



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_08_11_2015

Tuesday, August 11, 2015 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, August 11, 2015 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 - July 14, 2015

Documents: [Meeting Minutes 7/14/15](#)

Review BZA Rules & Procedures

ITEMS OF BUSINESS:

1503-VU-02

17777 Commerce Drive

Edward T. Tomich by Badger Engineering, LLC

The petitioner is requesting a modification of a condition of approval for a previously granted Variance of Use to allow an indoor shooting range and related retail sales in the EI: Enclosed Industrial District (1304-VU-01) (Chapter 13: Use Table).

1506-VU-06 [PUBLIC HEARING]

14939 Ditch Road

Jeff Kelich

The petitioner is requesting approval of a Variance of Use to allow a lawn and landscape business in the SF2: Single-Family Low Density District (Chapter 13: Use Table).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Variance Approval 79-V-12](#) | [Exhibit 4: Application](#) | [Exhibit 5: Concept Plan and Landscape Plan](#) | [Exhibit 6: Existing Conditions](#) | [Exhibit 7: Written Commitments](#) | [Exhibit 8: Plan of Operation](#) | [Public Comment](#)

1508-VS-11 [CONTINUED]

2228 East State Highway 38

Ronald M. Clifford by Coots, Henke, Wheeler, LLP

The petitioner is requesting approval of Variances of Development Standard from the Home Business Standards in the AG-SF1: Agriculture / Single-Family Rural District (Article 6.7).

REPORTS/COMMENTS:

APC LIAISON

ECD STAFF

ADJOURNMENT



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

August 11, 2015
1506-VU-06
Exhibit 1

Petition Numbers: 1506-VU-06

Subject Site Location: 14939 Ditch Road

Petitioner: Jeff Kelich

Requests: The petitioner is requesting approval of a Variance of Use to allow a commercial lawn and landscaping business in the Single-Family Low Density District (SF2) District (Chapter 13: Use Table).

Current Zoning: Single-Family 2

Current Land Use: Concrete business

Approximate Acreage: 4.0 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Existing Variance Approval (79-V-12)
4. Application
5. Concept Plan
6. Existing Conditions
7. Written Commitments
8. Plan of Operation

Staff Reviewer: Kevin M. Todd, AICP

PETITION HISTORY

This petition was originally scheduled to receive a public hearing at the June 9, 2015, Board of Zoning Appeals (the "BZA") meeting, however, Public Notice was not properly served for that hearing. The Board denied the petitioner's request at the June 9, 2015 meeting to reduce the public notice mailing requirement, and the case was continued to the July 14, 2015 BZA meeting.

The petitioner met with neighbors on July 8, 2015 and at the July 14, 2015 BZA meeting requested to continue the case to the August 11, 2015 BZA meeting. The request was granted.

All forms of public notice were properly served for the July 14, 2015 BZA meeting. Since the Board granted a continuance of the case to the August meeting, all previous notice was effectively carried over to the August 11, 2015 meeting.



As of the publishing of this report, the petitioner has scheduled a follow-up meeting with neighbors to review and discuss modifications to proposal at a neighbor meeting on August 10, 2015. The petitioner should be able to provide a summary of the meeting to the Board.

PROPERTY HISTORY

On June 18, 1979, the Board of Zoning Appeals approved a variance request to allow the operation of a concrete business and the construction of a storage building on the subject property (see **Exhibit 3**). There were no conditions of approval associated with this variance. Since the variance approval in 1979, a concrete business has operated on the subject property.

ANALYSIS

Location: The subject property is approximately 4 acres +/- in size and is located at 14939 Ditch Road (the "Property"). The Property is zoned Single Family-2 (SF-2). All adjacent property is single-family residential in use. Adjacent property to the north and east is the Centennial Subdivision and is zoned SF-3 (Cluster). Adjacent property to the south is the Centennial South Subdivision and is zoned Centennial South PUD District. Adjacent property to the west is the Harmony Subdivision and is zoned Harmony PUD District.

Variance Requests: The request is to allow a new commercial lawn and landscaping business, including a limited retail component, on the Property. If approved, the proposed use would replace the existing use of the Property as a concrete business location.

Project Description: The proposed use would include outdoor storage of landscaping materials, plant materials, and equipment, as depicted in the proposed concept plan (see **Exhibit 5**). As proposed, the existing buildings would be used as an office and a retail shop. The proposed concept plan depicts new landscaping around the perimeter of the Property. If the use is approved through this variance request, then any new structures, parking areas, or any improvement requiring an Improvement Location Permit would require Development Plan review and approval by the Advisory Plan Commission.

Existing Screening and Buffering: It appears that existing screening and buffering along the perimeter of the site occurs on the Centennial/Centennial South side of the property line. The north property line has a wood privacy fence with trees. The east property line has a mature tree line. The west property line has an undulating mound, trees, and a privacy fence (see **Exhibit 6**). The petitioner is proposing the addition of landscaping around portions of the perimeter of the property (see **Exhibit 5**).

Land Use: Landscaping businesses in Westfield-Washington Township are not typically surrounded by suburban residential development. This would be an uncommon circumstance, if approved. Most of the landscaping businesses found in Westfield-Washington Township are either in rural or commercial/industrial areas of the community and either pre-date zoning or are allowed by variance.



The UDO groups “landscaping contractors” under the land use term “Construction Trade Office”, which is allowed by-right in the Enclosed Industrial and Open Industrial Districts and is allowed by Special Exception in the General Business District. The Property is currently being used as a concrete business with outdoor activity, and changing the use of the SF-2 property to a landscaping business with outdoor activity could arguably be considered a lateral change in terms of overall land use intensity and impact on the surrounding area.

The petitioner met with neighbors when he hosted a meeting on July 8, 2015 to discuss the proposed use and variance request, and is scheduled to have a follow-up meeting with neighbors on August 10, 2015. Neighbor support regarding the proposed change in use should be considered by the Board. The Board may want to request an update from the petitioner regarding the status of neighbor discussions and support levels.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan (the “Comprehensive Plan”) identifies this Property within the “Suburban Residential”¹ land use classification. The Comprehensive Plan does not contemplate a landscaping business within the Suburban Residential area. Residential, institutional, and recreational uses are listed as appropriate land-use types within the Suburban Residential classification.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the July 14, 2015, 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 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.

Development Plan Approval: If the Board of Zoning Appeals approves the requested Variance of Use and Variance of Development Standard, then certain future site improvements would be required to obtain Development Plan approval by the Advisory Plan Commission.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ 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

¹ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

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

³ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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 of use from the terms of the zoning ordinance. The Board may impose reasonable conditions as a part of its approval. A variance may be approved under Ind. 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 of use arises from some condition particular 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 of use is sought; and,
5. The approval does not interfere substantially with the comprehensive plan.

FINDINGS OF FACT

- A. If the Board is inclined to **APPROVE** the variance of use request, 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 a landscaping business on the Property would be injurious to the public health, safety, morals, and general welfare of the community. A concrete company has operated on the Property for 36 years, and a landscaping operation would have a similar impact on the site and the surrounding area.

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 that the use and value of adjacent property will be affected in a substantially adverse manner. The proposed use would enhance the property at the property lines by installing proper buffering, thus improving the value of the property. Feedback from adjacent property owners should provide insight regarding the impact on adjacent properties.



3. *The need for the variance of use arises from some condition particular to the property involved:*

Finding: The subject property has been used as a concrete business with outdoor activity for 36 years and has been enveloped by residential development over that timeframe. Given the size of the property and its lack of connections to adjacent residential development, redeveloping this Property for residential development would be difficult.

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 of use is sought:*

Finding: Strictly applying the zoning ordinance would not permit the requested use. Per the UDO, landscaping businesses are only allowed by-right in industrial districts and the GB District by Special Exception. This use is typically found in either agricultural or industrial areas of the Westfield community. However, the previous (and current) use of this property as a concrete business with outdoor activity, coupled with the fact that this property has been surrounded by residential development and not provided any connection points, lends itself to re-purposing the site for a landscaping operation with minimal site improvements.

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

Finding: The proposed land use is not contemplated in the Suburban Residential area of the Comprehensive Plan. However, the proposed use is not very dissimilar from the existing concrete business use, in terms of land-use intensity, and could be considered a similar continuation of the existing land use type.

B. If the Board is inclined to **DENY** the variance of use request, 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 a landscaping business on the Property would be injurious to the public health, safety, morals, and general welfare of the community. A concrete company has operated on the Property for 36 years, and a landscaping operation would have a similar impact on the site and the surrounding area.



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 possible that the use and value of adjacent property will be affected in a substantially adverse manner. While similar because there are outdoor activities involved in both, concrete operations and landscaping operations are not the same thing. Landscaping operations could have more intense and frequent outdoor activity than a concrete company could have. Feedback from adjacent property owners should provide insight regarding the impact on adjacent properties.

3. The need for the variance of use arises from some condition particular to the property involved:

Finding: Either a small, single-street residential subdivision project could theoretically develop on the 4-acre property, a single home could be built on the property, or one of the permitted institutional uses could build on the property. Either way, the property could be used in a manner that is consistent with permitted uses in the SF-2 District.

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 of use is sought:

Finding: Strictly applying the zoning ordinance would not permit the requested use. Landscaping businesses are permitted elsewhere within Westfield-Washington Township, and this site that is surrounded by suburban residential development is not the most appropriate location for this use. The Property could be used in a manner that is consistent with permitted uses in the SF-2 District.

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

Finding: The proposed land use is not consistent with the recommendations for the Suburban Residential area of the Comprehensive Plan, which calls for residential, institutional, and recreational uses.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

August 11, 2015
1506-VU-06
Exhibit 1

DEPARTMENT RECOMMENDATIONS

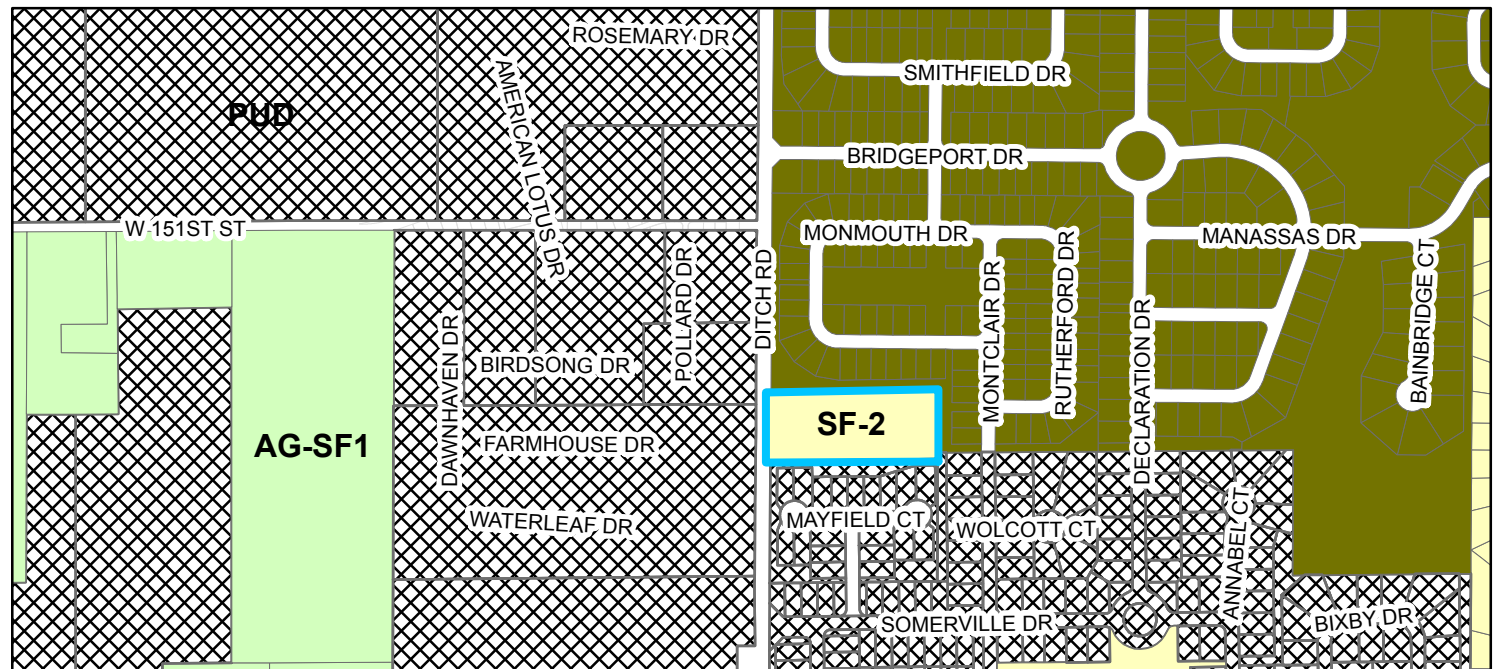
If the Board approves 1406-VU-06, then the Department recommends the following conditions:

1. BZA Case No. 79-V-12 be repealed and deemed no longer valid;
2. Subject to the petitioner's Written Commitments (**Exhibit 7**) being executed and recorded within thirty (30) days of the approval of this request; and,
3. Subject to the petitioner's submitted Plan of Operation (see **Exhibit 8**).

Aerial Location Map



Zoning Map



Zoning

- | | |
|--|--------------------------|
| PUD (Planned Unit Development) | SF-2 (Single Family - 2) |
| AG-SF1 (Agriculture - Single Family - 1) | SF-3 Cluster |
| Parcel | |

Town of Westfield

130 PENN STREET
P.O. BOX 322
WESTFIELD, INDIANA 46074

June 20, 1979

Pettijohn & Banks
15111 Oak Road
Carmel, Indiana 46032

Gentlemen:

On Monday, June 18, 1979, the Westfield-Washington Board of Zoning Appeals met to consider your application #79-V-12 requesting a variance of use to permit construction of an additional storage building and continued operation of a non-conforming concrete business and removal of an existing building, for the property located at 14939 Ditch Road. The Board of Appeals by a vote of 4 to 0 unanimously approved and granted your petition.

When you are ready to begin construction, you may obtain an Improvement Location Permit at the office of the Building Commissioner. The hours are Monday, Tuesday, Thursday, and Friday from 9:00 A.M. until 3:00 P.M. and Wednesday from 9:00 A.M. until noon.

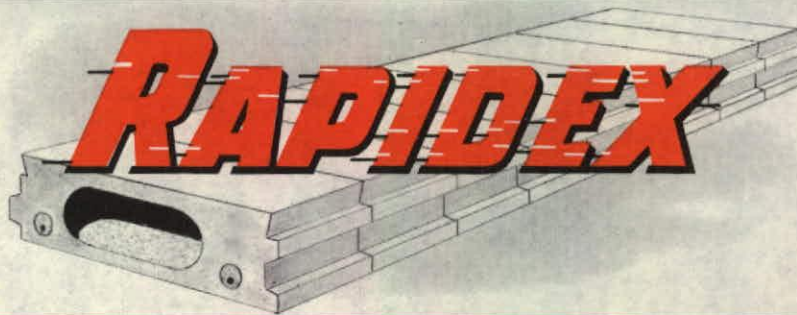
Yours truly,

Virginia C. Norris

Virginia C. Norris

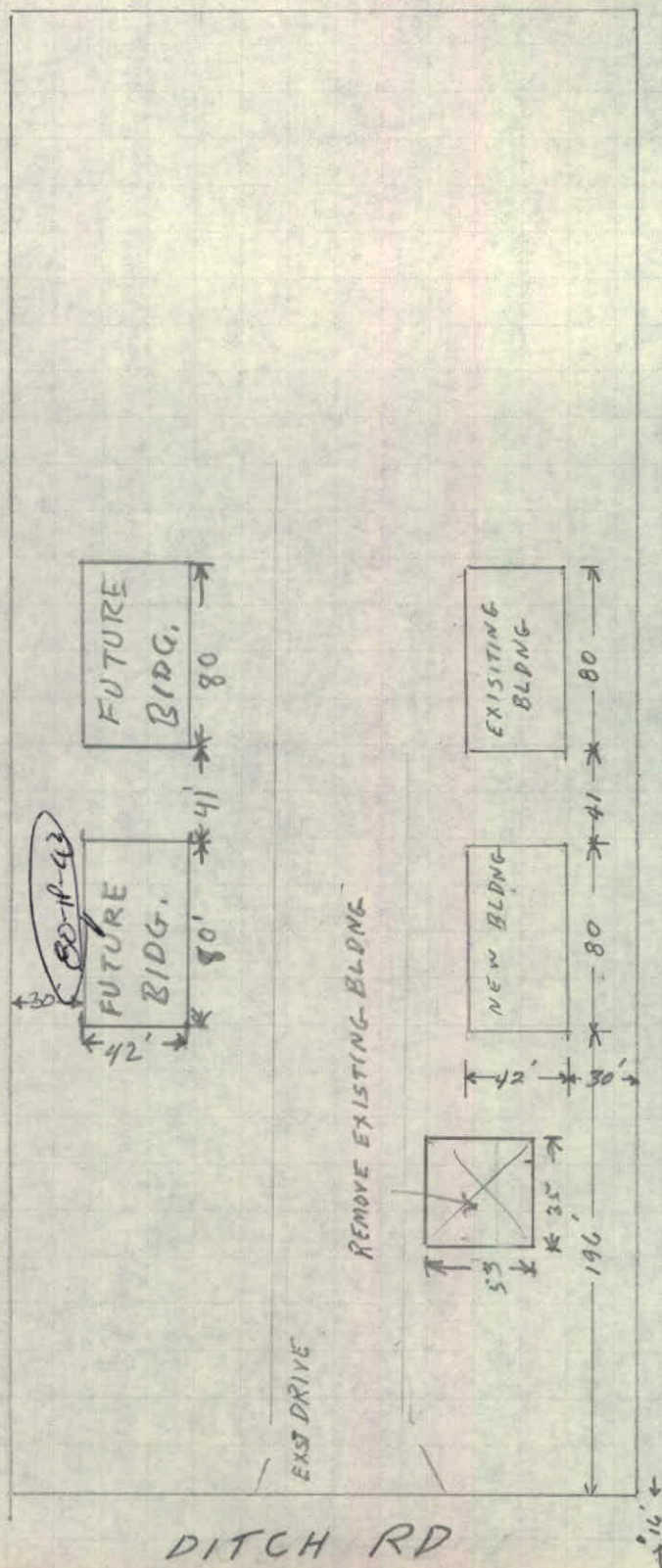
Secretary, Board of Zoning Appeals

LIGHT WEIGHT •
 ACOUSTICAL •
 ECONOMICAL •
 INSULATING •



• FIRE RESISTIVE
 • PRE-ARCHED
 • LONG SPAN
 • UNIFORM TEXTURE

NORTH ↑



EST APPROX COST @ 9.00 SQ FT = \$30,240

SPICKELMIER INDUSTRIES, INC.

1100 East 52nd Street • Indianapolis 5, Indiana

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION



OFFICE USE ONLY DOCKET #: 1506-VU-06 FILING DATE: _____
FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: 4/30/15

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Jeff Kelich TELEPHONE: 317-710-3989
ADDRESS: 25710 Devaney Rd Avondale, IN 46030 EMAIL: jeffk@carmelturfcare.com
PROPERTY OWNER'S NAME: Pettijohn & Banks, Inc. TELEPHONE: _____
ADDRESS: 14939 Ditch Road Westfield, IN 46074 EMAIL: _____
REPRESENTATIVE'S NAME: _____ TELEPHONE: _____
COMPANY: _____ EMAIL: _____
ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 14939 Ditch Road, Westfield, IN 46074
COUNTY PARCEL ID #(S): 08-09-15-00-00-013.000
EXISTING ZONING DISTRICT(S): _____ EXISTING LAND USE(S): _____

VARIANCE REQUEST

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): To operate a full Lawn & Landscape business on property.



APPLICANT AFFIDAVIT

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

[Signature]
Applicant/Representative (signature)

Jeff Kolich
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 15 day of May, 2015.

State of Indiana, County of Hamilton, ss:



[Signature]
Notary Public Signature
Brenda C Kroeschen
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

[Signature]
Property Owner (signature)*

STANLEY E. BANKS JR.
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 15 day of May, 2015.

State of Indiana, County of Hamilton, ss:



[Signature]
Notary Public Signature
Brenda C Kroeschen
Notary Public (printed)

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

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
AFFIDAVIT OF NOTICE OF PUBLIC HEARING

DOCKET #: _____

PUBLIC HEARING DATE: 6-9-15

APPLICANT'S NAME: Jeff KeLuh

REPRESENTATIVE'S NAME: _____

COMPANY: _____

PROJECT TO BE KNOWN AS: _____

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 3 day of June, 2015, 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 3 day of June, 2015, being at least ten (10) days prior the scheduled public hearing.

Jeff KeLuh
Applicant/Representative (signature)*

Jeff KeLuh
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 8th day of June, 2015.

State of IN, County of HAMILTON SS:

Charlene Samples
Notary Public Signature

CHARLENE SAMPLES
Notary Public (printed)

Charlene Samples
Notary Public, State of Indiana
Hamilton County
My Commission Expires: 07-15-2021



FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: JR Kelish Farms 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: a Landscape Company / Nursery promotes green industry
- 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: A Landscape Company is an improvement in appearance and helps improve the land
- C. The need for the variance arises from some condition particular to the property involved because: Its a residential area with a commercial business 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: It cant be used as a business to sell
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: Its an approved use in the area since 1979

WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS PUBLIC NOTICE

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Advisory Board of Zoning Appeals will hold a public hearing on Tuesday, June 9th, 2015, at 7:00p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, to consider petition(s) _____ #, filed by **Jeff Kelich** on behalf of **Pettijohn & Banks, INC.** The request pertains to real estate comprising approximately 4 acres and generally located at **14939 Ditch Road, Washington Township, Westfield, Indiana.**

The request is for approval of a **Variance of Use** to allow a commercial landscape business.

Specific details regarding this request, including the applications, file, and property legal descriptions, 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:

Jeff Kelich

25710 Devaney Rd, Arcadia, IN. 46030

(317) 710-3927

REPRESENTATIVE:

Pettijohn & Banks INC

14939 Ditch Road, Westfield, IN. 46074

(317) 873-8686

CITY OF WESTFIELD:

Economic and Community Development Department

2728 East 171st Street

Westfield, IN. 46074

Telephone: (317) 804-3170

www.westfield.in.us

7417 WARRA DEED BOOK **312** **796**

THIS INDENTURE WITNESSETH, That Stanley E. Banks & Patricia B. Banks,
his wife and Joseph E. Pettijohn & Beverly I. Pettijohn, his wife ("Grantor")
of Hamilton County, in the State of Indiana, CONVEY
AND WARRANT to Pettijohn & Banks, Inc.

of Hamilton County, in the State of Indiana, for the sum
of One Dollars (\$ 1.00) and other
valuable consideration, the receipt of which is hereby acknowledged, the following described real
estate in Hamilton County, in the State of Indiana:

Tract 2F: A part of the Northwest quarter of the Southwest
quarter of Section 15, Township 18 North, Range 3 East in
Washington Township, Hamilton County, Indiana, more particularly
described as follows: Beginning at a point on the West line of
the Southwest quarter of Section 15, Township 18 North, Range 3
East, said point being S 00 degrees 10 minutes 33 seconds E 608.04
feet from the Northwest corner thereof, thence N 88 degrees 43
minutes 27 seconds E 655.04 feet, thence S 00 degrees 09 minutes
40 seconds E 241.61 feet, thence S 00 degrees 13 minutes 33
seconds E 24.45 feet, thence S 88 degrees 43 minutes 27 seconds W
655.00 feet to a point on the West line of said quarter, thence N
00 degrees 10 minutes 33 seconds W on and along said West line
266.06 feet to the place of beginning and containing 4.000 acres,
subject to all legal easements and rights of way of record.

This document referred
to in Document No.
2008043766
8/27/08

This document referred
to in Document No.
200133157
5-18-01

Instrument Recorded June 12, 1979
MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

RECEIVED
JUN 17 2 43 PM '79
MARY L. CLARK
RECORDER
HAMILTON CO., IND.

This document referred
to in Document No.
200102225813
5-8-01

DULY ENTERED FOR TAXATION

12 day June 1979
Barbara J. Jennings Auditor
Hamilton County

IN WITNESS WHEREOF, Grantor has executed this deed this 6 day of
JUNE, 1979.

Signature Stanley E. Banks (SEAL)
Printed Stanley E. Banks
Patricia B. Banks
Patricia B. Banks
STATE OF INDIANA
COUNTY OF _____

Signature Joseph E. Pettijohn (SEAL)
Printed Joseph E. Pettijohn
Beverly I. Pettijohn
Beverly I. Pettijohn

SS:

Before me, a Notary Public in and for said County and State, personally appeared _____

Stanley E. Banks, Patricia B. Banks, Joseph E. Pettijohn & Beverly I. Pettijohn
who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly
sworn, stated that the representations therein contained are true.

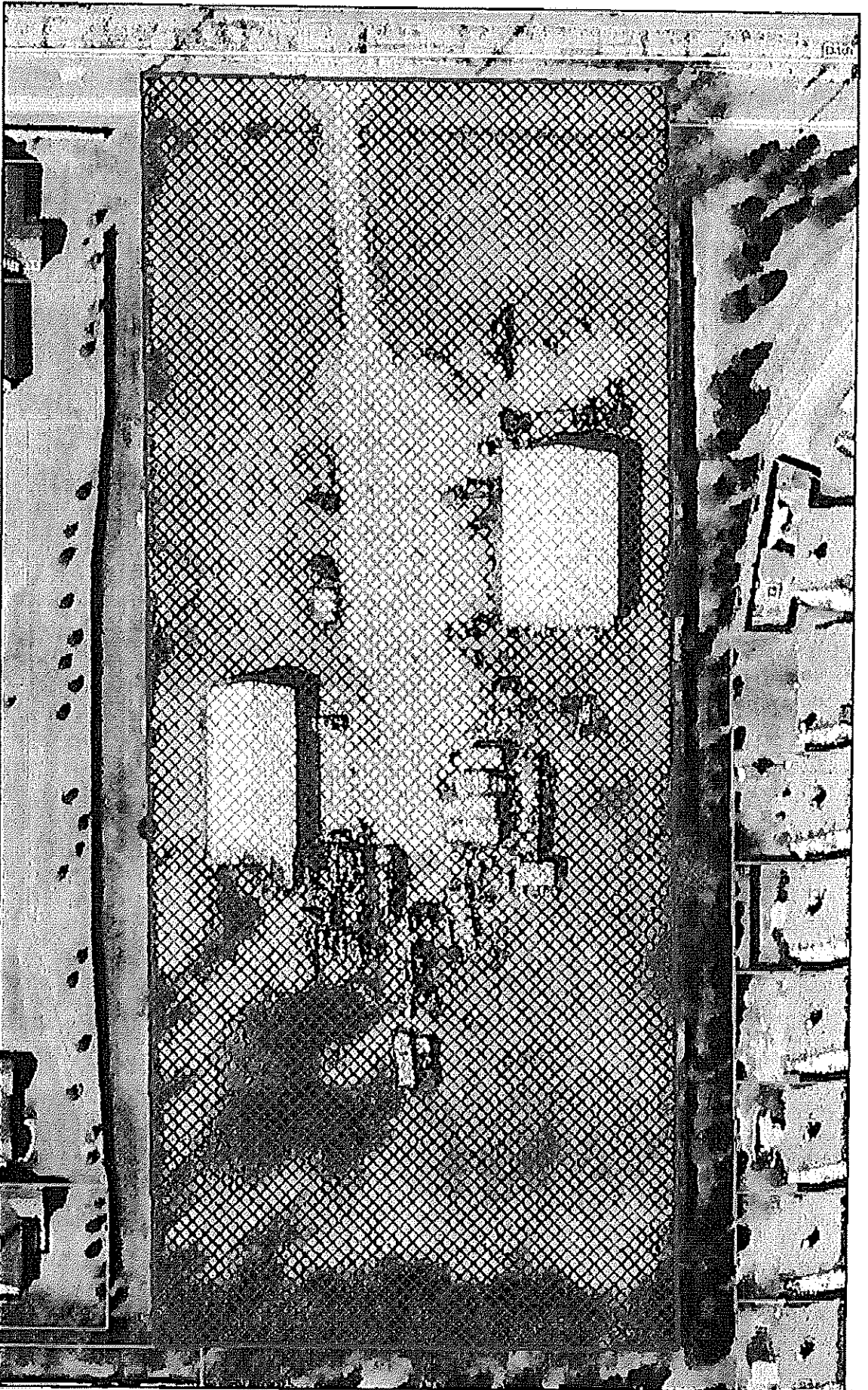
Witness my hand and the Notarial Seal this 6 day of JUNE, 1979.

My commission expires _____

Signature Donald R. Peyton
Printed Donald R. Peyton, Notary Public

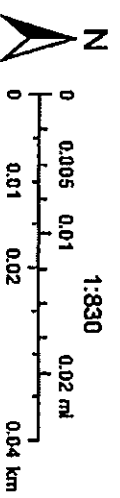
This instrument was prepared by Donald R. Peyton, attorney at law.

14939 Ditch Road



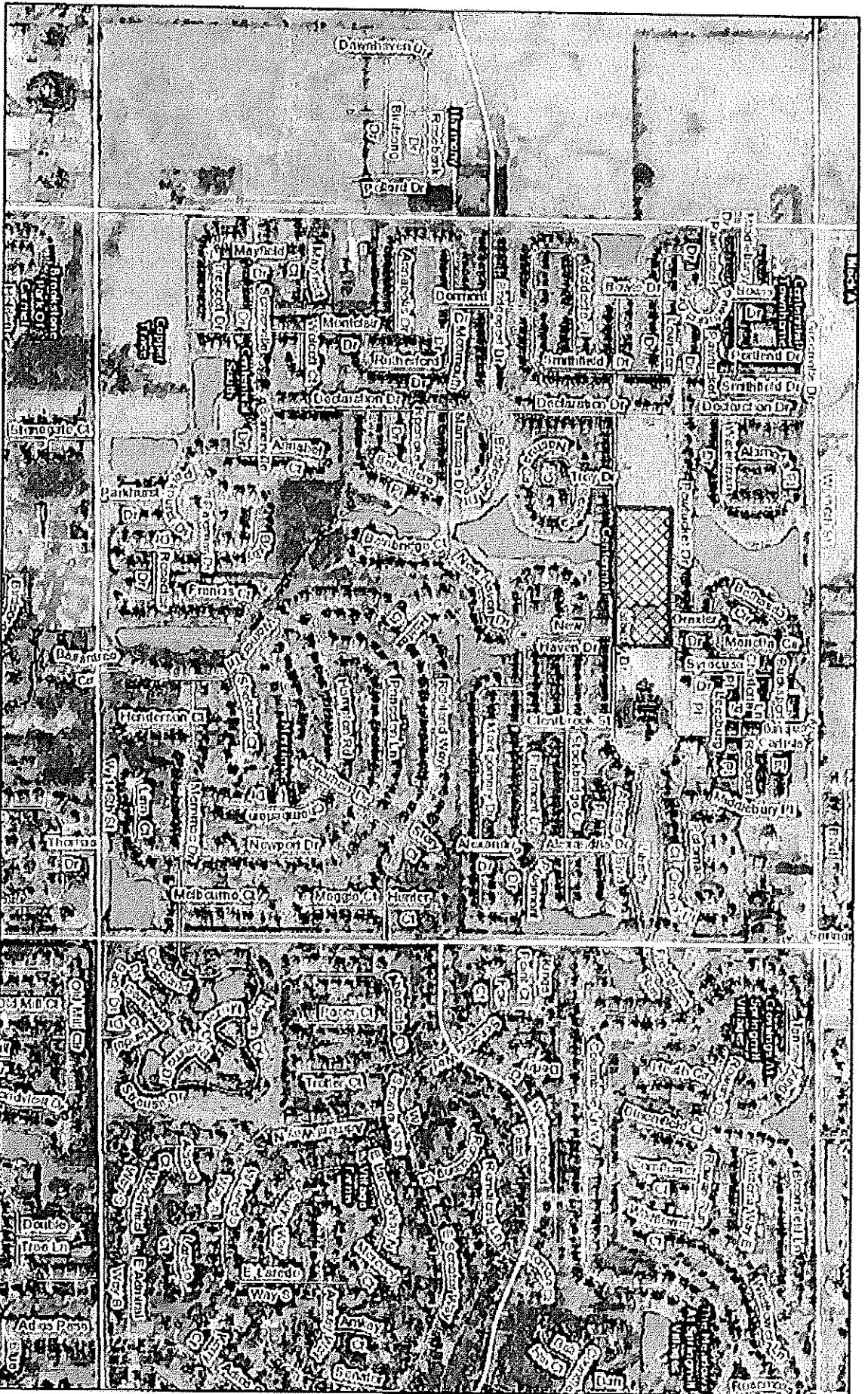
March 16, 2015

Parcels

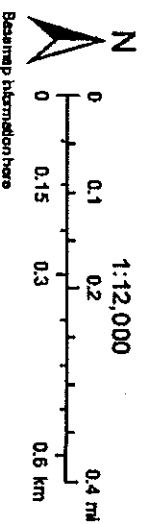


Base map information here

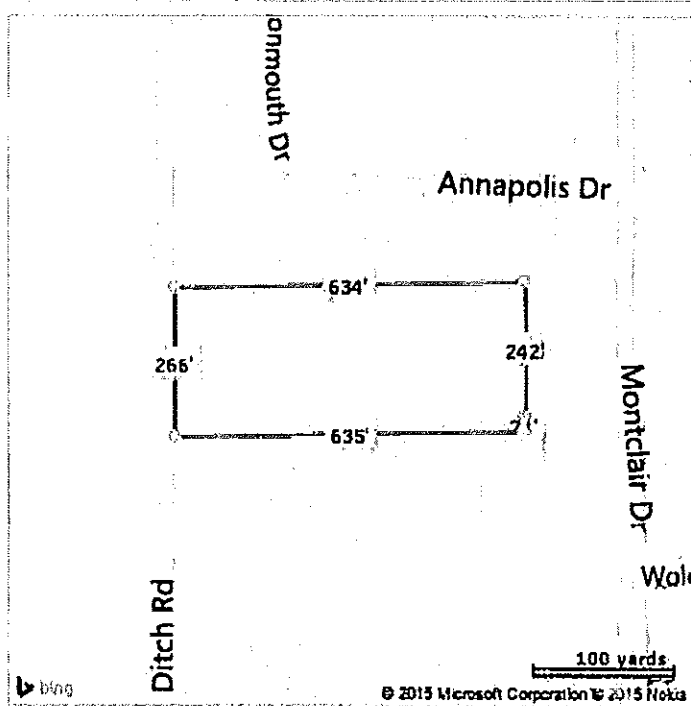
14939 Ditch Road



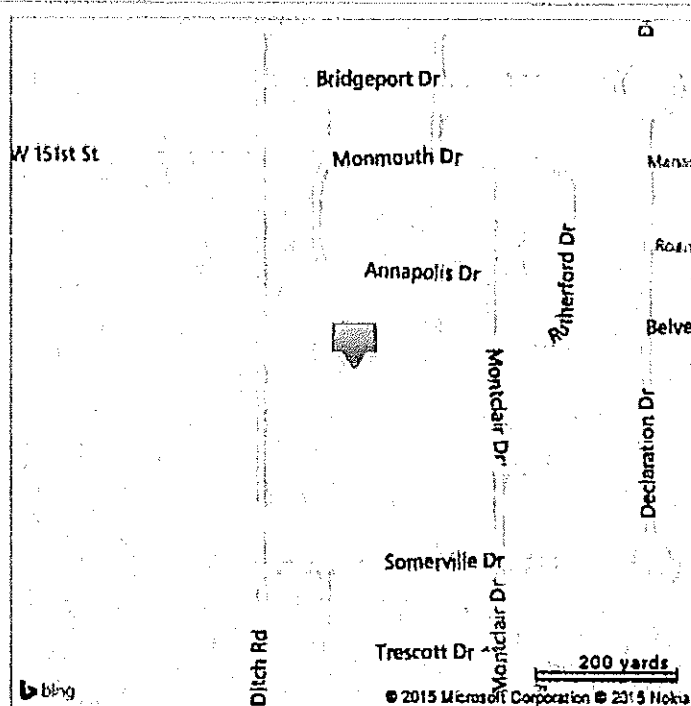
March 16, 2015



Property Map



*Lot Dimensions are Estimated



Building 1 of 2

Characteristics

Lot Acres:	4	Year Built:	1980
Lot Sq Ft:	174,240	Stories:	1
Land Use - County:	Other Commercial Structures	Finished Bldg Sq Ft:	4,992
Land Use - CoreLogic:	Shopping Center	Total Building Sq Ft:	9,024
Building Type:	Shops	Total Adjusted Bldg Sq Ft:	4,992

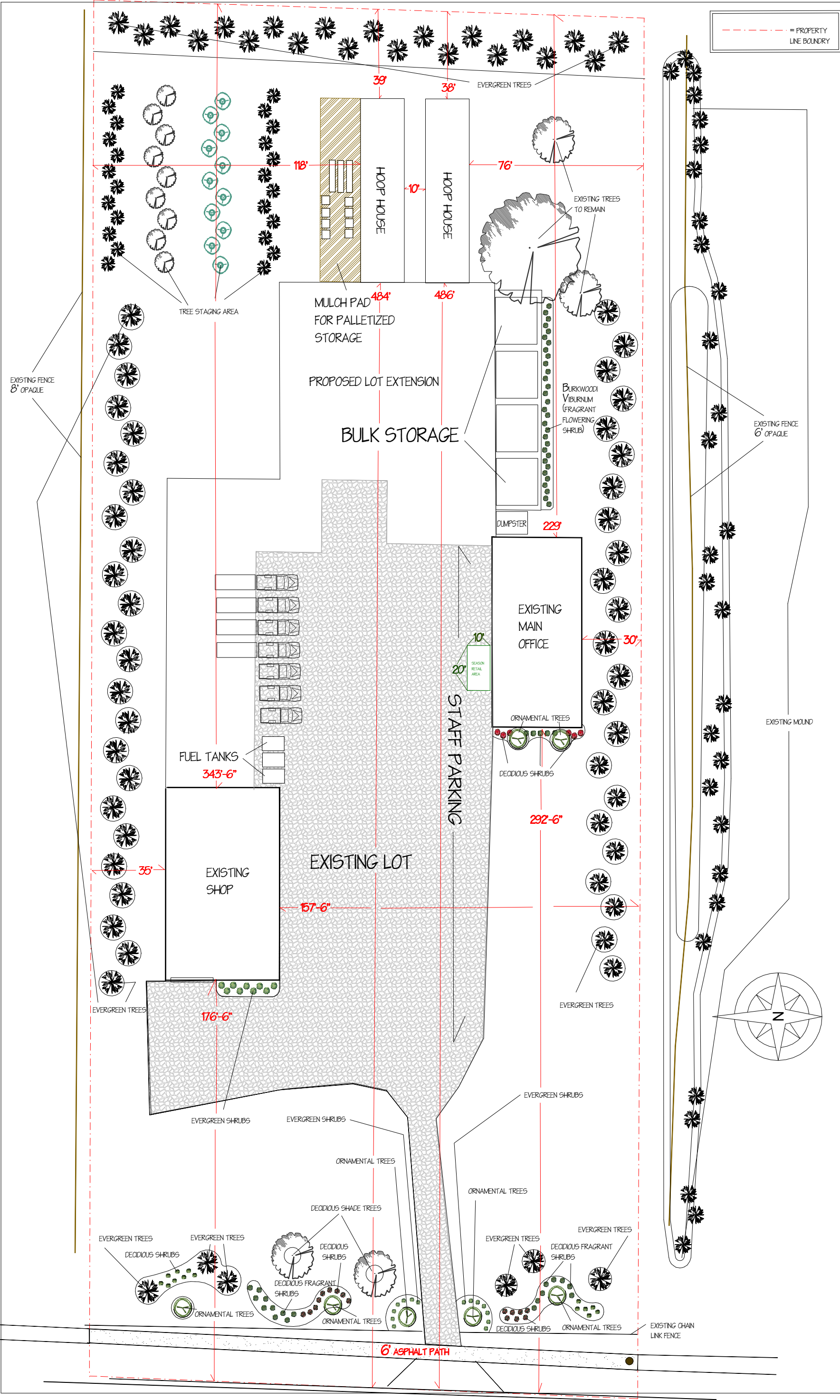
Features

Feature Type	Unit	Size/Qty	Year Built
Small Shop			1980
Mezzanine	S	832	
Fencing - Chain Link	S	240	1980
Small Shop			1976
Lean-To	S	360	
Mezzanine	S	672	1976

Building 2 of 2

Characteristics

Lot Acres:	4	Stories:	1
Lot Sq Ft:	174,240	Finished Bldg Sq Ft:	4,032
Land Use - County:	Other Commercial Structures	Total Building Sq Ft:	9,024
Land Use - CoreLogic:	Shopping Center	Total Adjusted Bldg Sq Ft:	4,032
Year Built:	1976		



Revision #: MASTER PLAN Date: 8/6/2015	Scale: 1" = 40'	Landscape Plan: FORMER PETTIJOHN CONCRETE COMPANY	Landscape Design by:  CARMEL TURF CARE	23478 US 31N SUITE B CICERO, IN 46034
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Per Drawing submitted Plant schedule:

Deciduous Shrub (may include but not limited to:)

Burning Bush
Vicary Privet
Diablo Ninebark
Annabelle Hydrangea
Red Prince Weigelia
Henry Garnet Sweetspire
Knock Out Rose

Deciduous Fragrant Shrub (may include but not limited to:)

Judd Viburnum
Burkwood Viburnum
Korean Spice Viburnum
Dwarf Korean Lilac
Miss Kim Lilac
Bloomerang Lilac

Evergreen Shrub (may include but not limited to:)

Boxwood (various)
Yew (various)
Juniper (various)

Deciduous Shade Tree (may include but not limited to:)

Red Sunset Maple
October Glory Maple
Autumn Brilliance Maple
Autumn Flame Maple
Red Oak
Pear

Evergreen Tree (may include but not limited to:)

Colorado Spruce
Colorado Blue Spruce
Norway Spruce

Ornamental Tree (May include but not limited to:)

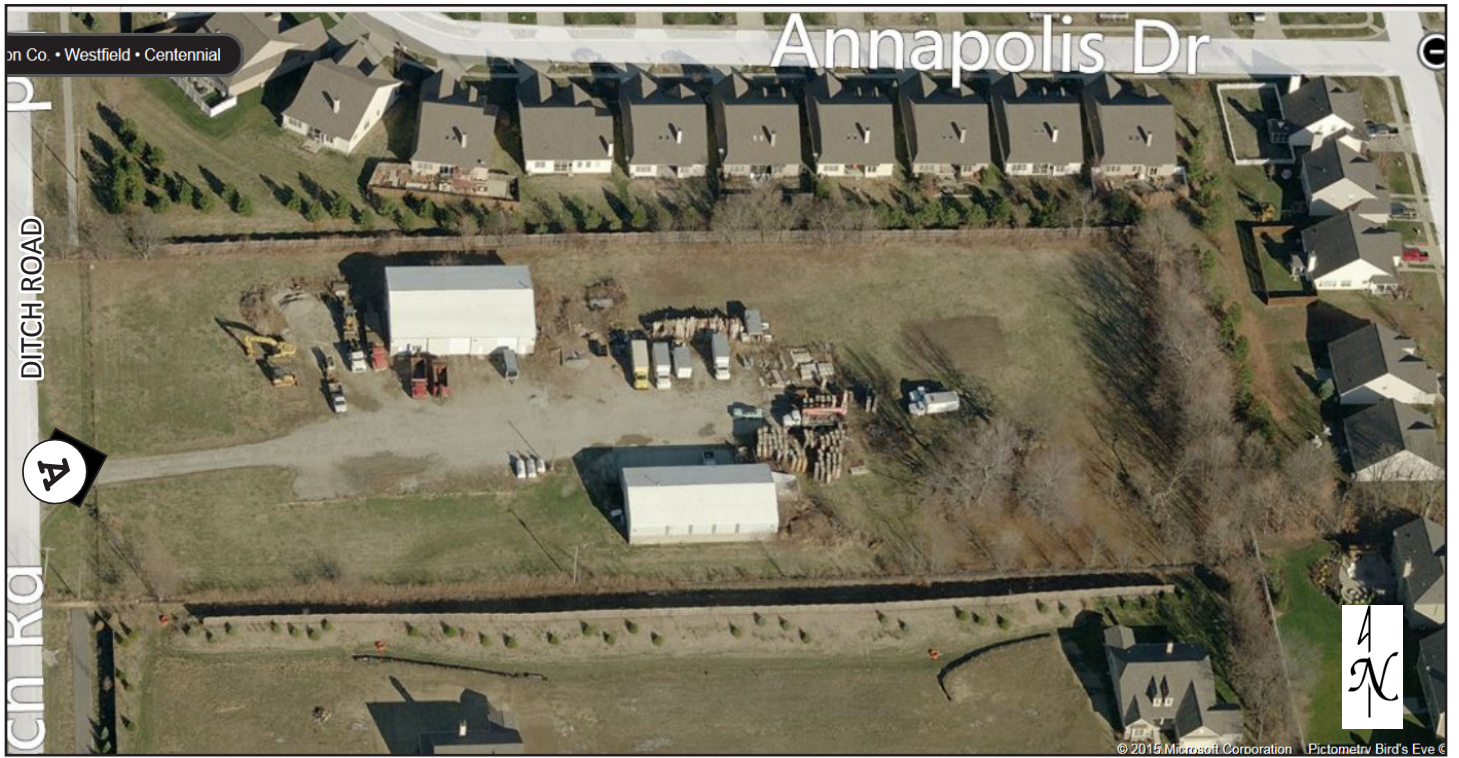
Serviceberry
Hawthorne
Magnolia
Flowering Crab

Custom Residential & Commercial Landscaping

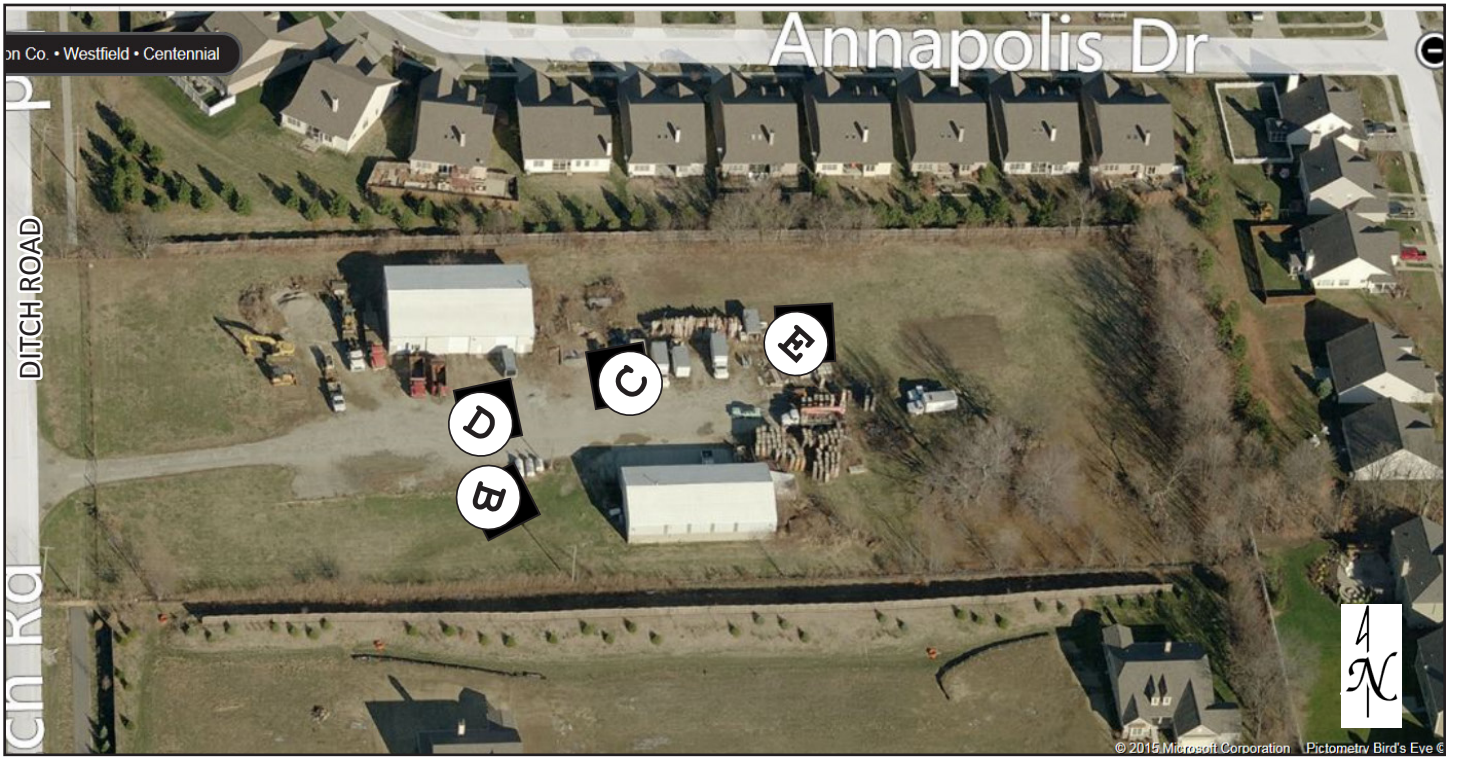
Design • Installation • Maintenance
Irrigation • Lighting • Hardscapes • Landscapes • Waterscapes



EXISTING CONDITIONS EXHIBIT



EXISTING CONDITIONS EXHIBIT



**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A VARIANCE GRANT UNDER
THE CITY OF WESTFIELD, INDIANA UNIFIED DEVELOPMENT ORDINANCE**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in the City of Westfield, Hamilton County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

LEGAL DESCRIPTION: (See attached description.)

See EXHIBIT "A" ATTACHED HERETO
(the "Subject Property")

STATEMENT OF COMMITMENTS:

1. The Petitioner shall provide supplemental landscaping and mounding along the perimeters of the Subject Property as shown on the site plan attached hereto as Exhibit "C". Additionally, if the existing fencing along the north or south adjoiners property lines is removed (for any reason) and not replaced, Petitioner shall install an opaque fence six (6) to eight (8) feet in height along the Subject Property's property lines as a replacement for such removed fence. Chain link fencing with slats shall not be permitted. Such landscaping, fencing and mounding shall be maintained in good condition, ordinary wear and tear excepted. A certificate of compliance for the landscaping or fencing, as the case may be, shall be obtained following a passed inspection of the installed landscaping or fencing.
2. The Petitioner's landscaping company shall be operated in substantial compliance with the Plan of Operation attached hereto as Exhibit "B".
3. The subject property will be developed in substantial accordance with the site plan attached hereto as Exhibit "C".
4. Any new site improvement or structure on shall follow the development and design rules in the City of Westfield Unified Development Ordinance ("UDO") applicable to Industrial Uses/Districts.
5. The external street frontage landscaping requirements required under the UDO shall apply along the Ditch Road frontage of the Subject Property, and shall be installed within three (3) months of the approval of the variance, or as soon as weather permits if the scheduled deadline would be in November through March. A certificate of compliance shall be obtained following a passed inspection of the installed landscaping.
6. Petitioner/Owner shall dedicate so much right of way along the subject property's Ditch Road frontage so as to provide for a Thirty-Five foot (35') half right of way, measured from the centerline. Such dedication shall be made within three (3) months of approval of the variance.
7. Petitioner/Owner shall install, at its expense, an eight foot (8') wide asphalt pedestrian pathway at the back of the dedicated right of way, within three (3) months following approval of the variance, or as soon as weather permits, if the scheduled installation deadline would be in November through March.
8. Hours of operation, including use of company equipment, delivery vehicles and trash pickup, shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday; provided, however, the office may remain open until 10:00 p.m., Monday through Thursday, and further provided, the business may operate on a limited basis outside of such hours during snow/ice events for the purpose of moving snow removal equipment from the Subject Property to clients locations.
9. All mulch shall be turned regularly to mitigate spoilage, and there shall not be in excess of a two (2) week supply on site at any given time.
10. All bulk outside storage of mulch, soil, rock and paver material shall be kept in bins which are covered when not in use.

11. All repairs to equipment (except an emergency) shall take place in the shop building shown on the Site Plan.

These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the City of Westfield made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the approval of Petition #1506-VU-06 pursuant to the City of Westfield Unified Development Ordinance, and shall continue in effect until modified or terminated by the City of Westfield Board of Zoning Appeals.

These COMMITMENTS may be enforced by

1. The City of Westfield Board of Zoning Appeals; and

The undersigned hereby authorizes the City of Westfield to record these Commitments in the Office of the Recorder of Hamilton County, Indiana, upon final approval of petition # 1506-VU-06.

IN WITNESS WHEREOF, owner has executed this instrument this _____ day of _____, 2015

Printed: _____
Jeffrey Kelich

Printed _____
Renee Kelich

(Acknowledgment)

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Jeffrey Kelich, Owner(s) of the real estate described above, who acknowledged the execution of the foregoing instrument for and on behalf of said trust.

Witness my hand and Notarial Seal this _____ day of _____, 2015

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Renee Kelich, Owner(s) of the real estate described above, who acknowledged the execution of the foregoing instrument for and on behalf of said trust.

Witness my hand and Notarial Seal this _____ day of _____, 2015

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by Joseph D. Calderon, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700 Indianapolis, Indiana, 46204

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

EXHIBIT A

7417 WARRA DEED BOOK 312 796

THIS INDENTURE WITNESSETH, That Stanley E. Banks & Patricia B. Banks,
his wife and Joseph E. Pettijohn & Beverly I. Pettijohn, his ("Grantor")
of Hamilton County, in the State of Indiana, CONVEY
AND WARRANT to Pettijohn & Banks, Inc.

of Hamilton County, in the State of Indiana, for the sum
of One Dollars (\$ 1.00) and other
valuable consideration, the receipt of which is hereby acknowledged, the following described real
estate in Hamilton County, in the State of Indiana:

Tract 2F: A part of the Northwest quarter of the Southwest
quarter of Section 15, Township 18 North, Range 3 East in
Washington Township, Hamilton County, Indiana, more particularly
described as follows: Beginning at a point on the West line of
the Southwest quarter of Section 15, Township 18 North, Range 3
East, said point being S 00 degrees 10 minutes 33 seconds E 608.04
feet from the Northwest corner thereof, thence N 88 degrees 43
minutes 27 seconds E 655.04 feet, thence S 00 degrees 09 minutes
40 seconds E 241.61 feet, thence S 00 degrees 13 minutes 33
seconds E 24.45 feet, thence S 88 degrees 43 minutes 27 seconds W
655.00 feet to a point on the West line of said quarter, thence N
00 degrees 10 minutes 33 seconds W on and along said West line
266.06 feet to the place of beginning and containing 4.000 acres,
subject to all legal easements and rights of way of record.

This document referred
to in Document No.
2008043766
8/27/08

This document referred
to in Document No.
200133157
5-18-01

Instrument Recorded June 12, 1979
MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

RECEIVED
JUN 17 2 43 PM '79
MARY L. CLARK
RECORDER
HAMILTON CO., IND.

This document referred
to in Document No.
200102025813
5-8-01

DULY ENTERED FOR TAXATION

12 day June 19 79
Barbara J. Jennings Auditor
Hamilton County

IN WITNESS WHEREOF, Grantor has executed this deed this 6 day of
JUNE, 1979.

Signature Stanley E. Banks (SEAL)
Printed Stanley E. Banks
Patricia B. Banks
Patricia B. Banks
STATE OF INDIANA
COUNTY OF _____

Signature Joseph E. Pettijohn (SEAL)
Printed Joseph E. Pettijohn
Beverly I. Pettijohn
Beverly I. Pettijohn

SS:

Before me, a Notary Public in and for said County and State, personally appeared _____

Stanley E. Banks, Patricia B. Banks, Joseph E. Pettijohn & Beverly I. Pettijohn
who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly
sworn, stated that the representations therein contained are true.

Witness my hand and the Notarial Seal this 6 day of JUNE, 1979.

My commission expires _____
Signature Donald R. Peyton
Printed Donald R. Peyton, Notary Public

This instrument was prepared by Donald R. Peyton, attorney at law.

EXHIBIT B

PLAN OF OPERATION

Petitioner: Jeff Kelich
Property Address: 14939 Ditch Road
Case No.: 1506-VU-06

Petitioner, Jeff Kelich (“Petitioner”), is the owner of a business known as Carmel TurfCare, a full service landscaping business. Petitioner recently purchased a four (4) acre tract of improved real property commonly known as 14939 Ditch Road (the “Subject Property”).

Petitioner’s business is seasonal, and geocentric, focusing on customers in the north suburbs of Indianapolis, including Westfield. The Subject Property is zoned for residential use (SF-2), but has been improved with commercial/industrial buildings and has been and may be used by a concrete company under a variance granted in 1979. Petitioner proposes to occupy the existing buildings, and add temporary greenhouse structures as shown on the site plan attached hereto as Exhibit “A”.

Petitioner is proposing this Plan of Operation to the Board of Zoning Appeals (“BZA”) as a proposed condition to the approval of the requested variance, as a reflection of Petitioner’s sincerity and confidence in using the Subject Property in a manner that is compatible with the existing zoning and land use development pattern in the area.

Use of Subject Property

Petitioner will only use the Subject Property for a landscaping contractor business, with proposed incidental seasonal retail sales in the area shown on the Site Plan. If retail sales were to take place, it would be limited to Saturdays between the hours of 9 a.m. to 4 p.m. There will be inventory maintained on site, including mulch, soil, rock and paver material. Additionally, on occasion, there might be PVC pipe stored on site pending installation at a customer’s property. These materials will be stored on locations shown on the Site Plan and the mulch and soil will be in covered bins. Plants for ultimate installation at customer’s properties will also be stored in the greenhouse building. All of the foregoing items will be stored in those locations shown on the Site Plan. All other materials, such as seed/fertilizers, will be stored inside.

Hours of Operation

The Subject Property will have two distinct patterns of operation, except the office building will be staffed year round with approximately 5 employees performing administrative, and outside sales functions. During “season”, which is typically March through October, Petitioner proposes that his employees would arrive at the Subject Property in the morning, park

their personal vehicles, load and take the necessary equipment from the Subject Property to the job site, and return the equipment in the evening, or if circumstances warrant, take the equipment to their respective residences. Employees would typically arrive at the Subject Property by 7 a.m. and return by 7 p.m., Monday through Friday, and 8 a.m. to 5 p.m. on Saturday.

During the “off” season there would be little to no activity. On occasion, employees may work on the equipment inside the shop building on the Subject Property, and employees would come to the Subject Property during certain snow events for the purpose of picking up snow removal equipment.

Traffic Patterns, Lighting, Signs

Other than employee trips described above, there is little other traffic that will be generated by the proposed use of the Subject Property. Commercial traffic is expected to include a weekly visit by a trash truck to empty the dumpsters, a fuel truck to fill on site tanks, no more than twice per month, and delivery of product. Plant material is delivered on a monthly inventory cycle, while mulch and soil are managed and delivered on a 7 to 10 day inventory cycle.

No additional freestanding outdoor lighting other than what currently exists is proposed. The office building and shop building on the Subject Property may have wall pack or attached spotlights for security. A small sign at the entrance to the Subject Property is proposed.

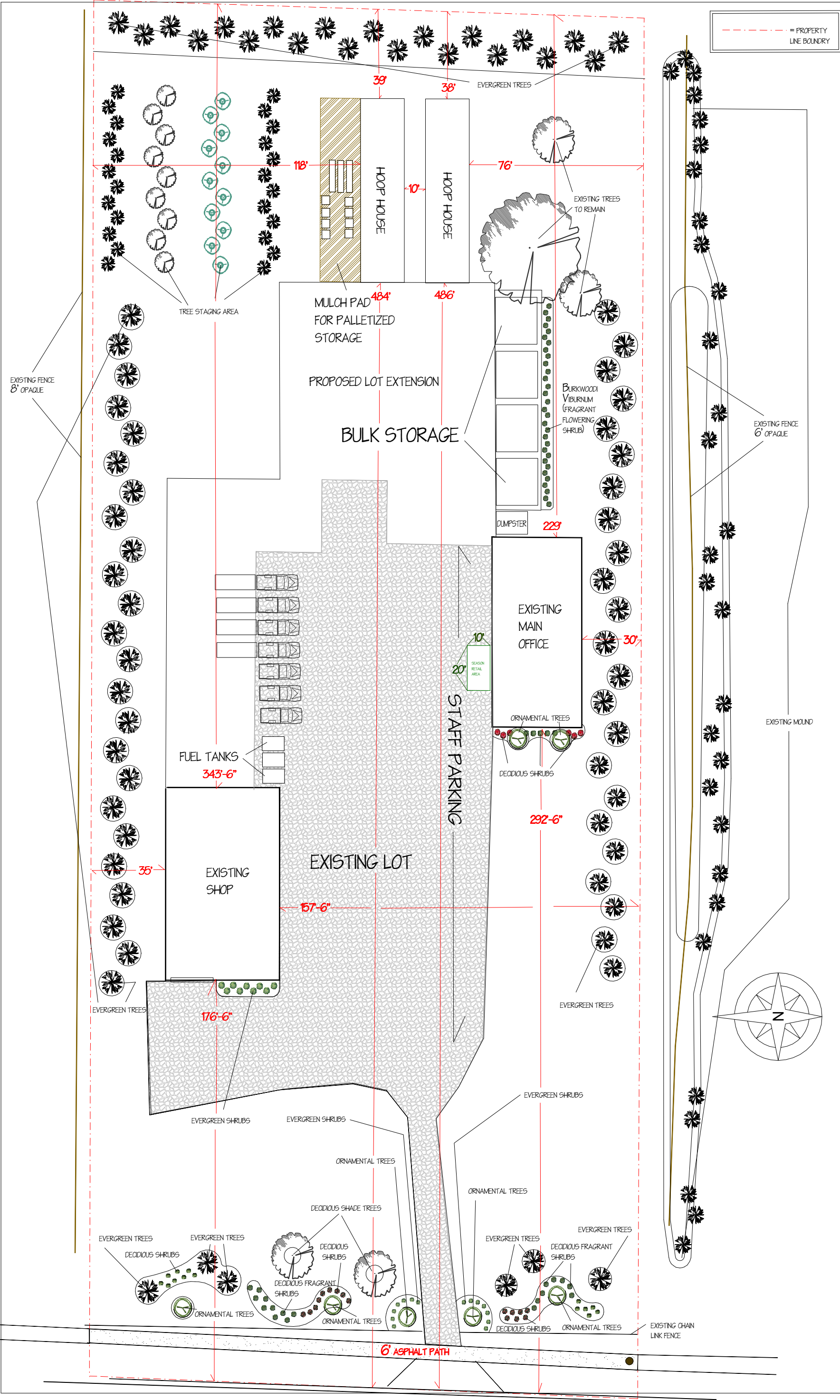
The Petitioner proposes to maintain a gravel drive/parking area, consistent with current conditions.

Employee Growth

Currently, Petitioner has 19 employees, and anticipates approximately 26 employees to visit the Subject Property on a daily basis during season.

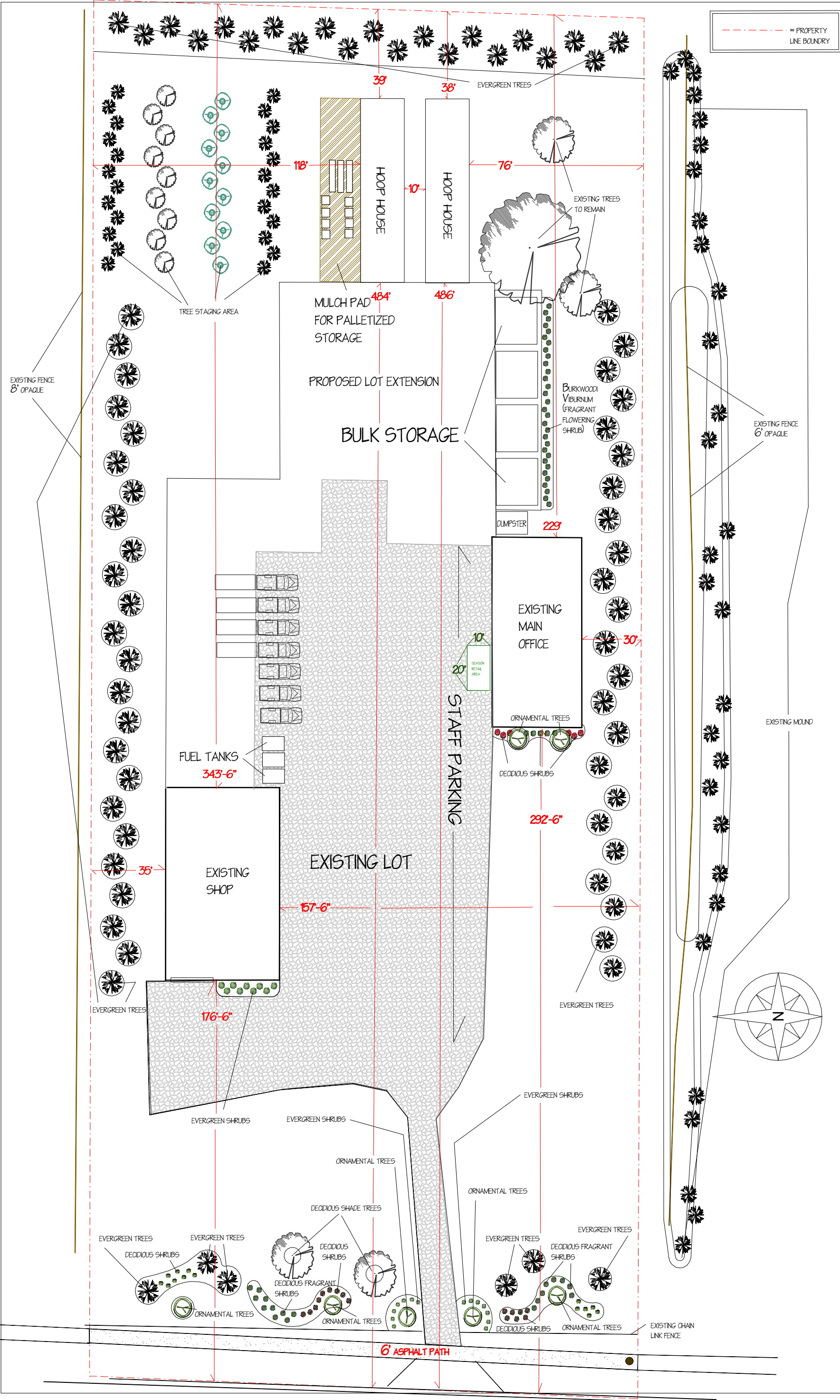
Commitments

In addition to the foregoing Plan of Operation, the Petitioner is providing certain statutorily authorized commitments, which will provide additional certainty and protections.



Revision #: MASTER PLAN Date: 8/6/2015	Scale: 1" = 40'	Landscape Plan: FORMER PETTIJOHN CONCRETE COMPANY	Landscape Design by:  CARMEL TURF CARE	23478 US 31N SUITE B CICERO, IN 46034
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EXHIBIT C



Revision #: MASTER PLAN Date: 8/6/2015	Scale: 1" = 40'	Landscape Plan: FORMER PETTIJOHN CONCRETE COMPANY	Landscape Design by:  CARMEL TURF CARE	23478 US 31N SUITE B CICERO, IN 46034
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PLAN OF OPERATION

Petitioner: Jeff Kelich
Property Address: 14939 Ditch Road
Case No.: 1506-VU-06

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Traffic Patterns, Lighting, Signs

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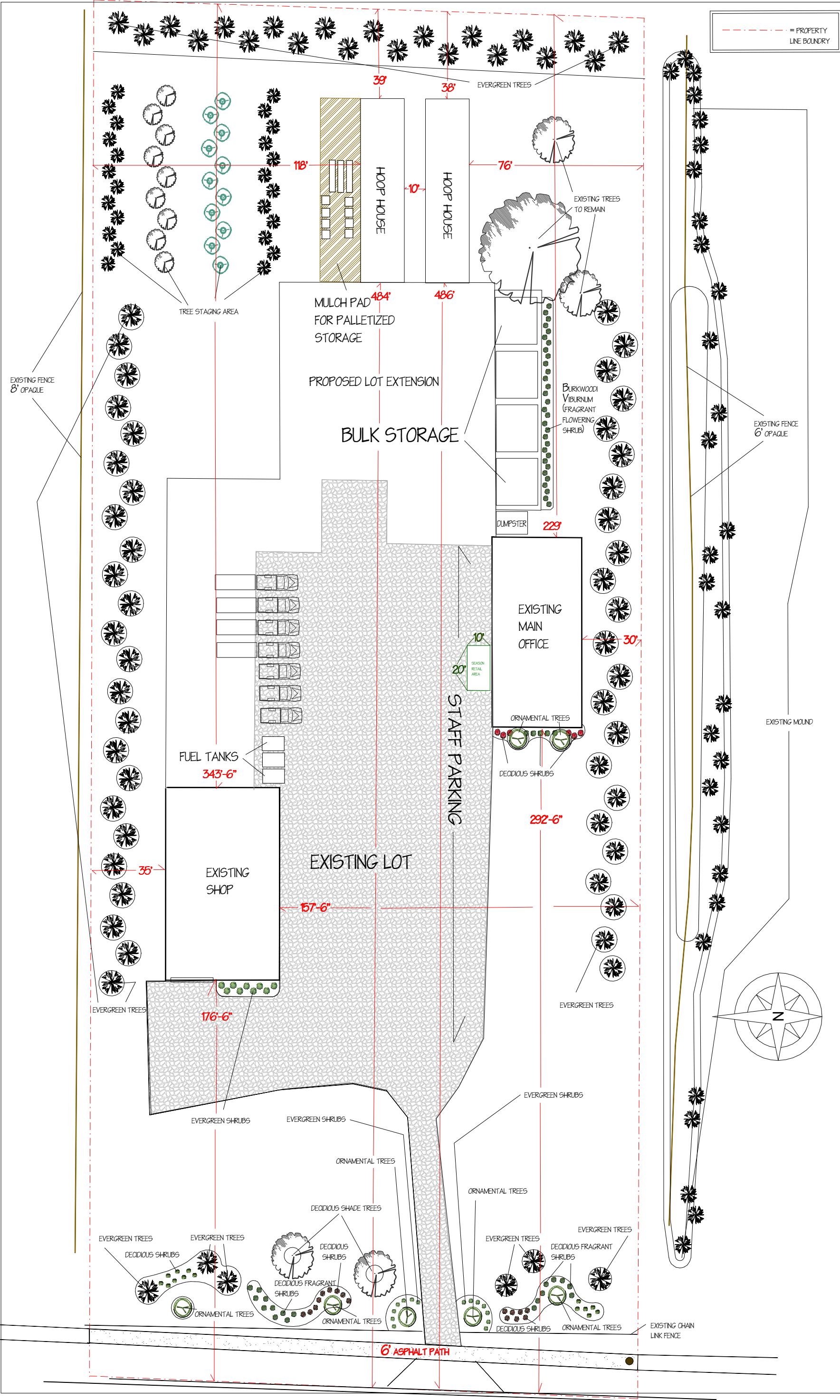
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Currently, Petitioner has 19 employees, and anticipates approximately 26 employees to visit the Subject Property on a daily basis during season.

Commitments

In addition to the foregoing Plan of Operation, the Petitioner is providing certain statutorily authorized commitments, which will provide additional certainty and protections.



Revision #: MASTER PLAN Date: 8/6/2015	Scale: 1" = 40'	Landscape Plan: FORMER PETTIJOHN CONCRETE COMPANY	Landscape Design by:  CARMEL TURF CARE	23478 US 31N SUITE B CICERO, IN 46034
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The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, July 14, 2015, at Westfield City Hall. Members present included Martin Raines, Ron Rothrock, Bill Sanders and Dave Schmitz. Also present were Jesse Pohlman, Senior Planner; Kevin Todd, Senior Planner; Jeffrey Lauer, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Schmitz moved to approve the June 9, 2015, Meeting Minutes.

Rothrock seconded, and the motion passed by 4-0 vote.

Pohlman reviewed the Public Hearing Rules and Procedures.

ITEMS OF BUSINESS

1506-VU-06 (CONTINUED)

14939 Ditch Road

Jeff Kelich

The petitioner is requesting approval of a Variance of Use to allow a lawn and landscape business in the SF2: Single-Family Low Density District (Chapter 13: Use Table).

Jeff Kelich, petitioner, presented his request for a continuance.

Sanders motioned to approve the continuance as requested.

Schmitz seconded, and the motion passed 3-0 (1 abstain: Rothrock).

1507-VS-09 (PUBLIC HEARING)

17777 Commerce Drive

Edward Tomich by Badger Engineering, LLC

The petitioner is requesting approval of a Variance of Development Standard to reduce the Minimum Building Setback Line for the Side Yard in the EI: Enclosed Industrial District (Article 4.24(E)(2)).

Pohlman presented an overview of the requested Variance of Development Standard as detailed in the staff report for a reduction in the side yard setback along the north property line.

Andi Metzel, Benesch, Friedlander, Coplan & Aronoff LLP, on behalf of the petitioner, gave a brief presentation regarding the improvements to the structure that have been made. Metzel presented a preliminary design of the additional improvements that the petitioner intends to make if the requested Variance of Development Standard is approved.

Public Hearing opened at 7:18 p.m.

Brian Tuohy, 50 South Meridian Street: Representing the property owner to the north, Hadah LLC, presented that the proposed improvement is putting a band aid on the sound problem that exists

and further detailed and summarized the history of the issue. He concluded that they do not object to this variance but they request the Board's consideration to impose conditions that: (i) the three (3) lanes on the north side of the building not be used until the new wall is built; and (ii) if this improvement does not work, then the petitioner would extend the wall to the east end of the building, effectively creating two walls along the entire north elevation.

Jeff Unger, 129 Penn Street: E Noise Control Company, on behalf of the property owner to the north, Hadah LLC, presented that he has recorded on three separate occasions at the same location on the property and that no sound reduction was observed or recorded over that time. Unger stated he believes the new vestibule, in his opinion, needs to be the full length of the existing wall.

Andy Weas, 5102 Briarwood Trail: Member of Hadah LLC, property owner to north, stated he does not believe the short wall will work and that this issue has dragged on too long. He noted he believes they are being cooperative all along in this matter because while the indoor shooting range is still generating revenue, he is incurring expenses because he cannot sell or lease his building. Weas conclude he would like this resolved as soon as possible without delay.

Public Hearing closed at 7:30 p.m.

Metzel responded to the public hearing comments noting she understands the concerns which are the same concerns that they are trying to resolve with the proposed improvement and request. She stated they believe, based on their sound consultant, that the problem is the door and the noise coming from the door, so they believe this improvement will address the issue.

Schmitz asked why the new door was placed at the end of the vestibule near the existing door, and whether a double wall have been a better solution.

Tim Tomich, petitioner, responded that the new door is required by the Fire Marshal to be within a minimum distance of the existing door for emergency exit reasons, which also prohibit the storage of anything within the vestibule. He noted the new door will also be treated with sound proofing material.

Chris Badger, Badger Engineering, LLC, responded that constructed a second interior wall is not practical because the existing interior walls were specific designed and built for bullets, which also includes that the existing door hinges were set in concrete.

Schmitz motioned to approve the petition 1507-VS-09.

Rothrock seconded, and the motion passed 4-0.

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

Rothrock seconded, and the motion passed 4-0.

1503-VU-02

17777 Commerce Drive

Edward Tomich by Badger Engineering, LLC

The petitioner is requesting a modification of a condition of approval for a previously granted Variance of Use to allow an indoor shooting range and related retail sales in the EI: Enclosed Industrial District (1304-VU-01) (Chapter 13: Use Table).

Pohlman presented the Department's recommendation to continue this item to allow for the improvements to be made pursuant to the prior agenda item that are intended to address this issue, but that the Department would anticipate that an update on the construction progress or the resulting sound levels following completion will be presented to the Board.

Schmitz motioned to continue Petition 1503-VU-02.

Rothrock seconded, and the motion passed 4-0.

1507-VU-07

4540 East 146th Street

(PUBLIC HEARING)

Crown Castle

The petitioner is requesting approval of a Variance of Use to allow a new Wireless Communication Service Facility in the SF3: Single-Family Medium (Chapter 13: Use Table).

Todd presented an overview of the request, as summarized in the department's report.

Matt Price, on behalf of the petitioner, gave a brief presentation.

Sanders asked about the existing trees on the property and whether the petitioner has control over the trees to ensure they will remain.

Price responded the petitioner does not own the land, so they do not have control over the trees.

Schmitz inquired about the design and whether a stealth design was considered.

Price responded that a stealth design accommodates fewer carriers than the proposed design, which in turn typically results in the need for additional towers. In this case, the proposed tower is intended to facilitate several carriers and complement existing carrier locations such as those on the nearby water towers.

Public Hearing opened at 8:10 p.m.

There was no public comment.

Public Hearing closed at 8:11 p.m.

Schmitz motioned to approve Petition 1507-VU-07 with the conditions: (i) the maximum tower height shall be one hundred and fifty five (155) feet; and (ii) the two (2) existing towers shall be

removed.

Rothrock seconded, and the motion passed 4-0.

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

Rothrock seconded, and the motion passed 4-0.

1507-VS-08 2901 East State Road 38

(PUBLIC HEARING) Marcus Masiarak

The petitioner is requesting approval of a Variance of Development Standard to reduce the Minimum Building Setback Lines in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)).

Lauer presented an overview of the request, as summarized in the Department's report. Lauer noted that four letters were received from neighbors either in favor or with no concerns and distributed those to the Board.

Marcus Masiarak introduced himself and explained his request.

Public Hearing opened at 8:18 p.m.

There was no public comment.

Public Hearing closed at 8:19 p.m.

Rothrock motioned to approve petition 1507-VS-08.

Schmitz seconded, and the motion passed 4-0.

Rothrock moved to adopt the Department's recommended findings of fact.

Schmitz seconded, and the motion passed 4-0.

1507-VS-10 15550 Little Eagle Creek Avenue

(PUBLIC HEARING) James and Donna Curry

The petitioner is requesting approval of Variances of Development Standard to reduce: (i) the Minimum Lot Area (Article 4.2 (C)); (ii) the Minimum Building Setback Line for the Front Yard (Article 4.2 (E)(1)(b)); and (iii) the Minimum Building Setback Line for the Side Yard (Article 4.2 (E)(2)) in the AG-SF1: Agriculture/Single-Family Rural District.

Todd presented an overview of the request, as summarized in the Department's report.

Donna Curry gave a brief explanation of their request.

Public Hearing opened at 8:28 p.m.

There was no public comment.

Public Hearing closed at 8:29 p.m.

Rothrock motioned to approve petition 1507-VS-10.

Schmitz seconded, and the motion passed 4-0.

Rothrock moved to adopt the Department's recommended findings of fact.

Schmitz seconded, and the motion passed 4-0.

REPORTS/COMMENTS

Plan Commission Liaison Report by Schmitz.

Economic and Community Development Department.

Sanders motioned to adjourn the meeting.

Schmitz seconded, and the motion passed.

The meeting adjourned at 8:33 p.m.

Chairperson
Martin Raines

Secretary
Matthew S. Skelton, Esq., ACIP
Director

Petition No.:

1506-VU-06

Petition Location: 14939 Ditch Road

Petitioner: Jeff Kelich

Packet Includes:

1. **06/05/15 HOA:** Joe Plankis (President)
(response e-mail) Centennial Homeowners' Association
2. **06/09/15 Murray Letter:** Shirley Murray (neighbor)
(letter of concerns) 14950 Montclair Drive (Centennial)
3. **07/06/15 Balan Letter:** Douglas Balan (neighbor)
(opposed) 1334 Monmouth Drive (Centennial)
4. **07/06/15 Dalton Letter:** Joe Dalton (neighbor)
(opposed) 15047 Bainbridge Court (Centennial)
5. **07/06/15 Foutz Letter:** Carole Foutz (neighbor)
(opposed) 741 Bucksport Lane (Centennial)
6. **07/06/15 Inlow Letter:** Janet Inlow
(opposed)
7. **07/06/15 Keyes Letter:** Barbara Keyes (neighbor)
(opposed) 1362 Valdosta Place (Centennial)
8. **07/06/15 Mansfield Letter:** Ginny Mansfield (Centennial)
(support)
9. **07/06/15 Migut Letter:** Kimberly Migut (neighbor)
(opposed) 1351 Annapolis Drive (Centennial)
10. **07/06/15 Smith Letter:** Vincent Smith (neighbor)
(opposed) 606 Piedmont Drive (Centennial)
11. **07/06/15 Weintraut Letter:** Alice Weintraut (Centennial)
(support)
12. **07/06/15 Wilkinson Letter:** Mary Wilkinson (neighbor)
(opposed) 1358 Monmouth Drive (Centennial)

Petition No.:

1506-VU-06

13. **07/06/15 Winkler Letter:** Carl Winkler (Centennial)
(opposed)
14. **07/07/15 Garofalo Letter:** Henry Garofalo (neighbor)
(opposed) 1039 Monmouth Drive (Centennial)
15. **07/07/15 Williams Letter:** Steven Williams (Centennial)
(letter of questions)
16. **07/08/15 Beach Letter:** David Beach (neighbor)
(opposed) 1327 Annapolis Drive (Centennial)
17. **07/08/15 Benge Letter:** Claudia Benge (neighbor)
(opposed) 1343 Annapolis Drive (Centennial)
18. **07/08/15 Fisher Letter:** Pat Fisher (neighbor)
(opposed) 1386 Mayfield Court (Centennial)
19. **07/08/15 Gilbert Letter:** Nicholas Gilbert (neighbor)
(opposed) 14910 Mayfield Court (Centennial)
20. **07/08/15 Hannon Letter:** Michael Hannon (neighbor)
(opposed) 1335 Annapolis Drive (Centennial)
21. **07/08/15 Scheller Letter:** Curt Scheller (neighbor)
(letter of concerns) 615 Montgomery Drive (Centennial)
22. **07/14/15 Benedict Letter:** Steve Benedict (neighbor)
(support) 1354 Pawtucket Drive (Centennial)
23. **07/14/15 Pierce Letter:** Jim Pierce
(opposed)
24. **07/14/15 Yerian Letter:** Neal Yerian (neighbor)
(letter about HOA Board) 1324 Pawtucket Drive (Centennial)
25. **07/27/15 HOA:** Joe Plankis (President)
(HOA Board position) Centennial Homeowners' Association
26. **07/27/15 Lehman Letter:** Chuck Lehman Centennial
(opposed)

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27. **08/08/15 Burneson Letter:** Bob Burneson (neighbor)
(opposed) 14922 Mayfield Drive (Centennial)
28. **08/08/15 Fisher Letter:** Pat Fisher (neighbor)
(opposed) 1386 Mayfield Court (Centennial)
29. **08/08/15 Gilbert Letter:** Pam Gilbert (Centennial)
(opposed)
30. **08/09/15 Sawyer Letter:** Don Sawyer (neighbor)
(opposed) 1310 Mayfield Court (Centennial)
31. **08/09/15 Wilson Letter:** Joan Wilson (Centennial)
(opposed)
32. **08/10/15 Brown Letter:** Bill Brown (neighbor)
(opposed) 1318 Mayfield Court (Centennial)
33. **08/10/15 Streeter Letter:** Dwayne Streeter (Centennial)
(opposed)
34. **08/11/15 Benge Letter:** Claudia Benge (neighbor)
(support) 1343 Annapolis Drive (Centennial)
35. **08/11/15 Crowley Letter:** Thomas Crowley (neighboring property owner)
(support) NWC of Ditch Road/146th Street
36. **08/11/15 Perkins Letter:** John Perkins (neighbor)
(opposed) 1317 Mayfield Court (Centennial)
37. **08/11/15 Worysz Letter:** Andrew Worysz (neighbor)
(opposed) 14913 Mayfield Drive (Centennial)

Jesse Pohlman

From: Joseph Plankis <jplankis@gotown.net>
Sent: Friday, June 05, 2015 7:56 PM
To: Kevin M. Todd, AICP; Jesse Pohlman
Cc: Ancich Tom; Dwayne Streeter; Joe Plankis; Joseph Ruppert; Lyons Mike; Robert P Smith II; Robin Barbera; Ron Rothrock; Susan Stephens; Matt Englert; Roxanne Krieg; Scott Tanner
Subject: BZA Hearing

Hi Kevin,

Since I do not have the email addresses of the members of the BZA, I would appreciate it if you would forward this message to all the members of the BZA and enter it into the public record for this petition.

Facts:

1. I did speak with Jeff Kelich on Wednesday, June 2, 2015. His first call was at 3:35 PM and lasted 35 seconds. It was of short duration since I was in the middle of a project and asked him to call me back a half hour later.
2. He called back at 4:14 PM and I was running an errand in Carmel and just entering a store at the time. The call lasted approximately 10 minutes not the "spoke with Joe for over 20 minutes" that he indicated in his email to Kevin Todd on the morning of June 3, 2015.
3. He indicated in his email that "Joe was very receptive and mentioned he would send out a blast email to the neighborhood that he had supported what we were doing and the information was coming via mail." That is not accurate. What I said was I needed to see the information about his petition since I knew nothing about his proposal. I did say that I would send out a blast email to the residents with the information that he provided to the HOA, as one of the owners that needed to be notified, since the HOA owns common area within 600 feet of the PettyJohn site. I told him that I personally felt that his proposal, as he described verbally, might be a better use of the property, but I needed to see the plans first. I never said that the email would be in support of his project. At the time of the phone conversation on June 2nd, I had not seen any copy of the plans for the property, hours of operation, etc. In addition, I obviously had not received any feedback from the residents about the project since no one had received any notice of the petition and the public hearing. Let me be clear, Jeff Kelich does not speak for me or for our HOA.. Since it appears there is a significant misunderstanding, that is indeed unfortunate.
4. In the Variance Application there is a Public Notice Affidavit that is signed by Mr. Kelich. In that affidavit, he certifies that the notice of the public hearing to consider the petition was to be sent to all persons shown on Exhibit A (was not part of the application that is linked on the City's website), which I assume was a list of property owners within 600 feet of the PettyJohn property. Those notices were to be postmarked on May 15th according to the affidavit, but as indicated in the staff report, were not postmarked until June 3, 2015, in violation of BZA rules that requires at least a 10 day notice before the hearing. He obviously had plenty of time to send out the notices to the property owners prior to the 10 days prior to the hearing and he failed to do so. One homeowner that contacted me received the notice on Thursday June 4th. At this point, late on Friday afternoon, I am not been made aware by any other homeowners that they have received their letters.
5. The petitioner also did not post a notice on the property until June 3, 2015 in violation of BZA Rules. That would have been another method of notifying homeowners of the fact that something was going on with the PettyJohn property.

6. Since the pre-filing conference with staff was held on April 30, 2015, there was plenty of time to reach out to the Centennial community to set up a meeting with homeowners to present the project to them. Staff suggested setting up a meeting with the homeowners to attempt to gain support for the petition. This has been done very successfully by the developers of Harmony, and Cardon Associates in the past, and the HOA has been more than happy to provide that organizing effort to set up such a meeting at the Cornerstone Bible Church. Staff is aware of those past efforts by our HOA and that suggestion was evidently made several times, but apparently ignored by Mr. Kelich.
7. Having a better understanding of the petition and a review of the posted documents, I attempted to contact Mr. Kelich by phone early this morning (Friday) and as of this Friday evening, have not received a call back.

Having said all this, I would request that the BZA REJECT the petitioners request to suspend the rules and proceed with the public hearing. It is obvious that the homeowners have not had enough time to review the petition. The petitioner had ample time to follow the notification requirements and did not do so. That would allow the case to be continued until the July 14, 2015 meeting. Since this petition, if approved, could have a significant impact on home values in the area of the PettyJohn property, this request is not out of line.

In spite of the way the petitioner has handled this situation, the HOA would be willing to facilitate a meeting between the petitioner and the Centennial homeowners so they could gain a full understanding of what Mr. Kelich is proposing and have their questions answered. That results of that meeting would then determine whether the homeowners and the HOA would support or oppose the petition.

Respectfully submitted,

Joe Plankis
President
Centennial HOA

--

Joe Plankis
Cell: [317-625-4387](tel:317-625-4387)
Email: jplankis@gotown.net

Jesse Pohlman

From: Andrew Murray
Sent: Monday, June 08, 2015 8:15 PM
To: Jesse Pohlman
Cc: Kevin M. Todd, AICP
Subject: Fwd: Lawn and Landscaping Business

Please include in the record for tomorrow's BZA meeting.

This email was sent from a smartphone. Please excuse any grammar errors.

Andrew Murray
City of Westfield
Associate Planner | Economic and Community Development
Office: 317.804.3170
Direct: 317.379.9080
www.westfield.in.gov

Begin forwarded message:

From: Shirley Murray <samurray222@gmail.com>
Date: June 8, 2015 at 7:45:16 PM EDT
To: Andrew Murray <amurray@westfield.in.gov>
Subject: Lawn and Landscaping Business

Andrew,

Just sending you a note to voice my concern about a public hearing. I learned from a neighbor that the Board of Zoning Appeals meeting regarding this new business is on June 9, 2015. I have read the information that is posted on the City's website. I have received no notice regarding this meeting, I do not recall receiving any email from Mr. Plankis. I am a little concerned since my property backs right up to this proposed new business. Other commitments that I currently have will not allow me to attend this meeting on June 9th.

I was not concerned moving into this house with the concrete business that is currently in place. I have no objections to a new business going in here if they will be as respectful as the current concrete business that is in place. I am concerned with the smell from the piles of mulch, the palletized bulk storage area which will mean equipment moving about frequently and if they choose to operate on a Saturday morning at 7 a.m. Thus, more noise. This area all backs up to my property. I would hope before any decision is made, we would all get the proper information as a show of being neighborly.

Thank you.

Shirley Murray

Kevin M. Todd, AICP

From: Douglas Balan <dgbalan@hotmail.com>
Sent: Monday, July 6, 2015 7:30 PM
To: Kevin M. Todd, AICP; jplankis@gotown.net
Subject: FW: Special Meeting Regarding Variance Request for 14939 Ditch Road

Kevin Todd
Joe Plankis

We do not support the variance request.

Let the city follow the established zoning for this land. The land is contiguous to Centennial and would best be used as currently zoned. I would assume the owner was well aware of the zoning change when the land became part of Westfield and was then zoned as SF2. He can sell the land to a developer of SF2 properties.

Also, currently there are no commercial businesses on Ditch road alone the Centennial and Harmony corridor. Any commercial business at this location will add to traffic problems with vehicles entering and exiting from/onto Ditch road.

I want to believe the board will honor the city's existing plans for the land as well as the desires of the local residences over the wishes of an individual businessman.

Sincerely,

Douglas Balan
1334 Monmouth Drive
Westfield, IN 46074

To: dgbalan@hotmail.com
Subject: Special Meeting Regarding Variance Request for 14939 Ditch Road
Date: Mon, 6 Jul 2015 18:56:27 -0400
From: hoa@centennialhoa.org

Dear Douglas Balan,

The email is to inform you of a special meeting that will be held this Wednesday. JULY 8, 2015 AT 7pm for all Centennial homeowners at the main conference room at the City Services building at 2728 East 71st Street in Westfield. If attending, please use the East entrance to the City Services building. There is a parking lot on the east side of the building and you should park there if you can. If the lot is full, you can use the west

lot, but you will still have to use the east entrance to enter the building. If you cannot attend this special meeting, I encourage you to attend the BZA (Board of Zoning Appeals) meeting at 7PM on July 14th.

The meeting was requested by Jeff Kelich, owner of Carmel Turf Care. He has filed a petition with the City of Westfield (1506-VU-06) requesting approval of a Variance of Use for the property at 14939 Ditch Road, currently known to most of us as the PettyJohn property. As you know, PettyJohn is a contractor that installs concrete foundations and does other similar work. They have been in that location since 1979, about 20 years before Centennial was started. The site is about four acres.

The property is currently zoned as SF2:Single Family Low Density District (Chapter 13:Use Table). That basically means that homes, such as we have in Centennial, can be built on the site with the developer having to provide a site plan before the Plan Commission for approval. No change in zoning would be required.

The reason, that an operation such as we have now existing on the site, is that PettyJohn requested a Variance of Use in 1979 before the BZA. At that time no homes were anywhere close by and this area was part of the township, but not part of the City of Westfield. Because that Variance was granted for a specific use, a concrete construction company, it cannot be used for other purposes. Thus, the petition request by Mr. Kelich for placing his landscaping business on that site. It would be a retail site for a landscaping business that would include various kinds of equipment, sale of bulk mulch, shrubs, and other plant and landscaping matter, etc. It would operate from 7 AM to 7 PM five days a week and until 5PM on Saturdays.

The hearing was continued from June 9th until July 14th since Mr. Kelich did not notify approximately 60 Centennial homeowners in a timely manner in violation of BZA rules. He had requested a waiver from the rule, even though he was the one that failed to execute the proper procedure for notifying property owners. The BZA voted NO to the waiver so that he would have to come before the July 14th meeting.

It had been suggested to him to request a meeting with the homeowners of Centennial to explain what he wants to do with the property as stated in his petition. He finally made that request recently and due to some issues with being able to line up the Cornerstone Bible Church for a community meeting, the City has graciously allowed Mr. Kelich to use the City Services Conference room for the community meeting.

I encourage all homeowners to attend the meeting on Wednesday. I, along with other board members will be there and will want your input as to whether or not your board, who represents the homeowners, should support such a request. This request is contrary to the current zoning as well as to the vision stated in the Comprehensive Land Use Plan for this area.

If anyone has any questions in the meantime, please contact me or one of the other board members.

If you cannot attend the Wednesday meeting or the BZA meeting on July 14th, but would like to express your thoughts, please send your comments directly to Kevin Todd at the Community and Economic Development Department at ktodd@westfield.in.gov so he can pass it on to the members of the BZA. If you send any comments to Kevin Todd, please copy me on those emails at jplankis@gotown.net.

Respectfully submitted,
Joe Plankis
President,
Centennial HOA

--

Joe Plankis

Cell: 317-625-4387

Email: jplankis@gotown.net

You have received this message because you are a registered member of the Centennial Homeowner Association's website and you have subscribed to receive special messages from the webmaster. To stop receiving special messages like this one from the Centennial Homeowner's Association website, please log in at www.centennialhoa.org and modify the appropriate notification options in your profile.

Kevin M. Todd, AICP

From: Joe Dalton <pudaddy@gotown.net>
Sent: Monday, July 6, 2015 6:27 PM
To: Kevin M. Todd, AICP; jplankis@gotown.net
Subject: Variance of Use for 14939 Ditch Road

Due to the fact that I will not be able to attend the special meeting, July 8th or the Board of Zoning Appeals on July 14th, I am sending this email.

As a Homeowner in the Centennial Subdivision I ask that there would be no Variance of Use for the property at 14939 Ditch Road. This is contrary to the current zoning as well as to the vision stated in the Comprehensive Land Use Plan for this area. It is my understanding that the areas near the corner of Ditch Road and 146th Street have several businesses already planned to surround our neighborhood. Putting in another business backed up to our neighborhood will cause a greater increase in traffic of heavier equipment in our area. This is something we do not need . We need the land to be used as it was intended--for single family homes.

Thank you, Joseph Dalton
15047 Bainbridge Ct.
Westfield, IN 46074

Kevin M. Todd, AICP

From: Carole Foutz <clyfoutz@yahoo.com>
Sent: Monday, July 6, 2015 5:12 PM
To: Kevin M. Todd, AICP
Subject: Variance

As a resident of Centennial I would not be in favor of a variance. This piece of land now is in the middle of a major residential area as it was not originally when the prior business began. A landscaping business will lend itself to large equipment, piles of mulch, etc. which is not in our best interest as a homeowner. Continuation of pathways need to happen in that area as well as other upgrades which are not present now.

Carole Foutz
741 Bucksport Lane

Sent from my iPhone

Kevin M. Todd, AICP

From: Janet Inlow <inlow@gotown.net>
Sent: Monday, July 6, 2015 5:38 PM
To: Kevin M. Todd, AICP
Subject: landscaping business

Tell Mr. Kelich to keep his business in Carmel!

Kevin M. Todd, AICP

From: Barb <btkeyes@me.com>
Sent: Monday, July 6, 2015 7:30 PM
To: Kevin M. Todd, AICP
Subject: Special Meeting Regarding Variance Request for 14939 Ditch Road

I am a homeowner in Centennial and cannot attend the meeting on Wednesday. I am strongly opposed to Carmel Turf having a retail store in our neighbor. I am also concern about how he tried to push it through without residents being aware. Please do not allow this business to proceed.

Thank you,
Barbara Keyes
1362 Valdosta Pl.
Westfield , IN. 46074

Kevin M. Todd, AICP

From: Mansfield, Geneva <GMansfield@IUHealth.org>
Sent: Monday, July 6, 2015 7:47 PM
To: Kevin M. Todd, AICP
Subject: Special Variance Meeting for 14939 Ditch road

I am confused by the email sent by Joe. Was this site granted a variance for the use as a concrete construction company? If so it was zoned for business. If not was it zoned only for homes to be built upon the 4 acres? If this variance was granted before there was ever a Zoning Board, for commercial endeavors then I see no reason for the variance not to be granted. 4 acres isn't a very large area for homes to be built upon and I see no reason why if there is a current business there that another business can't be in the same location. The greater the tax base the better.

Ginny Mansfield CCS, CCDA
Denial Prevention and Recovery
Coding/Denial Mgmt Coordinator
Indiana University Health
Revenue Cycle Services
Office 317-963-0923
Fax- 317-968-1105
gmansfield@iuhealth.org

Kevin M. Todd, AICP

From: Migut, Kimberly C. <kim.migut@FaegreBD.com>
Sent: Monday, July 6, 2015 5:26 PM
To: Kevin M. Todd, AICP
Cc: jplankis@gotown.net
Subject: FW: Special Meeting Regarding Variance Request for 14939 Ditch Road

Hello Todd-

I am one of the residents that live on Annapolis Drive in Centennial and my property is directly facing the Pettyjohn property.

I highly oppose the variance. First I am disappointed to the type of person the Mr. Kelich appears to be . Failing to execute a simple notice in a timely manner indicates to me that he potentially lacks the type of character and business tactics that I can respect.

Allowing this variance would dramatically impact my property value in a negative way. I purchase my home two years ago and it is a nice quiet street. The noise that the new business would create would be highly disruptive to my family and virtually kill my property value. The last thing I am sure you would like to wake up to on a Saturday morning after working 60 hours a week is the sound of a backloader going “beep beep beep” outside your bedroom window at 7 am while it’s loading mulch into a truck. (and yes my bedroom windows are about 20 feet from this property) The Pettyjohn business that is there make virtually zero noise and creates no additional traffic. I am also concerned with the safety and security of my home with all the new traffic and random people that would be entering the area. I am not at all inclined to have a retail site in my back yard with only a 8’ privacy fence separating it from my 4 year old daughter.

I urge you to please convey my concerns and urge the committee to vote no to the variance.

Thank you,

Kim Migut
1351 Annapolis Drive

Kim Migut, CMP
Director of Events
kim.migut@FaegreBD.com [Download vCard](#)
D: +1 317 237 1365 | M: +1 317 445 2861 | F: +1 317 237 1000

Faegre Baker Daniels LLP
300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA
Connect: [LinkedIn](#) | [Twitter](#)

Kevin M. Todd, AICP

From: Smith Vincent <vsmith1814@aol.com>
Sent: Monday, July 6, 2015 8:41 PM
To: Kevin M. Todd, AICP
Cc: jplankis@gotown.net; McNeal Smith Sheiletha
Subject: RE: Variance Request for 14939 Ditch Road

Mr. Todd,

My name is Vincent Smith and I live at 606 Piedmont Dr. Westfield, IN. (317-669-8355) We will not be able to attend the special meeting regarding the variance request.

However I would like it to be known that my wife and I are against granting this variance. The city of Westfield has approved the Harmony plan and this is directly across Ditch Road from this property.

This property is also surrounded on three sides by the Centennial residential area and therefore we believe it should remain residential.

It is our wish that the BZA decline the variance and that the Comprehensive Land Use Plan be adhered to.

Sincerely,

Vincent & Sheiletha Smith

Kevin M. Todd, AICP

From: enzamatic@gmail.com on behalf of Alice Weintraut <alice.weintraut@gmail.com>
Sent: Monday, July 6, 2015 6:19 PM
To: Kevin M. Todd, AICP
Cc: Joseph Plankis
Subject: Landscaping company at 14939 Ditch Road

I just wanted to chime in as a resident of Centennial that I think this would be the perfect type of business for this location. It's a small enough spot that you couldn't build a neighborhood there. It seems the only options would be an individual home or some type of business. Rather than have an individual home, I would LOVE having a convenient location to buy mulch, landscaping plants, etc. The closest similar businesses are Tractor Supply (which rarely has anything) and Lowes (big box, not a local business). I would love to see a local landscaping business be the most convenient shopping location for neighborhood residents like myself. I also feel landscaping, unlike other retail businesses, are usually attractive with their product around, don't have an excessive amount of traffic, and in general are suitable for proximity to homes.

Excited about the possibility, hope I'm not in the minority.

Alice Weintraut

Kevin M. Todd, AICP

From: mwilkinson@opusdesignad.com
Sent: Monday, July 6, 2015 5:22 PM
To: Kevin M. Todd, AICP
Cc: jplankis@gotown.net
Subject: FW: Special Meeting Regarding Variance Request for 14939 Ditch Road

Mr. Todd, I am a nearly ten-year resident of Centennial.

I am one of the unfortunate homeowners who backs up to Ditch Road and have borne the brunt of the Estridge construction project across the road. I would also be located four homes down from the proposed rezoning site.

I was given the choice of a lot that backed up to the PettyJohn site or my home site, which backs up to Ditch Road. At the time, Ditch Road was a quiet thoroughfare with little traffic. The PettyJohn site was rather noisy and so I chose my current home site. I was told – ten years ago by the Estridge representative – that PettyJohn was moving and by the time my home was complete, the facility would be gone. As you can see, that has not happened.

At the same time, I was told that the property across Ditch was to be developed in the next 10 years or so, but there would be no problem with my home, since Estridge would set up sound mitigation for Centennial residents on the property in order to maintain the value of our homes.

Neither of these promises have taken place.

The time has come to turn that space into what it was intended to be...residential sites. The noise, dirt and traffic would expand an already difficult and untenable situation for the residents along Ditch and those that back up to the property who have already had to deal with disruption, dirt, noise and exponentially increased traffic from development.

I work from my home, and this was my dream cottage that I poured everything into. Now it's a noisy, dirty, albatross with a drag strip behind it...I couldn't sell it for what I have into it until I tried.

While growth for Westfield is a good thing, does it need to be at further cost to residents in place?

Please deny the petition of Carmel Turf Care. Westfield has determined this to be an area for residences, so please don't place industrial and retail traffic in our neighborhood.

Respectfully submitted,

Mary Wilkinson
1358 Monmouth Drive

Kevin M. Todd, AICP

From: CarlJWinkler <carljwinkler@gmail.com>
Sent: Monday, July 6, 2015 6:36 PM
To: Kevin M. Todd, AICP
Cc: Joe Plankis
Subject: Petty John Property on Ditch

Dear Mr. Todd

The variance on the Petty john property should be honored.

However in additional variance it is not consistent with the surrounding property should not be considered or granted.

It is certainly not the highest and best use of the property.

A 4 acre site there could support 6 to 8 homes. Certainly a better value and consistent with the surrounding community.

Sincerely CARL WINKLER

Sent from my iPhone

Kevin M. Todd, AICP

From: Baked Apple Industries <bakedappleinc@yahoo.com>
Sent: Tuesday, July 7, 2015 7:49 AM
To: Kevin M. Todd, AICP
Subject: Property Change

Dear Mr. Todd:

Good morning I own a property In Centennial (1039 Monmouth Drive) that backs up to Ditch Road. I would like to OBJECT to the Landscape company coming into a residential area. I also own a home in Boca Raton Florida the has the same thing in that community, their is nothing but noise and dirt flying around from the trucks and machines moving around not to mention the customers picking up plants and mulch, and in addition to Pesticide odors.

Again please consider the problems they would create and turn down their request!!!!

Concerned Home Owner
Henry Garofalo

Kevin M. Todd, AICP

From: Steve Williams <skwilliams@gmail.com>
Sent: Tuesday, July 7, 2015 8:57 AM
To: Kevin M. Todd, AICP
Subject: July 14th meeting

Kevin

I will be unable to attend the meeting. My question is will the landscaping business produce any types of smells that will carry over to the neighborhood? There is a bulk mulch and landscaping business on 96t and 465. That you can smell when you drive by.

Now that is a large business and I'm guessing it's bigger than 4 acres, but i don't want that smell hanging around. If there might be anything producing a smell i would vote against this.

--

Thanks
Steven Williams
Burnish and Press
480-262-3942.

Kevin M. Todd, AICP

From: David Beach <beachrunners@sbcglobal.net>
Sent: Wednesday, July 8, 2015 5:16 PM
To: Kevin M. Todd, AICP
Cc: jplankis@gotown.net
Subject: Variance Request -1506-VU-06
Attachments: bza response.odt

Page 1 of 2

July 8, 2015

To: Board of Zoning Appeals
City of Westfield, Indiana
1327 Annapolis Drive
Westfield, Indiana 46074

As a Professional Engineer and Surveyor, I have been involved in the review of development plans for various cities in Ohio for the last 30 years. The current proposal, for the construction of a landscaping business in a area zoned for residential, and completely surrounded by residential use should be denied as follows:

1. The approval **will** be injurious to the public health, safety, morals, and general welfare of the community:

a. Finding: It is likely that allowing a landscaping business on the Property **would** be injurious to the public health, safety, morals, and general welfare of the community. A concrete company has operated on the Property for 36 years. This landscaping company has been a good neighbor and, except for a few trucks leaving in the morning and returning in the evening, the noise and disturbance has been minimal. A landscaping operation would **not** have a similar impact on the site and the surrounding area. Traffic will be ongoing throughout the day and loading and unloading of materials, including noise from backup alarms will be a substantial increase from the existing use. This proposed use will definitely lower the property values of existing homes.

b. Finding: It is likely that the use and value of adjacent property **will** be affected in a substantially adverse manner. While similar because there are outdoor activities involved in both, concrete operations and landscaping operations are not the same thing. Landscaping operations could have more intense and frequent outdoor activity than a concrete company would have. My experience is that typically, landscape companies frequently engage in snow removal services during the winter months and storage, loading and traffic will occur during the winter when the current use is basically dormant, again, an expansion of the existing use. The added noise and disturbances **will have an adverse impact on the health and general welfare** of the residents who live in the homes adjoining the site.

c. Finding: Either a small, single-street residential subdivision project could theoretically develop on the 4-acre property, a single home could be built on the property, or one of the institutional uses could build on the property. Either way, the property could be used in a

manner that is consistent with permitted uses in the SF-2 District. 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 of use is sought: Finding: Strictly applying the zoning ordinance would **not** permit the requested use. Landscaping businesses are permitted elsewhere within Westfield-Washington Township, and this site that is surrounded by suburban residential development is **not** the most appropriate location for this use. The Property could be used in a manner that is consistent with permitted uses in the SF-2 District. 5. The approval does not interfere substantially with the comprehensive plan: Finding: The proposed land use is not consistent with the recommendations for the Suburban Residential area of the Comprehensive Plan, which calls for residential, institutional, and recreational uses.

Page 2 of 2

In conclusion, the site plan / conceptual plan for this landscaping business is a significant expansion of the existing variance. The parking lot is planned for expansion and paving of a majority of the parcel as a gravel parking lot, which does not meet existing site development regulations nor include provisions for stormwater detention/retention in accordance with existing regulations. The expansion is setting a precedence for retail sales in a residential area and the added traffic from the expanded use will create a safety problem due to the undeveloped condition of Ditch Rd. in front of the site.

Therefore, it is my request that the board DENY the current request for variance.

Respectfully,

David E. Beach, P.E., P.S.

Kevin M. Todd, AICP

From: Claudia Bengé <bengecaj@iquest.net>
Sent: Wednesday, July 8, 2015 5:32 PM
To: Kevin M. Todd, AICP; jplankis@gotown.net
Cc: mhannon10@cox.net
Subject: Property at 14939 Ditch Road; petition 1506-VU-06

Mr. Todd

My husband and I are Centennial property owners on Annapolis Drive. Our home backs up to the above mentioned property in the discussion. We have problems now with the occasional loud noises that come from the current occupants/business.

We respectfully want the property to be returned to it's original zoning designation as SF-2: Single Low Family Density District.

Centennial single family homes surround this particular property. With Harmony going up on the westside of Ditch Road which will include a strip mall, we are going to experience enough of a problem with traffic as it stands right now.

Please do not approve the petition from Carmel Turf Care/Jeff Kelich for that particular 4 acre plot.

Claudia A and James R Bengé
1343 Annapolis Drive
Westfield, Indiana 46074
317 626 1260

Kevin M. Todd, AICP

From: Pat. Fisher <pfisher4163@gmail.com>
Sent: Wednesday, July 8, 2015 2:41 PM
To: Kevin M. Todd, AICP
Subject: RE: Variance of use for property at 14939 Ditch Road

Our home backs up to the property at 14939 Ditch Road. We have lived here for over a year and have no complaints about the present concrete company. However, we are concerned about the idea of a commercial business with long business hours and noisy equipment in use, and it is our hope that Carmel Turf Care will not be given a variance.

Jim and Pat. Fisher
1386 Mayfield Court

Kevin M. Todd, AICP

From: Nicholas Gilbert <nkgilb1@aol.com>
Sent: Wednesday, July 8, 2015 4:01 PM
To: Kevin M. Todd, AICP
Cc: jplankis@gotown.net
Subject: Variance request for 14939 Ditch Road

As residents of Centennial, we are against for the request to change variance of use for the property at 14939 Ditch Road. We feel that any change from the current code of SF2 single family, low density, will adversely effect the property values of our neighborhood of Centennial and that of the Harmony neighborhood.

With all surrounding property being single family homes, the installation of the landscaping business, or any business would be detrimental.

Please reject any change brought up before the board as it is contrary to the current zoning and well as the vision stated in the Comprehensive Land Use Plan for this area.

Regards,

Nicholas K Gilbert
14910 Mayfield Drive
Westfield, IN 46074
317-460-2020
Sent from my iPad

Kevin M. Todd, AICP

From: M&M Hannon <mhannon10@cox.net>
Sent: Wednesday, July 8, 2015 4:11 PM
To: Kevin M. Todd, AICP
Cc: jplankis@gotown.net
Subject: 14 JULY 2015 BOARD OF ZONING APPEALS MEETING

Good Afternoon Mr. Todd,

I am writing to you regarding the BZA Meeting scheduled for Tuesday 14 July to address Mr. Jeff Kelich, owner of "Carmel Turf Care" petition he filed with the City of Westfield (1506-VU-06) requesting approval of a Variance of Use for the property located at 14939 Ditch Road, which is currently known as the "PettyJohn" property. This property is currently zoned as SF2: "Single Family Low Density District."

My wife and I currently own a home at 1335 Annapolis Drive in Centennial, Lot: 607, Parcel ID Number: 08-09-15-00-11-066.000. Our property backs up to the 14939 Ditch Road property. The properties are separated by a Centennial Subdivision provided "Privacy Fence" and narrow common area corridor. As homeowners, we are very much opposed to this property continuing as a commercial enterprise of any sort.

Since the development of our section of the Centennial community, the property located at 14939 Ditch Road has become a question of concern, particularly as related to property appearance. The appearance of this property has a negative impact on neighborhood appeal. In general, residential property intermixed with commercial property tends to lose property value, especially for the residential properties located along the borders of the commercial property.

With the continued growth of the neighborhood communities in and around the Centennial community, this growth brings with it the potential for increased neighborhood crime and property damage. Having an active commercial enterprise as proposed by Mr. Jeff Kelich would most definitely have an adverse effect on adjacent Centennial homeowner property values as well as have a negative impact on homeowner/resident privacy and quiet solitude.

It is challenging to deal with the current construction traffic, the poor road conditions, construction trash, residue, and dust. It would also be very concerning to those Centennial homeowners and residents should the BZA approve Mr. Kelich's petition, to have to also deal with and tolerate Mr. Kelich's business trucks and vehicles, the comings and goings of supplier delivery trucks, and company personnel, the building of any additional administration and operations buildings on the property, and most especially the worry and concern of potential site vandalism and burglary during non-business hours.

I can understand why Mr. Kelich would want to establish his business at 14939 Ditch Road, it is a beautiful location with lots of business potential. We feel though, it would be a detriment to those residents and homeowners of Centennial in having this business established in the heart of our community. My family and I do not want the value of our home and property be

diminished in any capacity due to a commercial business being established adjacent to our home and within the Centennial community. The economic impact could be reprehensible.

Thank you for taking the time to entertain our concerns regarding this particular issue. We look forward in hearing from you regarding the BZA's decision. Please feel free in contacting us regarding this issue. Thank you.

Sincerely,

Michael and Marilyn Hannon
1335 Annapolis Drive
Westfield, Indiana 46074
Cell: 520.203.1206
E-mail: mhannon10@cox.net

Kevin M. Todd, AICP

From: Curtis Scheller <schellers@gotown.net>
Sent: Wednesday, July 8, 2015 2:27 PM
To: Kevin M. Todd, AICP; jplankis@gotown.net
Subject: Concerns

I read the email about the variance request for Carmel turf care on the property next to centennial.

I am concerned about the amount of dust a gravel drive will create during April through November. Another concern is the creation of a debris/trash pile that I know a landscaping company can create. Another concern is the noise and operation of tractors and skid steer loaders throughout the day and especially during the early morning hours.

I would also be concerned about the amount of truck traffic in and out onto ditch road and the mud and rocks that accompany it.

I will not be able to attend tonights meeting but I thought these are valid concerns.

Curt Scheller
615 Montgomery Dr

Kevin M. Todd, AICP

From: Steve Benedict <Steve@SteveBenedict.com>
Sent: Tuesday, July 14, 2015 7:51 PM
To: Kevin M. Todd, AICP
Subject: Variance regarding 14939 Ditch Road.

Hello Mr. Todd,

Please put this communication in the public testimony regarding the variance requested at 14939 Ditch Road. I live in Centennial, at 1354 Pawtucket Drive in Westfield.

I am in favor of the variance for a number of reasons, including private property rights. First and foremost is that the Centennial Homeowners Association doesn't speak for me. I was on their Board for several years and they often took positions without consulting the membership. I don't think that should be their role, as they are using their positions for political purposes, without doing their homework. Another reason is that the area of the proposed variance is not pristine. It is being used now for light commercial. Also, the surrounding area has already been approved for light business and retail.

It is my considered opinion, that property values will not drop. I have been in real estate as a broker and broker/owner for over 15 years and have seen much of the hype and hysteria surrounding anything that changes the makeup of a neighborhood.

Please try to set your planning sights on protecting certain areas that aren't already surrounded by subdivisions, proposed strip malls and nursing homes. If you can find some areas that haven't been developed, encourage the landowners to work with National, State and local Conservation Trusts to keep some areas in their natural state. I served on the Bitterroot Land Trust in Hamilton, MT and we found that large landowners were often very willing to work with us to preserve nature areas for future generations.

Thank you,

Steve Benedict
Westfield Real Estate
"Hometown Broker...Worldwide Reach"
(317) 903-5141

Kevin M. Todd, AICP

From: Jim Pierce <pjlee1@hotmail.com>
Sent: Tuesday, July 14, 2015 1:36 PM
To: Kevin M. Todd, AICP
Subject: Deny!!!!

BZA Petition 1506-VU-06. Terrible fit, objectionable zoning.

Jim Pierce
Real Estate Broker, KW Indy North
President, Vision Property Group
(317)294-8285
pjlee1@hotmail.com
www.jimpierce.kwrealty.com
www.visionpropertygroupinc.com

Kevin M. Todd, AICP

From: txyerians@juno.com
Sent: Tuesday, July 14, 2015 2:56 PM
To: Kevin M. Todd, AICP
Cc: president@centennialhoa.org
Subject: Fw: Variance Meeting Regarding 14939 Ditch Road Has Been Continued Until August 11

Dear Mr. Todd, I have forwarded Mr. Plankis's latest email regarding the BZA Petition 1506-VU-06. It is misleading on some key points. Please understand that any vote of the Centennial HOA Board merely indicates the wishes of the 9 Board Members. The Centennial community as a whole has not been invited to vote or otherwise demonstrate the collective desires of the majority of the property owners on this matter. For Mr. Plankis to suggest the "Board's" position represents the majority of the near 1100 Centennial property owners, is rubbish. The number of responses, both negative & positive, Mr. Plankis has received is a very small percentage of the total Centennial community, limited mostly to his circle of friends and political support network. Mr. Plankis's representation that Mr. Kelich wants to open a "lawn & landscape" business is also a misrepresentation. We hope you will not be swayed by such silliness and will give full & fair consideration to the petition along the same Agriculture related lines the Urban Farmer Produce Market & Nursery project, approved on 161st Street, received. Best Wishes. Neal & Lesley Yerian 1324 Pawtucket Dr, in Centennial Westfield, IN ----- Forwarded Message -----

From: Centennial HOA <hoa@centennialhoa.org>
To: txyerians@juno.com
Subject: Variance Meeting Regarding 14939 Ditch Road Has Been Continued Until August 11
Date: Tue, 14 Jul 2015 13:21:53 -0400

To all Centennial homeowners:

This is an update for homeowners regarding the BZA Petition 1506-VU-06, which is a request by the Petitioner, Jeff Kelich, requesting approval of a Variance of Use to allow a lawn and landscape business in the SF-2: Single-Family low Density District (Chapter 13: Use Table) on the former Pettyjohn property at 14939 Ditch Road has been continued until the August 11, 2015 Regular monthly meeting of the Board of Zoning Appeals. It will be a Public Hearing and any citizen is free to speak at that hearing.

Mr. Kelich has hired an attorney and his attorney has requested a continuance so he has time to work with Mr. Kelich on the petition request.

At our regular Centennial HOA Board meeting held on July 9th, your board voted to support the homeowners, who are asking the BZA to reject the petitioner's request to allow a landscaping business at that location. We have already made the board's position of support to the homeowners known to the BZA and the petitioner.

If you would like to comment for the record to the BZA, you can email Kevin Todd, the Senior Planner who is handling this petition for the City at ktodd@westfield.in.gov If you do send an email to Kevin Todd, please copy me at president@centennialhoa.org If you have any questions, please contact me at the same email address.

Of all the emails that have been sent to the BZA from the homeowners so far, they have been overwhelmingly opposed to granting the variance, due to a negative effect on their property values and for numerous other

reasons.

Respectfully submitted,

Joe Plankis
President,
Centennial HOA

You have received this message because you are a registered member of the Centennial Homeowner Association's website and you have subscribed to receive special messages from the webmaster. To stop receiving special messages like this one from the Centennial Homeowner's Association website, please log in at www.centennialhoa.org and modify the appropriate notification options in your profile.

Kevin M. Todd, AICP

From: Joseph Plankis <jplankis@gotown.net>
Sent: Monday, July 27, 2015 7:39 AM
To: Calderon, Joseph; Kevin M. Todd, AICP
Cc: Kathy Sawyer; Don Sawyer; Bruce Watson; Ancich Tom; Dwayne Streeter; Joe Plankis; Joseph Ruppert; Lyons Mike; Robert P Smith II; Robin Barbera; Ron Rothrock; Susan Stephens
Subject: Re: Jeff Kelich-14939 Ditch Road

Good morning Joseph,

I have checked with some of the neighbors bordering your client's property as well as polling the board again. We have already had a neighborhood meeting, that we set up for you, and as far as everyone is concerned, there is no reason to schedule another meeting. It would still be a retail site situated on property that is currently zoned for SF-2 Single Family Housing. There is no way a retail business of the type proposed can be "compatible" with single family housing as close as 22 feet from the lot line. We are still opposed to that site being used for a retail lawn and landscaping business and will state that again at the next BZA meeting.

By copying Kevin Todd on this email, I am asking him to pass this along to the members of his staff as well as the members of the BZA as further input from the neighbors and property owners in Centennial.

Joe Plankis

On Fri, Jul 24, 2015 at 11:42 AM, Calderon, Joseph <jcalderon@boselaw.com> wrote:

Good Morning, Joe: Jeff and Renee Kelich have asked me to reach out to you in order to try and set up an additional meeting with your group, ahead of the upcoming BZA meeting on August 1th. They heard the neighbors' concerns, and while they respect that the Board voted to oppose, they are firm in their belief that they can operate their business responsibly and in a manner that is compatible with the surrounding environment. I am working on a plan of operation and commitments, and the Kelich's are updating their site plan as we speak. Can you see what days might work the week of August 3rd? Next week is possible on Thursday evening as well.

I appreciate your time and consideration of this request, and look forward to hearing back from you.

Joseph D. Calderon

Bose McKinney & Evans LLP | www.boselaw.com

111 Monument Circle | Suite 2700 | Indianapolis, Indiana 46204

JCalderon@boselaw.com | P [317-684-5331](tel:317-684-5331) | F [317-223-0331](tel:317-223-0331) | C [317-294-0857](tel:317-294-0857)

Assistant Contact | Stacey R. Cleveland | SCleveland@boselaw.com | P [317-684-5197](tel:317-684-5197) | F [317-223-0197](tel:317-223-0197)

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--

Joe Plankis

Cell: 317-625-4387

Email: jplankis@gotown.net

Kevin M. Todd, AICP

From: Chuck Lehman <clehman@anylabtestnow.com>
Sent: Monday, July 27, 2015 8:57 AM
To: Joseph Plankis
Cc: Calderon, Joseph; Kevin M. Todd, AICP; Kathy Sawyer; Don Sawyer; Bruce Watson; Ancich Tom; Dwayne Streeter; Joseph Ruppert; Lyons Mike; Robert P Smith II; Robin Barbera; Ron Rothrock; Susan Stephens
Subject: Re: Jeff Kelich-14939 Ditch Road

Good morning Joe,

Thanks for your efforts in representing the local area regarding the proposed retail business on Ditch near 146th Street. I was not able to attend the recent meeting(s) but I am very familiar with these matters. Obviously, this property has been operating as a small business for many years & in general businesses can exist within a close proximity to residential housing. In this case the community has grown up around it on every side & the natural progression would be to utilize this as housing fill-in & simply build more homes. While I have no facts it would seem reasonable that efforts were made at some point to include this area as part of the Centennial development. That would now be logical. To allow this change would have a totally negative impact on the surrounding area. While a nursery type business can operate within a residential area in some cases the exact type of products & the types of services does impact the daily activities & the neighborhood. Hours & seasonal conditions are also critical. Considering the outlined business plan that is being requested this does not fit with the general uses desired for this parcel. Please know that I am opposed to this zoning change & request that it be denied by the BZA.

My best,
Chuck Lehman,
Centennial resident
413.6890

Chuck Lehman
Any Lab Test Now
Carmel, Indiana
317.413.6890

On Mon, Jul 27, 2015 at 7:38 AM, Joseph Plankis <jplankis@gotown.net> wrote:

Good morning Joseph,

I have checked with some of the neighbors bordering your client's property as well as polling the board again. We have already had a neighborhood meeting, that we set up for you, and as far as everyone is concerned, there is no reason to schedule another meeting. It would still be a retail site situated on property that is currently zoned for SF-2 Single Family Housing. There is no way a retail business of the type proposed can be "compatible" with single family housing as close as 22 feet from the lot line. We are still opposed to that site being used for a retail lawn and landscaping business and will state that again at the next BZA meeting.

By copying Kevin Todd on this email, I am asking him to pass this along to the members of his staff as well as the members of the BZA as further input from the neighbors and property owners in Centennial.

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I appreciate your time and consideration of this request, and look forward to hearing back from you.

Joseph D. Calderon

Bose McKinney & Evans LLP | www.boselaw.com

111 Monument Circle | Suite 2700 | Indianapolis, Indiana 46204

JCalderon@boselaw.com | P [317-684-5331](tel:317-684-5331) | F [317-223-0331](tel:317-223-0331) | C [317-294-0857](tel:317-294-0857)

Assistant Contact | [Stacey R. Cleveland](mailto:Stacey.R.Cleveland@boselaw.com) | [317-684-5197](tel:317-684-5197) | [317-223-0197](tel:317-223-0197)

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--

Joe Plankis

Cell: [317-625-4387](tel:317-625-4387)

Email: jplankis@gotown.net

Kevin M. Todd, AICP

From: Bob and Sue Burneson <bobandsueburneson@gmail.com>
Sent: Saturday, August 8, 2015 1:52 PM
To: Kevin M. Todd, AICP
Subject: Zoning variance for former Pettyjohn property

Categories: Holiday - CLOSED

We would like to go on record as strongly opposed to the variance request submitted by Jeff Kelich for the property at 14939 Ditch Rd. (the former Pettyjohn property). The original plan for his landscaping and retail business was detrimental to the property values of adjacent homeowners and his revised plan is even worse.

This business would bring additional noise, odor, traffic congestion, light (as in brightness), and the potential of polluting Centennial's ponds with storm water run off from the property. His request to allow other landscaping businesses to succeed him on the property creates an even longer term negative effect on adjacent property owners and should not be considered.

The existing business on the property is not a concrete company per se, but a concrete forms business. They load up their materials in the morning and do not return until evening. Their operation is very quiet and creates little, if any, concern to the neighbors.

We strongly encourage the BZA to deny Mr. Kelich's variance request and strive to limit this property to single family homes as designated in the comprehensive plan.

Respectfully,

Robert and Suzanne Burneson
14922 Mayfield Dr.
Westfield, IN. 46074

Kevin M. Todd, AICP

From: Pat. Fisher <pfisher4163@gmail.com>
Sent: Saturday, August 8, 2015 2:19 PM
To: Kevin M. Todd, AICP

We are Centennial property owners who back up to the proposed landscaping business on Ditch Road. We feel that approval of the variance will have an obvious negative effect on our property values as well as on our quality of life.

We, therefore, object to the proposal and hope that it is rejected.

Sincerely,
Jim and Pat. Fisher
1386 Mayfield Court
Centennial
Westfield, IN 46074

Kevin M. Todd, AICP

From: Pamela Gilbert <pbgilb@aol.com>
Sent: Saturday, August 8, 2015 5:40 PM
To: Kevin M. Todd, AICP
Subject: BZA Opposition to Petition

As a resident of Centennial I am in total opposition to the granting of the above petition. This parcel of land is surrounded by residential property and allowing a landscaping business to open in this area will adversely impact property values and the neighborhood. Please consider the residents of Westfield who will be negatively affected by the traffic, noise, and all activities involved with a business which would be operating 6 days per week. I urge you to support the residents who are opposed to this venture.

Pamela B. Gilbert

Sent from my iPad

Kevin M. Todd, AICP

From: Don Sawyer <dtsawyer2011@gmail.com>
Sent: Sunday, August 9, 2015 8:17 AM
To: Kevin M. Todd, AICP; jplankis@gotown.net
Cc: Kathy
Subject: BZA 8.11.2015 Mtg - 1506-VU-06
Attachments: BZA 8.11.2015 Public Hearing 1506-VU-06.docx; Exhibit A.pdf

Gentlemen,

I forgot to attach Exhibit A in the previous email. It should be included now. Sorry for the confusion.

Don Sawyer

Kevin / Joe,

Please see attached comments on upcoming BZA 8.11.2015 meeting concerning petition of a Variance of Use 1506-VU-06 on behalf of Jeff Kelich.

Thanks,
Don Sawyer

1310 Mayfield Court
Westfield, IN 46074
Dtsawyer2011@ [gmail.com](mailto:dtsawyer2011@gmail.com)

317-694-0872

Westfield-Washington Township Advisory Board of Zoning Appeals
Westfield Economic and Community Development Department
Public Hearing – Tuesday, August 11th, 2015
Petition 1506-VU-06 - Jeff Kelich on behalf of Pettijohn & Banks, INC

August 8, 2015

Suggestions or objections filed by:

Kathy & Don Sawyer

1310 Mayfield Court

Westfield, IN 46074

Lot #163 Centennial South Phase 2 – See attached Exhibit A

Parcel 08-09-15-00-21-014.000

State Parcel 2909-15-021-014.000-015

Property History

On June 18, 1979 the Westfield-Washington Board of Zoning Appeals approved and granted a Variance of Use to Pettijohn & Banks Inc. to permit construction of an additional storage building and continued operation of a non-conforming concrete business and removal of an existing building on the subject property. This land use probably pre-dates zoning and is currently not consistent with permitted uses in a SF-2 District without the variance. Pettijohn & Banks Inc. is a concrete service business specializing in basement walls, slabs, footings, and excavation. It is important to note that significant real estate development has transpired since the Variance of Use was approved and granted. Also noteworthy is Pettijohn & Banks Inc. does not follow the typical commercial business model in operational processes and customer traffic. Points to consider:

1. At the time the Variance of Use petition was approved and granted all adjacent property had no residential development. The granting of this lawful prior non-conforming use or “grandfathered use” usually follows the legal doctrine, which assumes the use will gradually come to an end. Very little if any business has transpired from the subject property for years so the use established before zoning should revert to the current SF-2 residential.
2. Now all adjacent property is single-family residential in use.
3. Adjacent property to the north, south, and east is Centennial Subdivision or Centennial South Subdivision.
4. Adjacent to the property to the west is Ditch Road with the new Harmony Subdivision currently being developed.
5. Pettijohn & Banks Inc. does not manufacture or sell products on the property. Customers do not come to the property.
6. Their services are usually performed at the customers’ location, which is off-site.
7. Operating hours appear to be Monday through Friday from 7 am to 3 pm.

8. There is no vehicular traffic noise from customers.
9. Currently Pettijohn & Banks, Inc. does not use commercial landscaping equipment on-site such as Bobcats, Front End Loaders, and Forklift Trucks typically used for bulk mulch, dirt, gravel, and palletized material.
10. There are no street or building lights that operate in a dusk to dawn mode.
11. There are no retail sales from the property.

Suggestions & Objections

1. The property should be used in a manner that is consistent with permitted uses in the SF-2 District. When we were building our home in 2010 Paul Estridge told me he wanted to purchase the property for an extension of Centennial but he could not come to suitable terms with Pettijohn & Banks Inc. over price. When we saw the For Sale Sign we contacted Denny Yovanovich, a builder who has built homes on our street after Paul Estridge went out of business. He contacted the real estate company but the property was already sold. He is still interested in the property for residential development.
2. The approval will be injurious to the public health, safety, morals, and general welfare of the community. This Variance of Use, if granted and approved, will significantly alter the essential character of the neighborhood. While most people unfamiliar with Pettijohn & Sons think a concrete company has operated of the subject property for 36 years, the facts demonstrate otherwise. Pettijohn & Sons have performed little if any business from the subject property for years and they are a service business conducting all their services off-site.
3. The property is zoned Single-Family Low Density District (SF-2) and should remain so. Pettijohn & Banks, Inc. was granted the petition and variance in 1979 when all adjacent property was not single –family residential in use. This land use probably pre-dates zoning and this “grandfathered” use is coming to an end. The proposed landscaping business is very different than the existing Pettijohn business in terms of nuisance from unpleasant odors, noise, vehicular traffic, and hours of operation.
4. The approval of the requested Variance of Use will have a detrimental and adverse affect on the surrounding area. Pettijohn currently utilizes less than 50% of the 4-acre property. This, in effect, creates a very large buffer area between their operations and the surrounding homeowners on all 4 sides. The proposed plan from the petitioner appears to use the entire 4-acre property resulting in a drastic reduction to these buffer areas. Utilizing the entire perimeter would leave a 22 foot buffer area between property lines (Exhibit A).
5. The value of the adjacent property will be affected in a substantially adverse manner. The proposed landscaping business is dramatically different than the existing Pettijohn business. Noise levels will substantially increase from landscaping equipment and vehicular traffic. Pettijohn does not work in the winter and the petitioner has snow removal services during the winter months. Pettijohn also does not have retail sales and expanded operating hours.

6. The strict application of the zoning ordinance would not permit the requested use. Landscaping businesses are not permitted in SF-2 Districts.
7. The proposed Variance of Land Use is not consistent with the recommendations for the Suburban Residential area of the Comprehensive Plan, which calls for residential, institutional, and recreational uses.
8. There appears to be no plan or proposal for the control and drainage of additional surface water runoff from subject property. The environmental impact to the surrounding residential communities must be addressed with the proposed addition of a parking lot addition, additional fuel tanks, salt for snow removal, bulk storage of mulch, dumpsters, and fertilizer. Currently it appears the surface water runoff will flow into the Centennial drainage system.
9. There is no noise or unpleasant odors currently emitted from Pettijohn & Sons. Future nuisance from noise or unpleasant odors is unavoidable with the proposed Variance of Use and it will significantly alter the essential character of the neighborhood and negatively affect property values.

Therefore we are asking the Board of Zoning Appeals to DENY the petitioner request for approval of a Variance of Use.

Sincerely,

Kathy and Don Sawyer

Ksawyer2011@gmail.com

Dtsawyer2011@gmail.com

317-407-4588

317-694-0872

Kevin M. Todd, AICP

From: Joan Wilson <wilsonjm@aol.com>
Sent: Sunday, August 9, 2015 3:12 PM
To: Kevin M. Todd, AICP

I am definitely against proposed landscaping business being proposed behind my property on Ditch Road. It will be much more intense activity than what is there now(Pettijohn). Thank you.

Joan Wilson

Sent from my iPhone

Kevin M. Todd, AICP

From: Bill Brown <bbrown6606@gmail.com>
Sent: Monday, August 10, 2015 8:54 PM
To: Kevin M. Todd, AICP
Subject: Variance Request - 1506-VU-06
Attachments: Zoning Varriance 8-11-15.docx

Dear Mr. Todd, I have attached a word doc with my concerns about Variance Request – 1506-VU-06. Please forward these comments and concerns to the Zoning Board members.

Thank you.

William Brown
317-478-7827
1318 Mayfield Ct.
Westfield, IN 46074

William Brown
1318 Mayfield Ct.
Westfield, IN

Mr. Kevin Todd
Senior Planner
City Of Westfield

Dear Mr. Todd

I am a property owner directly bordering the current Pettijohn property on the south. I am requesting the board vote "NO" on the proposed zoning appeal requested by Mr. Jeff Kelich for the property located at 14939 Ditch Rd., Westfield, IN. I have listed several of my concerns below.

- The noise level will increase with the different types of equipment and different type of work that will be conducted by the landscaping and nursery business. The greater concern will be the drastic increase of the frequency of the noise affecting the adjacent homeowners. Currently basement forms for concrete walls may be loaded by Pettijohn employees for a short period one day and then there will be no activity for several days until they are returned to the shop. The proposed activity will occur at opening, closing and throughout the day on every day of business.
- The increased noise will negatively affect my property value.
- The drawings submitted by Mr. Kelich do not indicate an area for storm water retention. According to the Public Works Department there are currently no in ground drains adjacent to the Pettijohn property except the regulated Centennial Subdivision drains. It is my understanding that any new business in excess of 1 acre is required to submit a plan for storm water retention. If this is not followed the runoff water, possibly containing herbicide, pesticide or fertilizer residue from cleaning spray equipment and other tools of the trade, will find its way into the regulated drains of Centennial Subdivision. This could affect the retention ponds wildlife or plant life.
- I would also have concerns for a possible spill/leak of the fuel tanks identified on the submitted drawing without any type of containment barrier. The tank sizes were not listed.

Thank you for the opportunity to make my concerns known.

William Brown

Kevin M. Todd, AICP

From: Dwayne Streeter <dwayne@gotown.net>
Sent: Monday, August 10, 2015 2:14 PM
To: Kevin M. Todd, AICP
Subject: BZA proposal

Regarding variance requested by **Jeff Kelich** for 14939 Ditch Road:

I attended the meeting on July 8 with Mr Kelich, his attorney, and several of my Centennial neighbors for purposes of explaining the variance request. I am a property owner in Centennial. Based on all information from that meeting, plus a review of all documents posted on the Westfield.gov website relative to this matter, I am strongly opposed to this variance to allow a landscaping business in this location. I consider it inconsistent with our neighborhood and a negative impact on our property values. I believe this area should be developed in a way consistent with our neighborhood (single family dwellings).

Kevin M. Todd, AICP

From: Claudia Benge <bengecaj@iquest.net>
Sent: Tuesday, August 11, 2015 3:02 PM
To: Kevin M. Todd, AICP
Subject: RE: Property at 14939 Ditch Road; petition 1506-VU-06

Kevin

I went over to the property last night to talk to the owners of Carmel Turf Care. They made quite a few changes in their initial plans which addresses the issue of noise and odor of fresh mulch (which is not an issue for us). The owners are very concerned about our initial complaints and I think they have addressed the issues. There may be some truck noise in the mornings but I expect it will be significantly less than Pettijohn made and is making. Since this property has been zoned commercial, I suggest that Carmel Turf Care would be the very best option.

Claudia Benge

From: Kevin M. Todd, AICP [mailto:ktodd@westfield.in.gov]
Sent: Monday, August 10, 2015 10:02 PM
To: 'Claudia Benge' <bengecaj@iquest.net>
Subject: RE: Property at 14939 Ditch Road; petition 1506-VU-06

Mr. & Mrs. Benge

Thank you for your comments. I will forward them to the Board tomorrow evening for their consideration of this item.
Regards,

Kevin M. Todd, AICP • SENIOR PLANNER

City of Westfield • Economic and Community Development Department

2728 E. 171st Street • Westfield, IN 46074

DIRECT LINE: (317) 379-6467 • **MAIN OFFICE:** (317) 804-3170 • **FAX:** (317) 804-3181

www.westfield.in.gov

From: Claudia Benge [mailto:bengecaj@iquest.net]
Sent: Wednesday, July 8, 2015 5:32 PM
To: Kevin M. Todd, AICP <ktodd@westfield.in.gov>; jplankis@gotown.net
Cc: mhannon10@cox.net
Subject: Property at 14939 Ditch Road; petition 1506-VU-06

Mr. Todd

My husband and I are Centennial property owners on Annapolis Drive. Our home backs up to the above mentioned property in the discussion. We have problems now with the occasional loud noises that come from the current occupants/business.

We respectfully want the property to be returned to it's original zoning designation as SF-2: Single Low Family Density District.

Centennial single family homes surround this particular property. With Harmony going up on the westside of Ditch Road which will include a strip mall, we are going to experience enough of a problem with traffic as it stands right now.

Please do not approve the petition from Carmel Turf Care/Jeff Kelich for that particular 4 acre plot.

Claudia A and James R Bengé
1343 Annapolis Drive
Westfield, Indiana 46074
317 626 1260

August 10, 2015

City of Westfield
Board of Zoning Appeals
Attn: Kevin Todd
Westfield Department of Economic & Community Development

Re: 1506-VU-06, 14939 Ditch Road

Dear Board Members:

I am the principal of 1978 LLC, the owner of property located at the northwest corner of 146th Street and Ditch Road, essentially "catty corner" to the property subject to the above-referenced variance. I have been advised that Jeff Kelich desires to relocate his landscaping business to this site which, although zoned residential, has a long standing variance allowing for use as a concrete company.

I have developed properties for many years, and do not believe that the property subject to the variance can be developed for residential (it would have been part of the Centennial project if feasible), and that the landscaping business, as described and committed to by Mr. Kelich is compatible with the ongoing development and land use pattern for the area. Ditch Road and 146th Street are arterial streets, so there is already significant traffic, and the low level of intensity proposed by Mr. Kelich seems to be much more compatible than the thought of a concrete company ramping up operations in the future.

Therefore, I lend my support to the variance. Thank you for your consideration.

1978, LLC

By: 
Thomas M. Crowley

Kevin M. Todd, AICP

From: John Perkins <jfperk3@aol.com>
Sent: Tuesday, August 11, 2015 3:48 PM
To: Kevin M. Todd, AICP
Subject: Proposed Use Variance for Landscaping Business

Hello:

My name is John Perkins. My wife and I live in the Centennial neighborhood at 1317 Mayfield Court.

I am opposed to granting a use variance to allow a landscaping business to operate on the property located at 14939 Ditch Road. Such a business would not compliment a community comprised of single family homes. The general welfare and common good of our community would be disrupted. Also, the value of our homes would likely be harmed. Some prospective buyers would not purchase our homes due to the close proximity of a landscaping business. We would need to lower the price to encourage such buyers to purchase our homes. Undoubtedly, it would limit the market of potential buyers. It seems a landscaping business would be better located in a more suitable rural area which would allow us to quietly enjoy our homes.

Respectfully submitted, and thank you.

John and Christine Perkins

Kevin M. Todd, AICP

From: Andrew Worysz <andrew.worysz@att.net>
Sent: Tuesday, August 11, 2015 11:21 AM
To: Kevin M. Todd, AICP
Subject: 14939 Ditch Road

As this property was zoned residential, and the variance was specific for one business, I would think the intent was for the property to revert to original use. No construction was in progress then. Now with homes on both sides of the road, it should be residential !! Andrew Worysz 14913 Mayfield Dr.