



**BARTHOLOMEW COUNTY
BOARD OF ZONING APPEALS
(January 25, 2016 Meeting)**

STAFF REPORT

Docket No. / Project Title: B/CU-15-11 (Wildlife Utopia)
Staff: Melissa Begley
Applicant: Kathleen Hershey
Property Size: 9.08 Acres
Zoning: AG (Agricultural: General)
Location: 18300 East 200 North, in Clifty Township

Background Summary:

Wildlife Utopia has been in existence at this location for 14 years and over the last several years has expanded the wildlife sanctuary on the site where the owners also reside. The Zoning Ordinance does not have a use classification or definition of a wildlife rehabilitation facility, so for the purposes of classifying the use, Planning Department staff has determined that an “animal shelter” is the most similar definition. Under the Zoning Ordinance an “animal shelter” requires conditional use approval in the AG (Agricultural: Zoning District). The applicants are also requesting to construct a 40ft. by 60ft. (2,400 square foot) pole barn on the property to house existing animals on the property and for additional storage space. The new barn is not intended to increase the number of animals on the property.

Preliminary Staff Recommendation:

Approval, all criteria have been met.

Zoning District Intent:

The intent of the AG (Agricultural: General) zoning district is as follows: to provide areas for a mixture of agricultural and residential land uses. This mixture is intended to support the long-term viability of agricultural operations, while also allowing increased non-agricultural development in areas adjacent to developed infrastructure. This district should be used to provide unique, rural housing options and the future ability to extend urban infrastructure.

Current Property Information:	
Land Use:	Animal shelter (wildlife sanctuary), single family residential
Site Features:	Single family residential structure, woods, an agricultural field, and 17 various sized structures to house animals.
Flood Hazards:	No flood hazards exist on this property.
Vehicle Access:	200 North (Collector)

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	AG (Agricultural: General)	Woods, large lot single family residential
South:	AP (Agricultural: Preferred)	Agricultural fields
East:	AG (Agricultural: General)	Agricultural fields
West:	AG (Agricultural: General)	Large lot single family residential

Interdepartmental Review:	
County Engineer:	County Highway does not have any issues with this request.
Code Enforcement:	Code Enforcement does not have any issues with this proposal.

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 operated Wildlife Utopia at the subject property since 2002. They are a 501c3 not-for-profit rehabilitation facility that provides care and shelter to wildlife in need and provides education to the public. The applicant also lives at this location.
2. The property contains a single family residence and 17 accessory structures that house a variety of native wildlife animals, including cottontail rabbits, songbirds, skunks, box turtles, squirrels, opossums, birds of prey, bats, waterfowl and a limited number of foxes, raccoons and coyotes. The structures are located in the wooded portion of the property and are not constructed on permanent foundations. This was intended so that the structures could be easily removed if the wildlife sanctuary was disbanded or moved to a different location.
3. The accessory structures on the subject property sit over 800 feet from County Road 200 North. The nearest neighboring residential dwelling is over 450 feet to the west. There also exists an area of dense evergreens adjacent to 200 North, partially screening the operation from the road. The properties to the east and south are large agricultural fields and the properties to the north are large single family residential lots that are predominantly wooded.
4. The care and housing of the wildlife animals is also regulated by the State of Indiana, the Federal Fish and Wildlife Service and the USDA. Wildlife Utopia renews their permits annually and the property is inspected annually. The animal waste generated is small and the waste produced is either enzymatically composted or bagged and sent to the landfill. Dead and euthanized animals are cremated by "Faithful Friends In Passing" of Newbern.
5. The property is accessed from an existing gravel drive off of County Road 200 North. County Road 200 North is a collector road, which means it carries more than local traffic. The road is 18 feet wide with no shoulders in most places. It narrows to 17 feet 6 inches near the Oak Hills subdivision located between 925 East and 1050 East. Additionally, the sight visibility at the entrance to Oak Hills is poor. The current county standard for a new collector road is 22 feet wide with 6 foot shoulders.
6. The applicant has indicated that they are not open to the public without an appointment. They have scheduled educational programs on-site about 4 times monthly for scouts and student groups. They have a school bus with students about 4 times a year. They also have "First Saturday" educational programs which brings in 50 to 60 people one Saturday a month from 1pm to 3pm. There are approximately 1 to 2 non-paid volunteers on-site daily.

7. The applicant has indicated there is over 400 yards of crushed stone driveway and a parking area of gravel to provide parking for visitors. In the AG (Agricultural: General Rural) zoning district, parking areas are not required to be paved.
8. As part of this proposal, the applicant is requesting to construct a 40 foot by 60 foot (2,400 square foot) pole barn on the site for storage and animal housing. This will not be used to add additional animals but to provide more space for the existing animals and for additional storage space. In the AG (Agricultural: General Rural) zoning district, structures are required to be setback 15 feet from side and rear property lines. The structure will be located just south of the woods, just west of the gravel drive, approximately 500 feet north of the road.

Comprehensive Plan Consideration(s):

The Future Land Use Map indicates the future use of this property as general rural district.

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

1. **Policy 1-D:** Require appropriate buffers to allow the continued full use of adjoining farmland and to reduce conflicts between neighboring uses.
2. **Policy 2-B:** Ensure that development occurs in a manner that preserves farmland, wildlife habitat, woodland, and significant natural features.

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: The proposal will not be injurious to the public health and general welfare of the community. The animal waste generated is small and the waste produced is either enzymatically composted or bagged and sent to the landfill. Dead and euthanized animals are cremated by "Faithful Friends In Passing" of Newbern. The site is accessed from an existing residential drive and has good sight visibility, however the poor site visibility at the Oak Hills subdivision could limit future plans for additional public events that would increase traffic in the area, otherwise it will not be injurious to public safety. *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 development is consistent with the intent of the development standards. The property has several accessory structures on the property, however there is no Zoning Ordinance limit on accessory structures on lots greater than 2 acres. The structures will be required to observe the required setbacks for accessory structures, which is 15 feet from side and rear property lines. There is adequate visitor parking located on the gravel drive. Gravel parking is permitted in agricultural zoning districts. *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 structures for the wildlife sanctuary are located in the wooded portion of the site and are obscured from view from 200 North and the adjacent residences. With the exception of the single family residence, the structures are not constructed on permanent foundations to be easily removed if the wildlife sanctuary is disbanded or moved to a different location. The new 40 ft. by 60 ft. pole barn will be located on a permanent foundation and will be sited approximately 500 feet north of the road, on the edge of the field and the wooded area. The properties located to the west of the subject property are large lot single family residential.

Many of the properties contain multiple accessory structures. The properties to the east and south are large agricultural fields and will not be impacted by this use. *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 AG (Agricultural: General Rural) zoning district is intended to provide a mixture of agricultural and residential land uses. This proposal is not inconsistent with any recommendations of the Bartholomew County Comprehensive Plan and the subject property will maintain its rural character. *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.



UTOPIA WILDLIFE REHABILITATORS

Since 2002, Utopia Wildlife Rehabilitators and its team of wildlife care professionals, veterinarians, and volunteers has worked in the South Central Indiana region to provide a high level of veterinary medical care, rehabilitation and release for native Indiana wildlife species, birds and birds of prey.

WHO ARE WE?

In addition to providing care and shelter to wildlife in need, we make an effort to inform and educate our community. We provide expert information for individuals and property owners who are faced with wildlife conflict issues and questions.

Our educational programs for children and adults provide “up close” experiences with live “animal ambassadors” and help the public better know and understand the presence and needs of wildlife in our area. These can be tailored to a group’s needs and match Indiana State teaching standards. Contact us for program information.

WHY IS IT IMPORTANT?

As our populations grow and habitats shrink and are fragmented, wild animals and birds must adapt to survive. Consequently, more wild animals are living closer to humans than ever before. Each year we treat increasingly large numbers of wild animals and birds who are injured directly or indirectly by humans. They are hit by cars, caught in fences or traps, hurt by dogs or cats, run into windows or are shot or intentionally injured. Because our culture is busier and people spend almost all of their time indoors, there has never been a greater need for nature education.

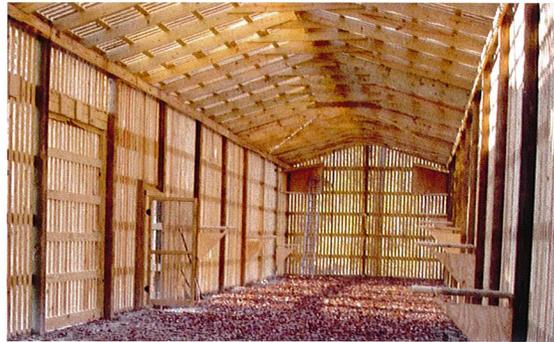


WHY IS IT IMPORTANT?

In Indiana and most states it is against the law for individuals to possess or care for native wild animals without special permits. It is against Federal law to handle, keep or possess native wild birds of prey (vultures, owls, and eagles.) Consequences may include fines, jail time or both. We have Indiana State and Federal permits as well as special possession and educational use permits. Additionally, we have staff with specialized training and education in wildlife medicine, care, behavior and diet.

Wild animals differ in every way from our domestic pets, and have anatomy, diseases, and problems which are very specific. We serve the community by providing expert information and assessment of potential public health threats like rabies, distemper, avian flu, chronic wasting disease and others. We also report to agencies that monitor these potential threats.

The presence and well-being of the wildlife population is a direct indicator of the health of our environment, and awareness of our place in nature is essential if we want to assure quality of life for ourselves and future generations to come.



HOW CAN YOU HELP?

Our critical work cannot be completed without the generous contributions of the community and help of those who are able to lend time and funds. To learn more about different opportunities to help Utopia, please visit us online at utopiawildlife.org.

Volunteer

Skilled or unskilled, if you are over 18 years old, we can use your help. We need help with landscaping, carpentry, cage cleaning, feeding, building, and clerical duties. If you can't commit to a regular day, we can notify you of one of our 'work days' or special projects.

Make a Donation

We are a 501(c)3 organization, so your donation is tax deductible. We can also use donations of building materials, animal care supplies and foods, and fencing.

Get Involved

We love to mentor Eagle Scouts and school service projects, and we have a list of potential projects available.

Sponsor an Animal

When you financially sponsor one of the wild ones at our center, you play a vital role in caring for injured and orphaned wildlife. Your donation goes directly toward the care and treatment of the animal's needs while they continue to live and be cared for here at Utopia.



**Columbus – Bartholomew County Planning Department
Conditional Use Application**

Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County

Zoning: _____

Docket No.: B/cu-15-11

Hearing Procedure: Hearing Officer Board of Zoning Appeals

RECEIVED
NOV 24 2015
BY: Aek

Conditional Use Application:

Applicant Information (the person or entity that will own and/or execute what is proposed):

Name: Kathleen M. Hershey (Utopia Wildlife Rehab.)

Address: 18300 E. Cty Rd. 200 N. Hope IN 47246
(number) (street) (city) (state) (zip)

Phone No.: (812)546-6318 Fax No.: _____ E-mail Address: utopiarehab@gmail.com

Property Owner Information (the "owner" does not include tenants or contract buyers):

Name: Jerald and Kathleen Hershey

Address: 18300 E. Cty. Rd. 200 N. Hope IN 47246
(number) (street) (city) (state) (zip)

Phone No.: (812)546-6318 Fax No.: _____ E-mail Address: utopiarehab@gmail.com

Notification Information (list the person to whom all correspondence regarding this application should be directed):

Name: Kathleen M. Hershey

Address: 18300 E. Cty Rd. 200 N. Hope IN 47246
(number) (street) (city) (state) (zip)

Phone No.: *812-546-6318 Fax No.: _____ E-mail Address: utopiarehab@gmail.com

How would you prefer to receive information (please check one): E-mail Phone Fax Mail

Property Information:

Address: 18300 E. Cty Rd. 200 N. Hope IN 47246
(number) (street) (city) (state) (zip)

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

Conditional Use Requested:

I am requesting a conditional use as listed by Section _____ of the Zoning Ordinance to allow the following:

State and Federally licensed wildlife rehabilitation facility. Utopia Wildlife Rehabilitators has been in continuous existence at

this address for 14 years. We were unaware that this use was considered outside the property's designated Agricultural zoning.

We were notified of the need for a variance by Bill Klaycamp of Zoning Code Enforcement, and at this time are applying

for a variance in an effort to comply and continue our work at this location.

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.

The approval of the conditional use will not be injurious to the public health, safety, and general welfare of the community.

As previously noted, Utopia has been in existence for 14 years. The animals treated as patients there are rehabilitated and released back to their original territories, not on the Utopia property. By law, we may only have them in our possession for 180 days or less.

There are 15 permanently injured, non-releaseable animals which are maintained under state and federal permits for educational use. These are kept in state and federally approved and inspected enclosures. Our operations do not generate waste, odor or any health risk to the public. The animals we treat, are native to the area, and include turtles, small mammals, birds, and birds of prey.

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

The designation of this use as an "animal shelter" is a "best fit" application of the zoning code. We treat no domestic animals, we do not take in "strays", do not do cremations or adoptions, and we are not open to the public. There are no other organizations which are identical to ours in Bartholomew County. This use is not inconsistent with the intent of development standards established for this area.

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.

The conditional use has never, and will never be, contrary to the general purposes set forth by the zoning Ordinance and has never affected other properties or uses in our zoning district and vicinity.

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.

In 14 years here in this location, most of our neighbors have been unaware of our existence. All of our structures are built with no foundation, in accordance with Federal law and are designed to be aesthetically and functionally consistent.

Our facility is regularly inspected by the Indiana DNR, Federal Division of Fish and Wildlife and the USDA, and we are under continuous oversight.

Our use is not inconsistent with the agricultural character of the zoning district in which we are located.

Applicant's Signature:

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

Kathleen Hershey
(Applicant's Signature)

11.23.15
(Date)

Property Owner's Signature (the "owner" does not include tenants or contract buyers):

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. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.

Kathleen M. Hershey
(Owner's Signature)

11.23.15
(Date)

Gerald W. Hershey
(Owner's Signature)

11.23.15
(Date)

ADDITIONAL INFORMATION ABOUT UTOPIA WILDLIFE REHABILITATORS:

We are a 501(c)3 non-profit, and have been in this location for 14 years.

We have Indiana, Federal Fish and Wildlife and USDA, possession, rehabilitation, and educational permits. We must meet their stringent requirements for handling, displaying and housing the animals in our care. We renew our permits annually, and are inspected annually.

We treat **only** native Indiana animals including:

Cottontail Rabbits	Songbirds	skunks	Box Turtles	squirrels
Opossums	Birds of Prey	limited number of foxes, raccoons and coyotes		
Groundhogs	Bats	waterfowl		

- We do not handle domestic animals like dogs and cats.
- We provide expert wildlife consultation and care for City and County Animal Care and Control at no charge. We handle wildlife calls from 17 neighboring counties.

TRAFFIC:

- Utopia is not open to the public without an appointment. By law, no one is allowed on the premises unless we are present.
- Occasionally a finder may come to bring us an injured animal or bird.
- We have scheduled educational programs on-site about 4 times monthly. These are Scout and student groups and generally have less than 6 cars. About 4 times a year there is a school bus. These programs last 1 ½ to 2 hours.
- We have "First Saturday" educational programs which bring in 50-60 people, one Saturday a month. These are from 1 pm to 3 pm.
- We have no paid employees, we may have 1-2 volunteers with cars daily.

NEW POLE BARN:

We wish to construct a 40'x60' pole building for storage and patient housing. It will have running water and a restroom. This will not mean an expansion of Utopia's patient volume, only an attempt to gain much-needed space. To date, intensive care and orphaned animals and birds have been housed in our residence. This will improve care for our patients. We will not increase patient load. We also need storage for animal cages and crates.

RECEIPT

BARTHOLMEW COUNTY PLAN COMMISSION

No 3749

General FUND

COLUMBUS IN., Nov 24 2015

RECEIVED FROM Hepia Wildlife Rehab. \$ 125

THE SUM OF one hundred twenty-five DOLLARS

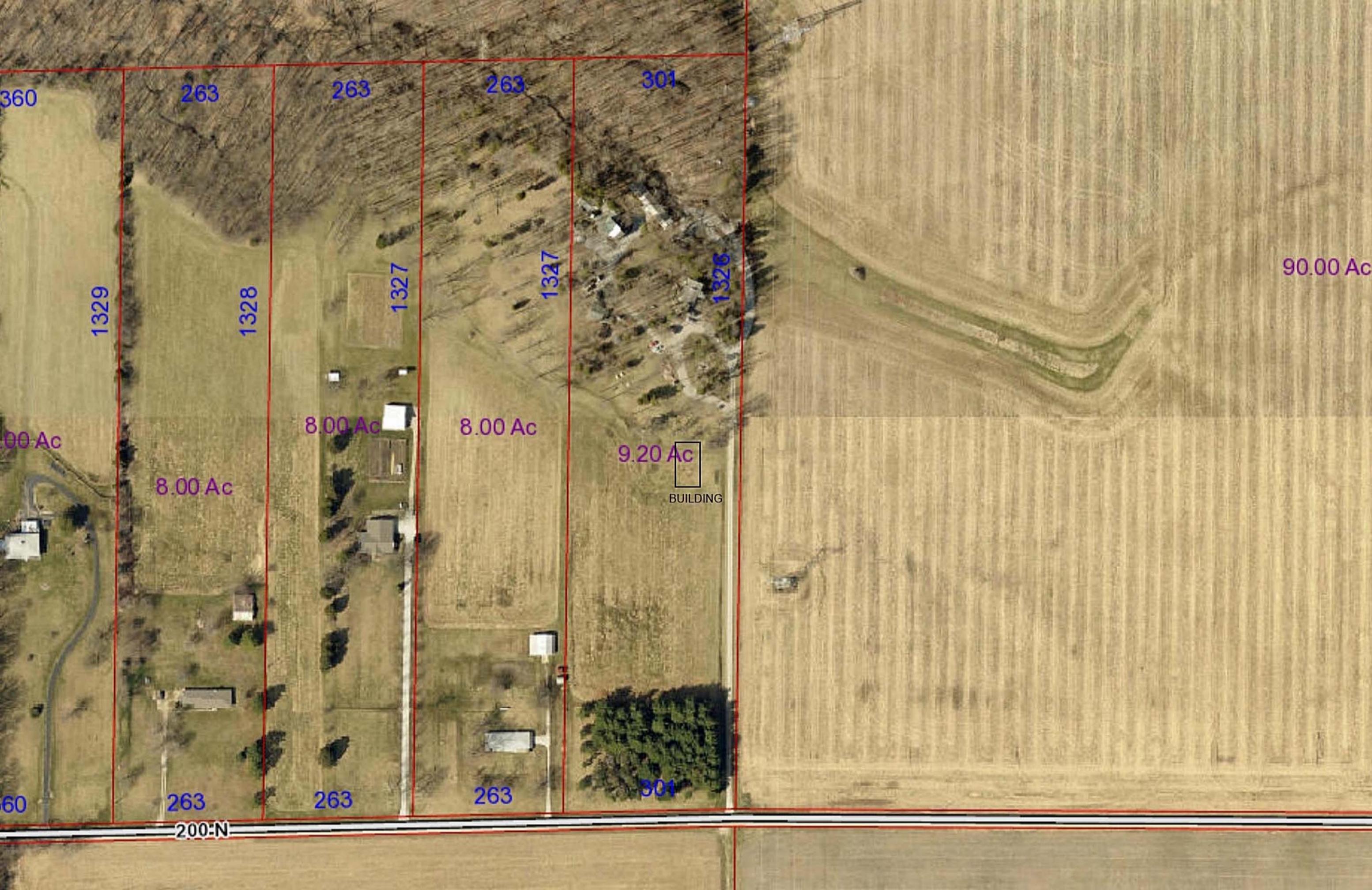
ON ACCOUNT OF Conditional use request

PAYMENT TYPE & AMOUNT check

CASH CHECK 1065 M.O.

E.F.T. C.C./B.C. OTHER

Ashley Kay AUTHORIZED SIGNATURE



360

263

263

263

301

1329

1328

1327

1327

1326

8.00 Ac

8.00 Ac

8.00 Ac

8.00 Ac

9.20 Ac

BUILDING

90.00 Ac

263

263

263

263

301

200:N