

Shelby County Plan Commission

May 23, 2023 at 7:00 PM

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MEETING AGENDA

Shelby County Plan Commission
May 23, 2023 at 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the April 25, 2023 meeting.

BUSINESS CONTINUED TO JUNE 27, 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

RZ 23-09 – BRUNING REZONING: Rezoning of 10-acres from the A1 (Conservation Agricultural) District to the A2 (Agricultural) District. Located at 9721 N SR 9, Morristown, Van Buren Township.

SD 23-05 – BRUNING SIMPLE SUBDIVISION: Simple Subdivision of 10-acres from a 39.97-acre parent tract and waiver of subdivision prerequisites. Located at 9721 N SR 9, Morristown, Van Buren Township.

NEW BUSINESS

SD 23-10 – ESTERS QUONSET HUTS SIMPLE SUBDIVISION: Simple Subdivision of one 1.435-acre industrial lot from a 6.364-acre parent tract and waiver of subdivision standards. 103 East Carey St, Fairland, Brandywine Township.

RZ 23-12 – THOMAS NORTH FARM REZONING: Rezoning of 15-acres from the A1 (Conservation Agricultural) District to the A2 (Agricultural) District. Located generally north and west of the intersection of Freeport Rd. & CR 150 E, Van Buren Township.

SD 23-08 – THOMAS NORTH FARM SIMPLE SUBDIVISION: Simple Subdivision of three, 5-acre lots from a 316.791-acre parent tract and waiver of subdivision standards. Located generally north and west of the intersection of Freeport Rd. & CR 150 E, Van Buren Township.

RZ 23-13 – THOMAS SOUTH FARM REZONING: Rezoning of 31.217-acres from the A1 (Conservation Agricultural) District to the A2 (Agricultural) District. Located on the east side of CR 250 E, generally east of the intersection of CR 750 N, Hanover Township.

SD 23-09 – THOMAS SOUTH FARM SIMPLE SUBDIVISION: Simple Subdivision of three lots (8.301-acres, 10.797-acres, & 12.119-acres) from a 310.817-acre parent tract and waiver of subdivision standards. Located on the east side of CR 250 E, generally east of the intersection of CR 750 N, Hanover Township.

ADOPTION OF PLAN COMMISSION RULES OF PROCEEDURE

DISCUSSION

Unified Development Ordinance Text Amendment – Article 9, Processes

ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **June 27, 2023 at 7:00 PM.**

Property Details

Location: 9721 N SR 9, Morristown, Van Buren Township.

Property Size: 10-acres.

Current Land Use: Agriculture.

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

A2 (Agricultural)

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

Future Land Use per Comp Plan

Agriculture

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

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	Woodland
South	RE	Residential Estate
East	RE	Residential Estate
West	A1	Cropland

Staff Report

Case Number: RZ 23-09 / SD 23-05

Case Name: Bruning Rezoning – A1 (Conservation Agricultural) to A2 (Agricultural) & Bruning Simple Subdivision

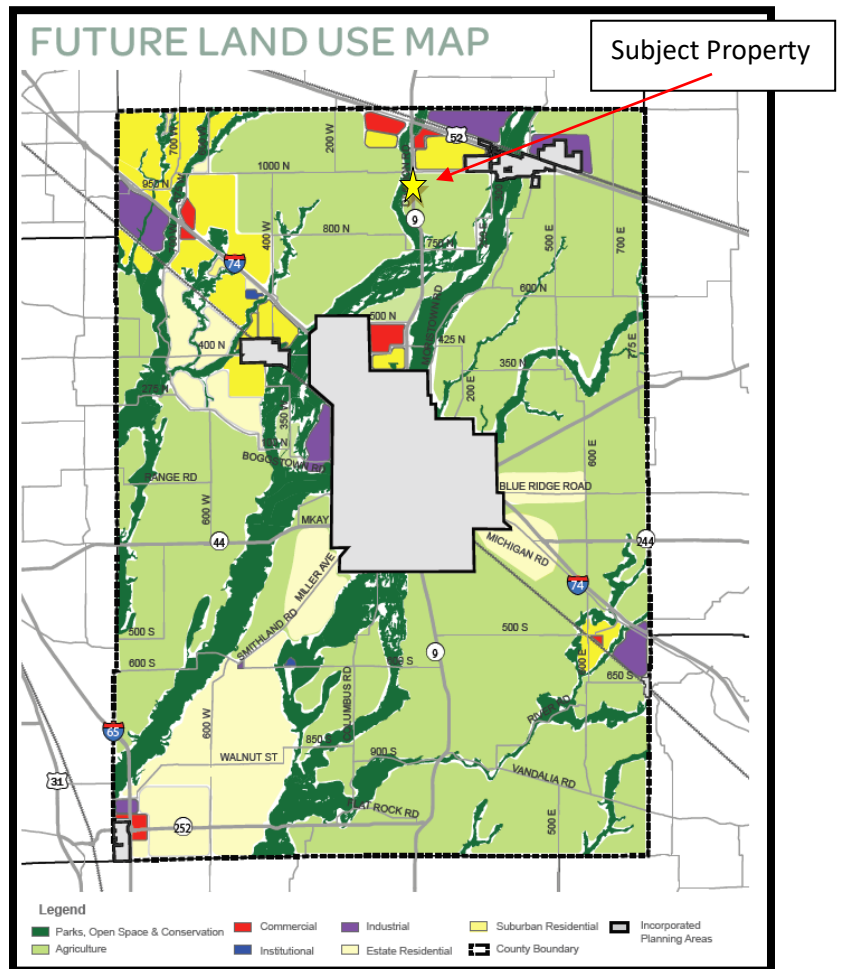
Requests

Rezoning of 10-acres from the A1 (Conservation Agricultural) District to the A2 (Agricultural) District to allow for a one-lot Simple Subdivision.

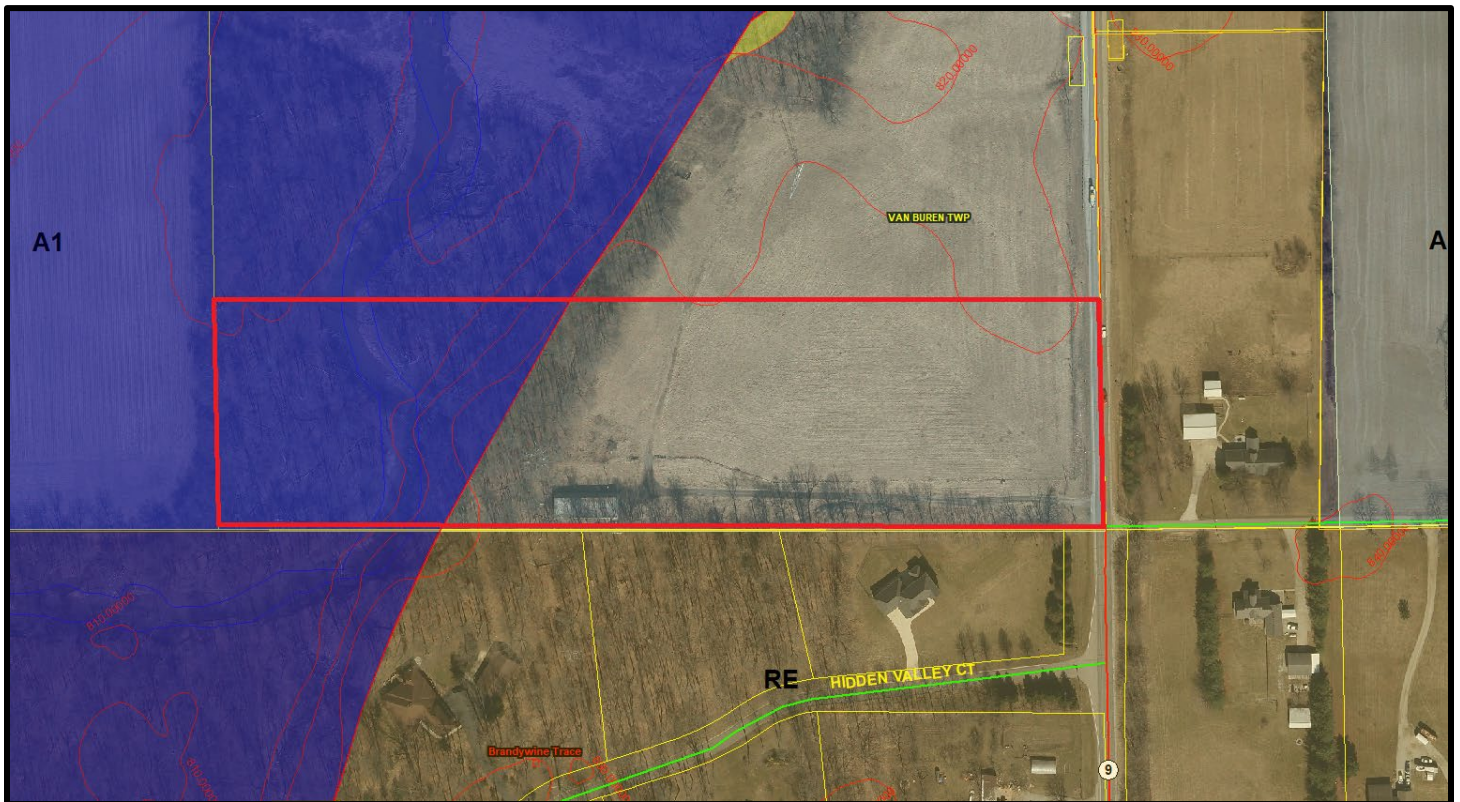
Simple Subdivision of 10-acres from a 39.97-acre parent tract.

Waiver of Simple Subdivision prerequisites to allow for Simple Subdivision of property zoned A2.

Future Land Use Map



Property Map



Case Description

- Approval of the requests would allow for development of one new 10-acre single-family residential lot.
- Approximately 3.5-acres at the rear of the property along Brandywine Creek lies within Federal Emergency Management Agency (FEMA) and Indiana Department of Natural Resources (IDNR) designated Flood Hazard Area Floodway. State Code and County Ordinance prohibit development of dwellings in the Floodway. The plat includes a No-Disturb Easement over the Flood Hazard Area with a note: Development including single-family dwellings, accessory structures, and alteration of land in the Designated Flood Hazard Area shall be prohibited.
- A driveway currently exists on the property near the south property line. The driveway does not comply with the 100-foot separation requirement from intersecting streets identified in the UDO. Use of this driveway for residential purposes would require a variance from the Board of Zoning Appeals.
- The USDA Soil Survey classifies most of the property outside of the Flood Hazard Area as either *Prime farmland if drained* or *Not 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.

- The UDO requires RE zoning for properties in residential Simple Subdivisions to limit use of lots for intense agricultural uses that may pose a nuisance to adjacent residential properties. For example, the UDO allows agritourism and keeping of large numbers of animals on property in the A2 District, however, prohibits these uses in the RE District. The petitioner has requested a waiver to allow the lot to have the A2 zoning designation.
- Per the UDO, the remaining 29.97-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

The surrounding area includes several residential lots under ten acres. Therefore, development of a ten-acre lot with one single-family residence would not conflict with existing residential development in the area.

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

Much of the property and remaining tract lie within designated flood hazard areas and/or include woodland, which limits large-scale agricultural use of the property. Residential development of the property would provide a more economically sensible use 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 surrounding development or the Comprehensive Plan. The TAC would review any proposed development for compliance with County codes.

5. The Comprehensive Plan

The residential density of the proposed lot and remaining tract would not exceed one lot for every five acres as recommended for agricultural areas by the Comprehensive Plan. Due to presence of the floodway, State Code and County Ordinance prohibit development of dwellings on the area of the property designated for parks, open space, and conservation 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 a waiver to allow Simple Subdivision of property zoned A2.
3. The subdivision of land satisfies the standards of Article 07: Design Standards.

4. The subdivision of land satisfies any other applicable provisions of the Unified Development Ordinance.
5. The subdivision of land satisfies the construction requirements of Shelby County's Construction Standards.
6. Approval of the waiver would allow for agricultural use of property significantly exceeding the size of typical rural residential properties.

Staff Recommendation

APPROVAL primarily because the surrounding area includes several residential lots under ten acres. Therefore, development of a ten-acre lot with one single-family residence would not conflict with existing residential development in the area.

Recommended Stipulation: Development including single-family dwellings, accessory structures, and alteration of land in the Designated Flood Hazard Area shall be prohibited.

Applicant/Owner Information

Applicant:	Joseph and Loretta Bruning 8355 N 75 E Shelbyville, IN 46176	Surveyor:	Scott T Sumerford 3149 N Riley Hwy. Shelbyville, IN 46176
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Owner: Same

Property Details

Location: 103 East Carey St,
Fairland, Brandywine Township.

Property Size: 1.435-acres.

Current Land Use: Industrial.

Current Zoning Classification

I2 (High Intensity Industrial)

This district is established for high intensity industrial uses and heavy manufacturing facilities.

Future Land Use per Comp Plan

Town of Fairland Incorporated
Planning Area.

Staff Report

Case Number: SD 23-10

Case Name: Esters Quonset Huts Simple Subdivision

Request

Simple Subdivision of a 1.435-acre lot from a 6.364-acre parent tract.

Waivers:

1. Of Simple Subdivision prerequisites to allow for Simple Subdivision of property zoned I2
2. Of Simple Subdivision design standards to allow a lot in the I2 District less than 2-acres

Property Map



Case Description

- The petitioner plans to subdivide the 1.435-acre area of the property including the existing Quonset huts and driveway from the 6.364-acre parent tract for the purpose of settlement of an estate.
- The subdivision would render the remaining 4.739-acres developable for a separate industrial business. The petitioner has not indicated an intent to develop the remaining tract.
- The property lies within the town limits of Fairland. The Town has submitted a letter indicating no objection to the subdivision request.

Staff Analysis Findings of Fact

Staff has reviewed the proposed plat and has determined:

1. The subdivision of land is consistent with the Shelby County Comprehensive Plan.
2. The subdivision of land satisfies the development requirements of Article 06: Subdivision Types, pending approval of a waiver to allow for Simple Subdivision of property zoned I2.
 - a. Approval of the waiver would allow for subdivision of an industrial property that does not require internal streets, shared utilities, additional landscape buffers, and other standards generally applicable to multi-lot industrial subdivisions.
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, pending approval of a waiver to allow a lot in the I2 District less than 2-acres.
 - a. Approval of the waiver would allow for incorporation of only the area including the existing Quonset huts and driveway in the subdivision lot.
5. The subdivision of land satisfies the construction requirements of Shelby County's Construction Standards.

Staff Recommendation

APPORVAL

Applicant/Owner Information

Applicant:	Richard Esters (Trustee) PO Box 186 Fairland, IN 46126	Owner:	Nancy Esters 103 E Carey St. Fairland, IN 46126
Surveyor:	Powell Land Surveying LLC 4634 N 575 E Shelbyville, IN 46176		

Esters Quonset Huts Simple Subdivision

Part of the East Half of the Northeast Quarter of Section 16, Township 13 North, Range 6 East, Brandywine, Township, Shelby County, Indiana.

Owner: Nancy Esters (Deceased) & Client: Richard Esters (Trustee)
 Site Address: 103 East Cary St, Fairland IN 46126

(section line per the current ties.)
 N 89°00'30" E 1367.45'
 N 89°07'17" E 1364.45'
 (old section line used for the ROW & Parent deed.)
 Found a 1" iron pin set in concrete at the surface set over a stone found during the reconstruction of County Road 400 North per the Shelby County Ties. The said pin being -2.7' North & 3.0' East of a 5/8" rebar previously marking the said corner per the County Ties which was used to create the description for the 16,540 acre tract.

Parent description of the 6.364 acre tract owned by Nancy J. Esters recorded in Instrument 2007006625.

A part of the East Half of the Northeast Quarter of Section 16, Township 13 North, Range 6 East, Shelby County, Indiana, described as follows: Beginning at the northeast corner of the above described East Half of the Northeast Quarter of Section 16; thence with the north line of the half quarter North 89 degrees 50 minutes 18 seconds East 554.48 feet to a point measured South 89 degrees 50 minutes 18 seconds West 289.74 feet (4.39 chains) along the north line of the half quarter section from the southwesterly right of way line of the Cornrail Railroad (formerly the Cleveland, Cincinnati, Chicago and St. Louis Railroad); thence parallel with the east line of the half quarter South 00 degrees 00 minutes 00 seconds East 500.00 feet; thence parallel with the north line of the half quarter South 89 degrees 50 minutes 18 seconds West 554.31 feet to the west line of the half quarter; thence North 00 degrees 01 minute 09 seconds West 500.00 feet to the point of beginning, containing 6.364 acres, more or less, and subject to the right of way of the public roads on the north and west lines of the tract and also subject to any other existing right of ways, easements or restrictions.

Course data used in this description assumes the west line of the half quarter to have a bearing of North 00 degrees 01 minute 09 seconds West.

Parent description of the 0.19 acre tract, being the ROW for CR 400 North owned by Shelby County recorded in Instrument 2007007529.

A part of the East Half of the Northeast Quarter of Section 16, Township 13 North, Range 6 East, Shelby County, Indiana, described as follows: Beginning at the northwest corner of said half-quarter section; thence North 89 degrees 52 minutes 57 seconds East 169,9006 meters (554.48 feet) along the north line of said section to the northeast corner of the granters' land; thence South 0 degrees 00 minutes 49 seconds West 9.331 meters (30.61 feet) along the east line of the granters' land; thence South 89 degrees 32 minutes 11 seconds West 75.064 meters (246.27 feet); thence Southwesterly 22.805 meters (74.82 feet) along an arc to the left having a radius of 3,010.271 meters (9,876.22 feet) and subtended by a long chord having a bearing of South 89 degrees 45 minutes 13 seconds West and a length of 22.805 meters (74.82 feet); thence South 89 degrees 58 minutes 14 seconds West 71.149 meters (233.43 feet) to the west line of said half-quarter section and the west line of the granters' land; thence North 0 degrees 04 minutes 00 seconds East 9.710 meters (31.86 feet) along said west line to the point of beginning and containing 0.1636 hectares (0.404 acres), more or less. The portion of the above-described real estate which is not already embraced within public rights of way contains 0.0770 hectares (0.190 acres), more or less.

Description of Lot 1, being a 1.435 Acre split from the 6.364 Acre parent tract per this survey.

A part of the East half of the Northeast Quarter of Section 16, in Township 13 North, Range 6 East of the Second Principle Meridian in Brandywine Township, Shelby County, Indiana, being created from a survey (Job # 97-2022) by Jeffrey Powell and being more particularly described as follows:

Commencing at the Northwest corner of the East half of the Northeast quarter of the said Section 16, said point being an iron pin per the Shelby County ties; thence South 00 degrees 43 minutes 58 seconds East (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the West line of the said half-quarter section a distance of 31.85 feet a mag nail with a washer marking the South right of way line of County Road 400 North as described in Instrument 2007007529, said point also being the point of beginning of the tract herein described; thence North 89 degrees 12 minutes 54 seconds East along the said right of way line a distance of 205.00 feet to a Powell capped rebar; thence South 00 degrees 43 minutes 58 seconds East parallel to the West line of the said half-quarter section a distance of 305.00 feet to a Powell capped rebar; thence South 89 degrees 12 minutes 54 seconds West parallel to the said right of way line a distance of 205.00 feet to a mag nail with a washer set on the West line of the said half-quarter section; thence North 00 degrees 43 minutes 58 seconds West along the West line of the said half-quarter section a distance of 305.00 feet to the point of beginning. Containing 1.435 acres more or less and being subject to any and all easements, right of ways and restrictions.

Note: The description of the remainder tract is to be as described above with the following exceptions: The 0.19 acre tract, being the ROW for CR 400 North owned by Shelby County recorded in Instrument 2007007529 and the exception for the 1.435 acre tract being created per this subdivision.

Surveyor's Report:

This report is in accordance with Title 865, Article 11.1, Chapter 12, Sections 1 through 34, of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties in the locations of the lines and corners established on this survey as a result of: Availability and condition of the reference monuments, Occupation or possession lines, Clarity or ambiguity of the record description used and / or adjoining's description. This survey falls within the classification of a Suburban survey, and therefore has a Relative position accuracy of 0.13 feet plus 100 parts per million.

Purpose of the survey:

The purpose of this survey is to subdivide a 1.435 acre tract including the existing buildings from a 6.364 acre tract of lands owned by Nancy J. Esters, recorded in Instrument 2007006625 per the owners instructions. The field work was performed on March 27, 2023 and other dates.

Availability and condition of the reference monuments:

The iron pins were found at the Northwest and Northeast corners of the East Half of the Northeast quarter section per the Shelby County Ties and a Railroad spikes was found at the Southeast corner of the East Half of the Southeast quarter section set per a previous survey by Taylor Sumnerford. The North line of the parent 6.364 acre tract and the 0.19 acre ROW tract was established per holding the old section line per the calculated location of a 5/8" rebar previously marking the Northeast corner of the said Northeast quarter per the previous County Ties, the current pin being -2.7' North & 3.0' East of the said 5/8" rebar. The uncertainties associated with the said corners are represented on the hereon drawn survey plat and within this report by Record vs Measured vs Calculated.

Occupation or possession lines:

There were no occupation lines located per this survey and the new lines established per the survey were per the owner's instructions.

Clarity or ambiguity of the record description used and / or adjoining's description:

There were no ambiguities found per this survey. The North line of the parent 6.364 acre tract and the 0.19 acre ROW tract was established per holding the old section line per the calculated location of a 5/8" rebar previously marking the Northeast corner of the said Northeast quarter per the previous County Ties, the current pin being -2.7' North & 3.0' East of the said 5/8" rebar. The remainder boundary lines of the parent 6.364 acre tract were not established per this survey.

Relative position accuracy of Measurements:

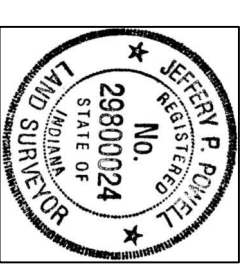
This survey falls within the classification of a Rural survey and therefore has a Relative position accuracy of 0.13 feet plus 100 parts per million plus the above stated uncertainties.

Surveyor Certification:

I, the undersigned, hereby certify that I am a Land Surveyor registered in compliance with the laws of the State of Indiana, and I do hereby further certify that I have surveyed the real estate described in the caption above and that I have subdivided the same into two tracts as shown on the hereon drawn plot. This plat correctly represents said survey and subdivision in every detail. Monuments shown are in place as located.

Witness my hand this 16 day of May, 2023.

Jeffery P. Powell
 Registered Land Surveyor
 No. 29800024



Owners Certification:

I Richard Esters, do hereby certify that we are the owners of the property described in the above captioned and that as such owners we have caused the said above described property to be surveyed and subdivided as shown on the hereon drawn plat, as our free and voluntary act and deed.

Witness my hand this ___ day of ___, 2023.

Richard Esters

Notary Certification:

I, _____, a Notary Public in and for said County and State, do hereby certify that **Richard Esters**, 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 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.

Notary Public

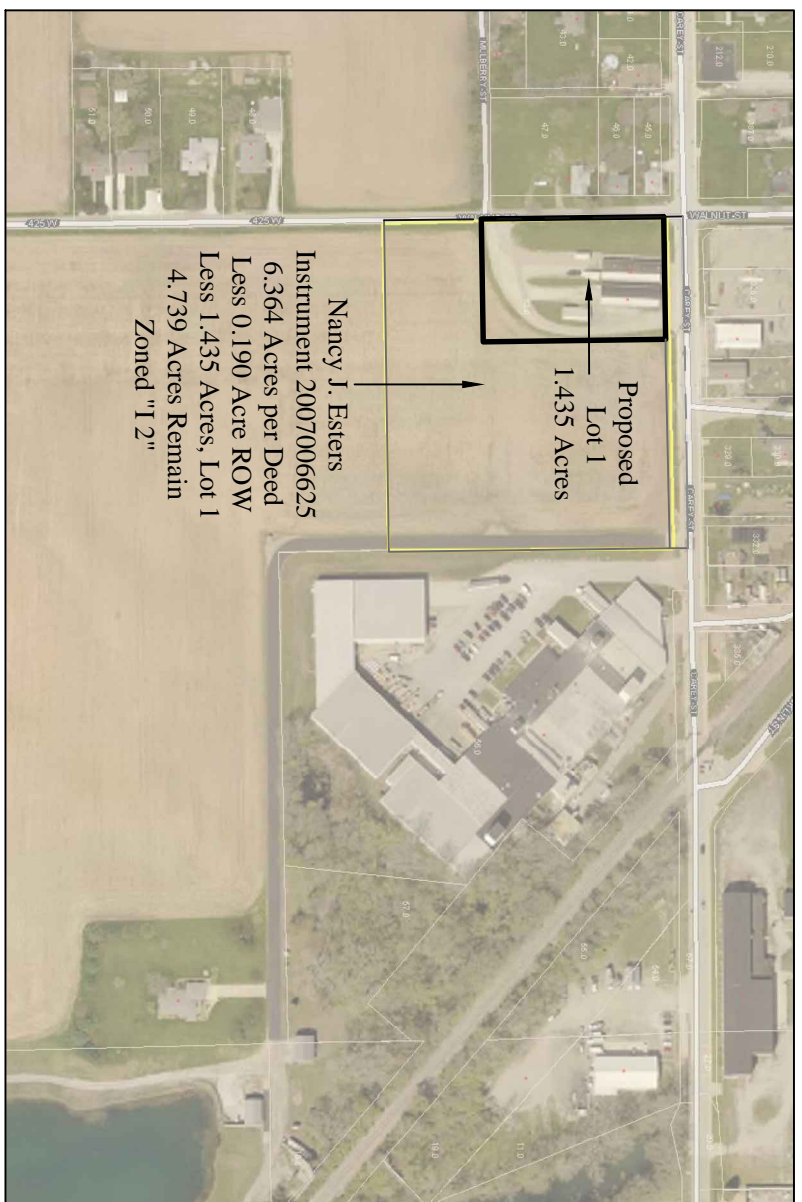
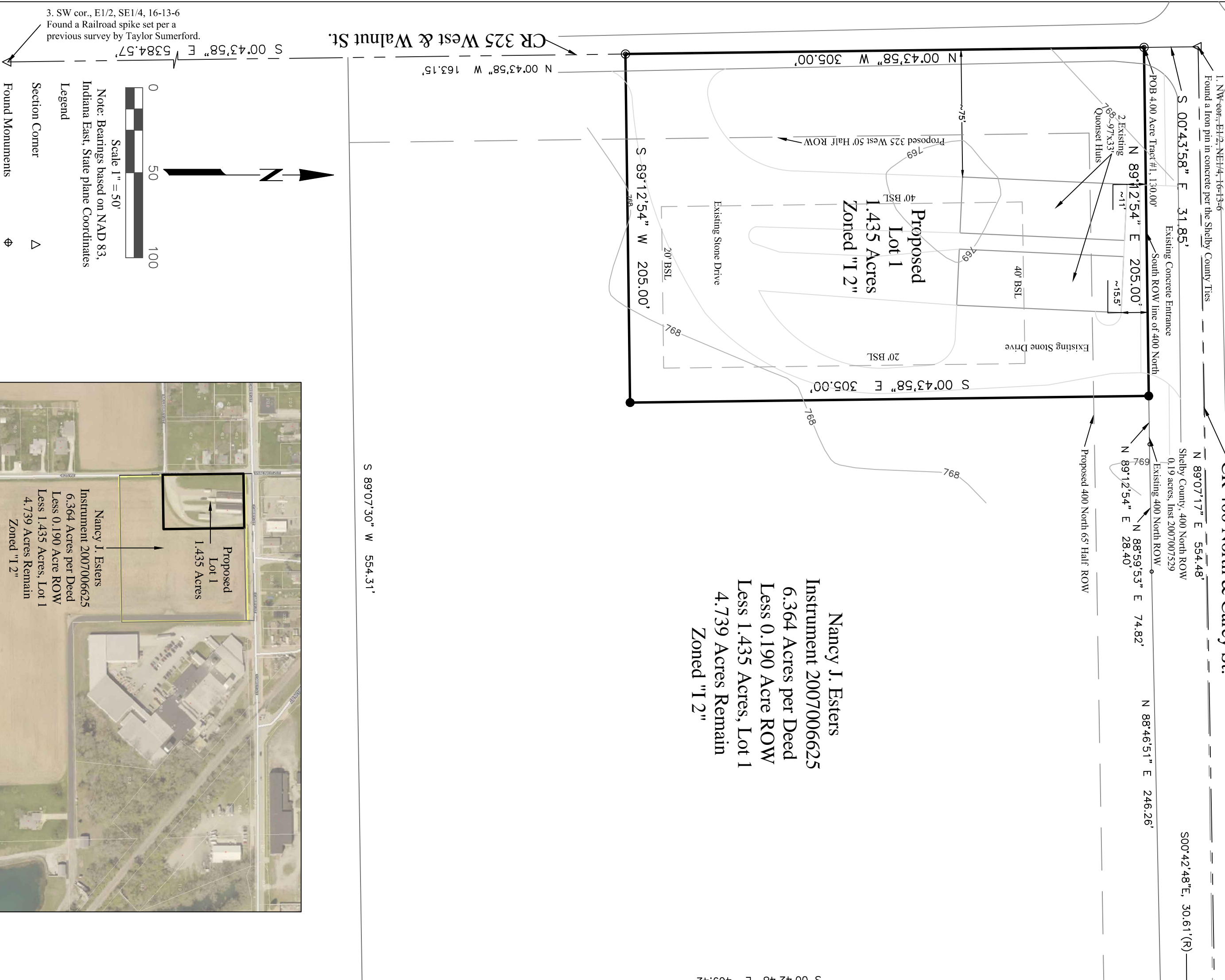
Plan Commission Approval:

Approved by the Shelby County Plan Commission in accordance with Subdivision Regulations with the following waivers of design standards:
 - A waiver of Simple Subdivision prerequisites to allow for Simple Subdivision of property zoned I2.
 - A waiver of Simple Subdivision design standards to allow a lot in the I2 District less than 2-acres.

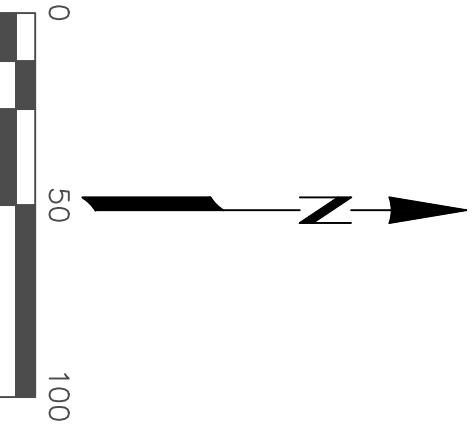
By: _____ Date _____
 Terry Smith, President Plan Commission
 By: _____ Date _____
 Scott Gabbard, Secretary Plan Commission

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

Jeffery P. Powell



3. SW cor., E1/2, SE1/4, 16-19-13-9
 Found a Railroad spike set per a previous survey by Taylor Sumnerford.



- Note: Bearings based on NAD 83, Indiana East, State plane Coordinates
- Legend
- Section Corner Δ
 - Found Monuments \oplus
 - Powell Capped Rebar \bullet
 - Mag Nail \odot

Powell Land Surveying LLC
 Jeffrey P. Powell, PLS
 4634 North, 575 East, Shelbyville, IN 46176
 Office - Cell 317-694-6073
 Email: powelllandsurveying@msn.com
 This Document was prepared by Jeffrey Powell.

Note: The proposed Lot 1 is not located in a Special Flood Hazard Area per the firm maps 18145C0102C per the map scale.
 Note: The Building Set Backs for the proposed "I2" Zoned are as follows: Primary Structure 40' Front, 20' Side & Rear.
 Note: This subdivision includes only Lot 1.

Property Details

Location: Generally north and west of the intersection of Freeport Rd. & CR 150 E, Van Buren Township.

Property Size: 15-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

A2 (Agricultural)
This district is established for general agricultural areas and buildings associated with agricultural production.

Future Land Use per Comp Plan

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

Surrounding Development

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

Staff Report

Case Number: RZ 23-12 / SD 23-08
Case Name: Thomas North Farm Rezoning – A1 (Conservation Agricultural) to A2 (Agricultural) and Thomas North Farm Simple Subdivision

Requests

Rezoning of 15-acres from the A1 (Conservation Agricultural) District to the A2 (Agricultural) District to allow for a three-lot Simple Subdivision.

Simple Subdivision of three, 5-acre lots from a 316.791-acre parent tract.

Waivers:

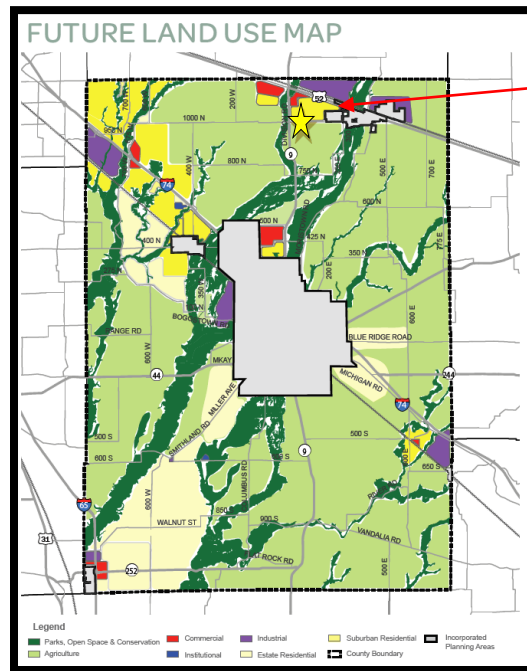
- Of Simple Subdivision prerequisites to allow for Simple Subdivision of property zoned A2 (Simple Subdivisions only permitted in the A3, A4, and RE Districts)
- Of Simple Subdivision design standards to allow residential lots abutting a drainage way less than 25% larger than the minimum lot size requirement for the A2 District.

Purpose of Subdivision Code Requirements

The UDO requires RE zoning for properties in residential Simple Subdivisions to limit use of lots for intense agricultural uses that may pose a nuisance to adjacent residential properties. For example, the UDO allows agritourism and keeping of large numbers of animals on property in the A2 District, however, prohibits these uses in the RE District.

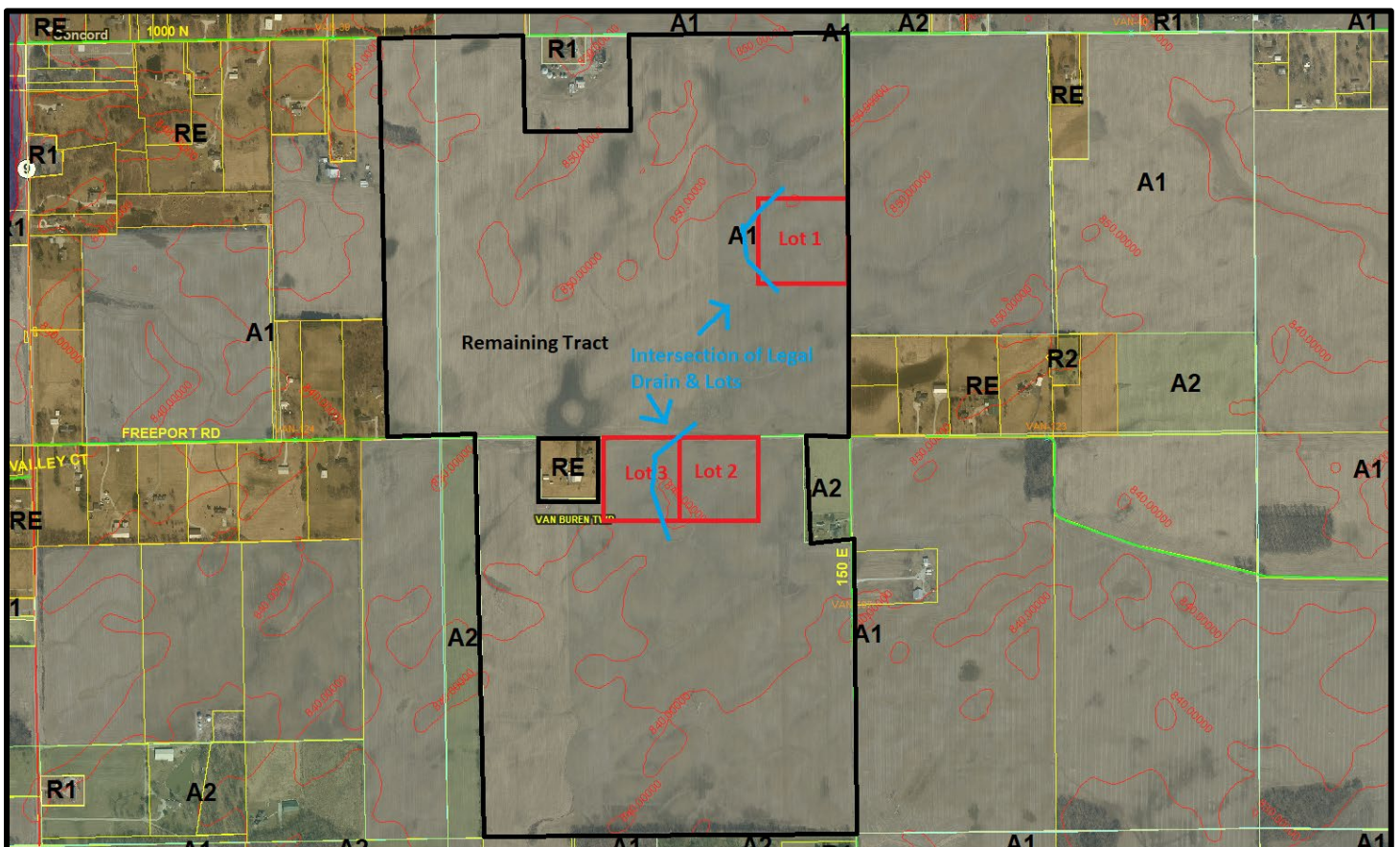
The UDO requires residential lots abutting a drainage way to exceed the minimum lot size requirement by 25%, which would require a minimum lot size of 6.25-acres for properties in the A2 District. The additional area allows for adequate developable space on the lot outside of the legal drain easement.

Future Land Use Map



Subject Property

Property Map



Case Description

- Approval of the requests would allow for development of three single-family residential building lots.
- Per Simple Subdivision regulations included in the UDO, the 301.791-acre remaining tract would remain unbuildable and subject to a five-year suspension on re-subdivision for the purposes of residential development. The recorded plat will note these restrictions that apply to the remaining tract.
- The USDA Soil Survey classifies approximately half of the property as 'Prime Farmland' and approximately half of the property as 'Prime Farmland if Drained.'
- The Siefert Tile Regulated Legal Drain 75-foot easement intersects portions of all three lots. On May 8, 2023 the County Drainage Board reduced the size of the easement from 75-feet to 40-feet along a portion of Lot 3 to allow adequate area for construction of a home and septic system on the east half of the lot.
- 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 of permits for a new single-family residences.

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 size of the proposed lots would reflect the size of most other residential lots along Freeport Rd. Therefore, rezoning to A2 to allow for five-acre lots would not conflict with the character of the area.

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

Rezoning of the lots to A2 would allow for development of farmsteads while allowing for continued use of the properties for agricultural purposes.

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 allow for development of farmsteads at a density not exceeding one lot per five acres while allowing for continued use of the properties for agricultural purposes as recommended for agricultural areas by the Comprehensive Plan.

5. The Comprehensive Plan

Approval of the rezoning would allow for development of farmsteads at a density not exceeding one lot per five acres while allowing for continued use of the properties for agricultural purposes as 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 a waiver to allow for Simple Subdivision of property zoned A2.
 - a. The lots exceed the minimum lot size for properties in the RE District and lie in a rural area relatively isolated from residential development. Therefore, use of the lots for higher-intensity agricultural purposes permitted in the A2 District should not pose a nuisance to other residential properties.
3. The subdivision of land satisfies the standards of Article 07: Design Standards, pending approval of a waiver to allow residential lots abutting a drainage way less than 25% larger than the minimum lot size requirement for the A2 District.
 - a. Simple Subdivisions typically included lots in the RE District. The proposed lots exceed the minimum size requirement for lots in the RE District and therefore should have adequate area for use and development outside of the legal drain easement.
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 of the **Rezoning, Simple Subdivision, and Waivers** primarily because approval would allow for development of farmsteads at a density not exceeding one lot per five acres while allowing for continued use of the properties for agricultural purposes as recommended for agricultural areas by the Comprehensive Plan.

Applicant/Owner Information

Applicant:	Joseph A, Kanoshia Ann, James A, & Becky Lengacher 7111 Bruik Rd. New Haven, IN 46774	Owner:	Same
Surveyor:	Powell Land Surveying LLC 4634 N 575 E Shelbyville, IN 46176		

**APPLICATION FOR REZONING
FINDINGS OF FACT BY THE SHELBY COUNTY PLAN COMMISSION**

Applicant: Steven & Suetta Lengacher, Barry J. & Julia R. Grant, James A. & Becky Lengacher, and Joseph & Kanoshia Lengacher all being the owners of the lands being rezoned as a part of the Thomas North and South Farm Simple Subdivisions

Case #: _____

Location: Tract # 2 (62.790 acres) on the West side of 150 East, North of 950 North & Tract # 5 (92.792 acres) on the South Side of 950 North, West of 150 East and Tract # 8 (159.241 acres) on the East side of 250 East, North of 750 North & Tract # 9 (151.576 acres) on the East Side of 250 East, South of 750 North

The Shelby County Plan Commission, having heard the application for rezoning described above and all opposition from parties claiming to be adversely affected thereby, has considered the request based on the provisions of Indiana law and forwards the following findings and recommendation to the Shelby County Commissioners:

1. The request **is** consistent with the Shelby County Comprehensive Plan because: It requires the land to be rezoned to a "A2" for residential and agricultural land use less than 20 acres.

2. The request **is** consistent with the current conditions and the character of structures and uses in each zoning district because: It is an allowed use per the Shelby County Comprehensive Plan.

3. The request **is** consistent with the most desirable use for which the land in each district is adapted because: It is an allowed use per the Shelby County Comprehensive Plan.

4. The request **is** consistent with the conservation of property values throughout the jurisdiction because: It will not lower, but will increase the value of the land that is being rezoned.

5. The request **is** consistent with responsible growth and development because: It will have no effect on the existing land use.

Based on the findings described above, the Plan Commission hereby forwards a **favorable/unfavorable** (circle one) recommendation to the City Council this _____ day of _____, _____.

Shelby County Plan Commission

By: _____

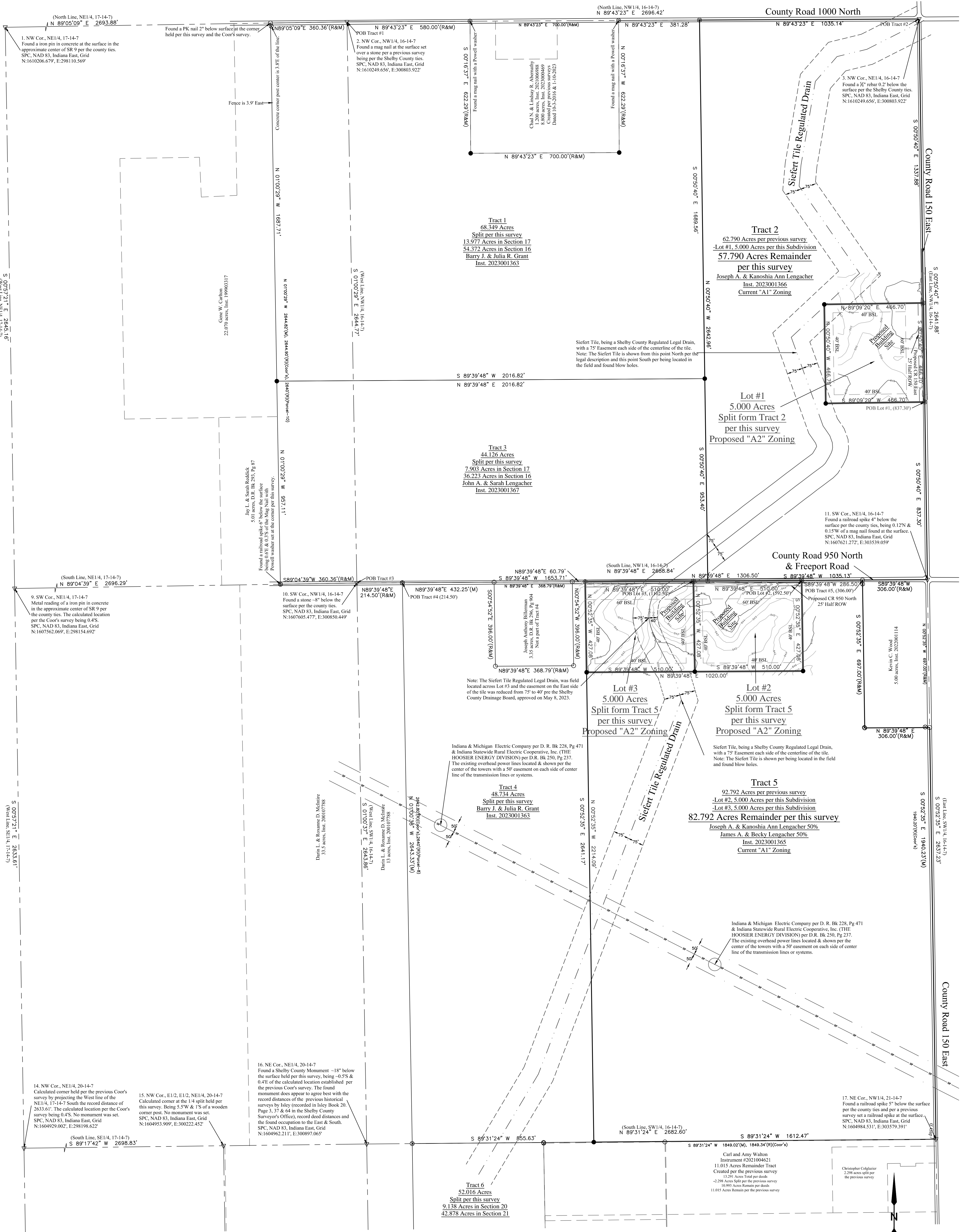
President

Attest: _____

Secretary

Thomas North Farm Simple Subdivision Final Plat

This Subdivision is a division of Tracts #2 & 5 created per a previous Boundary Survey recorded in Instrument 2023001268.
 Part of the Northwest & Southwest quarters of Section 16, in Township 14 North, Range 7 East, Van Buren Township, Shelby County, Indiana.
 Owners & Clients: Tract #2, Joseph A. & Kanoshia Ann Lengacher and Tract #5, Joseph A. & Kanoshia Ann Lengacher 50% and James A. & Becky Lengacher 50%



Note: The proposed Lots 1,2&3 are not located in a Special Flood Hazard Area per the firm maps 18145C0050C per the map scale.
 Note: The Building Set Backs for the proposed "A2" Zoned are as follows:
 Primary Structure 60' Front, 40' Side & Rear and Accessory Structure 60' Front, 10' Side & Rear
 Note: This subdivision includes only Lot 1, Lot 2, and Lot 3.
 Note: Tract 1, Tract 2, Tract 3, Tract 4, and Tract 5 were subdivided through Exempt Subdivision Process 9.14 B 4 b - Any parcel that is at least 20-acres in size and that is being divided for agricultural purposes only and not for the purpose, whether immediate or future, for building development or other improvement for residential, commercial, industrial, recreational, or other non-agricultural purpose.
 Note: Tract 1, Remaining Tract 2, Tract 3, Tract 4, and Remaining Tract 5 in combination shall be considered one remaining tract. This remaining tract shall only be used for agricultural purposes. This remaining tract is subject to a five-year suspension from the date of recording of this plat from further subdivision for non-agricultural purposes.

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

Jeffery P. Powell

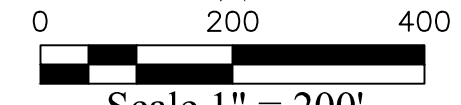
I hereby certify that this Plat is true and accurate to the best of my knowledge as surveyed by me.

Jeffery P. Powell

Jeffery P. Powell
 Registered Land Surveyor
 No. 29800024
 Certified: May 16, 2023



This Document was prepared by Jeffery Powell
 Powell Land Surveying LLC
 Jeffery P. Powell, PLS
 4634 North, 575 East, Shelbyville, IN 46176
 Office Cell 317-694-6073
 Email: powellandsurveying@msn.com



Scale 1" = 200'
 Note: Bearings based on NAD 83, Indiana East, State plane Coordinates

Legend	Symbol
Section Corner	▽
Set 5/8" Capped Rebar	●
Set Mag Nail	⊙
Found Monument	○
Concrete Corner Post	⊗

Thomas North Farm Simple Subdivision Final Plat

This Subdivision is a division of Tracts #2, & 5 created per a previous Boundary Survey recorded in Instrument 2023001268.

Part of the Northwest & Southwest quarters of Section 16, in Township 14 North, Range 7 East, Van Buren Township, Shelby County, Indiana.

Owners & Clients: Tract #2, Joseph A. & Kanoshia Ann Lengacher and Tract #5, Joseph A. & Kanoshia Ann Lengacher 50% and James A. & Becky Lengacher 50%

Parent description of Tract #2 being split per this subdivision.

Description of a 62,790 Acre Tract of land owned by Joseph A. & Kanoshia Ann Lengacher described and recorded in Instrument 2023001366.

A part of the Northwest Quarter of Section 16, in Township 14 North, Range 7 East of the Second Principle Meridian in Van Buren Township, Shelby County, Indiana, being created from a survey (Job # 7-2023) by Jeffrey Powell and being more particularly described as follows:

Beginning at the Northeast corner of the Northwest Quarter of the said Section 16, said point being a 58' "rebar per the Shelby County ties, the said point also being the point of beginning of the tract herein described;

thence South 00 degrees 50 minutes 40 seconds East (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the East line of the said quarter section a distance of 2641.188 feet to a railroad spike at the Southeast corner of the Northwest Quarter of the said Section 16 per the Shelby County ties;

thence South 89 degrees 39 minutes 48 seconds West along the South line of the said quarter section a distance of 10351.13 feet to a mag nail with a Powell washer; thence North 00 degrees 50 minutes 40 seconds West parallel to the East line of the said quarter section a distance of 2662.296 feet to a mag nail with a Powell washer set on the North line of the said quarter section;

thence North 89 degrees 43 minutes 23 seconds East along the North line of the said quarter section a distance of 10351.14 feet to the point of beginning. **Containing 62,790 acres** more or less and being subject to any and all easements, right of ways and restrictions.

Parent description of Tract #5 being split per this subdivision.

Description of a 92,792 Acre Tract of land owned by Joseph A. & Kanoshia Ann Lengacher (50%) and James A. & Becky Lengacher (50%) described and recorded in Instrument 2023001365.

A part of the Southwest Quarter of Section 16, in Township 14 North, Range 7 East of the Second Principle Meridian in Van Buren Township, Shelby County, Indiana, being created from a survey (Job # 7-2023) by Jeffrey Powell and being more particularly described as follows:

Commencing at the Northeast corner of the Southwest Quarter of the said Section 16, said point being a railroad spike per the Shelby County ties,

thence South 89 degrees 39 minutes 48 seconds West (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the North line of the said quarter section a distance of 306.00 feet to mag nail marking the Northwest corner of a 5.00 acre tract described in Instrument 2022001114 and the said point being the point of beginning of the tract herein described;

thence South 00 degrees 52 minutes 35 seconds East along the West line of the said tract being parallel to the East line of the said quarter section a distance of 6977.00 feet to a Coor's capped rebar marking the Southwest corner of the said tract;

thence North 89 degrees 39 minutes 48 seconds East parallel to the North line of the said quarter section a distance of 306.00 feet to a mag nail on the East line of the said quarter section marking the Southeast corner of the said tract;

thence South 00 degrees 52 minutes 35 seconds East along the East line of the said quarter section a distance of 1940.23 feet to the Southeast corner of the said quarter section being a railroad spike per the Shelby County ties;

thence South 89 degrees 31 minutes 24 seconds West along the South line of the said quarter section a distance of 1612.47 feet to a Powell capped rebar;

thence South 00 degrees 51 minutes 24 seconds West parallel to the North line of the said quarter section a distance of 2641.17 feet to a mag nail set on the North line of the said quarter section;

thence North 89 degrees 39 minutes 48 seconds East along the North line of the said quarter section a distance of 1306.50 feet to the point of beginning. **Containing 92,797 acres** more or less and being subject to any and all easements, right of ways and restrictions.

Description of Lot #1 being split from Tract #2 per this subdivision.

A part of the Northwest Quarter of Section 16, in Township 14 North, Range 7 East of the Second Principle Meridian in Van Buren Township, Shelby County, Indiana, being created from a survey (Job # 7-2023) by Jeffrey Powell and being more particularly described as follows:

Commencing at the Southeast corner of the Northwest Quarter of the said Section 16, said point being a railroad spike per the Shelby County ties,

thence North 00 degrees 50 minutes 40 seconds West (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the East line of the said quarter section a distance of 837.30 feet to a mag nail with a Powell washer, said point being the point of beginning of the tract herein described;

thence South 89 degrees 09 minutes 20 seconds West a distance of 466.70 feet to a Powell capped rebar;

thence North 00 degrees 50 minutes 40 seconds East a distance of 466.70 feet to a mag nail with a Powell washer set on the East line of the said quarter section;

thence South 00 degrees 50 minutes 40 seconds East along the East line of the said quarter section a distance of 466.70 feet to the point of beginning. **Containing 5,000 acres** more or less and being subject to any and all easements, right of ways and restrictions.

Description of Lot #2 being split from Tract #5 per this subdivision.

A part of the Southwest Quarter of Section 16, in Township 14 North, Range 7 East of the Second Principle Meridian in Van Buren Township, Shelby County, Indiana, being created from a survey (Job # 7-2023) by Jeffrey Powell and being more particularly described as follows:

Commencing at the Northeast corner of the Southwest Quarter of the said Section 16, said point being a railroad spike per the Shelby County ties,

thence South 89 degrees 39 minutes 48 seconds West (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the North line of the said quarter section a distance of 279.50 feet to a mag nail with a Powell washer, said point being the point of beginning of the tract herein described;

thence South 00 degrees 52 minutes 35 seconds East a distance of 427.08 feet to a Powell capped rebar;

thence South 89 degrees 39 minutes 48 seconds West a distance of 510.00 feet to a Powell capped rebar;

thence North 00 degrees 52 minutes 35 seconds West a distance of 427.08 feet to a mag nail with a Powell washer set on the North line of the said quarter section;

thence North 89 degrees 39 minutes 48 seconds East along the North line of the said quarter section a distance of 510.00 feet to the point of beginning. **Containing 5,000 acres** more or less and being subject to any and all easements, right of ways and restrictions.

Description of Lot #3 being split from Tract #5 per this subdivision.

A part of the Southwest Quarter of Section 16, in Township 14 North, Range 7 East of the Second Principle Meridian in Van Buren Township, Shelby County, Indiana, being created from a survey (Job # 7-2023) by Jeffrey Powell and being more particularly described as follows:

Commencing at the Northeast corner of the Southwest Quarter of the said Section 16, said point being a railroad spike per the Shelby County ties,

thence South 89 degrees 39 minutes 48 seconds West (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the North line of the said quarter section a distance of 1102.50 feet to a mag nail with a Powell washer, said point being the point of beginning of the tract herein described;

thence South 00 degrees 52 minutes 35 seconds East a distance of 427.08 feet to a Powell capped rebar;

thence South 89 degrees 39 minutes 48 seconds West a distance of 510.00 feet to a Powell capped rebar set on the West line of a 92,792 acre tract recorded in Instrument 2023001365;

thence North 00 degrees 52 minutes 35 seconds West along the West line of the said 92,792 acre tract a distance of 427.08 feet to a mag nail with a Powell washer set on the North line of the said quarter section, being the Northwest corner of the said 92,792 acre tract;

thence North 89 degrees 39 minutes 48 seconds East along the North line of the said quarter section a distance of 510.00 feet to the point of beginning. **Containing 5,000 acres** more or less and being subject to any and all easements, right of ways and restrictions.

Remainder description of Tract #2 per this subdivision.

Remainder description of a 62,790 Acre Tract of land owned by Joseph A. & Kanoshia Ann Lengacher described and recorded in Instrument 2023001366 and being 57,790 Acres per this subdivision.

A part of the Northwest Quarter of Section 16, in Township 14 North, Range 7 East of the Second Principle Meridian in Van Buren Township, Shelby County, Indiana, being created from a survey (Job # 7-2023) by Jeffrey Powell and being more particularly described as follows:

Beginning at the Northeast corner of the Northwest Quarter of the said Section 16, said point being a 58' "rebar per the Shelby County ties, the said point also being the point of beginning of the tract herein described;

thence South 00 degrees 50 minutes 40 seconds East (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the East line of the said quarter section a distance of 1337.388 feet to a mag nail with a Powell washer;

thence South 89 degrees 09 minutes 20 seconds West a distance of 466.70 feet to a Powell capped rebar;

thence South 00 degrees 50 minutes 40 seconds East parallel to the East line of the said quarter section a distance of 466.70 feet to a Powell capped rebar;

thence North 89 degrees 39 minutes 48 seconds West along the South line of the said quarter section a distance of 466.70 feet to a mag nail with a Powell washer set on the North line of the said quarter section;

thence South 00 degrees 50 minutes 40 seconds East along the East line of the said quarter section a distance of 837.30 feet to a railroad spike at the Southeast corner of the Northwest Quarter of the said Section 16 per the Shelby County ties;

thence South 89 degrees 39 minutes 48 seconds West along the South line of the said quarter section a distance of 10351.13 feet to a mag nail with a Powell washer set on the North line of the said quarter section;

thence North 00 degrees 50 minutes 40 seconds West parallel to the East line of the said quarter section a distance of 2662.296 feet to a mag nail with a Powell washer set on the North line of the said quarter section;

thence North 89 degrees 43 minutes 23 seconds East along the North line of the said quarter section a distance of 10351.14 feet to the point of beginning. **Containing 57,790 acres** more or less and being subject to any and all easements, right of ways and restrictions.

Remainder description of Tract #5 per this subdivision.

Remainder description of a 92,792 Acre Tract of land owned by Joseph A. & Kanoshia Ann Lengacher (50%) and James A. & Becky Lengacher (50%) described and recorded in Instrument 2023001365 and being 82,792 Acres per this subdivision.

A part of the Southwest Quarter of Section 16, in Township 14 North, Range 7 East of the Second Principle Meridian in Van Buren Township, Shelby County, Indiana, being created from a survey (Job # 7-2023) by Jeffrey Powell and being more particularly described as follows:

Commencing at the Northeast corner of the Southwest Quarter of the said Section 16, said point being a railroad spike per the Shelby County ties,

thence South 89 degrees 39 minutes 48 seconds West (Bearings based on NAD 83, Indiana East, State plane Coordinates) along the North line of the said quarter section a distance of 306.00 feet to mag nail marking the Northwest corner of a 3.00 acre tract described in Instrument 2022001114 and the said point being the point of beginning of the tract herein described;

thence South 00 degrees 52 minutes 35 seconds East along the West line of the said tract being parallel to the East line of the said quarter section a distance of 6977.00 feet to a Coor's capped rebar marking the Southwest corner of the said tract;

thence North 89 degrees 39 minutes 48 seconds East parallel to the North line of the said quarter section a distance of 306.00 feet to a mag nail on the East line of the said quarter section marking the Southeast corner of the said tract;

thence South 00 degrees 52 minutes 35 seconds East along the East line of the said quarter section a distance of 1940.23 feet to the Southeast corner of the said quarter section being a railroad spike per the Shelby County ties;

thence South 89 degrees 31 minutes 24 seconds West along the South line of the said quarter section a distance of 1612.47 feet to a Powell capped rebar;

thence North 00 degrees 52 minutes 35 seconds West parallel to the East line of the said quarter section a distance of 2214.09 feet to a Powell capped rebar;

thence North 89 degrees 39 minutes 48 seconds East parallel to the North line of the said quarter section a distance of 1020.00 feet to a Powell capped rebar;

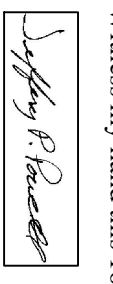
thence North 00 degrees 52 minutes 35 seconds West parallel to the East line of the said quarter section a distance of 427.08 feet to a mag nail with a Powell washer set on the North line of the said quarter section;

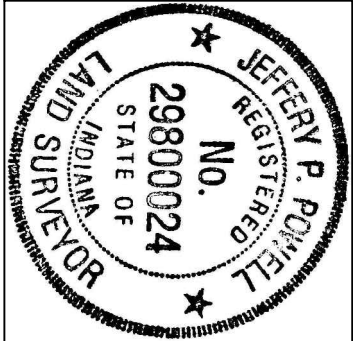
thence North 89 degrees 39 minutes 48 seconds East along the North line of the said quarter section a distance of 286.50 feet to the point of beginning. **Containing 82,797 acres** more or less and being subject to any and all easements, right of ways and restrictions.

Surveyor Certification:

I, the undersigned, hereby certify that I am a Land Surveyor registered in compliance with the laws of the State of Indiana; and I do hereby further certify that I have reviewed the real estate described in the caption above and that I have subdivided the same into two tracts as shown on the hereon drawn plat. This plat correctly represents said survey and subdivision in every detail. Monuments shown are in place as located.

Witness my hand this 16 day of May, 2023.


Jeffery P. Powell
Registered Land Surveyor
No. 29800024



Plan Commission Approval:

Approved by the Shelby County Plan Commission in accordance with Subdivision Regulations with the following waivers of design standards:

- A waiver of Simple Subdivision prerequisites to allow for Simple Subdivision of property zoned A2.
- A waiver of Simple Subdivision design standards to allow residential lots abutting a drainage way less than 25% larger than the minimum lot size requirement for the A2 District.

By: Terry Smith, President Plan Commission Date _____

By: Scott Calhoun, Secretary Plan Commission Date _____

Rezoning Approval:

Shelby County Commissioners Rezoning Ordinance # _____ was approved by the Shelby County Commissioners on _____

Owners Certification of Tract #2, & 5% of Tract 5:

We, **Joseph A. Lengacher & Kanoshia Ann Lengacher**, do hereby certify that we are the owners of the property described in the above captioned and that as such owners we have caused the said above described property to be surveyed and subdivided as shown on the here on drawn plat, as our free and voluntary act and deed.

Witness my hand this _____ day of _____, 2023.

Joseph A. Lengacher **Kanoshia Ann Lengacher**

Notary Certification:

I, _____, a Notary Public in and for said County and State, do hereby certify that **Barry J. Grant & Julia R. Grant** Personally know one to me to be the same person whose name is subscribed to the above certificate appeared before me this day in person 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.

Notary Public _____

Owners Certification of 50% of Tract 5:

We, **James A. Lengacher & Becky Lengacher**, do hereby certify that we are the owners of the property described in the above captioned and that as such owners we have caused the said above described property to be surveyed and subdivided as shown on the here on drawn plat, as our free and voluntary act and deed.

Witness my hand this _____ day of _____, 2023.

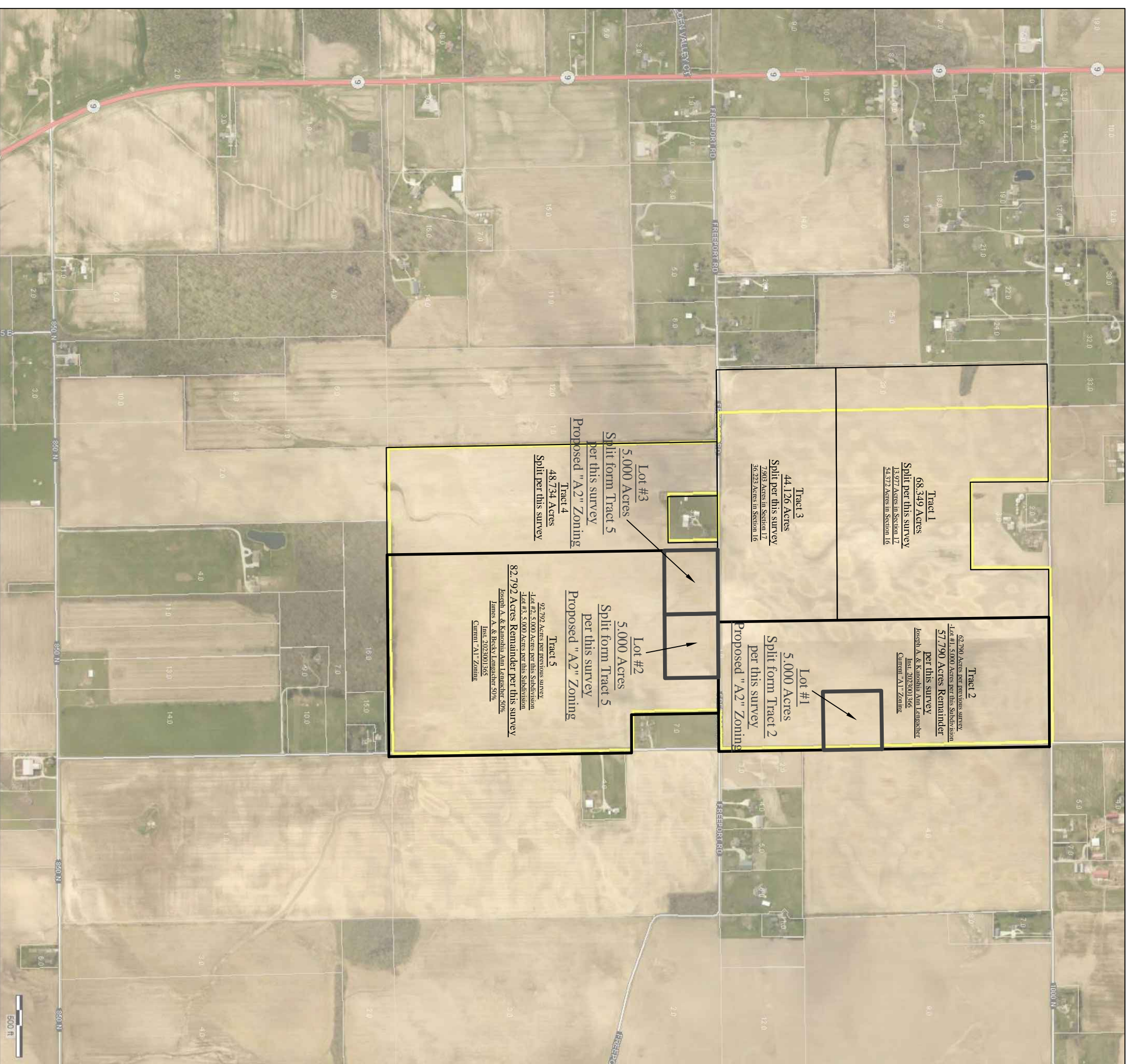
James A. Lengacher **Becky Lengacher**

Notary Certification:

I, _____, a Notary Public in and for said County and State, do hereby certify that **Steven Lengacher & Susie Lengacher** Personally know one to me to be the same person whose name is subscribed to the above certificate appeared before me this day in person 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.

Notary Public _____



Property Details

Location: East side of CR 250 E, generally east of the intersection of CR 750 N, Hanover Township.

Property Size: 31.217-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

A2 (Agricultural)
This district is established for general agricultural areas and buildings associated with agricultural production.

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	A2	Estate Residential
South	RE / A2	Estate Residential / Cropland
East	A1	Cropland
West	A1/ I2	Cropland / Quarry

Staff Report

Case Number: RZ 23-13 / SD 23-09
Case Name: Thomas South Farm Rezoning – A1 (Conservation Agricultural) to A2 (Agricultural) and Thomas South Farm Simple Subdivision

Requests

Rezoning of 31.217-acres from the A1 (Conservation Agricultural) District to the A2 (Agricultural) District to allow for a three-lot Simple Subdivision.

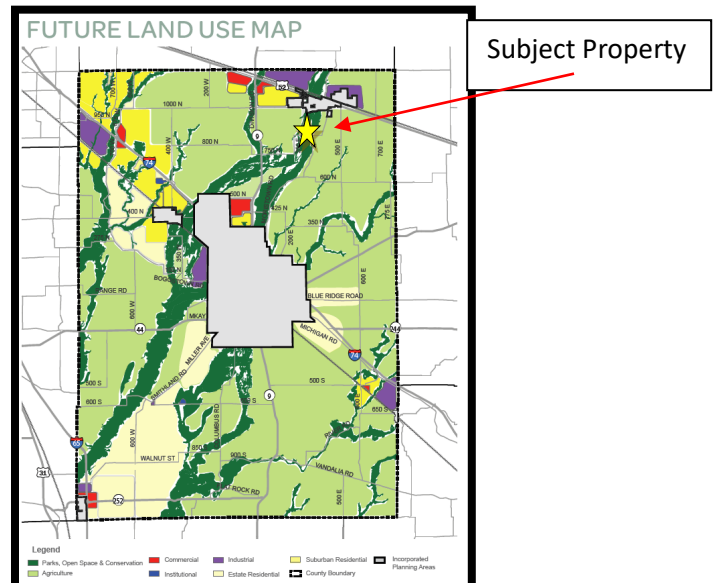
Simple Subdivision of three lots (8.301-acres, 10.797-acres, & 12.119-acres) from a 310.817-acre parent tract.

Waivers of Simple Subdivision prerequisites to allow for Simple Subdivision of property zoned A2.

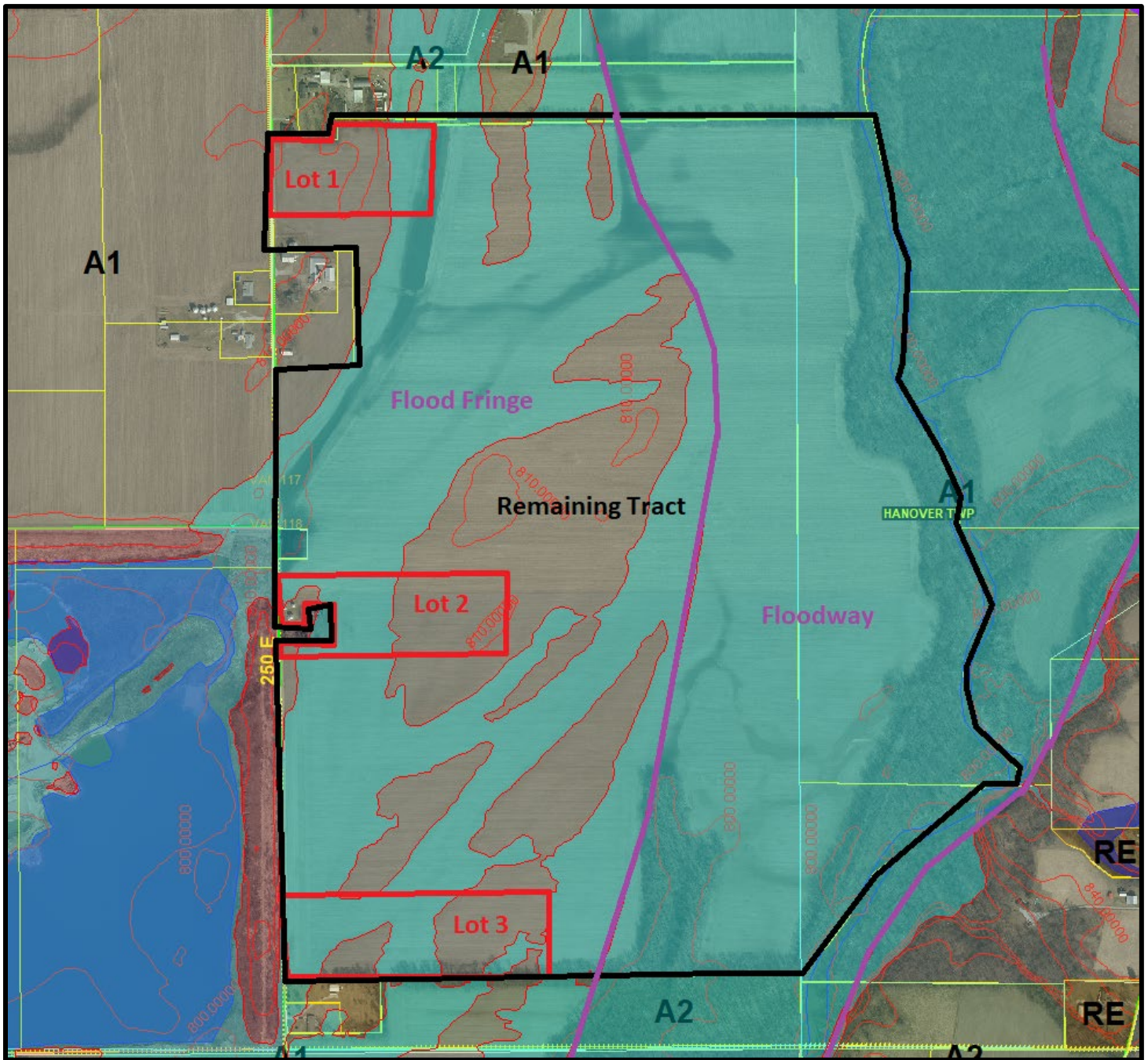
Purpose of Subdivision Code Requirement

The UDO requires RE zoning for properties in residential Simple Subdivisions to limit use of lots for intense agricultural uses that may pose a nuisance to adjacent residential properties. For example, the UDO allows agritourism and keeping of large numbers of animals on property in the A2 District, however, prohibits these uses in the RE District.

Future Land Use Map



Property Map



Case Description

- Approval of the requests would allow for development of three single-family residential building lots.
- Per Simple Subdivision regulations included in the UDO, the 279.60-acre remaining tract would remain unbuildable and subject to a five-year suspension on re-subdivision for the purposes of residential development. The recorded plat will note these restrictions that apply to the remaining tract.

- The USDA Soil Survey classifies approximately 80% of the property as 'Prime Farmland', approximately 15% of the property as 'Prime Farmland if Drained', and approximately 5% of the property as 'Not Prime Farmland'.
- The Hills Branch Tile Regulated Legal Drain 75-foot easement intersects the rear property line of Lot 1.
- Portions of all three lots lie within the Federal Emergency Management Agency (FEMA) and Indiana Department of Natural Resources (IDNR) Designated Flood Hazard Area Flood Fringe.
 - The proposed building sites on each lot shown on the plat lie outside the Designated Flood Hazard Area.
 - Proposed driveways would lie within the Designated Flood Hazard Area.
 - Per the IDNR Floodplain Information Portal, the building site elevation on Lots 1 and 2 sit approximately 3-feet higher than the base flood elevation, the building site elevation on Lot 3 sits approximately 1-foot higher than the base flood elevation.
 - The petitioner does intend to construct houses having root cellars.
- 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 of permits for new single-family residences.

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**
2. **The Most Desirable Use for Which the Land in Each District Is Adapted**
3. **The Conservation of Property Values throughout the Jurisdiction**
4. **Responsible Development and Growth**
5. **The Comprehensive Plan**

Considerations Contradicting Rezoning

- The Comprehensive Plan recommends use of the property for Parks, Open Space, and Conservation. In this land use designation, the Plan recommends clustered residential developments to protect natural features. The proposed development includes large lots spread out within the flood hazard area which contradicts this recommendation.
- Approval would allow for more intense use of property, specifically use of two additional residential lots, in the Designated Flood Hazard Area than permitted currently in the A1 District.

- Access to the building sites on two of the lots would require construction of driveways in the Designated Flood Hazard area and access from a county road subject to flooding. Flooding could prohibit emergency services from accessing the residential structures and loss of life and property.
- Cellars within residential structures near flood-prone areas could be susceptible to flooding.
- The Comprehensive Plan (text directly from Comprehensive Plan document):
 - Land Use Goal 1: Welcome and promote future development in appropriate areas of the County.
 - Strategy 3: Identify and promote development areas for all major land use types identified on the Future Land Use Map.
 - Natural Resources Goal 1: Develop improved access to existing natural resource assets for recreational activities.
 - Strategy 1: Encourage the use of existing natural assets for recreational activities and tourism development.
 - Strategy 3: Preserve woodland, wetland, and agricultural resources for future generations.
 - Natural Resources Goal 2: Protect and enhance local water-based resources, such as surface water, groundwater, and wetlands.
 - Strategy 1: Establish protective development buffers surrounding lakes, rivers, wetlands, and other significant hydrological features.
 - Strategy 3: Protect and enhance the county's land-based natural resources, such as floodplains, wooded areas, riparian areas and soils.

Considerations Supporting Rezoning

- The Comprehensive Plan recommends use of the property for Parks, Open Space, and Conservation. In this land use designation, the Plan recommends preservation of natural features. Approval of the rezoning would result in preservation of the remaining tract which includes additional Flood Hazard Area and the Big Blue River for a period of five years.
- The proposed buildings sites on each lot shown on the plat lie outside the Designated Flood Hazard Area.
- The size of the proposed lots would exceed the size of most residential lots along CR 250 E. Additionally, lots along CR 250 E also lie within the Designated Flood Hazard Area. Therefore, the proposed development is consistent with the character of the area.

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

1. The subdivision of land is consistent with the Shelby County Comprehensive Plan.
2. The subdivision of land satisfies the development requirements of Article 06: Subdivision Types, pending approval of a waiver to allow for Simple Subdivision of property zoned A2.

- a. The lots exceed the minimum lot size for properties in the RE District and lie in a rural area relatively isolated from residential development. Therefore, use of the lots for higher-intensity agricultural purposes permitted in the A2 District should not pose a nuisance to other residential properties.
- 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

DENIAL because the Comprehensive Plan recommends use of the property for Parks, Open Space, and Conservation. In this land use designation, the Plan recommends clustered residential developments to protect natural features. The proposed development includes large lots spread out within the flood hazard area which contradicts this recommendation. Additionally, approval would allow for more intense use of property, specifically use of two additional residential lots, in the Designated Flood Hazard Area than permitted currently in the A1 District.

If the **Board chooses to approve the requests**, Staff Recommends the following **stipulation**:

- 1. Non-agricultural development including single-family dwellings, accessory structures, and alteration of land in the Designated Flood Hazard Area shall be prohibited. Elevated driveways may be permitted in the Designated Flood Hazard Area.

Applicant/Owner Information

Applicant:	Barry J & Julia R Grant 6476 SR 111 Antwerp, OH 45813	Steven & Suetta Lengacher 18521 Bishop Rd. Spencerville, IN 46788	Owner: Same
Surveyor:	Powell Land Surveying LLC 4634 N 575 E Shelbyville, IN 46176		

**APPLICATION FOR REZONING
FINDINGS OF FACT BY THE SHELBY COUNTY PLAN COMMISSION**

Applicant: Steven & Suetta Lengacher, Barry J. & Julia R. Grant, James A. & Becky Lengacher, and Joseph & Kanoshia Lengacher all being the owners of the lands being rezoned as a part of the Thomas North and South Farm Simple Subdivisions

Case #: _____

Location: Tract # 2 (62.790 acres) on the West side of 150 East, North of 950 North & Tract # 5 (92.792 acres) on the South Side of 950 North, West of 150 East and Tract # 8 (159.241 acres) on the East side of 250 East, North of 750 North & Tract # 9 (151.576 acres) on the East Side of 250 East, South of 750 North

The Shelby County Plan Commission, having heard the application for rezoning described above and all opposition from parties claiming to be adversely affected thereby, has considered the request based on the provisions of Indiana law and forwards the following findings and recommendation to the Shelby County Commissioners:

1. The request **is** consistent with the Shelby County Comprehensive Plan because: It requires the land to be rezoned to a "A2" for residential and agricultural land use less than 20 acres.

2. The request **is** consistent with the current conditions and the character of structures and uses in each zoning district because: It is an allowed use per the Shelby County Comprehensive Plan.

3. The request **is** consistent with the most desirable use for which the land in each district is adapted because: It is an allowed use per the Shelby County Comprehensive Plan.

4. The request **is** consistent with the conservation of property values throughout the jurisdiction because: It will not lower, but will increase the value of the land that is being rezoned.

5. The request **is** consistent with responsible growth and development because: It will have no effect on the existing land use.

Based on the findings described above, the Plan Commission hereby forwards a **favorable/unfavorable** (circle one) recommendation to the City Council this _____ day of _____, _____.

Shelby County Plan Commission

By: _____
President

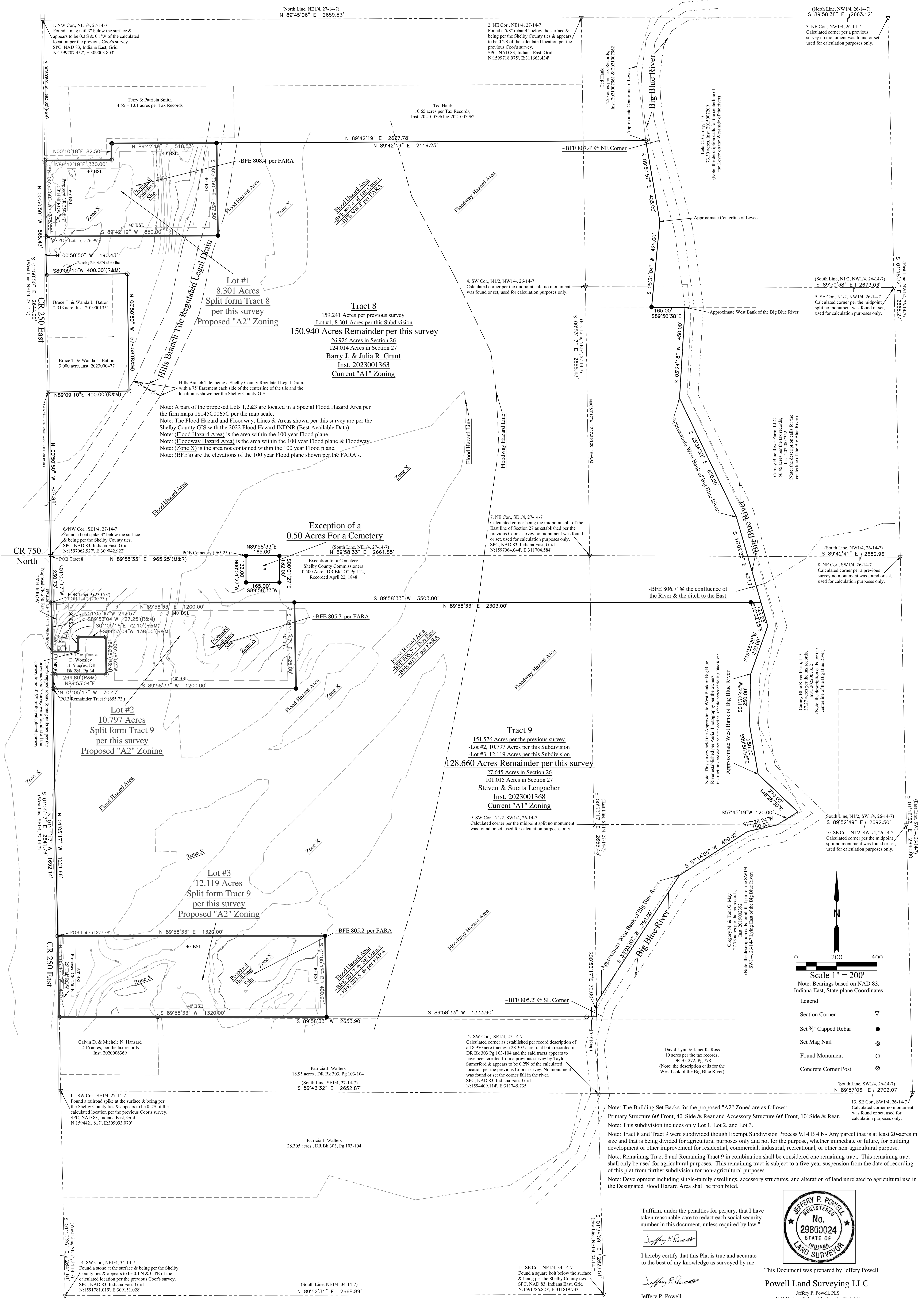
Attest: _____
Secretary

Thomas South Farm Simple Subdivision Final Plat

This Subdivision is a division of Tracts #8 & 9 created per a previous Boundary Survey recorded in Instrument 2023001267

Part of the Northwest and Southwest Quarters of Section 26, all in Township 14 North, Range 7 East, Hanover Township, Shelby County, Indiana.

Owners & Clients: Tract #8, Barry J. & Julia R. Grant and Tract #9, Steven & Suetta Lengacher



Note: The Building Set Backs for the proposed "A2" Zoned are as follows:
 Primary Structure 60' Front, 40' Side & Rear and Accessory Structure 60' Front, 10' Side & Rear.
 Note: This subdivision includes only Lot 1, Lot 2, and Lot 3.
 Note: Tract 8 and Tract 9 were subdivided through Exempt Subdivision Process 9.14 B 4 b - Any parcel that is at least 20-acres in size and that is being divided for agricultural purposes only and not for the purpose, whether immediate or future, for building development or other improvement for residential, commercial, industrial, recreational, or other non-agricultural purpose.
 Note: Remaining Tract 8 and Remaining Tract 9 in combination shall be considered one remaining tract. This remaining tract shall only be used for agricultural purposes. This remaining tract is subject to a five-year suspension from the date of recording of this plat from further subdivision for non-agricultural purposes.
 Note: Development including single-family dwellings, accessory structures, and alteration of land unrelated to agricultural use in the Designated Flood Hazard Area shall be prohibited.

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

I hereby certify that this Plat is true and accurate to the best of my knowledge as surveyed by me.
 Jeffrey P. Powell



Jeffery P. Powell
 Registered Land Surveyor
 No. 29800024
 Certified: May 16, 2023

This Document was prepared by Jeffrey Powell
 Powell Land Surveying LLC
 Jeffrey P. Powell, PLS
 4634 North, 575 East, Shelbyville, IN 46176
 Office: Cell 317-694-6073
 Email: powellandsurveying@gmail.com

Bylaws & Rules of Procedure

Shelby County Plan Commission

ARTICLE ONE NAME AND RULES

- 101 NAME: The legal name of the Board shall be the “Shelby County Plan Commission”.
- 102 RULES OF PROCEDURE: Procedures provided by statute, county ordinances, the Unified Development Ordinance, or these by-laws, shall govern the conduct of the Board meetings.
- 103 MEETING VERSUS HEARING: Within these Rules of Procedure, the word ‘meeting’ refers to all business conducted by the Board and the word ‘hearing’ refers to each individual petition.

ARTICLE TWO MEMBERSHIP, OFFICERS, AND STAFF

- 201 QUALIFICATION OF MEMBERS:
- a. No members of an advisory plan commission may hold an elected office (as defined in IC 3-5-2-17); or any other appointed office, except as permitted by section IC 36-7-4-208, in municipal, county, or state government.
 - b. Members must be a resident of the jurisdictional area of the board or the member must be a resident of a municipality within the county and also an owner of real property located in whole or in part in the jurisdictional area of the board.
 - c. Member Appointments
 - i. One member appointed by the county commissioners from its membership.
 - ii. One member appointed by the county council from its membership.
 - iii. The county surveyor or the county surveyor’s designee.
 - iv. The county agricultural extension educator. If the county does not have an agricultural extension educator or the agricultural extension educator is not a resident of the county, then the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the Board for a period not to exceed one (1) year. The county

agricultural extension educator who is not a resident of the county shall serve the commission in a nonvoting advisory capacity.

- v. Five citizen members appointed by the County Commissioners, of whom not more than three may be of the same political party. Each of the five members must be:
 - 1. A resident of an unincorporated area of the county; or
 - 2. A resident of the county who is also an owner of real property in whole or in part in an unincorporated area of the county. However, a majority of the citizen member must reside in the unincorporated county.

202 TERM OF MEMBERSHIP:

- a. The terms of the commissioner member, council member, county surveyor or his/her designee, and the county agricultural extension educator shall coincide with the time he/she holds their elected or appointed position.
- b. Citizen Members
 - i. Each citizen member appointment is for a four-year term of membership. A member is eligible for reappointment. If the term of an appointed member of the Board expires and the appointing authority does not make an appointment to fill the vacancy, the member may continue to serve until the member's successor is appointed. If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.
 - ii. The appointing authority may also appoint up to three alternate members to participate with the commission in a hearing or decision if a regular member has a disqualification under section 506 of these Rules of Procedure. The alternate member must have the same qualifications as the disqualified member and has all the powers and duties of a regular member while participating in the hearing or decision.

203 REMOVAL OF MEMBERS: The appointing authority may remove an appointed member for cause as provided in IC 36-7-4-218 or for missing three (3) or more regular consecutive meetings as provided in IC 36-7-4-220 (c). The appointing authority must mail notice of the removal, along with written reasons, to the member at his/her residence address. A member who is removed may appeal the removal within thirty days of receiving notice to circuit or superior court of the County.

204 ELECTION OF OFFICERS: At its first regular meeting in each year, the Board shall elect

from its members a President, Vice-President and Secretary.

205 DUTIES OF THE PRESIDENT AND VICE PRESIDENT: The President shall preside over all Board meetings, determine points of order and procedure, and sign all official documents. The Vice-President shall have authority to act as President of the Board during the absence or disability of the President and shall automatically succeed to the office of President upon the resignation or death of the President. In the event the President and Vice-President are unavailable or otherwise unable to preside over a Board meeting, then the Secretary shall have authority to act as President of the Board while such absence continues. If each of the President, Vice-President, and Secretary are unavailable or otherwise unable to preside over a Board meeting, then the Board members present at such hearing shall nominate and approve, by voice vote, a member of the Board in attendance to preside over the meeting.

201 DUTIES OF THE PLANNING DIRECTOR:

- a. The Director shall conduct roll call, read each petition into the record, and provide technical assistance to the Board.
- b. The Director shall be responsible for recording minutes of all Board proceedings.
- c. The Director shall process applications for petitions, shall be responsible for the custody and preservation of the official file for each petition, shall establish the petition docket, and shall write the public notice for each petition.
- d. The Director shall prepare a staff report for each petition to be brought before the Board and an agenda for each meeting.

ARTICLE THREE MEETINGS

301 MEETING CALENDAR: The Plan Commission Director shall prepare an annual meeting calendar including the scheduled date for each hearing, filing deadline, and deadline to provide notice. The filing deadline shall be at least twenty-eight (28) days prior to the meeting at which a petition will be considered. The Plan Commission shall adopt the meeting calendar.

302 QUORUM: The presence of five members of the Board shall constitute a quorum. Five members are also required for quorum in case of a vacancy.

303 DISPENSATION OF MEETINGS: Whenever there is a lack of business or whenever a quorum will not be available, the President or Plan Commission Director may dispense with a regular meeting by giving written notice to any petitioner and written or oral notice

to all members.

- 304 SPECIAL MEETINGS: Special meetings of the Board may be called by the President or by two members of the Board giving written notice to all members at least three days prior to the meeting and provided that in all cases where notice by publication or notice to interested parties is required, such notice shall be in accordance with IC 5-3-1-2 and IC 5-3-1-4.
- 305 OFFICIAL ACTION: No action of the Board shall be official unless it is authorized at a regular or special meeting by a majority of the entire membership of the Board.
- 306 PARTICIPATION BY ELECTRONIC MEANS OF COMMUNICATION: Board members may participate in meetings and authorize official action by electronic means of communication as specified in the most current resolution of the Shelby County Plan Commission establishing the policy by which members of the Plan Commission may participate by electronic means of communication.

ARTICLE FOUR PROCEDURE FOR PETITION TO THE BOARD

- 401 APPLICATION: Any petition to the Plan Commission shall be in writing on forms (including electronic forms) supplied by the Planning Director. These forms shall be executed and filed in the Office of the Plan Commission.
- 402 DOCKET: A docket shall be maintained by the Planning Director.
- 403 DATE OF HEARING: A petition, when filed, shall be initially docketed for hearing at the next regularly scheduled meeting of the Plan Commission after the application deadline.
- 404 NOTICE OF PUBLIC HEARING:
- a. The Planning Director shall write each notice of public hearing. The notice of public hearing shall contain at least the following information: 1) the substance of the petition; 2) the address of the subject property; 3) the name of the petitioner; 4) the time and place set for the hearing; 5) a statement that any interested party may voice an opinion upon said hearing date and/or file written comments concerning the petition; 6) the place where a copy of the proposal is on file; and 7) that the meeting may be continued from time to time.
 - b. Notification by Publication: The Planning Director shall publish in the local newspaper all public hearings in accordance with Indiana Code 5-3-1 and Indiana Code 5-3-1-4.

- c. Notification to Interested Parties: The Plan Commission Director shall provide the mailing address of all interested parties to the petitioner prior to the notice deadline. Interested parties are defined as all property owners of record, as shown in the County Auditor's Office, of all land within six-hundred and sixty (660) feet of any property line of the petition site.
- d. Notice must be provided a minimum of ten (10) days prior to the public hearing. The petitioner shall be responsible for providing proof of notice to interested parties under subsection (c) to the Planning Director.
- e. Notice, on a sign having a minimum area of 18" x 27" and content as prescribed by the Board, shall be posted on the subject property at least ten (10) days prior to the public hearing. Said notice shall be located in a place on the property visible from the public roadway along each public street frontage and shall remain posted until resolution of the petition. One sign per street frontage may be displayed for multiple petitions that apply to a single property.
- f. Except for costs of publication under subsection (b), all costs of notification to interested parties shall be borne by the petitioner.

405 REPRESENTATION: An applicant may be represented by counsel or other representative at a hearing; however, the applicant must also be present at the hearing in person or by electronic means of communication. No Board member may represent a petitioner at any meeting or hearing.

406 ADDITIONAL REQUIREMENTS FOR TEXT AMENDMENTS:

- a. Petitions to amend the text of the Unified Development Ordinance shall only be initiated by the Plan Commission, Planning Director on behalf of the Plan Commission, or the County Commissioners.
- b. Notice of petitions to amend the text of the Unified Development Ordinance in relation to Enforcement and Penalties shall include the entire text of the amendment.

ARTICLE FIVE CONDUCT & PROCEEDURE OF MEETINGS

- 501 ORDER OF BUSINESS: The order of business of regular meetings shall be as follows:
- a. Roll Call
 - b. Approval of Minutes

- c. Requests for Continuance and Miscellaneous Requests
- d. Public Hearings
- e. Discussion
- f. Adjournment

The order of business may be changed on a per meeting basis in the discretion of the President.

502 PUBLIC HEARINGS: The order and format of each public hearing shall be as follows:

- a. The President shall call up for public hearing and make a determination that the petitioner is present and desires to proceed, or in the alternative, that action to continue, withdraw, dismiss, or amend may be in order. The petitioner can make a request to amend, continue, or withdraw a petition at any time during the public hearing.
- b. The President shall ask the Planning Director to read the petition into the record.
- c. The petitioner(s) must appear in person or by electronic means of communication, but may be represented by agent or attorney, and shall generally have fifteen (15) minutes to present their supporting testimony, evidence, and arguments in favor of the matter being heard.
- d. Any person having an interest in the petition being considered may appear in person, by electronic means of communication, by agent, or by attorney and shall generally have three (3) minutes per person to present testimony, evidence, and arguments for or against the petition, and to ask any questions about the petition. Questions shall be directed to the Board only. Any person interested in any petition shall have the right to enter oral and written comments concerning the petition.
- e. The petitioner(s) shall generally have fifteen (15) minutes to rebut any opposing testimony, evidence, and arguments and to answer questions posed by the public.
- f. The President shall then close the public comment portion of the hearing and open up the hearing for questions from the Board directed to the petitioner(s), remonstrator(s), Planning Director, Board Attorney, and general public.
- g. The Board may discuss the evidence presented in open meeting.
- h. Any member of the Board may call for Official Action of the Board by motion (see section 508 for procedure regarding Official Action). The motion shall specifically

state the Official Action under Section 508(a)(i)-(iv) requested.

- i. The Board may, on its own motion, the motion of a petitioner, or the motion of any person having an interest in the petition, grant any request to exceed the general time allotment for presentation of testimony, evidence, or argument as to a petition.
- j. The Board Attorney shall read the Board's Findings of Fact into the record unless the President or Planning Director requests that the Findings of Fact be prepared after the conclusion on the Meeting, which case said Findings of Fact shall be submitted to the Board and approved by voice vote at a subsequent meeting of the Board.

503 TESTIMONY AND ARGUMENT: Commentary from the public shall at all times be addressed to the Board through the President and shall not be permitted between opposing parties without consent of the President. The President shall have the authority to terminate repetitious and irrelevant testimony and shall have the authority to extend such time to petitioners and interested parties as is appropriate in his/her sole judgment in the interest of affording a fair hearing to all.

504 BURDEN OF PROOF: In all petitions the burden of proof is upon the petitioner.

505 OPEN MEETING: No member of the Board shall communicate with any petitioner, advocate, opponent, any other Board member, or any other persons with interest in the petition concerning the merits of any petition pending before the Board at any time before final action thereon, except in a public meeting of said Board. Notwithstanding the foregoing, any member may discuss the merits of a petition pending before the Board with the Planning Director and/or Board Attorney prior to the public meeting.

506 RECUSALS: A member of the Board must recuse himself/herself from consideration of a petition if one of the following applies:

- a. The member is biased or prejudiced or otherwise unable to be impartial; or
- b. The member has a direct or indirect financial interest in the outcome of the zoning decision.

A member who is unsure whether he or she must recuse from consideration of a petition shall consult with the Planning Director and the Board Attorney in advance of the meeting during which the petition will be heard. In the event that a member recuses himself/herself, he/she shall do so as soon as the conflict becomes apparent, and such fact shall be entered in the minutes of the Board. Any recused member must sit in the audience or outside the meeting room during the subject hearing.

- 507 ABSTENTIONS: An abstention will not count in favor or in opposition of the matter of proposition being considered.
- 508 OFFICIAL ACTION:
- a. Official Action shall be limited to one of the following options:
 - i. Vote to approve or not approve (deny).
 - ii. Vote to approve with stipulations(s) or not approve (deny).
 - iii. Vote to continue. If the vote to continue fails (i.e., receives five votes in the negative), then the Board must take other Official Action listed in this section.
 - iv. Vote to return to the Commissioners with no recommendation. This option only applies to rezonings. If a vote to return a petition to the Commissioners with no recommendation fails (i.e., receives five votes in the negative), then the Board must take other Official Action listed in this section.
 - b. Five members of the board must vote in the affirmative for Official Action to pass. Five members of the board must vote in the negative for Official Action to not pass. If an Official Action does not receive five votes in the affirmative or the negative, a member of the Board may call for a vote on an alternative Official Action. If Official Action is not taken, the hearing will be automatically continued to the next regularly scheduled meeting.
 - c. Except where a petition has been continued pursuant to these Rules of Procedure, a petition is deemed denied if Official Action does not result in approval, denial, or no recommendation by the third hearing on the petition.
 - d. The Board shall vote on Official Action by ballot.
 - e. No member of the Board shall vote on a petition if he /she is not present during the presentation of the petition during the hearing. The Secretary of the Board shall read each ballot aloud and indicate the vote of each member. The President shall declare the petition approved, approved with stipulations, denied, granted not recommendation, or continued.
- 509 FINDINGS OF FACT: All decisions of the Board with respect to map and text amendments, primary subdivision approval, and plat vacations shall be supported by written findings of fact which shall be made a matter of public record in the official file in the Office of the Plan Commission. Findings of Fact for any denial shall specify the reason for non-compliance.

510 PREVIOUSLY DENIED PETITIONS: Upon denial of a petition by the Board, and for a period of twelve (12) months after such denial, the Planning Director shall not docket for a hearing a substantially similar petition. The Planning Director shall have the sole authority and discretion to determine that an application containing major changes is not substantially similar and may be docketed for hearing within the aforementioned twelve-month period.

ARTICLE SIX DISPOSITION OF MATTERS

601 IN GENERAL: Generally, the final disposition of a petition is in the form of a vote by the Board approving, approving with conditions, denying the petition, or returning to the Commissioners with no recommendation.

602 WITHDRAWAL BY PETITIONER:

- a. A petitioner may withdraw their petition at any time before or during the hearing. Withdrawal of petition during a hearing is at the discretion of the petitioner (or petitioner's authorized representative) and shall not require the approval of the Board.
- b. Withdrawals shall be given in writing prior to the meeting and may be given orally at the meeting.
- c. Absence of the petitioner from the meeting shall be deemed a withdrawal.
- d. No petition which has been withdrawn by the petitioner shall again be placed before the Plan Commission for a hearing within a period of three months from the date of said withdrawal, except upon motion of the petitioner to permit re-docketing, adopted by a vote of the majority of the Board's members.

603 CONTINUANCES:

- a. A petitioner may request a continuance of their petition:
 - i. In writing prior to the meeting; or
 - ii. Orally at any time during their hearing.
- b. The Planning Director may continue any petition prior to the meeting at his/her discretion.
- c. Any other interested party may request a continuance from the Planning Director

orally prior to the public hearing portion of the meeting in which a petition is to be heard.

- d. Except for a motion made by a Board member, the party requesting the continuance shall have the burden of showing good and sufficient cause.
- e. It shall be within the discretion of the Planning Director to grant or deny requests for continuances made prior to the meeting by a petitioner or by an interested party under subsection (c) above.
- f. It shall be within the discretion of the Board to grant or deny requests for continuances made at a meeting.
- g. The Board on its own motion may continue the hearing of any petition at any time during the meeting.
- h. A continuance shall be automatically re-docketed to be heard at the next regularly scheduled meeting of the Board. Re-notification is not required.
- i. Only two continuances requested by the petitioner shall be permitted. All petitions not withdrawn by the petitioner and which do not qualify for a dismissal must be heard by the Board no later than three (3) meetings after the time of application.

ADOPTED this ___ day of _____ 2023 by a vote of _____ ayes and _____ nays of members of the Shelby County Advisory Plan Commission of Shelby County, Indiana.

Terry Smith, President

Scott Gabbard, Secretary



ATTEST:

Jason D. Clark

Plan Commission Attorney



ORDINANCE NO 2023 -

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, INDIANA, AMENDING THE SHELBY COUNTY UNIFIED DEVELOPMENT ORDINANCE – SPECIFICALLY: ARTICLE 9

WHEREAS, the Board of Commissioners of Shelby County, Indiana recognize the need for orderly growth and development within Shelby County and those areas within its planning jurisdiction;

WHEREAS, Shelby County has an existing Unified Development Ordinance that regulates development within its jurisdictional areas;

WHEREAS, Shelby County desires to update its development regulations to meet current economic conditions, current trends, and to promote quality growth;

WHEREAS, Public Notice was given for at least one public hearing as required by Indiana Code 36-7-4-604; and

WHEREAS, the Shelby County Plan Commission has recommended approval of the amendment to the Unified Development Ordinance as required by Indiana Code 36-7-4-605.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Shelby County, Indiana as follows:

SECTION 1: That Article 9, Section 9.20: Plan Commission and Board of Zoning Appeals Bylaws and Rules of Procedure is added as follows:

- A. **Plan Commission:** The Plan Commission shall adopt Bylaws and Rules of Procedure to govern qualifications for members and staff, the procedures for petition before the Plan Commission, and the conduct of Plan Commission meetings. In the case of conflicting provisions between Article 5 Processes of the Shelby County Unified Development Ordinance and the effective Bylaws and Rules of Procedure, the provisions of the effective Bylaws and Rules of Procedure shall apply.
- B. **Board of Zoning Appeals:** The Board of Zoning Appeals shall adopt Bylaws and Rules of Procedure to govern qualifications for members and staff, the procedures for petition before the Board of Zoning Appeals, and the conduct of Board of Zoning Appeals meetings. In the case of conflicting provisions between Article 5 Processes of the Shelby County Unified Development Ordinance and the effective Bylaws and Rules of Procedure, the provisions of the effective Bylaws and Rules of Procedure shall apply.

SECTION 2: **Effective Date.** This ordinance shall be in full force and effect from and after its adoption by the Board of Commissioners of Shelby County, Indiana.

SECTION 3: **Repealable Provisions.** All ordinances and parts of ordinances in conflict with the specific amendment herein are hereby repealed.

ADOPTED this ___ day of ___ 2023 by a vote of _____ ayes and _____ nays of members of the Board of Commissioners of Shelby County, Indiana.

Don Parker, President

Kevin Nigh, Member

Jason Abel, Member

ATTEST:

Amy Glackman, Auditor
Shelby County, Indiana