

**A G E N D A**  
**ALLEN COUNTY BOARD OF ZONING APPEALS**

Board Members: Ken Neumeister, Jacob Delagrang, Thomas C. Black, Charles J. Bodenhafer, Matt Blair

The Board of Zoning Appeals will conduct a public hearing in Room #200, 2nd floor, City County Building, One East Main Street, Fort Wayne, Indiana on Wednesday, October 21, 2009 at 1:00 p.m.

**New Business**

1. Case No.: Special Exception 2595/09  
Applicant: Philip Leland Baker  
Location: 15005 State Road 101  
Appeal: To establish a home workshop for an artistic gun engraving business.
  
2. Case No.: Special Exception 2596/09  
Applicant: Morgan Creek Trucking, LLC  
Location: 11040 Indianapolis Road  
Appeal: To renew and expand a home workshop for a trucking business.



# Allen County Board of Zoning Appeals Staff Report

**Case Number: Special Exception 2595/09**

**October 21, 2009**

**Request:** To establish a home workshop for an artistic gun engraving business.

**Location:** 15005 State Road 101



**Applicant:** Philip Leland Baker

**Property Owner:** Philip Leland Baker

**Legal Description:** See File

**Size of Property:** 1.81 acres

**Applicable Ordinance Section(s):**

- 3-5-2-23

**Notified:**

- 8 Neighboring Property Owners
- No active neighborhood associations

**Adjacent Land Uses:**

- North – Agricultural
- South – Residential
- East – Agricultural
- West – Agricultural/Residential

**Reason for Request:**

The applicant would like approval to establish a custom gun engraving business.

**B.Z.A. History:**

None prior to this request.

**Comprehensive Plan:**

One of the guiding principles of the comprehensive plan is that civic, institutional and commercial activity should not be isolated in single-use districts, but be integrated into the neighborhood fabric. With appropriate design and restrictions, the use should compliment this principle. An additional principle of rural areas is that the pattern of future new and infill development should be compatible with the character of existing development, including historic and natural features where it contributes to an outcome that is in conformance with the goals and policies of this plan. The proposed building is similar to agricultural and other outbuildings found at homes in the surrounding area.

Objective ED1 of the Comprehensive Plan is to “Plan, invest and develop competitive locations and sites for existing business expansion, new business attraction and entrepreneurial development.

Given the existing buildings on the property, limited traffic, and that the operation is conducted inside a building, it is probably not in conflict with the Comprehensive Plan. If approved, conditions should be placed that would ensure continued compatibility of the use with the surrounding area.

**Staff Discussion:**

The applicant is requesting initial Board approval for a home workshop for a custom gun engraving business. This use is available as a special exception with Board approval in this area.

The property is located on the west side of State Road 101 Road, in Springfield Township. The site tour revealed a 1.81 acre property with a 2,362 square foot house with attached garage and an outbuilding. The site is in a rural area with several single family homes to the south and south west. There is a drain along the north side of the property. The remaining properties surrounding the site are in agricultural production.

The gun engraving business is proposed to only employ the applicant. There would be no retail sales and limited traffic to and from the site daily. As proposed, the business does require a Federal Firearms License which the applicant is actively pursuing. Zoning approval is a requirement of licensure. Hours of operation are proposed to be by appointment only. The applicant states in the application that clients will come to his home several times over a typical month project. He also states that projects could take weeks to months to complete. There is no outdoor storage proposed. The applicant did not propose a sign at the time of application.

The legal tests and criteria for approval of this special exception are:

1. The public convenience and welfare will be substantially served.
2. The proposed use will not be unduly detrimental to the surrounding area.
3. The use does not have an adverse impact on the character or use of nearby land uses existing at the time of application,
4. The proposed use will not adversely influence the future development of nearby land for uses which are permitted under the current zoning classification.

Staff does note that this is the primary residence of the applicant and that the occupancy of the home has been established. The business would be conducted within the home. The actual square footage of the workshop area should be confirmed by the applicant. The applicant did provided a photo of his 2 foot by 4 foot workbench.

**Suggested Conditions of Approval:**

Should the Board find that the proposal meets the legal tests for approval; staff would preliminarily recommend the following conditions in addition to those typically applied to use variance approvals:

1. Approval shall run for 1 year, unless notified by the Zoning Administrator or successor agency of non-compliance status and revoked by the Board after a public hearing.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding properties, this variance shall run with the applicant and not the real estate.
3. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ ZHO or any successor agency.

4. Permits and approval from all applicable federal, state, and local agencies shall be required.
5. The property shall be kept free of any and all refuse, debris, and junk at all times.
6. Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m. daily by appointment only.
7. The number of employees shall be limited to 1, including the applicant.
8. Signage shall be prohibited.
9. Exterior storage shall be prohibited.
10. Other than permitted residential and agricultural use, on site activities are limited to gun engraving.
11. Waste material shall be disposed of in a manner conforming to local, state and federal regulations.
12. The Board of Zoning Appeals hereby grants the Allen County Zoning Administrator or her/his designated staff authority upon written request to consider an extension of any Board approved condition, except condition 1, for a period not to exceed six months.

**Notes:**

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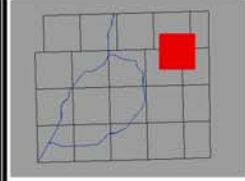
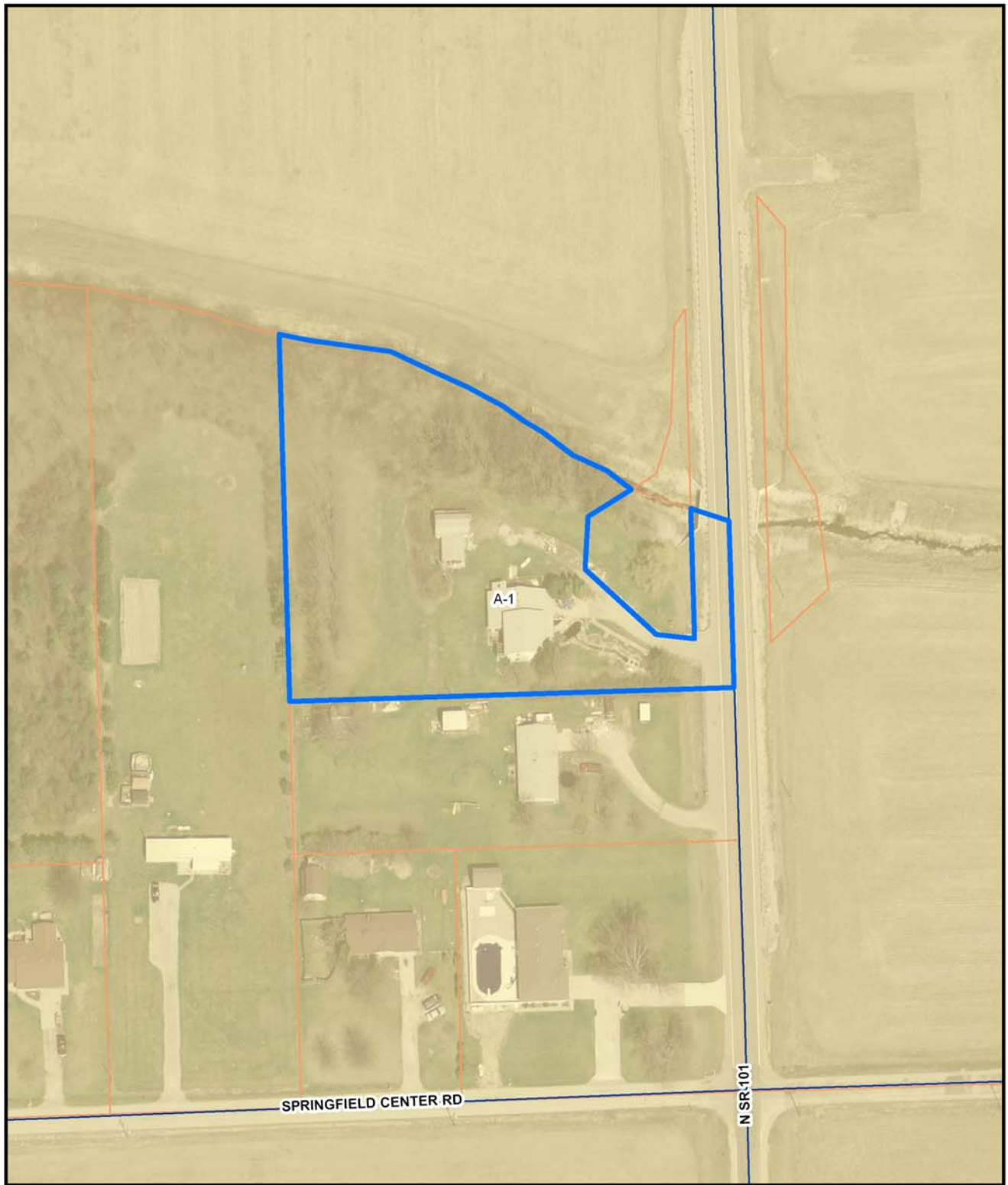
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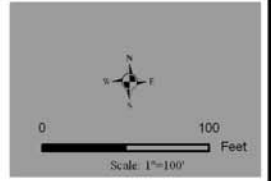
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### Special Exception 2595/09

Printed: September 14, 2009  
 © 2004 Board of Commissioners of the County of Allen  
 North American Datum 1983  
 State Plane Coordinate System, Indiana East  
 Photos: Spring 2006 / Outdoors 1999



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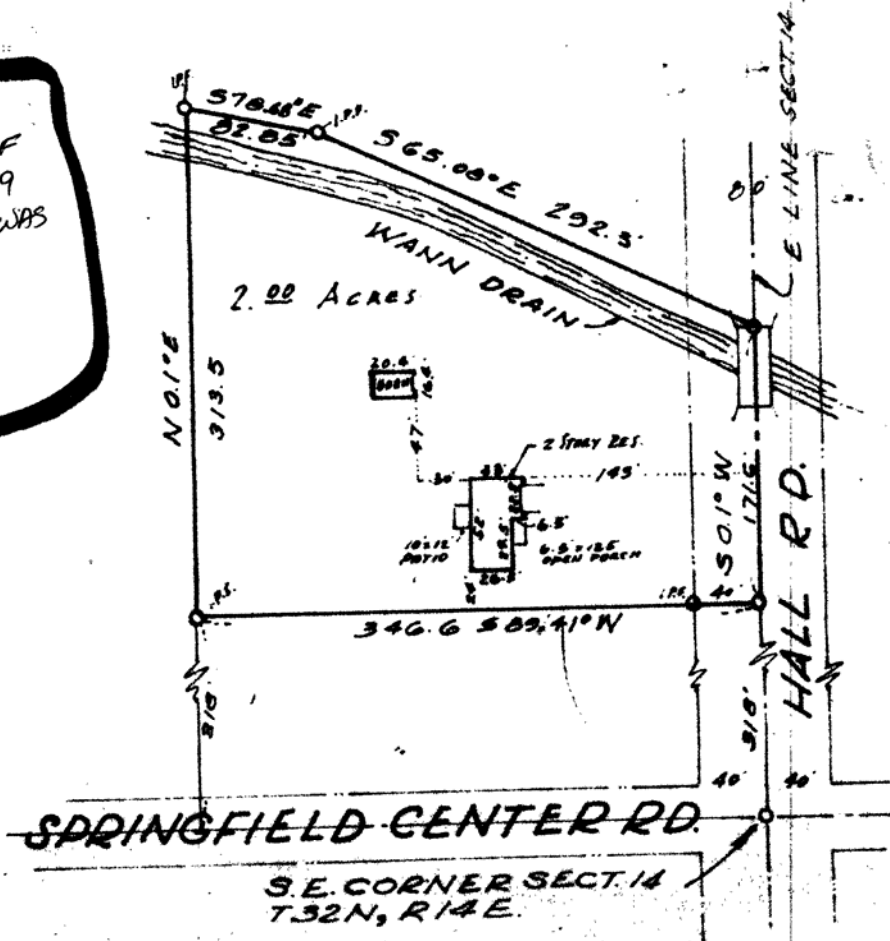
indicated on the following plat

A part of the East half of the Southeast quarter of Section 14, Township 32 North, Range 14 East, Allen County, Indiana more particularly described as follows, to wit:

Commencing on the East line of said Section 14 at a point 318 feet North of the Southeast corner of said Section 14; thence South 89.41 degrees West parallel with the South line of said Section 14 a distance of 346.6 feet; thence North 0.1 degrees East parallel with the East line of said Section 14 a distance of 313.5 feet; thence South 78.68 degrees East 82.85 feet; thence South 65.08 degrees East 292.3 feet to the East line of said Section 14; thence South 0.1 degrees West 171.6 feet to the place of beginning containing 2.00 acres of land more or less. Subject to all legal easements and road right-of-ways.

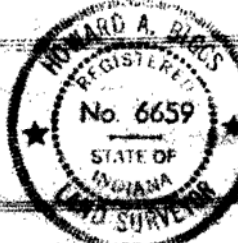
This property is not shown as lying in a flood hazard area on HUD-FIA maps dated February 27, 1976.

THIS IS A COPY OF  
PROP. SURVEY 1979  
BEFORE FRONTAGE WAS  
TAKEN  
DL Baker  
08/2009



SCALE: 1" = 100'

Surveyed DECEMBER 11, 1979  
For BILL HARTMAN, RECTOR  
No. 4049



The above Survey, Plat and Certificate are hereby certified correct

Howard A. Bipes  
Registered Professional Land Surveyor

# Allen County Board of Zoning Appeals Staff Report

**Case Number: Special Exception 2596/09**

**October 21, 2009**

**Request:** To renew and expand a home workshop for a trucking business.

**Location:** 11040 Indianapolis Road



**Applicant:** Morgan Creek Trucking LLC

**Property Owner:** Edward Dyson

**Legal Description:** See File

**Size of Property:** 8 acres

**Applicable Ordinance Section(s):**

- 3-5-2-23

**Notified:**

- 2 Neighboring Property Owners
- No active neighborhood associations

**Adjacent Land Uses:**

- North – Agricultural
- South – Residential
- East – Agricultural
- West – Agricultural

**Reason for Request:**

The applicant would like approval to renew and expand his trucking business.

**B.Z.A. History:**

Case Number SE 2303/03. To establish a home workshop for a trucking business. Approved.

Case Number SE 2362/04. To renew a home workshop for a trucking business. Approved.



**Comprehensive Plan:**

The Economic Development Goal of the Comprehensive Plan is “A vibrant and diverse economy that balances existing business growth and new business attraction in a manner that produces secure, well-paying jobs, provides infrastructure improvements needed for economic development, and promotes downtown revitalization. Objective ED1 is to “Plan, invest and develop competitive locations and sites for existing business expansion, new business attraction and entrepreneurial development.

Objective ED1 of the Comprehensive Plan is to “Plan, invest and develop competitive locations and sites for existing business expansion, new business attraction and entrepreneurial development. The previously approved use of the property allowed the trucking business of the building and development of the site in a non-residential manner. However, this and the surrounding properties are zoned for agriculture with allowed single family residential use. If approved, conditions should be placed that would 1) limit commercial intensity to no more or even less than the level requested, and 2) prevent any substantial changes that would preclude future use of the property for single family residential or agricultural use.

**Staff Discussion:**

The applicant is requesting to renew and expand approval for a home workshop for a trucking business. This use is available as a special exception with Board approval in this area.

The property is located on the south side of Indianapolis Road, in Pleasant Township. The site tour revealed an adequately maintained 8 acre property with a 3,744 square foot barn. According to the applicant there is 1,912 square feet of active workspace. The property also includes a residential home, an 832 square foot garage, and parking lot for semi’s, trailers and employee parking. The applicant is proposing to continue with the approved use for a trucking business.

The trucking business was approved to employ up to 6 full time employees including the applicant. The applicant currently employees 12, but has requested employing 16. The applicant was also approved for the outside storage of a maximum of 8 semi cabs and 16 trailers. Mr. Dyson currently has 11 semi cabs and 16 trailers and would like to expand to 16 semi cabs and 30 trailers. Some of the trailers include oil tankers. The hours for pick up and drop off of semis only was permitted to occur from 6:00 a.m. to 10:00 p.m. with unlimited hours of operation. The proposed hours for pick up and drop off of semis are now 3:00 a.m. to 10:00 p.m. Monday through Saturday. The applicant currently does not want a sign at this time, but may possibly like one in the future.



The legal tests and criteria for approval of this special exception are:

1. The public convenience and welfare will be substantially served.
2. The proposed use will not be unduly detrimental to the surrounding area.
3. The use does not have an adverse impact on the character or use of nearby land uses existing at the time of application,
4. The proposed use will not adversely influence the future development of nearby land for uses which are permitted under the current zoning classification.

The Board may want to question the applicant if he is living on the property as well as the proposed expansion in terms of on site activities, parking accommodations, exterior storage location, number of employees as well as the number of

semis and trailers. Staff has discussed the appropriateness of rezoning the property to an industrial category. As none of the surrounding properties are used or developed for industrial use staff has advised that rezoning would not be supported at this time.

**Suggested Conditions of Approval:**

Should the Board find that the proposal meets the legal tests for approval; staff would preliminarily recommend the following conditions in addition to those typically applied to use variance approvals:

1. Approval shall run for 5 years, unless notified by the Zoning Administrator or successor agency of non-compliance status and revoked by the Board after a public hearing.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this special exception shall run with the applicant and not the real estate.
3. Approval shall be terminated and of no further affect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ZHO or a successor agency.
4. The property shall be kept free of any and all refuse, debris, and junk at all times.
5. Employment shall be limited to 6 employees, including the applicant.
6. Hours of operation shall be unlimited. The pick up and drop off of semis only may occur from 3:00 a.m. to 10:00 p.m.
7. Signage shall be prohibited.
8. Outside storage of business related items shall be limited to 8 semi cabs and 16 trailers. The semis shall be stored in the location, as shown on exhibit A, and be screened. All landscaping shall be maintained in the location indicated on approved landscaping plan dated 19 September 2003. All plant materials that do not survive shall be replaced within one year, or by the next planting period, whichever occurs first. All fencing and mounding shall be kept in good condition.
9. Maximum area for the business shall not exceed 2,000 square feet within the barn and 8 semi cabs and 16 trailers outside. Any expansion beyond this shall require Board approval.
10. Permits from all applicable federal, state, and local agencies, to specifically include a Certificate of Compliance, shall be required.
11. Maintenance activities shall be limited to those trucks owned and operated by the applicant and 5 employees. All maintenance activities shall be performed inside the barn.
12. Business related exterior lighting shall be limited to motion sensor, downward directed lights.
13. Waste materials shall be disposed of in a manner conforming to federal, state, and local regulations.
14. All trucks shall be licensed, operable, and road worthy.
15. These conditions are enforceable by the Allen County Board of Zoning Appeals or any successor agency to the Board.

**Notes:**

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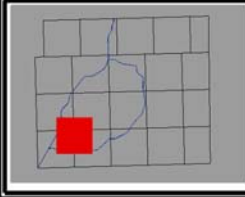
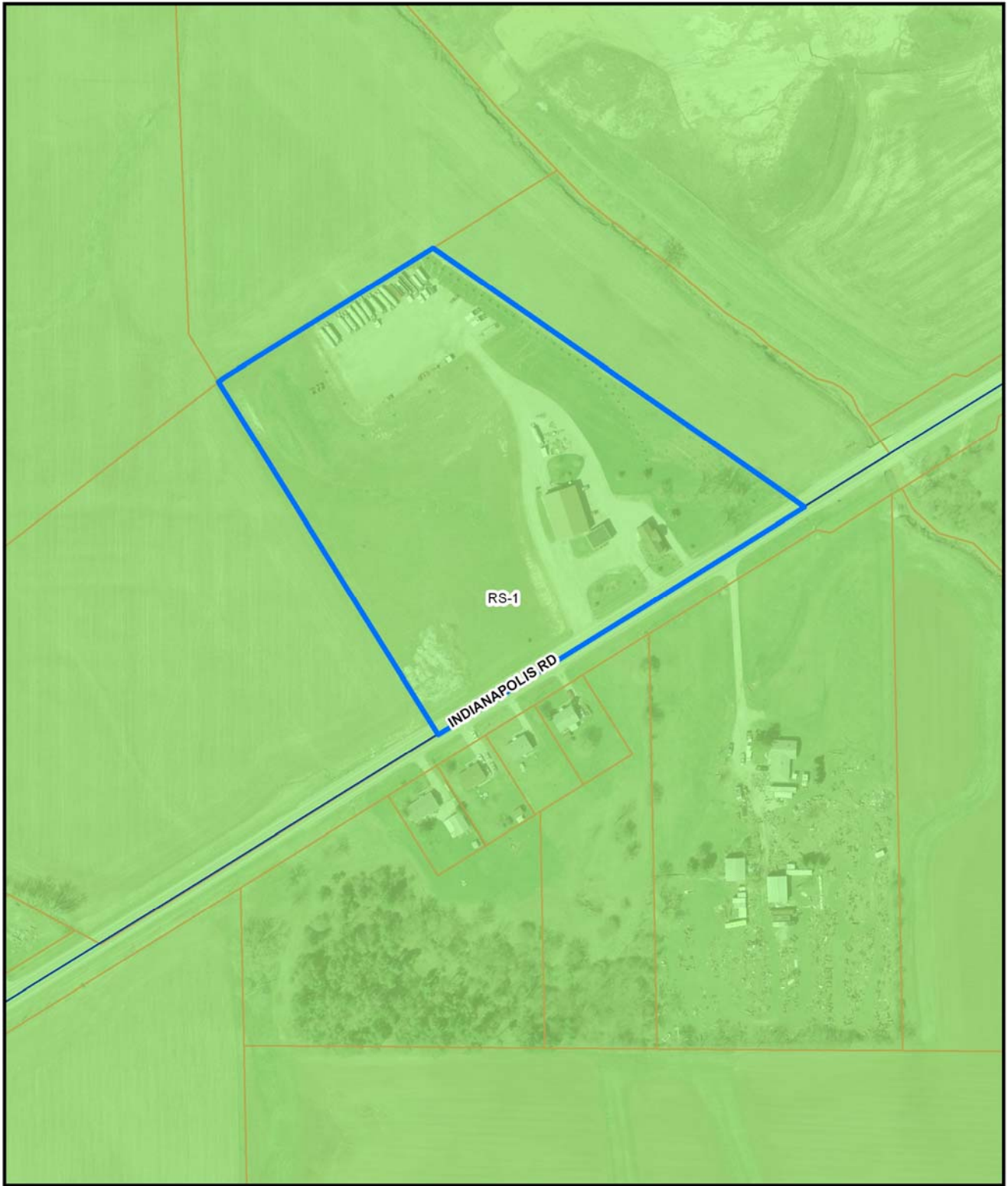
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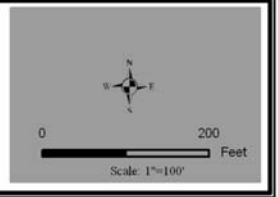
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### Special Exception 2596/09

Printed: September 14, 2009  
 © 2004 Board of Commissioners of the County of Allen  
 North American Datum 1983  
 State Plane Coordinate System, Indiana East  
 Photos: Spring 2006 / OctoNov: 1999



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Edward Dyson

# ANDERSON SURVEYING, INC.

Registered Professional Engineers and Land Surveyors  
Indiana Land Surveying Firm Identification Number: 29A

1324 Henry Avenue  
Fort Wayne, IN 46808  
Phone: (260) 483-1724  
Fax: (260) 482-6855  
Toll Free: (888) 483-1724

1947 E. Schug Road  
Columbia City, IN 46725  
Phone: (260) 691-3425  
Fax: (260) 482-6855



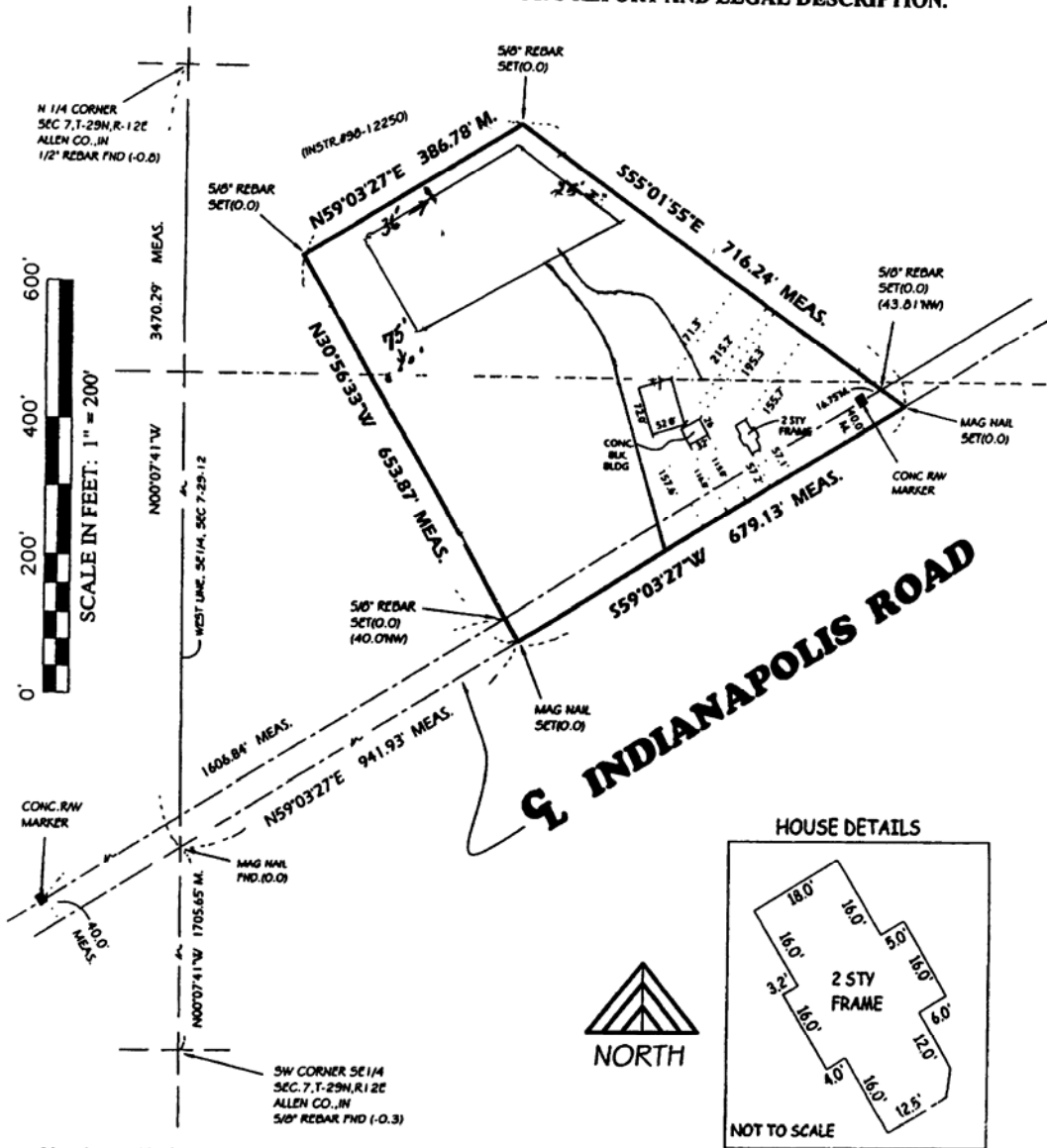
WWW.ANDERSONSURVEYING.COM

## PLAT OF SURVEY (Page 1 of 2)

Z-014 | 0107-122 B

This document is an original survey of a parcel of land located in ALLEN County, Indiana.

SEE PAGE 2 OF 2 FOR THE SURVEYOR'S REPORT AND LEGAL DESCRIPTION.



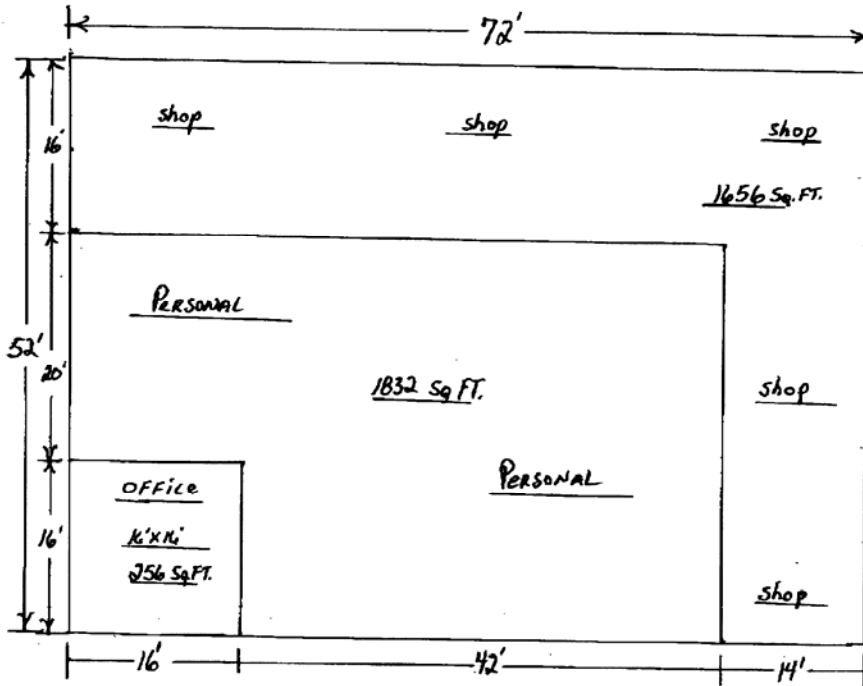
I hereby certify that the above Plat of Survey was prepared under my direct supervision and that to the best of my knowledge and belief was executed in accordance with the requirements of the Indiana Survey Standards as defined in Title 865, Article 1, Rule 12 of the Indiana Administrative Code.

Fieldwork completed on the 17th day of JUNE, 2002.  
Certified this 18th day of JUNE, 2002.  
Prepared for: MINNICH I  
Survey Number: 01 - 07 - 122 B

MORGAN Creek Trucking LLC  
Eddie Dugan

P-1

Sep 30 2009 1:42PM HP LASERJET FAX



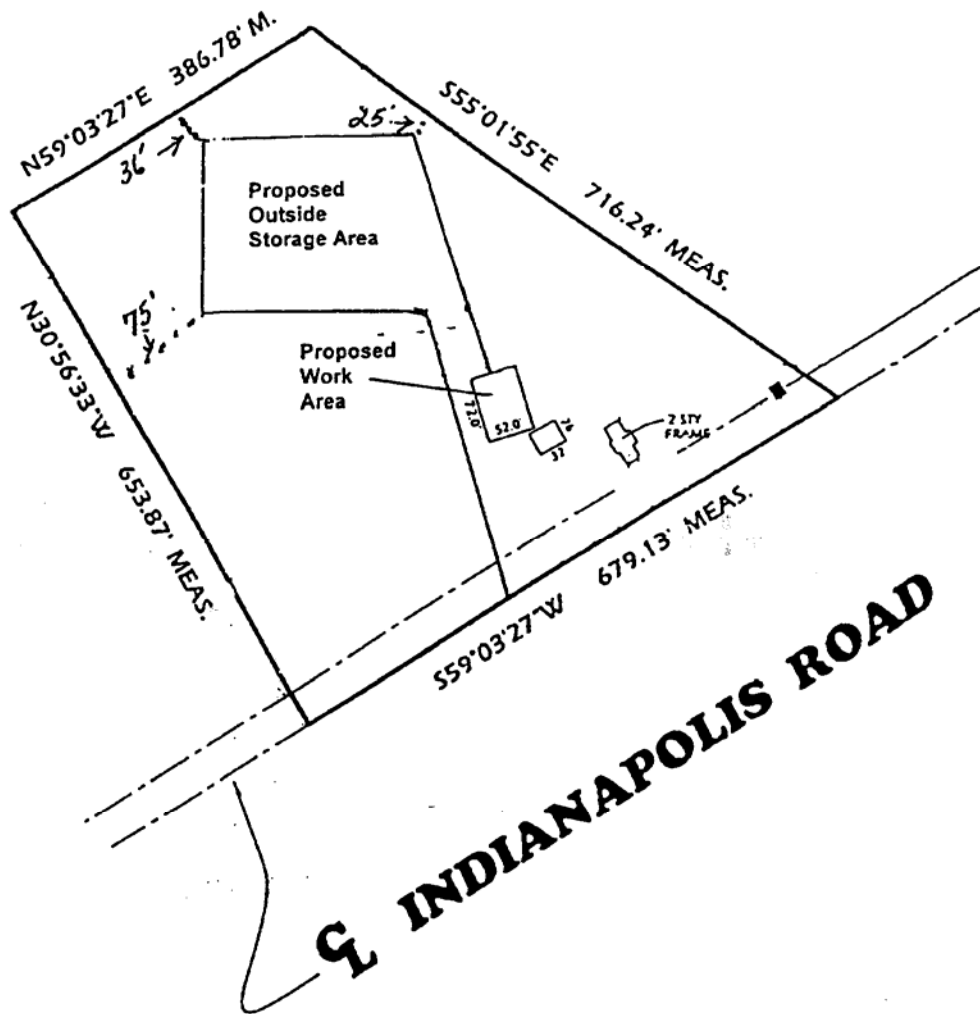


Exhibit "A"  
 SE 2596/09  
 21 October 2009