

**Shelby County
Board of Zoning Appeals**

May 14, 2024, at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals May 14, 2024, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the April 9, 2024, meeting.

OLD BUSINESS

BZA 24-11 – CORNERSTONE CHRISTIAN FELLOWSHIP: FINDINGS OF FACT

BZA 24-12 – AMERICAN TRAILER WHOLESALERS: FINDINGS OF FACT

BZA 24-13 – MARK E SHANNON: FINDINGS OF FACT

NEW BUSINESS

BZA 24-15 – SCOTT & LORI SCUDDER: DEVELOPMENT STANDARDS VARIANCE. Located at 204 E Washington St, Waldron, Liberty Township.

BZA 24-17– GLEN R LOSEY: DEVELOPMENT STANDARDS VARIANCES. Located at 10865 N 150 E, Morristown, Van Buren Township.

BZA 24-18 – KRISTIAN REEDY: USE & DEVELOPMENT STANDARDS VARIANCES. Located at 10318 N 850 W, Fairland, Moral Township.

BZA 24-19 – BURNHAM SEV SHELBY LLC: USE VARIANCE. Located at 11599 N 200 E, Morristown, Van Buren Township.

DISCUSSION

V23-14 – DANNY & MARIA RIGDON: ZONING VIOLATION. Update on progress to correct violation. Located at 5879 N PR 660 W, Fairland, Brandywine Township.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **June 11, 2024, at 7:00 PM.**

Development Standards Variance

FINDINGS OF FACT

Applicant: Cornerstone Christian Fellowship

Case #: BZA 24-11

Location: 7414 E Michigan Rd, Waldon, Liberty Township.

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

Studies conducted by the Federal Highway Administration show that electronic message centers do not pose a safety risk to motorists and the sign will sit at eye level which will not require motorists to take their eyes off the road to see the sign. The sign will inform the community about church and community events.

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

Implementation of dimming features relevant to ambient conditions, limiting light cast at the property line, and non-operation of the EMC portion of the sign during nighttime hours would mitigate light nuisance to adjacent residential properties. Prohibiting motion pictures would limit visual nuisance to nearby residential properties.

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

A strict application of the ordinance would not allow the petitioner to utilize modern technology to display messages to increase church membership and inform the community about church and community events.

Development Standards Variance

FINDINGS OF FACT

Applicant: American Trailer Wholesalers

Case #: BZA 24-12

Location: 4485 E SR 244, Shelbyville, Liberty Township.

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

INDOT has approved use of the driveways as shown on the site plan submitted with the application for use of the property for semi-railer sales as described by the petitioner. Therefore, use of the existing driveways will not adversely impact the public. Temporary use of an unstriped parking lot during establishment of business operations would not significantly impact public safety. Use of a gravel lot to store up to twenty semi-trailers would reflect the standard business practice of semi-trailer dealerships and would not significantly impact the aesthetic quality of the area.

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

INDOT has approved use of the driveways as shown on the site plan submitted with the application for use of the property for semi-railer sales as described by the petitioner. Therefore, use of the existing driveways will not adversely impact surrounding properties. Temporary use of an unstriped parking lot during establishment of business operations would not significantly impact use of the public road by adjacent properties. Use of a gravel lot to store up to twenty semi-trailers would reflect the standard business practice of semi-trailer dealerships and would not significantly impact the aesthetic quality of the area.

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

A strict application of the ordinance would prohibit use of existing driveways approved for the proposed use by INDOT. A strict application of the ordinance would prohibit development of the site in a manner consistent with standard semi-trailer dealerships.

Use & Development Standards Variance

FINDINGS OF FACT

Applicant: Mark E Shannon

Case #: BZA 24-13

Location: 9298 N Mechanic St, Gwynneville, Hanover Township.

USE VARIANCE

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

The self-storage facility would not generate a significant amount of daily traffic and would not pose any environmental impact. The proposed use would provide a service currently not available in the area to the traveling public on US 52 and the surrounding community.

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

A self-storage facility with limited outdoor storage would be consistent with existing commercial uses within the town of Gwynneville. Proposed outdoor storage and building setbacks, landscaping, and a privacy fence would provide a visual and sound buffer from adjacent residential properties.

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

The property has historically included a commercial use and the property lies near a major transportation corridor, which renders the property desirable for commercial development.

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

A strict application of the ordinance would not allow for commercial development of property which has historically included a commercial use and which lies near a major transportation corridor, rendering the property desirable for commercial development.

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

Development of the property would not remove cropland from production or prevent continued use of properties surrounding Gwynneville for agricultural purposes.

DEVELOPMENT STANDARDS VARIANCE

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

Approval of the use variance would not have a negative impact on the community, therefore, allowing the use variance to transfer with the property would not have a negative impact on the community. The facility does not provide any services that would necessitate ADA parking spaces. Signage would allow for identification of the facility.

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

Approval of the use variance would not have a negative impact on the adjacent properties, therefore, allowing the use variance to transfer with the property would not have a negative impact on adjacent properties. Lack of ADA parking spaces would have no perceivable impact on adjacent property. Signage in compliance with dimensional and lighting standards applicable to commercial signage would not impose visual clutter harmful to surrounding properties.

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

A strict application of the ordinance would not allow the petitioner to sell the property for commercial use and approval of the variance would not prevent transition of use of the property back to a use permitted in the RE district if the self-storage facility becomes unviable. The facility does not provide any services that would necessitate ADA parking spaces. A strict application of the ordinance would not allow for signage to adequately identify the facility.

Property Details

Location: 204 E Washington St,
Waldron, Liberty Township.

Property Size: 0.18-acres.

Current Land Use: Single-Family
Residential.

Zoning Classification:

VR (Village Residential)

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

Development Standards: Flexible development standards to accommodate existing developments.

Future Land Use per Comp Plan Commercial

The purpose of this category is to provide a full range of commercial, retail, office and service uses for residents, businesses, and visitors. This category includes commercial activities with direct contact with customers ranging from neighborhood convenience stores to regionally oriented specialty stores.

Surrounding Development

	Zoning	Land Use
North	VR	Single-Family Residential
South	VR	Multi-Family Residential
East	VR	Single-Family Residential
West	VR	Single-Family Residential

Staff Report

Case Number: BZA 24-15

Case Name: Scott & Lori Scudder – Development
Standards Variance

Request

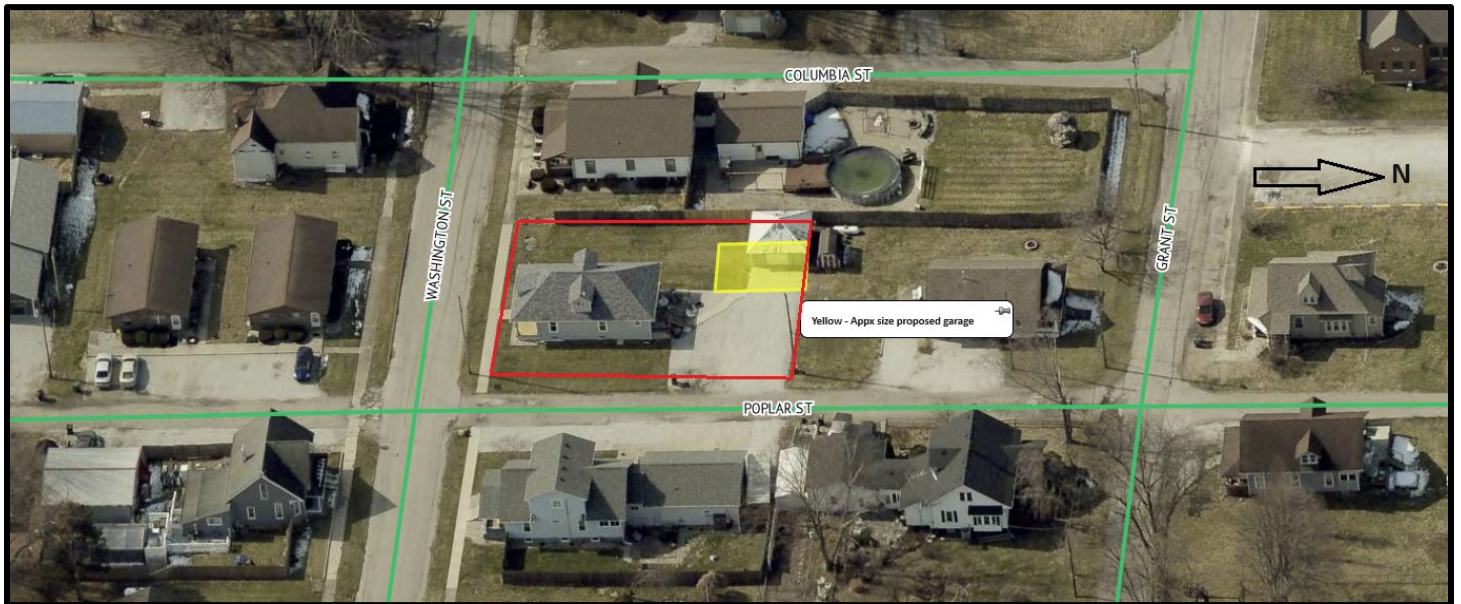
Variance of Development Standards to allow for a 768 sq. ft. detached garage exceeding 50% the square footage of the footprint of the residence.

Code Requirement

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

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

Property Map



Case Description

- The petitioner plans to construct a 24'x32' (768 sq. ft.), 10-foot-tall, detached garage.
- The garage would replace a 20'x20' (400 sq. ft.) detached garage previously located on the property as shown on the property map included in this Staff Report.
- The square footage of the garage would equal approximately 74% of the square footage of the footprint of the house. The property tax card provides the square footage of the house for the square footage calculation.
- The barn would sit twice the required minimum setback from the property lines.
- Several adjacent properties include garages attached to a home by a breezeway similar in size to the proposed garage.

Staff Analysis of Findings of Fact

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

Staff Analysis: Construction of the structure would require a building permit and the structure must comply with all building codes before passing a final inspection. The public would not have access to the structure.

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

Staff Analysis: Several adjacent properties include garages attached to a home by a breezeway similar in size to the proposed garage. The proposed garage would not conflict with the size of existing garages in the area and therefore would not impact the use and value of adjacent properties.

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

Staff Analysis: A strict application of the ordinance would prohibit construction of a detached garage consistent with the size of other garages in the area. The UDO encourages flexible development standards to accommodate existing developments for properties in the VR District.

Staff Recommendation

Staff recommends **APPROVAL** primarily because a strict application of the ordinance would prohibit construction of a detached garage consistent with the size of other garages in the area.

Applicant/Owner Information

Applicant:	Scott & Lori Scudder 204 E Washington St. Waldron, IN 46182	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Scott & Lori Scudder

Case #: _____

Location: 204 E Washington St Waldron IN 46182

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

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

personal use garage

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

10 feet from property line

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

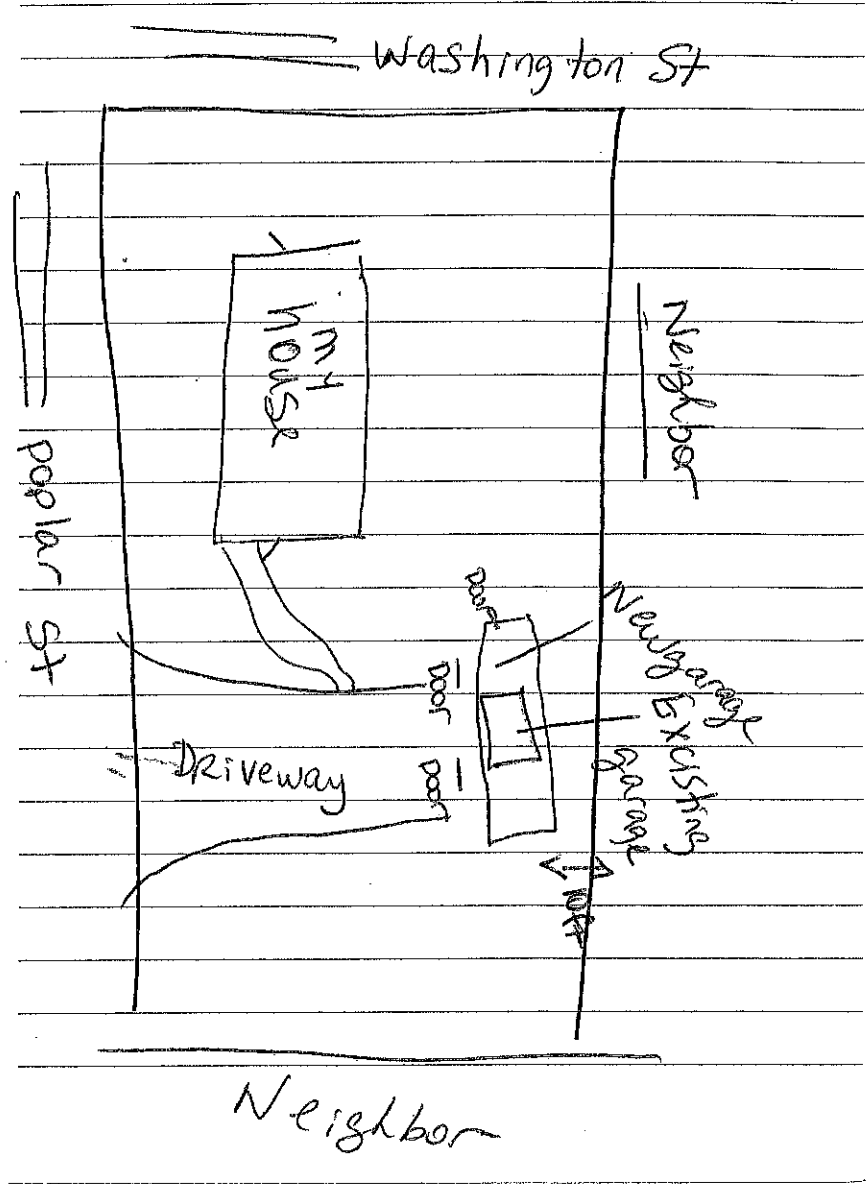
Storage, personal use

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

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

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

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



Property Details

Location: 10865 N 150 E, Morristown, Van Buren Township.

Property Size: 14.39-acres.

Current Land Use: Estate Residential.

Zoning Classification:

A2 (Agricultural)

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

Development Standards: Enact development standards to maximize protection of common agricultural practices.

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

Future Land Use per Comp Plan

Suburban Residential

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

Surrounding Development

	Zoning	Land Use
North	A1	Cropland
South	A1	Cropland
East	A2/RE	Estate Residential
West	A1	Cropland

Staff Report

Case Number: BZA 24-17

Case Name: Glen R Losey – Development Standards Variances

Request

Variations of Development Standards from Type 2 Home Business Standards to allow a Type 2 Home Business (used car and truck sales):

1. Conducted outside of the home;
2. Including outdoor storage of vehicles;
3. Having parking and loading facilities exceeding the minimum requirements of the zoning district.

Code Requirement

UDO Section 5.34 (Type 2 Home Business Standards) D 1 a – *The Type 2 Home Business shall be conducted entirely within the primary structure.*

UDO Section 5.34 (Type 2 Home Business Standards) D 1 c – *There shall be no visible evidence of the Type 2 Home Business, including but not limited to alterations to the exterior of the residence which change the character of the residence, exterior displays, or the outdoor storage of materials or equipment used in the home business.*

UDO Section 5.34 (Type 2 Home Business Standards) D 3 a – *No off-street parking or loading facilities, other than facilities meeting the requirements of the applicable zoning district, shall be permitted.*

Purpose of Requirements: Type 2 Home Business regulations allow homeowners to conduct small-scale businesses within their home that do not change the character of the property, pose a nuisance to adjacent residential properties, or generate traffic more than typically found in rural areas.

Property Map



Case Description

- The petitioner proposes to sell used cars and trucks from the property. The petitioner also resides on the property.
- Summary of the petitioner's business description:
 - Operations: Business operations and storage of vehicles within the existing barn. Vehicle sales would mainly occur online, but customers would also visit the property.
 - Customers: 5 to 10 per week.
 - Parking: Existing gravel area in front of the barn.
 - Employees: None, other than the petitioner.
 - Hours of Operation: 9AM – 5PM, Monday – Friday. Saturday by appointment only.
 - Outdoor Storage: Vehicles parked on gravel within a fenced area adjacent to the east side of the existing barn.
- An approximately 20-foot-wide gravel driveway with paved driveway apron provides access to the property.
- The Shelby County Health Department has reviewed the request and has indicated that it does not have any requirements for on-site sanitation for the proposed use, unless the petitioner chooses to add plumbing to the portion of the barn dedicated to the business.
- The proposed business complies with all standards for Type 2 Home Businesses, other than the standards applicable to the requested variances.

Staff Analysis of Findings of Fact

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

Staff Analysis: The petitioner will obtain a Dealer's License from the State of Indiana prior to operation of the business. The proposed business operation would not produce traffic significantly exceeding existing traffic in the area. The area of the property proposed for business use is not conspicuous when viewed from the public road.

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

Staff Analysis: Approval of the variance with stipulations limiting the scope of the business would not result in significant alteration to the appearance of the property or generation of more traffic than typically found in the area, therefore, would not impact adjacent properties in an adverse manner. Business activities would occur inside a structure and a privacy fence would screen all vehicles stored outdoors from adjacent property. The proposed number of customer vehicles accessing and parking on the property at one time would not significantly exceed the number of vehicles typically parked on rural residential lots. Additionally, the area of the property proposed for business use would lie a significant distance from residential structures on adjacent properties.

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

Staff Analysis: A strict application of the ordinance would not allow for a small-scale automobile related business on rural residential property relatively isolated from other residential development.

Staff Recommendation

Staff recommends **APPROVAL** primarily because a strict application of the ordinance would not allow for a small-scale automobile related business on rural residential property relatively isolated from other residential development. Approval of the variance with stipulations limiting the scope of the business would not result in significant alteration to the appearance of the property or generation of more traffic than typically found in the area, and therefore would not impact adjacent property in an adverse manner.

Staff recommends **stipulations:**

1. Operation of the business shall comply with Section 5.34 HB-02: Type 2 Home Business Standards of the Unified Development Ordinance, other than Sections 5.34 D 1 a, 5.34 D 1 c, and 5.34 D 3 a.
2. Business operations shall be limited to the business description provided on the Land Use Certificate Application provided by the petitioner with the variance application.
3. Outdoor storage of vehicles for sale shall not be permitted unless fully within an opaque fence enclosure with gate tall enough to screen the outdoor storage. Fences used for screening shall not exceed eight (8) feet in height. The fenced enclosure shall not exceed 1,000 square feet in area and shall meet all setback requirements for an accessory structure.

Applicant/Owner Information

Applicant:	Glen R Losey 10865 N 150 E Morristown, IN 46181	Owner:	Same
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View of Property from driveway entrance on CR 150 E



Staff Photograph – May 2024

Home Business Standards (HB)

5.34 HB-02: Type 2 Home Business Standards

This Home Business Standards section applies to the following zoning districts:



The following standards apply:

- A. Permits: All Type 2 Home Businesses shall obtain a Land Use Certificate.
- B. Personnel:
 - 1. Residency: The operator of the Type 2 Home Business shall reside in the house.
 - 2. Employees: One employee who does not reside in the house may be employed in the home business.
- C. Operations:
 - 1. Nuisance: The Type 2 Home Business shall not generate offensive noise, vibration, smoke, odors, dust, heat, glare, or electrical disturbances.
 - 2. Traffic: The Type 2 Home Business shall not generate vehicular traffic in greater volumes than would normally be expected in the rural area or neighborhood in which it is located.
 - 3. Customers: The Type 2 Home Business shall not generate customers in greater volumes than would normally be expected in the neighborhood.
 - 4. Hours: The hours of operation of the Type 2 Home Business shall not interfere with the use and enjoyment of adjacent residential properties; and shall be strictly restricted to the hours of 7:00 a.m. to 9:00 p.m. EST.
- D. Design:
 - 1. Primary Structure:
 - a. The Type 2 Home Business shall be conducted entirely within the primary structure.
 - b. The Type 2 Home Business shall not exceed twenty-five percent (25%) of the square footage of the primary structure.
 - c. There shall be no visible evidence of the Type 2 Home Business, including but not limited to alterations to the exterior of the residence which change the character of the residence, exterior displays, or the outdoor storage of materials or equipment used in the home business.
 - 2. Accessory Structure: No accessory structure shall be utilized for any part of the home business.
 - 3. Parking and Loading:
 - a. No off-street parking or loading facilities, other than facilities meeting the requirements of the applicable zoning district, shall be permitted.
 - b. No part of a minimum required yard shall be used for off-street parking or loading purposes.
 - 4. Mechanical Equipment: The Type 2 Home Business shall not require the installation of mechanical equipment other than that which is common in a residential structure.
 - 5. Utility Service: The Type 2 Home Business shall not require the installation of a utility service that is beyond what is common in a residential structure.
 - 6. Signs: One (1) wall sign is permitted on the primary structure and it shall not exceed three (3) square feet in sign area. The wall sign shall be fully located within five (5) feet of either the front door or side door of the primary structure. Materials shall be aesthetically compatible and complementary to the primary structure, specifically to make sure the sign is subtle and consistent with residential and neighborhood character. No special lighting shall be permitted to illuminate the sign.

LAND USE CERTIFICATE APPLICATION

Shelby County Plan Commission
25 West Polk Street, Room 201
Shelbyville, IN 46176
P: 317.392.6338 F: 317.421.8365

APPLICATION NUMBER: _____

Date: _____

Fee: _____

1. Applicant:

Name: GLEN R LOSEY
Address: 10865 N 150 E
MORRISTOWN IN 46161
Phone Number: 317-499-5699
Fax Number: N/A
E-mail Address: GLOSEY87@HOTMAIL.COM

Owner (if applicant, write applicant):

Name: APPLICANT
Address: _____
Phone Number: _____
Fax Number: _____
E-mail Address: _____

2. Location Information:

Address of Property: 10865 N 150 E MORRISTOWN Subdivision & Lot #: _____
Township: VAN BUREN

3. Required Supplemental Materials: Site Plan (drawing of property with buildings, parking areas, etc. & distance from property lines)

3. Existing Use of Property/Structures: YES, POLE BARN

4. Business Description applicable to this Land Use Certificate:

Brief Description of Business: Small USED CAR/TRUCK SALES, NO VEHICLES WILL BE
PARKED AT ROAD FRONT, MAIN INTERNET SALES, SMALL SIGN ON MAILBOX POST OFF
BUSINESS NAME, 9-5^{PM} SAT APPOINTMENT ONLY, VEHICLES WILL BE PARKED IN PRIVACY FENCED
AREA BY BARN.

Complete Answers on Reverse Side of this Form

I have read the information above and hereby agree that the use commenced at the address indicated by me or my agent shall be in accordance with specifications given hereto. I further agree that as a consideration of an Land Use Certificate, I will be governed by the Unified Development Ordinance of Shelby County Indiana, as is now in effect. I further declare that the information contained on this form is complete and accurate and the required supplemental information listed above has been provided.

Signature of Applicant: Glen R Losey Date: 2/17/2024

To Be Completed By Plan Commission Office

Parcel Number: _____
Flood Zone: Yes _____ No _____
Zoning Classification: _____
Approved By: _____

	Yes	No	Written Responses
Does the applicant reside at the residence?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Will the business have employees other than residents of the household?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
If yes, number of employees:			
Will the business utilize large vehicles (box truck, over-size pickup truck, van, etc.) parked outside daily or overnight?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Will the business utilize branded vehicles parked outside daily or overnight?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Will customers visit the property?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If yes, how many per week?			5-10
Will the business be conducted outside of the house (the house includes attached garage)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If not, approx. what percentage of the floor area of the house will be dedicated to the business?			
Will the business have a customer parking area exceeding two spaces?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Will more than 14 vehicles (including customer vehicles, business vehicles, and personal vehicles) be on the property at any one time?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DOE HAVE 13 SPACES, PERSONALLY OWNED 11 VEHICLES INCLUDING 6 TRAILERS
Will the business have loading facilities (ex. garage bay dedicated to loading and unloading large materials)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Will the business require installation of additional electric or plumbing facilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
If yes, describe utility service:			
Will the business have a sign?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If yes, size, location, materials:			SMALL SIGN ON MAILBOX POST + BY SERVICE DOOR
Will there be any change to the outside appearance of the property (outdoor storage of business materials, machinal equipment, etc.)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If yes, describe changes:			WILL BE ADDING PRIVACY FENCE AREA FOR AESTHETIC NEIGHBORS WONT SEE VEHICLES
Hours of Operation:			M-F 9A-5P SAT APPT ONLY

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: GLEN R LOSEY

Case #: _____

Location: 10865 N 150 E MORRISTOWN IN 46161

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

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

NO HARM WILL COME TO THE SURROUNDINGS. THE VEHICLES WILL BE STORED INSIDE EXISTING BARN AND PRIVACY FENCED AREA ON GRAVEL. NO VEHICLE WITH LEAKS WILL BE STORED IN A AREA THAT CAN CONTAMINATE THE SOIL. CUSTOMERS HAVE PARKING IN FRONT OF BARN, OFFICE AREA TO CONDUCT BUSINESS.

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

THE PLACE OF BUSINESS SITS 800FT FROM ROAD, 60FT TO CLOSEST PROPERTY LINE (FIELD) OVER 700FT TO CLOSEST NEIGHBORING STRUCTURE, NOISE WILL BE MINIMAL, NO CHANGE TO ODOR (COMPOST COMPOUND ^{- CALDWELLS -} ACROSS THE HIGHWAY IS THE ODOR PROBLEM) 1-4 EXTRA VEHICLES DAILY, ADDING PRIVACY FENCE

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

OTHER THAN ADDING A FENCE AND GRAVEL, I DO NOT SEE ANY REDUCTION ~~OR~~ RESTRICTION ON ECONOMIC GAIN. TOPOGRAPHY WILL NOT CHANGE. SEE SITE PLAN FOR REFERENCES

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

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

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

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

Property Details

Location: 10318 N 850 W, Fairland, Moral Township.

Property Size: 8.33-acres.

Current Land Use: Estate Residential.

Zoning Classification:

RE (Residential Estate)

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

Development Standards: Promote low-impact development in harmony with a natural setting

Future Land Use per Comp Plan

Suburban Residential

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

Surrounding Development

	Zoning	Land Use
North	RE	Estate Residential
South	RE	Estate Residential
East	RE	Cropland
West	RE	Estate Residential

Staff Report

Case Number: BZA 24-18

Case Name: Kristian Reedy – Use & Development Standards Variances

Request

Variance of Use to allow for agritourism, specifically a U-Pick Flower Farm, in the RE (Residential Estate) District.

Variances of Development Standards to allow:

1. Lack of designated ADA parking spaces;
2. A 6 sq. ft. commercial ground sign.

Code Requirement

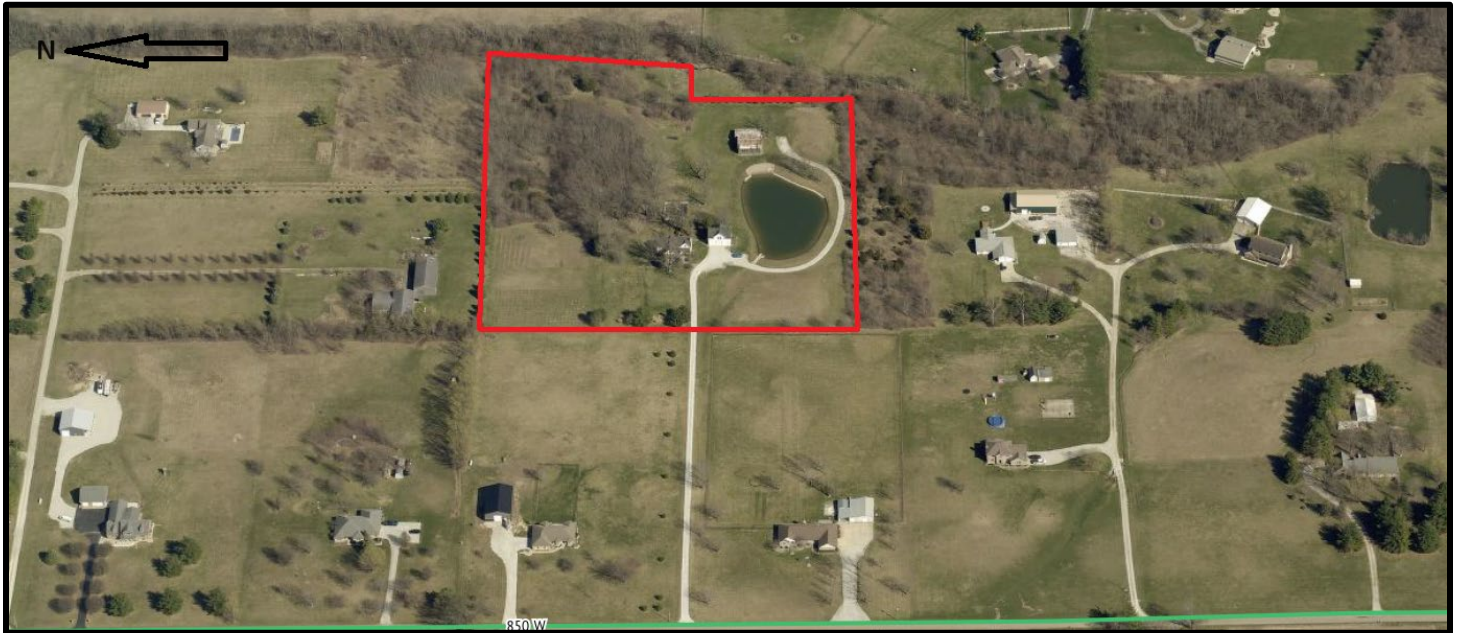
UDO Section 2.11 – RE District Intent, Permitted Uses, and Special Exception Uses.

UDO Section 5.60 F – Parking for the Disabled

UDO Section 5.73 – General Sign Standards & **UDO Section 5.74** - Agricultural Commercial, Institutional, and Neighborhood Commercial Signs.

Purpose of Requirements: ADA parking standards provide for accessible parking for the disabled. Sign standards provide a balanced system of signage to facilitate communication between people and their environment and to avoid visual clutter that is potentially harmful to traffic safety, property values, community appearance, and the economic vitality of Shelby County.

Property Map



Case Description

- The petitioner proposes to operate a flower farm agritourism business which would allow customers to visit the site to pick their own flowers. The petitioner currently resides on the property and grows flowers on the property as a hobby farm.
- Customers would pick flowers within an existing flower field located at the northwest corner of the property and would park within an existing gravel area in front of the existing garage. The petitioner does not propose any site improvements.
- Customers would purchase tickets to pick flowers in advance for designated days between the months of July and October. Initially, the petitioner plans to operate the business in a limited capacity. If the business grows, the petitioner has committed to limiting ticket sales to four days per week and to twenty-five customers per day.
- The property has access to CR 850 W by a gravel driveway through a 20-foot-wide access easement on adjacent property to the west. The property has no road frontage; therefore, customers would use this driveway to access the property. Civil courts would address any dispute over rights to use the driveway and driveway maintenance.
- The Shelby County Health Department has reviewed the request and has indicated that it does not have any requirements for on-site sanitation for the proposed use.
- Adjacent development includes estate residential lots over five acres. Other agritourism activities also exist in the surrounding area, including Brandywine Creek Vineyards and Winery, Buck Creek Winery, and Pleasant View Orchard.

- The UDO only permits agritourism in the A1 (Conservation Agricultural), A2 (Agricultural), and A4 (Agricultural Commercial) Districts. Most residential properties in the County over five acres have the A2 zoning designation. The subject property has a lot area of 8.33-acres.
- Staff recommended that the petitioner apply for a use variance rather than a rezoning because the agritourism business will function as an accessory use to residence located on-site.
- Unlike a rezoning, use variances only permit the specific use requested and do not transfer with the property if sold to an entity other than the petitioner.
- In September of 2016, the petitioner requested a Special Exception from the BZA to allow for operation of an event venue on the property. The meeting minutes indicate that several neighbors opposed the petition and that the Board denied the petition.

Staff Analysis of Findings of Fact

Use Variance

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

Staff Analysis: The proposed use would not produce traffic significantly exceeding existing traffic in the area. The proposed use would provide an agritourism activity in a rural area adjacent to more populated areas providing a larger customer base.

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

Staff Analysis: The size of the property allows agritourism activities to occur a significant distance from adjacent residential structures. Approval of the variance would not alter the appearance of the property and limiting the number of customers would ensure that traffic generated by the business does not significantly exceed traffic typically found in the neighborhood or currently using the driveway. Therefore, the proposed use would have minimal impact on adjacent properties. Small-scale agritourism use of the property would not conflict with the rural character of the area and would replicate other agritourism activities in the area.

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

Staff Analysis: The property exceeds the size of other residential properties in the neighborhood and has area available for a small-scale agritourism activity which would function as an accessory use to the residence located on the lot. Also, most residential properties in the County over five acres have the A2 zoning designation. The UDO allows agritourism on properties in the A2 District without approval of a variance.

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

Staff Analysis: A strict application of the ordinance would not allow for a small-scale agritourism activity on property in a rural area adjacent to more populated areas providing a larger customer base.

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

Staff Analysis: Approval of the variance would not prevent continued residential use of the property as recommended for Suburban Residential areas by the Comprehensive Plan.

Development Standards Variance

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

Staff Analysis: The proposed use would not provide any services that would necessitate ADA parking spaces. Signage would allow for identification of the farm.

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

Staff Analysis: Lack of ADA parking spaces would have no perceivable impact on adjacent property. Signage in compliance with dimensional and lighting standards applicable to commercial signage would not impose visual clutter harmful to surrounding properties.

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

Staff Analysis: The proposed use would not provide any services that would necessitate ADA parking spaces. A strict application of the ordinance would not allow for signage to adequately identify the farm.

Staff Recommendation

Staff recommends **APPROVAL** primarily because approval of the variance would not result in a change to the appearance of the property and limiting the number of customers would ensure that traffic generated by the agritourism business does not significantly exceed traffic typically found in the neighborhood or currently using the driveway. Therefore, the proposed agritourism use would have minimal impact on adjacent properties.

Staff recommends **stipulations**:

1. The agritourism use shall be limited to picking of flowers and produce. Special events, other types of retail sales, and other agritourism activities shall be prohibited.
2. Hours of operation shall be restricted to four (4) days per week between the hours of 7:00 AM to 9:00 PM.
3. No more than ten (10) customer vehicles shall visit the site per day.

Applicant/Owner Information

Applicant:	Kristian Reedy 10318 N 850 W Fairland, IN 46126	Owner:	Chad & Kristian Reedy
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View of Flower Field (looking north)



Staff Photograph – May 2024

View of Parking Area



Staff Photograph – May 2024

View of Driveway (looking toward CR 850 N)



Staff Photograph – May 2024

Dear neighbors,

We wanted to share some details regarding the you-pick cut flower variance we've applied for. We've always had a portion of our property that was under utilized. Last summer, we started a cut flower garden in that area. Thanks to social media and the magic of flowers, it kind of took on a life of its own.

People began asking how they could purchase flowers for bridal showers, teacher appreciation events, anniversaries, and more. We partnered with local florists to provide locally grown flowers for their arrangements. This summer, we've added the Shelbyville Farmer's Market and a partnership with Pleasant View Orchard (selling our bouquets and flowers by the stem) to our list of vendors.

It's great to be able to share flowers with the community in this way; however, we'd like to offer a you-pick experience where people can come and pick flowers for themselves. To be able to offer this service, we needed to apply for a variance of use. Here's how the you-pick would work.

- People would pre-purchase tickets for pre-determined dates (starting in mid to late July). The number of people will be capped, as will the dates. Dates will be determined based on flower production and availability.
- It would run during daylight hours. A you-pick experience on a weekday might be held from 6pm - 8pm (for instance). On a weekend, it might run from 9am - 12pm or 4pm - 7pm (for instance).
- There would be clear boundaries for the flower area, and we would be guiding the picking. There would be no "self-serve" opportunities.

There are a lot of determining factors at play, and having only grown flowers on a larger scale for one summer, we're still learning exactly how to plan flower production. For the purposes of the variance, we stated that we would offer 3-4 you-pick opportunities a week capping it off at 20-25 visitors a day. We currently do not have the flower production or the time to offer this many opportunities. We both still work full time, and flowers are a limited commodity. There are only so many flowers available to pick each week, especially given our other commitments to local businesses. We designated 3-4 times a week in the event that we choose to continue this business after our retirement from our full time jobs. Even then, we may only have the capacity to offer 3-4 you-pick opportunities a week during August and September when flower production is at its peak for our growing zone. By designating 3-4 days a week in the variance now, it keeps us from having to come back to ask for an additional variance in the future.

We've attached a QR code to give you a visual of the space. Scan with a QR code reader or with your phone's camera.

Kind regards,
Chad and Kristi Reedy



STATEMENT OF INTENT (ONLY REQUIRED FOR VARIANCE OF USE & SPECIAL EXCEPTION)

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

1. Summary of Proposed Use and/or Business Activity: We'd like to offer U Pick flower opportunities at our flower farm. It is not the primary income source for the flower farm as we sell to local florists/businesses, set up at farmer's markets, and offer bouquet subscriptions.

2. Days & Hours of Operation: 3-4 days a week for 2-3 hours during daylight hours from July-October

3. Maximum Number of Customers per Day/Week/Month: 20-25 customers per day depending on flower availability (Participants will pre-purchase tickets in advance for designated days.)

4. Type and Frequency of Deliveries: N/A

5. Description of any Outdoor Storage: N/A

6. Description, Size, and Placement of any Signage: Square 3x3 sign with logo at the end of our driveway to mark our location only during months of operation (see attached picture)

7. Description of Waste Disposal: residential trash can for normal waste disposal - no commercial waste management needed

8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): There are no upgrades or site improvements needed for any structures. There is already ample parking on site.

**USE VARIANCE
FINDINGS OF FACT**

Applicant: Kristian Reedy

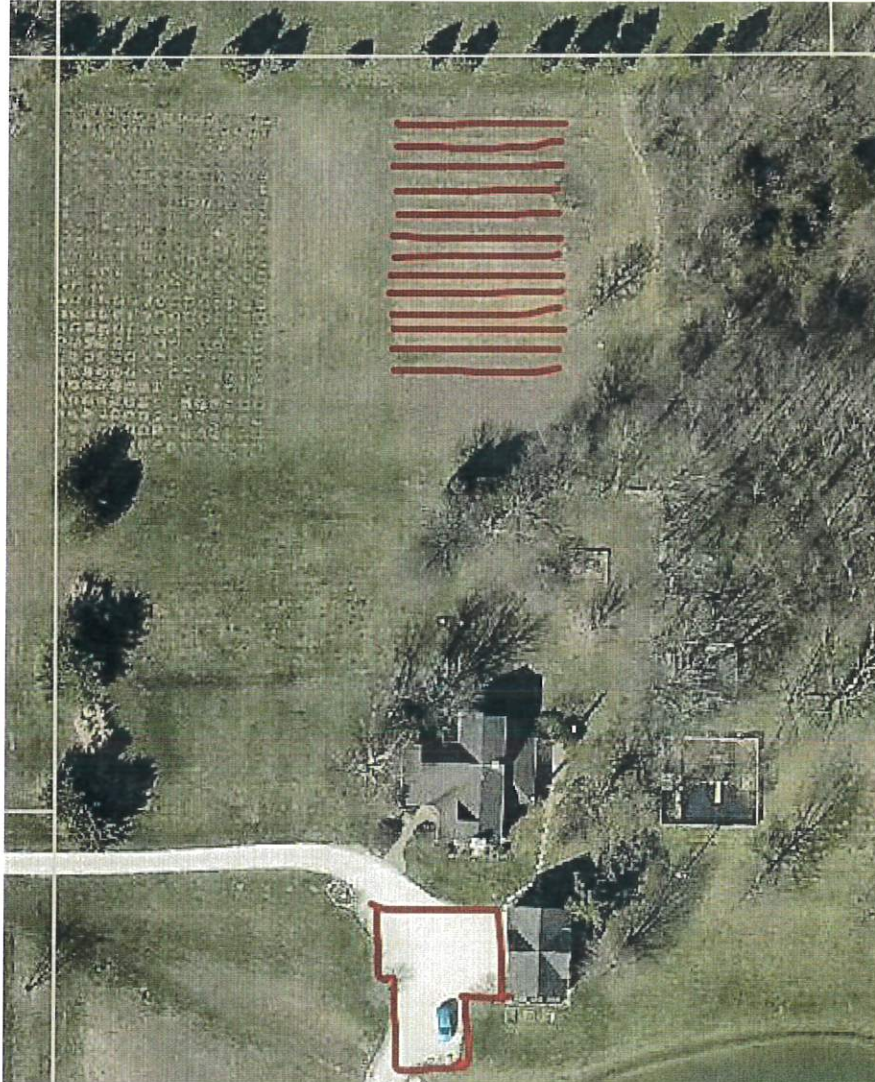
Case #: _____

Location: 10318 N 850 W, Fairland IN 46126

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

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community. The request does no harm to the community of Shelby County. The increase to traffic is minimal, especially given it will be operating during the same months as the orchard located 0.7 mile up the road. There is no added pollution or need for building code compliance.
2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. There will be no added pollution, noise, or potential risks to adjoining properties and/or neighborhood. There is no shared driveway. The flower field increases habitat for native pollinators and birds and improves the aesthetic of the area. The flower field begins approximately 20 ft. from property line.
3. **Practical Difficulty:** The need for the variance arises from some condition particular to the property involved. No anticipated practical difficulty as there is no change to topography. The flower field is located nowhere near a septic or well. The property was originally zoned agricultural and was a working farm. There are two fields used for crop production adjacent to our property.
4. **Unnecessary Hardship:** The strict application of the terms of the Shelby County Unified Development Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought. The current RE zoning creates a hardship and keeps us from utilizing our open acreage for agribusiness.
5. **Comprehensive Plan:** The granting of the variance does not interfere substantially with the Comprehensive Plan. The proposed variance does not interfere with proposed future land use as there are no permanent changes to the land. Proposed use won't change the character of the property and fits within the current zoning (Residential Estate) of the property and surrounding properties.

Reedy Farm Site Map



Reedy Farm Signage



Property Details

Location: 11599 N 200 E, Morristown, Van Buren Township.

Property Size: 109.33-acres.

Current Land Use: Agricultural Commercial – Composting Facility

Zoning Classification:

A4 (Agricultural Commercial)

Intent: This district is established for commercial and industrial uses directly related to agriculture and compatible with rural/agricultural areas.

BZA: Protect the adjacent land and uses by through the use of appropriate buffers and setbacks. Be sensitive to the potential for water pollution and other negative impacts to nearby agricultural, residential, and commercial land.

Future Land Use per Comp Plan

Industrial

The purpose of this category is to provide for a full range of light and heavy industrial uses. Types of uses include manufacturing, processing, distribution and storage. The designation should accommodate a variety of industrial establishments which: Employ high environmental quality standards, may function as an integral part of an overall development area, require large tracts of land because of their nature and function, and have minimal impacts on adjacent uses.

Surrounding Development

	Zoning	Land Use
North	Hancock County	Cropland / Estate Residential
South	A1/RE/R1	Cropland / Single-Family Residential
East	Morristown	Cropland (proposed landfill)
West	A1	Cropland

Staff Report

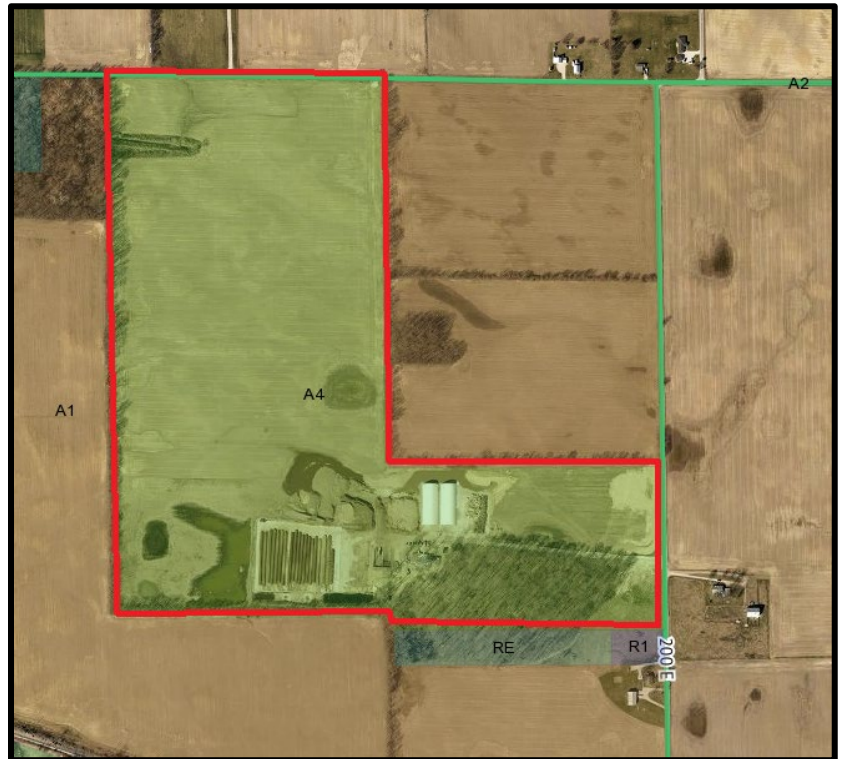
Case Number: BZA 24-19

Case Name: Burnham SEV Shelby LLC – Use Variance

Request

Variance of Use to allow for an anaerobic digester facility, including biofuel production, in the A4 (Agricultural Commercial) District.

Property Map



Case Description

Case Summary

- The petitioner proposes to construct an anaerobic digester facility. The facility will process organic waste primarily sourced from the existing on-site compost facility to produce natural gas fed into the existing natural gas line.
- Remaining materials would remain on site for future use as fertilizer. On-site storage of remaining materials would include liquid effluent within covered lagoons and organic solids stored in

the same manner as solids related to the composting facility.

- Proposed development includes anaerobic digestion facilities, covered organic solids and liquid effluent storage facilities, gas line interconnection facilities, material receiving building and scales, office building, parking lot, fencing, well, and septic system.
- The petitioner indicated that the facility would operate during typical business hours and generate approximately seven trucks per day. Trucks would have access to US 52 located ½-mile south of the property.
- The proposed facility complies with all development standards indicated in the UDO.
- Development of the site would require Technical Advisory Committee review and approval of a Site Plan in compliance with applicable County codes. The Site Plan must include elevations, specific building and parking locations, proposed septic design, and drainage infrastructure.
- The property currently includes a composting facility. On July 23, 2019, the Plan Commission forwarded a favorable recommendation to the County Commissioners to rezone the property from A1 (Conservation Agricultural) to A4 to allow for development of the compost facility. Members of the Board indicated that the operation would support County agriculture and referenced regulation by the Indiana Department of Environmental Management (IDEM) before making their recommendation. The County Commissioners approved the rezoning on August 5, 2019.
- The surrounding area includes cropland and land to the east of the subject property proposed for extension of an existing landfill. The closest residential lot not owned by the owner of the subject property or the owner of the landfill lies a quarter mile from the proposed facility.
- The UDO only allows compost facilities in the A4 District. Staff recommended that the petitioner apply for a use variance rather than a rezoning because the anaerobic digester will function as an accessory use to the compost facility.

Potential Impacts and Proposed Mitigation

- The UDO would classify the proposed use as a methane production facility, only permitted in the A3 (Intense Agricultural) District or a biofuels production facility, only permitted in the HI (High Impact) District. Both districts include significantly greater setback requirements than other zoning districts.
- Per Environmental Protection Agency (EPA) publications, anaerobic digestion facilities do not release odor into the open air, however, improper handling could result in fire or explosion.
- In Staff's opinion, only permitting anaerobic digestion facilities in the zoning districts with large setbacks serves to protect the safety of adjacent properties in the event of fire or explosion.
- The petitioner indicated that containment of the facility would not allow introduction of oxygen into the facility to facilitate combustion. However, to address any safety concerns, the petitioner has committed to implementing the required setbacks for the HI District. The HI District requires a 150-foot front yard setback and 100-foot side and rear yard setbacks for all on-site development.
- The on-site composting facility occasionally produces a natural, earthy odor. The petitioner indicated that the anaerobic digestion facility would serve to reduce existing on-site odor by capturing the methane through the

anaerobic digestion process. However, to address any odor concerns, the petitioner has committed to covering the liquid effluent lagoons.

- Tools available to local zoning boards to regulate safety and nuisance impacts of development include setbacks, lighting standards, traffic circulation requirements, and restriction of development in areas incompatible with a proposed use. Operation of the facility in compliance with IDEM and EPA standards, agencies with expertise in regulation of anaerobic digester facilities, would ensure safe and environmentally sound operation of the facility.

Staff Analysis of Findings of Fact

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

Staff Analysis: Operation of the facility in compliance with IDEM and EPA standards, agencies with expertise in regulation of anaerobic digester facilities, would ensure safe and environmentally sound operation of the facility. The operation would not produce truck traffic significantly exceeding existing truck traffic in the area and has direct access to US 52. Per EPA publications, anaerobic digestion facilities do not release odor into the open air. The facility will produce natural gas to serve the energy needs of the community.

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

Staff Analysis: The surrounding area includes cropland, land to the east of the subject property proposed for extension of an existing landfill, and does not include any residential properties not owned by the petitioner or the owner of the landfill. Therefore, operation of an anaerobic digester facility in conjunction with a composting operation would not conflict with the high impact land uses and agricultural character of the area. Additionally, the facility would comply with the setback standards for development in the HI District and would likely reduce on-site odor, which would mitigate any safety and odor impacts to adjacent properties.

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

Staff Analysis: The property includes an existing composting facility and lies within an area that includes agricultural and high-impact land uses. The existing use of the property and surrounding area render the property particularly desirable for development of an anaerobic digester facility.

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

Staff Analysis: A strict application of the ordinance would not allow for development of an anaerobic digester facility operated in conjunction with an existing on-site compost operation and which does not impact or conflict with the character of the area.

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

Staff Analysis: The Comprehensive Plan recommends a full range of industrial uses in areas designated for Industrial Development which employ high environmental quality standards, may function as an integral part of an overall

development area, require large tracts of land because of their nature and function, and have minimal impacts on adjacent uses. The proposed facility is regulated by IDEM and the EPA, functions as part of the existing compost facility, lies on a large tract of land, and is consistent with surrounding agricultural and high-impact land uses.

Staff Recommendation

Staff recommends **APPROVAL**.

The property is particularly suited for development of an anaerobic digester facility due to the existing composting facility operating on the property, location of the property within an area with limited residential development and having agricultural and high-impact land uses, and due to the future Industrial land use recommendation of the Comprehensive Plan. Implementation of the setback standards applicable to the HI District and compliance with EPA and IDEM regulations would mitigate any impacts.

Staff recommends **stipulations**:

1. The size and location of all structures and site development shall be consistent with the Site Plan submitted with the variance application.
2. All future structural development proposed in the petition and outdoor storage of remaining solids shall comply with the setback requirements for the HI (High-Impact) District, specifically, 50-foot front yard setback and 100-foot side and rear yard setbacks for all on-site development.
3. Liquid effluent shall be stored in a covered lagoon.
4. The petitioner shall submit a copy of all EPA, IDEM, and any other applicable permits to the Plan Commission office prior to operation of the facility.

Applicant/Owner Information

Applicants:	Burnham SEV Shelby LLC 1776 Wilson Blvd, Suite 530 Arlington, VA 22209	Owner:	Caldwell Development LLC 10064 N 300 E Morristown, IN 16161
	Caldwell's Inc., Caldwell Farms, & Caldwell Land Co. II 10911 N 600 E Morristown, IN 46161		Caldwell Land Co. II 10911 N 600 E Morristown, IN 46161
Attorney:	Briane M House 728 N State St Greenfield, IN 46140		

STATEMENT OF INTENT (ONLY REQUIRED FOR VARIANCE OF USE & SPECIAL EXCEPTION)

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

1. Summary of Proposed Use and/or Business Activity: Develop Anaerobic Digester to accept additional organic waste at an existing compost site and capture RNG, while reducing odor.
2. Days & Hours of Operation: Year round w/ downtime for maintenance. Delivery during normal business hours.
3. Maximum Number of Customers per Day/Week/Month: Caldwell's, a local family owned business in Morristown, will be the primary customer the the project serves.
4. Type and Frequency of Deliveries: Approximately 7 trucks per day
5. Description of any Outdoor Storage: Additional outdoor storage for project. All storage feedstock is in tanks and the lagoon storing liquid effluent from the digesters is covered.
6. Description, Size, and Placement of any Signage: Single monument sign on split faced block base complying w/ county UDO. Lights and landscaping meeting or exceeding UDO requirements.
7. Description of Waste Disposal: Organic waste processed in anaerobic digester. After digestion, organic solids are transferred to existing compost operations liquid effluent will be stored on site in covered lagoon for land application during Spring/Fall.
8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): See attached site layout (2 pages)

USE VARIANCE
FINDINGS FACT

Applicant: Burnham SEV Shelby LLC

Case # _____

Location: 11599 N. 200 East, Morristown, IN 46161

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Use Variance. This request meets the established criteria in the following:

- 1. General Welfare:** *the approval will not be injurious to the public health, safety, or general welfare of the community.* Anaerobic digestion is an established technology which rests upon decades of experience and refinement. The facility will be operated in a safe and professional manner and is subject to regulation by the Indiana Department of Environmental Management as well as some oversight by the Environmental Protection Agency. This facility will compost organic waste and in the process of doing so, generate renewable natural gas (RNG). The anticipated RNG producer is sufficient to supply the natural gas needs of approximately 6000 homes annually. RNG is noncombustible unless mixed with the correct range of oxygen between 5% and 15%. Outside these limits, RNG is noncombustible. The proposed facility is totally contained and will not allow the introduction of oxygen facilitating combustion. Expanded setbacks are requested to allow large buffers between the facility and the surrounding landscape. This use is compatible with an existing composting operation on site. Over 2400 digesters are in service across the United States and operated in a safe and efficient manner providing RNG useful in meeting the nation's energy needs. Additionally, anaerobic digestion is proven to reduce odor. When complete, odor for the existing facility will be reduced.
- 2. Adjacent Property:** *the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The site will be located immediately adjacent to an existing and approved composting operation.* The site is slightly west of an established landfill operation which has been in operation for over 70 years. Few homes are located in close proximity to the site. No impact on property values or adjacent properties will be sustained in light of the existing land uses consisting of agricultural endeavors, an existing composting facility, and an operational landfill.
- 3. Practical Difficulty:** *the need for the variance arises from some condition particular to the property involved.* The overarching existing condition relates to the fact that the site already presents a composting facility. Thus, the

addition of the anaerobic digester operation is uniquely compatible to the current site. Nevertheless, the zoning ordinance does impose practical difficulties which, if not alleviated by the grant of the variance preclude **practical** development of the site in connection with the project in an optimal fashion commensurate with public welfare. Indiana case law holds that in considering this factor, the consideration is one of practicality, not impossibility. Alteration of setbacks will permit landscaping in conformance with the County ordinance and provide greater screening and enhanced compatibility with the surrounding area.

4. **Unnecessary Hardship:** *The strict application of the terms of the Shelby County Unified Development Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.* Grant of the variance provides necessary setbacks allowing for safe and optimal development of the project at a location presenting factors uniquely supportive of the project. It cannot be overemphasized that the site exists immediately adjacent to an approved composting operation and west of a long existing landfill.

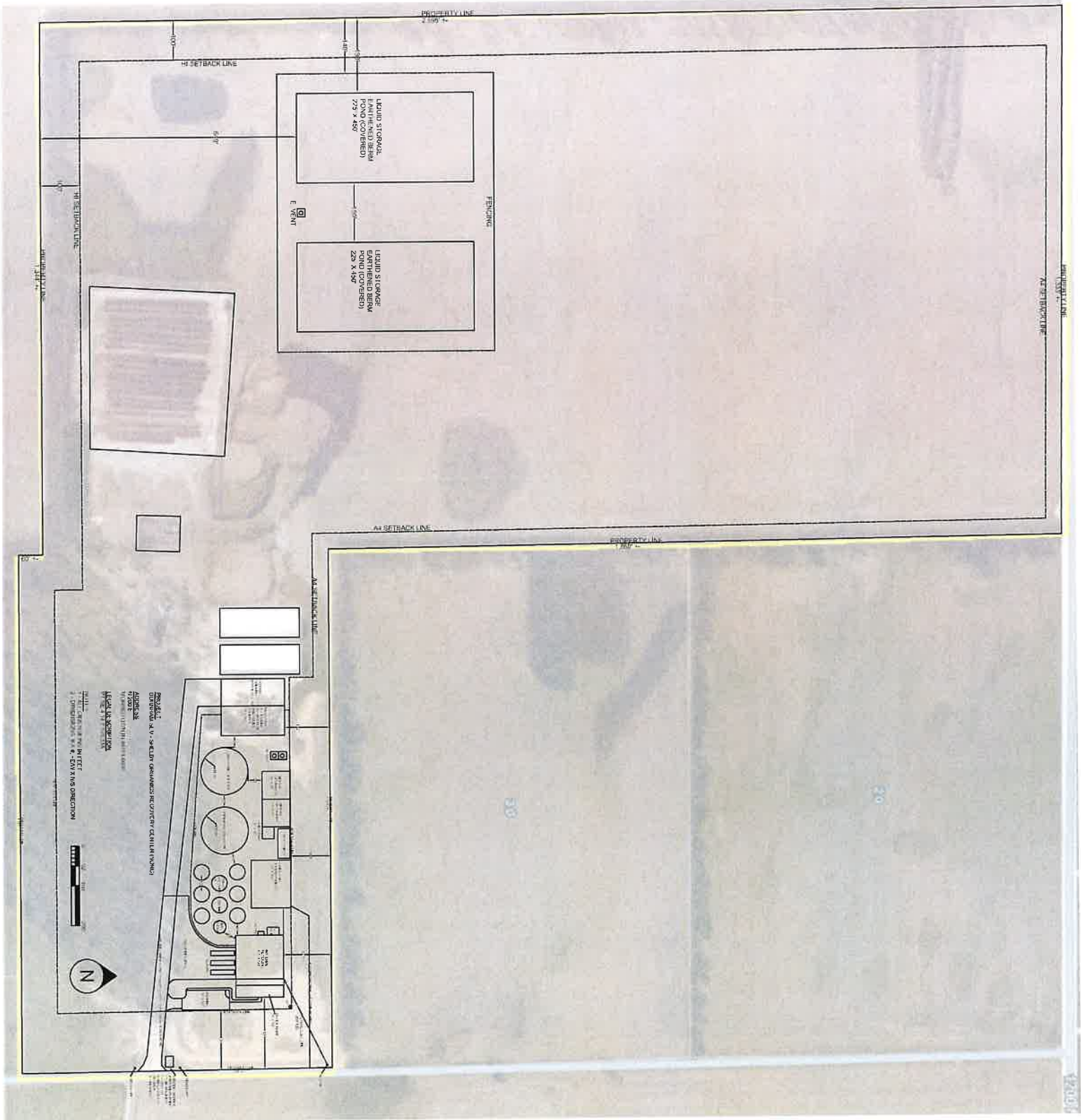
5. **Comprehensive Plan:** *The granting of the variance does not interfere substantially with the Comprehensive Plan.* The proposal is consistent with the comprehensive plan. During development of the plan, “a recurring theme was expressed regarding the desire to encourage new development in specific areas of the county while ensuring that new development remain sensitive to the County’s existing agricultural and rural context.” [Introduction; Shelby County Comprehensive Plan p. 38.] The proposal is consistent with the agricultural nature of the surrounding area and supports agriculture because the end product may be used to enhance agricultural soils. Further the production of RNG will potentially supplement agriculture where natural gas is used for grain drying purposes.
“Based on [USDA] statistics it is important that Shelby County continues to be proactive in protecting agricultural uses and that the County makes strategic decisions on where to encourage development and growth.” [Community Character; Shelby County Comprehensive Plan p. 43]

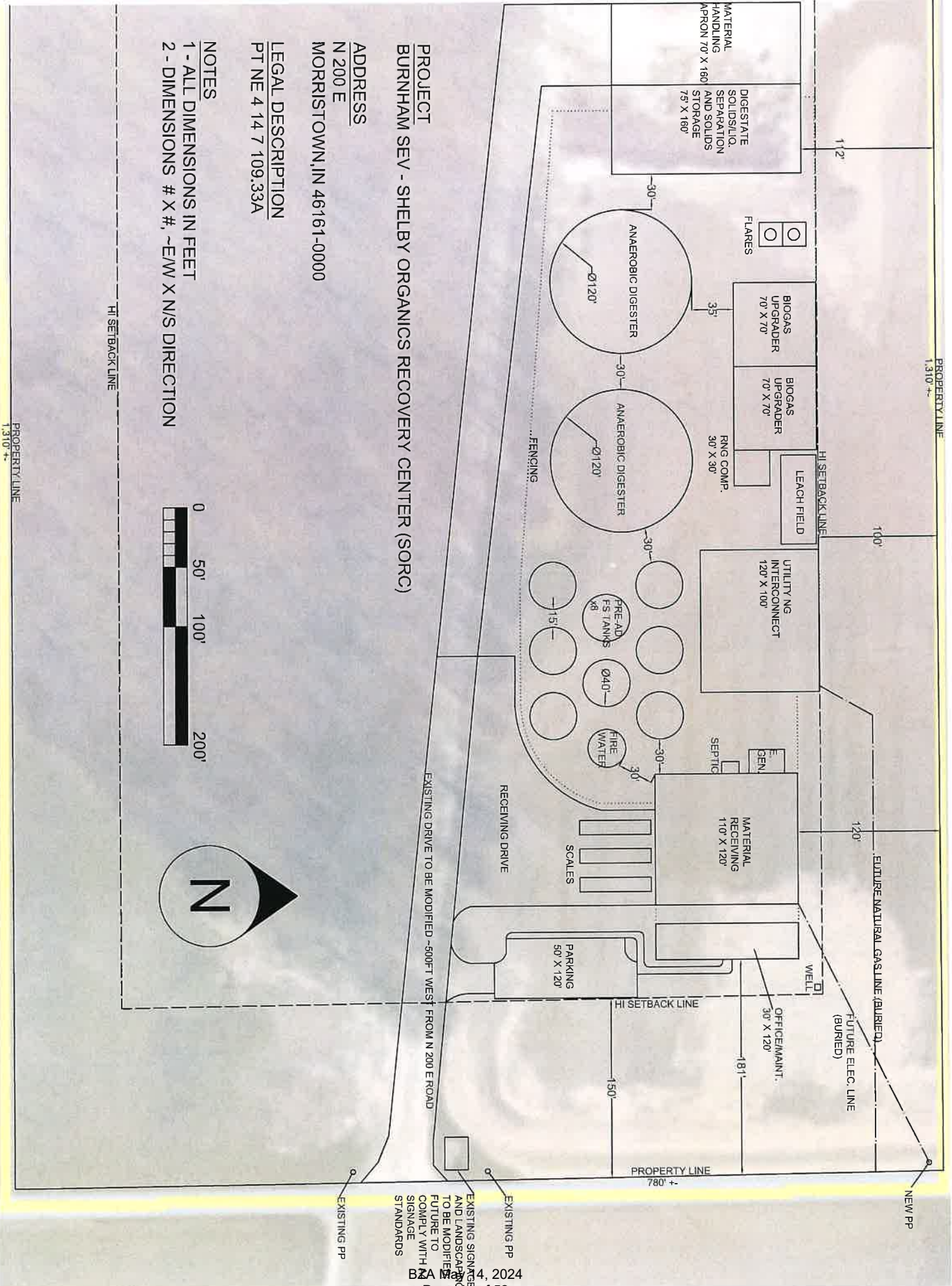
“Shelby County has a strong history and reputation as one of the leading agricultural producing counties in the state, based on total land area. It is the agricultural heritage and rural character that survey respondents most mentioned as their favorite features of the county. This agricultural heritage

has led to a strong local identity and many generational family farms.”
[Growth and Land Use; Shelby County Comprehensive Plan p. 84]

“A number of people expressed a desire for Shelby County to begin more aggressively marketing itself for larger commercial or industrial agricultural uses. This idea merits discussion since many of the same infrastructure and resource requirements that make crop production a viable enterprise also lends itself to larger scale agricultural business uses. This can also become a lucrative way for the county to strengthen its existing agricultural economic base with compatible commercial or industrial operation.” [Growth and Land Use; Shelby County Comprehensive Plan p. 86].

Finally, the Future Land Use Map designates the area for industrial development. The project presents a unique opportunity blending new business and industry supportive of agriculture as well as the community as a whole by virtue of the RNG produced.



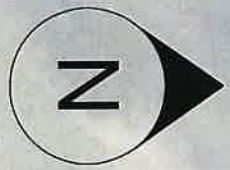


PROJECT
 BURNHAM SEV - SHELBY ORGANICS RECOVERY CENTER (SORC)

ADDRESS
 N 200 E
 MORRISTOWN, IN 46161-0000

LEGAL DESCRIPTION
 PT NE 4 14 7 109.33A

NOTES
 1 - ALL DIMENSIONS IN FEET
 2 - DIMENSIONS # X #, ~EW X N/S DIRECTION





Indiana State Department of Agriculture
Governor Eric Holcomb
Lt. Governor Suzanne Crouch, Secretary of Agriculture and Rural Development
Don Lamb, Director

April 29, 2024

To whom it may concern:

The Indiana State Department of Agriculture (ISDA) writes to express our support for anaerobic digesters within the state of Indiana, and the Caldwell family project in Shelby County. We believe that the renewable energy potential, the elimination of food and animal waste, and the economic impact are all worthwhile initiatives to support.

Indiana is a top agricultural production state, with more than 94,000 Hoosier farmers whose economic impact totals over \$35 billion. Indiana is known for being a top producer of row crops, like corn and soybeans, as well as melons, tomatoes, mint and more. With being a top agricultural state, that means we also produce a lot of waste, whether that is in the form of manure, food scraps, processing waste or other organic items.

It is important to maintain soils that are healthy and productive to grow food to feed our local, national and world populations. We see the value of anaerobic digesters because keeping organic materials out of landfills is beneficial for the environment.

Additionally, when organic materials are anaerobically digested, biogas is created, a renewable source of energy. Digesters are a local economic development opportunity for more high wage jobs in the area.

The Caldwell project in Shelby County is an example of responsible use of land, environmental stewardship, and local economic development. We appreciate your willingness to learn more about this project and for furthering your knowledge and understanding of renewable energy generation. Anaerobic digesters are an asset for Indiana and for agriculture and we are thankful for the opportunity to share this information with you.

Sincerely,

A handwritten signature in black ink that reads "Don Lamb".

Don Lamb
Indiana State Department of Agriculture Director
Dlamb1@isda.in.gov

Senator Michael Crider
Majority Whip
200 W. Washington Street
Indianapolis, Indiana 46204
Office: (800) 382-9467
Email: Senator.Crider@iga.in.gov

Committees:
Homeland Security and Transportation, Chairman
Veterans Affairs and The Military, Ranking Member
Appropriations
Health and Provider Services
Joint Rules
Rules and Legislative Procedure

May 9, 2024

To Whom It May Concern,

I am writing to express my support for the permitting process for anerobic digestors at the Caldwell facility in Morristown. As an area with a heavy agriculture production, we tend to produce a large amount of associated agricultural waste. It is obviously desirable to keep as much of that waste as possible out of landfills.


It is also desirable to capture the renewable energy potential that this process envisions and the associated positive economic benefits. This project will also reduce odor, so it seems to have many reasons to support its completion.

Thank you for the opportunity to provide input on an important project for my district. If you have any further questions or request assistance, please do not hesitate to contact my office at (317) 234-9054 or s28@iga.in.gov.

Sincerely,
Mike



Michael Crider
Indiana State Senator, District 28
Majority Whip

 An official website of the United States government



MENU

AgSTAR

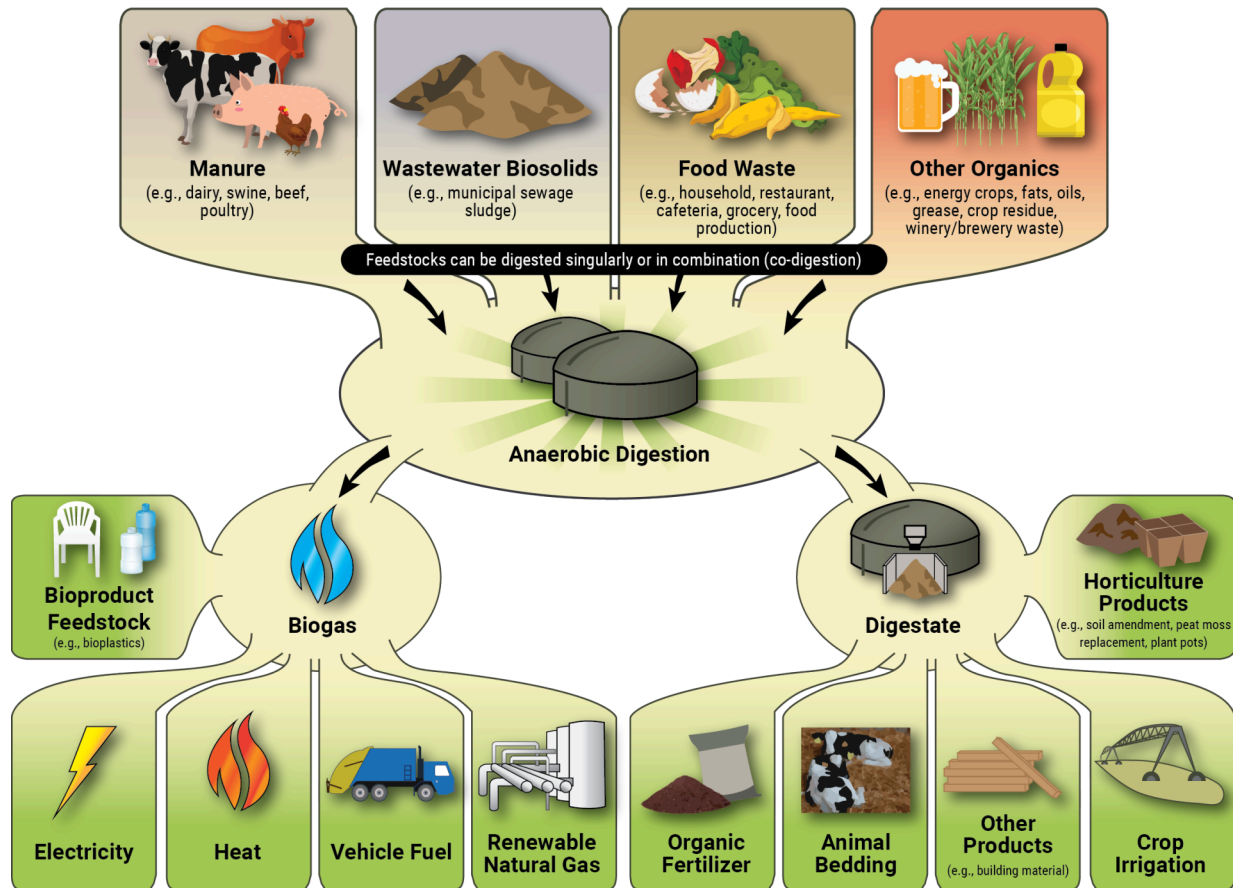
CONTACT US <<https://epa.gov/agstar/forms/requests-agstar-program>>

How Does Anaerobic Digestion Work?

Anaerobic digestion is a process through which bacteria break down organic matter—such as animal manure, wastewater biosolids, and food wastes—in the absence of oxygen. Anaerobic digestion for biogas production takes place in a sealed vessel called a reactor, which is designed and constructed in various shapes and sizes specific to the site and feedstock conditions (learn more about AD system design and technology <<https://epa.gov/agstar/anaerobic-system-design-and-technology>>). These reactors contain complex microbial communities that break down (or digest) the waste and produce resultant biogas and digestate (the solid and liquid material end-products of the AD process) which is discharged from the digester.

Multiple organic materials can be combined in one digester, a practice called co-digestion. Co-digested materials include manure; food waste (i.e., processing, distribution and consumer generated materials); energy crops; crop residues; and fats, oils, and greases (FOG) from restaurant grease traps, and many other sources. Co-digestion can increase biogas production from low-yielding or difficult-to-digest organic waste.

The following figure illustrates the flow of feedstocks through the AD system to produce biogas and digestate.



Anaerobic Digester Outputs

Anaerobic digestion produces two valuable outputs: biogas and digestate.

Biogas

Biogas is composed of methane (CH₄), which is the primary component of natural gas, at a relatively high percentage (50 to 75 percent), carbon dioxide (CO₂), hydrogen sulfide (H₂S), water vapor, and trace amounts of other gases. The energy in biogas can be used like natural gas to provide heat, generate electricity, and power cooling systems, among other uses. Biogas can also be purified by removing the inert or low-value constituents (CO₂, water, H₂S, etc.) to generate renewable natural gas (RNG). This can be sold and injected into the natural gas distribution system, compressed and used as vehicle fuel, or processed further to generate alternative transportation fuel, energy products, or other advanced biochemicals and bioproducts.

Digestate

Digestate is the residual material left after the digestion process. It is composed of liquid and solid portions. These are often separated and handled independently, as each have value that can be realized with varying degrees of post processing.

With appropriate treatment, both the solid and liquid portions of digestate can be used in many beneficial applications, such as animal bedding (solids), nutrient-rich fertilizer (liquids and solids), a foundation material for bio-based products (e.g., bioplastics), organic-rich compost (solids), and/or simply as soil amendment (solids), the latter of which may include the farm spreading the digestate on the field as fertilizer. Digestate products can be a source of revenue or cost savings, and are often pursued to increase the financial and net-environmental benefit of an AD/biogas project.

Learn More

- [Benefits of anaerobic digestion](https://epa.gov/agstar/benefits-anaerobic-digestion) <https://epa.gov/agstar/benefits-anaerobic-digestion>. Presents the many benefits of AD compared to traditional manure management systems.
- [AD system design and technology](https://epa.gov/agstar/anaerobic-system-design-and-technology) <https://epa.gov/agstar/anaerobic-system-design-and-technology>. Describes the elements of a biogas and digestate recovery system.
- [AgSTAR Project Development Handbook](https://epa.gov/agstar/agstar-project-development-handbook) <https://epa.gov/agstar/agstar-project-development-handbook>. Compilation of the latest knowledge in the industry on best practices for AD/ biogas systems. Contains information about AD applications and processes, benefits, challenges, feedstocks, products, economic and financial factors, and more.
- [Planning AD Projects](https://epa.gov/agstar/planning-ad-projects) <https://epa.gov/agstar/planning-ad-projects>. Provides useful information to help plan an AD project, including:
 - [10 keys to digester success](https://epa.gov/agstar/10-keys-digester-success) <https://epa.gov/agstar/10-keys-digester-success>
 - [Is AD right for your farm?](https://epa.gov/agstar/anaerobic-digestion-right-your-farm) <https://epa.gov/agstar/anaerobic-digestion-right-your-farm>
 - [Risk Analysis and Technical Review Checklist for Preparing Biogas Project Plans](https://epa.gov/agstar/risk-analysis-checklist-biogas-projects) <https://epa.gov/agstar/risk-analysis-checklist-biogas-projects>
 - [Project planning and financing](https://epa.gov/agstar/project-planning-and-financing) <https://epa.gov/agstar/project-planning-and-financing>
 - [AD vendor directory](https://epa.gov/agstar/agstar-vendor-directory-manure-digester-systems) <https://epa.gov/agstar/agstar-vendor-directory-manure-digester-systems>

- [AgSTAR Project Profiles <https://epa.gov/agstar/anaerobic-digester-project-profiles>](https://epa.gov/agstar/anaerobic-digester-project-profiles). Filter, sort, and search for project profiles and case studies of successful AD/biogas systems.
- [Livestock Anaerobic Digester Database <https://epa.gov/agstar/livestock-anaerobic-digester-database>](https://epa.gov/agstar/livestock-anaerobic-digester-database). Lists and provides key information on all anaerobic digester projects on livestock farms in the United States.
- [Anaerobic Digester/Biogas System Operator Guidebook <https://epa.gov/agstar/anaerobic-digesterbiogas-system-operator-guidebook>](https://epa.gov/agstar/anaerobic-digesterbiogas-system-operator-guidebook). Provides on-farm AD/biogas system operators with information and guidance that can be used to help successfully operate and maintain AD/biogas systems.

[AgSTAR Home <https://epa.gov/agstar>](https://epa.gov/agstar)

[About AgSTAR <https://epa.gov/agstar/what-epa-doing-agstar>](https://epa.gov/agstar/what-epa-doing-agstar)

[Events <https://epa.gov/agstar/events-related-anaerobic-digestion-livestock-farms>](https://epa.gov/agstar/events-related-anaerobic-digestion-livestock-farms)

Learn About Biogas Recovery

[What is Biogas Recovery? <https://epa.gov/agstar/learning-about-biogas-recovery>](https://epa.gov/agstar/learning-about-biogas-recovery)

How Does AD Work?

[Anaerobic System Design & Technology <https://epa.gov/agstar/anaerobic-system-design-and-technology>](https://epa.gov/agstar/anaerobic-system-design-and-technology)

[Benefits of AD <https://epa.gov/agstar/benefits-anaerobic-digestion>](https://epa.gov/agstar/benefits-anaerobic-digestion)

[Training Resources <https://epa.gov/agstar/training-resources>](https://epa.gov/agstar/training-resources)


[Practices to Reduce Methane Emissions from Livestock Manure Management <https://epa.gov/agstar/practices-reduce-methane-emissions-livestock-manure-management>](https://epa.gov/agstar/practices-reduce-methane-emissions-livestock-manure-management)

[Planning AD Projects <https://epa.gov/agstar/planning-ad-projects>](https://epa.gov/agstar/planning-ad-projects)

[Building & Operating Biogas Recovery Systems <https://epa.gov/agstar/building-operating-biogas-recovery-systems>](https://epa.gov/agstar/building-operating-biogas-recovery-systems)

[Biogas Toolkit <https://epa.gov/agstar/biogas-toolkit>](https://epa.gov/agstar/biogas-toolkit)

[Success Stories <https://epa.gov/agstar/agstar-stories-farm>](https://epa.gov/agstar/agstar-stories-farm)

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Anaerobic Digestion

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Frequent Questions about Anaerobic Digestion

- What is anaerobic digestion?
- What is an anaerobic digester?
- What is co-digestion?
- What is biogas?
- How is biogas generated?
- What is digested material and what is it used for?
- What types of organic materials produce biogas?
- Is biogas a renewable energy source?
- Can biogas replace fossil fuels?
- How does biogas help reduce effects of climate change?
- What types of facilities have anaerobic digesters?
- Is there a difference between landfill gas and biogas?
- Is there a difference between natural gas and biogas?
- If I build a biogas system will it stink?
- Are anaerobic digesters safe?

What is anaerobic digestion?

Anaerobic digestion is the natural process in which microorganisms break down organic matter in the absence of air (an anaerobic environment). Anaerobic digestion creates usable products such as biogas and digested material.

What is an anaerobic digester?

Anaerobic digesters are built systems (lagoons or tanks) where anaerobic digestion takes place. Anaerobic digesters **manage organic wastes**, produce gas and digested materials, minimize odors, reduce pathogens, and reduce solid wastes. Anaerobic digesters are also called “anaerobic digestion systems”, “biodigesters” or simply “digesters”.

What is co-digestion?

Co-digestion happens when more than one type of organic material is digested at the same time. Digesters are often built for a single purpose. For example, a farmer may build an anaerobic digester to handle cow manure. If the farmer also takes food waste from a local grocery store and puts the food waste in the digester along with the cow manure, it is called co-digestion.

What is biogas?

Biogas is the gas produced when bacteria break down organic matter in the absence of oxygen. It is made up of mainly methane (CH₄) and carbon dioxide (CO₂), with small amounts of water vapor, particulates, and other gasses, such as hydrogen sulfide (H₂S). Biogas can be processed and used for a variety of energy needs, such as the generation of heat, power and fuel.

How is biogas generated?

Inside an anaerobic digester, naturally occurring microorganisms grow in the tank’s oxygen-free environment and break down (digest) the organic matter. As the organic matter decomposes, biogas is created. Once established in a digester, microorganisms will continue to break down organic materials and release biogas in the right conditions. The microorganisms need a steady supply of feedstock and a comfortable environment - warm temperatures, neutral acidity and no oxygen.

What is digested material and what is it used for?

Digested material is the solid and liquid material that remains at the end of the anaerobic digestion process. Digested material contains valuable nutrients (nitrogen, phosphorus and potassium) and organic carbon. Typically, raw digested material is processed into a wide variety of products like fertilizer, compost, soil amendments or animal bedding. Factors influencing what products are made include the makeup of the initial feedstocks and local markets. These co-products can be sold to agricultural, commercial and residential customers.

What types of organic materials produce biogas?

Many types of organic material can be used as feedstock to produce biogas. Animal manures, wastewater solids, food scraps, restaurant fats, oils, and greases, and by-products from food and beverage production are some commonly digested materials. An anaerobic digester may be built for a single material or a combination of them. However, the feedstocks must be properly controlled to ensure that the system remains healthy and functioning.

Is biogas a renewable energy source?

Yes, biogas is a renewable energy source. It is produced from natural resources that are replenished in short periods of time.

Can biogas replace fossil fuels?

Yes, biogas can replace fossil fuels for the production of heat, power and fuel. With additional processing, biogas becomes renewable natural gas that can be used in the same place as fossil fuels.

How does biogas help reduce effects of climate change?

Biogas is made up of methane and carbon dioxide, which are powerful greenhouse gases. Anaerobic digesters are designed to capture these gases so they do not escape to the atmosphere. In most cases, the feedstocks used in digesters would have released methane directly as they decomposed in lagoons or landfills. In addition, using biogas for heat or electricity means that less energy needs to be produced by power plants. This reduces the amount of carbon dioxide emitted to the atmosphere by burning fossil fuels.

What types of facilities have anaerobic digesters?

Anaerobic digesters are usually built on sites that have a steady supply of organic materials and need energy or heat. Common examples include farms, water resource recovery facilities <https://epa.gov/anaerobic-digestion/types-anaerobic-digesters#wrrfdigesters>, food production facilities, and landfills. Also, stand-alone digesters can be built in a central location to accept organics from multiple businesses.

Is there a difference between landfill gas and biogas?

Landfill gas is a type of biogas. Both can be converted to renewable energy (electricity or fuel).

Is there a difference between natural gas and biogas?

Biogas and natural gas have essentially the same components. But, the two gasses are obtained in different ways.

Biogas is produced when readily available organic materials (e.g., manure or food waste) break down. Natural gas is produced when ancient plants, tiny sea animals, and other organic materials break down in hard to access locations. Usually, natural gas has to be extracted from

underground reservoirs. Natural gas can also be derived from petroleum refining.

If I build a biogas system will it stink?

Biogas contains a small amount of hydrogen sulfide, which has a rotten-egg odor. However, anaerobic digesters are completely enclosed and biogas is not released directly to the air. Digesters are commonly installed at farms to reduce odors. What comes out of a digester after processing is much less odorous than the feedstocks that go into digesters.

Are anaerobic digesters safe?

A properly designed and operated system is very safe. Anaerobic digesters are designed to meet local and national codes for safety. However, they do produce methane and hydrogen sulfide. These gases both burn easily and are harmful to inhale, so it is essential to use proper gas-handling precautions. It is also important for plant operators to be well trained and follow established operational procedures.

[Anaerobic Digestion Home <https://epa.gov/anaerobic-digestion>](https://epa.gov/anaerobic-digestion)

[Basic Information <https://epa.gov/anaerobic-digestion/basic-information-about-anaerobic-digestion>](https://epa.gov/anaerobic-digestion/basic-information-about-anaerobic-digestion)

[Types of Digesters <https://epa.gov/anaerobic-digestion/types-anaerobic-digesters>](https://epa.gov/anaerobic-digestion/types-anaerobic-digesters)

[Environmental Benefits <https://epa.gov/anaerobic-digestion/environmental-benefits-anaerobic-digestion-ad>](https://epa.gov/anaerobic-digestion/environmental-benefits-anaerobic-digestion-ad)

Frequent Questions

[Data Collection Project <https://epa.gov/anaerobic-digestion/anaerobic-digestion-data-collection-project>](https://epa.gov/anaerobic-digestion/anaerobic-digestion-data-collection-project)

[Permitting and Regulations <https://epa.gov/anaerobic-digestion/permitting-and-regulations-anaerobic-digesters>](https://epa.gov/anaerobic-digestion/permitting-and-regulations-anaerobic-digesters)

[Resources <https://epa.gov/anaerobic-digestion/more-anaerobic-digestion-ad-resources>](https://epa.gov/anaerobic-digestion/more-anaerobic-digestion-ad-resources)

[Contact Us <https://epa.gov/anaerobic-digestion/forms/contact-us-about-anaerobic-digestion>](https://epa.gov/anaerobic-digestion/forms/contact-us-about-anaerobic-digestion) to ask a question, provide feedback, or report a problem.