

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

23-W-SE-10 **SPECIAL EXCEPTION**
GTE Mobilenet of Fort Wayne/Verizon Wireless
2429 N. State Road 9

JUNE 27, 2023
AGENDA ITEM: 5

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural

Property area: 19,700± sq. ft. (lease area); 27.28 acres (parcel area)

The petitioner, lessee of the subject property, is requesting special exception approval for a communications tower to be constructed on the subject property located at 2429 N. State Road 9, near the southwest corner of the intersection of State Road 9 and 250 North, in Section 27 of Thorncreek Township.

The property is currently unimproved agricultural land but had been improved with a residence and farm buildings that were removed by 2012. The address given above is that of the former residence. It appears that the drive cut would be reused for this tower, so a new address may not be necessary.

The proposed tower is a 250' guyed tower (255' with lightning rod) with three antenna colocation mounts in addition to the petitioner's own antenna. The center of the tower would be 306'± from the right-of-way of SR 9 and 410'± from the 250 North right-of-way. The tower would be based within a 75'x75' leased equipment area. Additionally, there would be an access/utility easement with a 12' gravel driveway and three easements for guy wires.

The tower/equipment area would be enclosed with an 8' tall chain link fence topped with barbed wire. Evergreens (American Arborvitae) are to be installed on 10' centers around the perimeter of the fence, except on the east side due to the gate and a gravel turnaround area.

In the AG, Agricultural District, communication towers require a special exception through the Board of Zoning Appeals, and the requirements of Section 5.16, Telecommunication Facilities Standards, apply.

SECTION 5.16 STANDARDS

Below are the standards for new telecommunications towers listed in §5.16 of the zoning code, followed by staff's commentary.

A. It shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance and emergencies.

While not explicitly stated that it would be "fully automated and unattended", there is no provision in this proposal for an occupied structure.

B. A proposal for a new telecommunications tower shall only be approved if the applicant provides evidence that co-locating can not be done to provide the needed coverage. The applicant must submit coverage maps as if they are using the existing facilities/towers in the area. The applicant must demonstrate that adequate coverage can not be found by using other facilities/towers or other tall structures in the area...

Per Indiana Code 8-1-32.3-15(f), it does not appear that this can be requested of an applicant.

C. A propagation study will accompany an application for a new telecommunications tower (if co-location cannot be achieved.)

Per Indiana Code 8-1-32.3-15(f), it does not appear that this can be requested of an applicant.

D. Any proposed telecommunication tower shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicants height and at least three (3) additional users. Towers must be designed to allow for future rearrangement of antennas upon the tower and accept antennas mounted at varying heights. The lot where the tower is located (or lease area) shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users.

There are three co-location mounts indicated on the proposed plans. The site plan suggests that there are sites in the equipment area for two additional users; more may be accommodated by rearranging utility connections.

E. No part of any wireless telecommunications facility nor any lines, cables, equipment, wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, trails or property line.

This appears to be met.

F. All antennas, tower and accessory structure constructed within the Whitley County Plan Commission jurisdiction, shall comply with the following requirements...

If the special exception is approved, these standards will be verified as part of permit review.

G. The following requirements shall apply:

1. Minimum front, side and rear property setbacks equal to the height of the tower plus fifty (50) feet.

While IC 8-1-32.3-17 may not allow this standard to be enforced, it appears the proposal does meet this standard.

2. Maximum height of tower; three hundred (300) feet.

While IC 8-1-32.3-17 may not allow this standard to be enforced, it appears the proposal does meet this standard.

3. Maximum height of accessory structure; fifteen (15) feet.

The proposed equipment would be less than 10' in height.

4. Tower shall be placed no closer than five hundred (500) feet from any residential zoning district or commercial zoning district.

The nearest residential zoning district is greater than 500' away.

5. An eight (8) foot high security fence shall completely surround the tower and equipment building.

This standard appears to be met and will be verified during permit review.

H. The following buffer plantings shall be located around the perimeter of the security fence of a wireless communications facility:

1. An evergreen screen shall be planted around the entire facility.

a. If hedges are used they shall be a minimum of five (5) feet tall and planted a maximum of ten (10) feet on center.

b. If evergreens are used they shall be a minimum of five (5) feet tall and planted a maximum of ten (10) feet on center.

This standard appears to be met and will be verified during permit review.

2. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

There appears to be no applicable vegetation on this site.

REVIEW CRITERIA

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and 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 special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**

The proposed tower, in conjunction with the proposed setbacks and development standards, is designed to minimize danger to other property and person by avoiding collapse and mitigating injury if a collapse does occur. More generally, communications towers typically do not include noxious elements and would be expected to comply with the specific performance standards of §5.7, with the following comments:

"B. Electrical Disturbance: No use on a property shall cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity."

Telecommunications towers of all kinds can produce interference to radio, television, and other equipment in the area. However, the zoning code is specific in stating that no use shall cause "electrical disturbance," which, for example, may occur when using unshielded electric industrial equipment. Resolving radio signal interference caused by other radio sources should typically fall under the authority of the Federal Communications Commission.

"D. Noise. No use on a property shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration..."

Telecommunications equipment, or accessory equipment such as air conditioning, could generate noise. The proposed distances between the site and residences (at least 550'±) should be sufficient to mitigate objectionable sounds.

- 2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;**

The proposed tower and site appear to comply with the landscaping and siting/setback standards of the code. One guy wire anchor may be within the easement of the Egolf legal drain; if this is the case, its location would require Drainage Board approval.

- 3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;**

A telecommunications tower is an obviously different structure than the residences, church, and farm buildings in the immediate neighborhood and so would have a different visual impression than those structures. However, that may not be "inconsistent" as there are a variety of permissible structures found in agricultural areas that are relatively different in form yet still consistent with the neighborhood, such as silos, grain elevators, high voltage power lines, and so on.

- 4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and**

The proposed communication tower would likely not create traffic congestion or access problems since there is negligible traffic generated from this use.

5. The special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.

For the Board’s reference, the following is Section 1.4 of the Ordinance:

This Ordinance is intended to guide the growth and development of the County in accordance with the Whitley County Comprehensive Plan and for the following purpose.

- A. *To secure adequate light, air, and convenience of access; and safety from fire, flood, and other dangers;*
- B. *To promote the public health, safety, comfort, convenience, morals and general welfare;*
- C. *To plan for the future development of the County to the end;*
 - 1. *That the community grows only with adequate public ways, utility, health, educational, and recreational facilities;*
 - 2. *That the needs of agriculture, industry, and business be recognized in future growth;*
 - 3. *That residential areas provide healthful surroundings for family life;*
 - 4. *That the growth of the community is commensurate with and promotes the efficient and economical use of public funds; and*
 - 5. *That the community strives for high aesthetic value, quality planning and design.*

The Comprehensive Plan generally does not give recommendations on wireless facilities, but it does give general recommendations in Objectives 4.5 and 4.8 about promoting infrastructure, particularly broadband infrastructure, for economic development. Objective 1.5 discusses protection of “rural character” from suburban or urban development, but telecommunications towers are not readily described as any particular type of development.

For convenience, Staff suggests that the purposes listed in §1.4 might be narrowed to striving for high aesthetic value and the promotion of public comfort and convenience as the primary considerations for the Board in this criterion. However, other purposes of course may factor into the Board’s decision and findings.

SUGGESTED CONDITIONS

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

- 1. The Special Exception is granted as presented and per the site plan.
- 2. Obtain Drainage Board approval if any improvements are to be located in a legal drain easement.
- 3. The evergreen landscaping must screen all sides of the equipment area.

Date report prepared: 6/12/2023

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion: _____ By: _____ Second by: _____
 Approve _____
 Approve w/conditions _____
 Deny _____

Vote:	Green	Sheiss	Wilkinson	Wolf	Wright
Yes					
No					
Abstain					

CELLCO
PARTNERSHIP, d/b/a
verizon
INDIANAPOLIS, INDIANA 46240

MISSION 1
COMMUNICATIONS
FORT WAYNE, INDIANA 46804

MISSION 1
COMMUNICATIONS
FORT WAYNE, INDIANA 46804

CERTIFICATE
**PRELIMINARY
NOT FOR
CONSTRUCTION**

RELEASE DATE	DESCRIPTION
12-18-2020	LEASE EXHIBIT
02-19-2020	LEASE EXHIBIT
03-26-2020	LEASE EXHIBIT
06-22-2020	LEASE EXHIBIT
08-12-2020	PRELIMINARY SITE PLANS
07-15-2020	PRELIMINARY SITE PLANS
10-26-2020	PRELIMINARY SITE PLANS

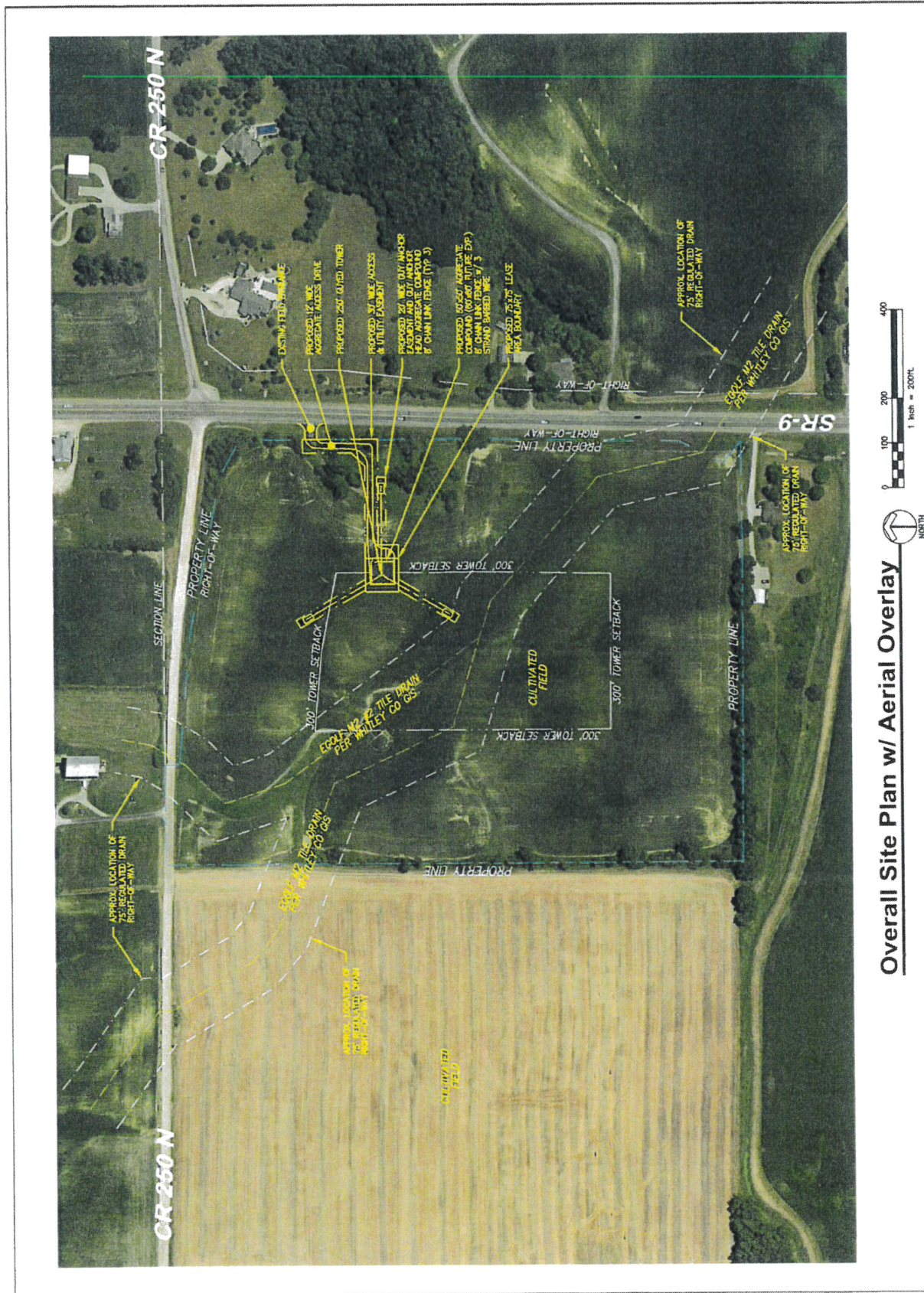
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**GN2
COLUMBIA CITY
NORTH
CELL SITE**

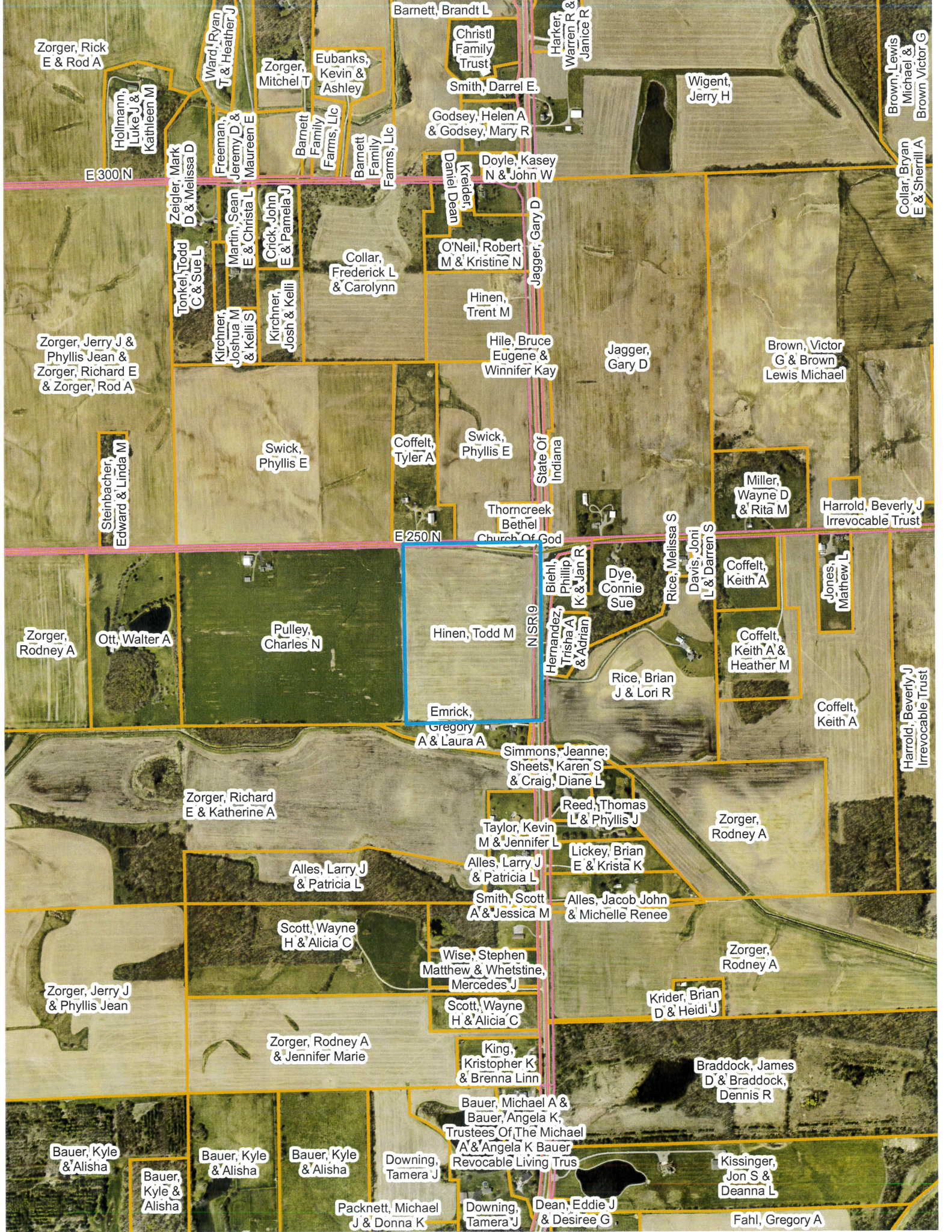
**SITE ADDRESS
STATE ROAD 9
COLUMBIA CITY, IN 46726**

**SHEET TITLE
OVERALL SITE PLAN w/
AERIAL OVERLAY**

**SHEET NO.
C-1**



Overall Site Plan w/ Aerial Overlay



Zorger, Rick E & Rod A

Hollmann, Luke J & Kathleen M

Ward, Ryan T & Heather J

Zorger, Mitchel T

Eubanks, Kevin & Ashley

Barnett, Brandt L

Christ Family Trust

Harker, Warren R & Janice R

Wigent, Jerry H

Brown, Lewis Michael & Brown, Victor G

E 300 N

Freeman, Jeremy D & Maureen E

Barnett Family Farms, Llc

Barnett Family Farms, Llc

Godsey, Helen A & Godsey, Mary R

Doyle, Kasey N & John W

Collar, Bryan E & Sherrill A

Zeigler, Mark D & Melissa D

Tonkel, Todd C & Sue L

Martin, Sean E & Christa L

Crick, John E & Pamela J

Keider, Daniel Dean

O'Neil, Robert M & Kristine N

Collar, Frederick L & Carolynn

Hinen, Trent M

Zorger, Jerry J & Phyllis Jean & Zorger, Richard E & Zorger, Rod A

Steinbacher, Edward & Linda M

Swick, Phyllis E

Coffelt, Tyler A

Swick, Phyllis E

Hile, Bruce Eugene & Winnifer Kay

Jagger, Gary D

Brown, Victor G & Brown Lewis Michael

E 250 N

Thorncreek Bethel Church Of God

Miller, Wayne D & Rita M

Harrold, Beverly J Irrevocable Trust

Zorger, Rodney A

Ott, Walter A

Pulley, Charles N

Hinen, Todd M

Biehl, Phillip K & Jan R

Dye, Connie Sue

Rice, Melissa S Davis, Joni L & Darren S

Coffelt, Keith A

Jones, Mathew L

Coffelt, Keith A & Heather M

Rice, Brian J & Lori R

Coffelt, Keith A

Harrold, Beverly J Irrevocable Trust

Emrick, Gregory A & Laura A

Simmonds, Jeanne; Sheets, Karen S & Craig, Diane L

Zorger, Richard E & Katherine A

Reed, Thomas L & Phyllis J

Zorger, Rodney A

Taylor, Kevin M & Jennifer L

Alles, Larry J & Patricia L

Alles, Larry J & Patricia L

Lickey, Brian E & Krista K

Smith, Scott A & Jessica M

Alles, Jacob John & Michelle Renee

Zorger, Jerry J & Phyllis Jean

Scott, Wayne H & Alicia C

Wise, Stephen Matthew & Whetstine, Mercedes J

Zorger, Rodney A

Zorger, Rodney A & Jennifer Marie

Scott, Wayne H & Alicia C

Krider, Brian D & Heidi J

King, Kristopher K & Brenna Linn

Braddock, James D & Braddock, Dennis R

Bauer, Kyle & Alisha

Bauer, Kyle & Alisha

Bauer, Kyle & Alisha

Bauer, Kyle & Alisha

Downing, Tamera J

Bauer, Michael A & Bauer, Angela K, Trustees Of, The Michael A & Angela K Bauer Revocable Living Trus

Kissingner, Jon S & Deanna L

Packnett, Michael J & Donna K

Downing, Tamera J

Dean, Eddie J & Desiree G

Fahl, Gregory A