



ORDINANCE NO. 19-10-15-003

AN ORDINANCE AMENDING, AND TO AMEND
THE ZONING ORDINANCE 75-1 MISC REC 53 PG 130 JACKETS 20-A & 20-B
OF KOSCIUSKO COUNTY, INDIANA

BE IT ORDAINED BY THE BOARD OF COMMISISONERS OF KOSCIUSKO COUNTY
INDIANA:

ARTICLE 1.

Section 1. That the Kosciusko County Zoning Ordinance heretofore passed and adopted by the Board of Commissioners of Kosciusko County, Indiana, and recorded under Miscellaneous Record 53, Page 130 as Ordinance 75-2, be and same is hereby amended in the particulars hereinafter set forth.

Section 2. That certain tract of land situate in Kosciusko County, Indiana, now lying without the corporate limits of any City or Town and under the jurisdiction of the Kosciusko County Area Plan Commission, as a part of the Comprehensive Plan for Kosciusko County, Indiana; to-wit:

“SEE ATTACHED FOR LEGAL DESCRIPTION”

be, and the same is hereby, removed from classification as Residential and subject real estate shall be reclassified and rezoned as Agricultural within the limitations, definitions and description of the Kosciusko County Zoning Ordinance.

Section 3. That the Ordinance Administrator, pursuant to said Zoning Ordinance be, and he is hereby authorized to issue Location Improvement Permits and Certificates of Occupancy with reference to the construction and improvements upon said described real estate so long as applications therefore comply with the Kosciusko County Zoning Ordinance and upon compliance with all applicable rules and regulations of the State of Indiana and local authorities, as the same may be applicable to the construction of streets, parking facilities, storm sewers, drains, sidewalks and sewer and water facilities.

ARTICLE 2.

Section 1. This ordinance shall be in full force and effect from and after its passage.

Passed and adopted at a regular and duly constituted meeting of the Board of Commissioners of
Kosciusko County, Indiana, on 15th day of October 2019

BOARD OF COMMISSIONERS
KOSCIUSKO COUNTY, INDIANA

Robert Conley:

Robert M Conley

Cary Groninger

Cary P Groninger

Brad Jackson:

Brad Jackson

Attest:

Michelle F. Puckett

Kosciusko County Auditor – Michelle Puckett

This Ordinance is in relation to Plan Commission
Case # 19009Z – Blue Barn

I affirm, under the penalties for perjury,
that I have taken reasonable care to redact
each Social Security number in this
document, unless required by law.

Teresa Pence

Part of the Southeast Quarter of Section 26, Township 34 North, Range 6 East in 2nd Principle Meridian, Van Buren Township, Kosciusko County, State of Indiana, more particularly described as follows:

Commencing at a Harrison Monument marking the Southeast corner of said Section 26; thence North 00° 29' 41" West (Bearing basis NAD83 Indiana East State Plane Coordinates) along the East line of said Southeast Quarter, 553.25 feet to the Point of Beginning; thence South 88° 34' 30" West, 674.42 feet; thence North 01° 25' 30" West, 441.69 feet; thence North 75° 54' 32" East, 590.44 feet; thence North 32° 47' 41" East, 66.73 feet; thence North 89° 30' 19" East, 70.99 feet to the said East line of Southeast Quarter; thence South 00° 29' 41" East along the said East line, 625.27 feet to the Point of Beginning, containing 8.16 acres more or less.

Subject to County Road 300 East right-of-way.

Form# 0111

Request For Zoning Amendment Before the
Kosciusko County Area Plan Commission

Case Number 19009 Z

Date Filed 7/19/2019

I/we BLUE BARN

BERRY FARM

do hereby petition your Honorable Body to amend the Zoning of VAN BUREN Kosciusko County, Indiana by reclassifying from an
Residential District to an Agriculture District, the property described as follows, and shown on the map enclosed in file,
which by reference is made a part of this petition.

2905 E BUCHER DR

SYRACUSE

IN 46567

027-104-002.S

Applicants Mailing Address

Key Number

Other Property Location

WEST SIDE 300 E, 530' NORTH OF 900 N

SE 1/4 Section 26 Township 34 Range 6

Purpose of Rezoning

AGRICULTURAL USES AS DEFINED IN THE KOSCIUSKO COUNTY ZONING ORDINANCE

I

I am

We hereby certify that as the undersigned We are the owner/s of fifty percent or more of the property described in this petition.

Property Owners Name

BLUE BARN

BERRY FARM

Property Owners Signature

X *Shanda Seaton*
Member
Blue Barn Berry Farm, LLC

The correspondent or agent (if different from the owners) is JACK BIRCH

Agents Phone

Agents Address

Jack C. Birch

This petition shall be submitted to the Kosciusko County Area Plan Commission Office, in the County Courthouse, Warsaw, Indiana, in order that the petition may be reviewed for accuracy of property description and to establish if the District requested will permit the proposed. The original and second copy of the petition (with two copies of an accurate map or plat showing the area proposed for change) shall be referred to the appropriate Legislative Body by the Kosciusko County Area Plan Commission, together with the recommendation of the Commission.

AFFIDAVIT

Kosciusko County)
State of Indiana) SS:

Personally appeared before me, a notary public and for said county and state, the undersigned **Jessica Rodriguez**, who being duly sworn says that she is of competent age and is comptroller of the

WARSAW TIMES-UNION

Notice of Public Hearing

Notice Is Hereby Given, That The Kosciusko County Area Plan Commission Shall Hold A Public Hearing On A Petition Filed by Blue Barn Berry Farm Requesting An Amendment To the Kosciusko County Zoning Ordinance, To Reclassify From an Residential Use District to an Agriculture District, The Following Real Estate, located on West Side of 300 E & 530' North of 900 N. Key # 027-104-002.S & 027-104-002 Van Buren Twps.

And Described As Follows. To Wit:

Part of the Southeast Quarter of Section 26, Township 34 North, Range 6 East in 2nd Principle Meridian, Van Buren Township, Kosciusko County, State of Indiana, more particularly described as follows:

Commencing at a Harrison Monument marking the Southeast corner of said Section 26; thence North 00°29'41" West (Bearing basis NAD83 Indiana East State Plane Coordinates) along the East line of said Southeast Quarter, 553.25 feet to the Point of Beginning; thence South 88°34'30" West, 674.42 feet; thence North 01°25'30" West, 441.69 feet thence North 75°54'32" East, 590.44 feet; thence North 32°47'41" East, 66.73 feet; thence North 89° 3a 19" East, 70.99 feet to the said East line of Southeast Quarter; thence South 000 29' 41" East along the said East line, 625.27 feet to the Point of Beginning, containing 8.16 acres more or less.

Subject to County Road 300 East right-of-way

This Change Is Requested To Permit the Above Described Real Estate to Be Used For The Purpose of Agricultural Uses as defined in the Kosciusko County Zoning Ordinance.

This Hearing Will Be Held in the Commissioners Room in the Kosciusko County Court House, 100 W Center St., Warsaw In On Wednesday, August 7, 2019 At 1:00 P.M.

All Interested Persons Are Invited To Attend To Be Heard. Written Comments Will Be Considered If They Are Received In The Office Of The Kosciusko County Planning Department, Court House, Warsaw, Indiana, No Later Than 12:00 Noon On The Day Of The Hearing.

Kosciusko County Area Plan

Daniel W. Richard, Director

7-27, 8-3 hspaxlp

for at least five (5) consecutive years has been Warsaw, county of Kosciusko, State of Indiana, and has been a newspaper of general circulation, having been printed in the English language and entered, by the post office department of the United States as matter of the second-class as defined by the Act of March 3, 1879, and that the printed matter copy, which was published in said newspaper

ates of publication being as follows:

Aug 3 Jessica Rodriguez
Affiant

before me this 3 day

of August, 2019

Laura Sowers
Notary Public

Laura Sowers
My Commission expires June 1, 2026
Resident of Kosciusko County

Printer's Fee, \$ 80⁰⁰

**VOLUNTARY CONDITIONS
FOR APPROVAL OF A REZONING REQUESTED
BY BLUE BARN BERRY FARM, LLC**

Blue Barn Berry Farm, LLC ("*Blue Barn*") submits the following to be attached as voluntary conditions to the approval of rezoning from residential to agricultural as requested in Rezoning Petition No. 19009Z filed with the Kosciusko County Area Plan Commission:

1. Blue Barn shall provide documentation of updated and revised State plan releases, State Health Department approvals and County Health Department approvals based on the actual current use of the property and buildings. Blue Barn will verify that State Plan Release Application correctly notes the number of persons permitted to be in attendance at events and the number of persons employed. The application shall make specific reference to weddings, banquets and other gatherings.

2. Use of the facilities will be subject to state or local approval of sanitary disposal. If a commercial septic system is required, it will be installed in accordance with state and county guidelines. If portable toilets are permitted, Blue Barn will provide documentation, on request, verifying that waste is disposed of in accordance with state and local requirements.

3. There will be no restriction on water skiing on Lake Jacob during any event held by Blue Barn.

4. Blue Barn will install landscape screening on the west and north side of the Blue Barn property/structures including earth and mounding with evergreen plantings of sufficient height and density to buffer the site, sounds and lights from view of all Cindonway properties west of the tennis courts. A landscape design reasonably acceptable to all current Cindonway property owners will be submitted at the time of the exception hearing before the Kosciusko Board of Zoning Appeals. All landscape screening will be completed prior to the first wedding event held in 2020.

5. In accordance with the County Zoning Ordinance, a storm water design, erosion control study and traffic study for this type of commercial facility shall be completed and presented to the Board of Zoning Appeals at the time of the exception hearing. The site plan submitted to the Board of Zoning Appeals will provide for adequate parking spaces with handicap parking, ingress and egress from County Road 300 East in accordance with County requirements with the only public business access to a public road being from County Road 300

East. All travel in and or out of the site by any non-Cindonway Shores resident or their approved guest shall be by the County Road 300 entrance.

6. Unless approved as provided herein, no further expansion of the facility will be allowed other than installation of proper restroom facilities, a small dressing facility and small storage building located on the property. Any additional structures shall properly screened by the provided landscape buffer or additional buffer, be subject to prior review with the Cindonway property owners and be subject to Board of Zoning Appeals approval. This agreement does not prohibit remonstrance to any proposed new structure nor would such remonstrance void any terms of this agreement which shall remain in effect regardless of BZA action on proposed new structures.

7. The current storage container onsite will be removed upon the completion of the added small storage building.

8. The owners of Blue Barn shall allow proper access to Lake Jacob via the boat ramp and no activities of Blue Barn shall interfere with that use. This shall be formally established by easement properly recorded.

9. All sources of music will be contained within or under the roof the pavilions. There will be no live music/bands. Music will be provided by disc jockey and equipment. All efforts will be made to contain the music to low/acceptable levels to the Cindonway property owners. There shall be no noise/vibration of music in the form of bass/subwoofer heard or felt inside any of the residences of the Cindonway property owners. The parties acknowledge a limited exception for actual wedding ceremonies, any music therein shall comply with volume and vibration restrictions. No wedding ceremony to start after 6:00 p.m.

10. Blue Barn will publish and provide a monthly schedule of events to Cindonway property owners.

11. All music, bright lights not properly shielded from Cindonway properties and the serving of alcohol will end by 10:00 p.m.

12. The months of operation of the Blue Barn event pavilions will be restricted from April 1 through November 30 or as further approved by the Cindonway property owners.

13. No outdoor events with music shall occur Monday through Thursday. All Sunday events, except a Sunday immediately preceding a Monday holiday, and/or holiday events will

conclude by 8:00 p.m. Events on Friday, Saturday or Sundays immediately preceding a legal holiday shall end by 10:00 p.m.

14. An easement in favor of the lots in the two Cindonway additions will be dedicated along that portion of the shoreline of Lake Jacob that is not designated on the plats as common area. The easement shall permit lot owners access to this area, allow maintenance of the lake bank and permit use of the easement area for the conduct of ski tournaments. A similar easement shall be granted to the owners of lots in the two Cindonway additions over the entirety of Lake Jacob for use of the lake, general upkeep and maintenance of the lake.

15. Any required improvements described in this document will be completed prior to the occurrence of the first wedding in 2020.

16. If Blue Barn fails to comply with the conditions, the Kosciusko County Board of Zoning Appeals will have the authority to revoke the exception approval.

17. The parties-in-interest agree to work together to develop a plan for the proper maintenance and upkeep of the Cindonway Shores development in accordance with the subdivision plat (as amended) and all subdivision declarations and rules, with the plan to include the common areas, recreation facilities and easements provided by Blue Barn along the remaining shoreline not designated as common area.

These voluntary conditions shall be a part of any rezoning from residential to agricultural approved by the Kosciusko County Commissioners and shall also attach as conditions to any exception approved by the Kosciusko County Board of Zoning Appeals for commercial recreation in an agricultural district.

These conditions may be enforced by the Kosciusko County Board of Zoning Appeals, the owners of lots in the Plats of Cindonway Shores and upon any breach the prevailing party shall have the right to recover their/its reasonable attorney's fees.

Dated: 10-15-19

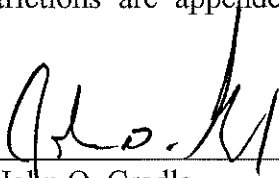
BLUE BARN BERRY FARM, LLC

By: Shanda Scheer

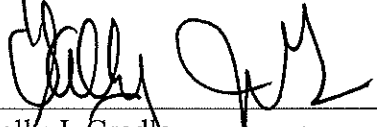
Its: member

As remonstrators to the requested rezoning by Blue Barn Berry Farm, LLC and as persons affected by the anticipated approval of an exception for commercial recreation in an agricultural district, the undersigned withdraw any objections to the rezoning or the exception approval on the condition that the above voluntary restrictions are appended to any such approvals.

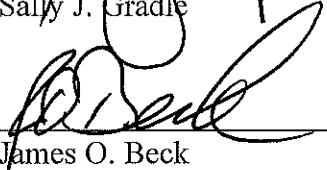
Dated: 10/12/19


John O. Gradle

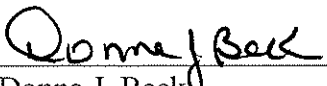
Dated: 10-15-2019


Sally J. Gradle


Dated: 10/15/19


James O. Beck

Dated: 10/15/19


Donna J. Beck

Dated: 10/15/19


Gavin L. Foster

Dated: _____

Krista Foster