



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_07_14_2015

Tuesday, July 14, 2015 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, July 14, 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 - June 9, 2015

Documents: [Meeting Minutes 6/9/15](#)

Review BZA Rules & Procedures

ITEMS OF BUSINESS:

1507-VS-09 [PUBLIC HEARING]

17777 Commerce Drive

Edward T. 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)).

Documents: [Exhibit 1: Staff Report 1507-VS-09](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Proposed Improvement](#) | [Exhibit 5: Existing Conditions](#)

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).

Documents: [Exhibit 1: Staff Report 1503-VU-02](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Conditions Exhibit](#) | [Exhibit 4: Petitioner Application](#) | [Exhibit 5: Acknowledgement of Variance](#) | [Exhibit 6: 1304-VU-01 Department Report](#) | [Exhibit 7:](#)

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).

Documents: [Continuance Letter 1506-VU-06](#)

1507-VU-07 [PUBLIC HEARING]

4540 East 146th Street

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 Density District (Chapter 13: Use Table).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Application](#) | [Exhibit 4: Construction Plans](#)

1507-VS-08 [PUBLIC HEARING]

2901 East State Road 38

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)).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Conditions Exhibit](#) | [Exhibit 4: Site Plan](#) | [Exhibit 5: Proposed Addition Exhibit](#) | [Exhibit 6: Statement of Intent](#)

1507-VS-10 [PUBLIC HEARING]

15550 Little Eagle Creek Avenue

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.

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

REPORTS/COMMENTS:

APC LIAISON

ECD STAFF

ADJOURNMENT



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1507-VS-08
Exhibit 1

Petition Number: 1507-VS-08

Subject Site Address: 2901 SR 38 E. (the "Property")

Petitioner: Marcus R. Masiarak (the "Petitioner")

Request: The petitioner is requesting a Variance of Standard from the Unified Development Ordinance (the "UDO") for the property commonly known as 2901 SR 38 E. Westfield, IN 46074. The request is for a reduction in the Side Yard Minimum Building Setback Line in the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(E)(2)).

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

Current Land Use: Residential

Approximate Acreage: 1.02 acres

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Site Plan Exhibit
5. Proposed Addition Exhibit
6. Statement of Intent

Staff Reviewer: Jeffrey M. Lauer, Associate Planner

Petition History

This petition will receive a public hearing at the July 14, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is 1.02 acres +/- in size and located at 2901 SR 38 E. (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District, which is subject to the side yard setback of the AG-SF1: Agriculture / Single-Family Rural District. The Property currently contains a single family home (see **Exhibit 3**). The surrounding properties include other single family homes.

Variance Request: The Petitioner is requesting this variance to allow the construction of a proposed home addition to the side of the home, as generally illustrated on the Site Plan Exhibit (see **Exhibit 4** and **Exhibit 5**) (also see **Exhibit 6**).

The standard for the Minimum Building Setback Line for the Side Yard is thirty (30) feet (Article 4.2(E)(2)). The home currently has a side yard setback of approximately 20 feet +/- . The Petitioner is requesting a side yard setback of fifteen (15) feet to accommodate the proposed thirty-two (32) foot wide by thirty-eight (38) foot deep home addition. The addition is proposed to be similar in quality and character to the home as depicted in the Proposed Addition Exhibit (see **Exhibit 5**).



Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Business Park"¹ land use classification. Among other uses, the Comprehensive Plan² contemplates this area of the township to include: manufacturing, subordinate office, retail and services, research and development and warehousing uses.

The Comprehensive Plan notes the basic policy of this area is to accommodate manufacturing, research and development, processing activities, office and service uses that provide jobs and a tax base for the community. Other policies include: (i) reserve the Business Parks for employment-generating uses and related supporting services uses; (ii) locate industrial uses in those areas designated for Business Parks on the Land Use Concept map; (iii) promote development of the business parks as campus-like setting; (iv) locate industrial uses in areas that are removed from residential neighborhoods and other uses that would be detrimentally affected.

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 UDO³ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁴ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

² Westfield-Washington Township Comprehensive Plan, Suburban Residential (pg. 38).

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

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



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

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

Department Comments

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

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the existing residential use and the proposed improvements will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

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

Finding: It is unlikely the use and value of adjacent properties will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the proposed improvement will enhance the value of the subject property; (ii) the side yards abut existing homes zoned in the AG-SF1 District; (iii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iv) the approval of the variance will allow for the continued use and improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area.

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

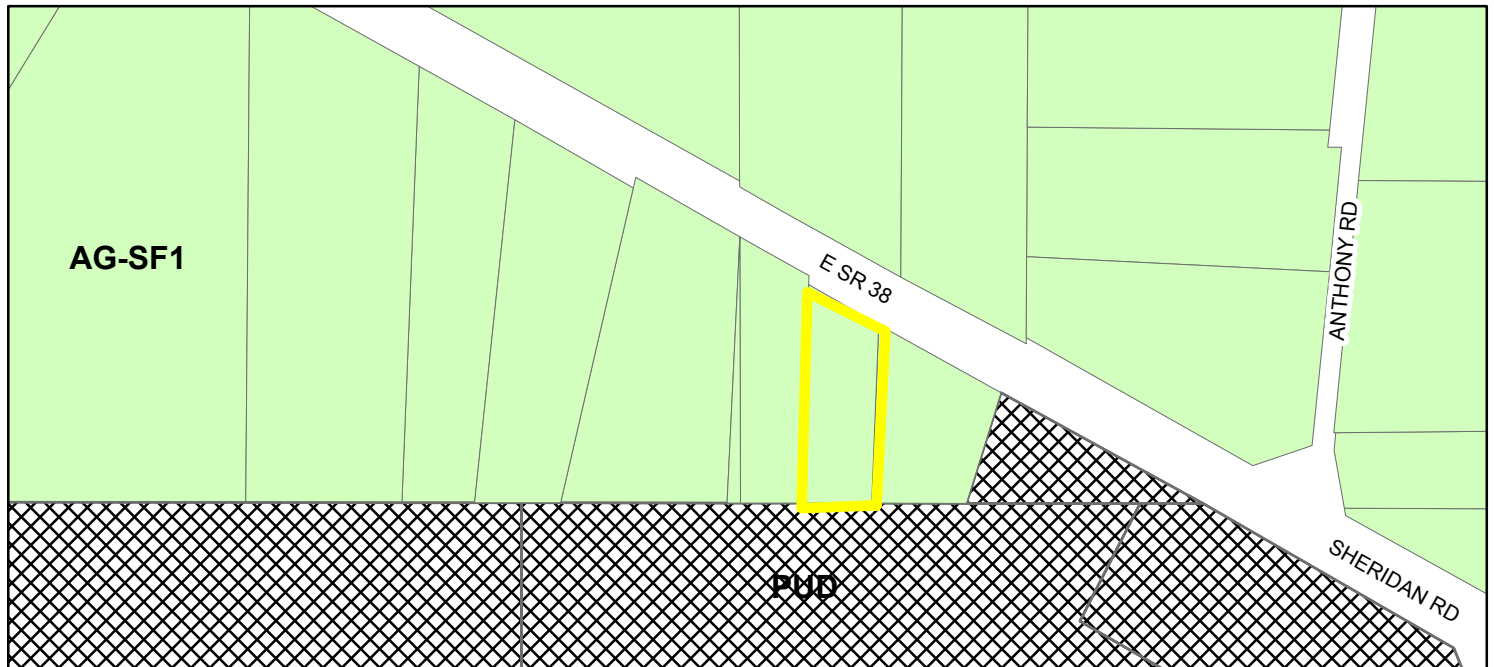
Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.

Aerial Location Map

 Site



Zoning Map

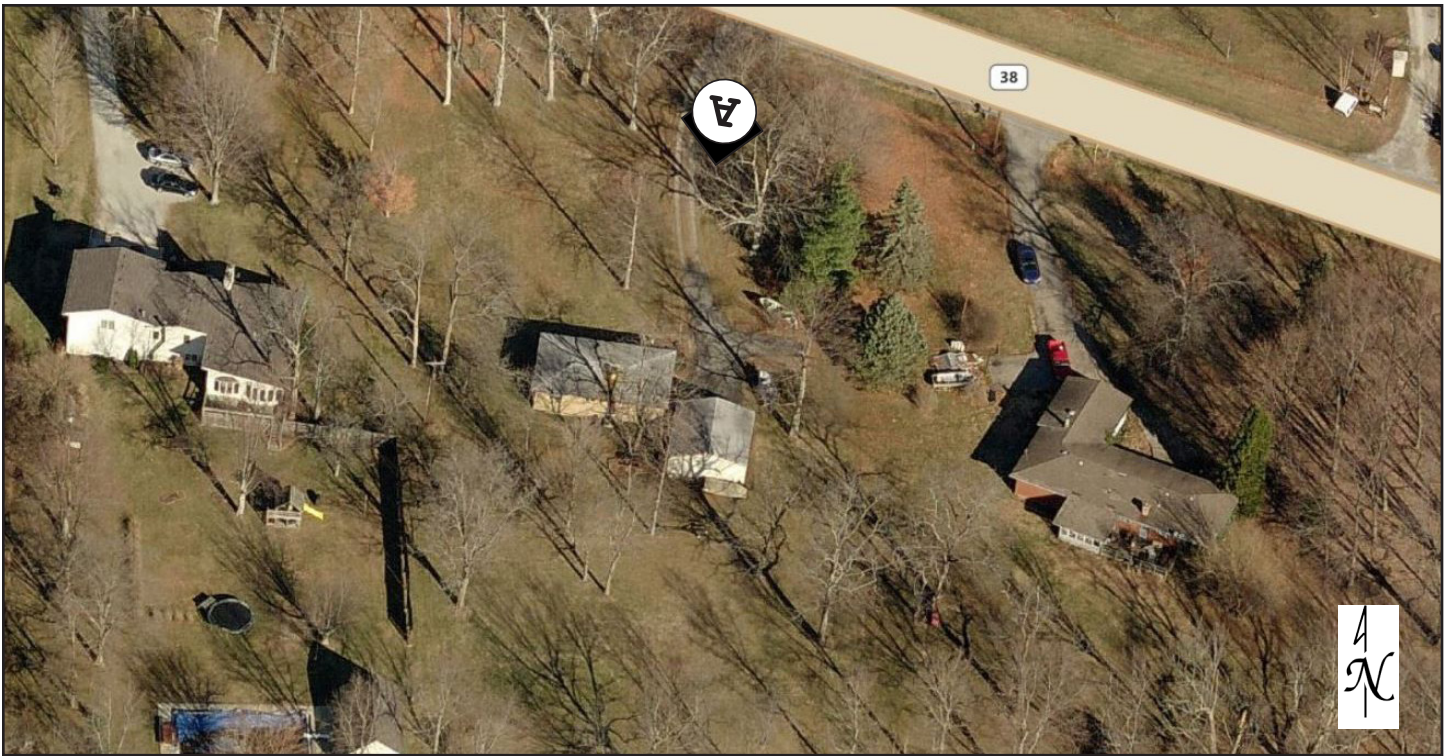


Zoning

 AG-SF1 (Agriculture - Single Family - 1)

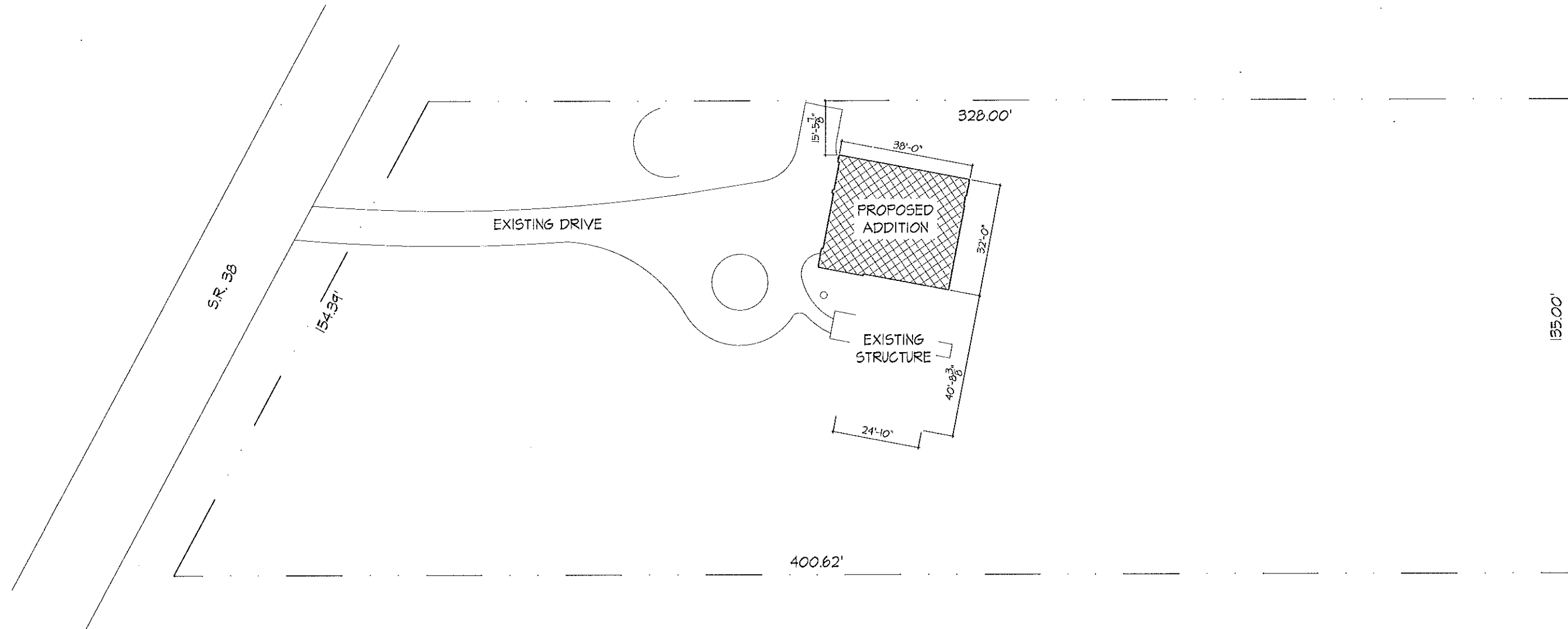
 PUD (Planned Unit Development)

EXISTING CONDITIONS EXHIBIT



EXISTING CONDITIONS EXHIBIT





NORTH

SITE PLAN

SCALE: $\frac{1}{32}" = 1'-0"$

MASIARAK RESIDENTIAL ADDITION

10/6/2014 - 2901 EAST S.R. 38 - WESTFIELD, IN - 46074

Directory for presented images

Image 1: A local house that is similar in appearance to my proposal

Image 2: This is the house located directly west of the proposed property.

This house is also similar as it is a ranch that has a garage with an upstairs.

Image 3: This is a computer generated image depicting what the house at 2901 state road 38 will likely look like with the proposed addition. This image may vary slightly in design from the final product.

1



2



3



Marcus Masiarak
2901 State Road 38 E.
Westfield IN, 46074
734-716-6304

Statement of Intent

I am asking for a variance allowing me to add on to my home. The addition will be less than the required set back on the east side of my home. The present garage (which will be removed) is already sitting less closer than what is allowed. So The addition will not greatly change what is already built in relation to the set back. The addition will not only make the house larger, but it will also give the home a more modern appearance. With amenities such as an attached garage and a family room the new home will better match the homes presently being built in the Westfield area.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1507-VS-09
Exhibit 1

Petition Number: 1507-VS-09

Subject Site Address: 17777 Commerce Drive (the "Property")

Petitioner: Edward T. Tomich by Badger Engineering, LLC (the "Petitioner")

Request: The petitioner is requesting a Variance of Standard from the Unified Development Ordinance (the "UDO") for a reduction in the Side Yard Minimum Building Setback Line (Article 4.24(E)(2)).

Current Zoning: EI: Enclosed Industrial District

Current Land Use: Indoor Shooting Range

Approximate Acreage: 1.38 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan Exhibit
4. Proposed Addition Exhibit
5. Existing Conditions Exhibit

Staff Reviewer: Jesse M. Pohlman, Senior Planner

PROPERTY LOCATION

The subject property is 1.38 acres +/- in size and is located on the east side of Commerce Drive; approximately one thousand (1,000) feet north of State Highway 32 (see [Exhibit 2](#)). The Property is zoned EI: Enclosed Industrial District. The property is located within an existing enclosed industrial park, surrounded by existing structures and businesses to the north, west and south. The property to the east is a large field currently undeveloped, but also currently zoned Enclosed Industrial.

PROPERTY HISTORY

Variance of Use: On April 9, 2013, the Board of Zoning Appeals approved a Variance of Use (1304-VU-01) with conditions for the Property to allow an indoor shooting range and related retail sales (collectively, the "Shooting Academy").

Development Plan: On June 17, 2013, the Plan Commission approved the development plan (1306-DP-09) and site plan (1306-SIT-06) for the Property to allow for the construction of the Shooting Academy.



Improvement Location Permit: On August 16, 2013, the City issued the building permit to begin construction. The building was issued a temporary Certificate of Occupancy on December 30, 2013, (subject to final installation of the required landscaping) to begin operating, with the final Certificate of Occupancy issued on April 22, 2014. The existing conditions are depicted on the attached Exhibit 3.

Condition Modification: On March 10, 2015, the Board held a public hearing for a request to modify a condition of approval related to sound (the "Modification of Condition")(1503-VU-02). The Modification of Condition request is currently pending and has been continued subject to the Board's consideration of this variance of development standard request.

VARIANCE REQUEST

The petitioner is requesting this variance to allow the construction of a proposed vestibule on the north elevation of the existing structure (see Exhibit 5) as generally illustrated on the Site Plan Exhibit (see Exhibit 3) and depicted in the Proposed Improvement Exhibit (see Exhibit 4).

The standard for the Minimum Building Setback Line for the Rear Yard is twenty (20) feet (Article 4.24(E)(2)). The existing structure is currently located twenty (20) feet from the north property line. The petitioner is requesting a side yard setback of fifteen (15) feet along the north elevation to accommodate the proposed five-foot (5') deep vestibule.

The vestibule is intended to mitigate sound from the existing use pursuant to the pending condition modification request being considered by the Board (1503-VU-02). The vestibule is proposed to be similar in quality and character as the existing structure (see Exhibit 5).

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 UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon

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



public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

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

DEPARTMENT COMMENTS

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

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the EI District permits the proposed type of improvement and the resulting improvements and parcel should otherwise comply with or exceed the applicable standards of the EI District.

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



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

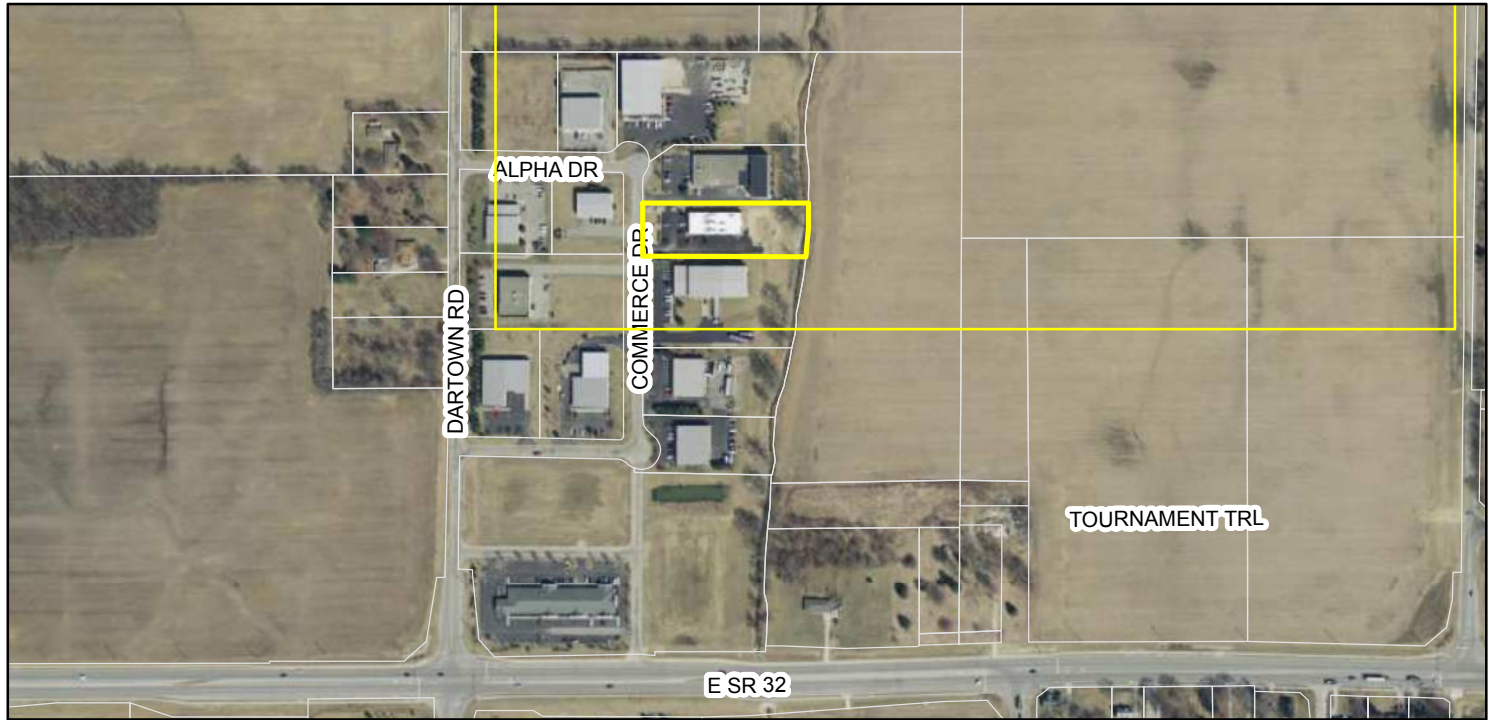
Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the proposed improvement should further address existing concerns regarding sound generated by the existing use; (ii) the parcel should otherwise comply with or exceed the applicable standards of the EI District; and (iii) the approval of the variance will allow for the continued use and improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area.

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

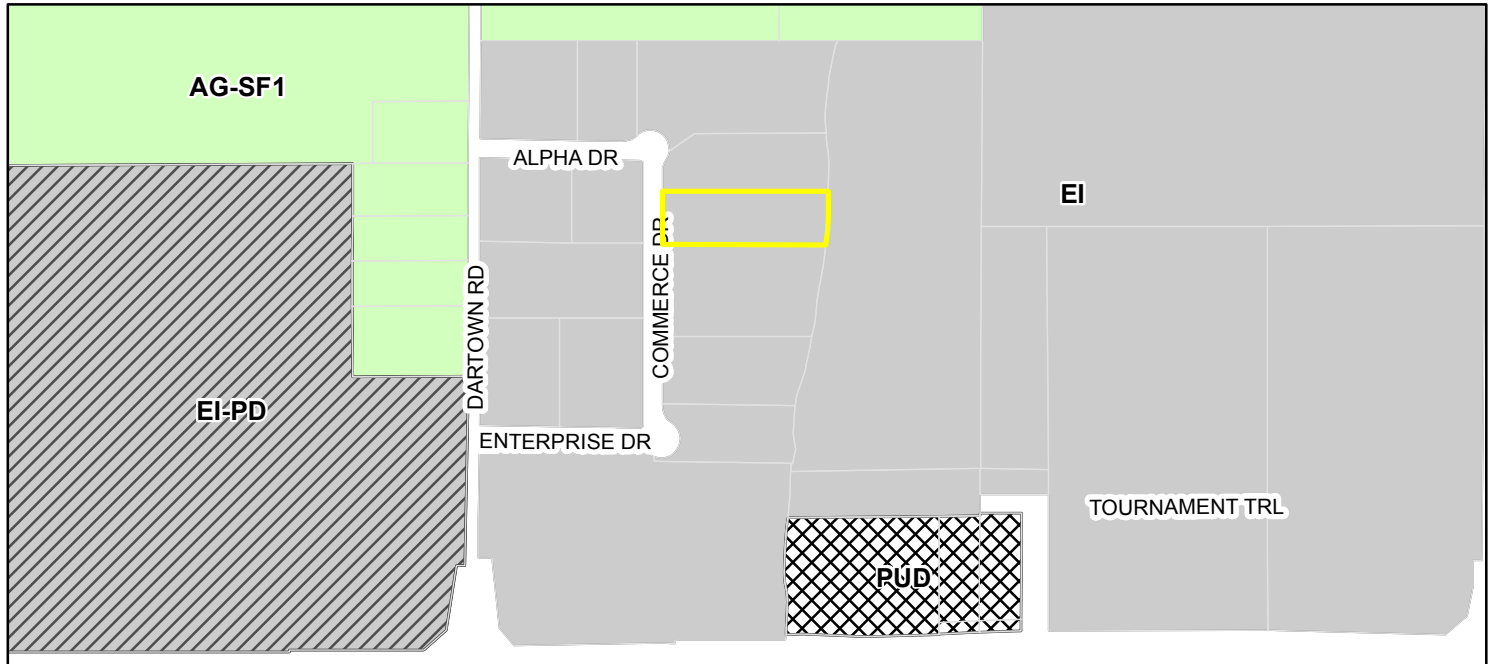
Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance pursuant to an approved Variance of Use, and the proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.

Aerial Location Map

 Site



Zoning Map



 Parcel **Zoning**

 AG-SF1 (Agriculture - Single Family - 1)	 EI-PD (Enclosed Industrial - Planned Development)	 PUD (Planned Unit Development)
	 EI (Enclosed Industrial)	

Lot 5

1.43 Ac

PROPOSED VESTIBULE

EXISTING
BUILDING
STRUCTURE
A=8,000sf
FFE=803.33

Lot 4
1.38 Ac

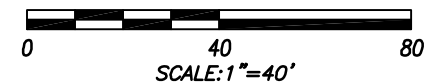
DRY POND
10-YEAR FLOOD ELEV=896.39'
100-YEAR FLOOD ELEV=897.44'

ZONE "AE" LINE

Lot 3

2.24 Ac

SITE PLAN
SCALE 1"=40'



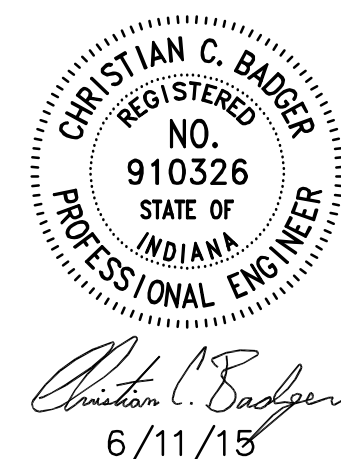
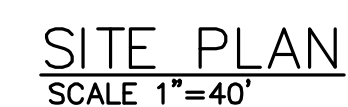
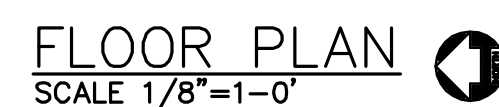
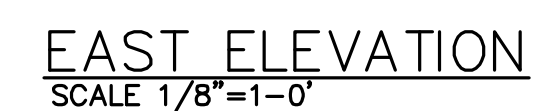
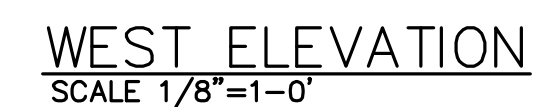
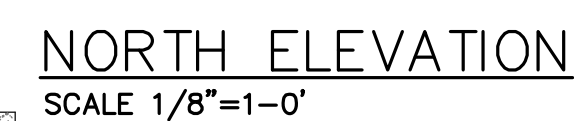
COMMERCE DR

S00°40'20"E
95.34'

S00°40'20"E
139.74'

20' D.S.&U.E.

ANNA KENDALL LEGAL DRAIN



No.	Date	Revision
1.	6/11/15	Vestibule Addition North Side

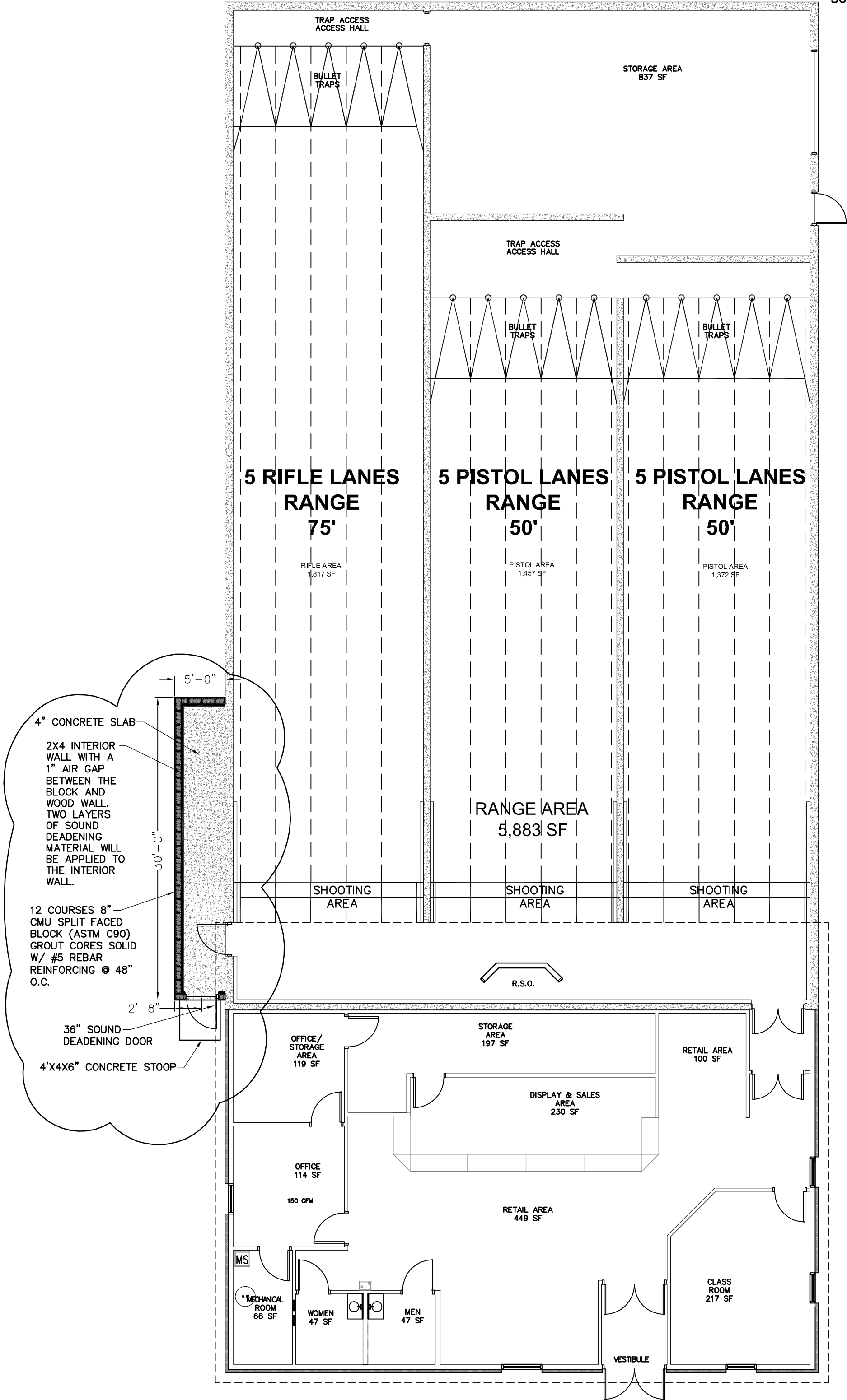
BADGER
ENGINEERING
990 W. Oak Street
Zionville, IN 46077
(765) 485-0000

ELEVATIONS AND TYPICAL SECTIONS

Tim's Shooting Academy of Westfield

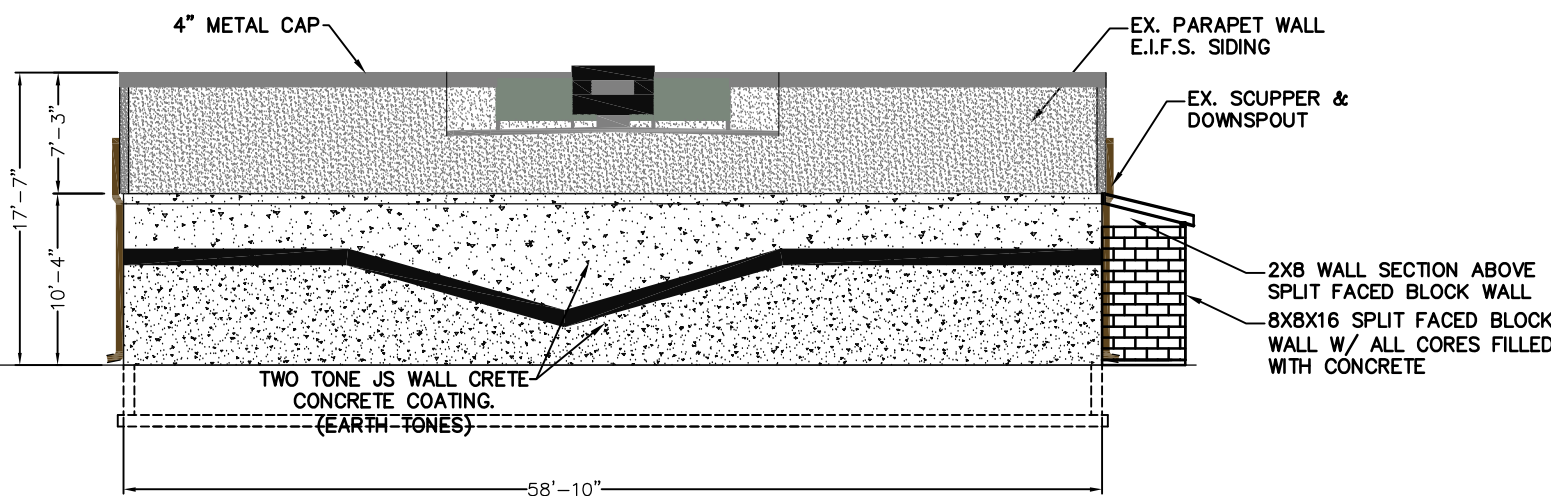
City of Westfield	Washington Township	Hamilton COUNTY	Indiana
Design By	Drawn By	Checked By	Approved By
MEH	MEH	CCB	CCB

Date	06/08/2015
Job No.	13-006
Scale	1/8" = 1'-0"
Sheet No.	A-1

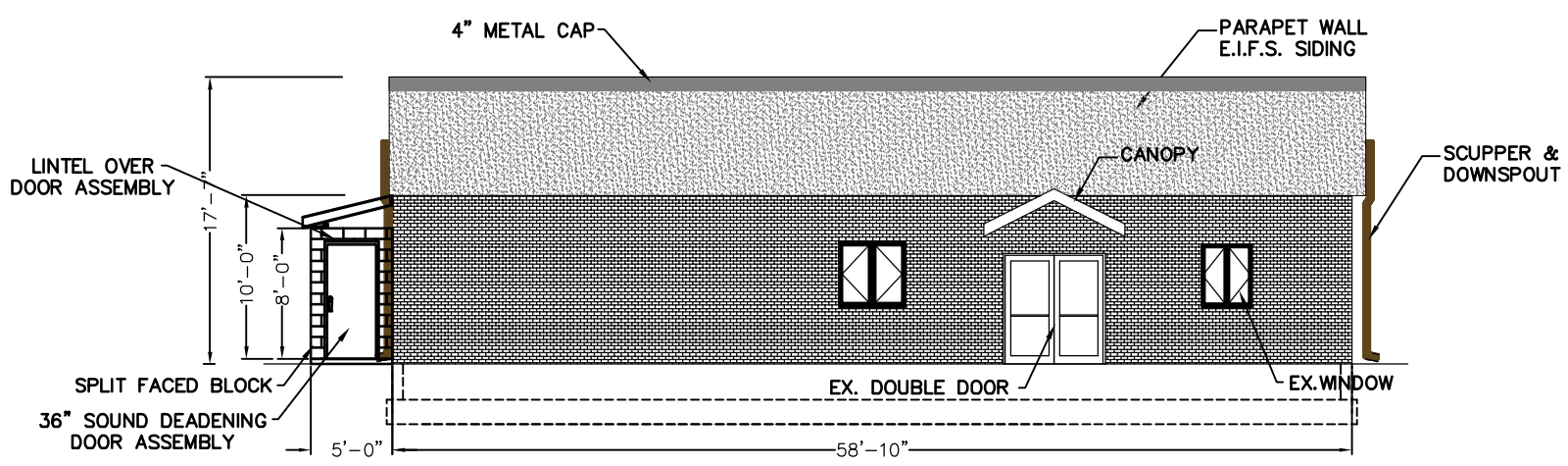


FLOOR PLAN
SCALE 1/8"=1-0'

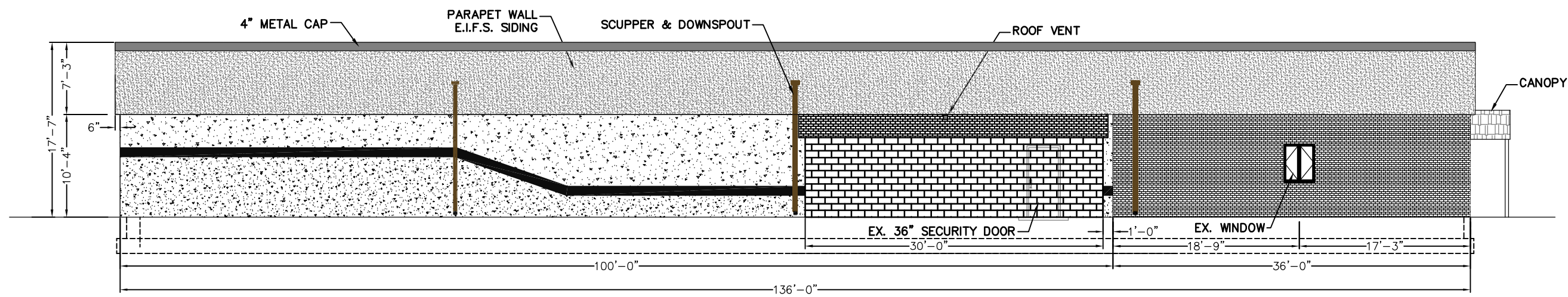




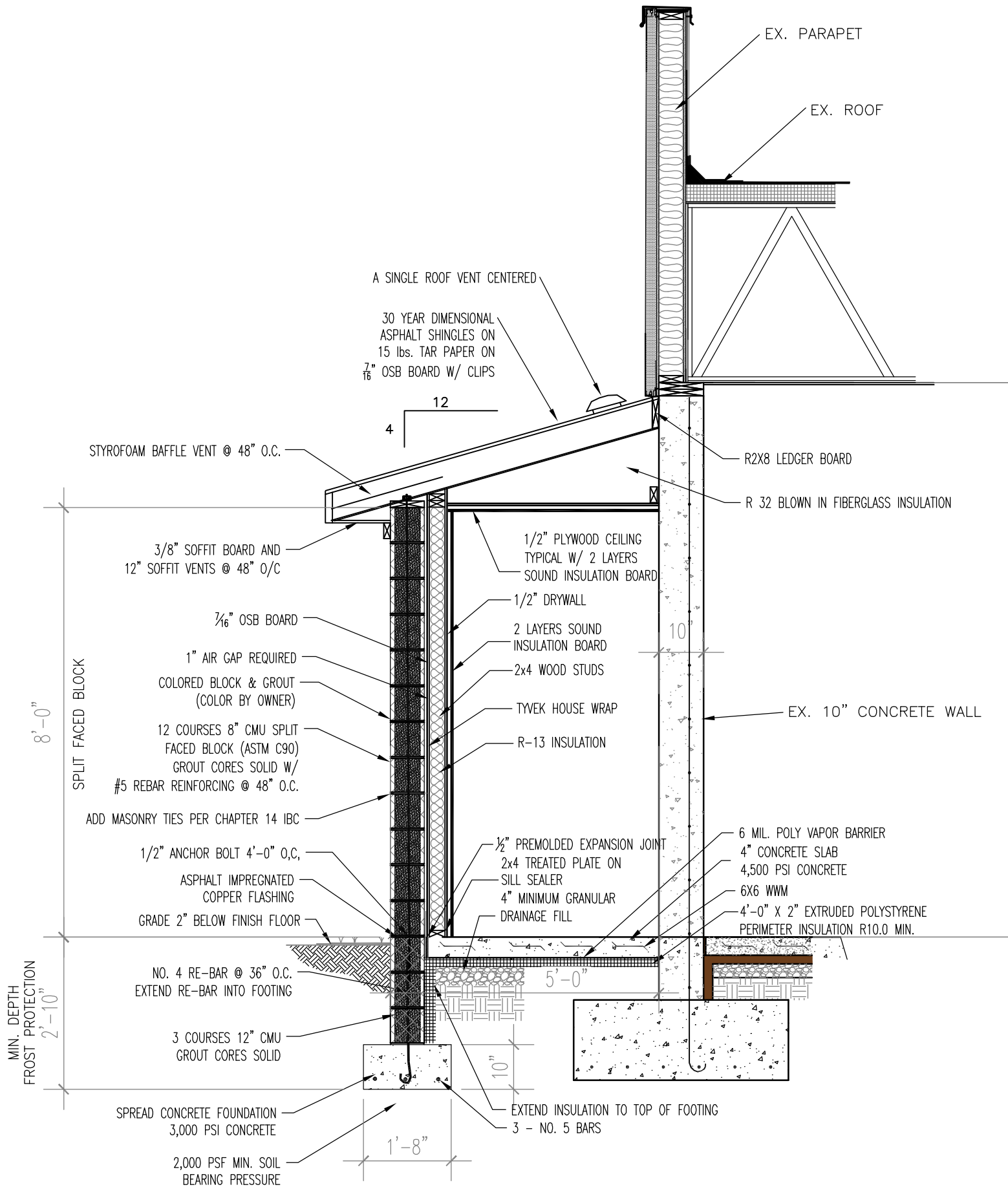
WEST ELEVATION
SCALE 1/8"=1'-0"



EAST ELEVATION
SCALE 1/8"=1'-0"



NORTH ELEVATION
SCALE 1/8"=1'-0"



S1
A1
VESTIBULE FOUNDATION AND EXTERIOR WALL DETAIL
 SCALE: 1/2" = 1'-0"





WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1503-VU-02
Exhibit 1

Petition Number: 1503-VU-02

Subject Site Address: 17777 Commerce Drive (the "Property")

Petitioner: Edward T. Tomich by Badger Engineering, LLC (the "Petitioner")

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

Current Zoning: EI: Enclosed Industrial District

Current Land Use: Indoor Shooting Range

Approximate Acreage: 1.38 acres +/-

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Existing Conditions Exhibit
4. Petitioner's Application
5. Acknowledgement of Variance
6. 1304-VU-01 Department Report
7. Meeting Minutes (04/09/13)
8. Meeting Minutes (03/10/15)
9. Continuance Request Letter (04/14/15)
10. Continuance Request Letter (05/12/15)

Staff Reviewer: Jesse M. Pohlman, Senior Planner

PROPERTY INFORMATION

The subject property is 1.38 acres +/- in size and is located on the east side of Commerce Drive; approximately one thousand (1,000) feet north of State Highway 32 (see Exhibit 2). The Property is zoned EI: Enclosed Industrial District. The property is located within an existing enclosed industrial park, surrounded by existing structures and businesses to the north, west and south. The property to the east is a large field currently undeveloped, but also currently zoned Enclosed Industrial.



CONDITION MODIFICATION HISTORY

March 10, 2015: This petition received a public hearing at the March 10, 2015, Board meeting (see Exhibit 8) and was continued by the Board.

April 14, 2015: The petition was continued from the April 14, 2015, Board meeting at the request of the petitioner (see Exhibit 9) to allow the petitioner to “continue to engage in an ongoing effort to address the issues and concerns” and that “the requested additional time is paramount importance to meaningfully address these issues.”

May 12, 2015: The petition was continued from the May 12, 2015, Board meeting at the request of the petitioner (see Exhibit 10) to allow the petitioner to “complete the work in progress and to continue to engage in an ongoing effort to address these sound-related issues” and “to schedule a meeting with the adjacent property owners...to conduct sound testing in the presence of all stakeholders.”

May 29, 2015: The petitioner and adjacent property owner, including their legal representatives and sound consultants, performed a coordinated sound test along the north property line following the completion of the work outlined in the May 12, 2015, continuance letter (see Exhibit 10). The Department (Jesse Pohlman and Amanda Rubadue) was present during this testing.

June 9, 2015: The petition was continued from the June 9, 2015, Board meeting at the request of the petitioner following an update presentation by the petitioner regarding the improvements made to date and the subsequent sound test. The continuance will allow the petitioner to file a request for a variance of development standard for the setback along the north property to accommodate the petitioner’s proposed improvements to construct a vestibule.

PROPERTY HISTORY

Variance of Use: On April 9, 2013, the Board of Zoning Appeals approved a Variance of Use (1304-VU-01) with conditions, as further described herein, for the Property to allow an indoor shooting range and related retail sales (collectively, the “Shooting Academy”).

Development Plan: On June 17, 2013, the Plan Commission approved the development plan (1306-DP-09) and site plan (1306-SIT-06) for the Property to allow for the construction of the Shooting Academy.

Improvement Location Permit: On August 16, 2013, the City issued the building permit to begin construction. The building was issued a temporary Certificate of Occupancy on December 30, 2013, (subject to final installation of the required landscaping) to begin operating, with the final



Certificate of Occupancy issued on April 22, 2014. The existing conditions are depicted on the attached Exhibit 3.

ANALYSIS

Issue: This petition request is the result of an existing violation (EN-15-01-02) on the Property. The violation, related to sound and as further detailed herein, was brought to the Department's attention by neighbors on December 3, 2014. The Department inspected the Property and contacted the Petitioner on December 9, 2014, regarding the concern. The Petitioner subsequently made improvements to the interior of the Shooting Academy in an attempt to bring the Property into compliance. The Department inspected the Property again on January 14, 2015, and determined that even upon completing those improvements, the Shooting Academy's sound level was still in violation.

The Department formally cited the Petitioner of the violation on January 15, 2015. The citation required the Petitioner to bring the Property into compliance with the Conditions of Approval, detailed below, or to file a modification of the Conditions of Approval. As a result, the Petitioner filed this petition (see Exhibit 4) to modify the Conditions of Approval.

Conditions of Approval: The Shooting Academy was approved by the Board of Zoning Appeals with the following conditions (the "Conditions of Approval"), as memorialized in the Acknowledgment of Variance recorded as Instrument No. 2013023701 on April 17, 2013, in the Hamilton County Recorder's Office (see Exhibit 5):

1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.
2. The "Indoor Shooting Range and related Retail Sales" use (collectively, the "Shooting Academy") shall be limited in scope and operation to the Petitioner's Narrative and Preliminary Plans. Any expansion or substantial alteration to the scope and operation of the Shooting Academy, as determined by the Director, shall require approval by the Board.
3. The Shooting Academy shall be developed and operated in substantial compliance to the Petitioner's Narrative and Preliminary Plans, subject to review and approval for compliance with applicable ordinances and laws of the development plans and appropriate permits.



4. The Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance's Performance Standards for Industrial Districts, as amended.
5. The Shooting Academy shall comply with Indiana Fire and Building Codes, as amended.

The third condition reads "[t]he Shooting Academy shall be developed and operated in substantial compliance to the Petitioner's Narrative."

Petitioner's Narrative (Exhibit B of the Acknowledgement of Variance) states: "The range area will be constructed with 10" thick concrete walls and a 4" concrete slab. The ceiling will have bullet-proof panels and baffles. This will prevent any stray bullets as well as sound from leaving the building."

In addition, during the April 9, 2013, Board of Zoning Appeals public hearing, the Petitioner's attorney presented that the use includes "a fully enclosed building with ten inch-thick reinforced concrete walls and a baffling system up above and a bullet capture system that simply will not allow anything to escape the building. It's physically impossible. The architect and engineer for the project...is also here and is available to answer any questions in terms of the structure and how it is designed to keep both sound and rounds of ammunition within the structure ...¹."

Unified Development Ordinance: The fourth condition reads "[t]he Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance's Performance Standards for Industrial Districts, as amended. The following are standards from the zoning ordinance, with regard to noise²:

Article 6.15(B)(4) Performance Standards; General Requirements; Noise: No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness or vibration. Said noise shall be muffled or otherwise controlled so as not to become detrimental, provided, however, public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.

Article 6.15(C)(8) Performance Standards; Industrial Uses; Noise; Enclosed Industrial: At no point one hundred and twenty-five (125) feet from the boundary of an EI: Enclosed Industrial District, or any district which permits an enclosed Industrial Use, shall the sound pressure level of any operation or plant (other than background noises produced by sources not under the control of this Article) exceed the decibel limits in the Octave Bands designated below:

¹ Recorded audio of April 9, 2013, Board of Zoning Appeals meeting (time mark of 55:30 +/-).

² As referenced by the fourth Condition of Approval, which would apply regardless of the condition because no variance of development standard was obtained, reads "[t]he Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance's Performance Standards for Industrial Districts, as amended."



CHART: MAXIMUM PERMITTED SOUND LEVELS FOR ENCLOSED INDUSTRIAL

Octave Band Frequency Cycles per Second	Max. Sound Level 125' from Adjoining Residential District Boundary	Max. Sound Level 125' from Adjoining Business District Boundary
0 to 75	75 decibels	80 decibels
76 to 150	70 decibels	75 decibels
151 to 300	65 decibels	70 decibels
301 to 600	59 decibels	64 decibels
601 to 1200	53 decibels	58 decibels
1201 to 2400	48 decibels	53 decibels
2401 to 4800	48 decibels	49 decibels
Above 4800	41 decibels	46 decibels

City's Municipal Code: The Petitioner's Application makes reference to the "City's Noise Ordinance". In addition to the Unified Development Ordinance standards, as noted above, the City's municipal code also includes nuisance standards for noise, which are typically enforced by the City's Police Department.

For reference, these standards read as follows³:

Sec. 34-51 – Prohibitions. No person shall play, use or operate any machine or device for the producing or reproducing or sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs, cassette players or any other machine designed or intended to produce or reproduce sound, not operate any motor vehicle that contains a modified or defective exhaust system, if such machine, device or vehicle is located in or on any of the following:

- 1) Any public property, including any public right-of-way, highway, building, sidewalk, public space, park or thoroughfare and the sound generated therefrom is clearly audible 40 feet or more from its source, or is at a level of 90 decibels or more when measured from a distance of not less than six feet from its source; or
- 2) Any private property and the sound generated therefrom is clearly audible 40 feet or more outside of said private property line, or is at a level of 90 decibels or more when measured from a distance of not less than six feet from said private property line.

Sec. 34-52. - Exemptions. The following are exempted from the provisions of this subchapter:

- 1) Sounds emitted from authorized emergency vehicles.
- 2) Lawn mowers, garden tractors, construction equipment, and power tools, when properly muffled, between the hours of 7:00 a.m. and 10:00 p.m. only.

³ Chapter 34-51; Article II Nuisances; Division 2 – Noise of the City's Municipal Code of Ordinances.



- 3) Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.
- 4) Parades, festivals, carnivals, fairs, celebrations, concerts, artistic performances or other events authorized by the city council or another appropriate governmental entity.
- 5) Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.
- 6) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency work.
- 7) Sounds associated with the use of legal fireworks.
- 8) Sounds associated with the use of an approved public safety training facility between the hours of 7:00 a.m. and 10:00 p.m.
- 9) Sounds associated with the normal conduct of legally established non-transient businesses when such sounds are customary, incidental and within the normal range appropriate for such use.

Compliance with Conditions of Approval: As of the filing of this petition, the muffled sound of discharging firearms could readily be heard from adjacent properties. The Department has determined the Shooting Academy is not designed and operated to prevent sound from leaving the building, as stated in the Petitioner's Narrative (Exhibit B of the Acknowledgement of Variance).

In order to comply with the condition, as currently written, changes to the operation of the Shooting Academy or further modifications to the building's design would be necessary. The Petitioner and their representative have stated to the Department that they have made all of the improvements they can reasonably expect to make to muffle the sound of the discharging firearms.

MODIFICATION OF CONDITION

The Petitioner has indicated they believe the sound limit for the Shooting Academy, as summarized herein, is unclear and that a more concrete standard would be appropriate.

As a result, the Petitioner's application states (see Exhibit 4):

We are requesting a Modification to the existing Variance of Use 1304-VU-01 due to an unclear sound limit for the shooting range. The owner would like to set the allowable limit in decibels for the shooting range at 80 decibels. The City of Westfield's current Noise Ordinances shows a value of 90 decibels as a violation as measured six feet from the said property line. Currently the noise level depends upon the type of firearm being shot at the range. The smaller caliber hand guns are currently measuring 62 decibels on



a hand held sound meter. Larger caliber rifles and shotguns are measuring 68 decibels. Other common sound levels in decibels are: 30 dB (whisper in a Library); 40 dB (quiet park); 50 dB (quiet office); 60 dB (normal conversation @ 3'); 70 dB (busy traffic); 80 dB (busy downtown street); 90 dB (factory machinery); 100 dB (subway train or blow dryer); 110 dB (rock concert or crying baby); 120 dB (threshold of pain or thunder); 130 dB (jet engine @ 100') and 180 dB (the space shuttle lift off @ 1000').

The Department suggests the above modified condition request be simplified to read: "The sound level generated as a result of the discharging of a firearm shall not be permitted to exceed eighty (80) Decibels, as measured from the Property's Lot Line."

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition received its public hearing at the March 10, 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 UDO⁴ and Indiana Code § 36-7-4-918.4 provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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

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

As part of the approval of the Shooting Academy's Variance of Use, the Board of Zoning Appeals adopted the written findings of fact recommended in the 1304-VU-01 Department Report (see Exhibit 6).

DEPARTMENT COMMENTS

The Board is being requested to vote on whether a modified condition related to sound is appropriate for the subject use.

Since the public hearing on March 10, 2015, the petitioner has made several improvements (as outlined in the attached continuance letter at Exhibit 10) in an attempt to reduce the sound produced by the subject use; however, as a result of the subsequent sound test on May 29, 2015, the petitioner intends to make further and more substantial improvements.

A variance of development standard to reduce the side yard setback along the north property line has been filed and will be heard by the Board at the July 14, 2015, meeting (1507-VS-09).

RECOMMENDATION REGARDING CONTINUANCE REQUEST

If the Board approves the variance of development standard for a reduction of the north property line setback (1507-VS-09), then the Department recommends that this condition modification item be continued for one (1) month to allow the petitioner to make the improvements.

At the August 11, 2015, meeting, the Department anticipates that an update on the either the construction progress of the improvements, or if the improvements are completed, then an update on the resulting sound levels, will be presented to the Board.

RECOMMENDATIONS

If the Board is inclined to approve the request to modify its imposed condition of approval for the Shooting Academy, then the Department recommends the modified condition related to sound read: “The sound level generated as a result of the discharging of a firearm shall not be permitted to exceed eighty (80) Decibels, as measured from the Property’s Lot Line.”

In addition, the Department recommends the following written findings of fact related to the modified condition:

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested modified condition would be injurious to the public health, safety, morals, and general welfare of the community because of the proposed operational and design plan. The use and property will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District.

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed modified condition should not have a negative impact on surrounding properties because: (i) the proposed sound levels will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District; and (ii) the proposed sound levels are reasonably consistent with and reasonably compatible with the character of the surrounding industrial park; and (iii) the use will only be conducted indoors and shall otherwise comply with the Unified Development Ordinance’s performance standards.

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

Finding: The shooting range use will comply with the Unified Development Ordinance; however, due to the unique nature of the use and the conditions of approval for the shooting range use previously imposed, the modified condition is warranted to reasonably regulate the maximum sound levels, which are more restrictive than those standards of the Unified Development Ordinance.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

Finding: The shooting range use will comply with the Unified Development Ordinance; however, due to the unique nature of the use and the conditions of approval for the



shooting range use previously imposed, the modified condition is warranted to reasonably regulate the maximum sound levels, which are more restrictive than those standards of the Unified Development Ordinance.

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

Finding: The Westfield-Washington Township Comprehensive Plan identifies this property within the “Employment Corridor” and “Business Park” land use classifications as part of the State Highway 32 “Highway Corridor”. As such, the proposed use is consistent with the Comprehensive Plan’s policies and objectives for these land use classifications and does not interfere substantially with the Comprehensive Plan.

Recommended Findings for Denial:

If the Board is inclined to deny the request to modify its imposed condition of approval for the Shooting Academy, then the Department recommends the following written findings of fact related to the modified condition:

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

Finding: It is unlikely that approving the requested modified condition would be injurious to the public health, safety, morals, and general welfare of the community because of the proposed operational and design plan. The use and property will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District.



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

Finding: It is likely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed modified condition would negatively impact the surrounding properties because although the proposed sound levels would meet or exceed the applicable standards of the Enclosed Industrial (EI) District, the nature and intermittence of the sound generated by the discharging of firearms are inconsistent and incompatible with the character of the surrounding business park.

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

Finding: The existing building was specifically designed and constructed for the proposed shooting range use after the approval of the variance of use with the imposed conditions of approval. Due to the unique nature of the use and the sound generated by the discharging of firearms, the imposed condition of approval is appropriate to prohibit sound from being audible when standing outside of the building.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

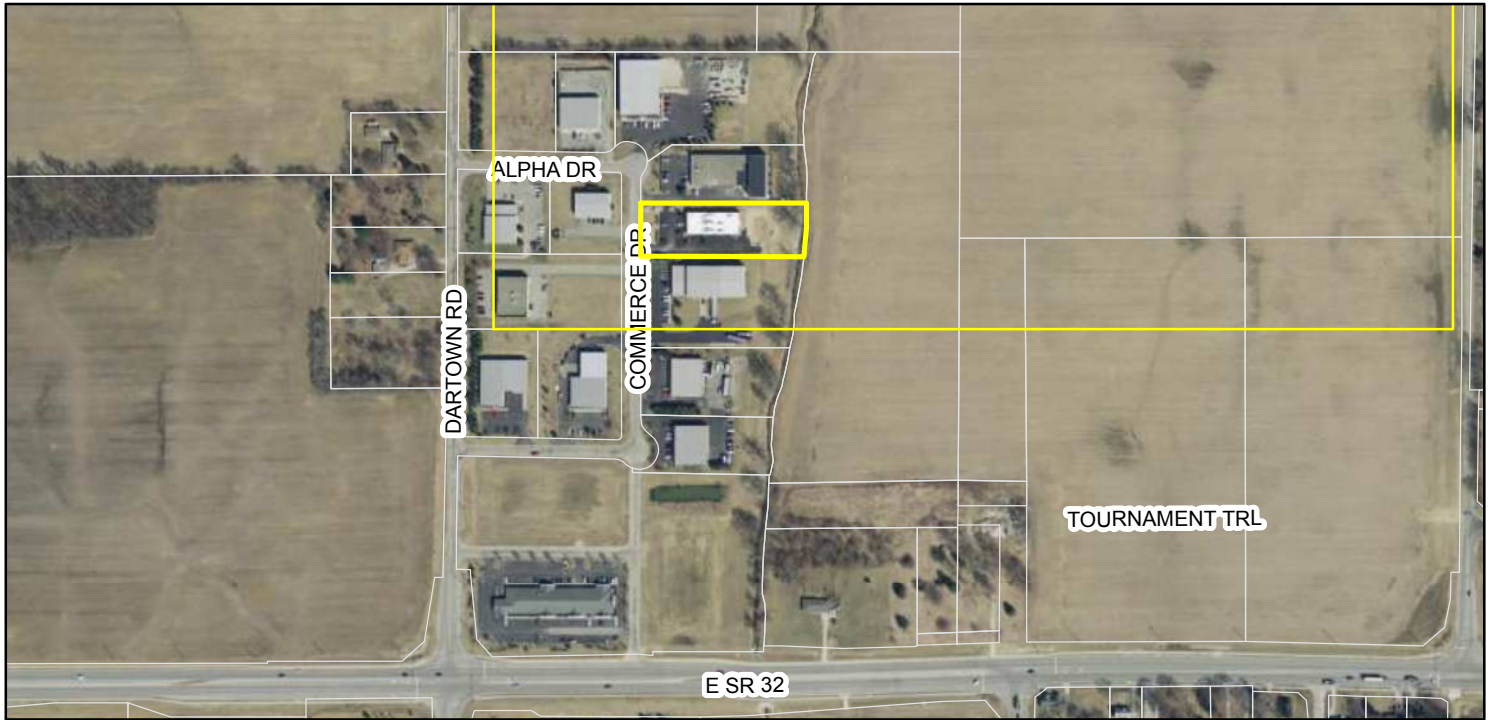
Finding: The shooting range use will comply with the Unified Development Ordinance; however, due to the unique nature of the use and the conditions of approval for the shooting range use previously imposed, the modified condition does not adequately regulate the maximum sound levels to reduce the negative impact on adjoining properties.

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

Finding: The Westfield-Washington Township Comprehensive Plan identifies this property within the "Employment Corridor" and "Business Park" land use classifications as part of the State Highway 32 "Highway Corridor". As such, the proposed use is consistent with the Comprehensive Plan's policies and objectives for these land use classifications and does not interfere substantially with the Comprehensive Plan.

Aerial Location Map

 Site



Zoning Map

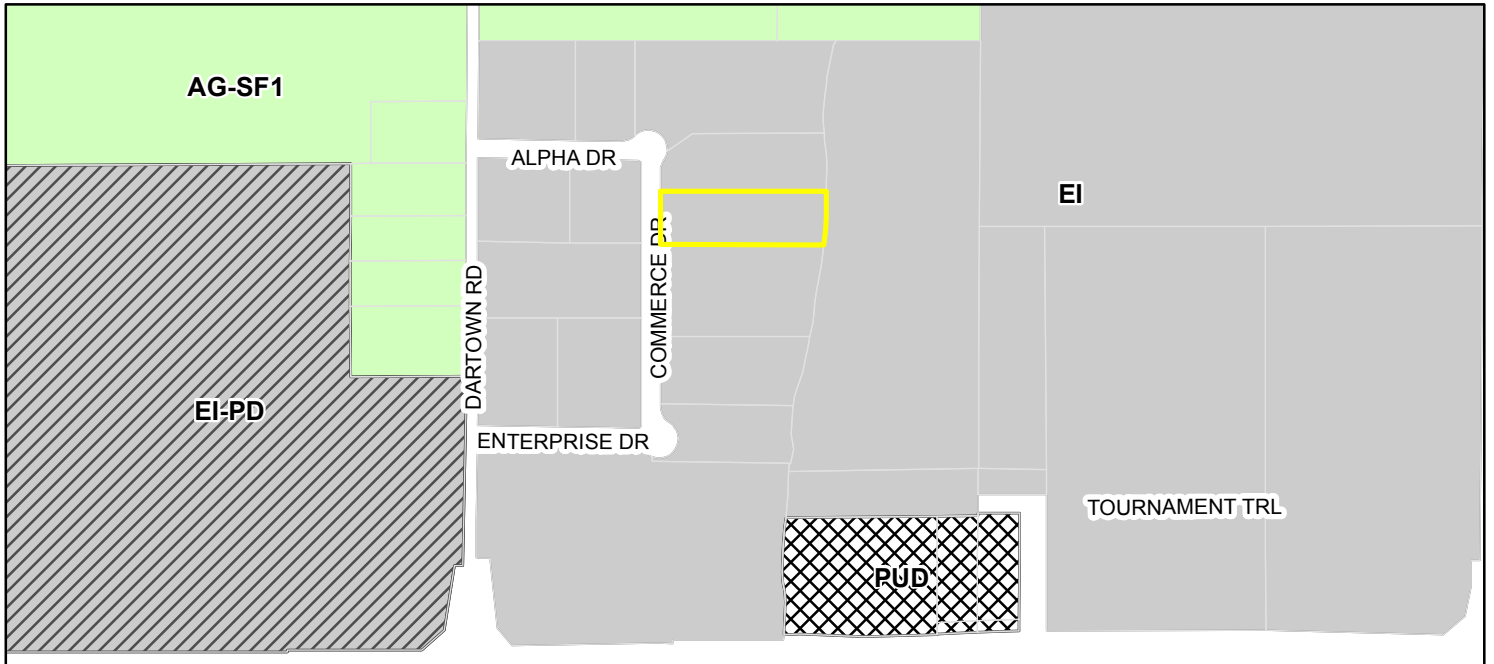
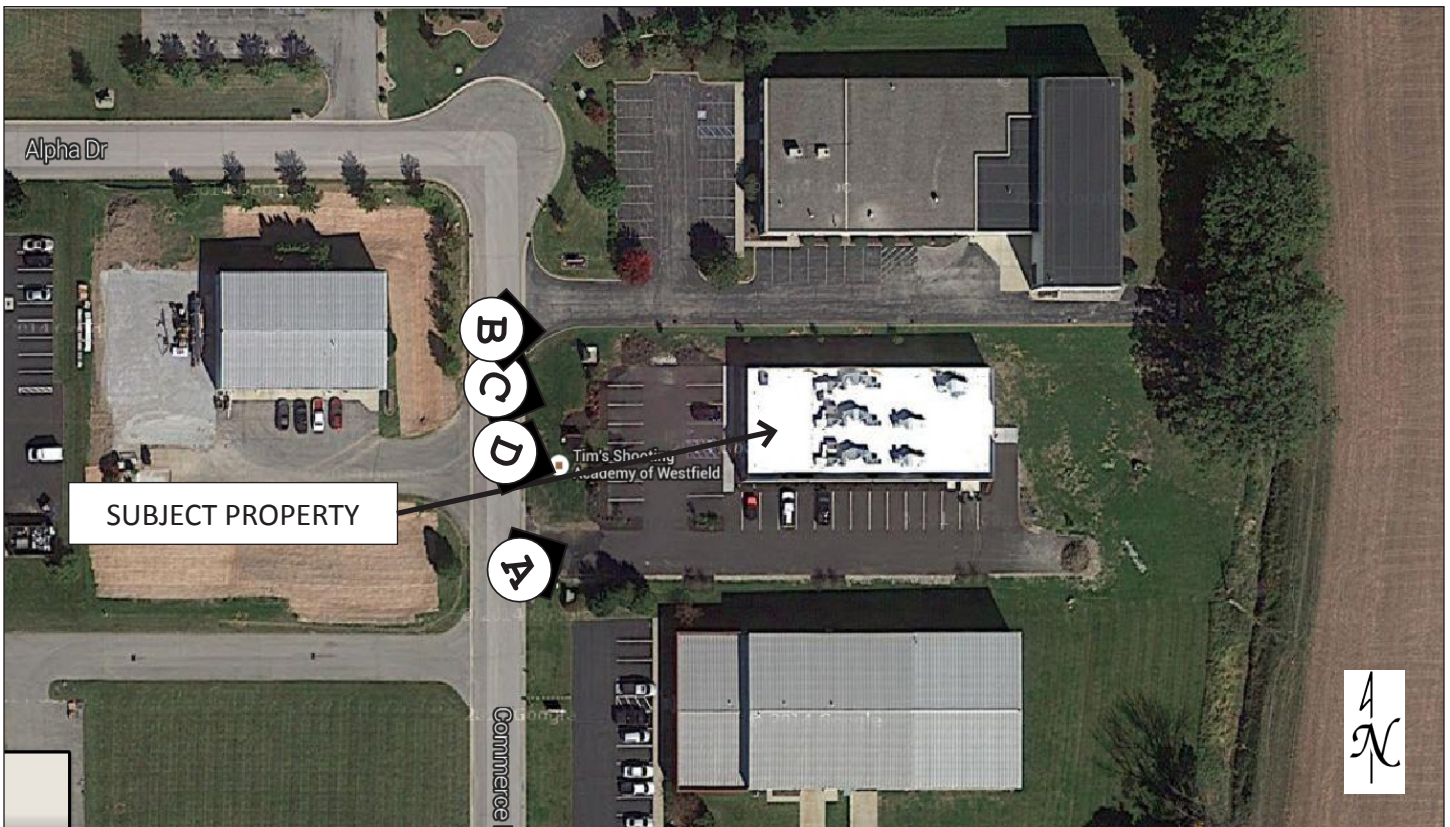


EXHIBIT 3: EXISTING CONDITIONS EXHIBIT



VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1503-VU-02

FILING DATE: 02/02/2015

FILING FEE: \$ 0 FEE PLUS \$ PER ADDITIONAL VARIANCE (@) = \$ 0

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Jesse Pohlman/Andrew Murray (STAFF NAME) DATE: 1/29/2015

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN: 1306-DP-09

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S): 1304-VU-01

APPLICANT INFORMATION

APPLICANT'S NAME: Edward T. Tomich TELEPHONE: 317-710-4679

ADDRESS: 14855 Victory Ct., Carmel, IN 46032 EMAIL: bauertomich@aol.com

PROPERTY OWNER'S NAME: Edward T. Tomich and Faith Bauer-Tomich TELEPHONE: 317-710-4679

ADDRESS: 14855 Victory Ct., Carmel, IN 46032 EMAIL: bauertomich@aol.com

REPRESENTATIVE'S NAME: Christian C. Badger, P.E. TELEPHONE: 765-485-0000

COMPANY: Badger Engineering, LLC EMAIL: chris@badgerengr.com

ADDRESS: 990 W. Oak Street, Zionsville, IN 46077

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17777 Commerce Drive, Westfield, Indiana 46074

COUNTY PARCEL ID #(S): 09-05-35-00-00-017.002

EXISTING ZONING DISTRICT(S): Enclosed Industrial (EI) EXISTING LAND USE(S): Indoor Shooting Range

VARIANCE REQUEST



VARIANCE OF LAND USE

CODE CITATION: Modification of a Condition of Approval



VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION:

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

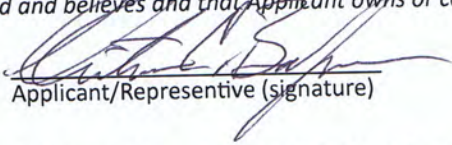
STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):

We are requesting a Modification to the existing Variance of Use 1304-VU-01 due to an unclear sound limit for the shooting range. The owner would like to set the allowable limit in decibels for the shooting range at 80 decibels. The City of Westfield's current Noise Ordinances shows a value of 90 decibels as a violation as measured six feet from the said property line. Currently the noise level depends upon the type of firearm being shot at the range. The smaller caliber hand guns are currently measuring 62 decibels on a hand held sound meter. Larger caliber rifles and shotguns are measuring 68 decibels. Other common sound levels in decibels are: 30 dB (whisper in a Library); 40 dB (quiet park); 50 dB (quiet office); 60 dB (normal conversation @ 3'); 70 dB (busy traffic); 80 dB (busy downtown street); 90 dB (factory machinery); 100 dB (subway train or blow dryer); 110 dB (rock concert or crying baby); 120 dB (threshold of pain or thunder); 130 dB (jet engine @ 100') and 180 dB (the space shuttle lift off @ 1000')



APPLICANT AFFIDAVIT

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


Applicant/Representative (signature)

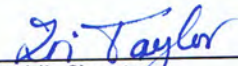
Christian C. Badger, P.E.
Applicant/Representative (printed)

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 9th day of February, 2015.

State of Indiana County of Hamilton SS:

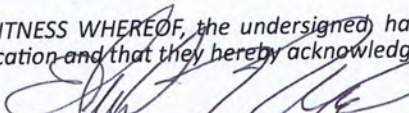



Notary Public Signature

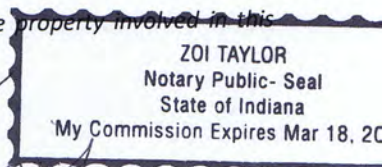
Zoi Taylor
Notary Public (printed)

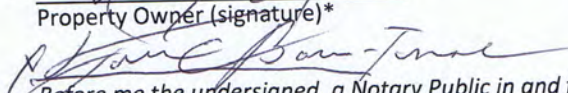
PROPERTY OWNER AFFIDAVIT

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


Property Owner (signature)*

EDWARD T. TOMICK
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.

Faith E. Bauer-Tomick

Witness my hand and Notarial Seal this 2nd day of February, 2015.

State of Indiana County of Hamilton SS:




Notary Public Signature

Zoi Taylor
Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Tim's Shooting Range of Westfield

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: _____

The existing building, its use and its location have already been approved. The proposed Modification of the Variance of Use is to set an acceptable sound level, which would be acceptable within the Enclosed Industrial Zoning District. The types of uses within the EI districts are auto parts sales, auto repair garages, commissary and food catering services, newspaper publishing, secondary food processing and packaging, stamping and fabricating metal shops; these uses would have a similar 80 decibel level leaving their facility. Should the noise still be deemed a nuisance; there is a remedy within the subdivision covenants of which this building and property are a part.

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

The acceptance of the Modification will not affect the use nor value of the adjacent properties, because it will allow for a subjective term like "noise" to have a decibel level which can be checked using a hand held sound meter. The 80 decibels would be measured at the property line. The sound level of 80 decibels is appropriate for this type of district. It is approximately equal to a truck driving in and out of the subdivision. Trucks range from 73 to 78 decibels at ten feet away from the truck.

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

The modification of the variance of use is required so that the term sound or noise can be clearly defined and measured for the shooting range. A measurable decibel limit will give the business owners a clear limit that the shooting range will be able to maintain. The original Project Narrative had a sentence which read: "This will prevent any stray bullets as well as sound from leaving the building." The first portion of that sentence is correct in that baffles will prevent any stray bullets from leaving the building. Unfortunately, the second part of that sentence is incorrect. It is impossible to prevent all sounds from leaving the building. This modification will allow the shooting range to have measurable and acceptable levels of sound leaving the building.

- 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: _____

A strict interpretation of the project narrative will not allow any sound to leave the building which is impossible. That was not the expected interpretation of narrative. Additional sound deadening devices have been installed over the last month and a half to reduce the decibel levels of sound by nearly 12-15 decibels. A dense mastic has been added to the exterior range door and sound reducing panels have been installed on an exterior wall. If a strict interpretation is held in this case the business will have to shut down due to the inability of the shooting range to have a zero noise level.

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

The variance of use was previously approved in 2013 as 1304-VU-01 and was considered to be in line with the Comprehensive Land Use Plan. This modification of the variance will allow for a measurable decibel level at the property line for sound created by the shooting range. This level of sound is consistent with an enclosed industrial district and it's uses. The modification of the variance will not do anything harmful or disruptive, but will instead give a measurable sound level of 80 decibels which will not be exceeded by the shooting range.

LEGAL DESCRIPTION

Part of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana; thence North 00 degrees 47 minutes 42 seconds East (assumed bearing) on the West line of the East Half of said Southeast Quarter 1346.99 feet; thence South 89 degrees 12 minutes 18 seconds East 483.00; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of said East Half 95.34 feet to the point of beginning for the tract herein described; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of said East Half 139.74 feet; thence South 89 degrees 12 minutes 18 seconds East 422.62 feet to the center line of the Evan Kendall Legal Drain; thence North 09 degrees 14 minutes 45 seconds East (this and the next two (2) courses are provided for mathematical closure, the actual boundary follows the center line of said Evan Kendall Legal Drain) 23.29 feet; thence North 04 degrees 46 minutes 48 seconds East 113.05 feet; thence North 04 degrees 25 minutes 06 seconds West 3.95 feet to the Intersection with a line that extends South 89 degrees 12 minutes 18 seconds West 433.54 feet to the point of beginning, containing 1.38 acres, more or less.

Westfield-Washington Township Board of Zoning Appeals

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Board of Zoning Appeals will hold a Public Hearing on **Tuesday, March 10, 2015 at 7:00 p.m.** at Westfield City Hall, 130 Penn Street, Westfield, Indiana to consider a Modification to the Variance of Use petition filed by Edward Tomich and Faith Bauer-Tomich, by Christian C. Badger, as Docket No. 1304-VU-01. The requested modification pertains to the allowable level of sound produced from the existing range property generally located at 17777 Commerce Drive, Westfield, Indiana, 46074 and is parcel number 09-05-35-00-00-017.002. The requested variances of use will allow the following:

The request is for a Modification to an existing Variance of Use from the Westfield-Washington Township Zoning Ordinance to set the maximum allowable decibel levels leaving the building to 80 decibels as measured from the property line.

The specific details regarding this proposal, including the application, file, and property legal description, and may be obtained from the Westfield Economic and Community Development Department, or by calling (317) 804-3170. The hearing for this matter may be continued, from time to time, as deemed necessary by the Board of Zoning Appeals.

Written suggestions or objections relative to the request may be filed with the Westfield Economic and Community Development Department, at or before such meeting. Interested persons desiring to present their views upon the request, either in writing or verbally, are encouraged to attend.

REPRESENTATIVE:



Badger Engineering, LLC
Christian C. Badger, P.E.
990 W. Oaks Street
Zionsville, IN 46077
Telephone (Office): (765) 485-0000
Email: chris@badgerengr.com

CITY OF WESTFIELD:

Economic and Community Development Department
Jesse M. Pohlman, Senior Planner
2728 East 171st Street
Westfield, IN 46074
Telephone (General): (317) 804-3170
Telephone (Direct): (317) 402-4380
Email: jpohlman@westfield.in.gov

TIM'S SHOOTING ACADEMY

Exterior Sound Measurements

Abstract

The attached letter identifies the day & results of noise monitoring at Tim's. Those results are compared to the maximum sound pressures contained in the Westfield Noise Ordinance (Chapter 6, Page 56) as measured with an Octave Band Analyzer

Jeffry S. Carter
jeffrystuartcarter@gmail.com
317.460.9379

Jeffry Stuart Carter
2312 Glebe Street
Carmel, Indiana 46032

February 18, 2015

Mr. Edward "Tim" Tomich
President
Tim's Shooting Academy
17777 Commerce Drive
Westfield, IN 46074

Dear Mr. Tomich,

During one of our recent meetings you asked if I could test sound levels outside of your building using the type of equipment specified in Westfield Washington Townships Chapter 6.

I looked over noise related ordinances for Westfield Washington Township (WWT). It is interesting that the city measures noise in residential areas with a standard noise meter weighted for the A-scale.

However, in Chapter 6, they switch over to use an octave band analyzer (OBA). Sound, similar to light is a mixture of frequencies. It seems odd to me that they would adopt ordinances that require very different types of measuring equipment. A small relatively accurate noise meter can be purchased for a few hundred dollars. The OBA is typically more like a few thousand dollars.

The WWT ordinance Chapter 6, page 56, calls for measuring sound at a 125' mark. During that same conversation, you asked that I measure the noise level at the property line. This change in measuring distance results in a substantial increase in your numbers even though the results will show the range remains well below the maximums sound pressure allowed in the WWT ordinance.

I measured sound at the property line on February 16, 2015. On this Presidents day you had a full house with rifle and pistols being fired. The above results were done while shooters were occupying nearly all lanes. The testing was done on your northern property line directly north of the emergency exit door from, the range. The unit used to capture these results was calibrated on February 15, 2015

The results of this days testing (shown below) clearly demonstrate your range was not in excess of the noise levels specified in the WWT Ordinance book, Chapter 6, page 56.

The following chart refers to Frequency or cycles. The break points are taken from the WWT ordinance contained in Chapter 6, Page 56. The second column is the actual maximum sound pressure permissible under the ordinance. The final column is your result.

<u>Frequency/Cycles</u>	<u>WWT</u>	<u>Results</u>
0-75	80	33
75-150	75	44
151-300	70	48
301-600	64	49
601-1200	58	48
1201-2400	53	43
2401-4800	49	43
Above 4800	46	41

Please feel Free to contact me regarding these numbers at any time.

Sincerely,

Jeffry S Carter
February 18, 2015

CC: Ms. Faith Tomich

Information& Background Author

- Director; Environmental, Health, and Safety related research. A joint operations venture of the Motor Vehicle Manufacturers Association
- Corporate Environmental Health, and Safety Director; United Technologies Corporation, Commercial Industrial Group
- Assistant Secretary Of Labor; Occupational Safety and Health, State of Indiana. (IOSHA)
- Vice President; Science & Technology, Anova Corporation

- Chairman & Chief Administrative Law Judge; OSHA Review Commission/Board of Safety Review, IN Department of Labor
- Chairman; Indiana Solid Waste Management Board, IDEM

- Member; U.S Attorney's Environmental Crimes Task Force, Northern & Southern Districts of Indiana
- Member; Federal Anti-Terrorism Advisory Council, Northern & Southern Federal Districts of Indiana

Jeffry S Carter
February 18, 2015

PROJECT LOCATION:



AERIAL MAP

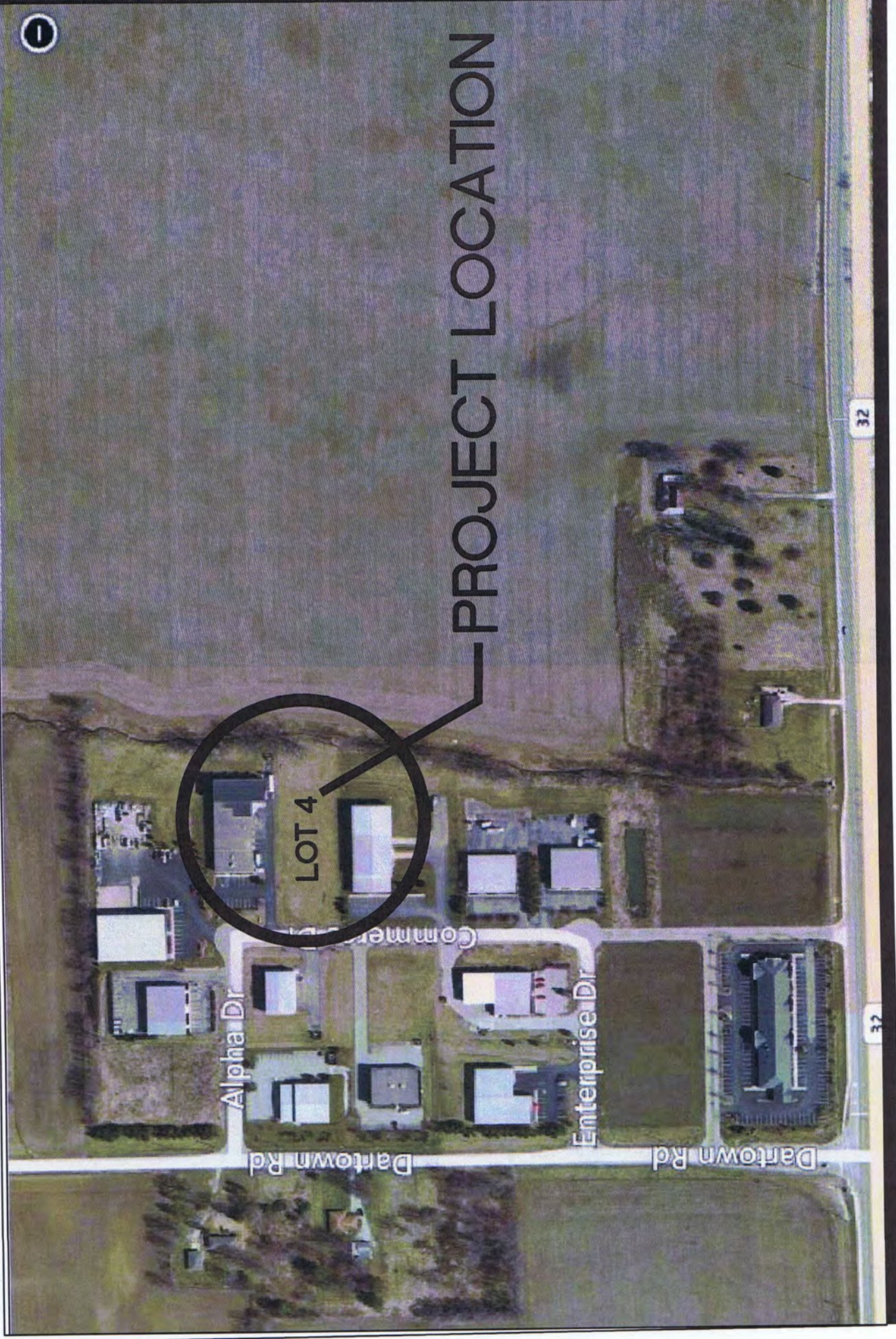


EXHIBIT A
THE PROPERTY

(1 of 2)

DULY ENTERED FOR TAXATION J

Subject to final acceptance for transfer

28 day of MARCH, 2005

Robin W. Miller Auditor of Hamilton County

Parcel # 09-05-35-00-00-017.002

200500017912
Filed for Record in
HAMILTON COUNTY, INDIANA
JENNIFER J HAYDEN
03-28-2005 At 10:58 a.m.
R C DEED 16.00

QUIT CLAIM DEED

THIS INDENTURE WITNESSETH, that Edward Tomleh and Falth Bauer-Tomleh, husband and wife, of Hamilton County, in the State of Indiana, ("Grantor") Release and Quitclaims a one-half (1/2) interest to Edward T. Tomleh as Trustee of the Edward T. Tomleh Revocable Trust dated June 9, 1998 and amended and restated November 25, 2003, and any amendments thereto, and a one-half (1/2) interest to Falth E. Bauer-Tomleh as Trustee of the Falth E. Bauer-Tomleh Revocable Trust dated June 9, 1998 and amended and restated November 25, 2003, and any amendments thereto, both of Hamilton County, in the State of Indiana, ("Grantees") for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following Real Estate in Hamilton County, Indiana:

Part of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana; thence North 00 degrees 47 minutes 42 seconds East (assumed bearing) on the West line of the East Half of said Southeast Quarter 1346.99 feet; thence South 89 degrees 12 minutes 18 seconds East 483.00; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of said East Half 95.34 feet to the point of beginning for the tract herein described; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of said East Half 139.74 feet; thence South 89 degrees 12 minutes 18 seconds East 422.62 feet to the center line of the Evan Kendall Legal Drain; thence North 09 degrees 14 minutes 45 seconds East (this and the next two (2) courses are provided for mathematical closure, the actual boundary follows the center line of said Evan Kendall Legal Drain) 23.29 feet; thence North 04 degrees 46 minutes 48 seconds East 113.05 feet; thence North 04 degrees 25 minutes 06 seconds West 3.95 feet to the intersection with a line that extends South 89 degrees 12 minutes 18 seconds West 433.54 feet the point of beginning, containing 1.38 acres, more or less.

Together with an Ingress/Egress access easement over the property described as follows:

Part of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, of the Second Principal Meridian, located in Washington Township, Hamilton County, Indiana, and being more particularly described as follows:

Commencing at the Southwest corner of the East Half of the Southeast Quarter of said Section 35, Township 19 North, Range 3 East, thence North 00 degrees 47 minutes 42 seconds East (basis of bearings) on and along the West line of the East Half of said Southeast Quarter 584.20 feet to the POINT OF BEGINNING of the description; thence continuing North 00 degrees 47 minutes 42 seconds East on and along said West line 50.00 feet; thence South 89 degrees 12 minutes 18 seconds East 442.50 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 15.50 feet and being subtended by a long chord bearing North 45 degrees 47 minutes 42 seconds East 21.92 feet; thence Northeasterly on and along said curve to the left, an arc distance of 24.35 feet to the point of tangency thereof; thence North 00 degrees 47 minutes 42 seconds East parallel with the West line of the East Half of said Southeast Quarter 656.79 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 15.50 feet and being subtended by a long chord bearing North 44 degrees 12 minutes 18 seconds West 21.92 feet; thence Northwesterly on and along said curve to the left, an arc distance of 24.35 feet to the point of tangency thereof; thence North 89 degrees 12 minutes 18 seconds West 442.50 feet to a point on the West line of the East Half of the Southeast Quarter; thence North 00 degrees 47 minutes 42 seconds East on and along said West line 50.00 feet; thence South 89 degrees 12 minutes 18 seconds East 416.86 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing North 70 degrees 05 minutes 24 seconds East 35.36 feet; thence Northeasterly on and along said curve to the left, an arc distance of 36.14 feet to the point of tangency thereof and the point of curvature of a tangent curve to the right, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 44 degrees 12 minutes 18 seconds East 99.80 feet; thence Northeasterly, Easterly, Southeasterly, Southerly, and Southwesterly on and along said curve to the right, an arc distance of 150.81 feet to the point of tangency thereof and the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 21 degrees 29 minutes 59 seconds West 35.36 feet; thence Southwesterly on and along said curve to the left, an arc distance of 36.14 feet to the point of

Economic and
Community Development

(317) 804-3170 office
(317) 804-3181 fax

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

tangency thereof; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of the East Half of said Southeast Quarter 605.50 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 19 degrees 54 minutes 36 seconds East 35.36 feet; thence Southeasterly on and along said curve to the left, an arc distance of 36.14 feet to the point of tangency thereof and the point of curvature of a tangent curve to the right, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 45 degrees 47 minutes 42 seconds West 99.80 feet thence Southeasterly, Southerly, Southwesterly, Westerly, and Northwesterly on and along said curve to the right, an arc distance of 150.81 feet to the point of tangency thereof and the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing North 68 degrees 30 minutes 01 seconds West 35.36 feet thence Northwesterly on and along said curve to the left, an arc distance of 36.14 feet to the point of tangency thereof; thence North 89 degrees 12 minutes 18 seconds West 416.86 feet to a point on the West line of the East Half of said Southeast Quarter and the POINT OF BEGINNING, containing 2.10 acres, more or less.

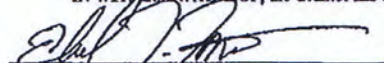
Subject to Street Right of Way across the entire West Side of the above Tract.

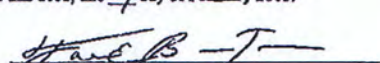
Subject further to the Statutory Easement for the Evan Kendall Legal Drain, an open regulated ditch along the Easterly side of the above described Tract.

Subject to an easement for Dralunge and Utilities being 15 feet by parallel lines across the entire North side of the above described tract.

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

IN WITNESS WHEREOF, the Grantor has executed this deed, this 24 day of March, 2005.


Edward Tomich

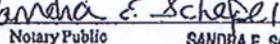

Faith Bauer-Tomich

STATE OF INDIANA }
COUNTY OF Indiana } SS:

Before me, a Notary Public in and for said County and State, personally appeared Edward Tomich and Faith Bauer-Tomich, who acknowledged the execution of the foregoing deed, and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal, this 24 day of March, 2005.

My commission expires:
Resident of Hamilton County


Notary Public

SANDRA E. SCHEP Notary Public
My Commission Expires August 27, 2008
County of Residence: Hamilton

Please return Deed and all
Tax bills should be sent to each Grantee for their respective 1/2 interests at:

Edward T. Tomich as Trustee of the Edward T. Tomich Revocable Trust
14855 Victory Court
Carmel, IN 46032

and

Faith E. Bauer-Tomich as Trustee of the Faith E. Bauer-Tomich Revocable Trust
14855 Victory Court
Carmel, IN 46032

THIS INSTRUMENT WAS PREPARED BY: Ronald A. Wright, Attorney-At-Law,
9292 N. Meridian Street, Suite 308, Indianapolis, Indiana 46260 (317) 575-1900.

**Economic and
Community Development**

(317) 804-3170 office
(317) 804-3181 fax

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

Wheeler Farms, LLC
18206 Kinsey Ave.
Westfield, IN 46074

FMH Family Limited
Partnership
931 Custer Lane
Prescott AZ 86305

ABCD Properties, LLC
4217McKean Ave.
Westfield, IN 46074

Hadah, LLC
P.O. Box 550
Westfield, IN 46074

K & D Developers
17715 Commerce Dr. Ste 100
Westfield, IN 46074

CDTI, LLC
17735 Commerce Dr.
Westfield, IN 46074

Chandler Family Limited
Partnership
5355 225th Street
Noblesville, IN 46062

Isley Real Estate
Holding Co., LLC
421 Alpha Drive
Westfield, IN 46074

John Scott &
Alana K. Voegel
3701 Abney Highland Dr.
Zionsville, IN 46077

B2 D2 Investments, LLC
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Westfield, IN 46074

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Alana K. Voegel
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Zionsville, IN 46077

B2 D2 Investments, LLC
17740 Commerce Drive.
Westfield, IN 46074

Alpha Tau, LLC
478 Gradle Drive
Carmel, IN 46032

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478 Gradle Drive
Carmel, IN 46032

Alpha Tau, LLC
478 Gradle Drive
Carmel, IN 46032

Commercial Holdings, LLC
450 Enterprise Drive
Westfield, IN 46074

Commercial Holdings, LLC
450 Enterprise Drive
Westfield, IN 46074

Commercial Holdings, LLC
450 Enterprise Drive
Westfield, IN 46074

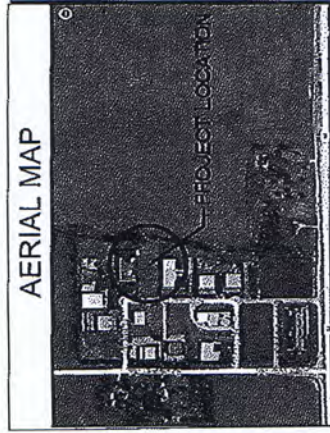
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Management, LLC
389 Gradle Drive
Carmel, IN 46032

Sollenberger Rental
Management, LLC
389 Gradle Drive
Carmel, IN 46032

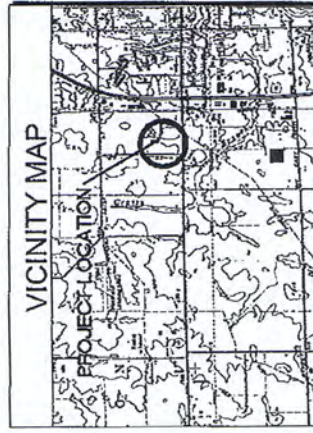
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Management, LLC
389 Gradle Drive
Carmel, IN 46032

Tim's Shooting Academy of Westfield Westfield, Indiana 46074

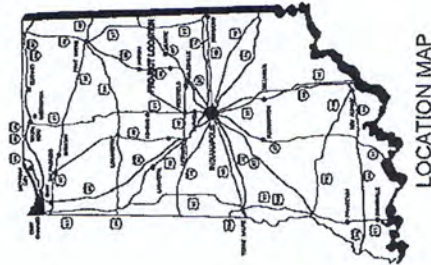
SUBJECT SITE:
SITE LOCATED IN WASHINGTON TOWNSHIP
HAMILTON COUNTY, INDIANA



AERIAL MAP



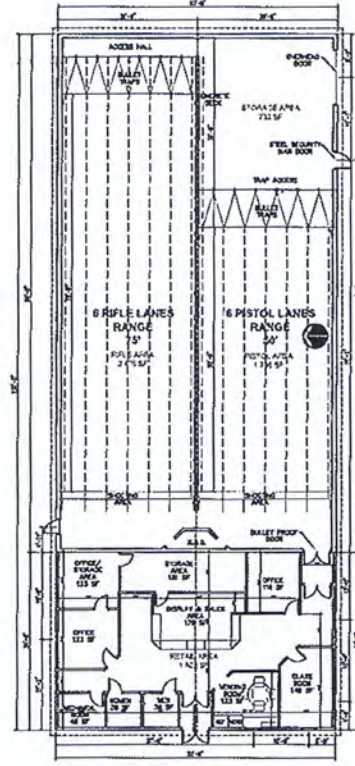
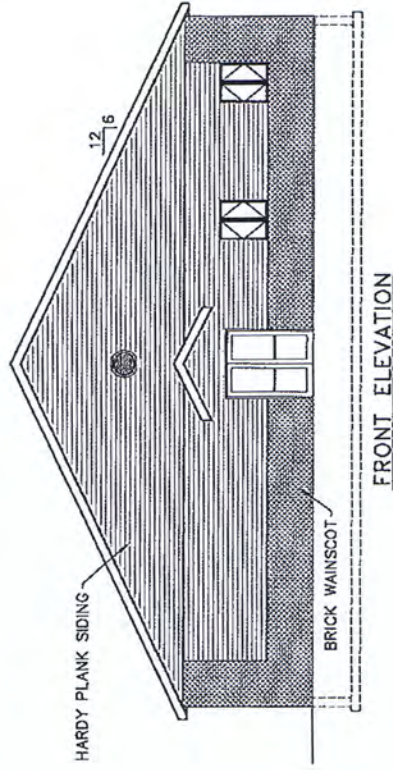
VICINITY MAP



LOCATION MAP

SHEET INDEX:

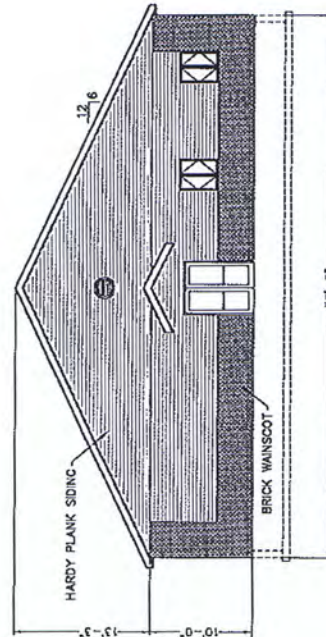
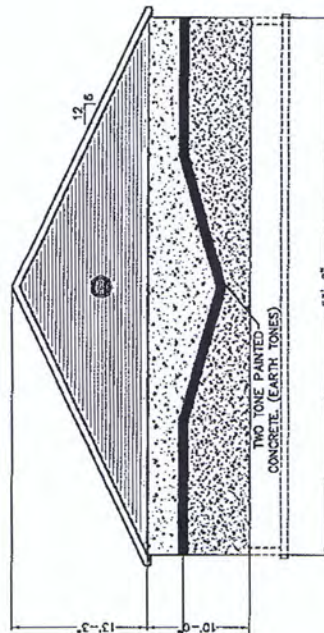
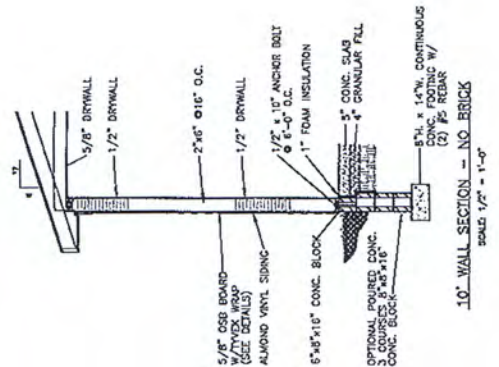
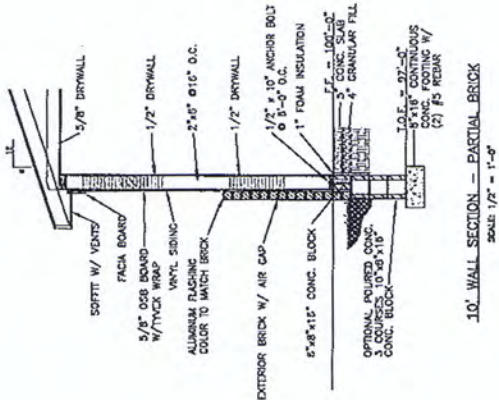
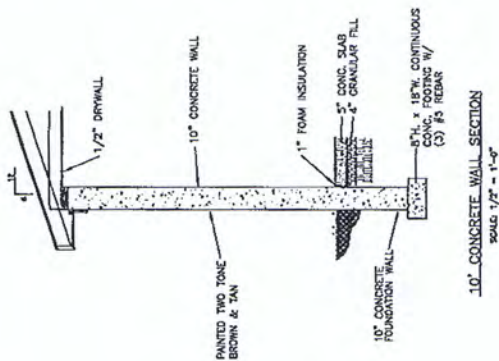
- 1 TITLE SHEET
- 2 BUILDING ELEVATIONS
- 3 BUILDING ELEVATIONS
- 4 BUILDING FLOORPLAN
- 5 SITE PLAN



Owner:

Tim Tomich
14855 Victory Ct.
Carmel, IN 46032

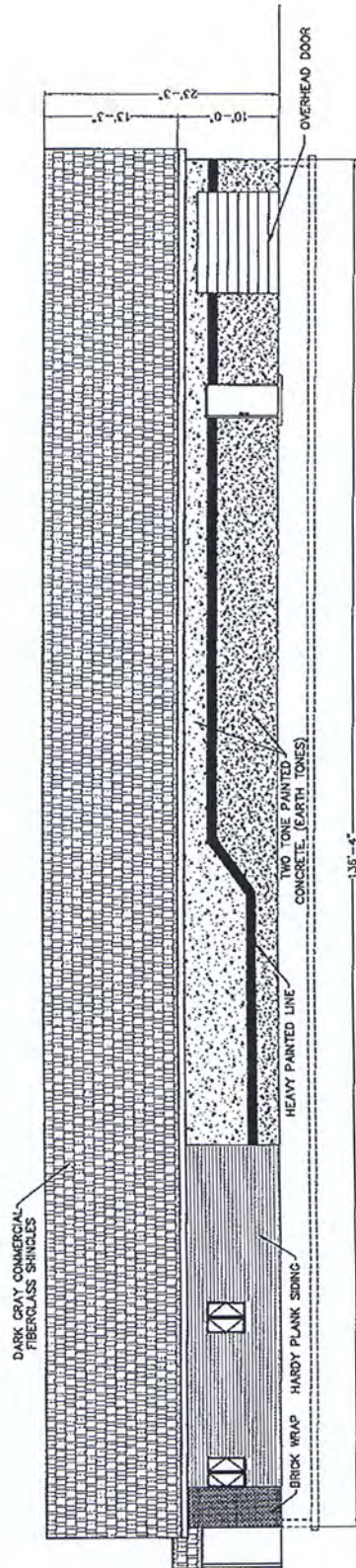
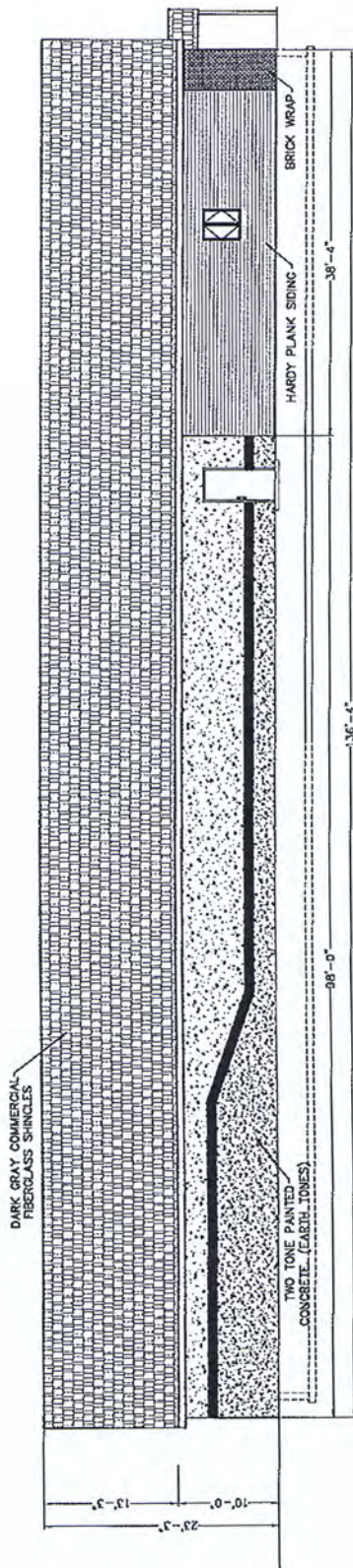
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1	TITLE SHEET	2	DATE	3	DATE
2	BUILDING ELEVATIONS	3	DATE	4	DATE
3	BUILDING ELEVATIONS	4	DATE	5	DATE
4	BUILDING FLOORPLAN	5	DATE	6	DATE
5	SITE PLAN	6	DATE	7	DATE
PROJECT NAME		PROJECT NO.		SHEET NO.	
Tim's Shooting Academy of Westfield		001		1	
101 W. Main Street Lafayette, IN 46032 (765) 465-0000		DESIGNED BY		CHECKED BY	
BADGER ENGINEERING		MCH		CCO	



ELEVATIONS AND TYPICAL SECTIONS			
NO.	DATE	REVISION	BY
1	10/1/2013		10/1/2013
2	10/1/2013		10/1/2013
3	10/1/2013		10/1/2013
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62	10/1/2013		10/1/2013
63	10/1/2013		10/1/2013
64	10/1/2013		10/1/2013
65	10/1/2013		10/1/2013
66	10/1/2013		10/1/2013
67	10/1/2013		10/1/2013
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69	10/1/2013		10/1/2013
70	10/1/2013		10/1/2013
71	10/1/2013		10/1/2013
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94	10/1/2013		10/1/2013
95	10/1/2013		10/1/2013
96	10/1/2013		10/1/2013
97	10/1/2013		10/1/2013
98	10/1/2013		10/1/2013
99	10/1/2013		10/1/2013
100	10/1/2013		10/1/2013

ELEVATIONS AND TYPICAL SECTIONS			
NO.	DATE	REVISION	BY
1	10/1/2013		10/1/2013
2	10/1/2013		10/1/2013
3	10/1/2013		10/1/2013
4	10/1/2013		10/1/2013
5	10/1/2013		10/1/2013
6	10/1/2013		10/1/2013
7	10/1/2013		10/1/2013
8	10/1/2013		10/1/2013
9	10/1/2013		10/1/2013
10	10/1/2013		10/1/2013
11	10/1/2013		10/1/2013
12	10/1/2013		10/1/2013
13	10/1/2013		10/1/2013
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27	10/1/2013		10/1/2013
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29	10/1/2013		10/1/2013
30	10/1/2013		10/1/2013
31	10/1/2013		10/1/2013
32	10/1/2013		10/1/2013
33	10/1/2013		10/1/2013
34	10/1/2013		10/1/2013

[illegible]

ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 200500017912

Mayor
Andy Cook

City Council

Jim Ake
John Dippel
Steve Hoover
Robert L. Horkay
Robert J. Smith
Cindy L. Spoljaric
Robert W. Stokes

Clerk Treasurer

Cindy J. Gossard

This ACKNOWLEDGEMENT, made this 10th day of April, 2013, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

WHEREAS, on Tuesday, April 09, 2013, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1304-VU-01 (the "Petition"), filed by Christian Badger of Badger Engineering, LLC on behalf of Edward T. Tomich and Faith E. Baurer-Tomich (collectively, the "Petitioner"), for a Variance of Use from the Westfield-Washington Zoning Ordinance regarding property commonly known as 17777 Commerce Drive, Westfield, Indiana 46074 (Parcel No. 09-05-35-00-00-017.002) and more particularly described in Exhibit A (the "Property"). The Petitioner requested a Variance of Use to allow an indoor shooting range and related retail sales in the Enclosed Industrial (EI) District (WC 16.04.060.B.2).

WHEREAS, the Board voted five (5) to zero (0) to approve the Petition with the following conditions:

1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.
2. The "Indoor Shooting Range and related Retail Sales" use (collectively, the "Shooting Academy") shall be limited in scope and operation to the Petitioner's Narrative, attached hereto as Exhibit B, and Preliminary Plans, attached hereto as Exhibit C. Any expansion or substantial alteration to the scope and operation of the Shooting Academy, as determined by the Director, shall require approval by the Board.
3. The Shooting Academy shall be developed and operated in substantial compliance to the Petitioner's Narrative and Preliminary Plans, subject to review and approval for compliance with applicable ordinances and laws of the development plans and appropriate permits.
4. The Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance's Performance Standards for Industrial Districts (WC 16.04.060), as amended.
5. The Shooting Academy shall comply with Indiana Fire and Building Codes, as amended.

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(317) 804-3181 fax

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Westfield, IN 46074
westfield.in.gov

6. The Shooting Academy shall maintain standard operating procedures and require within those procedures that all users of the Shooting Academy shall be required to attend a formal training program prior to their use of the indoor shooting range.

NOW, THEREFORE, the Director hereby declares that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the Variance of Use approved by the Board on April 09, 2013. Unless otherwise modified herein, this Variance of Use shall run with the land, and shall be binding upon the owner, heirs and assigns, and all parties having an interest in and to the Property or any part or parts thereof subject to such Variance of Use, and shall inure to the benefit of the owner and every one of his/her successors in title to any real estate in the Property.

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

"DIRECTOR"



MATTHEW S. SKELTON

Economic and Community Development Director, City of Westfield

[The remainder of this page intentionally left blank;
signature page follows.]

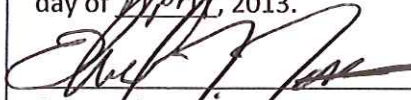
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Edward T. Tomich and Faith Bauer-Tomich, as Trustees of Owners of the Property, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition, as set forth herein.

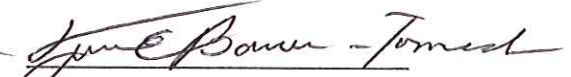
IN WITNESS WHEREOF, the Owners have executed this instrument, on the 16 day of April, 2013.


Owner Signature

EDWARD T. TOMICH
Edward T. Tomich

OWNER / Trustee
Title

4-16-13
Date


Owner Signature

Faith E Bauer - Tomich
Faith Bauer-Tomich

OWNER / Trustee
Title

4/16/13
Date

STATE OF Indiana)
COUNTY OF Hamilton)

SS:

Signed and acknowledged before me this 16th day of April, 2013.

(SEAL)


Signature of Notary Public

Anthony Victor King Jr.
Printed name of Notary Public



My County of Residence: Hamilton

My Commission Expires: March 30, 2018

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

Prepared by: Jesse M. Pohlman, Senior Planner, City of Westfield
2728 East 171st Street, Westfield, IN 46074, (317) 804.3170

EXHIBIT A
THE PROPERTY

(1 of 2)

DULY ENTERED FOR TAXATION J

Subject to final acceptance for transfer

28 day of MARCH, 2005

Robin Mills Auditor of Hamilton County

Parcel # 19-05-35-00-00-017.002

200500017912
Filed for Record in
HAMILTON COUNTY, INDIANA
JENNIFER J HAYDEN
03-28-2005 At 10:58 am.
R C DEED 16.00

QUIT CLAIM DEED

16.00
(2)

THIS INDENTURE WITNESSETH, that Edward Tomleh and Faith Bauer-Tomleh, husband and wife, of Hamilton County, in the State of Indiana, ("Grantor") Release and Quitclaims a one-half (1/2) interest to Edward T. Tomleh as Trustee of the Edward T. Tomleh Revocable Trust dated June 9, 1998 and amended and restated November 25, 2003, and any amendments thereto, and a one-half (1/2) interest to Faith E. Bauer-Tomleh as Trustee of the Faith E. Bauer-Tomleh Revocable Trust dated June 9, 1998 and amended and restated November 25, 2003, and any amendments thereto, both of Hamilton County, in the State of Indiana, ("Grantees") for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following Real Estate in Hamilton County, Indiana:

Part of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana; thence North 00 degrees 47 minutes 42 seconds East (assumed bearing) on the West line of the East Half of said Southeast Quarter 1346.99 feet; thence South 89 degrees 12 minutes 18 seconds East 483.00; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of said East Half 95.34 feet to the point of beginning for the tract herein described; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of said East Half 139.74 feet; thence South 89 degrees 12 minutes 18 seconds East 422.62 feet to the center line of the Evan Kendall Legal Drain; thence North 09 degrees 14 minutes 45 seconds East (this and the next two (2) courses are provided for mathematical closure, the actual boundary follows the center line of said Evan Kendall Legal Drain) 23.29 feet; thence North 04 degrees 46 minutes 48 seconds East 113.05 feet; thence North 04 degrees 25 minutes 06 seconds West 3.95 feet to the intersection with a line that extends South 89 degrees 12 minutes 18 seconds West 433.54 feet the point of beginning, containing 1.38 acres, more or less.

Together with an Ingress/Egress access easement over the property described as follows:

Part of the East Half of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, of the Second Principal Meridian, located in Washington Township, Hamilton County, Indiana, and being more particularly described as follows:

Commencing at the Southwest corner of the East Half of the Southeast Quarter of said Section 35, Township 19 North, Range 3 East, thence North 00 degrees 47 minutes 42 seconds East (basis of bearings) on and along the West line of the East Half of said Southeast Quarter 584.20 feet to the POINT OF BEGINNING of the description; thence continuing North 00 degrees 47 minutes 42 seconds East on and along said West line 50.00 feet; thence South 89 degrees 12 minutes 18 seconds East 442.50 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 15.50 feet and being subtended by a long chord bearing North 45 degrees 47 minutes 42 seconds East 21.92 feet; thence Northeasterly on and along said curve to the left, an arc distance of 24.35 feet to the point of tangency thereof; thence North 00 degrees 47 minutes 42 seconds East parallel with the West line of the East Half of said Southeast Quarter 656.79 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 15.50 feet and being subtended by a long chord bearing North 44 degrees 12 minutes 18 seconds West 21.92 feet; thence Northwesterly on and along said curve to the left, an arc distance of 24.35 feet to the point of tangency thereof; thence North 89 degrees 12 minutes 18 seconds West 442.50 feet to a point on the West line of the East Half of the Southeast Quarter; thence North 00 degrees 47 minutes 42 seconds East on and along said West line 50.00 feet; thence South 89 degrees 12 minutes 18 seconds East 416.86 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing North 70 degrees 05 minutes 24 seconds East 35.36 feet; thence Northeasterly on and along said curve to the left, an arc distance of 36.14 feet to the point of tangency thereof and the point of curvature of a tangent curve to the right, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 44 degrees 12 minutes 18 seconds East 99.80 feet; thence Northeasterly, Easterly, Southeasterly, Southerly, and Southwesterly on and along said curve to the right, an arc distance of 150.81 feet to the point of tangency thereof and the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 21 degrees 29 minutes 59 seconds West 35.36 feet; thence Southwesterly on and along said curve to the left, an arc distance of 36.14 feet to the point of

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tangency thereof; thence South 00 degrees 47 minutes 42 seconds West parallel with the West line of the East Half of said Southeast Quarter 605.50 feet to the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 19 degrees 54 minutes 36 seconds East 35.36 feet; thence Southeasterly on and along said curve to the left, an arc distance of 36.14 feet to the point of tangency thereof and the point of curvature of a tangent curve to the right, said curve having a radius of 50.00 feet and being subtended by a long chord bearing South 45 degrees 47 minutes 42 seconds West 99.80 feet thence Southeasterly, Southerly, Southwesterly, Westerly, and Northwesterly on and along said curve to the right, an arc distance of 150.81 feet to the point of tangency thereof and the point of curvature of a tangent curve to the left, said curve having a radius of 50.00 feet and being subtended by a long chord bearing North 68 degrees 30 minutes 01 seconds West 35.36 feet thence Northwesterly on and along said curve to the left, an arc distance of 36.14 feet to the point of tangency thereof; thence North 89 degrees 12 minutes 18 seconds West 416.86 feet to a point on the West line of the East Half of said Southeast Quarter and the POINT OF BEGINNING, containing 2.10 acres, more or less.

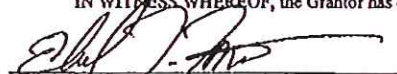
Subject to Street Right of Way across the entire West Side of the above Tract.

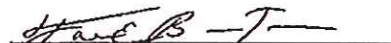
Subject further to the Statutory Easement for the Evan Kendall Legal Drain, an open regulated ditch along the Easterly side of the above described Tract.

Subject to an easement for Drainage and Utilities being 15 feet by parallel lines across the entire North side of the above described tract.

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

IN WITNESS WHEREOF, the Grantor has executed this deed, this 24 day of March 2005.


Edward Tomlich

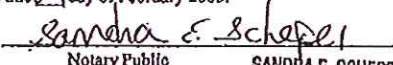

Faith Bauer-Tomlich

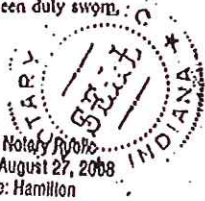
STATE OF INDIANA)
COUNTY OF Indiana) SS:

Before me, a Notary Public in and for said County and State, personally appeared Edward Tomlich and Faith Bauer-Tomlich, who acknowledged the execution of the foregoing deed, and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal, this 24 day of March 2005.

My commission expires:
Resident of Hamilton County


Notary Public


SANDRA E. SCHEPER Notary Public
My Commission Expires August 27, 2008
County of Residence: Hamilton

Please return Deed and all
Tax bills should be sent to each Grantee for their respective $\frac{1}{2}$ interests at:

Edward T. Tomlich as Trustee of the Edward T. Tomlich Revocable Trust
14855 Victory Court
Carmel, IN 46032

and

Faith E. Bauer-Tomlich as Trustee of the Faith E. Bauer-Tomlich Revocable Trust
14855 Victory Court
Carmel, IN 46032

THIS INSTRUMENT WAS PREPARED BY: Ronald A. Wright, Attorney-At-Law,
9292 N. Meridian Street, Suite 308, Indianapolis, Indiana 46260 (317) 575-1900.

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Westfield, IN 46074
westfield.in.gov

EXHIBIT B
PETITIONER'S NARRATIVE

(1 of 2)



March 29, 2013

Jesse M. Pohlman
Senior Planner
City of Westfield
2728 E. 171st Street
Westfield, IN 46074

PROJECT NARRATIVE

Tim's Shooting Academy of Westfield is a proposed shooting range dedicated to teaching safe use of fire arms, hunting safety, enhanced marksmanship and sport shooting. No-one will be allowed to use the facility until they have been through an on-site safety class.

The range will have six rifle lanes and six pistol lanes for shooting. The range area will be constructed with 10" thick concrete walls and a 4" concrete slab. The ceiling will have bullet-proof panels and baffles. This will prevent any stray bullets as well as sound from leaving the building. The proposed system is a total containment trap with all of the latest safety equipment and systems. The 12 bullet traps located at the end of the range will use a complete containment system, which traps the lead and ventilates the air within the range at a rate of 960 cubic feet every 5 minutes through a HEPA Filter. The bullet trap can handle .50 caliber bullets, but we will limit range use to common sporting rounds.

The property is owned by E. Tim Tomich and Faith Bauer-Tomich, who have owned the property since 1997. The current zoning is (EI) Enclosed Industrial. The proposed building and site will be situated on the 1.3 acres and will meet all of the requirements for Enclosed Industrial Zoning. There is no zoning in any district within the City of Westfield which would allow an indoor or outdoor shooting range so we are asking for a "Use Variance" for that property.

The retail sale side of the Academy will sell targets, safety glasses, ear protection, hunting apparel, scopes, and high-end fire arms. The sale of guns will require a background check as required by the state and federal laws. Only higher priced and higher quality guns will be sold. No Saturday Night Specials, cheap guns or guns made by less than reputable manufacturers will be sold. Retail sales are required because more than a third of our patrons will forget their required safety glasses, hearing protection, and the proper munitions to which we will limit them.

The site will allow for 20 parking spaces, 2 of which will be designated handicapped spaces. A land bank will use some of the property for additional parking should the Academy parking become inadequate for the proposed use. The lot will have complete and proper drainage.

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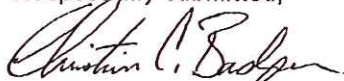
2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

101 W. Main Street, Lebanon, Indiana 46052 (765) 485-0000 FAX (765) 485-0699
www.badgerengr.com

Building Design Information:

- Interior wall heights 10'-2"
- 10" poured concrete walls
- 6 Rifle lanes 75' length and 48" wide (one lane will be ADA)
- 6 Pistol lanes 50' length and 48" wide (one lane will be ADA)
- All lanes will have automatic target retrieval systems
- Bullet traps rated for .50 caliber bullet and will allow the lead to be recycled.
- The only ammunition that will be allowed will be full metal jacket to limit the lead dust which could enter the air upon impact.
- HVAC is a major part of the design of an indoor range. Our system meets all of the following standards, NRA, OSHA, NSSF, NIOSH, EPA and DOD requirements for cleaning the air.
- Shooting Stall dividers will be level 3 grade protection in the pistol lanes and level 4 grade protection in the rifle lanes.
- Baffles will be suspended from the ceiling to prevent any errant discharges from going through the roof and therefore being contained in the building.

Respectfully submitted,



Christian C. Badger, P.E.
Badger Engineering, LLC

117 West Elm Street, Lebanon, Indiana 46052 \$ (765) 485-0000 \$ FAX (765) 485-0699
info@badgerengr.com \$ www.badgerengr.com

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EXHIBIT C
PETITIONER'S PRELIMINARY PLANS

SEE FOLLOWING PAGES

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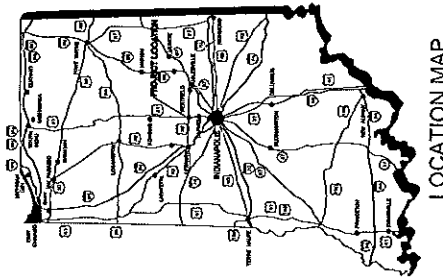
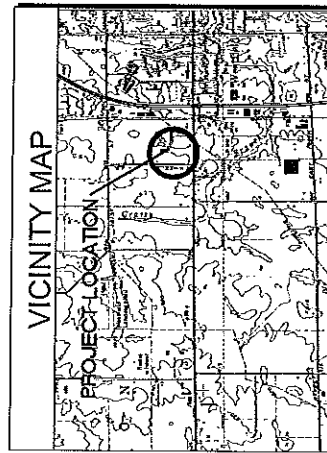
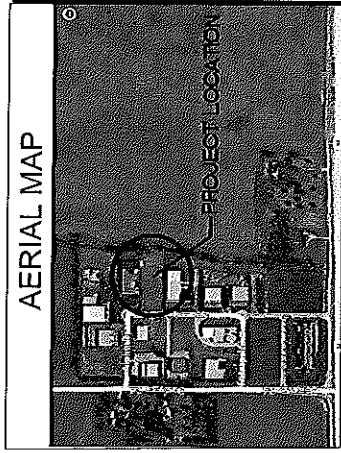
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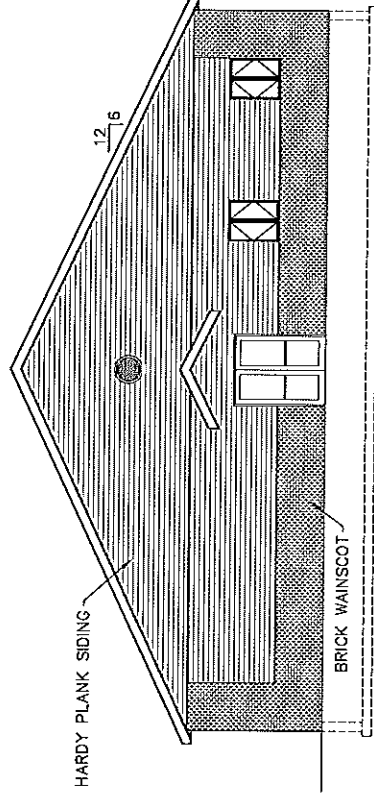
Tim's Shooting Academy of Westfield Westfield, Indiana 46074

SUBJECT SITE:
SITE LOCATED IN WASHINGTON TOWNSHIP
HAMILTON COUNTY, INDIANA

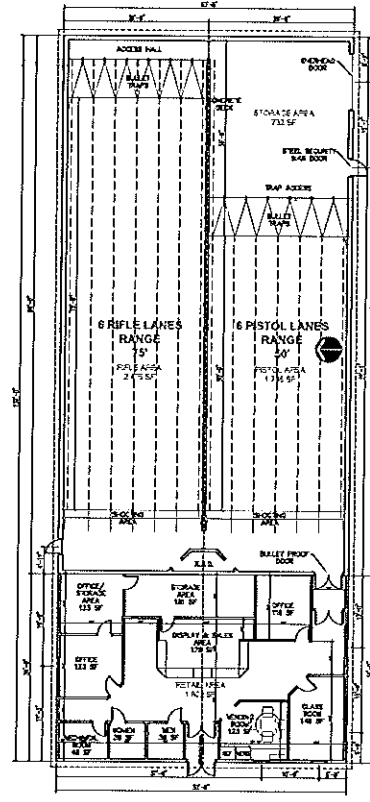


SHEET INDEX:

- 1 TITLE SHEET
- 2 BUILDING ELEVATIONS
- 3 BUILDING ELEVATIONS
- 4 BUILDING FLOORPLAN
- 5 SITE PLAN



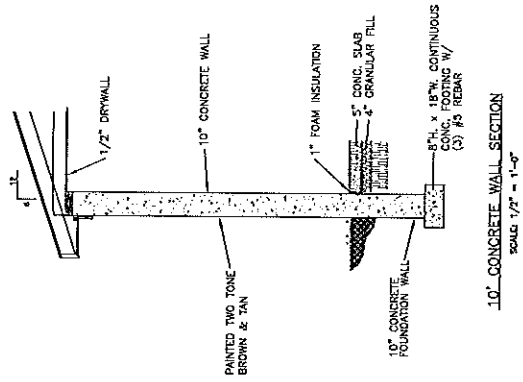
FRONT ELEVATION



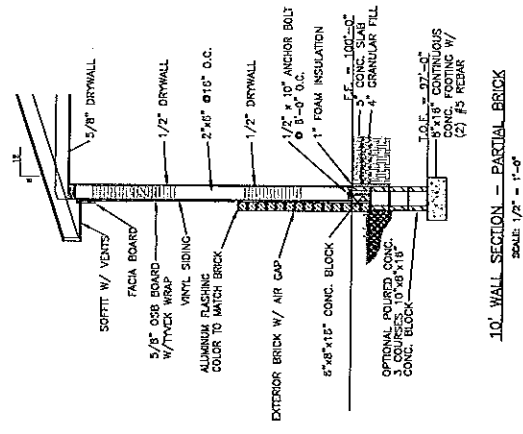
FLOOR PLAN

Owner:
Tim Tomich
14855 Victory Ct.
Carmel, IN 46032

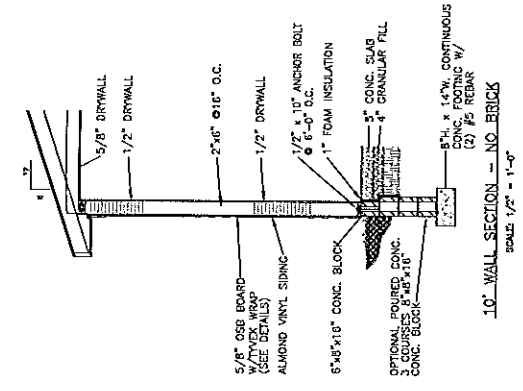
SHEET INDEX		TITLE SHEET		DATE	
1	TITLE SHEET	2	BUILDING ELEVATIONS	3	BUILDING ELEVATIONS
4	BUILDING FLOORPLAN	5	SITE PLAN	6	AS SHOWN
PROJECT NAME		PROJECT NO.		SHEET NO.	
Tim's Shooting Academy of Westfield		14855 VICTORY CT.		1	
ENGINEERING		MCH		CCD	
BADGER ENGINEERING		14855 VICTORY CT.		CARMEL, IN 46032	
TEL: 317-833-1111		FAX: 317-833-1111		E-MAIL: INFO@BADGERENGINEERING.COM	



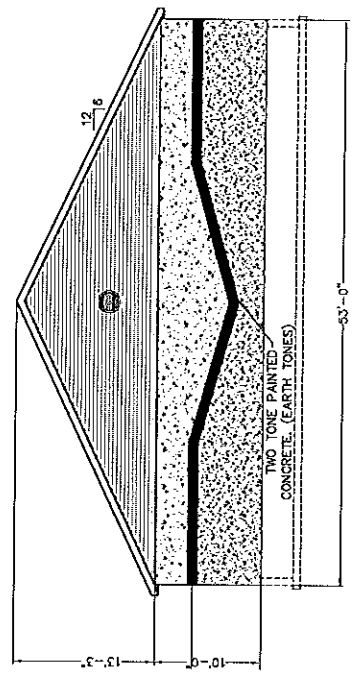
10' CONCRETE WALL SECTION
SCALE: 1/2" = 1'-0"



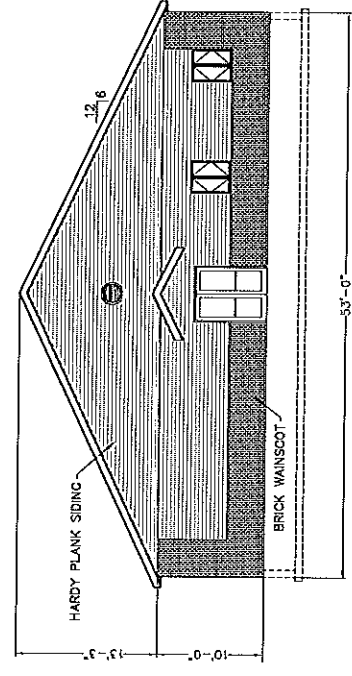
10' WALL SECTION - PARTIAL BRICK
SCALE: 1/2" = 1'-0"



10' WALL SECTION - NO BRICK
SCALE: 1/2" = 1'-0"

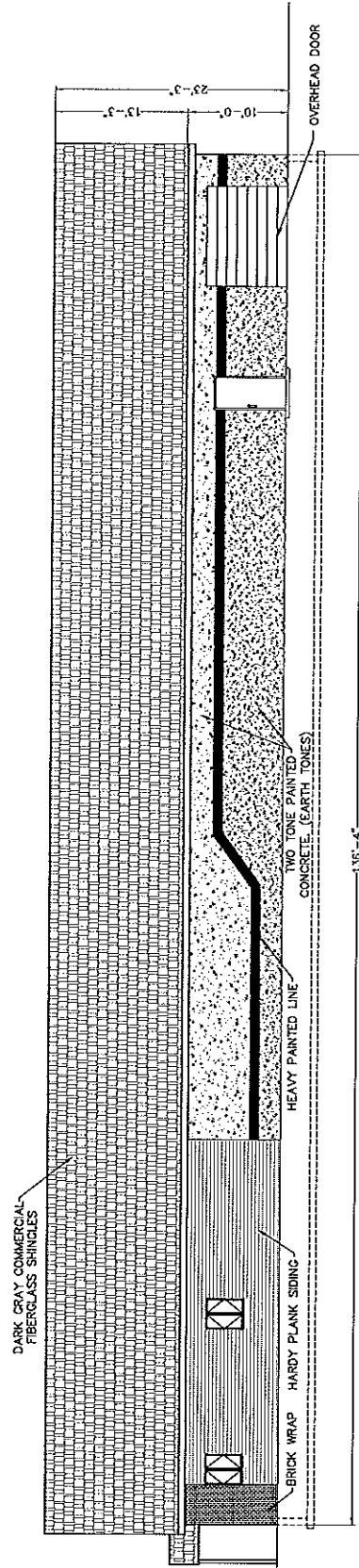
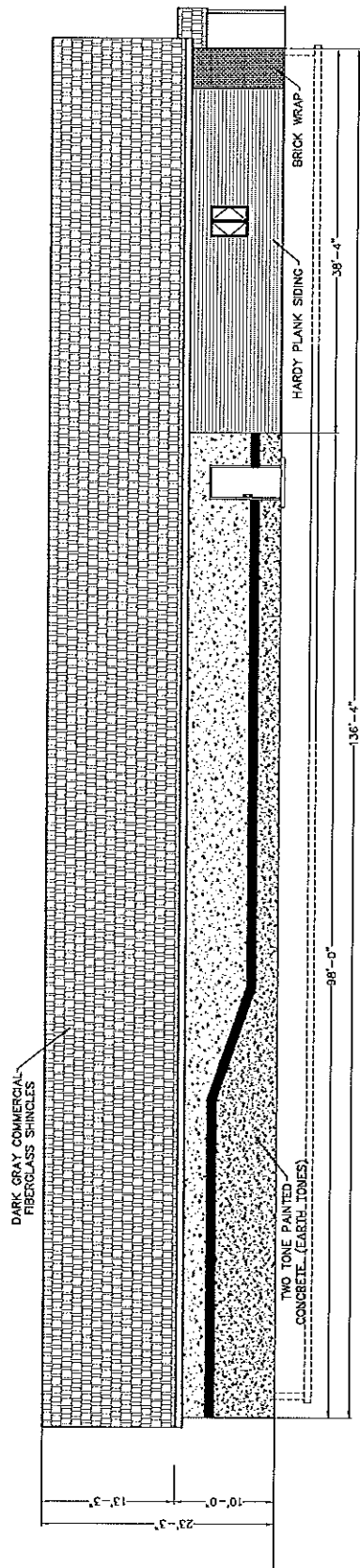


WEST ELEVATION

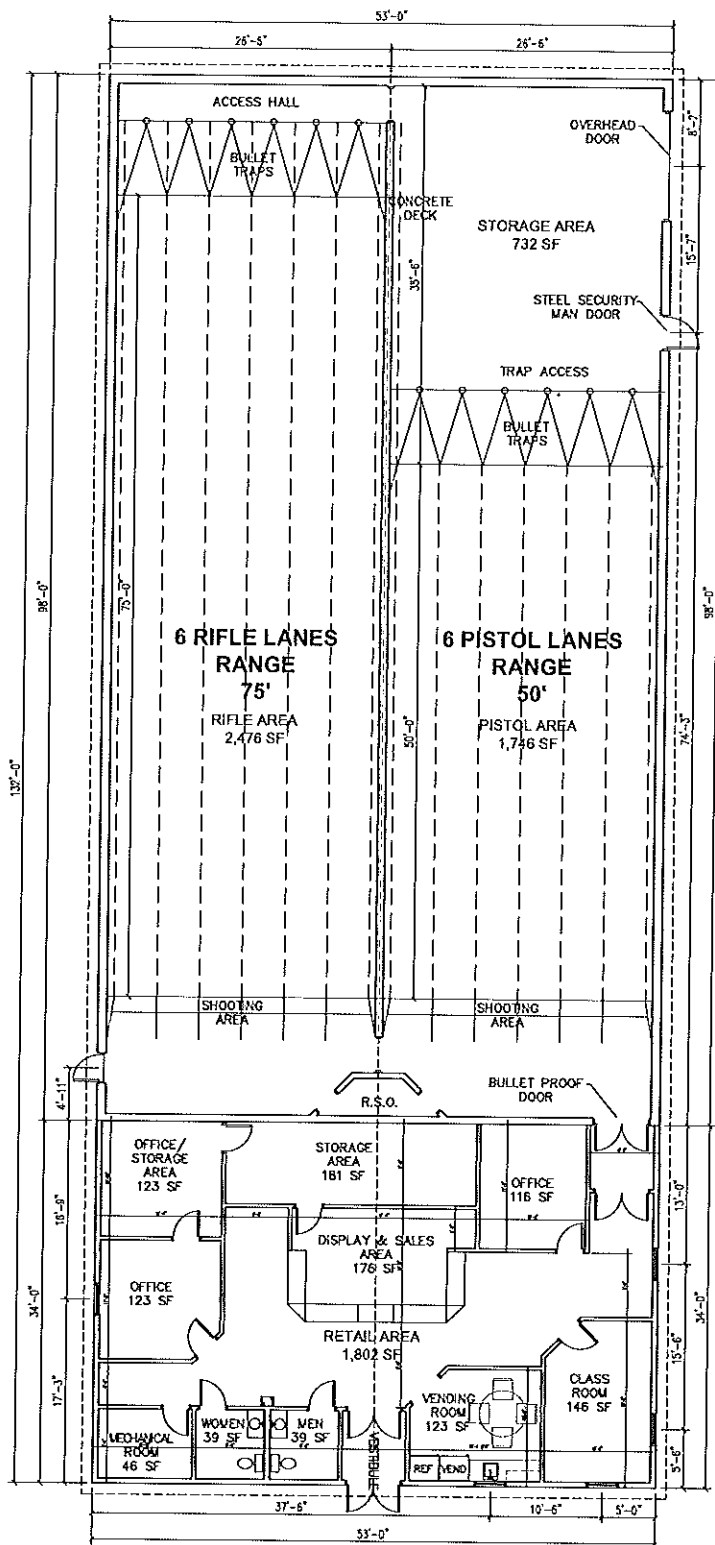


EAST ELEVATION

ELEVATIONS AND TYPICAL SECTIONS			
DATE	01/27/2013	PROJECT	Tim's Shooting Academy of Westfield
DESIGNED BY	11-106	CLIENT	3/16" = 1'-0"
DRAWN BY		SCALE	
CHECKED BY		DATE	
APPROVED BY		PROJECT NO.	2
BADGER ENGINEERING			
101 Main Street, Suite 200, Westfield, MA 01093			
(781) 483-0000			



Map	Scale	Project No.	BADGER ENGINEERING 101 W. Main Street Wausau, WI 54982 (715) 485-0000	
NORTH & SOUTH ELEVATIONS			Date: 01/27/2013 Drawn: 13-008 Check: 2/10/13 Title: 3	
Tim's Shooting Academy of Westfield			Project Name: Tim's Shooting Academy of Westfield Project Location: 101 W. Main Street, Wausau, WI 54982 Project Description:	
Client: CSD		Designer: CSD	Engineer: CSD	Checker: CSD



FLOOR PLAN

BADGER ENGINEERING
101 W. Main Street
La Crosse, WI 54601
(608) 785-0000

Tim's Shooting Academy of Westfield

3/29/13
13-00
3/13 = 1-0
4



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

April 9, 2013
1304-VU-01
Exhibit 1

Petition Number: 1304-VU-01

Subject Site Address: 17777 Commerce Drive (the "Property")

Petitioner: Tim Tomich by Christian Badger of Badger Engineering, LLC

Request: The petitioner is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 17777 Commerce Drive, Westfield, Indiana 46074. The request is to allow an indoor shooting range and related retail sales in the Enclosed Industrial (EI) District (WC 16.04.060.B.2).

Current Zoning: EI (Enclosed Industrial) District

Current Land Use: Vacant

Approximate Acreage: 1.38 acres

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Petitioner Narrative
4. Preliminary Plans

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

This petition will receive a public hearing at the April 9, 2013 Board of Zoning Appeals meeting. The petition was reviewed by the Technical Advisory Committee (TAC) at its March 19, 2013, meeting and received no comments. Subsequent to the TAC meeting on March 20, 2013, the Petitioner met with the Police and Fire Departments to preliminarily discuss operational and design aspects of the proposed use. As a result of that meeting, neither Department has concerns at this time regarding the proposed use.

If the Board of Zoning Appeals approves the requested Variance of Use, then the use and site would be required to obtain Development Plan approval by the Plan Commission prior to the issuance of any construction permits.



Analysis

The subject property is 1.38 acres +/- in size and is located on the east side of Commerce Drive; approximately one thousand (1,000) feet north of State Highway 32 (see Exhibit 2). The Property is zoned Enclosed Industrial ("EI") District and is currently unimproved. The property is located within an existing enclosed industrial park, surrounded by existing structures and businesses to the north, west and south. The property to the east is a large field currently undeveloped, but also currently zoned Enclosed Industrial.

The Petitioner is requesting this Variance of Use to allow an indoor shooting range and related retail sales (collectively, "Shooting Academy") (see Petitioner's Narrative at Exhibit 3 and Preliminary Plans at Exhibit 4). The Variance of Use is being requested because: (i) a "shooting range" is not a land use specified within the Zoning Ordinance, thus by default is a prohibited use¹ within any Zoning District in Westfield-Washington Township; and (ii) retail sales, or more specifically characterized by the Zoning Ordinance as [the sale of] "sporting goods", is not a permitted land use within the EI District.

As shown in Exhibit 4 (floor plan), the Petitioner is proposing a 6,996 square-foot+/- single story building consisting of approximately 2,534 square feet+/- of administrative (e.g., class room, restrooms, offices) and sales areas (e.g., display, storage). The remaining square footage would include the shooting range consisting of twelve (12) range lanes (floor plan shows six (6) rifle lanes and six (6) pistol lanes), range safety officer station and related shooting stalls and bullet traps.

The design of the Shooting Academy will be required to comply with the Zoning Ordinance's EI District standards (e.g., setbacks, building height, performance standards), Development Plan Review standards (e.g., building materials, building orientation, site circulation) and Indiana Fire and Building Code standards (e.g., access for emergency personnel, site design to accommodate turning around of Fire Department apparatus).

The Zoning Ordinance's Performance Standards for Industrial Districts² include standards that address performance aspects typically associated with industrial uses, including standards regulating smoke, particulate matter, odor, glare and heat, vibration, and noise. Among others, these standards include maximum sound levels and standards which prohibit the storage and manufacturing of components that could be used to make ammunition on the property (e.g., black powder). The Petitioner is not requesting to vary these standards, thus the Zoning Ordinance's performance standards would apply.

¹ WC 16.04.180.2 (pg 10 footnote) provides that "Land uses not listed on Figure 2 or in other sections of the zoning ordinance that address "permitted uses" or "special exception uses" in the various zoning districts shall be prohibited."

² WC 16.04.060.



The Westfield-Washington Township Comprehensive Plan identifies this industrial park within the “Employment Corridor” and “Business Park”³ land use classifications. Among other uses, these classifications encourage office and service uses, research and development, warehousing, manufacturing, and subordinate office, retail and services. The development policies of the Comprehensive Plan for these areas include among other policies:

- Locate industrial uses in areas that are removed from residential neighborhoods and other uses that would be detrimentally affected;
- Encourage building design, height, scale, and mass that is appropriate to the surrounding area;
- Require sufficient off-street parking;
- Encourage building materials and colors that are appropriate to the setting. Metal buildings should be enhanced with other building materials, such as stone or brick, to improve their appearance;
- Promote smaller scale local office and service uses along SR32. Such uses should generally take place along the north side of SR32; and
- Permit land uses other than industrial in designated Business Parks only when they are offices or service businesses that are subordinate or related to the industrial development, such as restaurants, automobile service stations, and day care centers.

The existing industrial park is already generally consistent with the Comprehensive Plan’s policies and objectives. As a result, in determining whether the proposed use interferes substantially with the Comprehensive Plan, the analysis becomes whether or not the proposed use is consistent and compatible with the existing industrial park and business/industrial uses permitted therein.

The Zoning Ordinance simply provides that “[a]n enclosed industrial district is one for industry to conduct their operations entirely within enclosed buildings of any size...”⁴ The EI District currently permits uses that are comparable to or more intense than the proposed Shooting Academy use. Such uses include, but are not limited to: industrial schools and training facilities, testing laboratories, tool and light equipment rental, warehouses, wholesalers, manufacturing and fabrication operations, machine shops, and construction related operations. The proposed Shooting Academy would be conducted entirely within the building and, as presented, should be consistent with the character of the existing industrial park and uses that would otherwise be permitted on the property. As such, the proposed Shooting Academy should also be consistent with the policies of the Comprehensive Plan.

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

⁴ WC 16.04.060.A.1.

Procedural

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 Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

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

Finding: It is unlikely that approving the requested Variance of Use would be injurious to the public health, safety, morals, and general welfare of the community because of the proposed operational and design plan. The use and property will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District.

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the proposed improvements will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District; and (ii) the proposed improvements are consistent with and compatible with the character of the surrounding industrial park; and (iii) the use will only be conducted indoors and shall otherwise comply with the Zoning Ordinance's performance standards.

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

Finding: The Zoning Ordinance does not permit the shooting range use by right in any zoning district. Thus, a Variance of Use is required in order to allow the shooting range use within the community. The condition of this property is peculiar in that it functions as an infill property surrounded by the existing industrial park and industrially zoned properties. As such, the use is compatible with permitted industrial uses and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

Finding: Strict adherence to the zoning ordinance would not allow the proposed shooting range use within the community. The ancillary retail sales and administrative uses are contemplated



and permitted by the zoning ordinance within the community and the development of the proposed use would otherwise comply with the zoning ordinance and other applicable laws.

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

Finding: The Westfield-Washington Township Comprehensive Plan identifies this property within the “Employment Corridor” and “Business Park” land use classifications as part of the State Highway 32 “Highway Corridor”. As such, the proposed use is consistent with the Comprehensive Plan’s policies and objectives for these land use classifications and does not interfere substantially with the Comprehensive Plan.

Recommendation

The Department acknowledges the sensitivity of the proposed use with regard to individual personal preferences and in terms of design and operational considerations which are warranted for this specific use. In our analysis and in consultation with the Police and Fire Departments, the Department believes the Petitioner has presented an operational and design plan that satisfies the City’s review of the proposed use. The Department believes that of properties within the Township, that this particular site is well suited for the proposed use because: (i) of its close proximity to the City’s Public Safety Building; (ii) its compatibility with the surrounding existing industrial park and adjacently zoned industrial properties; (iii) its lack of contiguity with residentially zoned or used properties; and (iv) the linear layout of the use and resulting building design maximizes the development area of the narrow property.

The Department recommends approving 1304-VU-01 based on the findings of this Department Report with the following conditions:

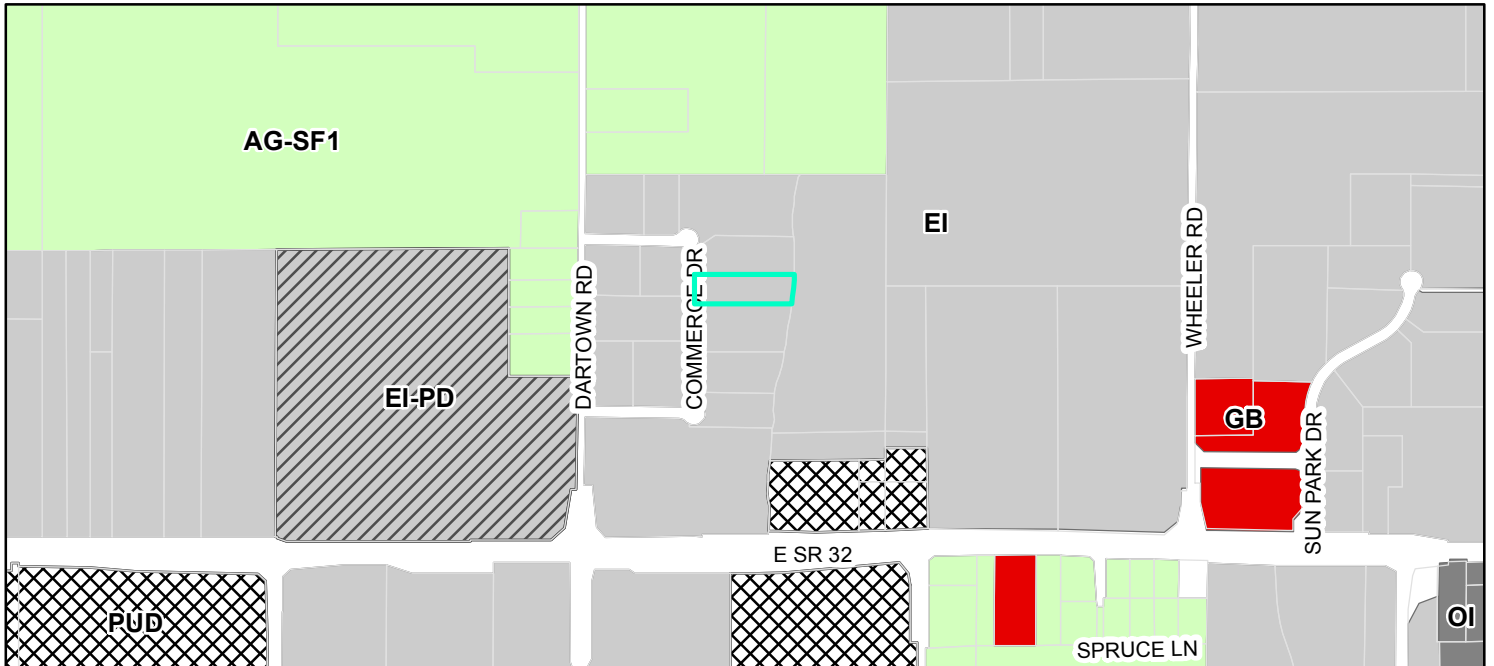
1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder’s Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.
2. The “Indoor Shooting Range and related Retail Sales” use (collectively, the “Shooting Academy”) shall be limited in scope and operation to the Petitioner’s Narrative and Preliminary Plans, attached hereto as Exhibits 3 and 4, respectively. Any expansion or substantial alteration to the scope and operation of the Shooting Academy, as determined by the Director, shall require approval by the Board of Zoning Appeals.
3. The Shooting Academy shall be developed and operated in substantial compliance to the Petitioner’s Narrative and Preliminary Plans, subject to review and approval for compliance with applicable ordinances and laws of the development plans and appropriate permits.
4. The Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance’s Performance Standards for Industrial Districts (WC 16.04.060), as amended.
5. The Shooting Academy shall comply with Indiana Fire and Building Codes, as amended.

Aerial Location Map

Site



Zoning Map



Zoning

- | | |
|---|--------------------------------|
| AG-SF1 (Agriculture - Single Family - 1) | GB (General Business) |
| EI (Enclosed Industrial) | PUD (Planned Unit Development) |
| EI-PD (Enclosed Industrial - Planned Development) | |



March 29, 2013

Jesse M. Pohlman
Senior Planner
City of Westfield
2728 E. 171st Street
Westfield, IN 46074

PROJECT NARRATIVE

Tim's Shooting Academy of Westfield is a proposed shooting range dedicated to teaching safe use of fire arms, hunting safety, enhanced marksmanship and sport shooting. No-one will be allowed to use the facility until they have been through an on-site safety class.

The range will have six rifle lanes and six pistol lanes for shooting. The range area will be constructed with 10" thick concrete walls and a 4" concrete slab. The ceiling will have bullet-proof panels and baffles. This will prevent any stray bullets as well as sound from leaving the building. The proposed system is a total containment trap with all of the latest safety equipment and systems. The 12 bullet traps located at the end of the range will use a complete containment system, which traps the lead and ventilates the air within the range at a rate of 960 cubic feet every 5 minutes through a HEPA Filter. The bullet trap can handle .50 caliber bullets, but we will limit range use to common sporting rounds.

The property is owned by E. Tim Tomich and Faith Bauer-Tomich, who have owned the property since 1997. The current zoning is (EI) Enclosed Industrial. The proposed building and site will be situated on the 1.3 acres and will meet all of the requirements for Enclosed Industrial Zoning. There is no zoning in any district within the City of Westfield which would allow an indoor or outdoor shooting range so we are asking for a "Use Variance" for that property.

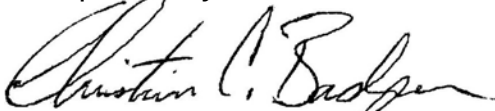
The retail sale side of the Academy will sell targets, safety glasses, ear protection, hunting apparel, scopes, and high-end fire arms. The sale of guns will require a background check as required by the state and federal laws. Only higher priced and higher quality guns will be sold. No Saturday Night Specials, cheap guns or guns made by less than reputable manufacturers will be sold. Retail sales are required because more than a third of our patrons will forget their required safety glasses, hearing protection, and the proper munitions to which we will limit them.

The site will allow for 20 parking spaces, 2 of which will be designated handicapped spaces. A land bank will use some of the property for additional parking should the Academy parking become inadequate for the proposed use. The lot will have complete and proper drainage.

Building Design Information:

- Interior wall heights 10'-2"
- 10" poured concrete walls
- 6 Rifle lanes 75' length and 48" wide (one lane will be ADA)
- 6 Pistol lanes 50' length and 48" wide (one lane will be ADA)
- All lanes will have automatic target retrieval systems
- Bullet traps rated for .50 caliber bullet and will allow the lead to be recycled.
- The only ammunition that will be allowed will be full metal jacket to limit the lead dust which could enter the air upon impact.
- HVAC is a major part of the design of an indoor range. Our system meets all of the following standards, NRA, OSHA, NSSF, NIOSH, EPA and DOD requirements for cleaning the air.
- Shooting Stall dividers will be level 3 grade protection in the pistol lanes and level 4 grade protection in the rifle lanes.
- Baffles will be suspended from the ceiling to prevent any errant discharges from going through the roof and therefore being contained in the building.

Respectfully submitted,

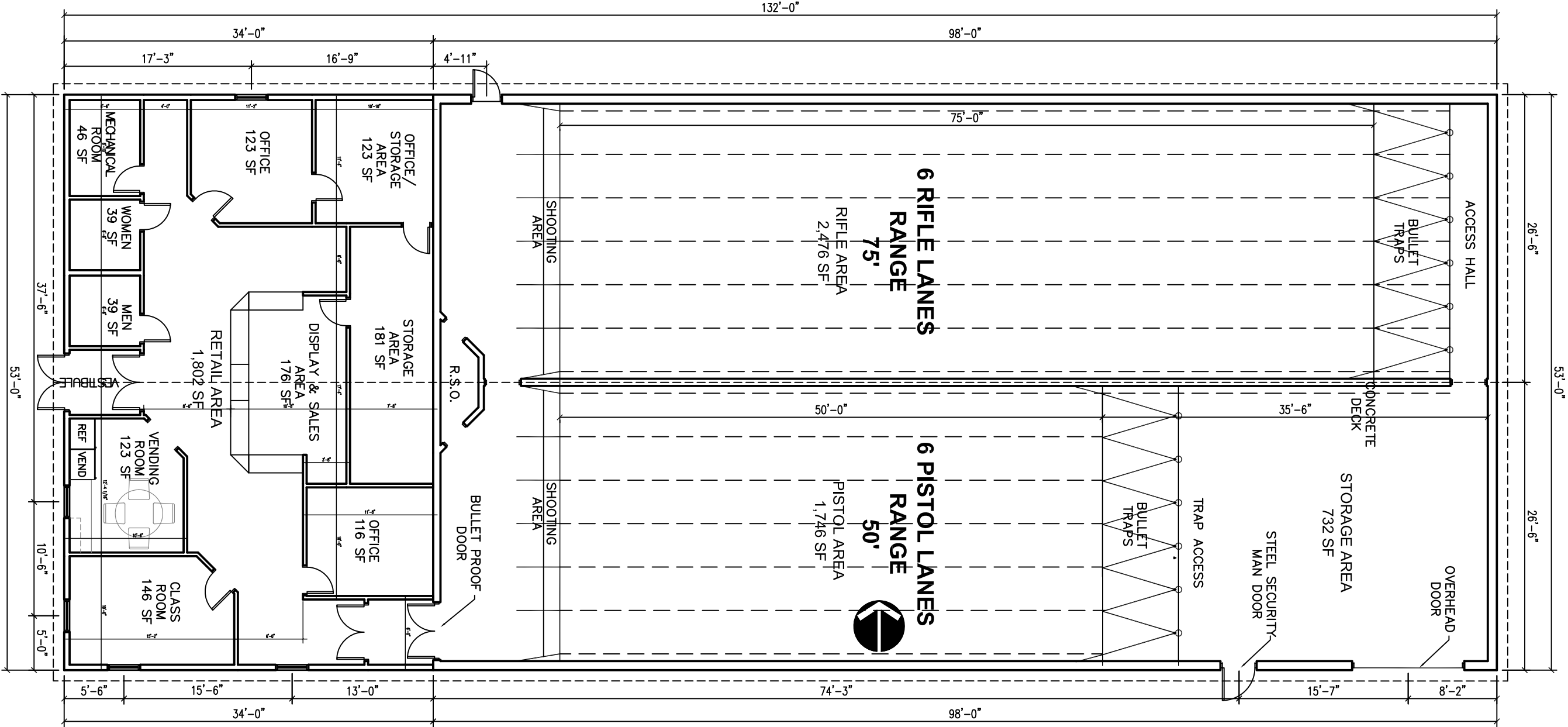
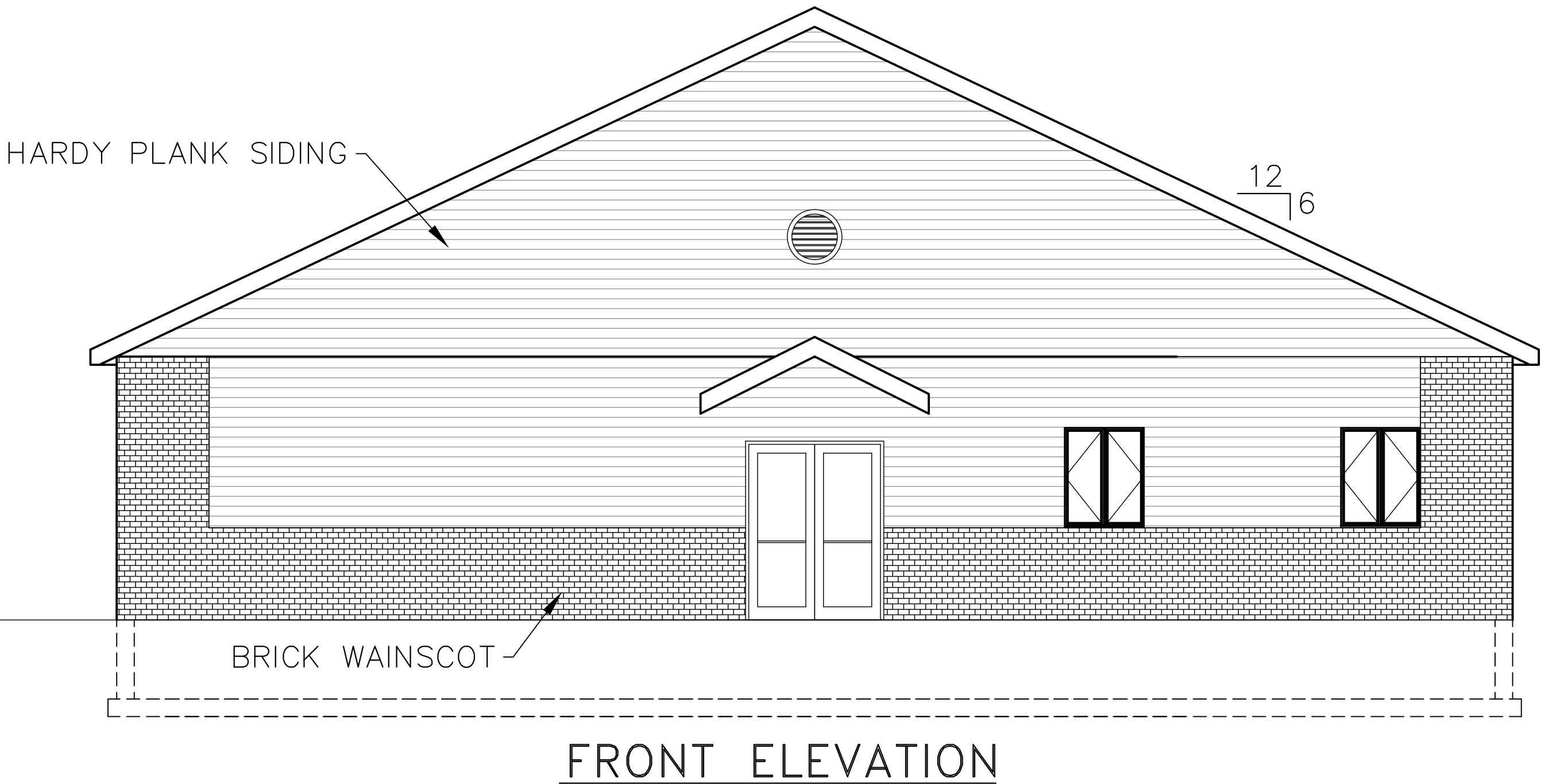
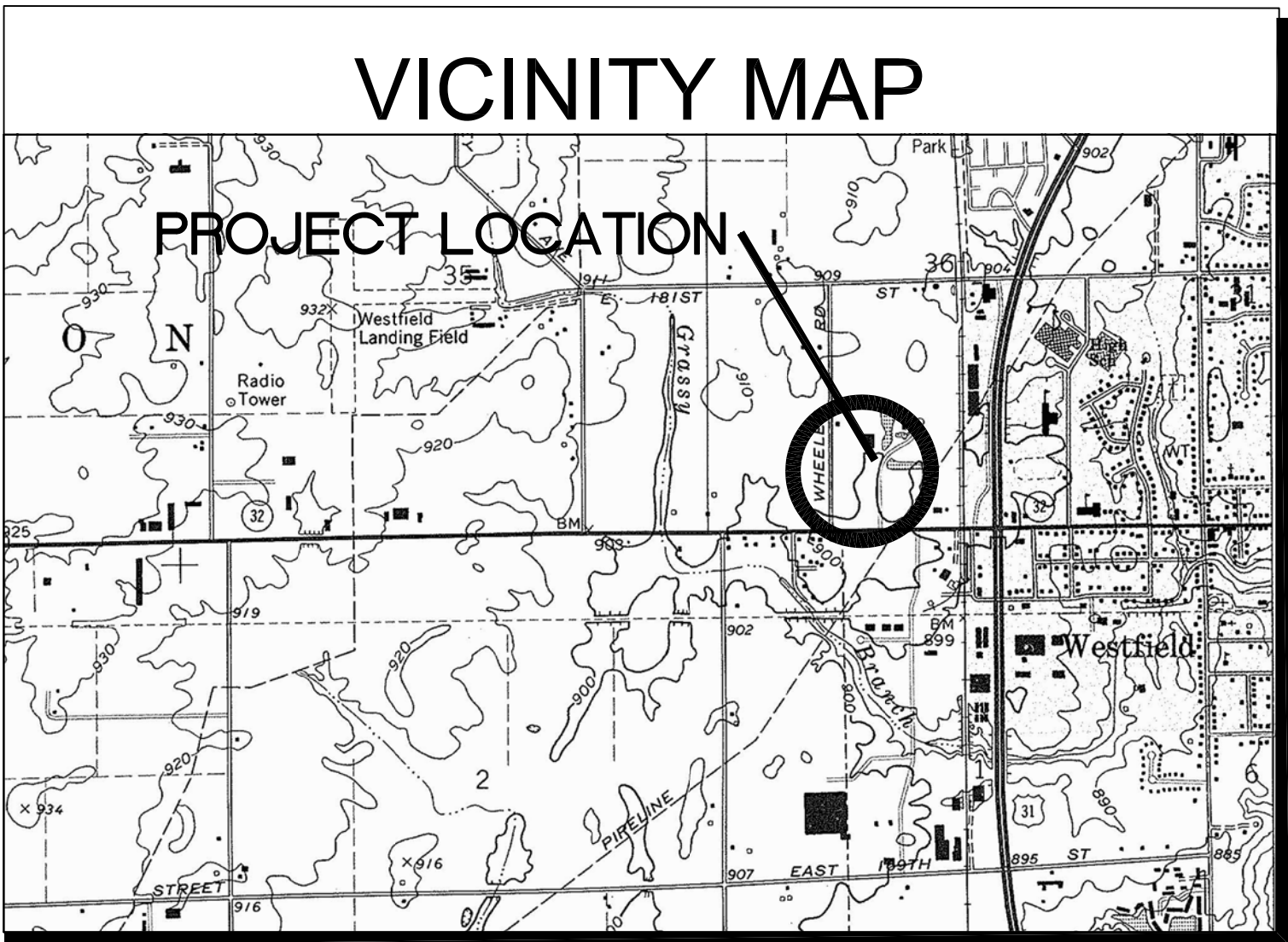
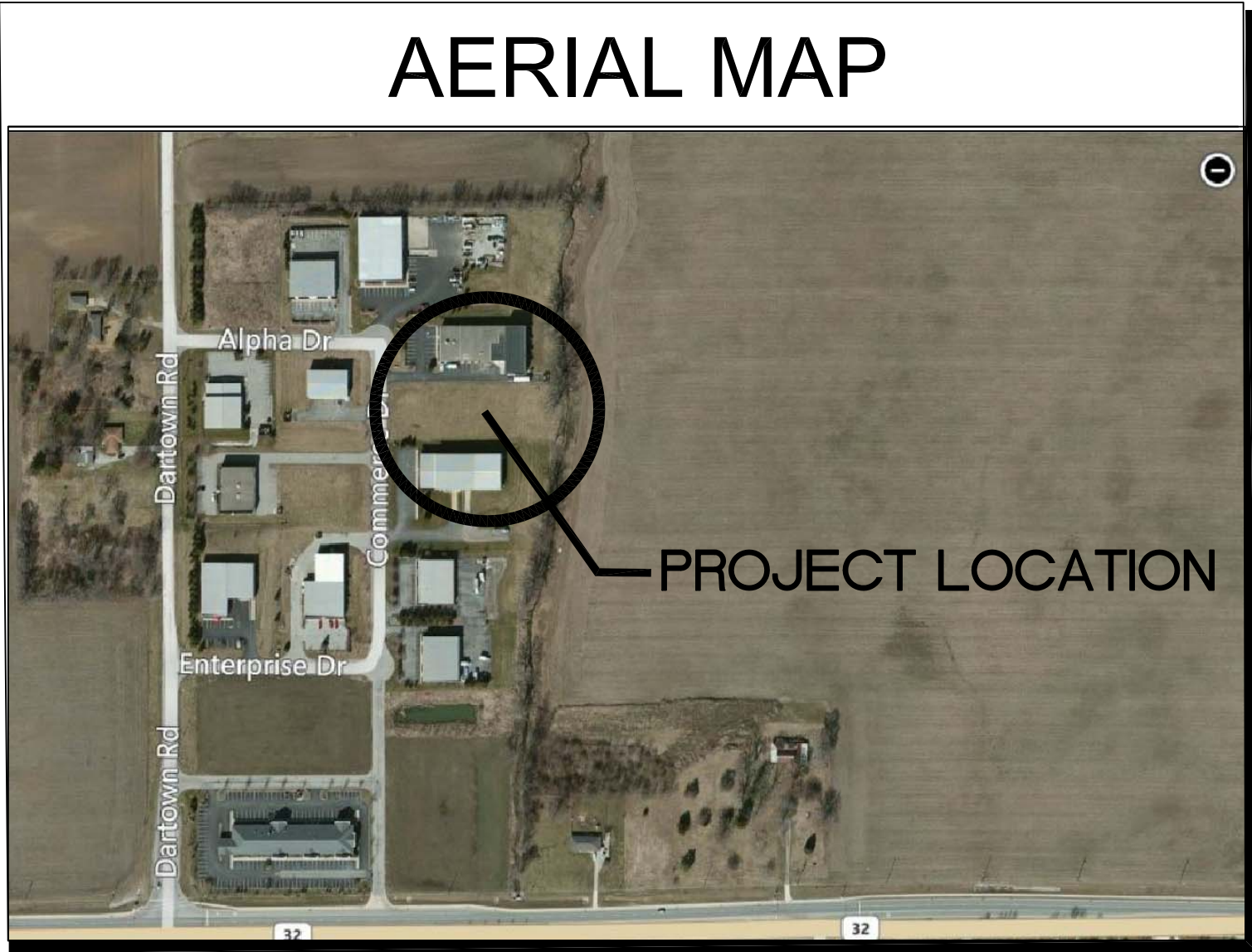
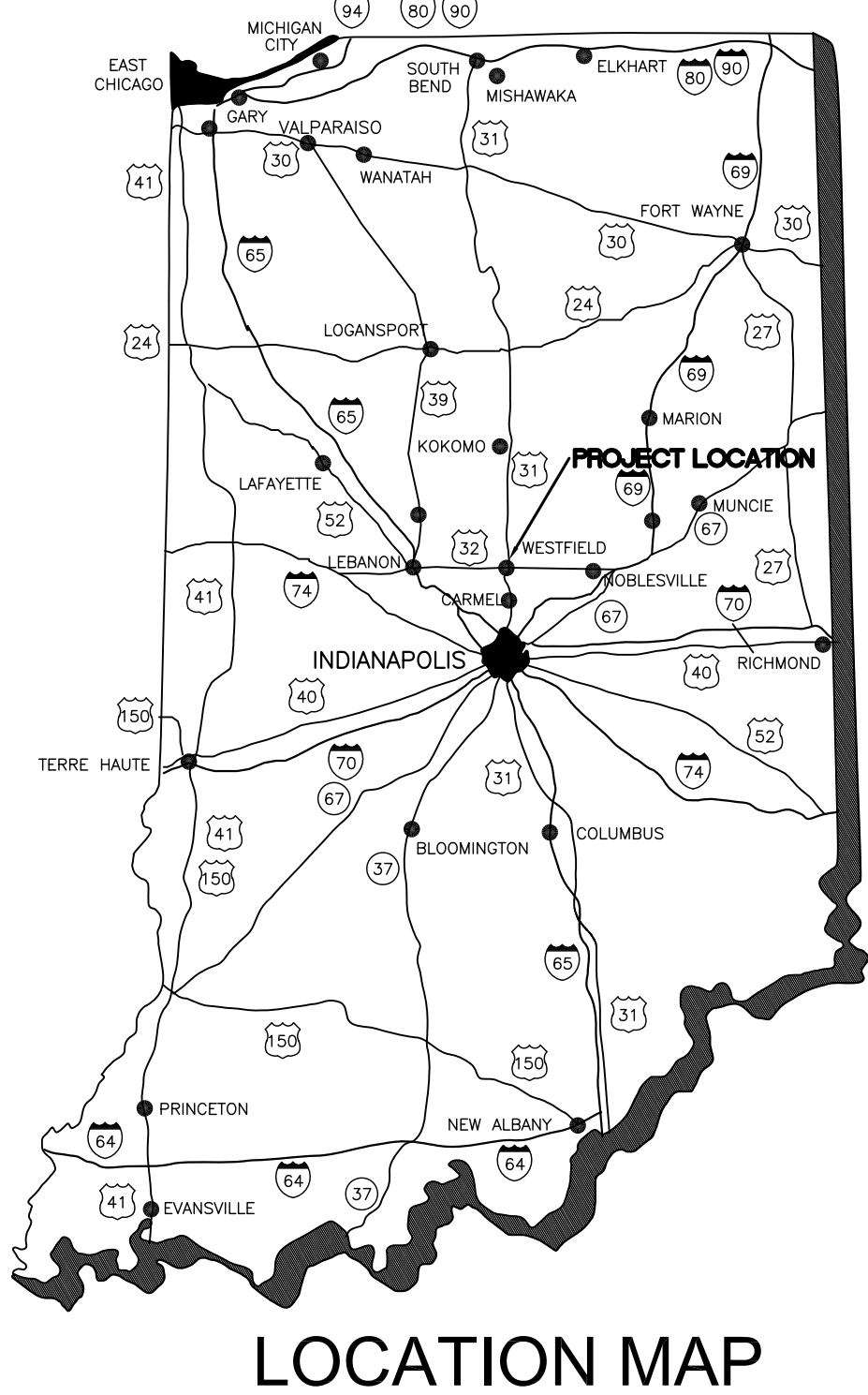


Christian C. Badger, P.E.
Badger Engineering, LLC

Tim's Shooting Academy of Westfield

Westfield, Indiana 46074

SUBJECT SITE:
SITE LOCATED IN WASHINGTON TOWNSHIP
HAMILTON COUNTY, INDIANA

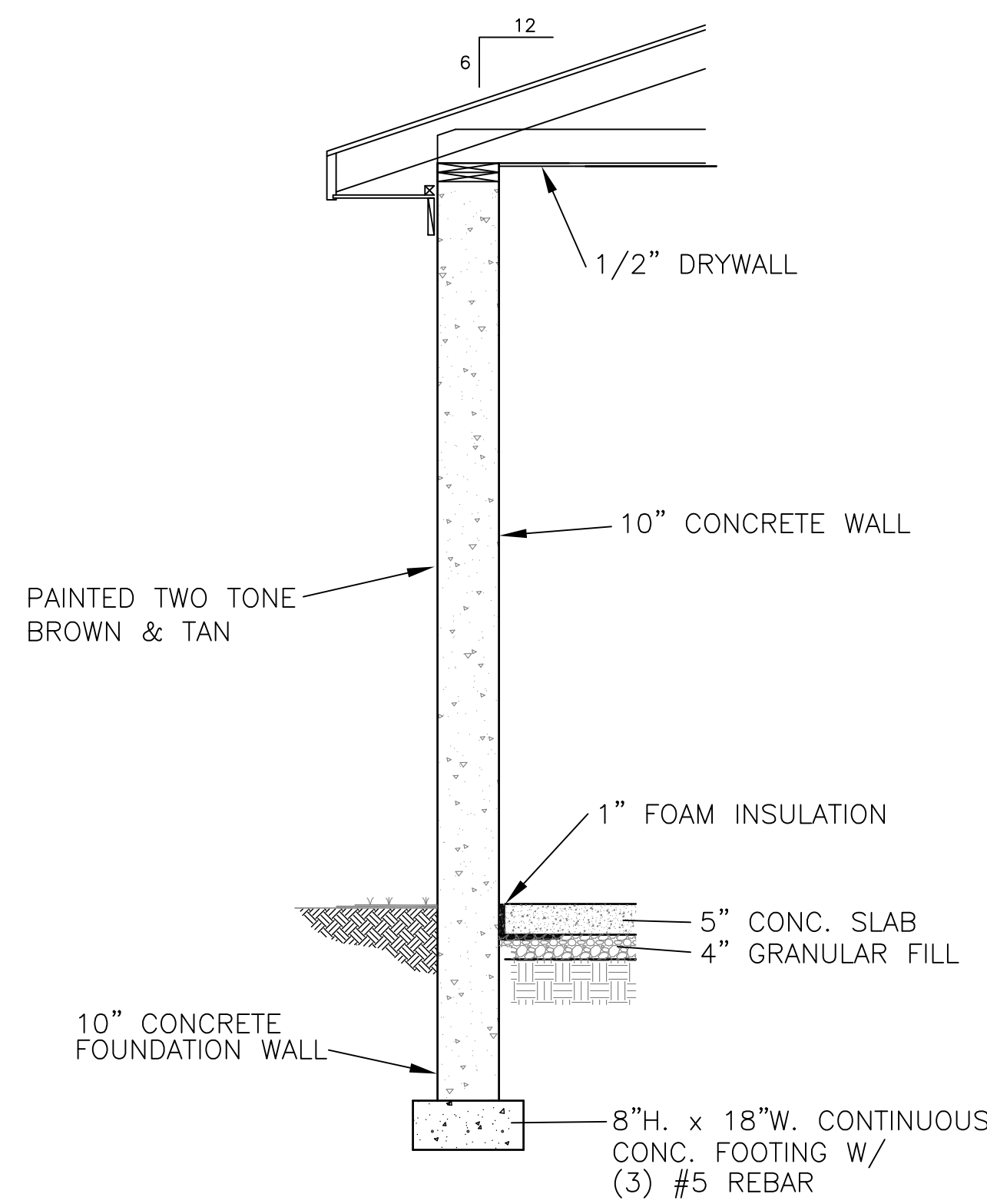


SHEET INDEX:

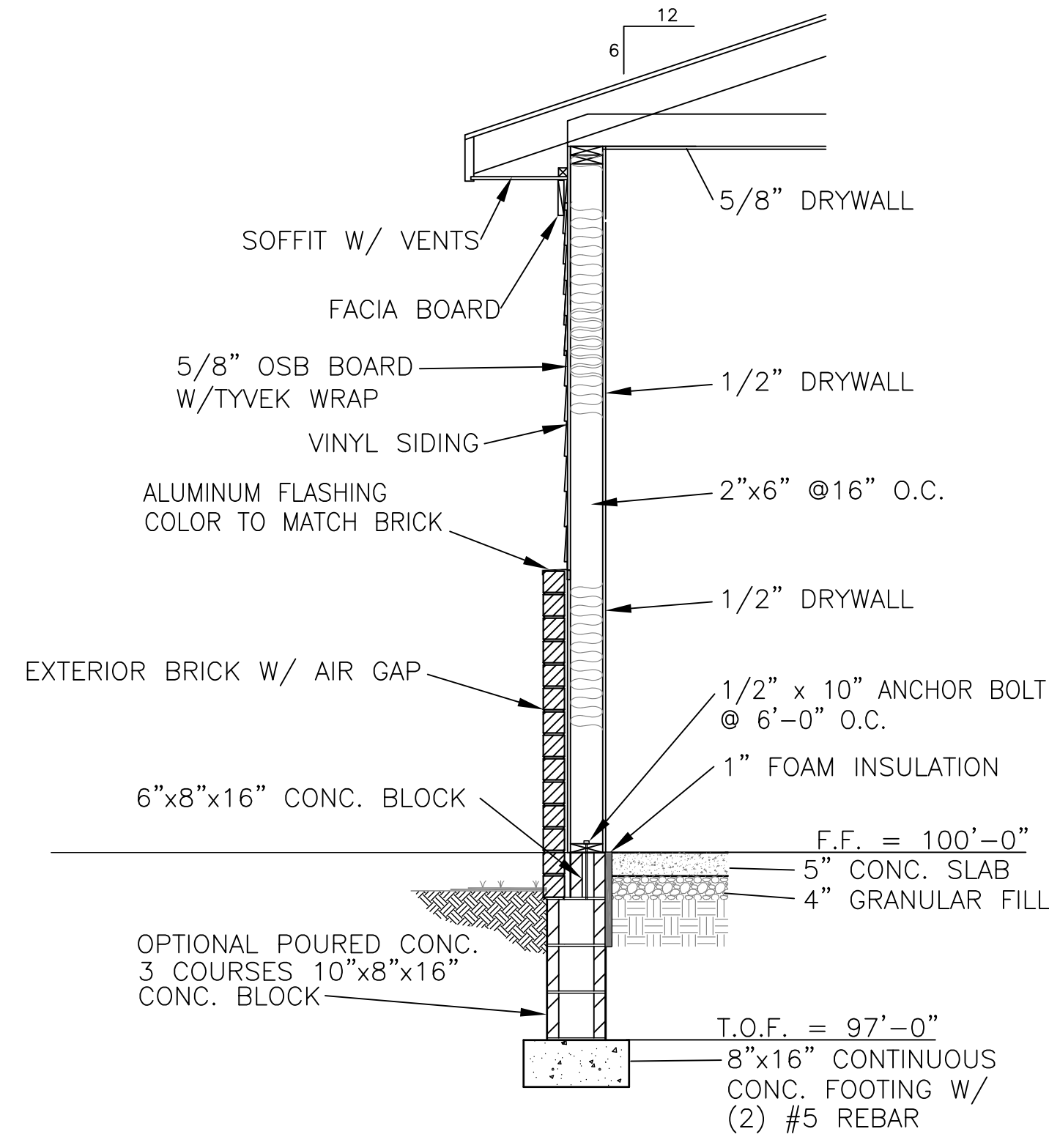
- 1 TITLE SHEET
- 2 BUILDING ELEVATIONS
- 3 BUILDING ELEVATIONS
- 4 BUILDING FLOORPLAN
- 5 SITE PLAN

Owner:
Tim Tomich
14855 Victory Ct.
Carmel, IN 46032

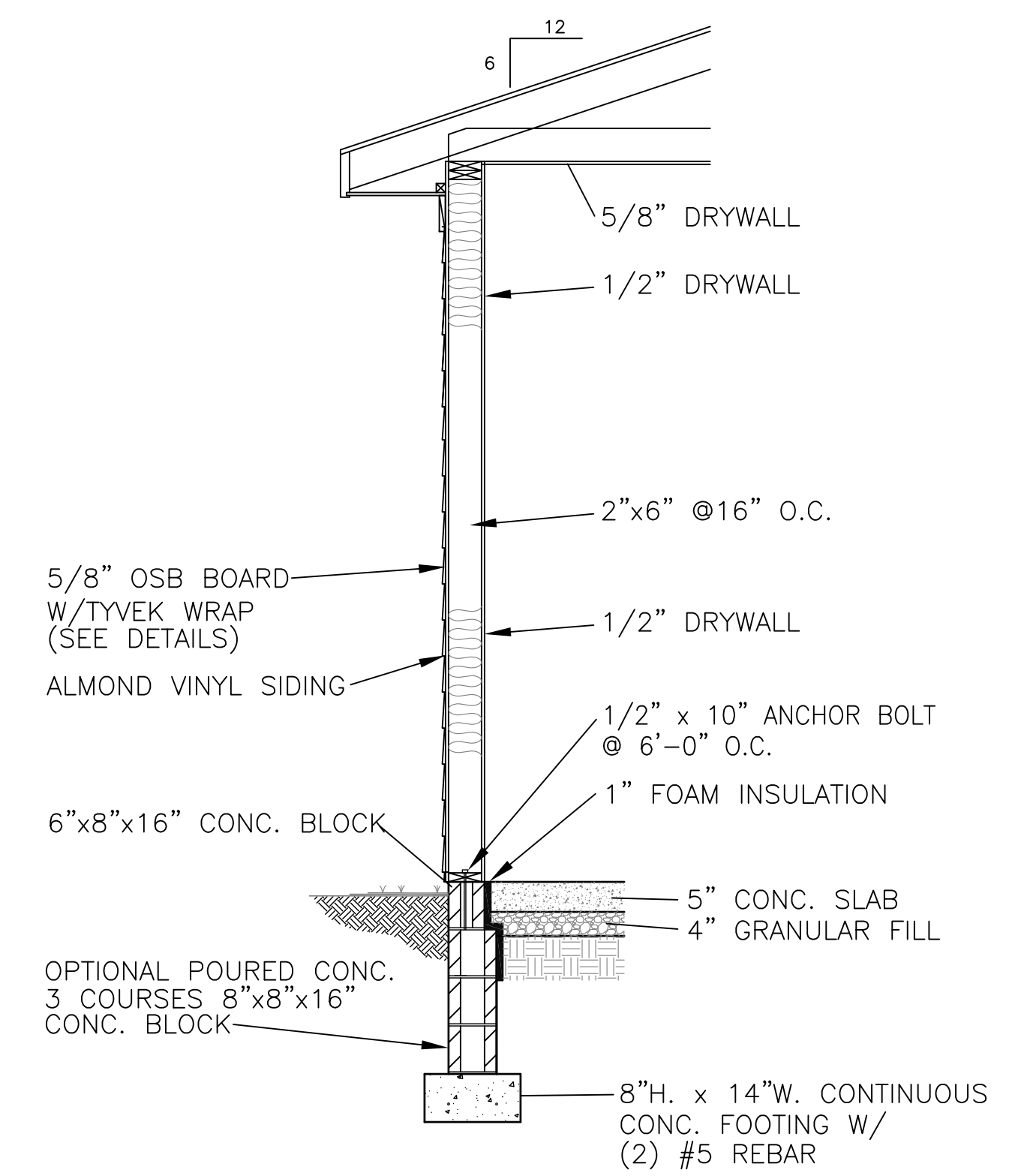
No.	Date	Revision	BADGER ENGINEERING				TITLE SHEET				Date
			101 W. Main Street Lebanon, IN 46052 (765) 485-0000				Tim's Shooting Academy of Westfield				03/29/2013
			City of Westfield Design By CCB				Washington Township, Drawn By MEH				Job No. 13-006
							Hamilton County, Checked By CCB				Scale AS SHOWN
							Indiana Approved By CCB				Sheet No. 1



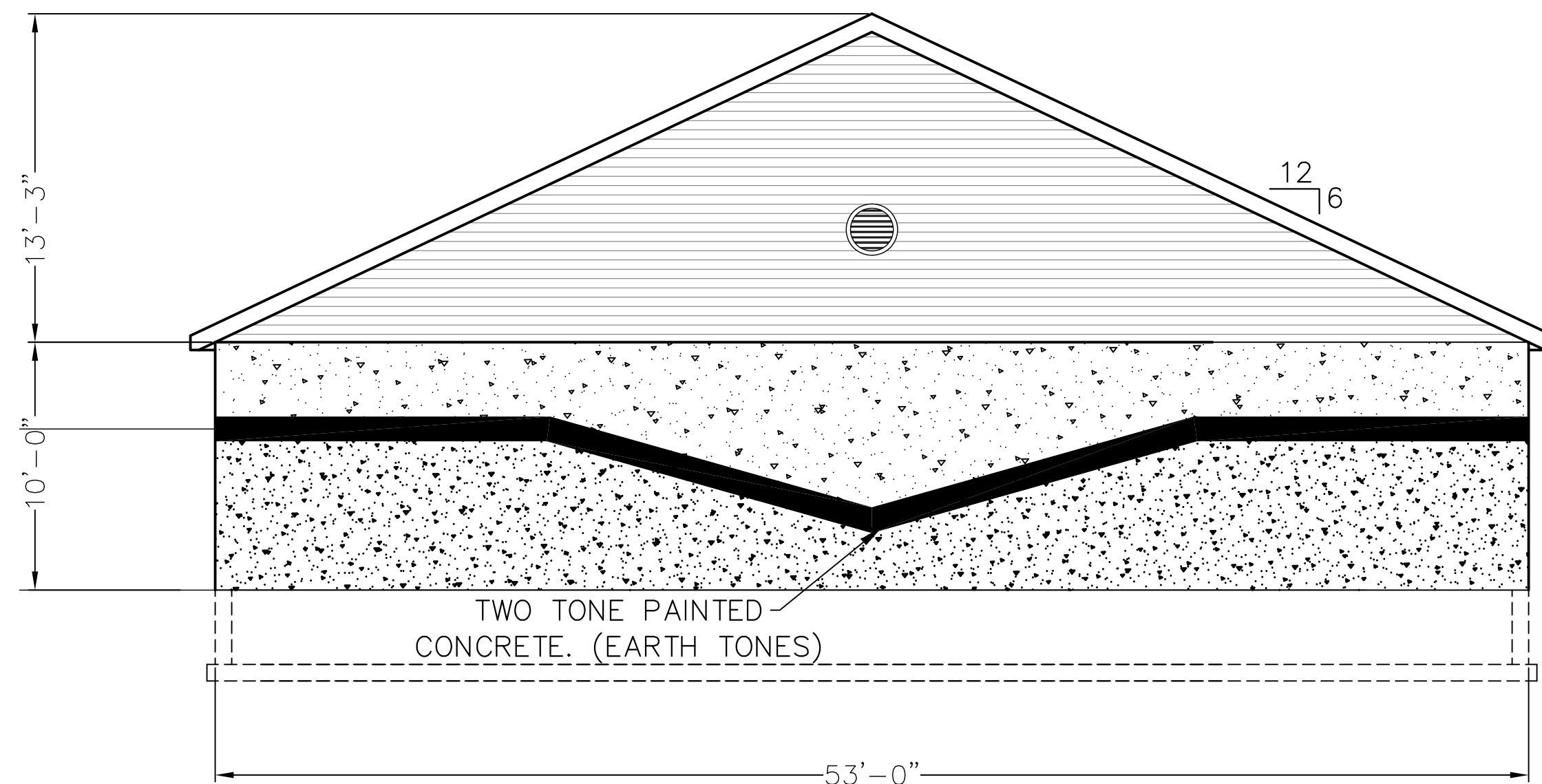
10' CONCRETE WALL SECTION
SCALE: 1/2" = 1'-0"



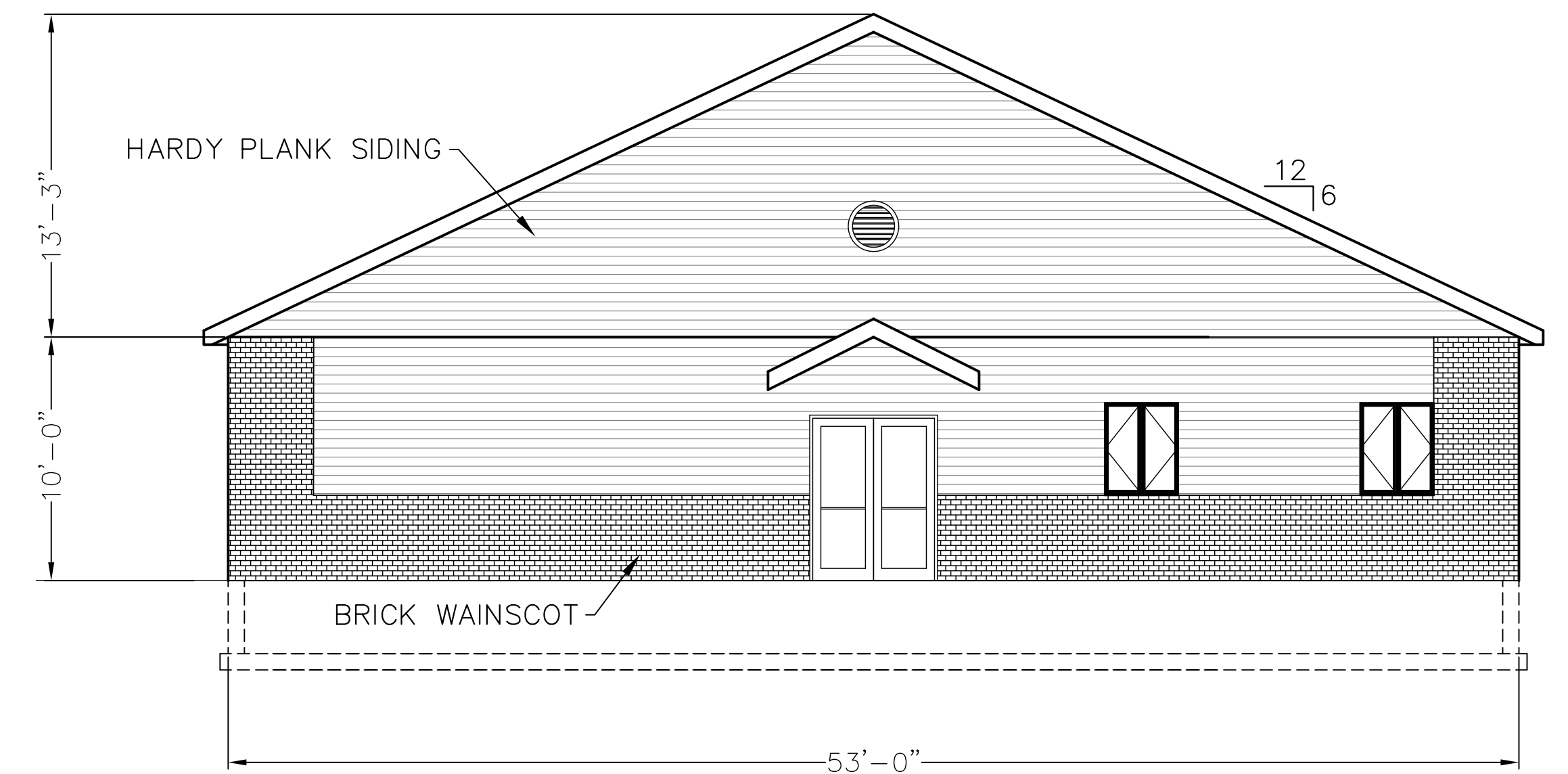
10' WALL SECTION - PARTIAL BRICK
SCALE: 1/2" = 1'-0"



10' WALL SECTION - NO BRICK
SCALE: 1/2" = 1'-0"

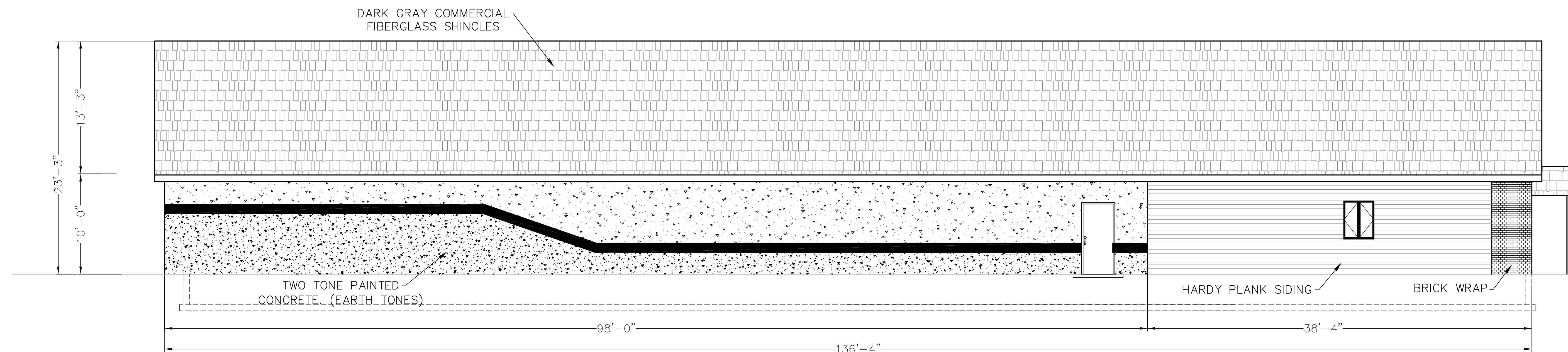


WEST ELEVATION

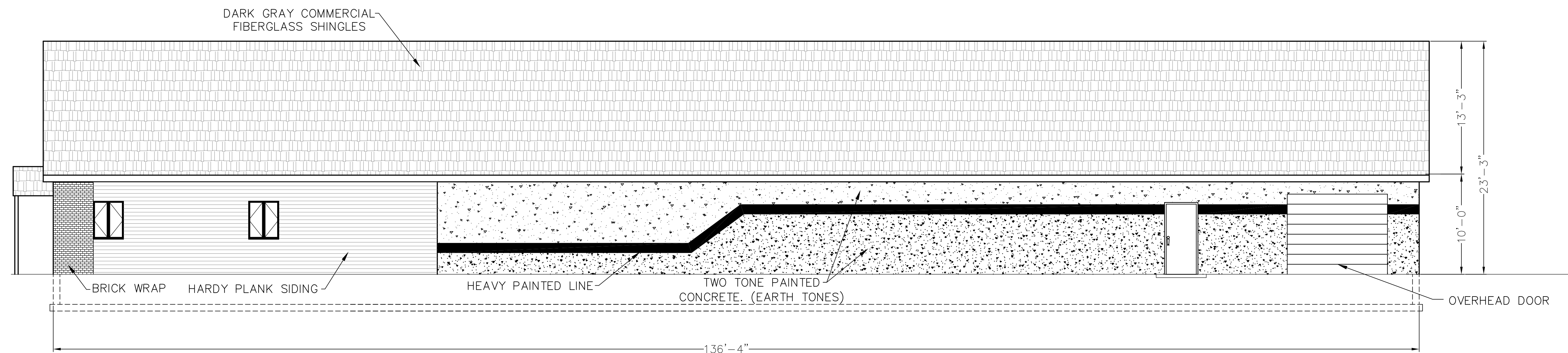


EAST ELEVATION

No.	Date	Revision	BADGER ENGINEERING				ELEVATIONS AND TYPICAL SECTIONS				Date
			101 W. Main Street				Tim's Shooting Academy of Westfield				03/29/2013
			Lebanon, IN 46052								Job No. 13-006
			(765) 485-0000				City of Westfield	Washington Township	Hamilton COUNTY	Indiana	Scale 3/16" = 1'-0"
							Design By MEH	Drawn By MEH	Checked By CCB	Approved By CCB	Sheet No. 2

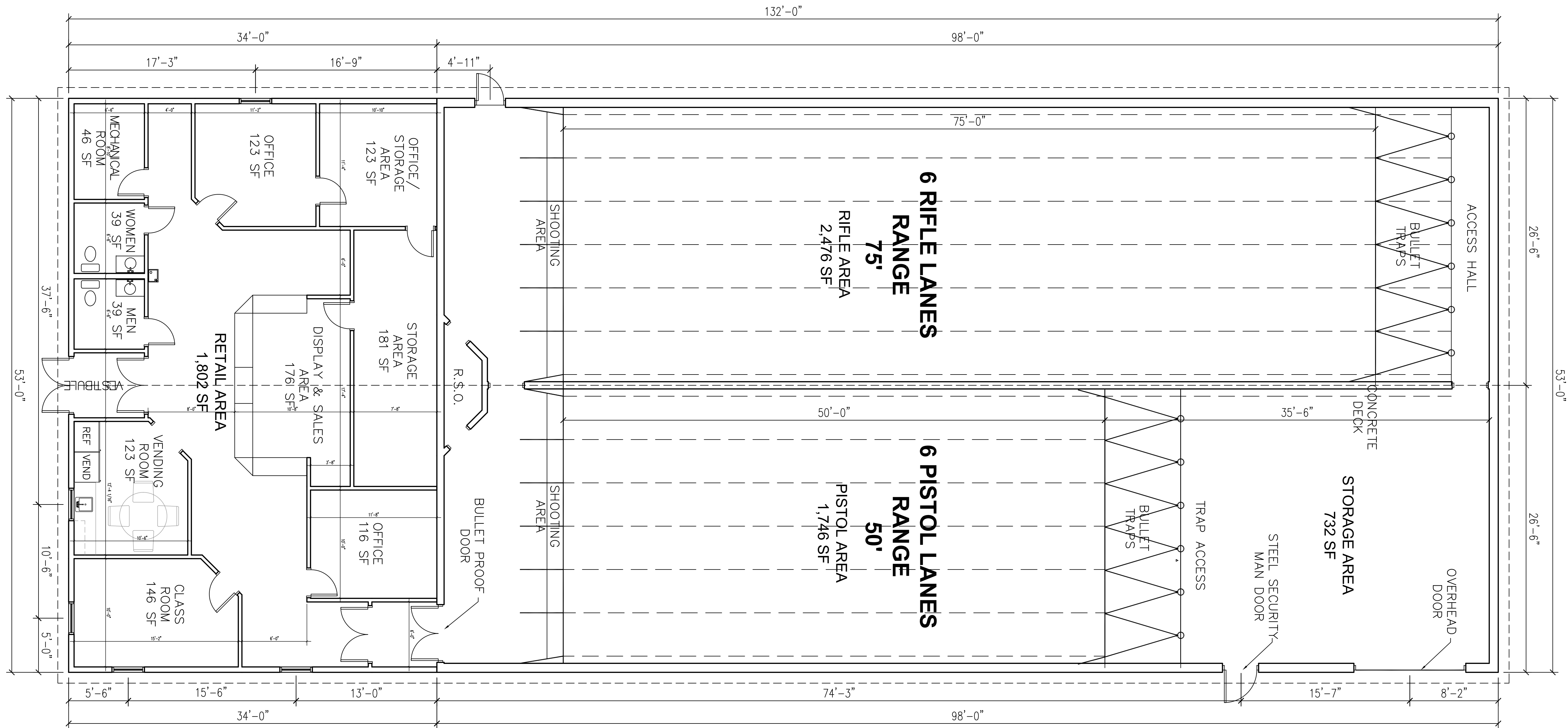


SOUTH ELEVATION



NORTH ELEVATION

No.	Date	Revision	BADGER ENGINEERING				NORTH & SOUTH ELEVATIONS Tim's Shooting Academy of Westfield				Date	03/29/2013
			101 W. Main Street Lebanon, IN 46052 (765) 485-0000								Job No.	13-006
							City of Westfield	Washington Township	Hamilton County	Indiana	Scale	3/16" = 1'-0"
							Design By MEH	Drawn By MEH	Checked By CCB	Approved By CCB	Sheet No.	3



FLOOR PLAN

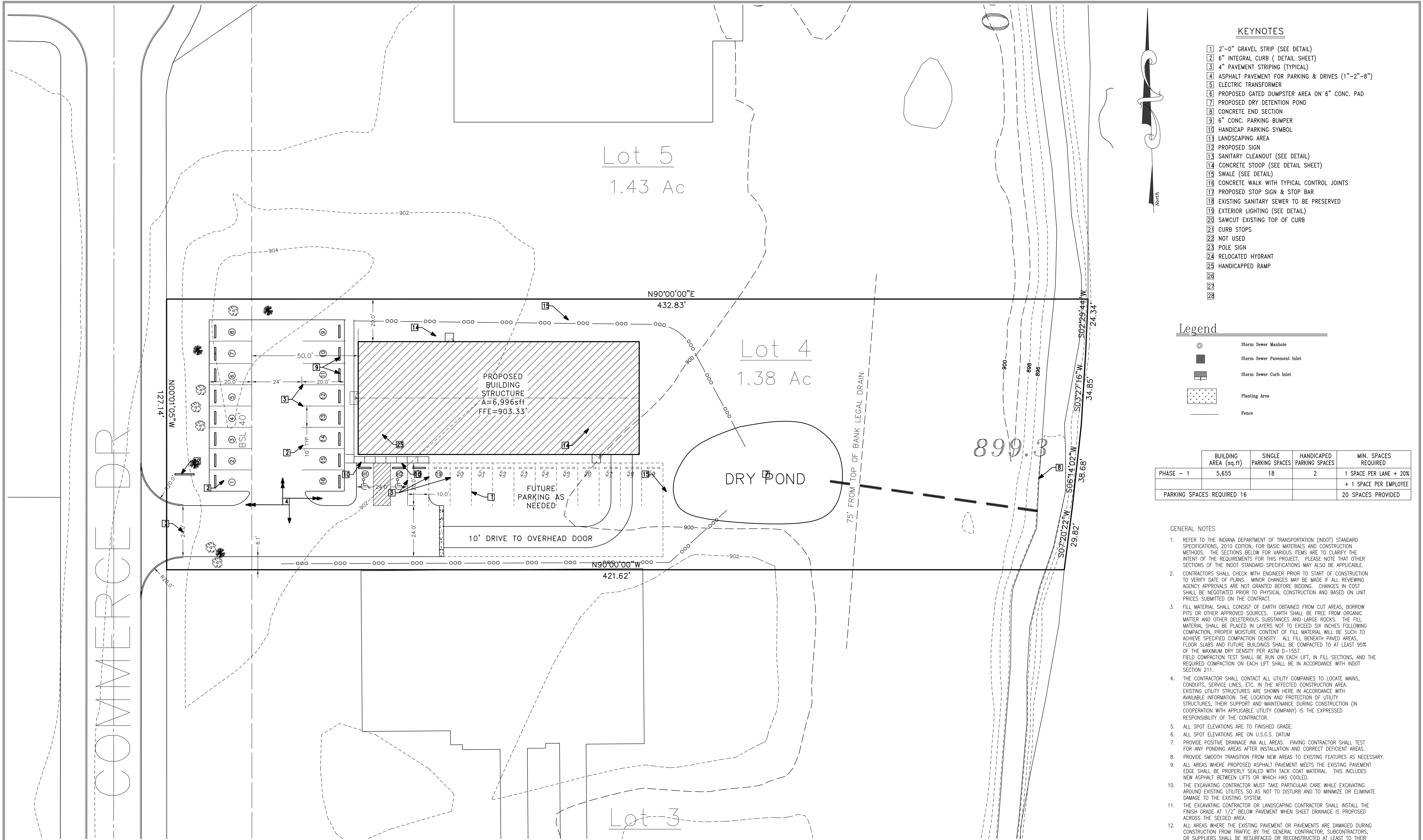
No.	Date	Revision

BADGER
ENGINEERING

101 W. Main Street
Lebanon, IN 46052
(765) 485-0000

FLOOR PLAN			
Tim's Shooting Academy of Westfield			
City of Westfield	Washington Township	Hamilton County	Indiana
Design By	Drawn By	Checked By	Approved By
CCB	SAS	CCB	CCB

Date	3/29/13
Job No.	13-006
Scale	3/16" = 1'-0"
Sheet No.	4



KEYNOTES

- 2'-0" GRAVEL STRIP (SEE DETAIL)
- 6" INTEGRAL CURB (DETAIL SHEET)
- 4" PAVEMENT STRIPING (TYPICAL)
- ASPHALT PAVEMENT FOR PARKING & DRIVES (1"-2"-8")
- ELECTRIC TRANSFORMER
- PROPOSED GATED DUMPSTER AREA ON 6" CONC. PAD
- PROPOSED DRY DETENTION POND
- CONCRETE END SECTION
- 6" CONC. PARKING BUMPER
- HANDICAP PARKING SYMBOL
- LANDSCAPING AREA
- PROPOSED SIGN
- SANITARY CLEANOUT (SEE DETAIL)
- CONCRETE STOOP (SEE DETAIL SHEET)
- SWALE (SEE DETAIL)
- CONCRETE WALK WITH TYPICAL CONTROL JOINTS
- PROPOSED STOP SIGN & STOP BAR
- EXISTING SANITARY SEWER TO BE PRESERVED
- EXTERIOR LIGHTING (SEE DETAIL)
- SAWCUT EXISTING TOP OF CURB
- CURB STOPS
- NOT USED
- POLE SIGN
- RELOCATED HYDRANT
- HANDICAPPED RAMP
-
-
-
-

Legend

- Storm Sewer Manhole
- Storm Sewer Pavement Inlet
- Storm Sewer Curb Inlet
- Planting Area
- Fence

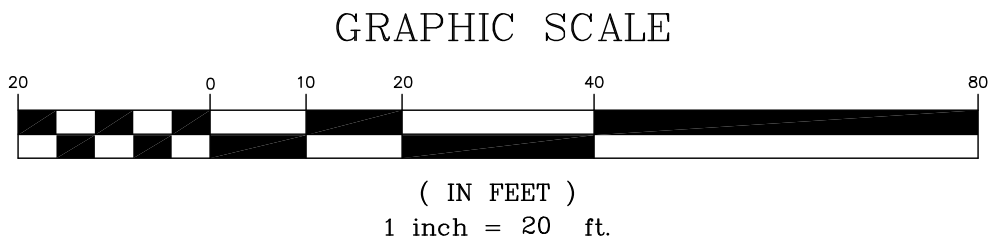
	BUILDING AREA (sq.ft)	SINGLE PARKING SPACES	HANDICAPPED PARKING SPACES	MIN. SPACES REQUIRED
PHASE - 1	5,655	18	2	1 SPACE PER LANE + 20%
				+ 1 SPACE PER EMPLOYEE
PARKING SPACES REQUIRED 16				20 SPACES PROVIDED

GENERAL NOTES

- REFER TO THE INDIANA DEPARTMENT OF TRANSPORTATION (INDOT) STANDARD SPECIFICATIONS, 2010 EDITION, FOR BASIC MATERIALS AND CONSTRUCTION METHODS. THE SECTIONS BELOW FOR VARIOUS ITEMS ARE TO CLARIFY THE INTENT OF THE REQUIREMENTS FOR THIS PROJECT. PLEASE NOTE THAT OTHER SECTIONS OF THE INDOT STANDARD SPECIFICATIONS MAY ALSO BE APPLICABLE.
- CONTRACTORS SHALL CHECK WITH ENGINEER PRIOR TO START OF CONSTRUCTION TO VERIFY DATE OF PLANS. MINOR CHANGES MAY BE MADE IF ALL REVIEWING AGENCY APPROVALS ARE NOT GRANTED BEFORE BIDDING. CHANGES IN COST SHALL BE NEGOTIATED PRIOR TO PHYSICAL CONSTRUCTION AND BASED ON UNIT PRICES SUBMITTED ON THE CONTRACT.
- FILL MATERIAL SHALL CONSIST OF EARTH OBTAINED FROM CUT AREAS, BORROW PITS OR OTHER APPROVED SOURCES. EARTH SHALL BE FREE FROM ORGANIC MATTER AND OTHER DELETERIOUS SUBSTANCES AND LARGE ROCKS. THE FILL MATERIAL SHALL BE PLACED IN LAYERS NOT TO EXCEED SIX INCHES FOLLOWING COMPACTION, PROPER MOISTURE CONTENT OF FILL MATERIAL WILL BE SUCH TO ACHIEVE SPECIFIED COMPACTION DENSITY. ALL FILL BENEATH PAVED AREAS, FLOOR SLABS AND FUTURE BUILDINGS SHALL BE COMPACTED TO AT LEAST 95% OF THE MAXIMUM DRY DENSITY PER ASTM D-1557. FIELD COMPACTION TEST SHALL BE RUN ON EACH LIFT, IN FILL SECTIONS, AND THE REQUIRED COMPACTION ON EACH LIFT SHALL BE IN ACCORDANCE WITH INDOT SECTION 211.
- THE CONTRACTOR SHALL CONTACT ALL UTILITY COMPANIES TO LOCATE MAINS, CONDUITS, SERVICE LINES, ETC. IN THE AFFECTED CONSTRUCTION AREA. EXISTING UTILITY STRUCTURES ARE SHOWN HERE IN ACCORDANCE WITH AVAILABLE INFORMATION. THE LOCATION AND PROTECTION OF UTILITY STRUCTURES, THEIR SUPPORT AND MAINTENANCE DURING CONSTRUCTION (IN COOPERATION WITH APPLICABLE UTILITY COMPANY) IS THE EXPRESSED RESPONSIBILITY OF THE CONTRACTOR.
- ALL SPOT ELEVATIONS ARE TO FINISHED GRADE.
- ALL SPOT ELEVATIONS ARE ON U.S.G.S. DATUM
- PROVIDE POSITIVE DRAINAGE IN ALL AREAS. PAVING CONTRACTOR SHALL TEST FOR ANY PONDING AREAS AFTER INSTALLATION AND CORRECT DEFICIENT AREAS.
- PROVIDE SMOOTH TRANSITION FROM NEW AREAS TO EXISTING FEATURES AS NECESSARY.
- ALL AREAS WHERE PROPOSED ASPHALT PAVEMENT MEETS THE EXISTING PAVEMENT EDGE SHALL BE PROPERLY SEALED WITH TACK COAT MATERIAL. THIS INCLUDES NEW ASPHALT BETWEEN LIFTS OR WHICH HAS COOLED.
- THE EXCAVATING CONTRACTOR MUST TAKE PARTICULAR CARE WHILE EXCAVATING AROUND EXISTING UTILITIES SO AS NOT TO DISTURB AND TO MINIMIZE OR ELIMINATE DAMAGE TO THE EXISTING SYSTEM.
- THE EXCAVATING CONTRACTOR OR LANDSCAPING CONTRACTOR SHALL INSTALL THE FINISH GRADE AT 1/2" BELOW PAVEMENT WHEN SHEET DRAINAGE IS PROPOSED ACROSS THE SEEDING AREA.
- ALL AREAS WHERE THE EXISTING PAVEMENT OR PAVEMENTS ARE DAMAGED DURING CONSTRUCTION FROM TRAFFIC BY THE GENERAL CONTRACTOR, SUBCONTRACTORS, OR SUPPLIERS SHALL BE RESURFACED OR RECONSTRUCTED AT LEAST TO THEIR ORIGINAL CONDITION AFTER THE CONSTRUCTION WORK IS COMPLETED.
- SEE LANDSCAPING DRAWING FOR LUMINARIES CANDLE FOOT CURVES



Know what's below.
Call before you dig.



SITE LAYOUT

No.	Date	Revision
1.	03/04/13	Preliminary
2.		
3.		
4.		

**BADGER
ENGINEERING**
101 W. Main Street
Lebanon, IN 46052
(765) 485-0000

Site Layout
Tim's Shooting Academy of Westfield
City of Westfield
Design By
ccb
Washington Township.
Drawn By
KSA
Hamilton County.
Checked By
XXX
Indiana
Approved By
XXX

Date
March 29, 2013
Job No.
13-006
Scale
1"=20'
Sheet No.
C300

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, April 9, 2013, at Westfield City Hall. Members present included Dan Degnan, Randy Graham, Martin Raines, Ron Rothrock, and Bill Sanders. Also present were Jesse Pohlman, Senior Planner; Sarah Reed, Associate Planner; and Brian Zaiger, City Attorney.

APPOINTMENT OF OFFICERS

Degnan nominated Randy Graham as Chairperson of the 2013 Board of Zoning Appeals.

Raines seconded, and the motion passed by voice vote.

Degnan nominated Martin Raines for Vice Chairperson of the 2013 Board of Zoning Appeals.

Sanders seconded, and the motion passed by voice vote.

Degnan nominated Bill Sanders as Chairperson Pro Tempore of the 2013 Board of Zoning Appeals.

Rothrock seconded, and the motion passed by voice vote.

APPROVAL OF MINUTES

Degnan moved to approve the December 11, 2012, minutes as presented.

Raines seconded, and the motion passed by voice vote.

Pohlman reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1304-VU-02

17924 US 31 North, Christopher Woodard

The petitioner is requesting a Variance of Use from the Westfield-Washington Township Zoning Ordinance to allow a temporary landscaping business to be permitted in the Enclosed Industrial (EI) District (WC 16.04.060.B.1).

1304-VS-04

17924 US 31 North, Christopher Woodard

The petitioner is requesting a Variance of Standard from the Westfield-Washington Township Zoning Ordinance to allow temporary relief from the US Highway 31 Overlay Zone (WC 16.04.070).

Reed explained that these two variances are related and that public notice for these variance requests were not properly served, so the petitioner is requesting the Board to suspend its Rules of Procedure for public notice pursuant to Article X: 10 Notice, Section 2: Certified Mailing.

The variances were properly noticed in the newspaper and the sign was posted on the property according to the Rules of Procedure; however, the petitioner did not send certified mailing. There was no mailing of the notice. Staff does not support the request to suspend the Rules of Procedure. The petitioner is present.

Degnan motioned to decline the request to suspend the Rules of Procedure.

Sanders seconded and the motion passed by voice vote. Rothrock abstained.

The items were continued until the May Board of Zoning Appeals hearing.

1304-VS-01

**15015 Little Eagle Creek Avenue,
Todd and Debra Foutz by Justin Foutz**

The petitioner is requesting Variances of Standard from the Westfield-Washington Township Zoning Ordinance to allow the minimum lot frontage on road and minimum lot width at building line to be 50 feet (south property line) from 200 feet in the Agriculture-Single Family Rural (AG-SF1) District (WC 16.04.030.B.5 and WC 16.04.030.B.6.d).

Pohlman presented details of the variance which was reviewed by the Technical Advisory Committee at its March 19, 2013, meeting and received no comments. He stated the proposed lots would otherwise comply with the applicable standards of the zoning district, including minimum lot size. Pohlman distributed written comments submitted to the Department in opposition to the variance request. He confirmed the variance request has been properly advertised for public hearing and that staff recommends approval of the requested variance, subject to the recommended conditions set forth in the staff report.

The Board reviewed the written comments in opposition to the variance.

Mr. Chris Foutz presented the request in more detail. He stated the property would otherwise comply with the applicable zoning standards and that the resulting lot size and lot frontage would be equal to or exceeds those of the properties to the north. He stated the use is a single family use, which will result in minimal traffic. He presented pictures of properties to the north and their proximity to each other and stated any drainage or run-off issues that they may have already exists today because of existing conditions and those homes distance to each other and that the proposed home will be almost four acres, which exceeds the minimum lot size requirements.

Mr. Foutz stated any concerns about well and septic will be addressed through permitting by the County or City. He presented an exhibit depicting the planned location and an exhibit depicting a picture of the proposed home.

A Public Hearing opened at 7:25 p.m.

Sharon Morgan, 3969 Country Place Drive, stated her property abuts this property and she has

concerns about runoff since she is lower than the parcel and currently has problems. Concern with a home this size; she would like to know if a runoff pond will be built to ease the problem. Her concern is the request is not a unique variance, but rather just a variance to use the lot differently than zoned.

Jennifer Schwerin, 4033 Country Place Drive, stated she has concerns with the driveway of this new house which will be right up against her property and the resulting traffic, safety, noise and obstruction of her view. She also has concerns with the drainage problem. She said they have spent a lot of money on drainage because she is the only house in her neighborhood with a basement and it is continually flooding.

Sharon Kotnik, 4085 Country Place Drive, stated she has concerns with the driveway at the back of the property. She stated the property owner at the end of her block will be surrounded on three sides by driveways. She stated they did not respond to the petitioner's letters because they wanted to talk to him in a public manner about their concerns.

The Public Hearing closed at 7:31 p.m.

Petitioner stated this was the first time he had heard a concern about the driveway location, which will be fifty feet from the property line. The driveway will be ten feet wide and there will be trees and grass that will remain between the properties.

Degnan confirmed with staff that the zoning ordinance does not regulate setbacks of the driveway from the property line.

Degnan confirmed with staff applicable drainage regulations. Pohlman explained the property would not be permitted to increase its current water flow across property lines as a result of the proposed home and driveway.

Degnan moved to approve 1304-VS-01 with the following conditions:

1. That the Petitioner dedicates a fifty (50) foot half right-of-way (pursuant to the Westfield Thoroughfare Plan) along the Property's Little Eagle Creek Avenue frontage to the City of Westfield prior to the issuance of a Certificate of Occupancy for any new home on the Property; and
2. That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder's Office and returns a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.

Raines seconded, and the motion passed 4-1 (Sanders).

Degnan moved to adopt the staff's findings of facts.

Graham seconded, and the motion passed.

1304-VS-03

14933 US 31 North (Burger King)

Burger King by Megan Pyrtle of Allen Industries

The petitioner is requesting a Variance of Standard from the Westfield-Washington Township Zoning Ordinance to increase sign area allotment from 84 square feet to 115 square feet in the Special Business – Planned Development (SB-PD) District (WC 16.08.010 I.8 Outlot Signage).

Reed presented details of the variance request and that a commercial remodel permit has already been approved by the City for exterior modifications associated with the restaurant's rebranding efforts. She confirmed the variance request has been properly advertised for public hearing and that staff recommends approval of the requested variance.

Leah Smith, representing Allen Industries Sign Company on behalf of Burger King, introduced herself and stated she was available to answer any questions.

Public Hearing opened at 7:45 p.m.

No one spoke, and the Public Hearing closed at 7:46 p.m.

Raines moved to approve 1304-VS-03 with the following conditions:

1. That changeable copy is prohibited on any sign located on the Property; and
2. That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder's Office and returns a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a sign permit for the Property.

Rothrock seconded, and the motion passed 5-0.

Degnan moved to adopt the staff's findings of facts.

Sanders seconded, and the motion passed.

1304-VU-01

17777 Commerce Drive (Tim's Shooting Academy of Westfield)

Tim Tomich by Christian Badger of Badger Engineering, LLC

The petitioner is requesting a Variance of Use from the Westfield-Washington Township Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 17777 Commerce Drive, Westfield, Indiana 46074. The request is to allow an indoor shooting range and related retail sales in the Enclosed Industrial (EI) District (WC 16.04.060.B.2).

Pohlman presented details of the variance and that the Variance of Use is being requested because: (i) a shooting range is not a land use specified within the Zoning Ordinance, thus by default is a prohibited use within any Zoning District in Westfield-Washington Township; and (ii) retail sales, or more specifically characterized by the Zoning Ordinance as the sale of sporting goods, is not a permitted land use within the EI District. He presented that this petition was reviewed by the Technical Advisory Committee at its March 19, 2013, meeting and received no comments. Subsequent to the TAC meeting on March 20, 2013, the Petitioner met with the Police and Fire Departments to preliminarily discuss operational and design aspects of the proposed use. As a result of that meeting, neither Department has concerns at this time regarding the proposed use.

Pohlman explained that if the Board approves the requested Variance of Use, then the use and site would be required to obtain Development Plan approval by the Plan Commission prior to the issuance of any construction permits. He confirmed the variance request has been properly advertised for public hearing and that staff recommends approval of the variance, subject to the recommended conditions set forth in the staff report.

Staff has not received written comments prior to this meeting. The petitioner and his representatives are present to provide a presentation. Staff is available for any questions.

Mr. Tim Tomich presented that he has been active in Westfield and has owned a small business in Westfield since 1991 and that he and his wife purchased this land in 1997 and wanted to provide proper training for people to respect and use firearms. Mr. Guy Relford, attorney on behalf of Mr. Tomich, presented that they agree with the review and findings of the staff report. He stated he is president and chief instructor of Tactical Firearms Training, LLC and that he is a NRA certified firearms instructor and certified chief safety officer. He presented that he has an agreement to partner with Mr. Tomich to provide training at the proposed facility and that the proposed use is a good opportunity to have people be educated in gun safety, training and practice in one facility and that all training will be conducted by NRA Certified trainers. He presented design details as outlined in the petitioner's filed narrative.

Degnan inquired whether all shooting ranges provide retail sales. Mr. Relford responded no, but that this facility will sell earplugs, safety glasses and target sheets for use at the range.

Graham inquired whether ammunition and guns will be sold. Mr. Tomich responded that ammunition can also be purchased so that proper ammunition is used on the range for safety reasons. When the proper license is acquired, Mr. Tomich plans to sell guns as well.

Sanders inquired what gunsmith services will be offered. Mr. Tomich explained that simple services like putting a scope on a gun can be done one-site, but if repair is needed they will send the gun to an offsite gunsmith with twenty-five years of experience.

Rothrock inquired if the outside ventilation system will be louder than others located in the surrounding industrial park. Mr. Tomich responded that the noise level will not be any louder than others in the area.

A Public Hearing opened at 8:03 p.m.

Deanne Candler, 5355 East 225th street, stated she owns property just north of this site and is concerned about the nature of individuals that may use the facility and theft. She stated she opposes the petition.

Joseph Lyons, 170 East Hoover Street, stated he believes this is an excellent opportunity for people to get proper training and shooting experience in Hamilton County. He stated he supports the petition.

Chris Badger, Badger Engineering, LLC, stated he is the engineer for the petition and provided additional details regarding the proposed floor plan and building layout and that this use will provide an opportunity not only for private individuals to learn proper gun safety and use, but organizations, such as the Boys Scouts of America, as well. He stated he supports the petition.

Nick Badger, Eagle Scout with Boy Scouts of America, stated he believes that this is a great facility that will allow Boy Scouts to get their merit badges because right now getting their badge is difficult because they can only get experience in one week of summer camp. He stated he supports the petition.

Leo J deBlecourt, 556 Athens Place, stated he is a gun owner for over forty years and is very impressed with the proposed guidelines and safety of this facility. He stated his son is an Eagle Scout and agreed with earlier statements. He stated he supports the petition.

The Public Hearing closed at 8:15 p.m.

Degnan inquired on clarification of retail sales component. Pohlman explained that the sale of sporting goods, though permitted in business districts, is not a permitted land use within the EI District, but if the Board adopts the staff's recommendation conditions, the retail sales would be limited in scope as set forth in the petitioner's narrative.

Degnan inquired whether classroom or safety training will be required for use of the shooting range. Mr. Relford responded that prior to opening of the shooting range, one of the first actions will be the development of standard operating procedures, which includes safety and operation rules of the range. He stated they would agree to develop standard operating procedures and make them part of the conditions so they would be mandatory on future operators. Mr. Tomich further explained that all users will be required to go through a safety class prior to use of the shooting range.

Sanders moved to approve 1304-VU-01 with the following conditions:

1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the

Property.

2. The "Indoor Shooting Range and related Retail Sales" use (collectively, the "Shooting Academy") shall be limited in scope and operation to the Petitioner's Narrative and Preliminary Plans, attached hereto as Exhibits 3 and 4, respectively. Any expansion or substantial alteration to the scope and operation of the Shooting Academy, as determined by the Director, shall require approval by the Board of Zoning Appeals.
3. The Shooting Academy shall be developed and operated in substantial compliance to the Petitioner's Narrative and Preliminary Plans, subject to review and approval for compliance with applicable ordinances and laws of the development plans and appropriate permits.
4. The Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance's Performance Standards for Industrial Districts (WC 16.04.060), as amended.
5. The Shooting Academy shall comply with Indiana Fire and Building Codes, as amended.
6. The Shooting Academy shall maintain standard operating procedures and require within those procedures that all users of the Shooting Academy shall be required to attend a formal training program prior to their use of the indoor shooting range.

Raines seconded and the motion passed 5-0.

Degnan moved to adopt the staff's findings of facts.

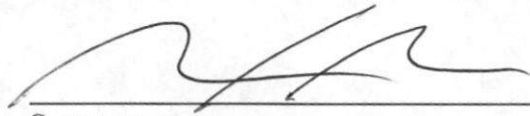
Sanders seconded, and the motion passed.

REPORTS/COMMENTS:

No reports.

The meeting adjourned at 9:05 p.m.


Chairperson
Randy Graham


Secretary
Matthew Skelton, Director

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, March 10, 2015, at Westfield City Hall. Members present included Randell Graham, Martin Raines, Ron Rothrock and Bill Sanders. Also present were Jesse Pohlman, Senior Planner; Kevin Todd, Senior Planner; and, Andrew Murray, Associate Planner; Brian Zaiger, City Attorney.

ELECTION OF OFFICERS

Raines moved to postpone the election of officers until the next Board meeting.

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

APPROVAL OF MINUTES

Graham moved to approve the January 13, 2015, minutes.

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

Pohlman reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1503-SE-01 &

140 East 161st Street

1503-VS-05

Noah Herron (d/b/a Urban Farmer)

(PUBLIC HEARING)

The petitioner requests approval of a Special Exception and associated Variances of Development Standard to allow an Agritourism Use in the AG-SF1: Agriculture/Single-Family Rural District (Chapter 13: Use Table).

Murray presented an overview of the requested Special Exception and associated Variances of Development Standard as outlined in the staff report.

Noah Herron, petitioner, gave a brief presentation explaining the proposed use.

Sanders asked about secondary signs and if they will be distracting to drivers and requested clarification on if the variance was for multiple signs.

Herron responded the signs would not be distracting to drivers.

Murray explained the petitioner is permitted forty (40) square feet of signage based on the existing building's frontage along 161st Street and that the requested sign variance is to a total signage allotment of eighty (80) square feet that may be divided among a monument sign, wall signs and awning signs.

Rothrock asked for an explanation of the Agritourism Use and about educational opportunities. Rothrock expressed concern with available on-site parking.

Herron explained that part of the use includes community gardens, trail gardens, beneficial insect areas and places for children and adults to learn about all aspects of gardening and farming to grow produce locally. Herron confirmed there is plenty of parking for a school bus and cars to get in and out and that he hopes people will ride their bikes or walk from surrounding neighborhoods.

Public Hearing opened at 7:25 p.m.

Mike Rodman, 17201 Joliet Road, noted he was an existing neighbor of the petitioner and supports the requested approvals.

Public Hearing closed at 7:27 p.m.

Sanders motioned to approve 1503-SE-01 and 1503-VS-05 with the Department's recommended conditions:

1. The Special Exception shall be substantially similar as described in the Petitioner's Narrative Description and Conceptual Site Plan, attached as Exhibits 4 and 6, respectively. Any substantial alteration to the scope and operation of the Special Exception, as determined by the Director, shall require approval by the Board of Zoning Appeals; and
2. The Variances of Development Standard shall only apply to an Agritourism use.

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-VS-01

(PUBLIC HEARING)

17130 Joliet Road

Sterling and Jessica Strickland

The petitioner requests: (i) a modification of a condition of approval for a previously approved Variance of Standard for a reduction in the Minimum Lot Frontage (0102-VS-07) (Article 4.4(D)); and (ii) the termination of a previously approved Special Exception to allow a riding stable and associated setback variances (0801-SE-01, 0801-VS-01) (Chapter 13: Use Table) in the AG-SF1: Agriculture/ Single-Family Rural District.

Pohlman presented an overview of the request and noted the petitioner's application included three letters of support and provided those to the Board for their review.

Sterling and Jessica Strickland introduced themselves and were available for questions.

Public Hearing opened at 7:36 p.m.

There was no public comment.

Public Hearing closed at 7:37 p.m.

Rothrock motioned to approve the modified condition to state that a driveway shall be prohibited along the property's Joliet Road frontage. The Property's access shall be provided via a shared access on an adjacent property.

Sanders seconded, and the motion passed 4-0.

Sanders moved to adopt the Department's recommended findings of fact

Graham seconded, and the motion passed 4-0.

1503-VS-02

(PUBLIC HEARING)

16588 North Gray Road

James Campbell

The petitioner requests the approval of two (2) Variances of Standard to: (i) allow more than one Principal Building used for residential purposes on one Lot (Article 6.4(B)); and (ii) reduce the Minimum Lot Area requirement in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(C)).

Pohlman presented an overview of the request and noted the Department received two letters from

Brian Ondre, an adjoining property owner, who was unable to attend the public hearing. Pohlman provided those letters to the Board for their review and explained the first letter suggested a continuance to allow the neighbor additional time to review the request; however, the second letter is a letter of support after the neighbor had an opportunity to discuss the request with the petitioner and the petitioner agreed to install a row of landscaping along the shared property line.

James Campbell, petitioner, gave a brief presentation on the request.

Public Hearing opened at 7:47 p.m.

Matt Effinger, 16649 George Gang Boulevard, expressed concerns as they just bought the lot immediately west of the property; however, if the landscaping previously noted were also installed along his property line, then that would address his concerns.

Public Hearing closed at 7:50 p.m.

Pohlman commented that in addition to the recommended conditions in the Department report, that the Department also recommends a condition that the Petitioner install along the entire length of the Property's west property line a single row of evergreen landscaping substantially similar to the landscaping exhibit included with Mr. Ondre's letter and that the landscaping shall be installed prior to the issuance of a Certificate of Occupancy for any new home on the Property, or within six (6) months of the issuance of a Certificate of Occupancy for any new home on the Property if periods of adverse weather or planting conditions (e.g., season, time of year) otherwise prohibits the installation of the landscaping.

Campbell commented that he would agree with the condition.

Rothrock motioned to approve the petition with the Department's recommended conditions:

1. The petitioner shall dedicate a sixty (60) foot half right-of-way (pursuant to the Westfield Thoroughfare Plan) along the property's Gray Road frontage to the City of Westfield prior to the issuance of a Certificate of Occupancy for any new home on the property.
2. The property shall only be permitted one (1) driveway access onto Gray Road.
3. The "Existing 1-Story Frame House" and "Existing Frame Garage" (collectively, the "Existing House"), as identified on the Site Plan attached hereto, shall be demolished: (i) prior to the ownership transfer of the Property to an owner other than the existing Property Owner or Petitioner; (ii) within six (6) months of the existing Property Owner's vacancy of the Existing Home; or (iii) by March 10, 2025, whichever occurs first.
4. That the petitioner shall install along the entire length of the property's west property line a single row of evergreen landscaping substantially similar to the landscaping exhibit included with Mr. Ondre's letter and that the landscaping shall be installed prior to the issuance of a Certificate of Occupancy for any new home on the property, or within six (6) months of the issuance of a Certificate of Occupancy for any new home on the property if periods of adverse weather or planting conditions (e.g., season, time of year) otherwise prohibits the installation of the landscaping.

Sanders seconded, and the motion passed 4-0.

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

Sanders seconded, and the motion passed 4-0.

1503-VU-03 &

1503-VS-03

(PUBLIC HEARING)

228 Park Street

Scott Wolf

The petitioner is requesting approval for a Variance of Use and associated Variances of Development Standard to allow a new parking lot in the MF1: Multi-Family Low Density District (Chapter 13: Use Table).

Todd presented an overview of the request, as summarized in the Department's report, and noted that two (2) letters were received from neighbors in support of the project. Todd provided those letters to the Board for their review.

Scott Wolf, petitioner, gave a brief presentation regarding the petition for a temporary parking lot and vision for the restaurant.

Sanders inquired what material would be used as the parking lot surface.

Wolf responded gravel, which will have to be maintained and is consistent with what was installed by the City at Mill Street and Park Street.

Public Hearing opened at 8:04 p.m.

Neal Hord, 306 Park Street, asked how security for the lot will be handled during off hours and how storm drainage will impact adjacent properties.

Melody Jones, 211 Mill Street, stated she lives in this neighborhood and is in support of this parking lot and the provisions of these petitions.

Jack Russell, 1707 Ashley Wood Drive, on behalf of the Grand Junction Task Group, stated the group's full support of this project.

Public Hearing closed at 8:11 p.m.

Wolf responded that the parking will be valet parking and will be surrounded with privacy fences with the entrance chained when the restaurant is closed. Wolf explained the parking will be gravel and is not a hard surface, so drainage and runoff will not be a problem.

Graham motioned to approve the petition with the Department's recommended conditions:

1. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan.
2. That a six (6) foot wood privacy fence be installed and maintained on any common property line(s) of residentially-used property to the north, west, and east of the subject property.
3. That approval of the variances shall expire on April 1, 2020. Any request to extend the time limit of the variances shall be reviewed and approved by the Board of Zoning Appeals prior to April 1, 2020.

Rothrock seconded, and the motion passed 4-0.

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

Rothrock seconded, and the motion passed 4-0.

1503-VU-04 &

1503-VS-04

(PUBLIC HEARING)

131 West Main Street

Scott Wolf

The petitioner is requesting approval for a Variance of Use and associated Variances of Development Standard to allow a new parking lot in the LB-H: Local Business/Historical District (Chapter 13: Use Table).

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

Scott Wolf, petitioner, gave a brief presentation of the proposed restaurant and parking.

Public Hearing opened at 8:17 p.m.

Steve Reitmeyer, 410 East Main Street, on behalf of the Grand Junction Task Group, expressed the group's full support for this project.

Randell Bruns, 120 Mill Street, commented that he spoke with the petitioner to resolve his concerns and is in support of this project.

Melody Jones, 211 Mill Street, stated she is very much in support of this project.

Public Hearing closed at 8:20 p.m.

Sanders motioned to approve the petition with the Department's recommended conditions:

1. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan.
2. That approval of the variance shall expire on April 1, 2020. Any request to extend the time limit of the variances shall be reviewed and approved by the Board of Zoning Appeals prior to April 1, 2020.

Graham seconded, and the motion passed 4-0.

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

Graham seconded, and the motion passed 4-0.

1503-VU-02

(PUBLIC HEARING)

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 a project history and request overview, as summarized in the Department's report, of the requested modification of the condition of approval related to sound for the previously granted Variance of Use.

Pohlman provided written comments that were submitted to the Department to the Board for their review and noted comments submitted were both in support and in opposition to the petition.

Andi Metzel, Benesch Friedlander Coplan & Aronoff, representing the petitioner, distributed presentation materials and gave an overview presentation of the request.

Jeffrey Carter, retired from the Indiana Occupational Safety and Health Administration and fire

arms instructor, noted the report of sound measurements he performed and submitted on behalf of the petition and is available for any questions regarding noise levels.

Public Hearing opened at 8:57 p.m.

The following individuals spoke on behalf of Hadah, LLC, owner of property at 17819 Commerce Drive, immediately north of the subject property, in opposition to the petition:

Brian Tuohy, 50 South Meridian, Suite 700, attorney on behalf of Hadah, LLC.

Jeff Unger, 129 Penn Street, an acoustical consultant on behalf of Hadah, LLC.

Andy Weas, Sr., 5102 Briarwood Trail, owner of Hadah, LLC property.

Andy Weas, Jr., 4848 Dee Ridge Drive, minority owner of Hadah LLC, and president and owner of Weas Engineering, previously located in the adjacent building.

Jim Flood, 8549 West 1000 South, plant and safety manager for Weas Engineering.

Heidi Muller, 12700 Devon Lane, owner of Hadah, LLC.

Mike Muller, 12700 Devon Lane.

Bryan Poynter, an industrial real estate broker with DTZ, noted his submitted letter to the Board regarding use of the property and property values.

The following individuals spoke on behalf of the petitioner, in support of the petition:

Chris Badger, 990 West Oak Street.

Guy Relford, 151 Mission Hills Drive.

The following individuals provided public comment:

Chris Bluto, 16438 Lakeville Crossing, stated the importance to uphold the standard and that some noise is understandable but the noise there is now is not acceptable. He believes this is not against the use, rather it is just upholding businesses to be accountable to what they say and to the standards they have agreed to. Coming back on a variance that got them the permit in the first place is not unacceptable.

J.R. Freiburger, 14487 Blue Sky Court, owns property to the north of the subject property as well as two other commercial properties and is not vested on either side of this particular request. He noted he is a huge proponent of Tim's Shooting Academy and what they have done and he purchased his nearby building in December 2013 after the variance of use was approved in June 2013. Freiburger commented he is vested in business in Westfield and actively looking for more investment opportunities. He stated he believes we should be careful and not commit to zero decibels in an industrial area; however, you also cannot allow a neighbor to not have any standards. Freiburger believes we are on a very slippery slope to allow ourselves to go through a variance process then open that door back up to change our minds later as a community, which takes integrity out of the system. Freiburger asks that this be pondered deeply before making any decisions.

Public Hearing closed at 9:36 p.m.

Metzel responded to comments and noted particularly the public comment observation that we need to be reasonable because she does not feel that it was entirely clear when the original petition

was approved what the actual standard was and when she looks at what was approved, there is nothing wrong with the process but the ordinance does not fit this particular use and the project narrative did not say zero noise but it is being interpreted that way.

Metzel noted they are still looking at options to improve the situation to figure out the most responsible way to use this building to reduce the sound because the goal is to be a good community partner and do it within reason but don't expect them to live up to standards that no one else does.

Raines asked if the petitioner had done his research before he started building to be able to guarantee that a bullet won't go through the roof because sound goes through the roof.

Graham inquired what of the Department what the zoning ordinance standard was with regard to the maximum decibel level.

Pohlman responded the zoning ordinance's standard is eighty decibels as measured one hundred and twenty-five feet from the boundary of the enclosed industrial district boundary, not as measured from the property line. So the petitioner's proposed eighty decibel maximum at their property line is more restrictive than the zoning ordinance's standard.

Rothrock asked if what is being voted on is to change the city ordinance because the condition says no sounds will be heard outside the building and that is the standard that was agreed to. He understands that they could either appeal that or abide by the standard.

Pohlman responded the request is to modify the standard imposed by the Board as part of the Variance of Use approval to establish an alternative standard regarding the sound, which is at the discretion of the Board to amend the condition, not to amend the zoning ordinance standard.

Rothrock asked if the presented sound readings were done before or after the improvements were done after the City brought the violation to the petitioner's attention.

Tomich responded they just wanted to be treated like anyone else and yes, he has added additional sound absorbing material so they are below the City's ordinance standard based on the readings at the property line, which is fifteen feet from range's external egress where the greatest leakage of sound occurs. He commented the thickness of the concrete makes a big difference and he will stand behind his statement that the sound would be like a whisper in a library. Based on their initial research before constructing the building they found data that every two inches of concrete reduces the decibel level by fifty percent, but because of construction standards the building's walls are actually less than ten inches thick. He did not intentionally mean to deceive anyone with what they proposed. They proposed to bring the safest shooting range and instructional academy in the United States short of a military installation. Never said there would be no sound.

Tuohy further responded the measurements were taken February 16, 2015, and March 9, 2015, and then commented they had been previously told by the petitioner that they had done all they could to correct the noise levels but now the petitioner is stating there may be other options.

Metzel requested a continuance.

Graham motioned to continue the petition to the April 14, 2015, meeting.

Rothrock seconded, and the motion to continue passed 3-1 (Sanders).

Pohlman requested that any new or updated information by the petitioner that they wished to be considered by the Board at the next meeting be submitted to the Department by March 31, 2015, in accordance with the Board's schedule of meetings and filing dates.

REPORTS/COMMENTS

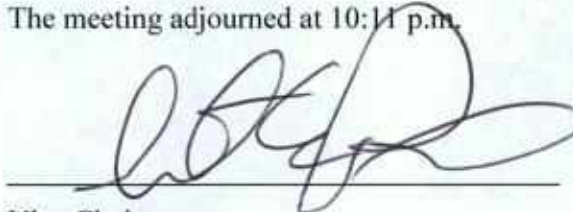
Plan Commission Liaison

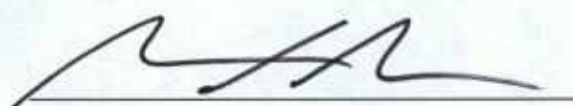
Economic and Community Development Department

Graham motioned to adjourn the meeting.

Rothrock seconded, and the motion passed.

The meeting adjourned at 10:11 p.m.



Vice Chairperson
Martin Raines

Secretary
Matthew Skelton, Director



Andi M. Metzel
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March 27, 2015

Jesse M. Pohlman, Senior Planner
City of Westfield - Economic and Community
Development Department
2728 East 171st Street
Westfield, IN 46074

Re: City of Westfield Board of Zoning Appeals:
Edward T. Tomich (Tim's Shooting Academy) 1503-VU-02

Dear Mr. Pohlman:

Please accept this written communication as a formal request to continue the above-referenced variance application filed on behalf of Edward T. Tomich and related to Tim's Shooting Academy located at 17777 Commerce Drive, Westfield, Indiana 46074. Specifically, this request seeks to continue these matters from the April 14, 2015 Board of Zoning Appeals Meeting Agenda to the May 12, 2015 Board of Zoning Appeals Meeting date.

We want to emphasize that this request is intended so that Mr. Tomich can continue to engage in an ongoing effort to address the issues and concerns voiced during the May 10th meeting. Mr. Tomich desires to be a good community partner. Finding a solution to these issues is neither a simple nor inexpensive process.

We believe that the requested additional time is of paramount importance to meaningfully address these issues and will endeavor to keep the Economic and Community Development Department apprised of any progress and material developments as they occur.

Very truly yours,

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP

A handwritten signature in blue ink, appearing to read "Andi Metzel", written over a blue circular stamp or seal.

Andrielle M. Metzel

Cc: Timothy T. Tomich
Christian C. Badger P.E.



Andi M. Metzel
Writer's Direct Dial: (317) 685-6159
Writer's Email: ametzel@beneschlaw.com

One American Square, Suite 2300
Indianapolis, Indiana 46282
Phone: (317) 632-3232
Toll Free: (800) 622-4799
Fax: (317) 632-2962

May 6, 2015

Jesse M. Pohlman, Senior Planner
City of Westfield - Economic and Community
Development Department
2728 East 171st Street
Westfield, IN 46074

Re: **City of Westfield Board of Zoning Appeals:**
Edward T. Tomich (Tim's Shooting Academy) 1503-VU-02

Dear Mr. Pohlman:

Please accept this written communication as a formal request to continue the above-referenced variance application filed on behalf of Edward T. Tomich and related to Tim's Shooting Academy located at 17777 Commerce Drive, Westfield, Indiana 46074. Specifically, this request seeks to continue these matters from the May 10, 2015 Board of Zoning Appeals Meeting Agenda to the June 9, 2015 Board of Zoning Appeals Meeting date.

Mr. Tomich has conducted significant research and has already undertaken several measures to address concerns voiced during the March 10th Board of Zoning Appeals meeting. Particularly, sound deadening material has now been applied to sections of the north building wall; sound deadening material has also been applied to the north facing emergency exit door; and, most significantly the roof-based HVAC system has been redesigned, reconfigured and the air intake ductwork has been refabricated to take advantage of the sound absorbing capabilities of the HEPA filters. Thus far, the refabricating and installation of new ductwork in bay three (3) at the facility has been completed and Mr. Tomich has been assured that the materials ordered and fabrication process to redesign two (2) additional bays at the facility will be completed by the end of this week.

Lastly, we are working to schedule a meeting with the adjacent property owners to take place early next week to conduct sound testing in the presence of all stakeholders. We want to emphasize that the continuance request is intended so that Mr. Tomich can complete the work in progress and to continue to engage in an ongoing effort to address these sound-related issues.

Jesse M. Pohlman, Senior Planner
May 6, 2015
Page 2

We believe that the requested additional time is of paramount importance and will endeavor to keep the Economic and Community Development Department apprised of any progress and material developments as they occur.

Very truly yours,

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP



Andrielle M. Metzel

Cc: Timothy T. Tomich
Christian C. Badger P.E.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1507-VS-10
Exhibit 1

Petition Number: 1507-VS-10

Subject Site Address: 15550 Little Eagle Creek Avenue (the "Property")

Petitioner: James and Donna Curry (the "Petitioner")

Property Owner: James and Donna Curry (the "Property Owner")

Request: 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.

Current Zoning: AG-SF1 (Agriculture / Single-Family Rural) District

Current Land Use: Residential

Approximate Acreage: 0.49 acre +/-

Exhibits:

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

Staff Reviewer: Kevin M. Todd, AICP

Petition History

This petition will receive a public hearing at the July 14, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is approximately 0.49 acre +/- in size and located at 15550 Little Eagle Creek Avenue (see **Exhibit 2**). The Property is zoned AG-SF1: Agriculture / Single-Family Rural District ("AG-SF1"). The Property used to contain a house, and currently only contains a garage structure. The surrounding properties are all zoned AG-SF1 and include rural/estate residential to the north and west; single-family residential to the south; and a cemetery to the east (across Little Eagle Creek Avenue). Much of the Property falls within the flood zone (see **Exhibit 4**), however the proposed home location is outside of the flood zone.

Variance Request: As summarized in the Petitioner's Statement of Intent on the Application (see **Exhibit 3**), the Petitioner has filed this variance request to allow the construction of a home on the Property. The property does not meet the Minimum Lot Area requirements for an AG-SF1 lot¹. Also, the shallow-nature of the lot does not provide enough depth to meet the front yard setback². Finally, the proposed home

¹ Article 4.2 (C) – AG-SF1 -- Minimum Lot Area = 3 acres

² Article 4.2 (E)(1)(b) – AG-SF1 -- Minimum Front Yard Setback = 80 feet



location is in the same location where a house was historically positioned on this property. By using the existing clear area (former home site) to locate the new home site, the side yard setback³ to the south would not be met.

Nonconforming Lot: The configuration of the subject property pre-dates zoning being established in Westfield-Washington Township. The lot appears in 1974 aerial/parcel maps. Zoning was established here in 1977. Because the lot is under one (1) acre in size, the property does not meet the "Nonconforming Lot of Record" standards in the UDO⁴. As such, the Minimum Lot Area portion of this variance request is necessary in order to build on this lot.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Rural Southwest"⁵ land use classification. Among other uses, the Comprehensive Plan⁶ notes that single-family residential dwellings on large-lots are desirable this area of the township. The Comprehensive Plan also promotes the preservation of Little Eagle Creek Avenue as a scenic by-way⁷.

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variances 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 UDO⁸ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁹ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

³ Article 4.2 (E)(2) – AG-SF1 -- Minimum Side Yard Setback = 30 feet

⁴ Article 9.4(B)(3)

⁵ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

⁶ Westfield-Washington Township Comprehensive Plan, Rural Residential (pg. 27).

⁷ Westfield-Washington Township Comprehensive Plan, Rural Residential (pg. 28).

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

⁹ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1507-VS-10
Exhibit 1

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

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



Department Comments

If the Board is inclined to APPROVE the variances, then the Department recommends approving the petition with the following condition and findings:

Recommended Condition:

1. The Property shall only be permitted one (1) driveway access onto Little Eagle Creek Avenue.

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the proposed residential use and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the use is permitted and the Property will be used for its current residential use; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iii) the approval of the variance(s) will allow for the continued use and improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

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

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.

Recommended Findings for Denial:

If the Board is inclined to DENY the variances, then the Department recommends approving the petition with the following conditions and findings:

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

Finding: It is likely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the Comprehensive Plan



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1507-VS-10
Exhibit 1

calls for the preservation of Little Eagle Creek Avenue as a scenic by-way. Adding a new structure so close to the existing structure to the south could have a negative impact on preserving the scenic nature of this corridor.

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 likely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) would result in a new home on undersized property for the area, thus being inconsistent with the character of the surrounding area and Comprehensive Plan.

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

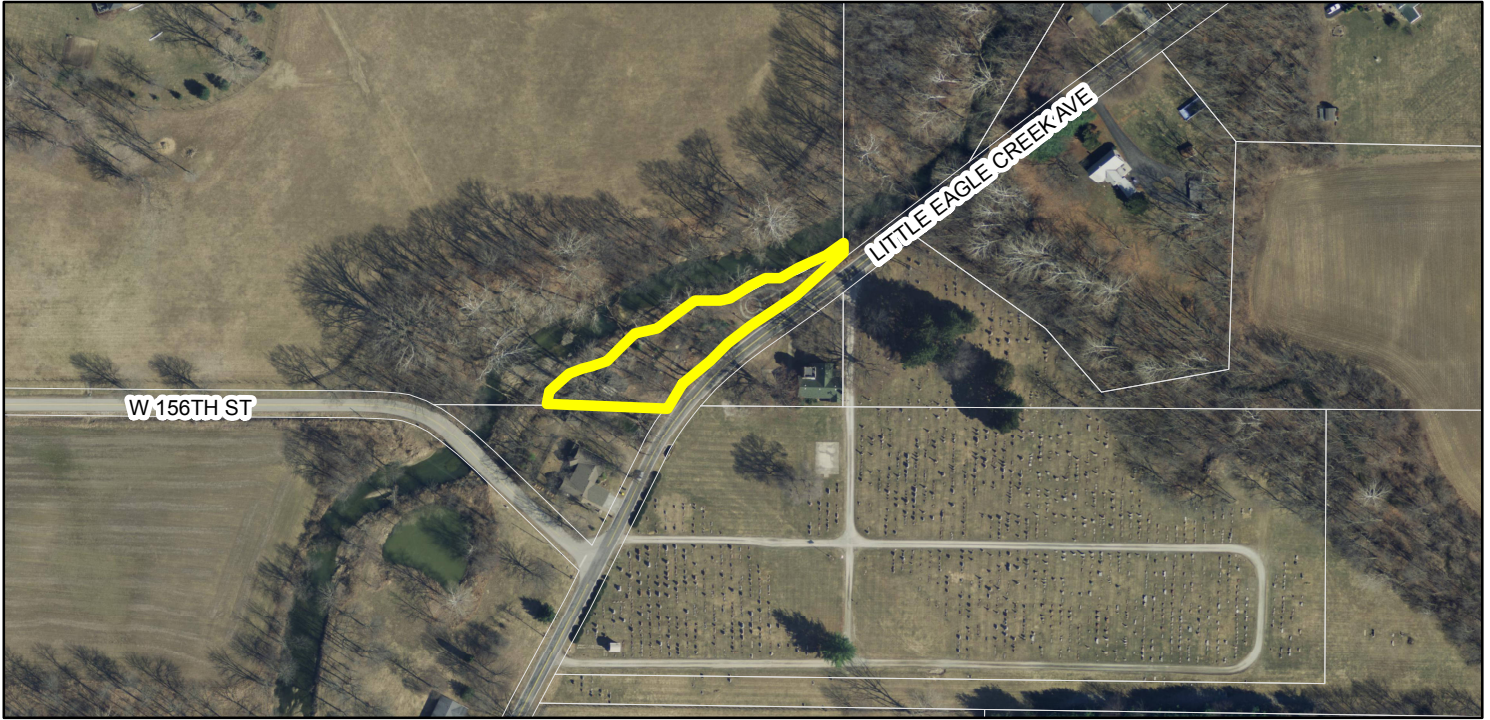
Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.



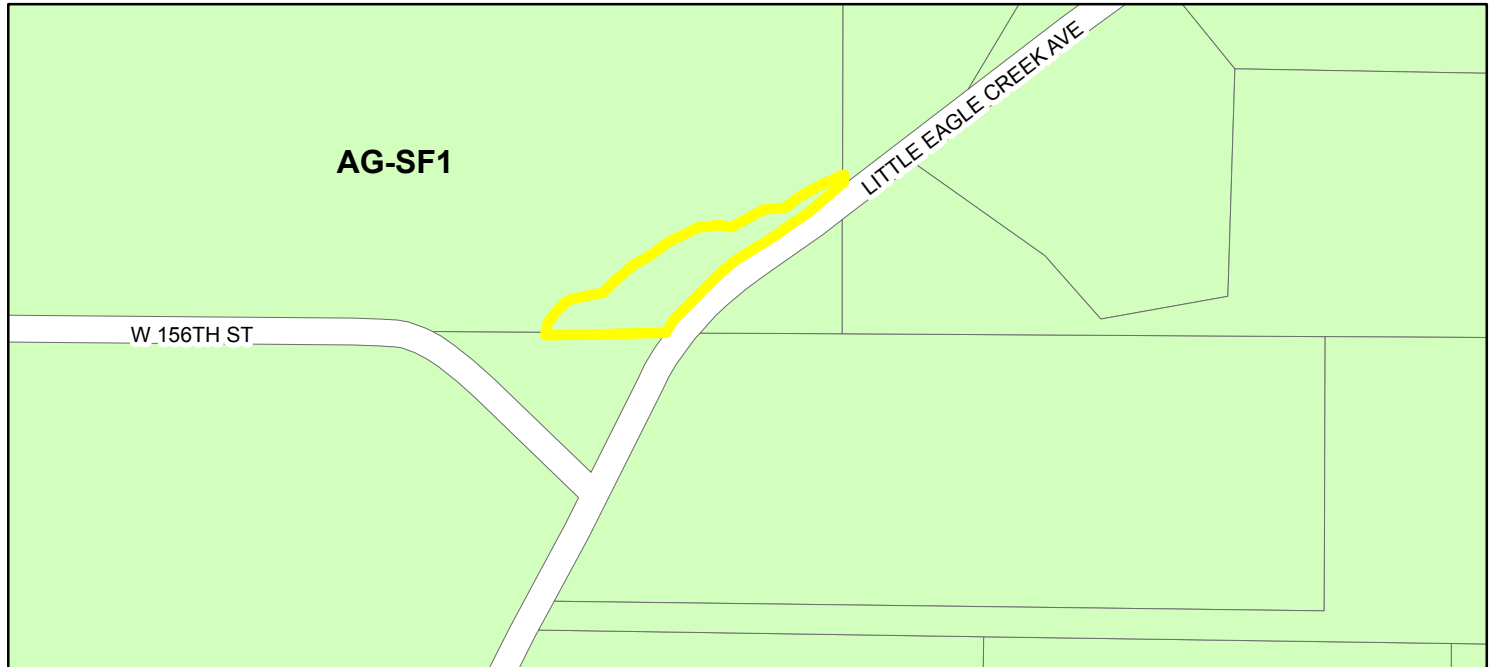
Property Location Map
1507-VS-10
15554 Little Eagle Creek Ave.



Aerial Location Map



Zoning Map



Zoning  AG-SF1 (Agriculture - Single Family - 1)

VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1507-VS-10

FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: KEVIN TODD (STAFF NAME) DATE: 06/17/15

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: James & Donna Curry TELEPHONE: 317-733-4145

ADDRESS: 15550 Little Eagle Creek Ave. EMAIL: d.j.curry@comcast.net

PROPERTY OWNER'S NAME: James & Donna Curry TELEPHONE: 317-733-4145

ADDRESS: 15550 Little Eagle Creek Ave. EMAIL: d.j.curry@comcast.net

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 15554 Little Eagle Creek Ave.

COUNTY PARCEL ID #(S): 08-09-07-00-00-020.000

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): _____

We would like to build our retirement home on this lot in the same location where a home previously existed. We have owned this lot for about 10 years and have worked to transform it from an area full of weeds and trash into beautiful gardens of flowers and bushes. Because there had been a home on this lot before we bought it, we thought we would be able to build on it when we were ready to retire, but have found there are a few requirements to meet before this is possible. The lot is unique in that it exists between Little Eagle Creek and Little Eagle Creek Ave., causing it to be a long and narrow lot. A good deal of the lot is in flood plain which allows only a narrow strip of land for building. Because of this we will need a setback variance and a variance for lot size.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: _____

DOCKET #: _____

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

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

Since there was a previous residence in this location, no additional drive cut will be required.

The flood plain dictates where the building needs to be located.

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: _____

This location is already a rural residential area with homes similar to what we would like to build. Building our home on our vacant lot will allow us to maintain it more easily which would enhance the area surrounding us.

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

The lot size cannot be increased to meet the minimum lot size requirements.

Because the property is located partially in a flood plain the proposed residence will not be able to be located within the current setback requirements.



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.

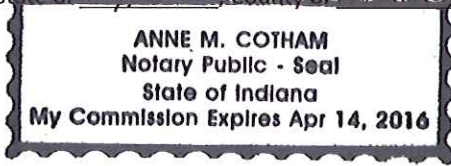
James R. Curry
Applicant/Representative (signature)

James R. Curry
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 17 day of June, 2015.

State of IN, County of Hamilton, SS:



Anne M. Cotham
Notary Public Signature
Anne M. Cotham
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.

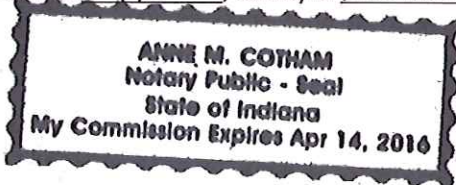
James R. Curry
Property Owner (signature)*

James R. Curry
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 17 day of June, 2015.

State of IN, County of Hamilton, SS:



Anne M. Cotham
Notary Public Signature
Anne M. Cotham
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.

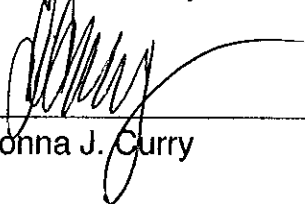
Affidavit of Notice of Public Hearing

This document is to verify that the attached public notice was mailed to all property owners listed in the Adjoiner received from the Hamilton County Auditor, by certified mail on July 1, 2015. Also, the public notice sign has been posted on the property at 15554 Little Eagle Creek Ave. since July 4, 2015.

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that the above information is true and correct.


James R. Curry

James R. Curry
(printed)

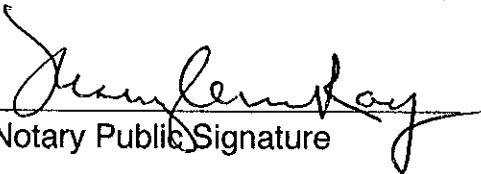

Donna J. Curry

Donna J. Curry
(printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner.

Witness my hand and Notarial Seal this 8th day of July, 2015.

State of Indiana, County of Hamilton, SS:


Notary Public Signature

Mary Ann Ray
Notary Public (printed)

My Commission Expires
5-12-2019

**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, July 14, 2015, at 7:00 p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, to consider petition 1507-VS-10, filed by James and Donna Curry. The request pertains to real estate comprising approximately .5 acres and generally located at 15554 Little Eagle Creek Ave., Washington Township, Westfield, Indiana.

The request is for approval of a Variance of Development Standard to allow construction of a new home.

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

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

APPLICANT:

James and Donna Curry
15550 Little Eagle Creek Ave.
(317)733-4145

CITY OF WESTFIELD:

Economic and Community Development Department
2728 East 171st Street
Westfield, Indiana 46074
Telephone (317) 804-3170
www.westfield.in.us

THE WITHIN SITE PLAN WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE POLICY AND ARE THEREFORE SUBJECT TO ANY STATEMENT OF FACTS REVEALED BY EXAMINATION OF SCHEDULE "A" AND SCHEDULE "B" OF A TITLE POLICY.

LEGEND

SB = SOIL BORING

PART OF THE S.E. 1/4, SECTION 7-18-3

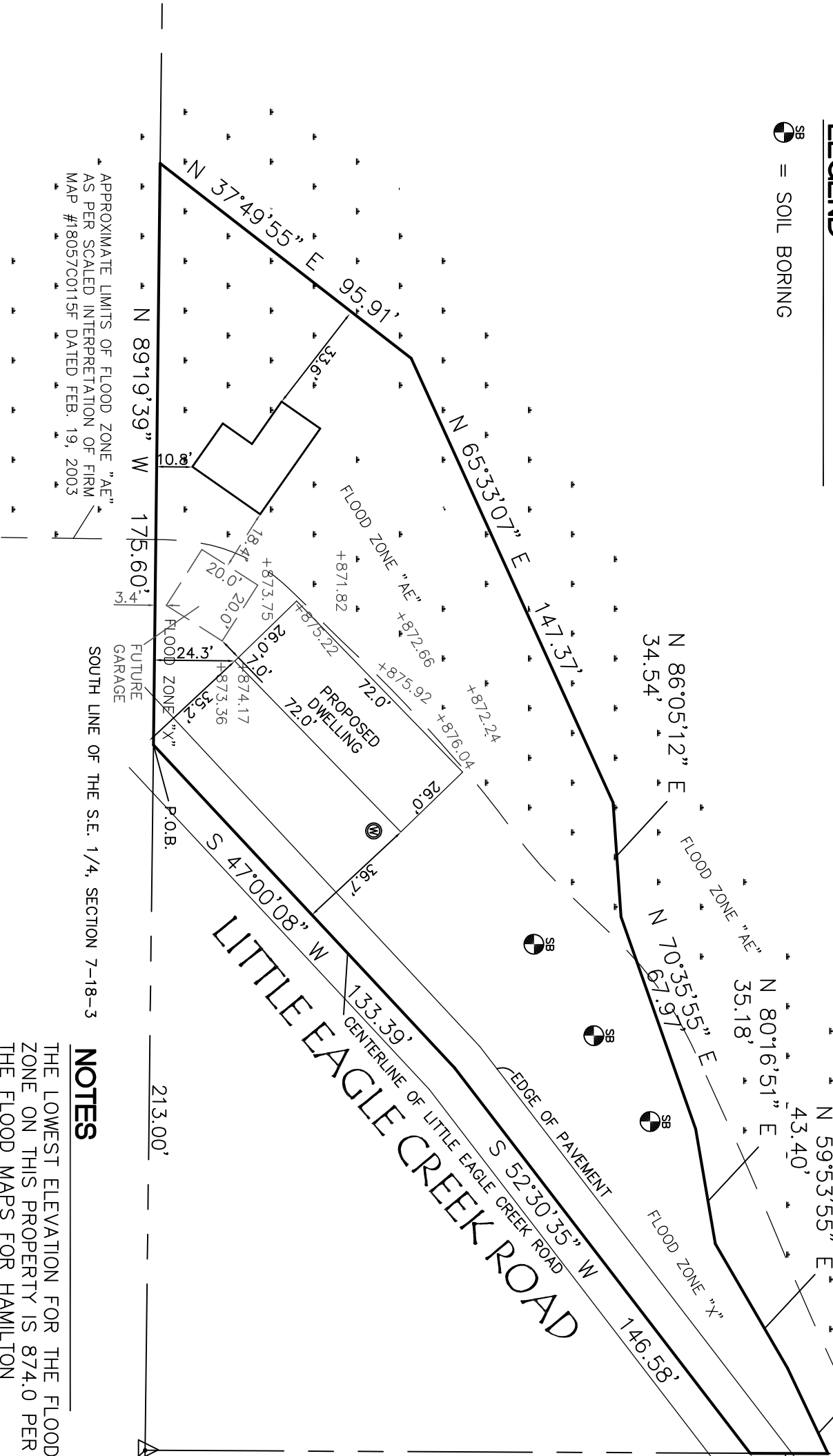


SCALE : 1" = 40'
SITE PLAN
JOB NO. B35919

DESCRIPTION

INST. #200500066185

ALL THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 NORTH, RANGE 3 EAST, THAT LIES NORTH AND WEST OF THE CENTER LINE OF THE COUNTY HIGHWAY AND EAST AND SOUTH OF THE EAST AND SOUTH BANK OF LITTLE EAGLE CREEK, DESCRIBED AS FOLLOWS; BEGIN AT A POINT IN THE CENTER OF THE COUNTY HIGHWAY 213.0 FEET WEST OF A CORNER STONE AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 NORTH, RANGE 3 EAST, THENCE WEST ON AND ALONG THE SOUTH LINE OF SAID WEST HALF 175.6 FEET TO THE EAST BANK OF LITTLE EAGLE CREEK, THENCE NORTHEASTERLY ON AND ALONG SAID BANK 443.4 FEET TO INTERSECTION WITH THE EAST LINE OF SAID WEST HALF, THENCE SOUTH ON AND ALONG THE SAID EAST LINE 23.5 FEET TO THE CENTER OF SAID COUNTY HIGHWAY, THENCE SOUTHWESTERLY ON AND ALONG SAID CENTER LINE 276.6 FEET TO THE PLACE OF BEGINNING, IN HAMILTON COUNTY, INDIANA.



APPROXIMATE LIMITS OF FLOOD ZONE "AE"
AS PER SCALED INTERPRETATION OF FIRM
MAP #18057C0115F DATED FEB. 19, 2003

NOTES

- THE LOWEST ELEVATION FOR THE FLOOD ZONE ON THIS PROPERTY IS 874.0 PER THE FLOOD MAPS FOR HAMILTON COUNTY.
- THE LOWEST OPENING OF THE PROPOSED BUILDING IS TO BE AT 876.0 OR HIGHER.
- THE SOIL BORINGS SHOWN ON THIS EXHIBIT WERE TAKEN IN 2001. NEW SOIL BORINGS WOULD NEED TO BE TAKEN FOR THE PROPOSED DWELLING.

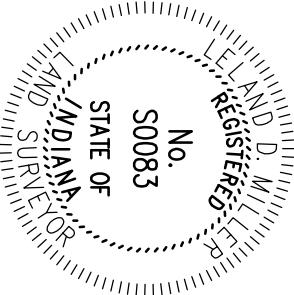
15554 LITTLE EAGLE CREEK ROAD

MILLER SURVEYING 948 CONNER ST. NOBLESVILLE, IN. Ph. 773-2644
THIS SITE PLAN IS NOT COMPLETE AND/OR VALID WITHOUT BOTH PAGES.

NOTE: THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY OR A SURVEYOR LOCATION REPORT.

Debra D Miller

R.L.S. S0083
DATE: JUNE 18, 2015
FOR: DONNA CURRY





WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1507-VU-07
Exhibit 1

Petition Numbers: 1507-VU-07

Subject Site Location: 4540 East 146th Street

Petitioner: Crown Castle by Bingham Greenebaum Doll LLP

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

Current Zoning: Single-Family 3

Current Land Use: Utility Substation

Approximate Acreage: 13.06 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Application
4. Construction Plans

Staff Reviewer: Kevin M. Todd, AICP

PETITION HISTORY

This petition will receive a public hearing at the July 14, 2015, Board of Zoning Appeals meeting

ANALYSIS

Location: The subject property is approximately 13.06 acres +/- in size is located at 4540 East 146th Street (the "Property"). The Property is zoned Single Family-3 (SF-3) and is used as a power sub-station. Adjacent property to the north and east is zoned Bridgewater PUD. Property to the west is zoned Commerce Center PUD. Property to the south (across 146th Street) is within the City of Carmel's jurisdiction, and is currently vacant.

Variance Requests: Wireless Communication Service Facilities are not permitted by-right within the SF-3 zoning classification. The request is to allow a new Wireless Communication Service Facility on the Property.



Project Description: In order to provide upgrade existing wireless communication equipment on the property, a new tower is necessary. The site currently contains two (2) 101' wood towers. The proposal is to install a new steel 155' monopole tower on the site that would replace the two existing wood towers. The new tower would be able to accommodate additional service providers, as well as new antenna technology. Access to the Property would be from an existing access drive off of 146th Street. The proposal includes two new equipment buildings under 200 square feet each. The wireless communication lease area is located north of the power sub-station equipment. If the use is approved through this variance request, the new tower would require Development Plan review and approval by the Advisory Plan Commission.

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 address wireless communication facilities or other utility facilities.

PROCEDURAL

Public Notice: The Board of Zoning Appeals (the "BZA") 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, then the use and site 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 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

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.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

July 14, 2015
1507-VU-07
Exhibit 1

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.

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

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

DEPARTMENT COMMENTS

Recommended Findings for Approval:

If the Board is inclined to APPROVE the variances, then the Department recommends approving the petition with 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 Wireless Communication Service Facility on the Property would be injurious to the public health, safety, morals, and general welfare of the community. The site currently contains two (2) existing cell towers and a power



sub-station, and there is no evidence of harm to the community as a result of those facilities. Adding a new tower with upgraded equipment to replace the two (2) existing towers would increase cell/wireless service in this area of Westfield.

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 pole is on a property that already is developed as an intense power sub-station. Adding a monopole wireless tower to replace two (2) existing towers will likely blend very well with the surrounding facilities.

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

Finding: The subject property is currently heavily used for utility facilities and equipment. Continuing that use on this site with a monopole that would replace two other towers aligns with the current property conditions. Any other permitted SF-3 use would likely not find the utility facilities compatible neighbors.

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. Wireless communication facilities are not allowed by-right in residential zoning districts. Current wireless facilities on the property are older and cannot sustain upgraded antenna equipment, which would improve wireless coverage in this area of Westfield.

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

Finding: The Comprehensive Plan does not address wireless communication facilities. The proposal neither frustrates nor further advances the vision of the Comprehensive Plan.

Recommended Findings for Denial:

If the Board is inclined to DENY the variances, then the Department recommends approving the petition with the following conditions and 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 Wireless Communication Service Facility on the Property would be injurious to the public health, safety, morals, and general welfare of the community. The site currently contains two (2) existing cell towers and a power sub-station, and there is no evidence of harm to the community as a result of those facilities. Adding a new tower with upgraded equipment to replace the two (2) existing towers would increase cell/wireless service in this area of Westfield.

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

Finding: The use and value of adjacent property may be affected in a substantially adverse manner. Perceptions of living near a wireless communications tower may negatively impact the value of property in the nearby home markets.

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

Finding: It is unlikely that the property will redevelop in a manner that is consistent with permitted SF-3 uses.

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. Wireless communication facilities are not allowed by-right in residential zoning districts. The property is heavily used for utility facility use. Any other permitted SF-3 use would likely not find the utility facilities compatible neighbors.

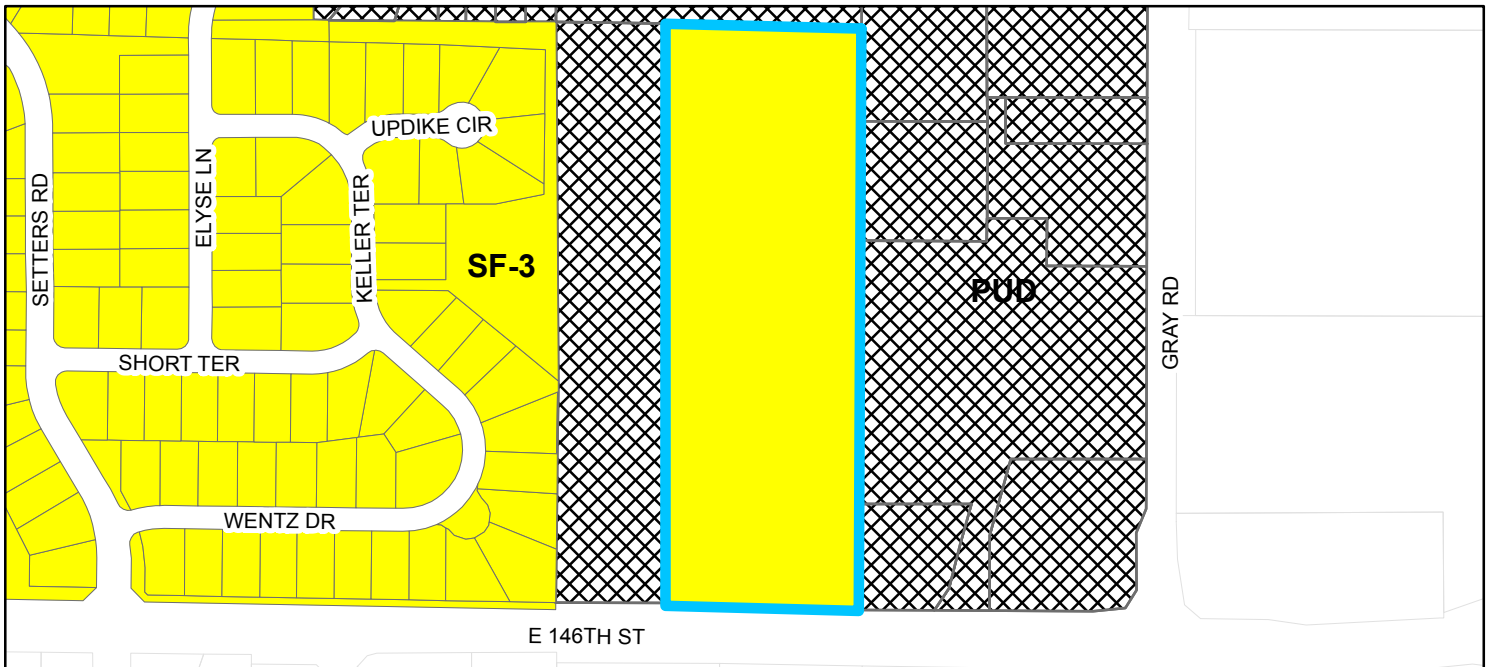
5. The approval does not interfere substantially with the comprehensive plan:

Finding: The Comprehensive Plan does not address wireless communication facilities. The proposal neither frustrates nor further advances the vision of the Comprehensive Plan.

Aerial Location Map



Zoning Map



Zoning

 SF-3 (Single Family - 3)

 PUD (Planned Unit Development)

VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: April 14, 2015

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Crown Castle TELEPHONE: 317-249-2820ADDRESS: 9045 River Rd., Indpls., IN 46240 EMAIL: michael.gasser@crowncastle.coPROPERTY OWNER'S NAME: Wabash Valley Power Assoc., Inc. TELEPHONE: 317-481-2800ADDRESS: 722 N. High School Rd., Indpls., IN 46214 EMAIL: _____REPRESENTATIVE'S NAME: Matthew M. Price, Attorney TELEPHONE: 317-686-5225COMPANY: Bingham Greenebaum Doll LLP EMAIL: mprice@bgdlegal.comADDRESS: 10 W. Market St., Suite 2700, Indpls., IN 46204

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 4540 E. 146th StreetCOUNTY PARCEL ID #(S): 08-10-17-00-00-008.001EXISTING ZONING DISTRICT(S): SF-3 EXISTING LAND USE(S): Substation, Telecom Facility

VARIANCE REQUEST

☒ VARIANCE OF LAND USE CODE CITATION: Chapter 13 (Use Table)☐ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Petitioner requests a variance of use to provide for an upgrade to an existing telecommunications facility within an existing power substation property, including the replacement of an existing 101-foot tall monopole tower with a 154' 5" tall monopole tower, located in an SF-3 District.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATIONS



GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Economic and Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|---|---|
| ☐ Completed Application | ☐ Filing Fee Check (made out to "City of Westfield") |
| ☐ Legal Description | ☐ Copy of Property Deed |
| ☐ Draft Public Notice | ☐ List of Adjoining Property Owners (as provided by County) |
| ☐ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☐ Site Plan (to scale) | ☐ Vicinity Map (including property within 500 feet) |
| ☐ Statement of Intent | ☐ Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- D. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's [Rules of Procedure](#):
1. **Newspaper Publication:** Notice of the hearing will be published in the Indy Star and The Times. The Department will handle the newspaper publication requirement.
 2. **Mailed Public Notice:** The applicant is responsible to send public notice by mail to all interested parties by certified mail with return receipt requested (green card), postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one-eighth of a mile (1/8), whichever is less.
 3. **Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 4. **Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- E. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- F. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- G. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- H. **Resource:** Please see the Board's [Rules of Procedure](#) for more detailed procedural information.

STATEMENT OF INTENT

**Crown Castle
4540 East 146th Street
Variance of Use**

An existing power substation exists at 4540 East 146th Street, at property owned by Wabash Valley Power Association, Inc. This intensely developed power substation includes a variety of large electrical equipment, poles and wires typical of such facilities. Additionally, an existing wireless telecommunications facility also exists at this power substation site, including 101-foot tall wood poles.

Due to the ever-expanding use of wireless service, growing customer base, and projected increases in demand for data services, virtually all wireless providers are seeking new facilities and upgrading existing facilities throughout the nation and beyond. In an effort to upgrade the existing wireless communications facility at 4546 East 146th Street, Crown Castle proposes to replace a 101-foot tall wood pole with a new 154'5" tall steel monopole structure. This new pole will accommodate additional services and additional carriers, and will help to increase service in the vicinity, including southeastern Westfield.

Although Crown Castle proposes to upgrade this existing, long-standing facility, at an intensely-developed power substation property, this upgrade requires a variance of use from the Westfield – Washington Township Board of Zoning Appeals because this property is zoned SF-3, a residential zoning classification.

FINDINGS OF FACT (VARIANCE OF USE)



APPLICANT: _____

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: _____
The facility will meet all structural and FCC standards, and the pole will be far-removed from residential and retail commercial buildings.

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

The facility will consist of a monopole design, and will be located on a power substation property far-removed from the nearest residentially developed property. Additionally, this power substation site has included a number of tall electrical poles, and an existing telecommunications facility with tall wooden tower elements for a number of years.

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

The combination of a power substation with a long-standing telecommunications facility, on a site zoned for residential use while also adjacent to commercially developed properties constitutes a condition peculiar to this property. Additionally, the necessity for physical upgrades to a long-standing telecommunications facility represents a condition peculiar to this property.

- 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: _____

Given the context of this property, being residentially zoned and developed with a power substation and telecommunications facilities, causes the strict application of the terms of the Ordinance to constitute an unnecessary hardship if applied to the property with respect to a necessary upgrade in telecommunications infrastructure.

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

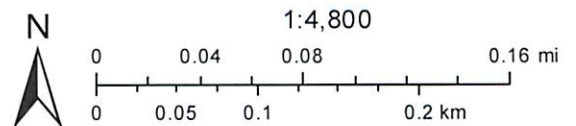
The Comprehensive Plan recognizes the existing zoning of the property, without recognition of the long-standing power substation and telecommunications facilities on-site. Within the context of the continued use and upgrade of long-standing telecommunications facilities on-site, the variance of use will not interfere substantially with the Comprehensive Plan.

4540 E. 146th Street



May 1, 2015

 Parcels



Basemap information here

Hamilton County, Indiana

Ownership, Transfers, Deductions & Credits

Disclaimer:

The information available through this program is current as of April 10, 2015 .

This program allows you to view and print certain public records. Each report reflects information as of a specific date; so the information provided by different reports may not match. All information has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. It may not reflect the current information pertaining to the property of interest.

County Parcel No: 08-10-17-00-00-008.001	State Formatted Parcel No: 2910-17-000-008.001-015
Property Address: 4550 E 146th St Carmel, IN 46033	Deeded Owner: Wabash Valley Power Assoc Inc Owner Address: 722 High School Rd N Indianapolis , IN 46224
Legal Description: Acreage 12.56 Section 17, Township 18, Range 4	
Section/Township/Range: 17/18/4	
Subdivision Name:	
Subdivision Section:	
Deeded Acres: 12.56	
Political Township: Washington	
Lot Number(s):	
Transfer History:	
The Recorded Date might be due to a variety of changes; such as annexation, right-of-way, split, or deed. Recorded Date: 11/12/2014 Check the Transfer History Report for details.	
Current Deductions and Credits:	
See all Current Deductions and Credits for this property	
Status of Homestead Verification Form: Homestead Verification form was not submitted. If you are claiming a Homestead Credit, you must certify your property to maintain the deduction. Submit or Print this form	



SITE NAME
146TH & GRAY
BUN NUMBER
873892

STREET ADDRESS:
4540 EAST 146TH STREET
WESTFIELD, IN 46074
HAMILTON COUNTY
USA

PROJECT DIRECTORY

APPLICANT
CROWN CASTLE
2000 CORPORATE DRIVE
CANONSBURG, PA 15317

CIVIL ENGINEER
FIRST GROUP ENGINEERING INC.
5925 LAKESIDE BLVD.
INDIANAPOLIS, INDIANA 46278
PHONE (317) 290-9549
FAX (317) 290-9560

DRAWING SCALE NOTE: THE DRAWINGS ARE DESIGNED FOR 11"x17" (TABLOID/LEGAL) SIZED PAPER. WHERE MUNICIPALITIES REQUIRE 24"x36" COPIES OF PRINTS, FIRST GROUP SHALL PLOT THE DRAWINGS AT A RATIO OF 2:1. ALL SUCH COPIES SHALL HAVE A SCALE 1/2 THE SHOWN SIZE.

GENERAL NOTES

DO NOT SCALE DRAWINGS
CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS AT THE PROJECT SITE AND SHALL IMMEDIATELY NOTIFY THE ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.

THIS SEAL CERTIFIES ONLY THE CIVIL ENGINEERING DESIGN AND RELATED DETAILS SHOWN ON THESE PLANS. THIS SEAL DOES NOT CERTIFY ANY ARCHITECTURAL, ELECTRICAL, MECHANICAL, STRUCTURAL DESIGN, AND RELATED DETAILS INCLUDED IN THESE PLANS.

FOR SITES WHERE A CRANE IS NECESSARY, THE Contractor SHALL CONFIRM UNOBSTRUCTED ROUTE FOR THE CRANE FROM PUBLIC ROAD TO TOWER SITE PRIOR TO CONSTRUCTION. NO AERIAL OBSTRUCTIONS UNDER FIFTEEN FEET ABOVE GRADE, INCLUDING AERIAL UTILITY LINES, ARE ALLOWED ALONG SAID CRANE ROUTE.



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Call before you dig.
www.call811.com

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PROJECT INFORMATION

TYPE OF CONSTRUCTION:
PROJECT TYPE: REMOVE EXISTING 100' WOODPOLE TOWER
REPLACE WITH 100' STEEL MONOPOLE TOWER

TOWER INFORMATION:
(LATITUDE & LONGITUDE BASED ON NAD 1983)
LATITUDE: 40° 00' 05.38"
LONGITUDE: -86° 05' 35.83"

PROPERTY OWNERS:
CROWN CASTLE
2000 CORPORATE DRIVE
CANONSBURG, PA 15317

TOWER INFORMATION:

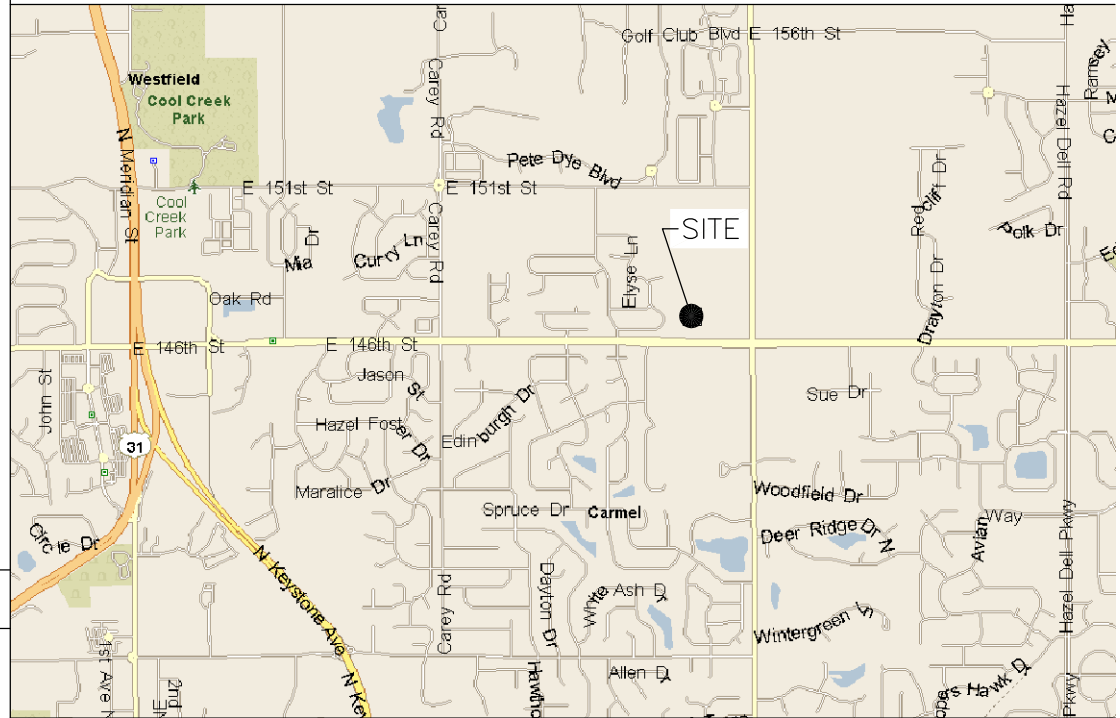
1. TOWER IS LOCATED IN HAMILTON COUNTY, INDIANA.
2. TOWER DESIGNED FOR EXPOSURE B TO THE TIA-222-G STANDARD.
3. TOWER DESIGNED FOR A 90 MPH BASIC WIND IN ACCORDANCE WITH THE TIA-222-G STANDARD.
4. TOWER IS ALSO DESIGNED FOR A 40 MPH BASIC WIND WITH 1.00 IN ICE. ICE IS CONSIDERED TO INCREASE IN THICKNESS WITH HEIGHT.
5. DEFLECTIONS ARE BASED UPON A 60 MPH WIND.
6. TOWER STRUCTURE CLASS II.
7. TOPOGRAPHIC CATEGORY 1 WITH CREST HEIGHT OF 0.00 FT
8. TOWER RATING: 59.6%

TOWER INFORMATION:
ADDITIONAL PARKING REQUIRED: NONE
EXISTING PARKING MODIFICATIONS: NONE REQUIRED

CODE COMPLIANCE

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITIONS OF THE FOLLOWING CODES:

1. 2014 INDIANA BUILDING CODE: (2006 IBC WITH INDIANA AMENDMENTS)
2. 2013 INDIANA ELECTRICAL CODE: (2008 NEC WITH AMENDMENTS)
3. 2014 INDIANA MECHANICAL CODE: (2012 WITH INDIANA AMENDMENTS)
4. 2014 INDIANA PLUMBING CODE
5. 2014 INDIANA FIRE PREVENTION CODE (2012 WITH AMENDMENTS)
6. CITY/COUNTY ORDINANCES
7. LOCAL BUILDING CODE
8. IOSHA



VICINITY MAP

NOT TO SCALE

DIRECTIONS TO SITE:
DEPART INDIANAPOLIS INTERNATIONAL AIRPORT ON LOCAL ROAD(S) (NORTH) 0.2 MI., TURN RIGHT (NORTH-EAST) ONTO LOCAL ROAD(S) 0.2 MI., MERGE ONTO LOCAL ROAD(S) 109 YDS, MERGE ONTO COLONEL H WEIR COOK MEMORIAL DR 1.2 MI., KEEP STRAIGHT ONTO RAMP 0.2 MI., KEEP LEFT TO STAY ON RAMP 0.2 MI., KEEP LEFT TO STAY ON RAMP 0.5 MI., TAKE RAMP (LEFT) ONTO I-70 3.0 MI., AT EXIT 73B, TAKE RAMP (RIGHT) ONTO I-465 [I-74] 15.2 MI., TURN OFF ONTO RAMP 0.2 MI., TAKE RAMP (RIGHT) ONTO I-465 [US-52] 5.5 MI., AT EXIT 31, TURN RIGHT ONTO RAMP 0.4 MI., KEEP LEFT TO STAY ON RAMP 43 YDS, KEEP STRAIGHT ONTO LOCAL ROAD(S) 32 YDS, ROAD NAME CHANGES TO US-31 [N MERIDIAN ST] 6.1 MI., TURN RIGHT (EAST) ONTO E GREYHOUND PASS 0.4 MI., TURN LEFT (EAST) ONTO E 146TH ST 1.8 MI., TURN LEFT (NORTH) ONTO N GRAY RD, THEN IMMEDIATELY TURN LEFT (WEST) ONTO E 146TH ST 0.2 MI., TURN RIGHT (NORTH) ONTO LOCAL ROAD(S) 142 YDS, ARRIVE AT SITE.

DRAWING INDEX

T-1 TITLE SHEET
S-1 SURVEY (BY OTHERS) (FOR INFORMATION ONLY)
S-1A PARCEL PLAN
S-2 SURVEY (BY OTHERS) (FOR INFORMATION ONLY)
A-1 TOWER ELEVATION
A-2 SITE PLAN
A-3 LANDSCAPE PLAN

APPROVALS

OPERATIONS	DATE
RF ENGINEER	DATE
ZONING ADMINISTRATOR	DATE
SITE ACQUISITION	DATE
CROWN CASTLE CONSTRUCTION MANAGER	DATE
PROPERTY OWNER	DATE
POWER APPROVAL	DATE
TELCO APPROVAL	DATE



**FIRST GROUP
ENGINEERING INC.
CONSULTING ENGINEERS**

**5925 LAKESIDE BLVD.
INDIANAPOLIS, INDIANA 46278**

**PH. (317) 290-9549
FAX (317) 290-9560**

REVISIONS				BY
NO.	DATE	DESCRIPTION	MWL	
1	04/27/15	ISSUED FOR LEASE EXHIBIT	MWL	
2	04/28/15	ISSUED FOR ZONING REVIEW	MWL	
3	06/30/15	ISSUED FOR ZONING REVIEW		

DRAWN BY: MWL
CHECKED BY: M.A.N.
DRAWING DATE: 04/22/15

SITE AUDIT INFORMATION

AUDIT CO: KGN
AUDIT DATE: 12/18/07

SITE NAME

146TH & GRAY

BUSINESS UNIT NNUMBER

873892

SITE ADDRESS

4540 EAST 146TH STREET
WESTFIELD, IN 46074
HAMILTON COUNTY
USA

SHEET TITLE

TITLE SHEET

SHEET NUMBER

T-1

TECTONIC
TECTONIC Engineering & Surveying Consultants P.C.
6100 Centre Pointe Drive, Suite 100
West Chester, OH 45069
Phone: (513) 942-9530
www.tectonicengineering.com

Lattice Communications, LLC
441 Vine Street
Suite 3900
Cincinnati, Ohio 45202
Tel. 513 381-7775
Fax. 513 381-1292

THE INFORMATION CONTAINED IN THIS SET OF DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO LATTICE COMMUNICATIONS, LLC IS STRICTLY PROHIBITED.

PROJECT
WESTFIELD
4550 E. 146TH STREET
CARMEL, INDIANA 46033

PROJECT NO: 3018.19

DRAWN BY: KTB **CHECKED BY:** AJR

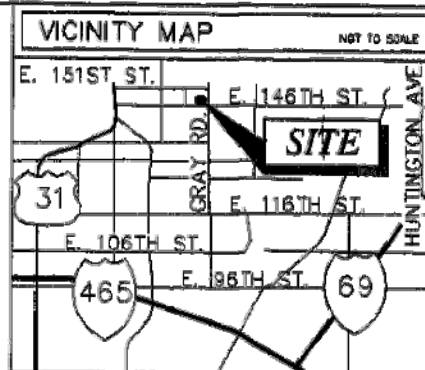
SUBMITTALS		
NO.	DATE	DESCRIPTION
E	4/20/04	REVISED EASEMENTS
D	2/16/04	AS-BUILT
C	6/11/03	REVISED SURVEY
B	1/10/02	ADDED 11 LOCATIONS
A	11/28/01	ISSUED FOR COMMENT

REVISIONS

NO.	DATE	DESCRIPTION
1	04/27/15	ISSUED FOR LEASE EXHIBIT
2	04/28/15	ISSUED FOR ZONING REVIEW
3	06/30/15	ISSUED FOR ZONING REVIEW

SURVEY PLAN

SHEET NUMBER
SU-1



GENERAL NOTES

1. VERTICAL DATUM: NAD 83
2. HORIZONTAL DATUM: NAD 83
3. 1A LOCATION "A": LATITUDE: 40° 00' 05.38" LONGITUDE: 86° 05' 35.83" ELEVATION: 818.82'
4. SITE NO.: 3018.19
5. SITE NAME: WESTFIELD
6. APPLICANT: LATTICE COMMUNICATIONS, LLC 441 VINE ST., SUITE 3900 CINCINNATI, OHIO 45202
7. OWNER: WABASH VALLEY POWER ASSOC INC 4550 E. 146TH STREET CARMEL, IN 46033
8. JURISDICTION: TOWN OF WESTFIELD & WASHINGTON TOWNSHIP
9. PARCEL: 08-10-17-00-00-008.001
10. ZONING DISTRICT: SF-3 (SINGLE FAMILY 3)
11. TRUE NORTH: GPS OBSERVATION
12. DATE OF SURVEY: 11/14/01
13. THE PROPOSED LEASE AREA LIES WITHIN ZONE "X" AREAS DETERMINED TO BE OUTSIDE THE 500 YEAR FLOOD PLAIN, AS SHOWN ON THE FLOOD INSURANCE RATE MAP, TOWN OF WESTFIELD, HAMILTON COUNTY, INDIANA, COMMUNITY PANEL NUMBER 180023 0002 EFFECTIVE DATE 05/11/83, FEDERAL EMERGENCY
14. ALL UNDERGROUND UTILITY INFORMATION SHOWN HEREON WAS DETERMINED FROM SURFACE EVIDENCE. ALL UNDERGROUND UTILITIES SHOULD BE LOCATED IN THE FIELD PRIOR TO COMMENCEMENT OF ALL SITE WORK. CALL LINES AT 1-800-382-8344 A MINIMUM OF 48 HOURS PRIOR TO PLANNED ACTIVITY.

PLAN REFERENCES

1. BEARINGS BASED ON: TRUE NORTH
2. DEED REFERENCE: D.S. 322, PG. 875

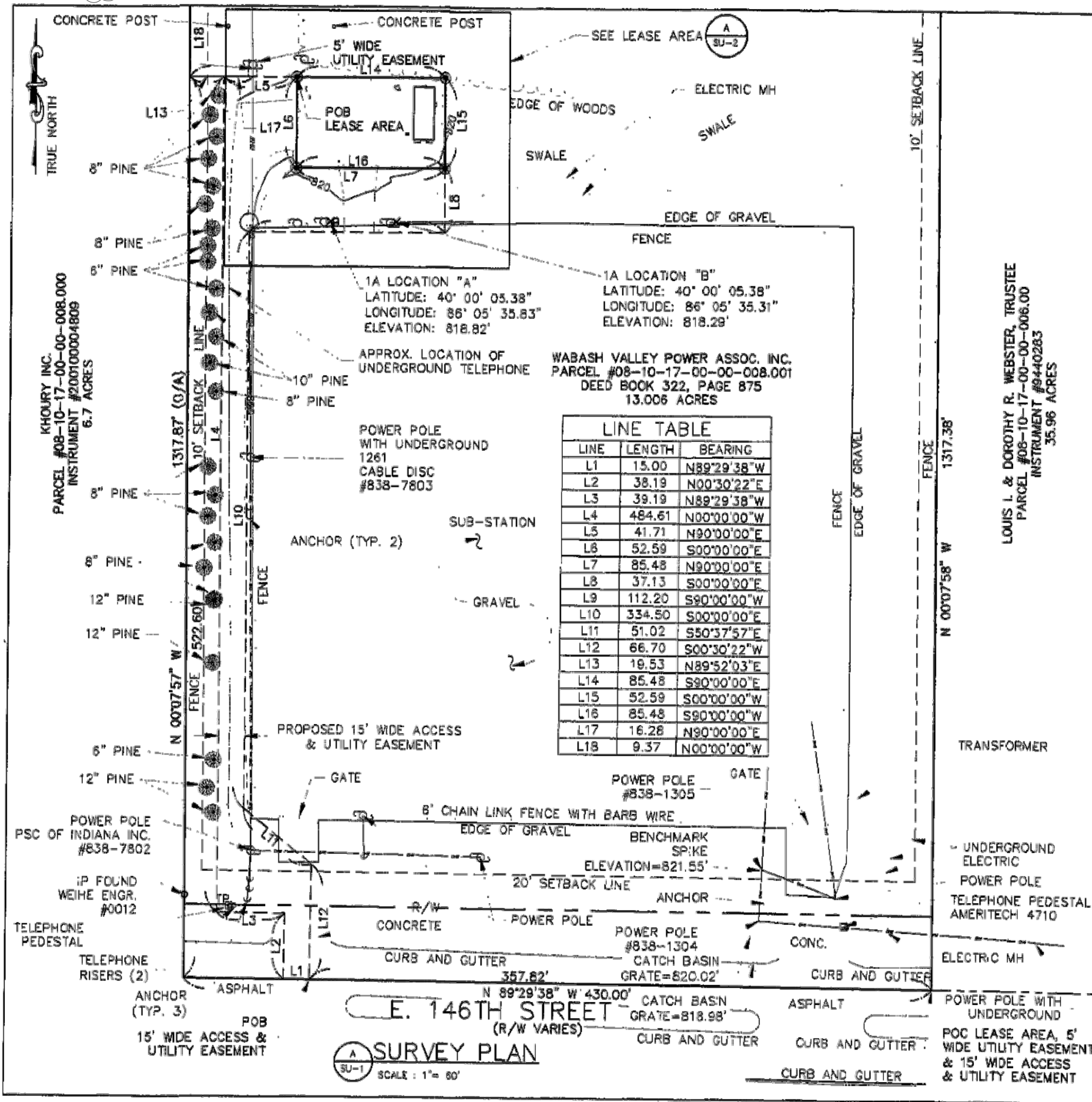
FAA CERTIFICATION

I HEREBY CERTIFY THAT THE LATITUDE, LONGITUDE AND ELEVATIONS PRESENTED HEREON MEET THE REQUIREMENTS OF THE FAA WITH THE FOLLOWING ACCURACIES:
+/- THREE (3) FEET VERTICALLY
+/- FIFTEEN (15) FEET HORIZONTALLY

REGISTERED LAND SURVEYOR _____ DATE _____

ZONING INFORMATION

ZONING DISTRICT	SF-3 (SINGLE FAMILY)
MINIMUM LOT AREA:	NA
REQUIRED:	NA
ROAD FRONTAGE:	NA
FRONT YARD SETBACK:	20
SIDE YARD SETBACK:	10
REAR YARD SETBACK:	30
MAXIMUM BUILDING HEIGHT:	NA
MAXIMUM TOWER HEIGHT:	NA



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PH. (317) 290-9549
FAX (317) 290-9560



REVISIONS		BY	MWL	MWL						
NO.	DATE	DESCRIPTION	ISSUED FOR LEASE EXHIBIT	ISSUED FOR ZONING REVIEW	ISSUED FOR ZONING REVIEW					
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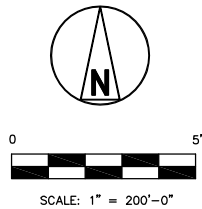
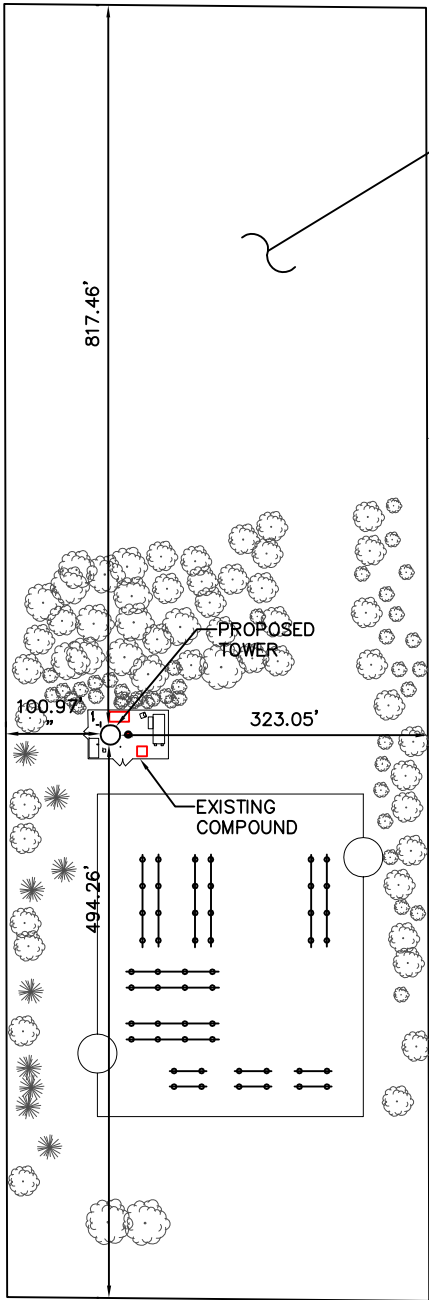
SITE ADDRESS

4540 EAST 146TH STREET
WESTFIELD, IN 46074
HAMILTON COUNTY
USA

SHEET TITLE

PARCEL PLAN

SHEET NUMBER



TECTONIC
• PLANNING
• ENGINEERING
• SURVEYING
• CONSTRUCTION
MANAGEMENT
TECTONIC Engineering & Surveying Consultants P.C.
9100 Centre Points Drive, Suite 100
West Chester, OH 45069
Phone: (513) 842-9330
www.tectonicengineering.com**Lattice Communications, LLC**
441 Vine Street
Suite 3900
Cincinnati, Ohio 45202
Tel. 513 381-7775
Fax. 513 381-1292THE INFORMATION CONTAINED IN THIS SET OF DOCUMENTS
IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE
OTHER THAN THAT WHICH RELATES TO LATTICE
COMMUNICATIONS, LLC IS STRICTLY PROHIBITED.PROJECT
WESTFIELD4550 E. 146TH STREET
CARMEL, INDIANA 46033

PROJECT NO: 3018.19

DRAWN BY: KTB CHECKED BY: AJR

SUBMITTALS

△E	4/20/04	REVISED EASEMENTS
△D	2/16/04	AS-BUILT
△C	6/11/03	REVISED SURVEY
△B	1/10/02	ADDED 1A LOCATIONS
△A	11/21/01	ISSUED FOR COMMENT

ENGINEER SEAL

LEASE AREA & LEGALS

SHEET NUMBER

SU-2

LEASE AREA

Situated in the west half of the southeast quarter of the southeast quarter of Section 17, Township 18 North, Range 4 east, Washington Township, Hamilton County, State of Indiana, being a portion of a 13.006 acre tract as conveyed to Wabash Valley Power Assoc. Inc by Deed Book 322, Pg. 875 as recorded in Hamilton County Recorder's Office and containing 4,495.8452 square feet (0.1032 acres) of land and being more particularly described as follows:

Commencing at a the southeast corner of said 13.006 acre tract; thence, along the southerly property line of said 13.006 acre tract, N89°29'38"W, 430.00 feet to a point at the southwest corner of said 13.006 acre tract; thence, along the westerly property line of said 13.006 acre tract, N00°07'57"W, 522.60 feet to a point; thence, through and across said 13.006 acre tract, N89°52'03"E, 19.53 feet to a point; thence, along the northerly line of said lease area, S90°00'00"E, 85.48 feet to an iron pin set at the northeast corner of said lease area; thence, along the easterly line of said lease area, S00°00'00"W, 52.59 feet to an iron pin set at the southeast corner of said lease area; thence, along the southerly line of said lease area, S90°00'00"W, 85.48 feet to an iron pin set at the southwest corner of said lease area; thence, along the westerly line of said lease area, N00°00'00"W, 52.59 feet to the point of beginning. Subject to any and all easements, rights-of-way, and restrictions of record.

5' WIDE UTILITY EASEMENT

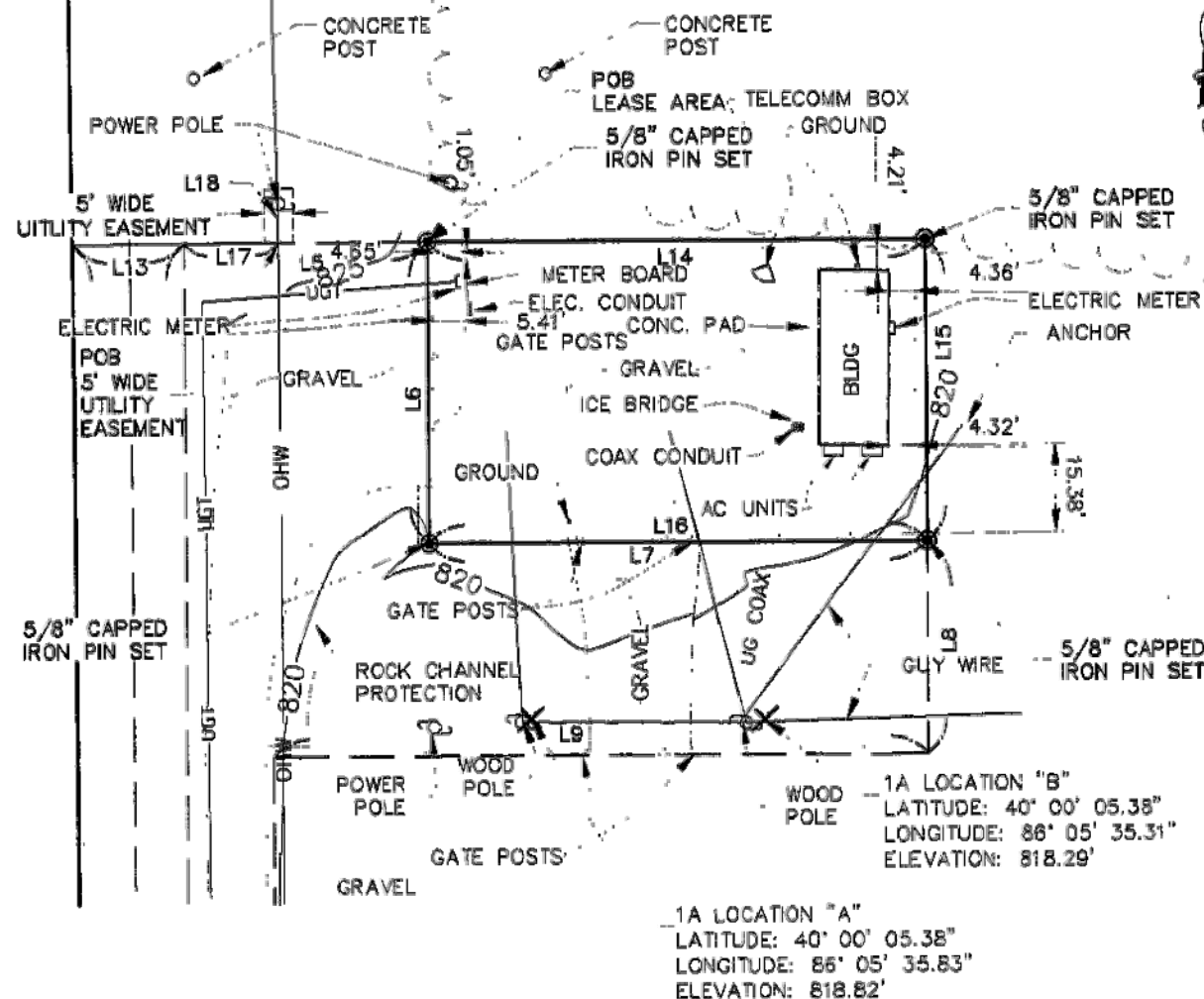
Situated in the west half of the southeast quarter of the southeast quarter of Section 17, Township 18 North, Range 4 east, Washington Township, Hamilton County, State of Indiana, being a portion of a 13.006 acre tract as conveyed to Wabash Valley Power Assoc. Inc by Deed Book 322, Pg. 875 as recorded in Hamilton County Recorder's Office and containing 46.8260 square feet (0.0011 acres) of land being a 5 foot wide utility easement (2.5 foot both sides) the centerline of which is more particularly described as follows:

Commencing at a the southeast corner of said 13.006 acre tract; thence, along the southerly property line of said 13.006 acre tract, N89°29'38"W, 430.00 feet to a point at the southwest corner of said 13.006 acre tract; thence, along the westerly property line of said 13.006 acre tract, N00°07'57"W, 522.60 feet to a point; thence, through and across said 13.006 acre tract, N89°52'03"E, 19.53 feet to a point; thence, along the northerly line of said lease area, S90°00'00"E, 18.28 feet to the POINT OF BEGINNING; thence, along the centerline of said 5 foot wide utility easement, N00°00'00"W, 9.37 feet to the point of terminus of said 5 foot wide utility easement. Subject to any and all easements, rights-of-way, and restrictions of record.

15' WIDE ACCESS AND UTILITY EASEMENT

Situated in the west half of the southeast quarter of the southeast quarter of Section 17, Township 18 North, Range 4 east, Washington Township, Hamilton County, State of Indiana, being a portion of a 13.006 acre tract as conveyed to Wabash Valley Power Assoc. Inc by Deed Book 322, Pg. 875 as recorded in Hamilton County Recorder's Office and containing 12,413.3242 square feet (0.2850 acres) of land, being a 15 foot wide access and utility easement which is more particularly described as follows:

Commencing at a the southeast corner of said 13.006 acre tract; thence, along the southerly property line of said 13.006 acre tract, N89°29'38"W, 357.82 feet to the POINT OF BEGINNING; thence, along the said southerly property line and said 15' wide access and utility easement, N89°29'38"W, 15.00 feet to a point; thence, N00°30'22"E, 38.19 feet to a point; thence, N89°29'38"W, 39.19 feet to a point; thence, N00°00'00"W, 484.61 feet to a point; thence, N90°00'00"E, 41.71 feet to an iron pin set at the northwest corner of the above described lease area; thence, along the westerly line of said lease area, S00°00'00"E, 52.59 feet to an iron pin set at the southwest corner of said lease area; thence, along the southerly line of said lease area, N90°00'00"E, 85.48 feet to an iron pin set at the southeast corner of the above described lease area; thence, S90°00'00"E, 37.13 feet to a point; thence, S90°00'00"W, 112.20 feet to a point; thence, S00°00'00"E, 354.50 feet to a point; thence, S50°37'57"E, 51.02 feet to a point; thence, S00°31'12"W, 66.70 feet to the point of beginning of said 15 foot wide access and utility easement. Subject to any and all easements, rights-of-way, and restrictions of record.

A
SU-2
SCALE: 1" = 30'

LINE	LENGTH	BEARING
L5	41.71	N90°00'00"E
L6	52.59	S00°00'00"E
L7	85.48	N90°00'00"E
L8	37.13	S00°00'00"E
L9	112.20	S90°00'00"W
L14	85.48	S90°00'00"E
L15	52.59	S00°00'00"W
L16	85.48	S90°00'00"W
L18	9.37	N00°00'00"W

THIS SURVEY PLAN IS NOT THE RESULT OF A FULL BOUNDARY SURVEY.
IT IS THE RESULT OF COMPILATION OF RECORD INFORMATION AND LOCATION
OF AVAILABLE MONUMENTATION.

ANTHONY J. ROBINSON
INDIANA REG. SURVEYOR NO. LS2030009



FIRST GROUP
ENGINEERING INC.
CONSULTING ENGINEERS
5925 LAKESIDE BLVD.
INDIANAPOLIS, INDIANA 46278
PH. (317) 290-9549
FAX (317) 290-9560



REVISIONS		BY	DATE	DESCRIPTION
		MWL	04/27/15	ISSUED FOR LEASE EXHIBIT
		MWL	04/28/15	ISSUED FOR ZONING REVIEW
			06/30/15	ISSUED FOR ZONING REVIEW

DRAWN BY: MWL
CHECKED BY: M.A.N.
DRAWING DATE: 04/22/15

SITE AUDIT INFORMATION

AUDIT CO: KGN
AUDIT DATE: 12/18/07

SITE NAME

146TH & GRAY

BUSINESS UNIT NNUMBER

873892

SITE ADDRESS

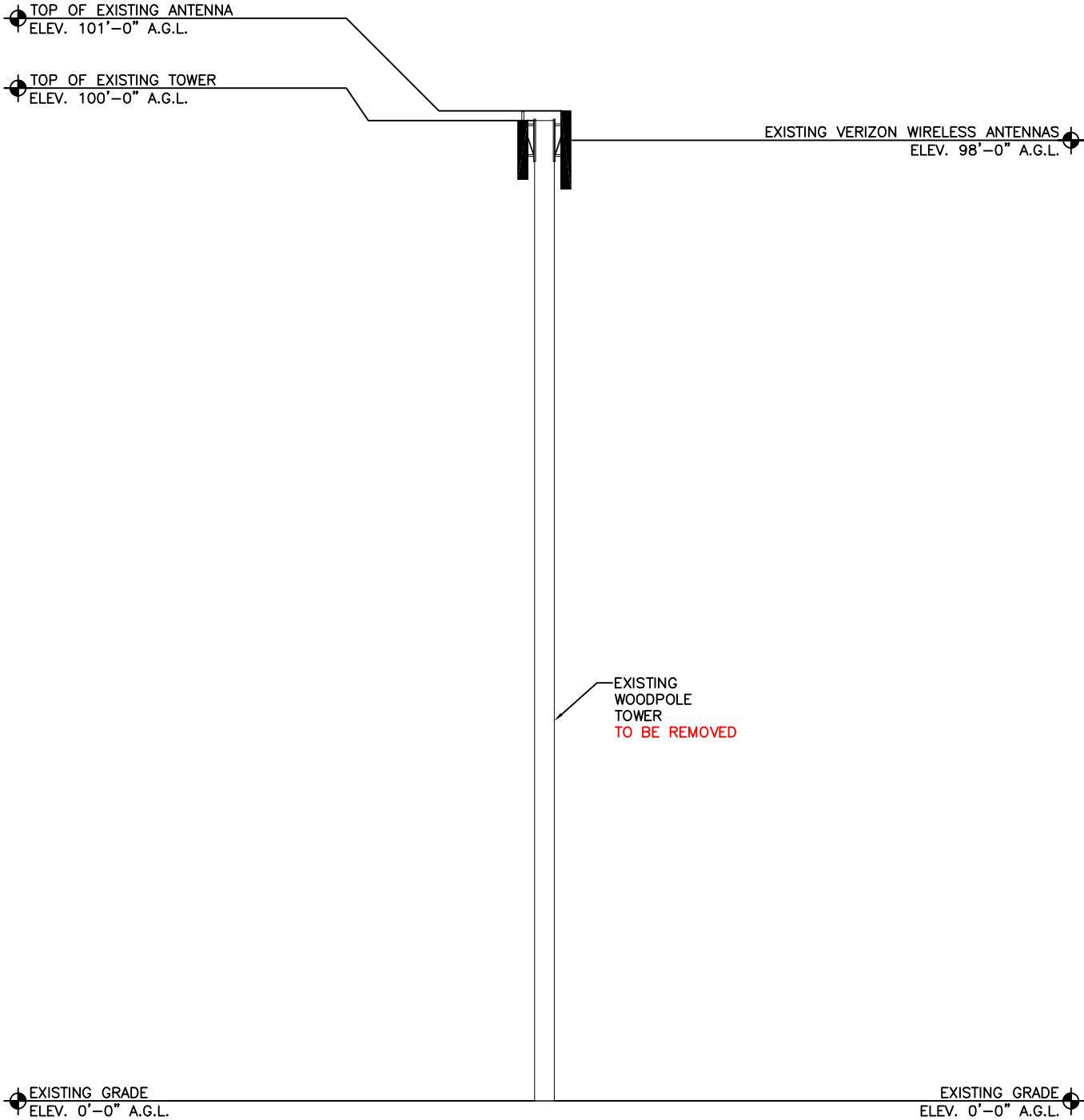
4540 EAST 146TH STREET
WESTFIELD, IN 46074
HAMILTON COUNTY
USA

SHEET TITLE

ELEVATION

SHEET NUMBER

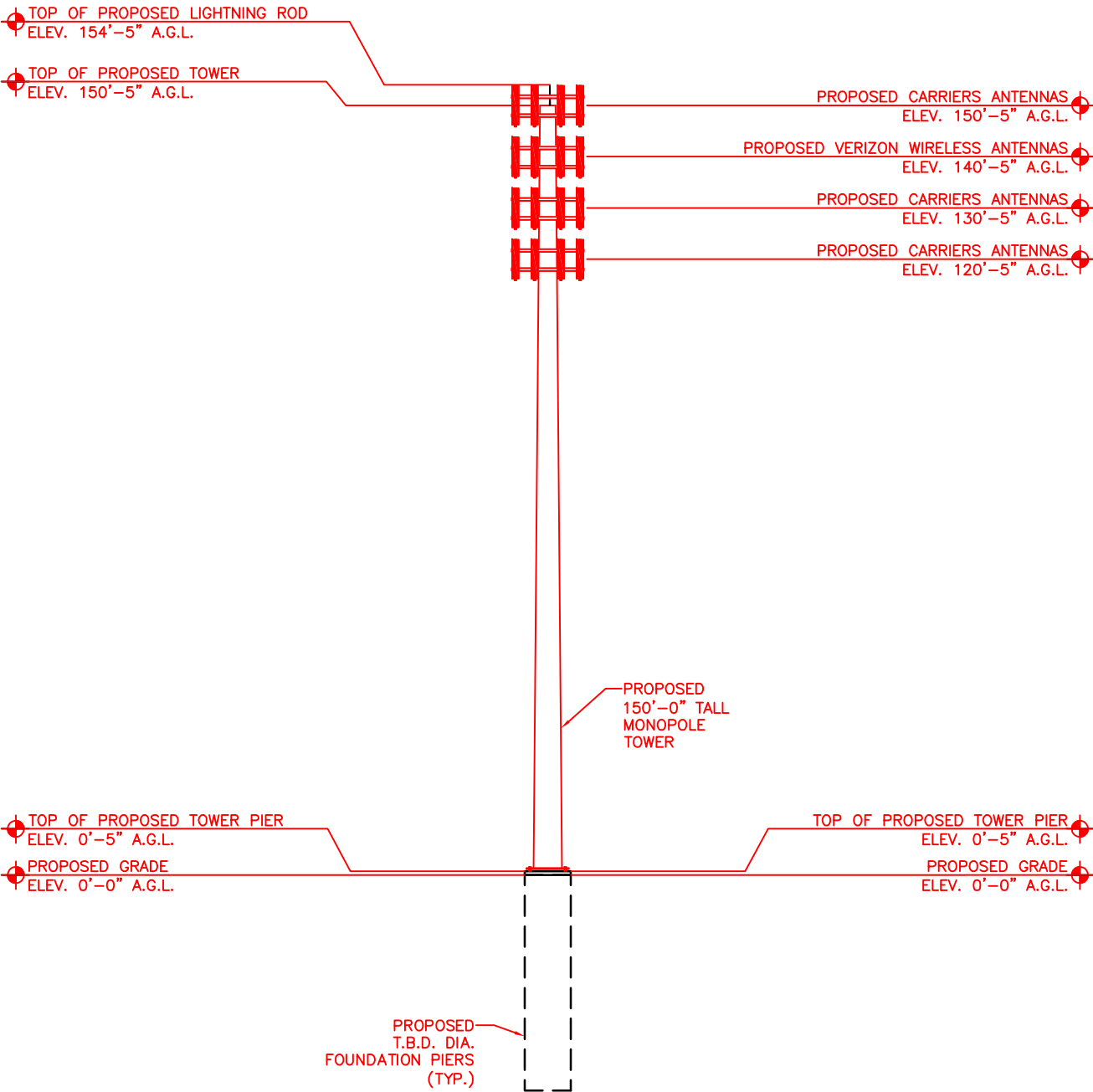
A-1



EXISTING ELEVATION

SCALE:
1/16"=1'

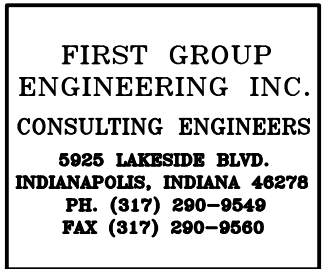
1



PROPOSED ELEVATION

SCALE:
1/32"=1'

2



DRAWN BY: MWL
CHECKED BY: M.A.N.
DRAWING DATE: 04/22/15

AUDIT CO: KGN
AUDIT DATE: 12/18/07

146TH & GRAY

BUSINESS UNIT NNUMBER

873892

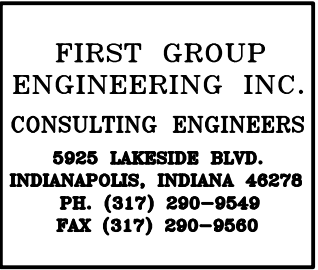
SITE ADDRESS

4540 EAST 146TH STREET
WESTFIELD, IN 46074
HAMILTON COUNTY
USA

SHEET TITLE

SITE PLAN

SHEET NUMBER

[illegible]

DRAWN BY: MWL
CHECKED BY: M.A.N.
DRAWING DATE: 04/22/15

AUDIT CO: KGN
AUDIT DATE: 12/18/07

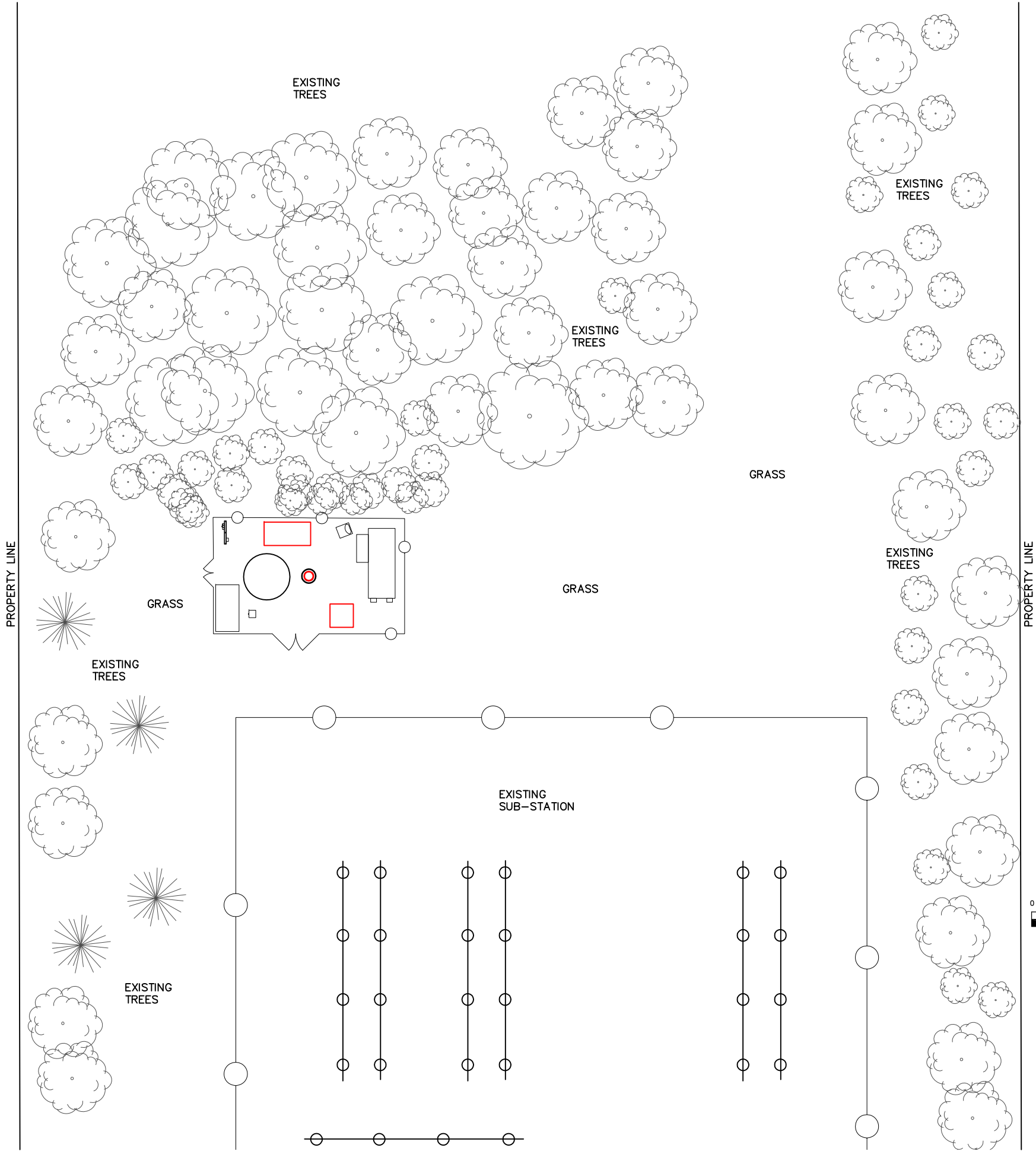
146TH & GRAY

873892

4540 EAST 146TH STREET
WESTFIELD, IN 46074
HAMILTON COUNTY
USA

LANDSCAPE PLAN

SHEET NUMBER





ATTORNEYS AT LAW

Joseph D. Calderon

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Fax: (317) 223-0331

E-Mail: JCalderon@boselaw.com

July 9, 2015

Kevin Todd, AICP
Senior Planner
City of Westfield
Economic and Community Development
2728 E. 171st Street
Westfield, IN 46074

Re: Request for Continuance for Application #1506-VU-06

Dear Mr. Todd:

The purpose of this letter is to request a "continuance" from the BZA Hearing concerning Application #1506-VU-06, currently scheduled for Tuesday, July 14th.

The underlying reason for this request is that we would like to have time to work through the neighbors' stated concerns and also the fact that there will only be three members present at the BZA hearing that night. We would also like to request that this matter be heard on Tuesday, August 11th.

Thank you for your anticipated cooperation in connection with this request.

Very truly yours,

A handwritten signature in cursive script that reads "Joe Calderon".

Joseph D. Calderon,
Attorney for Carmel Turf Care

JDC:mdk

2801915_1

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, June 9, 2015, at Westfield City Hall. Members present included Martin Raines, Ron Rothrock, Bill Sanders and Dave Schmitz. Also present were Jesse Pohlman, Senior Planner; Amanda Rubadue, Associate Planner; and Paul Reis, City Attorney.

APPROVAL OF MINUTES

Rothrock moved to approve the May 12, 2015, minutes.

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

Pohlman reviewed the Public Hearing Rules and Procedures.

ITEMS OF BUSINESS

1503-VU-02
(CONTINUED)

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 an overview of the requested condition modification related to the sound level for the previously approved Variance of Use and noted that since the public hearing, the petitioner has made improvements to the structure and coordinated a sound test on the property on May 29, 2015, with the adjacent property owner and their representatives. Pohlman stated the petitioner intends to present an update to the Board with regard to the progress that has been made and then request a continuance.

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 as well as presented a preliminary design of additional improvements that the petitioner intends to make. Metzel requested a continuance to allow the petitioner to file a variance of development standard request for a reduction in the side yard setback along the north property line to accommodate the proposed additional improvements.

Schmitz motioned to continuance the petition to the next meeting.

Rothrock seconded, and the motion passed 4-0.

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).

Ron Rothrock noted a conflict with this petition and excused himself from the meeting.

Pohlman presented that public notice for this petition, as noted in the staff report, was not done in accordance with the Board's Rules of Procedure because the certified mailed notices were not postmarked and the sign was not posted on the property until six (6) days prior to the hearing, rather than the ten (10) days as required by the Board's Rules of Procedure. Pohlman commented that in order for the Board to consider the petition, the Board will need to unanimously waive its rules; otherwise, if the Board denies the request to waive the Rules of Procedures, then this petition will be automatically continued until the Board's next meeting.

Jeff Kelich, petitioner, presented his request to the Board to waive the Rules of Procedure and noted the reason he would like to move forward at this meeting is because of contractual limitations in acquiring the property.

The Board discussed the request and concerns regarding the short period for public notice.

Schmitz motioned to deny the request to waive the Board's Rules of Procedure.

Sanders seconded and the motion to deny the request passed 3-0.

The petition was automatically continued to the next Board meeting.

REPORTS/COMMENTS

Plan Commission Liaison.

Economic and Community Development Department.

Sanders motioned to adjourn the meeting.

Schmitz seconded, and the motion passed.

The meeting adjourned at 7:25 p.m.

Chairperson
Martin Raines

Secretary
Matthew S. Skelton, Esq., ACIP
Director