

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

20-W-VAR-3 DEVELOPMENT STANDARDS VARIANCE
Micropulse, Inc.
5865 E. SR 14

MARCH 24, 2020
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: IPM, Industrial Park/Manufacturing
Property area: 20.3± acres

The petitioner is requesting a development standards variance to modify and relocate the required buffering landscaping for their IPM-zoned property located at 5865 East State Road 14. The property has frontage on both SR 14 and 600 East.

This request is based on the previously granted variance in 19-W-VAR-19 and incorporates several changes based on the input of adjacent property owners. While this request essentially modifies the previous request, it still must stand on its own merits. However, for conciseness, this report will summarize the previous request and highlight the changes proposed.

Per Section 5.6 of the zoning code, the following buffer yard standards apply when an IPM-zoned district is adjacent to an AG, RR, LR, VC, or GC district:

1. The owner of the subject property is responsible for installing the buffer yard.
2. The adjacent property owner shall not have to participate in installing the buffer yard.
3. An additional 10' of setback is required in addition to the normal setback on the yard(s) abutting the other zoning district.
4. One deciduous canopy tree planted a minimum of every 30', or coniferous tree every 20'.
5. All trees must be planted within 5 to 15 feet from the property line and on the subject property.
6. All trees must have at least a 1 ½" caliper, be properly maintained, and be replaced if the tree dies, is diseased, or is damaged.

The previous variance was granted with the following conditions:

1. The variance is granted as presented and per the submitted landscape plan.
2. Hazen Properties, LLC, owner of 5798 S. 600 East, and Kenneth and Barbara Emerick, owners of 5901 E. State Road 14, provide for the record a statement waiving the required buffering along their frontages with the petitioner's property.
3. One deciduous canopy tree planted a minimum of every 30', or coniferous tree every 20', where the landscape buffer is proposed.
4. Petitioner may place an 8' wooden fence with 1" spacing between slats in lieu of the above landscaping, or may combine or alternate said fence with the landscaping.
5. All trees must be planted within 5 to 15 feet from the property line and on the subject property where the landscape buffer is proposed.
6. Petitioner will be responsible for maintenance of trees, fence, or any combination of the two, where the landscape buffer is proposed.

After the grant of the variance, the petitioner discussed the option of a fence or landscaping with the owners of the adjacent properties to the east. It was found that several owners preferred not to have either fencing or landscaping, despite the requirements of the zoning code and variance conditions. To allow for

these preferences, the petitioner is seeking a variance to allow for the landscaping as shown on the submitted site plan.

REVIEW CRITERIA

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

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

The requested variance will not be injurious to the public health, safety, or morals, as landscaping does not generally have such impacts. The general welfare is not likely injured as the parties affected have come to agreement on the specifics of the arrangement.

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; and

As stated in the previous case, the proposed location of the buffer removes it from the middle of a field that straddles the AG-IPM zoning district and places it along the property line of adjacent residences. This configuration is intended to better buffer those residences from views of the industrial facility than if the buffer were installed per the code specification. So, the use and value of these residential properties may be enhanced over what might be expected with a letter-of-the-code installation. This is reinforced by the agreement of the owners on the proposed alternate buffering standards.

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.

Because the adjacent property owners have shown they do not desire the provisions of the code nor the conditions of the previous variance, there is a practical difficulty created that is not self-imposed by the petitioner, in addition to those described in the previous variance.

SUGGESTED CONDITIONS

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

1. The variance is granted as presented and per the submitted landscape plan.
2. Hazen Properties, LLC, owner of 5798 S. 600 East, and Kenneth and Barbara Emerick, owners of 5901 E. State Road 14, provide for the record a statement waiving the required buffering along their frontages with the petitioner's property.

Date report prepared: 3/18/20

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

Vote:	Denihan		Lopez		Wilkinson		Wolf		Wright	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion:

By:

Second by:

Vote:	Denihan		Lopez		Wilkinson		Wolf		Wright	
<i>Yes</i>										
<i>No</i>										
<i>Abstain</i>										

EXHIBIT "A"

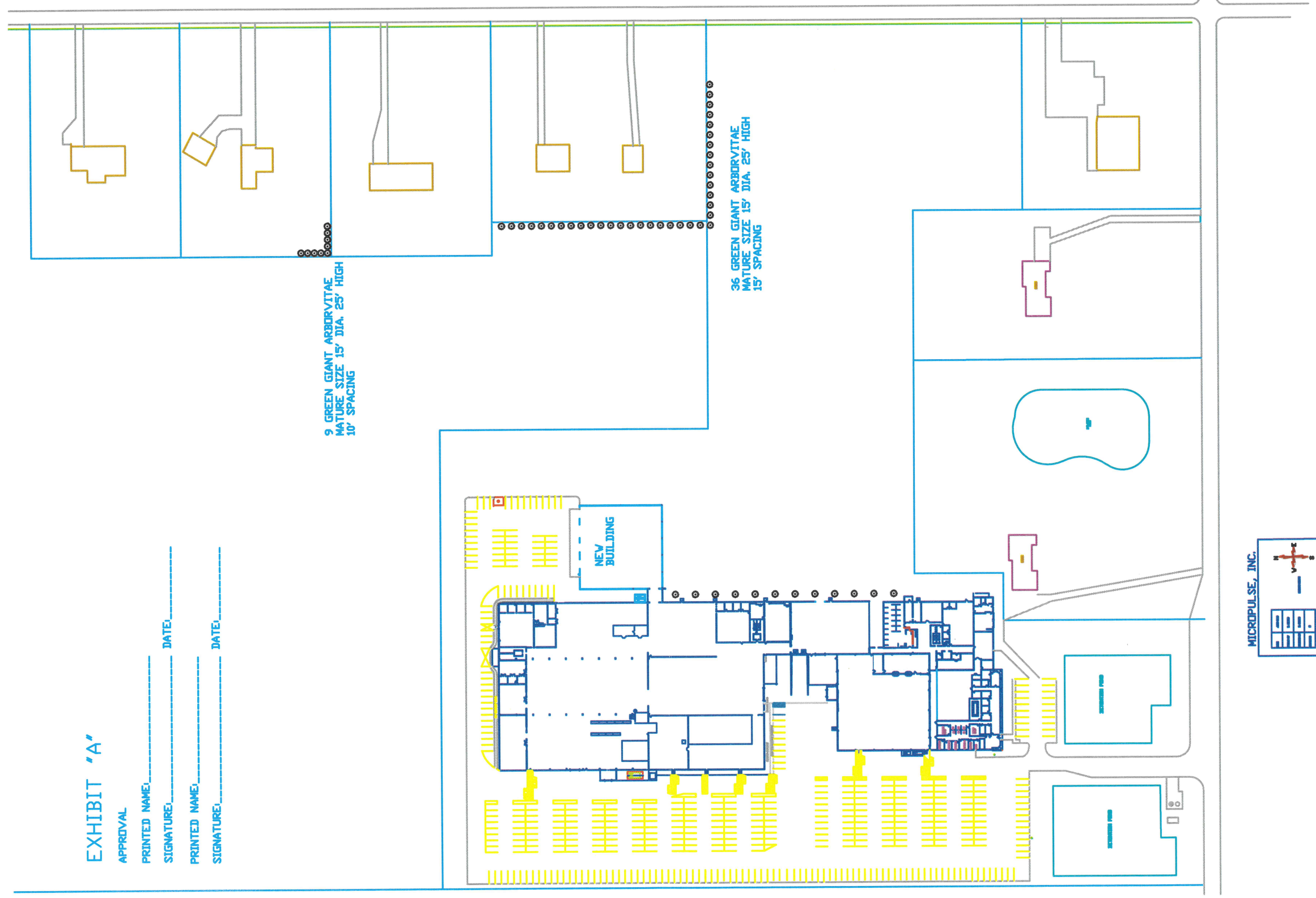
APPROVAL

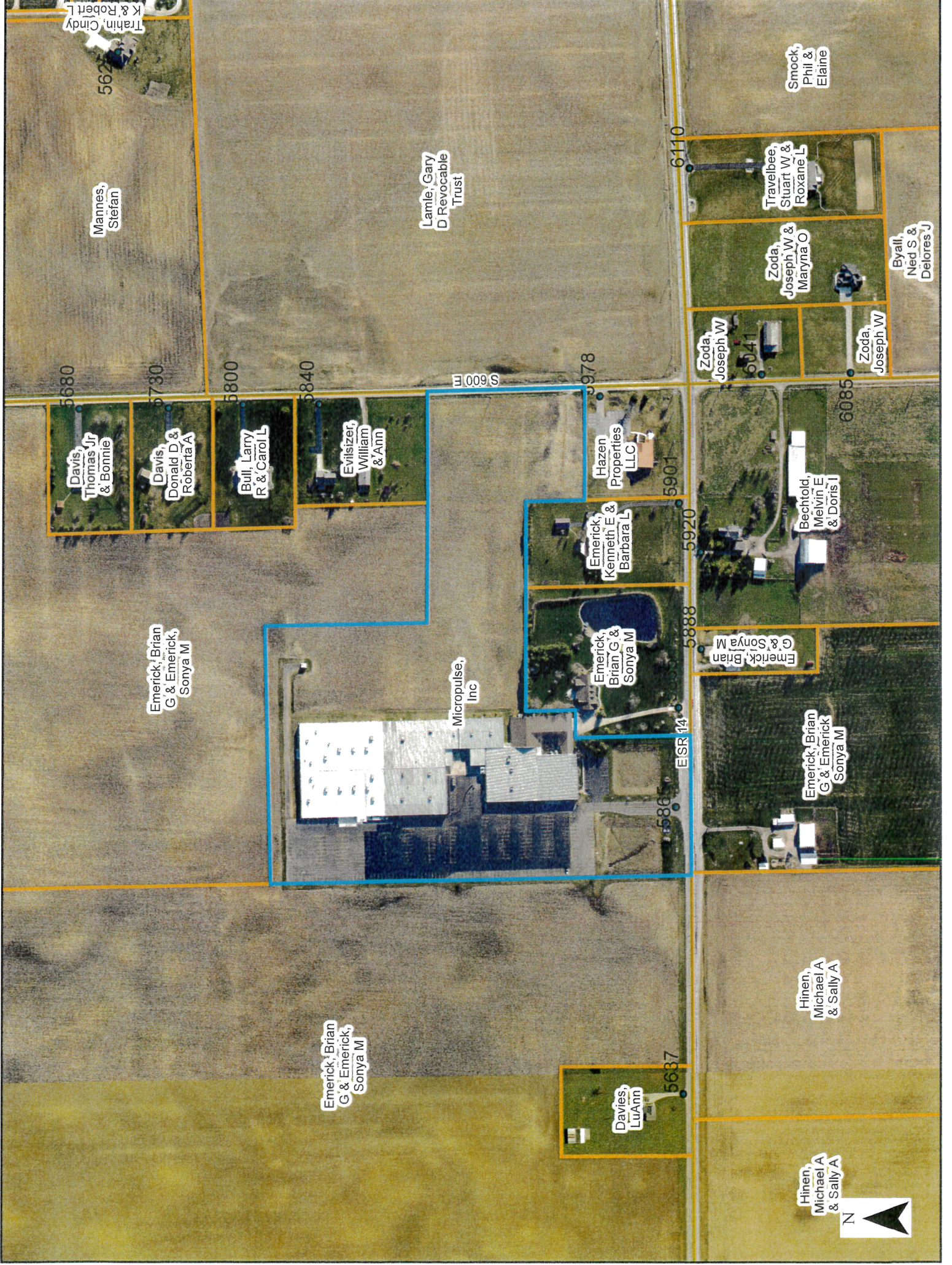
PRINTED NAME: _____

SIGNATURE: _____ DATE: _____

PRINTED NAME: _____

SIGNATURE: _____ DATE: _____





Hinen,
Michael A
& Sally A

Hinen,
Michael A
& Sally A

Emerick, Brian
G & Emerick,
Sonya M

Emerick, Brian
G & Sonya M

Bechtold,
Melvin E
& Doris I

Zoda,
Joseph W

Zoda,
Joseph W &
Maryna O

Smock,
Phil &
Elaine

Byall,
Ned S &
Delores J

Travelbee,
Stuart W &
Roxane L

6110

6041

6085

5901

5920

5888

ESR 14

5885

5637

Davies,
LuAnn

Emerick, Brian
G & Emerick,
Sonya M

Micropulse,
Inc

Emerick,
Kenneth E &
Barbara L

Emerick,
Brian G &
Sonya M

Hazen
Properties
LLC

5978

S 600 ft

Evilsizer,
William
& Ann

5840

Bull, Larry
R & Carol L

5800

Davis,
Donald D &
Roberta A

5730

5680

Davis,
Thomas Jr
& Bonnie

Mannes,
Stefan

5622

K & Robert L
Trahin, Cindy

Lamle, Gary
D Revocable
Trust