



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_01_14_2020

Tuesday, January 14, 2020 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, January 14, 2020 at 07:00 PM

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

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

OPENING OF REGULAR MEETING

Note the presence of a quorum

Election of Officers

- Chairperson
- Vice-Chairperson
- Pro-Tempore

Approval of Minutes - December 10, 2019

Documents: [BZA Minutes - December 10, 2019](#)

Review Rules & 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)

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)

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

ITEMS CONTINUED TO A FUTURE MEETING:

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



Westfield–Washington Township Board of Zoning Appeals
Minutes of the December 10, 2019 BZA Meeting
Presented for approval: January 14, 2020

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m.
on Tuesday, December 10, 2019 at Westfield City Hall.

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

Members Absent: All present.

City staff present: Kevin Todd, Director; Pam Howard, Senior Planner; Caleb Ernest, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Raines motioned to approve the November 12, 2019 meeting subject to two corrections.
Fortier seconded. Motion passed. Vote 5-0

APPROVAL OF 2020 BZA SCHEDULE OF MEETINGS AND FILING DATES

Kingshill motioned to approve the 2020 BZA Schedule of Meetings and Filing Dates.
Raines seconded. Motion passed. Vote 5-0

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1912-VS-25

[PUBLIC HEARING]

355 E. 191st Street

Caitlin O'Dougherty

The Petitioner requests a Variance of Development Standard to reduce the minimum Side Yard Setback in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(2)).

(Planner: Caleb Ernest – Cernest@westfield.in.gov)

Ernest overviewed this request for a Variance of Development Standard to reduce the minimum Side Yard Setback from 30 feet to 0 feet to accommodate the construction of a new residential home on the property. He said no public comments had been received.

Public Hearing for 1912-VS-25 opened at 7:05 p.m.

No public comments.

Public Hearing for 1912-VS-25 closed at 7:05 p.m.

Schmitz asked about the access to the property.

Ernest explained that access is a shared drive, and no comments had been received.

Raines motioned to approve 1912-VS-25 with the following staff condition.

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- The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Kingshill seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 1912-VS-25.

Raines seconded. Motion passed. Vote 5-0.

1912-VS-24

[PUBLIC HEARING]

18501 Joliet Road

Sean and Lauren Laird

The Petitioner(s) request Variances of Development Standard to permit a Home Business out of an Accessory Structure larger than the Primary Building and in the Established Front Yard (Articles 6.9, 6.1(B)(2), 6.1(D)(2)(a), and 6.1(F))

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

Howard overviewed this petition stating that the Variances of Development Standard were being requested to accommodate the following: To permit an Accessory Building to be larger than the Primary Building; to permit an Accessory Building in an Established Front Yard; to permit an Accessory Building over eighteen feet in height; and to exempt the property from the Home Business Standards only for an athletic training business as described in the submitted Statement of Intent.

The Petitioners, Sean and Lauren Laird, addressed the BZA on several items of this proposed home business. They highlighted that this proposal is not for a large-scale business but an owner-operated training program for young athletes and added that there are currently no outside employees at this business. They said they wish to retain the AGSF-1 zoning status and that they had professional input from an appraiser that this project would not devalue nearby properties. They said that the structure would comply with all Westfield building standards including the lighting on the barn to avoid light pollution that was among the concerns they had received.

Schmitz asked about the Petitioner's current business.

Laird responded that he does not have a facility but currently leases space in a school.

Schmitz asked about the outside activity of the proposed business.

Laird replied that all programs would be inside the pole barn.

Smith asked about the status of commercial property and the impact of the increased traffic created by the traffic programs.

The Lairds responded they would only be using the barn for their training and if they were to sell the land, it would remain a residential property with an empty pole barn.

Todd reiterated that this request was for a home business use not a commercial property use.

Kingshill asked for clarification on home business guidelines.

Howard responded that a home business permits such uses as teaching music and dance within the home structure.

Public Hearing for 1912-VS-24 opened at 7:29 p.m.

Dennis Ells, 18420 Joliet Road; stated he is opposed to this project and feels it is a commercial use within a residential neighborhood. He said the proposed use would present safety concerns and would devalue local residential properties.

Julia Hoskins, 18384 Joliet Road; said she submitted several photos of the homes within this area. She said, after going door to door with the residents in the area that an overwhelming majority of residents signed a petition opposing this

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project. She said several people not in the immediate area of this request also signed the petition in an effort to protect the residential qualities of their own neighborhoods. She is opposed to this project.

Kim Cavalier, 18737 Joliet Road; said she, along with other residents in the area, purchased their properties based on the zoning in place to protect residential culture of their neighborhood. She also reviewed several home business standards, several which she said were in a conflict to points within this proposal. She is opposed to this project.

Beth Moon, 19061 Joliet Road; said that there were inconsistencies with the conditions stated in the Staff Report and the project's proposal. She said she thinks that based on the information presented that this project is more of a commercial/recreational facility and should not be allowed in a residential area. She is opposed to this project.

Carri Gray, 18625 Joliet Road; said she lives directly across the road from this proposed project. She said she disagrees on the water/drainage assessment. She said there is a current drainage problem and that it required the relocation of her driveway in 2012. She said she is very concerned about drainage. She said she agrees with the statements of the previous public speakers and stated she is opposed to this project.

Andrew Butts, 18520 Joliet Road; stated that his family walks along Joliet Road several times a week. He said there are no paths, sidewalks, or even lines separating north south traffic on this county road. He said this proposal would increase traffic and place the current residents in danger. He said this proposal would be a detriment to the residential area's quality of life. He is opposed to this project.

Doug Ruffner, 18465 Joliet Road; said he is a long-time resident of this area and it currently offers area residents a quiet, peaceful residential quality of life. He said that he is concerned with the possible negative affect on property values; the drainage issue that currently exists would be made worse by this project; and that three other similar business are located appropriately in commercial areas where they contribute a commercial tax rate to the community. He is opposed to this project.

Terri Ruffner, 18465 Joliet Road; said she feels the proposed project would increase the traffic and negatively affect the safety of the residents. She is concerned about having a commercial business next door to her property. She said all the neighbors in this area are opposed to this project and that they want to retain the country environment that currently exists. She is opposed to this project.

Tracey Bernstein, 3910 West 186th Street; said her family moved to this area to avoid commercial zoning. She said she and her small children ride their horses and ponies along Joliet Road and that the infrastructure is not adequate to accommodate pedestrians, horses, and increased traffic. She said that drainage problems in the area are truly an issue. She is opposed to this project.

Tamara Ells, 18420 Joliet Road; read a letter from her real estate agent that stated that a variance of this nature, if approved, would have a significant negative impact on her property and other properties in the area. She is opposed to this project.

Misha Honaker, 205 Sweet Gum Court; said that this petition is not of the magnitude of other larger facilities in the area. She said this would be a small organization with a small number of training classes and students. She said the only issue is that the Petitioner can't teach baseball inside the home, so a barn is necessary. She supports this project.

Terry O'Neill, 16342 Oldenberg Circle; stated he doesn't live in the area of this petition; however, he was a client of the Petitioner he said he wanted to validate the Petitioner's statement that class sizes would be small. He said his experience with the business's traffic was a non-issue. He supports this project.

Jessica Curtis, 4004 West 186th Street; said she agrees with many of the statement opposing this petition. She said her main concern was the location of the pole barn being in the front of the residence. She said there is a number of barns in this area, but all are located behind the homes. She is opposed to this project.

Alan Eisberg, 4261 West 186th Street; said he built a new home in this area after living in Westfield for 30 years. He was drawn to build in this area based on its current environment, He said a variance would negatively impact the safety of

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the area. He also said that approving a variance for this petition would decrease area property values and set a dangerous precedent for Westfield by allowing commercial zoning into residential areas. He said that the Petitioners indicated they hope to grow the business. He is opposed to this project.

Craig Wood, 167 East 191st Street; stated that although he doesn't live in the immediate area of this request, he does own property there. He stated that Grand Park is literally in his back yard and that he has experienced increased traffic. He questioned whether some of the Pro X clientele might transfer to the proposed training facility. He said that he had concerns on how this proposed business may grow and impact Joliet Road.

Cory Essex, 1953 West 156th Street; said that he doesn't live in this area but frequently visits his family that does live there. He said he had concerns about teenage drives on the smaller country roads that are used frequently by pedestrians and horses. He said the infrastructure, especially if septic, could potentially affect existing drainage issues. He said he has concerns about the residential tax rate being utilized by a business. He said the business plan looks great and showed hope for the business to grow; however, that would add to the previously stated concerns if it were to be located in a residential area. He asked if a barn was necessary to conduct training.

Nate Dohm, 11440 Valley Meadow Drive; said he was a client of the Petitioner. He said there were never any problems with an excess of cars and that he carpools to training sessions. He said the Petitioner is developing his clients, not only as athletes, but as people of character. He said he is a better person for training with the Petitioner. He supports this project.

Jeremy Honaker, 215 Sweet Gum Court; said he doesn't live in the area but frequently drives by. He said he didn't really understand the concerns of the neighbors. He said he feels the Petitioner had the highest of intentions. He supports this project.

Josh Motsinger, 18681 Joliet Road; said that he shares the previously stated concerns. He said that he felt the plan for the Petitioner to hire a part-time employee would violate the Home Business Standards. He said he also had concerns about the on-going use of the property should the variance be approved. He stated concerns about the business growing to be more than a small home business. He is opposed to this project.

Ryan Bunnell, 16069 Bounds Court; said he is a teacher at Westfield High School and its head baseball coach. He said he has known both Petitioners for several years and they are the type of people Westfield needs. He supports this project.

Bill Greenwood, 18346 Joliet Road; said, that as a resident in the area, he is very familiar with the drainage issues and that drainage is a major issue. He said the creek that the water drains into is already overloaded. He said the issues tonight were not about the quality of the business proposal, but the impacts it would bring to the area.

Bart Rowland, 17873 Joliet Road; said he is a longtime resident of this area and said he is concerned about drainage and traffic. He said there are many bicycles on the weekends. He also said he is not against the idea but asked where will the business would go should it grow.

Marla Ailor, 1602 East 203rd Street; said she understood that the BZA addresses the legal requirements and the Finding of Facts of the petitions and not the quality of the Petitioner. She overviewed the home business standards. She said that the findings of fact are the concern.

Josh Medvescek, 4330 Chase Circle; he said that the petitioner could build this house and barn and the impact would be the same.

Ginny Kelleher, 3920 West 166th Street; she stated she lives in a similar neighborhood. She said this project is a commercial project proposed in a residential area and she referred to a definition in the UDO that disputed the use of teaching as a Home Business in regard to this petition. She addressed the Finding of Facts. She is opposed to this project.

Steve Dohm, 11440 Valley Meadow Drive; said his son has been attending the petitioners training sessions. He said that he feels that the Petitioner does conduct training. He said from what he has observed that the traffic generated would not be a significant increase. He supports this project.

Public Hearing for 1912-VS-24 closed at 8:41 p.m.

Jarred Moore, on behalf of the Petitioner, spoke to the Market Report he conducted for the Petitioners. He said that many of the homes in the area have barns/accessory buildings. He said their proposal would not have a negative impact on area properties.

Schmitz stated that the points made by Moore overlooked potential impacts to the neighborhood. He asked about the impact of the increased traffic.

Moore responded that there was nothing he saw in his assessment that traffic would be an issue. He said the training business would be conducted within the structure. He said there were many pole barns in the area.

Kingshill asked about the location of the pole barn in the front yard.

Moore said there is clear visibility of other large barns in the area.

Laird, the Petitioner, said regardless of the barn's placement it would need to be in the front yard.

Smith questioned the Petitioner about the actual amount of traffic.

The Petitioner responded that the traffic count is only a possibility.

The Petitioners clarified that they do not have any desire to ruin the area. They spoke to the capacity of the business and said that if they were to exceed capacity they would seek out commercial properties. They overviewed the types of services that would be offered and the impact of each of those sessions in regard to traffic.

Smith asked for clarification about the Home Business use.

Zaiger explained the variance that is being requested is to use the pole barn for a Home Business.

The petitioner asked about connecting the structures to meet the Home Business Standards.

Howard explained there are several standards that would need to be considered.

Smith said that the staff was recommending approval.

Todd and Howard both stated that staff doesn't make recommendations, only the Findings of Facts for approval.

The Petitioners said that they are not trying to avoid paying taxes or cheat the system. They said everything is addressed in the Statement of Intent.

Smith asked about the number of possible employees.

The Petitioner replied one to three employees as stated in the Statement of Intent.

Smith said the possible employees would add to the traffic.

The Petitioner said their occupancy is 299 based on square footage and fire code per the Department of Homeland Security.

Schmitz explained the outcome of some previous variances is that the business flourished and created concerns. He said he was not comfortable with the Statement of Intent. He said he was also uncomfortable with the use going forward with future land owners.

Zaiger explained about periods of time allowed in transitional areas and associated conditions.

Schmitz said that he is uncomfortable that the petition doesn't meet the Findings of Facts.

The Petitioner asked if this would be approved if located in another location.

Kingshill replied he could not support this type of use is any AGSF-1 as the community results would likely be the same.

Fortier said that she would like to see this business in Westfield but feels that this is location is not right.

Kingshill motioned to deny 1912-VS-24.

Smith seconded. Motion passed. Vote 4-1. (Raines)

Schmitz motioned to table Staff's Findings of Fact for 1912-VS-24 until the next BZA meeting.

Kingshill seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING:

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
- Community Development Department

ADJOURNMENT

Kingshill motioned to adjourn the meeting.

Raines seconded. Motion passed. Vote 5-0.

The meeting adjourned at 9:28 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 14, 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

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.

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 Retail¹ use in the Unified

¹ 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 District².

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

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Employment Corridor"³ 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."⁴

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 UDO⁵ 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.

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."

² Article 13.2 Use Table of the UDO.

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

⁴ Pages 53-55 of the Westfield and Washington Township Comprehensive Plan.

⁵ 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 UDO⁶ 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 March 1, 2022).
2. The Pole Sign shall be removed by **[INSERT CHOSEN DATE]**.

⁶ 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.

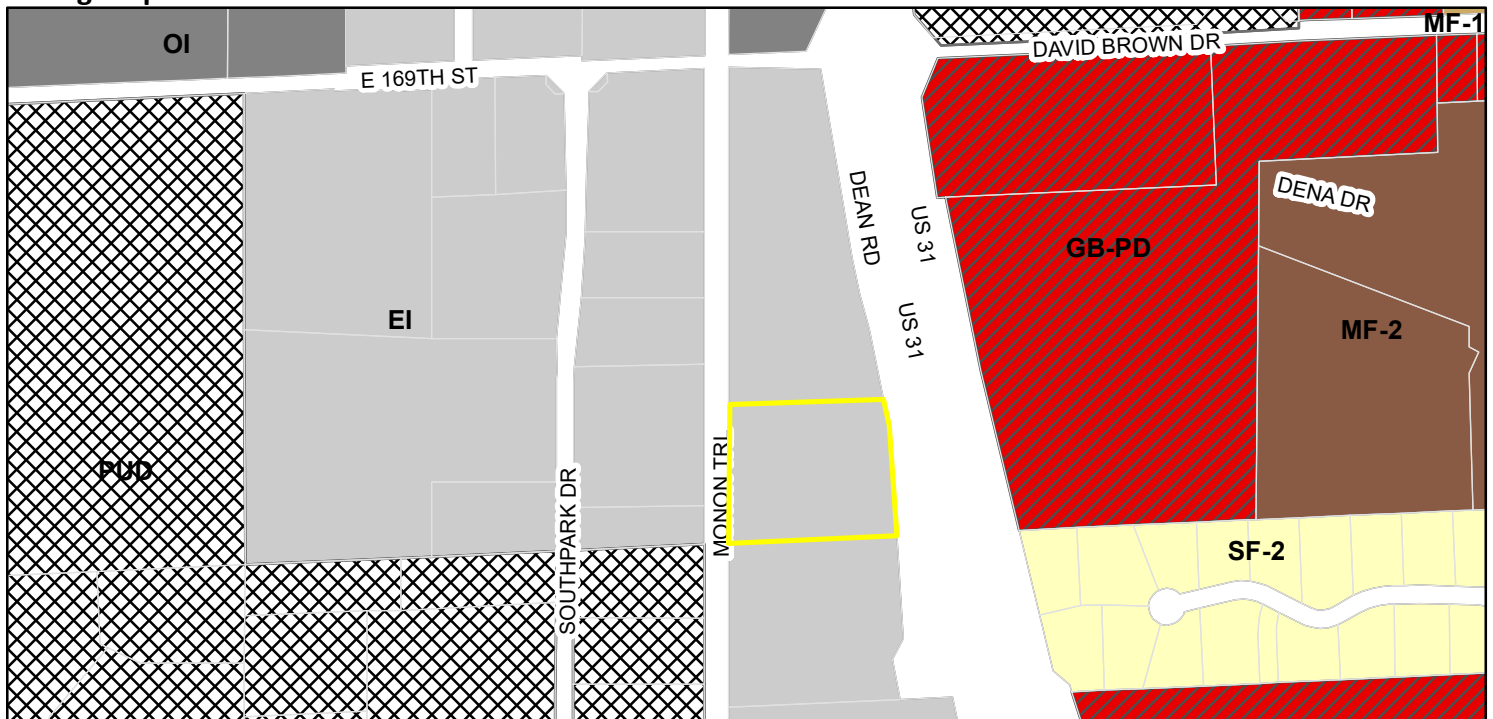
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

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



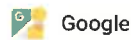
Imagery ©2019 Google, Imagery ©2019 IndianaMap Framework Data, Maxar Technologies, Map data ©2019 50 ft

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



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Cindy J. Gossard

**Economic and
Community
Development**

(317) 804-3170

2728 East 171st Street
Westfield, IN 46074

westfield.in.gov

ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 2010006827 (confirm)

This ACKNOWLEDGEMENT, made this 10th 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

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 171st 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.

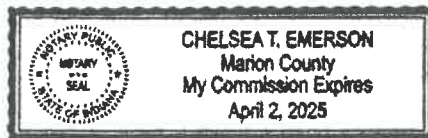
John J. Morse
Applicant/Representative (signature)

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 31st 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.

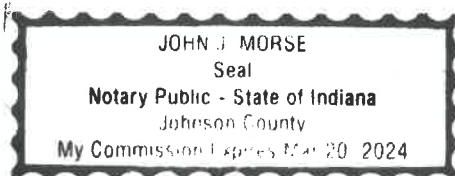
Robert J. Esler
Property Owner (Signature)*

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 31st 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:
- | | |
|---|---|
| ☐ Completed Application | ☐ Legal Description |
| ☐ Draft Public Notice | ☐ List of Adjoining Property Owners (as provided by County) |
| ☐ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☐ Site Plan (to scale) | ☐ Copy of Property Deed |
| ☐ Statement of Intent | ☐ Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to "City of Westfield") within two (2) weeks of filing.
- D. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- E. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's Rules of Procedure:
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 171st Street
Westfield, Indiana 46074
(317) 804-3470
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 15th 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

B 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 15th 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

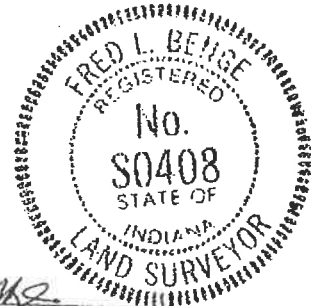
Key Number 29-09-01-000-014.000-015

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 8th day of April, 2011


Fred L. Bengé

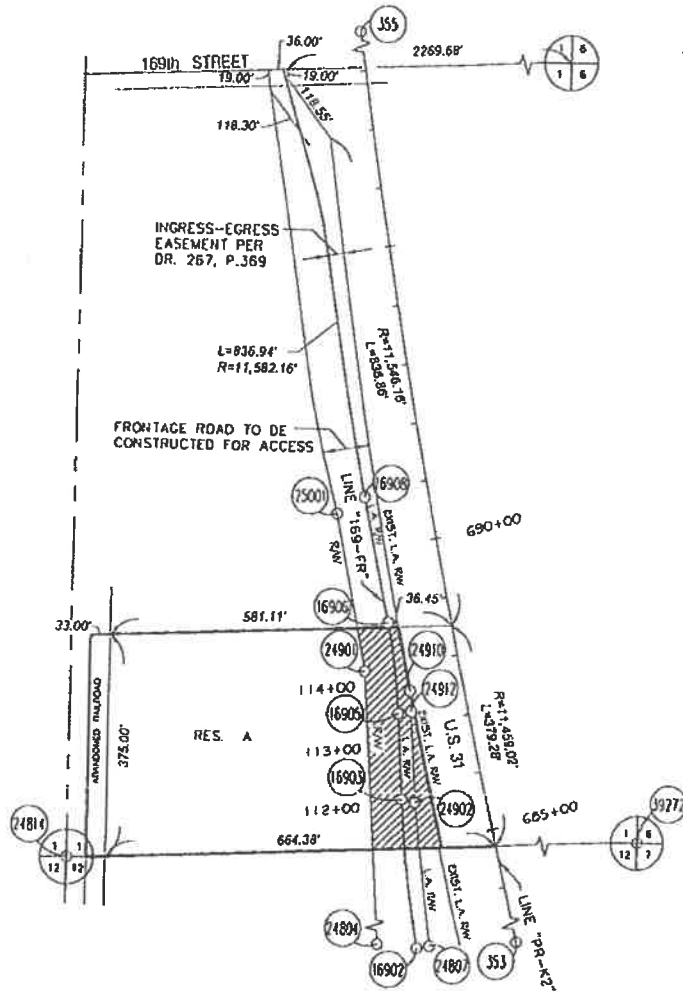


RIGHT-OF-WAY PARCEL PLAT

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

SHEET 1 OF 1

0 100 200
SCALE: 1" = 200'



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+59.67	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. 2000063311 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

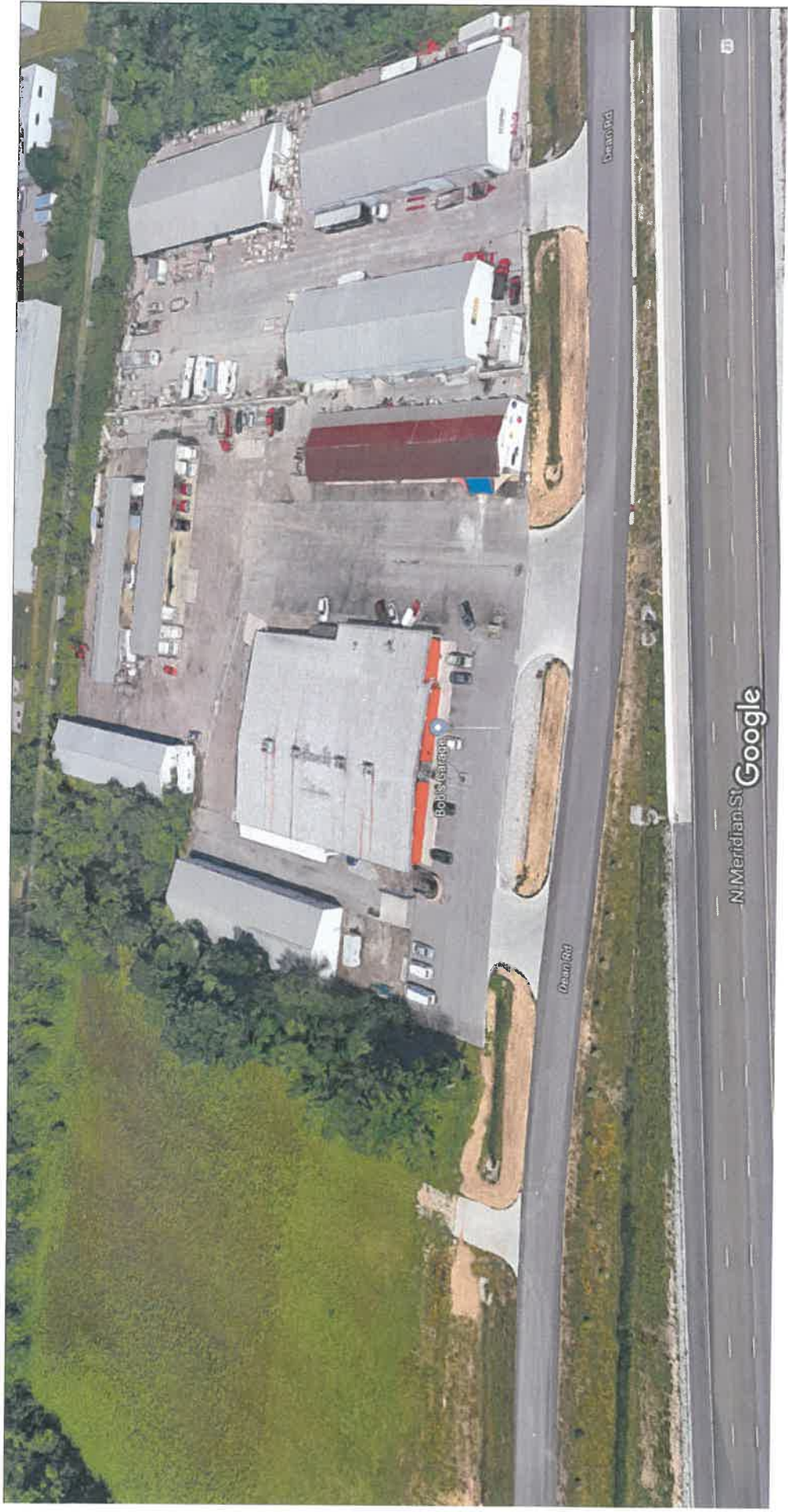
DRAWN BY: D. TRUEBLOOD DATE: 04-05-11
CHECKED BY: F. DENCE DATE: 04-07-11

CURTCLAW 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

PROPERTY DESCRIPTION - INSTRUMENT NO. 2010-2010

BLVD/AVENUE REPORT

ALTA/ACSM LAND TITLE CERTIFICATION

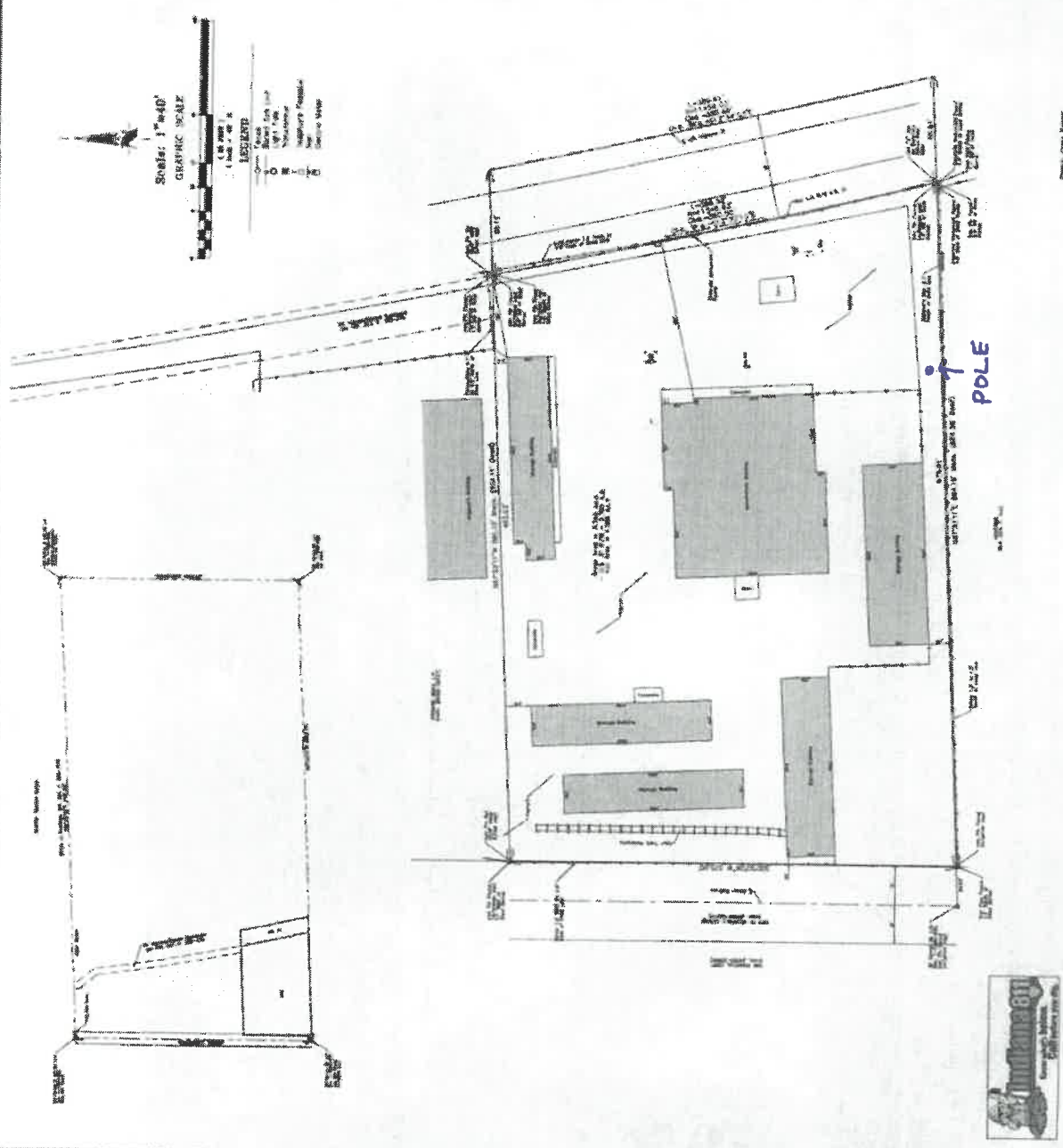
FLOOD ZONE STATEMENT

NOTES

RECEIVED

HAIN SURVEYING GROUP, INC.
 1000 EAST 10TH AVENUE, SUITE 200
 DENVER, CO 80202
 PHONE: (303) 440-0000 FAX: (303) 440-0001
 E-MAIL: HAIN@HAINSURVEYING.COM

ALTA/ACSM LAND TITLE SURVEY AT
 1000 EAST 10TH AVENUE, SUITE 200, DENVER, CO 80202



OCT 20 2010

WESTFIELD COMMUNITY
 DEVELOPMENT DEPARTMENT