

# AGENDA

## AREA PLAN COMMISSION OF EVANSVILLE AND VANDERBURGH COUNTY

PUBLIC HEARING  
NOVEMBER 10, 2016

CIVIC CENTER COMPLEX  
CITY COUNCIL CHAMBERS, ROOM 301

### **ROLL CALL**

A roll call of members to establish a quorum present.

### **APPROVAL OF MINUTES**

### **CITY REZONINGS**

Docket No: [2016-29-PC R-2016-27](#) Petitioner: SES, LLC/Steve Schmitt  
Address: (Complete legal on file.) 614-618 N. St. Joseph Avenue  
Nature of Case: Rezone from R-2 to C-2.

Docket No: [2016-31-PC R-2016-28](#) Petitioner: Hemang Shah  
Address: (Complete legal on file.) 202 S.E. Second Street  
Nature of Case: Rezone from CO-2 to C-3.

### **COUNTY REZONINGS**

Docket No: [2016-30-PC VC-7-2016](#) Petitioner: Keith A. & Jennifer A. Karges  
Address: (Complete legal on file.) 13000 N. Warrick County Line Road  
Nature of Case: Rezone from M-2 to agricultural.

Docket No: [2016-32-PC VC-8-2016](#) Petitioner: Daniel C. Fuquay  
Address: (Complete legal on file.) 8425 Schmuck Road and part of 8028 Azalea Drive  
Nature of Case: Rezone from agricultural to C-4 with a use and development commitment.

Docket No: [2016-33-PC VC-9-2016](#) Petitioner: Henry Schlensker  
Address: (Complete legal on file.) (Part of) 4100 Kansas Road  
Nature of Case: Rezone from agricultural to M-2 with a use and development commitment.

### **MAJOR SUBDIVISION & SIDEWALK WAIVER**

Docket Nos: [10-S-2016 & 35-SW-2016](#) [Mortensen Sunrise](#) [Lots: 3](#)  
Location: 2311 N. Green River Road  
Engineer: Andy Easley Engineering Applicant: Sunrise Development II, LLC

### **OTHER BUSINESS**

Docket No: [11-S-2006](#) Summer Creek Applicant: David Meyers & Thomas Merrill  
Request for a 5-year extension of time to record Section 1 of the subdivision.

[An Ordinance amending the Vanderburgh County Zoning Code regarding confined feeding operations.](#)

Any other business of a regular meeting.

### **ADJOURNMENT**

STAFF REPORT  
October 27, 2016

Docket Number: CITY rezoning 2016-29-PC R-2016-27  
Address: 614-618 N St Joseph Avenue  
Parcel ID: 82-05-23-018-116.001-025, .002-025, and .043-025  
Location: Southwest corner of St Joseph Avenue and Delaware Street  
Council District: Ward 6 – Jim Brinkmeyer  
Petitioner: SES, LLC / Steve Schmitt  
Owner: Same  
Request: Rezone from R-2 to C-2  
Lot size: 0.23 ac

**BACKGROUND INFORMATION:**

This is a request for rezoning to allow development of a commercial use on the site. These three R-2 zoned lots are the only residential lots remaining along the St. Joseph Avenue commercial strip from Lloyd Expressway to Maryland Street. Over the years, all of the lots except these three remaining parcels have been zoned for commercial or high density residential projects.

**LAND USE:**

Section 18.175.020 of the Zoning Code provides criteria that the Area Plan Commission and legislative body shall consider in evaluating rezoning requests. The following facts relate to the Code evaluation criteria.

EXISTING LAND USE: Vacant lots

**CHARACTER OF SURROUNDING ZONING AND USE:**

North	C-4 & C-2	Delaware Street – Walgreens Drug Store
South	C-2	(owner's) vacant lot – Taco John's Restaurant
East	C-4	St. Joseph Avenue – CVS Drug Store
West	R-2	alley - residences

APPLICANT'S STATED USE: Future retail

ALLOWED USES IN PROPOSED ZONE: The City zoning code allows 110 uses within the C-2 district, including multi-family residential, office, commercial, service, and recreational uses. The district allows maximum 75% lot coverage and there is a 50 foot height limit for structures. C-2 allows two signs per frontage totaling up to 500 sq. ft.

**COMPREHENSIVE PLAN:**

The Comprehensive Plan Future Land Use Map in the newly-adopted Comprehensive Plan identifies the frontage along St. Joseph Avenue from Lloyd Expressway to Maryland Street as predominantly commercial, with residential development adjacent both east and west of the site. This rezoning to C-2 will result in all parcels fronting on this strip of St. Joseph Avenue being consistent with mixed commercial development.

**GENERAL INFORMATION**

FLOOD ZONE: No – Zone "X"

UTILITIES: Information submitted by the applicant indicates that all utilities are available to this site.

**CONTINUED ON NEXT PAGE**

**TRAFFIC/STREETS/ACCESS:**

This site is at the southwest corner of St. Joseph Avenue and Delaware Street, a controlled intersection. In recent years, the residences that previously occupied the lots were razed, and the lots have remained vacant since that time. There are currently no curb cuts or access drives on either St. Joseph Avenue or Delaware Street. Evansville Metropolitan Planning Organization states: "Any access should meet the guidelines given in the MPO's Access Management Manual and Development Guide." Compliance with access standards will be determined by Site Review upon submission of plans for the development of a commercial use on the site.

**COMPLIANCE OF APPLICANT'S SUBMITTED/PRELIMINARY SITE PLAN:**

**COMPLIANCE:** Compliance with all code requirements will be addressed by Site Review upon submission of plans for the development of the site.

**PARKING:** The amount of required parking is determined by the use of the site. Compliance with parking will be addressed by staff upon submission of plans for the development of the site.

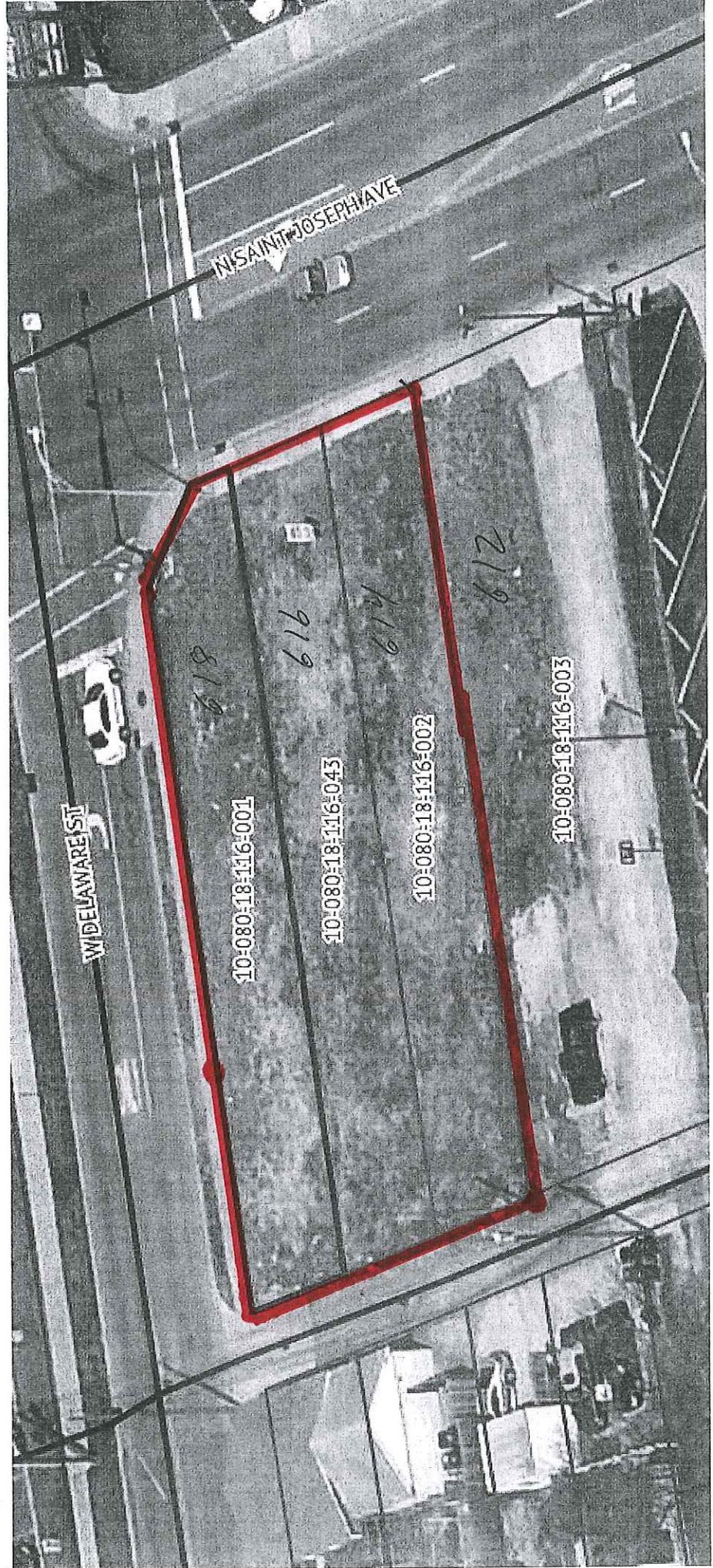
**ADDITIONAL INFORMATION**

This site is in an older area of very mixed zonings and uses. The North Saint Joseph Avenue frontage from Lloyd Expressway to Maryland Street is completely commercial with the exception of these three remaining residential lots. South of Lloyd is industrial, and north of Maryland Street is a mix of commercial, industrial and park use.

The Applicant also owns the vacant C-2 zoned lot at 612 N. St. Joseph Avenue adjacent south of this rezoning site. If all lots were to be combined, there would be a total of 0.68 acres available for development (238' x 125').

2016-79-PC

copy



25

R-2016-79

**Zoning Class**

- A
- AIR
- C-1
- C-2
- C-3
- C-4
- CO-1
- CO-2
- M-1
- M-2
- M-3
- PUD
- R-1
- R-2
- R-3
- R-3A
- R-4
- R-5
- WI
- WR



614, 616, 618 N ST JOSEPH AVENUE  
 2016-29-PC R-2016-27



COLUMBIA

HESS

SAINT JOSEPH

DELAWARE

R-2016-27

IOWA

STAFF REPORT  
October 27, 2016

Docket Number: CITY rezoning 2016-31-PC R-2016-28  
Address: 202 SE Second Street  
Parcel ID: 82-06-03-020-018.008-029  
Location: East side of Southeast Second Street, from Walnut Street to Chestnut Street  
Council District: Ward 4 – Connie Robinson  
Petitioner: Hemang Shah  
Owner: EVV Lodge of Perfection  
Request: Rezone from CO-2 to C-3  
Lot size: 1.07 acres

**BACKGROUND INFORMATION:**

This is a request for rezoning to allow construction of a new 139-room hotel on the site. The existing CO-2 zoning classification does not allow hotels. The site is located within the Downtown TIF Redevelopment area, and as such the C-3 zoning classification is appropriate for the site.

**LAND USE:**

Section 18.175.020 of the Zoning Code provides criteria that the Area Plan Commission and legislative body shall consider in evaluating rezoning requests. The following facts relate to the Code evaluation criteria.

**EXISTING LAND USE:** Paved parking lot for the Scottish Rite Cathedral & offices

**CHARACTER OF SURROUNDING ZONING AND USE:**

North	C-3	Walnut Street – parking lot
South	CO-2	Chestnut Street – Scottish Rite – alley - CO-2 residences/apartments
East	CO-2	offices and parking lot
West	C-3	SE Second Street - church

**APPLICANT’S STATED USE:** 139 room, 5-story hotel

**ALLOWED USES IN PROPOSED ZONE:** The City zoning code allows 114 uses within the C-3 district, including residential, office, commercial, service, and recreational uses. The district allows unlimited lot coverage and height for structures. C-3 allows on-premises signs up to 150 sq. ft. (requires Redevelopment Commission approval for all signs.)

**COMPREHENSIVE PLAN:**

The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site on SE Second Street has been projected to be for “mixed use”. The majority of land within the Downtown TIF Redevelopment area is designated for mixed use. The rezoning of this site from CO-2 to C-3 is consistent with the Comprehensive Plan in that the C-3 classification allows mixed use.

**GENERAL INFORMATION**

**FLOOD ZONE:** No – Zone “X”

**UTILITIES:** Information submitted by the applicant indicates that all utilities are available to this site.

**CONTINUED ON NEXT PAGE**

#### TRAFFIC/STREETS/ACCESS:

The overall scope of this development will require vacation of a part of Chestnut Street to connect the new hotel to its drop-off/pick-up area and the parking lot. The plans indicate that the primary entrance is to be located where Chestnut Street currently intersects with SE Second Street. A second entrance is planned onto Walnut Street. Evansville Metropolitan Planning Organization states: "Access should be designed and maintained in accordance with the Access Management Manual and Development Guide."

#### COMPLIANCE OF APPLICANT'S SUBMITTED/PRELIMINARY SITE PLAN:

COMPLIANCE: Compliance with all code requirements will be addressed by Site Review upon submission of plans for the development of the site.

PARKING: Hotels require one parking space for each rental unit plus one space for each 5 employees of the largest working shift. The 139-room hotel would require 139 spaces plus additional parking to accommodate employees. The site plan as submitted would indicate that the hotel would be entitled to a reduction (an exemption) of at least 6 parking spaces due to the provision of parking lot islands and trees. The site plan indicates 129 spaces are planned on-site.

The zoning code allows the provision of additional/alternate parking off-site if it is within 300 feet of the subject use. There is a City-owned, public parking garage at 120 SE Third Street, less than 300 feet from the proposed new hotel site. Also, there are numerous surface parking lots that appear to be underutilized in very close proximity to the new hotel where there may be an opportunity for some shared parking agreement(s) if necessary.

#### ADDITIONAL INFORMATION

The Scottish Rite Office and Cathedral was established on the property located at 203 Chestnut Street in the mid 1930's. Prior to their establishment of their use on the site, it was the home of the Shriner's Temple. Over the years, the building was expanded and now occupies the entire half-block on the south side of Chestnut Street from SE Second Street to SE Third Street. Over time, the Scottish Rite acquired the property at 202 SE Second Street and installed a paved parking lot for the Cathedral. The paved parking lot that currently occupies the eastern half of the block along the SE Second Street frontage from Walnut Street to Chestnut Street is the site that is the subject of this rezoning request. The Applicant plans to construct a new Hyatt Place Hotel on the site, and is seeking to rezone the site to C-3, a classification that is consistent with its location in the Downtown TIF Redevelopment area and is an appropriate classification for a hotel. The Scottish Rite Cathedral will be razed, and a new parking lot for the hotel will be constructed on that site.



# New Hyatt Place Hotel

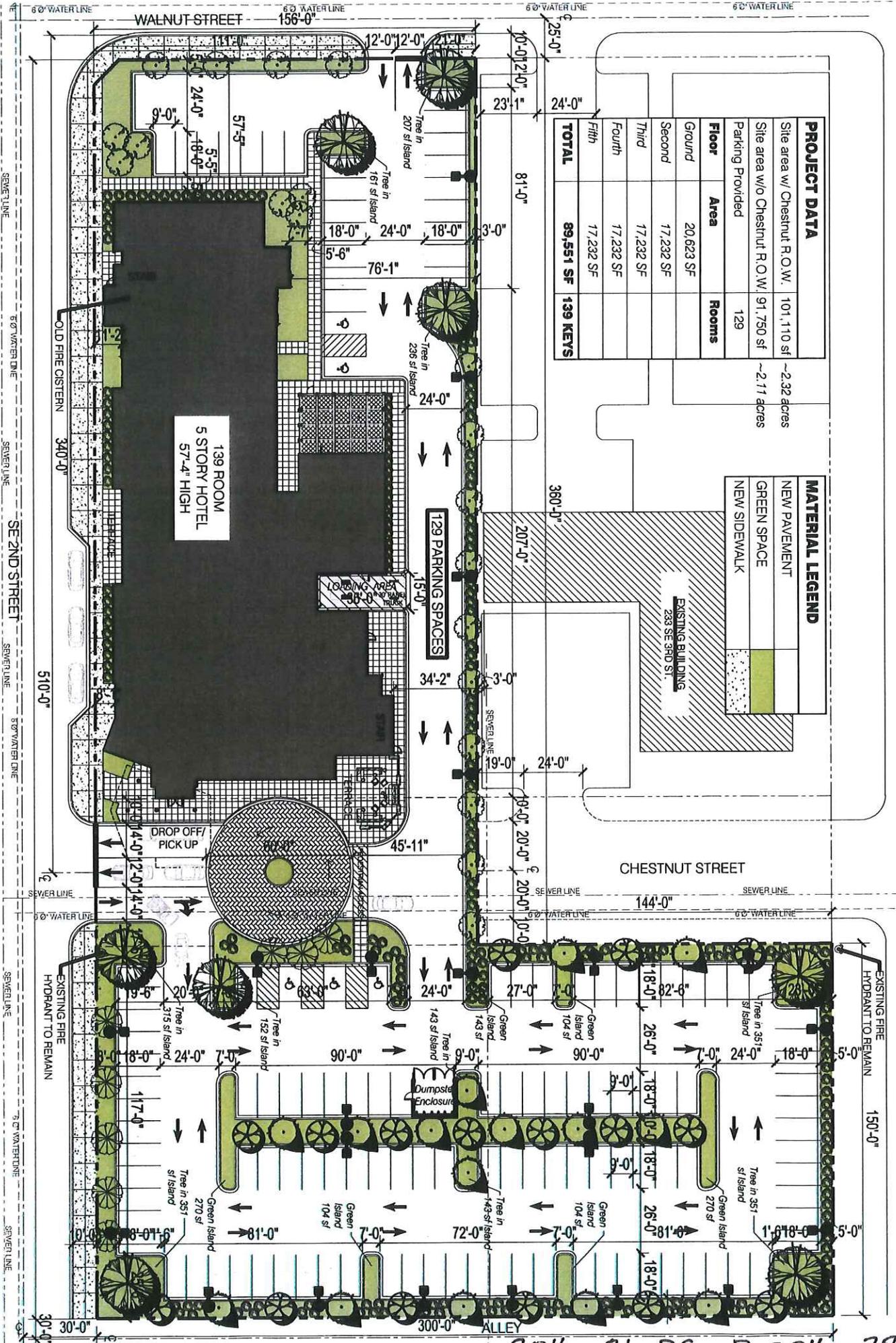
202 SE 2nd Street, Evansville, IN 47713

KINSHIP HOSPITALITY, LLC



ARCHITECTS ENGINEERS PLANNERS  
323 N. LA Salle St. | Suite 500 | Chicago, IL 60654  
1.312.424.2400 | 1.312.424.2424 | www.norr.com

Final Sept. 12, 2016



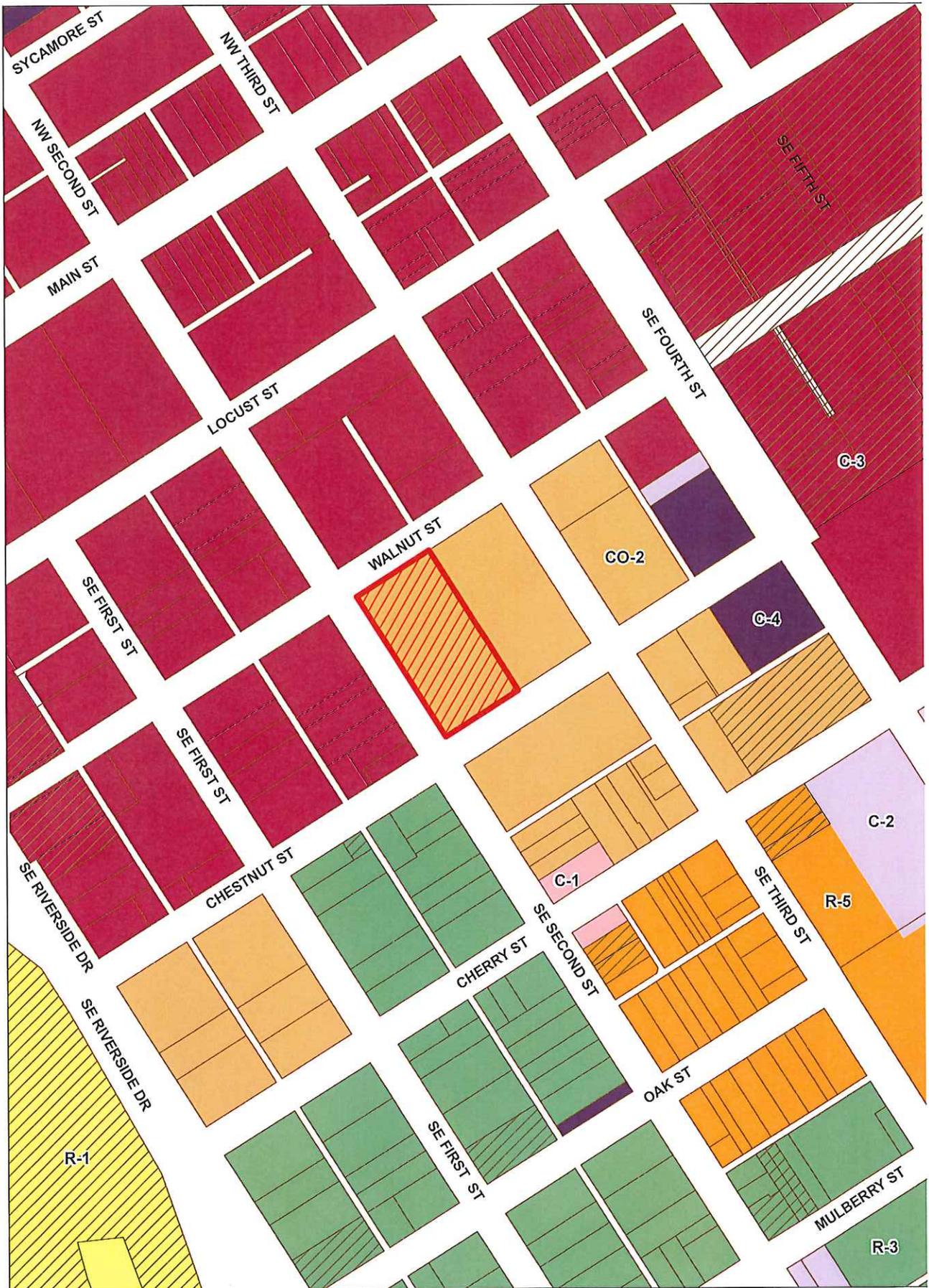
PROJECT DATA	
Site area w/ Chestnut R.O.W.	101,110 sf
Site area w/o Chestnut R.O.W.	91,750 sf
Parking Provided	129
<b>Floor</b>	<b>Area</b>
Ground	20,623 SF
Second	17,232 SF
Third	17,232 SF
Fourth	17,232 SF
Fifth	17,232 SF
<b>TOTAL</b>	<b>89,551 SF</b>
	<b>139 KEYS</b>

MATERIAL LEGEND	
NEW PAVEMENT	[Pattern]
GREEN SPACE	[Pattern]
NEW SIDEWALK	[Pattern]

2016-31-PC R-2016-28

**Zoning Class**

- A
- AIR
- C-1
- C-2
- C-3
- C-4
- CO-1
- CO-2
- M-1
- M-2
- M-3
- PUD
- R-1
- R-2
- R-3
- R-3A
- R-4
- R-5
- WI
- WR



**202 SE SECOND STREET  
2016-31-PC R-2016-28**



R-2016-28

# STAFF REPORT

October 27, 2016

Docket Number: County rezoning 2016-30-PC VC-7-2016  
Address: 13000 N Warrick County Line Road  
Parcel ID: 82-14-12-009-075.009-030  
Location: West side of Warrick County Line Road, north of Boonville-New Harmony Road  
Petitioner: Keith A. and Jennifer A. Karges  
Owner: Same  
Request: Rezone from M-2 to Agricultural  
Lot size: 10.27 acres

## **BACKGROUND INFORMATION**

This is a request for rezoning to allow construction of a new home on this site. No residential uses are permitted in the M-2 zoning district.

## **LAND USE**

The Section 17.36.050 of the Zoning Code provides criteria that the Area Plan Commission and legislative body shall consider in evaluating rezoning requests. The following facts relate to the Code evaluation criteria.

**EXISTING LAND USE:** Agricultural/barn and some crop

## **CHARACTER OF SURROUNDING ZONING & USE:**

North	Ag	agricultural
South	M-2	recycling facility
East		Warrick County Line Rd - agricultural
West	Ag	I-69 - agricultural

**APPLICANT'S STATED USE:** Residential / with agricultural aspect

**ALLOWED USES IN PROPOSED ZONE:** The County zoning code allows single-family use, maximum up to 30% lot coverage in the Agricultural district, and a 35 foot height limit for structures. The Agricultural district allows on-premises signs of 2 sq. ft.

## **COMPREHENSIVE PLAN:**

The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site on Warrick County Line Road is designated as agricultural. The downzoning of the site to Agricultural is consistent with the Plan.

## **GENERAL INFORMATION**

**FLOOD ZONE:** No – Zone "X"

**UTILITIES:** Information submitted by applicant indicates that all utilities are available to this site except sewers. The site will require a septic system.

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TRAFFIC/STREETS/ACCESS:

Currently there is a driveway access on this site for access to the barns. Any new or changed access will require approval by the County Engineer.

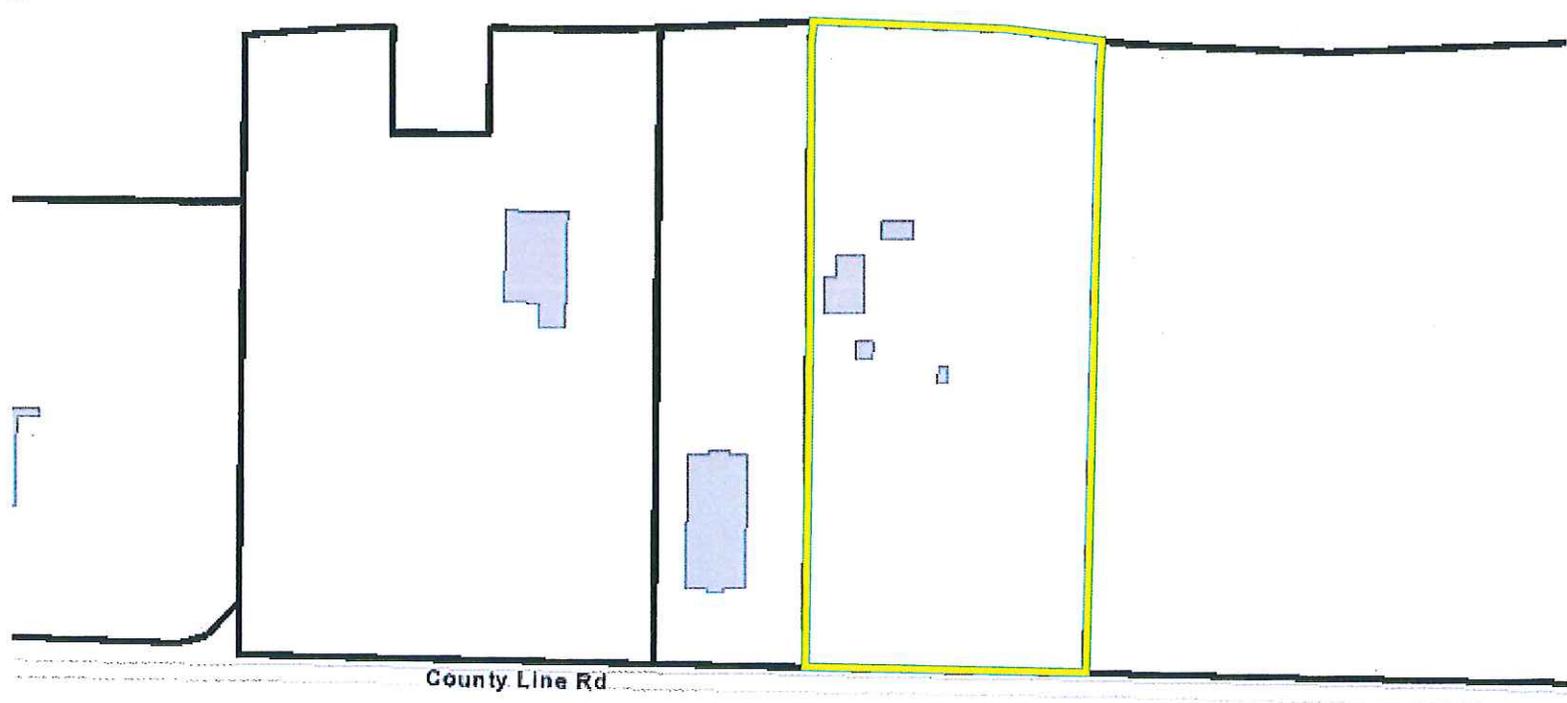
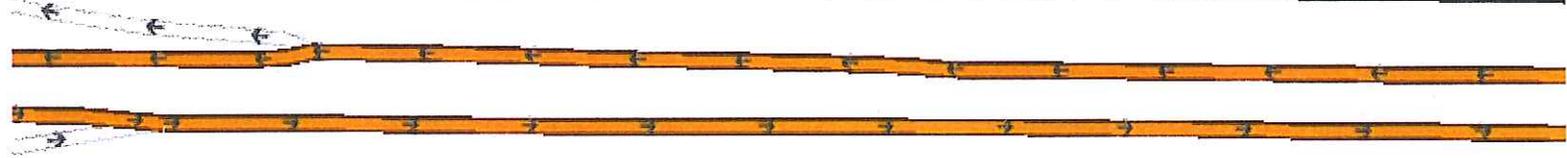
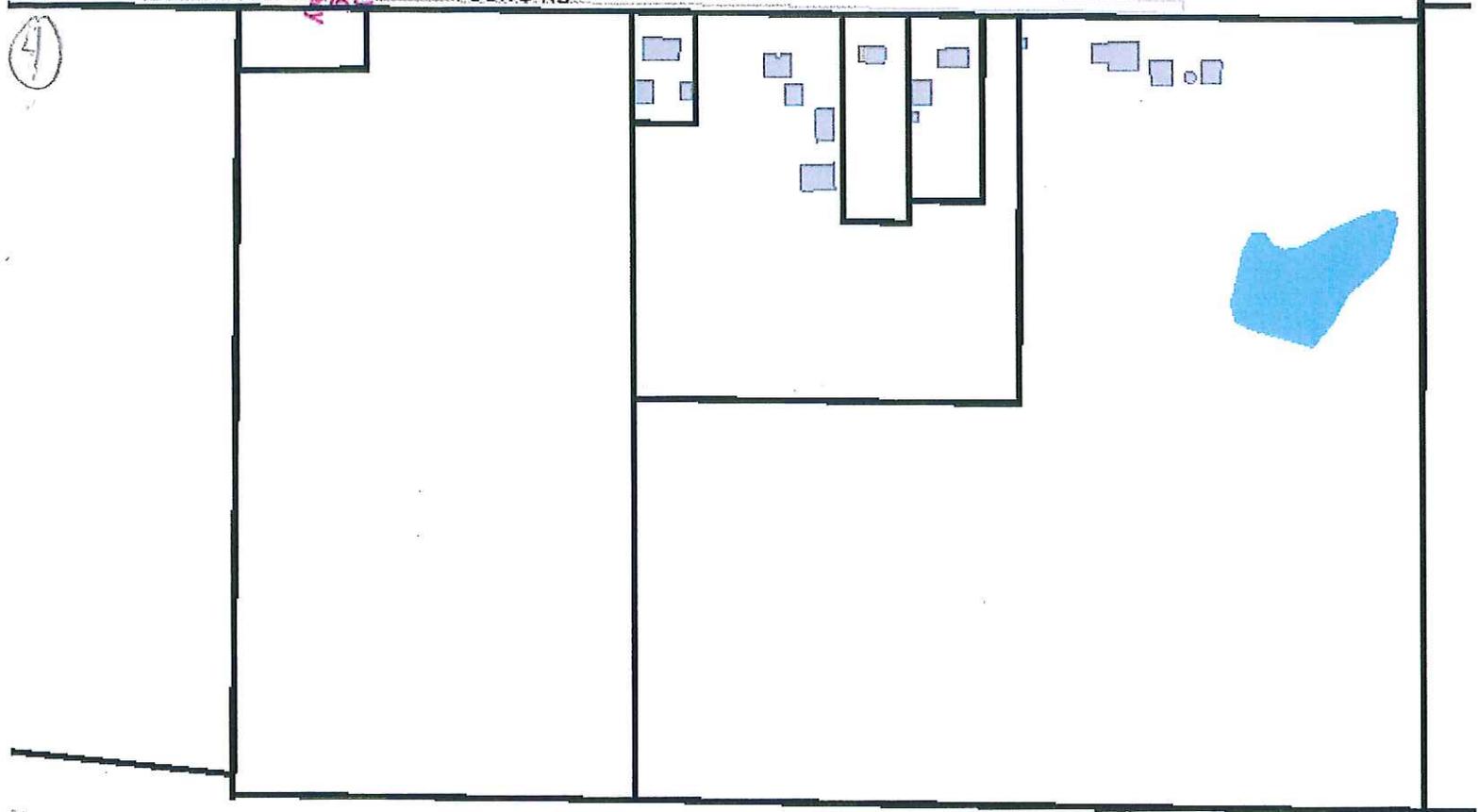
COMPLIANCE OF APPLICANT'S SUBMITTED/PRELIMINARY SITE PLAN:

COMPLIANCE: Staff will address compliance with all code requirements upon submission of plans for the development of the new home on the site.

PARKING: A single-family residence requires two on-site parking spaces.

ADDITIONAL INFORMATION

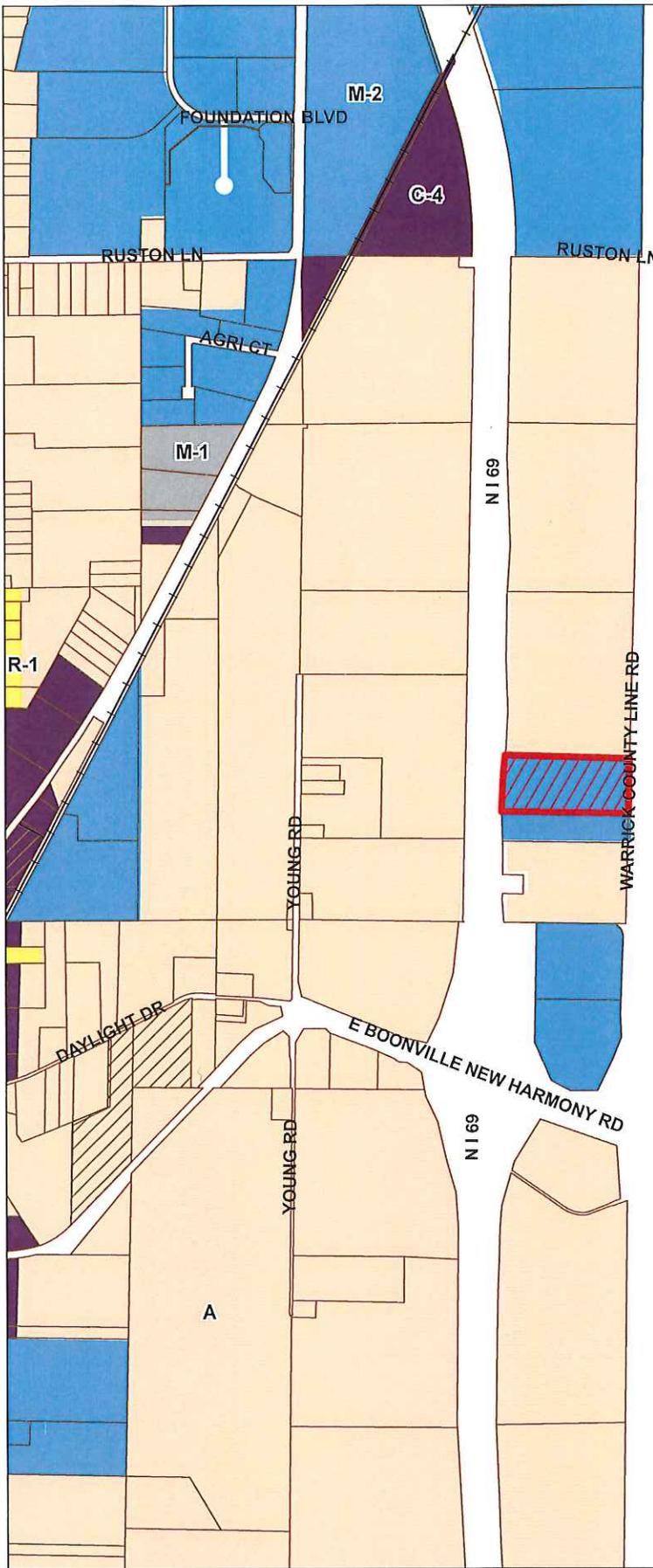
This 10+ acre site was rezoned from Agricultural to M-2 in 2002 for an unspecified industrial use. The industrial use never developed. This is a request to rezone the site back to its original zoning classification to allow construction of a new home on the site.



2016-30-PC VC-7-2016

**Zoning Class**

- A
- AIR
- C-1
- C-2
- C-3
- C-4
- CO-1
- CO-2
- M-1
- M-2
- M-3
- PUD
- R-1
- R-2
- R-3
- R-3A
- R-4
- R-5
- WI
- WR



**WARRICK COUNTY**

**13000 N WARRICK COUNTY LINE ROAD  
2016-30-PC VC-7-2016**



VC-7-2016

DAYLIGHT

BOONVILLE NEW HARMONY

WARRICK COUNTY LINE

I 69

I 69

YOUNG

YOUNG

221

## STAFF REPORT

October 27, 2016

Docket Number: County rezoning 2016-32-PC VC-8-2016  
Address: 8425 Schmuck Road and part of 8028 Azalea Drive  
Parcel ID: 82-08-07-007-131.024-024 and 82-08-08-007-132.001-024  
Location: North and east of the intersection of Schmuck Road and Azalea Drive  
Petitioner: Daniel C. Fuquay  
Owner: Daniel C. and Andrea (Stratman) Fuquay  
Request: Rezone from Agricultural to C-4 with a use and development commitment  
Lot size: 2.5 acres

### **BACKGROUND INFORMATION**

This is a request for rezoning to allow the continued operation of a commercial landscape business at this Agricultural location on Schmuck Road. The Applicant was contacted by staff after complaints that the landscape business "Aching Acres" was operating from this site. A commercial landscape business is a permitted use in a C-4 zone.

### **LAND USE**

The Section 17.36.050 of the Zoning Code provides criteria that the Area Plan Commission and legislative body shall consider in evaluating rezoning requests. The following facts relate to the Code evaluation criteria.

EXISTING LAND USE: Commercial landscaping

### **CHARACTER OF SURROUNDING ZONING & USE:**

North	Ag	wooded area
South	Ag	wooded & Azalea Drive - wooded
East	Ag	residence & wooded
West	Ag	Schmuck Road - residence

APPLICANT'S STATED USE: Commercial landscaping business

ALLOWED USES IN PROPOSED ZONE: The County zoning code allows 182 different uses within the C-4 district, including office, commercial, service, storage, and recreational uses - no residential uses. The district allows maximum 75% lot coverage, and up to a 50 foot height limit for structures. C-4 allows on-premises signs up to 300 sq. ft. at 50' height and billboards up to 500 sq. ft. at 50' height.

### **COMPREHENSIVE PLAN:**

The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site is in an area identified as agricultural.

### **GENERAL INFORMATION**

FLOOD ZONE: No – Zone "X"

UTILITIES: Information submitted by applicant indicates that all utilities are available to this site except sewers. The site requires a septic system.

**CONTINUED ON NEXT PAGE**

TRAFFIC/STREETS/ACCESS:

This site is located in a completely agricultural and residential area. There is an existing two-way gravel access drive onto Schmuck Road that provides access to the site. Site Review will determine if the existing access is adequate for the proposed continued use as a commercial landscape business upon submission of plans for the required change-of-use improvement location permit.

COMPLIANCE OF APPLICANT'S SUBMITTED/PRELIMINARY SITE PLAN:

COMPLIANCE: Site Review will address compliance with all code requirements upon submission of plans for the change-of-use of the site. Access and parking for commercial use must be paved. Commercial vehicle parking areas must be screened from public ways by a solid 8-foot fence.

PARKING: The proposed use of this site requires one parking space for each two employees, one space for each company vehicle, and adequate for customers and visitors. Compliance with parking will be determined by staff upon submission of a site plan.

ADDITIONAL INFORMATION

The effect of the approval of this rezoning is to bring the existing use into compliance with the zoning code. The rezoning of the 2.5 acre site includes all of one parcel and a part of a separate parcel of land. If the site is to be a separate independent parcel, a minor subdivision plat is required. The business on this site was established without permits. All required permits must be obtained.

Applicant has included a use and development commitment as part of this rezoning request that limits use of the site to a commercial and residential landscape business only. (COPY ATTACHED)

### USE AND DEVELOPMENT COMMITMENT

WHEREAS the Undersigned, \_\_\_\_\_ (Name) Daniel C. Fugman \_\_\_\_\_ Petitioner, is the owner of certain real estate situated in the County of Vanderburgh, Indiana, commonly described as \_\_\_\_\_ (Address) \_\_\_\_\_, which real estate is more particularly described as follows, to

wit: SEE ATTACHED

WHEREAS, as the real estate is currently classified as a(n) A Zoning district under the Vanderburgh County Zoning Code and is so indicated on the zoning maps maintained by the staff of the Evansville-Vanderburgh County Area Plan Commission; and

WHEREAS, Petitioner has requested that the Real Estate be reclassified to zoning district C-4; and

WHEREAS, Petitioner is desirous of accommodating the concerns of the surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C. 36-7-4-613;

NOW, THEREFORE, in consideration of the foregoing, petitioner makes the following use and development commitment:

1. Use of the Real Estate shall be limited to the following: To operate the existing commercial and residential landscaping company in the same or substantially similar manner in which it has operated
2. All commitments and undertakings herein expressed shall be binding on the petitioners and the petitioners' heirs, legal representative, successors and assigns, and shall run in the favor of the Area Plan Commission of Evansville-Vanderburgh County and all the owners of real estate lying within the radius of one



# ANDY EASLEY ENGINEERING, INC.

1133 WEST MILL ROAD, SUITE 205  
EVANSVILLE, INDIANA 47710

CIVIL ENGINEERS  
LAND SURVEYORS

AE<sub>2</sub>

TELEPHONE (812) 424-2481  
FACSIMILE (812) 425-3463

www.easleyengineering.com

**CLIENT:** Aching Acres Landscaping

**PROPERTY:** Daniel Fuquay (Doc. 1999R-18761 & Doc. 2009R-7400)

**PARCEL:** 2.500 Ac. +/-

## *Land Description*

Part of the Northeast Quarter of the Northeast Quarter of Section 7, Township 7 South, Range 11 West of the 2<sup>nd</sup> P.M., lying in Perry Township, Vanderburgh County, Indiana and being more particularly described as follows:

Commencing at a stone at the Northeast corner of said Quarter, Quarter Section; thence along the North line of said Quarter, Quarter Section, North 88°44'35" West 614.86 feet; thence South 00°11'51" West 381.69 feet to a ½" inside diameter iron pipe at the true point of beginning; thence

- 1<sup>st</sup>. North 76°21'32" East 213.59 feet to a 5/8" rebar with LS cap inscribed "Donald Gries 29900003"; thence
- 2<sup>nd</sup>. South 03°21'33" East 165.95 feet to a 5/8" rebar with LS cap inscribed "Donald Gries 29900003"; thence
- 3<sup>rd</sup>. South 65°41'04" West 365.62 feet to a mag nail in the centerline of Schmuck Road; thence along said centerline for the following 3(three) courses
- 4<sup>th</sup>. North 62°27'10" West 61.40 feet to a mag nail; thence
- 5<sup>th</sup>. North 64°59'10" West 147.24 feet to a mag nail; thence
- 6<sup>th</sup>. North 56°23'10" West 43.72 feet to a mag nail; thence
- 7<sup>th</sup>. North 45°41'16" East 293.37 feet to a 5/8" rebar with LS cap inscribed "Nicholson LS7964"; thence
- 8<sup>th</sup>. South 67°29'53" East 140.99 feet to the true point of beginning and containing 2.500 acres more or less.

---

Donald E. Gries, PS  
Indiana Reg. No.: LS29900003

PROPERTY  
-8466)

696.21'

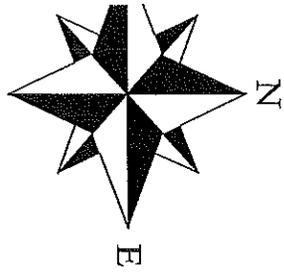
NE COR.  
VOLKMAN PROPERTY  
(DOC. 2014R-8466)

NW COR.  
DANKS PROPERTY  
(DOC. 2013R-2395)

NE COR.  
NE 1/4, NE 1/4  
SEC. 7-7-11

614.86'

S 88°44'35" E 1311.07'



# Parcel to be Rezoned 2.500 Ac.±

DANIEL C. FUQUAY &  
ANDREA STRATMAN  
DOC. 1999R-18761  
1.283 Ac.±

DANIEL C. & ANDREA  
FUQUAY  
DOC. 2009R-7400  
1.217 Ac.±

DANIEL C. & ANDREA  
FUQUAY  
DOC. 2009R-7400

SCHMUCK RD.

AZALEA DR.

AZALEA DR.

N 64°59'10" W  
147.24'

N 62°27'10" W  
61.40'

S 65°41'04" W 365.62'

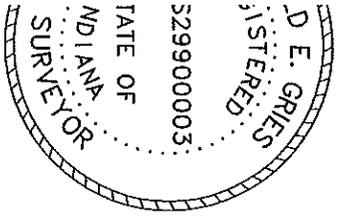
S 03°21'33" E 165.95'

N 76°21'32" E 213.59'

S 00°11'51" W  
381.69'

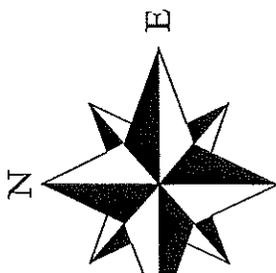
S 67°29'53" E 140.99'

W 72'



2016-32-PC VC-8-2016

PROPERTY  
-8466)



S 88°44'35" E 1311.07'

NE COR.  
VOLKMAN PROPERTY  
(DOC. 2014R-8466)

NW COR.  
DANKS PROPERTY  
(DOC. 2013R-2395)

NE COR.  
NE 1/4, NE 1/4  
SEC. 7-7-11

614.86'

S 00°11'51" W  
381.69'

N 76°21'32" E 213.59'

S 03°21'33" E 165.95'

EXISTING ACHING ACRES  
LANDSCAPE BUSINESS.  
8425 SCHMUCK RD  
2.5 ACRE PARCEL TO BE  
REZONED.

DANIEL C. & ANDREA  
FUQUAY  
DOC. 2009R-7400

S 67°29'53" E 140.99'

N 45°41'18" E 293.37'

MULCH  
STOCKPILE

ROCK  
PALLET

TEMP.  
GREENHOUSE

EXISTING  
PARKING  
AREA

LANDSCAPE  
OFFICE

S 85°41'04" W 385.62'

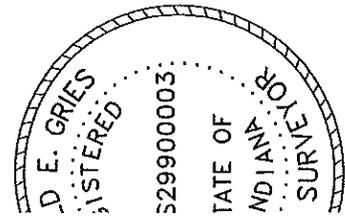
SCHMUCK RD

N 64°59'10" W  
147.24'

N 62°27'10" W  
61.40'

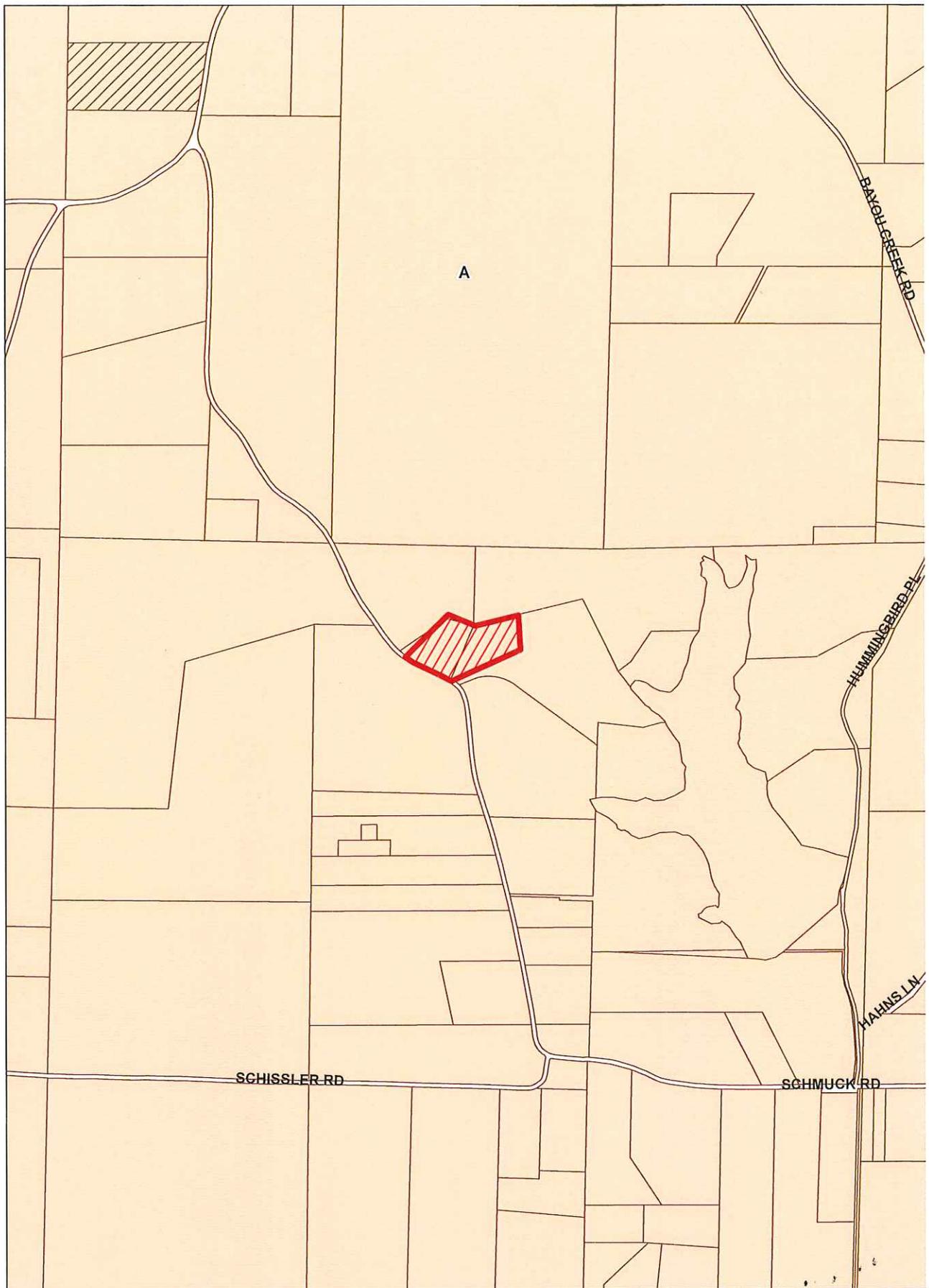
AZALEA DR

AZALEA DR



**Zoning Class**

-  A
-  AIR
-  C-1
-  C-2
-  C-3
-  C-4
-  CO-1
-  CO-2
-  M-1
-  M-2
-  M-3
-  PUD
-  R-1
-  R-2
-  R-3
-  R-3A
-  R-4
-  R-5
-  WI
-  WR



**8425 SCHMUCK ROAD/PT OF 8028 AZALEA DRIVE  
2016-32-PC VC-8-2016**



VC-8-2016

AZALEA

SCHMIDT

## STAFF REPORT

October 27, 2016

Docket Number: County rezoning 2016-33-PC VC-9-2016  
Address: (Part of) 4100 Kansas Road  
Parcel ID: 82-04-23-002-119.041.019  
Location: North side of Kansas Road, between Hedden Road and Baldwin Drive  
Petitioner: Henry Schlensker  
Owner: Henry & Elizabeth Schlensker Trust  
Request: Rezone from Agricultural to M-2 with a use and development commitment  
Lot size: 8.652 acres

### **BACKGROUND INFORMATION**

This is a request for rezoning to allow the continued operation of a commercial business at this Agricultural location on Kansas Road. The Applicant was contacted by staff concerning the establishment of a business "A P & P Soil Masters" was found to be operating from this site. The commercial soil blending, storage yard and sales business is a permitted use in an M-2 zone.

### **LAND USE**

The Section 17.36.050 of the Zoning Code provides criteria that the Area Plan Commission and legislative body shall consider in evaluating rezoning requests. The following facts relate to the Code evaluation criteria.

**EXISTING LAND USE:** Soil blending and storage yard

### **CHARACTER OF SURROUNDING ZONING & USE:**

North	Ag	(Owners') residence and agricultural
South	Ag	Kansas Road – agricultural & residential
East	Ag	agricultural & residential
West	Ag	agricultural & residential

**APPLICANT'S STATED USE:** Soil blending and storage yard

**ALLOWED USES IN PROPOSED ZONE:** The County zoning code permits 376 commercial, service, storage, recreational, and industrial uses - no residential uses - in the M-2 district. The district allows maximum 75% lot coverage; unlimited height for industrial structures, and maximum 50' height for commercial buildings. M-2 allows on-premises signs up to 300 sq. ft. and off-premises signs up to 700 sq. ft. at a 50 ft. height.

### **COMPREHENSIVE PLAN:**

The Comprehensive Plan Future Land Use Map 2035 recently adopted as part of the new Comprehensive Plan indicates that this site is in an area identified as residential. There is industrial development along Hedden Road and Highway 57 west of the site.

### **GENERAL INFORMATION**

**FLOOD ZONE:** No – Zone "X"

**UTILITIES:** Information submitted by applicant indicates that all utilities are available to this site except sewers. The site requires a septic system.

**CONTINUED ON NEXT PAGE**

TRAFFIC/STREETS/ACCESS:

This site is located on the north side of Kansas Road. There are two entry drives onto Kansas Road, one at the east end of the 428' frontage on Kansas, and one at the west end of the frontage. The two entry drives are connected by a frontage drive across the front of the site which appears to be partly in the Kansas Road right-of-way, and partly in the required front yard green space. Site Review will determine if the existing access is adequate for the proposed continued use as a storage yard business upon submission of plans for the required change-of-use improvement location permit.

COMPLIANCE OF APPLICANT'S SUBMITTED/PRELIMINARY SITE PLAN:

COMPLIANCE: Site Review will address compliance with all code requirements upon submission of plans for the development of the site. Access and parking for commercial and/or industrial use must be paved. Commercial vehicle parking areas must be screened from public ways by a solid 8-foot fence.

PARKING: The proposed use of this site requires one parking space for each two employees, one space for each company vehicle, and adequate for customers and visitors. Compliance with parking will be determined by staff upon submission of a site plan.

ADDITIONAL INFORMATION

The effect of the approval of this rezoning is to bring the existing use into compliance with the zoning code. This is a petition to rezone 8.652 acres of the Applicants' 80.29 acre agricultural/residential site for the business use. The business on this site was established without permits. All required permits must be obtained.

The Applicant has included a use and development commitment as part of this rezoning request that limits use of the site to storage of raw materials (dirt, mulch, etc.), mixing of soils and raw materials, sale of soil and raw materials, and ancillary structures necessary for the operations such as trailers, sheds, and office spaces only. (COPY ATTACHED)

**USE AND DEVELOPMENT COMMITMENT  
(County)**

WHEREAS, the undersigned, Henry A. Schlensker and Elizabeth A. Schlensker, as Trustees of the Henry A. Schlensker and Elizabeth A. Schlensker Revocable Living Trust dated March 8, 2008, as amended ("Owner"), is the Owner of certain real estate situated in Vanderburgh County, Indiana, commonly described as part of 4100 Kansas Road, Evansville, Indiana, more particularly described on Exhibit "A", attached hereto and by this reference made a part hereof (the "Real Estate"); and

WHEREAS, the Real Estate is currently classified as Agriculture (A) zoning district under the Evansville Zoning Code and is so indicated on the zoning maps maintained by the staff of the Evansville-Vanderburgh County Area Plan Commission; and

WHEREAS, Owner has requested that the Real Estate be reclassified to zoning district M-2; and

WHEREAS, Owner is desirous of accommodating the concerns of the surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C.36-7-4-1015;

NOW, THEREFORE, in consideration of the foregoing, Owner makes the following use and development commitments concerning the use of the Real Estate:

1. The Real Estate shall only be used for the following uses:
  - a. Storage of raw materials (dirt, mulch, etc.);
  - b. Mixing of soils and raw materials;
  - c. Sale of soils and raw materials;
  - d. Ancillary structures necessary for the foregoing operations such as trailers, sheds, or office spaces.
2. The commitments and undertakings herein made and expressed shall terminate, expire and be of no further force or effect if the Real Estate should be rezoned due to the filing of some subsequent petition to amend the zoning classification of the Real Estate.
3. This Commitment shall be recorded in the office of the Recorder of Vanderburgh County, Indiana, and shall take effect upon the adoption of the zoning classification of the Real Estate from Agriculture to M-2 Zoning District.



# REZONING EXHIBIT

82-04-23-002-119.041-019  
HENRY A. SCHLENSKER  
ELIZABETH A. SCHLENSKER  
REVOCABLE LIVING TRUST

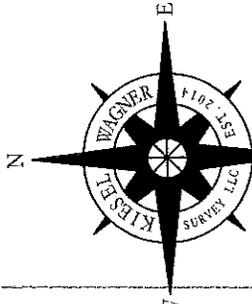
S 87°54'09" E 600.00'

82-04-23-002-119.041-019  
HENRY A. SCHLENSKER  
ELIZABETH A. SCHLENSKER  
REVOCABLE LIVING TRUST

82-04-23-002-118.030-019  
GLEN R. & DIANN SCHLENSKER

N 00°49'32" E 450.00'

**SUBJECT PARCEL INFORMATION**  
RECORD OWNER: HENRY A. AND ELIZABETH A. SCHLENSKER  
TRUSTEES OF THE HENRY A. SCHLENSKER AND  
ELIZABETH A. SCHLENSKER REVOCABLE LIVING TRUST  
TAX CODE: 82-04-23-002-119.041-019  
**AREA TO BE REZONED  
FROM AG TO M-2:**  
**8.652 Acres**  
**(WITH USE & DEVELOPMENT COMMITMENT)**



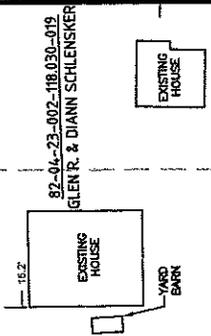
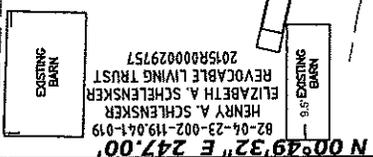
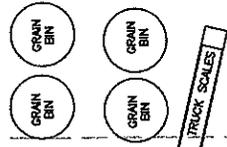
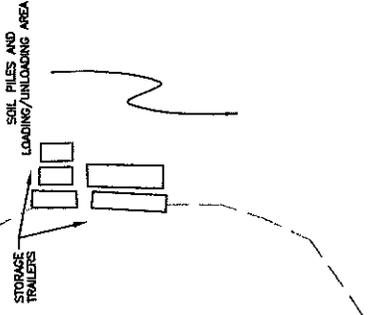
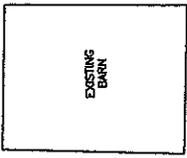
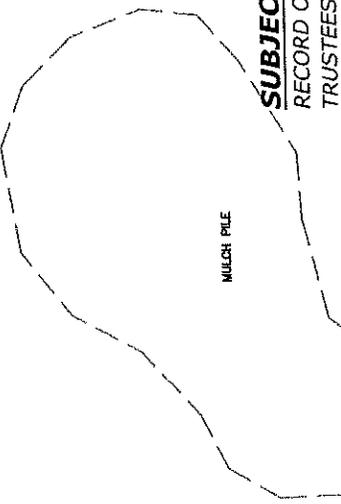
**KIESEL-WAGNER SURVEY, LLC**  
LAND SURVEYING AND CONSULTING SERVICES  
PHONE: Joe: 812.305.6256/ Chad: 812.319.3910  
EMAIL: joe@kws-llc.com/chad@kws-llc.com

PRIVATE  
ROCK DRIVEWAY  
(OWNED BY HENRY AND  
ELIZABETH SCHLENSKER)

82-04-23-002-119.041-019  
HENRY A. SCHLENSKER  
ELIZABETH A. SCHLENSKER  
REVOCABLE LIVING TRUST

SE COR, SE/4  
SEC 23-T5S-R10W

KANSAS RD.



82-04-26-002-125.001-019  
HENRY A. SCHLENSKER  
ELIZABETH A. SCHLENSKER  
REVOCABLE LIVING TRUST

N 87°37'36" W 428.00'

P.O.B. #101

P.O.C.  
SW COR, SE/4  
SEC 23-T5S-R10W

82-04-26-002-124.018-019  
E. HARVEY III & TAMARA J. SEANAN

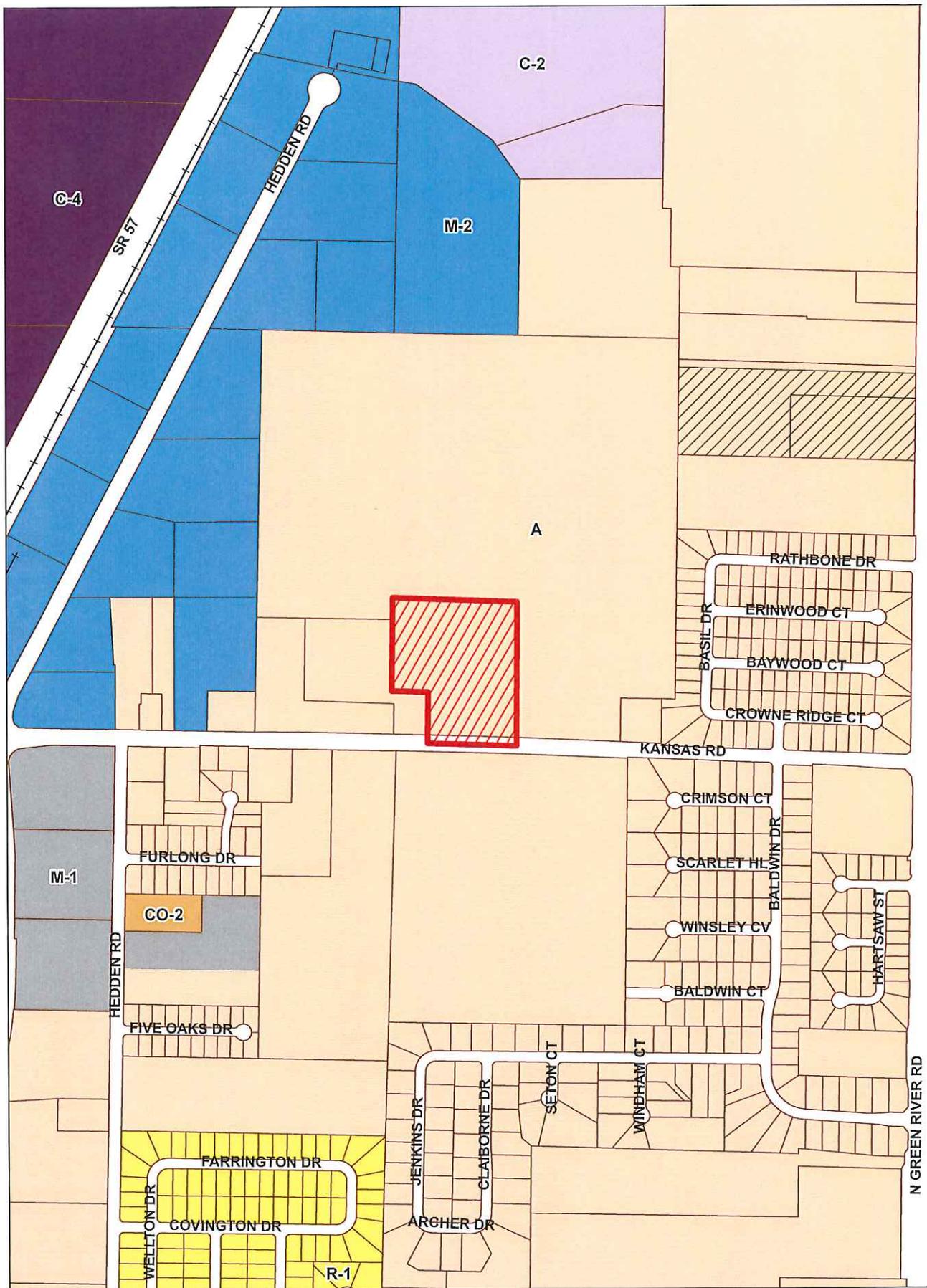
S. 87°37'36" E. 176.00'

SCALE 1" = 100'



**Zoning Class**

- A
- AIR
- C-1
- C-2
- C-3
- C-4
- CO-1
- CO-2
- M-1
- M-2
- M-3
- PUD
- R-1
- R-2
- R-3
- R-3A
- R-4
- R-5
- WI
- WR



**PART OF 4100 KANSAS ROAD  
2016-33-PC VC-9-2016**



VC-9-2016

KANSAS

BAYWOOD

CRIMSON

SCARLET

WINSLEY

BALDWIN

WINDHAM

SR-57

HEDDEN

HEDDEN

FURLONG

FROSTER

FIVE OAKS

**SUBDIVISION  
STAFF FIELD REPORT**

November 10, 2016

Docket Number: **10-S-2016 & 35-SW-2016**

Name of Subdivision: **MORTENSEN SUNRISE**

Location: Northeast corner of North Green River Road and Smythe Drive

Parcel ID Number: Lots 1 & 3: 82-06-13-013-219.001-027  
Lot 2: 82-06-13-013-219.006-027

Addresses: Lot 1: 2301, 2303, 2305 North Green River Road  
Lot 2: 2311 North Green River Road  
Lot 3: 2319 North Green River Road

Owner: Lots 1& 3: Sunrise Development II, LLC;  
Karen Mortensen, Member/Manager  
Lot 2: Chris Q. Bartnick

Representative: Donald Gries

Size of development: 1.59 acres

Number of lots: 3

**LAND USE**

Existing zoning: M-1

Existing land use: Commercial (all 3 lots are developed)

Proposed land use: 3-lot Commercial subdivision

Comprehensive Plan: The Future Land Use-2035 Map in the Comprehensive Plan recommends this area for Industrial uses.

**GENERAL INFORMATION**

**BACKGROUND/HISTORY:**

The applicant proposes to address a non-compliant property split by this replat of Hirsch Commercial Subdivision Section 1 Lot 1, which was recorded in 1995. This original plat contains an Access note that states: "*Lot 1 shall access Smythe Drive and not Green River Road.*" The Subdivision Review Committee reviewed the replat on October 10, 2016.

**FLOOD ZONE:**

This project does not lie within the 100-year floodplain as shown on Vanderburgh County Flood Insurance Rate Map Number 18163C0201D, Effective March 17, 2011.

**UTILITIES:**

Water City water is available at the site.  
Sewer City sewer is also available.

**TRAFFIC/STREET/ACCESS:**

The plat shows existing frontage on both North Green River Road and Smythe Drive. Existing access is on Smythe Drive. The proposed plat shows an ingress & egress easement that connects all lots. The applicant is also requesting a sidewalk waiver for this subdivision, which will be considered by the Area Plan Commission for a recommendation with a final decision by the Board of Public Works.

Comments on this subdivision from the City Engineer are:

Add the statement to the plat that "no access (shall be allowed) to Green River Road".

**STAFF COMMENTS:**

There is a history of Subdivision and Zoning Code violations for this site. The subdivision violation dates back to 2005 when Lot 2 was split off without going through the platting process. The Subdivision violation would be resolved by the recording of this proposed plat.

The zoning code violations involve a change of use without a permit on proposed Lot 2; unscreened car storage on Lot 3; and other possible parking related violations. To determine if there is adequate parking to meet code, a site plan must be submitted to the Area Plan Commission for all three of the existing businesses on the site to show the parking spaces currently provided, the proposed location for any fencing to meet screening requirements for vehicles waiting to be repaired, and any shared parking agreement between the lot owners if needed.

**STAFF RECOMMENDATION**

This plat complies with both the Comprehensive Plan and the requirements/standards of the Subdivision Code with the following conditions:

Prior to recording:

Resolve the existing Zoning Violations by:

- placing the required screening for car storage on Lot 3;
- submitting a site plan that proves adequate on-site parking requirements are met, or obtain variance approval from the BZA; and
- obtaining a Change of Use permit for the business on Lot 2.

Revise the plat by adding under General Notes the following statement:

*Access: All lots shall access Smythe Drive. Direct access to Green River Road is prohibited.*

Remove the sidewalk notes (6A and possibly 6B under General Notes), and remove the wording on *Installation of Sidewalks*, depending on the sidewalk waiver decision, prior to recording. Since Lots 1, 2 and 3 have already been developed, if a sidewalk waiver is not approved, the sidewalks will either need to be installed and accepted or placed on an irrevocable letter of credit prior to recording.

# SIDEWALK WAIVER REQUEST

November 10, 2016

Docket Number: **35-SW-2016**  
Name of Subdivision: **Mortenson Sunrise**

## **Existing Conditions**

Mortenson Sunrise is a replat of Hirsch Commercial Subdivision Section 1. Sidewalks have been installed across the street along the south side of Smythe Drive and along the west side of Green River Road in front of the Theater Drive Commercial Park Section 1 lot (2121 North Commons Complex), which is the second lot south of this proposed subdivision.

## **Subdivision Review Technical Committee Member Reports**

Attached for your use is the information provided by the petitioner for the partial waiver request along with any technical reports, if submitted, from specific Subdivision Review Technical Committee members regarding the sidewalk waiver request along with recommendations from each.

Please note that the sidewalk waiver request will be considered for approval, denial, or approval with conditions by the Area Plan Commission and the Board of Public Works. Both entities will need to approve the waiver for it to pass. If either entity turns down the waiver, the waiver will automatically be denied and sidewalks shall be required to be installed.



To: Ron London, Executive Director, Evansville-Vanderburgh Area Plan Commission  
From: Laura Lamb, Transportation Engineer  
Date: October 10, 2016  
Subject: Mortensen Sunrise sidewalk waiver

Mr. London:

Green River Road is an arterial roadway which is utilized by the Evansville fixed route transit system (METS). This area of Green River Road and Smythe Drive is serviced by three routes, either directly or within a short walking distance; the Highway 41 North Connection, the East Connection, and the Lynch route. The MPO does not support a complete waiver of sidewalks for this reason. We also believe that the developer should coordinate with METS to determine if a bus stop and associated facilities would be appropriate along this frontage.

LL

**London, Ronald S.**

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**From:** Weil, Christopher  
**Sent:** Wednesday, October 26, 2016 8:32 AM  
**To:** London, Ronald S.  
**Cc:** Schmitt, Brent A.  
**Subject:** Mortensen Sunrise Subdivision

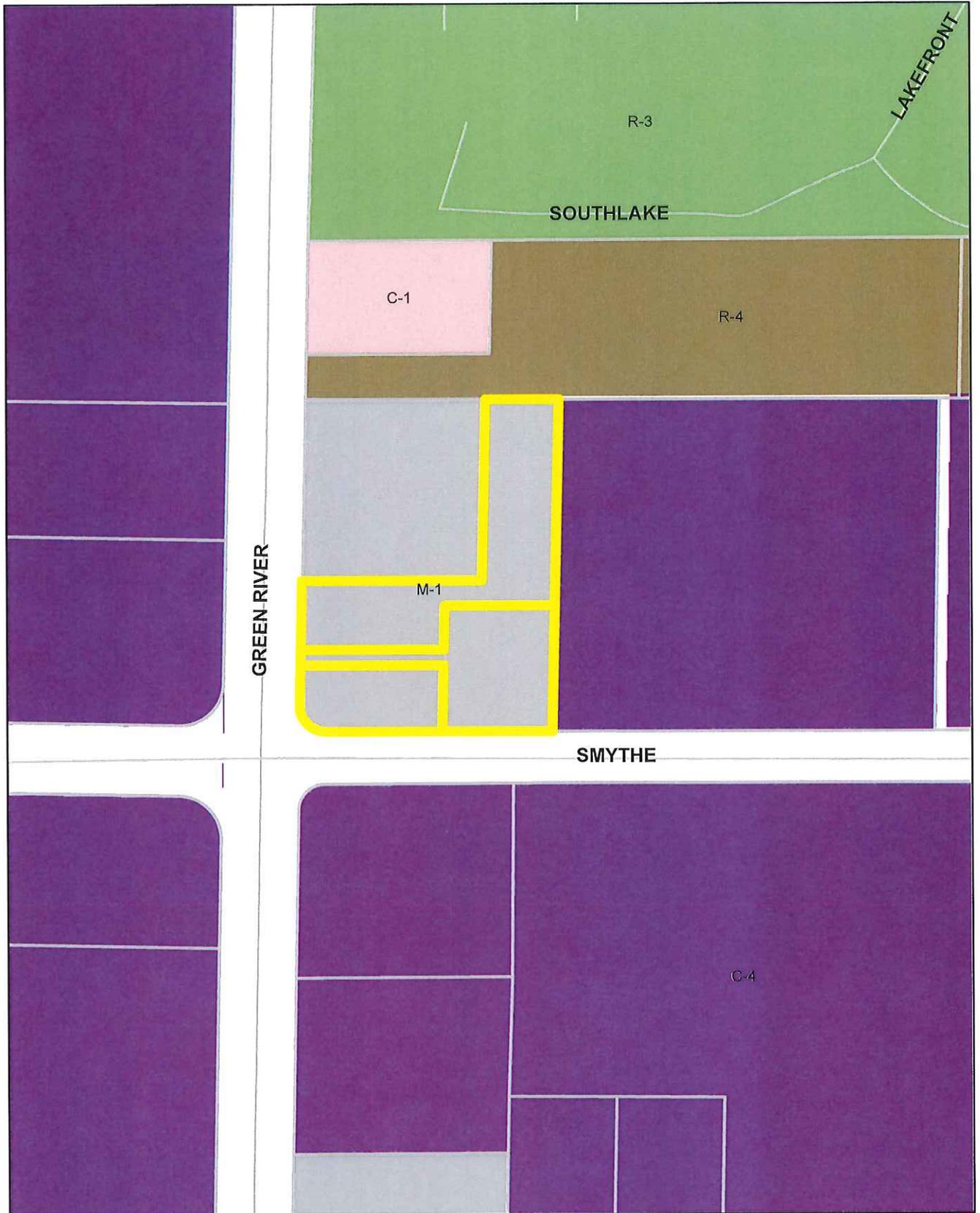
Ron – Our office would not be in favor of a sidewalk waiver for the above mentioned subdivision. Please call with any questions.

Chris Weil, PE

*Assistant City Engineer  
Evansville City Engineer's Office  
Civic Center Complex – Room 321  
1 N.W. Martin Luther King, Jr. Boulevard  
Evansville, Indiana 47708  
Email: [cweil@evansville.in.gov](mailto:cweil@evansville.in.gov)  
Phone: (812) 436-4972  
Fax: (812) 436-4976*

**ZONING**

-  A
-  AIR
-  C-1
-  C-2
-  C-3
-  C-4
-  CO-1
-  CO-2
-  M-1
-  M-2
-  M-3
-  PUD
-  R-1
-  R-2
-  R-3
-  R-3A
-  R-4
-  R-5
-  WI
-  WR



**10-S-2016 and 35-SW-2016**

**MORTENSEN SUNRISE SUBDIVISION  
AND SIDEWALK WAIVER**



MENARDS

SUGAR CREEK

CROSS CREEK

WINDMILL

SUGAR CREEK

SUGAR MILL

SOUTH LAKE

LAKEFRONT

GREEN RIVER

SMYTHE

10-S-2016  
and  
35-SW-2016

THEATER

GALLERIA

**AN ORDINANCE REGARDING AMENDMENT TO  
THE VANDERBURGH COUNTY ZONING CODE**

WHEREAS, pursuant to I.C. 36-7-4-201, a unit may regulate local planning and adopt necessary ordinances relating to land use and planning; and

WHEREAS, the Vanderburgh County Zoning Code, codified as Title 17 of the Vanderburgh County Code, currently includes numerous permitted agricultural uses but no specific provisions or requirements for the regulation of uses known as Confined Feeding Operations for animals; and

WHEREAS, such facilities are not otherwise among the uses contained in the existing use groups in the Zoning Code; and

WHEREAS, pursuant to I.C. 36-7-4-918.2, a unit may provide for special exceptions, special uses, contingent uses, and conditional uses that are not specifically provided for in the zoning code, but that are not inconsistent with the purposes and standards of the zoning code; and

WHEREAS, the Zoning Code, section 17.28.010 describes Special Uses as “certain uses are necessary to the life and economic health of the community, but have characteristics of operation that do not readily permit classification in the usual residential, commercial, or industrial districts,” and further states that, “because of the various types of uses and locations requiring this special consideration, the specific conditions under which each use may be permitted must be considered”; and

WHEREAS, such facilities are more appropriately classified and procedurally addressed as Special Uses, which are secondary classifications under the Zoning Code, and afford the public additional review and opportunity for comment; and

WHEREAS, it is in the interest of the public health, safety, and general welfare of the community to regulate the location of such facilities to avoid proximity to certain other uses and to preserve the environmental health and quality of rural life; and

WHEREAS, the Board of Commissioners of Vanderburgh County, Indiana desires to protect and preserve the interests of public health, safety, and general welfare of the community while accommodating agricultural uses based on the opportunities for economic development and improvement of the general welfare of the County;

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

**SECTION 1. AMENDMENT OF SECTION 17.08.030 OF THE CODE OF ORDINANCES OF VANDERBURGH, COUNTY, INDIANA**

Section 17.08.030 of Title 17 of the Code of Ordinances of Vanderburgh County, Indiana, entitled "Definitions" is hereby amended by replacing the entire existing section with the following:

For the purpose of this title the following definitions shall apply unless the context clearly indicates or requires a different meaning. The area plan commission shall have the right to adopt reasonable rules and regulations further defining the terms used in this title.

"Abutting property owner" means the official owner of record, whose property is contiguous to the subject property; any property which would touch at any point the subject property ignoring all rights-of-way, easements, alleys and the like.

"Accessory structure" means a structure subordinate to the principal use of a building on the same lot, and serving a purpose customarily incidental and subordinate to the use of the principal building.

"Adult arcade" means a commercial establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by five (5) or fewer persons per machine at any one (1) time, in which a substantial portion (thirty percent (30%) or more) of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of "harmful to minors" as specified in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represents or displays "sexual conduct" as defined in I.C. 35-42-4-4 (and as it may from time to time be amended).

"Adult bookstore" "Adult Novelty Store" or "Adult Video Store" means a commercial establishment which has a substantial (thirty percent (30%) or more) portion of its revenues, floor space or advertising associated with the sale or rental for any form of consideration, of any one (1) or more of the following:

A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides, tape, records, CD-roms or other forms of visual or audio representations which meet the definition of "harmful to minors" under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-4-4 (and as it may from time to time be amended).

B. Instruments, devices or paraphernalia which are designed for use in connection with "sexual misconduct" as defined in I.C. 35-42-4-4 (and as it may from time to time be amended).

"Adult cabaret" means nightclub, bar, restaurant, or similar establishment which features live performances which meet the definition of "harmful to minors" as set forth in I.C. 35-49-2-2 (and as may from time to time be amended) and/or represents or displays "sexual conduct" as defined in I.C. 35-42-4-4 to a clientele who pays any form of consideration for such live performance.

“Adult motion picture theater” means an indoor or outdoor facility with a capacity of six (6) or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion (thirty percent (30%) or more) of the total revenue derived from or substantial time (thirty percent (30%) or more) is devoted to the showing of such material which meets the definition of “harmful to minors” as defined in I.C. 35-49-2-2 (and as may from time to time be amended) and/or displays “sexual conduct” as set forth in I.C. 35-42-4-4 (and as it may from time to time be amended), for observation by patrons.

“Adult theater” means a theater, concert hall, auditorium or similar establishment, either indoor or outdoor, which for any form of consideration, regularly features live performances, a substantial portion (thirty percent (30%) or more) of the total presentation time is distinguished or characterized by an emphasis on activities which meet the definition of “harmful to minors” as set forth in I.C. 35-49-2-2 and/or “sexual conduct” as set forth in I.C. 35-42-4-4.

“Agricultural use” means the raising, cultivation, or production of live organisms to provide food or other products, including but not limited to, farming, horticulture, forestry, dairying, sugar making, aquaculture, viticulture, and poultry.

“Alley” means a public right-of-way intended as a means of access to the rear or side of property.

“Apartment dwelling unit” means a portion of a building containing a room or set of rooms fitted with living, sleeping and/or kitchen facilities and used as a dwelling for one or more persons but incidental to the principal use. This includes multi-family dwellings rented or leased by bedroom unit.

“Bedroom unit” means a single bedroom with or without living facilities in an apartment dwelling unit.

“Board” means the board of zoning appeals.

“Board of health” means the Evansville-Vanderburgh County health department.

“Building” means a structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.

“Club” means a building or portion thereof or premises owned or operated for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests, but not including any organization, group, or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

“Commercial” means the purchase, sale, barter, or exchange of goods, wares, merchandise or services intended for profit, or the maintenance or operation of offices or enterprises intended for profit.

“Commercial vehicle” means any vehicle other than private passenger vehicles, designed, intended, or used for transportation of persons, goods, or things. The term “commercial vehicle” shall also include private passenger vehicles such as pick-up trucks, vans, and automobiles which have been structurally or materially altered for use in connection with a commercial use.

“Commission” means the Evansville-Vanderburgh County Area Plan Commission.

“Completely-enclosed building” means a building separated on all sides from adjacent open space or from other buildings or other structures by a permanent roof and by exterior walls or party walls, pierced only by windows and entrance and exit doors.

“Confined Feeding Operation” or “CFO” is a use involving the confinement and feeding of animals within the boundaries of the entire parcel on which the use occurs where:

- A. the number of confined animals exceeds:
  - 300 cattle (including dairy cows, veal calves, beef cattle, breeding cattle or otherwise)
  - 600 swine
  - 600 sheep
  - 30,000 fowl
  - 300 animals not otherwise described herein
- B. animals are confined, fed, and maintained for at least 45 days during any 12 month period; and
- C. ground cover or vegetation is not sustained over at least 50% of the animal confinement area;

However, a CFO does not include a livestock market where animals are assembled from at least two sources to be sold on a commission basis and that is required to operate under state or federal supervision, nor a livestock sale barn or auction market where animals are kept for not more than 10 days each.

“Confined Feeding Operation Facility” or “CFO Facility” means structures that together make up a CFO, including the structures containing animals, and any structures, including without limitation lagoons or ponds, used to store animal waste, but a CFO Facility does not include a structure used to store CFO animal feed if separate from any structure containing animals or animal waste.

“Corner lot” means a lot abutting on two or more streets at their intersection or on two parts on the same street, the streets or parts of the same street forming an interior angle of less than one hundred thirty-five degrees.

“Detached building” means a building having no party wall in common with another building.

“Director” means the director of the Evansville-Vanderburgh area plan commission.

“Duplex” means a dwelling consisting of two dwelling units which may either be attached by a common wall or one above the other.

“Dwelling” means a building or a portion of a building occupied by one family for living and sleeping purposes with kitchen facilities.

“Dwelling unit” means a building or portion of a building occupied by one family for living and sleeping purposes with kitchen facilities.

“Easement” means an authorization or grant by a property owner to specific persons or to the public to use land for specific purposes.

“Efficiency dwelling unit” means a building or a portion of a building occupied by one family with living, sleeping, and kitchen facilities in one room.

“Family” means one or more persons occupying a single dwelling unit, provided that, unless all members are related by blood, adoption, or marriage, no such family shall contain over five persons. However, any such unrelated family must provide off-street parking for all “family” vehicles.

“Floodway” means the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge peak flood flow of the regulatory flood of any river or stream.

“Floor area” means the sum, in square feet, of all roofed portions of a building, as measured from the outside measurements. Floor area includes the total of all space on all floors of the building.

“Front lot line” means a line separating a lot from a street. In the case of a corner lot, the front lot line is the shorter of any two adjacent lines separating the lot from a street.

“Frontage” means the property abutting one side of a street as measured along the street line, or as measured along the building line of a curve.

“Garage/yard sale” means a public or private sale conducted by the owner or occupant of the premises, conducted within a residence, garage, or other accessory building or outside thereof, which sale is of an item or items of personal property owned or in the possession of the occupant of the premises, which personal property was not acquired by the owner or occupant for the purposes of resale.

“Group home/community residential facility” means a facility which provides residential services for persons in a supervised group living program.

“Home occupation” means uses specifically listed in use group 2, conducted entirely within a dwelling and carried on by an occupant thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Subject to

restrictions as listed in Section 17.16.040(A)(2). Home occupation may also include any such use approved as special use per Section 17.28.010 et seq.

“Juice Bar” means an adult cabaret which does not serve alcoholic beverages.

“Junk yard, salvage yards, buildings used principally for the storage of junk, shops selling principally junk, and similar operations” means any land, property, structure, building, or combination of the same, where junk is stored or processed. Junk or salvage includes but is not limited to wrecked or inoperable vehicles, parts of vehicles, scrap iron and other metals, wood, paper, rags, rubber, tires, bottles, etc.

“Land” means and includes water surface and land under water.

“Lot” means an identifiable parcel of land having frontage on a public street or right-of-way, approved private streets, or acceptable easements.

“Manufactured/modular home” means a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code or IC 22 et seq., as promulgated by the Indiana Administrative Building Council. A modular housing unit is constructed in part or in whole at a place other than the foundation site, transported to the foundation site, and assembled on site to create one whole structure. The manufactured home or modular housing unit should include but not be limited to these features: asphalt roof, roof pitch of at least 2.5:12, house-type windows, doors and siding, and must be placed on a permanent foundation. Modular homes, prefabricated homes, and other such implied terms shall be deemed to be the same as “manufactured homes.”

“Massage parlor” means any building, room, place or establishment where massages are practiced on the human body with or without the use of mechanical or bath devices, by anyone not a physician, surgeon, or of similar status, duly registered with and licensed by the state.

“Mobile home” means a factory-constructed, transportable structure designed for permanent residential use when placed on a lot and connected to utilities.

“Mobile home site” means that plot of ground within a mobile home park (as defined and controlled by the Indiana State Board of Health) designed for the accommodation of one mobile home.

“Nude model studio” means a place where a person who appears in a state of nudity is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any other form of consideration or such display is characterized by an emphasis on activities which meet the definition of “harmful to minors” as set forth in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or “sexual conduct” as set forth in I.C. 35-42-4-4 (and as it may from time to time be amended). This definition shall not apply to colleges or universities who are accredited by a nationally recognized accrediting organization.

“Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state. “Buttock” means either of the two (2) rounded prominences of the human torso that are posterior to the hips and formed by the gluteal muscles to the hips and underlying structures.

“Open use” means that use of a lot without a building or with a building incidental to the use, with a ground floor area of five percent or less of the area of the lot (e.g., car sales lots, flea markets, etc.).

“Owner-occupied bed and breakfast/boarding-house” means a bed and breakfast facility or boardinghouse which is individually owned, occupied and managed by the owner-operator who resides in the dwelling as their primary residence.

“Parking garage” means a building, except a “private garage,” used exclusively for public parking of motor vehicles.

“Peep show facility” means an establishment utilizing a device operated manually, mechanically, magnetically, electrically or electronically which exhibits, displays, projects or illuminates photographed, videotaped, or magnetically reproduced images, or exposes live entertainment to the viewer which the viewer is in a booth or stall distinguished or characterized by an emphasis on matter depicting “sexual conduct” as defined by I.C. 35-42-4-4 (and as may from time to time be amended) or nudity for observation by patrons thereof.

“Platted ground” means ground platted as provided by the subdivision ordinance.

“Premises” means a lot and the structures located on the lot.

“Principal building” means a building in which is conducted the principal use of the building site on which it is situated.

“Private garage” means a structure for inside parking of motor vehicles (or storage of tools) used solely by the occupants of the principal building.

“Public park” means property owned by Vanderburgh County, Indiana or any city or town within the County (excluding the City of Evansville, Indiana) and designated for use as a park or for recreational activities.

“Public uses” means public parks, schools, fire stations, police stations, libraries, museums, zoological gardens and parks, city and town halls, county courthouses, utility complexes, including, but not limited to, public land or buildings devoted solely to the storage and maintenance of equipment and materials, and public service facilities.

“Religious Institution” means a church, synagogue, mosque, temple or building which is used primarily for religious worship of a supreme being or beings.

“Residence” and “residential” applies to a lot, a structure, or a portion of a structure which is used for any of the uses permitted in the residential districts.

“Right-of-way” means a strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. A right-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which the right-of-way is established.

“Setback” means the minimum distance between the street right-of-way, rear or side lot lines, and the front line, rear line, or side line of the building or any projection.

“Sexual encounter center” an enterprise that as one (1) of its business purposes, offers for any form of consideration:

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex, or

B. activities between male and female persons and/or persons of the same sex where one (1) or more persons appears in a state of nudity or where the activities in A. or B. herein are characterized by an emphasis on activities which meet the definition of “harmful to minors” as set forth in I.C. 35-49-2-2 (as it may from time to time be amended) and/or “sexual conduct” as set forth in I.C. 35-42-4-4- (and as it may from time to time be amended.)

“Site plan” means a map of a site showing lot dimensions, location and size of all buildings, setbacks, green space, ingress-egress, curb cuts, traffic flow plan, parking, or other improvements, whether existing or proposed.

“Street” means a public way established by or maintained under public authority, or a right-of-way dedicated to public use, whether constructed or not.

“Structural alterations” means a change in the structural members of a building, such as walls, columns, beams or girders.

“Structure” means anything constructed or erected on the ground, or attached to something with a fixed location on the ground including, but not limited to buildings, walls, signs and pools.

“Thoroughfare plan” means the portion of the thoroughfare plan adopted by the area plan commission for the development, improvement, or extension of streets and roads in Evansville and Vanderburgh County, which includes an official map indicating the general location for controlled access, major arterial, minor arterial, and collector streets and roads.

“Thoroughfare setback” means a minimum setback line established by the thoroughfare plan which defines the distance between a structure and the centerline of the street. Thoroughfare line includes both right-of-way line and building setback.

“Use” means the purpose for which land or a structure is designed, occupied or maintained.

“Use or development commitment” means a written commitment which conforms with IC 36-7-4-1015 concerning real estate.

“Yard” means space on the same lot with a structure or use, open and unobstructed.

“Zoning” means an enactment by the legislative body of local governments, in which the community is divided into districts of zones in which permitted and special uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The zoning ordinance consists of two parts: a text and a map.

Revise Definitions to include

**SECTION 2. AMENDMENT OF SECTION 17.16.020 OF THE CODE OF ORDINANCES OF VANDERBURGH, COUNTY, INDIANA**

Section 17.16.020 of Title 17 of the Code of Ordinances of Vanderburgh County, Indiana is hereby amended by replacing subsection A. with the following:

A. Uses in “A” District. A building or land may not be used, and a building may not be erected or altered, except for one or more of the following uses:

1. Use group 1;
2. Use group 2-subject to the restrictions provided in Section 17.16.040(A)(2);
3. Use group 17;
4. Use group 18;
5. Use group 19 (if approved as a special use);
6. Special uses; and
7. Accessory uses to any of the above.

**SECTION 3. AMENDMENT OF SECTION 17.20.210 OF THE CODE OF ORDINANCES OF VANDERBURGH, COUNTY, INDIANA**

Section 17.20.210 of Title 17 of the Code of Ordinances of Vanderburgh County, Indiana, entitled “Use group 18” is hereby amended by replacing the existing section with the following:

List of uses permitted in the A, AIR, and CON districts, which meet the requirements and restrictions of that zone: Animal and poultry raising except in a Confined Feeding Operation, Agricultural workshops or repair shops, for owner's agricultural equipment, located on the same lot with the owner's residence, Boarding/breeding kennel, Cattle and dairy ranches except in a Confined Feeding Operation, Livery stable, Livestock grazing except in a Confined Feeding Operation, Riding stables or guest ranches, Veterinary clinic.

**SECTION 4. AMENDMENT OF SECTION 17.20.220 OF THE CODE OF ORDINANCES OF VANDERBURGH, COUNTY, INDIANA**

Section 17.20.220 of Title 17 of the Code of Ordinances of Vanderburgh County, Indiana, entitled "Use group 19" is hereby amended by replacing the existing section with the following:

"List of Uses permitted with Special Use No. 25 in the A, M-1, M-2, M-3, AIR & W-R districts which meet the requirements & restrictions of the zone"

A. The following recreational and service uses: Amusement park or theme park; Animal or vehicle racetrack, Campground-premises used for temporary parking of trailers, campers, or recreational vehicles, Child care center, Drive-in theater, Permanent circus or carnival grounds

B. Use permitted in the A district only with Special Use No. 25.

Farm Products Processing and Sales - where fruits, vegetables, or other planted crops grown on site are processed including but not limited to cooking, mixing with other ingredients, bottling, packaging, etc. that transforms the fruits, vegetables, or other crops into higher valued farm products for human ingestion ("value added farm products"). Such processing may involve the making of wines, ciders, jams, jellies, and other consumable food or beverage products.

1. Written requests for temporary use of substitute crops grown off site may be submitted to and approved by the APC Director upon the review of documentation provided with the request of an unusually low on site crop harvest or other special circumstances.

2. The sale of these value added farm products is allowed as follows:

a. The sale of other foods and beverages is allowed as long as these items are associated with or commonly consumed with the value added farm product, are incidental to the primary farm use, and do not involve cooking or preparation on-site;

b. The sale of other incidental items commonly associated with the value added farm product or the farm use is also allowed.

3. Facilities for the on-site processing, retail display, sales, and sampling of value added farm products are allowed within the following parameters:

- a. The facilities must be strictly ancillary and incidental to the primary farming use;
- b. The facilities may include patio seating or other outdoor areas for picnics, agri-tourism gatherings, private noncommercial gatherings hosted by the property owner or the farm use operator, or other activities incidental to the farm use.

C. Use permitted in the A district only with Special Use No. 25. Confined Feeding Operations (CFOs). In addition to meeting all regulatory standards and permitting requirements established by the Indiana Department of Environmental Management, and any other regulatory agency, the following requirements must also be met:

- 1. Minimum Parcel Size: a CFO shall not be located on any property that is less than 25 acres.
- 2. Minimum Facility Setbacks: All CFO Facilities shall be set back a minimum of 100 feet from all property lines, including all street or road rights-of-way.
- 3. Minimum Separation Distances: CFOs and CFO Facilities shall be separated from other properties and/or land uses as specified below:
  - a. Residential Zoning Districts and Subdivisions: A CFO Facility shall be no closer than 1,320 feet to the boundary line of any Residential zoning district or of any major or minor subdivision that has been granted primary or secondary approval.
  - b. Non-Farm Residential Properties in Agricultural Zoning Districts: A CFO Facility shall be no closer than 1,320 feet to the nearest property line of any residential parcel located in an Agricultural zoning district and that is not used for any uses included in Use Group 17 or Use Group 18, or uses that require a permit for Special Use No. 25.
  - c. Farm Residences in Agricultural Zoning Districts: A CFO Facility shall be no closer than 500 feet to any residential structure located in an Agricultural zoning district on a parcel that is also used for any uses included in Use Group 17 or Use Group 18, or uses that require a permit for Special Use No. 25.
  - d. Certain Properties with Community Facilities: A CFO Facility shall be no closer than 1,320 feet to the nearest property line of any property on which is located any:
    - i. school (including a trade or business school, college or university, and day-care center);

ii. health care facility (including a hospital, clinic, nursing home or assisted living facility);

iii. church or religious institution; or

iv. recreational facility (including all park uses and all outdoor recreational uses, public or private).

e. Wells for Potable Water: A CFO Facility shall be no closer than 500 feet to the wellhead of any well providing potable water.

f. Exemptions: No minimum separation distance shall be required from a CFO Facility to any residential properties, farm dwellings, specified community facilities or wells that are established after the CFO Facility is established, and such establishment shall therefore not constrain the future expansion of the previously established CFO Facility. The CFO facility, as well as farm dwellings and community facilities, shall be considered established upon the start of their construction. Residential properties shall be considered established upon the recording of the approved subdivision plat, parcelization, etc. for any new lots. Wells shall be considered established upon being placed in operation.

4. No CFO Facility shall be located or maintained within the Special Flood Hazard Areas as defined in Title 18 of this Code.

5. The CFO Facility shall have and maintain a tree buffer zone meeting the following requirements:

a. Tree buffer zones must be a minimum of ten feet (10') in depth, measured from the centerline of each tree, and located no more than fifty feet (50') from any point on a CFO Facility, and surrounding all CFO Facilities included in the CFO, except that:

i. the buffer zone may be bisected by a single access drive no wider than 24 feet, and

ii. no tree buffer zone is required between CFO Facilities within the same CFO.

b. All trees must be of a non-invasive evergreen species with a minimum height at maturity of 25'.

c. All trees must have a minimum height of 6', 1.5" trunk diameter, and 3' in spread at the time of planting.

d. Trees must be spaced at a minimum of ten feet apart, measured from the centerline of each tree.

e. Prior to the issuance of the Improvement Location Permit, tree buffer zones must be incorporated in use and development commitments to be executed and recorded in the County Recorder's office, defining the area as exclusively dedicated for the tree buffer zone with the exception of a perpendicular crossing for an access drive and utility lines only.

f. Tree buffer zones shall be perpetually maintained, including the replacement of any dead trees.

g. A tree planting plan must be provided on, or separately accompanying, any site plan submitted for the issuance of an Improvement Location Permit.

D. The following service uses (no special use required in agricultural zone—permitted use per use group 18): Boarding/breeding kennel: premises on which four or more small animals at least four months old are kept, Veterinarian or veterinarian clinic.

**SECTION 5. AMENDMENT OF SECTION 17.28.050 OF THE CODE OF ORDINANCES OF VANDERBURGH, COUNTY, INDIANA**

Section 17.28.050 of Title 17 of the Code of Ordinances of Vanderburgh County, Indiana, entitled "List of special use designations" is hereby amended by replacing the existing entry in for special use number 22 with the following:

Animal breeding and raising for fur production or experimental use, but not including a Confined Feeding Operation

**SECTION 6. EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its adoption by the Board of Commissioners of Vanderburgh County.

PASSED BY THE BOARD OF COMMISSIONERS OF VANDERBURGH COUNTY,  
INDIANA

First passed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Final passage on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

THE BOARD OF COMMISSIONERS OF  
VANDERBURGH COUNTY, INDIANA

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Bruce Ungethiem, President

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Joe Kiefer, Commissioner

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Stephen Melcher, Commissioner

ATTEST:

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Brian Gerth  
Vanderburgh County Auditor

APPROVED AS TO LEGAL FORM:

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Joseph Harrison, Jr.