

ORDINANCE NO. 2019-024

ORIGINAL

BEING AN ORDINANCE TO AMEND
THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE

WHEREAS, the State enabling act for planning and zoning empowers the Board of County Commissioners of Delaware County, Indiana to adopt a Comprehensive Zoning Ordinance and also provides for amendments to the said ordinance as the need arises; and
WHEREAS, the Board of County Commissioners of Delaware County, Indiana, has given reasonable regard to the Comprehensive Plan; current conditions and the character of the current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, INDIANA, as follows:

Section 1. That the Delaware County Comprehensive Zoning Ordinance, theretofore adopted by the Board of County Commissioners of Delaware County, Indiana, on the 11th day of December, 1973, be amended, changed and supplemented so as to include in the BV Vairety Business Zone the following described real estate located in Delaware County, Indiana, to wit:

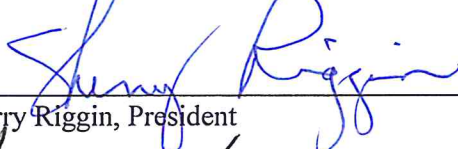
see attachment

Section 2. That no structures shall be placed on said lot or parcel of land except in compliance with the Delaware County Comprehensive Zoning Ordinance of Delaware County, Indiana.

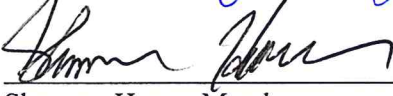
Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners of Delaware County, Indiana.

Section 4. That this Ordinance is adopted/vetoed this 21 day of October, 2019.


BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA



Sherry Riggin, President



Shannon Henry, Member



James King, Member

ATTEST:



Steven G. Craycraft, Auditor

Exhibit A

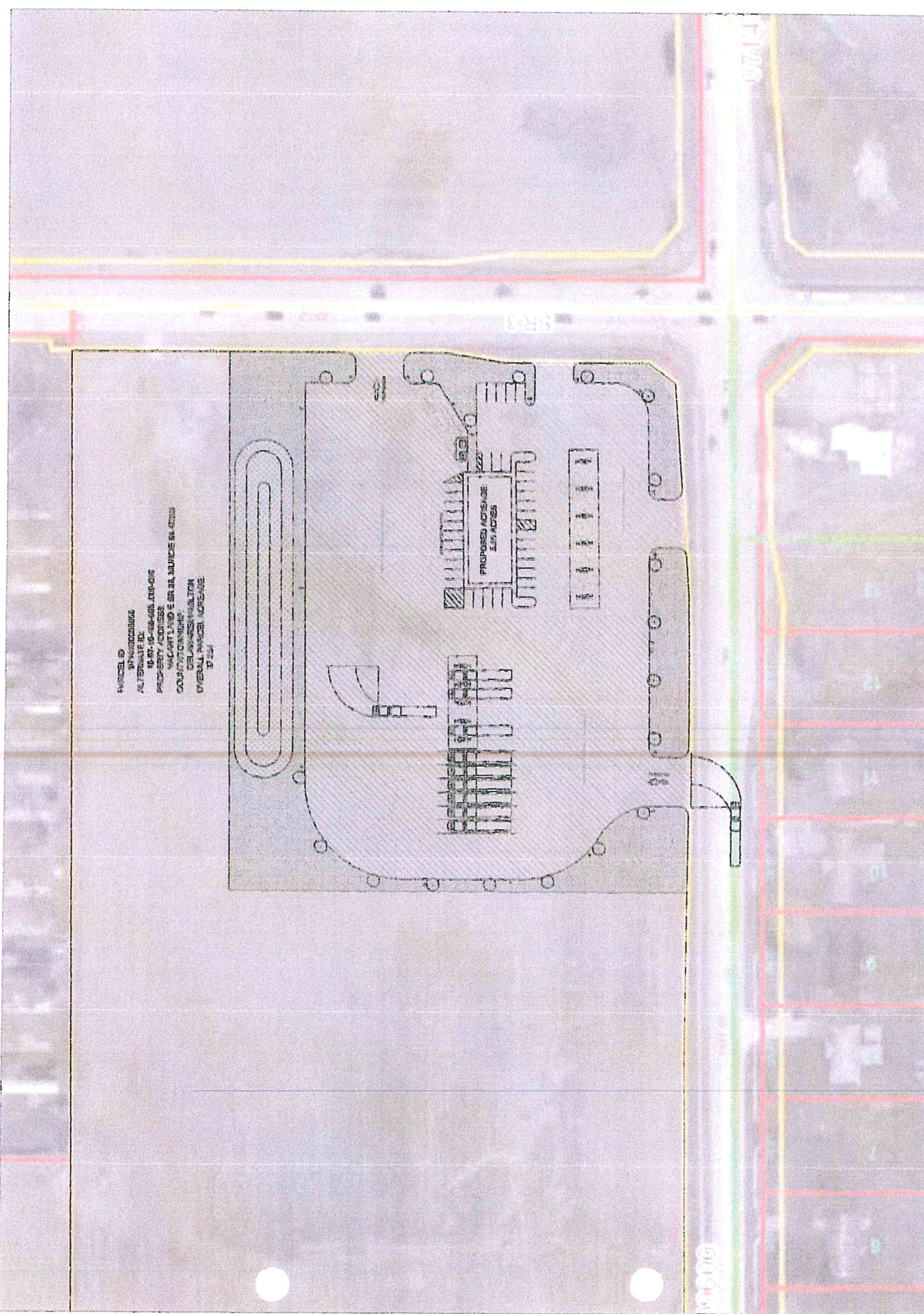
LAND DESCRIPTION OF REAL ESTATE (10.00 ACRES)

BEING A PART OF THE SOUTHEAST QUARTER OF SECTION TEN (10), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE TEN (10) EAST IN HAMILTON TOWNSHIP, DELAWARE COUNTY, STATE OF INDIANA, AND BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT A MONUMENT FOUND AT THE SOUTHEAST CORNER OF THE AFORESAID SOUTHEAST QUARTER; THENCE NORTH 00°-07'-58" WEST (GRID BEARING-INDIANA EAST COORDINATE ZONE-BASIS OF BEARINGS) ON THE EAST LINE OF SAID SOUTHEAST QUARTER AND CENTERLINE OF STATE ROAD #3 A DISTANCE OF SIX HUNDRED EIGHTY-SEVEN AND FIFTY (687.50') FEET TO A MAG NAIL WITH A WASHER STAMPED "WIMMER LS 20200013" FOUND; THENCE SOUTH 89°-33'-49" WEST A DISTANCE OF FORTY-SIX AND ONE HUNDREDTHS (46.01') FEET TO A ½" x 24" CAPPED REBAR STAMPED "WIMMER LS 202020013" FOUND, SAID POINT BEING ALSO THE PLACE OF BEGINNING: THENCE SOUTH 00°-08'-20" EAST ON THE WESTERLY BOUNDARY OF SAID STATE ROAD #3 A DISTANCE OF THREE HUNDRED EIGHTY-SEVEN AND TWENTY-SEVEN HUNDREDTHS (387.27') FEET; THENCE SOUTH 08°-23'-31" WEST ON SAID WESTERLY BOUNDARY A DISTANCE OF SIXTY-SIX AND THIRTY-FIVE HUNDREDTHS (66.35') FEET; THENCE SOUTH 00°-08'-20" EAST ON SAID WESTERLY LINE A DISTANCE OF ONE HUNDRED FORTY-SEVEN AND SIXTY-FOUR HUNDREDTHS (147.64') FEET; THENCE SOUTH 36°-36'-25" WEST ON SAID WESTERLY BOUNDARY A DISTANCE OF THIRTY-FOUR AND THIRTY-TWO HUNDREDTHS (34.32') FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD #28; THENCE SOUTH 85°-51'-14" WEST ON SAID NORTHERLY LINE A DISTANCE OF TWO HUNDRED TWENTY-NINE AND NINETY-ONE HUNDREDTHS (229.91') FEET; THENCE SOUTH 89°-15'-01" WEST ON SAID NORTHERLY LINE A DISTANCE OF ONE HUNDRED NINETY-SIX AND SEVENTY-SIX HUNDREDTHS (196.76') FEET; THENCE NORTH 89°-15'-40" WEST ON SAID NORTHERLY LINE A DISTANCE OF TWO HUNDRED THIRTY AND TWENTY-THREE HUNDREDTHS (230.23') FEET; THENCE NORTH 00°-07'-57" WEST A DISTANCE OF SIX HUNDRED THIRTY-SIX AND ONE HUNDREDTHS (636.01') FEET TO A POINT ON THE SOUTH LINE OF DEED MICRO: 20015996 RECORDED IN THE OFFICE OF THE RECORDER OF DELAWARE COUNTY, INDIANA; THENCE NORTH 89°-18'-22" EAST ON SAID SOUTH LINE A DISTANCE OF SIX HUNDRED EIGHTY-SIX AND SIXTY-FOUR HUNDREDTHS (686.64') FEET, OR TO THE PLACE OF BEGINNING: CONTAINING TEN AND NO HUNDREDTHS (10.00) ACRES, MORE OR LESS, AND BEING SUBJECT TO EXISTING HIGHWAY, DRAINAGE AND PUBLIC UTILITY EASEMENTS.

PARCEL ID
OWNER/OWNER
ALTERNATIVE ID
TO BE-RE-ORGANIZED
PROPERTY ADDRESS
COUNTY AND STATE
CITY/TOWNSHIP
CENSUS TRACT
OVERALL PARCEL ACRES
7.24

PROPOSED IMPROVEMENTS
3.25 ACRES





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Google Earth

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**REPORT TO THE BOARD OF COUNTY COMMISSIONERS
OF DELAWARE COUNTY, INDIANA**

October 4th, 2019

ORIGINAL

To the Honorable:

Board of County Commissioners of Delaware County, Indiana

Dear Board Members:

The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the application of: **E B Fuel Stops, 10501 St Rt 118, Ansonia, OH, and Randall F. Gorski II, 7323 Edgerton Dr., Dallas, TX**, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: **the northwest corner of N. SR 3 and E. SR 28, Muncie, Indiana**, from zone classification: **MHR Mobile Home Residence Zone** to zone classification: **BV Variety Business Zone**.

WHEREAS, the Commission has given reasonable regard to the Comprehensive Plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout in the jurisdiction and responsible growth and development; and

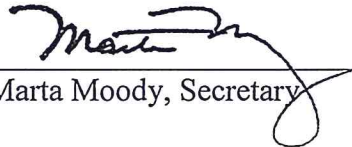
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby **FAVORABLY RECOMMENDED (6-1; 0 abstention, 2 absent)** the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Shannon Henry, President



Marta Moody, Secretary

**DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
PROPOSED ZONING CHANGE APPLICATION**

Jurisdiction: (Check One)

Submitted: 8-12-2019

Delaware County

Case No.: MPC 06-192

City of Muncie

(1) Applicant: E B Fuel Stops

Address: 10501 St Rt 118 Phone: 937-337-6701
Ansonia, OH

(2) Record of Applicant's Ownership:

A. By Deed:
Deed Book No. & Page No.: _____
Date of Deed: _____

B. By Recorded Contract:
Misc. Book No. & Page No.: _____
Date of Contract: _____

C. By Unrecorded Contract:
Date of Contract: 7-14-19
Name of Contract Seller: Randall F. Gorski II
Book No. & Page No. Of Deed in Seller's Name: 2015R14409

(3) Legal Description of Property for which rezoning is requested: (From the Deed or Abstract).
SEE ATTACHED

(4) Common Address of Property Involved:
vacant land E SR 28
Muncie, IN 47303

(5) Proposed zoning change: (Give exact zone classification.)
From the MHR Mobile Home Residence Zone
To the BV Variety Business Zone

- (6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
gas station
- (7) Will the Owner develop the property for the use specified in Item 6 or does owner intend to sell property for the purpose specified.
Intend to develop
- (8) State how the proposed change will not adversely affect the surrounding area.
2 other corners on the intersection is zoned variety business
the other corner is zoned intense industrial
- (9) Will certain variances be requested if the proposed zoning change is granted?
(If yes, list the variances)
no
- (10) Has the applicant provided stamped, addressed envelopes to send notices of this rezoning to all the property owners within 300 feet? ~~no~~ YES
Has the applicant discussed this rezoning with those owners personally? no _____
(If answer is yes, give their attitudes toward the rezoning.)
- (11) Are there any restrictions, easements, and/or covenants governing the property prohibiting its use for the purpose specified in this application?
(If answer is yes, attach copy of it and/or explain.)
no

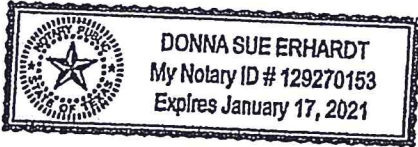
AFFIDAVIT

(I or We) Randall Gorski fr being duly sworn, depose and say that I/We am/are the owner(s)/contract owner(s) and contract seller(s) of property involved in this application and that the foregoing signatures, statements, and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief.

SIGNATURES: [Signature]

Subscribed and sworn to before me this

15th day of July, 2019



[Signature]
Notary Public

Notary Public

2021
My Commission Expires

Resident of Tarrant County

State of TEXAS

DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was submitted to the Delaware-Muncie Metropolitan Plan Commission Office in accordance with all the formal requirements. If properly advertised by the applicant, this application will be heard by the Plan Commission in Public hearing on the 5th day of September, 2019.

Signed [Signature]

Date 8-21-2019

letz Title Co

AP

2015R14409
MELANIE MARSHALL
DELAWARE COUNTY RECORDER
RECORDED ON
12/02/2015 10:31 AM
REC FEE: 18.00
PAGES: 2

WARRANTY DEED

THIS INDENTURE WITNESSETH that David Lee Sprong,

CONVEYS and WARRANTS to Randall F. Gorski II, for the sum of One Dollar (\$1.00) and other valuable considerations, the receipt of which is hereby acknowledged:

The following described real estate situated in Delaware County; State of Indiana:

A part of the Southeast quarter of Section 10, Township 21 North, Range 10 East, described as follows:

Beginning at the Southwest corner of said Southeast quarter and running thence North a distance of 687.5 feet, thence running East parallel with the South line of said Southeast quarter a distance of 2,527.2 feet to the East line of said Southeast quarter; thence South on and along the East line of said Southeast quarter a distance of 687.5 feet to the Southeast corner of said Southeast quarter; thence West on and along the South line of said Southeast quarter a distance of 2,523 feet to the Southwest corner of said Southeast quarter, being the place of beginning, containing 39.85 acres, more or less.

EXCEPT THEREFROM: A part of the Southeast quarter of Section 10, Township 21 North, Range 10 East, Delaware County, Indiana, and intending to be all that part of the land described in Deed Record 1973, page 4230, as recorded in the Office of the Recorder of Delaware County, Indiana, lying within the proposed right-of-way depicted on the attached Route Survey Plat of parcel 2 of the Indiana Department of Transportation Project STP-108-1(005), described as follows: Beginning at the Southeast corner of said Section; thence North 90 degrees 00 minutes 00 seconds West 493.007 meters (1,617.48 feet) along the South line of said Section to a point designated as point 4054 on said Route Survey Plat; thence North 00 degrees 00 minutes 00 seconds East 9.144 meters (30.00 feet) to a point designated as point 1000 on said Route Survey Plat on the North boundary of U.S.R. 35 & S.R. 28; thence North 79 degrees 05 minutes 14 seconds East 20.368 meters (66.83 feet) to a point designated as point 1001 on said Route Survey Plat; thence North 88 degrees 16 minutes 54 seconds East 100.045 meters (328.23 feet) to a point designated as point 1002 on said Route Survey Plat; thence South 90 degrees 00 minutes 00 seconds East 140.000 meters (459.32 feet) to a point designated as point 1003 on said Route Survey Plat; thence South 88 degrees 34 minutes 04 seconds East 80.025 meters (262.55 feet) to a point designated as point 1004 on said Route Survey Plat; thence North 89 degrees 56 minutes 37 seconds East 59.972 meters (196.76 feet) to a point designated as point 1005 on said Route Survey Plat; thence North 86 degrees 32 minutes 50 seconds East 70.077 meters (229.91 feet) to a point designated as point 1006 on said Route Survey Plat; thence North 37 degrees 18 minutes 01 second East 10.462 meters (34.32 feet) to a point designated as point 1007 on said Route Survey Plat; thence North 00 degrees 33 minutes 16 seconds East 45.000 meters (147.64 feet) to a point designated as point 1008 on said Route Survey Plat; thence North 09 degrees 05 minutes 07 seconds East 20.224 meters (66.35 feet) to a point designated as point 1009 on said Route Survey Plat; thence North 00 degrees 33 minutes 16 seconds East 118.039 meters (387.27 feet) to a point designated as point 4047 on said Route Survey Plat on the North line of the owners' land; thence South 90 degrees 00 minutes 00 seconds East 13.815 meters (45.32 feet) along said North line to a point designated as point 4045 on said Route Survey Plat on the East line of said Section; thence South 00 degrees 30 minutes 11 seconds West 209.611 meters (687.70 feet) along said East line to the point of beginning, and containing 1.0383 hectares (2.566 acres), more or less. The portion of the above-described real estate which is not already embraced within public rights of way contains 0.3943 hectares (0.974 acres), more or less.

Property Address: St. Rd. 28 & St. Rd. 3, Muncie, IN 47303
Parcel Number: 18-07-10-400-005.000-006

Duly Entered for Taxation
Transfer Fees \$ 5.00

DEC 02 2015

Melanie Marshall
Delaware County Auditor



Grantor represents and warrants that this transfer and the real estate which is the subject thereof is not subject to the requirements of the Indiana Responsible Property Transfer Law, I.C. 13-25-3-1, et seq.

Signed this 23 day of October, 2015.

David Lee Sprong
David Lee Sprong



STATE OF INDIANA, COUNTY OF WABASH, SS:

Before me, the undersigned, a Notary Public residing in said County and State, personally appeared David Lee Sprong who acknowledged the execution of the foregoing Warranty Deed and who having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 23 day of October, 2015.

My Commission Expires:

5/19/19

Kristen E. Lovell
Kristen E. Lovell
Notary Public
A resident of Wabash County

Send Tax Statement to: Randall F. Gorski II
Grantee's Address: 505 N. Woodland, Hartford City, IN 47348

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. David Sprong

This instrument prepared by Peter D. Todd, Attorney at Law, 1756 N. Bay Drive, Elkhart, IN 46514, at the specific request of Grantor based solely upon information supplied by the Grantor, and without examination of title or abstract. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided, the Grantor hereto signifying his/her assent to this disclaimer by the Grantor's execution of the instrument.

IN CONSIDERATION OF the covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties to this agreement agree as follows:

Sale of Property

1.) On the 14 day of July, 2019, the Seller, for an in consideration of the Sum of \$165,000.00, does hereby agree to sell to the Purchaser, all of the following lands and property together with all improvements located on the property:

10 acres located at corner of Highway 28 and Highway 3, legal description will replace this description once survey is completed (the "Premises").

Purchase Price Property will be sold as is.

2.) The Purchase Price (the "Purchase Price") of the Premises is \$165,000.00 or \$16,500/acre. The Purchaser agrees to pay \$16,500 (10% as down payment) upon execution of this agreement. The remaining balance (\$148,500) of the Purchase Price being payable at closing. Closing will be agreed to by Purchaser and Seller once survey is completed, rezoning approved,

WATER & SEWER AVAILABLE FOR Hook-up

(convents entered by Purchaser) and this Agreement has been signed.

Survey

3.) Once Purchaser has signed this contract, Seller will order survey. Survey will be split 50/50 between Purchaser and Seller.

Property Taxes

4.) Property taxes will be pro-rated based on closing date. Seller will be responsible for property taxes prior to closing date. Purchaser will be responsible for property taxes after closing date.

Cash Rent

5.) Cash rent will be pro-rated based on closing date: e.g. closing date October 15, 2019: per schedule below:

	Ownership Day	Day's in Year	Ownership Days %	Cash Rent/ Acre	Acres	Cash Rent
Seller	288	365	0.789041096	\$ 225.00	10	\$1,775.34
Purchaser	77	365	0.210958904	\$ 225.00	10	\$474.66

1031 Exchange

6.) Closing will be contingent upon Seller completing a 1031 Exchange.

Sales Agreement

THIS CONTRACT FOR Sales (the "Agreement") dated this ~~14~~¹⁴ day of July, 2018

BETWEEN:

Randall F Gorski II of 7323 Edgerton Drive Dallas, TX 75231 of (collectively the "Seller")

-AND-

EB Food Stop of Ansonia OH

Marc E (Name), 10501 STRET 116 (Address)
(collectively the "Purchaser")
PO BOX 33
Ansonia, Ohio
45303

Closing

7.) Closing will be held at Indiana Title in Delaware County. Closing will be contingent upon 1031 Exchange, re-zoning approval and Purchaser convents identified in section Purchase Price . If property fails to be re-zoned for business (gas station) then sale of property will be canceled.

Pollutants Leakage or Runoff

8.) If Purchaser operates a gas station on the Premises and pollutants leakage or runoff is identified/determined by The Indiana Department of Environmental Management (IDEM), Purchaser will be responsible for fines, penalties and/or cleanup costs for surrounding effected property held by Seller.

IN WITNESS WHEREOF the Seller and Purchaser have duly affixed their signatures under hand and seal on this 14 day of July, 2019

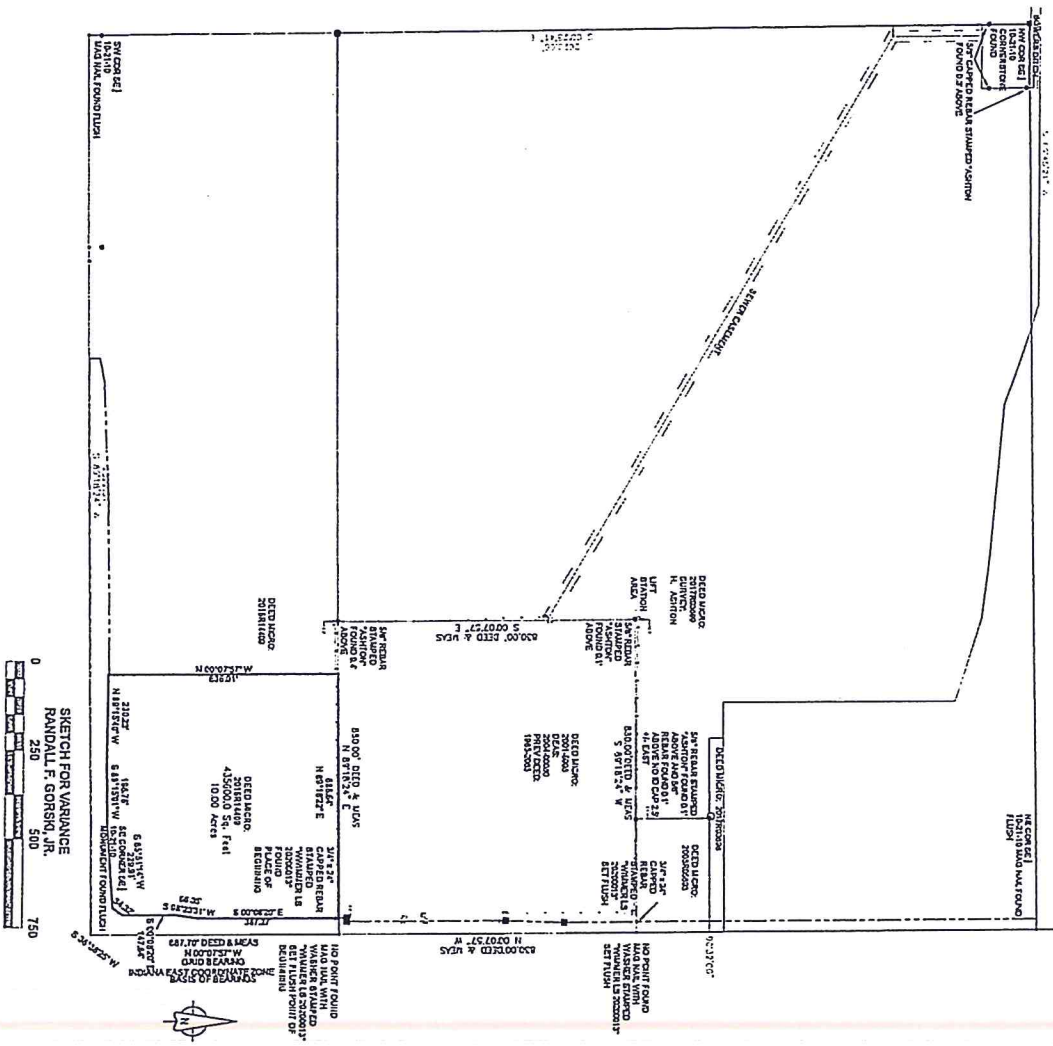
Witness : [Signature] (Sign) [Signature]

Haley Herrin Gorski (Print) Randall F Gorski II (Seller)

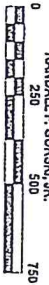
Witness : MIKE ERWIN (Sign) MIKE ERWIN

MARC ERWIN (Print) MARC ERWIN (Purchaser)

Area to rezone



SKETCH FOR VARIANCE
RANDALL F. GORSNI, JR.



219156

LAND DESCRIPTION OF REAL ESTATE (10.00 ACRES)

BEING A PART OF THE SOUTHEAST QUARTER OF SECTION TEN (10), TOWNSHIP TWENTY-ONE (21) NORTH, RANGE TEN (10) EAST IN HAMILTON TOWNSHIP, DELAWARE COUNTY, STATE OF INDIANA, AND BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT A MONUMENT FOUND AT THE SOUTHEAST CORNER OF THE ADJACENT SOUTHEAST QUARTER, THENCE NORTH 00°-07'-58" WEST (GRID BEARING) INDIANA EAST COORDINATE ZONE 1815 OF BEARINGS ON THE EAST LINE OF SAID SOUTHEAST QUARTER AND CENTERLINE OF STATE ROAD 119 A DISTANCE OF SIX HUNDRED EIGHTY-SEVEN AND FIFTY (887.50) FEET TO A NAIL WITH A WASHER STAMPED "NUMBER 152020013" FOUND, THENCE SOUTH 89°-35'-49" WEST A DISTANCE OF FORTY-SIX AND ONE HUNDREDS (46.01) FEET TO A "X" CAPED NEAR STAMPED "NUMBER 152020013" FOUND, SAID POINT BEING ALSO THE PLACE OF BEGINNING; THENCE SOUTH 00°-08'-20" EAST ON THE WESTLY BOUNDARY OF SAID STATE ROAD 119 A DISTANCE OF THREE HUNDRED EIGHTY-SIX AND TWENTY-SEVEN HUNDREDS (887.27) FEET; THENCE SOUTH 08°-23'-51" WEST ON SAID WESTERY BOUNDARY A DISTANCE OF SIXTY-SEVEN AND THIRTY-SEVEN HUNDREDS (63.37) FEET; THENCE SOUTH 00°-08'-20" EAST ON SAID WESTLY LINE A DISTANCE OF ONE HUNDRED FORTY-SEVEN AND FORTY-FOUR HUNDREDS (147.54) FEET; THENCE SOUTH 35°-36'-25" WEST ON SAID WESTLY LINE A DISTANCE OF THIRTY-FOUR AND THIRTY-TWO HUNDREDS (66.42) FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 119 A DISTANCE OF SIXTY-SEVEN AND THIRTY-SEVEN HUNDREDS (66.42) FEET; THENCE NORTH 00°-07'-57" WEST A DISTANCE OF SIX HUNDRED THIRTY-SIX AND ONE HUNDREDS (636.01) FEET TO A POINT ON THE SOUTH LINE OF DEED MICHIGAN 20051995 18-522 EAST ON SAID SOUTH LINE A DISTANCE OF SIX HUNDRED EIGHTY-SIX AND SIXTY-FOUR HUNDREDS (686.64) FEET, OR TO THE PLACE OF BEGINNING, CONTAINING TEN AND NO HUNDREDS (10.00) ACRES, MORE OR LESS, AND BEING SUBJECT TO EXISTING HIGHWAY, DRAINAGE AND PUBLIC UTILITY EASEMENTS.

I hereby certify that the above survey was completed in accordance with Title 18.5, Article 13 of the Indiana Professional Surveyors Code, and is a correct sketch and/or description of real estate, completed under my supervision on the 10th day of August 2018.

Donald W. Wilmore
Professional Land Surveyor, History Public



PLAT OF

DATE	DATE	DATE
08/10/2018	08/10/2018	08/10/2018
08/10/2018	08/10/2018	08/10/2018
08/10/2018	08/10/2018	08/10/2018
08/10/2018	08/10/2018	08/10/2018
08/10/2018	08/10/2018	08/10/2018

Surveyed and Platted by: Donald W. Wilmore, Professional Land Surveyor, No. 10914, State of Indiana.