



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

May 9, 2024

Case Number: 2024-CPL-814 / 2024-CVR-814
Property Address: 8840 East Edgewood Avenue
Location: Franklin Township, Council District #25
Petitioner: D.R. Horton – Indiana, LLC, by Brian J. Tuohy
Current Zoning: D-4
Request: Approval of a Subdivision Plat to be known as Edgewood Farms West - Section 1, dividing 33.73 acres into 77 lots, with a waiver to allow emergency vehicles to use three different local streets to reach their destination (must not utilize more than two different local streets to reach their destination).
Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for five-foot wide sidewalks along all streets (minimum six-foot wide sidewalks permitted along all streets).
Current Land Use: Vacant land)
Staff Recommendations: Approval of the Subdivision Plat to be known as Edgewood Farms, Section 1, dividing 33.73 acres into 77 lots and waiver to allow emergency vehicles to use three different local streets to reach their destination.
Approval of the variance request.
Staff Reviewer: Kathleen Blackham, Senior Planner

PETITION HISTORY

ADDENDUM FOR MAY 9, 2024, HEARING EXAMINER

The Hearing Examiner continued these petitions from the April 25, 2024 hearing, to the May 9, 2024 hearing at the request of staff.

The plat petition was filed because a similar plat petition, 2022-PLT-006, was approved on April 1, 2022, that included a condition that the plat be recorded two years after the date of conditional approval by the Plat Committee. See Exhibit A, Number 13, and Exhibit B.

Petition 2022-PLT-006 also granted the waiver to allow emergency vehicles to use three different local streets to reach their destination. See Exhibit A, Number 12.

Consequently, staff recommends that the Hearing Examiner approve and find that the plat, file dated March 5, 2024, complies with the standards of the Subdivision regulations, subject to the following conditions:

1. That the applicant provides a bond as required by Section 741-210, of the Consolidated Zoning and Subdivision Ordinance.
2. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
4. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
5. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
6. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
7. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
8. That the Sanitary Sewer Covenant (Section 741-704, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
9. That the Storm Drainage Covenant (Section 741-703, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
10. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
11. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.
12. That the waiver be approved.
13. That the plat shall be recorded within two (2) years after the date of conditional approval by the Hearing Examiner.

This plat (Section 1) is included in a larger subdivision (Edgewood Farms West). Other sections of this subdivision have been approved and five-foot wide sidewalks constructed, which comply with the sidewalk standards of the Department of Public Works (DPW). Consequently, staff supports the one-foot reduction in the sidewalk width because it would maintain a standard sidewalk width throughout the subdivision and would comply with DPW standards.

ADDENDUM FOR APRIL 25, 2024, HEARING EXAMINER

Staff requested a continuance of these petitions from the April 25, 2024 hearing, to the May 9, 2024 hearing, to provide additional time for further discussions with the petitioner's representative.

April 11, 2024

The Hearing Examiner continued these petitions from the April 11, 2024 hearing, to the April 25, 2024 hearing, at the request of the petitioner's new representative. The petitioner engaged the services of a new representative and additional time was necessary for their coordination

STAFF RECOMMENDATION

Staff recommends that the Hearing Examiner **deny the waiver request** and find that the plat, file-dated March 5, 2024, does not comply with the standards of the Subdivision regulations because three different local streets would be required for emergency vehicles to reach their destination, subject to the following conditions, if approved.

1. That the applicant provides a bond as required by Section 741-210, of the Consolidated Zoning and Subdivision Ordinance.
2. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
4. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
5. That addresses and street names, as approved by the Department of Metropolitan Development, be affixed to the final plat prior to recording.
6. That the Enforcement Covenant (Section 741-701, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording
7. That the Site Distance Covenant (Section 741-702, of the Consolidated Zoning and Subdivision Ordinance) be affixed to the final plat prior to recording.
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10. That the plat restrictions and covenants, done in accordance with the rezoning commitments, be submitted prior to recording the final plat.
11. That all the standards related to secondary plat approval listed in Sections 741-207 and 741-208 of the Consolidated Zoning and Subdivision Ordinance be met prior to recording the final plat.

Staff recommends **denial of the variance of development standards**.

PETITION OVERVIEW

Site Plan and Design / Waiver

This 33.73-acre site, zoned D-4, is undeveloped and was included in rezoning petition 2021-ZON-122 that rezoned 62.82 acres to the D-4 district. It is surrounded by single-family dwellings to the north, zoned D-P; land currently being developed to the south and east, zoned D-4; and undeveloped land to the west, zoned I-2.



As proposed, approval of the subdivision plat would provide for 77 lots, a five-foot wide multi-purpose trail and a 3,500 square-foot playground. An approximately 200-foot-wide utility easement runs between the northwest corner and the southeast corner of the site.

Access to this site would be gained from proposed local streets to the west, south and east. Poe Drive is improved and would provide access from the north.

The waiver request would allow emergency vehicles to use three different local streets to reach their destination when the Subdivision Regulations require no more than two different streets to reach their destination.

Causing emergency vehicles to use multiple streets to reach their destination would potentially delay response time and compromise the health and safety of the residents. Additionally, the need for emergency vehicles to make additional turns to reach a destination increases the potential of vehicular and pedestrian conflicts.

Because this site is undeveloped, staff believes an amended site plan and plat should be submitted that complies with the Ordinance and ensures the health and safety of the community residents. Staff, therefore, recommends denial of this request.

Variance of Development Standards

This request would allow five-foot-wide sidewalks along all streets when the Ordinance requires sidewalk to be six feet in width.

Staff believes there is no practical difficulty because the site is undeveloped. Staff also believes that the requested waiver in addition to this request would be an indication that the site and plat should be reconfigured to comply with all the subdivision regulations.

GENERAL INFORMATION

Existing Zoning	D-4		
Existing Land Use	Undeveloped		
Comprehensive Plan	Suburban neighborhood typology		
Surrounding Context	Zoning	Land Use	
	North:	D-P	Single-family / duplex dwellings
	South:	D-4	Under development
	East:	D-4	Under development
	West:	I-2	Undeveloped
Thoroughfare Plan			
East Edgewood Avenue	Secondary Arterial	Existing 30-foot right-of-way and proposed 90-foot right-of-way	

Context Area	Metro
Floodway / Floodway Fringe	No
Overlay	No
Wellfield Protection Area	No
Site Plan	March 5, 2024 - Plat Documents
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	March 5, 2024
Findings of Fact (Amended)	March 14, 2024
C-S/D-P Statement	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Not Applicable to the Site.

Pattern Book / Land Use Plan

- Not Applicable to the Site

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves
 (Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

2021-ZON-122; 8840 East Edgewood Avenue, requested rezoning of 62.82 acres from the I-2 district to the D-4 district, **approved**.

2019-ZON-060; 9295 East Thompson Road and 5252 Hickory Road (north of site), requested rezoning of 76 acres from the D-A (FW)(FF) district to the D-4 (FW)(FF) classification to provide for 204 single-family dwellings at a density of 2.68 units per acre, **approved**.

2019-ZON-059; 9024 East Edgewood Avenue (east of site), requested rezoning of 79.56 acres from the D-A district to the D-4 district to provide for 196 single-family lots at a density of 2.46 units per acre, **approved**.

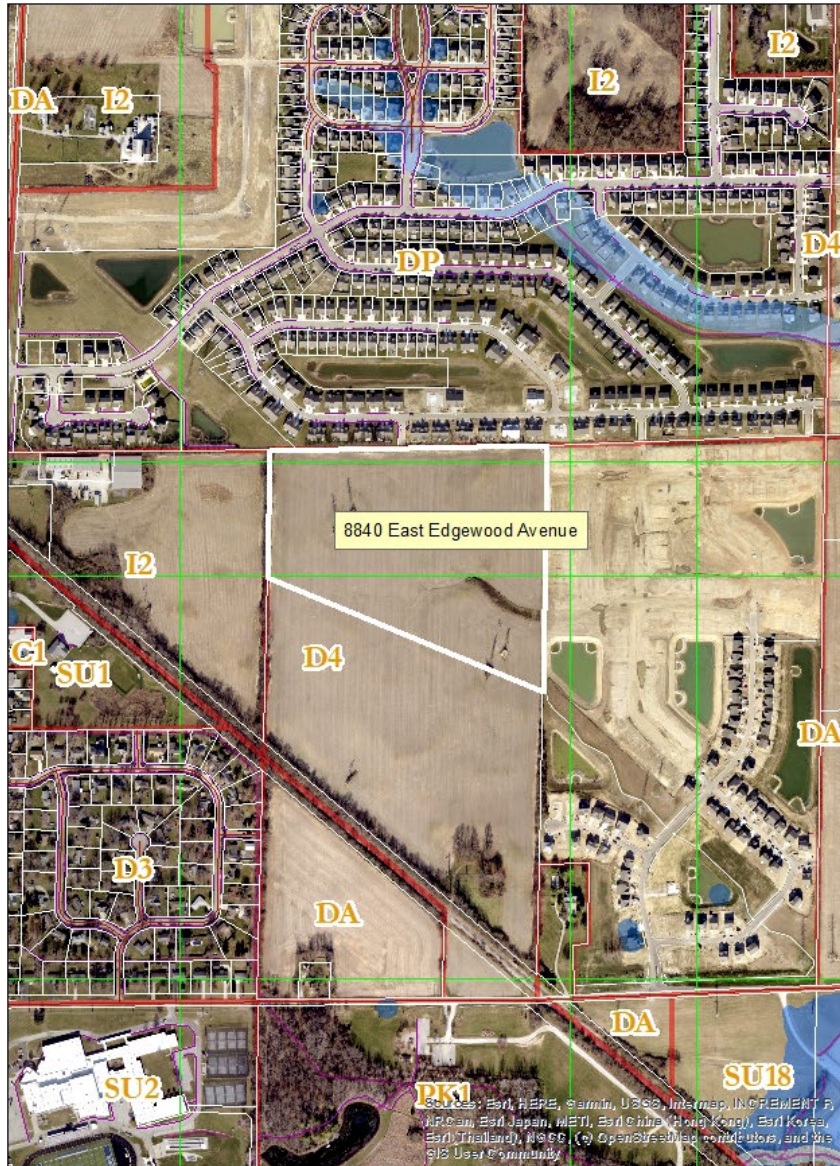
2014-ZON-020; 8701 and 9107 East Thompson Road (north of site), requested rezoning of 126 acres from the D-P District to the D-P classification to provide for 61, two-family dwellings (122 dwelling units) and 298 single-family dwellings (previously approved by 2002-ZON-10 (2002-DP-21), as amended by 2007-APP-094 and 2010-MOD-008), creating a density of 3.25 units per acre, **approved**.

2010-MOD-008; 8701 and 9107 East Thompson Road (north of site), requested modification of development statement and site plan of 2003-ZON-802, as amended by 2007-APP-094 to limit the number of lots to 150, to eliminate the proposed church, to provide differing development standards and add and remove development requirements, **approved**.

2007-APP-094; 8701 and 9107 East Thompson Road (north of site), requested modification of development statement to terminate commitment requiring side-loaded garages, **approved**.

2003-ZON-802, 8701 and 9107 East Thompson Road (north of site), requested rezoning of 170 acres from the I-2-S District to the D-P classification to provide for a church and a single-family development with a density of 3.23 dwelling units per acre, **approved**.

EXHIBITS





Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

REQUESTED WAIVER:

**METROPOLITAN DEVELOPMENT COMMISSION
PLAT COMMITTEE
HEARING EXAMINER
OF MARION COUNTY, INDIANA**

**WAIVER OF THE SUBDIVISION REGULATIONS
FINDINGS OF FACT**

1. The granting of the waiver or modification will not be detrimental to the public health, safety, or welfare or injurious to other property because:

The grant of the waiver will not be detrimental to the public health, safety, or welfare or injurious to other property because the street's pavement width within the property complies with the required minimum pavement width for a local street in a residential subdivision.

2. The conditions upon which the request is based are individual to the property for which the relief is sought and are not applicable generally to other property because:

The conditions of the site are very unusual and individual to the property because the only access to the site is through three existing local streets from two existing adjoining subdivisions. The three connecting streets to the property all have 50' of right-of-way ("ROW") which is the ROW of a "local street". However where the three connecting streets connect to the property, the pavement width actually exceeds the required minimum pavement width standard of a local street in a residential subdivision.

3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out:

Because the existing adjacent subdivisions have connecting streets of 50' ROW and because there is a railroad track with no crossing that runs the length of the south border of the property, a hardship will result if the waiver is not granted. Without the waiver, the streets within the property will have a different ROW than any of the three adjoining streets that connect to the property.

4. The resulting subdivision fulfills the purpose and intent of these regulations at an equal or higher standard than what would have been possible without the deviation because:

Where the streets within the resulting subdivision connect to the adjoining subdivisions, the streets will have the same width of pavement as the connecting streets from the adjacent subdivisions. The proposed street pavement width in the resulting subdivision will also meet the required minimum pavement width of a local street in a residential subdivision. Additionally the resulting subdivision has three separate points of ingress and egress to adjoining subdivisions.

5. The relief sought shall not in any manner vary from the provisions of the Zoning Ordinance, or official zoning base maps, except as those documents may be amended in the manner prescribed by law because:

The granting of the requested waiver will not change or vary the Zoning Ordinance and/or the permitted use of the site as a single family residential subdivision. The Zoning Base Map for this site will not be varied in any manner by the granting of the requested waiver.

DECISION

IT IS THEREFORE the decision of this body that this WAIVER of the Subdivision Regulations be granted, subject to any conditions stated in the minutes (which conditions are incorporated herein by reference and made a part of this decision).

Adopted this _____ day of _____, 20 ____



Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The grant of the variance will not be detrimental to the public health, safety, or welfare or injurious to other property because the 5' proposed sidewalk width within the property meets the Americans with Disabilities Act requirements and will therefore provide safe and easy access for all.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The site is accessible through three existing local streets from two existing adjoining subdivisions. The three connection points to the property all meet the typical local street section (DPW Figure 101.01), which shows a 5' sidewalk within the 50' ROW cross-section. Also, there are no major paths or pedestrian routes out of the subdivision aside from the 5' sidewalks. Having 5' walks within the subdivision would therefore not restrict access or adversely effect neighboring subdivisions as they would match the existing amenities within those subdivisions.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

Without the waiver, the sidewalks within the property will have a different width than any of the three adjoining sidewalks that connect to the property. Also, given the ROW cross-section within the property, which features a wider pavement width to match the adjoining streets, a 3' planting strip would remain between the back of curb and walk, which would constrict street trees and force the water main under the sidewalk.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____

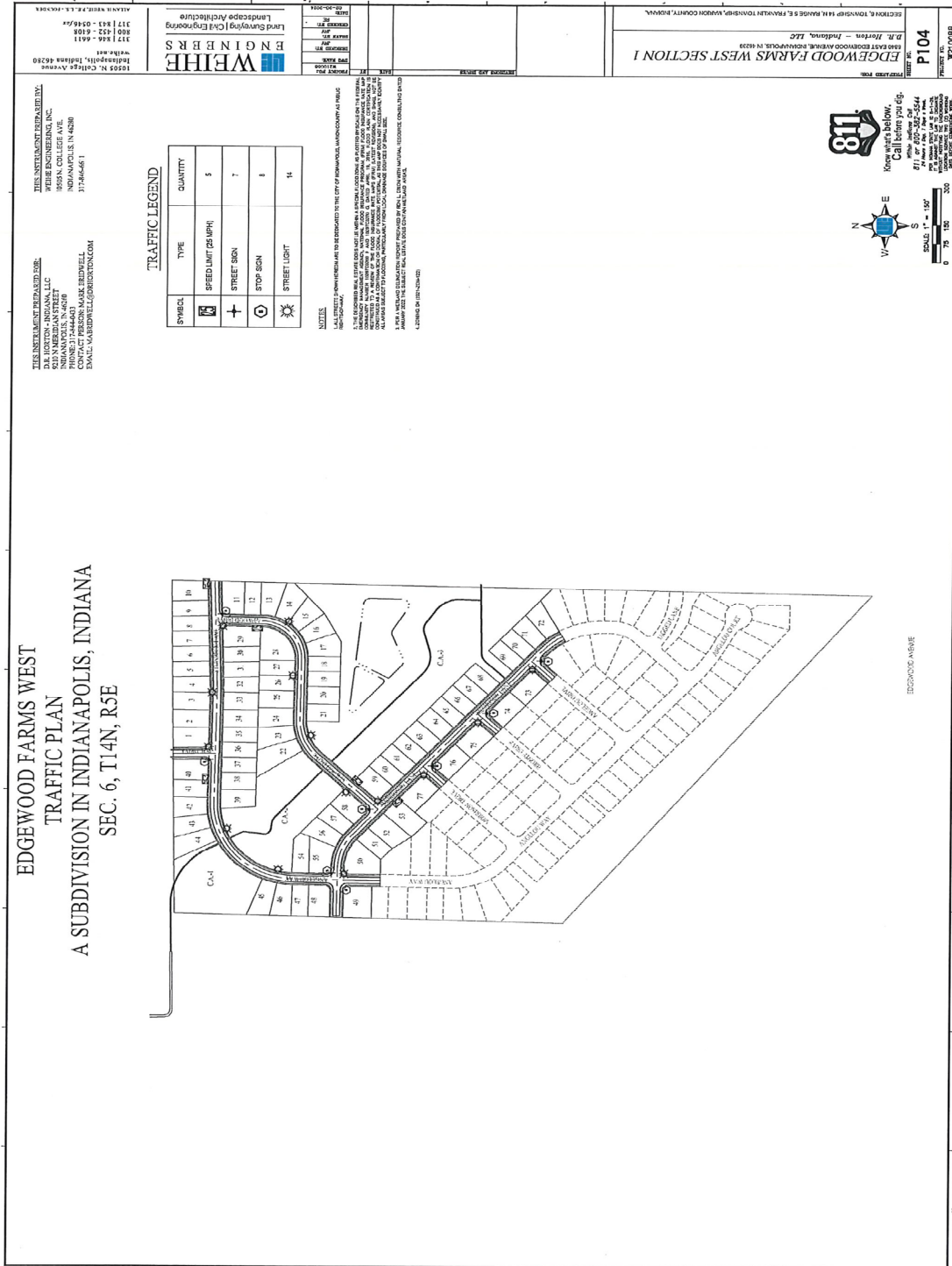


EXHIBIT A



April 1, 2022

Rick Ellis
Weihe Engineers, Inc.
10505 North College Avenue
Indianapolis, IN 46280

Re: 2022-PLT-006 8840 East Edgewood Avenue, Indianapolis, Franklin Township
Edgewood Farms West

Dear Mr. Ellis:

You are hereby notified that after a public hearing on March 9, 2022, Plat application 2022-PLT-006, file-dated March 3, 2022 complies with the standards of the Subdivision regulations, subject to the following conditions:

1. That the applicant provides a bond, as required by Section 741-210, of the Consolidated Zoning and Subdivision Ordinance.
2. Subject to the Standards and Specifications of Citizens Energy Group, Sanitation Section.
3. Subject to the Standards and Specifications of the Department of Public Works, Drainage Section.
4. Subject to the Standards and Specifications of the Department of Public Works, Transportation Section.
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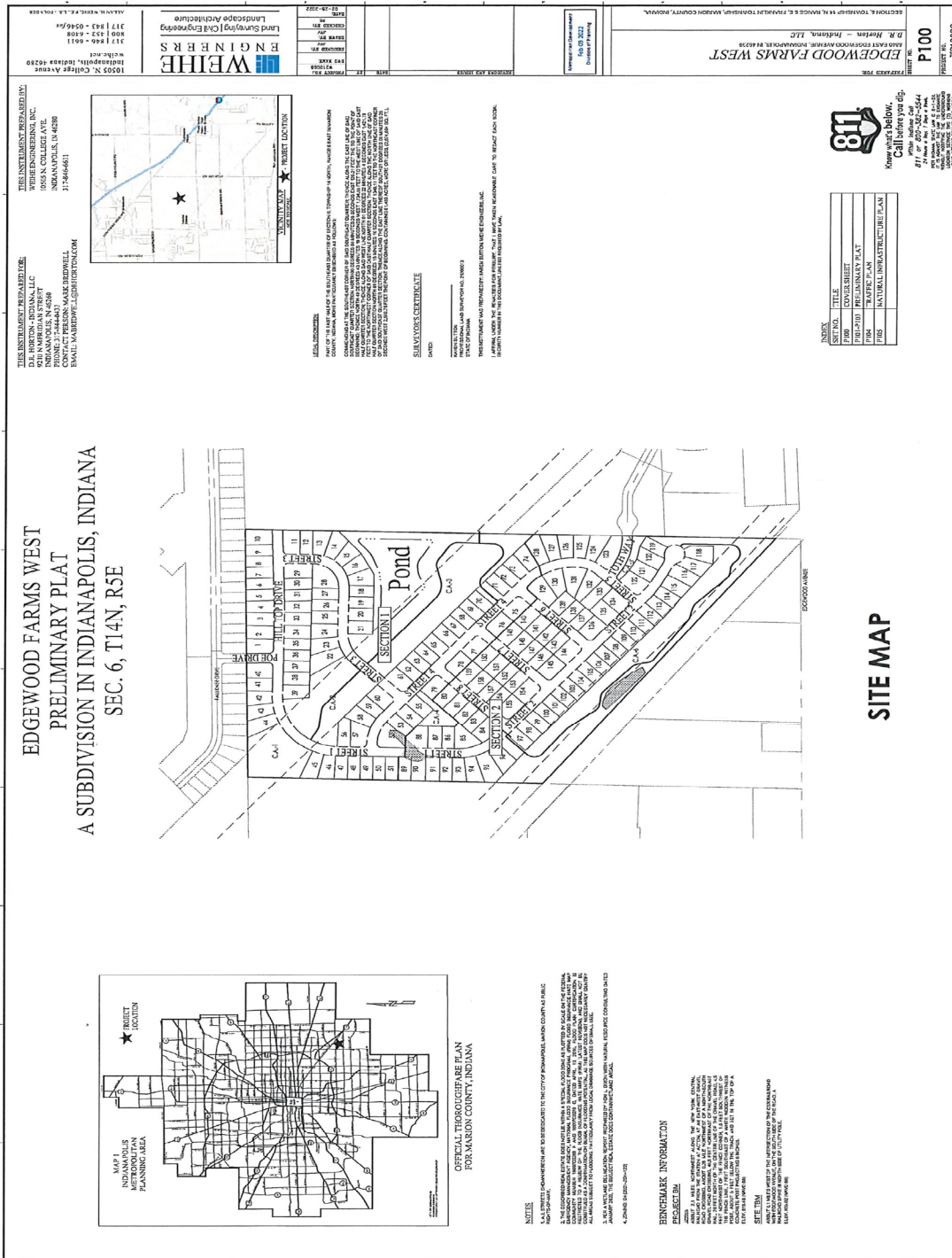
If you have any questions regarding this matter, please contact me at Allison.Richardson@Indy.Gov.

Sincerely,

Allison Richardson
Senior Planner

AR: hss

EXHIBIT B 2022-PLT-006





View looking north across East Edgewood Avenue



View looking north across East Edgewood Avenue