

MONROE COUNTY ORDINANCE REVIEW COMMITTEE



**February 12, 2024
4:00 pm**

**Hybrid Meeting
In-person**

Monroe County Government Center
Planning Department
501 N. Morton Street, Suite 224
Bloomington, IN 47404

Virtual: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZjE5ZjgwNGEtOGQwMi00NTcxLTgyNTYtNTNkMDYxMjgxZjNj%40thread.v2/0?context=%7b%22id%22%3a%2249a60700-4c0c-4ece-b904-fb92c600e553%22%2c%22oid%22%3a%22db83725f-c48f-476f-8894-d4bb087d29f8%22%7d

If calling into the meeting, dial: 872-242-9432; PIN: 797 660 837#
When prompted, enter the Meeting ID #: 265 021 119 870 Password: G4T7C7

A G E N D A
ORDINANCE REVIEW COMMITTEE
of the Monroe County Plan Commission

Monroe County Planning Department
HYBRID

When: February 12, 2024 at 4:00 PM

Where: 501 N Morton St, Suite 224

Or via Video Conference: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZjE5ZjgwNGEtOGQwMi00NTcxLTgyNTYtNTNkMDYxMjgxZjNj%40thread.v2/0?context=%7b%22Tid%22%3a%2249a60700-4c0c-4ece-b904-fb92c600e553%22%2c%22Oid%22%3a%22db83725f-c48f-476f-8894-d4bb087d29f8%22%7d

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NEW BUSINESS:

TOPICS FOR DISCUSSION:

1. CDO Work Session –

PAGE 3

Review of the Draft Zoning Names and Acreages

PAGE 4

Review of Draft Zoning Map Changes per the CDO Survey Feedback and Listening Sessions

**2. ZOA-23-5 Amendment to the Monroe County Zoning Ordinance:
Chapter 858 - Subdivisions: Assurances for Completion and
Maintenance of Improvements.**

PAGE 23

Amend ordinance to include inflation costs when renewing Performance Bonds.

Contact: tbehrman@co.monroe.in.us

3. Any other business properly brought before the committee

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.

Zoning Districts

802. ESTABLISHMENT OF ZONES

802.1 Standard Zoning Districts

The Monroe County Jurisdictional Area is hereby classified and divided into the following zones, also referred to as Districts:

- | | | |
|-------------|--|--|
| A. | Agricultural Residential 2.5 “AG2.5” | Min lot size: 2.5 ac |
| B. | Forest Residential 5 “FR5” | Min lot size: 5 ac |
| C. | Conservation Residential 2.5 “CR2.5” | Min lot size: 2.5 ac |
| D. | Rural Community 1 “RC1” | Min lot size: 1 ac for new lots, 0.14 ac for existing lots |
| E. | Suburban Density Residential “SD” | Min lot size: 1 acre |
| F. | <u>Estate Density Residential “ED”</u> | Min lot size: 0.67 ac |
| E.G. | Low Density Residential “LD” | Min lot size: 0.34 ac |
| F.H. | Medium Density Residential “MD” | Min lot size: 0.21 ac |
| G.I. | High Density Residential “HD” | Min lot size: 0.14 ac |
| H. | <u>Urban Density Residential “UD”</u> | |
| I.J. | Institutional/Public “IP” | Min lot size: N/A |
| J.K. | Limited Business “LB” | |
| K.L. | General Business “GB” | |
| L.M. | Light Industrial “LI” | |
| M.N. | Heavy Industrial “HI” | |
| N.O. | Mineral Extraction “ME” | |
| O.P. | Airport “AP” ¹¹ | |

¹¹ Updated District codes based on PC

MONROE COUNTY ORDINANCE REVIEW COMMITTEE**January 8, 2024**

REQUEST	To consider the draft zoning map changes for this area, as compared to the Comprehensive Plan
ADDRESSES	N Angelina LN 53-04-26-100-007.000-011 (2 parcels) 53-04-26-100-004.000-011 W Arlington Rd 53-01-22-822-004.000-004 53-04-24-100-009.000-011 53-04-24-100-014.000-011 53-04-24-102-001.000-011 53-04-24-102-002.000-011 53-04-24-102-004.000-011 53-04-24-102-006.000-011 53-05-19-100-001.000-004 53-05-19-100-003.000-004 53-05-19-100-005.000-004 53-05-19-100-008.000-004 53-05-19-100-011.000-004 53-05-19-100-014.000-004 53-05-19-100-018.000-004 53-05-19-100-019.000-004 53-05-19-100-022.000-004 53-05-19-100-025.000-004 (2 separate parcels)

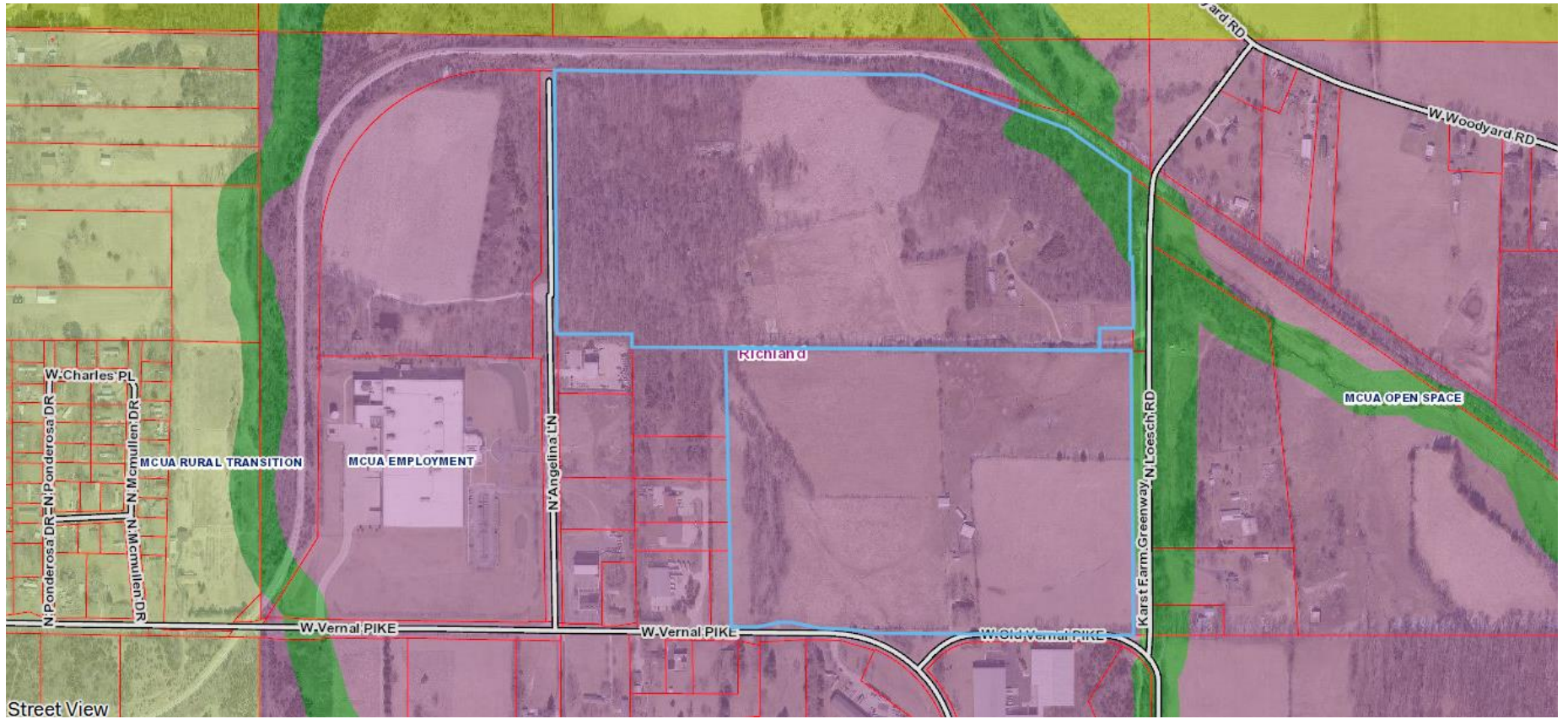
Introduction/Background

A member of the Redevelopment Commission (RDC) attended a CDO public engagement session in December of 2022. Following that meeting, it was requested that Planning present to the RDC regarding the County Development Ordinance map changes in relation to the existing Tax Increment Finance (TIF) areas. The meeting took place on 1/16/2023 and the recording can be accessed here: https://monroecounty-in.zoom.us/rec/play/NNouSfw64yhBdvFuDjpaNJQJ1kfMWGhkV1OrhwLqJmqCfjDzESiN_36GUfUJR2kb_QdGMhG6hINp5ogW.tzbuTR-g5ze2YkbU?canPlayFromShare=true&from=share_recording_detail&continueMode=true&componentName=rec-play&originRequestUrl=https%3A%2F%2Fmonroecounty-in.zoom.us%2Frec%2Fshare%2F5BT_7rp4fMVj_erilRqTpg_9dulfiEpErEIE5fANn_4Y8d70svGZtGpYqTyBDFOI.SrfVjCBxHAXKIBi8

The Planning Department recommended that anyone that has proposed changes to the CDO draft zoning map submit those requested changes. We received the following letters below. Staff has put together corresponding maps for consideration.

Address	Proposed Zone/Min Acreage	Existing Zone / Min Acreage	Existing Acreage	Current Use	Comp Plan	Score (0=strongly dissatisfied; 5=strongly satisfied)	Owner Filling Out Request	Number of Surveys	Upzone/Downzone	ORC Recommendation	PC Recommendation
4554 W Old Vernal Pike	AG2.5 / 2.5 ac	AG/RR/BIO / 2.5	53.54	Vacant/ Agricultural	Employment	0	No	1	Same		
2767 N Loesch Rd	AG2.5 / 2.5 ac	AG/RR/BIO / 2.5	68.9	Vacant/ Agricultural	Employment	0	No	1	Same		
3888 N Maple Grove RD	AG2.5 / 2.5 ac	RE1 / 1 ac	2.7 Ac	Single Family Residential	Rural Transition	0	No	1	Downzone		
2507 W Ellsworth RD (53-01-22-822-004.000-004)	AG2.5 / 2.5 ac	RE1 / 1 ac	4.89 Ac	Single Family Residential	Conservation Residential	0	No	1	Downzone		
2507 W Ellsworth RD (53-05-19-100-025.000-004)	AG2.5 / 2.5 ac	RE1 / 1 ac	131.72 ac	Vacant/ Agricultural	Conservation Residential	0	No	1	Downzone		
2507 W Ellsworth RD (53-05-19-100-025.000-004)	AG2.5 / 2.5 ac	RE1 / 1 ac	131.72 ac	Vacant/ Agricultural	Rural Transition	0		1	Downzone		
N Maple Grove RD (53-05-19-100-008.000-004)	AG2.5 / 2.5 ac	RE1 / 1 ac	1.58	Vacant/ Agricultural	Rural Transition	0	No	1	Downzone		
3655 N Maple Grove RD (53-05-19-100-005.000-004)	AG2.5 / 2.5 ac	RE1 / 1 ac	4.97	Vacant/ Agricultural	Conservation Residential	0	No	1	Downzone		
3655 N Maple Grove RD (53-05-19-100-022.000-004)	AG2.5 / 2.5 ac	RE1 / 1 ac	6.66	Vacant/ Agricultural	Conservation Residential	0	No	1	Downzone		
3655 N Maple Grove RD (53-05-19-100-019.000-004)	AG2.5 / 2.5 ac	RE1 / 1 ac	1	Single Family Residential		0		1	Downzone		
4615 W Arlington RD	AG2.5 / 2.5 ac	AG/RR / 2.5 ac	0.62	Single Family Residential	Suburban Residential	0	No	1	Same		
4010 N Maple Grove RD	AG2.5 / 2.5 ac	RE1 / 1 ac	3.44	Single Family Residential	Rural Transition	0	No	1	Downzone		
4609 W Arlington RD	AG2.5 / 2.5 ac	AG/RR / 2.5 ac	3.04	Single Family Residential	Suburban Residential	0	No	1	Same		
4510 W Arlington RD (53-04-24-100-014.000-011)	AG2.5 / 2.5 ac	RE1 / 1 ac	3	Single Family Residential	Suburban Residential	0	No	1	Downzone		
4519 W Arlington RD	AG2.5 / 2.5 ac	AG/RR / 2.5 ac	2	Single Family Residential	Suburban Residential	0	No	1	Same		
4707 W Arlington RD	AG2.5 / 2.5 ac	AG/RR / 2.5 ac	0.52	Single Family Residential	Suburban Residential	0	No	1	Same		
3808 N Maple Grove RD	AG2.5 / 2.5 ac	RE1 / 1 ac	4	Single Family Residential	Rural Transition	0	No	1	Downzone		
3450 N Maple Grove RD	AG2.5 / 2.5 ac	RE1 / 1 ac	16.67	Single Family Residential	Rural Transition	0	No	1	Downzone		
3555 N Maple Grove RD	AG2.5 / 2.5 ac	RE1 / 1 ac	2.94	Single Family Residential	Conservation Residential	0	No	1	Downzone		
4705 W Arlington RD	AG2.5 / 2.5 ac	AG/RR / 2.5 ac	3.48	Single Family Residential	Suburban Residential	6 0	No	1	Same		

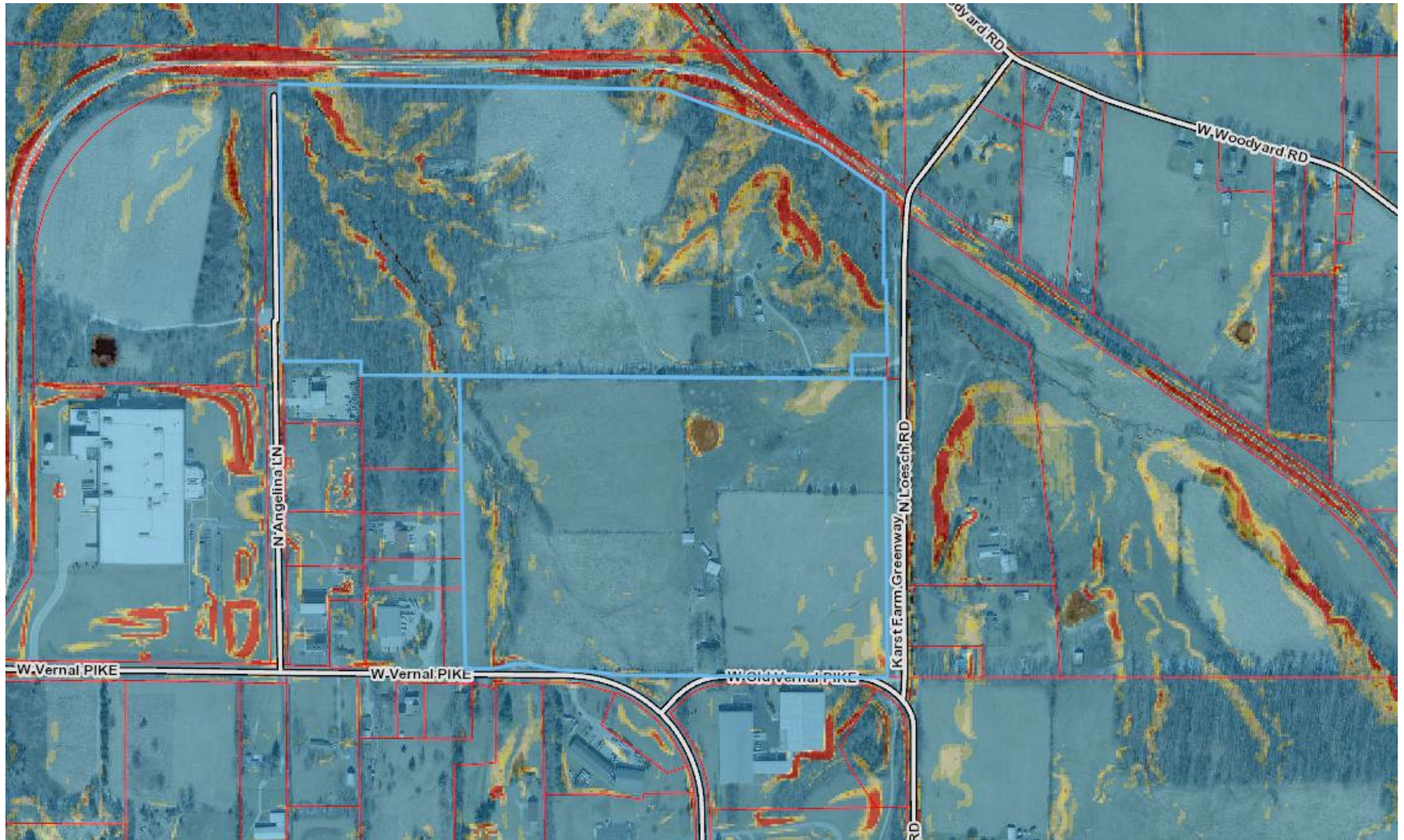
Comprehensive Plan Map - Employment



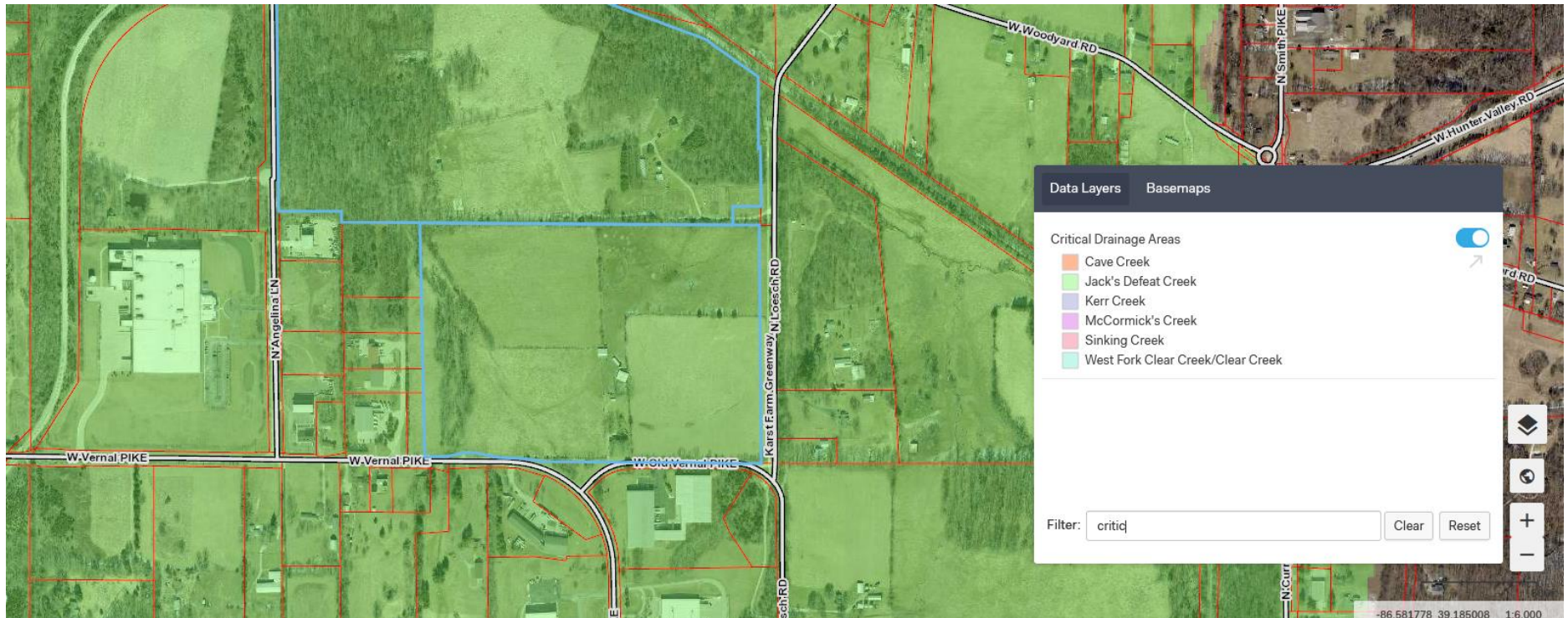
Site Conditions



Buildable Area



Critical Drainage Areas



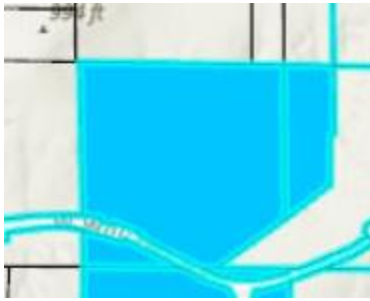
Site Conditions



Critical Drainage Areas – N/A



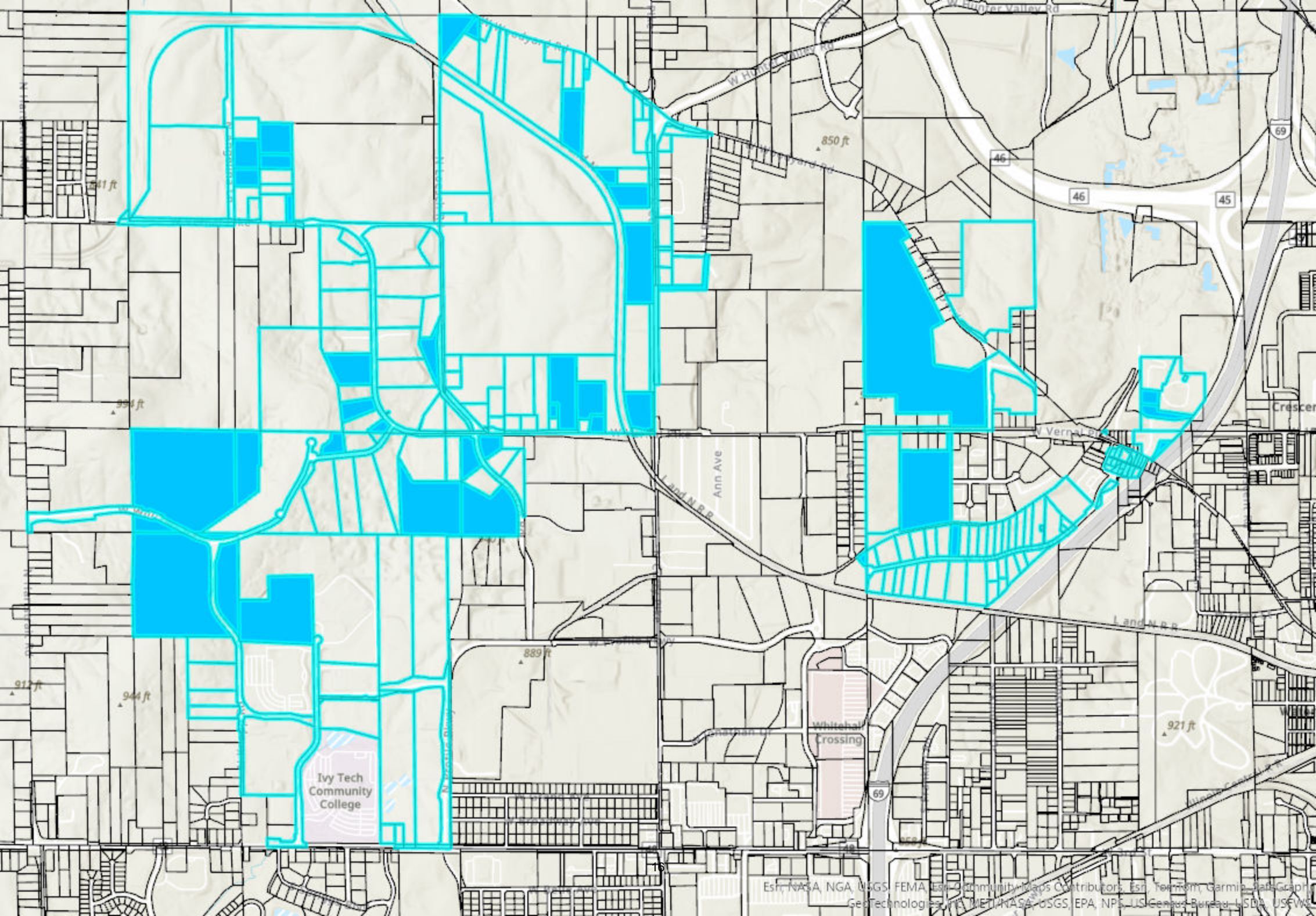
LEGEND - The following pages include mapped areas of Light Industrial (LI) zoned properties. The areas that are filled in with blue indicate a vacant LI zoned property. The area that are outlined in blue but not filled in indicate LI zoning, but that the parcel is assessed as not being vacant.

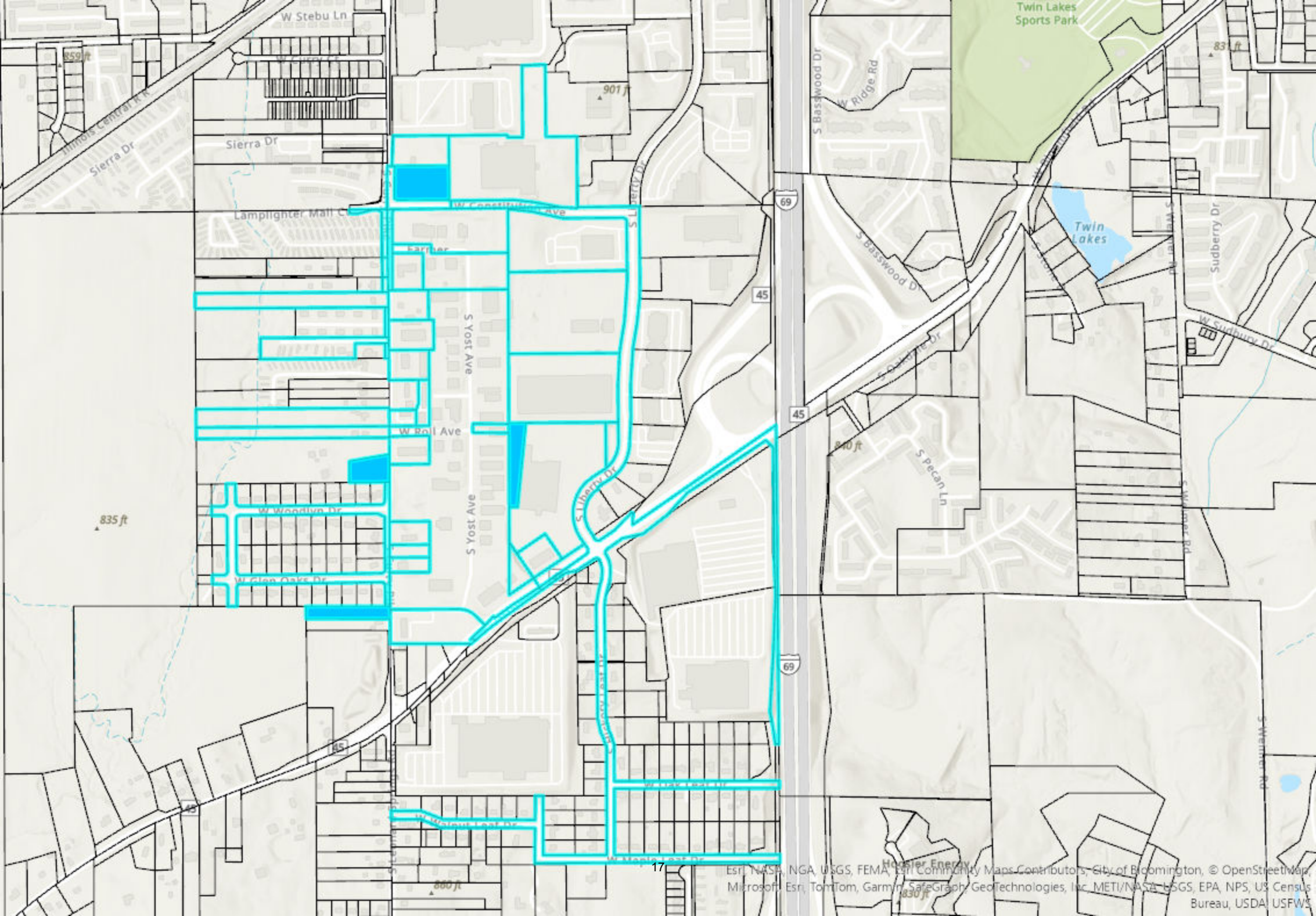


= Vacant LI Zoned Property



= LI zoned property that is occupied





Row Labels	Sum of Acreage
BLOOMINGTON TOWNSHIP	178.306462
1 Family Dwell - Unplatted (10 to 19.99 Acres)	12.40956529
2 Family Dwell - Unplatted (20 to 29.99 Acres)	28.13305168
Commercial Building on Leased Land	0.128510934
Exempt, Charitable Organization	2.062658497
Exempt, Other	0.909136467
Exempt, State of Indiana	6.518946516
Industrial Office	2.06166067
Industrial Truck Terminal	4.293091198
Industrial Warehouse	9.494158523
Light Manufacturing & Assembly	11.68174111
Other Commercial Housing	0.000360919
Other Commercial Structures	2.812462665
Other Industrial Structure	13.4654048
Other Retail Structures	7.33784321
Parking Lot or Structure	4.046105573
Small Detached Retail of Less Than 10,000 Square Feet	0.462327755
Small Shop	0.708532743
Vacant - Unplatted (10 to 19.99 Acres)	14.76505358
Vacant Land	57.01584987
CLEAR CREEK TOWNSHIP	94.41125069
1 Family Dwell - Unplatted (0 to 9.99 Acres)	2.956796713
Commercial Building on Leased Land	0.106727201
Commercial Mini-Warehouse	4.23289119
Other Commercial Housing	17.70741434
Other Commercial Structures	13.52311681
Vacant - Unplatted (0 to 9.99 Acres)	7.359737281
Vacant Land	48.52456716
PERRY TOWNSHIP	594.0727975
1 Family Dwell - Platted Lot	30.41674545
1 Family Dwell - Unplatted (0 to 9.99 Acres)	62.10022088
1 Family Dwell - Unplatted (10 to 19.99 Acres)	14.29973805
Cash Grain/General Farm	2.977483587
Commercial Mini-Warehouse	6.624651977
Commercial Warehouse	6.835704998
Exempt, State of Indiana	60.46602795
Exempt, Township	0.921451201
Industrial Warehouse	19.77915621
Office Bldg (1 or 2 Story)	0.891295024
Other Commercial Housing	6.860930309
Other Commercial Structures	33.35149435
Other Industrial Structure	15.14637332
Other Residential Structures	1.211743217
Vacant - Platted Lot	12.23174273

Vacant - Unplatted (0 to 9.99 Acres)	18.38115722
Vacant - Unplatted (20 to 29.99 Acres)	21.62829175
Vacant - Unplatted (40 or More Acres)	68.68826714
Vacant Land	211.2603222
RICHLAND TOWNSHIP	1052.473649
1 Family Dwell - Platted Lot	7.654951595
1 Family Dwell - Unplatted (0 to 9.99 Acres)	78.68281142
1 Family Dwell - Unplatted (10 to 19.99 Acres)	17.72961687
2 Family Dwell - Unplatted (0 to 9.99 Acres)	7.483605389
4 to 19 Family Apartments	8.355804664
Cash Grain/General Farm	75.99257346
Commercial Garage	5.225479586
Commercial Warehouse	8.602511054
Exempt, Charitable Organization	50.396725
Exempt, Church, Chapel, Mosque, Synagogue, Tabernacle, or Temple	1.666428504
Exempt, County	23.28755161
Exempt, Municipality	10.69111513
Exempt, Other	31.52592609
Exempt, State of Indiana	16.61607152
Exempt, United States of America	12.47704869
Industrial Office	10.37218819
Industrial Warehouse	35.45155835
Light Manufacturing & Assembly	162.9750854
Livestock Other Than Dairy and Poultry	84.45798931
Medical Clinic or Offices	1.895964472
Mine or Quarry	38.95461682
Office Bldg (1 or 2 Story)	4.92232199
Other Agricultural Use	45.73394596
Other Commercial Housing	2.720705916
Other Commercial Structures	12.899824
Other Food Service	12.29342127
Other Industrial Structure	23.80518862
Other Residential Structures	14.74916153
Parcel Classified as Vacant but is Part of the Support Land for Another Parcel	2.930136366
Residential Condominiums Common Areas	8.395189662
Residential Parcel Classified as Vacant but is Part of the Support Land for Another Parcel	2.44843111
Residential PP Mobile Home (No Plat)	0.736308684
Utility, Railroad State Assessed	30.30235912
Vacant - Platted Lot	2.52345274
Vacant - Unplatted (0 to 9.99 Acres)	36.78735851
Vacant - Unplatted (30 to 39.99 Acres)	73.90139138
Vacant Land	86.82882861
VAN BUREN TOWNSHIP	122.2329403
1 Family Dwell - Platted Lot	2.833624943
1 Family Dwell - Unplatted (0 to 9.99 Acres)	1.745263219
4 to 19 Family Apartments	1.156189811
Auto Sales & Service	1.059934466

Commercial Garage	1.229040413
Commercial Mini-Warehouse	0.55377524
Exempt, County	1.801890275
Exempt, State of Indiana	2.610075962
Full Service Bank	1.13745605
Industrial Office	12.37978813
Industrial Truck Terminal	6.769506201
Light Manufacturing & Assembly	18.1388533
Medical Clinic or Offices	0.953325301
Other Commercial Housing	8.850405659
Other Commercial Structures	1.160574549
Other Industrial Structure	39.90492037
Other Retail Structures	9.173996416
Residential PP Mobile Home (No Plat)	2.249616786
Restaurant, Cafeteria or Bar	0.446235282
Service Station	3.036338818
Vacant - Platted Lot	0.998345456
Vacant - Unplatted (0 to 9.99 Acres)	1.06246413
Vacant Land	2.981319465
(blank)	2469.93801
(blank)	2469.93801
Grand Total	4511.435109

Row Labels	Sum of Acreage
BLOOMINGTON TOWNSHIP	71.78090346
Vacant - Unplatted (10 to 19.99 Acres)	14.76505358
Vacant Land	57.01584987
CLEAR CREEK TOWNSHIP	55.88430444
Vacant - Unplatted (0 to 9.99 Acres)	7.359737281
Vacant Land	48.52456716
PERRY TOWNSHIP	332.189781
Vacant - Platted Lot	12.23174273
Vacant - Unplatted (0 to 9.99 Acres)	18.38115722
Vacant - Unplatted (20 to 29.99 Acres)	21.62829175
Vacant - Unplatted (40 or More Acres)	68.68826714
Vacant Land	211.2603222
RICHLAND TOWNSHIP	205.4195987
Parcel Classified as Vacant but is Part of the Support Land for Another Parcel	2.930136366
Residential Parcel Classified as Vacant but is Part of the Support Land for Another Parcel	2.44843111
Vacant - Platted Lot	2.52345274
Vacant - Unplatted (0 to 9.99 Acres)	36.78735851
Vacant - Unplatted (30 to 39.99 Acres)	73.90139138
Vacant Land	86.82882861
VAN BUREN TOWNSHIP	5.042129052
Vacant - Platted Lot	0.998345456
Vacant - Unplatted (0 to 9.99 Acres)	1.06246413
Vacant Land	2.981319465
(blank)	670.3167167
(blank)	670.3167167
Grand Total	1340.633433

CHAPTER 858

SUBDIVISIONS: ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

858-1. Purpose

The purpose of this section is to ensure that subdivisions that are approved by the Plan Commission are completed in the manner required. The subdivider has the option to either build out all improvements required by the approved preliminary plat ("Completion Requirement") or provide the County with a Financial Guaranty for the cost of said improvements ("Performance Bond Document and Financial Guaranty Alternative to Completion Requirement"). For subdivisions in which all infrastructure is proposed to be public, the goal of this ordinance provision would be to ensure that the subdivider install and apply for the improvements to be accepted into the County Inventory and, ultimately, be accepted and maintained by the County. The standards for improvements must be laid out in the approved preliminary plat.

858-2. Completion Requirement

Before the Commission may consider a plat for final approval, the Subdivider shall be required to:

- (A) complete the required improvements in the manner prescribed by these regulations, by preliminary approval, and by the grading permit application consistent with the approved preliminary plat and any required conditions (thereafter "grading permit");
- (B) apply for dedication of the public rights-of-way and other public improvements to the County, free and clear of all liens and encumbrances; and,
- (C) If the public rights-of-way and other public improvements are accepted under part (B), the applicant then shall provide the County with a maintenance bond for any improvement within the right-of-way, which complies with Section 858-9.
- (D) Applicant may then submit for final plat recording.

858-3. Performance Bond Document, Performance Period, and Financial Guaranty Alternative to Completion Requirement

- (A) The subdivider must state during the preliminary plat approval stage whether they will comply with the Completion Requirement, or follow the Performance Bond Document, Performance Period, and Financial Guaranty Alternative to Completion Requirement. The following terms are defined herein:

Performance Bond Document is laid out under Chapter 860 under Appendix 860-1. This document specifies the terms of when the financial guaranty can be turned over to the County for completion. It also specifies that the subdivider is required to continue to maintain the private improvements until such time as they are accepted into the County Inventory.

Performance period defines the time period that the subdivider has until all public improvements are applied for acceptance into the County inventory and a request for a release of financial guaranty is made and approved;

Financial Guaranty is a cashiers check to the County. The amount of the financial guaranty depends on the performance period (see below).

- (B) The Commission may consider a plat for final approval before the requirements of Section 858-2 have been satisfied if, and only if, the Subdivider:
 - a. Signs and records a performance bond document ("performance bond"), and,
 - b. Accompanies the performance bond with a financial guaranty to ensure that the required improvements will be completed and/or dedicated in the manner prescribed by these regulations, by preliminary approval, and by the grading permit.

- (C) The financial guaranty amount shall encompass:
 - a. All improvements that may be dedicated to the public (e.g. roadways, sidewalks, stormwater infrastructure, etc.), and
 - b. all improvements required specifically by ordinance (e.g. street trees, erosion stabilization, trails, etc.) except for utility installation. The County will require written commitments for utility installation meeting the approved preliminary plat; the written commitment shall be recorded with the subdivision plat and performance bond document.

- (D) The period within which the required improvements must be completed ("performance period") shall be specified by the Subdivider and approved by the Commission as a condition of preliminary plat approval, shall be incorporated in the performance bond document (see Appendix 860-1) as a material and essential term and shall not exceed five years from the date of final plat approval; and,

- (E) To account for inflationary cost increase, the approved financial guaranty amount must include 10% inflation cost adjustment for each year requested by the subdivider beyond year 1 for the performance period (See Table 1 below).

Table 1.

Year	Project Estimate	Inflation Cost (10% of Project Estimate)	Maintenance Bond (10% of Project Estimate+ Inflation Cost)	TOTAL (Project Estimate + Inflation Cost + Maintenance Bond)
1	\$100,000	\$ -	\$ 10,000	\$110,000
2	\$100,000	\$ 10,000	\$ 11,000	\$121,000
3	\$110,000	\$ 11,000	\$ 12,100	\$133,100
4	\$121,000	\$ 12,100	\$ 13,310	\$146,410
5	\$133,100	\$ 13,310	\$ 14,641	\$161,051
6	\$146,410	\$ 14,641	\$ 16,105	\$177,156

- (F) The Commission may amend the performance period to extend the performance period for only a single additional one (1) year period upon a finding that the Subdivider has been unable to complete the required improvements despite due diligence. A request for a performance period extension must be submitted to the Commission by the Subdivider at least four (4) months prior to the expiration date of the original performance period. As a condition precedent of such performance bond amendment, at least one (1) month prior to the expiration date of the original performance period, the Subdivider shall secure the amended performance bond in accordance with these regulations and shall submit the secured, amended performance bond to the Commission. The amended performance bond amount ~~shall include up-to-date unit price estimates submitted by the petitioner's engineer based on the higher of the latest INDOT pricing, or local bid history where applicable. If a new estimate is not provided at least 30 days prior to performance bond expiration,~~ subdivider shall include an additional 10% increase for every year the guaranty is renewed. Letters of Credit may be called 30 days before expiration. For existing performance bonds approved prior to xx, xx, 2024, that require renewal, the amended performance bond shall comply with Part E above in **xx, xx 2025**; and
- (G) The performance bond shall name the Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney and/or County Attorney as to form (see Section 860-6), sufficiency and manner of execution as set forth in these regulations.

858-4. Financial Guaranty

A performance bond authorized or required by these regulations shall be secured by a cashier's check in the amount of the performance bond. The beneficiary of such financial guaranty shall be the Commission and/or the County (guarantee). Cashier's checks submitted pursuant to this chapter shall be held by the County Treasurer until the performance bond is released or reduced as provided in these regulations.

858-5. Governmental Units

In lieu of a cashier's check, governmental units, to which these regulations apply, may secure their performance bonds by filing a certified resolution or ordinance with the Commission. The resolution or ordinance must have been adopted by the unit's fiscal body and must affirm the unit's obligation and financial ability to complete the required improvements.

858-6. Temporary Public Improvements

The Subdivider, at the Subdivider's expense, shall complete, shall maintain and shall remove all temporary public improvements required by these regulations, by preliminary approval and by the grading permit in the manner prescribed by these regulations. The schedule for the completion, maintenance and removal of temporary improvements shall be incorporated in the grading permit, and will prevent final platting until subdivision improvement completion, or posting a financial guarantee for the remainder of the improvements. The amount of the performance bond shall be adjusted to reflect the cost of the temporary improvements.

858-7. Cost of Public Improvements

All required improvements shall be made by the Subdivider, at the Subdivider's expense, without reimbursement by the County, unless the County expressly agrees to share in the cost of the required improvements.

858-8. Failure to Complete Improvements

- (A) If a performance bond has not been posted and the required improvements have not been completed in the manner prescribed by these regulations, by preliminary approval and by the grading permit prior to the expiration of preliminary approval, preliminary approval shall lapse, and shall be null and void, regardless of partial improvement completion.
- (B) If a performance bond has been posted and the required improvements are not completed in accordance with the terms of the performance bond, the Commission may declare the performance bond to be in default and authorize the calling of the performance bond and financial guaranty and the completion of the required improvements under the supervision of the County Engineer.

858-9. Release or Reduction of Performance Bond and Financial Guaranty

- (A) The Commission may release or reduce the performance bond and financial guaranty, but only if:
 - (1) the Subdivider applies to the Commission, in writing, for the release or reduction of the performance bond and financial guaranty and provides the Commission with a certificate, signed by the Subdivider's engineer, stating that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the grading permit. The certification of the Subdivider's engineer shall be accompanied by detailed "as-built" plans of the required improvements. Such as-built plans must be prepared and signed by the Subdivider's engineer;
 - (2) the County Engineer reviews the as-built plans and the subdivision site and reports to the Commission, in writing, that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the grading permit;
 - (3) the Subdivider provides the Commission with written assurances, in the form of affidavits, releases or waivers of liens from all contractors, subcontractors and materialmen, that liens will not be filed against the dedicated land and/or improvements after they are accepted; and,
 - (4) the Subdivider provides the Commission with the maintenance bond required by Section 858-9.

- (B) A performance bond and financial guaranty may be reduced only upon the acceptance of the required improvements, and only by the amount that corresponds to the cost of the improvements that are accepted as set forth in the preliminary approval. Furthermore, a performance bond and financial guaranty may be reduced only one (1) time. The reduction may be approved only after at least fifty percent (50%) of the required improvements / project estimate at end of agreed upon performance period have been completed and accepted. However, in no event may the performance bond be reduced to less than ten percent (10%) of the total performance bond amount prior to any reduction or ten thousand dollars (\$10,000.00), whichever is greater, until all required improvements for the subdivision or the approved subdivision section have been completed and accepted and the inflation amount at the end of the performance period. The application for a reduction request must include an updated estimate to reflect current unit pricing prior to submitting for a reduction; the estimate must be provided by the petitioner's engineer for staff review.
- (C) The costs incurred by the Commission and/or the County in connection with a request for performance bond and financial guaranty reduction or release (for example, without limitation, engineering inspection fees, legal fees, etc.) shall be borne by the Subdivider, regardless of whether the request is ultimately granted. No performance bond and financial guaranty shall be released or reduced until such costs have been paid by the Subdivider.
- (D) The Commission may, by rule, authorize the Director to reduce or release performance bonds and, by rule, may establish the procedures by which the Director may reduce or release such bonds.

858-10. Maintenance of Public Improvements

- (A) The Subdivider shall be required to maintain the required improvements and to provide for snow and ice removal on streets and sidewalks until the County accepts the required improvements.
- (B) Prior to the County's acceptance of the required improvements and prior to the release of the performance bond and financial guaranty, the Subdivider shall be required to post a maintenance bond with the Commission to ensure the satisfactory condition of the required improvements. The maintenance bond shall be in the amount of ten percent (10%) of the cost of all public improvements as approved by the Commission or two thousand five hundred dollars (\$2,500.00), whichever is greater, and may not be reduced prior to release. The maintenance bond shall name the Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney and/or County Attorney as to form (see Section 860-7), sufficiency and manner of execution as set forth in these regulations. The maintenance bond shall be secured in the manner prescribed by Section 858-3 for a minimum period of two (2) years following the date on which the County accepts the public improvements covered by the maintenance bond.

858-11. Issuance of Permits

No building permit or improvement location permit shall be issued for a subdivision lot until the Subdivider has completed all of the required improvements, or has provided a

performance bond meeting the minimum requirements of this chapter , for the subdivision or for the approved subdivision section in which the lot is located.

858-12. Acceptance of Dedication Offers

The Commission's approval of a subdivision plat shall not be deemed to constitute or imply the County's acceptance of any street, easement, park or other public improvement shown on the plat. The Commission may require that the plat be endorsed with appropriate notes to that effect. The County may accept the dedication of such public improvements by appropriate official action.

[end of chapter]

CHAPTER 858

SUBDIVISIONS: ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

~~858-1.~~ ~~858-1.~~ Purpose

The purpose of this section is to ensure that subdivisions that are approved by the Plan Commission are completed in the manner required. The subdivider has the option to either build out all improvements required by the approved preliminary plat ("Completion Requirement") or provide the County with a Financial Guaranty for the cost of said improvements ("Performance Bond Document and Financial Guaranty Alternative to Completion Requirement"). For subdivisions in which all infrastructure is proposed to be public, the goal of this ordinance provision would be to ensure that the subdivider install and apply for the improvements to be accepted into the County Inventory and, ultimately, be accepted and maintained by the County. The standards for improvements must be laid out in the approved preliminary plat.

~~858-12.~~ Completion Requirement

Before the Commission may consider a plat for final approval, the Subdivider shall be required to:

- (A) complete the required improvements in the manner prescribed by these regulations, by preliminary approval, and by ~~the subdivision improvement agreement~~ grading permit application consistent with the approved preliminary plat and any required conditions (hereafter "grading permit");
- (B) apply for ~~dedicate~~ ion of the public rights-of-way and other public improvements to the County, free and clear of all liens and encumbrances; and,
- (C) If the public rights-of-way and other public improvements are accepted under part (B), the applicant then shall provide the County with a maintenance bond for any improvement within the right-of-way, which that complies with Section 858-9.
- (D) Applicant may then submit for final plat recording.

~~858-32.~~ ~~Performance Bond Document, Performance Period, and Financial Guaranty Alternative to Completion Requirement~~

(A) The subdivider must state during the preliminary plat approval stage whether they will comply with the Completion Requirement, or follow the Performance Bond Document, Performance Period, and Financial Guaranty Alternative to Completion Requirement. The following terms are defined herein:

Performance Bond Document ~~is~~ laid out under Chapter 860 under Appendix 860-1. This document specifies the terms of when the financial guaranty can be turned over to the County for completion. It also specifies that the subdivider is required to continue to maintain the private improvements until such time as they are accepted into the County Inventory.

Commented [TB1]: ORC - what obligation does the County have for subdivisions that post letters of credit but never start construction?

Final plat with no improvements on the ground. Developer walks away. Does the County build the subdivision? What about utility expansion?

Commented [JNJ2]: Maybe these go into the definitions

Performance period defines the time period that the subdivider has until all public improvements are applied for acceptance into the County inventory and a request for a release of financial guaranty is made and approved;

Financial Guaranty is a cashiers check ~~thato~~ the County. The amount of the financial guaranty depends on the performance period (see below).

~~(B) (A)~~ The Commission may consider a plat for final approval before the requirements of Section 858-24 have been satisfied if, and only if, the Subdivider:

- a. ~~posts Signs and records a performance bond document~~ ("performance bond"), ~~and,~~
- b. Accompanies the performance bond with a financial guaranty to ensure that the required improvements will be completed and/or dedicated in the manner prescribed by these regulations, by preliminary approval, and by the grading permit subdivision-improvement agreement.

Commented [TB3]: Should the Plan Commission be provided info on how much the developer plans to install vs place in a financial guaranty + timeline during the time of prelim plat consideration?

Commented [TB4R3]: Needs to be added into subdivision ordinances.

~~(C)~~ The performance bond/financial guaranty amount shall encompass:

- a. All improvements that may be dedicated to the public (e.g. roadways, sidewalks, stormwater infrastructure, etc.) and
- b. all improvements required specifically by ordinance (e.g. Roadways, street trees, erosion stabilization, sidewalks, stormwater infrastructure, trails, etc.) except for utility installation. The County will require written commitments for utility installation meeting the approved preliminary plat; the written commitment shall be recorded with the subdivision plat and performance bond document.

Commented [TB5]: Even if some improvements are made, if not accepted into inventory then must bond for them. Confirm with Hghway.

~~(B)~~ The first year performance bond document and financial guaranty shall be in the amount of one hundred and ten percent (110%) of the estimated completion cost of the required improvements as set forth in the preliminary approval. ~~first year financial guaranty consists of the price of the estimate for all required subdivision improvements plus a maintenance bond calculated at 10 percent of estimates and added together (see Table 1); and. However, the Commission may accept a performance bond in a reduced amount if the Commission finds, based on written evidence submitted by the Subdivider, that:~~

- ~~(1) the amount by which the performance bond is reduced relates exclusively to the completion cost of the required utility facilities as set forth in the preliminary approval;~~
- ~~(2) the Subdivider has entered into written agreements for the completion of the required utility facilities and for the provision of utility services to the subdivision lots; and,~~
- ~~(3) the written evidence provides satisfactory assurances that the required utility facilities will be completed in accordance with these regulations, with preliminary approval, and with the subdivision improvement agreement.~~

~~(C)~~ The period within which the required improvements must be completed ("performance period") shall be specified by the Subdivider and approved by the Commission as a condition of final-preliminary plat approval, shall be incorporated

in the performance bond document (see Appendix 860-1) as a material and essential term and shall not exceed **five** years from the date of final plat approval; and,

Commented [TB6]: Consider making this an administrative item to the Plan Commission

(DE) To account for inflationary cost increase, the approved financial guaranty amount price estimate must include 10% inflation cost adjustment for each year requested by the subdivider beyond year 1 for the performance period (e.g. if the performance period is estimated to take four years to complete then See Table 1 below).

Table 1.

Year	Project Estimate	Inflation Cost (10% of Project Estimate)	Maintenance Bond (10% of Project Estimate+ Inflation Cost)	TOTAL (Project Estimate + Inflation Cost + Maintenance Bond)
1	\$100,000	\$ -	\$ 10,000	\$110,000
2	\$100,000	\$ 10,000	\$ 11,000	\$121,000
3	\$110,000	\$ 11,000	\$ 12,100	\$133,100
4	\$121,000	\$ 12,100	\$ 13,310	\$146,410
5	\$133,100	\$ 13,310	\$ 14,641	\$161,051
6	\$146,410	\$ 14,641	\$ 16,105	\$177,156

(E) The Commission may amend the performance period to extend the performance period for ~~only a single an~~ additional one (1) year period upon a finding that the Subdivider has been unable to complete the required improvements despite due diligence. A request for a performance period extension must be submitted to the Commission by the Subdivider at least four (4) months prior to the expiration date of the original performance period. As a condition precedent of such performance bond amendment, at least one (1) month prior to the expiration date of the original performance period, the Subdivider shall secure the amended performance bond in accordance with these regulations and shall submit the secured, amended performance bond to the Commission. The amended performance bond amount shall include up-to-date unit price estimates submitted by the petitioner's engineer based on the higher of the latest INDOT pricing, or local bid history where applicable. If a new estimate is not provided at least 30 days prior to performance bond expiration, subdivider shall include an additional 10% increase for every year the guaranty is renewed. Letters of Credit may be called 30 days before expiration. For existing performance bonds approved prior to xx, xx, 2024, that require renewal, the amended performance bond shall comply with Part E above in xx, xx 2025; and:

Commented [JNJ7]: Expected unintended consequence: More developers of old projects walk away.

What do we do with subdivisions half complete that we don't have enough money for?

Commented [JNJ8]: Question for ORC/Legal - what about old LOC that haven't kept up with inflation. First part of sentence requires much higher increase than second part?

(EG) The performance bond shall name the Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney and/or County Attorney as to form (see Section 860-6), sufficiency and manner of execution as set forth in these regulations.

858-34. Financial Guaranty

A performance bond authorized or required by these regulations shall be secured by either an irrevocable letter of credit or a cashier's check in the amount of the performance bond. The beneficiary of such financial guaranty shall be the Commission and/or the County (guarantee). ~~The financial guaranty shall be issued by a financial institution (guarantor) that maintains an office within sixty (60) miles of Monroe County, Indiana, at which the financial guaranty may be presented for payment. Letters of credit submitted pursuant to this chapter shall comply with Section 860-8.~~ Cashier's checks submitted pursuant to this chapter shall be held by the County Treasurer until the performance bond is released or reduced as provided in these regulations.

Commented [JNJ9]: Reasoning - discourages higher bonding/requires more completion of improvements. Makes it so staff does not have to be at the bank at the last minute.

Commented [JNJ10R9]: IF we keep LOC
- auto renewal like Evansville?
- cash earlier than day of?

OR if we get rid of LOC and only do cashiers check - at time of "renewal" they don't walk away but refuse to change to cashiers check, would we have to cash LOC? Phasing out old LOC

858-54. Governmental Units

In lieu of a ~~letter of credit or~~ cashier's check, governmental units, to which these regulations apply, may secure their performance bonds by filing a certified resolution or ordinance with the Commission. The resolution or ordinance must have been adopted by the unit's fiscal body and must affirm the unit's obligation and financial ability to complete the required improvements.

858-56. Temporary Public Improvements

The Subdivider, at the Subdivider's expense, shall complete, shall maintain and shall remove all temporary public improvements required by these regulations, by preliminary approval and by the ~~grading permit~~ ~~subdivision improvement agreement~~ in the manner prescribed by these regulations, ~~by preliminary approval and by the subdivision improvement agreement~~ ~~grading permit~~. The schedule for the completion, maintenance and removal of temporary improvements shall be incorporated in the ~~grading permit~~ ~~subdivision improvement agreement, and will prevent final platting until subdivision improvement completion, or posting a financial guarantee for the remainder of the improvements as a material and essential term.~~ The amount of the performance bond shall be adjusted to reflect the cost of the temporary improvements.

Commented [TB11]: Does the county do this already? Examples?

858-67. Cost of Public Improvements

All required improvements shall be made by the Subdivider, at the Subdivider's expense, without reimbursement by the County, unless the County expressly agrees to share in the cost of the required improvements.

858-87. Failure to Complete Improvements

- (A) If a performance bond has not been posted and the required improvements have not been completed in the manner prescribed by these regulations, by preliminary approval and by the ~~subdivision improvement agreement~~ ~~grading permit~~ prior to the expiration of preliminary approval, preliminary approval shall lapse, and shall be null and void, regardless of partial improvement completion.
- (B) If a performance bond has been posted and the required improvements are not completed in accordance with the terms of the performance bond, the Commission

may declare the performance bond to be in default and authorize the calling of the performance bond and financial guaranty and the completion of the required improvements under the supervision of the County Engineer.

Commented [TB12]: How does this work with utilities?
Water/electric/sewer/gas/cables

858-98. Release or Reduction of Performance Bond and Financial Guaranty

- (A) The Commission may release or reduce the performance bond and financial guaranty, but only if:
- (1) the Subdivider applies to the Commission, in writing, for the release or reduction of the performance bond and financial guaranty and provides the Commission with a certificate, signed by the Subdivider's engineer, stating that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the [grading permitsubdivision-improvement-agreement](#). The certification of the Subdivider's engineer shall be accompanied by detailed "as-built" plans of the required improvements. Such as-built plans must be prepared and signed by the Subdivider's engineer;
 - (2) the County Engineer reviews the [as-built plans](#) and the subdivision site and reports to the Commission, in writing, that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the [grading permitsubdivision-improvement-agreement](#);
 - (3) the Subdivider provides the Commission with written assurances, in the form of affidavits, releases or waivers of liens from all contractors, subcontractors and materialmen, that liens will not be filed against the dedicated land and/or improvements after they are accepted; and,
 - (4) the Subdivider provides the Commission with the maintenance bond required by Section 858-9.
- (B) A performance bond and surety financial guaranty may be reduced only upon the acceptance of the required improvements, and only by the amount that corresponds to the cost of the improvements that are accepted as set forth in the preliminary approval. Furthermore, a performance bond and financial guaranty may be reduced only one (1) time. The reduction may be approved only after at least fifty percent (50%) of the required improvements / [project estimate at end of agreed upon performance period](#) have been completed and accepted. However, in no event may the performance bond be reduced to less than ten percent (10%) of the [original final total](#) performance bond amount [prior to any reduction](#) or ten thousand dollars (\$10,000.00), whichever is greater, until all required improvements for the subdivision or the approved subdivision section have been completed and accepted [and the inflation amount at the end of the performance period](#). [The application for a reduction request must include an updated estimate to reflect current unit pricing prior to submitting for a reduction; the estimate must be provided by the petitioner's engineer for staff review.](#)
- (C) The costs incurred by the Commission and/or the County in connection with a request for performance bond and financial guaranty reduction or release (for

Commented [TB13]: Make more specific, stamped/signed as-built plans?!

Commented [TB14]: Can we limit when reductions can take place within an agreed upon performance period (i.e. performance period is 3 years and they cannot reduce in year 3)?

Commented [TB15]: Clear terminology?

example, without limitation, engineering inspection fees, legal fees, etc.) shall be borne by the Subdivider, regardless of whether the request is ultimately granted. No performance bond and financial guarantysurety shall be released or reduced until such costs have been paid by the Subdivider.

- (D) The Commission may, by rule, authorize the Director to reduce or release performance bonds and, by rule, may establish the procedures by which the Director may reduce or release such bonds.

858-109.

Maintenance of Public Improvements

- (A) The Subdivider shall be required to maintain the required improvements and to provide for snow and ice removal on streets and sidewalks until the County accepts the required improvements.
- (B) Prior to the County's acceptance of the required improvements and prior to the release of the performance bond and financial guaranty, the Subdivider shall be required to post a maintenance bond with the Commission to ensure the satisfactory condition of the required improvements. The maintenance bond shall be in the amount of ten percent (10%) of the cost of all public improvements as approved by the Commission or two thousand five hundred dollars (\$2,500.00), whichever is greater, and may not be reduced prior to release. The maintenance bond shall name the Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney and/or County Attorney as to form (see Section 860-7), sufficiency and manner of execution as set forth in these regulations. The maintenance bond shall be secured in the manner prescribed by Section 858-3 for a minimum period of two (2) years following the date on which the County accepts the public improvements covered by the maintenance bond.

858-110.

Issuance of Permits

No building permit or improvement location permit shall be issued for a subdivision lot until the Subdivider has completed all of the required improvements, or has provided a performance bond meeting the minimum requirements of this chapter excepting sidewalks and the final pavement coat, for the subdivision or for the approved subdivision section in which the lot is located. ~~and until such required improvements have been accepted by the County.~~

858-112.

Acceptance of Dedication Offers

The Commission's approval of a subdivision plat shall not be deemed to constitute or imply the County's acceptance of any street, easement, park or other public improvement shown on the plat. The Commission may require that the plat be endorsed with appropriate notes to that effect. The County may accept the dedication of such public improvements by appropriate official action.

[end of chapter]

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