

MONROE COUNTY PLAN COMMISSION MEETING



**March 19, 2019
5:30 pm**

**Judge Nat U. Hill III Meeting Room
100 W. Kirkwood Avenue
Bloomington, Indiana**

**MONROE COUNTY PLAN COMMISSION
AGENDA**

The Monroe County Plan Commission will hold a public hearing on Tuesday, March 19, 2019 at 5:30 PM, in the in the Judge Nat U. Hill III Meeting Room, 100 West Kirkwood Avenue, Bloomington, Indiana, to consider the following agenda items and requests regarding the following described properties in Monroe County, Ind.:

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES – January 15, 2019

UNFINISHED BUSINESS: None.

NEW BUSINESS:

- 1. 1901-SSS-01 Martin Family Sliding Scale Subdivision Preliminary Plat.
Utility Waiver and Road Width Waiver Requested.
Preliminary Hearing. Waiver of Final Hearing Requested.**
Three (3) Parcels on 223.50 acres +/- in Bean Blossom Township, Sections 4
& 33 at 7618 & 7700 W Sand College RD. **Zoned AG/RR.**
****CONTINUED BY PETITIONER****

- 2. 1901-SSS-02 Robertson Sliding Scale Subdivision Preliminary Plat. PAGE 3
Cohen-Robertson Type ‘E’ Administrative Subdivision Plat Vacation
and Sidewalk Waiver Requested.
Preliminary Hearing. Waiver of Final Hearing Requested.**
Three (3) parcels on 47.83 acres +/- in Clear Creek Township, Section 10
at 8070 S Strain Ridge RD.
Zoned AG/RR.

- REPORTS:**
1. Planning: Larry Wilson
 2. County Attorney: David Schilling

Said hearing will be held in accordance with the provisions of: IC 36-7-4-100 et seq.; & the County Code, Zoning Ordinance, and the Rules of the Plan Commission of Monroe County, Ind. All persons affected by said proposals may be heard at this time, and the hearing may be continued as necessary.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Monroe County, should contact Monroe County Title VI Coordinator Angie Purdie, (812)-349-2553, apurdie@co.monroe.in.us, as soon as possible but no later than forty-eight (48) hours before the scheduled event.

Individuals requiring special language services should, if possible, contact the Monroe County Government Title VI Coordinator at least seventy-two (72) hours prior to the date on which the services will be needed.

The meeting will be open to the public.

MONROE COUNTY PLAN COMMISSION MEETING**March 19, 2019**

PLANNER: Jackie Nester, AICP
CASE NUMBER: 1901-SSS-02 Robertson Sliding Scale Subdivision
PETITIONER: Patricia Robertson c/o Eric Deckard
ADDRESS: 8070 S Strain Ridge Road
REQUEST: Sliding Scale Preliminary Plat to Subdivide One Parcel into Three Lots, Partial Plat Vacation, and a Waiver Request for Sidewalk.
ZONING: Agriculture/Rural Reserve (AG/RR)
ACRES: 47.83 +/-
TOWNSHIP: Clear Creek
SECTION(S): 10
PLAT(S): Cohen-Robertson Type “E” Administrative Subdivision, Tract 2
COMP PLAN DESIGNATION: Designated Communities

EXHIBITS:

- 1) Preliminary Plat
- 2) Cohen-Robertson Type “E” Administrative Subdivision
- 3) Petitioner Submitted Findings of Fact – Sidewalk Waiver Request
- 4) Brookshire Crossing Subdivision Final Plat
- 5) Transportation Alternatives Map

RECOMMENDATION

Staff recommends **Approval** of the Sliding Scale Subdivision Preliminary Plat and Plat Vacation, based on the findings of fact and subject to the Monroe County Public Works Department Reports and Subject to the following condition:

1. Septic permits must be submitted prior to final platting.

Staff recommends **Approval** of the sidewalk waiver request subject to the following condition:

1. Add a pedestrian and utility easement along the abandoned railroad corridor.

PLAN COMMISSION ADMINISTRATIVE COMMITTEE

The Plan Commission heard this petition at their regularly scheduled meeting on March 5, 2019, and discussed the possibility of the Monroe County Highway Department building a turnaround required for this proposal in return for a pedestrian and utility easement across the petition site along the abandoned railroad.

PLAT COMMITTEE

The Plat Committee heard this petition at their regularly scheduled meeting on February 21, 2019, and gave no recommendation.

BACKGROUND

The petition site is one parcel totaling 47.83 +/- acres. The parcel is Tract 2 of the Cohen-Robertson Type “E” Administrative Subdivision (see Exhibit 2). The petitioner is proposing to vacate the 47.83 +/- acre parcel and further subdivide into three lots via the Sliding Scale Subdivision procedure. The proposed lot dimensions are as follows (see Exhibit 1):

- Lot 1: 39.40 +/- acres with 9.74 acres of buildable area
- Lot 2: 4.03 +/- acres with 2.16 acres of buildable area
- Lot 3: 3.96 +/- acres with 1.86 acres of buildable area

Proposed Lot 1 will be designated as the Parent Parcel Remainder and shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat unless connected to a public sewage disposal system or further subdivision of the property is authorized by ordinance.

There are several sinkhole conservancy areas (SCAs) that have been designated on the submitted preliminary plat. The petitioner is not able to put a private drive through any of the SCAs per Chapter 829. According to the plat, the petitioner is able to place a 50' ingress/egress easement through the property without coming in contact with any of the SCAs on the site. All future septic sites must be located 25' from the nearest SCA, which can also be met according to the submitted preliminary plat.

In the original Type 'E', the petitioner dedicated right-of-way for future extension of the County road, Whitherbee Drive, a Local Road. The site does have access to Whitherbee Drive from the south through the Brookshire Crossing Subdivision, approved in 1996. To access the proposed lots from Whitherbee Drive, a cul-de-sac is required within the previously dedicated right-of-way. Since this petition site is located in the designated community area, the subdivision request triggers the need for sidewalk around the proposed cul-de-sac. The petitioner has requested a waiver from the Subdivision Control Ordinance's Sidewalk Requirement. Street trees will be preserved in the dedicated right-of-way area outside of the area to be built as a cul-de-sac. The closest school to this petition site is Lakeview, which is 1.67 miles away and the closest potential for sidewalks is located in the Bellevista Subdivision, which is 0.31 miles from the petition site; the Bellevista subdivision has no sidewalks built but does have pedestrian easements platted along both sides of all of the internal streets.

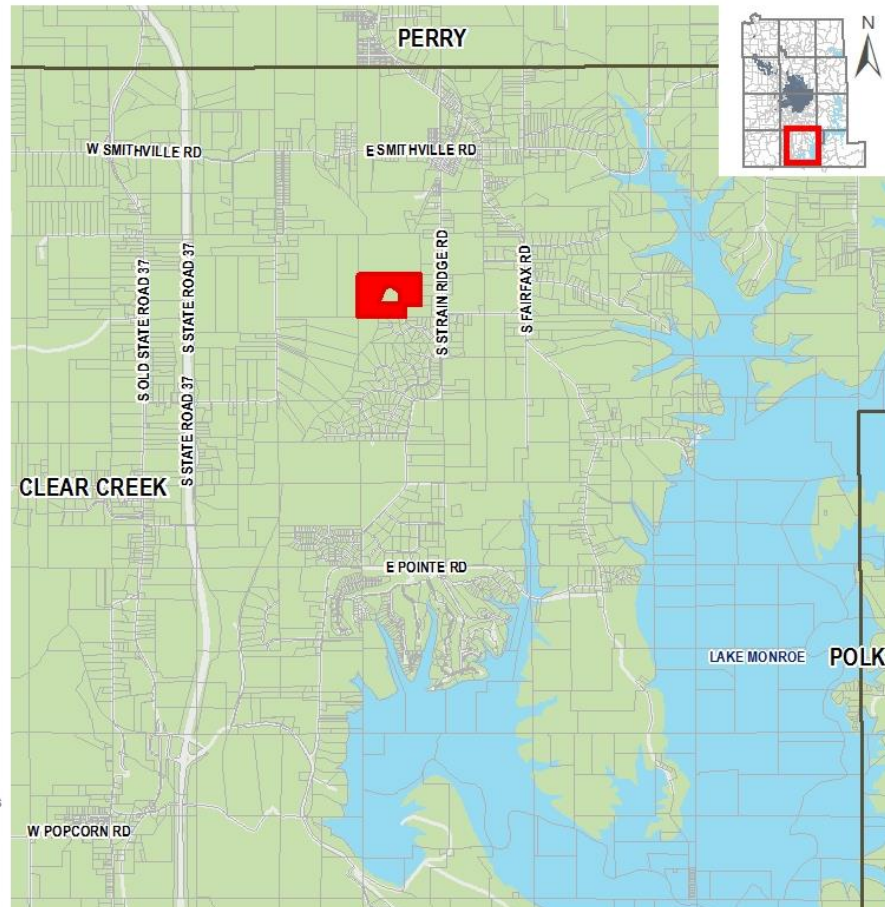
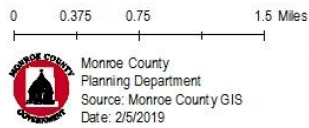
There is an abandoned railroad area that cuts through this property. Staff has recommended that in lieu of the sidewalk around the proposed cul-de-sac, that an easement be platted for pedestrian and utility access for future plans of a high priority greenway corridor (See Exhibit 5). The easement would allow for the County to build out a future greenway trail through the petitioner's property, which would extend over 7 miles and would be known as the Sanders-Smithville Greenway.

LOCATION MAP

The petition site is located in Clear Creek Township. The property maintains frontage on S Whitherbee Drive, which is classified as a Local Road.

Location Map

- Petitioner
- Townships
- Roads
- Parcels
- Lakes

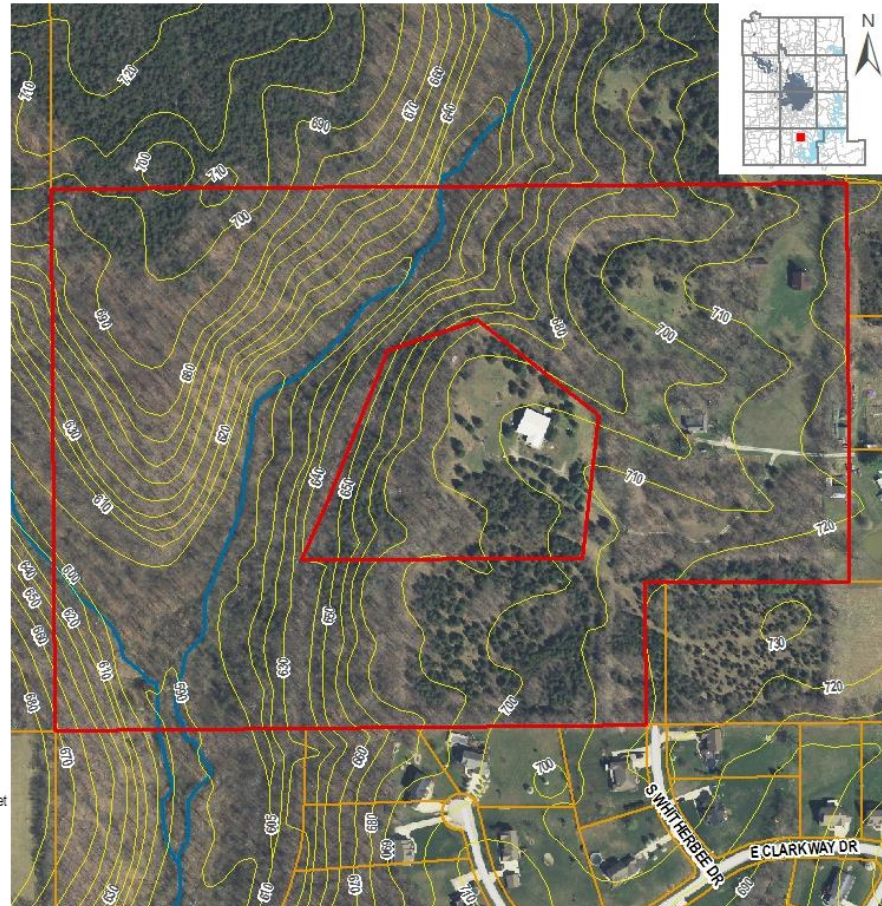
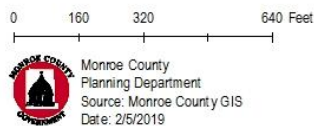


SITE CONDITIONS

The petition site is currently a platted tract with a residence and accessory structures. There is a stream running through the middle of the parcel, which will be placed in a drainage easement. There is no known FEMA floodplain on the site. The petitioner's representative have illustrated sinkhole features. The slope depiction is on the following page.

Site Conditions Map



-  Petitioner
-  Parcels
-  10-Foot Contours
-  Roads
-  Hydrologic Features



Slope Map

-  Petitioner
-  Parcels
-  2-Foot Contours
-  Roads

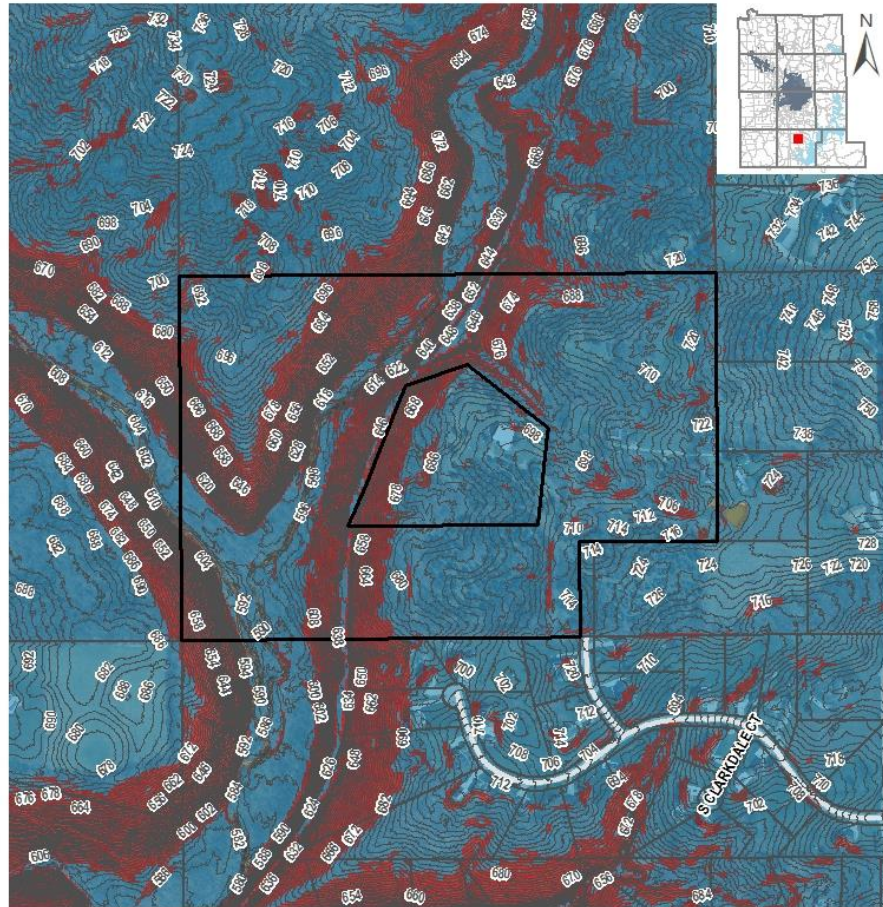
Percent Slope (2010)

-  0 - 15
-  > 15

0 115 230 460 690 920 Feet



Monroe County
Planning Department
Source: Monroe County GIS
Date: 2/5/2019



SITE PICTURES



Photo 1. View of the property off of S Whitherbee Drive



Photo 2. View of existing driveway that will become a turnaround to access proposed Lots 2 & 3



Photo 3. Facing south towards Whiterbee



Photo 4. View of the property








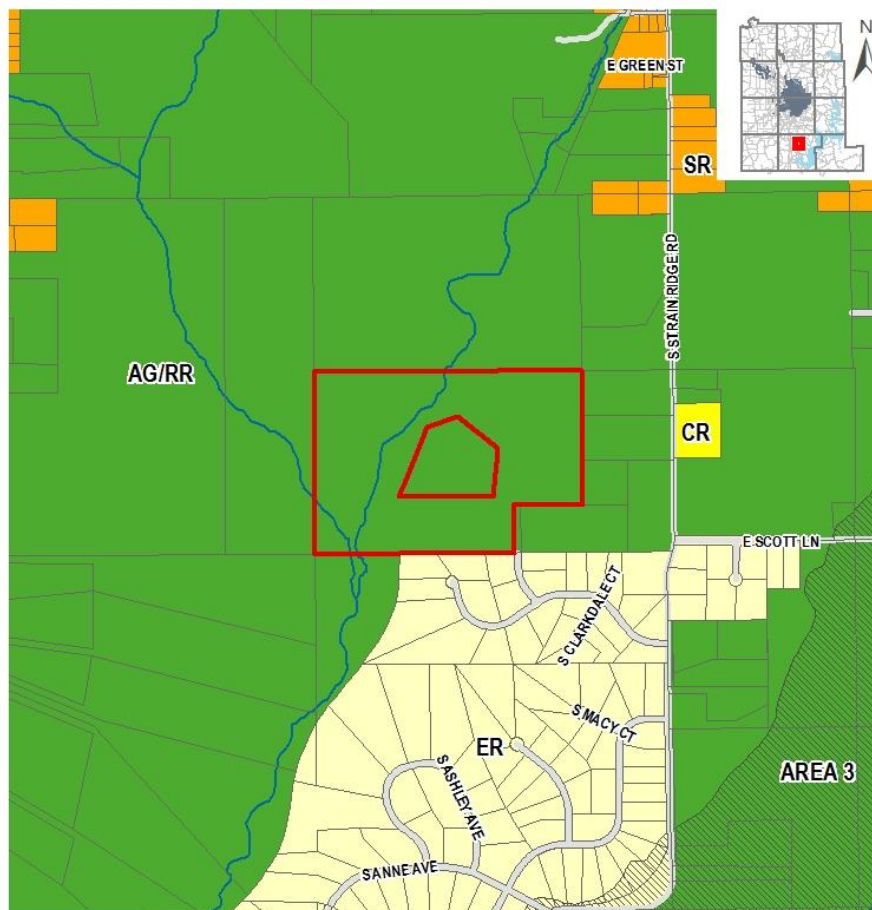
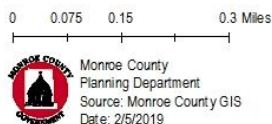
Photo 5. Bird's eye view of the property

ADJACENT USES / ZONING

The site is zoned Agriculture/Rural Reserve (AG/RR) and is currently contains a residence and accessory structures. The surrounding parcels are zoned Agriculture/Rural Reserve (AG/RR) and Estate Residential (ER) and primarily contain agricultural and residential type uses.

Current Zoning Map

-  Petitioner
-  Parcels
-  Roads
-  Hydrologic Features
- ECO Areas**
-  Area 3
- Monroe County Zoning**
-  AG/RR - Agriculture/Rural Reserve
-  CR - Conservation Residential
-  ER - Estate Residential
-  SR - Suburban Residential



INFRASTRUCTURE/ACCESS

The current home and accessory structure gain access through a 25' easement from S Strain Ridge Road. The new proposed Lots 2 & 3 requested access through S Whitherbee Drive. During the Type E Administrative Subdivision, right-of-way was dedicated to continue Whitherbee Drive. This petition request triggers the need for an extension of Whitherbee as a County road, as well as sidewalks around the cul-de-sac. The extension of the road and turnaround will be approximately 90 feet into the property to be subdivided, which will not utilize the entire dedicated right-of-way area. A driveway off of S Whitherbee Drive does already exist for the parcel that adjoins this parcel and was included as Tract 1 in the Cohen-Robertson Type "E" Administrative Subdivision. The cul-de-sac construction will replace the driveway access directly from Whitherbee and continue to the property from the cul-de-sac. Construction plans will be submitted prior to the cul-de-sac construction to ensure that the proposal meets the Public Works Department's requirements.

COMPREHENSIVE PLAN

The petition site is located within the Designated Communities designation of the Comprehensive Plan, which is described below.

Designated community plans

The Board of County Commissioners adopted the previous Monroe County Comprehensive Land Use Plan on February 2, 1996, establishing a blueprint for the future growth and development of the unincorporated portions of Monroe County. A central element of this plan was the development of a number of focused rural community plans. Each of the plans takes the vision, goals, and preferred development patterns in the prior 1996 comprehensive plan and applies them in a more detailed manner within each of the county's existing rural communities.

As stated in the 1996 Comprehensive Plan, "Growth will primarily occur within the City of Bloomington, guided by the city's Growth Policies Plan; in appropriate areas in the Bloomington fringe, guided by the County's Comprehensive Plan; within the Town of Ellettsville, guided by the town's Comprehensive Plan and within the existing small rural communities located throughout the county, each guided by its own rural community plan. The remaining portions of the county will remain rural with very low residential densities, active agricultural lands, mineral extraction operations, and logging activities, as well as substantial areas of open space. The comprehensive plan proposes this development pattern for a number of reasons, including wise management of limited fiscal resources, protection of the natural and manmade environment, and capitalizing on existing public and private investments."

These rural plans are now incorporated as part of the updated 2010 Monroe County Comprehensive Plan.

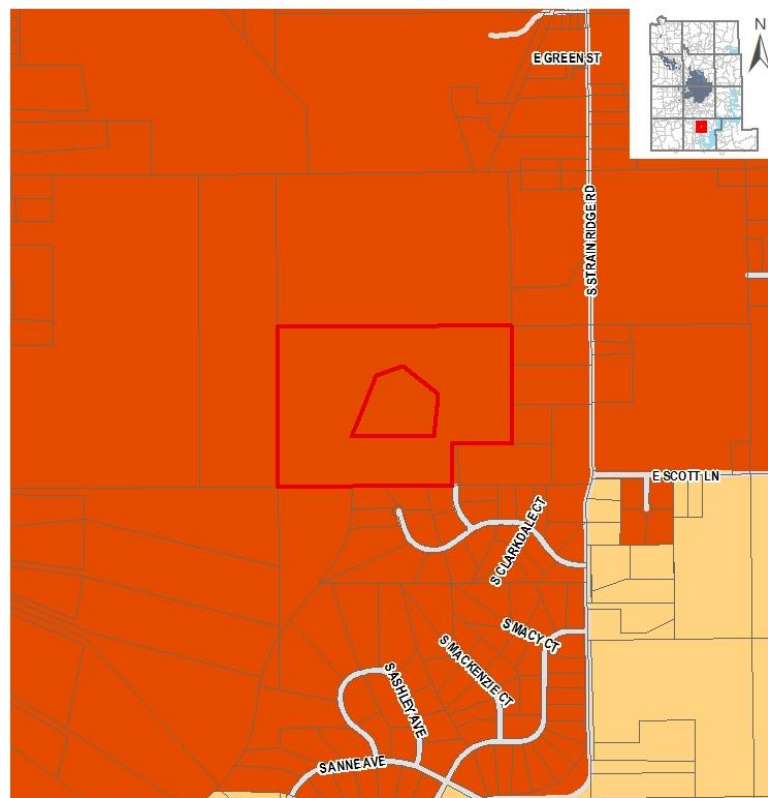
Comprehensive Plan

-  Petitioner
-  Townships
-  Parcels
-  Roads
- Comp. Plan Land Use (Updated 2015)**
-  Designated Communities
-  Rural Residential

0 0.075 0.15 0.3 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 2/5/2019



FINDINGS OF FACT - SUBDIVISIONS
850-3 PURPOSE OF REGULATIONS

(A) To protect and provide for the public health, safety, and general welfare of the County.

Findings:

- The petition site is zoned Agriculture/Rural Reserve (AG/RR);
- Minimum lot size in AG/RR is 2.5 acres;
- The existing parcel meets minimum lot size and width development standards for the AG/RR zone;
- There is an existing residence and accessory structure on the petition site;
- The intended use is single family residential, which is permitted in the Agriculture/Rural Reserve (AG/RR) Zoning District;
- Approval of the subdivision would create three (3) lots that meet or exceed development standards for the zoning designation;
- Two additional development sites are being created with the subdivision;
- Septic permit applications have been submitted;
- Driveway permit applications have been submitted. Permits will be released once the cul-de-sac for Whitherbee Drive is built.
- The site does have access to Whitherbee Drive from the south through the Brookshire Crossing Subdivision, approved in 1996;
- There is no FEMA Floodplain on the property;
- The site does contain sinkholes that have been designated as Sinkhole Conservancy Areas on the plat. New access drives will not be going through the sinkhole conservancy areas;
- The site does contain an abandoned railroad bed that has been identified in the County's Transportation Alternatives Plan for a high priority future greenway corridor;
- Sidewalks and street tree requirements are being triggered with this subdivision. The petitioner is requesting a waiver for sidewalks, and will preserve street trees in the right-of-way;

(B) To guide the future development and renewal of the County in accordance with the Comprehensive Plan and related policies, objectives and implementation programs.

Findings:

- See findings under (A);
- The recommended Comprehensive Plan Land Use for the site is Designated Community. The proposed subdivision's character is consistent with the Designated Community designation;
- The proposed subdivision is located off of S Whitherbee Drive, a Local Road;

(C) To provide for the safety, comfort, and soundness of the built environment and related open spaces.

Findings:

- See findings under (A) and (B).

(D) To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards.

Findings:

- See findings under (A),(B), and (C);

- The adjacent properties appear to be mostly used for residential and agricultural purposes;

- (E) **To guide public and private policy and action to ensure that adequate public and private facilities will be provided, in an efficient manner, in conjunction with new development, to promote an aesthetically pleasing and beneficial interrelationship between land uses, and to promote the conservation of natural resources (e.g., natural beauty, woodlands, open spaces, energy and areas subject to environmental constraints, both during and after development).**

Findings:

- See findings under (A), (B), (C), and (D).

- (F) **To provide proper land boundary records, i.e.:**

- (1) **To provide for the survey, documentation, and permanent monumentation of land boundaries and property;**

Findings:

- The petitioner has submitted a preliminary plat drawn by a registered surveyor;

- (2) **To provide for the identification of property; and,**

Findings:

- The petitioner submitted a survey with correct references, to township, section, and range to locate parcel. Further, the petitioner has provided staff with a copy the recorded deed of the petition site.

- (3) **To provide public access to land boundary records.**

Findings

- The land boundary records are found at the Monroe County Recorder's Office and, if approved, this petition will be recorded there as a plat. The plat must comply with Chapter 860 - Document Specifications to be recorded.

FINDINGS OF FACT – WAIVER OF SIDEWALK REQUIREMENT

The petitioner has requested a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-40 (A) (Sidewalks), which reads:

(A) Sidewalks shall be included within the dedicated, unpaved portions of the rights-of-way on both sides of all streets when any of the following are applicable:

- (1) the proposed subdivision has road frontage or the streets will connect with an existing or proposed subdivision or business development that has sidewalks, or;
- (2) a proposed major subdivision will be located within an area that is subject to the Business and Industrial Overlay as defined in Chapter 802 of the Zoning Ordinance, or;
- (3) the proposed subdivision is within the Urban Service boundary as shown in the comprehensive plan, or;
- (4) the proposed subdivision is within a designated growth area in one of the Rural Communities as identified by the Comprehensive Plan, or;**
- (5) the proposed subdivision has frontage on a street that provides direct access to destinations such as schools, recreational facilities, etc.

OR

a proposed subdivision is within 1 mile radius of destinations such as schools, recreational facilities, etc., or;

(6) a proposed subdivision will result in the creation of at least five lots where any of the lots in the proposed subdivision are less than 2.5 acres in size.

Section 850-12 of the Monroe County Subdivision Control Ordinance states: “The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:

1. Practical difficulties have been demonstrated:

Findings:

- The site gains access from S Whitherbee Drive, a designated Local Road;
- The sidewalk improvements are due to the petition site being in the designated community area for Smithville;
- The closest school to this petition site is Lakeview, which is 1.67 miles away;
- Sidewalks are not currently constructed in the right-of-way on S Whitherbee Drive;
- There is no sidewalk in close proximity to this subdivision. The subdivision to the south, Brookshire Crossing, did not require sidewalks at the time of approval in 1996;
- There are currently no sidewalks in the subdivision south of Brookshire Crossing, which is known as Bellevista Subdivision. However, there are dedicated pedestrian easements where sidewalks could be located along both sides of all of the internal streets. This subdivision is approximately 0.31 miles from the petition site;
- The requirement is for sidewalks to be included within the dedicated, unpaved portions of the rights-of-way on both sides of all streets, unless the waiver is granted, which would be about 160 feet of sidewalk;
- The survey submitted by the petitioner shows there are no karst areas within the dedicated right-of-way near the turnaround, but that there are sinkhole conservancy areas along the eastern portions of Lots 2 & 3;
- The road and sidewalk construction would not disturb sinkhole conservancy areas according to the preliminary plat;
- The total length of required sidewalk for which the waiver is requested is approximately 160 +/- linear feet around the cul-de-sac to be built;
- There are no existing sidewalks along S Whitherbee Drive;

2. **The requested modifications would not, in any way, contravene the provisions of the Zoning Ordinance, the Comprehensive Plan or the Official Map of the County;**

Findings:

- The Comprehensive Plan calls for an alternative transportation system throughout the county;
- The sidewalk improvement is required due to the petition site's location in a designated community;
- According to the Transportation Alternatives Plan, the abandoned railroad corridor through this property is listed as a high priority Greenway Corridor;

3. **Granting the modifications waiver would not be detrimental to the public safety, health, or welfare and would not adversely affect the delivery of governmental services (e.g. water, sewer, fire protection, etc.):**

Findings:

- The sidewalk around Whitherbee would not connect to any existing sidewalk;
- An easement along the abandoned railroad bed could lead to connectivity for a future 7.07 +/- mile greenway trail in the County;
- Sidewalks along S Whitherbee Drive are required unless a waiver is granted;

4. **Granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;**

Findings:

- The Monroe County Transportation Alternatives Plan has this site as a high priority greenway corridor;
- The proposed use for Lots 1-3 is residential;

5. **The conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;**

Findings:

- See findings under #1 above;

6. **Granting the requested modifications would not contravene the policies and purposes of these regulations;**

Findings:

- See findings under #1, #2 and #3 above;

7. **The requested modifications are necessary to ensure that substantial justice is done and represent the minimum modifications necessary to ensure that substantial justice is done;**

Findings:

- See findings under #1, #2 and #3 above;

8. **The practical difficulties were not created by the Developer, Owner, Subdivider or Applicant; and,**

Findings:

- See findings under #1 and #7 above;

9. The practical difficulties cannot be overcome through reasonable design alternatives;

Findings:

- See findings under #1 and #4 above;

In approving modifications, the Commission may impose such conditions as will in its judgment substantially secure the objectives of these regulations.

EXHIBIT 1: Preliminary Plat

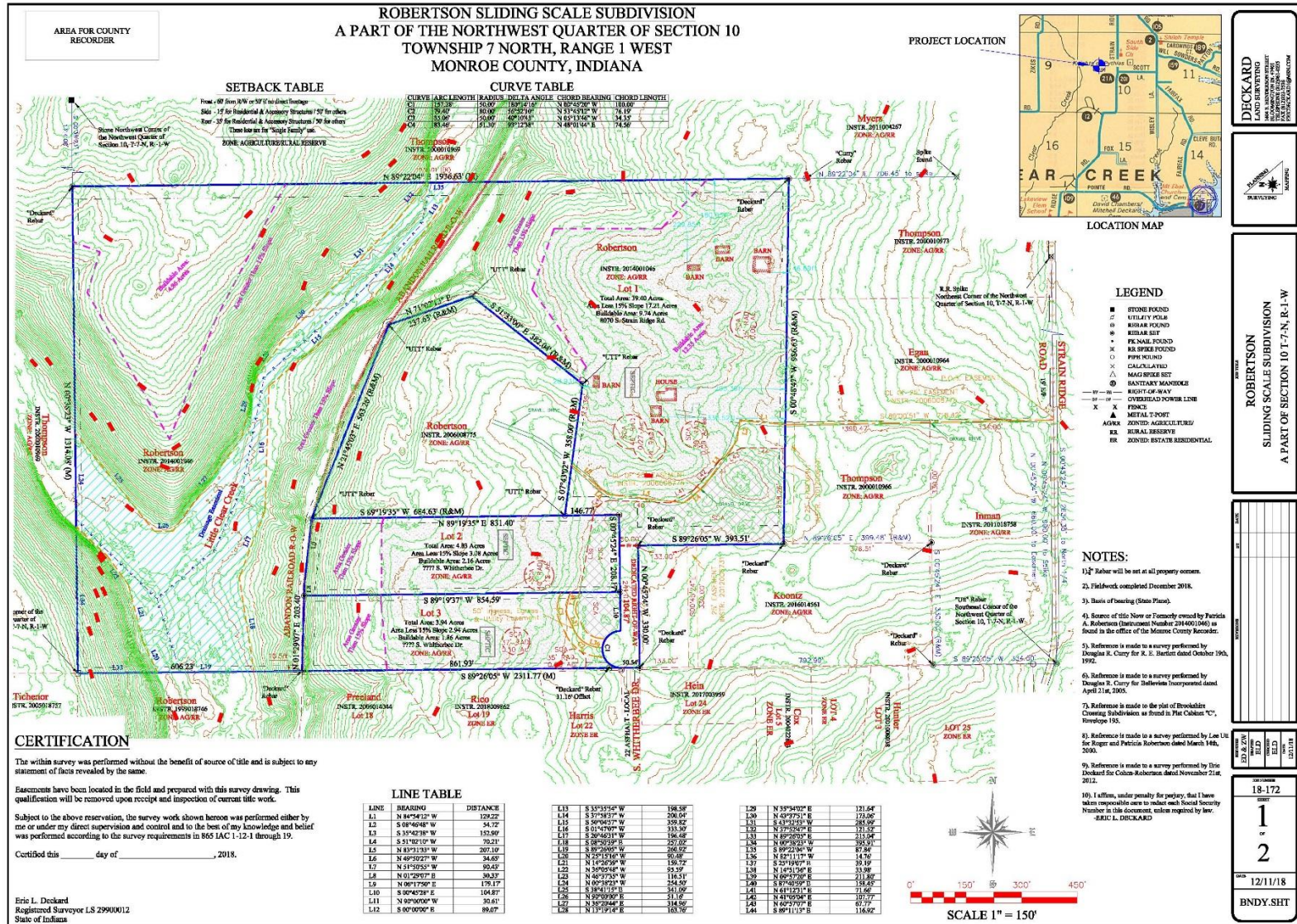


EXHIBIT 2: Carl Richard Payne Type “E” Administrative Subdivision

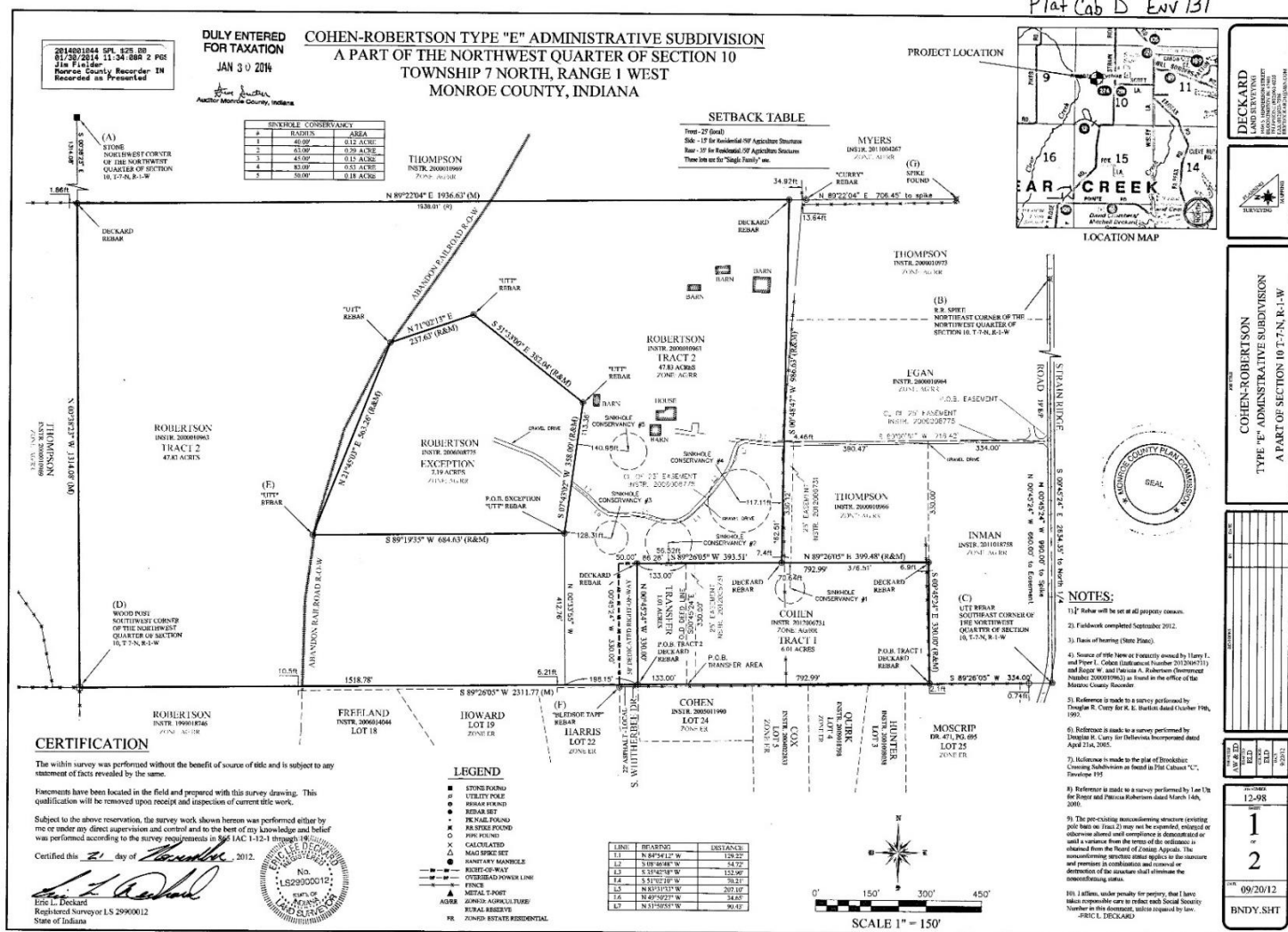


EXHIBIT 3: Petitioner Submitted Findings of Fact – Sidewalk Waiver Request



L. Deckard, LS

Eric

1604 S. Henderson St.
Bloomington, IN 47401
Ph. 812.961-0235

January 31, 2019

To Members of the Monroe County Planning Commission

RE: Robertson Sliding Scale Subdivision 8070 Strain Ridge Road

I have been asked personally by Patty Robertson to request a sidewalk waiver.

FINDINGS OF FACT - WAIVER for Sidewalk requirement

The petitioner has requested a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-40-(A) (General design considerations for Sliding Scale Option), which reads:

(4) the proposed subdivision is within a designated growth area in one of the Rural Communities as identified by the comprehensive Plan, or ;

Section 850-12 of the Monroe County Subdivision Control Ordinance states: "The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:

1. Practical difficulties have been demonstrated:

Findings:

- The site gains access from S Strain Ridge Road, a designated Major Collector; & S. Whitherbee Dr, a designated Local Road;
- S. Strain Ridge Road is measured by surveyor as 19 feet wide, and no sidewalks;
- S. Whitherbee Road is a dead end road which terminates into the subject real estate;
- S. Whitherbee Road measured by surveyor 22 feet wide, and no sidewalks;

2. The requested modifications would not, in any way, contravene the provisions of the Zoning Ordinance, the Comprehensive Plan or the Official Map of the County;

Findings:

- Minimum lot size and setbacks can be met for the AG/RR zone;

3. Granting the modifications waiver would not be detrimental to the public safety, health, or welfare and would not adversely affect the delivery of governmental services (e.g. water, sewer, fire protection, etc.):

Findings:

- Result of subdivision would be two additional lots, adding minimal vehicle trips thru an existing paved street to the south of the subject property (Whitherbee Drive).

4. Granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;



L. Deckard, LS

Eric

1604 S. Henderson St.
Bloomington, IN 47401
Ph. 812.961-0235

Findings:

- No existing sidewalks in this area exist and by add a small sidewalk to the north end of a proposed turn around would not offer any public safety nor benefit.
5. The conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;

Findings:

- Everyone on Stain Ridge Road or Whitherbee Drive will or would face the same practical difficulty in seeking to subdivide as a sliding scale subdivision;
6. Granting the requested modifications would not contravene the policies and purposes of these regulations;

Findings:

- See findings under Section 1, 2 & 3;
7. The requested modifications are necessary to ensure that substantial justice is done and represent the minimum modifications necessary to ensure that substantial justice is done;

Findings:

- The Sliding Scale subdivision option, which requires the sidewalk, is the only method by which this property can be possibly subdivided to created new lots;
 - See findings under Section 1;
8. The practical difficulties were not created by the Developer, Owner, Subdivider or Applicant;
and,

Findings:

- This is a public road in its current condition maintained by the County;
 - The road was not constructed by the petitioner but as part of a prior subdivision or development;
 - See findings under Section 1;
 -
9. The practical difficulties cannot be overcome through reasonable design alternatives;

Findings:

- See findings under Section 1;

If there are any questions, please contact this office at (812)961-0235

Sincerely,

$$\frac{20}{23}$$


BROOKSHIRE CROSSING SUBDIVISION FINAL PLAT

PHASES AND RESTRICTIONS

In addition to the Real Estate, the undersigned hereby subdivides or plots other real estate not herein described as additional phases or sections and shall be set forth in any plan or plans of said other real estate or documents related thereto. Restrictions set forth herein shall not be construed to be applicable to any other real estate now or hereafter owned by the undersigned either adjacent to or in the immediate vicinity of the Real Estate in the absence of the express written opinion of said restrictions by the undersigned.

SETBACK LINES

Front and side yard setback lines as shown on the plat or as established herein are hereby established. Between these setback lines and the boundary lines of lots, easements and public ways, no building or other structure shall be erected or maintained, but said areas can be used for utility purposes.

EASEMENTS

The strips of ground that are shown on the plat and marked "Easement and Utility Easement" and "Utility Easement" are owned by the owners of the lots that they respectively affect, subject to the rights of public utilities and other restriction facilities for the installation and maintenance of water and sewer lines, storm sewers, drainage facilities, utility lines, lines, wire and equipment related thereto. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their title subject to the rights of the public utilities and to the rights of the owners of the other lots in this subdivision.

CONDITIONS, RESTRICTIONS, RESERVATIONS AND COVENANTS

1. Use. Each lot shall be used for residential purposes only.
2. Size of Dwelling. The main dwelling area of any house must contain at least 2,000 square feet of finished area. There must be 1,000 square feet of living area on the first level, if more than one story. Split-level and bi-level homes shall be considered more than one story. Ranch style homes may have a minimum of 1,500 square feet on the main level only if a basement about to at least 50% of the main level is included with adequate finished area to meet the 2,000 minimum finished square feet requirement.
3. Temporary Structures. No structure of a temporary character, such as trailers, basements, tents, sheds, garages, barns or other outbuildings shall be used on said lots as a residence, either temporarily or permanently, nor shall a residence be occupied prior to completion, and there shall be no temporary living quarters constructed on the Real Estate. No dwelling units having wooden foundations shall be constructed upon the Real Estate.

4. Prohibited Activities. No manufacturing of materials, illegal activities or offensive activities shall be carried on upon the Real Estate, nor shall anything be in any way become an annoyance or a nuisance to the neighborhood in general.

5. Trash Removal. All trash shall be kept in sanitary containers and out of sight and under cover except on days of trash collection. All equipment and containers for the storage or disposal of such material shall be kept in a clean, sanitary and functional condition. No trash shall be burned on the premises, except for construction debris, fallen trees and trees felled due to construction. No part of the property for the disposal and burning of trash is permitted.

6. Pests. No animals, livestock or poultry of any kind shall be bred, raised or kept on said lands, except that dogs, cats or other domesticated recognized household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and do not constitute a nuisance or interfere with the use by other owners of their lots.

7. Subdivision of a Lot Prohibited. There shall be no subdivision of any lot or lots, nor any sale thereof in parcels, except a portion of a lot may be sold to an adjoining lot owner if no new lot is created. For the purpose of these Conditions and Restrictions, all adjoining lots or parts thereof owned and used as a single building shall be considered one lot, and the boundaries as established by such common ownership shall be considered the only lot lines for the purpose of these Conditions and Restrictions.

8. Garages and Driveways Required. Every dwelling unit shall have an attached garage for the off-street parking of a minimum of two vehicles, and every dwelling unit shall have a driveway. All driveways shall be paved and a minimum of twelve (12) feet wide.

9. Parking and Vehicles. No trucks larger than a one-ton pickup may be parked on any lot. No campers, motor homes, or boats shall be stored in front of any residence. No disabled or inoperable vehicle shall be kept on said land for more than three (3) working days with arrangements are being made to have it repaired. Except for service vehicles, no parking of automobiles or trucks is permitted in the street or private roads.

10. Fences. The owner of each lot agrees not to erect fences of barbed wire, fences which are electrically charged or those made of steel mesh, chain-link, woven steel, etc. Fences shall not be higher than six (6) feet within sixty feet of any roadway, with the exception of existing pool enclosures. No fence may be constructed on the property lines parallel to any roadway, nor may side lot line fences extend beyond the front of any house except decorative wood fences not more than 48 inches high approved by the undersigned or the Subdivider or his agent, or the designated representative.

11. Disasters Required. All dwellings erected on said Real Estate shall be equipped with a mechanical device for the greisting and disposal of food wastes. Such device shall be located in the kitchen and connected to the sewer.

12. Landscaping. Within thirty (30) days after completion of the dwelling (weather permitting), the owner(s) agree to have the front yard, extending from the front of the house to the road, sown with grass seed and to have sufficient trees or plants installed to cover the foundation on the front of the dwelling facing the street and, therefore, to maintain privacy and the lot.

13. Tents. The installation or maintenance of tents or tents on the Real Estate shall be prohibited in front of any residence. Tents shall be enclosed with decorative wood fences.

14. Maintenance of Ditches, Culverts and Bases. Lot owners shall maintain the ditches and bases along property lines adjacent to any street or private road and maintain the culvert pipe under the driveway clear of mud and debris so as not to impede the flow of water. The size of such culvert pipes shall be adequate to allow the passage of water without flooding the drainage ditch or causing water to back up or stand. Lot owners shall not impede or interfere with drainage.

15. Siding. Lot owners shall use only wood, aluminum, vinyl, weatherboarding, stone, stucco or brick for the exterior siding of all dwelling units and auxiliary structures, and shall conform with the existing residence on the lot.

16. Underground Utilities. All electrical, telephone and cable television or similar connections from the utilities' lines shall be underground from the street unless deemed impractical. In writing, by the utility company providing the service. As soon as underground installation becomes practical, then such connections shall be placed underground.

17. Easements on Plat. All lots are subject to any and all easements, including, but not limited to, utility, drainage and drainage easements, as shown on the plat.

18. Approval of Building Plans. No construction shall begin for a building or structure to be erected, placed, altered or enlarged upon any lot until the building plans, specifications including materials and plot plan showing the location of such building or structure have been approved. In writing as to the conformity of size, design and location of the building with respect to topography and finished ground elevation by the undersigned or the Subdivider or his agent, or the designated representative.

19. Above-ground & Below-ground Swelling Posts. Above ground and below-ground swelling posts shall be permitted on the Real Estate. Solid posts shall be enclosed with a decorative fence approved by the undersigned.

20. General. The foregoing Conditions, Restrictions and Reservations are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2015, or such time as the Conditions or Restrictions shall be automatically extended for successive periods of ten (10) years unless by vote of a majority of the then owners of the building area covered by these Conditions or Restrictions, it is agreed to amend such Conditions or Restrictions in whole or in part.

Invalidation of any one of the foregoing Conditions or Restrictions by judgment or court order shall in no way affect any of the other Conditions or Restrictions, which shall remain in full force and effect.

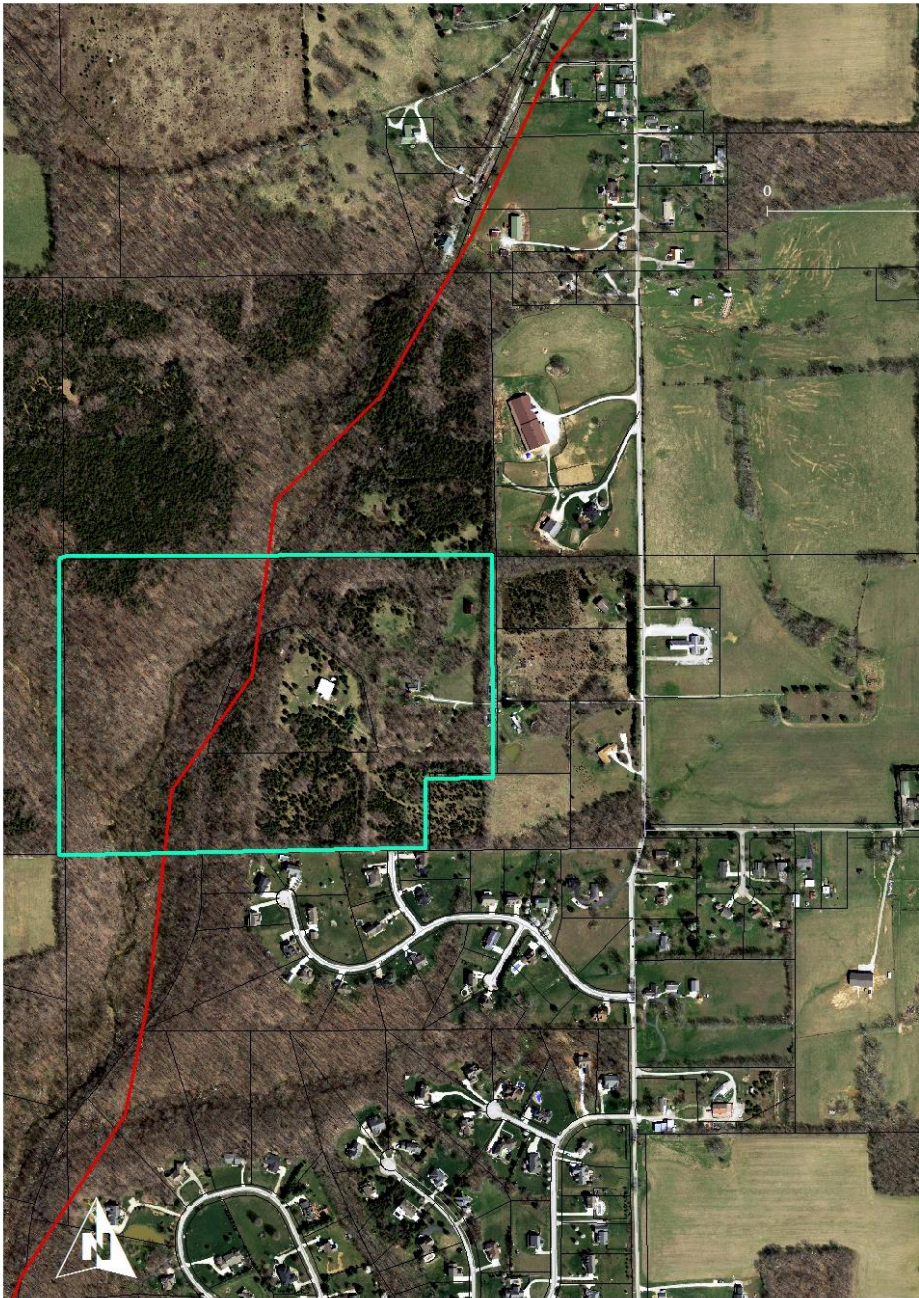
The right to enforce these provisions by injunction together with the right to cause the removal by due process of law of any structure or part thereof erected or maintained in violation hereof is hereby dedicated to the public and reserved to the several owners of the several lots in this subdivision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

The right-of-way as shown is hereby dedicated to Monroe County.

SHEET 2 OF 2
JOB NO. 0843

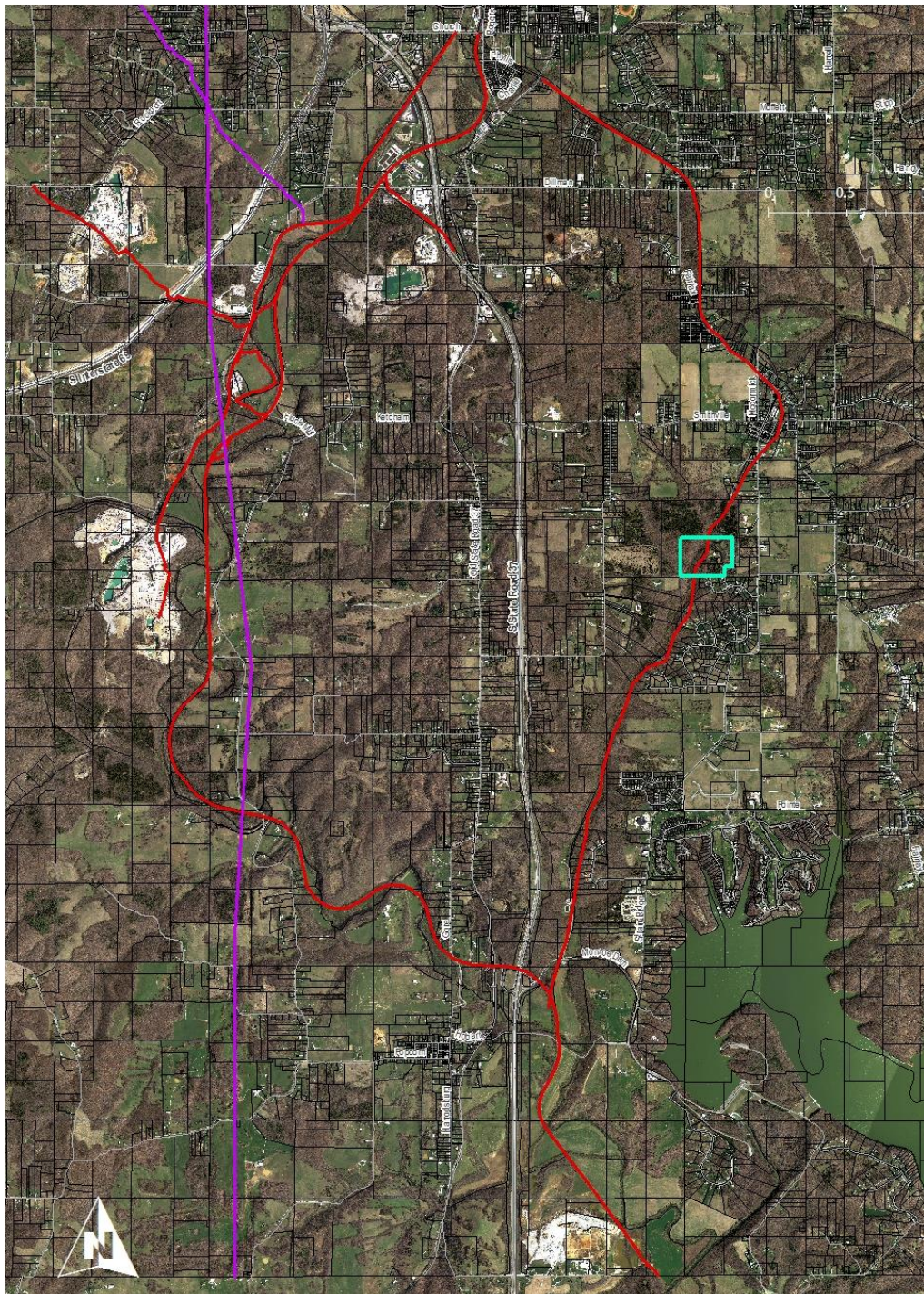
PREPARED BY: Bledsoe Tapp & Co., Inc.
359 Landmark Avenue, Bloomington, IN 47404 (812) 336-8277

Exhibit 5: Transportation Alternatives Map



GREENWAY OPPORTUNITIES MAP

- High Priority Greenway Corridor —
- Moderate Priority Greenway Corridor —
- Incorporated Areas —



High Priority Greenway Corridor —

Moderate Priority Greenway Corridor —

Incorporated Areas 