

**BOARD OF ZONING APPEALS DIVISION I**

**May 12, 2026**

**Case Number:** 2026-UV3-001  
**Address:** 11011 Brookville Road (approximate address)  
**Location:** Warren Township, Council District #25  
**Zoning:** D-A (FW) (FF)  
**Petitioner:** Kindred Excavating Group LLC, by David Gilman  
**Request:** Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an excavation commercial contractor (not permitted).

**Current Land Use:** Commercial Contractor

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

**PETITION HISTORY**

This petition was continued from the April 21, 2026 BZAIII hearing due to a lack of quorum, and transferred to the May 12, 2026, BZA I hearing.

**STAFF RECOMMENDATION**

Staff recommends **approval** of this petition.

**PETITION OVERVIEW**

- ◇ The request would provide for the operation of an excavation contractor. No excavation would occur on site. The contractor provides excavation services off site for utility connections to planned subdivisions and other developments.
- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings. Because no agricultural enterprise exists on the subject site, development of the site would be considered a large estate or rural single-family dwelling.
- ◇ A significant portion of the site is designated as Floodway and Floodplain. Therefore, residential development would be limited, and difficult in Staff's opinion.
- ◇ The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site. The proposed use, being an excavation contractor, would be similar to agricultural operations that are permitted in the D-A District. Therefore, the request would be a minor deviation from the Ordinance, and the impact would not be an increase in intensity in Staff's opinion.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-A	
<b>Existing Land Use</b>	Commercial Contractor	
<b>Comprehensive Plan</b>	Rural or Estate Neighborhood	
<b>Overlay</b>	No	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North: D-A	Single-family dwelling
	South: D-A	Undeveloped
	East: D-A	Undeveloped
	West: PK-1	Park
<b>Thoroughfare Plan</b>		
Brookville Road	Primary Arterial	135-foot existing and proposed right-of-way.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	Yes	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	January 6, 2026	
<b>Elevations</b>	N/A	
<b>Commitments</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	January 6, 2026	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- The Comprehensive Plan recommends rural or estate neighborhood development.

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Rural or Estate Neighborhood typology for this site. This typology provides for rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

### 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

**2014-DV3-026; 23225 South German Church Road (north of site)**, requested a Variance of Development Standards to provide for the construction of a 1,500-square foot detached garage, located in front of the established building line of the primary dwelling, with an approximately zero-foot setback from the proposed right-of-way of Brookville Road, with a 10-foot east side setback, creating an accessory building area of 1,500 square feet or 114.7% of the main floor area of the primary building and an accessory use area of 2,798 square feet or 213.9% of the total floor area of the primary dwelling, **granted**.

**86-UV1-105, 11011 Brookville Road (subject site)**, requested a Variance of Use to provide for the construction of second story residence above a commercial building, **granted**.

**82-UV1-30, 11011 Brookville Road (subject site)**, requested a Variance of Use to provide for a fishing lake, with two trailers of the property and a turkey shoot, **granted for two-year period**.

**76-UV2-143, 11011 Brookville Road (subject site)**, requested a Variance of Use to provide for retail fished lakes, **granted for five years**.

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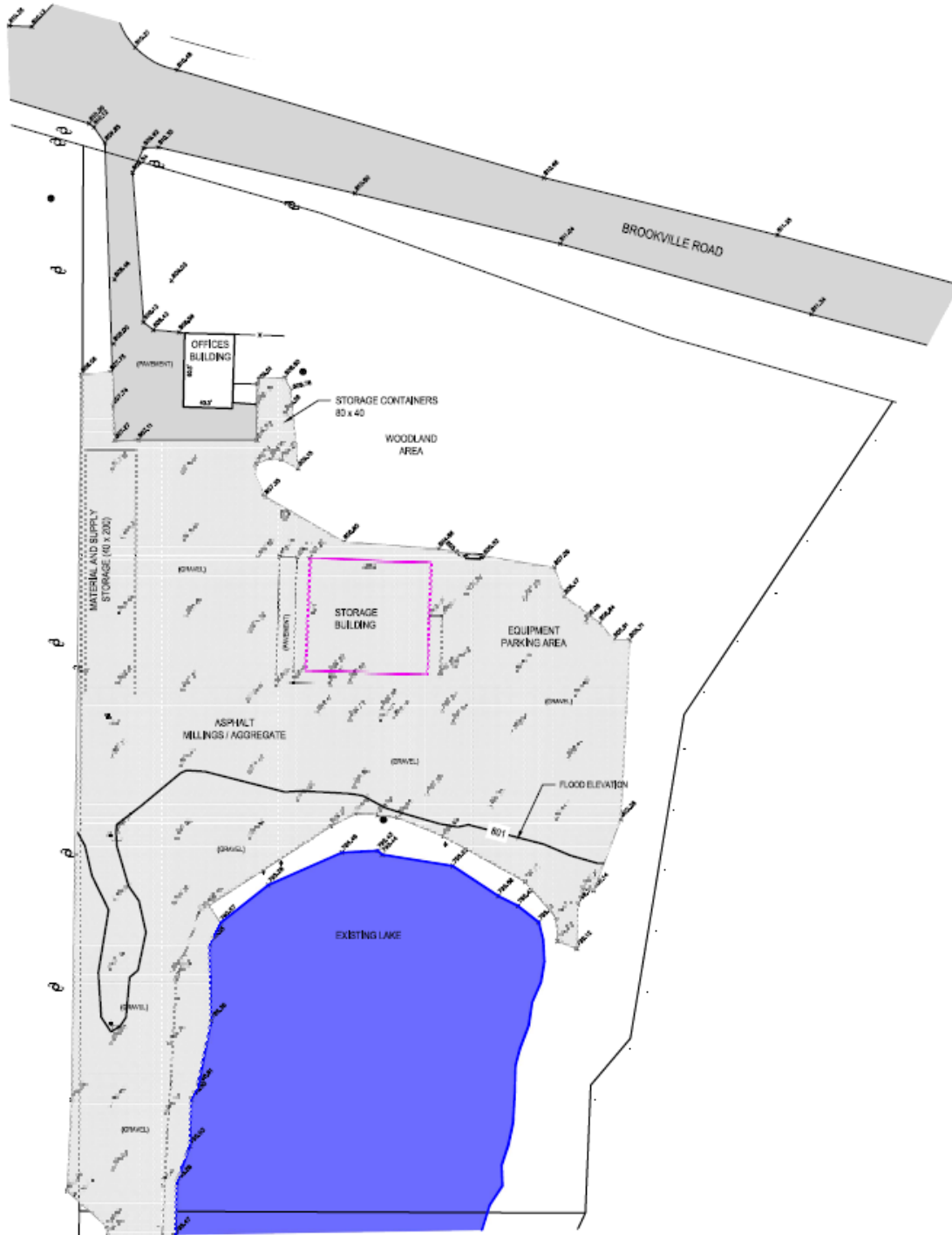
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**EXHIBITS**

**Location Map**



**Site Plan - File dated November 21, 2025**



## **Plan of Operation - file dated January 6, 2026.**

### **Plan of Operation**

#### **BACKGROUND**

The site is located at 11011 Brookville Road, at the intersection of S. German Church Road. The site is mostly located in a flood zone and contains 11.5 acres. The site has been a pay lake for several years and is now being used as a small excavating business. The site is located adjacent to the undeveloped DA to the south and east, single family residence to the north and Parks Department property to the west. The Parks Department property was an old City landfill with their test monitoring well along the common property line. The flood zone and the old City landfill limit the potential for the site to be developed.

#### **Business Use**

The owners operate a small family-owned excavating business on the site. They have made a substantial investment cleaning up the property and making improvements to the existing and constructing a new building. Their business is small, and this site works perfectly for their current and future needs.

#### **Buildings**

There are two (2) existing buildings on the subject property. Building #1 will be used for offices and Building #2 will be used for business storage. There will be no truck storage or maintenance in either building. All maintenance will be done off-site and through a private vendor, as required under the terms of the vehicle or equipment warranty.

#### **Flood Hazard Areas**

There are certain portions of the property located with a flood hazard area. There is a Certificate of Elevation on file that certifies Building #2 is constructed at or above the BFE, and no flood permit was required. A structural permit was issued for this building for storage only. All trucks and fuel container storage will be placed outside the flood fringe boundaries.

#### **Workforce**

There will be 5 full-time employees at the site, including the 2 owners. There are 10 employees that work remotely and drive directly to the job site.

#### **Hours of Operation**

Business hours will be Monday to Friday from 8am to 5pm. The business is closed on Saturday and Sunday.

#### **Traffic**

The entrance is located at an intersection with a full operational traffic light.

#### **Off-Street Parking**

The business will have 2 semi-trucks and flatbed trailers and 3 dump trucks.

#### **Shipping/Receiving**

Shipping and receiving will be conducted through normal delivery services such as Amazon, FedEx, and UPS. There is a minimal amount of materials such as pipe, culverts, sand, gravel, and stone stored on site. Most of the materials are delivered directly from the supplier to the job site.

#### **Waste**

All waste products will be removed by a private refuse business.

#### **Self-Imposed Written Commitment:**

The site will be developed in substantial compliance with the site plan file dated 11/21/2025.



**Findings of Fact**

Petition Number \_\_\_\_\_

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division \_\_\_\_\_  
OF MARION COUNTY, INDIANA**

**PETITION FOR VARIANCE OF USE**

**FINDINGS OF FACT**

**1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE**

The proposed use will utilize the existing commercial buildings for offices and business storage. The buildings will meet all the applicable IBC requirements.  
The site has direct access to an arterial thoroughfare suitable for the proposed use. The site has excellent drainage and all required utilities to serve the proposed use.  
The site meets the immediate and future growth needs of the proposed use. The owner's business is a local expert in the installation erosion control measures and have extensive work experience with environmentally sensitive projects.

**2. THE USE AND 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 predominately surrounded by floodway and floodplain properties. There is a reclaimed landfill along its entire western boundary with required monitoring wells on the subject property line. There are only 2 residences to the immediate north opposite SR 52 and 1 residence along its entire eastern boundary. The proposed use and the owner's business have local experience working on environmentally sensitive projects to help protect the adjacent uses.

**3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE**

The site is mostly floodway and floodplain with 2 large private ponds. As a result, the Land Use Plan has a non-development recommendation for these areas. The limited area available for development contains 2 large commercial buildings that are more suitable for commercial use than a residential use, as recommended by the Land Use Plan for this area.

**4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE**

The site is adjacent to a large area of a reclaimed landfill that includes monitoring wells on the subject property. The site is mostly within the floodway and floodplain designations. The area that is suitable for development contains 2 large commercial buildings. These existing conditions on the subject property makes it unlikely that a residential use will be appropriate due to lender restrictions, flood insurance and existing commercial buildings.

**5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE**

The variance request is for a single use the best fits the existing conditions and the underlying zoning classification will remain unchanged.

**Photographs**



Subject site, looking south from Brookville Road



Subject site, existign office and storage building on site, looking east



Subject site, looking south



Subject site, looking southwest.