

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

20-W-REZ-3 ZONE MAP AMENDMENT

Fred & Ann Warner

26.6± acres, near the northwest corner of S. 800E and US 24

MAY 20, 2020

AGENDA ITEM: 5

This petition was delayed due to COVID precautions. Updated notice has been provided.

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural

Proposed zoning: GC, General Commercial

Property area: 26.6± acres

The petitioner, owner of the subject property area, is requesting a zone map amendment for approximately 26.6 acres located in Section 36 of Jefferson Township, located on the north side of US 24, west of 800 East. The requested zoning for the subject property is GC, General Commercial.

Existing zoning classifications and land uses

Currently, the subject area is zoned AG, Agricultural. Part of the property is wooded, with the remainder used for agriculture. A natural water course bisects the property. The property has apparently been used primarily for agriculture for over 80 years. The petitioner constructed a storage building on the property in 2017; they plan to continue to use that building for personal storage.

The following table lists current surrounding zoning classifications and land uses:

	<i>Current zoning</i>	<i>Current land use</i>
<i>North</i>	AG	Buffer strip, [Glacier Creek Drive], residences (Manitou Woods)
<i>East</i>	GC C4/A1 (Allen Co.)	Residences, business, [800 East], residences, car dealer
<i>South</i>	IN	[US 24], former gravel pit, construction yard
<i>West</i>	AG	Residence, field

Prior petitions

In 2015, the Commission considered a petition (15-W-REZ-1) for rezoning of this property from AG to IPM. The petitioner at the time did not have a specific use or plan for the property, but desired to market it for industrial development. In the public hearing, there was a relatively large opposition stated. The Plan Commission had questions about access and the appropriateness of industrial zoning where public water and sewer may not be available. In the end, the petitioner withdrew the request prior to action being taken by the Commission.

In 2016, the current petitioner (the Warners) requested a rezoning (16-W-REZ-2) for their 5-acre parcel adjacent to the subject site. That request was to rezone from AG to GC, with the stated purpose to allow an auto restoration business and boat and vehicle storage within existing outbuildings. The existing residences would remain as legal nonconforming uses. In the public hearing, no opposition was heard. The Plan Commission had concern about access and traffic, especially from any potential future commercial development, and repeated concerns about availability of public utilities. The Commission did forward a favorable recommendation by a 7-1 vote, and the Commissioners adopted the ordinance later that year.

Copies of both of these hearing minutes are attached for your reference as Exhibit A and Exhibit B.

Proposed land use

In a separate petition, the petitioner has requested to divide the property into two lots, with the western lot anticipated to be developed for climate-controlled self-storage, with potential for boat or vehicle storage. Access to that lot would be solely from US 24, likely using the location of an existing farm access drive. INDOT has preliminarily stated that a right-in/right-out access drive would be acceptable.

The eastern lot, which contains the petitioner's storage building, is proposed to remain in their ownership with no change in use.

Zoning code uses

The GC zoning district permits an extensive list of commercial uses, some of which overlap with special exception uses of the AG district. Mini-warehouses are a permissible special exception in AG, so the petitioner may have sought an approval for that use from BZA instead of a rezoning. However, boat and vehicle storage has historically been viewed as a GC-specific use separate from mini-warehouse. Rezoning to GC would allow for the broader scope of proposed uses, and would allow future commercial development without need for a rezoning process at that time.

REVIEW CRITERIA

Indiana Code §36-7-4-603 and Section 12.2(F) of the zoning ordinance state the criteria listed below to which the Commission must pay "reasonable regard" when considering amendments to the zoning ordinance. Staff's comments are under each criterion.

1. The most recently adopted Comprehensive Plan;

The Land Classification Map of the 2011 Comprehensive Plan "depicts the County's land use and development form goals (land classification) in a conceptual manner. It should not be construed representing precise location of land classifications, but used as a foundation for support and influence with land use and development form decisions and zoning map changes."

So, while the precise location of the classification areas is conceptual and open for interpretation, particularly around the fringes, the location of the subject property seems to place it on the edge of a "Rural Residential" classification. Because of the shape of the subject property and its location adjacent to a major highway with limited access, it seems unlikely that residential development would be appropriate here.

The Comprehensive Plan does suggest that General Commercial be used as a buffer from heavy industrial uses, as well as be located on major roadways and have public sanitary sewer and water available.

The subject site is located along US 24, a principal arterial highway, and across from a heavy industrial district, so the General Commercial classification may be appropriate. However, the lack of public sewer and water is a shortcoming in fully meeting the Plan's criteria.

It is Staff's understanding that the nearest available public water and sewer are approximately a half mile to the east along US 24. Whether that is near enough to constitute "available" is for the Commission to interpret.

2. The current conditions and the character of current structures and uses in each district;

The site is located adjacent to a low-intensity commercial district to the east and heavy industrial district to the south, with a residence immediately to the west and a buffered large-lot subdivision to the north. Farther away from the site in both directions along US 24 are various commercial,

residential, industrial, and agricultural uses, without any consistent development patterns until within the municipal limits of Fort Wayne and Roanoke. A general commercial zoning in this location could complement the other nodes of commercial developments, or it could detract from the stretches of residential and agricultural uses.

3. The most desirable use for which the land in each district is adapted;

US 24 is developed with commercial nodes from I-69 westward. A commercial zoning designation at this location could permit natural continuation of that development, especially if it encourages the extension of public water and sewer westward.

Alternatively, the continued use of the property for agricultural uses may be more desirable given the lack of immediately available utilities. Also, as mentioned above, the likelihood for use as a single-family residential development is unlikely because of the property shape and proximity to the highway.

4. The conservation of property values throughout the jurisdiction;

Use of this site for commercial would likely have an effect on the immediately adjacent residential properties, but because of market variability, such effect is indeterminate. New commercial business investment typically promotes property values throughout a jurisdiction.

5. Responsible development and growth;

At a land use level, this site seems to be ideal for commercial development because of the available traffic on US 24. However, the complications of points of access, the natural water course, and lack of immediately available public utilities indicate that this site will have numerous challenges to be developed to the full extent permitted by a GC zoning.

6. The public health, safety and welfare.

It seems unlikely that the public health, safety, and welfare would be affected by this proposal if any development is adequately designed to avoid traffic conflicts and sensitive to the adjacent residential area.

Date report completed: 5/14/20

PLAN COMMISSION ACTION

Motion:

By:

Second by:

<i>Vote:</i>	Hodges	Johnson	Mynhier	Western	J. Wolf	B. Wolfe	Woodmansee	Wright	<i>Vacant</i>
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									

Exhibit A

CONSIDERATION AND ADOPTION OF THE APRIL 15, 2015 REGULAR MEETING MINUTES

Mrs. Reimers asked if there were any additions or corrections to the April 15th regular meeting minutes. There being no corrections, Mr. Schrumpf made a motion to approve the minutes as submitted, seconded by Mr. Wolfe. The minutes were approved by a 6-0-1 vote, with Mr. Woodmansee abstaining due to his absence from the meeting.

OATH TO WITNESSES

Mrs. Boyd administered the oath to those present who wished to speak during the meeting.

OLD BUSINESS

15-W-REZ-1 DeHaven Holdings, LLC & Beve P. & Kimberly House requesting an amendment to the Whitley County Zoning Map by reclassifying property from the AG, Agricultural District to the IPM, Industrial Park/Manufacturing District. The property is located on the northwest corner of CR 800 East and US 24 in Section 36 of Jefferson Township and contains 26.644 acres.

Mrs. Gardner stated that the rezoning request had been continued from the April meeting due to the improper notification of an adjoining property owner. She explained that both legal notifications for the petition had been received, and the Plan Commission in reviewing any rezoning request must consider five items as per Indiana State Law. Mrs. Gardner explained that copies of a zoning map, aerial photograph of the property and a copy of the rezoning questionnaire had been provided to the Commission as well as two letters of concern from property owners in the area. She reiterated that on a rezoning petition, the Commission holds the public hearing and then sends their recommendation to the County Commissioners who then make the final decision on the request.

BP House, 12152 Bayhill Drive, Carmel explained that they owned an isolated 25 acre agricultural tract which bordered CR 800 East and US 24, and was buffered by a long parcel of property to the north that separated it from a large lot subdivision. He explained that they have owned the property for over 10 years, and that he felt the tract could be developed in a

way as to protect the residential areas. Mr. House stated that there was already a used car lot and other small commercial properties to the east of the property.

Mrs. Reimers asked if the Commission had any questions for the petitioner at this time. Mr. Woodmansee asked Mr. House if he had any specific plans for the property. Mr. House replied that he did not at this time.

Mr. Schrumpf asked if US 24 would be used as the access for the property. Mr. House replied that it likely would access US 24, however not at this time due to the process involved.

Mr. Schrumpf then asked if there would be adequate sewer and water available to the property. Mr. House replied that it would depend on the type of development. Mr. Schrumpf then asked if those utilities were available. Mr. House replied that he thought they were close by but had not investigated it.

Mr. Woodmansee referred to the rezoning questionnaire which stated that water and sewer were available. Mr. House stated that it was in the area but he was not sure what the distance would be.

Mr. Woodmansee stated that he was concerned about the request due to the Whitley County Zoning Map designating the property agricultural and the Whitley County Comprehensive Plan classifying it for rural residential use. Mr. House explained that he first was looking at the GC, General Commercial District but then decided to file for the IPM District even though the GC District actually had the uses he was looking at.

Mr. Johnson stated that the AG, District had some commercial uses. Mr. House stated that he wanted more versatility for marketing the property.

Mr. Wolfe stated that the northern portion of the property appeared to be wooded and currently a good buffer. He then asked if that buffer would remain. Mr. House stated that he has no intentions of removing the wooded area, however, he could not speak for a new purchaser of the property.

Mr. Wolfe questioned the distance of the bottle neck portion of the property along the eastern side. Mr. Forrester stated that it was approximately 78'.

There being no further questions by the Commission at this time, Mrs. Reimers asked if there was anyone present who wished to speak against the rezoning request.

Donald David Schmautz, 10625 S. Vinewood Road, Roanoke explained that he had purchased the Jane DeHaven residence and property in Manitou Woods, which is in a beautiful area. He explained that all of the properties along CR 800 East are residential and the buffer area between Manitou Woods and the property in question is very narrow and when the leaves are off of the trees you can see US 24. Mr. Schmautz stated that the rezoning will have a negative impact on surrounding properties, their property values and public safety. He then referred to the uses that would be permitted if the property was rezoned, which included bottle gas distribution, adding that the proposed district is not safe to be next to the residential areas. Mr. Schmautz voiced his concern regarding the inappropriate access off of CR 800 East for industrial traffic with only a stop sign at US 24, the uncertainty as to whether water and sewer would be available to the property and the fact that industrial type uses are usually more susceptible to fires and catastrophes. He then asked the Commission to deny the request.

Jim Buchholz, 7777 Glacier Creek Road, Roanoke expressed his concerns regarding the considerable sacrifice to the natural habitat of the area. He stated that Mr. House originally lived on Glacier Creek Road and now lives in Carmel, not having any control over the property once it sells. Mr. Buchholz was concerned that there was no definite plan being presented and asked the Commission to continue the petition until one could be provided.

Troy Sargent, 7641 Glacier Creek Road, Roanoke reiterated the concerns expressed by the previous land owners, adding that he has lived there for two years and has been very impressed with the entire neighborhood.

John Popp, 12316 Aboite Center Road, Fort Wayne, explained that he was one of the original developers of Manitou Woods and felt that the issue came down to compatibility. He explained that his main concern was that they originally promised to keep the 25 acre parcel compatible to the neighborhood. The property has been sold in 2004 to a landscaping/sprinkler company, the DeHaven's bought the property back and the restrictions on the property said that the parcel would be kept residential for 10 years, which unfortunately recently expired.

Sandra Spreen Swaidner, 4645 E. State Road 114, Roanoke explained that she owned 40 acres to the west of the proposed property and that her biggest concern is not having any specific use. She stated that the landscaping business was a more compatible business, adding that she was opposed to the petition until a more firm plan is presented.

Eve Scott, 7951 Glacier Creek Road, Roanoke expressed her concern regarding the dangerous traffic on CR 800 East and the children and animals in the neighborhood. She stated that an unknown business can't be beneficial to the area, and asked the Commission to deny the request and keep the property as is currently zoned.

Fred Warner, 15309 Longview Cove, Fort Wayne, explained that he had purchased the property at 10660 S. 800 East which is directly south of the entrance to the proposed property. He explained that he owns a house that has 4-1 bedroom apartments and 2 single family homes on his property and that he requests the proposal be rejected. Mr. Warner stated that there is a lack of infrastructure for industrial development with water and sewer being located at least a half of a mile to the east which services Gray Fox a residential neighborhood in Allen County. He stated that other than Welker's quarry on the south side of US 24, there is no other industrial or manufacturing uses along US 24 in that general area. Mr. Warner was concerned about heavy truck traffic on CR 800 East, adding that there is a blind entrance to the property, and the noise, lights and nuisance at night will be problematic for his tenants and the neighbors. He stated that a commercial zoning may even be questionable for the area, adding that the ordinance allows a large number of uses.

There being no further questions or comments, Mrs. Reimers asked if Mr. House would like to rebut any of the information given. Mr. House thanked the neighbors for their comments and concerns, and in hearing those comments and concerns did not feel that the industrial zoning would be appropriate for that area. He added that he was actually thinking more along the line of professional office space and retail.

Mr. Schrupf stated that he felt Mr. House would have a hard time advocating the IPM District due to not knowing the intended use and the fact that the district opens it up to too many uses. He added that the uncertainty as to whether water and sewer was available was a concern for

him as well. Mr. Schrumpf commented that he would prefer to see Mr. House come back before the Commission when he has a more definite plan.

Mr. Schrumpf then questioned if Mr. House would have to repetition to come back before the Commission. Mrs. Gardner explained that Mr. House would not have to repetition as the Commission could make a recommendation on a lesser zoning district, or the petition could be continued to the June meeting thus giving Mr. House time to research some of the items of concern. Mrs. Boyd added that a new petition would be needed if the request was for a more intense district.

Mr. Mynhier commented that he felt there were good uses allowed in the AG and other districts, adding that was did not feel that the IPM District was appropriate.

Mr. Woodmansee agreed, adding that his main concern was the lack of infrastructure such as water and sewer, and he did not feel that the industrial district met with the overall character of the property.

Mr. Forrester commented on the character of the property and what improvements would need to take place in order to allow the industrial development of the property.

Mr. Woodmansee stated that the Commission has to look at what could happen to the property or area in the next 50 years when making a zoning decision.

Mr. Forrester commented that once the property is rezoned any use that is permitted within that district is allowed even though they present a plan for the property.

Mr. House stated that after taking into consideration all that was said, he asked that his petition be withdrawn from consideration. He stated that he would rethink the marketing of the property.

Mrs. Gardner informed Mr. House that he would receive a letter confirming his withdrawal request.

Exhibit B

OATH TO WITNESSES

Mrs. Boyd administered the oath to those present who wished to speak during the meeting.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

16-W-REZ-2 Warner Holdings, LLC requested an amendment of the Whitley County Zoning Map by reclassifying property from the AG, Agricultural District to the GC, General Commercial District. The property is located on the northwest corner of CR 800 East and US 24 in Section 36 of Jefferson Township, contains 5.117 acres and is more commonly known as 10660 S. 800 East-92, Roanoke.

Mr. Bilger referred to an explanatory packet that had been submitted by the petitioner after the Commission meeting packets were mailed.

Mr. Bilger explained that the site currently contains two single-family residences, a 4-unit apartment building, and several outbuildings. All grandfathered and legal non-conforming of various sorts. The requested zoning for the subject parcel is GC, General Commercial.

Mr. Bilger explained that the petitioner is requesting the zoning amendment in order to operate an auto restoration business and a storage facility intended for vehicle and boat storage. These are both currently permitted uses within the GC district. Mr. Bilger explained that the property to the north is zoned AG and is currently used for agricultural, woods and residential; C-4/A-1 to the East in Allen County and is used for commercial (auto sales lot) and residential; IN to the South which is heavy industrial (former stone quarry, industrial storage) and then to the West is zoned AG and used for agricultural purposes.

Mr. Bilger reiterated the six review criteria when considering amendments to the zoning ordinance. The Future Land Use Map of the 2011 Comprehensive Plan indicates that about 8 square miles in the southeastern part of the county, including the subject site, should be planned for development as Rural Residential. Of course, the Future Land Use Map is limited in its ability to make recommendations for individual sites, and so such recommendation should be considered as for the broad area, with the potential for site-specific variations. In this case, the subject site is located at the corner of US 24 and CR 800 East, respectively a principal arterial highway and minor arterial road, and across from a heavy industrial district. The Comprehensive Plan suggests that General Commercial be used as a buffer from heavy industrial uses, as well as being located on major roadways, and have public sanitary sewer and water available. Mr. Bilger explained that public sanitary sewer is in the proximity across the road at the car dealership in Allen County, and public water is not currently available.

Mr. Bilger commented that the Commission had heard a rezoning request for the property to the west from AG, Agricultural to IPM Industrial Park/Manufacturing, which was withdrawn due to controversy with neighbors. Some of the same concerns still apply particularly the access onto CR 800 East and also US 24.

Mr. Bilger stated that the proposal from the petitioner does not involve changing any of the access points, and it is his understanding that the Warners don't intend to change any of the existing structures. Access will be a crucial issue with any future development of the property. General commercial uses on this site, if designed adequately to avoid traffic conflicts, would be unlikely to adversely impact the public health, safety or welfare.

Mr. Woodmansee questioned if the County Highway Department looked at new driveway cuts onto county roads, with regards to future development, and would this be under the Plan Commission's purview. Mr. Bilger explained that if the property were to be rezoned to commercial and a new commercial development would go in, the Commission would review a development plan with access being a part of the required criteria. Driveway cuts are also a requirement of the County Highway Department.

Mr. Wolfe stated that there is access off of US 24. Mr. Bilger affirmed that there was, adding that it would be up to INDOT to verify the driveways use. Mr. Forrester commented that the change of use would be scrutinized by INDOT.

Mr. Wright asked the petitioners to come forward to explain their request.

Dan Warner, 6226 Waterside Drive, Fort Wayne explained that he and his family had purchased the property several years ago, made improvements and are renting out the residential structures. He explained that they would like to operate a vehicle restoration operation, and also use other structures on the property for rental storage. No additional changes to the property would be needed, except for possibly the addition of some stone on the driveways. Mr. Warner explained that no signage is being proposed and they currently have two access points off of CR 800 East.

Mr. Woodmansee questioned the situation with water and sewer to the property. Mr. Fred Warner, 15309 Longview Cove, Fort Wayne explained that for their purposes, the water and sewer were not an issue. Sewer has been extended to the auto sales property on the southwest corner of CR 800 East and US 24.

Mr. Wolfe questioned if the Warners see more traffic generated with the proposed business. Dan Warner replied that they did not, adding that the car lot has increased traffic, however it doesn't seem to impact their property. Mr. Wolfe then commended the Warners on the appearance of their property.

Fred Warner explained that they bought the property with two things in mind: rental income and Dan Warner to do his car restoration work. The commercial storage of vehicles would be more seasonal. Dan Warner works full-time but would like to get more into the restoration business for other people. Dan Warner commented that it takes roughly six months to restore a vehicle, thus the reason for no additional traffic. Fred Warner added that there is more traffic coming to the car lot on the other side of the road.

Fred Warner commented that they have no intention of having any type of retail business on the property, if they do in the future, they realize that a development plan approval will be needed which will include the traffic and access issues.

Mr. Mynhier asked the number of residences on the property. Fred Warner explained that there were two single-family houses and a 4-unit apartment. Mr. Wright then questioned the structure which was located on the west side of the property. Dan Warner explained that it is an old single family home, which was once a bomb shelter from the Cold War.

Fred Warner explained that the Quonset building would be used for the restoration business, while the other storage building would be used for the seasonal vehicle storage for other people. He then commented that they did not intend on rezoning the property but discovered in discussing their plans with Staff that the zoning code does not allow multiple businesses on the same property.

Mr. Wright asked if there was anyone present who was opposed to the amendment. There were none.

Mr. Forrester explained the traffic issues along CR 800 East from US 30 to US 24, and the current and future solutions due to traffic volume and lack of right-of-way for expansion. He asked if the Warners would be willing to commit to the dedication of additional right-of-way, on the east side of their property along CR 800 East, for the potential future expansion of that road if the need arises. Fred Warner commented that they would have to know how much right-of-way they would have to commit to. Mr. Forrester commented that he was unsure but looking toward the future even though he realizes that the expansion may not happen for many years, and the Warner's current business proposal wouldn't have traffic issues. He added that he did not want to deal with obtaining the additional right-of-way in the future.

Mr. Bilger stated that once the Plan Commission makes their recommendation to the County Commissioners, the exact dedicated width could be defined prior to the Commissioners action. Fred Warner questioned if this would be done through deed. Mr. Bilger replied it could be done through a Deed of Dedication.

At this time there was discussion regarding the dedicated right-of-way issue, and the traffic concerns.

Mr. Wolfe asked if the Commission could specify the zoning change for the area around the buildings and not the entire property. Mr. Bilger explained that zoning specific areas of a property can be very messy and cause complications in the future. Mr. Johnson questioned if a special exception or variance would be a better avenue rather than the rezoning. Mr. Bilger explained that those were not an option of the zoning code due to multiple uses on the property.

Mrs. Boyd explained that the Commission can make a recommendation with or without the commitment.

Mr. Woodmansee stated that the Commission could continue the request in order to provide additional time for the petitioners to consider the commitment proposal. Fred Warner stated that they were not aware of the dedicated right-of-way proposal and were not interested in a commitment at this time. He added that if they had not come before the Commission with a rezoning petition, the right-of-way would have been obtained by other means.

There being no further questions or comments, Mr. Kerch made a motion to send a favorable recommendation on the request as proposed to the County Commissioners. The motion was seconded by Mrs. Reimers and carried by a 7-1 vote, with Mr. Forrester voting against.

Mrs. Gardner informed the Warners of the Commission's action which would be confirmed in writing.

16-W-SUBD-7 Triple R Development, LLC requested a reconfiguration of Lots 9, 10, & 11 of Legacy Preserve subdivision. The property is located on the north end of Legacy Court, north of State Road 14 in Section 1 of Jefferson Township, contains a total of 68.88 acres and will be known as Legacy Preserve, Phase 2.

Mr. Bilger explained that the proposed three-lot replat is a reconfiguration of lots 9-11 of the original Legacy Preserve subdivision. The proposed plat appears to comply with the development standards of the zoning code. Drainage and utility easements would be located on the lots, and a 50' access easement is proposed across the northern portion of Lot 9 to provide an additional access for the future development of the property to the east (also owned by the petitioner).

Mr. Bilger explained that subdivision primary plats are reviewed for compliance with the standards of the Subdivision Control Ordinance and the Zoning Code, adding that the Staff finds that the proposed primary plat appears consistent with the standards.

Mr. Wright asked the petitioner to come forward to present his petition.

Keith Robinson, Triple R Development, LLC, 5855 S. Legacy Court, Columbia City explained that Lots 9 – 11 were originally platted for he and his two sons for the purpose of building homes. The sons have since decided against building on Lots 10 and 11, and he has people interested in buying a lot but would like less acreage, thus the replat. Mr. Robinson stated that he has a contingency sale on Lot 10, and as a part of the replat, has agreed to put an emergency access easement on Lot 9 which he owns.

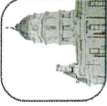
Mr. Wright asked the Commission if they had questions. There were none. He then asked if there was anyone present who wished to speak against the replat. No one spoke.

There being no further questions or comments, Mr. Forrester made a motion to grant primary plat approval with the following condition:

1. Secondary plat approval delegated to the Plan Commission Staff.

SHEET: 1

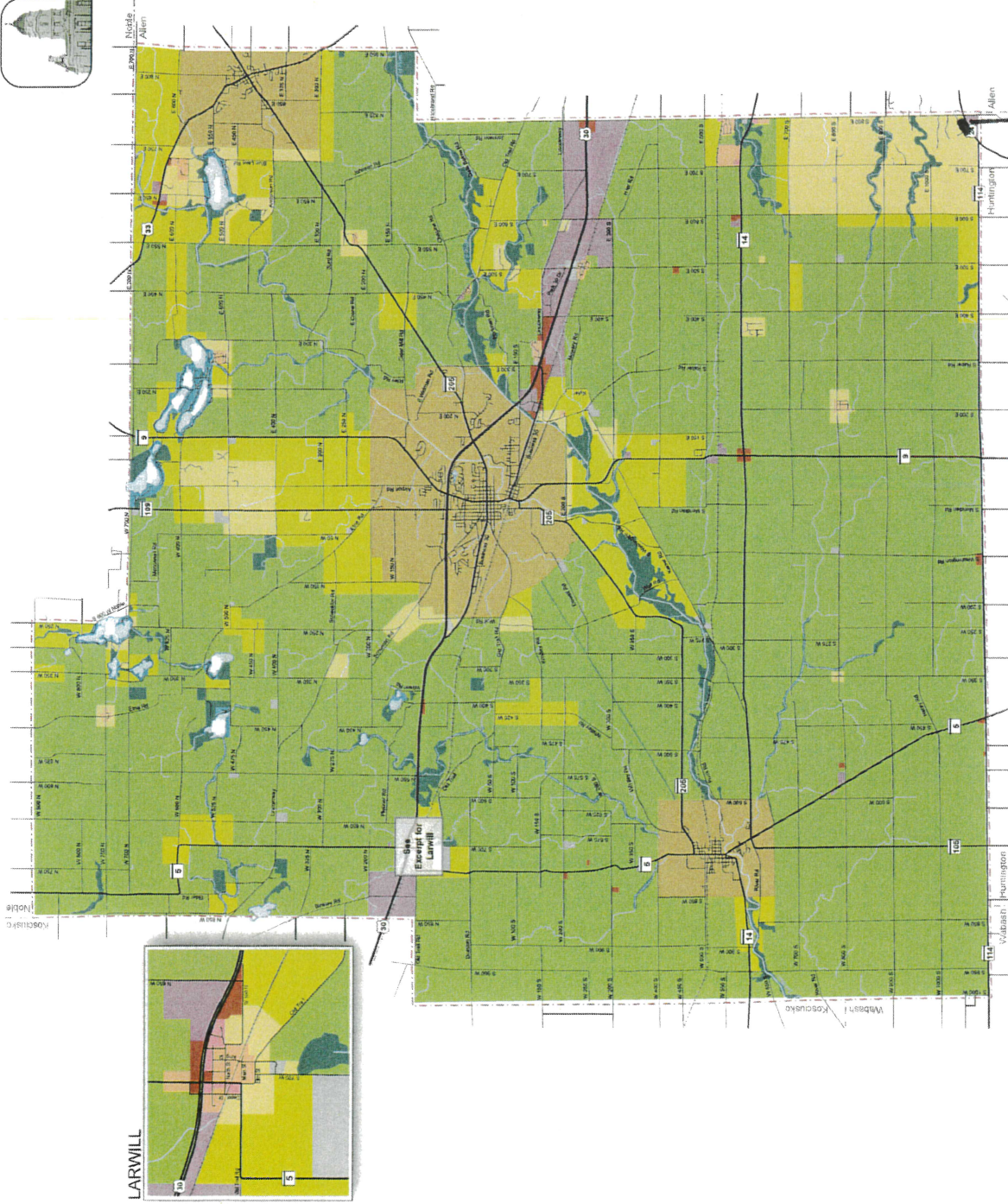
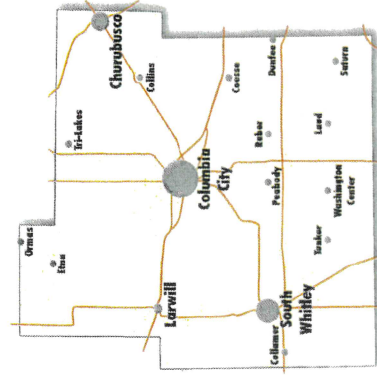
Land Classification Map Whitley County, Indiana



MAP LEGEND

- Conservation and Open Space
- Agricultural
- Transitional Agriculture
- Rural Residential
- Residential
- Lake Residential
- Government and Institutional
- Village Commercial
- General Commercial
- Industrial
- Extra-Territorial Jurisdiction
- County Boundary

COMMUNITY IDENTIFICATION



7901 E. US 24-92
Roanoke, IN 46783



Petition to Rezone 24.6 acres at 7901 US Highway 24 East, Roanoke, IN
Whitley County Parcel 92-10-36-000-208.000-006

We, Fredrick A. and Ann L. Warner, are requesting the rezoning of this parcel from AG-Agricultural to GC-General Commercial.

[Note: Concurrent with this rezoning request is a request to subdivide these 24.6 acres into two lots, one of (+ or -) 15 acres and the remaining (+ or -) 10 acres. These parcels are defined by the surveys and subdivision plat submitted. Subject to the approval of the subdivision and rezoning requests, and to certain other conditions, it is our intent to sell the 15-acre parcel to HWY Storage LLC, for its business purposes.]

The Warners purchased this land north of US 24 and west of County Road S. 800 East in November 2016. The street address of this property is 7901 US 24 East-92, Roanoke, IN.

The petition for rezoning of the 24.6-acre parcel from AG to GC is principally due to the proposed sale of the west 15-acre parcel by the Warners to HWY Storage LLC. The planned use is a self-storage business that will be accessible from US 24 from a new, state-approved driveway. In order to conduct this business there, rezoning to GC-General Commercial is required.

We are requesting the rezoning of the entire 24.6 acres, including both the new parcel and the remainder parcel (Lots 1 and 2) to maintain consistency in zoning among the contiguous properties extending west from the intersection of S. 800 E. and US Highway 24 as zoned general commercial.

On the west 15-acre parcel (Lot 1) HWY Storage LLC plans to construct and operate a self-storage facility. Spokesman David Frushour states, "We expect to operate a business that provides for both climate-controlled and non-climate-controlled self-storage. This property has frontage on US 24. We have obtained permission from the Indiana Department of Transportation to add a right-turn-only entrance to the property from westbound US 24 with the understanding that a left turn lane for eastbound traffic could be added if needed in the future." Traffic into the business will be intermittent and not high volume as might be experienced with other businesses, such as retail, office, service, or distribution business uses of the property. The structures on this property would include an office and multiple storage buildings. Currently, about 7 acres of this parcel are farmed.

On the east 10 acres (Lot 2) of the property the Warners have constructed a building for the storage of vehicles and other personal property. About 4 acres of this parcel are currently farmed. There is no current plan for any change of use of this property.

Compatibility with Neighboring Properties

The east boundary of the new parcel to be used by HWY Storage LLC is about 950 feet west of the intersection of S. 800 E. (also known as “County Line Road”) and US Hwy 24.

Its west boundary is about 1,450 feet east of the intersection of Indiana 114 and US 24. The property is 15 acres in size and has frontage of about 1,100 feet on US 24. There are several other properties nearby and along US 24 that are zoned either General Commercial or Industrial:

In Whitley County –

- The property on the south of US 24 is zoned industrial, a part of the former W&W Gravel quarry operations. This 60 Acre plot on the south side of U.S. 24 extends from Indiana 114 to S. 800 E. (Welker Road).
- On the northwest corner of the intersection is a 5-acre property owned by Warner Holdings LLC. Its rezoning to GS- General Commercial was approved by the Whitley County Commissioners in October 2016. This parcel is principally operated as a residential rental business.
- Along US 24, Roanoke Woodworking on the northeast corner of the intersection of US 24 and State Rd. 114 is zoned General Commercial.
- A 10-acre parcel adjoining Roanoke Woodworking to the east and facing US 24 is also zoned General Commercial.

In Allen County –

- There is a business on the northeast corner of this intersection in Allen County that is zoned commercial. It is “Southwest Automotive”, a used car sales and service business.
- The property on the southeast corner of the intersection is a business “Fort Wayne Rocks”, which distributes and sells landscaping and building materials. Formerly it was the site of W&W Gravel and W&W Concrete. This property is zoned industrial, consistent with the sand and gravel quarry operations historically conducted on the site.

• *Nearby Residential Properties*

- (1) A home on 4.5 acres on the west side of the property to be rezoned is buffered by about 220 feet of woods east of the home to the property line. Per David Frushour, “Our development plan will maintain most of the 84 feet of woods on the western part of our property to add additional privacy for this residence.”
- (2) The other nearest residences are homes north of the property to be rezoned. They are in the Manitou Woods subdivision and are on densely wooded lots on the north side of Glacier Creek Drive. There are no homes on the south side of Glacier Creek Drive. The addition includes a “nature preserve” on the south side of Glacier Creek Drive (Parcel “A: on its plat). It is a natural wooded space which extends 2,600 feet from S. 800 E. to the cul-de-sac at the west end of the road. It varies in depth from 60 to 100 feet south of the right-of-way of the road and is densely wooded. Per David Frushour, “This area consists of

mature trees and dense vegetation forming a natural barrier that will provide a sound and sight buffer for the neighbors to the north.”

- (3) The Warner Holdings property includes an apartment building and two rental homes. These living units are sufficiently remote and screened from the proposed storage facility not to be affected by the new business.

Compatibility of Use

Frushour: “After construction of the storage facility is completed, the business we are planning for this property is not expected to result in any significant increase in noise or traffic or to pose a nuisance of any kind. We plan on installing professional landscaping to make the facility look modern and inviting. We expect to use demand-activated energy-saving lighting which should not be objectionable to our neighbors.”

Comprehensive Plan

The Whitley County Comprehensive Plan designates most of the southeast corner of Whitley County for Rural Residential development, although much of the area remains zoned Agricultural. However, the plan also sets out recommended compatible transitional uses. General Commercial zoning is shown as a preferred transition from industrial zoning.

US 24 is a major highway between Fort Wayne and Huntington/Roanoke. The short (one-mile) corridor running through Whitley County has become increasingly commercial.

A logical development approach is to allow commercial development along U.S. 24 in Whitley County between Indiana 114 and S. 800 E. Commercial zoning provides a transition from the industrial-zoned land across US 24 to the south. Commercial land use along the heavily traveled highway would be preferable to industrial development (as has been proposed in the past) or to multiple additional driveways off of U.S. 24 if the property were subdivided for residential development. The type of commercial development that is proposed is desirable in that it will result in low traffic, minimal noise, and minimal lighting, while providing tasteful design and landscaping compatible with the neighboring areas.

RECEIVED

MAY 14 2020

NAME: Donald David Schmutz

ADDRESS - 1: 10625 S. Vinewood Rd. W-92
Roanoke, IN. 46783
(Residence)

ADDRESS – 2: E. Glacier Creek Dr. – 92
Roanoke, IN. 46783
(Strip of Land that Parallels Glacier Creek Drive)

PROPERTY RE-ZONING: Proposed Subdivision 20-W-SUBD-7 and
Proposed Subdivision 20-REZ-3

(NW corner of CR800 East and US 24, in section 36 of Jefferson Township and contains a total of 24.644 acres)

RE-ZONING POSITION: **Opposed**

Thank you for communicating that a zoning change has been requested that may affect my residential property and giving me the chance to share my concerns. The property involved is located on the Northwest corner of CR800 and US 24, in Section 36 of Jefferson Township, and contains a total of 24.644 acres.

First, I apologize as I am not a lawyer and have no experience sharing legal arguments about something such as this. I will be sharing my personal concerns and suggestions only. I am a father, grandfather and husband and live directly across the road, Glacier Creek Drive, from the property in question.

When I purchased my home 7-1/2 years ago, I specifically chose a country rural setting. Our sub-division or neighborhood is all residential. Every day, weather permitting, families walk the neighborhood, ride bikes, and in general, the area is peaceful and quiet. It is common to see and enjoy wildlife in the woods along Glacier Creek Drive. It is not unusual to see deer and many bird varieties. An occasional Falcon or Bald Eagle are also sometimes spotted.

I am very concerned that if approved, the rezoning will have a negative impact on our neighborhood quality of life, property values, and the safety of residents. I have read through the Whitley County Comprehensive Plan. Specifically, the “**Most desirable use for which the land in each district is adapted**”, the “**Conservation of property values throughout the jurisdiction**”, and “**Public health, safety and welfare**” are the areas of the Comprehensive Plan that I believe my comments touch on.

The following is my attempt to share my concerns and objections related to the rezoning request in the petition from Mr. Warner as best I can. Thank you for your consideration.

BACKGROUND:

Mr. Frederick A. and Mrs. Ann L. Warner, residents of Allen County, are petitioning the Whitley County Planning Commission to subdivide and rezone their property located at the NW corner of CR800 East and US 24, in section 36 of Jefferson Township and contains a total of 24.644 acres.

Although considered rural, properties in the area surrounding the Warner Holdings LLC, 25 acres are primarily residential. If you examine the length of CR800 from US 24 to Illinois Road (Indiana 14), I believe you will find only residential and farm properties.

This area of Whitley and Allen County provide a high quality of rural life for all the residents. Families, children, and grandchildren enjoy their homes and neighborhood friendships in a safe residential community.

As a point of information, all the homes in our neighborhood are on septic systems and use well water, as I am sure is the case for most of the homes along CR 800, both in Whitley county and Allen county. As you know, most if not all the homes in our neighborhood and along CR 800 are on acreage. As such, residential homes and their properties in this area are designated "AG".

The drive leading into our neighborhood is called Glacier Creek Drive. It is a private drive owned and maintained by the residential neighbors. It is not as wide, nor does it comply with Whitley County road specifications. This is why it has never been turned over to and/or accepted by Whitley County for ownership and maintenance. It is approximately 15' to 16' wide and belongs to the residents in our neighborhood.

There is a narrow strip of land between the Warner Holdings LLC property and the residential homes that are adjacent to the north. As mentioned above, this strip of land parallels Glacier Creek Drive. It is a very narrow, in some places no wider than a tennis court. The developer, John Popp, has shared it was intended to provide a tree line, blocking the sound and view to US 24. In Mr. Warner's Petition to Rezone, it states this tree barrier along this road is dense and will provide the necessary barrier needed to preserve both sight and sound for the neighborhood. This is not true. The vast majority of this sound and line of sight barrier between the neighborhood and Highway 24 are the trees and woods that are a part of the Agricultural property that is now owned by Mr. Warner. **Please see Exhibit 0.**

As you may recall, prior to Mr. Warner purchasing this property, it was owned by the DeHaven Holding Company. The DeHaven Holding Company attempted to have the property rezoned to Industrial in April, 2015. Mr. Warner, who owns the lot adjacent to the DeHaven property, opposed the rezoning along with all the other neighbors at that time. Sometime after the DeHaven rezoning request was dropped, Mr. Warner purchased this property. Now that Mr. Warner is the property owner, like DeHaven's, he is attempting to rezone the property for personal financial gain at the expense of the neighbors and the value of our homes.

IMPACT OF RE-ZONING THE PROPERTY FROM AGRICULTURAL TO GENERAL COMMERCIAL - "AG" TO "GC":

The impact to the neighboring home owners in the area of the proposed General Commercial property will be damaging and will, without question, have a negative effect on neighborhood safety and home values. These effects will apply to all the families that live in the general area, and specifically those who border this property. The negative impacts of this rezoning petition include:

SAFETY –

1. At the intersection of CR 800 and US 24 traffic safety will be severely degraded. This intersection can back up significantly onto CR 800 while waiting at the stop sign to enter US 24. With additional traffic entering and exiting this Commercial property, vehicle accident risks will increase.

There can be no question that changing this property zoning to General Commercial and building a Self-Storage Complex will create safety hazards at the already dangerous intersection of US 24 and CR800. This intersection has no traffic light and no left or right turn lane. The speed limit on US 24 at this location is 60 MPH.

The traffic safety problem the Self-Storage Complex will create is 2 fold. Most significant is, as traffic traveling west on US 24 approaches this intersection, if a driver plans to turn onto CR 800, they turn on their right turn signal. As such, traffic waiting to turn onto to US 24 from CR 800, sees the turn signal and pulls out in front of the oncoming vehicle knowing it is turning and is not an accident threat. This assumption is because if their turn signal is on, there is no place else to turn further down US 24, meaning this is the only place the vehicle can turn right.

With a new entrance into the Self-Storage Complex, a few hundred feet down the road, a person traveling west on US 24 could put their right turn signal on intending to either turn onto CR 800 or turn into the new Self Storage Complex. As busy as this intersection is in the mornings and after work, the risks people are incline to take to get across the intersection and onto US 24 will create a new safety risk. They may pull out across US 24 believing the oncoming vehicle with their turn signal on is turning onto CR 800, when in fact they plan to turn into the Self-Storage Complex. This is a potential accident threat that currently does not exist.

2. The second safety issue is simply that there will be more traffic and vehicles turning off of US 24 and onto either CR 800 or into the Self-Storage Complex.

Please see Exhibit 1, pages 1 & 2, for a pictorial view of the land use associated with this intersection. It is clear there are a significant number of homes and population that use the intersection at County Line Road (CR 800) and Highway 24 (US 24). There are also a couple pictures, **pages 3 & 4,** of the intersection as you approach from CR 800 to turn onto US 24.

3. After researching Self Storage Complexes, I find an overriding conclusion that they increase crime in the area related to break-ins, theft, and unlawful storage of items.

Currently our neighborhood is extremely safe, as I am unaware of any crime in our general area. This rezoning change would undoubtedly change that.

4. As a General Commercial zoned area, this allows the owner or a future owner to change their mind and / or renege on the original plan and develop the property for businesses that are more intrusive and increase substantially all the safety concerns mention here.

Additionally, any future owner could utilize the General Commercial Special Exemption rules allowing for:

- Storage of agricultural fertilizer and chemicals
- Opening of adult book stores or entertainment businesses
- Light manufacturing
- Nursing home or retirement community

5. This rural area is served by private wells for water. Therefore fire hydrants do not exist. Unless a water system is constructed, a Commercial business will not have access to reliable water for fire protection.

A Commercial business, and specifically a Self-Storage Complex where renters can store almost anything, including vehicles or flammable materials, is at higher risk for fire and catastrophic problems, versus a residential neighborhood or farmland. If a fire would occur, nearby woods and structures (our homes) could be caught up in the fire emergency. With only well water, fire protection would be severely compromised.

6. As this area is served with well water, if a chemical accident relate to its storage were to occur, the neighborhood drinking water could be contaminated.

ENVIROMENTAL –

1. The letter from Jon Gotz with the Whitley County SWCD, indicates the property is at risk of flooding. He states that Lot 2, the Lot with the proposed Self Storage Complex is at a higher risk of flooding than Lot 1. If a Self-Storage Complex is built on this property, there is little question that it will also be largely paved or black topped. This means that heavy rain water that is currently being absorbed into the ground will now have to flow and be moved off of the property creating a flooding problem for another property owner or the State or County. This is a significant reason why this property has remained Agricultural and should continue as such.

As a point of information, in years with heavy Spring rains, it is not uncommon to see these lots partially flooded.

PUBLIC WELFARE –

1. As mentioned, the tree lined woods that parallel Glacier Creek Drive and provide a sound and line of sight barrier to US 24 are not very deep. If this property is rezoned all homeowners in the neighborhood north of the rezoned property will be able to clearly see the Self-Storage Complex. This means we will be able to see a chained link fence with barbed wire on the top and large storage unit buildings with no windows and in no way providing an aesthetically pleasing view. This will be true all year long, and it will be an especially bad eye sore during the 6 to 7 months of winter.

If rezoned and developed as proposed, and removing the majority of the trees to the north of the property, there will be a clear view of the Commercial business from the road and from our homes. You can clearly see on **Exhibit O**, the property line and the fact that the majority of the wooded area is a part of the property requested for rezoning. I have visited with the developer, John Popp. John has shared the he in good faith built our subdivision, and each homeowner purchased our homes here in Whitley County, knowing these neighboring properties were zoned Agricultural. This is where we all want to live. If the zoning petition would be approved, it would be a significant change that benefits 1 property owner and harms many others.

Therefore, Public Welfare will be harmed as this zoning change will unquestionably devalue each of the properties in the general area. Each properties value, due to the location of our homes relative to this Commercial Business, will decline. As a result of property values declining, tax revenue to Whitley County will be negatively impacted.

SUMMARY -

When Mr. Warner purchased this property he knew full well it was zoned Agricultural. In fact he helped fight the previous zoning change request by the DeHaven Company. He is now attempting to rezone as a developer, for financial gain and at the expense of other property owners. This zoning change will provide no common good or benefit to neighbors and citizens of Whitley County. In fact it will harm the neighbors.

As such, Respectfully, I urge the Planning Commission to vote against the ReZoning of the Warner Holdings LLC property located at US 24 and CR 800.

FURTHER CONSIDERATION –

If the Whitley County Planning Commission does find that it must support these petitions and subdivide the Lots and rezone this property from Agricultural to General Commercial, then I would request that the following be considered as requirements and restrictions to these properties:

1. A 100 foot set back from the north property line with no development within this boundary area. The trees and brush within this boundary area will be left natural.
2. A line of evergreen trees 6 feet tall or larger will be placed and maintained along the north property line next to the 100 foot set back mentioned above. The trees will be staggered in such a way as to grow and make a permanent line of sight barrier preventing the neighborhood from seeing the Self-Storage Complex.
3. Mr. Warner states, the existing barn structure on proposed Lot 1 will not be changed at all. As such, it should not be necessary to rezone this property and it should remain Agricultural.
4. The Lot 2 property should not be allowed at any future date to change its business purpose and should remain a Self-Storage Complex.

5. At no time will any General Commercial "Special Exception Uses" be permitted.
6. The County will assess the impact on the neighborhood home values and adjust property taxes accordingly.

Thank you for your consideration. Respectfully,



Donald David Schmautz
10625 S. Vinewood Rd. W-92
Roanoke, IN. 46783
260-433-1558 - Cell Phone

[illegible]

EXHIBIT 1

POPULOUS THAT DO OR
CAN USE THIS INTERSECTION



3D

INTERSECTION →

NO TURN LANES
NO TRAFFIC LIGHT

US 24 & CR 800

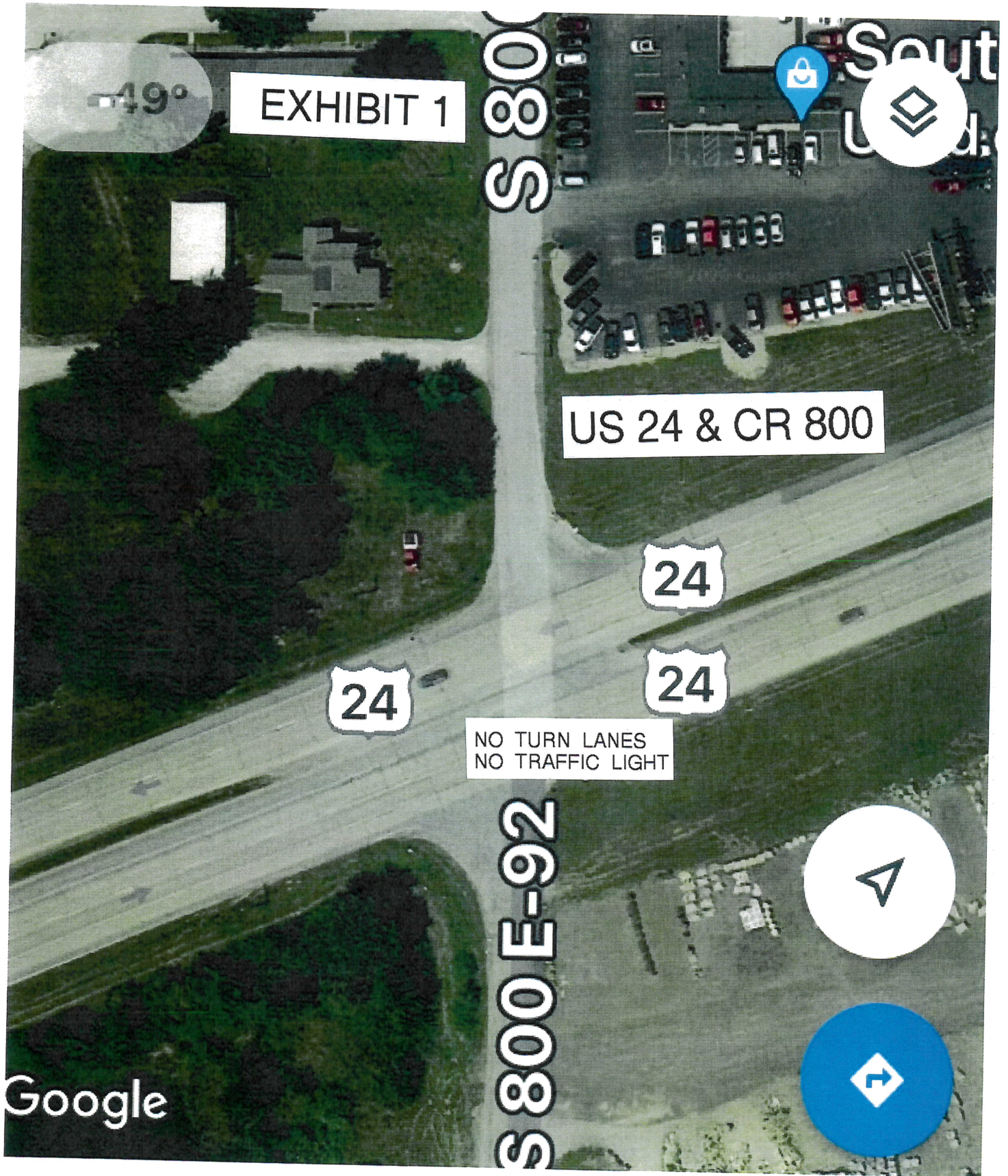


EXHIBIT 1





