

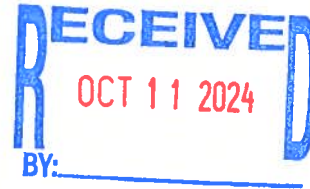
KMK | Law

Kristopher T. Milner

Associate
D: 513.639.3877
kmilner@kmlaw.com

October 10, 2024

Paul J. Drury, Jr., AICP
Planning and Zoning Director
Anderson Township
7850 Five Mile Road
Anderson Township, Ohio 45230-2356



Re: Notice of Refusal of Zoning Certificate: 4455 Mt. Carmel Road (Parcel ID 500-0081-0032), Anderson Township, OH 45244

Dear Mr. Drury,

Evans Gravel Inc. (the "Owner") has received notice of the denial of a Zoning Certificate by the Anderson Township Board of Zoning Appeals (the "Township"), submitted by this law firm on behalf of Owner, for certain grading improvements at the property located at 4455 Mt. Carmel Road (the "Property"), as set forth in the Township's Notice of Refusal dated September 23, 2024, which is an attachment to this letter.

This letter serves as the required notice under Section 2.12.C of the Township's Zoning Resolution (the "Resolution") that Owner wishes to appeal this decision. Owner believes the requested uses, as set for in the Zoning Certificate, are not only beneficial to the Owner's use of the Property, but are consistent with currently approved uses approved for the Property. The Zoning Certificate does not propose to expand permitted mining activities at the Property. Rather, all requested activities are occurring outside of the mining areas, and will improve drainage and assist with erosion control, and enhance the future utility of the Property for potential redevelopment and use. Therefore, the Owner respectfully requests the Township reconsider its denial.

If you have any questions or concerns, please contact me at your convenience to discuss.

Sincerely,

By: _____

Kristopher T. Milner
Associate

KTM

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Keating Muething & Klekamp PLL

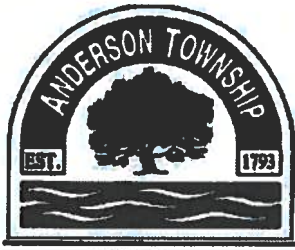
Attorneys at Law

One East Fourth Street | Suite 1400 | Cincinnati, Ohio 45202

P: 513.579.6400 | F: 513.579.6457 | kmlaw.com

Paul J. Drury, Jr., AICP
October 10, 2024
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cc: Benjamin J. Yoder, Township Special Counsel (w/ enc.) (via email)
Mr. Douglas Evans (w/ enc.) (via email)
Zachary K. Peterson, Esq., (w/enc.) (via email)
Daniel P. Utt (w/ enc.) (via email)



Anderson Township
Anderson Center
7850 Five Mile Road
Anderson Township, Ohio 45230-2356
Phone: 513.688.8400
AndersonTownship.org
AndersonCenterEvents.org

**NOTICE OF REFUSAL
ZONING CERTIFICATE**

OWNER: Evans Gravel Inc
4229 Round Bottom Road
Cincinnati, OH 45244


APPLICANT: KMK Law
Kristopher T. Milner, Associate
One East Fourth Street, Suite 1400
Cincinnati, OH 45202

Your application of September 9, 2024 for a zoning certificate for grading activities for the improvement of drainage and erosion control, per the drawing attached, at the premises designated as 4455 Mt Carmel Road, Book 500, Page 081, Parcel 032, Zoned "ID" Industrial Development, Anderson Township, is hereby refused on this 23rd day of September, 2024, under Article 3.16, C, 1 of the Anderson Township Zoning Resolution for the reason(s) that:

Article 3.16, C, 1 – Conditional Uses: Except as provided in Article 3.16,D, no building or premises shall be used for any of the following uses until and unless a special zoning certificate shall have been authorized and issued by the Board of Zoning Appeals in the manner provided in this Article and in Article 2.12 of this Resolution:

1. Extraction and Related Operations: Extracting, excavating, mining or processing of sand, rock and/or gravel.

September 20, 2024
Date



Paul J. Drury, Jr., AICP
Planning and Zoning Director

Note: Any appeal made from this refusal must be filed with the Anderson Township Board of Zoning Appeals within twenty (20) days after the date of this refusal. For further information, contact Anderson Township Land Use Administrator at (513) 688-8400.

KMK | Law

Kristopher T. Milner

Associate

D: 513.639.3877

kmilner@kmlaw.com

September 9, 2024

Paul J. Drury, Jr., AICP
Planning and Zoning Director
Anderson Township
7850 Five Mile Road
Anderson Township, Ohio 45230-2356

Re: Zoning Violation re: 4455 Mt. Carmel Road (Parcel ID 500-0081-0032),
Anderson Township, OH 45244

Dear Mr. Drury,

We represent Evans Gravel, Inc. (the "Owner"). In response to the Notice of Violation dated August 7, 2024, please find enclosed an Application for Anderson Township Zoning Certificate for proposed grading, drainage, and erosion control improvements at 4455 Mt. Carmel Road, submitted on behalf of the Owner.

This Application does not propose to expand permitted mining activities at Owner's Property. The grading, drainage, and erosion control work will enhance the future utility of the Property for redevelopment and use. Therefore, the Owner respectfully requests this Application for a Zoning Certificate be approved.

If helpful, Doug Evans is happy to schedule a site visit with you any afternoon in the coming weeks. If you have any questions or concerns, please contact me at your convenience to discuss.

Sincerely,



By: _____

Kristopher T. Milner
Associate

KTM

13833651.2

Keating Muething & Klekamp PLL

Attorneys at Law

One East Fourth Street | Suite 1400 | Cincinnati, Ohio 45202

P: 513.579.6400 | F: 513.579.6457 | kmlaw.com

Paul J. Drury, Jr., AICP

September 9, 2024

Page 2

cc: Benjamin J. Yoder, Township Special Counsel (w/ enc.) (via email)
Mr. Douglas Evans (w/ enc.) (via email)
Daniel P. Utt (w/ enc.) (via email)

APPLICATION FOR ANDERSON TOWNSHIP ZONING CERTIFICATE

Property Address: 4455 Mt. Carmel Road, Cincinnati, Ohio 45244 (the “Property”)
Parcel ID: 500-0081-0032-00
Property Zoning: Industrial Development
Owner Name: Evans Gravel, Inc. (the “Owner”)
Owner Address: 3700 Roundbottom Road
Cincinnati, Ohio 45244
Owner Phone: (513) 831-4102
Owner Email: devans@evanslandscaping.com
Delivery Method: Email

In response to the Zoning Violation Notice dated August 7, 2024, the Owner is submitting this Application for a Zoning Certificate to allow for grading activities for the improvement of drainage and erosion control at the Property, as depicted on the attached Exhibit A.

As depicted on the attached Exhibit B, portions of the Property operate as a sand and gravel mining operation, pursuant to a Special Zoning Certificate issued December 12, 2018 and the mining permit issued by the Ohio Department of Natural Resources. As shown on Exhibit C, the grading and erosion control activities being performed are limited to the portions of the Property not included in the mining operation. Owner confirms the grading and drainage improvement activities do not constitute an enlargement of the permitted mine on the Property, and Owner is not enlarging the area utilized for the gravel mining operation. Rather, these activities permit the use of the graded areas for agricultural use and the Property’s potential future uses and development.

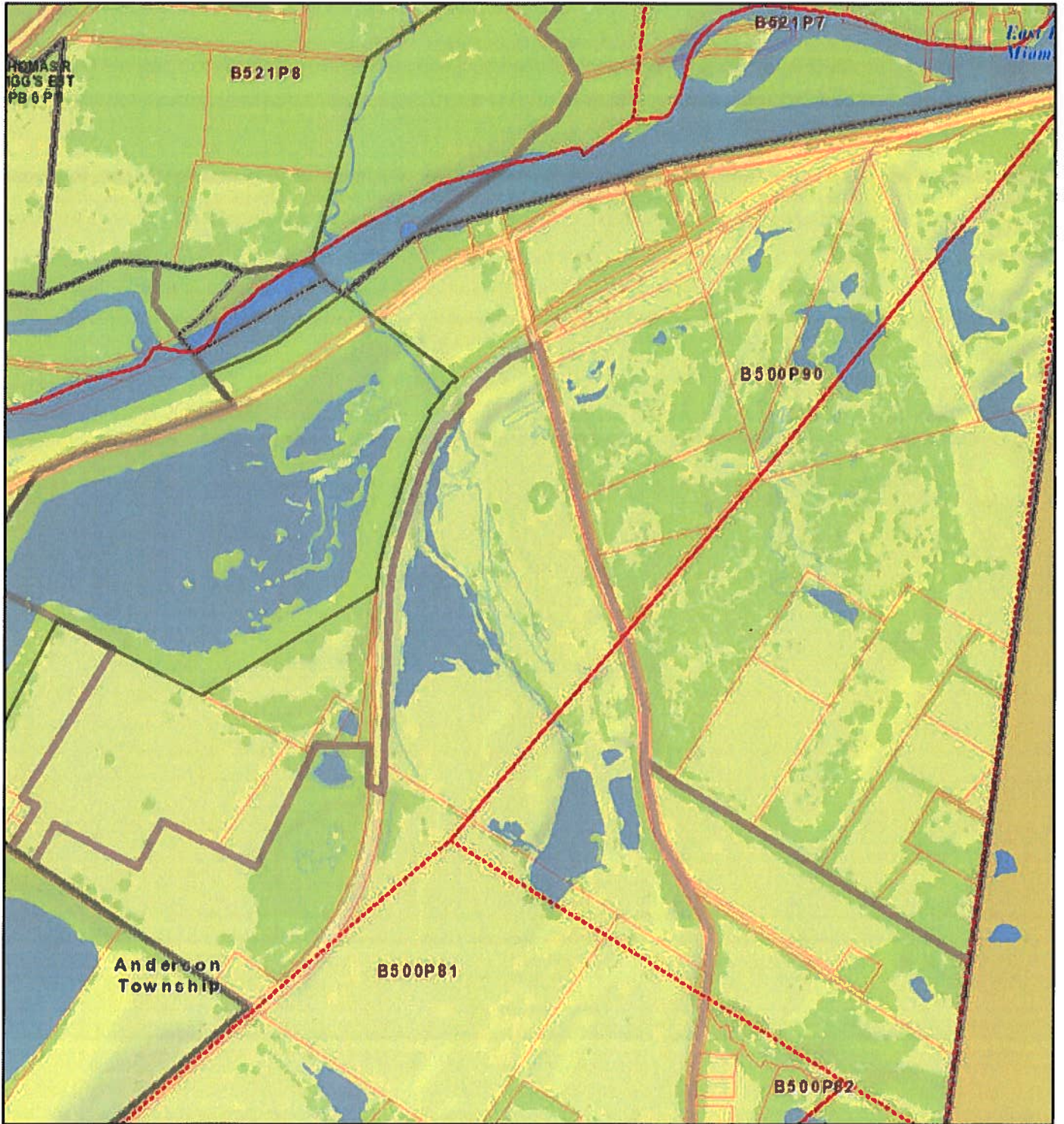
The activities associated with this request include, but are not limited to, site grading and the installation of culverts (or similar drainage and erosion control features). The purpose of this site work is to improve drainage, stormwater retention for existing ponds at the Property, and to prevent erosion at the Property. Due to the lack of all necessary utility services to this Property at the present time, the Property is not presently ready for commercial redevelopment and use. Owner has completed grading and erosion control work at the Property to facilitate agricultural and other planting projects in the interim to provide weed, dust, erosion, and storm water runoff controls. Attached, as Exhibit D, are recent pictures reflecting the sunflowers and similar plantings in significant portions of the regraded areas.

The Owner understand that future development of the Property will require a separate Zoning Certificate before commencing any development activities. Additionally, the Owner further understands that any future parking activities at the Property shall comply with all parking, loading, and access requirements contained in Article 5.3 of Anderson Township’s Zoning Resolution. The Owner understands such requirements include, but are not limited to, paving, landscaping, buffering, lighting, and drive aisles.

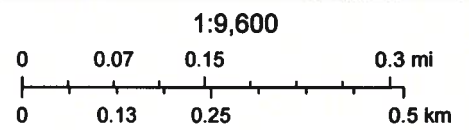
For the reasons set forth in this Application, the Owner respectfully requests this Application for a Zoning Certificate be approved.

EXHIBIT A
PROPERTY MAP

CAGIS Map



9/3/2024, 9:27:24 AM

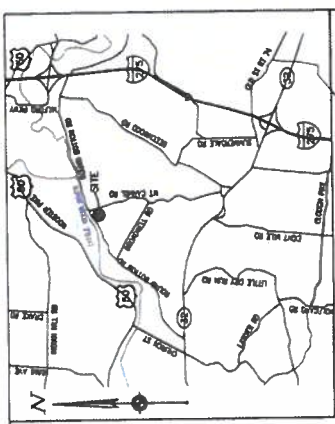


CAGIS

CAGIS User
CAGIS |

EXHIBIT B
SAND AND GRAVEL MINE MAP

EXHIBIT C
GRADING AREAS MAP



PROPERTY OWNER

PARCEL #	PROPERTY OWNER
500-0001-0032	EVANS GRAVEL, INC.
500-0001-0033	EVANS GRAVEL, INC.
500-0001-0034	EVANS GRAVEL, INC.
500-0001-0035	EVANS GRAVEL, INC.
500-0001-0036	EVANS GRAVEL, INC.
500-0001-0037	EVANS GRAVEL, INC.
500-0001-0038	EVANS GRAVEL, INC.
500-0001-0039	EVANS GRAVEL, INC.
500-0001-0040	EVANS GRAVEL, INC.
500-0001-0041	EVANS GRAVEL, INC.
500-0001-0042	EVANS GRAVEL, INC.
500-0001-0043	EVANS GRAVEL, INC.
500-0001-0044	EVANS GRAVEL, INC.
500-0001-0045	EVANS GRAVEL, INC.
500-0001-0046	EVANS GRAVEL, INC.
500-0001-0047	EVANS GRAVEL, INC.
500-0001-0048	EVANS GRAVEL, INC.
500-0001-0049	EVANS GRAVEL, INC.
500-0001-0050	EVANS GRAVEL, INC.
500-0001-0051	EVANS GRAVEL, INC.
500-0001-0052	EVANS GRAVEL, INC.
500-0001-0053	EVANS GRAVEL, INC.
500-0001-0054	EVANS GRAVEL, INC.
500-0001-0055	EVANS GRAVEL, INC.
500-0001-0056	EVANS GRAVEL, INC.
500-0001-0057	EVANS GRAVEL, INC.
500-0001-0058	EVANS GRAVEL, INC.
500-0001-0059	EVANS GRAVEL, INC.
500-0001-0060	EVANS GRAVEL, INC.

ACREAGE SUMMARY	PERMIT YEAR	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
TOTAL ACRES	2008	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
ADDITIONAL ACRES	2009	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL ACRES	2009	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0

APPROVED PLAN
 Subject to conditions of Resolution for Case No. 10-2019 82-A
 Approved By: *[Signature]*
 Date: 10/12/2019

CERTIFICATION
 I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE MAP IS CORRECT AND ACCURATE AS SHOWN, AND THAT THE INFORMATION THEREON WAS OBTAINED FROM THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT ALL THE INFORMATION REQUIRED BY THE SURFACE MINING LAWS OF THE STATE OF MICHIGAN HAS BEEN FULLY COMPLIED WITH.

CLAUDE A. HANSEN
 CHIEF REGISTERED ENGINEER NO. 30021
 ACKNOWLEDGED BEFORE ME, A NOTARY PUBLIC THIS ___ DAY OF _____ 20__
 NOTARY PUBLIC

NOTES

1. CONTOURS AND PROPERTY LINES SHOWN BASED ON AVAILABLE INFORMATION OBTAINED FROM USGS 7.5' QUAD MAPS AND AERIAL PHOTOGRAPHS. THE ACCURACY OF THE ORIGINAL DATA SOURCES IS NOT GUARANTEED.
2. NO ERRORS TO OCCUR WITHIN 50' OF ALL ADJACENT PROPERTY LINES OR ROADS WITHOUT THE APPROPRIATE PHOTOGRAPHY OBTAINED FROM 2015 AERIAL PHOTOGRAPHS.
3. THE MAP AREAS UPDATED BASED ON 2015 AERIAL PHOTOGRAPHY OBTAINED FROM 2015 AERIAL PHOTOGRAPHS.

EVANS GRAVEL, INC. (SMA)
 PERMIT NO. 10-2019 82-A
 SURFACE MINING PERMIT MAP NO. 10-2019 82-A
 SHEET NO. 1 OF 1

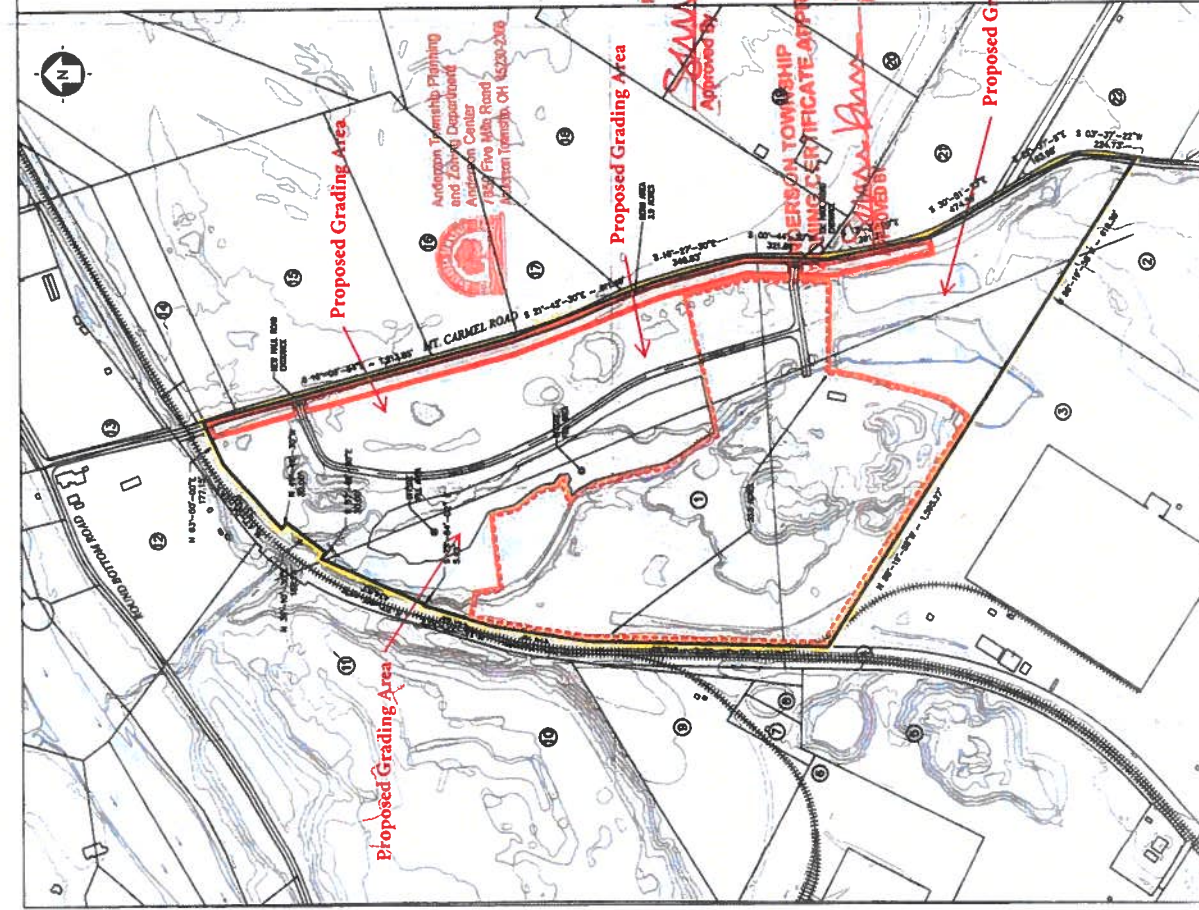


Exhibit D
Crop Plantings

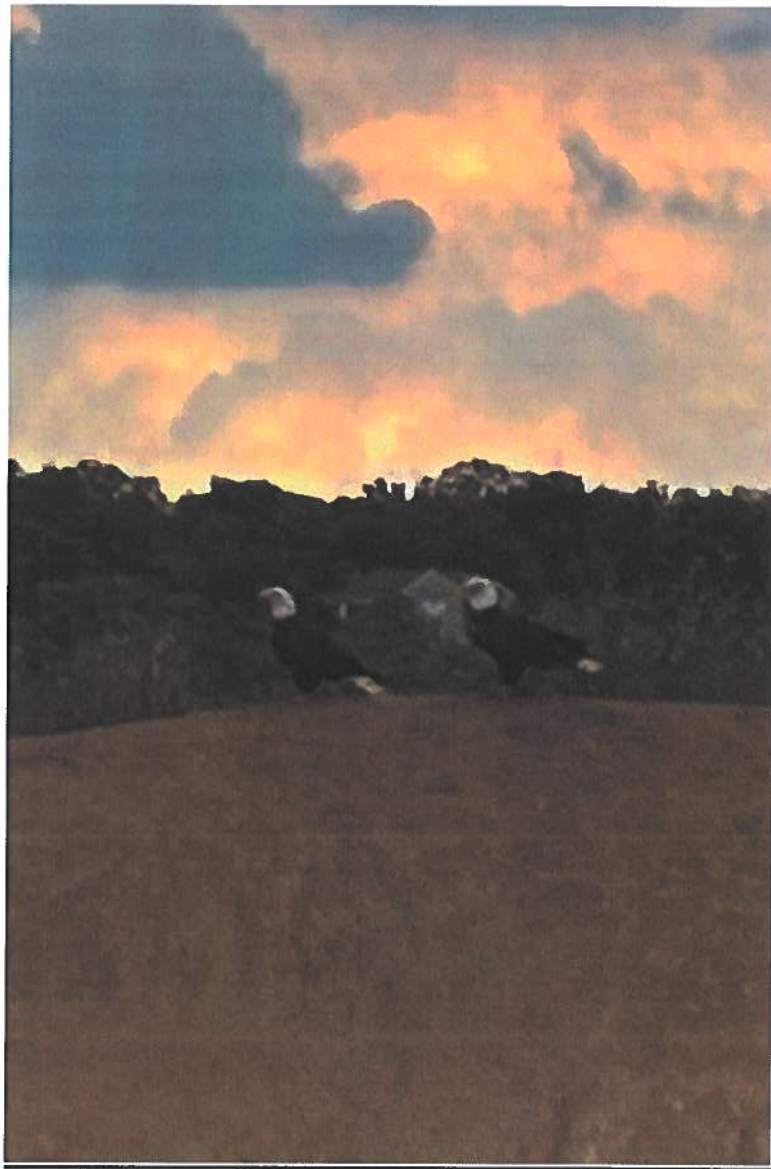


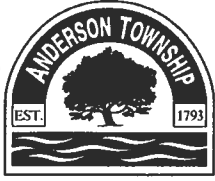












ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
CONSENT OF OWNER(S) TO INSPECT PREMISES

To: Anderson Township Board of Zoning Appeals Members and Staff
Anderson Center
7850 Five Mile Road
Anderson Township, Ohio 45230

Re: Review of Subject Site

Dear Members and Staff:

As owner(s) of the property located at 4455 Mt. Carmel Road, we hereby grant permission to Members of the Board of Zoning Appeals and Staff of Anderson Township to enter the property for visual inspection of the exterior premises and to post a public hearing sign. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application filed with the Board of Zoning Appeals.

10/10/2024
Date

DocuSigned by:
Douglas L. Evans
883303A5DAF745B
Owner Douglas L. Evans

Owner

The names of the Anderson Township Board of Zoning Appeals Members are Paul Sian, John Halpin, Jeffrey Nye, Paul Sheckels, Scott Lawrence, and Greg Heimkreiter, First Alternate.