



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_09_12_2023

Tuesday, September 12, 2023 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, September 12, 2023 at 07:00 PM

MEETING PLACE: Westfield City Hall, 130 Penn Street, Westfield, IN 46074

THE FOLLOWING AGENDA IS SUBJECT TO CHANGE AT THE DISCRETION OF THE BOARD OF ZONING APPEALS

Viewable online at: <https://www.youtube.com/user/CityofWestfieldIN>

Public input can be submitted in 1 of 2 ways:

-Submit comments via email to planners@westfield.in.gov (Include petition number in the subject line.)

-Attend the meeting at Westfield City Hall for an opportunity to participate and publicly comment on a public hearing.

Indiana law prohibits any person from communicating with Board of Zoning Appeals (BZA) members before the public hearing with the intent to influence the Board members on a matter pending before the Board.

OPENING OF REGULAR MEETING

Documents: [Online viewable @ https://www.youtube.com/user/CityofWestfieldIN](https://www.youtube.com/user/CityofWestfieldIN)

Note the Presence of a Quorum

Announce Any Changes to the Agenda

Approval of Minutes

BZA Minutes - August 8, 2023

Documents: [BZA Minutes - August 8, 2023](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2308-VU-09 [PUBLIC HEARING]

17502 Shady Nook Road

Dustin and Lana Nichols

The Petitioner requests a Variance of Use to permit a by-appointment only Low-Intensity Retail (Beauty Salon) use on 0.65 acres +/- in the GO: General Office District (Article 13.2)

(Planner: Weston Rogers - wrogers@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Application](#)

2309-VS-20 [PUBLIC HEARING]

2753 Pyrenean Place

Stacey and Stacy Parker

The Petitioners request a Variance of Development Standard to encroach eighteen (18) feet into the thirty (30) foot Minimum Rear Yard Setback to accommodate a swimming pool and deck on 0.56 acres +/- in the Oak Manor Planned Unit Development (PUD) District.

(Planner: Daine Crabtree - dcrabtree@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Pool Plan](#) | [Exhibit 5: HOA Approval](#)

2309-VS-21 [PUBLIC HEARING]

1960 East Greyhound Pass

Academy, LTD by Barnes & Thornburg, LLP

The Petitioner requests a Variance of Development Standard to permit outdoor sale displays on 6.53 acres +/- in the SB-PD: Special Business Planned Development District (Article 6.12(C)(2)(a)(ii)).

(Planner: Ryan Collingwood - rcollingwood@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Statement of Intent](#) | [Exhibit 5: Application](#) | [Petitioner Presentation](#)

2309-VS-22 [PUBLIC HEARING]

14933 Thatcher Lane

CBRE Group, Inc. by NELCO Architecture, Inc.

The Petitioner requests a Variance of Development Standard to modify site lighting standards in order to accommodate the redevelopment of a 0.95 acre +/- site in the SB-PD: Special Business/Planned Development District (Article 6.9(F)(2)).

(Planner: Lauren Gillingham - lgillingham@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Photometric Plan](#)

2309-VU-10 [PUBLIC HEARING]

2404 East South Street

Mike Broshears

The Petitioner requests a Variance of Use to permit indoor auto sales on 0.80 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 13.2).

(Planner: Lauren Gillingham - lgillingham@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#)

2309-SE-02 [PUBLIC HEARING]

17695 Shamrock Boulevard

Westfield-Washington Schools by Church Church Hittle + Antrim

The Petitioner requests a Special Exception to permit a tax-exempt use (school-operated tennis and pickleball facility) on 3.83 acres +/- in both the Junction Planned Unit Development (PUD) and SF3: Single-Family Medium Density zoning districts.

(Planner: Weston Rogers - wrogers@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Concept Site Plan](#) | [Exhibit 4: Application](#)

ITEMS CONTINUED TO A FUTURE MEETING

REPORTS/COMMENTS:

Plan Commission Liaison

Community Development Department

ADJOURNMENT



Westfield-Washington Township Board of Zoning Appeals (BZA)

Minutes of the Tuesday, August 8, 2023 BZA Meeting

Presented for approval: September 12, 2023

The Westfield-Washington Township Board of Zoning Appeals
met at 7:00 p.m. on Tuesday, August 8, 2023 at Westfield City Hall.

Active Links for this meeting:

[August 8, 2023 BZA Agenda & Exhibits](#)

[August 8, 2023 BZA YouTube Video](#)

OPENING OF MEETING

[YouTube Time: 0:04](#)

ROLL CALL

BZA Members Present In-Person: Jeff Boller, Jeannine Fortier, Noble Hatfield, Victor McCarty, and Dave Schmitz.

BZA Members Present Virtually: None.

BZA Members Absent: None.

City Staff Present: Daine Crabtree, Senior Planner; Lauren Gillingham, Senior Planner; and Ryan Collingwood, Associate Planner.

City Staff Present Virtually: None

Legal Counsel Present: Ashley Ulbricht with Taft Stettinius & Hollister LLP. (Arrived at 7:08 p.m.)

APPROVAL OF MINUTES

Fortier motioned to approve the July 11, 2023 Minutes.

Boller seconded. Motion passed. Vote 5-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2308-VU-07 [PUBLIC HEARING]

[YouTube Time: 2:57](#)

546 North Union Street

Jeff Boller by WKRP Indy

The Petitioner requests to reestablish an expiring Variance of Use that permits a Low-Intensity Retail (Beauty Salon) use on 0.25 acres +/- in the SF3: Single-Family Medium-Density District (Article 13.2)

(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Jeff Boller recused himself prior for the two items of business.

Staff presentation / No Petitioner presentation / BZA comments & questions / Petitioner response.

Public Hearing for 2308-VU-07 opened at 7:07 p.m.

- No public comments.

Public Hearing for 2308-VU-07 closed at 7:08 p.m.

No BZA comments & questions / No Petitioner response.

Hatfield motioned to approve 2308-VU-07 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 4-0. (Boller recused)

Schmitz motioned to adopt Staff's Findings of Fact for the approval of 2308-VU-07.

Agendas and minutes for all City meetings are updated and available at the City's website.

Website: www.westfield.in.gov | Community Development Department E-mail: community@westfield.in.gov

McCarty seconded. Motion passed. Vote 4-0. (Boller recused)

2308-VU-08 [PUBLIC HEARING]

[YouTube Time: 10:23](#)

17808 Grassy Branch Road

Angela Gapinski

The Petitioner requests a Variance of Use to permit a Nursery with a small Low-Intensity retail component on 5.39 acres +/- in the SF4: Single-Family High-Density District (Article 13.2)
(Planner: Lauren Gillingham – lgillingham@westfield.in.gov)

Staff presentation / Petitioner comments / BZA comments & questions / Petitioner response.

Public Hearing for 2308-VU-08 opened at 7:16 p.m.

- One public comment.

Public Hearing for 2308-VU-08 closed at 7:21 p.m.

BZA comments & questions / Petitioner response.

Fortier motioned to approve 2308-VU-08 subject to the recommended conditions stated in the motion.

McCarty seconded. Motion passed. Vote 4-0. (Boller recused)

Schmitz motioned to adopt Staff's Findings of Fact for the approval of 2308-VU-08.

Fortier seconded. Motion passed. Vote 4-0. (Boller recused)

Jeff Boller rejoined the Board at 7:24 p.m.

2308-VS-18 [PUBLIC HEARING]

[YouTube Time: 24:18](#)

15373 Holcombe Drive

Michael Schulz

The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the twenty (20) foot Minimum Rear Yard setback on 0.17 acres +/- in the Harmony PUD District to accommodate a swimming pool and deck.

(Planner: Ryan Collingwood – rcollingwood@westfield.in.gov)

Staff presentation / Petitioner presentation / BZA comments & questions / Petitioner response.

Public Hearing for 2308-VS-18 opened at 7:27 p.m.

- No public comments.

Public Hearing for 2308-VS-18 closed at 7:28 p.m.

Petitioner response / BZA comments & questions.

McCarty motioned to approve 2308-VS-18 subject to the recommended conditions stated in the motion.

Hatfield seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for the approval of 2308-VS-18.

Boller seconded. Motion passed. Vote 5-0.

Agendas and minutes for all City meetings are updated and available at the City's website.

Website: www.westfield.in.gov | Community Development Department E-mail: community@westfield.in.gov

**2308-VS-19 [PUBLIC HEARING]
3265 West 193rd Street**

[YouTube Time: 20:35](#)

David Franzman

The Petitioner requests a Variance of Development Standard to encroach twelve (12) feet into the thirty (30) foot Minimum Side Yard setback to accommodate an accessory building on 4.97 acres +/- in the AG-SF1:

Agriculture/Single-Family Rural District (Article 4.2(E)(2).

(Planner: Ryan Collingwood – rcollingwood@westfield.in.gov)

Staff presentation / Petitioner presentation / BZA comments & questions / Petitioner response.

Public Hearing for 2308-VS-19 opened at 7:34 p.m.

- No public comments.

Public Hearing for 2308-VS-19 closed at 7:36 p.m.

BZA comments & questions / Petitioner response.

Boller motioned to approve 2308-VS-19 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for the approval 2308-VS-19.

Fortier seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING

No Continued Items.

REPORTS/COMMENTS:

[YouTube Time: 38:35](#)

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Fortier motioned to adjourn the meeting. Boller seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:40 p.m.

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Signature Page for BZA Minutes for August 8, 2023

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



Petition Number: 2309-VS-20

Subject Site Address: 2753 Pyrenean Place (the "Property")

Petitioner: Stacey and Stacy Parker (the "Petitioners")

Request: The Petitioners requests a Variance of Development Standard to encroach eighteen (18) feet into the thirty (30) foot Minimum Rear Yard Setback to accommodate the installation of a swimming pool in the Oak Manor PUD District.

Current Zoning: Oak Manor PUD District

Current Land Use: Residential

Approximate Acreage: .56 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Pool Plan

Staff Reviewer: Daine Crabtree, Senior Planner

PROPERTY INFORMATION & BACKGROUND

The subject Property is .56 acres +/- in size and located at 2753 Pyrenean Place, as seen in the Location Map (**Exhibit 2**). The Property's zoning classification is the Oak Manor District.

REQUEST FOR VARIANCE

The Oak Manor PUD District standards set forth a minimum Rear Yard Setback of thirty (30) feet for the property. The Petitioner is requesting this variance to encroach eighteen (18) feet into the Minimum Rear Yard Setback to accommodate a swimming pool, as illustrated on the Site Plan (**Exhibit 3**).

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the September 12, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.



Conditions: The UDO and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefitted by variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than the Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgment shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**
2. **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and**
3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.**

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies the property within the “New Suburban” land use classification. The vision for the New Suburban Residential classification is contemplated for future residential growth of the community, generally to the southwest, northwest, and northeast of the Existing Suburban area.

The New Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses, artisan farms, and equestrian uses.

DEPARTMENT COMMENTS

If the Board is inclined to approve 2309-VS-20, The Department recommends the following findings and conditions:

Recommended Findings for Variance of Development Standard (2309-VS-20):

- 1) ***The approval will not be injurious to the public health, safety, morals, and general welfare of the community:***

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the Oak Manor PUD District.

- 2) ***The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:***

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent surrounding properties because the use of the Property will not change.

- 3) ***The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.***

Finding: Strict adherence to the zoning ordinance would result in a swimming pool that does not meet the needs of the Petitioner.

Recommended Conditions:

- That the Property be developed in substantial compliance with the Site and Pool Plans (**Exhibits 3 & 4**), and
- That the Petitioner record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

September 12, 2023

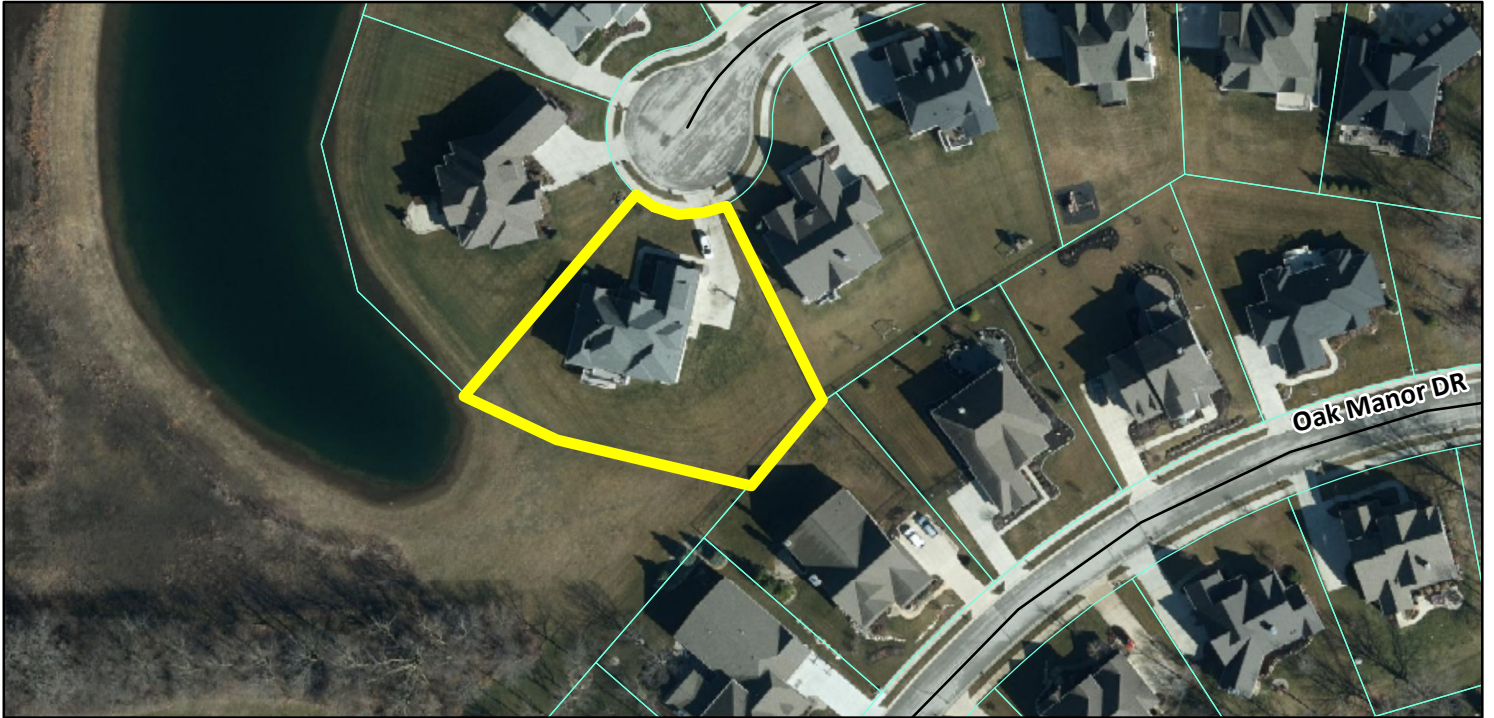
2309-VS-20

Exhibit 1

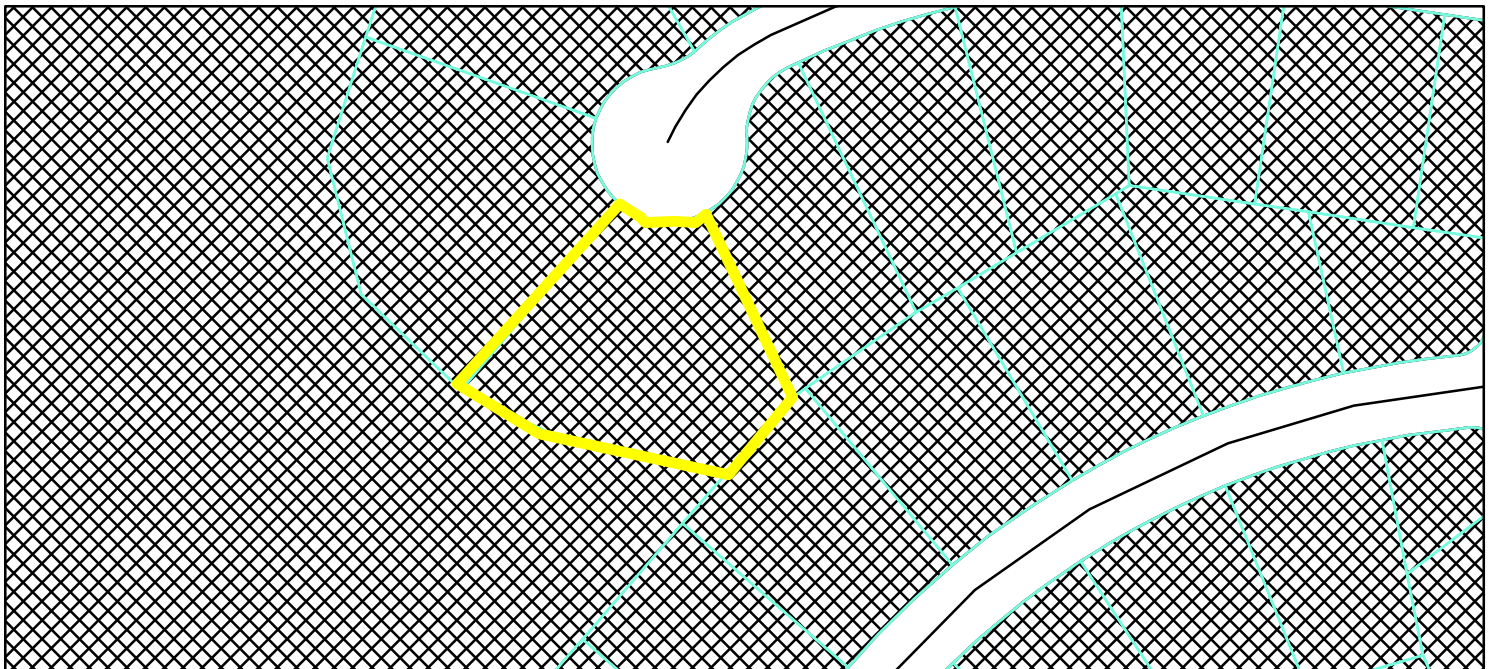
Denial: If the Board is inclined to reject or deny the Variance of Development Standard, then the Department recommends denying the Variance of Development Standard, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



PARKER

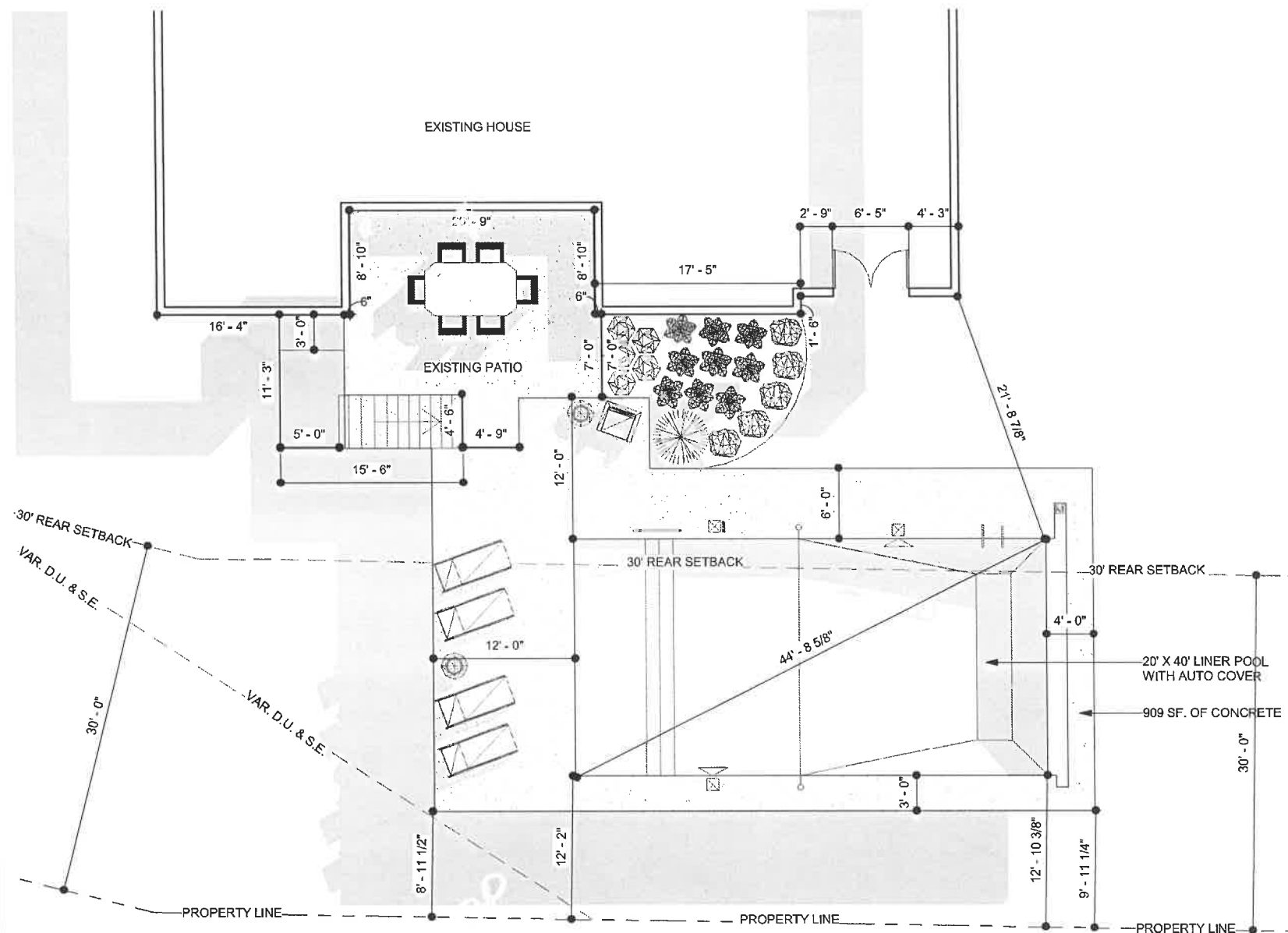
ADDRESS: 2753 PYRENEAN PLACE
 CITY: WESTFIELD ST:IN ZIP: 46074
 COUNTY:
 TWP:
 POOL MFG: SCP CON. SF:
 WATER: DIRT:
 AUTOCOVER: UNDERTRACK
 DC: TH PM: DESIGNER: KM
 TOC:
 P/F/H:
 RLS/RCS:

*LANDSCAPE AND FURNITURE
 IS SHOWN FOR REFERENCE ONLY*

pools of fun

Date
 08-15-2023

L2





WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 12, 2023

2309-VS-21

Exhibit 1

Petition Number: 2309-VS-21

Subject Site Address: 1960 East Greyhound Pass (The "Property")

Petitioner: Academy, LTD by Barnes & Thornburg, LLP (The "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to allow outdoor sale displays on 6.53 acres +/- in the SB-PD: Special Business / Planned Development District. *UDO Article 6.12(C)(2)(a)(ii)*

Current Zoning: SB-PD: Special Business / Planned Development District

Current Land Use: Commercial

Approximate Acreage: 6.53 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Statement of Intent
5. Application

Staff Reviewer: Ryan Collingwood, Associate Planner

OVERVIEW

Location: The subject property is 6.53 acres +/- in size and is located at 1960 East Greyhound Pass in Village Park Plaza (see **Exhibit 2**). The Property is currently zoned the SB-PD: Special Business / Planned Development District and is also located within the US Highway 31 Overlay District. Surrounding properties are zoned the SB-PD and Village Park Plaza II PUD Districts.

History: The Property was home to a Marsh Supermarket until its closure in 2017. Since that time, it has seasonally housed Halloween and fireworks stores. A Commercial Remodel Permit was issued for the building on December 12, 2022. At the May 2023 Board of Zoning Appeals ("BZA") meeting, a Variance of Use ([2305-VU-04](#)) was approved to permit the High Intensity Retail Use at this location.

SUMMARY OF VARIANCE

The Petitioner is requesting this variance to allow Academy Sports + Outdoor to utilize outdoor seasonal displays of merchandise, without the necessary screening mechanisms, as set forth in *UDO Article 6.12(C)(1): Outside Storage* standards.

COMPREHENSIVE PLAN

The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the properties as "Regional Commercial". The existing commercial center meets many of Comprehensive Plan's development policies for this area, including, but not limited



to: (i) Reserve exclusively for regional commercial development; (ii) Permit regional commercial uses only in planned centers with consistent design and architectural style for each center; (iii) require that buildings be designed to enhance the community character; and (iv) required the size, materials, color, and design of buildings to be unique to Westfield. The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the September 12, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variance of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

- 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance, then the Department recommends the conditions and findings as set forth below:



Recommended Conditions of Approval:

- That the seasonal displays of merchandise be limited to the specific locations as designated on the Site Plan (**Exhibit 3**); and
- That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Approval:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the Variance request will be injurious to the public health, safety, morals, and general welfare of the community because the Use of the property is not changing. The outdoor display of merchandise without screening is a small portion of the overall premises and will not interfere with pedestrian or vehicular access to the property or the retail store.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner as the types of merchandise being displayed pose no threat to block visibility of or access to adjacent uses.

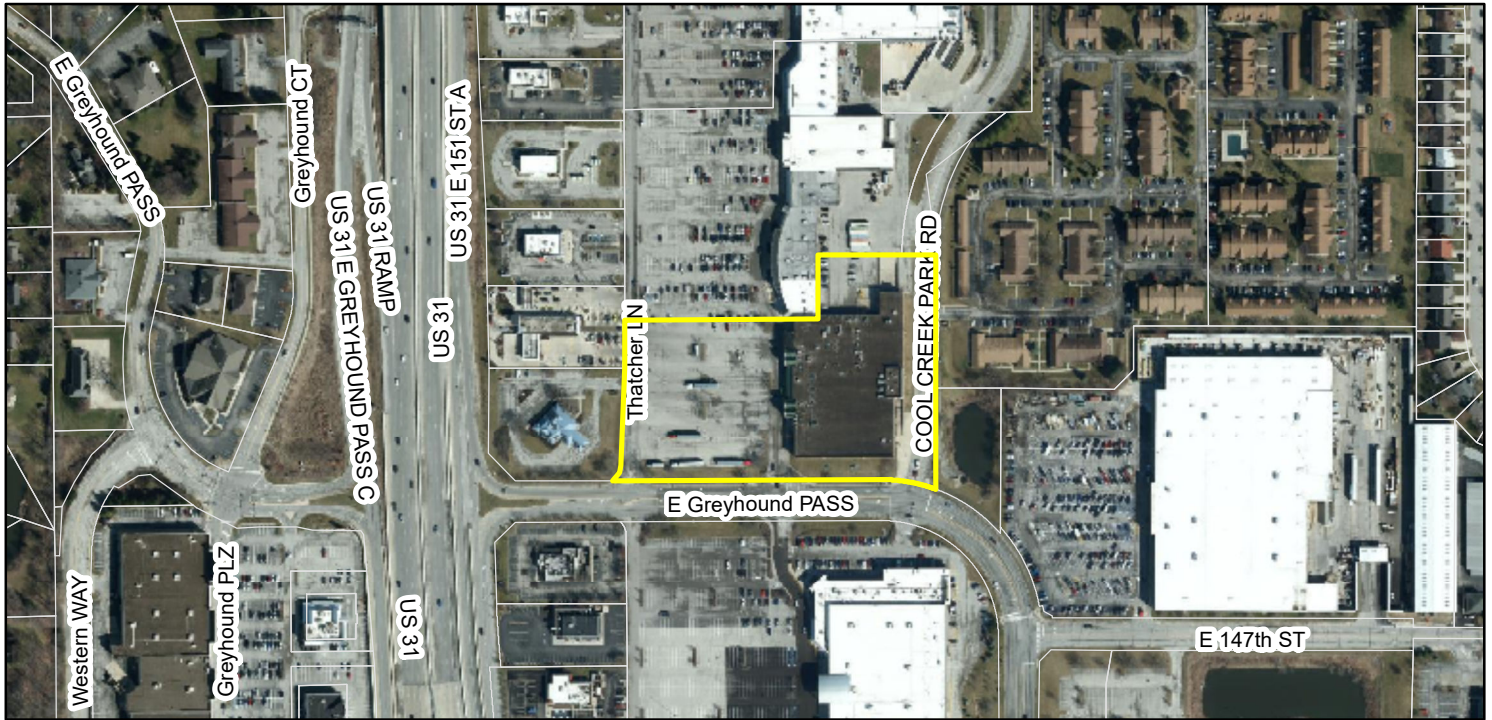
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: The screening in small amounts of merchandise for sale defeats the intended purpose, which is to all customers to experience seasonal merchandise up close.

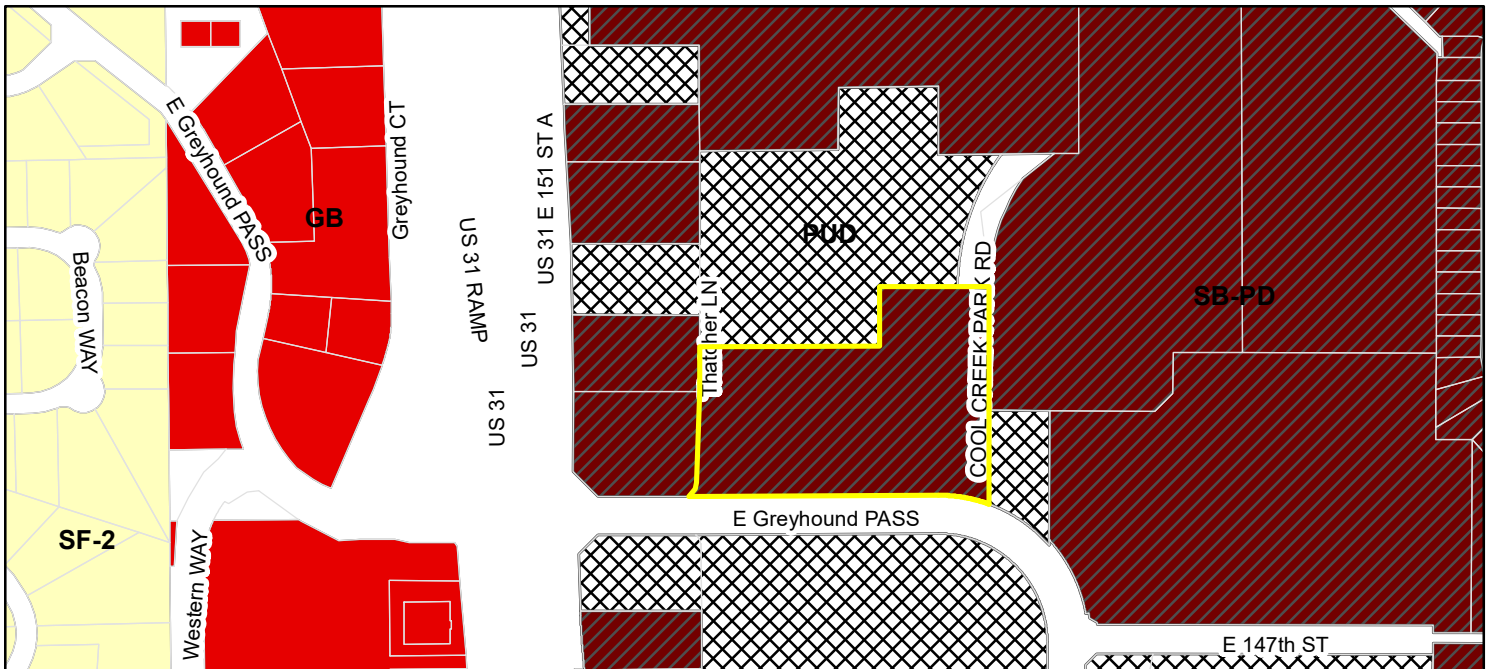
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site

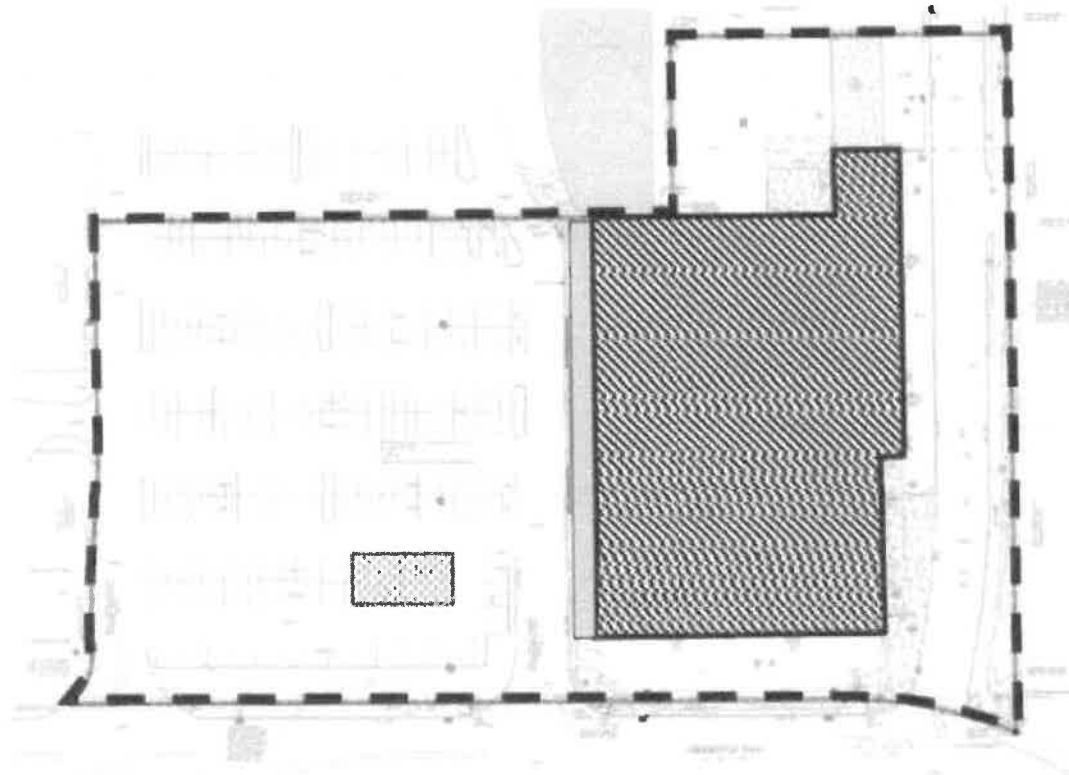


Zoning Map



Zoning

-  GB (General Business)
-  PUD (Planned Unit Development)
-  SB-PD (Special Business - Planned Development)
-  SF-2 (Single Family - 2)



Statement of Intent for Academy Sports + Outdoor

Academy, LTD, d/b/a Academy Sports + Outdoor (“Academy”) is preparing for the grand opening of its store in Westfield, located at the site of the former Marsh Supermarket at 1960 East Greyhound Pass, in Village Park Plaza. Academy recently obtained a variance of use to operate a “large” sporting goods retail store under Case No. 2305-VU-04.

After the variance was obtained, the License/Permit team at Academy discovered that outdoor display of merchandise was limited to those instances in which the merchandise was fully screened, which is contrary to the seasonal display of merchandise that Academy employs near the front entrance to its stores, so Academy is filing a variance of development standards to allow for such seasonal displays. The seasonal displays rotate periodically.

The location of the outdoor display area is shown on the site plan submitted with the variance. The area for outdoor display is contained and limited and will not negatively impact pedestrian or vehicular traffic on the premises or the adjoining uses.

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2309-VS-21 FILING DATE: 8-18-23

FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest (STAFF NAME) DATE: 08/16/2023

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): 2305-VU-04

APPLICANT INFORMATION

APPLICANT'S NAME: Academy, LTD.

ADDRESS: 1800 North Mason Road, Katy, Texas 77449

TELEPHONE: (281) 646-5545

EMAIL: Legal-licensespermits@academy.com

PROPERTY OWNER'S NAME: Carmel LLC

ADDRESS: 124-19 Metropolitan Avenue, Kew Gardens, NY 11415

TELEPHONE: _____

EMAIL: _____

REPRESENTATIVE'S NAME: Joseph D. Calderon

COMPANY: Barnes & Thornburg LLP

ADDRESS: 11 South Meridian Street, Indianapolis, IN 46204

TELEPHONE: (317) 231-7787

EMAIL: jcalderon@btlaw.com

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 1960 East Greyhound Pass

COUNTY PARCEL ID #(S): 09-10-18-00-01-001.000

EXISTING ZONING DISTRICT(S): SB-PD, US 31 Overlay EXISTING LAND USE(S): Former grocery store being converted to retail sporting goods store.

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: Ch. 6, Sec. 6.12 C.2.a.ii

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): Applicant proposes to display seasonal merchandise near the front entryway with no screening, and hold seasonal sales events in a portion of the parking lot, which areas are identified on the site plan submitted with this Application.

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.


Applicant/Representative (signature)

Joseph D. Calderon, attorney for Academy, LTD.
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 17th day of August, 2023.
State of INDIANA County of MARION, SS: _____


Notary Public (signature)

SUSAN LOSCHE
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

By: _____
Property Owner (signature)*

Property Owner (printed)/Title

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this _____ day of _____, 20____.
State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

#345



Westfield Community Development
2728 E. 171st Street | Westfield, IN 46074
317.804.3170 | nwoerner@westfield.in.gov

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Akceper
Applicant/Representative (signature)

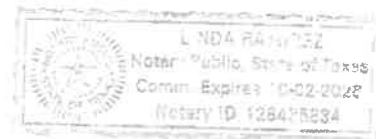
Patki Kooper
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 19 day of July, 2023
State of Texas, County of Harris, SS:

[Signature]
Notary Public (signature)

Linda Ramirez
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

[Signature]
Property Owner (signature)*

Yudit Cohen
Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 18 day of July, 2023
State of NY, County of NY, SS:

[Signature]
Notary Public (signature)

Erik Fernandez
Notary Public (printed)

ERIK FERNANDEZ
Notary Public, State of New York
No. 01FE6410174
Qualified in Queens County
Commission Expires Oct. 19, 2024

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Academy, LTD

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

the outdoor display of merchandise without screening is a small portion of the overall premises and will not interfere with pedestrian or vehicular access to the property or the retail store.

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____

the types of merchandise being displayed pose no threat to block visibility of or access to adjacent uses.

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____

screening small amounts of merchandise for sale defeats the intended purpose, which is to all customers to experience seasonal merchandise up close.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 12, 2023

2308-VU-09

Exhibit 1

Petition Number: 2308-VU-09

Subject Site Address: 17502 Shady Nook Rd. (The "Property")

Petitioner: Lana Nichols (The "Petitioner")

Request: The Petitioner requests a Variance of Use to permit a by-appointment only Low-Intensity Retail (beauty salon) use on 0.65 acres +/- in the GO: General Office District.

Current Zoning: GO: General Office District

Current Land Use: General Services / Professional Office

Approximate Acreage: 0.65 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Application

Staff Reviewer: Weston Rogers, Associate Planner

OVERVIEW

Location: The subject property is 0.65 acres +/- in size and is located at 17502 Shady Nook Rd. (see **Exhibit 2**). The Property is currently zoned the GO: General Office District and is also located within the US Highway 32 Overlay District. Surrounding properties are zoned the GO: General Office Districts.

Property History: The Property was developed in the early 1960's presumably as a Single-family Detached Dwelling. With the establishment of The Westfield-Washington Township Comprehensive Zoning Ordinance of 1977 the zoning classification of this land transitioned to be GO: General Office. Over time, a variety of office uses have been conducted within the existing building located on the Property.

Variance Request: The Petitioner requests a Variance of Use to permit a by-appointment only Low-Intensity Retail (beauty salon) use on 0.65 acres +/- in the GO: General Office District. (Article 13.2).

SUMMARY OF VARIANCE

The Petitioner is requesting this Variance of Use to allow a by-appointment only Low-Intensity Retail use, specifically a beauty salon, to occupy the existing building on the Property.

A beauty salon is considered a Low-Intensity Retail use (as defined by the UDO). A Low-Intensity Retail use is not a permitted use within the current Zoning District of the Property (GO: General Office).

Moreover, a Variance of Use is needed to permit the proposed beauty salon to operate on The Property.

COMPREHENSIVE PLAN

The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the properties as "Local Commercial". A link to the Comprehensive Plan "Local Commercial" section can be found [here](#).



The Comprehensive Plan identifies appropriate land uses in this land use classification to include: i) community and local retail, ii) office, iii) services, iv) institutional uses, and v) attached residential dwellings. The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition is scheduled to receive its public hearing at the September 12, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Use: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

- 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- 3) The need for the variance arises from some condition peculiar to the property involved;
- 4) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and
- 5) The approval does not interfere substantially with the Comprehensive Plan.

¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁶ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the variance, then the Department recommends the conditions and findings as set forth below:

Recommended Conditions of Approval:

1. That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department;
2. That the existing building on site shall remain residential in character;
3. That the beauty salon shall conduct business "by appointment only";
4. That the beauty salon shall be limited to the following hours of operation:
 - Monday – closed
 - Tuesday, Wednesday, Thursday – 10am to 7pm
 - Friday – 8am to 4pm
 - Saturday – 8am to 4pm
 - Sunday – closed

Recommended Findings for Approval:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that allowing a Low Intensity Retail Use to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the use will be contained within the existing building on the Property, and the request is consistent with the uses contemplated in the City's Comprehensive Plan.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner as the Property will remain residential in character and the use will be contained within the existing building on the Property during specified hours of operation.

- 3) *The need for the variance of use arises from some condition peculiar to the property involved.*

Finding: A beauty salon is considered a Low-Intensity Retail Use which is not permitted within the GO: General Office zoning district. However, the Comprehensive plan contemplates service uses as an appropriate land use on the Property.

- 4) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: The strict application of the terms of the zoning ordinance will result in the inability for the Petitioner to utilize the Property for the intended business purpose.



5) *The approval does not interfere substantially with the comprehensive plan:*

Finding: The Westfield-Washington Comprehensive Plan (the “Comprehensive Plan”) includes this property in the area designated as “Local Commercial”, this proposed use meets this classification.

Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board’s next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



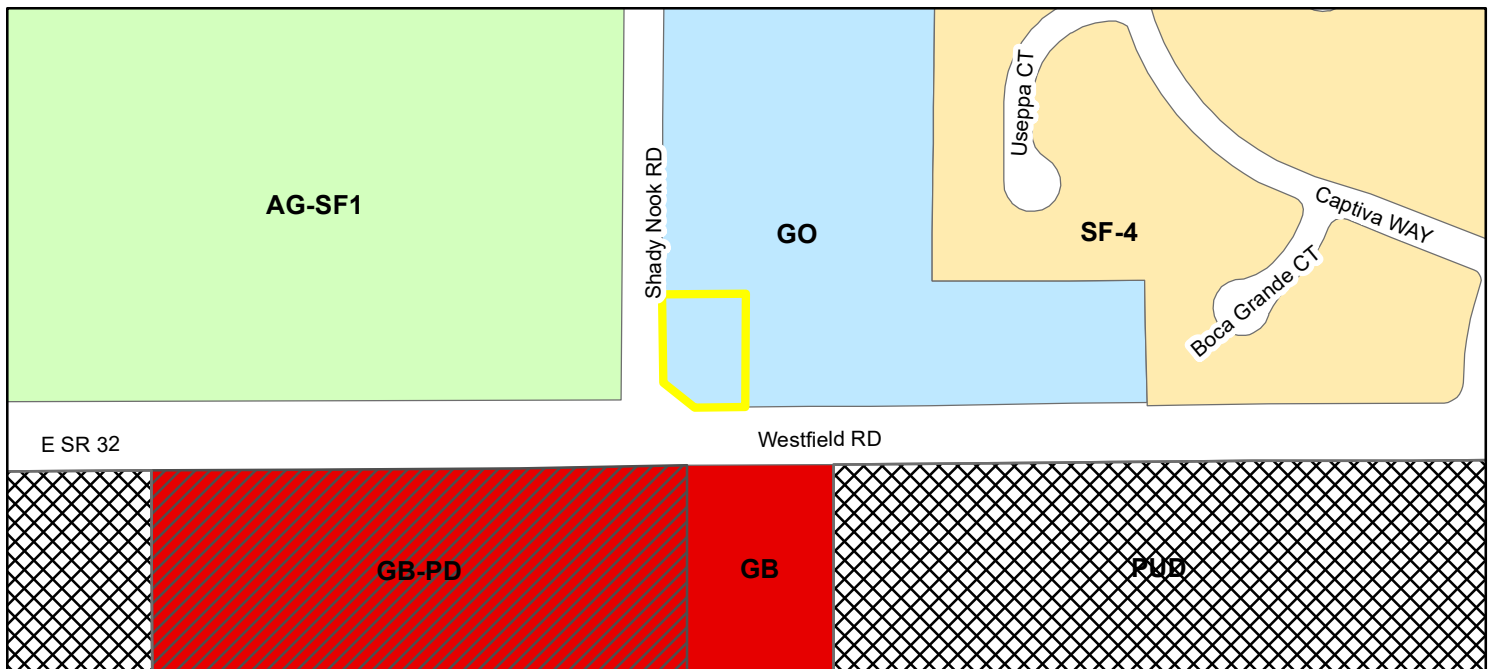
Property Location Map
17502 Shady Nook Road (Nichols)
2308-VU-09



Aerial Location Map



Zoning Map



 SITE Zoning

 AG-SF1 (Agriculture - Single Family - 1)

 GB (General Business)

 GB-PD (General Business - Planned Development)

 GO (General Office)

 PUD (Planned Unit Development)

 SF-4 (Single Family - 4)

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2308-VU-09 FILING DATE: 7/14/23

FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Daine Crabtree (STAFF NAME) DATE: July 11th

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____
PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): X

APPLICANT INFORMATION

APPLICANT'S NAME: Dustin / Lana Nichols
ADDRESS: 1824 S R Street

TELEPHONE: 765-635-3585 / 765-635-1973
EMAIL: Lannichols288@gmail.com

PROPERTY OWNER'S NAME: Evan Steger
ADDRESS: 17502 Shady Nook

TELEPHONE: 317-918-0938
EMAIL: Sales@SOSroofingandconstruction.com

REPRESENTATIVE'S NAME: _____
COMPANY: _____
ADDRESS: _____

TELEPHONE: _____
EMAIL: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17502 Shady Nook Rd.
COUNTY PARCEL ID #(S): 09-06-32-00-00-021.000
EXISTING ZONING DISTRICT(S): _____ EXISTING LAND USE(S): Office / Business

PROPERTY AND PROJECT INFORMATION

☒ VARIANCE OF LAND USE CODE CITATION: _____
☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):

Small private Salon by Appointment only
Color and Hair Extensions only very Private Setting.

Hours: Tues 1-7
Wed 1-7 Sat 8-3 Closed Mon
Thurs 1-7 fri Sun

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Dustin / Lana Nichols

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____

The property will not be affected only a
small yard sign that states Private Appointments only

C. The need for the variance arises from some condition particular to the property involved because: _____

I believe they were worried about a retail business
with lots of traffic to the neighborhood behind.
That will not be the case with this business

D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: _____

E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____

GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|---|--|
| ☒ Completed Application | ☐ Legal Description |
| ☐ Draft Public Notice | ☐ List of Adjoining Property Owners (as provided by County) |
| ☐ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☐ Site Plan (to scale) | ☐ Copy of Property Deed |
| ☐ Statement of Intent | Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to "City of Westfield") within two (2) weeks of filing.
- D. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- E. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's Rules of Procedure:
- Newspaper Publication:** Notice of the hearing will be published in the Hamilton County Reporter and The Times. The Department will handle the newspaper publication requirement.
 - Mailed Public Notice:** The applicant is responsible to send public notice by certified mail with proof of mailing (certificate of mailing) to all interested parties, postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one eighth of a mile (1/8), whichever is less.
 - Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 - Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- F. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- G. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- H. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board's Rules of Procedure for more detailed procedural information.

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Lana Nichols
Applicant/Representative (signature)

Lana Nichols
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 1st day of August, 2023
State of Indiana, County of Madison, SS: _____

Christina M. Clark
Notary Public (signature)

Christina M. Clark
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

Property Owner (signature)*

Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this _____ day of _____, 20____
State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.



Westfield Community Development
2728 E. 171st Street | Westfield, IN 46074
317.804.3170 | nwoerner@westfield.in.gov

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Applicant/Representative (signature)

Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this ____ day of _____, 20__

State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the execution of the foregoing Application.

Property Owner (signature)*

Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 31st day of July, 2013

State of IN, County of Hamilton, SS: _____

Notary Public (signature)

Notary Public (printed)

Adam P Ruberry
Notary Public - Seal
State of Indiana
Hamilton County

My Commission Expires 11/24/2028
Commission No. NP0730154

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
15th day of March 2022 - CPH
Robin M. Miller Auditor of Hamilton County
Parcel # 09-06-32-00-00-000-000

2022013539 WD \$25.00
03/15/2022 04:06:08PM 2 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented



TGR

Parcel No. 29-06-32-000-021.000-015

FSH-136438

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Jeffrey A. Harpe, an individual, Grantor, of Hamilton County, in the State of Indiana, CONVEYS AND WARRANTS to SOS Roofing and Construction, LLC, an Indiana limited liability company, Grantee, of Hamilton County, in the State of Indiana, for the sum of One Dollar (\$1.00) and Other Valuable Consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Hamilton County, in the State of Indiana, to-wit:

Lot Number One (1) in Emlee Subdivision, an addition in the Southeast Quarter of Section 32, Township 19 North, Range 4 East, the plat of which was recorded May 26, 1959 in Plat Book 2, page 144, in the Office of the Recorder of Hamilton County, Indiana.

Subject to any and all easements, agreements and restrictions of record.

Subject to real estate tax for the year 2021, due and payable in 2022, and all taxes thereafter, all of which the Grantee herein assumes and agrees to pay.

The address of such real estate is commonly known as: 17502 Shady Nook Road, Noblesville, IN 46062.

Tax bills should be sent to Grantee at the address shown below.

IN WITNESS WHEREOF, Grantor have/has executed this deed this 14 day of March, 2022.

{02074569-1}



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

September 12, 2023

2309-SE-02

Exhibit 1

Petition Number: 2309-SE-02

Subject Site Address: 17695 and 17655 Shamrock Blvd. (collectively, the “Property”)

Petitioner: Westfield Washington Schools (the “Petitioner”)

Representative: Church, Church, Hittle & Antrim (the “Representative”)

Request: The Petitioner requests a Special Exception to permit a tax-exempt use (school-operated tennis and pickleball facility) on +/- 3.83 acres.

Current Zoning: Junction Planned Unit Development (PUD) Zoning District; and
Single-family Medium Density District (SF-3) Zoning District

EDD Overlay: Grand Junction Economic Development District

Current Land Use: Vehicular Parking Area, Open Space

Approximate Acreage: 3.83 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Concept Site Plan
4. Application

Staff Reviewer: Weston Rogers, Associate Planner

OVERVIEW

Location: The subject Property is 3.83 acres +/- in size and located at 17695 and 17655 Shamrock Blvd. (see **Exhibit 2**). The Property is zoned the following classifications – 17695 (northern portion of the Property) is zoned SF3: Single-family Medium Density District (the “SF3 District”) and 17655 (southern portion of the Property) is zoned The Junction Planned Unit Development District (the “Junction PUD District”).

The Property contains a Vehicular Parking Area, Open Space, and defunct baseball fields. The properties to the north and east are zoned SF3 with the properties to the south and west zoned the Junction PUD.

Property History: The Property was developed in the early 1960’s as baseball diamonds serving Westfield Washington Schools. In 1977 the establishment of The Westfield-Washington Township Comprehensive Zoning Ordinance classified the Property as SF3. Over time, a variety Open Space recreational land uses and supporting Accessory Uses, such as a Vehicular Parking Area, have been located on the Property to serve Westfield Washington Schools.

In 2009 the Property was incorporated into the Grand Junction Economic Development District.

In 2014, 17655 (the southern portion of the Property) was re-zoned to the Junction PUD and later amended in 2015 to permit the development of Riverview Hospital. However, 17655 has remained undeveloped since the Junction PUD was adopted in 2015.

In 2019, 17695 (the northern portion of the Property) was developed as a Vehicular Parking Area.



SUMMARY OF VARIANCE

The Petitioner is requesting a Special Exception to permit a tax-exempt use (school-operated tennis and pickleball facility) on +/- 3.83 acres within the Junction PUD Zoning District and the Grand Junction Economic Development District.

It shall be noted that the proposed land use of a school-operated tennis and pickleball facility is permitted on the property. This proposed land use is considered to be an Accessory Use to the existing Education Institution owned and operated by Westfield Washington Schools.

However, as previously noted the proposed school-operated tennis and pickleball facility qualifies as a Tax-Exempt Use.

Unified Development Ordinance (UDO), Article 5 "Economic Development District (EDD) Overlay", Section D "Restriction of Use" requires that –

"The Use of land within an EDD Overlay that results in the real estate being exempt from payment of all or part of the real property taxes (a "Tax-Exempt Use") shall be permitted only as a Special Exception (see also Article 10.12 Special Exceptions). All other Uses that are permitted in the underlying Zoning District shall be permitted."

Moreover, a Special Exception is needed to permit the proposed school-operated tennis and pickleball facility on the Property due to the Economic Development District Overlay standards.

SPECIAL EXCEPTIONS

Definition: Chapter 12 (Definitions) of the Unified Development Ordinance (the "UDO") defines a "Special Exception" as "[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted."

Use Table: Chapter 13 (Use Table) of the UDO provides that "[a] Special Exception designation is not meant to imply that the use will be disallowed, but that the use requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for those Zoning Districts in which it is permitted. The determination of whether the Special Exception may be approved shall be subject to a public hearing by the Board of Zoning Appeals and review in accordance with Article 10.11 Special Exceptions."

Purpose: Article 10.11(B) (Processes and Permits; Special Exceptions; Purpose) of the UDO states "[a] Special Exception is a use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted. The determination of whether the Special Exception is approved shall be contingent upon: (i) the Special Exception meeting the standards of this Ordinance and those standards



as set forth in this Article; and (ii) the Board weighing, in each case, the public need and benefit against the local impact, giving effect to the proposals of the Applicant for ameliorating adverse impacts through special site planning and development techniques and contributions to the provisions of public improvements, sites, right-of-way and services.”

ANALYSIS

The below analysis coincides with the review criteria for a Special Exception set forth in the Unified Development Ordinance¹, as summarized herein.

Criteria #1: The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.

Comment: It is unlikely that approving the requested Special Exception would be injurious to the public health, safety, morals, and general welfare of the community because the use as proposed is permitted on the Property by-right.

Criteria #2: The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.

Comment: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed Special Exception should not have a negative impact on surrounding properties because: (i) the operation and design of the use should not impact surrounding properties; (ii) the use is otherwise contemplated as appropriate in the applicable Zoning District(s); and (iii) the development and use of the site would otherwise comply with applicable regulations.

Criteria #3: The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.

Comment: The proposed school-operated tennis and pickleball facility is considered an Accessory Use to the existing Educational Institution owned and operated by the Petitioner. The Unified Development Ordinance contemplates this land use within both the SF-3 Zoning District and the Junction PUD Zoning District. The proposed operation and design of the use should not impact surrounding properties and will not impede the use and development of adjacent properties. The property will continue maintain its outdoor recreational character and the proposed Special Exception would be compatible with other permitted uses of the applicable Zoning Districts and potential conflicts resulting from other future and adjacent uses should be diminutive.

¹ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



Criteria #4: Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.

Comment: Existing and adequate public facilities are currently being provided to serve the Property. A private drive aisle will be constructed by the Petitioner to serve the vehicular access needs of the proposed school-operated tennis / pickleball facility.

Criteria #5: Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.

Comment: The Petitioner will be required to submit a Detailed Development Plan application prior to any development commencing on the Property. At that time, ingress and egress measures will be reviewed for compliance with City of Westfield Construction and Development Standards by the Public Works Department and the Community Development Department.

Criteria #6: The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan, as amended (the Comprehensive Plan) identifies a majority of this Property within the "Downtown" land use classification. Furthermore, this Property is located within both the "Junction Sub-District" and the "Neighborhood Sub-District" classifications of the Grand Junction Addendum to the Comprehensive Plan.

The Comprehensive Plan identifies appropriate land uses in these land use classifications to include institutional and recreational land uses².

Criteria #7: The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and the Unified Development Ordinance, and as may be applicable to such use, will be met.

Comment: Together, both the SF-3 Zoning District and the Junction PUD Zoning District contemplate the proposed land use as permitted. The proposed land use and property will otherwise comply with or exceed the applicable standards of the Unified Development Ordinance and Junction PUD Ordinance.

² Westfield Washington Township Comprehensive Plan, page 76, and Grand Junction, Sub-District Addendum to the Westfield Washington Township Comprehensive Plan, page 23.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Special Exception. This petition is scheduled to receive its public hearing at the September 12, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO³ and Indiana law provide that the Board of Zoning Appeals in granting a Special Exception, may prescribe conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a Special Exception as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Any conditions prescribed by the Board shall be recorded in the Office of the Recorder of Hamilton County, Indiana. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the Special Exception or related Improvement Location Permit, pursuant to Chapter 11: Enforcement & Penalties.

Review Criteria: The Board of Zoning Appeals may approve a Special Exception only upon a determination that the Special Exception at the proposed location meets the following⁴:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
2. The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.
5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.

³ Article 10.11(I) Processes and Permits; Special Exceptions; Conditions of the UDO.

⁴ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



DEPARTMENT COMMENTS

Approval: If the Board finds that adequate evidence is shown that the Special Exception meets the applicable review criteria, then the Department recommends approving the Special Exception, with the recommended conditions below, and adopting the written review criteria findings as summarized herein.

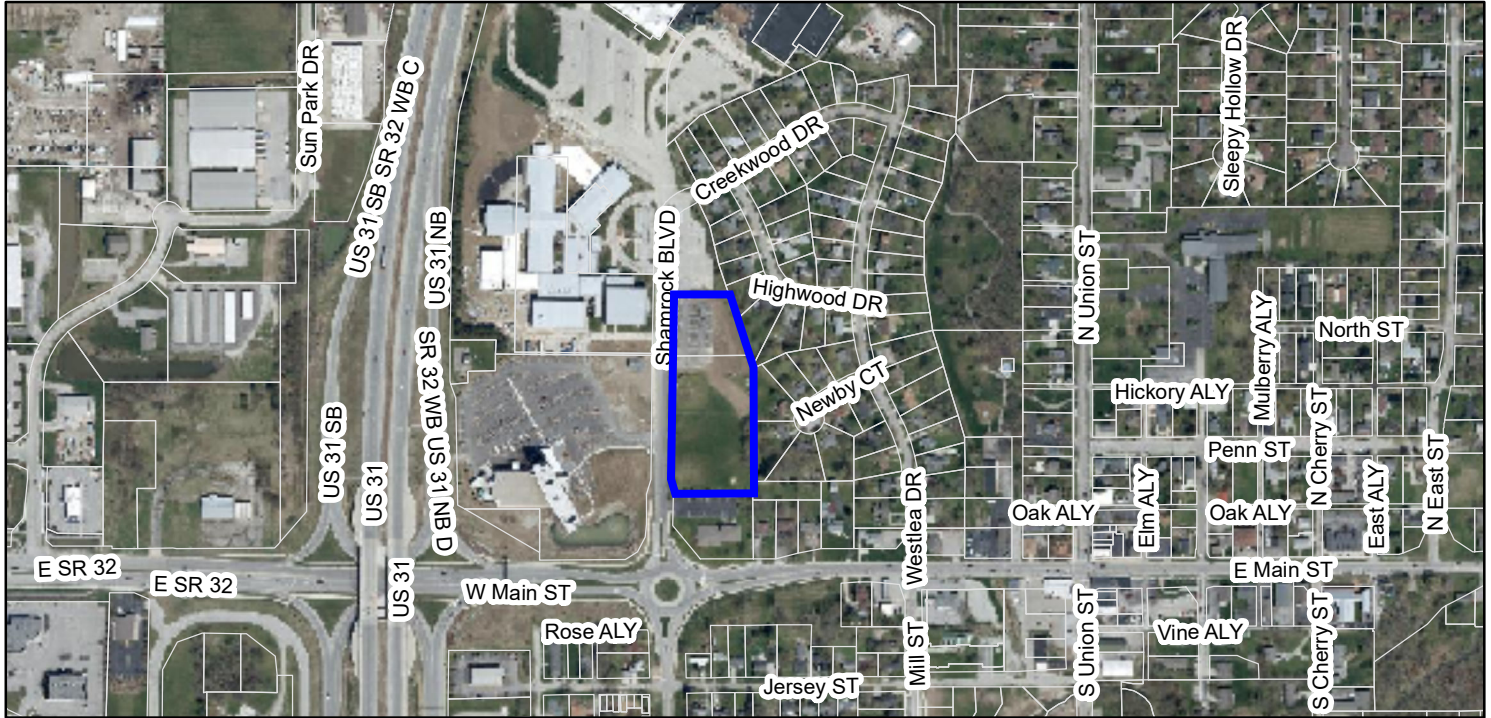
Recommended Conditions:

1. That the Special Exception shall be tied to the Petitioner, Westfield Washington Schools;
2. That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

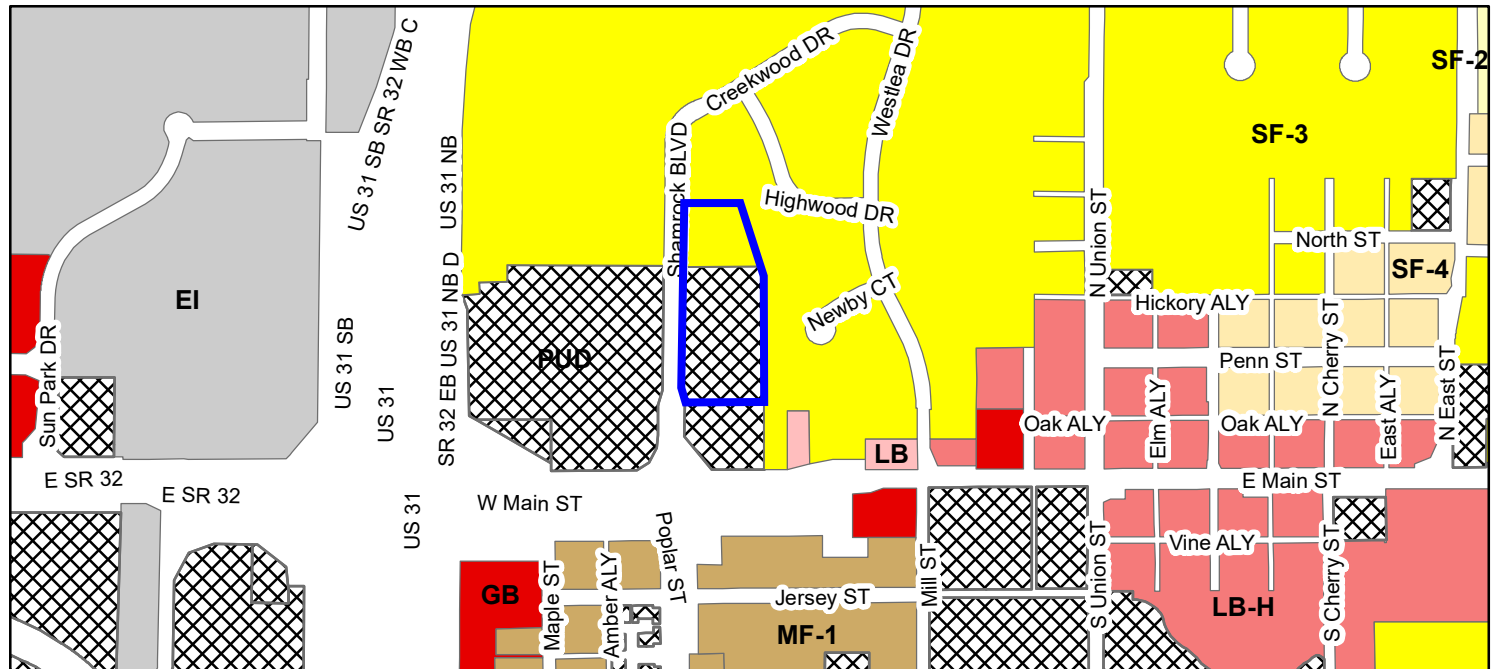
Denial: If the Board is inclined to reject or deny the Special Exception, then the Department recommends denying the Special Exception, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

Site

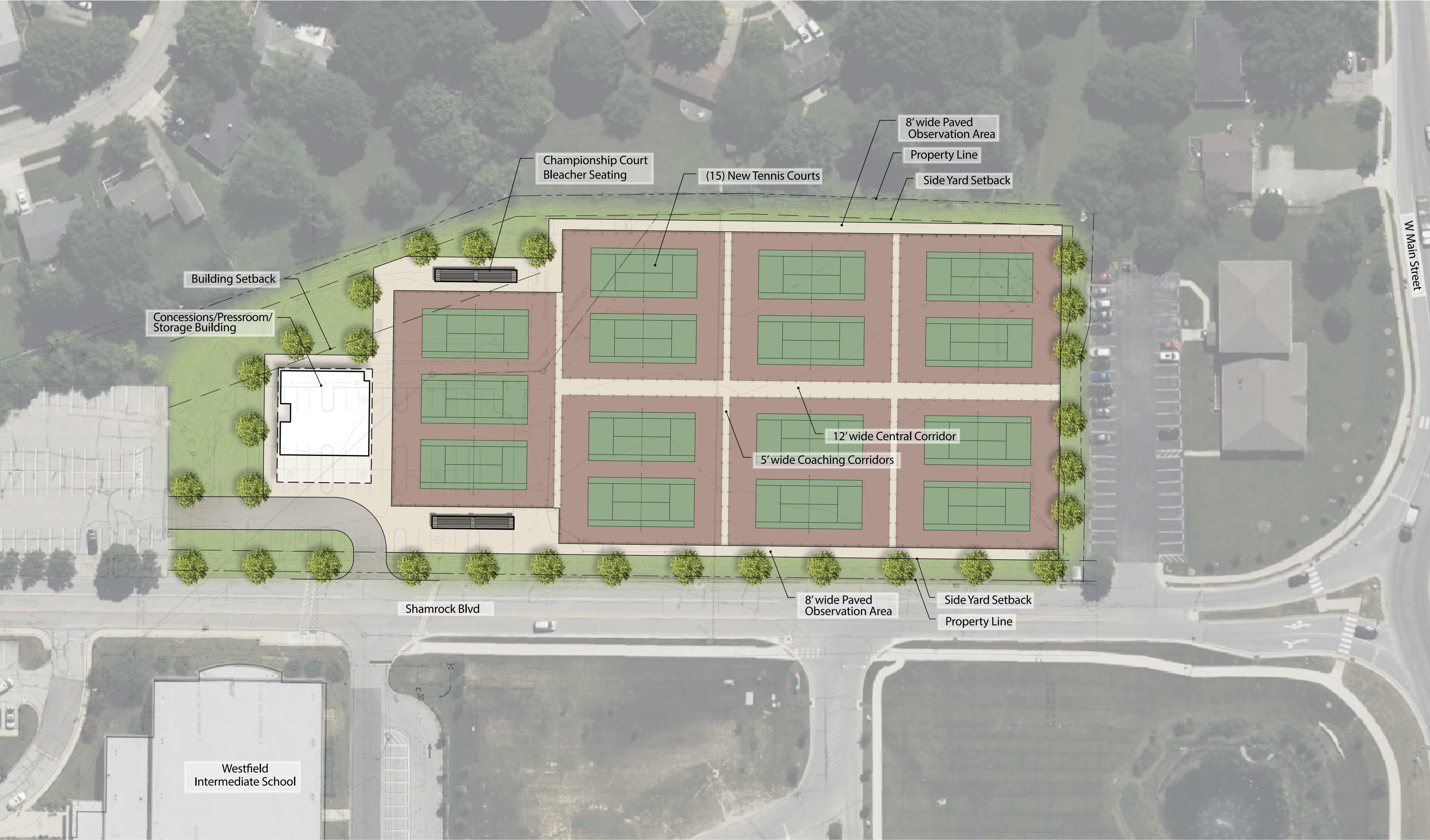


Zoning Map



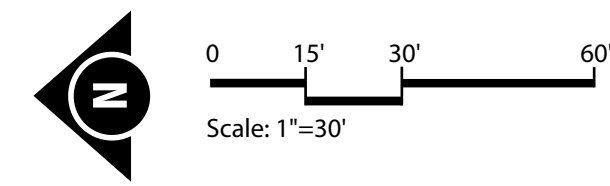
Zoning

 EI (Enclosed Industrial)	 MF-1 (Multiple Family - 1)
 GB (General Business)	 PUD (Planned Unit Development)
 LB (Local Business)	 SF-2 (Single Family - 2)
 LB-H (Local Business - Historical)	 SF-3 (Single Family - 3)
	 SF-4 (Single Family - 4)



WESTFIELD WASHINGTON SCHOOLS TENNIS

Site Concept Update | March 31, 2023



WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

SPECIAL EXCEPTION APPLICATION



OFFICE USE ONLY DOCKET #: _____ FILING DATE: _____
FILING FEE: \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: August 8, 2023

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: 1406-PUD-09 AMENDMENTS: _____ DEVELOPMENT PLAN: _____

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): _____

APPLICANT INFORMATION

APPLICANT'S NAME: Westfield Washington Schools TELEPHONE: 317.867.8013

ADDRESS: 19500 Tomlinson Road, Suite B, Westfield, IN 46074 EMAIL: tomamichelb@wws.k12.in.us

PROPERTY OWNER'S NAME: Westfield Washington Schools TELEPHONE: 317.867.8013

ADDRESS: 19500 Tomlinson Road, Suite B, Westfield, IN 46074 EMAIL: tomamichelb@wws.k12.in.us

REPRESENTATIVE'S NAME: Matthew Skelton TELEPHONE: 317.508.6288

COMPANY: Church Church Hittle + Antrim EMAIL: mskelton@cchalaw.com

ADDRESS: 116 North Union Street, Westfield, IN 46074

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17695 Shamrock Boulevard, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-05-36-00-04-003.000, 09-05-36-00-04-004.000

EXISTING ZONING DISTRICT(S): Junction PUD EXISTING LAND USE(S): parking lot

SPECIAL EXCEPTION REQUEST

CODE CITATION: UDO 5.4(D) FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): _____

Requesting approval of a Special Exception in accordance with UDO Section 5.4(D).

**APPLICANT AFFIDAVIT**

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

[Signature]
Applicant/Representative (signature)

Andrew Wert
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 14th day of Aug, 2023.

State of Indiana County of Hamilton ss:



JOAN E. GUILKEY
MY COMMISSION EXPIRES: 2-19-2024
MY COMMISSION NUMBER IS: 678833
MY COUNTY OF RESIDENCE IS: HAMILTON

[Signature]
Notary Public Signature
Joan E. Guilkey
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

[Signature]
Property Owner (signature)*

Brian Tomamichel
Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 11 day of August, 2023.

State of Indiana County of Hamilton ss:



Cynthia E Nicole
Notary Public, State of Indiana
Hamilton County
Commission #NP0704491
My Commission Expires
August 23, 2025

[Signature]
Notary Public Signature
Cynthia E Nicole
Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.



FINDINGS OF FACT (SPECIAL EXCEPTION)

APPLICANT: Westfield Washington Schools DOCKET #: _____

In taking action on a special exception, the Board of Zoning Appeals uses the following decision criteria to approve or deny a special exception. The applicant must address the criteria below. The Board may impose reasonable conditions as part of its approval. A special exception may be approved by the Board only upon a determination that the Board finds all of the following to be true:

- A. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health safety morals or general welfare because:
The property is owned by Westfield-Washington Schools, which is an Educational Institution as defined by the Westfield-Washington Township Unified Development Ordinance. An Educational Institution is a permitted use in the underlying zoning districts for this property.

- B. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood because:
The tax-exempt nature of the ownership of the parcel will not have an impact on the use and enjoyment of other properties in the immediate vicinity, nor substantially diminish or impair property value within the neighborhood.

- C. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district because:
The use of the property as an Educational Institution is merely an extension of already-present facilities.

- D. Adequate utilities, streets drainage, and other necessary facilities have been or are being improved:
All utilities necessary to serve the site are adjacent to or in reasonable proximity to the property.

- E. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion:
Ingress and Egress already exist on the property.

- F. The special exception will be located in a district where such use is permitted and that all other requirements set forth, applicable to such special exception, will be met:
The school, as an Educational Institution, is permitted in the underlying zoning districts.

Narrative Statement

WWS Special Exception

17655 Shamrock Boulevard, Westfield, Indiana

Westfield Washington Schools (the “School”) owns approximately 3.83 +/- acres of real estate located on Shamrock Boulevard, east of Riverview Hospital (the “Real Estate”). The Real Estate is located within the Junction PUD, which was originally approved in 2014.

The School is an Educational Institution as defined in the Unified Development Ordinance. Educational Institutions are a permitted use in the underlying zoning districts. The Real Estate has been used in the past for diamond sports. The School intends to use the property for tennis and pickleball.

The Real Estate is also located within the Economic Development District Overlay. The Economic Development District Overlay permits Public Safety and Service Uses. However, Educational Institutions are excluded from the definition of Public Safety and Service Uses. The Economic Development District Overlay standards provide that tax exempt uses shall be permitted only as a Special Exception within the Overlay. This Special Exception petition has been filed to address the tax exempt issue. The intended land use is already permitted.



Petition Number: 2309-VU-10

Subject Site Address: 2404 E South St (the “Property”)

Petitioner: Mike Broshears – BDL Properties LLC (the “Petitioner”)

Request: The Petitioner requests a Variance of Use to permit vehicle sales on 0.78 acres in the AG-SF1 – Agriculture/Single-family Rural District

Current Zoning: AG-SF1 – Agriculture/Single-family Rural District

Current Land Use: Storage of personal property

Approximate Acreage: 0.78 acres

Property History: 85-V-11 – Variance approved to permit a building addition for Sun Packaging, a legal nonconforming industrial use (1985)

Exhibits:

1. Staff Report
2. Location Map

Staff Reviewer: Lauren Gillingham, AICP - Senior Planner

PROPERTY INFORMATION & BACKGROUND

The subject Property is +/- 0.78 acres in size and located at 2404 E South St. (previously addressed as 2404 ½ E South St), as seen in **Exhibit 2**. On the site there currently exists an approx. 8,600 SF building containing storage space and a small office area. The subject parcel is a “flag lot” located behind a rental property also owned by the applicant, which helps screens the building from the road.

Records show that industrial-related uses have existed on the site since the early 1970s. A variance was approved in 1985 to allow Sun Packaging to add on to the building, expanding the size and extent of the legally nonconforming use. As a condition of approval, the BZA required the installation of a landscaped berm at the north of the parcel, which still exists today. A fence on the western property line buffers the building from the Reserve on South subdivision. This fence line is owned and maintained by the homeowners.

The Petitioner is a vehicle collector and hobbyist who enjoys buying and selling classic cars at auction. Since 2017, he has stored part of his collection inside the existing building. While he has occasionally permitted friends to park large vehicles outside (which is permitted in the AG-SF1 zoning district), the cars in his collection are stored indoors. In terms of traffic generation, the applicant estimates that he currently averages three to four roundtrips to the property per week, with the majority of trips being to use the office space.



REQUEST FOR VARIANCE

Simply put, the need for this variance stems from the requirements necessary to move the applicant's auto dealer license, which he is required to hold in order to sell cars at auction. Previously, his license was held at a car sales lot elsewhere in Hamilton County, however, for business reasons, it's now more beneficial to move his license to the subject property.

As part of the application to move a license, a zoning official must verify that the selling of vehicles is a permitted use at the business location. This creates an issue, however, because the UDO includes auto sales in the "Very High Intensity Retail" use, defined as:

Retail businesses that have a very high impact on neighboring properties, traffic generation, and public safety and that inherently operates in whole or part outdoors through sale, display or other general activities.

Being as there is no associated outdoor sales or display, this sort of indoor sales use falls within a gray area of our zoning code and, typically, would not be something that we regulate. However, to avoid accidentally committing perjury, Staff has determined that requesting approval to officially permit auto sales is the safest route forward.

Staff has not received any letters of remonstrance against the request. Robert Slawson of Woodstock Custom Homes, builder of the Reserve at South subdivision, is in support.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use. This petition is scheduled to receive its public hearing at the September 12th, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals Rules of Procedure.

Conditions: The UDO and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefitted by variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be

signed by the Director, Property Owner and Applicant (if Applicant is different than the Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgment shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Use: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The need for the variance arises from some condition peculiar to the property involved;
4. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and
5. The approval does not interfere substantially with the Comprehensive Plan.

COMPREHENSIVE PLAN

The Westfield-Washington Township 2006 Comprehensive Plan (“the Comprehensive Plan”) identifies this property within the “Downtown” land use classification. It falls outside of the downtown areas identified in the 2016 Grand Junction Sub-Areas Addendum.

DEPARTMENT COMMENTS

If the Board is inclined to **approve** 2309-VU-10, The Department recommends the following condition and findings:

Recommended Conditions:

- That approval of this variance be tied to BDL Properties, LLC and shall expire upon future sale of the property;
- That no business operations (including vehicle storage, sales, maintenance, etc.) occur outside the structure or be marketed to the general public;

- That vehicles will not be parked in the grass;
- That parking spaces be identified and striped;
- That no signage be permitted on the property beyond what is necessary to meet state licensing requirements;
- The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Variance of Use (2309-VU-10):

- 1) ***The approval will not be injurious to the public health, safety, morals, and general welfare of the community:***

Finding: The variance would not be immediately injurious to the public health, safety, morals, and general welfare of the community. Available records show no history of zoning or nuisance complaints.

- 2) ***The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:***

Finding: The use is unlikely to affect adjacent properties in a substantially adverse manner. The property is industrial in nature and has been used for various non-residential uses for nearly 50 years, before many of the surrounding homes were developed. Approval of the variance request will not create a change in the existing use of the property.

- 3) ***The need for the Variance of Use arises from some condition peculiar to the property involved.***

Finding: In a way, the need for the variance arises from the existence of a legally conforming industrial/commercial building in the AG-SF1 District. Few, if any, permitted uses would be able to occupy the building as intended and without extensive interior renovation. Thus, a variance or special exception will be necessary until either the building is demolished or the zoning is changed.

- 4) ***The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.***

Finding: The strict application of the terms of the UDO will result in practical difficulties in using the property as it currently exists because it is unclear where the use falls within our zoning code.

- 5) ***The approval does not interfere substantially with the Comprehensive Plan:***



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

September 12, 2023

2309-VU-10

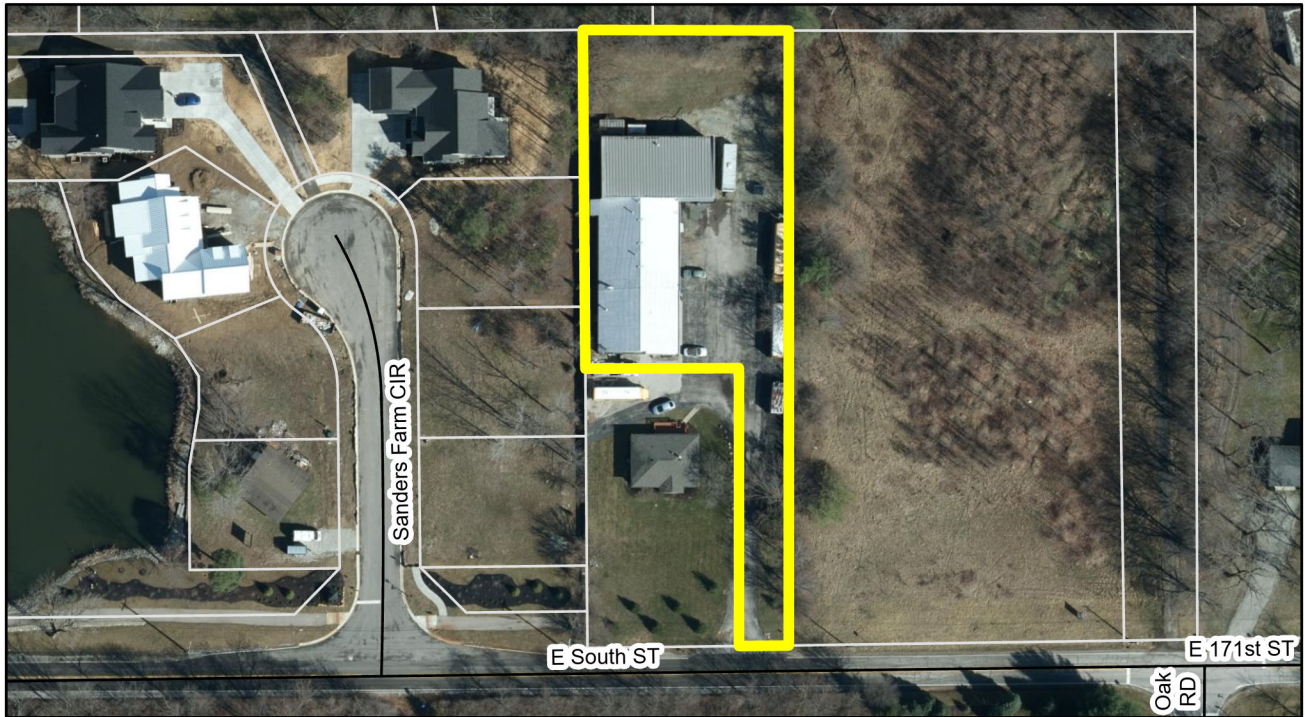
Exhibit 1

Finding: The use is substantially in-line with the 2006 Comprehensive Plan, which designates the property as “Downtown”. The Comprehensive Plan lists Retails, Commercial, and Offices as appropriate land uses.

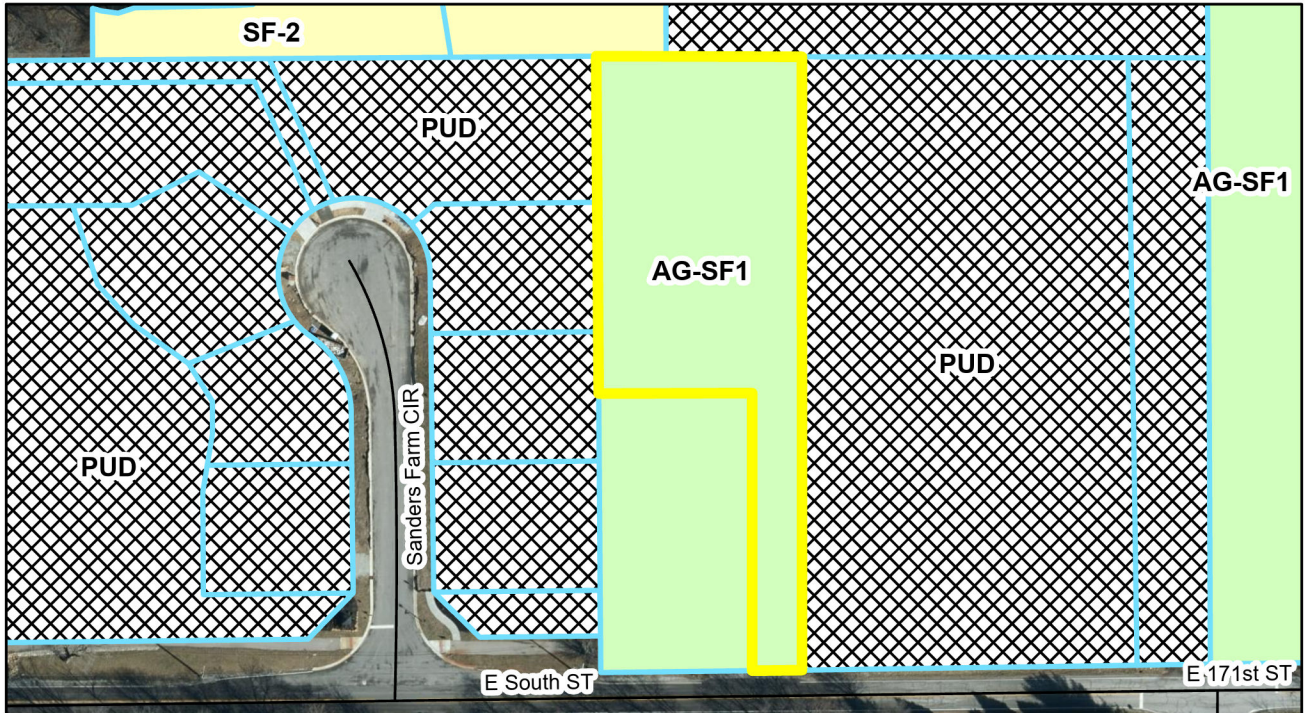
Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, but tabling the adoption of findings until the Board’s next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



Aerial Location Map



Zoning Map



Legend

 Subject Parcel

0 0.01 0.02 0.04 Miles





WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

Sept. 12, 2023
2309-VS-22
Exhibit 1

Petition Number: 2309-VS-22

Site Address: 14933 Thatcher Ln

Petitioner: Sam Klooster – CBRE Group, Inc

Representative: Robert J. Sullivan – NELCO Arch, Inc

Request: The Petitioner requests a Variance of Development Standard to exceed site lighting standards to accommodate the redevelopment of 0.95 acres in the SB-PD: Special Business Planned Development District. [UDO Art. 6.9(F)(2)]

Current Zoning: SB-PD: Special Business/Planned Development District; US Highway 31 Overlay District

Current Land Use: Fast Food Restaurant (Burger King)

Approximate Acreage: 0.95 acres

Exhibits:

1. Staff Report
2. Location Map
3. Proposed Photometric Plan

Zoning History:

88-V-9	Outlot Signage (for all of Village Park Plaza)
92-AP-40	Site Plan Approval (Burger King)
1304-VS-03	Increase in Signage Allotment (Burger King)
2306-VS-14	Encroachment into Side Setback (Bank of America)

Staff Reviewer: Lauren Gillingham, AICP - Senior Planner

PROPERTY INFORMATION & BACKGROUND

The subject property is approximately 0.95 acres in size and is located at 14933 Thatcher Ln (the “Property”). The Property is zoned Special Business District/Planned Development (SB-PD) and is adjacent to SB-PD zoning to the south and east, and the Village Park Plaza II PUD District to the north and east. The Property is adjacent to US 31 on the west and the property across US 31 is zoned General Business (GB). The Property is located within the US Highway 31 Overlay District, which includes increased development and architectural standards. The Village Park



Plaza development predates the US 31 Overlay District and is considered legal nonconforming to lot and development standards, per the Nonconforming Regulations section of the UDO (Ch. 9). The proposed site is exempt from minimum lot area, minimum lot width, maximum lot coverage, and some perimeter parking requirements, but must meet all applicable standards related to setbacks, architectural design, parking, and lighting, as well the remaining landscape standards.

REQUEST FOR VARIANCE

The Petitioner requests a Variance of Development Standard from UDO Art. 6.9(F)(2) to permit the illumination levels at the property line to exceed 1 foot-candle (fc). The first set of plans submitted met all applicable lighting standards, however, as the project moved through the review process, it was determined that the site lighting did not meet Bank of America's own safety standards for lighting around their ATMs and bank lobbies. The additional lighting, combined with the location of the ATM and the already narrow side yard, make it impossible for the site to meet the UDO standard.

Otherwise, the site meets all other applicable lighting standards. The proposed fixtures are LED and full-cut, meaning that all light is directed downward and will not glare on adjacent streets or contribute to light pollution.

DEPARTMENT COMMENTS

If the Board is inclined to **approve** 2309-VS-22, The Department recommends the following condition and findings:

Recommended Conditions:

- The site shall substantially comply with the light fixtures and illumination levels shown in the provided photometric plan (**Exhibit 3**);
- The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Variance of Use (2309-VS-22):



1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the requested is intended to meet established safety standards as related to ATMs and banks.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the subject parcel will otherwise comply with or exceed the applicable standards of the US 31 Overlay and SB-PD Districts; and (ii) many of the surrounding properties were developed before lighting standards were in place and most likely also exceed the maximums.

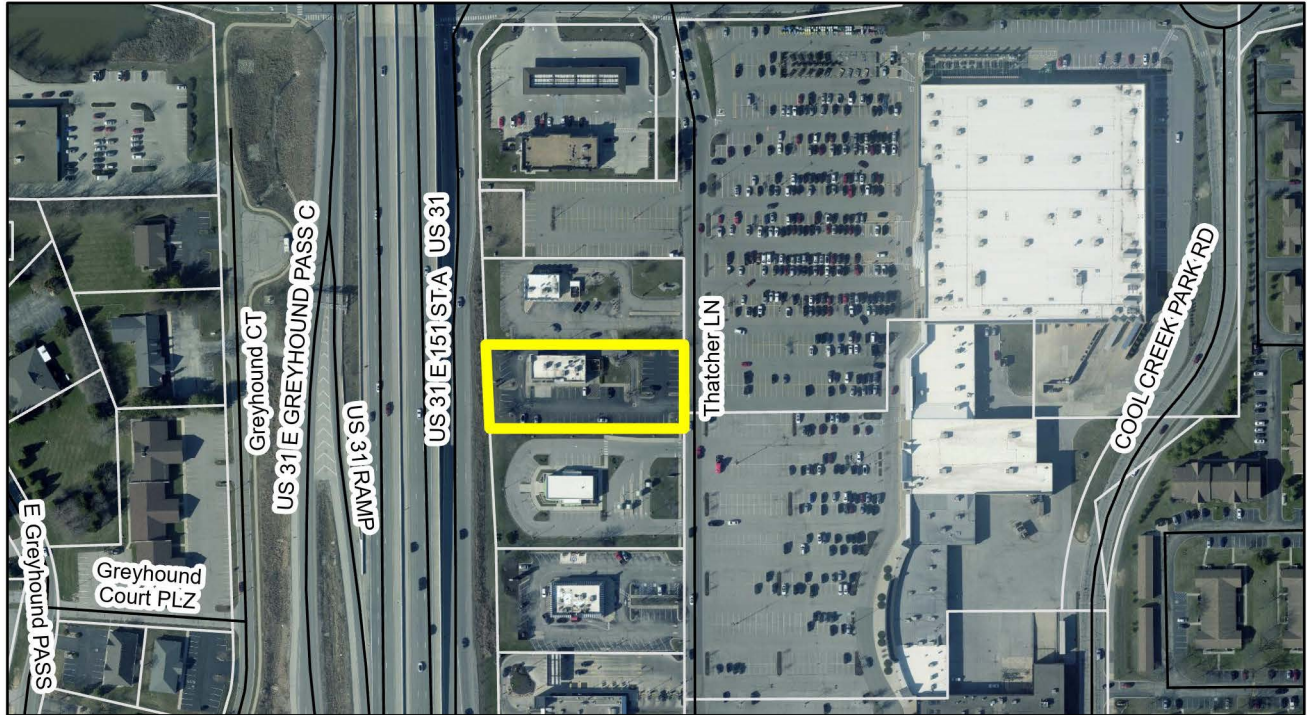
3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to develop the Property as a Bank of America.

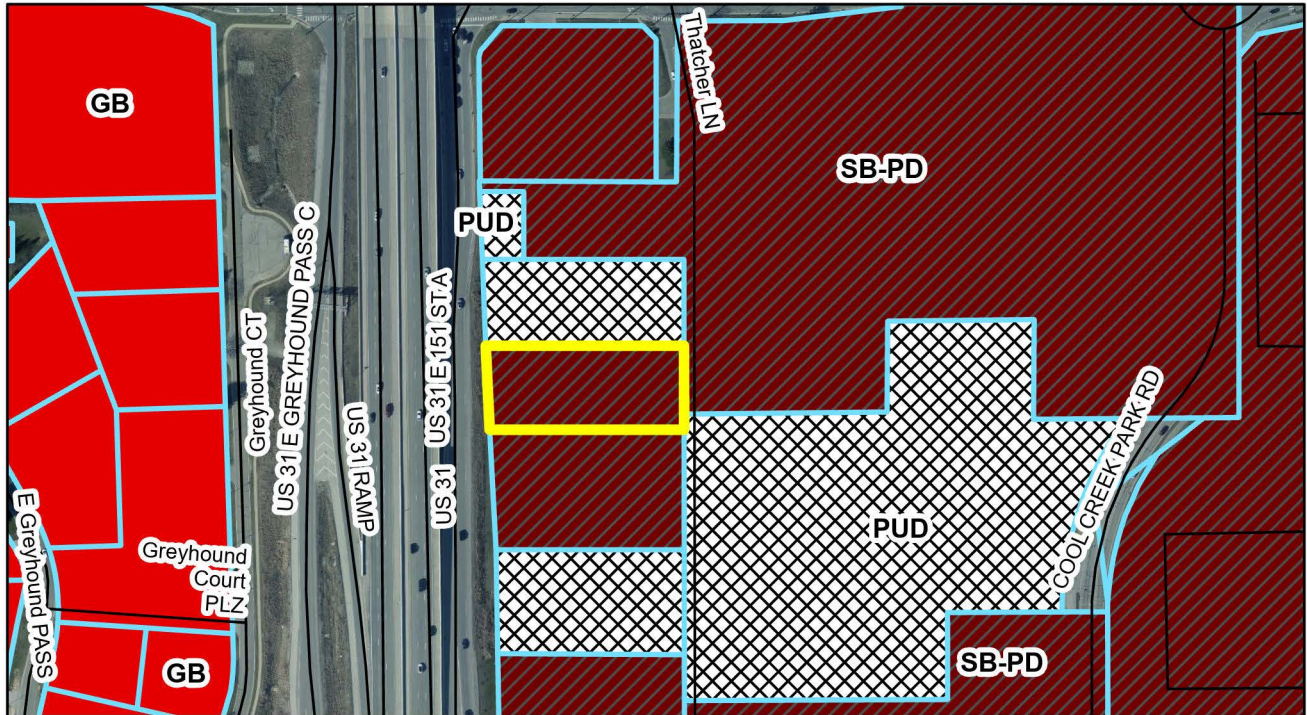
Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, but tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



Aerial Location Map



Zoning Map



Legend

 Subject Parcel

0 0.03 0.05 0.1 Miles



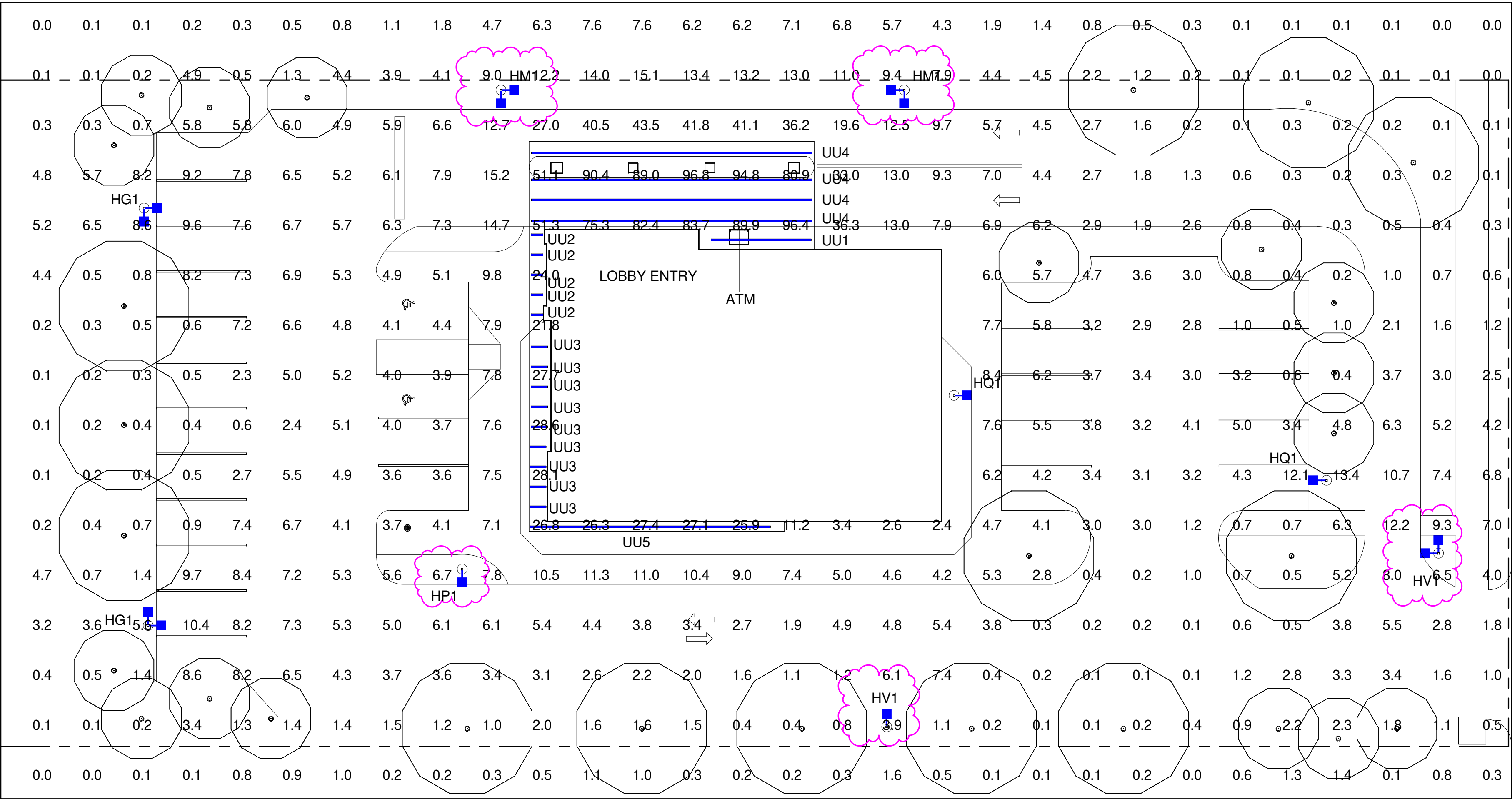
- NOTES:
1. THE SCOPE OF WORK FOR THIS PROJECT IS LIMITED TO EXTERIOR LIGHTING RENOVATIONS AS SHOWN ON THE PLANS.
 2. ALL PROPOSED LIGHTS WILL BE FULL CUTOFF LED LIGHT FIXTURES.
 3. ALL EXISTING LIGHTS WILL BE REPLACED WITH FULL CUT OFF LED LIGHT FIXTURES.
 4. REFERENCE THE LUMINAIRE SCHEDULE (SHEET LU-2) FOR ADDITIONAL LIGHT FIXTURE INFORMATION.



- BLUE = NEW FIXTURE
GREEN = EXISTING FIXTURE LOCATION TO BE REPLACED
ORANGE = EXISTING FIXTURE TO REMAIN
TURQUOISE = FIXTURE TO BE REMOVED
PINK = REPLACE WITH NEW POLE AT NEW HEIGHT
--- = PROPERTY LINE BASED ON COUNTY APPRAISAL INFORMATION
--- = INDICATES NEW SECURITY FENCE
--- = BURIED ELECTRICAL CIRCUIT



N Meridian St



FULL SITE PHOTOMETRICS PLAN
1/16" = 1'-0"

v4 230807

1		
2		
3		
REVISION NO.	DESCRIPTION	REVISED BY



Carmel Plaza
IN4-190
14933 N Meridian St
Carmel, IN 46032

FULL SITE
PHOTOMETRICS PLAN

DESIGNED BY:	DCC	DRAWN BY:	DCC
REVIEWED BY:	AWD	APPROVED BY:	KRM
SHEET NO.	LU-4		

THIS LIGHTING PLAN ILLUSTRATES ILLUMINATE LEVELS CALCULATED FROM LABORATORY DATA UNDER CONTROLLED CONDITIONS IN ACCORDANCE WITH ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICAN (IESNA) APPROVED METHODS. ACTUAL SITE ILLUMINATION LEVELS AND PERFORMANCE OF LUMINAIRES MAY VARY DUE TO VARIATIONS IN WEATHER, ELECTRICAL VOLTAGE, TOLERANCE IN LAMPS AND OTHER RELATED VARIABLE FIELD CONDITIONS.

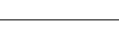
THIS PLAN SET IS PROPRIETARY AND CONFIDENTIAL INFORMATION OF THE BANK AND THE USE OF THIS DESIGN IS PROHIBITED WITHOUT THE EXPRESS PERMISSION OF THE BANK



SEE FIXTURE CLARIFICATION NOTE #9

LUMINAIRE SCHEDULE

CONTRACTOR TO VERIFY MOUNTING ACCESSORIES BEFORE ORDERING

SYMBOL	TOTAL FIXTURE COUNT	TYPE	NEW POLE COUNT	MANUFACTURER	MODEL	MODEL NUMBER	NOTES	MOUNTING HEIGHT	MOUNTING ACCESSORY	BUG RATING	MOUNTING	KILOWATT PER HOUR	TOTAL WATTAGE
	4	HG1	2	CREE	OSQ	OSQ-L-B-22L-40K7-4M-UL-NM-BZ	ADD NEW POLE AND FIXTURE	25' AFG	OSQ-ML-B-DA-BZ	B3-U0-G4	POLE MOUNT	0.132	528 W
	4	HM1	2	CREE	OSQ	OSQ-L-B-30L-40K7-4M-UL-NM-BZ	ADD NEW POLE AND FIXTURE	25' AFG	OSQ-ML-B-DA-BZ, OSQ-BLSLF	B2-U0-G4	POLE MOUNT	0.202	808 W
	1	HP1	1	CREE	OSQ	OSQ-M-B-16L-40K7-3M-UL-NM-BZ	ADD NEW POLE AND FIXTURE	25' AFG	OSQ-ML-B-DA-BZ	B3-U0-G3	POLE MOUNT	0.104	104 W
	2	HQ1	2	CREE	OSQ	OSQ-L-B-22L-40K7-3M-UL-NM-BZ	ADD NEW POLE AND FIXTURE	25' AFG	OSQ-ML-B-DA-BZ	B3-U0-G3	POLE MOUNT	0.132	264 W
	3	HV1	2	CREE	OSQ	OSQ-L-B-22L-40K7-3M-UL-NM-BZ	ADD NEW POLE AND FIXTURE	25' AFG	OSQ-ML-B-DA-BZ, OSQ-BLSLF	B2-U0-G3	POLE MOUNT	0.132	396 W
	5	UU1	-	PINNACLE	EDGE EV3 WET	EV3-WET-940HO-20'-FLF-U-OL2-1-0-W	ADD NEW FIXTURE	MATCH EXISTING CANOPY HEIGHT	-	B2-U0-G1	RECESSED CANOPY MOUNT	0.0348	174 W
	5	UU2	-	PINNACLE	EDGE EV3 WET	EV3-WET-940HO-2'-IND-FLF-U-OL2-1-0-W	ADD NEW FIXTURE	MATCH EXISTING CANOPY HEIGHT	-	B2-U0-G1	RECESSED CANOPY MOUNT	0.0174	87 W
	9	UU3	-	PINNACLE	EDGE EV3 WET	EV3-WET-940HO-3'-IND-FLF-U-OL2-1-0-W	ADD NEW FIXTURE	MATCH EXISTING CANOPY HEIGHT	-	B2-U0-G1	RECESSED CANOPY MOUNT	0.0261	235 W
	56	UU4	-	PINNACLE	EDGE EV3 WET	EV3-WET-940HO-56'-IND-FLF-U-OL2-1-0-W	ADD NEW FIXTURE	MATCH EXISTING CANOPY HEIGHT	-	B2-U0-G1	RECESSED CANOPY MOUNT	0.0348	1949 W
	12	UU5	-	PINNACLE	EDGE EV3 WET	EV3-WET-940HO-48'-FLF-U-OL2-1-0-W	ADD NEW FIXTURE	MATCH EXISTING CANOPY HEIGHT	-	B2-U0-G1	RECESSED CANOPY MOUNT	0.0348	418 W
GRAND TOTAL WATTAGE												4962 W	

v4 230807

REVISION NO.

DESCRIPTION

REVISED BY



Carmel Plaza
IN4-190
14933 N Meridian St
Carmel, IN 46032

LUMINAIRE SCHEDULE

DESIGNED BY: DCC

DRAWN BY: DCC

REVIEWED BY: AWD

APPROVED BY: KRM

SHEET NO.

LU-2

THIS LIGHTING PLAN ILLUSTRATES ILLUMINATE LEVELS CALCULATED FROM LABORATORY DATA UNDER CONTROLLED CONDITIONS IN ACCORDANCE WITH ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICAN (IESNA) APPROVED METHODS. ACTUAL SITE ILLUMINATION LEVELS AND PERFORMANCE OF LUMINAIRES MAY VARY DUE TO VARIATIONS IN WEATHER, ELECTRICAL VOLTAGE, TOLERANCE IN LAMPS AND OTHER RELATED VARIABLE FIELD CONDITIONS.

Oak Manor Property Owners' Association, Inc.

11711 N. College Avenue, Suite 100
Carmel, IN 46032

September 7, 2023

Stacy Parker
2753 Pyrenean Place
Westfield, IN 46074-5410

Reference: 2753 Pyrenean Place, Lot 236

Dear Stacy Parker:

We are pleased to inform you that the Committee of Oak Manor Property Owners' Association, Inc. has approved your application for the listed item(s) with the following stipulation(s):

Item(s): 20' x 40' Pool with Concrete Patio

Stipulation(s): Approved with the expectation Homeowner will surround the pool equipment area with bushes, shrubs, or plants to screen the view of the pool equipment and the noise it will make.

The approval is contingent upon compliance with the specifications set forth in the approved application to include the above stated stipulation(s). If your change or addition requires a county permit, it must be obtained before construction. Please retain this approval as it should be passed on to future owners if the property is sold.

If you have any questions, please contact our community manager with Community Association Services of Indiana, Kelli Stallworth at (317) 875-5600.

Sincerely,

Oak Manor Property Owners' Association, Inc.

Cc: File



APPLICANT: ACADEMY, LTD
d/b/a ACADEMY SPORTS + OUTDOORS

CASE NO.: 2309-VS-21

ADDRESS: 1960 EAST GREYHOUND PASS

REQUEST

Variance of development standards to allow outdoor display of seasonal merchandise near front entryway, without screening.

BACKGROUND

Academy Sports + Outdoors received variance in May of 2023 to remodel former Marsh Supermarket and occupy space as High Intensity Retail (Large Sporting Goods).

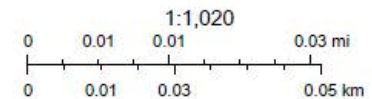
- The Licensing/Permitting group then found out that outdoor display of merchandise was not permitted without screening same from public view.

Hamilton County, Indiana



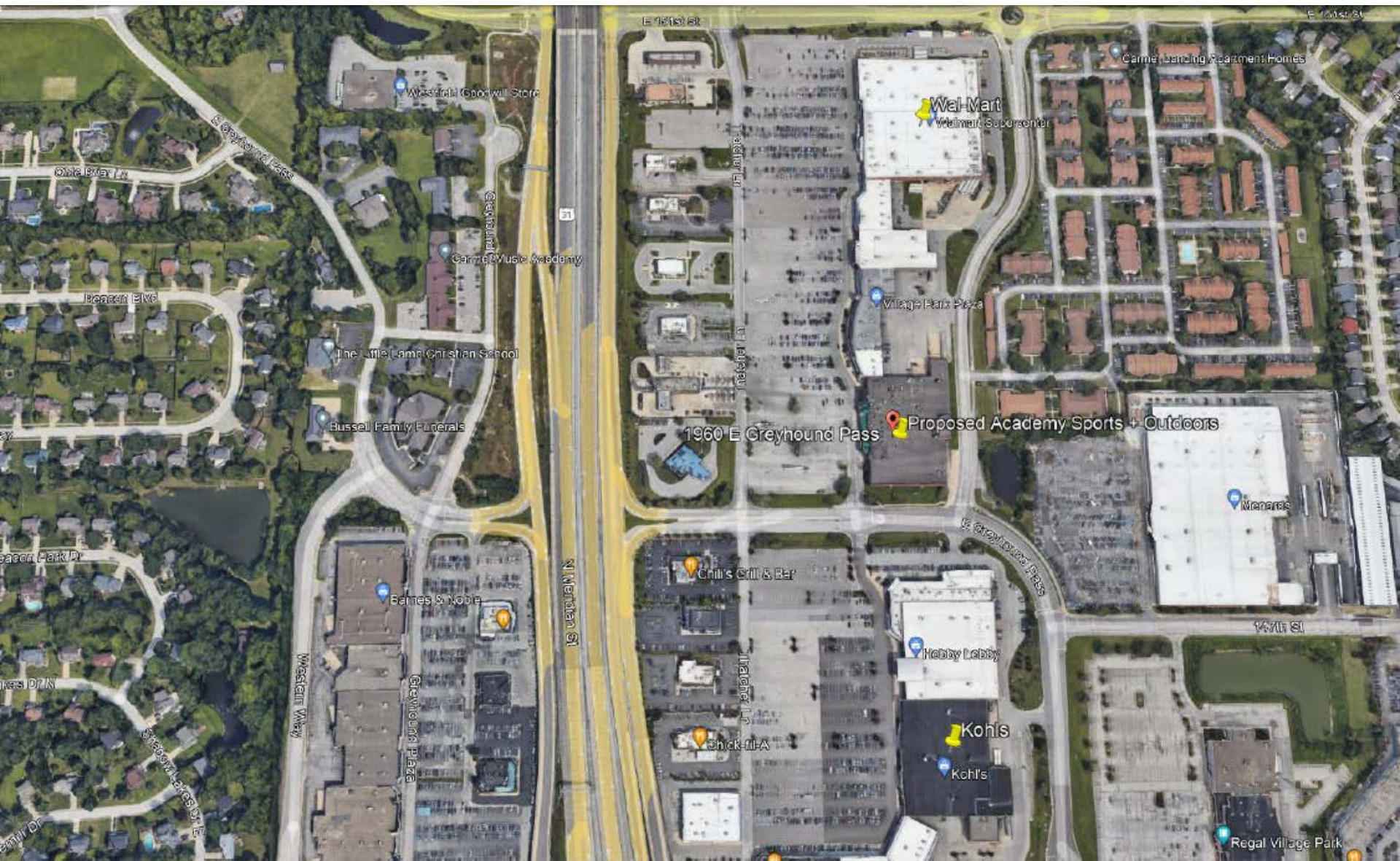
May 16, 2023

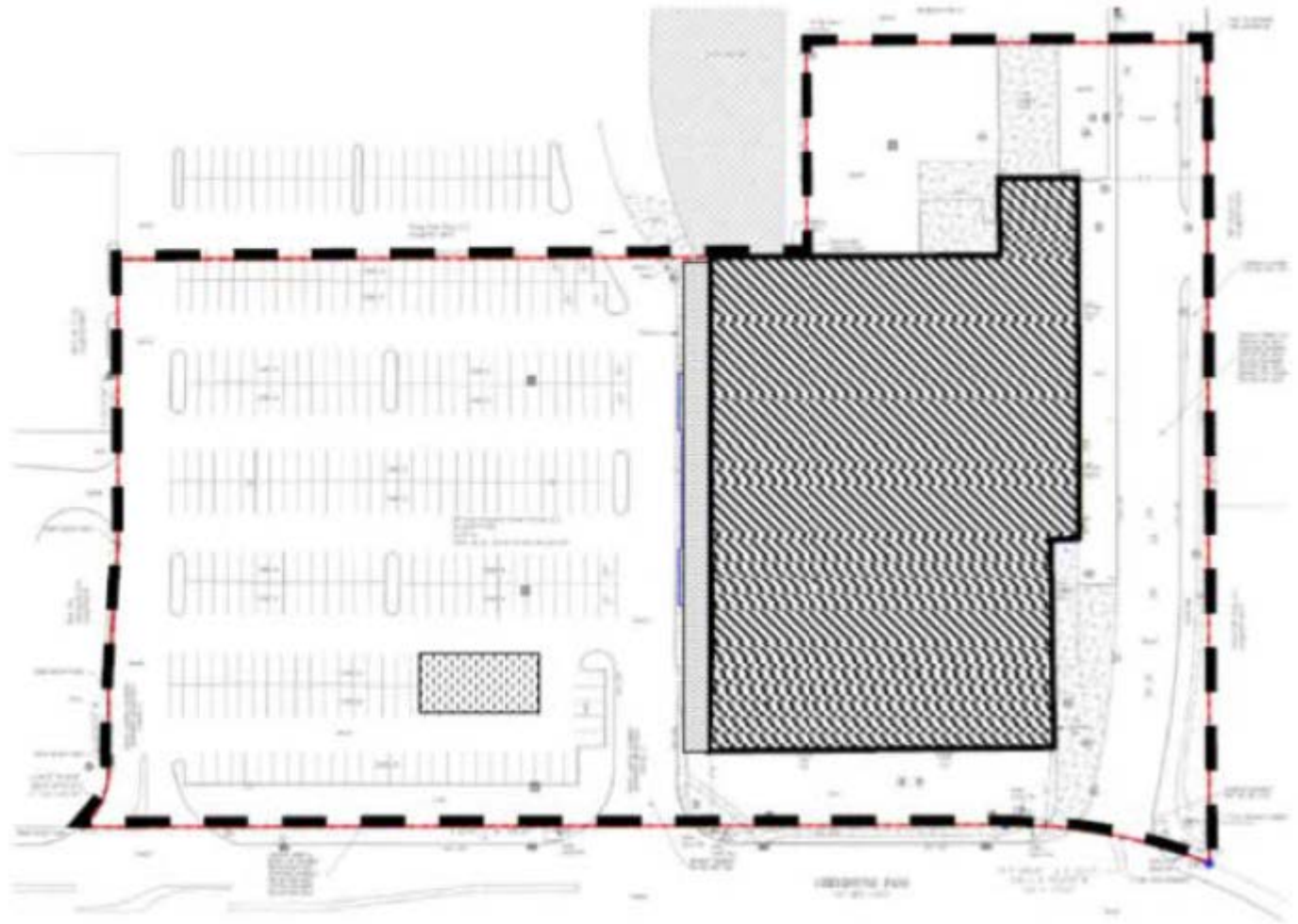
- Address Points
- Subdivisions
- Minor Roads
- Parcels



Hamilton County compiled this map. Although strict accuracy standards have been employed, Hamilton County does not warrant or guarantee the accuracy of the information contained herein and disclaims any and all liability resulting from any error or omission.

Author: Hamilton County











FINDINGS OF FACT FOR STANDARDS VARIANCE

- Will not be injurious to public health, safety, morals and general welfare of the community.
- The outdoor display of merchandise is accessory to the primary indoor use as a sporting goods/outdoor activity retailer and will be confined to a small area located near the front entry. The display will not interfere with vehicular or pedestrian access to the property or store.
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- The outdoor display of merchandise will not block visibility of or access to adjacent uses.

FINDINGS OF FACT FOR STANDARDS VARIANCE (Cont'd)

- The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.
- The requirement to screen all outdoor merchandise defeats the intended purpose of providing customers with the ability to view/experience seasonal merchandise up close.

STAFF ENGAGEMENT | RECOMMENDATION

- Staff recognizes the fact the building was designed and originally used for high intensity retail and is part of a regional shopping center which is planned for Regional Commercial Use.
- Staff suggests a condition of recording acknowledgement of the variance, and limited outdoor display to areas shown on site plan.
- Applicant agrees to conditions.

CONCLUSION

- The proposed outdoor display will help the Applicant execute its typical merchandising strategy and will not do so at the expense of the public safety or its neighbors.
- Variance findings as proposed by Applicant / Planning Department are aligned.
- No known remonstrance.