



**CITY OF COLUMBUS
BOARD OF ZONING APPEALS
(January 23, 2024 Meeting)**

STAFF REPORT

Docket No. / Project Title: CCU-2023-019 (J&D Services)
Staff: Kyra Behrman
Applicant: J&D Services
Property Size: 3.24 Acres
Zoning: CC (Commercial: Community)
AP (Agriculture: Preferred)
Location: 1371 South 525 West, in Harrison Township

Background Summary:

The applicant has indicated that the proposed conditional use will allow a contractor's office for a property management business. The business provides asphalt and concrete repair, snow removal, gutter cleaning, grading, seeding, hardscaping, and similar services to area businesses and homeowners. The previous use of the property was an auto body repair shop. The property subject to this request includes four platted lots, two of which are zoned CC (Commercial: Community) and two of which are zoned AP (Agriculture: Preferred). On December 5, 2023, the City Council passed an ordinance rezoning the AP lots to CC. That rezoning included a commitment which must be recorded by the applicant to complete the process. The recording of the commitment has not yet been completed. The proposed use is not a permitted or conditional use in the AP zoning district; therefore, the rezoning must be complete for this application to be valid.

Preliminary Staff Recommendation:

Continuance, in order for the applicant to first complete the rezoning process, which includes recording the commitment.

Any approval should (1) be contingent upon the completion of the rezoning process so that the entire subject property is zoned CC (Commercial: Community) and (2) include the following conditions, which shall be satisfied prior to the occupancy of the property for the contractor's office:

1. Vehicle access to the property shall be limited to a single drive on Goeller Road and a single drive on 525 West, with both meeting the width requirements of the Zoning Ordinance. The driveways shall be no closer to the Goeller Road/525 West intersection than 100 feet along 525 West and 50 feet along Goeller Road, both measured from the centerlines of the roads. Existing stone areas in the right-of-way no longer used as driveways shall be removed and replaced with grass.
2. The necessary approvals from the Indiana Department of Health for the commercial septic system shall be obtained.
3. The fence enclosing the outdoor storage area shall be repaired to be structurally sound and provide a 100% opaque screen to a height of 6 feet from ground level.

Zoning District Intent:

The intent of the CC (Commercial: Community) zoning district is as follows: To establish appropriate locations

for a variety of businesses providing a variety of goods and services to (1) community-wide consumers and (2) those who travel through or visit the area. This zoning district is not intended for use along traffic corridors, but should instead be applied at significant intersections along major transportation routes. This zoning district should be applied only to areas with adequate infrastructure and road access to accommodate moderately high traffic volumes.

Current Property Information:	
Land Use:	Commercial and Single-Family Residential
Site Features:	Vacant commercial building, single-family dwelling with small accessory structure
Flood Hazards:	The site does not contain any area within the floodplain or floodway.
Vehicle Access:	Goeller Road (Minor Arterial, Residential, Rural) 525 West (Minor Arterial, Residential, Rural)

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	P (Public / Semi-public Facilities) CN (Commercial: Neighborhood) RS1 (Residential: Single-family 1)	Worship facility Chumley's Stop & Go Market Abandoned dwelling
South:	AP (Agriculture: Preferred)	Single-Family Residential Agriculture
East:	AP (Agriculture: Preferred)	Large-lot, Single-Family Residential and woods Agriculture
West:	AP (Agriculture: Preferred)	Single-Family Residential Agriculture

Interdepartmental Review:	
County Highway Department:	No issues as long as the 4 parcels are combined into one with the replatting. Needs better defined access.
City Utilities:	We do not currently serve that area with water or sewer. Our nearest lines are a little over 4,000 feet away.

County Health Department:	Review and approval of any commercial use for this lot would require approval by the Indiana Department of Health plan review section. These reviews are based on the exact proposed use of the facility. We are not aware if municipal sewer may be available, but the property to the north just went through the procedures to install a commercial on-site sewage system
Code Enforcement:	No comment.
County Fire Inspector:	In general, no issues as submitted and okay to move forward. If existing structure is used, a fire inspection will be needed prior to use/opening for operation/business.

History of this Location:

The relevant history of this property includes the following:

1. This site has locally been known as Ronnie's Body Shop and used commercially as a car repair business.
2. At the January 28, 2020 meeting of the Columbus Board of Appeals, the Board approved a conditional use (CCU-2019-13) for a painting contractor's office at 1371 South 525 West (the lots at this corner that are currently zoned commercial) with the following conditions:
 - a. Prior to occupancy of the subject properties, the 2 lots shall be combined into a single parcel.
 - b. Vehicle access to the property shall be limited to a single drive on Goeller Road and a single drive on 525 West, with both meeting the width requirements of the Zoning Ordinance. The driveways shall be no closer to the Goeller Road/525 West intersection than 100 feet along 525 West and 50 feet along Goeller Road, both measured from the centerlines of the roads. Existing stone areas in the right-of-way no longer used as driveways shall be removed and replaced with grass. These driveway changes shall be complete prior to occupancy of the subject properties.
 - c. The use of the property shall be limited to a painting contractor's office with no outdoor storage of supplies or other materials.

The painting contractor decided not to occupy the building and it has continued to be vacant since that time.

3. At the December 5, 2023 meeting, the City Council approved 2 of the 4 lots that have historically all been used for one business use to be rezoned from AP (Agriculture: Preferred) to CC (Commercial: Community)(Ordinance #31, 2023). The rezoning included the following commitment, which is required to be recorded with the Bartholomew County Recorder's Office: that prior to any change of use on the subject property, the four parcels at this corner (Lots 1, 2, 3, and 4 of McIntyre's Replat Lots 1-4 of Riker's Minor Plat (Plat Book K / Page 83)), that have historically been used as a single site, shall be replatted as a single parcel and shall remain as that single parcel for their future use and any redevelopment. The commitment document has not yet been recorded.

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The applicant has indicated the proposed use as a contractor's office for a property management business. The business provides asphalt and concrete repair, snow removal, gutter cleaning, grading, seeding, hardscaping, and similar services to area businesses and homeowners. Trucks, trailers, and miscellaneous equipment and materials would be stored on the site. The applicant states that the majority of the work takes place away from the contractor's office and during daytime hours.
2. The previous use of the property was an auto body repair shop.
3. The site was developed before the current zoning ordinance and therefore has some legal non-conforming features. Some of the legal non-confirming site features include gravel parking and

circulation areas and access to adjacent roads that does not meet separation distances as established in the zoning ordinance.

4. No information was provided by the applicant regarding the area of the commercial building to be used for office space or the number of employees. The zoning ordinance requires 1 parking space for each employee for the use of a contractor's office. It would appear from Bartholomew County GIS measurements that the site could accommodate parking for up to 14 employees.
5. According to the applicant and the submitted site plan, outdoor storage will be located in the southeast area of the site within an existing fenced area. The applicant states there will be 5 bins containing bark mulch, decorative stone, bagged salt, rock salt and cold patch asphalt. The fence is wooden, approximately 6-foot tall and exists along the entire south property line as well as the 525 West frontage south of the building on the property. The fence appears to be in poor condition, with some missing boards. The existing home on the property to the east sits closer to Goeller Road (approximately 70 feet from the center line) with the majority of this property wooded, therefore, the proposed storage bin areas are screened by natural mature vegetation.
6. Parking and circulation areas are gravel. The applicant indicated that residential customers would be allowed to pick up their own landscape materials in their personal vehicles. The proposed circulation pattern on the site would be able to handle that type of traffic.
7. The closest house to the east is 175 feet from the subject property. The closest house to the south is 100 feet from the subject property. The closest house to the north is 115 feet from the subject property. The closest house to the west is 1100 feet from the subject property. The house diagonally across the intersection of Goeller Road and 525 West is 185 feet from the subject property.
8. Section 11.2(A)(2) of the Zoning Ordinance exempts any lot created before September 9, 1999, from any sewer utility requirements if it is capable of containing a sewage disposal system acceptable to the Bartholomew County Health Department. This exemption would apply to this subject property.
9. If the conditional use is approved, the applicant will be required to submit a change of use application for review and approval of the Planning Department. At that time, the number of employees and adequate parking will be verified.

Comprehensive Plan Consideration(s):

The Comprehensive Plan designates the future land use of properties in this area as Estate / Cluster Residential.

The Comprehensive Plan includes this property in the Western Hills character area. The following Planning Principle(s) apply to this application:

1. Encourage neighborhood business centers in convenient locations as new residential areas are developed.
2. Allow commercial development only where public sewer and water are available.
3. Prohibit further non-farm development using septic systems.

The following Comprehensive Plan goal(s) and/or policy(ies) apply to this application:

1. **POLICY A-2-18:** Maintain and enhance neighborhood-scale business areas, with special attention to the unique character of each area.
Neighborhoods can be enhanced by convenient shopping areas, provided that these are of a type, size and design consistent with their surroundings.
2. **GOAL E-3:** Encourage a business-friendly climate which will foster growth in the commercial sector, while protecting the character of neighborhoods.
3. **POLICY E-3-1:** Allow the free market and private investment decisions to govern the quantity of each type of business and the variety of goods and services available, within the framework of an overall land use plan.
The city should not make decisions about the number of certain businesses that are needed. The market, not the government, should decide whether another restaurant, another filling station, or another clothing store is needed. These businesses, however, must be located in areas where the plan indicates that they are appropriate and compatible with surrounding land uses.
4. **GOAL J-10:** Diversify the economy by providing small-business opportunities.
5. **POLICY J-10-3:** Promote growth of local companies.

Columbus' economic history is tied to the growth of its industrial base. In addition to attracting outside companies to locate in Columbus, the city should nurture the growth of those companies already located in the community.

The Bicycle & Pedestrian Plan Comprehensive Plan element recommends a rural bicycle route on Goeller Road and 525 West. An existing shared use path is located within Spring Hill Lake subdivision on the north side of Goeller Road and ends at 475 West.

Provisional Findings of Fact/Decision Criteria:

Section 12.4(D) of the Zoning Ordinance permits the Board of Zoning Appeals to allow conditional uses that meet the criteria listed below. The Board may impose reasonable conditions as part of an approval.

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

Provisional Findings: A residential property management contractor's office will not cause problems for public health as the majority of the work done by the company will be done off-site. Any negative impact of commercial trucks or equipment entering / exiting the site would be negated with the clarification / modification of the driveway access to the property. Further, review and approval of the septic system by the Indiana Department of Health would ensure its suitability for the proposed use. If the driveways are modified to provide clear, more-limited access with greater separation from the 525 West / Goeller Road intersection and the septic system is found and/or made to comply with applicable requirements, *this criterion has been met.*

2. The development of the property will be consistent with the intent of the development standards established by the Zoning Ordinance for similar uses.

Provisional Findings: The property has legal non-conforming site features. The applicant states that no new construction is planned by the contractor who will be using the site. Parking is based on the number of employees for the contractor office. The site could accommodate at least 14 parking spaces. Provided there are fewer than 14 employees, *this criterion has been met.*

3. Granting the conditional use will not be contrary to the general purposes served by the Zoning Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.

Provisional Findings: The proposed conditional use will not cause permanent injury to neighboring property uses in the vicinity as most work will be done off-site and the subject property will primarily be used for clerical and office tasks related to the business and storage of equipment and vehicles. If the fence enclosing the outdoor storage area is repaired and made to be 100% opaque, *this criterion has been met.*

4. The proposed use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.

Provisional Findings: The Comprehensive Plan encourages small businesses in order to diversify the economy and encourages the growth of locally owned businesses. A property management contractor's office will be consistent with the intensity of other commercial uses in the CC (Commercial: Community) zoning district. *This criterion has been met.*

Board of Zoning Appeals Options:

In reviewing a request for *conditional use* the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

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City of Columbus - Bartholomew County Planning Department

Conditional Use Application

Submit applications and materials by e-mail to planning@columbus.in.gov. If questions, please call: 812.376.2550.
Submittal instructions available at <https://www.columbus.in.gov/planning/applications-forms/>.

To be Completed by the Planning Department

Pre-submittal Meeting on (date): _____ by (initials): _____

Application Received on (date): 12/19/23 by (initials): JAM

Jurisdiction: Columbus Bartholomew County Joint District

Hearing Procedure: Board of Zoning Appeals Hearing Officer

Docket No.: CCU-2023-019 Zoning District: CC

Property Owner Name (from GIS): Ronald P & Sue S McIntyre

To be Completed by the Applicants

STOP! All conditional use applicants must meet with a Planning Department staff member before completing this application. Please contact the Department at 812.376.2550 at least 1 week prior to the applicable Board of Zoning Appeals application deadline to schedule a review meeting. The Department cannot guarantee a timely review meeting if contacted less than 1 week prior to the deadline and is not responsible for any missed deadline that may result.

Representative / Notification Information:

The contractor, surveyor, attorney, or other person authorized to act on behalf of the project owner (or the project owner if no other representative will be used) and to whom all correspondence regarding this application should be directed.

Representative Person's Name: Mark Daugherty

Representative's Company Name: Daugherty Design Plus

Mailing Address: P.O. Box 1373 Nashville IN 47448
(number) (street) (city) (state) (zip)

Phone No.: 812-350-9655 E-mail Address: markd.ddp@gmail.com

All correspondence will be by e-mail unless another method has been agreed upon by the Planning Department.

Project Information:

The home owner, business, institution, etc. that is making the request – NOT the contractor, surveyor, or other representative (see above). If the project owner will be representing themselves, their information should be entered above and "same as above" may be entered below.

Home Owner, Business, Institution, Etc. Name: Estate of Ronald McIntyre for J&D Services

Business, Institution, Etc. Contact Person Name: Darryl McIntyre, executor

Mailing Address: 4110 Polk City Rd. Haines City FL 33844
(number) (street) (city) (state) (zip)

Phone No.: 812-350-1506 E-mail Address: dbm55ski@gmail.com

Property / Location Information:

Property Address: 1371 S 525W Columbus
(number) (street) (city)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, etc.):

Lots 1, 2, 3, and 4 of McIntyre's Replat Lots 1-4 of Riker's Minor Plat (Plat Book "K", Page 83) JRB 1.17.2024

Conditional Use Requested:

I am requesting a conditional use per Section 3.20 B of the Zoning Ordinance to allow the property to be used for the following (as defined by the zoning ordinance):

contractor's office/shop, for J&D Services

Please describe the proposed use further:

offices for property management contractor, providing asphalt and concrete repair, snow removal, hardscaping, gutter cleaning, grading, seeding, and similar services to area homeowners and businesses.

Conditional Use Criteria:

The Columbus & Bartholomew County Zoning Ordinance establishes specific criteria that each must be met in order for a conditional use to be approved. Describe how the conditional use requested meets each of the following criteria.

1. **The approval of the conditional use will not be injurious to the public health, safety, and general welfare of the community.** For example: What harm could come from approving the conditional use? Would it create any public safety issues? Why or why not?

No harm should come to the public health, safety and general welfare of the community to allow this use of the property, as it is probably a cleaner and less intrusive use than the former use as an auto body shop.

2. **The development of the property will be consistent with the intent of the development standards established by the Zoning Ordinance for similar uses.** For example: Will the conditional use be able to meet minimum building setbacks, parking standards, and other requirements? If not, are variances being sought to address those items?

The existing building will be used; no new construction is planned at this time. Parking will meet current standards.

3. **Granting the conditional use will not be contrary to the general purposes served by the Zoning Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.** For example: The property is zoned CC. Are there risks that the conditional use will cause harm to the neighbors ability to use and enjoy their property? Is there reason to believe that the conditional use will cause harm to neighboring property values?

Contractor offices/shop are an allowed conditional use in this zoning district. Trucks, trailers, and miscellaneous equipment and materials will be stored on the site when not in use. Little activity would be expected during evening hours when neighbors might be at home, as work happens offsite during the day.

4. **The conditional use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.** Will the conditional use change the character of the area? Will it involve a building, operation, or features that are significantly different than what is common to the zoning district? If the property is located in the jurisdiction of the City of Columbus visit <https://www.columbus.in.gov/planning/comprehensive-plans/>. If the property is in the jurisdiction of Bartholomew County visit <https://www.columbus.in.gov/planning/comprehensive-plans/comprehensive-county-plans/>. Include statements or concepts that support the request.

We believe that this use is consistent with the way the property has been used for many years, namely, as an auto body shop. It will be a local small business, at a "significant intersection" in the neighborhood.

Representative's Signature / Acknowledgement:

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Mark E. Daugherty
(Representative's Signature)

12/18/2023
(Date)

Mark E. Daugherty
(Representative's Printed Name)

Property Owner's Signature:

The owner DOES NOT include a tenant or contract buyer. Applications submitted without the property owner's signature will not be processed.

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. I understand that a public notice sign may be placed and remain on the property until the processing of the request is complete.

Darryl Robert McIntyre
(Owner's Signature)

12-18-23
(Date)

Darryl Robert McIntyre
(Owner's Printed Name)

executor of estate

If the person signing as the "owner" is not specifically listed as such in the records of Bartholomew County please indicate their relationship to that officially listed person, corporation or other entity.

Behrman, Kyra

From: Mark Daugherty <markd.ddp@gmail.com>
Sent: Monday, January 8, 2024 2:08 PM
To: Behrman, Kyra
Cc: Chisato; Darryl McIntyre
Subject: External Message: Re: Comment Letter

Follow Up Flag: Follow up
Flag Status: Flagged

***** ATTENTION *** This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.**

Warning: Replies to this message will go to markd.ddp@gmail.com. If you are unsure this is correct please contact the helpdesk.

McIntyre Rezoning

Hi Kyra- Thank you for the comment memo. I talked with Jeremy Pittman this morning and have some answers to your questions. There will eventually be 5 bins in the fenced enclosure area. Two will be for bark mulch and customers will be allowed to be loaded by the employees (using a small skid loader). One will be decorative stone, another for bagged salt(for deicing). There will be two strictly for use by employees: Cold patch asphalt (required to have on site per contract with the city of Columbus and one bin of rock salt.

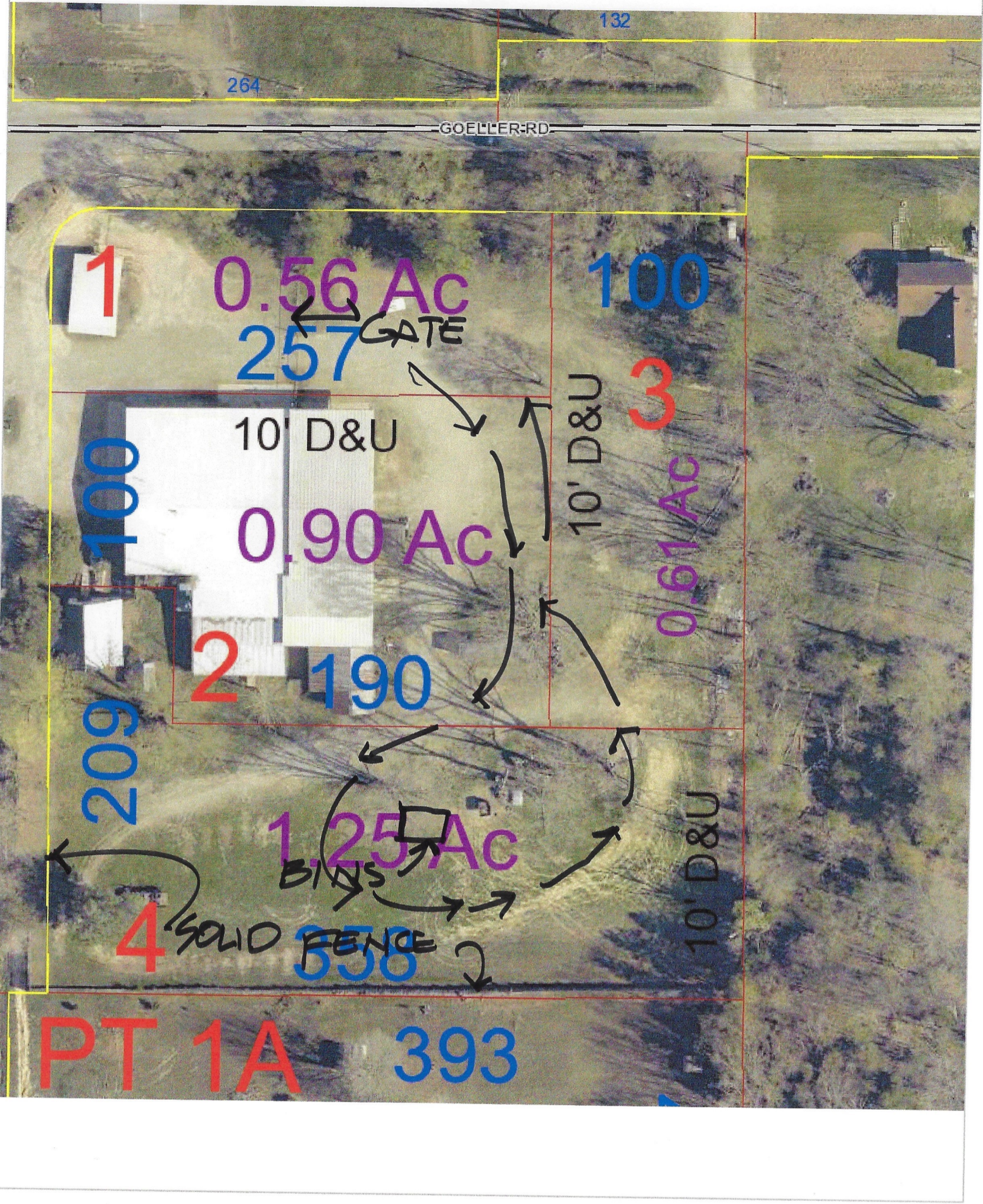
I hope this helps. If you have further questions please contact me. Jeremy Pittman is planning on attending the meeting as well.

Thanks,
Mark

On Wed, Jan 3, 2024 at 2:26 PM Behrman, Kyra <kbehrman@columbus.in.gov> wrote:

Hello Mark:

Attached is the comment letter for the Conditional Use application CCU-2023-019. As I noted in the letter, I have not received other interdepartmental comments but I included the comments made by the same



1 0.56 Ac

100

257 GATE

10' D&U

3

0.90 Ac

10' D&U

0.61 Ac

2 190

100

209

1.25 Ac

10' D&U

4 SOLID FENCE 558

PT 1A 393

132

264

GOELLER-RD