

MONROE COUNTY PLAN COMMISSION MEETING



**Tuesday, September 19, 2023
5:30 PM**

Hybrid Meeting

In-person

Monroe County Courthouse
Nat U. Hill III Meeting Room
100 W Kirkwood Ave
Bloomington, Indiana

Virtual

Zoom Link: <https://monroecounty-in.zoom.us/j/85209056517?pwd=Ky9XcnZNSXQyNWtweFJkcitPUm5adz09>

If calling into the Zoom meeting, dial: 312-626-6799
Meeting ID: 852 0905 6517
Password: 341668

**MONROE COUNTY PLAN COMMISSION
AGENDA**

The Monroe County Plan Commission will hold a **hybrid** public meeting on Tuesday, **September 19, 2023 at 5:30 PM** in the Judge Nat U. Hill III Meeting Room, 100 West Kirkwood Avenue, Bloomington, Indiana or via Zoom (<https://www.co.monroe.in.us/egov/apps/document/center.egov?view=item;id=10208>). The public may attend and provide comments via Zoom (<https://www.co.monroe.in.us/egov/apps/document/center.egov?view=item;id=10208>) or in-person. For information about the Zoom meeting, you may call (812) 349-2560 or email (PlanningOffice@co.monroe.in.us) our office. For information about the Zoom meeting, you may call (812)349-2560 or email (PlanningOffice@co.monroe.in.us) our office. We will be taking public comment at each public hearing and consider the following agenda items and requests regarding the following described properties in Monroe County, Ind.:

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES None.

ADMINISTRATIVE BUSINESS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

1. SSS-23-3 Mercuri Sliding Scale Subdivision Preliminary Plat PAGE 3
Road Width Waiver Requested.
Preliminary Hearing. Waiver of Final Hearing Requested.
Two (2) parcels on 34.32 +/- acres in Bean Blossom Township, Section 1 & 2, at 9695 N Bowman RD, parcel #53-03-02-400-008.000-001, 53-03-01-300-006.000-001.
Owner: Mercuri, Carol
Zoned AG/RR. Contact shawnsmith@co.monroe.in.us

2. PUO-23-4 Worms Way PUD Outline Plan PAGE 23
Preliminary Hearing. Waiver of Final Hearing Requested.
Two (2) parcels totaling 12.86 +/- acres in Washington Township, Section 28 at 7850 N Wayport Road, Parcel #s 53-02-28-100-006.000-017, 53-02-28-100-002.000-017.
Owner: Ah & Sh LLC
Zoned AG/RR. Contact: dmyers@co.monroe.in.us

REPORTS:
1. Planning: Jackie Jelen
2. County Attorney: David Schilling

Said hearing will be held in accordance with the provisions of: IC 36-7-4-100 et seq.; & the County Code, Zoning Ordinance, and the Rules of the Plan Commission of Monroe County, Ind. All persons affected by said proposals may be heard at this time, and the hearing may be continued as necessary.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Monroe County, should contact Monroe County Title VI Coordinator Angie Purdie, (812)-349-2553, apurdie@co.monroe.in.us, as soon as possible but no later than forty-eight (48) hours before the scheduled event.

Individuals requiring special language services should, if possible, contact the Monroe County Government Title VI Coordinator at least seventy-two (72) hours prior to the date on which the services will be needed.

The meeting will be open to the public.

MONROE COUNTY PLAN COMMISSION		September 19, 2023
PLANNER	Shawn Smith	
CASE NUMBER	SSS-23-3	
PETITIONER	Carol Mercuri c/o Deckard Land Surveying	
ADDRESS	9695 N Bowman RD, #53-03-02-400-008.000-001; 53-03-01-300-006.000-001	
REQUEST	Mercuri Sliding Scale Subdivision Preliminary Plat Road Width Waiver Waiver of Final Hearing	
ACRES	34.26 +/- acres	
ZONE	AG/RR	
TOWNSHIP	Bean Blossom Township	
SECTION	1 & 2	
PLATS	Unplatted	
COMP PLAN DESIGNATION	Farm and Forest	

EXHIBITS

1. Location Map
2. Zoning Map
3. Site Conditions
4. Existing Overhead Powerlines
5. Site Photos
6. Preliminary Plat
7. Petitioner Waiver Findings of Fact

STAFF RECOMMENDATION

Staff recommends approval of the Sliding Scale Subdivision Preliminary Plat and the Road Width Waiver based on the findings of fact and subject to the Monroe County Highway Department reports.

PLAT COMMITTEE – August 17, 2023

Plat Committee forwarded a favorable recommendation of the preliminary plat and Road Width Waiver by a vote of 3-0.

Plan Commission Administrative Meeting September 5, 2023

Questions that we have posed to the petitioner's surveyor include:

1. Can 9700 N Bowman Rd obtain a separate driveway permit off of Bowman as to not trigger Ch 856-21?
856-21(C) *All streets shall be constructed in the manner prescribed by the Indiana Department of Transportation Standards and Specifications Manual. This requirement shall not be waived for any street or access easement, either privately or publicly maintained, that will be used to derive access by five (5) or more existing or created lots. The constructed street must serve all existing and created lots. If a private drive is to be used by four (4) existing or created lots or less, easements shall be dedicated per section 856-42(C) and this drive does not have to be constructed to County Highway standards.*
The petitioner's Surveyor is going to reach out to the Highway Department to apply for a separate driveway for 9700 N Bowman Rd. The driveway permit is required to be issued prior to final hearing of this subdivision to prove compliance with Chapter 856-21.
2. Does the 30 ft easement encroach into the sinkhole conservancy areas listed at 9700 N Bowman Rd?
The southern sinkhole is 27 ft from the last closed contour to the easement and the northern sinkhole is 35 ft from the last closed contour to the easement. The plat shows a circle instead of an oval, and therefore, illustrates a larger SCA than the required 25 feet per Chapter 829.
3. Are there proposed improvements/maintenance plan for the gravel driveway that goes through 9700 N Bowman Rd. The reason we are asking is due to the two sinkholes on 9700 N Bowman Rd and constraints around expansion of the roadway, addition of any culverts, or other improvements that

may increase soil erosion in this area.

The petitioner is working to draft a maintenance plan for the driveway.

Plan Commission Regular Meeting – September 19, 2023 (Preliminary Hearing)

Waiver of Final Hearing Requested.

Plan Commission Regular Meeting – October 26, 2023 (Final Hearing)

SUMMARY

The petition site is one lot of record comprised of two parcels that total 34.26 +/- acres located in Bean Blossom Township, Sections 1 and 2. The site is zoned Agriculture/Rural Reserve (AG/RR). The petitioner is proposing a 4-lot Sliding Scale Subdivision with two (2) waiver requests from the Road Width and Buried Utility requirements of Chapter 856 of the Monroe County Zoning Ordinance. The parcel maintains frontage along N Bowman RD, a local road which is currently 15' +/- in width. A Sliding Scale Subdivision under the authority of Chapter 862 requires that any sliding scale subdivision meets the following standard:

862-4 (5) Subdivisions on roads less than 18 feet in width shall be prohibited, unless waived pursuant to Chapter 850-12.

856-41 (Utilities) calls for utilities to be placed underground in all subdivisions, except on public roads and rights-of-way or in easements serving other property.

Staff concluded that no street trees or sidewalks are triggered for this subdivision. Capacity letters from REMC and Washington Township Water have been received and uploaded into the application.

Tammy Behrman, Assistant Director, Comments from **PRE-191**

Construction Stormwater General Permit (CSGP) highly recommended at time of subdivision. If not - will be required at the time of lot development.

<https://www.in.gov/idem/stormwater/construction-land-disturbance-permitting/>

Original pre-design notes from 11/24/2020

The 25' easement will be reviewed to confirm that it does not encroach into the required Sinkhole Conservancy Areas (see attached slope map with elevation concerns). Additionally, no more than 4 lots can use the easement unless the petitioner is willing to bring the driveway up to county road standards requiring a 50' easement. The property at 9700 N Bowman should provide a driveway permit showing separate access and not being dependent on the driveway to the south.

No Plat Vacation required from Fulford Type A #9807-SAD-46 - recorded 4/25/2002 (Tract 1) - see Larry Wilson determination.

Larry Wilson Determination: "The 5 acre parcel created by the Type A is a separate legal of record because it was legally created under the subdivision ordinance in place at that time. Only the 5 acre tract is a part of that subdivision. Since no plat was recorded for the remaining parcels, no plat vacation is needed. The remaining 34 +/- acres which were conveyed by the deed you attached are eligible for a sliding scale subdivision."

	Lot 1 Parent Parcel	Lot 2	Lot 3	Lot 4
Total Acreage	18.90 acres 12.90 buildable	3.70 acres 2.79 buildable	5.21 acres 3.74 buildable	6.45 acres 2.42 buildable
Wastewater	Septic permit WW-23-51 (Issued)	Septic permit WW-23-52 (Issued)	Septic permit WW-23-53 (Issued)	Septic permit WW-23-54 (Issued)
Access	No direct Frontage – Easement access.	No direct Frontage – Easement access.	No direct Frontage – Easement access.	Frontage on N Bowman RD Two Existing driveways; One to be removed per RW-23-71
ROW Dedication		--	--	25' R/W dedicated
Environmental	SCA in northeast of lot. 15% slope on west side of lot.	--	SCA in northern portion of lot.	SCA located in the eastern portion of lot. Drainage Easement required. 15% slope in central part of lot.
Structures	Undeveloped-	Undeveloped-	Undeveloped-	Existing Barn, Camper
Utilities	Electric – REMC Water - Washington Township Water	Electric – REMC Water - Washington Township Water	Electric – REMC Water - Washington Township Water	Electric – REMC Water - Washington Township Water
Right of Way	Approved with Conditions Link to RW-23-67	Approved with Conditions Link to RW-23-69	Approved with Conditions Link to RW-23-70	Approved with Conditions Link to RW-23-71

Staff reviewed the 30' easement Instrument #2002010120. It does run through an adjacent lot to the north to access Lots 1, 2 & 3. Confirmed there was an existing driveway off of N Bowman Road for the lot to the north (9700 N Bowman RD) and that this shared easement would not be necessary to provide access to a fifth lot. In addition, staff is requesting a separate driveway permit for 9700 N Bowman be reviewed and approved.

EXHIBIT ONE: LOCATION MAP

The petition site is one lot of record with two parcels: 53-03-02-400-008.000-001 and 53-03-01-300-006.000-001. The site is located at 9695 N Bowman RD in Sections 1 and 2 of Bean Blossom Township.

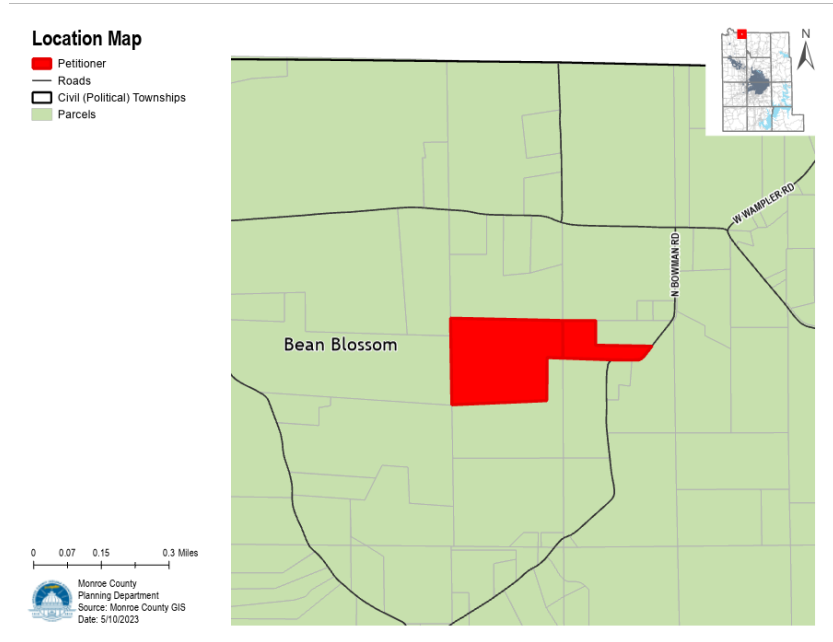


EXHIBIT TWO: ZONING

The zoning for the petition site and adjacent sites are zoned Agricultural Rural Reserve (AG/RR). Petition site use currently contains an accessory structure (Barn) on proposed Lot 4, but is otherwise vacant.

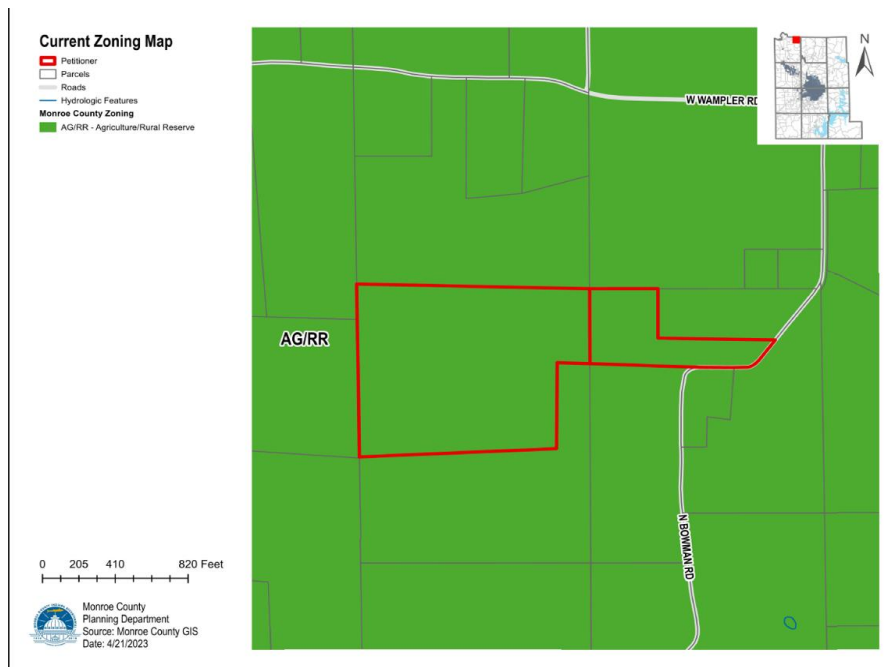


EXHIBIT THREE: SITE CONDITIONS MAP

The petition site is two parcels totaling 34.26 +/- acres. The lot contains some steep slopes greater than 15% but has adequate Buildable Area to meet the minimum 1-acre requirement for each proposed lot. The four proposed lots would share a driveway entrance from N Bowman RD.

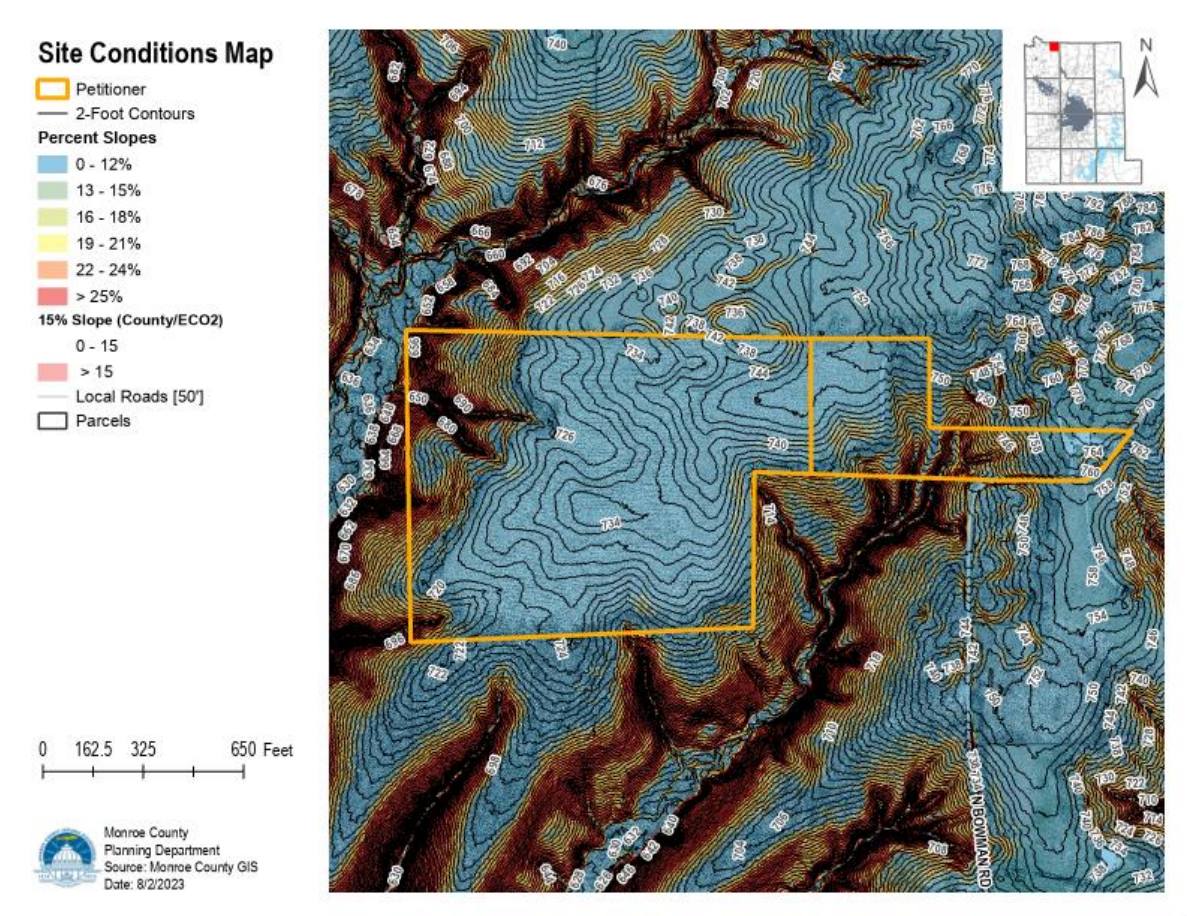


EXHIBIT FOUR: Existing Overhead Powerlines



EXHIBIT FIVE: SITE PICTURES



Photo 1. Pictometry photo of parcel one, looking Northeast.



Photo 2. Pictometry photo of parcel two, looking Northwest.



Photo 3. Heading South on N Bowman RD towards petition site.



Photo 4. Heading North on N Bowman RD away from petition site.



Photo 5. Location of existing driveway on proposed Lot #4 to be removed.



Photo 6. Location of existing driveway to be used as access point.

INFRASTRUCTURE AND ACCESS

The parcel maintains frontage along N Bowman RD, which is classified as a Local Road. The road is identified by the petitioner's surveyor as 15' +/- wide.

Ben Ayers, Project Manager, has requested the following as of 3/30/2023:

Right of way Activity permit applications have been submitted and will be approved pending Final Plat. Existing driveway entrance shall be shared between Lot #1, Lot #2, Lot #3 & Lot #4 and shall meet the specifications of Chapter 755 and the Manual for Construction Within and Adjacent to Monroe County Right-of-Way within one (1) year of recording the Final Plat. See permit # RW-23-67, RW-23-69, RW-23-70 & RW-23-71.

Remove existing driveway entrance to the north on Lot #4 and restore side ditch to its natural state. Residential Lots are limited to a single driveway entrance per Monroe County Code Chapter 755 and the Manual for Construction Within and Adjacent to Monroe County Right-of-Way.

Remove existing driveway entrance to the north on Lot #4 shown on the Preliminary Plat from the Plat.

Paul Satterly, Highway Engineer, comments as of 8/10/2023

Existing traffic volume on Bowman Road is 80 vehicles per day. The subdivision will add approximately 30 vehicles per day to Bowman Road for a total of 110 vehicles per day. The 15 ft. roadway will be able to handle this volume of traffic so the Highway Department supports the road width waiver.

COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the **Farm and Forest** designation of the Comprehensive Plan. The Comprehensive Plan states the following for this designation:

Farm and Forest Residential

Much of Monroe County is still covered by hardwood forests, in no small part because of the presence of the Hoosier National Forest, Morgan-Monroe State Forest, Army Corps of Engineers properties, and Griffy Nature Preserve. Much of the low lying floodplains and relatively flat uplands have been farmed for well over 100 years. These areas are sparsely populated and offer very low density residential opportunities because of both adjoining Vulnerable Lands and the lack of infrastructure necessary for additional residential density. This category encompasses approximately 148,000 acres including about 40,000 acres of our best agricultural property located primarily in the Bean-Blossom bottoms and western uplands of Richland Township and Indian Creek Township. It includes private holdings within the state and federal forests.

Farm and Forest Residential also includes the environmentally sensitive watersheds of Monroe Reservoir, Lake Lemon, and Lake Griffy and several other large vulnerable natural features in Monroe County. There are approximately 78,000 acres of watershed area in this portion of the Farm and Forest Residential category. These natural features provide a low density residential option while protecting the lakes and the water supply resources of the County. The Farm and Forest areas comprise most of the Vulnerable Land in Monroe County.

A low residential density is necessary in order to protect associated and adjoining Vulnerable Lands and to sustain particular “quality of life” and “lifestyle” opportunities for the long-term in a sparsely populated, scenic setting. With a few exceptions like The Pointe development on Monroe Reservoir, these areas do not have sanitary sewer services and have limited access on narrow, winding roadways. Those portions not already used for agriculture are usually heavily forested and have rugged topography. They offer unique and sustainable residential opportunities that cannot be replaced.

In reviewing rezoning, subdivision and site development proposals, the County Plan Commission shall consider the following:

- Public services or improvements are not expected for these areas within the horizon of this Plan because those improvements require significant investment in roadways, sanitary sewer, private utilities, and public services for which County financial resources do not exist.
- New residential density places additional stress on nearby vulnerable natural features that cannot be mitigated by sustainable practices without additional public expense.
- Low density residential opportunities and their associated lifestyle are scarce resources that are sustained only by our willingness to protect that quality of life opportunity for residents who have previously made that lifestyle choice and for future residents seeking that lifestyle.

To maintain Farm and Forest property use opportunities an average residential density per survey section shall be established by ordinance. This average density shall preserve the rural lifestyle opportunity of this area and help protect nearby Vulnerable Lands. The grouping of more than four residential units sharing the same ingress/egress onto a County or state roadway shall not occur on rural property in this category. All property subdivided in this category must provide for adequate contiguous Resilient Land to support either two independent conventional septic fields or one replaceable mound system, sufficient space for buildings traditionally associated with this type use must also be available. In addition, public roadways shall not experience less than the Monroe County Level of Service standard designation which exists at the time this Plan is adopted as a result of subdivision. Roadways classified as state Highways, major collectors, or local arterials are exempt from this requirement.

FINDINGS OF FACT - Subdivisions

850-3 PURPOSE OF REGULATIONS

(A) To protect and provide for the public health, safety, and general welfare of the County.

Findings

- Approval of the subdivision would subdivide two parcels into four (4) lots which will meet all design standards;
- Lot 1, the designated Parent Parcel Remainder, shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat unless connected to a public sewage disposal system or further subdivision of the property is authorized by ordinance;
- Steep slopes are present on the proposed lots but would meet the Buildable Area design standard requirements;
- Proposed lots have an approved septic permit location;
- Proposed lots have received, 'approved with conditions' driveway permits off of N Bowman RD;
- The MS4 Coordinator has reviewed the application and the petitioner has added a drainage easement to Lot 4;
- 45' of right-of-way is required to be dedicated along N Bowman RD, a Minor Collector road;

(B) To guide the future development and renewal of the County in accordance with the Comprehensive Plan and related policies, objectives and implementation programs.

Findings

- The Comprehensive Plan designates the site as Farm and Forest, which includes low-density single-family subdivisions;
- The site has access to utilities;
- See findings under Section A;

(C) To provide for the safety, comfort, and soundness of the built environment and related open spaces.

Findings

- See findings under (A);
- The proposed use is residential;
- The surrounding uses are residential or agricultural;

(D) To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards.

Findings

- The property is currently zoned Agricultural Rural Reserve (AG/RR) and is a Single Family Residential use;
- Adjacent properties are zoned Agricultural Rural Reserve (AG/RR), and are used for Single Family Residential or agriculture;
- Approval of the subdivision would create four (4) lots that meet the design standards for the zoning designation AG/RR;
- See findings under Sections A & C;

(E) To guide public and private policy and action to ensure that adequate public and private facilities will be provided, in an efficient manner, in conjunction with new development, to promote an

aesthetically pleasing and beneficial interrelationship between land uses, and to promote the conservation of natural resources (e.g., natural beauty, woodlands, open spaces, energy and areas subject to environmental constraints, both during and after development).

Findings

- See findings under Sections A & C & D;

(F) To provide proper land boundary records, i.e.:

(1) to provide for the survey, documentation, and permanent monumentation of land boundaries and property;

Findings:

- The petitioner has submitted a preliminary plat drawn by a registered surveyor.

(2) to provide for the identification of property; and,

Findings:

- The petitioner submitted a survey with correct references, to township, section, and range to locate parcel. Further, the petitioner has provided staff with a copy the recorded deed of the petition site.

(3) to provide public access to land boundary records.

Findings

- The land boundary records are found at the Monroe County Recorder’s Office and, if approved, this petition will be recorded there as a plat. The plat must comply with Chapter 860 - Document Specifications to be recorded.

FINDINGS OF FACT – WAIVER OF ROAD WIDTH REQUIREMENT

The petitioner has requested a waiver from the *Improvement, Reservation and Design Standards* outlined in in 862-4 (A) (General design considerations for Sliding Scale Option), which reads:

(5) Subdivisions on roads less than 18 feet in width shall be prohibited, unless waived pursuant to Chapter 850-12.

Section 850-12 of the Monroe County Subdivision Control Ordinance states: “The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:

1. Practical difficulties have been demonstrated:

Findings:

- Note Exhibit 6 for Petitioner Submitted Findings for road width waiver;
- The site gains access from N Bowman RD, a designated Local Road;
- N Bowman RD is measured by surveyor as 15 feet wide;
- The petition site has approximately 585’ of frontage along N Bowman RD;
- The existing road serves properties all along Bowman RD, as well as the proposed petition site;
- The existing driveway entrance on the northeast side of the petition site is required to be removed per the Highway Department to meet safety standards;
- The petitioner did submit findings for the waivers (Exhibit 6);

2. The requested modifications would not, in any way, contravene the provisions of the Zoning Ordinance, the Comprehensive Plan or the Official Map of the County;

Findings:

- See findings under Section 1;
- The Comprehensive Plan’s Farm and Forest designation states that “a low residential density is necessary in order to protect associated and adjoining Vulnerable Lands and to sustain particular “quality of life” and “lifestyle” opportunities for the long-term in a sparsely populated, scenic setting”;

3. Granting the modifications waiver would not be detrimental to the public safety, health, or welfare and would not adversely affect the delivery of governmental services (e.g. water, sewer, fire protection, etc.):

Findings:

- See findings under Section 1;
- Result of subdivision would appear to have no substantive impact on the volume of traffic for the subject road/area;
- See the findings submitted by the petitioner (Exhibit 6);

4. Granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;

Findings:

- See findings under Section 1;

5. The conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;

Findings:

- See findings under Section 1;
- Adjacent property owners on N Bowman RD would face the same practical difficulty pertaining to road width in seeking to subdivide via the Sliding Scale Subdivision method;

6. Granting the requested modifications would not contravene the policies and purposes of these regulations;

Findings:

- See findings under Section 1, 2, and 3;

7. The requested modifications are necessary to ensure that substantial justice is done and represent the minimum modifications necessary to ensure that substantial justice is done;

Findings:

- See findings under Section 1;

8. The practical difficulties were not created by the Developer, Owner, Subdivider or Applicant; and,

Findings:

- See findings under Section 1;
- The road was not constructed by the petitioner or as part of a prior subdivision or development;

9. The practical difficulties cannot be overcome through reasonable design alternatives;

Findings:

- See findings under Section 1;

In approving modifications, the Commission may impose such conditions as will in its judgment substantially secure the objectives of these regulations.

FINDINGS OF FACT – WAIVER OF UNDERGROUND OF UTILITIES

The petitioner is requesting a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-41 (Utilities), which reads:

All utilities, including but not limited to gas, sewer, electric power, telephone and CATV shall be located underground throughout the subdivision.

Existing utility lines located above ground on public roads, rights-of-way or in easements serving other property are exempt from this provision.

Existing utility lines servicing residential and residential accessory structures shall be removed and placed underground unless waived.

Waivers from these provisions for existing utility lines may be granted subject to the waiver modifications in Chapter 850-12, Sections A through D, excluding sections 5, 8, and 9. Waivers may be granted via the following process:

1. for Subdivisions of more than 4 Lots by the Plan Commission
2. for Subdivisions of 4 Lots or Less by the Plat Committee

All utility lines and other facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the Subdivider's expense. At the discretion of the Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots that are to be retained in single ownership and that are to be developed for the same primary use.

Section 850-12 of the Monroe County Subdivision Control Ordinance states: “The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:

1. Practical difficulties have been demonstrated:

Findings:

- Overhead utility lines run along the northeast portion of the property of proposed Lot 4 for approximately 143 feet;
- The overhead utility lines along proposed Lot 4 continue travelling north and south of the petition site to service other properties and therefore is exempt from the burying requirements;

2. The requested modifications would not, in any way, contravene the provisions of the Zoning Ordinance, the Comprehensive Plan or the Official Map of the County;

Findings:

- See findings under Section 1;
- The Subdivision Control Ordinance calls for utilities to be placed underground in all subdivisions, except on public roads and rights-of-way or in easements serving other property;
- The Subdivision Control Ordinance provides the following definitions related to easements and right of way:

852-2. Definitions

Easement.

A right of use over designated portions of the property of another for a clearly specified purpose.

- 3. Granting the modifications waiver would not be detrimental to the public safety, health, or welfare and would not adversely affect the delivery of governmental services (e.g. water, sewer, fire protection, etc.):**

Findings:

- The Subdivision Control Ordinance calls for utilities to be placed underground in Sliding Scale subdivisions, except on public roads, in rights-of-way, or in easements serving other property;
- The petitioner has applied for a waiver from Chapter 856-41 due to the pre-existing nature of the petition site and cites the financial burden of burying said line;
- The overhead utility line in question does not appear to serve another property and is not exempt from undergrounding provisions;
- The overhead utility lines along N Bowman RD in front of proposed Lot 4 continue travelling north and south of the petition site to service other properties and therefore is exempt from this requirement;
- Any future power lines needed for further development would have to be buried;
- If the overhead utility line waiver is approved, it will apply to the existing line only;
- Advantages and disadvantages exist in undergrounding electric lines both of which involve safety hazards.

- 4. Granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;**

Findings:

- Waiver approval would permit existing conditions to persist;

- 5. The conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;**

Findings:

- See findings under items 1-4 above;

- 6. Granting the requested modifications would not contravene the policies and purposes of these regulations;**

Findings:

- See findings under #2 and #3 above.

- 7. The requested modifications are necessary to ensure that substantial justice is done and represent the minimum modifications necessary to ensure that substantial justice is done;**

Findings:

- The improvement is required due to the proposed subdivision of the property;
- The Subdivision Control Ordinance calls for utilities to be placed underground in all Sliding Scale subdivisions, except on public roads, rights-of-way, or existing easements that serve other property;
- The existing overhead utility line serves only the petitioner's parcels as it travels west from the eastern property line;
- Occupants of the petition site and sites served by the overhead utility lines will continue to be serviced regardless of the location of the lines above- or below ground;
- The installation of utilities underground is consistent with the policies and purposes of all relevant regulations.

8. The practical difficulties were not created by the Developer, Owner, Subdivider or Applicant; and,

Findings:

- (See findings under #1 & #7 above);

9. The practical difficulties cannot be overcome through reasonable design alternatives;

Findings:

- (See findings under #1 & #7 above);
- Practical Difficulties have not been met.
- The installation of utilities underground is consistent with the policies and purposes of all relevant regulations.

In approving modifications, the Commission may impose such conditions as will in its judgment substantially secure the objectives of these regulations.

EXHIBIT SIX: Preliminary Plat

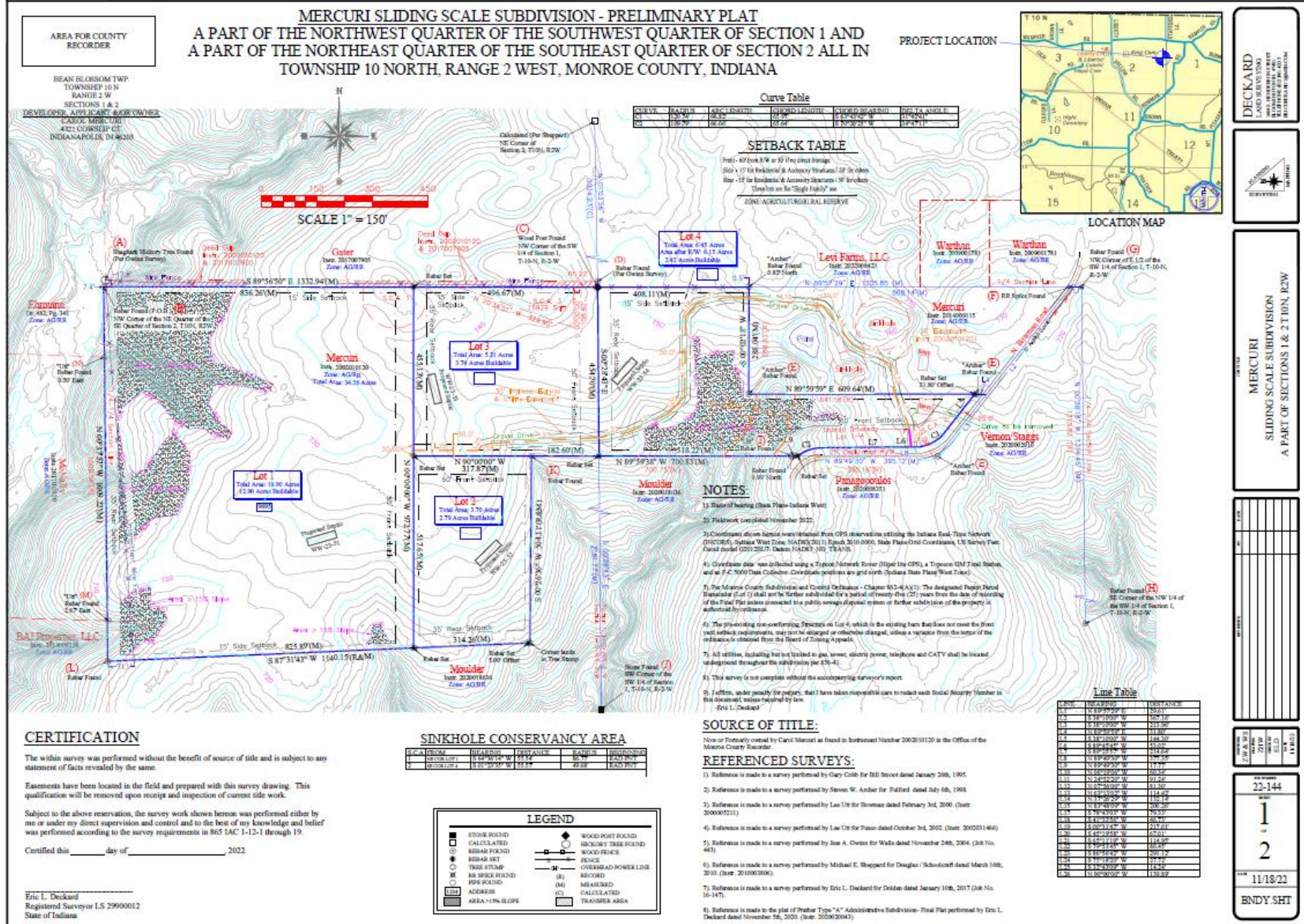


EXHIBIT SEVEN: Petitioner Submitted Waiver Findings of Fact



Eric L. Deckard, LS

1604 S. Henderson St.
Bloomington, IN 47401
Ph. 812.961-0235
Fax 812.323-7536

August 10, 2023

To: Members of the Monroe County Planning Department:

RE: Mercuri Sliding Scale Subdivision

I have been asked personally by Carol Mercuri to request a buried utility and road width waiver.

These are my findings and recommendations.

FINDINGS OF FACT - WAIVER for buried utility and road width.

The petitioner has requested a waiver to continue using the existing overhead power line drop to the existing barn located on proposed lot 4.

The property is located in a rural area of the county and bounded by a 15-foot-wide county road (N. Bowman Road). We are respectfully requesting a waiver of Chapter 862-4 (5). The code states "Subdivision on roads less 18 feet in width shall be prohibited, unless waived pursuant to Chapter 850-12".

Section 850-12(A) of the Monroe County Subdivision Control Ordinance states: "The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:

1. Practical difficulties have been demonstrated:

- The road width of N. Bowman was found to not measure the required 18 feet in width at the far east end of the property.
- Replacing the utilities and burying them underground would be a large financial undertaking and unnecessary due to the age of the overhead line.

2. the requested modifications would not, in any way, contravene the provisions of the Zoning Ordinance, the Comprehensive Plan or the Official Map of the County:

- N. Bowman road is +/- 15 feet wide throughout the entire length of the +/- 1.5 mile long road. It would be difficult and costly to get N. Bowman Road wide enough to meet the ordinance standards.
- There is an overhead power line running along the South side of N. Bottom Road the entire length of the property to service other properties but would impose a financial burden for the client to bury from said line to the existing house/barn.

3. *granting the modifications would not be detrimental to the public safety, health, or welfare and would not adversely affect the delivery of governmental services (e.g., water, sewer, fire protection, etc.):*
 - No other road in this area of the county meets these standards.
 - The overhead utility line poses no threat to public safety, health, or welfare.

4. *granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties:*
 - The acceptance of this waiver would leave the conditions as they presently exist. Road width of 15 feet.
 - The existing home has had overhead power since it was built. Other homes located along N. Bottom Road are served by an overhead utility line.

5. *the conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties:*
 - This parcel is bounded by N. Bowman on the east side of the property. Given the amount of road frontage and existing size of N. Bowman Road it would be impractical to widen this road 3 feet to comply when +/- 7000 feet of this existing road configuration do not meet these standards as well.
 - The overhead utility line crosses over N. Bottom Road and would create practical difficulties to bore under said road instead of using exiting overhead lines.

6. *granting the requested modifications would not contravene the policies and purposes of these regulations:*
 - This property is a 4 lot minor subdivision and only three additional lots are being added.
 - Granting this waiver would not contravene the purposes for these regulations as the site has existing utilities on it now.

7. *the requested modifications are necessary to ensure that substantial justice is done and represent the minimum modifications necessary to ensure that substantial justice is done:*
 - To widen only +/- 500 feet of N. Bowman Road that measures +/- 7000 feet with the present road configuration is impractical. Adding three additional lots would not increase vehicle volume significantly. Widening this road would not be practical and this additional cost to the county would outweigh the benefit.
 - See Section 1 (overhead power)
8. *the practical difficulties were not created by the Developer, Owner, Subdivider, or Applicant; and,*
 - The practical difficulties are the result of the existing narrow road conditions.
 - The land owners purchased the property in 2002. The barn has used the overhead utilities and current road since completion.
9. *the practical difficulties cannot be overcome through reasonable design alternatives:*
 - Without disturbing drainage ditches with existing usage the road in question cannot be altered.
 - See # 1 and #5 above.

If there are any questions, please contact this office at (812) 961-0235

Sincerely,
Eric L. Deckard L.S.

CASE NUMBER	PUO-23-4
PLANNER	Drew Myers
PETITIONER	Ah & Sh LLC (Martin Heydt, owner)
REQUEST	Planned Unit Outline Plan Waiver of Final Hearing Requested
ADDRESS	7850 N Wayport RD 53-02-28-100-002.000-017 & 53-02-28-100-006.000-017
ACRES	Lot B, 53-02-28-100-002.000-017 – 6.21 acres Lot A, 53-02-28-100-006.000-017 – 6.65 acres
ZONE	Agriculture/Rural Reserve (AG/RR)
TOWNSHIP	Washington
SECTION	28
PLATS	Platted; Worms Way Type A
COMP PLAN DESIGNATION	Rural Residential

EXHIBITS

1. Petitioner Outline Plan Statement
2. Planned Unit Outline Plan
3. Monroe County Assessor’s Office Letter
4. Site Plan (Conceptual)
5. Worm’s Way Administrative Type “E” Subdivision
6. Agriculture/Rural Reserve (AG/RR) Use Table
7. Letters of Support
8. Letters of Opposition

RECOMMENDATION

Recommendation to the Plan Commission:

- Staff recommends forwarding this petition with a negative recommendation to the Board of Commissioners based on the findings of fact, specifically due to its incompatibility with the Monroe County Comprehensive Plan.

Consideration of this petition site under the CDO Draft Zoning should be considered by the Plan Commission to identify a suitable zoning district and whether an amendment to the Comprehensive Plan is warranted.

PETITION TIMELINE

Plan Review Committee – August 10, 2023

Plan Commission Administrative – September 5, 2023

Plan Commission Regular (Preliminary) – September 19, 2023

Waiver of Final Hearing requested.

Plan Commission Administrative – October 3, 2023 (if not waived)

Plan Commission Regular (Final) – October 26, 2023 (if not waived)

Board of Commissioners – TBD

SUMMARY

The petitioner is seeking to establish a Planned Unit Development (PUD) at 7850 N Wayport Road on the 6.65-acre Lot A and the 6.21-acre Lot B of Worm’s Way Type A Plat. The subject property is zoned Agriculture/Rural Reserve (AG/RR) and was originally developed pursuant to a 1995 Special Exception for ‘Agribusiness’ to allow for the establishment of Worms Way.

At the date of this report’s publication, the petitioner is proposing the following permitted uses to be included within the proposed PUD:

Religious Facilities	General Contractor
Pet Services	Metal Fabrication
Furniture Sales	Warehousing and Distribution
Transfer or Storage Terminal	

Chapter 802 of the Monroe County Zoning Ordinance defines each of the above listed uses as the following:

Religious Facilities. *A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.*

Intensity: High; permitted in all residential zones, LB, and GB

Pet Services. *Establishments engaged in grooming and boarding, when totally within a building, of dogs, cats, birds, fish, or similar small animals customarily used as household pets. Typical uses include dog bathing and clipping salons and pet grooming shops.*

Intensity: Low; permitted in GB

Furniture Sales. *Establishments where furniture is the main item offered for sale; however, these places of business may also sell home furnishings, major appliances and floor coverings.*

Intensity: Low; permitted in GB

Transfer or Storage Terminal. *An establishment primarily engaged in furnishing local and long-distance trucking and storage services, including parking and storage areas for vehicles used in the operation of the terminal.*

Intensity: High; permitted in LI and HI

General Contractor. *An individual who contracts to perform building/structure construction related work or to provide supplies on a large scale, or an individual who contracts to erect buildings and/or other structures. Construction related work may include, but are not limited to, plumbing, landscaping, electrical, framing, concrete, masonry, roofing, etc.*

Intensity: Medium; permitted in GB, LI, and HI

Metal Fabrication. *An establishment involved in fabricating any of the various opaque, fusible, ductile and typically lustrous substances that are good conductors of electricity and heat.*

Intensity: High; permitted in LI and HI;

NOTE: already permitted per use variance, 1905-VAR-28

Warehousing and Distribution Activities. *Establishments involved in storing, stocking or distributing of merchandise or commodities.*

Intensity: High; permitted in LI and HI

If the Planned Unit Outline Plan is approved by the County Commissioners, the petitioner will be directed to submit a Planned Unit Development Plan. The petitioner has said there are no plans to expand the building footprint or parking lots / driveways at this time.

PLANNED UNIT DEVELOPMENT

A Planned Unit Development (PUD) is a kind of customized zoning that allows for a combination or unique set of uses not possible under other zoning designations. Essentially, the applicant creates a PUD Outline Plan that will dictate what uses (or mix of uses) will be permitted on the property as well as what design standards said uses will adhere to. The Outline Plan is typically crafted in a way that wherever it falls silent, the rules of the underlying zoning district apply. [Chapter 811](#) is a great resource for more information on the PUD process.

CHAPTER 801:

Planned Unit Development. A means of land regulation which permits large scale, unified land development in a configuration and possibly a mix of uses not otherwise permitted "as of right" under the County Zoning ordinance but requiring under that ordinance a special review and approval process. A Planned Unit Development may be established for predominantly residential, commercial, or industrial purposes.

BACKGROUND

In 1995 a 'Special Exception' request was made by Worms Way to both the Board of Zoning Appeals and Plan Commission for the use 'Agribusiness and Greenhouse'. It was approved and met the permit requirements to allow for the business. According to the property report card, the building on Lot A was erected in 1995. The site plan was amended in 2001 to develop the northern parcel to accommodate the expanding business.

RECENT CASES:

- 1905-VAR-28: Use Variance to add "Metal Fabrication"
 - **Approved** by BZA (3-2) on June 5, 2019
 - Commercial site plan filing never submitted by property owner
 - [Link to June 5, 2019 BZA packet](#)

- REZ-21-3: Rezone from AG/RR to LI
 - Plan Commission gave positive recommendation (7-0) on October 5, 2021
 - **Denied** by County Commissioners 3-0 on October 27, 2021
 - [Link to October 5, 2021 Plan Commission Packet](#)

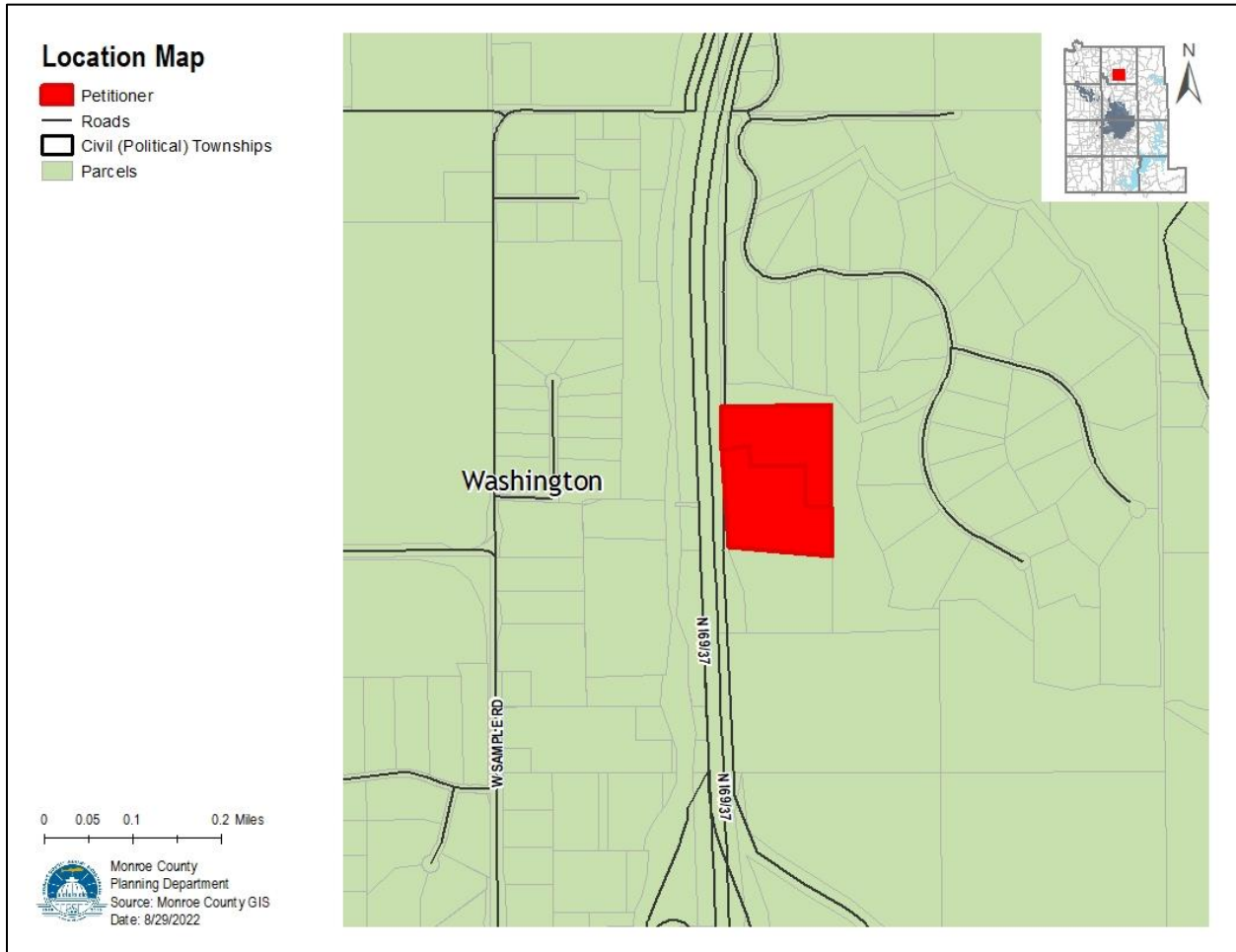
- VAR-22-34, VAR-22-36: Use Variance to add "General Contractor"
 - **Denied** by BZA (3-0) on August 31, 2022
 - Amended application submitted on February 3, 2023
 - **Denied** by BZA (3-0-1) on March 1, 2023
 - [Link to August 31, 2023 BZA packet](#)
 - [Link to March 1, 2023 BZA packet](#)

Agriculture/Rural Reserve (AG/RR) District

The character of the Agriculture/Rural Reserve (AG/RR) District is defined as that which is primarily intended for agriculture uses including, but not limited to, row crop or livestock production, forages, pasture, forestry, single family residential uses associated with agriculture uses and limited, very low density, rural non-farm related single family uses and not in (major) subdivisions. Its purposes are to encourage the continuation of agriculture uses, along with the associated single family residential uses, to discourage the development of residential subdivisions and non-farm-related nonresidential uses, to protect the environmentally sensitive areas, such as floodplain and steep slopes, and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the AG/RR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the agriculture-related uses. The development of new non-farm residential activities proximate to known mineral resource deposits or extraction operations may be buffered by increased setback distance.

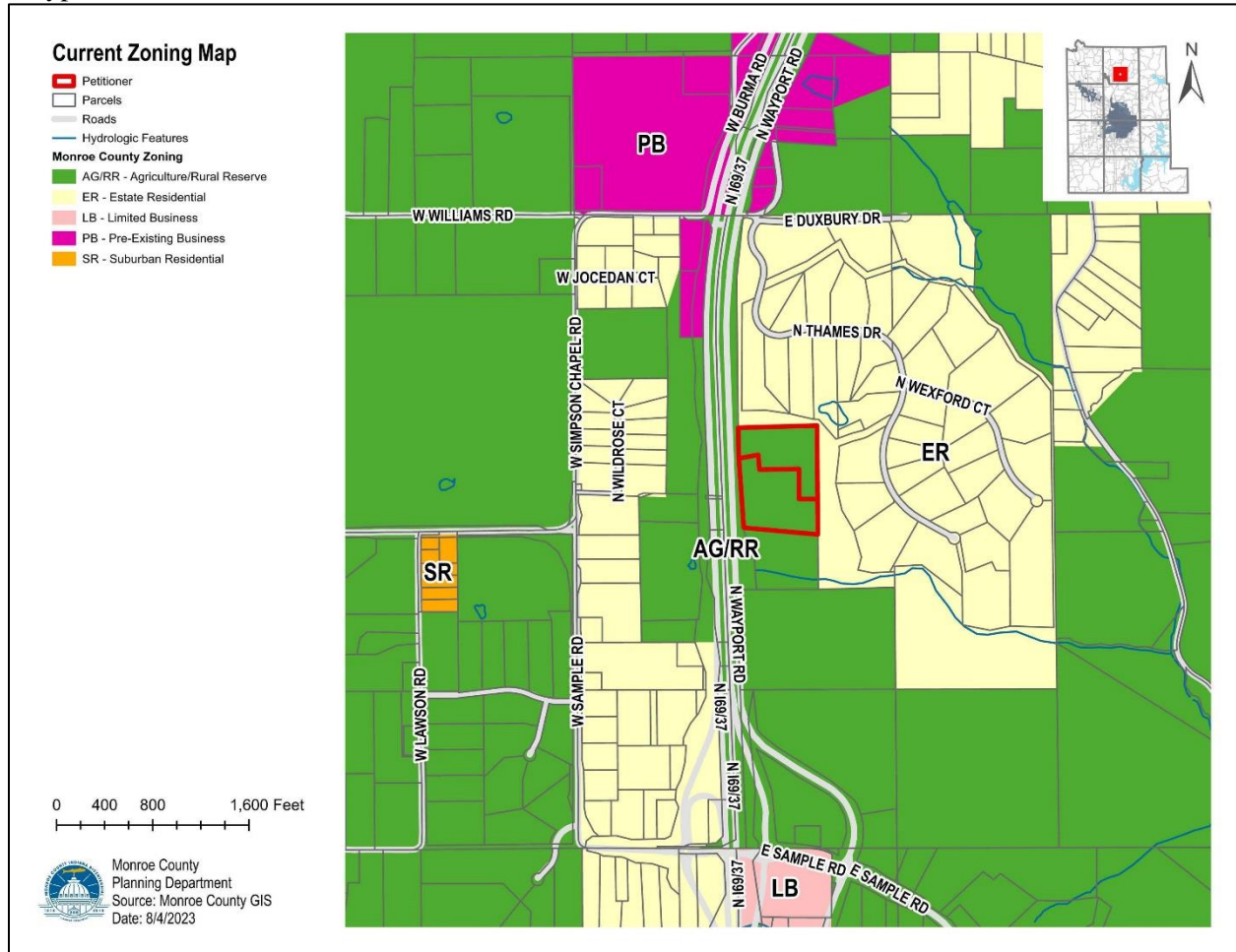
LOCATION MAP

The petition site is located at 7850 N Wayport RD, parcel #: 53-02-28-100-002.000-017 & 53-02-28-100-006.000-017. The property has frontage along N Wayport RD and is adjacent to I-69. The petition site consists of two lots: Lot A and Lot B of the Worm’s Way Administrative Type “A” Subdivision. Lot A contains 6.65 acres, while Lot B contains 6.21 acres.



ZONING AND ADJACENT USES

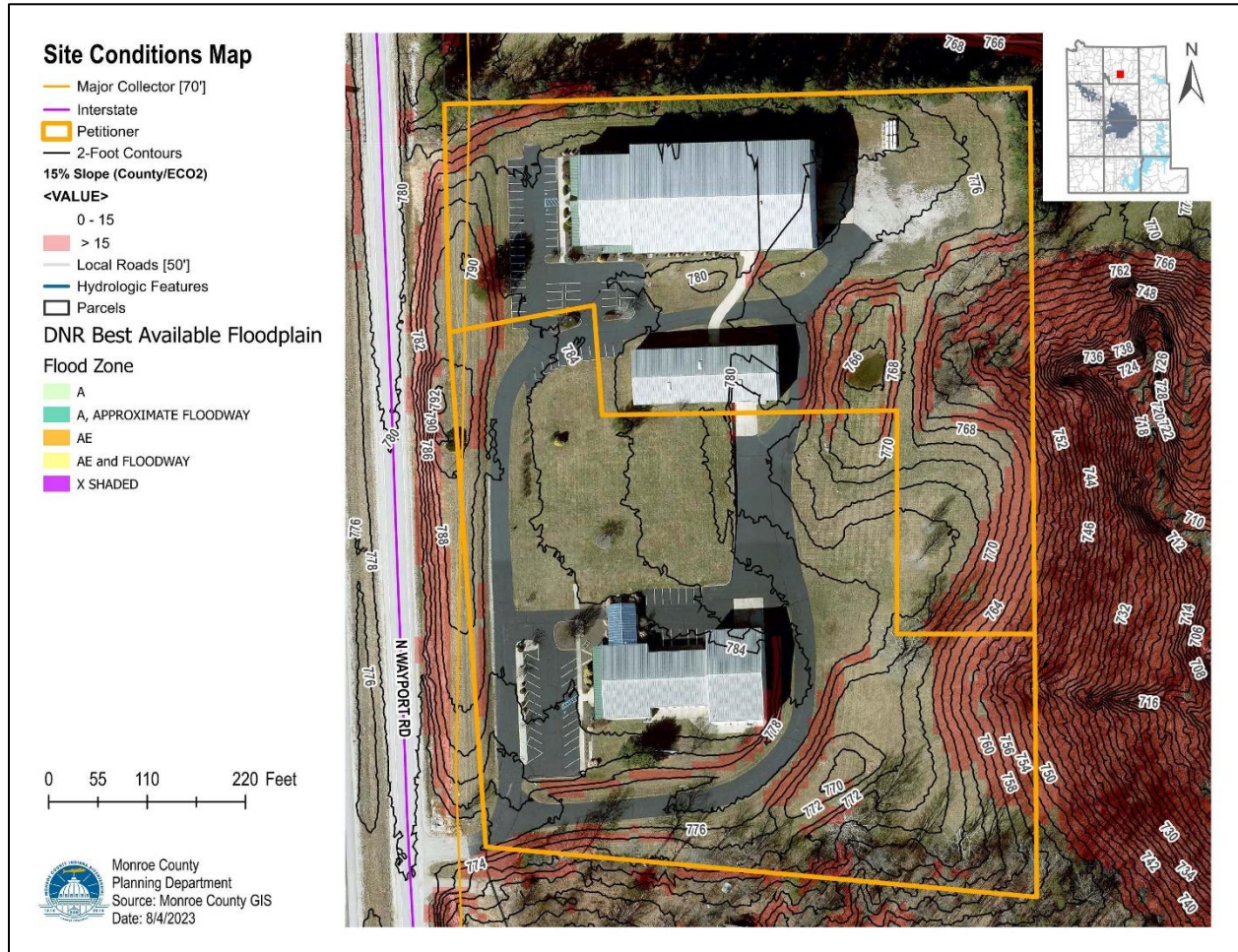
The petition site is zoned Agriculture/Rural Reserve (AG/RR). Adjacent properties to the north and east are zoned Estate Residential (ER) and are located within the Windsor Private Subdivision. Properties to the west and across I-69 are zoned AG/RR. The adjacent property to the south is also zoned AG/RR. The Bloomington Auto Parts junkyard operates two parcels to the south (or approx. 500 feet) at 7650 N Wayport RD.





SITE CONDITIONS

The petition site consists of two individual lots where the agribusiness “Worm’s Way” operated until 2016. The property exhibits frontage to N Wayport RD, which is classified as a Major Collector roadway by the Monroe County Thoroughfare Plan. The site does not exhibit any existing sidewalks or streetscape. According to the petitioner, Washington Township Water (WTWC) and REMC have provided water and electric utilities respectively to the site since 1995. The petition site exhibits some areas greater than 15% slope, which are classified as non-buildable area according to Chapter 804. The property does not exhibit any area designated as DNR floodplain and is not located in the Environmental Constraints Overlay.



SITE PICTURES

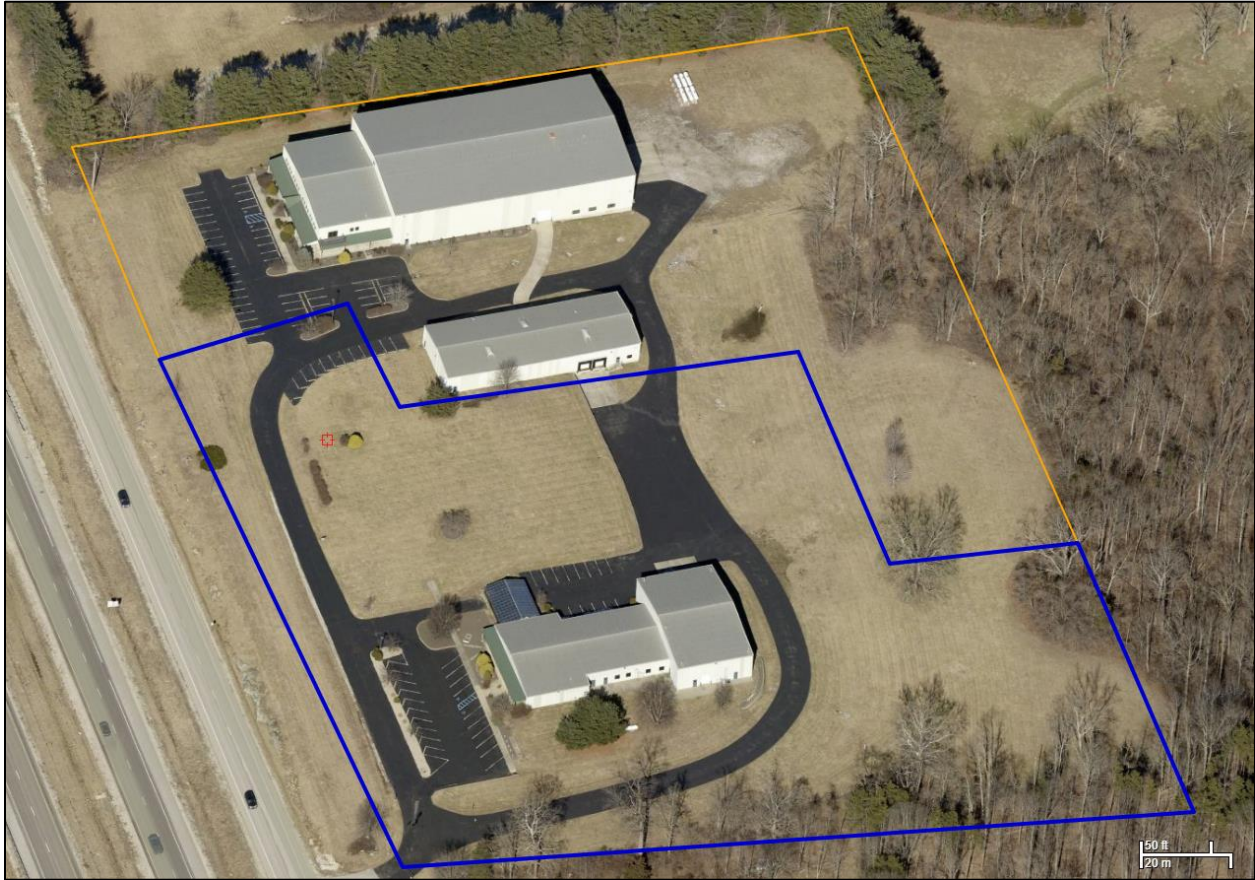


Figure 1. Pictometry photo from south



Figure 2. Pictometry photo from north



Photo 1 – facing north



Photo 2 – facing northeast



Photo 3 – facing northeast



Photo 4 – facing northeast



Photo 5 – facing northeast



Photo 6 – facing east



Photo 7 – facing northeast



Photo 8 – facing northeast



Photo 9 – facing east



Photo 10 – facing east



Photo 11 – facing southeast

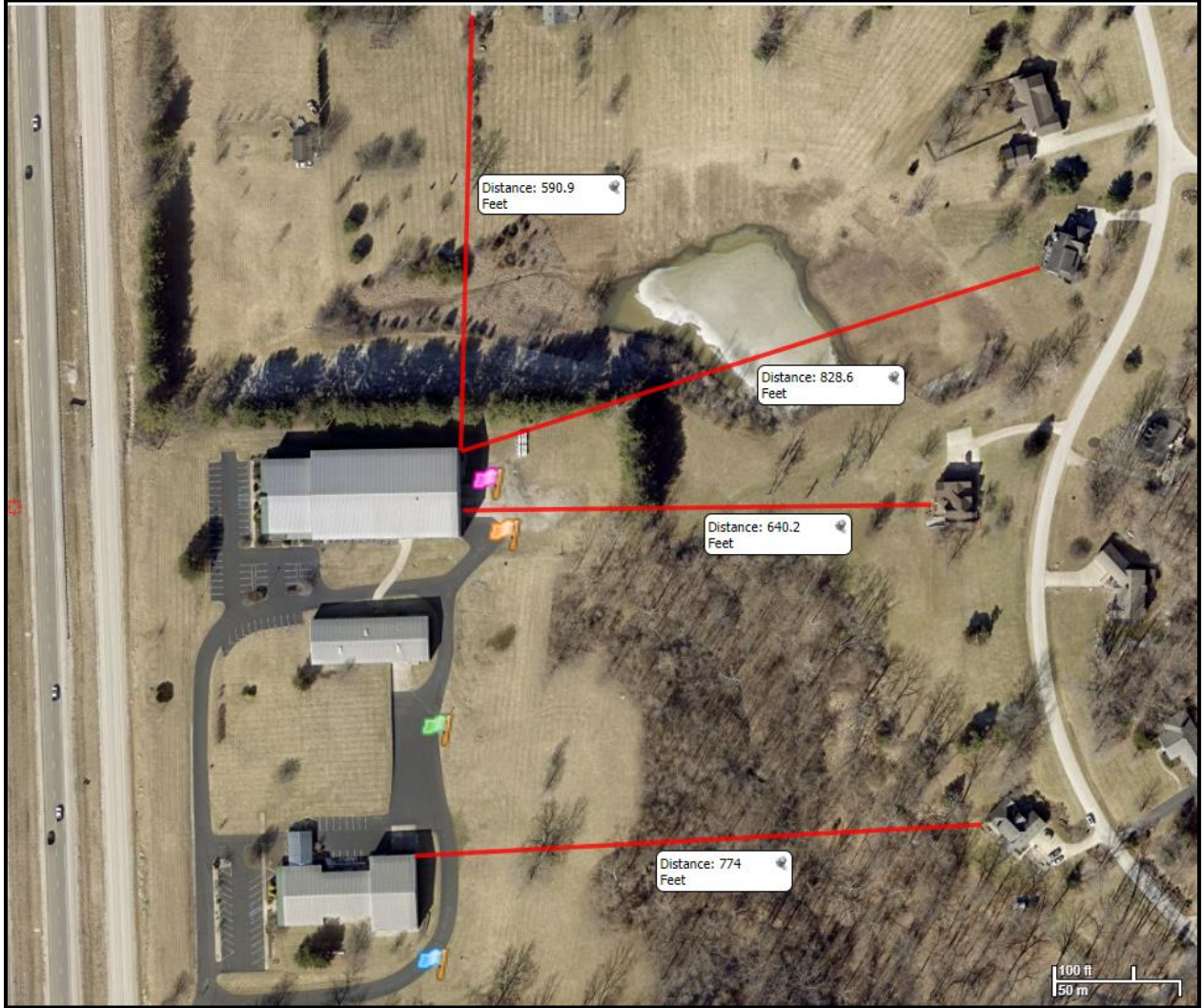


Photo 12 – facing south



Photo 13 – facing southwest

SITE PICTURES: Property Lines













COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the **Rural Residential** designation of the Comprehensive Plan. Points that align with the proposed rezone are highlighted in **green**. Points that differ from the district are highlighted in **grey**.

The petition site is located within the Rural Residential Comprehensive Plan designation which states:

Rural Residential

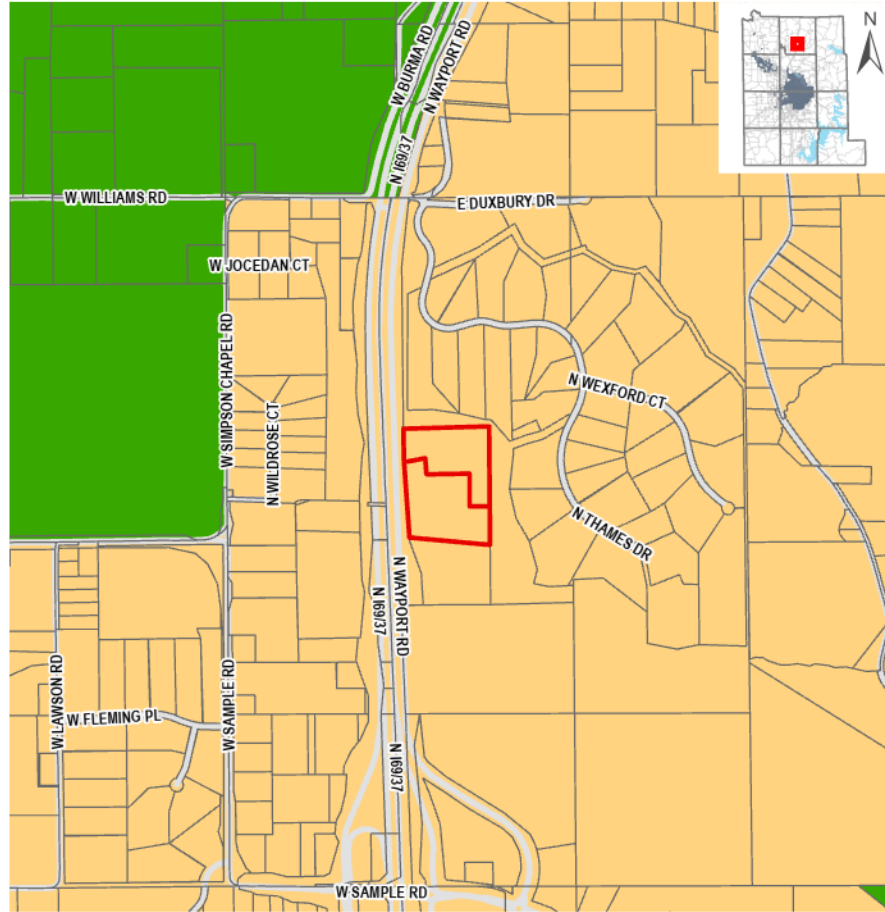
The Rural Residential use category includes rural property, environmentally sensitive areas, and areas adjacent to quarry operations where low densities are appropriate and desirable; however, the sparse population character of the Farm and Forest category is no longer applicable. Generally, these areas are characterized by active or potential mineral extraction operations nearby, steep slopes, and the remaining forest and/or agricultural land where roadways and other public services are minimal or not available.

The Rural Residential use category includes all property in Monroe County that is not within the Farm and Forest Residential area, Bloomington Urbanizing Area or a Designated Community, or an incorporated town or city. Approximately 52,000 acres of rural property in Indian Creek, Clear Creek, Van Buren, Bloomington, Richland, Bean Blossom, Washington, and Benton Townships are designated Rural Residential. Most often this category adjoins or is very close to the Farm and Forest Residential areas. Current Rural Residential densities are usually greater than 64 homes per section and some portions of the Rural Residential area have already been subdivided or developed at urban densities.

To maintain Rural Residential property use opportunities, an average residential density per survey section shall be established by ordinance. This average density shall preserve the rural lifestyle opportunity of this area and help protect nearby Vulnerable Lands. Where appropriate infrastructure is available, home clustering with open space dedications may be an option in this residential category. Open space can serve a variety of uses including recreational opportunities for local residents, limited accessory agricultural uses, or buffering of an adjoining use. Contiguous Resilient Land shall be available for each dwelling adequate to support either two independent conventional septic fields or one replaceable mound system. Sufficient space for buildings traditionally associated for this type of use must also be provided. In addition, public roadways shall not experience less than the Monroe County Level of Service standard existing at the time this Plan is adopted. New subdivision road traffic lanes that access County roadways shall not exceed the capacity of traffic lanes for adjoining public roadways. State highways, major collectors, or arterial roads are exempt from this requirement.

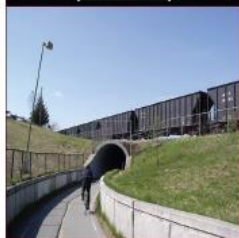
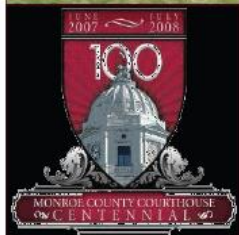
Comprehensive Plan

-  Petitioner
-  Townships
-  Parcels
-  Roads
- Comp. Plan Land Use (Updated 2015)
 -  Farm and Forest
 -  Rural Residential



STATE ROAD 37 CORRIDOR PLAN DISCUSSION

The study referenced below points out directly the Worms Way site under the Future Land Use section of the report. *“Existing commercial/industrial businesses should remain and be allowed to expand within previously developed parcels as needed to remain viable. However, the intensity of the uses shall not be allowed to increase beyond current conditions, and such businesses shall not be permitted to expand onto adjacent properties.”*



MONROE COUNTY

STATE ROAD 37

CORRIDOR PLAN

FEBRUARY 2010



VIII. LAND USE IMPACTS AND RECOMMENDATIONS

This section of the report provides a summary of existing conditions, current development patterns, and recommended land use principles for the corridor. Transportation and environmental impacts are discussed in later sections of this report.

Recommended land use policies for this section of the corridor are presented to address short term development along SR 37 as well as long term development patterns whether or not SR 37 becomes I-69.

For clarity, areas that have similar development considerations have been grouped and presented together.

Morgan/Monroe County Line to Sample Road

Area Includes:

Morgan/Monroe County Line to one mile south of Sample Road.

Impacted Roads:

SR 37, CR 800 N / Williams Road, Thames Drive, Duxbury Drive, Simpson Chapel Road, Lee Paul Road, Fox Hollow Road, Chambers Pike, Dittmore Road, Crossover Road, Burma Road, Bryants Creek Road, Norm Anderson Road, Sylvan Lane, Sparks Lane and Wayport Road.

Development Intent

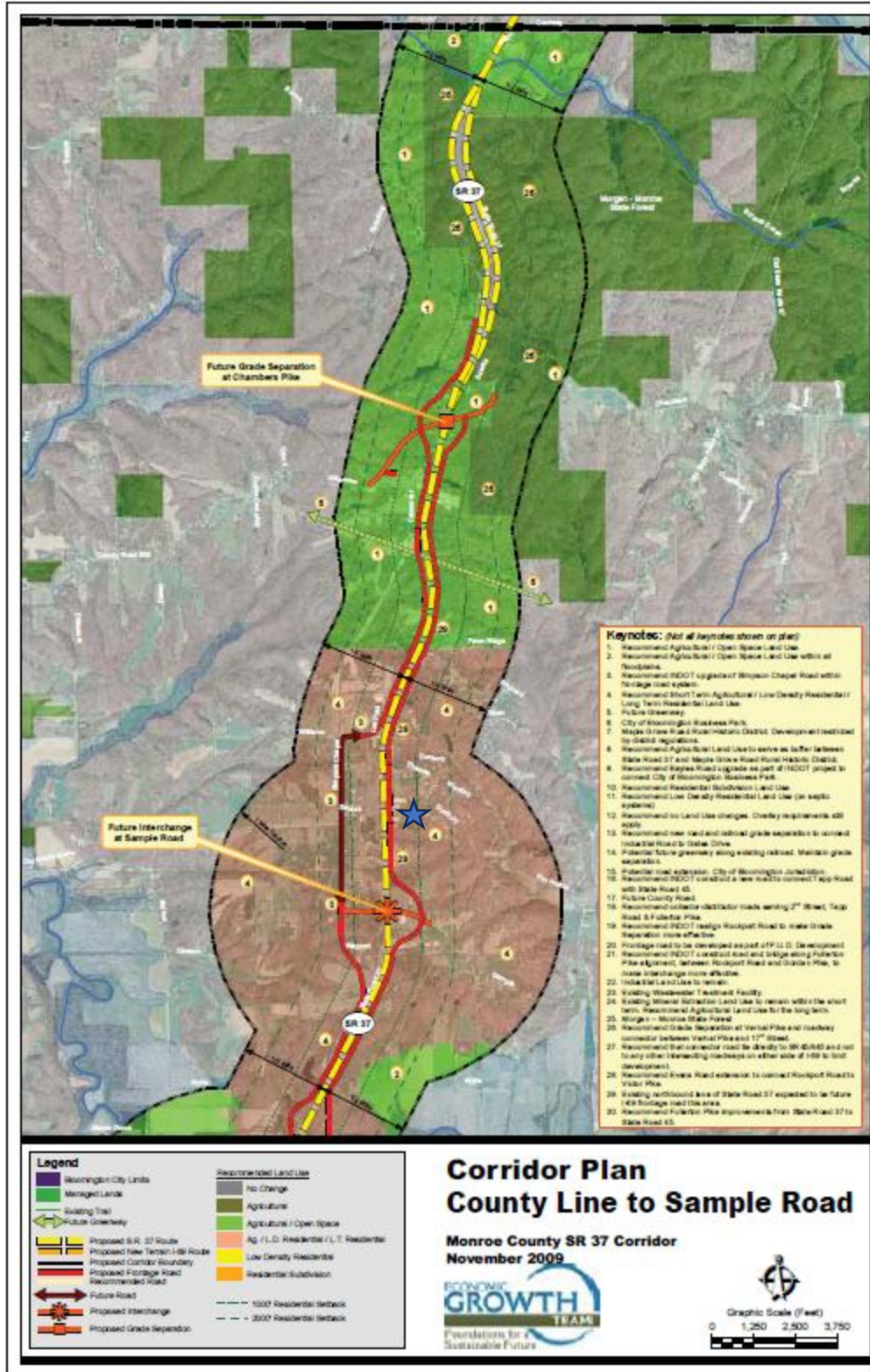
Northern portions of the SR 37 corridor must be protected from both short term and long term development to preserve the natural landscape consistent with rural lifestyles. In areas near the Morgan Monroe State Forest and in the vicinity of Chambers Pike no new development is anticipated. South of Chambers Pike, it is envisioned that the area will be developed to provide additional housing for the community – but such development must be restricted until there is adequate infrastructure to support the development of quality neighborhoods.

Existing Conditions and Development Patterns

SR 37 north of Bloomington is a mostly rural area characterized by rolling and wooded topography interspersed with agricultural lands and homes. Near the Morgan County line, the landscape is largely undeveloped in areas in and around the Morgan Monroe State Forest. Development increases in density in areas closer to Bloomington. Larger businesses along this route include Hoosier Energy, a salvage yard, Oliver Winery, a fabricator shop, and Worm's Way Garden Center.

Development pressures in this portion of the corridor are limited in nature and largely surround the businesses in the above paragraph. Residential development has been limited by a lack of sanitary sewer infrastructure in the area.





I-69 Impact Summary

INDOT is currently proposing development of a grade separation at Chambers Pike and an interchange at Sample Road in this area. Traffic from the north that currently accesses SR 37 will be required to travel south to Sample Road or Old SR 37 to go north toward Morgan County.

As a result, it is appropriate to direct short term development in this portion of the corridor where Sample Road has access to SR 37. Additionally, this plan discourages development at Chambers Pike, and directs development north of Bloomington to the Sample Road corridor, subject to development policies included in this document.

Future Land Use

The area from Chambers Pike to the Morgan County line has little current development and it is intended that the area be protected from additional development. Acceptable land uses in the area are limited to agriculture, open space, or similar public uses. Residential, commercial, and industrial uses are not appropriate in this area. Accordingly, infrastructure capacity not be upgraded in the area in a manner that would attract additional development.

Roadways in the Chambers Pike area should serve only the limited residential and agricultural uses and not be improved further. This includes Chambers Pike, Dittmore Road, Crossover Road, Burma Road, Bryants Creek Road and Norm Anderson Road, Sylvan Lane, and Sparks Lane. Where such roads are upgraded by INDOT to serve as frontage roads, the county should adopt policies that limit new drive entrances along frontage roads so as to prevent unintended development in the corridor.

Further south around Sample Road, there is significant acreage available for development within and beyond the corridor boundaries, but infrastructure is currently limited and no area plan is available. The County may consider this area to be an urban community development area in the future. However, the intent is to pursue high quality neighborhood developments keeping with the county's overall goals. In the long term, it is recommended that the area be developed as the result of an urban community plan or a planned unit development in large increments (minimum of approximately 500 acres).

Until infrastructure is available to support the recommended land uses and an urban community plan is approved, it is recommended that development in the area be limited by re-zoning the area to a low-density land use.

To help preserve the rural nature of the area, no new commercial/industrial businesses are to be allowed on SR 37 in this part of the corridor. Existing commercial/industrial businesses should remain and be allowed to expand within previously developed parcels as needed to remain viable. However, the intensity of the uses shall not be allowed to increase beyond current conditions, and such businesses shall not be permitted to expand onto adjacent properties.

It is noted that prior studies of the SR 37 corridor identified a number of potential short and long term employment sites along the corridor. Through the course of this planning effort, concerns with the prior recommendations



were identified. Specifically, it is noted that there is unsuitable infrastructure in this and other undeveloped portions of the corridor to support development of employment centers. Furthermore, the lack of frontage roads included in current INDOT plans combined with budget concerns about I-69 creates significant uncertainty as to whether there will be adequate frontage roads to support additional businesses along the SR 37 corridor. As a result, this plan is encouraging employment sites to be directed to previously developed areas where they are permitted by current planning policies – and that employment sites be directed away from undeveloped portions of the SR 37 corridor.

In this location and throughout the SR 37/I-69 corridor, the County definitively will not permit truck stops/fueling stations to be developed. It is also noted that at least Morgan County is in the process of adopting a similar policy. Truck stops/fueling stations will have to consider sites further to the north in Johnson or Marion Counties, or further south into Greene County as allowed by their local requirements.

PUD REVIEW CONSIDERATIONS

Section 811-6 (A) of the Monroe County Zoning Ordinance states: “The Plan Commission shall consider as many of the following as may be relevant to the specific proposal:

(1) The extent to which the Planned Unit Development meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the County.

Findings:

- The site is designated “Rural Residential” by the Monroe County Comprehensive Plan adopted in 2012;
- The proposed planned unit development appears to not be consistent with the Comprehensive Plan per the Rural Residential designation;
- The Monroe County State Road 37 Corridor Plan adopted in February 2010 calls out Worms Way business specifically and also states that, “*Existing commercial/industrial businesses should remain and be allowed to expand within previously developed parcels as needed to remain viable. However, the intensity of the uses shall not be allowed to increase beyond current conditions, and such businesses shall not be permitted to expand onto adjacent properties.*”
- The site has remained vacant of any commercial activity since the closing of Worm’s Way in 2016;
- The site was given a special exception in 1995 by the Monroe County Plan Commission and Board of Zoning Appeals to operate “Agribusiness and Greenhouse”;
- The current zoning is Agriculture/Rural Reserve (AG/RR) per the Monroe County Zoning Ordinance adopted in 1997;
- Chapter 802 of the Monroe County Zoning Ordinance lists all permitted uses for the AG/RR zone;
- The property was granted a use variance for “metal fabrication” in 2019;
- The property was denied a rezone to change the zoning from AG/RR to Light Industrial (LI) in 2021;
- The property was denied a use variance for “general contractor” in 2022 and 2023;
- The uses proposed under this PUD outline plan fall into the following categories listed in Chapter 802:
 - Public and Semipublic;
 - Business and Personal Services;
 - Retail and Wholesale Trade;
 - Automotive and Transportation;
 - Manufacturing, Mining, Construction and Industrial;

(2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.

Findings:

- The proposed plan includes a section dedicated to site plan standards including: permitted uses, setbacks, parking, paving, greenspace/open space, improvements, signage, operation restrictions, and employees;
- The petitioner has not indicated that any other deviation from the Zoning Ordinance would be sought at this time related to density, dimension, bulk, use, required improvements, and construction and design standards;
- Site plan improvements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage;
- See Findings under section A, regarding use;

(3) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.

Findings:

- See Findings (1) and (2);
- (4) **The proposal will not be injurious to the public health, safety, and general welfare.**
Findings:
- See Findings (1), (2) and (8);
- (5) **The physical design and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects common open space, and furthers the amenities of light, air, recreation and visual enjoyment.**
Findings:
- Parking minimum requirements will be reviewed for the petition site with respect to its proposed permitted uses;
 - The outline plan prohibits the expansion or enlargement of the existing impervious surface area;
 - The outline plan protects the existing open space/greenspace pervious surface area;
 - Development plan requirements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage.
- (6) **The relationship and compatibility of the proposal to the adjacent properties and neighborhoods, and whether the proposal would substantially interfere with the use of or diminish the value of adjacent properties and neighborhoods.**
Findings:
- See Findings (1), (2) & (4);
 - The petition site borders the Windsor Private Subdivision to the north and east;
 - Residents of the Windsor Private Subdivision have expressed various concerns towards particular proposed commercial activity on this site in the past;
 - Homes in the Windsor Private Subdivision are no less than 500 feet from the existing structures on the petition site;
 - Much of the surrounding area is zoned either Agriculture/Rural Reserve (AG/RR) or Estate Residential (ER);
 - Development plan requirements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage.
- (7) **The desirability of the proposal to the County's physical development, tax base, and economic well-being.**
Findings:
- See Findings under Section 1;
- (8) **The proposal will not cause undue traffic congestion and can be adequately served by existing or programmed public facilities and services.**
Findings:
- Access is derived from N Wayport RD which is designated as a Major Collector in the Thoroughfare Plan;
 - Water and electric utilities are provided by WTWC and REMC, respectively;
 - The petition site does not appear to connect to public sewer and likely operates with a commercial septic system;
- (9) **The proposal preserves significant ecological, natural, historical and architectural resources to the extent possible.**
Findings:
- There are no known karst features on the property;
 - Drainage will be reviewed under a PUD Development Plan if this petition is adopted;
 - The property operated as Worm's Way under a special exception approved in 1995 by the

Plan Commission and Board of Zoning Appeals for an “Agribusiness and Greenhouse”;

- There is a cemetery located adjacent to N Wayport Road on Lot A.

EXHIBIT 1: Petitioner Outline Plan Statement

Amended Petitioner Statement (August 1, 2023)

To the Monroe County Planning Commission

Planned Unit Development Zoning

AH & SH, LLC petitions the Monroe County Board of Commissioners to rezone the property located at 7850 N Wayport Road (Lot 1) and 7854 N. Wayport Road (Lot 2) from agricultural/rural reserve (AG/RR) to Planned Unit Development (PUD). The property consists of two lots: 6.65 acres and 6.21 acres. AH & SH, LLC is an Indiana limited liability company. Martin Heydt, Managing Member of AH & SH, LLC, first acquired the real estate in 1985. In 2001, he organized AH & SH, LLC and in November 2002 transferred the real estate to the LLC.

Worms's Way

Worm's Way was a manufacturer and retailer of hydroponic equipment. It was founded in Bloomington in 1985. It opened operations at the Bloomington site in 1985. It was the first retailer to offer a national catalogue of hydroponic equipment. The business grew to include retail sales and the mail sales of hydroponic equipment. The company was sold in 2016 and closed the retail sales although it continued the mail order sales for a time before complete business closure. The property was vacated in 2017.

Property History

The property is improved with commercial buildings constructed in 1995 with some modifications and additional paving occurring at different times over the following years. The footprint of the commercial building on Lot 1 is 14,240 square feet. The footprints of the commercial buildings on Lot 2 are 30,000 and 9,600 square feet. The property fronts on the east side of North Wayport Road less than 2,000 feet south of the Oliver Winery property. The property was occupied and used for the Worms Way business from 1995 until 2017. Worms Way was operating in 1996 when the Oliver Winery and other existing business uses in close proximity on North State Road 37 were rezoned to pre-existing business. Notwithstanding the 54,000 square feet of commercial buildings in existence and the Worms Way business operating on the property, the property was rezoned as AG/RR.

Zoning Uses

Enclosed with this letter is an extract from the table of uses in the Monroe County Zoning Ordinance. The permitted and conditional uses under the AG/RR zone are limited and none are suitable or appropriate for Lot 1 or Lot 2. The permitted AG/RR users cannot make use of the 54,000 square feet of commercial buildings. The buildings cannot reasonably be adapted for use as any of the permitted or conditional uses in the AG/RR zone. The property has been marketed for 7 years and vacant for more than 5 years. There is no interest in purchasing commercial buildings that cannot be used for any use permitted in the zone. The ground could be scaped and

single-family homes constructed. There is no interest for anyone to purchase the property only to have to scrape 54,000 square feet of commercial buildings.

The restricted use opportunities for this property have been recognized by the Monroe County Assessor. The value of the property, notwithstanding the existing commercial improvements to the property has been tremendously devalued by the AG/RR zoning. The Assessor recognizes that there is little chance for reasonable use of the existing improvements and buildings by any use permitted in the AG/RR zone. The Assessor further recognizes that the overwhelming majority of the listed permitted uses for the AG/RR zone are simply not feasible or practical and the property would not be developed in accordance with one of those uses. As a result, under the assessment rules and considering trending and available use of the property, the assessed value has been dramatically reduced. The properties were assessed by the Monroe County Assessor in 2022 for 2.6 million dollars. Repeated efforts to sell this property for 2.4 million dollars, well below the assessed value, have been futile. There is not an AG/RR permitted use that reasonably could be developed on this property that would utilize the commercial buildings.

In the last seven (7) years the only interest in the property has been conditioned or qualified on a zoning change or a use variance because the expected use of the property by the prospective buyer was not a permitted use in the AG/RR zone. For example, one interested buyer who could make use of the existing commercial buildings on the property and, therefore, was willing to pay fair value for the property was defined by the ordinance as a general contractor use. A general contractor use is not permitted under the zoning. It is a conditional use, but the criteria for the conditional general contractor use in the AG/RR zone requires a principal use residential structure on the property. This property does not have and has never had a residential structure on the property.

Of the approximate sixty (60) uses from the ordinance Table of Uses, 90% of them are not financially viable. For example, permitted uses include a Feed Lot or a Pick Your Own agricultural operation. Allowed uses include a stockyard and a water treatment facility. Review of the permitted uses is self-evident that they are not feasible and do not work at this site. It is questionable whether they would be feasible for any 12-acre site. Twelve (12) acres is not sufficient area for many of the permitted uses. But, even to the extent that it would be feasible to develop that use on a 12-acre site, it would require scraping the ground and removing all of the commercial buildings and the parking lots and the improvements that are in place. In other words, use of the property within the AG/RR zone would occur only upon tremendous financial loss.

There have been three attempts for prospective purchases of the property to get permission for their intended use.

In 2018 Jerden Industries obtain a variance. When it learned that the property had to be ungraded to the landscaping ordinance and the estimated cost was \$200,000.00 it backed out of the purchase.

In October, 2021, RJ Meyers petitioned to rezone from AG/RR to limited industrial. The petition received a recommendation for approval by the Planning Commission (7-0 vote). The Board of Commissioners rejected the zoning petition on a 3-0 vote.

In August, 2022 and March, 2023 variance petitions for both lots were filed with the BZA by Arnold Asphalt LLC. The August, 2022 petition was denied on a 3-0 vote and the March, 2023 petition was denied on a 4-0 vote.

With denials of the variance requests and denials of the rezoning petitions, the properties are fated to remain vacant. The improvements on the property will continue to depreciate and waste away. It is unreasonable to expect the property owner to suffer the financial loss of selling the property to a buyer whose use would be one of the few AG/RR uses that might fit on this property because the value of the property for purchase would be reflected in the limited use and would create waste of the substantial commercial structures and other improvements on the property all of which would end up in the landfill.

Martin Heydt consulted with a real estate broker and other authorities regarding this property and the marketability and feasibility of development and the impact on value. This rezoning petition includes a letter from the broker and his conclusion that sale of the property under the current zoning is not viable. The statement of the Monroe County Assessor corroborates the impact on assessed value of the property by the AG/RR zone applied to these parcels.

The PUD petition specifies a short list of permitted uses not permitted in the AG/RR zone that allow potential uses. The PUD Outline Plan restricts use of the property to reasonable hours of operation and to operations contained within the existing buildings on the property. The permitted uses would not generate excessive noise, dust, vibration, odors, or other external impacts. The location adjacent to Wayport Road allows direct access to the road and immediate and direct access to the Sample Road interchange for I-69.


Neighborhood meeting. A neighborhood meeting was held on July 21st. Twelve (12) neighbors attended the meeting. Petitioner discussed the effort to rezone the property to allow other uses and the loss of value of the property under AG/RR zoning and the inability to market the property for uses permitted in the AG/RR zone. Petitioner provided a description of the development plan which is to maintain the existing structures and improvements anticipating no new construction and no expansion of any buildings. Petitioner discussed a few other development plan issues, such as open space requirements. The neighbors attending had few questions. Most questions generally were to clarify intended development plans any new construction or changes to the building. Questions were asked why a change in zoning was needed or requested. There were opinions and responses offered regarding available uses within the AG/RR zone and the impact on value of the property.

The rezoning of these properties to AG/RR rather than pre-existing business as was the treatment for similarly situated properties in close proximity to these properties is a regulatory taking. The zoning classification denies Petitioner any reasonable economic return through use of the property. The PUD ordinance with its limited uses would allow for reasonable economic return

on the property and would negate the regulatory taking that is the current situation resulting from the zoning to AG/RR.

Respectfully,

AH & SH LLC


Michael L. Carmin,
Attorney for Petitioner

443603

EXHIBIT 2: Planned Unit Outline Plan

Wayport Road Planned Unit Development

**AMENDED
PUD STATEMENT AND OUTLINE PLAN**

Ah & Sh LLC requests rezoning of its property at 7850 and 7854 N. Wayport Road, Bloomington, Indiana from Agriculture/Rural Reserve (AG/RR) to a Planned Unit Development (PUD).

PROPERTY

Petitioner's property contains 6.65 acres and 6.21 acres and is located approximately One-Half mile North of the Sample Road / I-69 Interchange, fronting on the east side of Wayport Road. The property is bordered to the north and east by the Windsor Private Subdivision Common Areas and to the south by a residential parcel and Bloomington Auto Parts salvage yard. The property is bordered on the west by Wayport Road and the I-69 corridor.

SITE

The site is improved with commercial buildings. The Lot 1 building footprint is 14,240 square feet. Lot 2 buildings are 30,000 square feet and 9,600 square feet. The lots are also improved with a paved established driveway, with the driveway connecting to Wayport Road. The site has paved parking areas. The lots on the property have approximately 74% green space/open space and trees/landscaping. Utility services and connections extend through the green space to the buildings. Each lot has a permitted septic system.

The property is lined along the north side, the east side and part of the south side with established mature trees. Numerous trees and mature shrubs are scattered throughout the property.

Along the west property line as part of the development of N. Wayport Road as a frontage road to I-69, a green space berm was created. The berm buffers the view of the buildings and improvements from I-69 and from Wayport Road.

MONROE COUNTY ZONING ORDINANCE

The real estate is zoned AG/RR.

REQUESTED PERMITTED USES

- Religious Facilities
- Events Center
- Pets Services
- Furniture Sales, Transfer of Storage Terminal
- General Contractor
- Metal Fabrication

Warehousing and Distribution
Manufacturing

SITE PLAN STANDARDS

The existing improvements create impervious surface area of approximately 26% of the property. The existing greenspace/open space will be preserved. Expansion or enlargement of the impervious surface area will not be permitted. The existing open space/greenspace pervious surface area will be maintained. The greenspace may be disturbed only and if reasonably necessary to maintain, modify, or repair the utility services and connections to the buildings.

Existing setbacks from all sides will be maintained. The exact measurement of current setbacks for all buildings from the outer boundary properties will be documented. No building is closer than 50 feet to a property line.

Existing landscaping will be maintained. Tree and shrub inventory will be completed to document and create the current landscaping standards.

Greenspace/Open Space: Shall not be less than 65% of the site. The existing greenspace/open space is estimated to be 74% of the surface area which will be maintained. Existing trees shall be maintained and removed only in accordance with best practices management for dead and diseased or invasive species trees. Any tree removed will be replaced with a tree from the approved species list maintained in the Monroe County Zoning Ordinance.

The contiguous open space (exterior to the continuous paving/building footprints) will be placed in a conservation easement in favor of the Monroe County Plan Commission or its designee. The easement shall restricted ground disturbance except for maintenance and repair or upgrade of utilities facilities.

PUD OUTLINE DETAILS

Uses	Religious Facilities Events Center Pets Services Furniture Sales, Transfer of Storage Terminal General Contractor Metal Fabrication Warehousing and Distribution Manufacturing	
Setbacks	Front: Wayport Road / I-69 corridor Rear:	100 ft. (west side) 200 ft. (east side)
Side yard		

AMENDED PUD STATEMENT

Amended list of proposed uses

Uses	Religious Facilities Events Center Pets Services Furniture Sales, Transfer of Storage Terminal General Contractor Metal Fabrication Warehousing and Distribution Manufacturing	
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Amended list of proposed uses

Uses	Religious Facilities Pets Services Furniture Sales, Transfer of Storage Terminal General Contractor Metal Fabrication Warehousing and Distribution	
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Petitioner:

AH & SH LLC

By: Michael L. Carmin
Michael L. Carmin,
Attorney for AH & SH LLC

444332 / 25444-2

(disregarding interior, common property line between lot 1 and lot 2):		
	Setback side yard (North)	50 feet
	Setback side yard ((South)	100 feet
Parking	Front setback	70 feet
	Side setback (North side)	50 feet
	Side setback (South side)	80 feet
	Eastside rear yard	230 feet
Paving	All parking, service drive and access drives paved (asphalt, concrete paving). Paved surfaces will not exceed 35% of the surface area.	
Greenspace/permanent open space	Minimum 65% of the surface area	Designated greenspace/permanent open space shall be conveyed by conversation easement to Monroe County Plan Commission or its designee. Easement shall provide for owner maintenance of greenspace and landscape to include best practices management for tree preservation of new plantings.
	Landscaping	Landscaping standards shall be established with tree and shrub inventory of existing trees and shrubs.
	Lighting	All exterior lighting will be shielded, and lighting shall comply with night skies policies

Improvements	Buildings	<p>Lot 1: 14,240 square feet. One story</p> <p>Lot 2: 9,600 square feet One story</p> <p>30,000 square feet Two story</p>
Signage		Signage shall comply with applicable signage ordinance.
Operation Restrictions	Normal hours of operation: limited to Monday – Friday 7:00 a.m. to 6:00 p.m.	<p>All operations shall be conducted within the buildings.</p> <p>No open storage.</p> <p>Operations exterior to the building shall be limited to routine traffic and equipment parking.</p>
Employees	Total employment count not to exceed 25 employees on Lot 1 and 50 employees on Lot 2.	

443592 v. 2 /25444-2

EXHIBIT 3: Monroe County Assessor's Office Letter



JUDITH A. SHARP
Monroe County Assessor
LEVEL III CERTIFIED INDIANA ASSESSOR-APPRAISER

June 14, 2023

Dear Planning Commission Members,

I am writing to you to explain what the Property Tax Board of Appeals did with the value of Martin Heydt's property aka Worms Way. Mr. Heydt appealed this property to the board on 5-12-23. He explained that Worms Way was closed, and no business was being done on this property. He has been trying to sell this property. He contacted the Planning Department because of the zoning to get a variance. This was turned down and the one business that wanted to purchase this property cannot use it for the current zoning.

Mr. Heydt explained to the Board that his property is zoned different from the other properties on either side of him. He has a buyer interested in the property, but the rezone was denied by the Commissioners.

Indiana is a Market Value in "Use" State. The in-Use wording is in the Constitution and makes a huge difference in our assessing in Indiana. The Board decide that since it is no longer a business, and he is not able to sell it for any other use than what it is zone for at this time without a rezone they lowered the assessment.

His assessment before the appeal was \$2,675,600, after the appeal it is now \$531,400. We could no longer call it a commercial property, so the land was revalued to the current agricultural rate set by the State of Indiana. We took the buildings down to what Mr. Heydt told us it was going to cost to remove them from the property. We made these changes for the tax year 23 pay 24.

Judith A. Sharp

Monroe County Assessor

100 W Kirkwood Ave., Room 104 • Bloomington, Indiana 47404
Phone (812) 349-2502 • Fax (812) 349-2898 • jsharp@co.monroe.in.us

EXHIBIT 4: Site Plan (Conceptual)

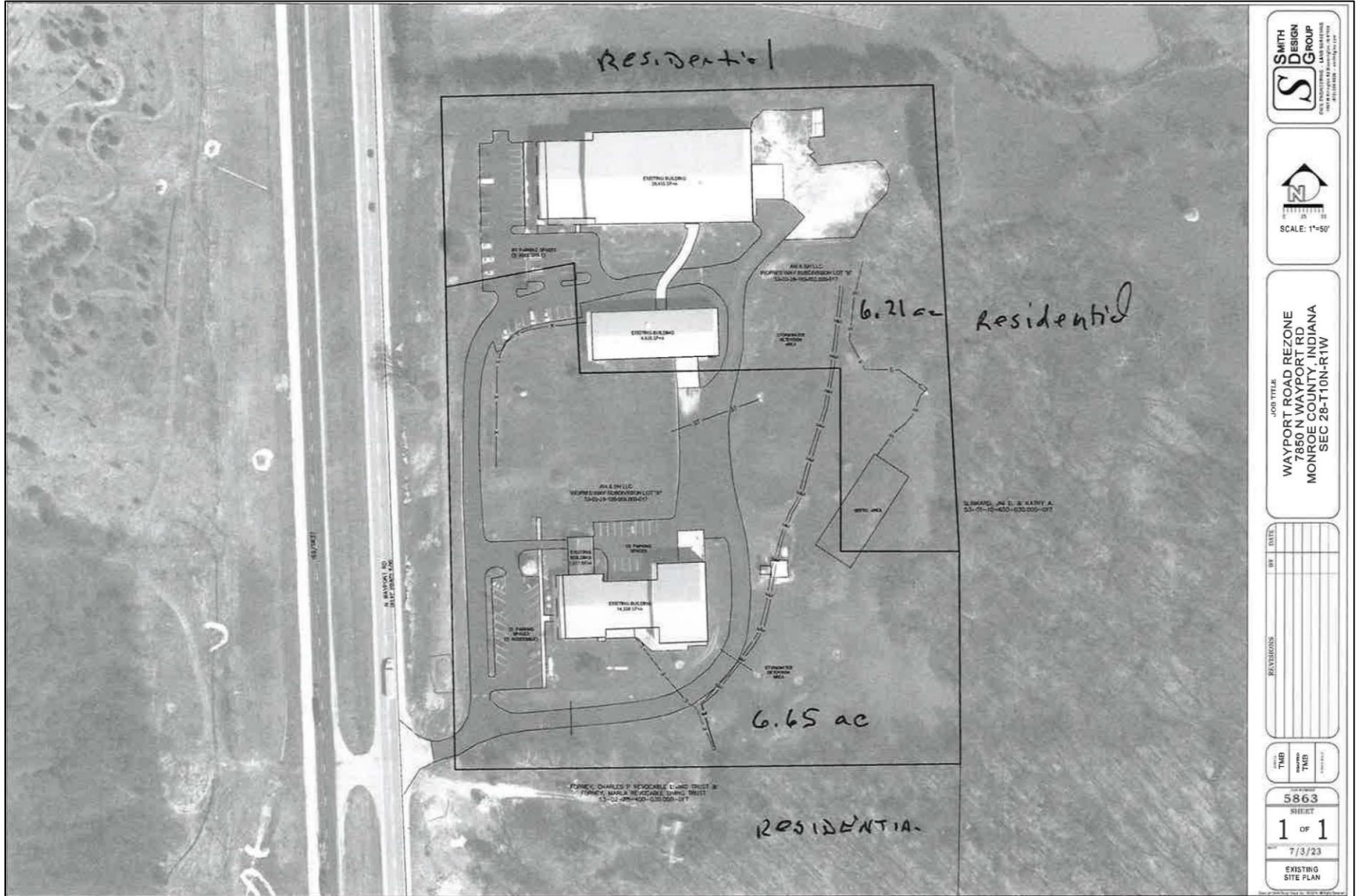


EXHIBIT 5: Worm's Way Administrative Type "A" Subdivision

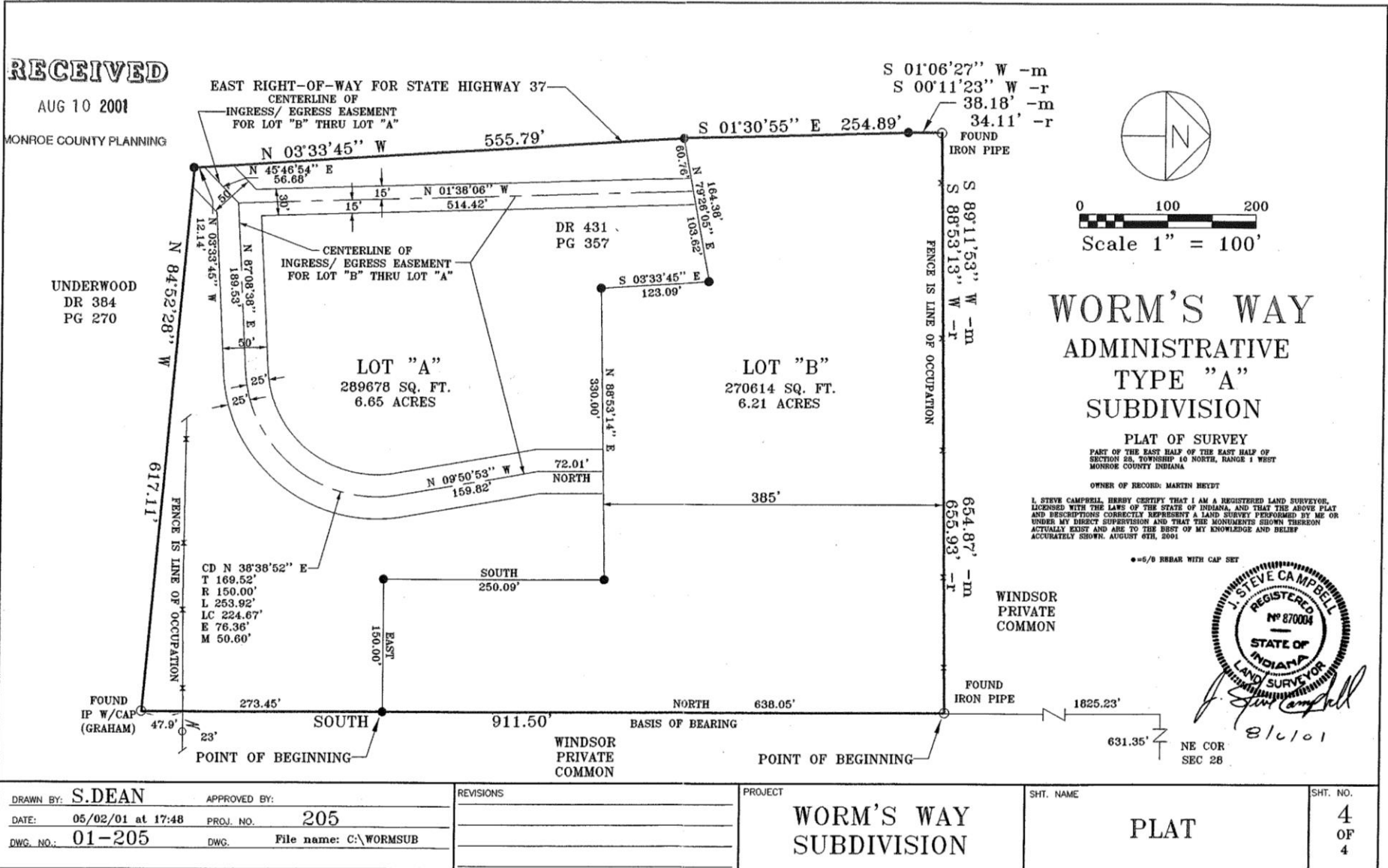


EXHIBIT 6: AG/RR Use Table

Agricultural Uses	(/)	AG	Residential Uses	(/)	AG	Business & Personal Services	(/)	AG
Accessory Use		P	Accessory Apartments	L	P	Accessory Use		P
Accessory Structures for Ag. Use	L	P	Accessory Dwelling Units	L	P	Artisan Crafts	M	C
Agriculture	H	P	Accessory Livestock	L	P	Bed and Breakfast	L	P
Ag. Event Center, Small	H	C	Accessory Use		P	Composting Operation	H	P
Ag. Event Center, Medium	H	C	Guest House	L	P	Greenfill	M	P
Ag. Event Center, High	H	C	Historic Adaptive Reuse		P	Historic Adaptive Reuse		P
Ag.-Related Industry	H	P	Home Based Business	L	P	Kennel, comm. animal breeding ops.	H	C
Ag. Uses-Land Animal	H	P	Home Occupation	L	P	Real Estate Sales office Or Model	L	P
Ag. Uses-Non Animal	H	P	Residential Storage Structure	L	P	Taxidermist	L	P
Agritourism / Agritainment	H	P	Single Family Dwelling	n/a	P	Temporary Seasonal Activity	M	P
Aquaculture	M	P	Temporary Dwelling	L	P	Tourist Home or Cabin	L	P
Christmas Tree Farm	H	P	Two Family Dwelling	n/a	P	Veterinary Service (Indoor)	H	C
Comm. facilities for the sale, repair, and service of Ag. equip., vehicles, feed, or suppl.	H	C	Public & Semipublic	(/)	AG	Veterinary Service (Outdoor)	M	C
Comm. Non-Farm Animals	M	P	Accessory Use		P	Retail & Wholesale Trade	(/)	AG
Confined Feeding Operations	H	C	Cemetery	H	P	Accessory Use		P
Equestrian Center	H	C	Governmental Facility	H	P	Agricultural Sale Barn	H	P
Equine Services	L	P	Historic Adaptive Reuse		P	Fruit Market	L	P
Feed Lot	H	P	Religious Facilities	H	P	Garden Center	H	C
Feed Mill	L	P	Remote Garbage/Rubbish Removal	H	C	Historic Adaptive Reuse		P
Historic Adaptive Reuse		P	Solar Farm	L	C	Automotive & Transportation	(/)	AG
Horse Farm	L	P	Telephone and Telegraph Services	L	P	Automobile Repair Services, Minor	H	C
Nursery/greenhouse	H	P	Utility Service Facility	M	P	Historic Adaptive Reuse		P
Orchard	H	P	Wastewater Treatment Facility	H	C	Amusement and Recreational	(/)	AG
Pick-your-own operation	H	P	Water Treatment Facility	H	C	Accessory Use		P
Roadside farm stand, Permanent	M	P	Wired Communication Services	M	P	Camping Facility	H	P
Roadside farm stand, Temporary	L	P				Historic Adaptive Reuse		P
Stockyard	H	P				Park and Recreational Services	H	C
Winery	H	P				Private Recreational Facility	H	C
						Recreational Vehicle (RV) Park	H	C
						Manufacturing, Mining	(/)	AG
						Accessory Use		P
						General Contractor	M	C
						Historic Adaptive Reuse		P
						Sawmill	H	C
						Wood Products	M	C

EXHIBIT 7: Letters of Support



June 12, 2023

RE: 7850 & 7854 N Wayport Rd Bloomington, IN

To whom it may concern,

My name is Andy Peterson and I am a Realtor in Bloomington, IN. I represent Buyers and Sellers in both commercial and residential real estate transactions. I also own investment and commercial properties personally in four Indiana counties.

I have had the opportunity to showcase the properties located at 7850 & 7854 N Wayport Road in Bloomington, IN to potential buyers. Multiple things stand out immediately upon touring this property and the facilities located on them, the property is easily accessible from a major interstate highway and the care that goes into maintaining these vacant properties is extremely evident. I have had clients that this property stands out as the very obvious solution to their needs. I represent a business that would have office staff of approximately 25 people and literally do no work on site except for maintenance of their own equipment that they utilize on jobs elsewhere. This company is growing and very financially secure. They wanted this facility to be their headquarters but due to current zoning that is unable to occur.

It is my opinion that the use or sale of this phenomenal property under the current zoning deems it unviable. The property is zoned AG. Of the 50 or so conforming uses listed in the AG Zoned, most are not financially viable: ie Christmas Tree Farm or Orchard. The others are not practical: ie Government Facility or Utility Service Facility. The property has been listed for sale for over seven years. This valuable commercial property will not be sold unless it is rezoned.

Sincerely Submitted,

A handwritten signature in black ink, appearing to read "Andy Peterson", written over a horizontal line.

Andy Peterson

Peterson Realty, LLC
PO Box 5758 Bloomington, IN 47407

EXHIBIT 8: Letters of Opposition

September 4, 2023

Bryan Booze
7970 N Thames Drive
Bloomington, IN 47408

Monroe County Plan Commission
Monroe County Courthouse
Bloomington, IN

Dear Commission Members,

I am a Monroe County resident and a member of the Windsor Private Homeowners Association (WPHA) which borders the Worm's Way properties to the north and east. I am writing in opposition to the current Planned Unit Development (PUD) proposal for the Worm's Way properties.

I would like to oppose this proposal in three specific areas:

1. Misuse of the PUD concept.
2. Conflict with the Comprehensive Plan for this area.
3. An attempt to shift the burden & cost of previous private business decisions to the residents of Monroe County.

1. During the recent Plan Review Committee session held on August 10, 2023, Senior Planner Drew Myers commented that Ah & Sh LLC owner Martin Heydt has three paths to modify the use of the property: a rezone, a single additional use variance, and a PUD. Mr. Heydt has already attempted the first two approaches, which were rejected, and is now attempting to essentially accomplish the same result via the third. I agree with Mr. Myers' assessment. The request for this particular PUD includes several of the same uses which were unanimously rejected in past attempts. This PUD proposal represents an abuse of the PUD concept itself and is merely an attempt to approve the same additional uses via the only standard path left untested by Mr. Heydt. During the recent Plan Review Committee, Committee Member Julie Thomas quite clearly stated that this proposal was not in-line with the intended use of a PUD.

2. During the August 10 session of the Plan Review Committee, Julie Thomas communicated the existence of an ongoing process to review the overall plan and allowed uses for many of the areas along the section of I69 near the Worm's Way property and Windsor Private. She indicated concern about moving forward with the evaluation of this particular PUD proposal until the final result of the overall review was completed, and the results communicated to the public.

Knowing that a more comprehensive review is currently in process, I agree that it is counter-productive to consider a specific PUD proposal such as this prior to completion of the more comprehensive review. To do so immediately detracts from the validity of the comprehensive review process itself.

3. Mr. Heydt operated Worm's Way successfully as a privately held business for several years. With full awareness of the current zoning of the properties, Mr. Heydt made many business decisions to grow the company, including investment in physical structures which were needed at the time to support further growth of the privately held company. Substantial costs were undoubtedly incurred with the intent to generate further benefits to the company owners and employees. Later on, Mr. Heydt then made the informed decision to sell the Worm's Way business but retain ownership of the physical facilities. The burdens of maintaining the property and the facilities remained but are no longer offset by the revenue generation of the Worm's Way company. This again was a deliberate decision by private business and property owner, Mr. Heydt. For a third time, Mr. Heydt is attempting to remove himself from the responsibility of his previous business decisions and shift the downstream burdens to the public, specifically the Monroe County residents living in Windsor Private via a substantial modification of the allowed uses of the property and facilities. In effect, as a private business owner he received the benefits of his prior business decisions but now is attempting to place the burden of those same decisions squarely on Monroe County residents.

I am hopeful that the Plan Commission reviews these factors along with the many elements of opposition presented during the previous rezoning and variance attempts. The arguments made by many Monroe County residents against the first two attempts were accepted by the BZA and the County Commissioners via their rejections of the respective prior proposals. These arguments have not changed and remain equally valid against this PUD proposal. This PUD proposal is nothing more than a repeat of the previous two attempts, via the final use-change process available to Mr. Heydt. It should be recognized for what it is and rejected as were the previous attempts.

Regards,

A handwritten signature in cursive script that reads "Bryan Booze".

Bryan Booze

From: [Stephen Brown](#)
To: [Drew Myers](#)
Subject: Opposition to the rezoning of Worms Way 7850 N Wayport Road
Date: Monday, September 4, 2023 9:33:05 PM

It is our understanding a rezoning request of the Worms Way property will be considered at the Tuesday, September 5, 2023 Plan Commission Administrative Meeting.
Item number PUO-23-4.

We would like to state our opposition to the Planning Commission for the request to rezone the Worms Way property from **Agricultural/Rural Reserve to PUD**.

We believe this is a manipulation of the intent of an AG/RR zoned area which touches the South, East & North sides of the property.

By creating a PUD Worms Way will get to do any of various things they are seeking to do which includes several things we've opposed in the past.

We also believe this is incompatibility with the Monroe County Comprehensive Plan.

Thank You

Steve & Bev Brown
7821 N Thames Drive

From: [Andrew Long](#)
To: [Drew Myers](#)
Cc: [Andrew Long](#)
Subject: Opposition to rezone to PUD for Worms Way property
Date: Tuesday, September 5, 2023 10:23:37 AM

Dear Mr. Myers,

Regarding the rezone request:
MONROE COUNTY PLAN COMMISSION ADMINISTRATIVE September 5, 2023
CASE NUMBER PUO-23-4
PLANNER Drew Myers
PETITIONER Ah & Sh LLC (Martin Heydt, owner)
REQUEST Planned Unit Outline Plan
Waiver of Final Hearing Requested
ADDRESS 7850 N Wayport RD
53-02-28-100-002.000-017 & 53-02-28-100-006.000-017
ACRES Lot B, 53-02-28-100-002.000-017 – 6.21 acres
Lot A, 53-02-28-100-006.000-017 – 6.65 acres
ZONE Agriculture/Rural Reserve (AG/RR)
TOWNSHIP Washington
SECTION 28
PLATS Platted; Worms Way Type A
COMP PLAN
DESIGNATION
Rural Residential

Our Windsor Private neighborhood and I are in strong opposition to this latest rezone attempt. We have also retained an attorney for this matter.

The owner is not only trying to get around previous variances and rezone denials, but is also trying to do an end run around public comment by asking for a final hearing waiver. He knows there is so much opposition that getting the waiver would silence us. He has tried getting construction and asphalt businesses in the past and all were opposed, and then were denied by the county because they were inappropriate for this rural and farming area.

This latest PUD rezone request is trying to get blanket approval so he can go back to those companies and now sell to them.

Even if a rezone was somehow allowed, in my personal opinion the only 2 use cases remotely acceptable for our rural and farming area would be Religious Facilities or possibly Pet Services. Asphalt, storage, construction, trucking or metal fabrication use is totally unacceptable.

County Assessor Judith Sharp last year said the tax assessment was no longer based on a business and was reduced from \$2.6M to \$650,000. However, the owner is still trying to recoup his perceived profit, when the land is now only assessed at around \$650,000.

The owner has made millions over the years from Worms Way. His taxes were just reduced but he is still trying to sell for millions. It's time for him to cut his losses, and sell the property

as AG/RR for the assessed value.

I strongly recommend this rezone request is denied, and the final hearing waiver also be denied.

Andrew Long
Windsor Private Neighborhood
7871 N Wexford Ct
Bloomington, IN 47408