

# Shelby County Plan Commission

July 25, 2023 at 7:00 PM

# Table of Contents

<b>Agenda.....</b>	<b>3</b>
<b>RZ 22-16 / SD 22-11 Ham Rezoning &amp; The Woods of Mahrepooc Simple Subdivision .....</b>	<b>5</b>
Staff Report .....	5
Plat.....	8
<b>RZ 23-17 / SD 23-14 Cook Rezoning &amp; Cook Simple Subdivision .....</b>	<b>9</b>
Staff Report .....	9
Plat.....	12
<b>RZ 23-18 / SD 23-15 Voege Rezoning &amp; Voege Simple Subdivision .....</b>	<b>13</b>
Staff Report .....	13
Plat.....	17
<b>RZ 23-19 Schwier &amp; CO., LLC Rezoning &amp; Waivers of Subdivision Standards .....</b>	<b>18</b>
Staff Report .....	18
Statement of Intent.....	22
Petitioner’s Findings of Fact.....	23
Site Plan.....	24

# MEETING AGENDA

Shelby County Plan Commission  
July 25, 2023 at 7:00 P.M.

## CALL TO ORDER

## ROLL CALL

## APPROVAL OF MINUTES

Minutes from the June 27, 2023 meeting.

## BUSINESS CONTINUED TO SEPTEMBER 26, 2023

**SD 23-02 – DAVIS SIMPLE SUBDIVISION:** Simple Subdivision of 14.74-acres into a 9.5-acre lot and 4.74-acre lot. Located east of and adjoining 453 E 700 S, Shelbyville, Washington Township.

**RZ 23-11 – LARRISON REZONING:** Rezoning of 2.547-acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District. Located east of and adjoining 8493 S 475 E, Saint Paul, Nobel Township.

**SD 23-07 – LARRISON SIMPLE SUBDIVISION:** Simple Subdivision of 2.547-acres from a 62.63-acre parent tract and waiver of subdivision design standards. Located east of and adjoining 8493 S 475 E, Saint Paul, Nobel Township.

## OLD BUSINESS

None.

## NEW BUSINESS

**RZ 22-16 – HAM REZONING:** Rezoning of 3-acres from the RE (Residential Estate) District to the R1 (Single-Family Residential) District. Located at 8800 S 600 W, Edinburgh, Jackson Township.

**SD 22-11 – THE WOODS OF MAHREPOOC SIMPLE SUBDIVISION:** Simple Subdivision of 3-acres into a 1.5-acre building lot and a 1.5-acre lot including an existing single-family residence and waivers of subdivision standards. Located at 8800 S 600 W, Edinburgh, Jackson Township.

**RZ 23-17 – COOK REZONING:** Rezoning of 3.675-acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District. Located on the east side of S Edinburgh Rd, between CR 900 S & CR 1000 S, Jackson Township.

**SD 23-14 – COOK SIMPLE SUBDIVISION:** Simple Subdivision of 3.675-acres from a 76.5-acre parent tract and waivers of subdivision standards. Located on the east side of S Edinburgh Rd, between CR

900 S & CR 1000 S, Jackson Township.

**RZ 23-18 – VOEGE REZONING:** Rezoning of 4.1-acres from the A2 (Agricultural) District to the RE (Residential Estate) and 0.9-acres from the A2 (Agricultural) District to the R1 (Single-Family Residential) District. Located at 5250 N Morristown Rd, Shelbyville, Marion Township.

**SD 23-15 – VOEGE SIMPLE SUBDIVISION:** Simple Subdivision of 5-acres into a 4.1-acre building lot and a 0.9-acre lot including an existing single-family residence and waivers of subdivision standards. Located at 5250 N Morristown Rd, Shelbyville, Marion Township.

**RZ 23-19 – SCHWIER & CO., LLC REZONING:** Rezoning of 38.197-acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District. Located east of and adjoining 9174 N 250 E, Morristown, Hanover Township.

**SCHWIER & CO., LLC WAIVERS OF SUBDIVISION STANDARDS:** Located east of and adjoining 9174 N 250 E, Morristown, Hanover Township.

## **DISCUSSION**

None

## **ADJOURNMENT**

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **September 26, 2023 at 7:00 PM. The August 22, 2023 meeting is canceled.**

Property Details

**Location:** 8800 S 600 W, Edinburgh, Jackson Township.

**Property Size:** 3-acres.

**Current Land Use:** Estate Residential.

**Current Zoning Classification**

RE (Residential Estate)

*This district is established for single-family detached dwellings in a rural or country setting.*

**Proposed Zoning Classification**

R1 (Single-Family Residential)

*This district is established for single-family detached, medium to large sized homes on medium to large sized lots.*

**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	A2	Estate Residential
South	A2/R1	Estate Residential / Single-Family Residential
East	A2	Estate Residential
West	R1	Single-Family Residential

# Staff Report

**Case Number:** RZ 22-16 / SD 22-11

**Case Name:** Ham Rezoning – RE (Residential Estate) to R1 (Single-Family Residential) & The Woods of Mahrepool Simple Subdivision

## Requests

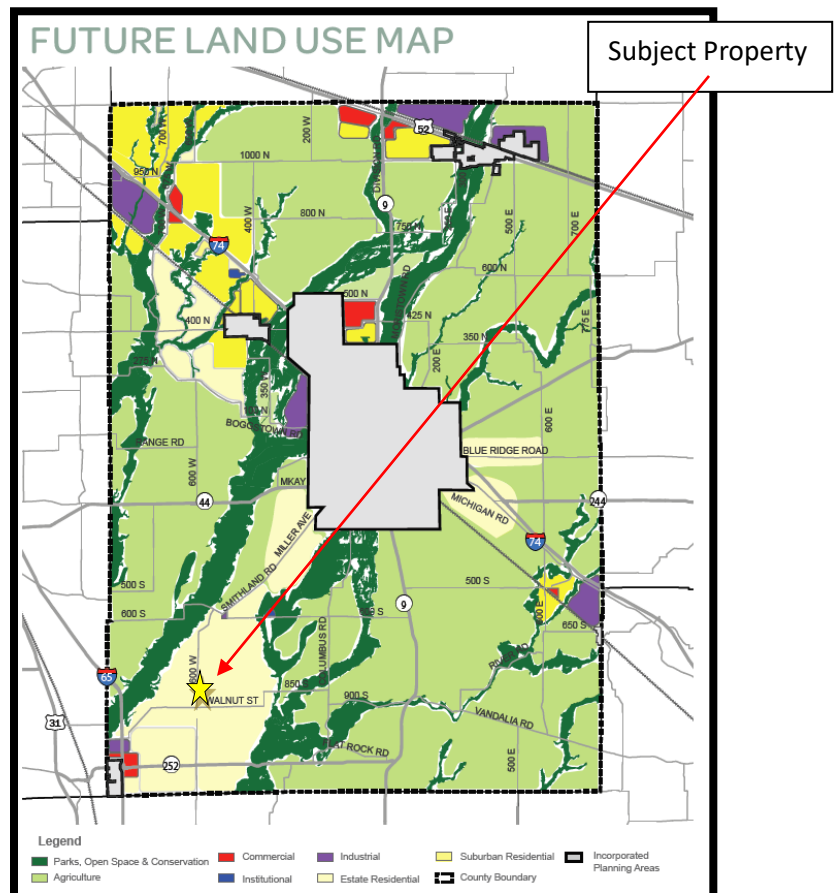
**Rezoning** of 3-acres from the RE (Residential Estate) District to the R1 (Single-Family Residential) District allow for a two-lot Simple Subdivision.

**Simple Subdivision** of 3-acres into a 1.5-acre building lot and a 1.5-acre lot including an existing single-family residence.

**Waivers** of Simple Subdivision prerequisites to allow:

1. Subdivision of a parent tract under 6-acres;
2. Subdivision of property zoned R1 (Simple Subdivisions only permitted in the A3, A4, and RE Districts);

## Future Land Use Map



## Property Map

---



## Case Description

---

- Approval of the requests would allow for development of one new 1.5-acre single-family residential lot.
- The proposed south lot includes an existing single-family residence occupied by the petitioner's father. The petitioner intends to build a modular home on the proposed north lot. The petitioner indicated that they seek to move to the property to care for their elderly father.
- On July 11, 2023 the BZA approved a variance to allow for placement of a modular home less than 1,600 sq. ft. and without a two-car-attached garage as required for new homes in the R1 District.
- The Technical Advisory Committee (TAC) / Site Plan Review Committee would review a detailed site plan including structure layout, elevation of development, drainage infrastructure, and septic system design for compliance with County codes prior to issuance on permits for a new single-family residence.

## 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**

The surrounding area includes several lots within the R1 District under 1.5-acres. Therefore, approval would not conflict with the character of the area.

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

The property is currently used for residential purposes. Approval would not significantly alter the current use or character of the property.

**3. The Conservation of Property Values throughout the Jurisdiction**

Development of the property for residential purposes would have no perceivable impact on property values throughout the County.

**4. Responsible Development and Growth**

Approval of the rezoning would not conflict with the Comprehensive Plan. The TAC would review a site plan for any new single-family home for compliance with County codes.

**5. The Comprehensive Plan**

Approval of the rezoning would allow for a new rural residential housing opportunity in a rural area separated from agricultural uses as recommended for Estate Residential areas by the Comprehensive Plan.

**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 waivers to allow Simple Subdivision of a parent tract under six-acres and zoned R1.
  - a. Approval of the waivers would allow for subdivision of an existing residential lot resulting in a residential density consistent with the surrounding area.
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.

**Staff Recommendation**

---

**APPROVAL** primarily because the surrounding area includes several lots within the R1 District under 1.5-acres. Therefore, approval would not conflict with the character of the area.

***Applicant/Owner Information***

---

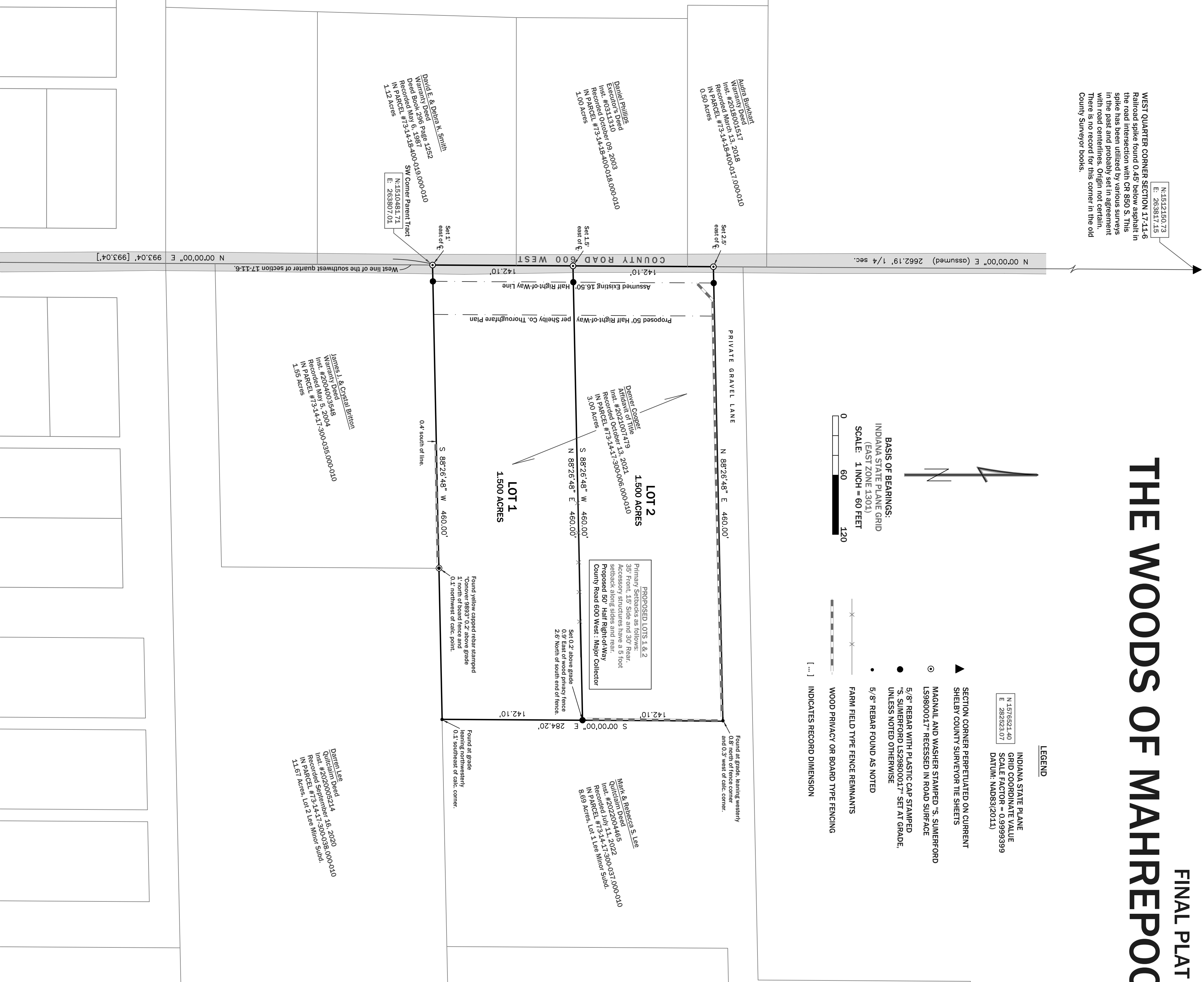
Applicant:	Richard & Shelisa Ham 33 Angela Ct. Beech Grove, IN 46107	Surveyor:	Scott T Sumerford 3149 N Riley Hwy. Shelbyville, IN 46176
------------	---	-----------	---

Owner:	Denver Cooper 8800 S 600 W Edinburgh, IN 46124
--------	--



THE WOODS OF MAHREPOOC SIMPLE SUBDIVISION

WEST QUARTER CORNER SECTION 17-11-6  
Railroad spike found 0.45' below asphalt in  
the road intersection with CR 880 S. This  
spike has been utilized by various surveys  
in the past and probably set in agreement  
with the original survey. There is no record for the corner in the old  
County Surveyor's books.



PLAN COMMISSION APPROVAL

Approved by the Shelby County Plan Commission in accordance with all applicable Subdivision Regulations.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
President, Terry Smith  
By: \_\_\_\_\_ Date: \_\_\_\_\_  
Secretary, Scott Gabbard

**LEGAL DESCRIPTION OF PARENT TRACT**  
Affidavit of Title  
Instrument No. 2021007479, Recorded October 13, 2021  
Denver Cooper as surviving spouse  
to  
Denver Cooper

A part of the west half of the southwest quarter of section 17, township 11 north, range 6 east, Shelby County, Indiana, described as follows:  
Commencing at a stone at the southwest corner of the half quarter section; thence with the west line of the half quarter north 00 degrees 00 minutes 00 seconds east 933.04 feet to the true point of beginning of the tract herein described;

Thence with the west line of the half quarter north 00 degrees 00 minutes 00 seconds east 284.20 feet thence parallel with the south line of the half quarter north 88 degrees 26 minutes 48 seconds east 460.60 feet; thence parallel with the west line of the half quarter south 00 degrees 00 minutes 00 seconds east 284.20 feet; thence parallel with the south line of the half quarter south 88 degrees 26 minutes 48 seconds west 460.00 feet to the point of beginning, containing 3.000 acres, more or less and subject to the right of way of the county road on the west line of the tract and other existing right of ways, easements, or restrictions.

**OWNERSHIP CERTIFICATE**  
I, Denver Cooper of Shelby County, Indiana, do hereby certify that I am the owner of the property described in the above paragraph north 00 degrees 00 minutes 00 seconds east 933.04 feet to the true point of beginning of the tract herein shown on the plat, as my own free and voluntary act and deed.

That \_\_\_\_\_, a Notary Public in and for said County and State, do hereby certify personally known to me to be the same person whose name is subscribed to the above certificate appeared before me and acknowledged that they signed the above certificate as their own free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**LEGAL DESCRIPTION LOT 1**  
Part of the west half of the southwest quarter of Section Seventeen (17), Township Eleven (11) North, Range Six (6) East, Jackson Township, Shelby County, Indiana, being the south half of a 3.00 acre tract as described in Deed Book 301 Page 289, recorded February 7, 1989 in the Office of the Shelby County Recorder, also being part of survey Job #11N6E7-22-071 by Scott T. Sumnerford, RLS#29800017, certified July 25, 2023 and being more particularly described as follows:

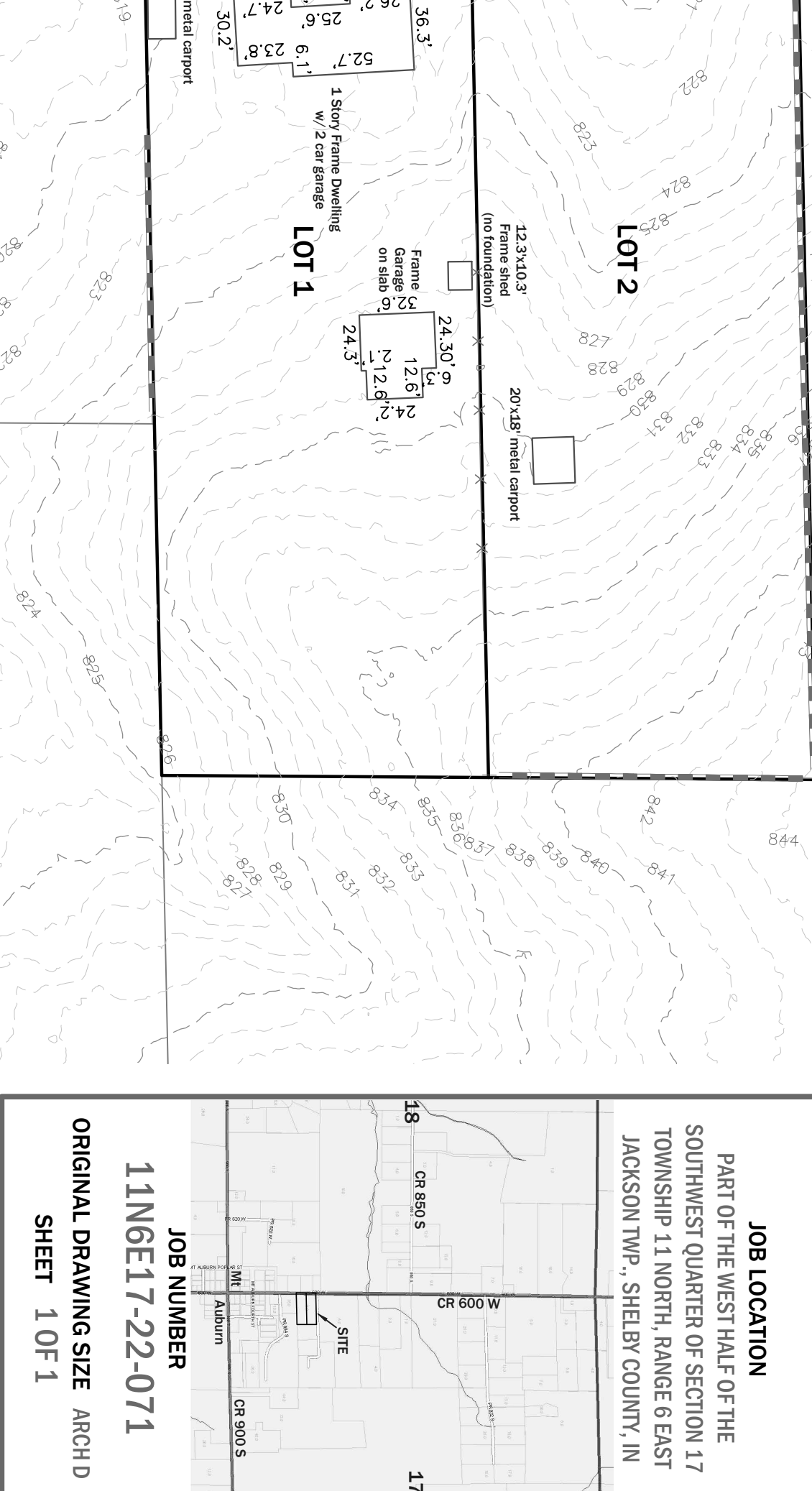
Commencing at the southwest corner of said section 17-11-6, said point being marked by a 1.500 acre tract, North 00°00'00" East 142.10 feet to a magall and washer stamped "S. Sumnerford 9800017", thence parallel with the south line of said 3.00 acre tract, North 88°26'48" East 460.00 feet to a capped rebar stamped "S. Sumnerford 29800017" on the east line of said 3.00 acre tract; thence along the south line of said tract, South 88°26'48" West 460.00 feet to the point of beginning, containing 1.500 acres.

Thence continuing along west line of said southwest quarter, North 00°00'00" East 142.10 feet to the northwest corner of said 3.00 acre tract, said point being marked by a magall and washer stamped "S. Sumnerford 9800017", thence parallel with the south line of said 3.00 acre tract, North 88°26'48" East 460.00 feet to a capped rebar stamped "S. Sumnerford 29800017" on the east line of said 3.00 acre tract; thence along the south line of said tract, South 88°26'48" West 460.00 feet to the point of beginning, containing 1.500 acres.

Subject to all easements, restrictions and right-of-ways of record

**LEGAL DESCRIPTION LOT 2**  
Part of the west half of the southwest quarter of Section Seventeen (17), Township Eleven (11) North, Range Six (6) East, Jackson Township, Shelby County, Indiana, being the north half of a 3.00 acre tract as described in Deed Book 301 Page 289, recorded February 7, 1989 in the Office of the Shelby County Recorder, also being part of survey Job #11N6E7-22-071 by Scott T. Sumnerford, RLS#29800017, certified July 25, 2023 and being more particularly described as follows:  
Commencing at the southwest corner of the southwest quarter of said section 17-11-6, said point being marked by a railroad spike over a stone; thence along the west line of said southwest quarter, North 00°00'00" East 142.10 feet to the northwest corner of said 3.00 acre tract, said point marked by a magall and washer stamped "S. Sumnerford 9800017", thence continuing along the west line of said southwest quarter, North 00°00'00" East 142.10 feet to a magall and washer stamped "S. Sumnerford 9800017", said point being the point of beginning of the herein described tract;

Thence continuing along west line of said southwest quarter, North 00°00'00" East 142.10 feet to the northwest corner of said 3.00 acre tract, said point being marked by a magall and washer stamped "S. Sumnerford 9800017", thence parallel with the south line of said 3.00 acre tract, North 88°26'48" East 460.00 feet to a capped rebar stamped "S. Sumnerford 29800017" on the east line of said 3.00 acre tract; thence along the south line of said tract, South 88°26'48" West 460.00 feet to the point of beginning, containing 1.500 acres.



**SCOTT T. SUMNERFORD**  
**LAND SURVEYING**  
3149 NORTH RILEY HIGHWAY  
SHELBYVILLE, IN 46176-9462  
BUSINESS PHONE (317) 401-6050  
  
Indiana Registered Surveyor No. 29800017  
  
Copyright © 2023 by Scott T Sumnerford  
This document is only considered an original copy if an inked seal and original signature is affixed.

LAST DATE OF FIELDWORK: July 11, 2023  
NOTES/REVISIONS: July 25, 2023  
NONE TO DATE  
  
I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO PREVENT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.  
NAME: \_\_\_\_\_

**CLIENT**  
Richard and Shelisa Ham  
33 Angela Ct.  
Beech Grove, IN 46107  
  
**PROJECT**  
Simple Subdivision procedure for splitting a 3 acre parcel in half for another building site.

INDIANA TITLE 965  
**BOUNDARY SURVEY**  
  
JOB LOCATION  
PART OF THE WEST HALF OF THE  
SOUTHWEST QUARTER OF SECTION 17  
TOWNSHIP 11 NORTH, RANGE 6 EAST  
JACKSON TWP., SHELBY COUNTY, IN  
  
JOB NUMBER  
11N6E7-22-071  
ORIGINAL DRAWING SIZE ARCH D  
SHEET 1 OF 1



Property Details

**Location:** East side of S Edinburgh Rd, between CR 900 S & CR 1000 S, Jackson Township.

**Property Size:** 3.675-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**

RE (Residential Estate)  
*This district is established for single-family detached dwellings in a rural or country setting.*

**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	A1	Cropland
South	A1	Cropland
East	A1	Cropland
West	A2	Cropland

# Staff Report

**Case Number:** RZ 23-17 / SD 23-14  
**Case Name:** Cook Rezoning – A1 (Conservation Agricultural) to RE (Residential Estate) & Cook Simple Subdivision

## Requests

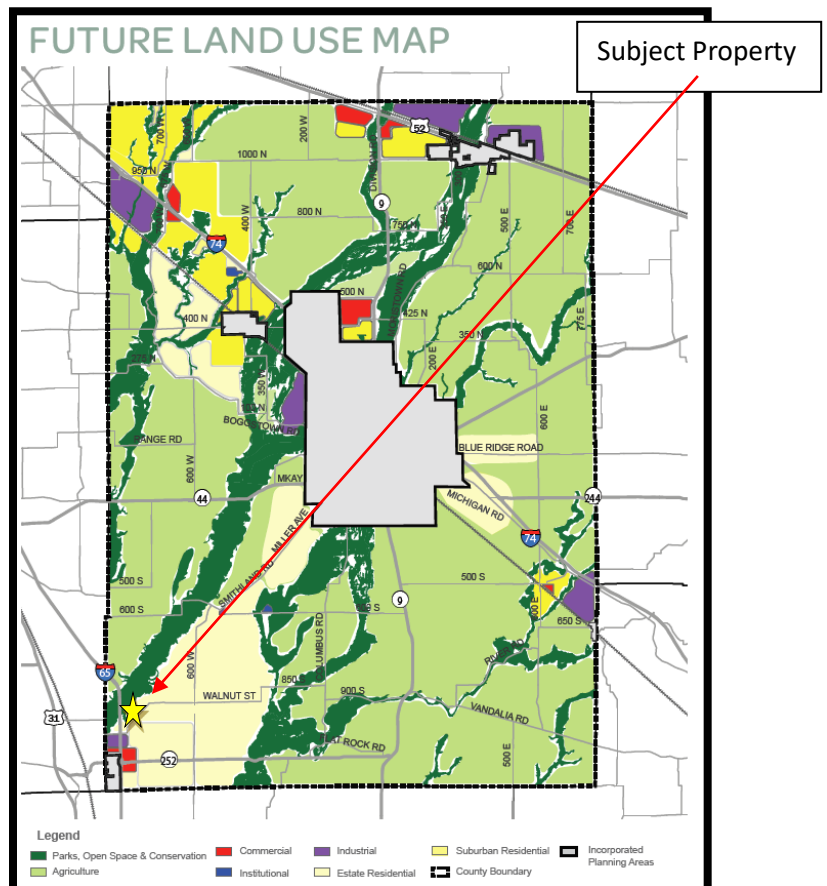
**Rezoning** of 3.675-acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District to allow for a one-lot Simple Subdivision.

**Simple Subdivision** of 3.675-acres from a 76.5-acre parent tract.

**Waivers** of subdivision design standards to allow a lot with:

1. 114.5-feet of road frontage (minimum 160-feet of road frontage required)
2. 80-foot lot width (minimum 160-foot lot width required)
3. Side lot lines not within a 15-degree angle to the right-of-way.

## Future Land Use Map



## Property Map

---



## Case Description

---

- Approval of the requests would allow for development of one new 3.675-acre single-family residential lot.
- The USDA Soil Survey classifies the eastern half of the site as 'Prime Farmland.'
- The Technical Advisory Committee (TAC) / Site Plan Review Committee would review a detailed site plan including structure layout, elevation of development, drainage infrastructure, and septic system design for compliance with County codes prior to issuance on permits for a new single-family residence.
- Per the UDO, the remaining 72.825-acres would qualify as a building lot conditional on use of the property for agricultural purposes.

## 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

Development of the property for one rural homesite would not impact continued use of adjacent property for agricultural purposes.

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

Approval would allow for subdivision of a rural homesite from the edge of a large parcel currently used for crop production, thereby preserving most of the parent tract for agricultural use.

**3. The Conservation of Property Values throughout the Jurisdiction**

Development of the property for residential purposes would have no perceivable impact on property values throughout the County.

**4. Responsible Development and Growth**

Approval of the rezoning would not conflict with the Comprehensive Plan. The TAC would review a site plan for any new single-family home for compliance with County codes.

**5. The Comprehensive Plan**

The size of the proposed lot exceeds two-acres as recommended for Estate Residential areas by the Comprehensive Plan.

**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.
3. The subdivision of land satisfies the standards of Article 07: Design Standards, pending approval of waivers to allow a lot with less than 160-feet of road frontage and lot width, and side lot lines not within a 15-degree angle to the right-of-way.
  - a. Approval of the waivers would allow for preservation of additional agricultural land on the remaining tract.
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.

**Staff Recommendation**

---

**APPROVAL** primarily because the Comprehensive Plan recommends Estate Residential development for the property and surrounding area.

***Applicant/Owner Information***

---

Applicant:	Adrian and Mary Cook 7322 W 1000 S Edinburgh, IN 46124	Surveyor:	Scott T Sumerford 3149 N Riley Hwy. Shelbyville, IN 46176
------------	--	-----------	---

Owner:	Daria A Cook 7140 W 1000 S Edinburgh, IN 46124
--------	--

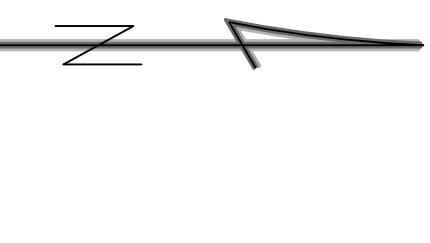


By: President, Terry Smith Date \_\_\_\_\_

By: Secretary, Scott Garbard Date \_\_\_\_\_

FINAL PLAT FOR

COOK SIMPLE SUBDIVISION



BASE OF BEARINGS: IND. ZONE 1301 SCALE: 1 INCH = 300 FEET

NORTHWEST CORNER SECTION 24-11-5 Large boulder approximately 16' by 10'...

NORTH QUARTER CORNER SECTION 24-11-5 2.5' south of the road centerline in line with an old post on the south side of the road...

Surveyor John Whitlock, a stone was prepared by County Surveyor Winchel, but it is not known if the spike represents the former stone.

LEGAL DESCRIPTION LOT 1 Part of the southwest quarter of Section Twenty-four (24), Township Eleven (11) North, Range Five (5) East, Jackson Township, Shelby County, Indiana, being part of survey Job #41N5E24-23-028 by Scott T. Sumnerford, RLS#29800017, certified July 25, 2023 and being more particularly described as follows:

Commencing at the southwest corner of the southwest quarter of said section 24-11-5, said point being marked by a stone; thence along the west line of said southwest quarter, North 00° 41.42' West (basis of bearings being Indiana State Plane East Zone) 2655.36 feet to a buried Shelby County Surveyor Monument at the northwest corner of said southwest quarter; thence along the north line of said quarter, North 86° 59'01" East 596.43 feet to a found magrail in the centerline of Edinburgh Road and the point of beginning of the hereon described tract;

Thence continuing along said north line, North 86° 59'01" East 408.45 feet to a capped rebar stamped "S. Sumnerford 29800017", said monument being hereinafter referred to as a capped rebar; thence South 03° 27'52" West 300.64 feet to a capped rebar; thence parallel with the north line of said quarter, South 86° 59'01" West 326.38 feet to a capped rebar; thence at right angles, North 03° 00'59" West 218.72 feet to a capped rebar; thence parallel with the north line of said quarter, South 86° 59'01" West 759.71 feet to a magrail and washer stamped "S. Sumnerford 19800017" in the centerline of Edinburgh Road; thence along said centerline, North 42° 38'40" East 114.47 feet to the point of beginning, containing 3.675 acres. Subject to all easements, restrictions and rights-of-way of record.

OWNERSHIP CERTIFICATE

I, Daria A. Cook of Shelby County, Indiana, do hereby certify that I am the owner of the property described in the above captioned and that as such owner have caused the property to be surveyed and subdivided as shown on the hereon drawn plat, as my own free and voluntary act and deed.

Owner, Daria A. Cook (Seal)

State of Indiana ) County of Shelby )

herby certify that \_\_\_\_\_ a Notary Public in and for said County and State, do

personally known to me to be the same person whose name is subscribed to the above certificate appeared before me this day in person and acknowledge that they signed the above certificate as their own free and voluntary act and deed for the uses and purposes therein set forth.

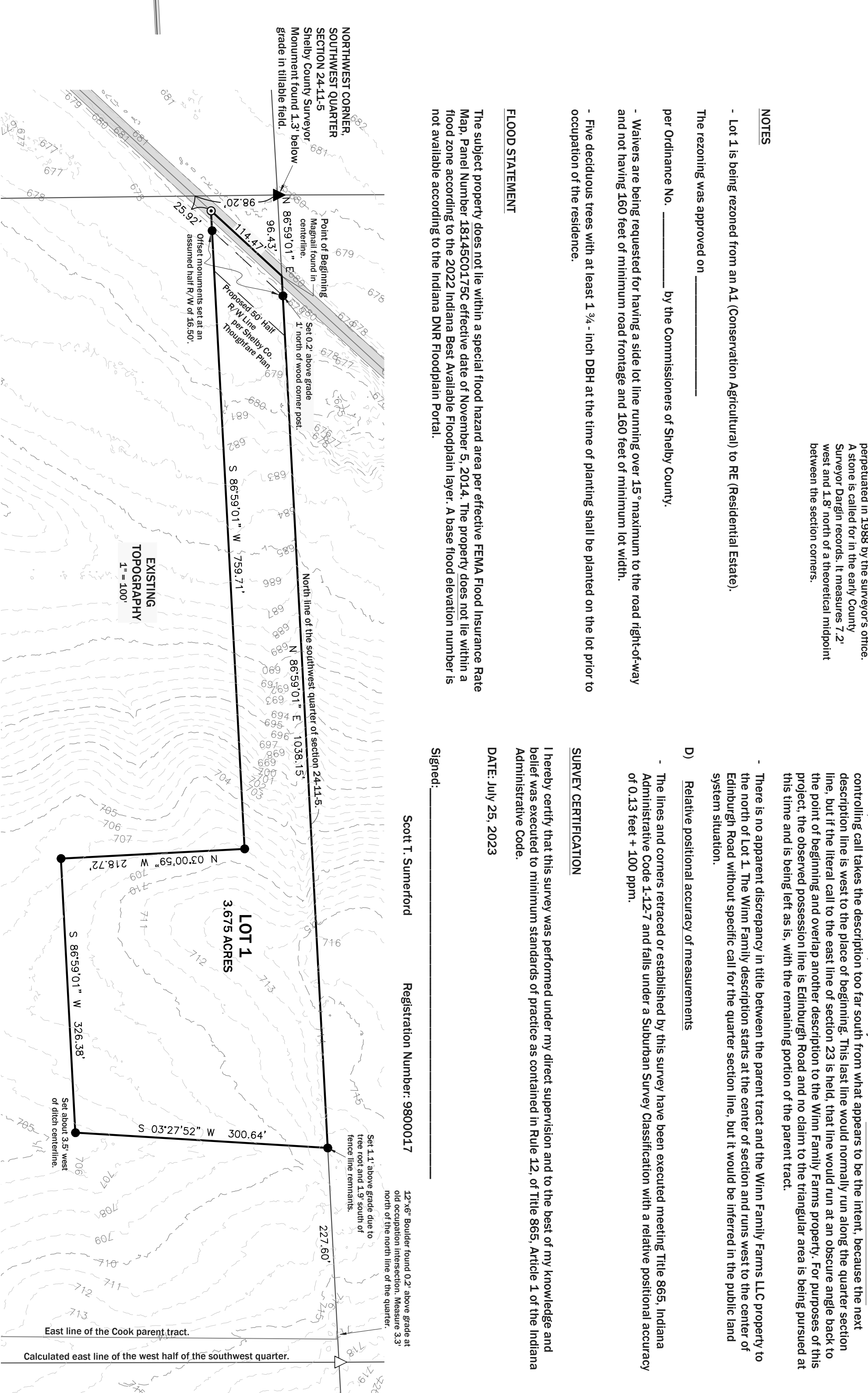
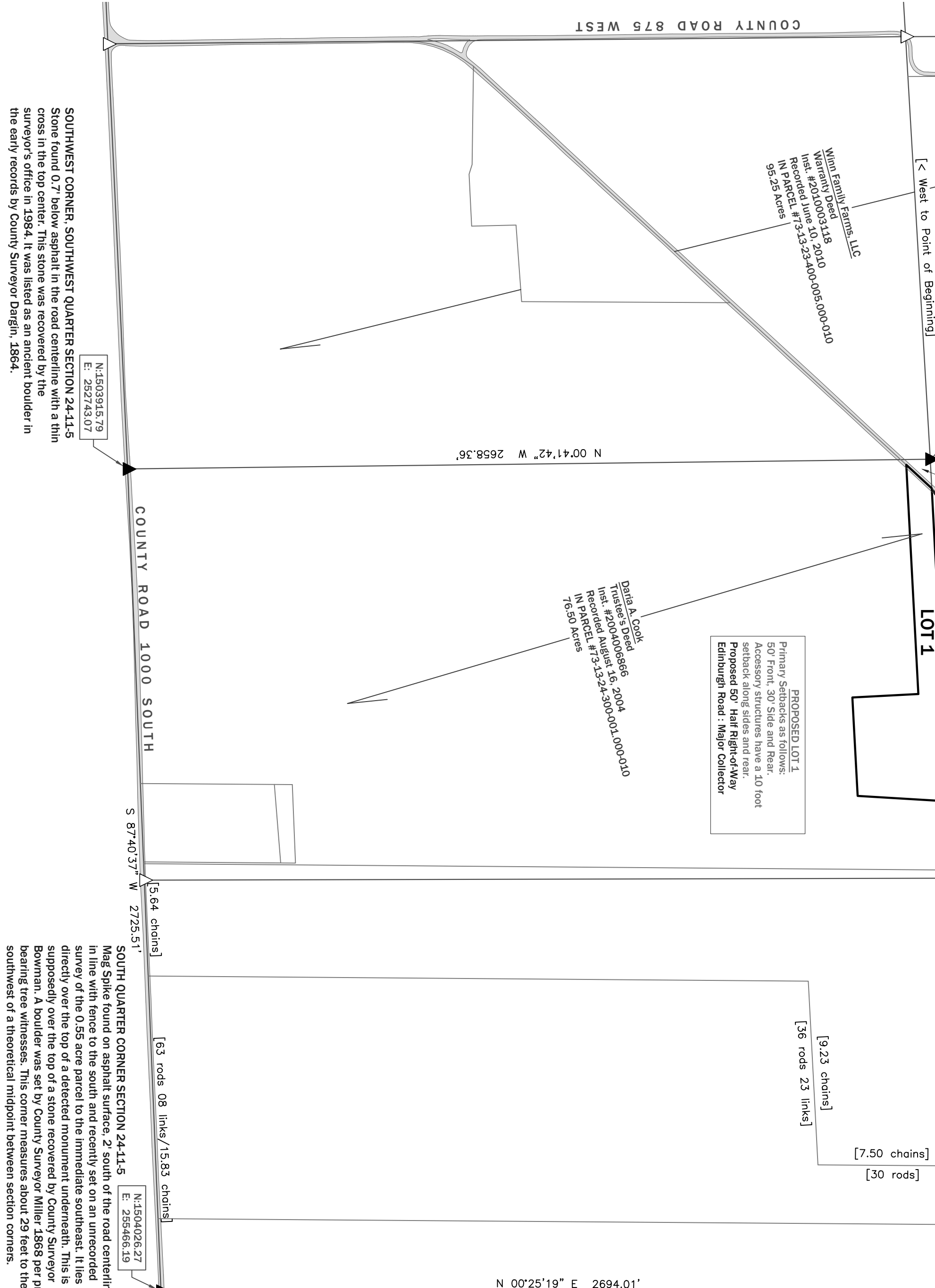
Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public \_\_\_\_\_ (Seal)

NOTES - Lot 1 is being rezoned from an A1 (Conservation Agricultural) to RE (Residential Estate). The rezoning was approved on \_\_\_\_\_ by the Commissioners of Shelby County.

FLOOD STATEMENT

The subject property does not lie within a special flood hazard area per effective FEMA Flood Insurance Rate Map, Panel Number 18145C0175C effective date of November 5, 2014. The property does not lie within a flood zone according to the 2022 Indiana Best Available Floodplain Layer. A base flood elevation number is not available according to the Indiana DNR Floodplain Portal.



LEGAL DESCRIPTION OF PARENT TRACT

Trustee's Deed Instrument No. 2004-006666, Recorded August 16, 2004 Eric A. Williams and Daria A. Cook to Daria A. Cook

The southwest quarter of section 24 in township 11 north of range 5 east, except the two tracts hereinafter described, to-wit:

First: Beginning at the southeast corner of said quarter section and running thence north to the north line of said quarter section, thence west with said north line 26 rods and 10 links, thence south 30 rods, thence west 36 rods and 23 links, thence south to the south line of said quarter section, thence east 63 rods and 5 links to the place of beginning.

Second: Beginning at a point 15 chains and 83 links west of the southeast corner of said quarter section running thence west 5 chains and 64 links, thence north to the north line of said quarter section, thence east 24 chains and 87 links, thence south 7 chains and 50 links, thence west 9 chains and 23 links, thence south to the south line of said tract and to the place of beginning.

The tract herein described, less said exceptions, containing 80.45 acres, more or less; as the said real estate is described in deeds recorded at Deed Record 192 on pages 510, 511 and 512 in the Recorder's Office of Shelby County, Indiana.

Except a part of the southwest quarter of section 24, township 11 North, Range 5 East of the Second Principal Meridian, in Shelby County, Indiana, described as follows:

Beginning at a point on the south line of said quarter section, 1042.50 feet East of the Southwest corner thereof; thence continuing East on said South line, 260.00 feet, thence detaching 87 degrees, 15 minutes left and running Northerly with a fence line 502.90 feet; thence West parallel to the South line of said quarter section, 260.00 feet; thence Southwly 502.90 feet to the place of beginning, containing 3.00 Acres, more or less. Subject to all legal rights-of-way and easements. Conveyed to George Robert Larverer by deed dated June 4, 1976 and recorded June 4, 1976 in Deed Record, 272, page 649 in the Recorder's Office of Shelby County, Indiana.

SURVEYOR'S REPORT

The intent of this project is to create a new building lot for the client's family to build a new home up on the hillside, up against the north line of the parent tract.

In accordance with Title 865, Article 1, Chapter 12, Section 12, of the Indiana Administrative Code, the following report explains the theory of location applied in tracing the lines and corners of the survey property and reports the surveyor's opinion of the cause and amount of uncertainty in those lines and corners because of the following:

A) Availability and condition of reference monuments.

The parent tract is the southwest quarter of section 24, minus three, older metes and bounds descriptions in rods, chains, links and feet. The quarter section has all four corners with perpetuated history, three with stones and the fourth where it once was marked by a previously measured stone. There is no known history for sixteen corners further dividing the quarter.

The centerline of Edinburg Road was taken from an undocumented magrail on the north line of the quarter and by a splitting of the physical pavement, on to the south.

B) Occupation or possession lines

There is some uncertainty in the north line of the quarter section, based solely on the fence and remnants that exists near the southeast corner and northeast corner of the parent tract. There is a possible stone monument at the intersection of fence line remains and lying over corner posts near the calculated northeast corner of the parent tract. The calculation is based upon a record 14.87 chains plus 20 rods, 10 links from the center of the west quarter corner monument to the center of section stone. Also there is a large and post existing 18.6 feet east of the stone, but the calculated midpoint split 1.458' corner would be another 1.45 feet over east where there is no apparent evidence or reason for a sixteenth boundary.

Lot 1 was laid out with an eighty foot wide concrete strip to Edinburg Road. This leaves 25.92 feet in the centerline remaining for the remainder of the parent tract. There is also potential claim for a triangle on the other side of the road as further discussed in section C) below.

C) Clarity or ambiguity of record descriptions

There is a potential title overlap occurring with the subject parent tract and the Winn Family Farms, LLC property on the other side of the road. This involves the triangle portion of the southwest quarter of section 24 that lies on the west side of Edinburg Road. The parent tract clearly calls for the southwest quarter section. The Winn Family Farms description commences at the 1/4" corner a 1/4 mile west of the triangle. Runs north 60 rods, east 110 rods to the road, southwesterly down the road to the east line of said section 23. This last controlling call takes the description too far south from what appears to be the intent, because the text describing line is west to the place of beginning. This last line would normally run along the quarter section line, but if the metal call to the east line of section 23 is held, that line would run at an obscure angle back to the point of beginning and comprise the description of the Winn Family Farms property. For purposes of this report, the observed centerline of Edinburg Road is used to define the triangle area is being purchased at this time and it being left as is, with the remaining portion of the parent tract.

There is no apparent discrepancy in title between the parent tract and the Winn Family Farms LLC property to the north of Lot 1. The Winn Family description starts at the center of section and runs west to the center of Edinburg Road without specific call for the quarter section line, but it would be inferred in the public land system situation.

D) Relative positional accuracy of measurements

The lines and corners retraced or established by this survey have been executed meeting Title 865, Indiana Administrative Code 3-327 and falls under a Suburban Survey Classification with a relative positional accuracy of 0.13 feet + 400 ppm.

SURVEY CERTIFICATION

I hereby certify that this survey was performed under my direct supervision and to the best of my knowledge and belief was executed to minimum standards of practice as contained in Rule 12, of Title 865, Article 1 of the Indiana Administrative Code.

DATE: July 25, 2023

Signature: Scott T. Sumnerford

Registration Number: 98900017

Summary information including Job Location (Part of the Southwest Quarter of Section 24, Township 11 North, Range 5 East, Jackson Township, Shelby County, Indiana), Client (Adrian and Mary Cook), Project (Simple Subdivision procedure for creating a new building lot for a new home site), Last Date of Fieldwork (June 28, 2023), and Job Number (11N5E24-23-038).

## Property Details

**Location:** 5250 N Morrystown Rd,  
 Shelbyville, Marion Township.

**Property Size:** 5-acres.

**Current Land Use:** Estate Residential.

### Current Zoning Classification A2 (Agricultural)

*This district is established for general agricultural areas and buildings associated with agricultural production.*

### Proposed Zoning Classification RE (Residential Estate)

*This district is established for single-family detached dwellings in a rural or country setting.*

### R1 (Single-Family Residential)

*This district is established for single-family detached, medium to large sized homes on medium to large sized lots.*

### 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.*

### Surrounding Development

	Zoning	Land Use
North	A1	Cropland
South	A1	Cropland
East	A1	Cropland
West	A2	Cropland

# Staff Report

**Case Number:** RZ 23-18 / SD 23-15

**Case Name:** Voege Rezoning – A2 (Agricultural) to RE (Residential Estate) & R1 (Single-Family Residential) & Voege Simple Subdivision

## Requests

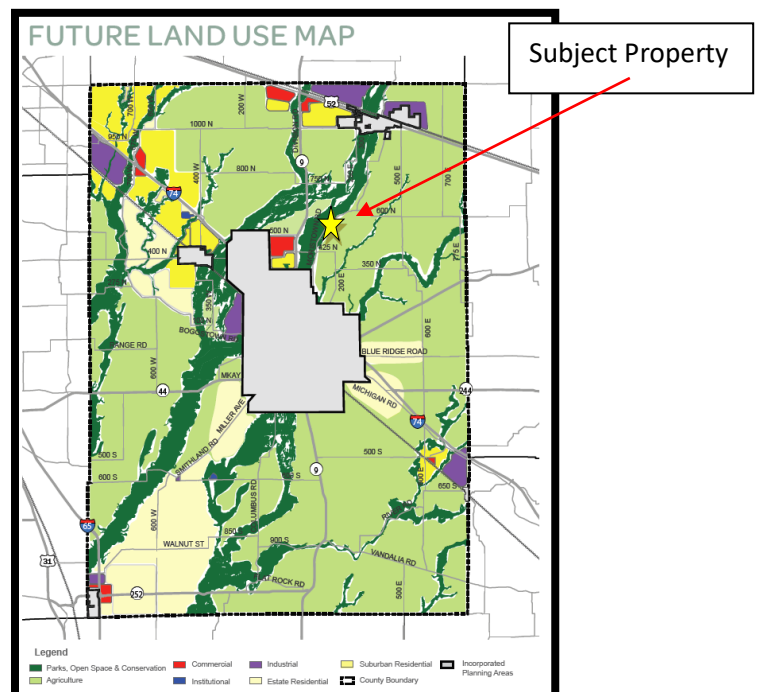
**Rezoning** of 4.1-acres from the A2 (Agricultural) District to the RE (Residential Estate) District and 0.9-acres from the A2 (Agricultural) District to the R1 (Single-Family Residential) District allow for a two-lot Simple Subdivision.

**Simple Subdivision** of 5-acres into a 4.1-acre building lot and a 0.9-acre lot including an existing single-family residence.

### Waivers:

1. Of Simple Subdivision prerequisites to allow for Simple Subdivision of a parent tract under 6-acres;
2. Of Simple Subdivision prerequisites to allow for Simple Subdivision of property zoned R1 (Simple Subdivisions only permitted in the A3, A4, and RE Districts);
3. Of subdivision design standards to allow side lot lines not within a 15-degree angle to the right-of-way.

## Future Land Use Map





## Property Map

---



## Case Description

---

- The petitioner requests to divide the property for the purpose of division of assets. The petitioner intends to convert the larger barn located on the north lot into a residence.
- The proposed 0.9-acre south lot includes an existing single-family residence, and the proposed 4.1-acre north lot includes two barns.
- The existing septic system servicing the existing residence on the proposed south lot lies on the proposed north lot. The plat shows a 0.22-acre septic system easement over the system benefiting the south lot.
- The large barn on the north lot does not comply with the front setback requirement for properties in the RE District, however, the RE District has a less restrictive setback requirement than the A2 District, therefore a variance is not required.
- The property lies within a Federal Emergency Management Agency (FEMA) designated 100-year Special Flood Hazard Area, however, only a very small portion of the property along the south property line lies within an Indiana Department of Natural Resources (IDNR) designated 100-year Special Flood Hazard Area. The IDNR Floodplain Information Portal also indicates that the ground level of the lot lies above the base flood elevation. Therefore, FEMA would likely remove the property from the Flood Hazard Area by Letter of Map Amendment (LOMA) or at the time FEMA updates its maps.
- The Technical Advisory Committee (TAC) / Site Plan Review Committee would review a detailed site plan including structure layout, elevation of development, drainage infrastructure, and septic system design for compliance with County codes prior to issuance on permits for a new single-family residence.



## 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**

Development of the property for one additional rural homesite would not impact continued use of adjacent property for agricultural purposes.

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

The property is currently used for residential purposes. Approval would not significantly alter the current use or character of the property.

**3. The Conservation of Property Values throughout the Jurisdiction**

Development of the property for residential purposes would have no perceivable impact on property values throughout the County.

**4. Responsible Development and Growth**

Approval of the rezoning would not conflict with the Comprehensive Plan. The TAC would review a site plan for any new single-family home for compliance with County codes.

**5. The Comprehensive Plan**

The Future Land Use Map shows the property as Parks, Open Space, and Conservation because the property lies within a FEMA designated Special Flood Hazard Area, however FEMA would likely remove the property from the Flood Hazard Area by Letter of Map Amendment (LOMA) or at the time FEMA updates its Flood Maps and the Future Lane Use Map designates adjacent properties for agricultural use. Division of the property for one additional rural homesite would not result in the area exceeding the residential density recommended for agricultural areas by the Comprehensive Plan.

**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 waivers to allow Simple Subdivision of a parent tract under six-acres and zoned R1.
  - a. Approval of the waivers would allow for the division of land encompassing an existing residential structure from land encompassing existing barns for the purpose of division of assets.
3. The subdivision of land satisfies the standards of Article 07: Design Standards, pending approval of a waiver to allow side lot lines not within a 15-degree angle to the right-of-way.
  - a. Approval of the waiver would allow for the division of land encompassing an existing residential structure from land encompassing existing barns for the purpose of division of assets.

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.

### Staff Recommendation

---

**APPROVAL** primarily because approval would not significantly alter the existing residential use and character of the property.

**Staff recommends one stipulation:** Prior to permit application for any new residence, the property or ground around the proposed residential structure shall be removed from the Special Flood Hazard Area through the LOMA process.

### *Applicant/Owner Information*

---

Applicant:	Branden L Voege 5250 N Morristown Rd. Shelbyville, IN 46176	Surveyor:	Scott T Sumerford 3149 N Riley Hwy. Shelbyville, IN 46176
Owner:	Same		

VOEGE SIMPLE SUBDIVISION

LEGAL DESCRIPTION OF PARENT TRACT

Warreny, Deid Instrument No. 2022006254, Recorded October 6, 2022 David A. Bush to Brandon Lee Voege

A part of the Southeast Quarter of Section 4, Township 13 North, Range 7 East, Shelby County, Indiana, described as follows: Commencing at the southeast corner of the above described Southeast Quarter of Section 4, thence with the Easting line of the Quarter North 00 degrees 00 minutes 00 seconds East 1323.05 feet; thence North 88 degrees 16 minutes 22 seconds West 1835.58 feet to the true point of beginning of the tract herein described; thence South 30 degrees 39 minutes 04 seconds West 469.20 feet; thence North 88 degrees 16 minutes 22 seconds West 530.46 feet to the center of the Morrisstown Road; thence with said road center, North 30 degrees 39 minutes 04 seconds East 469.20 feet; thence South 88 degrees 16 minutes 22 seconds East 530.46 feet to the point of beginning, containing 5.00 acres, more or less.

OWNERSHIP CERTIFICATE

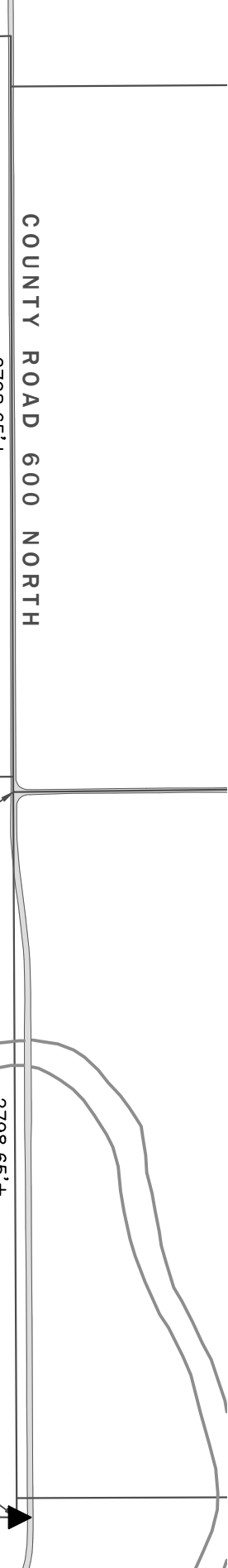
I, Brandon Lee Voege of Shelby County, Indiana, do hereby certify that I am the owner of the property described in the above captioned and that as such owner have caused the property to be surveyed and subdivided as shown on the hereon drawn plat, as my own free and voluntary act and deed.

Owner, Brandon Lee Voege (Seal) State of Indiana ) County of Shelby )

Notary Public (Seal) Hereby certify that I, a Notary Public in and for said County and State, do personally know to me to be the same person whose name is subscribed to the above certificate

personally known to me to be the same person whose name is subscribed to the above certificate appearing before me this day in person and acknowledge that they signed the above certificate as their own free and voluntary act and deed for the uses and purposes therein set forth.

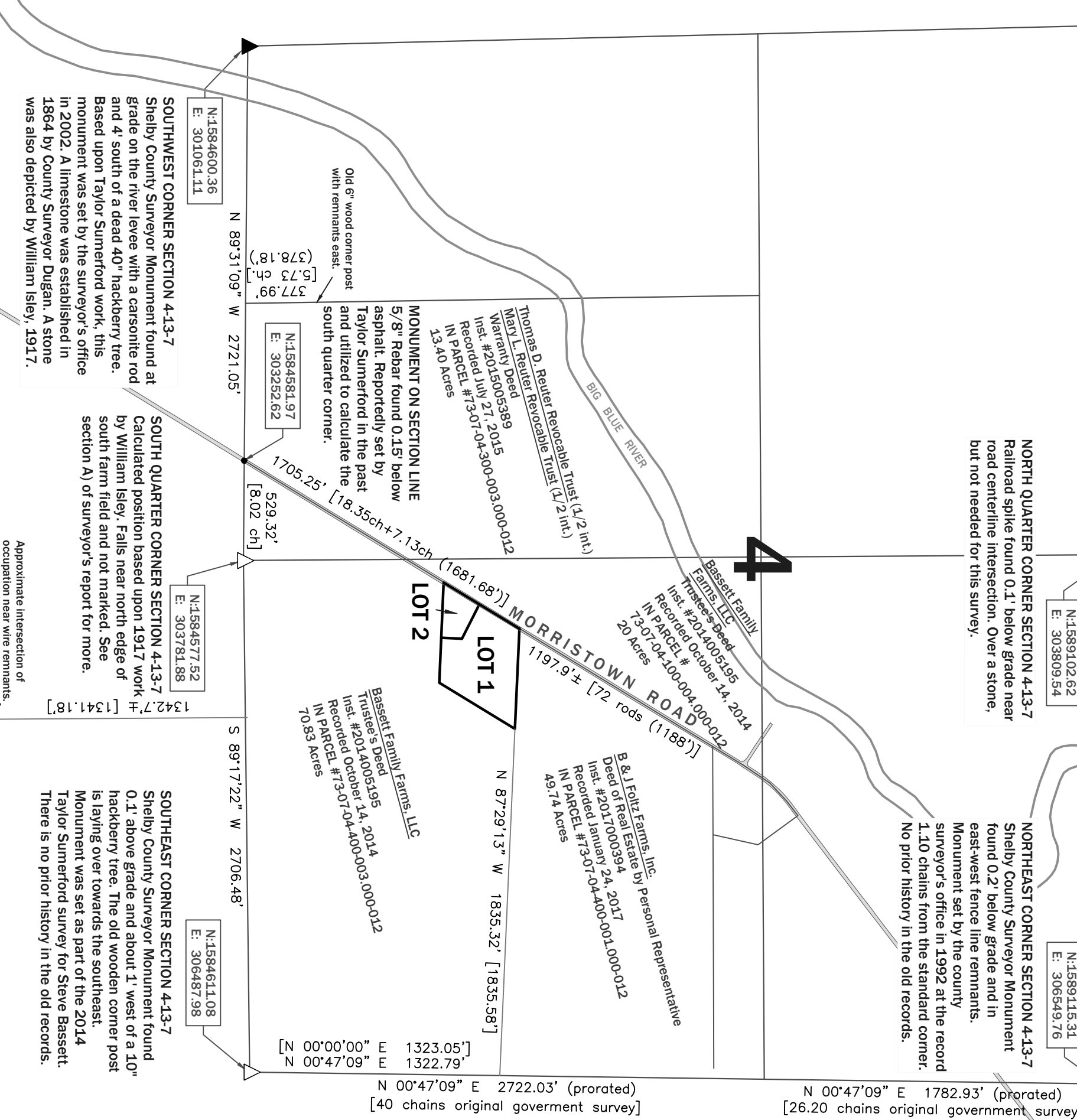
Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2023



INDIANA STATE PLANE GRID COORDINATE VALUE (EAST ZONE 1303) SCALE: 1 INCH = 600 FEET

LEGEND

- SECTION CORNER PERMITTED ON CURRENT SHEETS
RECORD BOOK OR BEST AVAILABLE EVIDENCE
RECORD BOOK OR BEST AVAILABLE EVIDENCE
RECORD BOOK OR BEST AVAILABLE EVIDENCE



PLAT CERTIFICATION

The client is needing to separate the parent 5 acre tract into two pieces for different ownership reasons. The existing house will end up on the smaller lot and the barn in the front will serve as another dwelling in the future on the larger lot.

In accordance with Title 865, Article 1, Chapter 12, Section 12, of the Indiana Administrative Code, the following report explains the theory of location applied in creating the lines and corners of the surveyed property and discusses the surveyor's opinion of the cause and amount of uncertainty in those lines and corners because of the following:

- A) Availability and condition of reference monuments.
The parent tract was originally surveyed by Taylor Sumnerford on a 1993 survey for Shelby County, Indiana. The parent tract was divided into two lots by a deed on Lot 2 was built in 1994 and the pole barn on Lot 1 was built in 2003. The 1993 survey was tied to the east line of the section and ran down the south side of a gravel lane where the apparent boundary was approximated by power poles.

The south line of the section is well defined in the corners, but there appears to be a noticeable deflection at the south quarter corner. Historically there was a lane or road that crossed the section at this location. It is believed that the deflection was caused by the corner post at that time. The only original stakes set on the section were two railroad spikes in the centerline of Morrisstown Road at the northwest and southeast corners of the 5 acres. The northwestern corner was recovered on good condition, but the southwestern one had been hit by a blow at some point and the base corner of the stake had to be estimated by position. Also the monument was set on the east line of the section by a 1/2" rebar. The monument with the previous post lying over. For original survey re-entrant, the northwest spike was held in place and the tract was rotated to match the southwest spike and east line of the section. The re-creation is estimated to be within 0.25 feet of the original intent. The north line and attached lead in line are falling roughly on the southerly edges of the aforementioned power poles.

The centerline of Morrisstown Road was held on this survey by the two railroad spikes set on the 4993 survey. It would appear, however that the road has possibly enlarged and drifted a little bit northwesterly. A survey was done in 2014 by Taylor Sumnerford on a 3.255 acre tract for Steve Bassett, just north of B & J Foltz Farms. The centerline utilized in 2014 is measuring roughly 1.5 feet further to the northwest.

Occupation or possession lines

As mentioned, the north line of the parent tract, being the extended boundary previously on estimated occupation on the south side of the long gravel lane back to 6254 N Morrisstown Road. Legal description wise, these properties are written with dimensions in rods and chains. See the section drawing for the Morrisstown Road record widths for these properties. In both cases, there is significant overrun in current day measurements in comparison to the record. An attempt was made to apply proration and sketch out the record descriptions. The Bassett Farms monument locations are shown on the section drawing. It is believed that the deflection of the old occupation line is the best evidence to the original boundary, even with the lack of any fence remains today.

There is some over occupation in the southeast corner of the parent tract, where a dirt mound has been placed. Grass and field lines are the majority of any evidence of possession.

The new line proposed between Lot 1 and 2 will dissect the existing septic system into two pieces. The existing septic system is located on the east line of Lot 2, but the above and fringe system are on Lot 1. According to the client's plans, he will provide an easement per this plat for Lot 2's benefit. Eventually a new system will be installed to correct this situation.

Clarity or ambiguity of record descriptions

The basis of bearings from the 1993 parent tract original survey was assumed on the east line of the section as due north (N 00° 00'00" E). Section 4 currently only has two modern day perpetuation corners by the County Surveyor's Office. In order to have the best possible accuracy of the section, the bearings were re-entrant on a north-south basis and switch descriptions to the Indiana State Plane System.

Besides the already discussed crudeness and uncertainties in the surrounding record legal descriptions, no other title issues were encountered.

Relative positional accuracy of measurements

The lines and corners retraced or established by this survey have been executed with the use of a total station. The relative positional accuracy of the survey is estimated to be within 0.25 feet +/- 100 ppm.

Relative positional accuracy of measurements

The lines and corners retraced or established by this survey have been executed with the use of a total station. The relative positional accuracy of the survey is estimated to be within 0.25 feet +/- 100 ppm.

Survey Certification

I hereby certify that this survey was performed under my direct supervision and to the best of my knowledge and belief was executed to minimum standards of practice as contained in Rule 12, of the 865, Article 1, of the Indiana Administrative Code. DATE: July 25, 2023

Signed: Scott T. Sumnerford

Registration Number: 98900017

NOTES

- Lot 1 is being rezoned from an A2 (Agricultural) to RE (Residential Estate).
- Lot 2 is being rezoned from an A2 (Agricultural) to R4 (Single Family Residential).

The rezoning was approved on \_\_\_\_\_ by the Commissioners of Shelby County.

- Walkers are being requested for having a side lot line running over .15' maximum to the road right-of-way, a Simple Subdivision on a parent tract under 6 acres and for allowing a Simple Subdivision of property with R4 zoning.

- At least three deciduous trees with a caliper measurement over 4-in shall be preserved on each lot.

FLOOD STATEMENT

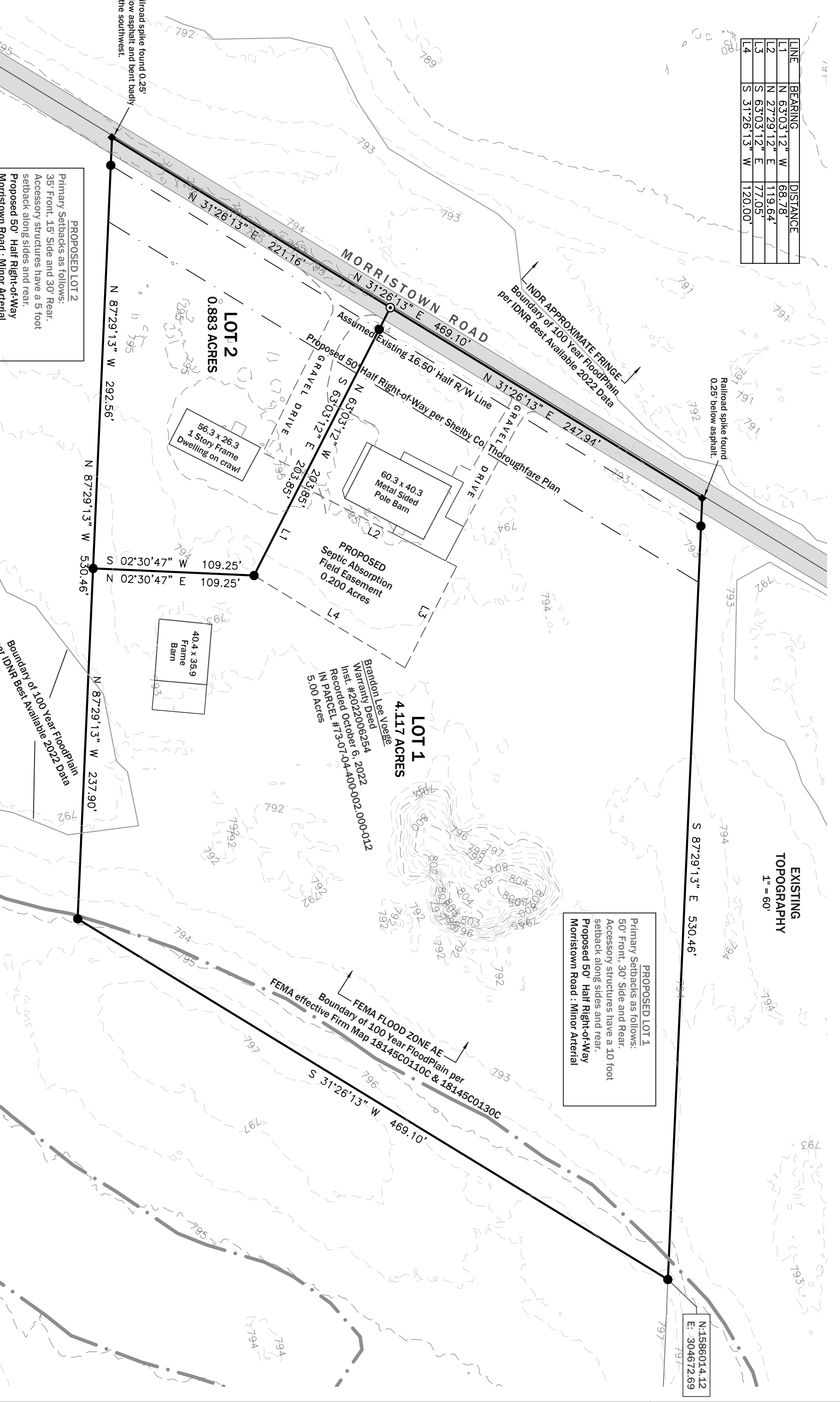
The subject property does lie within a special flood hazard area per effective FEMA Flood Insurance Rate Map, Panel Number 181450010C and 1814500130C, effective date of November 5, 2014. Only a small portion of the property does lie within a flood zone according to the 2022 Indiana Best Available Floodplain layer at the very south line. A base flood elevation number of 792.3 feet was obtained from the Indiana Floodplain Portal with Big Blue River being the contributing stream.

PLAN COMMISSION APPROVAL

Approved by the Shelby County Plan Commission in accordance with all applicable Subdivision Regulations.

By: President, Terry Smith Date: \_\_\_\_\_

By: Secretary, Scott Garbard Date: \_\_\_\_\_



LEGAL DESCRIPTION LOT 1

Part of the southeast quarter of Section Four (4), Township Thirteen (13) North, Range Seven (7) East, Marion Township, Shelby County, Indiana, being part of a 5.00 acre tract as described in instrument No. 2022006254, recorded October 6, 2022 in the Office of the Shelby County Recorder, also being part of survey Job #31N7E4-23-033 by Scott T. Sumnerford. RLS#29800017, certified July 25, 2023 and being more particularly described as follows:

Commencing at the southeast corner of the southeast quarter of said section 4-13-7, said point being marked by a Shelby County Surveyor Monument; thence along the east line of said southeast quarter, North 00° 47'09" East (basis of bearings being Indiana State Plane East Zone) 1322.79 feet to a point; thence North 87° 29'13" West 1835.52 feet to a capped rebar stamped "S. Sumnerford 29800017"; said monument being hereinafter referred to as a capped rebar, said point of beginning of the herein described tract;

- Thence along the east and south lines of said 5.00 acre tract, the following two (2) courses:
(1) South 31° 26'13" West 469.10 feet to a capped rebar;
(2) North 87° 29'13" West 237.90 feet to a capped rebar; thence North 02° 30' 47" East 109.25 feet to a capped rebar; thence North 63° 03'12" East 203.85 feet to a maginal and washer stamped "S. Sumnerford 98000017"; thence along the east line of said section 4-13-7, said point being marked by a Shelby County Surveyor Monument; thence along the east line of said southeast quarter, North 00° 47'09" East (basis of bearings being Indiana State Plane East Zone) 1322.79 feet to a point; thence North 87° 29'13" West 1835.52 feet to a capped rebar stamped "S. Sumnerford 29800017"; said monument being hereinafter referred to as a capped rebar; thence along the east and south lines of said 5.00 acre tract the following two (2) courses:
(1) South 31° 26'13" West 469.10 feet to a capped rebar;
(2) North 87° 29'13" West 237.90 feet to a capped rebar at the point of beginning of the herein described tract.

These corners along said south line, North 87° 29'13" West 292.58 feet to a point in the centerline of Morrisstown Road, thence along said centerline, North 31° 26'13" East 221.16 feet to a maginal and washer stamped "S. Sumnerford 98000017"; thence South 63° 03'12" East 203.85 feet to a capped rebar; thence South 02° 30'47" West 109.25 feet to the point of beginning, containing 0.883 acres.

LEGAL DESCRIPTION LOT 2

Part of the southeast quarter of Section Four (4), Township Thirteen (13) North, Range Seven (7) East, Marion Township, Shelby County, Indiana, being part of a 5.00 acre tract as described in instrument No. 2022006254, recorded October 6, 2022 in the Office of the Shelby County Recorder, also being part of survey Job #31N7E4-23-033 by Scott T. Sumnerford. RLS#29800017, certified July 25, 2023 and being more particularly described as follows:

Commencing at the southeast corner of the southeast quarter of said section 4-13-7, said point being marked by a Shelby County Surveyor Monument; thence along the east line of said southeast quarter, North 00° 47'09" East (basis of bearings being Indiana State Plane East Zone) 1322.79 feet to a point; thence North 87° 29'13" West 1835.52 feet to a capped rebar stamped "S. Sumnerford 29800017"; said monument being hereinafter referred to as a capped rebar; thence along the east and south lines of said 5.00 acre tract the following two (2) courses:
(1) South 31° 26'13" West 469.10 feet to a capped rebar;
(2) North 87° 29'13" West 237.90 feet to a capped rebar at the point of beginning of the herein described tract.

These corners along said south line, North 87° 29'13" West 292.58 feet to a point in the centerline of Morrisstown Road, thence along said centerline, North 31° 26'13" East 221.16 feet to a maginal and washer stamped "S. Sumnerford 98000017"; thence South 63° 03'12" East 203.85 feet to a capped rebar; thence South 02° 30'47" West 109.25 feet to the point of beginning, containing 0.883 acres. Subject to all easements, restrictions and right-of-ways of record.

SEPTIC ABSORPTION FIELD EASEMENT

Part of the southeast quarter of Section Four (4), Township Thirteen (13) North, Range Seven (7) East, Marion Township, Shelby County, Indiana, being part of a 5.00 acre tract as described in instrument No. 2022006254, recorded October 6, 2022 in the Office of the Shelby County Recorder, also being part of survey Job #31N7E4-23-033 by Scott T. Sumnerford. RLS#29800017, certified July 25, 2023 and being more particularly described as follows:

Commencing at the southeast corner of the southeast quarter of said section 4-13-7, said point being marked by a Shelby County Surveyor Monument; thence along the east line of said southeast quarter, North 00° 47'09" East (basis of bearings being Indiana State Plane East Zone) 1322.79 feet to a point; thence North 87° 29'13" West 1835.52 feet to a capped rebar stamped "S. Sumnerford 29800017"; said monument being hereinafter referred to as a capped rebar; thence along the east and south lines of said 5.00 acre tract the following two (2) courses:
(1) South 31° 26'13" West 469.10 feet to a capped rebar;
(2) North 87° 29'13" West 237.90 feet to a capped rebar at the point of beginning of the herein described easement; to a capped rebar at the point of beginning of the herein described easement.

Thence along the lot line between Lots 1 and Lot 1 of the Voege Simple Subdivision, North 63° 03'12" West 68.18 feet; thence North 27° 29'12" East 119.64 feet; thence South 53° 03'12" East 77.05 feet; thence South 31° 26'13" West 120.00 feet to the point of beginning, containing 0.200 acres. Subject to all easements, restrictions and right-of-ways of record.

Summary information including Job Location (Marion Township, Shelby County, Indiana), Client (Brandon Voege), Project (Simple Subdivision procedure for splitting existing 5 acre parcel into two separate lots), Last Date of Fieldwork (July 7, 2023), and Surveyor (Scott T. Sumnerford).



Property Details

**Location:** East of and adjoining 9174 N 250 E, Morristown, Hanover Township.

**Property Size:** 38.197-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**

RE (Residential Estate)

*This district is established for single-family detached dwellings in a rural or country setting.*

**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.*

**Surrounding Development**

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

# Staff Report

**Case Number:** RZ 23-19

**Case Name:** Schwier & Co., LLC Rezoning – A1 (Conservation Agricultural) to RE (Residential Estate) & Waivers of Subdivision Standards

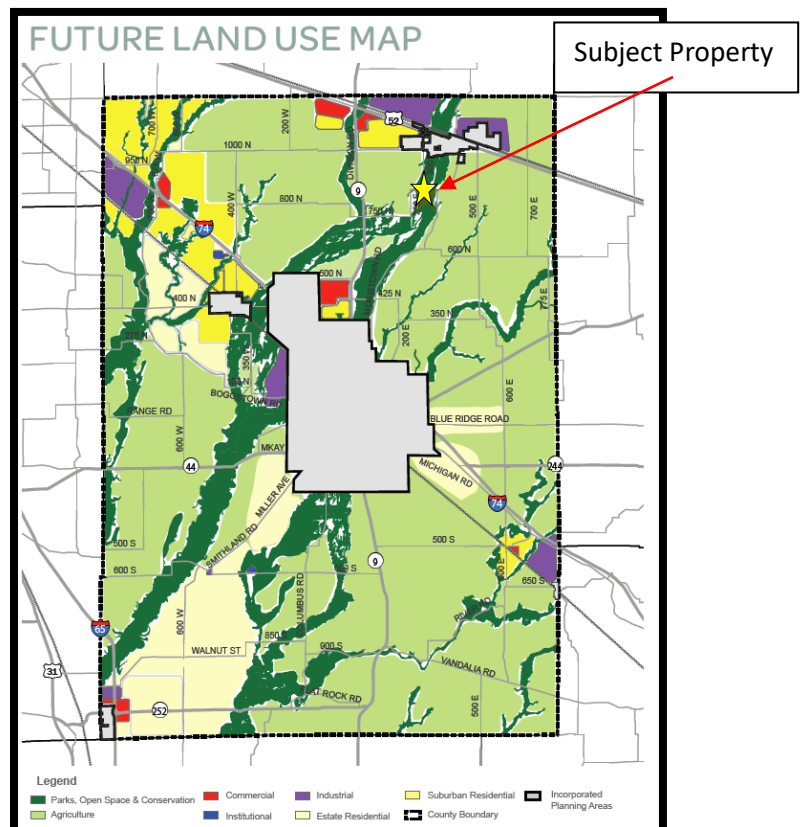
## Requests

**Rezoning** of 38.197-acres from the A1 (Conservation Agricultural) District to the RE (Residential Estate) District.

**Waivers:**

1. Of Simple Subdivision prerequisites to allow Simple Subdivision of property into nine lots (major subdivision process required for division into more than three lots);
2. Of subdivision design standards to allow two lots under two acres;
3. Of subdivision design standards to allow one lot with less than 160-feet of road frontage.

## Future Land Use Map



## Property Map



## Case Description

- Approval of the rezoning would allow for subdivision of the property into three building lots through the Simple Subdivision Process. The Simple Subdivision process allows for division of property into one to three building lots without infrastructure improvements.
- Approval of the waivers would allow for subdivision of the property into nine building lots through the Simple Subdivision process. If the Plan Commission approves the waivers, per State Code the Plan Commission must approve the subdivision plat at a subsequent Plan Commission meeting because the plat would then comply with all applicable County requirements.
- The Unified Development Ordinance includes additional subdivision standards for division of property into more than three lots due to the higher impact that larger developments have on adjacent property and community infrastructure. If the Plan Commission allows subdivision of the property through the Simple Subdivision process, the Plan Commission would waive the following standards that apply to a Major Standard Subdivision:
  - Drainage Facilities required as prescribed by the Unified Development Ordinance and Shelby County Drainage Ordinance.
  - Dedication of right-of-way along perimeter streets required.
  - Minimum open space required: 15%
  - Minimum landscaping required: 35-feet along perimeter streets and 10-feet along subdivision exterior property lines.
  - Interior public road constructed to County specifications required. Access by individual lots to perimeter County roads prohibited.
  - Sidewalks required.

- Division of the property through the Major Standard Subdivision process would allow for division of the property into nearly thirty, one-acre lots with access along a public road.
- The petitioner has conducted preliminary soil analysis indicating favorable conditions for both well and septic installations. The County Health Department indicated that the soil type would likely not necessitate septic system drainage.
- The Technical Advisory Committee (TAC) / Site Plan Review Committee would review a detailed site plan including structure layout, elevation of development, drainage infrastructure, and septic system design for compliance with County codes prior to issuance on permits for any new single-family residence.

### 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**

The surrounding area includes residential estate lots and higher density single-family development. Therefore, development of residential estate lots would not conflict with surrounding development.

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

The property is located in a rural residential area, does not lie in a flood zone, has significant road frontage, and has suitable soils for installation of septic systems which renders the property desirable for residential estate development.

**3. The Conservation of Property Values throughout the Jurisdiction**

Development of the property for residential purposes in compliance with the provisions of the Unified Development Ordinance would have no perceivable impact on property values throughout the County.

**4. Responsible Development and Growth**

Approval of the rezoning would not conflict with the Comprehensive Plan. The TAC would review any proposed development for compliance with County codes. Approval would allow for additional housing opportunities in an area experiencing a housing shortage.

**5. The Comprehensive Plan**

The Future Land Use Map shows the property as Parks, Open Space, and Conservation due to proximity to a designated floodplain. However, the property does not lie in the floodplain and the map designates adjacent properties for agricultural use. Development of the property for residential purposes in compliance with the provisions of the Unified Development Ordinance would not conflict with the residential density recommended for agricultural areas by the Comprehensive Plan.

**Waivers:** The Unified Development Ordinance does not designate Findings of Fact for waiver approval. However, Staff recommends that the Board take the following facts into consideration when making their decision.



- The Shelby County Drainage Ordinance requires submittal of a drainage plan for major subdivisions. The drainage ordinance also includes required accommodations for runoff, required drainage easements, and drainage infrastructure design guidelines for major subdivisions. Approval of the waivers would waive the requirements of the drainage ordinance. However, due to lack of hard surface streets within the subdivision and the presence of soils that will likely accommodate septic systems without drainage, a strict adherence to the drainage ordinance may pose an unnecessary hardship. A drainage study would confirm the need for drainage infrastructure.
- The Unified Development Ordinance requires that most lots within a major subdivision access an public internal street rather than a County road. This requirement limits curb cuts onto County roads with higher traffic volumes, which protects the safety of the traveling public and promotes orderly development in the case where the parent tract has minimal road frontage. This requirement also provides a quiet, neighborhood street for use by the residents within the subdivision. Approval of the waivers would waive the internal street requirement. However, due to the presence of adequate road frontage and the limited number of proposed lots in comparison to other major subdivisions, provision of an internal public street may pose an unnecessary hardship.
- The Unified Development Ordinance requires sidewalks, landscaping, and open space for major subdivisions to encourage quality development that enhances the quality of life of residents of the subdivision and protects the character of the community. Approval of the waivers would waive these design guidelines. However, due to the limited number of proposed lots in comparison to other major subdivisions, provision of these design elements may pose an unnecessary hardship.
- Generally, Simple Subdivisions allow property owners to divide and develop lots for their personal use or for use by family members while Major Subdivisions allow developers to divide and sell lots. The additional requirements for Major Subdivisions places the burden on the developer to ensure that lots have adequate soils for septic systems and adequate infrastructure prior to listing lots for sale.
- Several sources indicate that the United States currently has a housing shortage. Locally, realtors have cited a significant housing shortage, especially in the rural areas of Shelby County. Allowing less-restricted subdivision of property through the grant of waivers would allow for additional housing opportunities.
- Approval to allow a nine-lot Simple Subdivision greatly exceeds the ordinance limitation of three lots. If the Plan Commission deems the waivers appropriate, the Board may consider a future ordinance amendment to allow Simple Subdivisions of property into more than three lots for consistency with their decision.

## Staff Recommendation

---

**APPROVAL of the rezoning** primarily because development of residential estate lots would not conflict with surrounding residential development.

**DENIAL of the waivers** primarily due to the significant deviation from the maximum three-lot requirement for Simple Subdivisions. Staff recommends that the petitioner submit application for a Major Standard Subdivision and that the Plan Commission consider waivers from the Major Standard Subdivision requirements as appropriate if the petitioner can prove an unnecessary hardship.

## *Applicant/Owner Information*

---

Applicant/Owner:	Schwier & Co., LLC 6158 W 300 S New Palestine, IN 46163	Attorney:	Jacob S. Brattain, McNeely Law LLP 2177 Intelliplex Drive, Ste. 251 Shelbyville, IN 46176
------------------	---	-----------	---

July 3, 2023

Shelby County Plan Commission  
25 W Poly Street, Room 201  
Shelbyville, IN 46176

*Re: Rezone Request for Shelby County Parcel # 73-06-11-100-020.000-004*

Dear Plan Commission Members:

This letter serves as a letter of intent for the proposed zoning map amendment for property located known as Parcel Number: 73-03-15-400-039.000-007 (the "Property"). McNeelyLaw LLP represents owner of the Property, Schwier & Co., LLC ("Schwier"). Schwier recently purchased the Property, and is requested to rezone the Property in order to subdivide the Property into large, residential building lots.

The Property is approximately 38.2 acres and in the A1 zoning district. The Property is located approximately 1000' from the unincorporated town of Freeport, and is bound by Freeport Road on the North and County Road N 250 E on the west. The Property is not part of the floodplain or floodway and is currently being used for agricultural purposes. Residential lots immediately to the East of the Property on Freeport Road range from .25 acres to 1 acre, and residential lots immediately to the South of the Property on N 250 E also range from .25 acres to 1 acre.

If approved, Schwier will subdivide the Property into nine (9) residential building lots. Each of the lots would have road frontage, either on Freeport Road or N 250 E, and no internal drives or drainage systems would be required to support the development. Preliminary soil analysis indicated favorable conditions for both septic and well installations. If approved, two lots would be 1.74 acres, one would be 4.76 acres, and the remaining six would be 5.00 acres. All lots would be deed restricted and require minimum standards for size, materials, and setbacks.

To facilitate this proposed use of the Property, Schwier is requesting a waiver to allow for a simple subdivision for more than three (3) lots, and to rezone the Property from A1 to RE. This development would allow for responsible development in Shelby County, and would support demand for rural housing options in an area that already has other residential development.

Very truly yours,

McNeelyLaw LLP

*Jacob S. Brattain*

Jacob S. Brattain

**APPLICATION FOR REZONING  
FINDINGS OF FACT**

The applicant (or their representative) must fill out the findings of fact on the following pages. The Plan Commission 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.

Applicant: Jacob Brattain w/McNeelyLaw LLP for SCHWIER & CO., LLC

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

Location: 38.2A 1/4mi East of Freeport, Parcel No. 73-03-15-400-039.000-007

1. The request is consistent with the Shelby County Comprehensive Plan because: the Comprehensive Plan encourages "future development in appropriate areas of the County" and the proposed rezone would allow for development of rural residential housing in an area that already has multiple residential dwellings.
2. The request is consistent with the current conditions and the character of structures and uses in each district because: several adjoining and adjacent properties are currently used for residential purposes, and by adding deed restrictions, the development can be controlled to ensure quality housing opportunities.
3. The request is consistent with the most desirable use for which the land in each district is adapted because: the underlying agricultural land is not prime farmland, and by ensuring large lots, it allows the rural characteristics of the property to remain intact while supporting development.
4. The request is consistent with the conservation of property values throughout the jurisdiction because: responsible residential development raises the values of surrounding residential properties.
5. The request is consistent with responsible growth and development because: the rezone will ensure that the established lots will remain large and preserve the rural characteristics that make Shelby County a desirable place to live.

**General Guidance – Rezoning (not to be considered legal advice):**

**Finding 1:** How is the proposed new zoning designation consistent with the future land use of the property identified in the Comprehensive Plan? If you do not know the future land use of the property, please ask the Planning Director.

**Finding 2:** How is the proposed use, and/or other possible future uses permitted in the proposed zoning district, similar to surrounding structures and uses of land?

**Finding 3:** Why is the proposed use, and/or other possible future uses permitted in the proposed zoning district, the most desirable use for the land?

**Finding 4:** Explain why the proposed use, and/or other possible future uses permitted in the proposed zoning district, would not negatively impact property values.

**Finding 5:** Why is the change in zoning designation consistent with responsible growth and development?

