

The Brown County Area Board of Zoning Appeals hereby amends its January 29, 2020, findings of fact and conclusions (set forth in the Director's Report) on Petition 20-SE-02 by adding the following findings and conclusions relating to the special exception requirements of Zoning Ordinance 3.4 A 3:

1. The Petition site is a three acre parcel located on Gartner Drive (a private road) approximately 1100 feet (i.e., the length of 3.7 football fields) from the intersection of Gartner Drive and West Robertson Road.
2. Approximately 45 full-time residential use homes are located along or off of West Robertson Road. Three of the 45 full-time residents appeared before the Board to remonstrate against the Petition.
3. Additionally, approximately 25 to 30 weekend or summer rentals are located along or off of West Robertson Road.
4. Approximately 60% of the dwellings on or off of West Robertson Road are residential, and approximately 40% are commercial.
5. The south west side of the Petition site is surrounded by 193 acres of State owned land. The State logs its property from time to time and, using large logging trucks, removes its timber from the area by way of Gartner Drive and West Robertson Road. The State logged its property approximately 6 years ago.
6. The remaining sides of the Petition site are surrounded by land owned by the Petitioner or the Petitioner's family.
7. West Robertson Road is wider and better maintained than most County roads. It is between 16 and 17 feet wide.
8. West Robertson Road was blacktopped approximately 6 years ago and remains in good condition, even though it has been used by logging trucks since that paving.
9. The Petitioner's father operates a construction business off of West Robertson Road. Dump trucks and heavy equipment are driven and hauled on West Robertson Road to and from the construction business.
10. The Petitioner's father established a log yard on the Petition site during the 1950s. The Petition site has been used as a log yard, for many years, since the 1950s.
11. The Petitioner site has been used as a log yard by Shady Oaks Logging LLC ("Shady Oaks Logging") for the past 6 years.
12. Shady Oaks Logging has transported logs to and from the Petition site by driving large logging trucks (semi tractors and trailers), on West Robertson Road.

13. Shady Oaks Logging traffic on West Robertson Road is sporadic, some weeks involving one truck per day, other weeks involving 5 trucks per day. Several months may pass without Shady Oaks Logging truck traffic traveling West Robertson Road.

14. Other large vehicles (vehicles 8 feet wide, or more) frequently travel West Robertson Road, including school buses, dump trucks, excavators, dually pickup trucks. Combines and tractors with widths of 14 use West Robertson Road to access agricultural fields.

15. Logging trucks and school buses are able to safely pass each other on West Robertson Road.

16. One of the three West Robertson Road remonstrators testified that she had nearly collided with a logging truck on West Robertson Road in the Fall of 2019. Her account was disputed by the logging truck driver Christopher Buccos. The remonstrator also claimed that someone had a mirror torn off of their vehicle on West Robertson Road. That claim was disputed as well. No other reports of accidents or problems on West Robertson Road were presented or cited by the remonstrators or other speakers.

17. The remonstrators did not complain of noise, runoff, pollution, odor, vibration, hours of operation, visual blight, the blocking of light or air, associated with the existing operation of the log yard on the Petition site.

18. The remonstrators did not claim that the existing log yard operation on the Petition site, or the Board's sanctioning of that operation, did or would interfere with the use, enjoyment, or value of their properties. Rather, each of the remonstrators exclusively expressed concerns regarding the safety of the use of a public road, specifically West Robertson Road, by logging trucks.

19. The remonstrators' concerns are largely speculative concerns and are not supported by reported incidents, accidents, traffic studies, or other data.

20. Brown County roads tend to be narrow, curvy, and hilly and vehicles must frequently slow down, pull over, and stop so that vehicles can safely pass, and pedestrians, joggers, and other users must be vigilant and alert while using the roads.

21. Pursuant to the Brown County Zoning Ordinance, properties adjoining County roads are zoned Residential 2. However, land located greater than 300 feet from a County road is zoned Forest Reserve.

22. Pursuant to the Brown County Zoning Ordinance, general industrial uses are allowed as special exception uses within Forest Reserve Districts.

23. By authorizing general industrial special exception uses in Forest Reserve Districts, it is clear that the County Commissioners contemplated that traffic associated with general industrial uses would, of necessity, pass through Residential 2 districts over County roads.

24. The Board concludes that the establishment of the log yard on the Petition site, and its approval as a special exception, did not and would not result in substantial and permanent injury to the other properties or uses (i.e., the State and Buccos family properties) within the Forest Reserve District.

25. The Board concludes that establishment of the log yard on the Petition site, and its approval as a special exception, did not and would not result in substantial and permanent injury to the other properties or uses (i.e., the State, Buccos family, and remonstrator's properties) in the vicinity of the Petition site.

26. Because West Robertson Road is one of the wider and better maintained County roads, because only one or two minor traffic incidents have been claimed, in spite of the use of that road by a variety of large vehicles over the past 6 years, because West Robertson Road has been safely used by a variety of large vehicles for decades, and because general industrial special exceptions in Forest Reserve Districts by necessity must travel on County roads through Residential 2 districts, the Board concludes that the establishment of the log yard on the Petition site, and its approval as a special exception, did not and would not subvert the following purposes of the Zoning Ordinance:

- a. promote the orderly, responsible and beneficial development and use of land within the County Jurisdictional Area;
- b. promote the public health, safety, comfort, convenience and general welfare of the residents and guests of the County; and,
- c. protect the character and stability of residential, business and natural areas.

So approved and amended by the Brown County Area Board of Zoning Appeals this 2nd day of March, 2020.

“Ayes”

“Nays:

JOHN DILLBERGER, President

JOHN DILLBERGER, President

DARLA BROWN, Vice President

DARLA BROWN, Vice President

DEBBIE BARTES

DEBBIE BARTES

RANDY JONES

RANDY JONES

CHARLES "BUZZ" KING

CHARLES "BUZZ" KING

ATTEST:

KAYLA ROBERTSON, Secretary

AGENDA
BROWN COUNTY BOARD OF ZONING APPEALS
COUNTY OFFICE BUILDING - SECOND FLOOR MEETING ROOM
MARCH 2ND, 2020
MONDAY 6:30 PM

Please silence cell phones and electronic devices at this time.

ROLL CALL:

- 1.) February 26, 2020 Board of Zoning Appeals Hearing Continued.**

DISCUSSION, ANNOUNCEMENTS AND INSPECTOR REPORTS:

If you have a disability that limits your participation in the meeting, please call 988-5490 for assistance.