



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_06_14_2016

Tuesday, June 14, 2016 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, June 14, 2016 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

MEETING CANCELLED DUE TO LACK OF QUORUM

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 - May 10, 2016

Documents: [May 10, 2016, Minutes](#)

Review BZA Rules & Procedures

Documents: [Redline Version](#) | [Clean Version](#)

ITEMS OF BUSINESS:

1606-VS-09 [CONTINUED]

1602 East 203rd Street

Kurt & Marla Ailor

The petitioner is requesting a Variance of Development Standard to allow for the construction of an accessory building in the Established Front Yard (Article 6.1(D)(2) (a)) in the AG-SF1: Agriculture / Single-Family Rural District.

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Elevations](#) | [Exhibit 5: Existing Conditions](#) | [Exhibit 6: Petitioner's Application](#)

1606-VS-10 [CONTINUED]

4535 East 169th Street (Children's Montessori House)

Omar Usmani

The petitioner is requesting Variances of Development Standard to modify the landscaping requirements (Article 6.8) for an institutional use in the SF3: Single-Family Medium Density District.

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Landscaping Plan](#) | [Exhibit 4: Existing Conditions](#) | [Exhibit 5: Petitioner's Application](#)

1606-VS-11 [CONTINUED]

18957 Mule Barn Road

Jess and Courtney McKinney

The petitioner is requesting a Variance of Development Standard to allow for a reduction in the building setback line for an accessory building (Article 6.1(D)(2)(b)) in the AG-SF1: Agriculture / Single-Family Rural District.

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Elevations](#) | [Exhibit 5: Existing Conditions](#) | [Exhibit 6: Petitioner's Application](#)

1606-VS-12 [CONTINUED]

14837 Thatcher Lane

Crew Carwash

The petitioner is requesting a Variance of Development Standard to allow for the construction of a canopy structure (Articles 4.3(F), 5.2, 6.3(F), and 6.8) in the SB-PD: Special Business / Planned Development District.

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Elevations](#) | [Exhibit 5: Existing Conditions](#) | [Exhibit 6: Petitioner's Application](#)

1510-SE-03

16414 Towne Road (*Findings of Fact*)

Crown Castle

The petitioner is requesting approval of a Special Exception to allow a new Wireless Communication Service Facility in the AG-SF1: Agriculture / Single-Family Rural District (Chapter 13: Use Table).

Documents: [Petitioner's Letter](#) | [BZA Meeting Transcript \(10/13/15\)](#) | [Findings of Fact and Conclusions of Law \(04/18/16\)](#)

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT

RULES OF PROCEDURE
WESTFIELD-WASHINGTON TOWNSHIP BOARD OF ZONING APPEALS

ARTICLE I: JURISDICTION AND RESPONSIBILITIES

1. ~~As set forth in Article 2.3 Authority and Purpose; Jurisdiction and defined in Article 12.1 Definitions of the Unified Development Ordinance, the jurisdiction of the Westfield-Washington Township Board of Zoning Appeals (the "Board") is all land within Washington Township, Hamilton County, Indiana, and all land incorporated into the City of Westfield, Hamilton County, Indiana (the "Jurisdiction of the Board"). The jurisdiction of the Westfield-Washington Township Board of Zoning Appeals ("Board") shall be the whole of Washington Township, Hamilton County, Indiana, including the corporate City of Westfield.~~
2. The Board shall act and operate in accordance with I.C. 36-7-4, 900 Series – Board of Zoning Appeals.
3. Article 3.2 Administration; Board of Zoning Appeals of the Unified Development Ordinance sets forth the duties of the ~~Commission~~Board, as defined by Indiana law (I.C. 36-7-4-900 et seq.) ~~or as may otherwise be required by the Unified Development Ordinance~~, as generally described below:
 - a. Approve or deny all special exceptions from the terms of the ~~zoning ordinance~~Unified Development Ordinance (see Article 10.11) (I.C. 36-7-4-918.2);
 - b. Approve or deny variances of use from the terms of the ~~zoning ordinance~~Unified Development Ordinance (see Article 10.14) (I.C. 36-7-4-918.4);
 - c. Approve or deny variances from the development standards of the ~~zoning ordinance~~Unified Development Ordinance (see Article 10.14) (I.C. 36-7-4-918.5); and
 - d. In accordance with I.C. 36-7-4-918.1, hear and determine appeals (administrative appeals) from and review any order, requirement, decision, or determination made by ~~(see Article 10.3)~~:
 - i. an administrative official ~~or, hearing officer, or staff member charged with the duty of enforcing and interpreting under the zoning ordinance~~Unified Development Ordinance;
 - ii. an administrative board or other body, except the Plan Commission, in relation to the enforcement of the ~~zoning ordinance~~Unified Development Ordinance; or
 - iii. an administrative board or other body, except the Plan Commission, in relation to the enforcement of an ordinance requiring the procurement of an improvement location or occupancy permit. (I.C. 36-7-4-918.1)

ARTICLE II: MEMBERSHIP

1. The Board shall consist of five (5) members (per I.C. 36-7-4-902). All Board members must meet appointee criteria to maintain their seat. The membership criterion are as follows:
 - a. Three (3) citizen members to be appointed by the City of Westfield Mayor, of whom one (1) must be a citizen member of the Plan Commission and two (2) must not be members of the Plan Commission;
 - b. One (1) citizen member to be appointed by the Westfield City Council, who must not be a member of the Plan Commission; and
 - c. One (1) member appointed by the Plan Commission. This member shall:
 - i. Be from the Plan Commission's citizen membership, other than the citizen member appointed by the Mayor; and
 - ii. Not reside within the incorporated area of the City of Westfield (per I.C. 36-7-4-903).
 - d. In the event that a regular Board member is unable to participate in any hearing or decision or has a disqualifying circumstance (as defined in I.C. 36-7-4-909), the appointing authority may appoint an alternate member to participate with the Board for the impacted hearings or decisions. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision (I.C. 36-7-4-907).
2. When an initial term of office expires, each new appointment is for a four (4) year term with the terms being staggered such that at least one appointment expires each year. Members who are citizen members are eligible for reappointment. Members who are also Plan Commission citizen members are eligible for reappointment as long as they retain their membership on the Plan Commission. A member serves until a successor is appointed and qualified.
3. Each term, according to its length, begins and ends on the first Monday in January. For example, a four-year term beginning in 2017 starts on the first Monday in January 2017 and ends on the first Monday in January 2021 (I.C. 36-7-4-906(c)-e).
4. If a vacancy occurs among the membership, then the appointing authority shall appoint a member for the unexpired term of the vacating member.
5. None of the members of the Board may hold other elective or appointive office, except for those appointed from the Plan Commission citizen membership. All members must reside within ~~the the bounds of Jurisdiction of the Board~~ Washington Township, including Westfield. (I.C. 36-7-4-905)
6. The appointing authority may remove a member from the Board ~~of Zoning Appeals~~ for cause, pursuant to I.C. 36-7-4-906.

- a. In addition, if a member of the Board has three (3) unexcused absences (i.e. regular or special meeting) of the Board in any calendar year, then that member becomes disenfranchised and shall no longer be considered a viable member of the Board. Such circumstances shall result in the appointing authority appointing a different person in the vacated seat. An excused absence(s) shall be considered as a call in to the Director of the Economic and Community Development Department (the "Director") and will be further reviewed by the Director and Chairperson of the Board ~~of Zoning Appeals~~.
 - b. In the event of removal, the Board member shall receive a mailed notice in accordance with the terms of I.C. 36-7-4-906(f). The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the members at their address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of the county.
 - c. Any member of the Board that knowingly violates any rule, procedure, City Code, State Statute or law shall be subject to removal under the terms of Section (7)(b) above.
7. Training, Seminars, and Continuing Education

a. Training

- i. The Economic and Community Development Department (~~CDD~~the "Department") ~~will~~may conduct introductory training for all newly appointed members during the initial ninety (90) days of a new member(s) term.
- ii. Each new member(s) ~~will~~may be required to complete and receive a certificate stating the completion of the introductory course in order for that member to continue as a member of the Board ~~of Zoning Appeals~~.
- iii. ~~Should~~If a member fails to complete the initial training requirements, if any, then that member ~~shall~~may be removed as prescribed under this Article II, Item 6. Such circumstances shall result in the appointing authority appointing a different person in the vacated seat.

b. Seminars / Conferences / Workshops

- i. Each member of the ~~BZA-Board~~ shallmay be required to attend at least one (1) planning seminar / conference / workshop offered by the ~~CDD~~Department, other Governmental ~~Offices~~offices, ~~Local-local Builders~~ builders' Associationassociations, American Planning Association or local universities regarding planning and zoning principals and how they affect local planning, during each term of service.
- ii. These events shall be fully reimbursable (if a cost is involved) upon proof of completion by the member in attendance through the ~~CDD~~Department.

c. Continuing Education

- i. Each new member shall become a member of the American Planning Association (APA) and Indiana Chapter of the American Planning Association (APA-IN) through the ~~CDD~~Department.
- ii. With your membership you are encouraged to participate in Programs and Services for Appointed Officials with the American Planning Association online in the following areas:
 1. Live Audio Conference Series
 2. Training Resource Center
 3. Chapter Workshops
 4. Planning and Land Use Law
 5. Ethics Training

ARTICLE III: OFFICERS

1. The Board shall, at its first regular meeting in each year, elect from its members a Chairperson, a Vice-chairperson, and a Pro-tempore. The Chairperson shall preside at all meetings. The Vice-chairperson shall have the authority to act as Chairperson of the Board during the absence or disability of the Chairperson. The Pro-tempore shall have the authority to act as Chairperson of the Board during the absence or disability of both, the Chairperson and Vice-chairperson.
2. The Director shall be permanently appointed as Secretary of the Board.
3. The Director shall be responsible for providing a recording secretary to take and transcribe meeting minutes.

ARTICLE IV: FILING

The Director shall administratively establish ~~application~~petition filing deadlines for all regular meetings of the Board ~~of Zoning Appeals~~. Those deadlines shall be published by the Board at or prior to their December meeting each year.

ARTICLE V: DOCKETING

1. Prior to filing, each applicant (a "petitioner") shall meet with the ~~CDD Planning Staff~~Department in order to determine whether ~~an application~~petition is for a variance of use, a variance of development standard, a special exception, or an appeal of an administrative ~~appeal~~decision (collectively, a "petition").
2. Each ~~case~~petition to be publicly heard before the Board shall be filed with the ~~CDD~~Department in proper form with the required data, numbered serially and placed on the docket of the Board. The docket numbers shall include the year and begin anew on January 1 of each year.
3. As soon as the ~~case~~petition receives a docket number it shall be placed on the docket of the Board and a date set for hearing. ~~Cases-Petitions~~ shall come before the Board in

the regular order of their consecutive numbers unless otherwise ordered by the Director or changed by the Board at the beginning of the meeting.

4. ~~Cases-Petitions~~ may be required to be reviewed by the Technical Advisory Committee (TAC), at the Director's discretion. Such ~~cases-petition~~ shall not come before the Board until reviewed by TAC.

ARTICLE VI: MEETINGS

1. The regular meetings of the Board shall be the Tuesday following the second Monday of each month at 7:00 p.m. in the meeting room of Westfield City Hall, 130 Penn Street, Westfield, Indiana, unless a different time and place are established and given proper notice. When the Tuesday following the second Monday of each month is a legal holiday, then the meetings shall be held on the Wednesday following the second Monday of each month. All meetings of the Board are open to the public. ~~Petition~~ Petition filing deadlines for regular meetings are as established administratively by the Director.
2. Special meetings may be called by the Secretary, as determined at a regular meeting, or by two (2) members of the Board upon written request to the Secretary. The Secretary shall send to all members a written notice of the time, date and place at least three (3) days before the meeting. This written notice is not required if all members are present at a regular meeting when the time, date and place for the special meeting are fixed.
3. A majority (three (3)) of the members of the Board shall constitute a quorum. No action at a regular or properly called special meeting is official, however, unless authorized by a majority of the entire Board.
4. Decisions of the Board shall be by roll call vote of the members. The first roll of each meeting shall be called in alphabetical order of the members' last names. Each successive roll shall be called in the same order as the immediately preceding roll except that the member who voted first in the immediately preceding roll shall vote last. For example:

<u>Roll Call</u>	<u>Member</u>
1st	1,2,3,4,5;
2nd	2,3,4,5,1;
3rd	3,4,5,1,2;
and so on, until the meeting is adjourned.	

5. No member of the Board shall participate in the hearing or decision upon any matter in which the member is directly or indirectly interested in a financial sense (i.e., conflict). In the event of a conflict, the member shall describe the conflict immediately after the matter is introduced by the presiding officer, leave the room, and take no part in the discussion or decision. The existence and description of the conflict shall be entered in the record. All members present shall vote on every question unless prevented by conflict or excused by the presiding officer. (See I.C. 36-7-4-907 if this section causes the need for an alternate member so that the Board may take action on a ~~case~~petition).

6. Abstentions shall be justified in writing, for the record.
7. The Director (or designee) shall take and transcribe a record of all proceedings (minutes) of the Board showing the vote of each member on each question presented, or indicating that the member is absent or not voting, which shall be presented to the Board at the next regular succeeding meeting for approval. When approved, the record shall be signed by the Chairperson and attested by the Secretary. All minutes and ~~case~~petition records shall be maintained in ~~CDD~~the Department and shall be a public record.
8. It shall be the policy of the Board to conclude all Board meetings at or before 11:00 ~~o'clock~~ p.m. In the event that docket items or other Board matters have not been acted on by 11:00 ~~o'clock~~ p.m. on any meeting day, then the meeting shall be recessed and reconvened on the same day of the following week, in the same location, at 7:00 p.m. unless otherwise announced. All items or matters not acted on during the recessed meeting may be acted on during the reconvened meeting without further advertisement. The above notwithstanding, the Board may extend any meeting beyond the hour of 11:00 ~~o'clock~~ p.m. on a vote of a majority of all members present provided a quorum of the Board exists.
9. No person may communicate with any member of the Board before a hearing with intent to influence the member's action on a matter pending before the Board (I.C. 36-7-4-920, g).

ARTICLE VII: ORDER OF BUSINESS

The order of business at regular meetings shall be:

1. Call to Order
2. Roll Call
3. Approval of Minutes of Previous Meetings
4. Other Business
5. Old Business
6. New Business
7. Reports: Director; other
8. Adjournment

ARTICLE VIII: HEARINGS

Subject to the provisions of I.C. 36-7-4-920, public hearings shall be held on all matters as noted above in Article I, and as further required by the ~~zoning ordinance~~Unified Development Ordinance. The Board shall fix a reasonable time for such hearings.

1. Public notice shall be given in accordance with Article X and with I.C. 5-3-1-2 and I.C. 5-3-1-4.

2. In order for a petition ~~petition or appeal~~ to be heard, the petitioner or their appellant, ~~or an agent or representative for the petitioner or appellant,~~ shall be in attendance to present the petition ~~or appeal~~ and answer questions about it. If no one is present to represent the petition ~~or appeal~~, then the Board shall dispose of the petition in accordance with Article XI.
3. Administrative rules are established by the Director for procedures such as filing petitions ~~or appeals~~ and are available in the Department.
4. Special Exceptions: In accordance with Article 10.11(D) of the Unified Development Ordinance, A-a special exception use may be approved only upon the determination in writing that:
 - a. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
 - b. The special exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
 - c. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.
 - d. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the special exception will not result in excessive additional requirements at public expense for such public facilities and services.
 - e. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
 - f. The special exception will be harmonious with and in accordance with the objectives of the Westfield-Washington Township Comprehensive Plan, as amended.
 - g. The special exception will be located in a zoning district where such use is permitted and that all other requirements of the zoning district and the Unified Development Ordinance, and as may be applicable to such use, will be met.
5. ~~Variance of Use: In accordance with Article 10.14(G)(1) of the Unified Development Ordinance, The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health safety morals or general welfare.~~

- ~~f. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood.~~
- ~~g. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.~~
- ~~h. Adequate utilities, streets drainage and other necessary facilities have been or are being improved.~~
- ~~i. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion.~~
- ~~j. The special exception will be located in a district where such use is permitted and that all other requirements set forth, applicable to such special exception, will be met.~~

~~11.5.~~ A-a variance of use may be approved only upon a determination in writing that:

- a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- c. The need for the variance arises from some condition peculiar to the property involved;
- d. The strict application of the terms of the ~~zoning ordinance~~Unified Development Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- e. The approval does not interfere substantially with the comprehensive plan.

~~12.6.~~ Variance of Development Standard: In accordance with Article 10.14(G)(2) of the Unified Development Ordinance, A-a variance of development standards may be approved only upon a determination in writing that:

- a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- c. The strict application of the terms of the ~~zoning ordinance~~Unified Development Ordinance will result in practical difficulties in the use of the property.

~~13.7.~~ Appeals of Administrative Decisions: Regarding administrative appeals (Article I, 3, d), the following shall applyAn appeal of an administrative decision shall be filed and reviewed in accordance with Article 10.3 of the Unified Development Ordinance.:

- ~~d. An appeal filed with the Board must specify the grounds of the appeal and must be filed within 30 days of the date of issuance of the administrative order, requirement, decision or determination.~~
- ~~— For this purpose, the Board has all the powers of the administrative party from which the appeal is taken.~~
- ~~e. The Board shall review the whole record, or certified copies, of the action from which the appeal is taken and then render its decision after its deliberation of the issue.~~
- ~~e. The Board may reverse, affirm or modify the order, requirement, decision or determination from which the appeal is taken.~~

ARTICLE IX: CONDUCT OF HEARINGS

1. Public hearings shall be conducted according to the following procedure. Please note the time limitations for each hearing segment.
 - a. For any ~~petition or appeal for~~petition which a public hearing is required, after the ~~petition or appeal~~petition is introduced by the Chairperson, then a ~~staff~~ report by the Department will be given.
 - b. After being recognized by the Chairperson, each speaker will step up to the podium and ~~sign in and~~ state his/her name and address. The Chairperson or the Board's legal counsel will then issue the following oath to each speaker: "Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth and nothing but the truth so help you God?"
 - c. ~~A The petitioner or appellant or their~~ representative on behalf of the petition shall first present the facts and arguments in support of the ~~case~~petition. (10 minutes)
 - d. Comments and questions from the Board and ~~staff~~ Department shall be withheld until the end of the initial presentation.
 - e. The official public hearing shall then be opened. Supporting comments from organized groups, committees, and individuals, other than the petitioner or ~~their representative~~appellant, shall then follow. Speakers should present new points and not repeat previous speakers. (3 minutes per individual speaking, 5 minutes per group)
 - f. A representative on behalf of the petition ~~The petitioner or appellant~~ shall then receive reasonable time for rebuttal (5 minutes). There shall be no time allotted for a rebuttal to the rebuttal. ~~(5 minutes)~~
 - g. To maintain orderly procedure, each ~~side~~ party should proceed without interruption by ~~the other side~~another party.
 - h. After the discussion of the ~~case~~petition has concluded, then the Board shall consider a motion on the ~~case~~petition.

2. In the presentation of a casepetition:
 - a. The burden shall be upon the ~~petitioner or appellant~~petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the casepetition.
 - b. Statements to the Board made by the petitioner or ~~appellant~~the petitioner's representative at the meeting regarding anticipated methods of operation, siting or other details relevant to the decision shall be binding agreements between the petitioner ~~or appellant~~ and Board and shall be reflected in the minutes of that meeting.
 - c. Drawings, displays, or documents presented at the meeting by the petitioner or ~~appellant~~the petitioner's representative illustrating such details shall also be binding agreements, shall become part of the public record and shall be entered into the ~~case~~-file. Large format drawings, displays or documents shall be submitted to the ~~CDD Department~~, within twenty-four (24) hours after of the hearing, in a format of no larger than 11x17 inches, or an electronically format (.pdf).
3. Every person appearing before the Board shall abide by the orders and directions of the Chairperson. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and the Chairperson may remove individuals from the meeting for inappropriate behavior.
4. The Board, at its discretion and on an affirmative vote of a majority of the Board, may continue or postpone the hearings of any case-petition when, in its judgment, the petitioner or ~~appellant~~the petitioner's representative has not provided sufficient evidence on which to make a determination.
5. The Director, at his/her discretion, may continue or postpone the hearings of any case petition when, in his/her judgment, the petitioner ~~or appellant~~ has not provided sufficient evidence on which to make a determination.
6. Applicants shall be entitled to one (1) postponement/continuance to the first regular Board meeting following the meeting advertised by public notice. Such postponement/continuance must be requested in writing or shall be requested in person by the ~~applicant~~petitioner or their representative, at the scheduled meeting prior to the introduction of the petition within the Other Business section of the agenda. Written requests for postponement/continuance shall be delivered to the Department at least one (1) week prior to the advertised hearing date.
7. Subsequent postponement/continuance requests or requests for a postponement/continuance to a meeting beyond the meeting referred to in ~~paragraph Article IX, Item "5_"~~ above shall be made to the Board in person by the ~~applicant~~petitioner or their representative.
8. Failure of the ~~applicant~~petitioner, or their representative, to appear in order to make the request referred to in ~~paragraph Article IX, Item "6_"~~ above shall result in the

~~applicant's public~~ notice being deemed ineffective. If the ~~applicant~~ petitioner chooses to proceed with the subject request, then it will become necessary for public notice to be served again as originally required for Board hearings.

9. Postponement/continuation of Board requests to a date more than six (6) months beyond the original noticed meeting shall not be granted. The Board shall dismiss such pending requests. The right of ~~applicants—a~~ petitioner to re-file such ~~applicationpetition~~s shall be preserved, providing no final disposition of the prior request has been granted. Such ~~applicationpetition~~ shall again be subject to the payment of filing fees.
10. Postponed/continued ~~easepetition~~s involving the same property that was the subject of a ~~easepetition~~ which has been dismissed by the Board shall not be placed on the docket for consideration within a period of six (6) months after the date of dismissal.

ARTICLE X: NOTICE

The following requirements for public notice of a public hearing to be held by the Board must be met:

1. Interested Parties: Public notice in accordance with this article and with I.C. 5-3-1-2 and I.C. 5-3-1-4 and due notice to interested parties. Interested parties shall be:
 - a. The owners of real property adjacent to the property subject of the petition to a depth of two (2) ownerships of no direct or indirect financial or other interested to the petitioner or property owner, or six hundred and sixty (660) feet, whichever is less; and
 - b. A (as defined in the zoning ordinance) and additional parties if deemed advisable by the Director.
4. A list of the interested parties' last known address shall be obtained from the Hamilton County Auditor, Office of Transfers and Mapping. The list of interested parties should be obtained and dated no earlier than ninety (90) days prior to the postmarked date of the mailed public notice. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine the name and address of the current owner of record, shall be given at least 10 days before the date set for the hearing.
2. Certified Mailing: A petitioner shall mail a copy of legal notice to interested parties in accordance with the following:
 - a. All petitioners or appellants shall inform interested parties of the petition or appeal by sending a copy of legal notice to the residence of the last known address of the interested parties, with such notice being postmarked at least 10 days before the date of the public hearing.
 - b-a. Notice Content: Such notice shall be in a form approved by the Department and shall state include:

- i. The general location by address or other identifiable geographic description of the subject property or area;
- ii. A summary of the subject matter contained in the petition ~~or appeal~~;
- iii. Case Petition's docket number ~~of the petition or appeal~~;
- iv. The name of the petitioner ~~—or appellant—~~ and petitioner's representative(s);
- v. The time and place for which the hearing has been set;
- vi. That the application petition and file may be examined in the office of the THE DEPARTMENT Department;
- vii. That the addressee may voice an opinion at the hearing and/or file written comments with the THE DEPARTMENT Department; and
- viii. That the hearing may be continued from time to time as may be found necessary.

~~b. Interested parties shall be defined per the Zoning Ordinance as described under WC 16.04.210, Definitions.~~

~~b. In order to determine the names and addresses of property owners to whom notice must be sent, the applicant or the applicant's agent shall consult with the County Mapping and Transfers Office, Hamilton County, Indiana, for a list of parties requiring notification per the zoning ordinance. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine the name and address of the current owner of record. Each notice shall be mailed and postmarked no later than the 10 days before the public hearing date.~~

~~b. The manner in which notice must be sent to interested parties shall be as follows:~~

~~*ii.b.~~ Certified Mail and Timing: Required notices to interested parties shall be sent by certified mail with proof of mailing ~~return receipt requested (or an acceptable alternative accepted by the Director and approved by the Board)~~ and postmarked at least ten (10) days ~~before—prior to~~ the public hearing. ~~City staff~~The Department will advise the Board at the Public—public Hearing—hearing of any omissions or deficiencies in such public notice.

~~— Proof that notice has been mailed shall consist of the postmarked certified mail receipts and shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient. Said receipts and a copy of the mailing list from the County Mapping and Transfers Office must be filed in the office of THE DEPARTMENT four (4) calendar days prior to the public hearing.~~

- ~~d.c.~~ Appearance at any public hearing, in person or by their representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
- d. The party requesting the public hearing shall bear the cost of and responsibility for mailed notice to interested parties.
3. Newspaper Legal Notice: The Department shall cause a legal notice to be published in a newspaper qualified to publish legal notices as established by Council (newspaper) at least ten (10) days prior to the public hearing. The Department shall bear the cost of and responsibility for newspaper notice and posting the notice at the meeting location.
- ~~d. The City staff shall cause a legal notice to be published in a newspaper qualified to publish legal notices as established by Council (newspaper) at least 10 days before the public hearing.~~
- ~~e. The THE DEPARTMENT shall bear the cost of and responsibility for newspaper notice and posting the notice at the meeting location.~~
- 6.4. Posting on Property: For all petitions that require a public hearing, the petitioner shall post a sign or signs on the subject property in a location clearly visible to passing traffic.
- ~~d. For all petitions that require a public hearing, the applicant shall post a sign or signs on the subject property in a location clearly visible to passing traffic.~~
- ~~ii.e.~~ The City staff~~Department~~ shall determine sign locations with not less than one (1) sign placed on the property per street frontage per block.
- ~~iii.f.~~ Signs shall be posted on the subject property at least ten (10) days before the public hearing.
- ~~iv.g.~~ Signs shall be provided by the Department and made available in the office of the THE DEPARTMENT officeDepartment.
5. Affidavit of Notice of Public Hearing: The petitioner 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. The affidavit shall include proof that notice has been mailed consisting of the postmarked certified mail receipts and a copy of the list of interested parties from the Hamilton County Auditor, Office of Transfers and Mapping. Said affidavit and attachments shall be filed in the office of the Department at least four (4) calendar days prior to the public hearing.
- 1-6. City Website: The ~~THE DEPARTMENT~~Department shall cause notice and the public hearing agenda to be posted on the official City of Westfield web site.
- 2-7. Meeting Posting: For all meetings, other than public hearings, of the Board, a forty-eight (48)-hour notice shall be made by posting the meeting time and location at

the entrance of the building where the meeting will occur. No other notice shall be required.

ARTICLE XI: FINAL DISPOSITION OF ~~CASE~~PETITIONS

1. The final disposition of ~~case~~petition shall set forth the findings and determinations of the Board, together with any modification, specification or limitation it makes. The Board shall make written findings of fact for all ~~case~~petition that are heard.
2. The Board may dismiss a ~~case~~petition for lack of representation by the petitioner, or petitioner's representative, or lack of jurisdiction. If a petition ~~or appeal~~ is dismissed for lack of representation ~~and a postponement/continuation in accordance with Article IX has not been granted by the Board~~, then ~~the case may be dismissed and~~ the petitioner ~~or appellant~~ may re-file in accordance with these rules.
3. A petitioner ~~or appellant~~ may request to withdraw a ~~case~~petition under "Other Business" on the agenda. A ~~case~~petition may not be withdrawn after all items in "Other Business" have been completed.
4. A ~~case~~petition that has been withdrawn by the petitioner ~~or appellant~~ or a ~~case~~petition that has received an adverse decision shall not be placed on the docket for consideration until six (6) months after the date of the decision.
- ~~5. Regarding special exceptions (Article I, 3, a), variances of use (Article I, 3, b), and variances of development standards (Article I, 3, c), the Board may impose reasonable conditions to the property of the petition or appeal as a part of its approval. Regarding administrative appeals (Article I, 3, d), the Board may reverse, affirm or modify the order, requirement, decision or determination from which the appeal is taken.~~
- 6.5. In all ~~case~~petitions, the Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel. Such commitment shall be made and memorialized in accordance with Article 10.6 of the Unified Development Ordinance.:
- ~~a. The Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.~~
- ~~b. Commitments shall be recorded in the office of the Hamilton County Recorder and take effect upon the approval of the petition or appeal. Unless modified or terminated by the Board, a commitment is binding on:~~
 - ~~— The owner of the parcel;~~
 - ~~— A subsequent owner of the parcel; and~~
 - ~~— A person who acquires an interest in the parcel.~~

~~— A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment~~

~~may be modified or terminated only by a decision of the Board made at a public hearing after notice as provided by these rules.~~

~~g.a.~~ By permitting or requiring commitments, the Board does not obligate itself to approve or deny any request.

~~h.b.~~ Conditions imposed on the granting of a petition are not subject to the rules applicable to commitments.

~~i.c.~~ Commitments do not affect the validity of any covenant, easement, equitable servitude or other land use restriction created in accordance with the law.

~~j.d.~~ Appeals to a decision made by the Board of Zoning Appeals shall follow the process prescribed in I.C. 36-7-4, 1000 Series – Remedies and Enforcement.

ARTICLE XII: AMENDMENTS

Amendments to these Rules of Procedure may be made by the Board upon submission and after review by Mayor's Office, City Council, City Attorney and Director ~~of Community Development~~ and further presented to the Board membership at a regular meeting or special meeting upon the affirmative vote of a majority of the members of the Board. Approved amendments shall be effective immediately, unless otherwise noted.

ARTICLE XIII: ADOPTION AND SUSPENSION OF RULES OF PROCEDURE

1. The Board shall adopt Rules of Procedure for the conduct of meetings of the Board.
2. Adoption of the Rules shall be by majority vote of the Board members present and voting at a regular scheduled meeting where at least four (4) members are present.
3. The Board may suspend the Rules of Procedure by unanimous vote of the members present at the meeting.
4. The Board shall not suspend the Rules of Procedure beyond the duration of the appeal being heard for which the suspension of Rules occurs.

These Rules of Procedure of the Board of Zoning Appeals of Westfield Washington Township, Hamilton County, Indiana, approved by the affirmative vote of five (5) members of said Board at the regular meeting of the Board held on the ____ day of _____, 2016. This approval repeals any prior rules of procedure.

Robert Smith, Esq., Chairman

Date

Dave Schmitz, Vice-Chairman

Date

Members:

Ken Kingshill, Member

Date

Martin Raines, Member

Date

Bill Sanders, Member

Date

Attested by:

Matthew S. Skelton, Director
Economic and Community
Development Department

Date

RULES OF PROCEDURE
WESTFIELD-WASHINGTON TOWNSHIP BOARD OF ZONING APPEALS

ARTICLE I: JURISDICTION AND RESPONSIBILITIES

1. As set forth in Article 2.3 Authority and Purpose; Jurisdiction and defined in Article 12.1 Definitions of the Unified Development Ordinance, the jurisdiction of the Westfield-Washington Township Board of Zoning Appeals (the “Board”) is all land within Washington Township, Hamilton County, Indiana, and all land incorporated into the City of Westfield, Hamilton County, Indiana (the “Jurisdiction of the Board”).
2. The Board shall act and operate in accordance with I.C. 36-7-4, 900 Series – Board of Zoning Appeals.
3. Article 3.2 Administration; Board of Zoning Appeals of the Unified Development Ordinance sets forth the duties of the Board, as defined by Indiana law (I.C. 36-7-4-900 et seq.), as generally described below:
 - a. Approve or deny all special exceptions from the terms of the Unified Development Ordinance (see Article 10.11) (I.C. 36-7-4-918.2);
 - b. Approve or deny variances of use from the terms of the Unified Development Ordinance (see Article 10.14) (I.C. 36-7-4-918.4);
 - c. Approve or deny variances from the development standards of the Unified Development Ordinance (see Article 10.14) (I.C. 36-7-4-918.5); and
 - d. In accordance with I.C. 36-7-4-918.1, hear and determine appeals (administrative appeals) from and review any order, requirement, decision, or determination made by:
 - i. an administrative official or hearing officer charged with the duty of enforcing and interpreting the Unified Development Ordinance;
 - ii. an administrative board or other body, except the Plan Commission, in relation to the enforcement of the Unified Development Ordinance; or
 - iii. an administrative board or other body, except the Plan Commission, in relation to the enforcement of an ordinance requiring the procurement of an improvement location or occupancy permit. (I.C. 36-7-4-918.1)

ARTICLE II: MEMBERSHIP

1. The Board shall consist of five (5) members (per I.C. 36-7-4-902). All Board members must meet appointee criteria to maintain their seat. The membership criterion are as follows:
 - a. Three (3) citizen members to be appointed by the City of Westfield Mayor, of whom one (1) must be a citizen member of the Plan Commission and two (2) must not be members of the Plan Commission;
 - b. One (1) citizen member to be appointed by the Westfield City Council, who must not be a member of the Plan Commission; and
 - c. One (1) member appointed by the Plan Commission. This member shall:
 - i. Be from the Plan Commission's citizen membership, other than the citizen member appointed by the Mayor; and
 - ii. Not reside within the incorporated area of the City of Westfield (per I.C. 36-7-4-903).
 - d. In the event that a regular Board member is unable to participate in any hearing or decision or has a disqualifying circumstance (as defined in I.C. 36-7-4-909), the appointing authority may appoint an alternate member to participate with the Board for the impacted hearings or decisions. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision (I.C. 36-7-4-907).
2. When an initial term of office expires, each new appointment is for a four (4) year term with the terms being staggered such that at least one appointment expires each year. Members who are citizen members are eligible for reappointment. Members who are also Plan Commission citizen members are eligible for reappointment as long as they retain their membership on the Plan Commission. A member serves until a successor is appointed and qualified.
3. Each term, according to its length, begins and ends on the first Monday in January. For example, a four-year term beginning in 2017 starts on the first Monday in January 2017 and ends on the first Monday in January 2021 (I.C. 36-7-4-906(c)).
4. If a vacancy occurs among the membership, then the appointing authority shall appoint a member for the unexpired term of the vacating member.
5. None of the members of the Board may hold other elective or appointive office, except for those appointed from the Plan Commission citizen membership. All members must reside within the Jurisdiction of the Board. (I.C. 36-7-4-905)
6. The appointing authority may remove a member from the Board for cause, pursuant to I.C. 36-7-4-906.
 - a. In addition, if a member of the Board has three (3) unexcused absences (i.e. regular or special meeting) of the Board in any calendar year, then that member

becomes disenfranchised and shall no longer be considered a viable member of the Board. Such circumstances shall result in the appointing authority appointing a different person in the vacated seat. An excused absence(s) shall be considered as a call in to the Director of the Economic and Community Development Department (the "Director") and will be further reviewed by the Director and Chairperson of the Board.

- b. In the event of removal, the Board member shall receive a mailed notice in accordance with the terms of I.C. 36-7-4-906(f). The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the members at their address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of the county.
- c. Any member of the Board that knowingly violates any rule, procedure, City Code, State Statute or law shall be subject to removal under the terms of Section (7)(b) above.

7. Training, Seminars, and Continuing Education

a. Training

- i. The Economic and Community Development Department (the "Department") may conduct introductory training for all newly appointed members during the initial ninety (90) days of a new member(s) term.
- ii. Each new member(s) may be required to complete and receive a certificate stating the completion of the introductory course in order for that member to continue as a member of the Board.
- iii. If a member fails to complete the initial training requirements, if any, then that member may be removed as prescribed under this Article II, Item 6. Such circumstances shall result in the appointing authority appointing a different person in the vacated seat.

b. Seminars / Conferences / Workshops

- i. Each member of the Board may be required to attend at least one (1) planning seminar / conference / workshop offered by the Department, other Governmental offices, local builders' associations, American Planning Association or local universities regarding planning and zoning principals and how they affect local planning, during each term of service.
- ii. These events shall be fully reimbursable (if a cost is involved) upon proof of completion by the member in attendance through the Department.

c. Continuing Education

- i. Each new member shall become a member of the American Planning Association (APA) and Indiana Chapter of the American Planning Association (APA-IN) through the Department.
- ii. With your membership you are encouraged to participate in Programs and Services for Appointed Officials with the American Planning Association online in the following areas:
 1. Live Audio Conference Series
 2. Training Resource Center
 3. Chapter Workshops
 4. Planning and Land Use Law
 5. Ethics Training

ARTICLE III: OFFICERS

1. The Board shall, at its first regular meeting in each year, elect from its members a Chairperson, a Vice-chairperson, and a Pro-tempore. The Chairperson shall preside at all meetings. The Vice-chairperson shall have the authority to act as Chairperson of the Board during the absence or disability of the Chairperson. The Pro-tempore shall have the authority to act as Chairperson of the Board during the absence or disability of both, the Chairperson and Vice-chairperson.
2. The Director shall be permanently appointed as Secretary of the Board.
3. The Director shall be responsible for providing a recording secretary to take and transcribe meeting minutes.

ARTICLE IV: FILING

The Director shall administratively establish petition filing deadlines for all regular meetings of the Board. Those deadlines shall be published by the Board at or prior to their December meeting each year.

ARTICLE V: DOCKETING

1. Prior to filing, each applicant (a "petitioner") shall meet with the Department in order to determine whether a petition is for a variance of use, a variance of development standard, a special exception, or an appeal of an administrative decision (collectively, a "petition").
2. Each petition to be publicly heard before the Board shall be filed with the Department in proper form with the required data, numbered serially and placed on the docket of the Board. The docket numbers shall include the year and begin anew on January 1 of each year.
3. As soon as the petition receives a docket number it shall be placed on the docket of the Board and a date set for hearing. Petitions shall come before the Board in the regular

order of their consecutive numbers unless otherwise ordered by the Director or changed by the Board at the beginning of the meeting.

4. Petitions may be required to be reviewed by the Technical Advisory Committee (TAC), at the Director's discretion. Such petition shall not come before the Board until reviewed by TAC.

ARTICLE VI: MEETINGS

1. The regular meetings of the Board shall be the Tuesday following the second Monday of each month at 7:00 p.m. in the meeting room of Westfield City Hall, 130 Penn Street, Westfield, Indiana, unless a different time and place are established and given proper notice. When the Tuesday following the second Monday of each month is a legal holiday, then the meetings shall be held on the Wednesday following the second Monday of each month. All meetings of the Board are open to the public. Petition filing deadlines for regular meetings are as established administratively by the Director.
2. Special meetings may be called by the Secretary, as determined at a regular meeting, or by two (2) members of the Board upon written request to the Secretary. The Secretary shall send to all members a written notice of the time, date and place at least three (3) days before the meeting. This written notice is not required if all members are present at a regular meeting when the time, date and place for the special meeting are fixed.
3. A majority (three (3)) of the members of the Board shall constitute a quorum. No action at a regular or properly called special meeting is official, however, unless authorized by a majority of the entire Board.
4. Decisions of the Board shall be by roll call vote of the members. The first roll of each meeting shall be called in alphabetical order of the members' last names. Each successive roll shall be called in the same order as the immediately preceding roll except that the member who voted first in the immediately preceding roll shall vote last. For example:

<u>Roll Call</u>	<u>Member</u>
1st	1,2,3,4,5;
2nd	2,3,4,5,1;
3rd	3,4,5,1,2;
and so on, until the meeting is adjourned.	

5. No member of the Board shall participate in the hearing or decision upon any matter in which the member is directly or indirectly interested in a financial sense (i.e., conflict). In the event of a conflict, the member shall describe the conflict immediately after the matter is introduced by the presiding officer, leave the room, and take no part in the discussion or decision. The existence and description of the conflict shall be entered in the record. All members present shall vote on every question unless prevented by conflict or excused by the presiding officer. (See I.C. 36-7-4-907 if this section causes the need for an alternate member so that the Board may take action on a petition).
6. Abstentions shall be justified in writing, for the record.

7. The Director (or designee) shall take and transcribe a record of all proceedings (minutes) of the Board showing the vote of each member on each question presented, or indicating that the member is absent or not voting, which shall be presented to the Board at the next regular succeeding meeting for approval. When approved, the record shall be signed by the Chairperson and attested by the Secretary. All minutes and petition records shall be maintained in the Department and shall be a public record.
8. It shall be the policy of the Board to conclude all Board meetings at or before 11:00 p.m. In the event that docket items or other Board matters have not been acted on by 11:00 p.m. on any meeting day, then the meeting shall be recessed and reconvened on the same day of the following week, in the same location, at 7:00 p.m. unless otherwise announced. All items or matters not acted on during the recessed meeting may be acted on during the reconvened meeting without further advertisement. The above notwithstanding, the Board may extend any meeting beyond the hour of 11:00 p.m. on a vote of a majority of all members present provided a quorum of the Board exists.
9. No person may communicate with any member of the Board before a hearing with intent to influence the member's action on a matter pending before the Board (I.C. 36-7-4-920, g).

ARTICLE VII: ORDER OF BUSINESS

The order of business at regular meetings shall be:

1. Call to Order
2. Roll Call
3. Approval of Minutes of Previous Meetings
4. Other Business
5. Old Business
6. New Business
7. Reports: Director; other
8. Adjournment

ARTICLE VIII: HEARINGS

Subject to the provisions of I.C. 36-7-4-920, public hearings shall be held on all matters as noted above in Article I, and as further required by the Unified Development Ordinance. The Board shall fix a reasonable time for such hearings.

1. Public notice shall be given in accordance with Article X and with I.C. 5-3-1-2 and I.C. 5-3-1-4.
2. In order for a petition to be heard, the petitioner or their representative shall be in attendance to present the petition and answer questions about it. If no one is present to represent the petition, then the Board shall dispose of the petition in accordance with Article XI.

3. Administrative rules are established by the Director for procedures such as filing petitions and are available in the Department.
4. Special Exceptions: In accordance with Article 10.11(D) of the Unified Development Ordinance, a special exception use may be approved only upon the determination in writing that:
 - a. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
 - b. The special exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
 - c. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.
 - d. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the special exception will not result in excessive additional requirements at public expense for such public facilities and services.
 - e. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
 - f. The special exception will be harmonious with and in accordance with the objectives of the Westfield-Washington Township Comprehensive Plan, as amended.
 - g. The special exception will be located in a zoning district where such use is permitted and that all other requirements of the zoning district and the Unified Development Ordinance, and as may be applicable to such use, will be met.
5. Variance of Use: In accordance with Article 10.14(G)(1) of the Unified Development Ordinance, a variance of use may be approved only upon a determination in writing that:
 - a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

- c. The need for the variance arises from some condition peculiar to the property involved;
 - d. The strict application of the terms of the Unified Development Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
 - e. The approval does not interfere substantially with the comprehensive plan.
6. Variance of Development Standard: In accordance with Article 10.14(G)(2) of the Unified Development Ordinance, a variance of development standards may be approved only upon a determination in writing that:
- a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - c. The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.
7. Appeals of Administrative Decisions: An appeal of an administrative decision shall be filed and reviewed in accordance with Article 10.3 of the Unified Development Ordinance.

ARTICLE IX: CONDUCT OF HEARINGS

1. Public hearings shall be conducted according to the following procedure. Please note the time limitations for each hearing segment.
 - a. For any petition which a public hearing is required, after the petition is introduced by the Chairperson, then a report by the Department will be given.
 - b. After being recognized by the Chairperson, each speaker will step up to the podium and state his/her name and address. The Chairperson or the Board's legal counsel will then issue the following oath to each speaker: "Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth and nothing but the truth so help you God?"
 - c. A representative on behalf of the petition shall first present the facts and arguments in support of the petition. (10 minutes)
 - d. Comments and questions from the Board and Department shall be withheld until the end of the initial presentation.
 - e. The official public hearing shall then be opened. Supporting comments from organized groups, committees, and individuals, other than the petitioner or their representative, shall then follow. Speakers should present new points and not repeat previous speakers. (3 minutes per individual speaking)

- f. A representative on behalf of the petition shall then receive reasonable time for rebuttal (5 minutes). There shall be no time allotted for a rebuttal to the rebuttal.
 - g. To maintain orderly procedure, each party should proceed without interruption by another party.
 - h. After the discussion of the petition has concluded, then the Board shall consider a motion on the petition.
- 2. In the presentation of a petition:
 - a. The burden shall be upon the petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the petition.
 - b. Statements to the Board made by the petitioner or the petitioner's representative at the meeting regarding anticipated methods of operation, siting or other details relevant to the decision shall be binding agreements between the petitioner and Board and shall be reflected in the minutes of that meeting.
 - c. Drawings, displays, or documents presented at the meeting by the petitioner or the petitioner's representative illustrating such details shall also be binding agreements, shall become part of the public record and shall be entered into the file. Large format drawings, displays or documents shall be submitted to the Department within twenty-four (24) hours after the hearing in an electronic format (.pdf).
- 3. Every person appearing before the Board shall abide by the orders and directions of the Chairperson. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and the Chairperson may remove individuals from the meeting for inappropriate behavior.
- 4. The Board, at its discretion and on an affirmative vote of a majority of the Board, may continue or postpone the hearing of any petition when, in its judgment, the petitioner or the petitioner's representative has not provided sufficient evidence on which to make a determination.
- 5. The Director, at his/her discretion, may continue or postpone the hearing of any petition when, in his/her judgment, the petitioner has not provided sufficient evidence on which to make a determination.
- 6. Applicants shall be entitled to one (1) postponement/continuance to the first regular Board meeting following the meeting advertised by public notice. Such postponement/continuance must be requested in writing or shall be requested in person by the petitioner or their representative at the scheduled meeting prior to the introduction of the petition within the Other Business section of the agenda. Written requests for postponement/continuance shall be delivered to the Department at least one (1) week prior to the advertised hearing date.

7. Subsequent postponement/continuance requests or requests for a postponement/continuance to a meeting beyond the meeting referred to in Article IX, Item 5 above shall be made to the Board in person by the petitioner or their representative.
8. Failure of the petitioner, or their representative, to appear in order to make the request referred to in Article IX, Item 6 above shall result in the public notice being deemed ineffective. If the petitioner chooses to proceed with the subject request, then it will become necessary for public notice to be served again as originally required for Board hearings.
9. Postponement/continuation of Board requests to a date more than six (6) months beyond the original noticed meeting shall not be granted. The Board shall dismiss such pending requests. The right of a petitioner to re-file such petitions shall be preserved, providing no final disposition of the prior request has been granted. Such petition shall again be subject to the payment of filing fees.
10. Postponed/continued petitions involving the same property that was the subject of a petition which has been dismissed by the Board shall not be placed on the docket for consideration within a period of six (6) months after the date of dismissal.

ARTICLE X: NOTICE

The following requirements for public notice of a public hearing to be held by the Board must be met:

1. Interested Parties: Public notice in accordance with this article and with I.C. 5-3-1-2 and I.C. 5-3-1-4 and due notice to interested parties. Interested parties shall be:
 - a. The owners of real property adjacent to the property subject of the petition to a depth of two (2) ownerships of no direct or indirect financial or other interested to the petitioner or property owner, or six hundred and sixty (660) feet, whichever is less; and
 - b. Additional parties deemed advisable by the Director.A list of the interested parties' last known address shall be obtained from the Hamilton County Auditor, Office of Transfers and Mapping. The list of interested parties should be obtained and dated no earlier than ninety (90) days prior to the postmarked date of the mailed public notice. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine the name and address of the current owner of record.
2. Certified Mailing: A petitioner shall mail a copy of legal notice to interested parties in accordance with the following:
 - a. Notice Content: Such notice shall be in a form approved by the Department and shall include:
 - i. The general location by address or other identifiable geographic description of the subject property or area;

- ii. A summary of the subject matter contained in the petition;
 - iii. Petition's docket number;
 - iv. The name of the petitioner and petitioner's representative(s);
 - v. The time and place for which the hearing has been set;
 - vi. That the petition and file may be examined in the office of the Department;
 - vii. That the addressee may voice an opinion at the hearing and/or file written comments with the Department; and
 - viii. That the hearing may be continued from time to time as may be found necessary.
- b. Certified Mail and Timing: Required notices to interested parties shall be sent by certified mail with proof of mailing and postmarked at least ten (10) days prior to the public hearing. The Department will advise the Board at the public hearing of any omissions or deficiencies in such public notice.
- c. Appearance at any public hearing, in person or by their representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
- d. The party requesting the public hearing shall bear the cost of and responsibility for mailed notice to interested parties.
3. Newspaper Legal Notice: The Department shall cause a legal notice to be published in a newspaper qualified to publish legal notices as established by Council (newspaper) at least ten (10) days prior to the public hearing. The Department shall bear the cost of and responsibility for newspaper notice and posting the notice at the meeting location.
4. Posting on Property: For all petitions that require a public hearing, the petitioner shall post a sign or signs on the subject property in a location clearly visible to passing traffic.
- a. The Department shall determine sign locations with not less than one (1) sign placed on the property per street frontage per block.
 - b. Signs shall be posted on the subject property at least ten (10) days before the public hearing.
 - c. Signs shall be provided by the Department and made available in the office of the Department.
5. Affidavit of Notice of Public Hearing: The petitioner 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. The affidavit shall include proof that notice has been mailed consisting of the postmarked certified mail receipts and a copy of the list of interested parties from the Hamilton County Auditor, Office of Transfers and Mapping. Said affidavit and attachments shall be filed in the office of the Department at least four (4) calendar days prior to the public hearing.

6. City Website: The Department shall cause notice and the public hearing agenda to be posted on the official City of Westfield web site.
7. Meeting Posting: For all meetings, other than public hearings, of the Board, a forty-eight (48) hour notice shall be made by posting the meeting time and location at the entrance of the building where the meeting will occur. No other notice shall be required.

ARTICLE XI: FINAL DISPOSITION OF PETITIONS

1. The final disposition of petitions shall set forth the findings and determinations of the Board, together with any modification, specification or limitation it makes. The Board shall make written findings of fact for all petitions that are heard.
2. The Board may dismiss a petition for lack of representation by the petitioner, or petitioner's representative, or lack of jurisdiction. If a petition is dismissed for lack of representation, then the petitioner may re-file in accordance with these rules.
3. A petitioner may request to withdraw a petition under "Other Business" on the agenda. A petition may not be withdrawn after all items in "Other Business" have been completed.
4. A petition that has been withdrawn by the petitioner or a petition that has received an adverse decision shall not be placed on the docket for consideration until six (6) months after the date of the decision.
5. In all petitions, the Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel. Such commitment shall be made and memorialized in accordance with Article 10.6 of the Unified Development Ordinance.
 - a. By permitting or requiring commitments, the Board does not obligate itself to approve or deny any request.
 - b. Conditions imposed on the granting of a petition are not subject to the rules applicable to commitments.
 - c. Commitments do not affect the validity of any covenant, easement, equitable servitude or other land use restriction created in accordance with the law.
 - d. Appeals to a decision made by the Board of Zoning Appeals shall follow the process prescribed in I.C. 36-7-4, 1000 Series – Remedies and Enforcement.

ARTICLE XII: AMENDMENTS

Amendments to these Rules of Procedure may be made by the Board upon submission and after review by Mayor's Office, City Council, City Attorney and Director and further presented to the Board membership at a regular meeting or special meeting upon the affirmative vote of a majority of the members of the Board. Approved amendments shall be effective immediately, unless otherwise noted.

ARTICLE XIII: ADOPTION AND SUSPENSION OF RULES OF PROCEDURE

1. The Board shall adopt Rules of Procedure for the conduct of meetings of the Board.
2. Adoption of the Rules shall be by majority vote of the Board members present and voting at a regular scheduled meeting where at least four (4) members are present.
3. The Board may suspend the Rules of Procedure by unanimous vote of the members present at the meeting.
4. The Board shall not suspend the Rules of Procedure beyond the duration of the appeal being heard for which the suspension of Rules occurs.

These Rules of Procedure of the Board of Zoning Appeals of Westfield Washington Township, Hamilton County, Indiana, approved by the affirmative vote of five (5) members of said Board at the regular meeting of the Board held on the ____ day of _____, 2016. This approval repeals any prior rules of procedure.

Robert Smith, Esq., Chairman

Date

Dave Schmitz, Vice-Chairman

Date

Members:

Ken Kingshill, Member

Date

Martin Raines, Member

Date

Bill Sanders, Member

Date

Attested by:

Matthew S. Skelton, Director
Economic and Community
Development Department

Date

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, May 10, 2016, at Westfield City Hall. Members present included Ken Kingshill, Martin Raines, Bill Sanders, Dave Schmitz, and Robert Smith. Also present were Jesse Pohlman, Senior Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Schmitz moved to approve the April 12, 2016, meeting minutes.

Raines seconded, and the motion passed 5-0.

Smith tabled the Adoption of Amended Rules of Procedure until the next meeting to allow the Board additional opportunity to review.

Pohlman reviewed the Public Hearing Rules and Procedures.

ITEMS OF BUSINESS

1605-VS-08

[PUBLIC HEARING]

17001 Oak Ridge Road (Westfield Business Centre)

Jackson Development, LLC

The petitioner is requesting a Variance of Standard to modify Architectural Standards for Masonry Material requirements (Article 6.3(G)(2)(1)(i)) and Building Façade offsets (Article 6.3(G)(2)(a)(ii)) in the OI: Open Industrial District.

Pohlman presented an overview of the requested variance, as summarized in the Department report. Pohlman distributed the petitioner's hardcopies of the presentation materials.

Alex Beatty, Faegre Baker Daniels, on behalf of the petitioner, gave a brief presentation.

Public Hearing opened at 7:16 p.m.

No public comments.

Public Hearing closed at 7:17 p.m.

Board discussion regarding consistency of the proposed architecture with the existing buildings in the Oak Ridge Road corridor and clarification that the variance and applicable standard was only for the front building façade parallel to Oak Ridge Road.

Kingshill motioned to approve the Variance of Standard with the condition the existing trees and mound located along the western property line be preserved.

Sanders seconded and the Motion passed 5-0.

Sanders moved to adopt the Staff's recommended findings of fact for approval.

Schmitz seconded and the Motion passed 5-0.

REPORTS/COMMENTS

Plan Commission Liaison report by Schmitz.

Economic and Community Development Department, no report.

Kingshill motioned to adjourn the meeting.

Raines seconded, and the motion passed.

The meeting adjourned at 7:30 p.m.

Chairperson
Robert Smith, Esq.

Secretary
Matthew S. Skelton, Esq., AICP
Director

June 3, 2016

Via Email to ktodd@westfield.in.gov

Mr. Kevin M. Todd, AICP
Senior Planner
City of Westfield
2728 E. 171st Street
Westfield, IN 46074

Re: Crown Castle Special Exception Application

Dear Mr. Todd:

Thank you for the opportunity to submit additional evidence supporting findings in favor of Crown Castle's special exception request.

As you are aware, the Court's Order of April 18, 2016, identified the following two findings about which Crown Castle could provide, and the Board of Zoning Appeals consider, further evidence:

1. Whether the Special Exception will not be injurious to the use and enjoyment of other property in the vicinity for the purposes already permitted, nor substantially diminish and impair the property value within the neighborhood; and
2. Whether the establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

We have included additional information relative to these findings to assist the Board of Zoning Appeals in its redetermination of this matter. Specifically, as further support for satisfying each of these findings, Crown Castle is submitting the following materials:

- A. Vicinity Assessed Value Analysis (Tower Site at 141st and Towne Road).** The exhibit was presented at the hearing on this matter last year. During the course of the Court's review of Crown Castle's appeal, the remonstrators suggested that the property closest to the tower maintained a lower assessed value (at least relative to other homes in the vicinity) as a result of its proximity to the tower. The supplemental analysis makes clear that the home closest to the tower actually maintains the **highest** assessed valuation per square foot and further that differences in valuation between and among homes in the subdivision are actually attributable to overall square footage rather than proximity to the

tower. The assessed valuation analysis demonstrates that the tower in no way substantially diminishes property value within the neighborhood.

Additionally, this exhibit reflects the development of the subdivision after the construction of the tower. It evidences that the tower's presence did not impede the normal and orderly development and improvement of the surrounding property for home sites.

We have also provided an additional sample of homes well from the tower location vicinity (but with comparable building materials, sizes and designs) to show that homes in the vicinity of the tower have a substantially equivalent (and on average an even greater) assessed value as compared to the assessed values for home sites further removed from the tower vicinity. This comparison reinforces the conclusion that the tower does not diminish or impair property values.

- B. Subdivision Development (Tower Site at 126th and Hazel Dell Road).** This is a new exhibit to this matter (though one that has been used in other wireless cases within the City of Westfield) to demonstrate that the presence of wireless infrastructure in no way impedes the normal and orderly development of surrounding properties, nor is such infrastructure injurious to the use and enjoyment of property in the vicinity. As this exhibit demonstrates, the Plum Creek subdivision was developed and home sites constructed after the establishment of the tower. Rather than detracting from the use and enjoyment of surrounding properties or in any way impeding the development of such properties, the tower provides infrastructure supporting 911 communications to area residents, voice communications for work and life, as well as for wireless internet and data transmissions in a mobile society.

As with the exhibit summary under Paragraph A, the vicinity assessed value analysis shows that the tower does not substantially diminish and impair neighborhood property values.

- C. Hendricks County Subdivision Development.** To provide still further evidence that the items summarized in Paragraphs A and B above are the norm and not the exception, we have also provided a similar exhibit showing the development of a large-scale subdivision adjoining a previously-built tower in Hendricks County, Indiana. Again, these facilities contribute critical infrastructure and in no way do they adversely impact the use and enjoyment of adjoining properties, the property values of area properties or the orderly development of adjoining properties.

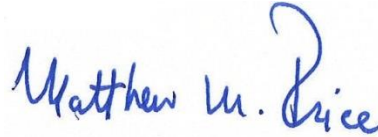
We also note that the adjoining Bent Creek subdivision to the south of the subject site is equipped with a 50-foot buffer along its northern property line (the property line adjoining Crown Castle's site). Additionally, the lots within the subdivision are oriented away from the tower location and towards the future Maple Creek Drive (in the same manner that subdivisions in the attached aerials are oriented to back-up to the nearby towers). The buffer area, together

Mr. Kevin Todd
June 3, 2016
Page 3

with the lot orientation away from the site, reinforces the finding that the tower will have no adverse impact on the Bent Creek Subdivision (or its orderly development, use for home sites, or the values of those homes in a like manner with the historical examples provided with this letter).

We again appreciate the opportunity to submit this additional evidence in support of Crown Castle's special exception petition and look forward to attending the Board of Zoning Appeals' meeting on June 14, 2016.

Respectfully submitted,

A handwritten signature in blue ink that reads "Matthew M. Price". The signature is written in a cursive style with a large, stylized initial "M".

Matthew M. Price

MMP/rea
Att.
17494644

cc: Donald Lewinsky, Esq.
Brian Zaiger, Esq.

**141st Street & Towne Road
Carmel**

**Existing Tower
Vicinity Assessed Value Analysis***

Location	Address	Assessed Value (Jan. 1, 2016)	Square Feet (finished area)
A	13975 Four Seasons Way	\$353,400	2,684
B	13941 Four Seasons Way	\$419,600	4,083
C	13956 Four Seasons Way	\$377,600	2,973
D	13942 Four Seasons Way	\$339,200	2,517
E	13970 Four Seasons Way	\$445,300	4,568
F	13987 Four Seasons Way	\$433,200	4,485
G	2705 April Springs View	\$435,000	4,009
H	14021 Four Seasons Way	\$449,800	4,886
I	2525 West 141 st Street	\$419,400	2,200
J	2660 Twin Lakes Drive	\$420,200	3,413
K	2646 Twin Lakes Drive	\$438,300	4,565
	Mean (Average)	\$411,909	3,671

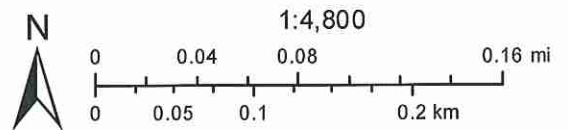
*This table confirms that the communications tower near the southwest corner of 141st Street and Towne Road in Carmel, Indiana has had no negative effect upon the property values of single-family dwellings in the immediate vicinity. Additionally, all of these homes (except 2525 W. 141st Street, identified as “I”) were constructed *after* the tower was erected.

The vicinity assessed value analysis demonstrates that there is no correlation between proximity to the nearby tower and diminished property values. To the contrary, the home closest to the tower (Property “A”) maintains the second highest assessed value (per square foot) out of the 10 closest properties within the subdivision. Similarly, Property “C” (the third closest property to the tower site and the only property which actually faces the tower) maintains the third highest assessed value of the 10 closest properties within the subdivision. The analysis further indicates that larger homes (those with more square feet) are assessed at higher total values, without regard to the home’s proximity to the tower.

141st St & Towne Rd -- Existing Tower



June 1, 2016



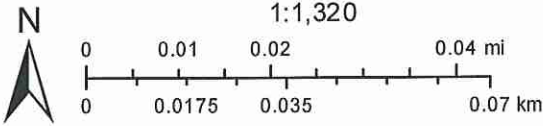
Basemap information here

141st St & Towne Rd -- Existing Tower



June 1, 2016

 Parcels



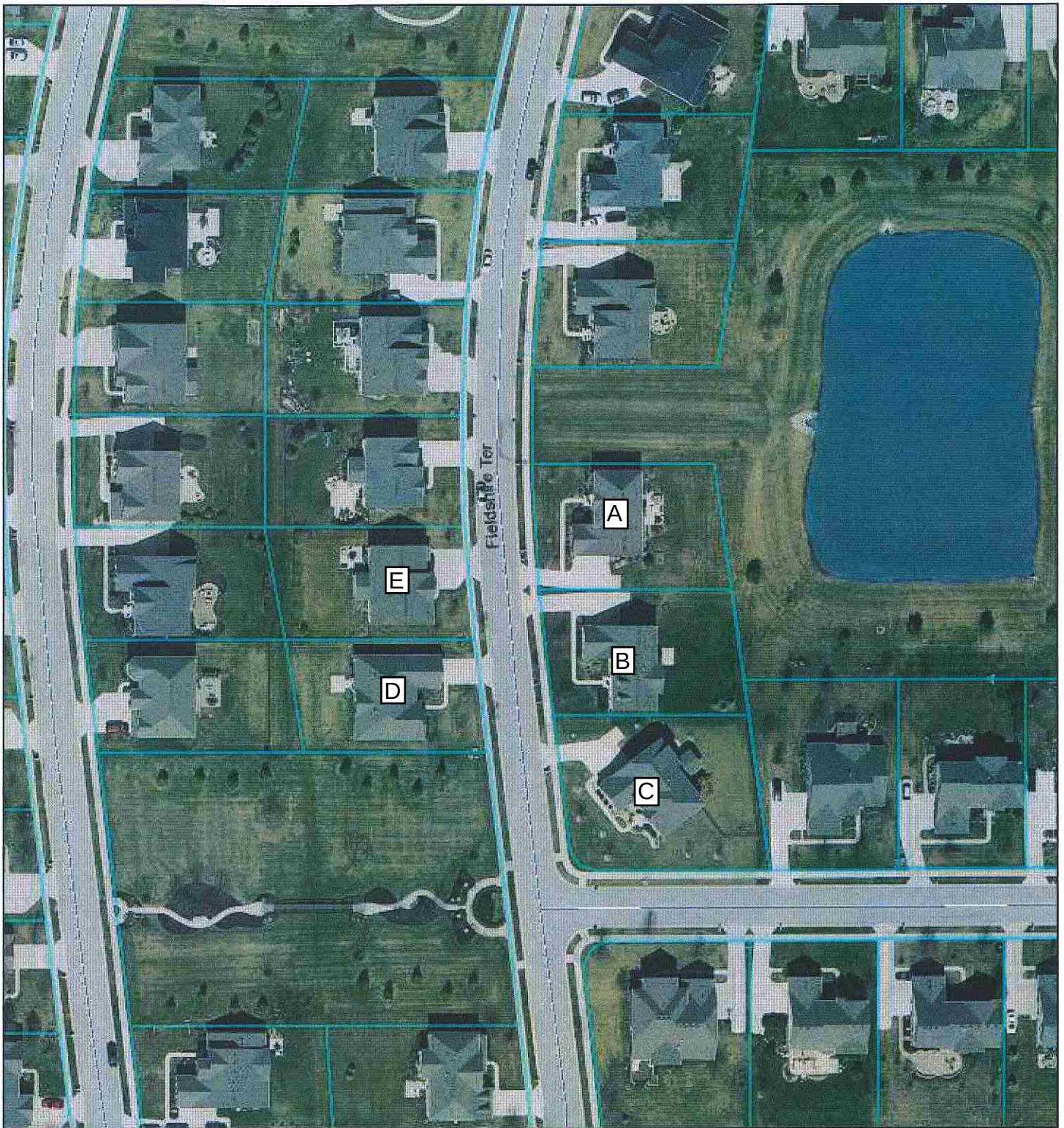
Basemap information here

**Other Lakeside Park Homes
(141st Street & Towne Road)
Carmel**

**Properties Away From Existing Tower
Assessed Value Analysis**

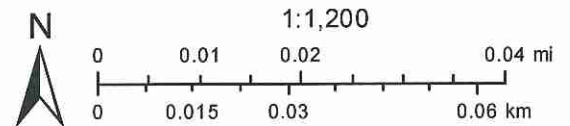
Location	Address	Assessed Value (Jan. 1, 2016)	Square Feet (finished area)
A	13761 Fieldshire Terrace	\$404,400	4,410
B	13747 Fieldshire Terrace	\$369,200	2,992
C	13725 Fieldshire Terrace	\$419,900	4,333
D	13744 Fieldshire Terrace	\$389,100	3,400
E	13758 Fieldshire Terrace	\$370,400	3,641
	Mean (Average)	\$390,600	3,755

Other Lakeside Park Homes



June 3, 2016

 Parcels



Basemap information here

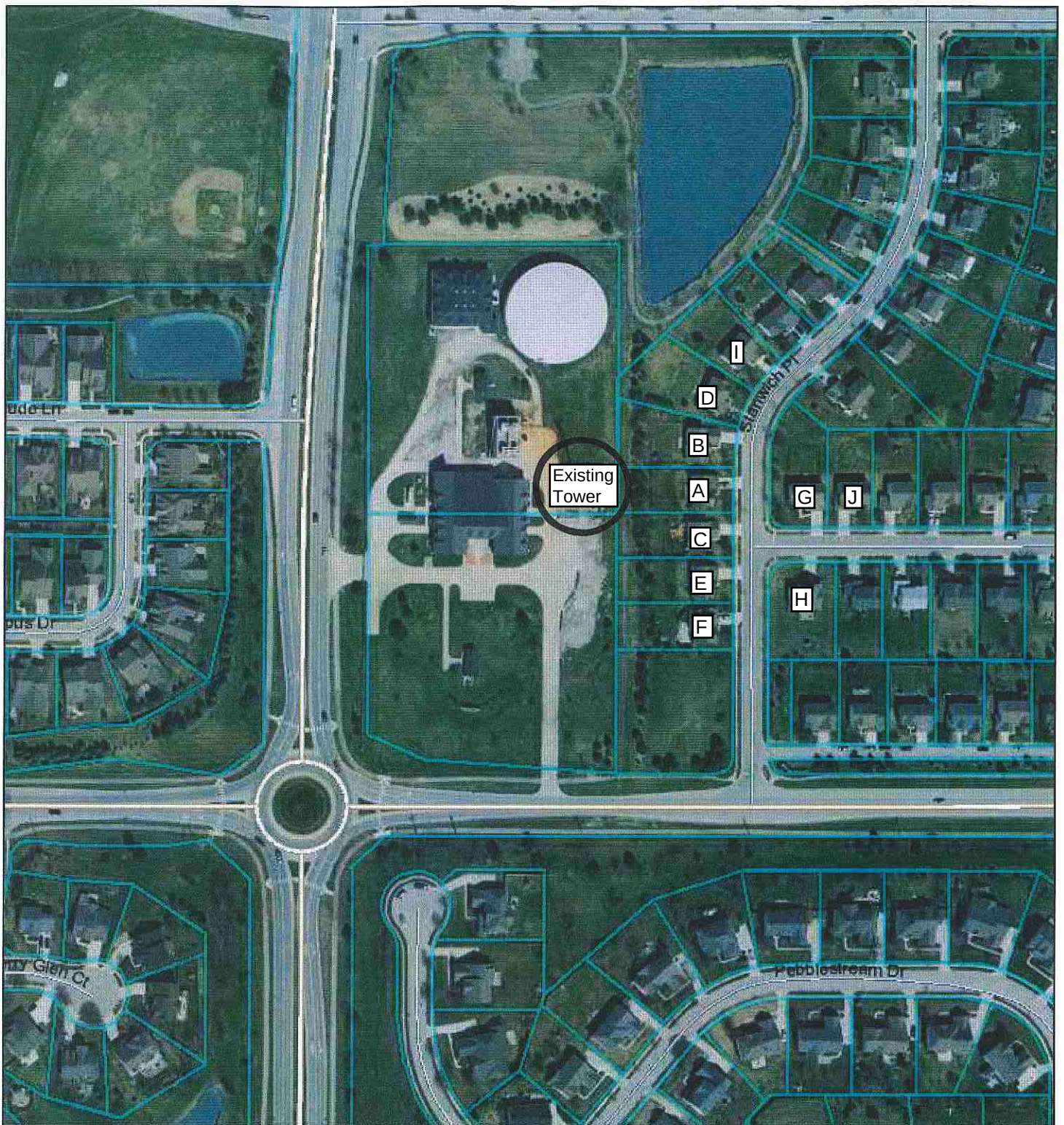
**126th Street & Hazel Dell Road
Carmel**

**Existing Tower
Vicinity Assessed Value Analysis***

Location	Address	Assessed Value (Jan. 1, 2016)	Square Feet (finished area)
A	12628 Stanwich Place	\$190,200	1,958
B	12636 Stanwich Place	\$213,000	2,424
C	12620 Stanwich Place	\$200,400	2,142
D	12642 Stanwich Place	\$203,700	2,078
E	12514 Stanwich Place	\$189,200	1,984
F	12608 Stanwich Place	\$212,200	2,288
G	5860 Sandalwood Drive	\$200,700	2,058
H	5859 Sandalwood Drive	\$202,400	1,971
I	12648 Stanwich Place	\$213,000	2,404
J	5866 Sandalwood Drive	\$201,600	1,971
	Mean (Average)	\$202,640	2,128

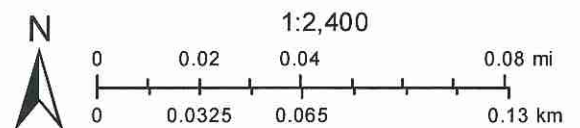
*This table confirms that the communications tower near the northeast corner of 126th Street and Hazel Dell Road in Carmel, Indiana has had no negative effect upon the property values of single-family dwellings in the immediate vicinity. Additionally, all of these homes were constructed *after* the tower was erected.

126th St & Hazel Dell Rd - Existing Tower



June 3, 2016

 Parcels



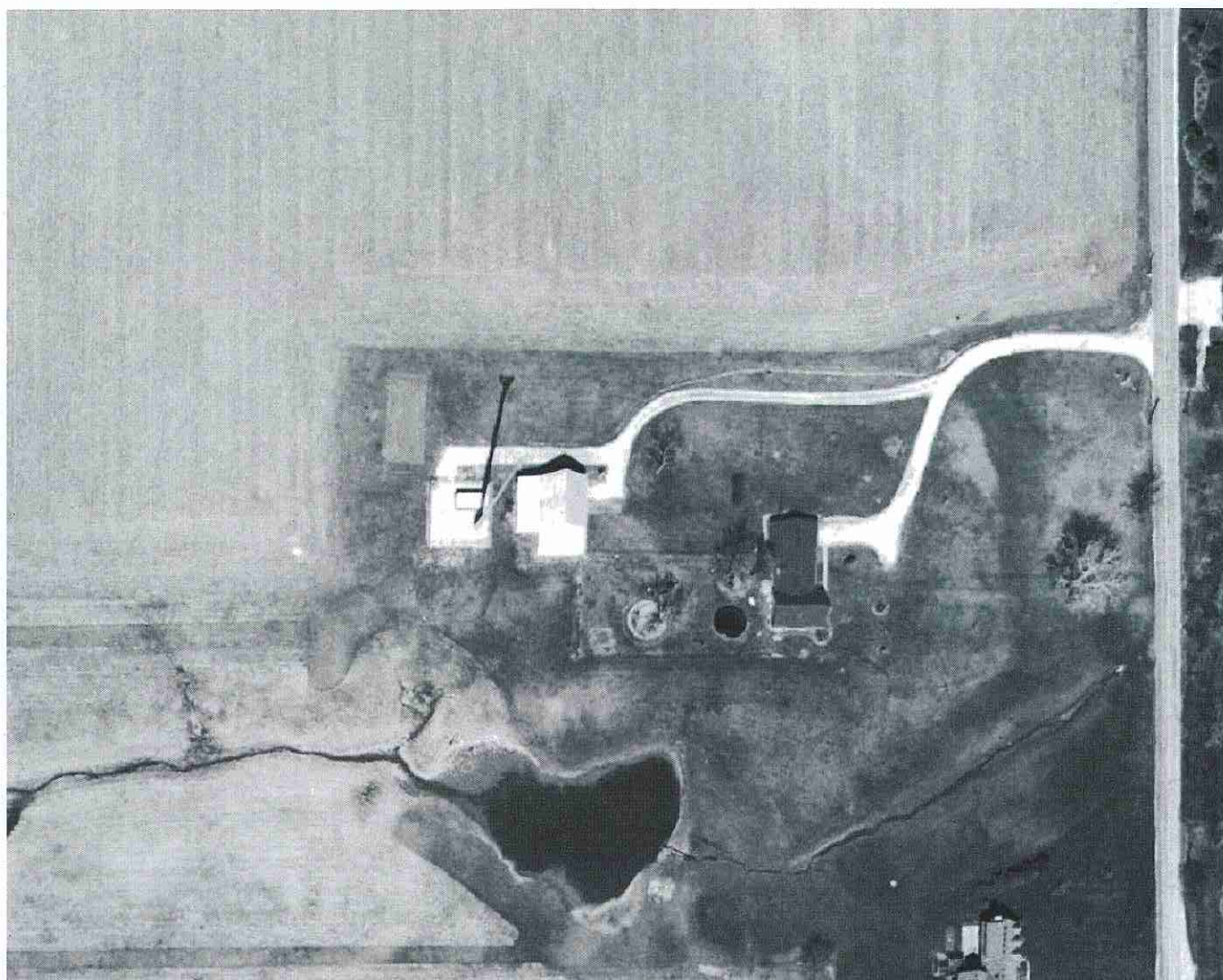
Basemap information here

**56th Street & Raceway Road
Hendricks County**

**Existing Tower
Vicinity Assessed Value Analysis***

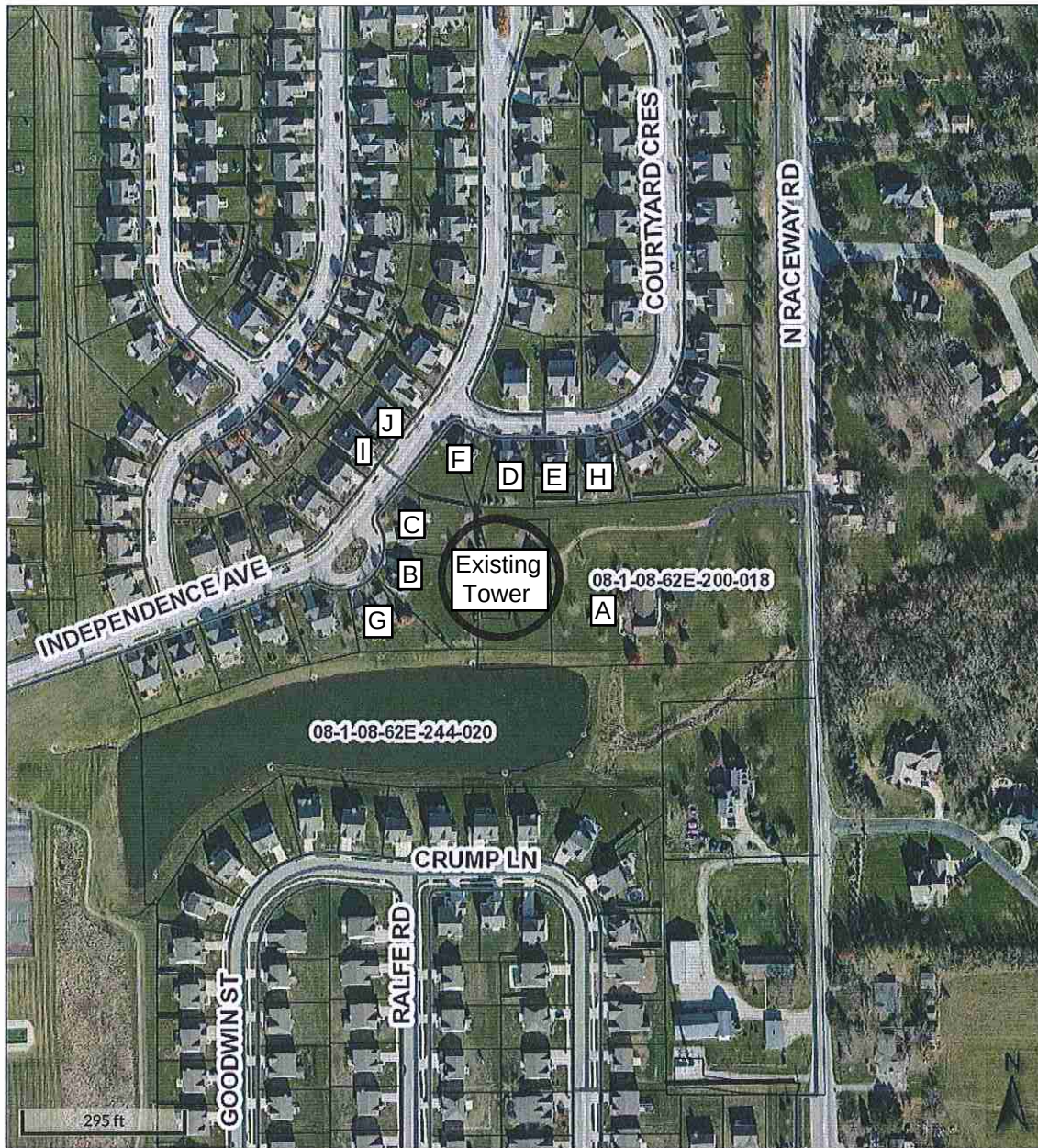
Location	Address	Assessed Value (2015)	Square Feet (finished area)
A	5784 N. Raceway Road	\$226,200	2,675
B	5767 Independence Ave	\$171,900	2,269
C	5773 Independence Ave	\$166,600	2,489
D	5799 Courtyard Cres	\$176,100	2,240
E	5809 Courtyard Cres	\$183,100	2,980
F	5789 Courtyard Cres	\$153,500	2,222
G	5765 Independence Ave	\$185,400	1,924
H	5817 Courtyard Cres	\$194,900	2,610
I	5780 Independence Ave	\$160,500	2,040
J	5784 Independence Ave	\$136,200	1,636
	Mean (Average)	\$175,440	2,309

*This table confirms that the communications tower near the southwest corner of 56th Street and Raceway Road in Hendricks County, Indiana has had no negative effect upon the property values of single-family dwellings in the immediate vicinity. Additionally, all of these homes (except 5784 N. Raceway Road, identified as “A”) were constructed *after* the tower was erected.

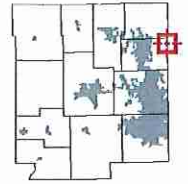


1999 Aerial Photograph

5784 N. Raceway Road



Overview



Legend

-  Parcels
-  Right of Way
-  Townships
-  Road Centerlines
-  Culverts
-  Culverts 2008

Date created: 6/3/2016

 Developed by
The Schneider Corporation

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WESTFIELD WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS
MEETING ON OCTOBER 13, 2015
ONLY REGARDING ITEM 1510-SE-03
16414 TOWNE ROAD SPECIAL EXCEPTION

Mr. Brian J. Zaiger
KRIEG DEVAULT
12800 N. Meridian Street, Suite 300
Carmel, IN 46032
(317) 566-1110

Transcribed on December 2, 2015

Glenda S. Ferguson
WORDQUE CAPTIONING AND TRANSCRIPTION
5282 East 156th Street
Noblesville, IN 46062
(317) 846-0900

1 KEVIN TODD: The next item before you this
2 evening is a special exception request for
3 approval of a new Wireless Communication Facility
4 located at 16414 Towne Road.

5 The proposed tower would be one hundred and
6 sixty-eight feet in height and include ancillary
7 equipment buildings and perimeter fencing and
8 landscape screening.

9 The tower would be over two hundred feet
10 from any property line, as proposed, and would be
11 approximately four hundred and seventy-five feet
12 from the nearest structure, which is the existing
13 residential structure on the parent parcel.

14 This item is scheduled for a public hearing
15 this evening and, and was advertised as such.

16 The Petitioner is here, represented by
17 Mr. Matt Price, and, and I believe would like to
18 make a brief presentation.

19 Following his comments, I'm available for
20 any questions that you may have. Thank you.

21 MARTIN RAINES: Thank you, Staff.

22 Okay, Petitioner, come up and talk to us,
23 please.

24 MATT PRICE: Mr. President, members of the
25 board, my name is Matt Price. I'm an attorney

1 with Bingham Greenebaum Doll in Indianapolis with
2 an address of 10 West Market Street.

3 With me tonight on behalf of Crown Castle is
4 the Project Manager, Tom Crow(phonetic), who is
5 in the blue sport coat there. And then to his
6 right is my land use specialist, Greg
7 Ewing(phonetic).

8 We've been before the board a few times over
9 the last year relative to similar wireless
10 communications facilities requests.

11 As Kevin mentioned, this is a facility
12 located north of 161st Street along Towne Road.

13 It's for a hundred-and-sixty-eight-foot
14 monopole, which is the cylindrical-type tower, as
15 opposed to a lattice tower or one that has any
16 kind of guy wires associated with it.

17 It's a hundred and sixty feet, plus the
18 eight-foot lightning rod, which is where we get
19 the hundred and sixty-eight feet.

20 It would be engineered to accommodate one
21 planned carrier at this time, plus up to three
22 additional carriers.

23 The one planned carrier is for Verizon
24 Wireless. And then, it would be available to
25 other carriers, like AT&T, T-Mobile, Sprint,

1 other competitors.

2 One of the objectives under the UDO is to
3 establish infrastructure at appropriate locations
4 in a manner that can be shared, so as to minimize
5 the overall number of wireless facilities across
6 the jurisdiction.

7 This particular facility is located in the
8 AG-SF1 District classification, which makes it a
9 permitted use in that district as a special
10 exception.

11 So, upon finding that we meet the objective
12 requirements for a special exception, then the
13 applicant is entitled to that zoning approval.

14 We are not seeking any variances. So, we
15 meet all of the development standards, as far as
16 setbacks and other development standards
17 associated with a proposal of this nature.

18 Unlike the previous matter, this facility
19 would generate no noise, generates no odor.

20 It's a relatively innocuous use, in the
21 sense that it's only visited intermittently by
22 maintenance personnel for the individual
23 carriers.

24 That's approximately once a month. So, it
25 generates very little traffic.

1 As far as the physical location, the
2 property is a leased parcel. It's a hundred by
3 hundred foot leased parcel, which is kind of
4 typical for this type of an installation.

5 It's on a larger parent tract, though, that
6 is thirty-four acres. And because it's located
7 on a larger parent tract, it is well removed from
8 any surrounding residential uses, or really any
9 associated land uses.

10 It's over two hundred feet from Towne Road,
11 two hundred feet from the south property line,
12 over nine hundred feet to the north property
13 line, and to the, let's see, and, and then eleven
14 hundred feet to the west.

15 So, substantially well-removed from
16 surrounding uses. By our calculation, it's
17 approximately two thousand feet from the nearest
18 residence that's not our own landlord's property.

19 We believe it meets the requirements for a
20 special exception under the UDO. It does not
21 affect property values. It does not affect the
22 orderly development of surrounding properties.

23 And we can provide additional information
24 relative to each one of those findings. As I
25 indicated, it produces no objectionable odor.

1 It doesn't overburden infrastructure. The
2 property is equipped with relevant or appropriate
3 utilities for this use.

4 And it will actually contribute to the
5 overall benefit to the community by enhancing
6 communications for both commerce, convenience of
7 individuals traveling in and around the vicinity,
8 as well as for Enhanced 911 coverage, thereby
9 contributing to local public safety.

10 For all of those reasons, we would
11 respectfully request approval of our special
12 exception tonight.

13 We're available -- Tom, Greg and I are
14 available to answer any questions that you may
15 have. We appreciate your time this evening.
16 Thank you.

17 MARTIN RAINES: Okay. Thank you, sir.

18 All right. Questions or comments from the
19 board for the Petitioner?

20 (There is no audible response from any of
21 the board members.)

22 MARTIN RAINES: If not, this item requires a
23 public hearing. I will open the public hearing
24 at 8:28.

25 (Mr. Raines then raps the gavel to open the

1 public hearing.)

2 MARTIN RAINES: Staff, do we have any cards?

3 KEVIN TODD: We do. We have several.

4 MARTIN RAINES: Okay.

5 KEVIN TODD: Ginny Kelleher.

6 GINNY KELLEHER: (inaudible). (Laughs.) My
7 name is Ginny Kelleher.

8 STAFF: Let me swear you before you start.

9 GINNY KELLEHER: I'm sorry.

10 STAFF: (inaudible).

11 (Ginny Kelleher is then sworn in.)

12 MARTIN RAINES: (Clears throat.)

13 GINNY KELLEHER: My name is Ginny Kelleher,
14 and I live at 3920 West 166th Street in
15 Westfield. I've lived here for twenty years.

16 I do not live next to this. So, this is not
17 an in-my-backyard thing. I'm here because I have
18 concerns about this project.

19 We all want better cell service, and I
20 understand there needs to be infrastructure. I
21 think where it's placed is important.

22 We went through something similar to this
23 with 161st and Springmill, where we thought there
24 needed to be a grocery store on the west side of
25 town.

1 But 161st and Springmill probably wasn't it.
2 It should have been a mile and a half north.

3 I believe that the location is inappropriate
4 for, and would be detrimental to, the successful
5 development of Westfield's Comprehensive Plan and
6 what they -- (clears throat), excuse me --
7 envision for this area.

8 Perception, which Staff mentioned, is an
9 important component of market value. And this
10 tower will compromise the success of the new
11 subdivision, Bent Creek, which the Petitioner
12 failed to, to mention. It is --

13 Can I, I can just hand these out. There is,
14 there is a plat thing of Bent Creek, and it's
15 just to the south property line. It's going to
16 be --

17 UNIDENTIFIED MALE SPEAKER: (inaudible), can
18 you pull that microphone down?

19 GINNY KELLEHER: Okay. Yeah.

20 Bent Creek is just to the south of the
21 property line. It is approved; it is platted.

22 It is on the Plan Commission Agenda for a
23 residential subdivision. And this tower is going
24 to be, I think, two hundred feet from it.

25 So, for them to say it's not near any other

1 residential, residential structure, I think is in
2 error, because there is a platted subdivision
3 there.

4 And I have, have concerns with the fact that
5 it's a new subdivision, that this may affect its
6 marketing. And that's Attachment One.

7 I think that this will be injurious to the
8 use and enjoyment of neighboring properties, and
9 it will not be harmonious or appropriate in
10 appearance in this conservation area.

11 I don't know if you know this, but there is
12 currently a special study going on with three
13 City Council members and this area about rural
14 subdivisions, conservation subdivisions and
15 conservation areas.

16 And a cell tower is not something that
17 probably is appropriate in this area.

18 I also want to say that I, I thought about
19 coming in and say just landscaping it more. But
20 you can't very effectively landscape a
21 hundred-and-sixty-eight-foot tower that's sitting
22 in the middle of a flat bean field. You just
23 can't.

24 STAFF: You have about thirty seconds.

25 GINNY KELLEHER: Pardon me?

1 north of the home, instead of into this bean
2 field in the south that will face a new
3 residential subdivision.

4 MARTIN RAINES: Thank you.

5 RON ROTHROCK: I have a question. Is that a
6 hundred and sixty-eight foot cactus?

7 GINNY KELLEHER: No. No, that is, that
8 is -- they did a different type of system in
9 that.

10 RON ROTHROCK: Oh, okay.

11 GINNY KELLEHER: It's called a, it's a
12 different type of wireless system.

13 RON ROTHROCK: Okay.

14 GINNY KELLEHER: And it probably isn't
15 appropriate here, but this company does have the
16 ability to do a better job.

17 RON ROTHROCK: Okay.

18 MARTIN RAINES: Okay, thank you.

19 All right. Next card, please.

20 KEVIN TODD: Tracy Pielemeier.

21 (Tracy Pielemeier is then sworn in.)

22 TRACY PIELEMEIER: My name is Tracy
23 Pielemeier. I live at 16101 Little Eagle Creek
24 Avenue, about one mile directly west of that
25 proposed site in the ever-desirable southwest

1 quadrant of Westfield.

2 I want to mention that I was at the meeting
3 where you approved the cell tower at 146th and
4 Oak Ridge. I drive there every day in a school
5 bus.

6 And I agreed with that placement. It was
7 where there was already existing utility
8 placement and next to a busy road.

9 And although it was a really big tower, it's
10 in an area that was already being utilized for
11 utilities, not directly in the site line for
12 homes. So, I'm not against cell towers.

13 As I was perusing the cell tower map of
14 Westfield, I can see that in this area, in the
15 general area, there is a need for a tower. I get
16 that.

17 My first choice would have been on the
18 existing water tower that Ginny mentioned, which
19 is directly north on the same landowner's
20 property, or immediately adjacent to it, so you
21 could share the same road access and fencing
22 that's already in place.

23 If that option isn't available, then I would
24 suggest on the farmland between 166th and 169th
25 east of Eagletown and west of Ditch, where there

1 are no private landowners. It's just farmland
2 right there.

3 There is already a utility substation on
4 Ditch Road just south of 169th. That way the
5 access to this facility could be off 166th or
6 Ditch, instead of Towne, which is supposed to be
7 the main artery.

8 The tower itself would not be an obtrusive,
9 unmistakable, ugly signpost on the main
10 thoroughfare of west Westfield, which is Towne
11 Road.

12 I get connectivity and technology. I text,
13 facebook, tweet, Instagram. I have three kids,
14 two businesses, five e-mail addresses and two web
15 sites. I manage most of that using my magic
16 telephone.

17 I know we need connectivity. I'm good with
18 that.

19 I've also developed a great appreciation for
20 zoning. I first recognized that on a visit to
21 Hilton Head, where I, I was astonished that they
22 managed to keep the island stylish and peaceful,
23 with strict regulations on business placement,
24 parking, parking and signage controls.

25 And I remember thinking, if they can do it

1 here, we can do it in Westfield.

2 These choices have to be made consistently
3 and with determination to pay off. Preserving
4 the nicest area your city has to offer is worth
5 the work.

6 So, I, I would request that you would deny
7 this petition and ask them to look in areas that
8 aren't just the most beautiful quadrant of
9 Westfield, but are still in that regional area
10 where they need connectivity.

11 MARTIN RAINES: Okay. Thank you.

12 TRACY PIELEMEIER: Thank you.

13 MARTIN RAINES: All right.

14 KEVIN TODD: Kristen Burkman.

15 (Kristen Burkman is then sworn in.)

16 KRISTEN BURKMAN: Good evening, gentlemen.
17 My name is Kristen Burkman, and I live about a
18 mile east of this proposed cellphone tower.

19 We -- Ginny mentioned this, but this area is
20 actually currently being studied by three council
21 members, a township member, a member of the
22 Advisory Plan Commission to be an area of
23 conservation and preservation, because it is such
24 a beautiful area of Westfield.

25 The proposed cellphone tower area will be

1 not really in keeping with that type of vision
2 for the community and for that area.

3 And what we would ask is that the Petitioner
4 find a different mechanism for this. It's a very
5 tall tower.

6 I also have a question in regards to, will
7 it have lights on it, because it is so close in
8 proximity to the airport that is on 32.

9 And we also would like to mention that there
10 are a lot of cellphone towers in the area kind of
11 popping up, especially the newest one at Shamrock
12 Springs Elementary, which is just a couple miles
13 east of this.

14 So, we have a question about the proximity
15 of those two towers being so close. And would
16 there be a better placement on the west side, as
17 Tracy mentioned, in a more covered area?

18 Or could they use a different mechanism,
19 that Ginny shared, as far as something on the
20 water tower or closer to those utilities?

21 So, those are questions for the Petitioners
22 tonight. Thank you for your time.

23 MARTIN RAINES: Thank you.

24 KEVIN TODD: The last card I have at the
25 moment, Suzy DuBois. Did I say that right?

1 SUZY DUBOIS: (No audible response.)

2 KEVIN TODD: Okay.

3 (Suzy DuBois is then sworn in.)

4 SUZY DUBOIS: Hi, my name is Suzy DuBois. I
5 live at 1719 West 161st Street.

6 And my comment is just very simple. I'm a
7 Verizon Wireless client, and live in very close
8 proximity to this, and have no issues whatsoever
9 with my cellphone coverage or 911 usage.

10 MARTIN RAINES: Thank you.

11 Any more cards?

12 KEVIN TODD: Not at this time.

13 MARTIN RAINES: Anyone else like to speak
14 for or against?

15 (There is no audible response from anyone in
16 the audience.)

17 MARTIN RAINES: If not, I'm going to close
18 the public hearing at 8:38.

19 UNIDENTIFIED MALE SPEAKER: (inaudible).

20 UNIDENTIFIED FEMALE SPEAKER: (inaudible).

21 MARTIN RAINES: Oh.

22 UNIDENTIFIED MALE SPEAKER: (inaudible).

23 KEVIN TODD: That's all right. Yeah, sure.

24 MARTIN RAINES: Come on up.

25 KEVIN TODD: Come on.

1 MARTIN RAINES: Yeah.

2 JOHN DUBOIS: I'm sorry.

3 MARTIN RAINES: That's okay. I always give
4 that, I always give that option. So --

5 (John DuBois is then sworn in.)

6 JOHN DUBOIS: John DuBois, 1719 West 161st
7 Street.

8 My only comment is, I know there have been a
9 lot of suggestions about the existing water tower
10 that's somewhat close.

11 I find it, when coming to these meetings, so
12 difficult when only specific items are discussed
13 or actually brought to your attention and
14 otherwise not been plainly identified, unless
15 asked.

16 So, the question about a water tower, is
17 there the ability to put additional cell units on
18 these water towers?

19 Right down the road, as well, right across
20 from Shamrock Springs, I think, in one of the
21 discussions that was had with the, the other, was
22 it 146th and --

23 UNIDENTIFIED FEMALE SPEAKER: It's at
24 (inaudible).

25 JOHN DUBOIS: No, the other, the other one.

1 UNIDENTIFIED FEMALE SPEAKER: Oh, 146th and
2 Oak Ridge.

3 JOHN DUBOIS: Yeah. The question came in
4 about, can you hang another unit on some of those
5 water towers? And they said, "No, they are
6 totally full."

7 So, I just want to make sure that the
8 comment isn't made, "Oh, well, we can't put them
9 on a water tower."

10 Similar to, to the comment of, "Well, there
11 isn't going to be a home for two thousand feet,"
12 with full knowledge that there will be homes very
13 much close, closer than, than that.

14 So, I just want to make sure that there is
15 full disclosure here, and that a flippant comment
16 is just made to then have a situation that came
17 up with the hour-and-a-half presentation earlier
18 where there wasn't full disclosure. There wasn't
19 specificity to the, to the request.

20 And then we find ourselves down the road
21 finding out that, oh, by the way, we could have
22 looked at this, or we could have done that.

23 So, I just want to hope that we all consider
24 those things. Thank you.

25 MARTIN RAINES: Okay. Thank you, sir.

1 Any other requests?

2 (There is no audible response from anyone in
3 the audience.)

4 MARTIN RAINES: If not, forever hold your
5 peace. I'm going to close it at 8:40.

6 (Mr. Raines then raps the gavel to close the
7 public hearing.)

8 MARTIN RAINES: Okay. Petitioner, or board,
9 do you have any questions or comments? And also,
10 the Petitioner has a chance to probably --

11 Rather than, you know what I'm going to ask
12 you. So, you might as well just come up here.
13 It's about the existing water tower.

14 We do this -- every time you're in here, we
15 ask about existing structures, and so on and so
16 forth.

17 So, (inaudible) mentioned the water tower,
18 and I'm going to let you deal with that. So --

19 MATT PRICE: Mr. President, thank you, yes.

20 There is a couple of different water towers
21 that we should mention. One is to the north of
22 our site. It's, it's got a Citizens Water decal
23 on it.

24 The problem with that facility is, is that
25 it's about seventy feet in height. It's shrouded

1 in trees.

2 When you're even standing right next to our
3 site, you cannot even visibly see it. You have
4 to get into a kind of a unique orientation even
5 to see it.

6 There is another water tower, which is
7 across the street from Shamrock Springs, which is
8 a taller water tower.

9 It is fully housed with wireless
10 communications facilities, and has been, really,
11 since the deployment of this technology in the
12 Westfield community over the last twenty years.

13 And the, and the fact is, is that the
14 carriers have done an excellent job, really, in
15 response to Westfield's zoning ordinance in
16 locating on those existing tall structures
17 wherever possible.

18 As the one remonstrator mentioned, there are
19 not existing wireless communications facilities
20 within this vicinity.

21 We're a mile and a half away from the
22 Shamrock Springs location, in an area that --
23 I'm, I, I'm glad that the one consumer of
24 Verizon's services is not experiencing trouble.

25 The problem is, is that the carrier, as a

1 whole, does have the need for new infrastructure
2 in this vicinity.

3 And it is necessary for convenience, for
4 reliable calls, for not having dropped calls, for
5 being able to download data, and for emergency
6 communications.

7 One thing I wanted to note, too, is that of
8 all of the individuals who received public notice
9 of this hearing that are in direct proximity to
10 this proposed location, not one of them spoke in
11 opposition to this tower.

12 The, the, the first three speakers all live
13 at least a mile away from this proposed location.
14 And we think that that speaks to what a strong
15 location it is.

16 The first remonstrator mentioned defending
17 the ability of Bent Creek to market their
18 product.

19 The owner of the Bent Creek Subdivision,
20 which has been pending before the Plan Commission
21 for some time now, the owner of that subdivision
22 is not here tonight speaking in opposition to
23 this location.

24 If I could ask Mr. Ewing to, to hand out a
25 couple of exhibits.

1 We, we've had this same exact argument made
2 against other locations actually in Westfield.

3 And what we've done historically is provide
4 this kind of chronology for a development that's
5 at 141st and Towne, which is a similarly-sized
6 monopole located at that location.

7 UNIDENTIFIED MALE SPEAKER: Yep.

8 MATT PRICE: So, it's this, it's this
9 depiction right here.

10 And what it shows is the evolution of a
11 piece of property at the southwest corner of
12 141st and Towne.

13 Beginning in 2000, the tower is in the, kind
14 of the, the trapezoid-shaped property in the left
15 center.

16 See that little hatch marked compound area
17 there. And you'll see that the surrounding
18 properties are undeveloped in, in 2000.

19 And then in 2008, you can see that some of
20 the road infrastructure is coming into place as
21 that subdivision is being developed.

22 And then in 2011, you can start to see the
23 first homes coming into place.

24 And then you accelerate all the way to 2015,
25 and you see that the adjoining properties have

1 developed into a robust subdivision, with home
2 values that are between three hundred and fifty
3 and four hundred and fifty thousand dollars at
4 that particular location.

5 We've demonstrated to this board at other
6 times over the years that the location of new
7 wireless communications facilities add to needed
8 infrastructure to serve the community.

9 They do not impair property values. They do
10 not impede the development of adjoining
11 properties.

12 And we think that's precisely why those most
13 closely affected by this proposal are not here
14 speaking in opposition to this facility.

15 The next thing I would say, too, is I am
16 aware that from a comprehensive planning
17 standpoint there are individuals in the public
18 who are meeting with elected representatives
19 about revisiting the Comprehensive Plan for this
20 general area, which is a matter beyond the scope
21 of our proposal, and beyond the scope of what's
22 presently before the Board of Zoning Appeals.

23 The fact is today, the way the law is today
24 in, in Westfield, we do meet each and every
25 requirement for a special exception under the

1 existing ordinance, just as other facilities have
2 sought and obtained approval in the city from
3 time to time.

4 The first remonstrator mentioned that she
5 didn't believe that we met the provisions of the
6 UDO. She didn't state which provisions of the
7 UDO we didn't meet.

8 The fact is, we meet them all. We meet all
9 of the development standards. We pose no threat
10 to adjoining properties.

11 And that's best evidenced by the lack of any
12 remonstrance from those most closely located to
13 the, to the proposed facility.

14 And then, I'll just close with a statement
15 about the last, the last remonstrator's comments.

16 I wholeheartedly agree in transparency and
17 providing you all with the documentation that you
18 need to substantiate a decision.

19 And, and we've intended to do just that here
20 this evening and would be open to providing any
21 additional documentation that, that you all would
22 like to see relative to, to our proposal this
23 evening.

24 But we do believe we've met the legal
25 standards that are in place today for evaluating

1 these facilities and would respectfully ask for
2 your approval.

3 MARTIN RAINES: Okay. Thank you.

4 RON ROTHROCK: I have a question, before you
5 leave?

6 MATT PRICE: Yeah.

7 MARTIN RAINES: Yeah, go ahead.

8 RON ROTHROCK: Is, in your packet --

9 MATT PRICE: Yeah.

10 RON ROTHROCK: -- right after the
11 141st/Towne packet, there were two separate
12 pages.

13 MATT PRICE: Yep.

14 RON ROTHROCK: They aren't labeled, except
15 for Google Earth.

16 MATT PRICE: Yep.

17 RON ROTHROCK: Is this the type of tower
18 that you are recommending?

19 MATT PRICE: It's, it's -- our, our tower is
20 a monopole with the (inaudible) rays that are
21 kind of a circular type of rays.

22 It's a little bit difficult to tell from
23 that picture what type of a tower it is.

24 It is the same, in the sense that, like that
25 facility, ours would be available to multiple

1 carriers, so, you don't have multiple towers
2 throughout, throughout the area. But it would be
3 available to share.

4 RON ROTHROCK: So, yeah, it's about the same
5 thing.

6 MATT PRICE: It, it, it's, it's very
7 similar.

8 RON ROTHROCK: It's similar. Okay.

9 MATT PRICE: I just didn't -- from an
10 engineering standpoint, I didn't want to
11 represent --

12 RON ROTHROCK: No, no, no.

13 MATT PRICE: -- that it's the same type of
14 tower.

15 RON ROTHROCK: I know we were, we were
16 talking about the type of tower that was put, and
17 it was mentioned, the 146th and Oak Ridge.

18 UNIDENTIFIED MALE SPEAKER: Oak Ridge, I'm
19 sorry.

20 MATT PRICE: At Our Lady of Mount Carmel?

21 RON ROTHROCK: Yes. Yes.

22 MATT PRICE: Right.

23 RON ROTHROCK: That it did not have all of
24 the stuff hanging out of it. Was that
25 configuration considered?

1 And the reason I ask is, it is obviously a
2 lot less obtrusive, or obvious, than, than this
3 one. I am speaking from ignorance. So, I don't
4 know.

5 MATT PRICE: No. It's a very fair question.
6 And I can, I can give a somewhat succinct answer.

7 It, it was not. What we typically do is,
8 where that type of use, and that was a flag pole,
9 if you will recall. In fact, we even made a
10 commitment --

11 RON ROTHROCK: Okay, a flag pole.

12 MATT PRICE: -- to put a flag on it, is
13 where that type of design is consistent with the
14 underlying land use.

15 And that, in that case, it was an athletic
16 field, or it's immediately adjoining an athletic
17 field.

18 RON ROTHROCK: Um-hum.

19 MATT PRICE: We felt that it was an
20 appropriate design and contributed to a
21 stealth-like quality for the facility.

22 There are significant drawbacks to those
23 facilities. Notwithstanding their aesthetic
24 benefits, there is drawbacks from a co-location
25 standpoint.

1 And what I mean by that is, because
2 everything is housed inside, it is, it
3 compromises the ability for that tower to be
4 shared by any other carrier.

5 And so, it does not have the same capability
6 of reducing the overall number of towers.

7 In this instance, we're locating in an area
8 that really is devoid of significant wireless
9 infrastructure.

10 Most deployments that have taken place so
11 far have, have occurred on existing water towers.

12 And so, what we're looking to do is optimize
13 a location that is on a large tract, well removed
14 from existing residential uses, have no impact on
15 future development of Bent Creek, in our view,
16 and will be available for sharing, will be able
17 to be used by all of the carriers to provide kind
18 of this initial base infrastructure to serve the
19 area.

20 RON ROTHROCK: Thank you.

21 UNIDENTIFIED MALE SPEAKER: I believe, I
22 believe someone was asked about aircraft light.

23 MATT PRICE: Oh. Thank you for reminding
24 me.

25 No, it is below the threshold to require any

1 type of lighting. And so, it would not be
2 required to have either a static light or a
3 blinking light, because it's below the
4 two-hundred-foot threshold.

5 UNIDENTIFIED MALE SPEAKER: And what is the,
6 why would the water tower have to have a light,
7 then? The water tower (inaudible).

8 MARTIN RAINES: Okay. Thank you, sir.

9 RON ROTHROCK: It's just a lot bigger.

10 MATT PRICE: And we can make that, if it, I,
11 I'd be willing to, we can commit to that, as
12 well, and make that a condition, should the board
13 approve --

14 MARTIN RAINES: Okay.

15 MATT PRICE: -- the proposal.

16 MARTIN RAINES: All right. Thank you, sir.
17 Board, any other questions or comments?

18 (There is no audible response from any of
19 the board members.)

20 MARTIN RAINES: If not, I would entertain a
21 motion to approve or deny.

22 UNIDENTIFIED FEMALE SPEAKER: (inaudible).

23 MARTIN RAINES: I, the -- I'm sorry. The
24 public, the public hearing is closed.

25 RON ROTHROCK: Hang on a second. I'm still

1 reading.

2 MARTIN RAINES: Are you still looking at the
3 information?

4 RON ROTHROCK: Yeah, I'm still looking.

5 MARTIN RAINES: Take your time.

6 UNIDENTIFIED MALE SPEAKER: Keep in mind,
7 too, this is a special exception, not a variance.

8 RON ROTHROCK: What's the difference?

9 UNIDENTIFIED MALE SPEAKER: A special
10 exception is an approved use tagged for special
11 consideration, depending on where it's
12 (inaudible) going to be located.

13 RON ROTHROCK: Oh, yeah, I just found that
14 again.

15 UNIDENTIFIED MALE SPEAKER: There is no,
16 there is no (inaudible).

17 RON ROTHROCK: I knew it sounded familiar.

18 I will make a motion that we approve the
19 request, with the recommended, recommended
20 conditions that as, in the Staff report, there
21 are two, the height of the tower not exceed a
22 hundred and sixty-eight feet, including the
23 lightning rod, and that the landscaping be
24 similar to Exhibit 4, and would also add number
25 3, that there would be no lights at the top.

1 MARTIN RAINES: A motion has made to
2 approve. Do we have a second?

3 (There is no audible response from any of
4 the board members.)

5 MARTIN RAINES: If not, the motion fails.
6 Would someone like to make new motion,
7 please?

8 BILL SANDERS: Motion to deny.

9 MARTIN RAINES: Motion -- you're making a
10 motion to deny. Okay.

11 A motion is on the table to deny. Do I have
12 a second?

13 I will second it.

14 Staff, will you do a voice vote, please?

15 KEVIN TODD: Mr. Sanders?

16 BILL SANDERS: Yes to deny.

17 KEVIN TODD: Mr. Schmitz?

18 MR. SCHMITZ: Yes.

19 KEVIN TODD: Mr. Raines?

20 MARTIN RAINES: Yes.

21 KEVIN TODD: Mr. Rothrock?

22 RON ROTHROCK: Yes.

23 KEVIN TODD: Motion carries.

24

25

IN THE HAMILTON CIRCUIT COURT

HAMILTON COUNTY)

CAUSE NO. 29C01-1511-MI-9308

CROWN CASTLE TOWERS 06-2 LLC,)

Petitioner,

VS.

CITY OF WESTFIELD, BOARD OF
ZONING APPEALS, and certain named
Remonstrators.

Respondents.

29C01-1511-MI-009308
ORD
Order Issued
718954



FILED

APR 18 2016

Sammy Baiz
CLERK OF THE
HAMILTON CIRCUIT COURT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above cause of action came before the Court for a hearing on the Petitioner's Verified Petition for Judicial Review on March 30, 2016. The Petitioner, Crown Castle Towers 06-2 LLC ("Crown Castle" or "Petitioner"), appeared by counsel, Scott R. Leisz. The Respondents, City of Westfield, Board of Zoning Appeals ("BZA") and certain named Remonstrators, appeared by counsel, Brian Zaiger and Jeffrey M. Heinzmann, respectively. Having reviewed the pleadings and arguments of counsel, and being duly advised in the premises, the Court now enters the following Findings of Fact and Conclusions of Law.

I. FINDINGS OF FACT

1. Petitioner is a provider of telecommunications infrastructure serving the wireless communications industry with communications towers throughout Hamilton County, Indiana. Petitioner filed for a special exception¹ to place a wireless communications facility² at 16414

¹ A “special exception” is defined by the Westfield Unified Development Ordinance (“UDO”) as “[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted.” A special exception differs from a variance in that the granting of a variance is a matter of discretion, while the granting of a special exception is mandatory once the applicant show compliance with the relevant criteria. *Town of Merrillville Bd. of Zoning Appeals v. Public Storage, Inc.*, 568 N.E.2d 1092, 1094 (Ind. Ct. App. 1991).

Towne Road, Westfield, Indiana. (Tr. at 2: 1–4, attached hereto as Exhibit A.) The Westfield Board of Zoning Appeals (the “BZA”) held a public hearing on October 13, 2015. (Tr. at 2: 14–15.)

2. In order for a special exception at the proposed location to be approved, pursuant to WC § 16.04.140(D) the BZA must make a written determination that seven listed criteria are met. At the hearing, Petitioner presented evidence in an attempt to comply with each of the following criteria:

- a. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
- b. The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
- c. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
- d. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.
- e. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
- f. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.

² The proposed monopole tower would be 168 feet in height and include ancillary equipment buildings, perimeter fencing, and landscape screening. (Tr. at 2: 5–8, attached hereto as Exhibit A.) The tower would be over 200 feet from any property line and approximately 475 feet from the nearest structure, an existing residential structure on the parent parcel. (Tr. at 2: 9–13.)

- g. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.

3. The Petitioner offered evidence that the proposed facility would not cause any odors, noise or increased traffic. (Tr. at 4: 18–19; 6: 4–9.) Further, the Petitioner demonstrated that the improved wireless coverage could contribute to the public health and general welfare by enhancing emergency communications capabilities, including 911 service to the vicinity, as well as improving communications for commercial purposes. (Tr. at 6: 4–9; 21: 1–6.)

4. The Petitioner submitted site plans showing how the proposed facility would be designed, constructed, operated, and maintained. (Tr. at 5–6: 19–9; 23: 9–11.) In addition, Petitioner submitted detailed information pertaining to another similar facility south of the proposed location and immediately adjacent to a now fully developed subdivision with high value homes. The Petitioner argued that this evidence demonstrates that the current similar proposal would not substantially diminish or impair property value within the neighborhood. (Tr. at 22–23: 3–4.) Further, the Petitioner showed that the facility was nearly a quarter mile away from any dwelling (other than the Petitioner’s landlord’s own residence). (Tr. at 5: 5–18.) The Petitioner also agreed to construct a monopole tower (as opposed to a lattice structure or a tower requiring guy wires) in order to provide the necessary infrastructure in a manner that would be harmonious and appropriate in appearance for the vicinity, in the same manner that other similar facilities have been proposed and constructed upon other properties in the jurisdiction within the same zoning classification. (Tr. at 3: 13–16.) Lastly, the Petitioner showed that this facility would occupy only a small lease parcel. The Petitioner urged the BZA to believe that occupying a small lease parcel would not change the essential character of the area, given the small amount of property involved, the design of the tower as a monopole, and the need for the infrastructure in the area. (Tr. at 3: 13–16; 5: 1–4; 6: 4–9.) The Petitioner agreed to

design the tower so that it could be shared by multiple carriers in order to limit the overall number of towers necessary to serve the area, thereby maintaining the essential character of the area. (Tr. at 3–4: 20–6.)

5. The Petitioner provided an exhibit showing a tower facility like the tower proposed in this matter located in a nearby area adjacent to a then-developing residential subdivision. (Tr. at 22: 10–23.) The exhibit demonstrated that the subdivision property developed over time and in an orderly fashion. (Tr. at 22–23: 3–4.) The Petitioner argued that its proposed facility would also not impede the normal and orderly development of the surrounding property for uses permitted in the Zoning District. (Tr. at 5: 20–22.)

6. The Petitioner testified that the proposed site was equipped with utilities and that it would not increase traffic along Towne Road or otherwise result in any material increases or additional requirements upon public facilities and service. (Tr. at 4: 20–25; 6: 1–3.)

7. The Petitioner testified that the proposed facility would not involve any increase in traffic or contribute in any way to traffic congestion, and that the ingress and egress for the site were designed in accordance with the City’s requirements. (Tr. at 4: 24–25.) The Petitioner additionally explained that because the facility would be visited only intermittently by maintenance personnel for the individual carriers approximately once per month, it would generate very little traffic. (Tr. at 4: 20–25.)

8. The City indicated in its staff report prepared in anticipation of the public hearing that telecommunications services were not specifically referenced in the Comprehensive Plan. Petitioner testified that such infrastructure would complement the uses contemplated in the Comprehensive Plan by providing enhanced communications services for those working, traveling, and living in the area. (Tr. at 6: 4–9; 21: 3–6.)

9. The City and Petitioner agreed that the proposed facility was located in a zoning district where such uses are permitted as special exceptions. (Tr. at 4: 7–10.)

10. Although remonstrators did appear at the public hearing, no property owner adjoining the proposed tower spoke in opposition to the facility. (Tr. at 21: 7–11, 19–23; 23: 12–14.) Nor did the owner of nearby Bent Creek subdivision speak in opposition. (Tr. at 21: 19–23.) The remonstrators, many of whom lived over a mile from the proposed site of the facility, offered no factual evidence in opposition to the facility. (Tr. at 12–15.) Rather, they made generalized comments about the aesthetic appearance of the tower and argued that the tower should not be approved because of potential, future changes to the City’s Comprehensive Plan for the vicinity surrounding the tower.³ (Tr. at 7–19.).

11. On November 6, 2015, the City denied the special exception in a letter indicating the findings. That letter provided the following criteria and the findings which are included here in italics:

1. Criteria: The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare:

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. Wireless communication facilities are located nearby, and there is no evidence of harm to the community as a result of those facilities. Adding a new tower would increase cell/wireless service in this area of Westfield.*

2. Criteria: The Special Exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood:

³ For example, remonstrator Ginny Kelleher testified “I do not live next to this. So, this is not an in-my-backyard thing. I’m here because I have concerns about this project.” (Tr. at 7: 16–18.) She later specified her concerns that the proposed facility would, among other things, “be injurious to the use and enjoyment of neighboring properties, and it will not be harmonious or appropriate in appearance in this conservation area.” (Tr. at 9: 7–10.)

Finding: *It is possible the use and value of adjacent property would be affected in a substantially adverse manner. The proposed Special Exception may have a negative impact on surrounding properties because of some general perceptions that living next to (or near) a wireless communication tower is undesirable. While there is little market evidence to support that claim, those perceptions may influence potential future home-buyers and/or negatively impact adjacent property values.*

3. Criteria: The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district:

Finding: *The proposed location of the tower would be within a couple hundred feet of new home lots in a pending subdivision (Bent Creek). The tower's presence may impact the final layout of the subdivision or design decisions for lots/homes closest to the tower in order to mitigate any visual or other impact the tower may have on the development.*

4. Criteria: Adequate utilities, streets, drainage and other necessary facilities have been or are being provided:

Finding: *The use should have little or no impact on utilities, streets, drainage or other necessary facilities.*

5. Criteria: Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion:

Finding: *The Special Exception is expected to have a nominal increase, if any, in the number of trips to be generated beyond that of a typical residential or agriculturally utilized property. As a result, no traffic congestion is expected.*

6. Criteria: The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan:

Finding: *The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") does not address wireless communication facilities. The proposal neither frustrates nor further advances the vision of the Comprehensive Plan.*

7. Criteria: The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements set forth, applicable to such Special Exception, will be met:

Finding: *The UDO contemplates the use with in the AG-SF1 (Agriculture-Single Family Rural) District. The use and Property will otherwise comply with or exceed the applicable standards of the AG-SF1 (Agriculture-Single Family Rural) District and the Wireless Communication Service Facilities ordinance.*

II. CONCLUSIONS OF LAW

A. Standing of Remonstrators.

1. In its Verified Petition for Judicial Review, Petitioner identified certain remonstrators as “parties” to this matter out of an abundance of caution and while specifically noting that none had a legally recognizable interest in the outcome of this dispute.

2. Specifically, Indiana Code § 36-7-4-1606(d)(2) states that each person “who is aggrieved by the zoning decision and entered a written appearance as an adverse party to the petition or applicant before the board hearing that led to the zoning decision, as described in section 920(h) of this chapter, is a party to the petition for review.”

3. The term “aggrieved” is not defined in the statute, and, at the time of filing the Verified Petition, Petitioner made the decision to simultaneously identify the remonstrators as parties to the proceeding, while noting that none maintained a sufficient property or other interest in the outcome of this matter to be deemed “aggrieved” by the BZA’s decision (Verified Petition, p. 6, fn.2). In *Bagnall v. Town of Beverly Shores*, 726 N.E.2d 782, 786 (Ind. 2000), the Indiana Supreme Court explained that:

To be aggrieved, the petitioner must experience a substantial grievance, a denial of some personal or property right or the imposition of a burden or obligation. The board of zoning appeals’ decision must infringe upon a legal right of the petitioner that will be enlarged or diminished by the result of the appeal and the petitioner’s resulting injury must be pecuniary in nature. A party seeking to petition for certiorari on behalf of a community must show some special injury other than that sustained by the community as a whole.

4. Thus, while the statute does not define the term “aggrieved” as used in Indiana Code § 36-7-4-1606(d)(2), Indiana case law provides that, in order for a person to be aggrieved, that person must demonstrate a legal right or pecuniary interest that will be impacted by the outcome of the proceedings.

5. Here, while the remonstrators did enter an appearance prior to the hearing (in the form of a speaker's card) as an adverse party to the Petitioner, none has any personal or property right that would be impacted by the outcome of this dispute, and this is undisputed in the record (*i.e.*, none is the owner of any property adjoining the property which is the subject of the special exception application, and none was even entitled to any personal notice of the application's filing). (Tr. at 7:3-4 (respecting speaker cards); 11:23; 14:17-18; 21:7-11, 19-23; and 23:12-14 and *See* Hamilton County Notification List.).

6. In addition, no remonstrator made any showing or provided any evidence at the hearing that he or she would suffer any injury as a result of the BZA's decision. It is clear that no remonstrator will suffer any injury that is pecuniary in nature as a result of the outcome of this matter, and, therefore, none could be aggrieved by the outcome of these proceedings. As such, Remonstrators have no standing in this matter.

7. Petitioner has not waived the issue of standing by naming the Remonstrators in this action. The Court appreciates the Petitioner's concern of including the certain named remonstrators in this action in order to ensure those adverse, but not aggrieved, to the special exception were notified of their Verified Petition for Judicial Review.

B. The Special Exception Application and Decision.

1. This matter arises from the BZA's denial of Petitioner's special exception application.

2. Under Indiana law, if a petitioner for a special exception presents sufficient evidence of compliance with the relevant statutory requirements, the exception must be granted. *Town of Merrillville Bd. of Zoning Appeals v. Public Storage, Inc.*, 568 N.E.2d 1092, 1095 (Ind. Ct. App. 1991).

3. The *Town of Merrillville* case also noted that while some special exception ordinances are regulatory in nature and require an applicant to show compliance with objective standards (e.g., setbacks, structural specifications, etc.), providing the board of zoning appeals with very little, if any, discretion, some special exception ordinances provide a zoning board with a discernable amount of discretion (e.g., those which require an applicant to show that its use will not injure the public health, comfort, convenience, welfare, and morals). *Merrillville*, 568 N.E.2d at 1095 n.3; see also *Midwest Minerals v. BZA*, 880 N.E.2d 1264 (Ind. Ct. App. 2008).

4. When a zoning ordinance provides the board of zoning appeals with a discernable amount of discretion, the board is entitled to exercise its discretion. *Crooked Creek Conservation and Gun Club, Inc. v. Hamilton County Board of Zoning Appeals*, 677 N.E.2d 544, 548 (Ind. Ct. App. 1987). Here, the special exception criteria under the UDO include several criteria that granted the BZA discretion (e.g., the special exception will not be injurious to the general welfare; special exception will not be substantially affect the use or value of other property; and the special exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan). See *Midwest Minerals*, 880 N.E.2d at 1269 (all three criteria of the ordinance were found to “involve discretionary decision making”).

5. However, Indiana case law makes clear that a board’s discretion is not unfettered. Due process requires that a board, in exercising its discretion, make findings of fact based upon substantial evidence in the record in order to support its decision. *Merrillville*, 568 N.E.2d at 1094; *Midwest Minerals Inc.*, 880 N.E.2d at 1269. In this same vein, the Court in the *Network Towers* case concluded that “the Board had the discretion to deny the Permit, even if Network met all the other conditions, provided the evidence supported a finding that the tower would not serve the public welfare.” *Network Towers v. Board of Zoning Appeals of LaPorte County*,

Indiana, 770 N.E.2d 837, 843 (Ind. Ct. App. 2002) (Emphasis added). The requirement for findings relative to stated criteria and supported by substantial evidence is the essence of due process and the basis for meaningful judicial review. It should also be noted that the board in *Network Towers* failed to find that the tower would not serve the public welfare, just as the BZA here also found it unlikely that the tower would endanger the public welfare. *Network Towers*, 770 N.E.2d at 843. (Letter at 1, fn. 4 *infra*).

6. No authority cited by the BZA or the Remonstrators provides that a board of zoning appeals has an independent right to deny a special exception in its complete discretion, even if the petitioner demonstrates compliance with the stated criteria. Rather, a board's discretion is tied to the standards set forth in the underlying zoning ordinance, and its decisions must include basic findings of fact and ultimate conclusions supported by substantial evidence in the record. To conclude otherwise, the board would be permitted to approve or deny special exceptions without regard to any standard, thereby promoting arbitrary decision making, denying parties' due process rights, and rendering meaningful judicial review impossible. While Courts have recognized that the criteria set forth in the underlying zoning ordinance establishes the degree of discretion available to a board in determining a special exception, none has found that a board has such discretion that would nevertheless permit denial of a petition where the applicant satisfied all criteria for the approval.

7. The Westfield UDO's use of the word "may" in relation to the BZA's approval of special exception applications refers to its authority to approve such applications pursuant to the legislatively established criteria for such uses. UDO Article 10.11(D). The term "may" in this context in no way authorizes the withholding of a special exception where an applicant demonstrates compliance with the criteria because such an interpretation would lead to arbitrary decision making without standards and render judicial review meaningless. This Court wholly

disagrees with the argument that the BZA may deny a special exception once the BZA determines that an applicant has complied with each of the criteria contained in the ordinance. If the BZA determines that the applicant has satisfied each criteria of the ordinance, then the BZA must approve the special exception.

8. Courts in Indiana have long recognized that the form and content of written findings and conclusions are of great importance because the findings and conclusions provide the basis for judicial review and assure that the parties before the board are afforded due process, while protecting against careless or arbitrary administrative action. *Pack v. Indiana Family and Social Services Administration*, 935 N.E.2d 1218, 1222 (Ind. Ct. App. 2010); *Town of Merrillville Bd. of Zoning Appeals v. Public Storage, Inc.*, 568 N.E.2d 1092, 1094 (Ind. Ct. App. 1991). Specifically, written findings must determine what the facts are and state those as findings of basic fact. These basic findings, in turn, must form the basis for the agency's decision or ultimate finding. *Pack* at 1223; *see also*, *Town of Merrillville*, 568 N.E.2d at 1094 (holding that a board of zoning appeals has a duty to enter both specific findings of fact and ultimate findings or determinations). Such findings "must be tailored to address specific facts presented to the Board." *Network Towers, LLC v. Board of Zoning Appeals of LaPorte County, Indiana*, 770 N.E.2d 837, 844 (Ind. Ct. App. 2002). "These basic findings of fact are not sufficient to support the board's ultimate findings if they are merely a general replication of the requirements of the ordinance at issue." *Metropolitan Bd. Of Zoning Appeals, Div. II, Marion County, v. Gunn*, 477 N.E.2d 289, 300 (Ind. Ct. App. 1985). Conclusory findings unsupported by factual findings are inadequate as a matter of law. *Network Towers*, 770 N.E.2d at 844. Conclusory findings, unsupported by facts in the record, constitute an abuse of discretion requiring reversal of the BZA's decision. *Id.*

9. With respect to findings 1, 4, 5, 6, and 7, the BZA adopted a statement supportive of the proposal and supporting approval of the special exception.

10. The statements in five of the seven findings (1, 4, 5-7) support approval of Petitioner's special exception. As a result, this matter must be determined with respect to the two remaining findings, finding number 2 and finding number 3.

11. With respect to finding number 2, the BZA fails to make an ultimate finding of fact relative to the criteria specified in the City's Ordinance. The finding states that "[i]t is possible the use and value of adjacent property would be affected in a substantially adverse manner." The language in the finding does not follow the standard set forth in the City's ordinance—that standard asks whether the tower will be "designed, constructed, operated, and maintained," so as not to be "injurious to the use and enjoyment of other property" and not "substantially diminish and impair property value within the neighborhood." UDO, Article 10.11(D).

12. The BZA's finding does not link the "possibility" of an adverse impact on the use and value of adjacent property to the tower's "design, construction, operation or maintenance," but rather attributes the "possibility" to unspecified "perceptions" about cell towers generally.

13. Here, the BZA failed to make an ultimate finding of fact on the central factual question before it as presented by finding 2, namely, whether the proposed tower's design, construction, operation and maintenance would "substantially diminish and impair property value within the neighborhood." Rather, finding 2 states there is "little market evidence to support that claim". The Court cannot discern where in the record the BZA finds "little market evidence". The Petitioner's own evidence showed that in a similar neighborhood, the property closest to a cell tower had the least value of nearby parcels. However, because of the lack of any specificity within the BZA's findings, the Court cannot guess whether this is the evidence they

are citing or something else. Additionally, in the context in which the BZA states that “there is little market evidence,” it seems to be saying that the Petitioner’s evidence and argument that a cell tower will not substantially be adverse to property values, has not been rebutted. Either way, the conclusory way in which the BZA wrote finding 2, makes it impossible for this Court to determine whether the BZA found the Petitioner met its burden or not. This Court is troubled by the fact that the findings adopted by the BZA make no reference to any evidence in the record and were, in fact, *prepared before the public hearing on the special exception*, making such findings a factual impossibility.

14. The only factual evidence in the record on the subject of property values depicts the growth of a residential subdivision immediately adjacent to a cell tower with home values ranging from \$350,000 to over \$400,000. (Petitioner’s Packet distributed during rebuttal presentation for Petition No. 1510-SE-03) Finding 2 is arbitrary and not based on any evidence in the record whatsoever. Finding 2 is deficient as a matter of law and fails to include any basic or ultimate findings of fact. As a result, the BZA’s decision must be remanded for a determination whether the Petitioner met its burden.

15. Similarly, with respect to finding 3, the BZA found that the “tower’s presence may impact the final layout of the [Bent Creek] subdivision or design for lots/homes closest to the tower in order to mitigate any visual or other impact the tower may have on the development.” This language was apparently adopted to find that the special exception “will impede the normal and orderly development” of the surrounding area. This finding does not conclude that the tower’s presence actually will have any impact on the subdivision and contemplates that the subdivision will be built, not that its development will be impeded.

16. At the special exception hearing, Petitioner also noted that the owner of the nearby Bent Creek subdivision did not remonstrate against the tower.⁴ Again, the only evidence in the record on this point was Petitioner's exhibit showing how the location of a similar facility in an adjoining jurisdiction (along the same street as the proposed tower) had no impact on the development of a high value residential subdivision. (Tr. at 22:8-25; 23:1-11; Petitioner's Packet distributed during rebuttal presentation for Petition No. 1510-SE-03). To the extent finding 3 may be read to support the denial of the special exception, it is legally deficient because it too is not supported by the evidence in the record — rather, it rests only upon unfounded speculation — nor does it actually reach an ultimate conclusion of fact meeting the standard set forth in the Ordinance and as required by law. Finding 3 is deficient as a matter of law and must be remanded for a determination whether the Petitioner met its burden.

17. The BZA quotes *dicta* from the *Ripley County* case to the effect that an applicant may not shift its burden of proving that each criteria for a special exception is met to either the board or the remonstrators. (BZA's Brief at 8). However, in the later published *Crooked Creek Conservation* case, the Court of Appeals clarified the requirements for findings where a board determines that an applicant has failed to meet its burden. In *Crooked Creek*, the Court observed:

[I]n the event that boards of zoning appeals deny applications for special exceptions upon the grounds that the applicant failed to carry its burden to show compliance with the relevant statutory criteria, boards would be well advised to at least state as much in their findings and to point out what they see as any deficiency in the applicant's evidence. Boards should be able to perform this task without improperly assuming the burden of negating the

⁴ Moreover, those that did remonstrate did not own property adjoining the proposed tower and offered only generalized comments about the aesthetic appearance of the tower and concern for tower with regards to the potential, future changes to the City's Comprehensive Plan. As a result, the remonstrators lack standing upon judicial review because they would not be "aggrieved" by the special exception and have no legal right or pecuniary interest that would be enlarged or diminished by the special exception. See *Thomas v. Blackford Cnty. Area Board of Zoning Appeals and Oolman Dairy, LLC*, 907 N.E.2d 988, 991 (Ind. 2009).

applicant's case. *Crooked Creek Conservation and Gun Club, Inc. v. Hamilton County Board of Zoning Appeals*, 677 N.E.2d 544, 548, n.1 (Ind. Ct. App. 1997).

18. In this matter, none of the BZA's findings state that the applicant failed to meet its burden of demonstrating compliance with each criteria. Similarly, none points out any deficiency with the applicant's evidence. To the contrary, five of the seven findings clearly support approval of the special exception, and the findings relating to the second and third criteria may or may not support the special exception. Each simply fails to make specific findings, refer to any evidence in the record or reach an ultimate conclusion as required by law, and the BZA has expressly conceded these points in its briefing.

III. FINAL JUDGMENT

Based upon the foregoing Findings of Fact and Conclusions of Law, the Court finds in favor of Crown Castle. Accordingly, it is Ordered, Adjudged, and Decreed that BZA's denial of Crown Castle's application for a special exception is hereby set aside, and this action is remanded to the BZA for final disposition of Crown Castle's petition and instructs the Board to accept further evidence from Crown Castle and/or aggrieved parties on the two issues of whether: (1) the Special Exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood; and (2) the establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district and for further proceedings consistent with this judgment.

So Ordered this 15 day of April, 2016.



Judge, Hamilton County Circuit Court

Distribution:

Matthew M. Price
Scott R. Leisz
Bingham Greenebaum Doll LLP
2700 Market Tower
10 W. Market Street,
Indianapolis, IN 46204

Brian Zaiger
KRIEG DEVAULT LLP
12800 N. Meridian Street, Suite 300
Carmel, IN 46032

Jeffrey M. Heinzmann
HEINZMANN LAW OFFICE LLC
P.O. Box 336
Fishers, IN 46038



Petition Number: 1606-VS-10

Subject Site Address: 4535 E. 169th Street

Petitioner: Omar Usmani

Request: Variances of Standard to modify the landscaping requirements (Article 6.8) for an institutional use in the SF3: Single-Family Medium Density District.

Current Zoning: SF3: Single-Family Medium Density District

Current Land Use: Residential/In-Home Daycare

Approximate Acreage: 2.17 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Landscaping Plan
4. Existing Conditions
5. Petitioner's Application

Staff Reviewer: Kevin M. Todd, AICP

OVERVIEW

Location: The subject property is approximately 2.17 acres +/- in size and located at 4535 East 169th Street (the "Property") (see **Exhibit 2**). The Property is zoned SF3: Single-Family Medium Density District. Adjacent property to the west, north, and east is part of the Summit Lakes Subdivision and is also zoned SF3: Single-Family Medium Density District. Property across 169th Street to the south is part of the Brookside Subdivision and is zoned SF2: Single-Family Low Density District.

Property History: The Children's Montessori House¹ started operating on the Property in 2013. The Children's Montessori House offers educational services for Kindergarten and younger. Prior to 2013, the Property was used residentially. Growth of the Children's Montessori House business has caused the need for additional parking facilities on-site.

Additional Site Improvements: In addition to adding a new parking lot and installing landscaping, the petitioner will also be dedicating right-of-way along 169th Street and installing

¹ The Children's Montessori House is classified as an "Educational Institution", per the UDO. Chapter 12 of the UDO defines "Educational Institution" as "[a] public or parochial pre-primary, primary, grade, junior high, high, preparatory school or academy; junior college, college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization." The use is permitted in the SF3: Single-Family Medium Density District (per Chapter 13.3, Use Table).

an eight-foot pathway along 169th Street. Adding this segment will complete the pathway along the north side of 169th Street, between Gray Road and Crest Point Drive.

Variance Request: The new parking lot has triggered the Development Plan Review process², which requires the Property's landscaping to be brought into compliance with the landscaping standards for an institutional use, per the UDO. The petitioner has submitted a landscaping plan (see **Exhibit 3**) and is requesting to reduce certain perimeter landscaping requirements in accordance with that plan. The "Summary of Variances" section below will outline the specific landscaping standards that are being requested for relief.

SUMMARY OF VARIANCES

The landscaping standards of the UDO require External Street Frontage landscaping along 169th Street and buffer requirements along the west, north, and east property lines. The petitioner is requesting a reduction in these perimeter landscaping requirements, as further identified below:

External Street Frontage Landscaping Requirements:

Requirement: *Article 6.8 (M)(2)* of the UDO requires a minimum of three (3) shade or evergreen trees; two (2) ornamental trees; and twenty-five (25) shrubs per one hundred (100) lineal feet along an External Street³.

Request: Per the petitioner's submitted landscaping plan, the plant quantities identified in the table below would be installed (including any identified existing plants) if this variance request is approved as proposed:

<u>169th Street (290')</u>	<u>Required</u>	<u>Proposed</u>
Shade/Evergreen Trees	9	5
Ornamental Trees	6	0
Shrubs	73	6

² Chapter 10.7 (C) of the UDO states that "the Development Plan review process shall be necessary prior to any... new or expanded surface Parking Areas...".

³ 169th Street is classified as an External Street.

Buffer Yard Requirements:

Requirement: *Article 6.8 (N)* of the UDO requires Buffer Yard Type B for the east, north, and west buffer yards⁴. Buffer Yard Type B requires a minimum buffer width of forty (40) feet and a 4' tall undulating mound for at least 60% of the length of the shared Lot Line(s). In addition, a minimum of four (4) shade trees; four (4) evergreen trees; and ten (10) shrubs per one hundred (100) lineal feet are required.

Request: Per the petitioner's submitted landscaping plan, the plant quantities identified in the tables below would be installed (including any identified existing plants) if this variance request is approved as proposed:

<u>West Buffer (305')</u>	<u>Required</u>	<u>Proposed</u>
Yard Width	40'	40'
Mound	4' undulating	None
Shade Trees	13	9
Evergreen Trees	13	9
Shrubs	31	31

<u>North Buffer (290')</u>	<u>Required</u>	<u>Proposed</u>
Yard Width	40'	30'
Mound	4' undulating	None
Shade Trees	12	8
Evergreen Trees	12	9
Shrubs	29	24

⁴ The Children's Montessori House is classified as an "Institutional" use for the purposes of determining buffer yard requirements. Institutional uses against SF3 uses/zoning requires Buffer Yard Type B.

<u>East Buffer (305')</u>	<u>Required</u>	<u>Proposed</u>
Yard Width	40'	40' +
Mound	4' undulating	None
Shade Trees	13	2
Evergreen Trees	13	6
Shrubs	31	4

NOTE – It should be noted that a 75' utility easement⁵ runs the full length of the property along the eastern Lot Line, within the Property. The presence of this easement limits buffering/planting opportunities along the eastern Lot Line.

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 June 14, 2016, 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 UDO⁶ 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 UDO⁷ 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.

⁵ Duke Energy has overhead transmission lines within this utility easement.

⁶ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁷ 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:

Approval: If the Board is inclined to approve the variances, then the Department recommends approval with the condition that the landscaping plan that is to be approved with the subsequent Detailed Development Plan be substantially similar to the landscaping plan that accompanies this variance request (see **Exhibit 3**).

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

- 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 proposed improvements will otherwise comply with the applicable standards of the SF3: Single-Family Medium Density 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 should not have a negative impact on surrounding properties because: (i) the existing and proposed improvements enhance the value of the subject property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the SF3: Single-Family Medium Density 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 and Comprehensive Plan.

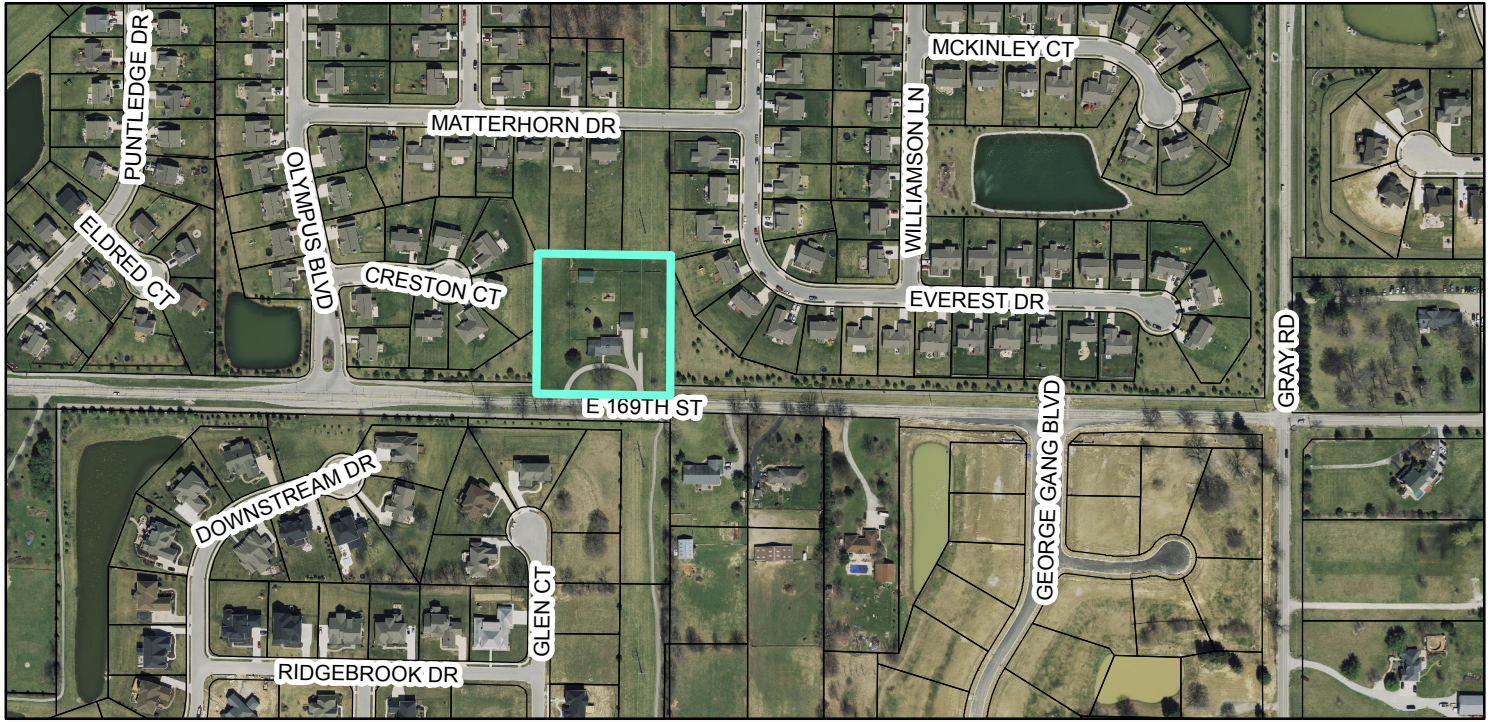


- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

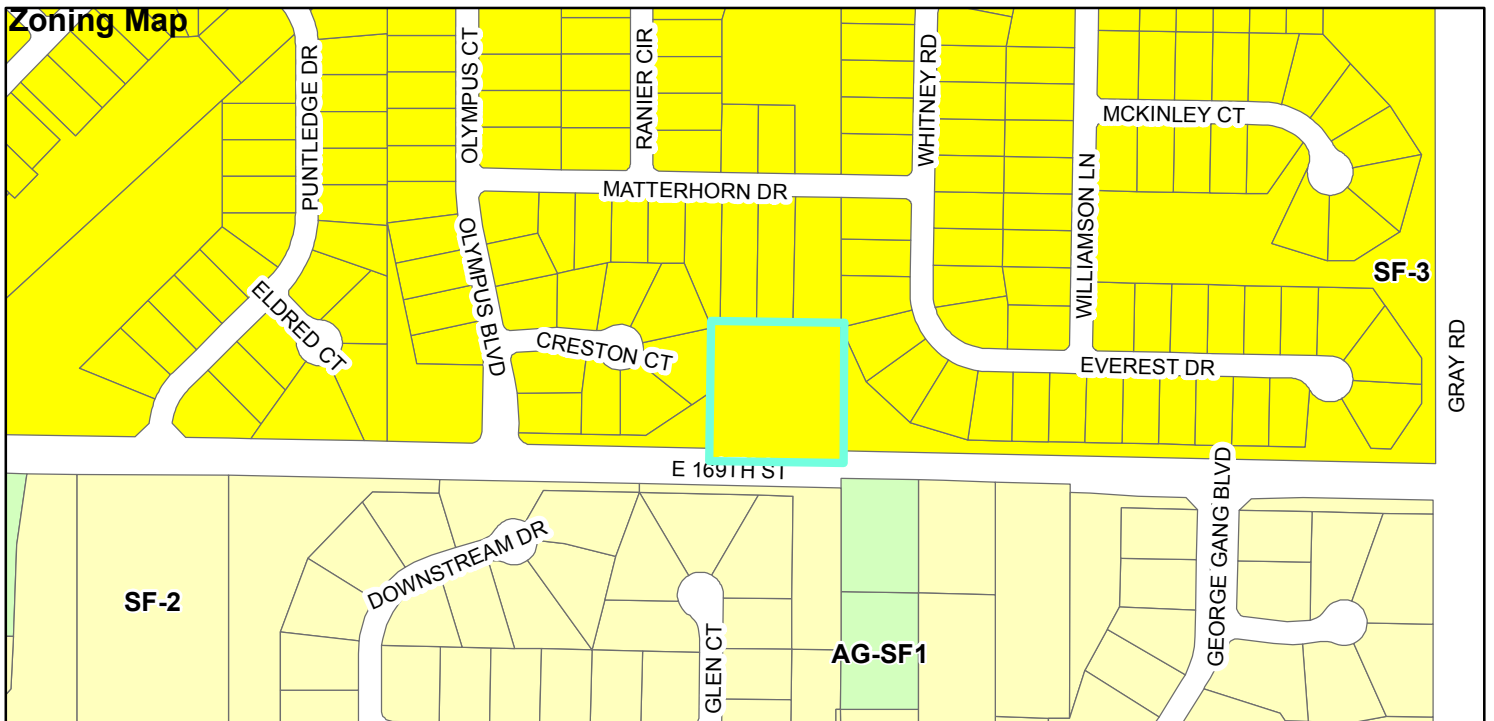
Finding: Strict adherence to the zoning ordinance would result in a much heavier landscaped perimeter of a Lot that is surrounded by single-family residential neighborhood lots and common areas. Additional landscaping per the UDO could change the character of the area in a way that detracts from the existing residential character of the area. Additionally, the presence of the utility easement along the eastern Lot Line causes the inability to comply with required buffer mounding and plantings in the eastern buffer yard.

Aerial Location Map

Site

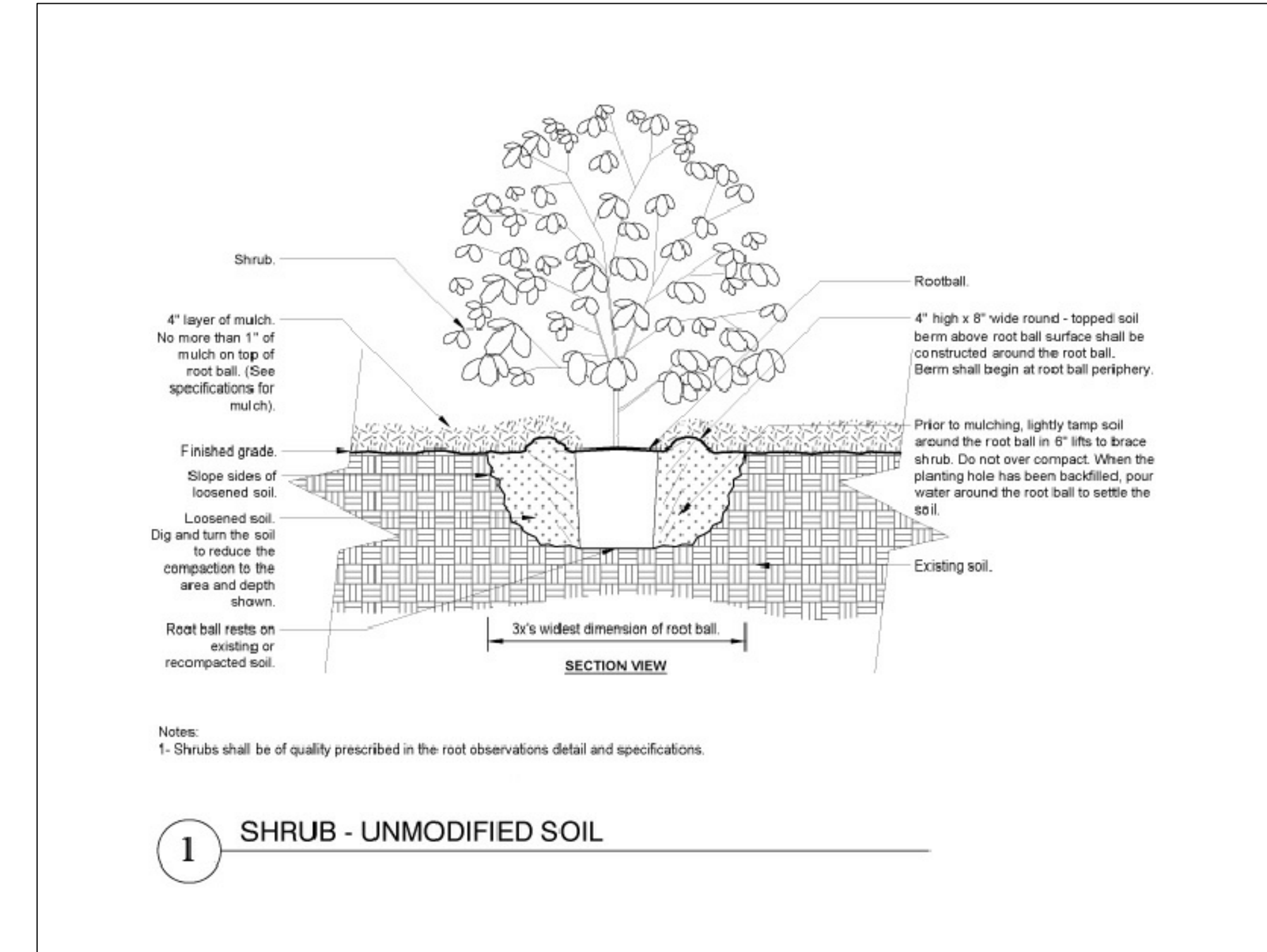
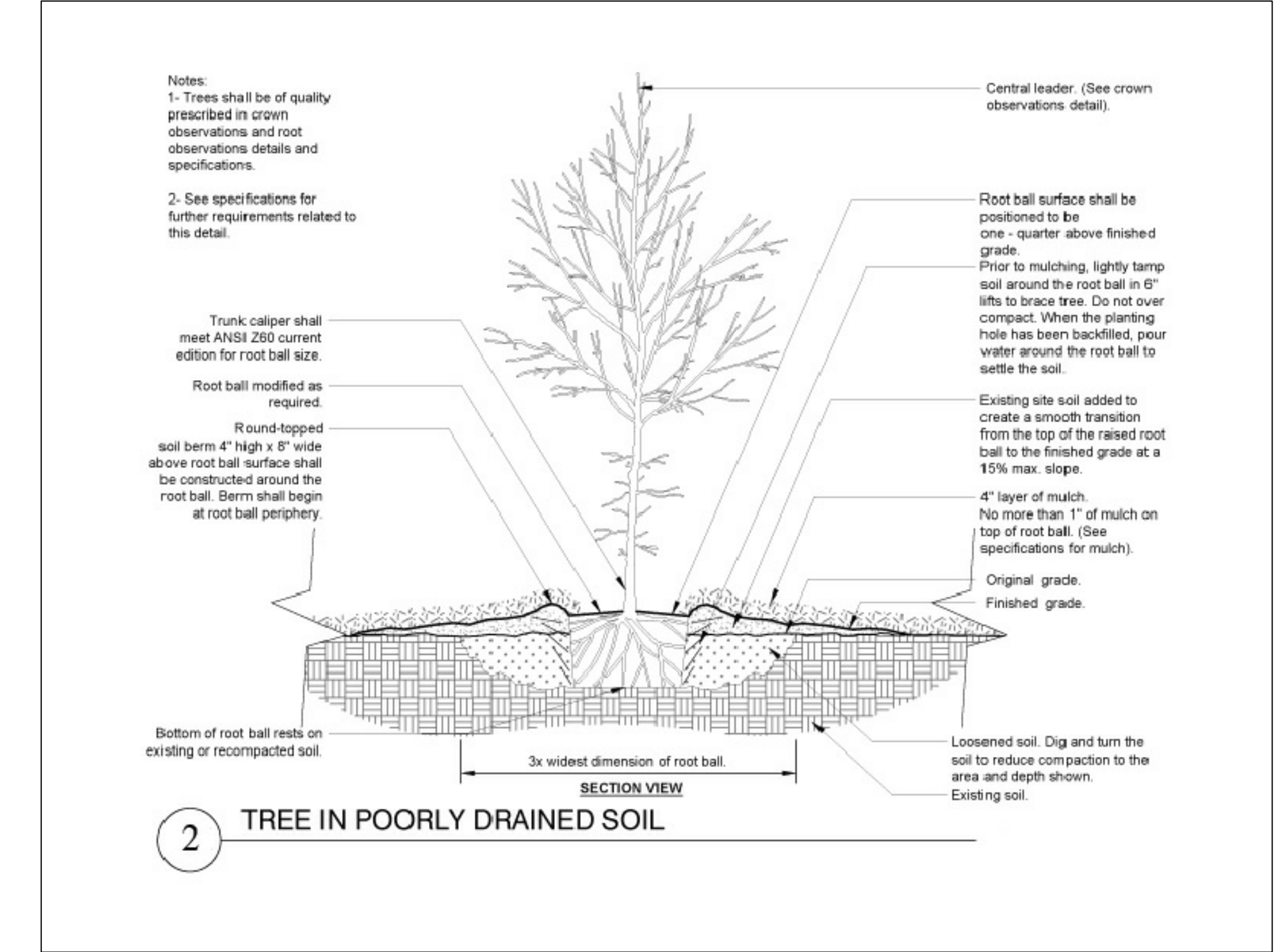
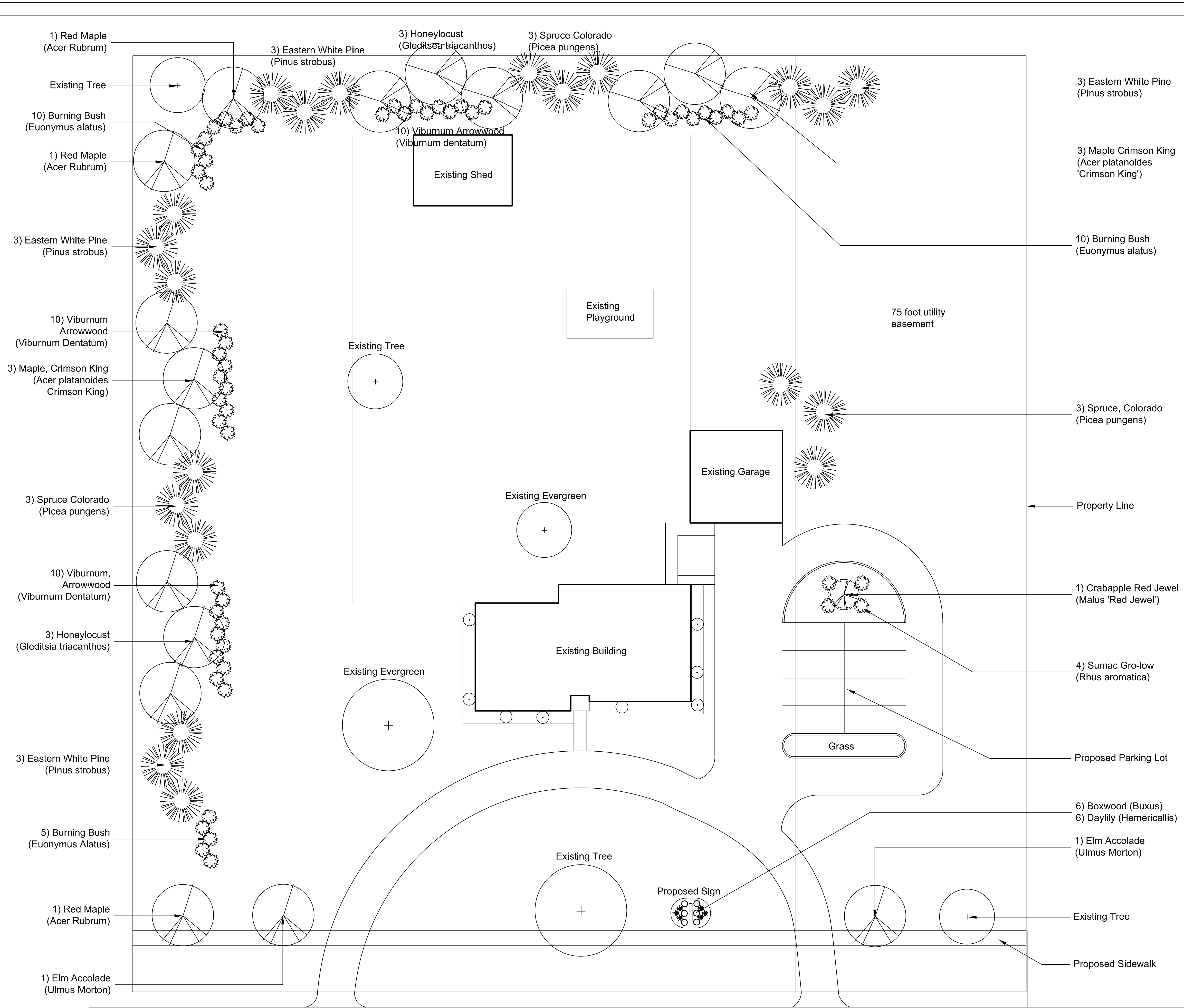


Zoning Map



Zoning

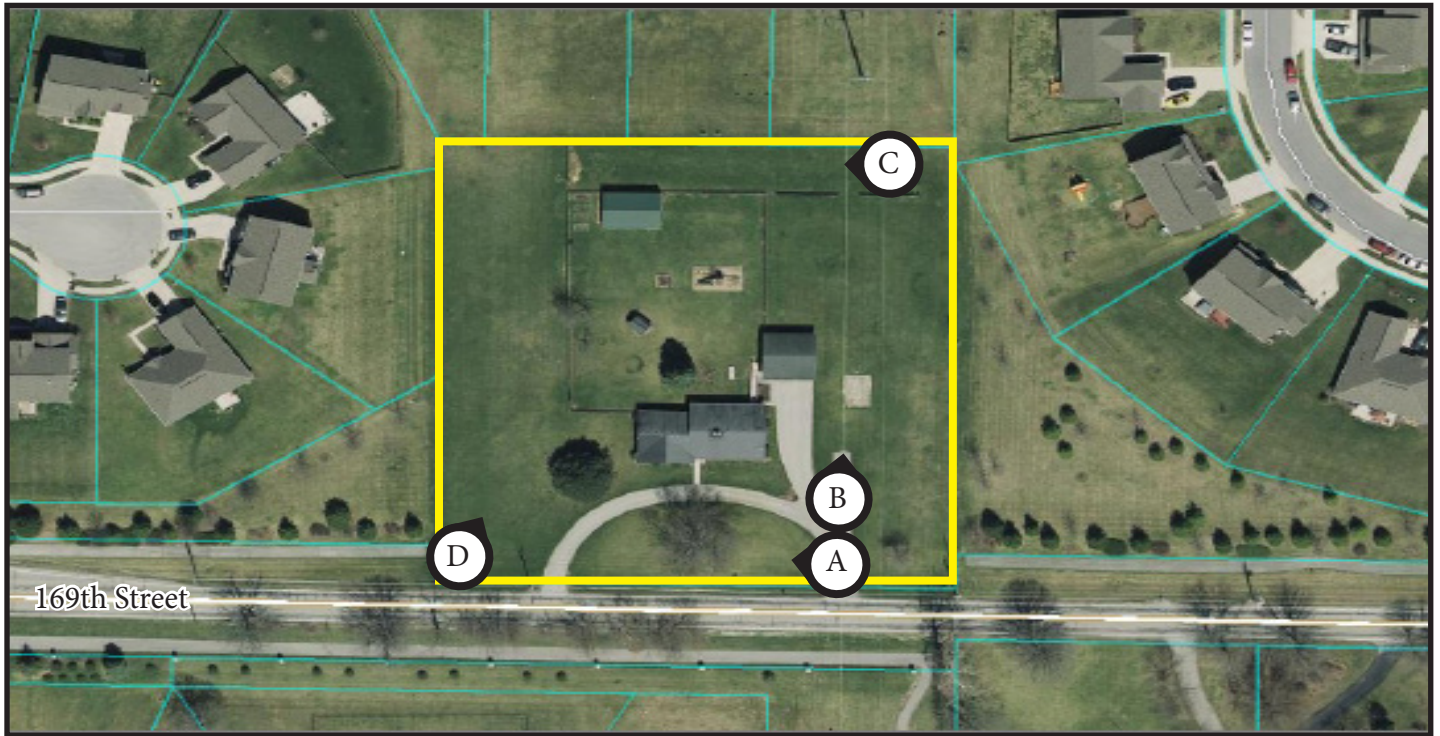
- SF-2 (Single Family - 2)
- AG-SF1 (Agriculture - Single Family - 1)
- SF-3 (Single Family - 3)



Renovation to:	Children's Montessori
Project Location:	4535 East 169 th Street Westfield, IN 46062
Project Title:	Landscape Plan

Notes:	Sheet No. 1 of 1
All deciduous trees are 2" calipar w/ 4' dia. mulch ring	Date: 04/27/2016
All evergreen trees are 6' in height w/ 4' dia. mulch ring	Scale: 1/4"=1'
All shrubs are 24" minimum height in a mulch bed	Drawn By: Jayson Schuetz

EXISTING CONDITIONS



WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

OFFICE
USE ONLYDOCKET #: 1606 - VS - 10

FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: 04/25/16

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Omar Usmani TELEPHONE: 317-828-1694ADDRESS: 16716 Gaither Blvd, Westfield, IN 46074 EMAIL: osusmani@gmail.comPROPERTY OWNER'S NAME: Omar Usmani TELEPHONE: 317-828-1694ADDRESS: 16716 Gaither Blvd, Westfield, IN 46074 EMAIL: osusmani@gmail.comREPRESENTATIVE'S NAME: Omar Usmani TELEPHONE: 317-828-1694COMPANY: _____ EMAIL: osusmani@gmail.comADDRESS: 16716 Gaither Blvd, Westfield, IN 46074

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 4535 E 169th Street, Westfield, IN 46062COUNTY PARCEL ID #(S): 08-10-05-00-00-013.000EXISTING ZONING DISTRICT(S): _____ EXISTING LAND USE(S): SF3

VARIANCE REQUEST



VARIANCE OF LAND USE

CODE CITATION: _____

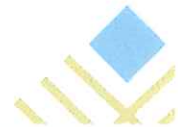


VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____

CONCERN (KT)FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

I am petitioning for a variance to ease the planting requirement from buffer yard C, which includes mounds and high density planting to buffer yard A, which eliminates the requirement for mounds and slightly reduces the planting requirement. The intent is to convert this property to an educational institution, providing high quality and affordable preschool and kindergarten to the surrounding community. In pursuit of this objective, our intent is to maintain a fully residential appearance, to avoid detracting from our neighbors, but also to create a warm and inviting atmosphere for our young students. The presence of large mounds and high density planting robs our neighbors of the community feel and creates the perception of living adjacent to a commercial property. We are requesting this variance or reductions even beyond the ask, to maintain a cohesive neighborhood feel.



APPLICANT AFFIDAVIT

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

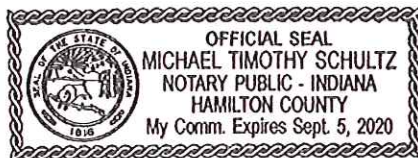
[Signature]
Applicant/Representative (signature)

Omar Usmani
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 29th day of April, 2016.

State of IN, County of Hamilton, SS:



[Signature]
Notary Public Signature
Michael Timothy Schultz
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

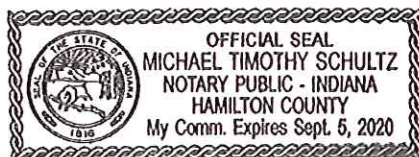
[Signature]
Property Owner (signature)*

Omar Usmani
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 29th day of April, 2016.

State of IN, County of Hamilton, SS:



[Signature]
Notary Public Signature
Michael Timothy Schultz
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 DEVELOPMENT STANDARD)

APPLICANT: Omar Usmani

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: _____
My request is to modify the planting requirements to maintain the neighborhood appeal and would create no hazards to the public or adjacent properties.

- 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 existing requirements for a buffer yard C includes large mounds and high density planting creating the appearance of residing next to a commercial property. Our intent is to minimize the appearance of a commercial property, and so modifying the planting requirements will also contribute to lessening the appearance of residing adjacent to a commercial property.

- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
The primary risk created by the requirement is the risk for flooding; the creation of mounds would block access to drainage at the north and west ends of my property.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

AFFIDAVIT OF NOTICE OF PUBLIC HEARING

DOCKET #: _____

PUBLIC HEARING DATE: June 14, 2016

APPLICANT'S NAME: Omar Usmani

REPRESENTATIVE'S NAME: Omar Usmani COMPANY: Children's Montessori House

PROJECT TO BE KNOWN AS: CMH Expansion

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

PUBLIC NOTICE AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath does hereby certify that notice of public hearing to consider above petition was sent by certified, registered or first class mail to the last known address of each of the following persons, as attached hereto as Exhibit A, they being all persons to whom notice was required to be sent by the Plan Commission's Rules of Procedure, and that said notices were postmarked on the 4 day of June, 2016, being at least ten (10) days prior the scheduled public hearing.

I (We) further certify that the notice required to be posted on the subject property described in the above petition was posted on the subject property in accordance with the Plan Commission's Rules of Procedures on the 3 day of June, 2016, being at least ten (10) days prior the scheduled public hearing.

[Signature]
 Applicant/Representative (signature)*

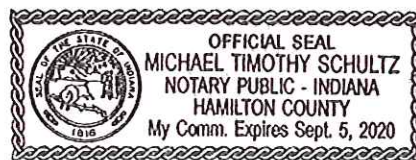
Omar Usmani
 Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing instrument.

Witness my hand and Notarial Seal this 29th day of April, 2016.

State of IN, County of Hamilton, SS:

[Signature]
 Notary Public Signature
Michael Timothy Schultz
 Notary Public (printed)



Tax ID Number(s):
08-10-05-00-00-013.000

29-10-05-000-013.000-015

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

Donald W. Mendell Jr. and Carolyn P. Mendell, Husband and Wife

CONVEY(S) AND WARRANT(S) TO

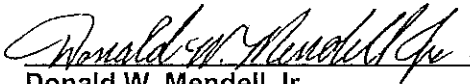
Omar S. Usmani and Sobia S. Usmani, Husband and Wife, for Ten Dollars (\$10.00) and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Hamilton County, in the State of Indiana, to wit:

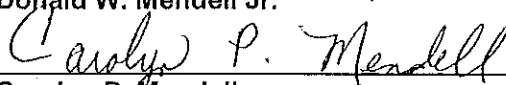
SEE ATTACHED EXHIBIT "A"

Subject to Real Estate taxes now due and payable and thereafter.

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this deed this 14th day of January, 2013.



Donald W. Mendell Jr.


Carolyn P. Mendell

State of Indiana, County of Hamilton ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **Donald W. Mendell Jr. and Carolyn P. Mendell, Husband and Wife** who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 14th day of January, 2013.

My Commission Expires: _____

Leah Oberbroeckling
Signature of Notary Public

Printed Name of Notary Public _____

Notary Public County and State of Residence _____

This instrument was prepared by
Andrew R. Drake, Attorney-at-Law
11711 N. Pennsylvania St., Suite 110, Carmel, IN 46032

Property Address:
4535 East 169th Street
Westfield, IN 46062

Grantee's Address and Mail Tax Statements To:

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. Andrew R. Drake

EXHIBIT "A"

Property Address: 4535 East 169th Street, Westfield, IN 46062

A part of the Northwest Quarter of the Southeast Quarter of Section 5, Township 18 North, Range 4 East more specifically described as follows:

Beginning at the Southeast corner of the Northwest Quarter of the Southeast Quarter of Section 5, Township 18 North, Range 4 East, thence North 88°32'45" West 586.28 feet on and along the South line of said Northwest Quarter of the Southeast Quarter thence North 00°00'00" 743.00 feet; thence South 88°32'45" East 586.28 feet to a point on the East line of said Northwest Quarter of the Southeast Quarter; thence South 00°00'00" 743.00 feet to the point of beginning, containing 10 acres, more or less.

EXCEPTING THEREFROM

Part of the Northwest Quarter of the Southeast Quarter of Section 5, Township 18 North, Range 4 East, in Hamilton County, Indiana, being described as follows:

Commencing at the Northeast corner of said Southeast Quarter; thence North 88°56'36" West along the North line thereof a distance of 1336.07 feet to the Northeast corner of the Northwest Quarter of said Quarter; thence South 00°00'09" West along the East line thereof a distance of 576.54 feet to the point of beginning; thence continuing South 00°00'09" West along said line a distance of 419.71 feet to a point being North 00°00'09" East a distance of 321.79 feet from the Southeast corner of said Quarter Quarter; thence North 88°46'38" West parallel with the South line of said Quarter Quarter a distance of 290.00 feet; thence South 00°00'09" West parallel with said East line a distance of 321.79 feet to said South line; thence North 88°46'38" West along said South line a distance of 296.27 feet; thence North 00°00'09" East parallel with the East line thereof a distance of 741.50 feet; thence South 88°46'38" East parallel with said South line a distance of 586.27 feet to the point of beginning, containing 7.83 acres, more or less.

Tax ID Number(s):

08-10-05-00-00-013.000

29-10-05-000-013.000-015

Omar & Sobia Usmani
Children's Montessori House
4535 E 169th Street
Westfield, IN 46062

April 29, 2016

Dear Neighbors:

For the past three years we have been operating a Montessori School providing an early childhood education to the children in our community. Since our start we've focused on offering our neighbors a safe welcoming environment where children are happy and develop academically, socially, emotionally, and physically. During this time I am so happy that we've felt so welcome by all of you enabling us to have a positive impact on many young lives.

We are at a point we would like to increase our capacity so we can serve our community at a slightly larger scale, but we want to do so with your participation and feedback. Our plan is to simply convert the remainder of the house into a second classroom, we have no intention of adding on or altering the house in a fashion that would detract from the residential feel or appearance. We are very aware that building a commercial facility and installing imposing lights is not only an eyesore, but also devalues your property. The modifications we plan to make include the installation of a small parking pad to accommodate eight vehicles, connecting the walking path that dead end on the east and west ends of our property line, and planting several trees and bushes to along the perimeter of our property.

I am writing to your today because in accordance to code the requirements for a buffer separating our properties is extensive and includes the creation of large grass mounds with a large number of shade trees, ornamental trees, and shrubs. Which I believe would create detract from the residential feel we are trying to maintain. I am asking both the city and you as my neighbors to allow us to lessen the requirements and eliminate the need for mounds and reduce the planting requirement in order to promote a residential community appearance.

The attached letter provides information regarding a public hearing which you are welcome to attend to offer feedback. Or if you have questions please feel free to call us at 317-828-1694, email us at info@childrensmontessorihouse.com, or stop by for a quick chat. Please do offer your feedback, we sincerely want to make certain that your voice is heard and we maintain our relationship as neighbors.

Thank you for your time.

Kindest Regards,

Omar & Sobia Usmani



Petition Number: 1606-VS-09

Subject Site Address: 1602 East 203rd Street

Petitioner: Kurtis and Marla Ailor

Request: Variance of Standard to allow for the construction of an accessory building in the Established Front Yard (Article 6.1(D)(2)(a)) in the AG-SF1: Agriculture/Single Family Rural District.

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

Current Land Use: Residential

Approximate Acreage: 3.03 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Existing Conditions
6. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

OVERVIEW

Location: The subject property is 3.03 acres +/- in size and is located at 1602 East 203rd Street (see **Exhibit 2**). The property is improved with a single family dwelling constructed in 1965. The property is zoned AG-SF1: Agriculture/Single Family Rural District. Adjacent properties are zoned AG-SF1 and Chatham Hills Planned Unit Development District.

Variance Request: The petitioner is requesting a variance to allow for the construction of a garage in the Established Front Yard¹, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Elevations Exhibit (see **Exhibit 4**).

VARIANCE REQUEST

The proposed detached garage is an Accessory Building². Accessory Buildings are subject to Article 6.1 Accessory Use and Building Standards of the UDO.

¹ Chapter 12 of the UDO defines "Yard, Established Front" as "[a] Yard extending across the full width of the Lot between the Principal Building, as built, and the Front Lot Line, the depth of which is the least distance between the Front Lot Line and the Principal Building."

² Chapter 12 of the UDO defines "Building, Accessory" as "[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot

Article 6.1(D)(2)(a) Accessory Use and Building Standards; Building Location; Lots Not in Subdivisions; Front Setback states that “Accessory Building(s) shall be located at least seventy-five (75) feet from all Rights-of-way. No Accessory Building may be erected in the Established Front Yard of a Principal Building.”

The request is to allow the detached garage in front of the home, as depicted on the Site Plan. The siting of an Accessory Building on the property is constrained as a result of the unique nature of the property, the location of the driveway turn-around, and the location of the septic field (see Existing Conditions Exhibit at Exhibit 5). The proposed garage would otherwise comply with the applicable standards.

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 June 14, 2016, 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

with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit.

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.

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:

Recommended Findings for Approval:

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

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements would otherwise comply with 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 should not have a negative impact on surrounding properties because: (i) the proposed improvements enhance the value of the subject property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 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 and Comprehensive Plan.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 14, 2016

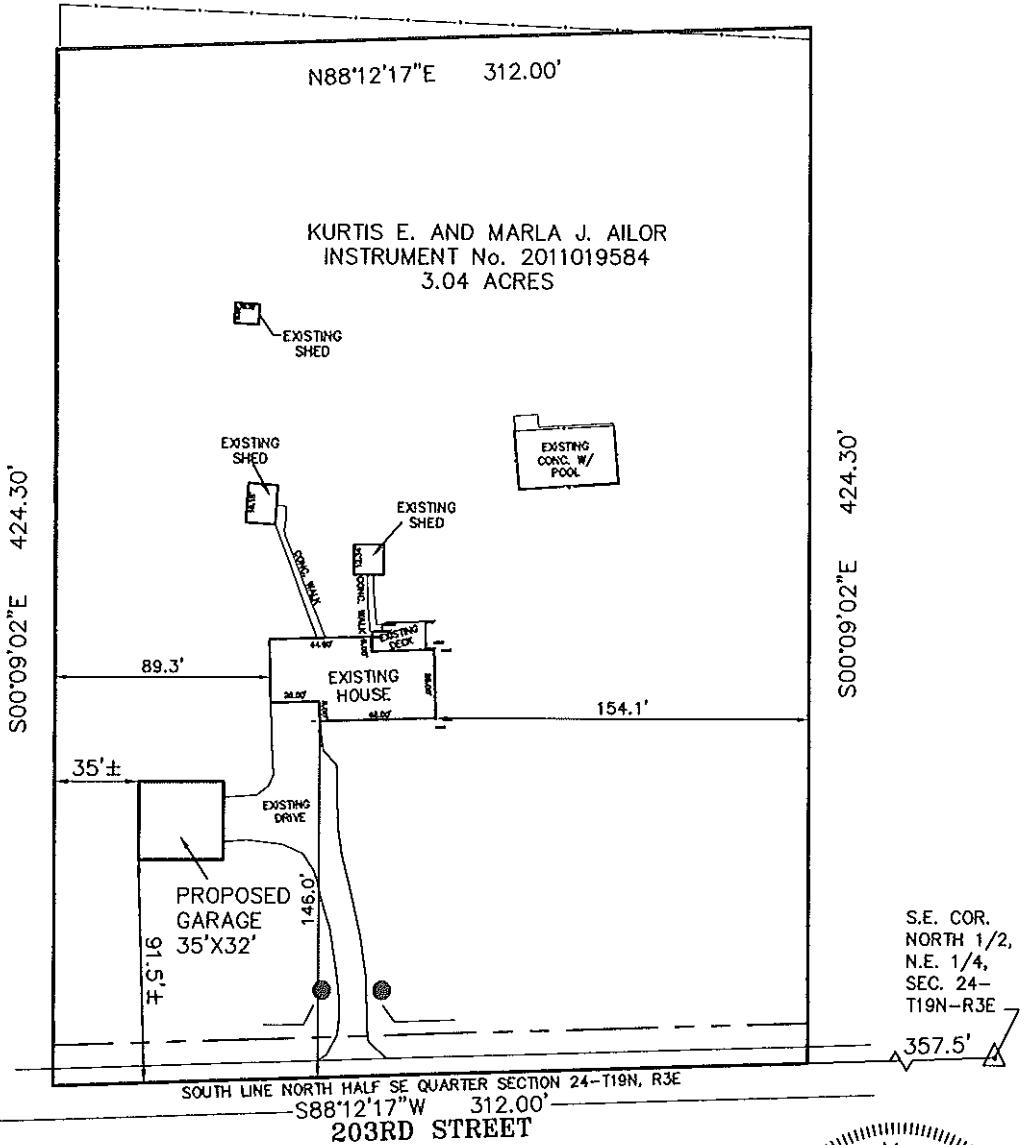
1606-VS-09

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

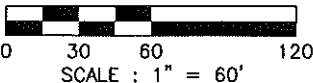
Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the existing improvements and parcel would otherwise be permitted and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

EXHIBIT SURVEY

PART OF THE N.E. QUARTER, SECTION 24, TOWNSHIP 19 NORTH, RANGE 3 EAST
WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA



GRAPHIC SCALE



K. Nathan Althouse

R.L.S.

LS20400007

4/26/2016
DATE:



MILLER SURVEYING INC.

948 CONNER STREET
NOBLESVILLE INDIANA 46060
PH. # (317) 773-2644 FAX 773-2694



LOCATION: PART OF THE N.E. QUARTER,
SECTION 24, T19N, R3E
WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA
FIELD WORK COMPLETED: 4/25/2016
CLIENT: KURTIS & MARLA AILOR
DESCRIPTION: EXHIBIT

DRAWN BY: LRL	PREPARED BY: KNA
SCALE: 1" = 100'	FIELD BOOK: D.C.
DATE: 4/26/2016	PAGE: D.C.
JOB NUMBER	SURVEY 4 FILE:
M15838	

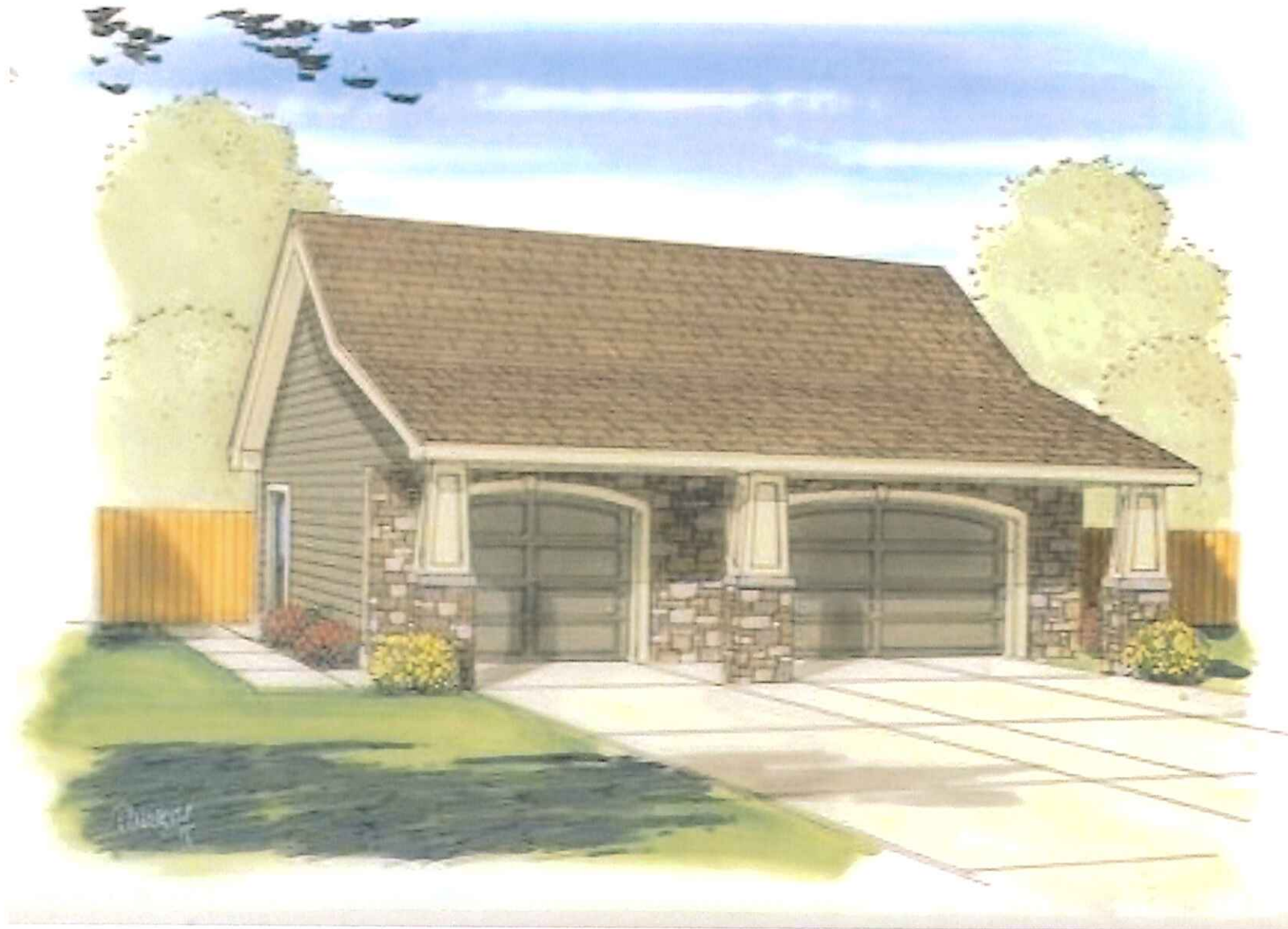
THIS SURVEY IS NOT COMPLETE AND/OR
VALID WITHOUT ALL 3 PAGES.

PAGE 1 OF 3

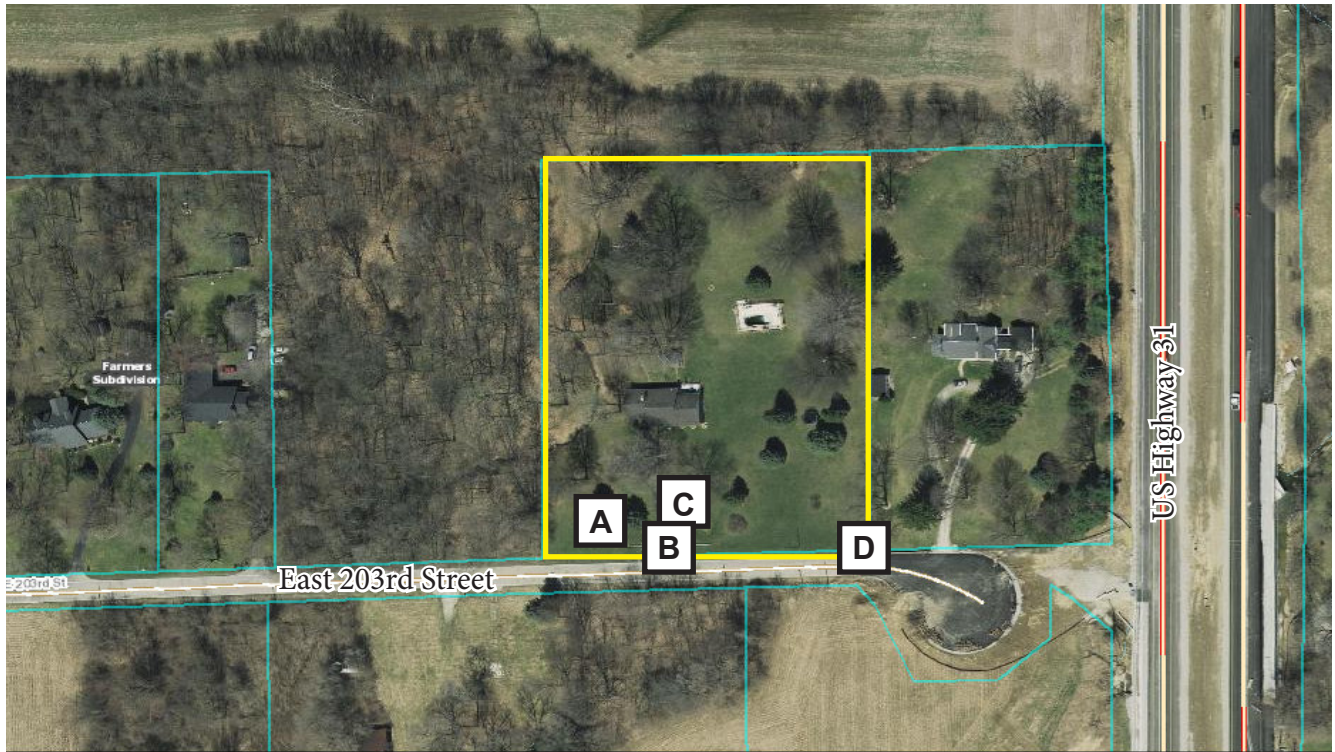
Variance of Development Standard for Kurt & Marla Ailor

Rendering of Proposed Attached Garage at 1602 E 203rd Street, Westfield, IN 46074

(Please note: This is only an EXAMPLE)



Existing Conditions Exhibit



VARIANCE APPLICATION

RECEIVED

OFFICE
USE ONLYDOCKET #: 1606-VS-09
FILING FEE: \$ 600 FEE PLUS \$ PER ADDITIONAL VARIANCE (@) = \$ 600FILING DATE: APR 28 2016

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Pam Howard & Jesse Pohlman (STAFF NAME) DATE: 04-12-2016

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN: PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Kurtis E. Marla J. Ailor TELEPHONE: 317-758-5750ADDRESS: 1602 E 203rd Street EMAIL: kurtailor@aol.comPROPERTY OWNER'S NAME: Kurtis E. & Marla J. Ailor TELEPHONE: 317-758-5750ADDRESS: 1602 E 203rd Street EMAIL: kurtailor@aol.comREPRESENTATIVE'S NAME: Marla Ailor TELEPHONE: 317-402-5835COMPANY: EMAIL: kurtailor@aol.comADDRESS: 1602 E 203rd Street, Westfield, IN 46074

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 1602 E 203rd StreetCOUNTY PARCEL ID #(S): 08-05-24-00-00-009.000EXISTING ZONING DISTRICT(S): AG-SF 1 EXISTING LAND USE(S): Residential

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: ☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: Article 6.1 (D)(2)aFINDINGS OF FACT: (PLEASE SEE ATTACHED)STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):

The homeowners are requesting the variance based on the the need to add garage space to their current property. Due to the natural slope of the property and driveway placement, the best placement for a detached garage is forward of the front line of the home, built off of the current "turn around" in the driveway, which is original to the home, built in 1965. The homeowners request to build the garage per the attached site plan.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
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: _____

This building, a detached garage, located at 1602 E 203rd Street, will be located on private property and should have no impact on public health, safety, morals or effect the general welfare of the community.

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

The area adjacent to the west, north and south are currently unoccupied acreage. The location for the building exceeds the current setbacks and will be aesthetically cohesive to the existing home using high quality materials including matching brick, new roof shingles and will be an attractive feature adding to the value of the home.

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

The need for the variance is to build a detached garage, with access to the driveway of the home. Due to the placement of the home and driveway on the property, the use of the building, in any other location, will not be a detached garage. The following site constraints have led to the need for this variance: 1) The area immediately east of the house contains the septic field. 2) Beyond the septic field, to the north is the swimming pool. 3) Beyond the swimming pool, to the east, is the neighboring property line. 4) The natural slope of the terrain does not allow for the building to be attached. For purposes of practicality, the detached garage should be attached to the existing driveway and meets the requirements of the setbacks as directed by the Unified Development Ordinance.



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.

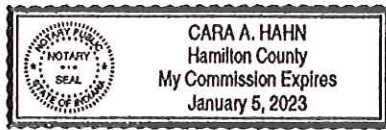
Shirley S. S.
Applicant/Representative (signature)

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 27th day of April, 2016.

State of IN, County of Hamilton SS:



Cara A. Hahn
Notary Public Signature
Cara A. Hahn
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.

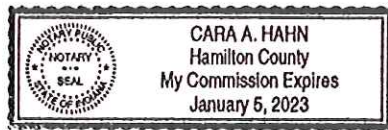
Shirley S. S.
Property Owner (signature)*

Property Owner (printed)

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

Witness my hand and Notarial Seal this 27th day of April, 2016.

State of IN, County of Hamilton SS:



Cara A. Hahn
Notary Public Signature
Cara A. Hahn
Notary Public (printed)

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

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

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Advisory Board of Zoning Appeals will hold a public hearing on Tuesday, June, 14th, at 7:00 p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, to consider petition(s) [insert docket #], filed by Marla Ailor on behalf of Kurtis and Marla Ailor. The request pertains to real estate comprising approximately 3 acres and generally located at, 1602 E 203rd Street, Washington Township, Westfield, Indiana.

The request is for approval of a Variance of Development Standard Application to allow a detached garage to be built off of the turnaround on the existing driveway.

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:

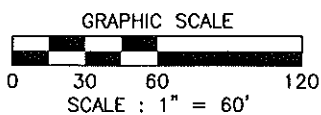
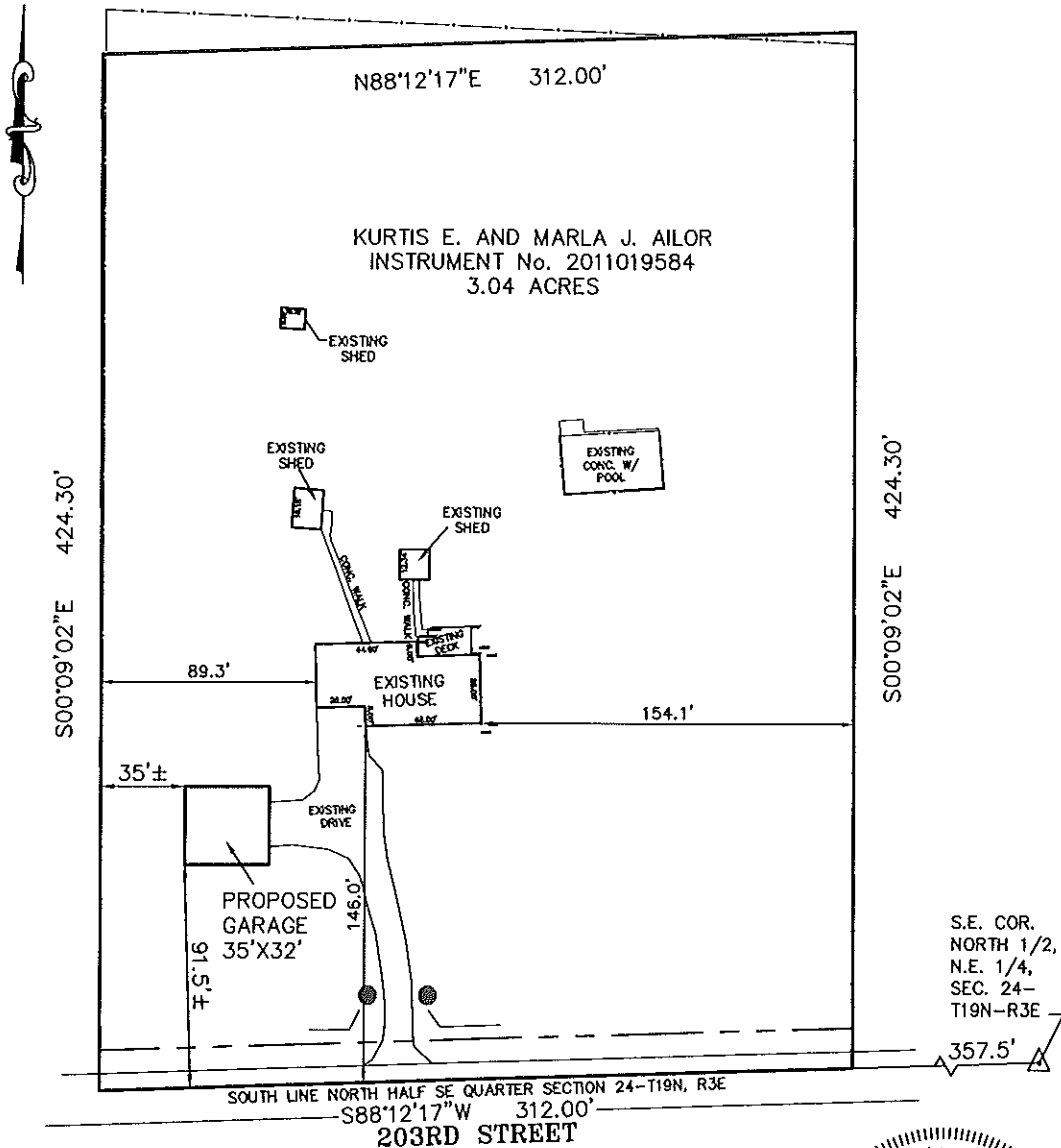
Kurtis and Marla Ailor
1602 E 203rd Street
Westfield, IN 46074
(317) 758-5750

CITY OF WESTFIELD:

Economic and Community Development Department
2728 East 171st Street
Westfield, Indiana 46074
(317) 804-3470
www.westfield.in.us

EXHIBIT SURVEY

PART OF THE N.E. QUARTER, SECTION 24, TOWNSHIP 19 NORTH, RANGE 3 EAST
WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA



THIS SURVEY IS NOT COMPLETE AND/OR
VALID WITHOUT ALL 3 PAGES.

PAGE 1 OF 3

K. Nathan Althouse
R.L.S. LS20400007



4/26/2016
DATE:



MILLER SURVEYING INC.

948 CONNER STREET
NOBLESVILLE INDIANA 46060
PH. # (317) 773-2644 FAX 773-2694



LOCATION: PART OF THE N.E. QUARTER, SECTION 24, T19N, R3E WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA	DRAWN BY: LRL	PREPARED BY: KNA
FIELD WORK COMPLETED: 4/25/2016	SCALE: 1" = 100'	FIELD BOOK: D.C.
CLIENT: KURTIS & MARLA AILOR	DATE: 4/26/2016	PAGE: D.C.
DESCRIPTION: EXHIBIT	JOB NUMBER	SURVEY & FILE:
	M15838	

EXHIBIT SURVEY

PART OF THE N.E. QUARTER, SECTION 24, TOWNSHIP 19 NORTH, RANGE 3 EAST
WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA

LAND DESCRIPTION

DESCRIPTION OF REAL ESTATE PER INSTRUMENT No. 2011019587

BEGIN AT A POINT 357.5 FEET WEST OF THE SOUTHEAST CORNER OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 19 NORTH, RANGE 3 EAST; THENCE WEST ON AND ALONG THE CENTERLINE OF THE COUNTY ROAD 312 FEET TO A POINT; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER 424.3 FEET TO A POINT; THENCE EAST 312 FEET TO A POINT; THENCE SOUTH PARALLEL WITH THE WEST LINE OF TRACT 424.3 FEET TO THE PLACE OF BEGINNING.

FLOOD ZONE DEFINITION

ZONE	EXPLANATION
"X"	AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOODPLAIN.

THE SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS ESTABLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY NATIONAL FLOOD INSURANCE PROGRAM AS PER SCALED INTERPRETATION OF FLOOD RATE MAP #18057C 0109G AREA IN ZONE "X" MAP DATED NOVEMBER 19, 2014.

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

THE WITHIN PLAT AND SURVEY 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.

THIS SURVEY PLAT HAS BEEN PREPARED FOR USE ON THIS PARTICULAR PROJECT AND FOR THE EXCLUSIVE USE OF THE PERSON(S) OR ENTITY HEREON NAMED AND IS NOT CERTIFIED TO OR TO BE USED BY ANY OTHER PARTY. THE EVIDENCE, POSSESSION, OWNERSHIP, CONDITIONS ETC. COULD CHANGE CONSTANTLY AND THE USE OF THIS SURVEY IS LIMITED ONLY TO THE DATE INDICATED HEREIN.

THE LOCATION OF THE TITLE LINES AND CORNERS ARE SUBJECT TO THE EVIDENCE FOUND IN THE PERFORMANCE OF THIS SURVEY. ADDITIONAL EVIDENCE PRESENTED TO MILLER SURVEYING, INC. MAY ALTER THE LOCATION OF THE TITLE LINES AND CORNERS.



THIS SURVEY IS NOT COMPLETE AND/OR
VALID WITHOUT ALL 3 PAGES.

PAGE 2 OF 3

K. Nathan Althouse
R.L.S. LS20400007

4/26/2016
DATE:



MILLER SURVEYING INC.

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NOBLESVILLE INDIANA 46060
PH. # (317) 773-2644 FAX 773-2694



LOCATION: PART OF THE N.E. QUARTER, SECTION 24, T19N, R3E WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA	DRAWN BY: LRL	PREPARED BY: KNA
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CLIENT: KURTIS & MARLA AILOR	DATE: 4/26/2016	PAGE: D.C.
DESCRIPTION: EXHIBIT	JOB NUMBER	SURVEY 4 FILE:
	M15838	

EXHIBIT SURVEY

PART OF THE N.E. QUARTER, SECTION 24, TOWNSHIP 19 NORTH, RANGE 3 EAST
WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA



K. Nathan Althouse
R.L.S. LS20400007

4/26/2016
DATE:



MILLER SURVEYING INC.

948 CONNER STREET
NOBLESVILLE INDIANA 46060
PH. # (317) 773-2644 FAX 773-2694



THIS SURVEY IS NOT COMPLETE AND/OR
VALID WITHOUT ALL 3 PAGES.

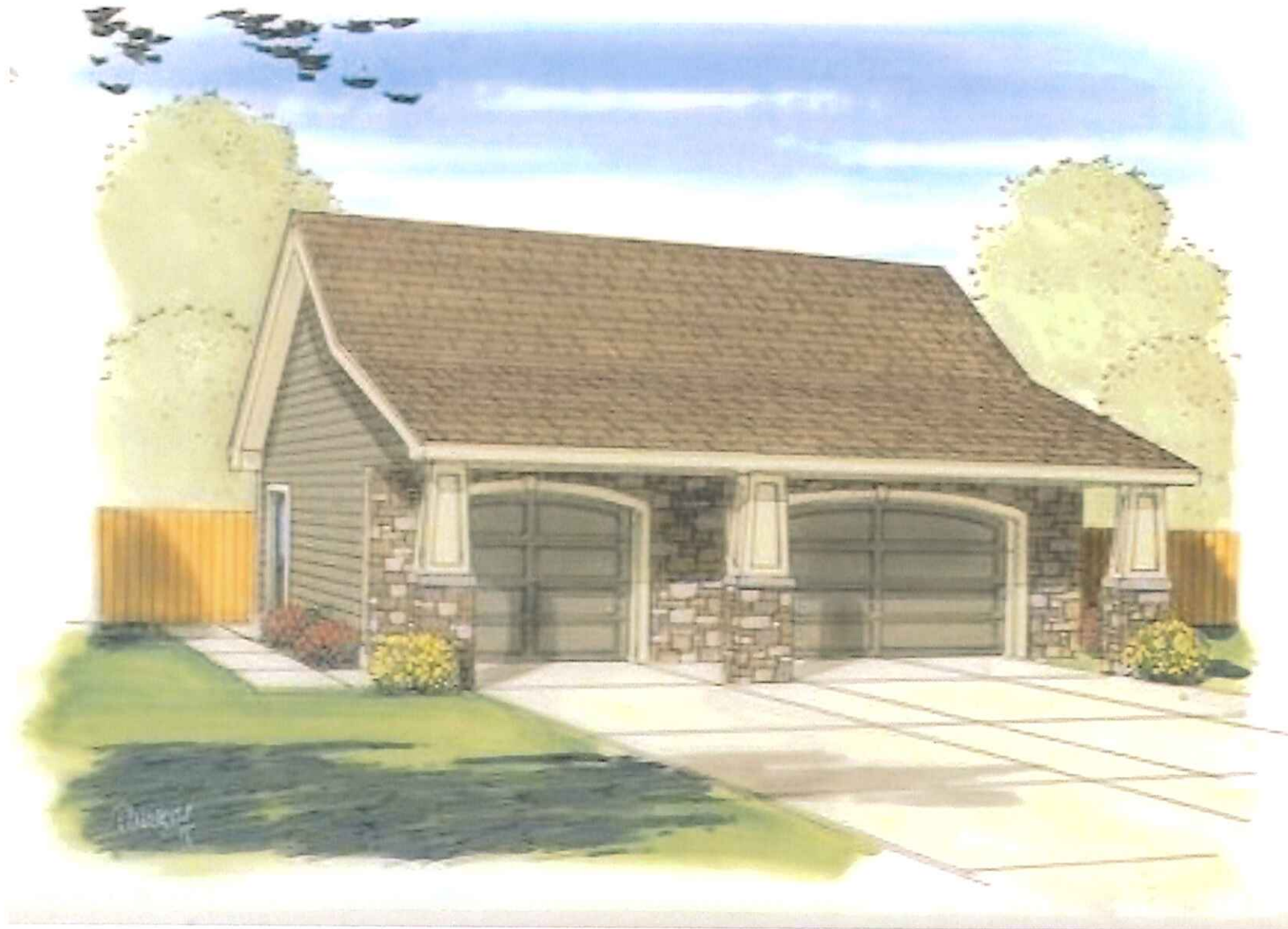
PAGE 3 OF 3

LOCATION: PART OF THE N.E. QUARTER, SECTION 24, T19N, R3E WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA	DRAWN BY: LRL	PREPARED BY: KNA
FIELD WORK COMPLETED: 4/25/2016	SCALE: 1" = 100'	FIELD BOOK: D.C.
CLIENT: KURTIS & MARLA AILOR	DATE: 4/26/2016	PAGE: D.C.
DESCRIPTION: EXHIBIT	JOB NUMBER	SURVEY & FILE:
	M15838	

Variance of Development Standard for Kurt & Marla Ailor

Rendering of Proposed Attached Garage at 1602 E 203rd Street, Westfield, IN 46074

(Please note: This is only an EXAMPLE)



ADJOINER
(NOTIFICATION LIST)

FILED

APR 19 2016

NOTE:

DUE TO VOLUME AND TURNAROUND, ORDERS TAKE 3-5 BUSINESS DAYS FOR PROCESSING. ~~THE ORDER WILL BE PICKED UP BY THE ORDERING PARTY.~~ ^{THE ORDER WILL BE PICKED UP BY THE ORDERING PARTY.}
MAPPING WILL APPROPRIATELY NOTIFY THE CONTACT WHEN THEIR ORDER IS READY TO BE PICKED UP.

DATE TAKEN:

4/19/16

TIME TAKEN:

11:31am

NAME OF PROPERTY OWNER:

Kurtis E & Marla J Ailor

NAME OF PETITIONER:

SAB

LEGAL DESCRIPTION OR PARCEL NUMBER OF PROPERTY:

08-05-24-00-00-009.000

ZONING AUTHORITY APPLYING TO

- | | |
|---|--|
| ☐ ARCADIA | ☐ FISHERS PLAN COMMISSION |
| ☐ ATLANTA | ☐ HAMILTON COUNTY PLANNING |
| ☐ CARMEL BZA | ☐ NOBLESVILLE HOME OCCUPATION |
| ☐ CARMEL PLANNING | ☐ NOBLESVILLE PUBLIC HEARING |
| ☐ CICERO | ☐ SHERIDAN |
| ☐ FISHERS & FALL BZA | ☒ WESTFIELD |

SIGNATURE OF APPLICANT:

Marla Ailor

DATE:

04-19-2016

PERSON TO CONTACT:

Marla Ailor

PHONE NUMBER:

317 402 5835

KURTAILOR @ AOL. COM

~~FOR OFFICE USE ONLY~~

FOR OFFICE USE ONLY

EMPLOYEE INITIALS: HJD

PAYMENT RECEIVED: 25 ⁰⁰/₁₀₀ cash

RECEIPT NUMBER: 11588

E-MAIL WHEN COMPLETED:

Kurt Ailor @ AOL. COM

HAMILTON COUNTY TRANSFER AND MAPPING

33 N. NINTH ST. • NOBLESVILLE, IN 46060

plats@hamiltoncounty.in.gov

P: 317.776.9624

F: 317.776.9682

HAMILTON COUNTY AUDITOR

I, DAWN COVERDALE, AUDITOR OF HAMILTON COUNTY, INDIANA, CERTIFY MY OFFICE HAS SEARCHED OUR RECORDS AND BASED ON THAT SEARCH, IT APPEARS THAT THE PROPERTY OWNERS MARKED AS NEIGHBORS ARE THE PROPERTY OWNERS THAT ARE TWO PROPERTIES OR 660' FEET FROM THE REAL ESTATE MARKED AS SUBJECT PROPERTY.

THIS DOCUMENT DOES NOT CERTIFY THAT THE ATTACHED LIST OF PROPERTY OWNERS IS ACCURATE OR INCLUDES ALL PROPERTY OWNERS ENTITLED TO NOTICE PURSUANT TO LOCAL ORDINANCE. ANY PERSON SEEKING A MORE ACCURATE SEARCH OF THE REAL ESTATE RECORDS OF THE COUNTY SHOULD SEEK THE OPINION OF A TITLE INSURANCE COMPANY.

DAWN COVERDALE, HAMILTON COUNTY AUDITOR

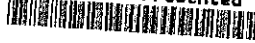
DATED:  04/21/2016

SUBJECT PROPERTY:

08-05-24-00-00-009.000	Subject
Ailor, Kurtis E & Marla J	
1602 203rd St E	
Westfield	IN 46074

Pursuant to the provisions of Indiana Code 5-14-3-3-(e), no person other than those authorized by the County may reproduce, grant access, deliver, or sell any information obtained from any department or office of the County to any other person, partnership, or corporation. In addition any person who receives information from the County shall not be permitted to use any mailing list, addresses, or databases for the purpose of selling, advertising, or soliciting the purchase of merchandise, goods, services, or to sell, loan, give away, or otherwise deliver the information obtained by the request to any other person.

DULY ENTERED FOR TAXATION ^c
Subject to final acceptance for transfer
15 day of April, 2011
Dawn Courdale Auditor of Hamilton County
Parcel # 08-05-24-00-00-009.000

2011019584 QUIT CLAIM \$18.00
04/15/2011 11:51:38A 2 PGS
Mary L. Clark
HAMILTON County Recorder IN
Recorded as Presented


18.00
②

Recording requested by: Marla Ailor
When recorded, mail to:
Name: Kurtis E. and Marla Ailor
Address: 1602 E. 203rd Street
City/State/Zip: Westfield, Indiana 46074

Space above requested for use by Recorder's Office
Document prepared by:
Name: Marla Ailor
Address: 1602 E. 203rd Street
City/State/Zip: Westfield, Indiana 46074

Property Tax Parcel/Account Number: 08-05-24-00-00-009.000

"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."

(name) Marla J. Ailor

Quitclaim Deed

THIS INDENTURE WITNESSETH, made on April 14, 2011, made between Marla J. Ailor, Grantor, of Hamilton County, in the State of Indiana and Kurtis E. Ailor and Marla J. Ailor, HUSBAND AND WIFE, Grantee(s), in Hamilton County, in the State of Indiana, for no consideration, the following described real estate and improvements to the Grantee(s), and his or her heirs and assigns, to have and hold forever, located at 1602 E. 203rd Street, Westfield, Indiana 46074:

Begin at a point 357.5 feet West of the Southeast corner of the North half of the Northeast Quarter of Section 24, Township 19 North, Range 3 East; thence West on and along the centerline of the County Road 312 feet to a point; thence North parallel with the east line of said Northeast Quarter 424.3 feet to a point; thence East 312 feet to a point; thence South parallel with the West line of tract 424.3 feet to the place of beginning.

Containing 3.03 acres, more or less.

Subject to all easements, rights of way, protective covenants, and mineral reservations of record, if any. Taxes for the year 2011 shall be prorated between the Grantor and Grantee as of the date of recording of this deed.

**EXEMPT FROM
SALES DISCLOSURES**

Dated: April 14, 2011

Marla J. Ailor
Signature of Grantor

Marla J. Ailor

Name of Grantor

STATE OF INDIANA)

) SS:

ACKNOWLEDGEMENT

COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Marla J. Ailor, who acknowledged the execution of the foregoing Quitclaim Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 15 day of April, 2011.



Signature: David Elliott

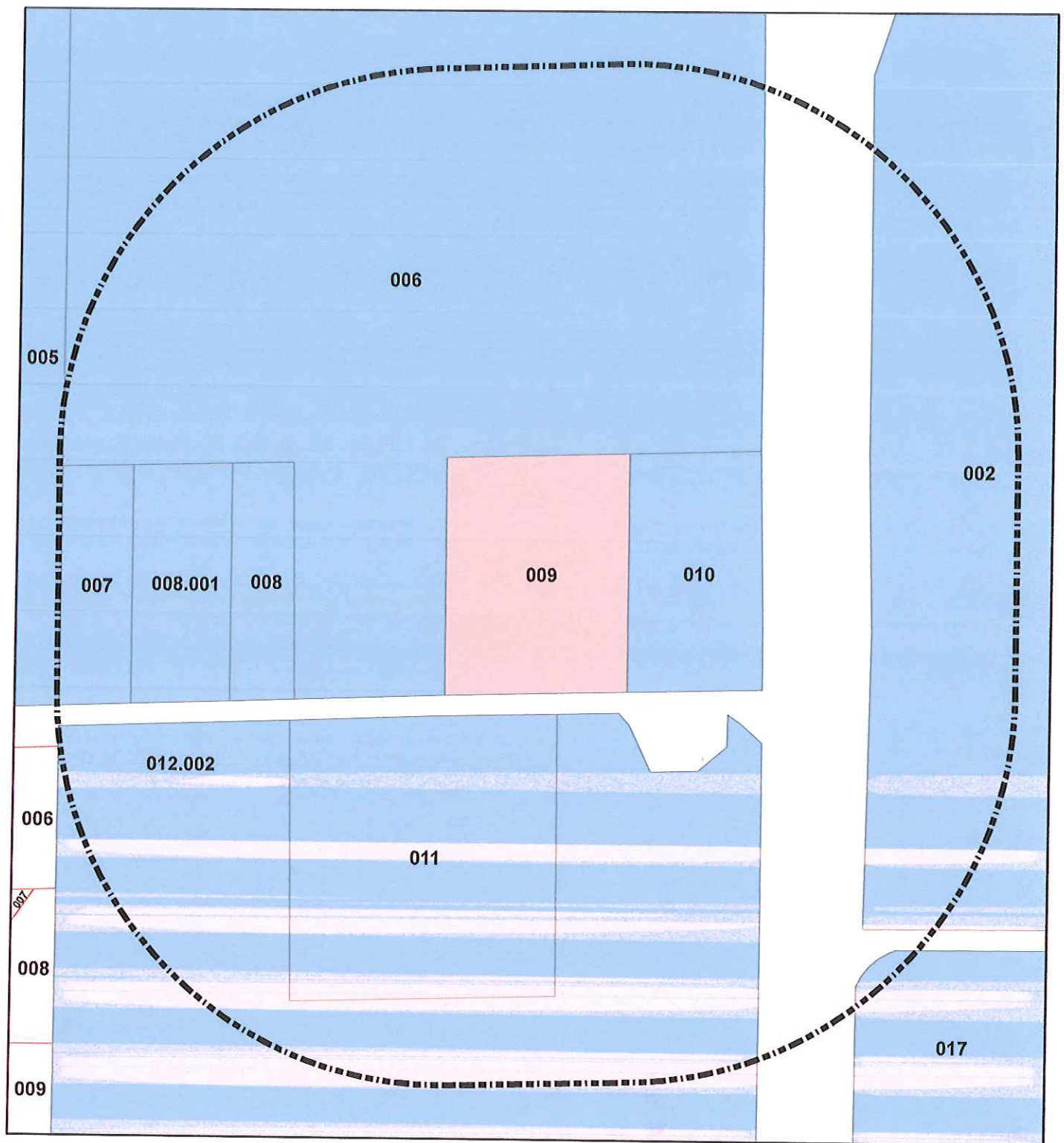
Printed: David Elliott

Resident of Hamilton County, Indiana

My Commission Expires: 12-16-2016

Send tax bills to: Marla Ailor, 1602 E. 203rd Street

Adjoiner Notification Map



Legend

-  Subject Parcel(s)
-  Notification Parcel(s)
-  Buffer

- 001** Parcel Number
-  Parcel Boundary



HAMILTON COUNTY NOTIFICATION LIST

PLEASE NOTIFY THE FOLLOWING PERSONS

08-05-24-00-00-005.000		Neighbor
Pace Farm LP		
930 Laurel Ln		
Noblesville	IN	46060
08-05-24-00-00-006.000		Neighbor
Bray, Philip D & Heien L		
4355 Sheridan Rd		
Noblesville	IN	46060
08-05-24-00-00-007.000		Neighbor
Bevins, William C & Sarah M		
1440 203rd St E		
Westfield	IN	46074
08-05-24-00-00-008.000		Neighbor
Farmer, Virginia M Trustee		
1518 203rd St E		
Westfield	IN	46074
08-05-24-00-00-008.001		Neighbor
Barton, James K & Jacklyn K		
1510 203rd St E		
Westfield	IN	46074
08-05-24-00-00-010.000		Neighbor
Springer, Norman D & Kathleen K		
1626 203rd St E		
Westfield	IN	46074
08-06-19-00-00-002.000		Neighbor
Wilkins, Natalia Trustee Natalia Wilkins Lvg Trust		
1818 E 202nd St		
Westfield	IN	46074
08-06-19-00-00-017.000		Neighbor
Sumner, Thomas 1/2 int & Hilda B Sumner 1/2 int		

PO Box 2020

Noblesville	IN	46061
-------------	----	-------

09-05-24-00-00-011.000

Neighbor

Lurie Investors 87.351% & L M Lurie Assoc Inc 12.649%

9589 Valparaiso Ct

Indianapolis	IN	46268
--------------	----	-------

09-05-24-00-00-012.002

Neighbor

Lurie Investors 87.351% & L M Lurie Assoc Inc 12.649%

9589 Valparaiso Ct

Indianapolis	IN	46268
--------------	----	-------

FMTPRCLNO	OWNNAME	OWNADDRESS	OWNCITY
08-05-24-00-00-008.000	Farmer, Virginia M Trustee	1518 203rd St E	Westfield
08-05-24-00-00-008.001	Barton, James K & Jacklyn K	1510 203rd St E	Westfield
08-06-19-00-00-002.000	Wilkins, Natalia Trustee Natalia Wilkins Lvg Trust	1818 E 202nd St	Westfield
09-05-24-00-00-011.000	Lurie Investors 87.351% & L M Lurie Assoc Inc 12.649%	9589 Valparaiso Ct	Indianapolis
08-05-24-00-00-007.000	Bevins, William C & Sarah M	1440 203rd St E	Westfield
08-05-24-00-00-005.000	Pace Farm LP	930 Laurel Ln	Noblesville
08-05-24-00-00-006.000	Bray, Philip D & Helen L	4355 Sheridan Rd	Noblesville
09-05-24-00-00-012.002	Lurie Investors 87.351% & L M Lurie Assoc Inc 12.649%	9589 Valparaiso Ct	Indianapolis
08-05-24-00-00-010.000	Springer, Norman D & Kathleen K	1626 203rd St E	Westfield
08-06-19-00-00-017.000	Sumner, Thomas 1/2 int & Hilda B Sumner 1/2 int	PO Box 2020	Noblesville

OWNSTATE	OWNZIP
IN	46074
IN	46074
IN	46074
IN	46268
IN	46074
IN	46060
IN	46060
IN	46268
IN	46074
IN	46061

RECEIPT OF PAYMENT



NAME Pilior

ADDRESS 1602 E. 203rd ST CITY _____ ZIP _____

DATE RECEIVED 4/27/16

☒ CHECK # 982

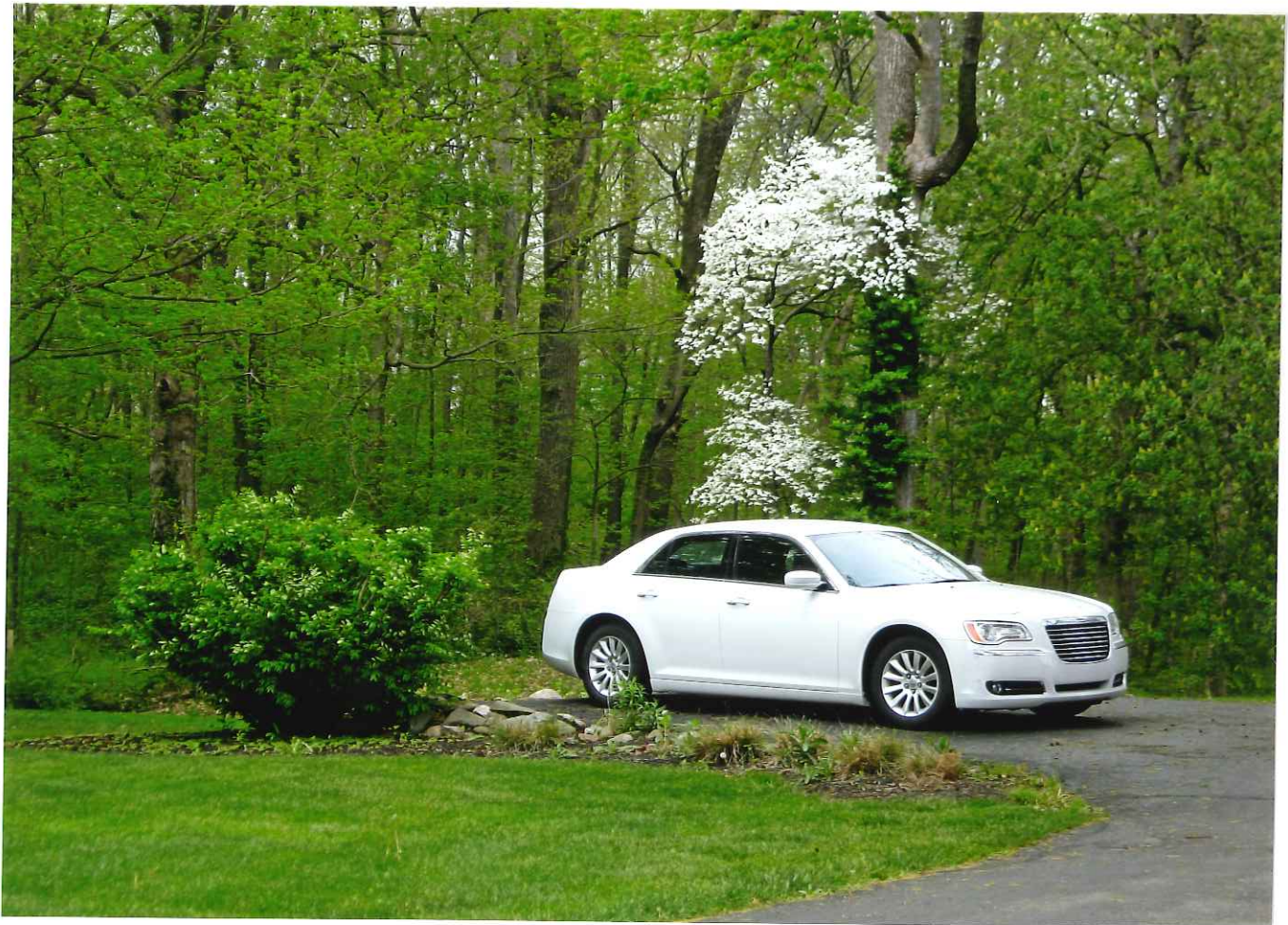
☐ CASH ☐ OTHER _____

PAYMENT RECEIVED BY Jun H.

ACCOUNT # 2011NG V.

AMOUNT PAID \$ 600.00









Petition Number: 1606-VS-11

Subject Site Address: 18957 Mule Barn Road

Petitioner: Jess and Courtney McKinney

Request: The Petitioner is requesting a Variance of Standard to reduce the side and rear yard minimum setback lines to allow for the construction of a detached garage (Article 6.1(D)(b)) in the AG-SF1: Agriculture/Single Family Rural District.

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

Current Land Use: Residential

Approximate Acreage: 3.4 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Existing Conditions
6. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

OVERVIEW

Location: The subject property is 3.4 acres +/- in size and located at 18957 Mule Barn Road (see **Exhibit 2**). The property is improved with a single family dwelling constructed in 2015¹. The property is zoned AG-SF1: Agriculture/Single Family Rural District ("AG-SF1"). Adjacent properties are also zoned AG-SF1.

Variance Request: The petitioner is requesting a variance of development standard to reduce the Minimum Building Setback Line² for Side³ and Rear⁴ Yard to allow for the construction of a detached garage as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Elevations Exhibit (see **Exhibit 4**).

¹ Improvement Location Permit No. 15-RSFR-011-014

² Chapter 12 of the UDO defines "Building Setback Line" as "[a] line parallel to a Right-of-way line, edge of a stream, or other Lot Line established on a parcel of land or Lot for the purpose of prohibiting construction of a building or structure in the area between such line and the Right-of-way, stream bank, or other Lot Line."

³ Chapter 12 of the UDO defines "Yard, Side" as "[a] Yard extending across the full depth of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line."

⁴ Chapter 12 of the UDO defines "Yard, Rear" as "[a] Yard extending across the full width of the Lot, the depth of which is the least distance between the Rear Lot Line and the Rear Yard Building Setback Line."

VARIANCE REQUEST

The proposed detached garage is an Accessory Building⁵. Accessory Buildings are subject to Article 6.1 Accessory Use and Building Standards of the UDO.

Article 6.1(D)(2)(b) Accessory Use and Building Standards; Building Location; Lots Not in Subdivisions; Side and Rear Setbacks states that “Accessory Buildings shall meet the minimum Side and Rear Yard Building Setback Lines of the underlying Zoning District, except as otherwise established by this Article.”

Article 4.2(E)(2) AG-SG1 District; Minimum Building Setback Line; Side and Rear Yard establishes a Side and Rear Yard Building Setback Line of thirty (30) feet for underlying AG-SF1.

The request is to reduce the setback to fifteen (15) feet from the north (side) and east (rear) Lot Lines, as depicted on the Site Plan Exhibit. The proposed detached garage has been designed to match the architecture of the existing home, as illustrated in the Elevations Exhibit, and otherwise complies with the applicable standards.

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 June 14, 2016, 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 UDO⁶ 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.

⁵ Chapter 12 of the UDO defines “Building, Accessory” as “[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit.

⁶ Article 10.14(l) Processes and Permits; Variances; Conditions of the UDO.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁷ 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:

Recommended Findings for Approval:

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

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements would otherwise comply with 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 should not have a negative impact on surrounding

⁷ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



properties because: (i) the proposed improvements enhance the value of the subject property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 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 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:*

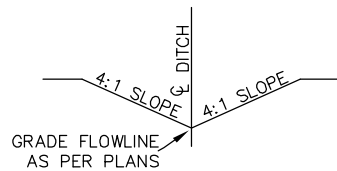
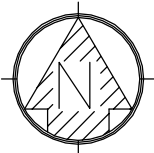
Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the existing improvements and parcel would otherwise be permitted and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

PARCEL#08-05-29-00-00-026.102

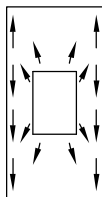
TOWN OF WESTFIELD, INDIANA
18957 MULE BARN ROAD

NOTE: BUILDER TO ENSURE POSITIVE
DRAINAGE AWAY FROM STRUCTURE(S)

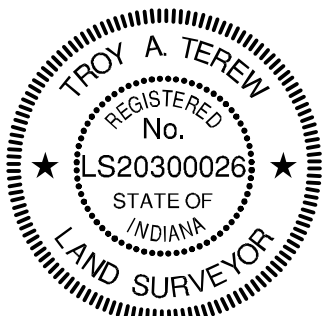
1" = 50'



TYPICAL SWALE SECTION



DETAIL OF TYPICAL STORM
WATER FLOW PATTERN FOR
INDIVIDUAL LOTS



T. A. T.

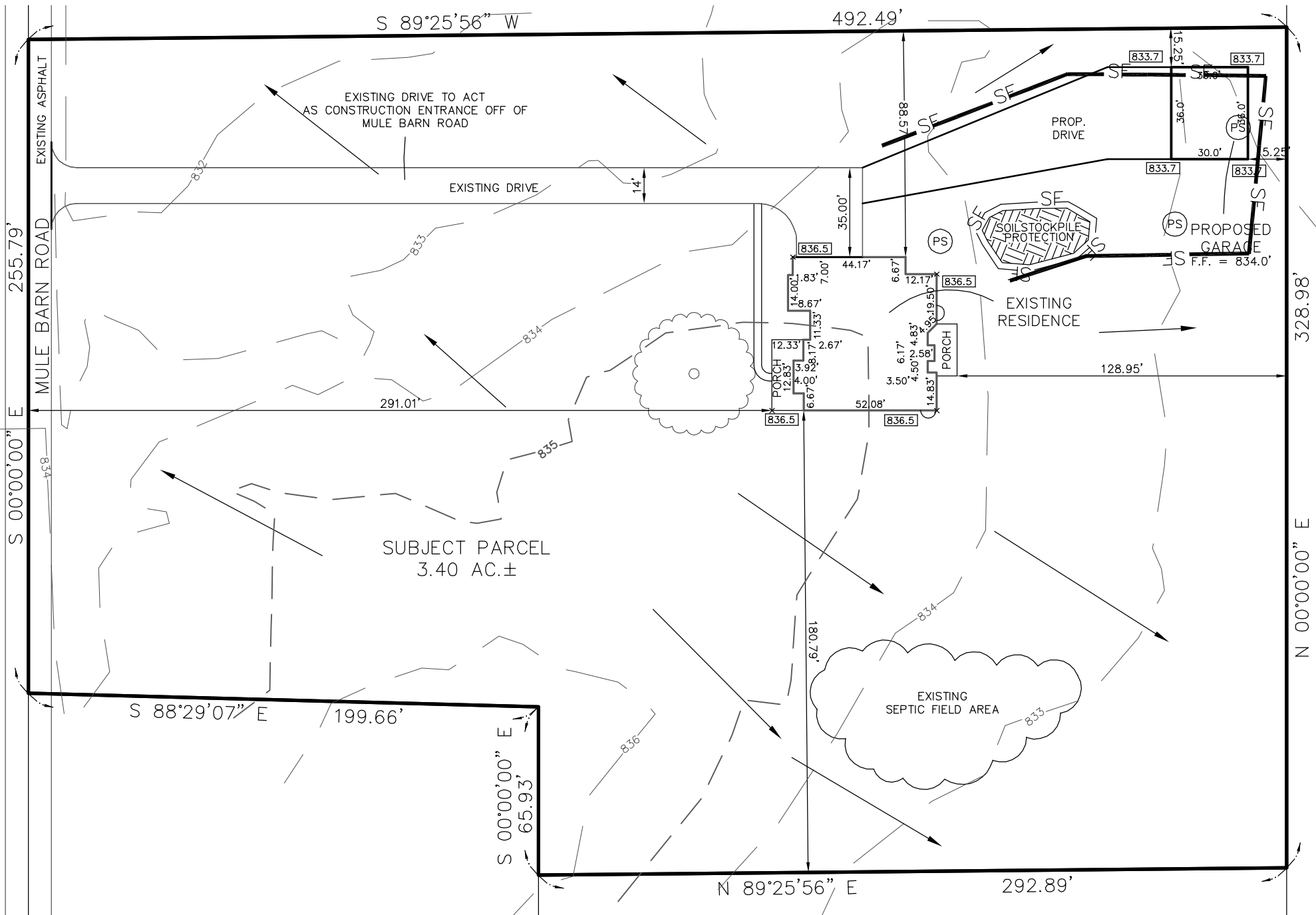
LEGEND

- (PS) — PERMANENT SEEDING
- [Hatched Box] — CURB INLET PROTECTION
- [Circle with Dot] — DROP INLET PROTECTION
- UA— — UNDISTURBED AREA
- SF— — SILT FENCE

000.0 — PROPOSED GRADE
000.0 — EXISTING GRADE

VARIANCE EXHIBIT PLOT PLAN

PREPARED FOR
JESS McKINNEY



NOTE:

- DRIVE ENTRY TO CONFORM WITH WESTFIELD STD.
- IT SHALL BE THE RESPONSIBILITY OF THE BUILDER/CONTRACTOR TO VERIFY THE BUILDING DIMENSIONS, BUILDING LOCATIONS, THE LOCATION OF OTHER PERTINENT FEATURES AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION. THE INTENDED USE OF THIS PLOT PLAN IS FOR SECURING BUILDING PERMITS ONLY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.



LAND DEVELOPMENT CONSULTING
& LAND SURVEYING SERVICES
11650 Olio Road, Suite#1000-289
Fishers, Indiana 46037
Phone: (317)-841-8754
Fax: (317)-841-8762
E-mail: Troy@Truenorthindy.com

DRWN: TAT
JOB#: 14-632G

DATE: 04/06/15
REV.:

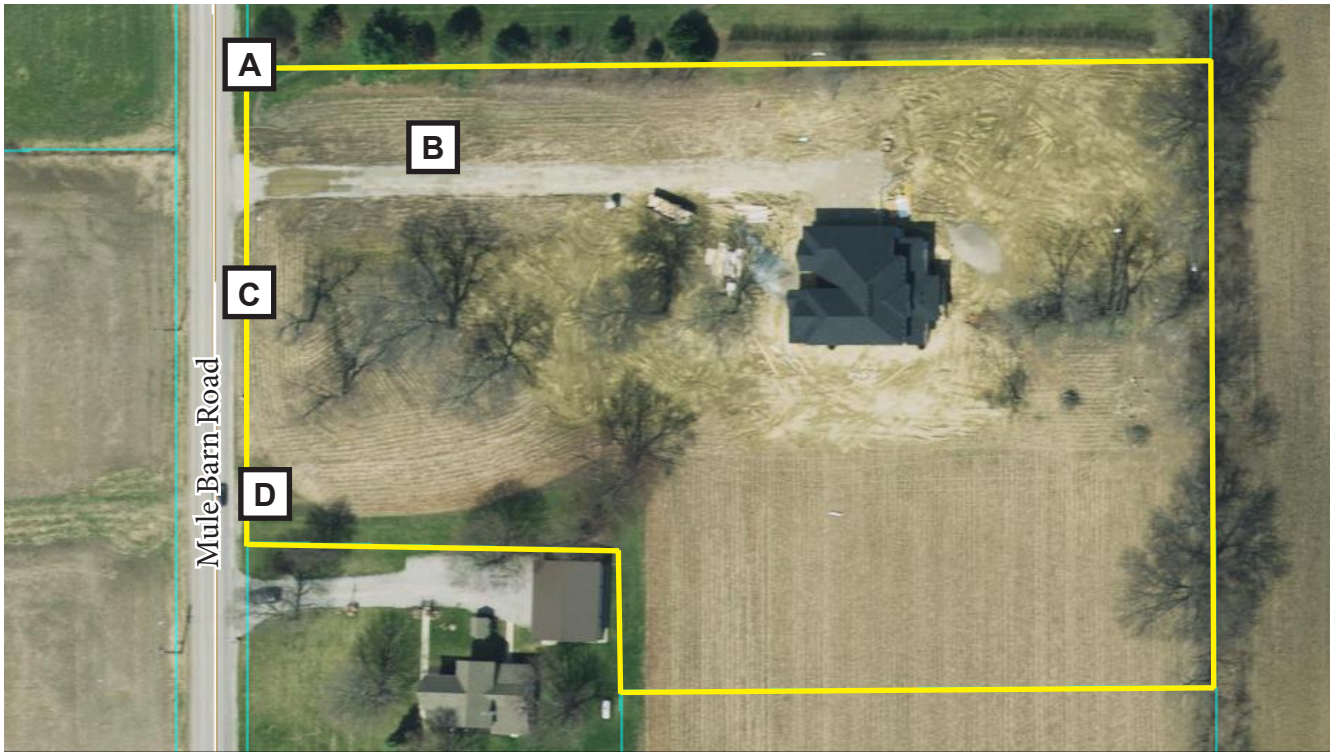
SCALE: 1" = 40'

ZONED:
ZONING: 12' SIDE
30' REAR

DETACHED GARAGE: 834.0'



Existing Conditions Exhibit





VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1606-VS-11

FILING DATE: 04/29/16

FILING FEE: \$ 600 FEE PLUS \$ PER ADDITIONAL VARIANCE (@) = \$ 600

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Jesse M. Pohlman (STAFF NAME) DATE: 4-29-16

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Jess McKinney TELEPHONE: 317-459-5373

ADDRESS: 18957 Mule Barn Road EMAIL: jmckinney@dwhomes.com

PROPERTY OWNER'S NAME: Jess & Courtney McKinney TELEPHONE: 317-698-0700

ADDRESS: 18957 Mule Barn Road EMAIL: courtney_lieske@hotmail.com

REPRESENTATIVE'S NAME: TELEPHONE:

COMPANY: EMAIL:

ADDRESS:

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 18957 Mule Barn Road

COUNTY PARCEL ID #(S): 08-05-29-00-00-026.102

EXISTING ZONING DISTRICT(S): EXISTING LAND USE(S): Residential

VARIANCE REQUEST

☐

VARIANCE OF LAND USE

CODE CITATION:

☒

VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: Article 6.1 (D) (2) (b)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

To change the setbacks to be 15' from the property lines for our detached garage



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.

Jess McKinney
Applicant/Representative (signature)

Jess McKinney
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 ____ day of _____, 20____.

State of _____, County of _____, SS:

Notary Public Signature

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.

Jess McKinney
Property Owner (signature)*

Jess McKinney
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 29 day of April, 2016.

State of _____, County of _____, SS:

Notary Public Signature

Notary Public (printed)

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

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)



APPLICANT: Jess McKinney

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: _____
These items will not be affected in any way. Many residences in rural areas like ours have detached structures for additional vehicles, storage of equipment and tools, etc. In those cases there is no issues with the above mentioned items just as there wouldn't be here.

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: _____
Our neighbor most directly impacted to the north supports our plan for garage. The rear (east) property line adjoins an active farm ground. Our garage will be a match of our home and has been drawn by a professional architectural firm. This is not a pole barn or agricultural type storage structure. The garage was specifically designed to match the architecture of our home and add value to our property and the surrounding properties. The type of garage, location of the structure, and the overall feel of the property has been taken into account with this submittal.

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
If we must place our detached garage at the 30' rear and side setbacks it dramatically cuts our usable backyard. This creates both functional and aesthetic issues for the property in relationship to the home.

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.



June 7, 2016

Road Closures

- Closed
- Open
- Restricted

Facilities

- Upcoming Closure
- Upcoming Restriction
- Parking



Playground



Restrooms



Irrigation Pump House



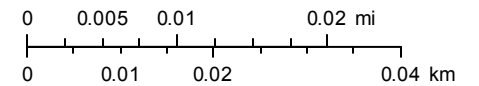
Maintenance Buildings

Addresses



Retention Ponds

1:809



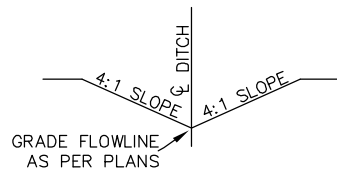
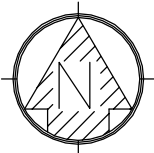
Basemap information here

PARCEL#08-05-29-00-00-026.102

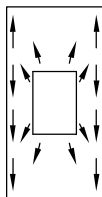
TOWN OF WESTFIELD, INDIANA
18957 MULE BARN ROAD

NOTE: BUILDER TO ENSURE POSITIVE
DRAINAGE AWAY FROM STRUCTURE(S)

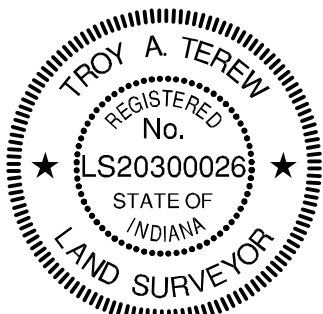
1" = 50'



TYPICAL SWALE SECTION



DETAIL OF TYPICAL STORM
WATER FLOW PATTERN FOR
INDIVIDUAL LOTS



T. A. T.

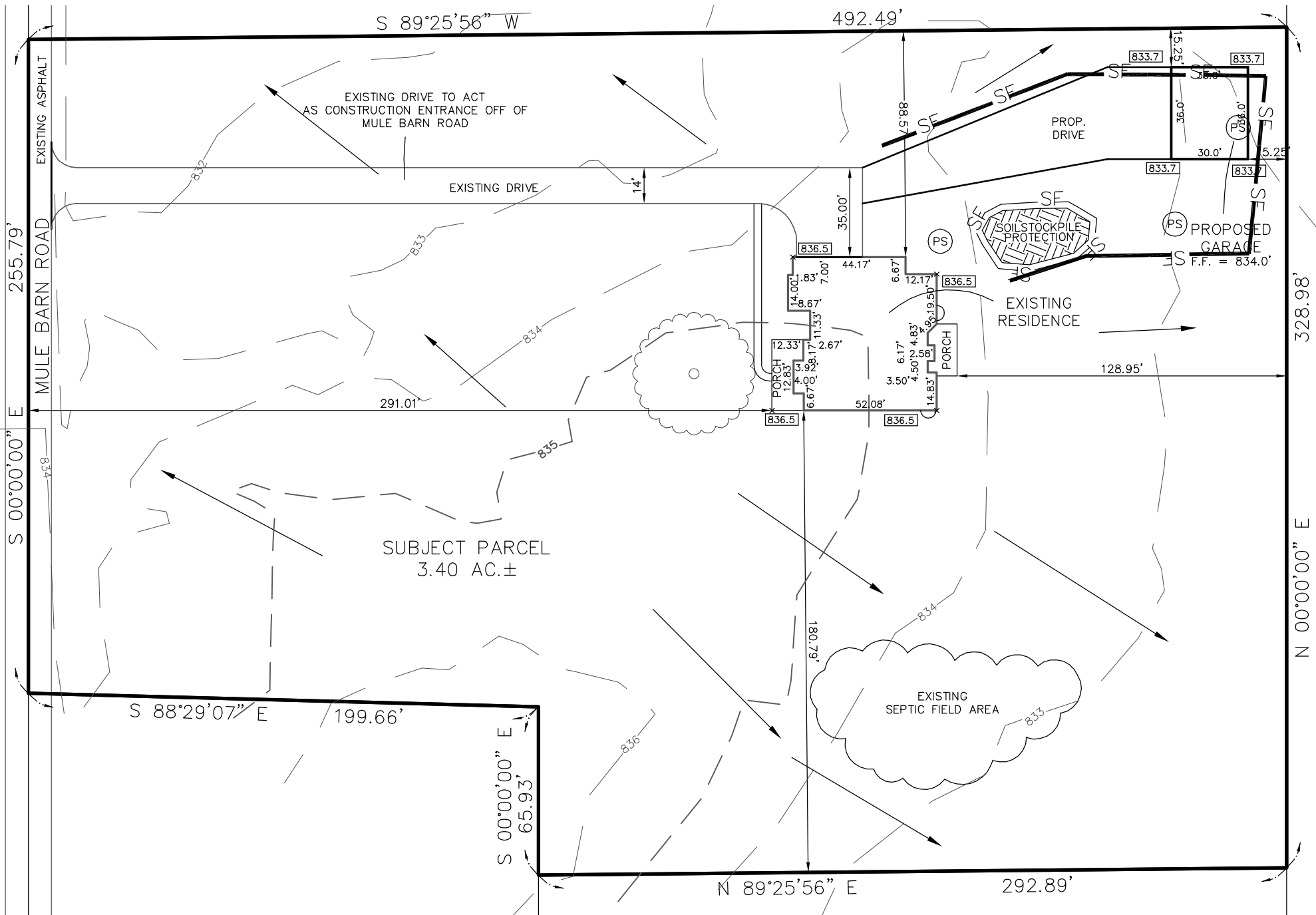
LEGEND

- (PS) — PERMANENT SEEDING
- [Hatched Box] — CURB INLET PROTECTION
- [Circle with Dot] — DROP INLET PROTECTION
- UA— — UNDISTURBED AREA
- SF— — SILT FENCE

000.0 — PROPOSED GRADE
000.0 — EXISTING GRADE

VARIANCE EXHIBIT PLOT PLAN

PREPARED FOR
JESS McKINNEY



- NOTE:
- DRIVE ENTRY TO CONFORM WITH WESTFIELD STD.
 - IT SHALL BE THE RESPONSIBILITY OF THE BUILDER/CONTRACTOR TO VERIFY THE BUILDING DIMENSIONS, BUILDING LOCATIONS, THE LOCATION OF OTHER PERTINENT FEATURES AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION. THE INTENDED USE OF THIS PLOT PLAN IS FOR SECURING BUILDING PERMITS ONLY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.



LAND DEVELOPMENT CONSULTING
& LAND SURVEYING SERVICES
11650 Olivo Road, Suite#1000-289
Fishers, Indiana 46037
Phone: (317)-841-8754
Fax: (317)-841-8762
E-mail: Troy@Truenorthindy.com

DRWN: TAT
JOB#: 14-632G

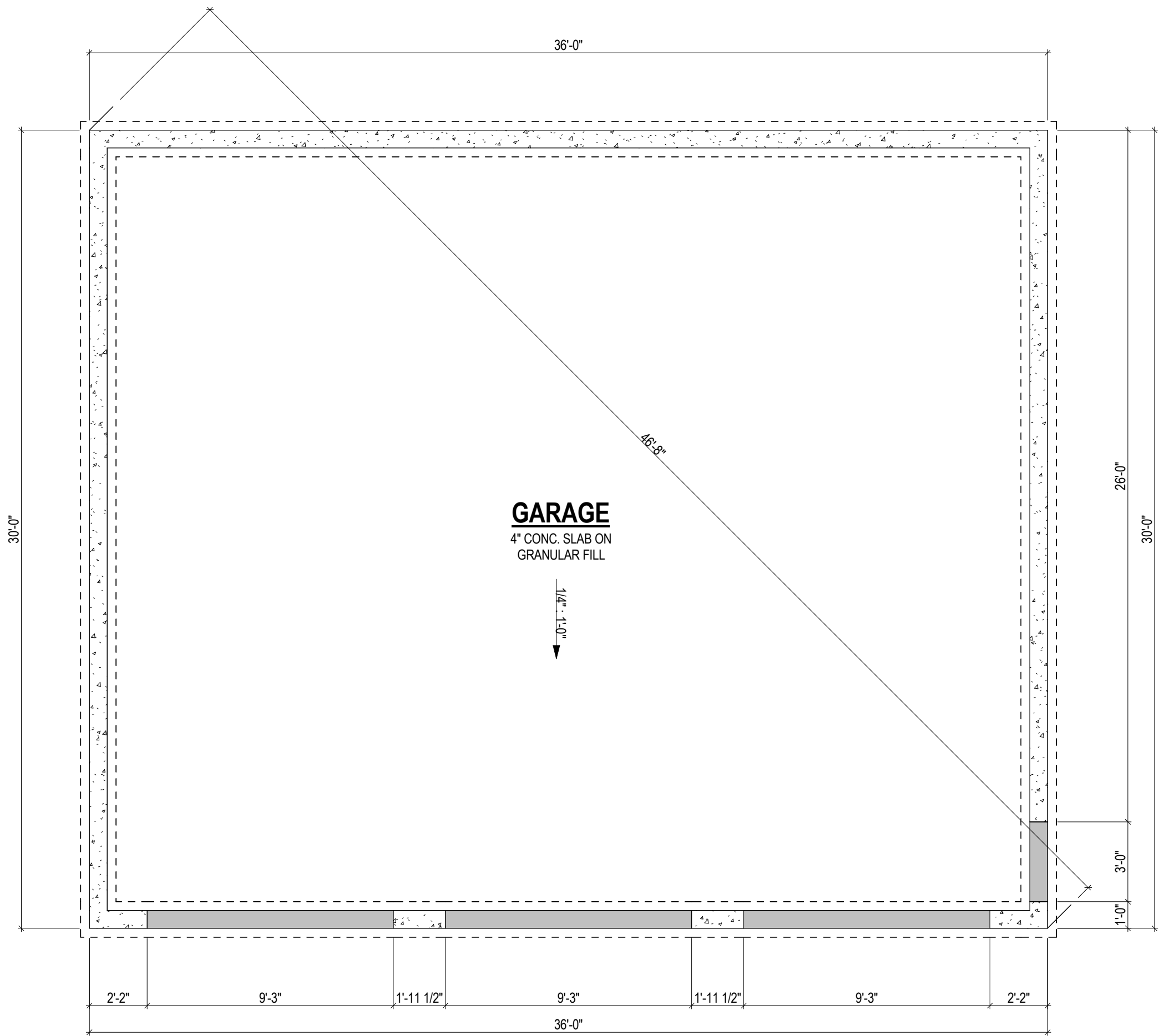
DATE: 04/06/15
REV.:

SCALE: 1" = 40'

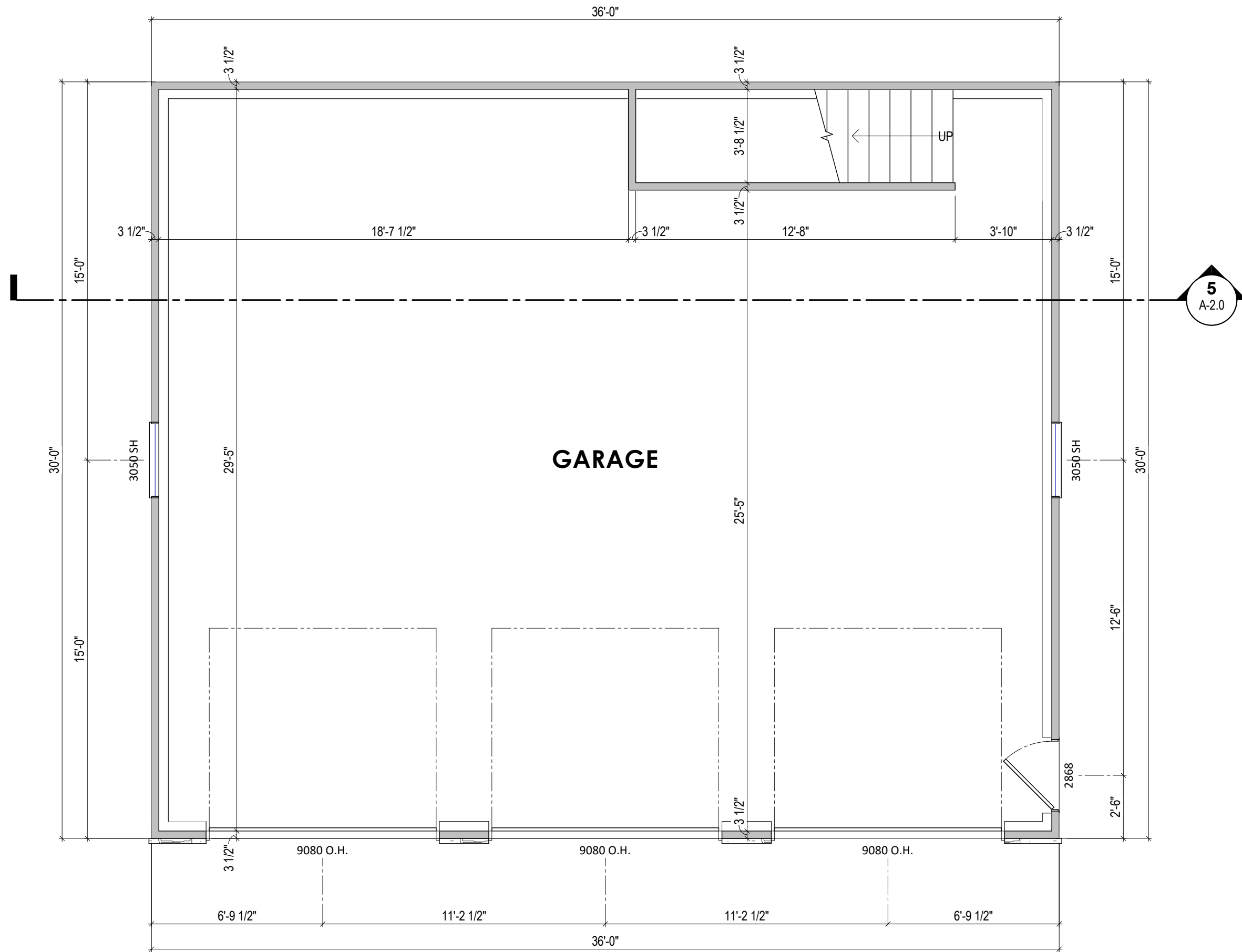
ZONED:
ZONING: 12' SIDE
30' REAR

DETACHED GARAGE: 834.0'

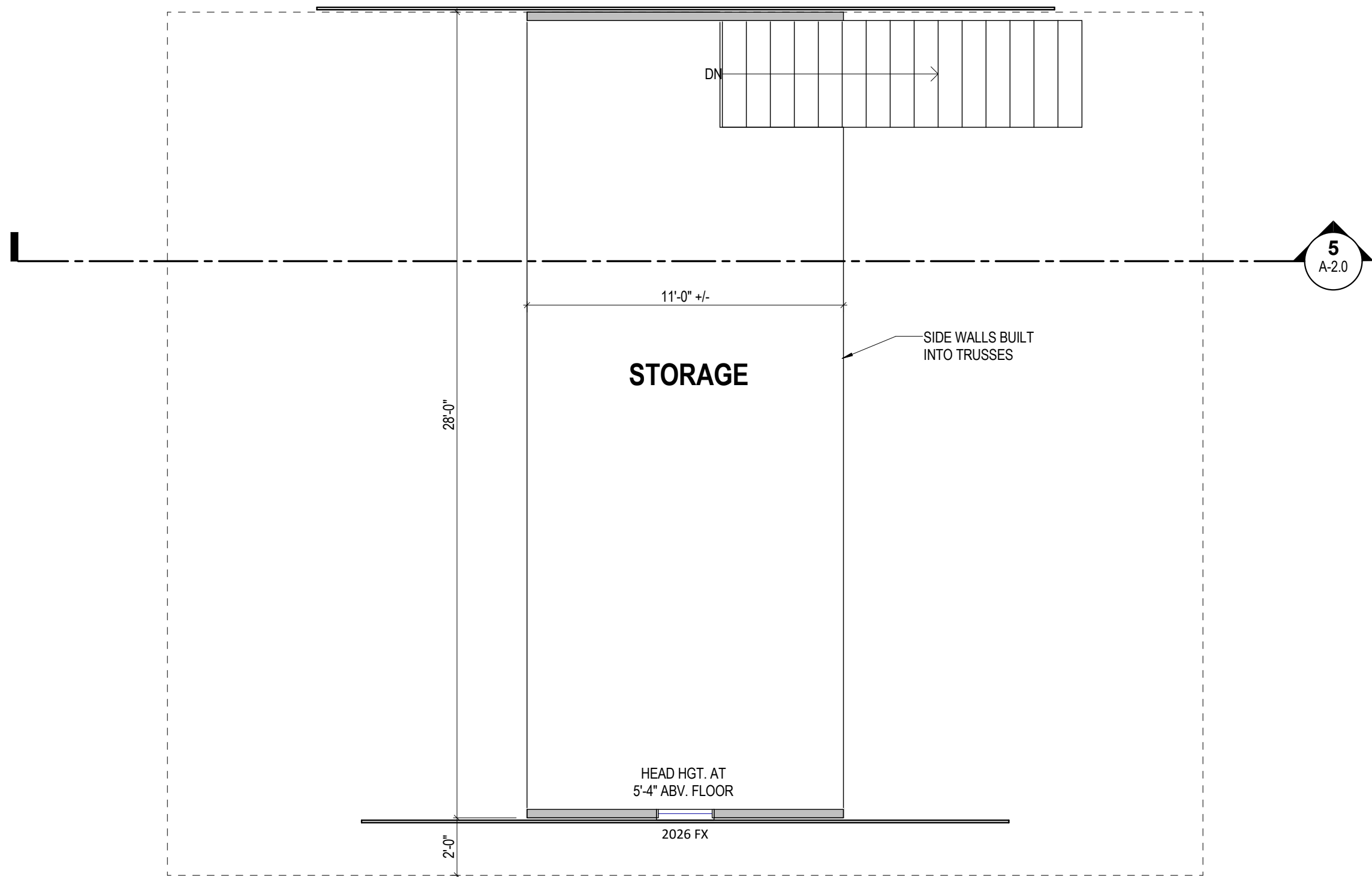
SILL PLATE MARK LEGEND			
	2x4 90° CORNER		2x6 90° CORNER
	2x4 45° CORNER		2x6 45° CORNER
	"T" INTERSECTION		"T" INTERSECTION



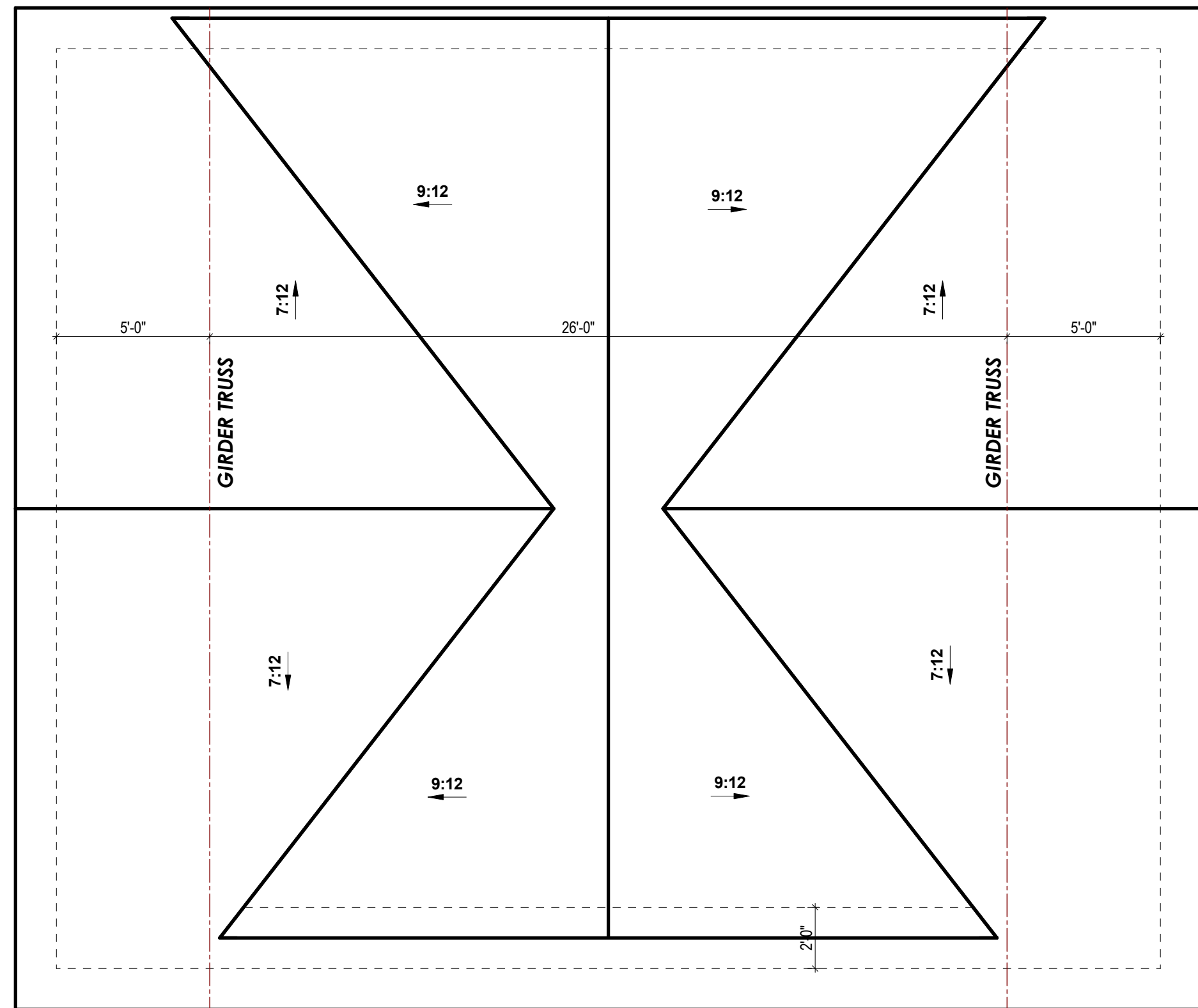
1 FOUNDATION PLAN
A-1.0 1/4" = 1'-0" WHEN PRINTED ON 24"x36" / ARCH D PAPER SIZE



2 1ST FLOOR PLAN
A-1.0 1/4" = 1'-0" WHEN PRINTED ON 24"x36" / ARCH D PAPER SIZE



3 STORAGE PLAN
A-1.0 1/4" = 1'-0" WHEN PRINTED ON 24"x36" / ARCH D PAPER SIZE



4 ROOF PLAN
A-1.0 1/4" = 1'-0" WHEN PRINTED ON 24"x36" / ARCH D PAPER SIZE

REVISIONS			
NO.	DATE	REMARKS	BY



NKC

DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
13th day of July 2015 - ALC
Dawn Cordale Auditor of Hamilton County
Parcel # 08-05-29-00-00-026.102

2015035524 WD \$18.00
07/13/2015 11:16:56AM 2 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented



File Number: 01077-17501

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Weekley Homes of Indiana, LLC, (Grantor), a Limited Liability Company organized and existing under the laws of the State of Indiana CONVEYS AND WARRANTS to Jesse S. McKinney and Courtney A. McKinney, as husband and wife, (Grantee) of Marion County, in the State of Indiana for the sum of Ten & 00/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Hamilton County, State of Indiana:

PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 19 NORTH, RANGE 3 EAST HAMILTON COUNTY, INDIANA DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 619.24 FEET TO A MAG NAIL AND THE POINT OF BEGINNING; THENCE CONTINUING ON SAID WEST LINE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 255.79 FEET TO A MAG NAIL; THENCE SOUTH 88 DEGREES 29 MINUTES 07 SECONDS EAST 199.66 FEET TO A 5/8 INCH REBAR WITH YELLOW CAMP STAMPED "MILLER S0083"; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 65.93 FEET TO A 5/8 INCH REBAR WITH YELLOW CAMP STAMPED "MILLER S0083"; THENCE NORTH 89 DEGREES 25 MINUTES 56 SECONDS EAST 292.89 FEET TO A 5/8 INCH REBAR WITH YELLOW CAMP STAMPED "MILLER S0083"; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 328.98 FEET TO A 5/8 INCH REBAR WITH YELLOW CAMP STAMPED "MILLER S0083"; THENCE SOUTH 89 DEGREES 26 MINUTES 56 SECONDS WEST 492.49 FEET TO THE POINT OF BEGINNING CONTAINING 3.40 ACRES MORE OR LESS.

Subject to real estate taxes payable in 2015 and all subsequent taxes and assessments thereon, all of which Grantee herein assumes and agrees to pay.

Subject to any and all easements, agreements and restrictions of record. The address of such real estate is commonly known as 18957 Mule Barn Road, Westfield, IN 46074.

The undersigned person(s) executing this deed on behalf of Grantor represent and certify that they are duly elected officers of Grantor and have been fully empowered, by proper resolution of the Members of Grantor, to execute and deliver this deed, that Grantor has full corporate capacity to convey the real estate described herein and that all necessary corporate action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has executed this deed this 9th day of July, 2015.

WEEKLEY HOMES OF INDIANA, LLC

Victoria Finley
Victoria Finley, Division Coordinator

State of Indiana

ss: ACKNOWLEDGEMENT

County of Marion

Before me, a Notary Public in and for the said County and State, personally appeared Victoria Finley, as Division Coordinator of Weekley Homes of Indiana, LLC, who acknowledged the execution of the foregoing Instrument, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 9th day of July, 2015

Eileen M. Fisher
Eileen M. Fisher
Notary Public
Residing in Marion.



My commission expires: April 12, 2015

This instrument prepared by: David L. Walsh, Attorney at Law 993-49

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. Eileen Fisher
Information from Stewart Title Company

File Number: 01077-17501

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Weekley Homes of Indiana, LLC, (Grantor), a Limited Liability Company organized and existing under the laws of the State of Indiana CONVEYS AND WARRANTS to Jesse S. McKinney and Courtney A. McKinney, as husband and wife, (Grantee) of Marion County, in the State of Indiana for the sum of Ten & 00/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Hamilton County, State of Indiana:

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Subject to real estate taxes payable in 2015 and all subsequent taxes and assessments thereon, all of which Grantee herein assumes and agrees to pay.

Subject to any and all easements, agreements and restrictions of record. The address of such real estate is commonly known as 18957 Mule Barn Road, Westfield, IN 46074.

The undersigned person(s) executing this deed on behalf of Grantor represent and certify that they are duly elected officers of Grantor and have been fully empowered, by proper resolution of the Members of Grantor, to execute and deliver this deed, that Grantor has full corporate capacity to convey the real estate described herein and that all necessary corporate action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has executed this deed this 9th day of July, 2015.

WEEKLEY HOMES OF INDIANA, LLC


Victoria Finley, Division Coordinator

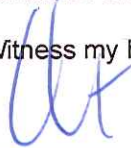
State of Indiana

ss: ACKNOWLEDGEMENT

County of Marion

Before me, a Notary Public in and for the said County and State, personally appeared Victoria Finley, as Division Coordinator of Weekley Homes of Indiana, LLC, who acknowledged the execution of the foregoing Instrument, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 9th day of July, 2015


Eileen M. Fisher
Notary Public
Residing in Marion.



My commission expires: April 12, 2015

This instrument prepared by: David L. Walsh, Attorney at Law 993-49

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. Eileen Fisher
Information from Stewart Title Company

Send Tax bills to: 18957 Mule Barn Road, Westfield, IN 46074

Grantee's street or rural route address is: 18957 Mule Barn Road, Westfield, IN 46074

AFFIDAVIT OF NOTICE OF PUBLIC HEARING

DOCKET #: 1606-VS-11

PUBLIC HEARING DATE: June 14, 2016

APPLICANT'S NAME: Jesse McKinney

REPRESENTATIVE'S NAME: _____ COMPANY: _____

PROJECT TO BE KNOWN AS: 18957 Mule Barn Road Variance

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

PUBLIC NOTICE AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath does hereby certify that notice of public hearing to consider above petition was sent by certified, registered or first class mail to the last known address of each of the following persons, as attached hereto as Exhibit A, they being all persons to whom notice was required to be sent by the Plan Commission's Rules of Procedure, and that said notices were postmarked on the 17th day of May, 2016, being at least ten (10) days prior the scheduled public hearing.

I (We) further certify that the notice required to be posted on the subject property described in the above petition was posted on the subject property in accordance with the Plan Commission's Rules of Procedures on the 18 day of May, 2016, being at least ten (10) days prior the scheduled public hearing.

[Signature] 5/18/16
 Applicant/Representative (signature)*

Jesse McKinney
 Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing instrument.

Witness my hand and Notarial Seal this 18 day of May, 2016.

State of IN, County of Marion, SS:

[Signature]
 Notary Public Signature

April J. Sjolholm
 Notary Public (printed)



9590 9402 1608 6053 4252 66

Close
18909 Mule Barn Rd
Westfield, IN 46074

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

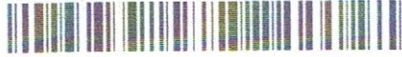
1. Article Addressed to:

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kitchens
2154 W 146th St.
Westfield, IN 46074



9590 9402 1608 6053 4252 59

2. Article Number (Transfer from service label)

7015 0640 0001 3689 8628

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVER

A. Signature

X *Dorothea Lisenby*
☐ Agent
☐ Address

B. Received by (Printed Name)

Dorothea Lisenby

C. Date of Delivery

5/23

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☒ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restrict Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Dorothea Lisenby*
☐ Agent
☐ Addressee

B. Received by (Printed Name)

Dorothea Lisenby

C. Date of Delivery

5/23

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Return Receipt for Merchandise

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restrict Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

George Family
17837 Scioto Rd
Corry, PA 16407



9590 9402 1608 6053 4251 98

2. Article Number (Transfer from service label)

7016 0600 0001 1952 6679

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Susan A. Anderson*
☐ Agent
☐ Address

B. Received by (Printed Name)

Susan A. Anderson

C. Date of Delivery

MAY 21 2016

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restrict Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Walker
18863 Mule Barn Rd
Westfield, IN 46074

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Schneiders
19025 Mule Barn Rd
Westfield, IN 46074



9590 9402 1608 6053 4252 73

2. Article Number (Transfer from service label)

7016 0600 0001 1952 6600

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Heather Schneider*
☐ Agent
☐ Address

B. Received by (Printed Name)

Heather Schneider

C. Date of Delivery

5/20/16

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restrict Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Heather Schneider*
☐ Agent
☐ Addressee

B. Received by (Printed Name)

Heather Schneider

C. Date of Delivery

5/20/16

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restrict Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

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Michael Crussel

From: noreply@civicplus.com
Sent: Monday, May 02, 2016 8:41 AM
To: Plat Auditor
Subject: Online Form Submittal: Adjoiner Form - Property Notification List

Adjoiner Form - Property Notification List

Property Owner	Jess & Courtney McKinney
----------------	--------------------------

Petitioner	Jess McKinney
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Zoning Authority Applying To:	Westfield
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Number of Subject Parcels	2
------------------------------	---

Parcel Number of Property	08-05-29-00-00-026.102
------------------------------	------------------------

Additional Parcel	<i>Field not completed.</i>
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CONTACT INFORMATION

Name	Jess & Courtney McKinney
------	--------------------------

Phone	317-459-5373
-------	--------------

E-mail	jmckinney@dwhomes.com
--------	-----------------------

*Note

*Due to volume and turnaround, orders take 3-5 business days for processing.
Transfer and Mapping will appropriately notify the contact when their order is ready
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HAMILTON COUNTY AUDITOR

I, DAWN COVERDALE, AUDITOR OF HAMILTON COUNTY, INDIANA, CERTIFY MY OFFICE HAS SEARCHED OUR RECORDS AND BASED ON THAT SEARCH, IT APPEARS THAT THE PROPERTY OWNERS MARKED AS NEIGHBORS ARE THE PROPERTY OWNERS THAT ARE TWO PROPERTIES OR 660' FEET FROM THE REAL ESTATE MARKED AS SUBJECT PROPERTY.

THIS DOCUMENT DOES NOT CERTIFY THAT THE ATTACHED LIST OF PROPERTY OWNERS IS ACCURATE OR INCLUDES ALL PROPERTY OWNERS ENTITLED TO NOTICE PURSUANT TO LOCAL ORDINANCE. ANY PERSON SEEKING A MORE ACCURATE SEARCH OF THE REAL ESTATE RECORDS OF THE COUNTY SHOULD SEEK THE OPINION OF A TITLE INSURANCE COMPANY.

DAWN COVERDALE, HAMILTON COUNTY AUDITOR

DATED:

Michael R. Crussel 05/04/2016

SUBJECT PROPERTY:

08-05-29-00-00-026.102

Subject

McKinney, Jesse S & Courtney A

18957 Mule Barn Rd

Westfield

IN

46074

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HAMILTON COUNTY NOTIFICATION LIST

PLEASE NOTIFY THE FOLLOWING PERSONS

08-05-29-00-00-025.000	Neighbor
-------------------------------	-----------------

HJW Holdings VI LLC

18863 MULE BARN RD

Westfield	IN	46074
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08-05-29-00-00-025.001	Neighbor
-------------------------------	-----------------

HRKK LLC

18863 Mule Barn Rd

Westfield	IN	46074
-----------	----	-------

08-05-29-00-00-025.101	Neighbor
-------------------------------	-----------------

Walker, Henry Joe Jr & Rosanna

18863 Mule Barn Rd

Westfield	IN	46074
-----------	----	-------

08-05-29-00-00-026.000	Neighbor
-------------------------------	-----------------

Schneider, Ian W & Heather D

19025 Mule Barn Rd

Westfield	IN	46074
-----------	----	-------

08-05-29-00-00-026.001	Neighbor
-------------------------------	-----------------

Clouse, Scott T & Amy J

18909 Mule Barn Rd

Westfield	IN	46074
-----------	----	-------

08-05-29-00-00-026.002	Neighbor
-------------------------------	-----------------

Kitchens, Deborah

2154 W 146th St

Westfield	IN	46074
-----------	----	-------

08-05-29-00-00-026.003	Neighbor
-------------------------------	-----------------

Horney, Gordon S & Victoria L

19005 Mule Barn Rd

Westfield	IN	46074
-----------	----	-------

08-05-29-00-00-027.003	Neighbor
-------------------------------	-----------------

Hutzler, John & Sandra J

19123 Mule Barn Rd

Westfield

IN

46074

08-05-30-00-00-009.000

Neighbor

Spencer, Joel D & Amy M

19046 Mule Barn Rd

Westfield

IN

46074

08-05-30-00-00-009.001

Neighbor

Stuart, Gavin & Cherie

3231 193rd St W

Westfield

IN

46074

08-05-30-00-00-009.002

Neighbor

Spencer, Joel D & Amy M

19046 Mule Barn Rd

Westfield

IN

46074

08-05-30-00-00-010.000

Neighbor

George, Robert E & Betty A

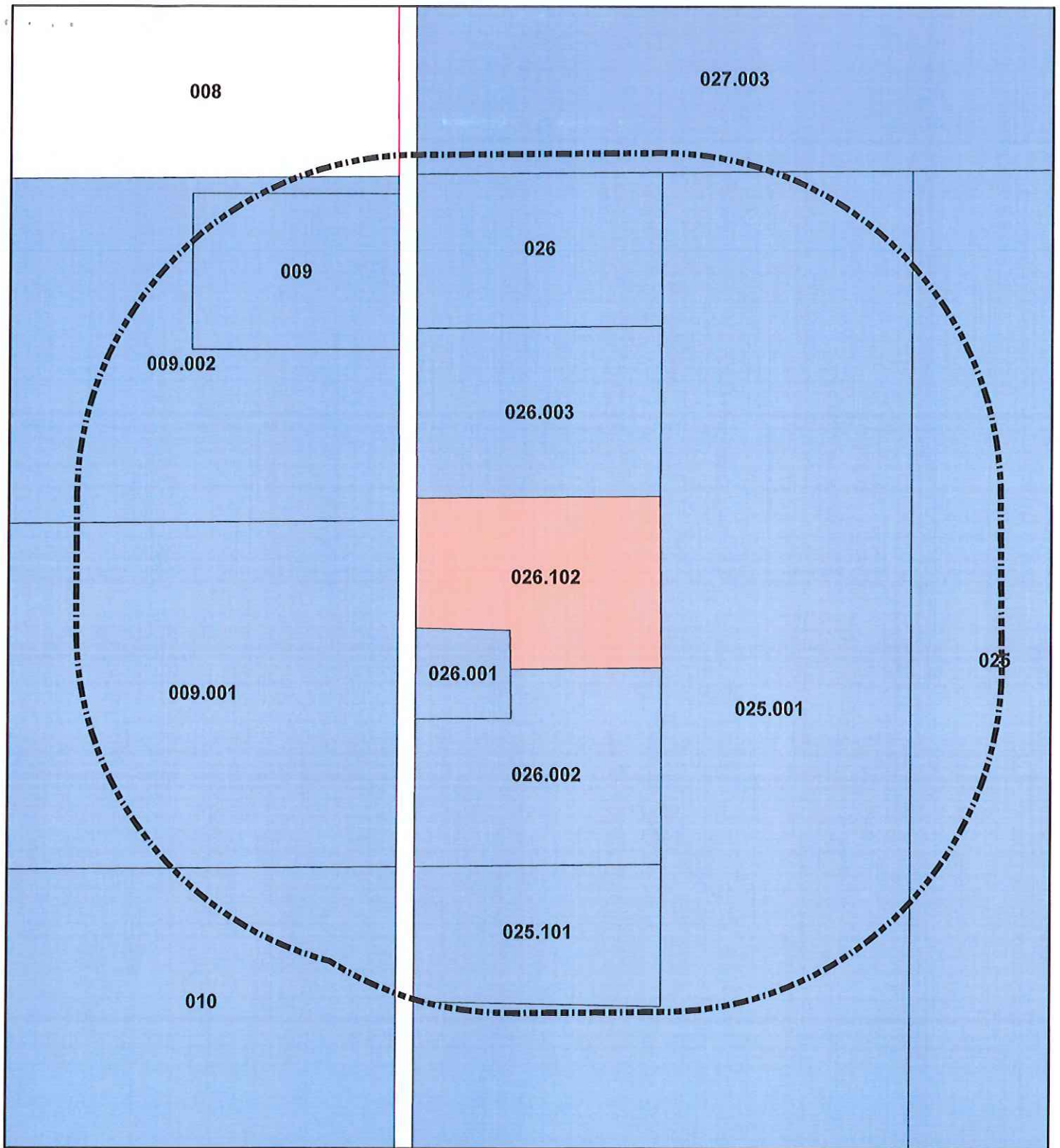
17837 Scioto Rd

Corry

PA

16407

Adjoiner Notification Map



Legend

-  Subject Parcel(s)
-  Notification Parcel(s)
-  Buffer

001 Parcel Number

 Parcel Boundary



1 of 2

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McKinney - Certified Notices
Receipt for Variance

1 of 2

Certified 1 \$3.30
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(WESTFIELD, IN 46074)
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(Expected Delivery Day)
(Thursday 05/19/2016)

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McKinney - Certified Notices
Receipt



Petition Number: 1606-VS-12

Subject Site Address: 14837 Thatcher Lane

Petitioner: Hamilton Designs, LLC on behalf of Crew Carwash

Request: Variances of Standard to allow for the construction of a canopy structure (Article 6.1(D), Article 6.3(F), and Article 6.8) in the SB-PD: Special Business / Planned Development District.

Current Zoning: SB-PD: Special Business / Planned Development

Current Land Use: Car wash

Approximate Acreage: 1.22 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Existing Conditions
6. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

OVERVIEW

Location: The subject property is 1.22 acres +/- in size and located at 14837 Thatcher Lane (see **Exhibit 2**). The property is zoned SB-PD: Special Business / Planned Development District. Adjacent properties are also zoned the SB-PD District.

Property History: Crew Carwash is currently operating a car wash on the property. A car wash is defined as a "High Intensity Retail¹" use, and is permitted within the SB-PD District. The car wash was initially constructed and began operation in 1998, following the approval of a development plan by the Plan Commission in 1997. Since then, an amended development plan was approved in 2013 to allow ancillary improvements to the property (see **Exhibit 5**).

¹ Chapter 12 of the UDO defines "Retail, High Intensity" as "[r]etail businesses that have a high impact on neighboring properties, traffic generation, and public safety. Example businesses include, but are not limited to: building finishes store (large), building supply store (large), department store (large), discount store (large), furniture store (large), grocery/supermarket (large), home electronics/appliance store (large), office supplies (large), sporting goods (large), superstore, variety store (large), **auto and motorcycle service uses** (e.g., parts sales, tire sales and/or repair, service garage, rust proofing, storage, **car wash**), pet-oriented businesses (e.g., pet shop, obedience schools, grooming), toy store (large). Generally, a business over twelve thousand (12,000) square feet qualifies as large for purposes of this definition."

Requested Variances: The petitioner desires to construct a detached canopy structure, as generally illustrated on the Site Plan Exhibit (see Exhibit 3) and Elevations Exhibit (see Exhibit 4). In order to accommodate the proposed improvement, multiple variances are required, as summarized herein.

SUMMARY OF VARIANCES

The petitioner is requesting several variances to accommodate the construction of a detached canopy structure as generally illustrated on the Site Plan Exhibit (see Exhibit 3) and Elevations Exhibit (see Exhibit 4). The detached canopy structure is an Accessory Building². In accordance with Article 5.2(L)³ US Highway 31 Overlay District (the “US31 Overlay”) of the UDO, the use and proposed improvements are exempt from the US31 Overlay standards. As a result, the UDO’s development standards applicable to the SB-PD District and businesses apply to the proposed improvements.

Variance #1: Side Yard Setback

Article 6.1(D)(1)(b)(ii) Accessory Use and Building Standards; Building Location; Lots in Subdivisions; Side and Rear Setback states that “[a]n Accessory Building over two hundred (200) square feet⁴ shall meet the minimum Side and Rear Yard Building Setback Lines of the underlying Zoning District...”

Article 4.22(B) SB-PD District; General Standards of the UDO provides the following for the applicable underlying Zoning District: “Developments in this district shall be subject to the requirements and standards of the LB-PD and GB-PD: Business / Planned Development, except where other requirements and standards for this Zoning District are specifically set forth.”

As a result, Article 4.23(F)(2) GB-PD District; Minimum Setback Lines; Side Yard of the UDO applies, which establishes a minimum side yard building setback of fifteen (15) feet.

² Chapter 12 of the UDO defines “Building, Accessory” as “[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit.

³ Article 5.2(L) of the UDO states “[a]ny alterations to existing buildings or development of additional structures for businesses existing prior to the adoption of Ordinance No. 89-15 (December 11, 1989), or Ordinance No. 00-17 (August 14, 2000), as may be applicable to a subject property, shall be exempt from this Article; however, if an existing business ceases to operate and/or the facility becomes a new type of business, then it shall be subject to the provisions of this Article.

⁴ The petitioner’s site plan depicts an 1,100 square foot +/- structure (51’ x 22’).

The petitioner has requested a Variance of Development Standard to reduce the Minimum Setback Line applicable to the north Lot Line (Side Yard) from fifteen (15) feet to six (6) inches.

For context, the existing drive aisle pavement where the canopy will be constructed over, is not proposed to be modified and is currently located six (6) inches from the Lot Line.

Variance #2: Architectural Standards

Article 6.3(F) Architectural Standards; Business Districts applies to “[a]ll new nonresidential buildings or additions located within a Business District...”

In reviewing the proposed improvements, the Department identified that the proposed improvements would not comply with the following standards (please see the attached **Exhibit 8** for UDO excerpts):

a) Article 6.3(F)(5)(a) and (b) Building Elevations:

- i. Horizontal Design: All Building Facades⁵ shall have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, cornice or moulding.
- ii. Wall Planes: Building Facades, which are ninety (90) feet or greater in length, shall be designed with offsets (projecting or recessed) at intervals of not greater than sixty (60) feet. Buildings less than ten thousand (10,000) square feet in Gross Floor Area shall be designed with offsets at interval of not greater than forty (40) feet. Offsets shall extend the entire vertical plane of the Building Facade and shall be a minimum depth of four (4) feet and a minimum aggregate length of twenty percent (20%) of the horizontal plane of the overall Building Facade. The offset may be met with setbacks of the Building Facade and/or with architectural elements (i.e. arcades, columns, ribs, piers, and pilasters), if such architectural elements meet the minimum offset requirements of this requirement.

b) Article 6.5(F)(7)(b) Roof Design; Flat Roofs: Flat roofs shall comply with the following:

- i. Flat roofs are permitted if edged by a parapet wall with an articulated, three-dimensional cornice or moulding.
- ii. Parapet walls shall be fully integrated into the architectural design of the building to create seamless design transitions between the main building mass and roof-mounted architectural elements (which may include screening elements for roof mounted equipment)

⁵ Chapter 12 of the UDO defines “Building Façade” as “[t]hat portion of any exterior elevation on a building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.”

- iii. Modulation or variation of the roofs and/or roof lines shall be required in order to eliminate the appearance of box-shaped buildings.
 - iv. Flat roofs shall be prohibited for one-story buildings in the LB: Local and Neighborhood Business District, unless otherwise approved by the Plan Commission or Director after consideration of the building architecture, building context, and sensitivity to the residential character of the area.
- c) Article 6.5(F)(11) Gasoline Service Station Canopies (determined by the Department to apply to this use based on the design and automobile orientation):
- i. Height: In order to reduce the visual impact of the canopy structure and corresponding lighting, the maximum height of the canopy clearance shall be sixteen (16) feet and the maximum top of the canopy shall be twenty-two (22) feet. The maximum width of the canopy fascia shall be thirty (30) inches.
 - ii. Roof Design: A canopy shall include a pitched or sloped roof between 5:12 and 10:12, and with a minimum roof height above the canopy fascia of two and one half (2.5) times the width of the canopy fascia.

The petitioner has requested Variances of Development Standard for these standards to not apply to the proposed detached canopy structure. The canopy would otherwise comply with the applicable standards, including building materials.

Variance #3: Landscaping Standards

The existing improvements on the property are Legal Nonconforming⁶ and are permitted to continue to exist; however, the proposed improvements would be required to comply with the standards of the UDO that are in effect today. As a result, the portion of the property impacted by the proposed detached canopy structure (the "Construction Limits") would be subject to Perimeter Parking Area Landscaping and Foundation Planting requirements, as summarized below:

Article 6.8(L)(2) and (4) Landscaping Standards; Foundation Plantings:

- a) Plant materials shall be required intermittently (approximately every forty (40) feet) against long expanses (over eighty (80) feet) of Building Facades, fences, and other barriers to create a softening effect.
- b) Plantings shall be located within fifteen (15) feet of the Building Facade, fence or other barrier being softened, and shall occur within planting beds at least eight (8) in width.

⁶ Article 9.2(B) of the UDO explains that "Legal nonconforming is different than illegal nonconforming because a legal nonconforming property is caused by an amendment to this Ordinance, not as a result of a change to the property, that has resulted in the property no longer conforming to the policies and standards of the applicable Zoning District. When this situation occurs, then the property is deemed legal nonconforming and shall be subject to the terms of this Article."

Article 6.8(O)(2) Landscaping Standards; Parking Area Landscaping; Perimeter Parking Area Landscaping:

- c) Application: Perimeter landscaping is required for Parking Areas with ten (10) or more spaces where the Parking Area⁷ is located within: (i) an Established Front Yard; (ii) a required Yard; or (iii) twenty (20) feet of a Lot Line or Right-of-way line.
- d) Design: Perimeter Parking Area landscaping shall be a minimum of five (5) feet wide and shall extend along the perimeter of Parking Areas and include:
 - i. A minimum of one (1) tree per thirty (30) linear feet of Parking Area length. Trees may be clustered in an aesthetically pleasing manner.
 - ii. A minimum of one (1) shrub per three (3) feet of Parking Area length. Shrubs may be clustered in an aesthetically pleasing manner.
 - iii. Grass or other permitted Groundcover for areas not planted with trees or shrubs.
- e) Drive Aisles: Plantings within perimeter Parking Area landscape areas between drive aisles and a Rear or Side Lot Line may be reduced by up to fifty percent (50%) of the required plantings above, if no Parking Spaces are located between the Lot Line and the drive aisle.

The detached canopy structure would be subject to the above landscaping along the north Lot Line (Side Yard) as it abuts the Construction Limits; however, only six (6) inches currently exist between the existing pavement and north Lot Line, and this is not proposed to change as a result of the proposed improvements. As a result, a Variance of Development Standard is requested for the Perimeter Parking Area Landscaping standards to not apply to the proposed detached canopy structure.

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 June 14, 2016, 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

⁷ Chapter 12 of the UDO defines "Parking Area" as "[a]ny public or private land area designed and used for parking more than four (4) motor vehicles, and shall include garages, Driveways, Parking Spaces, drive aisles and areas of Streets legally designated for parking."

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

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:

The Department recommends the Board motions and votes separately for each separate Variance of Development Standard.

Approval: If the Board is inclined to approve the variances, then the Department recommends approval with the findings for each variance as set forth below:

Variance #1: Petitioner requests a Variance of Development Standard from Article 6.1(D) to reduce the Minimum Setback Line for the Side Yard for a detached canopy structure from fifteen (15) feet to six (6) inches.

Variance #2: Petitioner requests Variances of Development Standard from Article 6.3(F)(5)(a) and (b) Building Elevations, Article 6.5(F)(7)(b) Roof Design, and Article

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

6.5(F)(11) Gasoline Service Station Canopies to not apply to the proposed detached canopy structure.

Variance #3: Petitioner requests Variances of Development Standards from Article 6.8(L) Foundation Plantings and Article 6.8(O)(2) Perimeter Parking Area Landscaping to not apply to the proposed detached canopy structure.

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

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

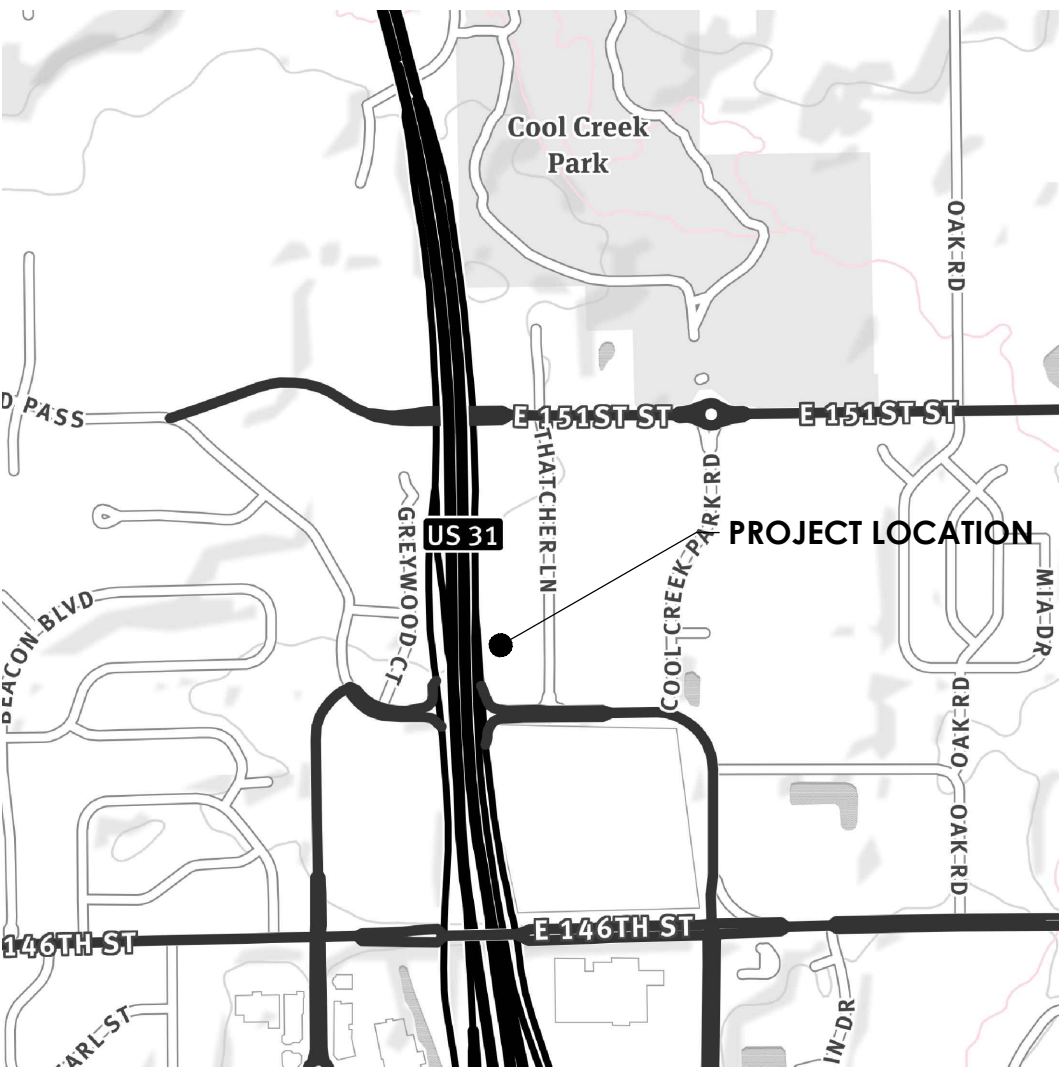
Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the SB-PD District.

- 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 should not have a negative impact on surrounding properties because: (i) the existing and proposed improvements enhance the value of the subject property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the SB-PD 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 and Comprehensive Plan.

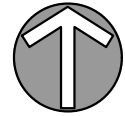
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

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



VICINITY MAP
WESTFIELD, INDIANA

1" = 1,000'



NOTES

- ALL RADI AND OTHER DIMENSIONS FOR 6" STANDING CURB AND CONCRETE CURB AND WALK ARE TO THE FACE OF CURB AND/OR EDGE OF WALK.
- ALL DIMENSIONS ARE TO OUTSIDE FACE OF BRICK OR FACING MATERIAL, WHERE APPLICABLE.
- SEE ARCHITECTURAL PLANS FOR BUILDING DIMENSIONS.
- IT SHALL BE THE RESPONSIBILITY OF EACH CONTRACTOR TO VERIFY ALL EXISTING UTILITIES AND CONDITIONS PERTAINING TO HIS PHASE OF WORK. IT SHALL ALSO BE THE CONTRACTOR'S RESPONSIBILITY TO CONTACT THE OWNERS OF THE VARIOUS UTILITIES FOR PROPER STAKE LOCATIONS FOR EACH UTILITY BEFORE WORK IS STARTED. THE CONTRACTOR SHALL NOTIFY IN WRITING THE OWNER OR THE ENGINEER OF ANY CHANGES, OMISSIONS, OR ERRORS FOUND ON THESE PLANS OR IN THE FIELD BEFORE WORK IS STARTED OR RESUMED.
- ALL SIDEWALK CURB AND GUTTER STREET PAVING, CURB CUTS, DRIVEWAY APPROACHES, HANDICAP RAMP, ETC., CONSTRUCTED OUTSIDE THE PROPERTY LINE IN THE RIGHT-OF-WAY SHALL CONFORM TO ALL MUNICIPAL AND/OR STATE SPECIFICATIONS AND REQUIREMENTS.
- FOR AREAS OUTSIDE THE PROPERTY LINES, REPAIR AND/OR REPLACE ALL DAMAGE DONE TO EXISTING ELEMENTS (SIDEWALKS, PAVING, LANDSCAPING, ETC.) AS REQUIRED BY OWNER AND/OR GOVERNING AUTHORITY.
- EDGE OF NEW PAVEMENT TO BE FLUSH WITH EXISTING PAVEMENT.
- SIDEWALK EXPANSION JOINTS ARE TO BE PLACED AT ALL WALK INTERSECTIONS AND BETWEEN WALKS AND PLATFORMS. SIDEWALK SCORES AND CONTROL JOINTS ARE TO BE EQUALLY SPACED BETWEEN EXPANSION JOINTS AND PERPENDICULAR TO SIDEWALKS AT 5' INTERVALS OR LESS WITH AN EXPANSION JOINT EVERY 30' OR LESS.
- PARKING SPACE STRIPES SHALL BE 4 INCHES WIDE. YELLOW OR WHITE STRIPES SHALL BE PROVIDED AT OWNER'S PREFERENCE UNLESS OTHERWISE SHOWN.
- UNLESS OTHERWISE SHOWN, PERMANENT SIGNS SHALL BE MOUNTED ON A SINGLE U-CHANNEL DRIVE POST DRIVEN 42 INCHES BELOW GRADE. THE BOTTOM EDGE OF THE SIGN SHALL BE 6 FEET ABOVE THE NEAREST PAVEMENT EDGE ELEVATION.
- ALL EXCAVATED AREAS TO BE SEEDED AND/OR SODDED AFTER FINISH GRADING UNLESS OTHERWISE NOTED. ALL NEWLY SODDED/SEEDED AREAS SHALL HAVE A MINIMUM OF 4" OF TOPSOIL. HOLD SOIL DOWN 1" FROM PAVEMENT ELEVATION. CONTRACTOR TO SUPPLY STRAW MULCH WHERE GRASS SEED HAS BEEN PLANTED.
- RESURFACE OR RECONSTRUCT AT LEAST TO ORIGINAL CONDITIONS ALL AREAS WHERE TRAFFIC BY CONTRACTORS, SUBCONTRACTORS OR SUPPLIERS HAVE DAMAGED EXISTING PAVEMENT, LAWNS OR OTHER IMPROVEMENTS DURING CONSTRUCTION, AFTER CONSTRUCTION WORK IS COMPLETE.
- ALL UTILITY TRENCHES WITHIN 5 FEET OF PAVEMENT SHALL BE COMPLETELY BACKFILLED WITH GRANULAR BACKFILL.
- FOR PROPOSED UTILITY LOCATIONS, SEE THE UTILITY PLAN.
- TEMPORARY TRAFFIC CONTROL DURING CONSTRUCTION TO CONFORM TO APPLICABLE LOCAL AND STATE STANDARDS.
- ALL CONSTRUCTION METHODS AND MATERIALS MUST CONFORM TO CURRENT STANDARDS AND SPECIFICATIONS OF THE FEDERAL, STATE, COUNTY, CITY, OR LOCAL REQUIREMENTS, WHICHEVER HAS JURISDICTION.
- ALL CONSTRUCTION ACTIVITY ON THIS SITE TO BE PERFORMED IN COMPLIANCE WITH APPLICABLE O.S.H.A. STANDARDS FOR WORKER SAFETY.
- ALL SIDEWALKS SHALL HAVE A MAXIMUM CROSS SLOPE OF 2.0% (1:50) AND A MAXIMUM RUNNING SLOPE OF 5.0% (1:20). ALL ACCESSIBLE PARKING AND LOADING AREAS SHALL HAVE A MAXIMUM SLOPE OF 2% IN ANY DIRECTION.
- ALL ACCESSIBLE CURB RAMPS SHALL BE BUILT IN COMPLIANCE WITH CURRENT ADA GUIDELINES.

INFORMATION

PARCEL NUMBER: 09-10-18-00-01-003.000
ZONING DISTRICT: SB-PD, SPECIAL BUSINESS PLANNED DEVELOPMENT DISTRICT
LOT AREA: 1.22 ACRES
CANOPY AREA: 1,122 FT²
ADJOINER ZONING:
NORTH SB-PD, SPECIAL BUSINESS-PLANNED DEVELOPMENT DISTRICT
SOUTH SB-PD, SPECIAL BUSINESS-PLANNED DEVELOPMENT DISTRICT
EAST SB-PD, SPECIAL BUSINESS-PLANNED DEVELOPMENT DISTRICT
WEST GB, GENERAL BUSINESS DISTRICT
SUBMITTING FIRM: HAMILTON DESIGNS, LLC
REVIEW COMMENTS CONTACT: MICHAEL THOMPSON, PE
11988 FISHERS CROSSING DRIVE
SUITE 154
FISHERS, INDIANA 46038
EXISTING/PROPOSED USE: CARWASH (CREW CARWASH)

LEGEND OF EXISTING FEATURES

---	PROPERTY LINE	+	BENCHMARK
—R/W—	RIGHT-OF-WAY LINE	○	MONUMENT
---	SETBACK LINE	△	SECTION CORNER
---	EASEMENT	□	TRANSFORMER
---	SECTION LINE	⊕	ELECTRIC METER
---	CENTERLINE	⊕	ELECTRIC MANHOLE
---	INTERMEDIATE CONTOUR	⊕	POWER POLE GUY WIRE
---	INDEX CONTOUR	⊕	LIGHT POLE
---	TELEPHONE UNDER GR.	⊕	PARKING LOT LIGHTS
---	TELEPHONE OVERHEAD	⊕	TELEPHONE PEDESTAL
---	FIBER OPTIC SERVICE	⊕	TELEPHONE MANHOLE
---	GAS SERVICE	⊕	FIBER OPTIC PEDESTAL
---	POWER UNDERGROUND	⊕	TRAFFIC POLE MANHOLE STOP LIGHT
---	POWER OVERHEAD	⊕	GAS METER
---	WATER SERVICE	⊕	GAS VALVE
---	SANITARY SEWER	⊕	STORM MANHOLE
---	STORM SEWER	⊕	SANITARY MANHOLE
---	POND NORMAL POOL	⊕	STORM INLETS
---	EX. FLOWLINE	⊕	STORM ENDSECTION
---	CHAIN LINK FENCE	⊕	CLEAN-OUT DOWNSPOUT
---	FARM FENCE	⊕	FIRE HYDRANTS
---	WOOD FENCE	⊕	FIRE VALVE
---	IRON FENCE RAILING	⊕	WATER METER
---	BUILDING STRUCTURE	⊕	WATER VALVES
---	EX. BUILDING OVERHEAD	⊕	POST INDICATOR VALVE
---	RIM	⊕	FIRE DEPARTMENT CONN.
---	INV.	⊕	SIGNS
---	FFE	⊕	MAILBOX
---		⊕	ADA PARKING
---		⊕	PARKING COUNT
---		⊕	TREES
---		⊕	SHRUB
---		⊕	SPOT GRADE

SITE PLAN LEGEND - PROPOSED

A	NOT USED
B	NOT USED
C	NOT USED
D	NOT USED
E	PAVEMENT STRIPING, 4" SOLID
F	NOT USED
G	NOT USED
H	NOT USED

FLOOD NOTE

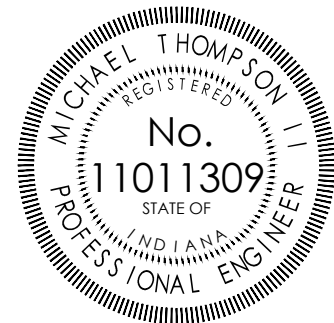
THE ACCURACY OF ANY FLOOD HAZARD DATA SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP. THE WITHIN DESCRIBED TRACT OF LAND LIES WITHIN FLOOD HAZARD ZONE X (UNSHADED) AS SAID TRACT PLOTS BY SCALE ON COMMUNITY PANEL NUMBER 18057C01200; THE FLOOD INSURANCE RATE MAPS FOR HAMILTON COUNTY, INDIANA (MAPS DATED NOVEMBER 19, 2014).

SURVEY AND UTILITY DISCLAIMER

HORIZONTAL AND VERTICAL SURVEY INFORMATION WAS PROVIDED BY BEST AVAILABLE INFORMATION AND IS INTENDED FOR PERMITTING PURPOSES ONLY. CONTRACTOR TO FIELD VERIFY ALL DIMENSIONS AND ENSURE ALL IMPROVEMENTS ARE PROPERLY LOCATED PRIOR TO BEGINNING CONSTRUCTION.

PRIOR TO ANY EXCAVATION FOR UNDERGROUND UTILITIES, CONTRACTOR SHALL EXPOSE AND VERIFY LOCATION (HORIZONTAL AND VERTICAL) OF ALL EXISTING UTILITIES INCLUDING BUT NOT LIMITED TO GAS, WATER AND SANITARY SEWER. ANY CONFLICTS SHALL BE REPORTED IMMEDIATELY TO THE ENGINEER AND THE APPROPRIATE AUTHORITIES.

REVISION BLOCK



Michael Thompson

DATE
06/01/2016

DRAWN BY
AMT

CHECKED BY
MAT

HAMILTON
DESIGNS
A LIMITED LIABILITY COMPANY

11988 Fishers Crossing Drive, Suite 154
Fishers, Indiana 46038
P. (317) 750-6466
www.hamilton-designs.com

CONSTRUCTION PLANS FOR:

CREW CARWASH | NO. 15

14837 Thatcher Lane
Westfield, Indiana 46032

CREW CARWASH

10251 Hague Road
Indianapolis, Indiana 46256

PROJECT NO.
2016-122

DATE
06/01/2016

SCALE
1" = 20'

SHEET NAME
SITE PLAN

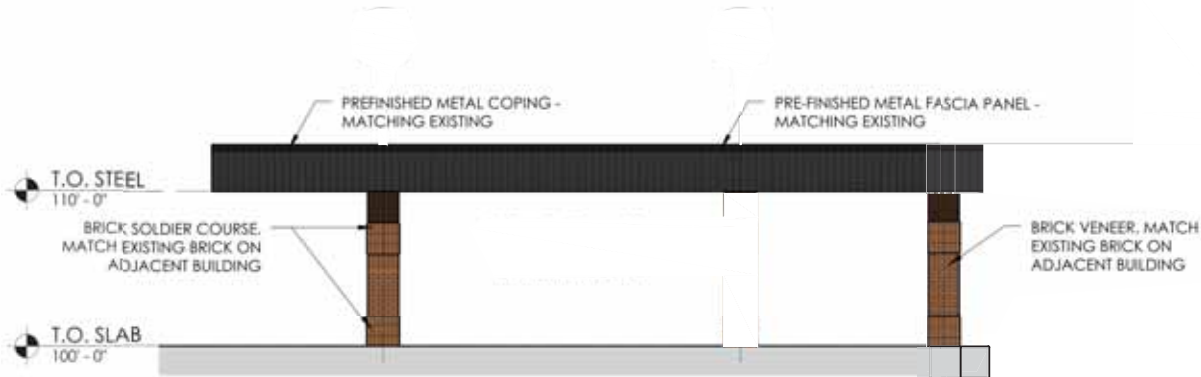
SHEET NO.

CS-101

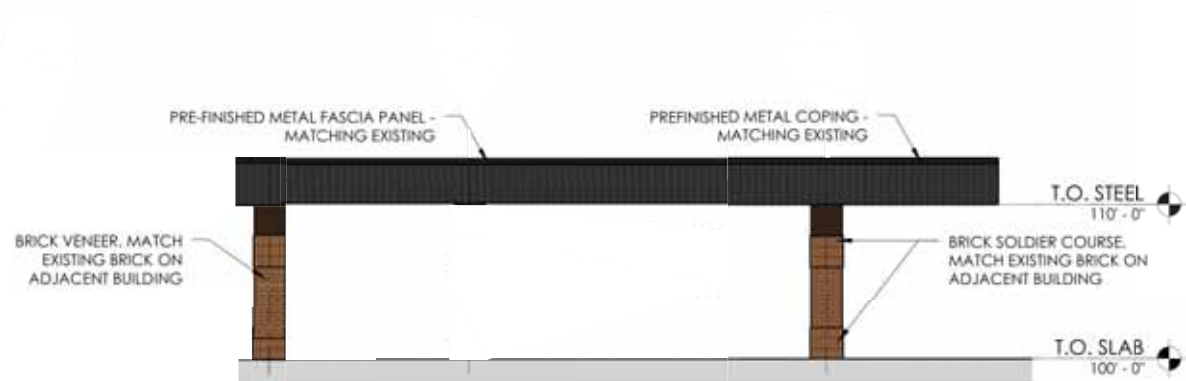


Know what's below.
Call before you dig.

SCALE: 1" = 20'



BUILDING ELEVATION



BUILDING ELEVATION

EXTERIOR ELEVATIONS

CREW CARWASH, INC.
14837 THATCHER LANE
WESTFIELD, INDIANA 46032

150409-10000
1/8" = 1'-0"







**Unlimited
Club**



Early Bird

Unleaded	\$1.15
Midgrade	\$1.25
Maxx	\$1.35
Maxx Plus	\$1.45
Maxx Diesel	\$1.55
Maxx Diesel Plus	\$1.65

Good Deal

7000

Open Daily
7:00 AM - 11:00 PM

re
RW

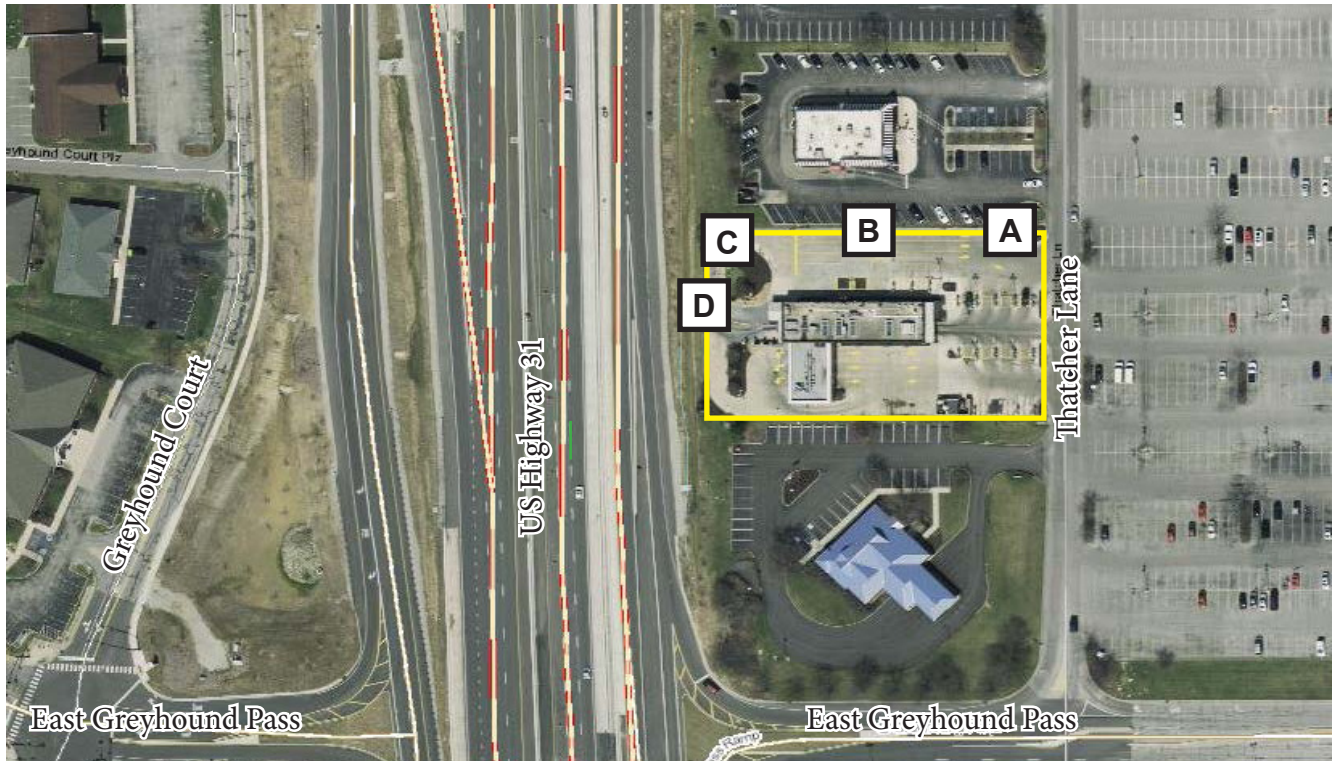
RE- S
RINE
NE W

OPEN
Daily





Existing Conditions Exhibit





VARIANCE APPLICATION

OFFICE
USE ONLYDOCKET #: 1606-VS-12

FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Pamela Howard and Kevin Todd (STAFF NAME) DATE: 4/27/2016

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Justin Furr TELEPHONE: 317-558-7931ADDRESS: 10251 Hague Road, Indianapolis, IN 46256 EMAIL: jfurr@crewcarwash.comPROPERTY OWNER'S NAME: Crew Carwash TELEPHONE: 317-558-7931ADDRESS: 10251 Hague Road, Indianapolis, IN 46256 EMAIL: jfurr@crewcarwash.comREPRESENTATIVE'S NAME: Michael Thompson TELEPHONE: 317-570-8800COMPANY: Hamilton Designs, LLC EMAIL: mthompson@hamilton-designs.comADDRESS: 11988 Fishers Crossing Drive, Suite 154, Fishers, IN 46038

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 14837 Thatcher Lane, Westfield, IN 46032COUNTY PARCEL ID #(S): 09-10-18-00-001-003.000EXISTING ZONING DISTRICT(S): SB-PD EXISTING LAND USE(S): Carwash

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 4.23F, 5.2, 6.3F, 6.8FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

It is the intent of the petitioner to construct a new canopy structure to enhance the customer experience at the current Crew Carwash located at 14837 Thatcher Lane. The proposed canopy structure will provide for protection of employees during inclement weather and also add an additional automated lane for monthly unlimited wash members. Through this process, it is also the request of the petitioner to bring the existing site into compliance with current standards through the additional variances requested.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)



APPLICANT: Crew Carwash 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: _____
The function of the existing Crew Carwash will remain as existing with the proposed improvements. This variance, if approved, will provide for an improved customer and employee experience while at Crew Carwash. The public health, safety, morals, and general welfare of the community will not be compromised through approval of this variance request.

- 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 requested variance is intended to improve the function of the existing Crew Carwash. It is the intent of the petitioner to provide the proposed canopy structure with like materials of the primary Crew Carwash building. The existing building consists of brick construction with brick design elements implemented into the structure (soldier course, etc.) It is anticipated that the property value will increase with the proposed improvement and likewise impact adjoining properties in a positive manner.

- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
The strict application of the terms of the Ordinance result in a practical difficulty due to the standards that the original development was constructed. Development in Village Park is unique in Westfield. The strict application of the Ordinance would result in a stagnant Crew Carwash facility that is unable to update due to the practical difficulties of meeting the ordinance. It is the intent of the petitioner to enhance the existing Crew Carwash facility with a new canopy structure utilizing materials consistent with the primary structure.



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.

Michael Thompson
Applicant/Representative (signature)

Michael Thompson
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 29 day of April, 2016.

State of Indiana, County of Hamilton SS:



Ethan Andrew Shepherd
Notary Public Signature
Ethan Andrew Shepherd
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

[Signature]
Property Owner (signature)*

Justin Furr
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 28th day of April, 2016.

State of Indiana, County of Hamilton SS:

David P. Zapp
Notary Public Signature
David P. Zapp
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.

CREW CARWASH | 14837 Thatcher Lane

LEGAL DESCRIPTION

A part of the Southwest Quarter of Section 18, Township 18 North, Range 4 East of the Second Principal Meridian in Washington Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter, thence North 89 degrees 19 minutes 32 seconds East (assumed bearing) along the North line thereof 418.79 feet to a prolongation Northerly of the East line of a 1.959 acre tract of land described in Warranty Deed recorded as Instrument No. 83-3497 in Deed Record 336, page 110, in the Office of the Recorder of Hamilton County, Indiana; thence South 00 degrees 00 minutes 00 seconds West along said prolongation and said line 304.49 feet to the Southeast corner thereof; thence South 90 degrees 00 minutes 00 seconds West along the South line of said tract 306.13 feet to the Southwest corner thereof, being also a point on the Easterly limited access right-of-way line for U.S. R. 31, described in a Warranty Deed recorded as Instrument No. 12008 in Deed Record 279, page 612 in the Office of the Recorder of said County, said limited access right-of-way line being a non-tangent curve concave Westerly and said point being North 87 degrees 03 minutes 28 seconds East 11546.16 feet to the end of point of said curve, said point being North 89 degrees 43 minutes 48 seconds East 11546.16 feet from said radius point; (2) South 01 degrees 47 minutes 33 seconds East along a non-tangent line 227.83 feet to the Point of Beginning of the herein described parcel; thence North 89 degrees 43 minutes 12 seconds East 304.74 feet; thence South 00 degrees 01 minute 41 seconds East 66.97 feet; thence South 00 degrees 16 minutes 48 seconds East 108.90 feet; thence South 89 degrees 43 minutes 12 seconds West 299.80 feet to the above said limited access right-of-way; thence North 01 degree 47 minutes 33 seconds West along said limited access right-of-way; thence North 01 degree 47 minutes 33 seconds West along said limited access right-of-way line 175.93 feet to the Point of Beginning, containing 1.220 acres or 53143.20 square feet.

Together with a non-exclusive easement for access and road purposes as set out in Grant of Access Easement dated May 6, 1982 and recorded May 7, 1982 in Deed 330, page 561.

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

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Advisory Board of Zoning Appeals will hold a public hearing on Tuesday, June 14, 2016, at 7:00 p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, to consider petition(s) [insert docket #], filed by Hamilton Designs, LLC on behalf of Crew Carwash. The request pertains to real estate comprising approximately 1.22 acres and generally located at 14837 Thatcher Lane, Washington Township, Westfield, Indiana.

The request is for approval of a Variance of Development Standard to allow the construction of an accessory structure (drive-thru canopy) in the setback.

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:
Crew Carwash
10521 Hague Road
Indianapolis, Indiana 46256
(317) 558-7931

REPRESENTATIVE: (if applicable)
Michael Thompson
Hamilton Designs, LLC
11988 Fishers Crossing Drive, Suite 154
Fishers, Indiana 46038
(317)-750-6466

CITY OF WESTFIELD:
Economic and Community Development Department
2728 East 171st Street
Westfield, Indiana 46074
(317) 804-3470
www.westfield.in.us

#25

ADJOINER
(NOTIFICATION LIST)

DATE TAKEN: _____

TIME TAKEN: _____

NAME OF PROPERTY OWNER: Mikes No 15 LLC

NAME OF PETITIONER: Austin Tracey

LEGAL DESCRIPTION OR PARCEL NUMBER OF PROPERTY:
09-10-18-00-01-003.000

ZONING AUTHORITY APPLYING TO:

(SELECT ONE)

CARMEL BZA:

CARMEL PLANNING:

CICERO:

FISHERS & FALL BZA:

FISHERS PLAN COMMISSION:

HAMILTON COUNTY PLANNING:

NOBLESVILLE HOME OCCUPATION:

NOBLESVILLE PUBLIC HEARING:

WESTFIELD:

☐
☐
☐
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☐
☐
☐
☐
☒

SIGNATURE OF APPLICANT: Austin M Tracey

DATE: 4/26/2016

NAME AND PHONE NUMBER OF
PERSON TO CONTACT: Austin Tracey - (317) 660-9162

ORDER TAKEN BY: _____

FAX NUMBER 317.776.9682

EMAIL PLATS@HAMILTONCOUNTY.IN.GOV

* NOTE * -- DUE TO VOLUME AND TURN AROUND, ORDERS TAKE 3-5 BUSINESS DAYS
FOR PROCESSING. TRANSFER AND MAPPING WILL APPROPRIATELY NOTIFY THE
CONTACT WHEN THEIR ORDER IS READY TO BE PICKED UP.

HAMILTON COUNTY AUDITOR

I, DAWN COVERDALE, AUDITOR OF HAMILTON COUNTY, INDIANA, CERTIFY MY OFFICE HAS SEARCHED OUR RECORDS AND BASED ON THAT SEARCH, IT APPEARS THAT THE PROPERTY OWNERS MARKED AS NEIGHBORS ARE THE PROPERTY OWNERS THAT ARE TWO PROPERTIES OR 660' FEET FROM THE REAL ESTATE MARKED AS SUBJECT PROPERTY.

THIS DOCUMENT DOES NOT CERTIFY THAT THE ATTACHED LIST OF PROPERTY OWNERS IS ACCURATE OR INCLUDES ALL PROPERTY OWNERS ENTITLED TO NOTICE PURSUANT TO LOCAL ORDINANCE. ANY PERSON SEEKING A MORE ACCURATE SEARCH OF THE REAL ESTATE RECORDS OF THE COUNTY SHOULD SEEK THE OPINION OF A TITLE INSURANCE COMPANY.

DAWN COVERDALE, HAMILTON COUNTY AUDITOR

DATED: *Michael R. Cussel* 04/27/2016

SUBJECT PROPERTY:

09-10-18-00-01-003.000	Subject
Mikes No 15 LLC	
10251 Hague Rd	
Indianapolis	IN 46256

Pursuant to the provisions of Indiana Code 5-14-3-3-(e), no person other than those authorized by the County may reproduce, grant access, deliver, or sell any information obtained from any department or office of the County to any other person, partnership, or corporation. In addition any person who receives information from the County shall not be permitted to use any mailing list, addresses, or databases for the purpose of selling, advertising, or soliciting the purchase of merchandise, goods, services, or to sell, loan, give away, or otherwise deliver the information obtained by the request to any other person.

HAMILTON COUNTY NOTIFICATION LIST

PLEASE NOTIFY THE FOLLOWING PERSONS

09-09-13-00-00-012.012	Neighbor
Greyhound Court Plaza LLC	
6070 Keystone N	
Indianapolis	IN 46220
09-09-13-00-00-012.025	Neighbor
5 Hs LLC	
1610 E GREYHOUND PASS	
Carmel	IN 46032
09-09-13-00-00-012.028	Neighbor
Greyhound Court Plaza LLC	
6070 Keystone N	
Indianapolis	IN 46220
09-09-13-00-00-012.034	Neighbor
Westfield Medical Office Park LLC	
201 W 103RD ST STE 400	
Indianapolis	IN 46290
09-09-13-00-00-012.125	Neighbor
Vacation Limited Partnership	
14904 Greyhound Ct	
Carmel	IN 46032
09-09-13-00-00-014.000	Neighbor
Greyhound Plaza Associates LP	
117 Washington St E Ste 300	
Indianapolis	IN 46204
09-10-18-00-00-015.102	Neighbor
Village Park Plaza LLC	
PO Box 7019	
Indianapolis	IN 46207
09-10-18-00-00-015.132	Neighbor
Bendmel LLC	

222 GRAND AVE

Englewood

NJ

07631

09-10-18-00-00-015.202

Neighbor

Wal Mart Realty Company

P O Box 8050 MS 0555

Bentonville

AR

72712 8050

09-10-18-00-01-001.000

Neighbor

MSI East Greyhound Carmel Grocery LLC

9800 Crosspoint Blvd

Indianapolis

IN

46256

09-10-18-00-01-002.000

Neighbor

Bank One Indianapolis

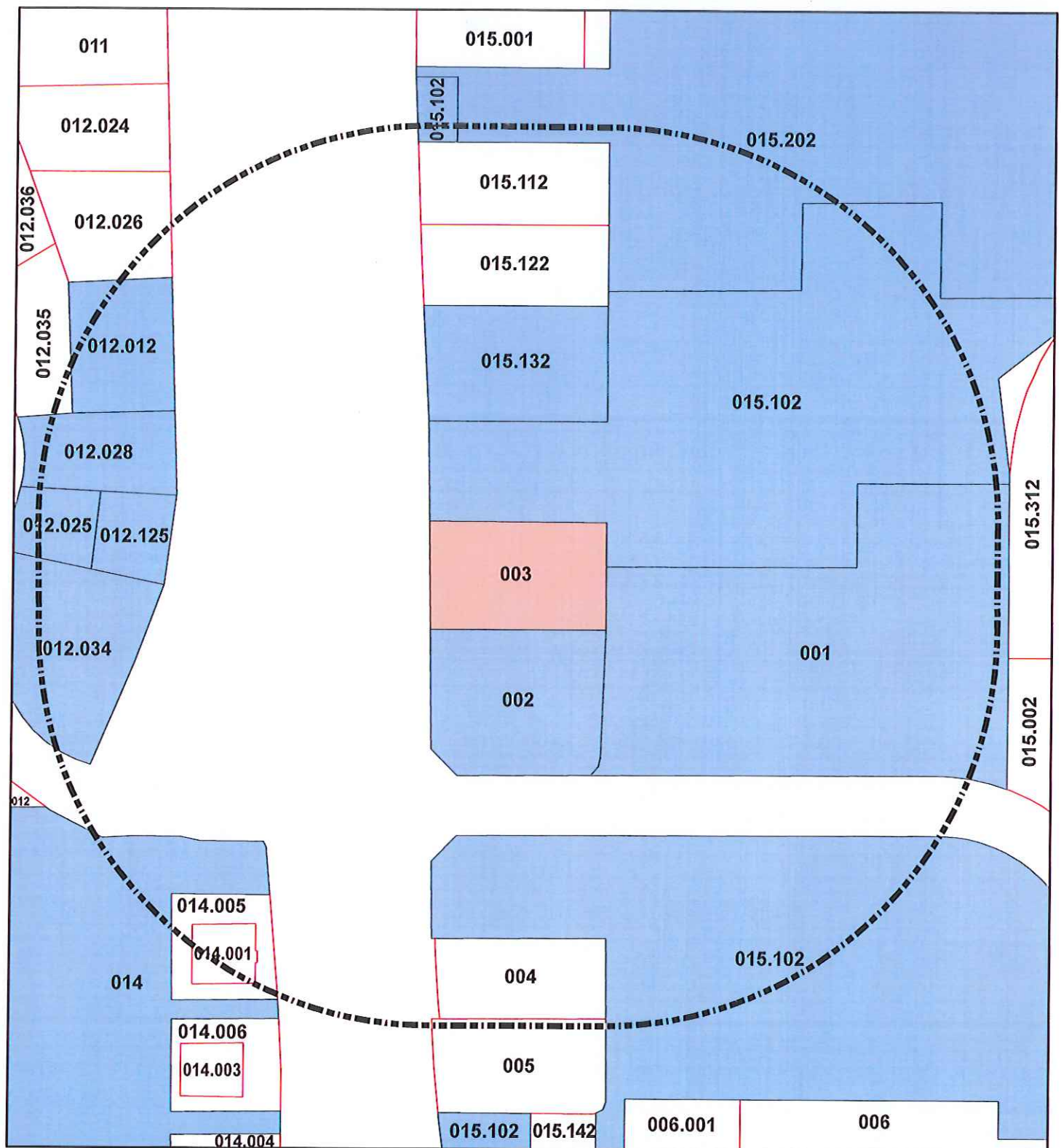
P O Box 1919

Wichita Falls

TX

76307

Adjoiner Notification Map



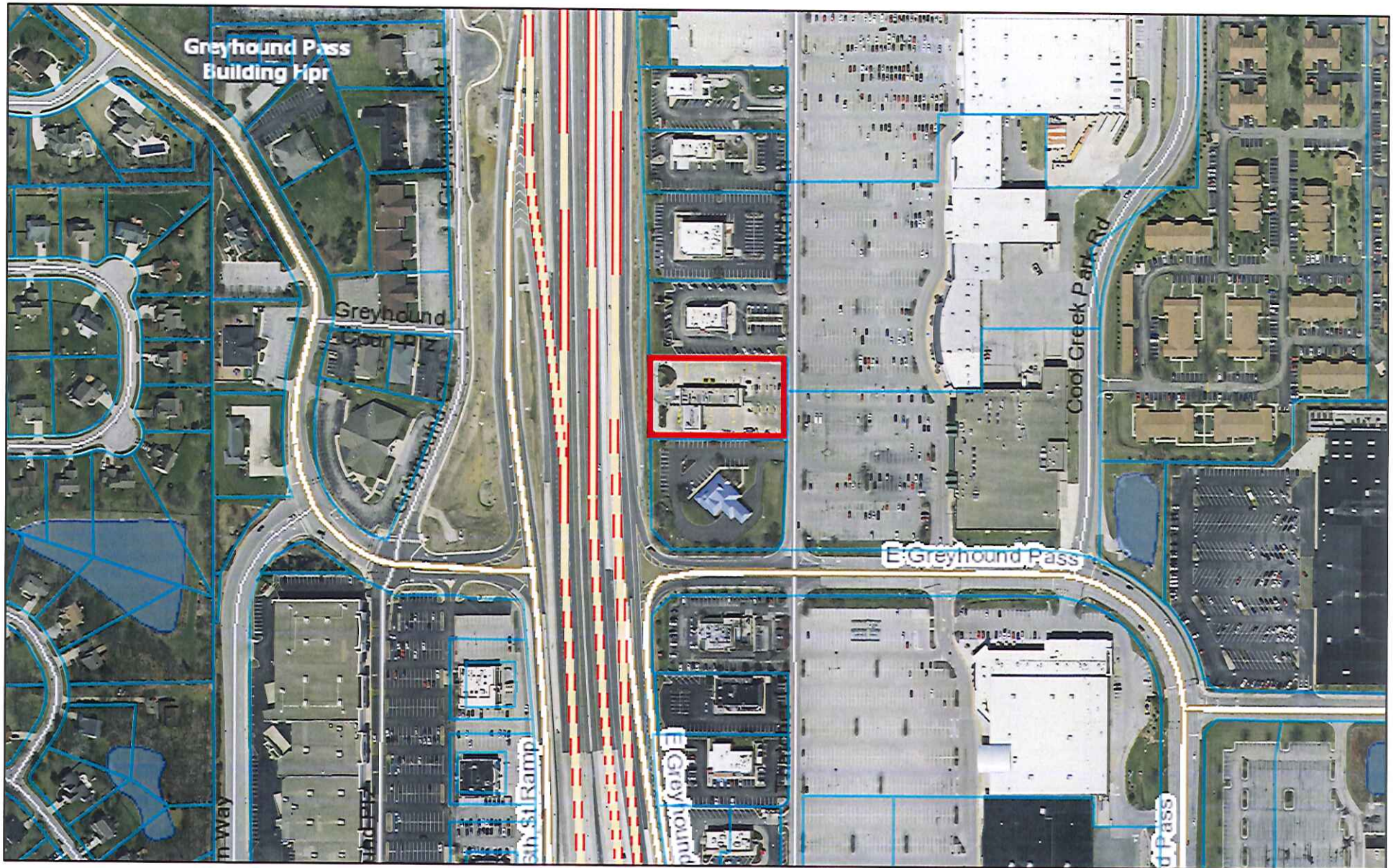
Legend

- Subject Parcel(s)
- Notification Parcel(s)
- Buffer

- 001** Parcel Number
- Parcel Boundary

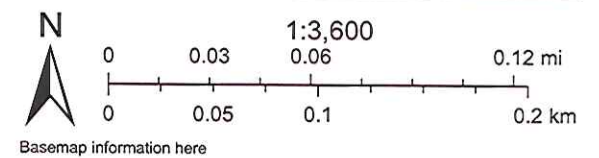


Vicinity Map



April 27, 2016

 Parcels





1221

HAMILTON DESIGNS, LLC
11988 FISHERS CROSSING DRIVE, SUITE 154
FISHERS, INDIANA 46038



20-7/740

4/29/2016

PAY TO THE
ORDER OF City of Westfield

\$**100.00

One Hundred and 00/100*****

DOLLARS

City of Westfield
2706 E. 171st Street
Westfield, Indiana 46074

MEMO

Board of Zoning Appeals

AUTHORIZED SIGNATURE

⑈00001221⑈ ⑆074000078⑆ 01551863546⑈

HAMILTON DESIGNS, LLC

1221

City of Westfield

4/29/2016

Board of Zoning Appeals

100.00

Community Business Chec Board of Zoning Appeals

100.00

RECEIPT OF PAYMENT

NAME

Hamilton Designs



ADDRESS

Crew Car Wash

CITY

ZIP

DATE RECEIVED

04/29/16



CHECK #

1221

☐ CASH☐ OTHER

PAYMENT RECEIVED BY

Aes

ACCOUNT #

Add'l. Vericase

AMOUNT PAID \$

100.00

1220

HAMILTON DESIGNS, LLC
11988 FISHERS CROSSING DRIVE, SUITE 154
FISHERS, INDIANA 46038



20-7/740

4/29/2016

PAY TO THE
ORDER OF City of Westfield

\$ **100.00

One Hundred and 00/100*****

DOLLARS

City of Westfield
2706 E. 171st Street
Westfield, Indiana 46074

AUTHORIZED SIGNATURE

MEMO

Board of Zoning Appeals

⑈00001220⑈ ⑆074000078⑆ 01551863546⑈

HAMILTON DESIGNS, LLC

City of Westfield

Board of Zoning Appeals

4/29/2016

100.00

1220

Community Business Chec Board of Zoning Appeals

100.00

RECEIPT OF PAYMENTNAME Hamilton DesignsADDRESS Crew Car Wash CITY _____ ZIP _____DATE RECEIVED 04 / 29 / 16
☒ CHECK # 1220
☐ CASH
 ☐ OTHER _____
PAYMENT RECEIVED BY ACSACCOUNT # Add'l VarianceAMOUNT PAID \$ 100.00

1219

HAMILTON DESIGNS, LLC
11988 FISHERS CROSSING DRIVE, SUITE 154
FISHERS, INDIANA 46038



20-7/740

4/29/2016

PAY TO THE ORDER OF City of Westfield

\$ **100.00

One Hundred and 00/100*****

DOLLARS

City of Westfield
2706 E. 171st Street
Westfield, Indiana 46074

Michi-thu

AUTHORIZED SIGNATURE

MEMO Board of Zoning Appeals

⑈00001219⑈ ⑆074000078⑆ 01551863546⑈

HAMILTON DESIGNS, LLC
City of Westfield

Board of Zoning Appeals

4/29/2016

1219

100.00

Community Business Chec Board of Zoning Appeals

100.00

RECEIPT OF PAYMENT

NAME Hamilton Designs



ADDRESS Crew Canvash CITY _____ ZIP _____

DATE RECEIVED 04/29/16

☒ CHECK # 1219 ☐ CASH ☐ OTHER _____

PAYMENT RECEIVED BY kes

ACCOUNT # Variance (Add'l)

AMOUNT PAID \$ 100.00

1218

HAMILTON DESIGNS, LLC
11988 FISHERS CROSSING DRIVE, SUITE 154
FISHERS, INDIANA 46038



20-7/740

4/29/2016

PAY TO THE
ORDER OF City of Westfield

\$ **600.00

Six Hundred and 00/100

DOLLARS

City of Westfield
2706 E. 171st Street
Westfield, Indiana 46074

AUTHORIZED SIGNATURE

MEMO

Board of Zoning Appeals

⑈00001218⑈ ⑆074000078⑆ 01551863546⑈

HAMILTON DESIGNS, LLC

City of Westfield

4/29/2016

1218

Board of Zoning Appeals

600.00

Community Business Chec Board of Zoning Appeals

600.00

RECEIPT OF PAYMENTNAME Hamilton DesignsADDRESS Crew Park Wash CITY _____ ZIP _____DATE RECEIVED 04/29/16 ☒ CHECK # 1218 ☐ CASH ☐ OTHER _____PAYMENT RECEIVED BY ACSACCOUNT # VarianceAMOUNT PAID \$ 600.00

1400
2
CORPORATE WARRANTY DEED Instrument
9709709671

THIS INDENTURE WITNESSETH, That Frisch's Restaurants, Inc., an Ohio Corporation existing under the laws of the State of Ohio ("Grantor"), a corporation organized and existing under the laws of the State of Ohio, CONVEYS AND WARRANTS TO Mike's No. 15 LLC

of County, in the State of Indiana for and in consideration of One and 00/100 ----Dollars and other valuable consideration the receipt whereof is hereby acknowledged the following described Real Estate in Hamilton County, in the State of Indiana, to-wit:

See Attached For Legal Description

Subject to real estate taxes due and payable in May 1997 and all subsequent taxes.

Subject to easements, restrictions, agreements and rights of way of record.

Subject to final acceptance for transfer
17 day of March 19 97

9709709671
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
On 03-17-1997 At 08:25 am.
CORP W DEED 14.00

Auditor
Hamilton County

Parcel #
Post Office Address of Grantee: TAXES: 11711 N. COLLEGE AVENUE, Carmel, IN 46032

Property Address: 14837 U.S. 31 NORTH, WESTFIELD, IN 46032

Grantors certify under oath that no Indiana Gross Income Tax is due or payable in respect to the transfer made by this deed.

The undersigned persons executing this deed on behalf of Grantor represent and certify that they are duly elected officers of Grantor and have been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full corporate capacity to convey the real estate described herein; and that all necessary corporate action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 6th day of MARCH, 1997.

Frisch's Restaurants, Inc., an Ohio Corporation
Name of Corporation

By: Craig F. Maier
Signature
Craig F. Maier
President

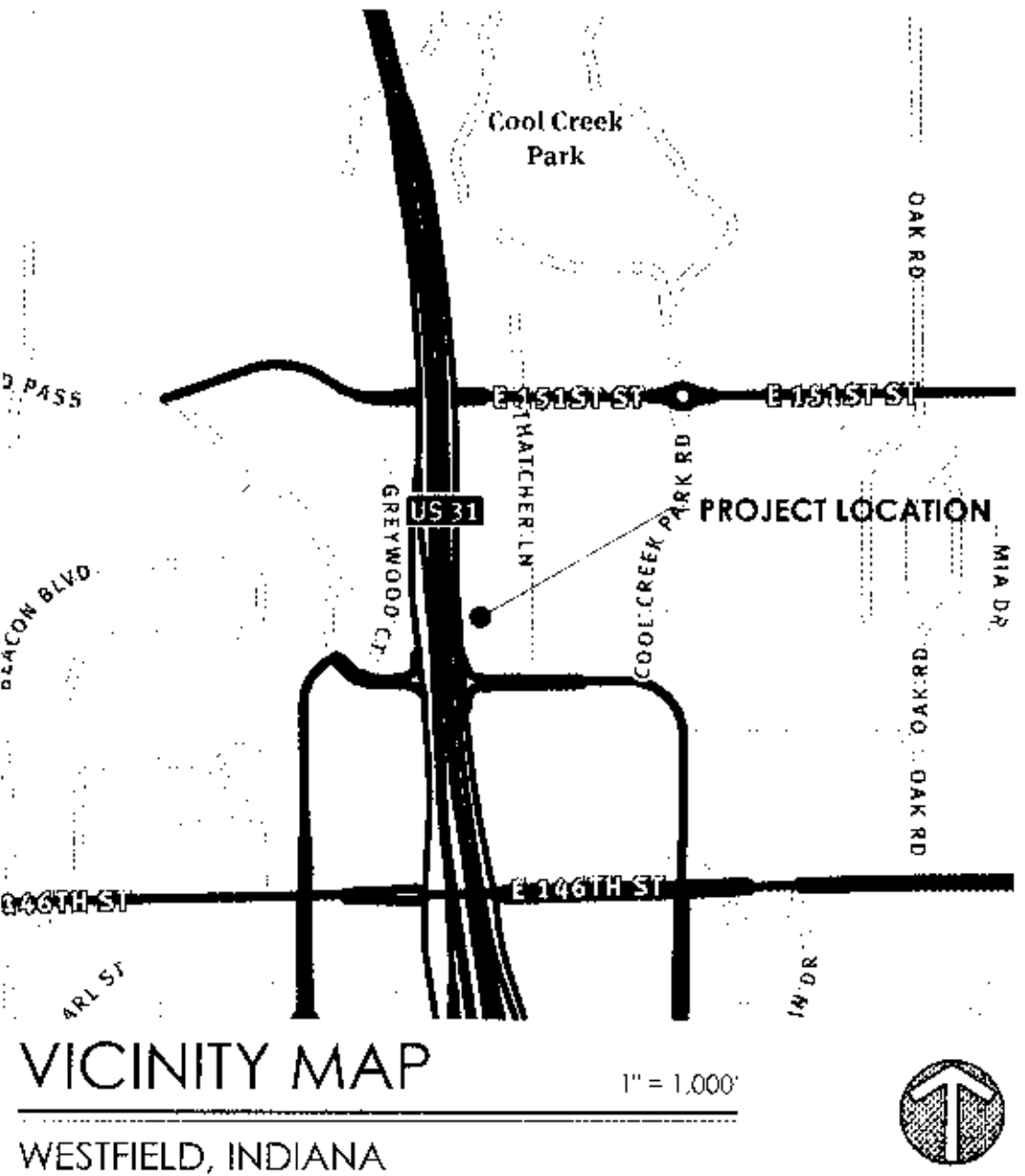
SEAL) ATTEST:
GARY KING
Signature
GARY KING
SECRETARY

Notary Seal State of Indiana, HAMILTON County, ss: Before me, the undersigned, a Notary Public in and for said County and State, this 6th day of MARCH, 1997, personally appeared Craig F. Maier, the President of Frisch's Restaurants, Inc., an Ohio Corporation



and acknowledged the execution of the foregoing deed.

INA SMITH
INA SMITH Notary Public
My Commission Expires July 24, 1999 Printed Signature
Resident of _____ County, Indiana
Document Prepared by Raymond J. Grahn, Attorney



VICINITY MAP
WESTFIELD, INDIANA
1" = 1,000'

NOTES

1. ALL RADII AND OTHER DIMENSIONS FOR 6" STANDING CURB AND CONCRETE CURB AND WALK ARE TO THE FACE OF CURB AND/OR EDGE OF WALK.
2. ALL DIMENSIONS ARE TO OUTSIDE FACE OF BRICK OR FACING MATERIAL, WHERE APPLICABLE.
3. SEE ARCHITECTURAL PLANS FOR BUILDING DIMENSIONS.
4. IT SHALL BE THE RESPONSIBILITY OF EACH CONTRACTOR TO VERIFY ALL EXISTING UTILITIES AND CONDITIONS PERTAINING TO HIS PHASE OF WORK. IT SHALL ALSO BE THE CONTRACTOR'S RESPONSIBILITY TO CONTACT THE OWNERS OF THE VARIOUS UTILITIES FOR PROPER STATE LOCATIONS FOR EACH UTILITY BEFORE WORK IS STARTED. THE CONTRACTOR SHALL NOTIFY IN WRITING THE OWNER OR THE ENGINEER OF ANY CHANGES, OMISSIONS, OR ERRORS FOUND ON THESE PLANS OR IN THE FIELD BEFORE WORK IS STARTED OR RESUMED.
5. ALL SIDEWALK, CURB AND GUTTER STREET PAVING, CURB CUTS, DRIVEWAY APPROACHES, HANDICAP RAMP, ETC. CONSTRUCTED OUTSIDE THE PROPERTY LINE IN THE RIGHT-OF-WAY SHALL CONFORM TO ALL MUNICIPAL AND/OR STATE SPECIFICATIONS AND REQUIREMENTS.
6. FOR AREAS OUTSIDE THE PROPERTY LINES, REPAIR AND/OR REPLACE ALL DAMAGE DONE TO EXISTING ELEMENTS (SIDEWALKS, PAVING, LANDSCAPING, ETC.) AS REQUIRED BY OWNER AND/OR GOVERNING AUTHORITY.
7. EDGE OF NEW PAVEMENT TO BE FLUSH WITH EXISTING PAVEMENT.
8. SIDEWALK EXPANSION JOINTS ARE TO BE PLACED AT ALL WALK INTERSECTIONS AND BETWEEN WALKS AND PLATFORMS. SIDEWALK SCORES AND CONTROL JOINTS ARE TO BE EQUALLY SPACED BETWEEN EXPANSION JOINTS AND PERPENDICULAR TO SIDEWALKS AT 5' INTERVALS OR LESS WITH AN EXPANSION JOINT EVERY 30' OR LESS.
9. PARKING SPACE STRIPES SHALL BE 4 INCHES WIDE. YELLOW OR WHITE STRIPES SHALL BE PROVIDED AT OWNER'S PREFERENCE UNLESS OTHERWISE SHOWN.
10. UNLESS OTHERWISE SHOWN, PERMANENT SIGNS SHALL BE MOUNTED ON A SINGLE U-CHANNEL DRIVE POST DRIVEN 42 INCHES BELOW GRADE. THE BOTTOM EDGE OF THE SIGN SHALL BE 6 FEET ABOVE THE NEAREST PAVEMENT EDGE ELEVATION.
11. ALL EXCAVATED AREAS TO BE SEEDED AND/OR SODDED AFTER FINISH GRADING UNLESS OTHERWISE NOTED. ALL NEWLY SODDED/SEEDED AREAS SHALL HAVE A MINIMUM OF 4" OF TOP SOIL, HOLD SOIL DOWN 1" FROM PAVEMENT ELEVATION. CONTRACTOR TO SUPPLY STRAW MULCH WHERE GRASS SEED HAS BEEN PLANTED.
12. RESURFACE OR RECONSTRUCT AT LEAST TO ORIGINAL CONDITIONS ALL AREAS WHERE TRAFFIC BY CONTRACTORS, SUBCONTRACTORS OR SUPPLIERS HAVE DAMAGED EXISTING PAVEMENT, LAWNS OR OTHER IMPROVEMENTS DURING CONSTRUCTION, AFTER CONSTRUCTION WORK IS COMPLETE.
13. ALL UTILITY TRENCHES WITHIN 5 FEET OF PAVEMENT SHALL BE COMPLETELY BACKFILLED WITH GRANULAR BACKFILL.
14. FOR PROPOSED UTILITY LOCATIONS, SEE THE UTILITY PLAN.
15. TEMPORARY TRAFFIC CONTROL DURING CONSTRUCTION TO CONFORM TO APPLICABLE LOCAL AND STATE STANDARDS.
16. ALL CONSTRUCTION METHODS AND MATERIALS MUST CONFORM TO CURRENT STANDARDS AND SPECIFICATIONS OF THE FEDERAL, STATE, COUNTY, CITY, OR LOCAL REQUIREMENTS, WHICHEVER HAS JURISDICTION.
17. ALL CONSTRUCTION ACTIVITY ON THIS SITE TO BE PERFORMED IN COMPLIANCE WITH APPLICABLE O.S.H.A. STANDARDS FOR WORKER SAFETY.
18. ALL SIDEWALKS SHALL HAVE A MAXIMUM CROSS SLOPE OF 2.0% (1:50) AND A MAXIMUM RUNNING SLOPE OF 5.0% (1:20). ALL ACCESSIBLE PARKING AND LOADING AREAS SHALL HAVE A MAXIMUM SLOPE OF 2% IN ANY DIRECTION.
19. ALL ACCESSIBLE CURB RAMPS SHALL BE BUILT IN COMPLIANCE WITH CURRENT ADA GUIDELINES.

INFORMATION

PARCEL NUMBER:	09-10-18-00-01-003-000
ZONING DISTRICT:	SB-PD, SPECIAL BUSINESS PLANNED DEVELOPMENT DISTRICT
LOT AREA:	1.22 ACRES
CANOPY AREA:	1,122 FT ²
ADJOINER ZONING:	NORTH SB-PD, SPECIAL BUSINESS PLANNED DEVELOPMENT DISTRICT SOUTH SB-PD, SPECIAL BUSINESS PLANNED DEVELOPMENT DISTRICT EAST SB-PD, SPECIAL BUSINESS PLANNED DEVELOPMENT DISTRICT WEST GB, GENERAL BUSINESS DISTRICT
SUBMITTING FIRM:	HAMILTON DESIGNS, LLC
REVIEW COMMENTS CONTACT:	MICHAEL THOMPSON, PE 11988 FISHERS CROSSING DRIVE SUITE 154 FISHERS, INDIANA 46038
EXISTING/PROPOSED USE:	CARWASH (CREW CARWASH)

LEGEND OF EXISTING FEATURES

---	PROPERTY LINE	+	BENCHMARK
---	R/W	---	MONUMENT
---	SETBACK LINE	---	SECTION CORNER
---	EASEMENT	---	TRANSFORMER
---	SECTION LINE	---	HVAC
---	CENTERLINE	---	ELECTRIC METER
---	INTERMEDIATE CONTOUR	---	ELECTRIC MANHOLE
---	INDEX CONTOUR	---	POWER POLE GUY WIRE
---	TELEPHONE UNDER GR.	---	LIGHT POLE
---	TELEPHONE OVERHEAD	---	PARKING LOT LIGHTS
---	FIBER OPTIC SERVICE	---	TELEPHONE PEDESTAL
---	GAS SERVICE	---	TELEPHONE MANHOLE
---	POWER UNDERGROUND	---	FIBER OPTIC PEDESTAL
---	POWER OVERHEAD	---	TRAFFIC POLE
---	WATER SERVICE	---	MANHOLE STOP LIGHT
---	SANITARY SEWER	---	GAS METER
---	STORM SEWER	---	GAS VALVE
---	POND/NORMA POOL	---	STORM MANHOLE
---	EX. FLOWLINE	---	SANITARY MANHOLE
---	CHAIN LINK FENCE	---	STORM INLETS
---	FARM FENCE	---	STORM ENDSECTION
---	WOOD FENCE	---	CLEAN-OUT
---	IRON FENCE RAILING	---	DOWNSPOUT
---	BUILDING STRUCTURE	---	FIRE HYDRANT
---	EX. BUILDING OVERHEAD	---	FIRE VALVE
---	RIM ELEVATION	---	WATER METER
---	INVERT ELEVATION	---	WATER VALVES
---	FINISHED FLOOR ELEVATION	---	POST INDICATOR VALVE
---		---	FIRE DEPARTMENT CONN.
---		---	SIGNS
---		---	MAILBOX
---		---	ADA PARKING
---		---	PARKING COUNIT
---		---	TREES
---		---	SHRUB
---		---	SPOT GRADE

SITE PLAN LEGEND - PROPOSED

A	NOT USED
B	NOT USED
C	NOT USED
D	NOT USED
E	PAVEMENT STRIPING, 4" SOLID
F	NOT USED
G	NOT USED
H	NOT USED

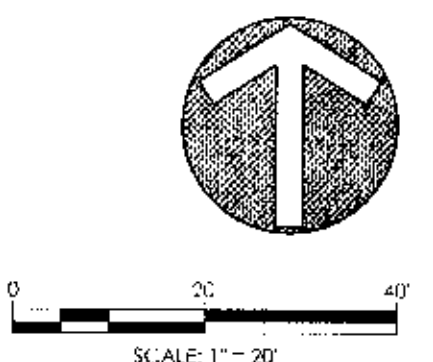
FLOOD NOTE

THE ACCURACY OF ANY FLOOD HAZARD DATA SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP. THE WITHIN DESCRIBED TRACT OF LAND LIES WITHIN FLOOD HAZARD ZONE X (UNSHADED) AS SAID TRACT PLOTS BY SCALE ON COMMUNITY PANEL NUMBER 16057C/D12X; THE FLOOD INSURANCE RATE MAPS FOR HAMILTON COUNTY, INDIANA (MAPS DATED NOVEMBER 19, 2014).

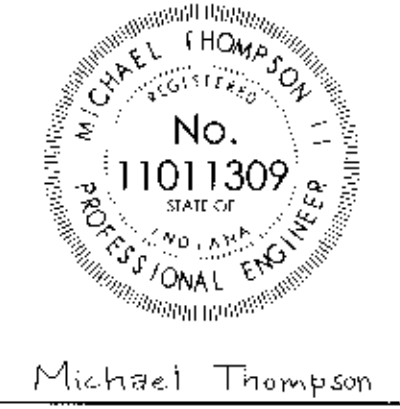
SURVEY AND UTILITY DISCLAIMER

HORIZONTAL AND VERTICAL SURVEY INFORMATION WAS PROVIDED BY BEST AVAILABLE INFORMATION AND IS INTENDED FOR PERMITTING PURPOSES ONLY. CONTRACTOR TO FIELD VERIFY ALL DIMENSIONS AND ENSURE ALL IMPROVEMENTS ARE PROPERLY LOCATED PRIOR TO BEGINNING CONSTRUCTION.

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REVISION BLOCK

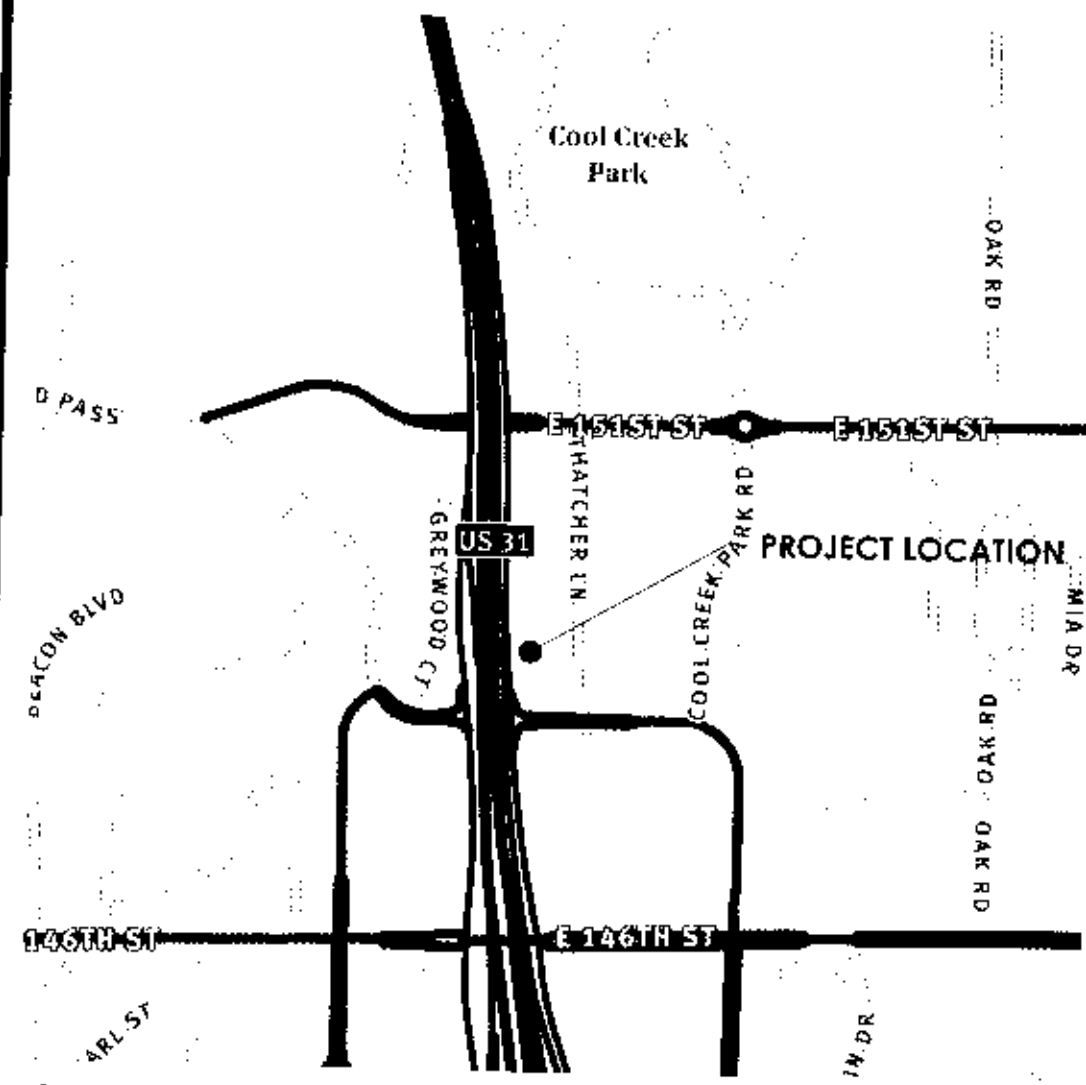


DATE	04/26/2016
DRAWN BY	AMT
CHECKED BY	MAT

HAMILTON DESIGNS
A LIMITED LIABILITY COMPANY
11988 Fishers Crossing Drive, Suite 154
Fishers, Indiana 46038
P. (317) 750-6466
www.hamilton-designs.com

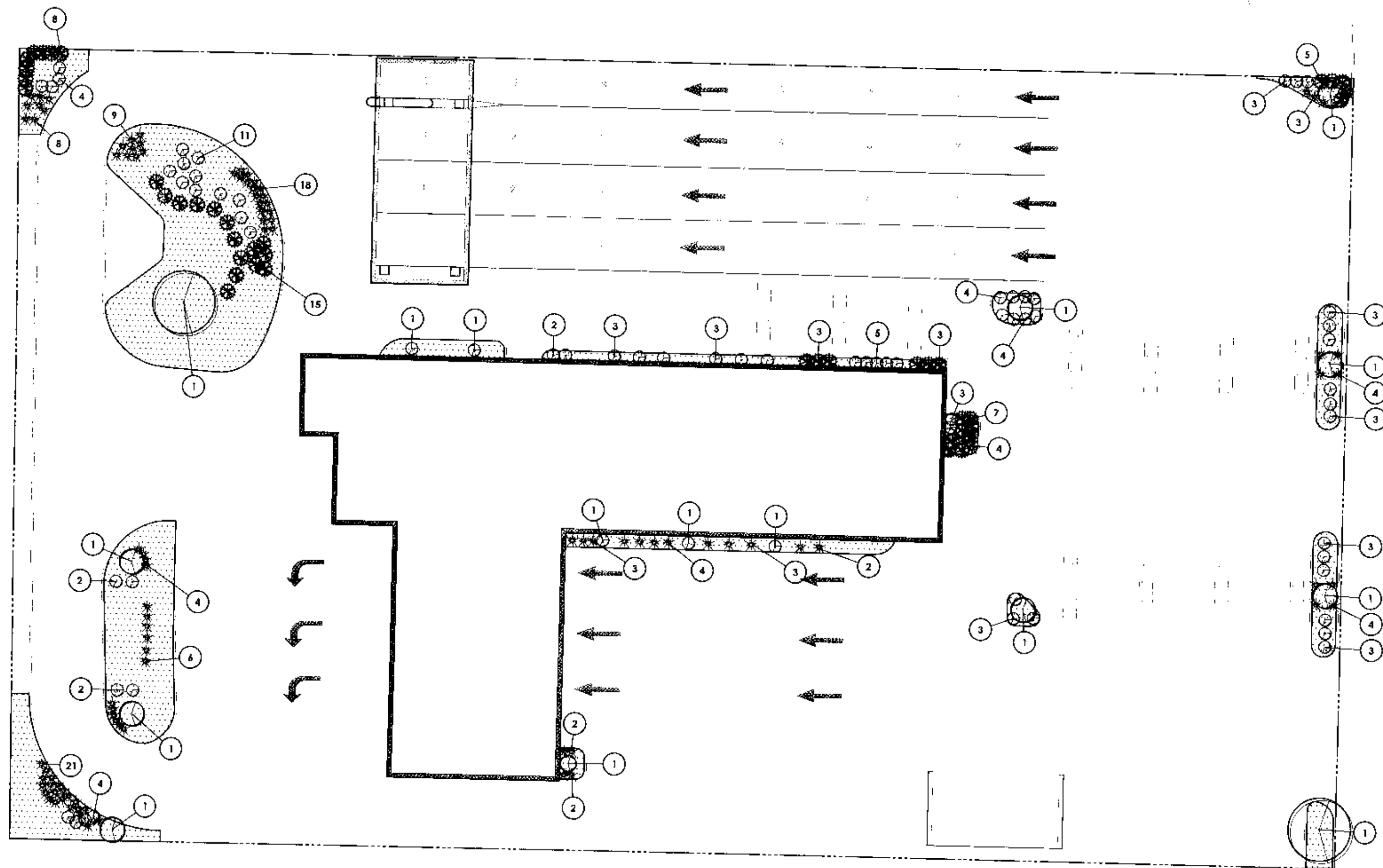
CONSTRUCTION PLANS FOR:
CREW CARWASH | NO. 15
14837 Thatcher Lane
Westfield, Indiana 46038
CREW CARWASH
10251 Hague Road
Indianapolis, Indiana 46256

PROJECT NO.	2016-122
DATE	04/22/2016
SCALE	1" = 20'
SHEET NAME	SITE PLAN
SHEET NO.	CS-101



VICINITY MAP
WESTFIELD, INDIANA

1" = 1,000'



LEGEND OF EXISTING FEATURES

---	PROPERTY LINE	✓	BENCHMARK
---	R/W	---	MONUMENT
---	SETBACK LINE	---	SECTION CORNER
---	EASEMENT	---	TRANSFORMER
---	SECTION LINE	---	HVAC
---	CENTERLINE	---	ELECTRIC METER
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---	FINISHED FLOOR ELEVATION	---	POST INDICATOR VALVE
---		---	FIRE DEPARTMENT CONN.
---		---	SIGNS
---		---	MAIL BOX
---		---	ADA PARKING
---		---	PARKING COUNT
---		---	TREES
---		---	SHRUB
---		---	SPOT GRADE

LANDSCAPE PLAN LEGEND

- DECORATIVE STONE MULCH
- CANOPY TREE
- 3" CALIPER DECIDUOUS TREE
- EVERGREEN SHRUB
- DECIDUOUS SHRUB
- ORNAMENTAL GRASS

PLANT COUNT

Key	Quantity
UNDERSTORY TREES	2
ORNAMENTAL TREES	9
DECIDUOUS SHRUBS	70
EVERGREEN SHRUBS	42
ORNAMENTAL GRASS	103

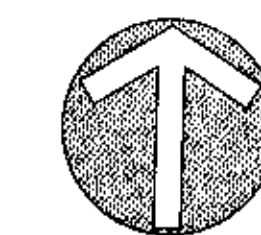
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SURVEY AND UTILITY DISCLAIMER

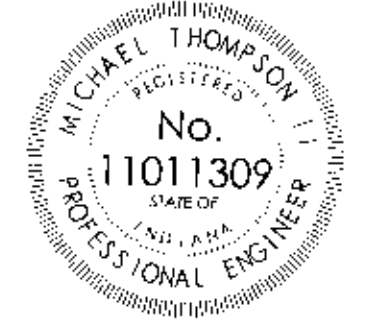
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SCALE 1" = 20'

REVISION BLOCK



Michael Thompson

DATE
04/26/2016
DRAWN BY
AMT
CHECKED BY
MAT

HAMILTON
DESIGNS
A LIMITED LIABILITY COMPANY

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P: (317) 750-6466
www.hamilton-designs.com

CONSTRUCTION PLANS FOR:
CREW CARWASH | NO. 15
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CREW CARWASH
10251 Hague Road
Indianapolis, Indiana 46256

PROJECT NO.
2016-122

DATE
04/28/2016

SCALE
1" = 20'

SHEET NAME
**LANDSCAPE
PLAN**

SHEET NO.

LP-101



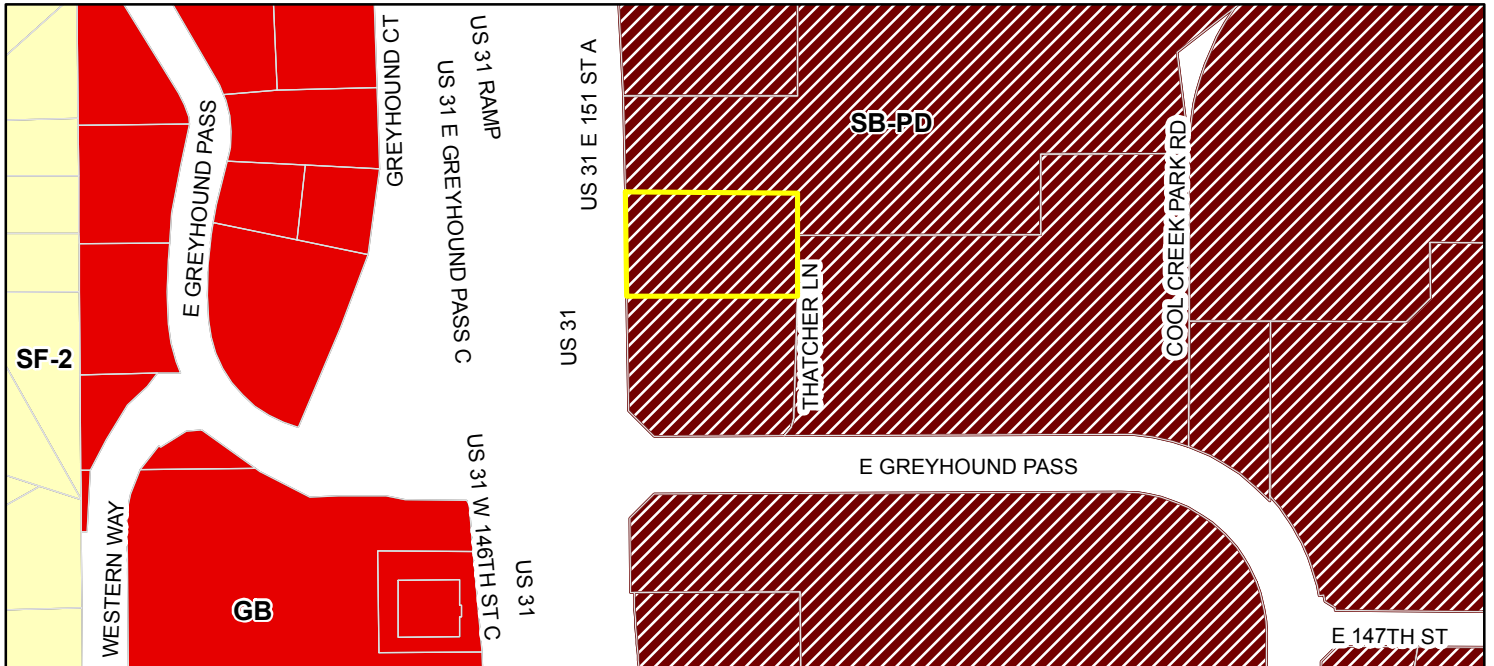
Know what's below.
Call before you dig.

Aerial Location Map

Site



Zoning Map



Parcel **Zoning** SB-PD (Special Business - Planned Development) SF-2 (Single Family - 2)

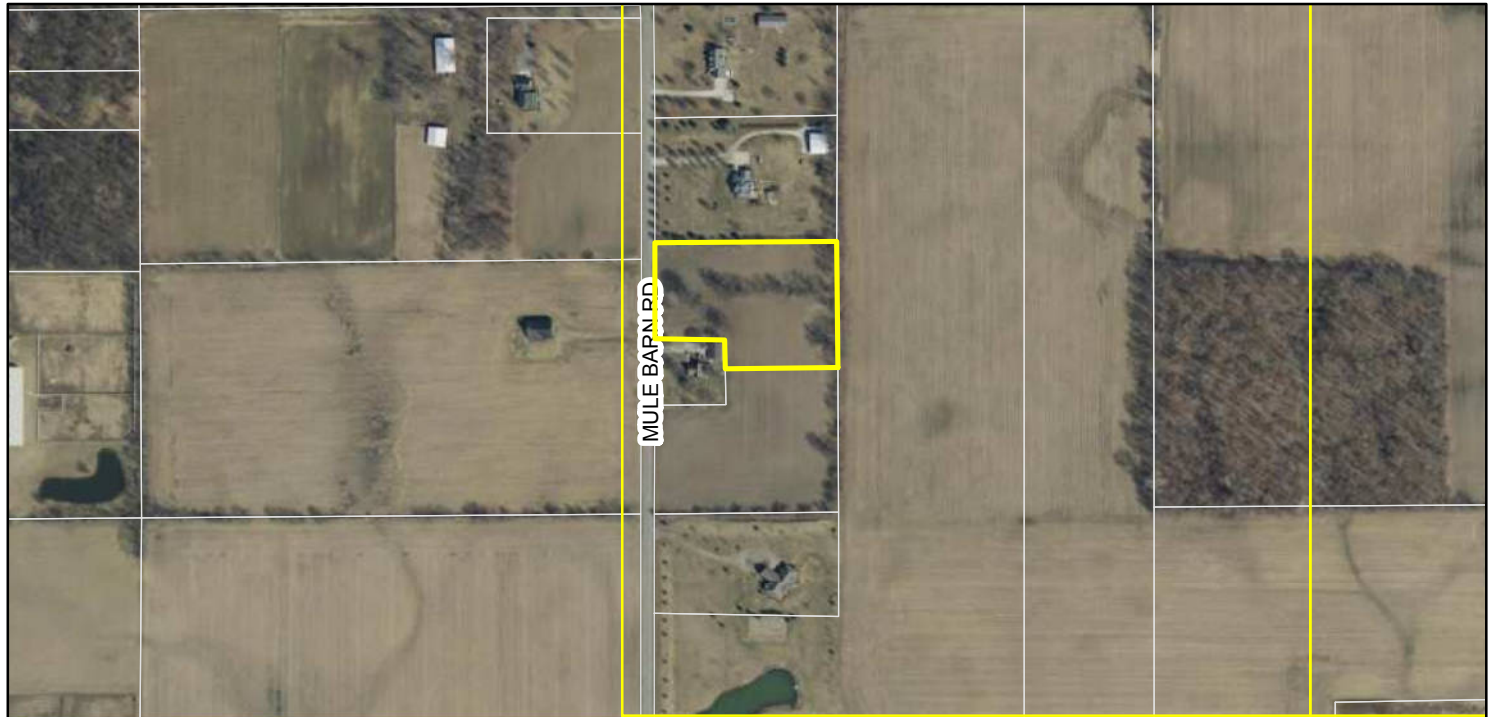
GB (General Business)



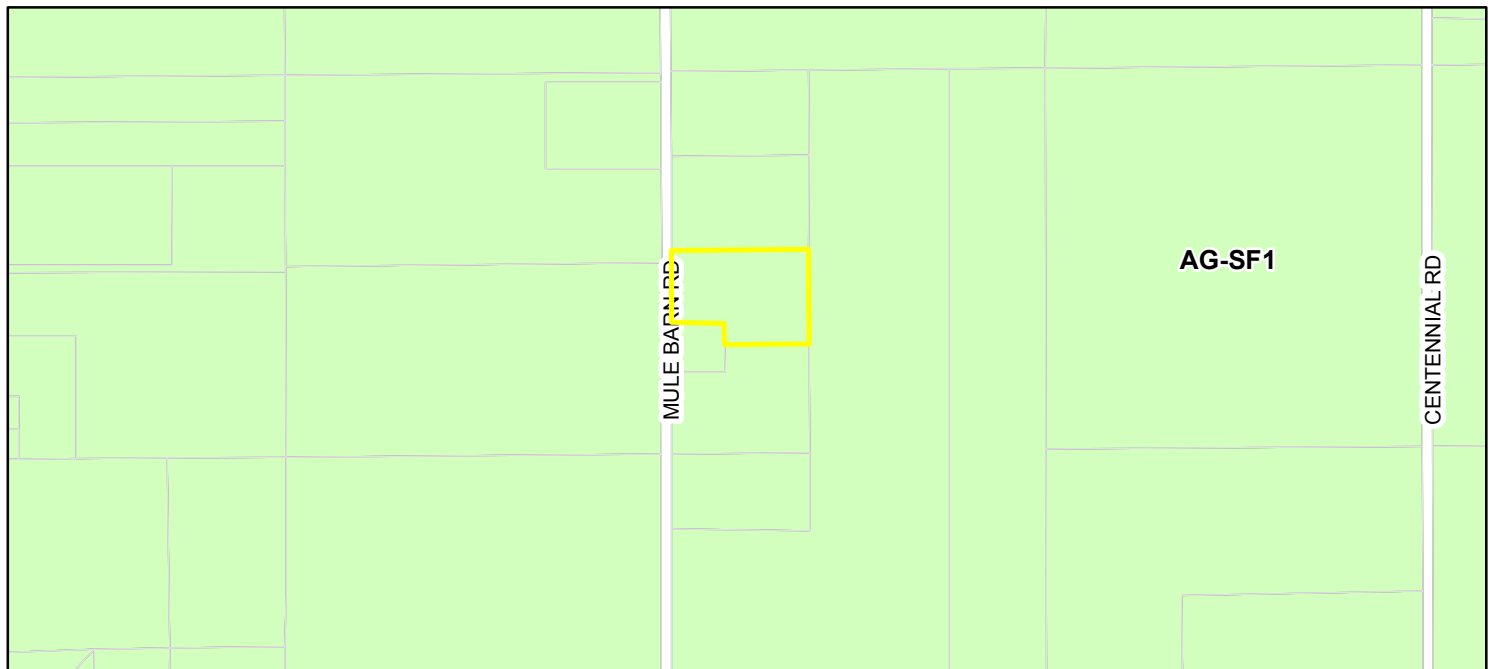
Property Location Map
18957 Mule Barn Road
1606-VS-07



Aerial Location Map



Zoning Map

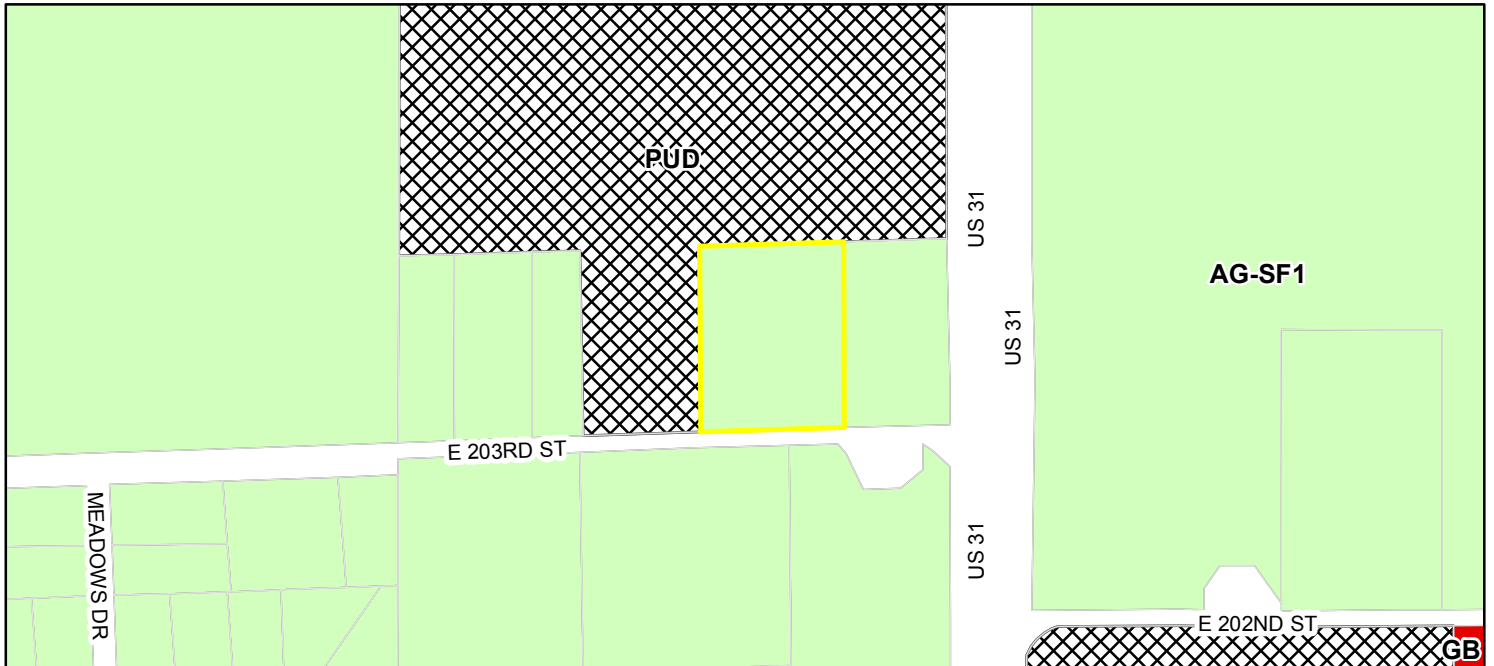


Aerial Location Map

 Site



Zoning Map



 Parcel **Zoning**  GB (General Business)  PUD (Planned Unit Development)

 AG-SF1 (Agriculture - Single Family - 1)