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2009R-004689
PATRICIA A BROOKS

WARRICK COUNTY COMMISSIONERS ORDINANCE # 2009-05

AN ORDINANCE TO AMEND THE WARRICK COUNTY, INDIANA COMPREHENSIVE ZONING ORDINANCE BY REZONING CERTAIN REAL ESTATE IN WARRICK COUNTY, INDIANA

BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF WARRICK COUNTY, INDIANA:

Section 1. That the Warrick County, Indiana Comprehensive Zoning Ordinance and the Warrick County Zoning District Maps dated February 1, 2005, and made a part of said Ordinance, be and the same are hereby amended as follows:

That the boundaries of the Agricultural & Con, as shown on said Warrick County Zoning District Maps, be amended as to the following described real estate:

Beginning at a point on the south line of the Southwest Quarter of Section 26, South 89 degrees 02 minutes 44 seconds East 1321.81 feet from the southwest corner thereof; thence North 00 degrees 51 minutes 10 seconds East 2207.37 feet; thence North 89 degrees 09 minutes 18 seconds West 100.00 feet; thence North 00 degrees 51 minutes 10 seconds East 435.60 feet; thence South 89 degrees 09 minutes 18 seconds East 100.00 feet; thence continue South 89 degrees 09 minutes 18 seconds East 3743.34 feet; thence South 00 degrees 41 minutes 19 seconds West 610.50 feet; thence South 89 degrees 09 minutes 18 seconds East 214.50 feet; thence South 00 degrees 41 minutes 19 seconds West 714.78 feet; thence North 89 degrees 06 minutes 01 second West 1980.82 feet; thence South 00 degrees 46 minutes 14 seconds West 1323.38 feet; thence North 89 degrees 02 minutes 44 seconds West 1982.72 feet to the POINT OF BEGINNING being the southwest corner of the east half of the Southwest Quarter of Section 26, containing 178 acres, more or less.

which real estate is now zoned and classified as part of the A & Con District, as shown on the aforesaid Warrick County Zoning District Maps, so that said above described real estate shall be and the same is hereby rezoned and reclassified from said A & Con District to said C-3 Highway Commercial Zoning District.

Section 2. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 3. This Ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of the County of Warrick, State of Indiana.

Section 4. The subject property herein rezoned shall be used and developed only in accordance with the use and development commitment which is attached hereto and incorporated herein and no improvement location permits shall be issued until the petitioner records said use and development commitment in the office of the Recorder of Warrick County, Indiana.

"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."

Sherri Rector

WARRICK COUNTY RECORDER
RECORDED AS PRESENTED ON
05/12/2009 12:26:22PM
REC FEE: 0.00
PAGES: 5

x-ref: 2006R-008649 2008R-005981

President

Member

Member

BOARD OF COMMISSIONERS
WARRICK COUNTY, INDIANA

ATTEST:

County Auditor

5/11/09
Date Approved

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.

Signature

BRIAN LITHERLAND
Printed Name

This document prepared by Brian Litherland, Gov't Liaison for Lynnville Area Dirt Riders, Inc..

USE AND DEVELOPMENT COMMITMENT

WHEREAS the Undersigned, _Lynnville Area Dirt Riders_____ Petitioner, is the owner of certain real estate situated in the County of Warrick, Indiana, commonly described as ___1455 Hart Rd._____, which real estate is more particularly described as follows, to wit:

See Attached Sheet for Legal Description

Hart 26-4-8

WHEREAS, as the real estate is currently classified as a _Ag & Con_____ Zoning district under the Warrick County Zoning Code and is so indicated on the zoning maps maintained by the staff of the Warrick County Area Plan Commission; and

WHEREAS, Petitioner has requested that the Real Estate be reclassified to zoning district ___C-3_____; and

WHEREAS, Petitioner is desirous of accommodating the concerns of the surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C. 36-7-4-613;

NOW, THEREFORE, in consideration of the foregoing, petitioner makes the following use and development commitment:

1. Use of the Real Estate shall be limited to the following uses:
   The property will be used for recreational riding of ATV's and off-road motorcycles as well as organized racing events for ATV's and off-road motorcycles. Some of the races will be cross country events utilizing a trail system which will run throughout a majority of the property. The motocross events will be confined to a track built within a specific area of property. Some organized events will be single day events while others maybe multi day events. The property will also be used by club members for recreational camping, hunting and fishing.

   ATV's and motorcycles may be operated on the property from 6:00 am to 9:00 pm.

   Access to the property for emergency response vehicles will be provided. A series of access roads throughout the property will provide access for emergency responders.

   Club member parking will be in a small area located in the north central portion of the property. During organized events parking will provided in two large areas located in the northwest corner of the property.

2. Use of the Real Estate shall be limited to the following development requirements:

3. All commitments and undertakings herein expressed shall be binding on the petitioners and the petitioners' heirs, legal representative, successors and assigns, and shall run in the favor of the Area Plan Commission of Warrick County and all the owners of real estate lying within the radius of one (1) mile from the real estate described and shall be enforced by invoking any legal, equitable or special remedy, including specific performance, injunction or equitable relief pursuant to the manner of enforcement as set forth in I.C.

36-7-4-613, 36-7-4-1013, and 36-7-4-1014. If it is necessary to initiate administrative or judicial proceedings to enforce any such commitment or undertaking, the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this 23 day of March, 2009 by Brian Litherland for the purpose set forth herein.

Signature

STATE OF INDIANA)
VANDERBURGH) SS:
COUNTY OF ~~WARRICK~~)

Before me, the undersigned, a Notary Public and for said County and State, personally appeared the within named Brian Litherland who acknowledged the execution of the foregoing Use and Development commitment to be his free voluntary act and deed.

WITNESS my hand and Notarial Seal this 23rd day of March, 2009.

NOTARY PUBLIC

Rebecca L. Zimmer
Signature

NOTARY PUBLIC SEAL INDIANA

REBECCA L. ZIMMER
Printed Name

A resident of Vanderburgh County, Indiana.

My commission expires: April 27, 2016

This instrument prepared by: Brian Litherland
(Name)

8266 Clearview Dr., Newburgh, In. 47630
(Address)

(812) 459-6201
(phone)

REZONING BOUNDARY DESCRIPTION
OCTOBER 16, 2008

Hart 24-6-8

Beginning at a point on the south line of the Southwest Quarter of Section 26, South 89 degrees 02 minutes 44 seconds East 1321.81 feet from the southwest corner thereof; thence North 00 degrees 51 minutes 10 seconds East 2207.37 feet; thence North 89 degrees 09 minutes 18 seconds West 100.00 feet; thence North 00 degrees 51 minutes 10 seconds East 435.60 feet; thence South 89 degrees 09 minutes 18 seconds East 100.00 feet; thence continue South 89 degrees 09 minutes 18 seconds East 3743.34 feet; thence South 00 degrees 41 minutes 19 seconds West 610.50 feet; thence South 89 degrees 09 minutes 18 seconds East 214.50 feet; thence South 00 degrees 41 minutes 19 seconds West 714.78 feet; thence North 89 degrees 06 minutes 01 second West 1980.82 feet; thence South 00 degrees 46 minutes 14 seconds West 1323.38 feet; thence North 89 degrees 02 minutes 44 seconds West 1982.72 feet to the POINT OF BEGINNING, containing 178 acres, more or less.

THIS BOUNDARY DESCRIPTION WAS PREPARED FROM RECORD DESCRIPTIONS AND OTHER AVAILABLE INFORMATION ONLY, AND IS INTENDED TO BE USED FOR REZONING PURPOSES ONLY. THIS DESCRIPTION DOES NOT REPRESENT AN ON THE GROUND SURVEY OF THE SUBJECT PROPERTY.

Receipt No. 16122

PETITION

FOR CHANGE OF THE ZONING ORDINANCE MAPS

PC- R-09-01

Petitioner: Lynnville Area Dirt Riders, Inc. , by Brian Litherland, Gov. Liaison

Address: P.O. Box 441
Chandler, In. 47610

Owner of Record: Lynnville Area Dirt Riders, Inc.

Address: P.O. Box 441
Chandler, In. 47610

Lessee: _____

Address: _____

1. Petition is hereby made for the change of "Zoning Maps" of the City or Town of _____ ( ). County of Warrick (X), (Check One), State of Indiana, under the authority vested in the Warrick County Area Plan Commission by Chapter 138, Article V, Section 51 and of the 1957 Act of the General Assembly, as amended, State of Indiana.

2. Premises affected are situated on the South side of Hart Road., a distance of 2,500 feet W. (S. W. N. E.) of the corner formed by the intersection formed by Hart Road and Eby Road.

Subdivision or Legal Description:

See Attached Sheet for Legal Description

Hart 26-4-8

FILED
MAR 24 2009
WARRICK COUNTY
AREA PLAN COMMISSION

3. Located in Zone District Designated as: (Circle one or show one.)

City or Town: F.P., CON., A., R.S., R-1, R-1A, R-1B, R-1C, R-1D, R-2, R-3, R-O, C-1, C-2, C-3, C-4, W-R, M-1, M-2, PUD.

County: F.P., CON., A., R.S., R-1, R-1A, R-1B, R-1C, R-1D, R-2, R-2A, R-2B, R-3, R-O, R-MH, C-1, C-2 C-3, C-4, W-R, W-1, M-1, M-2, M-3, PUD.

4. Requested change to: (Circle one or Show one.)

City or Town: F.P., CON, A., R.S., R-1, R-1A, R-1B, R-1C, R-1D, R-2, R-3, R-O, C-1, C-2, C-3, C-4, W-R, M-1, M-2, PUD.

County: F.P., CON., A., R.S., R-1, R-1A, R-1B, R-1C, R-1D, R-2, R-2A, R-2B, R-3, R-O, R-MH, C-1, C-2, C-3, C-4, W-R, W-1 M-1, M-2, M-3, PUD.

5. Existing Land Use: Woodland and Non-tillable
(a.) Conforming: _____
(b.) Pre-Existing ~ Non-Conforming: _____
(c.) Conditional Use: _____

6. Proposed Land Use: Motorcycle and ATV Off-road Racing Facility

Certificate: - Owner hereby certifies that he/she owns 50% or more of the land above described.

Date: Oct. 15, 2008

Petitioner: Lynnville Area Dirt Riders, Inc.
Owner: Lynnville Area Dirt Riders, Inc.
Represented By: Brian Litherland
Phone: 812.479.6200

*** NOTICE OF PUBLIC HEARING ***

Date: _____ PC-R- 09-01

Applicant: Lynnville Area Dirt Riders, Inc.
By Brian Litherland

Owner of Record: SAME

Address: P.O. Box 441
Chandler, In. 47610

Address P.O. Box 441
Chandler, In. 47610

Re: Petition for: Rezoning 178 acre from Agricultural/Woodland (A) to C-3 with a SCDN Use and Development Commitment

Dear: Adjacent Property Owner ;

This letter will serve notice to you of scheduled hearing/s of a petition for Rezoning which has been filed with the Warrick County Area Plan Commission.

PREMISES AFFECTED: Property located on the South side of Hart Road Approximately 2,500 feet West of the intersection formed by Hart Road and Eby Road. Hart Twp. Lot No. N/A In N/A Subdivision (if applicable).

AREA PLAN COMMISSION hearing to be held in the Commissioners Meeting Room, Third Floor, Courthouse, Boonville, Indiana. Hearing to be held at 6:00 P.M. on Monday, April 23, 2009.

Sincerely,

Applicant and/or Owner

FILED
MAR 24 2009
WARRICK COUNTY
AREA PLAN COMMISSION

WARRICK COUNTY COMMISSIONERS ORDINANCE # _____

AN ORDINANCE TO AMEND THE WARRICK COUNTY, INDIANA COMPREHENSIVE ZONING ORDINANCE BY REZONING CERTAIN REAL ESTATE IN WARRICK COUNTY, INDIANA

BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF WARRICK COUNTY, INDIANA:

Section 1. That the Warrick County, Indiana Comprehensive Zoning Ordinance and the Warrick County Zoning District Maps dated February 1, 2005, and made a part of said Ordinance, be and the same are hereby amended as follows:

That the boundaries of the ___Agricultural & Con_____, as shown on said Warrick County Zoning District Maps, be amended as to the following described real estate:

Beginning at a point on the south line of the Southwest Quarter of Section 26, South 89 degrees 02 minutes 44 seconds East 1321.81 feet from the southwest corner thereof; thence North 00 degrees 51 minutes 10 seconds East 2207.37 feet; thence North 89 degrees 09 minutes 18 seconds West 100.00 feet; thence North 00 degrees 51 minutes 10 seconds East 435.60 feet; thence South 89 degrees 09 minutes 18 seconds East 100.00 feet; thence continue South 89 degrees 09 minutes 18 seconds East 3743.34 feet; thence South 00 degrees 41 minutes 19 seconds West 610.50 feet; thence South 89 degrees 09 minutes 18 seconds East 214.50 feet; thence South 00 degrees 41 minutes 19 seconds West 714.78 feet; thence North 89 degrees 06 minutes 01 second West 1980.82 feet; thence South 00 degrees 46 minutes 14 seconds West 1323.38 feet; thence North 89 degrees 02 minutes 44 seconds West 1982.72 feet to the POINT OF BEGINNING being the southwest corner of the east half of the Southwest Quarter of Section 26, containing 178 acres, more or less.

which real estate is now zoned and classified as part of the _____A & Con_____ District, as shown on the aforesaid Warrick County Zoning District Maps, so that said above described real estate shall be and the same is hereby rezoned and reclassified from said ____A & Con____ District to said C-3 Highway Commercial Zoning District.

Section 2. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 3. This Ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of the County of Warrick, State of Indiana.

Section 4. The subject property herein rezoned shall be used and developed only in accordance with the use and development commitment which is attached hereto and incorporated herein and no improvement location permits shall be issued until the petitioner records said use and development commitment in the office of the Recorder of Warrick County, Indiana.

President

Member

Member
BOARD OF COMMISSIONERS
WARRICK COUNTY, INDIANA

ATTEST:

County Auditor

Date Approved

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.

Signature

BRIAN LITHERLAND
Printed Name

This document prepared by Brian Litherland, Gov't Liaison for Lynnville Area Dirt Riders, Inc..

NOTICE TO ADJOINING PROPERTY OWNERS AFFIDAVIT

STATE OF INDIANA)
) SS
COUNTY OF WARRICK)

DATE: _____

REZONING: _____

I, Brian Litherland, hereby affirm under the penalties of perjury that I have mailed letters containing required information about this rezoning petition at (address) 1455 Hart Rd., to the following property owners on (date)_____. I hereby certify that to the best of my knowledge, the following (or attached) is a complete and accurate list of all abutting property owners whose properties touch at any point the owner's property, included in whole or in part in the petition for rezoning stated above. I obtained said list by looking up the Real Estate Transfer Cards of the abutting property owners on the records in the office of the Auditor and their most recent mailing addresses as listed on records in the office of the Auditor of Warrick County on (Date) March 20, 2009.

Letters were sent to:

NAME: Jann W. Allen, ET AL ADDRESS: 1088 Old Plank Rd.
Chandler, In. 47610

NAME: Elsie Bircher c/o Cheryl Wasson ADDRESS: 801 S Meadow Rd.
Evansville, In. 47714

NAME: William & Kimberly Waterbury ADDRESS: 822 Russell Rd.
Chandler, In. 47610

NAME: Midwest Coal Reserves of Indiana, LLC, attn: Land Dept ADDRESS: 7100 Eagle Crest Blvd, Ste 200
Evansville, In. 47715

NAME: Douglas & Kimberly Gresham ADDRESS: 6955 Eby Rd.
Boonville, In. 47601

NAME: Karen Harris ADDRESS: 390 Ash St., Denver, Co. 80220

NAME: Wilbur & Irene Wasson ADDRESS: 1005 N. 1st St.
Boonville, In. 47601

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

The letters were sent CERTIFIED MAIL, RETURN RECEIPT SERVICE. The green receipts are attached.

Affiant's signature (Petitioner's, Attorney, or Representative)

Subscribed and sworn to before me, a Notary Public in and for said County and State this 23rd Day of March, 2009.

(Notary Public)

NOTARY PUBLIC SEAL INDIANA

My Commission Expires: April 27, 2016

Residence of Notary: Vanderburgh County, Indiana.

NOTE: THIS AFFIDAVIT **MUST BE FILED** IN THE OFFICE OF **THE AREA PLAN COMMISSION** BY **NOON** OF THE **MONDAY** BEFORE **THE AREA PLAN COMMISSION MEETING.**

USE AND DEVELOPMENT COMMITMENT

WHEREAS the Undersigned, _Lynnville Area Dirt Riders_____ Petitioner, is the owner of certain real estate situated in the County of Warrick, Indiana, commonly described as ___1455 Hart Rd._____, which real estate is more particularly described as follows, to wit:

See Attached Sheet for Legal Description

Hart 26-4-8

WHEREAS, as the real estate is currently classified as a _Ag & Con_____ Zoning district under the Warrick County Zoning Code and is so indicated on the zoning maps maintained by the staff of the Warrick County Area Plan Commission; and

WHEREAS, Petitioner has requested that the Real Estate be reclassified to zoning district ___C-3_____; and

WHEREAS, Petitioner is desirous of accommodating the concerns of the surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C. 36-7-4-613;

NOW, THEREFORE, in consideration of the foregoing, petitioner makes the following use and development commitment:

1. Use of the Real Estate shall be limited to the following uses:
   The property will be used for recreational riding of ATV's and off-road motorcycles as well as organized racing events for ATV's and off-road motorcycles. Some of the races will be cross country events utilizing a trail system which will run throughout a majority of the property. The motocross events will be confined to a track built within a specific area of property. Some organized events will be single day events while others maybe multi day events. The property will also be used by club members for recreational camping, hunting and fishing.

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36-7-4-613, 36-7-4-1013, and 36-7-4-1014. If it is necessary to initiate administrative or judicial proceedings to enforce any such commitment or undertaking, the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this 23 day of March, 2009 by Brian Litherland for the purpose set forth herein.

Signature

STATE OF INDIANA)
VANDERBURGH) SS:
COUNTY OF ~~WARRICK~~)

Before me, the undersigned, a Notary Public and for said County and State, personally appeared the within named Brian Litherland who acknowledged the execution of the foregoing Use and Development commitment to be his free voluntary act and deed.

WITNESS my hand and Notarial Seal this 23rd day of March, 2009.

NOTARY PUBLIC

Signature

NOTARY PUBLIC SEAL INDIANA

REBECCA L. ZIMMER
Printed Name

A resident of Vanderburgh County, Indiana.

My commission expires: April 27, 2016

This instrument prepared by: Brian Litherland
(Name)

8266 Clearview Dr., Newburgh, In. 47630
(Address)

(812) 459-6201
(phone)

REZONING BOUNDARY DESCRIPTION
OCTOBER 16, 2008

Hart 24-6-8

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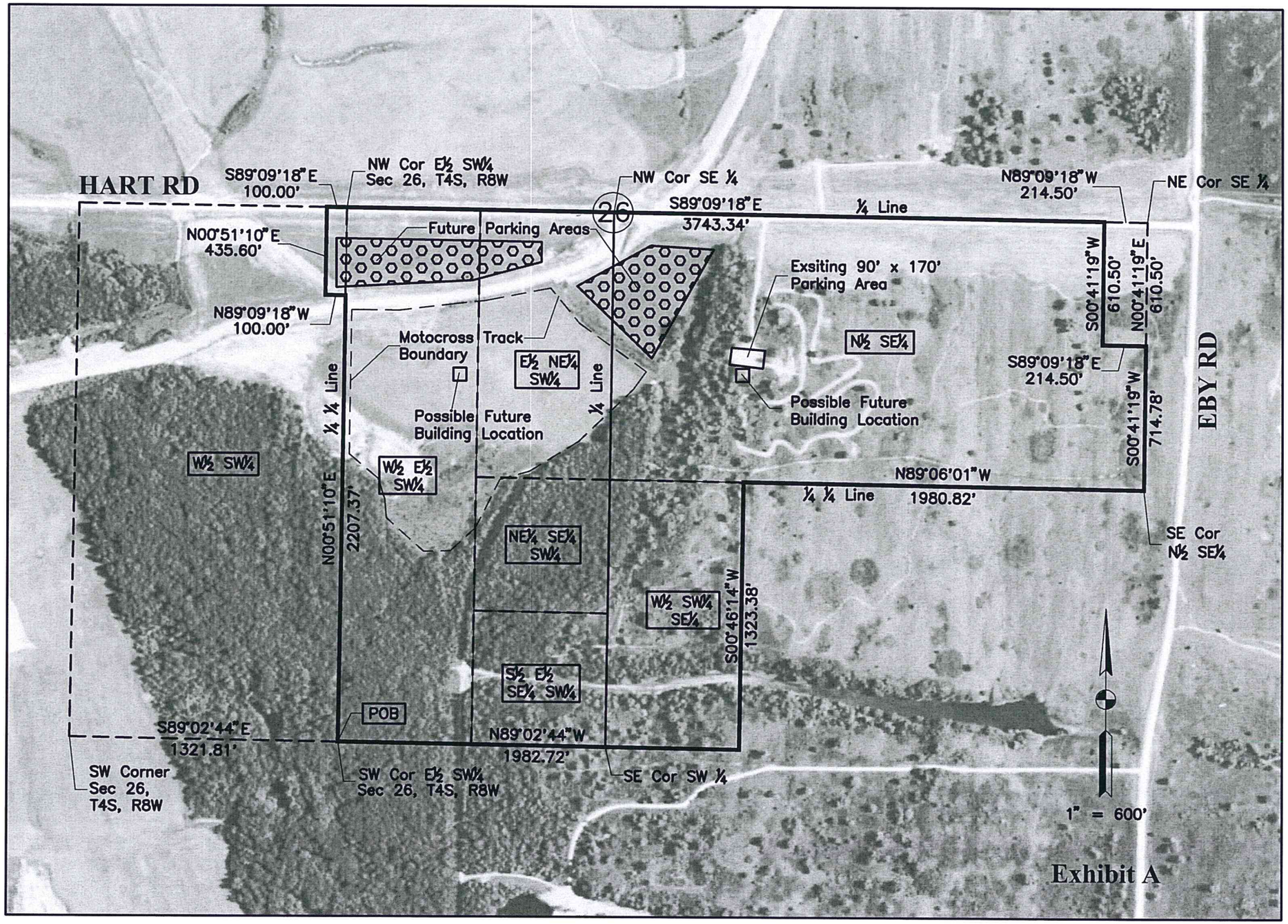
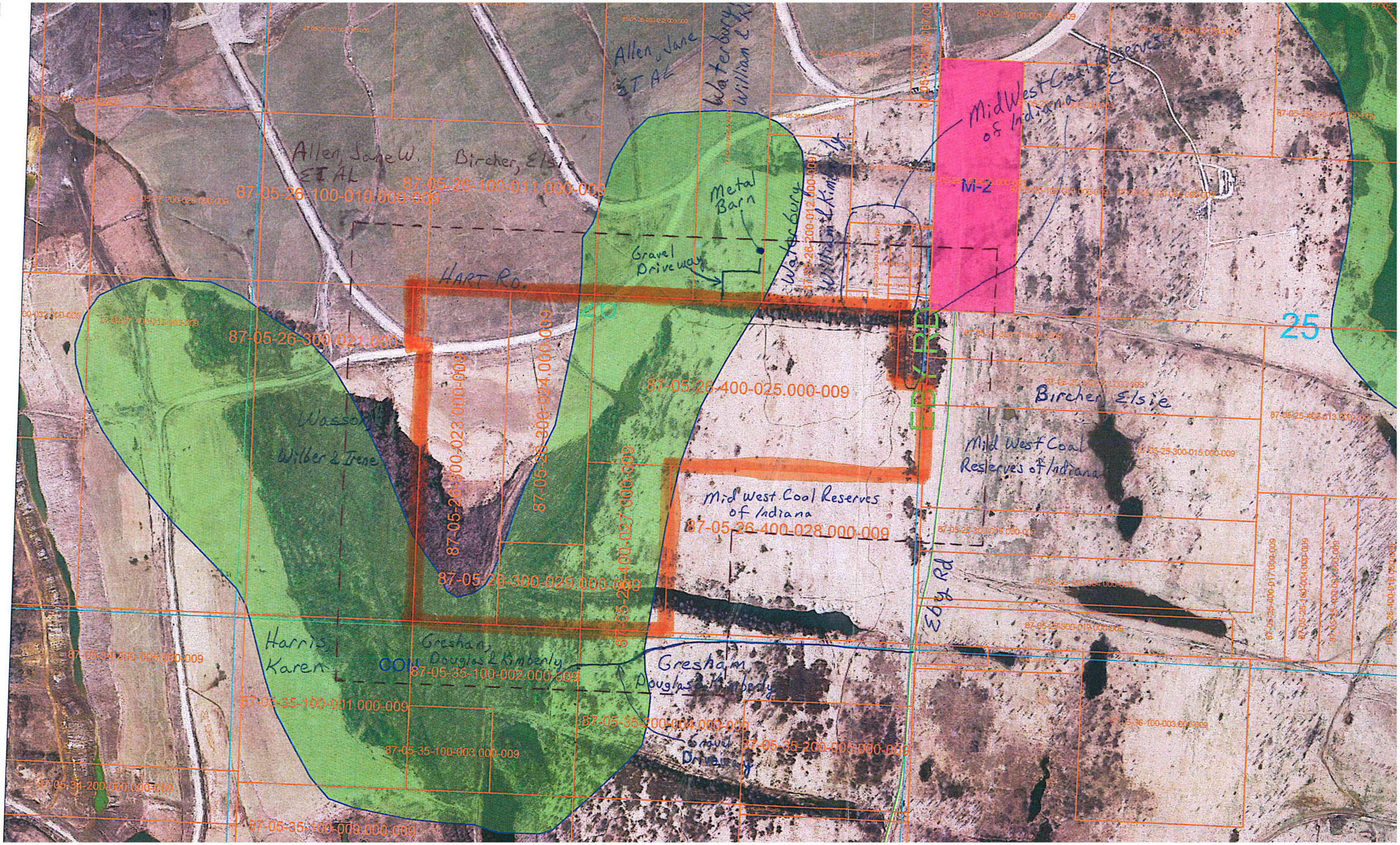


Exhibit A

FILED
MAR 2 4 2009
WARRICK COUNTY
AREA PLAN COMMISSION


Allen, Jane ET AL
Waterbury William & Kim
Allen, Jane W. ET AL
Bircher, Elsie
87-05-26-100-010.000-009
87-05-26-100-011.000-009
Metal Barn
Gravel Driveway
Waterbury William & Kimberly
MidWest Coal Reserves of Indiana
M-2
HART RD.
26
25
87-05-26-300-021.000-009
87-05-26-300-023.000-009
87-05-26-300-024.000-009
87-05-26-400-025.000-009
Bircher Elsie
Wassom Wilber & Irene
Mid West Coal Reserves of Indiana
Mid West Coal Reserves of Indiana
87-05-26-400-028.000-009
87-05-26-400-027.000-009
87-05-26-300-029.000-009
EBY RD
Harris, Karen
COU
Gresham, Douglas & Kimberly
87-05-35-100-002.000-009
Gresham, Douglas & Kimberly
87-05-35-100-001.000-009
87-05-35-200-004.000-009
Gravel Driveway
87-05-35-200-005.000-009
87-05-35-100-003.000-009
87-05-35-100-009.000-009