



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_06_09_2015

Tuesday, June 09, 2015 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, June 09, 2015 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

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

OPENING OF REGULAR MEETING

Note the presence of a quorum

Approval of minutes - May 12, 2015

Documents: [May 12, 2015, Minutes](#)

Review BZA Rules & Procedures

ITEMS OF BUSINESS:

1503-VU-02

17777 Commerce Drive

Edward T. Tomich by Badger Engineering, LLC

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Conditions Exhibit](#) | [Exhibit 4: Petitioner Application](#) | [Exhibit 5: Acknowledgement of Variance](#) | [Exhibit 6: 1304-VU-01 Department Report](#) | [Exhibit 7: BZA Minutes 04-09-13](#) | [Exhibit 8: BZA Minutes 03-10-15](#) | [Exhibit 9: Continuance Request 04-14-15](#) | [Exhibit 10: Continuance Request 05-12-15](#)

1506-VU-06 [PUBLIC HEARING]

14939 Ditch Road

Jeff Kelich

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

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

[Correspondence with Centennial HOA](#) | [Exhibit 4: Existing Variance Approval \(79-V-12\)](#)
| [Exhibit 5: Application](#) | [Exhibit 6: Concept Plan](#) | [Exhibit 7: Existing Conditions](#)

REPORTS/COMMENTS:

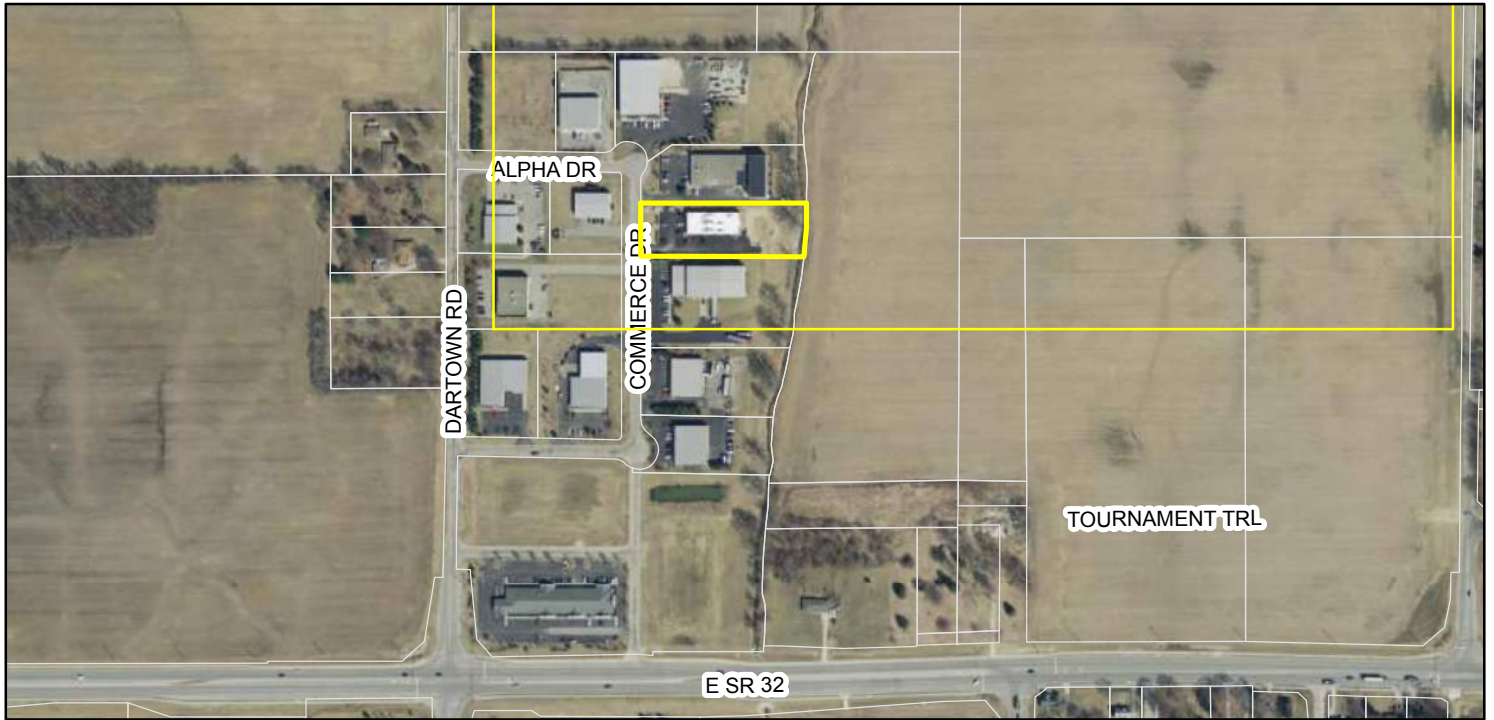
APC LIAISON

ECD STAFF

ADJOURNMENT

Aerial Location Map

Site



Zoning Map

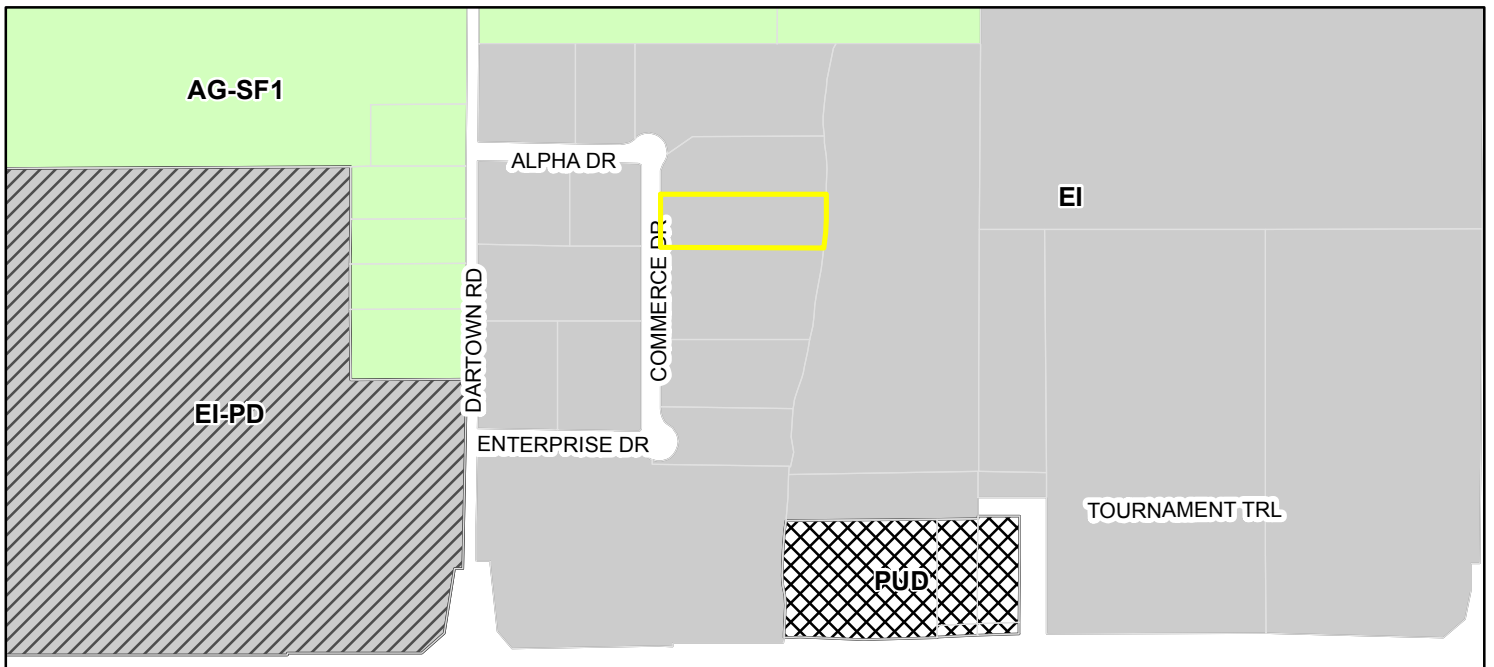
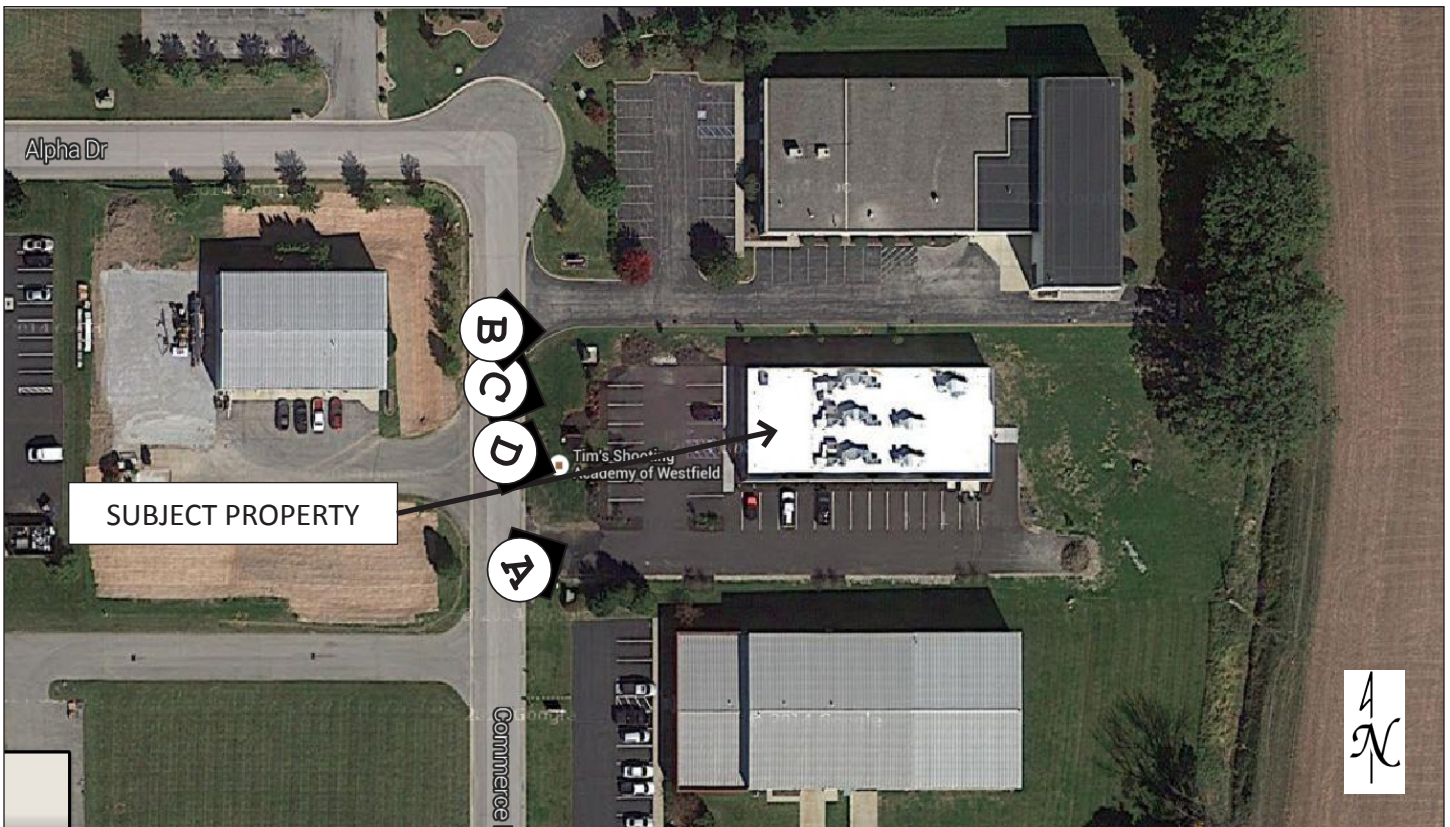


EXHIBIT 3: EXISTING CONDITIONS EXHIBIT





VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1503-VU-02

FILING DATE: 02/02/2015

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

PRE-FILING CONFERENCE

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

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

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

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

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

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

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

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

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

PROPERTY AND PROJECT INFORMATION

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

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

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

VARIANCE REQUEST



VARIANCE OF LAND USE

CODE CITATION: Modification of a Condition of Approval



VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION:

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

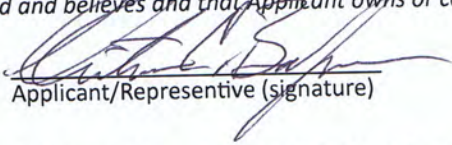
STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):

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



APPLICANT AFFIDAVIT

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


Applicant/Representative (signature)

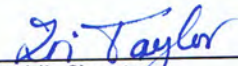
Christian C. Badger, P.E.
Applicant/Representative (printed)

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

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

State of Indiana County of Hamilton SS:

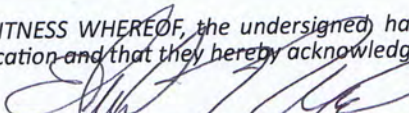



Notary Public Signature

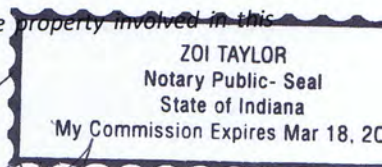
Zoi Taylor
Notary Public (printed)

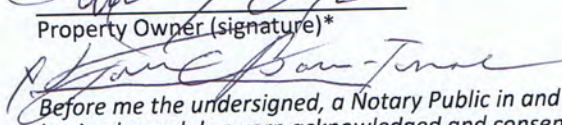
PROPERTY OWNER AFFIDAVIT

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


Property Owner (signature)*

EDWARD T. TOMICK
Property Owner (printed)




Faith E. Bauer-Tomick

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 2nd day of February, 2015.

State of Indiana County of Hamilton SS:




Notary Public Signature

Zoi Taylor
Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Tim's Shooting Range of Westfield

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: _____
The existing building, its use and its location have already been approved. The proposed Modification of the Variance of Use is to set an acceptable sound level, which would be acceptable within the Enclosed Industrial Zoning District. The types of uses within the EI districts are auto parts sales, auto repair garages, commissary and food catering services, newspaper publishing, secondary food processing and packaging, stamping and fabricating metal shops; these uses would have a similar 80 decibel level leaving their facility. Should the noise still be deemed a nuisance; there is a remedy within the subdivision covenants of which this building and property are a part.
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____
The acceptance of the Modification will not affect the use nor value of the adjacent properties, because it will allow for a subjective term like "noise" to have a decibel level which can be checked using a hand held sound meter. The 80 decibels would be measured at the property line. The sound level of 80 decibels is appropriate for this type of district. It is approximately equal to a truck driving in and out of the subdivision. Trucks range from 73 to 78 decibels at ten feet away from the truck.
- C. The need for the variance arises from some condition particular to the property involved because: _____
The modification of the variance of use is required so that the term sound or noise can be clearly defined and measured for the shooting range. A measurable decibel limit will give the business owners a clear limit that the shooting range will be able to maintain. The original Project Narrative had a sentence which read: "This will prevent any stray bullets as well as sound from leaving the building." The first portion of that sentence is correct in that baffles will prevent any stray bullets from leaving the building. Unfortunately, the second part of that sentence is incorrect. It is impossible to prevent all sounds from leaving the building. This modification will allow the shooting range to have measurable and acceptable levels of sound leaving the building.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: _____
A strict interpretation of the project narrative will not allow any sound to leave the building which is impossible. That was not the expected interpretation of narrative. Additional sound deadening devices have been installed over the last month and a half to reduce the decibel levels of sound by nearly 12-15 decibels. A dense mastic has been added to the exterior range door and sound reducing panels have been installed on an exterior wall. If a strict interpretation is held in this case the business will have to shut down due to the inability of the shooting range to have a zero noise level.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____
The variance of use was previously approved in 2013 as 1304-VU-01 and was considered to be in line with the Comprehensive Land Use Plan. This modification of the variance will allow for a measurable decibel level at the property line for sound created by the shooting range. This level of sound is consistent with an enclosed industrial district and it's uses. The modification of the variance will not do anything harmful or disruptive, but will instead give a measurable sound level of 80 decibels which will not be exceeded by the shooting range.

LEGAL DESCRIPTION

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

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

Westfield-Washington Township Board of Zoning Appeals

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

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

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

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

REPRESENTATIVE:



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

CITY OF WESTFIELD:

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

TIM'S SHOOTING ACADEMY

Exterior Sound Measurements

Abstract

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

Jeffry S. Carter
jeffrystuartcarter@gmail.com
317.460.9379

Jeffry Stuart Carter
2312 Glebe Street
Carmel, Indiana 46032

February 18, 2015

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

Dear Mr. Tomich,

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

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

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

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

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

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

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

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

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

Sincerely,

Jeffry S Carter
February 18, 2015

CC: Ms. Faith Tomich

Information& Background Author

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

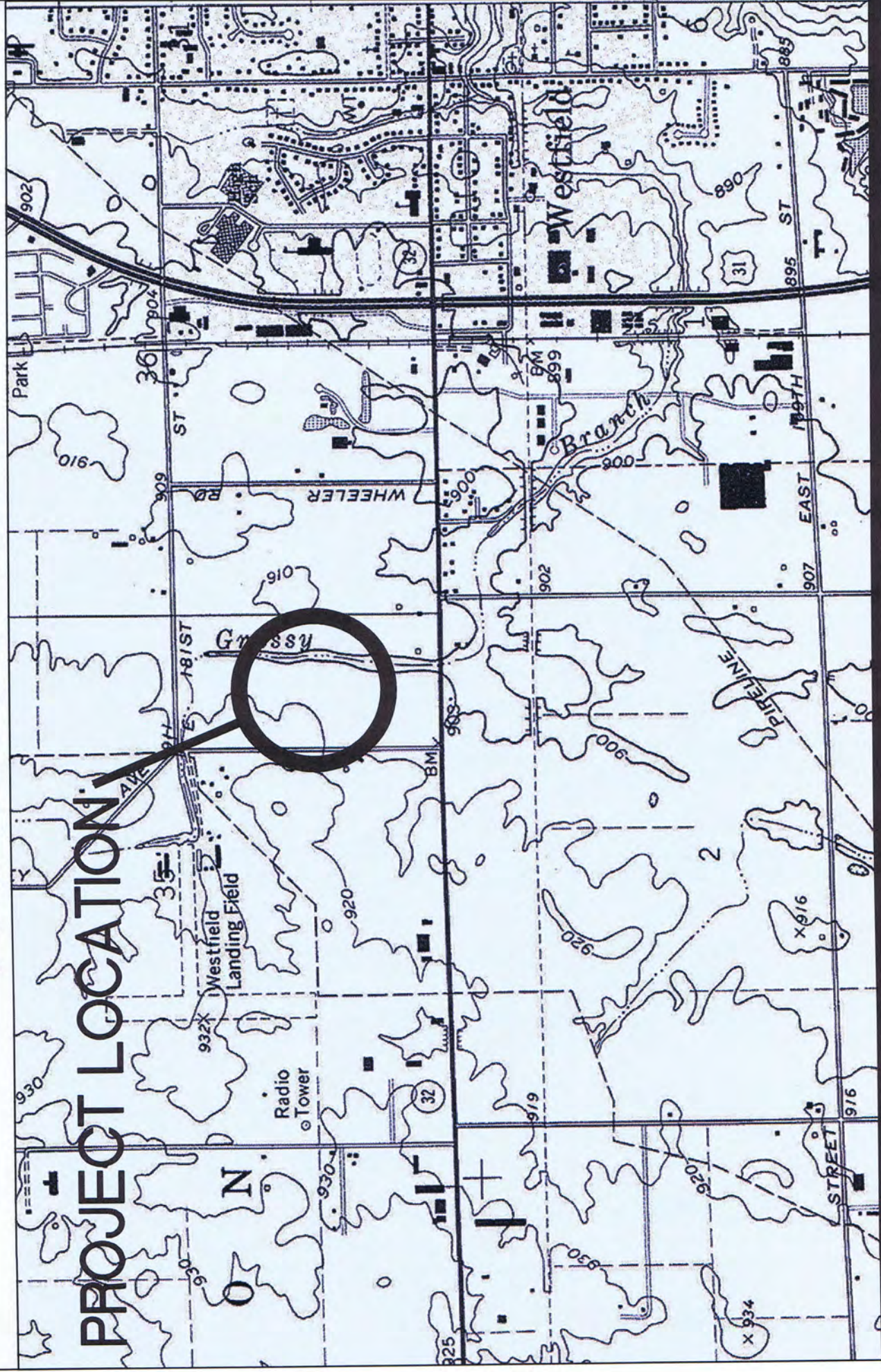
- Chairman & Chief Administrative Law Judge; OSHA Review Commission/Board of Safety Review, IN Department of Labor
- Chairman; Indiana Solid Waste Management Board, IDEM

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

Jeffry S Carter
February 18, 2015

VICINITY MAP

PROJECT LOCATION



AERIAL MAP

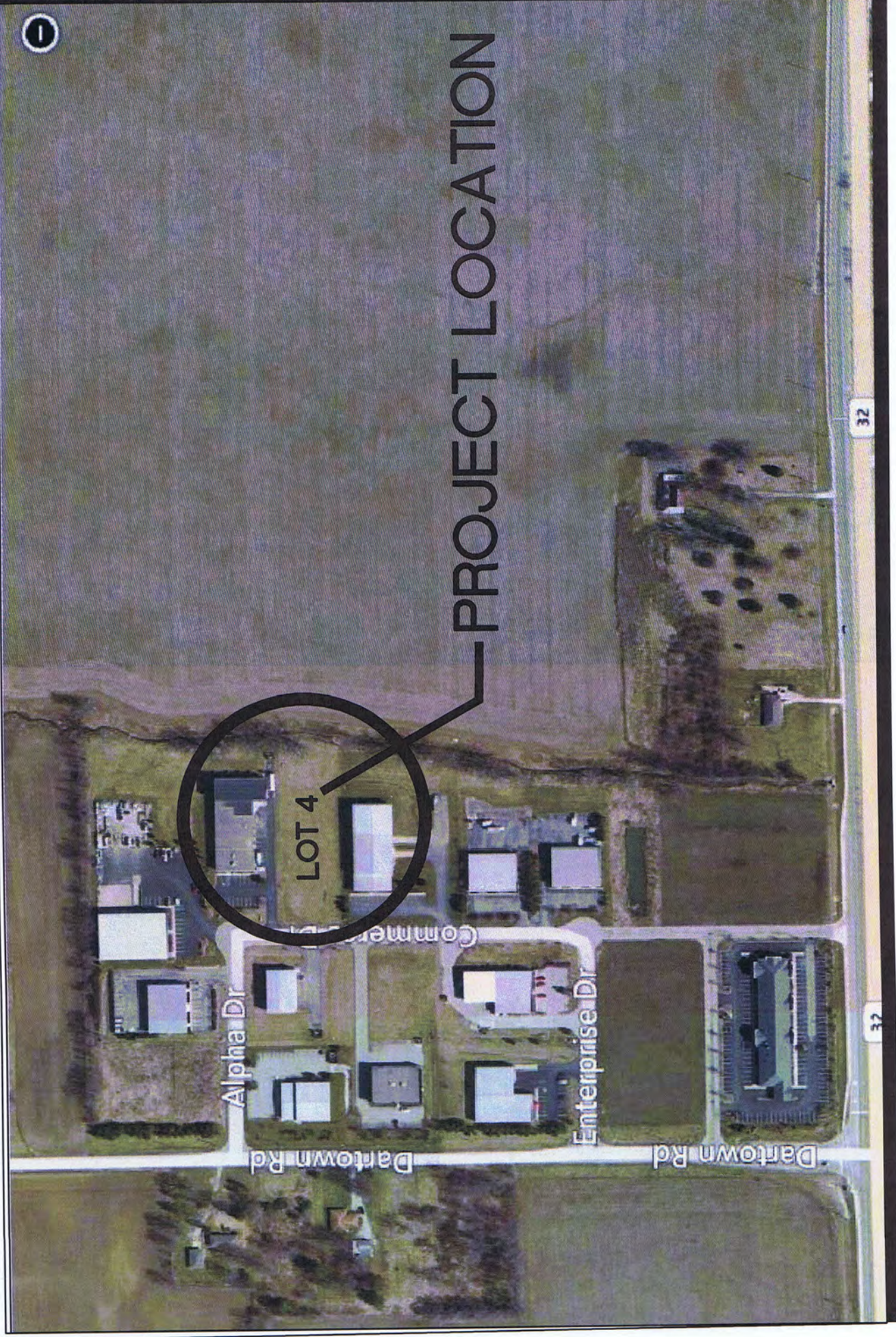


EXHIBIT A
THE PROPERTY

(1 of 2)

DULY ENTERED FOR TAXATION J
Subject to final acceptance for transfer
28 day of MARCH, 2005

Robin W. Miller Auditor of Hamilton County

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

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

QUIT CLAIM DEED

16.00
(2)

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

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

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

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

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

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

Economic and
Community Development

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

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

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

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

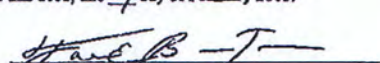
Subject further to the Statutory Easement for the Evan Kendall Legal Drain, an open regulated ditch along the Easterly side of the above described Tract.

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

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

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


Edward Tomich

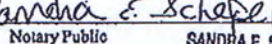

Faith Bauer-Tomich

STATE OF INDIANA }
COUNTY OF Indiana } SS:

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

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

My commission expires:
Resident of Hamilton County


Notary Public

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

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

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

and

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

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

**Economic and
Community Development**

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

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

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

FMH Family Limited
Partnership
931 Custer Lane
Prescott AZ 86305

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

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

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

CDTI, LLC
17735 Commerce Dr.
Westfield, IN 46074

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

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

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

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

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

FMH Family Limited
Partnership
931 Custer Lane
Prescott AZ 86305

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

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

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

CDTI, LLC
17735 Commerce Dr.
Westfield, IN 46074

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

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

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

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

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

FMH Family Limited
Partnership
931 Custer Lane
Prescott AZ 86305

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

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

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

CDTI, LLC
17735 Commerce Dr.
Westfield, IN 46074

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

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

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

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

Alpha Tau, LLC
478 Gradle Drive
Carmel, IN 46032

Alpha Tau, LLC
478 Gradle Drive
Carmel, IN 46032

Alpha Tau, LLC
478 Gradle Drive
Carmel, IN 46032

Commercial Holdings, LLC
450 Enterprise Drive
Westfield, IN 46074

Commercial Holdings, LLC
450 Enterprise Drive
Westfield, IN 46074

Commercial Holdings, LLC
450 Enterprise Drive
Westfield, IN 46074

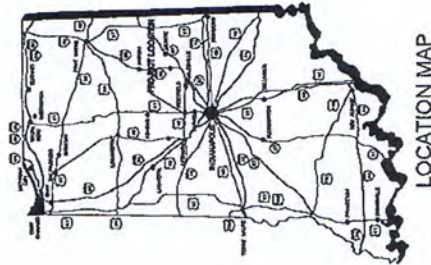
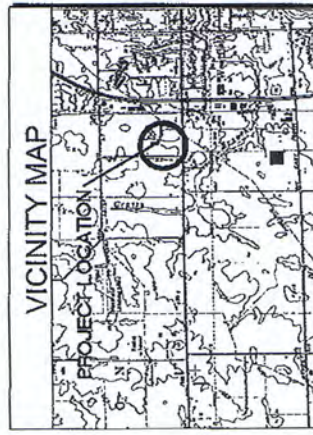
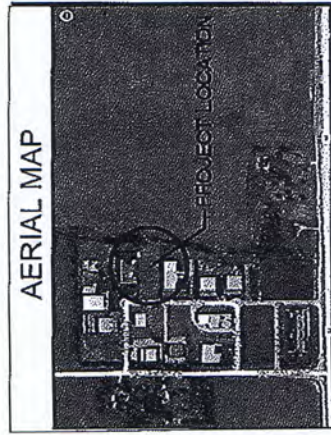
Sollenberger Rental
Management, LLC
389 Gradle Drive
Carmel, IN 46032

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

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

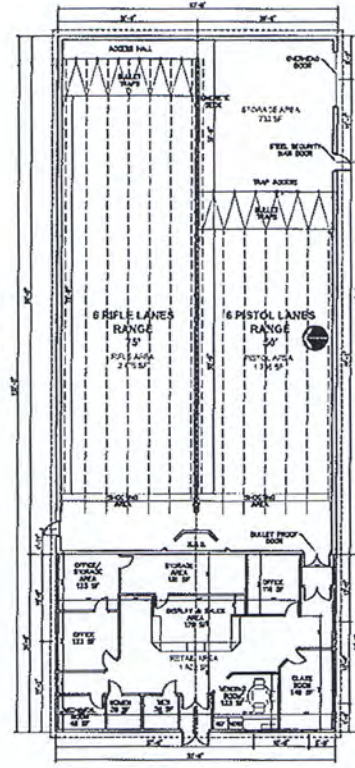
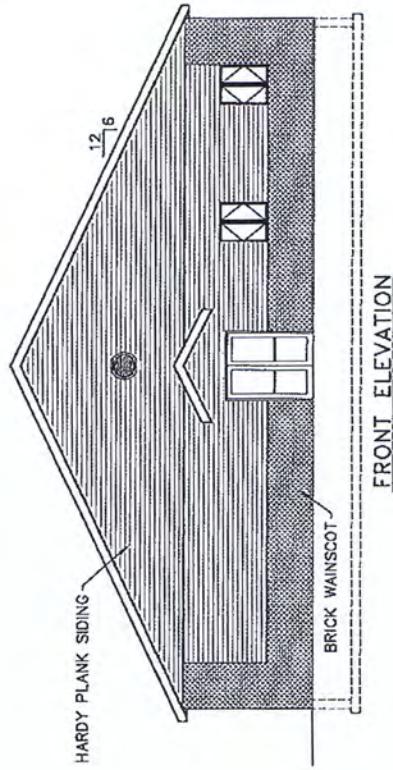
Tim's Shooting Academy of Westfield
Westfield, Indiana 46074

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



- SHEET INDEX:

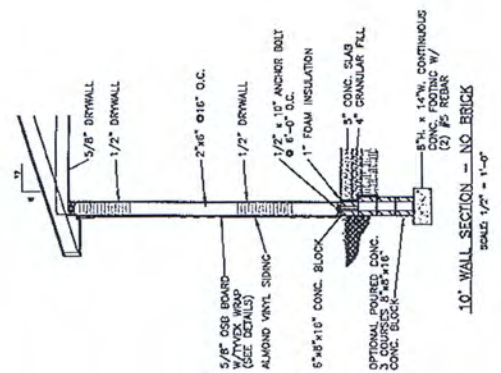
- 1 TITLE SHEET
2 BUILDING ELEVATIONS
3 BUILDING ELEVATIONS
4 BUILDING FLOORPLAN
5 SITE PLAN



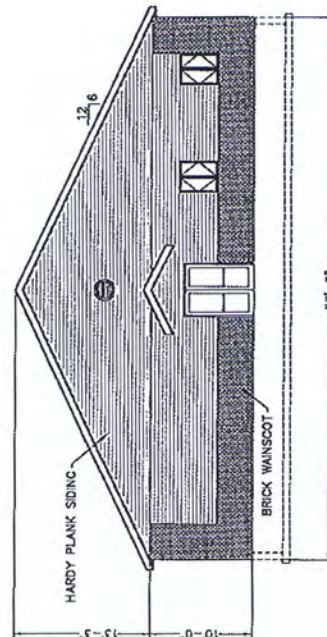
Owner:

Tim Tomich
14855 Victory Ct.
Carmel, IN 46032

CD	DATE	REVISION	BADGER ENGINEERING 101 W. Main Street Lebanon, IN 46052 (715) 485-0000	QUALITY CCS DESIGN CCS DRAWING MEN APPROVED CCS DATE CCS	Tim's Shooting Academy of Westfield TITLE SHEET	YEAR 03/27/2003	DES. NO. 13-006	PROJ. NO. AS 20000	SHEET NO. 1

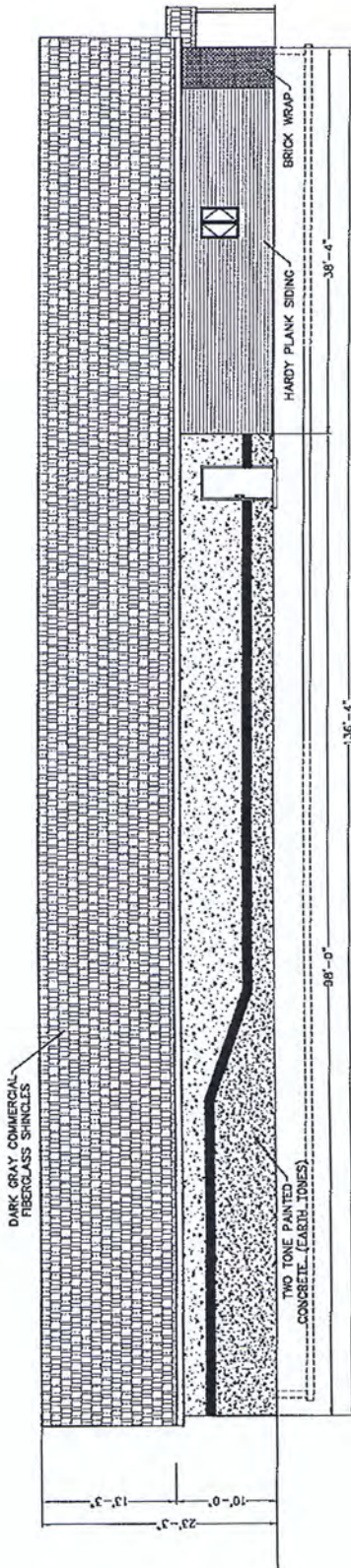


10" WALL SECTION - NO BRICK

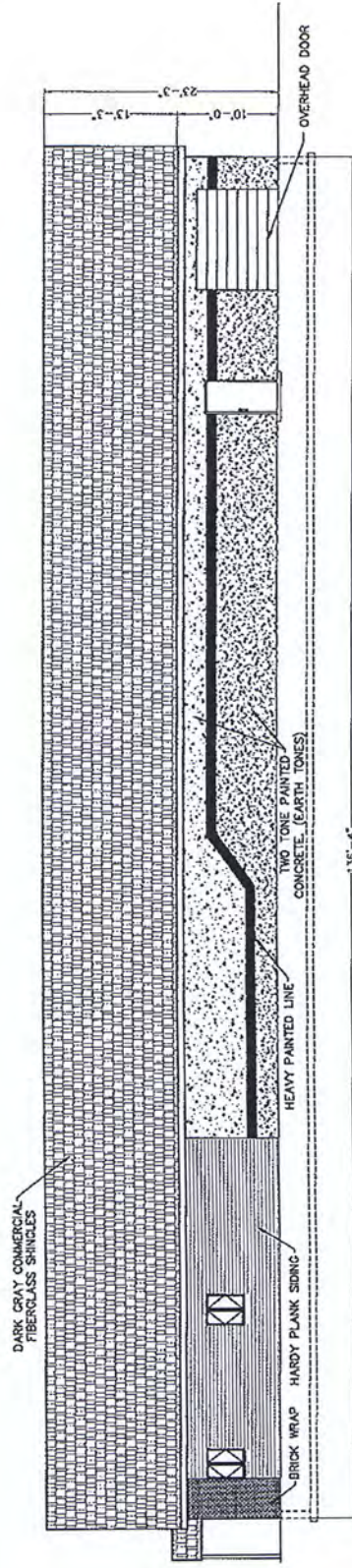


EAST ELEVATION

DATE	1/1/00	PROJECT	
BADGER ENGINEERING		Tim's Shooting Academy of Westfield 101 W. Main Street Westfield, MA 01092 (413) 424-0900	
DRAWING NO. 001 SHEET NO. 1 OF 1		ELEVATIONS AND TYPICAL SECTIONS 1/3" = 1'-0" 1/8" = 1'-0" 1/4" = 1'-0" 1/2" = 1'-0" 3/4" = 1'-0" 1" = 1'-0" 1 1/2" = 1'-0" 2" = 1'-0" 3" = 1'-0" 4" = 1'-0" 6" = 1'-0" 8" = 1'-0" 12" = 1'-0" 18" = 1'-0" 24" = 1'-0" 36" = 1'-0" 48" = 1'-0" 60" = 1'-0" 72" = 1'-0" 84" = 1'-0" 96" = 1'-0" 108" = 1'-0" 120" = 1'-0" 144" = 1'-0" 168" = 1'-0" 192" = 1'-0" 216" = 1'-0" 240" = 1'-0" 264" = 1'-0" 288" = 1'-0" 312" = 1'-0" 336" = 1'-0" 360" = 1'-0" 384" = 1'-0" 408" = 1'-0" 432" = 1'-0" 456" = 1'-0" 480" = 1'-0" 504" = 1'-0" 528" = 1'-0" 552" = 1'-0" 576" = 1'-0" 600" = 1'-0" 624" = 1'-0" 648" = 1'-0" 672" = 1'-0" 696" = 1'-0" 720" = 1'-0" 744" = 1'-0" 768" = 1'-0" 792" = 1'-0" 816" = 1'-0" 840" = 1'-0" 864" = 1'-0" 888" = 1'-0" 912" = 1'-0" 936" = 1'-0" 960" = 1'-0" 984" = 1'-0" 1008" = 1'-0" 1032" = 1'-0" 1056" = 1'-0" 1080" = 1'-0" 1104" = 1'-0" 1128" = 1'-0" 1152" = 1'-0" 1176" = 1'-0" 1200" = 1'-0" 1224" = 1'-0" 1248" = 1'-0" 1272" = 1'-0" 1296" = 1'-0" 1320" = 1'-0" 1344" = 1'-0" 1368" = 1'-0" 1392" = 1'-0" 1416" = 1'-0" 1440" = 1'-0" 1464" = 1'-0" 1488" = 1'-0" 1512" = 1'-0" 1536" = 1'-0" 1560" = 1'-0" 1584" = 1'-0" 1608" = 1'-0" 1632" = 1'-0" 1656" = 1'-0" 1680" = 1'-0" 1704" = 1'-0" 1728" = 1'-0" 1752" = 1'-0" 1776" = 1'-0" 1800" = 1'-0" 1824" = 1'-0" 1848" = 1'-0" 1872" = 1'-0" 1896" = 1'-0" 1920" = 1'-0" 1944" = 1'-0" 1968" = 1'-0" 1992" = 1'-0" 2016" = 1'-0" 2040" = 1'-0" 2064" = 1'-0" 2088" = 1'-0" 2112" = 1'-0" 2136" = 1'-0" 2160" = 1'-0" 2184" = 1'-0" 2208" = 1'-0" 2232" = 1'-0" 2256" = 1'-0" 2280" = 1'-0" 2304" = 1'-0" 2328" = 1'-0" 2352" = 1'-0" 2376" = 1'-0" 2400" = 1'-0" 2424" = 1'-0" 2448" = 1'-0" 2472" = 1'-0" 2496" = 1'-0" 2520" = 1'-0" 2544" = 1'-0" 2568" = 1'-0" 2592" = 1'-0" 2616" = 1'-0" 2640" = 1'-0" 2664" = 1'-0" 2688" = 1'-0" 2712" = 1'-0" 2736" = 1'-0" 2760" = 1'-0" 2784" = 1'-0" 2808" = 1'-0" 2832" = 1'-0" 2856" = 1'-0" 2880" = 1'-0" 2904" = 1'-0" 2928" = 1'-0" 2952" = 1'-0" 2976" = 1'-0" 3000" = 1'-0" 3024" = 1'-0" 3048" = 1'-0" 3072" = 1'-0" 3096" = 1'-0" 3120" = 1'-0" 3144" = 1'-0" 3168" = 1'-0" 3192" = 1'-0" 3216" = 1'-0" 3240" = 1'-0" 3264" = 1'-0" 3288" = 1'-0" 3312" = 1'-0" 3336" = 1'-0" 3360" = 1'-0" 3384" = 1'-0" 3408" = 1'-0" 3432" = 1'-0" 3456" = 1'-0" 3480" = 1'-0" 3504" = 1'-0" 3528" = 1'-0" 3552" = 1'-0" 3576" = 1'-0" 3600" = 1'-0" 3624" = 1'-0" 3648" = 1'-0" 3672" = 1'-0" 3696" = 1'-0" 3720" = 1'-0" 3744" = 1'-0" 3768" = 1'-0" 3792" = 1'-0" 3816" = 1'-0" 3840" = 1'-0" 3864" = 1'-0" 3888" = 1'-0" 3912" = 1'-0" 3936" = 1'-0" 3960" = 1'-0" 3984" = 1'-0" 4008" = 1'-0" 4032" = 1'-0" 4056" = 1'-0" 4080" = 1'-0" 4104" = 1'-0" 4128" = 1'-0" 4152" = 1'-0" 4176" = 1'-0" 4200" = 1'-0" 4224" = 1'-0" 4248" = 1'-0" 4272" = 1'-0" 4296" = 1'-0" 4320" = 1'-0" 4344" = 1'-0" 4368" = 1'-0" 4392" = 1'-0" 4416" = 1'-0" 4440" = 1'-0" 4464" = 1'-0" 4488" = 1'-0" 4512" = 1'-0" 4536" = 1'-0" 4560" = 1'-0" 4584" = 1'-0" 4608" = 1'-0" 4632" = 1'-0" 4656" = 1'-0" 4680" = 1'-0" 4704" = 1'-0" 4728" = 1'-0" 4752" = 1'-0" 4776" = 1'-0" 4800" = 1'-0" 4824" = 1'-0" 4848" = 1'-0" 4872" = 1'-0" 4896" = 1'-0" 4920" = 1'-0" 4944" = 1'-0" 4968" = 1'-0" 4992" = 1'-0" 5016" = 1'-0" 5040" = 1'-0" 5064" = 1'-0" 5088" = 1'-0" 5112" = 1'-0" 5136" = 1'-0" 5160" = 1'-0" 5184" = 1'-0" 5208" = 1'-0" 5232" = 1'-0" 5256" = 1'-0" 5280" = 1'-0" 5304" = 1'-0" 5328" = 1'-0" 5352" = 1'-0" 5376" = 1'-0" 5400" = 1'-0" 5424" = 1'-0" 5448" = 1'-0" 5472" = 1'-0" 5496" = 1'-0" 5520" = 1'-0" 5	

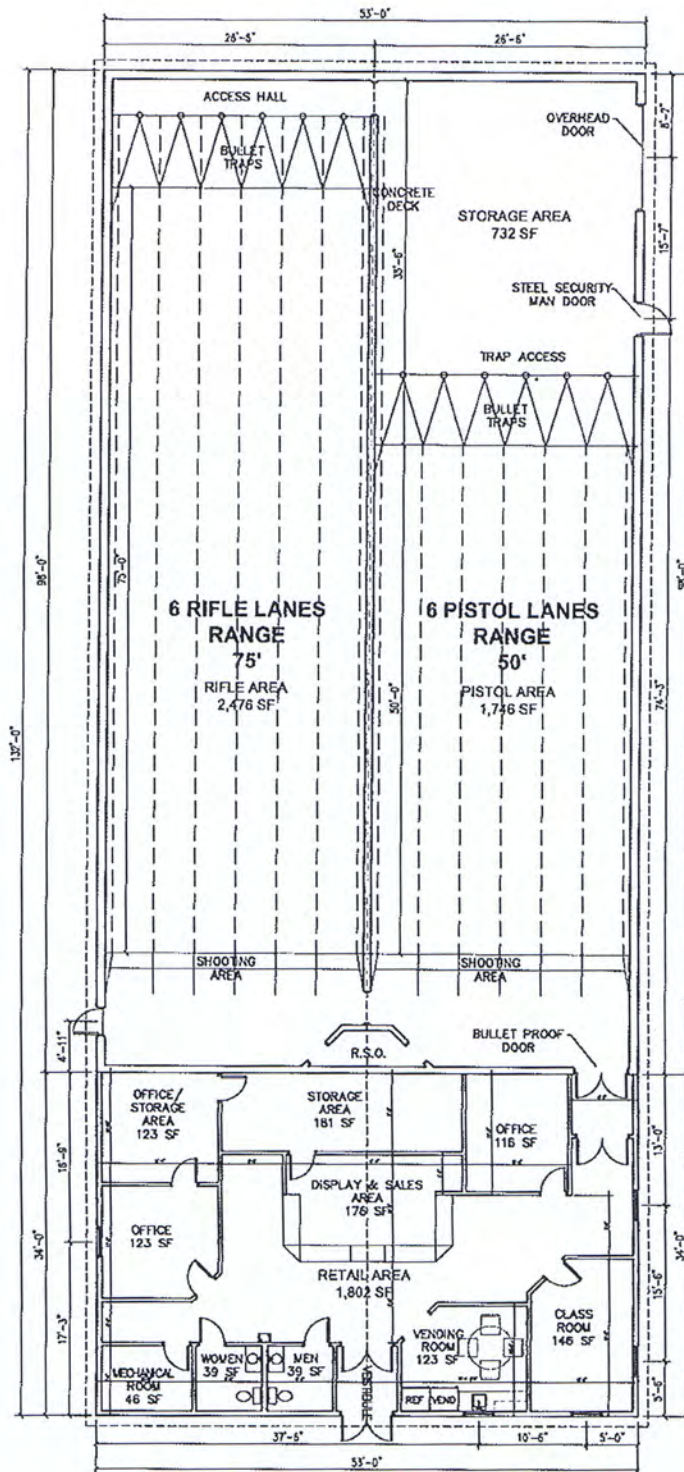


SOUTH ELEVATION



NORTH ELEVATION

BADGER ENGINEERING				NORTH & SOUTH ELEVATIONS				Tim's Shooting Academy of Westfield			
DATE	12/10/2013	BY	12/10/2013	DATE	12/10/2013	BY	12/10/2013	DATE	12/10/2013	BY	12/10/2013
PROJECT	101 N. Main Street, Westfield, MA 01095	PROJECT	101 N. Main Street, Westfield, MA 01095	PROJECT	101 N. Main Street, Westfield, MA 01095	PROJECT	101 N. Main Street, Westfield, MA 01095	PROJECT	101 N. Main Street, Westfield, MA 01095	PROJECT	101 N. Main Street, Westfield, MA 01095
SCALE	1/8" = 1'-0"	SCALE	1/8" = 1'-0"	SCALE	1/8" = 1'-0"	SCALE	1/8" = 1'-0"	SCALE	1/8" = 1'-0"	SCALE	1/8" = 1'-0"
REVISION		REVISION		REVISION		REVISION		REVISION		REVISION	
BADGER ENGINEERING				NORTH & SOUTH ELEVATIONS				Tim's Shooting Academy of Westfield			
101 N. Main Street, Westfield, MA 01095				101 N. Main Street, Westfield, MA 01095				101 N. Main Street, Westfield, MA 01095			
(781) 455-0000				(781) 455-0000				(781) 455-0000			



FLOOR PLAN		DATE	3/28/20
Tim's Shooting Academy of Westfield		PROJECT NO.	D-008
BADGER ENGINEERING		SCALE	3/8" = 1'-0"
1000 N. Main St. Suite 200 Lafayette, IN 46032 (765) 485-0000		REVISION	
DESIGNED BY	CCB	CHECKED BY	CCB
DRAWN BY	DAC	APPROVED BY	CCB
DATE	3/28/20	DATE	3/28/20

FLOOR PLAN



2013023701 MISC \$37.00
04/17/2013 10:00:05A 13 PGS
Mary L. Clark
HAMILTON County Recorder IN
Recorded as Presented


ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 200500017912

Mayor
Andy Cook

City Council

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

Clerk Treasurer

Cindy J. Gossard

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

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

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

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

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(317) 804-3181 fax

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Westfield, IN 46074
westfield.in.gov

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

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

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

"DIRECTOR"



MATTHEW S. SKELTON

Economic and Community Development Director, City of Westfield

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

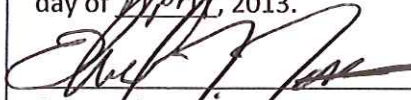
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Edward T. Tomich and Faith Bauer-Tomich, as Trustees of Owners of the Property, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition, as set forth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

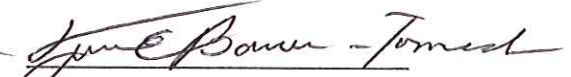
IN WITNESS WHEREOF, the Owners have executed this instrument, on the 16 day of April, 2013.


Owner Signature

EDWARD T. TOMICH
Edward T. Tomich

OWNER / Trustee
Title

4-16-13
Date


Owner Signature

Faith E Bauer - Tomich
Faith Bauer-Tomich

OWNER / Trustee
Title

4/16/13
Date

STATE OF Indiana)

COUNTY OF Hamilton)

SS:

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

(SEAL)


Signature of Notary Public

Anthony Victor King Jr.
Printed name of Notary Public



My County of Residence: Hamilton

My Commission Expires: March 30, 2018

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(317) 804-3181 fax

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Westfield, IN 46074
westfield.in.gov

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

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

EXHIBIT A
THE PROPERTY

(1 of 2)

DULY ENTERED FOR TAXATION J

Subject to final acceptance for transfer

28 day of MARCH, 2005

Robin Mills Auditor of Hamilton County

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

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

QUIT CLAIM DEED

16.00
(2)

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

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

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

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

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

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

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

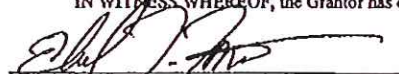
Subject to Street Right of Way across the entire West Side of the above Tract.

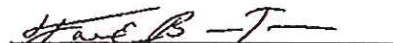
Subject further to the Statutory Easement for the Evan Kendall Legal Drain, an open regulated ditch along the Easterly side of the above described Tract.

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

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

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


Edward Tomlich

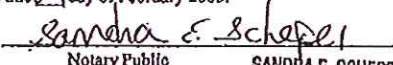

Faith Bauer-Tomlich

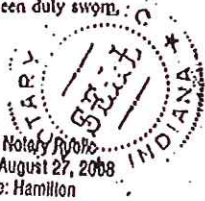
STATE OF INDIANA)
COUNTY OF Indiana) SS:

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

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

My commission expires:
Resident of Hamilton County


Notary Public


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

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

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

and

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

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

**Economic and
Community Development**

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

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

EXHIBIT B
PETITIONER'S NARRATIVE

(1 of 2)



March 29, 2013

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

PROJECT NARRATIVE

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

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

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

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

**Economic and
Community Development**

(317) 804-3170 office
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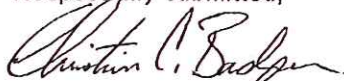
2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

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

Building Design Information:

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

Respectfully submitted,



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

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

Economic and Community Development

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EXHIBIT C
PETITIONER'S PRELIMINARY PLANS

SEE FOLLOWING PAGES

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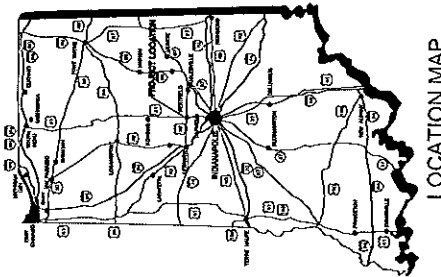
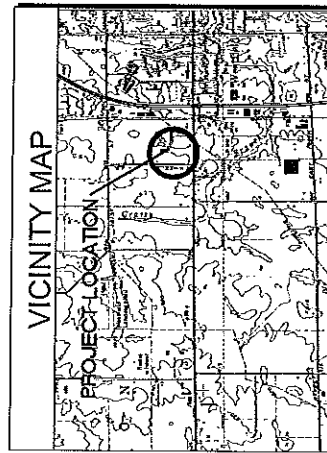
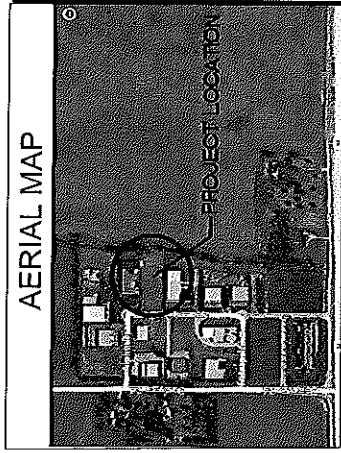
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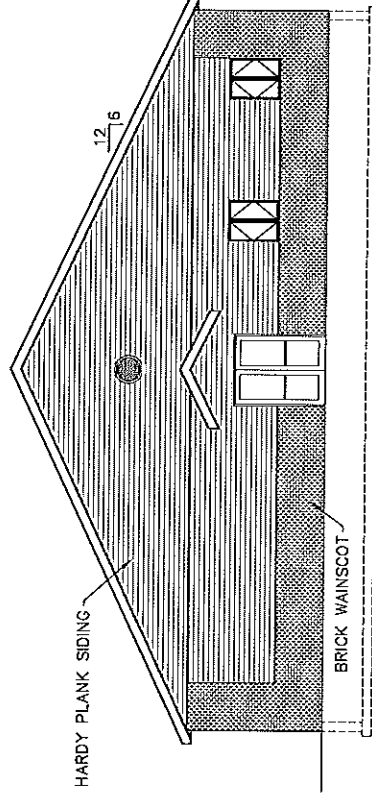
Tim's Shooting Academy of Westfield Westfield, Indiana 46074

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

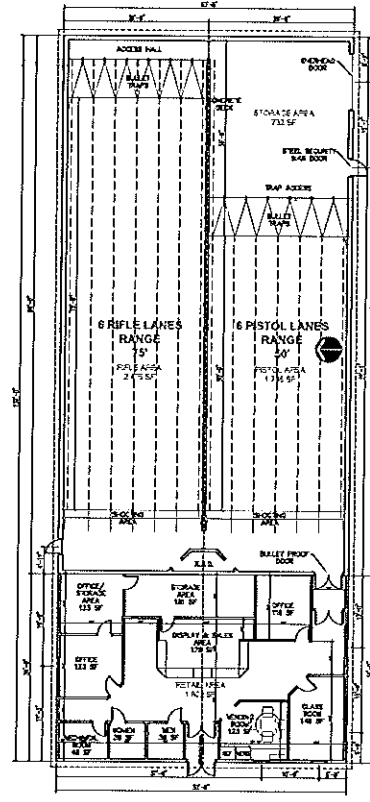


SHEET INDEX:

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



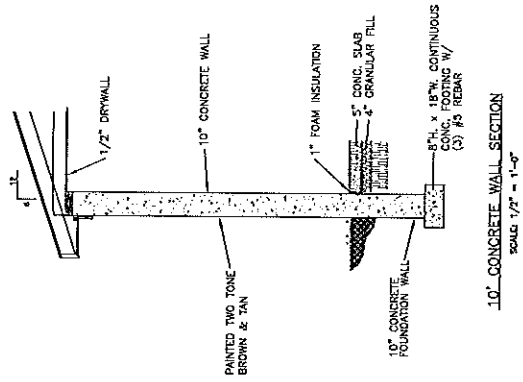
FRONT ELEVATION



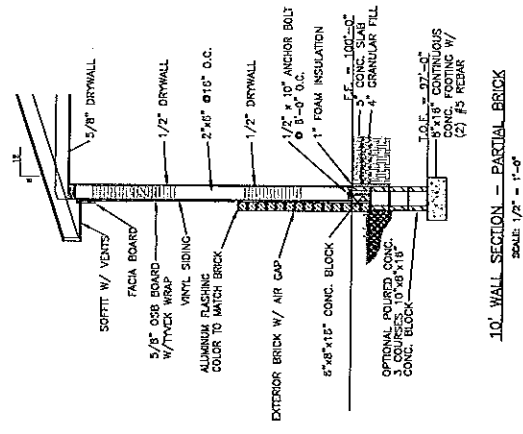
FLOOR PLAN

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

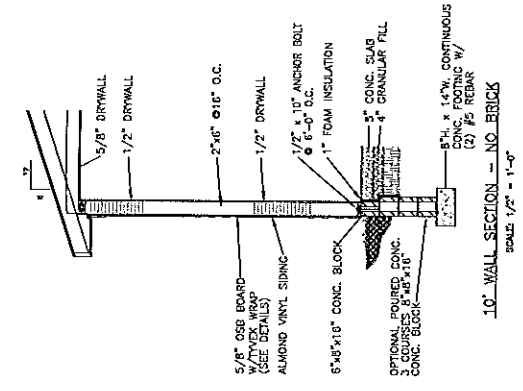
SHEET INDEX		TITLE SHEET		DATE	
1	TITLE SHEET	2	BUILDING ELEVATIONS	3	BUILDING ELEVATIONS
4	BUILDING FLOORPLAN	5	SITE PLAN	6	AS SHOWN
PROJECT NAME		PROJECT NO.		SHEET NO.	
Tim's Shooting Academy of Westfield		14855 Victory Ct.		1	
ENGINEERING		MCH		CCD	
14855 Victory Ct.		Carmel, IN 46032		(765) 485-0000	



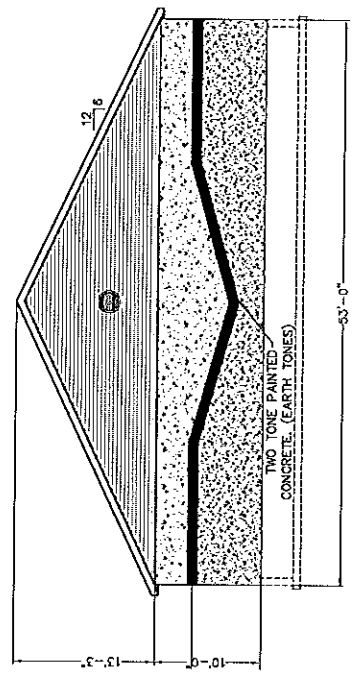
10' CONCRETE WALL SECTION
SCALE: 1/2" = 1'-0"



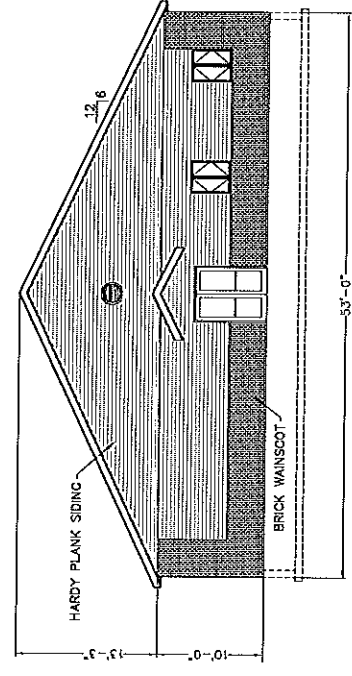
10' WALL SECTION - PARTIAL BRICK
SCALE: 1/2" = 1'-0"



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



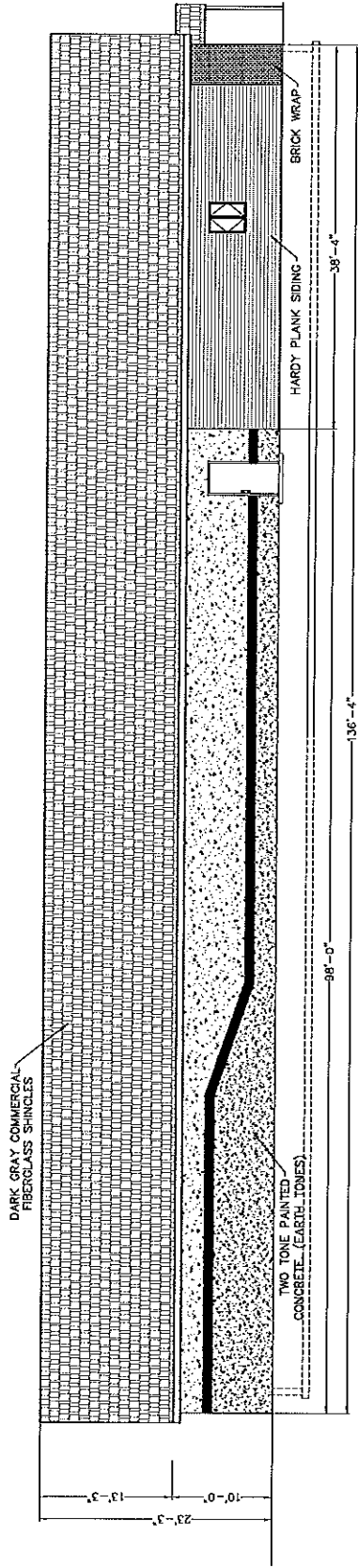
WEST ELEVATION



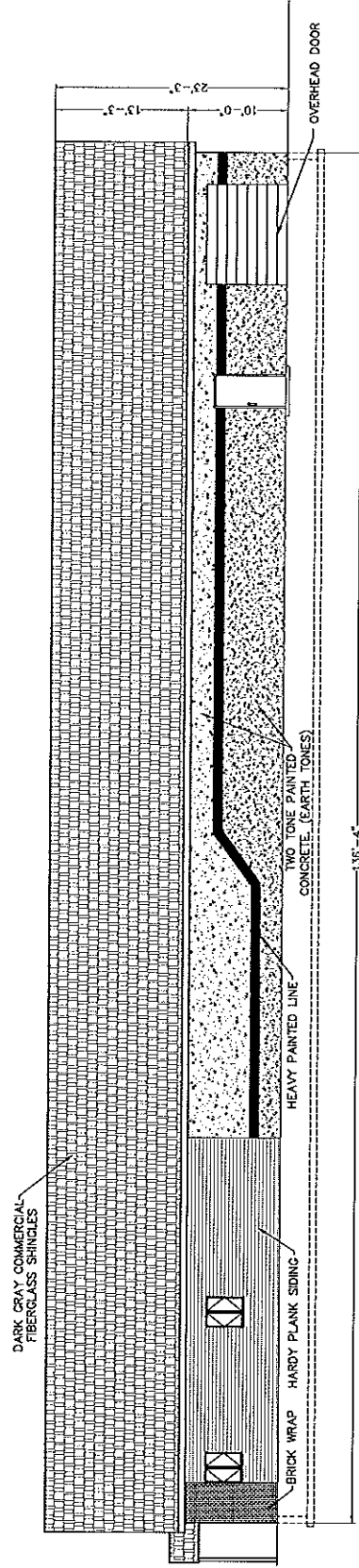
EAST ELEVATION

ELEVATIONS AND TYPICAL SECTIONS			
DATE	01/27/2013	PROJECT	Tim's Shooting Academy of Westfield
DESIGNED BY	11-106	CLIENT	3/16" = 1'-0"
DRAWN BY	CCS	SCALE	3/16" = 1'-0"
CHECKED BY	CCS	DATE	01/27/2013
APPROVED BY	CCS	PROJECT NO.	2

BADGER ENGINEERING
101 Main Street
LaPorte, IN 46340
(765) 483-0000

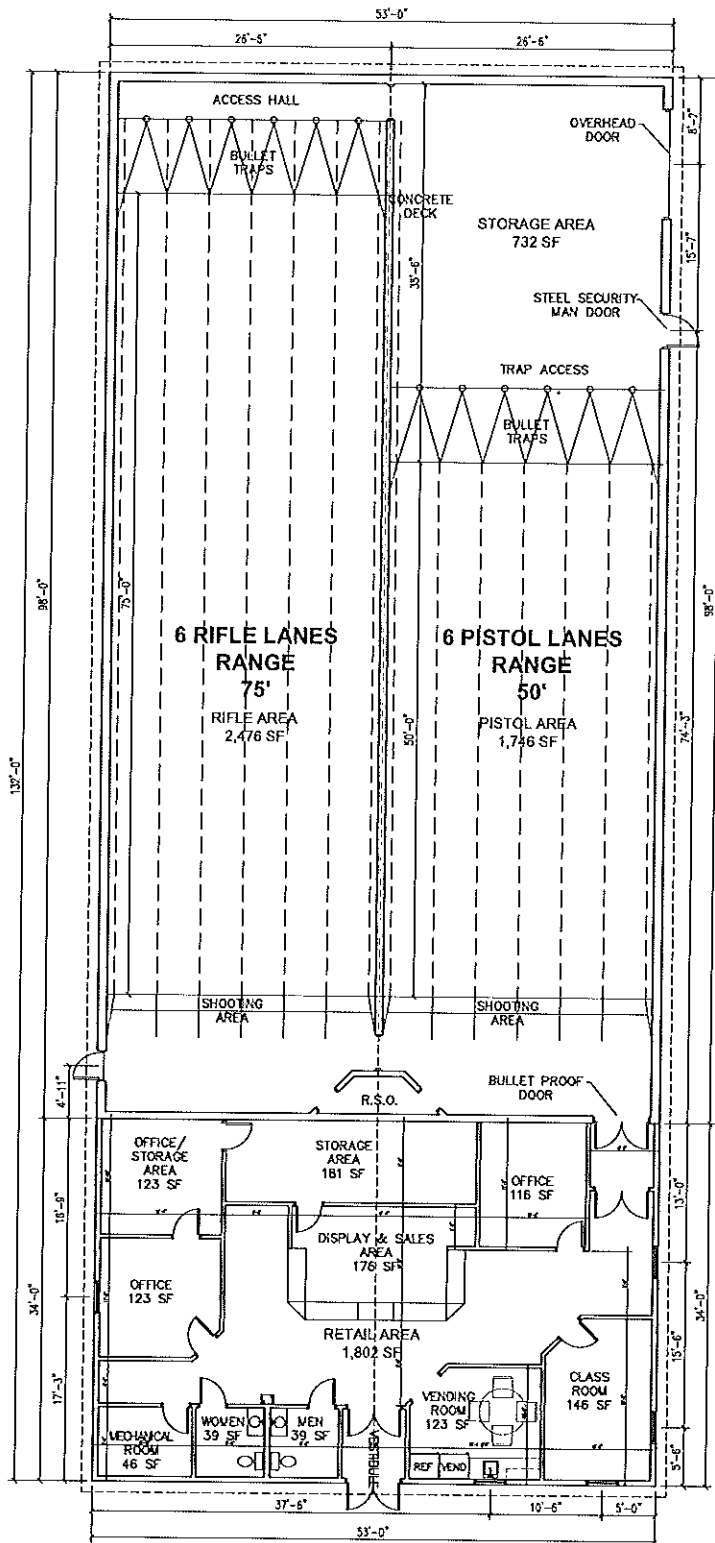


SOUTH ELEVATION



NORTH ELEVATION

DATE: 03/29/2013		PROJECT: NORTH & SOUTH ELEVATIONS		DRAWN BY: J. DODD		CHECKED BY: J. DODD		SCALE: 3/16" = 1'-0"		SHEET NO.: 3	
PROJECT: Tim's Shooting Academy of Westfield		ARCHITECT: BADGER ENGINEERING		101 W. Main Street		Westfield, MA 01092		(781) 485-0000			



FLOOR PLAN

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

FLOOR PLAN
Tim's Shooting Academy of Westfield

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

April 9, 2013
1304-VU-01
Exhibit 1

Petition Number: 1304-VU-01

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

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

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

Current Zoning: EI (Enclosed Industrial) District

Current Land Use: Vacant

Approximate Acreage: 1.38 acres

Exhibits:

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

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

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

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



Analysis

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

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

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

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

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

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

² WC 16.04.060.



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

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

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

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

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

⁴ WC 16.04.060.A.1.

Procedural

The Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

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

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

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

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

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

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

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

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



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

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

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

Recommendation

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

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

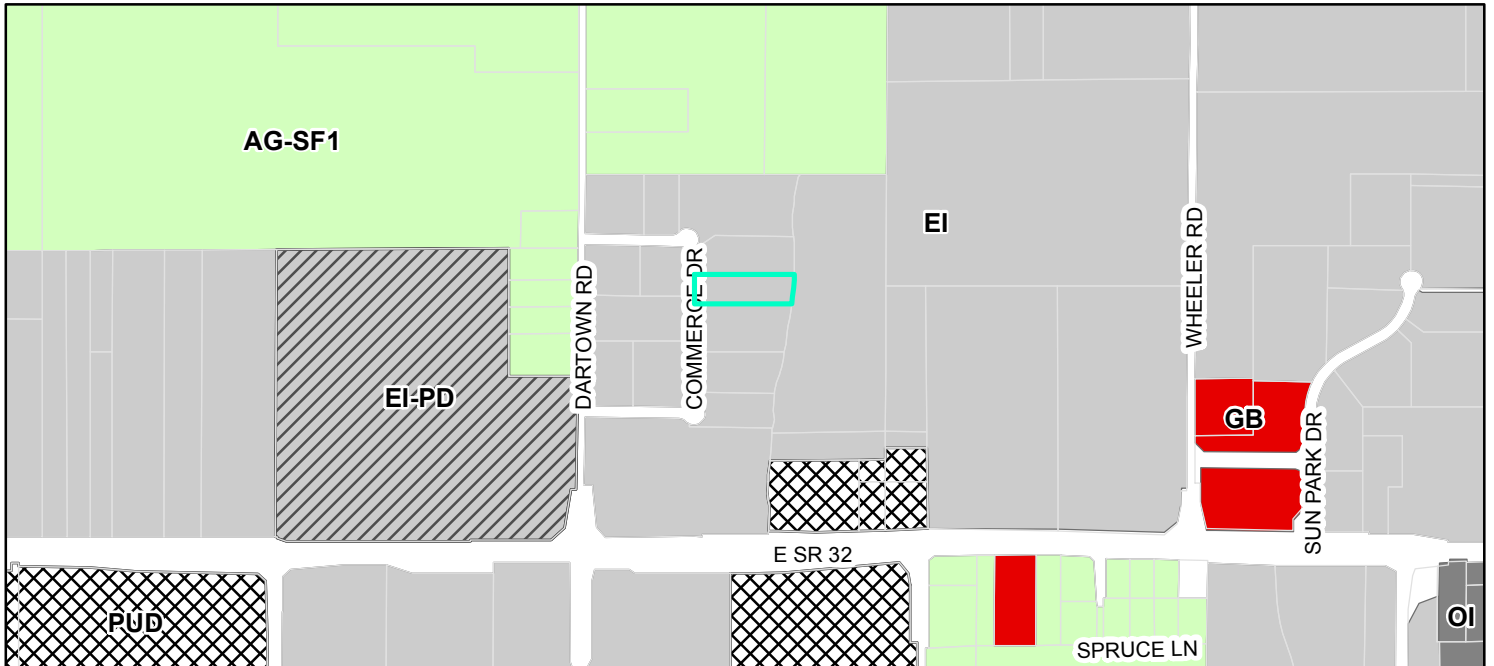
1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder’s Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.
2. The “Indoor Shooting Range and related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

Aerial Location Map

Site



Zoning Map



Zoning

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



March 29, 2013

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

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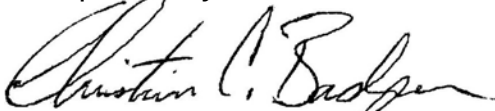
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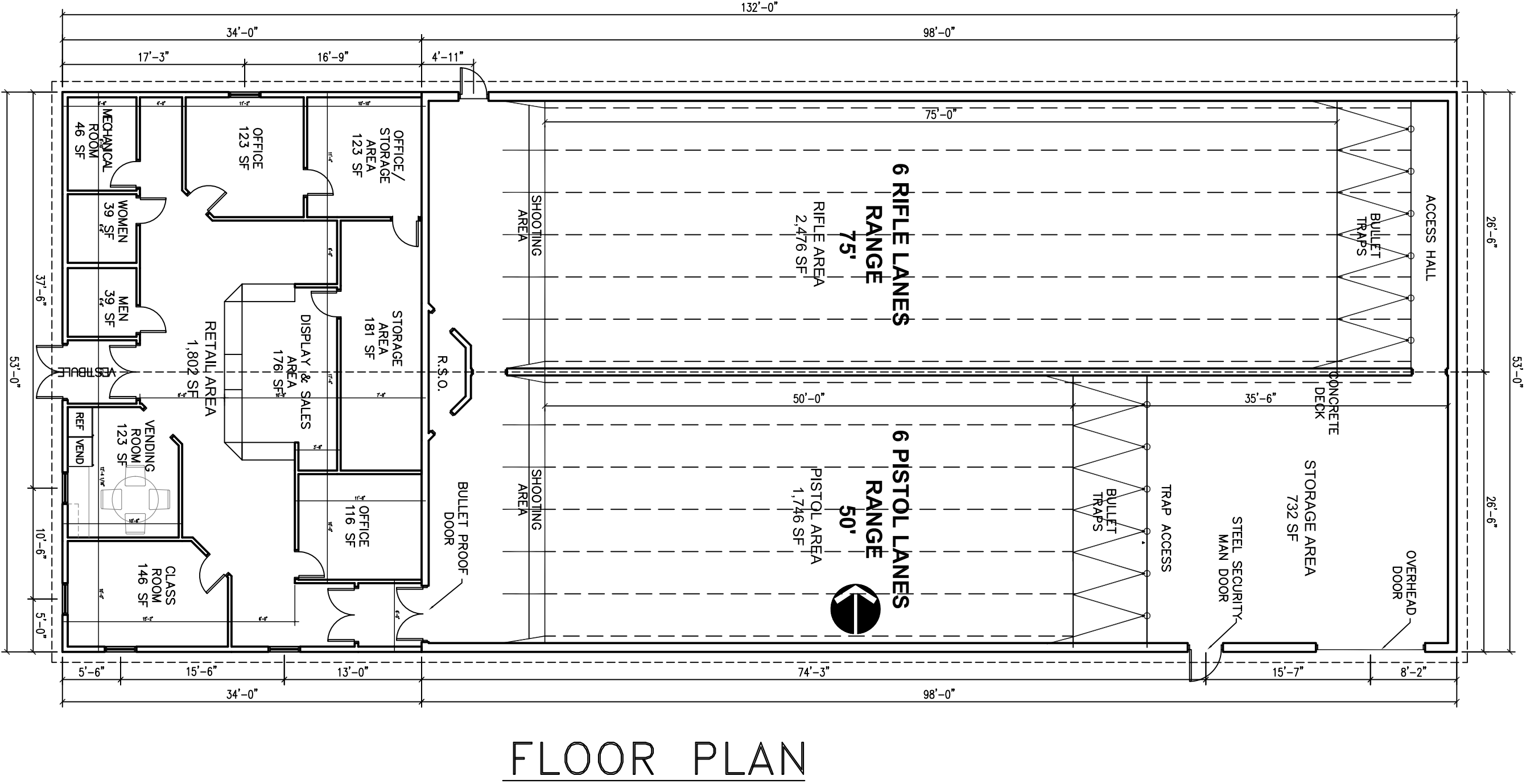
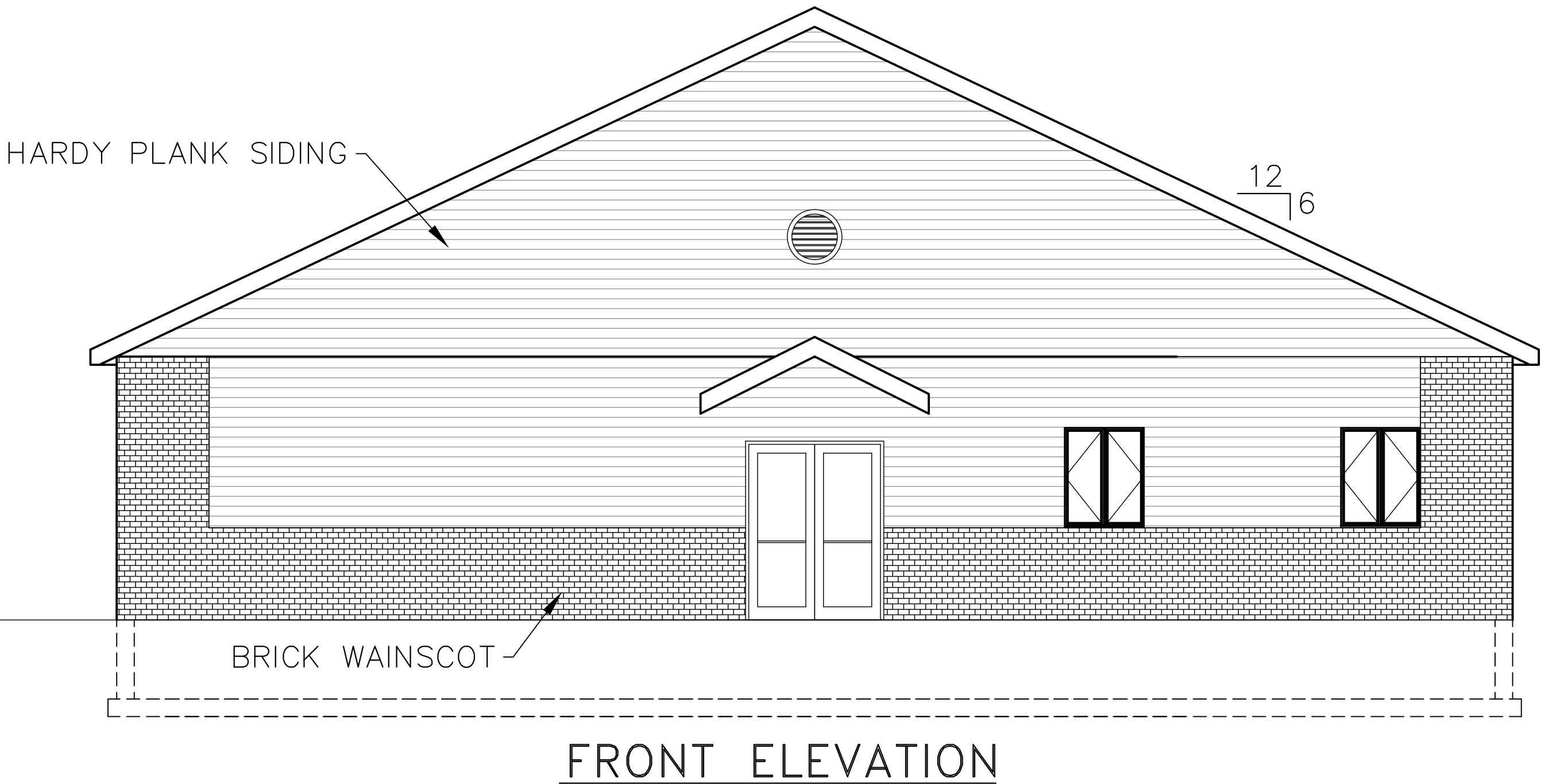
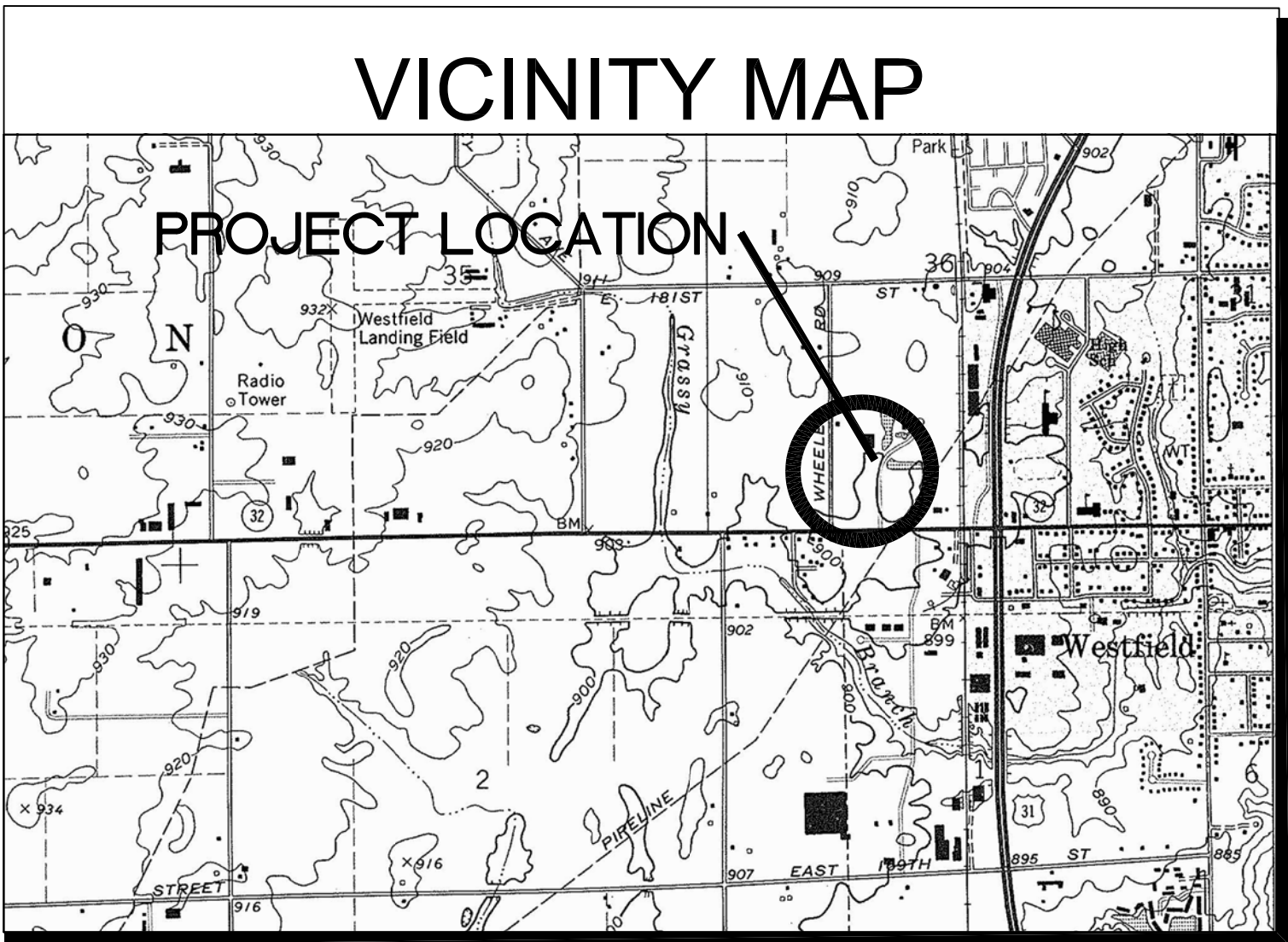
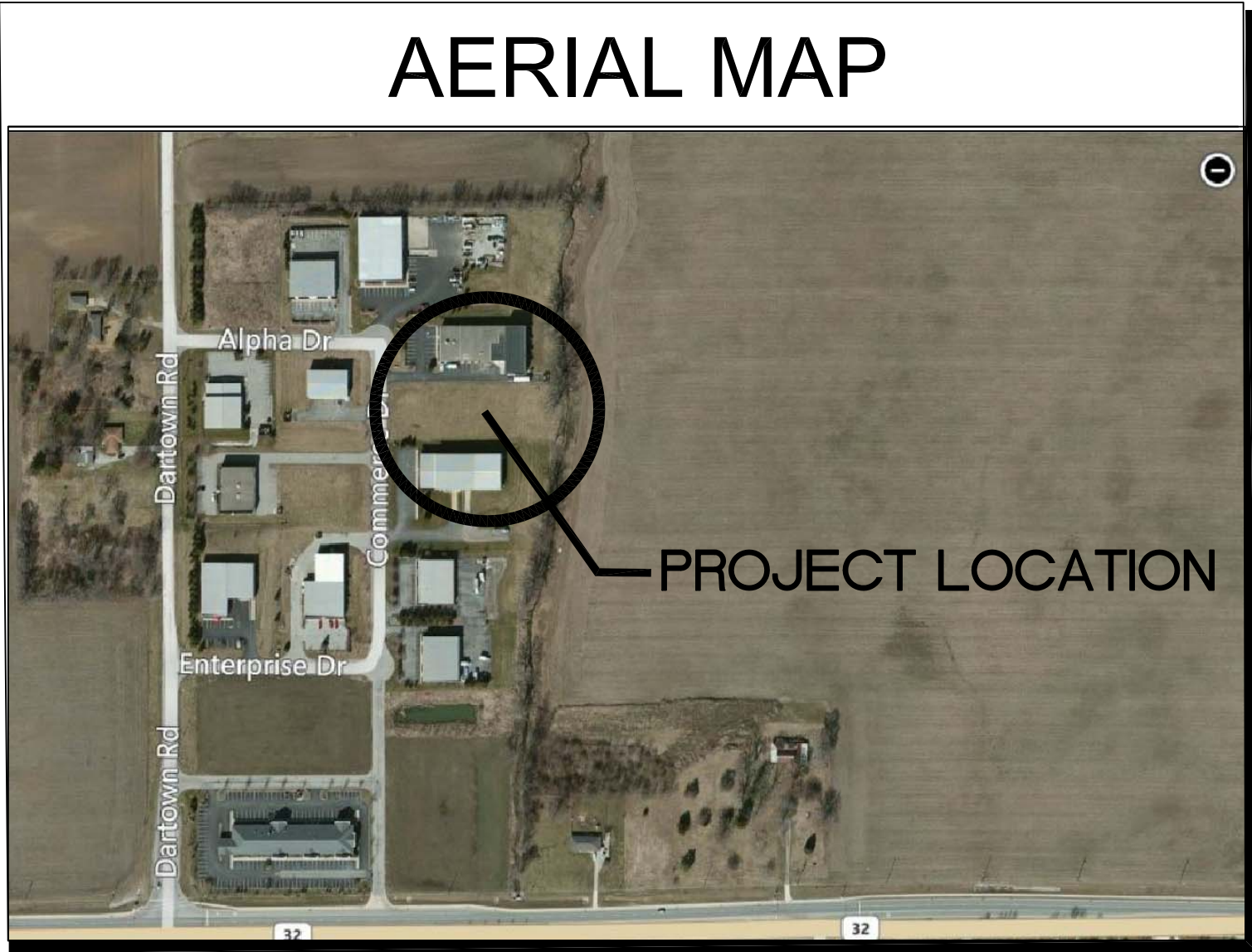
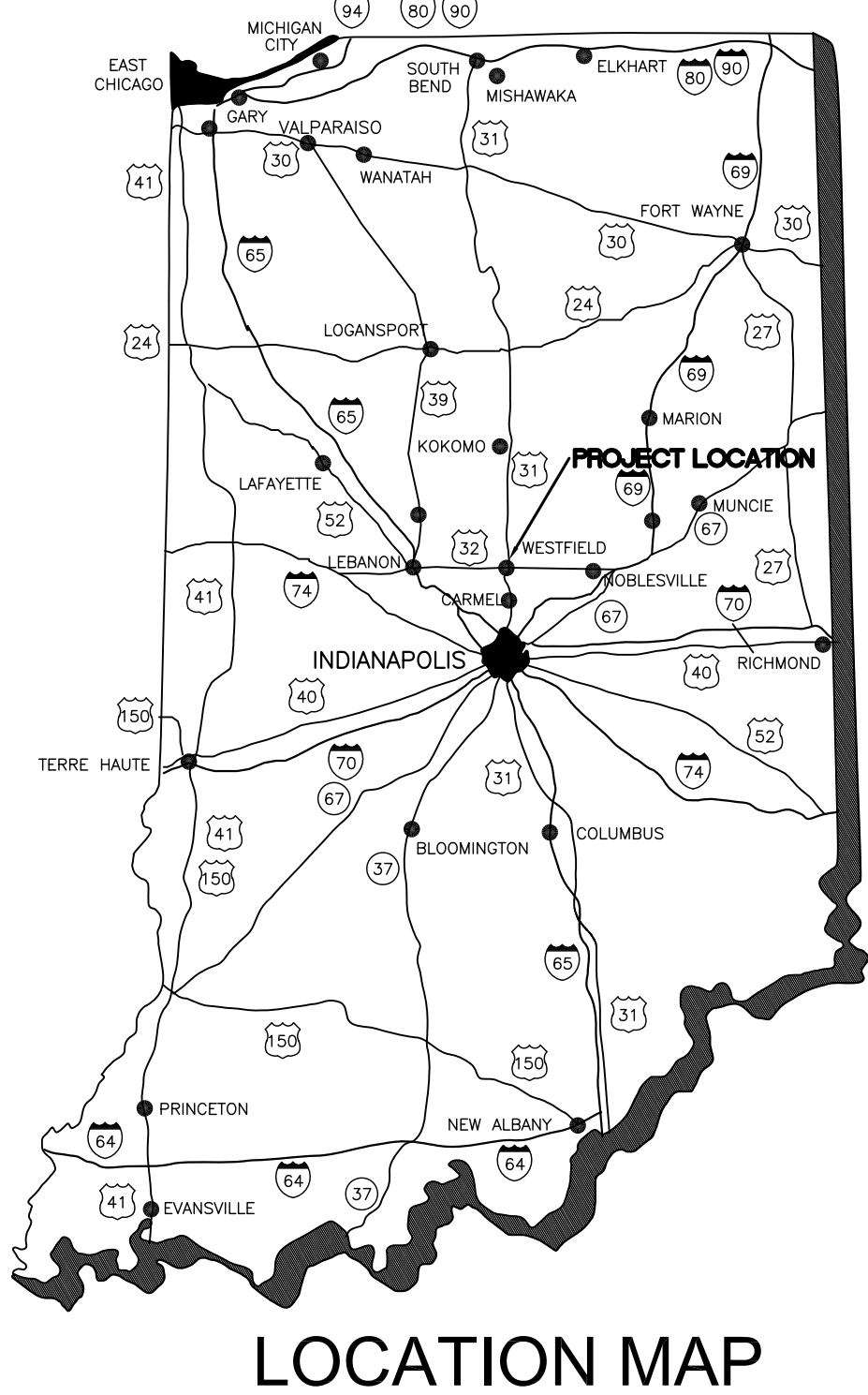


Christian C. Badger, P.E.
Badger Engineering, LLC

Tim's Shooting Academy of Westfield

Westfield, Indiana 46074

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

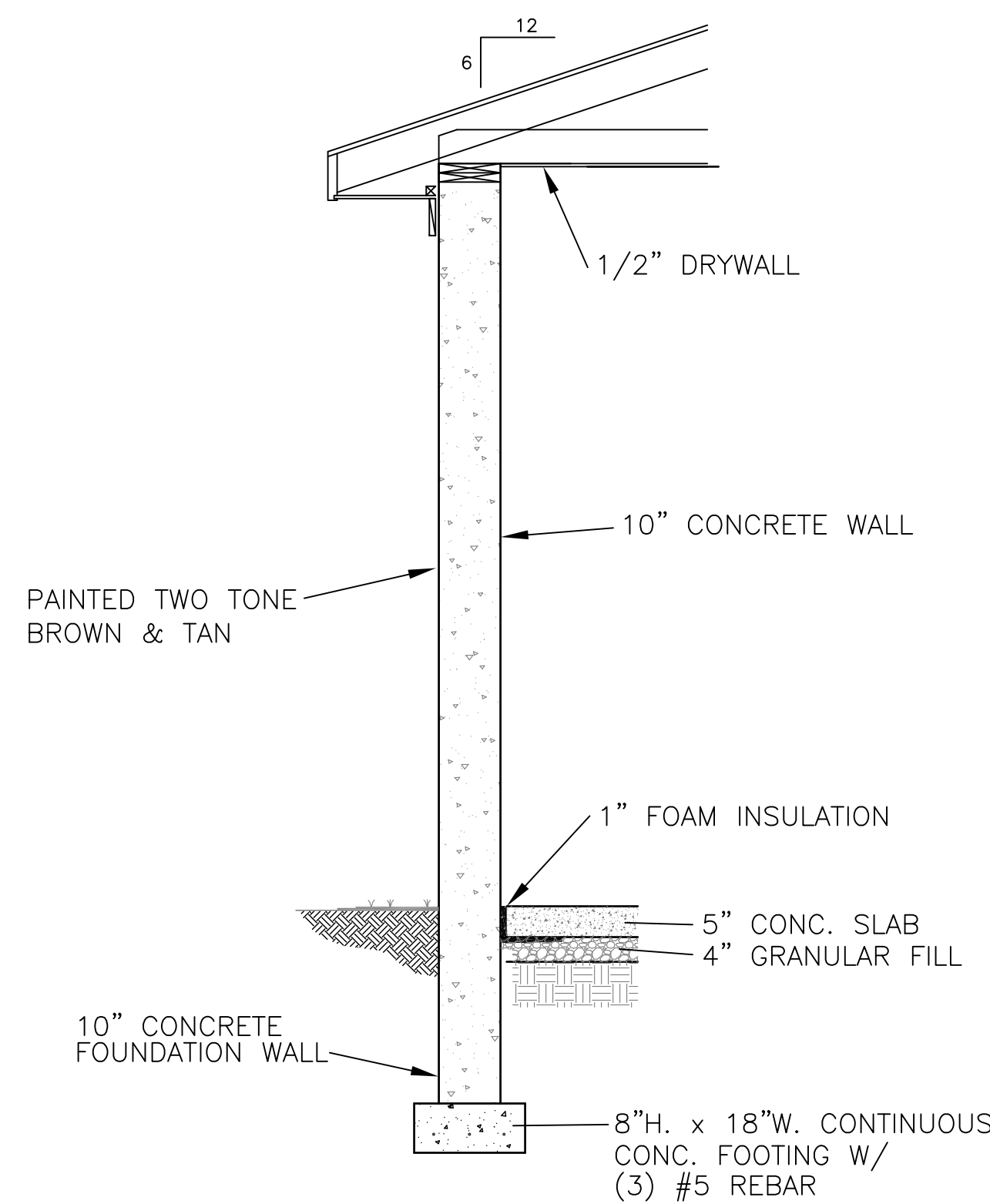


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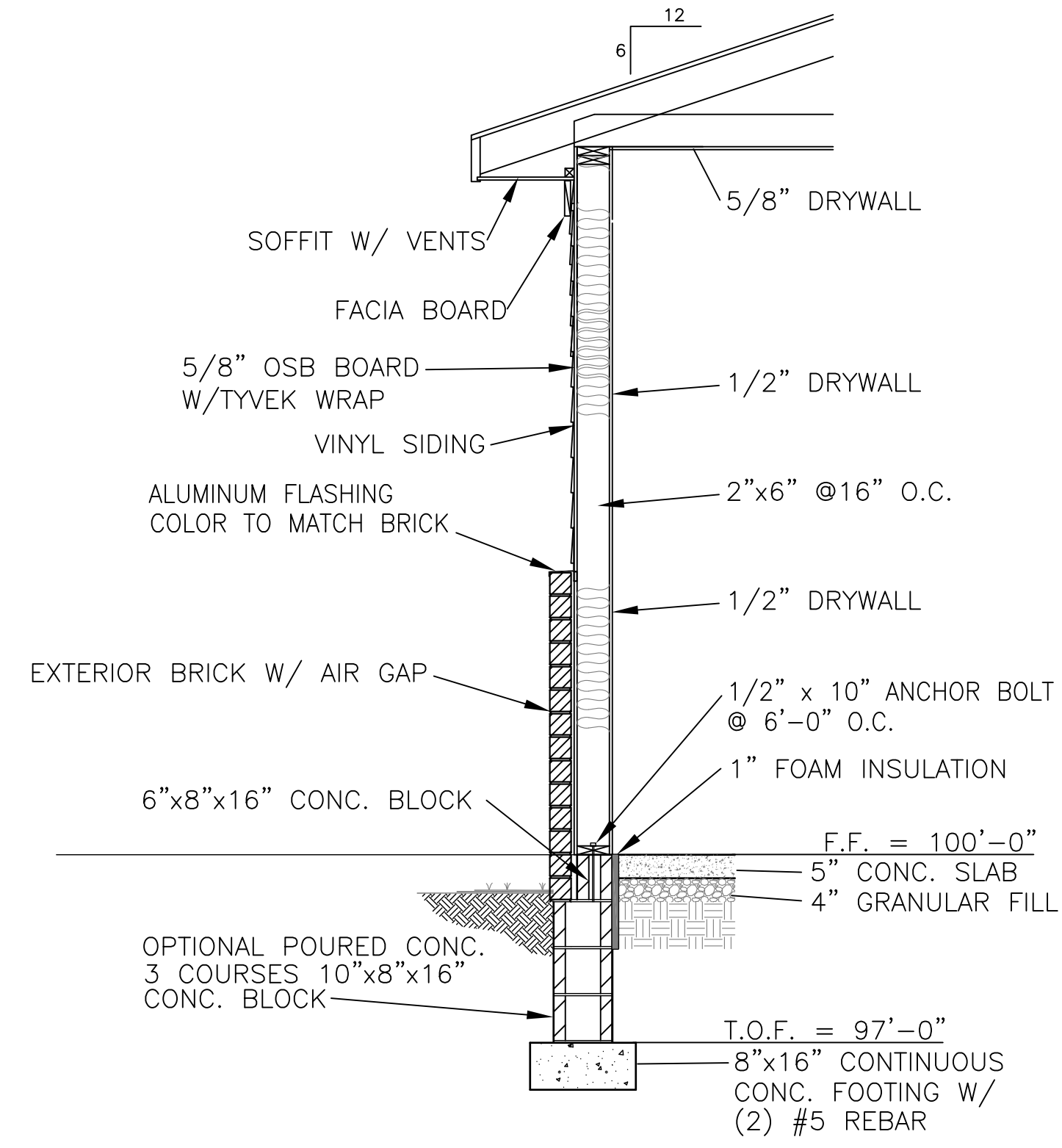
Owner:
Tim Tomich
14855 Victory Ct.
Carmel, IN 46032

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



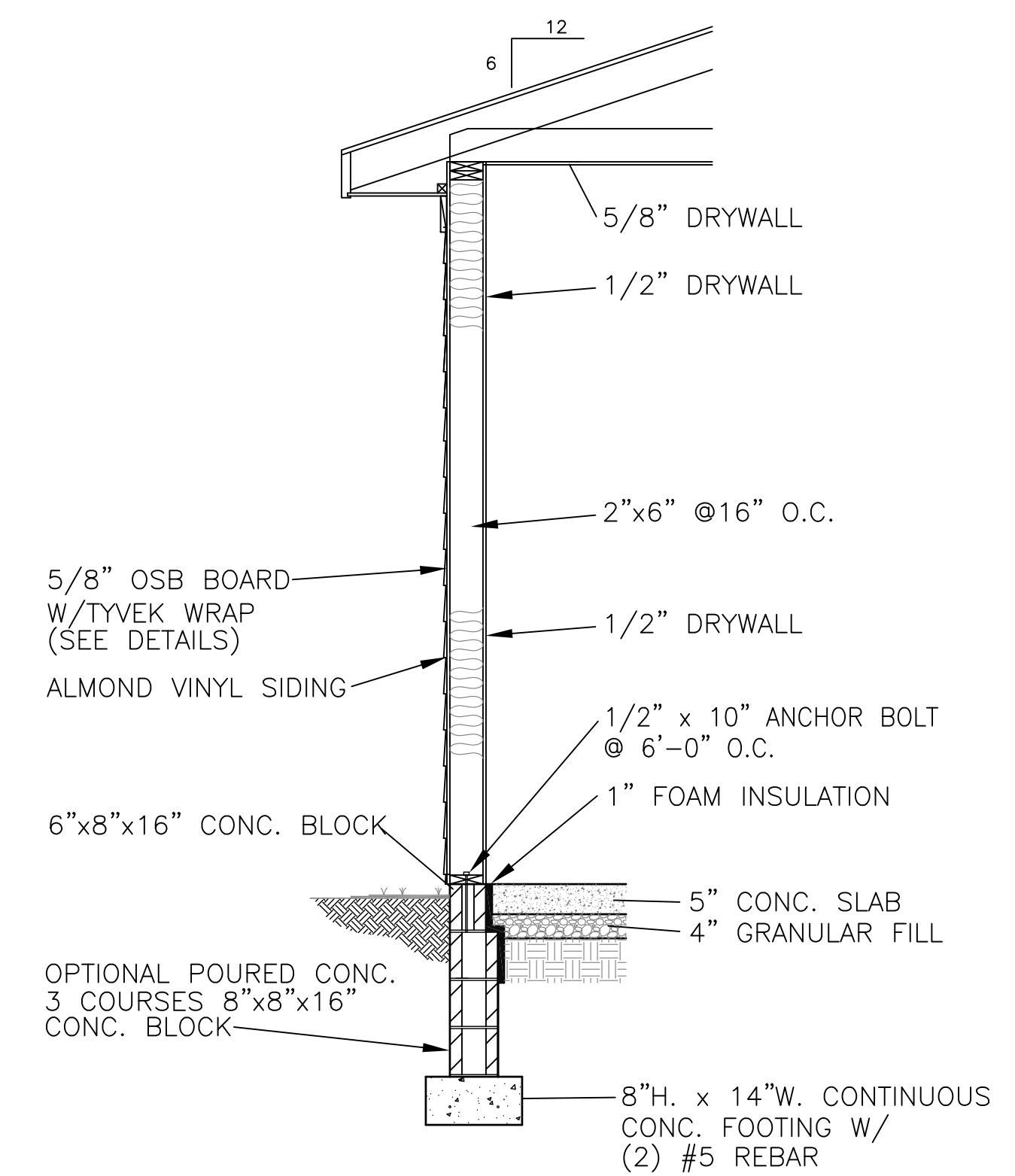
10' CONCRETE WALL SECTION

SCALE: 1/2" = 1'-0"



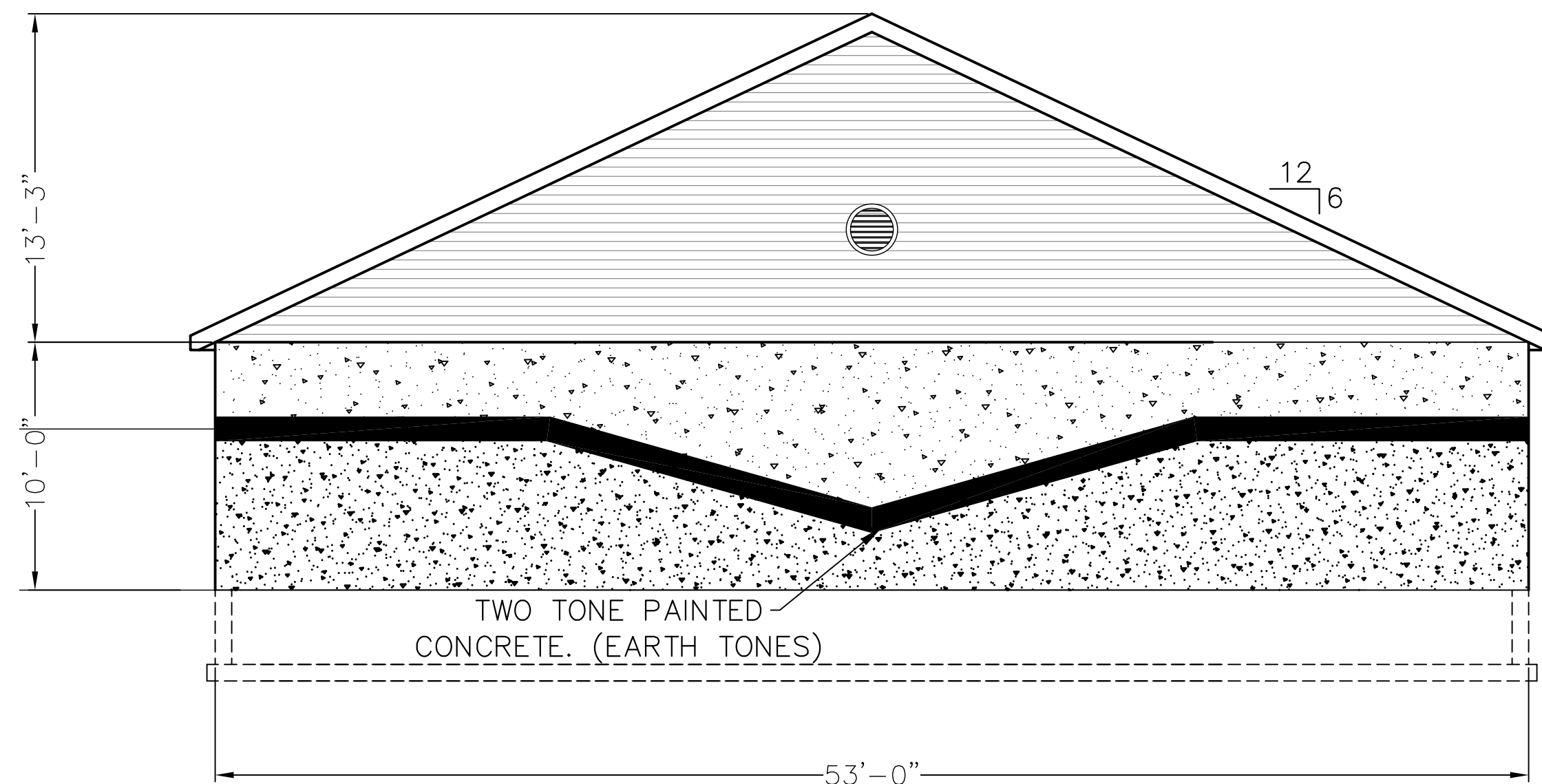
10' WALL SECTION - PARTIAL BRICK

SCALE: 1/2" = 1'-0"

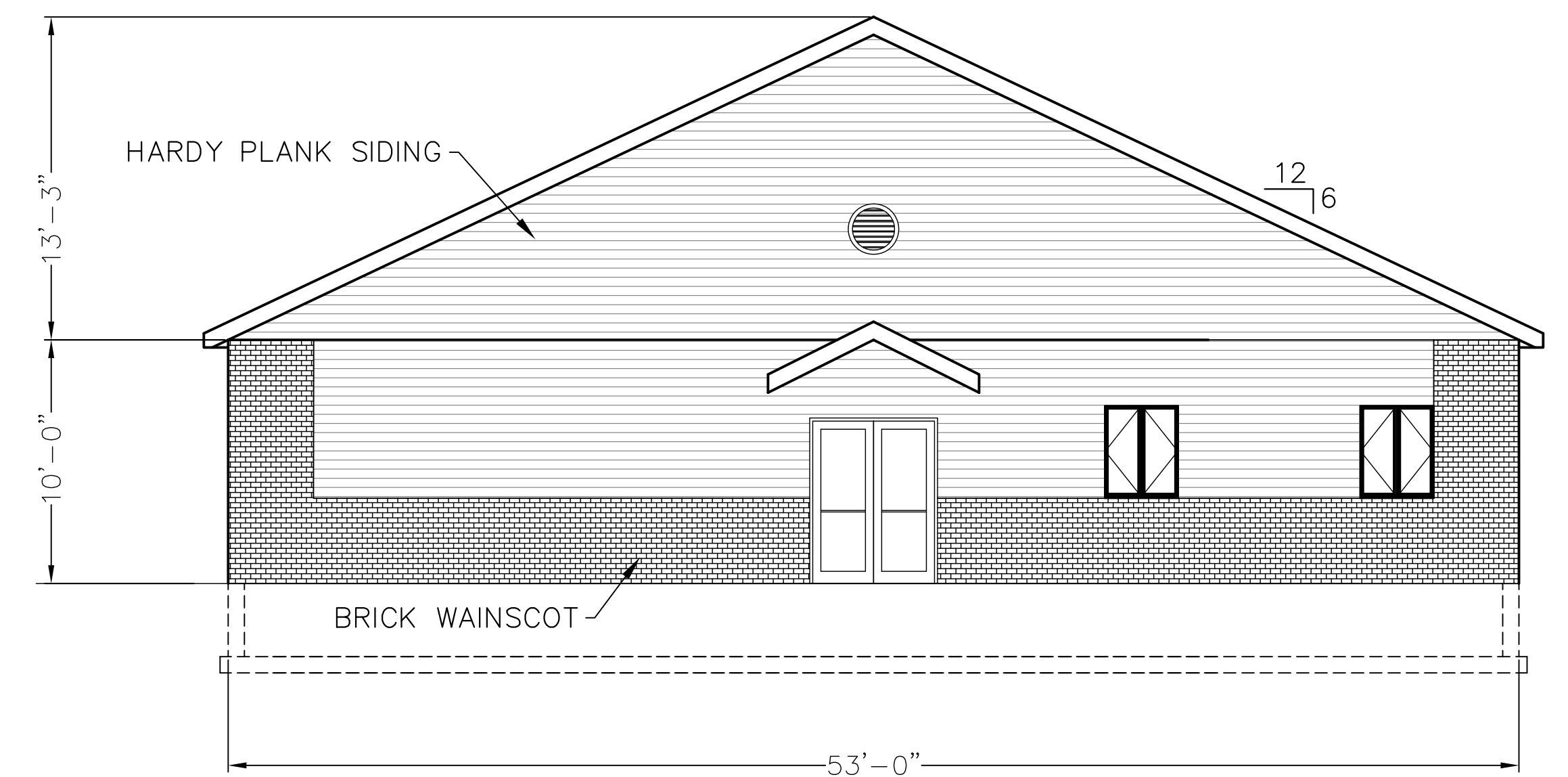


10' WALL SECTION - NO BRICK

SCALE: 1/2" = 1'-0"

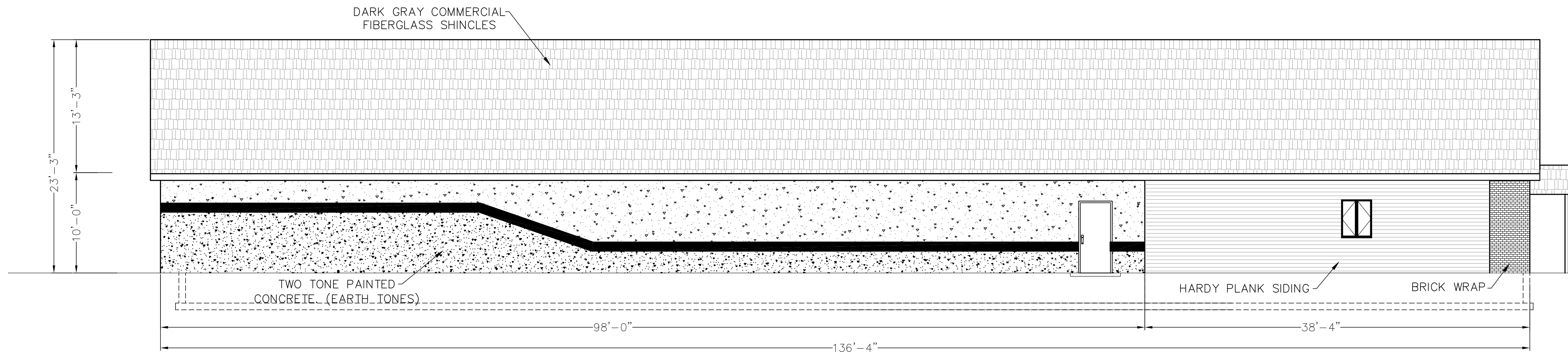


WEST ELEVATION

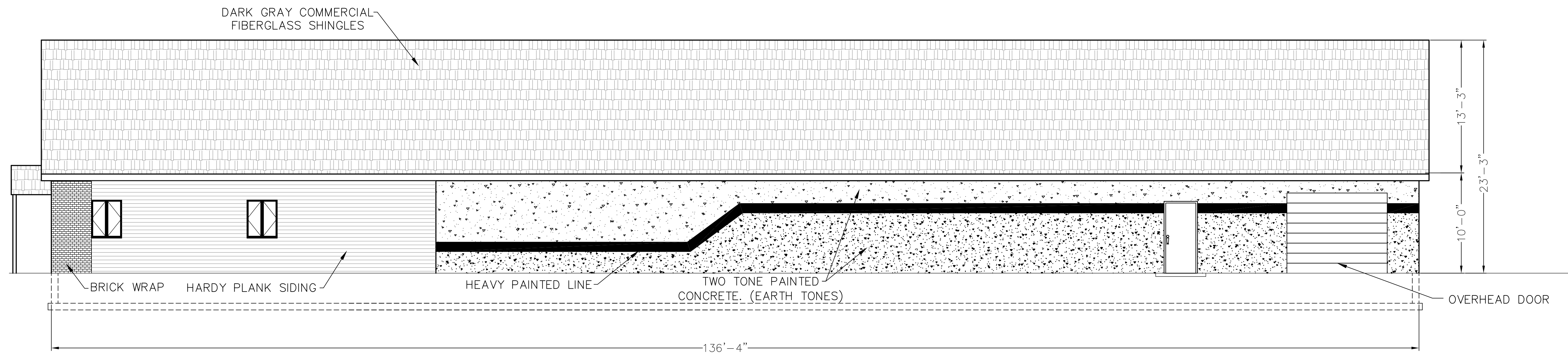


EAST ELEVATION

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

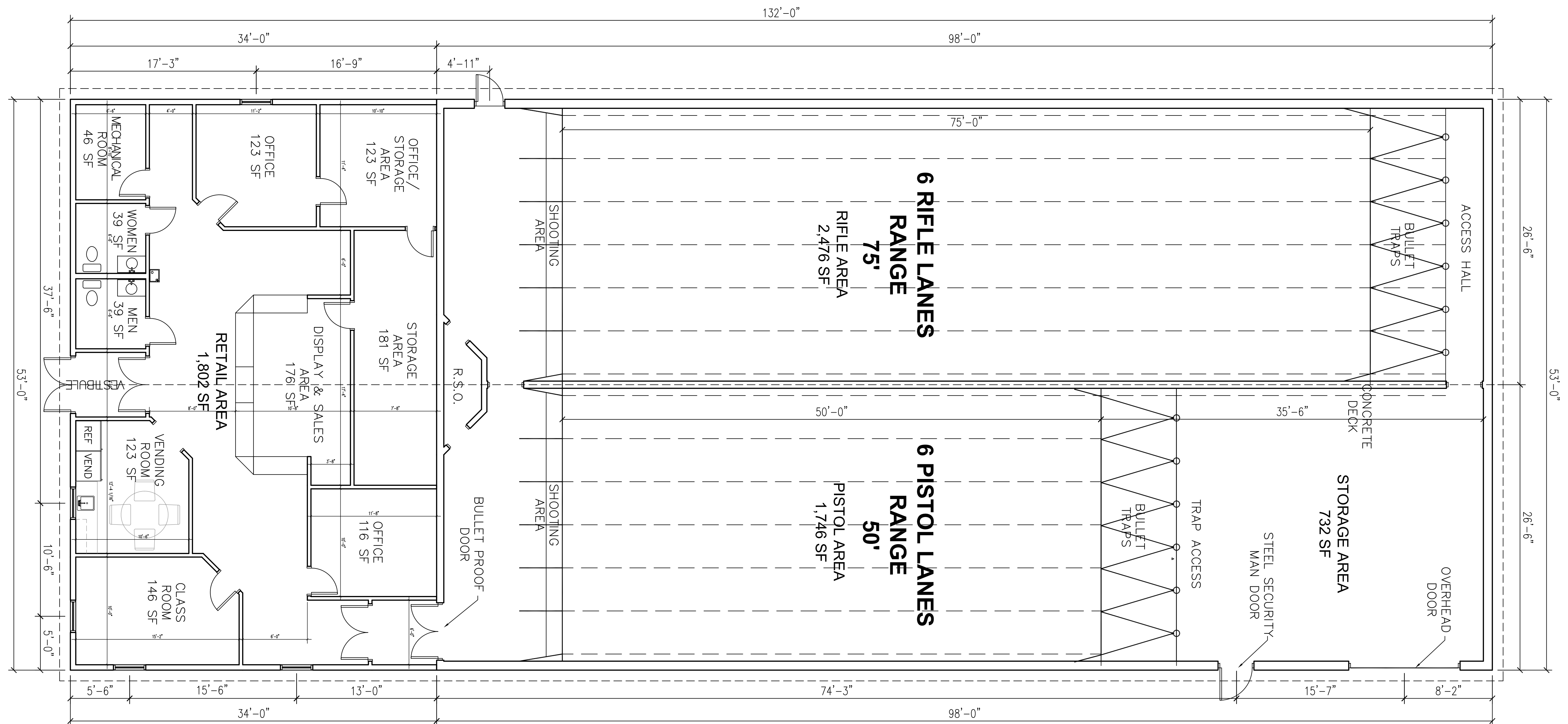


SOUTH ELEVATION



NORTH ELEVATION

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

[illegible]

BADGER
ENGINEERING

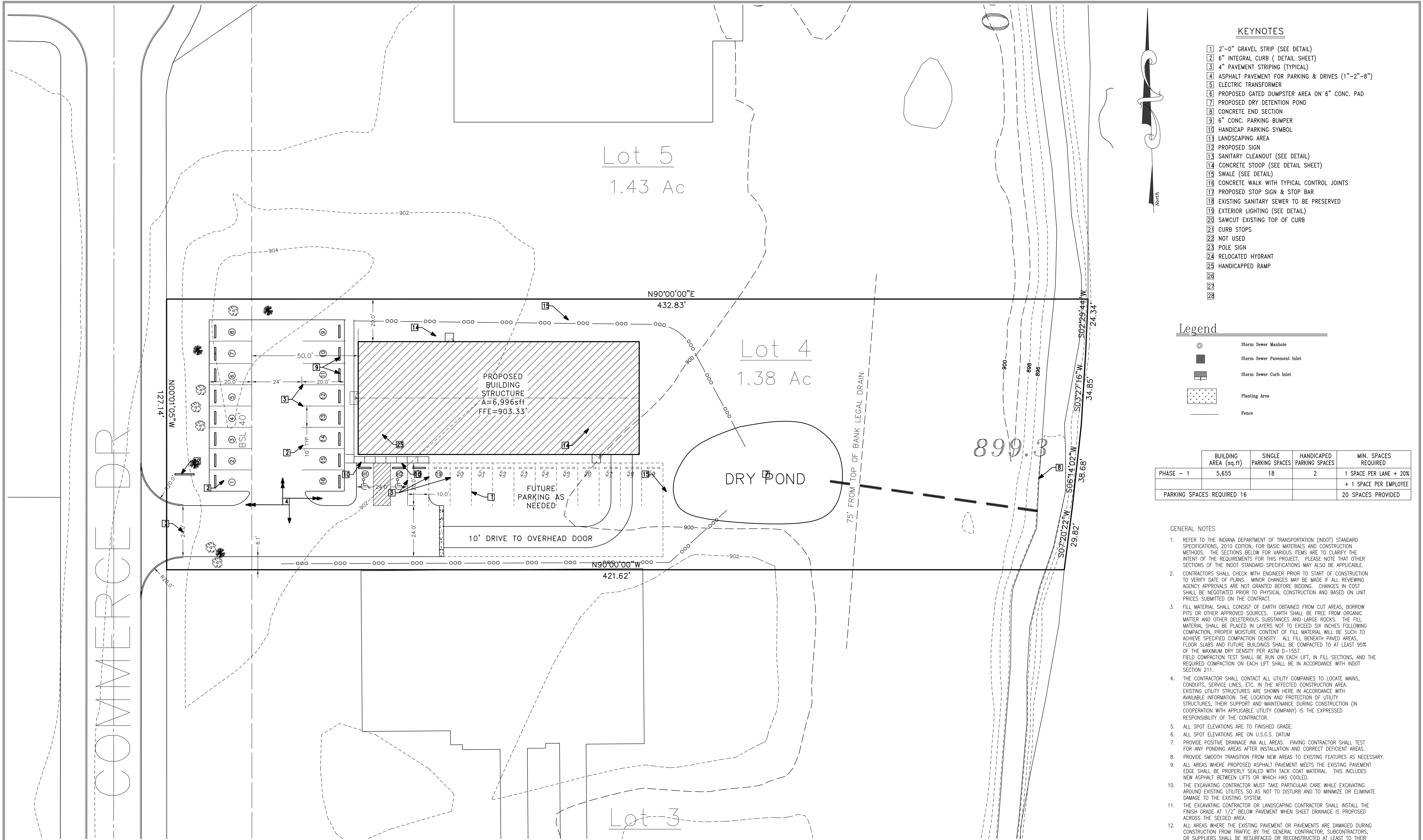
101 W. Main Street
Lebanon, IN 46052
(765) 485-0000

FLOOR PLAN

Tim's Shooting Academy of Westfield

City of Westfield	Washington Township	Hamilton County	Indiana
Design By	Drawn By	Checked By	Approved By
CCB	SAS	CCB	CCB

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



KEYNOTES

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

Legend

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

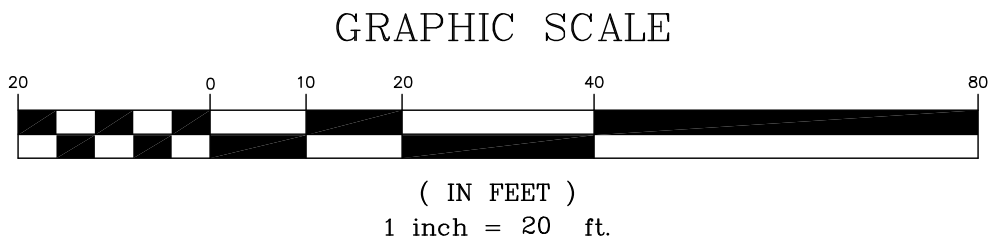
	BUILDING AREA (sq.ft)	SINGLE PARKING SPACES	HANDICAPPED PARKING SPACES	MIN. SPACES REQUIRED
PHASE - 1	5,655	18	2	1 SPACE PER LANE + 20%
				+ 1 SPACE PER EMPLOYEE
PARKING SPACES REQUIRED 16				20 SPACES PROVIDED

GENERAL NOTES

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



Know what's below.
Call before you dig.



SITE LAYOUT

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

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

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

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

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

APPOINTMENT OF OFFICERS

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

Raines seconded, and the motion passed by voice vote.

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

Sanders seconded, and the motion passed by voice vote.

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

Rothrock seconded, and the motion passed by voice vote.

APPROVAL OF MINUTES

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

Raines seconded, and the motion passed by voice vote.

Pohlman reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1304-VU-02

17924 US 31 North, Christopher Woodard

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

1304-VS-04

17924 US 31 North, Christopher Woodard

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

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

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

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

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

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

1304-VS-01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Graham seconded, and the motion passed.

1304-VS-03

14933 US 31 North (Burger King)

Burger King by Megan Pyrtle of Allen Industries

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

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

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

Public Hearing opened at 7:45 p.m.

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

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

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

Rothrock seconded, and the motion passed 5-0.

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

Sanders seconded, and the motion passed.

1304-VU-01

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

Tim Tomich by Christian Badger of Badger Engineering, LLC

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Property.

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

Raines seconded and the motion passed 5-0.

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

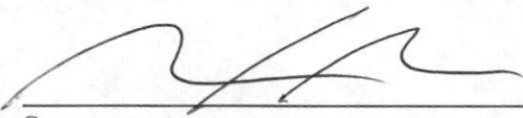
Sanders seconded, and the motion passed.

REPORTS/COMMENTS:

No reports.

The meeting adjourned at 9:05 p.m.


Chairperson
Randy Graham


Secretary
Matthew Skelton, Director

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

ELECTION OF OFFICERS

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

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

APPROVAL OF MINUTES

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

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

Pohlman reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1503-SE-01 &

140 East 161st Street

1503-VS-05

Noah Herron (d/b/a Urban Farmer)

(PUBLIC HEARING)

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

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

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

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

Herron responded the signs would not be distracting to drivers.

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

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

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

Public Hearing opened at 7:25 p.m.

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

Public Hearing closed at 7:27 p.m.

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

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

Rothrock seconded, and the motion passed 4-0.

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

Rothrock seconded, and the motion passed 4-0.

1503-VS-01

(PUBLIC HEARING)

17130 Joliet Road

Sterling and Jessica Strickland

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

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

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

Public Hearing opened at 7:36 p.m.

There was no public comment.

Public Hearing closed at 7:37 p.m.

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

Sanders seconded, and the motion passed 4-0.

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

Graham seconded, and the motion passed 4-0.

1503-VS-02

(PUBLIC HEARING)

16588 North Gray Road

James Campbell

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

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

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

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

Public Hearing opened at 7:47 p.m.

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

Public Hearing closed at 7:50 p.m.

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

Campbell commented that he would agree with the condition.

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

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

Sanders seconded, and the motion passed 4-0.

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

Sanders seconded, and the motion passed 4-0.

**1503-VU-03 &
1503-VS-03**

(PUBLIC HEARING)

228 Park Street

Scott Wolf

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

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

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

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

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

Public Hearing opened at 8:04 p.m.

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

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

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

Public Hearing closed at 8:11 p.m.

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

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

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

Rothrock seconded, and the motion passed 4-0.

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

Rothrock seconded, and the motion passed 4-0.

1503-VU-04 &

1503-VS-04

(PUBLIC HEARING)

131 West Main Street

Scott Wolf

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

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

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

Public Hearing opened at 8:17 p.m.

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

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

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

Public Hearing closed at 8:20 p.m.

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

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

Graham seconded, and the motion passed 4-0.

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

Graham seconded, and the motion passed 4-0.

1503-VU-02

(PUBLIC HEARING)

17777 Commerce Drive

Edward Tomich by Badger Engineering, LLC

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

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

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

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

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

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

Public Hearing opened at 8:57 p.m.

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

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

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

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

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

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

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

Mike Muller, 12700 Devon Lane.

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

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

Chris Badger, 990 West Oak Street.

Guy Relford, 151 Mission Hills Drive.

The following individuals provided public comment:

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

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

Public Hearing closed at 9:36 p.m.

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

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

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

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

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

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

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

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

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

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

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

Metzel requested a continuance.

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

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

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

REPORTS/COMMENTS

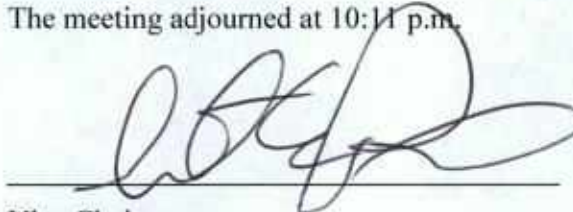
Plan Commission Liaison

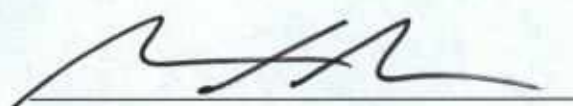
Economic and Community Development Department

Graham motioned to adjourn the meeting.

Rothrock seconded, and the motion passed.

The meeting adjourned at 10:11 p.m.



Vice Chairperson
Martin Raines

Secretary
Matthew Skelton, Director



Andi M. Metzel
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March 27, 2015

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

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

Dear Mr. Pohlman:

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

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

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

Very truly yours,

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP

A handwritten signature in blue ink, appearing to read "Andi Metzel", written over the printed name "Andrielle M. Metzel".

Andrielle M. Metzel

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



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May 6, 2015

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

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

Dear Mr. Pohlman:

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

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

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

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

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

Very truly yours,

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP



Andrielle M. Metzel

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 9, 2015
1503-VU-02
Exhibit 1

Petition Number: 1503-VU-02

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

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

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

Current Zoning: EI: Enclosed Industrial District

Current Land Use: Indoor Shooting Range

Approximate Acreage: 1.38 acres +/-

Exhibits:

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

Staff Reviewer: Jesse M. Pohlman, Senior Planner

PROPERTY INFORMATION

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



CONDITION MODIFICATION HISTORY

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

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

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

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

June 9, 2015: As a result of the May 29, 2015, sound test, the Department understands the petitioner intends to present an update to the Board at the June 9, 2015, meeting and request a continuance.

The Department understands the petitioner will present a plan and timeline to make further and more substantial improvements to the structure and that the petitioner intends to request a continuance of this condition modification to allow time to make the improvements. A variance of development standard to reduce the side yard setback along the north property line will be required in order to accommodate the proposed improvements, as well as further coordination of the design with the City’s Fire Marshal.

PROPERTY HISTORY

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

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



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

ANALYSIS

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

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

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

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



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

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

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

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

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

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

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

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

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



CHART: MAXIMUM PERMITTED SOUND LEVELS FOR ENCLOSED INDUSTRIAL

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

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

For reference, these standards read as follows³:

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

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

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

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

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



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

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

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

MODIFICATION OF CONDITION

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

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

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



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

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

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition received its public hearing at the March 10, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

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



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

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

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

DEPARTMENT COMMENTS

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

Since the public hearing on March 10, 2015, the petitioner has made several improvements (as outlined in the attached continuance letter at Exhibit 10) in an attempt to reduce the sound produced by the subject use; however, as a result of the subsequent sound test on May 29, 2015, the Department understands the petitioner intends to make further and more substantial improvements, which will be presented to the Board at the June 9, 2015, meeting.

A variance of development standard to reduce the side yard setback along the north property line will be required in order to accommodate the proposed improvements, as well as further coordination of the design by the petitioner with the City's Fire Marshal.

As a result, the Department understands the petitioner will request a continuance of this condition modification to allow them to file a variance of development standard, which would likely receive a public hearing at the July 14, 2015, Board meeting.

RECOMMENDATION REGARDING CONTINUANCE REQUEST

If the Board is inclined to grant a continuance of this pending condition modification, then the Department recommends that the continuance only be granted for one (1) month to ensure the petitioner files the variance of development standard for the side yard setback.

At the July 14, 2015, Board meeting, the Department recommends any subsequent continuance of this condition modification be subject to a specific timeline from the petitioner for completing the proposed improvements.

The Department understands the petitioner will be refining the design of the proposed improvements over the next few weeks in coordination with the City's Fire Marshal. As a result, the petitioner should have a better understanding at the July 14, 2015, Board meeting of when the improvements could be completed.

RECOMMENDATIONS

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

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

Recommended Findings for Approval:

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

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

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed modified condition should not have a negative impact on surrounding properties because: (i) the proposed sound levels will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District; and (ii) the proposed sound levels are reasonably consistent with and reasonably



compatible with the character of the surrounding industrial park; and (iii) the use will only be conducted indoors and shall otherwise comply with the Unified Development Ordinance's performance standards.

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

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

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

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

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

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

Recommended Findings for Denial:

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

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

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

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

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

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

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

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

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

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

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

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, May 12, 2015, at Westfield City Hall. Members present included Randell Graham, Martin Raines, Ron Rothrock, Bill Sanders and Dave Schmitz. Also present were Kevin Todd, Senior Planner; Amanda Rubadue, Associate Planner; and Brian Zaiger, City Attorney.

ELECTION OF OFFICERS

Sanders motioned to nominate Martin Raines as Chairperson and Rothrock seconded. Upon a call to vote by the Chair, the motion passed with a vote of 5-0.

Raines motioned to nominate Ron Rothrock as Vice-chairperson and Sanders seconded. Upon a call to vote by the Chair, the motion passed 5-0.

Sanders motioned to nominate Randell Graham as Pro-tempore and Rothrock seconded. Upon a call to vote by the Chair, the motion passed 5-0.

APPROVAL OF MINUTES

Sanders moved to approve the April 14, 2015, minutes.

Rothrock seconded, and the motion passed by 5-0 vote.

Todd reviewed the Public Hearing Rules and Procedures.

ITEMS OF BUSINESS

1503-VU-02
(CONTINUED)

17777 Commerce Drive

Edward Tomich by Badger Engineering, LLC

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

**1505-VU-05 &
1505-VS-07
(PUBLIC HEARING)**

SEC of 146th Street and Oak Ridge Road

AT&T Mobility by Bingham Greenebaum Doll LLP

The petitioner is requesting a Variance of Use to allow a new Wireless Communication Service Facility and Variance of Development Standard to reduce the Minimum Building Setback Lines in the SF2: Single-Family Low Density District (Chapter 13: Use Table & Article 4.5E)).

Todd presented an overview of the Variance of Use and Variance of Development Standard request combined.

Matt Price, Bingham Greenebaum Doll, on behalf of the Petitioner, gave a brief presentation.

Public Hearing opened at 7:08 pm

Doug Holtz, 135 Senator Way; Opposed; Representing the Village Farms HOA stated that they understand the need for the tower but are concerned with its proximity to residential areas. He stated that the notice was sent on May 1, 2015 and that it was received by the HOA on May 4, 2015. He stated that upon receiving notice, the HOA sent out the project information to the neighborhood residence, and within one day, received 10 negative comments and 3 positive comments. He reported that the neighbor's concerns are as follows: the visibility of the tower from home lots in Village Farms; the tower detracting from the aesthetic quality of the area; and the impact the tower would have on property values. He closed by requesting the Board to either deny the request, request the petitioner to seek an alternative location, or lower the height of the tower to 60' – 80'.

Graham asked what percentage of the residence will actually be able to see the tower from their lot.

Holtz responded that 30% – 45% of the residents between U.S. 31 and Spring Mill Road would be able to see it.

Dan Traub, 534 Worth Court; Opposed; Representing the Village Farms HOA expressed opposition to the tower, stating that the impact from the tower is not keeping with the neighborhood and City standards. He asked the Board to keep in mind that this is a not a public service but a for-profit entity. He said that the benefit is limited but the impact affects everyone.

Jim Grose, 15872 Viking Lair Road; Opposed; Gave a hard copy of his presentation to the Board to review.

Lisa Grimes, 636 North Court; Opposed; Requested that AT&T look for a more industrial location like the ones Price referenced in his presentation, not their neighborhood.

Cynthia Massie, 14524 Saddleback Drive; Opposed; Expressed concerns about noise, radio waves and health effects. She said that when there are no leaves on the trees, the tower will be able to be seen. She also expressed concern with drainage, citing an existing problems in the area.

Deborah Myers, 14510 Oakridge Road; Opposed; Gave the Board a copy of her presentation and a copy of a petition signed by other neighbors that are opposed to the tower. Stated that she would have liked more notice.

Todd Elliott, 14504 Saddleback Drive; Opposed; Would like to have been notified sooner.

Mindy McDonald, 14566 Saddleback Drive; Opposed; Expressed drainage concerns and health risk concerns for children using the adjacent athletic fields under a cell tower.

Joy Ressler, 14851 Oak Ridge Road; Opposed; Expressed concern that if this request is approved for AT&T, then they will need to also approve a future tower for Verizon across the street.

Kurt Schepers, 14827 Victory Court; Opposed; Stated that he did not know about the tower until the morning of the meeting. He wanted to know why they do not put this tower up by Grand Park so that Grand Park can receive the income from the tower.

Mary Ann Ayers, 20 Bennett Road; Opposed; Expressed concern regarding potential health issues with the tower.

Brian Chapman, 14944 Adios Pass; Support; Expressed surprise regarding how little the new tower impacted coverage in the area.

Ray Martin, 15215 Count Fleet; Stated that he has questions that he would like to address with the petitioner before the Board takes action, and asked that the Board postpone a decision until the next BZA meeting.

Public Hearing closed at 8:16 pm

Zaiger reminded the Board that federal law does not allow them to make an adverse decision based on perceived health issues associated with wireless communication towers.

Price responded. He stated that the tower is a utility and is licensed and regulated by the FCC and it is federal law that provides for the equipping on a national basis with wireless infrastructure for the national defense, commerce and for public safety. He added that this tower will close a gap in coverage in a heavily populated area, which is driving the need for this tower. He clarified that the tower is not designed to be hidden, but rather that its stealth design locates all of the cables and antenna equipment inside of the pole, rather than outside of the pole. He added that the tower will have room for co-location, reducing the need for additional towers in the area. Regarding property values, he stated that studies have shown that property values are not negatively impacted by the proximity of a cell tower.

Graham motioned to approve Petition 1505-VU-05 with Staff Conditions:

1. That the installed tower be substantially similar to what is depicted in Exhibit 4; and
2. That any building constructed on the Property be completely screened from view on all sides by evergreen trees that are a minimum of eight (8) feet in height at installation and are spaced in a manner that creates a complete visual screen.

Rothrock seconded, and the motion passed 3-2 (Raines, Sanders).

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

Rothrock seconded, and the motion passed 5-0.

Graham motioned to approve Petition 1505-VS-07 with Staff Conditions:

1. That the installed tower be substantially similar to what is depicted in Exhibit 4; and
2. That any building constructed on the Property be completely screened from view on all sides by evergreen trees that are a minimum of eight (8) feet in height at installation and are spaced in a manner that creates a complete visual screen.

Rothrock seconded, and the motion passed 3-2 (Raines, Sanders).

Graham moved to adopt the Staff's recommended findings of facts.

Rothrock seconded, and the motion passed 5-0.

REPORTS/COMMENTS

Plan Commission Liaison.

Graham provided a report.

Economic and Community Development Department.

Todd introduced a new Associate Planner Amanda Rubadue.

Raines introduced new BZA Board Member Dave Schmitz.

Sanders motioned to adjourn the meeting.

Rothrock seconded, and the motion passed.

The meeting adjourned at 8:37 p.m.

Vice Chairperson
Martin Raines

Secretary
Matthew Skelton, Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 9, 2015
1506-VU-06
Exhibit 1

Petition Numbers: 1506-VU-06

Subject Site Location: 14939 Ditch Road

Petitioner: Jeff Kelich

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

Current Zoning: Single-Family 2

Current Land Use: Concrete business

Approximate Acreage: 4.0 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Email correspondence re: Centennial HOA communication
4. Existing Variance Approval (79-V-12)
5. Application
6. Concept Plan
7. Existing Conditions

Staff Reviewer: Kevin M. Todd, AICP

PETITION HISTORY & PUBLIC NOTICE

This petition is scheduled to receive a public hearing at the June 9, 2015, Board of Zoning Appeals meeting, however, Public Notice has not been properly served for this project.

The Westfield-Washington Township Board of Zoning Appeals Rules and Procedures (the "Rules") require three (3) forms of public notice: 1) newspaper legal notice publication (this is required by Indiana Code 36-7-4-920 and by local BZA Rules of Procedure, Article X); 2) certified mail (this is required by local BZA Rules of Procedure, Article X); and 3) posting on the property (this is also required by local BZA Rules of Procedure, Article X). Each form of public notice is required to be served at least ten (10) calendar days prior to the hearing date. In order to comply with this requirement for the June 9, 2015 BZA meeting, notice was required to be served on or before May 30, 2015. Below is a summary of when the various forms of notice were served:



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 9, 2015
1506-VU-06
Exhibit 1

1. Newspaper Publication – published in the Indianapolis Star and Noblesville Times on May 29, 2015 (11 days before the hearing) – COMPLIANT.
2. Certified Mail – postmarked on June 3, 2015 (6 days before the hearing) – **NOT COMPLIANT.**
3. Posting on the Property – posted on June 3, 2015 (6 days before the hearing) – **NOT COMPLIANT.**

Because the two forms of public notice that did not meet the required deadline (Certified Mail and Posting on the Property) are local rules only and not statutory requirements, they are eligible to be suspended by a unanimous vote of the members present at the meeting (BZA Rules of Procedure, Article XIII, 3), if so requested by the petitioner. The petitioner has requested that the public notice rules be suspended for these two forms of public notice, and allow a 6-day notice period instead of a 10-day notice period.

The Board should be aware that the petitioner was required to send certified mailings to nearly 60 nearby property owners. These mailings were postmarked on Wednesday, June 3, 2015. The absolute soonest a letter could be received would be Thursday, June 4, 2015 (5 days before the hearing date). Unlike first-class mail, certified letters are required to be picked-up by the recipient at the Post Office. It is very likely that letters would not be obtained by many recipients until Friday (4 days prior to the hearing), Saturday (3 days prior to the hearing), or Monday (1 day prior to the hearing). It is worth noting, however, that because a petitioner cannot control when (or if) a mail recipient actually receives a letter (whether postmarked at least 10-days prior to the hearing or not), there is no rule stating when a certified mail public notice has to be received by the recipient.

The Board should also be aware that the Department Staff advised the petitioner to meet directly with the neighbors regarding his plans for the subject property. As of the publishing of this report (June 4, 2015), Staff is not aware of any attempts by the petitioner to meet with neighbors. The Board may want to request an update from the petitioner regarding the status of neighbor discussions. The petitioner has provided an email correspondence which reports a conversation with (and case materials being sent to) the Centennial HOA President regarding this project (see Exhibit 3). It should be noted that neighbor discussions and HOA member discussions do not replace formal public notice rules and requirements, however, the Board may want to take into consideration any additional public outreach that may have occurred (and the timing of such outreach) when making its decision about the public notice rule suspension request.

BOARD ACTION REQUIRED – Prior to hearing the variance case, the Board will need to determine if a 6-day public notice period is sufficient for the certified mail and property posting rules. According to the BZA Rules of Procedure, the Board may suspend a rule by unanimous vote of the members present at the meeting (BZA Rules of Procedure, Article XIII, 3). A successful suspension of the rules vote would



result in the case being heard and a public hearing held on June 9, 2015, as scheduled. A failed suspension of the rules vote would result in the case being continued to the July 14, 2015 hearing and not being heard at the June 9, 2015 BZA meeting.

PROPERTY HISTORY

On June 18, 1979, the Board of Zoning Appeals approved a variance request to allow the operation of a concrete business and the construction of a storage building on the subject property (see **Exhibit 4**). There were no conditions of approval associated with this variance. Since the variance approval in 1979, a concrete business has operated on the subject property.

ANALYSIS

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

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

Project Description: The proposed use would include outdoor storage of landscaping materials, plant materials, and equipment, as depicted in the proposed concept plan (see **Exhibit 6**). As proposed, the existing buildings would be used. The proposed concept plan depicts new landscaping around the perimeter of the Property. The Board may want to consider requiring similar landscaping be installed, if the variance request is approved. If the use is approved through this variance request, then any new structures, parking areas, or any improvement requiring an Improvement Location Permit would require Development Plan review and approval by the Advisory Plan Commission.

Existing Screening and Buffering: It appears that existing screening and buffering along the perimeter of the site occurs on the Centennial/Centennial South side of the property line. The north property line has a wood privacy fence with trees. The east property line has a mature tree line. The west property line has an undulating mound, trees, and a privacy fence (see **Exhibit 7**). The petitioner is proposing the addition of landscaping around the perimeter of the property (see **Exhibit 6**).

Land Use: Landscaping business in Westfield-Washington Township are not typically surrounded by suburban residential development. This would be a unique circumstance, if approved. Most of the landscaping businesses found in Westfield-Washington Township are either in rural or



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

Staff has advised the petitioner the importance of neighbor support in applying for this variance request. However, as of the publishing of this report (June 4, 2015), there has been no attempt by the petitioner to meet with the neighbors of the Property to discuss the proposal. Neighbor support regarding the proposed change in use should be considered by the Board. The Board may want to request an update from the petitioner regarding the status of neighbor discussions and support levels.

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

PROCEDURAL

Public Notice: The Board of Zoning Appeals (the “BZA”) is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the June 9, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law, but it was not properly served in accordance with the Board of Zoning Appeals Rules of Procedure. See “**Petition History & Public Notice**” discussion above.

Conditions: The UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

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

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

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



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

Variances of Use: The Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The Board may impose reasonable conditions as a part of its approval. A variance may be approved under Ind. Code § 36-7-4-918.4 only upon a determination in writing that:

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

FINDINGS OF FACT

- A. If the Board is inclined to **APPROVE** the variance of use request, then the Department recommends the following findings:

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

Finding: It is unlikely that allowing a landscaping business on the Property would be injurious to the public health, safety, morals, and general welfare of the community. A concrete company has operated on the Property for 36 years, and a landscaping operation would have a similar impact on the site and the surrounding area.

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

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



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

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

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

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

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

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

B. If the Board is inclined to **DENY** the variance of use request, then the Department recommends the following findings:

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

Finding: It is unlikely that allowing a landscaping business on the Property would be injurious to the public health, safety, morals, and general welfare of the community. A concrete company has operated on the Property for 36 years, and a landscaping operation would have a similar impact on the site and the surrounding area.



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

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

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

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

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

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

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

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



DEPARTMENT RECOMMENDATIONS

1. Hold a vote on the request to suspend the BZA Rules of Procedure regarding public notice requirements (See **"Petition History & Public Notice"** discussion above).
2. If the Rules are not suspended by a unanimous vote, then continue the item to the July 14, 2015 BZA meeting.
3. If the Rules are suspended by a unanimous, then hold a public hearing and take action on the case.
4. If the Board approves 1406-VU-06, then the Department recommends the following conditions:
 - a. That 79-V-12 be repealed and deemed no longer valid;
 - b. That the Property develop substantially consistent with the attached concept plan (see **Exhibit 6**);
 - c. That any new site improvement or structure follow the development and design rules in the UDO for Industrial Uses/Districts (i.e. landscaping, parking, architecture, etc.);
 - d. That Buffer C (per the UDO) requirements apply to the north, south, and east property lines, except as modified herein: that the mound not be required, but rather that a 6'-8' tall opaque fence be installed along the full length of each of those property lines. Chain-link fencing with slats shall not be permitted. At the Director's discretion, credit may be given to existing improvements (i.e. fencing) and plantings. Existing structures located within the buffer yards shall be allowed to remain as they exist at the time of approval. Any future building or parking lot expansion shall be required to comply with all setback and yard requirements in place at that time. All required buffer yard improvements shall be installed within 6 months of variance approval, pending weather. A Certificate of Compliance shall be obtained upon a passed inspection of the installed landscaping.
 - e. That External Street Frontage landscaping requirements for a non-residential use (per the UDO) apply along Ditch Road and be installed within 6 months of variance approval, pending weather. A Certificate of Compliance shall be obtained upon a passed inspection of the installed landscaping.
 - f. That the business only be permitted to operate on the Property, including receiving deliveries, between the hours of 7:00 AM to 7:00 PM, Monday-Saturday. The only exception being that the hours of operation limitation not apply during times related to snow-removal;



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 9, 2015

1506-VU-06

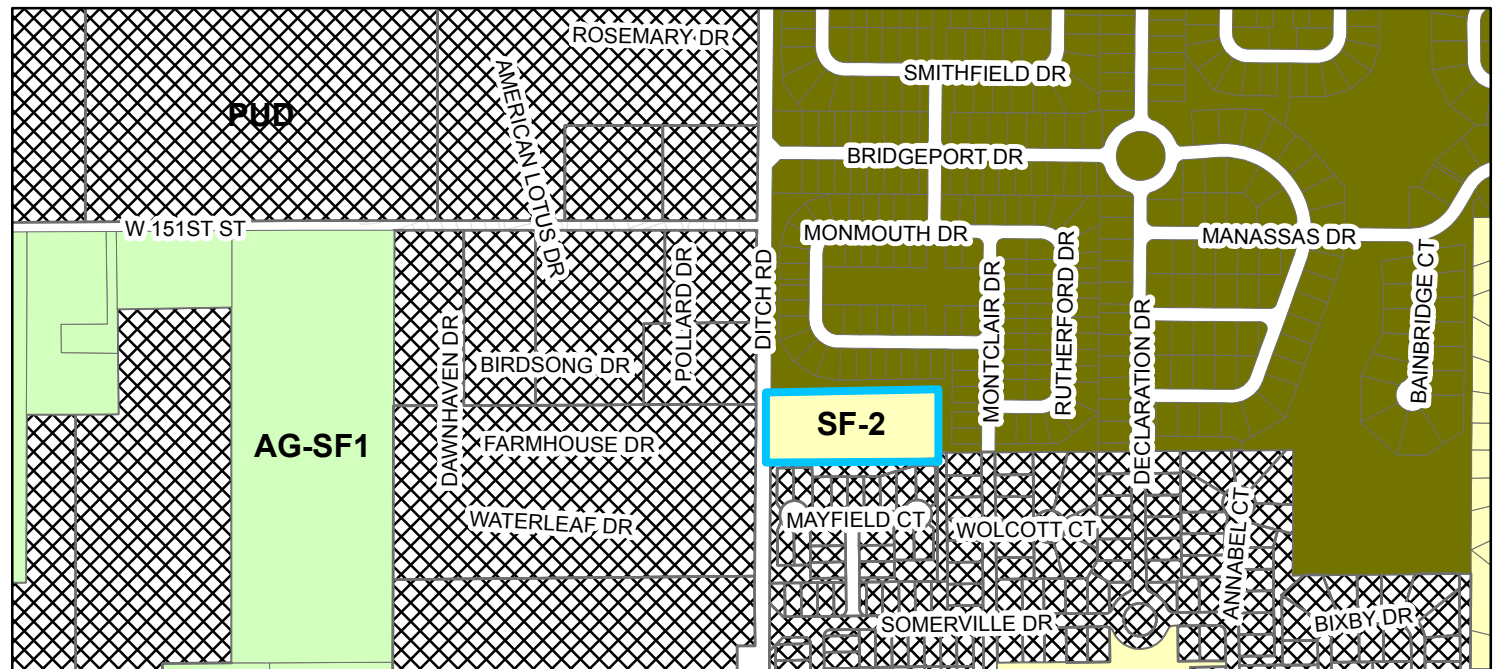
Exhibit 1

- g. That the petitioner shall dedicate up to 35' half right-of-way (pursuant to the Westfield Thoroughfare Plan) along the Property's Ditch Road frontage to the City of Westfield within 3 months of variance approval; and,
- h. That the petitioner shall install the required 8' asphalt pedestrian pathway along Ditch Road within 3 months of variance approval.

Aerial Location Map



Zoning Map



Zoning

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

Kevin M. Todd, AICP

From: Jeff Kelich <jeffk@carmelturfcare.com>
Sent: Wednesday, June 3, 2015 10:45 AM
To: Kevin M. Todd, AICP
Cc: JEFF KELICH
Subject: Kelich plans
Attachments: ATT00001.htm; CCI06022015.jpg; ATT00002.htm; zoning.kelich.docx; ATT00003.htm

Hi Kevin

This is what Katrina had sent to Joe the president of centennial homeowners association. I spoke to Joe for over 20 minutes about the plans how the property was used in the past and how we were going to utilize the property in the future. Joe was very receptive and mentioned he would send out an email blast to the neighborhood that he had supported what we were doing and the information was coming via mail.

Thank you!

Jeff Kelich
Carmel Turf Care, Inc
Carmelturfcare.com

Begin forwarded message:

From: "Katrina Waters" <customerservice@carmelturfcare.com>
Date: June 2, 2015 at 4:38:43 PM EDT
To: <jplankis@gotown.net>
Subject: Former concrete company

Joe,

Jeff asked me to send you our drawing and letter for the homeowners. If you need anything else, please don't hesitate to contact us.

Jeff's cell phone is 317-710-3927, email is jeffk@carmelturfcare.com

Thank you.

Service is our second nature!

Town of Westfield

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

June 20, 1979

Pettijohn & Banks
15111 Oak Road
Carmel, Indiana 46032

Gentlemen:

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

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

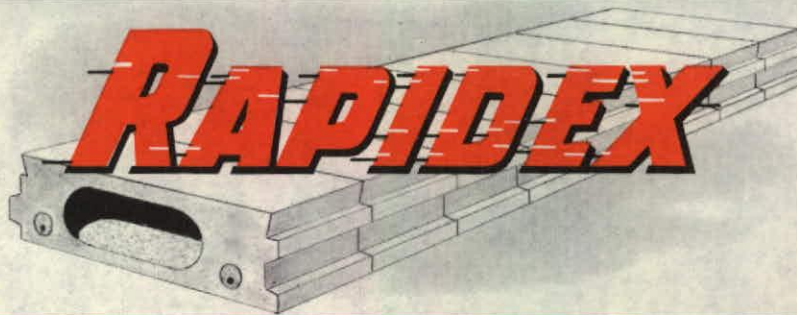
Yours truly,

Virginia C. Norris

Virginia C. Norris

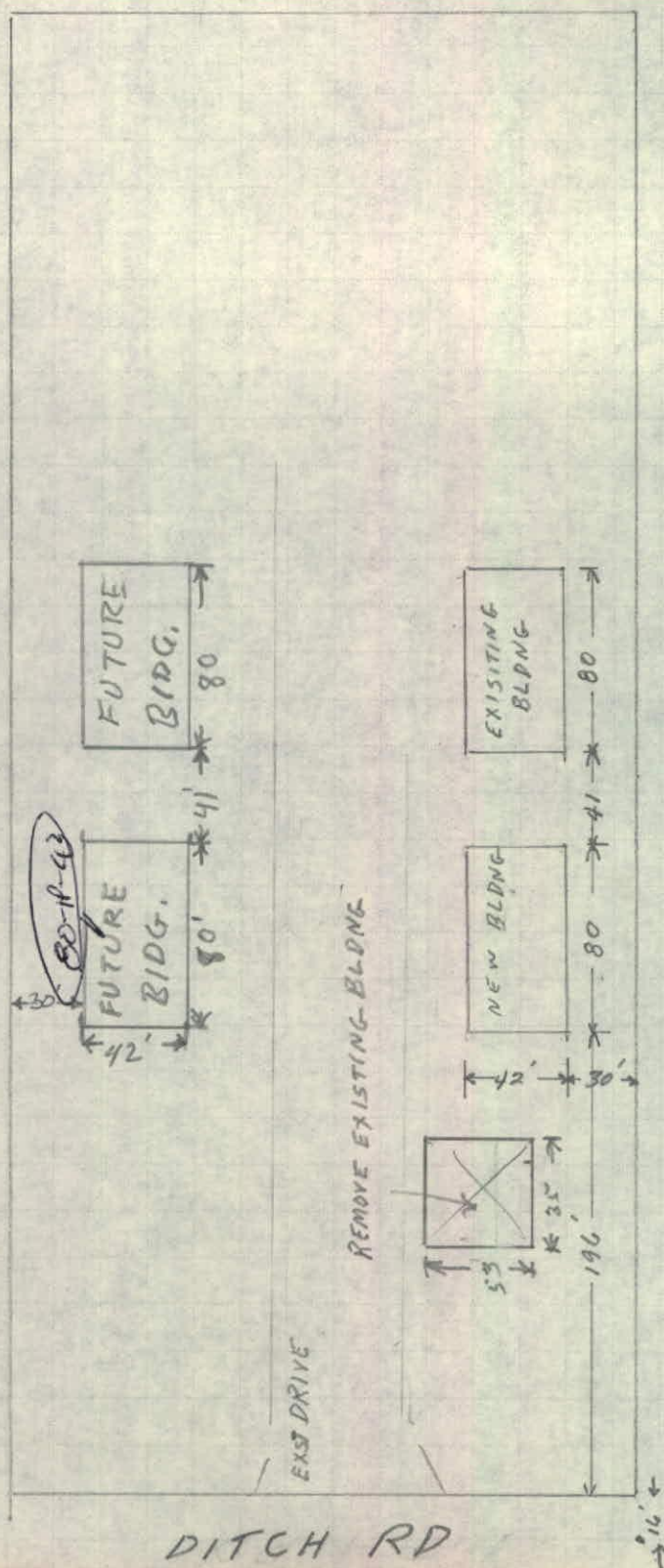
Secretary, Board of Zoning Appeals

LIGHT WEIGHT •
 ACOUSTICAL •
 ECONOMICAL •
 INSULATING •



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

NORTH ↑



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

SPICKELMIER INDUSTRIES, INC.

1100 East 52nd Street • Indianapolis 5, Indiana

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION



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

PRE-FILING CONFERENCE

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

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

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

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 14939 Ditch Road, Westfield, IN 46074

COUNTY PARCEL ID #(S): 08-09-15-00-00-013.000

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

VARIANCE REQUEST

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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



APPLICANT AFFIDAVIT

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

[Signature]
Applicant/Representative (signature)

Jeff Kolich
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 15 day of May, 2015.

State of Indiana, County of Hamilton, ss:



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

PROPERTY OWNER AFFIDAVIT

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

[Signature]
Property Owner (signature)*

STANLEY E. BANKS JR.
Property Owner (printed)

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

Witness my hand and Notarial Seal this 15 day of May, 2015.

State of Indiana, County of Hamilton, ss:



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

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

AFFIDAVIT OF NOTICE OF PUBLIC HEARING

DOCKET #: _____ PUBLIC HEARING DATE: _____

APPLICANT'S NAME: J & B Kelich Farms, LLCREPRESENTATIVE'S NAME: Jeff Kelich COMPANY: _____

PROJECT TO BE KNOWN AS: _____

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

PUBLIC NOTICE AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath does hereby certify that notice of public hearing to consider above petition was sent by certified, registered or first class mail to the last known address of each of the following persons, as attached hereto as Exhibit A, they being all persons to whom notice was required to be sent by the Plan Commission's Rules of Procedure, and that said notices were postmarked on the 15 day of May, 2015, being at least ten (10) days prior the scheduled public hearing.

I (We) further certify that the notice required to be posted on the subject property described in the above petition was posted on the subject property in accordance with the Plan Commission's Rules of Procedures on the _____ day of _____, 20____, being at least ten (10) days prior the scheduled public hearing.

Jeff Kelich
Applicant/Representative (signature)*

Jeff Kelich
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 15 day of May, 2015.

State of Indiana, County of Hamilton, ss:



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



FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: J & R Kelich Farms LLC DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: a Landscape Company / Nursery promotes green industry
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: A Landscape Company is an improvement in appearance and helps improve the land
- C. The need for the variance arises from some condition particular to the property involved because: Its a residential area with a commercial business use
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: It cant be used as a business to sell
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: Its an approved use in the area since 1979

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

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

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

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

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

APPLICANT:

Jeff Kelich

25710 Devaney Rd, Arcadia, IN. 46030

(317) 710-3927

REPRESENTATIVE:

Pettijohn & Banks INC

14939 Ditch Road, Westfield, IN. 46074

(317) 873-8686

CITY OF WESTFIELD:

Economic and Community Development Department

2728 East 171st Street

Westfield, IN. 46074

Telephone: (317) 804-3170

www.westfield.in.us

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

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

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

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

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

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

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

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

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

DULY ENTERED FOR TAXATION

12 day June 1979
Barbara J. Jennings Auditor
Hamilton County

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

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

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

SS:

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

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

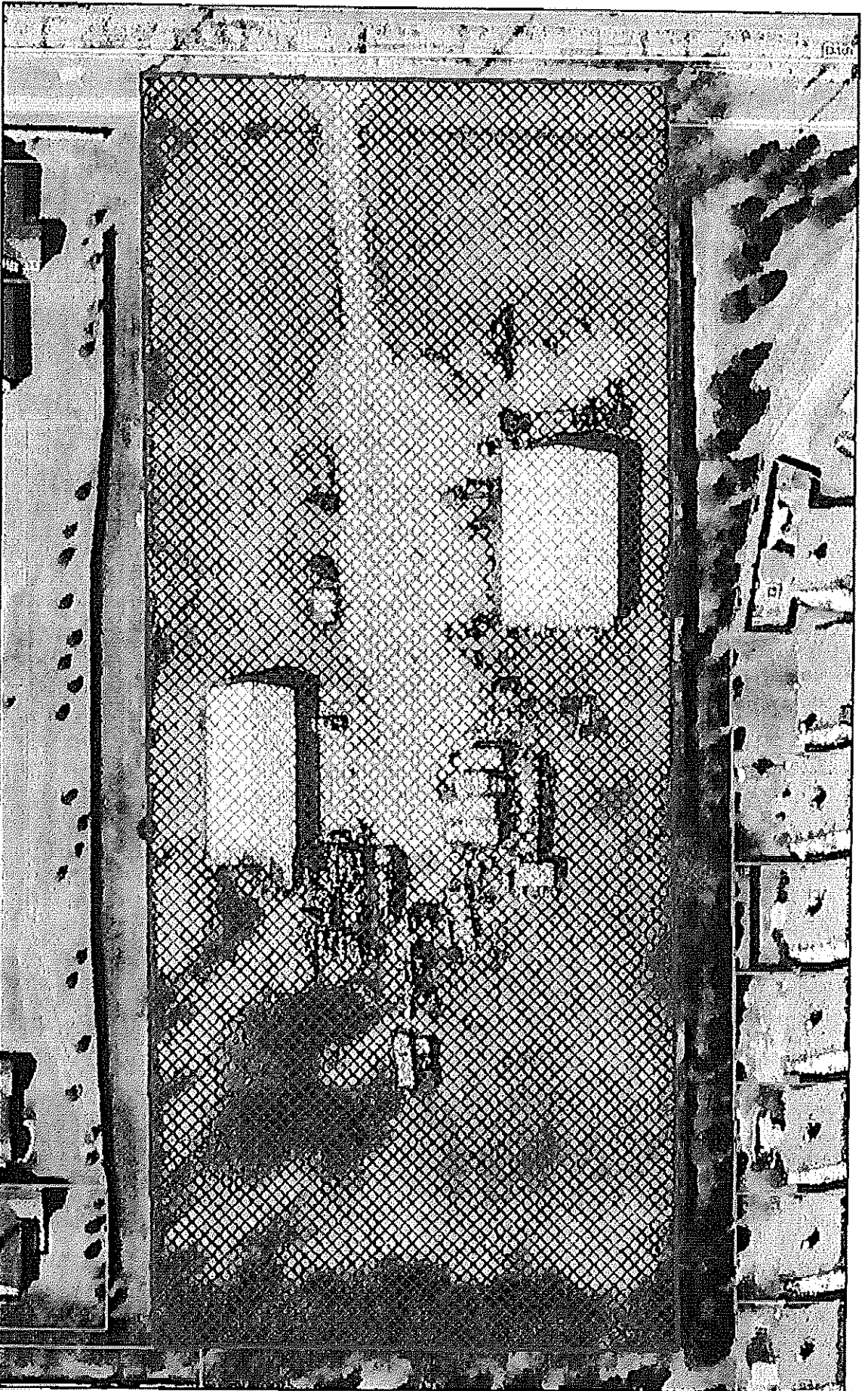
Witness my hand and the Notarial Seal this 6 day of JUNE, 1979.

My commission expires _____
COUNTY OF INDIANA

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

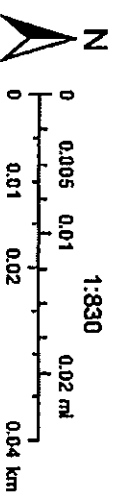
This instrument was prepared by Donald R. Peyton, attorney at law.

14939 Ditch Road



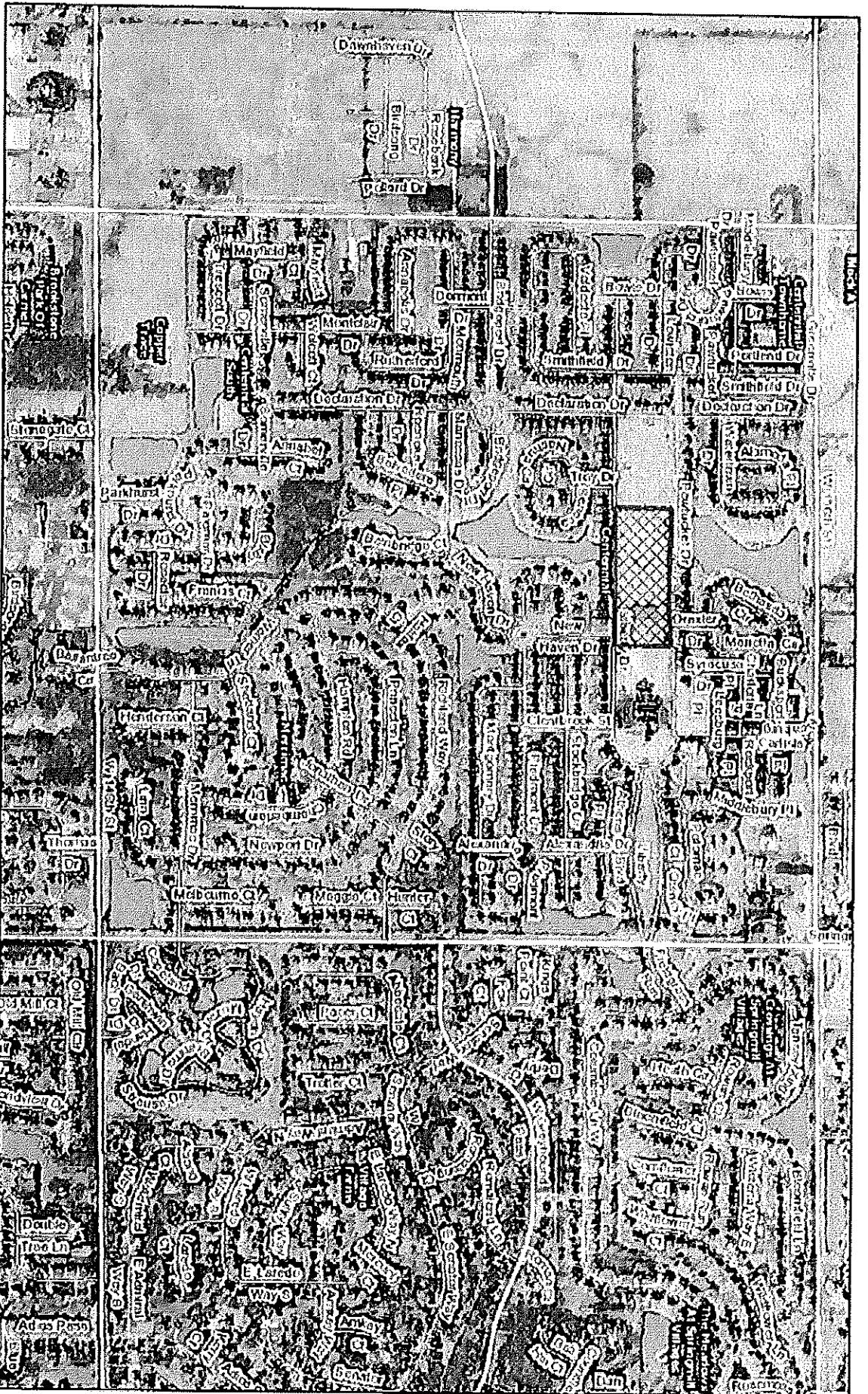
March 16, 2015

Parcels

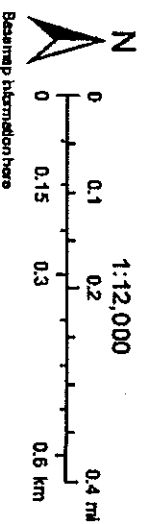


Base map information here

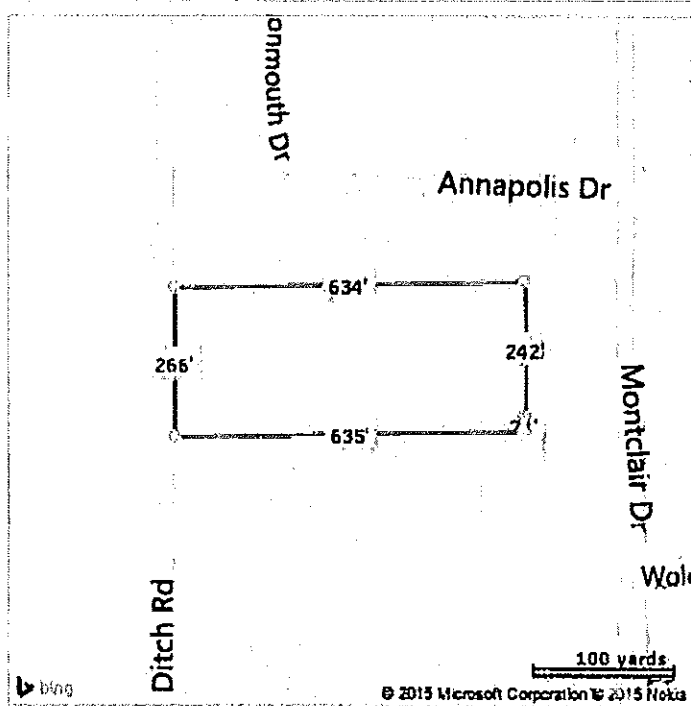
14939 Ditch Road



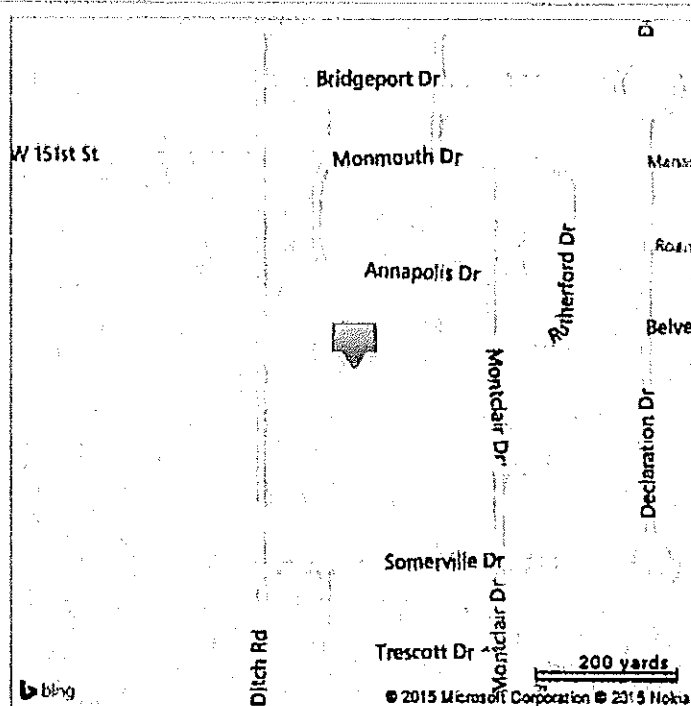
March 16, 2015



Property Map



*Lot Dimensions are Estimated



Building 1 of 2

Characteristics

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

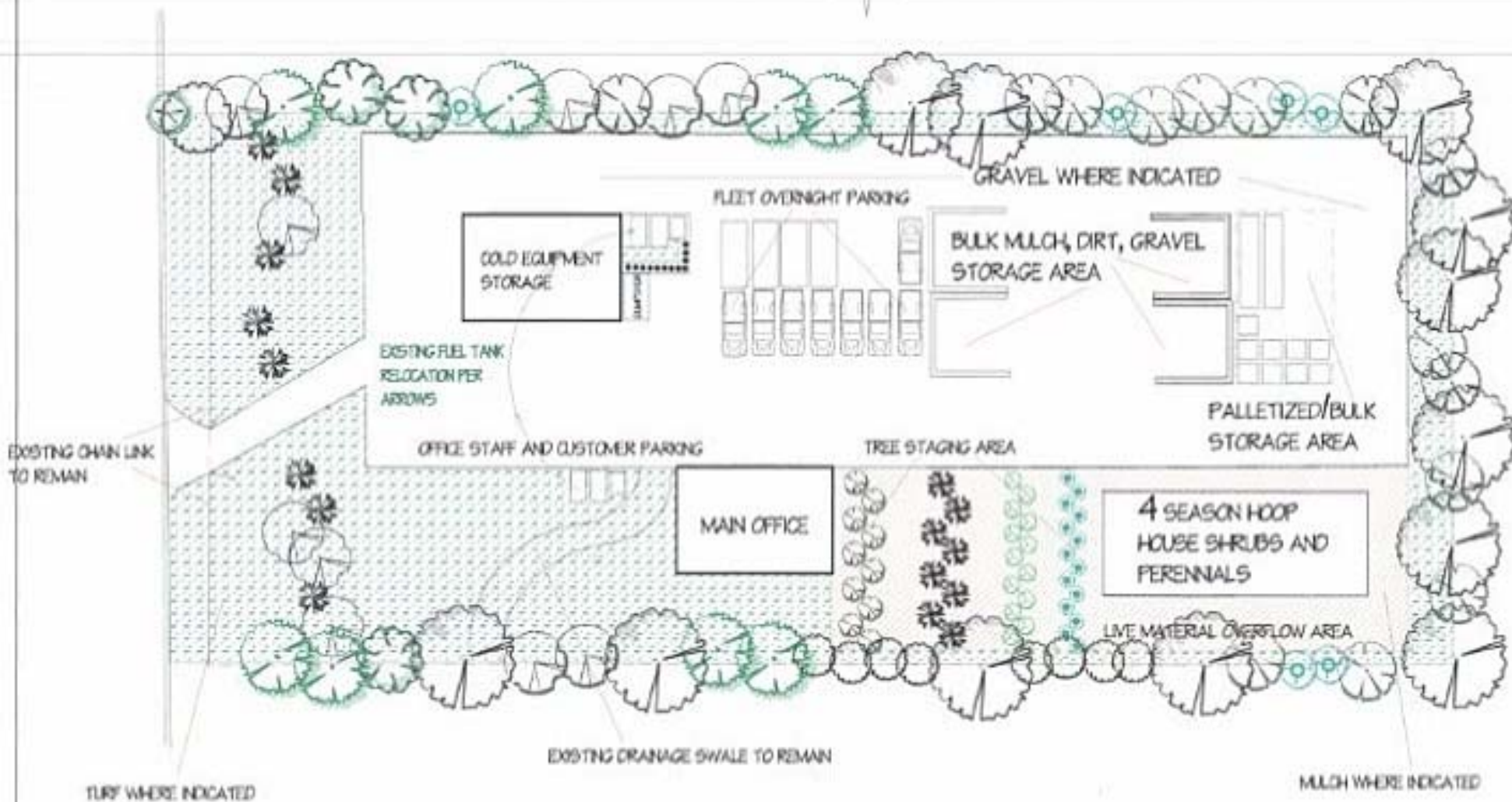
Features

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

Building 2 of 2

Characteristics

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



Revision #: MASTER PLAN

Date: 5/28/2015

Scale:

1" = 30'

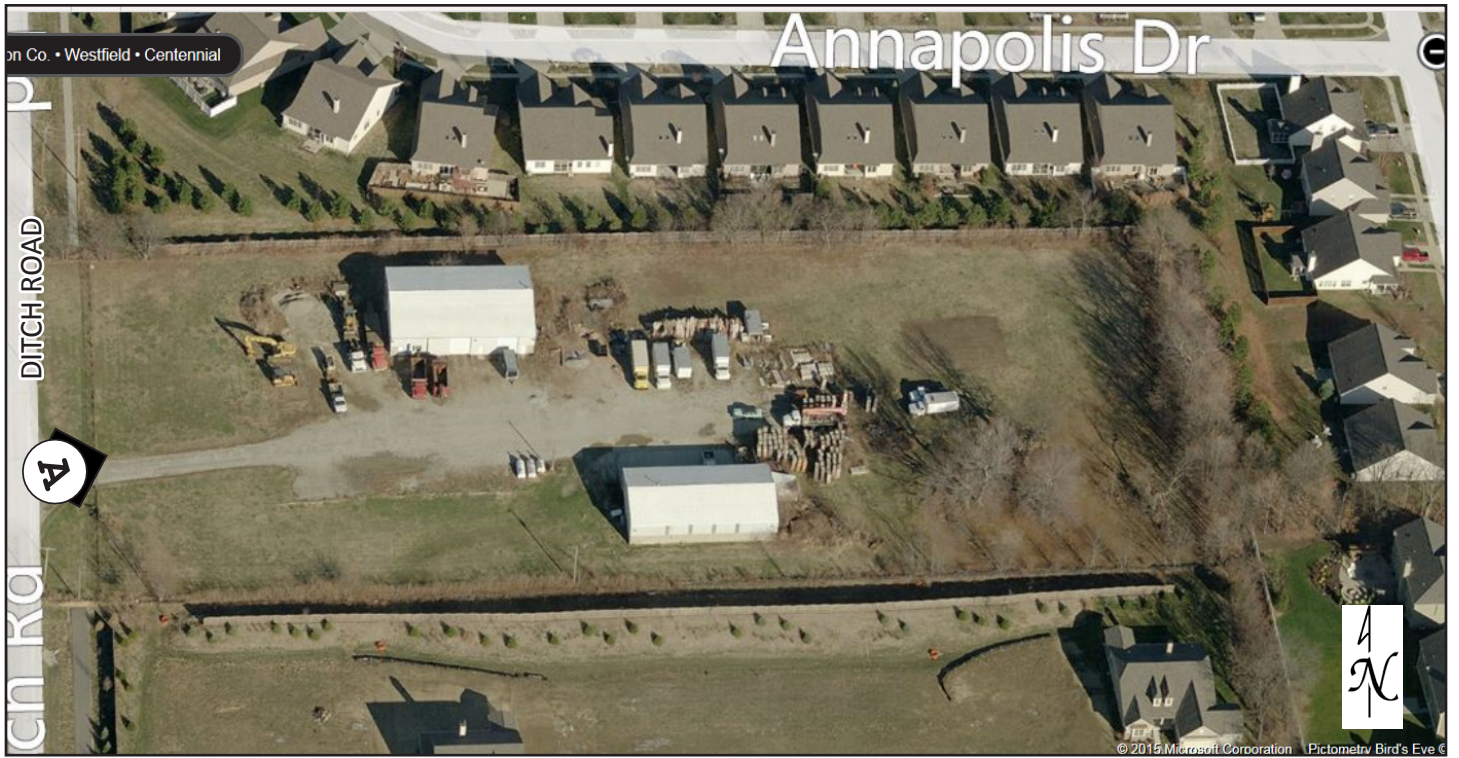
Landscape Plan: FORMER
PETTIGOHN CONCRETE
COMPANY

Landscape Design by:



23478 US 31 N
SUITE B
CICERO, IN 46034

EXISTING CONDITIONS EXHIBIT



EXISTING CONDITIONS EXHIBIT

