



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_03_10_2015

Tuesday, March 10, 2015 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, March 10, 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

Election of Officers

- Chairperson
- Vice-Chairperson
- Pro-Tempore

Approval of Minutes - January 13, 2015

Documents: [January 13, 2015, Minutes](#)

Review BZA Rules & Procedures

ITEMS OF BUSINESS:

1503-SE-01 & 1503-VS-05 [PUBLIC HEARING]

140 East 161st Street

Noah Herron

The petitioner is requesting 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).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Conditions](#) | [Exhibit 4: Narrative Description](#) | [Exhibit 5: Rendering](#) | [Exhibit 6: Site Plan](#) | [Exhibit 7: Street Frontage Landscape Plan](#) | [Exhibit 8: Signage Examples](#)

1503-VS-01 [PUBLIC HEARING]

17130 Joliet Road

Sterling and Jessica Strickland

The petitioner is requesting: (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.

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Petitioners Application](#) | [Exhibit 4: Historic Site Plan](#) | [Exhibit 5: Proposed Site Plan](#)

1503-VS-02 [PUBLIC HEARING]

16588 North Gray Road

James Campbell

The petitioner is requesting 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)).

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

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).

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

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).

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

1503-VU-02 [PUBLIC HEARING]

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 4: Petitioner Application](#) | [Exhibit 5: Acknowledgement of Variance](#) | [Exhibit 6: 1304-VU-01 Department Report](#) | [Exhibit 7: 04/09/13 BZA Minutes](#)

REPORTS/COMMENTS:

APC LIAISON

ECD STAFF

ADJOURNMENT



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015

1503-VS-02

Exhibit 1

Petition Number: 1503-VS-02

Subject Site Address: 16588 North Gray Road (the "Property")

Petitioner: James E. Campbell, II (the "Petitioner")

Property Owner: James E. Campbell (the "Property Owner")

Request: The petitioner is requesting two (2) Variances of Standard from the Unified Development Ordinance (the "UDO") for the property commonly known as 16588 North Gray Road, Westfield, Indiana 46062. The request is 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)).

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

Current Land Use: Residential

Approximate Acreage: 3.0 acres

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Petitioner's Statement of Intent
5. Site Plan Exhibit

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

This petition will receive a public hearing at the March 10, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is 3.0 acres +/- in size and located on the west side of Gray Road, approximately 1,280 feet south of 169th Street (see [Exhibit 2](#)). The Property is zoned AG-SF1: Agriculture / Single-Family Rural District ("AG-SF1"). The Property currently contains a single family home, a detached garage and a barn (see [Exhibit 3](#)). The surrounding properties include the Brookside neighborhood to the west (SF2: Single-Family Low Density District) and rural/estate residential uses to the north and south (zoned AG-SF1: Agriculture-Single Family Rural). The properties to the east across Gray Road are within Noblesville's planning and zoning jurisdiction and include rural/estate residential uses (zoned SR: Low Density Single Family Suburban Residential).



Variance Request: As summarized in the Petitioner's Statement of Intent (see Exhibit 4), the Petitioner has filed this variance request to allow the construction of a second home on the property, as generally shown on the Site Plan Exhibit (see Exhibit 5).

Article 6.4(B) Building Standards; Single-family Residential Uses: The standard states "[i]n no case shall there be more than one (1) Principal Building¹ used for residential purposes, and its Accessory Buildings, located on one (1) Lot, except as otherwise permitted herein."

In reviewing the proposed request, the Department identified that the existing half right-of-way along the Property's Gray Road frontage was not consistent with the City's Thoroughfare Plan, as further described herein. As a result, the Department requested the Petitioner's consideration to dedicate additional right-of-way in accordance with the Thoroughfare Plan. Upon the dedication of additional right-of-way, the Property's lot size would become less than three (3) acres. As a result and in working with the Department, the Petitioner is also requesting a variance to reduce the Minimum Lot Area to two and one half (2.5) acres for the existing Property (current three acres minus the approximate half acre of additional right-of-way). The additional right-of-way is depicted on the Site Plan Exhibit.

Article 4.2(C) AG-SF1; Minimum Lot Area: The standard for Minimum Lot Area in the AG-SF1 District is three (3) acres. The Property currently is three (3) acres in size; however, the property size would become less than three (3) acres upon the dedication of additional right-of-way.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Suburban Residential"² land use classification. Among other uses, the Comprehensive Plan³ notes this area of the township includes a variety of housing types, including subdivisions, at a variety of densities, along with recreational uses.

The Comprehensive Plan notes the basic policy of this area is to preserve and protect the stability and integrity of the area as it fills to consist primarily of single-family residences. Other policies include: (i) ensure that infill development is compatible in mass, scale, density, materials, and architectural style to existing development; (ii) ensure that new development adjacent to existing suburban is properly buffered; and (iii) encourage only compatible infill development on vacant parcels in existing neighborhoods as a means of avoiding sprawl.

Thoroughfare Plan: A part of the Comprehensive Plan is the Thoroughfare Plan, which is designed to support and facilitate the City's efforts to provide for safe and effective transportation systems within the Township. As such, each major thoroughfare in the Township is classified, based on anticipated future growth. Gray Road is designated on the Thoroughfare Plan as a "Secondary Arterial", which is the second highest classification for a major thoroughfare. The Thoroughfare Plan provides that a Secondary Arterial could be up to a half

¹ The UDO (Chapter 12) defines "Principal Building" as "[a] building in which is conducted the main or primary use of the Lot on which said building is located. Where a substantial portion of an ancillary building is attached to the Principal Building in a substantial manner, as by a roof, then such ancillary building shall be counted as a part of the Principal Building and not as an Accessory Building."

² Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

³ Westfield-Washington Township Comprehensive Plan, Suburban Residential (pg. 38).



right-of-way of sixty (60) feet in order to accommodate future improvements. For reference purposes, the "60' From Center Line of Road" is labeled on the Site Plan Exhibit.

Procedural

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

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

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

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

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.



Department Comments

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

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.

Recommended Findings for Approval:

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

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

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

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

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

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



Recommended Findings for Denial:

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

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

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

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

Finding: It is likely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) would result in an additional home on the property without demolishing the prior home first, thus allowing for the continued use of the Property in a manner inconsistent with the quality and character of the surrounding area and Comprehensive Plan.

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

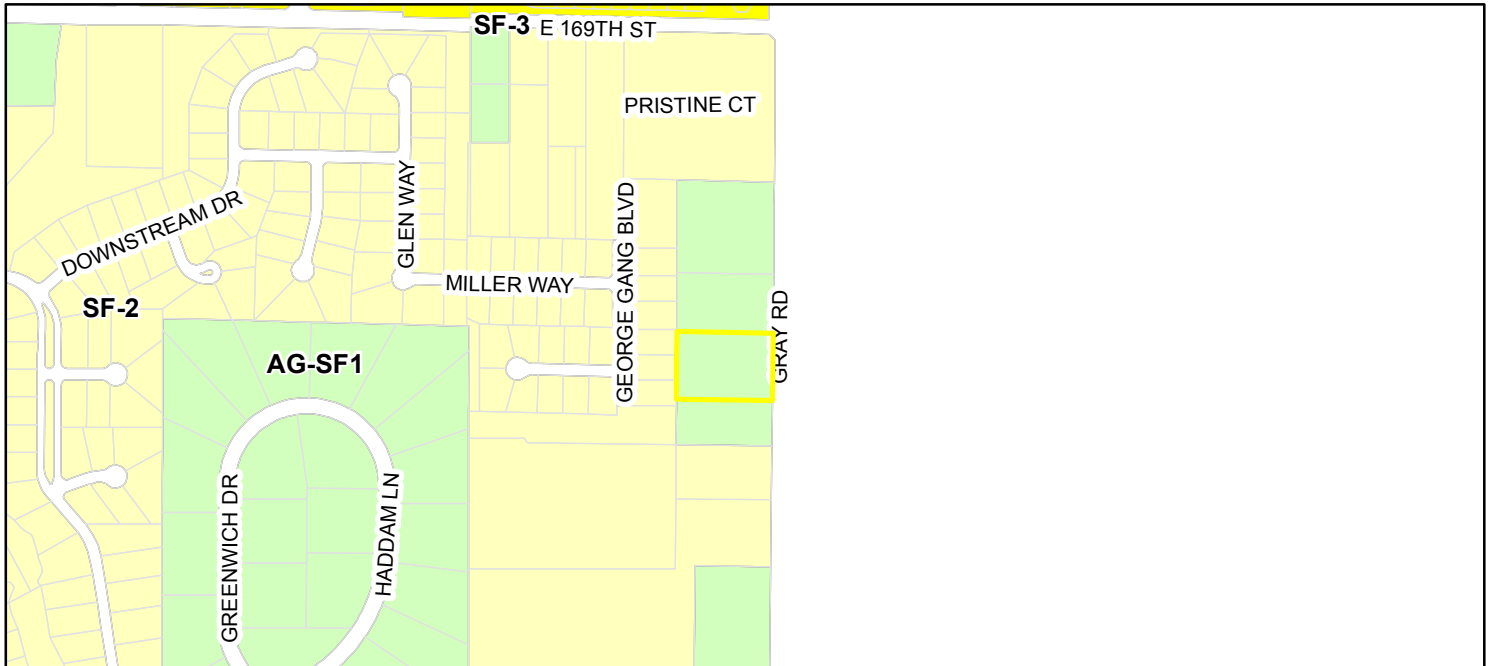
Finding: Strict adherence to the zoning ordinance would not result in the inability to use the property as the proposed residential use is otherwise occurring on the property would continue to be permitted by the Unified Development Ordinance.

Aerial Location Map

Site



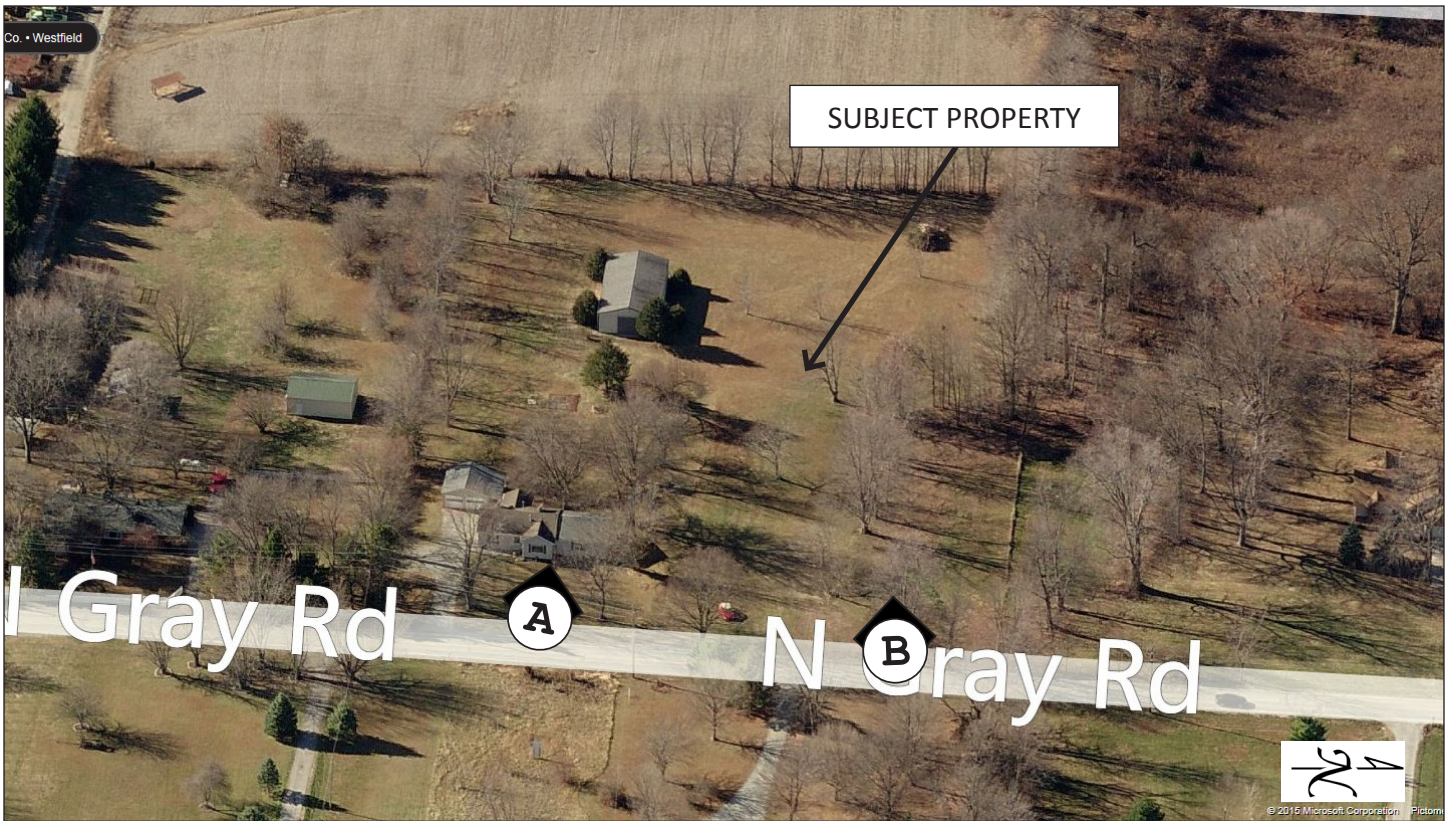
Zoning Map



Zoning

AG-SF1 (Agriculture - Single Family - 1)	GB-PD (General Business - Planned Development)	MF-2 (Multiple Family - 2)	SF-3 (Cluster (Single Family - 3 Cluster))
AG-SF1I (Agriculture - Single Family - 1 In-town)	GO (General Office)	OI (Open Industrial)	SF-4 (Single Family - 4)
EI (Enclosed Industrial)	GO-PD (General Office - Planned Development)	OI-PD (Open Industrial - Planned Development)	SF-4 Pre-1994 (Single Family - 4 Pre-1994)
EI-PD (Enclosed Industrial - Planned Development)	LB (Local Business)	PUD (Planned Unit Development)	SF-5 (Single Family - 5)
GB (General Business)	LB-H (Local Business - Historical)	SB-PD (Special Business - Planned Development)	SF-A (Single Family - Attached)
	LB-PD (Local Business - Planned Development)	SF-2 (Single Family - 2)	
	MF-1 (Multiple Family - 1)	SF-3 (Single Family - 3)	

EXHIBIT 3: EXISTING CONDITIONS EXHIBIT



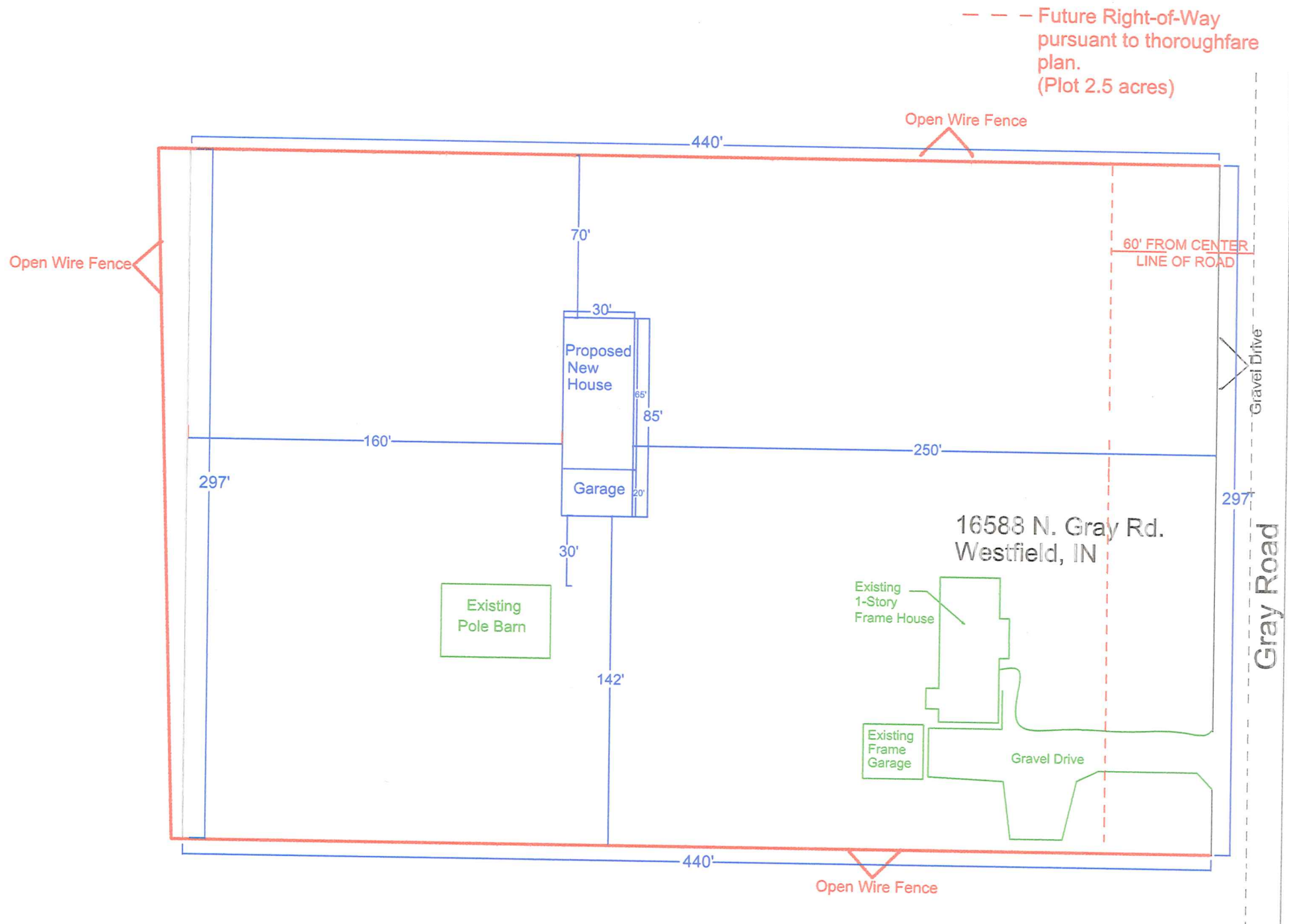
Statement of Intent:

My parents are nearing the age where assistance will be required on a more regular basis due to their current health issues and medical conditions while still wanting to maintain their independence. The infrastructure of their home, which is barely sufficient to handle my parent's needs, would certainly be overburdened with additional occupants. In addition, the house has foundation issues and is overall in poor condition. The house would not be suitable to live in for a long period of time without significant and costly renovations or maybe even total demolition. For these reasons, it is not feasible to move my family in to my parent's home. As a result, I am requesting that a Variance be approved that will allow a second primary residence to be built on their property.

The Variance would be temporary as the original structure and detached garage will be demolished within a six months period of my parents moving out or my father passing away. If my father passes away prior to my mother she will relocate to my sister's house in Danville. If the situations arise, prior to the previous event taking place, which results in the property needing to be sold the original house and detached garage will be demolished prior to the sale being finalized.

Also, we are requesting a second Variance. My father has lived on this property since 1974. The fence line, which outlines the perimeter of the lot, is a total of 3 acres. My father has maintained the entire lot for more than 40 years. However, the property line is technically just inside the fence line on the north/west portion of the lot. Due to this fact, the plot of land is actually less than 3 acres (2.5 acres considering the Right-of-way pursuant to the thoroughfare plan). So, I am also requesting that a Variance be approved that will allow a structure to be built on a lot that is less than 3 acres.

The new home estimated value will be more than double that of the current structure. Approval of these Variances and allowing the additional house to be built on the property will increase the overall values and generate additional property taxes for many years.





Petition Number: 1503-SE-01 & 1503-VS-05

Subject Site Address: 140 East 161st Street (the “Property”)

Petitioner: Noah Herron d/b/a Urban Farmer Seeds and Plants (the “Petitioner”)

Request: The petitioner is requesting 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).

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

Current Land Use: Vacant

Approximate Acreage: 3.10 acres +/-

Exhibits: Exhibit 2: Location Map
Exhibit 3: Existing Conditions
Exhibit 4: Narrative Description and Request
Exhibit 5: Conceptual Renderings
Exhibit 6: Conceptual Site Plan
Exhibit 7: Street Frontage Landscape Plan
Exhibit 8: Signage Examples

Staff Reviewer: Andrew Murray

PROJECT OVERVIEW

Location: The subject property is 3.10 acres +/- in size and located at 140 E. 161st Street, on the north side of 161st Street; approximately a quarter mile east of the Kroger Supermarket (**see Exhibit 2**). The Property is zoned AG-SF1 and currently contains structures totaling 4,560 square feet +/- (**see Exhibit 3**). The surrounding adjacent properties to the north and west are zoned Single Family-3 Cluster District and are improved with single-family dwellings located in the Countryside subdivision. The properties to the east and south are zoned AG-SF1 and are improved with large lot single-family dwellings.

Property History: The prior use of the property was an excavating/construction operation, which is not a permitted use under the current zoning classification. The Property has been unoccupied, with the exception of equipment stored within the existing structures, for approximately the past ten (10) years.

Special Exception Request: The Petitioner has filed a Special Exception request to allow the use of the Property for an agricultural/retail use for the Urban Farmer Seeds and Plants business. The Department has determined the proposed use is an Agritourism Use¹, as defined by the Unified Development

¹ The UDO defines “Agritourism Use” as “[a]n agriculturally-based operation or activity that brings visitors to an operational farm, and that may include, but is not limited to, uses and activities such as: pumpkin patches, Christmas tree sales, animal interaction exhibits, apple or strawberry picking, seasonal or holiday activities, family-oriented



Ordinance. The Petitioner would utilize the Property to provide agricultural-related opportunities and experiences as described in **Exhibit 4**. As shown in **Exhibit 5** and **Exhibit 6**, the Petitioner is proposing to utilize and improve the existing Property and structures. The reuse of the existing structures will require interior renovations; however, the Petitioner also anticipates future expansion, as shown in **Exhibit 6**. Seasonal activities contemplated on the Property include a community garden, educational tours, pumpkin patch, and the sale of Christmas trees and other local products.

An Agritourism Use is permitted only by Special Exception in the AG-SF 1 District. As a result, the Petitioner has filed the appropriate Special Exception application.

Variance of Development Standard Request: In addition to the Special Exception request, the Petitioner, in coordination with the Department, also requests the following Variances of Development Standard:

1. Minimum Lot Area (Article 4.2(C)). In reviewing the proposed Special Exception request, the Department identified that the existing half right-of-way along the Property's 161st Street frontage was not consistent with the City's Thoroughfare Plan. As a result, in coordination with the Public Works Department, the Petitioner, as shown in **Exhibit 6**, will dedicate (as part of the development plan review and approval process) property for the necessary right-of-way improvements related to the development of the Property. As a result of the dedication of this additional right-of-way, the Property will be less than the minimum required three (3) acres in the AG-SF1 District.
2. Minimum Building Setback, Front Yard (Article 4.2 (E)(1)). As a result of the right-of-way dedication, as described above, the Petitioner requests a reduction to the Minimum Building Setback in the Front Yard from one hundred (100) feet to forty (40) feet to accommodate the existing and proposed structures.
3. Landscaping. In working with the Petitioner, the Department identified that variances from the following landscaping standards would be necessary in order to accommodate the Petitioner's proposed landscape plan. The proposed landscape plan is intended to accommodate the unique nature of the proposed use and the Petitioner's intended character for the Property, as well as provide landscaping appropriate with the character and uses of the surrounding properties.
 - a. Perimeter Parking Area (Article 6.8(O)(2)). The standard requires a five (5) foot wide planting area extending along the perimeter of a Parking Area. Required within the Parking Area is one (1) tree per thirty (30) linear feet and one (1) shrub per three (3) linear feet of Parking Area length. As a result of parking spaces oriented and abutting an existing six (6) tall wood fence, the Petitioner is requesting this standard not apply to the Property.
 - b. Foundation Plantings (Article 6.8(L)). The standard requires plant materials for long expanses of Building Facades. Due to the location of the gravel drive aisle and the limited visibility of the structure from adjoining properties or 161st Street, the Petitioner is requesting this standard not apply to the Property.

activities , creamery, vineyards, breweries, educational experiences or tours, limited retail sales of products not produced on-site, related beverage or food sales, and related ancillary uses and buildings."



- c. External Street Frontage Landscaping Requirements (Article 6.8(M)). The standard requires a minimum three (3) shade trees, three (3) ornamental trees, and twenty-five (25) shrubs per one hundred (100) lineal feet of Lot Frontage on 161st Street. The Petitioner is requesting this standard not apply; rather, the community garden, trialing garden and butterfly habitat (as shown in Exhibit 7) proposed along 161st Street replace the otherwise required External Street Frontage Landscaping Requirements.
4. Public Parking Area Surface (Article 6.14(G)(7)). Public Parking Areas are required to be paved with a dust proof or hard surface. As noted in Exhibit 6, gravel already exists on the Property. In order to preserve the agricultural environment and desired character of the proposed use of the Property, the Petitioner is requesting the standard not apply to the Property.
5. Sign Area (Article 6.17(H)(1)). The standard for determining the total Sign Area Allocation is one (1) square foot of Sign Area for each one (1) linear foot of building fronting on a public Right-of-way. The total Sign Area may be divided between Monument, Wall and Awning signs. As shown in Exhibit 6, the total linear of footage of building fronting 161st Street is forty (40) feet. Because of the nature and scale of the proposed use, as well as the orientation of the current structures, the Petitioner does not feel forty (40) square feet of signage is adequate for the Property. As a result, the Petitioner requests to double to total Sign Area Allocation to eighty (80) square feet. Examples of signs are included as Exhibit 8.

Comprehensive Plan: The Comprehensive Plan identifies this Property within the “Suburban Residential” land use classification. Development policies include: (i) protection of existing suburban character of the area; (ii) ensure that the infill development is compatible in mass, scale, density, materials and architectural style; and (iii) ensure proper buffering to existing residential development.

Spring Mill Station Plan: The Spring Mill Station Plan (the “Plan”), an addendum to the Comprehensive Plan adopted by the Council in April 2014, identified a geographic study area (named “Spring Mill Station”) generally located at the four corners of the intersection of Spring Mill Road and 161st Street. The planning process of adopting the Plan resulted in the formation of the Spring Mill Station Task Group (the “SMSG”), which primarily consists of representatives of the surrounding neighborhoods.

Although the Property is located just outside the boundaries of Spring Mill Station, the Department encouraged the Petitioner to meet with the SMSG. The SMSG has provided a letter as a result of their meeting with the Petitioner, which will be presented at the public hearing.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Special Exception and Variances of Development Standard. The petitions are scheduled to receive its public hearing at the March 10, 2015, Board of Zoning Appeals meeting. Notice of the public hearings were properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.



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

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy 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.

Special Exceptions: The UDO (Chapter 12: Definitions) defines “Special Exception” as “[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted”.

Special Exception Decision Criteria: A Special Exception may be approved by the Board of Zoning Appeals only upon the determination in writing that the Special Exception at the proposed location meets the following⁴:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare;
2. The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area;
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District;
4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services;

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.

⁴ Article 10.11(D) Processes and Permits; Special Exceptions; Review Criteria



5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way;
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan; and
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.

Variances of Development Standard Decision Criteria: Variances of Development Standard may be approved only upon the determination that⁵:

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

STAFF COMMENTS

If the Board of Zoning Appeals is inclined to approve the Special Exception and Variances of Development Standard, then the Department recommends approving the petitions with the following conditions and findings:

Recommended Conditions:

1. The Special Exception shall be substantially similar as described in the Petitioner's Narrative Description and Conceptual Site Plan, attached hereto 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.

Recommended Findings of Approval (Special Exception):

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

Finding: It is unlikely that approving the requested Special Exception would be injurious to the public health, safety, morals, and general welfare of the community because the use as proposed is consistent with the character of the area and the use itself offers a service benefiting the community and surrounding subdivisions.

⁵ Article 10.11(G)(2) Processes and Permits; Variances, Decision Criteria



2. The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area:

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed Special Exception should not have a negative impact on surrounding properties because: (i) the operation and design of the use are intended to mitigate the impact on surrounding properties; and (ii) the use is otherwise contemplated as appropriate in the AG-SF1 District.

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

Finding: The Unified Development Ordinance contemplates the use within the AG-SF1 District. The proposed operation and design of the use should mitigate potential impact on surrounding properties. As such, the use is compatible with permitted uses of the AG-SF1 District and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services:

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

5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding Rights-of-way:

Finding: Development Plan review and approval of the Special Exception will be required, at which time the development plan will be reviewed for compliance with the applicable design standards related to ingress and egress. Any additional improvements that may be warranted at that time to minimize conflict and interference with the adjacent right-of-way will be required. .

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

Finding: See Page 3, "Comprehensive Plan". The Comprehensive Plan states the basic policy is to preserve and protect the stability and integrity of the area as infill development occurs (page 38, Comprehensive Plan).

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



Finding: The Unified Development Ordinance contemplates the use within the AG-SF1 District. The use and property will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

Recommended Findings of Approval (Variances of Development Standard):

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

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

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

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

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property.

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

If the Board of Zoning Appeals is inclined to deny the Special Exception or Variances of Development Standard, then the Department recommends the following findings:

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

Finding: It is unlikely that approving the requested Special Exception would be injurious to the public health, safety, morals, and general welfare of the community because the use as proposed is consistent with the character of the area and the use itself offers a service benefiting the community and surrounding subdivisions.

2. The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area:



Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed Special Exception should not have a negative impact on surrounding properties because: (i) the operation and design of the use are intended to mitigate the impact on surrounding properties; and (ii) the use is otherwise contemplated as appropriate in the AG-SF1 District.

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

Finding: The Unified Development Ordinance contemplates the use within the AG-SF1 District. The proposed operation and design of the use should mitigate potential impact on surrounding properties. As such, the use is compatible with permitted uses of the AG-SF1 District and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services:

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

5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding Rights-of-way:

Finding: Development Plan review and approval of the Special Exception will be required, at which time the development plan will be reviewed for compliance with the applicable design standards related to ingress and egress. Any additional improvements that may be warranted at that time to minimize conflict and interference with the adjacent right-of-way will be required. .

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

Finding: See Page 3, "Comprehensive Plan". The Comprehensive Plan states retail uses should be restricted in Existing Suburban areas (page 39, Comprehensive Plan) and the proposed use is not an appropriate transition use from Spring Mill Station (page 17, Spring Mill Station Plan).

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

Finding: The Unified Development Ordinance contemplates the use within the AG-SF1 District. The use and property will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

Recommended Findings of Denial (Variances of Development Standard):

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



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

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

Finding: It is likely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) will likely have a negative impact on surrounding properties because the Special Exception is inconsistent with the surrounding area and will likely have an undesirable impact in preserving the character and quality of the area.

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property.

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



Urban Farmer Seeds and Plants Location Map

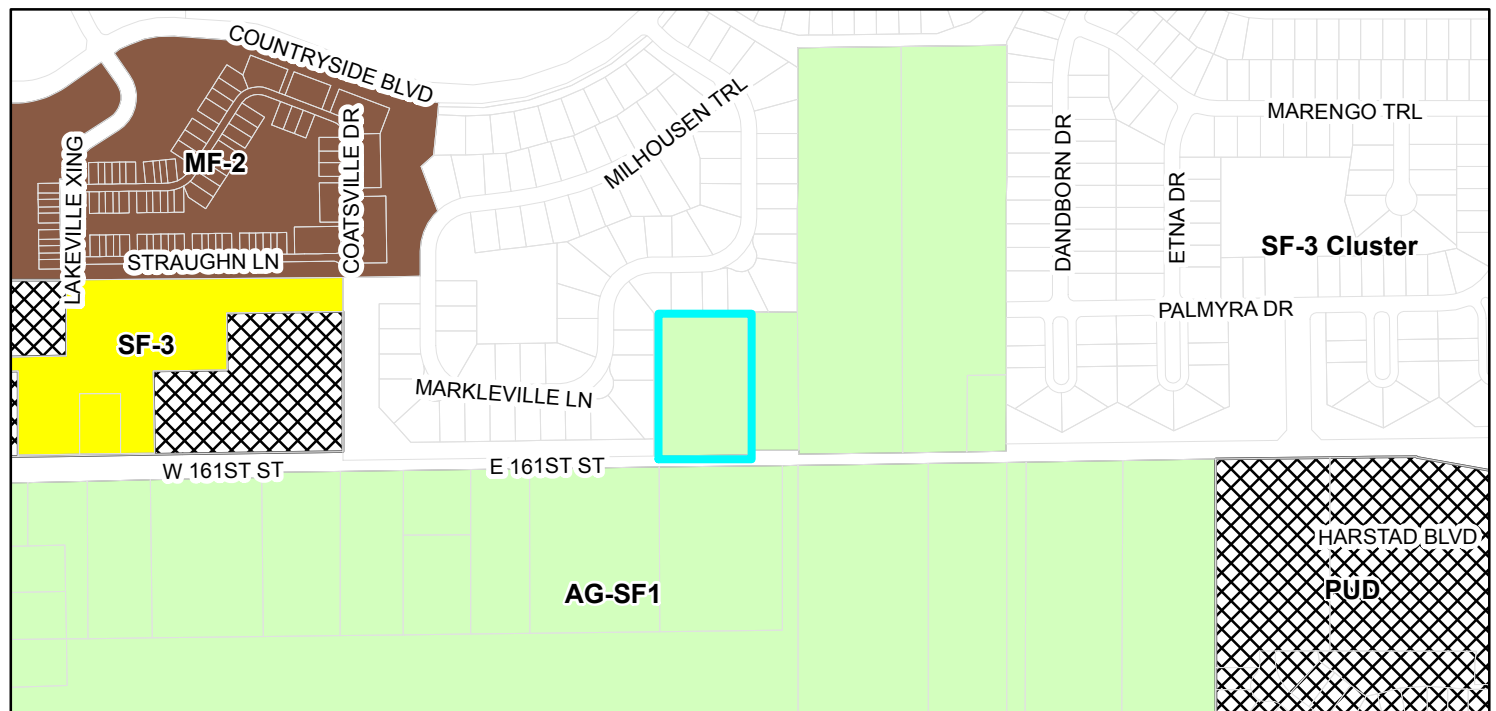


Aerial Location Map



Funding was from Hamilton County, the City of Carmel, the Town of Fishers, the City of Noblesville, and the City of Westfield. The aerial photography was acquired and produced by Quantum Spatial. QC was done in-house by Hamilton County.

Zoning Map



Zoning

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

EXHIBIT 3: EXISTING CONDITIONS EXHIBIT

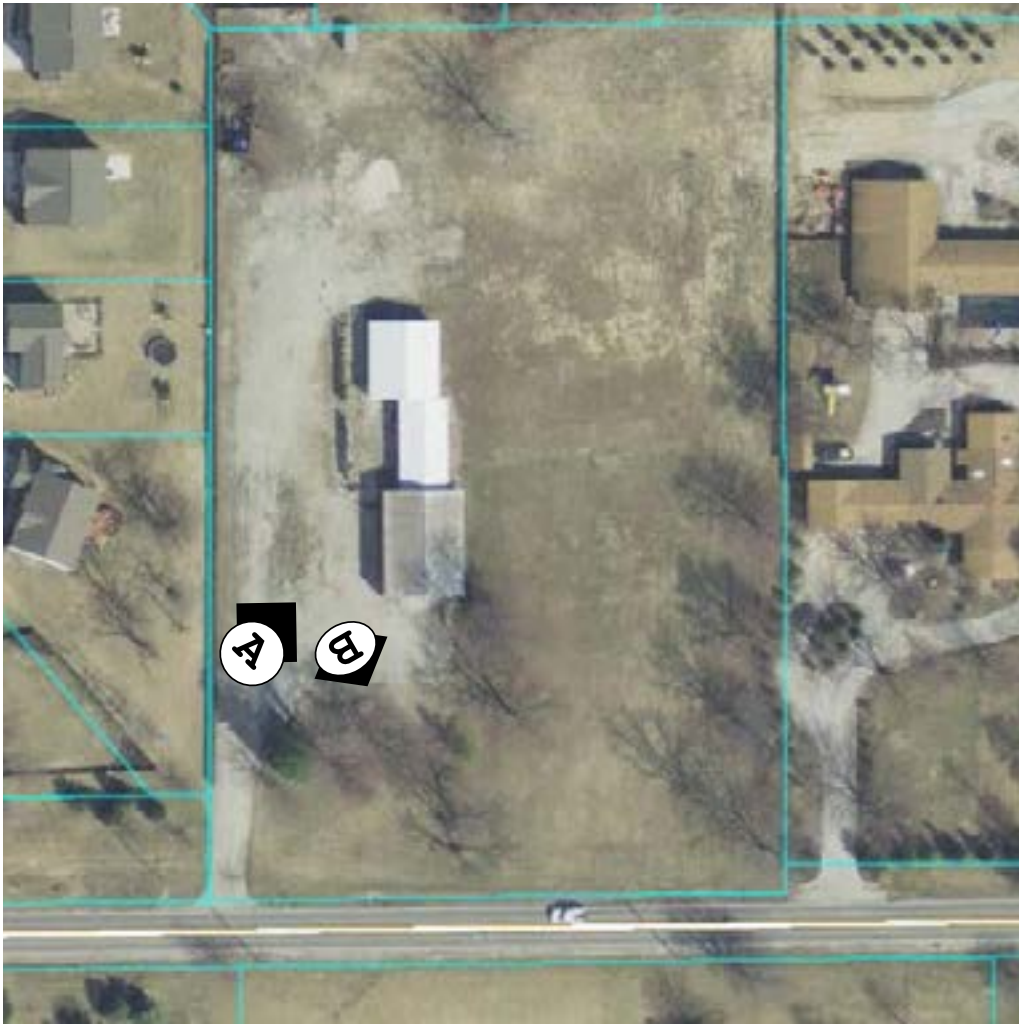


EXHIBIT 3: EXISTING CONDITIONS EXHIBIT



EXHIBIT 3: EXISTING CONDITIONS EXHIBIT



Statement of Intent

My name is Noah Herron and I am the owner of Urban Farmer Seeds. We are a small business that intends to become a valued member of the Westfield community. Our current plan is to purchase the property at 140 E 161st St in Westfield and restore both the building and land. The existing building on the property will accommodate our daily activities with minimal renovation. We intend to use the building as a warehouse, office and country store. Currently our main client base is mail order through both our catalog and website orders. Our mail order business allows us to be profitable but at the same time low impact on the surrounding community. The country store would carry gardening supplies, homesteading supplies and local products (e.g. honey, produce, candles, soaps, etc..).

We intend to utilize the property for agricultural, agritourism and nursery purposes set forth in the Westfield zoning guidelines. We will rehabilitate the land by using only organic farming methods and adding many native plants that are beautiful and attract beneficial insects. Seasonally we would like to offer a community garden, educational tours, pumpkin patch, Christmas tree sales and local products.

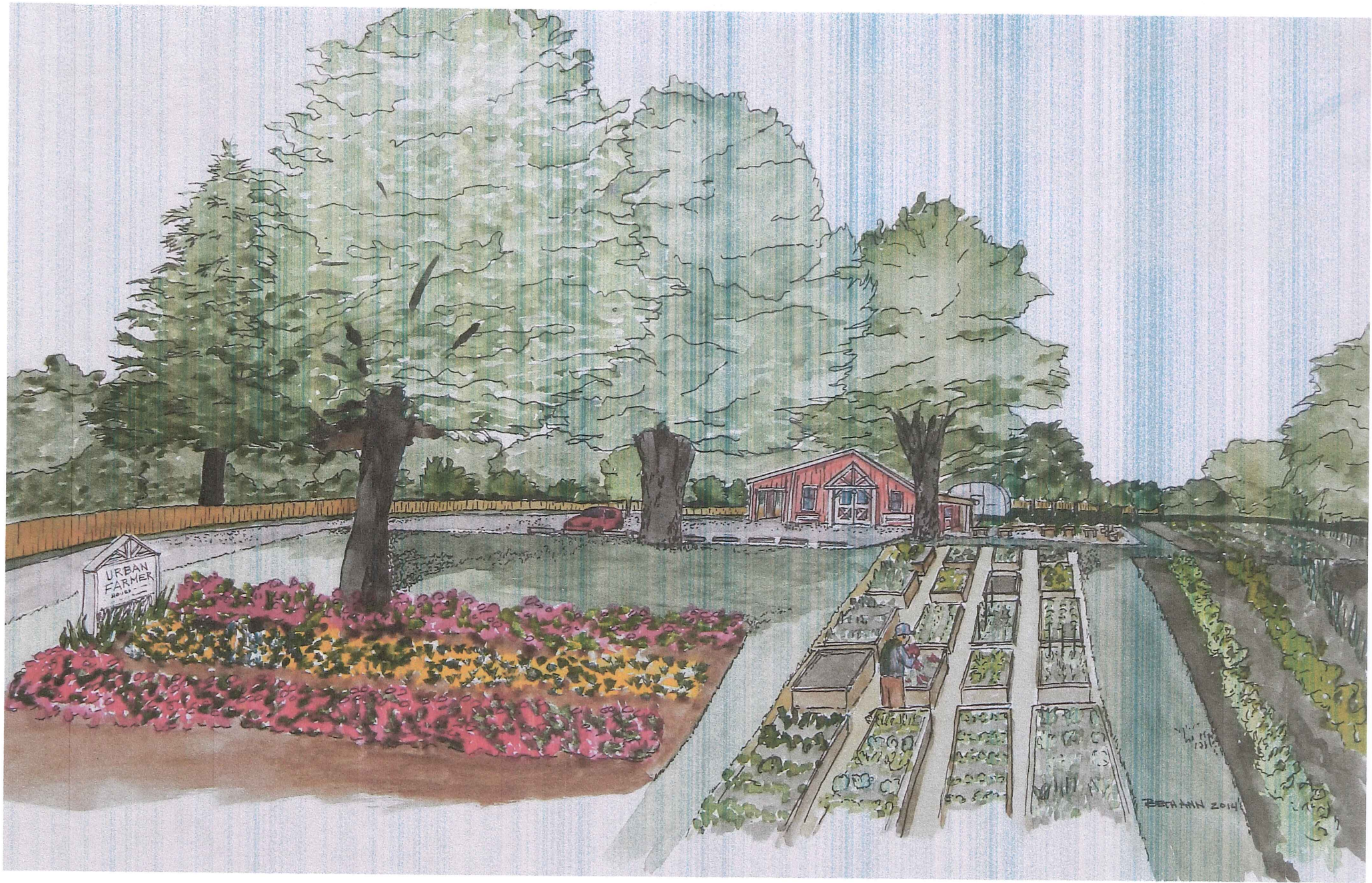
Variances Requested:

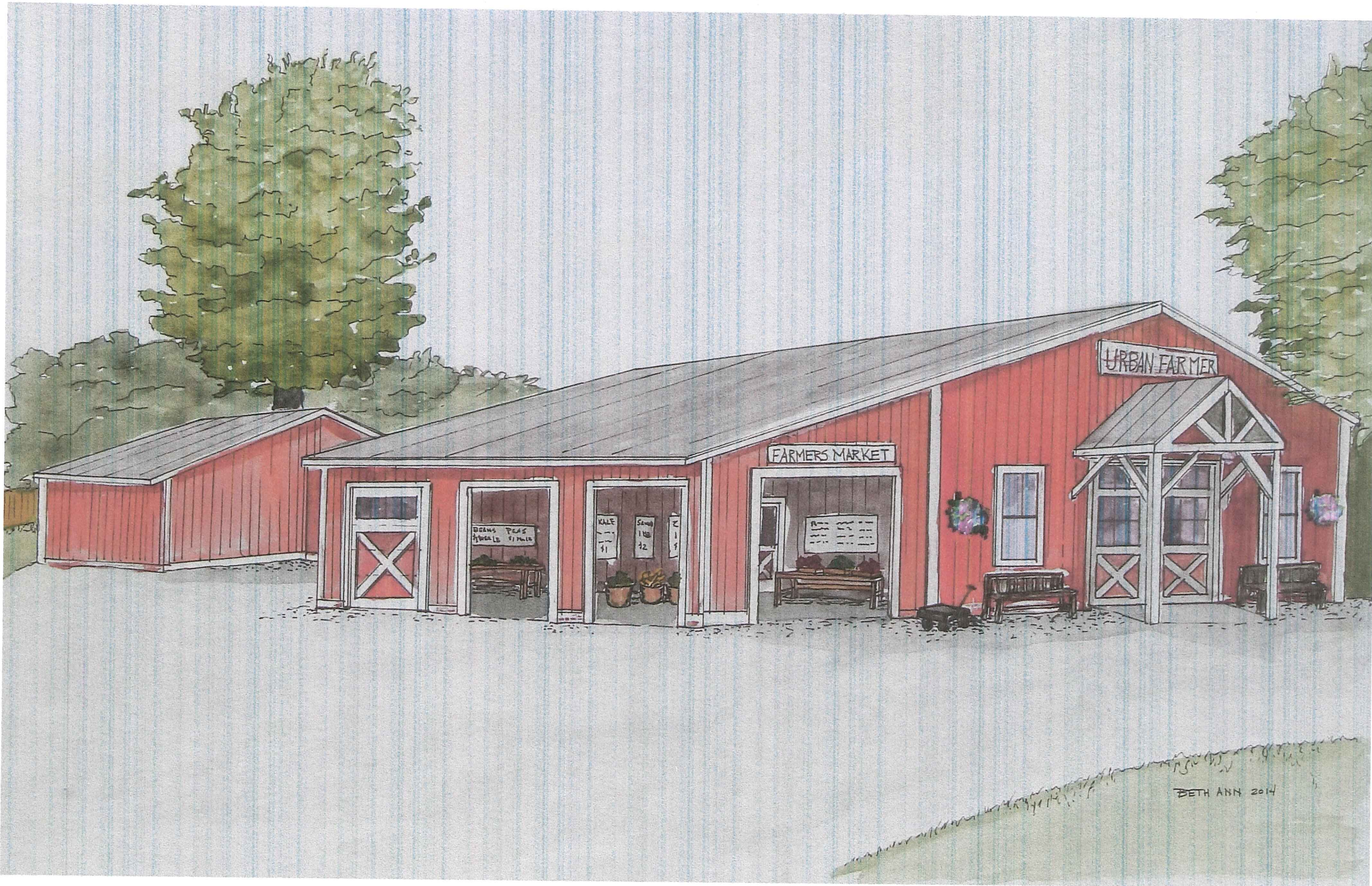
1. The property was 3.25 acres but decreased to 2.969 after the current owner approved the right of way for Westfield's planned sidewalk project. To abide by the ordinances we will need a variance for the 2.969 acres to stay SF1-AG zoned.
2. Reducing the minimum building setback lines from 100' to 40' will allow us to accommodate our future nursery area. The sidewalk right of way has already decreased property front line by 40'.
3. Requesting the removal of external street frontage landscaping buffer requirements and replacing with plan attached. Our property will be used for the purpose of educating public about growing gardens and local foods. With a community garden, trialing garden and butterfly habitat we want the public to see these wonderful additions to the property. We would like to incorporate these features with beautiful landscaping that falls outside the current ordinance.
4. Requesting variance from paving driveway and parking. Keeping current gravel drive will have less impact on storm water runoff from this site. Gravel helps promote water infiltration and benefits entire watershed.
5. Requesting variance to increase signage allotment to 80 square feet. Current building would limit property to 40 square feet of signage.

Noah Herron

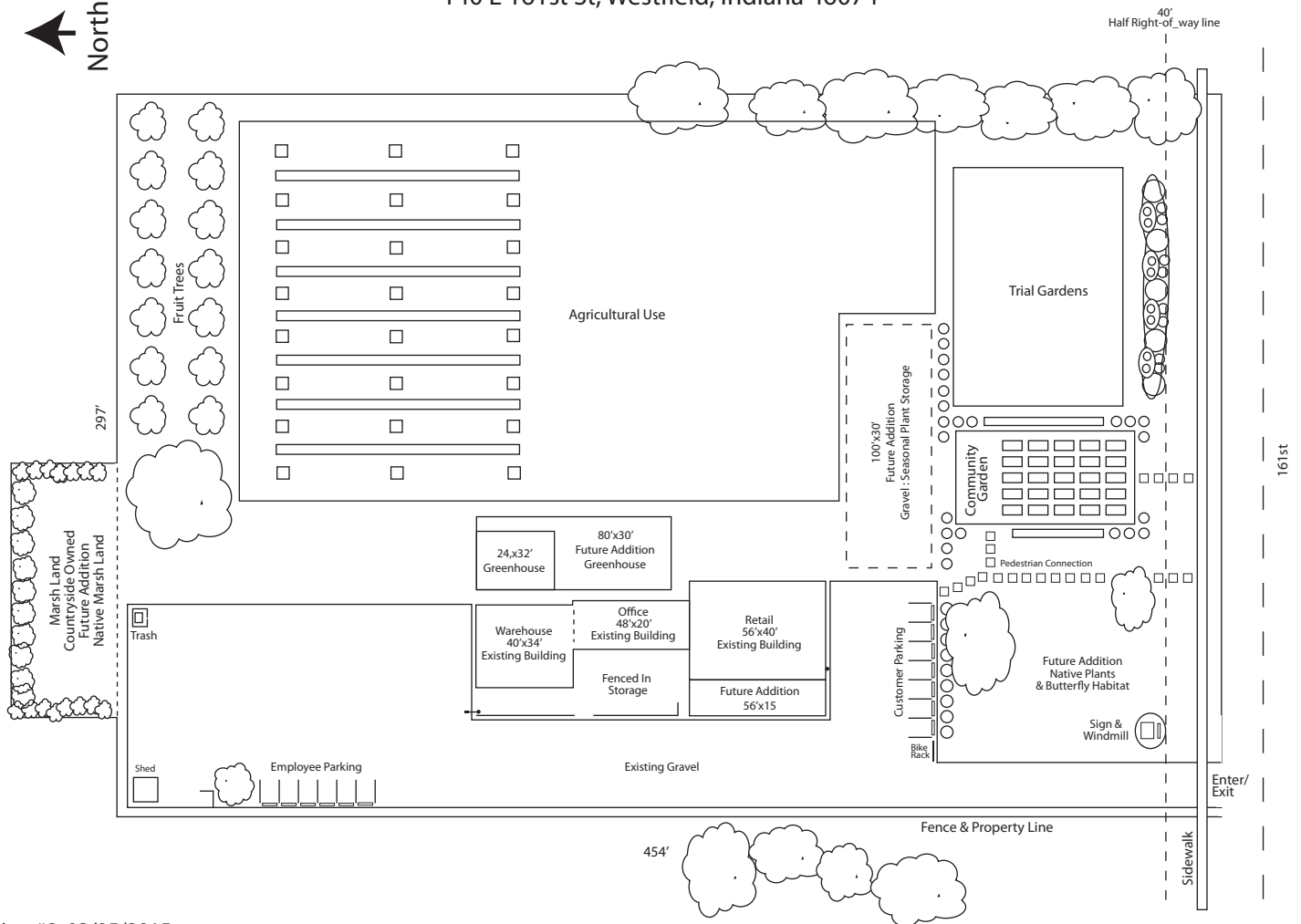
Urban Farmer

260-602-9400
noah@ufseeds.com

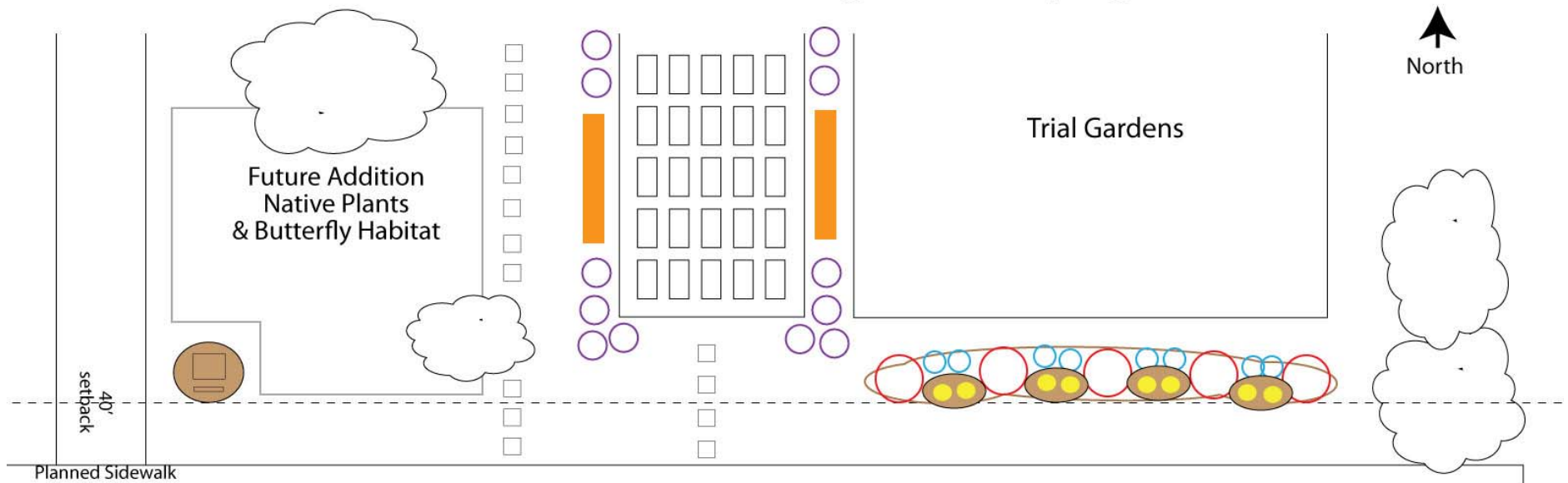




BETH ANN 2014



140 E 161st St Street Frontage Landscaping Plan



Native Plants and Butterfly Habitat (Completed by 2016)

Native and Butterfly habitat would be to attract beneficial insects to the property while allowing people to walk through and see butterflies, bees, birds and beneficial insects. Have a walk through path and picnic table nearby.

Indiana Native

Wild Bergamot
Columbine
Blazing Star
Aster
Switch Grass
Big Bluestem
Wild Geranium
Yarrow

Butterfly Habitat Plants

Butterfly weed
Joe-pye weed
Coneflowers
Bee Balm
Butterfly Bush
Cosmos
Alliums
Zinnias



○ Hydrangas



○ Ornamental Grasses



● Mulch & Rocks w/ Ajuga and Phlox



● Seasonal Plantings
Annuals & Ornamentals



○ Flowering
Dogwoods



● Beneficial
Insect Plants

Additional Signage Examples





WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 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)

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.

Petition History

This petition will receive a public hearing at the March 10, 2015, Board of Zoning Appeals meeting.

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:

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

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.”



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) 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.

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



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 of Approval

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 is scheduled to receive 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

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



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.

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

Recommendations for Approval

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:

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



Recommended Findings for Approval:

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

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

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

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

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

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

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

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

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

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



Recommended Findings for Denial:

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

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

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

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

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

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

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

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

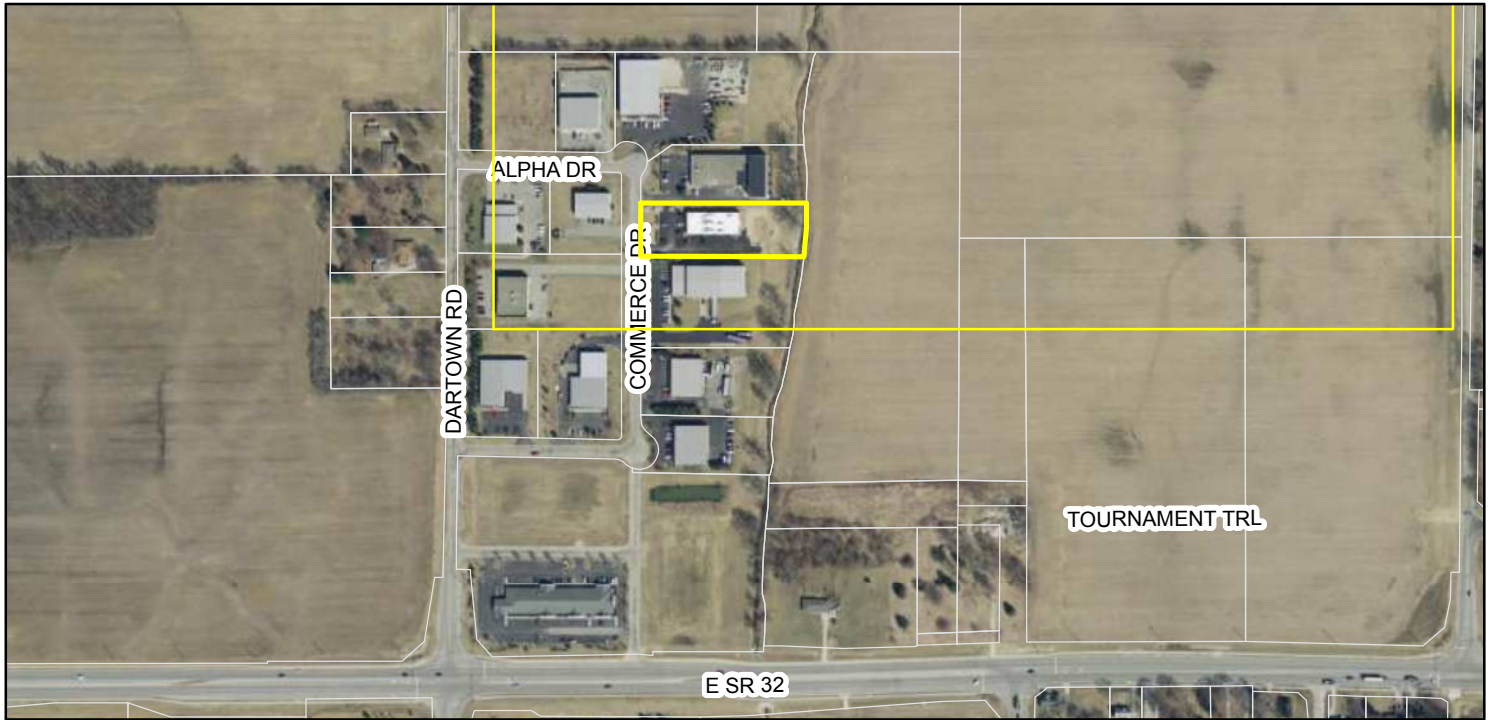
Finding: The shooting range use will comply with the Unified Development Ordinance; however, due to the unique nature of the use and the conditions of approval for the shooting range use previously imposed, the modified condition does not adequately regulate the maximum sound levels to reduce the negative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

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

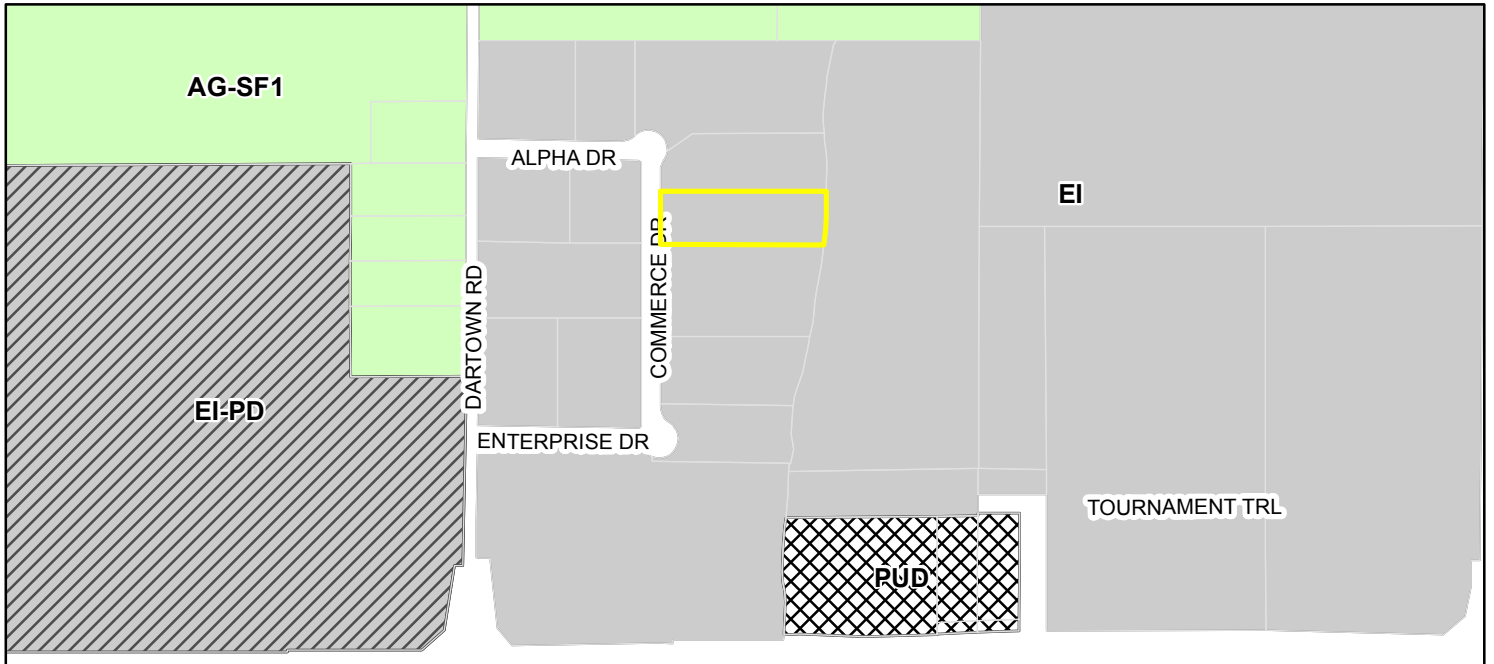
Finding: The Westfield-Washington Township Comprehensive Plan identifies this property within the "Employment Corridor" and "Business Park" land use classifications as part of the State Highway 32 "Highway Corridor". As such, the proposed use is consistent with the Comprehensive Plan's policies and objectives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

Aerial Location Map

 Site



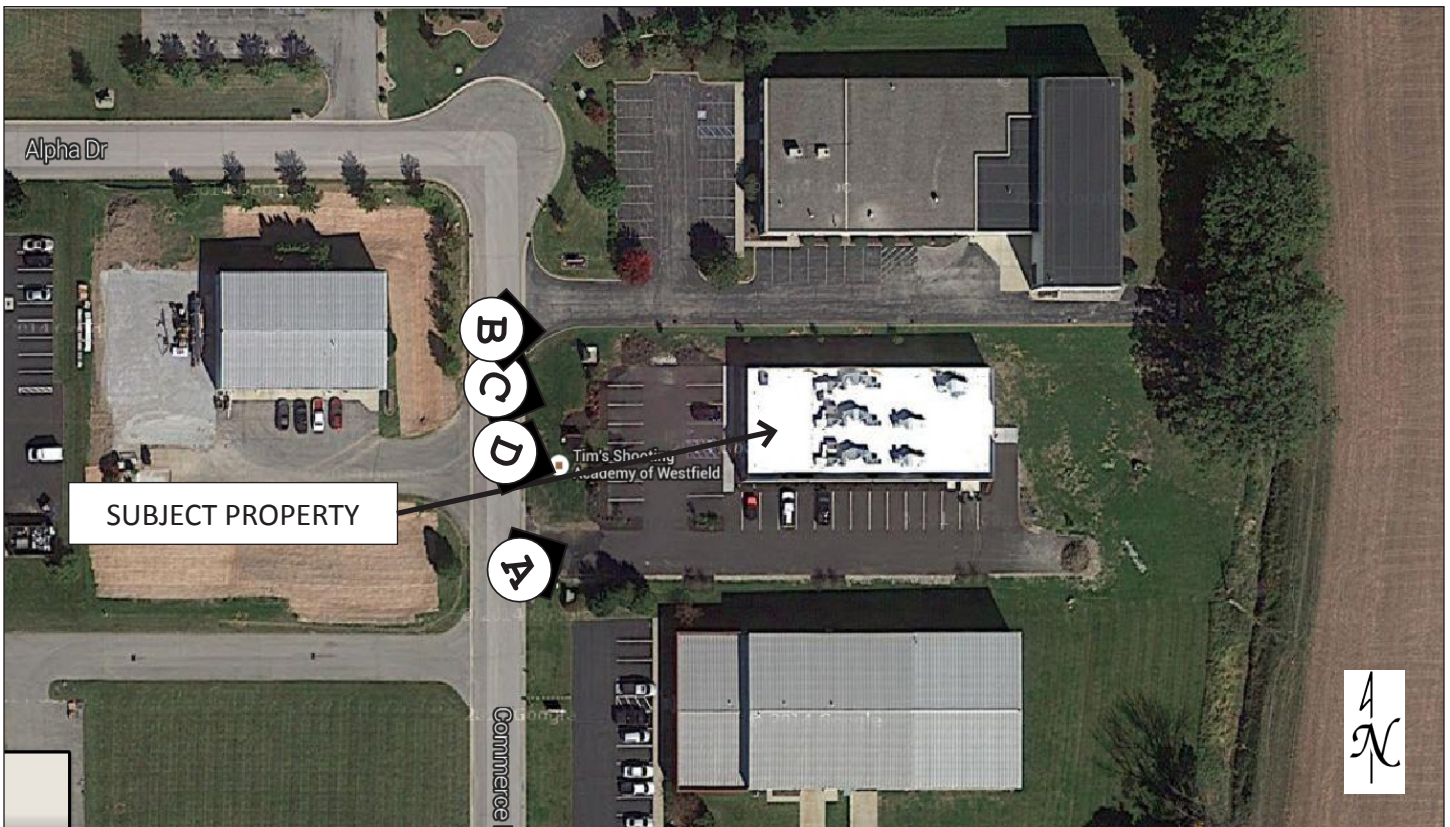
Zoning Map



 Parcel **Zoning**  EI (Enclosed Industrial)  PUD (Planned Unit Development)

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

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.

Christian C. Badger
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:



Zoi Taylor
Notary Public Signature

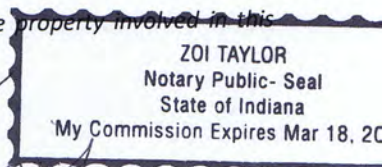
Zoi Taylor
Notary Public (printed)

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.

Edward T. Tomick
Property Owner (signature)*

EDWARD T. TOMICK
Property Owner (printed)



Faith E. Bauer-Tomick
Property Owner (signature)*

Faith E. Bauer-Tomick
Property Owner (printed)

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

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

State of Indiana County of Hamilton SS:



Zoi Taylor
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

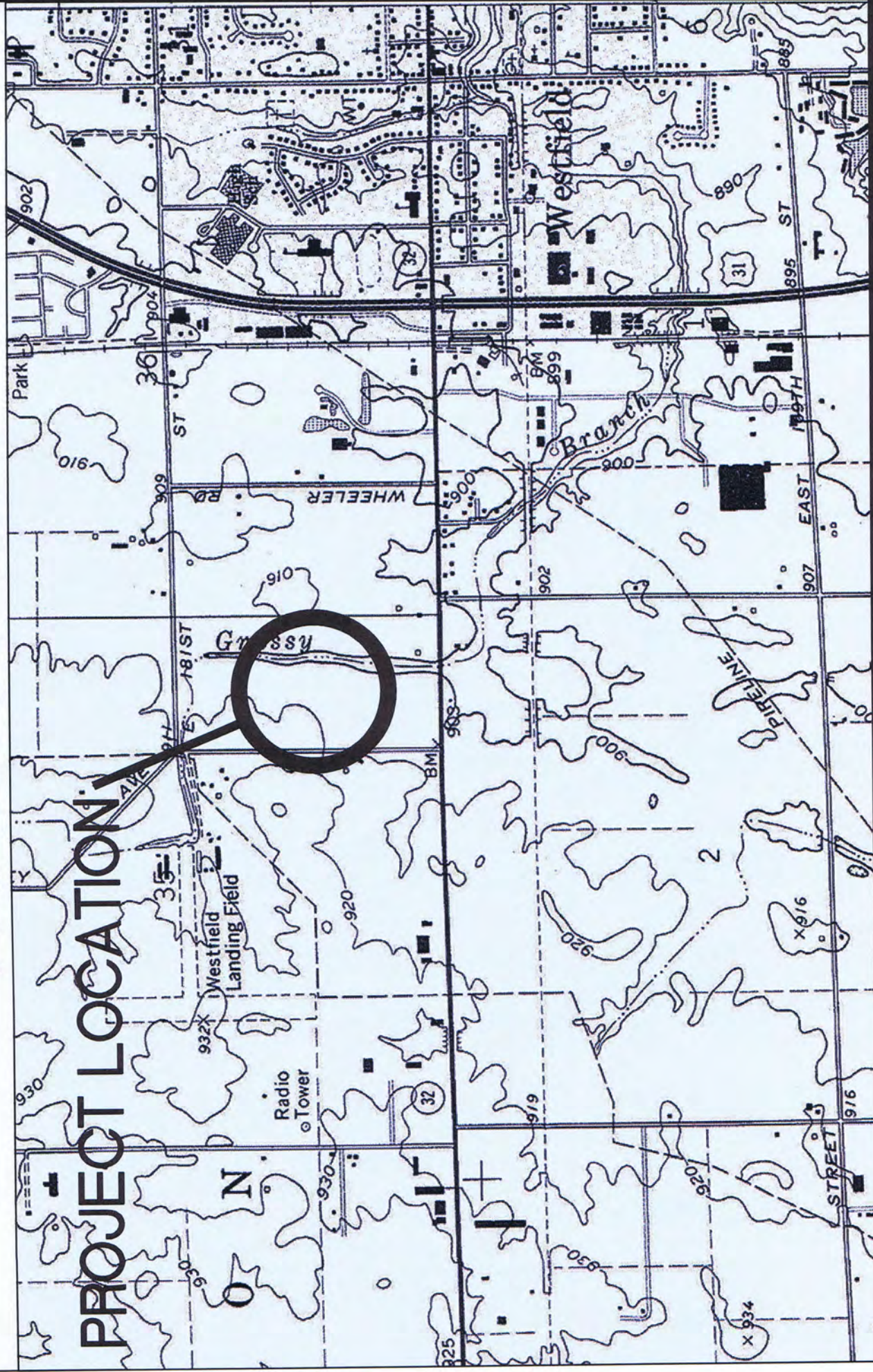
- Chairman & Chief Administrative Law Judge; OSHA Review Commission/Board of Safety Review, IN Department of Labor
- Chairman; Indiana Solid Waste Management Board, IDEM

- 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

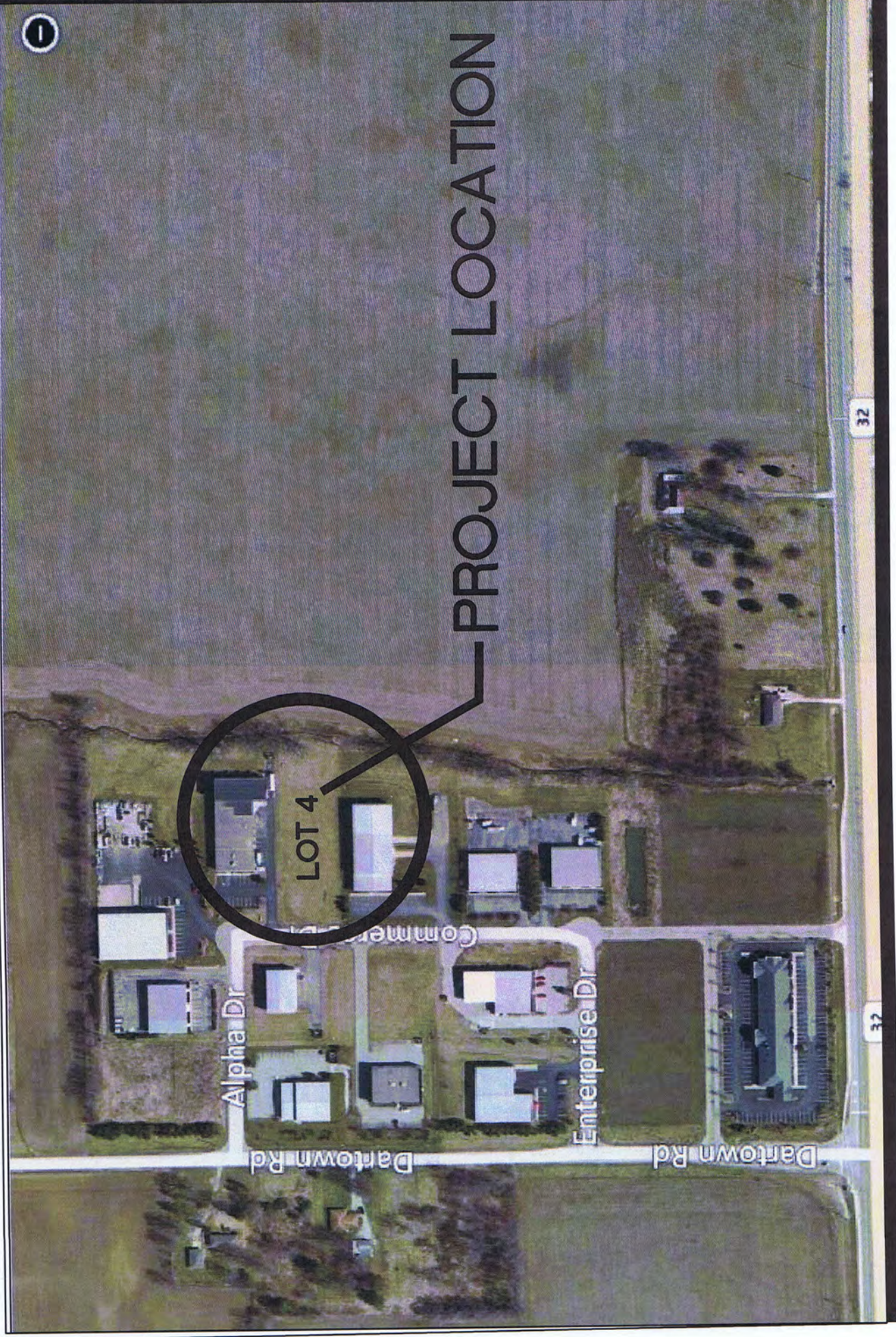


EXHIBIT A
THE PROPERTY

(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.

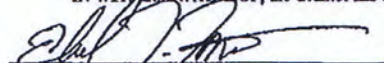
Subject to Street Right of Way across the entire West Side of the above Tract.

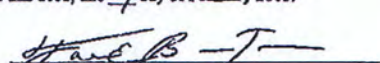
Subject further to the Statutory Easement for the Evan Kendall Legal Drain, an open regulated ditch along the Easterly side of the above described Tract.

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

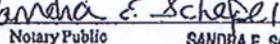

Faith Bauer-Tomich

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. SCHEPES 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

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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

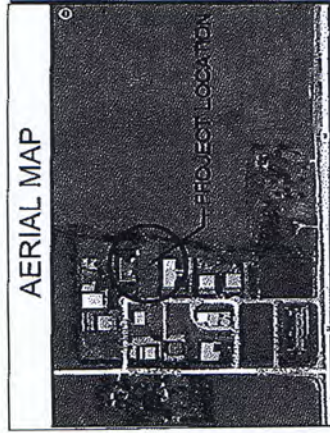
Sollenberger Rental
Management, LLC
389 Gradle Drive
Carmel, IN 46032

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

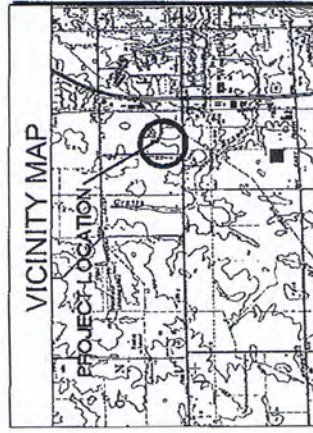
Sollenberger Rental
Management, LLC
389 Gradle Drive
Carmel, IN 46032

Tim's Shooting Academy of Westfield Westfield, Indiana 46074

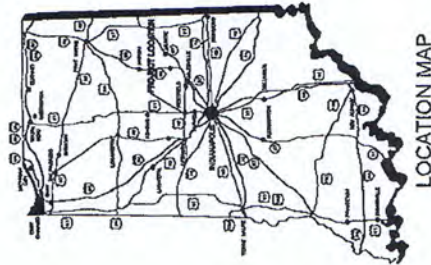
SUBJECT SITE:
SITE LOCATED IN WASHINGTON TOWNSHIP
HAMILTON COUNTY, INDIANA



AERIAL MAP



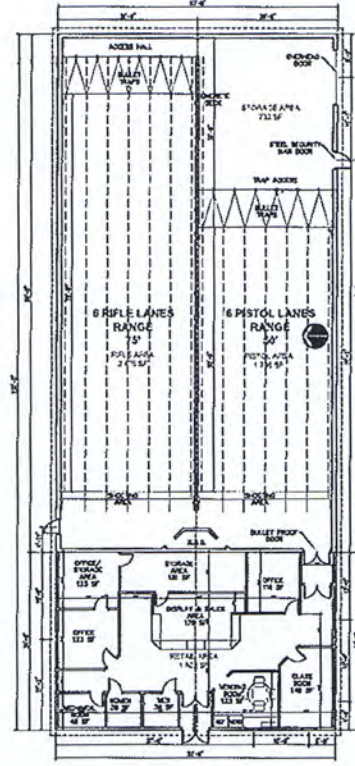
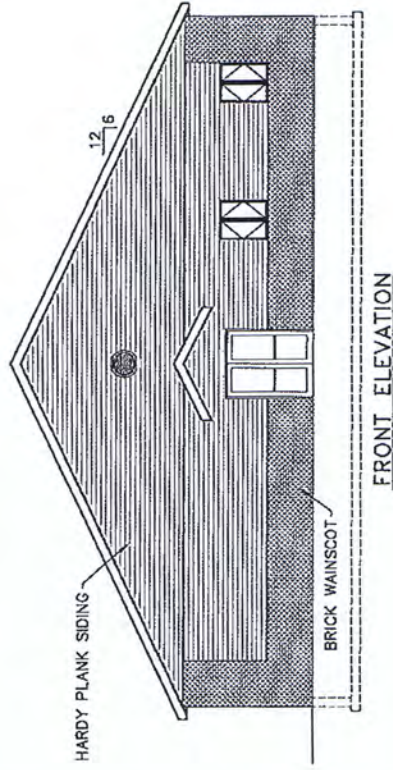
VICINITY MAP



LOCATION MAP

SHEET INDEX:

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



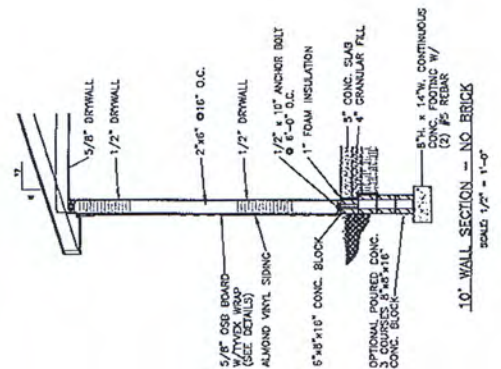
Owner:

Tim Tomich
14855 Victory Ct.
Carmel, IN 46032

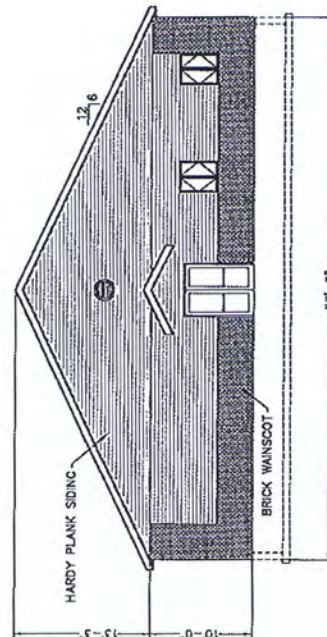
TITLE SHEET		DATE	5/17/2013
PROJECT		NO.	10-006
CLIENT		NAME	AS SHOWN
DESIGNER		NAME	AS SHOWN
DRAWN BY		NAME	AS SHOWN
CHECKED BY		NAME	AS SHOWN
APPROVED BY		NAME	AS SHOWN
SCALE		DATE	5/17/2013
SHEET NO.		1	1

BADGER
ENGINEERING
101 W. Main Street
Lafayette, IN 46032
(765) 465-0000

Tim's Shooting Academy of Westfield
Washington Township
Hamilton County, Indiana

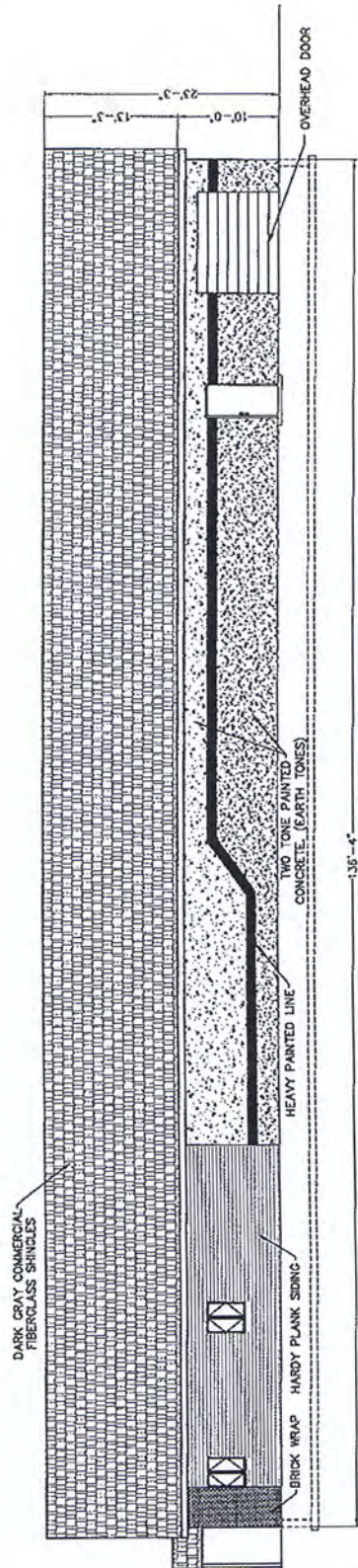
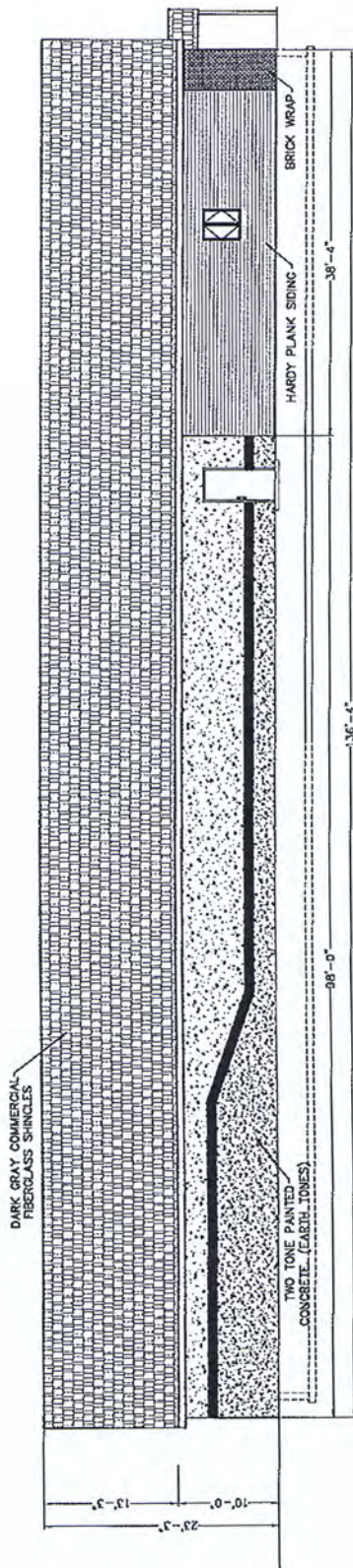


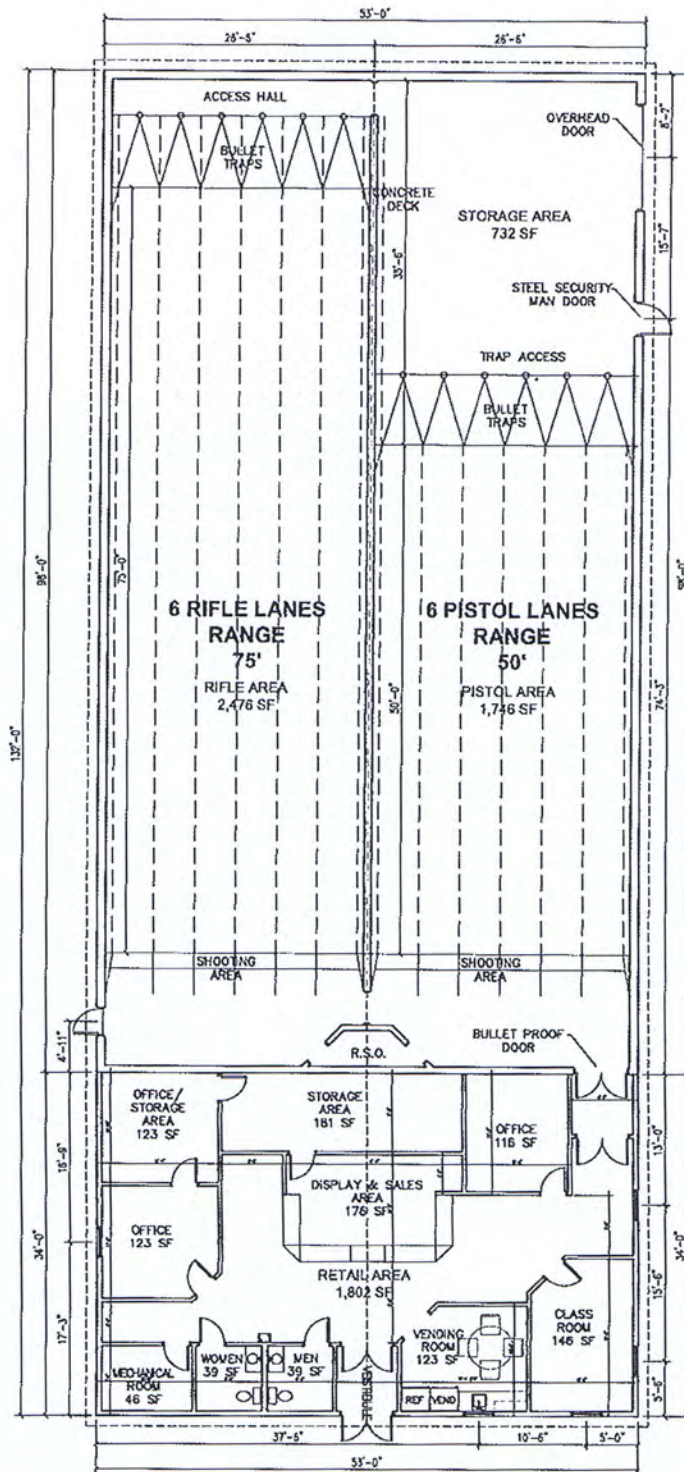
10" WALL SECTION - NO BRICK



EAST ELEVATION

NO.	DATE	REVISIONS
BADGER ENGINEERING 101 W. Main Street Madison, WI 53702 (608) 439-0900 (608) 439-0900		
ELEVATIONS AND TYPICAL SECTIONS Tim's Shooting Academy of Westfield		
DATE	BY	NO. OF SHEETS
12-1-00	12-1-00	13-000
SCALE	DATE	BY
3/8" = 1'-0"	12-1-00	12-1-00
NO.	DATE	REVISIONS
ELEVATIONS AND TYPICAL SECTIONS Tim's Shooting Academy of Westfield		
DATE	BY	NO. OF SHEETS
12-1-00	12-1-00	13-000
SCALE	DATE	BY
3/8" = 1'-0"	12-1-00	12-1-00

[illegible]



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 Westfield, MA 01085 (413) 485-0000		REVISION	
DESIGNED BY	CCB	CHECKED BY	CCB
DRAWN BY	DAC	APPROVED BY	CCB
DATE	03/28/20	DATE	03/28/20

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
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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.]

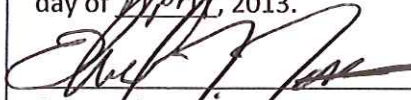
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Edward T. Tomich and Faith Bauer-Tomich, as Trustees of Owners of the Property, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition, as set forth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

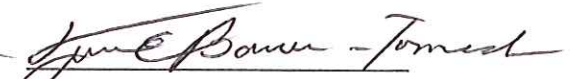
IN WITNESS WHEREOF, the Owners have executed this instrument, on the 16 day of April, 2013.


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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Westfield, IN 46074
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I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: Jesse M. Pohlman

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

EXHIBIT A
THE PROPERTY

(1 of 2)

DULY ENTERED FOR TAXATION J

Subject to final acceptance for transfer

28 day of MARCH, 2005

Robin Mills Auditor of Hamilton County

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

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

QUIT CLAIM DEED

16.00
(2)

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

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

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

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

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

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

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

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

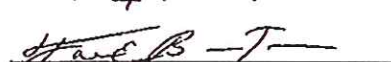
Subject further to the Statutory Easement for the Evan Kendall Legal Drain, an open regulated ditch along the Easterly side of the above described Tract.

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

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

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


Edward Tomlich

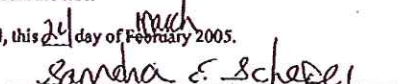

Faith Bauer-Tomlich

STATE OF INDIANA)
COUNTY OF Indiana) SS:

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

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

My commission expires:
Resident of Hamilton County


Sandra E. Schepel
Notary Public

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

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

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

and

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

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

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(317) 804-3181 fax

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Westfield, IN 46074
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EXHIBIT B
PETITIONER'S NARRATIVE

(1 of 2)



March 29, 2013

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

PROJECT NARRATIVE

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

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

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

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

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

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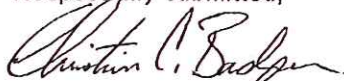
2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

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

Building Design Information:

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

Respectfully submitted,



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

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

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Westfield, IN 46074
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EXHIBIT C
PETITIONER'S PRELIMINARY PLANS

SEE FOLLOWING PAGES

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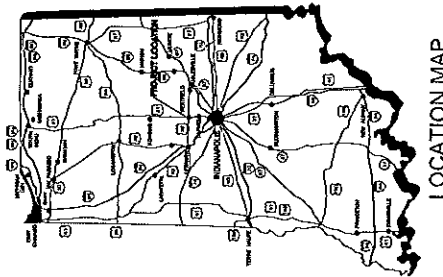
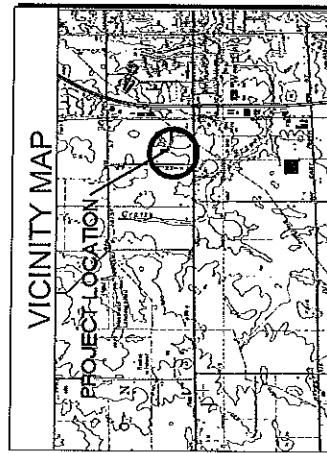
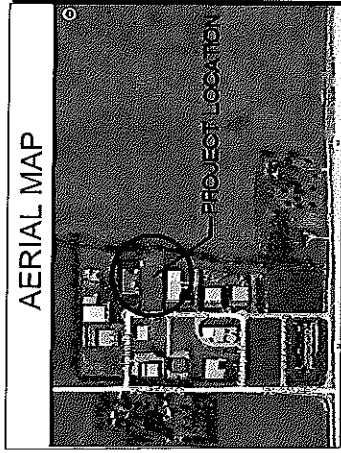
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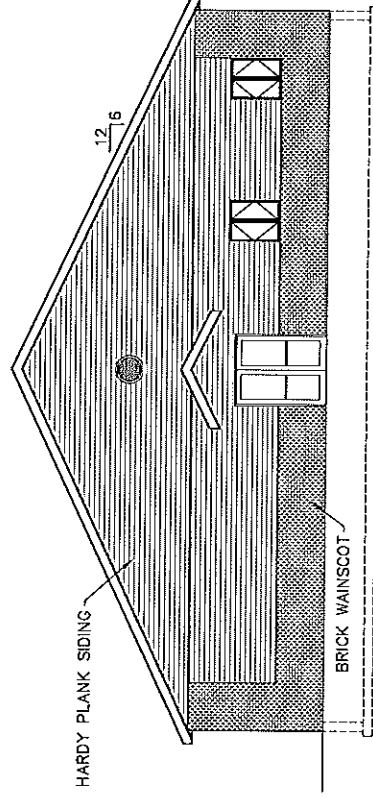
Tim's Shooting Academy of Westfield Westfield, Indiana 46074

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

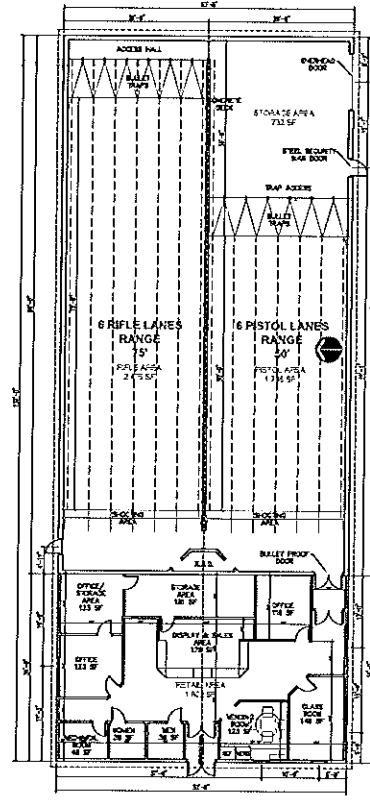


SHEET INDEX:

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



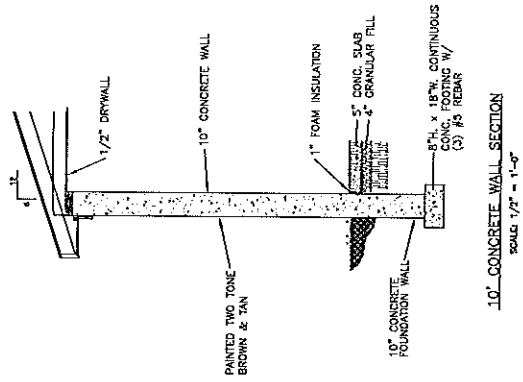
FRONT ELEVATION



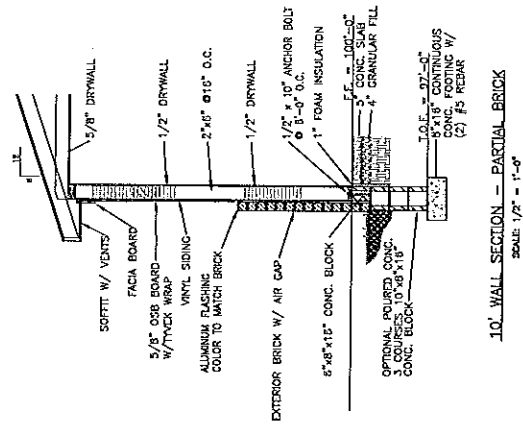
FLOOR PLAN

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

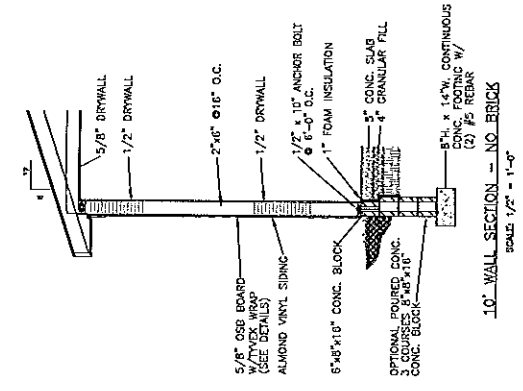
SHEET INDEX		TITLE SHEET		DATE	
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4	DATE	5	DATE	6	DATE
7	DATE	8	DATE	9	DATE
10	DATE	11	DATE	12	DATE
13	DATE	14	DATE	15	DATE
16	DATE	17	DATE	18	DATE
19	DATE	20	DATE	21	DATE
22	DATE	23	DATE	24	DATE
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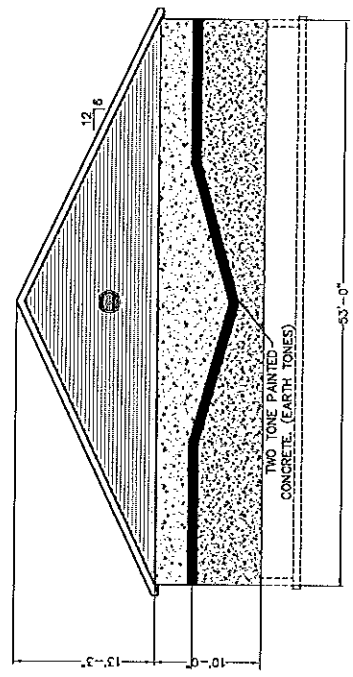
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SCALE: 1/2" = 1'-0"



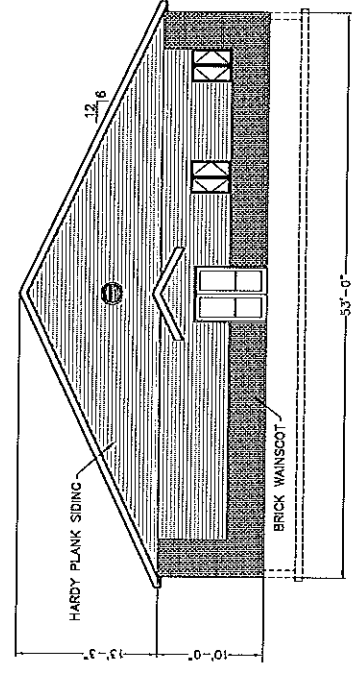
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10' WALL SECTION - NO BRICK
SCALE: 1/2" = 1'-0"



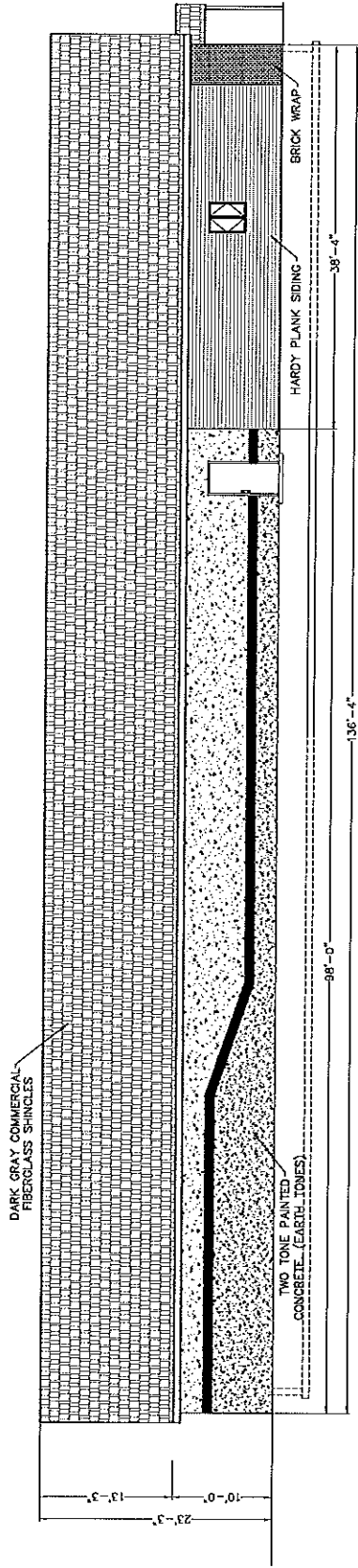
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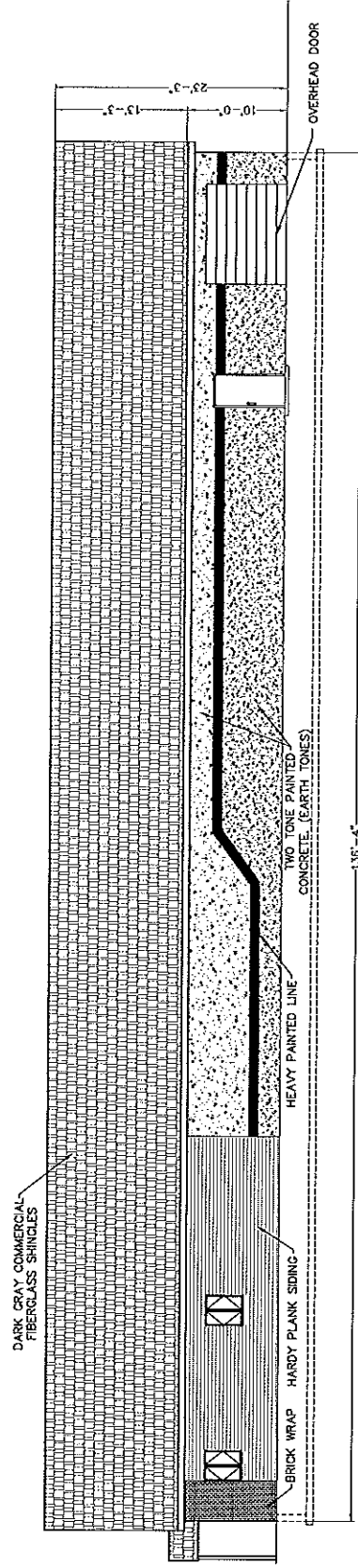
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ELEVATIONS AND TYPICAL SECTIONS			
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SCALE	3/16" = 1'-0"	APPROVED BY	CCS
PROJECT NO.	2	DATE	01/27/2013

BADGER ENGINEERING
101 Main Street
LaPorte, IN 46342
(765) 483-0000



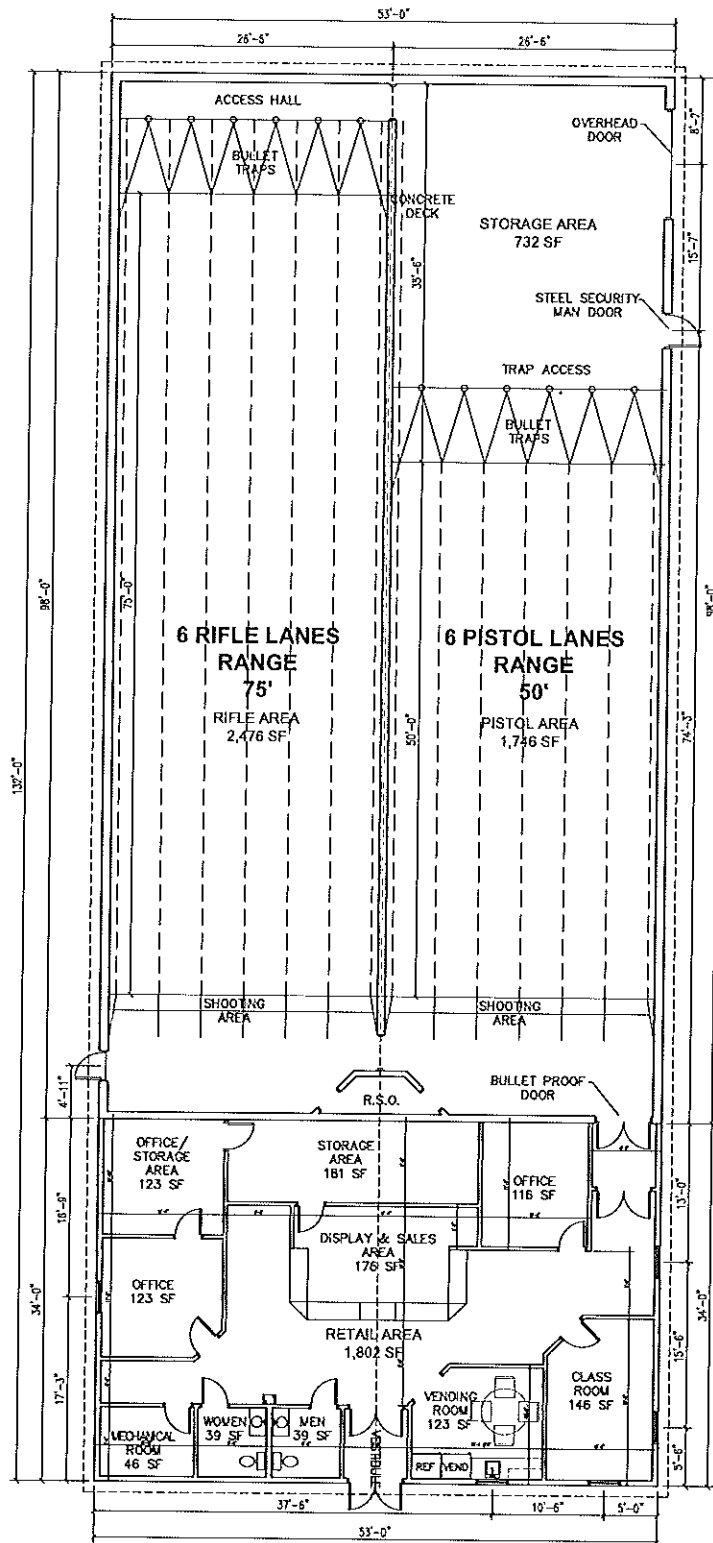
SOUTH ELEVATION



NORTH ELEVATION

DATE		03/29/2013
PROJECT		Tim's Shooting Academy of Westfield
DRAWN BY		3-000
CHECKED BY		3/16/13
APPROVED BY		3/16/13
SCALE		3/16" = 1'-0"
SHEET NO.		3

BADGER
ENGINEERING
101 W. Main Street
Westfield, MA 01085
(413) 485-0000



FLOOR PLAN

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

Project Name	Tim's Shooting Academy of Westfield
Client	CCD
Architect	CCD
Engineer	CCD
Designer	CCD
Checker	CCD
Scale	3/8" = 1'-0"
Date	3/29/13
Sheet No.	13-008
Total Sheets	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:

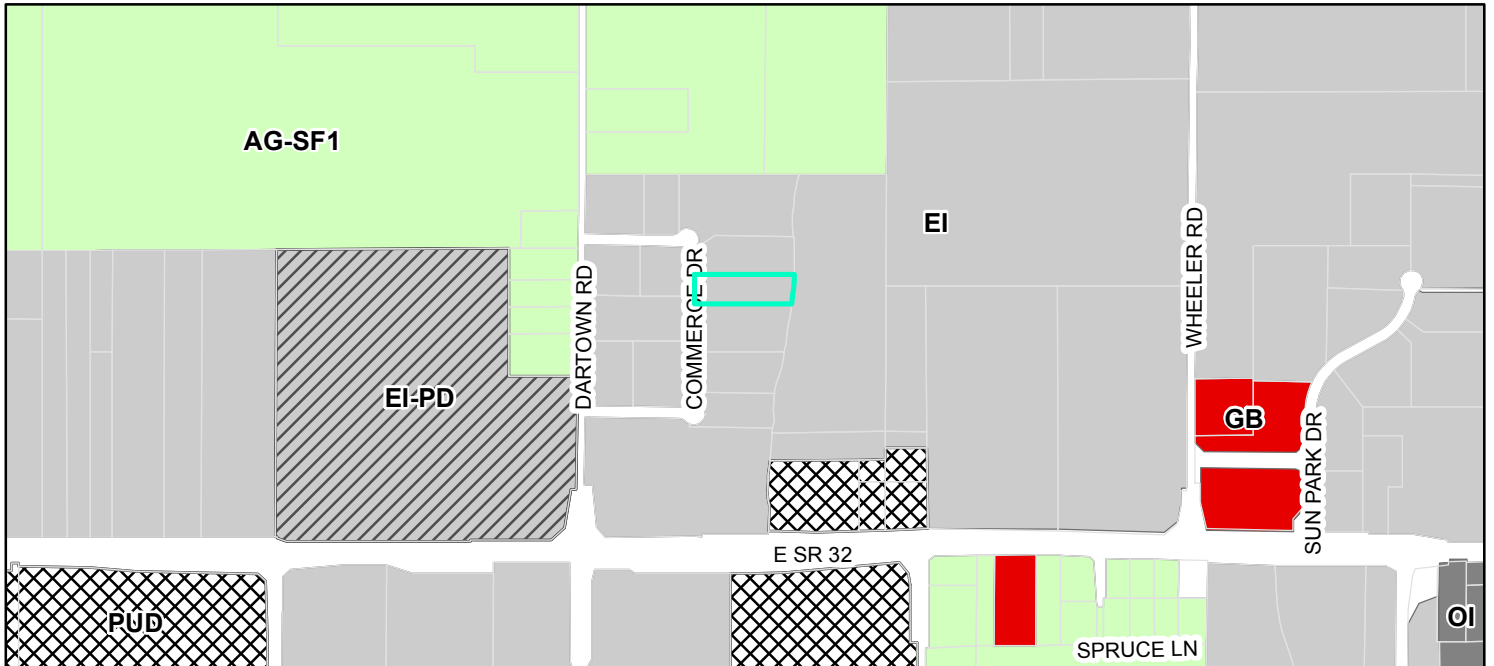
1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder’s Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.
2. The “Indoor Shooting Range and related 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

PROJECT NARRATIVE

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

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

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

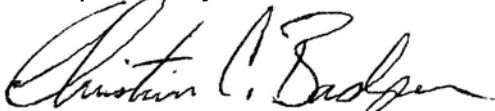
The retail sale side of the Academy will sell targets, safety glasses, ear protection, hunting apparel, scopes, and high-end fire arms. The sale of guns will require a background check as required by the state and federal laws. Only higher priced and higher quality guns will be sold. No Saturday Night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

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

Building Design Information:

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

Respectfully submitted,

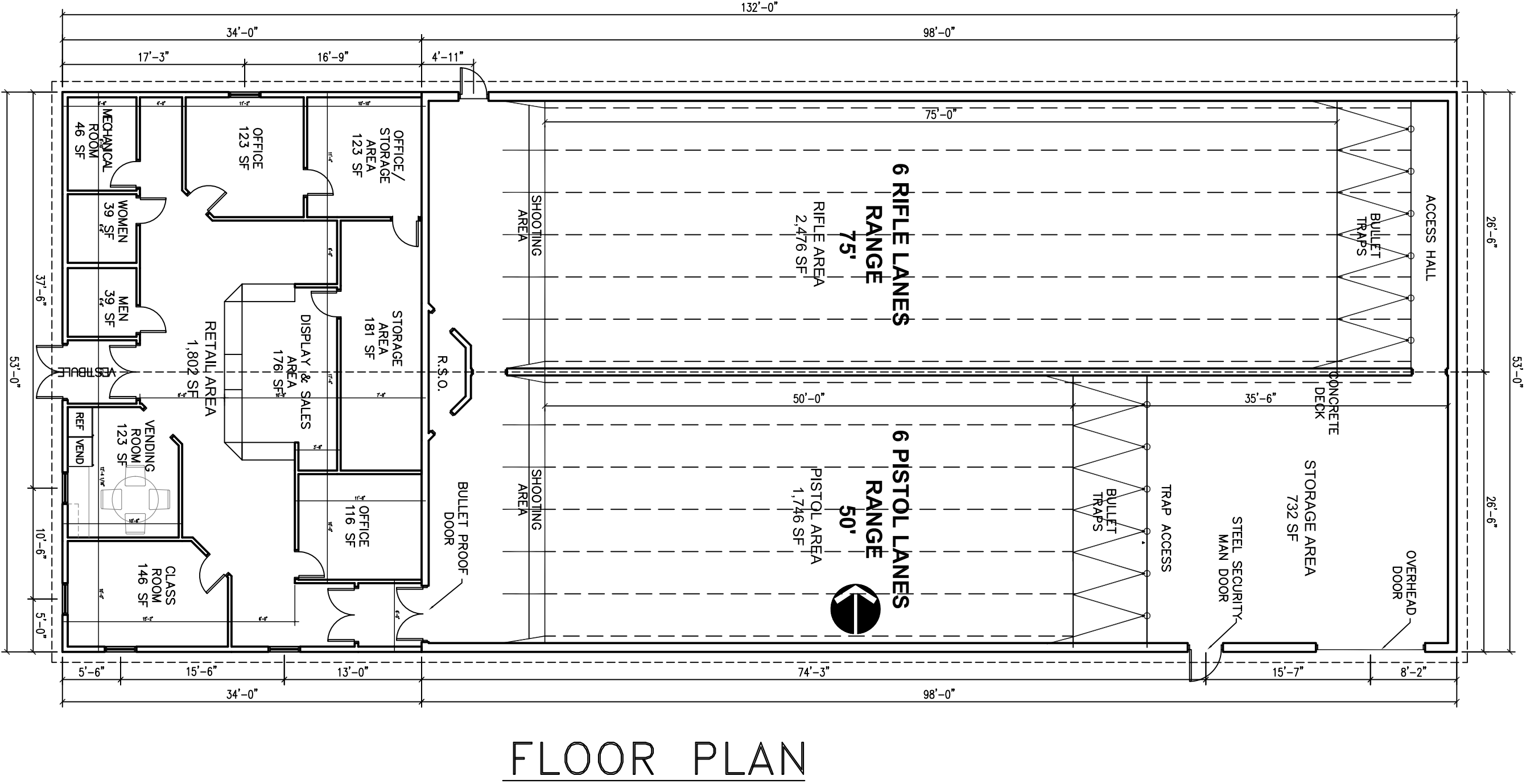
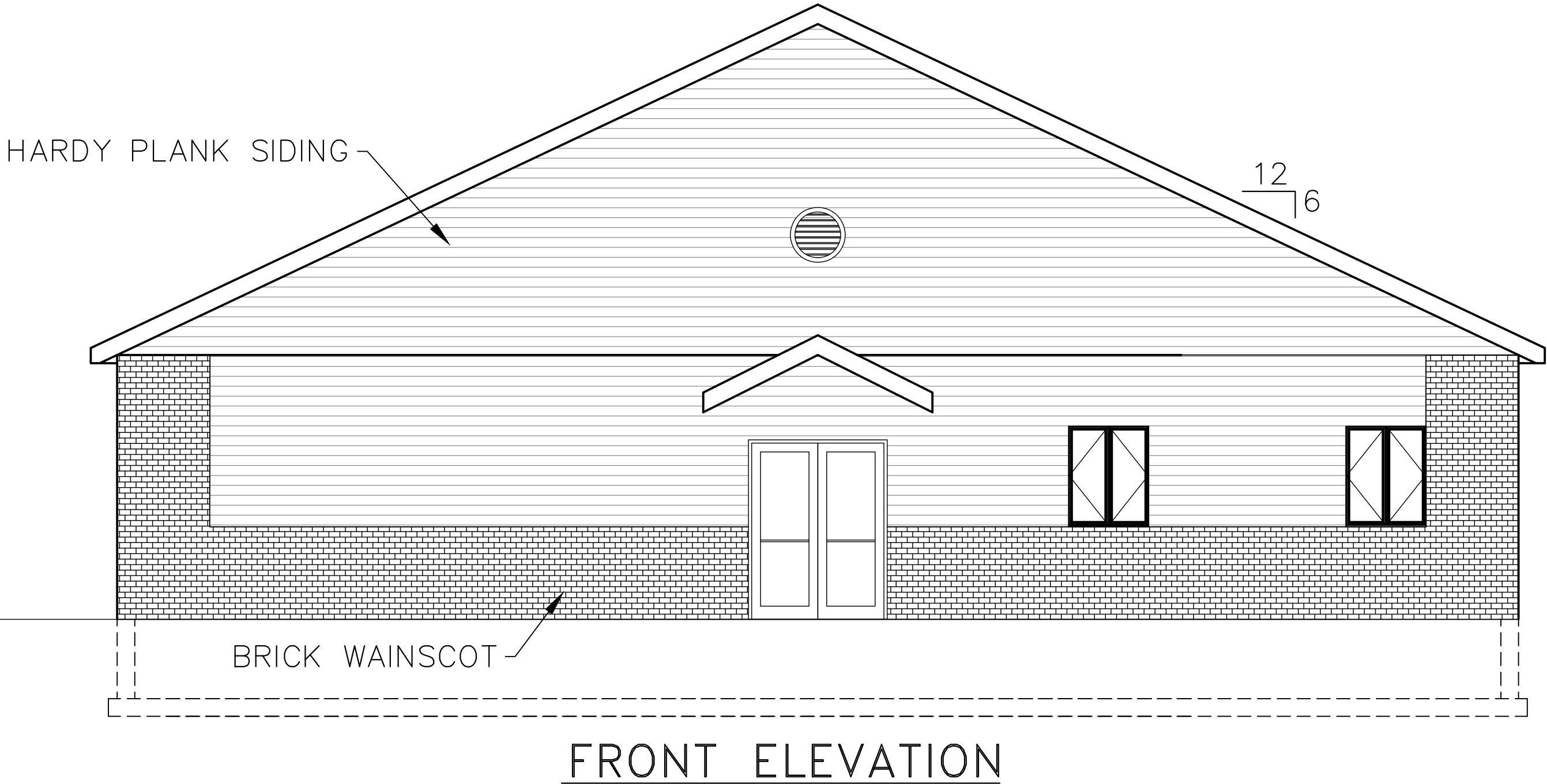
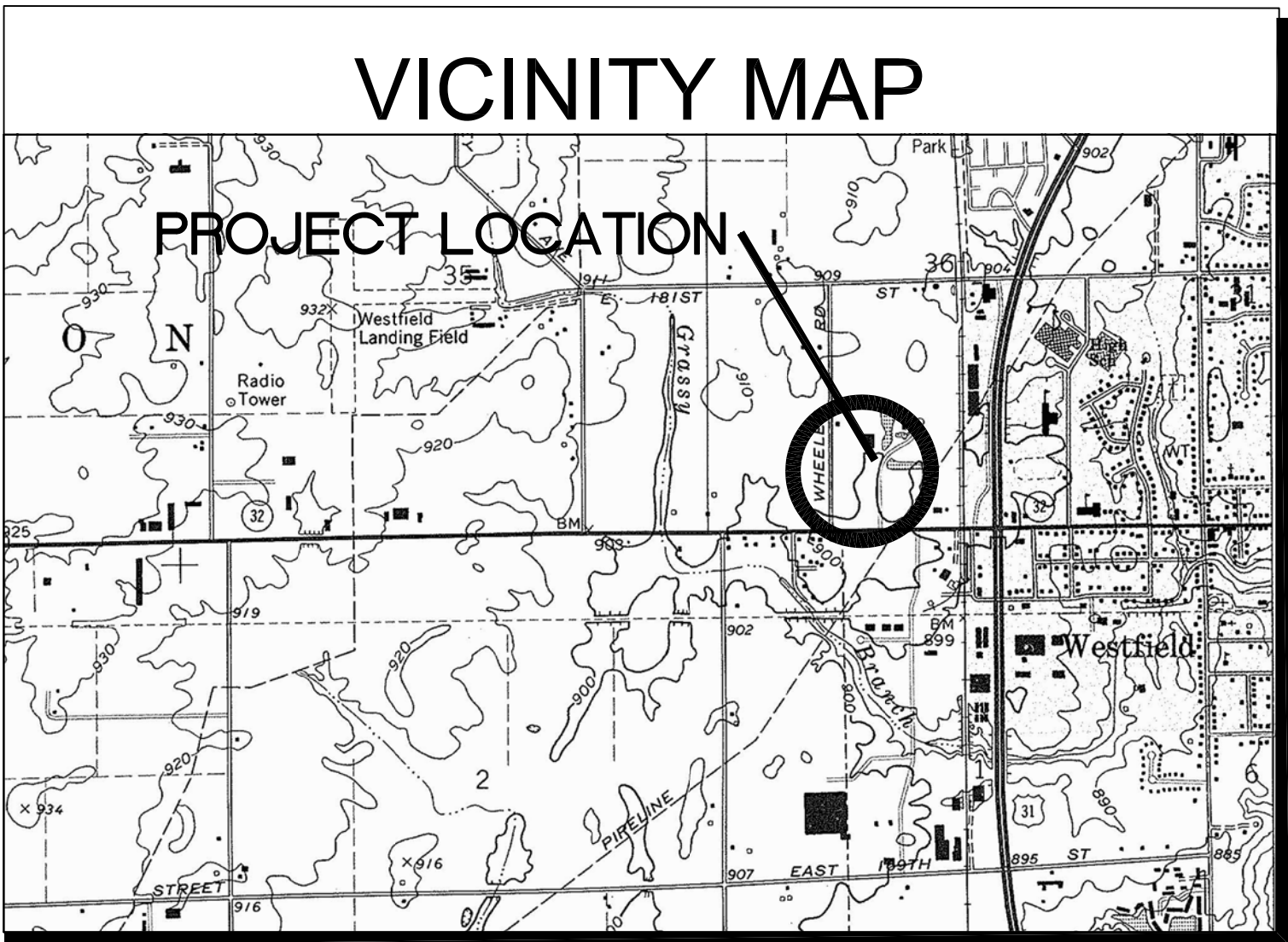
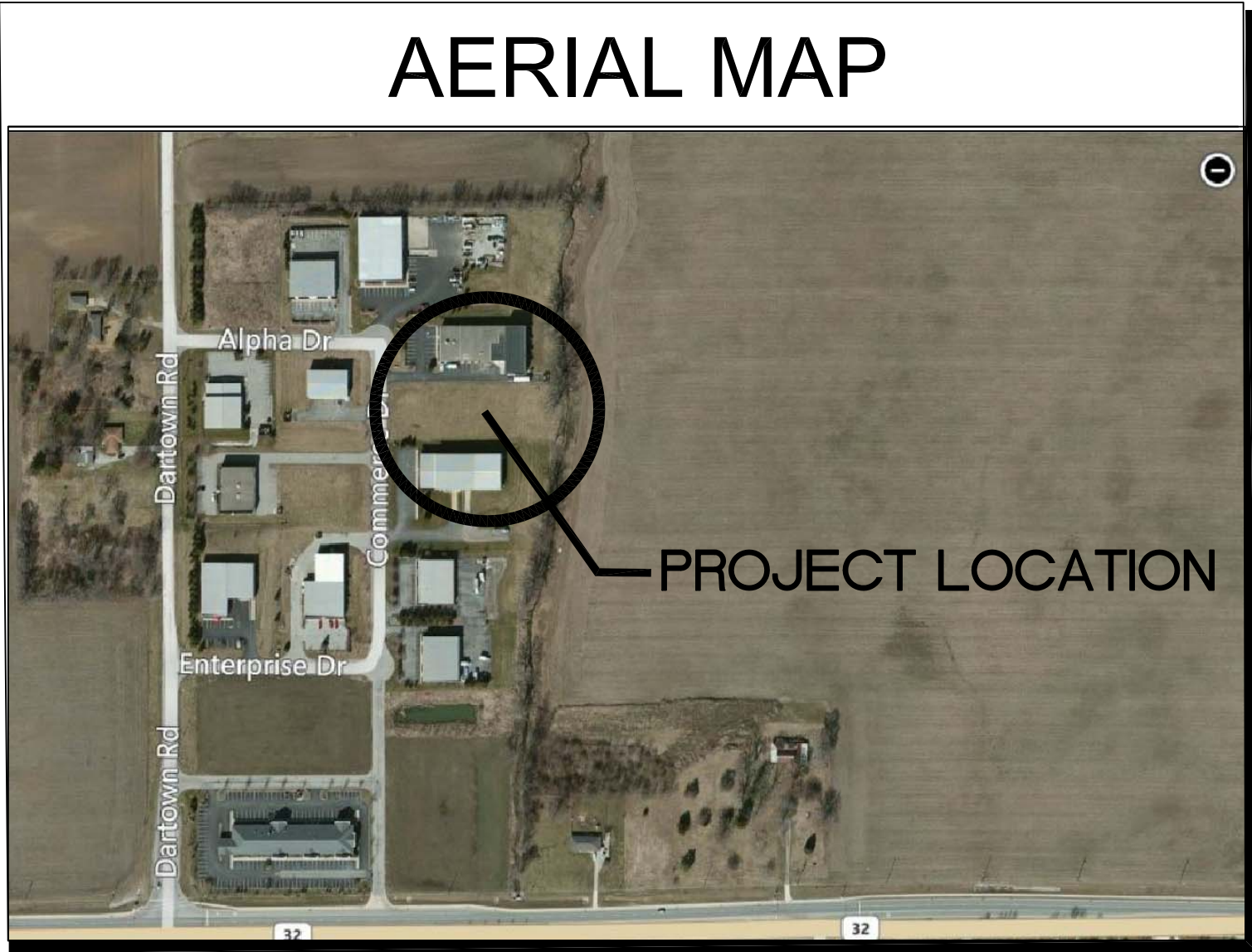
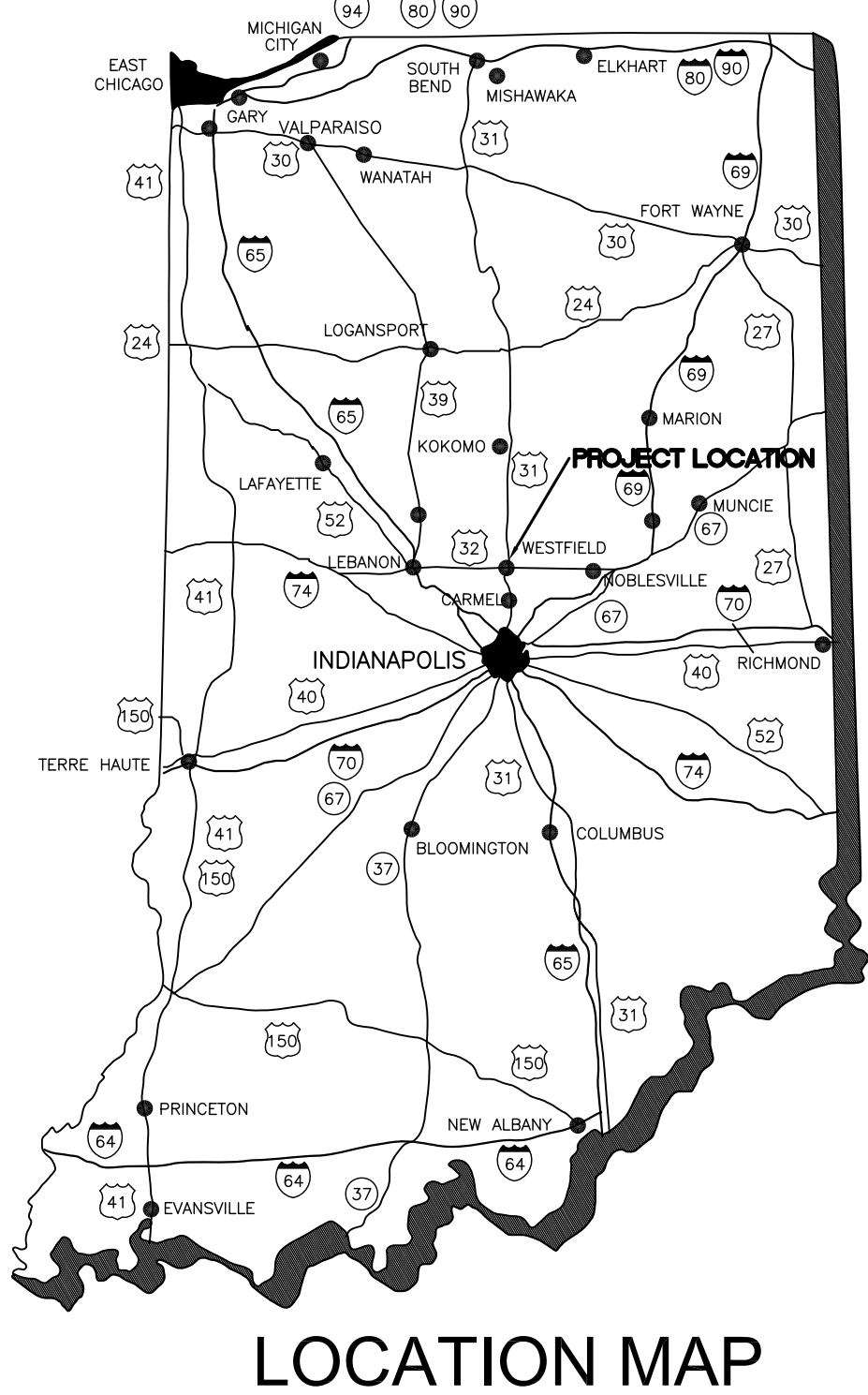


Christian C. Badger, P.E.
Badger Engineering, LLC

Tim's Shooting Academy of Westfield

Westfield, Indiana 46074

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

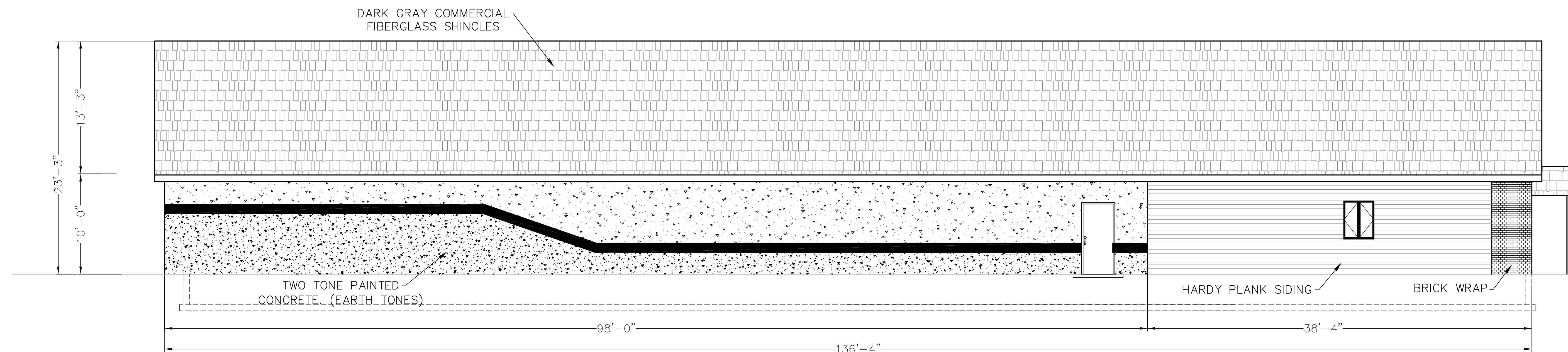


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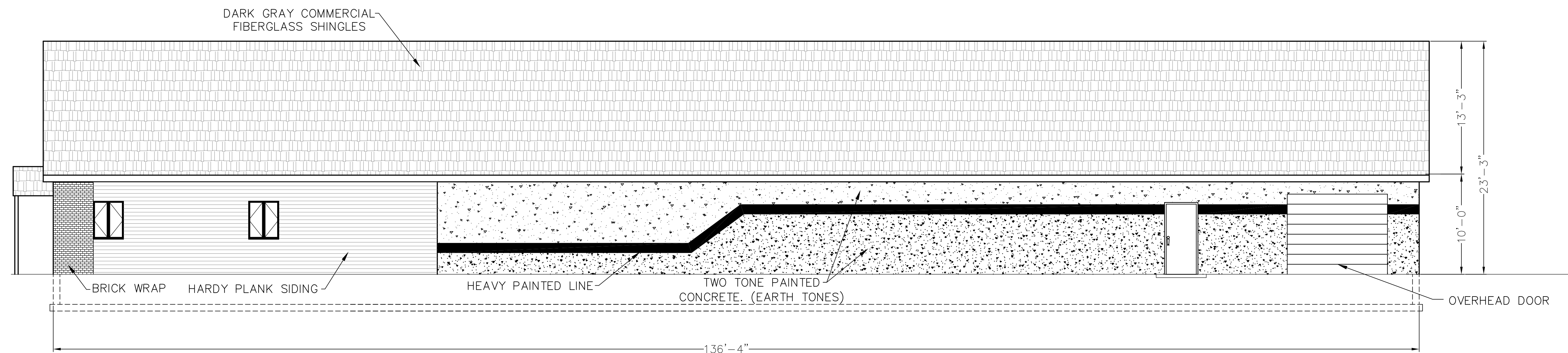
- 1 TITLE SHEET
- 2 BUILDING ELEVATIONS
- 3 BUILDING ELEVATIONS
- 4 BUILDING FLOORPLAN
- 5 SITE PLAN

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

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

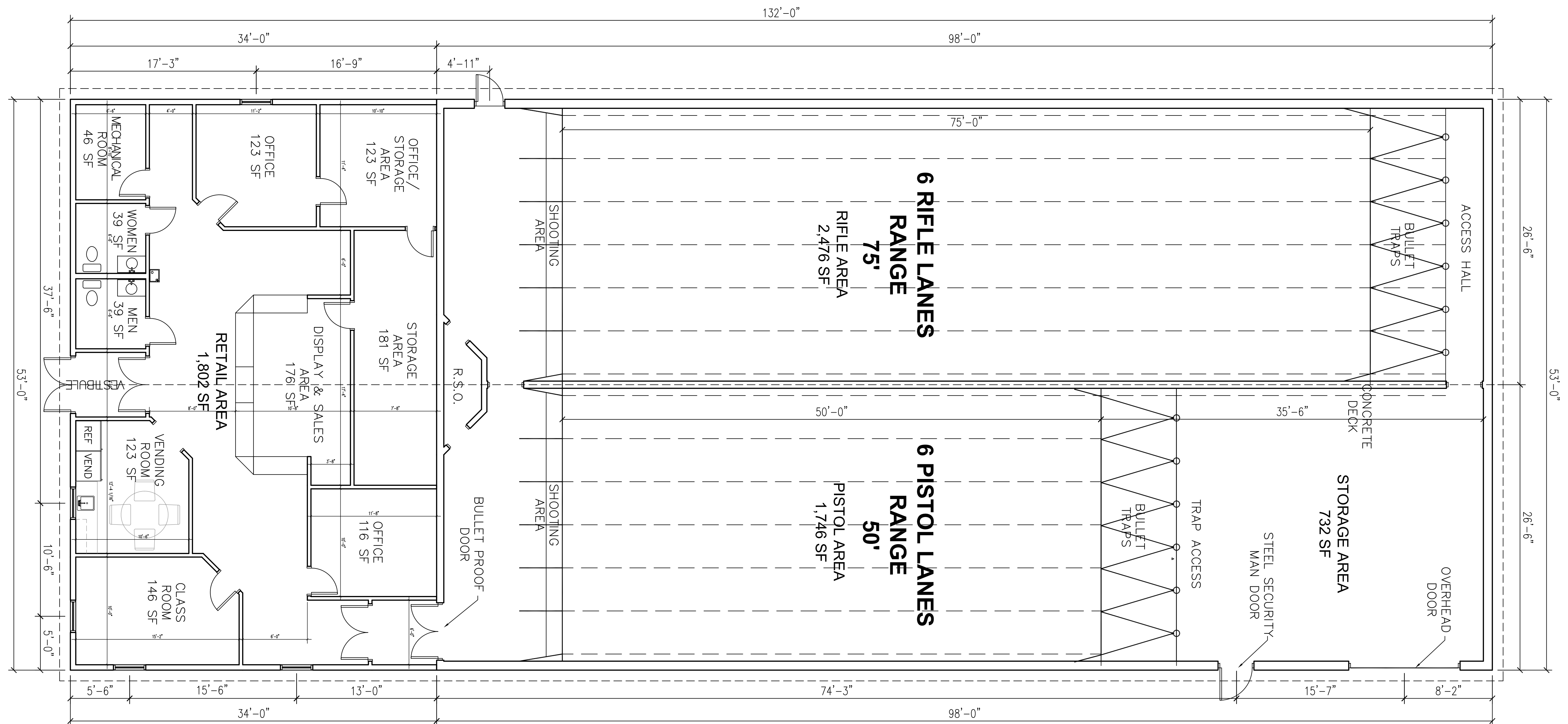


SOUTH ELEVATION



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



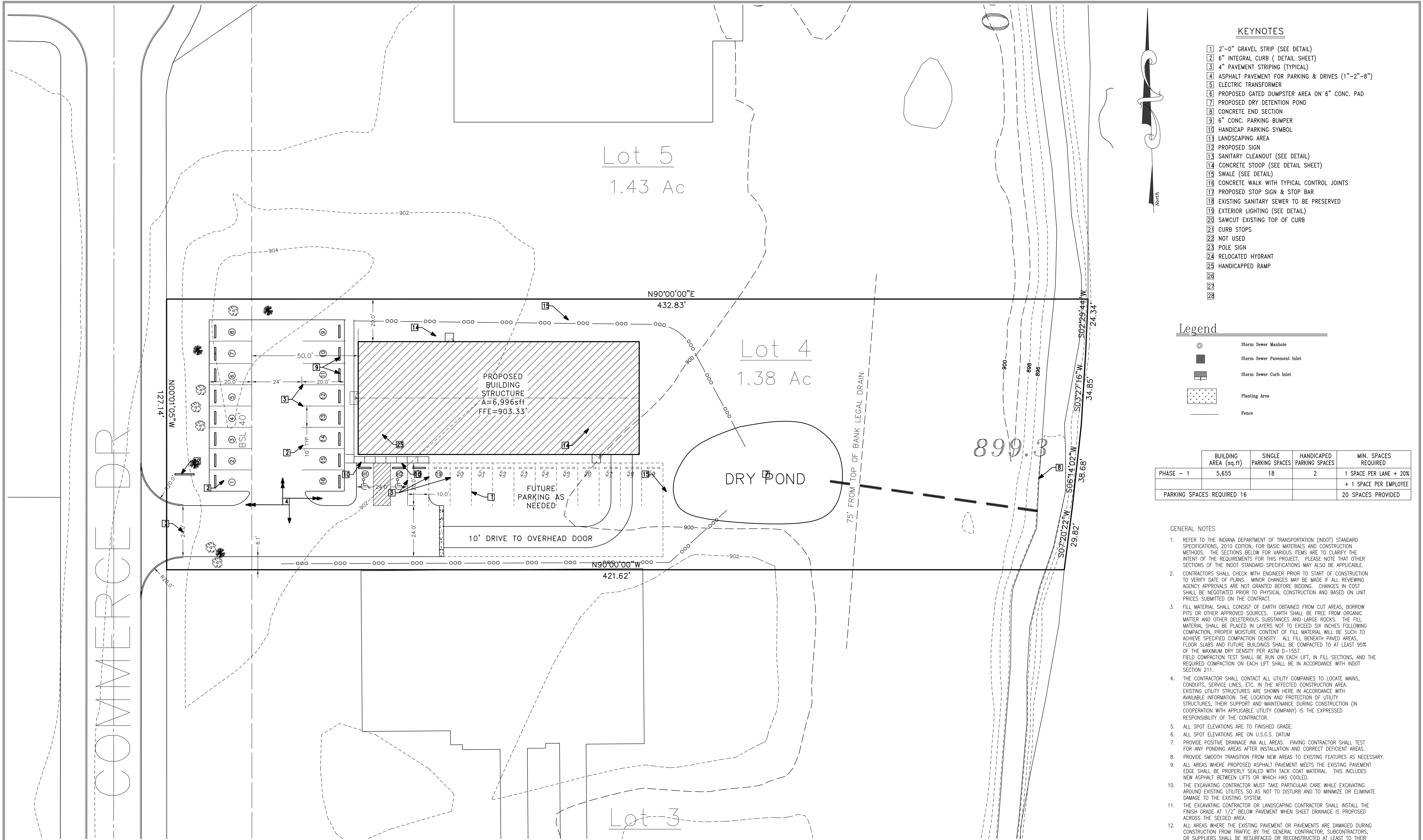
No.	Date	Revision

BADGER
ENGINEERING

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

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

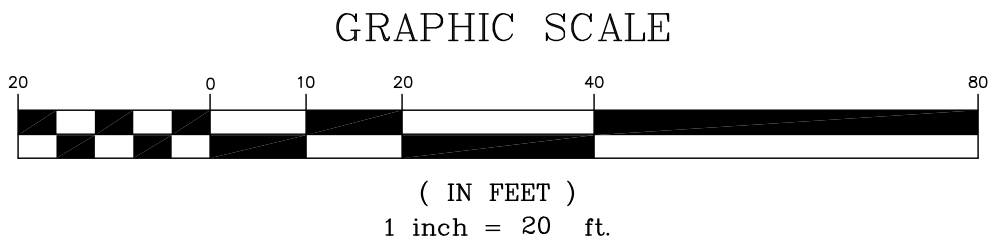
- Storm Sewer Manhole
- Storm Sewer Pavement Inlet
- Storm Sewer Curb Inlet
- Planting Area
- Fence

	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

SITE LAYOUT



Know what's below.
Call before you dig.

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.

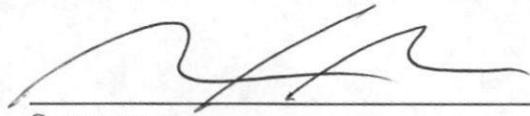
Sanders seconded, and the motion passed.

REPORTS/COMMENTS:

No reports.

The meeting adjourned at 9:05 p.m.


Chairperson
Randy Graham


Secretary
Matthew Skelton, Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015

1503-VS-01

Exhibit 1

Petition Number: 1503-VS-01

Subject Site Address: 17130 Joliet Rd (the "Property")

Petitioner: Sterling M. & Jessica R. Strickland (the "Petitioner")

Request: The petitioner is requesting: (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).

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

Current Land Use: Vacant

Approximate Acreage: 3.76 acres +/-

Related Petitions: 0102-VS-07 (Minimum Lot Frontage Variance)
0403-VS-02 (Minimum Lot Frontage Variance)
0801-SE-01 (Special Exception to allow riding stable)
0801-VS-01 (Setback Variance for riding stable)

Exhibits: 1. Staff Report
2. Location Map
3. Application
4. Historic Site Plan
5. Proposed Site Plan

Staff Reviewer: Pam Howard

Petition History

This petition is scheduled to receive a public hearing at the March 10, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The Property is approximately 3.76 acres in size and is located at 17130 Joliet Road. The Property is vacant and zoned AG-SF1. All adjacent properties are also zoned AG-SF1. The subject Property is labeled as "Parcel B" on the Historic Site Plan, attached hereto as **Exhibit 4**, and the parcel to the north, as further described herein, is labeled as "Parcel A" on the Historic Site Plan (collectively, the "Properties").

Minimum Lot Frontage Variance: On February 20, 2001, the Board of Zoning Appeals approved a Variance of Development Standard (0102-VS-07) to reduce the minimum Lot Frontage for both Properties. That approval allowed for the Properties to be split into the two (2) existing parcels. As a condition of that variance, the Board of Zoning Appeals required that access to the Properties be via an access easement



extending from the north end of the Properties' Joliet Road frontage (along the north side of the subject Property) to ensure no additional drive cuts would occur onto Joliet Road. The Petitioner desires to modify the condition to instead allow access to the subject Property via an access easement on the south side of the subject Property (labeled as "Proposed Access Easement" on the Proposed Site Plan (Exhibit 5)). The proposed alternative access would utilize an existing driveway and would not result in a new drive cut onto Joliet Road.

Riding Stable Special Exception: On February 12, 2008, the Board of Zoning Appeals approved a Special Exception to allow a riding stable (0801-SE-01) and a related Variance of Development Standard for a reduced setback of the riding stable (0801-VS-01) for the Properties. A condition of that approval included that the Properties would combine the two parcels and not be subdivided again in the future.

The parcels (as they exist today) were never combined and the Petitioner has since acquired the subject Property. As a result, the approved Special Exception and related Variance of Development Standard is in effect null and void as the Properties can no longer comply with the condition of approval. As part of this request and because a riding stable was never constructed, the Petitioner, as owner of the Subject Property, and the owner of "Parcel A" have agreed to terminate the previously approved Special Exception and related Variance of Development Standards.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies this Property within the "Rural Northwest and Northeast"¹ land use classification. "Shared private streets or driveways"² are contemplated in the Comprehensive Plan as appropriate characteristics for subdivisions within this area of the township.

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standards. This petition is scheduled to receive its public hearing at the January 13, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁴ requires that the approval of the variance shall be memorialized in an acknowledgement of variance

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

² Westfield-Washington Township Comprehensive Plan, Rural Northwest and Northeast Development Implementation Tools (pg. 33)

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

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



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.

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

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

Department Comments

Recommendations for Approval: If the Board is inclined to approve the request to modify its imposed condition of approval for the Property, then the Department recommends the modified condition related to the access state: "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."

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

Recommended Findings for Approval: A Variance of Standard may be approved under Indiana Code § 36-7-4-918.5 and the City of Westfield-Washington Township Unified Development Ordinance (Article 10.14.G.2) only upon a determination 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 would be injurious to the public health, safety, morals, and general welfare of the community. The proposed modified condition still maintains shared access with another property and does not result in any new driveway cuts onto Joliet Road.

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 residential use of the property is permitted and consistent with the character of the surrounding area. The Lot would otherwise comply with all other applicable standards.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015

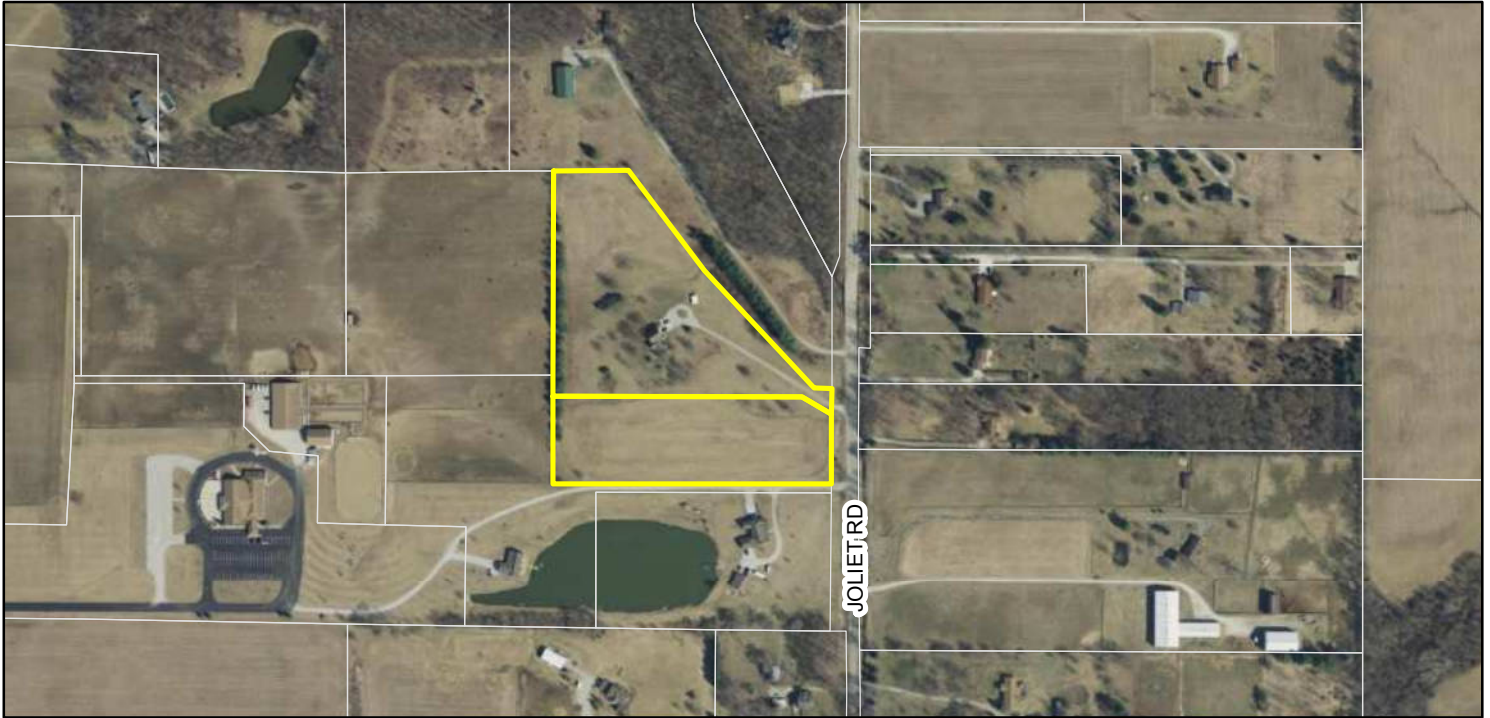
1503-VS-01

Exhibit 1

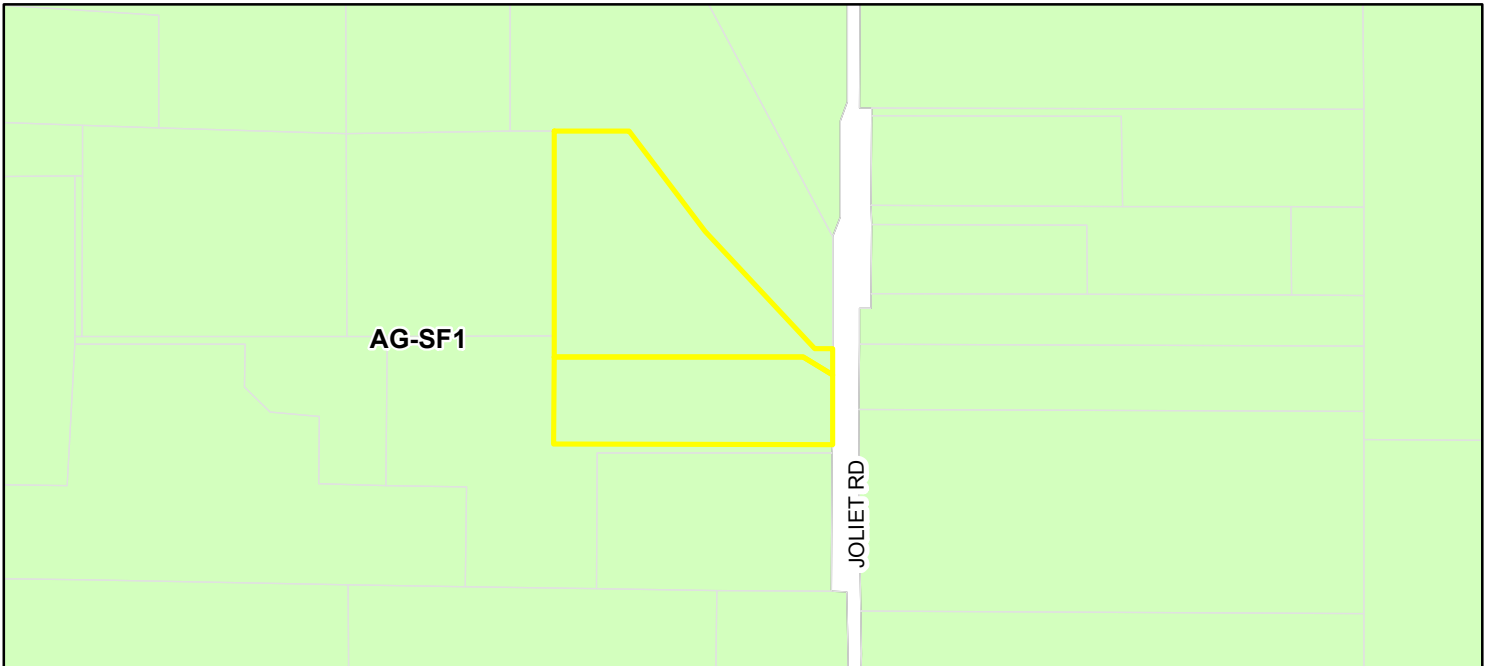
3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property with any sort of structure and the proposed modification continues to allow access to the Property without creating additional driveways onto Joliet Road.. The proposed use is permitted in the AG-SF1 District, and the Lot would otherwise comply with all other standards of that district.

Aerial Location Map



Zoning Map



WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION



OFFICE
USE ONLY

DOCKET #: 1503-VS-01

FILING DATE: 2-2-15

FILING FEE: \$ 600 FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ 2) = \$ 600

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Andrew Murray (STAFF NAME) DATE: 1-27-2015

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: — AMENDMENTS: — DEVELOPMENT PLAN: —

PRIMARY PLAT: — SECONDARY PLAT: — VARIANCE(S): 0801-VS-01
0801-SE-01

APPLICANT INFORMATION

APPLICANT'S NAME: STERLING M + JESSICA R. STRICKLAND TELEPHONE: 317.340.3620

ADDRESS: 6083 GREEN WILLOW RD WHETSTOWN, IN 46075 EMAIL: FL400@hotmail.com

PROPERTY OWNER'S NAME: STERLING M. + JESSICA R. STRICKLAND TELEPHONE: 317.340.3620

ADDRESS: 17130 JOLIET RD WESTFIELD, IN 46074 EMAIL: FL400@hotmail.com

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17130 JOLIET RD WESTFIELD, IN 46074

COUNTY PARCEL ID #(S): 08-09-06-00-00-009.001

EXISTING ZONING DISTRICT(S): _____ EXISTING LAND USE(S): Ag - VACANT LOT

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): See attached

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



APPLICANT: Sterling M. & Jessica R. Strickland

DOCKET #: _____

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

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____
there is already an approved access easement for the lot at 17130 Joliet Rd. It is on the north side of the property. Simply moving that access easement to the private road on the south side of the property should not be injurious to the public health, safety, morals, or general welfare of the community. In fact, moving the access easement will allow us to pave less earth for our driveway.
- 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: there is already a private road to the south of our property that is utilized by 2 residences. Adding an additional residence to that private road should have no effect on the use and value of the area adjacent to the property. The residence at 17138 Joliet Rd will likely see an increase in value as they will no longer carry the burden of an access easement on their driveway
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: we will have to pour an additional 500 feet of driveway if we maintain the current access easement.

VARIANCE APPLICATIONS

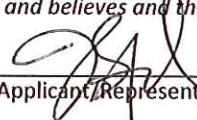
**GENERAL INSTRUCTIONS**

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



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.

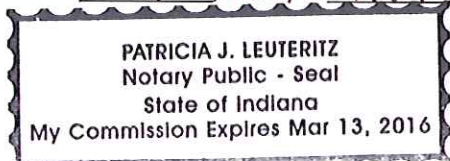

Applicant/Representative (signature)

Jessica Strickland
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 2nd day of Feb, 2015.

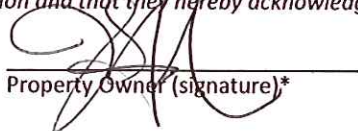
State of IN, County of Ham, SS:




Notary Public Signature
Patricia J. Leuteritz
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.

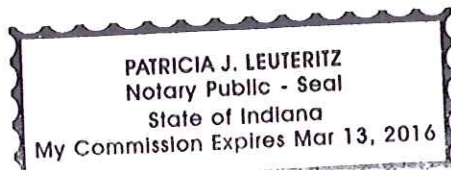

Property Owner (signature)*

Jessica Strickland
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.

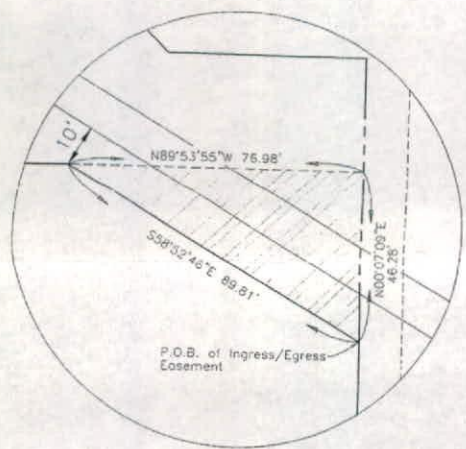
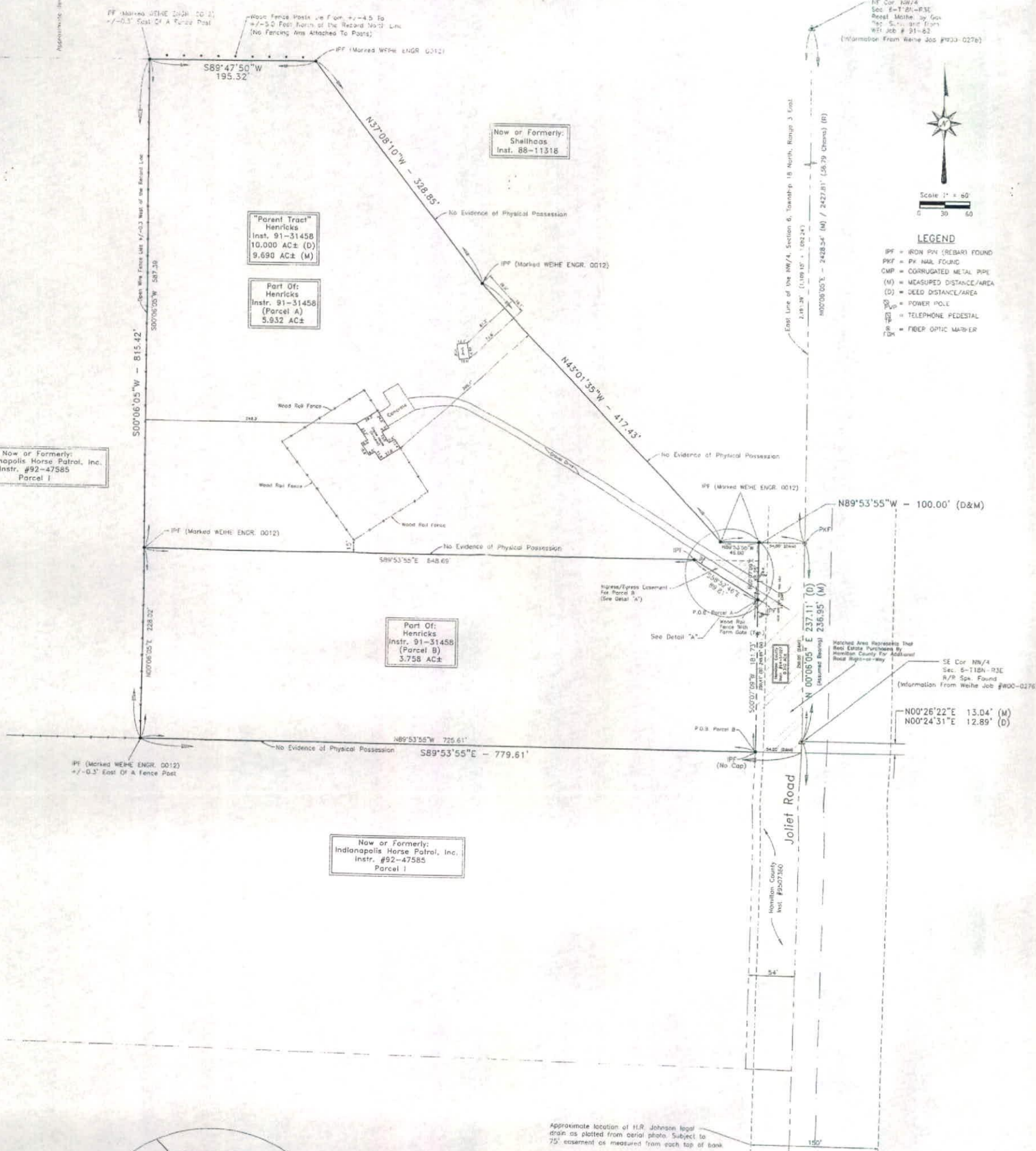
Witness my hand and Notarial Seal this 2nd day of Feb, 2015.

State of IN, County of Ham, SS:




Notary Public Signature
Patricia J. Leuteritz
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.



Ingress/Egress Easement
Detail "A"

Not To Scale

SHEET NO.
1
2

Prepared For:
Dave Dillon

17128 Joliet Road, Washington Twp., Hamilton Co., IN

Retracement Survey w/Improvements

Part of the W/2, Section 5, Township 18 North, Range 3 East, Washington Township, Hamilton Co., IN

REVISIONS
This drawing is based upon a prior
survey by WEIHE ENGINEERS, dated 01/14/2001

DATE BY JOB NO.
FILE NO.
DRAWN BY:
CHECKED BY:
DATE



WEIHE ENGINEERS, INC.

10805 NORTH COLLEGE AVENUE
INDIANAPOLIS, INDIANA 46229
(317) 846-6611
(317) 843-6448 Fax
1-800-422-6408

ALLAN H. WEIHE, P.E., L.S.
PRESIDENT

CIVIL ENGINEERS

LAND SURVEYORS

LAND PLANNERS

Exhibit 4 Proposed Site Plan



The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, January 13, 2015, at Westfield City Hall. Members present included Randy Graham, Martin Raines, Ron Rothrock and Bill Sanders. Also present were Jesse Pohlman, Senior Planner; Kevin Todd, Senior Planner; and, 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

Rothrock moved to approve the November 11, 2014, minutes.

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

Pohlman reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1412-VS-15

(PUBLIC HEARING)

West of Eagletown Road and North of 166th street

Yan Guenette by JD Hall Land Surveying

The petitioner is requesting Variances of Standard to: (i) not require the Subdivision process (Article 10.12); and (ii) reduce the Minimum Lot Frontage requirement in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(D)).

Todd presented an overview of the requested Variance of Standard to not require the Subdivision process (Article 10.12) and reduce the Minimum Lot Frontage requirement in the AG-SF1 District.

Yan Guenette, on behalf of the petitioner gave an explanation of the proposed improvements for a single-family home.

Sanders asked to confirm that the width of the access easement was twenty (20) feet and where the clay tile drains to currently, before the construction of the pond.

Guenette confirmed the access easement was twenty-feet wide and that the clay tiles would allow the site to drain to the south and back to the northwest through the adjacent property. There is not a regulated drain in this area, so the County Surveyor's Office does not regulate the drainage in this area.

Raines inquired how many parcels currently exist and how the home would be oriented.

Guenette explained it is currently two parcels, but they would be combined into one parcel if the

petition were to be approved. The planned home would face to the northeast.

Public Hearing opened at 7:10 p.m.

Todd distributed two written comments from neighbors to the Board for their review.

David Beck, 2122 West 166th Street; Commented he owns the property located immediately south of the property being discussed. He stated that other options for this property would be a sale with another existing property and years ago it was offered at a reasonable price, but they were not looking to acquire the property. He said he understands the property will likely be developed but drainage is a problem for surface and storm water in this area and there is a problem currently with standing water due to it not having anywhere else to drain. If this variance would be approved, then he would like to at least have grading added to help give his property some relief from standing water because the clay tile that has been talked about has been compromised since there is a sinkhole on the edge of the property which is right where the clay tile would be located.

John Donaldson, 16736 Eagletown Road; Commented he has a problem with drainage and the little pond is not going to take care of the water issue. If a home is built on the property, then it will just cause more problems and some type of drainage has to be completed before any kind of construction can happen. He said the previous owner had the drainage go east to Little Eagle Creek which causes the drainage system to go the wrong direction. He asked that this variance be continued until the drainage issue is resolved.

Public Hearing closed at 7:17 p.m.

Rothrock motioned to approve 1412-VS-04 with the condition that the two (2) existing parcels be legally combined into a single parcel prior to the issuance of an improvement location permit.

The motion died due to a lack of second.

Graham motioned to deny 1412-VS-04.

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

Graham moved to adopt the staff report's recommended findings of fact for denying the petition.

Sanders seconded, and the motion passed 4-0.

1501-VU-01

180 S Cherry Street

(PUBLIC HEARING)

David Koone

The petitioner is requesting a Variance of Use to allow a Construction Trade Office (lawn care business) in the LB-H: Local Business/Historical District (Chapter 13: Use Table).

Pohlman presented an overview of the requested Variance of Use to allow a Construction Trade Office (lawn care business) the LB-H District.

Mary Solada, Esq., Bingham, Greenebaum, Doll, LLP on behalf of the petitioner, presented additional details regarding the requested variance of use and noted the petitioner was unable to attend the hearing because of mandatory out-of-town training by Lawn Doctor for his new franchise.

Graham inquired about the storage of fertilizers and other chemicals on the property.

Solada responded the current property owner has informed them that the property has not flooded since he has owned the property and that Mr. Koone has been working with the Department and the Fire Marshal to ensure the property complies.

Pohlman responded the Department has communicated with the Fire Marshall to ensure the property complies with all federal and state regulations, but that determination will made prior to the operation of the use, if approved by the Board. If the property is able to comply with storage regulations, then the storage will be permitted; otherwise, no storage of regulated fertilizers or chemicals would be permitted on the property.

Public Hearing opened at 7:39 p.m.

No public comment.

Public Hearing closed at 7:40 p.m.

Graham motioned to approve 1501-VU-01 with the Department's recommended conditions:

1. There shall be no outdoor storage on the Real Estate.
2. There shall be no outdoor overnight parking of vehicles and/or equipment on the Real Estate.
3. The Construction Trade Office use shall be limited in scope to a lawn care business. Any expansion or substantial alteration to the scope and operation of the use, as determined by the Director shall require approval by the Board of Zoning Appeals.

Sanders seconded, and the motion was passed 4-0.

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

Graham seconded, and the motion passed 4-0.

REPORTS/COMMENTS

APC LIASON:

No report.

EDC STAFF:

Pohlman introduced Pamela Howard, a planner with the Department.

The meeting adjourned at 7:45 p.m.

Chairperson
Dan Degnan

Secretary
Matthew Skelton, Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015
1503-VU-03 & 1503-VS-03
Exhibit 1

Petition Number: 1503-VU-03 & 1503-VS-03

Subject Site Address: 228 Park Street (the "Property")

Petitioner: Scott Wolf (the "Petitioner")

Request: 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*).

Current Zoning: MF1: Multi-Family Low Density District

Current Land Use: Residential/Vacant

Approximate Acreage: 0.28 acre +/-

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Petitioner's Application
4. Proposed Site Plan

Staff Reviewer: Kevin M. Todd, Senior Planner

Property Information

The subject property is approximately 0.28 acre +/- in size and is located on the north side of Park Street, approximate 225 feet west of Mill Street (see [Exhibit 2](#)). The Property is zoned MF1: Multi-Family Low Density District. The property is located in a redeveloping part of Downtown Westfield. Adjacent property to the north, south, east and west are residentially-used. Nearby property to the northeast and southeast have been converted from residential uses to commercial uses. It is anticipated that both sides of Park Street will convert from residential to commercial uses over time.

Petition History

This petition will receive a public hearing at the March 10, 2015, Board of Zoning Appeals meeting.

Analysis

This petition request is to allow a 28-space parking lot to be constructed on the Property. Over the past year, two buildings on the south side of Park Street have been converted from residential (or residential accessory) structures to restaurants. Plans for a third residential building on Park Street to convert to a



restaurant are currently being reviewed by the City – the specific parking lot in question would serve this new restaurant. It is envisioned that all of Park Street (on both sides of the street, from Mill Street to U.S. 31) will redevelop into non-residential uses over time. Park Street is physically too narrow to accommodate on-street parking, and there is no plan or desire for the City to widen the street in order to accommodate additional on-street parking. As Downtown Westfield continues to redevelop, it is acknowledged that additional public parking will be needed. The Grand Junction Implementation Plan, 2013 (an addendum to the Comprehensive Plan) identifies the need for downtown public parking (including the possibility of multiple parking garage structures). However, until a comprehensive downtown parking plan is formalized and implemented, a series of temporary surface parking lots may very likely serve as an interim solution. The proposed parking lot would help serve this purpose by alleviating immediate parking needs caused by a new Park Street restaurant.

It is anticipated that the proposed parking lot would be temporary, meaning that the Property would only have a parking lot until a greater parking solution for that part of downtown is fully planned and implemented. After the parking plan has been implemented, the subject parking lot would no longer be needed. At that time, it is anticipated that the Property would then redevelop in a manner that is similar to and consistent with the rest of Park Street.

This proposal has been reviewed by the Grand Junction Task Group and has received their support.

Details of the Variance Requests:

Variance of Use. The Property is currently zoned MF-1, and Commercial Parking Lots are not a permitted use in that zoning district (Article 13.2, Use Table).

Variances of Development Standard. As depicted in the petitioner's plans, the proposed temporary parking lot would be gravel and the existing perimeter trees would be maintained. However, because of the temporary nature of the parking lot, many of the substantial improvements that would otherwise be required by the City's Unified Development Ordinance may not be warranted for this project at this time. As a result, the following development standard variances are requested:

1. That all U.S. Highway 31 Overlay District standards not apply (Article 5.2);
2. That all Landscaping Standards not apply (Article 6.8);
3. That the parking area not be required to be paved (Article 6.14, G (7) (a));
4. That the parking area not be required to be curbed (Article 6.14, G (7) (b));
5. That the MF-1 open space requirements not apply (Article 8.6);
6. That the Perimeter/External Pedestrian Network Standards not apply (Article 8.7, D);
7. That the Street and Right-of-Way Standards not apply (Article 8.9); and,
8. That Development Plan Review approval authority is delegated to the Economic and Community Development Department Staff (Article 10.7, D).



Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition is scheduled to receive 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 UDO¹ 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 UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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.

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

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015
1503-VU-03 & 1503-VS-03
Exhibit 1

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

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

Recommendation

The area around the subject property is actively being redeveloped in accordance with the Comprehensive Plan (and its subsequent amendments for Downtown Westfield, aka Grand Junction), and as a result of these new economic development opportunities, there is an emerging need for additional downtown parking. The City is actively working on an overall, comprehensive parking plan for Grand Junction, but current development trends are causing the need for more immediate solutions – even if they are temporary solutions. For these reasons, the Department supports the proposed temporary parking lot on the subject property.

The Department recommends approval of 1503-VU-03 and 1503-VS-03 with the following conditions and findings:

Recommended Conditions:

1. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan (see Exhibit 4);
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; and,
3. That approval of these variances (1503-VU-03 and 1503-VS-03) shall expire on April 1, 2020. Any request to extend the time limit of these variances shall be reviewed and approved by the Board of Zoning Appeals prior to April 1, 2020.



Recommended Findings for Variance of Use (1503-VU-03):

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. The proposed use should help alleviate parking problems in this part of Downtown Westfield as there are not enough nearby, existing on-street or off-street parking spaces to support the trending economic development activity in this quadrant of downtown.

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. Further economic activity on Park Street is anticipated, and as the street redevelops, parking needs will increase.

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

Finding: Recent and current re-use of nearby properties from residential to commercial uses warrant parking in the area. The property's proximity to redevelopment projects offers nearby parking for a new re-use project across the street.

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 current MF-1 zoning district would not permit a stand-alone commercial parking lot. However, parking is needed in the area because of recent and current re-use of nearby properties from residential to commercial uses.

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

Finding: Redevelopment is occurring in a manner that is consistent with the Comprehensive Plan and the approval of a temporary parking lot would not interfere with that plan.



Recommended Findings for Variances of Development Standards (1503-VS-03):

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 variances of development standards would be injurious to the public health, safety, morals, and general welfare of the community. The proposed parking lot should help alleviate parking problems in this part of Downtown Westfield as there are not enough nearby, existing on-street or off-street parking spaces to support the trending economic development activity in this quadrant of downtown.

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:*

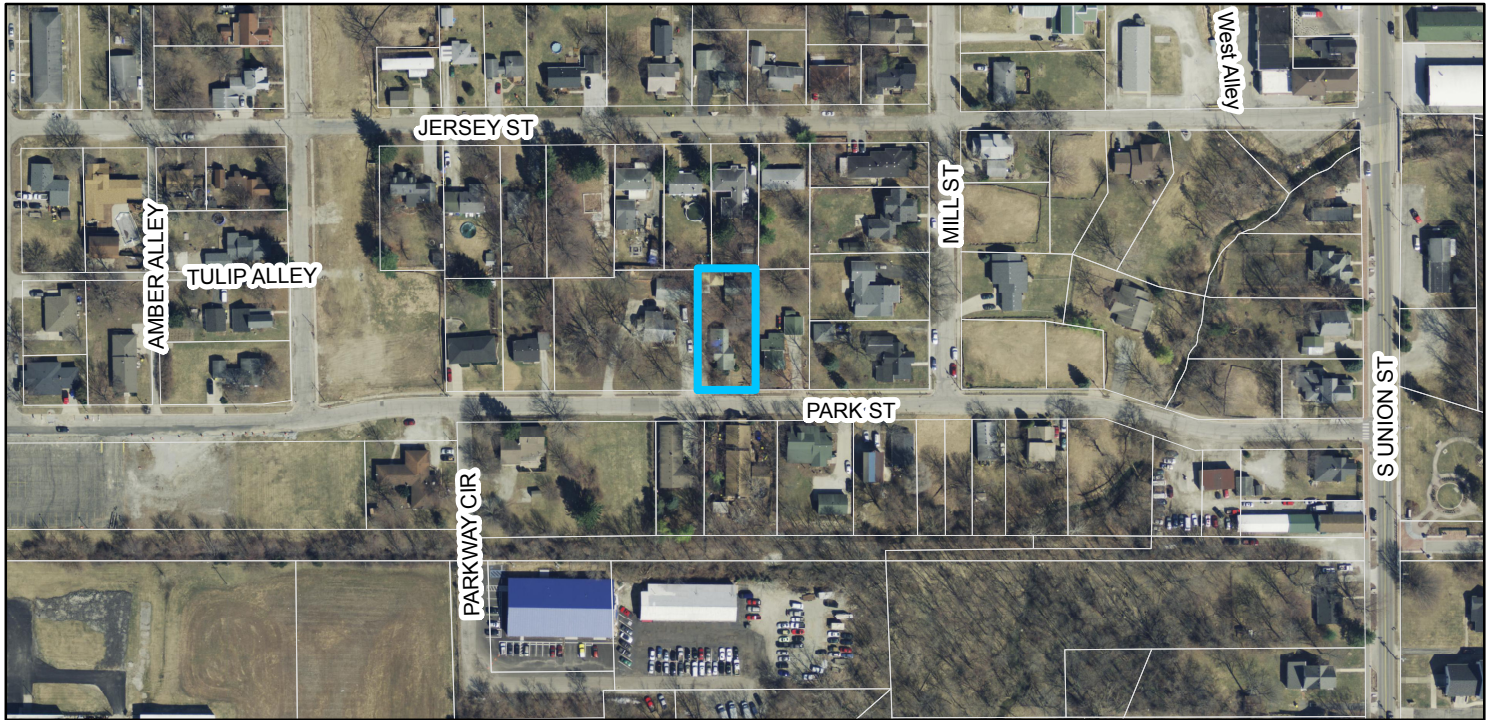
Finding: It is unlikely that the use and value of adjacent property will be affected in a substantially adverse manner. Further economic activity on Park Street is anticipated, and as the street redevelops, parking needs will increase.

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

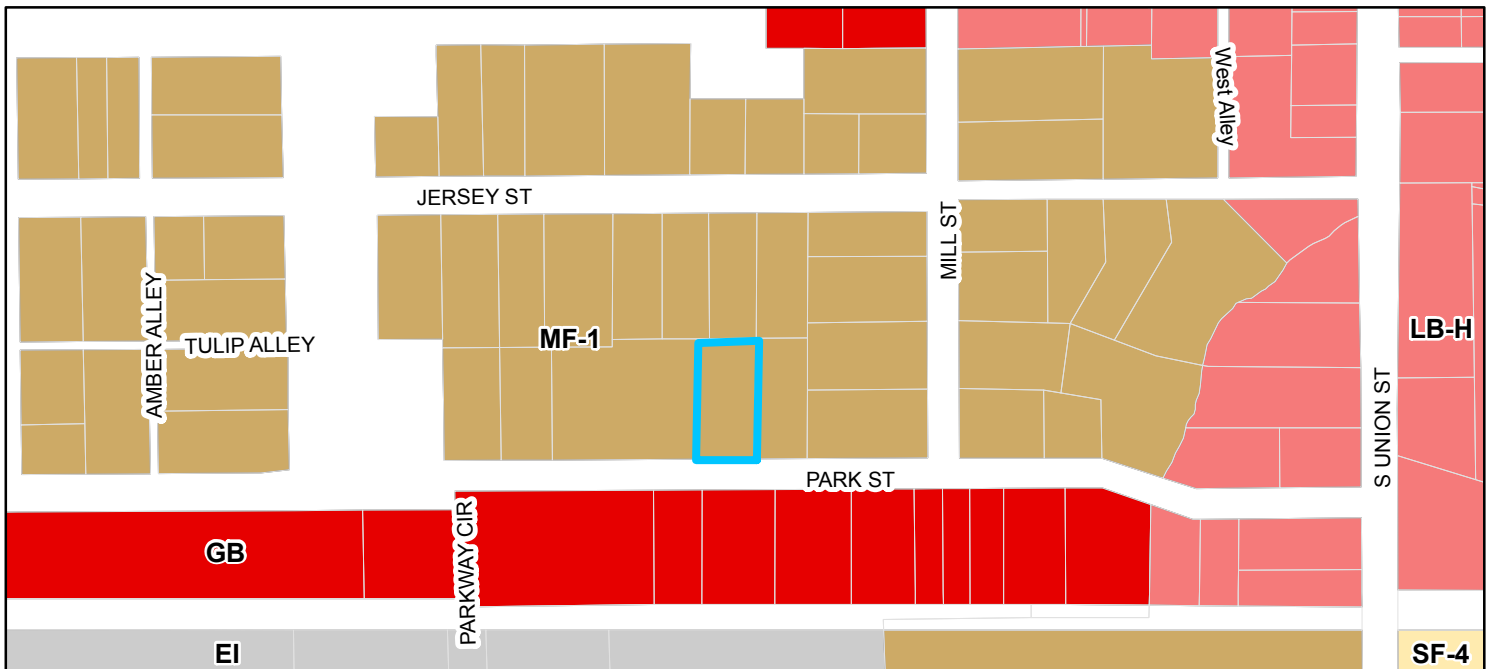
Finding: The development standards would require significant improvements to be made to the parking lot in order to comply with the zoning rules. Higher investment in a temporary parking situation could frustrate the ultimate goal of redeveloping the property for an economic-generating use.

Aerial Location Map

 Site



Zoning Map



 Parcel	Zoning	 GB (General Business)	 MF-1 (Multiple Family - 1)
 EI (Enclosed Industrial)	 LB-H (Local Business - Historical)	 SF-4 (Single Family - 4)	

VARIANCE APPLICATION **1503-VU-03**

OFFICE
USE ONLY

DOCKET #: **1503-VS-03**

FILING DATE: **2-17-15**

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: **Kevin Todd** (STAFF NAME) DATE: **2/10/15**

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: **Scott Wolf** TELEPHONE: **317-371-3046**

ADDRESS: **15672 E. 146th St. Noblesville IN 46060** EMAIL: **scott@wolfiesgrill.com**

PROPERTY OWNER'S NAME: **Ben Davis** TELEPHONE: **317-250-8522**

ADDRESS: **15034 Declaration Dr. Westfield, IN 46074** EMAIL: **ben@bbgconstruction.com**

REPRESENTATIVE'S NAME: **Beth Hodgson** TELEPHONE: **317-281-1873**

COMPANY: **Wolfie's Grill** EMAIL: **bhodgson@wolfiesgrill.com**

ADDRESS: **20275 Dayspring Ct Noblesville IN 46062**

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: **228 Park St. Westfield, IN 46074**

COUNTY PARCEL ID #(S): **09-09-01-02-06-015.000**

EXISTING ZONING DISTRICT(S): **MF-1** EXISTING LAND USE(S): **Single family residence**

VARIANCE REQUEST

☒ VARIANCE OF LAND USE CODE CITATION: **Article 4.15, B**

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: **See attached**

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

The intent is ~~to~~ to install a parking lot for the planned restaurant at 219 Park St. as well as its patrons, guests and employees.

It is understood that the parking lot may be temporary prior to any re-development the city may have planned for permanent parking.

variances of Development Standard:

- US Highway 31 Overlay District – request that the US 31 Overlay does not apply (Article 5.2)
- Landscaping – request that the landscaping requirements not apply (Article 6.8)
- Parking Surfacing and Curbs – request that the parking area not be required to be paved (Article 6.14, G (7) (a))
- Parking Surfacing and Curbs – request that the parking area not be required to be curbed (Article 6.14, G (7) (b))
- Open Space—request that the MF-1 open space requirements not apply (Article 8.6)
- Perimeter/External Pedestrian Network Standards – request that these standards to not apply (Article 8.7, D)
- Street and Right-of-Way Standards – request that these standards do not apply (Article 8.9)
- Development Plan Review approval authority – request to delegate all Development Plan approvals to the Economic and Community Development Department Staff (Article 10.7, D)

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.

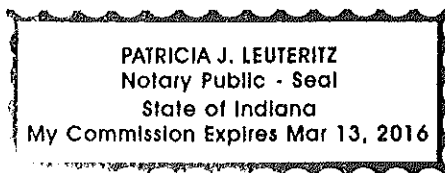
[Signature]
Applicant/Representative (signature)

Beth Hedger
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 17th day of Feb, 2015.

State of IN, County of Hamilton SS:



[Signature]
Notary Public Signature
Patricia J. Leuteritz
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.

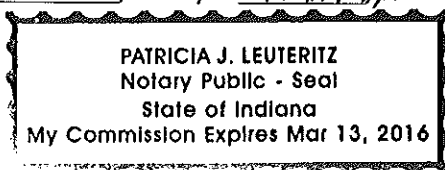
[Signature]
Property Owner (signature)*

Ben Davis
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 17th day of Feb, 2015.

State of IN, County of Hamilton SS:



[Signature]
Notary Public Signature
Patricia J. Leuteritz
Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)APPLICANT: Scott Wolf

DOCKET #: _____

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

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: it provides a safe parking area for all patrons, guests and employees.
- 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: parking will be limited to one specific area.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: patrons, guest and employees will be forced to park on the city streets, inconveniencing neighbors and disrupting traffic patterns

FINDINGS OF FACT (VARIANCE OF USE)

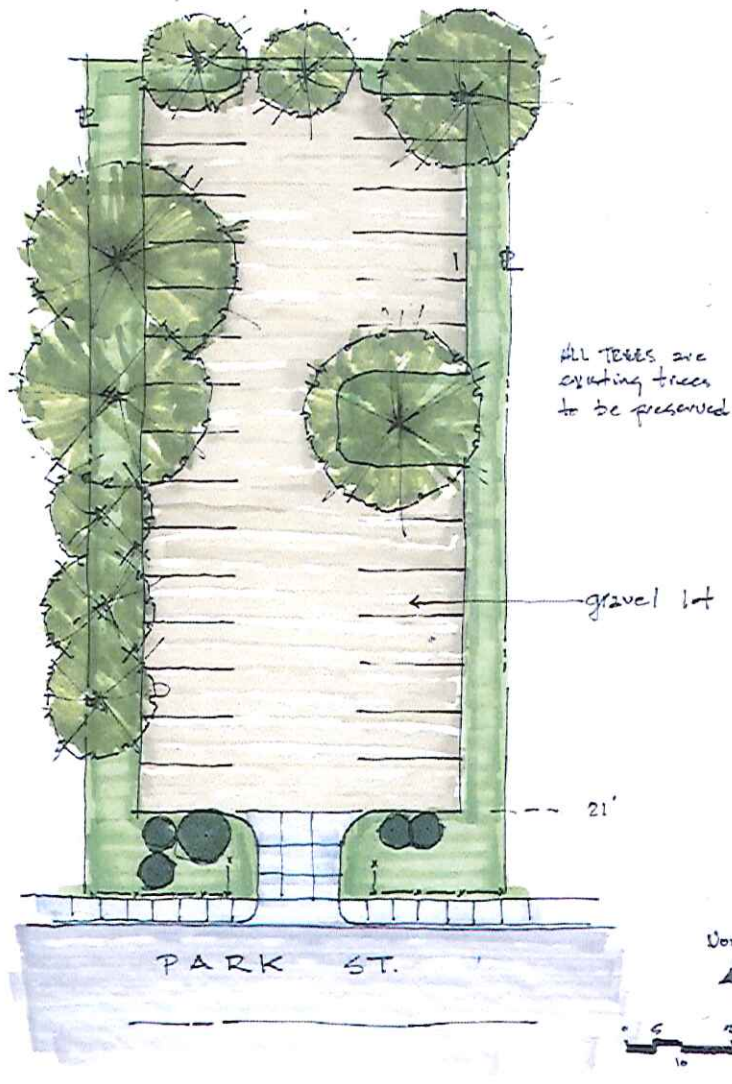
APPLICANT: Scott Wolf

DOCKET #: _____

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- 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: parking will be limited to one specific area
- C. The need for the variance arises from some condition particular to the property involved because: there is not adequate parking available for patrons, guests and employees.
- 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: patrons, guest and employees will be forced to park on the city streets inconveniencing neighbors and disrupting traffic patterns.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____

AMICI's ITALIAN on Park





WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015
1503-VU-04 & 1503-VS-04
Exhibit 1

Petition Number: 1503-VU-04 & 1503-VS-04

Subject Site Address: 131 West Main Street (the "Property")

Petitioner: Scott Wolf (the "Petitioner")

Request: 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*).

Current Zoning: LB-H: Local Business/Historical District

Current Land Use: Vacant

Approximate Acreage: 0.33 acre +/-

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Petitioner's Application
4. Proposed Site Plan

Staff Reviewer: Kevin M. Todd, Senior Planner

Property Information

The subject property is approximately 0.33 acre +/- in size and is located on the south side of Main Street, approximate 275 feet west of Union Street (see [Exhibit 2](#)). The Property is zoned LB-H: Local Business/Historical District. Adjacent property to the north, east and west are commercially-used. Adjacent property to the southwest is residentially used, and adjacent property to the southeast is civically used (Lions Club). It is anticipated that the area between Mill Street and Union Street and between State Road 32 and Jersey Street will redevelop into a pedestrian-friendly development with multi-story, multi-use buildings.

Petition History

This petition will receive a public hearing at the March 10, 2015, Board of Zoning Appeals meeting.

Analysis

This petition request is to allow a 26-space parking lot to be constructed on the Property. The Property is immediately to the west of a bank building that is being converted to a restaurant. The restaurant owner



is proposing to extend the existing parking lot onto the subject property. The new parking lot would be accessed from the restaurant lot (to the west), and would not have direct access to State Road 32. The Property is within close proximity to the Grand Junction Plaza.

As Downtown Westfield continues to redevelop, it is acknowledged that additional public parking will be needed. The Grand Junction Implementation Plan, 2013 (an addendum to the Comprehensive Plan) identifies the need for downtown public parking (including the possibility of multiple parking garage structures). However, until a comprehensive downtown parking plan is formalized and implemented, a series of temporary surface parking lots may very likely serve as an interim solution. The proposed parking lot would help serve this purpose by alleviating immediate parking needs caused by a new restaurant.

It is anticipated that the proposed parking lot would be temporary, meaning that the Property would only have a parking lot until a greater parking solution for that part of downtown is fully planned and implemented. After the parking plan has been implemented, the subject parking lot would no longer be needed. At that time, it is anticipated that the Property would then redevelop.

This proposal has been reviewed by the Grand Junction Task Group and has received their support.

Details of the Variance Requests:

Variance of Use. The Property is currently zoned LB-H, and Commercial Parking Lots are not a permitted use in that zoning district (Article 13.2, Use Table).

Variances of Development Standard. As depicted in the petitioner's plans, the proposed temporary parking lot would be gravel and the existing perimeter trees would be maintained. However, because of the temporary nature of the parking lot, many of the substantial improvements that would otherwise be required by the City's Unified Development Ordinance may not be warranted for this project at this time. As a result, the following development standard variances are requested:

1. That all Landscaping Standards not apply (Article 6.8);
2. That the parking area not be required to be paved (Article 6.14, G (7) (a));
3. That the parking area not be required to be curbed (Article 6.14, G (7) (b));
4. That the Perimeter/External Pedestrian Network Standards not apply (Article 8.7, D);
5. That the Street and Right-of-Way Standards not apply (Article 8.9); and,
6. That Development Plan Review approval authority is delegated to the Economic and Community Development Department Staff (Article 10.7, D).

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition is scheduled to receive its public hearing at the March 10, 2015, Board of Zoning



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015
1503-VU-04 & 1503-VS-04
Exhibit 1

Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ and Indiana 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 UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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.

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

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

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



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

Recommendation

The area around the subject property is actively being redeveloped in accordance with the Comprehensive Plan (and its subsequent amendments for Downtown Westfield, aka Grand Junction), and as a result of these new economic development opportunities, there is an emerging need for additional downtown parking. The City is actively working on an overall, comprehensive parking plan for Grand Junction, but current development trends are causing the need for more immediate solutions – even if they are temporary solutions. For these reasons, the Department supports the proposed temporary parking lot on the subject property.

The Department recommends approval of 1503-VU-04 and 1503-VS-04 with the following conditions and findings:

Recommended Conditions:

1. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan (see Exhibit 4); and,
2. That approval of these variances (1503-VU-03 and 1503-VS-03) shall expire on April 1, 2020. Any request to extend the time limit of these variances shall be reviewed and approved by the Board of Zoning Appeals prior to April 1, 2020.

Recommended Findings for Variance of Use (1503-VU-04):

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. The proposed use should help alleviate parking problems in this part of Downtown Westfield as there are not enough nearby, existing on-street or off-street parking spaces to support the trending economic development activity in this quadrant of downtown.



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 State Road 32 corridor is commercially developed with a mixture of buildings and parking surfaces. The addition of a new parking lot is not inconsistent with existing adjacent development.

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

Finding: A new restaurant use on the adjacent property to the west needs more parking than that site can sustain. The subject property's proximity to the new restaurant offers nearby parking for the new restaurant use.

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 current LB-H zoning district would not permit a stand-alone commercial parking lot. However, parking is needed in the area because of nearby/adjacent economic development opportunities and the lack of current parking options.

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

Finding: Redevelopment is occurring in a manner that is consistent with the Comprehensive Plan and the approval of a temporary parking lot would not interfere with that plan.

Recommended Findings for Variances of Development Standards (1503-VS-04):

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 variances of development standards would be injurious to the public health, safety, morals, and general welfare of the community. The proposed parking lot should help alleviate parking problems in this part of Downtown Westfield as there are not enough nearby, existing on-street or off-street parking spaces to support the trending economic development activity in this quadrant of downtown.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015
1503-VU-04 & 1503-VS-04
Exhibit 1

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 State Road 32 corridor is commercially developed with a mixture of buildings and parking surfaces. The addition of a new parking lot is not inconsistent with existing adjacent development.

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

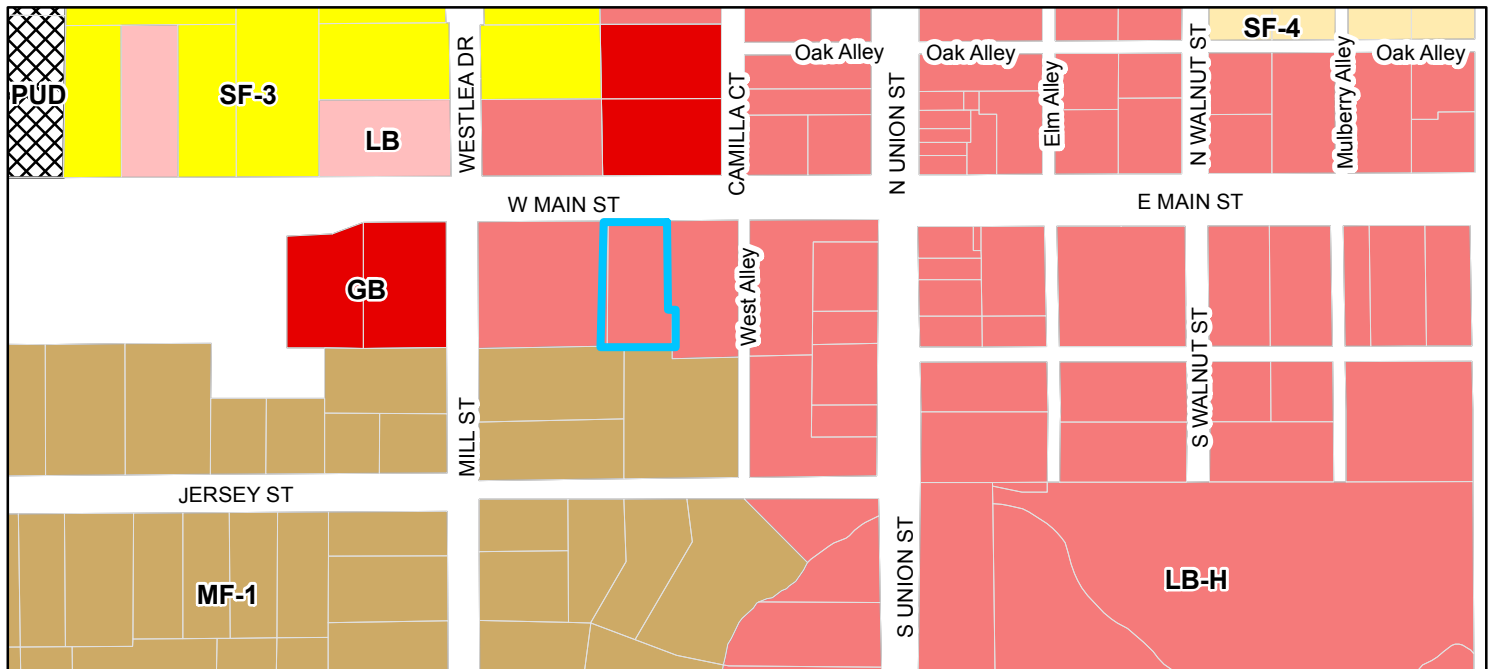
Finding: The current LB-H zoning district would not permit a stand-alone commercial parking lot. However, parking is needed in the area because of nearby/adjacent economic development opportunities and the lack of current parking options.

Aerial Location Map

 Site



Zoning Map



 Parcel	Zoning	 LB-H (Local Business - Historical)	 SF-3 (Single Family - 3)
	 GB (General Business)	 MF-1 (Multiple Family - 1)	 SF-4 (Single Family - 4)
	 LB (Local Business)	 PUD (Planned Unit Development)	

APPLICATION 1503-VS-04OFFICE
USE ONLYDOCKET #: 1503-VU-04

FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: 2/10/15

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Scott Wolf TELEPHONE: 317-371-3046ADDRESS: 15672 E. 146th St. Noblesville IN 46062 EMAIL: scott@wolfiesgrill.comPROPERTY OWNER'S NAME: Dr. Jack Miller TELEPHONE: 317-710-1552ADDRESS: Resid. 2704 W. 146th St Westfield IN 46074 EMAIL: JACK.miller500@aol.comREPRESENTATIVE'S NAME: Beth Hodgkin TELEPHONE: 317-281-1873COMPANY: Wolfe's Grill EMAIL: bhodgin@wolfe'sgrill.comADDRESS: 20275 Dayspring Ct Noblesville IN 46062

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 131 W. Main St. Westfield, IN 46074COUNTY PARCEL ID #(S): 09-09-01-02-04-044, 000EXISTING ZONING DISTRICT(S): LB-H EXISTING LAND USE(S): Vacant lot

VARIANCE REQUEST

☒ VARIANCE OF LAND USE CODE CITATION: Article 4.15, B.☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: see attached

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

The intent is to install a parking lot for the patrons, guests and employees for the planned restaurant at 317 main StreetIt is understood that the parking lot may be temporary prior to any re-development the city may have planned for permanent parking.

- Variances of Development Standard:
 - Landscaping – request that the landscaping requirements not apply (Article 6.8)
 - Parking Surfacing and Curbs – request that the parking area not be required to be paved (Article 6.14, G (7) (a))
 - Parking Surfacing and Curbs – request that the parking area not be required to be curbed (Article 6.14, G (7) (b))
 - Perimeter/External Pedestrian Network Standards – request that these standards to not apply (Article 8.7, D)
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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.

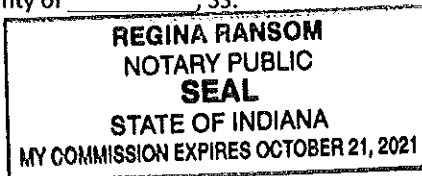
[Signature]
Applicant/Representative (signature)

Beth Hodgson
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 13 day of Feb, 2015

State of IN, County of Hamilton, SS:



[Signature]
Notary Public Signature

Regina Ransom
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.

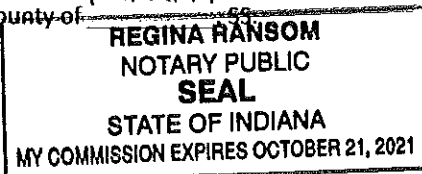
[Signature]
Property Owner (signature)*

JACK MILLER
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 13 day of Feb, 2015

State of IN, County of Hamilton, SS:



[Signature]
Notary Public Signature

Regina Ransom
Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)APPLICANT: Scott Wolf

DOCKET #: _____

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FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Scott Wolf

DOCKET #: _____

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

WOLFIE's GRILL on Main

