

Posted: 5/10/2017

**PLANNING AND ZONING COMMISSION
REGULAR MEETING**

Marengo City Hall
132 E. Prairie Street

AGENDA

May 15, 2017

7:00 p.m.

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Minutes:** March 20, 2017 Regular Meeting Minutes
- 4. New Business**
 - a. **Public Hearing** - Application and Recommendation for a Zoning Variation from a Zoning Text Amendment to Section 11.03(4) to Permit Manufacturing of Firearms Pursuant to Alcohol, Tobacco & Firearms Regulations as a Special Use in the B-2 General Business District and Issuance of a Special Use Permit for Said Use – 20014 East Grant Highway – Marengo Guns
 - b. **Public Hearing** – Application and Recommendation for a Special Use Permit to Permit Two Drive Through Facilities on a Proposed Future Commercial Strip Center – 20009 – 20015 East Grant Highway
- 5. Adjournment**

City of Marengo
Planning & Zoning Commission Meeting
Council Chambers
132 E. Prairie Street
Marengo, IL 60152
March 20, 2017
7:00 P.M.

CALL TO ORDER

Commission Chairman Mike Bieniek called the Meeting of the Planning & Zoning Commission to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mr. Bieniek led everyone in the Pledge of Allegiance.

ROLL CALL

Present this evening are Commissioners Bieniek, Piwonka, Varney, Hunt, and Brackmann. Also present were City Administrator Gary Boden and Deputy City Clerk Anna Leyrer. Commission Member Ryan Gieseke was absent.

APPROVAL OF MINUTES

Commission member Piwonka made a motion, seconded by Commission member Varney to approve the **February 21, 2017** Planning and Zoning Minutes with the addition on page 2, specifying that the entrance, now planned on Route 23 and not Pleasant Grove Road, would be out of the residential area. The motion passed with aye votes from Commission members Bieniek, Piwonka, Varney, Brackmann, and Hunt.

NEW BUSINESS- PUBLIC HEARING

Public Hearing- Review and Recommendation of an Amendment to the City of Marengo Comprehensive Plan

Commission member Varney made a motion, seconded by Commission member Hunt to open the Public hearing. The motion passed with a voice vote.

Commission Chairman Bieniek stated that there was public notification of the Public Hearing, and requested that the verification of mailings that were sent to property owners within 250 feet surrounding the area about this public hearing be submitted for record. Documents were presented to Deputy City Clerk Anna Leyrer for the record.

City Administrator Gary Boden explained the recommended changes to the current Comprehensive Plan. The changes focus on adding additional development opportunities for business and industrial purposes south of the City near the Tollway.

PUBLIC COMMENT

Commission Chairman Bieniek opened the floor for Public Comment. There was none.

Commission member Piwonka made a motion, seconded by Commission member Varney to close the Public Comment. The motion passed with a voice vote.

DISCUSSION

Commissioner Brackman stated he liked the idea of being proactive in making these changes.

Karen Schnable, Riley Township Supervisor, asked for a copy of the proposed changes. Administrator Boden gave her a photocopy and it was stated that the map is on the City of Marengo website also.

Commission member Varney made a motion, seconded by Commission member Hunt to close the Public Hearing. The motion passed with a voice vote.

PLANNING AND ZONING ACTION

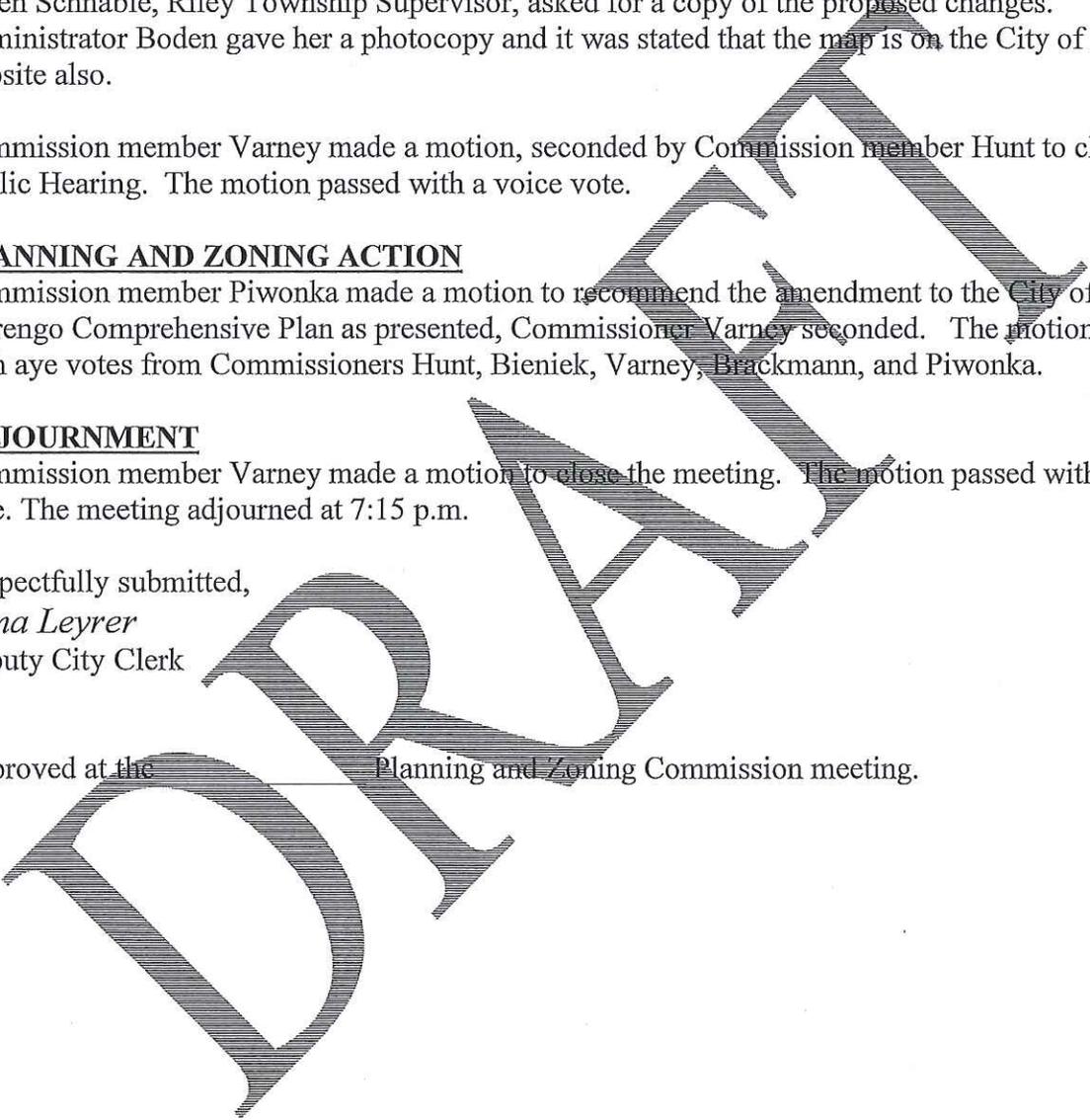
Commission member Piwonka made a motion to recommend the amendment to the City of Marengo Comprehensive Plan as presented, Commissioner Varney seconded. The motion passed with aye votes from Commissioners Hunt, Bieniek, Varney, Brackmann, and Piwonka.

ADJOURNMENT

Commission member Varney made a motion to close the meeting. The motion passed with a voice vote. The meeting adjourned at 7:15 p.m.

Respectfully submitted,
Anna Leyrer
Deputy City Clerk

Approved at the Planning and Zoning Commission meeting.



PUBLIC HEARING

TO: Planning and Zoning Commission

FROM: Joshua Blakemore, Assistant City Administrator

FOR: May 15, 2017 Planning and Zoning Commission Meeting

RE: Application for Zoning Text Amendment to Section 11.03(4): Creation of a Special Use Permit to allow for firearm manufacturing as defined by the Bureau of Alcohol, Tobacco & Firearms (ATF) & Issuance of Special Use Permit for said use – Marengo Guns 20014 East Grant Highway

Issue Statement: The petitioner, Dominic DeBock, operator of Marengo Guns, is seeking a zoning text amendment to allow for a Special Use Permit in the B-2 General Business Zoning District for firearm manufacturing as per ATF regulations. The proposed text amendment would be to Section 11.03 (4) of the Zoning Ordinance, which lists Special Uses in the B-2 General Business District. The applicant is seeking the issuance of a special use permit for said use concurrently with the zoning text amendment.

As per the request, the owner of the business wishes to be able to conduct a process known as cerakote coating on firearms in inventory at Marengo Guns. Cerakoting is a coating process that coats the firearm in a painting application like manner, so for example, a black firearm could be made to be camouflage or pink. ATF requires that any gun retailer wishing to cerakote firearms be granted a special use permit and/or proper zoning for the process. Therefore owner is requesting a zoning text amendment to create a special use permit in compliance with ATF regulations, and concurrently issuing a special use permit to run with the use (not with the land/property).

The applicant has provided a packet of information on the cerakote process, including the Savage Snail System, designed to safely discharge the firearm once it has had cerakote applied to it. The packet of information has been provided for your review, and Mr. DeBock will be in attendance Monday to answer any questions the PZC may have about cerakote or the petition itself.

Neighboring Uses: The adjacent properties to the north of the property in quest are zoned M-Manufacturing. The adjacent properties to the east, south, and west are zoned B-2 General Business.

No objections to the application have been received.

Zoning Text Amendment Process: The purpose of the zoning text amendment is to allow for altering to the regulations imposed by the Zoning Ordinance to promote public health, safety, comfort, and general welfare. The standards upon which a zoning text amendment is to be considered are outlined in Section 17.08 of the Zoning Ordinance.

A public hearing is required to consider zoning text amendments and special use permit application. Following the conclusion of the public hearing, the Planning and Zoning Commission shall make a recommendation to the City Council to approve or deny the application based on the evidence presented at the public hearing and finding of facts.

A public hearing to consider the requested text amendment is accordance with the Marengo Zoning Ordinance has been scheduled for 7:00 p.m. on May 15, 2017.

Staff Review and Recommendation: The proposed text amendment is being requested to allow for the expansion of an existing use in order to conform with regulations from ATF. Given that the existing use currently performs cerakoting on customers' firearms brought to the store, granting a special use permit to allow cerakoting to firearms in the Marengo Guns' inventory is not out of line.

As always, the PZC should carefully consider the public comments and objections, if any, and potential impacts on the surrounding properties in their consideration of this application.

Please review the attached proposed finding of facts (outlining the criteria for a zoning text amendment and special use permit) and modify them accordingly based on the evidence and testimony presented at the public hearing.

If the PZC feels that the standards for a text amendment have been satisfied, then adoption of the attached finding of facts and a recommendation that the City Council approve the requested zoning text amendment and concurrent issuance of a special use permit for said use would be in order.

Motion to Recommend: *Motion to adopt the finding of facts as presented and recommend that the City Council approve a text amendment to Section 11.03(4) of the Marengo Zoning Ordinance to allow for gun manufacturing as per ATF regulations and simultaneously recommend approval of issuing a special use permit for said use as requested.*

cc: Attorney Terry McKenna

Finding of Facts
20014 East Grant Highway
Application for Zoning Text Amendment

Based on the evidence presented at the May 15, 2017 Public Hearing regarding the above case, the Planning and Zoning Commission make the following findings:

Marengo Zoning Ordinance Section 17.08 "Text Amendments and Standards for Text Amendments" states the City Council may amend zoning regulations provided the following findings:

1. That the proposed amendment is beneficial to the orderly development of the City;
2. That the proposed amendment will benefit the public health, safety, comfort and general welfare of the community;
3. That the proposed amendment promotes the public interest and not solely the interest of the petitioner or applicant.

Based on the evidence and testimony provided during the public hearing for this application which commenced on May 15, 2017, the Planning and Zoning makes the following findings of fact in support of the application:

SPECIAL USES

Marengo Zoning Ordinance Section 15.03, "Standards for Special Uses," states that the City Council may authorize a special use permit upon determining and finding as fact, the following:

1. That the proposed use will not be detrimental to the public health, safety, comfort or general welfare, nor substantially diminish or impair the value of other properties or improvements in the vicinity.
2. That the proposed use will comply with the regulations of the zoning district in which it is located and this Zoning Code generally, including but not limited to all applicable yard and bulk regulations, parking and loading regulations, sign control regulations, wetlands and flood plain regulations, building and fire codes, and all other applicable City ordinances, or if exceptions are requested, that such exceptions are justified.
3. That the proposed use will not negatively impact the existing off-site traffic circulation; will adequately address on-site traffic circulation; will provide adequate on-site parking facilities; and if appropriate or required, will contribute financially, in proportion to its impact, to upgrading roadway systems.
4. That the proposed use will not negatively impact existing public utilities, facilities and municipal service delivery systems without due consideration for adequate means of upgrading such utilities, facilities and systems.
5. That the proposed use will not negatively impact the environment by creating air, noise or water pollution, ground contamination, or unsightly views without due consideration for adequate means of controlling, mitigating or buffering such impacts.
6. That the proposed use will maintain, where possible, existing mature vegetation; provide adequate screening to residential properties; and provide appropriate landscaping.
7. That the proposed use will meet standards and requirements established by jurisdictions other than the City, such as federal, state, county or other governmental units or agencies requiring licensing, permitting or health/safety inspections, and submit written evidence thereof.
8. That the proposed use shall conform to the regulations established for specific special uses as provided in this Section 15 [of the Marengo Zoning Code].

What is Cerakote?

Cerakote defines itself as “a Polymer-Ceramic Composite coating that can be applied to metals, plastics, polymers and wood. The unique formulation used for Cerakote ceramic coating enhances a number of physical performance properties including abrasion/wear resistance, corrosion resistance, chemical resistance, impact strength, and hardness.” Cerakote is applied in a spray booth.

Cerakote is VOC exempt in all 50 states (A VOC is a volatile organic compounds are organic compounds that easily become vapors or gases). Cerakote is a non-VOC product. It is our understanding that because it makes a negligible contribution to ground-level ozone formation Cerakote is exempt.

The screenshot shows the Cerakote website's distributor search interface. At the top, the Cerakote logo is on the left, and navigation links for HOME, SHOP, GALLERY, FIND APPLICATOR, PRODUCT TESTING, and MORE are in the center. On the right, there are links for VIEW CART and SIGN IN, along with the phone number (865) 774-7628. Below the navigation is a promotional banner: ORDER TODAY TO SHIP BY: 5/10/17. The main search area includes a text input field for "Enter city, state, or zip" with a search icon, and a "Sort by:" dropdown menu with options for "Rating" (selected) and "Nearest". Below the search area, there are four filter icons: "Distributor" (D), "Certified Applicator" (checkmark), "Customer's Choice" (star), and "Coming Soon" (CS). The search results for "MARENGO GUNS INC" are displayed, showing a 5-star rating, contact icons for Phone, Email, Homepage, Directions, and Facebook, and the address "MARENGO, IL 60152". Two images of Cerakote-coated firearms are shown. To the right of the search results is a map of the Marengo, IL area, with a yellow checkmark icon indicating the location of Marengo Guns Inc. The map shows major roads like I-55 and I-74, and landmarks like the Marengo Ridge Conservation Area.

Marengo Guns is an authorized Cerakote applicator. Our staff was trained on site by an instructor directly from Cerakote.

How is Cerakote applied?

After the firearm is properly cleaned and completely free of dirt and oils of any kind. The firearm is sand blasted to give it the proper blast profile. The Cerakote is mixed and applied by an airbrush or very small paint gun. It is then cured in an oven usually at 250F -300F. That's it the firearm is ready 10 min after removing from the oven.

Slide modifications?

The slide modifications are done on a CNC machine. The CNC removes metal from non-essential areas of a firearm slide. This is done in most cases for aesthetic reasons.

What else are we asking for?

To be able to test fire our customized firearms as well as repaired firearms. We would like to use a Savage Snail System.

GD Gunsmith - moderate to high volume testing up to 8100FPE



- Moderate to high volume feed & function testing up to 8100FPE
- 47" x 18" x 54"
- 4" diameter trap opening
- 470 lbs
- Specially designed for close quarters function testing
- Fully welded one piece construction
- Captures bullets safely for recycling
- Eliminates lead dust hazard
- Low maintenance

Product	Model	Size (LxWxH)	Trap Opening	Weight	Usage	FPE	Price
Gunsmith	GD	47"x 18"x54"	4" Diameter	470lbs.	Moderate to high volume feed/function testing	8100FPE at muzzle (no steel core)	

The muzzle of the firearm is inserted into the Snail device. Once discharged the projectile is harmlessly deflected into a circular deceleration chamber through water.

Marengo Guns is currently turning this



into this



Marengo Guns would like turn this



into this



What is the difference?



ATF Approved

Gun **A** was owned by a customer who brought it in to be Cerakoted and have the slide modified. ATF considers this gunsmithing.



ATF Restricted to 07 FFL

Gun **B** is owned by Marengo Guns who would like to Cerakote it and modify the slide and offer for sale. ATF considers this manufacturing.

What is the ATF's definition of manufacturing?

ATF Rul. 2010-10

Manufacturing

ATF's long-standing position is that any activities that result in the making of firearms for sale or distribution, to include installing parts in or on firearm frames and receivers, and processes that primarily enhance a firearm's durability, constitute firearms manufacturing that may require a manufacturer's license. In contrast, some activities are not firearms manufacturing processes, and do not require a manufacturer's license. For example, ATF Ruling 2009-1 (approved January 12, 2009) explained that performing a cosmetic process or activity, such as camouflaging or engraving, that primarily adds to or changes the appearance or decoration of a firearm is not manufacturing. Likewise, ATF Ruling 2009-2 (approved January 12, 2009) stated that installing "drop-in" replacement parts in or on existing, fully assembled firearms does not result in any alteration to the original firearms. Persons engaged in the business of these activities that do not constitute firearms manufacturing need only obtain a dealer's license.

Although installing parts in or on firearms, and applying special coatings and treatments to firearms are manufacturing activities, the definition of "manufacturer" in 18 U.S.C. 921(a)(10) and 27 CFR 478.11 also requires that a person be "engaged in the business" before the manufacturer's license requirement of section 923(a) applies. Thus, a person who manufactures a firearm will require a manufacturer's license if he/she devotes time, attention, and labor to such manufacture as a regular course of trade or business with the principal objective of livelihood and profit **through the sale or distribution of the firearms manufactured. If the person is performing such services only for a customer on firearms provided by that customer, and is not selling or distributing the firearms manufactured, the person would be a "dealer"** as defined by 18 U.S.C. 921(a)(11)(B) and 27 CFR 478.11, requiring a dealer's license, assuming the person is "engaged in the business" as defined in 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11 (*i.e.*, "gunsmithing").

Cerakote is so good, that the ATF has determined that Cerakote does in fact "enhance a firearm's durability".

E-mail from the ATF clarifying why Cerakote isn't specifically mentioned in ATF Rul. 2010-10...

From: <Mark.Kavanagh@usdoj.gov>
Subject: Cerakote
Date: May 2, 2017 at 9:27:43 AM CDT
To: <marengoguns@gmail.com>

Hey Dominic-

I checked with a couple of my colleagues on your question. There is no ATF literature that specifically mentions Cerakote and the reason is because it is a brand name. The sentence in ATF Ruling 2010-10 relating to any process that enhances a firearm's durability is what refers to Cerakote. However, I can confirm that the way you intend to conduct your Cerakote operation (cerakoting firearms for resale) would fall under ATF's definition of manufacturing. If you plan to continue to Cerakote on a gunsmithing basis (ie customer brings you a firearm to Cerakote and you return it to the customer), a manufacturing license is not required.

I did find a FAQ on the Cerakote website that uses similar language to ATF's ruling.

"Cerakote is a Polymer-Ceramic Composite coating that can be applied to metals, plastics, polymers and wood. The unique formulation used for Cerakote ceramic coating enhances a number of physical performance properties including abrasion/wear resistance, corrosion resistance, chemical resistance, impact strength, and hardness. Each of these properties is rigorously tested to guarantee that Cerakote products remain at the forefront of the ceramic coatings market. Cerakote ceramic coatings utilize state-of-the-art technology to out-perform any competitive coating in both laboratory settings and real world applications."

If any planner or council member from Marengo wishes to contact us to discuss this further, I'd be happy to speak to them. Let me know if I can be of further assistance.

Mark Kavanagh
Industry Operations Investigator
Downers Grove III Satellite Office
Chicago Field Division
Direct: (630) 725-5343

Why are we here?

Marengo Guns needs a 07 FFL.

The ATF requires that for a 07 (manufacturing) FFL license to be issued the FFL must be in compliance with all state and local laws, including zoning.

You may answer NO if (a) you have been pardoned for the crime or (b) the conviction has been expunged or set aside or (c) your civil rights have been restored AND you are not prohibited from possessing or receiving any firearms under the law where the conviction occurred.

27. Applicant Certification (Please read and initial each item.)

The business to be conducted under the Federal Firearms License is not prohibited by State or local law at the premises shown in Item 5. This includes compliance with zoning ordinances.

Within 30 days after the application is approved, the business will comply with the requirements of State and local law applicable to the conduct of business.

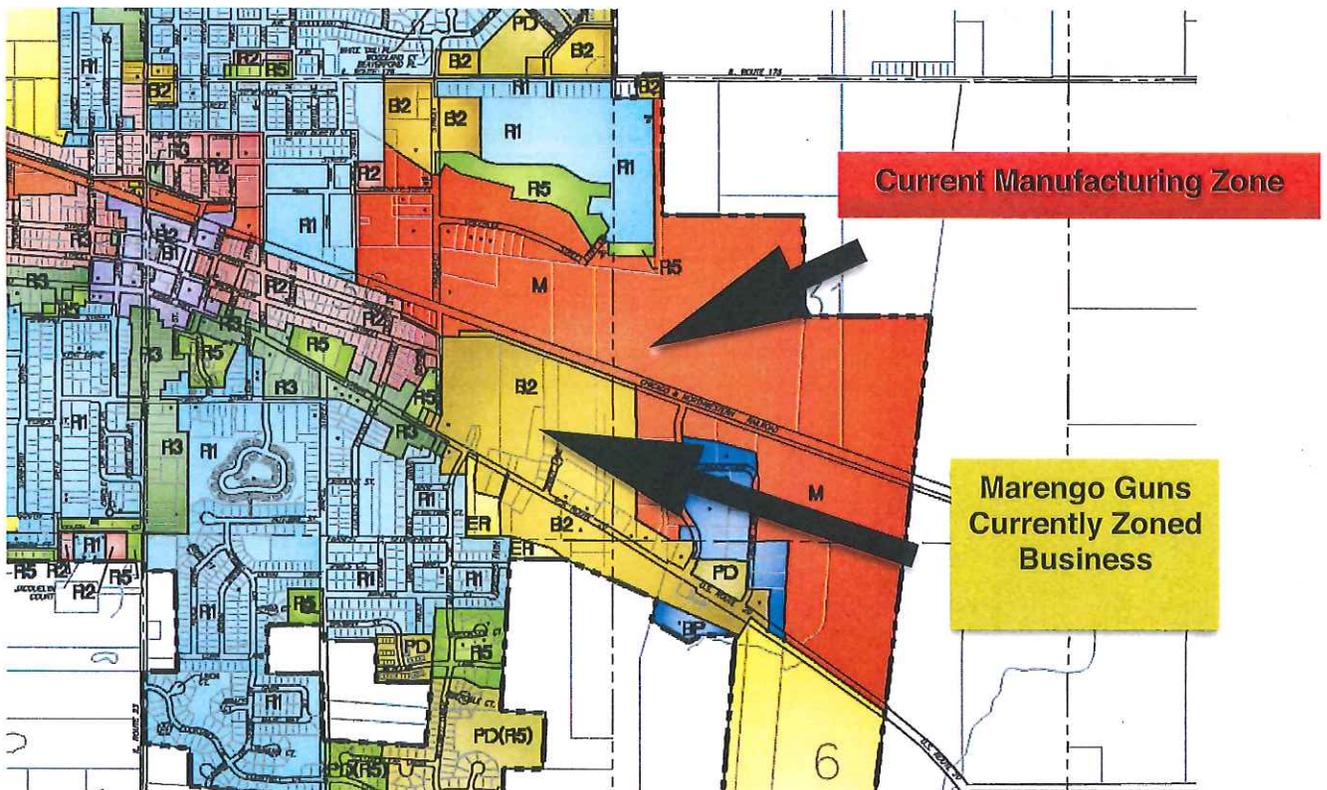
Business will not be conducted under the license until the requirements of State and local law applicable to the business have been met.

A completed copy of this form has been sent (mailed or delivered) to the Chief Law Enforcement Officer of the locality in which the premises is located. (See instruction #5.)

As required by 18 U.S.C. 923 (d)(1)(G), I certify that secure gun storage or safety devices will be available at any place in which firearms are sold under this Federal Firearms License to persons who are not licensees.

Name of Chief Law Enforcement Officer (CLEO)

ATF Form 7 (application for FFL)



REQUEST FOR SPECIAL USE APPLICATION

Instructions to applicant: A special use has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district but which may be made compatible with the intended overall development within a district. A special use permit is issued to regulate development of a special use. These may be public service uses which, although generally considered desirable or compatible with other uses in the zoning district, require special review. This review is performed by the Planning and Zoning Commission at a public hearing.

The Applicant should be able to show, by a site plan and documentary evidence that the proposed development will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

All information requested below- a site plan as described on the attached sheet and development schedule providing reasonable guarantees for the completion of the construction-must be provided before a hearing will be scheduled. Applicants are encouraged to visit the office of the City Administrator for any assistance needed in completing this application.

1. Applicant information:

Name Dominic DeBock Telephone # (815) 572-2490
Address 20014 E. Grant Hwy. Marengo, IL 60152
Street City Zip Code

2. Property interest of applicant:

() Owner () Contract purchaser
[X] Lessee () Other

3. Name of owner (if other than applicant):
(attach additional sheets if necessary)

Name Gene and Sandra Lindow Telephone # 815-568-6393
Address 20520 Beth Ct. Marengo, IL 60152
Street City Zip Code

4. Location of property:

Street address 20014-20016 E. Grant Hwy., Marengo, IL 60152

Legal description (lot, block and subdivision): E part, Lot 4

PIN 17-06-100-046

5. Present zoning classification of the area B-2

6. Present use of property (if any uses or buildings on property are non-conforming, so state):
gun and coin shop

Request for Special Use Continued

7. Special use request:

State exactly what is intended to be done with the property that requires a Special Use Permit.
Firearm manufacturing, as defined by ATF, and test
firing of firearms. Text Amendment to Section 11.03(4) to
permit manufacturing of firearms pursuant to Type 07
Federal Firearm License

8. I certify that all the above statements and the statements contained in any papers or plans submitted herewith are true and accurate.

 4-27-17
Signature of applicant Date

→ Bene Lindow 4-27-2017
Signature of owner (if different than applicant) Date



DO NOT WRITE IN THIS SPACE- FOR OFFICE USE ONLY

Date of hearing _____ PIN _____

Notice published on _____ Zoning _____

Newspaper _____ Fee paid _____ Check # _____

Action by Planning and Zoning Commission: _____ Date _____

Denied _____ Approved _____ Approved with modification by Commission _____

Comments: (indicate other actions such as continuance) _____

LEGAL DESCRIPTION

THAT PART OF GOVERNMENT LOT 2 OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 43 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF GOVERNMENT LOT 2 OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 44 NORTH, RANGE 6 EAST OF THE PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE TOWNSHIP LINE 265.98 FEET EAST OF THE SOUTHWEST CORNER OF SAID TOWNSHIP 44, BEING ALSO THE NORTHWEST CORNER OF SAID TOWNSHIP 43; THENCE ALONG AN ASSUMED BEARING OF SOUTH 00 DEGREES 06 MINUTES 18 SECONDS WEST 84.81 FEET TO THE CENTER OF MAIN STREET (U.S. ROUTE 20); THENCE SOUTH 60 DEGREES 49 MINUTES, 59 SECONDS EAST 420.09 FEET TO THE POINT OF BEGINNING OF THIS PARCELS DESCRIPTIONS; THENCE NORTH 00 DEGREES 04 MINUTES 14 SECONDS WEST 477.82 FEET; THENCE NORTH 89 DEGREES 14 MINUTES 51 SECONDS EAST 147.81 FEET; THENCE SOUTH 00 DEGREES 45 218.47 FEET; THENCE SOUTH 15 DEGREES 24 MINUTES 46 SECONDS WEST 131.05 FEET TO A POINT ON THE AFORESAID CENTERLINE OF (U.S. ROUTE 20); THENCE NORTH 60 DEGREES 49 MINUTES 59 SECONDS WEST 41.68 FEET TO THE POINT OF BEGINNING OF THIS PARCELS DESCRIPTION, ALL IN McHENRY COUNTY, ILLINOIS; AND

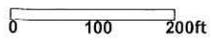
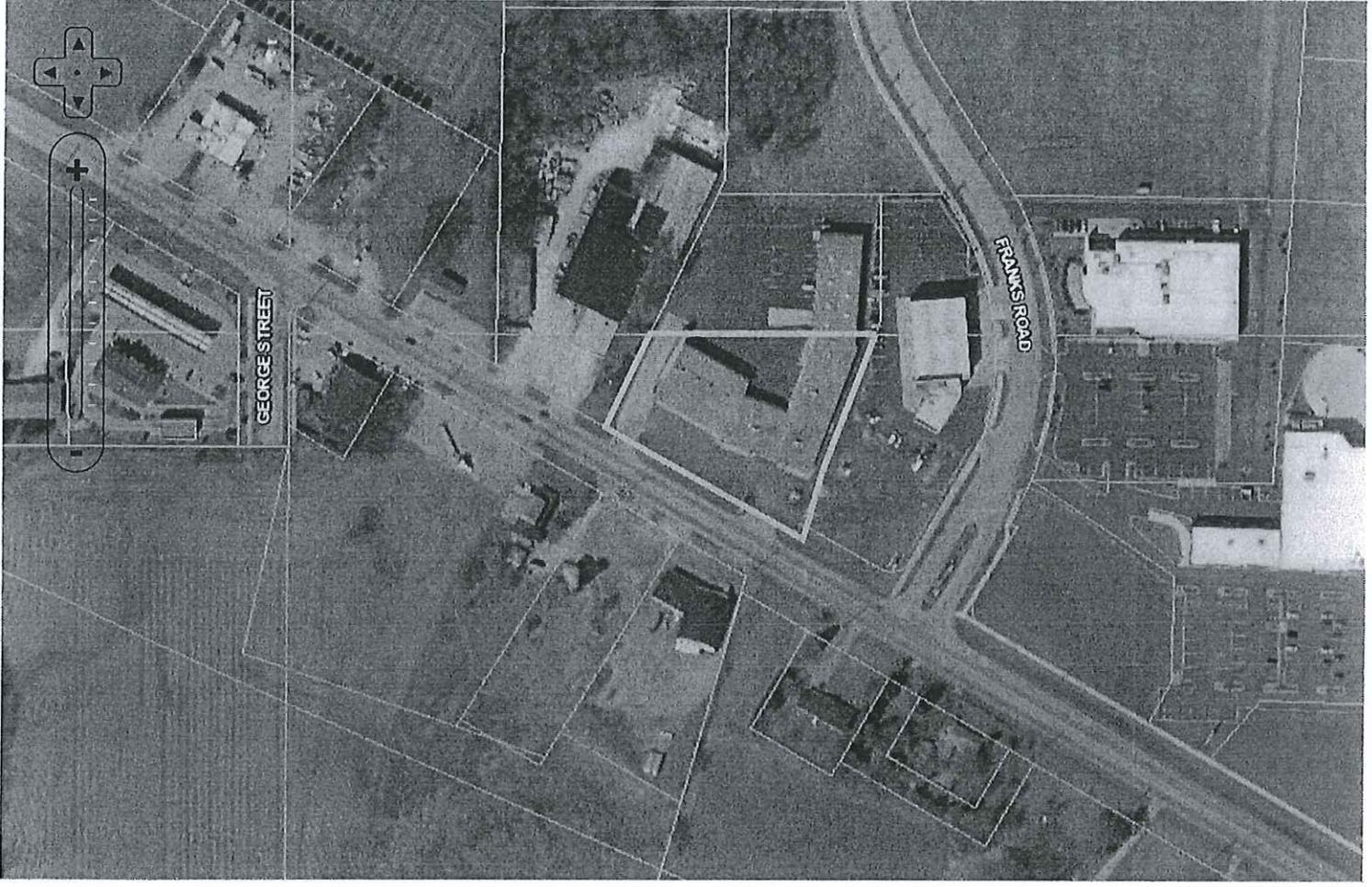
THAT PART OF GOVERNMENT LOT 2 OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 43 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF GOVERNMENT LOT 2 OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 44 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE TOWNSHIP LINE 265.98 FEET EAST OF THE SOUTHWEST CORNER OF SAID TOWNSHIP 44, BEING ALSO THE NORTHWEST CORNER OF SAID TOWNSHIP 43; THENCE ALONG AN ASSUMED BEARING OF SOUTH 00 DEGREES 06 MINUTES 18 SECONDS WEST 84.81 FEET TO THE CENTER OF MAIN STREET (U.S. ROUTE 20); THENCE SOUTH 60 DEGREES 49 MINUTES 59 SECONDS EAST 261.77 TO THE POINT OF BEGINNING OF THIS PARCELS DESCRIPTIONS; THENCE NORTH 31 DEGREES 01 MINUTES 04 SECONDS EAST 180.84; THENCE NORTH 27 DEGREES 22 MINUTES 54 SECONDS EAST 89.17 FEET; THENCE SOUTH 00 DEGREES 40 MINUTES 14 SECONDS EAST 311.10 FEET TO A POINT ON THE AFORESAID CENTERLINE OF U.S. ROUTE 20; THENCE NORTH 60 DEGREES 49 MINUTES 59 SECONDS WEST 158.32 FEET TO THE POINT OF BEGINNING OF THIS PARCELS DESCRIPTIONS, ALL IN McHENRY COUNTY, ILLINOIS.



SEARCH BY: Parcel Subdivision Address Sales
 Navigation Measure Property Info

Layers Basemaps Print 17-06-100-046 Buffer Tri-View Markup Clear Map

Search





Questions or Comments?

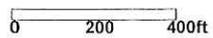
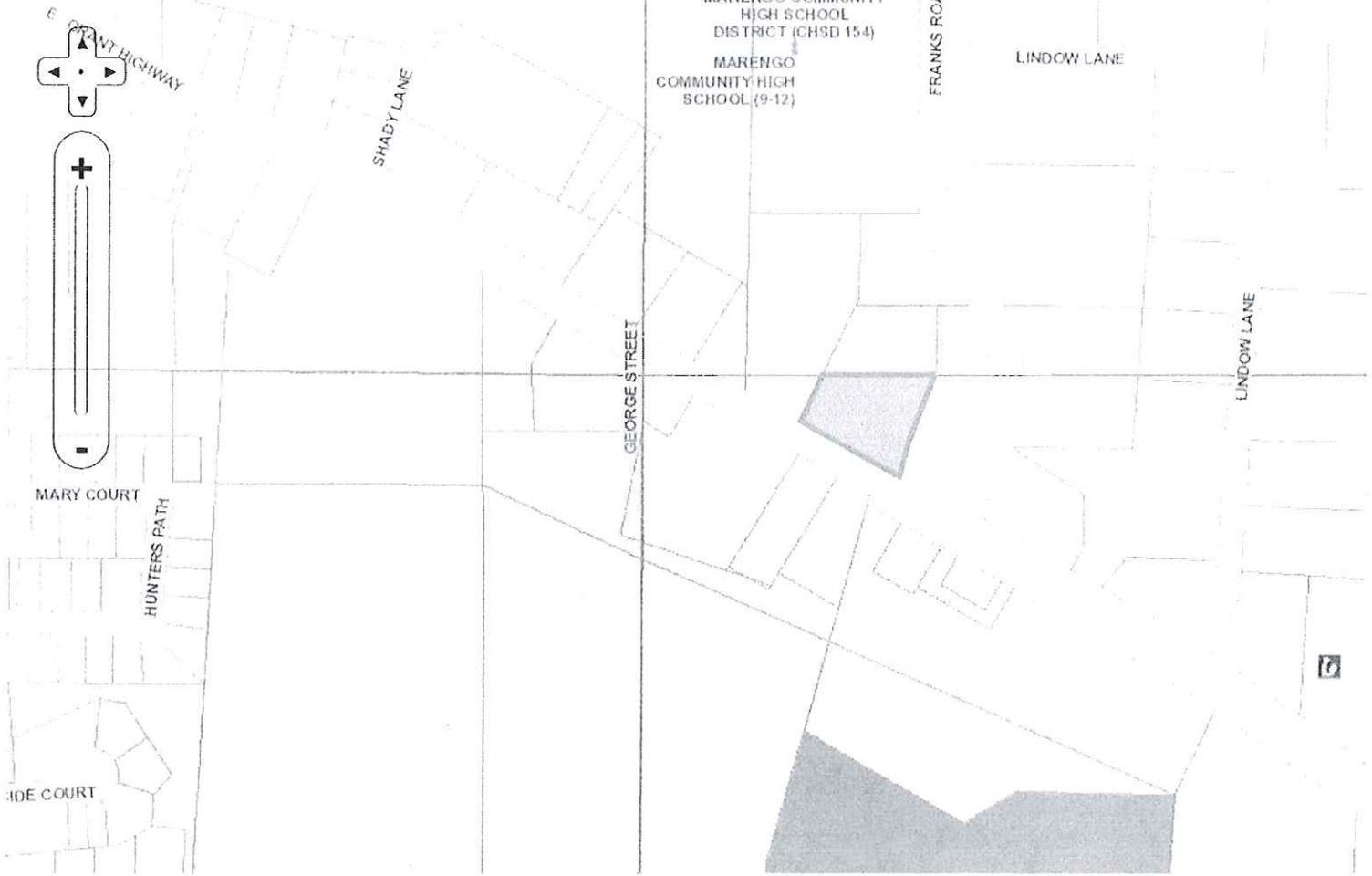
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(<mailto:gis@co.mchenry.il.us>) |
Sources ([sources/Athena Sources.pdf](#))

Layers | Basemaps | Print

SEARCH BY: Parcel | Subdivision | Address | Sales
Navigation | Measure | Property Info

Buffer | Tri-View | Markup | Clear Map
Search

17-06-100-046





U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC
20226

18 U.S.C. 921(a): DEFINITIONS
18 U.S.C. 922(a)(1)(A): LICENSES REQUIRED
18 U.S.C. 923(a): LICENSES REQUIRED
18 U.S.C. 923(i): IDENTIFICATION OF FIREARMS
27 CFR 478.11: DEFINITIONS
27 CFR 478.41(a): LICENSES REQUIRED
27 CFR 478.92: IDENTIFICATION OF FIREARMS

Any person licensed as a dealer-gunsmith who repairs, modifies, embellishes, refurbishes, or installs parts in or on firearms (frames, receivers, or otherwise) for, or on behalf of a licensed importer or licensed manufacturer, is not required to be licensed as a manufacturer under the Gun Control Act, provided the firearms for which such services are rendered are: (1) not owned, in whole or in part, by the dealer-gunsmith; (2) returned by the dealer-gunsmith to the importer or manufacturer upon completion of the manufacturing processes, and not sold or distributed to any person outside the manufacturing process; and (3) already properly identified/marked by the importer or manufacturer in accordance with Federal law and regulations.

ATF Rul. 2010-10

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from firearms industry members asking whether licensed dealer-gunsmiths who would be engaged in the business of repairing, modifying, embellishing, refurbishing, or installing parts in or on firearms for, or on behalf of a licensed importer or manufacturer are required to be licensed as manufacturers and abide by the requirements imposed on manufacturers.

In recent years, licensed firearms importers and manufacturers have contracted certain firearms manufacturing activities on their behalf to specialized licensed firearms manufacturers. Such activities include applying special coatings and treatments to firearms (e.g., bluing, anodizing, powder-coating, plating, polishing, heat/chemical treating). This has caused confusion over which importers and manufacturers are required to identify/ mark firearms and maintain permanent records of importation or manufacture. For this reason, licensed importers and manufacturers have asked whether licensed dealer-gunsmiths, who are not required to mark firearms and keep production records, may engage in such manufacturing activities on their behalf.

The Gun Control Act of 1968 (GCA), Title 18, United States Code (U.S.C.), section 923(a), provides, in part, that no person shall engage in the business of importing, manufacturing, or dealing in firearms until he has filed an application with and received a license to do so from the Attorney General. A "firearm" is defined by 18 U.S.C. 921(a)(3) to include any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, and the frame or receiver of any such weapon. The term "manufacturer" is defined by 18 U.S.C. 921(a)(10) as any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution. As applied to a manufacturer of firearms, the term "engaged in the business" is defined by 18 U.S.C. 921(a)(21)(A) and 27 CFR 478.11, as a "person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured." The term "dealer" is defined by 18 U.S.C. 921(a)(11)(B) and 27 CFR 478.11 to include "any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms ..." (*i.e.*, a gunsmith). As applied to a gunsmith, the term "engaged in the business" is defined by 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11 as a "person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit ..."

In Revenue Ruling 55-342 (C.B. 1955-1, 562), ATF's predecessor agency interpreted the meaning of the terms "manufacturer" and "dealer" for the purpose of firearms licensing under the Federal Firearms Act, the precursor statute to the GCA. It was determined that a licensed dealer could assemble firearms from component parts on an individual basis, but could not engage in the business of assembling firearms from component parts in quantity lots for purposes of sale or distribution without a manufacturer's license. Since then, ATF has similarly and consistently interpreted the term "manufacturer" under the GCA to mean any person who engages in the business of making firearms, by casting, assembly, alteration, or otherwise, for the purpose of sale or distribution. Such persons must have a manufacturer's license under the GCA, maintain permanent records of manufacture, and submit annual manufacturing reports. The Revenue Ruling did not address whether dealer-gunsmiths who engage in the business of repairing, modifying, embellishing, refurbishing, or installing parts in or on firearms for, or on behalf of an importer or manufacturer are engaged in the business of manufacturing firearms requiring a manufacturer's license.

Manufacturing

ATF's long-standing position is that any activities that result in the making of firearms for sale or distribution, to include installing parts in or on firearm frames and receivers, and processes that primarily enhance a firearm's durability, constitute firearms manufacturing that may require a manufacturer's license. In contrast, some activities are not firearms manufacturing processes, and do not require a manufacturer's license. For example, ATF Ruling 2009-1 (approved January 12, 2009) explained that performing a cosmetic process or activity, such as camouflaging or engraving, that primarily adds to or changes the appearance or decoration of a firearm is not manufacturing. Likewise, ATF Ruling 2009-2 (approved January 12, 2009) stated that installing "drop-in" replacement parts in or on existing, fully assembled firearms does not result in any alteration to the original firearms. Persons engaged in the business of these activities that do not constitute firearms manufacturing need only obtain a dealer's license.

Although installing parts in or on firearms, and applying special coatings and treatments to firearms are manufacturing activities, the definition of "manufacturer" in 18 U.S.C. 921(a)(10) and 27 CFR 478.11 also requires that a person be "engaged in the business" before the manufacturer's license requirement of section 923(a) applies. Thus, a person who manufactures a firearm will require a manufacturer's license if he/she devotes time, attention, and labor to such manufacture as a regular course of trade or business with the principal objective of livelihood and profit **through the sale or distribution of the firearms**

manufactured. If the person is performing such services only for a customer on firearms provided by that customer, and is not selling or distributing the firearms manufactured, the person would be a “dealer” as defined by 18 U.S.C. 921(a)(11)(B) and 27 CFR 478.11, requiring a dealer’s license, assuming the person is “engaged in the business” as defined in 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11 (*i.e.*, “gunsmithing”).

Gunsmithing

A dealer is “engaged in the business” of gunsmithing, as defined in 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11, when he/she receives firearms (frames, receivers, or otherwise) provided by a customer for the purpose of repairing, modifying, embellishing, refurbishing, or installing parts in or on those firearms. Once the work is completed, the gunsmith returns the firearms, and charges the customer for labor and parts. As with an individual customer, a licensed dealer-gunsmith may receive firearms (properly identified with a serial number and other information required by 27 CFR 478.92) and conduct gunsmithing services for a customer who is a licensed importer or manufacturer. A dealer-gunsmith is not “engaged in the business” of manufacturing firearms because the firearms being produced are not owned by the dealer-gunsmith, and he/she does not sell or distribute the firearms manufactured. Once the work is completed, the dealer-gunsmith returns the firearms to the importer or manufacturer upon completion of the manufacturing processes, and does not sell or distribute them to any person outside the manufacturing process. Under these circumstances, the licensed dealer-gunsmith is not “engaged in the business” of manufacturing firearms requiring a manufacturer’s license.

In contrast, a dealer-gunsmith may make or acquire his/her own firearms, and repair, modify, embellish, refurbish, or install parts in or on those firearms. If the dealer-gunsmith then sells or distributes those firearms for livelihood and profit, the dealer-gunsmith is engaged in his/her own business of manufacturing firearms. A person engaged in the business of manufacturing firearms for sale or distribution is required to be licensed as a manufacturer, identify/mark all firearms manufactured, maintain permanent records of manufacture, submit annual manufacturing reports, and pay any taxes imposed on firearm manufacturers. A licensed dealer-gunsmith who becomes licensed as a manufacturer must also segregate all firearms manufactured for that business separately from firearms for which gunsmithing services are being performed.

To facilitate inspection and ensure that ATF can determine that a licensed dealer-gunsmith is not engaged in the business of manufacturing firearms for his own sale or distribution without a manufacturer’s license, licensees may take the following steps:

- (1) maintain a copy of the current, active license of all contracted licensees;
- (2) maintain a copy of the contract and all instructions for gunsmithing services rendered;
- (3) maintain a copy of the invoices for gunsmithing services;
- (4) timely and accurately reflect all firearms acquisitions and dispositions consistent with the contract for gunsmithing services rendered; and
- (5) in the case of a licensed dealer-gunsmith, maintain required bound acquisition and disposition records for all gunsmithing activities separate from other dealer’s records.

Unless licensees take these steps, ATF may presume that a particular dealer-gunsmith is engaged in his own business of manufacturing firearms for sale or distribution without a manufacturer’s license, and take corrective administrative or other enforcement action.

Identification of Firearms

The GCA at 18 U.S.C. 923(i) provides, in part, that licensed manufacturers and importers must “identify” each firearm manufactured or imported by a serial number in the manner prescribed by regulation. Federal regulations at 27 CFR 478.92(a)(1) further require importers and manufacturers to identify each firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing the individual serial number and certain additional information - the model (if designated), caliber/gauge, manufacturer’s name, and place of origin on the frame, receiver, or barrel - at a minimum depth. Section 478.92(a)(2) specifies that a “firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of ... must be identified as required by this section.”

Because dealer-gunsmiths are not required to identify firearms manufactured, it is incumbent upon the importer or manufacturer, prior to shipping firearms to a dealer-gunsmith for gunsmithing services, to mark them with a serial number and other required information. With regard to frames and receivers shipped separately, section 478.92(a)(2) provides, in part, that the manufacturer or importer must mark all frames and receivers prior to shipment with all information required by section 478.92 (*i.e.*, serial number, model (if designated), caliber/gauge, manufacturer’s name, and place of origin). This will ensure that the frames and receivers can be traced by ATF in the event they are lost or stolen during the manufacturing process.

Held, any person licensed as a dealer-gunsmith who repairs, modifies, embellishes, refurbishes, or installs parts in or on firearms (frames, receivers, or otherwise) for, or on behalf of a licensed importer or licensed manufacturer, is not required to be licensed as a manufacturer under the Gun Control Act, *provided* the firearms for which such services are rendered are: (1) not owned, in whole or in part, by the dealer-gunsmith; (2) returned by the dealer-gunsmith to the importer or manufacturer upon completion of the manufacturing processes, and not sold or distributed to any person outside the manufacturing process; and (3) already properly identified/marked by the importer or manufacturer in accordance with Federal law and regulations.

This ruling is limited to an interpretation of the requirements imposed upon importers, manufacturers, and dealer-gunsmiths under the Gun Control Act of 1968, and does not apply to persons making or manufacturing firearms subject to the National Firearms Act, 26 U.S.C. 5801 *et. seq.*

Revenue Ruling 55-342, C.B. 1955-1, 562, is hereby clarified. To the extent this ruling may be inconsistent with any prior letter rulings, they are hereby superseded.

Date approved: December 27, 2010

Kenneth E. Melson

Acting Director

PUBLIC HEARING

TO: Planning and Zoning Commission

FROM: Joshua Blakemore, Assistant City Administrator

FOR: May 15, 2017 Planning and Zoning Commission Meeting

RE: 20009 - 20015 East Grant Highway – Proposed Strip Center – Planned Development and Special Use for a 2 Acre Parcel Zoned B-2 General Business, Including a Commercial Strip Center with two Drive Through Facilities

Issue Statement: The applicant is seeking a Planned Development (PD) and special use permit for a four unit strip center, with each end unit proposed as a drive through facility. The property in question (PIQ) is located at 821 East Grant Highway and is currently zoned B-2 General Business District. As per Section 11.03 (1) (i) of the Marengo Zoning Ordinance (MZO), a special use is required for any business wishing to operate a drive through in the B-2 zoning district. The petitioner, Brackmann Construction Company, on behalf of the property owner, Vipul Patel, is proposing the two end units of a four unit commercial strip center be issued a special use permit. One end unit would be used for the relocating Marengo Pharmacy and the other would be used for Dunkin Donuts.

Neighboring Uses: The adjacent properties to the north, west and east of the PIQ are zoned B-2 General Business. The property to the south of the PIQ is zoned B-2 General Business, with just a small strip to the south of the PIQ being in the city's corporate limits.

The City has not received any objections to the application at this time.

Summary: The proposed uses in the four unit strip center would be allowable in a B-2 zoning district. Given the nature of the proposed uses (a pharmacy and donut shop), a special use permit for a drive through facility for these two uses would not be inappropriate. Engineering will need to be completed by the petitioner to review potential traffic impact of the proposed use. Any new turn lane will need to be reviewed and approved by IDOT. The petitioner is seeking approval of this special use application to allow for further discussions with IDOT regarding the potential design of the turn lane. It is possible the petitioner may have to reappear before the PZC if any specific variances need to be sought for the property once final design of the site and turn lane are completed. Variances for the number of required parking spaces, for example, could be sought. In the meantime, the petitioner wished to move forward with approval of the special use permit for the drive through use to allow the process to continue forward in a timely manner. The attached site plan shows the nature of the proposed Planned Development.

A public hearing regarding the petitioner's application for a PD and special use permit for the property in question is requested for the May 15, 2017, Planning and Zoning Commission meeting. If, after concluding the public hearing, the PZC feels the special use permit would be appropriate, then the adoption of the attached findings of fact and a recommendation that the City Council approve the requested special use would be in order.

Motion to Recommend: *Motion to adopt the attached finding of facts as presented and recommend that the City Council approve a planned development and special use permit as requested for the property in question.*

Findings of Fact

20009 - 20015 East Grant Highway

Application for Special Use Permit – Two Drive Through Uses

Based on the evidence and testimony provided during the public hearing for this application which commenced on May 15, 2017, the Planning and Zoning makes the following findings of fact in support of the application:

SPECIAL USES

Marengo Zoning Ordinance Section 15.03, "Standards for Special Uses," states that the City Council may authorize a special use permit upon determining and finding as fact, the following:

1. That the proposed use will not be detrimental to the public health, safety, comfort or general welfare, nor substantially diminish or impair the value of other properties or improvements in the vicinity.
2. That the proposed use will comply with the regulations of the zoning district in which it is located and this Zoning Code generally, including but not limited to all applicable yard and bulk regulations, parking and loading regulations, sign control regulations, wetlands and flood plain regulations, building and fire codes, and all other applicable City ordinances, or if exceptions are requested, that such exceptions are justified.
3. That the proposed use will not negatively impact the existing off-site traffic circulation; will adequately address on-site traffic circulation; will provide adequate on-site parking facilities; and if appropriate or required, will contribute financially, in proportion to its impact, to upgrading roadway systems.
4. That the proposed use will not negatively impact existing public utilities, facilities and municipal service delivery systems without due consideration for adequate means of upgrading such utilities, facilities and systems.
5. That the proposed use will not negatively impact the environment by creating air, noise or water pollution, ground contamination, or unsightly views without due consideration for adequate means of controlling, mitigating or buffering such impacts.
6. That the proposed use will maintain, where possible, existing mature vegetation; provide adequate screening to residential properties; and provide appropriate landscaping.
7. That the proposed use will meet standards and requirements established by jurisdictions other than the City, such as federal, state, county or other governmental units or agencies requiring licensing, permitting or health/safety inspections, and submit written evidence thereof.

8. That the proposed use shall conform to the regulations established for specific special uses as provided in this Section 15 [of the Marengo Zoning Code].

cc: Mayor & City Council
Corey Brackmann

REQUEST FOR SPECIAL USE APPLICATION

Instructions to applicant: A special use has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district but which may be made compatible with the intended overall development within a district. A special use permit is issued to regulate development of a special use. These may be public service uses which, although generally considered desirable or compatible with other uses in the zoning district, require special review. This review is performed by the Planning and Zoning Commission at a public hearing.

The Applicant should be able to show, by a site plan and documentary evidence that the proposed development will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

All information requested below- a site plan as described on the attached sheet and development schedule providing reasonable guarantees for the completion of the construction- must be provided before a hearing will be scheduled. Applicants are encouraged to visit the office of the City Administrator for any assistance needed in completing this application.

1. Applicant information:

Name BRASKIN Construction Company Telephone # 815 482 2779
 Address 801 E. WENT Hwy, Site F Marengo 60752
Street City Zip Code

2. Property interest of applicant:

Owner Contract purchaser
 Lessee Other Developer for Owner

3. Name of owner (if other than applicant):
 (attach additional sheets if necessary)

Name VIPUL PATEL Telephone # 773-344-4434
 Address 300 Rose Dr. St. Charles IL 60175
Street City Zip Code

4. Location of property:

Street address 20009 - 20015 E. WENT Hwy Marengo
 Legal description (lot, block and subdivision): See ATTACHED

PIN 17-06-104-003 + 17-06-100-039

5. Present zoning classification of the area B-2

6. Present use of property (if any uses or buildings on property are non-conforming, so state):
Vacant Property + Store - Retail Space

Request for Special Use Continued

7. Special use request:

State exactly what is intended to be done with the property that requires a Special Use Permit.

2 DRIVE THRU Lanes at EACH END of Re proposed Building per Re. Drawing

8. I certify that all the above statements and the statements contained in any papers or plans submitted herewith are true and accurate.

[Handwritten Signature]

Signature of applicant

4/20/17
Date

Signature of owner (if different than applicant)

Date

DO NOT WRITE IN THIS SPACE- FOR OFFICE USE ONLY

Date of hearing 5/15/2017

17.06-100-039
PIN 17.06-104-003

Notice published on

Zoning B2

Newspaper NW Herald

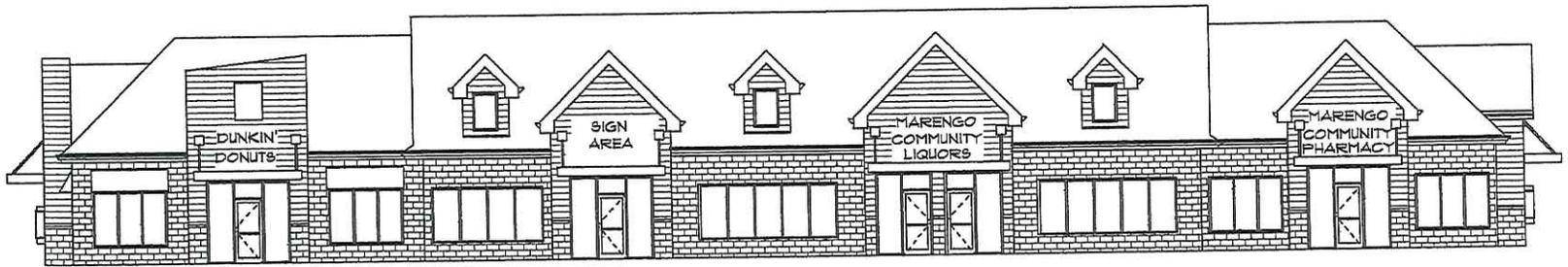
Fee paid 1000 Check # 8699

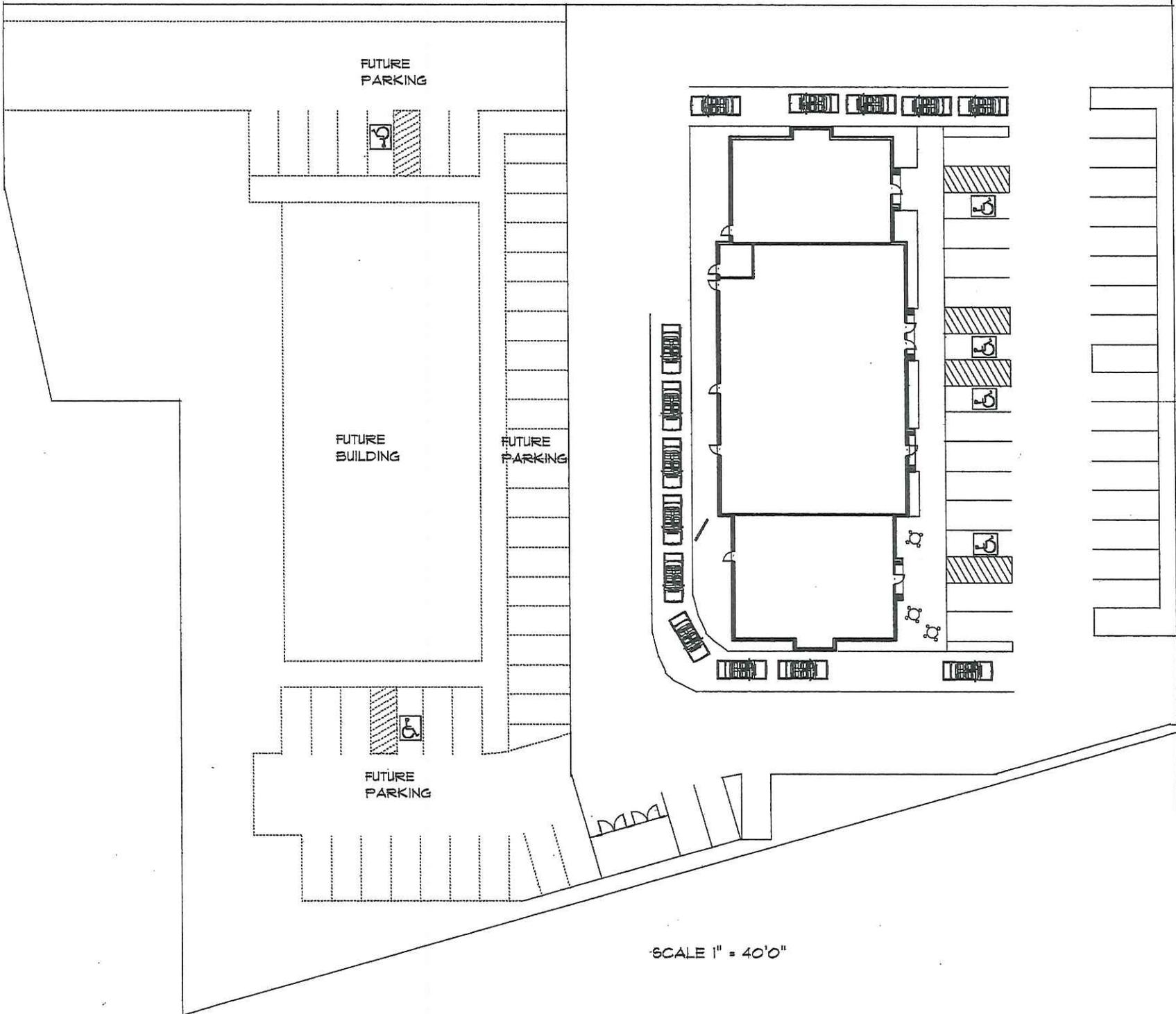
Action by Planning and Zoning Commission:

Date [RECEIVED] APR 26 2017

Denied _____ Approved _____ Approved with modification by Commission BY: _____

Comments: (indicate other actions such as continuance)





FUTURE
PARKING

FUTURE
BUILDING

FUTURE
PARKING

FUTURE
PARKING

SCALE 1" = 40'0"

E. GRANT HWY

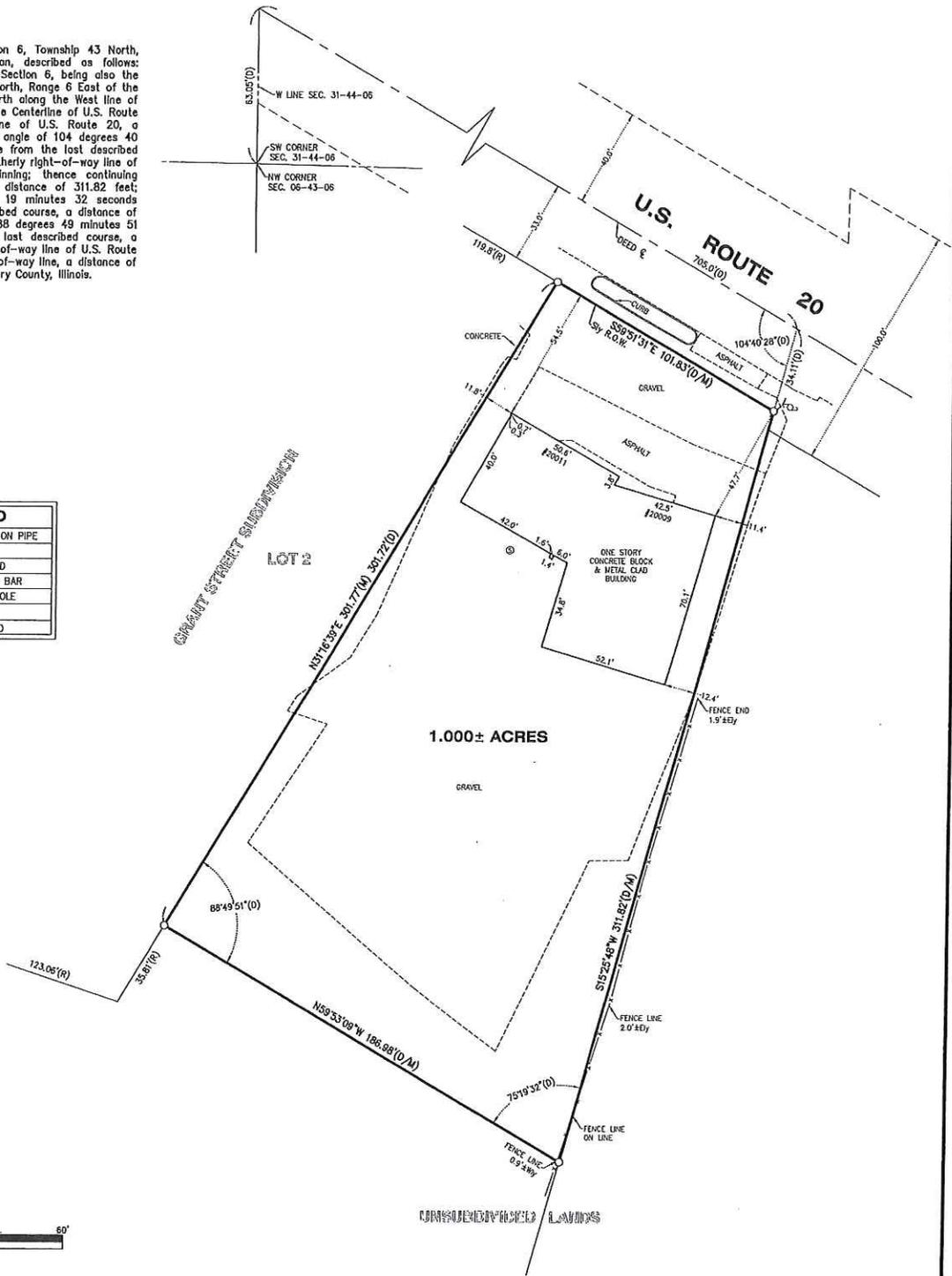
ROUTE 20

PLAT OF SURVEY

LEGAL DESCRIPTION

That part of the Northwest Quarter of Section 6, Township 43 North, Range 6 East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of said Section 6, being also the Southwest corner of Section 31, Township 44 North, Range 6 East of the Third Principal Meridian, and running thence North along the West line of said Section 31, a distance of 63.05 feet to the Centerline of U.S. Route 20; thence Southeasterly along said Centerline of U.S. Route 20, a distance of 705 feet; thence Southerly at an angle of 104 degrees 40 minutes 28 seconds measured counterclockwise from the last described Centerline, a distance of 34.11 feet to the Southerly right-of-way line of said U.S. Route 20 and the Place of Beginning; thence continuing Southerly along the last described course, a distance of 311.82 feet; thence Westerly at an angle of 75 degrees 19 minutes 32 seconds measured counterclockwise from the last described course, a distance of 186.98 feet; thence Northerly at an angle of 88 degrees 49 minutes 51 seconds, measured counterclockwise from the last described course, a distance of 301.72 feet to the Southerly right-of-way line of U.S. Route 20; thence Easterly along said Southerly right-of-way line, a distance of 101.83 feet to the Place of Beginning, in McHenry County, Illinois.

LEGEND	
○	FOUND IRON PIPE
☆	LIGHT
⊙	SEPTIC LID
⊙	SET IRON BAR
⊙	UTILITY POLE
(D)	DEED
(M)	MEASURED



NOTE: Only those Building Line Restrictions or Easements shown on a Recorded Subdivision Plat are shown hereon unless the description ordered to be surveyed contains a proper description of the required building lines or easements.

- * No distance should be assumed by scaling.
- * No underground improvements have been located unless shown and noted.
- * No representation as to ownership, use, or possession should be hereon implied.
- * This Survey and Plat of Survey are void without original embossed or colored seal and signature affixed.

Compare your description and site markings with this plat and AT ONCE report any discrepancies which you may find.

STATE OF ILLINOIS)) S.S.
COUNTY OF McHENRY)

In my professional opinion, and based on my observations, I hereby certify that we have surveyed the premises above described, and that the plat hereon is a true representation of the said survey. This professional service conforms to the current Illinois minimum standards for a boundary survey.

Dated at Woodstock, McHenry County, Illinois 3/6 A.D., 20 17.

Vanderstappen Land Surveying Inc.
Design Firm No. 184-002782

By: *[Signature]*
Illinois Professional Land Surveyor No. 2709

CLIENT: VIPUL PATEL
DRAWN BY: DAM CHECKED BY: WJV
SCALE: 1"=30' SEC. 06 T. 43 R. 06 E.
BASIS OF HEARING: ASSUMED
P.L.N.: 17-06-100-039
JOB NO.: 170095 I.D. MBS
FIELDWORK COMP.: 2/27/17 BK. PG.
ALL DISTANCES SHOWN IN FEET AND DECIMAL FRACTIONS THEREOF CORRECTED TO 68° F.