

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

22-W-SE-4 **SPECIAL EXCEPTION**
Ryan & Tina Diepenbrock
9490 S. 800 East

MAY 24, 2022
AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 6.97 acres

The petitioner is requesting special exception approval for a traffic generating home occupation. Proposed is an office and training area in a proposed outbuilding at the petitioner's property at 9490 South 800 East.

As proposed, the outbuilding will contain a garage, personal areas ("man cave," storage, shop, half bath, etc.), and a business area on the second floor consisting of an entertainment area and a training/theater space. The petitioner plans to invite colleagues or clients to attend medical education events in this space.

Specific details on frequency and number of visitors have not been submitted, but the floor plan shows up to 15 seats in the theater. Parking would be provided near the proposed structure along a proposed driveway to the northwest of the residence. No signage details have been submitted.

Note that this building was previously proposed on an adjacent property to the southeast of the petitioner's dwelling. In that situation, the structure was defined as a dwelling because of the combination of living areas. In this request, the floor plan has been refined to show the business versus personal areas and so avoids being defined as a dwelling.

In the AG, Agricultural District, traffic-generating home occupations require a special exception through the Board of Zoning Appeals. The requirements of §10.9 Special Exception Standards and §5.14 Home Occupation Standards of the zoning code apply.

HOME OCCUPATION STANDARDS

The proposal appears to be in compliance with the standards of Section 5.14 of the Zoning Code for home occupations. The area to be used for business totals approximately 989 sq. ft., which is less than the 1,159 sq. ft. permissible maximum, as based on the floor area of the residence listed in the Assessor's records.

REVIEW CRITERIA

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

- 1. The special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**

It is unlikely that this proposal will have any elements or conditions that may be particularly dangerous, injurious, or noxious to other properties, and should generally comply with performance standards.

- 2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;**

The proposed special exception would add a new outbuilding to the northwest of the existing house

within the surrounding wooded area. As shown on the submitted building elevations, there will be no visible evidence of the home occupation, other than the small additional parking area.

3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;

The location of the building on the property would not be particularly visible from the public road, so would likely not change the existing aesthetics or environment of the neighborhood.

4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and

Parking for the business use can be accommodated near the proposed structure and there should be sufficient room for several vehicles at a time. The existing driveway is paved and the entrance onto 800 East should be capable of handling the traffic generated and will not likely create any traffic congestion.

5. The special exception shall preserve the purpose of this Ordinance, as stated in §1.4.

Home Occupation (traffic-generating) is a listed special exception of the AG district in the Ordinance, and home-based professional offices are typical home occupations. So the purpose of the Ordinance will be preserved.

SUGGESTED CONDITIONS

If the Board moves to grant the special exception, the following are suggested conditions of the approval:

1. The Special Exception is granted for the applicant and is non-transferable.
2. The Special Exception is granted as presented and per the site plan.
3. The area used for the business shall not exceed 20% of the habitable area of the residence.
4. Any signage will conform to the requirements of the code.

Date report prepared: 5/17/22

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion:

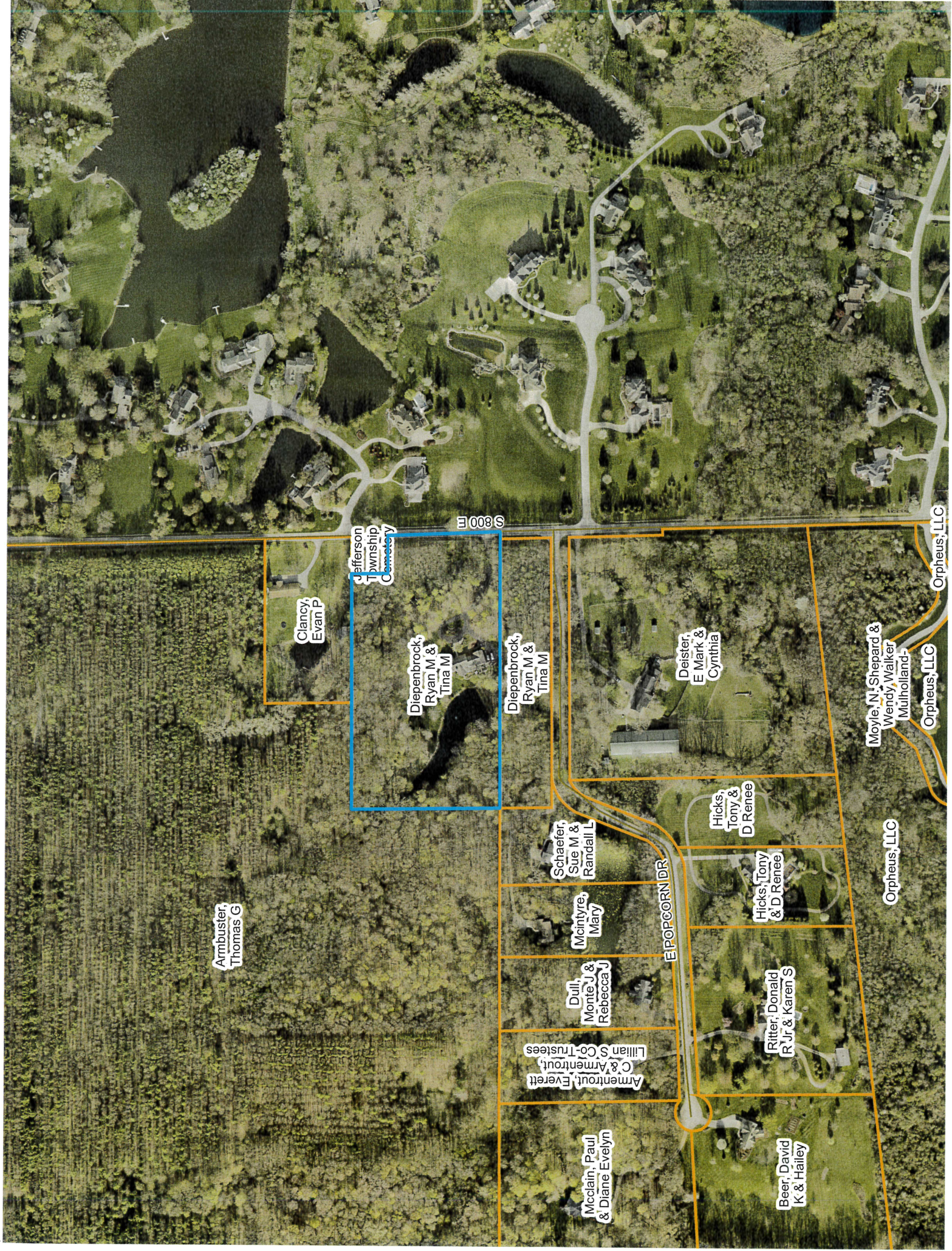
By:

Second by:

Approve _____
 Approve w/conditions _____
 Deny _____

***Vote:* Denihan Lopez Wilkinson Wolf Wright**

<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					



Armbruster,
Thomas G

Clancy,
Evan P

Jefferson
Township
Community

Diepenbrock,
Ryan M &
Tina M

Diepenbrock,
Ryan M &
Tina M

Armentrout, Everett
& Armentrout,
Lillian S Co-Trustees

Dull,
Monte J &
Rebecca J

McIntyre,
Mary

Schaefer,
Sue M &
Randall L

EI POPCORN DR

Hicks,
Tony &
D Renee

Hicks, Tony
& D Renee

Ritter, Donald
R Jr & Karen S

Beer, David
K & Hailey

Deister,
E Mark &
Cynthia

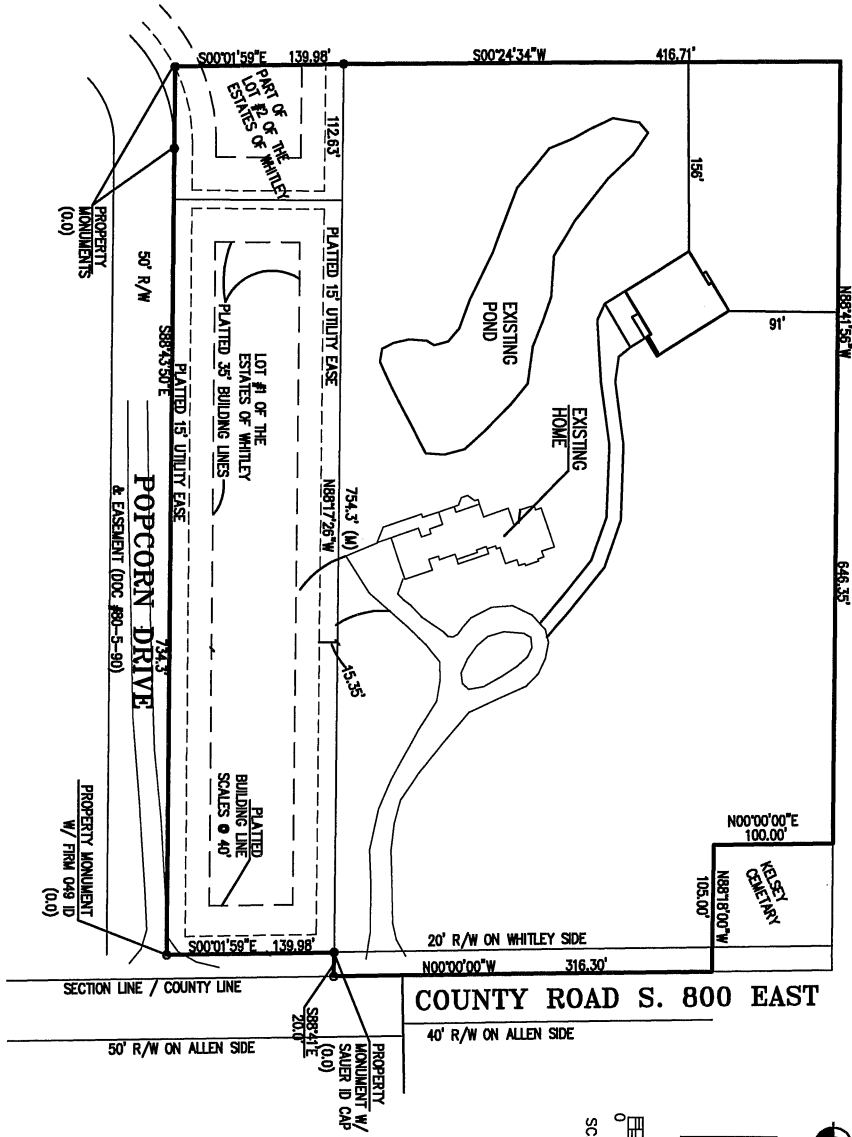
Moyle, N. Shepard &
Wendy Walker
Mulholland-

Orpheus, LLC

Orpheus, LLC

Orpheus, LLC

S 800 E



BOUNDARY IS SHOWN BASED ON MONUMENTS NOTED & DONOVAN ENGINEERING, INC.'S SURVEY JOB NO. 19-3323

PLOT PLAN FOR
RYAN DIEPENBROCK'S
 2022 BARN PROJECT
 EXISTING HOME IS 9490 COUNTY ROAD S 800 E

PREPARED BY: **LOUGHEED & ASSOCIATES, INC.**
 CONSULTING ENVIRONMENTAL & CIVIL ENGINEERS
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3-22-2022