

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

24-W-VAC-2 PARTIAL PLAT VACATION
Brian & Stevie Fosnaugh
Vacation of part of Amos Yoder Subdivision

SEPTEMBER 18, 2024
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning:	AG, Agricultural	<u>Code Minimum</u>	<u>Proposed Minimum</u>
Area of vacation:	2.84 acres	Combined parcel area:	1.837 acres 6.55 acres
Remaining lot area:	13.01 acres	Comb. parcel width:	225' 240'±
Dedicated ROW:	Previously dedicated	Comb. parcel frontage:	50' 233'±

The petitioners, owners of the subject property, are requesting vacation of part of the previously platted Lot 2 of Amos Yoder Subdivision, recorded in 2018. The property is located on the east side of 500 West, about 700' north of the Whitley Road intersection, in Section 25 of Cleveland Township. The subject property is currently unimproved.

The petitioner acquired the property in 2019 and now desires to sell 2.84 acres to an adjacent property owner. That owner would combine the vacated parcel with their existing parcel to create a 6.55± acre parcel. The remaining platted acreage of Lot 2 would be retained by the petitioner.

Vacation of this part of the plat is required since splitting the property to the adjacent property owner would create a new "buildable" parcel of 2.84 acres, and so would not be exempt from a subdivision process (be it replat or vacation). Further, platted and unplatted parcels cannot be combined for tax purposes.

The proposed vacation and combine appears to comply with the development standards of the zoning code as shown in the above table.

UTILITY AND REVIEW COMMENTS

Comment letters received (as of date of staff report)

Electric	Health	Cable TV	Parcel Cmte.
Gas	Co. Engineer	Sanitary Sewer	NA
Telephone	SWCD	Water	NA

The right-of-way of 500 West dedicated with the Amos Yoder Subdivision should not be dedicated. If any utilities utilize any platted easements, they would retain the facilities.

The Parcel Committee had no comments.

VACATION REVIEW CRITERIA

Indiana Code §36-7-4-711, the Subdivision Control Ordinance, and the Zoning Code provide standards for plat vacations, including a requirement to make determinations regarding the criteria listed below. Staff's comments are under each criterion.

- 1. Conditions in the platted area have changed so as to defeat the original purpose of the plat;**
As originally approved, the Amos Yoder Subdivision was intended to divide the dwelling and farm outbuildings located along 300 South from the business building. That purpose would not be changed with the proposed vacation. However, conditions have changed since the area proposed to be vacated is intended to be combined with an adjacent property, which can only be done by replatting to add acreage to the subdivision or vacating to remove the area.

- 2. **It is in the public interest to vacate all or part of the plat; and**
 If left by itself, the acreage proposed to be split to the adjacent owner would be a “buildable” lot, which would be contrary to the subdivision regulations and zoning requirements. It is then in the public interest for the petitioner to partially vacate the platted lot so that it may be combined with the existing unplatted parcel and no additional buildable lots are created.
- 3. **The value of that part of the land in the plat not owned by the petitioner will not be diminished by the vacation.**
 Currently, the entire plat of Amos Yoder Subdivision is owned by the petitioner.

SUGGESTED CONDITIONS

Staff suggests the following condition(s):

- 1. The vacated remainder acreage must be combined with the adjacent parcel.
- 2. The right-of-way previously dedicated in Amos Yoder Subdivision is not vacated.

Date report completed: 9/11/2024

PLAN COMMISSION RECORD OF ACTION

Motion:

Approve
 Approve w/conditions
 Deny

By:
 Second by:

<i>Vote:</i>	Baker	Banks	Drew	Emerick	Green	Hodges	Johnson	Kurtz-Seslar	Wolf
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									

LEGEND

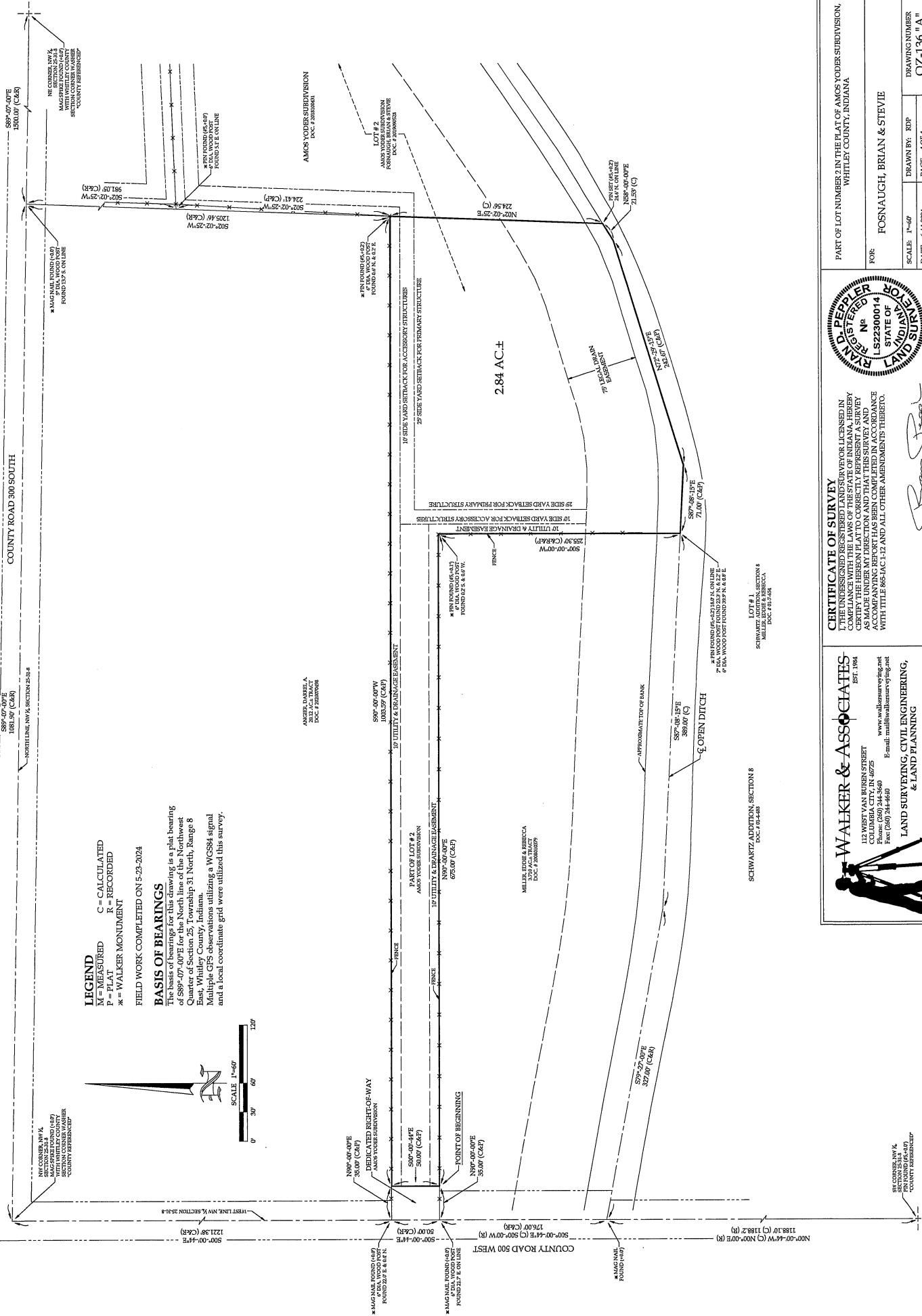
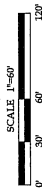
M = MEASURED
P = PLAT
* = WALKER MONUMENT

C = CALCULATED
R = RECORDED
* = WALKER MONUMENT

FIELD WORK COMPLETED ON 5-23-2024

BASIS OF BEARINGS

The bearings shown on this drawing is a plat bearing of S89°07'00"E to the North of the Northwest Quarter of Section 25, Township 31 North, Range 8 East, Whitley County, Indiana. Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.

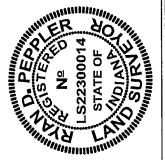


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**LAND SURVEYING, CIVIL ENGINEERING,
& LAND PLANNING**

CERTIFICATE OF SURVEY
I, THE UNDERSIGNED, REGISTERED LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, HEREBY CERTIFY THE FOREGOING PLAT TO CORRECTLY REPRESENT A SURVEY AS MADE UNDER MY DIRECTORIAL AUTHORITY AND THAT THIS IS IN ACCORDANCE WITH TITLE 36-1-1-1 AND ALL OTHER AMENDMENTS THERETO.

Brian R. FOSNAUGH



PART OF LOT NUMBER 2 IN THE PLAT OF AMOS YODER SUBDIVISION, WHITLEY COUNTY, INDIANA

FOR: FOSNAUGH, BRIAN & STEVIE

SCALE: 1"=60'

DATE: 6-14-2024

DRAWN BY: ROP

PAGE: 4 OF 4

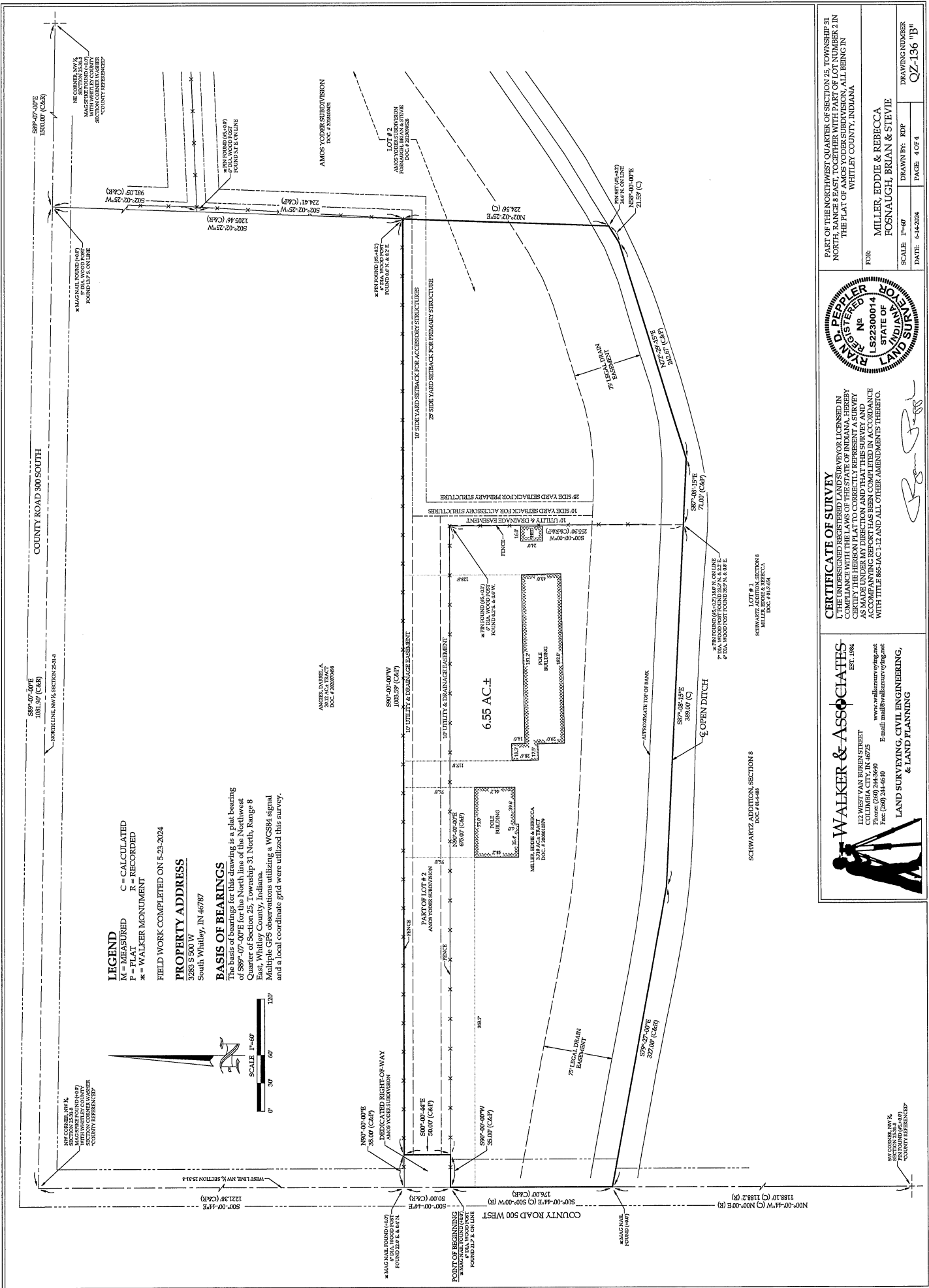
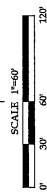
DRAWING NUMBER: QZ-136 "A"

LEGEND
M = MEASURED
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R = RECORDED
* = WALKER MONUMENT
FIELD WORK COMPLETED ON 5-23-2024

PROPERTY ADDRESS
3283 S 500 W
South Whitley, IN 46787

BASIS OF BEARINGS

The basis of bearings for this drawing is a plat bearing of S89°-07'-00"E for the North line of the Northwest Quarter of Section 25, Township 31 North, Range 8 East, Whitley County, Indiana. Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized in this survey.



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**LAND SURVEYING, CIVIL ENGINEERING,
& LAND PLANNING**

CERTIFICATE OF SURVEY
I, the undersigned, being a duly licensed land surveyor in the State of Indiana, hereby certify that the foregoing is a true and correct representation of a survey made under my direction and that the survey and plat comply with the laws of the State of Indiana, hereby certifying the heron plat to be correct and true and that the survey and plat comply with the laws of the State of Indiana, hereby certifying the heron plat to be correct and true and that the survey and plat comply with the laws of the State of Indiana, hereby certifying the heron plat to be correct and true.



PART OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 31 NORTH, RANGE 8 EAST, TOGETHER WITH PART OF LOT NUMBER 2 IN THE PLAT OF AMOS YODER SUBDIVISION, ALL BEING IN WHITLEY COUNTY, INDIANA

FOR: MILLER, EDDIE & REBECCA
POSNAUGH, BRIAN & STEVIE

SCALE: 1"=60'
DATE: 6-14-2024
DRAWN BY: RDP
PAGE: 4 OF 4
DRAWING NUMBER: QZ-136-7B

