

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

21-W-SUBD-4 PRIMARY PLAT APPROVAL

Joe Allen Wagoner

Wagoner Subdivision, southwest corner of E. 800 South and S. 700 East

FEBRUARY 17, 2021

AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current Zoning:	AG, Agricultural		<u>Code Minimum</u>	<u>Proposed Minimum</u>
Area of plat:	6.46± acres	Lot size:	1.837 acre	1.84± acres (Lot 1)
Number of lots:	2 lots	Lot width:	225'	283.1'± (Lot 1)
Dedicated ROW:	0.94± acre	Lot frontage:	50'	283.1'± (Lot 1)

The petitioner, owner of the subject property, is requesting a plat approval for Wagoner Subdivision, a proposed two-lot subdivision located on the southwest corner of E. 800 South and S. 700 East in Section 23 of Jefferson Township. The site is currently an agricultural field, bounded by an agricultural field and residential property to the north, Burris Estates and Westfield Passage to the east, and agricultural fields to the south and west.

Proposed are two lots and dedicated right-of-way. Platting is required due to previous splits from the parent tract. These are the first two platted lots from the parent tract since 2018, so no additional lots may be platted from the parent tract without rezoning being required.

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

Comment letters received (as of date of staff report)

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

A 35' wide right-of-way would be dedicated for E. 800 South and S. 700 East. 10' drainage and/or utility easements are not shown on the perimeter of the lots.

The Health Department stated that the developer would need to contact Aqua Indiana because the proposed lots are within 300' of an existing sanitary sewer line. The Soil & Water Conservation District stated that submittal of an erosion control plan and a Notice of Intent is not currently required when less than 5 acres is disturbed for the construction of a rural single-family residence, but that some Rule 5 requirements will apply to construction activities on the lots. NIPSCO stated that it has a plastic distribution main within the right-of-way along the south side of E. 800 South.

The other comment letters received have stated that the proposed plat is generally adequate. The Parcel Committee had no comments.

Separate restrictive covenants had not been submitted for review at the time of this writing.

WAIVER REQUESTS

There are no waiver requests.

REVIEW CRITERIA

Subdivision primary plats are reviewed for compliance with the standards of Subdivision Control Ordinance and the Zoning Code. Staff finds that the proposed primary plat appears consistent with the standards, with the following condition(s):

1. Connection to sanitary sewer is required per Health Department requirements.
2. Add 10' drainage and utility easements to perimeters of lots.
3. Secondary plat approval delegated to the Plan Commission Staff.

Date report completed: 2/10/21, MC. Reviewed: 2/10/21, NB

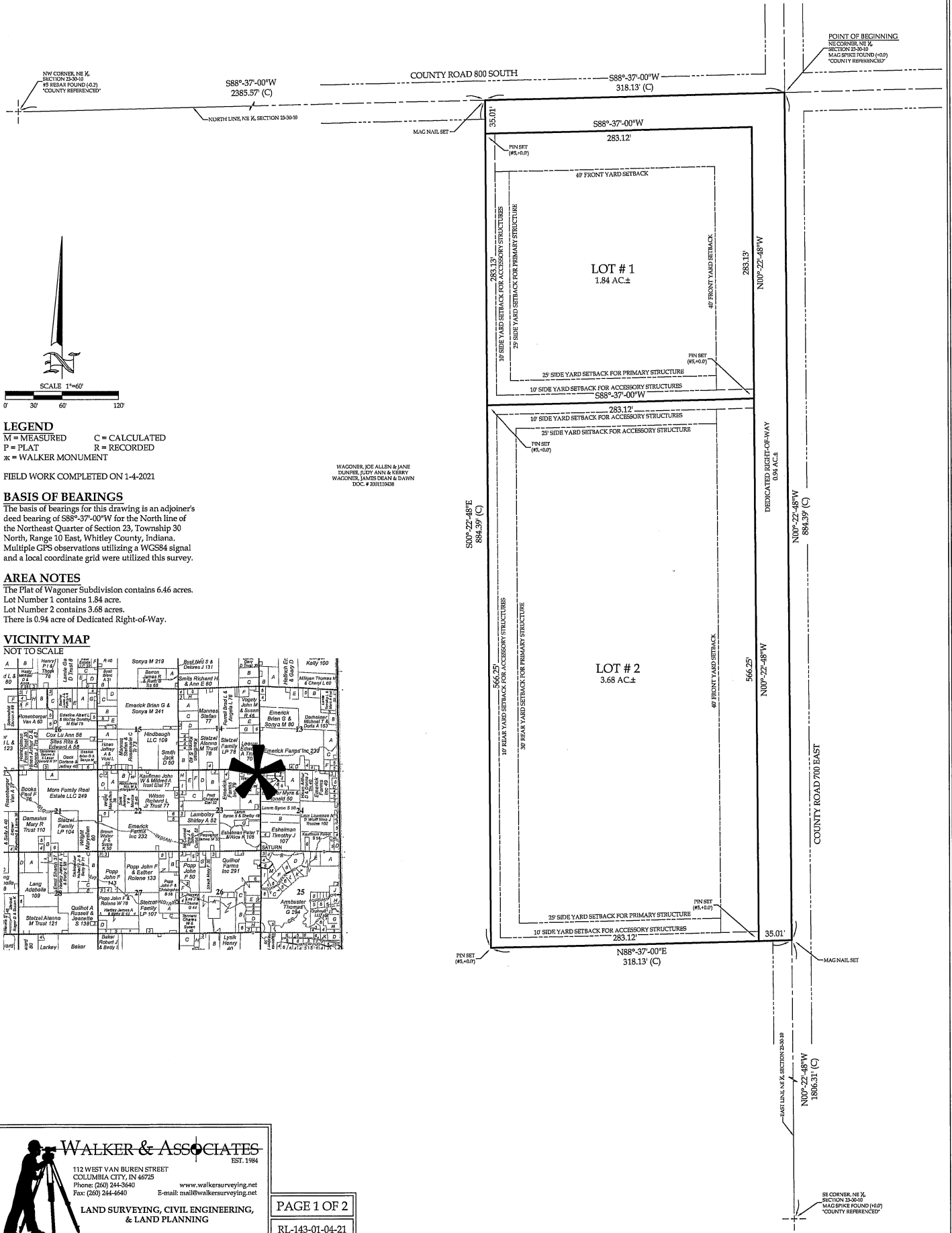
PLAN COMMISSION RECORD OF ACTION

Motion: _____ By: _____ Second by: _____
Approve _____
Approve w/conditions _____
Deny _____

<i>Vote:</i>	Bemis	Emerick	Drew	Green	Hodges	Kurtz-Seslar	J. Wolf	B. Wolfe	Wright
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									

WAGONER SUBDIVISION (PRELIMINARY)

SITUATED IN THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 30 NORTH, RANGE 10 EAST, WHITLEY COUNTY, INDIANA



WAGONER SUBDIVISION (PRELIMINARY)

SITUATED IN THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 30 NORTH, RANGE 10 EAST, WHITLEY COUNTY, INDIANA

DESCRIPTION

Part of the East half of the Northeast Quarter of Section 23, Township 30 North, Range 10 East, Whitley County, Indiana (This description prepared by Kevin R. Michel, LS80870006, as part of original Plat of Wagoner Subdivision completed by J.K. Walker and Associates, P.C., dated January 11, 2021), being more particularly described as follows, to wit:

BEGINNING at a Mag spike found at the Northeast corner of said Northeast Quarter; thence S88°-37'-00"W (adjoiner's deed bearing and used as the basis of bearings for this description), on and along the North line of said Northeast Quarter, being within the right-of-way of County Road 800S, a distance of 318.13 feet to a Mag nail; thence S00°-22'-48"E, a distance of 884.39 feet to a 5/8-inch iron pin capped "Walker"; thence N88°-37'-00"E, a distance of 318.13 feet to a Mag nail on the East line of said Northeast Quarter; thence N00°-22'-48"W, on and along said East line, being within the right-of-way of County Road 700E, a distance of 884.39 feet to the point of beginning, containing 6.46 acres of land, more or less, subject to legal right-of-way for County Road 800S and County Road 700E, subject to all legal drain easements and all other easements of record.

FLOOD HAZARD STATEMENT

The accuracy of any flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. The surveyed tract appears to be situated in Zone "X", which is not in a flood plain, as said land plots by scale on Map Number 18183C0290C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

THEORY OF LOCATION

This is an original boundary survey of part of the East half of the Northeast Quarter of Section 23, Township 30 North, Range 10 East, Whitley County, Indiana, located on County Road 800S and County Road 700E, Whitley County, Indiana. The surveyed tract is part of a larger tract of land recorded in Document Number 2001110438 in the records of Whitley County, Indiana. The surveyed tract was created as directed by a representative of the owner.

Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey. The Northeast corner of said Northeast Quarter is county referenced. A Mag spike was found at this corner and was held this survey. The Northwest corner of said Northeast Quarter is county referenced. An iron pin was found at this corner and was held this survey. The Southeast corner of said Northeast Quarter is county referenced. A Mag spike was found at this corner and was held this survey. The Northwest corner of the surveyed tract was established on the North line of said Northeast Quarter as directed by a representative of the owner. A Mag nail was set at this corner. The Southeast corner of the surveyed tract was established on the East line of said Northeast Quarter as directed by a representative of the owner. A Mag nail was set at this corner. The Southwest corner of the surveyed tract was established as directed by a representative of the owner. A 5/8-inch iron pin capped "Walker" was set at this corner. See survey for other monuments found near the surveyed tract. See survey for monuments found that are referenced.

SURVEYOR'S REPORT

In accordance with the Title 865 IAC 1-12 "Rule 12" of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties of the location of the lines and corners established on this survey as a result of:

(A) Availability and condition of referenced monuments.

See comments above concerning monuments set or found and held this survey. The monuments found are in good condition unless otherwise noted. Certain monuments are referenced as shown.

(B) Occupation or possession lines.

None

(C) Clarity or ambiguity of the record description used and of adjoiners' descriptions and the relationship of the lines of the subject tract with adjoiners' lines.

None

(D) The relative positional accuracy of the measurements.

The Relative Positional Accuracy (due to random errors in measurements) of the corners of the subject tract established by this survey is within the specifications for Suburban surveys: 0.13 feet (40 millimeters) plus 100 parts per million as defined by IAC 865.

NOTES

- This survey is subject to any facts and/or easement that may be disclosed by a full and accurate title search. The undersigned should be notified of any additions or revision that are required. The undersigned was not provided with a current title commitment for use on this survey.
- For monuments found and set, see survey. All pins set are #5 Rebars with caps marked "Walker".
- Origin of monuments unknown unless noted on survey.
- Measurements of this survey are based on aforesaid G.P.S. and/or E.T.S. traverse measurements.
- Ownership research of the subject tract, and adjoining tracts, was obtained from current tax records on file in the Offices of the county Auditor and Recorder.
- Reference survey(s) by J.K. Walker & Associates, P.C., dated 10-29-93, 01-05-96 (2), 05-12-97, 05-24-04 (2), 11-08-12.

PLAN COMMISSION CERTIFICATION OF APPROVAL

Primary approval granted on this _____ day of _____, 20__ by the Whitley County Advisory Plan Commission.

Plan Commission President _____

Plan Commission Secretary _____

COUNTY COMMISSIONERS CERTIFICATION OF APPROVAL AND ACCEPTANCE

Approved and accepted this _____ day of _____, 20__ by the Board of Commissioners of the County of Whitley, State of Indiana.

George Schruppf _____

Theresa Green _____

Chad Banks _____

PLAN COMMISSION STAFF CERTIFICATION OF APPROVAL

Secondary approval granted this _____ day of _____, 20__ by the Staff of the Whitley County Advisory Plan Commission.

Nathan Bilger, Executive Director _____

DEVELOPER

Joe Allen Wagoner
6760E 800S
Columbia City IN 46725

REDACTION STATEMENT

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. - Kevin Michel

SURVEYOR'S CERTIFICATION

I, the undersigned Registered Land Surveyor licensed in compliance with the laws of the state of Indiana, hereby certify the hereon Plat to correctly represent a Survey of the real estate described above as made under my direction, that all the monuments shown thereon actually exist, that lots and streets shown in the Plat have been established in accordance with true and established boundaries of said Survey, and that this Survey and accompanying report has been completed in accordance with Title 865-IAC 1-12 and all other amendments thereto.

I hereby certify that to the best of my knowledge the above Plat and Survey are correct.

Prepared by:

Kevin R. Michel

Kevin R. Michel, Professional Surveyor

DEED OF DEDICATION

We the undersigned, Joe Allen Wagoner, Jane Wagoner, Judy Ann Dunfee, Kerry Dunfee, James Dean Wagoner and Dawn Wagoner, owners of the real estate shown and described herein by virtue of a certain deed recorded as Document Number 2001110438, do hereby certify that we have laid off, platted, and subdivided, and hereby lay off, plat, and subdivide, said real estate in accordance with this plat.

This subdivision shall be known and designated as WAGONER SUBDIVISION, a subdivision in Whitley County, Indiana. All rights-of-way of public roads, streets, and alleys shown and not heretofore dedicated, are hereby dedicated to the public. Front yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure, except as in conformance with the requirements of the Whitley County Zoning Ordinance.

A perpetual easement is hereby granted to any private or public utility or municipal department, their successors and assigns, within the area shown on the plat and marked "Utility Easement," to install, lay, construct, renew, operate, maintain and remove conduits, cables, pipes, poles and wires, overhead and underground, with all necessary braces, guys, anchors and other equipment for the purpose of serving the subdivision or adjoining property with telecommunication, electric, gas, sewer, and water service as a part of the respective utility systems, and the right is hereby granted to enter upon the lots at all times for all of the purposes aforesaid.

The owners of land over which a Regulated Drain Easement right-of-way runs may use the land in any manner consistent with Indiana Code 36-9-27 and the proper operation of the drain. Permanent structures may not be placed on any right-of-way without the written consent of the Whitley County Drainage Board. Temporary structures may be placed upon or over the right-of-way without the written consent of the Board, but shall be removed immediately by the owner when so ordered by the Board or by the County Surveyor. Crops grown on a right-of-way are at the risk of the owner, and if necessary, in the reconstruction or maintenance of the drain, may be damaged without liability on the part of the surveyor, the Board, or their representatives. Trees, shrubs, and woody vegetation may not be planted in the right-of-way without the written consent of the Board, and trees and shrubs may be removed by the surveyor, if necessary, to ensure the proper operation or maintenance of the drain.

Areas designated on the plat as "Drainage Easement" are hereby reserved to the County, or subsequent governmental authority, for the purpose of constructing, maintaining, operating, removing, and replacing stormwater drainage facilities, be it surface or subsurface, in accordance with plans and specifications approved by the Whitley County Engineer, or comparable agent of a subsequent governmental authority. No plantings, structures, fill, or other materials shall be placed in the Drainage Easements so as to impede the flow of storm water. Drainage Easements shall not be disturbed in a manner as to interfere with the flow of storm water and all grades shall be maintained as constructed. Responsibility for the maintenance of Drainage Easement stormwater facilities, including but not limited to periodic removal and disposal of accumulated particulate material and debris and mowing of common stormwater detention areas, shall remain with the owner or owners of property within the plat, and such responsibility shall pass to any successive owner.

The removal of any obstructions located in any Utility Easement or Drainage Easement by an authorized person or persons performing maintenance or other work authorized herein shall in no way obligate the person in damages or to restore the obstruction to its original form.

No owner of any Lot or any other parcel within this Plat shall at any time remonstrate against or attempt to cause the cessation of any farming operation, whether now existing or existing in the near future which interferes with the residential use of the Lot or tract owned by the person or the tract owned by the person or persons remonstrating. Any person accepting title to a Lot or tract within this Plat, acknowledges that general agricultural areas exist adjacent to or near this Plat, and that activities on such agricultural areas may result in normal farm interference such as noise, odor, dust, agricultural implement traffic, unusual hours, and other normal agricultural uses.

In addition to the Lots, Rights-of-way, Easements, and Building Lines dedicated on the face of this plat, the property is also subject to additional "Protective Covenants and Restrictions" that may be recorded together with this plat.

The foregoing covenants, or restrictions, are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2047, at which time said covenants, or restrictions, shall be automatically renewed for successive periods of ten years unless amended through the Plan Commission. Invalidity of any one of the foregoing covenants, or restrictions, by judgment or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the owners of the lots in this subdivision and to their heirs and assigns.

Witness our hands and seals this _____ day of _____, 20__.

Joe Allen Wagoner _____

Jane Wagoner _____

Judy Ann Dunfee _____

Kerry Dunfee _____

James Dean Wagoner _____

Dawn Wagoner _____

Witness _____


State of Indiana)
County of Whitley)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Joe Allen Wagoner, Jane Wagoner, Judy Ann Dunfee, Kerry Dunfee, James Dean Wagoner, and Dawn Wagoner, and _____, Witness, and each separately and severally acknowledge the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed. Witness my hand and notarial seal this _____ day of _____, 20__.

Notary Public _____

My Commission Expires _____





WALKER & ASSOCIATES
EST. 1984

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Trustee of the Alanna M.
Stetzel Revocable Trust

Stetzel Family
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Partnership

McKinzie,
Kirk
6701

Saturn
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Church
6731

E 800 S

6870

6872

Kauffman, John W
Etal & Mildred
A Irrevocable Tr Co-trus

Kauffman,
Karen Sue

6596

Emerick,
Brian &
Sonya

Wagoner, Joe
A & Jane E

Wagoner, James D,
& Dawn T

Wagoner, James
Dean & Dawn

6973

Minnich, Patricia A
& Brown, Gregg R

7070

Caldwell,
Mark A

7075

Burkholder,
Earl H &
Beth A

Emerick
Farms Inc.

7455

Johnson, Douglas
& Johnson, Nancy

8024

US Bank Trust

7252

CDL Enterprises,
LLC

8062

Williams,
Michael H &
Charlene K

8065

Stoltz,
Valorie J

8100

Gionti,
Christopher
J & Tina M

8120

SWESTFIELD TR

8140

Hoffman,
Linda M

8144

Engelhardt,
Randi L
& Mark R

8115

Dunifon, Jack
K & Jennifer A

8140

Vorndran,
James A &
Diane L

8140

Helm, Dwayne
R & Susan K &
Helm, Adam D

8140

Behm, Dawn M

8151

Enrietto,
John III

8193

Charles,
Thomas A Jr &
Elizabeth A

8193

Wagoner, Joe
A & Jane E

8280

Fields, Paul
F II

8300

S 700 E

8460

Lamm, Byron
S & Shelby
Stockton Lamm

Pay Dirt LLC

Bolinger,
Myra &
Ronald

Indiana Department of Natural Resources, Division of Water

Pratt, Christine
ruetter, Michelle
Gaff, Debra &
user, Richard W Jr

N

