



**CITY OF WESTFIELD, IN**  
**BoardofZoningAppeals\_Meeting\_Cancelled\_02\_13\_2020**

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*Thursday, February 13, 2020 at 07:00 PM*

**BOARD OR COMMISSION:** Board of Zoning Appeals (BZA)

**MEETING DATE:** Thursday, February 13, 2020 at 07:00 PM

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

This meeting was rescheduled from Tuesday, February 11 to THURSDAY, February 13, 2020.

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

**OPENING OF REGULAR MEETING**

Note the presence of a quorum

Amendment to the BZA Rules and Procedures regarding the APC appointed seat

Election of Officers

- Chairperson
- Vice-Chairperson
- Pro-Tempore

Approval of Minutes - January 14, 2020

Documents: [BZA Minutes - January 14, 2020](#)

Review Rules & Procedures

**ITEMS OF BUSINESS:**

**1912-VU-07 [PUBLIC HEARINGS]**

**16708 Dean Road**

**Esler Properties, LLC by Morse & Bickel, P.C.**

The Petitioner requests renewal of a previously approved Variance of Use to permit an auto service facility on 4.59 acres +/- in the EI: Enclosed Industrial District and U.S. Highway 31 Overlay District.

**(Planner: Pam Howard - [PHoward@westfield.in.gov](mailto:PHoward@westfield.in.gov))**

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

[Conditions](#) | [Exhibit 4: Acknowledgement of Variance 1603-VU-03](#) | [Exhibit 5: Petitioners Application](#)

**2002-VS-01 [PUBLIC HEARING]**

*Copper Beach Farms*

*David J. Museck by Cross County Consulting, LLC*

The Petitioner requests a Variance of Development Standard to decrease the Minimum Lot Frontage on 36.43 acres +/- in the AG-SF1: Agricultural/Single-Family Rural District from two hundred and fifty (250) feet to zero (0) (Article 4.2(D)).

(Planner: Jonathan Dorsey - JDorsey@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Character Exhibit](#) | [Exhibit 5: Presentation Material](#)

**2002-VU-01 [PUBLIC HEARING]**

*2907 W State Road 32*

*Alan Hodgeson*

The Petitioner requests a Variance of Use to permit a four (4) unit Multi-family Dwelling on 1.5 acres +/- in the AG-SF1: Agricultural/Single-Family Rural and State Road 32 Overlay District.

(Planner: Jonathan Dorsey - JDorsey@westfield.in.gov)

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

**2002-VS-03 [PUBLIC HEARING]**

*334 S Cherry Street*

*Patch Development, LLC*

The Petitioner requests a Variance of Development Standard to permit less than seventy-five percent (75%) Masonry Material on the proposed senior living apartments on 3.159 acres +/- in the MF2: Multi-family Medium Density District (Article 6.3(E)(2)(b)).

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Illustrative Character Exhibits](#) | [Exhibit 5: Secondary Plat](#)

**ITEMS CONTINUED TO A FUTURE MEETING:**

**2002-VS-02 [CONTINUED]**

*21440 Mule Barn Road*

*Heather Cooley*

The Petitioner requests a Variance of Development Standard to permit a second Dwelling Unit on 3 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 6.4(B)).

(Planner: Pam Howard - PHoward@westfield.in.gov)

**1803-AA-01 [CONTINUED]**

*16708 Dean Road (Bob's Garage)*

*Esler Properties, LLC by Morse & Bickel, P.C.*

The petitioner is appealing an Administrative Determination (1712-AD-04) regarding the revocation of a variance (1603-VU-03).

(Planner: Pam Howard - PHoward@westfield.in.gov)



**REPORTS/COMMENTS:**

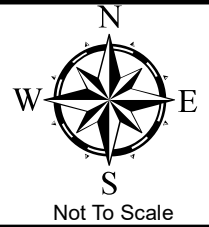
**Plan Commission Liaison**

**Economic and Community Development Department**

**ADJOURNMENT**



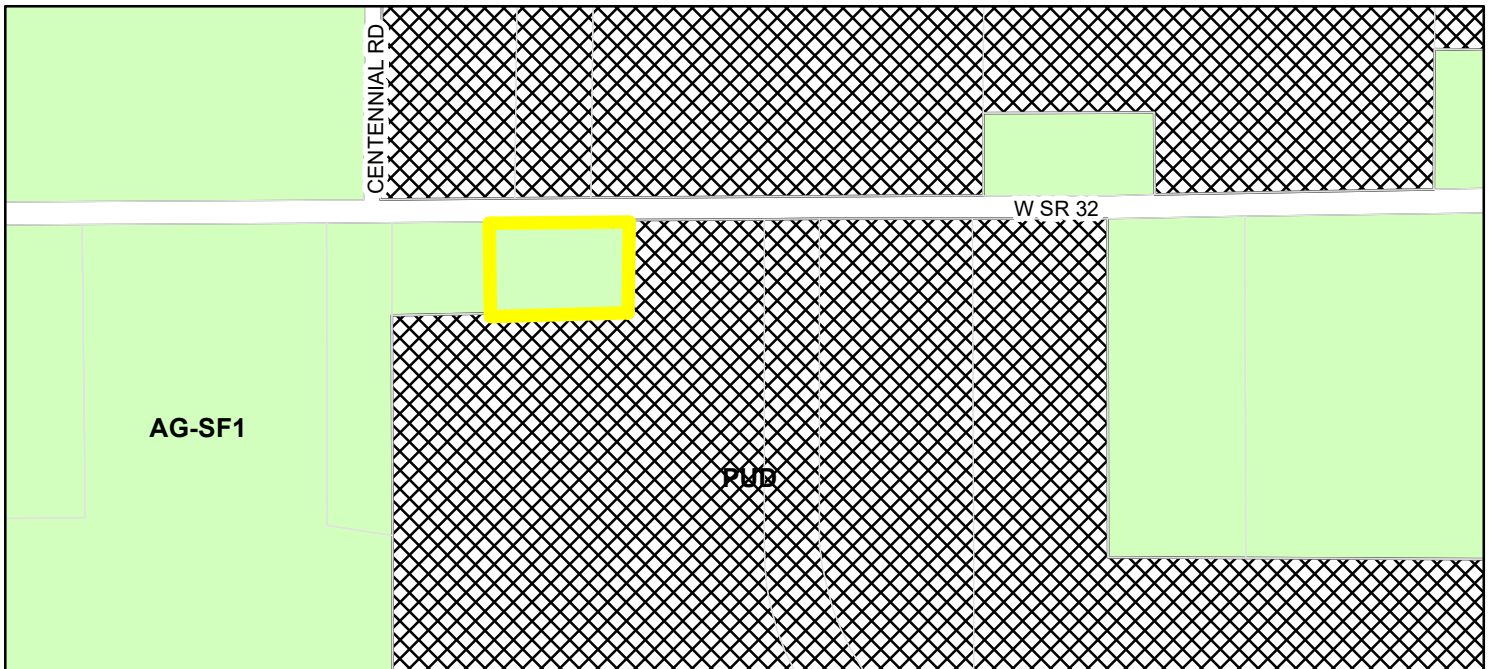
Property Location Map  
2907 W State Road 32  
Variance of Use  
2002-VU-01



Aerial Location Map



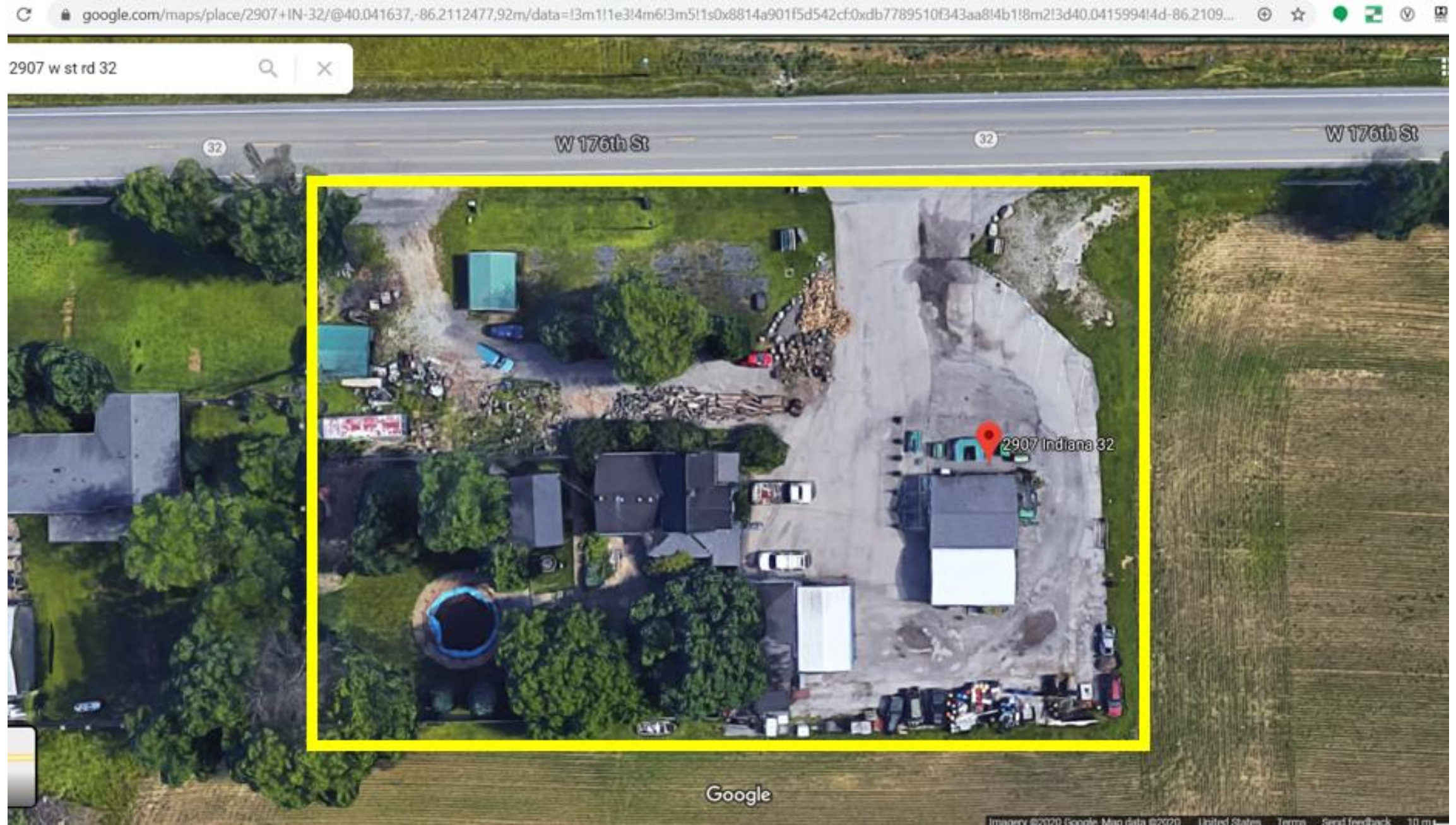
Zoning Map



Parcel    **Zoning**  
**Zoning - All**    AG-SF1 (Agriculture - Single Family - 1)  
                         PUD (Planned Unit Development)



2017 before the property 2907 W SR 32 Westfield was bought





Mar. 2018 Lumber, 8 junk cars, and steel Barrels all over the property





Aug. 2017 property was used as dump ground





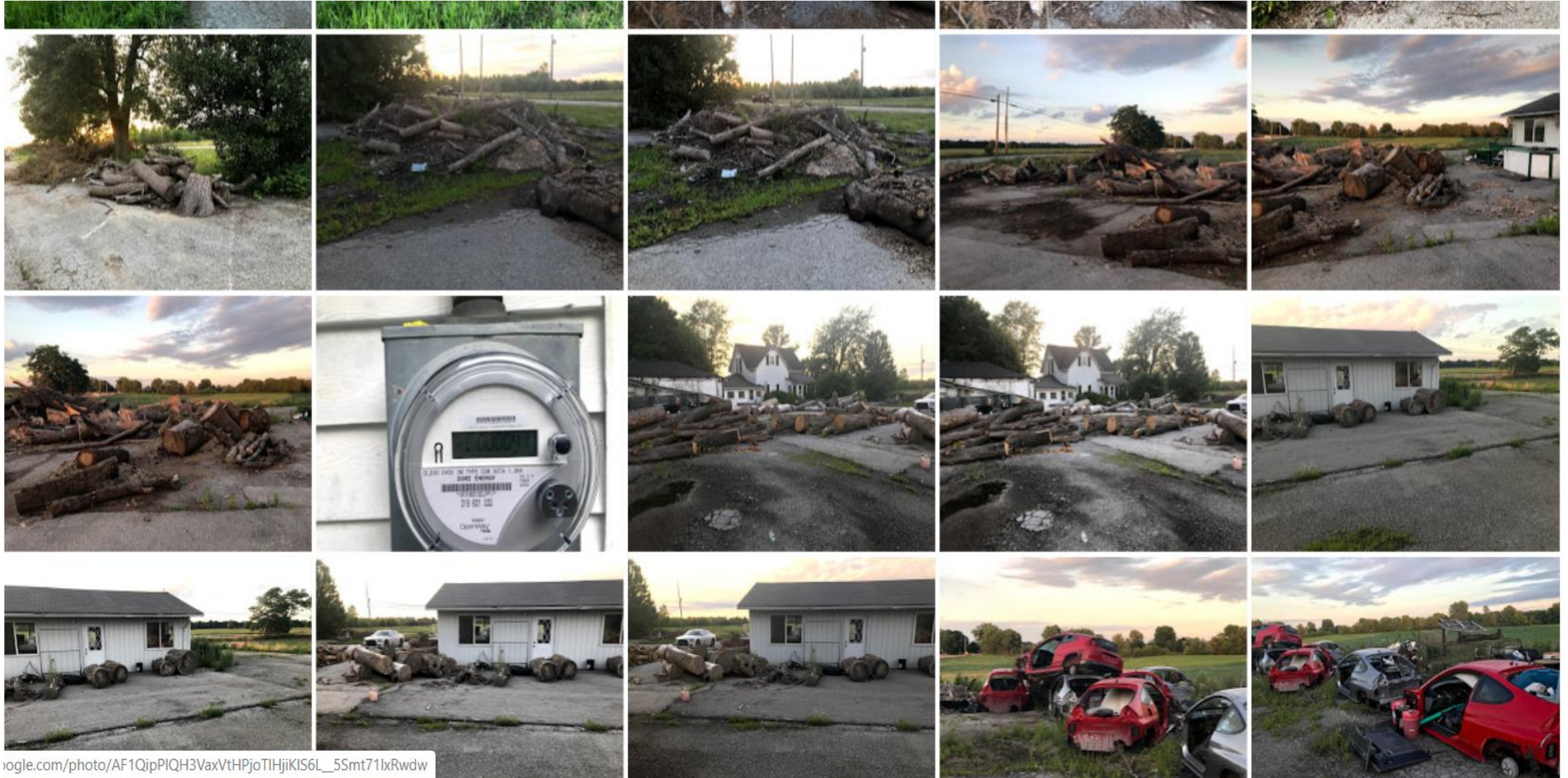
# Pictures taken right after inquiring the property, July 2018



oogle.com/photo/AF1QipPVINsWuq6k7d0ejfzt3CDgPX8WDkG3tnkPyo



# Pictures taken right after inquiring the property, July 2018





# Pictures taken right after inquiring the property July 2018







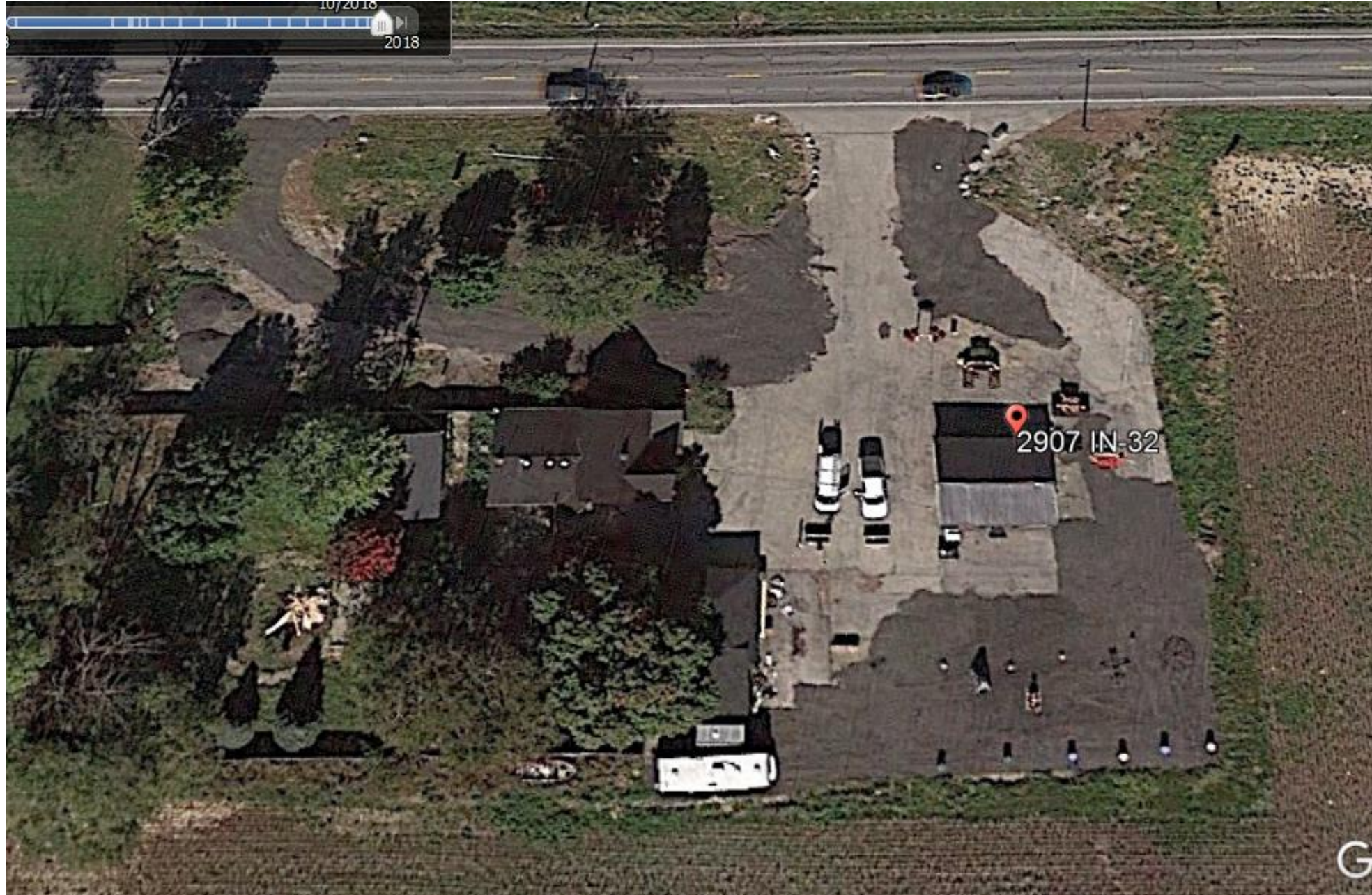
During  
clean up



Before  
clean up



# October 2018 Google pictures after some Renovations



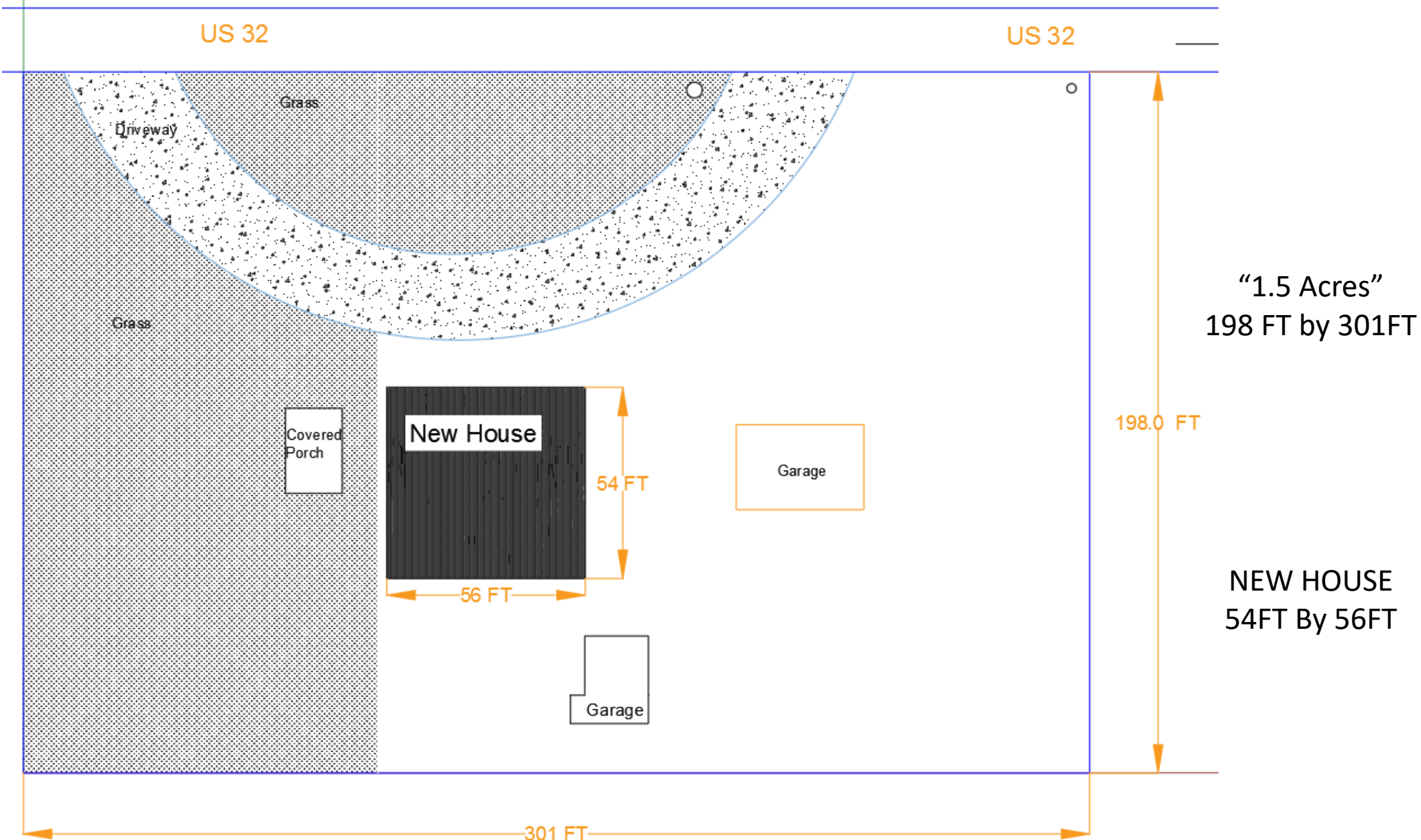


# Pictures after cleaning up the property





# Proposed layout , labled “ NEW HOUSE”, of the new 4 unit property to scale



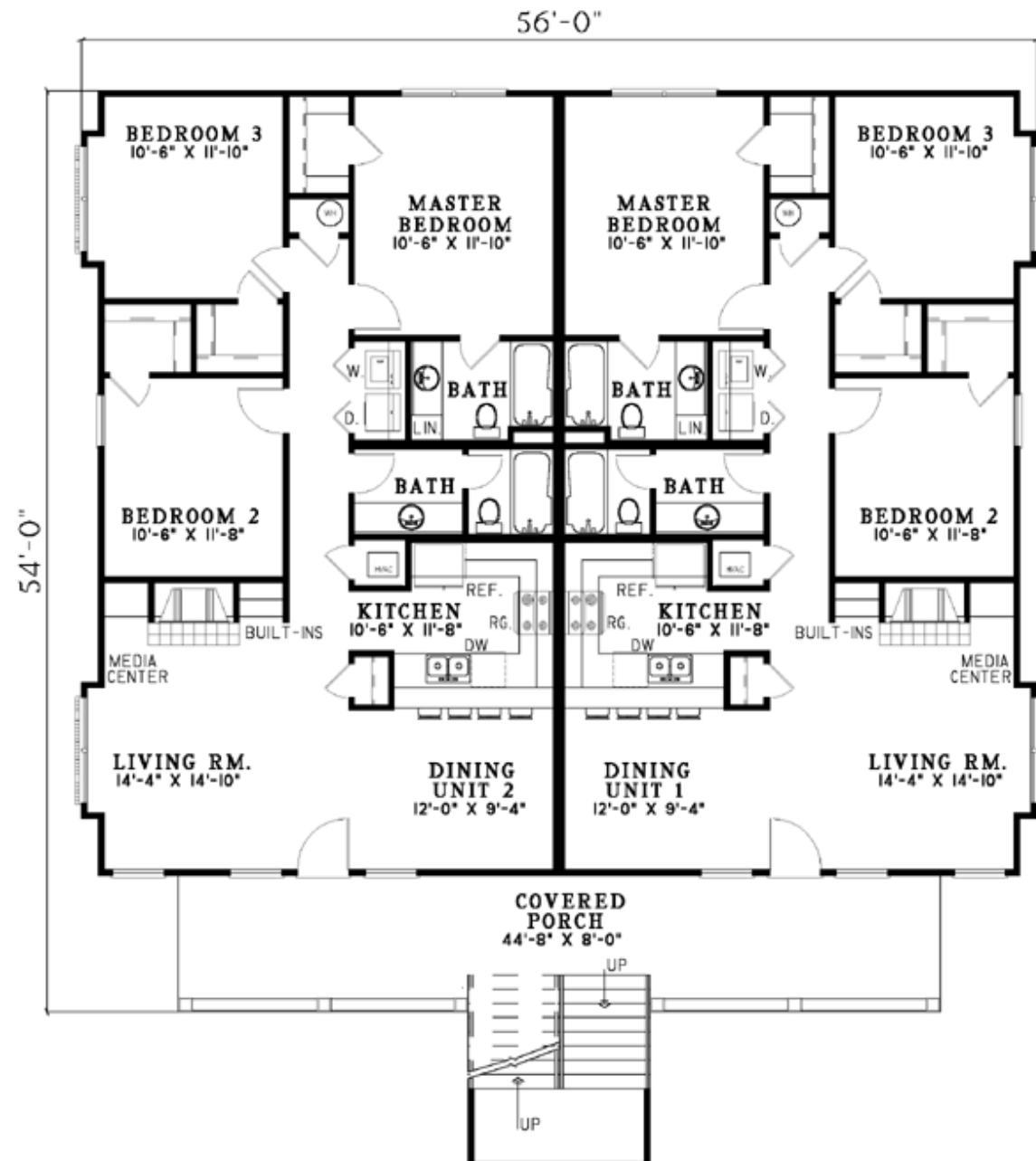


Proposed  
building  
look





Floor plan for the  
first floor.  
3 bedroom 2 baths  
  
2<sup>nd</sup> floor will have  
the same layout



Main Floor





**RIGHT ELEVATION**





**LEFT ELEVATION**

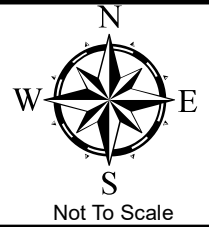


**REAR ELEVATION**

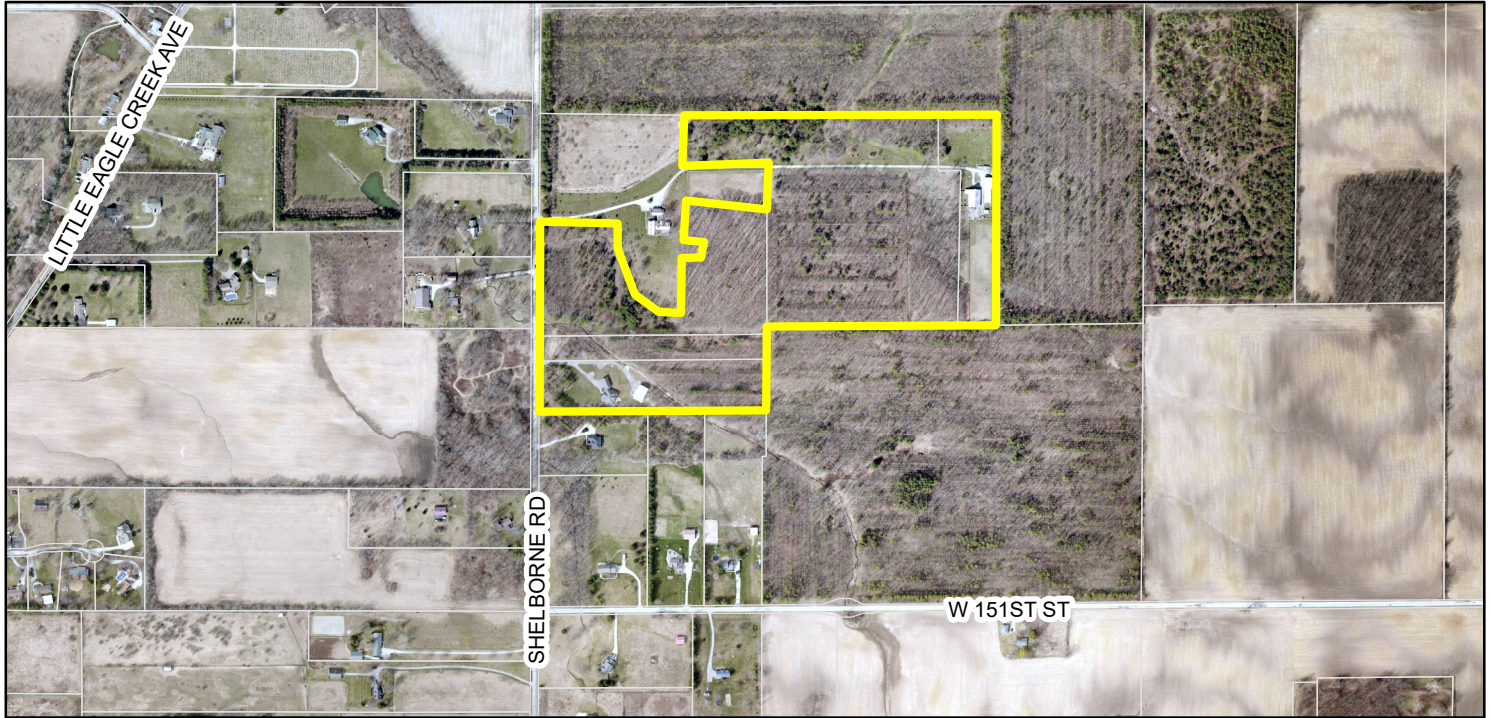




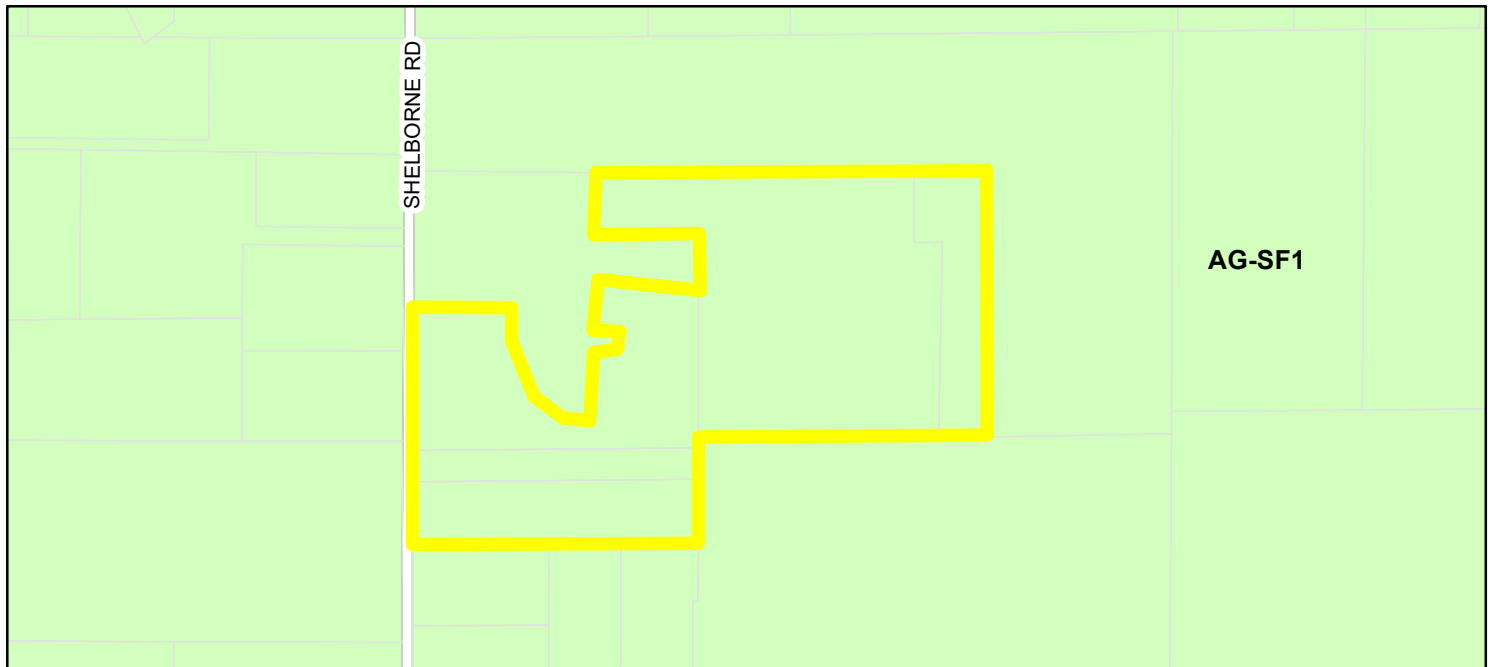
Property Location Map  
Copper Beech Farms  
Variance of Development Standard  
2002-VS-01



Aerial Location Map



Zoning Map



Parcel    **Zoning**  
**Zoning - All**    AG-SF1 (Agriculture - Single Family - 1)

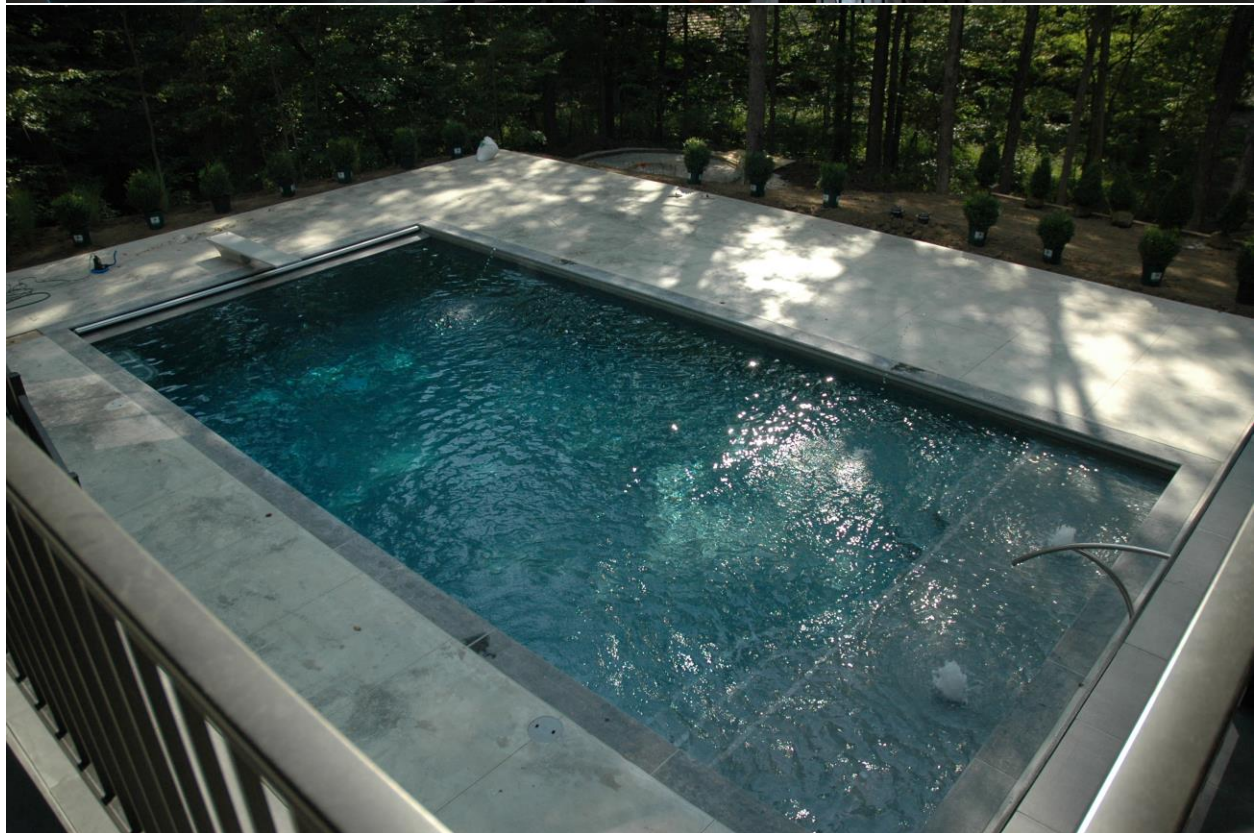
























# Old World Development Company Inc

David J Museck, Owner

## Benefits:

- Dave Museck, owner of Old World Development has over 30 years of Development and Custom Building Experience.
- Dave Museck lives in the surrounding community with his wife and 5 children.
- Dave Museck oversees the entire project and is always available to answer any questions or address any concerns from the surrounding neighbors.
- Old World Development specializes in small developments with large estate lots and custom build homes. Examples of our most recent subdivisions: St Clair Estates, Rue De Chateaux, and Les Arbres, on the northwest part of Zionsville
- Old World Development's most important goals are to keep the natural beauty and integrity of the existing land and develop the land in a responsible way.
- Old World Development uses local suppliers and craftsmen from the surrounding community to build all their homes.



# Copper Beech Farms

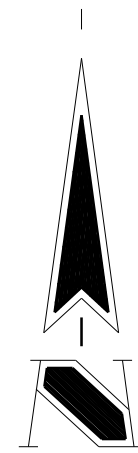
## Minor Subdivision

### Benefits:

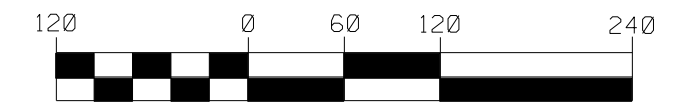
- Copper Beach consists of just 6 estate lots on 36 acres of land.
- By limiting the subdivision to 6 lots, 90% of the wooded land would remain intact and the beauty and tranquility would be preserved.
- By allowing the variance the surrounding neighborhood keeps the 36 Acres out of future irresponsible development plans.
- The Estate lots will consist of high end custom built homes with values of well over 1 million dollars.
- The 6 Lots would also have a minimal impact on the existing traffic flow of Shelborne Rd.
- The lot sizes fit right in with the surrounding rural neighborhood.

# AMENDED SECONDARY PLAT FOR

## RUE DE CHATEAUX-MINOR SUBDIVISION A part of the Southwest Quarter of Section 14, Township 18 North, Range 2 East, situated in Union Township, Boone County, Indiana



(ASSUMED NORTH)  
SCALE: 1"= 120'



### LEGEND

- BSL = BUILDING SETBACK LINE
- U. & D.E. = UTILITY & DRAINAGE EASEMENT
- S.S. D. & U.E. = SANITARY, DRAINAGE & UTILITY EASEMENT
- L.S.E. = LANDSCAPING EASEMENT
- Ac. = ACRES
- SFT. = SQUARE FEET
- = 100 YEAR FLOOD LIMITS
- = 5/8" REBAR WITH CAP SET
- = EXISTING PROPERTY MONUMENT

Land Description  
6-14-05 revised 10-18-05

A part of the Southwest quarter of Section 14 Township 18 North Range 2 East,  
situated in Union Township, Boone County, Indiana more particularly described as  
follows;

Beginning at the Southwest corner of the said Southwest quarter.  
Thence North 00° degrees 13 minutes 26 seconds West along the West line  
of said quarter section 1685.16 feet; Thence South 32 degrees 40 minutes  
00 seconds East 158.00 feet; Thence North 89 degrees 49 minutes 00 seconds  
East 191.00 feet; Thence North 42 degrees 12 minutes 00 seconds East 134.50  
feet; Thence South 23 degrees 14 minutes 00 seconds East 167.50 feet; Thence  
South 14 degrees 25 minutes 58 seconds East 142.51 feet; Thence North 89  
degrees 07 minutes 32 seconds East on and along the north line of said  
quarter-quarter section 924.56 feet to a point Marking the Northeast corner  
of said quarter-quarter section. Said line also being the South line of  
Fox Run Second Addition as recorded in Plat Book 6, Page 111 in the Office  
of the Boone County Recorder; Thence South 00 degrees 15 minutes 02 seconds  
West 1325.30 feet on and along the East line of said quarter-quarter section  
to a point marking the Southeast corner of said quarter-quarter section of said  
section 14; thence South 89 degrees 15 minutes 34 seconds West on  
and along the South line of said quarter-quarter section 1346.50 feet to the  
beginning point of this description, containing 43.417 Acres +/-, being subject  
to all legal highway rights-of-way and easements of record.

### FLOOD HAZARD STATEMENT:

A PART OF THE PROPERTY SHOWN LIES WITHIN THAT SPECIAL  
FLOOD HAZARD ZONE 'A' AS SHOWN BY COMMUNITY PANEL  
180011 0085 B OF THE FLOOD HAZARD BOUNDARY MAPS FOR  
BOONE COUNTY, INDIANA (MAPS DATED SEPTEMBER 16, 1982).

**ZONING**  
CURRENT PARCEL ZONING = R1

parcel #0100515002  
1.2992 ac. +/-  
INSTR. #98010107  
ZONING: AG

**RICHARD FIDLER, L.S.**  
**8908 SUNNINGDALE BLVD.**  
**INDIANAPOLIS, IN 46234**



**PREPARED FOR:**  
**OLD WORLD DEVELOPMENT, INC.**  
**410 WEST OAK STREET**  
**ZIONSVILLE, IN 46077**

**SHEET 1 OF 2**

REVISED 8-31-2006

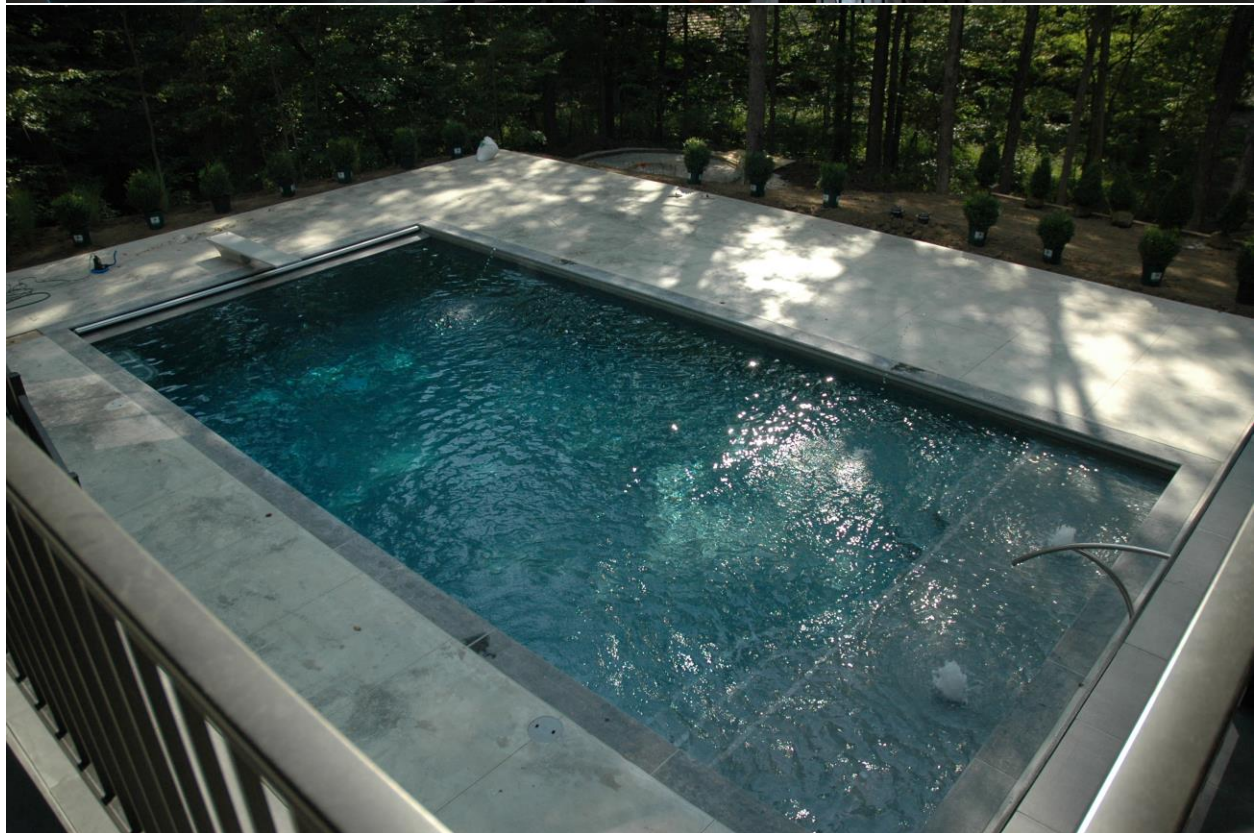


























## LANDSCAPE AGREEMENT

### Copper Beech Farms Minor Subdivision

This agreement is between Hidden Pines Development Company LLC and Robert and Jennifer Hudson residing at 15411 Shelborne Rd Westfield IN. Hidden Pines Development Company agrees to hire Hoosier Lawn Care (Chip Slagle) to install a 3 foot high landscape elevated bed area with staggered 8' to 9' Norwegian Spruce Trees in the area noted on the land survey in order to block any headlight penetration that is caused by the common access driveway leading to the new subdivision. We also plan to plant indigenous trees in the area noted on the survey to fill in the voided gap. The landscape work will be completed within 60 Days of the final approval of the subdivision from the Township of Westfield IN .

Signature:

David J Museck, Member



**Petition Number:** 2002-VS-03

**Subject Site Addresses:** 334 S. Cherry Street approximately (the "Property")

**Petitioner:** Patch Development, LLC (the "Petitioner")

**Request:** The Petitioner requests a Variance of Development Standard to permit less than seventy-five percent (75%) Masonry Materials on proposed senior living apartments on 3.159 acres +/- in the MF2: Multi-family Medium Density District (Article 6.3(E)(2)(b))

**Current Zoning:** MF2: Multi-family Medium Density

**Current Land Use:** Vacant

**Approximate Acreage:** 3.159 acres +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Site Plan
4. Illustrative Character Exhibits
5. Secondary Plat 1911-SFP-67

**Staff Reviewer:** Daine Crabtree, Associate Planner

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## **OVERVIEW**

**Location:** The subject property is 3.159 acres +/- located at 334 S. Cherry Street approximately (see **Exhibit 2**). The Property is zoned MF2: Multi-family Medium Density.

A Secondary Plat (docket 1911-SFP-67 – see **Exhibit 5**), which will subdivide the Property from the existing 10.13 acre parcel has yet to be recorded. The proposed senior living apartments would locate on the new 3.159 acre +/- parcel.

An Overall Development Plan (1911-ODP-20) and Primary Plat (1911-SPP-20) for the entire 10.13 acre +/- property was approved at the November 6, 2019, Advisory Plan Commission (APC) meeting.

**Requested Variances:** The Petitioner requests a Variance of Development Standard to permit less than seventy-five (75%) Masonry Materials on proposed senior living apartments on the Property.

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## **SUMMARY OF VARIANCE**

The request is for a Variance of Development Standard to permit less than seventy-five percent (75%) Masonry Materials on proposed senior living apartments on 3.159 acres +/- in the MF2: Multi-family Medium Density District. Article 6.3(E)(2)(b) of the Westfield-Washington Township Unified Development Ordinance (UDO) requires that "A minimum seventy-five percent (75%) of each Building Façade, excluding windows and doors, shall be Masonry Materials (on all new buildings within a Multi-family District)."

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## **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 February 13, 2020, 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<sup>1</sup> 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<sup>2</sup> 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 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:

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

<sup>2</sup> Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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.

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**DEPARTMENT COMMENTS:**

**Recommended Findings for Approval:** If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

- 1) **Criteria:** 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 MF2 zoning district.

- 2) **Criteria:** 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 surrounding properties because the use of the property will not change.

- 3) **Criteria:** 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 building facades that are significantly different in appearance than those in the surrounding area and current industry norms/demands.

**Recommended Conditions:**

- That any senior living apartments on the Property are built in substantial compliance with the supplied Illustrative Character Exhibits (see **Exhibit 4**); and
- 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 Economic and Community Development Department.





WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 13, 2020

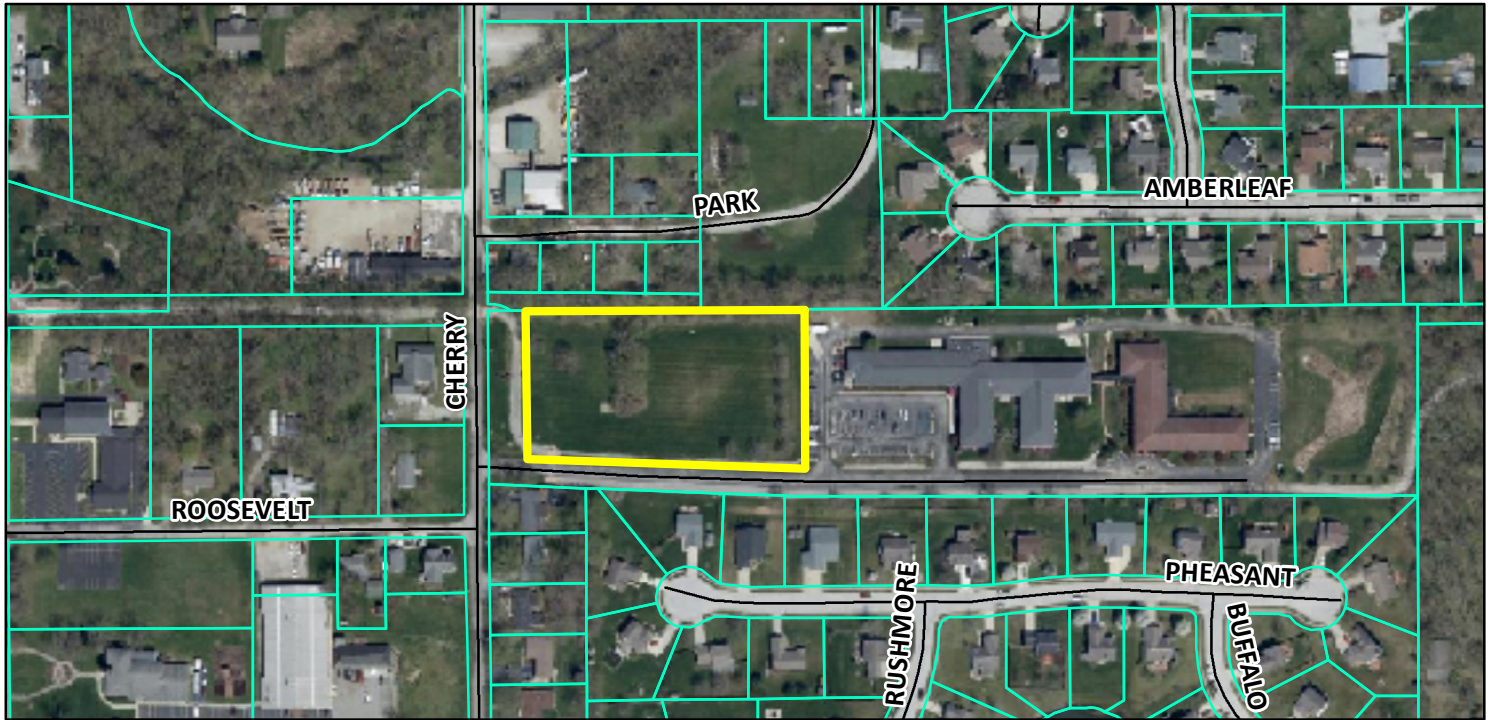
2002-VS-03

Exhibit 1

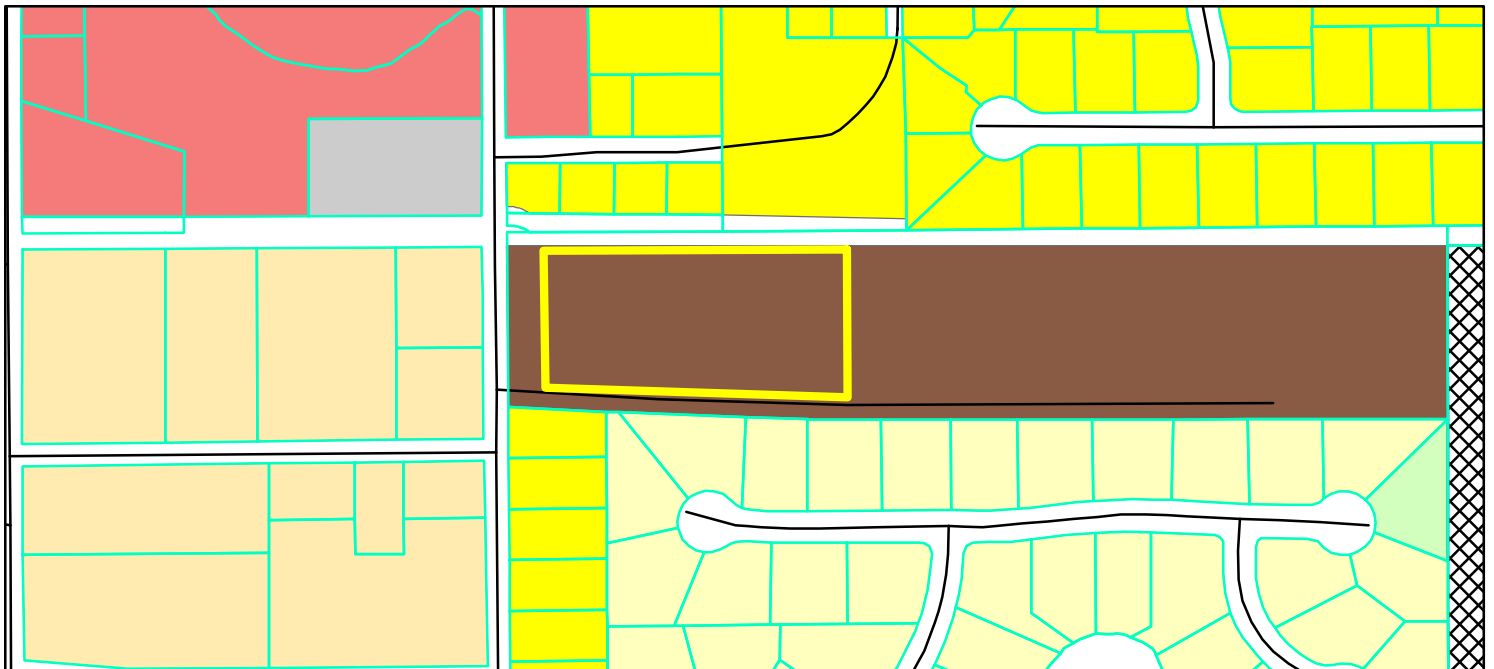
**Denial:** If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board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

## Aerial Location Map

 Site



## Zoning Map



 Parcel  
 GIS.DBO.PW\_Streets  
**Zoning - All**  
**Zoning**  
 AG-SF1 (Agriculture - Single Family - 1)  
 EI (Enclosed Industrial)  
 LB-H (Local Business - Historical)  
 MF-2 (Multiple Family - 2)  
 PUD (Planned Unit Development)  
 SF-2 (Single Family - 2)  
 SF-3 (Single Family - 3)  
 SF-4 (Single Family - 4)

0 0.0375 0.075  
 Miles

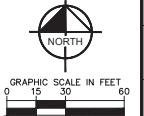






MATCHLINE - SEE BELOW

**Call 811**  
before you dig



|                                                                                     |                                                                                        |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
|  | <u>STANDARD DUTY ASPHALT PAVEMENT</u><br>SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION |
|  | <u>CONCRETE SIDEWALK</u><br>SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION              |
|  | <u>CONCRETE DRIVEWAY PAVEMENT</u><br>SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION     |

- 1 CONCRETE ROLL CURB, TYP. (SEE DETAILS)
- 2 CONCRETE SIDEWALK, TYP. (SEE DETAILS)
- 3 GUARD RAIL (SEE DETAILS)
- 4 4" WIDE PAINTED DOUBLE YELLOW SOLID LINE, TYP.
- 5 CONNECT TO EXISTING PAVEMENT, SIDEWALK, CURB, TYP.
- 6 24" WIDE STOP BAR, TYP. (SEE DETAILS)
- 7 STOP SIGN, TYP. (MATCH R1-1, SEE DETAILS)
- 8 CONCRETE WALK ADJACENT TO CURB
- 9 ACCESSIBLE RAMP
- 10 3-FT TRANSITION CURB (SEE DETAILS)
- 11 RETAINING WALL (DESIGN/BUILD BY CONTRACTOR)
- 12 CONCRETE COLLAR, TYP. (SEE DETAILS)

**Kimley-Horn & Associates, Inc.**  
© 2020 KIMLEY-HORN AND ASSOCIATES, INC.  
240 WEST 90TH STREET, SUITE 500,  
INDIANAPOLIS, IN 46260  
PHONE: 317-218-8660  
WWW.KIMLEY-HORN.COM  
Contact: Andy Taylor  
Email: andy.taylor@kimley-horn.com



**PATCH  
DEVELOPMENT,  
LLC**

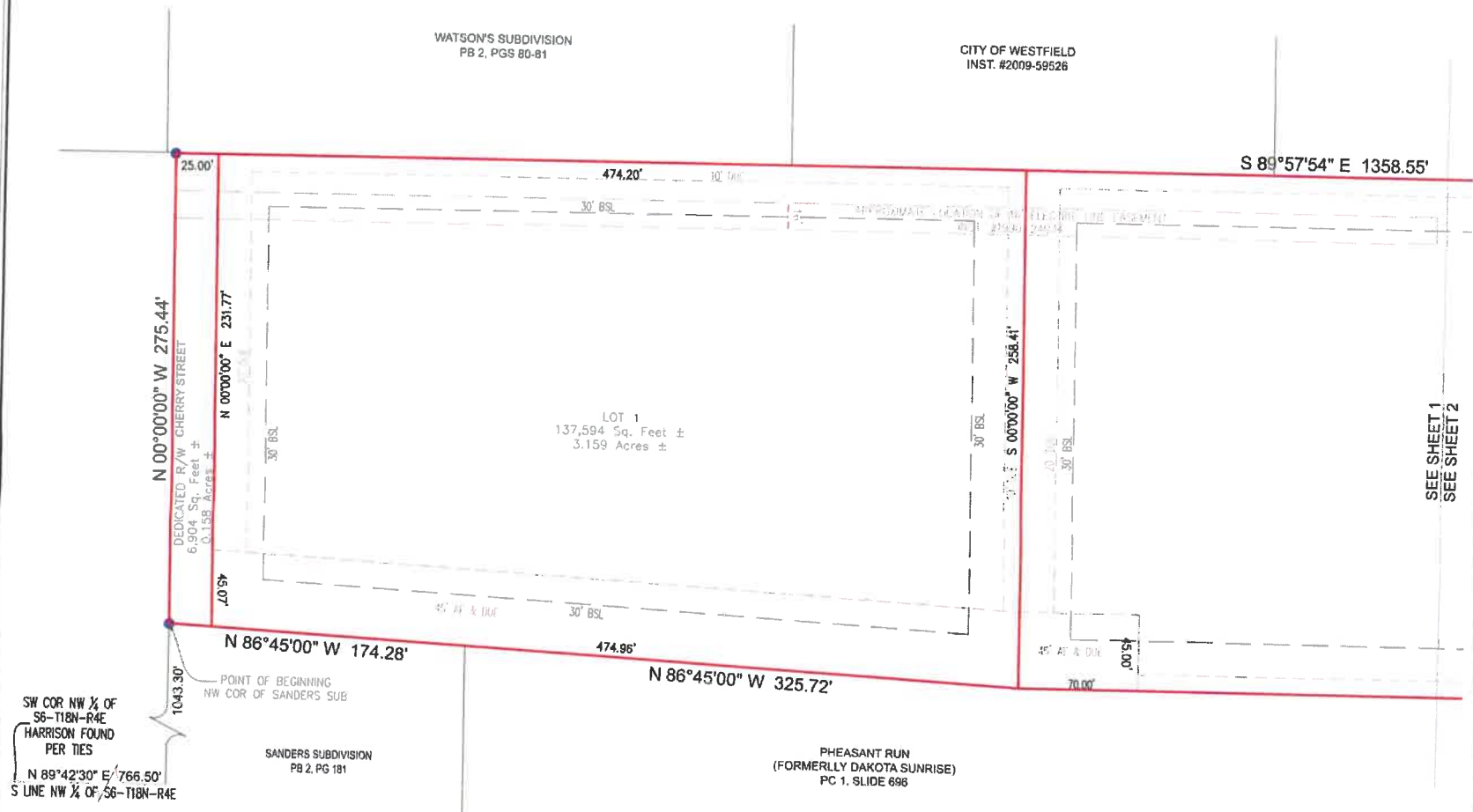
## SITE PLAN

SANDERS GLEN  
GARDEN HOMES

|                               |
|-------------------------------|
| ORIGINAL ISSUE:<br>01/03/2019 |
| KHA PROJECT NO.<br>170125001  |
| SHEET NUMBER                  |

C3.1

SECONDARY PLAT  
**SANDERS GLEN**  
AN ADDITION TO THE CITY OF WESTFIELD  
Part of the Northwest Quarter of Section 6, Township 18 North, Range 4 East  
located in Washington Township, Hamilton County, Indiana



**SEA Group**  
Land Surveyors & Civil Design  
Construction Layout  
494 Gradle Drive Carmel, Indiana 46032  
Phone: 317.844.3333 infocarmel@v3co.com  
a V3 Company



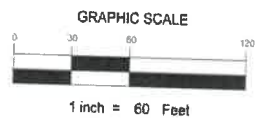
SOURCE OF TITLE:  
AE Westfield Facility Company, LLC  
Instrument #201035420

OWNER/SUBDIVIDER:  
AE Westfield Facility Company, LLC  
1050 Chinoe Rd, Suite 350  
Lexington, KY 4052

DEVELOPER:  
American Eagle Lifecare Corporation  
3819 Hawk Crest Road  
Ann Arbor, MI 48103

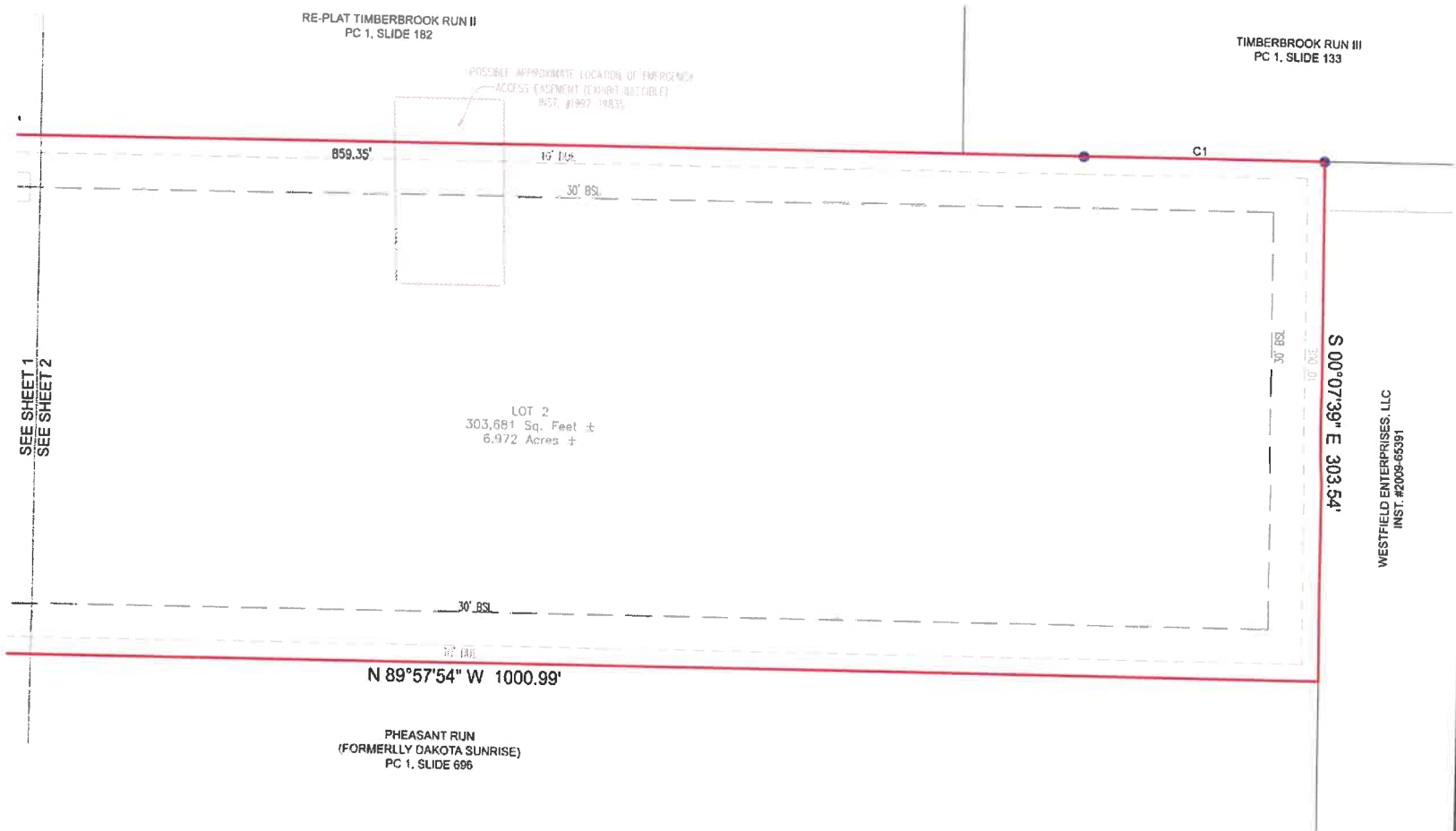
**SYMBOL LEGEND**

- 1/8" REBAR W/YELLOW CAP STAMPED "FIRM #0091" SET FLUSH
- SECTION CORNER (AS NOTED)
- AE ACCESS EASEMENT
- DUE DRAINAGE & UTILITY EASEMENT
- BSL BUILDING SETBACK LINE





SECONDARY PLAT  
**SANDERS GLEN**  
AN ADDITION TO THE CITY OF WESTFIELD  
Part of the Northwest Quarter of Section 6, Township 18 North, Range 4 East  
located in Washington Township, Hamilton County, Indiana



| CURVE TABLE |            |            |              |                           |
|-------------|------------|------------|--------------|---------------------------|
| CURVE       | RADIUS     | ARC LENGTH | CHORD LENGTH | CHORD BEARING DELTA ANGLE |
| C1          | 171887.30' | 140.96'    | 140.96'      | N 89°59'18" W 0°02'49"    |

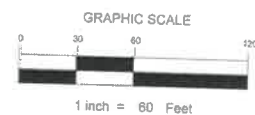
**SEA Group**  
Land Surveyors • Civil Design  
Construction Layout  
494 Gradle Drive Carmel, Indiana 46032  
Phone: 317.844.3333 infocarmel@v3co.com  
a V3 Company



SOURCE OF TITLE:  
AE Westfield Facility Company, LLC  
Instrument #2011035420  
OWNER/SUBDIVIDER:  
AE Westfield Facility Company, LLC  
1050 Ohio Rd, Suite 350  
Lexington, KY 4052  
DEVELOPER:  
American Eagle Lifecore Corporation  
3819 Hawk Crest Road  
Ann Arbor, MI 48103

**SYMBOL LEGEND**

- 5/8" REBAR W/ YELLOW CAP STAMPED "FIRM #0091" SET FLUSH
- SECTION CORNER (AS NOTED)
- AE ACCESS EASEMENT
- DUE DRAINAGE & UTILITY EASEMENT
- BSL BUILDING SETBACK LINE



SECONDARY PLAT  
SANDERS GLEN  
AN ADDITION TO THE CITY OF WESTFIELD  
Part of the Northwest Quarter of Section 6, Township 18 North, Range 4 East  
located in Washington Township, Hamilton County, Indiana

Land Description - Source of Title - Inst. #2011035420

Part of the Northwest Quarter of Section 6, Township 18 North, Range 4 East in Hamilton County, Indiana, more particularly described as follows:  
Commencing at the Southwest corner of said Northwest quarter, thence North 89 degrees 42 minutes 30 seconds East (assumed bearing) along the South line of said Northwest Quarter 766.50 feet to the Southwest corner of Sander's Subdivision (Plot Book 2, page 181, Office of the Recorder); thence North 00 degrees 00 minutes 00 seconds East parallel with the west line of said Northwest Quarter; also being along the West line of said Sander's Subdivision 104.30 feet (measured - 1050.0 feet recorded) to the POINT OF BEGINNING of the herein described parcel, said point of beginning also being the Northwest corner of said Sander's Subdivision; thence continuing North 00 degrees 00 minutes 00 seconds East parallel with the West line of said Northwest Quarter 275.44 feet to the centerline of the Central Indiana Railroad, said point also being the Southwest corner of Watson's Subdivision (Plot Book 2, page 80-81, Office of the Recorder); thence South 89 degrees 57 minutes 54 seconds East along said centerline of the Central Indiana Railroad, also a portion being along the South line of said Watson's Subdivision 1358.55 feet to the point of curvature of a tangent curve whose radius point bears North 00 degrees 02 minutes 06 seconds East 171.887.30 feet from the point of curvature; thence Easterly along said curve and also along said centerline 140.96 feet to a point that is 350.7 feet West, by a parallel line, from the East line of said Northwest Quarter; thence South 00 degrees 07 minutes 39 seconds East parallel with the East line of said Northwest Quarter 303.54 feet; thence North 89 degrees 57 minutes 54 seconds West 1000.99 feet; thence North 86 degrees 45 minutes 00 seconds West 325.72 feet to the Northeast corner of said Sander's Subdivision; thence continuing North 86 degrees 45 minutes 00 seconds West along the North line of said Sander's Subdivision 174.28 feet to the point of beginning.

Registered Land Surveyor's Certificate

I, Brian C. Rissmiller, hereby certify that I am a Registered Land Surveyor, licensed in compliance with the laws of the State of Indiana, and that the within Plat represents a subdivision of the lands surveyed and shown on the ALTA/ACSM Land Title Survey/Original Survey completed by me on July 27, 2018, said land being described in Deed Instrument #2011035420, in the Office of the Recorder of Hamilton County, Indiana, and that to the best of my knowledge and belief, there has been no change from the matters revealed on said record survey on any lines that are common with the new subdivision. All the monuments shown thereon actually exist or bond has been posted to cover the later installation of these monuments, and that all other requirements specified herein, done by me, have been met.

Brian C. Rissmiller  
Registered Land Surveyor  
Indiana No. LS20200083

Commission Certificate

Under authority provided by I.C. 36-7, enacted by the general assembly of the State of Indiana, and all acts amendatory thereto, and an ordinance adopted by the City Council of the City of Westfield, Hamilton County, Indiana, this plat was given approval by the Westfield-Washington Township Advisory Plan Commission, as follows:

Approved by the Director of the Economic and Community Development Department of the City of Westfield, Hamilton County, Indiana, pursuant to the Westfield-Washington Township Unified Development Ordinance, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Westfield-Washington Township Plan Commission

By: \_\_\_\_\_  
Kevin M. Todd, Director  
Economic and Community Development Department

Board of Public Works and Safety Certificate

This plat and the acceptance of any public rights-of-way dedicated herein is hereby approved on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the Director of the Public Works Department of the City of Westfield, Indiana, on behalf of the Board of Public Works and Safety, pursuant to Resolution 15-120 enacted by the Board of Public Works and Safety on August 26, 2015, and Article 7.4(B) of the Unified Development Ordinance.

By: \_\_\_\_\_  
Jeremy Lollar, Director  
Public Works Department

Dedication

We the undersigned owner of the real estate shown and described herein, do hereby certify that we have laid off, plotted and subdivided into 2 lots, known as "Lot 1" and "Lot 2", and do hereby lay off, plot and subdivide, said real estate in accordance with the within plat.

This subdivision shall be known and designated as SANDERS GLEN, a Minor Subdivision addition to WESTFIELD, Indiana. All rights-of-way shown and not heretofore dedicated are hereby dedicated to the public.

Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure.

There are strips of ground shown on this plat and marked 'easement' or abbreviated as 'DUE', reserved for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities.

There is shown on this instrument an area that is designated as "AE" which is an Access Easement or Private Street Easement. Such easements are hereby established in favor of the adjoining property owners (grantees), and grant the grantees the right to enter the easement for purposes of accessing their lot. These easements prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property on which they are located. The grantee or the City may enforce the provisions of the easement. The granters are also entitled to enforce the provisions of the easement. The easement shall only be modified or vacated in the manner stipulated in the Westfield-Washington Township Unified Development Ordinance, or its successor ordinance.

The subdivider expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision that because the streets are private that all maintenance, repairs and replacement now and forever shall be undertaken at the expense of the lot owners in accordance with the terms and conditions set forth in the owners association bylaws and articles. The subdivider, and their successors and assigns, hereby waive all rights to petition a governmental entity to be responsible for the maintenance and ownership of such private streets. No governmental entity has any duty or responsibility to maintain, repair or replace any private street.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

Witnessed my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

AE Westfield Facility Company, LLC

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

Before me the undersigned Notary Public, in and for the County and State, \_\_\_\_\_, personally appeared and acknowledged the execution of this instrument as his or her voluntary act and deed, for the purposes therein expressed and affixed his/her signature hereto.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public Signature

Notary Public Printed Name

Notary Public County of Residence

Notary Public Commission Expiration Date

**SEA Group**  
Land Surveyors & Civil Design  
Construction Layout  
494 Gradle Drive Carmel, Indiana 46032  
Phone: 317.844.3333 infocarmel@v3co.com  
a V3 Company



SOURCE OF TITLE:  
AE Westfield Facility Company, LLC  
Instrument #2011035420

OWNER/SUBDIVIDER:  
AE Westfield Facility Company, LLC  
1050 Chinook Rd, Suite 350  
Lexington, KY 4052

DEVELOPER:  
American Eagle Lifecare Corporation  
3819 Hawk Crest Road  
Ann Arbor, MI 48103



This Plat was plotted on: 09/30/2019 V3 Project #:

19443

Plot Sheet # 3 of 3





WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 13, 2020

1912-VU-07

Exhibit 1

**Petition Number:** 1912-VU-07

**Subject Site Address:** 16708 Dean Road (the "Property")

**Petitioner:** Esler Properties, LLC by Morse & Bickel, P.C. (the "Petitioner")

**Request:** The Petitioner is requesting a renewal of a previously approved Variance of Use to allow an auto service facility on 4.59 acres +/- in the EI: Enclosed Industrial District and the US Highway 31 Overlay District (Article 13.2).

**Current Zoning:** EI: Enclosed Industrial District  
US Highway 31 Overlay District

**Current Land Use:** Commercial

**Approximate Acreage:** 4.59 acre +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Existing Site Conditions
4. Acknowledgement of Variance (1603-VU-03)
5. Petitioner's Application

**Staff Reviewer:** Pam Howard, Senior Planner

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**OVERVIEW**

**Property Location:** The subject property is 4.59 acres +/- in size and located at 16708 Dean Road (the "Property") (see Exhibit 2). The Property is zoned the Enclosed Industrial (EI) District and located within the US Highway 31 Overlay District (the "US31 Overlay"). Adjacent properties to the north and south are also zoned the EI District, properties to the west are zoned the South Oak PUD. The Property is bordered by Dean Road and US 31 to the East.

**Property History:** On November 9, 2010, the Westfield-Washington Board of Zoning Appeals (the "BZA") approved a variance of use (Case Number: 1011-VU-05, the "First Variance") with conditions to allow the temporary operation of an automobile repair facility at 16708 Dean Road,



now owned by Esler Properties, LLC, within the U.S. Highway 31 Overlay District (the "Overlay District"). As a condition of the First Variance approval, the Repair Business was to terminate by December 31, 2015.

On January 28, 2016, a new variance of use application was submitted requesting approval to continue operation of the Repair Business in the Overlay District. On March 8, 2016, the BZA approved the variance of use request (Case Number: 1603-VU-03, the "Second Variance") to allow the temporary operation of the Repair Business on the Property until December 31, 2019.

On or about November 7, 2017 the Westfield Economic and Community Development Department ("the Department") received a complaint that a Structure was being installed on the Property without an Improvement Location Permit. Upon inspection, it was found that the base of a new Pole Sign (the "Pole Sign") had been installed on the Property and a non-conforming Pole Sign was located on the Property. No reference to the new Pole Sign or a relocation of an existing sign was included in the Site Plan or Statement of Intent submitted to the BZA for the First Variance or Second Variance for its consideration. On December 16, 2016, Esler Properties, LLC removed the relocated existing sign but left the base of the new Pole Sign in the ground.

On December 18, 2017, the Department issued an Administrative Determination revoking the Second Variance. Esler Properties LLC filed an appeal of that determination on January 17, 2018 (Case Number 1803-AA-01, the "Appeal"). The Appeal is still pending.

On January 4, 2019, GEFT Outdoor LLC submitted an application for several Variances of Development Standard to permit an Off-Premise Electronic Pole Sign on the Property. The request received a Public Hearing at the February 12, 2019, BZA meeting and was denied.

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## **SUMMARY OF VARIANCES**

The Petitioner requests a renewal of the Second Variance, which expired on December 31, 2019.

The Property is zoned EI: Enclosed Industrial and is also subject to the US Highway 31 Overlay District. Vehicle sales are categorized as a Very High Intensity Retail<sup>1</sup> use in the Unified

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<sup>1</sup> The UDO defines Retail, Very High Intensity as "[r]etail 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. Example businesses include, but are not limited to: vehicle and motorcycle sales (new or used), construction vehicle and trailer sales, farm equipment sales, farm implement sales and





Development Ordinance. As such, the use is only permitted by Special Exception in the General Business District, and is also an excluded use in the US Highway 31 Overlay District<sup>2</sup>.

The Second Variance was approved with a three (3) year time limit.

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### **COMPREHENSIVE PLAN**

The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Employment Corridor"<sup>3</sup> land use classification. The Employment Corridor is discussed in the Highway Corridors chapter of the Comprehensive Plan; and contemplates uses that would encourage employment growth in Westfield, including but not limited to: "office and service uses, research and development, and retail and institutional uses that are subordinate to and supportive of the office and service uses."<sup>4</sup>

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### **PROCEDURAL**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition is scheduled to receive its public hearing at the January 14, 2020, 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<sup>5</sup> and Indiana Code § 36-7-4-918.4 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.

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service, feed sales, heavy equipment sales, tool and light equipment rental, manufactured or mobile home sales, boat and trailer sales and service, travel trailer sales and rental, and semi tractor-trailer cleaning, service, rental, repair and sales."

<sup>2</sup> Article 13.2 Use Table of the UDO.

<sup>3</sup> Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

<sup>4</sup> Pages 53-55 of the Westfield and Washington Township Comprehensive Plan.

<sup>5</sup> Article 10.14(l) Processes and Permits; Variances; Conditions of the UDO.



Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO<sup>6</sup> 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 Use: The Board of Zoning Appeals shall approve or deny variances of land use from the terms of the UDO. A variance of land use 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 constitute an unnecessary hardship if applied to the property for which the variance is sought; and
5. The approval does not interfere substantially with the Comprehensive Plan.

---

#### **DEPARTMENT COMMENTS**

**Approval:** If the Board is inclined to approve the petition, the Department recommends the following conditions and findings:

**Recommended Conditions:**

1. That approval of this variance shall expire on **[INSERT CHOSEN DATE]**. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to **[INSERT CHOSEN DATE]** (A 3-year renewal would result in expiration on **December 31, 2022**).
2. The Pole Sign shall be removed by **[INSERT CHOSEN DATE]**.

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





Recommended Findings for Approval:

**If the Board is inclined to approve the variance**, then the Department recommends the following findings:

- 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 an automobile repair business to continue to locate on the Property for a temporary period of time will 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:*

**Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The Property and the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. None of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.

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

**Finding:** The use of an automobile repair business is not permitted within the Enclosed Industrial (EI) zoning and is an excluded use under the U.S. Highway 31 overlay.

- 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 use of an automobile repair business is not permitted within the Enclosed Industrial (EI) zoning and is an excluded use under the U.S. Highway 31 Overlay.

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

**Finding:** The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") includes this area in the Employment Corridor. The Comprehensive Plan recommends this Highway Corridor be reserved for employment-generating uses and related supporting service uses. The continued use of the Property as an automobile repair business would not interfere substantially with the Comprehensive Plan.

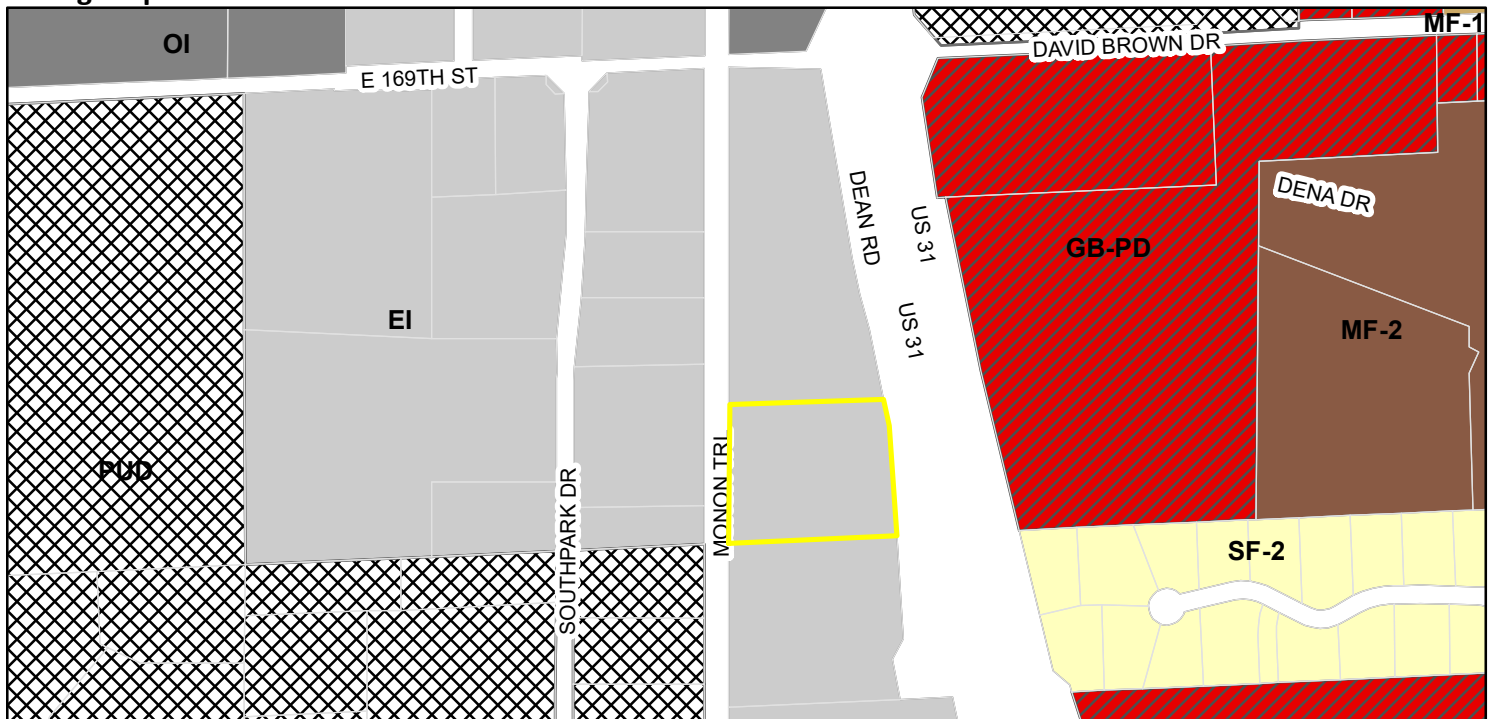
**Denial:** If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board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

### Aerial Location Map

 Site



### Zoning Map



#### Zoning

- |                                                                                                                                    |                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
|  EI (Enclosed Industrial)                       |  MF-2 (Multiple Family - 2)     |
|  GB-PD (General Business - Planned Development) |  OI (Open Industrial)           |
|  MF-1 (Multiple Family - 1)                     |  PUD (Planned Unit Development) |
|                                                                                                                                    |  SF-2 (Single Family - 2)       |



Google Maps 16708 Dean Rd



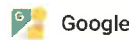
Imagery ©2019 Google, Imagery ©2019 IndianaMap Framework Data, Maxar Technologies, Map data ©2019 50 ft

Google Maps N Meridian St



Westfield, Indiana

Image capture: Sep 2018 © 2019 Google



Street View - Sep 2018





N Meridian St



Westfield, Indiana



Street View - Sep 2018

Image capture: Sep 2018 © 2019 Google

Google Maps 16708 Dean Rd



Imagery ©2019 Google, Imagery ©2019 IndianaMap Framework Data, Maxar Technologies, USDA Farm Service Agency, Map data ©2019 50 ft







## ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 2010006827 (confirm)

Mayor  
Andy Cook

City Council  
Chuck Lehman  
Jim Ake  
Joe Edwards  
Steven Hoover  
Robert L. Horkay  
Dr. Mark Keen  
Cindy L. Spoljaric

Clerk Treasurer  
Cindy J. Gossard

Economic and  
Community  
Development

(317) 804-3170

2728 East 171<sup>st</sup> Street  
Westfield, IN 46074

westfield.in.gov

This ACKNOWLEDGEMENT, made this 10<sup>th</sup> day of March, 2016, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

**WHEREAS**, on Tuesday, March 8, 2016, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1603-VU-03 (the "Petition"), filed by Robert Esler of Esler Properties, LLC (d/b/a Bob's Garage) (the "Property Owner"), for a Variance of Use from the Westfield-Washington Township Unified Development Ordinance regarding property commonly known as 16708 Dean Road, Westfield, IN 46074 (Parcel No: 09-09-01-00-00-014.000) and more particularly described as (the "Property").

PART OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 18 NORTH, RANGE 3 EAST IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, AND BEING THAT PART OF THE GRANTORS' LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICATED ON THE ATTACHED RIGHT OF WAY PARVEL PLAT, MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID QUARTER SECTION SOUTH 87 DEGREES 27 MINUTES 51 SECONDS WEST 1,978.42 FEET FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION WHICH POINT IS ON THE WESTERN BOUNDARY OF U.S. 31; THENCE CONTINUING SOUTH 87 DEGREES 27 MINUTES 51 SECONDS WEST 117.66 FEET ALONG SAID LING; THENCE NORTH 3 DEGREES 55 MINUTES 35 SECONDS WEST 301.55 FEET TO POINT "24901" ON SAID PLAT; THENCE NORTH 11 DEGREES 37 MINUTES 11 SECONDS WEST 72.89 FEET ALONG SAID GRANTORS' LAND; THENCE NORTH 87 DEGREES 27 MINUTES 51 SECONDS EAST 70.75 FEET ALONG SAID LINE TO THE WESTERN BOUNDARY OF U.S. 31; THENCE ALONG SAID BOUNDARY SOUTHEASTERLY 379.19 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 11,546.02 FEET AND SUBTENDE BY A LONG CHORD HAVING A BEARING OF SOUTH 12 DEGREES 31 MINUTES 17 SECONDS EAST AND A LENGTH OF 379.17 FEET TO THE POINT OF BEGINNING, CONTAINING 0.765 ACRES MORE OR LESS.

TOGETHER WITH THE PERMANENT EXTINGUISHMENT OF ALL RIGHTS AND EASEMENTS OF INGRESS AND EGRESS TO, FROM, AND ACROSS THE LIMITED ACCESS FACILITY (TO BE KNOWN AS U.S. 31 AND AS PROJECT 0710215), TO AND FROM THE GRANTORS' ABUTTING LANDS, ALONG THE LINES DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID QUARTER SECTION SOUTH 87 DEGREES 27 MINUTES 51 SECONDS WEST 2,016.68 FEET FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION, WHICH POINT IS ON THE SOUTH LINE OF SAID GRANTORS' LAND; THENCE NORTH 7 DEGREES 10 MINUTES 12 SECONDS WEST 78.09 FEET TO



POINT "24902" ON SAID PLAT; THENCE NORTH 4 DEGREES 33 MINUTES 08 SECONDS WEST 34.31 FEET TO THE WESTERN BOUNDARY OF U.S. 31 DESIGNATED AS POINT "24910" ON SAID PLAT AND THE TERMINUS. THIS RESTRICTION SHALL BE A COVENANT RUNNING WITH THE LAND AND SHALL BE BINDING ON ALL SUCCESSORS IN TITLE TO THE SAID ABUTTING LANDS.

The Property Owner requested approval of a Variance of Use for an extension of time to continue to temporarily allow an automobile repair business within the U.S. Highway 31 Overlay District (Article 5.2).

**WHEREAS**, the Board voted five (5) to zero (0) to approve the Petition with the condition the Variance of Use would expire December 31, 2019.

**NOW, THEREFORE**, the Director hereby declares that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the Variance of Use approved by the Board on March 8, 2016. Unless otherwise modified herein, this Variance of Use shall run with the land, and shall be binding upon the owner, heirs and assigns, and all parties having an interest in and to the Property or any part or parts thereof subject to such Variance of Use, and shall inure to the benefit of the owner and every one of his/her successors in title to any real estate in the Property.

[Remainder of page intentionally left blank;  
Signature page follows.]

#### Administration

(317) 804-3040 office  
(317) 804-3190 fax

2728 East 171st Street  
Westfield, IN 46074  
[westfield.in.gov](http://westfield.in.gov)

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

"DIRECTOR"

\_\_\_\_\_  
MATTHEW S. SKELTON, ESQ., DIRECTOR

Economic and Community Development Department, City of Westfield, IN

Esler Properties, LLC, the Property Owner, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition and Property, as set forth herein.

IN WITNESS WHEREOF, the Property Owner has executed this instrument, on the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Esler Properties, LLC  
By Robert Esler, Managing Member

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016.

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed name of Notary Public

My County of Residence: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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

Prepared by: Amanda Rubadue, Associate Planner, City of Westfield  
2728 East 171<sup>st</sup> Street, Westfield, IN 46074, (317) 804-3170

Administration

(317) 804-3040 office  
(317) 804-3190 fax

2728 East 171st Street  
Westfield, IN 46074  
westfield.in.gov



# WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

## VARIANCE APPLICATION

OFFICE  
USE ONLY

DOCKET #: 1912-VU-07

FILING DATE:

OCT 31 2019

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

### PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Pamela Howard (STAFF NAME) DATE: October 17, 2019

### PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: \_\_\_\_\_ AMENDMENTS: \_\_\_\_\_ DEVELOPMENT PLAN: \_\_\_\_\_

PRIMARY PLAT: \_\_\_\_\_ SECONDARY PLAT: \_\_\_\_\_ VARIANCE(S): 1011-VU-05; 1603-VU-03

### APPLICANT INFORMATION

APPLICANT'S NAME: Robert J. Esler TELEPHONE: 317-867-2627

ADDRESS: 14736 Laredo Court, Carmel, Indiana 46032 EMAIL: bob@bobsgarage.biz

PROPERTY OWNER'S NAME: Esler Properties, LLC TELEPHONE: 317-867-2627

ADDRESS: 16708 Dean Road, Westfield, Indiana 46074 EMAIL: bob@bobsgarage.biz

REPRESENTATIVE'S NAME: John J. Morse TELEPHONE: 317-686-1540

COMPANY: Morse & Bickel, P.C. EMAIL: Morse@MorseBickel.com

ADDRESS: 320 N. Meridian Street, Suite 600, Indianapolis, Indiana 46204

### PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 16708 Dean Road, Westfield, Indiana 46074

COUNTY PARCEL ID #(S): 09-09-01-00-00-014.000

EXISTING ZONING DISTRICT(S): Enclosed Industrial EXISTING LAND USE(S): Automobile Repair

### VARIANCE REQUEST

☒ VARIANCE OF LAND USE CODE CITATION: Indiana Code § 36-7-4-918.4

☐ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: \_\_\_\_\_

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): Requesting variance to continue to use this property for another 5 years as an auto repair facility and continuing to make improvements to property and building.



# **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.

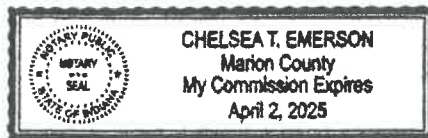
John J. Morse  
Applicant/Representative (signature)

John J. Morse  
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 31<sup>st</sup> day of October, 2019.

State of Indiana, County of Marion, SS:



Chelsea T. Emerson  
Notary Public Signature  
Chelsea T. Emerson  
Notary Public (printed)  
Comm. No. NP0698689

# **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.

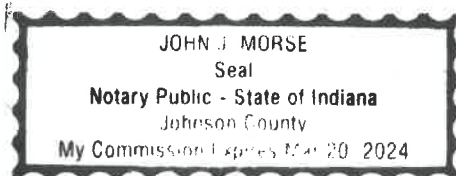
Robert J. Esler  
Property Owner (Signature)\*

Robert J. Esler  
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 31<sup>st</sup> day of October, 2019.

State of Indiana, County of Johnson, SS:



John J. Morse  
Notary Public Signature  
John J. Morse  
Notary Public (printed)  
Comm. No. NP0681289

\*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 USE)**APPLICANT: Robert J. Esler

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: It is unlikely that allowing an automobile repair business to continue to locate on the Property for a temporary period of time will be injurious to the public health, safety, morals, and general welfare of the community.
- 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: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The Property and the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. None of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.
- C. The need for the variance arises from some condition particular to the property involved because: The use of an automobile repair business is not permitted within the Enclosed Industrial (EI) zoning and is an excluded use under the U.S. Highway 31 overlay.
- 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: The use of an automobile repair business is not permitted within the Enclosed Industrial (EI) zoning and is an excluded use under the U.S. Highway 31 overlay.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") includes this area in the Employment Corridor. The Comprehensive Plan recommends this Highway Corridor be reserved for employment-generating uses and related supporting service uses. The continued use of the Property as an automobile repair business would not interfere substantially with the Comprehensive Plan.

**FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)**APPLICANT: Robert J. Esler

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: \_\_\_\_\_  
It is unlikely that allowing an automobile repair business to continue to locate on the Property for a temporary period of time will be injurious to the public health, safety, morals, and general welfare of the community.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 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: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The Property and the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. None of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: The use of an automobile repair business is not permitted within the Enclosed Industrial (EI) zoning and is an excluded use under the U.S. Highway 31 overlay  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**VARIANCE APPLICATIONS****GENERAL INSTRUCTIONS**

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Economic and 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:
- |                                                 |                                                                                                                                               |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Completed Application  | <input type="checkbox"/> Legal Description                                                                                                    |
| <input type="checkbox"/> Draft Public Notice    | <input type="checkbox"/> List of Adjoining Property Owners (as provided by County)                                                            |
| <input type="checkbox"/> Property Owner Consent | <input type="checkbox"/> TAC Delivery Affidavit (if TAC is determined to be necessary)                                                        |
| <input type="checkbox"/> Site Plan (to scale)   | <input type="checkbox"/> Copy of Property Deed                                                                                                |
| <input type="checkbox"/> Statement of Intent    | <input type="checkbox"/> 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:
1. **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.
  2. **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.
  3. **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.
  4. **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.

**WESTFIELD-WASHINGTON  
TOWNSHIP BOARD OF ZONING  
APPEALS PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Board of Zoning Appeals will hold a public hearing on Tuesday, December 10, 2019, at 7:00 p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, to consider an application for variance filed by John J. Morse, Esq. of Morse & Bickel, P.C. on behalf of Esler Properties, LLC. The request pertains to real estate comprising approximately 4.8 acres and generally located at 16708 Dean Road, Washington Township, Westfield, Indiana.

The request is for a variance of use for the Board of Zoning Appeals to allow the continued use of an auto repair shop.

Specific details regarding this request, including the application, file, and property legal description, may be obtained from the Westfield Economic and Community Development Department, or by calling (317) 804-3170.

Written suggestions or objections relative to the request may be filed with the Westfield Economic and Community Development Department, at or before the public hearing. Interested persons desiring to present their views upon the request, either in writing or verbally, will be given the opportunity to be heard at the above-mentioned time and place, which may be continued from time to time as may be found necessary.

**APPLICANT:**

Esler Properties LLC  
16708 Dean Rd.  
P.O. Box 517  
Westfield, IN 46074

**REPRESENTATIVE: (if applicable)**

John J. Morse, Esq.  
Morse & Bickel, P.C.  
320 N. Meridian Street, Suite 600  
Indianapolis, IN 46204

**CITY OF WESTFIELD:**

Economic and Community Development Department  
2728 East 171<sup>st</sup> Street  
Westfield, Indiana 46074  
(317) 804-3470  
[www.westfield.in.us](http://www.westfield.in.us)



C&I  
CTIC # 427489 MJS

2011015058 WARR DEED \$20.00  
03/23/2011 12:04:13P 2 PGS  
Mary L. Clark  
HAMILTON County Recorder IN  
Recorded as Presented

RETURN TO:

Grantee's Address and Mail Tax Statements to: 14736 Laredo Ct., Carmel, IN 46032

Property Address:  
16708 N. US31, Westfield, IN 46074

Tax ID No. 09-09-01-00-00-014.000

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

American Real Estate Investments No. 13, LLC, an Illinois limited liability company

CONVEY(S) AND WARRANT(S) TO

Esler Properties, LLC for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Hamilton County, in the State of Indiana, to wit:

See Attached Exhibit A

Subject to taxes for the year 2010, due and payable in 2011, and taxes for all subsequent years.

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this deed this 15<sup>th</sup> day of November, 2010.

American Real Estate Investments No. 13, LLC  
By First American Bank, its member

By: James M. Berton, First Vice President

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer  
23 day of March, 2011  
Dawn Cooverdale Auditor of Hamilton County  
Parcel # 09-09-01-00-00-014.000

State of Illinois, County of Cook ss:

Before the undersigned, a Notary Public in and for said County and State, personally appeared the within named James M. Berton, First Vice President of First American Bank, Manager of American Real Estate Investments No. 13, LLC, an Illinois limited liability company who acknowledges the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 15<sup>th</sup> day of November, 2010

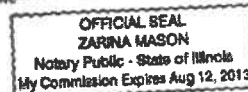
My Commission Expires: Aug 12, 2013

ZARINA MASON

Printed Name of Notary Public

This instrument was prepared by:

Andrew S. Ryerson  
McGuireWoods LLP  
77 West Wacker Drive, Suite 4100  
Chicago, IL 60601



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

James M. Berton

NOTE: The individual's name in affirmation statement may be typed or printed.

GRANTEE MAILING ADDRESS and send tax bills to:

14736 Laredo Court Carmel, IN 46032

Exhibit A

**LEGAL DESCRIPTION**

**Parcel 1:**

A part of the South half of the Southeast quarter of Section 1, Township 18 North, Range 3 East in Hamilton County, Indiana, described as follows:

Beginning at the intersection of the South line of said half section and the centerline of U.S. Highway No. 31, thence Northwesterly along said centerline on a 00 degree 30 minutes curve to the right 379.28 feet to a point, thence West along a line parallel to the South line of the South half of the Southeast quarter section of said Section 581.11 feet to a point in the East right of way line of the Monon Railroad; thence South along said right of way line 375.00 feet to a point in the South line of said half of said quarter section; thence East along said South line 664.38 feet to the Point of Beginning.

**EASEMENT PARCEL:**

A non-exclusive easement for ingress and egress as set forth in a Corporate Warranty Deed dated July 10, 1973 and recorded July 13, 1973 in Deed Record 267, page 369 as Instrument No. 5005.



## PROPERTY DESCRIPTION - INSTRUMENT NO. 2010-20147

### PARCEL 1:

A PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 18 NORTH, RANGE 3 EAST IN HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF SAID HALF SECTION AND THE CENTERLINE OF U.S. HIGHWAY NO. 31; THENCE NORTHWESTERLY ALONG SAID CENTERLINE ON A 00 DEGREES 30 MINUTES CURVE TO THE RIGHT 379.28 FEET TO A POINT; THENCE WEST ALONG A LINE PARALLEL TO THE SOUTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER SECTION OF SAID SECTION 581.11 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF THE MONON RAILROAD; THENCE SOUTH ALONG SAID RIGHT OF WAY LINE 375.00 FEET TO A POINT IN THE SOUTH LINE OF SAID HALF OF SAID QUARTER SECTION; THENCE EAST ALONG SAID SOUTH LINE 664.38 FEET TO THE POINT OF BEGINNING.

### EASEMENT PARCEL:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AS SET FORTH IN A CORPORATE WARRANTY DEED DATED JULY 10, 1973 AND RECORDED JULY 13, 1973 IN DEED RECORD 267, PAGE 369 AS INSTRUMENT NO. 5005.

RECEIVED

OCT 20 2010

WESTFIELD COUNTY CLERK  
DEVELOPMENT DEPARTMENT

## SURVEYOR'S REPORT

Surveyor's Report for Job #100937

In accordance with Title 86.5, Article 1.1, Chapter 12 of the Indiana Administrative Code, the following observations and opinions are submitted of the cause and amount of uncertainty in the position of the lines and corners established on this survey as a result of:

## EXHIBIT "A"

PROJECT: 0710215

CODE: 5311

Sheet 1 of 1

PARCEL NO.: 249- Fee Simple with Partial Limitation of Access

Form WL-2

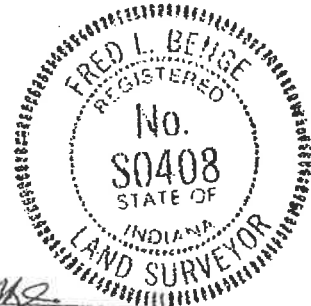
Key Number 29-09-01-000-014.000-015

Part of the Southeast Quarter of Section 1, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, and being that part of the grantors' land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked **Exhibit "B"**, described as follows: Beginning at a point on the south line of ssaid quarter section South 87 degrees 27 minutes 51 seconds West 1,978.42 feet from the southeast corner of said quarter section which point is on the western boundary of U.S. 31; thence continuing South 87 degrees 27 minutes 51 seconds West 117.66 feet along said line; thence North 3 degrees 55 minutes 35 seconds West 301.55 feet to point "24901" on said plat; thence North 11 degrees 37 minutes 11 seconds West 72.89 feet to the north line of said grantors' land; thence North 87 degrees 27 minutes 51 seconds East 70.73 feet along said line to the western boundary of U.S. 31; thence along said boundary southeasterly 379.19 feet along an arc to the left and having a radius of 11,546.02 feet and subtended by a long chord having a bearing of South 12 degrees 31 minutes 17 seconds East and a length of 379.17 feet to the point of beginning, containing 0.765 acres more or less.

TOGETHER with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the limited access facility (to be known as U.S. 31 and as Project 0710215), to and from the grantors' abutting lands, along the lines described as follows: Beginning at a point on the South line of said quarter section South 87 degrees 27 minutes 51 seconds West 2,016.68 feet from the southeast corner of said quarter section, which point is on the south line of said grantors' land; thence North 7 degrees 10 minutes 12 seconds West 78.09 feet to point "24902" on said plat; thence North 3 degrees 28 minutes 23 seconds West 154.98 feet to point "24912" on said plat; thence North 4 degrees 33 minutes 08 seconds West 34.31 feet to the western boundary of U.S. 31 designated as point "24910" on said plat and the terminus. This restriction shall be a covenant running with the land and shall be binding on all successors in title to the said abutting lands.

This description was prepared for the Indiana Department of Transportation, by Fred L. Bengé, Indiana Registered Land Surveyor, License Number LS80040408, on the 8<sup>th</sup> day of April, 2011

  
Fred L. Bengé



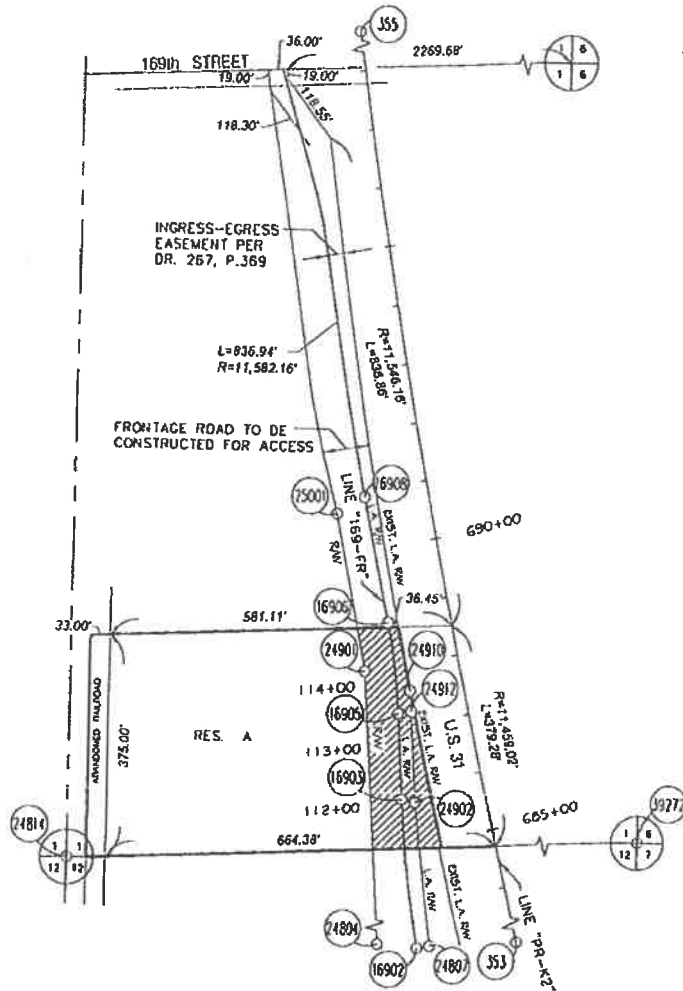


# RIGHT-OF-WAY PARCEL PLAT

PREPARED BY R.W. ARMSTRONG & ASSOCIATES, INC.  
FOR THE INDIANA DEPARTMENT OF TRANSPORTATION

SHEET 1 OF 1

0 100 200  
SCALE: 1" = 200'



| COORDINATE CHART (FEET) |            |                     |           |        |      |          |
|-------------------------|------------|---------------------|-----------|--------|------|----------|
| POINT                   | NORTHINGS  | EASTINGS            | STATION   | OFFSET | SIDE | LINE     |
| 355                     | 53827.5171 | 48904.6038          | 679+85.52 | 0.00   | --   | 'PR-K2'  |
| 355                     | 58151.6862 | 48342.5853          | 723+58.67 | 0.00   | --   | 'PR-K2'  |
| 16902                   | 54123.6935 | 48651.4733          | 109+53.82 | 0.00   | --   | '169-FR' |
| 16903                   | 54373.8875 | 48620.3880          | 112+06.20 | 0.00   | --   | '169-FR' |
| 16905                   | 54520.2921 | 48611.5138          | 113+52.88 | 0.00   | --   | '169-FR' |
| 16906                   | 54671.2698 | 48590.7279          | 115+05.42 | 0.00   | --   | '169-FR' |
| 16908                   | 54881.0191 | 48545.3435          | 117+20.03 | 0.00   | --   | '169-FR' |
| 24804                   | 54006.7340 | 48592.1503          | 108+50.00 | 80.00  | Lt   | '169-FR' |
| 24807                   | 54127.8573 | 48673.0758          | 109+54.00 | 22.00  | Rt   | '169-FR' |
| 24814                   | --         | CALCULATED LOCATION |           |        |      |          |
| 24901                   | 54588.9416 | 48552.5069          | 114+29.00 | 52.00  | Lt   | '169-FR' |
| 24902                   | 54369.0968 | 48642.7283          | 112+09.00 | 37.00  | Rt   | '169-FR' |
| 24910                   | 54557.8947 | 48630.6165          | 113+88.58 | 22.00  | Rt   | '169-FR' |
| 24912                   | 54523.7905 | 48633.3398          | 113+55.00 | 22.00  | Rt   | '169-FR' |
| 25001                   | 54852.4017 | 48498.3322          | 117+02.00 | 52.00  | Lt   | '169-FR' |
| 39272                   | --         | REFER TO L.C.R.S.   |           |        |      |          |

NOTE: STATION AND OFFSETS CONTROL OVER BOTH NORTH & EAST COORDINATES AND BEARINGS & DISTANCES

\* SEE LOCATION CONTROL ROUTE SURVEY FOR ADDITIONAL POINTS

\*\* CALCULATED LOCATION

## SURVEYOR'S STATEMENT

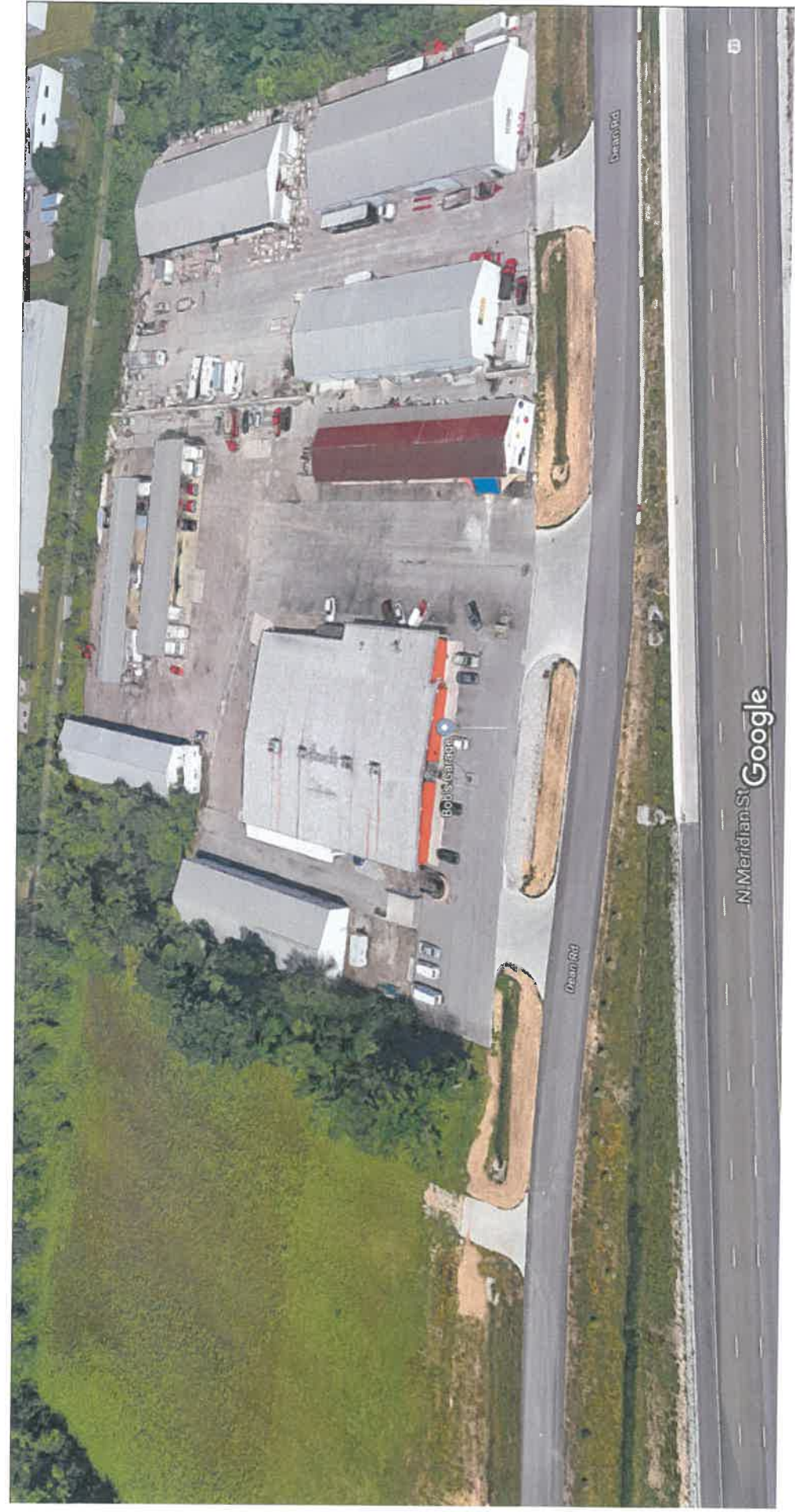
TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAT, TOGETHER WITH THE "LOCATION CONTROL ROUTE SURVEY" RECORDED AS INSTRUMENT NO. 200003311 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, (INCORPORATED AND MADE A PART HEREOF BY REFERENCE) COMPOSE A ROUTE SURVEY EXECUTED IN ACCORDANCE WITH INDIANA ADMINISTRATIVE CODE 845 IAC 1-12, ("RULE 12").

OWNER: HOWARD B. SAMUELS, TRUSTEE  
PARCEL: 249  
ROAD: U.S. 31  
COUNTY: HAMILTON  
SECTION: 1  
TOWNSHIP: 18 NORTH  
RANGE: 3 EAST  
PROJECT: 0710215  
DES. No.: 0900266  
CODE: 5311

HATCHED AREA IS THE APPROXIMATE TAXING  
DRAWN BY: D. TRUEBLOOD DATE: 04-05-11  
CHECKED BY: F. DENCE DATE: 04-07-11  
CUTCLAIM DEED INSTR. 2010006827 DATED: 02-11-2010  
KEY No. 29-09-01-000-014.000-015 TAKING = 0.765 A.C.



FRED L. BENGE DATE  
REG. LAND SURVEYOR No. LS0408



Imagery ©2019 Google, Imagery ©2019 IndianaMap Framework Data, Maxar Technologies, Map data ©2019 50 ft





Image capture: Sep 2018 © 2019 Google

Westfield, Indiana



Street View - Sep 2018



Image capture: Sep 2018 © 2019 Google

Westfield, Indiana

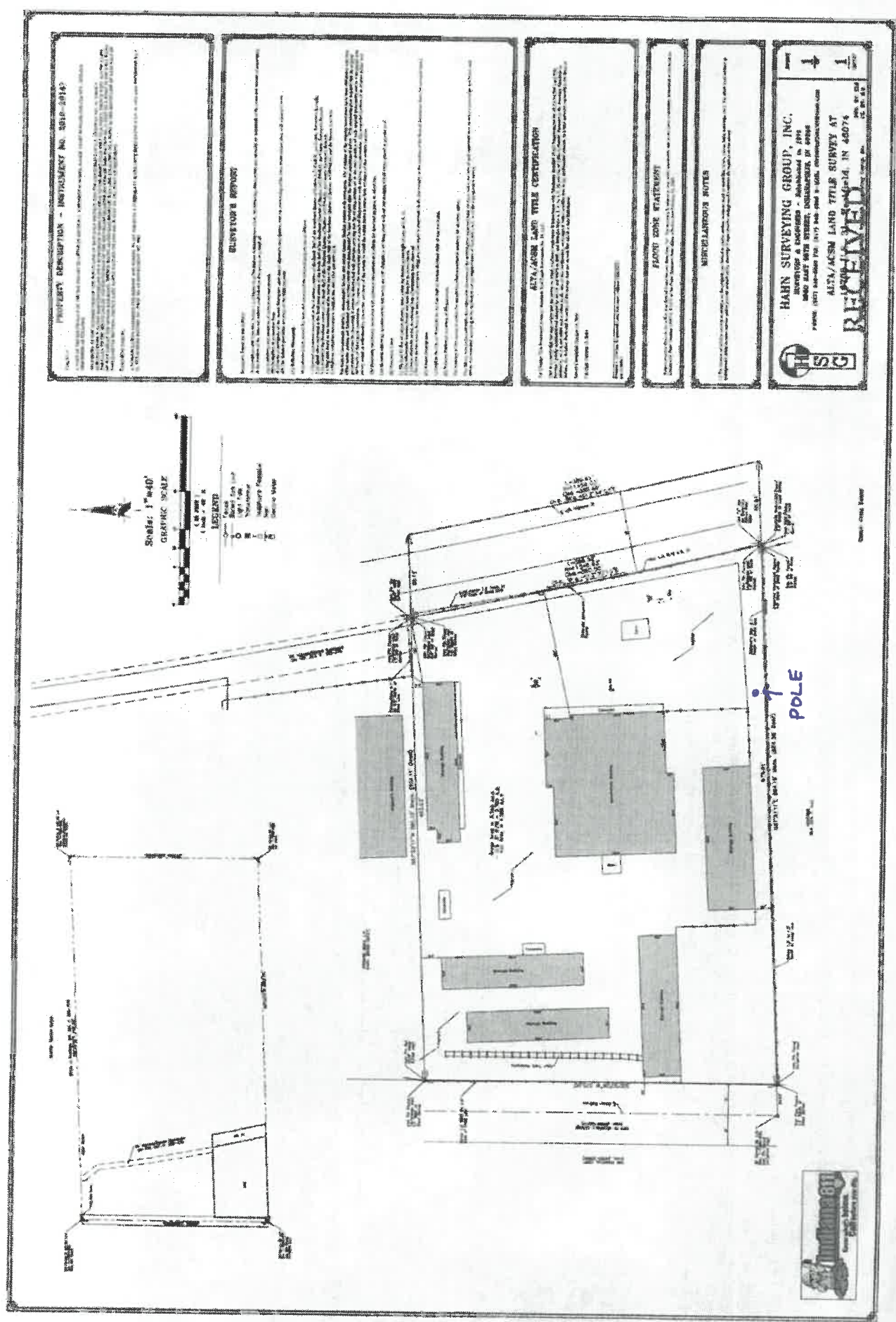


Street View - Sep 2018





Imagery ©2019 Google, Imagery ©2019 IndianaMap Framework Data, Maxar Technologies, USDA Farm Service Agency, Map data ©2019 50 ft



OCT 20 2010

WESTFIELD COMMUNITY  
DEVELOPMENT DEPARTMENT





**Westfield–Washington Township Board of Zoning Appeals**  
**Minutes of the January 14, 2020 BZA Meeting**  
*Presented for approval: February 11, 2020*

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m.  
on Tuesday, January 14, 2020 at Westfield City Hall.

**ROLL CALL**

Members Present: Jeannine Fortier, Ken Kingshill, Martin Raines, Dave Schmitz, and Robert Smith.

Members Absent: All present.

City staff present: Pam Howard, Senior Planner; Daine Crabtree, Associate Planner; and Brian Zaiger, City Attorney.

**ELECTION OF OFFICERS**

Tabled to February 11, 2020 BZA Meeting.

**APPROVAL OF MINUTES**

Smith motioned to approve the December 10, 2019 Minutes.

Raines seconded. Motion passed. Vote 5-0

**REVIEW RULES AND PROCEDURES**

Crabtree reviewed BZA rules and procedures.

**ITEMS OF BUSINESS**

**1912-VS-24**

**[ADOPTION OF  
FINDINGS OF FACT]**

**18501 Joliet Road**

*Sean and Lauren Laird*

Adoption of Findings of Fact for Variance of Development Standards that were denied on December 10, 2019.

*(Planner: Pam Howard- [PHoward@westfield.in.gov](mailto:PHoward@westfield.in.gov))*

Kingshill motioned to adopt Staff's Findings of Fact for 1912-VS-24.

Schmitz seconded. Motion passed. Vote 5-0.

**1912-VU-07**

**[PUBLIC HEARING]**

**16708 Dean Road**

*Esler Properties, LLC by Morse & Bickel, P.C.*

The Petitioner requests renewal of a previously approved Variance of Use to permit an auto service facility on 4.59 acres +/- in the EI: Enclosed Industrial District and U.S. Highway 31 Overlay District

*(Planner: Pam Howard- [PHoward@westfield.in.gov](mailto:PHoward@westfield.in.gov))*

Howard overviewed the status of this request: The variance expired and the Petitioner requested a continuance. The Petitioner was unable to attend the meeting to request the continuance. The request to continue to tonight's meeting was granted and it was scheduled for this BZA meeting. Tonight, the Petitioner sent a representative to report that the Petitioner was out of town and is requesting an additional continuance.

*Agendas for all City meetings are updated and available at our website.*

Website: <http://www.westfield.in.gov> | Economic and Community Development Department E-mail: [community@westfield.in.gov](mailto:community@westfield.in.gov)

Smith Asked Zaiger for clarification of the revoked status of this variance.

Zaiger replied that this request to extend the variance beyond its original deadline which has passed.

Discussion between BZA members ensued regarding the pros and cons of an additional continuance.

Kingshill motioned to approve a continuance of 1912-VU-07 with the following condition.

- The Petitioner shall not be allowed any further continuances.

Schmitz seconded. Motion passed. Vote 3-2. (Raines, Smith)

**REPORTS/COMMENTS:**

- Plan Commission Liaison
- Community Development Department

**ADJOURNMENT**

Raines motioned to adjourn the meeting.

Smith seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:16 p.m.

---

Chairperson  
Dave Schmitz

---

Secretary  
Kevin M. Todd, AICP  
Director





WESTFIELD-WASHINGTON TOWNSHIP  
BOARD OF ZONING APPEALS

February 13, 2019

2002-VS-01

Exhibit 1

**Petition Number:** 2002-VS-01

**Subject Site Address:** 15407 Shelborne Road (The "Property")

**Petitioner:** David J. Museck (The "Petitioner")

**Representative:** Garrick Walton, Cross County Consulting LLC

**Request:** The Petitioner is requesting a Variance of Development Standard to reduce the Minimum Lot Frontage requirement (Article 4.2(D)) on 36.43 acres +/- in the AG-SF1: Agricultural / Single-Family Residential District.

**Current Zoning:** AG-SF1 Agricultural / Single-Family Rural District

**Current Land Use:** Agricultural / Vacant

**Approximate Acreage:** 36.43 acres+/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Site Plan
4. Character Exhibits
5. Presentation Materials

**Staff Reviewer:** Jonathan Dorsey, Associate Planner

---

### **OVERVIEW**

**Location:** The subject Property is 36.43 acres +/- in size and is located at 15407 Shelborne Road (see **Exhibit 2**). The Property is currently zoned the AG-SF1 District. The surrounding properties to the north, south, and west are within the AG-SF1 zoning district and the adjacent property to the east is zoned Claiborne Farms by Del Webb Planned Unit Development district.

**Variance Request:** The Petitioner is requesting a Variance of Development Standard to reduce the Minimum Lot Frontage<sup>1</sup> from two hundred and fifty (250) feet to zero (0) feet (article 4.2(D)) (see **Exhibit 3**).

---

### **SUMMARY OF VARIANCE**

The Petitioner is requesting to reduce the Minimum Lot Frontage for the proposed Lot 2, 3, 4, 5, and 6 from two hundred and fifty (250) feet to zero (0) feet; more specifically outlined below:

- 1) The Minimum Lot Frontage for AG-SF1 as defined in the Unified Development Ordinance is two hundred and fifty (250) feet (Article 4.2 (D)).

---

<sup>1</sup> The UDO defines "Lot Frontage" as [t]he length of the Front Lot Line.

To accommodate for this reduced road frontage, the Petitioner will establish an Access Easement throughout Lots 1 through 6 that will contain a shared Driveway<sup>2</sup>.

It is permitted by right today that each existing lot could contain a Single-Family Dwelling so long as it complies with the current Zoning Standards. If the Easternmost existing lots of the property (Parcel numbers 08-09-17-00-00-001.001 and 08-09-17-00-00-003.002) were to be developed without being subdivided in the future, a Variance of Development Standard would still need to be requested for Minimum Lot Frontage and, it is highly likely that the shared Driveway and an Access Easement would be expanded for those lots.

The Variance of Development Standard would not be required if this proposed Private Drive was a Private Street<sup>3</sup>, as it would potentially grant each lot the required Minimum Lot Frontage. The establishment of a Private Street would trigger the requirements of a Major Subdivision<sup>4</sup>, full compliance to current road standards, and would need to seek a change in zoning to fully permit this subdivision. If the requested Variance of Development Standard is approved, the property would be subdivided through the Minor Subdivision<sup>5</sup> process.

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## **COMPREHENSIVE PLAN**

The Westfield-Washington Township Comprehensive Plan (The "Plan") identifies the Property within the "Existing Rural Southwest" land use classification<sup>6</sup>. The Existing Rural Southwest contemplates Single-Family detached houses on large lots or in a Rural or Conservation Subdivision, Accessory Dwellings, Equestrian Uses, Agriculture, and Institutional Uses such as Schools, Churches, and Public Safety Facilities as appropriate uses. The Comprehensive Plan envisions the Existing Rural Southwest to remain rural for the foreseeable future, stating that anything other than rural or agricultural uses in the near future would violate the contiguity policy set out in the General Policies. If development is to happen it should be in the form of Rural or

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<sup>2</sup> UDO Article 12.1 Definitions; Driveway: "A private vehicular way, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel or Lot in which it is located. A Driveway is not a Right-of-way or Street (public or private)."

<sup>3</sup> UDO Article 12.1 Definitions; Street, Private: "A vehicular way established in an access easement or common area affording access to abutting properties for private users of such property and constructed in accordance with this Ordinance and not controlled or maintained by a governmental entity. A Driveway is not a Private Street for purposes of this Ordinance."

<sup>4</sup> UDO Article 12.1 Definitions; Subdivision, Major: "Any subdivision: (i) which results in two (2) or more smaller Lots or parcels, any of which front on or utilize a Private Street or easement for its only access; or, (ii) the Subdivision is for the purpose of Development (excluding cemeteries) and a Street is to be dedicated, reserved, or otherwise platted."

<sup>5</sup> UDO Article 12.1 Definitions; Subdivision, Minor: "A Subdivision within an Agricultural District or Single-family District along an existing Street, not involving the opening, widening, or extension of any Street (public or private), which comply with the applicable Zoning District standards, after the original tract has been completely subdivided."

<sup>6</sup> Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.





Conservation Subdivisions with substantial open space and up to one unit per acre with the denser Conservation Subdivisions. The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions<sup>7</sup>.

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## **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 April 9, 2019, 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<sup>8</sup> 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<sup>9</sup> 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 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 § 36-7-4-918.5 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;
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

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<sup>7</sup> Page 29 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

<sup>8</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

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

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## **DEPARTMENT COMMENTS**

**Approval:** If the Board is inclined to approve the Variance of Development Standard (2002-VS-01), then the Department recommends the following conditions and written findings of fact related to the Variance of Development Standard:

**Recommended Condition:**

1. The lots shall be subdivided in substantial compliance with the Site Plan Exhibit attached to the Staff Report.
2. That any new construction on the lots be substantially similar to the Character Exhibits attached to the Staff Report.
3. That in order to preserve the rural character of the site and area, all existing trees on the Real Estate shall be preserved in accordance with Article 8.6(E), unless determined to be within the construction limits of a new home, accessory structure, or Driveway.

**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 requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community. The proposed use of the new lots would be compliant with all other standards of the AG-SF1 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 use of the Property would not change from its current use as residential and the continued use will stay consistent with the quality and character of the surrounding area as designated in the Comprehensive Plan.

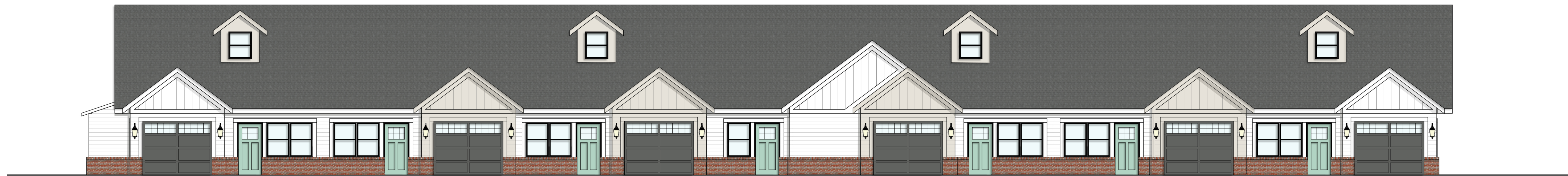
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

**Finding:** Strict adherence to the zoning ordinance would result in the inability to properly subdivide and improve the property, as proposed.

**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.







BRICK: 858.56 SF  
HORIZONTAL SIDING AND TRIM: 1,667.5 SF  
BOAR AND BATTEN AND TRIM: 1,307.54 SF

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Unionville, Indiana 47468  
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**K. Tom Montgomery**  
**Architect**

## Patch Development

## Sanders Glen

## Westfield, Indiana

# Exterior Elevations

| Mark            | Date | Description                 |
|-----------------|------|-----------------------------|
|                 |      |                             |
|                 |      |                             |
|                 |      |                             |
|                 |      |                             |
|                 |      |                             |
| Date:           |      | <b>1/8/2020 11:19:51 PM</b> |
| Drawn By:       |      | <b>KTM</b>                  |
| Checked By:     |      | <b>REVIT</b>                |
| Project Number: |      | <b>17101</b>                |

## Exterior Elevations

**A4-1**















WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 13, 2020

2002-VU-01

Exhibit 1

**Petition Number:** 2002-VU-01

**Subject Site Address:** Generally located north of and adjacent to 1106 E. 191<sup>st</sup> Street. Specifically, Parcel No. 08-05-25-00-00-015.000 ("the Property")

**Petitioner:** Alan Hodgeson ("the Petitioner")

**Request:** The Petitioner requests Variances of Use to permit a Quadraplex residence in the AG-SF1: Agricultural / Single-Family Rural District (Article 13.2).

**Current Zoning:** AG-SF1: Agriculture/Single Family Rural

**Current Land Use:** Residential / Vacant

**Approximate Acreage:** 1.5 acres +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Presentation Material

**Staff Reviewer:** Jonathan Dorsey, Associate Planner

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## **OVERVIEW**

**Location:** The subject property is a 1.5 +/- acre parcel at 2907 W State Road 32 (see **Exhibit 2**). The properties to the West is currently zoned AG-SF1: Agricultural / Single-Family Rural District and to the North, East, and South Properties are within the Towne Road Crossing PUD District (Ordinance No. 07-26).

**Requested Variances:** The Petitioner is requesting Variances of Use to allow a Quadraplex Residential Building on the Property.

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## **SUMMARY OF VARIANCE**

The Petitioner requests a Variance of Use to allow a Quadraplex on the property. The Property is zoned AG-SF1: Agricultural / Single-Family Rural. Quadraplexes<sup>1</sup> are Multifamily Dwellings, as such, the use is permitted by in Single-Family Attached, General Office, and by Special Exception within Local Business / Historical Districts<sup>2</sup>.

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<sup>1</sup> The UDO defines Quadraplex Dwelling as "A building containing four (4) Dwelling Units, each Dwelling Unit being a minimum of twenty-three (23) feet wide." (Article 12.1 "Dwelling, Quadraplex")

<sup>2</sup> Article 13.2 Use Table of the UDO.



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## **COMPREHENSIVE PLAN**

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the Property within the “Employment Corridor” land use classification<sup>3</sup>. The Employment Corridor contemplates Office and Service, Research and Development, and Retail and institutional uses that are subordinate to and supportive of the office and service use as appropriate uses. The Comprehensive Plan envisions the Employment Corridor along this portion of State Road 32 to promote smaller scale local office and service uses, and business uses on the South side of State Road 32 allowed only where it is demonstrated that they will not negatively impact residential neighborhoods or uses<sup>4</sup>. The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions.

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## **DEPARTMENT COMMENTS:**

**Recommended Findings for Approval:** If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

- 1) **Criteria:** 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 AG-SF1 zoning district.

- 2) **Criteria:** 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 surrounding properties because the use of the property will not change.

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

**Finding:** The dimensions and characteristics of the Property, including but not limited to its AG-SF1 zoning and neighboring Town Road Crossing PUD zoning district, make the Property

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<sup>3</sup> Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

<sup>4</sup> Page 53 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 13, 2020

2002-VU-01

Exhibit 1

particularly challenging for marketing any new Building or Structure on the Property with future nearby development without a variance.

**Recommended Condition:**

- 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 Economic and Community Development Department.

**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.