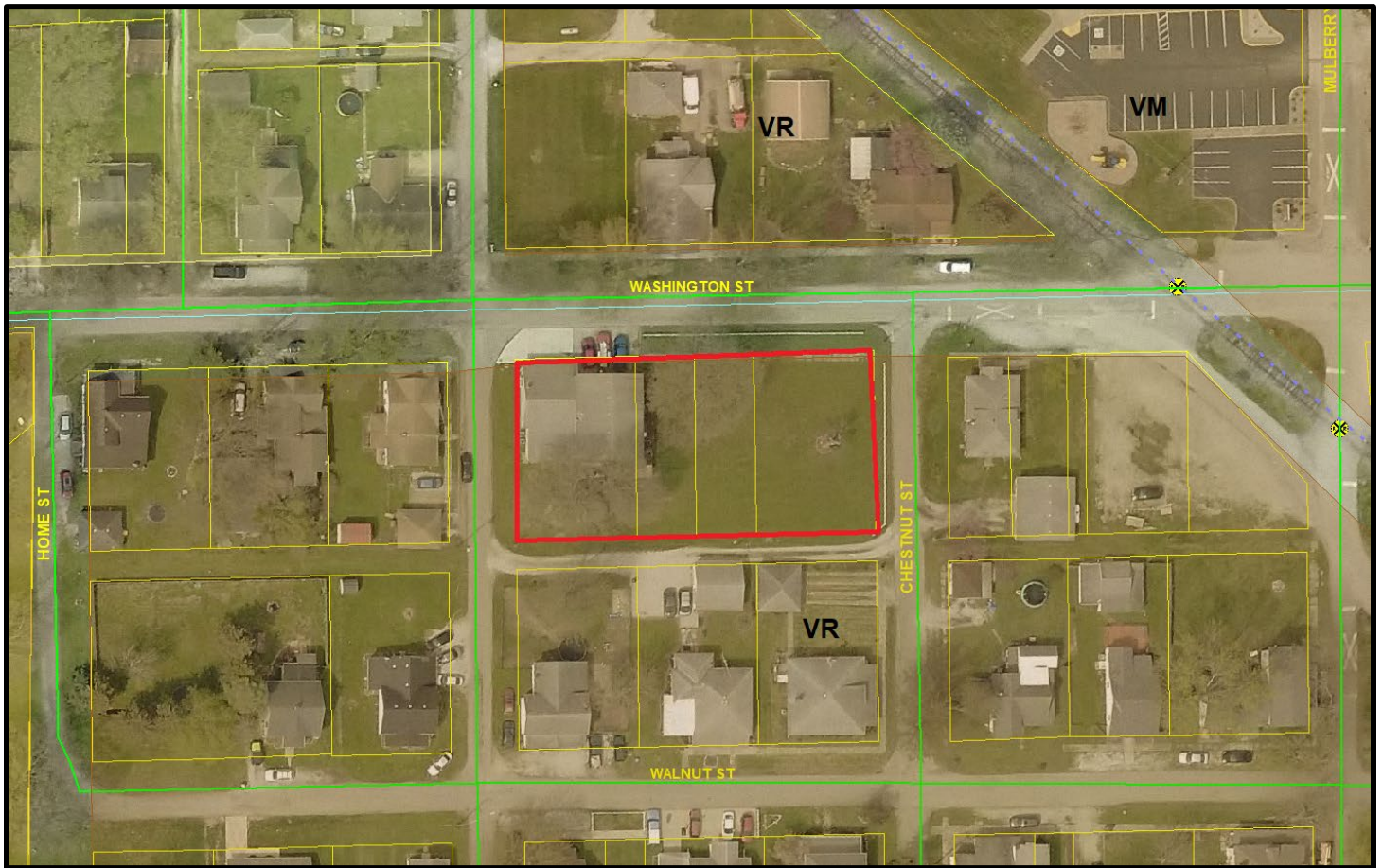
**UDO Section 5.07 D: Appearance:** *The exterior finish and facade of any enclosed accessory structure over 400 square feet in area shall match, closely resemble or significantly complement:*

1. **Materials:** *The finish and facade materials used on the primary structure,*
2. **Roof:** *The dominant roof pitch and roof style of the primary structure, and*
3. **Color:** *The color choices of similar exterior materials on the primary structure.*

**Purpose of Requirements:** Limiting the size of residential accessory structures ensures that the residence remains the visual focal point of the property and discourages use of residential accessory buildings for commercial activities utilizing large trucks, large machinery, and/or large equipment. Prohibiting the construction of accessory structures in the front yard maintains the primary structure as the visual focal point of the property. Accessory structure appearance standards protect the aesthetic quality and property values of medium-to-high density residential neighborhoods.



## Property Map



## Case Description

- The petitioner plans to construct a 30'x40' (1,200 sq. ft.) pole barn with 8'x40' (320 sq. ft.) lean-to. The barn would have a height of approximately 16-feet.
- The square footage of the pole barn would equal approximately 62% the square footage of the footprint of the house. The property tax card provides the square footage of the house for the square footage calculation. The UDO only requires that the enclosed portion of structures count toward the square footage calculation.
- The UDO designates the front yard as the area between the home and all adjoining streets. Therefore, the area between the home and Chestnut Street qualifies as a front yard. However, this area functions as a side yard because the house fronts upon Washington Street. The petitioner intends to build the pole barn in this yard.
- The building plans submitted with the variance application include exterior specifications for a pro-ribbed bright red barn with slate blue trim. The plans also include specifications for a dirt/gravel floor. The existing two-story house includes blue/grey vinyl siding.
- The barn would sit east of the house at a lower elevation near the middle of the lot.



## Staff Analysis of Findings of Fact

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

Staff Analysis: Construction of the pole barn would require a building permit and the structure must comply with all building codes before passing a final inspection. The public would not have access to the structure. The barn would comply with setback and clear vision requirements and therefore would not pose a hazard to traffic visibility of safety.

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

Staff Analysis: This area of Waldron includes older, stick-built and block accessory structures. A new pole-structure would deviate from the architectural style of existing accessory structures; however, new construction would likely improve rather than detract from the aesthetic quality of the area. However, a bright red exterior visible from the right-of-way would draw unnecessary attention to the pole structure. A light blue or grey exterior would complement the existing house and surrounding development.

**3. State Requirement: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in use of the property.**

Staff Analysis: The lot exceeds the size of most other lots in the area; therefore, a slightly larger accessory structure would not appear conspicuous on the lot. Only the front yard includes enough area to allow for construction of an accessory structure. The ordinance does not allow for standard pole-barn construction having a dirt floor.

## Staff Recommendation

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**APPROVAL** because new construction would likely improve rather than detract from the aesthetic quality of the area. However, bright red exterior walls visible from the right-of-way would draw unnecessary attention to the pole structure.

Staff recommends the following **stipulation**: The exterior walls of the pole barn shall be light blue or grey in color.

### *Applicant/Owner Information*

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Applicant:	James Kuwamoto	Owner:	Same
	305 W Washington St.		
	Waldron, IN 46182		

### Existing House and Proposed Building Site (middle of yard to left of house)



Google Steet View – July, 2014

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: James Kuwamoto

Case #: \_\_\_\_\_

Location: 305 W Washington St Walden W 46192

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standards Variance. Using the lines provided, please explain how your request meets each of these criteria.

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

NO  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

NO  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.

NO  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

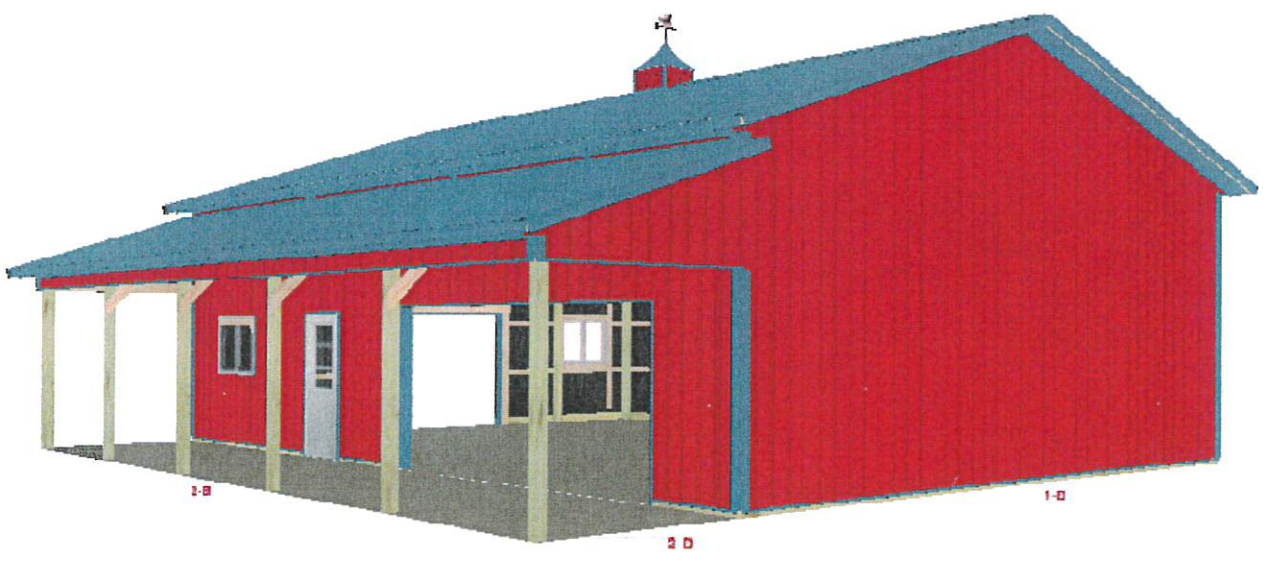
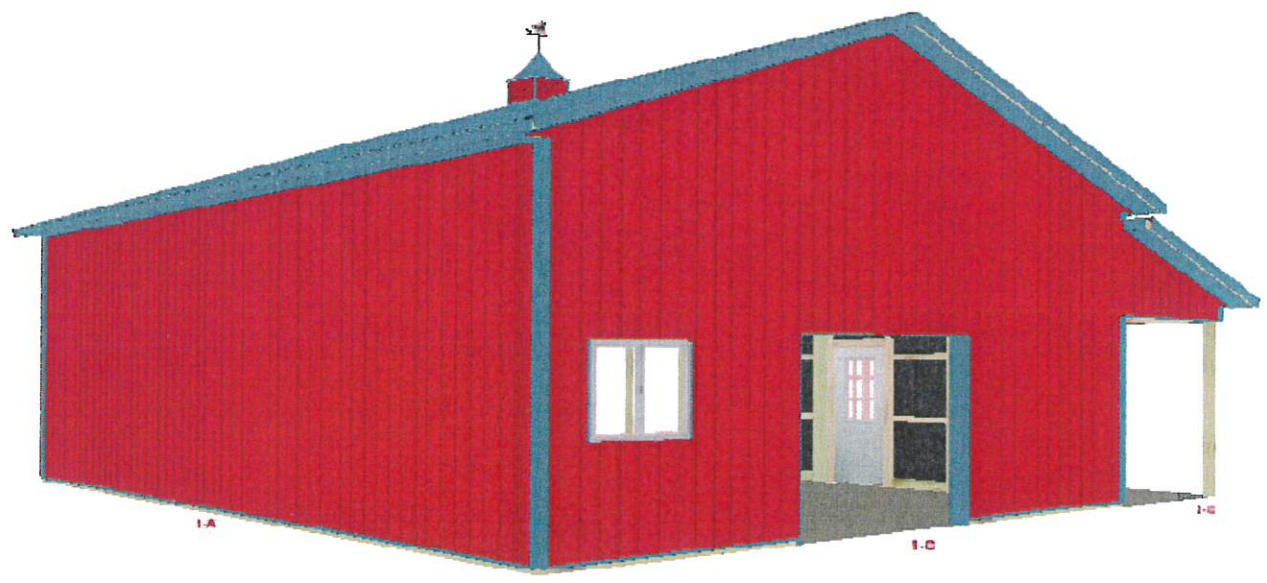
**The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:**

**General Welfare:** How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

**Adjacent Property:** How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

**Practical Difficulty:** This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain (ex. of practical difficulty: topography of property, location of septic system, consistency with nearby land uses, historical use of property, etc.)

Elevation Views







## Property Details

**Location:** West of and adjoining 296 E 1100 N, Fountaintown, Van Buren Township.

**Property Size:** 29.71-acres.

**Current Land Use:** Recreational.

### Zoning Classification:

A1 (Conservation Agricultural)

*Intent:* This district is established for the protection of agricultural areas and buildings associated with agricultural production.

*BZA:* Protect the integrity of land and operations within the Conservation Agricultural District.

### Future Land Use per Comp Plan Parks, Open Space, & Conservation

The purpose of this category is to provide for passive and active recreational activities, permanent preservation of significant natural areas, and preservation of natural features within clustered developments. This category applies to public and private lands.

	Zoning	Land Use
North	A1	Cropland
South	A1, A2, R1	Cropland / Estate Res. Single-Family Res.
East	R1, RE	Single-Family Res.
West	A1	Cropland

# Staff Report

**Case Number:** BZA 22-41

**Case Name:** Stephanie & Stuart Shuler – Use Variance

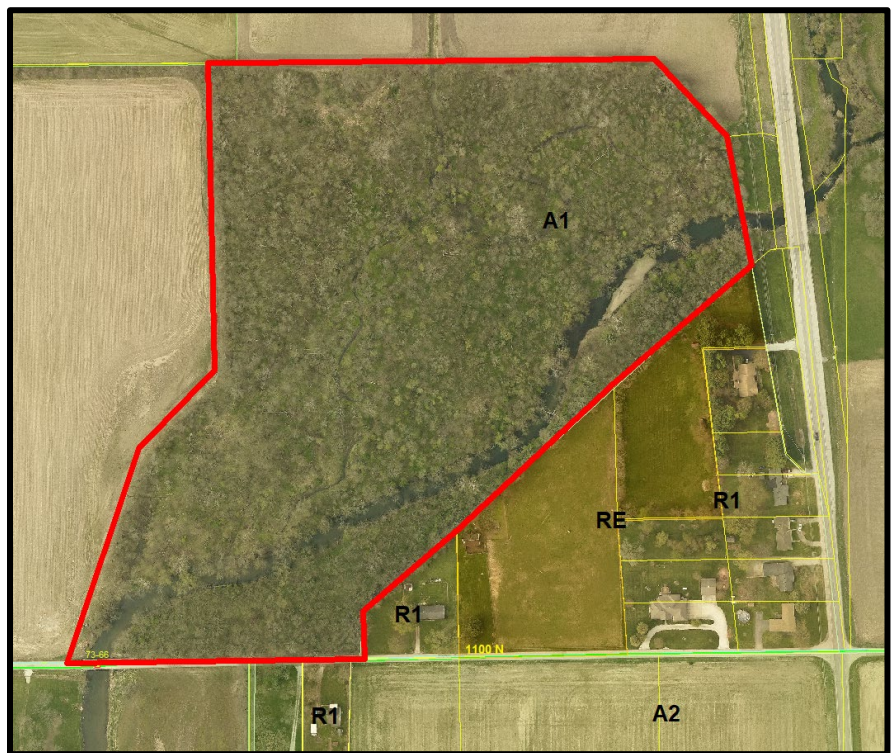
## Request

**Variance of Use** to allow for recreational use as the primary use of property in the A1 (Conservation Agricultural) District.

## Code Requirement

**UDO Section 2.03 A1 District Intent, Permitted Uses, and Special Exception Uses**

## Property Map



## Case Description

- The variance application indicates that the petitioners currently use the property for personal recreation use, including camping, hunting, fishing, and gardening. The petitioners stated that they use four-wheelers to access the gardens and hunting area at the rear of the property.

- The variance application indicates that the petitioners have not altered the land, that they intend to maintain the wood-line, and that they may construct a small, elevated storage shed.
- The UDO only permits recreational use as the sole use of property in the OP (Open Space & Parks) District. In the A1 District, any recreational use must be an accessory use to a single-family residence in association with a farm.
- The property lies within the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area Zone AE (map # 18145C0050C, effective on 11/05/2014) and Special Flood Hazard Area Floodway designated by the Indiana Department of Natural Resources (IDNR):
  - The contributing stream is Brandywine Creek, which runs north to south through the property.
  - Construction of buildings and grading of land in the Floodway requires a permit from IDNR and a Floodplain Development Permit from the County. Structures must comply with applicable elevation requirements and provisions for flood hazard reduction identified in the UDO.
  - IDNR prohibits construction of new dwellings in the Floodway, which prohibits use of the property for residential purposes.
- In August of 2022 Staff received a complaint from a neighboring property owner regarding alternation of land in the floodplain and unpermitted recreational use of the property. Staff sent the petitioner a violation letter and the petitioner promptly contacted Staff. The petitioner chose to apply for a variance to allow for the recreational use and agreed to contact IDNR before altering the land.
- Staff has toured the portion of the property south of the river and did not observe any land altering activities that would require a floodplain development permit.
- Use variances expire at the time the property changes ownership. Therefore, the future owner of the property would need to obtain a new variance to use the property for recreational purposes.

### Staff Analysis of Findings of Fact

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

Staff Analysis: Personal recreational use of the property would have no perceivable impact on the public. Compliance with all State and Local codes applicable to development within the Special Flood Hazard Area would minimize public and private losses due to flood conditions.

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

Staff Analysis: Personal recreational use of the property would not impact continued use of adjacent property for agricultural production. Non-commercial camping, fishing, and gardening would not generate noise or traffic more than typically expected in a rural neighborhood.

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

Staff Analysis: Existing property conditions severely restrict or prohibit the uses permitted by the UDO in the A1 District. Susceptibility to flooding restricts use of the property for crop production and other agricultural uses. IDRN prohibits construction of new dwellings in the Floodway.

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

Staff Analysis: Existing property conditions severely restrict or prohibit the uses permitted by the UDO in A1 District. Susceptibility to flooding restricts use of the property for crop production and other agricultural uses. IDRN prohibits construction of new dwellings in the Floodway.

**5. State Requirement: The approval does not interfere substantially with the Comprehensive Plan.**

Staff Analysis: The Comprehensive Plan designates passive personal recreational use as an acceptable land use in the Parks, Open Space, and Conservation land use category.

**Staff Recommendation**

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**APPROVAL** primarily because existing property conditions restrict or prohibit uses permitted by the UDO in A1 District.

Staff recommends the following **stipulation**: Recreational use of the property shall be limited to the uses included on the site plan submitted with the variance application and hunting shall not be permitted south of Brandywine Creek.

*Applicant/Owner Information*

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Applicant:	Stephanie & Stuart Shuler 5350 S SR 9 Fountaintown, IN 46130	Owner:	Same
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**STATEMENT OF INTENT (ONLY REQUIRED FOR VARAINCE OF USE & SPECIAL EXCEPTION)**

Please answer the following questions (when applicable) pertaining to your request. If approved, the use would be limited to the information provided and expansion of the use would require new approval from the Board. The Board may also approve the use conditional on one or more amendments to the statement of intent.

1. Summary of Proposed Use and/or Business Activity: Recreational use (Hunting, fishing, camping) without changing anything about the land's layout.
2. Days & Hours of Operation: Hunting- late oct-Jan / fishing may-sept.
3. Maximum Number of Customers per Day/Week/Month: only family (4 total) mostly in the summer.
4. Type and Frequency of Deliveries: N/A
5. Description of any Outdoor Storage: Hopefully a small shed, not seen from the road. Strictly dry storage.
6. Description, Size, and Placement of any Signage: only no trespassing signs at each end of the property and on main entrance gate.
7. Description of Waste Disposal: N/A (taken home for disposal)
8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): The main poles and floor to storage shed. (elevated)

**USE VARIANCE  
FINDINGS OF FACT**

Applicant: Stephanie Dennis

Case #: \_\_\_\_\_

Location: \_\_\_\_\_

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Use Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community.  
The property is for family use only but is insured with state farm. We won't be doing anything destructive or loud.
2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.  
We plan to keep the woodline to preserve privacy. The noise of the horses around us won't be affected, we have no desire to change our land.
3. **Practical Difficulty:** The need for the variance arises from some condition particular to the property involved.  
A neighbor complained about our recreational tent. (we thought it was zoned recreational) we want to eliminate the complaint & any in the future.
4. **Unnecessary Hardship:** The strict application of the terms of the Shelby County Unified Development Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.  
my husband has worked 25 years for his own hunting property. This is his dream. our kids play there and we want to enjoy it.
5. **Comprehensive Plan:** The granting of the variance does not interfere substantially with the Comprehensive Plan.  
almost nothing will change. we don't have plans to cut trees or create issues.

Everything north of the orange line is off limits to the kids, it's hunting only.

Property line

Trails for food plots  
3 entrances | |

Food plots

Creek

X rep. Storage  
(4wheelers)

X rep. "Camp"  
Where we park &  
The kids play.

N DIVISION RD

E1100N

Neighbors

Neighbors



## Property Details

**Location:** 4324 E SR 244, Shelbyville, Liberty Township.

**Property Size:** 9.06-acres.

**Current Land Use:** Vacant.

### Zoning Classification:

C2 (Highway Commercial)

*Intent: This district is established for commercial uses that are closely related to the special needs of the traveling public, interstate commerce, trucking and, in general, vehicular traffic along interstates and major state highways.*

*Development Standards: Require quality time, place, and manner development standards to minimize impacts on adjacent properties while encouraging economic vitality. Minimize light, noise, water, and air pollution.*

*BZA: Be sensitive to aesthetics and the potential for light pollution, noise pollution, pedestrian safety, and vehicular safety.*

### Future Land Use per Comp Plan

Estate Residential

*The purpose of this category is to provide for new rural residential housing opportunities in rural areas not well suited for agriculture. New residential development should have reasonable access to roads and utilities and should not significantly disrupt agricultural activities. The residential density of this category should not exceed one lot for every two acres.*

### Surrounding Development

	Zoning	Land Use
North	NA	I-74
South	C2 / IS	Single-Family Res. Church
East	NA	I-74
West	A1	Cropland

# Staff Report

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**Case Number:** BZA 22-45  
**Case Name:** Joshua Kaufman – Development Standards Variances

---

## Request

### Variances of Development Standards:

1. To waive the street landscaping requirement along SR 244.
2. To waive the lot interior landscaping requirement.
3. To waive the buffer yard landscaping requirement.

## Code Requirement

**UDO Section 5.44 A 2 – Quantity Requirements:** Lots that have frontage along a street shall install the following minimum number and type of street trees. The required trees shall be installed along the length of the property that abuts the street. The street classification shall be determined using the Shelby County Thoroughfare Plan - Primary and Secondary Arterials: One (1) canopy tree per fifty (50) lineal feet of frontage.

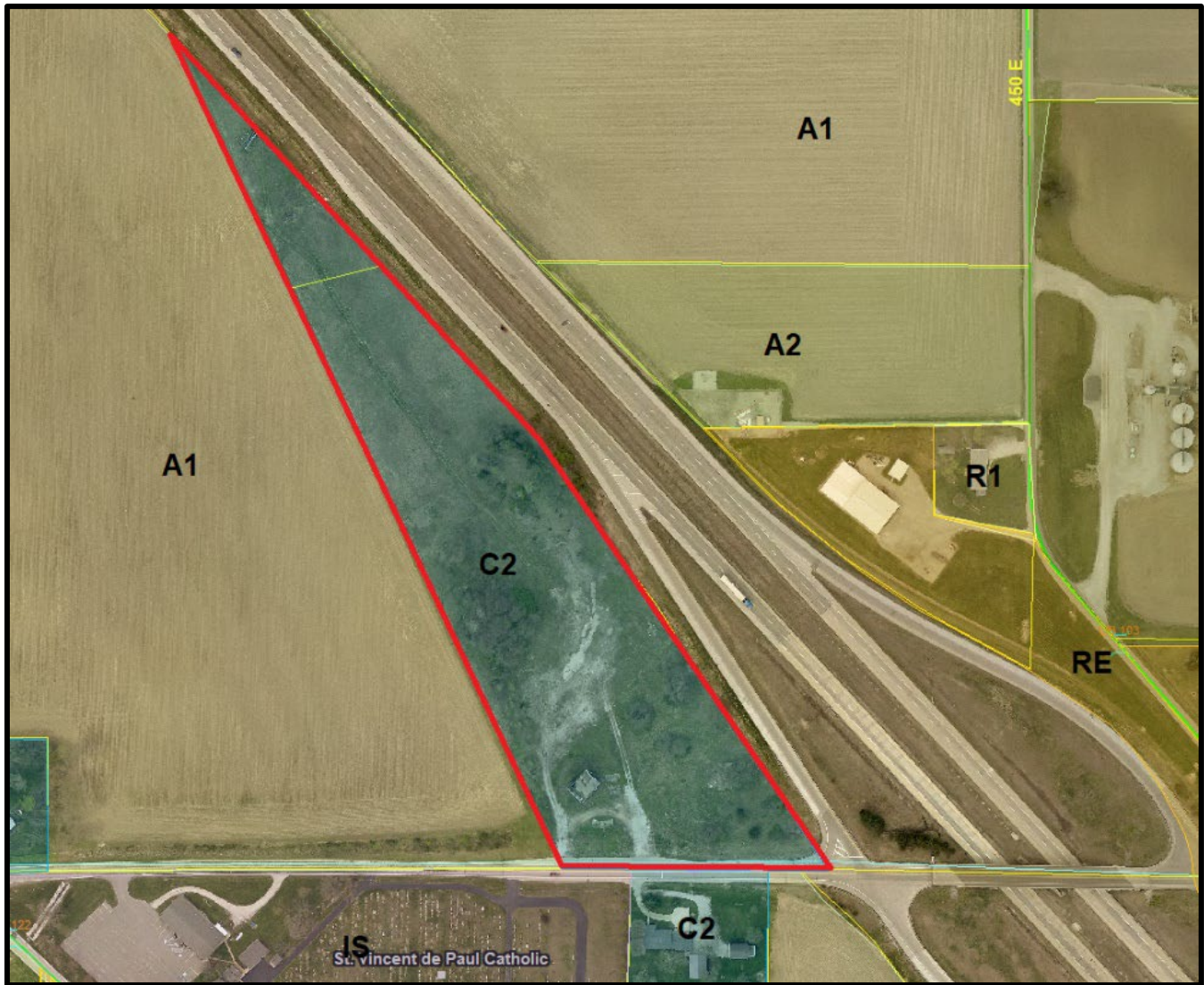
**UDO Section 5.47 A 3 - Quantity Requirements:** The following minimum number and type of trees shall be planted in the lot planting area - Lots Over 45,000 Square Feet: Four (4) deciduous trees plus one (1) deciduous tree for every 15,000 square feet above the initial 45,000 square feet. The absolute maximum number of trees required for any large lot shall be ten (10).

**UDO Section 5.49 Table LA-A: Buffer Yards Required – Zoning District of Subject Property C2, Adjacent District A1: Buffer Yard B Required.**

**UDO Section 5.49 F – Buffer Yard "B":** One (1) canopy tree and two (2) ornamental or evergreen trees shall be planted for every sixty (60) feet of contiguous boundary with the adjacent lot. Each tree shall be planted within fifteen (15) feet of the property line, but no closer than five (5) feet to the property line.

**Purposed of Requirements:** The UDO includes landscaping standards to protect the health, safety, and welfare of the residents of the County by requiring a reasonable amount of plant materials to enhance the visual quality of developments, maintain community character, define the edges of streets for vehicular safety and flow, buffer adjoining properties from higher-intensity uses, minimize storm runoff, and improve air quality.

## Property Map



## Case Description

- The petitioner plans to develop the property to accommodate a trailer sales operation.
- The property previously included a small commercial structure that the petitioner demolished in 2021. In 1980, the County approved a rezoning of the property from agricultural to manufacturing. The County assigned the C2 District to the property when the County updated the County-wide zoning maps in 2008.
- Trailer sales are a permitted use in the C2 District and the submitted site plan complies with the requirements of the UDO, other than the landscaping requirements.
- The following chart outlines the landscaping required, the landscaping proposed by the petitioner, and Staff's recommendation.

UDO Requirement	Landscaping Required	Landscaping Proposed	Variance Required	Staff Recommendation
<b>Along I-74</b> - One (1) canopy tree and one (1) ornamental or evergreen tree per sixty (60) lineal feet of frontage	28 Canopy Trees + 28 Ornamental of Evergreen Trees	28 Canopy Trees + 28 Evergreen Trees	No	NA
<b>Along 244</b> - One (1) canopy tree per fifty (50) lineal feet of frontage	9 Trees	0 Trees	Yes	9 Trees
<b>Interior Lot Landscaping</b>	10 Trees	0 Trees	Yes	10 Trees
<b>Along West Property Line – Buffer Yard “B”</b>	27 Canopy Trees + 52 Ornamental or Evergreen Trees	0 Trees	Yes	4 Canopy Trees + 8 Ornamental or Evergreen Trees Installed 250-feet from the ROW of SR 244

### Staff Analysis of Findings of Fact

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

Staff Analysis: Landscaping along SR 244 and interior lot landscaping would benefit the public by enhancing the visual quality of the development, by defining the edge of the street for vehicular safety and flow, and by minimizing storm runoff and improving air quality. Therefore, the development should include this landscaping. Buffer Yard landscaping generally protects adjacent properties rather than the public.

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

Staff Analysis: Proposed structural development of the property extends approximately 250-feet from the right-of-way of SR 244. The landscape buffer yard should extend 250-feet from the right-of-way of SR 244 along the west property line to protect the use and value of adjacent property, particularly if the owner decides to develop the property for residential purposes as recommend by the Comprehensive Plan.

**3. State Requirement: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in use of the property.**

Staff Analysis: A strict application of the ordinance would require landscaping along a significant length of the west property line buffering area on the subject property not proposed for structural development or outdoor storage of trailers.

### Staff Recommendation

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**DENIAL of variances to waive the street landscaping requirement along SR 244 and the lot interior landscaping requirement** because this landscaping would protect and benefit the public.





**LETTER OF INTENT  
VARIANCE APPLICATION TO THE SHELBY COUNTY PLAN COMMISSION**

APPLICANT: Joshua Kaufman  
577 B CID Road  
Lexington, NC 27293

October 19, 2022

Shelby County Plan Commission  
c/o Desiree Calderella, Director  
25 W Polk St. Rm 201  
Shelbyville, IN 46176

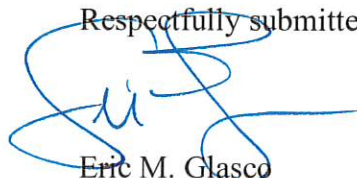
Dear Mrs. Calderella:

As part of his proposed development of the real estate located at 4324 East State Road 244, Shelbyville, IN 46176, Mr. Kaufman (“Applicant”) requests variances to the Shelby County Zoning Ordinance as set forth herein. The subject property is zoned highway commercial (C-2). The general purpose of the variance requests is to facilitate the development of the real estate to accommodate a trailer sales operation. More particularly, Mr. Kaufman seeks the following variances:

1. Article 5.44(A) (Landscaping). Applicant requests a variance as to the quantity of trees required along primary and secondary arterials and Interstate 74. Applicant requests a reduction in the required landscaping to accommodate the proposed development.
  
2. Article 5.49(F) (Landscaping). Applicant requests a variance as to the buffer yard “B” between the subject parcel and the parcel to the west. The parcel to the west is actively farmed tillable farm ground and will not be negatively impacted by the reduced buffer. Additionally, the majority of the subject property will not be used for the trailer sales operation.

The requested variances will aid development of a trailer sales operation on the subject property. The highway commercial zoning designation allows the operation of this business and Applicant will strive to ensure there will be no negative effects from the granting of the requested variances.

Respectfully submitted,



Eric M. Glasco  
Attorney for Joshua Kaufman



**DEVELOPMENT STANDARDS VARIANCE**  
**FINDINGS OF FACT**

Applicant: Joshua Kaufman

Case #: \_\_\_\_\_

Location: 4324 East State Road 244, Shelbyville, IN 46176

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standards Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community. The requested variances will not be injurious to public health, safety, and general welfare of the \_\_\_\_\_ community. The requested variances deal with accommodating a trailer sales company that will be housed on the subject \_\_\_\_\_ property. The property is presently zoned highway commercial and applicant will take necessary steps to reduce the \_\_\_\_\_ effect, if any, on adjacent property owners. Any effect the variances will have on the community will be minimal. \_\_\_\_\_

2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The requested variances will have minimal, if any, effect on the use and value of adjacent properties. \_\_\_\_\_ The property is presently zoned highway commercial and is adjacent to Interstate 74 and tillable farm land. Additionally, \_\_\_\_\_ the proposed use is a low intensity use of commercial property and should have limited impact on the adjoining property owners. \_\_\_\_\_

3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property. The strict application of the terms of the Shelby County Ordinance will result in practical difficulties in the use of the property in question. \_\_\_\_\_ The development will leave in place the majority of the character and nature of the property as it presently exists. The improvements will improve \_\_\_\_\_ the overall aesthetics of the property and the impact on the area will be beneficial. \_\_\_\_\_



MATCH LINE

MATCH LINE

EAST SIDE

Per Section 5.48 of the UDO, Landscaping must comply with UDO requirements

- 1 canopy tree and 1 ornamental or evergreen tree per 60 lineal feet of lot
- Located along East property
- Cannot be in the ROW
- Evergreen trees: At least 10 feet from the property line

Minimum Tree Size: Deciduous trees: All required deciduous trees shall be at least one and three-quarter (1 3/4) inch DBH at the time of planting

Evergreen trees: All required evergreen trees shall be at least five (5) feet in height at the time of planting

RD AREA: 216,482 S.F. (4.96 AC.)

REA: 171,831 S.F. (3.94 AC.)  
L900 S.F. (.16 AC.)  
920 = 178,171 (4.10 AC.)

KAUFMAN  
9.059 Acres  
Zoned "C2"  
CN=83

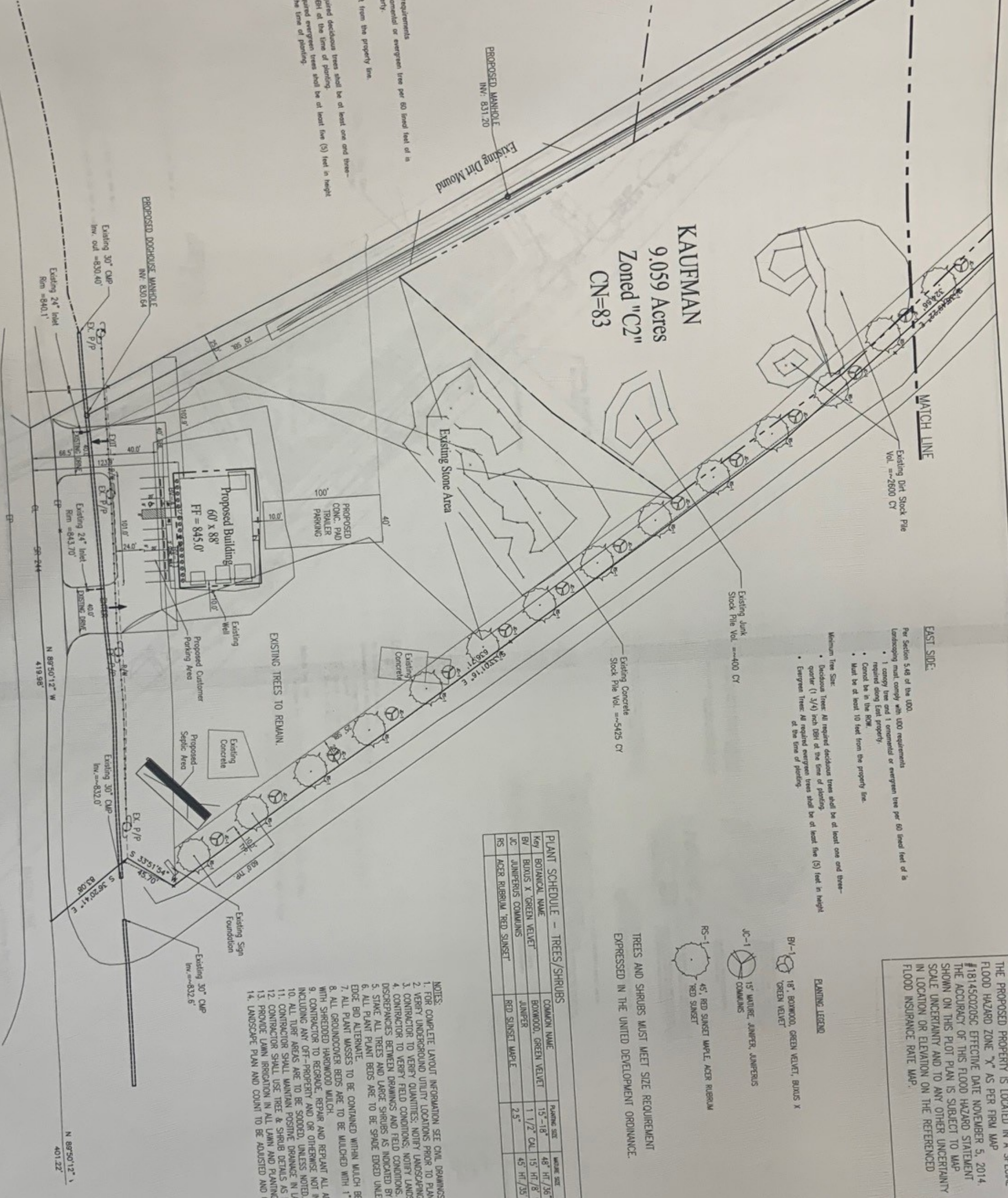
PROPOSED MANHOLE INV: 831.20

Existing Ditch Mound

Existing Stone Area

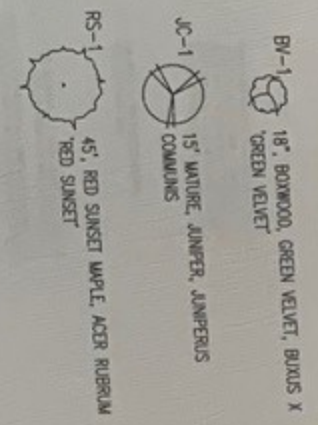
- WEST SIDE:
- Per Section 5.48 of the UDO, Landscaping must comply with UDO requirements
- 1 canopy tree and 2 ornamental or evergreen tree per 60 lineal feet of lot
  - 1 canopy tree and 2 ornamental or evergreen tree per 60 lineal feet of lot
  - Located along East property
  - Cannot be in the ROW
  - Must be at least 10 feet from the property line
- Minimum Tree Size:  
Deciduous trees: All required deciduous trees shall be at least one and three-quarter (1 3/4) inch DBH at the time of planting  
Evergreen trees: All required evergreen trees shall be at least five (5) feet in height at the time of planting

PROPOSED LANDSCAPING PLAN  
9.06 AC., ZONED: C2



PLANT SCHEDULE - TREES/SHRUBS

SYM	COMMON NAME	PLANTING SIZE	WIND PROTECT	QTY
BR-1	BONWOOD, GREEN VELVET	15'-18"	48" HT./75" SPREAD	15
BR-1	BONWOOD, GREEN VELVET	1 1/2" CAL.	15" HT./8" SPREAD	28
JC	JANIBERIS, COMPAK	2.5"	45" HT./35" SPREAD	28
RS	RED SUNSET WATTLE, ACER RUBRA			



TREES AND SHRUBS MUST MEET SIZE REQUIREMENT EXPRESSED IN THE UNITED DEVELOPMENT ORDINANCE

FLOOD INFO:  
THE PROPOSED PROPERTY IS LOCATED IN A SPECIAL FLOOD HAZARD ZONE "X" AS PER FIRM MAP #181450205C EFFECTIVE DATE NOVEMBER 5, 2014. THE ACCURACY OF THIS FLOOD HAZARD STATEMENT SHOWN ON THIS PLAN IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

- NOTES:
1. FOR COMPLETE LAYOUT INFORMATION SEE CIVIL DRAWINGS.
  2. VERIFY UNDERGROUND UTILITY LOCATIONS PRIOR TO PLANT INSTALLATION.
  3. CONTRACTOR TO VERIFY FIELD CONDITIONS, NOTIFY LANDSCAPE ARCHITECT OF ANY DISCREPANCIES.
  4. CONTRACTOR TO VERIFY FIELD CONDITIONS, NOTIFY LANDSCAPE ARCHITECT OF ANY DISCREPANCIES BETWEEN DRAWINGS AND FIELD CONDITIONS.
  5. STAKE ALL TREES AND LARGE SHRUBS AS INDICATED BY INDUSTRY STANDARDS. PROVIDE STEEL EDGE BO ALTERNATE.
  6. ALL PLANT BEDS ARE TO BE SPACED EDGE UNLESS NOTED OTHERWISE. PROVIDE STEEL EDGE BO ALTERNATE.
  7. ALL PLANT BEDS ARE TO BE CONTAINED WITHIN MATCH BED.
  8. ALL GROUNDCOVER BEDS ARE TO BE MULCHED WITH 1" MULCH. SHRUBS WITH 3" MULCH DEPTH WITH SHREDDED HAWTHORN MULCH.
  9. CONTRACTOR TO REGRADE, REPAIR AND REPLANT ALL AREAS DISTURBED BY CONSTRUCTION, INCLUDING ANY OFF-PROPERTY AND OR OTHERWISE NOT INDICATED ON PLANS.
  10. ALL TURF AREAS ARE TO BE SODDED, UNLESS NOTED.
  11. CONTRACTOR SHALL MAINTAIN POSITIVE DRAINAGE IN LAWN AND PLANTING BED AREAS.
  12. CONTRACTOR SHALL USE TREE & SHRUB DETAILS AS PLANTING GUIDELINES.
  13. PROVIDE LAWN IRRIGATION IN ALL LAWN AND PLANTING AREAS.
  14. LANDSCAPE PLAN AND COUNT TO BE ADJUSTED AND COORDINATED WITH TREE SWE PLAN.

PROFESSIONAL ENGINEERING  
**GATES**  
Bruce G. Carter, P.E.  
1678 S. Flatrock River Road  
Rushville, IN 46173  
bruce.carter@gatespe.com



**SPACE and SITES, LLC**  
BUILDING DESIGN, PLANNING  
6 East Taylor St. Shelbyville, IN 46176  
PH 317.392.4444 FAX 317.392.0709  
www.spaceandsites.com  
e-mail: spaceandsites@sbcglobal.net



CHECKED	SYMBOL	REVISION	DATE
TH		PER COUNTY REVIEW	9/26/22
CERT.			
SCALE			
DRAWN			
RC			

SHEET NAME: PROPOSED LANDSCAPING PLAN  
PROJECT NAME: INDIANA TRAILER SALES  
4324 E. SR. 244  
SHELBYVILLE, IN 46176

DATE: JUNE 22, 2022  
PROJECT NO.: 202168  
SHEET NO.: C106

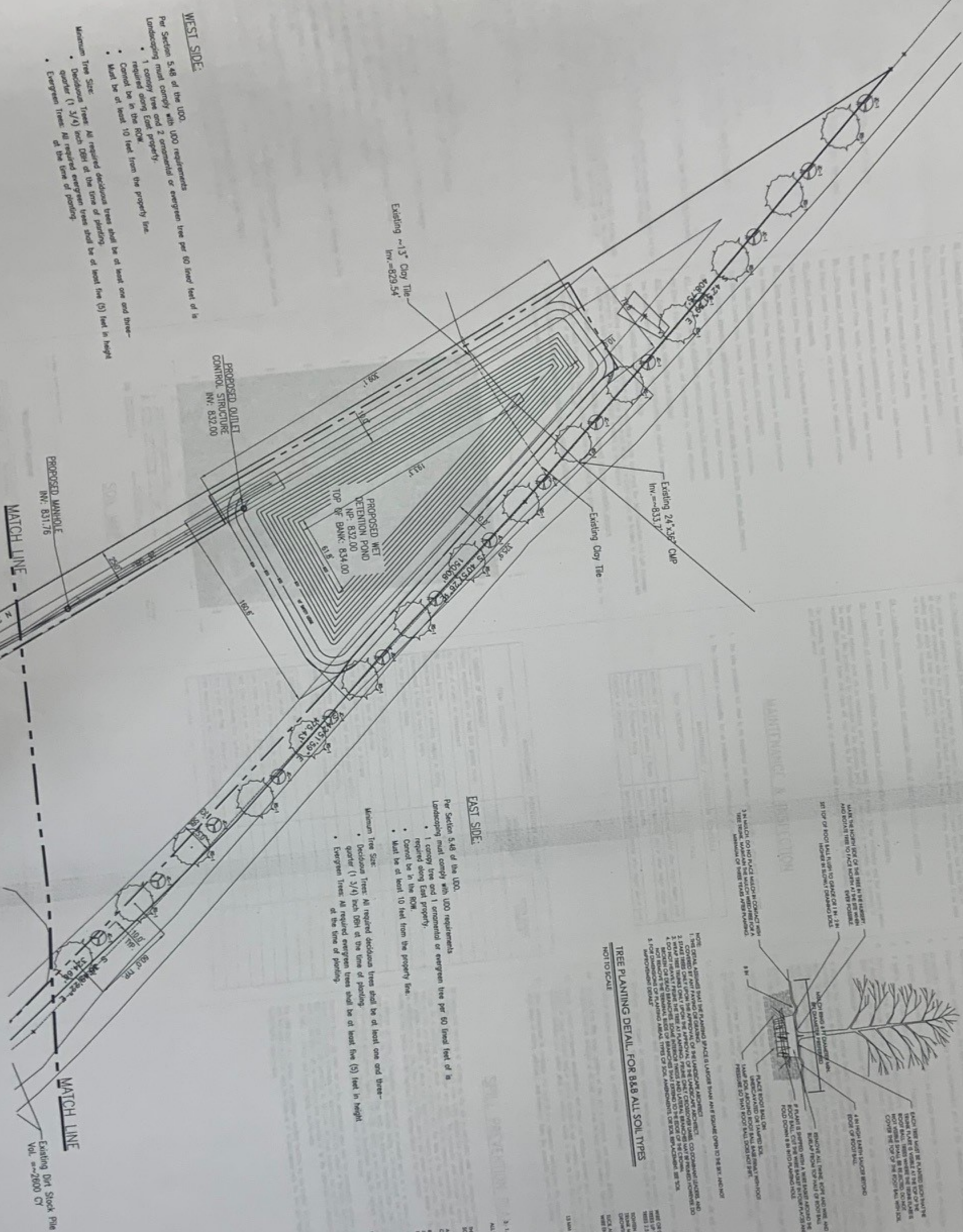




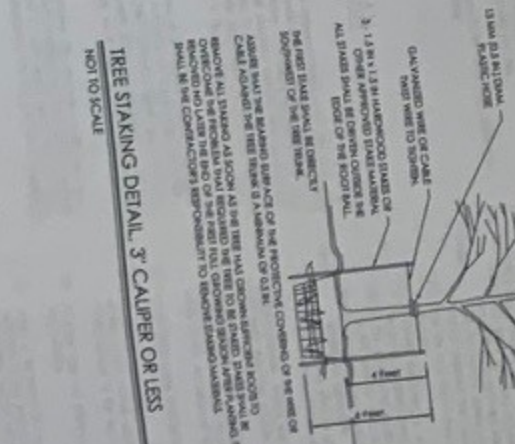
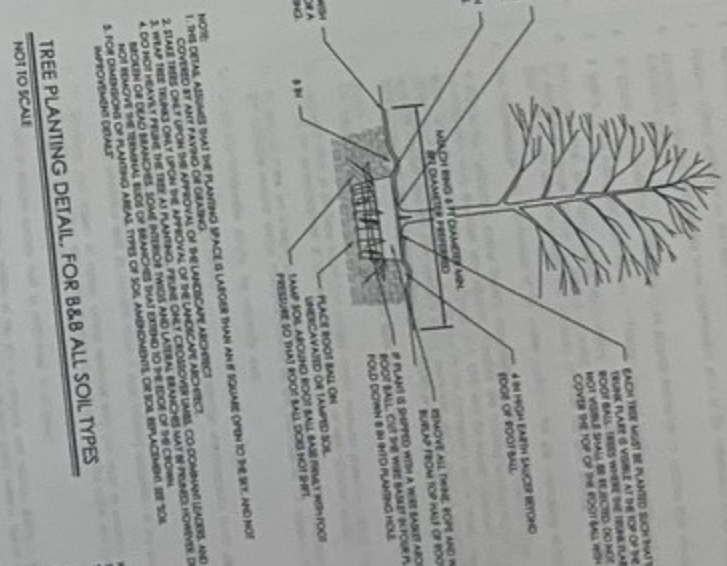


## PROPOSED LANDSCAPING PLAN

9.06 AC., ZONED: C2



STORM WATER POLLUTION PREVENTION PLAN (SWPPP)



**FLOOD INFO:**  
 THE PROPOSED PROPERTY IS LOCATED IN A SPECIAL FLOOD HAZARD ZONE "X" AS PER FIRM MAP #18145C0205C EFFECTIVE DATE NOVEMBER 5, 2014. THE ACCURACY OF THIS FLOOD HAZARD STATEMENT SHOWN ON THIS PLAN IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

**BRUCE G. CARTER, P.E.**  
 1678 S. Flatrock River Road  
 Rushville, IN 46173  
 bruce.carter@gatespe.com

**GATES ENGINEERING**  
 PROFESSIONAL ENGINEERING

**SPACE and SITES, LLC**  
 BUILDING DESIGN, PLANNING  
 6 East Taylor St. Shelbyville, IN 46176  
 PH 317.392.4444 FAX 317.392.0709  
 www.spaceandsites.com  
 e-mail: spaceandsites@sbcglobal.net

**NORTH**  
 SCALE: 1" = 40'



CHECKED	SYMBOL	REVISION	DATE
IN		PER COUNTY REVIEW	9/28/22
SCALE	1"=40'		

BZA Nov 1, 2022  
 Page 31 of 44

SHEET NAME: PROPOSED LANDSCAPING PLAN  
 PROJECT NAME: 9.06 AC., ZONED: C2  
 DATE: JAN 1, 2022  
 PROJECT: C2  
 SHEET NO: C



## Property Details

**Location:** Generally south of McGregor Road and north of the CSX Railroad, Moral Township.

**Property Size:** +/- 302-acres.

**Current Land Use:** Cropland & Vacant Single-Family Residential.

### Current Zoning Classification

I1 (Low Intensity Industrial)

*This district is established for low intensity industrial uses, light manufacturing facilities and business parks.*

### Future Land Use per Comp Plan

Industrial - Focus Area #1- Northwest Corner

*The purpose of this category is to provide for a full range of light and heavy industrial uses. Types of uses include manufacturing, processing, distribution and storage. The designation should accommodate a variety of industrial establishments which:*

- *Employ high environmental quality standards*
- *May function as an integral part of an overall development area*
- *Require large tracts of land because of their nature and function*
- *Have minimal impacts on adjacent uses*

	Zoning	Land Use
North	I1, R1, C2	Warehouse, Single-Family Res
South	A1, I1	Cropland, Estate Res, Heavy Industrial
East	IS, R1, I2	Institutional, Single-Family Res, Heavy Industrial
West	DA (Dwelling Agricultural)	Single-Family Res, Estate Res, Cropland

# Staff Report

**Case Number:** BZA 22-43

**Case Name:** Sunbeam I-74, LLC / I-74 Logistics Park Development Standards Variance

## Request

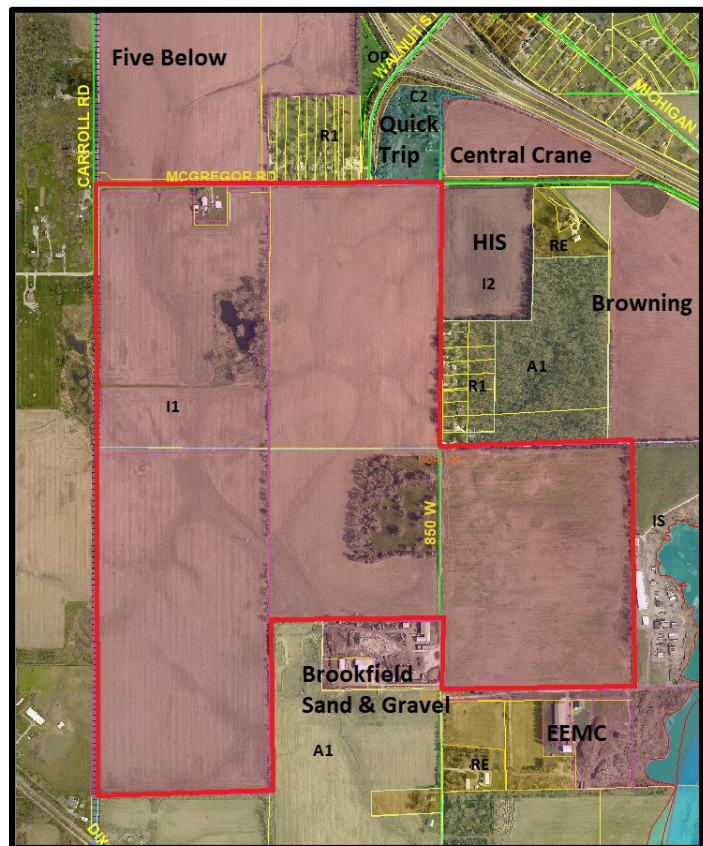
**Variance of Development Standards** to allow non-residential driveways to exceed a maximum overall width of forty-two (42) feet.

## Code Requirement

**UDO Section 5.20 B 1:** *Width: No driveway shall exceed the following widths: Nonresidential Use onto Any Street: Fourteen (14) feet per lane with a maximum overall width of forty-two (42) feet.*

**Purpose of Requirements:** Maximum lane width at the right-of-way encourages orderly traffic circulation and prevents vehicles from tuning within the access point.

## Property Map



## Case Description

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- On October 25, 2022, the Planning Commission granted approval of a Development Plan for the subject property including a commerce park consisting of four industrial warehouses and associated facilities on +/- 300-acres.
- The Development Plan complies with all applicable standards of the UDO, other than that certain driveways exceed the maximum non-residential driveway width of 42-feet.
- The UDO designates driveway width as the width of the driveway at the right-of-way line proposed by the County Comprehensive Plan. The following driveways shown on the Development Plan exceed a maximum width of 42-feet at the right-of-way line:

	Width at ROW Line	Maximum Internal Width
<b>Building 1 South Access – McGregor Rd</b>	52.7-feet	54-feet
<b>Building 1 North Access – McGregor Rd.</b>	52.7-feet	40-feet
<b>Building 3 Access – McGregor Rd. at Traffic Circle</b>	120-feet	50-feet
<b>Private Road Access – CR 850 N</b>	152-feet	51-feet

- The variance application states: The maximum drive width of 42-feet does not allow for adequate turning movements for a WB-67 vehicle (common semi-trailer) in certain locations.
- Any conditions imposed by the Board as stipulations of approval must directly relate to evidence presented regarding the width of the driveways.

## Staff Analysis of Findings of Fact

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

Staff Analysis: Approval would improve traffic conditions on the public roads by providing for safer truck-turning movements and by limiting curb cuts.

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

Staff Analysis: Approval would improve traffic conditions on public roads providing access to adjacent properties.

- 3. State Requirement: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in use of the property.**

Staff Analysis: The south access to Building 1 includes an option for a guard shack near the road, which necessitates a wider driveway. The internal north access to Building 1 complies with the driveway width requirement, however the necessary turning radius for truck movements within the right-of-way exceeds the width requirement. Trucks and passenger vehicles will share the access driveway to Building 3 and the Private Road, which necessitates wider driveways. Sharing of access points limits curb cuts, thereby improving traffic circulation and safety on the public roads.

## Staff Recommendation

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**APPROVAL** primary because the variance would improve traffic safety and circulation on the public roads.

### *Applicant/Owner Information*

---

Applicant: Sunbeam I-74, LLC  
11800 Exit Five Parkway, Suite 110  
Fishers, IN 46037

Owner: Same

Applicant's  
Representative: Christopher King  
144 E. Rampart St.  
Shelbyville, IN 46176

Engineer: Kimley-Horn – Bryan Sheward, P.E.  
250 E 96<sup>th</sup> Street, Suite 580  
Indianapolis, IN 46240

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Sunbeam I-74, LLC

Case #: \_\_\_\_\_

Location: Approximately 12105 McGregor Road, Indianapolis, IN 46259

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standards Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community. Approval of the requested variance will not be injurious to the public health, safety, or general welfare of the community. Approval of the requested variance will result in a safer traffic condition, allowing adequate space for truck turning movements. Approval will result in the improvement to public health, safety, and general welfare.
  
2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The use and value of adjacent properties will not be affected in an adverse manner. Approval of the variance will allow the subject property to function as intended without detracting from the use and value of adjacent properties.
  
3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property. The maximum drive width of does not allow for adequate turning movements for a WB-67 vehicle (common semi trailer) in certain locations. The proposed variance will provide additional space for vehicles to safely access the proposed facilities and provide additional turn lanes for internal drive access.

**The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:**

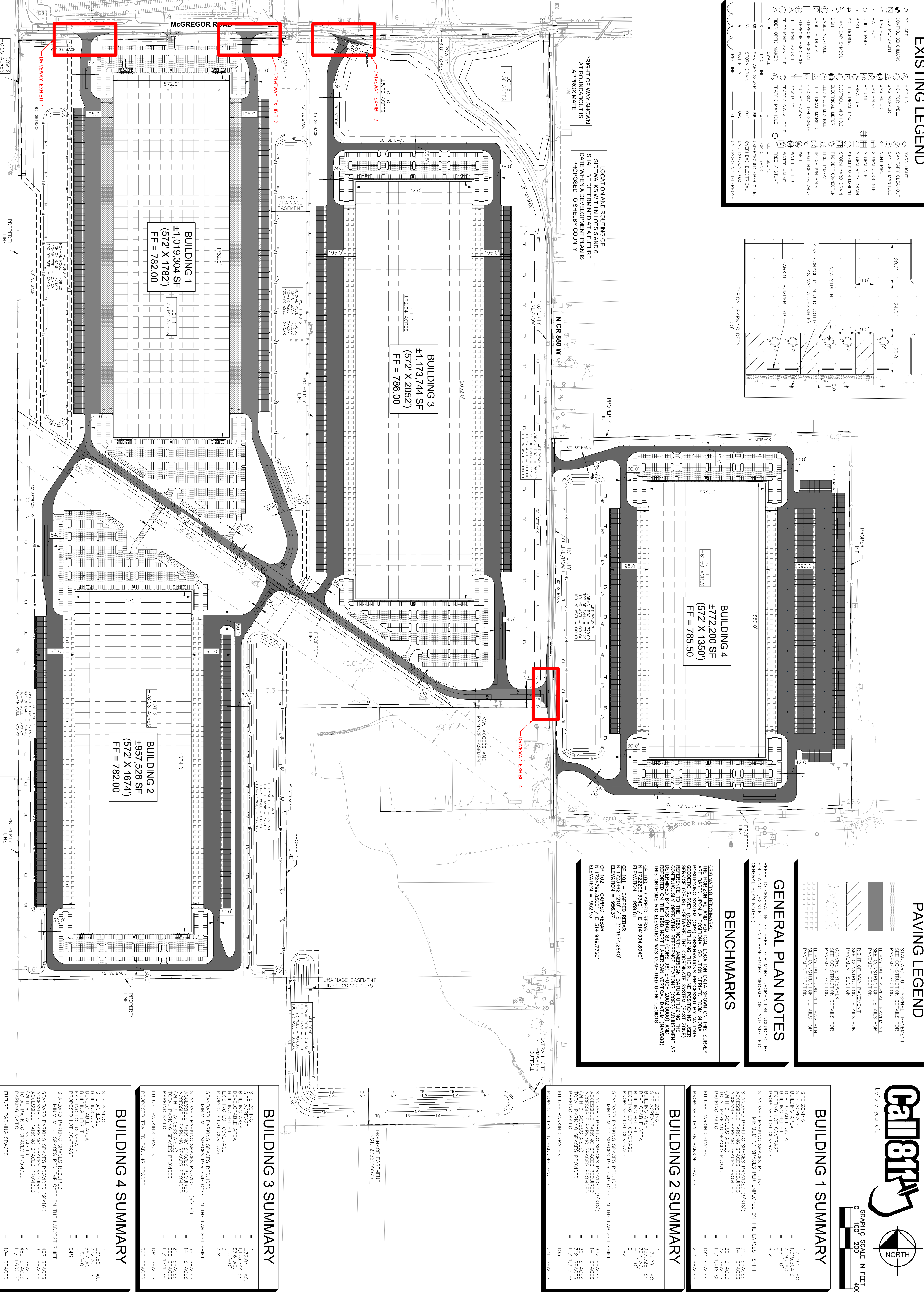
**General Welfare:** How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

**Adjacent Property:** How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

**Practical Difficulty:** This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain (ex. of practical difficulty: topography of property, location of septic system, consistency with nearby land uses, historical use of property, etc.)



This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



**Kimley & Horn**

250 EAST 96TH STREET, SUITE 580,  
 INDIANAPOLIS, IN 46240  
 WWW.KIMLEY-HORN.COM

DESIGNED BY: EMF  
 DRAWN BY: CDC  
 CHECKED BY: BAS

SCALE: AS NOTED

DATE: 10/04/2022

**SUNBEAM**  
 DEVELOPMENT CORPORATION

**INDIANA UTILITIES PROTECTION SERVICE**  
*before you dig*

**GRAPHIC SCALE IN FEET**  
 0 100' 200' 400'

**REVISIONS**

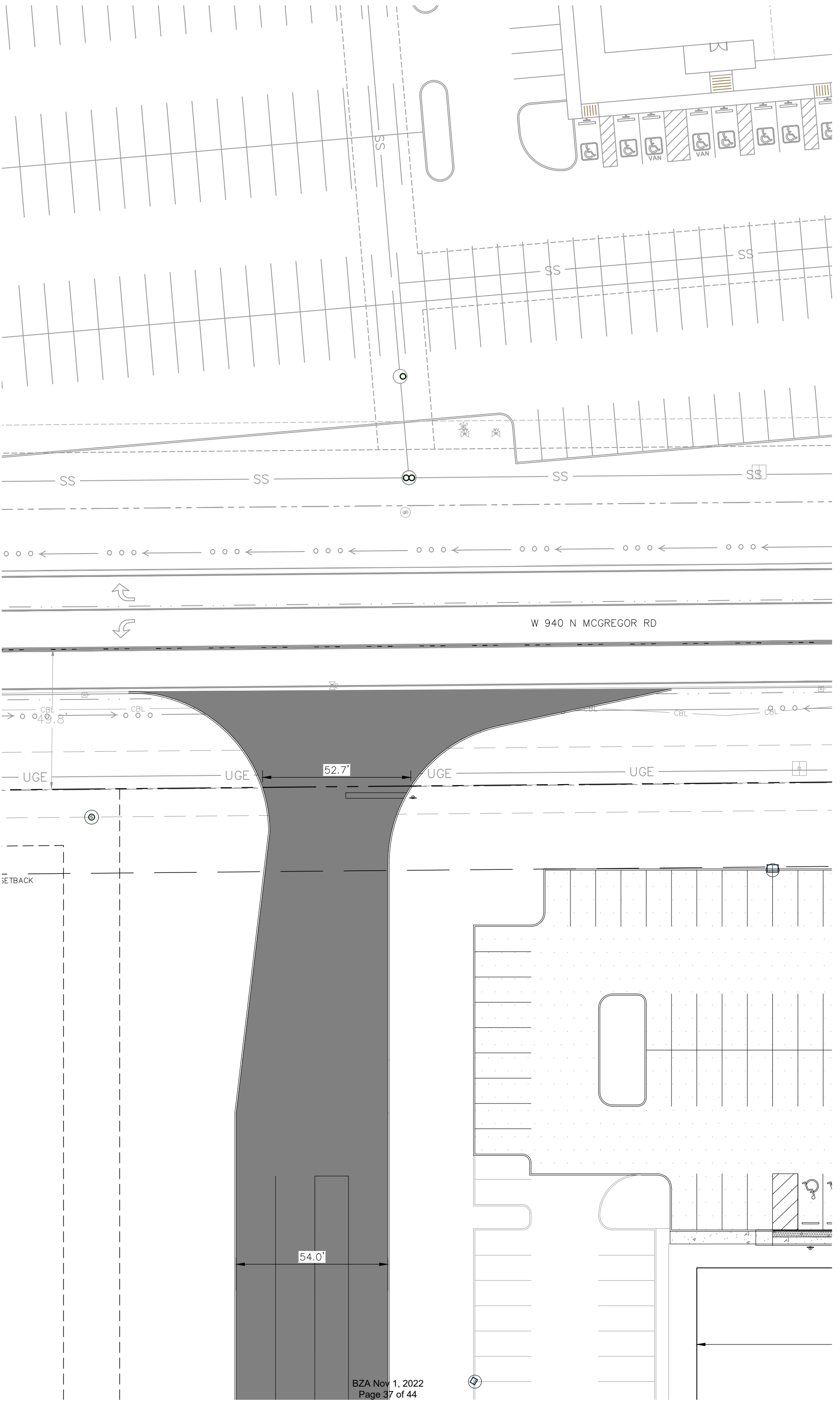
No.	REVISIONS	DATE	BY

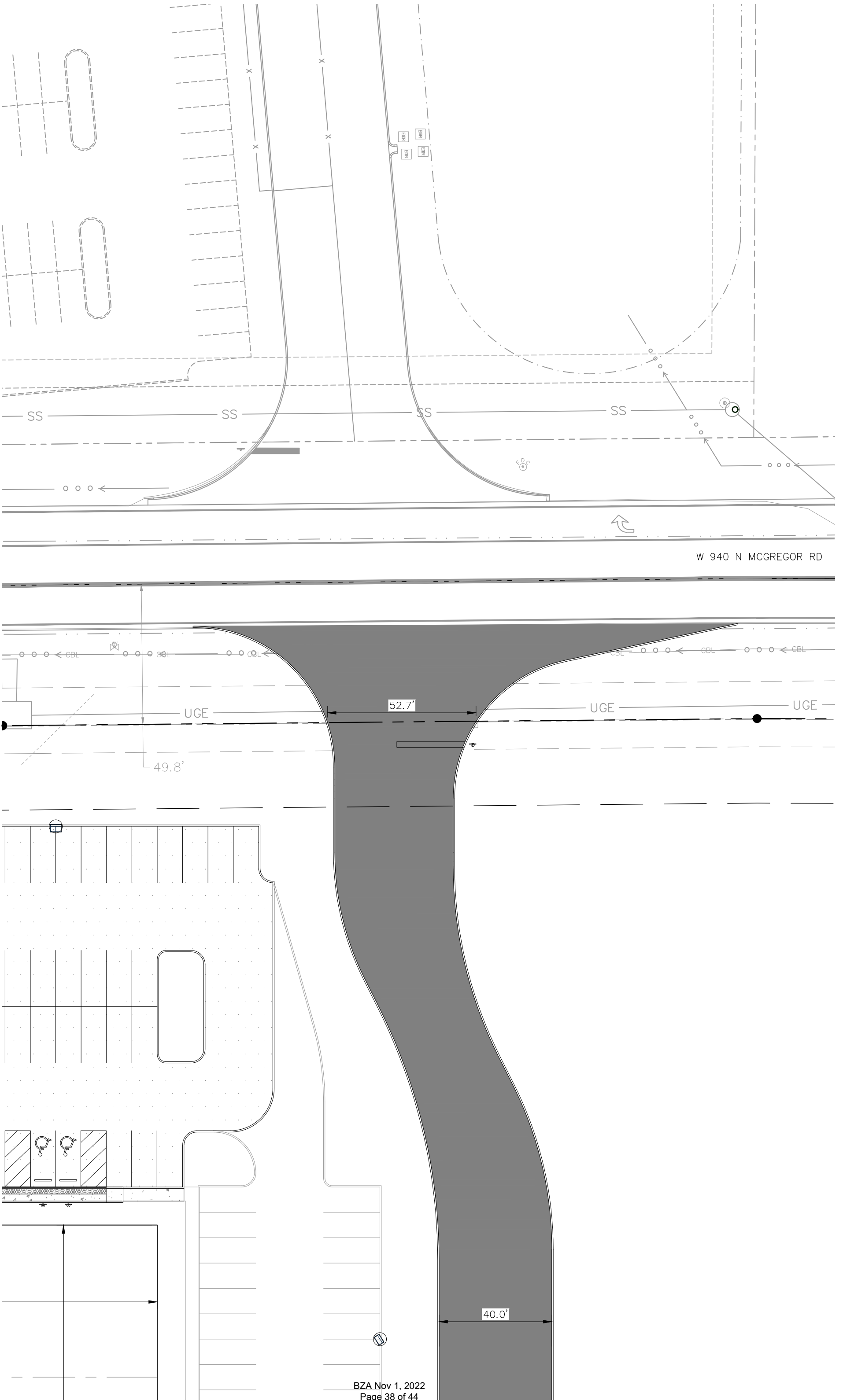
**I-74 EAST COMMERCE PARK**  
 SWC OF MCGREGOR RD & N CR 850 W,  
 FAIRLAND, INDIANA 46126

**OVERALL SITE PLAN**

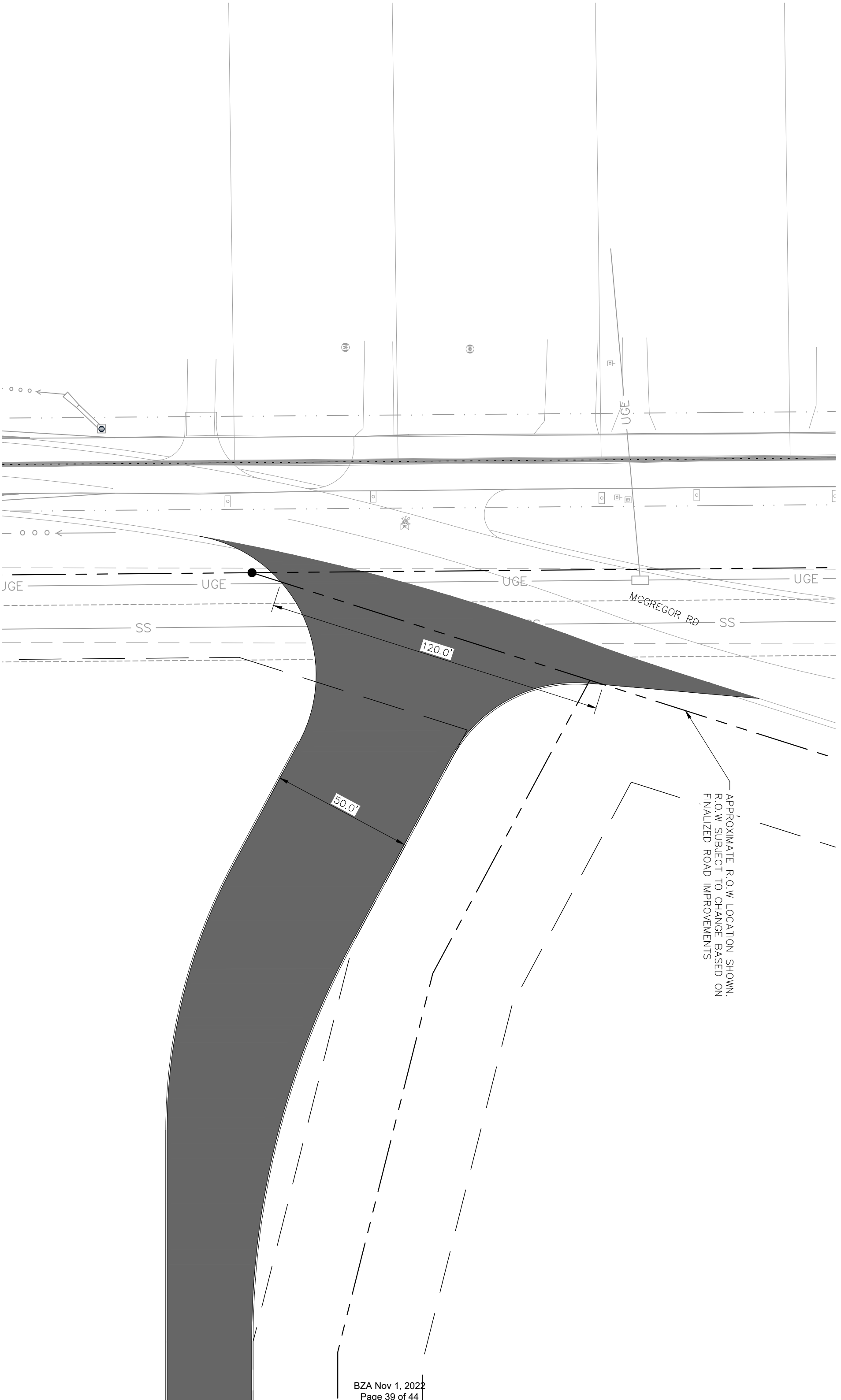
**BRYAN ALLEN, INC.**  
 REGISTERED PROFESSIONAL ENGINEER  
 10/04/2022

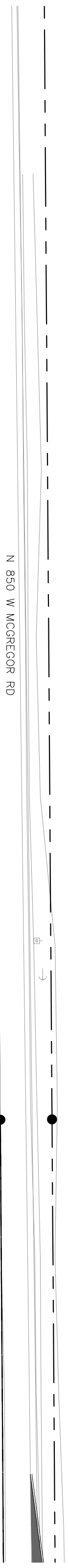
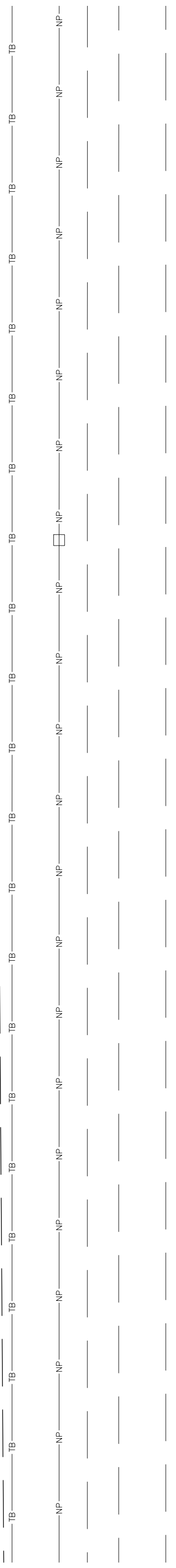






W 940 N MCGREGOR RD

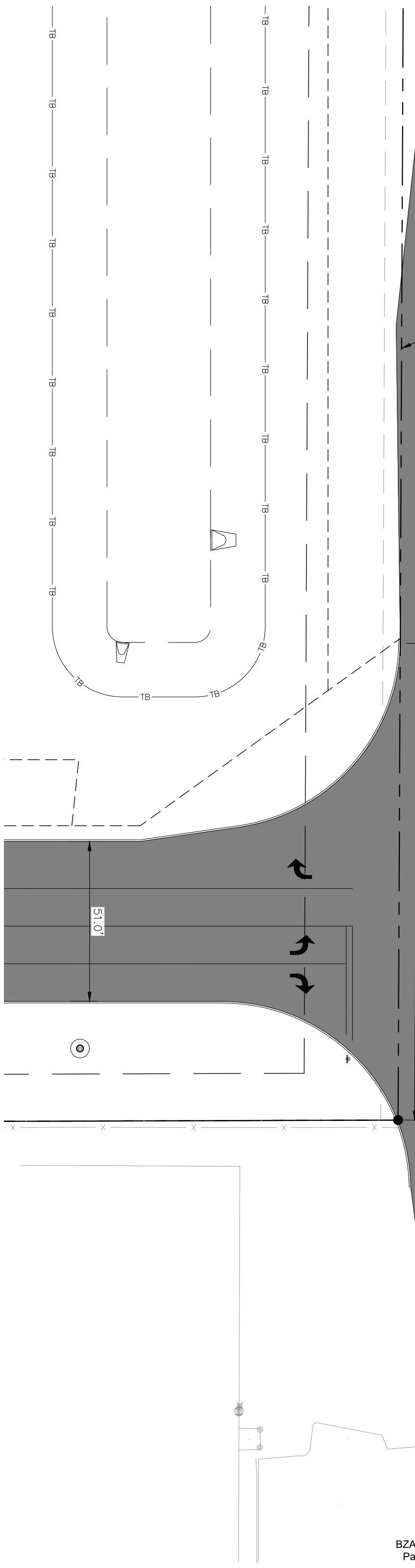




APPROXIMATE R.O.W. LOCATION SHOWN.  
 R.O.W. SUBJECT TO CHANGE BASED ON  
 FINALIZED ROAD IMPROVEMENTS

152.0'

51.0'





# Shelby County BZA

## Memo

**To:** Shelby County BZA

**From:** Desiree Calderella, Planning Director

**RE:** Speedway Solar – Approval of form of decommissioning surety bond, per the Decommissioning Plan approved by the BZA as a stipulation of case BZA 19-01 – Speedway Solar LLC, approved on March 12, 2019.

### Background

On March 12, 2019 the Shelby County Board of Zoning Appeals approved Special Exception and Variance petition BZA 19-01, pertaining to several parcels north of E 500 N, south of E 850 N, and between N 500 W and N 980 W.

The approval allows for the development of a 199-megawatt Commercial Solar Energy System (CSES), covering approximately 1,800-acres and having a panel area of approximately 1,014 acres in the A1 (Conservation Agricultural) and A2 (Agricultural) Districts. The approval also allows for construction of the facility to begin up to four years from the date of BZA approval and allows the CSES to exceed the maximum lot coverage of 15% of the lot area.

The approval includes a stipulation that Speedway Solar agrees to comply with the terms of the Decommissioning Plan Agreement submitted to the BZA (with two minor changes requested by the BZA at the meeting).

### Decommissioning Plan

The approved decommissioning plan ensures removal of the entire solar facility after the end of its useful life. The Plan requires removal of all solar panels and underground conductors, demolition debris, fencing, and roads if the project does not produce electrical power for twelve (12) consecutive months. The Plan also requires that Speedway Solar provide a surety bond to the County equal to the value of the net removal cost, including reasonable adjustments for inflation.

25 W Polk St, Shelbyville, IN 46176  
T: 317-392-6338 W: <https://www.co.shelby.in.us/plan-commission/>

The Plan requires BZA approval of the form of the surety bond and the licensed professional engineer retained by Speedway Solar to determine the net removal cost.

Regarding the form of surety bond, the Plan states: *Company shall deliver to BZA a surety bond in a form and substance reasonably satisfactory to BZA (the "Restoration Fund") securing performance of the decommissioning obligations.*

At their October 2022 meeting, the Board approved Speedway Solar's request to retain Stantec Consulting Services Inc. to provide the estimate of the net removal cost.

## Surety Bond Form

The Plan Commission Attorney reviewed the form of the surety bond submitted by Speedway Solar and requested a few amendments for further protect the interests of the County. Speedway Solar has agreed to the amendments. The final surety bond form is included after this memo.

Note that County legal counsel has determined that this request is not a public hearing requiring public notice or comment. Public comment will be at the discretion of the BZA.

**Annually Renewable Site Decommissioning Bond**

**BOND # \_\_\_\_\_**

KNOW ALL MEN BY THESE PRESENTS: That Speedway Solar, LLC (hereinafter called the "Principal"), and \_\_\_\_\_ (hereinafter called the "Surety"), are held and firmly bound unto the Shelby County, Indiana Board of Zoning Appeals (hereinafter called the "Obligee"), in the full and just sum of \_\_\_\_\_ (\$ \_\_\_\_\_), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and each of their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal was granted special exception and variance petitions BZA 19-01 by the Obligee on March 12, 2019 for the construction of the Commercial Solar Energy System (CSES) in Shelby County, Indiana (hereinafter called the "Permit").

WHEREAS, pursuant to the Permit, Principal is required to maintain a decommissioning bond.

WHEREAS, the Obligee has agreed to accept a bond guaranteeing the decommissioning obligations of said Permit for a period of one year.

NOW, THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATION ARE SUCH, that if the Principal shall well and truly perform each and every decommissioning obligation in said Permit at the time and in the manner specified during the term of this bond, and shall reimburse said Obligee for any loss which said Obligee may sustain by reason of failure or default on the part of said Principal, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is subject to the following conditions:

1. This bond is for the term beginning \_\_\_\_\_ and expiring \_\_\_\_\_. The bond will automatically renew for a one year period upon the expiration date set forth above and upon each anniversary of such date, unless at least ninety (90) days prior to such expiration date or any anniversary of such date, Surety provides written notice to both the Obligee and Principal of its intention to non-renew this bond. If the Surety timely provides notice of non-renewal, then not less than forty-five (45) days before the expiration of the term of this bond, Principal shall procure a replacement bond on the same terms as the bond then in effect and provide notice and confirmation of the replacement to the Obligee. Failure of the Principal to procure a suitable replacement bond or provide notice of replacement within the specified timeframe shall be an event of default of this bond, which shall entitle Obligee to payment of funds equal to the penal sum of the bond. The Surety shall reserve the right to reinstate the bond at its own discretion.
2. In the event of default by the Principal, Obligee shall deliver to Surety by certified mail, a written statement of the facts of such default, within thirty (30) days of the occurrence. In the event of default, the Surety will have the right and opportunity, at its sole discretion, to: a) cure the default; b) assume the remainder of the Permit and to perform or sublet same; c) or to tender to the Obligee funds sufficient to pay the cost of completion up to an amount not to exceed the penal sum of the bond. In no event shall the Surety be liable for fines, penalties, liquidated damages, or forfeitures assessed against the Principal.
3. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought or instituted upon the Surety within one (1) year from termination or expiration of the bond term.
4. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein, the Board of Commissioners of Shelby County, Indiana, or the administrator or successors of either.
5. The aggregate liability of the Surety is limited to the penal sum stated herein regardless of the number or amount of claims brought against this bond and regardless of the number of years this bond remains in force.
6. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this bond and as described in the Permit, then the terms of this bond shall prevail.
7. The Obligee's acceptance of this bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 202\_.

PRINCIPAL: Speedway Solar, LLC

BZA Nov 1, 2022  
Surety: \_\_\_\_\_  
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\_\_\_\_\_ (seal)  
(seal) (Name & Title)

\_\_\_\_\_