

Agenda Item #3

Case Number	BZNA-0167-2019	Property Size	2.26 AC
Address	3499 Conner St	Zoning	PB (Planned Business)
Owner	D&A Construction Inc & Vetters May Development LLC	Reviewer	Oksana Polhuy
Applicant	Daphne and Dave Fetters	BZA Meeting	January 6, 2020

Requested Action:

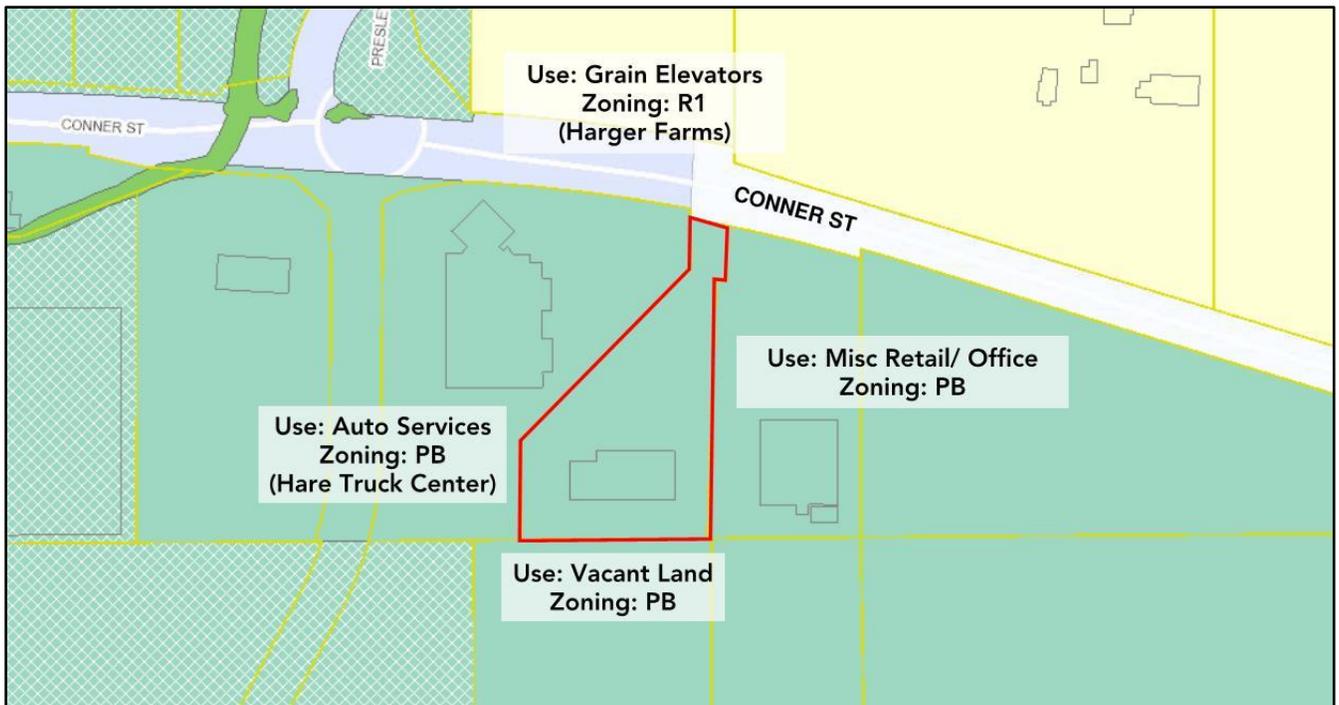
UDO §8.C.4.F and Appendix C. *Variance of Use* to permit outdoor storage.

Recommendation:

Approve. See Findings of Facts for Approval on pages 2-3 and Conditions of Approval on page 4.

Table of Contents:

1. Staff Report
2. Parcel Map
3. Aerial Map
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ANALYSIS

The subject site is located on the south side of Conner Street, about 0.4 miles east of State Road 37. It is lot 1 in Gill Subdivision, located outside of the city limits (Exhibits 2 and 3). It contains a building with offices, retail space and a warehouse section (Exhibit 6). The subject site is surrounded by the industrial use (grain elevators) to the north, commercial use to the east, vacant land to the south and commercial use (auto sales and services) to the west.

The outdoor storage use is permitted only in industrial zoning districts, but not in Planned Business commercial zoning district. The applicant is proposing to use a southwest corner of the lot behind the building to store tenants' equipment and materials (Exhibit 5) and asks for a variance of use to permit it.

The proposed use for the subject site in the Comprehensive Plan is Office/Industrial Flex. Office/Industrial Flex areas are employment centers that allow light industry and small warehousing units. In this area, the outdoor storage is encouraged to be limited to small areas, which is exactly what the applicant proposes. Outdoor storage areas are usually required to be behind the rear line of the principal building. However, a portion of the proposed storage area is behind the front line of the building.

Where allowed, the outdoor storage areas are required to be screened by an opaque solid fence at least 7 feet tall. The applicant proposed a combination of chain link and a wind screen fabric (Exhibit 4). Usually, developments in industrial zoning districts are required to have a fence at least 95 % opaque. Instead of regulating the fence type, the staff proposes a minimum opacity percentage of 90% in the conditions of the variance approval to meet the intent of the ordinance to properly screen the storage area. The storage area, located far from the road and mostly behind other surrounding uses, is barely visible (Exhibits 5, 6, and 7), so a slightly transparent fence should still meet the ordinance intent to screen the storage area. Other regulations of the outdoor storage areas are included as conditions of variance approval.

The staff finds that the main problem with the proposed storage area is that a portion of the proposed storage area is used for maneuvering the parking lot. Storage in maneuvering areas is not permitted for several reasons. First, there might be fire access issues. The applicant would need to consult with the fire marshal about the fire access requirements and change the storage area accordingly. Second, there is a loading berth inside of the proposed storage area. Per UDO §10.0.9.D on access and maneuverability of loading berths, an access to the loading berth shall be adequate for vehicular access. To do so, a maneuvering apron shall be at least 55 feet and a one-way aisle leading to the berth shall be at least 18-feet-wide. The maneuvering area to access the loading berth shall not be obstructed by storage.

VARIANCE OF USE FINDINGS

AGENDA ITEM #3:

If the Board should decide to APPROVE the requested variance, please use the following findings of fact:

The Noblesville Board of Zoning Appeals is authorized to approve or deny variances of use from the terms of the zoning ordinance. **The BZA may impose reasonable conditions as part of its approval. A Variance of Use may be approved only upon a determination in writing that the following five (5) conditions are met (see Indiana Code § 36-7-4-918.4):**

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

It is likely that this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. The storage area is going to be used to store inventory and equipment. The vacant and agricultural properties around should not be affected by this operation. In proposed variance conditions, staff recommends following outdoor storage screening regulations, usually applied to the permitted outdoor storage areas, to screen the view to this area and maintain a commercial/light industrial look of the nearby area. Additionally, staff recommends other conditions to ensure safety of the site.

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

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties.

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

The need for the variance does arise from a condition peculiar to the property involved. The property was developed with warehouses long time ago giving it an industrial look. However, the property is zoned commercial not allowing outdoor storage. Its indoor uses are commercial and those uses require more storage space. At the same time, several uses around are either vacant, close to industrial uses (truck service center), or are industrial (grain elevators). The property with the grain elevators to the north is in the plan to be rezoned to industrial zoning district as part of the bigger development. About 600 feet south from the subject site is industrially-zoned Pleasant Street Commercial Park where outdoor storage is permitted. Thus, while the zoning of the property does not allow outdoor storage, the way that the property and surrounding areas have been developed created a light industrial character.

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

The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property. Most of the building is used as a retail space and office and only a small portion of the building is used for storage. The Comprehensive Plan indicates that this area shall be an employment center. The number of tenants on the subject site keeps increasing meeting the intent of this area. However, many tenants need an area to store inventory and equipment, which is not permitted outside, or on the existing parking lot. Restricting storage only to the indoors limits the amount of available space to other tenants. Allowing an outdoor storage area would allow to fit more tenants and provide jobs and services to the community, as intended by the Comprehensive Plan.

5. The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council:

The approval does not interfere substantially with the comprehensive plan. The Comprehensive Plan shows this area Office/Industrial Flex that permits light industrial uses with outdoor storage areas.

RECOMMENDATIONS

AGENDA ITEM #3:

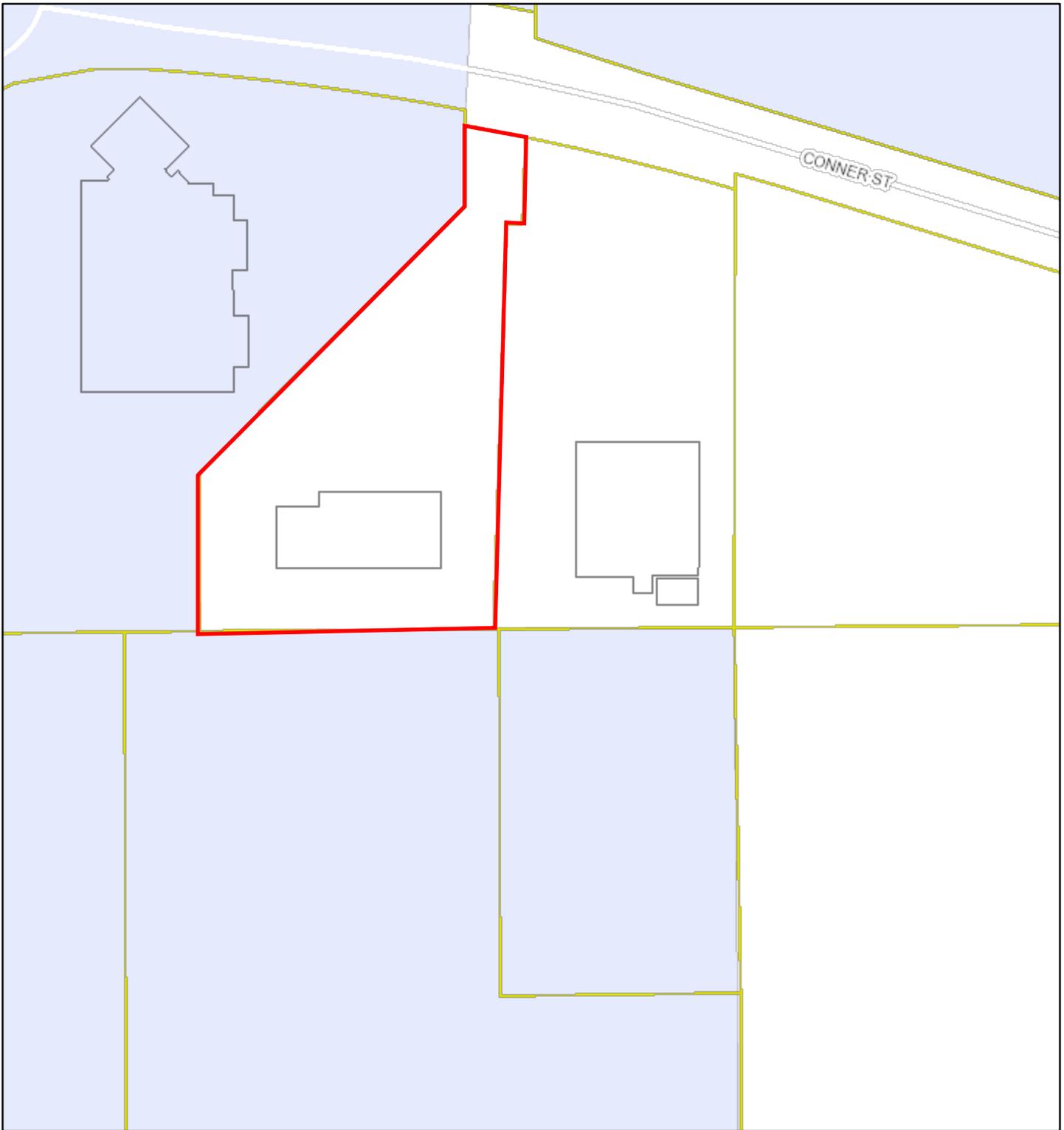
APPROVE the requested Variance of Use based upon the following findings of fact:

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value to the area adjacent to the property will not be affected in a substantially adverse manner;
- The need for the variance does arise from some condition peculiar to the property involved;
- The strict zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;
- The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council.

With the following specific conditions:

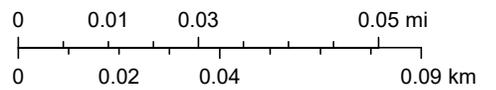
1. The applicant shall consult with the fire marshal and ensure that the storage area and its screening does not encroach into the fire access areas.
2. The maneuvering area to access the loading berth shall not be obstructed by storage.
3. No portion of the outside storage area shall be in front of the front line of the building.
4. The outdoor storage area shall be paved according to the design and improvement standards for parking and driveway areas per UDO §10.0.4.D.
5. The outdoor storage area shall be completely screened by a solid fence or wall of not less than seven (7) feet tall and that is at least ninety percent (90 %) opaque.
6. Materials stored behind any screening wall or fence shall be stacked no higher than one (1) foot below the top of the wall or fence. Vehicles, trailers, mobile machinery, or equipment shall be stored in their lowest elevation. No vehicle, trailer, mobile machinery, or equipment shall be used for nor constitute permanent storage.
7. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
8. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

EXHIBIT 2. PARCEL MAP



October 28, 2019

1:1,680



centerlines

□ Buildings

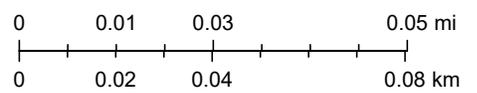
□ Parcels

EXHIBIT 3. AERIAL MAP



October 28, 2019

1:1,560



centerlines

 Parcels

EXHIBIT 4. APPLICATION



CITY OF NOBLESVILLE BOARD OF ZONING APPEALS VARIANCE OF USE APPLICATION

Application Number: BZVA-0107-2019

The undersigned requests a Variance of Use as specified below. Should this variance request be approved, such approval shall only authorize the particular use described in this application and as further limited by reasonable conditions imposed upon such approval by the Board of Zoning Appeals.

Project Name or Occupant Name: D&A Construction Inc. dba North Indy Fence Deck & Rail
Common Address 3499 Conner Street Noblesville, IN 46060

Applicant Name: Daphne and Dave Fetters

Applicant Address: 3499 Conner Street

Applicant City/State/Zip: Noblesville, IN 46060 E-mail: daphne@northindyfence.com

Applicant Phone #1: 317-848-8814 Phone #2: 765-749-5368 Fax: _____

Owner Name: Dave and Daphne Fetters

Owner Address: 3499 Conner Street

Owner City/State/Zip: Noblesville, IN 46060 E-mail: daphne@northindyfence.com

Owner Phone #1: 317-848-8814 Phone #2: 765-749-5368 Fax: _____

Property Location: Not located in a recorded subdivision, see legal description attached.

Subdivision Name: Gill Subdivision

Subdivision Section: 32 Lot Number: #1 Last Deed of Record Number 2017-58612

Existing Land Use: Industrial

Common Description of Request: Variance of Use to permit outdoor storage.

Zoning District of Property: _____ Code Section(s) Appealed: UDO § _____

Date: _____ Applicant's Signature: _____

The Noblesville Board of Zoning Appeals (BZA) is authorized to approve or deny Variances of Use from the terms of the Unified Development Ordinance. The BZA may impose reasonable conditions as part of its approval. A Variance of Use may be approved only upon a determination in writing that the following five (5) statements are true (see Indiana Code § 36-7-4-918.4):

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

It is our intent to install a 7' tall Black Vinyl Chain Link Fence with 80-95% blockage
with privacy/windscreen around the perimeter of our rear lot to conceal outdoor
storage items that otherwise would be visually displeasing to neighboring
businesses.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner by the approval of this variance request. Explain why this statement is true in this case:

The addition of a fenced area will improve the overall appearance in a positive
manner for the neighboring businesses.

3. The need for the proposed variance arises from some condition peculiar to the property involved. Explain why this statement is true in this case:

The nature of our business requires inventories to be brought in and are needed to be
stored for short periods of time until installation. There is a rotation of materials for jobs
in and out on a continual basis. The Hare Truck Dealer (our adjacent neighbor) will
benefit the most from the privacy a chainlink fence with privacy screen will provide.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which this variance is sought. Explain why this statement is true in this case:

We do not have enough inside storage space to accomodate the amount of materials
necessary to have on hand at any given time to keep the work flow going at the
rate of sales to installation requires.

5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana. Explain why this statement is true in this case:

Our facility is located in the Industrial zoned area designated specifically for
businesses that run crews. We may be unique in the fact that we handle a large
quantity of materials on a regular basis similar to our neighbor to the east;
Hanlon Development LLC & K&J Investments IV LLC whom also have this need
and were recently granted a similar variance.

DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
28th day of November 2017 - CRH
Garvin M. Miller Auditor of Hamilton County
Parcel # 10-07-32-00-00-014.000

2017058612 WD \$25.00
11/28/2017 03:52:37PM 3 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented



WARRANTY DEED

PROPERTY TAX # 29-07-32-000-014.000-012

This Indenture, Made this 22nd day of November, 2017, between C.B.C. PROPERTIES, Grantor, of HAMILTON County, State of Indiana, CONVEYS and WARRANTS to D&A CONSTRUCTION, INC and VETTERS-MAY DEVELOPMENT LLC, GRANTEE, of HAMILTON County, State of Indiana.

WITNESSETH: That said grantor, for and in consideration of the sum of TEN and No/100 DOLLARS, (\$10.00) and other valuable considerations to said grantees in hand paid by said grantees, the receipt whereof is hereby acknowledged, do by these presents has granted, bargained and sold, to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in HAMILTON County, Indiana, wit:

LOT NUMBERED 1 IN GILL SUBDIVISION, A SUBDIVISION IN HAMILTON COUNTY, INDIANA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 9, PAGE 20, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

MORE COMMONLY KNOWN AS: 3499 EAST CONNER ST, NOBLESVILLE, IN 46060

SUBJECT TO RESTRICTIONS, RESERVATIONS AND LIMITATION OF RECORD, IF ANY, AND TAXES ASSESSED MAY, 2017, DUE AND PAYABLE MAY, 2018, AND ALL SUBSEQUENT YEARS.

IN WITNESS WHEREOF, grantor hereby represents and certifies that he is a duly elected officer of Grantor and has been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full corporation capacity to convey the Real Estate described herein; and that all necessary corporate action for the making of such conveyance has been taken and done.

GRANTOR certifies under oath that no Indiana income tax is due and payable.

William S. Crask Member
WILLIAM S. CRASK

Robert J. Camp MEMBER
ROBERT J. CAMP

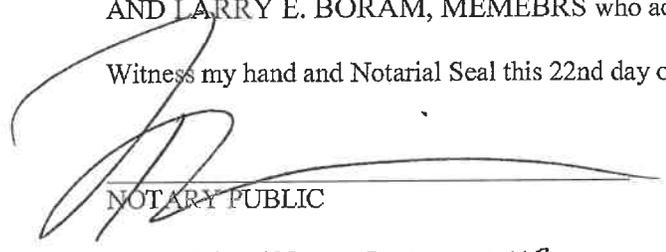
Larry E. Boram MEMBER
LARRY E. BORAM

C.B.C. PROPERTIES
TITLE: MEMBRs

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON

Before me, a Notary Public in and for the State of Indiana and a resident of Johnson County, Indiana, personally appeared C.B.C. PROPERTIES, BY WILLIAM S. CRASK AND ROBERT J. CAMP AND LARRY E. BORAM, MEMEBRS who acknowledged execution of the foregoing instrument.

Witness my hand and Notarial Seal this 22nd day of November, 2017.



NOTARY PUBLIC

Notary Printed Name: Bill A. McCammon
My Commission Expires: 6-28-23
My County of Residence: Johnson



SEND TAX STATEMENTS TO GRANTEE'S STREET OR RURAL ROUTE ADDRESS:
624 little eagle DR. Noblesville, IN 46060

This Form Prepared by: JOSEPH G. STRIEWE, ATTORNEY-AT-LAW

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Kristen Bolden

Exhibit "A"

Legal Description

LOT NUMBERED 1 IN GILL SUBDIVISION, A SUBDIVISION IN HAMILTON COUNTY, INDIANA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 9, PAGE 20, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

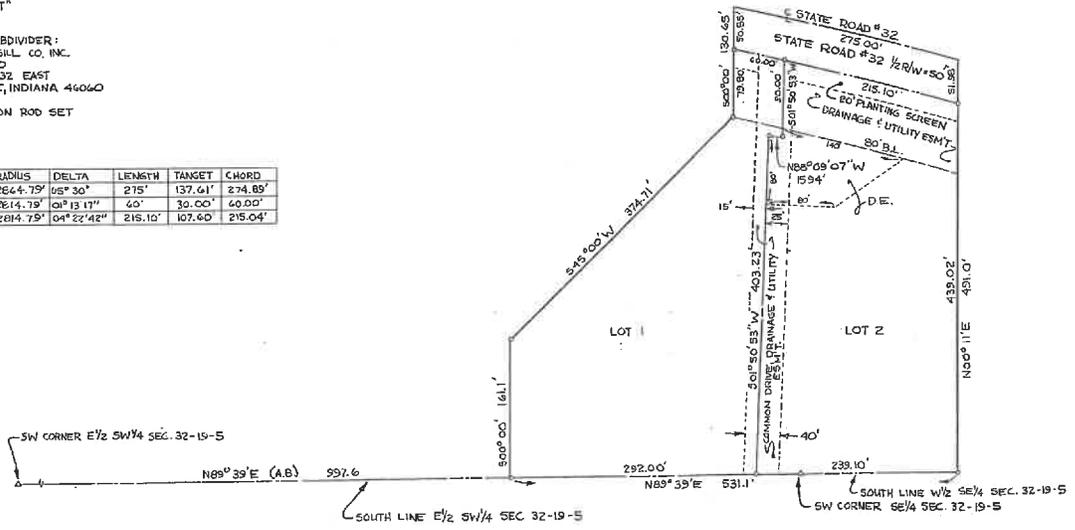
DATE: JULY 28, 1981



GILL SUBDIVISION "RECORD PLAT"

OWNER AND SUBDIVIDER: FRANK W. GILL CO. INC. P.O. BOX 500 STATE ROAD 32 EAST NOBLESVILLE, INDIANA 46060

Table with 6 columns: CURVE DATA, RADIUS, DELTA, LENGTH, TANGENT, CHORD. Rows include ST RD #32, LOT #1, and LOT #2.



CERTIFICATE OF SURVEY

I, the undersigned, hereby certify the attached plat to be true and correct, representing a subdivision of a part of the Southwest Quarter and a part of the Southeast Quarter of Section 32, Township 19 North, Range 5 East, located in Noblesville Township, Hamilton County, Indiana, being more specifically described as follows:

Commencing at the Southwest corner of the East Half of the Southwest Quarter of Section 32, Township 19 North, Range 5 East; thence North 89 degrees 39 minutes East (assumed bearing) on and along the South line of said East Half 997.6 feet to the Place of Beginning of this tract; thence continuing North 89 degrees 39 minutes East on and along the South line of said East Half and the South line of the West Half of the Southeast Quarter of said Section 32, 531.1 feet; thence North 00 degrees 31 minutes East 492.0 feet to the centerline of State Road #32; thence Northwest on and along said centerline on a 2 degree 00 minutes curve to the left, 275.0 feet to a point subtended by a chord 274.89 feet in length which bears North 76 degrees 51 minutes 40 seconds West from the last described point; thence South 00 degrees 00 minutes 130.65 feet; thence South 45 degrees 00 minutes West 374.71 feet; thence South 00 degrees 00 minutes 161.1 feet to the Place of Beginning.

This subdivision consists of Two (2) lots, numbered One (1) through Two (2), both inclusive. The sizes of lots and widths of streets are shown on this plat by figures denoting feet and decimal parts thereof.

I, Leland D. Miller, Jr., hereby certify that I am a Registered Land Surveyor, licensed in compliance with the laws of the State of Indiana. Witness my signature this 31st day of July, 1981.

By Leland D. Miller, Jr. Registered Land Surveyor # 50083



This subdivision shall be known and designated as GILL SUBDIVISION, a subdivision in Hamilton County, Indiana.

All streets shown and not heretofore dedicated are hereby dedicated to the Public for its use.

Building set-back lines (Building Line/B.L.) are hereby established as shown on this plat, between which line and the property line of the streets there shall be erected or maintained no building or structure.

There are strips of ground as shown on the within plat marked "Common Drive Easements" (C.D.E.), "Drainage Easements" (D.B.), and "Utility Easements" (U.E.) either separately or in any combination of the three, which are reserved for the use of public utility companies and governmental agencies as follows:

"COMMON DRIVE EASEMENTS" are created to provide a shared access onto adjoining lots. Said common drive easement has been reserved for the purposes of ingress and egress and maintenance of utilities as defined herein. A portion of said easement shall be used as a common drive for the purposes of ingress and egress servicing the lots of this Addition, and said common drive shall not be dedicated to the public. Said drive shall be constructed and maintained pursuant to specifications that are mutually agreeable to the owners of lots in this Addition. The costs of construction, improvements and/or maintenance shall be borne equally by the owners of said lots, with each lot being assigned one-half (1/2) of said costs. These costs shall include, but not be limited to, grading, stone, paving, repaving, and/or snow removal.

"DRAINAGE EASEMENTS" are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of this and adjoining ground and/or the public drainage system. No structure, including fences, shall be built upon said easement, which will obstruct flow from the area being served.

"UTILITY EASEMENTS" are created for the use of all public utility companies, not including transportation companies, for the installation and maintenance of mains, ducts, poles, lines and wires.

The owners of all lots in this subdivision shall take title subject to the rights of public utilities, governmental agencies and the rights of the other lot owners in this subdivision to said easements herein granted for ingress and egress in, along and through the strips of ground for purposes herein stated. No structure, including fences, shall be erected or maintained upon said easements.

The undersigned, Frank W. Gill, Sr., Frank W. Gill, Jr., and Roger D. Long being the Owners of record of the subject real estate, do hereby lay off, plat and subdivide the same into lots and streets in accordance with the within plat.

Witness our signatures this _____ day of _____, 19__

Frank W. Gill, Sr. Frank W. Gill, Jr. Roger D. Long

State of Indiana) ss County of Hamilton) ss Before me the undersigned, a Notary Public in and for said County and State, personal appeared Frank W. Gill, Sr., Frank W. Gill, Jr., and Roger D. Long who acknowledge the execution of the foregoing instrument as their voluntary act and deed for the uses and purposes thereon expressed.

Witness my hand and notary seal this _____ day of _____, 19__

Notary Public My Commission expires: _____

COUNTY COMMISSIONER'S CERTIFICATE

Under authority provided by Chapter 47, Acts of 1951 of the General Assembly of the State of Indiana, this plat was given approval by the board of County Commissioners of Hamilton County, Indiana at a meeting held on _____, 19__.

COMMISSIONER'S CERTIFICATE

Under authority provided by Chapter 174, Acts of 1947, enacted by the General Assembly of the State of Indiana, and all acts amendatory thereto and an ordinance adopted by the Common Council of the City of Noblesville, Indiana, this plat was given approval by the City of Noblesville as follows:

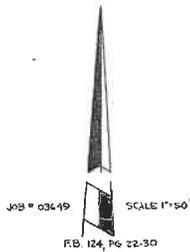
Adopted by the City Plan Commission at a meeting held _____, 19__

Noblesville Plan Commission President Secretary

DIRECTOR'S OF PLANNING AND DEVELOPMENT CERTIFICATE

I, Steven Huntley, Director of Planning and Zoning for the City of Noblesville, hereby certify that the application for approval of this plat meets all of the minimum requirements set forth in the Master Plan of Noblesville, Indiana and such other applicable requirements contained in the code of ordinances of the City of Noblesville, December 11, 1961 as amended.

By Steven D. Miller, Jr. Director of Planning and Development Date: _____



SITE PLAN

○ PROPOSED ELEVATION
 — ELEVATION OF CONTOUR LINE
 - - - - - EXISTING ELEVATION
 - - - - - EXISTING ELEVATION CONTOUR LINE
 — PROPOSED CONTOUR LINE

NOTE (A): APPROXIMATE DIA 1 1/2"
CONTACT SOIL CONSERVATION OFFICE FOR
DETAILS CONCERNING TILE.

NOTE: ACCESS FROM STATE ROAD #32 ONTO 5.00 ACRES
SHALL NOT BE PERMITTED EXCEPT THROUGH DRIVE AS CALLED
FOR IN SITE PLAN.

SITE NO.	SITE LOCATION +	RESULTS *
#1	325' NORTH & 300' WEST	15
#2	275' NORTH & 300' WEST	40
#3	225' NORTH & 300' WEST	-
#4	225' NORTH & 200' WEST	18
#5	275' NORTH & 240' WEST	27

⊙ DENOTES PERCOLATION TEST SITE
 DATE OF TEST: 8-31-70
 * RATE IS IN TERMS OF MINUTES PER INCH
 + SITE LOCATIONS ARE FROM SE PROPERTY CORNER
 P.B. 115, PG 51

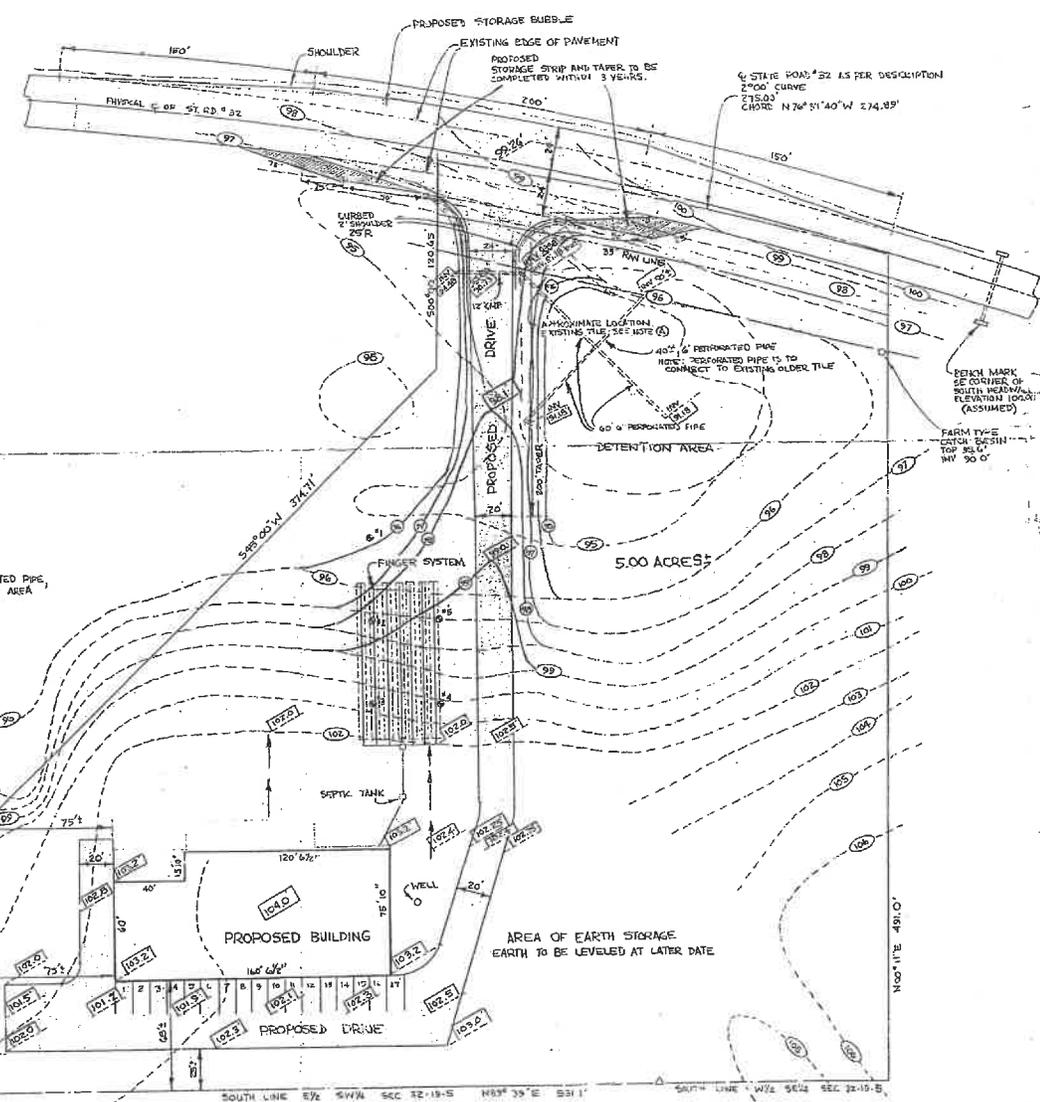
NOTE: PERFORATED DRAINAGE AREA TO CONSIST OF 6" OF PERFORATED PIPE,
UNDERLINED WITH 4" GRAVEL BASE, AND REMAINING SURFACE AREA
TO BE COVERED WITH STOLWE.

Edward D. Miller
 REGISTERED LAND SURVEYOR 50083
 DATE: OCTOBER 19, 1978
 FOR: FRANK GILL
 JOB # 03649



BY CORNER
S 7/2 SW 1/4
SEC 22-19-5

POINT OF BEGINNING



LD MILLER
 23 NORTH 8TH STREET
 NOBLESVILLE, INDIANA 46060
 PHONE (317) 773-2644
 REVISED: SEPTEMBER 27, 1978
 REVISED: OCTOBER 5, 1978
 REVISED: OCTOBER 19, 1978

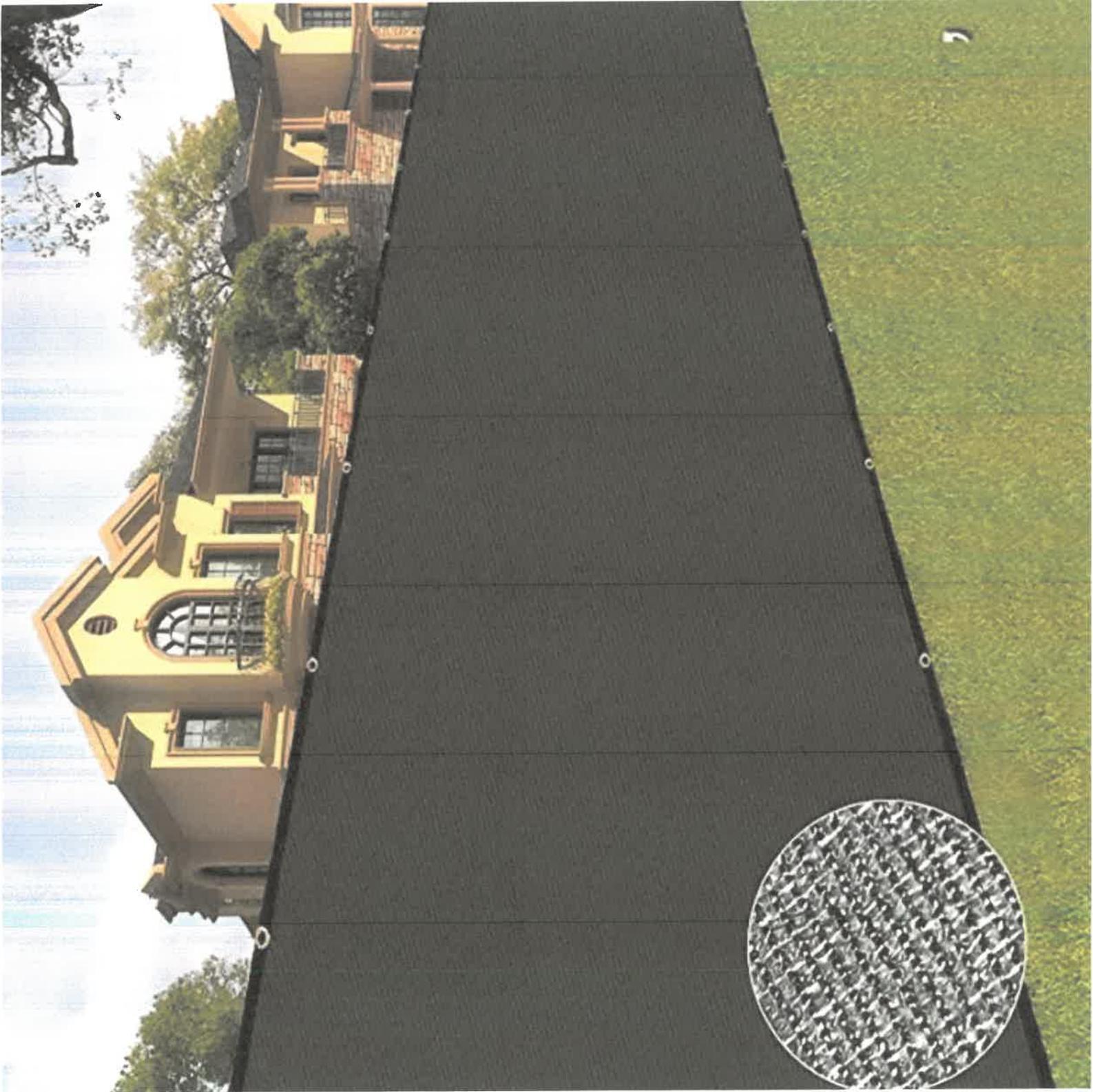




EXHIBIT 5. SITE PLAN



February 22, 2019

- centerlines
- Parcels

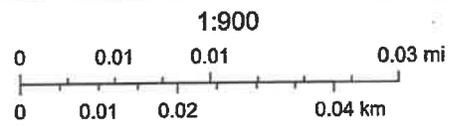
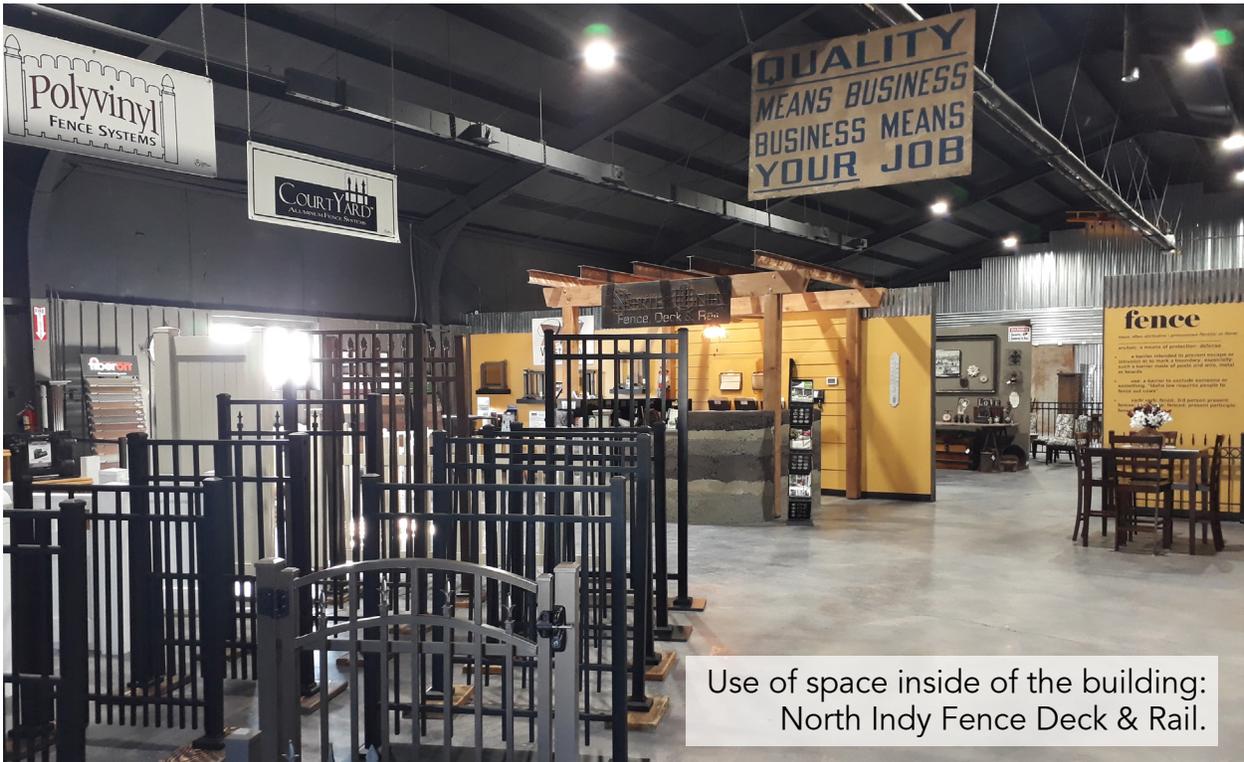
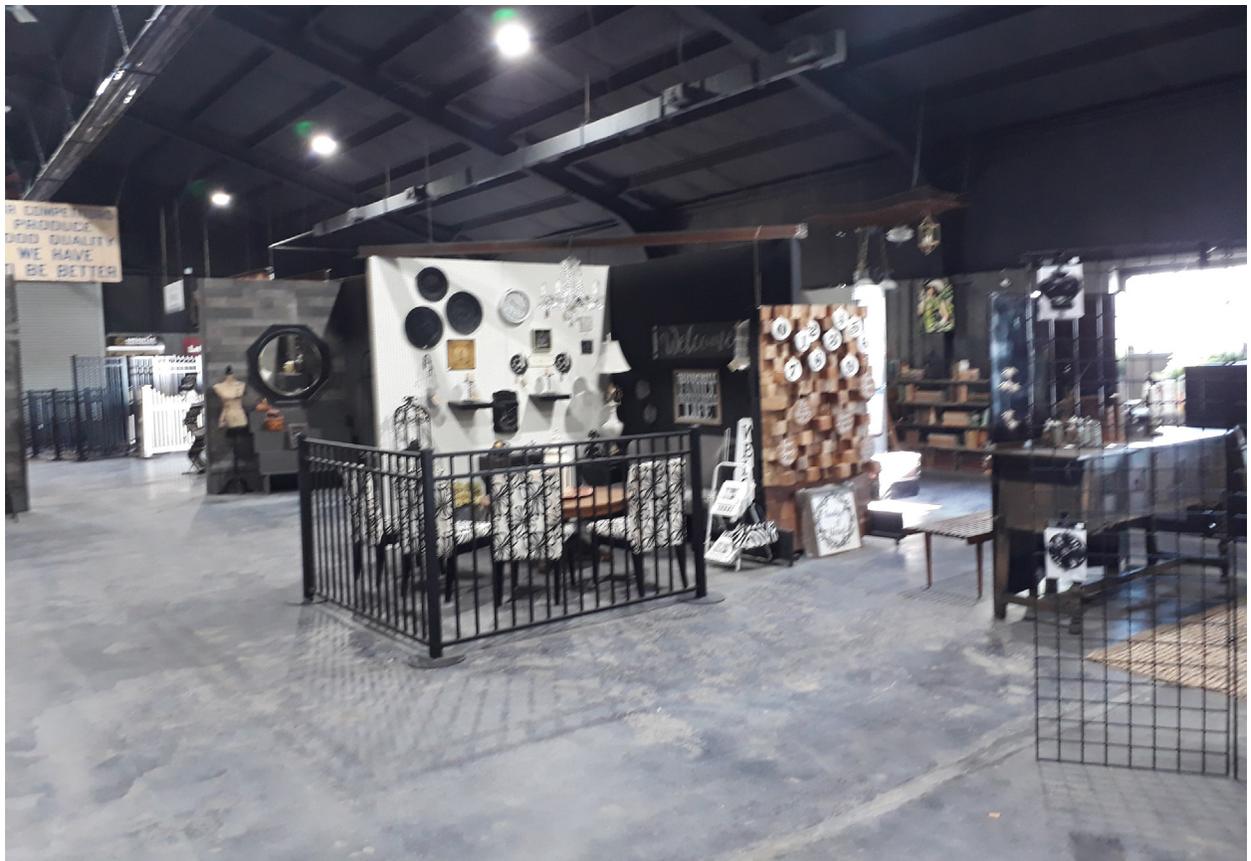
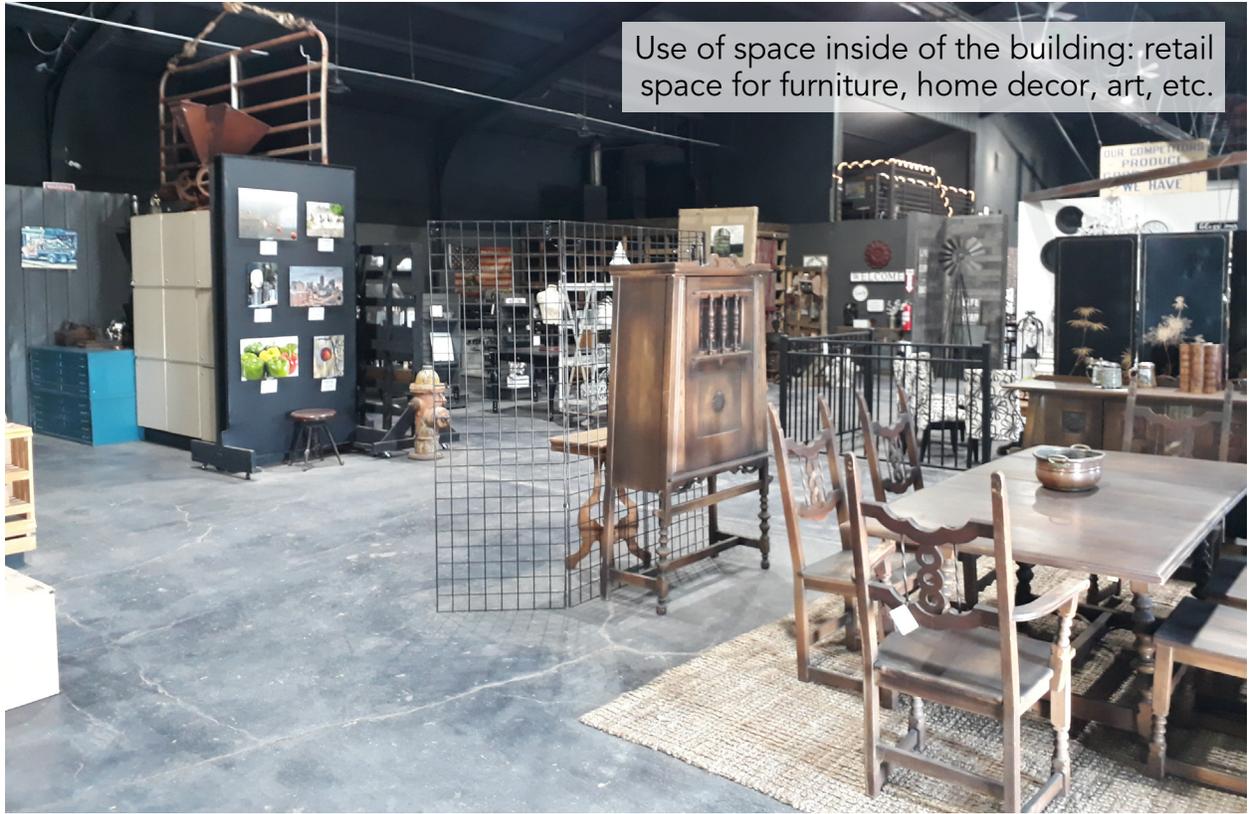


EXHIBIT 6. SITE PICTURES

Proposed outdoor storage area:
located behind and to the side of
this corner of the building.



Use of space inside of the building:
North Indy Fence Deck & Rail.



Use of space inside of the building:
a portion of the warehouse used for
storage.





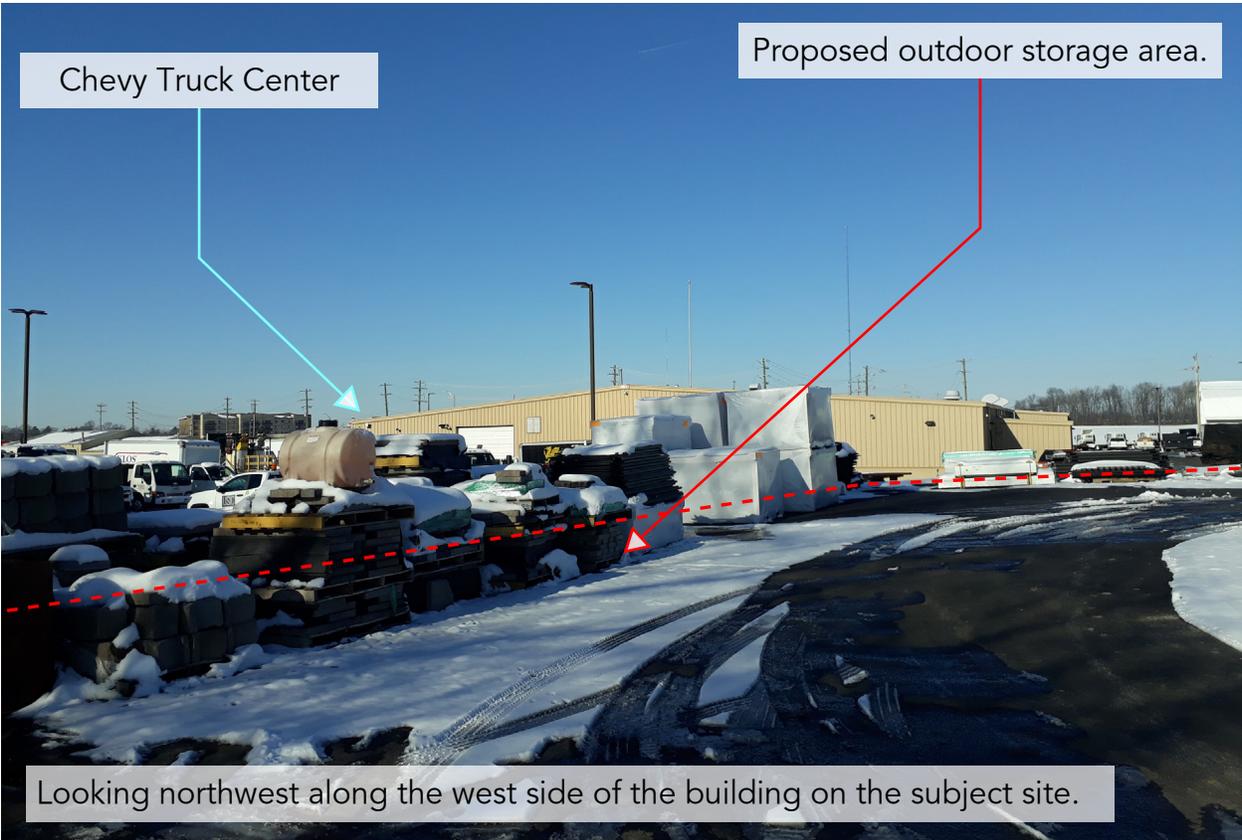
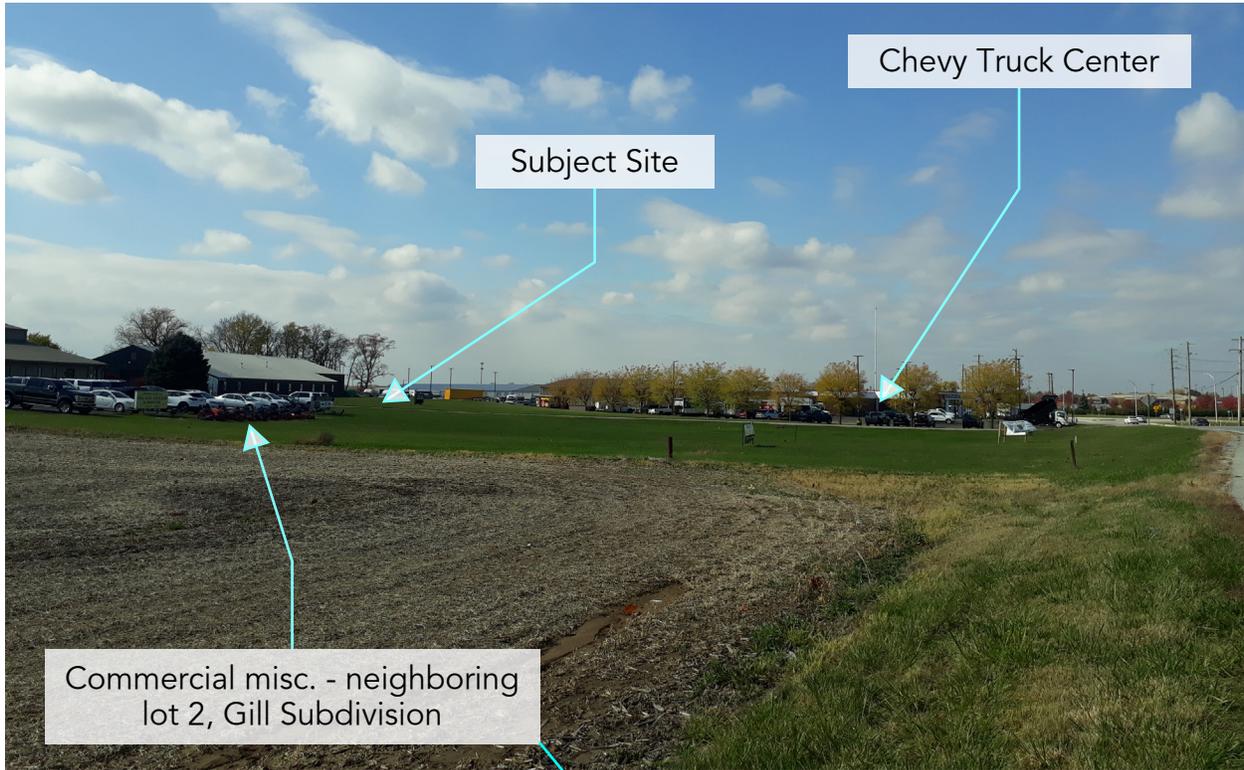




EXHIBIT 7. NEIGHBORHOOD PICTURES







Vacant lot to the south of the subject site.

