



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 15, 2013

1310-VS-10

Exhibit 1

Petition Number: 1310-VS-10

Subject Site Address: 17443 Joliet Road

Petitioner: Marjorie A. Smith by Robert Robey

Request: The petitioner is requesting Variances of Standard from the Westfield-Washington Township Zoning Ordinance to allow a subdivision within the Agriculture-Single Family 1 (AG-SF1) District (WC 16.04.030.B.10), Additional Variances of Standard from the following standards are:

- WC 16.04.030 B. 4: Minimum Lot Area
- WC 16.04.030 B. 5: Minimum Lot Frontage on Road
- WC 16.04.030 B. 6. A: Minimum Front Yard Setback
- WC 16.04.030 B. 6. B: Minimum Side Yard Setback (north side yard)
- WC 16.04.030 B. 8. A: Minimum single-family ground level square footage (single story)
- WC 16.04.030 B. 10: Subdivisions are not permitted in the AG-SF1 District
- WC 16.04.220: Procedures

Current Zoning: Agriculture-Single Family 1I (AG-SF1) District

Current Land Use: Single Family Residence

Approximate Acreage: 14.56 acres

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Petitioner's Application

Staff Reviewer: Sarah L. Reed, AICP

Petition History

This petition will receive a public hearing at the October 15, 2013 Board of Zoning Appeals meeting.



Property Location

The subject property is 14.56 acres in size and is located at 17443 Joliet Road, Hamilton County Parcel Number 08-09-06-00-00-011.000 (the "Property"). The Property is zoned Agriculture-Single Family Rural (AG-SF1) District and is surrounded by property zoned AG-SF1 to the south and east, to the north (local business and residential), and west (local business and residential). The Property abuts Joliet Road on the west and is south of State Road 32.

Property Description (See Exhibit A).

"Parent Property" – 14.56 acres; the Parent Property is proposed to be subdivided into Lot 1 and Lot 2 (as described below and identified on Exhibit A).

"Lot 1" - 0.5 acres; legal description provided on Exhibit B; Lot 1 does not comply with five (5) AG-SF1 District Standards which include: minimum lot area, minimum lot frontage on road, minimum front yard setback, minimum side yard setback (north side yard), and the minimum single-family ground level square footage. The necessary variances required to make Lot 1 a legal conforming lot are identified in the Analysis section of this report.

"Lot 2" – 14.06 acres; Lot 2 complies with the AG-SF1 District Standards.

Overview

The Petitioner is proposing a lot split within the Agriculture-Single Family 1 District. Currently, two single-family residential dwellings are located on one lot (Parent Property on Exhibit A). The lot split would create a separate lot for each dwelling. Lot 1 on Exhibit A identifies the lot being split off of the Parent Property and Lot 2 identifies the lot remaining from the Parent Property after Lot 1 is split off.

Analysis: Summary of WC 16.04.030 B – AG-SF1 Agriculture/Single Family 1 Standards (the "Standards")

Use: Single family dwellings on large lots are a permitted use. Therefore the use is permitted and no variance is required.

Minimum Lot Area: The minimum lot area for the AG-SF1 District is three (3) acres. The Parent Parcel is 14.56 acres and will be divided into two parcels Lot 1 (0.5 acres) and Lot 2 (14.06 acres). Therefore, Lot 1 will need a variance to reduce the minimum lot area to 0.5 acres.



Minimum Lot Frontage on Road: The minimum lot frontage on road for the AG-SF1 District is 250 feet. The Parent Parcel has approximately 1,028 linear feet of road frontage and will be divided into two parcels Lot 1 (150 linear feet of frontage) and Lot 2 (remaining frontage from the Parent Parcel). Therefore, Lot 1 will need a variance to reduce the minimum lot frontage on road to 150 feet.

Minimum Setback Requirements:

- **Front Yard** – Joliet road is a Collector Street in the Westfield Thoroughfare Plan and the minimum front yard setback is 80 feet. Therefore, Lot 1 will need a variance to reduce the minimum front yard setback from 80 feet to 55 feet.
- **Side Yard** – The AG-SF1 District requires a 30 foot side yard setback. Lot 1 will require a variance to reduce the side yard setback on the north side from 30 feet to 10 feet.

Minimum Single-Family ground level square footage: The minimum single-family ground level square footage for a single story home in the AG-SF1 District is 1,350 square feet. The existing structure on Lot 1 is approximately 700 square feet. Therefore, Lot 1 will need a variance of reduction in the ground level square footage from 1,350 to 700 square feet.

A subdivision, as defined in this ordinance, shall not be permitted in this district: Since a subdivision is not permitted in the AG-SF1 District, a variance is required from this standard for the Parent Parcel to be subdivided into Lot 1 and Lot 2.

Analysis: Summary of WC 16.04.220 - Procedures

The Procedures (WC 16.04.220) section of the City of Westfield and Washington Township Zoning Ordinance identifies the Primary Plat and Secondary Plat process for a subdivider desiring the approval of a subdivision on any property within Washington Township. The Petitioner is seeking a variance from this process.



Procedural:

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Ind. Code § 36-7-4-918.5 only upon a determination in writing that:

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

Finding: It is unlikely the submitted proposal will be would be injurious to the public health, safety, morals, and general welfare of the community because the existing single-family home on the proposed Lot 1 was built in 1973 and has been residential in use since it was built.

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:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner because the use is not changing from the single-family residence that exists today. The only change is that the land will be subdivided for the transfer of ownership.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: The strict application would not permit a subdivision in the AG-SF1 District. In addition, the Zoning Ordinance does not permit more than one principal building for residential purposes located on one lot (WC 16.04.010. I - Lots). Allowing the subdivision of lots would create two legal conforming lots (Lot 1 and Lot 2) instead of one illegal non-conforming lot/use (Parent Parcel) as it currently exists today.



Recommendation

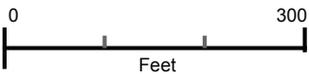
1. Approve **1310-VS-10** based on the findings of this report with the following conditions:
 - a. That the variance to allow a subdivision in the AG-SF1 District (WC 16.04.030.B.10) only applies to the division of the Parent Parcel to the extent needed to permit the creation of Lot 1 and Lot 2.
 - b. That the variance from the subdivision process (WC 16.04.220) only applies to the division of the Parent Parcel to the extent needed to permit the creation of Lot 1 and Lot 2.
 - c. Any future subdivisions of Lot 1 and Lot 2 would require a variance or compliance with the Subdivision Control Ordinance.

EXHIBIT A



17443 Joliet Road 1310-VS-10

Printed: Oct 09, 2013

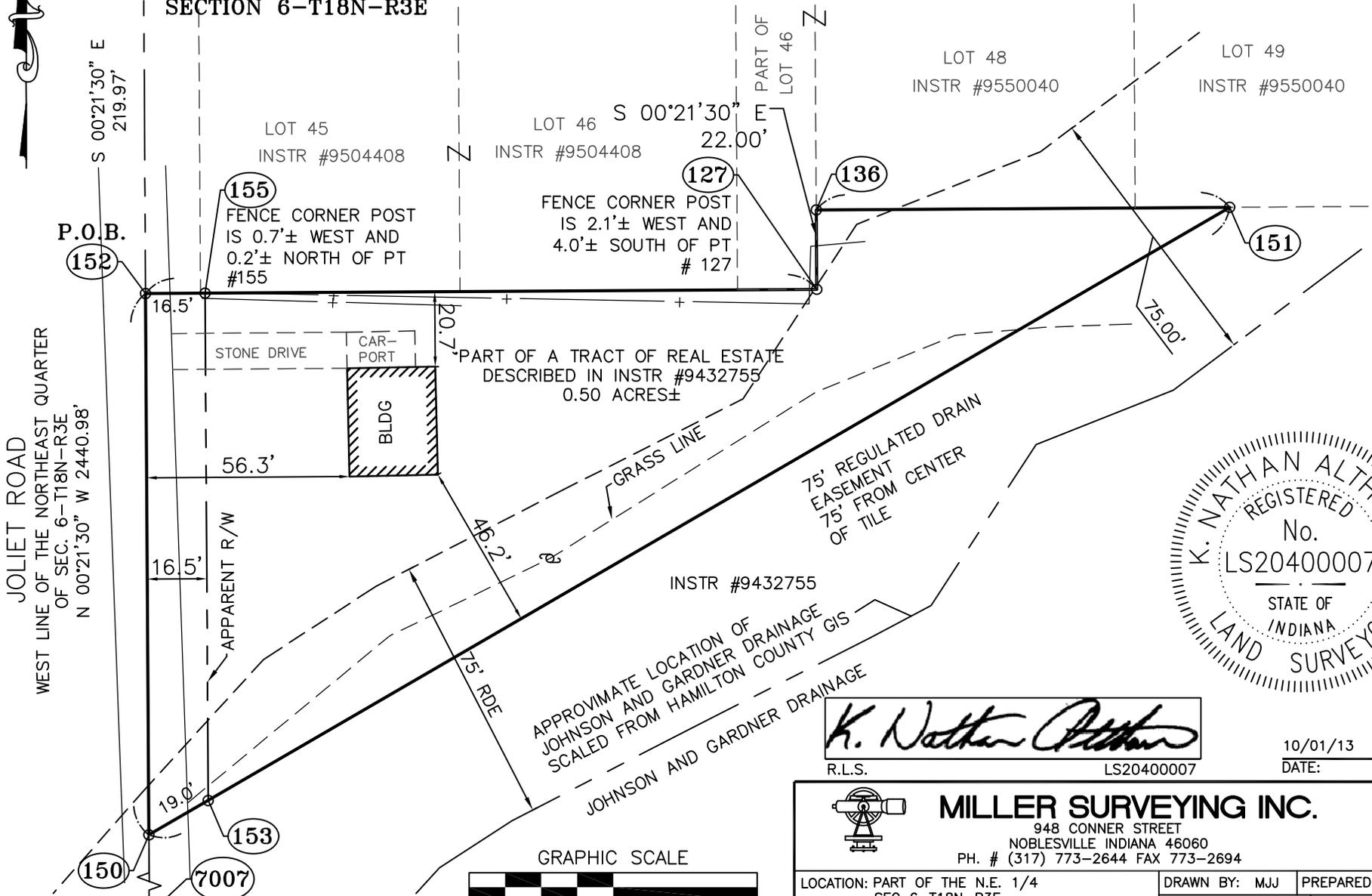


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EXHIBIT B

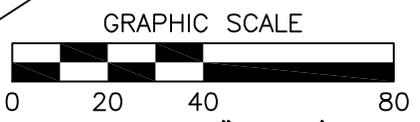
ORIGINAL SURVEY

7003
 N.W. CORNER, PART OF THE N.E. QUARTER, SECTION 6, TOWNSHIP 18 NORTH, RANGE 3 EAST
 N.E. QUARTER,
 SECTION 6-T18N-R3E
 WASHINGTON RIVER TOWNSHIP, HAMILTON COUNTY, INDIANA



K. Nathan Althous
 R.L.S. LS20400007

10/01/13
 DATE:



THIS SURVEY IS NOT COMPLETE AND/OR VALID WITHOUT ALL 3 PAGES.

7007
 N.W. CORNER,
 N.E. QUARTER,
 SECTION 6-T18N-R3E

 MILLER SURVEYING INC. 948 CONNER STREET NOBLESVILLE INDIANA 46060 PH. # (317) 773-2644 FAX 773-2694				
LOCATION: PART OF THE N.E. 1/4 SEC 6-T18N-R3E WASHINGTON TWP., HAMILTON CO. INDIANA		DRAWN BY: MJJ	PREPARED BY: KNA	
FIELD WORK COMPLETED: 9/05/13		SCALE: 1" = 40'	FIELD BOOK: 571	
CLIENT: BOB ROBEY		DATE: 10/1/13	PAGE: 158	
DESCRIPTION: ORIGINAL SURVEY		JOB NUMBER: B34748	SURVEY 4 FILE: 73 ROBEY	

ORIGINAL SURVEY

PART OF THE N.E. QUARTER, SECTION 6, TOWNSHIP 18 NORTH, RANGE 3 EAST
WASHINGTON RIVER TOWNSHIP, HAMILTON COUNTY, INDIANA

LAND DESCRIPTION

DESCRIPTION OF REAL ESTATE

A PART OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 3 EAST; THENCE ON THE WEST LINE OF SAID NORTHEAST QUARTER SOUTH 00 DEGREES 21 MINUTES 30 SECONDS EAST ASSUMED BEARING 220.00 FEET TO A MAG NAIL ON THE SOUTH LINE OF SOUTH LINE OF LOT 45 IN THE TOWN OF JOLIETVILLE IN HAMILTON COUNTY, INDIANA AS PER PLAT THEREOF, RECORDED IN DEED BOOK 35, PAGE 581 AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ON SAID WEST LINE SOUTH 00 DEGREES 21 MINUTES 30 SECONDS EAST 150.00 FEET TO A MAG NAIL; THENCE NORTH 59 DEGREES 53 MINUTES 33 SECONDS EAST 346.66 FEET TO A 5/8 INCH REBAR WITH YELLOW CAP STAMPED "S0083" ON THE SOUTH LINE OF LOT 49 IN THE TOWN OF JOLIETVILLE IN HAMILTON COUNTY, INDIANA AS PER PLAT THEREOF, RECORDED IN DEED BOOK 35, PAGE 581; THENCE ON SAID SOUTH LINE AND ON THE SOUTH LINE OF LOTS 48, 46, AND 45 THE FOLLOWING THREE COURSES 1) SOUTH 89 DEGREES 37 MINUTES 56 SECONDS WEST 114.72 FEET TO A 5/8 INCH REBAR WITH YELLOW CAP STAMPED "S0083"; 2) THENCE SOUTH 00 DEGREES 21 MINUTES 30 SECONDS EAST 22.00 FEET; 3) THENCE SOUTH 89 DEGREES 38 MINUTES 34 SECONDS WEST 186.25 FEET TO THE POINT OF BEGINNING, CONTAINING 0.50 ACRES MORE OR LESS.

POINT INVENTORY

POINT #	REMARKS
(150)(152)	MAG NAIL SET
(153)(155)(127)	5/8" IRON ROD WITH YELLOW CAP STAMPED "MILLER S0083" SET
(151)(136)	



K. Nathan Althouse

R.L.S.

LS20400007

10/01/13

DATE:



MILLER SURVEYING INC.

948 CONNER STREET
NOBLESVILLE INDIANA 46060
PH. # (317) 773-2644 FAX 773-2694



LOCATION: PART OF THE N.E. 1/4 SEC 6-T18N-R3E WASHINGTON TWP., HAMILTON CO. INDIANA	DRAWN BY: MJJ	PREPARED BY: KNA
FIELD WORK COMPLETED: 9/05/13	SCALE: 1" = 40'	FIELD BOOK: 571
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ORIGINAL SURVEY

PART OF THE N.E. QUARTER, SECTION 6, TOWNSHIP 18 NORTH, RANGE 3 EAST
WASHINGTON RIVER TOWNSHIP, HAMILTON COUNTY, INDIANA

SURVEYOR'S REPORT

IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12 OF THE INDIANA ADMINISTRATIVE CODE ("RULE 12"), THE FOLLOWING OBSERVATIONS AND OPINIONS ARE SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED THIS SURVEY AS A RESULT OF UNCERTAINTIES IN REFERENCE MONUMENTATION; IN RECORD DESCRIPTIONS AND PLATS; IN LINES OF OCCUPATION; AND AS INTRODUCED BY RANDOM ERRORS IN MEASUREMENT ("RELATIVE POSITIONAL ACCURACY"). THERE MAY BE UNWRITTEN RIGHTS ASSOCIATED WITH THESE UNCERTAINTIES. THE CLIENT SHOULD ASSUME THERE IS AN AMOUNT OF UNCERTAINTY ALONG ANY LINE EQUAL IN MAGNITUDE TO THE DISCREPANCY IN THE LOCATION OF THE LINES OF POSSESSION FROM THE SURVEYED LINES.

THERE MAY BE DIFFERENCES OF DEED DIMENSIONS VERSUS MEASURED DIMENSIONS ALONG THE BOUNDARY LINES SHOWN HEREON AND LIKEWISE, THERE MAY BE FOUND SURVEY MARKERS NEAR, BUT NOT PRECISELY AT, SOME BOUNDARY CORNERS. IN CASES WHERE THE MAGNITUDE OF THESE DIFFERENCES ARE LESS THAN THE RELATIVE POSITIONAL ACCURACY AND LESS THAN THE UNCERTAINTY IDENTIFIED FOR THE REFERENCE MONUMENTATION (DISCUSSED BELOW), THE DIFFERENCES MAY BE CONSIDERED INSIGNIFICANT AND ARE SHOWN ONLY FOR PURPOSES OF MATHEMATICAL CLOSURE. SUCH DIFFERENCES THAT ARE GREATER THAN THE RELATIVE POSITIONAL ACCURACY AND THE UNCERTAINTY IN REFERENCE MONUMENTATION SHOULD BE CONSIDERED WORTHY OF NOTICE AND ARE THEREFORE DISCUSSED FURTHER BELOW.

THIS SURVEY AND REPORT ARE BASED IN PART UPON OPINIONS FORMED IN ACCORDANCE WITH AN INDIANA LAND SURVEYOR'S RESPONSIBILITY TO CONDUCT A SURVEY IN ACCORDANCE WITH "LAW OR A PRECEDENT" (865 IAC 1-12-11(5), RULES OF THE INDIANA STATE BOARD OF REGISTRATION FOR LAND SURVEYORS). SINCE INDIANA HAS NO STATUTES ADDRESSING HOW TO RESOLVE BOUNDARY LINES, A SOLUTION BASED ON PRINCIPLES DERIVED FROM COMMON LAW PRECEDENT MUST BE RELIED UPON AS THE BASIS FOR A BOUNDARY RESOLUTION. UNLESS OTHERWISE NOTED OR DEPICTED HEREON, THERE IS NO EVIDENCE OF OCCUPATION ALONG THE PERIMETER LINES OF THE SUBJECT TRACT. ALL SURVEY MONUMENTS SET OR FOUND THIS SURVEY ARE FLUSH WITH EXISTING GRADE UNLESS OTHERWISE NOTED.

THE RELATIVE POSITIONAL ACCURACY (DUE TO RANDOM ERRORS IN MEASUREMENT) OF THE CORNERS OF THE SUBJECT TRACT ESTABLISHED THIS SURVEY DOES NOT EXCEED THAT ALLOWABLE FOR A RURAL CLASS SURVEY (0.26 FEET PLUS 200 PPM) AS DEFINED IN IAC 865.

THE WITHIN SURVEY IS AN ORIGINAL SURVEY OF A 0.50 ACRES TRACT OF REAL ESTATE, BEING PART OF THE TRACT OF REAL ESTATE DESCRIBED IN INSTRUMENT No. 9432755 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA. THE NORTH LINE OF THE SUBJECT PARCEL IS THE SOUTH LINE OF LOT 45, 46, 47, AND 49 IN THE TOWN OF JOLIETVILLE IN HAMILTON COUNTY, INDIANA AS PER PLAT THEREOF, RECORDED IN DEED BOOK 35, PAGE 581. THE SOUTH LINE OF THE SUBJECT PARCEL WAS ESTABLISHED PER THE CLIENT'S REQUEST. THE WEST LINE OF THE SUBJECT PARCEL IS THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP NORTH, RANGE 3 RANGE.

BASIS OF BEARING: ASSUMED BEARING

CONTROLLING MONUMENTS:

- (7003)** NW CORNER, NE 1/4, SECTION 6-18-3 HOLE FOUND (PER CO. SURVEYOR REFERENCE)
- (7007)** SW CORNER, NE 1/4, SECTION 6-18-3 HARRISON MONUMENT FOUND (PER CO. SURVEYOR REFERENCE)
- (7006)** NE CORNER, NE 1/4, SECTION 6-18-3 HARRISON MONUMENT FOUND (PER CO. SURVEYOR REFERENCE)

IN MY OPINION, THERE IS 0.5 FEET OF UNCERTAINTY IN THE LOCATION OF THESE MONUMENTS.

NO TITLE "GAPS" AND/OR "OVERLAPS" WERE FOUND WITH CURRENT DEED OF RECORDS.

1. POSSESSION TO THE WEST IS THE IMPROVEMENTS OF JOLIET ROAD. POSSESSION TO THE NORTH IS TO THE EXISTING FENCE LINE. THE SOUTH LINE IS AN ORIGINAL LINE.
2. 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 WITHIN DESCRIBED TRACT OF LAND LIES WITHIN FLOOD HAZARD ZONE "X" AS SAID TRACT PLOTS BY SCALE ON COMMUNITY PANEL NUMBER 18057C0115F OF THE FLOOD INSURANCE RATE MAPS FOR HAMILTON COUNTY, INDIANA (MAPS DATED 2/19/2003)
3. OWNERSHIP INFORMATION INDICATED HEREON IS AS IDENTIFIED IN COUNTY RECORDS.
4. THE WITHIN PLAT AND SURVEY WERE PREPARED WITHOUT BENEFIT OF A CURRENT TITLE POLICY FOR THE SUBJECT TRACT OR ADJOINERS AND ARE THEREFORE SUBJECT TO ANY STATEMENT OF FACTS REVEALED BY EXAMINATION OF SUCH DOCUMENTS.



K. Nathan Althous
R.L.S. LS20400007

10/01/13
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