

Attachment 1

Powell Township
PO Box 319
Big Bay MI 49808

May 14, 2024

Township Hall

Zoning Board of Appeals

Posted April 29, 2024.

**Public Hearing - Sanderson Land Division
2024-01 ZBA**

A size variance application from Edward Sanderson of 226 W. Ohio St., Marquette, MI 49855 to create two parcels with a width of 98.74 feet (100 feet required) from a parcel described as: Section 15 T51N R27W Part of Gov't Lots 3 & 4 com at W ¼ cor of Sec. 15th N 1038.6' th S89 deg56'16"E 749.61' th N72.88' th S88deg41"E 300.18" to POB, th S88deg41"E 197.48' th S to Lake Independence, th NW'ly alg shore 214.98' th N347.6" to POB. (Parcel # 52-11-165-031-50)

Variance is for a 15.25 inch variance on both parcels

Meeting called to order by Marian Allbritten (chair) at 10:00 am.

Roll Call: Mary Ellen Krieg (record secretary), Marian Allbritten, Dianne Hall (member), Howard Robare (zone admin.). Also present Edward & Francine Sanderson. No public in attendance.

Comments: Perk test passed, equal split, and township water available.

Motion made by M.E. Krieg to approve as requested (see map attachment). Second by D. Hall. Vote: Approved by all.

Meeting adjourned: 10:10 am

Minutes of hearing - Mary Ellen Krieg
Appr. Howard Robare

cc: Darlene Turner Supervisor

1 attachment (3) pages.

Attachment 2

Powell Township
PO Box 319
Big Bay MI 49808

June 11, 2024

Township Hall

Zoning Board of Appeals

Posted May 28, 2024

Public Hearing - Variance UP Propane LLC / size variance 2024-02

2023-02 ZBA A parcel size variance application from UP Propane LLC to allow a 1.5 acre parcel described as part of Section 33, T50N R26W, part of S ½ of SW ¼ beginning 1000' East of SW corner, thence East 559 feet to Co. Rd. 550 ROW, thence NW'ly alg Co. Rd. 550 603 feet. thence South 230 feet to POB. Property is in the TP-40 Zoning District which only allows 40-acre parcels. Part of property #52-11-033-001-00.

Variance is to allow the installation of a Utility Sub Station.

Meeting called to order by chair Marian Allbritten at 10:00 am.

Roll Call: Mary Ellen Krieg (recording secretary), Marian Allbritten, Dianne Hall (member), Howard Robare (zone admin.) Also present Dan Harrington, Tom Baldwin.

Zoning requires 40 acres to build. Variance is to use smaller parcel created with the changes created when CR 550 updated.

Motion made to approve non use dimensional variance to build utility sub station as requested.

Roll call vote: Dianne Hall - no
Marian Allbritten - yes
Mary Ellen Krieg - yes

Motion approved.

Meeting adjourned 10:20 am.

Minutes of hearing -M EK
Appr. Howard Robare

cc: Darlene Turner Supervisor

att: (4) pgs

Attachment 3

FW: Proposed LPG Plant Powell Township

From: Howard Robare (zoningadmin@powelltownship.org)

To: hrobare@aol.com

Date: Thursday, August 29, 2024 at 04:24 PM EDT

From: dan upropane.com <dan@upropane.com>
Sent: Wednesday, August 28, 2024 8:05 AM
To: Howard Robare <zoningadmin@powelltownship.org>
Subject: FW: Proposed LPG Plant Powell Township

Dan Harrington
(906) 282-7555



From: Matheny, Scott (LARA) <MATHENYS@michigan.gov>
Sent: Monday, August 26, 2024 12:16 PM
To: dan upropane.com <dan@upropane.com>
Subject: Proposed LPG Plant Powell Township

Dan,

Per our conversation, I see no issue's with your proposed LPG plant location in Powell Township. As long as all the requirements are met per PA 207 and NFPA 58 2014 Edition and your plan review application is submitted, reviewed and approved, you would be good to go with the State of Michigan.

I would follow up with the township to make sure they do not have any language in their charter that may prohibit the installation of a LPG Plant, and also reach out to the local Fire Chief to see if they would have any issues with the proposed location. The reason for this is even though we give approval to install, local authority (township) has the right to deny if they have it in the township charter/rules. And if the local fire chief has any issues with the location due to safety concerns, they would have the right to deny the location of the plant even though the State approved the location.

Please let me know if you have any questions, thanks 😊

Scott Matheny
Region 2 HMSI Inspector
Department of Licensing and Regulatory Affairs
Bureau of Fire Services
Storage Tank Section
611 W. Ottawa St., 4th Floor
PO Box 30033
Lansing, MI 48909
Office Hours Monday-Thursday 7 a.m. to 5:30 p.m.
Cell Phone# 906-250-3505
Fax# 517-335-4054
mathenys@michigan.gov



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 [mcl-Act-207-of-1941.pdf](#)
151.9kB

 [bfs3861.pdf](#)
145.4kB



Powell Township Government
P.O. Box 319
101 Bensinger Street
Big Bay, Michigan 49808
(906) 345-9345

ATTACHMENT

(A)

*Date?
Rec'd by mail
Aug 31, 2024
-Nek*

**NOTICE OF PUBLIC HEARING
POWELL TOWNSHIP ZONING
BOARD OF APPEALS**

Notice is hereby given that a public hearing will be held by the Powell Township Zoning Board of Appeals on Tuesday, September 17, 2024, at 10:00 A.M., at the Powell Township Hall, 101 Bensinger, Big Bay, MI 49808. The public hearing will address the following:

2024-03 ZBA Appeal of a Conditional Use Permit application denial from the Powell Township Planning Commission to UP Propane LLC to operate a utility substation in Section 33, T50N R26W described as: part of S ½ of SW ¼ beginning 1000' East of SW corner, thence East 559 feet to Co. Rd. 550 ROW, thence NW'ly alg Co. Rd. 550 603 feet, thence South 230 feet to POB. Property is in the TP-40 Zoning District. Part of property # 52-11-033-001-00.

The Powell Township Zoning map, text and application are available for review from 9AM to 12noon, Monday, Thursday and Saturdays at the Powell Township Hall. Written comments in the matter will be received prior to the meeting addressed to the Zoning Administrator at the above address. The public will be permitted to address the Board during the public hearing. The applicant or his representative will be present at the hearing to answer questions from the Board or provide additional information as needed.

This notice is posted in compliance with Public Act 110 of 2006, as amended, the Open Meetings Act and the Americans with Disability Act. The Township of Powell will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting upon 5 days notice to the Township.

Phone: 906-345-9345

FAX: 906-345-0168

e-mail: zoningadmin@powelltownship.org

Sept 17-2024
Read

ZBA Public Comment_9-17-24

From: Gene Champagne (genec_nsa@yahoo.com)
To: zoningadmin@powelltownship.org
Cc: marian.allbritten@gmail.com; dmek99@aol.com; sweetpeascloset@aol.com
Date: Monday, September 16, 2024 at 01:04 PM EDT

Powell Township Zoning Administrator,
Find below and attached my public comments regarding the ZBA's consideration of a Conditional Use Permit application that was denied by the Powell Twp Planning and Zoning Commission. Additional attachments essential to my public comments are included.

Respectfully,
Gene Champagne
Lighthouse Rd
Big Bay, MI

September 16, 2024

Powell Township Board of Appeals:

I am writing to you with regard to the appeal of a Conditional Use Permit application denial to UP Propane LLC by the Powell Township Planning and Zoning Commission (P & Z-C) at their August 21, 2024 meeting. The appeal of the P & Z-C decision to the Powell Township Zoning Board of Appeals (ZBA), will be heard on Tuesday, September 17, 2024 at 10:00 am. I regret that I am unable to attend due to the Meals on Wheels route I work on Tuesdays. Please read my comments into the public record and post them on the township website, along with all attachments.

I became interested in this matter when I learned of some unusual action/inaction which led to where Powell Township is now on this issue. I found an overwhelming lack of paperwork that would shed light upon how decisions were made regarding the Zoning Board of Appeals (ZBA) decision to overturn a variance denial made by the Zoning Administrator and what the facts were that led to those decision. The granting of a variance for 1.5 acres in a TP-40 zoned area is highly unusual, and especially when the Zoning Administrator denies it. I do understand that the decision by the ZBA is water under the bridge, but felt it important to understand the reason(s) my interest was piqued in this particular situation.

I began to attend the P & Z-C meetings more frequently than is my habit. I was a member of the P & Z-C back in the 1990s and served for about 8 years. My time there included serving as vice-chairman. It was during this time that the current zoning rules and regulations were written and adopted, bringing Powell Township into a more modern era of consistent land use, procedures, and enforcement. Although there have been many changes to the zoning ordinance over the years, the general framework, especially regarding processes, remains the same. I entered my search for answers to this issue with no set opinion on the matter, but with a concern that proper procedures were adhered to, and the integrity of our zoning ordinance was protected.

After attending several meetings, I feel confident that the P & Z-C followed procedures properly:

1. Their business regarding this permit was done in a timely manner. This was a difficult task with a seeming lack of timely communication between the Zoning Administrator and the P & Z-C. For whatever the reason for this lack of communication, it made for a difficult task in meeting timelines and was frustrating for those members of the public who gave up their time to follow this process and develop their opinions in the matter.
2. There was ample discussion with public comment, as well as questions and answers conducted between the commission and Dan Harrington, owner UP Propane LLC and between the public and Mr. Harrington.
3. The work session the P & Z-C held on August 9, 2024 was both appropriate and an efficient manner to conduct business as part of their fact finding. I realized at the P & Z-C meeting held on July 31, 2024 that Denise Hudson was the only commission member who had experienced a request for a Conditional Use Permit. The process held at the

August 9, 2024 work session, examining Article IX, Section 904, subsections A through I, was the same process that Powell Township Planning and Zoning Commissions have used for decades.

4. The P & Z-C vote conducted on August 21, 2024 was in a timely manner with a quorum of members attending and a roll call vote.

I feel confident that the P & Z-C conducted their fact finding with due diligence with what was available to them, including site visits, consideration of public comment and allowing all interested parties to ask questions and have them answered, following proper procedures in examining the zoning ordinance. My opinion in this matter, after having followed the procedures and factfinding, is that the P & Z-C acted correctly in denying this permit.

The question(s) before you should concern only whether proper procedures were followed or whether the zoning ordinance was honored and upheld. According to the Zoning Board of Appeals Handbook, published by the Michigan Municipal League; "Although the ZBA may reverse or affirm, wholly or partly, or may modify a prior decision, its powers are generally limited to determining whether or not the official or body making the administrative decision acted properly. The ZBA must recognize that the zoning administrator or planning commission has already made a decision regarding the issue as part of its delegated duties. The role of the ZBA is to determine whether the decision was authorized or supported by the zoning ordinance." (P. 6, Part 21, Appeals).

I have not seen in the appeal application any stated reason for the appeal. In speaking with all three members of the ZBA, it appears that they have not received any reason for the appeal. Under the Michigan Zoning Enabling Act (Excerpt) Act 110 of 2006, 125.3604 Zoning board of appeals; procedures. Sec. 604, subsection (2) "An appeal under this section shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken." See attached. This statement is also reflected in the Powell Township Zoning Ordinance: Article XII, Section 1204 "Administration Review,".

I would take this to mean all minutes related to this issue including public comment and answers submitted to the P & Z-C's questions by the applicant.

I do not know what other documents you may have to help you understand the basis of the P & Z-C's denial, but in attending the P & Z-C meetings on this issue provided me with evidence that would support their decision. Mr. Harrington stated that Ishpeming Township was willing to grant a permit for his installation "wherever I wanted". I do not know if Mr. Harrington approached Joe Cram about leasing space behind his store where Ferrellgas has a 45' long propane tank (more than 1.5 the size of the 70' long tank his permit is asking for). If Joe was willing to lease, but Mr. Harrington did not want to lease because of his history of leasing property for his installations, that is a business decision based upon a business plan that Powell Township is not responsible for.

The idea of having extra propane storage capacity as recommended in the UP Energy Task Force conclusions is a good idea that could benefit Powell Township residents in case of a supply chain emergency, but what he is proposing is not what the task force had in mind. His plan, per his statements at the P & Z-C meetings, is to allow his trucks to fill customer orders in Marquette Township then refill his trucks to service Powell Township residents, thus draining any serious emergency supplies the task force envisioned. A great business plan, but of no real value to township residents.

There is no lack of propane companies serving Powell Township residents. Currently five (5) companies - UP Propane, Ferrellgas, Choice, Krist, and American - serve the Powell Township area. There is plenty of competition and Powell Township residents are well served with competitive pricing and timely deliveries. All the benefits to granting Mr. Harrington a Conditional Use Permit favor UP Propane, not Powell residents.

At one P & Z-C meeting Mr. Harrington stated he would only need to cut three (3) trees for his installation. He also invited commission members and the general public to make a site visit to the property at issue. I did make a site visit and while it may be possible to position the tank with only cutting three trees, I do not see how the larger delivery trucks needed to fill the tank are going to be able to enter and exit the highway with taking out quite a few more. Commission member Denise Hudson stated at one meeting that due to the long downhill/uphill and the sharp curve where this proposed installation will take place, she sees the most vehicles off the road there in the winter as she heads for work in the morning. Although the Marquette County Road Commission may put up signs warning of large trucks entering and leaving the highway, without a left turn lane or passing lane, this could create a very dangerous situation.

I present you with two more citations from the previously quoted Zoning Board of Appeals Handbook.

Zoning Board of Appeals Handbook

Part 37 "Rules for ZBA Members", P. 15

- Do not feel compelled to make a hasty decision the night of the hearing. Everyone should feel comfortable with his or her vote. If he or she does not, obtain whatever additional information is needed before proceeding with the decision.
- Always use the review standards of the zoning ordinance. The standards are your guarantee of reaching fair, consistent and reasonable decisions. Failing to follow the standards of review can easily lead to discriminatory, subjective and inconsistent decisions

Part 21 "Appeals", P.6

In those instances where the official or body used proper procedures and standards, the ZBA should uphold the decision, even if the members personally disagree with the result.

Throughout this entire matter I have felt sorry for Mr. Harrington's situation. From losing his lease (might want to ask why), to difficulty in finding a location and situation that suits him, to the delay in proper paperwork and notifications being filed, he has had to make a number of 200 miles one-way trips to meetings in Big Bay. However, the situation he is in was not created by the Powell Township Zoning Ordinance, nor the Powell Township Planning and Zoning Commission. The situation was created by his own choices, his own business plan. The zoning ordinance follows the land, not the individual. Our zoning ordinance is supported by our Master Plan and Future Land Use Map. Cutting corners and making exceptions for an individual situation that is not a pressing issue for township residents would create a slippery slope that undermines the integrity of our zoning ordinance and leave to a reduced quality of life in the long run that residents envisioned when supporting those documents.

I do hope that something can be worked out between Powell Township and Mr. Harrington. A plan that would create a space for all current propane companies serving Powell Township to locate additional storage facilities in one location should be investigated. Township land could become available for purchase or lease could be a potential solution.

Respectfully,

Gene Champagne

Lighthouse Rd

Big Bay



ZBA_Handbook_2015.pdf

188.6kB



BOA Public Comment_9-16-24.docx

22.3kB



Enabling Act ZBA Procedures.jpg

696.7kB



Future Lans Use Map_9-14-24.jpg

829.1kB



CUP Property.jpg

870.5kB



45 ft Ferrellgas Propane Tank.jpg

268.2kB



70 ft Propane Storage Tank_9-14-24.jpg

695.5kB

Rec. Read
10/11/2020

Statement to Powell Township Planning Commission

My name is Renee Wicklund, I am the property owner of Section 32, Powell Township, adjacent to the proposed site for UP Propane storage/distribution facility.

I first became aware of the proposal approximately a week and a half ago. A friend had received a letter stating there would be a special meeting held September 17th, by the Zoning Board Commission. As the proposed site is adjacent to my property I, among others, attended the meeting yesterday to voice objection to the proposed site.

Subsequently, I became aware of the meeting held August 21st by searching your website where this body denied the initial request. I have read the reasons for the denial and agree with your initial assessment.

Facility would not be harmonious with development plan

Introducing an industrial use in this area would be inconsistent in all material respects

Would be hazardous or disturbing to existing or future uses

Would diminish value of land

Proposed use will introduce noise, potential automotive pollutants, using semi-trucks, delivery trucks, and increasing traffic to pristine area used for hiking, fishing, hunting and other recreational activities

In addition, the site includes documented wetlands which were restored as part of the realignment of the 550 road.

During yesterday's meeting Mr. Harrington said approximately 40 sites were considered, but this was the only property owner willing to sell rather than lease. I am curious as to whether the owners of the other properties considered were also opposed to the idea. Perhaps they attended the public hearing July 17th. I was unable to find any written minutes or comments made at the hearing on the website. What I did not hear at the meeting yesterday, was how this proposal is beneficial to Powell Township or UP Propane customers. Mr. Harrington only cited the concern of the pipeline potentially going away in the future.

I ask that as you deliberate the appeal, think about what the mission of the Big Bay Stewardship Council states: "Our mission is to facilitate the protection of the unique nature of the greater Big Bay area and promote community improvements in Powell Township through responsible, properly scaled economic development and stewardship of the natural resources and cultural enrichment."

The Big Garlic recreational area is a gem and introducing industrial use is definitely inconsistent with this pristine area.

Thank you.



Renee Wicklund

September 18, 2024

Powell Township Planning Commission
Findings of Fact Concerning
UP Propane LLC's Conditional Use Permit Application

Summary of Proposed Use

On April 18, 2024 UP Propane, LLC filed an application which, in part, requested a conditional use permit, pursuant to Article IX and Article III, Sec. 321(D)(2), to erect a propane storage/distribution facility on property located on County Road 550 just over the Powell County line as described on the attached site plan (Exhibit 1). The proposed site is located approximately one-quarter (1/4) mile from the Big Garlic River. The proposed facility would include a 45,000-gallon propane tank measuring 10'x70' standing 13' high which would be visible from the road as you enter Powell Township. Safety and oversight of the facility is regulated by the State of Michigan. The proposed site would be unmanned.

The proposed tank would be primarily for Powell Township customers but could be used for Marquette Township customers along County Road 550, on occasion. The plan would be for delivery vehicles to leave Gwinn full for delivery to customers in Marquette Township. The trucks would refill at the proposed location for Powell Township customers. Mr. Harrington estimated that the 45,000-gallon tank would be refilled nine (9) times per year. Seven (7) times during the winter and two (2) times during the summer. Each fill requires three (3) 12,500-gallon semi-tanker loads. UP Propane's delivery vehicles carry 2,500-gallon tanks.

Mr. Harrington indicated that there would be no guaranteed price reduction or other financial benefit to Powell Township customers related to the proposed facility. All of UP Propane's customers are charged the same rate. In the event storage and delivery costs are reduced, that savings, maybe a penny per gallon, might be passed along to customers. There was no evidence that the proposed facility/use would result in employment opportunities for Powell Township residents.

Findings of Fact Relative to the Proposed Use

A. The proposed propane storage/distribution facility would not be harmonious with and in accordance with the general policies and specific objectives of the Comprehensive Development Plan. Powell Township's Future Land Use Map indicates a preference for residential development along the County Road 550 corridor in this area. The proposed industrial use would conflict with residential development.

B. The proposed propane storage/distribution facility would not be harmonious and appropriate in appearance with the existing or intended character of the general vicinity. Further, the proposed use would change the essential character of the same area. The area surrounding the proposed site is almost completely undeveloped. Introducing an industrial use in this area would be inconsistent in all material respects.

C. The proposed use would be hazardous or disturbing to existing or future neighboring uses in that it would: (1) introduce an industrial use into a currently undeveloped wilderness area; and (2) negatively impact desired future residential development.

D. The proposed use would diminish the value of the land, buildings, or structures in the area. The proposed use will include semi-truck traffic, delivery vehicle traffic, noise and potential automotive pollutants thereby diminishing the attractiveness of the surrounding property for anything other than industrial uses.

E. The proposed use will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.

F. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

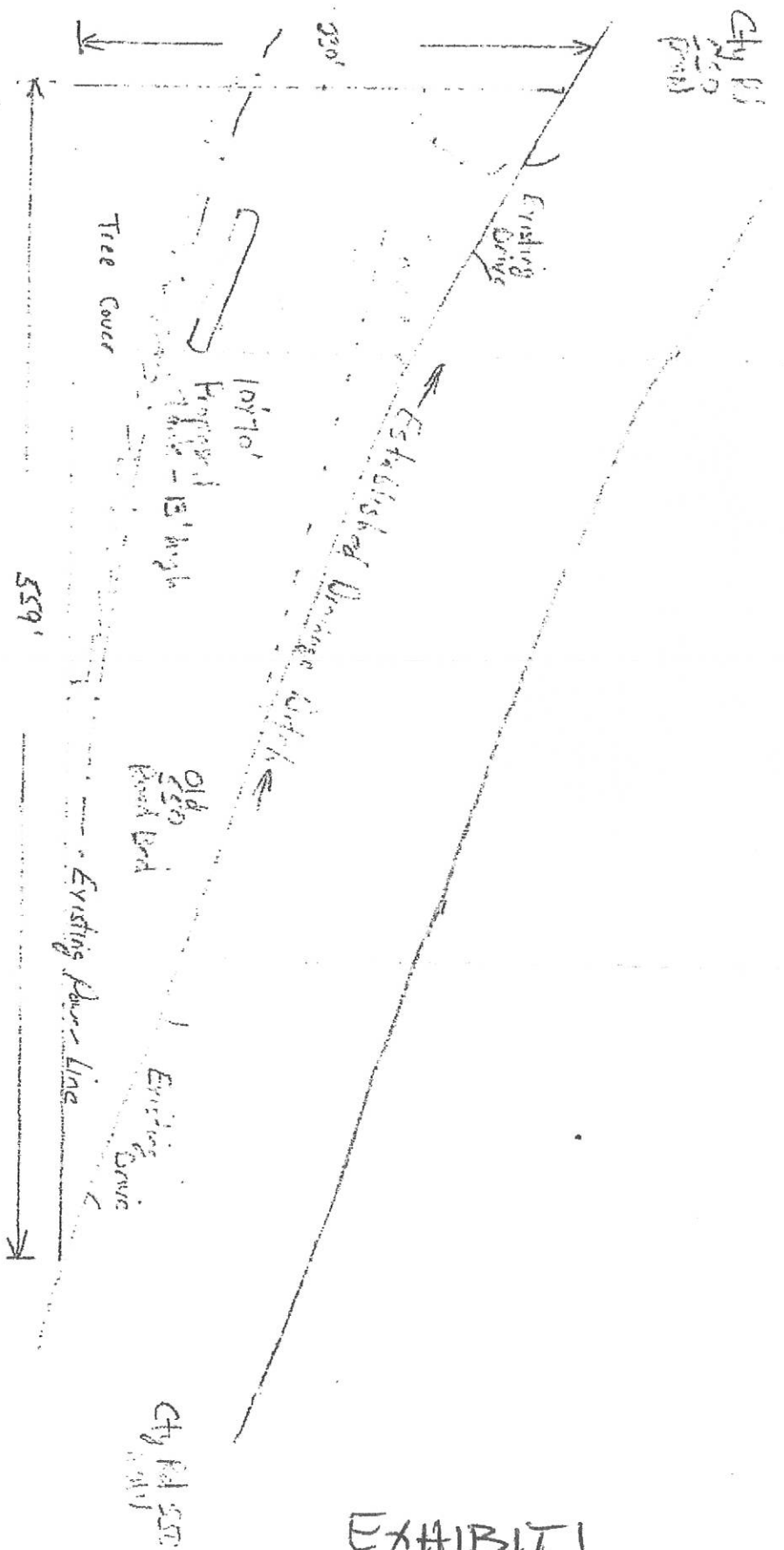
G. The proposed use will involve uses, activities, processes, materials and equipment and conditions of operations that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors. As set forth above, the proposed use will introduce semi and delivery truck traffic, noise and potential automotive pollutants to an otherwise pristine area primarily used for hiking, fishing, hunting and other recreational activity.

H. The proposed use will be not pose a risk to public health, safety and general welfare of the community in that the safety aspects of the site are regulated by the state.

I. The proposed site is permissible under Article III, Section 321(D)(2) and is therefore consistent with the intent and purpose of the specific zoning district in which it is located.

UP Broward
 Dan Harrington
 906-282-4535

1" = 10'



TSOU, P. 26W, Ser 33. Beginning at a pt 1000 ft east of the
 SW corner of section 33, thence east 559 ft to City B 550 ROW
 thence Northwesterly along City B 550 ROW 682 ft, thence

EXHIBIT 1

POWELL TOWNSHIP
 PLANNING AND ZONING COMMISSION
 CONDITIONAL USE PERMIT RUBRIC

	Moran (Agree/Disagree)	Hudson (Agree/Disagree)	Mohrman (Agree/Disagree)	Hall (Agree/Disagree)	Gaines (Agree/Disagree)	Korsad (Agree/Disagree)	Tull (Agree/Disagree)
The Planning Commission shall review the facts and circumstances of the application in terms of the following standards and shall find adequate evidence showing that the proposed use:							
A. Will be harmonious with and in accordance with the general policies or any specific objectives of the Comprehensive Development Plan;	DISAGREE	DISAGREE	AGREE	DISAGREE		DISAGREE	DISAGREE
B. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;	DISAGREE	DISAGREE	AGREE	DISAGREE		DISAGREE	DISAGREE
C. Will not be hazardous or disturbing to existing or future neighboring uses;	DISAGREE	DISAGREE	AGREE	DISAGREE		DISAGREE	DISAGREE
D. Will not diminish the value of land, buildings, or structures in the district;	DISAGREE	DISAGREE	AGREE	DISAGREE		DISAGREE	DISAGREE
E. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;	AGREE	AGREE	AGREE	AGREE		AGREE	AGREE
F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;	AGREE	AGREE	AGREE	DISAGREE		AGREE	AGREE
G. Will not involve uses, activities, processes, materials and equipment and conditions of operations that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors;	DISAGREE	DISAGREE	AGREE	DISAGREE		DISAGREE	DISAGREE
H. Will protect the public health, safety and general welfare of the community;	DISAGREE	AGREE	AGREE	DISAGREE		DISAGREE	DISAGREE
I. Will be consistent with the intent and purpose of the specific zoning district in which it is located.	AGREE	AGREE	AGREE	AGREE		DISAGREE	DISAGREE

EXHIBIT 2