



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_12_12_2017

Tuesday, December 12, 2017 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, December 12, 2017 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

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

Approval of Minutes

Documents: [BZA Minutes - November 14, 2017](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

1712-VU-07 [PUBLIC HEARING]

900 East 169th Street

Presley Property Management Group by Coots, Henke & Wheeler

The Petitioner is requesting a Variance of Use to permit a Very High Intensity Retail Use on 5.85 acres +/- in the OI: Open Industrial District (Article 13.2).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Proposed Building Location](#) | [Exhibit 4: Proposed Elevations](#) | [Exhibit 5: Character Exhibit](#) | [Exhibit 6: Application](#)

1712-VU-08 [PUBLIC HEARING]

227 Jersey Street

Erin O'Rear

The Petitioner is requesting a Variance of Use to permit a community arts center with a commercial component on 0.24 acres +/- in the MF1: Multi-Family Low Density District (Article 13.2).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Conditions](#) | [Exhibit 4: Grand Junction Task Group Support](#) | [Exhibit 5: Petitioner's Narrative](#)

1609-AA-01 [CONTINUED]

14939 Ditch Road

The petitioner is appealing an Administrative Determination (1604-AD-02) regarding standards applicable to a concrete business pursuant to a previously approved Variance of Use (79-V-12).

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, November 14, 2017, at Westfield City Hall.

Members present included Jeannine Fortier, Ken Kingshill, Martin Raines, Dave Schmitz, and Robert Smith.

Also present were Pam Howard Associate Planner; Daine Crabtree, Associate Planner; Caleb Ernest, Associate Planner; and Brian Zaiger, City Attorney.

ROLE CALL

Noted presence of a quorum.

APPROVAL OF MINUTES

Kingshill moved to approve the October 10, 2017 meeting minutes as presented.

Raines seconded, and the motion passed 5-0.

APPROVAL OF 2018 SCHEDULE OF MEETINGS AND FILING DATES--Amended

Schmitz moved to approve the Amended 2018 Schedule of Meetings and Filing Dates.

Raines seconded, and the motion passed 5-0.

REVIEW OF RULES AND PROCEDURES

Howard reviewed BZA rules and procedures.

ITEMS OF BUSINESS**1711-VU-04****[PUBLIC HEARING]****17414 Tiller Court**

Ryan Warzynski on behalf of Tucker Automotive

The Petitioner is requesting a Variance of Use to permit vehicle sales in the EI: Enclosed Industrial District (Article 13.2).

Ernest presented an overview and update of this requested Variances of Use.

Ryan Warzynski, petitioner, presented an overview of the details of this request. He stated that the business would be 100% contained to the indoors.

Jeannie Warzynski presented exhibits to show the location and stated that there would be no physical changes to the building, only signage and upgraded landscaping would take place.

Ryan Warzynski stated that he spoke with the business owner and clarified the details of parking and weekend traffic and no concerns remain.

Kingshill asked about number of sales and test drives.

Smith asked about intent of wholesale activity. The petitioner indicated that wholesale activity it is not permitted by law.

Schmitz asked about enforcing outside inventory would not take place. Ernest replied that the statement of intent indicates with in the report and application states that there will be no outside inventory.

Public Hearing opened at 7:13 p.m.

No public comment.

Public Hearing closed at 7:14 p.m.

One comment from an adjacent business owner regarding parking was received and presented to BZA members in their packets.

Raines motioned to approve 1711-VU-04.

Kingshill seconded and the Motion passed 5-0.

Kingshill moved to adopt the Department's recommended findings of facts.

Schmitz seconded and the Motion passed 5-0.

1711-VU-05 &**1711-VS-17****[PUBLIC HEARING]****17925 Sun Park Drive***ALLCAR, LLC on behalf of Chris Woodard*

The Petitioner is requesting a Variance of Use and a Variance of Standard for temporary relief from the standards of the US Highway 31 Overlay District to allow continued operation of a landscaping business (Articles 5.2 and 13.2))).

Crabtree overviewed the details of these requests for a Variance of Use and a Variance of Standard.

Public Hearing for both 1710-VU-05 & 1711-VS-17 opened at 7:29 p.m.

No public comment.

Public Hearing for both 1710-VU-05 & 1711-VS-17 closed at 7:29 p.m.

Schmitz motioned to approve 1710-VU-05 & 1711-VS-17 with the condition that the Variance of Use and Variance of Development Standard would expire December 31, 2020 with the opportunity for two (2) one-year automatic extensions provided that the circumstances of the Petitioner remain unchanged.

Kingshill seconded and the Motion passed 5-0.

Schmitz moved to adopt the Department's recommended findings of facts.

Raines seconded and the Motion passed 5-0.

1711-VU-06

21109 Horton Road

[PUBLIC HEARING]

Dave Mennel on behalf of the Kiwanis Club of Carmel Golden K

The Petitioner is requesting a Variance of Use to permit a Light Industrial Use in the AG-SF1: Agriculture/Single-Family Rural District (Article 13.2).

Crabtree introduced and overviewed the requested Variance of Standards to allow for the use of a structure on the property for light industrial use for woodworking.

Charlie Johnson, with the Kiwanis Club of Carmel Golden K gave an overview of the Kiwanis Club's project of making wooden toys for children. He explained that this project has grown to the point of needing a larger location for production. Several Indiana organizations are recipients of these toys.

Kingshill asked about the type of equipment used in producing the toys, and about truck traffic.

Johnson indicated that they deliver the toys via personal cars to their Westfield storage unit and/or storage space donated by AT&T.

Schmitz inquired about hours, number of workers and containment of operations to the proposed structure. Johnson indicated that hours would loosely be 9am – 4pm with two to six volunteer workers at a time each working 16 – 20 hours per week.

Public Hearing opened at 7:44 p.m.

Roger Drayer, 2822 Hazel Foster Drive, Carmel; stated he is the landlord of the property and he clarified the structure that would be used. The renters of the property have no concerns. He supports this request.

Public Hearing closed at 7:47 p.m.

Kingshill motioned to approve 1711-VU-06 with the following conditions:

1. The nature of the 'Light Industrial' use allowed on the Property shall be restricted to Woodworking and reasonable associated activities;
2. The Variance of Use shall be restricted to the existing 40' x 40' barn (the "barn") located on the property and vehicular parking and loading areas near the barn;
3. That any increase in intensity of the Light Industrial use shall require the approval of a new Variance of Use;

Raines seconded and the Motion passed 5-0.

Raines moved to adopt the Department's recommended findings of facts.

Schmitz seconded and the Motion passed 5-0.

1609-AA-01
[CONTINUED]

14939 Ditch Road
Indiana Structural Foundations, LLC
The petitioner is appealing an Administrative Determination (1604-AD-02) regarding standards applicable to a concrete business pursuant to a previously approved Variance of Use (79-V-12).

REPORTS/COMMENTS

Plan Commission Liaison Report.

Economic and Community Development Department

Raines motioned to adjourn the meeting.

Smith seconded, and the motion passed.

The meeting adjourned at 7:53 p.m.

Chairperson
Robert Smith, Esq.

Secretary
Matthew S. Skelton, Esq., AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

December 12, 2017

1712-VU-07

Exhibit 1

Petition Number: 1712-VU-07

Subject Site Address: 902 East 169th St. (The "Property")

Petitioner: Presley Property Management Group, LLC (The "Petitioner")

Representative: E. Davis Coots

Request: The Petitioner is requesting a Variance of Use to permit a Very High Intensity Retail use on 5.85 acres +/- in the OI: Open Industrial District.

Current Zoning: OI: Open Industrial District

Current Land Use: Vacant

Approximate Acreage: 5.85 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Proposed Building Location
4. Proposed Elevations
5. Character Exhibit
6. Application

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject Property is 5.85 acres +/- in size and is located at 902 E 169th Street (see **Exhibit 2**). The Property is currently zoned Open Industrial. The surrounding properties are zoned the Oak Ridge Properties PUD to the north, EI: Enclosed Industrial to the east, EI: Enclosed Industrial and the Hayworth Business Park PUD to the south, and OI: Open Industrial to the west. The Property currently contains the business Storage Solutions (see **Exhibit 2**).

The Petitioner intends to construct a 7,600 square foot building to the south of the existing Storage Solutions business building (see **Exhibits 3, 4 and 5**).

Variance Request: The Petitioner is requesting a Variance of Use to permit a Very High Intensity Retail¹ use on 5.85 acres +/- in the OI: Open Industrial District.

SUMMARY OF VARIANCE

¹ Chapter 12 of the UDO defines "Very High Intensity Retail" as "Retail businesses that have a very high impact on neighboring properties, traffic generation, and public safety and that inherently operates in whole or part outdoors through sale, display or other general activities. Example businesses include, but are not limited to: ... heavy equipment sales, tool and light equipment rental...."



The Petitioner is requesting this variance to allow operation of a Very High Intensity Retail on the Property. The Petitioner intends on using the building to house an equipment and tool sale and rental business located at 902 E 169th Street. The Petitioner intends on using the building for inside and outside storage of equipment and tools generally used in construction, industry and by consumers/homeowners.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The "Plan") identifies the property within the "business park" land use classification². The vision for the employment corridor classification is contemplated to be reserved for employment-generating uses and related supporting service uses.

The business park classification is designed to accommodate manufacturing, research and development, processing activities, office and service uses that provide jobs and a tax base for the community. The Plan also contemplates business parks to:

- be industrial uses that include outdoor storage or that generate other external impacts that should be limited to the interior of business parks:
- encourage building materials and colors that are appropriate to the setting. Appropriate land uses include manufacturing, subordinate office, retail, and services, research and development and warehousing:
- meet or exceed all federal, state, and local environmental standards: and
- maintain attractive and appealing business and industrial areas through landscaping, setbacks, and building design³.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use. This petition is scheduled to receive its public hearing at the December 12, 2017, 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 UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location,

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

³ Pages 56-57 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; Business Park.

⁴ Article 10.14(l) Processes and Permits; Variances; Conditions of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

December 12, 2017

1712-VU-07

Exhibit 1

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 UDO⁵ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

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

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Use (1712-VU-07), then the Department recommends the following conditions and findings as set forth below, for the variance:

Recommended Conditions:

- 1) Materials resemble/match existing building.
- 2) No emission of smoke, odors or noise.

Recommended Findings for Approval:

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

Finding: It is unlikely that allowing the construction of a 7,500 square foot building on the Property will be injurious to the public health, safety, morals, and general welfare of the community, as there will be no emission of smoke, odors or noise from the Property.

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent properties as the surrounding properties are zoned as OI: Open Industrial, commercial, or industrial. The variance will not intensify open industrial use, but will be consistent with permitted uses.

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

Finding: The Variance of Use is required in order to establish the Property for a more intense use of Very High Intensity Retail, which includes the rentals of tools and equipment, otherwise not allowed in the OI: Open Industrial District.

- 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 proposed use is similar to many uses permitted in open industrial, and tool and equipment rental blends with the existing surrounding industrial uses.

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

Finding: This use does not substantially alter the characteristics of the Property and will maintain the current industrial feel of the Property.



WESTFIELD-WASHINGTON TOWNSHIP

BOARD OF ZONING APPEALS

December 12, 2017

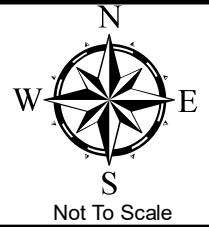
1712-VU-07

Exhibit 1

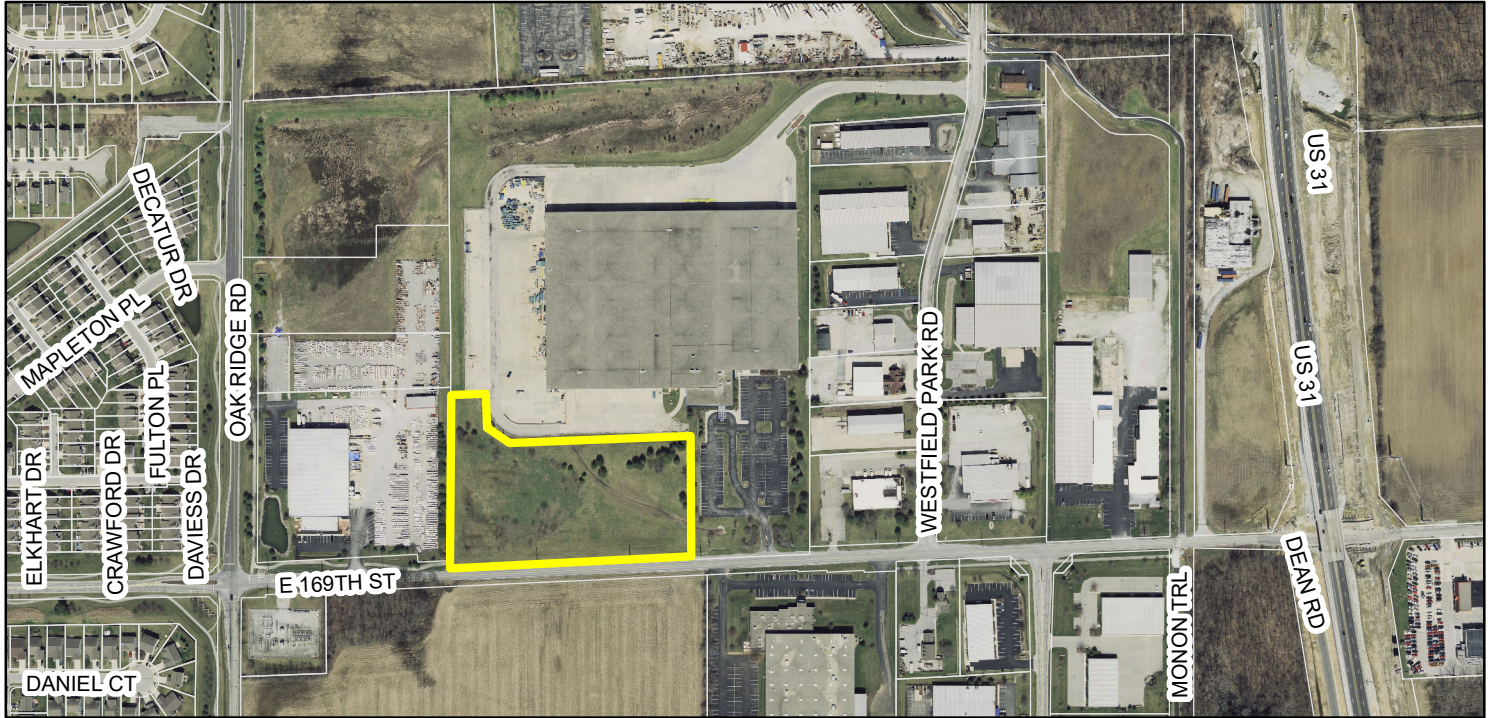
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



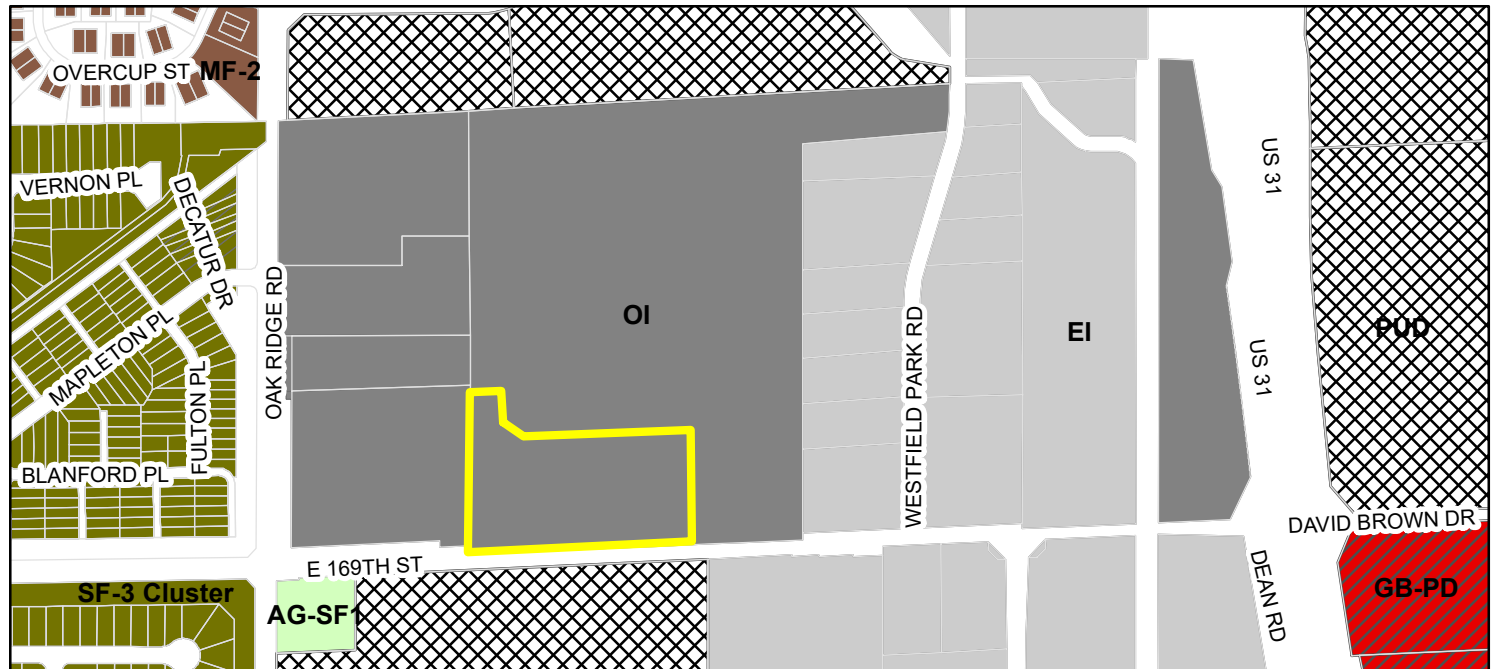
Property Location Map
Sunbelt Rentals, Inc.
Variance of Use
1712-VU-07



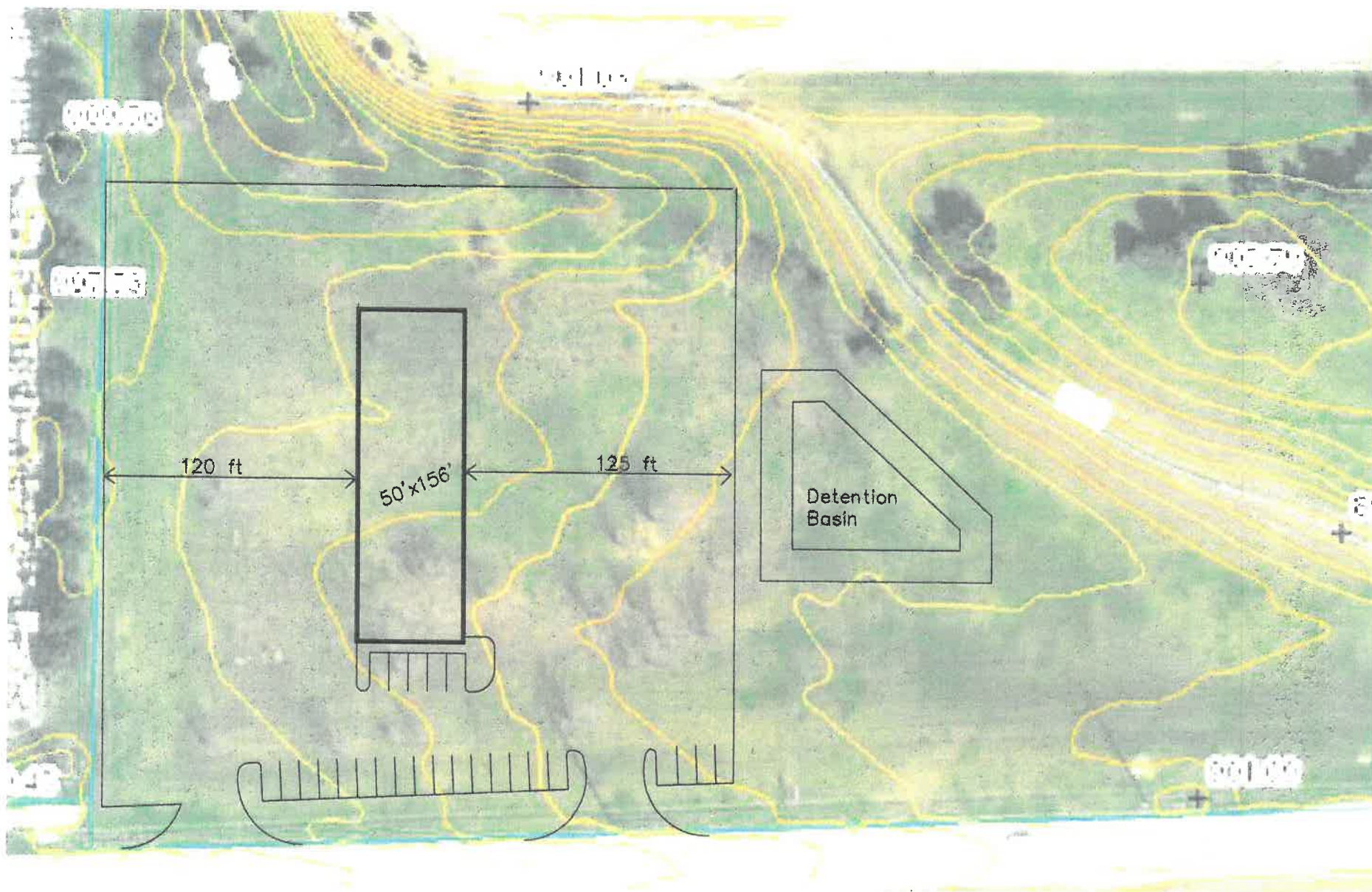
Aerial Location Map



Zoning Map

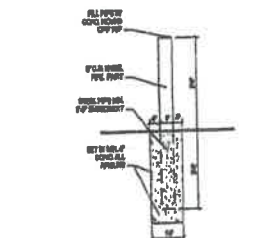


	Parcel		GB-PD (General Business - Planned Development)
Zoning - All			MF-2 (Multiple Family - 2)
Zoning			OI (Open Industrial)
	AG-SF1 (Agriculture - Single Family - 1)		PUD (Planned Unit Development)
	EI (Enclosed Industrial)		SF-3 Cluster

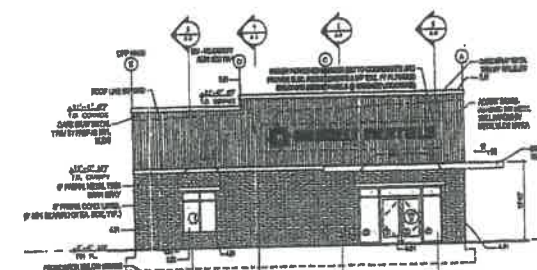


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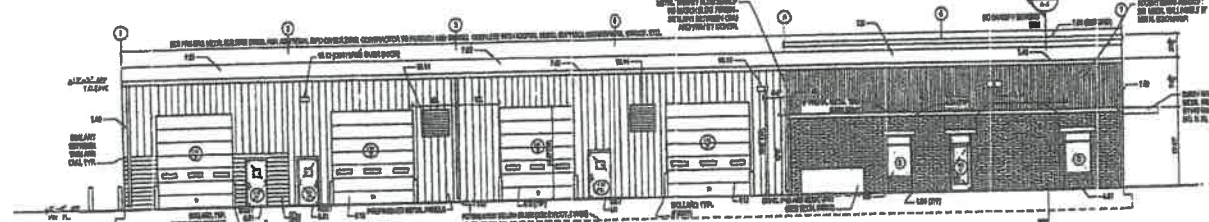
Notes: All rental holding signs will be selected from manufacturer's standard preformed colors except street signs. For color chart writing 700-525 to our office. This sign is to be posted.



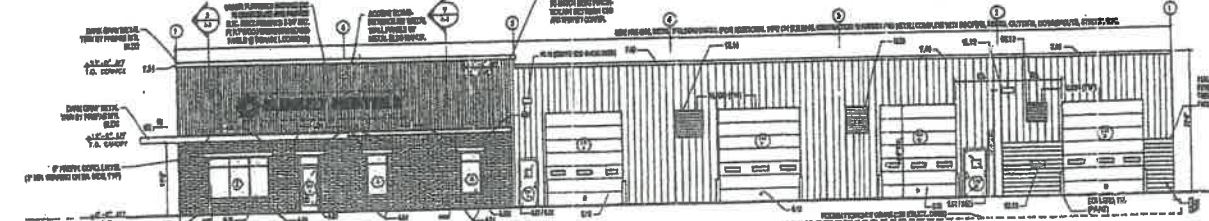
① TYPICAL BOLLARD SECTION
SCALE: 1/2" = 1'-0"



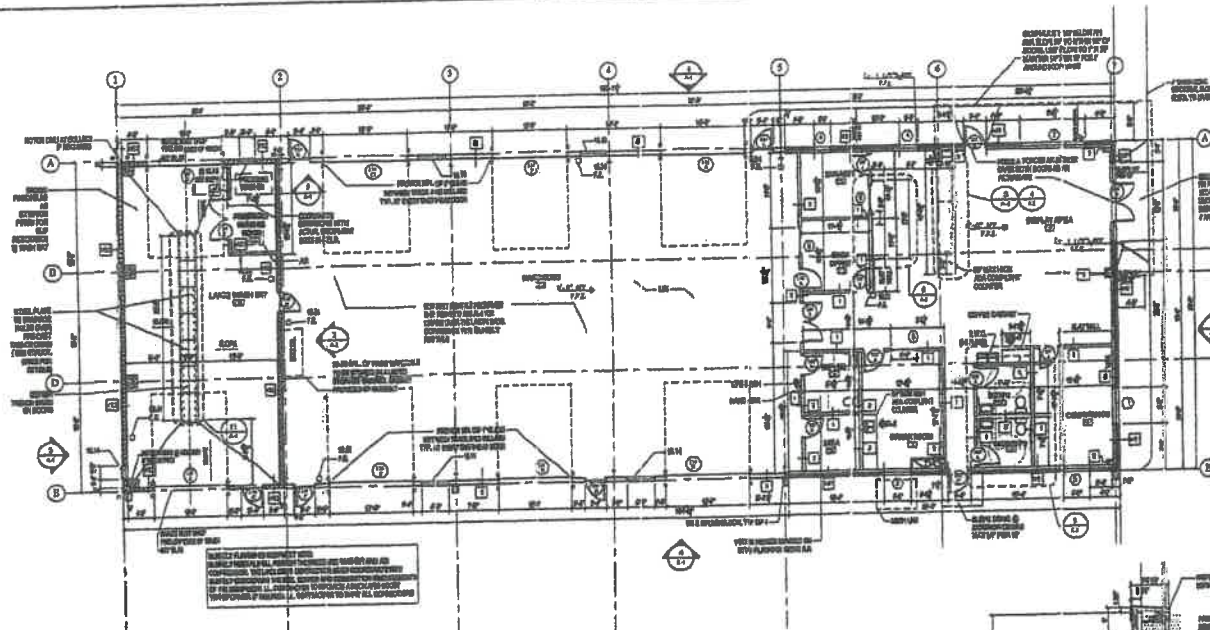
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1/2
ELEVATION
SCALE: 1" = 10'



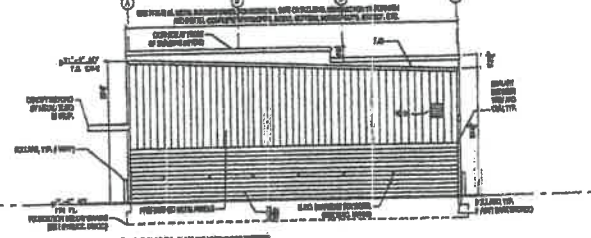
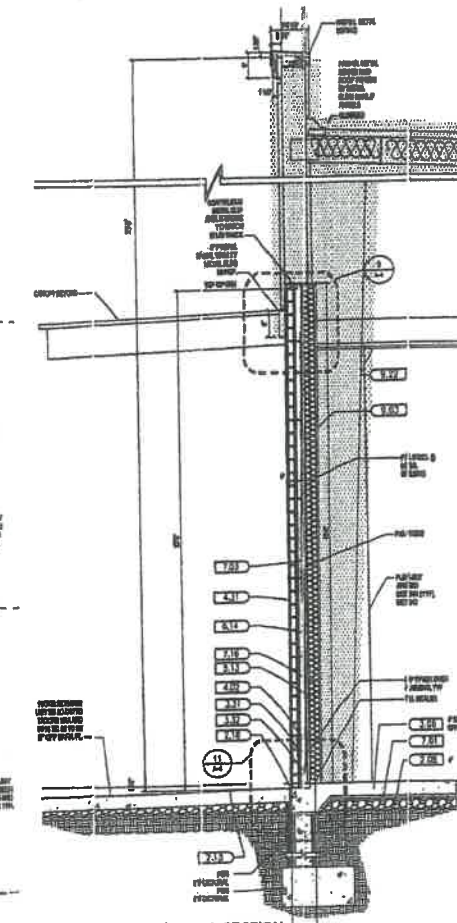
4 ELEVATION



8
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ELEV.
CALC:



FLOOR PLAN
SCALE: 1/8" = 1'-0"


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WALL SECTION
SCALE: 3/4" = 1'-0"

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SUNBELT RENTALS GUIDE PLANS
800.444.4444
WWW.SUNBELTRENTALS.COM

1217 SE N. WORTH AVE., #10
TALLAHASSEE, FLORIDA 32309
TEL: 904/291-1111

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9-11-13

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VARIANCE APPLICATION

OCT 27 REC'D

OFFICE
USE ONLY

DOCKET #: 1712-VU-07

FILING DATE:

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd/Pam Howard (STAFF NAME) DATE: July 25, 2017

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Presley Property Management Group, LLC TELEPHONE: 317-445-5569

ADDRESS: 3787 Goose Creek Road, Freedom, IN 47431 EMAIL: dcoots@chwlaw.com

PROPERTY OWNER'S NAME: Hollingsworth Capital Partners-Indiana, LLC TELEPHONE: 317-639-0494

ADDRESS: c/o One American Square #1300 (attn: Michael Weishaar) EMAIL:

REPRESENTATIVE'S NAME: E. Davis Coots TELEPHONE: 317-844-4693

COMPANY: Coots, Henke & Wheeler, P.C. EMAIL: dcoots@chwlaw.com

ADDRESS: 255 E. Carmel Drive, Carmel, IN 46032

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 900 E. 169th Street, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-09-01-00-00-024.003

EXISTING ZONING DISTRICT(S): OI EXISTING LAND USE(S): Vacant

VARIANCE REQUEST

☒ VARIANCE OF LAND USE CODE CITATION: 4.25☐ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION:

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

The applicant seeks to construct a 7500 square feet building to house an equipment and tool rental, sale, display, repair, maintenance, warehousing, inside and outside storage of such equipment and tools generally used in construction, industry and by consumers/ homeowners.



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.

E. Davis Coots
Applicant/Representative (signature)

E. Davis Coots
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 26th day of October, 2017.

State of INDIANA County of Hamilton SS:



Christine M. O'Hara
Notary Public Signature

Christine M. O'Hara
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

Property Owner (signature)*

Property Owner (printed)

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

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

State of _____, County of _____, SS:

Notary Public Signature

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF USE)APPLICANT: Presley Property Management Group, LLC

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: Open industrial zone is designed for warehousing, outdoor storage of equipment, and the more intense use of commercial and industrial uses. There will be no emission of smoke, odors or noise.
- 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: Adjoining property is commercial and industrial. The use requested will not intensify open industrial use, but rather be consistent with permitted uses.
- C. The need for the variance arises from some condition particular to the property involved because: Tool and equipment rental is defined by the ordinance as retail, very high intensity. The property zoned open industrial is intended for a more intense use.
- 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 requested use is similar in definition to many uses permitted in open industrial. Tool and equipment rental blends with surrounding uses and constitutes a desirable use of the property.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The open industrial zoned district provides for heavy commercial and industrial use. The proposed use compliments those permitted uses.

AFFIDAVIT OF NOTICE OF PUBLIC HEARING

DOCKET #: 1712-VU-07

PUBLIC HEARING DATE: December 8, 2017

APPLICANT'S NAME: Presley Property Management Group, LLC

REPRESENTATIVE'S NAME: E. Davis Coots

COMPANY: Coots, Henke & Wheeler, PC

PROJECT TO BE KNOWN AS: Sun Belt Use Variance

APPLICATION TYPE: ☐ CHANGE OF ZONING ☐ TEXT AMENDMENT ☐ COMMITMENTS ☐ PRIMARY PLAT
☐ DEVELOPMENT PLAN (SITE PLAN) ☒ BOARD OF ZONING APPEALS (VARIANCE, SPECIAL EXCEPTION)

PUBLIC NOTICE AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath does hereby certify that notice of public hearing to consider above petition was sent by certified, registered or first class mail to the last known address of each of the following persons, as attached hereto as **Exhibit A**, they being all persons to whom notice was required to be sent by the Plan Commission's Rules of Procedure, and that said notices were postmarked on the 21st day of November, 2017, being at least ten (10) days prior the scheduled public hearing.

I (We) further certify that the notice required to be posted on the subject property described in the above petition was posted on the subject property in accordance with the Plan Commission's Rules of Procedures on the 28th day of November, 2017, being at least ten (10) days prior the scheduled public hearing.


 Applicant/Representative (signature)*

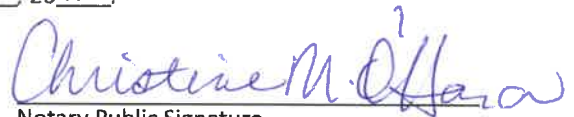
E. Davis Coots
 Applicant/Representative (printed)

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 instrument.

Witness my hand and Notarial Seal this ____ day of November, 2017.

State of Indiana, County of Hamilton, SS:




 Notary Public Signature

Christine M. O'Hara
 Notary Public (printed)



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 12, 2017

1712-VU-08

Exhibit 1

Petition Number: 1712-VU-08

Subject Site Address: 227 Jersey Street

Petitioner: Erin O'Rear

Request: The Petitioner is requesting a Variance of Use to allow a community arts center with a commercial component (Retail, Low Intensity) within an MF-1: Multi-Family Low Density District (Article 4.10) for a five year term.

Current Zoning: MF-1: Multi-Family Low Density

Current Land Use: Residential

Approximate Acreage: 0.24 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions
4. Grand Junction Task Group Support
5. Petitioner's Narrative

Staff Reviewer: Daine Crabtree, Associate Planner

PROPERTY INFORMATION

The subject property is 0.24 acre +/- in size and located at 227 Jersey Street (the "Property") (see **Exhibit 2**). The Property is zoned MF-1: Multi-Family Low Density.

ANALYSIS

The Petitioner is requesting a variance of use to allow a community arts center with a commercial component (Retail, Low Intensity), at 227 Jersey Street, currently zoned MF-1: Multi-Family Low Density. The use classification "Retail, Low Intensity" ¹ is not a permitted use within the MF-1 District.

The Property is located within an area that is identified in the Grand Junction Addendum (the "Addendum"), an addition to the Westfield-Washington Township Comprehensive Plan, as the Grand Junction Plaza Block (the "Sub-Area") of the Grand Junction Sub-District.

¹Chapter 12 of the UDO defines "Retail, Low Intensity" as "retail businesses that have a low impact on neighboring properties, traffic generation, and public safety. Example businesses include but are not limited to: art gallery, banks and savings and loans, bakery with limited seating, barber and beauty shop, book store (small), camera store,



convenience store (small), craft gallery (small), drug store (small), dry cleaning pick-up, flower shop, gift shop, jewelry store, laundromats and self-service dry cleaning, mail order stores, meat market, news dealer and stationary stores. Generally, a business under eight thousand (8,000) square feet qualifies as small for purposes of this definition."

The Addendum states that the Sub-Area should, "have a more urban form than the village or old town form of other sub-areas". The Addendum also states that land uses within the Sub-Area, "are encouraged to be a mix of uses typically associated with central business and entertainment districts and that residential uses should be restricted from the first floor within the sub-area."

Nearby properties (203 Jersey Street and 201 Mill Street) were granted variances (1509-VU-08 and 1603-VU-06 respectively) at previous Board of Zoning Appeals (BZA) meetings, allowing a beauty and barbershop in a former residence and a health and wellness business in a former residence.

This proposal has been reviewed by the Grand Junction Task Group and has received their support (see **Exhibit 4**).

Details of the Variance Request:

Variance of Use: The Property is currently zoned MF-1: Multi-Family Low Density. Retail, Low Intensity is not a permitted use in the MF-1 zoning district (Article 13.2, Use Table).

The requested variance shall be applicable to the property for five (5) years, where the approval of the variance shall expire on December 31, 2022.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use. This petition is scheduled to receive its public hearing at the December 12, 2017, 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 UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefitted by variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires the approval of the variance shall be memorialized in an acknowledgment of

variance instrument prepared by Department. The acknowledgment shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than the Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgment shall be provided to the

²Article 10.14(I) Process and Permits; Variances; Conditions of the UDO

³Article 10.14(K) Process and Permits; Variances; Acknowledgment of Variance of the UDO

Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

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

DEPARTMENT COMMENTS

The area immediately surrounding the Property is either being redeveloped or contemplated for redevelopment in the future in accordance with the Comprehensive Plan and its subsequent amendments for Downtown Westfield such as the Grand Junction Plaza. As a result of these economic development opportunities, there is an emerging desire for transitional businesses in the downtown area that contribute to further activity and liveliness. For these reasons, the Department supports the proposed variance of use to permit a low-intensity retail use, specifically a health and wellness business, on the Property.

The Department recommends approval of 1712-VU-08 with the following conditions and findings:

Recommended Conditions:

1. That the approval of this variance shall expire on December 31, 2022.
2. That any request to extend the time limit for this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2022.
3. The use of the Property shall be limited in scope and operation to the Petitioner's Narrative, attached hereto and incorporated herein as Exhibit 5. Any expansion or substantial alteration to the scope and operation of the Variance of Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.

Recommended Findings for Variance of Use (1611-VU-06):

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

Finding: It is unlikely that allowing a business defined as 'Retail, Low Intensity' to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the request is consistent with the uses contemplated in the City's Comprehensive Plan. The Grand Junction Task Group has stated this proposal is a good interim use in the Grand Junction Plaza area until such time as the property is redeveloped, and a good business to generate visitors and excitement during the Plaza's transition period.

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner as the proposed use will be utilizing only those improvements currently existing on the property which is consistent with the character of the surrounding area. Economic redevelopment activity is anticipated within the proximity of the Property, including the proposed Grand Junction Plaza, that will include more commercial operations.

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

Finding: The use of Retail, Low Intensity is not permitted within the MF-1: Multi-Family Low Density District. The Comprehensive Plan and subsequent Comprehensive Plan Addendums have identified an emerging economic development opportunity in downtown. As this redevelopment will occur overtime, the transitional period warrants the adaptive reuse of existing structures to promote downtown as a destination and lively center to the community.



- 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 Retail, Low Intensity is not permitted within the MF-1: Multi-Family Low Density District. Strict adherence to the Zoning Ordinance would allow for arguably more intense and related uses (nursing home, assisted living facilities); however, would not permit the less intense, but albeit, commercial operation of a low-intensity community arts center.

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

Finding: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") includes this property in the area designated as "Downtown". The Comprehensive Plan recommends that land uses in the Downtown area include commercial, offices, and retail as well as residential. The use of the Property as Retail, Low Intensity of a community arts center with a small commercial component would not interfere substantially with the Comprehensive Plan.

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

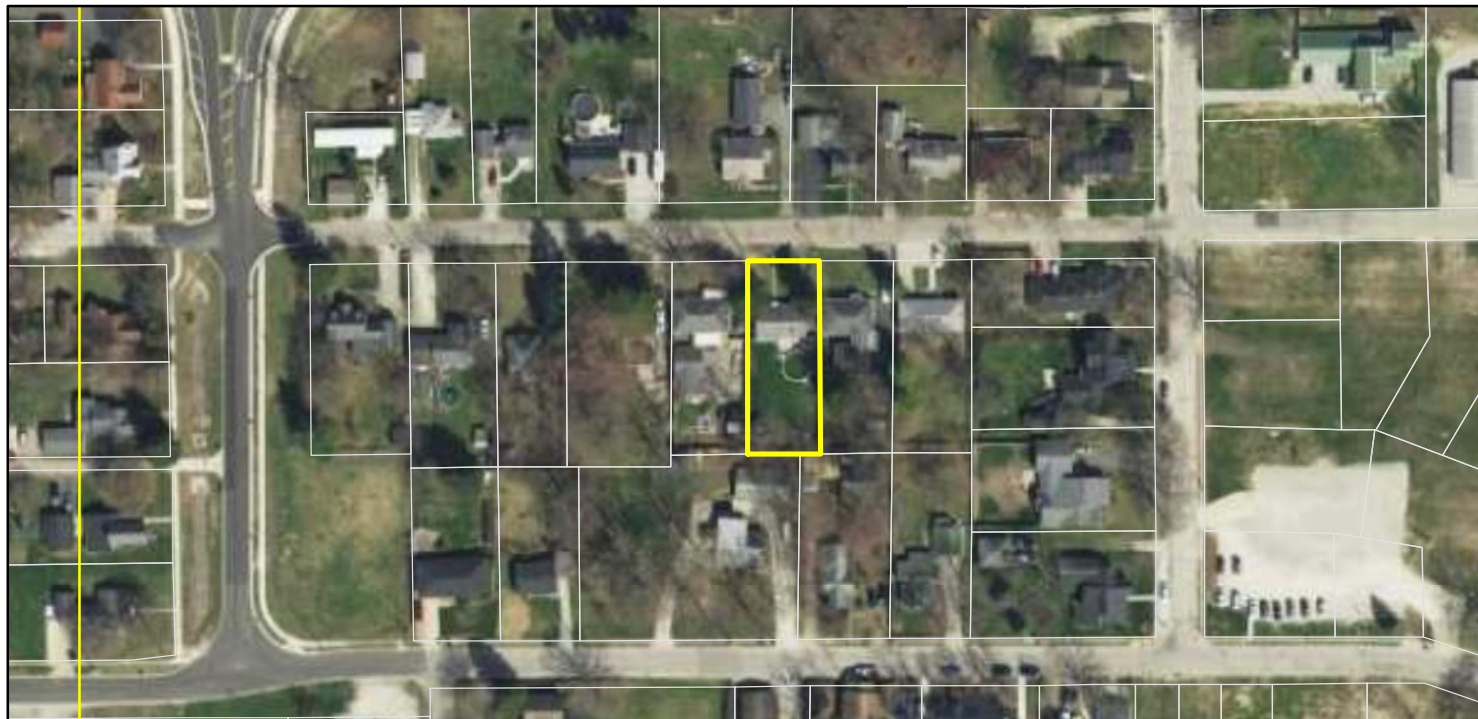
Property Location Map

227 Jersey Street

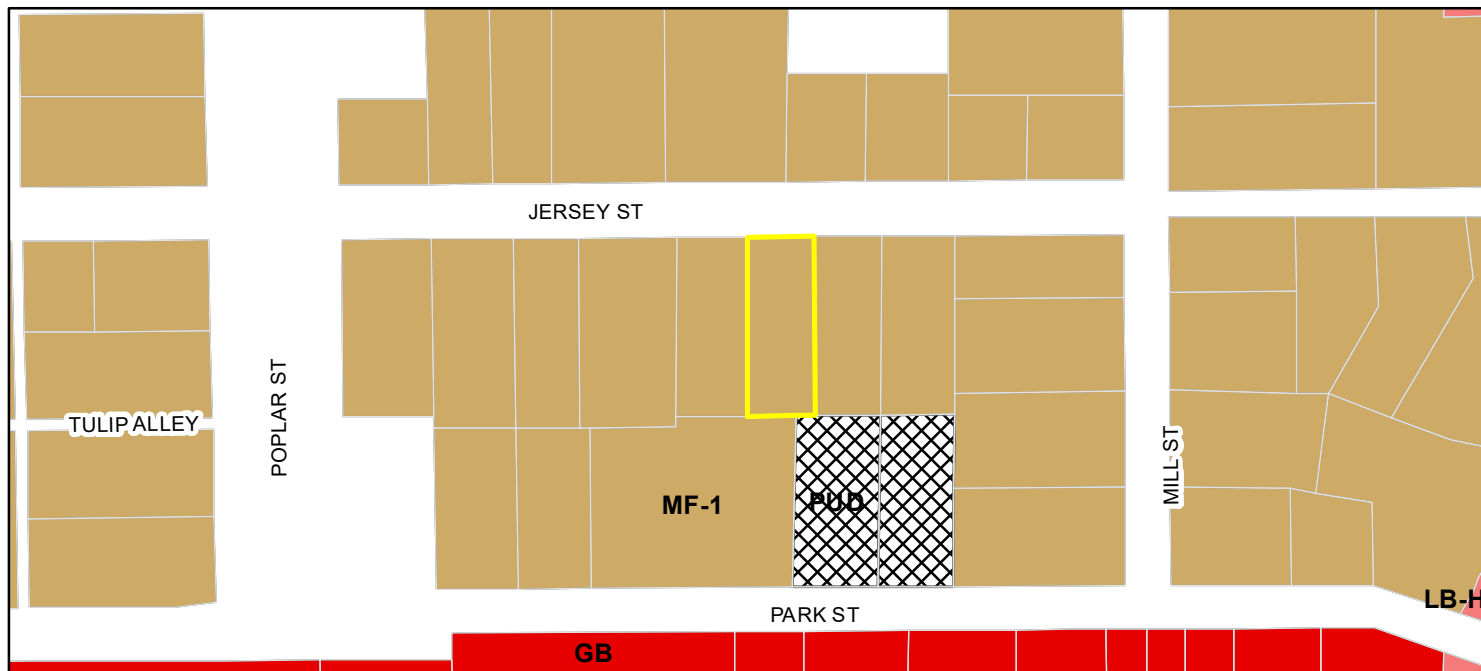
Not To Scale

Aerial Location Map

 Site

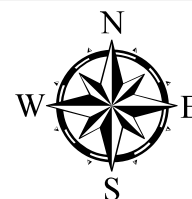


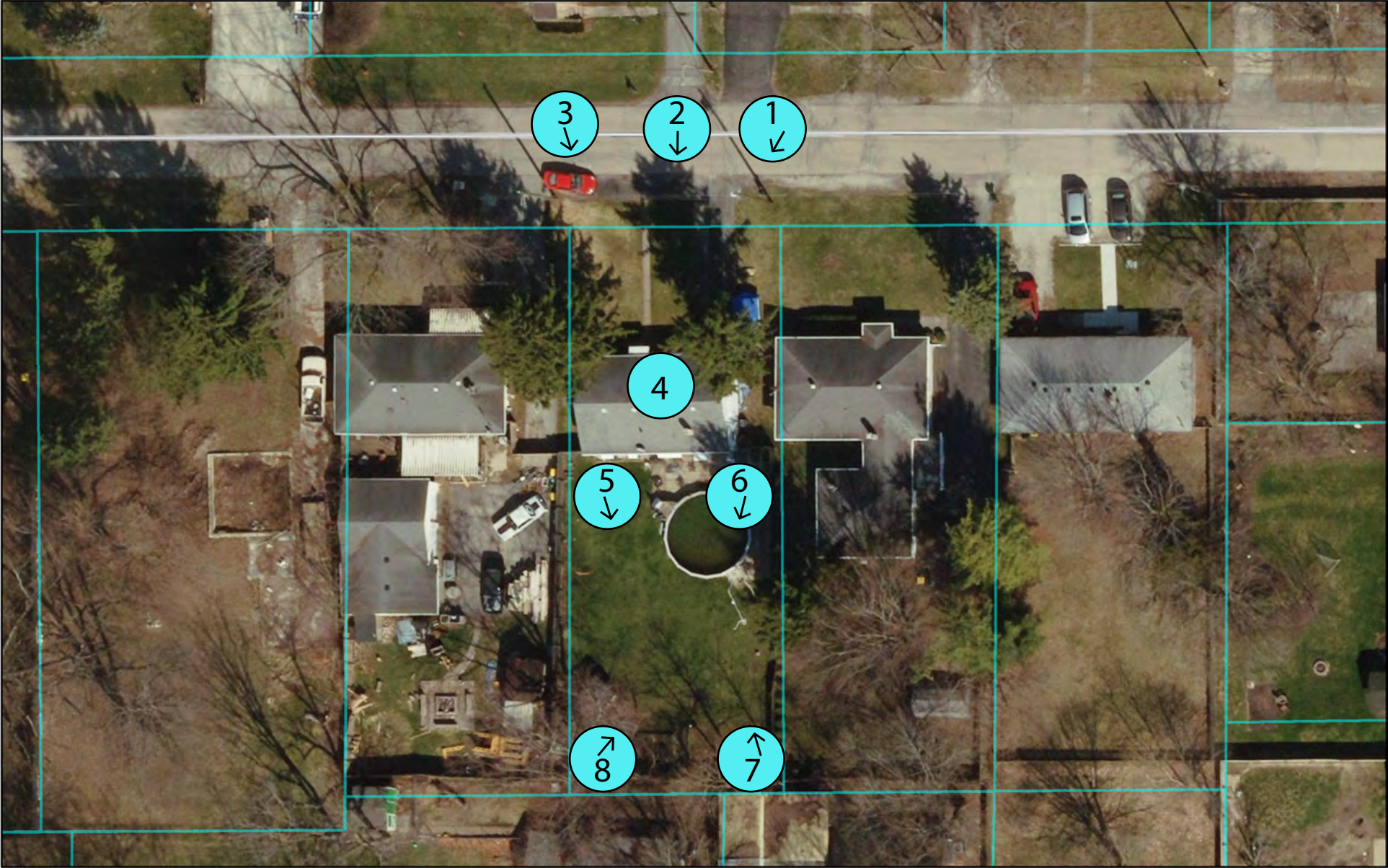
Zoning Map



Legend

-  Parcel
-  GB (General Business)
-  LB-H (Local Business - Historical)
-  MF-1 (Multiple Family - 1)
-  PUD (Planned Unit Development)





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GRAND JUNCTION TASK GROUP

MEETING OCTOBER 10, 2017

AT THE DOWNTOWN WESTFIELD ASSOCIATION OFFICE

The Grand Junction Task Group (GJTG) met Tuesday October 10, 2017 at 9:00 A.M. There were approximately 15 present to hear the presentation of the petition "Variance of Use" of 227 Jersey Street. Erin O'Rear was the presenter. Ms. O'Rear owns and operates Wandering Peacock. She has been in a different location for six years and when the leased property was scheduled for tear down she moved her business in to a family owned property at 227 Jersey Street. She is a potter and teaches youth through classes. She does have a small retail of her pottery and featured artists but is primarily in education. The zoning of said property is currently residential and she would need a "Variance of Use" to operate.

Jersey Street is part of the redevelopment area potentially targeted for more retail, remain residential or parking. This more than likely will be driven by property values and what the state may do with State Road 32.

The group had some questions that were answered satisfactorily. With little exacts in that area the group felt comfortable in supporting the petition with a five year variance.

Someone from the GJTG will be available at the December 12, 2017 public hearing.

As always feel free to contact me with any questions you may have.

Thanks for your service to our Downtown Westfield!

Teresa Skelton, Executive Director
Downtown Westfield Association
(317) 508-33912

Petitioner's Narrative

1712-VU-08

I am creating a community art center, The Wandering Peacock, for our community in Westfield. In the ceramics room, I offer many different classes involving hand-building techniques along with one-on-one wheel-throwing classes for children 8 years of age and older. In the main room, a 6 person table will hold painting and water-color classes. In the kitchen, a 4 person table will hold soap-making, candle-making, ceramic jewelry and encaustic classes. The back yard will hold charity events, tie-dye classes as well as a community garden.

The business will be an asset to the Westfield community, allowing children to thrive due to art therapy techniques and positive creativity.

Children will be contained inside the business or outside in the fenced-in back yard. No trash, children, or art debris will affect any of the adjacent properties. There are many children who live adjacent or nearby and the Wandering Peacock is excited to inspire their creativity.