

Shelby County Plan Commission

February 22, 2022 at 7:00 PM

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MEETING AGENDA

Shelby County Plan Commission
February 22, 2022 at 7:00 P.M.

CALL TO ORDER

ROLL CALL

ELECTION OF OFFICERS

PC APPOINTMENT TO THE BZA

PC APPOINTMENT OF BZA HEARING OFFICER

ATTORNEY CONTRACT

APPROVAL OF MINUTES

Minutes from the January 25, 2022 meeting.

OLD BUSINESS

None.

NEW BUSINESS

RZ 22-03 – DOLLAR GENERAL REZONING: Rezoning of 3 acres from the A1 (Conservation Agricultural) District to the VM (Village Mixed-Use) District to allow for development of the property for low-intensity retail use. Located west of and adjoining 3075 W Old SR 252, Flat Rock, Washington Township.

SD 22-02 – ROBERTSON DIVISION SIMPLE SUBDIVISION: Subdivision of one 3-acre commercial lot from ~36-acre parent tract. Located west of and adjoining 3075 W Old SR 252, Flat Rock, Washington Township.

Browning Investments Traffic & Street Impact Study: Plan Commission determination based on study that public street(s) are designed to effectively and safely convey the existing and added traffic generated by the development, or whether the street will be prematurely degraded by the added traffic generated by the development. Located at 9201 N Frontage Rd, Fairland, Moral Township. *note this is not a public hearing.

DISCUSSION

None.

ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **March 22, 2022 at 7:00 PM.**

Property Details

Location: West of and adjoining 3075 W Old SR 252, Flat Rock, Washington Township.

Property Size: 2.91-acres.

Current Land Use: Cropland.

Current Zoning Classification

A1 (Conservation Agricultural)
This district is established for the protection of agricultural areas and buildings associated with agricultural production.

Proposed Zoning Classification

VM (Village Mixed Use)
*This district is established for the mixed use developments currently within small towns to allow them to expanded into rural town centers that may offer a variety of housing, commercial and institutional amenities.
 see attached district intent, permitted uses, special exception uses, and development standards.

Future Land Use per Comp Plan

Agricultural
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 | R1 | Single-Family Residential |
| South | A1 | Cropland |
| East | VR | Village Residential |
| West | A1 | Agricultural Commercial |

Staff Report

Case Number: RZ 22-03 / SD 22-02

Case Name: Dollar General – A1 (Conservation Agricultural) to VM (Village Mixed Use) & Robertson Division Simple Subdivision

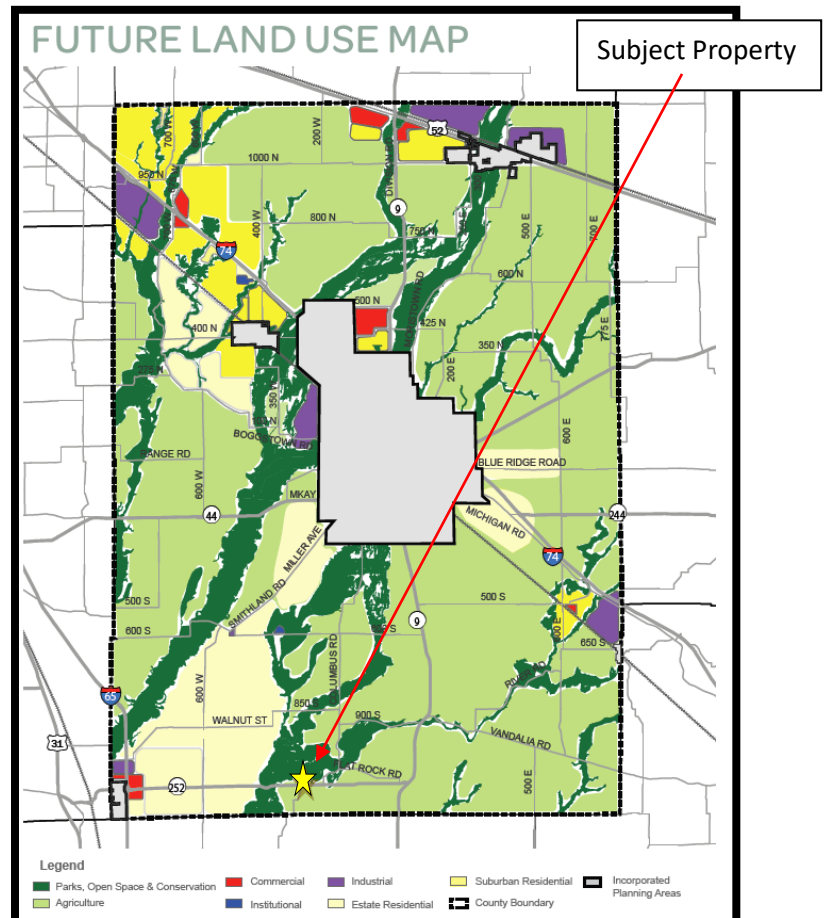
Requests

Rezoning of 2.91 acres from the A1 (Conservation Agricultural) District to the VM (Village Mixed Use) District to allow for development of the property for medium-intensity retail use.

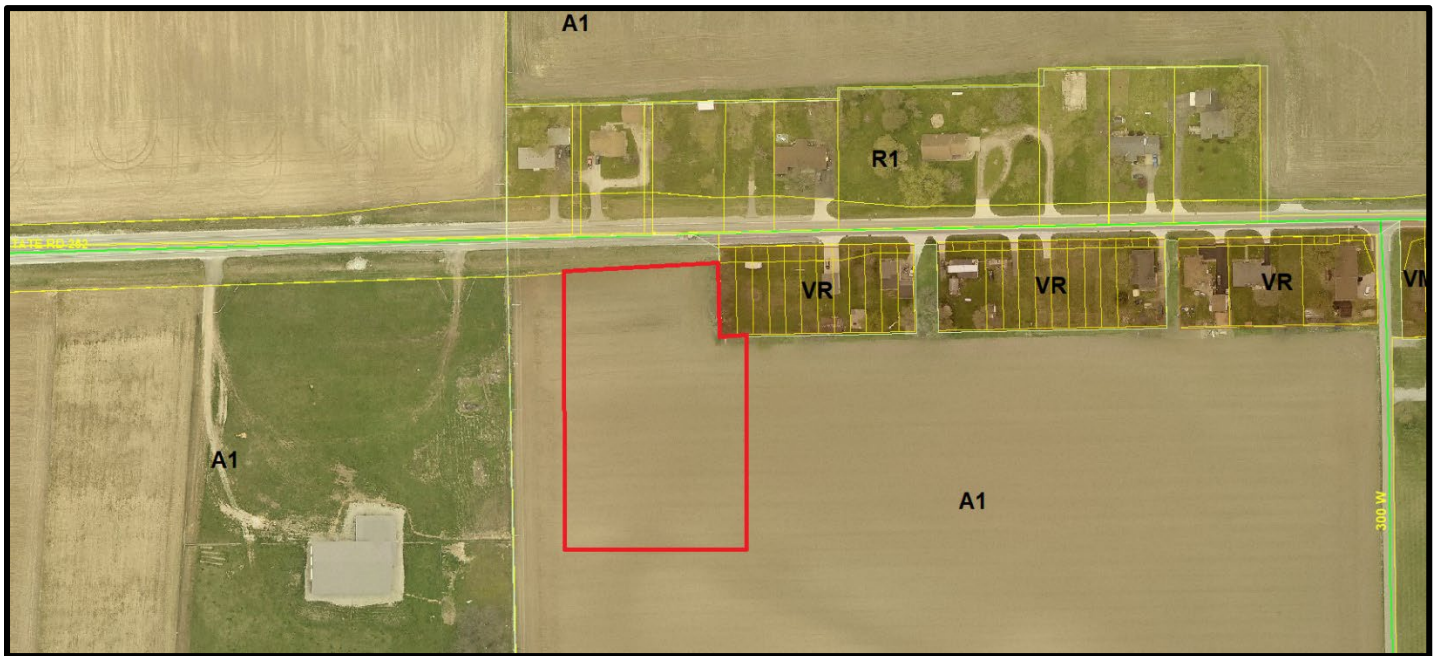
Simple Subdivision of one 3-acre commercial building lot from a ~36-acre parent tract.

Waiver of subdivision type standards to allow for Simple Subdivision of property zoned VM (Simple Subdivisions only permitted for property zoned A3, A4, or RE).

Future Land Use Map



Property Map



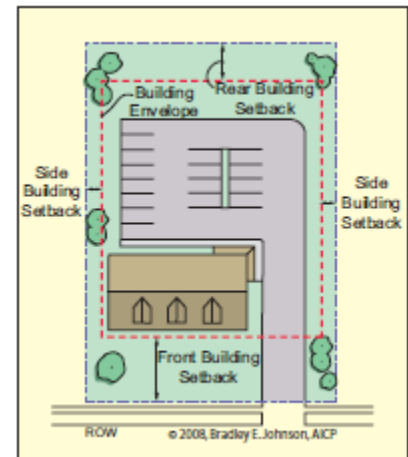
Case Description

- The property is located between the I-65/Old SR 252 interchange and SR 9/Old State Road 252 intersection, at the western limits of the unincorporated town of Flat Rock.
- Existing development in Flat Rock includes small-lot residential development, institutional uses, and varying intensities of commercial development. The physical design of development varies, and the town does not have a consistent development pattern.
- The petitioner intends to develop the subject property for medium-intensity retail use, specifically a Dollar General Store.
- Proposed development includes a 10,640 sq. ft. retail building, parking lot in front of the building, truck delivery and outdoor trash storage area at the east side of the building, parking lot and property line landscaping, water well, and septic system.
- The property has access to electric lines, a fiberoptic line, and a gas line which run along Old SR 252; however, the property does not have access to a water or sewer line. The petitioner submitted plans for the septic system to the Indiana State Department of Health, however the State has forwarded these plans to the Shelby County Health Department for review and approval.
- Old SR 252 includes a sidewalk along the south side of the road through the unincorporated town of Flat Rock. The sidewalk ends one-quarter mile from the subject property. The petitioner proposes to add a sidewalk within the right-of-way along Old SR 252 as an extension to this sidewalk network.

- The UDO requires fee simple right-of-way dedication as shown on the Future Throughfare Map of the Comprehensive Plan prior to issuance of an Improvement Location Permit for all nonagricultural and non-residential primary structures. The plat includes this right-of-way dedication.
- The UDO permits Type 3 Retail, Medium Intensity as a Special Exception in the VM District. The UDO defines Type 3 Retail, Medium Intensity Retail as *retail businesses that have a moderate impact on neighboring properties, traffic generation, and public safety. Example businesses include a: antique shop, apparel shop, art and craft supplies, book store, boutique, building supply store (small), convenience store (large), department store (small), drug store (large), fabric shop, furniture shop (small), garden shop, gift shop (large), grocery/supermarket (small), home electronics/appliance store (small), liquor sales, music/media shop, office supply store (small), party/event store (small), pawn shop, pet grooming/store, plant nursery, print shop/copy center, pro shop, quick cash/check cashing, shoe store/repair, sign shop, sporting goods (small), variety store (small) and video/DVD rental.*
- The development will require approval of a Special Exception from the Board of Zoning Appeals subsequent to approval of the rezoning.
- Staff recommended that the petitioner apply to rezone the property to VM rather than the C2 District, which would permit the use without Special Exception approval, because of the greater compatibility of the VM District with existing rural town centers. Specifically, the following statements of intent for the VM District included in the UDO support the chosen zoning district:

- Use, Type and Intensity: Medium to high intensity commercial.
- Application of District: Expansion of rural town centers.
- Appropriate Adjacent Districts: A1, VR, R1
- Plan Commission: Use this zoning district to create and expand rural town centers.

- The example development pattern for new development in the VM District included in the UDO shows the primary structure near the street and all parking in the rear yard. However, standard architectural plans for Dollar General Stores do not include this design option.



- The Plan Commission has previously approved a rezoning to C2 (Highway Commercial) for a Dollar General development adjoining the corporate limits of Saint Paul. The C2 zoning designation would have been compatible with the area due to the proximity of site to the intersection of major throughfares and access to sanitary sewer.
- The Site Plan Committee, which consists of the Planning Director, Building Inspector, County Surveyor, Health Department Environmental Technician, and a representative from the Drainage Board would review a detailed site plan prior to issuing construction permits. USI Consultants, Inc would review the drainage plans to ensure the project design complies with the County's Drainage & Sediment Control Ordinance.
- The USDA Soil Survey classifies the property as 'All Areas are Prime Farmland'.

Staff Analysis Findings of Fact

Rezoning: In accordance with IC 36-7-4-603 and the UDO, when considering a rezoning, the Plan Commission shall pay reasonable regard to:

1. Current Conditions and the Character of Current Structures and Uses in Each District

Considerations Supporting Rezoning:

- The UDO designates all zoning districts adjoining the property as compatible districts with the VM District.
- The physical design of each commercial development in nearby Flat Rock varies, therefore the proposed development would not conflict with an established development pattern.
- Most commercial development within Flat Rock has been assigned the VM zoning designation.
- The proposed development plan positions the building and parking lot on the west side of the property, at the location furthest from the adjacent residential property to the east.

2. The Most Desirable Use for Which the Land in Each District Is Adapted

Considerations Supporting Rezoning: The proposed use would provide a retail service within walking distance of the residential properties located in the unincorporated town of Flat Rock. Also, the proposed use would provide a retail service within convenient driving distance of rural residential properties located a significant distance away from retail centers in Shelbyville and Edinburgh.

Considerations Contradicting Rezoning: The USDA Soil Survey identifies the property as Prime Farmland. Approval of the request would remove Prime Farmland from production.

3. The Conservation of Property Values throughout the Jurisdiction

Considerations Supporting Rezoning: The proposed use would improve the use and enjoyment of nearby residential properties by providing a retail service currently nonexistent in the area.

Considerations Contradicting Rezoning: The use would generate a minimal amount of light and noise not currently posing an impact to immediately adjacent residential properties.

4. Responsible Development and Growth

Considerations Supporting Rezoning: The proposed use would remove a minimal amount of prime farmland from production, provide a convenient retail service to a rural portion of the County, and would improve upon the character of the area. Development of the site in compliance with ordinance standards would mitigate potential impacts to adjacent residential development. The site has access to all utilities needed to support the development.

5. The Comprehensive Plan

Considerations Supporting Rezoning:

- Community Character Goal 1: Focus on reinvestment and improvement within existing populated areas and rural town centers.

- Strategy 4: Work to create additional entertainment and shopping opportunities which appeal to future generations.
- Strategy 5: Provide opportunities and resources which allow communities to grow in population.
- Land Use Goal 1: Welcome and promote future development in appropriate areas of the County.
 - Strategy 1: Balance development patterns and character with available transportation and utility resources and existing character context.
 - Strategy 2: Encourage additional development of residences, recreational venues, industries, and retail establishments in areas which will benefit currently populated portions of the county.
- Land Use Goal 3: Encouraged re-investment and improvement within our existing cities and unincorporated towns first.
 - Strategy 2: Focus on improving blighted areas in towns and other areas populated throughout the county.
 - Strategy 3: Encourage and support improvement decisions in communities which will retain and attract residents.
 - Strategy 4: Work to create additional entertainment and shopping opportunities which appeal to future generations.
 - Strategy 5: Provide opportunities and resources which allow our communities to grow their population.
- Economic Development Goal 2: Encourage diversity in business and industry throughout the County

Considerations Contradicting Rezoning:

- Community Character Goal 2: Protect and promote our rural heritage and agricultural assets.
 - Strategy 1: Promote the county's agricultural heritage, natural resources, and quiet rural lifestyle as unique assets to attract new businesses and residents to Shelby County.
- Land Use Goal 1: Welcome and promote future development in appropriate areas of the County.
 - Strategy 3: Identify and promote development areas for all major land use types identified on the Future Land Use Map. Future Land Use Map: Agricultural
 - Strategy 6: Focus resources on areas having infrastructure that will support development and encourage transition of developed areas without infrastructure to agricultural uses.
- Land Use Goal 2: Ensure future development decisions enhance and don't detract from the County's rural character and agricultural function.
 - Strategy 1: Preserve prime farmland and agricultural road frontage in rural areas of the county.
 - Strategy 2: Conserve agricultural land.

- Economic Development Goal 1: Attract new residents, businesses and employers to key parts of the County.
 - Strategy 1: Encourage development of commercial/retail, multi-family, and single family housing along the I-74 corridor.

Simple Subdivision: Staff has reviewed the proposed plat and has determined:

1. The subdivision of land is consistent with the Shelby County Comprehensive Plan.
2. The subdivision of land satisfies the development requirements of Article 06: Subdivision Types, pending approval of a waiver to allow for Simple Subdivision of property zoned VM.
3. The subdivision of land satisfies the standards of Article 07: Design Standards.
4. The subdivision of land satisfies any other applicable provisions of the Unified Development Ordinance.
5. The subdivision of land satisfies the construction requirements of Shelby County's Construction Standards.
6. Approval of the waiver would allow for subdivision of a commercial property that does not require internal streets, shared utilities, additional landscape buffers, and other standards generally applicable to multi-lot commercial subdivisions.

Staff Recommendation

Staff recommends **APPROVAL** of the **Rezoning** and **Simple Subdivision** primarily because the proposed development would remove a minimal amount of prime farmland from production, provide a convenient retail service to a rural portion of the County, and would improve upon the character of the area.

Staff recommends the following stipulations:

1. Development of the site shall be consistent with the Site Plan submitted with the rezoning application. The Zoning Administrator shall have the discretion to require Plan Commission approval of any modification to the site plan.
2. A sidewalk shall be installed within the right-of-way of Old SR 252 in compliance with Section 7.21 of the Shelby County Unified Development Ordinance.
3. All parking spaces shall be located in the rear yard, unless the building incorporates architectural standards in compliance with Section 5.13 of the Unified Development Ordinance.

Rational For Stipulations

Stipulation 1: Waives additional plan commission development plan review.

Stipulation 2:

- *A sidewalk network is currently established on nearby properties.*
- *Comprehensive Plan states 'it is important to have continuous sidewalk throughout these communities to ensure people of all ages and abilities can travel and move without having to rely on a vehicle for local trips.*

- *UDO Village Mixed Use Intent - Development Standards: Pedestrian friendly development standards to help create rural town centers.*
- *UDO Village Mixed Use Intent - Plan Commission: Use this zoning district to create and expand rural town centers.*
- *UDO Commercial Subdivision Standards – 6-foot sidewalk required along external streets.*
- *See attached Section 7.21*

Stipulation 3:

- *Comprehensive Plan states “Focus on improving blighted areas in towns and other areas populated throughout the county”*
- *UDO Village Mixed Use Intent – Plan Commission: Use this zoning district to create and expand rural town centers.*
- *UDO intended development pattern for new development in the VM District.*
- *See attached Section 5.13*

Applicant/Owner Information

Applicant: Will McDonough - Paul Primavera & Associates
301 E Chestnut St.
Corydon, IN 47112

Owner: Eric D Robertson
2740 W 1200 S
Flat Rock, IN 47234

Surveyor: Will McDonough - Paul Primavera & Associates
301 E Chestnut St.
Corydon, IN 47112

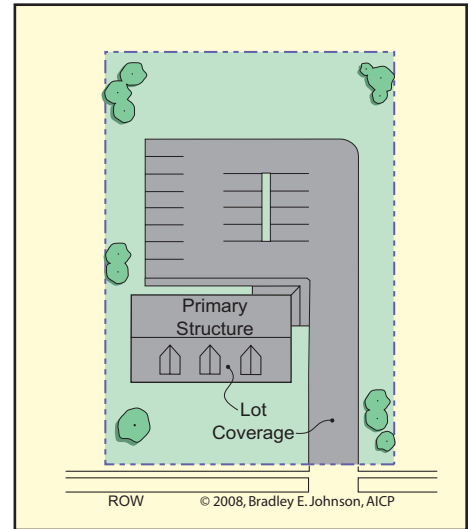
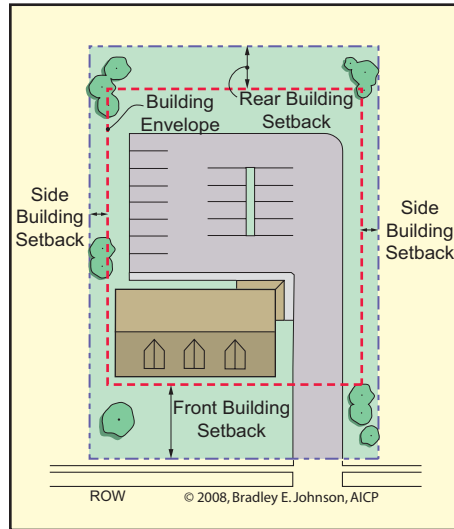
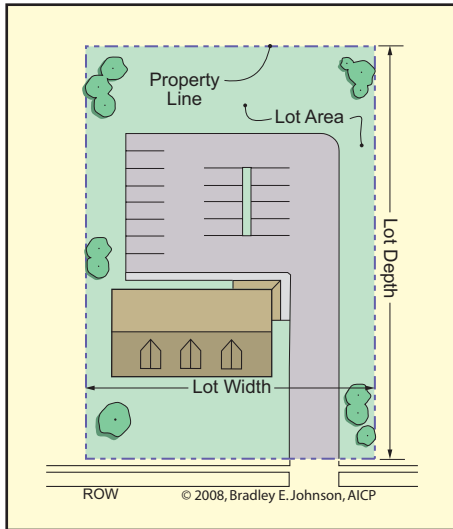
Village Mixed Use (VM) District

2.25 VM District Intent, Permitted Uses, and Special Exception Uses

| District Intent | Permitted Uses | Special Exception Uses |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The VM (Village Mixed Use) District is intended to be used as follows:</p> <p>Use, Type and Intensity</p> <ul style="list-style-type: none"> • Medium to high density housing on small to medium sized lots • Medium to high intensity commercial, institutional, and office uses <p>Application of District</p> <ul style="list-style-type: none"> • Existing development near cities and towns • Expansion of rural town centers <p>Development Standards</p> <ul style="list-style-type: none"> • Pedestrian friendly development standards to help create rural town centers • Minimize light, noise, water, and air pollution <p>Appropriate Adjacent Districts</p> <ul style="list-style-type: none"> • OP, A1, A2, RE, R1, R2, VR, M1, M2, MP, VM, IS and C1 <p>Plan Commission</p> <ul style="list-style-type: none"> • Use this zoning district to create and expand rural town centers <p>Board of Zoning Appeals</p> <ul style="list-style-type: none"> • Allow a special exception use only when it is compatible with the surrounding residential areas | <p>Commercial Permitted Uses</p> <ul style="list-style-type: none"> • bank machine/atm • barber/beauty shop • coffee shop • day care • delicatessen • farmers market • ice cream shop • office, design services • office, financial services • office, general services • office, medical • photography studio • recreation center/play center • restaurant • retail (type 1), very low intensity • retail (type 2), low intensity • studio arts • tailor/pressing shop <p>Institutional Permitted Uses</p> <ul style="list-style-type: none"> • church, temple, or mosque • community center • parking lot, public • police, fire, or rescue station • post office • school (P-12) <p>Residential Permitted Uses</p> <ul style="list-style-type: none"> • dwelling, manufactured home • dwelling, multiple-family (5 to 8 units) • dwelling, single-family attached • dwelling, single-family detached • dwelling unit, upper floors • fair housing facility (small) | <p>Commercial Special Exception Uses</p> <ul style="list-style-type: none"> • automobile oriented business • bar/tavern • retail (type 3), medium intensity <p>Residential Special Exception Uses</p> <ul style="list-style-type: none"> • bed and breakfast |

Village Mixed Use (VM) District

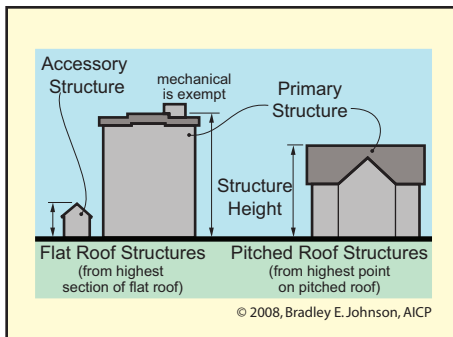
2.26 VM District Development Standards



- Minimum Lot Area**
 - 6,000 square feet
- Minimum Lot Width**
 - 60 feet
- Minimum Lot Frontage**
 - 50 feet
- Sewer and Water**
 - As per the Health Department
 - As per the Health Department

- Minimum Front Yard Setback**
 - 25 feet
- Minimum Side Yard Setback**
 - 15 feet
- Minimum Rear Yard Setback**
 - 20 feet

- Maximum Lot Coverage**
 - 70% of lot area
- Minimum Dwelling Size:**
 - 900 square feet
- Minimum Main Floor Area:**
 - 900 square feet
- Maximum Primary Structures**
 - no limit



- Maximum Structure Height**
 - 35 feet for primary structure
 - 20 feet for accessory structure

Additional Development Standards that Apply

| | | |
|-----------------------------------|--------------------------------|------------------------------|
| Accessory Structure (AS) | Landscaping (LA) | Sewer and Water (SW) |
| • AS-01 Page 5-4 | • LA-01 Page 5-36 | • SW-01 Page 5-61 |
| • AS-07 Page 5-6 | • LA-02 Page 5-37 | • SW-02 Page 5-61 |
| Density and Intensity (DI) | • LA-05 Page 5-38 | Sign (SI) |
| • DI-01 Page 5-10 | • LA-06 Page 5-38 | • SI-01 Page 5-64 |
| Driveway (DW) | • LA-07 Page 5-39 | Storage Tank (ST) |
| • DW-01 Page 5-11 | Lighting (LT) | • ST-01 Page 5-71 |
| • DW-05 Page 5-15 | • LT-01 Page 5-41 | Structure (SR) |
| Environmental (EN) | Lot (LO) | • SR-01 Page 5-72 |
| • EN-01 Page 5-16 | • LO-01 Page 5-43 | Temporary Use (TU) |
| Fence and Wall (FW) | Outdoor Storage (OS) | • TU-01 Page 5-75 |
| • FW-01 Page 5-17 | • OS-01 Page 5-45 | • TU-03 Page 5-75 |
| • FW-06 Page 5-19 | • OS-02 Page 5-45 | • TU-04 Page 5-75 |
| Floodplain (FP) | • OS-04 Page 5-46 | Vision Clearance (VC) |
| • FP-01 Page 5-20 | Parking (PK) | • VC-01 Page 5-76 |
| Floor Area (FA) | • PK-03 Page 5-48 | |
| • FA-01 Page 5-26 | Performance (PF) | |
| Height (HT) | • PF-01 Page 5-55 | |
| • HT-01 Page 5-27 | Public Improvement (PI) | |
| Home Business (HB) | • PI-01 Page 5-56 | |
| • HB-01 Page 5-28 | Pond (PN) | |
| • HB-02 Page 5-29 | • PN-01 Page 5-57 | |
| Keeping of Animals (KA) | Setback (SB) | |
| • KA-03 Page 5-34 | • SB-01 Page 5-59 | |

5.13 AR-03: Commercial Architectural Standards

This Architectural Standards section applies to the following districts:

C1 C2

A. Facade:

1. **Front Facade:** The front facade shall face the public or private street to which the business gains primary access, except as described below.
 - a. **Corner Lots:** On corner lots, the front facade may face either street.
2. **Other Facades:** Any facade that faces a public or private street shall be finished to a standard similar to the architectural quality of the front facade, including: building materials, architectural detail, windows, or faux windows. Long facades (30 feet or greater) or large areas (420 square feet) of a facade without visual relief shall not be permitted

B. Site Planning and Layout: Lineal/strip development shall incorporate variation in structure height, building mass, roof forms and changes in wall planes.

C. Entries: A building greater than 15,000 square feet shall have clearly defined, highly visible customer entrances featuring no less than two (2) of the following:

1. Canopies or porticos;
2. Overhangs;
3. Arcades;
4. Raised corniced parapets over the door;
5. Peaked roof forms;
6. Arches;
7. Outdoor patios;
8. Architectural details such as tile work and moldings that are integrated into the building structure and design;
9. Two or more notable, permanent or portable planters that incorporate landscaping or flowers;
10. Wing walls;
11. Columns;
12. A notable wall sign is mount above or beside the entrance; or
13. Awnings.

D. Sprinkler System: A building shall not have more than two (2) stories above ground. However, taller buildings may be permitted if a sprinkler system is installed and if the Fire Department with jurisdiction reviews and approves the design with written letter indicating the maximum height in which they can comfortably suppress a fire. This section shall not supersede the applicable maximum structure height.

5.14 AR-04: Institutional Architectural Standards

This Architectural Standards section applies to the following districts:

IS

A. Sprinkler System: A building shall not have more than two (2) stories above ground. However, taller buildings may be permitted if a sprinkler system is installed and if the Fire Department with jurisdiction provides a written letter indicating the maximum height in which they can comfortably suppress a fire. This section shall not supersede the applicable maximum structure height.

7.21 PN-01: Pedestrian Network Standards; General

This Pedestrian Network Standards section applies to the following types of development:



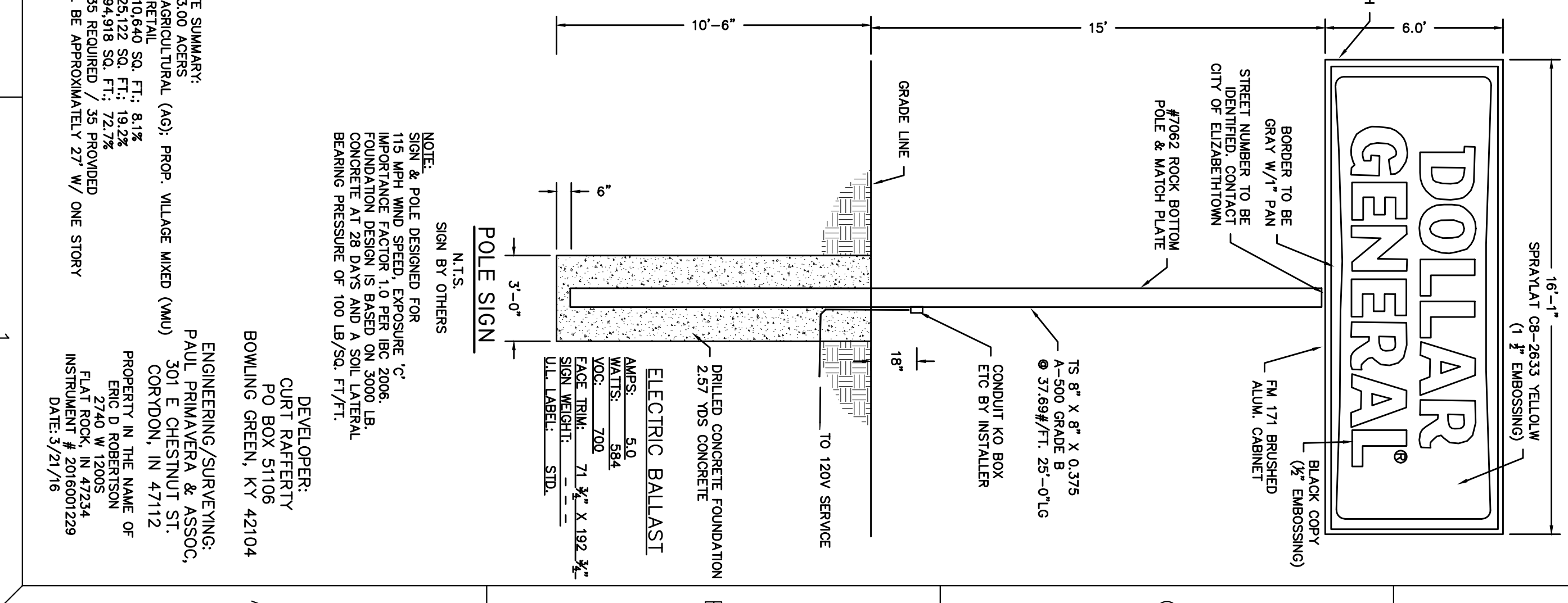
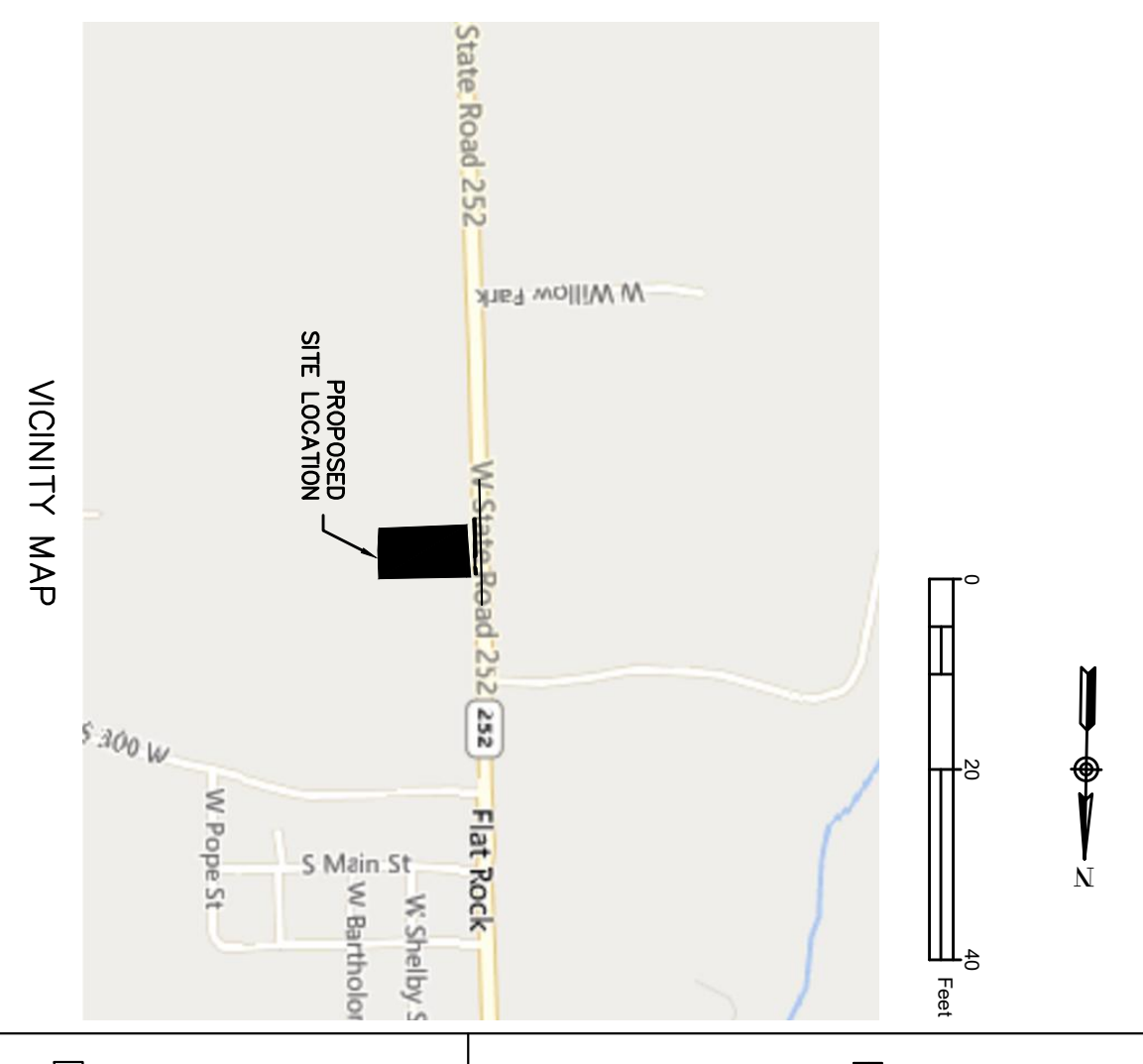
- A. **General:** All developments shall integrate an interior and exterior pedestrian network comprised of concrete sidewalks or asphalt paths for pedestrian transportation and recreation. This network shall include pedestrian facilities along street frontages and pedestrian connector paths between developments and public destinations (e.g. schools, parks, hospitals), nearby trails, other developments, and vacant land.
- B. **Width:** The minimum width of required pedestrian facilities shall be as indicated on the two-page layouts for each subdivision type in *Article 06: Subdivision Types*.
- C. **Location:** Except as provided below, all streets shall require pedestrian facilities on both sides of the street:
 - 1. **Exception:** Cul-de-sacs less than 300 feet in length and providing access to less than ten (10) residential units shall only be required to install pedestrian facilities on one (1) side of the street. All other required trails and connector paths shall still be required.
- D. **Placement:** To the extent possible, all required sidewalks shall be located one (1) foot inside the right-of-way to be dedicated to the County. If utility poles, trees, or other physical characteristics complicate installation, then the sidewalk or path may extend into individual lots or common area if the area of encroachment is placed within a pedestrian easement.
- E. **Minimum Tree Plot Width:** All sidewalks shall be spaced away from the back of curb to provide a tree plot and to provide pedestrian separation from vehicles. Except as specified elsewhere in this Unified Development Ordinance, tree plots may shall be a minimum of five (5) feet and shall be planted with grass.
- F. **Administrative Waiver:** When the petitioner can demonstrate the acceptability of waiving or altering certain design standards relating to pedestrian facilities, it may be the ruling of the Zoning Administrator, after consultation by Technical Advisory Committee, that such standards be altered.
- G. **Sidewalk or Path Construction:** All concrete sidewalk and asphalt path improvements are to be constructed as in accordance with the Shelby County construction and engineering standards.

| Revision | Date | Description | By |
|----------|------|-------------|----|
| 7: | | | |
| 6: | | | |
| 5: | | | |
| 4: | | | |
| 3: | | | |
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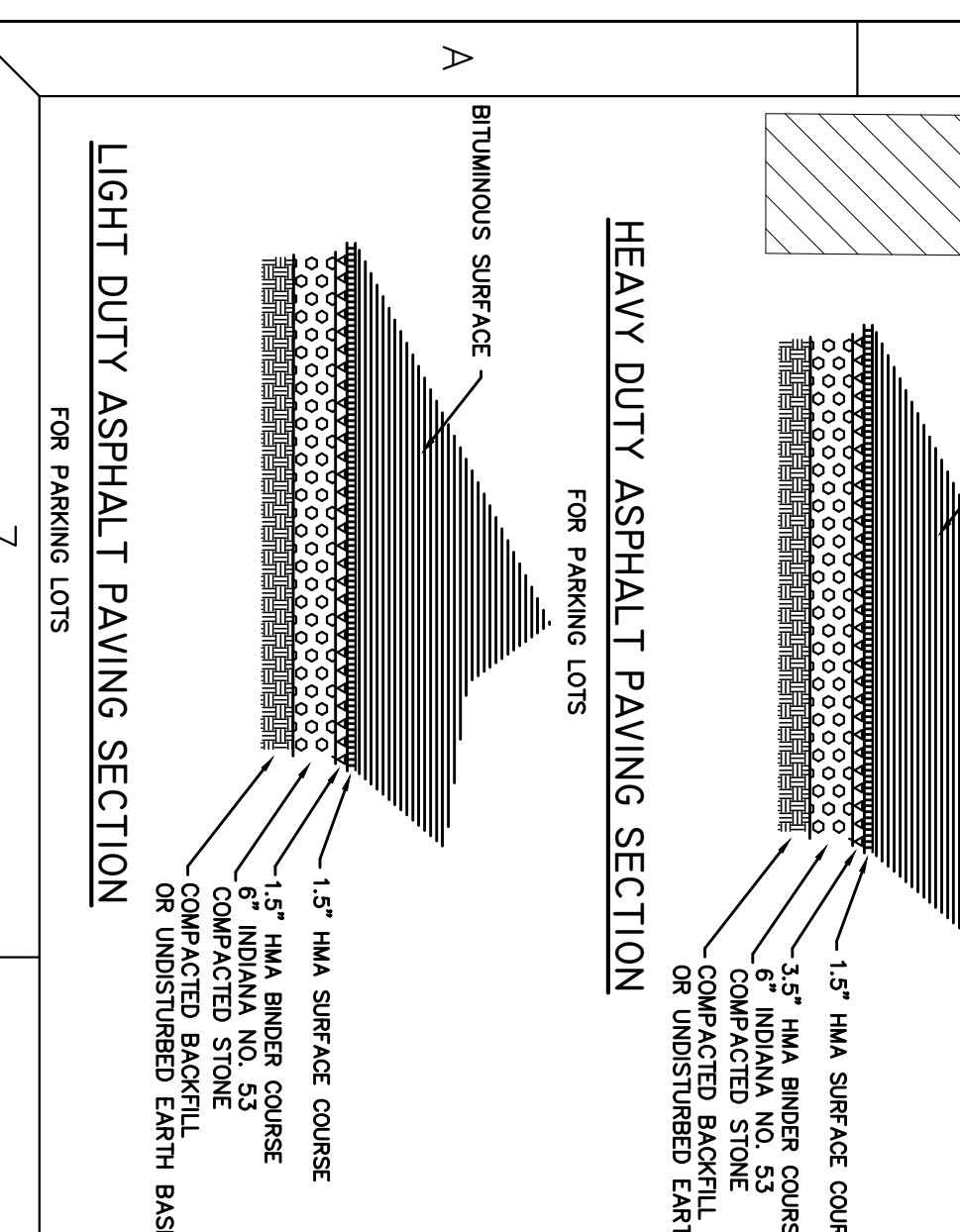
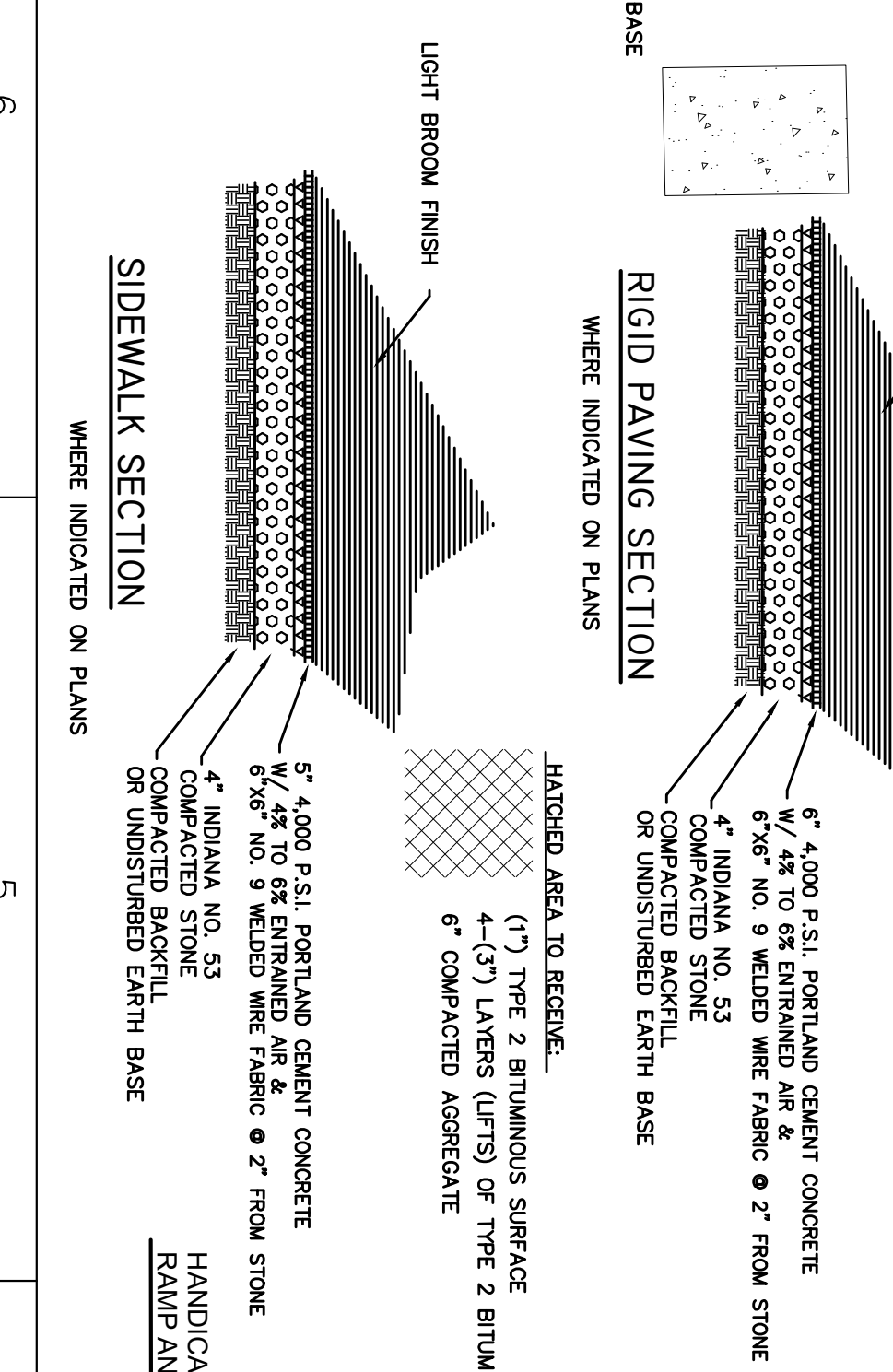
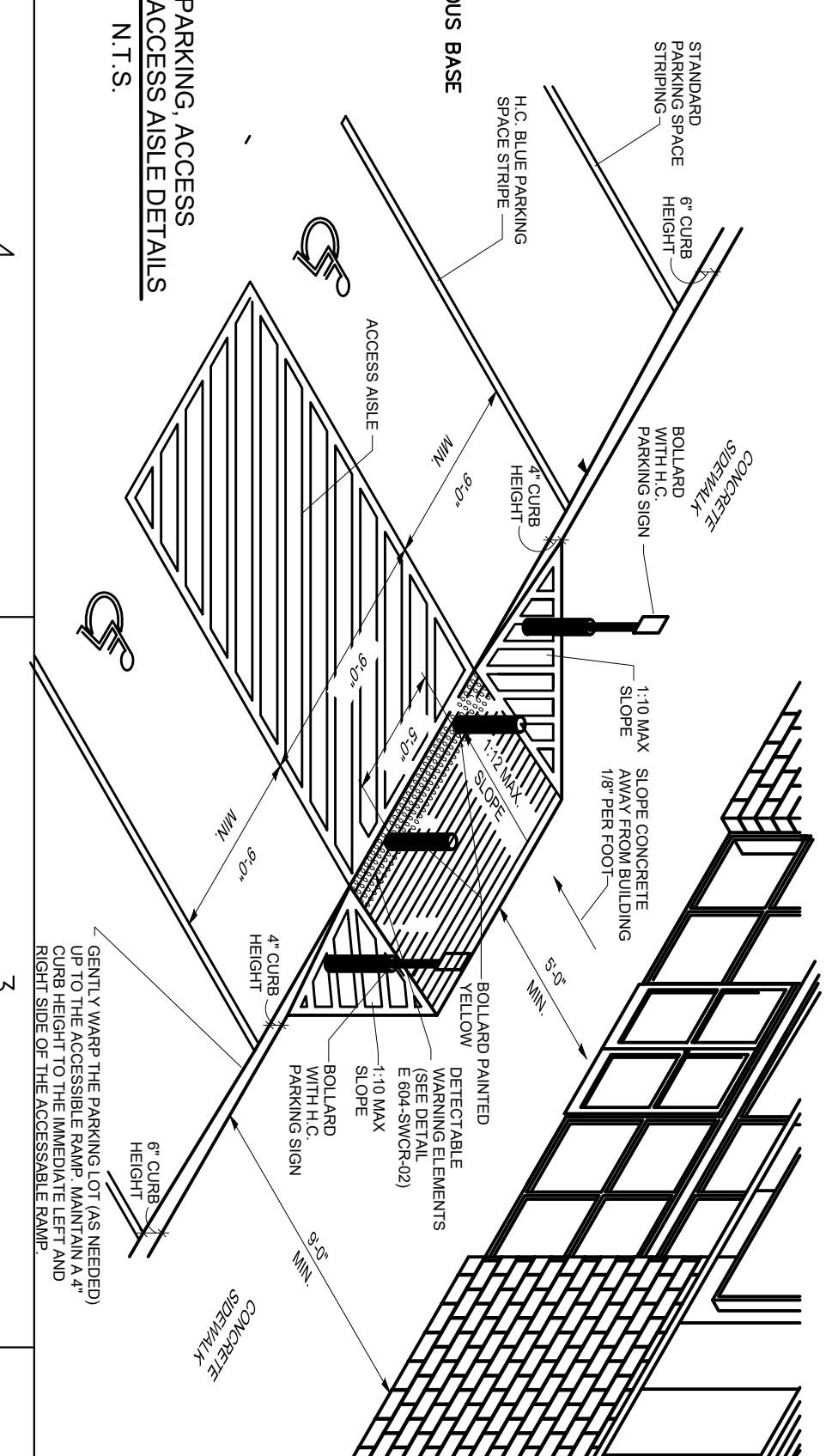
DOLLAR GENERAL
 BY: CURT RAFFERTY
 STATE ROAD 252
 FLAT ROCK, IN (SHELBY CO.)
 SITE PLAN

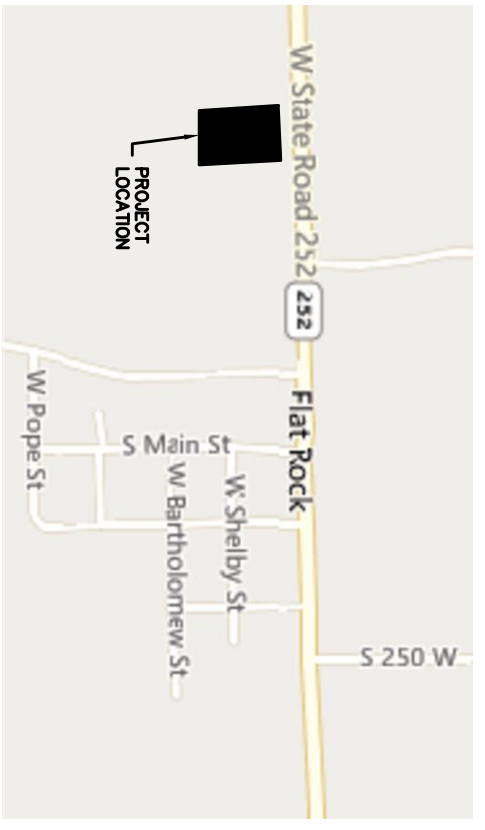
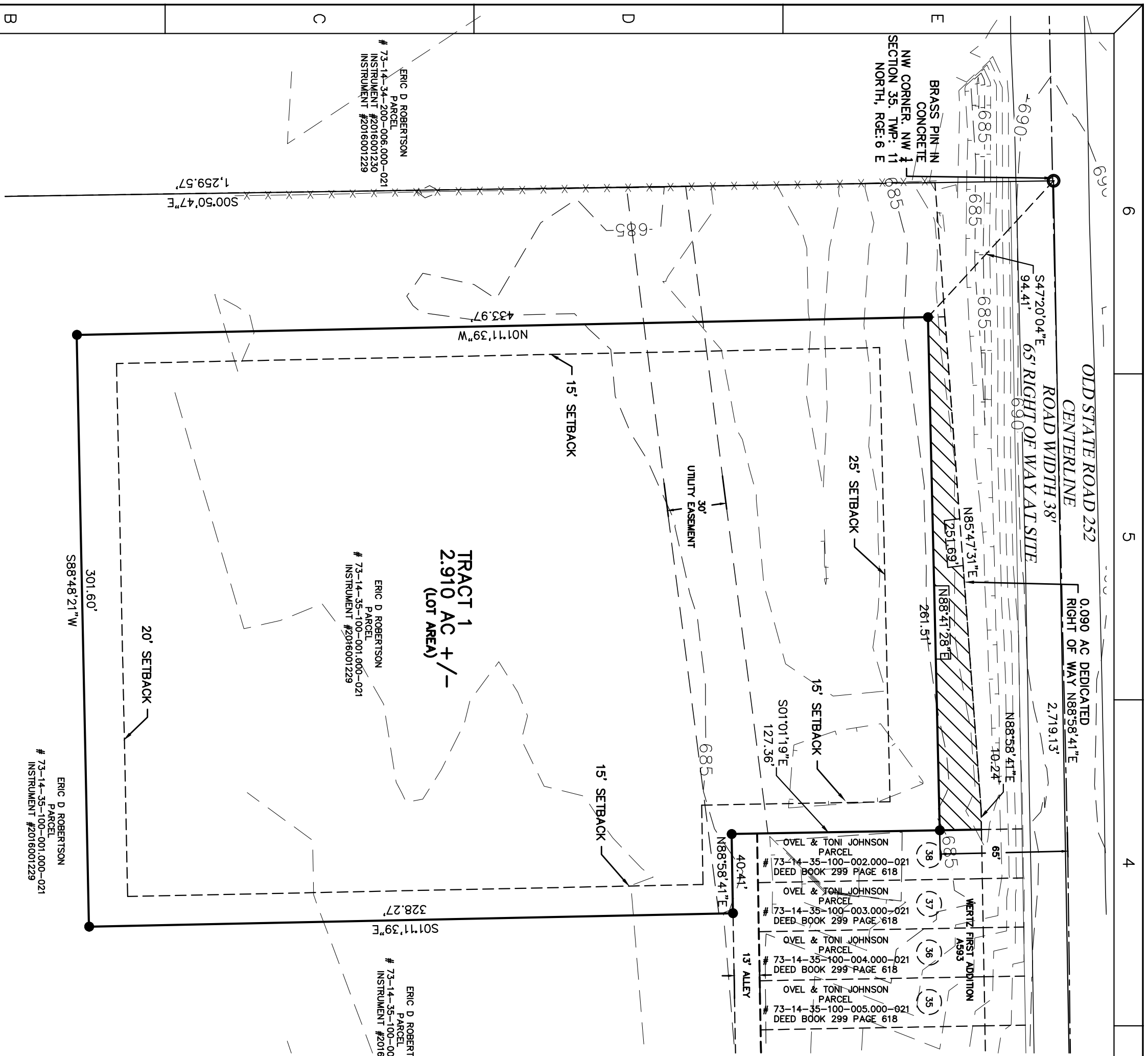
PAUL PRIMAVERA & ASSOC.
 - ENGINEERS & LAND SURVEYS -
 301 E. CHESTNUT STREET
 P.O. BOX 123
 CORYDON, IN 47112
 TEL: (812) 738-4124 FAX: (812) 738-6740

Date: 01/17/2022
 Drawn By: WDM
 Checked By: JMC
 Directory: PAUL PRIMAVERA & ASSOC.
 T: (202) 15334
 File: 15334_SITE.dwg
 Job No.: 21-15334
 Drawing No. **C-101**



- NOTE:**
 SIGN & POLE DESIGNED FOR SIGN BY OTHERS
 FOUNDATION DESIGN IS BASED ON 3000 LB. CONCRETE AND 28 DAYS AND 8 SOIL LATERAL BEARING PRESSURE OF 100 LB/SQ. FT.
 IMPORTANCE FACTOR 1.0 PER IBC 2006
 CORROSION IN 4/11/12
- ENGINEERING/SURVEYING:**
 PAUL PRIMAVERA & ASSOC.
 301 E. CHESTNUT ST.
 CORYDON, IN 47112
- DEVELOPER:**
 CURT RAFFERTY
 PO BOX 51106
 BOWLING GREEN, KY 42104
- PROPERTY IN THE NAME OF:**
 FLAT ROCK, IN 47234
 INSTRUMENT # 201602129
 DATE: 9/25/16
- PARCEL HAS ACCESS TO SR 252**





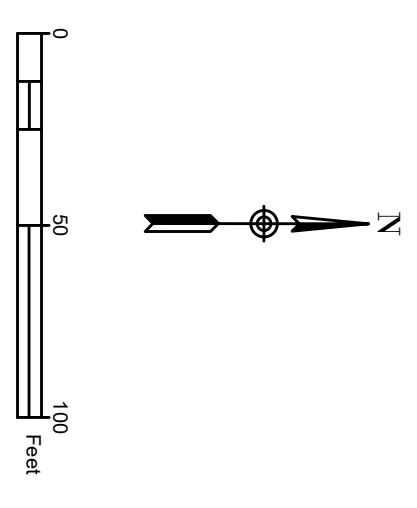
LOCATION MAP

PROPERTY ADDRESS:
 SR 252
 FLAT ROCK, IN 47234
 CURRENT OWNERS:
 AGRICULTURAL

PROPERTY IN THE NAME OF:
 ERIC D ROBERTSON
 2740 W 1200 S
 FLAT ROCK, IN 47234
 SOURCE DEED:
 INSTRUMENT #2016001229 DATE: 3/21/2016

ROBERTSON DIVISION SURVEY

- LEGEND**
- = #5 REINFORCING BAR WITH YELLOW PLASTIC CAP STAMPED PRIMAVERA ASSOC. #0049 SET
 - = BRASS PIN SET IN CONCRETE FOUND



SURVEYORS REPORT
 (THIS REPORT IS MADE IN COMPLIANCE WITH INDIANA ADMINISTRATIVE CODE TITLE 865, ARTICLE 1, RULE 12)
 REFERENCE PROJECT 21-15334 - CURT RAFFERTY
 PREPARED 02/09/2022

The record descriptions used in this survey were obtained from the Office of the Recorder of Shelby County, Indiana. The basis of bearings was established by a real time kinematic GPS survey and is based upon the Indiana State Plane Coordinate System, East Zone, NAD83.

The purpose of the subject survey is to retrace the record description of that property conveyed to Eric D Robertson in Instrument # 2016001229. In addition, a new tract was created. A new legal description was created. Additional survey data was obtained by a previous survey by INDOT Road Plans Project #5273 (005), Wertz First Addition To The Town of Flatrock in F593 16 in the office of the Recorder of Shelby County, IN and Section Corner data obtained by the Shelby Co Surveyor's Office.

The subject tract lies in part of the Northwest Quarter of Section 35, Township 11 North, Range 6 East, Washington Township, Flat Rock, Shelby County, Indiana.

The following is an analysis of the cause and amount of uncertainty in the lines and corners established this survey as a result of the following:
 A) Availability and condition of reference monuments.
 B) Occupation or possession lines.
 C) Clarity or ambiguity of deeds.
 D) The relative positional accuracy of the measurements.

Monuments were found from said previous surveys where indicated on the attached plat of survey. These monuments were used as the basis of the subject survey. Monuments indicated on this attached survey and depicted on the INDOT Right of Way plans and Section Corner data sheets were used to establish the North and West property lines. The Eastern line of the Wertz First Addition was used to determine the East line. The Southern and Western lines of the subject property are new and carved out of the parent tract. Variances between measured and record distances are as depicted on the attached plat of survey. Little to no discrepancies were found in the lines of occupation, as those were generally used to inform the position of the boundary lines. The relative positional accuracy of the measurements is that of an urban survey.

There may be unwritten rights associated with the above uncertainties.

LEGAL DESCRIPTION

The following is a legal description prepared this 8th day of February 2022, of real property along Old State Road 252 in Flat Rock, previously conveyed to Eric D Robertson recorded in Instrument No. 2016001229, being a part of the Northwest quarter of Section 35, Township 11 North, Range 6 East, Washington Township, Shelby County, Indiana, being depicted on a survey by Paul Primavera and Associates, Job No. 21-15334, prepared by Jason M. Copperwaite, LS #20200046, more particularly described as follows:

Commencing at a brass pin in concrete at the Northwest Corner of Section 35 in the Centerline of Old SR 252, thence S 47° 20' 04" East 94.41 feet to a #5 reinforcing bar with a yellow plastic cap stamped "Primavera Assoc. #0049", this type of monument hereinafter referred to as a capped reinforcing bar, in the Northern right of way of said highway at the Point of Beginning, thence along said right of way North 88° 41' 28" East 261.51 feet to a capped reinforcing bar, thence leaving said right of way South 01° 01' 19" East 127.36 feet to capped reinforcing bar, thence North 88° 58' 41" East 40.41 feet to a capped reinforcing bar, thence South 01° 11' 39" East 328.27 feet to a capped reinforcing bar, thence South 88° 48' 21" West 301.60 feet to a capped reinforcing bar, thence North 01° 11' 39" West 433.97 feet to the point of beginning. Containing 2.910 Acres more or less.

Subject to all easements, restrictions, and rights-of-way of record.

PLAN COMMISSION CERTIFICATION

I, THE UNDERSIGNED DO HEREBY CERTIFY THAT THIS PLAT WAS DULY APPROVED BY THE SHELBY COUNTY PLAN COMMISSION THIS _____ DAY OF _____

PLAN COMMISSION PRESIDENT _____ PLAN COMMISSION SECRETARY _____

OWNER'S CERTIFICATION

THIS IS TO CERTIFY THAT THE UNDERSIGNED, IS THE OWNER OF THE LAND SHOWN AND DESCRIBED ON THIS PLAT AND HEREBY DEDICATES THE UTILITY EASEMENTS TO THE UTILITY OWNERS.

NOTARY CERTIFICATION

State of _____)
 County of _____)

Before me, the undersigned notary public in and for the county and state, personally appeared Neal Dean and acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and notarial seal this _____ day of _____ 20____

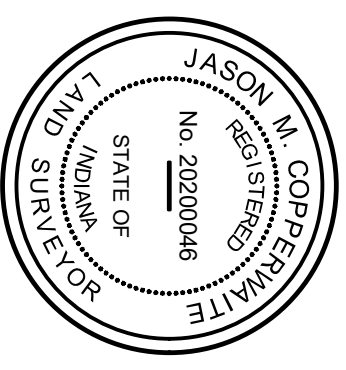
CERTIFICATION OF SURVEY AND ACCURACY

I, JASON COPPERWAITE DO HEREBY CERTIFY TO THOMAS REUTER AND RIPLEY COUNTY PLAN COMMISSION THAT THE SURVEY DEPICTED BY THIS PLAT WAS DONE BY PERSONS UNDER MY DIRECT SUPERVISION BY THE METHOD OF GLOBAL POSITIONING SYSTEM UTILIZING A TRIMBLE DUAL FREQUENCY GPS UNIT ON THE INDOT NETWORK ADJUSTED REAL TIME KINEMATIC SYSTEM. THE DATUM ADRES. THE SUBJECT SURVEY IS AN URBAN SURVEY IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA.

Jason M. Copperwaite, R.L.S. #20200046 Date _____

GENERAL NOTES:

1. THIS PROPERTY IS NOT IN A FLOOD HAZARD AREA AS SHOWN BY COMMUNITY PANEL 181450255 EFFECTIVE DATE 11/05/2014. THIS STATEMENT IS SUBJECT TO UNCERTAINTIES IN SCALING AND THE SOURCE MAP.
2. TRACT 1 WAS REZONED FROM A1 (CONSERVATION AGRICULTURAL) TO VM1 (VILLAGE MIXED USE) ON PRE ORDINANCE NO. _____
3. A WAIVER TO ALLOW FOR SINGLE SUBDIVISION OF PROPERTY ZONED VM1 WAS APPROVED BY THE PLAN COMMISSION ON FEBRUARY 22, 2022.



| By | Description | Date | Revision |
|----|-------------|------|----------|
| | | | 7: |
| | | | 6: |
| | | | 5: |
| | | | 4: |
| | | | 3: |
| | | | 2: |
| | | | 1: |

PLAT OF SURVEY FOR:
 PROPERTY OWNER: ERIC D ROBERTSON
 CLIENT: RAFFERTY DEV LLC
 NW 1/4 OF SEC 35, TWP 11N, R 6E
 FLAT ROCK, IN (SHELBY CO)

PAUL PRIMAVERA & ASSOCIATES
 ENGINEERS & LAND SURVEYORS

301 E. CHESTNUT ST.
 P.O. BOX 123
 CORYDON, IN 47112
 TEL: (812) 738-4124
 FAX: (812) 738-6740
 email: jcopperwaite@ppa-eng.com

Date: 01/25/22
 Drafted By: WJM
 Checked By: JMC
 Director: T:/2021/15334/
 File: 15334_T0P0D0WC
 Job No.: 21-15334
 Drawing No.
1 OF 1

STEVEN J. FEHRIBACH, P.E.
 PRESIDENT

R. MATTHEW BROWN, P.E.
 VICE PRESIDENT

KAREN K. COLLINS, P.E.
 VICE PRESIDENT

JOSEPH T. RENGEL, P.E.
 VICE PRESIDENT

REGISTRATION
 INDIANA
 ILLINOIS
 KENTUCKY
 MICHIGAN
 OHIO
 MISSOURI
 TEXAS

July 28, 2021

Mr. Terry J. Hebert, P.E.
 Vice President of Pre-Development
 Browning Investments
 6100 West 96th Street, Suite 150
 Indianapolis, Indiana 46278

Re: Trip Generation Analysis
 Fairland, Indiana

Dear Mr. Hebert,

Per your request, I have reviewed the above referenced project with regards to the traffic that will be generated and the impact to the surrounding street system. As currently planned, the development will consist of 916,720 square feet of warehouse development with three (3) access points. The following table is a summary of the trips that can be anticipated to be generated during the AM and PM peak hours.

| Trip Generation Summary | | | | |
|--------------------------|--------------|------|--------------|------|
| Land Use Description | AM Peak Hour | | PM Peak Hour | |
| | Enter | Exit | Enter | Exit |
| Warehousing – 916,720 SF | 104 | 31 | 37 | 101 |

Based on the number of vehicles that are anticipated to exit and enter the proposed site, this development would require two (2) access points. However, a review of the site plan shows three access points with the center being limited to passenger cars. If the trucks enter and exit at different times from the passenger cars, a two-driveway system would be sufficient.

A field review indicated that very little traffic will be coming from the south/southwest and therefore, a left turn lane will not be necessary for the proposed development. If the access points are designed as currently planned, the following recommendations provide for safe and efficient access.

- A continuous right turn lane should be provided for the three (3) access points.
- Each driveway should be designed with two (2) outbound lanes and one (1) inbound lane.

- All turning movements should be verified to ensure semi-truck traffic can safely maneuver the driveways.
- During a field review of the proposed site, there appears to be sufficient sight distance for the three access points. However, this should be verified during the design phase of the project.

If you have any questions or comments, please contact me.

Sincerely,
A&F Engineering Co., LLC



Steven J. Fehribach, P.E.
President

ATTORNEY/CLIENT AGREEMENT
FOR REPRESENTATION AND PROFESSIONAL SERVICES

This Attorney/Client Agreement for Representation and Professional Services (“Agreement”) is entered into on this ____ day of January, 2022 (the “Effective Date”) by and between Shelby County Plan Commission and Board of Zoning Appeals (“Client”) and McNeelyLaw LLP (“ML”).

RECITALS

WHEREAS, the Shelby County Plan Commission is engaged in developing and recommending to the county’s legislative body a plan for the future of the community, including, but not limited to, preparing a comprehensive plan, preparing a zoning ordinance, making recommendations to the legislative body on proposals to amend the zoning ordinance, approving or denying proposals to subdivide land, and approving development plans;

WHEREAS, the Shelby County Board of Zoning Appeals is engaged in granting variances (both developmental standards and variances of use), granting of special exceptions/conditional uses, and appeals from administrative decisions;

WHEREAS, ML is a firm engaged in providing general legal services in Shelby County, Indiana;

WHEREAS, Client desires to engage ML to provide general legal services as set forth below; and

NOW, THEREFORE, in consideration of the terms, covenants, and promises contained in this Agreement and the actions taken pursuant hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Client and ML voluntarily and knowingly agree as follows:

AGREEMENT

1. **Incorporation**. The above-stated Recitals and all the facts and circumstances alleged therein are incorporated and made a part of this Agreement.
2. **Scope and Duties**. ML shall provide general legal services to Client including, but not limited to, attendance at Client public meetings and other services as requested by Client (“Services”).
3. **Legal Fees, Expenses, and Costs**. The scope of Services under this Agreement will be as follows:
 - (a) **Annual Fixed Fee**. ML shall attend twelve (12) regularly scheduled monthly Plan Commission meetings and twelve (12) regularly scheduled monthly Board of Zoning Appeals meetings to provide guidance and advisory opinions on legal

issues that may arise for a fixed fee of \$6,000.00 per year, to be paid monthly in the amount of \$500 per month. ML will submit invoices on a monthly basis that will be due and payable within ten (10) days following approval.

- (b) Additional Hourly Services. All additional services requested by the Client, except for Services discussed in section (a), shall be billed on an hourly basis in increments of one-tenth (1/10) of an hour at a rate of \$180.00 per hour for work performed by an attorney and \$95.00 per hour for work performed by a paralegal and/or law clerk. These other services may include, but are not limited to, the following:
- (1) Litigation. ML shall file and/or defend any lawsuit on behalf of Client.
 - (2) Contracts. ML shall draft and/or review contracts on behalf of Client.
 - (3) Ordinances/Resolutions. ML shall draft and/or review ordinances and resolutions on behalf of Client.
 - (4) Attendance at Executive Sessions and Other Meetings. ML shall attend Plan Commission and Board of Zoning Appeals executive sessions and other meetings upon request.
 - (5) General Advice. ML shall provide general advice and opinions on a variety of legal issues involved in operation of the Client. This general advice shall include, but not be limited to, interpreting municipal, state, or federal laws and regulations, reviewing documents and materials in preparation of monthly Client meetings, and drafting and/or reviewing county ordinances.
 - (6) Research. ML shall research legal questions which arise during monthly Client meetings or on a day-to-day basis.
 - (7) Correspondence. ML shall draft letters or correspondence on behalf of Client to the public and/or third parties upon the request of the Client.
 - (8) Miscellaneous Services. ML shall provide other legal services as requested by the Client.
- (c) Expenses. Expenses advanced during the billing period are included in each bill without markup of any kind. These expenses include, but are not limited to, the following items: Fees charged by government agencies; filing fees; deposition and transcript charges; witness fees; printing and reproduction charges; computerized legal research charges; charges made by outside experts and consultants; charges for medical, psychological, or physical examinations and reports; charges to outside vendors for preparation of specialized settlement documents (slides, videotapes, Power Point presentations, etc.). Client shall not

be expected to reimburse or otherwise pay for postage, mileage, or other routine expenses associated with the Services.

4. **Primary Contact and Other Counsel.** Jody M. Butts of ML will be the primary contacts and providers of legal services under this Agreement. Client understands that other lawyers of ML may provide legal services under the supervision of Jody M. Butts.

5. **Monthly Statements.** Unless notification has been provided under Section 6, ML shall bill Client for the annual fixed fee on a monthly basis. Fees for additional hourly services will be itemized and submitted by ML to Client in monthly statements, which shall include the amount of time expended, the nature of the services performed, and by whom the services were performed.

6. **Termination and Withdrawal.** ML is subject to the Indiana Rules of Professional Conduct that require or allow ML to withdraw from representing Client in several circumstances, including, but not limited to:

- (a) Circumstances where ML's continued representation of Client will result in violation of these Rules;
- (b) Circumstances where Client insists on pursuing an objective that ML considers imprudent;
- (c) Circumstances where Client fails substantially to fulfill an obligation to ML regarding its Services (including payment of fees and other charges); and
- (d) Circumstances where ML's continued representation of Client will result in an unreasonable financial burden on ML or has been rendered unreasonably difficult by Client.

ML tries to identify in advance and discuss any situation that may lead to its withdrawal and, if withdrawal ever becomes necessary, ML will immediately give Client written notice of its withdrawal.

Client may terminate this Agreement for any reason at any time but any termination shall not excuse Client from payment for services rendered and expenses paid by ML up to the effective date of termination. If Client terminates the agreement before ML has provided all services described in this Agreement, Client may be entitled to a refund of all or a part of the annual fixed fee based on the value of services performed prior to termination.

7. **Term.** The term of this Agreement shall be for one (1) year, from January 1, 2022, until December 31, 2022, unless terminated earlier pursuant to this Agreement. This Agreement will automatically renew for subsequent one (1) year term unless either party provides the other party notice to terminate the Agreement at least thirty (30) days before the end of the term.

8. **Independent Contractors.** Both Client and ML agree that the relationship created by this Agreement is that of independent contractor and not that of employee and employer.

9. **Disclaimer of Guarantee and Estimates.** Nothing in this Agreement and nothing in ML's statements to Client will be construed as a promise or guarantee about the outcome of a matter. ML makes no such promises or guarantees. ML's comments about the outcome of a matter are an expression of opinion only. Any estimate of fees or costs provided by ML shall not be a guarantee. Actual fees or costs may vary from estimates given.

10. **Equal Employment Opportunity Policy.** Equal Employment Opportunity has been, and will continue to be, a fundamental principle at ML, where employment is based upon personal capabilities and qualifications without discrimination because of race, color, religion, sex, sexual orientation, age, national origin, marital status, citizenship, disability, status as a disabled veteran or any other protected characteristic as established by law. ML has expanded its recruiting efforts and hiring practices in an effort to attract and hire a diverse group of qualified lawyers, paralegals, and support staff. ML is also active in soliciting and working with minority and small businesses as clients and uses the services of and encourages its employees to use the services of its clients.

11. **Construction.** This Agreement contains the entire agreement between the parties, shall be construed in accordance with the laws of the State of Indiana, and any lawsuit or action brought regarding this Agreement shall be brought in Marion County, Indiana. This Agreement supersedes all previous negotiations, letters of intent, letter contracts, writings, agreements, and understandings between the parties with respect to the subject matter hereof. If any provision of this Agreement is held in whole or in part to be unenforceable, for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect. This Agreement may be modified only by agreement of the parties in a writing signed by both of them.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the undersigned parties have agreed to all of the foregoing terms and conditions.

McNeelyLaw LLP

Shelby County Plan Commission

By: _____
Jody M. Butts, Partner

By: _____
President

Attest:

By: _____
Desiree Calderella
Planning Director of the Shelby County
Plan Commission